

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Appeal No. 620/2016

Date of Institution ... 09.06.2016

Date of Decision ... 22.03.2019

Kifayatullah S/o Maulvi Abdul Raziq, T.T GHS Pattan Kohistan.
... (Appellant)

VERSUS

District Education Officer (M) Kohistan and four others. ... (Respondents)

MR. MUHAMMAD ARIF JAN,
Advocate --- For appellant.

MR. KABIRULLAH KHATTAK
Additional Advocate General --- For respondents.

MR. AHMAD HASSAN, --- MEMBER(Executive)
MR. HAMID FAROOQ DURRANI --- CHAIRMAN

JUDGMENT

AHMAD HASSAN, MEMBER.-

This judgment shall dispose of the instant service appeal as well as connected service appeal no. 621/2016 titled Abdul Saboor and appeal no. 700/2016 titled Muhammad Nazir as similar question of law and facts are involved therein.

2. Arguments of the learned counsel for the parties heard and record perused.

ARGUMENTS

3. Learned counsel for the appellant argued that initially he joined the Education Department as Arabic Teacher on 26.04.2008. That he was declared surplus and thereafter adjusted through order dated 02.03.2009 and posted at GMS, Dag Pattan, Kohistan. Subsequently, on the allegations of being appointed

in violation of prescribed procedure, a show cause notice was served on him vide endorsement dated 14.12.2015 to which he replied. Allegedly, his appointment was declared fake and major penalty of removal from service was imposed on him vide impugned order dated 17.02.2016. To safeguard his service interests, a departmental appeal dated 27.02.2016 was filed and rejected vide order dated 18.05.2016.

4. He further argued that his appointment was made in the prescribed manner. Major penalty was awarded without holding proper inquiry and opportunity of defense/ hearing also denied, which goes against the principles of natural justice.

5. Learned Additional Advocate General argued that appointment of the appellant as Arabic Teacher in the respondent-department was fake/bogus. Posting order of the appellant bearing no. 2529-34 dated 26.08.2008 at GHS, Harigah, Kohistan, was bogus as post of Arabic Teacher was not vacant, hence, the appellant could not assume the charge. The DCO, Kohistan denied unequivocally about issuance of any such order from his office. After a gap eight months, he was readjusted through fake appointment order by the EDO, Kohistan through order dated 20.03.2009, at GHS Bada Kot thereafter at GMS, Dag Pattan. His appointment was made without proper advertisement and other codal formalities. Recruitment process was not carried out in 2007, by the Education Department in Kohistan.

CONCLUSION

6. The appointment of the appellant was declared fake and bogus. Departmental proceedings were conducted by issuing chow cause notice dated 14.12.2015 and thereafter he was removed from service vide impugned order dated 17.02.2016. According to the E&D Rules 2011 the respondents were bound to record reasons for dispensing with regular enquiry, however, no such justification is available on the case file. Major penalty without holding regular enquiry has been repeatedly held illegal and unlawful by the superior courts in its numerous judgments. Respondents failed to abide by the respondents procedure and resultantly the impugned order lost backing of law. Order being a void/illegal is nothing more than a mere piece of paper.

07. As a sequel to above, the appeal is accepted, impugned order dated 17.02.2016 and 17.05.2016 are set aside and the appellant is reinstated in service. The respondents are directed to conduct de-novo enquiry within a period of ninety days after the date of receipt of this judgment. The issue of back benefits shall be subject to the outcome of the de-novo enquiry. The appeal is disposed off accordingly. Parties are left to bear their own costs. File be consigned to the record room.


(HAMID FAROOQ DURRQNI)
CHAIRMAN


(AHMAD HASSAN)
MEMBER

ANNOUNCED
22.03.2019

Order


22.03.2019


Counsel for the appellant present. Mr. Kabirullah, Addl: AG alongwith Mr. Muhammad Ali, ADEO and Mr. Shah Waliullah, Computer Operator for respondents present. Arguments heard record perused.

Vide our detailed judgment of today of this Tribunal placed on file, the appeal is accepted, impugned order dated 17.02.2016 and 17.05.2016 are set aside and the appellant is reinstated in service. The respondents are directed to conduct de-novo enquiry within a period of ninety days after the date of receipt of this judgment. The issue of back benefits shall be subject to the outcome of the de-novo enquiry. The appeal is disposed off accordingly. Parties are left to bear their own cost. File be consigned to the record room.

Announced:


22.03.2019


(Hamid Farooq Durrani)
Chairman


(Ahmad Hassan)
Member

13.12.2018

Counsel for the appellant present. Mr. Kabirullah Khattak, Addl: AG for respondents present. Counsel for the appellant seeks adjournment. Adjourned. Case to come up for arguments on 04.02.2019 before D.B.


Member

Member

04.02.2019


Appellant in person present. Mr. Kabirullah Khattak, Additional AG alongwith Mr. Shah Wali Ullah, Computer Operator for the respondents present. Representative of the department stated that similar nature service appeal No. 554/2016 titled Saira Begum is fixed 13.02.2019 therefore, requested that the present appeal may also be fixed on same date. Request is accepted. To come up for arguments on 13.02.2019 before D.B-II.


(AHMAD HASSAN)
MEMBER


(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

13.02.2019

Learned counsel for the appellant and Mr. Kabirullah Khattak learned Additional Advocate General for the respondents present. Learned counsel for the appellant requested for adjournment. Adjourned. To come up for arguments on 22.03.2019 before D.B.

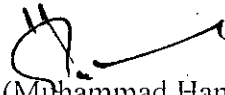

(Hussain Shah)
Member


(Muhammad Amin Khan Kund))
Member

06.08.2018

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 14.09.2018 before D.B.



(Muhammad Amin Kundi)
Member


(Muhammad Hamid Mughal)
Member

14.09.2018


Appellant with counsel and Mr. Riaz Khan Paindakheil learned Assistant Advocate General present. Partial arguments of the Learned counsel for the appellant heard. However learned Assistant Advocate General seeks adjournment on the ground that the Additional Advocate General who would argue the present case is not available. Adjourned. To come up for further arguments on 19.09.2018 before D.B



(Hussain Shah)
Member


(Muhammad Hamid Mughal)
Member

19.09.2018

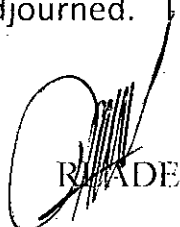
None present on behalf of the appellant. Mr. Riaz Ahmad Paindakhel, Assistant AG for the respondents present. Notice be issued to appellant for attendance for 05.11.2018 before D.B.


(Ahmad Hassan)
Member


(M. Amin Khan Kundi)
Member

05.11.2018

Due to retirement of Hon'ble Chairman, the Tribunal is defunct. Therefore, the case is adjourned. To come up on 13.12.2018.


READER

07.2.2018


Appellant in person and Mr. Kabeerullah Khattak, AAG alongwith Muhammad Alam, ADO and Noor Wahaj, Assistant for the respondents present. Written reply on behalf of respondents No. 1 to 4 already submitted and written reply of respondent No. 5 submitted today. The appeal is assigned to D.B for rejoinder, if any, and arguments for 09.04.2018.


Chairman

09.04.2018

Counsel for the appellant and Addl: AG alongwith Mr. M. Alam, ADEO and Noor ul Wahab, Assistant for respondents present. Counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 08.06.2018 before D.B.



