

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No.164/2016

Date of Institution ... 28.01.2016
Date of Decision ... 03.03.2023

Abdul Wahab S/O Mohammad Azeem Chowkidar GPS Faqir Banda,
Mardan. ... (Appellant)

VERSUS

Government of Khyber Pakhtunkhwa through Secretary Elementary &
Secondary Education, Civil Secretariat, Peshawar and three others.

... (Respondents)

Asad Zeb,
Advocate ... For appellant.

Muhammad Jan,
District Attorney ... For respondents.

Mr. Kalim Arshad Khan ... Chairman
Mrs. Rozina Rehman ... Member (J)

JUDGMENT

Rozina Rehman, Member(J): The appellant has invoked the jurisdiction
of this Tribunal through above titled appeal with the prayer as copied
below:

“That the impugned order dated 12.08.2015, which is
communicated to appellant on 27.10.2015 may kindly be set-
aside and the appellant may kindly be re-instated in service
with all back benefits”.

2. Brief facts of the case are that appellant was appointed as
Chowkidar on 24.03.2010, who performed his duty with full devotion

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Peshawar

and entire satisfaction of his superiors. He was removed from service vide order dated 26.10.2015 without any intimation to the appellant. Being aggrieved, he filed departmental appeal which was not responded to, hence, the present service appeal.

3. We have heard Asad Zeb Advocate learned counsel for appellant and Muhammad Jan learned District Attorney for the respondents and have gone through the record and the proceedings of the case in minute particulars.

4. Asad Zeb Advocate, learned counsel for appellant submitted that the impugned order is illegal, against law and facts as regular inquiry was must which was not conducted in the appellant's case which is violation of due process of law. Learned counsel further contended that the appellant was never served with any show cause notice and that he performed his duty regularly and there was no complaint against him. He contended that the appellant was condemned unheard as no opportunity of personal hearing was afforded to the appellant and he was not informed about the initiation of disciplinary action against him. He submitted that being a poor and sole bread earner of a large family, he was not afforded any opportunity to prove his innocence and was verbally informed about the impugned order. He, therefore, requested for acceptance of the instant service appeal.

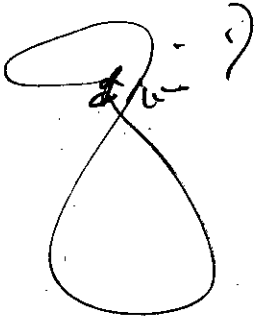
5. Conversely, learned District Attorney submitted that three notices were sent to the appellant which were not replied and the appellant remained absent from his duty due to which final show cause notice was published in the newspaper but even then, he failed to appear

before the authority. He submitted that all the codal formalities were observed during the process in accordance with law.

6. From the record it is evident that appellant Abdul Wahab Chowkidar GPS Faqir Banda Mardan was proceeded against departmentally for willful absence from duty w.e.f 23.01.2015 till the date of impugned order i.e. 12.08.2015 without any permission which means that he was proceeded against under Rule-9 of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 on the allegations of his willful absence. Procedure in case of willful absence is fully mentioned in Rule-9 of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 which is hereby reproduced for ready reference:

“ 9. Procedure in case of willful absence.

Notwithstanding anything to the contrary contained in these rules, in case of willful absence from duty by a Government servant for seven or more days, a notice shall be issued by the competent authority through registered acknowledgement on his home address directing him to resume duty within fifteen days of issuance of the notice. If the same is received back as undelivered or no response is received from the absentee within stipulated time, a notice shall be published in at least two leading newspapers directing him to resume duty within fifteen days of the publication of that notice, failing which an *ex-parte* decision shall be taken against the absentee. On expiry of the stipulated period given in the notice, major



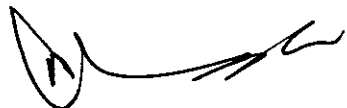
penalty of removal from service may be imposed upon such Government servant.”

7. In the instant case no proper notice was issued by the competent authority through registered acknowledgement on his home address directing him to resume duty within 15 days of issuance of the notice. Neither charge sheet nor show cause notice was issued in accordance with law. From perusal of the entire record, it becomes crystal clear that proper procedure as laid down in rule-9 of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 was not followed by the competent authority strictly in accordance with law.

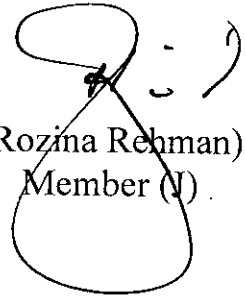
8. In view of the above circumstance, facts and discussion made herein above the instant service appeal is partially accepted. Appellant is reinstated into service and case is remitted back to the Department for de-novo inquiry within 60 days of the receipt of this judgment. Needless to mention that the appellant shall be provided proper opportunity of defense during the inquiry proceedings. The issue of back benefits shall be subject to the outcome of the inquiry. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED.

03.03.2023



(Kalim Arshad Khan)
Chairman



(Rozina Rehman)
Member (I)

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02.03.2023

Appellant present through counsel.

Muhammad Jan, learned District Attorney for respondents present.

Arguments heard. To come up order by tomorrow i.e.

03.03.2023 before D.B. Parcha Peshi given to the parties.



(Kalim Arshad Khan)
Chairman



(Rozina Rehman)
Member (J)

ORDER

03.03.2023

Appellant present through counsel.

Muhammad Jan, learned District Attorney for respondents present.

Vide our detailed judgment of today of this Tribunal placed on file, the instant service appeal is partially accepted. Appellant is reinstated into service and case is remitted back to the Department for de-novo inquiry within 60 days of the receipt of the judgment. Needless to mention that the appellant shall be provided proper opportunity of defense during the inquiry proceedings. The issue of back benefits shall be subject to the outcome of the inquiry. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED.

03.03.2023



(Kalim Arshad Khan)
Chairman




(Rozina Rehman)
Member (J)

27th Feb. 2023

Clerk of learned counsel for the appellant present. Mr. Mr. Muhammad Adeel Butt, Additional Advocate General for the respondents present.

Clerk of learned counsel for the appellant requested for adjournment on the ground that learned counsel for the appellant is unable to appear today due to illness of his son, who is hospitalized. The appeal in hand was heard by a Bench comprising of one of us (Ms. Fareeha Paul), learned Member (E) and Worthy Chairman and vide order dated 12.10.2022, the said Bench had issued direction for placing ^{of} the instant appeal for re-hearing before the said Bench. Adjourned. To come up for arguments before the concerned Bench on 02.03.2023. The appeal in hand pertains to the year 2016, therefore, learned counsel for the appellant shall ensure his appearance before the said Bench on the date fixed. P.P given to the parties.


(Fareeha Paul)
Member(E)



(Salah-ud-Din)
Member (J)

22.11.2022

Learned counsel for the appellant present. Mr. Muhammad Adeel Butt Additional Advocate General for the respondents present.

Learned counsel for the appellant requested for adjournment on the ground that he has not made preparation for arguments. Adjourned. To come for arguments before the D.B. on 19.01.2023.

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(Fareeha Paul)
Member (E)


(Kalim Arshad Khan)
Chairman

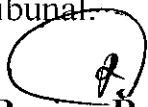
19th Jan. 2023

Lawyers are on strike today.

To come up for arguments on 27.02.2023 before the D.B. Office is directed to notify the next date on the notice board as well as the website of the Tribunal.

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Peshawar


(Fareeha Paul)
Member(E)


(Rozina Rehman)
Member (J)

(Fareeha Paul)
Member(E)

13.09.2022


Bench is incomplete, therefore, case is adjourned to 12.10.2022 for the same as before.

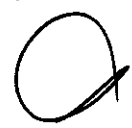

Reader

12th Oct, 2022

Appellant in person present. Mr. Muhammad Adeel Butt, Addl: AG for respondents present.

This case was heard on 31.05.2022 and judgment was reserved for 20.06.2022, but because of other multifarious engagement of the bench on 20.06.2022 the order could not be recorded and announced. The matter was fixed for today but in view of the judgment of the august Supreme Court of Pakistan reported as 1996 SCMR 669, the matter was to be reheard. Therefore, the appeal be fixed for its rehearing by fixing on 22.11.2022 before D.B by the same bench.

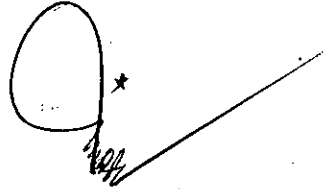

(Farecha Paul)
Member(Executive)


(Kalim Arshad Khan)
Chairman

31st May, 2022

Learned counsel for the appellant. Kabirullah Khattak,
Addl: AG for respondents present.

Arguments heard. To come up for order on 20.06.2022
before the D.B.



(Mian Muhammad)
Member(E)

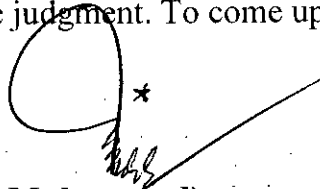


(Kalim Arshad Khan)
Chairman

20th June, 2022

Counsel for the appellant present: Mr. Kabirullah Khattak,
Addl. AG for the respondents present.

Because of other multifarious engagement we could not
record the judgment. To come up on 29.07.2022 for order.



(Mian Muhammad)
Member(E)



(Kalim Arshad Khan)
Chairman

29.07.2022

Because of the summer spell
of the learned Member(E) Mian
Muhammad II, the consultation
could not be made, therefore, to
come up on 13-09-2022



27.04.2022

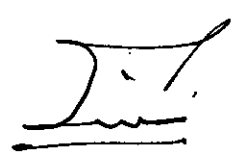
Appellant in person present. Mr. Kabirullah Khattak,
Additional Advocate General for respondents present.

Appellant requested for adjournment on the ground that his
learned counsel is indisposed today. Adjourned. Last opportunity
given. To come up for arguments before the D.B on 31.05.2022.

The appeal in hand pertains to the year 2016 and requires timely
disposal, therefore, appellant shall positively ensure the presence of
his counsel on the date fixed.



(Mian Muhammad)
Member(E)



(Salah Ud Din)
Member(J)

31st May, 2022

~~Learned counsel for the appellant: Syed Naseer Ud Din
Shah, Assistant Advocate General for respondents present.~~

~~Arguments heard. To come up for order on 26.06.2022
before the D.B.~~

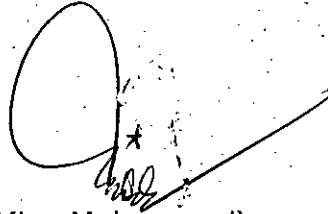
~~(Mian Muhammad)
Member(E)~~

~~(Khalid Arshad Khan)
Chairman~~

22.02.2021

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

The proposition regarding award of retrospective punishment has not yet been decided by the Larger Bench of this Tribunal. Adjourned to 12.05.2021 for hearing before the D.B.



(Mian Muhammad)
Member(E)



Chairman

12.05.2021

Due to demise of the Worthy Chairman, the Tribunal is non-functional, therefore, case is adjourned to 01.09.2021 for the same as before.



Reader

12.01.2022

Due to non-availability of the concerned DB, the case is adjourned to 27.04.2022 for the same before D.B.



Reader

20.08.2020

Due to summer vacation, the case is adjourned to 22.10.2020 before D.B.


Reader

22.10.2020

Appellant in person and Addl. AG alongwith Muhammad Usman, Asstt. for the respondents present.

The Bar is observing general strike today, therefore, the matter is adjourned to 01.12.2020 for hearing before the D.B.

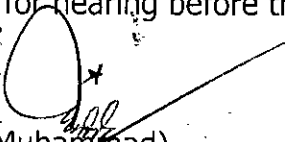

(Mian Muhammad)
Member



Chairman

01.12.2020

Counsel for the appellant and Addl. AG for the respondents present.

Learned counsel states that the impugned order was passed on 12.08.2015 but was given effect from 23.01.2015. Regarding the cases involving retrospective effect of penalty, a Larger Bench has been constituted which is yet to decide the proposition. He, therefore, requests for posting of instant appeal to a date after the date of hearing by the Larger Bench. Adjourned to 22.02.2021 for hearing before the D.B.


(Mian Muhammad)
Member(E)


Chairman

28.01.2020

Appellant in person present. Mr. Muhammad Jan, DDA for respondents present. Due to General Strike of the bar on the call of Khyber Pakhtunkhwa Bar Council, the instant case is adjourned. To come up for further proceedings/arguments on 24.03.2020 before D.B.


Member


Member

25.03.2020

Due to public holidays on account of Covid-19, the case is adjourned. To come up for the same on 09.06.2020 before D.B.


Reader

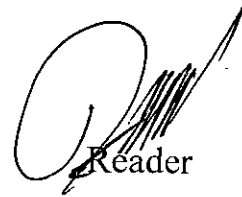
09.06.2020

Bench is incomplete as one learned Member (J) is on leave. Therefore, the case is adjourned. To come up for the same on 20.08.2020 before D.B.


Reader

27.06.2019

Counsel for the appellant and Asstt. AG for the respondents present. Due to incomplete bench case is adjourned to 11.09.2019 for arguments before the D.B.


Reader

11.09.2019

Appellant with counsel present. Mr. Zia Ullah learned Deputy District Attorney present. Learned counsel for the appellant seeks adjournment. Adjourn. To come up for arguments on 25.11.2019 before D.B.


Member


Member

25.11.2019

Due to general strike of the bar, the case is adjourned. To come up on 28.01.2020 before D.B.


Member

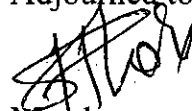

Member

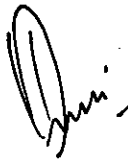
03.1.2019

Appellant in person and Mr. Usman Ghani District Attorney for the respondents present.

States that his learned counsel is away at Islamabad in connection with personal engagement, therefore requests for adjournment.

Adjourned to 13.03.2019 for arguments before D.B.


Member

Chairman 

13.03.2019

Appellant in person and Mr. M. Riaz Khan Paindakhel, Asst: AG for respondents present.

Once again adjournment is sought due to non-availability of learned counsel for the appellant. Adjourned to 10.05.2019 for arguments before D.B.


Member

Chairman 

10.05.2019

Appellant in person and Asst: AG for respondents present.

Appellant requests for adjournment due to non-availability of his learned counsel.

Adjourned to 27.06.2019 for arguments before D.B.



Member

Chairman 

21.06.2018


Counsel for the appellant and Adll: for respondents present.
Counsel for the appellant seeks adjournment. Adjourned. To come
up for arguments on 10.08.2018 before D.B.

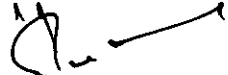

(Ahmad Hassan)
Member


(M. Amin Khan Kundi)
Member

10.08.2018


Clerk to counsel for the appellant and Mr. Muhammad Jan learned
Deputy District Attorney present. Clerk to counsel for the appellant seeks
adjournment as learned counsel for the appellant is not in attendance.
Adjourned. To come up for arguments on 01.10.2018 before D.B.


(Muhammad Amin Kundi)
Member


(Muhammad Hamid Mughal)
Member

01.10.2018

Learned counsel for the appellant and Mr. Kabirullah
Khattak Additional Advocate General for the respondent
present. Learned counsel for the appellant seeks adjournment.
Adjourned. To come up for arguments on 15.11.2018 before
D.B.


(Hussain Shah)
Member


(Muhammad Hamid Mughal)
Member

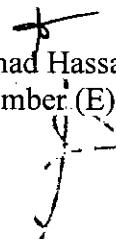
15.11.2018


Due to retirement of Hon'ble Chairman, the
Tribunal is defunct. Therefore, the case is adjourned. To
come up on 03.01.2019.


READER

06.12.2017

Appellant in person present. Mr. Muhammad Jan, Deputy District Attorney for respondent also present. Appellant requested for adjournment. Adjourned. To come up for arguments on 09.02.2018 before the D.B.



(Ahmad Hassan)
Member (E)


(Muhammad Amin Khan Kundi)
Member (J)

09.02.2018


Clerk of counsel for the appellant and Addl. AG for the respondents present. Counsel for the appellant is not in attendance. Seeks adjournment. To come up for arguments on 10.04.2018 before the D.B.



Member


Chairman

10.04.2018

Appellant in person and Asst: AG for respondents present. Rejoinder submitted. Appellant seeks adjournment. Adjourned. To come up for arguments on 21.06.2018 before D.B.


(Ahmad Hassan)
Member


(M. Hamid Mughal)
Member

29.08.2016

Appellant in person and Mr. Hameed-ur-Rehman, AD (lit.) alongwith Additional AG for respondents present. Appellant requested for adjournment as his counsel is not in attendance today. Adjourned for rejoinder and final hearing to 22.12.2016 before D.B.



