

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
CAMP COURT ABBOTTABAD

Service Appeal No. 912/2016

Date of Institution...29.08.2016

Date of decision... 18.10.2017

Saidur Rahman son of Hazrat Ali, PST, Government Primary School, Chawai  
Dong Kania District, Kohistan ... (Appellant)

Versus

1. The Government of Khyber Pakhtunkhwa through Secretary, E&SE,  
Peshawar and others. .... (Respondents)

MR. ABDUL SABOOR KHAN,  
Advocate

... For appellant.

MR. MUHAMMAD BILAL  
Deputy District Attorney

... For respondents.

MR. NIAZ MUHAMMAD KHAN,  
MR. MUHAMMAD AMIN KHAN KUNDI,

... CHAIRMAN  
... MEMBER

JUDGMENT

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

FACTS

2. The appellant is aggrieved from impugned order dated 29.04.2016 whereby he was removed from service due to wilful absence. Against this order, he filed departmental appeal on 28.05.2016 which was not responded to and thereafter, the present service appeal on 29.08.2016.

ARGUMENTS

3. The learned counsel for the appellant argued that no proper procedure was followed by the department before removing the appellant from service. That no enquiry

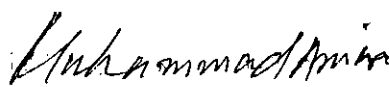
etc. has been conducted. That the appellant was absent for one day for which he duly replied in the first show cause notice and that purportedly a second show cause notice was issued to the appellant on 01.09.2015 which was not received by the appellant.


4. On the other hand, the learned Deputy District Attorney argued that the appellant was given first show cause notice on 29.5.2015 to which he replied wherein he admitted one day absence. That again he was found absent during visit by the Inspection Team on 29.8.2015 for which he was issued another show cause notice on 01.09.2015.

### CONCLUSION.

5. Regardless of the due course, for the absence of the appellant it was necessary for the department to have resorted to either Rule 9 of the Khyber Pakhtunkhwa Government Servants (E&D) Rules, 2011 or Rule 5 of the said rules. But the department has failed to follow any of the above mentioned procedures.

6. Resultantly this appeal is accepted and appellant is reinstated in service. The department is at liberty to hold denovo enquiry. The issue of back benefits shall be subject to the final outcome of the denovo enquiry. Parties are left to bear their own costs. File be consigned to the record room.

  
(Muhammad Amin Khan Kundi)  
Member

  
(Niaz Muhammad Khan)  
Chairman  
Camp Court, A/Abad

ANNOUNCED

18.10.2017

9/3/16

20.04.2017

Counsel for the appellant and Mr. Shah Waliullah, Computer Operator alongwith Mr. Muhammad Siddique, Sr.GP for the respondents present. Written reply submitted. The appeal is assigned to D.B for rejoinder and final hearing for 18.10.2017 at camp court, Abbottabad.

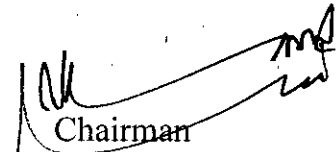
  
Chairman  
Camp Court, Abbottabad.

18.10.2017

Appellant alongwith counsel and Mr. Muhammad Bilal, Deputy District Attorney alongwith Shah Waliullah, KPO for the respondents present. Arguments heard and record perused.

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

  
Member

  
Chairman  
Camp Court, A/Abad.

ANNOUNCED

18.10.2017

20.10.2016

Learned counsel for the appellant argued that the appellant was serving as PST when removed from service vide impugned order dated 29.4.2016 on the allegations of willful absence where-against he preferred departmental appeal on 28.5.2016 which was not responded and hence the instant service appeal on 29.08.2016.

That the proceedings were not conveyed in the mode and manners prescribed by the rules and as such the impugned order is against facts and law and liable to be set aside.

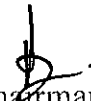
Appellant Deposited  
Security Process Fee

Points urged need consideration. Admit. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply/comments for 19.1.2017 before S.B at camp court, Abbottabad.

  
Chairman  
Camp Court, A/Abad

19.01.2017



Counsel for the appellant and Mr. Rasheed Ahmad, ADO alongwith Mr. Muhammad Siddique, Sr.GP for the official respondents present. Requested for adjournment. To up for written reply on 20.04.2017 before S.B.at camp court, Abbottabad.

