30.07.2015

Appellant with counsel present. Learned counsel for the appellant informed the Tribunal that during the pendency of appeal departmental appeal of the appellant was partially accepted vide order dated 24.7.2015 and the order of compulsory retirement was set-aside and appellant was reinstated in service, however, the absence period was treated as leave without pay and service benefits were denied to the appellant.

In afore-stated circumstances, learned counsel for the appellan · . requested for withdrawal of appeal as he intends to institute fresh appeal in the light of the afore-stated development. The appeal is dismissed as withdrawn. File be consigned to the record.

Chairman

30.07,1

ANNOUNCED 7.2015.

Form-A

FORM OF ORDER SHEET

Court of

706 /2015

Case No. Order or other proceedings with signature of judge or Magistrate S.No. Date of order Proceedings 2 3 1 24.06.2015 The appeal of Mr. Muhammad Ilyas presented today by 1 Mr. Ijaz Anwar Advocate, may be entered in the Institution register and put up to the Worthy Chairman for proper order. REGISTRAR This case is entrusted to S. Bench for preliminary -15 hearing to be put up thereon 29-6-152 3 Agent of counsel for the appellant present. Counsel 29.06.2015 for the appellant is stated busy at Islamabad. Adjourned to 30.7.2015 for preliminary hearing before S.B. Charman

Appeal No. 706 /2015

主体的

Muhammad Ilyas, Ex Primary School Teacher, Govt Primary School No. 1 Peshawar.

(Appellant)

VERSUS

Govt of Khyber Paktunkhwa through Secretary Elementary and Secondary Education Khyber Pakhtunkhwa Peshawar and others.

(Respondents)

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Appendent

Through

IJAZ ANWAR Advocate Peshawar

&

SAJID AMIN 3 Advocate Peshawar

Appeal No. 706/2015

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Muhammad Ilyas, Ex Primary School Teacher, Govt Primary School, No. 1Mera Shahi Bala Peshawar.

(Appellant)

VERSUS

- 1. Govt of Khyber Paktunkhwa through Secretary Elementary and Secondary Education Khyber Pakhtunkhwa Peshawar.
- 2. Director, Elementary and Secondary Education Khyber Pakhtunkhwa Peshawar.
- 3. District Education Officer (Male) Peshawar.

(Respondents)

Appeal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974, the Order dated against 24.05.2014, communicated to the appellant on 04.03.2015 whereby the appellant has been awarded the major penalty of *<u>"compulsory</u> retirement* from Service" against which his departmental Appeal dated 12.03.2015 has not been responded despite the lapse of 90days statutory period.

Prayer in Appeal: -

On acceptance of this appeal the impugned order dated 24.05.2015, may please be setaside and the appellant may be <u>re-instated in</u> <u>service with all back benefits of service</u>.

<u>Respectfully</u> Submitted:

- 1. That the appellant was initially appointed in the Respondents' department as Primary School Teacher vide order dated 17.03.1992. Ever since his appointment, the appellant had performed his duties as assigned with zeal and devotion and there was no complaint whatsoever regarding his performance. (Copy of the Service Book is attached as Annexure A)
- 2. That while serving in the said capacity, the appellant was falsely implicated in a criminal case under section 302-324/148-149, vide FIR No. 11 dated 09.06.2013 of Police Station Regi Model Town, Peshawar. The appellant duly informed his department about his false implication in criminal case. Since there were serious threats to the live of the appellant from his enemies, therefore he could not join his duty. (Copy of the FIR is attached as Annexure B)
- 3. That initially the appellant applied for the bail before arrest. which was granted to him by the concerned court, later the matter was patched up by the elder of the Locality and accordingly the appellant was acquitted from criminal charges by the Learned ADSJ-II vide his judgment and order dated 25.02.2015. (Copy of the judgment of the ADJ-II dated 25.02.2015 is attached as Annexure Charge C)
- 4. That after obtaining copies of the acquittal order the appellant duly reported for duty, however, he was informed that he has been proceeded departmentally in absentia and has been awarded the major penalty of compulsory retirement from service vide order dated 24.05.2014. It is pertinent to mention here that the order of penalty was however never communicated to the appellant. It was only on 04.03.2014, when the appellant was provided the copy of the Penalty order dated 24.05.2014. (Copy of the order dated 24.05.2014, is attached as Annexure attached as Annexure D)
- 5. That against the order dated 24.05.2014, the appellant filed his departmental appeal dated 12.03.2015, however, the departmental appeal has also not been responded despite the lapse of 90 days statutory period. (Copy of the departmental appeal is attached as Annexure E)
- 6. That the penalty imposed upon the appellant is illegal unlawful against the law and facts therefore, liable to be set aside inter alia on the following grounds:-

GROUNDS OF APPEAL:

- A. That the appellant have not been treated in accordance with law, hence his rights secured and guaranteed under the law are badly violated.
- B. That no proper procedure has been followed before the imposition of penalty of compulsory retirement upon the appellant. No charge sheet, show cause notice or any absence notice whatsoever has been served upon the appellant before the imposition of penalty upon him, thus the whole proceedings are violative of the express provisions of the Law and Rules on the subject, an order based on such proceedings is liable to be set aside on this score alone.
- C. That the appellant has not been given opportunity of personal hearing before the imposition of penalty upon him hence he has been condemned unheard.
- D. That the appellant has not been given any opportunity to defend himself against the charges, neither any charge sheet or show cause notice has been issued, nor any absence notice has been served upon the appellant hence he has not been given opportunity to defend himself.
- E. That since the absence of the appellant was not willful but was due to his false implication in criminal case, moreover the respondents were fully aware of the registration of criminal case against the appellant, therefore under the law/rules they were required to keep the proceedings pending till the decision of the criminal case.
- F. That though it has been alleged in the order of compulsory retirement from service that publication has been made in the daily news paper, however prior to the publication no notice has been issued/ served upon the appellant which is mandatory under Rule 9 of the Government servants (Efficiency and Disciplinary) Rules, 2011 before publishing it in the news paper, as such the direct publication made in the news paper is also violative of the express provisions of the Rules.
- G. That the appellant has never committed any act or omission which could be termed as misconduct, his absence from duty was not willful but it was due to his false implication in criminal case. Since the appellant has now gained acquittal in the criminal case, hence deserves to be reinstated into service.

- H. That all the proceedings against the appellant are conducted ex-party he has not been associated with the departmental proceedings at any stage thus the impugned order is violative of Principles of Natural justice.
- I. That the appellant has more than 23 years spotless service career at his credit, the penalty imposed upon him is too harsh and liable to be set aside.
- J. That the appellant is jobless since the imposition of illegal penalty upon him.

It is, therefore, humbly prayed that on acceptance of this appeal the impugned order dated 24.05.2015 may please be setaside and the appellant be re-instated in service with all back <u>benefits of service</u>.

Through

IJAZ ANWAR Advocate Peshawar

& ÀJID AMIN Advocate Peshawar

Appeal No. /2015

Muhammad Ilyas, Ex Primary School Teacher, Govt Primary School No. 1 Peshawar.

(Appellant)

VERSUS

Govt of Khyber Paktunkhwa through Secretary Elementary and Secondary Education Khyber Pakhtunkhwa Peshawar and others.

(Respondents)

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

Respectfully submitted:

- 1. That the appellant has today filed the accompanied appeal before this honorable tribunal in which no date of hearing is fixed so far.
- 2. That the applicant prays for condonation of delay if any in filing the instant appeal inter alia on the following grounds:-

GROUNDS OF APPLICATION

A. That the appellant was since falsely implicated in the criminal case, moreover he duly informed the department about his implication in criminal case, however he was awarded the penalty of compulsory retirement from service vide the impugned order dated 24.05.2014, which order too was never communicated to the appellant. The appellant was not aware about the departmental proceedings against him. It was only on 04.03.2014 i.e after his acquittal from criminal case, when the appellant was provided the copy of the Penalty order dated 24.05.2014, thereafter he duly filed departmental appeal within 30 days, hence delay if any was not willful and deserves to be condoned.

- B. That the delay if any in filing the departmental appeal and instant appeal was not willful nor can the same be attributed to the appellant as it was due to the late communication of the penalty order to the appellant by the respondents, therefore the appellant cannot be made suffered for the faults of others, hence delay if any deserves to be condoned.
- C. That even otherwise, since the appellant was charged in the criminal case and was facing trial, therefore, filling of departmental appeal could be a futile exercise unless the appellant had acquitted from the criminal charges. Since the appellant has filed the departmental appeal within 30 days of the acquittal order, hence in time. Reliance is placed on *PLD 2010 SC 695*.
- D. That no proper procedure has been followed before the imposition of penalty upon the appellant. Thus the whole proceedings as well as the order of penalty is illegal and void ibinatio and no limitation run against such an illegal and void order.
- E. That valuable rights of the appellant are involved in the instant case in the instant case, hence the delay if any in filing the instant case deserves to be condoned.
- F. That it has been the consistent view of the Superior Courts that causes should be decided on merit rather than technicalities including limitation. The same is reported in <u>2014 PLC (CS) 1014</u> & <u>2003 PLC</u> (CS) 769.
- G. That the facts and grounds mentioned in the accompanied appeal may also be read as integral part of the instant appeal

