

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

Appeal No. 961/2015

Date of Institution ... 25.8.2015

Date of Decision ... 02.08.2017

Mr. Muhammad Shabbir Son of Muhammad Nazir,
Ex-Naib Qasid, Govt. Middle School,
Garhi Mumtaz, Peshawar.

... (Appellant)

VERSUS

1. The District Education Officer(Male) (E&SE) Department Peshawar.
2. The Deputy District Education Officer (Male), (E&SE) Department Peshawar.
3. The Director (E&SE) Department, Khyber Pakhtunkhwa Peshawar.
4. The Secretary, (E&SE) Department, Khyber Pakhtunkhwa

... (Respondents)

MR. KHUSH DIL KHAN,
Advocate

For appellant.

MR. Adeel Butt,
Addl: Advocate General

...

For respondents.

MR. GUL ZEB KHAN
MR. MUHAMMAD HAMID MUGHAL

...

MEMBER

...

MEMBER

JUDGMENT

GUL ZEB KHAN, MEMBER. - This judgment shall dispose of the aforesaid Appeal as well as the connected Service Appeal No. 962/2015 titled "Jehanzeb Khan Versus District Education Officer (Male) (E&SE) Department Peshawar & Others" as similar question of law and facts are involved in both the appeals.

2. The aforesaid appeal dated 25/8/2015 has been lodged by Mr. Muhammad Shabbir, ex-Naib Qasid hereinafter referred to as appellant, under Section-4 of Khyber Pakhtunkhwa Service Tribunal Act 1974, wherein he has impugned the order dated 9/6/2014 vide which appellant was awarded major penalty of Removal from Service. The appellant filed departmental appeal against the impugned order on 15/5/2015 which was not disposed of within statutory period of ninety days and hence this appeal.

3. Brief facts of the case giving rise to the instant appeal are that the appellant joined Education Department as Naib Qasid on 5/11/2012. He joined duty after fulfilment of all the requisite formalities. That since then, appellant was performing his duties regularly to the entire satisfaction and during this period, no complaint whatsoever was made about his alleged absence to any quarter by any authority. Similarly, he was regularly paid salary without any break. That all of a sudden, his monthly salary was stopped without any notice and reason, so he submitted applications to higher authorities for release of salary but no action was taken thereon. Thereafter he filed a Writ Petition No. 1511-P/2014 titled "Muhammad Shabbir and others versus The Secretary Govt. of Khyber Pakhtunkhwa Elementary and Secondary Education Peshawar and other", in response to which, the respondents filed parawise comments with document pertaining to disciplinary action and removal of the appellant from service. That for the first time, appellant came to know about the disciplinary proceedings conducted against him by the respondents on false charge of absence culminating, in the impugned order dated 9/6/2014 of removal of the appellant from service, when relevant documents as referred above were filed by respondents in the Peshawar High Court. Hence in view of this scenario, the appellant withdrew his writ petition vide order sheet dated 22/4/2015. Thereafter the appellant filed departmental appeal before the respondent No. 3, but the same was not disposed of within statutory period of ninety days. Hence the instant appeal.

3. Learned counsel for the appellant argued at the bar that mandatory provisions of law and rules have badly been violated by the respondents and the appellant has not been treated according to law and rules. That neither any notice was issued directly to the appellant nor on his proper home address as required under Rule-9 of the E&D Rules 2011 nor any chance of personal hearing/defense was given to him before passing the impugned order and that no regular enquiry was conducted by the respondent-department which was mandatory requirement of the law while awarding such major punishment. That since the impugned order is illegal and without any justification, hence the same be set-aside. In this respect, the learned counsel relied on citation (b) Interpretation of statutes as contained in

2001 PLC (CS) 771 titled "Abdul Bashir and 9 Others Versus Govt of Baluchistan through Chief Secretary and 3 Others".

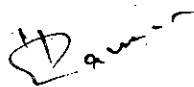
4. In rebuttal, learned Government Pleader argued before the court that since the appellant has willfully absented himself without any leave, hence he was rightly proceeded against and removed from service vide impugned order dated 9/6/2014. Relying on 2002 SCMR 1004 titled "Pakistan International Airlines Corporation versus Captain MSK Lodhi ... Respondents" the learned Government Pleader contended that the instant appeal is badly time barred and without any substance, hence may be dismissed with cost.

5. We have heard arguments of learned counsel for the appellant and learned Government Pleader for the respondents and have gone through the record available on file.

6. Perusal of record revealed that no opportunity of personal hearing or self-defense during the course of departmental proceedings were provided to the appellant. The respondents could not produce any documentary proof in the shape of a letter bearing registered acknowledgment-due at home address of the appellant which was mandatory under the rules. In view of the above discussion the impugned order is set-aside and the appellant is reinstated in service. The respondents are at liberty to conduct denovo inquiry within a period of 90 days from the receipt of this judgment, in the mode and manner prescribed in the rules fully associating the appellant with the inquiry proceedings. The issue of back benefits shall be subject to the outcome of the de-novo inquiry. In case inquiry is not conducted within the stipulated period, the appellant shall be deemed to have been reinstated in service from the date of dismissal from service and the absence period shall be treated as leave of the kind due. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED

02.08.2017



(Muhammad Hamid Mughal)
MEMBER


(Gul Zeb Khan)
MEMBER

2/8/2017

Counsel for the appellant and Addl:
Advocate General for the respondents present.
Arguments heard and record perused.

Vide our detailed judgment of today placed on file. The impugned order is set-aside and the appellant is reinstated in service. The respondents are at liberty to conduct denovo inquiry within a period of 90 days from the receipt of this judgment, in the mode and manner prescribed in the rules fully associating the appellant with the inquiry proceedings. The issue of back benefits shall be subject to the outcome of the de-novo inquiry. In case inquiry is not conducted within the stipulated period, the appellant shall be deemed to have been reinstated in service from the date of dismissal from service and the absence period shall be treated as leave of the kind due. Parties are left to bear their own costs. File be consigned to the record room. Parties, are however, left to bear their own costs file be consigned to the record.

ANNOUNCED

2/8/2017



(Muhammad Hamid Mughal)

MEMBER


(Gul Zeb Khan)
MEMBER

07.02.2017

Ms. Amber, Advocate, junior to counsel for the appellant and Addl. AG for respondents present, Learned Addl. AG requested for adjournment. Request accepted. To come up for arguments on 07.04.2017 before D.B.


(ASHFAQUE TAJ)
MEMBER


(MUHAMMAD AAMIR NAZIR)
MEMBER

07.04.2017

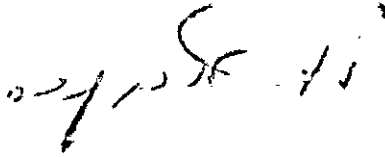
Counsel for the appellant and Addl. AG for the respondents present. Counsel for the appellant requested for adjournment. To come up for final hearing for 02.08.2017 before D.B.


Member


Chairman

21.03.2016

Appellant in person, M/S Raham Taj, ADO, Hameed-ur-Rehman, AD (lit.) and Khurshid Khan, SO alongwith Addl: A.G for respondents present. Written statement by respondents No. 1, 3 and 4 submitted. The learned Addl: AG relies on the same on behalf of respondent No. 2. The appeal is assigned to D.B for rejoinder and final hearing for 30.6.2016.



Chairman

30.6.2016

Junior to counsel for the appellant and Mr. Muhammad Jan, GP for respondents present. Junior to counsel for the appellant requested for time to file rejoinder. Request accepted. To come up for rejoinder and arguments on 28.9.16.



Member



Member

28.09.2016

Agent to counsel for the appellant and Mr. Muhammad Jan, GP for respondents present. Rejoinder submitted and requested for adjournment. To come up for arguments on 7.2.2017 before D.B.



Member



Chairman

27.08.2015

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant was serving as Naib Qasid when subjected to inquiry on the allegations of wilful absence from duty and removed from service vide impugned order dated 9.6.2013. That the same came into the notice of appellant during the proceedings in Writ Petition preferred by the appellant before the High Court and then withdrawn on 22.4.2015 where-after he preferred departmental appeal on 15.5.2015 followed by service appeal on 25.8.2015.

That the impugned order was passed by an incompetent authority as DEO was not competent authority in the case of appellant and, moreover, the provisions of Rule-9 of E & D Rules, 2011 were not complied with.

Points urged need consideration. Admit. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply/comments for 26.11.2015 before S.B.


Chairman

26.11.2015

Appellant in person, M/S Hameed-ur-Rehman, AD (lit.) and Khurshid Khan, SO alongwith Addl: A.G for respondents present. Requested for adjournment. To come up for written reply/comments on 21.3.2016 before S.B.


Chairman

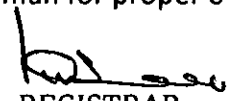

Appellant Deposited
Security & Process Fee



Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 961/2015

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	25.08.2015	<p>The appeal of Mr. Muhammad Shabir presented today by Mr. Khushdil Khan Advocate may be entered in the Institution register and put up to the Worthy Chairman for proper order.</p> <p style="text-align: right;">  REGISTRAR- </p>
2	25-8-15	<p>This case is entrusted to S. Bench for preliminary hearing to be put up thereon <u>22-8-15</u></p> <p style="text-align: right;">  CHAIRMAN </p>

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Service Appeal No. 961 / of 2015

Muhammad Shabbir
Ex. Naib Qasid...

Appellant

VERSUS

The DEO (Male) Peshawar and others

Respondents

S.No	Description of documents	Date	Annexure	Page
1.	Memo of Service Appeal			1-6
2.	Application for Condonation with Affidavit			7-8
3.	Copy of Appointment order of appellant	5.11.2012	A	9-11
4.	Extracts of Service Book with related papers		B	12-18
5.	Copy of Application for releasing the monthly salaries		C	0-19
6.	Copy of Writ Petition No. 1511-P of 2014	13.5.2014	D	20-27
7.	Copy of Parawise comments of respondent No.1		E	28-31
8.	Copy of letter addressed to Head Master, GPS/GMS Garhi Mumtaz Peshawar with copy of the Show Cause Notice	31.12.2013	F	32-33
9.	Copy of Extracts of Newspapers	23.5.2014	G	0-34
10.	Copy of impugned order thereby appellant was removed from service	9.6.2014	H	0-35
11.	Copy of Order Sheet thereby appellant Withdrawn Writ Petition No. 1511-P/2014	22.4.2015	I	0-36
12.	Copy of Departmental Appeal with Registered Post Receipt with Application for Condonation of Delay	15.5.2015	J	37-39
13.	Vakalat Nama			

Appellant.

Through:

(Khush Dil Khan)

Advocate

Supreme Court of Pakistan

9-B, Haroon Mansion

Khyber Bazar Peshawar

Cell # 0300-5887691

Dated: **22**08.2015

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Service Appeal No. 961 / of 2015

Muhammad Shabbir
son of Muhammad Nazir, Ex. Naib Qasid,
Government Middle School Garhi Mumtaz
Resident of Mohallah Burhan Khel
Village Badaber, Tehsil and District Peshawar...

... Appellant

VERSUS

1. The District Education Officer (Male)
Elementary and Secondary Education
Department, Peshawar.
2. The Deputy District Education Officer (Male),
Elementary and Secondary Education
Department, Peshawar.
3. The Director,
Elementary and Secondary Education Department,
Khyber Pakhtunkhwa, Peshawar.
4. The Secretary,
Government of Khyber Pakhtunkhwa,
Elementary and Secondary Education
Department, Peshawar... ..

K.W.F. Province
Service Tribunal
Diary No. 1003
dated 25-8-2015

... Respondents

APPEAL UNDER SECTION 4 OF KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT
1974 AGAINST THE IMPUGNED ORDER
DATED 9.6.2014 (ANNEX: H) THEREBY
APPELLANT WAS REMOVED FROM
SERVICE AGAINST WHICH HE FILED
DEPARTMENTAL APPEAL ON 15.5.2015
(ANNEX: J) UNDER REGISTERED POST IN
VIEW OF ORDER OF THE HONOURABLE
PESHAWAR HIGH COURT PESHAWAR
VIDE ORDER SHEET DATED 22.4.2015

Qasid
Registrar
25/8/15

(ANNEX: I). THE DEPARTMENTAL APPEAL
WAS NOT DISPOSED OF WITHIN
STATUTORY PERIOD OF NINETY DAYS.

Respectfully Sheweth:

1. That appellant was appointed as Naib Qasid against the newly created post on the eve of upgradation of Government Primary* School to Government Middle School Garhi Mumtaz, Mera Badaber District Peshawar vide order dated 5.11.2012. He joined the duty after completing all the requisite formalities including Medical Fitness Certificate. Respondent No.1 also maintained his Service Book therein necessary entries have been made from time to time. (Copies of appointment order as annexed "A" and Extracts of Service Book as annexed "B").
2. That since then, appellant was performing his duties regularly to the entire satisfaction of Head Master concerned and during this period no complaint whatever was made about his alleged absence to any quarter by any authority. Similarly he was regularly paid monthly salaries without any break.
3. That all of sudden, the monthly salaries of appellant and others Class-IV were stopped without any notice and reason, so individually every aggrieved Class-IV including appellant filed applications to higher authorities for release of their monthly salaries but no action was taken thereon, hence they filed a Writ Petition No. 1511-P/2014 titled **"Muhammad Shabbir and others Versus The Secretary, Government of Khyber Pakhtunkhwa Elementary and Secondary Education Peshawar and others"** thereto respondent No.1 filed Parawise comments on behalf of respondents No.1 to 4 with documents pertaining to disciplinary action and order of removal of appellant from service. (Copies of application as annexed "C", Writ Petition 1511-P/2014 annexed "D", Parawise comments of respondent No.1 annexed "E", letter dated 31.12.2013 with Show Cause Notice

annexed "F", Extracts of Newspapers annexed 'G' and impugned order of removal from service dated 9.6.2014 as annexed "H".

4. That for the first time, appellant came to know about the disciplinary proceedings conducted against him on the false charge of absence culminating in the impugned order of removal of appellant from service when the relevant documents as referred above were filed by respondent No.1 with its Parawise comments, hence in view of this scenario he withdrew his writ petition which was allowed accordingly vide order sheet dated 22.4.2015. (Copy of order sheet as annexed "I").
5. That after obtaining attested copy of the order of the High Court dated 22.4.2015, the appellant filed Departmental Appeal with condonation application before the respondent No.3 under Registered Post on 15.5.2015 but same was not disposed of within statutory period of Ninety days. (Copy of Departmental Appeal with Postal Receipt as annexed "J").

**Hence the present appeal is submitted
on the following grounds:-**

- a. That appellant has never remained absent from his duty and he regularly performed his duties punctually and without any complaint but respondent No.1 in connivance with respondent No.2 has malafidely stopped the salaries of appellant and others Class-IV being appointees of the previous government and they were politically victimized which is unfair and unjust.
- b. That when the appellant and others Class-IV approached to Honourable Peshawar High Court Peshawar through Writ Petition No. 1511-P/2014 then the respondent No.1 released the monthly salaries to other petitioners except the appellant and one Jehanzeb Khan and their salaries were not released without cogent reasons and thus appellant was discriminated.

- c. That when respondent No.1 filed Parawise comments to above referred Writ Petition, for the first time it brought the alleged documents pertaining to disciplinary proceedings conducted against the appellant at his back in clandestine manner. Earlier appellant was never intimated through any source. Hence the alleged proceedings are illegal, without lawful authority and of no legal effect liable to be set aside.
- d. That the charge of alleged absence against the appellant is baseless, frivolous, tainted with malafide intentions to remove him from service under the influence of political entity which is not sustainable under the law and rules on subject.
- e. That the Head Master of the School concerned is immediate boss of the appellant under whom supervision he was performing his duty and he is responsible for his any irregularity but during this entire period, the Head Master has never made any complaint against him to any authority. Thus under such circumstances, the impugned action of respondent No.1 is unjustified and having no legal sanctity and liable to be set aside being malafide.
- f. That respondent No.1 acted in excess of his power and authority and unlawfully charged the appellant of alleged absence without solid evidence based on documents and carried out the proceedings at the back of appellant. The letter dated 31.12.2013 with the copy of Show Cause Notice addressed to Head Master GPS/GMS Garhi Mumtaz Peshawar was never communicated under Registered Post to appellant nor he was served personally by the Head Master concerned, even the address of the School is also incorrect and incomplete which is not sufficient for proper service under the Rules.
- g. That earlier no notice or explanation was called from appellant regarding the alleged absence and malafidely concealed the

proceedings from him for ulterior motive although on stoppage of his monthly salary he submitted application for its release and even he personally visited the office of respondent No.1 and requested him for the release of his salaries but he evaded him on one pretext or other but at that moment he never disclosed the alleged proceedings carried out against him purposely.

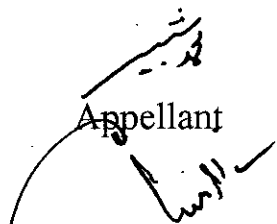
- h. That under the Rule 9 of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011 in case of willful absence from duty by a government servant for seven or more days, a notice shall be issued by the competent authority through Registered Acknowledgment on his home address directing him to resume duty within fifteen days of issuance of the notice. In the case of appellant no such notice was issued by respondent No.1 through Registered Acknowledgment on his home address. Thus the action taken by the respondent No.1 resulted the impugned order of removal of appellant from service is illegal, without lawful authority, void ab initia, being violative of the mandatory provision of the above referred rules and liable to be set aside.
- i. That appellant is an illiterate person belongs to a backward area namely BURHAN KHEL DEHRAI 2 Kilometers away from main Village Badaber where the Newspapers are not delivered and used by the people of area, therefore, appellant had no knowledge about the alleged notices published in the Daily Mashriq Peshawar dated 23.5.2014 and in other paper but it is irony that appellant used to visit the office of respondent No.1 during this period for releasing his salaries even then he was not informed about the impugned proceedings against him and malafidely concealed the facts from him with ulterior motive which is unfair, unjust and not warranted by law and rules on subject.

- j. That the impugned order dated 9.6.2014 whereby appellant was removed from service was not signed by respondent No.1 rather the same was signed by the respondent No.2 who is not the competent authority in the case of appellant, therefore, the impugned order is incompetent, having no legal sanctity being unsigned by the respondent No.1, hence void ab initio, of no legal effect and inoperative against the rights of appellant and liable to be set aside.
- k. That the impugned order has been passed at the back of appellant and he was condemned unheard without providing a proper opportunity of defence, thus the impugned order is illegal, without lawful authority being violative of principle of natural justice and liable to be set aside.
- l. That respondent No.3 acted in arbitrary manner and not considered the departmental appeal of appellant as required by law and rules on subject rather same was kept pending without cogent reason, which is unfair and unjust.

It is, therefore, humbly prayed that on acceptance of this \Service Appeal the impugned order dated 9.6.2014 may kindly be set aside and appellant may graciously be reinstated in service from due date (13.12.2013) with all back benefits.

Dated: 27.08.2015

Through:

Appellant

(Khush Dil Khan)
Advocate
Supreme Court of Pakistan

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Service Appeal No. _____ / of 2015

Muhammad Shabbir
Ex. Naib Qasid... .. Applicant

VERSUS

The DEO (Male) Peshawar and others Respondents

APPLICATION FOR CONDONATION OF DELAY IN
FILING THE ACCOMPANYING APPEAL, IF ANY

Respectfully Sheweth:-

1. That the above titled Service Appeal is being filed today which is yet to be fixed for hearing.
2. That the impugned order dated 9.6.2013 passed by respondent No.1 has never communicated to appellant through any source nor was any notice issued to him before passing the said order. For the first time, appellant came to know about the impugned order when respondent No.1 filed the same with its comments before the Honourable Peshawar High Court Peshawar.
3. That respondent No.1 has malafidely and deliberately concealed the alleged disciplinary proceedings and passing the impugned order from the knowledge of appellant in order to defeat the rights of appellant, which is an illegal act and appellant should not be suffered for the act of respondent No.1.
4. That appellant has acted vigilantly and timely filed departmental appeal under Registered Post to respondent No.3 after obtaining the attested copy of the order sheet dated 22.4.2015 of the Peshawar High Court Peshawar and then timely filed this Appeal after completing the

statutory period of Ninety days of the Departmental Appeal before respondent No.1.