(Ahmad Hassan)
Member


(M. Hamid Mughal)
Member

08.06.2018

Clerk to counsel for the appellant present. Addl: AG for respondents present. Rejoinder submitted which is placed on file. Clerk to counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 06.08.2018 before D.B


(Ahmad Hassan)
Member


(Muhammad Hamid Mughal)
Member

20.12.2017

None present on behalf of the appellant. Mr. Riaz Pinda Kheil, learned Assistant Advocate General along with Muhammad Alam ADEO for the respondents present. None present on behalf of official respondent No.5. Notice be issued to the appellant. Notice be also issued to the respondent No.5 along with copy of appeal. To come up for reply reply/comments on 10.01.2018 before S.B.


(Muhammad Hamid Mughal)

MEMBER

10.01.2018

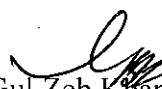
Counsel for the appellant present. Mr. Usman Ghani, District Attorney alongwith Mr. Shah Waliullah, K.P.O for the respondents also present. Written reply on behalf of respondents No. 1 to 4 already submitted. None present on behalf of respondent No. 5 therefore, notice be issued to respondent No. 5 with the direction to direct the representative to attend the court and submit written reply on the next date positively. Adjourned. To come up for written reply/comments on behalf of respondents No. 5 on 07.02.2018 before S.B.



(Muhammad Amin Khan Kundi)

Member

08.11.2017

Learned counsel for the appellant present. Mr. Usman Ghani, District Attorney alongwith Mr. Muhammad Alam Assistant DEO (Male) for the official respondents also present. Learned counsel for the appellant had already submitted application for impleadment of the then DCO Kohistan (Now Deputy Commissioner) Upper Kohistan being necessary party in the penal of respondents. Learned counsel for the appellant contended that since the appointment order of the appellant was passed by the then DCO Kohistan (Now Deputy Commissioner) Upper Kohistan therefore he is necessary party in the service appeal but inadvertently he was not arrayed as respondents therefore requested that the application may be accepted and the appellant may be allowed to array the then DCO Kohistan (Now Deputy Commissioner) Upper Kohistan as a respondent in service appeal. Learned District Attorney expressed no objection on the stance of application on the ground that the Tribunal has discretionary power to accept or reject the application. Since it is the contention of the appellant that the DCO Kohistan (Now Deputy Commissioner) was appointing authority therefore he is the necessary party. As such the application is accepted and the office is directed to make necessary entry in the service appeal and array ^{him as} ~~has~~ respondents No. 5 as a party in the penal of respondents and thereafter notice be issued to respondent No. 5 for the date fixed. Learned counsel for the appellant is also directed to submit spare copy of the instant appeal ^{for} ~~for~~ impleadment of respondents No. 5. To come up for further proceeding on 19.12.2017 before S.B.


(Gul Zeb Khan)
Member (E)


(Muhammad Amin Khan Kundi)
Member (J)

14.12.2016

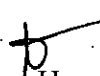
Counsel for the appellant and Mr. Shah Wali Ullah, Computer Operator alongwith Asst: AG for respondents present. Rejoinder submitted. To come up for arguments on 21.04.2017.



(ASHFAQU TAJ)
MEMBER


(MUHAMMAD AMIR NAZIR)
MEMBER

21.04.2017

Counsel for the appellant present. Mr. Ziaullah, Government Pleader for the respondents also present. Inquiry record of the appellant is not available on file. Respondents are directed to produce the inquiry record of the appellant on or before the next date of hearing. To come up for record and arguments on 11.07.2017 before D.B.

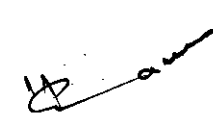

(Ahmad Hassan)
Member


(Muhammad Amin Khan Kundi)
Member

07. 11.07.2017

Counsel for the appellant and Asst:AG alongwith Mr. Umer Zaman, DDEO for respondents present. Counsel for the appellant submitted application for impleadment of the then DCO, Kohistan now Deputy Commissioner as party in the ^epenal of respondents being a necessary party. Copy of application given to the Learned Asst:AG. To come up for reply/arguments on application as well as arguments on main appeal on 08.11.2017 before D.B.


(Ahmad Hassan)
Member


(Muhammad Hamid Mughal)
Member

16.06.2016

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant was appointed as Theology Teacher in the prescribed manners in the year 2008. That vide impugned order dated 17.2.2016 appellant was removed from service on the allegations of fake appointment where-against he preferred departmental appeal which was rejected on 17.5.2016 constraining the appellant to prefer the instant service appeal on 09.6.2016.


That no enquiry was conducted in the prescribed manners and the impugned order was given retrospective effect and as such the same is a nullity in the eyes of law.

Points urged need consideration. Admit. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply/comments for 25.08.2016 before S.B.


Chairman

25.08.2016

Counsel for the appellant and Mr. Riasat Khan, DEO alongwith Addl. AG for respondents present. Written reply submitted. The appeal is assigned to D.B for rejoinder and final hearing on 14.12.2016.




Chairman

Appellant Deposited
Security & Process Fee

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 620/2016

S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	09/06/2016	<p style="text-align: center;">The appeal of Mr. Kifayatullah presented today by Mr. Muhammad Arif Jan 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;"> REGISTRAR</p>
2-	13-6-2016	<p style="text-align: center;">This case is entrusted to S. Bench for preliminary hearing to be put up there on. <u>16-6-16</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

PESHAWAR

Appeal no. 620/2016

Kifayatullah.....Appellant

VERSUS

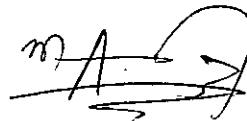
District Education Officer and othersRespondents

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Appellant

Through



Muhammad Arif Jan

Advocate, Peshawar

Office: Office No.210 Al-Mumtaz Hotel
G.T. Road Peshawar.

Cell: 0333-2212213

Date: 9/6/2016

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

PESHAWAR

Service Appeal No..... 620...../2016

Khyber Pakhtukhwa
Service Tribunal

Diary No. 604

Dated 9-6-2016

Kifayatullah S/o Molve Abdul Raziq

TT GHS Pattan Kohistan.....Appellant

VERSUS

1. District Education Officer (M) Kohistan.
2. Director Elementary and Secondary Education Khyber Pakhtunkhwa G.T Road Peshawar.
3. District Accounts Officer District Kohistan.
4. Govt, of Khyber Pakhtunkhwa through Secretary Education E&S Secretariats Peshawar..... Respondents.

vide order 8/4/16 S. Deputy Commissioner, Kohistan.

Filed to-day

Registrar

9/6/16 APPEAL UNDER SECTION 4 OF KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 17-05-2016 PASSED BY RESPONDENT NO-2 WHEREBY HE REJECTED THE APPEAL OF THE APPELLANT AND MAINTAINED THE OFFICE ORDER BEARING NO-12589-92 DATED 17-02-2016 OF RESPONDENT NO-1 IN RESPECT OF REMOVAL FROM SERVICE OF THE APPELLANT

2

PRAYER IN APPEAL:

On acceptance of the instant appeal the impugned order dated 17-05-2016 and order bearing No-12589-92 dated 17-02-2016 in respect of removal of the appellant from his service passed by respondent No-2 & 1 respectively may graciously be set-aside and the appellant may kindly be reinstated in his service with all back benefits.

Any other relief which deems fit and not specifically asked for may also be allowed in favor of appellant against respondents.