  
Chairman  
Camp Court, A/Abad

Form- A  
FORM OF ORDER SHEET

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

Case No. 912/2016

S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	29/08/2016	<p>The appeal of Mr. Said-ur-Rehman received today by Post through Mr. Abdul Saboor Khan Advocate may be entered in the Institution Register and put up to Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p> <p>2-</p> <p>This case is entrusted to Touring S. Bench at A.Abad for preliminary hearing to be put up there on <u>20-10-2016</u></p> <p style="text-align: right;"> CHAIRMAN</p>

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

Service appeal No. 912 of 2016

Said-ur-Rehman.....Appellant

**VERSUS**

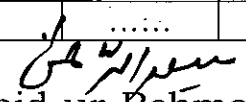
The Government of Khyber Pakhtunkhwa  
through Secretary Elementary and Secondary  
Education, Peshawar etc.....Respondents

**SERVICE APPEAL**

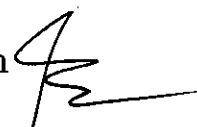
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3	Copy of the appointment order.	"A"	8
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5	Copies of the departmental appeal alongwith letter dated 01.08.2016.	"C"	10-12
6	Wakalat Nama.	.....	13

Dated 24.08.2016

  
Said-ur-Rehman  
.....Appellant

Through

  
**ABDUL SABOOR KHAN,**  
MALIK ASHFAQ AHMED JILANI,  
Advocates High Court,  
Mansehra.

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

**Khyber Pakhtunkhwa  
Service Tribunal**

Diary No. 931

Service appeal No. 912 of 2016 Dated 29-8-2016

Said-ur-Rehman son of Hazrat Ali, Primary  
School Teacher (PST), Government Primary  
School Chawai Dong Kania District Kohistan  
.....Appellant

**VERSUS**

1. The Government of Khyber Pakhtunkhwa through Secretary Elementary and Secondary Education, Peshawar.
2. The Director Elementary and Secondary Education, Peshawar.
3. The District Education Officer (Male), Kohistan.
4. Sub-Divisional Education Officer (Male) Kohistan.....Respondents.

**SERVICE APPEAL UNDER SECTION 4  
OF KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL ACT 1974  
AGAINST THE IMPUGNED NOTIFICATION/  
ORDER BEARING NO.2007-12 DATED  
29.04.2016 WHEREBY THE MAJOR  
PENALTY OF REMOVAL FROM  
SERVICE WAS IMPOSED UPON THE  
APPELLANT.**

Filed to-day  
Registrar  
29/8/16.

**PRAYER: -**

On acceptance of the instant service appeal, the impugned order dated 29.04.2016 passed by the

P. 2

respondent No.3 may please be set aside and the appellant be reinstated in service with all back benefits.

Respectfully Sheweth!

1. That, the appellant had been performing his duties against the post of Primary School Teacher (PST) since 29.12.1995 with unblemished service record.

*(Copy of the appointment order is annexed as annexure "A").*

2. That, the respondent No.3 without issuing any show cause notice or compliance of requisite legal formalities imposed the major penalty of removal from service upon the appellant with retrospective effect vide impugned order No.2007-12 dated 29.04.2016.

*(Copy of the impugned order dated 29.04.2016 is annexed as annexure "B").*

3. That, feeling aggrieved, the appellant filed departmental appeal with respondent No.2 on dated 28.05.2016 which is still undecided.



*(Copies of the departmental appeal alongwith letter dated 01.08.2016 are annexed as annexure "C").*

4. That, feeling aggrieved from the impugned order, the appellant seeks the gracious indulgence of this Honourable Tribunal, inter alia, on the following grounds: -

**GROUNDS**

- a. That, the appellant performed his duties regularly and to the entire satisfaction of respondent No.3.
- b. That, no complaint whatsoever was filed by anyone regarding the alleged absence of the appellant from the school.
- c. That, neither any show cause notice nor the appellant was heard in person before issuing the impugned order.
- d. That, the impugned order has been issued arbitrarily because legal formalities were defied by the respondent No.3.

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- e. That, no inquiry whatsoever was held to prove the alleged allegation nor the appellant was afforded an opportunity of personal hearing before passing the impugned order.
- f. That, without issuing show cause notice and regular inquiry into the alleged allegation, the impugned order is unjustified and uncalled for in the circumstances of the case.
- g. That, it is well settled by now that any disproportionate action would be open to scrutiny not only on touchstone of principle of natural justice, but also on doctrine of proportionality. Penalty of punishment awarded must be proportionate to wrong committed. Where wrong is trivial and committed under compelling circumstances or for first time, mercy in Islamic Jurisprudence is a rule and punishment an exception. Doctrine of proportionality is recognized in modern jurisprudence.
- h. That, the impugned order is wholly unconstitutional, illegal, unlawful, without lawful authority and

discriminatory in nature hence liable  
to be struck down in the  
circumstances of the case.


