

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 317/2019

Date of Institution ... 01.03.2019
Date of Decision ... 02.02.2022

Qari Waheed Ullah son of Abdur Raziq, (Ex-Senior Qari) resident of Takkar Road Sadder Colony, Tehsil Takht Bhai, District Mardan.

... (Appellant)

VERSUS

The Government of Khyber Pakhtunkhwa through Secretary Education and two others.

... (Respondents)

Muhammad Irshad Mohmand,
Advocate

... For appellant.

Naseer ud Din Shah,
Assistant Advocate General

... For respondents.

Salah-Ud-Din

... Member (J)

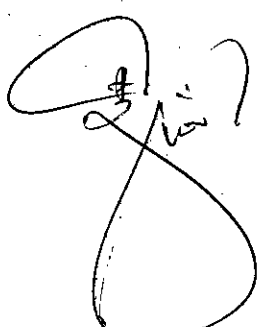
Rozina Rehman

... Member (J)

JUDGMENT

ROZINA REHMAN, MEMBER (J): The appellant has invoked the jurisdiction of this Tribunal through above titled appeal with the prayer as copied below:

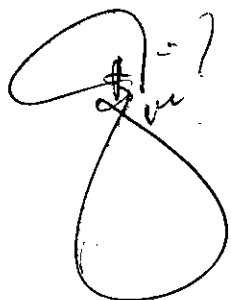
"On acceptance of instant service appeal, the impugned order of the Director (E&SE) Khyber Pakhtunkhwa Peshawar/Respondent No.2 contained in office order dated 12.11.2018, whereby, the appellant reinstatement into service order is withdrawn, may please be set aside and the appellant may be reinstated into his service with all back benefits."



2. Brief facts of the case are that appellant was performing his duty as Senior Qari and was posted at Government High School Patti Kalan. Major penalty of compulsory retirement from service was imposed upon appellant vide office order dated 16.11.2017. Feeling aggrieved, he preferred departmental appeal to the Director E&SE Khyber Pakhtunkhwa on 27.11.2017. The appellate order was not communicated to the appellant even after the lapse of 90 days, he, therefore, filed service appeal in this Tribunal on 15.03.2018. During the pendency of service appeal, his departmental appeal was accepted and he was reinstated into service on 19.10.2018 but the respondent No.2 withdrew the reinstatement order of the appellant on the plea of pendency of service appeal. The appellant preferred departmental appeal against the withdrawal of his reinstatement order but to no avail, hence, the present service appeal.

3. We have heard Muhammad Irshad Mohmand Advocate learned counsel for appellant and Naseer ud Din Shah learned Assistant Advocate General for respondents and have gone through the record and the proceedings of the case in minute particulars.

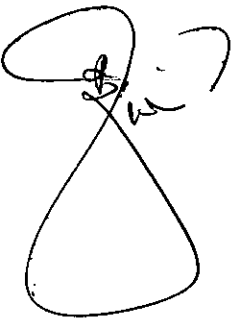
4. Muhammad Irshad Mohmand Advocate learned counsel appearing on behalf of appellant, inter-alia, argued that the appellant was clearly exonerated from all charges by the respondent No.2 and he was reinstated into service which order clearly shows that the allegations leveled against appellant were false and frivolous. He submitted that once reinstatement order is issued by a competent authority, then it cannot be withdrawn without genuine reasons. He contended that the impugned withdrawal order is therefore, illegal



and without lawful authority. Another limb of arguments was that appellant was not afforded a fair opportunity of hearing which is a sine qua non for any action under service law and that the impugned order is not supported by reasons as envisaged in the General Clauses Act.

5. Conversely, learned AAG submitted that the notification regarding reinstatement in respect of the appellant was withdrawn in the light of report of the respondent No.3 as the case of the appellant was subjudice in Service Tribunal. He contended that the appellant was a habitual bad character person who was involved in satanic activities time and again and that the impugned order was passed due to his bad character and immoral activities.

6. From the record, it is evident that appellant Qari Waheed Ullah was proceeded against departmentally under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 and vide order dated 16.11.2017 major penalty of compulsory retirement from service was imposed upon appellant. Feeling aggrieved, appellant filed departmental appeal on 27.11.2017 which was rejected vide order dated 23.01.2018, however another notification was issued on 19.10.2018, whereby, the appellate authority accepted his appeal and appellant was reinstated into service with immediate effect while the intervening period i.e. from the date of compulsory retirement till taking over charge was treated as leave without pay. This order was passed during the pendency of Service Appeal No.377/2018, wherein, the order dated 16.11.2017 had been challenged by the appellant. In view of the pendency of the

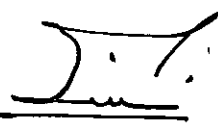


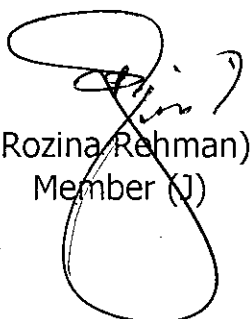
service appeal filed by the appellant, another notification was issued on 12.11.2018 vide which notification regarding reinstatement in respect of appellant issued vide order dated 19.10.2018 was withdrawn. The impugned order dated 12.11.2018 is not supported by cogent reasons as envisaged in the General Clauses Act. Mere pendency of an appeal in the Service Tribunal is no ground for withdrawal of an order which was otherwise issued by the competent authority in view of the entire record. The order of reinstatement into service in respect of the appellant by the competent authority bearing endorsement No.7070-73 dated 19.10.2018 is not denied. The same has been admitted to have been rightly issued by the competent authority.

7. For what has been discussed above, this appeal is accepted. The impugned order dated 12.11.2018 in respect of withdrawal of the reinstatement order is set aside and the appellant is accordingly reinstated into service in the light of order dated 19.10.2018. The intervening period i.e. from the date of compulsory retirement till taking over charge by the appellant has already been treated by the authority as leave without pay. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED.

02.02.2022


(Salah-ud-Din)
Member (J)


(Rozina Rehman)
Member (J)

Order

02.02.2022

Appellant with counsel present.

Naseer ud Din Shah learned Assistant Advocate General
alongwith Sajid Ali ADEO for respondents present.

Vide our judgment of today of this Tribunal placed on file,
this appeal is allowed, this appeal is accepted. The impugned
order dated 12.11.2018 in respect of withdrawal of the
reinstatement order is set aside and the appellant is
accordingly reinstated into service in the light of order dated
19.10.2018. The intervening period i.e. from the date of
compulsory retirement till taking over charge by the appellant
has already been treated by the authority as leave without
pay. Parties are left to bear their own costs. File be consigned
to the record room.

Announced.

02.02.2022



(Salah-Ud-Din)
Member (J)

(Rozina Rehman)
Member (J)

سروس کی قبولیت نامہ

مورخہ

مقدمہ اپیل
دعویٰ

جرم

317/2018

2 منجانب 2
محامی و صدر التمس نامہ

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کارروائی متعلقہ
آن مقام ہسٹیا اور نیلے اکبر علی ایڈووکیٹ ہائی کورٹ
مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا۔ نیز
وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ پر حلف دینے جواب دہی اور اقبال دعویٰ اور
بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ارضعی دعویٰ اور درخواست ہر قسم کی تصدیق
زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی
اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا۔ از بصورت ضرورت
مقدمہ مذکور کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے
تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے
اور اس کا ساختہ پر داختم منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے
سبب سے وہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں
گے۔ کہ پیروی مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سندر ہے۔

2021

ماہ ستمبر

02

المرقوم

وکیل

العبد

کے لئے منظور ہے۔

مقام

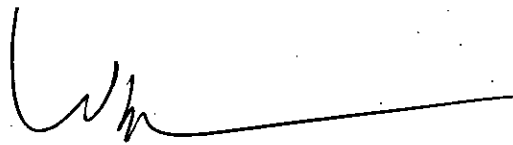
Attent & Accepted

محامی

02.09.2021

Appellant alongwith Mr. Akbar Ali, Advocate present, who submitted fresh Wakalat Nama on behalf of the appellant. Mr. Riaz Ahmad Paindakheil, Assistant Advocate General for the respondents present.

Learned counsel for the appellant sought adjournment on the ground that he has been freshly engaged and has not gone through the record. Adjourned. To come up for arguments before the D.B on 01.11.2021.



(ATIQ-UR-REHMAN WAZIR)
MEMBER (EXECUTIVE)



(SALAH-UD-DIN)
MEMBER (JUDICIAL)

01.11.2021

Counsel for appellant present.

Muhammad Adeel Butt, learned Additional Advocate General alongwith Sajid Litigation Officer for respondents present.

The learned Member (Judicial) is on leave, therefore, case is adjourned. To come up for arguments on 02.02.2022 before D.B.



Chairman

19.11.2020

Appellant with counsel present.

Kabir Ullah Khattak learned Additional Advocate General for respondents present.

A request for adjournment was made on behalf of appellant. Adjourned. To come up for arguments on 12.02.2021 before D.B alongwith connected appeal No.377/2018.



(Atiq ur Rehman Wazir)
Member (E)



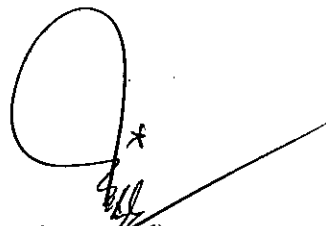
(Rozina Rehman)
Member (J)

12.02.2021


Appellant in person present. Adl: AG for respondents present.

Appellant requested for adjournment due to general strike of the Bar.

Adjourned to 04.05.2021 for arguments before D.B.



(Mian Muhammad)
Member (E)



(Muhammad Jamal Khan)
Member (J)

4.5.21

due to COVID-19, the case is adjourned to 2.9.2021 for the same.





Header

12.06.2020

Clerk to counsel for the appellant present. Mr. Kabir Ullah Khattak learned Additional Advocate General present. Clerk to counsel for the appellant seeks adjournment on the ground that learned counsel for the appellant is not in attendance. Adjourned. To come up for arguments on 21.08.2020 before D.B.

21.08.2020


(Rozina Rehman) 
(M. Amin Khan Kundi)
Due to summer vacation case to come up for the same on 18.09.2020 before D.B.

Counsel for appellant present.



Reader


18.09.2020

~~Counsel for Appellant Present.~~

Mr. Kabirullah Khattak learned Additional Advocate General for respondents present.

Former requests for adjournment. Adjourned. To come for arguments on 19.11.2020 before D.B. along with connected appeal No.377/2018.


(Atiq ur Rehman Wazir)
Member (E)


(Rozina Rehman)
Member (J)

13.01.2020

Due to general strike of the bar on the call of Khyber Pakhtunkhwa Bar Council, the case is adjourned. To come up for further proceedings/arguments on 02.03.2020 before D.B.



Member



Member

02.03.2020

Counsel for the appellant present. Addl: AG for respondents present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 01.04.2020 before D.B.



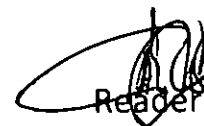
Member



Member

01.04.2020

Due to public holiday on account of COVID19, the case is adjourned to 12.06.2020 for the same as before.



Reader

18.10.2019

[Faint, illegible handwritten notes]

18.10.2019

Appellant with counsel present. Asst: AG for respondents present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 14.11.2019 before D.B.



Member



Member

14.11.2019

Counsel for the appellant present. Asst: AG alongwith Mr. Sajid, ADEO for respondents present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 13.01.2020 before D.B.



Member



Member

24.06.2019 Appellant in person and Addl: AG for respondents present. Written reply/comments on behalf of respondent not submitted. Requested for adjournment. Adjourned. Case to come up for written reply/comments on 09.08.2019 before S.B.


(Ahmad Hassan)
Member

09.08.2019 Counsel for the appellant and Mr. Muhammad Riaz Khan Paindakhel, Asstt. AG alongwith Sajid Khan, ADO (Litigation) for the respondents present.

Representative of respondents has submitted parawise comments on behalf of respondents No. 1 to 3 which are placed on record. To come up for arguments on 08.10.2019 before the D.B. The appellant may submit rejoinder within one month, if so advised.


Chairman

08.10.2019 Appellant in person present. Mr. Kabir Ullah Khattak learned Additional Advocate General present. Appellant seeks adjournment on the ground that his counsel is not in attendance. Adjourn. To come up for arguments on 18.10.2019 before D.B.


Member


Member

25.04.2019

Counsel for the appellant Qari Waheed Ullah present. Preliminary arguments heard. It was contended by learned counsel for the appellant that the appellant was serving as Senior Qari in Education Department. He was imposed major penalty of compulsory retirement vide order dated 16.11.2017 on the allegation of being involved in immoral activities. The appellant filed departmental appeal on 27.11.2017 which was not responded within the statutory period of 90 days therefore, the appellant filed service appeal within time on 05.03.2018, the same is still pending before this Tribunal. It was further contended that after institution of service appeal, the departmental authority accepted the departmental appeal already filed by the appellant. The appellant was reinstated into service while the intervening period from the date of compulsory retirement to the date of taking over charge was treated as leave without pay vide order dated 19.10.2018 on the ground that the charge leveled against the appellant was not proved. However, the order dated 19.10.2018 of the departmental authority was again withdrawn by the departmental authority vide order dated 12.11.2018 only on the ground that the service appeal of the appellant was pending in Service Tribunal therefore, the appellant also filed departmental appeal against the withdrawal order dated 12.11.2018 but the same was not responded hence, the present service appeal. Learned counsel for the appellant contended that when the departmental appeal was accepted by the departmental authority, the appellant was reinstated into service vide order dated 19.10.2018 on the ground that the charge leveled against the appellant was not proved than the withdrawal order dated 12.11.2018 of the reinstatement of the appellant only on the ground that the service appeal of the appellant was pending in the Service Tribunal is illegal and liable to be set-aside.

The contention raised by the learned counsel for the appellant needs consideration. The appeal is admitted for regular hearing subject to all legal objections. The appellant is directed to deposit security and process fee within 10 days, thereafter, notice be issued to the respondents for written reply/comments for 24.06.2019 before S.B.

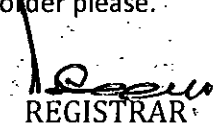


Appellant's Security & Process Fee


(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 317/2019

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	01/03/2019	<p>The appeal of Mr. Qari Waheed Ullah presented today by Mr. Shuaib Sultan 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-	11/03/19	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>26/03/19</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
26.03.2019		<p>Appellant in person present and submitted wakatlat nama in favor of Afrasiab Kakakheil Advocate and requested for adjournment. Adjourn. To come up for preliminary hearing on 25.04.2019 before S.B</p> <p style="text-align: right;"> Member</p>

BEFORE THE PROVINCIAL SERVICES TRIBUNAL
PESHAWAR

Appeal No. 317 /2019

Qari Waheed Ullah Versus..... The Secretary Education & Others

INDEX

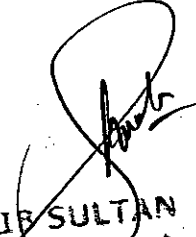
S No	Description	Annex	Pages
1	Memo of Appeal with Affidavit		1-----6
2	office order/ Endst 10100/ G P.F, dated 16-11-2017	A	7
3	Copy of Representation dated 27-11-2017	B.	8-----10
4	Reinstatement office vide Endst: 7070-73, dated 19-10-2018	C	11
5	Impugned withdrawal, order/ Endst No. 2142-45/F No.39/ Vol: II/ Complaint/ KCT(M) Gen, dated Peshawar the 12-11-2018	D	12
6	Representation & postal receipt	E & F	13----- 15
7.	Waalat nama		16

Dated- 01-03-2019.


APPELLANT

**QARI WAHEED ULLAH
THROUGH COUNSEL**

**SHUAIB SULTAN
ADVOCATE
HIGH COURT**


SHUAIB SULTAN
Advocate High Court
District Courts Mardan

BEFORE THE PROVINCIAL SERVICES TRIBUNAL
PESHAWAR

Appeal No. 317 /2019

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 298

Dated 01-3-2019

Qari Waheed Ullah son of Abdur Raziq, (Ex-Senior Qari) resident of Takkar road sadder colony, Tehsil Takht Bahi & District Mardan Appellant

Versus

1. The Government of Khyber Pakhtunkhawa through Secretary, Education.
2. The Director (E & SE) Khyber Pakhtunkhawa, Peshawar.
3. The ~~District Education Officer~~ District Education Officer Male (E & SE), Mardan. Respondents

Filed to-day

Registrar

APPEAL UNDER SECTION 4, OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974, AGAINST THE IMPUGNED ORDER OF DIRECTOR (E & SE) KHYBER PAKHTUNKHAWA, PESHAWAR / RESPONDENT No.02, CONTAINED IN OFFICE ORDER/ ENDST 2142-45/F No.39/ VOL: II/ COMPLAINT/ KCT(M) Gen, Dated Peshawar The 12-11-2018, WHEREBY THE APPELLANT REINSTATEMENT INTO SERVICE ORDER IS WITHDRAWN, WHICH IS ILLEGAL, VOID, AGAINST LAW AND FACTS, WHILE DEPARTMENTAL APPEAL FILED ON DATED 28/11/2018, RECEIVED VIDE DAIRY 2037, DATED 29-11-2018, REMAINED UN-RESPONDED EVEN AFTER LAPSE OF 90 DAYS, WHICH IS ILLEGAL AGAINST LAW AND FACTS.

3/19

PRAYER

ON ACCEPTANCE OF THE INSTANT APPEAL THE IMPUGNED ORDER OF THE DIRECTOR (E & SE) KHYBER PAKHTUNKHAWA, PESHAWAR/ RESPONDENT No.02, CONTAINED IN OFFICE ORDER/ ENDST 2142-45/F No.39/ VOL: II/ COMPLAINT/ KCT(M) Gen, Dated Peshawar The 12-11-2018. WHEREBY THE APPELLANT REINSTATEMENT INTO SERVICE ORDER IS WITHDRAWN, MAY PLEASE BE SETASIDE AND THE APPELLANT MAY BE REINSTATED INTO HIS SERVICE WITH ALL BACK SERVICE BENEFITS.

ANY OTHER CONSEQUENTIAL RELIEF, NOT SPECIFICALLY PRAYED FOR AND DEEMED APPROPRIATE BY HIS HONORABLE TRIBUNAL, IN FACTS AND CIRCUMSTANCES OF THE CASE, MAY ALSO BE GRANTED TO THE APPELLANT.

Respectfully Sheweth,

ON FACTS:-

Brief facts giving rise to the present appeal are as under

- I- That the appellant was performing his duty as Senior Qari, in the elementary and secondary Education department Khyber Pakhtun khawa, and was posted at Government High School Pati Kalan.
- II- That during the course of service, respondent No. 03 imposed major penalty upon the appellant of compulsory retirement from service, vide office order/ Endst 10100/ G P.F, dated 16-11-2017. (Copy the order is attach as annexure " A")
- III- That aggrieved therefrom, the Appellant preferred departmental Representation/ Appeal, to the Director (E & SE) Khyber

Pakhtun Khawa, Peshawar / Respondent No.02. On 27-11-2017, and which was received vide office diary No. 1414, dated 28-11-2017. **(copy of Departmental Representation/ Appeal is attached as annexure "B")**

IV- That the Appellate order was never conveyed to Appellant, even after the lapse of ninety (90) days, Hence, he filed appeal before the Service tribunal on 05-03-2018.

V- That during the pendency of the said appeal, respondent No 02, set aside the order of the respondent No.03 vide office order/ vide Endst: 7070-73, dated 19-10-2018 and reinstated the appellant into service. **(copy of the reinstatement order is as annexure "C")**

VI- That the respondent No. 02, again withdraw the aforesaid reinstatement order of the appellant on the plea of pendency appeal before this Honourable tribunal vide office order/ Endst No. 2142-45/F No.39/ Vol: II/ Complaint/ KCT(M) Gen, dated Peshawar the 12-11-2018. **(copy of the reinstatement order is as annexure "D")**

VII- That the appellant prefer departmental appeal to the respondent No.01, against the withdrawal of his reinstatement order on 28-11-2018, vide registered post **(copy of the departmental appeal and postal receipts are as annexure "E & F")**

VIII- That the Appellate order was never conveyed to Appellant, even after the lapse of ninety (90) days, hence this Appeal is within time. The impugned order is unjustified, illegal, against the principles of natural Justice, ultra vires and the same is liable to be set aside on the following grounds inter alia;

GROUND:-

1. Because the respondent No 02 has clearly and in unequivocal terms exonerated the appellant from all the charges/ allegations, which were made basis for the compulsory retirement of the Appellant.
2. Because the reinstatement order dated 10-10-2018, of the appellant clearly states that the charges/ allegations against him have not been proved, consequently he has been reinstated into service.
3. Because once a reinstatement order has been issued by a competent authority, afterwards it cannot be withdraw.
4. Because the appellant has been ready and willing to withdraw his appeal pending before this Honourable Tribunal on the date fixed.
5. Because the impugned withdrawal order of the reinstatement into service of the appellant is illegal, without lawful authority and of no legal effect, hence ineffective upon the rights of the appellant.
6. Because the appellant was falsely implicated, the allegation/ complaint of his involvements in immoral activities are wrong, baseless, without any proof and cogent evidence; he was never involved in such activities, which were also discredited by the competent authority, consequently the appellant has been reinstated into service.

7. Because appellant had not been afforded a fair opportunity of hearing which is sine-qua-non for any action under service law and entrenched in our judicial system.
8. Because appellant has not been afforded a fair opportunity of hearing which is sine-qua-non for any action under service law and entrenched in our judicial system.
9. Because the Appellant was condemned unheard. The inquiry was conducted in his absence, neither his statement was recorded nor he was inform about the inquiry.
10. Because there is no charge sheet statement of allegations in instant case.
11. Because appellant is not handed over inquiry report/ proceedings. Inspite of oral and written requests till today.
12. Because impugned order is not supported by reasons, muchless cogent reasons as envisaged in the General Clauses Act as well as the principle of Natural justice which are deemed to be enshrined in every statute whether specifically provide or not.
13. Because he was not supplied the copy of Inquiry report and was kept in dark about the findings of the inquiry.
14. Because the allegation of appellants involvement in immoral activities are wrong and ill-founded.
15. Because inquiry committee has involved the appellant with mala fide intention and for ulterior motive.

16. Because since the Appellants appointment in 06-06-1996, he perform his duty with dedication, to the entire satisfaction of his superiors; there is no complaint against him.

17. Because the service record of the Appellant has been clean and unblemished, rather commendable throughout his service.

18. The Appellant leave of this Honourable Tribunal to claim further grounds also;

It is therefore most humbly prayed that On acceptance of the instant appeal, the impugned order of the withdrawal of the appellants reinstatement into service, contained in office order/ Endst No. 2142-45/F No.39/ Vol: II/ Complaint/ KCT(M) Gen, dated Peshawar the 12-11-2018, may please be set aside, and appellant and may be reinstated into service with all back service benefits.

Any other consequential relief, not specifically prayed for and deemed proper and appropriate by his Honorable Tribunal, under the facts and circumstances of the case, may also be granted to the appellant.

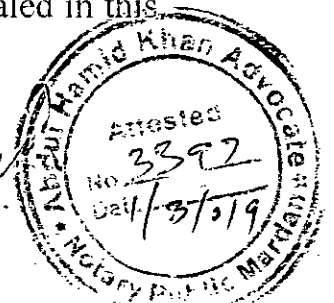
Dated – 01-03-2019

APPELLANT
QARI WAHEED ULLAH
THROUGH COUNSEL
SHUAIB SULTAN
ADVOCATE HIGH COURT

SHUAIB SULTAN
Advocate High Court
District Courts Mardan

AFFIDAVIT

I, Qari Waheed Ullah ex-senior Qari son of Abdur Razi R/O Takkar road Saddar colony, Tehsil Takht Bahi District Mardan, do hereby state on solemn affirmation that the contents of the instant Appeal is true, correct to the best of my knowledge and belief and nothing has been concealed in this respect. DEPONENT



OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) MARDAN**NOTIFICATION**Annexure A

I, Ijaz Ali Khan District Education officer (Male) Mardan as Competent Authority under the Khyber Pakhtunkhwa Government servants (Efficiency & Discipline) Rules, 2011, do hereby serve Mr. Waheed Ullah Jan S.Qari GHS Pati Kalan follows:

- Where As Mr. Waheed Ullah Jan Qari GHS Pati Kalan involved in immoral activities.
- And Where As a show cause notice regarding involvement in immoral activities penalty was tentatively proposed under rules 4(b) of Khyberpakhtunkhwa Govt servant E&D rules 2011.
- And where As your response to the show cause notice was not satisfactory.
- And where As a formal inquiry has been conducted and the charges leveled upon you were proved.
- And Where As you were directed to attend the office of the undersigned for personal hearing.
- And where As you attend the office of the undersigned on 27-10-2017 for personal hearing.
- And where As the Competent Authority is not satisfied from your written statement at the time of personal hearing, after having considered the charges evidence on record.
- And Where As you found guilty of gross misconduct under KPK Govt servant E&D rules 2011.