It is therefore humbly prayed that on acceptance of this application the delay if any in filing the instant appeal may please be condoned.

Applique

Through

IJAZ ANWAR Advocate Peshawar &

ID AMIN Advocate, Peshawar

Appeal No. /2015

Muhammad Ilyas, Ex Primary School Teacher, Govt Primary School No. 1 Peshawar.

(Appellant)

VERSUS

Govt of Khyber Paktunkhwa through Secretary Elementary and Secondary Education Khyber Pakhtunkhwa Peshawar and others.

(Respondents)

AFFIDAVIT

I, Muhammad Ilyas, Ex Primary School Teacher, Govt Primary School, No. 1 Mera Shahi Bala Peshawar, do hereby solemnly affirm and declare on oath that the contents of the above noted appeal as well as accompanied application for condonation of delay are true and correct to the best of my knowledge and belief and that nothing has been kept back or concealed from this Honourable Tribunal.



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WIE - The entries in this (For use in Police Department only). should be dated. Dapleante S/Book Gauchun vick Hoire OFOINIPY feet Excelition 3095-29: Datiel 9/6/2001 . 1. Name: Mr 1 . NON $\mathbf{2}$ Race: 3. 3. Residence: Ve Verification Roll No. dated CELTIFICA received back 111 Certificit that The efficient concernant never 4 Father's name a been absord from duty with Pay / with out by during The Sorvice . Left Thumb Impression 5. Date of birth by 12. Certified that - the official concerned that new nearly as can be been tarminated / resigned from Sorvice during the - 6. Exact height by Qualification Qualification 3 Certified That The official concerned has now Ben Granted MBN/S/AAVAN / Cycle allane duny The entire Service. First Arts English 7. Personal marks f Pusto Certificant That The afficial concerned has romy Ś. Left hand thumb been Grontest Long land / E/law - with Pry/with and . of (Non-Gazetted) Urdu 5 Certificit That The Officer Concerning allow sul Little Finger: Study love Netron 7/1/97 to 20/6/97 enty made Plan-drawing Prize No7 of A S/Bon Eraining School Auguston totical Middle Finger: ans in Figer Print 9M Other qualificationssugnative of lifemant Thumb: Drill Instructing 23 -0-5 Court Duties From R. D. E. Pethowar under Signature of Gove Roll No. 3.Q. Session 49.27. Marks Obtained .. Q. 7.8 The result was declared on 2.7.2.96 Reserve Duties 10. -Signature and di Head of the Office. Officer. D.D.O. (M) Pry: Peshawar. N.B.— Eine to be driven under the qualification possessed. Miseu

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ىپ ادر باب فبر 540/19 قارم شور - تعداددد بزارد بسترز - مورند 23 ماری 2006 لو تورا کارم شور بیایز) مشل قارم (پلیس) فارم نمبر ۲۰ _٥ (١) ابتدائي اطلاعي ريورك Jern Frill . الانالان اللارع نسبت جرم قابل دست اندازی بولیس ر بورف شده زیردند. ۲۵ جموعه ضابط نوحد ارکه علو الانالان اللارع نسبت جرم قابل دست اندازی بولیس ر بورف شده زیردند. ۲۵ جموعه ضابط نوحد ارکه علو كالأسلر فالتلي o falsbee تاريخ 4.10 201212-13-45 تاريخ ووقت ريورت بنام دسكونت الللاع د بهنده مستغيب 302 -3240 ر میفیت جرم (معدونعه) حال اگر چھایا تمیا ہونے ياكردتون الجديم الأرديشي المنت في حدي ورجرا مرف مرا بالمح وتوعد فاحلدتهماند ادرست نام وسكون لمزم و) مسمع کاروائی بخفتین سے متعاق کی کٹی اگراطلاع درج کرنے میں تو تف ہواہ دنو دجہ بیان کرد ابتدائی اطلاع نیچ درج کرو۔ رس وخت رتب تحریبری سراسل ا تھانہ ہےردائی کی تاریخ دونت مذاعب المرا تعيم خان باري وصول مركر مرصون ذيل في المرا ، 20 تما در مرتب الدر المرور مين جوران من مرتبع مربع الملاع بر ماکر خود الوضع آکر موجو بردوسان (مراح مراز المردوسان (مرد المردولا) 2014 جوران منت مرتبع عدی الملاع بر ماکر خود الوضع آکر موجو بردوسان (مردولا 2 سان سیکر شکل میده از 2 مرافع الا سیسر بنی ملاق (مغیل عان در ارمو شدل عان سید دیکی افتیزی العمر - مردوسان مراز الاز الافتار اور ساعی میں میتول و حاص ماجا ملای سر کر لوں دیورٹ کرنا ہے کہ میں یہ میتوار) و حاص رادی ہی عار زمار ہے ، این و سالی ماجی ملاق سر کر لوں دیورٹ کرنا ہے کہ میں یہ میتوار و حاص را در مدر بلا ، لا على مضا ومد من المقتر الدرة المراسية ولد نعمت المرب المنان منه من على منها على سرع عرب المربعة المربعة المربعة منها منه المار المستر المربع ولد نعمت المربع بالنان منها من طامان سنها على سرعن عرب عارف والمنا المربعة المربعة مربعة على ذكار على قد المستر مرین فا دل ما دن آیا میں ورز میں اس سامی میں میں میں میں میں اس میں الادلر اللہ اللہ وار میں میں الادلر اللہ ال مرین فا دل ما دن آیا میں ورز میں جوانی لودنے وخو عنہ بالا پر بیجی لو اس درز ان ل سی الادلر اللہ اللہ اللہ اللہ م المار المذكل وسلام المنذ ولد منصل المذكل بجري بلوت مريد المد المريض المحد المباس وتر سردا رواري والمن المار المذكل وسلا المنذ ولد منصل المذكل بجلي خان ولد لمد المبرول محد المباس وتر سردا رواري ولاين ورومینون انتر کالمان سالی کالاجر بیا مسلح نه اسلی ایس سیمی سوی سی میں دیکھنے کا اس مرسارا دیک مسلمان انتر کالمان سالی کالاجر بیا مسلح نه اسلی ایس بیمی سوی سی میں دیکھنے کا ایس اور مدار المرتب می منه مع طور مروفاص هان ارد اختراع ان موضع مرتب علی توع علی من در منه مان ار مرابع المرابع المرتب می منه مع طور مروفاص هان ارد اختراع من موضع مرتب ها ن جن مرد مرد مان مسمی سی مر ال بال توم الع وج عناد سا افر مشل معالم می دشتی به میں این ایند و میں اور اختراب مثل ما در بد بر در ان الا توم محول و است مرابع بدار مرم علاوہ علی وضا و لد خوب است در المالا ما تا تا مرد می دارد می در است مست مرد می در ان محول و است ماد المرابع مال و معلی وضا و لد خوب است در المالا ما تا تا مرد ای در ان المالا مسبب می داد. می بعد مسبول وعمل مان ماجی بی مد در است را با برای در مسبب ماردای در اسب مسابل عزف بر جرف وزن بالا به برسط « متربه سنا با سمعه بالکو درست سلم در زیر سان طرد و سفط خبت کا مسلامی اصراب مسابل عزف بر جرف وزن بالا به برسط « مسرت سالا» د افتار مان و رست در بر ما ن طرد و سفط خبت کا مسلامی اصراب س می مرب سری دری باد - در سیسی با محما با بل درسیا سیم در در بین می در در مسی با می این عظم مربع هون امرد در مقدولین آر افرد صورت عال و بر نقینه مزر در با از کا نیز فن اوستراز از مربعاً لک منبولان در ۱۱۰،۱ معه دارد در این این معموم در باع یا کارا جا تر مراسله این ما در در در با ترک این در از مارد در ۱۱۰،۱۰۰ در ۱۱۰،۱۰ مرما هون المرد و معدولين - و فرد صوب عال و بر لعبد حزر در سائر المرض لو سمار مرد حاص جن سرد و سد الراح مذر معدون هون المرد و معدولين - و فرد صوب عال و بر لعبد حزر در سائر ما و المراك و سمار مرد حاص و معد الترمزي المراك معدون در س محدوث هرم و مانح بالم عالم و اسلو الما و در سال در و سال و المرادع در من - در منه ها الترمزي المراك الاستشاري - الماني مو ما حد المارية المان و السون بالموليد و سنال در العار المردع در مال المراك الما و المراك ا در من من من مرد المراح بالم عالم و السون بالموليد و سنال در المرد و در مال المراك الم المراك الاستياسي، سياي و ما در سرس ما ما در اين عالم الوعنون محرير ما در ما در در ما لايدر برج برم بالاما ر ما ما تشاريم ما جمام مش ما در ما ذرائع الحرار في عمان الوعنون محرير ما در سد حرف برهرف در ما لايدر برج برم بالاما ر ما من تشاريم ما ته مدین ما وی تا وی بازی 53 می مدری عامی میدود سریری سر سرمی رو المع دی جا لارج مرجه قرار من مرحق تقدیشی بیا این غلی ای که بوار نما طاک به اسران ۲۷ بو میکود سیکل مدیرط الملف دی جا لارج مرجه قرار من 9-5-013 Legal Branch Capital City Police Postpawar

IN THE COURT OF SUHAIL SHERAZ NOOR SAAN additional sessions judge-II, peshawar

HHEA:

Sessions Case No. 10/SC of 2014

Qr----38 25.02.2015

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Assions Court Peshawa

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State ...versus... Yahya etc

Dy.PP for State present. Accused Sami Ullah, Islam, Ullah, Muhammad Ilyas and Kiramat Ullah present on bail. Neither complainant nor legal heirs of the deceased present even. after repeated calls.

This order is meant to dispose of an application under section 265-K Cr.PC, submitted by accused facing trial requesting thereby their acquittal under section 265-K Cr.PC with respect to instant case registered vide FIR No. 11, dated 09/06/2013 u/ss 302/324/148/149 of Pakistan Penal Code pertaining to Police Station Reggi Model Town, Peshawar.

Arguments heard and record gone through.

Perusal of record would show that joint statement of Niaz Muhammad and Mst: Ulfat Bibi, parent and legal heirs of deceased Waqas, and joint statement of Khushdil Khan and Mst: Sabeeha Begum, parents and legal heirs of deceased Afzal Khan, were recorded on 13/01/2015 and placed on file alongwith compromise deeds and proformas Ex.PB, Ex.PC, Ex.PF and Ex.PG wherein it is submitted that they have patched up the matter with the accused named above, pardoned them in the name of Allah Almighty by waiving of their rights of Qisas and Diyat; it was further submitted that deceased persons were unmarried and they are only legal heirs of deceased persons, respectively; and that they have got no objection if the accused facing trial be acquitted during trial.

Similarly, joint stalement of complainant Shad Muhammad and victims Kalim Ulloh son of Niamat Ullah and Ali Raza son of Najeeb ullah was also recorded and placed

P.T.O.:

on file wherein they also submitted that they have pate up the matter with the accused facing trial and pardone them in the name of Allah Almighty by waiving their rights of Qisas and Diyat;, therefore, if said accused be acquitted, they have got no objection too, compromise deed Ex.PA/1, Ex.PA/2 and Ex.PA/3 relied upon by them as well. Joint statement of elders of locality namely Sareer Ahmad son of Abdul Qayyum and Zahid Ullah son of Muhammad Khan was also recorded and placed on file, wherein they further. verified the compromise between parents/legal heirs of both the deceased, complainant and victims with the accused. facing trial as well as verified compromise deeds and proformas. List of legal heirs of both the deceased named above is available on record which further verifies the above named as parents /legal heirs of said deceased.

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Since the parents/legal heirs of deceased, complainant and victims have entered into compromise with the accused facing trial, and they have got no objection upon their acquittal, hence, application in hand is accepted and accused Sami Ullah s/o Shadi Akbar, Islam Ullah s/o Faiz Ullah, Muhammad Ilyas s/o Sardar Ali and Kiramat Ullah s/o Hashmat Ullah are hereby acquitted in the instant case. They are on bail, are discharged, alongwith their sureties from the liabilities of bail bonds. After expiry of period of appeal/ revision, case property be disposed off in accordance with law.

File be consigned to record room after its completion and compilation.

Announced 25.02.2015

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Additional Sessions Judge-II, Peshawar. SUHAIL SHERAZWYOR FRAN Additional District& Sessions kules II Peshawar cestutiso vo ce tave cet

(SUHAIL SHERAZ NOOR SAANI)

ZERBOND . for Sosolees (3

DISTRICT EDUCATION OFFICER (MALE) PESHAWAR

NOTIFICATION :-

1.WHEREAS Asstt:Sub Divisional Education Officer (Male) Circle Mathra, Peshawar reported that Mr.Muhammad Ilyas PSHT, Goverment Primary School No.1 Mera Shahi Bala Peshawar was charge under saction 302-324 /148-149 PPC vide FIR No.11 in Police Station Ragi Model Town on 09/06/2013 and absent from duty with effect from 09/06/2013.

2. AND WHEAREAS Mr. Muhammad Ilyas PSHT, Goverment Primary School No.1 Mera Shai Bala Peshawar was proceeded against under Khyber Pakhtunkhwa Govt:Servant (Efficiency & Discipline) Rules 2011 for the charged of " wilful absence from duty with effect from 09/06/2013 .

3. AND WHEREAS:- Absent Notice was served upon the accused Mr.Muhammad Ilyas PSHT, GPS No.1 Mera Shai Bala Peshawar through 'Daily Express'' Peshawar dated:12/04/2014.

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4. AND WHEREAS:-No reply of Absent Notice was given by the accused official

5. AND WHEARAS the competent authority, District Education Officer (Male) Peshawar, after having considered the charges, evidence on record, is of the view that the charge of wilful and unauthorized absence against the accused official has been proved.

6. NOW THEREFORE, In exercise of the Powers conferred under Rules-4 (b) ii 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 " Compulsory Retirement " upon Mr. Muhammad Ilyas, PSHT GPS No.1, Mera Shai Bala Peshawar with immediate effect. The period of his absence with effect from 09/06/2013 till date is hereby treated as unauthorized absence from duty-without pay-----

> Sharif Gul District Education Officer (Male) Peshawar.

Endst: No. Dated Peshawar the

Copy forwarded to the :-

- 1. Accountant General Khyber Pakhtunkhwa Peshawar.
- 2. Sub Divisional Education Officer (Male) Pesh-war 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, we all spaces
- 3. ASDEO (Male) Circle Mathra Peshawar. --
- PS to Secretary E&SED Knyber Pakhtunkhwa Peshawar.
- PA to Director E&SE Khyber Pakhtunkhwa Peshawar. 5
- PA to District Edcation Officer (Male) Peshawar. Official Cocnerned.

DY: District Education Office (Male) Peshawar.

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

APHED: E &

Subject:

То

Departmental Appeal against the order dated 24.05.2014, communicated to the undersigned on 04.03.2015 whereby the major penalty of compulsory retirement from service has been imposed upon the undersigned.

Prayer in Departmental Appeal:

On acceptance of this appeal the order dated 24.05.2014, may please be set aside and the undersigned may be reinstated in service with all back benefits and wages.

Ki

I very humbly submit the following few lines for your kind and sympathetic consideration:

1. That the undersigned was initially appointed as Primary School Teacher vide order dated 17.03.1992. Ever since my appointment I had performed my duties as assigned with zeal and devotion and there was no complaint what so ever regarding my performance.

That while serving in the said capacity, the undersigned was falsely implicated in a criminal case under section 302-324/148-149, vide FIR No. 11 dated 09.06.2013 of Police Station Regi Model Town, Peshawar. I duly informed the School authorities about my false implication in criminal case.

- 4. That initially I applied for bail before arrest which was granted to me by the concerned court, later the matter was patched up by the elder of the Locality, according I was acquitted from criminal charges by the Learned ADSJ-II Peshawar vide Judgment and order dated 25.02.2015.
- 5. That after obtaining copies of my acquittal order I duly reported for duty, however, I was told that I have been proceeded departmentally in absentia and have been awarded the penalty of compulsory retirement from service vide order dated 24.05.2014. It is pertinent to mention here that the order of penalty was however never communicated to me.
- 6. That the penalty so imposed upon me is illegal, unlawful against the law and facts, hence liable to be set aside inter alia on the following grounds.

GROUNDS OF DEPARTMENTAL APPEAL.

A. That the applicant undersigned has not been treated in accordance with law hence my rights secured and guaranteed under the law are badly violated.

- B. That no proper procedure has been followed before awarding me the penalty of compulsory retirement from service, I have not been served with any notice, charge sheet or show cause notice, nor has any inquiry been conducted before the imposition of penalty upon me. Thus the whole proceedings are defective in the eye of law as such the order based on such defective proceedings is liable to be set aside on this score alone.
- C. That I have not been provided opportunity of personal hearing before awarding me the penalty hence I have been condemned unheard.
- D. That no charge sheet or show cause notice has ever been served upon me, thus I have not been given opportunity to

- E. That since my absence from duty was not willful but was due to my involvement / false implication in criminal case. Therefore under the law/rules the department was required to hence keep the proceedings pending till the decision of the criminal case.
- F. That I have been committed any act or omission which could be termed as misconduct my absence from duty was not willful but it was due to my false implication in criminal case. Since I have now gained acquittal in the criminal case, therefore I deserve to be reinstated into service.
- G. That all the proceedings against me are conducted ex-party I have not been associated with the departmental proceedings at any stage thus the impugned order is violative of Principles of Natural Justice.
- H. That I have a long and spotless service career at my credit, I have always performed my duties as assigned with zeal devotion and to the entire satisfaction of my superiors. The penalty imposed upon me is harsh and doses not commensurate with the charges, needless to mention that those charges too were never probed hence liable to be set aside.
- I. That I am jobless since the imposition of illegal penalty upon me.

It is, therefore, humbly prayed that on acceptance of this Departmental Appeal the order dated 24.05.2014, may kindly be set aside and the applicant may be reinstated into service with all back benefits.

Yours Obediently

منمی فاری (م یس)

MUHAMMAD ILYAS Ex- Primary School Teacher,

POWER OF ATTOR		0
In the Court of IEPIE Courae Techy	ml	Jashim
Muhammach Olyas		}For
		Plaintiff Appellant
		}Petitioner
		}Complainant
VERSUS		
Sout of ICIDIE ES		}Defendant
		<pre>}Respondent }Accused</pre>
Appcal/Revision/Suit/Application/Petition/Case No.	of	}
representer is on build reprised on a build build reprised to	······	
	Fixed for_	
I/We, the undersigned, do hereby nominate and appoint		

IJAZ ANWAR ADVOCATE, SUPREME COURT OF PAKISTAN

in my same and on my behalf to appear at	my true and lawful attorney, for me
in my same and on my behalf to appear at	to appear, plead, act and
answer in the above Court or any Court to which t	the business is transferred in the above
matter and is agreed to sign and file petitions. An	
Compromises or other documents whatsoever, in a	connection with the said matter or any
matter arising there from and also to apply for a	nd receive all documents or copies of
documents, depositions etc, and to apply for and i poena and to apply for and get issued and arrest, at or order and to conduct any proceeding that may receive payment of any or all sums or submit for employee any other Legal Practitioner authoriz authorizes hereby conferred on the Advocate where lawyer may be appointed by my said counsel to co powers.	issue summons and other writs or sub- ttachment or other executions, warrants arise there out; and to apply for and the above matter to arbitration, and to zing him to exercise the power and ever he may think fit to do so, any other

AND to all acts legally necessary to manage and conduct the said case in all respects, whether herein specified or not, as may be proper and expedient.

AND I/we hereby agree to ratify and confirm all lawful acts done on my/our behalf under or by virtue of this power or of the usual practice in such matter.

PROVIDED always, that I/we undertake at time of calling of the case by the Court/my authorized agent shall inform the Advocate and make him appear in Court, if the case may be dismissed in default, if it be proceeded ex-parte the said counsel shall not be held responsible for the same. All costs awarded in favour shall be the right of the counsel or his nominee, and if awarded against shall be payable by me/us

IN WITNESS whereof I/we have hereto signed at the year day to the Executant/Executants Auguer Accepted subject to the terms regarding fee ljaz Anwar Advocate High Courts & Supreme Court of Pakistan JID AMIN ADVOCATE HIGH COURT ADVOCATES, LEGAL ADVISORS, SERVICE & LABOUR LAW CONSULTANT Lego: Advisor Services & Labour Laws Consultants

Ego: Addisor Services & Labour Laws Consultants ER-3-4, Pourth Floor, Bilour Plaza Peshawar Cantt. Ph. 091-5272054,Mob: 0333-4584986, 03339155956 ADVOCATES, LEGAL ADVISORS, SERVICE & LABOUR LAW CONSULTANT FR-3 &4, Fourth Floor, Bilour Plaza, Saddar Road, Peshawar Cantt Ph.091-5272154 Mobile-0333-9107225