Member



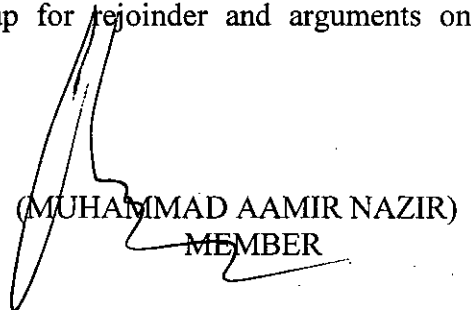
Chairman

22.12.2016

Appellant in person and Mr. Hameed-ur-Rehman, AD (lit.) alongwith Additional AG for the respondents present. Rejoinder not submitted. Appellant requested for adjournment due to non-availability of his counsel. Adjourned. To come up for rejoinder and arguments on 08.05.2017 before D.B.



(ASHFAQUE TAJ)
MEMBER



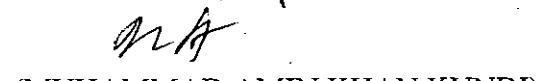
(MUHAMMAD AAMIR NAZIR)
MEMBER

08.05.2017

Appellant in person present. Mr. Kabirullah Khattak, Assistant AG for the respondents also present. Due to strike of the bar learned counsel for the appellant is not available today. Adjourned for rejoinder and arguments to 11.08.2017 before D.B.



(AHMAD HASSAN)
MEMBER



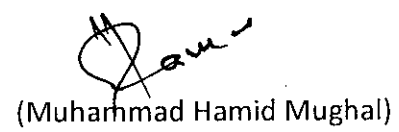
(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

11.08.2017

Appellant in person present. Mr. Kabirullah Khattak, Assistant AG for the respondents present. Appellant seeks adjournment on the ground that his counsel is not available today. Adjourned. To come up for rejoinder and arguments on 06.12.2017 before D.B. before D.B.



(Muhammad Amin Khan Kundi)
Member (J)



(Muhammad Hamid Mughal)
Member (J)

22.03.2016

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant was Chowkidar and removed from service vide impugned order dated 12.8.2015 on the allegations of wilful absence which order was communicated to the appellant on 27.10.2015 where-against he preferred departmental appeal on 29.10.2015 which was not responded and hence the instant service appeal on 25.2.2016.

That the appellant was performing his duties and had never absented himself and, moreover, no opportunity of hearing was extended to the appellant nor inquiry conducted in the prescribed manners.

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 10.5.2016 before S.B.

Appellant Deposited
Security & Process Fee

11-5-2016
Chairman

10.5.2016

Counsel for the appellant and Mr. ayed Shah, Assistant (Litigation) alongwith Addl. AG for the respondents present. Written reply submitted. The appeal is assigned to D.B for rejoinder and final hearing for 29.08.2016.

Chairman

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 164 /2016

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	25.02.2016	<p>The appeal of Mr. Abdul Wahab resubmitted today by Mr. Saeed Usman Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"><i>Saeed Usman</i> REGISTRAR</p>
2	29-2-2016	<p>This case is entrusted to S. Bench for preliminary hearing to be put up thereon <u>02-03-2016</u></p> <p style="text-align: right;"><i>S.B.</i> CHAIRMAN</p>
	03.03.2016	<p>None present for appellant. The appeal be relisted for preliminary hearing for 22.3.2016 before S.B.</p> <p style="text-align: right;"><i>S.B.</i> Chairman</p>


This is an appeal filed by Mr. Abdul Wahab today on 28/01/2016 against the impugned orders dated 12.08.2015 against which he preferred/made a departmental appeal on 29.10.2015 the period of ninety days is not yet lapsed as per section 4 of the Khyber Pakhtunkhwa Service Tribunal Act 1974 which is premature as laid down in an authority reported as 2005-SCMR-890.

As such the instant appeal is returned in original to the appellant/counsel. The appellant would be at liberty to resubmit fresh appeal after maturity of cause of action with also removing the following deficiencies.

- 1- Annexure-A of the appeal is incomplete which may be completed.
- 2- One copy/set of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

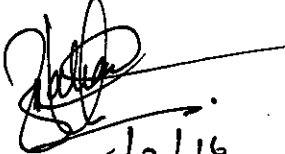
No. 151 /ST,

Dt. 29-1 /2016


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Saced Usman Adv. Mardan.

Resubmitted after necessary
compilation


25/2/16

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,

PESHAWAR

Service Appeal No. 164 /2016

Abdul WahabAppellant

VERSUS

Govt. of Khyber Pakhtunkhwa, through Secretary
Elementary & Secondary Education and others.....Respondents

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5.	Copy of Office order/ removal order dated 12.08.2015	C	10
6.	Copy of Departmental appeal of appellant	D	11-12
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Appellant

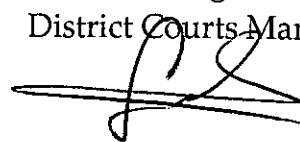
Through

Saeed Usman

Advocate High Court

District Courts Mardan

Dated: 25/11/2016



(1)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR

Service Appeal No. 164 /2016

K.W.P. Provincial
Service Tribunal
Diary No. 72
9.2.16

Abdul Wahab S/o Mohammad Azeem
Chokidar GPS Faqir Banda, Mardan.....Appellant

VERSUS

1. Govt. of Khyber Pakhtunkhwa, through Secretary Elementary & Secondary Education, Civil Secretariat, Peshawar.
2. Director Elementary & Secondary Education, Khyber Pakhtunkhwa, Directorate of Education, Peshawar.
3. Executive District Officer E&SE, District Mardan
4. District Education Officer, District Mardan

.....Respondents

SERVICE APPEAL U/S 4 OF SERVICE
TRIBUNAL ACT, 1974. AGAINST ORDER
DATED 12.08.2015 VIDE WHICH THE
APPELLANT WAS REMOVED FROM
SERVICE, WHICH IS ILLEGAL AGAINST
LAW AND FACTS.

to-day
Respectfully Sheweth:-
Appellant humbly submits as under

- 1) That the appellant was appointed as Chokidar Class-IV on dated 24.03.2010 and took charge on 24.03.2010 in BPS Said Faqir Banda. (Copies attached)

Abdul Wahab
28/1/16

Dep-submitted
25/2/16

- 2) That the appellant has performed his duty with full devotion and entire satisfaction of his superiors and there is no complaint against him.
- 3) That without any reason and legal preceding the appellant was removed from services. (Copy attached)
- 4) That the appellant was remained unaware/ not intimated of his removal from services while on dated 26.10.2015 when attended his duty was astonished, when he was informed that he is removed from his service.
- 5) That on his personal efforts appellant obtained his removal order from concern department on 27.10.2015.
- 6) That the appellant was surprised/ astonished that the District Education Officer E&SE Education Mardan, imposed major penalty of removal from service.
- 7) That being aggrieved the appellant filed his departmental appeal before respondent No.2, which has not been decided till date. (Copy of departmental appeal is attached)
- 8) That as the departmental appeal of the appellant has not been decided till date despite lapse of prescribed time, therefore, the appellant is filing this Service Appeal on the following grounds amongst others:-

GROUND.

- A. Because the removal order is illegal and against law and rules.

- B. Because under the rules before removal from service regular inquiry is must, however, no such inquiry was conducted in appellant's case, which is violation of due process of law.
- C. Because the appellant has not served with any show cause notice.
- D. Because the appellant has performed his duty regularly, and there is no complaint against him.
- E. Because the appellant has been deprived of his right of defense.
- F. Because the appellant was condemned unheard, as no opportunity of personal hearing has been awarded to the appellant.
- G. Because the appellant was not informed about the initiation of disciplinary action.
- H. Because appellant was not provided documentary evidence to prove his innocence, while appellant was orally informed about his removal on 26.10.2015 and appellant obtained his removal order on 27.10.2015 on his personal efforts and the appellant's appeal is within time.
- I. Because the appellant was proceeded ex-parte, which is against law and natural justice.
- J. Because the appellant is a poor person and sole bread earner of his large family.
- K. Because the appellant has no other source of income.

L. Because, if the appellant's departmental appeal is not accepted. He and his entire family will suffer.

It is therefore, humbly prayed that, the impugned order dated 12.08.2015, which is communicated to appellant on 27.10.2015 may kindly be set-aside and the appellant may kindly be re-instated in service with all back benefits.

Any other relief which this hon'ble court deems appropriate in the circumstances of the case though not specifically asked for may kindly also be granted.