**PRAYER: -**

It is, therefore, most humbly prayed  
that on acceptance of the instant  
service appeal, the impugned order  
dated 29.04.2016 passed by the  
respondent No.3 may please be set  
aside and the appellant be reinstated  
in service with all back benefits.

Dated 24.08.2016

  
Said-ur-Rehman  
.....Appellant

Through

  
**ABDUL SABOOR KHAN,**  
MALIK ASHFAQ AHMED JILANI,  
Advocates High Court,  
Mansehra.

PCB

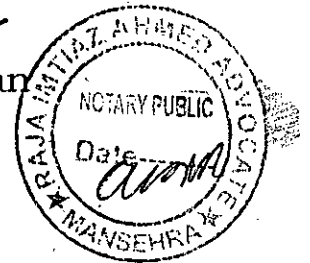
**AFFIDAVIT.**

I, Said-ur-Rehman son of Hazrat Ali,  
Primary School Teacher (PST),  
Government Primary School Chawai  
Dong Kania District Kohistan,  
Appellant, do hereby solemnly affirm  
and declare on oath that the  
contents of the foregoing service  
appeal are true and correct to the  
best of my knowledge and belief and  
nothing has been concealed from this  
Honourable Court.

Dated 24.08.2016

  
Said-ur-Rehman  
(DEPONENT)

**ATTESTED**



26/8/16

P. (7)

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

**Service appeal No. \_\_\_\_\_ of 2016**

Said-ur-Rehman.....Appellant

**VERSUS**

The Government of Khyber Pakhtunkhwa  
through Secretary Elementary and Secondary  
Education, Peshawar etc.....Respondents

**SERVICE APPEAL**

**CORRECT ADDRESSES OF THE PARTIES**

**APPELLANT**

Said-ur-Rehman son of Hazrat Ali, Primary  
School Teacher (PST), Government Primary  
School Chawai Dong Kania District Kohistan.

**RESPONDENTS**

1. The Government of Khyber Pakhtunkhwa  
through Secretary Elementary and Secondary  
Education, Peshawar.
2. The Director Elementary and Secondary  
Education, Peshawar.
3. The District Education Officer (Male),  
Kohistan.
4. Sub-Divisional Education Officer (Male)  
Kohistan.

**Dated 24.08.2016**

  
Said-ur-Rehman  
.....Appellant

Through



**ABDUL SABOOR KHAN,  
MALIK ASHFAQ AHMED JILANI,  
Advocates High Court,  
Mansehra.**

Arrested  
Analysis

P-8  
A

OFFICIAL (M)

The following un-trained candidates, are  
appointed as PT/ PSC teachers in BPS- 1095-60-1995 i.e. fixed  
as usual a low post as admissible under the rules in the  
Public Service with immediate effect on the following terms  
and conditions :-

Name of Candidate	F/Name	Name of School	Remarks
Said-ur-Rahman	Haqbat Ali	GMS -KAPRA	A.V.P.
Gul Boharaid	Katbaz	GIS-SASAK	-do-
UBAIDULLAH	Manifallah	GIS-KUZDAK	-do-

CONDITIONS

- No.T.A. & D.A. is allowed.
- They should not be allowed to take over charge if their age is less than 18 years and above 20 years.
- Health and age certificate should be provided within 7 days.
- This order will automatically be cancelled if they fail to take over charge within 7 days.
- Their original certificates should be checked/verified by the Guze before handing over the charge to them.
- Their services can be terminated at any time without assigning any reasons and notice.
- Charge report should be submitted to this office.

*Handwritten signature/initials*

*Handwritten signature*

ABDUL SATTAAR KHAN  
District Education Officer (PT)  
Education - Kohistan.

Dated. 29 - the 12 -

This is forwarded to the  
Primary Education, HQT, Hayatabad, Peshawar  
District Officer, Kohistan, at Dasso.  
District Officer, Kohistan.



*Attested*  
*Rahman*

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Annex "B"

**OFFICE OF THE DISTRICT EDUCATION OFFICER**  
**(MALE) KOHISTAN**

Email: emiskohistan@yahoo.com

Phone # 0998-407128

**OFFICE ORDER REMOVAL FROM SERVICE**

You Mr. Said Ur Rahman S/O Hazrat Ali PST GPS Chawai Dong Kania Kohistan has been reported absent from duty since long.

Whereas on your Will full long absence a show cause notice was served to you vide this office letter No.10312 dated 01/09/2015 and another showcause notice vide No.742 dated 13/11/2015 and a final showcause notice vide No.3741 dated 20/11/2015.

