

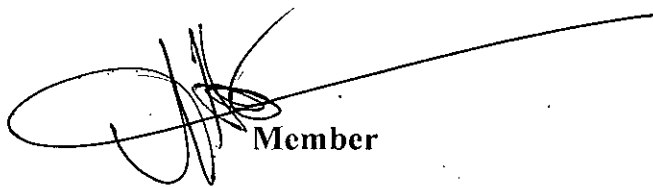
950/2015

26.06.2018


Counsel for the appellant Mr. Noor Muhammad Khattak, Advocate present. Mr. Shah Waliullah, Computer Operator on behalf of the respondents alongwith Mr. Ziaullah, Deputy District Attorney present.

Arguments heard and file perused.

Vide our detailed judgment of today placed in connected service appeal No. 949/2015, titled "Aziz Ahmad Versus Government of Khyber Pakhtunkhwa through Secretary (E&SE) Department, Peshawar and others", on acceptance of this appeal, the impugned order dated 14.4.2015 stands set aside, and the case is remanded back to the authority to conduct proceedings strictly in accordance with law against the appellant within a period of four months. In the circumstances of the case, parties shall bear their own costs. No order as to costs. File be consigned to the record room.



Member



Chairman  
26.6.2018  
Camp court, A/Abad

**ANNOUNCED**  
26.06.2018

29.03.2018

Counsel for the applicant and Addl. AG for the respondents present. Learned counsel for the applicant argued that the application for restoration of appeal is within time which is duly supported by affidavit.

The reasons given in the application are sufficient for acceptance of this application. The present application is accepted and the case is restored. Be entered on its original number and be fixed before the D.B for further proceedings. To come up for further proceedings at camp court, Abbottabad on 17.4.2018. Notice be given to the respondents for the date fixed.


81/13/10

  
Chairman

17.04.2018

Counsel for the appellant and Mr. Usman Ghani, District Attorney alongwith Shah Waliullah, Computer Operator for the respondents present. Counsel for the appellant seeks adjournment. Granted. To come up for arguments on 26.6.2018 before D.B at camp court, Abbottabad.




  
Member

  
Chairman  
Camp court, A/Abad

Form-A  
FORM OF ORDER SHEET

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

Appeal's Restoration Application No. 62/2018

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge
1	2	3
1	01.03.2018	<p>The application for restoration of appeal no. 950/2015 submitted by Mr. Noor Muhammad Khattak Advocate, may be entered in the relevant register and put up to the Court for proper order please.</p> <p style="text-align: right;"> REGISTRAR 01/03/18</p>
2	14/03/18.	<p>This restoration application is entrusted to S. Bench to be put up there on <u>19/03/18.</u></p> <p style="text-align: right;"> MEMBER</p>
19.03.2018		<p>Shaz Ullah Yousafzai present on behalf of petitioner and stated that the present case pertains to the Camp Court Abbottabad as such the present case be also fixed there. Consequently the present case file be put up before learned Chairman for appropriate orders. Adjourn. To come up for further proceedings on 29.03.2018 before S.B</p> <p style="text-align: right;"> Member</p>

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**

**PESHAWAR**

*Restoration Application No. 62/2018*

**C.M NO. \_\_\_\_\_/2018**

**Khyber Pakhtunkhwa  
Service Tribunal**

**IN**

**SERVICE APPEAL NO. 950/2015**

Diary No. 242 B

Dated 01/03/2018

**IHTISHAM UL HAQ**

**VS**

**EDUCATION DEPTT:**

**APPLICATION FOR RESTORATION OF THE ABOVE  
MENTIONED APPEAL**

**R/SHEWETH:**

- 1- That the above mentioned service appeal was pending adjudication before this august Tribunal in which 19.02.2018 date was fixed for hearing.
- 2- That appellant filed the above mentioned appeal against the impugned order dated 14.4.2015 whereby major penalty of removal from service was imposed on the appellant.
- 3- That due to non appearance of the Counsel for appellant on the date mentioned above the appeal of the appellant has been dismissed by this august Tribunal vide order/ judgment dated 19.02.2018. **Copy of the order is attached.**
- 4- That on the same date Counsel for the appellant was busy before the Hon'ble Peshawar High Court Peshawar and due to the above mentioned reason Counsel for the appellant could not appear before this august Service Tribunal.
- 5- That the non appearance of the Counsel for petitioner was neither deliberate nor intentionally but caused due to the above mentioned reason.

It is therefore, most humbly prayed that on acceptance of this application the above mentioned service appeal may very kindly be restored.

Dated: 28.02.2018.

**APPLICANT**

*H. U. H.*  
**IHTISHAM UL HAQ**

**THROUGH:**

*N. M. K.*  
**NOOR MOHAMMAD KHATTAK  
ADVOCATE**

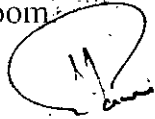
950/15

19.02.2018

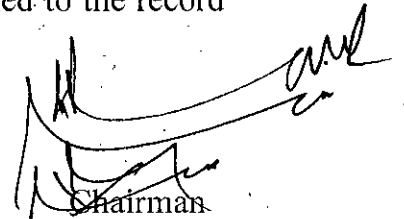
None present on behalf of the appellant. Mr. Kabirullah Khattak, Addl. AG alongwith Shah Waliullah, Computer Operator for the respondents present. On previous date also none was present on behalf of the appellant.