Dated: 21.01.2016

Appellant *عبدالحمید*

Through

Saeed Usman
Advocate High Court
District Courts Mardan *[Signature]*

AFFIDAVIT

I, do hereby affirm and declare on oath that the contents of the appeal are true and correct to the best of my knowledge and belief and nothing material has been concealed from this hon'ble Tribunal.



عبدالحمید
Deponent

(5)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Service Appeal No. _____/2016

Abdul WahabAppellant

VERSUS

Govt. of Khyber Pakhtunkhwa, through Secretary
Elementary & Secondary Education and others.....Respondents

*Application for grant of temporary
injunction to the effect that operation of
the impugned order dated 12.08.2015 which
was obtained on 27.10.2015 may kindly be
suspended and the appellant may also be
allowed to serve on his post till the final
decision of titled appeal*

Respectfully Sheweth;

- 1) That aforementioned case is filed today alongwith accompyaing application.
- 2) That the grounds of main appeal may also be considered as part and parcel of this application.
- 3) That prima-facie case in favour of appellant
- 4) That balance of convenience lies in favour of appellant
- 5) That irreparable loss shall occur to the appealing if stay is not granted.

It is, therefore, humbly prayed that operation of the impugned order dated 12.08.2015 which was obtained on

6

27.10.2015 may kindly be suspended and the appellant may also be allowed to serve on his post till the final decision of titled appeal

عبدالوسا

Appellant

Through

Saeed Usman

Advocate High Court

District Courts Mardan

AFFIDAVIT

I, do hereby affirm and declare on oath that the contents of the application are true and correct to the best of my knowledge and belief and nothing material has been concealed from this hon'ble Tribunal.

عبدالوسا

Deponent



7) Annex A

Consequent upon the recommendations of the District Selection Committee the following appointments hereby made against the vacant posts in BPS-I Rs. (2970-90-5670) as detailed below in the public interest following usual terms and conditions.

Open Merit

S.NO	Name	Fname	Address	Name of School where appointment	Remarks
1	Muhammad Inam	Muhammad Asghar	Tahir Abad	IGEPS Tahir Abad	Chowkidar
2	Wajid Ali	Dawood Khan	Labour Colony	IGHS Labour Colony	L. Attend
3	Murad Khan	Noshad Khan	Baghdada	IGSS Baghdada	Mali
4	Seeda Jan	Bakhtawar Khan	Mistri Abad	IGPS Zaman Abad	Chowkidar
5	Muhammad Irshad	Muhammad Sarwar	Sarwar Abad	IGRS Akhoun Baba	Chowkidar
6	Aumtaz Begum	Mirza Jehan zeb	Baghdada	IGPS Rustam Khel	L. Attend
7	Roema Gul	Pir Jehan Dar bacha	Manga	GGMS Mian Gulzara	Sweeper
8	Naseer Khan	Shahzada	Korgh	Office Of the EDO	N. Qasid
9	Sewar Khan	Amir Zeman	Baghdada	GGPS Baghdada	Chowkidar
10	Farid Jilani	Fazli Rabi	Sharif Abad	GGHS Baghdada	Begint
11	Farid Khan	Ghulam Jan	Mardan	GMPS Kachi Audd	Chowkidar
12	Mawas Khan	Mazullah Khan	Manga	GHSS Manga	Chowkidar
13	Shoukat Ali	Mali Jan	Manga	GHSS Manga	N. Qasid
14	Imam	Ghulam Qadir	Mian Gulzara	GGMS Mian Gulzara	N. Qasid
15	Hayat Khan	Mian Lal Khan	Marghano Killi	GPS Marghano Killi	Chowkidar
16	Khyal Badshah	Redi Khan	Seri Korgh	GGPS Seri Korgh	Chowkidar
17	Rozina	W/O Gul Khan	Khazana Dheri	GGHS Khazana Dheri	L. Attend
18	Zubida	W/O Rawas Ud Din	Manga	GGHS Manga	L. Attend
19	Hazrat Ali	Sad Barg Khan	Reg Nari	GGPS Gul Abad Reg Nari	Chowkidar
20	Aziz Ahmad	Masam Khan	Khazana Dheri	GGHS Khazana Dheri	Chowkidar
21	Arshad Ali	Khan Khill	Gul Bagh	GGHS Hoti No.2	N. Qasid
22	Muhammad Sohil	Wisal Muhammad	Mardan	GGMS Noor Man Kehi	N. Qasid
23	Gul Bacha	Sahib Zada	Hoti	GPS Biland Khel	Chowkidar
24	Zahir Ali	Sead Akbar	Hoti	GPS Noor Man Kehi Hoti	Chowkidar
25	Aziz ul Hassan	Zahoor Ahmad	Naziran	GGPS Landaki Hoti	Chowkidar
26	Imran Ullah	Khan Shereen	Toru Shamshad Abad	IGHS Shamshad Abad	Sweeper
27	Muhsin Ahmad	Shah Nazar	Amin Abad	IGHS Mohabat Abad	L. Attend
28	Pervez Khan	Mukhtar Ali	Sangar Baba	GPS Sangar Baba	Chowkidar
29	Asim	Darwish	Hoti	GGMS Noor Man Kehi	Sweeper
					Chowkidar

12	Abdul Wahid	Muhammad Azim	Said Faqir Killi	GGPS Said Faqir Killi	
13	Abdul Wahab	Muhammad Azim	Said Faqir Killi	GPS Said Faqir Killi	
14	Shah Zeb	Khan Zeb	Sheen Zangal	GGPS Sheen Zangal	
15	Haleem Khan	Tora Baz	Tora Baz Killi	GGPS Tora Baz	
16	Muhammad Aliq	Muhammad Shafiq	Tora Baz Killi	GPS Tora Baz	7B
17	Fasil Khan	Fayaz Ali	Bazar	GMS Bazar	
18	Nigar	Mir Jawal	Bazar	GPS Bazar	
19	Hakeem Khan	Waris Khan	Haji Abad	GPS Haji Abad	
20	Halim ullah Shah	Zardad Shah	Sawal Dheri	GPS Jehan Abad Sawal Dheri	
21	Arshad Ali	Raham Dad	Palo Dheri	GHSS Palo Dheri	
22	Muhammad Zahir	Qalandir Khan	Khurshad Abad	GPS Khurshad Abad	
23	Raj Wali	Hazrat Muhammad	Chail Banda	GPS Chail Banda	
24	Shamshad Khan	Zarshad Khan	Noshad Abad	GPS Noshad Abad	
25	Imtaiz Khan	Gul Malook	Qasam Abad	GPS Qasam Abad	
26	Abid Khan	Ali Akbar	Subidar Killi	GPS Subidar Killi	
27	ABDUL QAYUM	ADIL SHAH	TARIQ ABAD	GPS Tariq Abad	
28	BILAWAL	SHAH JEHAN	KHUDAI NOOR KILLI	GGPS Khudai Noor Killi	
29	PERVEZ KHAN	YAKOOB KHAN	SHANKAR MAHAL	GGPS Shankar Mahal	
30	Abbas Ali	Khurshad Wahab	Gujrat	GGHSS Gujrat	
31	Muhammad Illaf	Qamash Gul	Sher Abad	GPS Sher Abad Jungara	
32	TAJ WALI	GUL ZAMIR	GUJRAT	GPS Gul Dheri	
33	FAZLI AMIN	MUSHARAF KHAN	KHANI KOTEY	GPS Khani Kotey	

Disable Quota

S.NO	Name	Fname	Address	Name of School where appointment	Remarks
1	Mudaseer Nazar	Nihar Gul	Rustam	GPS Town Committee Takht Bhai	Cowkidar
2	Khan Muhammad	Taj Muhammad	Zaristan Banda	GHSS Pir Saddi	N.Qasid
3	Naeem Khan (SSC)	Sher Amin	Daki Gumbat	GHS Toru Mira	Beshti
4	Muhammad Iddress	Ayub Khan	Sangar	GGMS Sangar	N.Qasid

Minority Quota

S.NO	Name	Fname	Address	Name of School where appointment	Remarks
1	Adnan Bhatti	Shakeel Bhatti	Canit	GCMS No.3	
2	Nasir Mashi	Patras Mashi	Sugar Mills	EDO Office	Sweeper
3	Kamla Davi	Sultan Chand	Canit	GGHS No.1	Sweeper
4	Sarfraz	Gulzar Masi	Canit	GPS Sugar Can	Collet

*Attest
Saeed Ahmad
Adm. Officer*

TERMS AND CONDITIONS

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1. He shall for all intents and purposes, be Civil Servant except for purpose of pension or gratuity. In lieu of pension and gratuity, he shall be entitled to receive such amount contributed by him towards Contributory Provident Fund(C.P.F) along with the contributions made by Govt. to his accounts in the said fund, in the prescribed manner.
2. He Shall be governed by the Civil Servants Act 1973, all the laws applicable to the Civil Servant and Rules made there under.
3. He Shall initially, be on probation for a period of one year extendable for a further period up to another year.
4. His service shall be liable to termination at any time without assigning any reason thereof before the expiry of period of probation, if his work during this period is not found satisfactory. In such an event, he shall be given a months notice of termination from service or one months pay in lieu thereof. In case he wishes to resign at any time, a months notice shall be necessary or in lieu thereof a months pay shall be forfeited.
5. He shall produce medical fitness certificate from the Medical Superintendent, DHQ Hospital Mardan, as required under the Rules.