Whereas you failed to reply the show cause notices and a chance of personal hearing was also given to you but you did not attend the office to defend yourself.

Whereas as per report of ASDEO Circle/ IMU you have also been reported continuously absent from duty

Therefore, as a result of above mentioned facts, I Riasat Khan (District Education Officer (M) Kohistan) being a competent authority Under Govt. of Khyber Pakhtunkhwa efficiency and disciplinary rule 2011, is fully satisfied to impose upon you the major penalty of REMOVAL FROM SERVICE with retrospective effect.

*Riasat Khan*  
District Education Officer  
(Male) Kohistan.

Endstt; /No./Estab: 2007-12 /dated Kohistan 29/04 /2016

Copy of the above is forwarded to the:-

1. Director Elementary and Secondary Education Kohistan.
2. Deputy Commissioner Kohistan
3. Deputy District Education Officer (M) Kohistan.
4. District Accounts Officer Kohistan.
5. Sub Divisional Education Officer (M) Kohistan.
6. Teachers concerned.

*Riasat Khan*  
District Education Officer  
(Male) Kohistan.

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Annex C

To,

**THE DIRECTOR,**  
Elementary and Secondary Education,  
Peshawar.

Subject: DEPARTMENTAL APPEAL AGAINST  
IMPUGNED ORDER BEARING NO.2007-12  
DATED 29.04.2016 WHEREBY THE MAJOR  
PENALTY OF REMOVAL FROM SERVICE  
WAS IMPOSED UPON THE APPELLANT.

Respected Sir,

The appellant submits as under: -

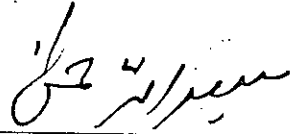
1. That, the appellant had been performing his duties against the post of Primary School Teacher (PST) since 29.12.1995 with unblemished service record.
2. That, the District Education Officer (Female) Kohistan issued a vague order dated 29.04.2016 whereby the appellant was removed from service.
3. That, no inquiry whatsoever was held nor any opportunity of personal hearing was afforded to the appellant.
4. That, without any inquiry and due process, the appellant has been removed from service.
5. That, there was no complaint of absence against the appellant and he has been



removed on mere whims and fancy of the District Education Officer (Female).

It is, therefore, very humbly prayed that on acceptance of the instant appeal, the appellant be reinstated into service with all back benefits while setting aside the impugned order on the ground of being untenable in the eye of law.

Dated 28.05.2016



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SAID-UR-REHMAN  
PST, GPS CHAWAI DONG KANIA  
DISTRICT KOHISTAN

P-12  
Amno = C

DIRECTORATE OF ELEMENTARY AND SECONDARY EDUCATION  
KHYBER PAKHTUNKHWA.

No. 29100 /F.No.162/Vol:III/ Appeal of PST (M)

Dated Peshawar the 11/08 /2016

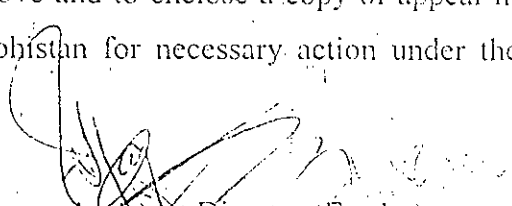
To.

The District Education Officer (M)  
Kohistan.

Subject: - DEPARTMENTAL APPEAL.

Memo:-

I am directed to refer to the subject noted above and to enclose a copy of appeal in respect of Mr. Said Rahman PST GPS Chowiv Kandia Kohistan for necessary action under the rules/policy and submit comments.

  
Assistant Director (Estab :)  
Elementary & Secondary Edu:  
Khyber Pakhtunkhwa Peshawar.

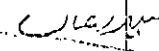
11/8/16

Endst: No. \_\_\_\_\_

Copy forwarded to the:-

1. P.A to Director Elementary and Secondary Education local office.

Assistant Director (Estab :)  
Elementary & Secondary Edu:  
Khyber Pakhtunkhwa Peshawar.