Respectfully Sheweth:

1. That the appellant was initially appointed as TT on 19-04-2008 under employee son quota being eligible and fulfilling all the codal formalities. (Copy of appointment order is attached as ANNEX-A).
2. That the appellant was severed with a show cause notice regarding his appointment by respondent No-1 which was properly answered. (Copy of show cause notice and reply are attached as ANNEX-B&C respectively).
3. That without considering the actual and factual position the case of the appellant, the respondent No-1 passed the impugned order dated 17-02-2016 in respect of removal from service of the appellant with retrospective effect. (Copy of order dated 17-02-2016 is attached as ANNEX-D).
4. That the appellant then preferred a departmental appeal before respondent No-2 on 01-03-2016. (Copy of Departmental appeal is attached as ANNEX-E)

5. That the appeal of the appellant was rejected on 17-05-2016 by respondent No-2. (Copy of the rejection order is attached as ANNEX-F).
6. That being aggrieved and having no other efficacious remedy except to file instant appeal on the following amongst other grounds.

GROUND:

- A. That the act, commission and omission of the respondents and the office order bearing No bearing No-121589-92 dated 17-02-2016 in respect of removal of the appellant from his service passed by respondent No-1 and the order dated 17-05-2016 of respondent No-2 respectively (hereinafter impugned) are patently illegal, unlawful, without lawful authority, of no legal effect having no value in the eyes of law thus be set-aside and the appellant may kindly be reinstated in his service with all back benefits.
- B. That the appellant was rightly appointed by the then competent authority in the presence of selection committee under employee's son quota in the distress situation of the area during those days, being eligible, deservable and fulfilling all the codal formities, the appellant was issued his appointment letter/order.
- C. That the impugned orders are very harsh in nature and also does not commensurate with facts of the case moreover the mala-fide of the respondents / authority is also exist from the record, hence be declared void and to be cancelled.

- D. That the appellant has got no alternate source of income to feed mouths of members of family hence living miserable life from hand to mouth.
- E. That while awarding the major penalty the authority also ignored the volume of service, service book of the appellant as well as the laws rules and regulations governing the subject matter.
- F. That no opportunity was provided for self defence while awarding the major penalty moreover no proper inquiry in proper manner has been conducted into the guilt of the appellant and without fulfilling the codal formalities harsh orders of removal from service were passed which are against the principle of natural justice.
- G. That there is no any complaint or inquiry pending against the appellant in any court of law or at any forum but the appellant always worked honestly and to the entire satisfaction of his superior..
- H. That the appellant also filed an application to the respondent No-2 regarding constituting impartial inquiry into the matter which was not responded till date. (Copy of the application is attached as ANNEX-G).
- I. That any other ground which has not been specifically asked for and is fit in the circumstance may also be allowed in favor of the appellant against the respondents.

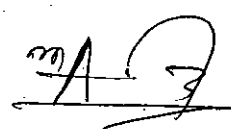
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It is therefore, most humbly prayed that on acceptance of the instant appeal the impugned order dated 17-05-2016 and order bearing No-12589-92 dated 17-02-2016 in respect of removal of the appellant from his service passed by respondent No-2 & 1 respectively may graciously be set-aside and the appellant may kindly be reinstated in his service with all back benefits.

Any other relief which deems fit and not specifically asked for may also be allowed in favor of appellant against respondents.


Appellant

Through


Muhammad Arif Jan
Advocate, Peshawar.

6

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR**

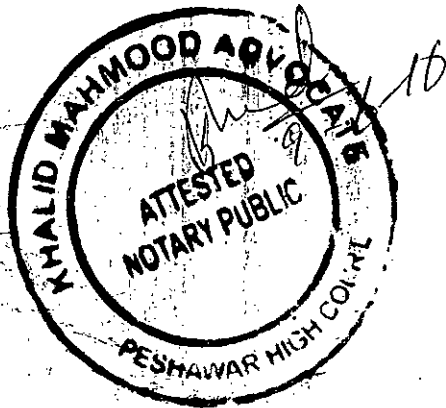
Kifayatullah.....Appellant

VERSUS

District Education Officer and othersRespondents

AFFIDAVIT

I, Kifayatullah S/o Molve Abdul Raziq TT GHS Pattan Kohistan do hereby solemnly 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 has been concealed from this Hon'ble Court.



Kifayatullah
DEPONENT

Sir, it is requested that

the appointment of Mr. Abdul Sabbar S/O
Abdul Kader has been examined and

submitted with the following
Comments/Remarks.

1- The appointment order was issued
by DCO Kohistan being competent

authority as RPS II to IS.

2) The vacancy was mentioned by
DDO Middle School Kohistan

3) Recommendation for release
pay and gratuity order was

suggested by Hon'ble MP/PTO
Kohistan but change report at Hqs.

in above case
is put for further order please

DDO/SS

(page no. 1 to 19)

13/12/04





**DIRECTORATE OF
ANTI-CORRUPTION ESTABLISHMENT,
KHYBER PAKHTUNKHWA,
PESHAWAR.**

6066
No. /ACE, Dated 17/04/2018.

To

The Secretary,
Govt: of Khyber Pakhtunkhwa,
Elementary & Secondary Education Department,
Peshawar.

Subject:- OPEN ENQUIRY NO. 14/2017-EDU: AGAINST THE CONCERNED
STAFF OF ELEMENTARY AND SECONDARY EDUCATION
DEPARTMENT, DISTRICT KOHISTAN.

The subject enquiry was initiated on the basis of complaint submitted by All A.T Teachers containing allegation of corruption and irregularities in the appointment process of A.T teachers by the subject staff etc.

The matter was enquired by this Establishment, during the course of enquiry, the field staff collected relevant record from the concerned office and recorded statements of all concerned, that the allegedly departmental selection committee has appointed some Arabic teachers where in the orders of Abdul Saboor and Muhammad Nazir were detected bogus by the department and they were removed from service. Both the teachers were challenged their removal orders in Khyber Pakhtunkhwa services tribunal Peshawar and still subjudice. Negligence on the part of DEO officials, hence recommended to refer the subject enquiry to your office for departmental action and recover the salary amount form the Teachers after decision of Services Tribunal.

In view of above, it is requested that the complaint alongwith photo copies of relevant documents are sent herewith for further necessary action, under intimation to this office.

Encls:- (As above).

Assistant Director (Complaints)
For Director Anti- Corruption Estt:
Khyber Pakhtunkhwa,
Peshawar.

No. /ACE, dated /04/2018.

Copy forwarded for information to the:-

1. Assistant Director Crimes, ACE, Mansehra alongwith enquiry file.
2. All A.T Teachers District Kohistan.
3. SA, ACE, Peshawar.

Assistant Director (Complaints)
For Director Anti- Corruption Estt:
Khyber Pakhtunkhwa,
Peshawar.

(7)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

PESHAWAR

KifayatullahAppellant

VERSUS

District Education Officer and othersRespondents

ADDRESSES OF PARTIES

APPELLANT:

Kifayatullah S/o Molve Abdul Raziq TT GHS Pattan Kohistan

RESPONDENTS

1. District Education Officer (M) Kohistan.
2. Director Elementary and Secondary Education Khyber Pakhtunkhwa G.T Road Peshawar.
3. District Accounts Officer District Kohistan.
4. Govt, of Khyber Pakhtunkhwa through Secretary Education E&S Secretariats Peshawar Appellant

Through



Muhammad Arif Jan
Advocate, Peshawar.

Date: 9/6/2016

9

Amex - A

**OFFICE OF THE DISTRICT COORDINATION
OFFICER KOHISTAN**

APPOINTMENT

Consequent upon the retirement of Mr. Abdur Razaq TT, GHS Pattan w.e.f. 11/02/2008 Mr. Kefayat- Ullah S/O Molvi Abdur Razaq R/O Pattan District Kohistan, a qualifying applicant is hereby appointed as TT at GHS Pattan Kohistan is BPS-07 (Rs.2940-160-7740) plus usual allowances as due and admissible under the rules with immediate effect in the interest of public service being son of above mentioned Retired Government Servant, subject to the following conditions.

CONDITIONS:

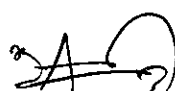
1. Charge report should be submitted to all concerned.
2. No TA/DA is allowed to him.
3. His appointments is purely on temporary basis and liable to termination at any time with out assigning any reason/notice.
4. He will be governed by such rules & regulation enforced and as prescribed by the Government from time to time for the category of the Government servants to which he belong.
5. in case the above candidate failed to assume the charge of his post within 15 days from his appointment will automatically stand cancelled.
6. Their original certificate/Degrees should be checked and verified from the concerned BISE/University before handing over charge.
7. He should produced Age & Health certificate from EDO Health Kohistan before taking over Charges.



District Coordination Officer
Kohistan

Endst: No. 2206-9 Dated Kohistan the 19/4/2008

Copy of the above is forwarded to the:-

- 1- PA to Director Schools & Literacy NWFP Peshawar.
- 2- District Nazim Kohistan.
- 3- Executive District Officer S&L Kohistan.
- 4- District Accounts Officer Kohistan.
- 5- D.D.O (Middle Schools) S&L Kohistan.

Allest



District Coordination Officer
Kohistan



(9) (9)

Annex - 'B'

**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, Kefayattullah TT GHS Pattan Kohistan as follows:-

That as per documents received from department,

1. you was appointed as TT on disease son quota on 19/04/2008 after the retirement of your father from the post of TT.
2. Whereas your father is still alive.
3. Whereas, you do not have the requisite qualification for appointment.
4. Whereas, there is no record of your appointment order in this office or in the office of Deputy Commissioner Kohistan and the Enst. No. of your appointment order is surly fake.
5. Whereas your appointment is fake and bogus.
6. Whereas as for the pupose of enquiry a questionare was served to you in presence of your principal and you did not reply.

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

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.

You are further directed that a committee is constituted to decide your case and for that you are given a chance of personal hearing on the subject matter on 28/12/2015 at 10:00am before the committee in the office of undersigned.

Endstt: No 13378 / Dated Kohistan the 14/12/2015

Attested
[Signature]

[Signature]
COMPETENT AUTHORITY

خدمت جناب سید اسٹریٹ ایجوکیشن آفیسر (M) کو بہستان

(15)

Annex 'C' جناب عالی!

عنوان: شوکار کا جواب

(1) میرا تقرر نامہ والد صاحب مرحوم کے تحت نہیں ہوا بلکہ وہ زندہ ہے۔

(2) جی ہاں! میرے والد محترم کا حال حیات ہے۔

(3) میں T.A. پوسٹ کا اہل ہوں کیونکہ میرے پاس مطلوبہ اسناد موجود ہیں۔

(4) چونکہ میری تقرری D.C.O کو بہستان نے کی تھی اس لئے Appointment آرڈر

اور ریکارڈ وغیرہ D.C. کے آفس میں موجود ہیں۔ مزید برآں مذکورہ بالا ریکارڈ گورنمنٹ ہائی اسکول پٹن کے آفس میں بھی موجود ہے۔

(5) اگرچہ میری تقرری D.C.O کو بہستان (جواز یا اختیار شخصیت) نے کی ہے

اور میں T.A. پوسٹ کا اہل تھا کیونکہ میرے پاس تمام مطلوبہ اسناد

موجود ہیں لہذا میرا Appointment آرڈر بگس نہیں ہو سکتا۔

(6-4) میں نے سوالنامے کے جوابات پرنٹسپل صاحب کی موجودگی میں

جمع کاغذات Submit کئے تھے۔

اگر علاوہ ازیں اسناد کی تصدیق دوبارہ کروانے کی ضرورت ہے تو اسناد حاضر ہیں۔

العارض

کفایت اللہ T.A.

G.H.S Pattan

تعمیر

تعمیر

11
Annex-D



OFFICE OF THE DISTRICT EDUCATION OFFICER
(M) KOHISTAN

OFFICE ORDER FOR REMOVAL FROM SERVICE.

Kifayattullah S/O Molvi Abdur Razaq TT GHS Pattan.

It has been reported through some sources that your appointment is fake and bogus. Whereas your service book was properly checked by Dy:DEO (M) and submitted the information that you have been appointed Theology Teacher by appointment order issued from DCO Office Kohistan under Ends: No.2206-9 dated 19/04/2008 at GHS Pattan with the title of order as **"Appointment of Deceased"**.

Whereas your father is still alive.

Where a showcase notice was issued to you vide this office order No.13378 dated:14/12/2015 and in reply of showcase notice you stated that you was appointed by the competent authority vide order issued dated 19/04/2008 under retired Employees sons quota and you produce another office order with the title of **appointment on the quota of retired sons.**

Whereas as the dual nature of appointment orders clearly mentioned that your appointment order is **fake and bogus.**

Where a chance of personal hearing was provided to you in the same showcase notice and you attend the office on 02/02/2016 but could not defend your position.

Therefore as a result of above mentioned facts, I Riasat Khan DEO (M) Kohistan being Competent Authority is fully satisfied to impose upon you the major penalty of **REMOVAL FROM SERVICE** with retrospective effect.

sfj
District Education Officer
Male Kohistan

Endst: No. 12589-92 / Dated 17/2 /2016.

Copy of the above is forwarded to the:

1. Director, Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.
- ~~2.~~ District Accounts Officer Kohistan.
3. DY: DEO (M) Kohistan.
4. Head Master/Incharge GHS Pattan.
5. Office file

Attested

[Signature]

[Signature]
District Education Officer
Male Kohistan

(12)

Annex - E

The Public Director (E/SE) KP, Rawalpindi

Departmental appeal against

The office order No: 12587-9 dt
17-2-2016 Passed by District Education
Officer (M), Kohistan.

Appellant: Mr,

That the appellant was initially appointed
on 7-7-07 dt. 19-4-2008 and was posted at
the Pafan.

That the appellant was served with a
show cause notice regarding his appointment
which was properly answered timely.

That the appellant was served with a
show cause notice regarding his appointment
which was properly answered timely.

That the appellant was served with a
show cause notice regarding his appointment
which was properly answered timely.

That the appellant was served with a
show cause notice regarding his appointment
which was properly answered timely.

249/13/16
13/16

Govt

Before the Honble Director (ESSE) KP, Peshawar

Departmental Appeal against the
Office order No 12588-92 dt 17-2-2016
Passed by District Education Officer (M)
Kohistan.

Respected Sir,

1. That the appellant was initially appointed as TT on 19-4-2008 and was posted at GHS Pattan.
2. That the appellant was served with a show cause notice regarding his appointment which was properly answered timely.
3. That without considering the actual and factual position of the case, the DEO (M) Kohistan issued the impugned order regarding removal from service of the appellant on 17-2-2016.
4. That the impugned order dt 17-2-2016

File
by 1-3-2016

2148
1/3/16

775 My honour and does not commensurate with the facts of the case, moreover the mala fide of the DEO (M), Kohistan is even established from the record, hence needs consideration.

That the appellant has rightly been appointed under reserved Son's quota by the then authority in the year 2008 and the proceeding against the appellant in the ^{year} 2016 clearly shows the personal grudges with the appellant.

That there is/was no any complaint from public or department against the appellant, however, the appellant always performed his duties honestly and satisfactorily of his superiors.

That the impugned order is illegal, unlawful, without lawful authority of law legal effect and justifiability hence to be set-aside.

is very harsh and does not commensurate with the facts of the case, moreover the malafide of the DEO (M), Kohistan is even established for the record, hence needs consideration.

5. That the appellant was rightly been appointed under retired son's quota by the then authority in the year 2008 and the proceeding against the appellant in the year 2016 clearly shows the personal grudges with the appellant.
6. That there is/was no any complaint from the public/^{dept} against the appellant, moreover the appellant always performed his duties honestly and satisfactorily of his superiors.
7. That the impugned order is illegal, unlawful, without lawful authority, of no legal effect and justifiably have to be set aside.

Attested
[Signature]

GHS Pakistan, Kohistan

Attested
[Signature]

Appellant's
Kitayatullah % Malik
Aidul Raqayy T GHS
Pattan, Kohistan

17-2-2016

That the impugned order dated 17-2-2016
passed by DEO (M) Kohistan regarding
removal from service of appellant may
kindly be set aside and the appellant
may graciously be reinstated in his
service with all back benefits.

It is therefore most humbly submitted
that the impugned order dated 17-2-2016
passed by DEO (M) Kohistan regarding
removal from service of appellant may
kindly be set aside and the appellant
may graciously be reinstated in his
service with all back benefits.

That the appellant is poor man and
has no other bread winner of his
family.
That while awarding the major penalty,
DEO (M) also ignored the value of service
of the appellant.

(14)

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Other - 5-18-14

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(15)

Annex F

DIRECTORATE OF ELEMENTARY AND SECONDARY EDUCATION
KHYBER PAKHTUNKHWA

ORDER.

1. WHEREAS, Mr. Kifayatullah TT GHS Pattan Kohistan proceeded against under the Khyber Pakhtunkhwa Government Servant (Efficiency & Disciplinary) Rules, 2011.
2. AND WHEREAS the above named teacher^{mal} appointed as TT at GHS Pattan vide Endst: No.2206-9 dated 19.04.2008 with the titled order as deceased quota.
3. AND WHEREAS, the dual nature of appointment order clearly mentioned that the appointment order is fake and bogus.
4. AND WHEREAS, the DEO (M) Kohistan called the TT for personal hearing to the attend the office of the DEO (M) Kohistan but could not defend himself.
5. AND WHEREAS, the DEO(M)Kohistan being appointing authority imposed a major penalty of removal from service upon the TT concerned.
6. AND WHEREAS, Mr. Kifayatullah TT GHS Pattan Kohistan lodge an appeal to the appellat authority and the appeal was sent to DEO (M) Kohistan vide this office NO.503 dated 03.03.2016. The DEO (M) Kohistan has submitted his report/comments vide letter No.1619 dated 09.04.206.
7. AND WHEREAS, the competent authority Director Elementary and Secondary Education Khyber Pakhtunkhwa) after having considered the charges and evidence on record, is of the view that charges against the accused teacher have been proved.
8. NOW THEREFORE, in exercise of powers conferred under Khyber Pakhtunkhwa Servants (Efficiency & Discipline) Rules-2011 the appellate authority has decided to reject the appeal of Mr. Kifayauallah TT GHS Pattan on the above mentioned ground.

DIRECTOR
Elementary & Secondary Education
Khyber Pakhtunkhwa, Peshawar

Endst: No. 4152-54 /F No.162/Removal from Service (M) Dated Peshawar the 7/5 2016.

Copy forwarded for information and necessary action to the:-

1. District Education Officer (M) Kohistan w/r his No.1619 dated 09.04.2016.
2. Mr. Kifayauallah TT GHS Pattan.
3. P/A to Director E&SE, Khyber Pakhtunkhwa, Peshawar.
4. Master File.

Attended
MAJ

Deputy Director (Estb.)
Elementary & Secondary Edu:
Khyber Pakhtunkhwa Peshawar.
13/5/16
11/5/16

بخدمت جناب ڈائریکٹر صاحب محکمہ تعلیم خیبر پختونخواہ پشاور

عنوان:- درخواست برائے انکوائری/تنخواہ

جناب عالی!

گزارش ہے کہ سائل نے ضلع کوہستان میں بحیثیت TT پوسٹ پر اٹھ سال نوکری کی ہے۔ سائل کو 14-12-2015 کو سائل کو شوکاژ نوٹس دیا گیا اس کا جواب ہم نے DEO صاحب کو دیا گیا۔ DEO صاحب نے بتایا کہ آپ نے جواب خود نہیں لکھا ہے اور میں مطمئن نہیں ہو اور پھر 17-2-2016 کو مجھے نوکری سے برخاست کیا گیا۔ جس کے خلاف میں نے آپ صاحبان کو اپیل کی جس کے جواب میں DEO صاحب نے میرے خلاف رپورٹ بھیج دیا۔ جو کہ نہ انصافی پر مبنی ہے۔ لہذا آپ صاحبان کے خدمت میں درخواست کی جاتی ہے کہ مہربانی کر کے ڈائریکٹریٹ سے ہمارے کیس میں انکوائری مقرر کیا جائیں۔ اور ہمیں انصاف مہیا کیا جائیں۔ بڑی مہربانی ہوگی۔

العارض

کنوینٹ الہیہ
مولوی کفایت اللہ ولد مولوی عبدالرازق

سکنہ: پٹن کوہستان

تاریخ: 20-04-2016

Handwritten signature and initials.

1683

20/4/16

IN The Court of Honble Chairman JP
Service Tribunal Per
Kefayatullah

(Petitioner)
 (Plaintiff)
 (Applicant)
 (Complainant)
 (Decree Holder)

VERSUS

DEO & others

(Respondent)
 (Defendant)
 (Accused)
 (Judgment Debtor)

Case Service Appeal - 2018

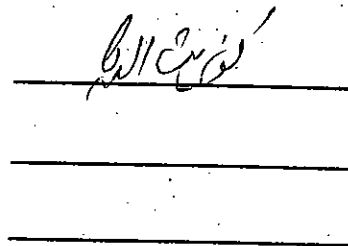
I/We, Kefayatullah do hereby appoint and constitute Muhammad Arif Jan Advocate High Court, Peshawar, to appear. Plead, act, compromise, withdraw or refer to arbitration to me/ us as my/ our Counsel in the above noted matter, without any liability for their default and with the authority to engage/ appoint any other Advocate/ Counsel at my/ our matter.

Attested & Accepted

CLIENT/S



Muhammad Arif Jan
 Advocate, High Court, Peshawar.
 Office No. 6, 1st Floor
 Pabbi Medical Centre, G.T. Road
 Peshawar.
 Mobile: 0333-2212213



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

APPEAL NO 620 OF 2016

kifayatullah

Petitioner

VERSUS

1. District Education Officer Male Kohistan
2. Director Elementary & Secondary Education KPK Peshawar
3. District Accounts officer District Kohistan
4. Secretary (E&S) Education Govt of Khyber PakhtunKhwa Peshawar

Respondents

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

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 appointment order on deceased son quota	B	6
4	Copy of appointment order on Retired son quota	C	7
5	Copy of letter of director	D	8
6	Copy of reply of director letter	E	9
7	Copy of decision of director	F	10

Dated 18-07-2016



Respondent No.1

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

APPEAL NO 620 OF 2016

Kifayatullah

Petitioner

VERSUS

1. District Education Officer Male Kohistan
2. Director Elementary & Secondary Education KPK Peshawar
3. District Accounts officer District Kohistan
4. Secretary (E&S) Education Govt of Khyber PakhtunKhwa Peshawar

Respondents

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

Respectfully Sheweth:

PRILIMINARY OBJECTIONS:-

1. That the appellant has not come to this Honorable Court with clean hands.
2. That the appellant has got no cause of action/ locus standi to file the instant appeal.
3. That the appeal has been filed to pressurize the respondents.
4. That the appellant is estopped to sue through his own conduct.
5. That the present appeal is not maintainable due to mis-joinder and non-jonder of necessary parties.
6. That the appellant has concealed the material facts from this Honourable Court.
7. That the appellant has been removed from service due to his fake and bogus appointment, hence the appeal is liable to be dismissed.
8. That the competent authority has removed the appellant after fulfillment of all codal formalities, hence the instant appeal is liable to be dismissed.
9. That the appellant authority has also rejected his appeal, hence the instant appeal is liable to be dismissed
10. That any other ground & case law will be submitted at the time of humble submissions at the bar.


Factual Objections:

1. Para No 1 is incorrect, strongly denied with the facts that as per contents of removal order of the appellant, the appellant was appointed theology teacher by Fake and Bogus appointment order issued from DCO office under Endstt: No 2206-9 dated 19/4/2008 at GHS Pattan Kohistan with the title of order as ***Appointment of Deceased (copy of order is attached as Annexure B)*** where his father has reported alive. When a show cause notice was served to the appellant (Copy attached as annexure A) and the appellant in reply produced another appointment order with a title on the ***appointment on the quata of retired sons quata*** issued same No and date (***Copy of appointment order on Retired son quota is attached as annexure C***). Whereas there is no retired sons quata is existing in the department that clearly indicate that the appointment of the appellant is Fake and Bogus. Furthermore as per contents of appointment order of the appellant , the appointment was made on the recommendation of departmental selection committee, where as per record of office no advertisement for the appointment of teachers has been made nor any process for the recruitment of teachers has been made during 2008-2009.
2. Para No 2 is incorrect, strongly denied with the facts that as per public report and the study of service book of the appellant, it has been reported that the appointment of appellant is fake and bogus. Therefore a show cause notice was issued to the appellant and the reply the appellant was not satisfactory.
3. Para No 3 is incorrect, strongly denied with the facts that the appellant was removed from service Vide No 12529- 92 dated 17.02.2016 with retrospective effect after the fulfillment of all codal formalities.
4. Para No 4 is correct to the extent that the appellant submitted a departmental appeal before the respondent No2 (Director, Elementary and Secondary Education KPK Peshawar) and the respondent No 2 in the response of appeal asked to respondent No 1 (DEO)Vide letter No 4092 dated 21.03.2016 to submit detailed report/comments on the appeal of appellant at the earliest (***Copy is attached as Annexure D***) and in the response of director letter the detailed report/ comments has been submitted*Vide letter No 1619 dated 09.04.2016 (***Copy is attached as annexure E***) and the respondent No 2 (Director being appealing authority) considering the charges and evidence on record has decided to reject the appeal of the appellant Vide No 4152- 54 dated 17.05.2016 (***Copy is attached as annexure F***).
5. Para No 5 is correct, as stated in Para No 4 above.
6. The appellant has got no cause of action to file the instant appeal.

GROUNDS

- A. Incorrect, strongly denied with the facts that the action of the competent authority is under the law and rules and the appellant was removed from service after the fulfillment of all codal formalities.
- B. Incorrect, strongly denied with the facts as stated in Para No1 & 2 of the facts.
- C. Incorrect, strongly denied that the appellant was removed as the appointment order of the appellant was Fake and Bogus.
- D. Incorrect, strongly denied with the facts as stated in Para No1 & 2 of the facts.
- E. Incorrect, strongly denied. As replied in above Paras.
- F. Incorrect, strongly denied. The chance of personal hearing was provided to the appellant
- G. Incorrect hence denied. As replied in above Paras.
- H. Incorrect strongly denied with the facts that the appeal of the appellant was decided by the respondent No 2.
- I. That 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 appeal in hand may please be dismissed with cost.


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


DIRECTOR

Elementary and secondary Education
Khyber Pakhtunkhawa Peshawar


SECRETARY

Elementary and secondary Education
Khyber Pakhtunkhawa Peshawar

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

APPEAL NO 620 OF 2016

Kifayatullah

Petitioner

VERSUS

1. District Education Officer Male Kohistan
2. Director Elementary & Secondary Education KPK Peshawar
3. District Accounts officer District Kohistan
4. Secretary (E&S) Education Govt of Khyber PakhtunKhwa Peshawar

Respondents

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

AFFIDAVIT.

I, Riasat Khan DEO (Male) Kohistan do hereby solemnly affirm and declare that the contents of Para wise 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.



DEPONENT.



(5)

30

**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, Kefayattullah TT GHS Pattan Kohistan as follows:-

That as per documents received from department,

1. you was appointed as TT on disease son quota on 19/04/2008 after the retirement of your father from the post of TT.
2. Whereas your father is still alive.
3. Whereas, you do not have the requisite qualification for appointment.
4. Whereas, there is no record of your appointment order in this office or in the office of Deputy Commissioner Kohistan and the Enst: No. of your appointment order is surly fake.
5. Whereas your appointment is fake and bogus.
6. Whereas as for the pupose of enquiry a questionnaire was served to you
7. in presence of your principal and you did not reply.

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

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.

You are further directed that a committee is constituted to decide your case and for that you are given a chance of personal hearing on the subject matter on 28/12/2015 at 10:00am before the committee in the office of undersigned.

Endstt: No/13378 /Dated Kohistan the 14/12/2015


COMPETENT AUTHORITY

13

OFFICE OF THE DISTRICT COORDINATION
OFFICER KOHISTAN

6

APPOINTMENT OF DECEASED

Consequent upon the retirement of Mr. Abdur Razaq TT, GHS Pattan w.e.f 11/02/2008, Mr. Kefayat-ullah S/O Molvi Abdur Razaq R/O Pattan District Kohistan, a qualifying applicant is hereby appointed as TT at GHS Pattan Kohistan in BPS 07 (Rs.2940-160-7740) plus usual allowance as due and admissible under the rules with immediate effect in the interest of public service being son of above mentioned Retired Government Servant, subject to the following conditions.

CONDITIONS.

1. Charge report should be submitted to all concerned
2. No TA/ DA is allowed to him
3. His appointments is purely on temporary basis and liable to termination at any time with out assigning any reason/ notice
4. He will be governed by such rules & regulation enforced and as prescribed by the Government from time to time for the category of the Government servants to which he belong
5. In case the above candidate failed to assume the charge of his post with in 15-days, his appointment will automatically stand cancelled.
6. He should not be allowed to take over charge if his age is less than 18-years and above 35-years.
7. He should produced Age & Health Certificate from EDO Health Kohistan before taking over Charge.

21

19/04/08
H.O. DCO

Endst: No

2206-14

Dated Kohistan the

19.4

2008

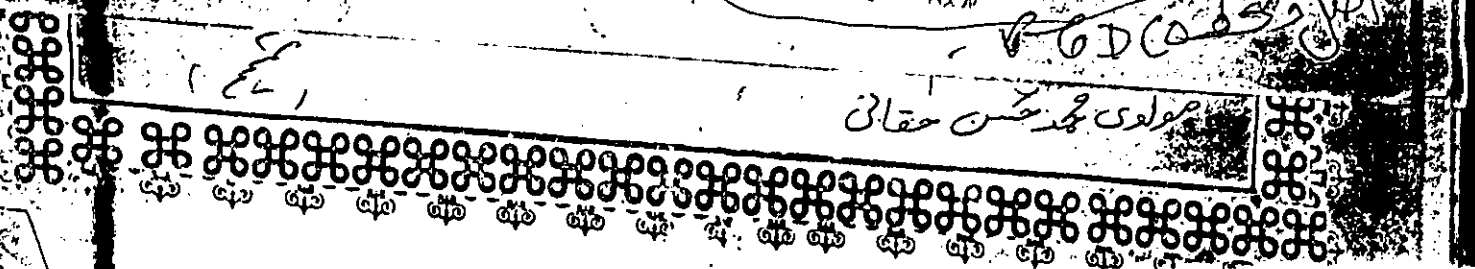
Copy of the above is forwarded to the:-

1. PA to Director Schools & Literacy NWFP Peshawar
2. District Nazim Kohistan
3. Executive District Officer S&L Kohistan
4. District Accounts Officer Kohistan
5. D.D.O (Middle Schools) S&L Kohistan.
6. Candidate concerned.

Executive District Officer
S&L Kohistan
District Accounts Officer
Kohistan

District Coordination Officer
Kohistan

Handwritten notes and signatures in Urdu script, including the name 'مولوی محمد حسن حقانی' (Molvi Muhammad Hassan Haqani).




(7) 28
OFFICE OF THE DISTRICT COORDINATION
OFFICER KOHISTAN

APPOINTMENT

Consequent upon the retirement of Mr. Abdur Razaq TT, GHS Pattan w.e.f. 11/02/2008 Mr. Kefayat- Ullah S/O Molvi Abdur Razaq R/O Pattan District Kohistan, a qualifying applicant is hereby appointed as TT at GHS Pattan Kohistan is BPS-07 (Rs.2940-160-7740) plus usual allowances as due and admissible under the rules with immediate effect in the interest of public service being son of above mentioned Retired Government Servant, subject to the following conditions.

CONDITIONS:

1. Charge report should be submitted to all concerned.
2. No TA/DA is allowed to him.
3. His appointments is purely on temporary basis and liable to termination at any time with out assigning any reason/notice.
4. He will be governed by such rules & regulation enforced and as prescribed by the Government from time to time for the category of the Government servants to which he belong.
5. in case the above candidate failed to assume the charge of his post within 15 days from his appointment will automatically stand cancelled.
6. Their original certificate/Degrees should be checked and verified from the concerned BISE/University before handing over charge.
7. He should produced Age & Health certificate from EDO Health Kohistan before taking over Charges.


District Coordination Officer
Kohistan


Endst: No.

2206-9

Dated Kohistan the 19/4/2008

Copy of the above is forwarded to the:-

- 1- PA to Director Schools & Literacy NWFP Peshawar.
- 2- District Nazim Kohistan.
- 3- Executive District Officer S&L Kohistan.
- 4- District Accounts Officer Kohistan.
- 5- D.D.O (Middle Schools) S&L Kohistan.


District Coordination Officer
Kohistan

(8)

DIRECTORATE OF ELEMENTARY AND SECONDARY EDUCATION
KHYBER PAKHTUNKHWA.

No. 097 /F.No.162/Appeal of PST/TT/AT/
Qari (M) Gen:

Dated Peshawar the 21-3-2016

To,

The District Education Officer (M)
Kohistan.

Subject: - **APPEAL FOR JUSTICE.**

Memo:-

I am directed to refer to the subject cited above and to enclose herewith a copy of appeal alongwith its enclosure in respect of Mr. Kifayat Ullah TT GHS Pattan District Kohistan necessary action under the rules/policy and submit report and view/comments to this office within a week.

DE 8/3/16
Deputy Director (Estab :)
Elementary & Secondary Edu:
Khyber Pakhtunkhwa Peshawar.
11/3/16

Endst: No. _____ /

Copy forwarded to the:-

1. P.A to Director Elementary and Secondary Local Office.

RO-DEES
OM
11/4/2016

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



(S)

OFFICE OF THE DISTRICT EDUCATION OFFICER
(M) KOHISTAN.

No. 1619 Dated 9/4 /2016

To

Director
Elementary & Secondary Education,
Khyber Pakhtunkhwa Peshawar.

Subject:- APPEAL FOR JUSTICE.

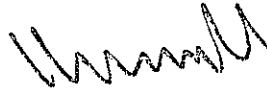
Memo:-

Reference letter No. 4097/F.No. 162/ Appeal of PST / TT / AA / Qari (M) Gen, dated Peshawar 21/03/2016 it is submitted that Mr. Kifayattullah TT GHS Pattan District Kohistan was reported that his appointment is fake and bogus. On the Study of service it has been found that he was appointed TT Vide appointment order issued from DCO office Kohistan under Endst: No. 2206-9 dated 19/04/2008 at GHS Pattan with the title of order as "**Appointment of decease**" Whereas his father is still alive. Moreover the DC office is not verifying the Endst: No. of the order.

Whereas a showcase notice was issued to him and in reply of showcase notice he produce another office order with the title of appointment on the quata of "Retired Sons" that clearly indicate that the appointment order is fake and bogus.

Whereas a chance of personal hearing was provided to him and he attend the office on 02/02/2016 but could not defend himself.

Therefore Mr. Kifayattullah TT was removed from service with retrospective effect vide this office order issued under Endstt: No.12589-92 dated 17/02/2016.


District Education Officer
(Male) Kohistan

(8) (10)

DIRECTORATE OF ELEMENTARY AND SECONDARY EDUCATION
KHYBER PAKHTUNKHWA

ORDER

- WHEREAS, Mr. Kifayatullah TT GHS Pattan Kohistan proceeded against under the Khyber Pakhtunkhwa Government Servant (Efficiency & Disciplinary) Rules, 2011.
2. AND WHEREAS the above named teacher^{was} appointed as TT at GHS Pattan vide Endst: No.2206-9 dated 19.04.2008 with the titled order as deceased quota.
3. AND WHEREAS, the dual nature of appointment order clearly mentioned that the appointment order is fake and bogus.
4. AND WHEREAS, the DEO (M) Kohistan called the TT for personal hearing to the attend the office of the DEO (M) Kohistan but could not defend himself.
5. AND WHEREAS, the DEO(M)Kohistan being appointing authority imposed a major penalty of removal from service upon the TT concerned.
6. AND WHEREAS, Mr. Kifayatullah TT GHS Pattan Kohistan lodge an appeal to the appellat authority and the appeal was sent to DEO (M) Kohistan vide this office NO.503 dated 03.03.2016. The DEO (M) Kohistan has submitted his report/comments: vide letter No.1619 dated 09.04.206.
7. AND WHEREAS, the competent authority Director Elementary and Secondary Education Khyber Pakhtunkhwa) after having considered the charges and evidence on record, is of the view that charges against the accused teacher have been proved

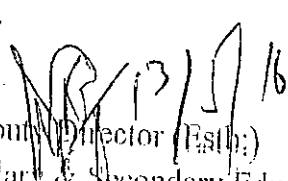
NOW THEREFORE, in exercise of powers conferred under Khyber Pakhtunkhwa Servants (Efficiency & Discipline) Rules-2011 the appellate authority has decided to reject the appeal of Mr. Kifayauallah TT GHS Pattan on the above mentioned ground.

DIRECTOR
Elementary & Secondary Education
Khyber Pakhtunkhwa, Peshawar

Endst: No. 4152-54 /F No.162/Removal from Service (M) Dated Peshawar the 17/5 /2016.

Copy forwarded for information and necessary action to the:-

1. District Education Officer (M) Kohistan w/r his No.1619 dated 09.04.2016.
2. Mr. Kifayauallah TT GHS Pattan.
3. P/A to Director E&SE, Khyber Pakhtunkhwa, Peshawar.
4. Master File.


Deputy Director (Estt.)
Elementary & Secondary Edu:
Khyber Pakhtunkhwa Peshawar.
13/5/16

12/5/16

BEFORE THE HON'BLE SERVICE TRIBUNAL K.P PESHAWAR

Kefayatullah

V/S

DEO and others

**REJOINDER ON BEHALF OF APPELLANT TO THE COMMENTS FILED
BY THE RESPONDENTS NO, 1, 2, 3 & 4.**

On Preliminary objections;

All the Objections raised by the respondents in their comments are totally incorrect, against the facts and circumstances.

Misconceived and Misleading objections have been raised for the sake of more objections only. The objections are nothing but callus attempt to side the main issue, whereby the appellant was removed from service on the bases of baseless and for unreasonable grounds of fake and bogus appointment without holding proper inquiry into proper manner.

The concealment, failure and un satisfactory reply by the respondents in their comments is clearly speaks the innocence of the appellant and show the personal grudges of the respondents by depriving him from his valuable rights of service and service benefits moreover there is also nothing on the record to connect or establish a fake and bogus case of appointment against the appellant.

There is also no any inquiry or criminal case registered by the Anti Corruption Dept KP against the appellant regarding the subject matter. The appointment of the appellant has been declared by the concerned DCO under the Law and according to the record but despite all these facts, the respondents passed the impugned orders for no any reason and justification or the reason best known to them.

The unfair, discriminatory and malafide conduct is even established from improper inquiry into the matter by the respondents.

ON FACTS:

1. Para No-1 of the comments is incorrect and in admitted, in fact the appellant was rightly been appointed under retired employees sons quota by the competent authority according to the law, rules and regulation governing the subject matter. Further more the appellant also applied for obtaining the attested copies from the concerned dept/ office through application which was allowed and the copy of the appointment order was provided which is enough to prove the mala fide and also enough for the baseless allegation raised by the respondents. (Copies of application and order are attached).
2. Para No-2 of the comments is totally incorrect, there is/was no any complaints whatsoever against the appellant or his appointment infact the respondent No-1 himself started a discriminatory behavior and resultantly by misusing his powers the appellant was removed form service.
3. Para No-3 of the comments is incorrect as the answering respondents are not the investigating authority to describe the false details collected in the alleged case, however if is/was the case of corruption then the Anti Corruption dept is the authority to investigate into the matter against the appellant but in the present case the Anti Corruption dept declared the appointment of the appellant according record and also according to Law. Further more, no proper inquiry into proper manner has been conducted into the matter to reached to the ends of justice but the respondent No-1 himself played the roll of investigating authority for just to remove the appellant from his service for no any reason or reasons best known to him moreover no opportunity of defence has been given to appellant.
4. Para No-4 of the comments is also incorrect as the impugned order / orders are against the facts and circumstances of the case of appellant, hence needs to be set-aside.

5. Para No-5 & 6 of the comments needs no reply.

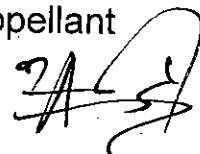
GROUNDS;

Grounds are more bold un substantiated and baseless. Denial of the legal grounds has been raised in the comments would not absolve the respondents from their duties. Grounds A to I of the comments are totally incorrect while correct of the main appeal, the appellant was falsely removed from his service with out holding the proper inquiry, hence the appellant deserve to be reinstated into his service with all back benefits.

The appellant has also not given/provided the opportunity of personal hearing of his defence etc and this act of the respondents crystal clear from the denial of the legal rights. The respondents brings little on surface and concealed more in pipe lines by involving the appellant in a baseless and planted case of fake and bogus appointment which is totally wrong and also against the natural justice. Further the material evidence collected against the appellant is without any justification and mere to punish the innocent appellant with their dishonest attitude.

It is, therefore, most humbly prayed that on acceptance of the re-joinder the comments filed by the respondents may kindly be rejected and the appeal of the appellant may graciously be allowed as prayed for.

Appellant



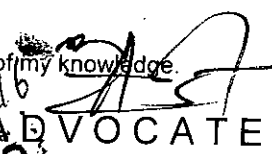
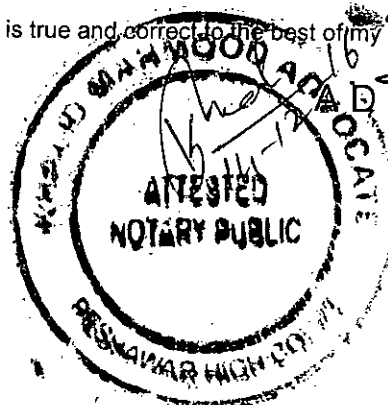
Through

Muhammad Arif Jan

Advocate Peshawar

Affidavit

As per information of my client the contents of the re joinder is true and correct to the best of my knowledge.



Handwritten signature of Muhammad Mahmood Advocate, Peshawar High Court.

خدمتِ جناب سے صاحب فرم کو متعارف

عنوان = فراہمی نقولت Appointment order کا ہے

سودمانہ گزرا رہی ہے من سامان کا آرڈر دفتر

آنکھوں سے جاری رہی ہے جو 26-9-2006
صرف 19-4-2008 سے اور 2529-34 صرف 26-4-2008

استدعا ہے کہ سائیکل اور فنڈرز Appointment orders کی

صرف نقولت دی گئی ہے گورنمنٹ و ماس

RR & Breen

- الغرض
- 1- لفافہ - اللہ ولد عبد الرزاق 14/6/16
 - 2- عبد الصبور / عبد الخالق

Shaniff
FOR DZ KBT

14-6-16

17

صرف نقولت درخواست
دفعہ 107 کی ہے
مستحق

Alketa
[Signature]

56


**OFFICE OF THE DISTRICT COORDINATION
OFFICER KOHISTAN**

APPOINTMENT

Consequent upon the retirement of Mr. Abdur Razaq TT, GHS Pattan w.e.f. 11/02/2008 Mr. Kefayat- Ullah S/O Molvi Abdur Razaq R/O Pattan District Kohistan, a qualifying applicant is hereby appointed as TT at GHS Pattan Kohistan is EPS-07 (Rs.2940-160-7740) plus usual allowances as due and admissible under the rules with immediate effect in the interest of public service being son of above mentioned Retired Government Servant, subject to the following conditions.

CONDITIONS:


1. Charge report should be submitted to all concerned.
2. No TA/DA is allowed to him.
3. His appointments is purely on temporary basis and liable to termination at any time with out assigning any reason/notice.
4. He will be governed by such rules & regulation enforced and as prescribed by the Government from time to time for the category of the Government servants to which he belong.
5. in case the above candidate failed to assume the charge of his post within 15 days from his appointment will automatically stand cancelled.
6. Their original certificate/Degrees should be checked and verified from the concerned BISE/University before handing over charge.
7. He should produced Age & Health certificate from EDO Health Kohistan before taking over Charges.

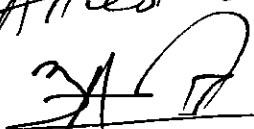

District Coordination Officer
Kohistan

Dated Kohistan the 19/4/2008

Copy of the above is forwarded to the:-

- PA to Director Schools & Literacy NWFP Peshawar.
- District Nazim Kohistan.
- Executive District Officer S&L Kohistan.
- District Accounts Officer Kohistan.
- D.D.O (Middle Schools) S&L Kohistan.


District Coordination Officer
Kohistan

Attested


in b/w pages 571 & 572.
file No-21/ESH: Vol-II of
2009.

2206-9

14/4/08

Attesting Officer
Authorized by A.D. of
Qannun-e-Shugla
Ordinance 4-
one page 5
file no 21/ESH
Vol-II.