If the above terms and conditions of appointment are acceptable to him, he should report for duty in the office of Executive District Officer Elementary and Secondary Education Mardan within 15 days against the existing vacancy.

(HANIF ULLAH KHAN)
EXECUTIVE DISTRICT OFFICER
E&S EDUCATION MARDAN

Endst No2492- G Dated 24/3/2010

Copy of the above as forwarded for information and necessary action.

- 1- Director Elementary and Secondary Education NWFP Peshawar
- 2- District Co-ordination Officer Mardan
- 3- District Accountant Officer Mardan
- 4- District Officer (Male&Female) E&S Local Office
- 5- Principal/Head Master Concerned
- 6- Deputy District Officer Male and Female Mardan and Takht Bhai
- 7- ADO (E) Local Offices
- 8- HM GPS/GGPS Concerned
- 9- Budget and Accountant Officer local office
- 10- The Candidates Concerned.


EXECUTIVE DISTRICT OFFICER
E&S EDUCATION MARDAN
AD



OFFICE OF THE DISTRICT EDUCATION
OFFICER (MALE) E&SE MARDAN

Ana - c

10

OFFICE ORDER.

Whereas You Mr, Abdul Wahab Chowkidar GPS Said Faqir Banda Mardan remained will full absent from duty with effect from 23-01-2015 till date without any permission/information.

Whereas the authorized officer sent three consecutive absence notices through concerned officer by registered cover on your home address for the resumption of your duty but you failed to resume your duty.

Whereas, the undersigned further published notice in daily Mashriq Peshawar dated 11-07-2015 but you neither personally appear before the undersigned nor you submitted any written justification within the stipulated period.

Now, therefore, the undersigned being the competent authority in exercise of powers conferred in the Efficiency and Disciplinary Rules 1973 revised in 2011, has been pleased to impose the major penalty i.e Removal from Service upon you Mr, Abdul Wahab Chowkidar GPS Said Faqir Banda Mardan with effect from the date of your will full absence i.e 23-01-2015

(HANIF ULLAH FAROOQI)
DISTRICT EDUCATION OFFICER
(MALE) MARDAN.

Endst: No. 5266/19 P. File

Dated 12/18 /2015.

Copy forwarded to the:-

1. P.S Secretary Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.
2. Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.
3. Deputy Commissioner Mardan.
4. District Monitoring Officer IMU Mardan.
5. SDEO (M) Primary Mardan with the remarks to submit his service book for removal from service entry.
6. Mr, Abdul Wahab Chowkidar C/O Head Teacher GPS Said Faqir Banda Mardan.

DISTRICT EDUCATION OFFICER
(MALE) MARDAN

TO,

Attended
Faizul Usman
Advocate
Mardan

Ann-D

(11)

THE DIRECTOR ELEMENTARY AND
SECONDARY EDUCATION KHYBER
PHTOONKHTWA

Subject DEPARTMENTAL APPEAL AGAINST THE ORDER DATED 12/8/2015 VIDE WHICH THE PETITIONER REMOVED FROM SERVICE AND WHICH WAS COMMUNICATED TO PETITIONER ON 27/10/2015 WHICH IS AGAINST THE LAW, FACTS AND LIABLE TO BE SET ASIDE AND PETITIONER MAY KINDLY BE REINSTATED IN SERVICES WITH ALL BACK BENEFITS.

Respected Sir,

- 1) That the petitioner was appointed as Chokidar Class IV on dated: 24/3/2010 and took charge on 25/3/2010 in GPS said Faqir Banda. (Copies are attached).
- 2) That the petitioner has performed his duty with full devotion and entire satisfaction of his Superior and there is no complaint against him.
- 3) That the petitioner has unblemished and spotless service record of 5 years.
- 4) That without any reason and legal proceeding the petitioner removed from his services. (Copy attached).
- 5) That the petitioner was remained unaware / not intimated of his removal from services while on dated 26/10/2015 when attended his duty was astonished when he was informed that he is removed from service.
- 6) That on his personal ^{efforts} ~~for~~ petitioner obtained his removal order from concern department on 27/10/2015.
- 7) The petitioner was surprised / astonished that the District Education Officer E&S Education Mardan imposed major penalty of removal from service which is illegal against law and facts on the following grounds.

Grounds

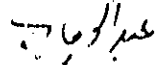
(12)

- A. That under the rules before removal from services regular inquiry is must however, No such inquiry was conducted in petitioner case which is violation of due process of law.
- B. That the petitioner was not servered with any show cause notice.
- C. That the petitioner has performed his duty regularly.
- D. That petitiner was deprived of his right of defense.
- E. That the petitioner was not granted the opportunity of personal hearing.
- F. That the petitioner was not informed about the initiation of disciplinary action.
- G. That petitioner was not provided documentary evidence to prove his innocence. While petitioner was orally informed about his removal on 26/10/2015 and petitioner obtained his removal order on 27/10/2015 on his personal efforts and the petitioner's appeal is within time.
- H. That the petitioner was proceeded Ex-party which is agasint law and natural justice.
- I. That the petitoner is a poor person and sole bread earner of his large family.
- J. That the petitioner has no source of income.
- K. That If the petitioner departmental appeal is not accepted. He and his family will suffer irreparable loss.

It is therefore humbly requested that the impugned order dated 12/8/2015 which is communicated to petitioner on 27/10/2015 may kindly be setaside in the best interest of justice, equity and petitioner may kindly be reinstated in services with all back benefits.

Date: 29/10/2015

Your's obediently


Abdul Wahab S/o Mohammad
Azeem Chokidar GPS Faqir
Banda, Mardan

Ann - E

MEDICAL CERTIFICATE

(13)

Name of official Abdul

Caste or race Muslim

Father's name Abdul

Residence (11) M. S. Road

Date of birth 20/06/1978

Exact height by measurement 5-5

Personal mark of identification Mark face (Side)

Signature of the official _____

Signature of head of office _____

Seal of office

I do hereby certify that I have examined Mr. Abdul a candidate for employment in the Office of the _____ and cannot discover that he had any disease communicable or other constitutional affection or bodily infirmity except _____

I do not consider this as disqualification for employment in the office of the Mr. A. Chaudhary according to his own statement 31/32 year and by appearance about 31/32



LEFT HAND THUMB AND FINGER IMPRESSIONS

25/03/2010

MEDICAL SUPERINTENDENT,
CIVIL HOSPITAL

Medical Superintendent
District Hospital, Mardan

Signature
Jamil Ahmad
Additional
Mardan

DOMICILE CERTIFICATE

Ann-F
14

*Attorney
General
Advocate
Mardan*

I declare that I was born of parents who are permanently domiciled in N.W.F.P. having belonged to in by birth / settled in it.

I belong by birth to Village / Mohallah Said Faqir Khan Banda

Tehsil Mardan District Mardan

Signature
Signature of the applicant

Date 17-10-2008

Pursuance to the declaration dated _____

Filled by Abdul wahab Son / daughter of Muhammad Azeem domiciled in the N.W.F.P, It is here by certified that

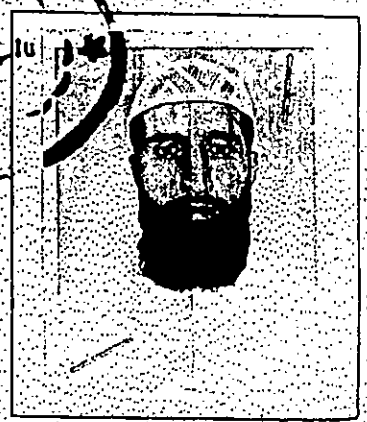
the said Abdul wahab is born of parents who are permanent residents of the N.W.F.P, having belonged to it by birth / settled in it.

I have satisfied myself personal / knowledge verification that the above declaration is true and certify *over leaf*

This 12th day of Nov 2008



MUHAMMAD IQBAL
DEPUTY DISTRICT OFFICER
(JUDL./REV.)
MARDAN / TAKHRIKAT



**DISTRICT OFFICER
(REVENUE & ESTATE)
MARDAN**

No. 18282 Date 12/11/08

تصدیق
۱۵

تہائی جاتی ہے کہ کسی اسلحہ

محمد عبد عظیم

دلدادتر

محمد عبد عظیم

گاؤں انڈسٹری سڈروٹی جی

اسی باشندہ ہے اور اسکے والدین انڈسٹری سڈروٹی جی مذکورہ کے رہائشی و پیداہئی باشندگان ہیں۔
پاکستانی ہیں۔

لموڑ جاتا ہوں۔ رپورٹ عرض ہے۔


FAZLI RABBI
Khatti, Councilor
UJC, Katti, Garhi

یقین

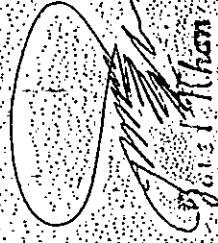
محمد عبد عظیم

برائتر محمد عظیم

محمد عبد عظیم

محمد عبد عظیم

ایہیں۔ رپورٹ عرض ہے۔



U.C. Katt, Garhi
Murdan

جنوری ضابطہ ڈائریکٹر ایجوکیشن ضلع بختون خواہ پشاور

اپیل برائے بحالی از چوکیدار

جناب عالی!

Aux-6

GPS سرفقیر بانڈہ مردان

Attested
Jalaluddin
Ahmad
Mander

(16)

سرکل کائنات

مردانہ گزارش صوبہ خیبر پختونخواہ ہے کہ سائیل GPS سرفقیر بانڈہ محبت چوکیدار
مرضہ 2006-05 سے کام کر رہا تھا اپنے ڈیوٹی کو انتہائی امانداری اور نرض شناسی
سے انجام دے رہا تھا۔

لیکن سائیل جس سکول میں چوکیدار تھا اس سکول کے مالک نے زمین علاقے کا
ایک مالدار شخص سے اس کے لئے میرے والد صاحب خدمت کرتا تھا
اس دوران والد صاحب فوت ہو گیا

تو اس شخص نے سائیل کو سکول سے ڈیوٹی دینے پر بند کر دیا اور ساتھ ہی دھکی موت
بھی دینا شروع کر دیا

اس وجہ سے سائیل کو ملازمت سے برخواست کر دیا گیا

سائیل پمپر دانہ اپیل کرتا ہے کہ سائیل کو دوبارہ بحال کر کے اور ساتھ

بیکار کسی اور سکول میں چوکیدار پر تعیناتی کے احکامات صادر فرماوے

Note: - Removal from service order
attached.

العارض

عبدالوحید

آریکٹا بھو دار عبدالوہاب ولد محمد عظیم چوکیدار GPS سرفقیر بانڈہ

سرکل کائنات مردان

Father Name: Muhammad Usman
 NLC No: 1501-6511417-5
 Date of Birth: 03-07-1978
 Address: Mohallah Bahar Gularg Town,
 Kasa Korona Mardan
 Mobile No: 0345-8123399
 PESHAWAR HIGH COURT BAR ASSOCIATION
 Phone: 091-9210184, 9210292 Fax: 091-9210145



Peshawar High Court
 Bar Association



بعدالت سروس ٹریبونل کے لیے

کورٹ فیس

مورخہ: 28/11/2016ء منجانب: عبدالرشید
 مقدمہ: عبدالروباب بنام حکومت
 دعویٰ: سروس اپیل
 جرم:

باعت تحریر آئیکہ BC-10-5618

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ آن مقام کے لئے سعید عثمان ایڈووکیٹ ہائی کورٹ سوڈان ریسٹریوٹڈ متقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز وکیل صاحب کو راضی نامہ و تقرر ثالث و فیصلہ پر حلف دینے جواب دہی 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 برآمد ہوگی اور منسوخ دائر کرنے کی اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا اور بصورت ضرورت مذکور کے عمل یا جزدی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنی ہمراہ یا اپنی بجائے تقرر کا اختیار ہوگا اور صاحب مقرر شدہ کو بھی جملہ مذکورہ بالا اختیارات حاصل ہونگے اور اسکا ساختہ برواختہ منظور و قبول ہوگا اور دوران مقدمہ میں جو خرچہ و ہرجاں التوائے مقدمہ کے سب سے ہوگا اسکے مستحق وکیل صاحب ہونگے۔ نیز بقایا و خرچہ کی وصولی کرتے وقت کا بھی اختیار ہوگا اگر کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہونگے کی پیروی مقدمہ مذکور لہذا

وکالت نامہ لکھ دیا کہ سند ہے

المرقوم 28 ماہ جنوری 2016ء

العبد گواہ شہاد العبد

Attested & Accepted

بمقام لیاور کے لئے منظور ہے

Attested and Accepted
 Saeed Usman
 Advocate
 Mardan

Accepted
 عبدالرحمان

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No: 164/2016

Abdul Wahab S/O Muhammad Azeem Chokidar GPS Faqir Banda, Mardan

..... Petitioner

Versus

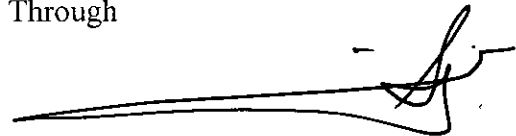
The Gov. of K.P.K. through Secretary (E & SE) & Others..... Respondents

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Respondents

Through



District Education Officer
(Male) Mardan

Dated: _____

2016

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No: 164/2016

Abdul Wahab S/O Muhammad Azeem Chokidar GPS Faqir Banda, Mardan

..... Petitioner

Versus

The Gov. of K.P.K. through Secretary (E & SE) & Others..... Respondents

Para Wise Comments on Behalf of Respondents

Respectfully Sheweth,

PRELIMINARY OBJECTIONS:

1. That the appellant has got no cause of action as well as locus standi to file the instant appeal.
2. That the instant appeal is incompetent in its present form, hence liable to be dismissed.
3. That the instant appeal is badly time barred.
4. That the appeal is not maintainable in its present form.
5. That the appellant has not come to this Honourable Tribunal with clean hands.
6. That the appellant is estopped by his own conduct.
7. That the appellant has concealed the material facts from this Honourable Tribunal hence liable to be dismissed.
8. That the instant appeal is based on malafide intention, hence liable to be dismissed.
9. That the instant appeal is against the prevailing law and rules.
10. That the appellant has been treated as per law & rules.
11. That after fulfillment of all the codal formalities the appellant was Removed from Service vide order Endst No 5266/G dated 12-08-2015 in accordance with law.
(Copy of Removal order is attached as **Annex-"A"**)

FACT:

1. Para No 1 is correct to the extent regarding the appointment of appellant as Chokidar, hence no comments.
2. Para No 2 pertains to record, hence need no comments.
3. Para No 3 is incorrect baseless against fact, after fulfillment of all the codal formalities and failure on the part of appellant to appear before the competent authority the appellant was removed from service, hence denied.

4. Para No 4 incorrect baseless against facts, accordingly three consecutive absent notices have been issued against the appellant through ASDEO (M) concerned on 02-04-2015, 09-04-2015 and 28-04-2015 but the appellant failed to reply on which the case was forwarded to the Respondent No 4 vide Letter No 1243 dated 06-05-2015, hence denied. (Copies of Notices and Letter are attached as Annex-B, BI, BII, BIV)
5. Para No 5 is incorrect baseless, as explained above, hence denied.
6. Para No 6 is incorrect, due to willful absence from duty the Respondent No 4 accordingly published absence notice in two newspapers on 11-07-2015 but the appellant failed to resume his duty and even did not appear before the Respondent No 4 to justify his absence made him guilty, on which the appellant was Removed from his Service vide Endst No 5266/G dated 12-08-2015, hence denied. (Copy of Newspapers are attached as Annex-C)
7. Para no 3 pertains to record, hence no comments.
8. The appellant has got no cause of action to file instant appeal.