Now in exercise of the power conferred to me under rules 4(b) sub rules (II) of the KPK Govt servant E&D rules 2011, the undersigned being competent authority is pleased to impose the major penalty of Compulsory Retirement from the service upon Mr. Waheed Ullah Jan Qari GHS Pati Kalan w.e.f 15-11-2017.

SHUABE SULTAN
Advocate High Court
District Courts Mardan



(Ijaz Ali Khan)
District Education Officer
(Male) Mardan

Endst: No. 10100/R P.F

Dated 16/11 /2017.

Copy forwarded to the:-

1. Head Master GHS Pati Kalan
2. District Accounts Officer Mardan
3. Mr. Waheed Ullah Jan Qari GHS Pati Kalan
4. DMO(I MU) Mardan
5. General File.



District Education Officer
(Male) Mardan

16/11/17

P-8

ANNEXURE "B"

The Director,
Elementary & secondary Education,
Khyber Pakhtunkhwa,
Peshawar.

SHUAB SULTAN
Advocate High Court
District Courts Mardan

Through proper channel

Subject:- DEPARTMENTAL APPEAL/ REPRESENTATION.

Respected Sir,

My this appeal/ representation is against the office order/ Endst 10100/ G P.F, dated 16-11-2017 of the District Education Officer (Male) Mardan, whereby major penalty of compulsory retirement was imposed upon me. (copy the order is attach as annexure "A")

FACTS

- I- That I was performing my duty as Senior Qari, in the elementary and secondary Education department Khyber Pakhtunkhwa, and was presently posted at Government High School PatiKalan Mardan.
- II- That some unknown miscreants have leveled baseless, complaints of my involvement in immoral activities.
- III- That the concern District Education Officer (Male) Mardan, has constituted inquiry committee, in order to probe allegations against me, whereby on the recommendations of the inquiry committee, the District Education Officer (Male) Mardan, imposed major penalty of compulsory retirement from service.
- IV- That the impugned order is illegal, void, untenable under the Law and against the principals of natural justice on the following amongst many other grounds inter alia,

FOUNDATIONS:-

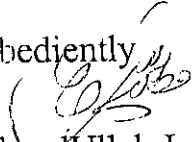
1. That the allegations of my involvements in immoral activities are wrong, baseless, without any proof and cogent evidence. I was never been involved in any such activities/ case.
2. That my alleged involvement is with malafide intention and concocted one.
3. That there are glaring illegalities and irregularities committed since my involvement in the case till my compulsory retirement from service.
4. That I was not afforded a fair opportunity of hearing. Thus I was condemned unheard. The inquiry was conducted with mala fide intention.
5. That the District Education Officer (Male) Mardan constituted an inquiry officer, who was inimical towards me, I have put forward my reservations to the concern District Education Officer (Male) Mardan, and the District Nazim Mardan, has also directed the DEO Male for replacement of the inquiry committee, which was not taken into consideration. **(copy attach as annexure "B")**
6. That in spite of my reservation regarding the inquiry committee, I appeared before the committee in order to put forward the factual position of my baseless involvement in the case, but on the day I was not heard in person, the inquiry officer was reluctant to hear me in person, in order to explain my position, thus I was condemned unheard. **(copy attach as annexure "C")**
7. That I was not supplied the copy of Inquiry report, with the show cause Notice as required under the rules and was kept in dark about the findings of the inquiry.

8. That the District Nizam has suspended/ held in abeyance the compulsory retirement order, issued by the District Education Officer (Male) Mardan and constituted a fact finding inquiry committee. (copy attach as annexure "D")
9. That the concern District Education Officer (Male) Mardan is reluctant to follow the aforesaid executive order of the District Nazim.
10. That the allegation of my involvement in immoral activities against me is also wrong and ill-founded.
11. That since my appointment i.e. 1996 in the department, I perform my duty with dedication, to the entire satisfaction of my superiors; there is no complaint against me in the whole of my service.
12. That the baseless complaint was lodged against me on 22-08-2017, while I was promoted to Senior Qari B.P.S. 15 in the light of non-involvement certificate, ACRs, results and synopsis duly signed by reporting officer and countersigned by District Education Officer (Male) Mardan.
13. That my service record has been clean and unblemished, rather commendable throughout my service.

It is requested that setting aside the impugned order of my compulsory retirement from service, I may be exonerated from the charges and may be reinstated into service with all back service benefits.

Dated - 27-11-2017

Yours obediently


Qari Waheed Ullah Jan
Ex-S. Qari, GHS Pati
Kalan Distt: Mardan.

P-11

~~Annexure - B~~

Registered.

Annexure

C

DIRECTORATE OF ELEMENTARY AND SECONDARY
EDUCATION KHYBER PAKHTUNKHWA

NOTIFICATION.

SHUAB SULTAN
Advocate High Court
District Courts Mardan

1. WHEREAS, Mr. Waheed Ullah Jan S.Qari GHS.Pati Kalan Mardan was proceeded under the Khyber Pakhtunkhwa Government Servants (Efficiency & Disciplinary) Rules, 2011 for charges of involvement in immoral activities/misconduct.
2. AND WHEREAS, the DEO (M) Mardan being competent authority constituted an enquiry committee vide his office Endst: No.7504-5 dated 07.09.2017.
3. AND WHEREAS, the above named teacher submitted an appeal to this office vide dated 28.11.2017, the same appeal was sent to DEO(M)Mardan for comments vide this office letter NO.1010 dated 05.12.2017 the DEO(M)concerned submitted his comments to this office vide his letter No.81 dated 02.01.2018.
4. AND WHERE AS, the DEO (M) concerned served show cause notice upon the teacher concerned and offered an opportunity for person hearing. The teacher concerned appeared for personal hearing vide dated 16.10.2017 at 2.00 PM but had nothing for his defence.
5. AND WHEREAS, the DEO (M) Mardan being competent authority imposed the major penalty of "Compulsory Retirement" from service w.e.f 15.11.2017 vide his office Endst: No.10100 dated 16.11.2017.
6. AND WHERE AS the above named teacher submitted review appeal vide dated 05.09.2018 for re-instatement before appellate authority for re-consideration.
9. AND WHEREAS, the Director Elementary and Secondary Education Khyber Pakhtunkhwa)being competent authority, after having considered the facts and evidence on record, is of the view that charges against accused teacher have not been proved.
7. NOW THEREFORE, in exercise of powers conferred under Khyber Pakhtunkhwa Servants (Efficiency & Discipline) Rules-2011 the appellate authority has decided to accept the appeal of Mr. Waheed Ullah S.Qari GHS Pati Kalan Mardan. He is re-instated into service with immediate effect and the intervening period i.e from the date of compulsory retirement till taking over charge is treated as leave without pay.

DIRECTOR.

Endst: No. 7070-73 /F No. 39/KC/Vol:II/Complaint(N)Gen: Dated Peshawar the 19/11/18 2018.

Copy forwarded for information and necessary action to the:-

1. District Education Officer (M) Mardan with the remarks that the Notification issued by this office vide Endst:No.288-90 dated 22.01.2018 is hereby withdrawn and the teacher concerned may be adjusted against the vacant post S.Qari at GHSS Gaddar Mardan.
2. District Accounts Officer Mardan.
3. Mr. Waheed Ullah S.Qari GHS Pati Kalan Mardan.
4. P.A to Director Elementary & Secondary Education Local Office.
5. Master Files.

Waheed Ullah S.Qari
Deputy Director (Estt.)
Elementary & Secondary Edu.
Khyber Pakhtunkhwa Peshawar

19/11/18

P-12

Annexure - "A"

SHUJAH UDDIN SULTAN
Advocate
District Court Mardan

Registered.
DIRECTORATE OF ELEMENTARY AND SECONDARY
EDUCATION KHYBER PAKHTUNKHWA

NOTIFICATION.


The notification regarding re-instatement in respect of Mr. Waheed Ullah S.Qari GHS Pati Kalan District Mardan issued by this office vide Endst:No.7070-73 dated 19.10.2018, is hereby withdrawn. In the light of DEO(M)Mardan report that the case is under trial in the court of Service Tribunal Khyber Pakhtunkhwa.

DIRECTOR.

Endst: No. 216 /F No.39/Vol:II/Complaint/KCT(M)Gen: Dated Peshawar the 21/11 / 2018.

Copy forwarded for information and necessary action to the:-


1. District Education Officer (M)Mardan w/r to his No.8124 dated 23.10.2018.
2. District Accounts Officer Mardan.
3. Mr. Waheed Ullah S.Qari GHS Pati Kalan Mardan.
4. P.A to Director Elementary & Secondary Education Local Office.
5. Master Files.


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

29/11/18

To,

The Secretary,
Elementary & Secondary Education,
Khyber Pakhtunkhwa,
Peshawar.


SHUAIB SULTAN
Advocate High Court
District Courts Mardan

Through proper channel

SUBJECT:- DEPARTMENTAL APPEAL/ REPRESENTATION.

Respected Sir,

My this appeal/ representation is against the office order/ EndstNo. 2142-45/F No.39/Vol: II/ Complaint/ KCT(M) Gen, dated Peshawar the 12-11-2018, of the Director, Elementary Education Khyber Pakhtunkhwa, Peshawar, whereby my re-instatement into service Order contained, in vide Endst: 7070-73, dated 19-10-2018, has been withdrawn. (copies the orders are attach as annexure "A& B")

FACTS:-

- I- That the District Education Officer (Male) Mardan, compulsory retired me from my service, vide office order/ Endst 10100/ G P.F, dated 16-11-2017. (copy of the office order is attached as annexure "C")
- II- That being aggrieved from the said order I preferred, departmental representation/ appeal & Review, to the Director Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar. (Copies of the Appeal/ reviews are attached as annexure "D& E")
- III- That I preferred, appeal to the Service Tribunal Khyber Pakhtunkhwa, Peshawar on dated 15-03-2018.
- IV- That during the pendency of the said appeal, the Director Elementary & Secondary Education Peshawar, accepted my departmental appeal/ review and order for my reinstatement into service, vide Endst: 7070-73, dated 19-10-2018. (copy of the Re-instatement Order is attached as annexure "B")
- V- That all of a sudden the Director Elementary & Secondary Education Peshawar, withdrawn the reinstatement into service order of the appellant. (copy of the Re-instatement Order is attached as annexure "A")
- VI- That the impugned order is illegal, void, untenable under the Law and against the principals of natural justice on the following amongst many other grounds inter alia,

GROUND:-

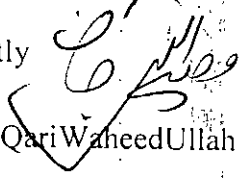
1. Because I am innocent and having been falsely involved in the case.
2. Because once the charges against me are not proved, and I am reinstated into service by the competent authority, then such order cannot be withdrawn.

3. Because after receiving my re-instatement into service order, I immediately report to the competent authority for my arrival, vide Diary No. 5699, DEO-M, Mardan dated 20-10-2018.
4. Because after my reinstatement into service order, I am willing to withdraw my appeal from the Service Tribunal, but without allowing me time the Director Elementary & Secondary Education Peshawar, withdrawn my reinstatement into service order.
5. Because the said withdrawn order is wrong illegal, against the law, hence ineffective upon the rights of the appellant.
6. Because the Director Elementary & Secondary Education Peshawar, has admitted in my reinstatement order that the charges against me are not proved.
7. Because I am innocent falsely involved in the case, is with malafide intention and concocted one.
8. Because there were glaring illegalities and irregularities committed in my case.
9. Because my service record has been clean and unblemished, rather commendable throughout my service.

It is requested that the office order/ Endst No. 2142-45/F No.39/ Vol: II/ Complaint/ KCT(M) Gen, dated Peshawar the 12-11-2018, issued by the Director Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar, whereby my reinstatement into service has been withdrawn maybe be set aside, and I may be reinstated into service with all back service benefits.

Dated - 28-11-2018

Yours obediently


Qari Waheed Ullah Jan

P-15

Annexure

F

SHUAIB SULTAN
Advocate High Court
District Courts Mardan

No. 599

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. Ps.

Received a registered*
addressed to _____

Date-Stamp

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

Insured for Rs. (in figures) _____ (in words) _____

If insured.

Insurance fee Rs. _____ Ps. _____ (in words) _____
Weight _____ Kilo _____ Grams _____

Name and address of sender _____
_____ 2878

RGL16723016

WAKALAT NAMA

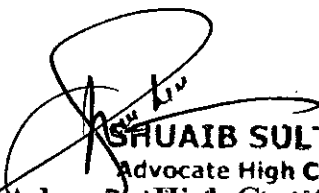
KP SERVICE Tribunal
BEFORE THE PESHAWAR HIGH COURT
PESHAWAR


Qasir Waheed ulloh Petitioner
Appellant

VERSUS

The Secretary Education Respondent

I/ we Qasir Waheed ulloh in
the above noted Appeal do hereby appoint and
constitute Mr. Shuaib Sultan Advocates Mardan as Counsel in subject
proceeding and authorize him to appear, plead etc., compromise, withdraw or refer
to arbitration for me/ us, as my/ our Advocate in the above matter, without any
liability for his default and with the authority to engage/ appoint any other
Advocate/ Counsel at my/ our behalf all sums and amounts payable to deposited on
my/ our account in the above noted matter.


SHUAIB SULTAN
Advocate High Court
Mardan
Shuaib Sultan Advocate High Court Mardan
District Courts Mardan
Cell No. 0300-5727424
Email. shuaibadv@gmail.com
Bar Council, S. No.Bc-10-5973


Signature of client: _____

Dated: 1-3-19

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قیمت 50 روپے	7340			
ایڈویکٹ: سید اسرار حسین شاہ صاحب		پشاور بار ایسوسی ایشن، خیبر پختونخواہ		
بار کونسل / ایسوسی ایشن نمبر: BC-09-1569				
رابطہ نمبر: 0333-9215562				

بعدالت جناب: لبر اڈیشنل سروس ٹریبونل پشاور

منجانب: ایڈیٹور	دعویٰ:
قاری وحید اللہ	علت نمبر:
بنام سکریٹری انجمن کھنڈ خیرہ	مورخہ:
	جرم:
	تھانہ:

باعث تحریر آتکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کاروائی متعلقہ آن مقام سید اسرار حسین شاہ صاحب کیلئے صیانت و سرپرستی سے سید اسرار حسین شاہ صاحب کو وکیل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ برحلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی، نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب مقرر شدہ کو وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ پرداختہ منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے

المرقوم: 26-03-2019

الع بد **گواہ شد** الع بد
مقام سید اسرار حسین شاہ صاحب

کے لیے منظور ہے۔
نوٹ: اس وکالت نامہ کی فونو کاپی حاصل نہیں ہوگی۔

دستخط وکیل/سید اسرار حسین شاہ صاحب
CNIC # 16102-3219989-1

Attested
Accepted

40

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No: 317/2019

Qari Waheed Ullah S/O Abdur Raziq (Ex- Senior Qari) R/O Takkar Road Saddar
Colony Tehsil Takht Bhai Distt MardanAppellant.

VERSUS

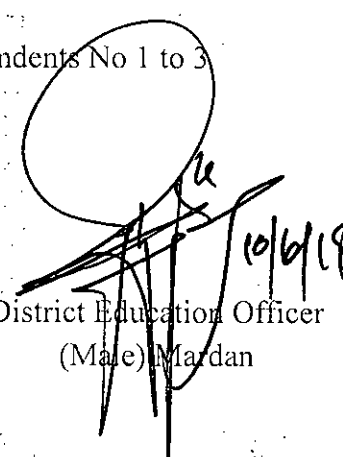
Govt of KPK through Secretary Elementary & Secondary Education KPK &
OthersRespondents.

INDEX

S.NO	DESCRIPTION OF DOCUMENTS	ANNEXURE	PAGES	
1.	Para wise comments along with affidavit		01	04
4	Copy of Notification/ Reply of the Departmental Appeal	"A"	05	----
5	Copy of Notification withdrawn order	"B"	06	--
6	Copy of Enquiry Report& personal Hearing	"C" "D"	07	16
7	Copy of provide inquiry Report Letter	"E"	17	--
7	Copy of complaint	"F"	18	--

Respondents No 1 to 3

Through


District Education Officer
(Male) Mardan

Dated: _____

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No: 317/2019

Qari Waheed Ullah S/O Abdur Raziq (Ex- Senior Qari) R/O Takkar Road Saddar
Colony Tehsil Takht Bhai Distt MardanAppellant

VERSUS

Govt of KPK through Secretary Elementary & Secondary Education KPK &
OthersRespondents.

Para Wise Comments on Behalf of Respondents No 1 to 3.

Respectfully, Sheweth,

PRELIMINARY OBJECTIONS:

1. That the appellant has got no cause of action as well as locus standi, to file the instant appeal.
2. That the instant appeal is badly time barred.
3. That the appeal is not maintainable in its present form.
4. That the appellant has not come to this Honorable Tribunal with clean hands.
5. That the appellant is estopped by his own conduct.
6. That the appellant has concealed the material facts from this Honorable tribunal hence the appeal is liable to be dismissed.

FACTS:

- I. Para No I pertains to record, hence needs no comments.
- II. Para No II pertains to record, hence needs no comments.
- III. Para No III pertains to record, however the departmental appeal has been decided & rejected by the respondent No 2 vide Order No 5288-80 Dated 23-01-2018, hence needs no comments. (Copy of Notification/ Reply of the Departmental Appeal is as Annex "A").
- IV. Para No IV is incorrect, baseless, against facts & law, as the Appellate order was conveyed to the Appellant and the departmental appeal has been decided ~~and~~ rejected by the respondent No 2 vide Order No 5288-80 Dated 23-01-2018, and the order is legal and within time, hence denied.
- V. Para No V pertains to record, however the Notification regarding re-instatement in respect of the Appellant vide No 7070-73 dated 19-10-2018 ~~was~~ hereby withdrawn in the light of the respondent No3 report that the case is under trial in ~~the~~ Service Tribunal KPK, and the departmental appeal has been already decided to be rejected by the respondent No 2 vide Order No 5288-80 Dated 23-01-2018, hence need no comments.

(Copy of Notification withdrawn is as annexure B)

- VI. Para No VI pertains to record, hence need no comments.
- VII. Para No VI pertains to record, hence need no comments.
- VIII. Para No VIII pertains to record, hence need no comments.

However detail reply of the grounds is as under.

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GROUND:

1. Para No 1 is incorrect, baseless, against fact & law, as the respondent No 2 withdrawn his order and the appellant is not clear from the charges, because the appellant is habitual bad character person who acts immorally, unnaturally and inhumanely with little kids. The appellant is involved satanic activities not only Mr. Habib (Student) but so many students have been targeted and disgracefully attacked by the appellant, and the compulsory retirement of the appellant is not with malafide intention and the order is issued due to his bad character and immoral activities, hence denied. (Copy of enquiry is as Annex "C").
2. Para No 2 is incorrect, baseless, against facts as the respondent No3 report that the case is under trial in the court of Service Tribunal KPK and the immoral act done by the appellant which is proved against him, hence denied.
3. Para No 3 is incorrect, baseless as the order issued by the answering respondent is valid, and after completion of all codal formalities.
4. Para No 4 pertains to His personal matters, hence need no comments.
5. Para No 5 is incorrect, baseless as the order issued by the answering respondent is valid, and after completion of all codal formalities.
6. Para No 6 is incorrect, baseless, against fact & law, as the appellant is habitual bad character person who acts iramorally, unnaturally and inhumanely with little kids. The appellant is involved satanic activities not only Mr. Habib (Student) but so many students have been targeted and disgracefully attacked by the appellant, and the compulsory retirement of the appellant is not with malafide intention and the order is issued due to his bad character and immoral activities, and the appellate authority withdrawn the re-instatement order of the appellant, hence denied. (Copy of enquiry is as Annex "C").
7. Para No 7 is incorrect, baseless, against facts as proper enquiry was conducted against the appellant and proper opportunity has been given to the appellant for his defence, hence denied. (Copy of personal hearing is as Annex "D")
8. Para No 8 is incorrect, baseless, against facts as proper enquiry was conducted against the appellant and proper opportunity has been given to the appellant for his defence, hence denied. (Copy of personal hearing is as Annex "D")
9. Para No 9 is incorrect, baseless, against fact as the appellant has not been condemned unheard and the appellant has given full and proper opportunity of his defence, hence denied.
10. Para No 10 is incorrect as proper charge sheet is existing in the enquiry report, hence denied.
11. Para No 11 is incorrect as the appellant has been provided the enquiry report as well as the order of the compulsory retirement, hence denied.
(Copy of provide inquiry Report Letter is as annex E)
12. Para No 12 is incorrect, baseless, against facts as the compulsory retirement order is issued on the basis of the enquiry which is supported by cogent reason and no any negation of natural justice is made on the part of the answering respondent, hence denied.

13. Para No 13 is incorrect, baseless as the appellatant has not been kept in dark as the appellatant has been given full opportunity of hearing, hence denied.

(Copy of personal hearing is as Annex "D")

14. Para No 14 is incorrect as the allegation of the appellatant i.e. involvement in immoral and satanic activities is proved through the enquiry, hence denied.

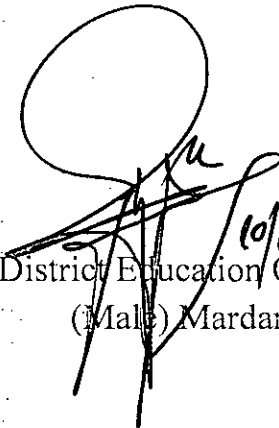
15. Para No 15 is incorrect as the enquiry committee is fair and just and no any malafide intention is made by the enquiry committee, hence denied.

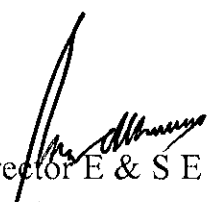
16. Para No 16 pertains to record however according to the enquiry the appellatant is habitual, as there was a complaint against the appellatant regarding immoral act, hence need no comments. (Copy of the complaint is as Annex "F")

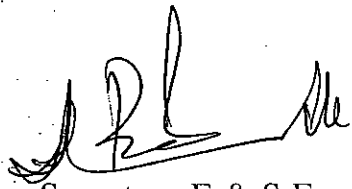
17. Para No 17 is incorrect, baseless as according to the enquiry the appellatant is habitual, and the appellatant has not been cleaned, hence denied.

18. That the respondent seeks permission to raise additional grounds at the time of arguments.

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


District Education Officer
(Male) Mardan
10/6/19


The Director E & S E
Peshawar


The Secretary E & S E
KPK Peshawar.

Qari Waheed Ullah S/O Abdur Raziq (Ex- Senior Qari) R/O Takkar Road Saddar
Colony Tehsil Takht Bhai Distt MardanAppellant.

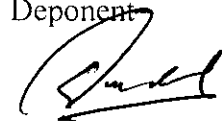
VERSUS

Govt of KPK through Secretary Elementary & Secondary Education KPK &
OthersRespondents.

AFFIDAVIT

I, Mr Sajid Khan Litigation Officer Education Department Mardan do hereby solemnly affirm
and declare that the contents of Para Wise Comments submitted by on behalf of Respondents are
true to the best of my knowledge and belief and nothing has been concealed from this Honorable
Court.

Deponent



Sajid Khan

16101-6005318-5

(32)
Registered. Annexed
A-5

DIRECTORATE OF ELEMENTARY AND SECONDARY
EDUCATION KHYBER PAKHTUNKHWA

NOTIFICATION.


1. WHEREAS, Mr. Waheed Ullah Jan S.Qari GHS Pati Kalan Mardan proceeded under the Khyber Pakhtunkhwa Government Servants (Efficiency & Disciplinary) Rules, 2011 for charges of involvement in immoral activities/misconduct.
2. AND WHEREAS, the DEO (M) Mardan being competent authority has constituted an enquiry committee vide his office Endst: No.7504-6 dated 07.09.2017.
3. AND WHEREAS, the DEO (M) Mardan being competent authority has imposed the major penalty of "Compulsory Retirement" from service w.c.f 15.11.2017 vide his office Endst: No.10100 dated 16.11.2017.
4. AND WHEREAS, the above named teacher submitted an appeal to this office vide dated 28.11.2017, the same appeal was sent to DEO(M)Mardan for comments vide this office letter NO.1010 dated 05.12.2017 the DEO(M)concerned submitted his comments to this office vide his letter No.81 dated 02.01.2018.
5. AND WHERE AS, the DEO (M) concerned served show cause notice upon the teacher concerned and offered an opportunity for person hearing. The teacher concerned appeared for personal hearing vide dated 16.10.2017 at 2.00 PM but his nothing for his defence.
6. AND WHERE AS as per DEO (M) comments to this office vide No.81 dated 02.01.2018 the appellant is sexually perverted and has habitual lust for loose and immoral activities. The DEO (M) Mardan report shows that such like person is a menace and is beast for innocent kids. The Department doesn't need the services of such like beast.
7. AND WHEREAS, the competent authority Director Elementary and Secondary Education Khyber Pakhtunkhwa) after, being competent authority, having considered the charges and evidence on record, is of the view that charges against accused teacher have been proved.
7. 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. Waheed Ullah S.Qari GHS Pati Kalan Mardan on the above mentioned grounds.

DIRECTOR.

Endst: No. 588-90 /F No. 39/Vol:II/Complnint(N)Gen: Dated Peshawar the 23/11/18

Copy forwarded for information and necessary action to the:-

1. District Education Officer (M) Mardan w/r to his No. cited above.
2. Teacher concerned.
3. P/A to Director E&SE, Khyber Pakhtunkhwa, Peshawar.
4. Master File.


Deputy Director (Estb)
Elementary & Secondary Ed.
Khyber Pakhtunkhwa Peshawar.

19/11/18
27/11/18

Annex B - (6)

F-12

Annexure - B →

(31)

SIRAJUDDIN SULTAN
Advocate
District Court Mardan

Registered.

DIRECTORATE OF ELEMENTARY AND SECONDARY
EDUCATION KHYBER PAKHTUNKHWA

NOTIFICATION.

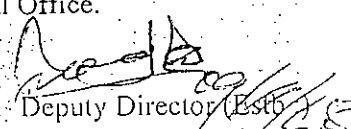
The notification regarding re-instatement in respect of Mr. Waheed Ullah S.Qari GHS Pati Kalan District Mardan issued by this office vide Endst.No.7070-73 dated 19.10.2018 is hereby withdrawn. In the light of DEO(M)Mardan report that the case is under trial in the court of Service Tribunal Khyber Pakhtunkhwa.

DIRECTOR.

Endst. No. 21/10 /F No.39/Vol:II/Complaint/KCT(M)Gen: Dated Peshawar the 21/11 /2018.

Copy forwarded for information and necessary action to the:-

1. District Education Officer (M)Mardan w/r to his No.8124 dated 23.10.2018.
2. District Accounts Officer Mardan.
3. Mr. Waheed Ullah S.Qari GHS Pati Kalan Mardan.
4. P.A to Director Elementary & Secondary Education Local Office.
5. Master Files.


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

29/11/18

Annex C

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Office of the Principal

G:HS Babuzai Katlang Mardan

No. 447 Dated 05/10/2017

District Education Officer Male

E/S Mardan

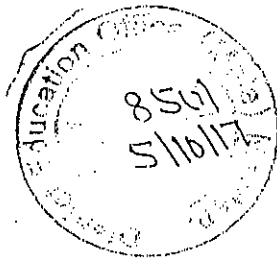
Subject; Enquiry report against Senior Qari Wahædu lah Jan for his immoral and satanic behaviour with six class student Mr Hubaib Roll No 10

R/Sir

Enclosed find herewith the attached enquiry report for further necessary action please.

Principal 05/10/2017

GHS Babuzai Katlang
Mardan
Dist. Mardan



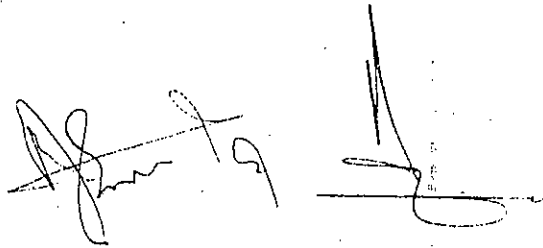
ADD (S)
4.10.17

Subject: Enquiry Report against Senior Qari Waheedullah Jan GHS Pati
Kalan Takht Bhai Mardan for his immoral, brutal and satanic behavior with
a six class student named Hubaib Roll No 10

ASSIGNED BY: DISTRICT EDUCATION OFFICER MALE E/S MARDAN

ENQUIRY OFFICERS: 1; ARSHAD HUSSAIN PRINCIPAL
GHS BABUZAI KATLANG MARDAN
2; Abdul Khaliq ASDEO Male
Lund Khwar Mardan

DATE OF SUBMISSION OF THE ENQUIRY REPORT; 25-10/20



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(e)

Inquiry report against MR Waheedullah Jan Senior Qari GHS Pati Kalan Takht Bhai Mardan for his unnatural and humiliating behaviour with a sixth class student Mr Muhammad Hubaib Roll No 10

No. 447

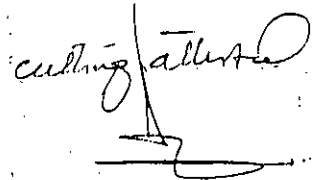
Dated 05/10/2017

Inquiry Officers (01) Arshad Hussain Principal GHS Babu Zai Katlang Mar lan

(02) Abdul Khalilq ADEO Lunkhwar Mardan

Date of Inquiry

~~15.09.2017~~ 15/9/2017

cutting attested


Venue

GHS Pati Kalan Takht Bahi Mardan

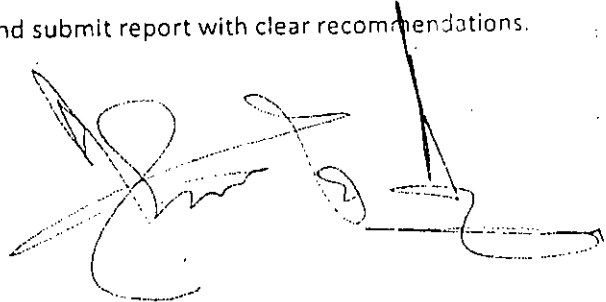
Subject: Inquiry report against MR Waheedullah Jan Senior Qari GHS Pati Kalan Takht Bhai Mardan.

Introduction

A severe moral complaint was filed by the Head Master GHS Pati Kalan Takht Bhai Mardan against Senior Qari Waheedullah Jan stated that a student of 6th class named Muhammad Hubaib S/O Easa Khan Village Pati Kalan Takht Bhai had complained against the said teacher for his immoral and unnatural behaviour/action with him

Having taken action District Education Officer Male Mardan appointed an enquiry committee comprising us Arshad Hussain Principal GHS Babuzai Katlang Mardan and Mr ~~Abdul Khalilq~~ Waisal Muhammad SDEO Male Katlang Mardan as enquiry officers to find out the ground Lunkhwar.

realities and submit report with clear recommendations.



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Procedure adopted

Reference to District Education Officer Male E/S Mardan Order No 7504-06 Dated 07/09/2017 We informed The Head Master GHS Pati Kalan Takht Bhai, Senior Qari Waheedullah Jan and the concerned student Mr Muhammad Hubaib 6th class of the school through mobile phone about the enquiry and visited the school on 15/09/2017 at 08 AM. All the above concerned persons were present on the juncture.

Findings

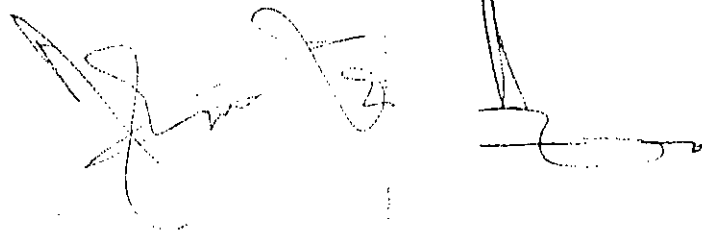
Visited the school and enquired about the case from the Head Master of the school first. He said, "Some days ago a voice of multitude arose from 6thA class after second period. I went there and asked the reason. Students of the whole class were mysteriously talking with each other but at last a student Mr Hubaib Roll No 10 came out of the class and wanted to tell me the story in my office". When the said student was asked by the Head Master in his office he said, "Qari Waheedullah Jan is our Islamiyat and pashto teacher. He teaches us pashto in second period. On day he came to our class usually and put my hand on his sexual organs beneath his long shirt having put his leg on my desk. I tried to push back my hand but he forced to place his penis in my hand and both my class fellows MR Zia Ur Rahman Roll No 48 and Mr Awais Khan Roll No 16 witnessed the immoral action of the said teacher. On the second day the teacher repeated the same wicked action seen by a large number of students. When the teacher got out from the class all the students giggled". Head Master asked both the witnessed students and they testified the bad action of the said teacher Qari Waheedullah Jan against Hubaib that is why the Head Master filed a severe complaint against the teacher.

Then we asked the exploited student Mr Hubaib and both the witness students Zia Ur Rahman and Awais one by one about the real position in the office of Head Master. All the three students repeated their same statements given to the Head Master. Their written statement attached attested by the Head Master of the school.

We also summoned the accused teacher to office of Head Master and asked about the case. He sworn on the holy book Qur'an and also took oath on the divorce of his wife that he had not done the above discussed satanic action with the student. He gave us written statement in his favour but this is only false pretext.

We visited sixth A class and asked the whole students about the ground realities. Thirteen students out of eighty students testified the dirty action of Waheedullah Jan.

Another student Mr Samiullah Jan Roll No 47 of the same class also complained that the said teacher had done that action also with him but due to self-esteem he had kept secrete. Now it is the time to tell the fact he added.



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A student of Ninth class Mr Imad Roll No 72 also confessed that when he was in 7th class sitting at the end of the class the said teacher rubbed his penis with his back in erected position and so he changed his seat.

Conclusion

Keeping in view the above facts it is concluded that Senior Qari Waheedullah Jan is habitual bad character person who acts immorally, unnaturally and inhumanly with little kids whose parents send their children in the hope of better future and healthy personality of their little twigs. According to a proverb bend little twig while it is young. But the said teacher is habitually busy in his above discussed satanic activities beneath the prophetic shadow of teacher. Not only Mr Hubaib but so many students have been targeted and disgracefully attacked by the said teacher.

Recommendations

In the light of discussed realities it is recommended

1; The said teacher Waheedullah Jan may please be downgraded to BPS 12.

2; He may please be transferred out district/Far flung area.

3. Necessary entry of downgrading due to satanic action must be made in his service book.

Enclosures:

1. Written statement of Mr Hubaib class 6th, Mr Zia Ur Rahman class 6th Roll NO 48 and Mr Awais Khan Roll No 16 class 6th attested by the Head Master of the school.
2. Statement of Qari Waheedullah Jan the accused teacher.
3. Statement of N/Rasim Gulzada. of the school.

This inquiry report comprises 04 pages and every page signed

The end

Enquiry Officers

1;

Arshad Hussain Principal 5/1/2017

GHS Babu Zai Katlang Mardan

2; Abdul Khaliq

ADEO Male Lund Khuzar

میں میں حبیب ولد عیسیٰ خان صاحب ششم یہ اصرار کرتا ہوں

کہ فارما کو عبداللہ خان نے اپنا جتنی حصہ میرے دادا کو میں دیا جو

ادریجئے دن فوجی کے لیے لہا تھا - جس پر میرے دونوں ڈسک فیلو

نواہ کے

~~Handwritten signature and date 15/9/2017~~

محمد حبیب



سرکاری حبیب ولد عیسیٰ خان
جماعت ششم روٹ نمبر 11

نواہ دستکار

صیاء الدین

انولیس خان

مور 15
15/9
2017

Attested
Signature

HEAD MASTER
G.H.S PATI KALAN
TAKHT BHAI MARLIAN



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X

To

The Enquiry Officer Sb.

Subject: - STATEMENT.

R/Sir,

Kindly refer to verbal directions dated 15-09-2017 on the subject cited above, it is submitted for your kind information that I have been performing my duty in E&SE Deptt: since long. At present I am working as S.Qari at GHS Pati Kalan Takht Bhai Mardan. I have performed my entire duty upto the satisfaction of my superiors with no complaints from any corner. Prior to this station, I was performing my duty at GHS Mazdoor Abad Takht Bhai Mardan. The Ex-Head Master of GHS Pati Kalan namely Mr. Rasheed Ahmad had recommended me for transfer to GHS Pati Kalan resultantly my transfer order was issued. My performance can be confirmed from Mr. Rasheed Ahmad Ex-Head Master of this school. Apart from that I have recently been promoted from Qari BS-12 to S.Qari BS-15 in the light of my service documents contains ACRs, Non Involvement Certificate, Service Certificates etc duly signed by reporting Officer and countersigned by High ups which reveals my innocence and crystal clear service record. If I was involved in such baseless charges, how can these responsible officers have signed my ACRs & Non Involvement Certificate etc: All these documents are solid proof for my innocence.

As far as the question of my involvement in present case, I swear on oath that neither I was involved in this act nor has any relation. Some miscreants have tried to involve me in this game just to defame me. I am a religious person having strong religious background. All the innocent students are just like my children.

The competent authority is requested to file such a baseless complaint and exonerate me from the charges.

I shall ever pray for all concerned authorities.

Sincerely yours

(WAHEDULLAH JAN)

S.Qari.

GHS Pati Kalan Mardan.

15/9/017

[Handwritten signature and date]



گل زاد شریف گل ۱/۱۰/۱۷ گورنمنٹ لائی سکول یاٹی

میں خدایو حاصر ناظر جان ریفائی حوش و حواس نکو ویر

۲۲^۸ / ۲۰۱۷ نہ محو حیب خان ولد سینی خان ملاس ششم

کمریہ - اٹکے اتر مجھے علیحدگی میں شکایت لی -

نہ قاری و حیدر جان نے سپرڈس دوران اترڈسید پر

اینا یادوں رکھو یا - اور میرے لکھو کو پلڑ کر ایسے اندوں

سر رکھو رکھو دیا - میں شکایت سن کر مزبورہ والا طالب علم کو

حصہ ماکرہ سے دھڑ میں لائے اس کو سن کر دیا -

لا لیسیم نے ایسا بیان حیدر ماکرہ سے کیا تو دیکھا رد ہا

گل زاد شریف خود

Attest
4/10/17
HEAD MASTER
GHS PATI KALAN
WARDAN

~~سید~~

D
Annex D = 16

P-1

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Personal Hearing
Mr. Waheedullah Jan (S. Qari)
GHS Pul: Kalan.

Dated: 27-10-2017.

Q.1. What is your statement regarding charges/Blames leveled against you?

Ans: I was transferred on the report of Ex. H/M
Mr. M. Salim Khan, the said transferred order
was cancelled and I continued my duty
at the school.

Due to cancellation of said order the
H/M started enmity with me.

Q.2. Who conspired against you?

Ans: H/M Saleem invited two persons
Mr. Akhri Malik & Mr. Saleem Shah
outdoor person to the school regarding the
case and statement of the students has
been recorded on that occasion.

Q.3. What do you say in your defence?

Ans: During the inquiry I ~~swore~~ swore in
front of inquiry officer and H/M Mr. Saleem,
I rejected the charges leveled against me
I till the date refused ~~was~~ doing of this
immoral action.

P.T.O

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need

I am ready for clarification of my self, being innocent anytime in this case.

Q No 4. ~~Is~~ opportunity has been provided for defence to you during the inquiry?

Ans: I have submitted my reply to the I/O officer. However no proper opportunity was given to me for my defence ~~in the~~ during the conduction of inquiry.

دکٹر عبدالرشید نیازی

دکٹر عبدالرشید نیازی

دکٹر عبدالرشید نیازی

27/10/17

16/02-3219989-1

Annex E 17

(67)

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OFFICE OF THE DISTRICT EDUCATION
OFFICER (MALE) MARDAN.

NO. 516 /PF file Waheedullah Ex-S. Qari

Dated Mardan the 20/11/2018.

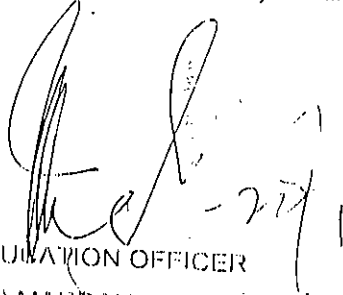
To

Mr. Waheedullah Jan Ex-Qari
GHS Pati Kalan r/o Takht Bhai

Subject:- Request for Copy of Enquiry Report Required under Khyber
Pakhtunkhwa Right to Information Act 2013.

Memo:

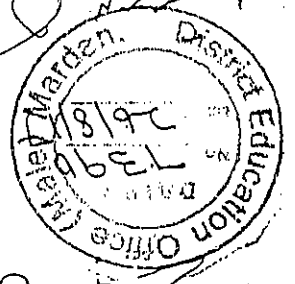
The copy of enquiry report enquiry conducted in your case is sent herewith for your kind
information please.


DISTRICT EDUCATION OFFICER
(MALE) MARDAN.

11/11/18

HEADMASTER
GHS PATIKALAN
MADHAN

16
23/8/18



22-8-18

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(51)



**KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR**

No. 478 /ST

Dated: 17-2-2022

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

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

To

The District Education Officer Male,
Government of Khyber Pakhtunkhwa
Mardan.

Subject: JUDGMENT IN APPEAL NO. 317/2019 MR. QARI WAHEED ULLAH.

I am directed to forward herewith a certified copy of Judgement dated 02.02.2022 by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR

KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR