BEFORE THE HONOURABLE SERVICE TRIBUNAL PESHAWAR SERVICE APPEAL NO. 2237/2023

MUHAMMAD DAUD		APPELLANT
and the second	V/S	
DISTT EDUCATION OFFICER	(MALE) KOHAT & OTHERS	RESPONDENTS

S#	Description of the Documents	Annex	Pages
1	Reply	-	1-2
2	Affidavit	-	3
3	Modification order bearing No: 580-84 dated 03.02.2021	A	3,
4	Photo copy of receipt No: RGL81835333	В	5
5	Photo copy of receipt No: RGL81803333	C	6
6	Photo copy of receipt No: RGL81829545	D	79
7	Photo copy of Daily "Mashriq dated	E	8
8	Photo copy of Daily "AAJ" dated 16.10.2022	F	9
9	Photo copy of Removal from service order Endst No: 7823-26 dated 02.12.2022	G	10
10	Photo copies of absence notices	-	11:43

DISTRICT EDUCATION OFFICER (MALE) KOHAT

BEFORE THE HONOURABLE SERVICE TRIBUNAL PESHAWAR SERVICE APPEAL NO. 2237/2023

MUHAMMAD DAUD......APPELLANT

V/S

DISTT EDUCATION OFFICER (MALE) KOHAT & OTHERS......

RESPONDENTS

Parawise comments on behalf of Respondent No: 1, 2 & 3

Service Tribunal

Respectfully Sheweth

06-12-23

Preliminary objections:

1. That the appellant has got no cause of action locus standi.

- 2. That the instant Service appeal is badly time barred.
- 3. That the appellant has concealed material facts from the Hon'able Tribunal in the instant service appeal.
- 4. That the instant service appeal is against the relevant provisions of law.
- 5. That the appellant has not come to this Hon'able Tribunal with clean hands.
- 6. That the instant appeal is liable to be dismissed for mis-joinder & non-joinder of the necessary parties to the present appeal.
- 7. That the appellant is estopped by his own conduct to file the instant appeal.
- 8. That the instant service appeal is not maintainable in the present form & circumstances of the case.

FACTS

- 1. That Para No: 1 of the fact is correct as based on record.
- 2. That Para No: 2 of the fact is incorrect he could not perform his duty with the entire satisfaction of his high ups.
- 3. That Para No: 3 of the fact is incorrect, the appellant was not interested to perform his duty. The respondent Department granted him relief, as per request of the appellant and modified his place of posting as GHSS Surgul Kohat instead of GHSS Malign Kohat bearing No: 580-84 dated 03.02.2021 (Copy annexed as annexure A). But the appellant again failed to perform his duty at his new station i.e. GHSS Surgul Kohat
- 4. That Para No: 4 of the fact is incorrect the appellant has been informed properly with the following registered cover absence notices on his Home address to resume his duty but he did not report for joining his duty.

Sr	Absence	Date	Register coved No	Registry receipt is annexed as
No:	Notice No			annexure
1	1124	22.06.2022	RGL81835333	В
2	1128	18.07.2022	RGL81809333	С
3	4659	10.09.2022	RGL81829545	D



In response to the above notices the appellant did not submit any reply to the respondent department, therefore a final show cause notice was also published in two daily leading news Papers i.e. Daily "Mashriq" & Daily "AAJ" Peshawar dated 16.11.2022 (Copies annexed as annexure E & F) with the direction to report for onward duty but he failed again. Therefore the respondent Department in exercise of Power under Rules 4 (b) (iii) of the Khyber Pakhtunkhwa E& D Rules 2011 imposed major penalty of removal from service upon the appellant w.e.f. 01.06.2022 bearing Notification/Order Endst No: 7823-26 dated 02.12.2022 (Copy annexed as annexure G).

5. That Para No: 5 of the fact is legal and pertain to record.

GROUNDS:-

- A. That Para No: A of the ground is incorrect and the act of the respondent Department is correct, lawful and according to the Government of Khyber Pakhtunkhwa E&D Rules 2011 as mentioned vide Para No: 4 above
- B. That Para No: B of the ground is incorrect the appellant did not bother to report in response of notices issued to him as mentioned in Para No: 4 above to the respondents Department. Therefore Ex-Parte action was initiated against the appellant.
- C. That Para No: C of the ground is incorrect there is no evidence on record that the appellant has informed the respondent Department.
- D. That Para No: D of the ground is incorrect and the act of the respondent Department is correct, lawful and according to the Government of Khyber Pakhtunkhwa E&D Rules 2011 as mentioned vide Para No: 4 above.
- E. That Para No: E of the ground is incorrect, the act of the respondent Department is lawful in accordance with the existence Rules i.e. E&D Rules 2011.
- F. That the respondent Department will adduce some other ground at the time of arguments with the gracious permission of this Hon'able Tribunal.

PRAYED

It is therefore humble prayed that on acceptance of this reply instant appeal may very kindly be dismissed with cost.

(Muhammad Sheraz)

DISTRICT EDUCATION OFFICER

(MALE) KOHAT

Astrict Polycensing Officer
(Male) Kohal

ELEMENTARY & SECONDARY EDUCATION

KHYBER PAKHTUNKHWA PRESHAWAR

Respondent No: 2 Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar

(Motasim Billah Shah SECRETARY

TO GOVT ELEM & SEOCY EDUCATION

DEPARMENT KHYBER PKAHTUNKHWSECRETARY

PESHAWAR Respondent No: 1 Elementary & Secondary Edu: Deptt: Government of Khyber Pakhtunkhwa



BEFORE THE HONOURABLE SERVICE TRIBUNAL PESHAWAR <u>SERVICE APPEAL NO. 2237/2023</u>

MUHAMMAD DAUD...... APPELLANT

V/S

DISTT EDUCATION OFFICER (MALE) KOHAT & OTHER..... RESPONDENTS

Affidavit

I, Muhammad Sheraz District Education Officer (Male) Kohat solemnly affirm and declare on oath that the contents of the accompanying Parawise reply/comments are true and correct to the best of my knowledge and belief and nothing has been concealed withheld from the Honorable Service Tribunal Khyber Pakhtunkhwa Peshawar.

It is further stated on oath that in this appeal, the answering respondents have neither been placed e-parte nor their decency has been struck off/cost.

Deponent

(Muhammad Sheraz)

DISTRICT EDUCATION OFFICER (MALE) KOHAT

CNIC No: 1

14203-2057044-7

Cell No:

03005325372

District Education Officer
(Male) Kohat

So Oath Commissioner But So The Commissioner But So The Commissioner But So The Country of the C

OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) KOHAT

CORRIGENDUM

In partial modification in respect of order vide No. 315-23 dated 20/01/2021, please read Mr. Muhammad Daud S/O Munir Badshah Chowkidar at GHSS Surgul Kohat instead of Lab Attendant GHS Malgin Kohat on the recommendation of Committee contained at Sr.No 07.

He is further directed to resume his duty as Chowkidar at GHSS Surgul Kohat against vacant post.

DISTRICT EDUCATION OFFICER
(MALE) KOHAT

Endst: No. 580 - 84

Copy to the:

- 1. Director E&SE, Khyber Pakhtunkhwa Peshawar.
- 2. Deputy Commissioner Kohat.
- 3. District Account Officer Kohal.
- 4. Principal/Headmaster concerned.
- 5. Official concerned.

DY: DISTRICT EDUCATION OFFICER
(MALE) KOHAT

Superintendent D.E.O (M) Kohat

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principal GHSS Sur Gul Kohat

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Principal GHSS Sur Gul Kohat

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شوكار توثيي

سمی محمد داؤ دچوکیدار گورنمنٹ ہائیرسیکنڈری سکول سورگل کو ہائ آپ مور ندیم جون 2022 سے تا حال بخیر کسی اطلاع کے سکول ڈیوٹی سے غیر حاضر ہیں۔ آپ کے گھر کے پتے پر نوٹس جاری کئے لیکن تا حال آپ نے کوئی جواب نہیں دیا۔

لبندابذربیداخبار آپ کومطلع کیاجاتا ہے کہ آپ اخباری اشاعت کے 15 دن کے اندراندراپناتح یری جواب جمع کردائیں اور زیر وقطی کے روبروپیش ہوکر اپنی غیر حاضری کی دجہ بیان کریں۔ عدم پیمل کی صورت میں کی طرفہ کا ردوائی عمل ال کی جائے گی جو کہ آپ کی نوکری سے برخانظی پر منتج ہو عتی ہے۔ بعد میں کوئی عذر قابل قبول نہیں ہوگا۔

دُسترکت ایجوکیشن آفیسر (مردانه) کوهات

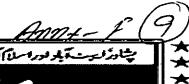
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"Take Special Care of NF(P)

Special Persons" 6461/2022

Page.....4

Superintendent D.E.O (N) Kohat







شوكازنوٹس

مسمی محر داؤد چوکیدار، گورنمنٹ ہائیرسینڈری سکول سونگل کوہاٹ، آپ مورخہ کیم جون 2022ء سے تاحال بغیر کسی اطلاع کے سکول ڈیوٹی سے غیر حاضر ہیں، آپ کے گھر کے پیزنوٹس جاری کے لیکن تاحال آپ نے کوئی جواب نہیں دیا۔ لہذا بذریعہ اخبار آپ کو مطلع کیا جا تا ہے کہ آپ اخباری اشاعل کے 5 1 دن کے اندراندرا پناتح رہی جواب جمع کروائیں اورزیر سخطی کے روبروپیش ہوکر آپنی فیر حاضری کی وجہ بیان کریں۔ عدم مکیل کی صورت میں یکطرفہ کاروائی ممل میں لائی جائے گی جو کہ آپ کی نوکری سے برخاسگی پر منج ہوگئی ہے۔ بعد میں کوئی عذر قابل قبول نہیں ہوگا۔

INF(P)
5986 | 22

وْسِرْكُولِ الْجُولِيشِ أَفْيِسِ (مردانه) كوماك

Superintendent D.E.O (A.) Kohat DEFICE OF THE DISTRICT EDUCATION OFFICER (MALE) KOHAT

ORDER

WHEREAS, No. Muhammad Daud Chowkidar GHSS Sur Gul Kohat was proceeded under rules 9 of Myber Pakhtunkhwa Government servants (Efficiency & Disciplinary) Rules 2011 for the charge of willfully absence from School duty.

AND WHEREAS, Principal GHSS Sur Gul reported that Mr. Muhammad Daud Chowkidar GHSS Sur Gul Kehat has been absent from school duty wef 01/06/2022 without any prior permission

AND WHEREAS, He was served absence notice on his home address vide letter No.1124 dated 22:06, 2022. No.1128 dated 18/07/2022 and this office No.4659 dated 10/09/2022 for resumption of his duty in accordance with Rules 09 of the Reuls Ibid, but he failed to resume his duty

AND WHEREAS, final absence notice was published in two leading newspapers "Daily Mashriq Peshawar and Daily Aaj Peshawar dated 16/11/2022, but he again failed to report for anward duty within stipulated period.

NOW THEREFORE, in exercise of powers conferred under Rules-4 (b) (iii) of Government of Khyber Pakhtunkhwa (Efficiency and Disciplinary) rules 2011, the Competent authority (District Education Officer (M) Kohat is pleased to Impose major penalty of <u>"REMOVAL FROM SERVICE"</u> upon Air Muhammad Daud Chowkidar GHSS Sur Gul Kohat wef 01/06/2022.

(MUHAMMAD SHERAZ)
DISTRICT EDUCATION OFFICER
(MALE) KOHAT

Endst No. 7823-26

dated 02 /2 /2 /202

Copy to the: -

- 1 Director E&SE Khyber Pakhtunkhwa Peshawar.
- 2. District Accounts Officer Kohat
- 3. Principal GHSS Sur Gul Kohat.
- 4. Mr. Muhammad Daud Ex- Chowkidar GHSS Sur Gul Kohat

DISTRICT EDUCATION OFFICE

Superintendent Superintendent Kohal

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: خرانب: برنسل گرینش با کر کیدر کدل سورگل د این ک

بنام: قدداد جونسار که منا الن جينونند هروا ك

آ ب کم جون ۱202 سے سول ڈیول سے نیرطافنریں ۔ اس سلطس ندرید موائل نون آ ہے ۔ رابطہ پاگیا آ ہے کول من سے تبار ہے كى درفواست دى ركى يى. اس سليمين آب. كوسطله باجا تاب كه جب تك آب كا تبادل نرع وأس وقت تك آب و أبول س غيرما فرنيس موسكة

سرا آ ہے فوری فوریم سکول میں ڈیول یا حام برجا ہی ادر . نسرمافری ی وج بتائی کیونلم نیرما منری ی مورت می آنے کے علىف سردس رول 1973 آرميم غيره طال كے تحت كاروا أي مل جي لائى ماينگى جسس آب ملازمت سے برخاست بھی ہو کئے ہیں.

GHSS Surgui

کابی برائے اطلاع بنام ڈیٹر آٹ ایکولیٹس آفیر بردانہ کوٹا کے ارسال کا

Principal

GHSS Sur Gul

18.7.20- 2-15 112.8 منانب بېزىسىلى گورنىن يا ئىر كىندرى كىل سورگىل (ئولاك) شام: - مددا دوجوسرار سركول هذا. کاری پیشنوننده داری ک آ جي جي فون مده م ڪول ڏيولي عير طوي تي اس سالي ت سرم ما المعد و آب کار عبی بانی اس نے اس سے اس کرٹی ہوا ۔ آس دیا آ یک کوار دنم پر الله کے دی ما ل ہے کہ آ نوری طور بر کرل فافر بو ماکن ورنه آی کے ضروف رسى دولز كرمطالى كاردال على لان جاعلى صى سى آبا مرز عام الماس الما Lego John Steel St عي سرائيد الملائح بنام دُسرُكُ الْجُولِيْسُ الْمَسْرِرِوَالْهُ وَإِلَّهُ ارسَالُهُمْ

> Principal GHSS Surgul Kohat

Principal GHSS Sur Gul Kohat

ةُ سِرْكَتُ البِحِينُ أَفْضِر (مردانه) كوبات

تكرواؤد چوكيدار

حورنمنٹ ہائیرسیکنڈری سکول سورگل کو ہائ ساکن چیشندغندہ مضلع کو ہائ

عنوان: نوش غيير شاضري

يا داشت:

از دفتر:

يزام:

(2. Z.

مسمی محدواؤو چوکیدار گورنمنٹ ہائیرسکینڈری سکول سورگل کو ہاٹ ، آپ موری کی جون 2022 سے تا حال بغیر کسی اطلاع کے سکول و نوبی فی سے نوبی کے سکول و نوبی کی بار آپ سے دابطہ کرنے کی کوشش کی اور آپ نوبی فی سے نوبی کی بار آپ سے دابطہ کرنے کی کوشش کی اور آپ وستنبہ کیا کہ آپ و نوبی کی حاضری ہوجا کی لیکن تا حال آپ نے کوئی جواب نہیں دیا۔

انز آخری بارنوش کے ذریعے آپ کومطلع کیا جاتا ہے کہ آپ فورا اپنی ڈیوٹی پر حاضری ہوجا کیں اور اپناتحریری جواب جمع کروا کی اور زیر و بخشی کے رو برو پیش ہوکرا پی غیر حاضری کی وجہ بیان کریں۔عدم پیکیل کی صورت میں یک طرفہ کاروائی کمل میں لائی جے نے نُی جوکہ آپ کَی نوکری سے برخاسکی پر نیچ ہو سکتی ہے۔بعد میں کوئی عذر قابل قبول نہیں ہوگا۔

وْسْرُكْ الْجُوكِيشْ آفيسر (مردانه) كوبات

عني را خاطاع: 10- 666 مورد مورد الماطاع: 11- 660 مورد

- 1) أَوْرُ يَمْرُ وَالْمِيْمِرُ كَالِيَدُ سِيَنَدُرِي الْجِوكِيشْ وَجِيرٍ بِحَقَّوْ فَوْاهِ لِبْعَاور
 - 2) بنيل ورنمنت بائير سكنذرى سكول سورگل كوباث

2 / 68 (2) 69 (2) وباث المر (الروان) كوباث المر (المروان) كوباث المروان المروان (المروان) كوباث (المروان)

Superintendent D.E.O (M) Kohat

OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) KOHAT

AUTHORITY LETTER

Certified that Mr. Waheed Gul LLB, BED ADEO (Litigation) office of the District Education Officer (Male) Kohat is hereby authorized to attend the Honourable Service Tribunal Khyber Pakhtunkhwa Peshawar in connection with Service Appeal No: 2237/2023 titled Muhammad Daud Vs Govt of Khyber Pakhtunkhwa till the disposal of the case on behalf of the undersigned.

He is also authorized to submit Parawise reply.

Muhammad Sheraz

DISTRICT EDUCATION OFFICER

(MALE) KOHAT

District Education Officer
(Male) Kohat