GROUNDS:


- A. Para A is incorrect, as that the Removal Order is legally competent & is liable to be maintained in favor of the respondents.
- B. Para B is incorrect and thoroughly explained supra, hence denied.
- C. Para C is incorrect baseless, as many as three notices have been sent to the appellant, but were none replied and remained absent from his duty due to which final show cause notice has been published in the newspapers but in vain, hence denied.
- D. As explained above.
- E. Para E is incorrect, the appellant has been given full opportunity to defend but failed, hence denied.
- F. Para F is incorrect baseless, as thoroughly explained in the upper para, hence denied.
- G. Para G incorrect baseless against the law and fact, thoroughly explained supra, hence denied.
- H. Para H is incorrect baseless, the answering respondent gave full and fair opportunity of hearing but the appellant badly failed to defend himself.
- I. Para I is incorrect, all the codal formalities were observed during the process in accordance with the law by the answering respondent.
- J. Para J needs no comments.
- K. Para K needs no comments.

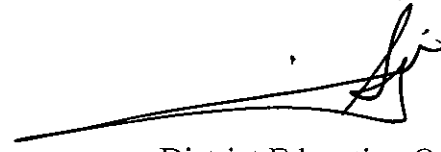
L. Para L needs no comments.

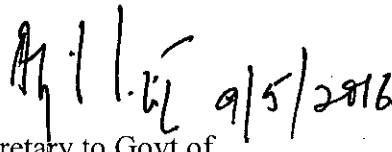
M. The respondent seeks permission to raise additional grounds at the time of arguments.

It is therefore humbly prayed that in the light of above facts, the appeal may please be dismissed with cost.

Respondents


Director E & SE
Peshawar


District Education Officer
(Male) Mardan


Secretary to Govt of
Khyber Pakhtunkhwa E & SE Department
Peshawar

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No: 164/2016

Abdul Wahab S/O Muhammad Azeem Chokidar GPS Faqir Banda, Mardan

..... Petitioner

Versus

The Gov. of K.P.K. through Secretary (E & SE) & Others..... Respondents

Reply to Application for the suspension of impugned order etc.

Respectfully Sheweth,

PRELIMINARY OBJECTIONS:

1. That the petitioner has got no cause of action & locus standi to file the instant application.
2. That the application in hand is not maintainable & there is no hope of its success.
3. That the balance of convenience lies in favor of the answering respondent & in case of not suspending the so-called impugned order, there is no irreparable loss to the appellant.

ON FACTS:

1. Para No 1 pertains to filing of the instant appeal.
2. Para no 2 to 5 are incorrect, baseless, against law and facts which is thoroughly explained in preliminary objection, hence denied. All the three ingredients for the suspension of impugned order lies in favor of respondent furthermore the reply to main appeal may kindly be considered part of this reply.

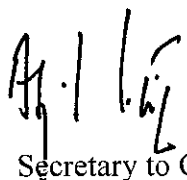
Therefore it is humbly prayed that keeping in view the above mentioned fact, the instant appeal may kindly be dismissed with cost.

Respondents

Director E & SE
Peshawar



District Education Officer
(Male) Mardan

 9/5/2016.

Secretary to Govt of
Khyber Pakhtunkhwa E & SE Department
Peshawar

**OFFICE OF THE DISTRICT EDUCATION
OFFICER (MALE) E&SE MARDAN**

"A"

OFFICE ORDER.

Whereas You Mr, Abdul Wahab Chowkidar GPS Said Faqir Banda Mardan remained will full absent from duty with effect from 23-01-2015 till date without any permission/information.

Whereas the authorized officer sent three consecutive absence notices through concerned officer by registered cover on your home address for the resumption of your duty but you failed to resume your duty.

Whereas, the undersigned further published notice in daily Mashriq Peshawar dated 11-07-2015 but you neither personally appear before the undersigned nor you submitted any written justification within the stipulated period.

Now, therefore, the undersigned being the competent authority in exercise of powers conferred in the Efficiency and Disciplinary Rules 1973 revised in 2011, has been pleased to impose the major penalty i.e Removal from Service upon you Mr, Abdul Wahab Chowkidar GPS Said Faqir Banda Mardan with effect from the dated of your will full absence i.e 23-01-2015

(HANIF ULLAH FAROOQI)
DISTRICT EDUCATION OFFICER
(MALE) MARDAN.

Dated 12-8 /2015.

Endst: No. 5266/R P. File

Copy forwarded to the:-

1. P.S Secretary Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.
2. Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.
3. Deputy Commissioner Mardan.
4. District Monitoring Officer IMU Mardan.
5. SDEO (M) Primary Mardan with the remarks to submit his service book for removal from service entry.
6. Mr, Abdul Wahab Chowkidar C/O Head Teacher GPS Said Faqir Banda Mardan.

DISTRICT EDUCATION OFFICE
(MALE) MARDAN



1st

'B'

O/O The Sub-Divisional Education Officer

(Male) Mardan.

No. 937 / Date 2/1/2015

(4)

To

ABDUL WAHAB

Chout-dov

Mr. Saim Fajri Bano (Mardan)

Subject:

1st Notice Absence From Duty.

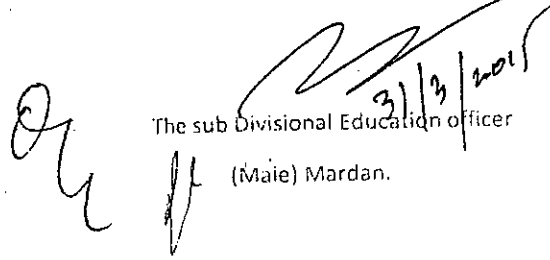
Memo:-

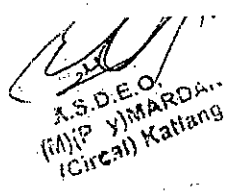
In the light of your absence report from duty in the school you
Mr. ^{CE} Abdul Wahab PST GPS S. Fajri Bano is will fully absent from you duty
without any information. fm 23.1.15

Hence you are hereby directed to resume your duty after the issuing of this notice
within a week time and submit cogent reason of your absence in written.

In case of failing it will presumed that there is nothing with you for your defense, and
you will be dealt under E&D rules 1973 revised in 2011 (Removal from service).

If you want personal hearing then attend this officer on any working day in the prescribed
office time


The sub Divisional Education officer
(Male) Mardan. 3/3/2015


A.S.D.E.O.
(M) P. Y. MARDAN
(Circle) Kattang



O/O The Sub-Divisional Education Officer

(Male) Mardan

No. 1015 / Date 9/14/2015

'BI'

Incl

(3)

Abdul Wahab

Chambidar

سرینتربان سولہ سو پست گیسٹس

To

Notice Absence From Duty.

Subject:

Ref No. 33 of 74118

Memo:-

In the light of your absence, report from duty in the school you

Mr. Abdul Wahab PST GPS سرینتربان سولہ سو پست گیسٹس will fully absent from you duty without any information. ref 23-1-15

Hence you are hereby directed to resume your duty after the issuing of this notice within a week time and submit cogent reason of your absence in written.

In case of failing it will presumed that there is nothing with you for your defense, and you will be dealt under E&D rules 1973 revised in 2011 (Removal from service).

If you want personal hearing then attend this officer on any working day in the prescribed office time

The sub Divisional Education officer
(Male) Mardan.

دستخط ہیڈ ماسٹر

حکومت پنجاب، پریس۔ ۱۳۔ اردو بازار، لاہور۔ ۵۴۰۰۰



'BII'

D/O The Sub-Divisional Education Officer

(Male) Mardan.

NO. 1125 / Date 28/4/2015

3rd

To

Mr. Abdul Wahab
Chaudhary

(2)

حضرت عبدالواہب
چوہدری

90 PSAT S. Fajri Bardi

Subject: 3rd Notice Absence From Duty.

Ref: this office and AS&AD notice No. 1015 D/99/15

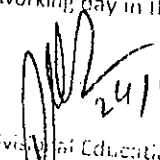
In the light of your absence report from duty in the school you will fully absent from your duty without any information. 23-4-15

Hence you are hereby directed to resume your duty after the issuing of this notice within a week time and submit cogent reason of your absence in written.

In case of failing it will presumed that there is nothing with you for your defense, and you will be dealt under E&D rules 1973 revised in 2011 (Removal from service).

If you want personal hearing then attend this officer on any working day in the prescribed office time.

This notice is final.


24/4/15
The sub-Divisional Education Officer
(Male) Mardan.

'BIV'

Sub Divisional Education Officer

(Male) Primary Mardan

NO 1243 / Absent File

Dated 6/15 /2015

To, ✓

The District Education Officer

(Male) Mardan

Subject

ABSENT FROM DUTY.

Memo

It is stated for your kind information that three absent notices have been issued to the following officials through ASDEO (M) concerned (Copies attached pl) but no replies are submitted till date.

There fore it is requested that further disciplinary action may be taken against them under the rules. Details are given below.

SNO	Name of Officials	Name of School	Notice Issued.
1	Muhammad Ilyas Chow:	GPS Aminullah Koroona	1. 932 dated 02.4.15 2. 1013 dated 09.04.15 3. 1124 dated 28.4.15
2	Abdul Wahab Chow:	GPS Said Faqir Banda	1. 933 dated 2.4.15 2. 1015 dated 09.4.15 3. 1125 dated 28.4.15

SUB DIVISIONAL EDUCATION OFFICER
(MALE) PRIMARY MARDAN.

Dist No. _____

Copy to the:-

Head Teacher concerned.

Sub Divil: Edu: Officer
(Male) Mardan

Handwritten notes:
DARWIS (signature)
2/15

اللہ ہی کیلئے ہیں مشرق و مغرب القرآن

DAILY MASHRIQ PESHAWAR

روزنامہ پشاور

مہدیو کے بانی

سید تاج میر شاہ

مشرق

مستقل اشاعت کے 48 سال

پشاور اور اسلام آباد سبیک وقت شائع ہونے والا کثیر الاشاعت قومی اخبار

ABC CERTIFIED

جلد 48 ہفتہ 23 رمضان المبارک 1436ھ 11 جولائی 2015ء 26 ماہ قیمت 12 روپے شمارہ 326

نوٹس غیر حاضری

آپ سے وصول ہونے والا رقم 11 جولائی 2015ء کو وصول ہوئی ہے۔ اگر آپ کو اس رقم کی وصولی کے بارے میں کوئی شک ہے تو براہ کرم اس رقم کی وصولی کے بارے میں مزید جاننے کے لیے ہم سے رابطہ کریں۔ اگر آپ کو اس رقم کی وصولی کے بارے میں کوئی شک ہے تو براہ کرم اس رقم کی وصولی کے بارے میں مزید جاننے کے لیے ہم سے رابطہ کریں۔ اگر آپ کو اس رقم کی وصولی کے بارے میں کوئی شک ہے تو براہ کرم اس رقم کی وصولی کے بارے میں مزید جاننے کے لیے ہم سے رابطہ کریں۔

نام	غیر حاضری کی تاریخ	نام	غیر حاضری کی تاریخ
بلال خان بی ایس پی ایف	01/12/2014	ماریف خان بی ایس پی ایف	1/12/2015
محمد اسحاق بی ایس پی ایف	7/3/2015	محمد اسحاق بی ایس پی ایف	23/01/2015
محمد اسحاق بی ایس پی ایف	23/11/2014	محمد اسحاق بی ایس پی ایف	29/4/2015

انتہی: حنیف اللہ ڈسٹرکٹ ایجوکیشن آفیسر (مردان) مردان INF (MR) 25

پشاور ایسٹ آباد اسلام آباد اور کراچی سے بیک وقت شائع ہونے والا کثیر الاشاعت قومی روزنامہ

روشن کل کی شائستہ آج کا نصب العین

روزنامہ

پشاور
پاکستان

آج

ایڈیٹر
عبدالواحد یوسفی

صفحہ 12

جلد 26 ہفتہ 11 جولائی 2015ء 23 رمضان 1436ھ قیمت 12 روپے شمارہ 183

نوٹس غیر حاضری

آپ سے وصول ہونے والا رقم 11 جولائی 2015ء کو وصول ہوئی ہے۔ اگر آپ کو اس رقم کی وصولی کے بارے میں کوئی شک ہے تو براہ کرم اس رقم کی وصولی کے بارے میں مزید جاننے کے لیے ہم سے رابطہ کریں۔ اگر آپ کو اس رقم کی وصولی کے بارے میں کوئی شک ہے تو براہ کرم اس رقم کی وصولی کے بارے میں مزید جاننے کے لیے ہم سے رابطہ کریں۔ اگر آپ کو اس رقم کی وصولی کے بارے میں کوئی شک ہے تو براہ کرم اس رقم کی وصولی کے بارے میں مزید جاننے کے لیے ہم سے رابطہ کریں۔

نام	غیر حاضری کی تاریخ	نام	غیر حاضری کی تاریخ
بلال خان بی ایس پی ایف	01/12/2014	ماریف خان بی ایس پی ایف	1/12/2015
محمد اسحاق بی ایس پی ایف	7/3/2015	محمد اسحاق بی ایس پی ایف	23/01/2015
محمد اسحاق بی ایس پی ایف	23/11/2014	محمد اسحاق بی ایس پی ایف	29/4/2015

انتہی: حنیف اللہ ڈسٹرکٹ ایجوکیشن آفیسر (مردان) مردان INF (MR) 25

BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR.

S.A.No.164/2016

Abdul Wahab..... V/S..... Govt. and others

REJOINDER ON BEHALF OF APPELLANT

Respectfully Sheweth;

Preliminary objections:

All the preliminary objections are incorrect, misconceived. Denied.

ON FACTS:

- 1-2) These paras are admitted as correct.
- 3) That para No.3 of appeal is correct and that of reply is incorrect.
Denied.
- 4) That para No.4 of appeal is correct and that of reply is incorrect.
Denied.
- 5) That para No.5 of appeal is correct and that of reply is incorrect.
Denied.
- 6) That para No.6 of appeal is correct and that of reply is incorrect.
Denied.
- 7) That para No.7 of appeal has been admitted being pertains to record.
- 8) That para No.8 of appeal is correct and that of reply is incorrect.
Denied.

GROUND

- A. That ground "A" of appeal is not correct and that of reply is incorrect. Denied.

- B. That ground "B" of appeal is not correct and that of reply is incorrect. Denied.
- C. That ground "C" of appeal is not correct and that of reply is incorrect. Denied. No notice has been served.
- D. That ground "D" of appeal is not correct and that of reply is incorrect. Denied.
- E. That ground "E" of appeal is not correct and that of reply is incorrect. Denied.
- F. That ground "F" of appeal is not correct and that of reply is incorrect. Denied.
- G. That ground "G" of appeal is not correct and that of reply is incorrect. Denied.
- H. That ground "H" of appeal is not correct and that of reply is incorrect. Denied.
- I. That ground "I" of appeal is not correct and that of reply is incorrect. Denied. Not published in two leading newspapers.
- J,K,L These grounds are admitted as submitted. No comments.

It is, therefore, humbly requested that appeal may please be accepted.

Saeed Osman

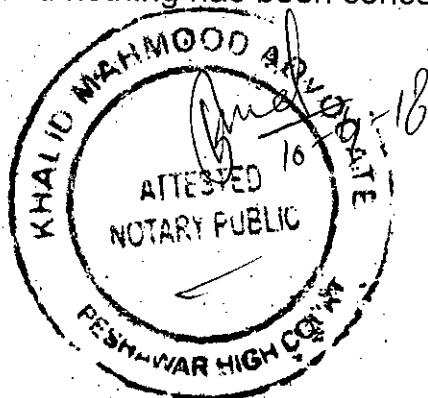
Appellant

Through

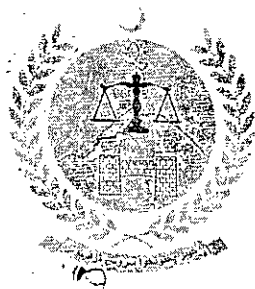
Saeed Osman
Saeed Osman
Advocate High Court

AFFIDAVIT

I, do hereby affirm and declare that the contents of the Rejoinder are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.



Saeed Osman
Deponent



KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

All communications should be addressed to the Registrar KPK Service Tribunal and not any official by name.

Ph:- 091-9212281
Fax:- 091-9213262

No. 1449 /ST Dated 22/5/2023

To:

The District Education Officer,
Mardan.

Subject:

JUDGMENT IN SERVICE APPEAL NO. 164/2016 TITLED ABDUL WAHAB-VS- SECRETARY E & SE GOVERNMENT OF KHYBER PAKHTUNKHWA, PESHAWAR AND OTHERS.

I am directed to forward herewith a certified copy of judgment dated 03.03.2023, passed by this Tribunal in the above mentioned appeal for strict compliance.

Encl. As above.

(AAMIR FAROOQ)
ASSITANT REGISTRAR.
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL,
PESHAWAR.