1340/10.000

V

# وکالت نامہ

بعدالت جناب سید الرحمن بنام حکومت خیبر پختونخواہ بذریعہ سیکرٹری محکمہ تعلیم وغیرہ  
دعویٰ یا جرم سرویس اپیل منجانب اپیلانٹ

## باعث تحریر آنکہ

مندرجہ بالا عنوان میں اپنی طرف سے پیروی و جوابدہی بمقام پشاور ایبٹ آباد کے لئے

### ملک اشفاق احمد جیلانی۔ عبدالصبور خان ایڈووکیٹس ہائی کورٹ

بدیں شرط وکیل مقرر کیا ہے کہ میں ہر پیشی پر خود یا بذریعہ مختیار خاص رو برو عدالت حاضر ہوتا رہوں گا۔ اور بوقت پکارے جانے وکیل صاحب موصوف کو اطلاع دے کر حاضر کروں گا۔ اگر کسی پیشی پر مظہر حاضر نہ ہو اور غیر حاضری کی وجہ سے کسی طور پر مقدمہ میرے خلاف ہو گیا تو صاحب موصوف اس کے کسی طرح ذمہ دار نہ ہوں گے۔ نیز وکیل صاحب موصوف صدر مقام کچہری کے علاوہ کسی اور جگہ یا کچہری کے مقررہ اوقات سے پہلے یا بروز تعطیل پیروی کرنے کے مجاز نہ ہوں گے۔ اگر مقدمہ مقام کچہری کے کسی اور جگہ سماعت ہونے پر یا بروز کچہری کے اوقات کے آگے یا پیچھے ہونے پر مظہر کو کوئی نقصان پہنچے تو ذمہ دار یا اس کے واسطے کسی معاوضہ ادا کرنے، مختیار نامہ واپس کرنے کے بھی صاحب موصوف ذمہ دار نہ ہوں گے۔ مجھے کل ساختہ پرداخت صاحب مثل کردہ ذات خود منظور و قبول ہوگا۔ اور صاحب موصوف کو عرضی دعویٰ اور درخواست اجراءے ڈگری و نظر خانی اپیل نگرانی دائر کرنے، نیز ہر قسم کی درخواست پر دستخط تصدیق کرنے کا بھی اختیار ہوگا اور کسی حکم یا ڈگری کے اجراء کرنے اور ہر قسم کا روپیہ وصول کرنے اور رسید دینے اور داخل کرانے کا ہر قسم بیان دینے اور سپرد ثالثی و راضی نامہ و فیصلہ برخلاف کرنے و اقبال دعویٰ کا اختیار ہوگا اور بصورت اپیل و برآمدگی مقدمہ یا منسوخی ڈگری یکطرفہ درخواست حکم امتناعی یا ڈگری قبل از فیصلہ اجراءے ڈگری بھی صاحب موصوف کو بشرط ادائیگی علیحدہ پیروی مختیار نامہ کرنے کا مجاز ہوگا اور بصورت ضرورت اپیل اور اپیل کے واسطے کسی دوسرے وکیل یا پیرسٹر کو بجائے اپنے ہمراہ مقرر کریں اور ایسے مشیر قانونی کو بھی اس امر میں وہی اختیارات حاصل ہوں گے جیسے صاحب موصوف کو، پوری فیس تاریخ پیشی سے پہلے ادا نہ کروں گا تو صاحب موصوف کو پورا اختیار ہوگا کہ مقدمہ کی پیروی نہ کریں اور ایسی حالت میں میرا مطالبہ صاحب موصوف کے برخلاف نہیں ہوگا۔ لہذا مختیار نامہ لکھ دیا ہے کہ سند رہے۔

مضمون مختیار نامہ سن لیا ہے اور اچھی طرح سمجھ لیا ہے اور منظور ہے۔

المقوم 24 اگست 2016ء

العبد العبد العبد العبد

سید الرحمن ولد حضرت علی..... پیشینہ ز

سید الرحمن

ACCEPTED

MALIK ASHAQ AHMED JILANI,

ABDUL SABOOR KHAN,

Advocates High Court.

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**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR,  
(CAMP COURT ABBOTTABAD)**

**APPEAL NO 912 OF 2016**

**Saeed ur Rahman**

**Appellant**

**VERSUS**

1. Govt of Khyber Pakhtunkhwa through Secretary  
Elementary Secondary Education Peshawar
2. Director Elementary & Secondary Education KPK Peshawar
3. District Education Officer (Male) Kohistan.
4. Sub-Divisional Education Officer (Male) Kohistan.

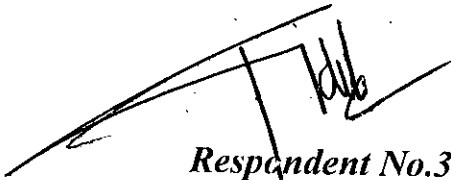
**Respondents**

**PARAWISE COMMENTS FOR & ON BEHALF OF RESPONDENT NO.1, 2, 3,& 4.**

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4	Copy of final Show cause Notice	"D"	9
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5	Copy of Removal order	"F"	11

**Dated 28 -11-2016**

  
**Respondent No.3  
District Education Officer,  
(Male) Kohistan**

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**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.**  
**(CAMP COURT ABBOTTABAD)**

**APPEAL NO 912 OF 2016**

Saeed ur Rahman -----

**Appellant**

***VERSUS***

1. Govt of Khyber Pakhtunkhwa through Secretary  
Elementary Secondary Education Peshawar
2. Director Elementary & Secondary Education KPK Peshawar
3. District Education Officer (Male) Kohistan

**Respondents**

**PARAWISE COMMENTS FOR & ON BEHALF OF RESPONDENT NO.1, 2, 3 & 4.**

***Respectfully Sheweth:***

- I. That the appellant did not come to this Honorable Court with clean hands.
- II. That the appellant has got no cause of action /locus standi to file the  
Instant appeal
- III. That the appellant is estopped to sue through his own conduct, hence  
appellant is not entitled for any relief and appeal is liable to be dismissed
- IV. That the present appeal is not maintainable due to non-joinder and  
mis-joinder of necessary parties, hence appeal is liable to be dismissed
- V. That the appellant has concealed the material facts from this Honorable  
Court, hence appeal is liable to be dismissed without any further proceeding.
- VI. That the appellant has been removed from Service after  
Completion of all codal formalities vide order Endost No.2007-12 dated  
29/04/2016, hence appeal is liable to be dismissed.
- VII. That the appeal is time bared hence not maintainable and liable to be  
dismissed

**Factual Objections:**

1. Correct to the extent that the appellant was a PST teacher since 29-12-1995 and strongly denied regarding his service record to be unblemished
2. Incorrect strongly denied that as per report of ASDEO circle the appellant Mr. Saeed ur Rahman S/O Hazrat Ali PST GPS Chawai Dong Kandia District Kohistan reported absent from duty w.e.f. 01/05/2015 to 20/05/2015, a show cause notice was served upon him vide Endstt: No.7274 dated 29/05/2015 (Copy of show cause notice is annexed as annexure -A) He submitted the reply of show cause notice on 03/09/2015 but it was found unsatisfactory by the committee. (Copy of reply of show cause notice is annexed as annexure -B)

Again as per the joint visit of Dy: DEO (M) and ASDEO (M) circle on 29/08/2015, he was found absent from his school duty and also reported by IMU continuously.

As per reports of ASDEO (M)/Dy:DEO (M) Kohistan another showcase notice was served upon the teacher concerned for his willful absence from duty w.e.f. 29/08/2015 to 31/08/2015 vide Endstt: No. 10312 dated 01/09/2015. (Copy of Final show cause notice is annexed as annexure-C).

The appellant failed to submit his reply of the above show cause with in the stipulated period. In the light of no reply from the appellant, a final show cause notice was served upon him by DEO (M) Office Kohistan vide Endost No.3741 Dated 20 -11-2015 and he was asked to submit his reply of the show cause notice within seven days (Copy of Final show cause notice is annexed as annexure-D).

In the light of above facts the Sub Divisional Education Officer Male Dassu Kohistan submitted his Comprehensive brief history regarding absentee of appellant and requested to proceed disciplinary action against the appellant under E & D rule 2011 (Copy of Brief history of SDEO (M) is annexed as annexure-E).

Whereas the appellant neither reply to the show cause notices nor attend the office for personal hearing and lastly after fulfilling of all codal formalities the appellant was removed from service with retrospective effect vide

Endost No.2007-12 dated 29-04-2016. (Copy of Removal Order is annexed as annexure-F)

3. Correct to the extent that the appellant submitted departmental appeal to the Director E&SE KPK Peshawar and the Director vide his No. 3900 dated 01-08-2016, ask for submission of comments and in response to that letter the comments were submitted by DEO (M) Kohistan, as the charges and evidence on record against the concerned teacher have been proved hence the Director E&SE KPK Peshawar will also reject the appeal of the appellant
4. Incorrect strongly denied that the charges and evidence on record against the concerned teacher have been proved, hence the appellant has not been aggrieved and seeks extra ordinary relief

**GROUND**S

- a. Incorrect, strongly denied that the appellant removed from service after fulfilling of all codal formalities as stated in Para 2 above of factual objections.
- b. Incorrect strongly denied as stated in Para 2 above of factual objections.
- c. Incorrect strongly denied that the appellant has been treated in accordance with law, where as he failed to reply the final show cause notices and a chance of personal hearing was also given to him but he did not attend the office to defend himself as stated in Para 2 above of factual objections.
- d. Incorrect strongly denied that the appellant has been treated in accordance with law, after fulfilling of all codal formalities as stated in Para 2 above of factual objections.
- e. Incorrect strongly denied that the appellant has been treated in accordance with law, after fulfilling of all codal formalities as stated in Para 2 above of factual objections.
- f. Incorrect strongly denied as stated in Para "2" above of factual objections.
- g. Incorrect strongly denied that all the show cause notices have been served upon the appellant through post/ by ASDEO Circle on his home and School address, and the appellant replied to one of the show cause notice but did not attend the office for reply to another show cause notices and personal hearing so lastly after fulfilling of all codal formalities the appellant was removed from service with retrospective effect being a Competent Authority

under Efficiency & Disciplinary rule 2011.vide Endost No.2007 dated 29-04-2016. (31)

- h. Incorrect strongly denied that all the actions have been done in accordance with law and the appellant was removed from service by DEO (M) Kohistan being a Competent Authority under Efficiency & Disciplinary rule 2011

It is therefore, in the light of above stated facts and circumstances, Very humbly prayed that the appeal in hand may please be dismissed with cost

*Respondent No. 3*  
*District Education Officer,*  
*(Male) Kohistan*

*DIRECTOR*

*Elementary and Secondary Education*  
*Khyber Pakhtunkhwa Peshawar*

*SECRETARY*

*Elementary and Secondary Education*  
*Khyber Pakhtunkhwa Peshawar*



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**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.**  
**(CAMP COURT ABBOTTABAD)**

**APPEAL NO 912 OF 2016**

**Saeed ur Rahman** -----

**Appellant**

***VERSUS***

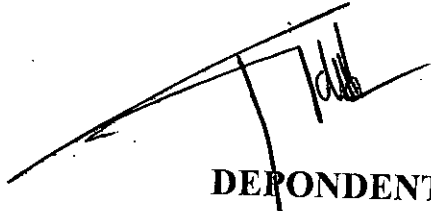
1. Govt of Khyber Pakhtunkhwa through Secretary  
Elementary Secondary Education Peshawar
2. Director Elementary & Secondary Education KPK Peshawar
3. District Education Officer (Male) Kohistan

**Respondents**

**PARAWISE COMMENTS FOR & ON BEHALF OF RESPONDENT NO.1, 2, 3 & 4**

**AFFIDAVIT**

I, Fida Muhammad Khan DEO (Male) Kohistan do hereby solemnly affirm and declare that the contents of Para wise reply in the above titled Case are true and correct to the best of my knowledge and belief, and that nothing, material has been suppressed from this Honorable court.

  
**DEPONENT**

OFFICE OF THE DISTRICT EDUCATION OFFICER  
(MALE) KOHISTAN

Phc no: 0998-407128

SHOW CAUSE NOTICE

Riazat Khan, District Education Officer (Male) Kohistan  
Competent authority under the Khwaja Rahmatullah Khan (K.R.H.K.) Rules  
as per report of Sub Divisional Education Officer (M) *Syed Ali Noorullah*

that as per report of Sub Divisional Education Officer (M) *Syed Ali Noorullah*  
Kohistan you have committed the following acts/omissions specified  
in rule 3 & 4 of the said rules.

- 1) Guilty of mis-conduct.
- 2) Willful absent from your duty etc.

*29-05-15* *5/15*  
*Shahid to...*

As a result thereof, I, as competent authority, have tentatively  
decided to impose upon you the penalty of RECOVERY OF  
SALARY FOR THE ABSENT PERIOD AND REMOVAL FROM  
SERVICE under rule 4 of the said rule.

You are, thereof required to show cause as to why the aforesaid  
penalty should not be imposed upon you and also intimate  
*whether you desired to heard in person.*

If no reply to this notice is received within seven days or not more  
than fifteen days of its delivery, it shall be presumed that you have no defence to  
put in and in that case an ex-parte action shall be taken against you.

Encl: No *79-74* Dated Kohistan the *29-05-15* 2014

*[Signature]*  
COMPETENT AUTHORITY

بخدمت جناب ڈی ای او صا۔ صلح نوسان

CC BN

عنوان۔ جواب شوکاس

جناب عالی۔

موردبانہ گزارش کیجاتی ہیکہ سائل جی۔ پی۔ ایس۔ چھوٹی ڈونگ میں بطور P.S.T. ٹیچر اپنے ڈیوٹی سرانجام دے رہا ہے۔

سائل گھریلو بیماری کی وجہ سے ایک دن سکول سے غیر حاضر ہوا اور اسی دوران ASDEO صاحب نے اجانگ سکول کا وزٹ کیا اور سائل کو غیر حاضر پایا۔ اور سائل کے خلاف شوکاس ہوا۔

لہذا درخواست کیجاتی ہیکہ سائل کا شوکاس واپس کیا جائے اور سائل آئندہ اپنے ڈیوٹی سرانجام بند ہوگا اور آئندہ ایسی نوبت نہیں آنے دینگے۔

العارض

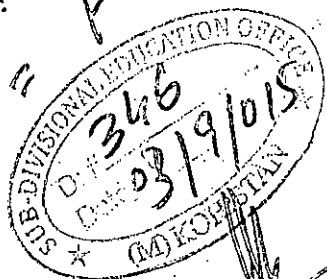
(5)

سیدالرحمن

سیدالرحمن جی۔ پی۔ ایس۔ چھوٹی ڈونگ

DATE- 29-5-15

END-NO-7274



A C N

THE DISTRICT EDUCATION OFFICER (WALE) KOHISTAN  
(WALE) KOHISTAN

Phone No. 0993-407123

CAUSE NOTICE

That I, the District Education Officer (Wale) Kohistan, as  
competent authority under the Khyber Pakhtunkhwa Govt. Servants (E&D) Rules  
(1974), do hereby set against you,

Saidur Rahman PST  
GPS Dongi Chauki Kandia

that under report of Sub-Divisional Education Officer (M)  
W/O D/O (M) Kohistan you have committed the following facts/omissions specified  
in rule 3 of the said rules.


- c) Guilty of mis-conduct.
- d) Willful absent from your duty with 29/8/05 to 31/8/05

As a result thereof, I, as competent authority, have tentatively  
decided to impose upon you the penalty of RECOVERY OF  
SALARY FOR THE ABSENT PERIOD AND REMOVAL FROM  
SERVICE under rule 4 of the said rules.

You are, therefore, required to show cause as to why the aforesaid  
penalty should not be imposed upon you, and also intimate  
whether you desired to be heard in person.

If no reply to this notice is received within seven days or not more  
than fifteen days, of its delivery, it shall be presumed that you have no defence to  
put in and in that case an ex-parte action shall be taken against you.

Encl: No. 10312 /Dated Kohistan the 01/9/2005

  
COMPETENT AUTHORITY

"F" 24



**OFFICE OF THE DISTRICT EDUCATION OFFICER  
(MALE) KOHISTAN**

Email: [emiskohistan@yahoo.com](mailto:emiskohistan@yahoo.com)

Phone # 0998-407128

**OFFICE ORDER REMOVAL FROM SERVICE**

You Mr. Said Ur Rahman S/O Hazrat Ali PST GPS Chawai Dong Kania Kohistan has been reported absent from duty since long. Whereas on your Will full long absence a show cause notice was served to you vide this office letter No.10312 dated 01/09/2015 and another showcause notice vide No.742 dated 13/11/2015 and a final showcause notice vide No.3741 dated 20/11/2015.

Whereas you failed to reply the show cause notices and a chance of personal hearing was also given to you but you did not attend the office to defend yourself.

Whereas as per report of ASDEO Circle/ IMU you have also been reported continuously absent from duty

Therefore, as a result of above mentioned facts, I Riasat Khan (District Education Officer (M) Kohistan) being a competent authority Under Govt. of Khyber Pakhtunkhwa efficiency and disciplinary rule 2011, is fully satisfied to impose upon you the major penalty of REMOVAL FROM SERVICE with retrospective effect.

**District Education Officer  
(Male) Kohistan.**

Endstt; /No./Estab: 2007-12 /dated Kohistan 29/04 /2016

Copy of the above is forwarded to the:-

1. Director Elementary and Secondary Education Kohistan.
2. Deputy Commissioner Kohistan
3. Deputy District Education Officer (M) Kohistan.
4. District Accounts Officer Kohistan.
5. Sub Divisional Education Officer (M) Kohistan.
6. Teachers concerned.

**District Education Officer  
(Male) Kohistan.**

KHYBER PAKHTUNKWA SERVICE TRIBUNAL, PESHAWAR

No. 2300 /ST

Dated 25 / 10 / 2017

To


The District Education Officer M,  
Government of Khyber Pakhtunkhwa,  
Kohistan.

Subject: -

JUDGMENT IN APPEAL NO. 912/2016, MR. SAID UR RAHMAN.

I am directed to forward herewith a certified copy of Judgement dated 18.10.2017 passed by this Tribunal on the above subject for strict compliance.

Encl: As above

  
REGISTRAR  
KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL  
PESHAWAR.