

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR
AT CAMP COURT, ABBOTTABAD

Service Appeal No. 365/2019

Date of Institution ... 15.03.2019
Date of Decision ... 15.11.2021

Rasool Shah son of Sarfaraz, resident of Khaial, District Kohistan.

... (Appellant)

VERSUS

Government of Khyber Pakhtunkhwa, through Secretary Education, Peshawar and two others.

... (Respondents)

Abdul Saboor Khan,
Advocate

... For appellant.

Muhammad Riaz Khan Paindakheil,
Assistant Advocate General

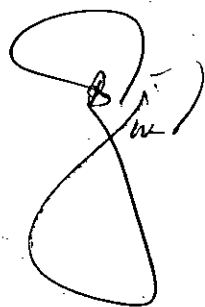
... For respondents.

Ahmad Sultan Tareen
Rozina Rehman

... Chairman
... Member (J)

JUDGMENT

Rozina Rehman, Member(J): Brief facts of the case are that appellant was a Janitor/Chowkidar in GP.S Kewkail, Kohistan who was later on appointed as P.S.T on 20.03.2015, where-after, he tendered resignation from the post of Chowkidar. His appointment order dated 30.03.2015 was withdrawn on 01.12.2015. He, therefore, assailed the order of authority before the Hon'ble Peshawar High Court, however, during pendency of the Writ Petition, impugned order dated 10.12.2018 was passed, therefore, writ petition was dismissed. The appellant filed departmental appeal being aggrieved from the



impugned order dated 10.12.2018 but to no avail, hence, the present service appeal.

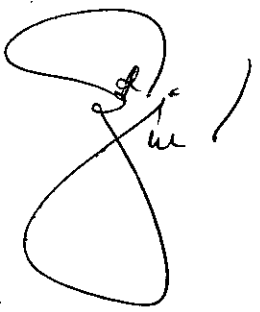
2. We have heard Abdul Saboor Khan Advocate learned counsel for appellant and Muhammad Riaz Khan Paindakheil, learned Assistant Advocate General for the respondents and have gone through the record and the proceedings of the case in minute particulars.

3. Abdul Saboor Khan Advocate, learned counsel for appellant submitted that the impugned dated 10.12.2018 is wrong, illegal, against law and facts as he was not treated according to law. He contended that the appellant was only Seven years old in the year 1997, therefore, he could not manipulate his appointment and that the present appointment of the appellant as PS.T was not suffering from any legal defect nor the appellant lacks basic qualification, therefore, the impugned order is not tenable. He contended that neither discreet nor any proper regular inquiry was made, therefore, the impugned order is not sustainable. That the appellant was not afforded any opportunity of personal hearing and he was condemned unheard. He contended that the appointment of appellant as P.S.T vide order dated 20.03.2015 is correct and according to law as he was appointed after having being declared eligible and qualified by the competent authority and in consequence of the appointment order, he was medically examined where-after he submitted his charge report and performed duty till 01.12.2015. Lastly, he submitted that no regular inquiry was conducted into the matter and that CNIC verification from NADRA was never attempted which shows that all allegations were false. He, therefore, requested that the appellant may be reinstated into service with all back benefits.



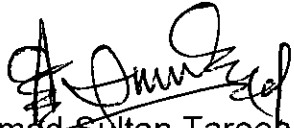
4. Conversely, learned AAG submitted that the appellant was initially appointed as Class-IV on 05.11.1997 and he performed his duty till 20.03.2015 and got salary for the said period. He contended that as per original Service Book of the appellant, his correct date of birth is 02.01.1966, whereas, appellant fraudulently produced fake documents and CNIC having date of birth as 02.01.1990. He submitted that a formal inquiry was conducted and chance of personal hearing was provided to the appellant and that appointment order of the appellant was withdrawn on the charge of having two identity cards having different date of birth.

5. From the record it is evident that appellant Rasool Shah was appointed as Chowkidar vide order dated 05.11.1997. His Service Book shows his date of birth as 02.01.1966 and there is no dispute in respect of his salary during the period he remained in service. It was on 20.03.2015 when upon the recommendation of the District Selection Committee present appellant Rasool Shah was appointed as P.S.T in BPS-12. After joining the post of P.S.T, he submitted his resignation from the post of Chowkidar. This fact is not denied that the present appellant had been appointed as Chowkidar on 05.11.1997, whereas, his date of birth as per Secondary School Certificate is 02.01.1990. His date of birth at the time of his appointment as Chowkidar was recorded as 02.01.1966 and thus he succeeded in getting the job of Chowkidar at the age of less than eight years. In view of having shown two different dates of birth for getting two different jobs, the matter was inquired and even at present, this fact has not been denied, therefore, his order of appointment was withdrawn and major penalty of dismissal from service was imposed upon him.



6. Having considered the matter from all angles in the light of material available on file, we do not find any merit in the instant service appeal which is hereby dismissed. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED.
15.11.2021



(Ahmad Sultan Tareeh)
Chairman
Camp Court, A/Abad



(Rozina Rehman)
Member (J)
Camp Court, A/Abad


Order
15.11.2021

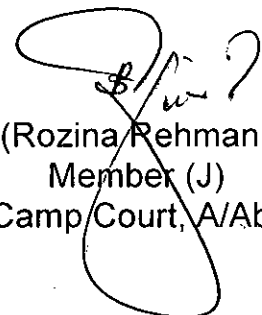
Appellant present through counsel.

Muhammad Riaz Khan Paindakheil, learned Assistant Advocate General alongwith Hafiz Nawaz D.E.O for respondents present. Arguments heard and record perused.

Vide our judgment of today of this Tribunal placed on file, we do not find any merit in the instant service appeal which is hereby dismissed. Parties are left to bear their own costs. File be consigned to the record room.

Announced.
15.11.2021


(Ahmad Sultan Tareen)
Chairman
Camp Court, A/Abad


(Rozina Rehman)
Member (J)
Camp Court, A/Abad

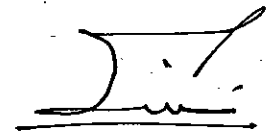
20.09.2021

Clerk of learned counsel for the appellant present. Mr. Atif Muhammad Nawaz, DEO (M) alongwith Mr. Riaz Ahmed Paindakhel, Assistant Advocate General for the respondents present.

Clerk of learned counsel for the appellant requested for adjournment on the ground that learned counsel for the appellant is unable to appear before the Tribunal today due to strike of lawyers. Adjourned. To come up for arguments before the D.B on 15.11.2021 at Camp Court Abbottabad.



(ATIQU-UR-REHMAN WAZIR)
MEMBER (EXECUTIVE)
CAMP COURT ABBOTTABAD



(SALAH-UD-DIN)
MEMBER (JUDICIAL)
CAMP COURT ABBOTTABAD

18.01.2021

Due to COVID-19, the case is adjourned for the same on 16.02.2021 before D.B.


READER

16.02.2021

Appellant present through counsel.

Noor Zaman Khattak learned District Attorney for respondents present.

Former made a request for adjournment. Adjourned. To come up for arguments on 19.04.2021 before D.B. at Camp Court Abbottabad.

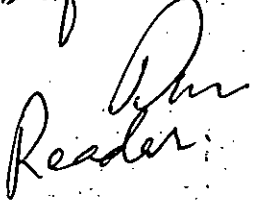


(Atiq ur Rehman Wazir)
Member (E)
Camp Court, Abbottabad



(Rozina Rehman)
Member (J)
Camp Court, Abbottabad

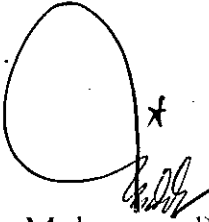
19.4.2021. Due to covid-19, The case is adjourned to 20/8/21 as before.

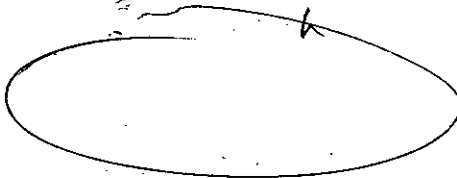

Reader

15.09.2020

Appellant alongwith his counsel present. Mr. Muhammad Riaz Khan Paindakhel, Assistant Advocate General alongwith Mr. Atif Muhammad Nawaz, DEO(M) for respondents present.

Since the proposition of giving effect in order passed by the authority with retrospective effect is pending consideration before the worthy Larger Bench of this Services Tribunal, therefore, let a judgment on the issue of the Larger Bench is recorded or made. Till then file to come up for further proceedings on 18.11.2020 before D.B at camp court Abbottabad.

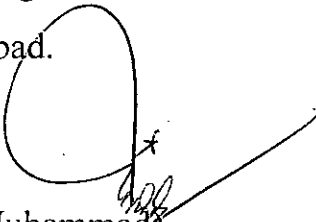

(Mian Muhammad)
Member(E)

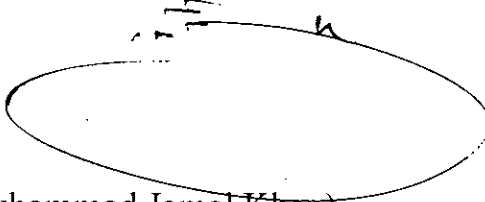

(Muhammad Jamal)
Member
Camp Court A/Abad

18.11.2020

Appellant alongwith his counsel is present. Mr. Muhammad Riaz Khan Paindakhel, Assistant Advocate General alongwith Mr. Shah Jehan, Assistant for respondents is present.

The issue with regard to retrospectivity has not been adjudicated by the Larger Bench of the august Service Tribunal, therefore, appeal is adjourned and to come up for further proceedings on 18.01.2021 before D.B at camp court Abbottabad.


(Mian Muhammad)
Member(E)


(Muhammad Jamal Khan)
Member(J)
Camp Court Abbottabad

365/2019

22.10.2019

Counsel for the appellant present. Mr. Usman Ghani, District Attorney present. Mr. Rahim Dad, ADO for the respondents present. Representative of the respondents has submitted joint parawise comments on behalf of the respondents. Placed on record. To come up for rejoinder if any, and arguments on 18.12.2019 before the D.B at Camp Court, Abbottabad.

Member
Camp court, A/Abad

18.12.2019

Counsel for the appellant and Mr. Usman Ghani, District Attorney alongwith Mr. Rahim Dad, ADO for the respondents present. Learned counsel for the appellant requested for adjournment. Adjourned to 17.02.2020 for rejoinder if any, and arguments before D.B at Camp Court Abbottabad.

(Hussain Shah)
Member
Camp Court Abbottabad

(M. Amin Khan Kundi)
Member
Camp Court Abbottabad

Due to covid ,19 case to come up for the same on / /
at camp court abbottabad.

Reader

Due to summer vacation case to come up for the same on 1/15
9/20 at camp court abbottabad.

21.06.2019

Counsel for the appellant present.

Contends, inter-alia, that the appellant was appointed and posted as PST in GPS Sheshal Kayal on 20.03.2015; however, was proceeded against on account of alleged misconduct, corruption and concealment of fact at the time of his appointment as Chowkidar at GPS Keyoun Kayal. Charge sheet and statement of allegations, reflecting the said charges, was also mentioned in the impugned order dated 10.12.2018. Further contends that before passing of impugned order the appellant was not provided with any opportunity of defending his cause nor any final show cause notice was issued to him.

In view of the available record and arguments of learned counsel for the appellant instant appeal is admitted for regular hearing. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents. To come up for written reply/comments on 22.08.2019 before S.B at camp court, Abbottabad.

28/6/19
Appellant Deposited
Security & Process Fee

Chairman
Camp Court, A/Abad

22.08.2019

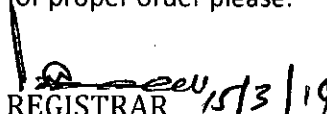

Learned counsel for the appellant present. Written reply not submitted. M/S Naseer Ahmad Deputy DEO and Rahim Dad ADO present and requested for time to furnish written reply/comments. Granted. To come up for written reply/comments on 22.10.2019 before S.B at Camp Court Abbottabad.

Member
Camp Court A/Abad

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 365/2019

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	15/03/2019	<p>The appeal of Mr. Rasool Shah received today by post through Mr. Abdul Saboor Khan 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 15/3/19</p>
2-	4-4-19	<p>This case is entrusted to touring S. Bench at A.Abad for preliminary hearing to be put up there on <u>21-06-2019</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>

BEFORE THE SERVICE TRIBUNAL
K.P.K PESHAWAR

Service appeal No 365 of 2019

Rasool Shah.....Appellant

VERSUS


Govt of Khyber Pakhtunkhwa, through
Secretary Education etcRespondents

APPEAL

INDEX

S#	Description of documents	Annexure	Page#
1.	Appeal	-	1-7
2.	Affidavit	-	8
3.	Correct address of Parties	-	9
4.	Copy of appointment order dated 20.03.2015.	"A"	10-11
5.	Copy of order dated 01.12.2015 along with better copy.	"B"	12-13
6.	Copies of orders Dated; 10.12.2018 & 11.12.2018.	"C"	14,14A-15
7.	Copies of Departmental appeal.	"D"	16-19
8.	Copy of CNIC.	"E"	20
9.	Copies of charge sheet and statement of allegations.	"F &G"	21-22
10.	Copies of charge report and medical certificate.	"H&I"	23-24
11.	Wakalt Nama	-	25

Dated 11.03.2019


RASOOL SHAH
(Appellant)

Through:-


ABDUL SABOOR KHAN
Advocate High Court

BEFORE THE SERVICE TRIBUNAL
K.P.K PESHAWAR

Service appeal No 365 of 2019

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 341

Dated 15-3-2019

Rasool Shah, son of Sarfraz, resident of
Khaial, District Kohistan.

.....Appellant

VERSUS

- 1) Govt. of Khyber Pakhtunkhwa, through
Secretary Education, Peshawar.
- 2) ~~Director~~ Elementary Education, Khyber
Pkahtunkhwa, Peshawar.
- 3) District Education Officer (Male), Kohistan at
Dassu.

.....Respondents

Filed to-day

W. Q. Q. Q. Q.
Registrar

15/3/19

APPEAL UNDER SECTION 4 OF
KPK, SERVICE TRIBUNAL ACT,
1974, AGAINST THE IMPUGNED
ORDER DATED 10.12.2018,
PASSED BY RESPONDENT NO 03,
WHEREBY, APPELLANT HAS BEEN
DISMISSED FROM SERVICE.

PRAYER:-

On acceptance of the instant service appeal, the impugned order dated; 10.12.2018 passed by respondent No.3 may graciously be declared as illegal, void-abnito, against the law on the subject and appellant be reinstated into service with all back benefits and service.

Respectfully Sheweth:-

1. That, appellant, a chowkidar in GPS "**Kew Kail**" Kohistan, in response to an advertisement, made by **Respondent No. 3**, successfully underwent the test and interview for appointment against the post of **PST** at District Kohsitan lower, after having been complied with all the legal formalities, he was accordingly appointed at **GPS "Sheshal Kail"** vide appointment order dated 20.03.2015, by competent authority.

(Copy of appointment order
Dated 20.03.2015 is annexed
as Annexure "A")

2. That, after having been appointed as **PST**, appellant, acting upon the advice of respondent No. 03, tendered resignation from the post of **Chowkidar**.

3. That, after about **09** months of the appellant's appointment as **PST**, respondent no 03, issued an order Dated; 01.12.2015, whereby appointment order of the appellant Dated; 20.03.2015, was withdrawn.

(Copy of order Dated 01.12.2015 is annexed as annexure "B").

4. That, appellant assailed the order dated; 01.12.2015, before the Hon'able Peshawar High Court, Abbottabad Bench through writ petition No.115-A of 2015. The Hon'able Peshawar High Court, directed respondent no 03, to pass a speaking order after having fulfilled the legal requirements. During the pendency of the writ petition, respondent no 03, passed the impugned order dated; 10.12.2018, and in wake whereof, the writ petition of the appellant was Dismissed vide order dated; 11.12.2018, on the ground mentioned therein.

(Copies of orders dated; 10,12,2018 and 11.12.2018 is annexed as annexure "C").

5. That, appellant called in question the impugned order dated; 10.12.2018, passed by respondent no 03, before respondent No. 02,

through Departmental appeal dated; 13.12.2018.

(Copies of Departmental appeal are annexed as annexure "D").

6. That, felling aggrieved, from the impugned order, dated 10.12.2018, appellant having no other remedy except to file the present service appeal before this worthy tribunal for interference inter alia on the following amongst other legal and factual grounds.

GROUND:-

- A) That, admittedly, NIC issued on 10.02.2008, could not be tampered with in the year 1997, hence, the reason shown in the impugned order is absurd and ridiculous.

(Copy of CNIC is annexed as annexure "E").

- B) That, in the year 1997, appellant was only 07 years old, and a question would arise, how he could manipulate his appointment. Then, incharge of the post of DEO, went wrong when he issued the order of appointment as chowkidar.
- C) That, present appointment of the appellant as PST is neither suffering

from any legal defect, nor the appellant lacks basic qualification.

- D) That, neither discreet, nor open inquiry has been made before Dismissing the appellant hence, the impugned order of Dismissal dated 10.12.2018, cannot be sustained and maintained in the eye of law in any manner, whatsoever.
- E) That, the appellant was only provided with charge sheet and statement of allegations dated; 10.11.2018, but ironically, no specific charge whatsoever has been leveled against him. So, he has been Dismissed from service without any specific charge and due process of law and as well as natural justice.

(copies of charge sheet and statement of allegations are annexed as annexure "F & G").

- F) That, except charge sheet and statement of allegations no other evidence worth name has ever been tried to have been collected.
- G) That, the appellant was also not heard in person, nor he was afforded an opportunity to explain his position.
- H) That, so far as the appointment of the appellant as PST vide appointment order Dated; 20.03.2015, is concerned, appellant was appointed after having been declared eligible and qualified to be

appointed. In consequence of the appointment order dated; 20.03.2015, appellant was medically examined and then he submitted charge report and performed duty till 01.12.2015.

(Copies of charge report and medical certificate are annexed as annexure "H & I").

- I) That, there is no allegation at all against the appellant that he is not eligible or qualified to be appointed against the post of PST, nor any defect in the appointment order as PST has been found.
- J) That, the charge sheet and statement of allegations are vague, ambiguous and defective. Furthermore, no show cause notice or final show cause was ever served upon the appellant.
- K) That, no regular inquiry was held, nor it was dispensed with and the alleged allegations could not be proved without conducting full-fledged/ regular inquiry.
- L) That, CINC verification from the NADRA had never been attempted which shows that the alleged allegations are false and remained unproved, whereupon, appellant has been Dismissed from service, hence, the impugned order cannot be allowed to hold the field in the eye of law on the subject.

- M) That, the impugned order is totally illegal, unlawful, without lawful authority and of having no legal effect.

PRAYER:-

On acceptance of the instant service appeal, the impugned order dated; 10.12.2018 passed by respondent No.3 may graciously be declared as illegal, void-abnito, against the law on the subject and appellant be reinstated into service with all back benefits and service.

Dated 11.03.2019


Rasool Shah
 (Appellant)

Through:-


ABDUL SABOOR KHAN
 Advocate High Court

VERIFICATION :

I, Rasool Shah, son of Sarfraz, resident of Khaial, District Kohistan, do hereby solemnly affirm and declare that the contents of fore-going Appeal are true and correct to the best of my knowledge and belief and nothing has been concealed or suppressed form this Honorable Tribunal.


Rasool Shah

BEFORE THE SERVICE TRIBUNAL
K.P.K PESHAWAR

Service appeal No _____ of 2019

Rasool Shah.....Appellant

VERSUS

Govt of Khyber Pakhtunkhwa, through
 Secretary Education etcRespondents

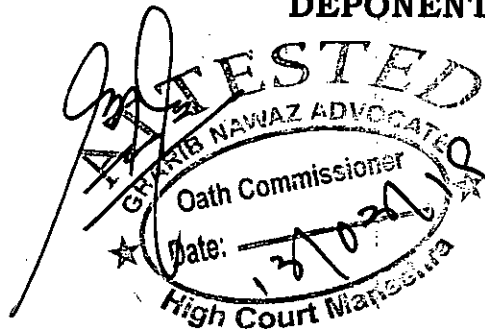
APPEAL

AFFIDAVIT

I, RASOOL SHAH, SON OF SARFRAZ, RESIDENT OF KHAIAL, DISTRICT KOHISTAN, DO HERBY SOLEMNLY AFFIRM AND DECLARE ON OATH THAT THE NO SUCH SUBJECT MATTER APPEAL HAS EVER BEEN FILED BEFORE THIS HONORABLE COURT NOR PENDING NOR DECIDED. THAT THE CONTENTS OF FORE-GOING AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF AND NOTHING HAS BEEN CONCEALED OR SUPPRESSED FROM THIS HONOURABLE TRIBUNAL.

Dated: 11.03.2019

Rasool Shah
 RASOOL SHAH
 DEPONENT



BEFORE THE SERVICE TRIBUNAL
K.P.K PESHAWAR

Service appeal No _____ of 2019

Rasool Shah.....**Appellant**

VERSUS

Govt of Khyber Pakhtunkhwa, through
 Secretary Education etc**Respondents**

APPEAL

CORRECT ADDRESSES OF THE PARTIES

APPELLANT:

Rasool Shah, son of Sarfraz, resident of
 Khaial, District Kohistan.


RESPONDENTS:

- 1) Govt. of Khyber Pakhtunkhwa, through
 Secretary Education, Peshawar.
- 2) District Elementary Education, Khyber
 Pkahtunkhwa, Peshawar.
- 3) District Education Officer (Male), Kohistan at
 Dassu.

Dated 11.03.2019


Rasool Shah
 (Appellant)

Through:-


ABDUL SABOOR KHAN
 Advocate High Court

Attested
 11/3/2019
 APPOINTMENT

(Male) Kohistan
 Phone No.0998-407128

10

ANNEXURE
 'A'

Consequent upon recommendation of the District Selection Committee, appointment of the following candidates are hereby ordered against the post of Primary School Teacher in BPS-12 (Rs.7000 -500-22000) @ Rs. 7000/- fixed plus usual allowances as admissible under the rules on school base, adhoc base and on Contract under the existing policy of the Provincial Government of Khyber Pakhtunkhwa, in Teaching Cadre on the terms and conditions given below with effect from the date of their taking over charge:-

Sr. No	Name	Father Name	Score	Union Council	Name of School
1	Muhammad Iqbal	Fazal Rahman	124.83	Karang	GPS Birthi
2	Muhammad Dawood	Ferooz Ahmad	112.11	Kareen	GPS Isgal
3	Ejaz ul Haq	Haji Zahir Shah	91.02	Kareen	GPS Jashoi
4	Noor ul Amin	Mustaqeem	116.73	Kuz Purwa	GPS Uoch Gayal
5	Abdul Hadi	Faqeer Shah	132.16	Seo	GPS Umar Abad
6	Alam Zeb	Magar Shah	118.31	Kuz Jalkot	GPS Jalkot Village
7	Aurang Zaib	Shukrat Khan	108.37	Kuz Jalkot	GPS Mamokiser
8	Abdul Saboor	Qadam Khan	106.01	Bariyar	GPS Bush Loohi
9	Muhammad Rafique	Najam Khan	112.57	Bar Jalkot	GPS Kuz Gaheen No.1
10	Ghulam Nabi	Naqal Shah	119.94	Dassu	GPS Uchar Nala
11	Sher Alam	Said Jalal	102.40	Dassu	GPS Chuchang
12	Sher Badishah	Saiful Malook	117.14	Goshali	GPS Kuz Seri Jalkot
13	Abdul Ghani	Mir Saeed	99.51	Dassu	GPS Looter
14	Gohar Rehman	Rasool Bakhsh	134.34	Pattan	GPS Pattan
15	Ghufranullah	Fazal Mola	119.39	Pattan	GPS Pattan
16	Officer Khan	Mir Ahmad	115.3	Pattan	GPS Pattan
17	Aziz ur Rahman	Muhammad Nazir	111.58	Pattan	GPS Pattan
18	Khurshed Ahmad	Haji Muhammad Yaqoob	111.32	Pattan	GPS Pattan
19	Abdur Rahman	Abdullah Khan	106.90	Chawad ara	GPS Shabir Bair
20	Rasool Shah	Sarfraz	82.02	Kajal	GPS Sheshal Kajal
21	Jahan Zeb	Abdur Rashid	94.43	Kajal	GPS Bair Kajal
22	Fazal Rahman	Gul Jahan	118.74	Dubair Payeen	GPS Daman Shungial
23	Inamullah	Fazal Subhan	118.74	Dubair Khas	GPS Kareen Dubair
24	Muhammad Javed	Muhammad Saddi	107.88	Dubair Bala	GPS Khalid Abad
25	Ahmad Khan	Abdul Wahid	112.98	Ranolia	GPS KK Ranolia
26	Muhammad Hanif	Abdullah	112.15	Bankad	GPS Maz Akhpa
27	Alamgir	Umrin	105.49	Bankad	GPS Bari Charoona
28	Muhammad Tahir	M. Zahir Dad	111.80	Kolai	GPS Kuz Khakaroo
29	Shah Ismail	Inam Zafar Sadig	100.20	Kolai	GPS Gahkoi
30	Abdul Haq	Molvi Amir Hamza	114.07	Kolai	GPS Chat Kolai
31	Abdul Waheed	Hakeem Khan	100.86	Peach Bela	GPS Pool Bela
32	Haj Malook	Gul Zar	120.35	Kunsher	GPS Gaidar Kunsher
33	Momen Khan	Abdul Jabar	110.79	Bataira	GPS Darad Bataira
34	Sayab Khan	Muhammad Shar	115.34	Haran	GPS Danyat
35	Jahan Zaib	Muhammad Shah	96.04	Harban	Ghee Harban

[Handwritten signature]

Approved
11/3/2019

P. 11

13

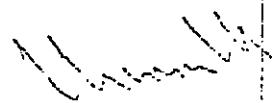
1-2

PS

36	Noor Alam	Shah Wali	110.84	Kolai	GPS Kuz Khakaroo
DISABLE QUOTA (2%)					
Sr. No	Name	Father Name	Score	Name of School	
01	Rehmat Wali	Didar Shah	101.52	GPS Kuidal	


TERMS & CONDITIONS.

1. No TA/DA is allowed.
2. Charge reports should be submitted to all concerned in duplicate.
3. Appointment is purely on temporary & contract basis initially for one year.
4. He should not be handed over charge if he exceeds 35 years or below 18 years of age. Age relaxation case may be submitted to competent authority.
5. Appointment is subject to the condition that the Certificate/documents must be verified from the concerned authorities, If found producing bogus Certificate / Documents will be reported to the law enforcing agencies for further action.
6. His services are liable to termination on one month's notice from either side. In case of resignation without notice his one-month pay/ allowances shall be forfeited to the Government.
7. Pay will not be drawn until and unless a certificates/ Documents are verified.
8. He should join his post within 10 days of the issuance of this notification. In case of failure to join the post within 10 days of the issuance of this appointment order, his appointment will expire automatically and no subsequent appeal etc shall be entertained.
9. Health and Age Certificate should be produced from the Medical Superintendent concerned before taking over charge.
10. He will be governed by such rules and regulations as may be issued from time to time by the Govt.
11. His services shall be terminated at any time, in case his performance is found unsatisfactory during his contract period. In case of misconduct, he shall be proceeded under the rules framed from time to time.
12. His appointment is made on School based, he will have to serve at the place of posting, and His service are not transferable to any other station.
13. Drawing and disbursing Officer is directed that before handing over charge once again their documents may be checked if they have not the required relevant qualifications as per rules, they may not be handed over charge of the post.
14. Appointments are purely made on U/C based. If found from other U/C the appointment will be automatically liable to termination except disable.


District Education Officer
(Male) Kohistan

Endst: No. 2319-26 / DEO (M) KI, Dated: 20/03 /2015

- Copy forwarded for information and necessary action to the:-
1. District Accounts Officer Kohistan.
 2. PS to the Secretary to Govt: Khyber Pakhtunkhwa E&SE Department.
 3. PA to the Director E&SE Khyber Pakhtunkhwa, Peshawar.
 4. Deputy District Education Officer (M) Kohistan.
 5. Sub Divisional Education Officer (SI) Kohistan.
 6. PA to Deputy Commissioner Kohistan.
 7. Teachers concerned.
 8. Local Office.


District Education Officer
(Male) Kohistan

P. 12

Accepted
11/3/2019

FAX NO. :

Jul. 14 2013 02:49:00 PM

Annex B

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

OFFICE ORDER FOR REMOVAL FROM SERVICE

Rasool Shah PST GPS Sheshal Keyal.

Reference advertisement for recruitment of teachers through NTS for the year 2014, you applied for the post of PST and appointed as PST at GPS Sheshal Keyal vide this office order No.2319-26 dated 20-03-2015 and took over the charge on 21-03-2015.

Whereas after joining the post you submitted your resignation from the post Chowkidar GPS Kayoun.

Whereas enquiring the matter, it came in the notice that you are serving as a Chowkidar w.e.f 05/11/1997.

Whereas your date of birth as per Secondary School Certificate is 02/01/1990

Whereas your date of birth as appointment as a chowkidar is 02/01/1996. The study of Identity Card showed that someone have scratched/ tempered the date of birth of your Identity Card and provide you the job of Chowkidar at the age of less than 8 year. Your that action indicates that your appointment as a Chowkidar is illegal and unlawful.

Whereas you got the appointment of PST without bringing the matter in the notice of department and you have contested the facts / cheat the department and mis use the department.

As result of above mentioned facts, I Riasat Khan DEO (M) Kohistan being a competent Authority is fully satisfied to impose upon you the major penalty of REMOVAL FROM THE SERVICE OF CHOWKIDAR and pleased to withdraw the order of your appointment as PST w.e.f date of appointment.

District Education Officer
(M) Kohistan

Endst: No. 12876-78 dt 11-12-2015

Copy of the above is forwarded to the:-

- 1. Director, Elementary & Secondary Education, Khyber Pakhtunkhwa Peshawar.
- 2. Additional Secretary, Elementary & Secondary Education, Khyber Pakhtunkhwa Peshawar.
- 3. PS to Secretary, Elementary & Secondary Education, Khyber Pakhtunkhwa Peshawar.

District Education Officer
(M) Kohistan

Alleged
11/3/19

P. (13)

BETTER COPY
OFFICE OF THE DISTRICT EDUCATION OFFICER
(MALE) KOHISTAN

ANNEX (B)

OFFICE ORDER FOR REMOVAL FROM SERVICE

Rasool Shah PST, GPS Sheshal Keyal.

Reference advertisement for recruitment of teachers through NTS for the year 2014, you applied for the post of PST and appointed as PST at GPS Sheshal Keyal vide this office order No. 2319-26 dated 20.03.2015 and took over the charge on 21.03.2015.

whereas after joining the post you submitted your resignation from the post Chowkidar GPS Kayoun.

Whereas enquiring the matter, it came in the notice that you are serving as Chowkidar on 05/11/1997.

Whereas your date of birth as per Secondary School Certificate is 02.01.1990.

Whereas your date of birth as appointment as a chowkidar is 02/01/1996. The study of identity Card showed that someone have scratched/tempered the date of birth of your identity card and provide you the job of Chowkidar at the age of less than 8 year. Your that action indicates that your appointment as a chowkidar is illegal and unlawful.

Whereas you got the appointment of PST without bringing the matter in the notice of department and you are concealed the facts/cheat the department and miss use the department.

As result of above mentioned facts, I Riasat Khan DEO (M) Kohistan being a competent authority is fully satisfied to impose upon you the major penalty of Removal from service of Chowkidar and pleased to withdraw the order of your appointment as PST w.e.f dated of appointment.

Sd:
District Education Officer
(M) Kohistan

Endst: No 12876-78

dated 01.12.2015

(copy of the above is forwarded to the:-

1. Director, Elementary & Secondary Education, Khyber Pakhtunkhwa Peshawar.
2. Additional Secretary, Elementary & Secondary Education, Khyber Pakhtunkhwa Peshawar.
3. PS to Secretary, Elementary & Secondary Education, Khyber Pakhtunkhwa Peshawar.

Sd:
District Education Officer
(M) Kohistan

Attested
11/3/2019

P. (14)

Anna (C)

1

BEFORE THE PESHAWAR HIGH COURT,
ABBOTTABAD BENCH

Writ Petition No. 115-A/2015

Rasool Shah son of Sarfraz, resident of Khaial, District Kohistan.

...PETITIONER

VERSUS

1. Govt. of Khyber Pakhtunkhwa, through Secretary Education, Peshawar.
2. District Elementary Education, Khyber Pakhtunkhwa, Peshawar.
3. District Education Officer (Male), Kohistan.

...RESPONDENTS

**WRIT PETITION UNDER ARTICLE 199 OF
THE CONSTITUTION OF THE ISLAMIC
REPUBLIC OF PAKISTAN 1973, THAT
ORDER NO. 12876-78/DE DATED 01/12/2015,
ISSUED BY RESPONDENT NO. 3 IS ILLEGAL,**



P. 24-A
Annex C

OFFICE OF THE DISTRICT EDUCATION OFFICER (M) KOHISTAN

OFFICE ORDER:-

1. Whereas you Mr. Rasool Shah Ex-Chwokidar/PST GPS Keyoun Kayal were removed from service, vide this office order No. 12876-78 dated 01-12-2015 after the following proved allegation.
 - i. Guilty of misconduct
 - ii. Guilty of corruption
 - iii. Concealing of facts
2. And whereas you submitted service appeal before Honorable Peshawar High Court Abbottabad Bench vide service appeal No. 115-A/2016 dated 02-02-2016, the Honorable High Court accepted your appeal after trial of the case and directed this office on 08-11-2018 to conduct proceeding strictly in accordance with law against the appellant.
3. And whereas this office issued charge sheet along with statement of allegations vide this office No. 7537 and 7538 dated 10-11-2018, in the light of Honorable Peshawar High court Abbottabad bench dated 08-11-2018 as well as inquiry committee was constituted to probe into the matter vide this office order No. 7540-43 dated 10-11-2018.
4. And whereas the committee conducted an inquiry and submitted his report with the recommendation that entire allegation leveled against you have been proved and you submitted unsatisfactory reply, so words of removal from service may be converted into dismissal from service.

In view of the above facts being competent authority as District Educations Officer (M) Kohistan I am fully satisfied to retain the pervious order issued vide this office Endstt: No. 12876-78 dated 01-12-2015, however the words of "Removal from service is converted into "Dismissal from service .

*District Education Officer
(Male) Kohistan.*

Endst: No. 8919-26/DEO (M) KH Dated Dassu the 10/12 /2018

Copy of the above is forwarded to the :-

1. Director E&SE Khyber Pakhtunkhwa Peshawar.
2. Advocate General Khyber Pakhtunkhwa Peshawar.
3. Deputy Commissioner Lower.
4. District Accounts Officer, Kohistan.
5. ADEO (Litigation) Local Office.
6. PA to DEO (M) Kohistan.
7. Mr. Rashool Shah Ex-Chowkidar/PST GPS Keyoun Kayal.

*District Education Officer
(Male) Kohistan*

Admitted
5/11/3/19

P. (15)
Annex (C)

PESHAWAR HIGH COURT, ABBOTTABAD BENCH.
FORM OF ORDER SHEET

Court of.....

Case No.....of.....

Date of Order of Proceedings	Order or other Proceedings with Signature of Judge (s)
1	2
11.12.2018	<p><u>WP No. 115-A/2016</u></p> <p>Present: Mr. Amanullah Khan Salik, Advocate the petitioners.</p> <p>Sardar Muhammad Asif, Assistant AG alongwith Shah Wali Ullah, KPO for respondents.</p> <p>***</p> <p><u>LAL JAN KHATTAK, J.</u>-As by now the petitioner has been dismissed from service and being a civil servant the only remedy available to him to impugn his dismissal from service is to approach the competent forum, therefore, this writ petition has become infructuous and, as such, is dismissed, leaving the petitioner at liberty to avail his remedy from the competent forum.</p>

(Arshad Iqbal)

Hon'ble Justices Lal Jan Khattak & Syed Muhammad Attique Shah

11/3/2019
11/3/2019

P-16

BEFORE THE DIRECTOR
ELEMENTARY AND SECONDARY EDUCATION
KHYBER PAKHTUN KHWA,
PESHAWAR.

Anna (D)

Subject: REPRESENTATION/DEPARTMENTAL APPEAL
AGAINST THE IMPUGNED OFFICE ORDER
NO 8919-26 DATED 10.12.2018 PASSED BY
DISTRICT EDUCATION OFFICER (MALE)
KOHISTAN WHEREBY PETITIONER (PST,
GPS KEYOUN KAYAL) HAS BEEN DISMISSED
FROM SERVICE.

Respected sir,

- 1) That, applicant as a Chowkidar at **GPS "Kew Kainal" Kohistan**, in response to advertisement, applied for the post of PST and accordingly, he was appointed against the post of PST vide appointment order dated 20.03.2015.
- 2) That, after having appointed as PST Teacher, appellant resigned from the post of Chowkidar.
- 3) That, District Education Officer (Male) Kohistan, without any inquiry and observing the due process, passed office order dated 01.12.2015, whereby petitioner was removed from service of Chowkidar and appointment as PST was withdrawn on the ground that someone scratched /tampered the date of birth of identity

card (CNIC) and provided the job of chowkidar at the age of less than 08 year to the appellat.

- 4) That, the office order dated 01.12.2015 passed by District Education Officer, (Male) Kohistan, was impugned by the applicant before Honourable Peshawar High Court, Bench Abbottabad, through writ petition No.115-A of 2015.
- 5) That, as District Education Officer, (Male) Kohistan, had not observed the due process while issuing the office order dated 01.12.2015. That is why, the Honourable Peshawar High Court, Bench Abbottabad, directed the DEO Kohistan to pass a speaking order after observing the due process of law, consequent upon the same, District Education Officer without hearing the petitioner passed the impugned office order dated 10.12.2018, dismissed the appellat from service as PST Teacher. **(Copy of impugned order dated 10.12.2018 is annexed herewith).**
- 6) That, on production of the office order dated 10.12.2018 before the Honourable Peshawar High Court Bench Abbottabad, the writ petition of the applicant was dismissed for want of jurisdiction vide order dated 11.12.2018 and advised the applicant to avail the remedy before the proper forum.
- 7) That, the impugned office order dated 10.12.2018 is illegal, unlawful, without lawful authority and of having no legal effect for the reason that the so

Accepted
11/31/2019

Admitted
11/3/19

called allegation has never been verified/probed by the authority, nor any report from the NADRA authorities has been obtained in support of the allegations.

8) That, neither the petitioner was personally heard, nor the so-called allegation was confronted to him, nor he was provided an opportunity to rebut the same.

9) That, CNIC issued on 10.02.2008, could not be tempered with in the year 1997, this allegation appears to be absurd and beyond human comprehension.

10) That, in year 1997, applicant was 07 years old, how he could manipulate, his appointment, surely, the then incharge of the post of DEO went wrong when he issued the order of appointment of applicant as chowkidar, for which applicant cannot be held responsible and panelized.

11) That, neither discreet, nor open inquiry has ever been held by the department nor the allegation has ever been tried to be verified from the NADRA authorities.

12) That, appointment of the applicant as PST is neither suffering from any legal defect, nor applicant lacks qualification, hence, the impugned order dated 10.12.2018 is totally illegal, un lawful, without any lawful authority and having no legal effect, hence, liable to be set aside.

P (191)

Accepted
11/12/18

IT IS THEREFORE VERY HUMBL Y PRAYED
that acceptance of the instant departmental
appeal, the impugned order dated 10.12.2018
passed by DEO (Male) Kohistan be set aside and
applicant be reinstated into service as PST
Teacher with all back benefits.

Dated: 13.12.2018



Rasool Shah, Son of Sarfraz, resident of kayal
Tehsil Pattan, District Kohistan Lower (PST, GPS
Keybund Kayal).....**Applicant**

Arrested
11/27/2019

P (20)

Arrest (E)

16 ANNEXURE D

حکومت پاکستان
قومی شناختی کارڈ
13403-0182857-9

نام: رسول شاہ
جنس: مرد
والد کا نام: سر سید
شناختی ادارت: اسلام آباد
تاریخ پیدائش: 02/01/1990

اسلام بیگم
دستخط سربراہ جنرل

دستخط کارڈ



P. (21)

(51)

Annex (F)

Alleged
11/3/2019

CHARGE SHEET

1. I Mr. Khurshid Ahmed District Education Officer(Male) Kohistan as competent authority, hereby charge you Mr. Rasool Shah Chowkidar GPS Kayoon Kayal as follow.

That You while posted as Chowkidar at GPS Kayoon Kayal committed the following irregularities.

- (a) Guilty of Misconduct.
- (b) Guilty of Corruption
- (c) Concealing of Facts

2. By reason of the above, you appear to be guilty of Misconduct under rule 3 of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules 2011, and have rendered yourself liable to all or any of the penalties specified, as the case in rule 4 of the rules ibid.
3. You are, therefore required to submit your written defence within seven days of the receipt of this Charge Sheet to the inquiry officer/ inquiry committee, as the case may be.
4. Your written defence , if any should reach the inquiry office/ inquiry committee within the specified period, failing which it will be presumed that you have no defence to put in and in the case ex-parte action shall be taken against you.
5. Intimate whether you desire to be heard in person.
6. A Statement of allegations is enclosed.

No. 7538 /DEO(M) KH Dated Dassu 10/11 2018

① Rasool Shah Ex-Chowkidar
GPS Kayoon Kayal

COMPETENT AUTHORITY

[Signature]

NOTICE (1) - The Post Office is not responsible for loss or damage in the case of inland registered articles, unless they are also insured.

DISCIPLINARY ACTION

ANNEX 9

52

1. I Mr. Khurshid Ahmed District Education Officer (Male) Kohistan as competent authority, am of the opinion that Mr. Rasool Shah Chowkidar GPS Kayoon Kayal has rendered himself liable to be proceeded against as he committed the following acts/ omissions, within the meaning of rule 3 of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules 2011.

STATEMENT OF ALLEGATIONS

- i. Guilty of Misconduct.
 - ii. Guilty of Corruption
 - iii. Concealing of Facts
2. For the purpose of Inquiry against the said accused with reference to the above allegations an inquiry committee, comprising the following is constituted under rule 10 (1) (a) of the ibid rules.
- i. Abdul Salam ADEO (Secondary) Local Office.
 - ii. Abdullah ADEO (Pry) Local Office.
3. The Inquiry Officers/ Inquiry Committee shall, in accordance with the provisions of the ibid rules provide reasonable opportunity of hearing to the accused, record its finding and make, within **Five days** of the receipt of this order, recommendations as to punishment or other appropriate action against the accused.
4. The accused and a well conversant representative of the Department will join the proceeding on the date, time and place fixed by the Inquiry Office/ Inquiry Committee.

No. 7537 /DEO(M) KH Dated Dassu 10/11 2018

1, Rasool Shah Ex-Chowkidar
GPS Kayoon Kayal

COMPETENT AUTHORITY

Attested

11/3/2019

P

23

Amir

4

15

(چارچ رپورٹ)

ANNEXURE
"C"

حجہ المحکم جناب D.E.O صاحب ضلع کوہستان

تقرری آرڈر نمبر 2319-26

تاریخ 3-3-20 کی تکمیل میں آج بموزخہ 3-3-20 کو قبل

ازدو پیکر PS کے منتقل کیا گیا ہے اپنی منسب نشست

PSI کا چارج سنبھال کر ڈیوٹی

کا آغاز کر دیا ہے۔

لہذا چارج رپورٹ حاضر خدمت ہے۔

Handwritten signature and stamp area.

چارچ دہندہ

Handwritten signature.

چارچ گر ہندہ: سون شاہ ولد سرفراز

Attested
19/03/2019

P-24

Annex 1

N.W.F.P, Med No 4

GS & PD- NWFP-27 FS-2000 P of 100-29-7-98--(16)

14

NO. 649

MEDICAL CERTIFICATE

ANNEXUR B

Name of Official Rasool Shah
 Caste or race Walo Khair
 Father's Name R. Sarspaz
 Residence Village Old Kayal Teh
Pattan Dist - Kohistan
 Date of Birth 02-01-1990
 Exact height by measurement 5.6 inch
 Personal mark of identification _____
 Signature of the Official [Signature]
 Signature of head of office _____

[Signature]
 Head of Section Office,
 District Education Office,
 Male, Kohistan.

I do hereby certify that I have examined Mr Rasool Shah, a candidate for employment in the Office of the except Education Department Waziristan and cannot discover that he had any disease communaicable or other constitutional affection or bodily infirmity except if

I do not consider this as disqualification for employment in the office of the Education Department Waziristan His age according to his own statement 25 year and by appearance about 25 year

NIL =
 13403-0182859-9.
 MI, wound scar with left elbow joint
 Swelling on both sides of it.

LBFT HAND THUMB AND FINGER IMPRESSIONS

[Signature]
 Medical Superintendent,
 Civil Hospital
 District Health Office
 Kohistan



وکالت نامہ

بعدالت جناب سروس ٹریبونل خیبر پختونخواہ پشاور

رسول شاہ بنام حکومت خیبر پختونخواہ بذریعہ سیکرٹری ایجوکیشن وغیرہ

سروس اپیل

اپیلانٹ

مخانب:

باعث تحریر آنکھ!

اندریں مقدمہ عنوان بالا اپنی طرف سے برائے بیرونی وجوہات ہی بمقام پشاور ہائی کورٹ

عبدالصبور خان ایڈووکیٹ ہائی کورٹ

کو بدیں شرط وکیل مقرر کیا ہے کہ میں ہر پیشی پر خود یا بذریعہ مختیار خاص روز و عدالت حاضر ہوتا ہوں گا اور بوقت پکارے جانے وکیل صاحب موصوف کو اطلاع دیکر حاضر کروں گا۔ اگر کسی پیشی پر مظہر حاضر نہ ہوا اور غیر حاضری کی وجہ سے کسی طور پر مقدمہ میرے خلاف ہو گیا تو صاحب موصوف اس کے کسی طرح ذمہ دار نہ ہوں گے۔ نیز وکیل صاحب موصوف صدر مقام پکھری کے علاوہ کسی اور جگہ پکھری کے مقررہ اوقات سے پہلے یا بروز تعطیل بیرونی کرنے کے مجاز نہ ہونگے اگر مقدمہ مقام پکھری کے آگے یا پیچھے سماعت ہونے پر مظہر کو کوئی نقصان پہنچے تو صاحب موصوف ذمہ دار نہ ہوں گے اور صاحب موصوف کو عرضی دعویٰ اور درخواست اجراء کے ذگری و نظر ثانی، اپیل نگرانی دائر کرنے نیز ہر قسم کی درخواست پر دستخط تصدیق کرنے کا بھی اختیار ہوگا اور کسی حکم یا ذگری کے اجراء کرانے اور ہر قسم کاروبار وصول کرنے اور رسید دینے اور داخل کرنے کا، ہر قسم کا بیان دینے اور سپرد دہائی و راضی نامہ و دستبرداری و اقبال دعویٰ کا اختیار ہوگا اور بصورت اپیل و برآمدگی مقدمہ یا منسوخی ذگری یکطرفہ درخواست حکم امتناعی یا فیصلہ ذگری و اجراء کے ذگری بھی صاحب موصوف کو بشرط ادائیگی علیحدہ فیس کرنے کا مجاز ہوگا۔ بصورت ضرورت بدوران مقدمہ یا اپیل و نگرانی کسی دوسرے وکیل یا پیرسٹر کو بجائے خود یا اپنے ہمراہ مقرر کریں اور ایسے مشیر قانونی کو بھی اس امر میں وہی اختیارات حاصل ہوں گے جیسے صاحب موصوف کو، پوری فیس تاریخ پیشی سے پہلے ادا نہ کروں تو صاحب موصوف کو پورا اختیار ہوگا کہ وہ مقدمہ کی بیرونی نہ کریں اور ایسی حالت میں میرا مطالبہ صاحب موصوف کے برخلاف نہیں ہوگا۔ مجھے کل ساختہ پرواختہ مثل ذات خود منظور و قبول ہوگا۔ لہذا وکالت نامہ لکھ دیا ہے تاکہ سند رہے۔ مضمون وکالت نامہ سن لیا اور اچھی طرح سمجھ لیا ہے اور منظور ہے۔

مورخہ 11.03.2019

رسول شاہ ولد سرفراز ساکنہ کیال تحصیل پٹن ضلع کوہستان

Attested & Accepted

Abdul Saboor Khan

Advocate High Court

①

**BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR CAMP COURT ABBOTTABAD.**

Service Appeal No. 365/2019

Rasool Shah.....Appellant

VERSUS

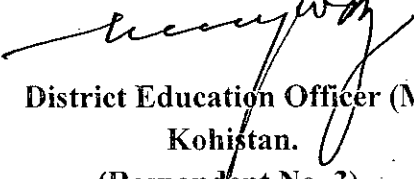
Government Khyber Pakhtunkhwa & Others..... Respondents

JOINT PARA WISE COMMENTS ON BEHALF OF RESPONDENTS.

INDEX

Sr.No	Description	Page Nos	Annexures
1	Comments alongwith affidavit.	01 to 04	
2	Copy of appointment order dated 05-11-1997	05	"A"
3	Copy of Original Service Book of C-IV		"B"
4	Copy of Medical Certificate		"C"
5	Copy of fake Documents [REDACTED]		"D"

Dated: 21/08/2019


District Education Officer (M)
Kohistan.
(Respondent No. 3)

2

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR CAMP COURT ABBOTTABAD.

Service Appeal No. 365/2019

Rasool Shah.....Appellant

VERSUS

Government Khyber Pakhtunkhwa & Others..... Respondents

JOINT PARA WISE COMMENTS ON BEHALF OF RESPONDENTS.

Respectfully Sheweth:-

Comments on behalf of respondents are submitted as under:-

PRELIMINARY OBJECTION:-

1. That the appellant has no cause of action to file the instant appeal.
2. That the appeal of the appellant is time barred. Hence liable to be dismissed.
3. That the appellant has filed the present appeal to pressurize the respondents.
4. That the appellant has not come to this Honorable Tribunal with clean hands.
5. That the appellant is estopped to sue due to his own conduct.
6. That the instant appeal is not maintainable due to non-joinder and mis-joinder of necessary parties.
7. That the appellant has suppressed the material facts from this Honorable Tribunal, hence, not entitled for any relief and appeal is liable to be dismissed without any further proceeding.

Factual Objections:-

1. That the Para No. 1 of the instant service appeal is correct to the extent that appellant was initially appointed as C-IV vide appointment order No. 237-242 dated 05-11-1997 and performed his duty till 20-03-2015 and got salary of the said period, while rest of the para as composed is incorrect hence, denied. As per original service book of the appellant the correct date of birth of appellant is 02-01-1966 whereas, appellant fraudulently produced the fake/tempered documents and CNIC having date of birth i.e. 02-01-1990. (Copy of appointment order dated 05-11-1997, Original Service Book of C-IV, Medical Certificates, documents & CNIC are annexed herewith as Annexure "A", "B", "C", & "D").
2. That the Para No.2 of the instant appeal as composed is incorrect hence, denied as respondents never ever advised to appellant to resign the post of Chowkidar as appellant himself submitted his resignation.
3. That the Para No. 3 of the instant service appeal is correct and order dated 01-12-2015 was issued after observing due process of Law.
4. That the Para No. 4 of the instant service appeal as composed is incorrect hence, denied as the Writ Petition No. 115-A/2016 was dismissed on 11-12-2018. (Copy of order dated 11-12-2018 is already been annexed with Service Appeal as Annexure "C").

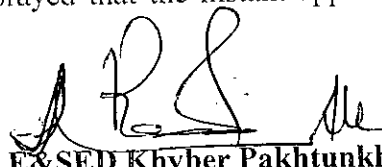
5. That the Para No. 5 of the instant service appeal is subject to cogent proof.

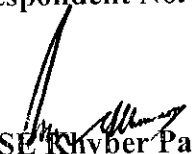
6. That the order dated 10-12-2018 was issued after observing all the legal requirements.

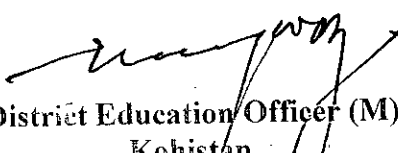
Grounds:

- A. That ground a, of the instant service appeal as composed is incorrect, hence denied as per Original Service Book of the appellant the correct date of birth of the appellant is 02-01-1966 and appellant deliberately concealed this material fact from the department and committed a criminal offence.
- B. That the appellant did not come to this Honourable Tribunal with clean hand hence, not entitled for any relief.
- C. That ground c, as composed is incorrect hence denied.
- D. That ground d, as composed is incorrect hence, denied. A formal inquiry was conducted and the chance of personal hearing was provided to the petitioner.
- E. That ground e, as composed is incorrect hence, denied. As the appointment order of the petitioner was withdrawn on the charge of having two identity cards of different date of birth, being involved in misconduct and concealing of facts.
- F. In reply to ground f, it is submitted that Original Service Book of the appellant (C-IV), Medical Certificate and CNIC are the sufficient evidence against the appellant.
- G. That ground g, as composed is in incorrect hence, denied.
- H. That ground h, as composed is incorrect hence, denied as appellant produced fake/tempered documents & CNIC for the post of PST and concealed the material fact from the department and committed a criminal offence.
- I. That ground i, as composed is in incorrect hence, denied.
- J. That ground j, as composed is in incorrect hence, denied. As the charge sheet and statement of allegations are clear and legal, show cause notice was legally served upon the appellant, for explaining the charge of tampering of date of birth of identity card and getting the salary from government treasury unlawfully and on having dissatisfactory reply the appellant was removed from the post of chowkidar and appointed order of PST Post was withdrawn.
- K. That ground k, as composed is in incorrect hence, denied. As the full fledged inquiry has been conducted and after cogent proof the appellant is removed from service.
- L. That ground l, as composed is in incorrect hence, denied. As the instant service appeal is need to cogent proof.
- M. That ground m, as composed is in incorrect hence, denied.
- N. That the respondents seek leave of this Honorable Tribunal to raise additional points at the time of arguments.

Under the circumstances it is humbly prayed that the instant appeal may please be dismissed with cost.


Secretary E&SED Khyber Pakhtunkhwa
Peshawar
(Respondent No. 1)


Director E&SE Khyber Pakhtunkhwa
Peshawar
(Respondent No. 2)


District Education Officer (M)
Kohistan
(Respondent No. 3)

Peshawar
(Respondent No. 2)

4

District Education Officer (M)
Kohistan
(Respondent No. 3)

**Before the Honorable Khyber Pakhtunkhwa Service
Tribunal Peshawar Camp Court Abbottabad.**

Service Appeal No. 365/2019

Rasool Shah.....Appellant

VERSUS

Government Khyber Pakhtunkhwa & Others..... Respondents

JOINT PARA WISE COMMENTS ON BEHALF OF RESPONDENTS.

AFFIDAVIT

I, Mr. Rahimdad ADEO Litigation Officer (M) Kohistan, do hereby affirm and declare on oath that contents of forgoing comments are correct and true according to the best of my knowledge and belief and nothing has been suppressed from this Honorable Tribunal.

Rahimdad
DEPONENT

OFFICE OF THE SUB DIVISIONAL EDUCATION OFFICER (MALE) PRIMARY KOHISTAN.

APPOINTMENT.

Being to Land owner the following candidates are hereby appointed as chowkidar on fixed contract basis against the noted schools each (@:Rs:1200/-P.M.Fixed,+300/-P.M.(ARF)-Total:Rs:1500/-P.M.), in the interest of public service with immediate effect on the following terms and conditions.

S.No.	Name with father Name.	R/O.	Name of school	Remarks.
1.	Rasoolshah S/O sarfraz	Kayal	GPS: Kayoun Kayal	A.N.J.Post.
2.	Abdulsammad S/O Abdulghfoor Seo	kuz chaproona.	GPS: Gaider	-----do-----.

TERMS & CONDITIONS:-/

1. No TA/DA is allowed to them.
2. Charge reports should be submitted to all concerneds.
3. Their appointment is purely temporary and liable to termination without assigning any reason.
4. They should produce age and Health certificate from the District Health Officer Kohistan at Dasso.
5. Their appointment will be cancelled if their age less than 18 and more than 40-years.
6. Their appointment will be considered as cancelled if they failed to take over charge with in 7-days from the date of issue of ths order.

(SAID MUHAMMAD KHAN)
SUB DIVISIONAL EDUCATION
OFFICER (M) PRY: KOHISTAN

ENDST. NO. 231-12/92 / F. NO. _____ / SDCO(M)KH/C/IVs. Apptt. Dated. 5/11/97
11/1997.

Copy of the above is forwarded to the:-

1. Director Primary Education N.W.F.P. Peshawar.
2. District Education Officer (M)&(F) Kohistan at Dasso.
3. District Account Officer Kohistan.
- 4 to _____ (Officials concerneds).
- . Office File for record.

(M. U. S.)
SUB DIVISIONAL EDUCATION
OFFICER (M) PRY: KOHISTAN

5/11/1997

MEDICAL CERTIFICATE.

Name of Official.....

Grade or rank.....

Father's name.....

Residence.....

Date of birth.....

Exact height by measurement.....

Personal mark of identification.....

Signature of the Official.....

Signature of head of office.....

Seal of Office.....

I do hereby certify that I have examined *Mr Rasool Shah* a candidate for employment in the office of the *Education Deptt. Kohistan* and can not discover that he had any disease communicable or other constitutional affection or bodily infirmity except.....

I do not consider this as disqualification for employment in the office of the *Education Deptt. Kohistan* His age according to his own statement... *32* ... years and by appearance about... *32* ... years.

Thirty two years

Mulla
2-12-37

LEFT HAND THUMB AND FINGER
IMPRESSIONS.....

Medical Superintendent
Civil Hospital.....

صاحب دلو
گوالر سب ڈاؤن ٹرننگ ایجوکیشن آفیس

(۱۱) لہرائی ٹیوشن آف آفیس آرڈر

237-242 تاریخ 27-11-5 کو کتب و کتب

گورنمنٹ لہرائی سکول کالون کمال کٹر صاحب

صبا آرڈر، سو آ؟ مورخ 11/5 کو اسے

عندہ جا رہا ہے سوال کر باقاعدہ

مشورہ کرے۔

لکھنؤ لہرائی اور کتب آفیس

رسول اللہ

دستخط لہرائی رکنہ

دستخط صاحب آرڈر

رسول اللہ ولد سرفراز

ساتھ کمال جوگندار

5-11-52

مکان غیر آلا

پتہ کمال

331

SERVICE BOOK

سروس بک

(Original)

کتاب ملازمت



Name	نام	Rasool Shah
Father's Name	والد کا نام	Sarfraz
Qualification	قابلیت	Chowkidar
Designation	عہدہ	Education
Department	محکمہ	Village Kajar P/O
Permanent Address	تعلقہ	Toh: Pata Kharsta

Name _____ Date of birth _____

Home Distt. _____

DETAILS OF QUALIFICATION

قابلیت کی تفصیل

Examination امتحان	Roll No. رول نمبر	Year سال	Spring Autumn بہار خزاں	Division درجہ	Grade گریڈ	Subjects مضامین	Signature of Attesting Office تصدیقی افسر کے دستخط
Matric میٹرک							
Intermediate انٹرمیڈیٹ							
B.A. بی اے							
B.Ed بی ایڈ							
M.A. ایم اے							
M.Ed. ایم ایڈ							
Technical Education if any فنی تعلیم، نام تحریر کیا جائے							
P.T.C پی۔ٹی۔سی							
S.V. ایس۔وی							
C.T. سی۔ٹی							

(i) Date of attaining Sixty years of age _____

(تاریخ ساٹھ سالگی)

(ii) Date of attaining twenty five years service _____

(تاریخ تکمیل ملازمت پچیس سالہ)

Note: Th
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نی چاہیے

Name Rasool Shah

(نام)

Nationality and Religion Pakistani / Islam

(قومیت اور مذہب)

Residence Kayal P/O Palian, Kohistan

(مستقل رہائش)

Father's name and residence Sayfaraz as above

(والد کا نام اور پتہ)

Date of birth by Christian era as nearly as can be ascertained (02-01-1966)

(تاریخ پیدائش مطابق سن عیسوی)

Exact height by measurement 5-6

(قد و قامت)

Personal mark of identification Nil

(نشان شناخت)

Left hand/right hand thumb and finger impressions of (Non-gazetted officer)

(مرد کی صورت میں بائیں اور عورت کی صورت میں دائیں ہاتھ کی انگلیوں کے نشانات)

Little Finger (چھنگلیا) Ring Finger (چھنگلیا کے ساتھ کی انگلی) Middle Finger (انگشت میاں)

Fore Finger (انگشت شہادت)

Thumb

(انگھوٹھا)

Signature of Government Servant

(سرکاری ملازم کے دستخط)

Signature and designation of the Head of the office or other Attesting officer

(تصدیق کنندہ افسر کے دستخط اور مہر)

D.D.O

(D.O Kohistan)

Note: The entries in this page should be renewed or re-aggested at least every five years and the signatures in lines 9 and 10 should be dated. Finger prints need not be taken after every 5 years under this rule.

اس صفحہ کے مندرجات کم از کم پانچ سال بعد تصدیق ہونا ضروری ہیں اور نمبر ۹ اور ۱۰ میں دستخطوں کے نیچے تاریخ لکھنی چاہیے۔ انگلیوں کے نشانات کے لیے ہر پانچ سال کے بعد تصدیق کی ضرورت نہیں۔

1.	2.	3.	4.	5.	6.	7.	8.
Name of Post	Whether substantive officiating any whether permanent or temporary	If officiating state (i) substantive appointment or (ii) whether service counts for pension under rule 320 of C.S.R. (Pb.) Volume II	Pay in substantive post	Additional pay for Officiating	Other emoluments falling under the term pay	Date of appointment	Signature of Government servant
درجہ ملازمت Chowkidar	عارضی مستقل قائم مقام	اگر عارضی ہے تو رول کے مطابق پیش کش کا مستحق	تختواہ بطور عارضی ملازمت	زائد تختواہ بطور قائم مقام	ماسوائے تختواہ دیگر	تاریخ تقرری (1770)	دستخط سرکاری ملازم
<u>Revised B-01 @ (1245 - 3520)</u>							
3PS Keyoun Kayal			Rs: 1245/1			5 ¹¹ 1997	
			Rs: 1280/1			1 ¹² 1998	
			Rs: 1315/1			1 ¹² 99	
			Rs: 1350/1			1 ¹² 2000	
			Rs: 1385/1			1 ¹² 01	
<u>Revised B-01 @ (1870 - 55 - 3520)</u>							
			Rs: 2090/1			1 ¹² 01	
			Rs: 2145/1			1 ¹² 02	
			Rs: 2200/1			1 ¹² 03	
			Rs: 2255/1			1 ¹² 04	
<u>Revised B-01 @ (2150 - 65 - 4107)</u>							
			Rs: 2605/1			1 ¹² 05	
			Rs: 2670/1			1 ¹² 05	

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8. Nature of Government Servant

9.	10.	11.	12.	13.	14.	15.	
Signature and designation of the Head of the Office or other attesting Officer in attestation of columns 1 to 8	Date of termination of appointment	Reason of termination (such as promotion, transfer, dismissal etc.)	Signature of the Head of the Office or other Attesting officer	Nature and duration of leave taken	Leave Allocation of periods of leave of average pay up to four months (or earned leave not exceeding 120 days) to which leave salary is debitable to another Government	Signature of the Head of the office or other attesting Officer	Reference to any recorded punishment to censure, or reward, or praise of the Government servant
دستخط افسر مجاز	تاریخ انقطاع ملازمت	وجوہات انقطاع ملازمت ترقی تبادلہ یا برطرفی	دستخط افسر مجاز	رخصت کی نوعیت ومعیار	چار ماہ تک کی رخصت کے لئے اوسط تنخواہ کا تین عص Government to which debtible گورنٹ سے رقم ادا ہوگی	دستخط افسر مجاز	سزایا جزایا غیر مناسب کارکردگی کارپکارڈ
D.D.O (M) Kohistan	30 ¹¹ / ₉₈	A/qmc	D.D.O (M) Kohistan		Appointed against N.C.P of Chankidan at SPS Keyoun Kayal @ 1500/pm fixed on Contract basis vide SDEO (M) Prg: KH Endstis No: 237-92 dated 5/11/1997.		
D.D.O (M) Kohistan	30 ¹¹ / ₉₉	A/qmc	D.D.O (M) Kohistan				
D.D.O (M) Kohistan	30 ¹¹ / ₂₀₀₀	A/qmc	D.D.O (M) Kohistan				
D.D.O (M) Kohistan	30 ¹¹ / ₀₁	A/qmc	D.D.O (M) Kohistan				
D.D.O (M) Kohistan	1 ¹² / ₀₁	S/R	D.D.O (M) Kohistan		Service Regularized/Converted to Permanent Status vide Notification No: FD.2007-01 22-1/103 dt: 25.1.08 wof 1-7.08, Arrear of pay upto 30-6.08 will not be allowed.		
D.D.O (M) Kohistan	30 ¹¹ / ₀₂	A/qmc	D.D.O (M) Kohistan				
D.D.O (M) Kohistan	30 ¹¹ / ₀₃	A/qmc	D.D.O (M) Kohistan				
D.D.O (M) Kohistan	30 ¹¹ / ₀₄	A/qmc	D.D.O (M) Kohistan				
D.D.O (M) Kohistan	30 ⁶ / ₀₅	S/R	D.D.O (M) Kohistan		Service vacilla 1 am 20 Agu: Roll & other relevant board of this office w.e.f. 5/11/97 To 30/11/08		
D.D.O (M) Kohistan	30 ¹¹ / ₀₅	A/qmc	D.D.O (M) Kohistan				
D.D.O (M) Kohistan	30 ¹¹ / ₀₆	A/qmc	D.D.O (M) Kohistan				

1.	2.	3.	4.	5.	6.	7.	8.	
Name of Post	Whether substantive officiating any whether permanent or temporary	If officiating state (i) substantive appointment or (ii) whether service counts for pension under rule 320 of C.S.R. (Pb.) Volume II	Pay in substantive post	Additional pay for Officiating	Other emoluments falling under the term pay	Date of appointment	Signature of Government servant	
درجہ ملازمت Chow:	عارضی مستقل یا قائم مقام	اگر عارضی ہے تو رواں کے مطابق پیشین کا	مختواہ بطور عارضی ملازمت	زائد مختواہ بطور قائم مقام	میسوائے مختواہ دیگر	تاریخ تقرری	دستخط سرکاری ملازم	
		13-01	Rs. 2150/-	65	1100			
Keyoun Kayal			Rs. 2735/-			1 ¹² / ₀₆		
			<u>Revised 13-01 @ (2475-75-4725)</u>					
			Rs. 3150/-			1 ⁷ / ₀₇		
			Rs. 3225/-			1 ¹² / ₀₇		
			<u>Revised 13-01 @ (2970-90-5670)</u>					
			Rs. 3870/-			1 ⁷ / ₀₈		
			Rs. 3960/-			1 ¹² / ₀₈		
			Rs. 4080/-			1 ¹² / ₀₈		
			Rs. 4140/-			1 ¹² / ₂₀₀		
			<u>13 No-1 - Rs. (4800-150-9300)</u>					
				6750		1 ⁷ / ₂₀₁₁		
				6900		1 ¹² / ₂₀₁₁		

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9.	10.	11.	12.	13.	14.	15.	
Signature and designation of the Head of the Office or other attesting Officer in attestation of columns 1 to 8	Date of termination of appointment	Reason of termination (such as promotion, transfer, dismissal etc.)	Signature of the Head of the Office or other Attesting officer	Nature and duration of leave taken	Allocation of periods of leave of average pay up to four months (or earned leave not exceeding 120 days) to which leave salary is debitable to another Government	Signature of the Head of the office or other attesting Officer	Reference to any recorded punishment to censure, or reward, or praise of the Government servant
					چار ماہ تک کی رخصت کے لئے اوسط تنخواہ کا تعین Period عرصہ	Government to which debitable حکومت جسے رقم ادا کرنی	سزا یا جزا یا غیر مناسب کارکردگی کا ریکارڈ
D.D.O (M) Kohistan	30-6-07	S/A	D.D.O (M) Kohistan				
							UNDERTAKING
							I do hereby give an eye payment is made to me in fixation of BPS-01 Graded Pay with effect from 01.07.08
D.D.O (M) Kohistan	30-11-07	A/Gmc	D.D.O (M) Kohistan				I shall be recovered the over paid Amount From my pay/Pension/Gratuity.
D.D.O (M) Kohistan	30-6-08	S/P	D.D.O (M) Kohistan				Sig: _____ Official Concerned (Attested)
D.D.O (M) Kohistan	30-11-08	A/Gmc	D.D.O (M) Kohistan				DDO (Male) S&L Kohistan
D.D.O (M) Kohistan	30-11-08	A/Gmc	D.D.O (M) Kohistan				Tap: P-2 (8)
D.D.O (M) Kohistan	30-11-09	A/Gmc					Drawn arrears deft. of pay due to converted from Fixed to BPS-01 w.e.f 1-7-08 to 31-10-2009, vide T: NO. 57 dt. 3-11-2009, Rs. 14400/- vide T: NO. 57 dt. 3-11-09
	30-11-2010	A/Gmc					District Account Officer M. Kohistan 4/11/8
	6-30-2011	S/P					
	30-11-2011	A/Gmc					
	30-11-2012	A/Gmc					1-12-08 30-11-2011

Signature of Government servant

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