In view of the above, the present appeal is dismissed in default. File be consigned to the record

room



Member



Chairman  
Camp Court, A/Abad

ANNOUNCED

19.02.2018

14.02.2017

Clerk of counsel for the appellant and Mr. Shah Waliullah, Computer Operator alongwith Mr. Muahammad Siddique, Sr.GP for the respondents present. Rejoinder not submitted. Requested for adjournment. To come up for rejoinder and final hearing on 22.08.2017 at camp court, Abbottabad.

Member  
Camp court, A/Abad

22.08.2017

Clerk of counsel for the appellant and Mr. Muhammad Bilal, DDA alongwith Muhammad Bashir, Assistant for the respondents present. Due to general strike of the bar, counsel for the appellant is not in attendance. Seeks adjournment. Adjourned. To come up for rejoinder and final hearing before the D.B on 19.10.2017 at camp court, Abbottabad.

Member

Chairman  
Camp court, A/Abad

19.10.2017

None present on behalf of the appellant. Mr. Muhammad Bilal, Deputy District Attorney alongwith Muhammad Alam, ADO for the respondents present. Notices be issued to appellant and his counsel. To come for rejoinder and arguments on 19.02.2018 before the D.B at camp court, Abbottabad.

Member

Chairman  
Camp court, A/Abad.

18.02.2016

None present for appellant. Mr. Riasat Khan, EDO (M) Kohistan alongwith Mr. Muhammad Siddique, Sr. GP for respondents present. Requested for adjournment. To come up for written reply/comments on 19.5.2016 before S.B at Camp Court A/Abad.

  
Chairman  
Camp Court A/Abad

19.5.2016


Agent of counsel for the appellant and Mr. Abdul Wali, Supdt. 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 21.09.2016 at camp court, Abbottabad.

  
Chairman  
Camp Court, A/Abad.

21.09.2016

None present for the appellant. Mr. Liaqat Khan, ADO alongwith Mr. Muhammad Siddique Sr.GP for the respondents present. Due to strike of the bar counsel for the appellant is not in attendance. To come up for rejoinder and final hearing before the DB on 14.02.2017 at camp court, Abbottabad.

Member 

  
Chairman  
Camp court, A/Abad.

27.08.2015

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant was serving as CT (BPS-15) when subjected to inquiry on the allegations of wilful absence from duty and removed from service vide impugned order dated 14.4.2015 regarding he preferred departmental appeal on 1.5.2015 which was not responded and hence the instant service appeal on 21.8.2015.

That no regular inquiry in the prescribed manners was conducted and appellant afforded no opportunity of hearing as required by rules.

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 17.11.2015 at Camp Court A/Abad as the appeal pertains to the territorial jurisdiction of Hazara Division.

Chairman

17.11.2015

None present for appellant. Mr.Riasat Khan, DEO(M) Kohistan, respondent No.3 alongwith Mr.Muhammad Siddique, Sr.G.P for all respondents present. Requested for adjournment. To come up for written reply/comments on 18.2.2016 before S.B at Camp Court A/Abad.

Chairman  
Camp Court A/Abad.

Appellant Deposited  
Security & Process Fee



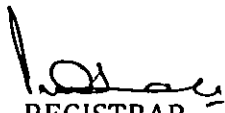

12/1  
21-8-15



Form- A  
FORM OF ORDER SHEET

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

Case No. 950/2015

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	21.08.2015	<p>The appeal of Mr. Ihtishamul Haq presented today by Mr. Noor Muhammad Khattak Advocate may be entered in the Institution register and put up to the Worthy Chairman for proper order.</p> <p style="text-align: right;"> REGISTRAR</p>
2	24-8-15	<p>This case is entrusted to S. Bench for preliminary hearing to be put up thereon <u>27-8-15</u></p> <p style="text-align: right;"> CHAIRMAN</p>

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

APPEAL NO. 950 /2015

Ihtisham Ul Haq

VS

Edu: Department

**INDEX**

<b>S.NO.</b>	<b>DOCUMENTS</b>	<b>ANNEXURE</b>	<b>PAGE</b>
1.	Memo of Appeal	.....	1- 3.
2.	Medical certificate	<b>A</b>	4.
3.	Impugned order	<b>B</b>	5.
4.	Departmental appeal	<b>C</b>	6.
5.	Vakalat nama	.....	7.

**APPELLANT**

**THROUGH:**

  
**NOOR MOHAMMAD KHATTAK**  
**ADVOCATE**

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

APPEAL NO. 950 /2015

A.W.F. Province  
Service Tribunal  
Diary No. 988  
Dated 21-8-2015

Mr. Ihtisham Ul Haq , Ex: PSHT (BPS-15),  
GPS Sing still Kayal, District Kohistan ..... **APPELLANT**

**VERSUS**

- 1- The Government of Khyber Pakhtunkhwa through Secretary (E&SE) Department, Khyber Pakhtunkhwa, Peshawar.
  - 2- The Director (E&SE) Department, Khyber Pakhtunkhwa, Peshawar.
  - 3- The District Education Officer (M), District Kohistan.
- ..... **RESPONDENTS**

**APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974, AGAINST THE IMPUGNED ORDER DATED 14.4.2015 WHEREBY MAJOR PENALTY OF REMOVAL FROM SERVICE WAS IMPOSED ON THE APPELLANT AND AGAINST NO ACTION TAKEN ON THE DEPARTMENTAL APPEAL OF APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS**

**PRAYER:**

That on acceptance of this appeal the impugned order dated 14.4.2015 may very kindly be set aside and the respondents may kindly be directed to reinstate the appellant with all back benefits. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of appellant.

*Filed to-day*  
*[Signature]*  
*21/8/15*  
**R.SHEWETH:**  
**ON FACTS:**

- 1- That appellant was appointed in the respondents Department as PST (BPS-9) on the proper recommendation of the Departmental selection committee. That in response the appellant submitted his charge report and started performing his duty quite efficiently and up to the entire satisfaction of his superiors. Copy of the medical certificate is attached as annexure ..... **A.**

- 2- That appellant while serving as PSHT at the concerned station has received the impugned order dated 14.4.2015 whereby the appellant was removed from service on the basis of an anonymous complaint and without conducting fact finding and Departmental inquiries. Copy of the impugned order dated 14.4.2015 is attached as annexure ..... **B.**
- 3- That feeling aggrieved the appellant filed Departmental appeal on 1.5.2015 but the same was un responded within the stipulated time of ninety days. Hence the instant appeal on the following grounds amongst the others. Copy of the Departmental appeal is attached as annexure ..... **C.**

**GROUNDS:**

- A- That the impugned order dated 14-04-2015 is against the law, facts, norms of natural justice and materials on the record hence not tenable and liable to be set aside.
- B- That appellant has not been treated in accordance with law and rules by the respondent Department on the subject noted above and as such the respondents violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.
- C- That appellant has regularly performed his duty at the concerned station but the respondent No.3 on the basis of anonymous complaint has straight away removed the appellant without conducting fact finding inquiry in the matter.
- D- That no charge sheet and statement of allegation has been served on the appellant before issuing the impugned order dated 14-04-2015.
- E- That no show cause notice has been issued to the appellant before issuing the impugned order dated 14.4.2015.
- F- That no regular inquiry has been conducted in matter of the appellant which is as per Supreme Court judgments is necessary in cases of punitive actions against the civil servant.
- G- That no chance of personal hearing/defense has been given to the appellant which mandatory under the amended E & D Rules 2011.

- H- That the respondent Department acted in arbitrary and malafide manner while issuing the impugned order dated 14.04.2015.
- I- That no law has been mentioned under which the appellant has been proceeded departmentally, therefore the impugned order dated 14.4.2015 is void ab anitio.
- J- That the appellant seeks permission to advance other grounds and proofs at the time of hearing.

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

Dated: 17.8.2015

**APPELLANT**



**IHTESHAM UL HAQ**

**THROUGH:**



**NOOR MOHAMMAD KHATTAK  
ADVOCATE**

A - (9)

MEDICAL CERTIFICATE.

Name of Official..... *Mt. shamsul Haq* .....

Caste or Race..... *Said. Min. Khil* .....

Father's name..... *Mt. shamsul Haq* .....

Residence..... *Dobair. Teh. Patton. Distt. Kohistan* .....

Date of birth..... *First. January. one. thousand. nine. hundred. and. Seventy. four.*  
*(1-1-1974)*

Exact height by measurement..... *5-4* .....

Personal mark of identification..... *Nil* .....

Signature of the Official..... *Abul. Kamil* .....

Signature of head of office.....

Seal of Office.....

I do hereby certify that I have examined Mr *Mt. shamsul Haq* candidate for employment in the Office of the *Education Deptt. (Primary) Kohistan* and can not discover that he had any disease communicable or other constitutional affection or bodily infirmity, except..... *nil* .....

I do not consider this as disqualification for employment in the office of the... *Education Deptt.* His age according to his own statement. *20* year and by appearance about *20* years.

ATTESTED

LEFT HAND THUMB AND FINGER IMPRESSION.....

*M. Q.*  
 Medical Superintendent,  
 Civil Hospital, Kohistan  
 KOSHAN AT DABAI

*23/5/92*

*23/5/92*

**OFFICE OF THE DISTRICT EDUCATION OFFICER**

**(MALE) KOHISTAN**

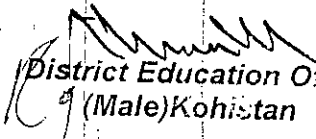
Phone # 0998-407128

B-5

**NOTIFICATION**

Consequent upon the information received/collected and on the completion of Departmental enquiry, I Riasat Khan District Education Officer (M) Kohistan, being competent authority is fully satisfied to **remove** the following teachers/chwokidar of Elementary and Secondary Education Department District Kohistan from service with retrospective effect on the basis of charges noted against their names.