- 5. That the delay, if any, caused due to non communication of impugned order to appellant under Registered Post or otherwise, moreover, earlier no notice was given to appellant nor informed him about taking any adverse action against him. Thus the delay, if any, is not intentionally rather the same was due to lack of knowledge.

It is, therefore, humbly prayed that on acceptance of this application, the delay, if any, in filing of this appeal may graciously be condoned in the interest of justice and the main appeal may kindly be decided on merit.

Applicant

Through:

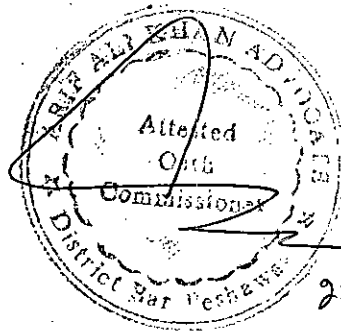
(Khush Dil Khan)
Advocate
Supreme Court of Pakistan

Dated: 22.08.2015

AFFIDAVIT

I, Muhammad Shabbir son of Muhammad Nazir, Ex-Naib Qasid, resident of Mohallah Burhan Khel, Village Badaber District Peshawar, do hereby solemnly affirm and declare on Oath that the contents of this application are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Tribunal

Deponent



25/8/2015



**EXECUTIVE DISTRICT OFFICER ELEMENTARY & SECONDARY
EDUCATION PESHAWAR**

Annex: A. P. 9

NOTIFICATION:-

Consequent upon the approval of the District Selection Committee the Competent Authority is pleased to appoint the following candidates under the deceased employee sons quota / newly created posts of Class-IV on regular basis (Non Pensionable) in BPS-01 of the Basic Pay Scale (Rs.4800-150-9300) plus usual allowances as admissible under the rules at the school noted against their names on the below terms & conditions with effect from the date of taking over charge.

S#	Name of candidates / Father Name & Address	Designation	Appointed at	Remarks
<u>DECEASED QUOTA</u>				
1.	Mst. Rameem Begum W/O M. Ilyas (Ex N/Q)	Caller	GGHSS B.S. D Peshawar	Against Vacant Post
2	Mst. Noor Jehan W/O Zaman Gul (Ex CT)	Lab: Attendant	GGHSS Hayat Abad Peshawar	Against Vacant Post
3	Mr. Asad Akbar S/O Fazal Akbar (Ex Chowkidar)	Chowkidar	GGPS Faqir Abad Peshawar	Against Vacant Post
4	Mr. Taimur Khan S/O Wisal Khan (Ex N/Q)	Naib Qasid	GHS Civil Quarters Peshawar	Against Vacant Post
<u>FRESH CANDIDATES</u>				
1	Mr. Abdul Jabbar S/O Jamil Khan	Chowkidar	GGHS Khwaida Khel (Badber) Peshawar	Against Newly Created Post
2.	Mst. Nageena Riaz W/O Muhammad Riaz	Lab: Attendant	GGHS Khwaida Khel (Badber) Peshawar	Against Newly Created Post
3	Mr. Muhammad Riaz S/O Muhammad Akram	Naib Qasid	GGHS Khwaida Khel (Badber) Peshawar	Against Newly Created Post
4	Mst. Shabnum W/O Pervez Latif	Sweeper	GGHS Khwaida Khel (Badber) Peshawar	Against Newly Created Post
5	Mst. Roheena W/O Irfanullah	Lab: Attendant	GGHS Surizai Bala Peshawar	Against Vacant Post
6	Mr. Muhammad Nabi S/O Abdul Malik	Chowkidar	GGHS Surizai Payan Peshawar	Against Newly Created Post
7	Mst. Rasheeda Bano D/O Waseem Gul	Lab: Attendant	GGHS Surizai Payan Peshawar	Against Newly Created Post
8	Mr. Farman Shah S/O Mutahir Shah	Naib Qasid	GGHS Surizai Payan Peshawar	Against Newly Created Post
9	Mst. Azhara W/O Saleem Masih	Sweeper	GGHS Surizai Payan Peshawar	Against Newly Created Post
10	Mr. Mashal Khan S/O Hazrat Gul	Sweeper	GGMS Gul Abad Peshawar	Against Newly Created Post
11	Mr. Zia Ur Rahman S/O Gul Zameer	Naib Qasid	GGMS Gul Faam Killi Peshawar	Against Newly Created Post
12	Mr. Zahoor Ahmad S/O Abdul Munaf	Naib Qasid	GGMS Jatti Bala Peshawar	Against Newly Created Post
13	Mr. Ibadullah S/O Shahzad Gul	Sweeper	GGMS Jatti Bala Peshawar	Against Newly Created Post
14	Mr. Fayaz Khalil S/O Zakir Ullah	Naib Qasid	GGMS Landi Akhoun- Ahmad Peshawar	Against Newly Created Post
15	Mst. Abida Bibi D/O Khush Rung	Sweeper	GGMS Landi Akhoun Ahmad Peshawar	Against Newly Created Post
16	Mr. Muhammad Asif S/O Muhammad Ayaz	Chowkidar	GGPS Ayaz Koroona Peshawar	Against Newly Created Post
17	Mr. Fazal Munir S/O	Chowkidar	GGPS Behlol Zai Ghari	Against Newly

S#	Name of candidates / Father Name & Address	Designation	Appointed at	Remarks
	Ibrahim Khan		Shah Muhammad Peshawar	Created Post
18	Mr. Itbar Shah S/O Abdullah Shah	Chowkidar	GGPS Hastam Khan Koroona Peshawar	Against Newly Created Post
19	Mr. Afrad Khan S/O Abdul Qayum	Chowkidar	GGPS Masho Khel (Tamar Khel) Peshawar	Against Newly Created Post
20	Mr. Fazal Rahman S/O Abdur Rahman	Chowkidar	GGPS Umeed Abad No.2 Peshawar	Against Newly Created Post
21	Mr. Majid Ur Rahman S/O Alam Khan	Chowkidar	GGPS Umar Abad Peshawar	Against Newly Created Post
22	Mr. S. Miskeen Shah S/O Mehraban Shah	Naib Qasid	GMS Budhai Peshawar	Against Newly Created Post
23	Mr. Jamil Ur Rahman S/O Sher Ali Khan	Sweeper	GMS Budhai Peshawar	Against Newly Created Post
24	Mr. Muhammad Shabir S/O Muhammad Nazir	Naib Qasid	GMS Ghari Mumtaz Peshawar	Against Newly Created Post
25	Mr. Jehanzeb Khan S/O Mir Akbar	Sweeper	GMS Ghari Mumtaz Peshawar	Against Newly Created Post
26	Mr. Niaz Ali Khan S/O Muhammad Ayub	Naib Qasid	GMS Phando Peshawar	Against Newly Created Post
27	Mr. Salman Khan S/O Nabi Khan	Sweeper	GMS Phando Peshawar	Against Newly Created Post
28	Mr. Abdur Rauf S/O Abdul Wahab	Chowkidar	GPS Mirza Killi Peshawar	Against Newly Created Post
29	Mr. Asim Ullah S/O Nasrullah Khan	Chowkidar	GPS Nasrullah Koroona (Mera Badber) Peshawar	Against Newly Created Post
30	Mr. Hashmat Khan S/O Agha Jan	Chowkidar	GPS Tor Gul Killi Peshawar	Against Newly Created Post
31	Mr. Ikram Ullah S/O Khalil Ur Rahman	Chowkidar	GPS Urmar Miana (Ghari Khalil Jan) Peshawar	Against Newly Created Post

TERMS & CONDITIONS:-

- 1 They will be governed by such rules and regulation as may be prescribed by the Govt: from time to time for category of Government servants to which they belong.
- 2 In case of resignation prior notice of one month should be given by the officials concerned otherwise one month pay and allowances will be forfeited in lieu thereof.
- 3 Their appointment is purely temporary and will be terminated at any time with any notice.
- 4 Their service will be liable to termination / reversion at any stage if their NIC / Domicile etc testimonial found fake. FIR will be lodged against the accused.
- 5 They should take over charge of their posts with in one month after the issue of this notification / order.
- 6 Charge report should be submitted to all concerned.
- 7 No TA / DA allowed.

ATTESTED

P. 11

8 They will produce health and age certificate from the concerned civil surgeon.

Note:- THEIR APPOINTMENT ORDERS SHALL BE VERIFIED BY THE CONCERN DRAWING AND DISBURSING OFFICERS PERSONALLY FROM THE OFFICE OF THE EDO (E & SE) PESHAWAR BEFORE HANDING OVER CHARGE TO THE OFFICIALS.

(SHARIF GUL)
EXECUTIVE DISTRICT OFFICER
(E & S) EDUCATION PESHAWAR

Endst: No. 5708-55 /File C-IV Appointments/DSC Dated 05/11/2012.

Copy forwarded for information and necessary action to the:-

1. District Accounts Officer Peshawar.
2. District Coordination Officer City District Govt: Peshawar.
- 3-4 District Officer (Male & Female) Peshawar.
- 5-6 DDO (Male & Female) Primary Peshawar.
- 7 Headmasters / Headmistress Concerned.
- 8 Supdt: Estab: Local office Peshawar.
- 9 Assistant Programmer DEMIS Local Office.
10. P.A to E D O (E & S.Edu) Peshawar.
- 11-46 Officials concerned.


DISTRICT OFFICER (MALE)
(E&S) EDUCATION PESHAWAR


ATTESTED

Note:- The entries in this page should be renewed or re-attested at least every five years and the signature to lines 9 and 10 should be dated.

1. Name: MOHAMMAD SHABIR

2. Race: _____

3. Residence: Mohalla Buxran Khail Daulty Dera Bada Bair Peshawar

4. Father's name and residence: _____

Mohammad Nazir

5. Date of birth by Christian era as nearly as can be ascertained:

01-04-1980

6. Exact height by measurement:

5-6"

7. Personal marks for identification: _____

8. Left hand thumb and finger impression of (Non-Gazetted) officer:

Little Finger



Ring Finger



Middle Finger



Fore Finger



Thumb



9. Signature of Government Servant: _____

10. Signature and designation of the Head of the Office, or other Attesting Officer.

[Handwritten Signature]
D. S. (M)
E&S Edu: Peshawar

ATTESTED

GOVERNMENT OF PAKISTAN
 ACCOUNTANT GENERAL KHYBER PAKHTUNKHWA
 DISTRICT Peshawar Dist.
 PAY ROLL SYSTEM

PAYMENT ADVICE

P Sec: 003 Month: August 2013
 PR7069 - District Officer (M) Sc
 Min: Education Schools
 NTN:
 GPF #:
 Old #:

PRIS

Emps #: 00693866 Buckle:
 Name: MUHAMMAD SHABIR
 Reg: NAIB GASID
 CNIC No. 1730114148305

DEPT CODE PR7069 -

GPF Interest Free
 BPS 01 Active Temporary

DEPT CODE PR7069 -

PAYS AND ALLOWANCES:

0001-Basic Pay	4,800.00
1001-House Rent Allowance 45%	1,336.00
1210-Convey Allowance 2005	1,700.00
1300-Medical Allowance	1,000.00
211B-Adhoc Relief Allow (2012)	960.00
2148-15% Adhoc Relief All-2013	720.00

Gross Pay and Allowances 10,516.00

DEDUCTIONS:

GPF Balance 2,308.00	Subrc:	212.00
3501-Benevolent Fund		120.00
3511-Addl Group Insurance		3.00
3604-Group Insurance		58.00
3990-Emp. Edu. Fund KPK		50.00

ATTESTED

Total Deductions 448.00

NET AMOUNT PAYABLE 10,073.00

QUALIFYING SERVICE

YRS MON
 00 Years 09 Months

D.O.B
 01.04.1980
 26 Days

LFP Quota:
 Payment through DDO.

GOVERNMENT OF PAKISTAN
 ACCOUNTANT GENERAL KHYBER PAKHTUNKHWA
 DISTRICT Peshawar Dist.

P-16

P. Sec: 003
 PW6017 - DISTRICT OFFICER (M)

PAY ROLL SYSTEM
 P. Sec: 003
 Name: MUHAMMAD SHABIR
 Dsg: NAIB QASID
 CNIC No. 1730114148305
 GPF Interest Free

PAYMENT ADVICE 13
 P. Sec: 003
 PW6017 - DISTRICT OFFICER (M)
 Hq: Education Schools
 NTN:
 GPF #:
 Old #:

DEPTT CODE PW6017 -

GROSS PAY AND ALLOWANCES:	
0001-Basic Pay	4,800.00
1001-House Rent Allowance 45%	1,335.00
1210-Convey Allowance 2005	1,700.00
1300-Medical Allowance	1,000.00
2110-Adhoc Relief Allow (2012)	960.00
Gross Pay and Allowances	9,795.00
DEDUCTIONS:	
GPF Balance 424.00	424.00
3501-Benevolent Fund	120.00
3511-Addl Group Insurance	3.00
3604-Group Insurance	58.00
3990-Emp. Edu. Fund KPK	50.00
Total Deductions	648.00
NET AMOUNT PAYABLE	9,147.00

ATTESTED

Subrc:

QUALIFYING SERVICE
 YRS MON
 00 Years 00 Months 029 Days

D. D. B
 01.04.1980

LFP Quota:
 Payment through DDD.

P-17
[Handwritten signature]



MUHAMMAD SHABIR,
MOHALLAH BURHAN KHEL BADA BHER
PESHAWAR
PESHAWAR 25000
KHYBER PAKHTOONKIWA PAKISTAN
03035869845

PK0010051 Branch Name: BHANA MARI; PESHAWAR
Statement Period: 01 JUL 2013 TO 15 APR 2014
Account Number: 0010007664100012
Account Status: Regular
Pakistan Rupee
BALANCE AT PERIOD START : 97.28

DATE	PARTICULARS	VALUE DATE	DEBITS	CREDITS	BALANCE
31 DEC 13	Profit	01 JAN 14		3.11	100.39
02 JAN 14	Online Transfer SALARY	02 JAN 14		10,275.00	10,375.39
07 JAN 14	ATM Cash Withdrawal 192758	07 JAN 14	10,000.00		375.39
08 JAN 14	Transfer	08 JAN 14		100.00	475.39
08 JAN 14	Transfer	08 JAN 14	100.00		375.39
03 FEB 14	Online Transfer SALARY	03 FEB 14		10,275.00	10,650.39
04 FEB 14	ATM Cash Withdrawal 536889	04 FEB 14	10,000.00		650.39
03 MAR 14	Online Transfer SALARY	03 MAR 14		10,275.00	10,925.39
04 MAR 14	FED on ATM Charges AC-PL52736	04 MAR 14	80.00		10,845.39
04 MAR 14	ATM Card Annual Charges	04 MAR 14	500.00		10,345.39
04 MAR 14	1-Link Mnet Withdrawal Charges AC-PKR1446400010051	04 MAR 14	17.40		10,327.99
04 MAR 14	ATM Cash Withdrawal 706782	04 MAR 14	10,000.00		327.99
TOTAL DEBIT / CREDIT			10,697.40	10,928.11	
CLOSING BALANCE					327.99
TOTAL WITHHOLDING TAX DEDUCTED					0.00

[Handwritten signature]
ALLIED BANK LTD.
PESHAWAR (PK051)

[Handwritten signature]
ATTESTED

*REVE- Reversal Entry
This is a computer-generated statement, issued without any alteration, and does not require any signature.

my to
exam
ENT
R18

MEDICAL CERTIFICATE

Name of official Muhammad Shabir

Caste or race Mughal

Father's name Muhammad Akbar

Residence R/o Badliya Tola, Dist. Patna

Date of birth 01-4-1978

Exact height by measurement 5-6

Personal mark of identification _____

Signature of the official [Signature]

Signature of head of office _____

VAC 6/9
6/9 with glasses

ENT exam: No abnormality seen [Signature]

[Signature]

Seal of office _____

I do hereby certify that I have examined Mr. Muhammad Shabir a candidate for employment in the Office of the Education Dept and cannot discover that he had any disease communicable or other constitutional affection or bodily infirmity except Vision 6/9, 6/9 c bin eye

I do not consider this as disqualification for employment in the office of the _____ His age according to his own statement 32 year and by appearance about year thirty two

[Signature]
MEDICAL SUPERINTENDENT, 07/11/12

CIVIL HOSPITAL _____

07/11/12

ATTESTED

LEFT HAND THUMB AND FINGER IMPRESSIONS

خدمت جناب ڈسٹرکٹ ایجوکیشن آفیسر (مردان) ضلع شیخوپورہ

Annex C

12 19 درخواست نمبر ادا ایلی تنخواہ از دسمبر 2013 تا حال

جناب عاطف

گزارش ہے کہ سائل ایسا فریب خاندان سے تعلق رکھتا ہے مردان
5 نومبر 2012 کو سائل کثیت نائب قاعدہ گورنمنٹ مڈل سکول گھڑی
ہفتا ہفتا میں اپنے خسر الفتن ماہر خان یا دو دان ملاصت سائل کو
تنخواہ باقاعدگی سے ملتی رہی لیکن اچانک دسمبر 2013 کو سائل
کی ماہوار تنخواہ بند ہوئی جو بلا وجہ سے منسوخ ہوا ہے
کہ سرفراز خان بیٹی ڈسٹرکٹ آفیسر پشاور کی زبان آہنے
پر سائل کی تنخواہ بندی گئی جو ایک غیر قانونی فعل ہے
آمدنی ٹھہری عدم دستیابی کی وجہ سے سائل اور خاندان ناقہ کتنی
کے عام سے دوچار ہے اس سے پہلے بھی سائل نے کئی
درخواست جمع کئے ہیں لیکن کوئی عمل دارآمد نہیں ہوا

عین وزارت بیوی

محمد شبیر ولد محمد نذیر نائب قاعدہ گورنمنٹ مڈل سکول گھڑی ہفتا
بڑھو پشاور

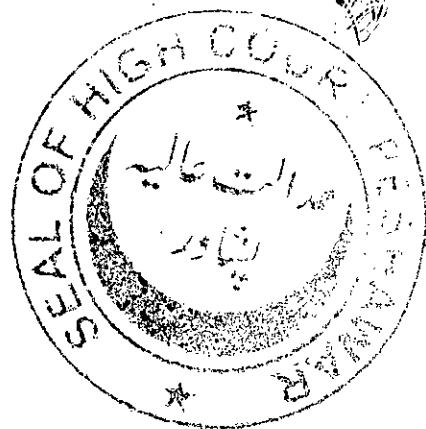
ATTESTED

Annex: "D"

IN THE PESHAWAR HIGH COURT PESHAWAR P-20

15/11/14

WRIT PETITION No. _____/2014



1. Muhammad Shabir S/o Muhammad Nazir,
Naib Qasid,
GMS, Ghari Mumtaz Peshawar.
2. Jehanzeb Khan S/o Mir Akbar,
Sweeper,
GMS Ghari Mumtaz, Peshawar.
3. Zarman Khan S/o Gul Zaman,
Chowkidar,
GPS No.2 Adezai Peshawar.
4. Habibullah S/o Zala Khan,
Chowkidar,
GPS, Mera Hassan Khel, Peshawar.
5. Hafiz Muhammad Shah Room S/o Abdul Quddus,
Chowkidar,
GPS, Badaber, Peshawar.
6. Ilyas Ahmed Khan S/o Sarwar Khan,
Chowkidar,
GPS, Badaber, Peshawar.....Petitioners

Versus

1. The Secretary,
Govt: of Khyber Pakhtunkhwa,
Elementary & Secondary Education Department,
Peshawar.
2. The Director,
Elementary & Secondary Education Department,
Khyber Pakhtunkhwa, Peshawar.
3. The District Education Officer (M),
Elementary & Secondary Education Department,
District Peshawar.
4. Deputy District Education Officer (M),
Office of the District Education Officer (M),
Elementary & Secondary Education Department,
District Peshawar.....Respondents

~~ATTESTED~~
EXAMINED
Peshawar High Court
13 MAY 2015

RECEIVED TODAY
Deputy Registrar
16 MAY 2014

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

Respectfully Sheweth,

The brief facts giving rise to the present petition are as under:-

1. That petitioners have been appointed as Class-IV employees against the posts of Naib Qasid, Sweeper and Chowkidar on regular basis from their respective dates of appointment i.e. 05.11.2012, 07.06.2010, 21.01.2011 and 04.09.2000 after observing all codal formalities and posted in Government Primary/Middle Schools, District Peshawar. In pursuance of their orders of appointment they assumed the charges of their duties at respective places of posting after completing the requisite formalities including Medical Fitness Certificates. The Respondent No.3 also maintained their service books and necessary entries have been made therein from time to time. Since then they are performing their duties regularly, continuously and without any complaint. Copies of appointment orders and other necessary documents of each petitioner are attached as Annex: A, B, C and D.

That petitioners were regularly being paid monthly salaries with all admissible allowances since their dates of assumption of their respective duties. The annual increments were also granted, the entries of which were made from time to time in their Service Books but all of sudden, their monthly salaries were stopped since December, 2013 without cogent reasons on the query from the concerned local circle offices, they were informed that the Respondent No.4 has verbally instructed the circle offices regarding the stoppage of their salaries which has been stopped accordingly. The petitioners approached to Respondent No.3 through their written applications requesting for releasing their monthly salaries but the same remained unattended.

3. The petitioners being aggrieved of such illegal act of the Respondents No.3 & 4 and finding no adequate and efficacious remedy are constrained to file this petition on the following amongst other grounds:

Grounds:

- A. That the stoppage of monthly salaries of petitioners by Respondent No.4 are unjustified, illegal and violative of their fundamental rights guaranteed under chapter I of part II of the Constitution, 1973.
- B. That Respondents have not treated petitioners in accordance with law and rules on subject and malafidely stopped the salaries of petitioners without cogent reason which is unjust, unfair and not sustainable under the law.

FILED TODAY
Deputy Registrar
13 MAY 2014

ATTESTED
EXAMINER
Peshawar High Court
13 MAY 2015

- C. That Respondent No.4 has purposely stopped the salaries of petitioners for ulterior motive and to victimize them for political motives as the petitioners are the appointees of previous government while the Respondent No.4 is a local officer belongs to the area of petitioners whose posting as Deputy District Officer (M), Peshawar was made under the political influence of the present PTI government. It is pertinent to mention that his present posting as Deputy District Officer (M), Peshawar is against the law and rules on subject because the post of Deputy District Officer (M) Peshawar is of management cadre while he belongs to teaching cadre and illegally holding the post of Deputy District Officer (M) Peshawar and as such all his orders have no legal effect and sanctity.
- D. That the petitioners have been condemn unheard neither any impugned order was communicated to petitioners nor any notice was given to them. Therefore Respondent No.4 acted in arbitrary manner and such act is violative of principle of natural justice.
- E. That Respondent No.3 has also not acted in according to law and rules on subject and kept pending the applications of petitioners without any action and response malafidely.
- F. That the petitioners are still performing their respective duties at their respective places of duty and in such situation non-payment of salaries to them is against the Islamic Law which had envisaged payment of wages before sweat of toil was dried up and performance under such circumstances is amounting to forced labour which was forbidden by Article 11 of the Constitution, 1973.
- G. That the petitioners are low paid employees of Class-IV category and due to this unlawful act of stoppage of their salaries, they and their families are facing starvation for no fault of them which is not permissible under any law of the land.

It is therefore, humbly prayed that on acceptance of this petition, this Hon'ble Court may be pleased to:-

- (i) **Declare** the act of Respondent No.3 & 4 as unconstitutional, illegal, without lawful authority, malafide and against the principle of natural justice.

FILED TODAY
Deputy Registrar
13 MAY 2014

ATTESTED
EXAMINER
Peshawar High Court

13 MAY 2014

- (ii) **Direct** the Respondent No.3 & 4 to release the monthly salaries of the petitioners immediately and to pay the arrears of unpaid months with all admissible allowances. **Further direct** the Respondent No.3 & 4 for granting due annual increments and necessary entries be made in their Service Books.
- (iii) Any other relief as deemed appropriate in the circumstances of case not specifically asked for, may also be granted to petitioners.

Interim Relief

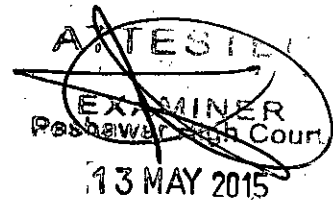
That petitioners are still performing their duties regularly so Respondent No.3 & 4 may graciously be directed to pay the salaries of the current month and onward to save the petitioners and their families from starvation.

Through


Petitioners

Khush Dil Khan
Advocate,
Supreme Court of Pakistan

Dated: 10 / 05 / 2014



FILED TODAY
Deputy Registrar
13 MAY 2014

CERTIFICATE

Certified on instruction that petitioners have not previously moved this Hon'ble Court under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973 regarding present matter.

Khush Dil Khan
Advocate, Peshawar.

List of Books

1. The Constitution of the Islamic Republic of Pakistan, 1973.
2. Services Law.

NOTE

1. Three spare copies of the Writ Petition are enclosed in a separate file cover.
2. Memo of addresses is also attached.

Khush Dil Khan
Advocate, Peshawar.



FILED TODAY
Deputy Registrar
13 MAY 2014

IN THE PESHAWAR HIGH COURT PESHAWAR

W.P. No. 1511-1 /2014

17

Muhammad Shabir and othersPetitioners

Versus

The Secretary, Govt: of KP,
Elementary & Secondary Education
Department and others.....Respondents

Affidavit

I, Muhammad Shabir S/o Muhammad Nazir, Naib Qasid at GMS,
Ghari Mumtaz Peshawar, (Petitioner No.1) do hereby solemnly
affirm and declare on oath that the contents of this petition are true
and correct to the best of my knowledge, and nothing has been
concealed from this Hon'ble Court.

[Signature]

Deponent

17351, 14148305

Identified by
[Signature]
Khush Dil Khan
Advocate, Peshawar

..... <u>11641</u>
certified that the above was verified on solemnly affirmation before me in office, this <u>12th</u> day of <u>May</u> 20 <u>14</u> by <u>Muhammad Shabir</u> <u>Muhammad Nazir</u> to <u>Pesh</u> who was identified by <u>Khush Dil Khan Adv</u> who is personally known to me: <u>[Signature]</u> Oath Commissioner Peshawar High Court, Peshawar

~~ATTEST
EXAMINER
Peshawar High Court
13 MAY 2014~~

FILED TODAY
Deputy Registrar
13 MAY 2014

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IN THE PESHAWAR HIGH COURT, PESHAWAR.

W.P. No. 1511-P 2014

Muhammad Shabir and othersPetitioners

Versus

The Secretary, Govt: of KP,
Elementary & Secondary Education
Department and others.....Respondents

Addresses of Parties.

1. Muhammad Shabir S/o Muhammad Nazir,
Naib Qasid,
GMS, Ghari Mumtaz Peshawar.
2. Jehanzeb Khan S/o Mir Akbar,
Sweeper,
GMS Ghari Mumtaz, Peshawar.
3. Zarman Khan S/o Gul Zaman,
Chowkidar,
GPS No.2 Adezai Peshawar.
4. Habibullah S/o Zala Khan,
Chowkidar,
GPS, Mera Hassan Khel, Peshawar.
5. Hafiz Muhammad Shah Room S/o Abdul Quddus,
Chowkidar,
GPS, Badaber, PeshawarPetitioners

Versus

1. The Secretary,
Govt: of Khyber Pakhtunkhwa,
Elementary & Secondary Education Department,
Peshawar.
2. The Director,
Elementary & Secondary Education Department,
Khyber Pakhtunkhwa, Peshawar.
3. The District Education Officer (M),
Elementary & Secondary Education Department,
District Peshawar.

FILED TODAY
Deputy Registrar
13 MAY 2014

~~ATTESTED~~
~~EXAMINER~~
~~Peshawar High Court~~
13 MAY 2015

4. Deputy District Education Officer (M),
Office of the District Education Officer (M),
Elementary & Secondary Education Department,
District Peshawar..... Respondents

14

[Signature]
Petitioners

Through

Khush Dil Khan
Advocate,
Supreme Court of Pakistan

Dated: 10 / 05 / 2014

~~REGISTERED~~
EXAMINER
Peshawar High Court
13 MAY 2014

FILED TODAY
[Signature]
13 MAY 2014

Annex-^{"E"}
P-28

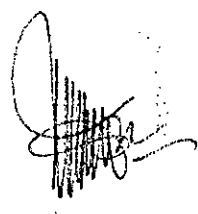
BEFORE THE PESHAWAR HIGH COURT PESHAWAR

WRIT PETITION, NO. 1511-P/2014

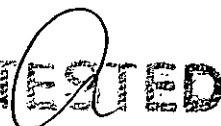
Muhammad Shabbir Vs Secretary E&SED KPK
Peshawar & others

Index Sheet

S.No.	Description of Documents	Annexures	Page No.
1	Para wise Comments	---	1,2 & 3
2	Show Cause Notice, Press publication, Removal Order	A, B & C	4,5,6
3	Show Cause Notice, Press publication, Removal Order	D, E & F	7,8,9
4	Request for Inquiry	G	10
5	Affidavit	---	11



DISTRICT EDUCATION OFFICER,
(MALE) PESHAWAR


ATTESTED

P-1
P-29

BEFORE THE PESHAWAR HIGH COURT PESHAWAR

WRIT PETITION. NO. 1511-P/2014

Muhammad Shabbir

Vs

Secretary E&SED KPK Peshawar &
others

Para wise comments on and for behalf of respondents No. 1- 4

Respectfully sheweth:-

The respondents submit as under:-

Preliminary Objections:

1. That the petitioners have got no cause of action / locus standi
2. That the petitioners have concealed material facts from this honourable court.
3. That the petitioners have not come to this honourable court with clean hands.
4. That the petitioners are not entitled for the relief they have claimed.
5. That the petitioners are estopped by their own conduct.
6. That the instant petition is against the relevant service rules / law.
7. This honourable court has got no jurisdiction under article 212 of 1973 constitution to entertain the instant petition.
8. That the instant petition is badly time bard and is not maintainable in its present form.
9. That the petitioners have been found guilty by the competent authority.
10. That the instant petition is based on malafide intentions just to put extra ordinary pressures on the respondents for their illegal and un-lawful service benefits.

On Facts

1. That Para-1 correct up to the extent that the petitioners have been appointed against various posts in the respondent's department, whereas the rest of para regarding their performance of official duty with regularity is incorrect and denied to the extent that.
 - a. The petitioner No.1 nameiy Muhammad Shabbir, Naib Qasid, of GMS Garhi Mumtaz District Peshawar has been found absent from his official duty w.e.f 13-12-2013, hence he was proceeded against the Govt. of Khyber Pakhtunkhwa E&D rules 2011 on charges of his wilful absence from his official duty w.e.f 13-12-2011, hence he was served a show cause notice No. 11068 dated: 31-12-2013, but no reply of the said show cause notice has been submitted by the

accused official, then he was served a final show cause notice in the dailies Mashriq & Express Peshawar dated: 22-05-2014 and 23-05-2014 but he remained absent and did not report for duty, hence he was remove from service vide notification No 3994-4000 dated 09/06/2014 by the respondent No 3 (copies of the referred documents are attached as annexures A.B & C)

b. Similarly the petitioner No.2 namely Jehanzeb Khan Sweepr, GMS Garhi Mumtaz District Peshawar was found absent from his official duty w.e.f 13-12-2013 as reported by the Dy: DEO (Male) Peshawar, hence he was served a show cause notice No. 11069 dated: 31-12-2013 but no reply to said show cause notice was submitted by the said official, hence a final show cause notice dated: 04-07-2014 was also served upon the said official in the dailies Mashriq & Aaj Peshawar. But again he didn't report for duty, hence he was removed from service vide notification No. 8317-23 dated: 24-07-2014 by the respondent No.3 (Copies of the said documents are annexers D,E,F.)

c. That the petitioner No.3 Muhammad Zaman was appointed vide order dated: 07-06-2010 and was adjusted at GPS No.2 Adezai as an land owner / donator as per his claim but has been found absent from his official duty as well as 2 class - IV on one post at the said school, hence his salary has been stopped by the SDEO (Male) Primary Peshawar and the matter for further guidance has been referred to the respondent No.2 vide office memo dated: 10-02-2014 by the respondent No.3 on the report of SDEO (Male) Peshawar which is still awaited.

d. That the petitioner No. 4 namely Habibullah S/o Zala Khan and Hafiz Muhammad Shah Room (Petitioner No.5) and Ilyas Ahmad (Petitioner No.6) have been appointed from January 2009 to March 2012 by the then SDEO (M) Primary Peshawar in violation of recruitment policy on a post where already a class-iv was working, hence the present SDEO (M) Peshawar vide his office Memo no. / 447 dated: 25-01-214 has referred the matter of adjustment of these chowkidars / class-iv in the office of the DEO (M) Peshawar, hence the respondent No.3 has referred this matter to respondent no.2 for further guidance vide office Memo dated: 10-02-2014 which is still awaited to be replied, hence their monthly salaries against their respective posts have been stopped by the concerned DDO (Ann - G.)

ATTESTED

2. That Para-2 is incorrect and denied, detail reply has been given in para-1, hence no comments.

P-3

P-31

3. That Para-3 is legal, however the respondents submit on the following grounds inter alia.

GRUNDS

- A. That ground-A is incorrect and misleading, the act of the respondents is in accordance with law, rules & policy.
- B. That ground-B needs no comments, reply to this ground has already been given in Para-1
- C. That ground-C is incorrect and misleading. Reply to this para has been given in para-1, hence no comments.
- D. That ground-D is also needs no comments; detail reply of this para has been given in Para-1
- E. That ground-E is also incorrect and denied; hence no comments.
- F. That ground-F is incorrect; the petitioners have been found guilty on the charges as are mentioned in para-1 by the respondent no.3 and has thus observed all formalities.
- G. That ground-G is also incorrect and denied, hence no comments.

It is, therefore, submitted that on the acceptance of this reply, the petition in hand may kindly be dismissed in the favour of the respondents.

DISTRICT EDUCATION OFFICER,
MALE PESHAWAR

DIRECTOR,
E&SED KPK, PESHAWAR

ATTESTED

SECRETARY
E&SED KPK, PESHAWAR

Annex

Annex F
P-32

DISTRICT EDUCATION OFFICER,

(MALE) PESHAWAR.

No. 11068

Dated 31/12 /2013

To,

The Headmaster,
GPS/GMS Garhi Mumtaz Peshawar.

Subject

SHOW CAUSE NOTICE.

Memo:

I am directed to refer to the subject cited above and to ask you to serve the enclosed show cause notices upon Mr Muhammad Shah N/Qasid , GMS Garhi Mumtaz Peshawar and submit a copy thereof in token having received the notice to this office for reference and record please.

Encl: as above.

Deputy District Education Officer,
(Male) Peshawar.

ATTESTED

cl

Handwritten signature

Annexure (1)

P-33

727

OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) PESHAWAR.

SHOW CAUSE NOTICE.

I, (Mr. Sharif Gul, DEO (M) Peshawar), as competent authority, under the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011, do hereby serve you, Mr. Muhammad Shabir N/Qasid, GPS Garhi Mumtaz Peshawar as follows:

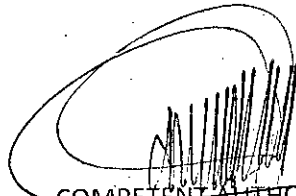
I am satisfied that you have committed the following acts/omissions specified in rule 3 of the said rules:

- (i) Absent from duty w.e.f 13/12/2013 upto till date:

As a result thereof, I, as competent authority, have tentatively decided to impose upon you the major penalty under rule 4 of the said rules.

You are, thereof, required to show cause as to why the aforesaid penalty should not be imposed upon you.

If no reply to this notice is received within seven days or not more than fifteen days of its delivery, it shall be presumed that you have no defiance to put in and in that case an ex-parte action shall be taken against you.


COMPETENT AUTHORITY
DISTRICT EDUCATION OFFICER,
(Male) PESHAWAR.

ATTESTED

بائیں ڈیوین کا واہڈا کی نجکاری کیخلاف صوبہ بھر میں احتجاج

نوشہرہ، مردان، درگئی، چارسدہ، کوہاٹ، گل مردت، ڈیرہ، سوات اور منگو میں سینکڑوں مظاہرین کی حکومت کیخلاف نعرہ بازی
واہڈا کی نجکاری کی صورت میں ہونے والے صوبائی حکومت 8 ہزار ملازمین کیلئے کچھ منظور کتنے بے وفاقی صورت کیلئے کوئی مشکل کام نہیں مقرر ہے

پشاور (اپنے نمائندوں سے) پاکستان واہڈا ہائیڈرو
لیبر یونین نے واہڈا کی نجکاری کے خلاف اور اپنے
مطالبات کے حق میں صوبہ بھر میں احتجاج کیا۔ نوشہرہ
کلاں واہڈا آفس کے باہر مظاہرہ کیا گیا جس سے
خطاب کرتے ہوئے پاکستان واہڈا لیبر یونین چیئرمین
علی سید شیراز خان، جان سید، احمد علی، ارشد خان
(بقیہ 72 صفحہ 10)

پشاور (اپنے نمائندوں سے) پاکستان واہڈا ہائیڈرو
لیبر یونین نے واہڈا کی نجکاری کے خلاف اور اپنے
مطالبات کے حق میں صوبہ بھر میں احتجاج کیا۔ نوشہرہ
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علی سید شیراز خان، جان سید، احمد علی، ارشد خان
(بقیہ 72 صفحہ 10)

روزنامہ مشرق

مسلسل اشاعت کے 47 سال

نوٹس شیر حاضری

ہر گاہ کہ آپ محمد شہیر ولد محمد نذیر سکند بڈھ ہیر ضلع پشاور نائب قاضی گورنمنٹ ڈیل سکول گڑھی
ممتاز پشاور مورخہ 13-12-2013 سے اپنی ڈیوٹی سے بغیر کسی اطلاع کے تاحال غیر حاضر
ہیں، آپ کو آپ کی غیر حاضری کے متعلق آپ کے گھر کے پتے پر بذریعہ رجسٹرڈ پوسٹ نوٹس
غیر حاضری نمبر 11068 مورخہ 31 دسمبر 2013 کو آگاہ کیا اور تاکید کی گئی کہ آپ فوراً
اپنی ڈیوٹی پر حاضر ہو کر اپنی غیر حاضری کی وجہ بیان کریں مگر آپ نے نوٹس ہڈا کی پروانگی اور
نہی ڈیوٹی پر حاضر ہوئے۔

لہذا آپ کو ایک بار پھر بذریعہ نوٹس ہڈا مطلع کیا جاتا ہے کہ اس نوٹس کی
اشاعت کے پندرہ دن کے اندر زیر دستخطی کے دفتر دوران اوقات کار حاضر ہو کر اپنی غیر
حاضری کی وجہ بیان کریں، بصورت دیگر آپ کے خلاف یکطرفہ کارروائی عمل میں لاتے
ہوئے ای اینڈ ڈی رولز بحریہ 2011 کے تحت حاصل کردہ اختیارات بروئے کار لاتے
ہوئے آپ کو ملازمت سے برخاست کر دیا جائیگا۔

شریف گل
ڈسٹرکٹ ایجوکیشن آفیسر مردان ضلع پشاور

Also available on www.khyberpaktunkhwa.gov.pk INF(P)1978

مشرق

پشاور اسلام آباد

mashriq@brain.net.pk

اللہ ہی کیلئے ہیں
مشرق و غرب
(القرآن)

جمعتہ المبارک 23 رجب 1435ھ 23 مئی 2014ء

گندم کی بین الصوبائی پابندی فوری ختم کی جائے

daily express

نوٹس غیر حاضری

ہر گاہ کہ آپ محمد شہیر ولد محمد نذیر سکند بڈھ ہیر ضلع پشاور نائب قاضی گورنمنٹ ڈیل سکول گڑھی
ممتاز پشاور مورخہ 13-12-2013 سے اپنی ڈیوٹی سے بغیر کسی اطلاع کے تاحال غیر حاضر
ہیں، آپ کو آپ کی غیر حاضری کے متعلق آپ کے گھر کے پتے پر بذریعہ رجسٹرڈ پوسٹ نوٹس
غیر حاضری نمبر 11068 مورخہ 31 دسمبر 2013 کو آگاہ کیا اور تاکید کی گئی کہ آپ فوراً
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نہی ڈیوٹی پر حاضر ہوئے۔

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ہوئے آپ کو ملازمت سے برخاست کر دیا جائیگا۔

شریف گل
ڈسٹرکٹ ایجوکیشن آفیسر مردان ضلع پشاور

Also available on www.khyberpaktunkhwa.gov.pk INF(P)1978

ATTENDED

25

Daily express
22/24/25

051
051
034

DISTRICT EDUCATION OFFICER (MALE) PESHAWAR.NOTIFICATION :-

1. WHEREAS Mr. Muhammad Shabir Naib Qasid Government Middle School Garhi Mumtaz Peshawar was proceeded against under Khyber Pakhtunkhwa Govt: Servant (Efficiency & Discipline) Rules, 2011 for the charge of "wilful absence from duty with effect from 13-12-013
2. AND WHEREAS Mr., Muhammad Shabir Naib Qasid Government Middle School Garhi Mumtaz Peshawar was proceeded under Khyber Pakhtunkhwa Govt :Servant (Efficiency & Disciplinary)Rules 2011 ,for the charged of 'wilful absence from duty with effect from 13-12-2013 as mentioned in the show cause notice was served upon him under registered post at his home address vide No. 11068 dated 31-12-2013.
3. AND WHEREAS the accused official has submitted no reply to the show cause notice
4. AND WHEAREAS the absentee notice were served upon Mr. Muhammad Shabir Naib Qasid Government Middle School Garhi Mumtaz Peshawar through two leading Daily Newspapers "Mashriq "and 'Express' dated 23/05/2013 and 22/5/2014 but he remained absent and did not report for duty in response to the notice.
5. AND WHEAREAS the competent authority (District Education Officer (M) Peshawar) after having considered the charges and evidence on record, is of the view that the charges of wilful absence against the accused official has been proved.
6. NOW THEREFORE, In exercise of the Powers conferred under Rules-4 (b) iii of Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules 2011, I the competent Authority District Education Officer (Male) Peshawar is pleased to impose major penalty of " Removal from Service " upon Mr. Muhammad Shabir Naib Qasid GMS Garhi Mumtaz Peshawar with effect from the date of his wilful absence.


Sharif Gul
District Education Officer
(Male) Peshawar.

Endst: No. 3994-6000 / Dated Peshawar the 9/6 /2013

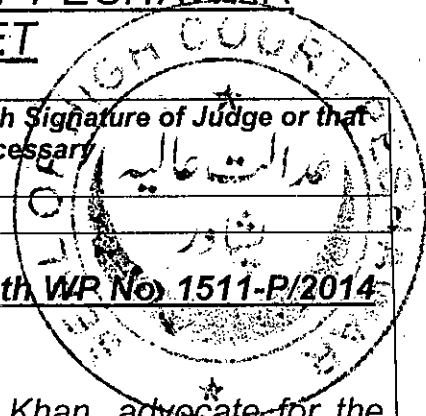
Copy forwarded to the :-

1. Accountant General Khyber Pakhtunkhwa Peshawar.
2. Sub Divisional Education Officer (Male) Peshawar with the remarks to recover any over payment made to the above named official and deposit in to Govt: Treasury under intimation to this office.
3. ASDEO (Male) City Circle Peshawar.
4. PS to Secretary E&SED Khyber Pakhtunkhwa Peshawar.
5. PA to Director E&SE Khyber Pakhtunkhwa Peshawar.
6. PA to District Edcation Officer (Male) Peshawar.
7. Official Cocnerved.

ATTACHED


9/6/14
District Education Officer
(Male) Peshawar

**PESHAWAR HIGH COURT PESHAWAR
ORDER SHEET**



Date of Order or Proceedings	Order or other Proceedings with Signature of Judge or that of parties or counsel where necessary
1	2
22.04.2015.	<p>CM No. 641-P/2014 N with W.P. No. 1511-P/2014 M with IR M.</p> <p>Present: Mr. Khushdil Khan, advocate for the petitioners.</p> <p>Mr. Rab Nawaz Khan AAG for respondents.</p> <p align="center">*****</p> <p>WAQAR AHMAD SETH, J: - Learned counsel for the petitioners stated at the bar, that he wants to withdraw the instant writ petition. As such this writ petition is dismissed as withdrawn; however, he may approach to proper forum, if so advised.</p> <p>Announced. 22nd April 2015</p> <p><i>sd/waqar Ahmad seth</i> <i>sd/Gorshad Qaiser</i></p>



No. 22101

Date of Presentation of Application 13/5/15

No of Pages 09-P

Copying fee /

Urgent Fee Tarq Jan.

Total 18.00

Date of Preparation of Copy 13/5/15

Date Given For Delivery 13/5/15

Date of Delivery of Copy 13/5/15

Fee 18.00

CERTIFIED TO BE TRUE COPY

Examiner
Peshawar High Court, Peshawar
Authorized Under Article 177
The Qanun-e-Shahadat Ordinance, 1974

13 MAY 2015

To

The Director,
Elementary & Secondary Education Department,
Khyber Pakhtunkhwa, Peshawar.

1
Annex: J

P 37

Subject: DEPARTMENTAL APPEAL UNDER SECTION 22 OF THE KHYBER PAKHTUNKHWA CIVIL SERVANTS ACT, 1973 READ WITH RULE 3 OF THE KHYBER PAKHTUNKHWA CIVIL SERVANTS (APPEAL) RULES, 1986 AGAINST THE IMPUGNED ORDER DATED 09.06.2013 PASSED BY THE DISTRICT EDUCATION OFFICER (MALE) PESHAWAR THEREBY I WAS REMOVED FROM SERVICE.

Respected Sir,

1. That I was appointed as Naib Qasid and posted in Government Middle School, Ghari Mumtaz Peshawar after observing all the codal formalities vide order dated 05.11.2012. After obtaining Medical Fitness Certificate, I assumed the charge in the said school and the department also maintained my Service Book.
2. That all of sudden, my monthly salary for the month of December, 2013 was stopped without cogent reason for which I submitted applications for its release but in vain therefore, I was constrained to file a Writ Petition No.1511/2014 in the Peshawar High Court, Peshawar for the releasing of monthly salary and the payment of outstanding amount. In the said case Pre-Admission notice was issued to Respondent Department including your good self with the direction to file comments. The District Education Officer (Male) Peshawar filed comments therewith the order of my removal from service dated 09.06.2013 was annexed and for the first time I got the knowledge about the impugned order. Copy of impugned order is as **Annex: A**.
3. That in view of new scenario, I requested the Hon'ble Bench of Peshawar High Court, Peshawar for withdrawal the said Writ Petition and approach to proper forum which was allowed on 22.04.2015. Copy of order sheet is attached as **Annex: B**.

Thus this departmental appeal is submitted on the following amongst other grounds:

ATTESTED Grounds:

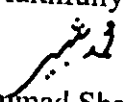
- A. That District Education Officer (Male) Peshawar acted malafidely and passed the impugned order in very clandestine manner for ulterior motives just to accommodate his favourits against that very post which is not warranted by law.
- B. That the impugned order has been passed at the back of appellat without providing any opportunity of defence neither any notice was issued under registered post nor I was intimated through other source. Therefore, I was condemned unheard and the impugned order is illegal, without lawful authority being violative of principle of natural justice.
- C. That I performed my duties at the place of posting regularly, punctually and never remained absent from my duty and even no complaint regarding the alleged absence was made by the Head Master of the School to any quarter.

P-38

Thus in such circumstances, the alleged charge of absence is false, baseless and void on basis of which the impugned order was passed having no legal sanctity and liable to be set aside.

It is, therefore, humbly prayed that on acceptance of this departmental appeal, the impugned order of my removal from service dated 09.06.2013 may graciously be set aside and I may graciously be reinstated in service with all back benefits.

Yours faithfully,


Muhammad Shabir S/o Muhammad Nazir
Ex-Naib Qasid,
GMS, Ghari Mumtaz, Mera Badaber,
Peshawar.
R/o Mohallah Burhan Khel, Village
Badaber District Peshawar.

Dated: 14 / 05 / 2015

372

15/5/2010

Rs. Ps.

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

Received a registered* addressed to To Hudaib M. P. Peshawar Day-Stamp

*Write here "letter", "postcard", "packet" or "parcel" with the word "insured" before it when necessary

Initials of Receiving Officer S. S. S. S. (in words)

Insured for Rs. (in figures) 5000 (in words)

Weight } Kilo Grams

Insurance fee Rs. Ps. (in words) } Rs. 500

Name and address of sender } TKK

AT ENDED

To

P-39

The Director,
Elementary & Secondary Education Department,
Khyber Pakhtunkhwa, Peshawar.

Subject: APPLICATION FOR CONDONATION OF DELAY IF ANY.

Respected Sir,

1. That the impugned order dated 09.06.2013 whereby appellant was removed from service was never communicated to me and the same was hidden for ulterior motives and I/applicant got the knowledge at that very time when the same was annexed with the comments filed by the DEO (Male) Peshawar in Writ Petition No.1511-P/2014 which was withdrawn in view of fresh cause of action and now filing accompanied departmental appeal with the request for condonation of delay if any as under.
2. That the delay caused due to non communication of the impugned order to applicant under registered post or otherwise within time. The applicant came to know about the impugned order when the same was filed with the comments before the Peshawar High Court, Peshawar. Thus the delay if any is not intentionally rather the same was due to lack of knowledge.
3. That applicant has good case on merit so it is the demand of justice to decide the case on merit and the technicality should not be hurdle in the way of justice.

It is, therefore, humbly prayed that on acceptance of this application, the delay if any in filing the accompanied departmental appeal may graciously be condoned in the interest of justice.


Yours faithfully,

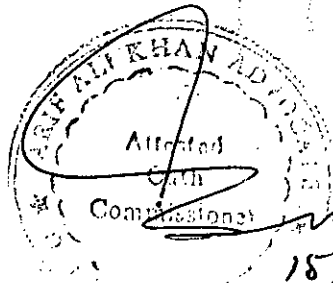


Muhammad Shabir S/o Muhammad Nazir
Ex-Naib Qasid,
GMS, Ghari Mumtaz, Mera Badaber,
Peshawar.
R/o Mohallah Burhan Khel, Village
Badaber District Peshawar.

Affidavit

I, Muhammad Shabir S/o Muhammad Nazir R/o Mohallah Burhan Khel Village Bababer, Peshawar, do hereby affirm and declare on oath that the contents of this application are true and correct to the best of my knowledge and nothing has been concealed.






Deponent

WAKALAT NAMA

IN THE COURT OF R.P. Service Tribunal Peshawar

Muhammad Shahid

Ex Nait Qaid Appellant(s)/Petitioner(s)

VERSUS

District Education Officer (male)

Peshawar Respondent(s)

I/We Muhammad Shahid do hereby appoint **Mr. Khush Dil Khan, Advocate Supreme Court of Pakistan** in the above mentioned case, to do all or any of the following acts, deeds and things.

1. To appear, act and plead for me/us in the above mentioned case in this Court/Tribunal in which the same may be tried or heard and any other proceedings arising out of or connected therewith.
2. To sign, verify and file or withdraw all proceedings, petitions, appeals, affidavits and applications for compromise or withdrawal or for submission to arbitration of the said case, or any other documents, as may be deemed necessary or advisable by them for the conduct, prosecution or defence of the said case at all its stages.
3. To receive payment of, and issue receipts for, all moneys that may be or become due and payable to us during the course of proceedings.

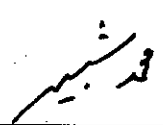
AND hereby agree:-

- a. That the Advocate(s) shall be entitled to withdraw from the prosecution of the said case if the whole or any part of the agreed fee remains unpaid.

In witness whereof I/We have signed this Wakalat Nama hereunder, the contents of which have been read/explained to me/us and fully understood by me/us this _____

Attested & Accepted by


Khush Dil Khan,
Advocate,
Supreme Court of Pakistan


Signature of Executants

9-B, Haroon Mansion
Khyber Bazar, Peshawar
Off: Tel: 091-2213445

BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR

SERVICE APPEAL NO. 961/2015

Muhammad Shabir

V/S

Secretary (E&SE) KPK & others

Reply for and on behalf of the respondents

Respectfully Sheweth:-

The Respondent submits as under:-

Preliminary objections.

1. That the Appellant has got no cause of action/ locus standi.
2. That the instant Appeal is badly time barred.
3. That the Appellant has concealed material facts from this Hon' able Tribunal.
4. That the Appellant is estopped by his own conduct to file the instant Appeal before this Hon' able Tribunal.
5. That the Appellant is not entitled for the relief as claimed.
6. That the instant Appeal is against the relevant service law /Rules.
7. That the instant Appeal is barred by law.
8. That the Appellant has not come with clean hands to this Hon' able Tribunal.
9. That the Appellant has been found guilty by the competent authority.

On Facts.

1. That Para – 1 is correct to extent that the appellant was appointed as Naib Qasid by the Respondent Department, whereas the rest of the Para regarding their performance of official duty with regularity is incorrect and denied. The Appellant has been found absent from his official duty w.e.f. 13/12/2013, hence he was proceeded against under the Efficiency and Disciplinary rules, 2011 on the charges of his willful absence from his duty, hence he was served a show cause Notice No.11068 dated 31-12-2013 but no reply of the show cause notice has been submitted by the Appellant, then he was served a final show cause notice in the Daily Mashriq and Daily Express Peshawar on dated 22-05-2014 and 23-05-2014 but he remained absent and did not report for duty, hence he was removed from service.
(The referred documents are attached with Appeal)

2. That Para – 2 is incorrect and misleading, hence denied. The appellant was not performing his duties.
3. That in reply to Para – 3, it is submitted that the appellant was not performing his duties and was absent from his duty since long,
Therefore, after observing the procedure under the Efficiency and Disciplinary rules, 2011 on the charges of his willful absence from his duty, the Respondent Department removed him from his service.
4. That Para – 4 is incorrect and denied. The appellant was fully aware of his misconduct and willful absentee from his duties, therefore, the Respondent Department, after observing all the legal and codal formalities, removed him from service.
5. That the appellant was not justified in his Departmental Appeal and the Departmental Appeal was also badly time barred, hence his Departmental Appeal was not maintainable.

On Grounds:-

- a. That Ground – a is incorrect and denied. The appellant was absent from service for unauthorized long time, therefore, after observing the procedure under the Efficiency and Disciplinary rules, 2011 on the charges of his willful absence from his duty , the Respondent Department removed him from service.
- b. That Ground – b is incorrect, the appellant has been treated under the law, rules and policy on the subject.
- c. Incorrect and denied. The appellant was aware of his willful absent from service and the proceedings taken against him.
Moreover, the Respondents had observed the procedure under the Efficiency and Disciplinary rules, 2011 before removing him from service.
- d. That Ground – d is incorrect and misleading, hence denied. The appellant has been treated under the law, rules and policy. There was no political influence in removing the appellant from his service.
- e. That Ground – e is incorrect and misleading, hence denied.. The appellant was willful absent from his service.
- f. That Ground – f is incorrect and denied. The appellant has been treated under the law, rules and policy on the subject.
- g. That Ground – g is incorrect and denied. The Respondent Department has observed the procedure under the Efficiency and Disciplinary rules, 2011 before removing him from service.
- h. That Ground – his incorrect and denied. The appellant has been treated under the law, rules and policy.

- i. That Ground – i is incorrect. The appellant willfully absented himself from his duty, therefore, the Respondent Department after observing the procedure under the Efficiency and Disciplinary rules, 2011 o, removed the Appellant from his service.
- j. That Ground – j is incorrect and denied. The entire proceedings have been carried on by the competent authorities under the law and rules.
- k. That Ground – k is incorrect and denied. The Respondent have adopted the procedure under the after observing the procedure under the Efficiency and Disciplinary rules, 2011 before removing him from his service.
- l. That Ground – l is incorrect and denied. The Respondents have acted under the law, rules and policy.

It is, therefore, humbly prayed that on the acceptance of this reply, the appeal in hand may very kindly be dismissed with cost.


15/3/2016
DIRECTOR,
(E & SE) KPK PESHAWAR


16/3/2016
SECRETARY,
(E & SE) KPK PESHAWAR


District Education Officer
(Male) Peshawar

BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR

SERVICE APPEAL NO. 961/2015

Muhammad Shabir

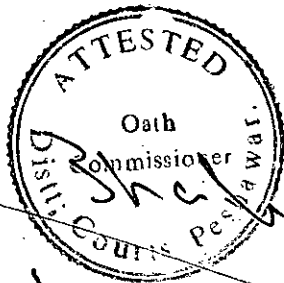
V/S

Secretary (E&SE) KPK & others

Affidavit

I, Raham Taj Khan (ADEO- Litigation) do hereby affirm and declare on oath that the contents of the Reply to the above Service Appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon, able Tribunal.

Raham Taj Khan
Deponent.



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 961/2015

Muhammad Shabbir,
Ex. Naib Qasid,
Government Middle School Garhi Mumtaz,
R/o Mohallah Burhan Khel,
Village Badaber, Tehsil & District Peshawar.....Appellant

Versus

The District Education Officer (Male),
Elementary & Secondary Education,
Department, Peshawar and others.....Respondents

**REJOINDER ON BEHALF OF APPELLANT IN RESPONSE TO
REPLY FILED BY RESPONDENTS.**

Respectfully Sheweth,

Preliminary Objections:

Preliminary objections raised by answering respondents are erroneous and frivolous, the detailed replies thereof are as under:-

- I. That appellant was unlawfully removed from service which give him cause of action and locus standi and rightly filed service appeal in this Hon'ble Service Tribunal
- II. That the impugned order dated 24-07-2014 was not issued to appellant and the same was mala fidly kept hidden from appellant and when he approached to Hon'ble Peshawar High Court Peshawar for releasing his monthly salaries and when the answering respondents filed the impugned order with comments then appellant came to know about the impugned order against which he filed Department Appeal and on

expiry of 90 days, appellant filed the present service appeal which is well within time.

- III. That appellant has not concealed any material facts.
- IV. That impugned order is illegal so appellant rightly filed this service appeal and law of estoppel is not applicable.
- V. Incorrect.
- VI. Incorrect.
- VII. Incorrect.
- VIII. Incorrect.
- IX. Incorrect.

Rejoinder to reply of Facts:

1. That the answering respondents have duly admitted his appointment as sweeper in Govt: Middle School Garhi Mumtaz while rest of reply is totally incorrect and against the record so denied. That the immediate boss of the appellant was Head Master neither he made any complaint against appellant nor any report was made by him to the higher authority therefore the report of Deputy District Education Officer is baseless and without legal justification and mala fidly processed the case of allege absence at the back of appellant and passed the impugned order in violation of principle of natural justice.
2. That the reply is evasive in nature so denied. The appellant has taken the plea that the Head Master concerned was satisfied of his performance and duties and never made any complaint against him but this plea was not rebutted or denied by the answering respondents



3. That the reply is evasive in nature so denied.
4. That the reply is repetition of the above answers so no need of further elucidation.
5. That the reply is incorrect being not properly answered.

Rejoinder to reply of Grounds:

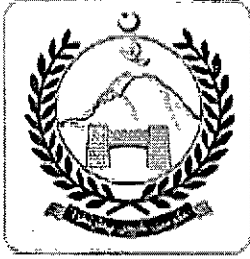
- A. That the reply is incorrect and denied being not properly answered.
- B. That the reply is incorrect and denied being not properly answered.
- C. That the reply is incorrect so denied. That the alleged disciplinary proceedings were only confined to papers done in a closed room purposely for removal of appellant from service and not to do justice to him.
- D. That the reply is incorrect being not properly answered.
- E. That the reply is incorrect being not properly answered.
- F. That the reply is incorrect being not properly answered.
- G. That the reply is incorrect being not properly answered.
- H. That the reply is incorrect being not properly answered.
- I. That the reply is incorrect being not properly answered.
- J. That the reply is incorrect being not properly answered.
- K. That the reply is incorrect being not properly answered.

L. That the reply is incorrect being not properly answered.

It is, therefore, humbly prayed that the reply of answering respondents may graciously be rejected and the appeal as prayed for may graciously be accepted with costs.


Appellant
Through

Khush Dil Khan
Advocate,
Supreme Court of Pakistan

Dated: 13 / 08 / 2016



KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

No. 1986 /ST Dated: 30/8 /2017

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

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

To,

The District Education Officer (Male),
Government of Khyber Pakhtunkhwa,
Peshawar.

Subject: - **JUDGMENT IN APPEAL NO. 961/2015, MUHAMMAD SHABBIR**

I am directed to forward herewith a certified copy of judgment dated 02/08/2017 passed by this tribunal on the above subject for strict compliance.

Encl: as above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR