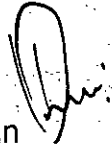


13.06.2019

Syed Numan Bakhari, Advocate for learned counsel for the appellant present.

Requests for adjournment as learned senior counsel for the appellant is not available due to some family engagement. Adjourned to 15.7.2019 before S.B.

Chairman



15.07.2019

Counsel for the appellant present.

Learned counsel for the appellant states that as the appellant has been reinstated into service he is under instructions to request for withdrawal of instant appeal.

Dismissed as withdrawn. File be consigned to record room.

Member

Chairman

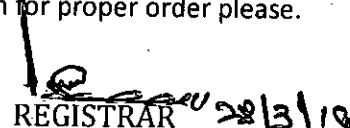
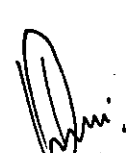



Announced:
15.07.2019

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 404/2019

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	28/03/2019	<p>The appeal of Qazi Muhammad Idrees presented today by Mr. Muhammad Asif Yousafzai 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 28/3/19</p>
2-	01/04/19	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>24/04/19</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
24.04.2019		<p>Counsel for the appellant present and seeks adjournment. Adjourned. Case to come up for preliminary hearing on <u>13.06.2019</u> before S.B.</p> <p style="text-align: right;"> (Ahmad Hassan) Member</p>

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

APPEAL NO. 404 /2019

Qari Muhammad Idrees

V/S

Education Deptt:

INDEX

S.NO.	DOCUMENTS	ANNEXURE	PAGE
1.	Memo of Appeal	-----	01-04
3.	Condonation application		05-06
4.	Copy of application	A	07
5.	Copy of judgment dt:03.05.2017	B	08-10
6.	Copy of judgment dt:30.11.2018	C	11-16
7.	Copy of removal order dt: 09-11-2016	D	17
8.	Copy of departmental appeal	E	18-19
10.	Vakalat Nama	-----	20

APPELLANT

THROUGH:

M. Asif

**M. ASIF YOUSAFZAI
ADVOCATE SUPREME COURT**

Taimur Ali Khan

**(TAIMUR ALI KHAN)
ADVOCATE HIGH COURT,**

Asad Mahmood

**ASAD MAHMOOD
(ADVOCATE HIGH COURT)**

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. 404 /2019

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 492

Dated 28/3/2019

Qari Muhammad Idress, Ex-Senior Qari (PBS-15)
GHS, Shanawori, Hangu.

(APPELLANT)

VERSUS

1. The Secretary (E&SE) KPK, Peshawar.
2. The Director (E&SE) KPK, Peshawar.
3. The District Education Officer (Male) Hangu.

(RESPONDENTS)

APPEAL UNDER SECTION 4 OF THE KPK SERVICE TRIBUNALS ACT, 1974 AGAINST THE ORDER DATED 09.11.2016, WHEREBY THE APPELLANT WAS REMOVED FROM SERVICE AND AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STIPULATED PERIOD OF NINETY DAYS.

Filed to-day

Registrar
28/3/19

PRAYER:

THAT ON THE ACCEPTANCE OF THIS APPEAL, THE ORDER DATED 09.11.2016 MAY KINDLY BE SET ASIDE AND THE APPELLANT MAY BE REINSTATED INTO SERVICE WITH ALL BACK AND CONSEQUENTIAL BENEFITS. ANY OTHER REMEDY, WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT, MAY ALSO, BE AWARDED IN FAVOUR OF APPELLANT.

RESPECTFULLY SHEWETH:

FACTS:

1. That the appellant was appointed on the post of Qari (BPS-07) in the year 2004 and with the passage of time promoted to the post of Senior

Qari (BPS-15) and since his appointment the appellant has performed his duty with great devotion and honesty whatsoever assigned to him.

2. That the appellant while working in the said capacity in GHS Shanawari being suspected on, was picked up/detained by law enforcing agency on 15.05.2015 and in this respect the mother of the appellant wrote application to respondent department on 07.06.2015 about the detainee of the appellant by the law enforcing agency and requested to retain him on his post till the conclusion of the issue of the appellant. It is pertinent to mentioned here that as per information of the appellant, the law enforcing agency also asked from Head Teacher of the concerned school in which the appellant was working about the appellant whether he was involved in any anti-state activities. **(copy of application is attached as Annexure-A)**
3. That the mother the appellant filed writ petition No.2208-P/2016 of Heabus Corpus to produce the appellant and during the proceeding of the case the Ministry of defence reported in the court that the appellant is interment Centre Alizai Thal Fort, on which the writ petition was infructuous on .03.05.2017. **(Copy of judgment dated 03.05.2017 is attached as Annexure-B)**
4. That the appellant was handed over to APA/ADM, Upper Kurram Parachinar on 0.11.2017, who was sentenced and convicted the appellant under section 121 (A)/122 PPC/11-FCR read with sections 17 Action(in Aid of civil powers) regulation 2011 and section 11 of FCR to undergo 14 years RI with fine amounting to Rs.50,000/-or in default of payment of fine, the accused shall suffer 06 months SI under section 121(A)/1223 PPC/11-FCR. The appellant then applied Commissioner FCR, Kohat Division, Kohat by filling case No.38/2018. The Commissioner FCR, Kohat Division Kohat after hearing the detail arguments decide the same vide its impugned judgment date 10.05.2018 with certain observation/directions. Then the appellant filed Writ Petition No.4833-P/2018 with the interim relief which was decide on 30.11.2018 which was allowed, set aside the conviction and sentenced awarded to the appellant. **(Copy of judgment dated 30.11.2018 is attached as annexure-C)**
5. That after acquittal the appellant went to office to join his duty, but he was informed that the department has removed him from the service vide order dated 09.11.2016 and handed over the removal order and within 30 days of his acquittal, he filed departmental appeal on 19.12.2018 and correspondence also made on the department on his departmental appeal, but was not responded within the stipulated period of ninety days. **(Copies of order dated 09.11.2016 and departmental appeal are attached as Annexure-D&E)**
6. That now the appellant has no other remedy except to file this service appeal in this august Service Tribunal on the following grounds amongst others.

0 GROUND:

- A) That the impugned order dated 09.11.2016 and not taking action on the departmental appeal of the appellant are against the law, facts, norms of justice and material on record, therefore not tenable and liable to be set aside.
- B) That regular inquiry was not conducted against the appellant to dig out the reality about the reason of the absence of the appellant and removed the appellant in slip shod manner which is violation of law and rules.
- C) That no charge sheet was communicated to the appellant before passing the impugned order of dismissal from service, which is violation of law and rules.
- D) That even the show cause notice was not issued to the appellant which is violation of law and rules.
- E) That no inquiry was conduct against the appellant to dig out the reality of the absence of the appellant and the authority did not mention any reason for dispense of inquiry which is violation rule 7 of E&D Rules 2011.
- F) That the mother of the appellant has filed application to respondent department about the picking up/detention of the appellant by law enforcing agency and requested him to retain him on his post till the conclusion of the matter, but the respondent responded deaf ear to that application and removed him from service on absence despite the fact the respondent department have knowledge about the issue of the appellant.
- G) That as per appellant information, the Head Teacher of the concerned school in which the appellant was performing his duty was also interrogated about the involvement of the appellant in anti-state activities by the law enforcing agency, which means that the high ups of the department knew about the detention of the appellant, but despite that the appellant was removed from the service on absence
- H) That the appellant was picked up/detained by the law enforcing agency on 15.05.2015 on being suspected and his case was pending before the court about which the mother of the appellant also informed the respondent department through filling application and as per CSR-194, the department should suspend the appellant till the conclusion of the case of the appellant, but the respondent department violated the CSR-194 by removing the appellant before the conclusion of his case.

- I) That as per information of the appellant, the teachers of the concerned school, whereby the appellant was teaching also went to Tall Qilla in the shape of Jarga to met with the high ups and requested them that the appellant is innocent person and not involved in any anti state activates, which show that his department was aware about the appellant issue but despite that he was removed from service on absence.
- J) That the appellant was removed from service on the basis of absence, but the appellant did not intentionally absent from his duty as he has picked-up/detained by the law enforcing agency on being suspected of his involvement in anti-state activities which was not proved against him and later on also acquitted by the Honourable Court, which means that the appellant did not intentionally remained from his duty, but due to the above reason, he did not perform his duty, therefore the impugned order is liable to be set aside.
- K) That the appellant did not commit any misconduct, but due the above mentioned reason the appellant was remain absent from his duty on which he removed from service which means that the appellant was removed from service on no fault on his part.
- L) That the penalty of removal from service is very harsh and imposed upon the appellant for no fault on his part, therefore, the same is not sustainable in the eyes of law and liable to be set aside.
- M) That the appellant has been condemned unheard and has not been treated according to law and rules.
- N) That the appellant seeks permission to advance others grounds and proofs at the time of hearing.

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


APPELLANT
 Qari Muhmmad Idress

THROUGH:


M. ASIF YOUSAFZAI
ADVOCATE SUPREME COURT


(TAIMUR ALI KHAN)
ADVOCATE HIGH COURT,


(ASAD MAHMOOD)
ADVOCATE HIGH COURT



BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

APPEAL NO. _____/2019

Qari Muhammad Idrees

V/S

Education Deptt:

.....
**APPLICATION FOR CONDONATION OF DELAY IN
THE INSTANT APPEAL ON THE BASIS OF
SUPREME COURT JUDGMENT REPORT AS 2010PLD
SC 695.**

RESPECTFULLY SHEWETH:

1. That the appellant instant appeal is pending before this Honourable Tribunal in which no date is fixed so for.
2. That the appellant was detained by the law enforcing agency on being suspected in his involvement in anti state activities due to which he was compel to remain absent from his duty and on that absence the appellant was removed from service vide order dated 09.11.2016 and at the time of removal from service the appellant was in the custody of law enforcing agency, but later on the appellant was proved innocent and also acquitted by the Honourable High Peshawar on 30.11.2018 and after acquittal he filed departmental appeal on 19.12.2018 within 30 days of his acquittal and as per Supreme Court Judgment report as 2010 PLD SC 695, the appeal is not time barred if departmental appeal was filed within thirty days of acquittal, which means that as per cited judgment the instant is not time barred and the instant appeal may kindly be decide on merit as the appellant has good prime facie case.
3. That the august Supreme Court of Pakistan has held that decision on merit should be encouraged rather than knocking-out the litigants on technicalities including limitation. Therefore, appeal needs to be decided on merit (2003, PLD (SC) 724).

It is therefore most humbly prayed that the instant appeal may be decided on merit on the basis above mentioned judgment to meet the ends of justice.

[Signature]
APPELLANT

THROUGH:

[Signature]
M. ASIF YOUSAFZAI
ADVOCATE SUPREME COURT

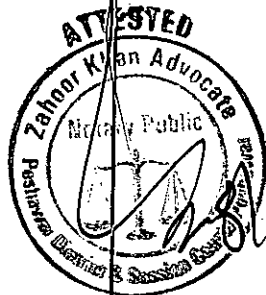
[Signature]
(TAIMUR ALI KHAN)
ADVOCATE HIGH COURT,

& *[Signature]*
(ASAD MAHMOOD)
ADVOCATE HIGH COURT

AFFIDAVIT

It is affirmed and declared that the contents of application are true and correct to the best of my knowledge and belief.

[Signature]
DEPONENT



محمدت جناب دسترک ایجوکیشن ایڈیٹر ضلع منگو (مردانہ)
جناب عالی

گزارش یہاں ہے کہ میرا بیٹا ماری محمد اور
دلرہ ماری بہتیا گل 15/5/2015 پر آرٹس والوں
نے سٹک سے بنا دیہ گرنٹار کیا ہے۔ الزسٹی لیشن لپی
یو جیو گیو کر رہے ہیں اب صاحبان کو آگاہ کرتے
ہیں کہ میرے بیٹے یعنی ماری محمد اور لپی سے سروس بحال فرما کر
مشکو فرمائیں۔ اور اللہ تعالیٰ آپ کو لوں کو اجر
عظیم عطا فرمائیں

الکھنڈ
15/5/2015

القاری

تاریخ 15/5/2015

ایک دوسرے دائرہ ماری محمد اور لپی مریاب

ATTACHED

De

B 8
A

BEFORE THE HONORABLE PESHAWAR HIGH COURT
PESHAWAR

In the matter
W.P. No. 2208 P /2016

Mst. Nasira D/o Sijjad Ahmad wife of Muhammad Idrees (Detenue)
R/O Chowk Ghari Khana Inside Lahori Gate
At present Dalazak Road Peshawar
..... Petitioner

Versus

1. Federation of Pakistan
Through Secretary Ministry of Defense Rawalpindi
2. Director I.S.I. Islamabad
3. D.G. M.I. GHQ Rawalpindi
4. Commandant Army Check post at Kohat Tunnel
5. Commandant Thall Fort

..... Respondents

FILED TODAY

Deputy Registrar

06 JUN 2016

WRIT PETITION UNDER ARTICLE 199 OF THE CONSTITUTION OF
ISLAMIC REPUBLIC OF PAKISTAN, 1973

Respectfully Sheweth:

The petitioner submits as under:-

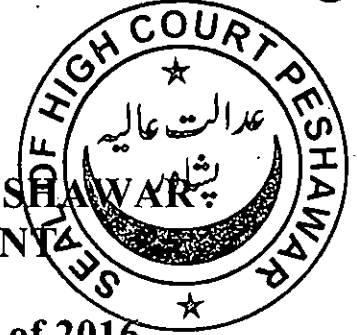
ATTESTED
EXAMINER
Peshawar High Court

1. That petitioner is law abiding lady residing at the above address and belongs to a very respectful family of the locality and the wife of detenue.

2. That the detenue namely Muhammad Idrees s/o Hameesh Gul R/o Village Narah Takrib District Muzaffargarh at present Dalazak

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JUDGMENT SHEET
PESHAWAR HIGH COURT, PESHAWAR
JUDICIAL DEPARTMENT



Writ Petition (HCP) No.2208-P of 2016

JUDGMENT

Date of hearing.....03-05-2017.....

Petitioner: (Mst.Nasira) by Mr.Tahir Sadiq Butt, Advocate.

Respondents:(Federation of Pakistan and others) by M/s
Musarrat Ullah Khan, DAG and Waqar
Ahmad Khan, AAG alongwith Saleem
Muhammad, Director, Legal Cell, Home
Department/Focal Person for Provincial and
Federal Governments.

YAHYA AFRIDI, C.J.- Mst.Nasira, petitioner

seeks the constitutional jurisdiction of this Court
praying that:-

“It is, therefore, prayed that by accepting this petition the respondents/respondent No.5 may please be directed to either produce the detinue before any competent authority or Court of law and the impugned act of the respondents of keeping the detinue in illegal confinement may be declared as illegal and without lawful authority or the detinue be set at liberty after production before this Honourable Court. Any other remedy deemed proper and just in the circumstances of the case may also be extended in favour of the petitioner.”

ATTESTED
EXAMINER
Peshawar High Court

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2. In essence, the present petitioner is seeking the issuance of a writ of *habeas corpus* to produce Muhammad Idrees son of Hameesh Gul.

3. Muhammad Idrees, as per report of the Ministry of Defence, is interned in Internment Center, Alizai Thal Fort.

4. In the circumstances, present petition has become infructuous. However, before parting with this judgment it would be in the interest of justice to ensure that Muhammad Idrees, the *internee* be provided visitation rights to meet his family members and all other facilities, available to the *internee* under the Actions (in Aid of Civil Power) Regulation, 2011, ("Regulation"). In case, *internee* intends to further proceed in the matter and challenge his very detention under the Regulation, he would then have to invoke separate appropriate proceedings.

This writ petition is disposed of, accordingly.

Sd/- Judge Azeed-CT

Dt. 03-05-2017.

CHIEF JUSTICE

Sd/- Rosh ul-Amin-J

JUDGE

F. Jan/*

CERTIFIED TO BE TRUE COPY

EXAMINER
Peshawar High Court, Peshawar
Authorized Under Article 47 of
The Qanun-e-Shahadat Order 1984

28 MAR 2019

12953

No.

Date of Presentation of Application..... 28/3/19

No of Pages.....

Copying Fee.....

Urgent Fee.....

Total..... 200

Date of Preparation of Copy..... 28/3/19

Date of Delivery of Copy..... 28/3/19

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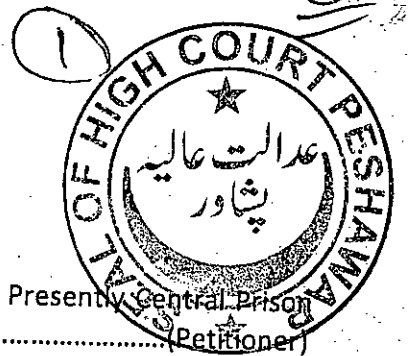
[Signature]

CLERK TO BE TRUE COPY

RECEIVED
28 MAR 2019

BEFORE THE PESHAWAR HIGH COURT, PESHAWAR

Writ Petition No. _____ / 2018



Muhammad Idress S/O Haji Hamish Gul R/O Naryab District Hangu Presently Central Prison Bannu.....
(Petitioner)

VERSUS

1. The State through Assistant Commissioner/ADM Upper Kurram
2. The Commissioner Kohat.....(Respondent)

Charge: - U/S 121/121-A/122 PPC and 11/40 FCR
Read with 17 Action (in aid of Civil Power) Regulations 2011

WRIT PETITION UNDER ARTICLE 199 OF THE CONSTITUTION OF ISLAMIC REPUBLIC OF PAKISTAN 1973 AS AMENDED UP TO DATE.

PRAYERS:-

TO DECLARE IMPUGNED CONVICTION ORDER DATED NIL OF APA/ADM UPPER KURRAM & COMMISSIONER FCR KOHAT DATED 10-05-2018 AS ILLEGAL, NULL AND VOID AND TO ACQUIT THE PETITIONER OF THE CHARGES LEVELED AGAINST HIM AND SET HIM AT LIBERTY.

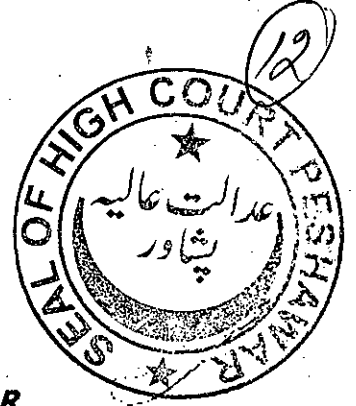
Respectfully Sheweth, Most humbly submitted;

FACTS:-

1. That the Petitioner has been convicted illegally, wrongfully against law and Rewaj and has been committed to central prison Bannu on 20-11-2017. (Copy of Impugned order is Annexure "A")
2. That the petitioner is peaceful citizen and had never been indulge in any criminal activity or any anti-State activities.
3. That the convict / petitioner was taken into custody by Armed Forces from settled area of District Kohat near Tunnel tool plaza, on 15 May 2015, only for the reason that petitioner was suspect.
4. That the petitioner has never been produced before any court of law nor he was ever informed any charge against him.

ATTESTED
EXAMINER
Peshawar High Court
17 JAN 2019

Continue on page "2"



Judgment Sheet

IN THE PESHAWAR HIGH COURT, PESHAWAR.
JUDICIAL DEPARTMENT.

JUDGMENT

W.P. No. 4833-P/2018 with IR.

Date of hearing 30.11.2018.

**Muhammad Idrees versus State through Assistant
Commissioner/ADM, Upper Kurram etc.**

Petitioner by Mr. Saeed Shah Bokhari, advocate.

State by Mr. Kamran Hayat, AAG.

WAQAR AHMAD SETH CJ:- Through the instant constitutional petition filed under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973, petitioner prayed that;-

"On acceptance of this writ petition to declare impugned conviction order dated nil of APA/ADM Upper Kurram & Commissioner FCR Kohat dated 10.05.2018 as illegal, void ab-initio and to acquit the petitioner of the charges leveled against him and set him at liberty."

2. Brief facts of the case as per record are that petitioner being suspected on, was picked up/detained by law enforcing agency on **15.05.2015**, but without registration of case, and was confined illegally. Later on was handed over to **APA/ADM, Upper Kurram Parachinar on 03.11.2017**, who sentenced & convicted the petitioner under sections **121(A)/122 PPC/11-FCR** read with section 17 Action (In Aid of Civil Powers) Regulation 2011 and section 11 of FCR, to undergo 14 years RI with a fine amounting to Rs. 50,000/- or in default of payment of fine, the accused shall further to suffer 06 months SI under section **121(A)/1223 PPC/11-FCR**. Petitioner applied before

Aamir Bashir Awan, Senior Court Secretary. (SB). Hon'ble Mr. Justice Waqar Ahmad Seth, Chief Justice.

SCANNED

ATTESTED
EXAMINER
Peshawar High Court
17 JAN 2019

Commissioner FCR, Kohat Division, Kohat by filing Case No 38/2018. Learned Commissioner, FCR, Kohat Division, Kohat after hearing the detail arguments decided the same vide its **impugned judgment dated 10.05.2018** with certain observations/directions. The same can be glanced in the below lines;-

"This Court came to the conclusion that the Assistant Political Agent/Additional District Magistrate, Upper Kurram has not used judicious mind while passing the order. Hence, the case is remanded back to the trial Court with the direction to look into the matter and strictly decide the case as per provision of FCR/Rewaj within stipulated time."

Hence the instant writ petition.

3. Respondents were put on notice with the direction to produce the record as well.
4. We have heard learned counsel for the petitioner, learned AAG for the State and perused the available record anxiously with their able assistance.
5. Perusal of record reveals that on the recommendations of Law Enforcing Agency, **Assistant Political Agent/Additional District Magistrate, Upper Kurram, Parachinar**, vide its order dated NIL sentenced the petitioner to **undergo 14 years RI with a fine amounting to Rs. 50,000/- or in default of payment of fine, the accused shall further to suffer 06 months SI under section 121(A)/1223 PPC/11-FCR vide order.**
6. For ready reference section 11 FCR is reproduced;-

"Criminal Reference to Council of Elders- - -

- i. Whenever an offence, of which the Political Agent or District Coordination

Aamir Bashir Awan, Senior Court Secretary. (SB). Hon'ble Mr. Justice Waqar Ahmad Seth, Chief Justice.

ATTESTED
EXAMINER
Peshawar High Court
1 JAN 2019

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Officer is competent to take cognizance under this Regulation, is committed, the case shall be registered and the accused shall be produced before the Assistant Political Agent concerned within twenty four hours of the arrest of the accused excluding the time necessary for the journey from the place of arrest to the Assistant Political Agent having jurisdiction. The Political Agent or District Coordination Officer as the case may be, shall make an order in writing referring the question for finding of guilty or innocence of any person or persons accused of any offence or offences, to the Council of Elders for its findings who after holding necessary inquiry and hearing the parties and witnesses, submit its findings to the Political Agent or District Coordination Officer as the case may be. The Political Agent or District Coordination Officer, as the case may be, shall appoint the members of the Council of Elders within ten days from the date of arrest of the accused and shall require the Council of Elders to submit its findings on the question referred to within ninety days.

- ii. Where a reference to the Council of Elders is made under sub section (1) and the members of the Council have been nominated by the Political Agent or District Coordination Officer, as the case may be, the names of the members so nominated be communicated to the accused and the complainant, and any objection taken thereto by any of the parties, shall be recorded. The Political Agent or the District Coordination Officer, as the case may be, shall dispose of the



Aamir Bashir Awan, Senior Court Secretary. (SB). Hon'ble Mr. Justice Waqar Ahmed Seth, Chief Justice.

ATTESTED
EXAMINER
Peshawar High Court
17 JAN 2019

objections after hearing the parties and the reasons thereof be recorded and appoint the members of the Council accordingly.

- iii. On receipt of the findings of the Council of Elders, the Political Agent or the District Coordination Officer, as the case may be, by recording his reasons may,
 - (a) pass an order in accordance with the findings of the majority of the Council of Elders; or
 - (b) Remand the case to the Council of Elders for further inquiry and findings.
- (4) No person shall be prosecuted or punished for the same offence more than once.

7. Against the above said conviction and sentence, convict/petitioner, filed revision petition before **Commissioner FCR, Kohat Division, Kohat**, which was disposed of vide order dated 10.05.2018 cited above.

8. Record further reveals that convict, was apprehended by **Law Enforcing Agency deployed in the vicinity** by imposing rigorous imprisonment. The convict/detenué was handed over to **Political Administration, Upper Kurram**. Furthermore, the charge so framed against the convict by the Agency endorsed/solicited by the Assistant Political Agent, Upper Kurram, Parachinar, which on the face of record, negates the stance as alleged. Perusal of record reveals that petitioner was apprehended only being suspected and involved in anti-state activities. We are afraid that the same cannot be made base for awarding such punishment without having any cogent or reliable circumstantial or documentary proof. The entire record scrutinized with the help of learned AAG, but, nothing

Aamir Bashir Awan, Senior Court Secretary, (SB), Hon'ble Mr. Justice Waqar Ahmad Seth, Chief Justice.

ATTESTED
 EXAMINER
 Peshawar High Court
 17 JAN 2019

convincing was brought on record to suggest the direct involvement of convict so leveled against him.

9. Further more perusal of impugned order of **Commissioner FCR, Kohat Division, Kohat dated 10.05.2018**, it divulge that directions was issued to Political Administration to look into the matter and strictly decide the case as per provision of FCR/Rewaj within stipulated time. However, the accused will remain in Jail till final decision of the case, but, till date no progress surfaced, whatsoever, against the petitioner, what to say about its fate. When in the matter if any doubt arises, benefit of the same must goes to the accused being favorite child of law.

10. For the reasons recorded hereinabove, we while allowing this constitutional petition set aside the conviction and sentenced, so awarded to convict/petitioner. He be released forthwith, if not required in any other case, however, he shall execute a bond with sureties to the satisfaction of trial Court for keeping peace and good behavior in the area in future, at the time of his release.

11. Above are the reasons of our short order of even date.


CHIEF JUSTICE

SCANNED

ANNOUNCED
30.11.2018



CERTIFIED TO BE TRUE COPY
EXAMINER
Peshawar High Court, Peshawar
Authorised Under Article 87 of
The Qanun-e-Shahadat Order 1984
17 JAN 2019

No. 2106
Date of Presentation of Application 17/01/19
No of Pages 11-1
Copying Fee
Urgent Fee 1
Total Re 44/-
Date of Preparation of Copy 17/01/19
Date of Delivery of Copy 17/01/19
Received By Mohammed Adrees

(REGISTERED)



OFFICE OF THE DISTRICT EDUCATION OFFICER
MALE DISTRICT HANGU

No. 1437

Dated 09/11/2016

D 17

To

The Mr. Muhammad Idress Qari
GHS, Shanawori Hangu, Mohallah Matinee village & P/O Naryab, Teh. Thall & Dist. Hangu.

Subject: REMOVAL FROM SERVICE
Memo;

You Mr. The Mr. Muhammad Idress Qari GHS, Shanawori Hangu., have remained willful absent since 10/10/2015.

Pursuance to E&D rules 2011, Khyber PakhtunKhwa Section 5. sub-section (a), You being accused of long absence were served 3 show cause notices vide this office letter no. 4245 dated 12/12/2015, 4432 dated 30/12/2015, and no. 5432 dated 13/02/2016 with register letter no. 630 dated 14/12/2015, no. 1376 dated 04/01/2016 and no. 835 dated 16/02/2016 respectively, but you, Mr. Muhammad Idress GHS, Shanawori Hangu, did not bother to reply.

Under section no. 7 of the above quoted E&D rules 2011 through newspaper (Daily Mashriq) dated 22/10/2016, you were directed to attend the office of undersigned in person within 15 days of the issuance of this notice, to explain with cogent reason of your willful absence but you failed to obey.

Keeping in view the above, I, Muhammad Shaukat District Education Officer (Male) by the powers conferred under E&D rules 2011, Khyber PakhtunKhwa, issue the order of you, Mr. Muhammad Idress Qari GHS, Shanawori Hangu, Removal from service forthwith.

Recovery of illegal drawn if any is also ordered.

Necessary entries must be made in the relevant record.

Removal from Service must be published in Newspaper for public information.

(MUHAMMAD SHOUKAT)
DISTRICT EDUCATION OFFICER
MALE HANGU

No: _____

Dated: _____ 2016

Copy to:

1. Deputy Commissioner Hangu
2. District Nazim Hangu
3. Head Master GHS Torawori Hangu
4. EMIS Local office Hangu
5. IMU Office Hangu
6. Office Copy

DISTRICT EDUCATION OFFICER
MALE HANGU.

ATTACHED

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E (18)

To:
The Director,
E & SE, KPK,
Peshawar.


Subject: Re-instatement of service against the post of Qari

Sir,

With due respect it is stated that:-

- 1) I was serving on qari post in E & SE department at Govt High School Shna Wari Naryab Hangu.
- 2) On 15/05/2015, I was taken/detained by army personal at Kohat tunnel check post. (Copy attached)
- 3) During my detention, I have informed my department. (Copy attached)
- 4) Later on I was terminated/removal from service by the DEO(M) Hangu vide notification No: 1437 dated 09/11/2016. (Copy attached)
- 5) My case was trailed in honorable High Court Peshawar. (Copy attached)
- 6) The honorable high court acquitted me from all charges leveled against me. (Copy attached)
- 7) It is therefore now requested that I may kindly be re-instated along with all back benefits.

Yours Obediently,


Qari Muhammad Idriss
GHS Shna Wari, Distt Hangu
Date: 19/12/2018

Copy to:

- 1) DEO (M) Distt Hangu
- 2) Principal/Head Master GHS Shna Wari



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

No. 12/15 /F.No.A-10/Vol:1/
PST(M)Peshawar.
Dated Peshawar the 4/7 /2019.

To,

The District Education Officer (M)
Hangu.

Subject:- **DEPARTMENTAL APPEAL.**

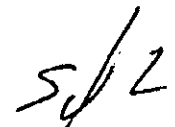
Memo:-

I am directed to refer to the subject cited above and to enclose herewith a copy of appeal in respect of Qari Muhammad Idress GHS Shna Wari District Hangu and to ask you to submit detail report/comments within a week time.


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

Endst: No. _____ /

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


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

ATTACHED