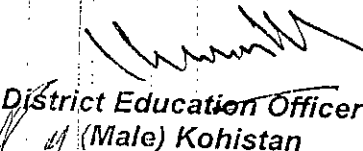
S#	Name of teacher/Chwokidar with designation	charge	Remarks
1	Bahro Bar CT GMS Gaya Dubair	Fake person/ long absence	Removal from service
2	Aziz Ahmad CT GMS Dhoop Jijal	Fake person/ long absence	Removal from service
3	Ihteshamul Haq PSHT GPS Suwarseteel No.1	Fake person/ long absence	Removal from service
4	Fazalur Rahman Chwokidar GPS Shar Dubair	Fake person/ long absence	Removal from service
5	Ikramul Haq Chwokidar GPS Jhamra Dubair	Fake person/ long absence	Removal from service

  
District Education Officer  
(Male) Kohistan

Endstt: No. 3349-54 /Estt:/ Dated 14 104 /2015

Copy forwarded for the:

1. PS to Secretary Elementary and Secondary Education Khybar Pakhtunkhwa Peshawar.
2. Director Elementary and Secondary Education Khybar Pakhtunkhwa Peshawar.
3. District Accounts Officer Kohistan.
4. Deputy District Education Officer, (M) Kohistan.
5. Sub Divisional Education Officer (M) kohistan.
6. Official concerned.

  
District Education Officer  
(Male) Kohistan

**ATTESTED**



No. 121

For Insurance Notices see reverse. Stamps affixed except in case of uninsured letters of not more than the initial weight prescribed in the Post Office Guide or on which no acknowledgement is due.

Rs. 50 Ps. —

Received a registered\*  
addressed to \_\_\_\_\_

Date-Stamp

Initials of Receiving Officer *VPC* \*Write here "letter", "postcard", "packet" or "parcel" with the word "insured" before it when necessary.

Insured for Rs. (in figures) *1*

(in words) *one*

If insured

Insurance fee Rs. \_\_\_\_\_

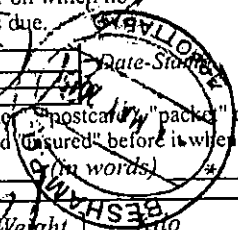
Ps. *2*

(in words) *two*

Weight

Grams

Name and address of sender





C-6

3-1

To

The director E&SE KPK Peshawar

**Subject:** reinstatement on service

Respected Sir,

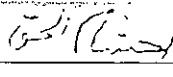
We the officials of education department removed from service by DEO Male Kohistan vide order No 3349-54 dated 14/04/2015.

Your kind is humbly requested with the following support as defense against the charges.

1. It has been stated by the inquiry committee that we are fake personae /long absence.
2. The committee framed by unauthorized person as referred in the inquiry report ASDEO who is not competent to appoint inquiry committee so it is illegal and unlawful.
3. The inquiry committee has not seen by us neither he called us personally for hearing.
4. On this unlawful inquiry we were removed from service.
5. The fowling proofs of our Genuiness is forwarded here for perusal.
6. We are genuine and not fake /ghost.
7. We have performed our duty regularly and never remained absent attendance register as well as CNIC we are presenting our selves.
8. An application against the persons is appointed inquiry committee misconduct and bigotry have already been submitted against them to you who are still awaited for decision.

Prayer

It is humbly requested that this unauthorized committee finding may be struck down and we may be reinstated on our posts and further inquiry may be ordered.

2. Ihtishmulhaq PSHT GPS Sing still Kayal 13403-4041198- 

Dated : 01/5/2015

ATTESTED



**VAKALATNAMA**

IN THE COURT OF KPK Service Tribunal Peshawar  
OF 2015

Ikram-ul-Hadi

(APPELLANT)  
(PLAINTIFF)  
(PETITIONER)

**VERSUS**

Education Department

(RESPONDENT)  
(DEFENDANT)

I/We Ikram-ul-Hadi

Do hereby appoint and constitute **NOOR MOHAMMAD KHATTAK, Advocate, Peshawar** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate Counsel on my/our cost. I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter.

Dated. \_\_\_/\_\_\_/2015

Ikram-ul-Hadi

CLIENT

ACCEPTED

**NOOR MOHAMMAD KHATTAK  
(ADVOCATE)**

OFFICE:

Room No.1, Upper Floor,  
Islamia Club Building, Khyber Bazar,  
Peshawar City.

Phone: 091-2211391

Mobile No.0345-9383141

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.****APPEAL NO 950 OF 2015**

Ihtishamul Haq -----

Petitioner

***VERSUS***

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

**PARAWISE COMMENTS FOR & ON BEHALF OF RESPONDENTS NO1,2 & 3.****INDEX**

<b>S#</b>	<b>Particulars of documents</b>	<b>Annexure</b>	<b>Pages</b>
1	Comments along with affidavit		1-4
2	Copy of show cause notice	A	5
3	Copy of inquiry report	B	6
4	Copy of letter of Director		
5	Copy of reply of Director letter		

Dated 12.02.2016

  
**Respondent No.3**

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

**APPEAL NO 950 OF 2015**

Ihtishmul Haq -----

Petitioner

***VERSUS***

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

**COMMENTS FOR & ON BEHALF OF RESPONDENTS NO 1,2& 3**

**Respectfully Sheweth:**

**PRILIMINARY OBJECTIONS:-**

- I. That the appellant has not come to this Honourable Court with clean hands.
- II. That the appellant has got no cause of action/ locus standi to file the instant appeal.
- III. That the appeal has been filed to pressurize the respondents.
- IV. That the appellant is estopped to sue through his own conduct.
- V. That the present appeal is not maintainable due to mis-joinder and non-joinder of necessary parties.
- VI. That the appellant has concealed the material facts from this Honourable Court. Hence not entitled for any relief and appeal is liable to be dismissed.
- VII. That the appellant has been removed from service due to willful long absence. Hence liable to be dismissed.
- VIII. That the competent authority has removed the appellant after fulfillment of all codal formalities, hence appeal is liable to be dismissed.
- IX. That the appeal is time barred, hence liable to be dismissed.

**Factual Objections:**

- 1. Para No. 1 is correct to the extent of appointment of the appellants and the remaining Para is incorrect, hence denied.
- 2. Para No 2 incorrect hence denied, that the appellants was reported fake and absent from duty. In that regard a show cause notice was served to the appellants but he failed to reply as he was not performing his duty at school.  
**(Copy of show cause notice is annexed as Annexure A),**  
a chance of personal hearing was also provided to the appellants but the appellants did not come to office to defend himself. Moreover Mr. Abdus salam and Noor Mehmood ASDEO,s were appointed as inquiry officers to find out the factual position and inquiry officers submitted that the appellants is not performing his duty at his duty station and the appellants is a suspected / fake teacher and someone else is receiving the salary on the name of appellants, thus being competent authority, on the recommendation of inquiry report and on the basis of personal satisfaction, the appellants was removed from service **(Copy of inquiry report is annexed as Annexure B).**
- 3. Para No. 3 is incorrect, hence denied that in response to appeal of the appellants, the Director E&SE KPK wrote a letter to DEO vide No. 7063/File No.6/Vol:1/PST (M) Kohistan, dated 25/06/2015 and the DEO (M) submitted remarks vide letter No.9035 dated Kohistan 30/07/2015 (Copies of both the letters are attached as Annexure C &D).

**GROUND**

- A. Incorrect, strongly denied that the order dated 14.4.2015 is according to law, facts, norms and natural justice and the appellants was removed from the service after fulfilling of all the codal formalities.
- B. Incorrect, strongly denied, that as stated in Para 2 above, the appellants was reported fake and absent from duty. In that regard a show cause notice was served to the appellants but he failed to reply as he was fake and not performing his duty at school, moreover a chance of personal hearing was provided to the appellants but the appellants did not come to office to defend himself. Moreover Mr. Abdus salam and Noor mehmood ASDEO,s were appointed as inquiry officers to find out the factual position and inquiry officers submitted that the appellants is not performing his duty at his duty station and remained absent from duty and someone else is receiving the salary on the name of appellants, thus being competent authority, on the recommendation of inquiry report and on the basis of personal satisfaction, the appellants was removed from service
- C. Incorrect hence denied as stated in Para No.4 of the factual objection.
- D. Incorrect, hence denied.
- E. Incorrect statement, copy of show cause notice is annexed as Annexure A.
- F. Incorrect hence denied the enquiry was conducted by the authority.
- G Incorrect statement, as stated in Para 4 above.
- H. Incorrect hence denied.

- 8
- I. Incorrect hence denied. The competent authority has proceeded against the appellant as per prescribed law and rules.
- J. the respondents seeks permission for arguing the other points at the time of arguments.

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



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



**DIRECTOR**

Elementary and secondary Education  
Khyber pakhtun Khawa Peshawar



**SECRETARY**

Elementary and secondary Education  
Khyber pakhtun Khawa Peshawar

14

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

**APPEAL NO 950 OF 2015**

**Ihtishamul Haq** -----

**Petitioner**

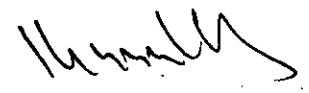
***VERSUS***

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

**AFFIDAVIT.**

I, Riasat Khan DEO (Male) Kohistan do hereby solemnly affirm and declare that the contents of Parawise comments 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 Honourable court.

**Identified by,**



**DEPONENT.**



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

Email: emiskohistan@yahoo.com

Phone # 0998-407128

**SHOW CAUSE NOTICE**

I, Riasat Khan, District Education Officer, (Male) Kohistan, as competent authority under the Khyber Pakhtunkhwa Govt: Servants (E&D) Rules, 2011, do hereby serve you Mr, Ehtishamul Haq PSHT GPS Sawar Steel No.1 Kohistan as follows:-

That as per visit report of ADEO the School was found open and you found committed of the following offence.

1. You willful absent from duty.

As a result thereof, I have tentatively decided to impose upon you the penalty of **RECOVERY OF SALARY FOR THE ABSENT PERIOD AND REOMVAL FROM SERVICE.** Under rule 4 of the said rule.

You are, thereof required to reply the 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 your reply will not receive within seven days or not more than fifteen days of its delivery, it shall be presumed that you have no defense to put in and in that case an ex-parte action shall be taken against you.

Endstt: No 446 /Dated Kohistan the 30/01 /2014

**COMPETENT AUTHORITY**



10

As directed by the ASDEO (M) Kohistan vide office letter No.164/SDEO(M) Dated 12/03/2014 we the following enquiry Officers conducted an enquiry of the following teacher and chowkidars:

1. Ihtishamul Haq PSHT GPS Swar Steel No.1
2. Fazal ur Rahman Chowkidar GPS Shar Dubair.
3. Ikramul Hadi Chowkidar GPS Jamra Dubair.

Enquiry Report

We both the enquiry officers personally visited the GPS Swar Steel No.1 dated on 8/5/2014 but the teacher named Ihtishamul Haq PSHT was absent and record of the said teacher could not traced. To find out the reality, we both officers visited to the village of the said teacher according to the NIC address. We met different peoples there, but nobody was able to identify / recognize the said teacher named as Ihtishamul Haq. After interviewing so many people we come to conclusion that Mr. Ihtishamul Haq PSHT is not exist and some one make fake record showing him as a teacher.

It is further enquired and detected some one has been taken salary of the above teacher regularly since 23/5/1992 to 21/6/2013.

Finding: The said teacher has been detected as a ghost teacher / *imaginary teacher*

Suggestions:

The case may kindly be hand over to Anti-Corruption police for further proper investigation and FIR may also be lodged against the involved persons / Mr. Ihtishamul Haq PSHT may kindly be terminated immediately and further legal action may be processed.

2. Fazal Rahman Chowkidar GPS Shar

During our visit to GPS SHar Dubair Mr. Fazal Rahman Chowkidar was absent since long. We enquired from many people but could not trace the official, no one was able to give information in this regard.

Finding/Proposal:

The official named Fazal Rahman chowkidar at GGPS Shar is a doubtful person, so it is recommended that he may be terminated from service please.

3.. Ikramul Hadi Chowkidar GPS Jamra Dubair

During our visit Mr.Ikramul Hadi was absent. We got a written statement he was unable to identify Mr. Ikram ul Haq as a real person of Ihsanul Haq, although the head teacher was a close relative of Ikramul Haq. Although Ikramul Haq performs his duty but not regularly. He process CNIC / Domicile and other relevant necessary document showing as the son of Ihsanul Haq.

Proposal:

His pay may kindly be released on the basis of documentary proof after the pay recovery of one month please.

Enquiry Officer No.1: \_\_\_\_\_

*Abdul Salam*  
Abdul Salam (ADEO Est. 54)

Enquiry Officer No.2: \_\_\_\_\_

~~\_\_\_\_\_~~  
Noor Mehmood (ADEO Est. 163)

7 (12)

**STATE OF ELEMENTARY AND SECONDARY EDUCATION  
KHYBER PAKHTUNKHWA.**

No. 7063 /F.No.6/Vol:1/PST (M) Kohistan

Dated Peshawar the 25/6 /2015.

To,

*Mon own this submission that Mr. after fulling all the condal for... on account of they did not perform duty and not the salaries.*

The District Education Officer (M)  
Kohistan

Subject: - RE-INSTATEMENT ON SERVICE.

Memo:-

I am directed to refer to the subject cited above and to enclose herewith a copy of a appeal in respect of Ihtishamulhaq PSHT GPS Sing Still Kayal and others and to ask you to submit detail report/comments to this office within a week positively.

Deputy Director (Estab)  
Elementary & Secondary Edu  
Khyber Pakhtunkhwa Peshawar

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

Copy forwarded to the:

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

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

*A/E  
Puray w  
DEO*

*27/7/15*

*565  
27/7/15*

*Letter no — Date — on s/s*

*IT is submitted that the applicants*

- 1 — Removed
- 2 —

*ana. (They removed from service vide notification... charges Nobel)*

13

OFFICE OF THE DISTRICT EDUCATION OFFICER (M)  
KOHISTAN

To No 9035 /Dated Kohistan the 30/7 /2015

The Director Elemenry & Secondary Education  
Khyber Pakhtun Khwa Peshawar..

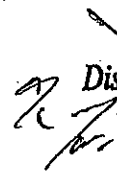
Subject:- RE-INSTANATMENT ON SERVICE.

Memo:-

Reference your letter No.7063F.No.6/Vol:I/PST dated 25/6/2015  
and No.6786 F.No.291/A-20/G-IV Kohistan on the subject cited above.

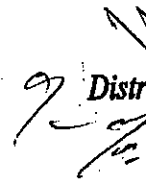
It is submitted that the applicants 1.MrEhtishamul Haq  
2.Mr,Ikramul Haq removal from service vide notification No.3349-54.  
dated 14/4/2015 on the charges noted against their names after fullfilling all  
the codeformalities.

Moreover, they did not performing duties any way and got the salaries.

 District Education Officer  
(Male) Kohistan.

Endstt; No. 9036 /

Copy of the above is forwarded to the:  
1. PA to Director E&SE Khyber Pakhtunkhwa Peshawar.

 District Education Officer  
(Male) Kohistan.

18

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

**APPEAL NO 950 OF 2015**

Ihtishamul Haq

Petitioner

**VERSUS**


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

**PARAWISE COMMENTS FOR & ON BEHALF OF RESPONDENTS NO1,2 & 3.**

**INDEX**

S#	Particulars of documents	Annexure	Pages
1	Comments along with affidavit		1-4
2	Copy of show cause notice	A	5
3	Copy of inquiry report	B	6
4	Copy of letter of Director		
5	Copy of reply of Director letter		

**Dated 12.02.2016**

  
**Respondent No.3**

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

**APPEAL NO 950 OF 2015**

Ihtishmul Haq

-----

Petitioner

**VERSUS**

1. Govt of Khyber Pakhtunkhwa through Secretary (E&S) Education Peshawar

2. Director Elementary & Secondary Education KPK Peshawar

3. District Education Officer Male Kohistan ..... Respondents

**COMMENTS FOR & ON BEHALF OF RESPONDENTS NO 1,2& 3**

**Respectfully Sheweth:**

**PRILIMINARY OBJECTIONS:-**

- I. That the appellant has not come to this Honourable Court with clean hands.
- II. That the appellant has got no cause of action/ locus standi to file the instant appeal.
- III. That the appeal has been filed to pressurize the respondents.
- IV. That the appellant is estopped to sue through his own conduct.
- V. That the present appeal is not maintainable due to mis-joinder and non-joinder of necessary parties.
- VI. That the appellant has concealed the material facts from this Honourable Court. Hence not entitled for any relief and appeal is liable to be dismissed.
- VII. That the appellant has been removed from service due to willful long absence. Hence liable to be dismissed.
- VIII. That the competent authority has removed the appellatant after fulfillment of all codal formalities, hence appeal is liable to be dismissed.
- IX. That the appeal is time barred, hence liable to be dismissed.

**Factual Objections:**

1. Para No. 1 is correct to the extent of appointment of the appellants and the remaining Para is incorrect, hence denied.

2. Para No 2 incorrect hence denied, that the appellants were reported fake and absent from duty. In that regard a show cause notice was served to the appellants but he failed to reply as he was not performing his duty at school.

**(Copy of show cause notice is annexed as Annexure A),**

a chance of personal hearing was also provided to the appellants but the appellants did not come to office to defend themselves. Moreover Mr. Abdus salam and Noor Mehmood ASDEO,s were appointed as inquiry officers to find out the factual position and inquiry officers submitted that the appellants are not performing their duty at their duty station and the appellants are suspected / fake teachers and someone else is receiving the salary on the name of appellants, thus being competent authority, on the recommendation of inquiry report and on the basis of personal satisfaction, the appellants were removed from service **(Copy of inquiry report is annexed as Annexure B).**

3. Para No. 3 is incorrect, hence denied that in response to appeal of the appellants, the Director E&SE KPK wrote a letter to DEO vide No. 7063/File No.6/Vol:1/PST (M) Kohistan, dated 25/06/2015 and the DEO (M) submitted remarks vide letter No.9035 dated Kohistan 30/07/2015 (Copies of both the letters are attached as Annexure C &D).

**GROUND S**

- A. Incorrect, strongly denied that the order dated 14.4.2015 is according to law, facts, norms and natural justice and the appellants were removed from the service after fulfilling of all the codal formalities.
- B. Incorrect, strongly denied, that as stated in Para 2 above, the appellants were reported fake and absent from duty. In that regard a show cause notice was served to the appellants but he failed to reply as he was fake and not performing his duty at school, moreover a chance of personal hearing was provided to the appellants but the appellants did not come to office to defend themselves. Moreover Mr. Abdus salam and Noor mehmood ASDEO,s were appointed as inquiry officers to find out the factual position and inquiry officers submitted that the appellants are not performing their duty at their duty station and remained absent from duty and someone else is receiving the salary on the name of appellants, thus being competent authority, on the recommendation of inquiry report and on the basis of personal satisfaction, the appellants were removed from service
- C. Incorrect hence denied as stated in Para No.4 of the factual objection.
- D. Incorrect, hence denied.
- E. Incorrect statement, copy of show cause notice is annexed as Annexure A.
- F. Incorrect hence denied the enquiry was conducted by the authority.
- G Incorrect statement, as stated in Para 4 above.
- H. Incorrect hence denied.

- 8
- I. Incorrect hence denied. The competent authority has proceeded against the appellant as per prescribed law and rules.
- J. the respondents seeks permission for arguing the other points at the time of arguments.

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



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



**DIRECTOR**

Elementary and secondary Education  
Khyber pakhtun Khawa Peshawar



**SECRETARY**

Elementary and secondary Education  
Khyber pakhtun Khawa Peshawar



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

Email: emiskohistan@yahoo.com

Phone # 0998-407128

**SHOW CAUSE NOTICE**

I, Riasat Khan, District Education Officer, (Male) Kohistan, as competent authority under the Khyber Pakhtunkhwa Govt: Servants (E&D) Rules, 2011, do hereby serve you Mr, Ehtishamul Haq PSHT GPS Sawar Steel No.1 Kohistan as follows:-

That as per visit report of ADEO the School was found open and you found committed of the following offence.

1. You willful absent from duty.

As a result thereof, I 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 reply the 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 your reply will not receive within seven days or not more than fifteen days of its delivery, it shall be presumed that you have no defense to put in and in that case an ex-parte action shall be taken against you.

Endstt: No 446 /Dated Kohistan the 30/01 /2014

  
**COMPETENT AUTHORITY**



As directed by the ASDEO (M) Kohistan vide office letter No.164/SDEO(M) Dated 12/03/2014 we the following enquiry Officers conducted an enquiry of the following teacher and chowkidars.

1. Ihtishamul Haq PSHT GPS Swar Steel No.1
2. Fazal ur Rahman Chowkidar GPS Shar Dubair.
3. Ikramul Hadi Chowkidar GPS Jamra Dubair.

Enquiry Report

We both the enquiry officers personally visited the GPS Swar Steel No.1 dated on 8/5/2014 but the teacher named Ihtishamul Haq PSHT was absent and record of the said teacher could not traced. To find out the reality, we both officers visited to the village of the said teacher according to the NIC address. We met different peoples there, but nobody was able to identify / recognize the said teacher named as Ihtishamul Haq. After interviewing so many people we come to conclusion that Mr. Ihtishamul Haq PSHT is not exist and some one make fake record showing him as a teacher.

It is further enquired and detected some one has been taken salary of the above teacher regularly since 23/5/1992 to 21/6/2013.

Finding: The said teacher has been detected as a ghost teacher / *imaginary teacher*

Suggestions:

The case may kindly be hand over to Anti-Corruption police for further proper investigation and FIR may also be lodged against the involved persons / Mr. Ihtishamul Haq PSHT may kindly be terminated immediately and further legal action may be processed.

2. Fazal Rahman Chowkidar GPS Shar

During our visit to GPS SHar Dubair Mr. Fazal Rahman Chowkidar was absent since long. We enquired from many people but could not trace the official, no one was able to give information in this regard.

Finding/Proposal:

The official named Fazal Rahman chowkidar at GGPS Shar is a doubtful person, so it is recommended that he may be terminated from service please.

3. Ikramul Hadi Chowkidar GPS Jamra Dubair

During our visit Mr.Ikramul Hadi was absent. We got a written statement he was unable to identify Mr. Ikram ul Haq as a real person of Ihsanul Haq, although the head teacher was a close relative of Ikramul Haq. Although Ikramul Haq performs his duty but not regularly. He process CNIC / Domicile and other relevant necessary document showing as the son of Ihsanul Haq.

Proposal:

His pay may kindly be released on the basis of documentary proof after the pay recovery of one month please.

Enquiry Officer No.1: *Abdul Salam* Abdul Salam (ADEO Est<sup>52</sup>)

Enquiry Officer No.2: *[Signature]* NBOY Mehmood (ADEO Est<sup>111</sup>)

7 (19)

**MINISTRY OF ELEMENTARY AND SECONDARY EDUCATION  
KHYBER PAKHTUNKHWA.**

No. 7063 /F.No.6/Vol.I/PST (M) Kohistan

Dated Peshawar the 25/6 /2015.

To,

*Now on this submit that Mr. after fulling all the cardal formalities on the account they did not perform duty on file and not the salaries.*

The District Education Officer (M)  
Kohistan.

Subject: - RE-INSTATEMENT ON SERVICE.

Memo:-

I am directed to refer to the subject cited above and to enclose herewith a copy of a appeal in respect of Ihtishamulhaq PSHT GPS Sing Still Kayal and others and to ask you to submit detail report/comments to this office within a week positively.

Deputy Director (Estab)  
Elementary & Secondary Edu  
Khyber Pakhtunkhwa Peshawar

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

*24/6/15*

Copy forwarded to the:

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

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

*A/E  
P.A to D.E.O  
D.E.O*

*24/7/15*  
565  
27/7/15

*Letter No — Date —*

*IT is submitted that the applicants*

*① — — — — — Removed*

*2 — — — — —*

*ana. (They are removed from service vide notification No. 15/15) on 15/15 charges Nobel*

19

OFFICE OF THE DISTRICT EDUCATION OFFICER (M)  
KOHISTAN

To No 9035 /Dated Kohistan the 30/7 /2015

The Director Elemenry & Secondary Education  
Khyber Pakhtun Khwa Peshawar..

Subject:- RE-INSTANATMENT ON SERVICE.

Memo:-

Reference your letter No.7063F.No.6/Vol:I/PST dated 25/6/2015  
and No.6786 F.No.291/A-20/G-IV Kohistan on the subject cited above.

It is submitted that the applicants 1.MrEhtishamul Haq  
2.Mr,Ikramul Haq removal from service vide notification No.3349-54  
dated 14/4/2015 on the charges noted against their names after fullfilling all  
the codeformalities.

Moreover, they did not performing duties any way and got the salaries.

*[Signature]*  
District Education Officer  
(Male) Kohistan.

Endstt; No. 9036 /

Copy of the above is forwarded to the:

1. PA to Director E&SE Khyber Pakhtunkhwa Peshawar.

*[Signature]*  
District Education Officer  
(Male) Kohistan.