

06.08.2021

We have gone through the letter dated 19.07.2021 as sent from office of the respondent No.2 in main appeal. Accordingly, it has been pointed out that the Service Appeal No.948/2019 titled Abid Hussain Vs. Government of Khyber Pakhtunkhwa was decided on 22.06.2021 but the date mentioned on the judgment is 22.06.2020. Therefore, request has been made for rectification of the date as 22.06.2021 and issuing of certified copy of the judgment, obviously after necessary correction. This Tribunal within meaning of Subsection-(2) of Section-7 of Khyber Pakhtunkhwa Service Tribunal Act, 1974 is deemed as civil court and have the same powers as are vested in such court under the Code of Civil Procedure, 1908. Section-152 C.P.C provides for amendment of the judgment, decree or orders. It provides that mistakes in judgments, decrees or orders or errors arisen therein from any accidental slip or omission may at any time be corrected by the court either of its own motion or on the application of any of the parties. In the present case, the date and month are correct but the year has been written as 2020 instead of 2021 due to typographical mistake which is an accidental slip. Therefore, the case is fit for exercise of jurisdiction U/S 152 C.P.C as described before. The office is directed to make necessary correction in the judgment, wherever applicable, by substituting the year 2020 with 2021. This order alongwith letter of the respondent No.2 seeking said correction be placed on main file. As request for provision of certified copy of judgment after correction has been made, the office is directed to issue certified copy and send the same in reply to the letter under discussion to the concerned quarter.



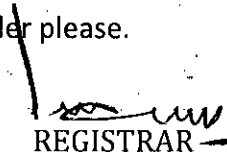

(Atiq Ur Rehman Wazir)
Member (E)


Chairman

FORM OF ORDERSHEET

Court of _____

Misc. application No. 140 /2021 in appeal no.948/2019

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	06/08/2021	<p>The Misc. application in appeal no. 948/2019 submitted by Director Higher Education Khyber Pakhtunkhwa may be entered in the relevant Register and put up to the Court for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2	06.08.2021	<p>Through letter No.15718 dated 19.07.2021 correction of the date of judgment in Service Appeal No.948/2019 titled Abid Hussain Vs. Government of Khyber Pakhtunkhwa has been sought. As the judgment was passed by D.B comprising the undersigned and Mr. Atiq-ur-Rehman Wazir Member (Executive), it would be better to place the matter before the D.B with said constitution for orders as to the requisite correction. So, special bench be constituted for presentation of this application alongwith main file before the same for issuance of orders about necessary correction.</p> <p style="text-align: right;"> Chairman</p>



DIRECTORATE OF HIGHER EDUCATION

KHYBER PAKHTUNKHWA

RANO GHARI, NEW CHAMKANI CHOWK, PESHAWAR

Tel # 091-2650024 fax # 091-2260181

E-mail:- dhekpsh@gmail.com Facebook.com/dhekpshawar Twitter.com/dhekpshawar1

DHE/AD (Lit)/SA/No. 15718/

Dated Peshawar the 19/7 /2021

To

The Registrar,
Khyber Pakhtunkhwa,
Service Tribunal, Peshawar



SUBJECT: SA NO. 948/2019 ABID HUSSAIN VERSUS GOVT: OF KHYBER PAKHTUNKHWA

Respected sir,

I am directed to refer to Section Officer (Lit-II) letter No. SO(Lit) HED/4-64/2019/SA 948/2019-Abid Hussain dated:16-07-2021 (copy enclosed) on the subject noted above and to state that the instant case was decided on 22-06-2021 but the date mentioned on the Judgment is 22-06-2020 (copy enclosed).

It is, therefore, requested that the date may be rectified as 22-06-2021 and certified copy of the Judgment may be provided so that the Govt; may place the same before scrutiny committee of Law department within 60 days time limit, please.

Note: Being Court matter may be dealt with on urgent basis.

(Handwritten signature)
19/7/21

(Lubna Farman)

Assistant Director (Litigation)

Endst: No. _____/

Copy to;

1. Advocate General, Khyber Pakhtunkhwa
2. Additional Advocate General, Khyber Pakhtunkhwa Service Tribunal, Peshawar.
3. Deputy Secretary (Lit), Higher Education Department.
4. Section Officer (Lit-II) , Higher Education Department w/r to his letter dated: 16-07-2021, please.

put up to the worthy chairman along with relevant app. p.

(Handwritten signature)
Assistant Director (Litigation)

Reader

(Handwritten signature)
27/7/2021



**GOVERNMENT OF KHYBER PAKHTUNKHWA
HIGHER EDUCATION, ARCHIVES & LIBRARY DEPARTMENT**

NO. SO (Lit) HED/4-64/19/SA-948/2019-Abid Hussain
Dated the Peshawar July 16, 2021

To

The Director,
Higher Education Khyber Pakhtunkhwa,
Rano Ghari, Peshawar.

**Subject: SA No. 948/2019 ABID HUSSAIN VS GOVT. OF KHYBER
PAKHTUNKHWA.**

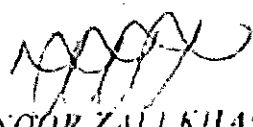
Dear Sir,

I am directed to refer to your letter No DHE/Ad (Lit)/SA/No 3885 dated 12.07.2021 on the subject noted above and to say that as per notice received from Hon'ble Service Tribunal the subject case was fixed for hearing on 22.06.2021 (copy enclosed) and also as per letter of Additional Advocate General, Khyber Pakhtunkhwa No. 1509-1513 dated 28.06.2021 wherein it has been intimated that the subject case was fixed for hearing on 22.06.2021 and the Hon'ble Tribunal accepted the appeal of the appellant. however, Judgment received vide your letter referred above showing the decision date of the subject case as 22.06.2020 instead of 22.06.2021

2. I am, therefore, directed to return the said working paper alongwith the judgment ibid for necessary rectification in coordination with AAG, Khyber Pakhtunkhw and after needful is done may return the working paper alongwith fresh certified copy of Judgment for placing the same before Scrutiny Committee of Law Department to determine its fitness or otherwise for filing of CPLA, please.

3. Being Time Limited Court Case, therefore, this may be treated as "Most Urgent"

Encl: as Above.


(NOOR ZALI KHAN)
Section Officer (Litigation-II)

Endst: No. & date even.

Copy forwarded to the:

1. The Secretary to Government of Khyber Pakhtunkhwa Law Department.
2. The Registrar, Khyber Pakhtunkhwa Service Tribunal, Peshawar.
3. The Additional Advocate General, Khyber Pakhtunkhwa Service Tribunal, Peshawar w/r to his letter above
4. PS to Secretary, Higher Education, Archives & Libraries Deptt Khyber Pakhtunkhwa.
5. PA to Deputy Secretary (Lit) Higher Education Department.
6. Master File.

①

BEFORE THE HON'BLE SERVICE TRIBUNAL
PESHAWAR



Khyber Pakhtunkhwa
Service Tribunal

Diary No. 1021

~~1021~~ 19/7/19

In Re S.A No. 948/2019

Abid Hussain Associate Professor Government
Degree College Daggar Bunir

....Appellant

VERSUS

1. Chief Minister Khyber Pakhtunkhwa.
2. Director Higher Education Khyber Pakhtunkhwa.
3. Secretary to Government of Pakhtunkhwa, Higher Education Department.

....Respondents

APPEAL U/S-4 OF THE KHYBER
PAKHTUNKHWA SERVICES TRIBUNAL ACT
1974 AGAINST THE ORDER DATED 10/01/2019
COMMUNICATED TO THE APPELLANT ON
24/01/2019 PASSED BY RESPONDENT NO.3
WHEREBY THE MINOR PENALTY OF WITH
HOLDING OF TWO INCREMENTS FOR TWO
YEARS HAS BEEN AWARDED TO THE
APPELLANT AGAINST WHICH THE
DEPARTMENTAL APPEAL DATED 21/02/2019
HAS BEEN REJECTED ON 31/05/2019
COMMUNICATED TO THE APPELLANT ON
19/06/2019 ON NO GOOD GROUNDS

Filed by Day
9/7/19
Registrar

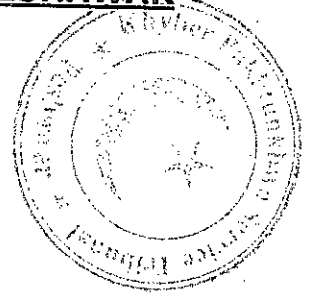
ATTACHED

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 948/2019

Date of Institution ... 19.07.2019

Date of Decision ... 22.06.2020



Abid Hussain Associate Professor Government Degree College Daggar Bunir.
... (Appellant)

VERSUS

Secretary Government of Khyber Pakhtunkhwa Education Department and two
others. ... (Respondents)

MISS. ROEEDA KHAN
Advocate

... For Appellant

MR. ASIF MASOOD ALI SHAH,
Deputy District Attorney

... For Respondents

MR. AHMED SULTAN TAREEN
MR. ATIQ UR REHMAN WAZIR

... CHAIRMAN
... MEMBER (E)

JUDGMENT

Mr. ATIQ UR REHMAN WAZIR MEMBER (E): - Brief facts of the case are that the appellant while serving as Associate Professor in a college was proceeded against on the charges of misconduct and charge sheet/statement of allegations to this effect was issued containing the allegations of misbehavior with college administration, abusive language and hatching conspiracies against the principal of the college. The appellant responded to the charge sheet, thereafter proper inquiry was conducted and Show Cause Notice was served upon the appellant on 08-01-2018, which was also responded on 22-10-2018, resultantly minor penalty of withholding of two increments for two years was


ATTESTED

posed upon the appellant vide order dated 10-01-2019. Feeling aggrieved, the appellant filed departmental appeal dated 21-02-2019, which was rejected by the competent authority on 31-05-2019, hence the instant service appeal with prayers that impugned orders dated 10-01-2019 and 31-05-2019 may be set aside and his increments may be restored along with all back benefits.

02. Written reply/comments were submitted by respondents.

03. Arguments heard and record perused.


04. Learned counsel for the appellant contended that mandatory provisions of law and rules have badly been violated by the respondents and the appellant has not been treated according to law as the appellant did nothing wrong, which amounts to misconduct. Learned counsel for the appellant contended that no allegations has been proved against the appellant through evidence by the inquiry officer, on the basis of which the appellant was penalized, which is unlawful. Reliance was placed on 2020 SCMR 1245. Learned counsel for the appellant explained that no opportunity of defense and personal hearing as well as opportunity to cross-examine witnesses has been provided to the appellant. On the question of limitation, learned counsel for the appellant referred to the judgment of the Apex Court in 2009 PLC (CS) 178, where the appellant have a continuous cause of action, as he has been deprived extension of his pay by curtailing his increments. That the whole proceedings are based on malafide of the respondents and is contrary to the norms of natural justice, which is evident from the fact that the impugned order dated 10-01-2019 was passed by an incompetent authority, which makes the whole proceeding void ab-initio in the eyes of law. Learned counsel for the appellant prayed that the impugned orders

ATTENDED


10-01-2019 and 31-05-2019 may be set aside and his increments be restored with all back benefits.

05. Learned Deputy District Attorney appeared on behalf of official respondents contended that departmental appeal of the appellant is time barred by 11 days and where departmental appeal is barred by time, the service appeal before the Tribunal is not competent. Reliance was made on 2004 SCMR 1426. Learned Deputy District Attorney further added that the appellant was proceeded against in accordance with law and every opportunity of defense was afforded to the appellant. Learned Deputy District Attorney contended that the appellant joined the proceedings and responded to the charge sheet/statement of allegations as well as Show Cause Notice. That the inquiry conducted so clearly manifests that charges against the appellant were partially proved. learned Deputy District Attorney prayed that the instant appeal being devoid of merit may be dismissed.

06. We have heard learned counsel for the parties and perused the record. Record reveals that the appellant was proceeded against on the charges of rude behavior, insubordination, hatching conspiracies against principal and abusive language, which are very general in nature and the inquiry committee in its report have admitted that such charges cannot be reduced to a measurable specific frame to prove or disprove in the process of inquiry. In spite of the fact that no specific allegations were proved through evidence against the appellant, the imposition of penalty smacks malafide on part of the respondents. The inquiry so conducted is also replete with deficiencies, as the appellant was not afforded with the opportunity to cross-examine witnesses. We have noticed that there was a tug of war between the principal and the appellant, which

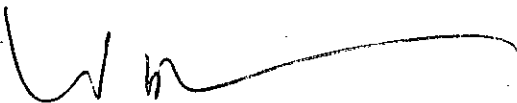
APPROVED



minated into submission of complaints against each other to the competent authority and ultimately, one of them i.e. the curse of such campaign afflicted the appellant with imposition of penalty as impugned before us but which was not unwarranted being without a regular inquiry. We also would differ with the contention of the learned Deputy District Attorney about time of limitation, as the issue involves a continuous cause of action, involving monetary loss to the appellant, hence no limitation runs against the instant case.

07. For what has gone above, the instant appeal is accepted as prayed for. Consequently, both the impugned orders are set aside with direction for restoration of appellant's increments with back benefit. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED
22.06.2020


(AHMED SULTAN TAREEN)
CHAIRMAN


(ATIQ UR REHMAN WAZIR)
MEMBER (E)


Atiq Ur Rehman Wazir
Member (E)

Date of Presentation of Application 29-6-21
Number of Pages 7000
Copying Fee 22/-
Stamp 22/-
Fees of Court 22/-
Date of Completion of Case 02/7/21
Date of Delivery of Copy 02/7/21

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 948/2019

Date of Institution ... 19.07.2019

Date of Decision ... 22.06.2020

22.06.2021

(As per order sheet dated:
06/08/2021, in Misc. Application
NO: 140/2021 Titled:
Director Higher Education
versus
Abid Hussain)

Abid Hussain Associate Professor Government Degree College Daggar Bunir.

... (Appellant)

VERSUS

Secretary Government of Khyber Pakhtunkhwa Education Department and two others.

... (Respondents)

MISS. ROEEDA KHAN

Advocate

... For Appellant

MR. ASIF MASOOD ALI SHAH,

Deputy District Attorney

... For Respondents

MR. AHMED SULTAN TAREEN

... CHAIRMAN

MR. ATIQ UR REHMAN WAZIR

... MEMBER (E)

JUDGMENT

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imposed upon the appellant vide order dated 10-01-2019. Feeling aggrieved, the appellant filed departmental appeal dated 21-02-2019, which was rejected by the competent authority on 31-05-2019, hence the instant service appeal with prayers that impugned orders dated 10-01-2019 and 31-05-2019 may be set aside and his increments may be restored along with all back benefits.

02. Written reply/comments were submitted by respondents.

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04. Learned counsel for the appellant contended that mandatory provisions of law and rules have badly been violated by the respondents and the appellant has not been treated according to law as the appellant did nothing wrong, which amounts to misconduct. Learned counsel for the appellant contended that no allegations has been proved against the appellant through evidence by the Inquiry officer, on the basis of which the appellant was penalized, which is unlawful. Reliance was placed on 2020 SCMR 1245. Learned counsel for the appellant explained that no opportunity of defense and personal hearing as well as opportunity to cross-examine witnesses has been provided to the appellant. On the question of limitation, learned counsel for the appellant referred to the judgment of the Apex Court in 2009 PLC (CS) 178, where the appellant have a continuous cause of action, as he has been deprived extension of his pay by curtailing his increments. That the whole proceedings are based on malafide of the respondents and is contrary to the norms of natural justice, which is evident from the fact that the impugned order dated 10-01-2019 was passed by an incompetent authority, which makes the whole proceeding void ab-initio in the eyes of law. Learned counsel for the appellant prayed that the impugned orders

dated 10-01-2019 and 31-05-2019 may be set aside and his increments be restored with all back benefits.

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culminated into submission of complaints against each other to the competent authority and ultimately, one of them i.e. the curse of such campaign afflicted the appellant with imposition of penalty as impugned before us but which was not unwarranted being without a regular inquiry. We also would differ with the contention of the learned Deputy District Attorney about time of limitation, as the issue involves a continuous cause of action, involving monetary loss to the appellant, hence no limitation runs against the instant case.

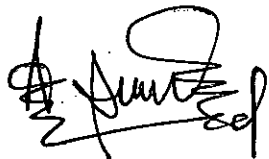
07. For what has gone above, the instant appeal is accepted as prayed for. Consequently, both the impugned orders are set aside with direction for restoration of appellant's increments with back benefit. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED

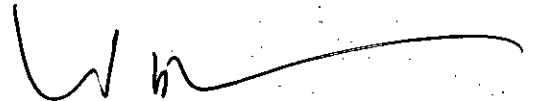
22.06.2020

22.06.2021

(As per order sheet dated: 06/08/2021, in Misc Application 140/21,
Titled Director Higher Education Vs. Abid Hussain)



(AHMED SULTAN TAREEN)
CHAIRMAN



(ATIQ UR REHMAN WAZIR)
MEMBER (E)

ORDER

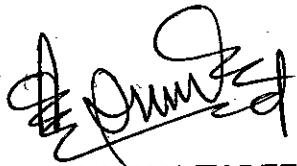
22.06.2021 Learned counsel for the appellant and Mr. Asif Masood Ali Shah, learned Deputy District Attorney for respondents present. Arguments heard and record perused.

Vide detailed judgment of today, separately placed on file, the instant appeal is accepted as prayed for. Consequently, both the impugned orders are set aside with direction for restoration of appellant's increments with back benefit. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED

~~22-06-2020~~

22.06.2021



(AHMED SULTAN TAREEN)
CHAIRMAN




(ATIQ UR REHMAN WAZIR)
MEMBER (E)

Sir,


1. PUC is a list of cases heard & announced by the then Chairman Justice (Rtd) Hamid Farooq Durrani (Late) but judgment could not be written due to his illness & demise later on.

2/N. Submitted for perusal and orders, please.


Registrar 9/6/2021.

3. Worthy Chairman

The cases enumerated in the PUC be fixed before a Special D.B comprising the undersigned and the worthy Member who sat in the Bench with the then Worthy Chairman at the time of hearing, for further dealing with the matter in accordance with law, after notices to the parties. 22-06-2021


18/6/2021


Chairman

4. Registrar

21.07.2020

Appellant is absent. Mr. Kabirullah Khattak, Additional AG alongwith representative of the department Mr. Jehanzeb, Superintendent are present.

Representative of the department submitted para-wise comments on behalf of respondents No. 1 to 3 which are placed on file. To come up for arguments on 12.10.2020 before D.B. The appellant may submit rejoinder within a fortnight, if so advised. Notice be also issued to appellant/counsel for appellant for attendance for the date fixed.


(MUHAMMAD JAMAL KHAN)
MEMBER

12.10.2020

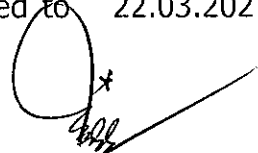
Due to incomplete Bench, the case is adjourned. To come up for the same on 18.12.2020 before D.B.


Reader

18.12.2020

Appellant in person. Asstt. AG for the respondents present.

Former requests for adjournment as his learned counsel is engaged today before the Honourable High Court. Adjourned to 22.03.2021 for hearing before the D.B.


(Mian Muhammad)
Member(E)


Chairman

04.02.2020

Appellant in person present. Addl: AG alongwith Mr. Israr, Assistant for respondents present. Written reply not submitted. Requested for adjournment. Adjourned. To come up for written reply/comments on 19.03.2020 before S.B.


Member

19.03.2020

Clerk of counsel for the appellant present. Mr. Kabirullah Khattak, Additional AG for the respondents present. Neither written reply on behalf of respondents submitted nor representative of the department is present, therefore, notices be issued to the respondents with the direction to direct the representative to attend the court and submit written reply/comments. Last chance is given to the respondents to furnish written reply/comments. To come up for written reply/comments on 28.04.2020 before S.B.


(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

28.04.2020

Due to COVID19, the case is adjourned to 21.07.2020 for the same as before.


Reader

08.11.2019

Counsel for the appellant present.

Contends that the impugned order was passed against the appellant on 10.01.2019 whereby minor penalty of withholding of two increments for two years was awarded to him. A departmental appeal was preferred on 22.02.2019 as the impugned order was conveyed to the appellant on 24.01.2019. The appeal was rejected through order dated 31.05.2019 and upon communication of rejection order on 19.06.2019, the appellant submitted instant service appeal on 17.07.2019. Arguing about the merits of the case, it was contended that during the enquiry proceedings three witnesses appeared, out of which, only one deposed against the appellant while the two others categorically denied the use of abusive language by him. It is also the case of the appellant that he was not provided an opportunity of cross examination of witnesses who appeared during the enquiry proceedings. The requirements of justice and fair play were, therefore, not regarded in the case of the appellant, it was added.

The instant appeal is admitted to regular hearing subject to all just exceptions in view of the available record. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments on 19.12.2019 before the S.B.

Appellant Deposited
Security & Process Fee
12/11/19



Chairman

19.12.2019

Appellant in person and Addl. AG for the respondents present.

Learned AAG seeks time to contact the respondents and submit written reply/comments. Adjourned to 04.02.2020 on which date the requisite reply/comments shall positively be submitted.

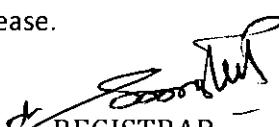




Chairman

Form- A
FORM OF ORDER SHEET

Court of _____

Case No.- 948 /2019


S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	24/07/2019	<p style="text-align: center;">The appeal of Mr. Abid Hussain resubmitted today by Mr. Roeda Khan Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-	23.09.2019	<p style="text-align: center;">This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>23/9/19</u></p> <p style="text-align: right;"> CHAIRMAN</p> <p style="text-align: center;">Appellant requests for adjournment on account of general strike of Bar. Adjourned to 08.11.2019 before S.B.</p> <p style="text-align: right;"> CHAIRMAN</p>

The appeal of Mr. Abid Hussain received today, i.e. on 19/07/2019 is incomplete on the following scores which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Annex-A is illegible, which may be replaced with legible/better one.
- 2- Blank Wakalatnama has submitted with the appeal which should be properly filled and signed by appellant & counsel.

No. 1250 /S.T,

Dt. 23-7- /2019


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Roeeda Khan, Adv.

I have been removed
objections Annex-A Annex
Annex-B


24/7/19

BEFORE THE HON'BLE SERVICE TRIBUNAL
PESHAWAR

In Re S.A No. 948/2019

Abid Hussain

VERSUS

Secretary Government of Khyber Pakhtunkhwa Education
Department and Others

INDEX

S#	Description of Documents	Annex	Pages
1.	Grounds of Petition.		1-6
2.	Affidavit.		7
3.	Addresses of parties		8
4.	Application for the Condonation of Delay		9-10
5.	copy of charge sheet and statement	"A"	11 to 12
6.	Copy of reply of charge sheet	"B"	13 to 18
7.	copy of Enquiry report	"C"	16 to 20
8.	Copy of show cause notice and reply	"D & E"	21 to 24
9.	Copy of impugned orders dated 10/01/2019	"F"	28
10.	Copy of department appeal / Rejection	"G" & "H"	26 to 29
11.	Wakalat Nama		

(A)
APPELLANT

Through

(P)
Roeda Khan
Advocate, High Court
Peshawar.

Dated: 17/07/2019

①

BEFORE THE HON'BLE SERVICE TRIBUNAL
PESHAWAR

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 1021

~~Date~~ 19/7/19

In Re S.A No. 948/2019.

Abid Hussain Associate Professor Government
Degree College Daggar Bunir

....Appellant

VERSUS

1. Chief Minister Khyber Pakhtunkhwa.
2. Director Higher Education Khyber Pakhtunkhwa.
3. Secretary to Government of Pakhtunkhwa, Higher
Education Department.

....Respondents

APPEAL U/S-4 OF THE KHYBER
PAKHTUNKHWA SERVICES TRIBUNAL ACT
1974 AGAINST THE ORDER DATED 10/01/2019
COMMUNICATED TO THE APPELLANT ON
24/01/2019 PASSED BY RESPONDENT NO.3
WHEREBY THE MINOR PENALTY OF WITH
HOLDING OF TWO INCREMENTS FOR TWO
YEARS HAS BEEN AWARDED TO THE
APPELLANT AGAINST WHICH THE
DEPARTMENTAL APPEAL DATED 21/02/2019
HAS BEEN REJECTED ON 31/05/2019
COMMUNICATED TO THE APPELLANT ON
19/06/2019 ON NO GOOD GROUNDS

Filed to day
Registrar
9/7/19

2

Prayer:-

ON ACCEPTANCE OF THIS SERVICE APPEAL BOTH THE IMPUGNED ORDER DATED 10/01/2019 & 31/05/2019 OF RESPONDENTS MAY KINDLY BE SET ASIDE AND THE APPELLANT MAY KINDLY BE ORDER TO BE RESTORED HIS TWO INCREMENTS ALONGWITH ALL BACK BENEFITS.

Respectfully Sheweth,

1. That the Appellant was initially appointed as a Lecturer on 10/12/1988 and performed his duties with full devotion and hard work and now complained whatsoever has been made against the appellant.
2. That during the course of service the appellant remained in different stations and lastly the appellant has been posted at Government Degree College Khan Kohi Nizampur in the year 2011-2012.
3. That while serving at the said Degree College Khan Kohi Nizampur, a charge sheet and statement of allegations has been issued by the respondent department against the appellant (copy of charge sheet and statement of allegations attached as annexure "A").

3

4. That the appellant properly replied the said charge sheet whereby the appellant denied all the allegations leveled against him. **(Copy of reply of charge sheet is annexed as annexure "B")**

5. That a departmental enquiry has been conducted against the appellant whereby no allegations has been proved against the appellant by the respondent department. **(copy of Enquiry report is attached at annexure "C")**

6. That a show cause notice has been issued against the appellant which has properly replied by the appellant where the appellant denied all the allegations leveled against him **(Copy of show cause notice and reply is attached as annexure "D" & "E")**

7. That on 10/01/2019, the impugned order has been passed against the appellant whereby the minor penalty of with holding of two increments for two years has been awarded to the appellant, which has been communicated to the appellant on 24/01/2019. **(Copy of impugned orders dated 10/01/2019 is attached as annexure "F")**

41

8. That the appellant submitted a departmental appeal against the impugned order on 21/02/2019. (Copy of department appeal is attached as annexure "G")

9. That the said departmental appeal has been rejected on 31/05/2019 and communicated to the appellant on 19/06/2019 on no good grounds. (Copy of Rejection order as Annexure "H")

GROUND:-

A. That the impugned orders are illegal and void-ab-initio.

B. 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 and the appellant did nothing that amounts to misconduct.

C. That no allegations has been proved against the appellant by the Enquiry Officer.

(8)

D. That no opportunity of defense and personal hearing has been provided to the appellant and no opportunity of cross examination has been provided to the appellant.

E. That the impugned order is defective as per FR 29 and as such not maintainable in the eyes of law.

F. That the impugned orders are not speaking orders and thus not tenable in the eyes of law.

G. That the punishment is harsh being in contrary to the principal of proportionality of sentence.

H. That any other ground not raised here may graciously be allowed to be raised at the time full of arguments on the instant service appeal.

It is therefore, most humbly prayed that the appeal of the appellant may kindly be

(6)

accepted as prayed for in the heading of the appeal.


Any other relief not specifically asked for may also graciously be extended in favour of the Appellant in the circumstances of the case.

Dated: 17/07/2019



APPELLANT

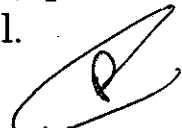
Through



Roeda Khan
Advocate, High Court
Peshawar.

NOTE:-

As per information furnished by my client, no such like appeal for the same petitioner, upon the same subject matter has earlier been filed, prior to the instant one, before this Hon'ble Tribunal.



Advocate.

7

BEFORE THE HON'BLE SERVICE TRIBUNAL
PESHAWAR

In Re S.A No. _____/2019

Abid Hussain

VERSUS

Secretary Government of Khyber Pakhtunkhwa Education
Department and Others

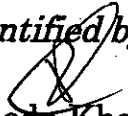
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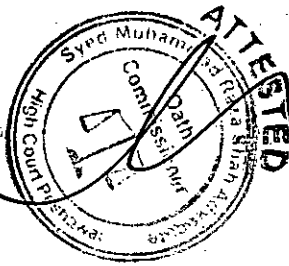
I, **Abid Hussain** Associated Professor **Government Degree College Daggar District Bunir**, do hereby solemnly affirm and declare that all the contents of the **instant appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed or withheld from this Hon'ble Court.

(A)

DEPONENT

Identified by:


Roeeda Khan
Advocate High Court
Peshawar.



(8)

BEFORE THE HON'BLE SERVICE TRIBUNAL
PESHAWAR

In Re S.A No. ____/2019

Abid Hussain

VERSUS

Secretary Government of Khyber Pakhtunkhwa Education
Department and Others

ADDRESSES OF PARTIES

PETITIONER.

Abid Hussain Associate Professor Government
Degree College Daggar District Bunir.

ADDRESSES OF RESPONDENTS

1. Chief Minister Khyber Pakhtunkhwa.
2. Director Higher Education Khyber Pakhtunkhwa.
3. Secretary to Government of Pakhtunkhwa, Higher
Education Department.

APPELLANT

Through

Roeda Khan

Advocate, High Court
Peshawar.

Dated: 17/07/2019

9

BEFORE THE HON'BLE SERVICE TRIBUNAL
PESHAWAR

In Re S.A No. _____/2019

Abid Hussain

VERSUS

Secretary Government of Khyber Pakhtunkhwa Education
Department and Others

APPLICATION FOR CONDONATION OF DELAY (if any)

Respectfully Sheweth,

Petitioner submits as under:

1. That the above mentioned appeal is filing before this Hon'ble Tribunal in which no date is fixed for hearing so far.
2. That the ground of the appeal be consider as integral part of this application
3. That the appellat after come to know regarding the of with holding of two increments for two years on 24/01/2019.

(5)

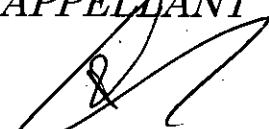
4. That the final impugned order dated 31/05/2019 has been communicated to the appellant on 19/06/2019.
5. That no allegations are charged has been proved by the Enquiry Officer against the appellant.
6. That there are many judgment of the superior court that the cases should be decided on merit rather than on technically.

It is, therefore, requested that the limitation period (if any) may kindly be condone in the interest of justice.

(Ac)

APPELLANT

Through


Roeda Khan
Advocate, High Court
Peshawar.

Dated: 17/07/2019

CHARGE SHEET

I, Muhammad Azam Khan, Chief Secretary, Khyber Pakhtunkhwa, as Competent Authority, hereby charge you, Mr. Abid Hussain, Associate Professor of Statistics, Govt; Degree College, Khan Kohi (Nowshera) as follows:

That you, while posted as Associate Professor of Statistics, Govt; Degree College, Khan Kohi (Nowshera) committed the following irregularities:-

- i. That your behavior with the College administration is allegedly very rude and you don't accept the authority of the Principal.
 - ii. That during the course of inquiry conducted by Prof: Sharif Gul, former Principal, Govt; Degree College, Pabbi (Nowshera) now working as Principal Govt; Superior Science College, Peshawar, you didn't respond to the questionnaire rather you raised questions about the inability of the Inquiry Officer and also leveled baseless allegations on the Inquiry Officer and others.
 - iii. That a number of complaints were pouring in from the Principal wherein allegations such as casual behavior, irresponsible and incapable performance hatching conspiracies against the Principal, habitual late comer, using abusive and insulting language with the staff members and writing letters to high-ups with fake names etc were leveled against you and during the inquiry proceedings all these allegations were found establish.
2. By reason of above, you appear to be guilty of misconduct under rule 03 of the Khyber Pakhtunkhwa, Peshawar Govt; Servants (Efficiency and Discipline) Rules, 2011 and have rendered yourself liable to all or any of the penalties specified in rule 04 of the Rule ibid.
 3. You are, therefore, required to submit your written defense within seven days of the receipt of this Charge Sheet to the Enquiry Officer/ Committee, as the case may be.
 4. Your written defense, if any, should reach the Enquiry Officer/ Committee within the specified period, failing which it shall be presumed that you have no defense to put in and in that case ex-parte action shall be taken against you.
 5. Intimate whether you desire to be heard in person.
 6. A statement of allegations is enclosed.

Muhammad Azam Khan
Chief Secretary
Khyber Pakhtunkhwa

DISCIPLINARY ACTION

I, Muhammad Azam Khan, Chief Secretary, Khyber Pakhtunkhwa, as Competent Authority, am of the opinion that Mr. M. Abid Hussain, Associate Professor of Statistics, Govt; Degree College, Khan Kohi (Nowshera) has rendered himself liable to be proceeded against, as he submitted the following acts/ omissions, within the meaning of rule 03 of the Khyber Pakhtunkhwa Govt; Servants (Efficiency & Discipline) Rules, 2011.

STATEMENT OF ALLEGATIONS

- i. That his behavior with the College administration is allegedly very rude and he doesn't accept the authority of the Principal.
 - ii. That during the course of inquiry conducted by Prof: Sharif Gul, former Principal, Govt: Degree College, Pabbi (Nowshera) now working as Principal Govt; Superior Science College, Peshawar, he didn't respond to the questionnaire, rather he raised questions about the inability of the Inquiry Officer and also leveled baseless allegations on the Inquiry Officer and others.
 - iii. That a number of complaints were pouring in from the Principal wherein allegations such as casual behavior, irresponsible and incapable performance, hatching conspiracies against the Principal, habitual late comer, using abusive and insulting language with the staff members and writing letters to high-ups with fake names etc were leveled against him and during the inquiry proceedings all these allegations were found established.
2. For the purpose of inquiry against the said accused with reference to the above allegations, an inquiry officer/ inquiry committee, consisting of the following, is constituted under rule 10 (1) (a) of the ibid rules.
 - i. Mr. Muhammad Akbar Khan Secy:Food
 - ii. Dr. Muhammad Ishaq, Principal GPGC Mardan.
 3. The inquiry officer/ inquiry committee shall, in accordance with the provisions of the ibid rules, provide reasonable opportunity of hearing to the accused, record its findings and make, within thirty days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused.
 4. The accused and a _____ representative of the department shall join the proceedings on the date, time and place fixed by the inquiry officer/ inquiry committee.

Muhammad Azam Khan
Chief Secretary
Khyber Pakhtunkhwa

Amir (A) (1)

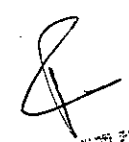
CHARGE SHEET

I, Mohammad Azam Khan, Chief Secretary, Khyber Pakhtunkhwa, as Competent Authority, hereby charge you, Mr. Abid Hussain, Associate Professor of Statistics, Govt; Degree College, Khan Kohi (Nowshera) as follows:

That you, while posted as Associate Professor of Statistics, Govt; Degree College, Khan Kohi (Nowshera) committed the following irregularities:-

- i. That your behavior with the College administration is allegedly very rude and you don't accept the authority of the Principal.
 - ii. That during the course of inquiry conducted by Prof: Sharif Gul, former Principal, Govt; Degree College, Pabbi (Nowshera) now working as Principal Govt; Superior Science College, Peshawar, you didn't respond to the questionnaire rather you raised questions about the inability of the Inquiry Officer and also levelled baseless allegations on the Inquiry Officer and others.
 - iii. That a number of complaints were pouring in from the Principal wherein allegations such as casual behavior, irresponsible and incapable performance, hatching conspiracies against the Principal, habitual late comer, using abusive and insulting language with the staff members and writing letters to high-ups with fake names etc were levelled against you and during the inquiry proceedings all these allegations were found established.
2. By reason of the above, you appear to be guilty of misconduct under rule 03 of the Khyber Pakhtunkhwa, Peshawar Govt; Servants (Efficiency and Discipline) Rules, 2011 and have rendered yourself liable to all or any of the penalties specified in rule 04 of the Rule *ibid*.
 3. You are, therefore, required to submit your written defence within seven days of the receipt of this Charge Sheet to the Enquiry Officer/ Committee, as the case may be.
 4. Your written defence, if any, should reach the Enquiry Officer/ Committee within the specific period, failing which it shall be presumed that you have no defence to put in and in that case ex-parte action shall be taken against you.
 5. Intimate whether you desire to be heard in person.
 6. A statement of allegations is enclosed.

(Mohammad Azam Khan)
**CHIEF SECRETARY,
KHYBER PAKHTUNKHWA**


ATTESTED

Am A- (12)

DISCIPLINARY ACTION

I, Mohammad Azam Khan, Chief Secretary, Khyber Pakhtunkhwa, as Competent Authority, am of the opinion that Mr. Mr. Abid Hussain, Associate Professor of Statistics, Govt; Degree College, Khan Kohi (Nowshera) has rendered himself liable to be proceeded against, as he committed the following acts/ omissions, within the meaning of rule 03 of the Khyber Pakhtunkhwa Govt; Servants (Efficiency and Discipline) Rules, 2011.

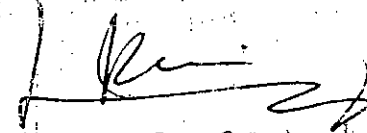
STATEMENT OF ALLEGATIONS

- i. That his behavior with the College administration is allegedly very rude and he doesn't accept the authority of the Principal.
- ii. That during the course of inquiry conducted by Prof: Sharif Gul, former Principal, Govt; Degree College, Pabbi (Nowshera) now working as Principal Govt; Superior Science College, Peshawar, he didn't respond to the questionnaire, rather he raised questions about the inability of the Inquiry Officer and also levelled baseless allegations on the Inquiry Officer and others.
- iii. That a number of complaints were pouring in from the Principal wherein allegations such as casual behavior, irresponsible and incapable performance, hatching conspiracies against the Principal, habitual late comer, using abusive and insulting language with the staff members and writing letters to high-ups with fake names etc were levelled against him and during the inquiry proceedings all these allegations were found established.
2. For the purpose of inquiry against the said accused with reference to the above allegations, an inquiry officer/ inquiry committee, consisting of the following, is constituted under rule 10 (1) (a) of the ibid rules.


i. Mr. Mohammed Akbar Khan Secy: Food.

ii. Dr. Mohammad Ishaq, Principal G.D.C. Nowshera.

3. The inquiry officer/ inquiry committee shall, in accordance with the provisions of the ibid rules, provide reasonable opportunity of hearing to the accused, record its findings and make, within thirty days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused.
4. The accused and a well conversant representative of the department shall join the proceedings on the date, time and place fixed by the inquiry officer/ inquiry committee.



(Mohammad Azam Khan)
**CHIEF SECRETARY,
KHYBER PAKHTUNKHWA**


ATTESTED

Am B³

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To

The Honorable Chief Minister
Khyber Pakhtun Khwa.

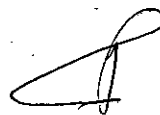
Trough Proper Channel

**REPLY TO SHOW CAUSE COMMUNICATED TO THE
UNDERSIGNED ON 08-10-2018**

Respected Sir,

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

1. That the undersigned was initially appointed as Lecturer vide notification dated 10-12-1988.
2. That ever since my appointment I performed my duties with zeal and devotion and without any complaint whatsoever from my superiors with regard to my duties.
3. That during his long service career I have performed my duties at different stations, presently I am performing my duties at GC Rustum as Associate Professor.
4. That while serving as Associate Professor at Government Degree College Khan Kohi, Nizampur, Nowshera, the undersigned was served with charge sheet and statement of allegations dated 27-02-2018 containing certain baseless allegations. *(Copy of Charge Sheet dated 27-02-2018 is attached as Annexure A)*



ATTESTED

141

5. That the undersigned duly replied to the charge sheet and refuted allegation leveled against him. *(Copy of reply is attached as Annexure B).*
6. That an inquiry has also been conducted in the matter and the inquiry committee submitted its report wherein the committee held that out of three charges last two charges were not proved.
7. That now the undersigned has been served with show cause dated 08-10-2018.
8. That the undersigned hereby refutes the allegations contained in the show cause notice. I have never committed any act or omission which could be termed as misconduct.
9. That charges which were leveled against me were never proved during the inquiry proceedings.
10. That I was not properly associated with the inquiry proceedings. The statements of the witnesses were never recorded and if recorded were in my presence nor I was allowed to cross examine them.
11. That the undersigned never imagine committing any misconduct. Actually I remained the member of college council and this was the reason the principal Sher Bahadur became personal to me. The attitude of principal not only towards me but also towards all those who did not obey his illegal order was inhuman and insulting. Under the rules the college council file is in the custody of principal and the controversy arose in the year 2014, when one Mr. Shabir filed complaint to the commissioner RTI Peshawar for provision of copy of college Council file. The Principal alleged that the college council file was in custody of me, whereas by that time the college file was not even in existence. Since I was the



ATTESTED

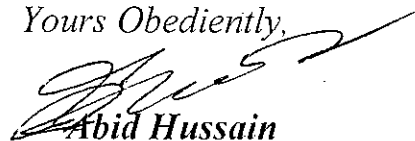
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member of college council and I did not obey his illegal orders therefore he dragged me in the issue.

12. That during the inquiry the charge of "Inefficiency" was never proved this fact was also admitted by the inquiry committee. So to this extent the instant notice is not sustainable. So far as the second charge "Misconduct" is concern the same, the same was also never proved and the inquiry committee mere on presumptions and surmises and conjectures held the charge to be "proved".
13. The Principal was the complainant against the undersigned and even his statement was not recorded in my presence nor was I allowed to cross examine him. So to that extent the inquiry was defective in the eye of law.
14. That the undersigned during his long service career always remain punctual towards his duties.
15. That I was not properly associated with the inquiry proceedings and whole proceedings were defective in the eye of law and the undersigned was condemned unheard.

It is, therefore, humbly prayed that on acceptance of this reply the subject show cause notice may be filed and the undersigned may be exonerated from the charged leveled against him.

Yours Obediently,



Abid Hussain

(Associate Professor)

Government Degree College

Rustum Mardan

Dated: 24 / 10 / 2018

ATTESTED

ATTACHED

J

Conducted by
Muhammad Akbar Khan, Secretary to Govt. of Khyber Pakhtunkhwa, Food
&
Department
Professor Dr. Muhammad Ishaq, Principal Govt. Postgraduate College
Nowshera

DISCIPLINARY PROCEEDINGS AGAINST MR. ABID HUSSAIN,
ASSOCIATE PROFESSOR, GOVT. DEGREE COLLEGE KHAN
KOH, NIZAMPUR, NOWSHERA

INQUIRY REPORT

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19

Am (C) (16)

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INQUIRY REPORT

Subject: Disciplinary proceedings against Mr. Abid Hussain, Associate Professor, Govt. Degree College Khan Kohi, Nizampur, Nowshera.

AUTHORITY/ CHARGES:

Reference to Section officer (C-1) Govt. of Khyber Pakhtunkhwa Higher Education Department No. SO(C-1)HE/1-2/2016 summary for CM/Abid Hussain/81307 Dated January 23, 2018, wherein the undersigned were appointed as inquiry officers for holding inquiry against Mr. Abid Hussain, Associate Professor, Govt. Degree College Khan Kohi, Nizampur, Nowshera. (Annex-I)

Gist of charges/statement of allegations leveled against the accused officer are given below (Annex-II & III)

- I. That the accused officer while posted at Govt. Degree College Khan Kohi, Nizampur, Nowshera, had a rude behavior with the college administration and did not accept the authority of the Principal.
- II. That during the course of inquiry conducted by Professor Sharif Gul, former Principal Govt. Degree College Khan Kohi Nowshera, now working as Principal Govt. College Peshawar, he did not respond to the questionnaire, rather he raised questions about the inability of the inquiry officer and leveled baseless allegations on the inquiry officer and others.
- III. That his Principal complained about his casual behavior, irresponsible and incapable performance, hatching conspiracies against the Principal, being habitual late comer, using abusive and insulting language with the staff members and writing letters to high ups with fake names.

BACKGROUND:

The background of the case is that a number of complaints against the accused were pouring in from the Principal of Govt. Degree College Khan Kohi such as casual behavior, irresponsible and incapable performance, hatching conspiracies against the Principal, habitual late comer, using abusive and insulting language with the staff members and writing letters to high ups with fake names. The allegations mentioned above were found established in the fact finding inquiry conducted by Professor Sharif Gul, former Principal Govt. Degree College Pabbi now working as Principal Govt. College Peshawar (Annex-IV). Hence the formal inquiry against the accused Mr. Abid Hussain under (E&D) Rules, 2011.

PROCEEDINGS:

Mr. Amjad Khan, senior clerk, Directorate of Higher Education, was nominated as departmental representative vide letter No 2641-42 Dated 26-02-2018 to assist the inquiry committee (Annex IV). The accused officer was served upon charge sheet and

[Signature]

[Signature]

ATTESTED

statement of allegation vide letter No SOG/FD/7-23/2015-16/Dated: 27-02-2018 wherein he was also asked to submit his written reply within 07 days (Annex-VI).

Following officers of Govt. Degree College Khan Kohi, Nizampur, Nowshera were called upon to appear before the inquiry committee and record their statements.

S.No	Name of officer	Designation
1	Professor Sher Bahadur	Principal Govt. Degree College Khan Kohi, Nizampur, Nowshera
2	Mr. Shahzeb	Assistant Professor of Urdu, Govt. Degree College Khan Kohi, Nizampur, Nowshera
3	Mr. Zahirullah	Librarian, Govt. Degree College Khan Kohi, Nizampur, Nowshera
4	Mr. Muhammad Iqbal	Lecturer, History cum Civics Govt. Degree College Khan Kohi, Nizampur, Nowshera

Gist of statements of witnesses and the accused officer are given as under:-

S.No	Name of officer/Designation	Statement
1	Professor Sher Bahadur Principal Govt. Degree College, Khan Kohi, Nizampur, Nowshera. (Annex-VII)	<p>I. He said that the accused did not register himself on Biometric Machine and submitted report of biometric attendance machine for the month of November, 2016 and March, 2017.</p> <p>II. He stated that he attended staff meeting only once so far.</p> <p>III. That although he was advised to attend Bazm-e-Adab on 28/11/2015 but he left the college before start of the program at 11:30 AM</p> <p>IV. That he compelled students to change subject of statistics and to opt for any other subject.</p> <p>V. That he created different pressure groups amongst the staff to disturb smooth functioning of the college.</p> <p>VI. That he used abusive language against Naib Qasid, Mr. Meraj Sharif.</p>
2.	Mr. Shahzeb, A/P of Urdu Govt. Degree College (Annex-VIII)	He stated that it never happened to hear an exchange of abusive language between Professor Sher Bahadur and Mr. Abid Hussain
3.	Mr. Zahirullah, Librarian Govt. Degree College (Annex-IX)	He stated that there was fight once between Principal Professor Sher Bahadur and Mr. Abid Hussain but he did not hear abusive words from any side. However, he said that Mr. Ikramullah, Lecturer in Pashto use abusive language.

Handwritten notes:
 (Annex-VII)
 Not
 to XX

ATTACHED

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4. Mr. Muhammad Iqbal, Lecturer, History cum civics, Govt. Degree College (Annex-X)	He stated that accused once in a meeting called me "Iqbalia" in place of Mr. Muhammad Iqbal for which the Principal asked him not to use inappropriate names for any officer. He also stated that once there was a fight between the Principal and the accused but he did not hear abusive language from any side.
5. Mr. Abid Hussain, Associate Professor, Govt. Degree College (the accused) (Annex-X1)	<ol style="list-style-type: none">1. To a question that why he did not accept legal authority of the Principal, he said that he always accomplished any official duty assigned by the Principal. In this favor, he produced college result for the session 2014-15, which he had prepared as a controller of examination. However, he could not produce a documentary proof of any official assignment that he had done recently.2. To a question that why he did not cooperate with the inquiry officer Professor Sharif Gul? He said that the situation arises when they were forcing for college council file which he did not possess.3. To the allegation that he was having casual, irresponsible and incapable behavior, he said that his capability can be seen from the results of students he taught.4. He rejected the allegations that he was hatching conspiracies against the Principal and writing letters to high ups with fake names.5. About coming late to college, he said that he was not allowed to be picked and dropped by the college vehicle although other staff members were provided the said facility.



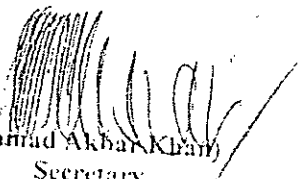
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FINDINGS:

From the examination of statements from the witnesses, written reply and personal hearing of the accused and record available it transpired that the charges/allegations are general in nature which cannot be reduced to a measurable specific frame to prove or disprove in the process of inquiry. The complainant/Principal witness is the Principal of the College Prof. Sh er Bahadur. During course of inquiry it also came to limelight that the accused and the complainant were class fellows in their university education. They joined service together and remained in the same college for a longer period. Over a period of time the accused officer developed jealousy. Analysis of the personal hearing and statements of the accused and the Principal witness revealed that the accused officer had attitudinal problem. He did not register himself on biometric machine. He was reluctant to attend staff meeting in the college. He has not yet complied with his transfer order despite lapse of about 07 months. As such the allegation/charge No.1 stands proved against him. The other two charges could not be substantiated. In the over context of the charge sheet/ statement of allegations the charge against him is partially proved.



(Muhammad Akbar Khan)
Secretary
Govt. of Khyber Pakhtunkhwa
Food Department / Enquiry Officer



(Prof. Dr. Muhammad Ishaq)
Principal,
Govt. Post Graduate College,
Nowshera / Enquiry Officer



ATTESTED

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SHOW CAUSE NOTICE

I, Mahmood Khan, Chief Minister Khyber Pakhtunkhwa, as Competent Authority, under the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011, do hereby serve you, Abid Hussain, Associate Professor of Statistics (B-19), presently, Govt; Degree College, Daggar (Buner) formerly working at Govt; Degree College, Khan Kohi (Nowshera), as follows:-

- i. That consequent upon the completion of inquiry conducted against you by the Inquiry Officer for which you were given opportunity of hearing.
- ii. On going through the findings and recommendations of the Inquiry Officer, the material on record and other connected papers including, your defence before the said Inquiry Committee.

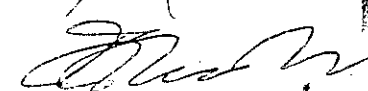
I am satisfied that you have committed the following acts/omissions specified in rule 3 of the said rules.

(a) In-Efficiency.

(b) Mis-conduct.

2. As a result thereof, I, as Competent Authority, have tentatively decided to impose upon you the penalty of withholding of under rule 4 of the said rules. of two increments for 2 years
3. You are, therefore, required to Show Cause as to why the aforesaid penalty should not be imposed upon you and also intimate whether you desire to be heard in person.
4. 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 defence to put in and in that case an ex-parte action shall be taken against you.
5. A copy of findings of the Inquiry Officer is enclosed.


(Mahmood Khan)
**CHIEF MINISTER,
KHYBER PAKHTUNKHWA**

Received on 8/10/10
from the Office of the Secretary of
G.C. Daggar Buner - 


ATTACHED

Ann 'E'

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To

The Honorable Chief Minister
Khyber Pakhtun Khwa.

Trough Proper Channel

**REPLY TO SHOW CAUSE COMMUNICATED TO THE
UNDERSIGNED ON 08-10-2018**

Respected Sir,

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

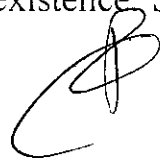
1. That the undersigned was initially appointed as Lecturer vide notification dated 10-12-1988.
2. That ever since my appointment I performed my duties with zeal and devotion and without any complaint whatsoever from my superiors with regard to my duties.
3. That during his long service career I have performed my duties at different stations, presently I am performing my duties at GC Rustum as Associate Professor.
4. That while serving as Associate Professor at Government Degree College Khan Kohi, Nizampur, Nowshera, the undersigned was served with charge sheet and statement of allegations dated 27-02-2018 containing certain baseless allegations. *(Copy of Charge Sheet dated 27-02-2018 is attached as Annexure A)*



ATTESTED

23

5. That the undersigned duly replied to the charge sheet and refuted allegation leveled against him. *(Copy of reply is attached as Annexure B).*
6. That an inquiry has also been conducted in the matter and the inquiry committee submitted its report wherein the committee held that out of three charges last two charges were not proved.
7. That now the undersigned has been served with show cause dated 08-10-2018.
8. That the undersigned hereby refutes the allegations contained in the show cause notice. I have never committed any act or omission which could be termed as misconduct.
9. That charges which were leveled against me were never proved during the inquiry proceedings.
10. That I was not properly associated with the inquiry proceedings. The statements of the witnesses were never recorded and if recorded were in my presence nor I was allowed to cross examine them.
11. That the undersigned never imagine committing any misconduct. Actually I remained the member of college council and this was the reason the principal Sher Bahadur became personal to me. The attitude of principal not only towards me but also towards all those who did not obey his illegal order was inhuman and insulting. Under the rules the college council file is in the custody of principal and the controversy arose in the year 2014, when one Mr. Shabir filed complaint to the commissioner RTI Peshawar for provision of copy of college Council file. The Principal alleged that the college council file was in custody of me, whereas by that time the college file was not even in existence. Since I was the



ATTESTED

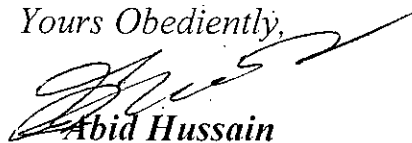
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member of college council and I did not obey his illegal orders therefore he dragged me in the issue.

12. That during the inquiry the charge of "Inefficiency" was never proved this fact was also admitted by the inquiry committee. So to this extent the instant notice is not sustainable. So far as the second charge "Misconduct" is concern the same, the same was also never proved and the inquiry committee mere on presumptions and surmises and conjectures held the charge to be "proved".
13. The Principal was the complainant against the undersigned and even his statement was not recorded in my presence nor was I allowed to cross examine him. So to that extent the inquiry was defective in the eye of law.
14. That the undersigned during his long service career always remain punctual towards his duties.
15. That I was not properly associated with the inquiry proceedings and whole proceedings were defective in the eye of law and the undersigned was condemned unheard.

It is, therefore, humbly prayed that on acceptance of this reply the subject show cause notice may be filed and the undersigned may be exonerated from the charged leveled against him.

Yours Obediently,




Abid Hussain

(Associate Professor)

Government Degree College ✓

Rustum Mardan / *dagger Bener*

Dated: 22 / 10/ 2018



ATTESTED



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Am (E)

GOVERNMENT OF KHYBER PAKHTUNKHWA
HIGHER EDUCATION, ARCHIVES &
LIBRARIES DEPARTMENT
CIVIL SECRETARIAT

356
11

Dated Peshawar the 10/01/2019

1230-34

NOTIFICATION

NO.SO(C-I)/HE/1-2/Summary for CM/2016/Abid Hussain, WHEREAS Mr. Abid Hussain, Associate Professor (BPS-19) of Statistics, Government Degree College, Khan Kohi (Nowshera) (presently working at Government Degree College, Daggar-Buner) was proceeded under the Khyber Pakhtunkhwa, Government Servants (Efficiency & Discipline) Rules 2011, for the charges mentioned in the Charge Sheet and Statement of Allegations.

S#	Name & Designation	Penalty Imposed
1	Mr. Abid Hussain, Associate Professor (BPS-19) of Statistics, Government Degree College, Khan Kohi (Nowshera).	"Withholding of two increments for two years"

2. AND WHEREAS show cause was served upon the accused officer.
3. AND WHEREAS the Inquiry officer after having examined the charges, evidence on record and explanation of accused officer, submitted report.
4. NOW THEREFORE, the Chief Minister, Khyber Pakhtunkhwa being Competent Authority afforded an opportunity of personal hearing to the accused officer with Mr. Zahir Shah (PAS BS-20), Secretary to Government of Khyber Pakhtunkhwa, Local Government, Elections & Rural Development Department, while exercising the powers conferred upon him under Rule-4 (1) (a) of the Khyber Pakhtunkhwa, Civil Servants (Appointment, Promotion & Transfer) Rules-1989, has been pleased to impose and confirm minor penalty of "Withholding of two increments for two years" upon the accused with immediate effect.

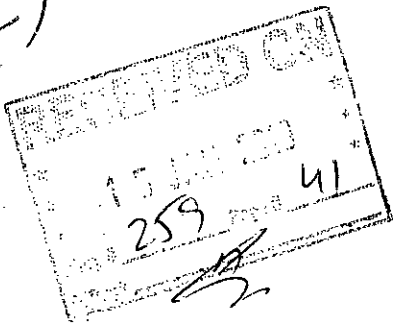
SECRETARY
HIGHER EDUCATION DEPARTMENT

ENDST: NO. & DATE EVEN.

Copy forwarded to the:

1. Director, Higher Education Khyber Pakhtunkhwa, Peshawar.
2. Principal, Government Degree College, Daggar (Buner).
3. District Accounts Officer, Daggar (Buner).
4. Mr. Abid Hussain, Associate Professor (BPS-19) of Statistics, Government Degree College, Daggar (Buner).
5. PS to Secretary to Govt. of Khyber Pakhtunkhwa, Local Government, Elections & Rural Development Department.
6. PS to Secretary to Govt. of Khyber Pakhtunkhwa, Higher Education Department.
7. Master File.

DD (E)
15/11



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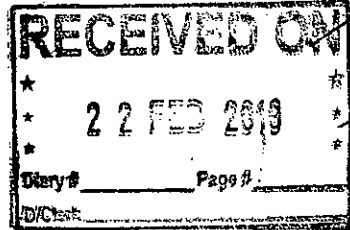
SECTION OFFICER (COLLEGES-I)

15/11/19
ATTESTED

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2896
Page No-121
22-02-19.



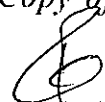
To
The Honorable Chief Minister,
Khyber Pakhtunkhwa,
Peshawar.

Subject: *Review Petition under Rule 17 of the Government Servant (Efficiency and Discipline) Rules, 2011 against the order dated 10.01.2019, intimated to the undersigned through letter dated 21.01.2019 communicated to him on 24.1.2019, whereby the minor penalty of stoppage of two increments for two years has been imposed upon the undersigned.*

Prayer in Departmental Appeal:

On acceptance of this Review Petition the order dated 10.01.2019 may kindly be set-aside and the annual increments of the undersigned may kindly be restored with consequential benefits.


1. That I was initially appointed as Lecturer on 10.12.1988.
2. That it is pertinent to point out here that ever since my appointment, I remained posted at different stations as and when directed/posted.
3. That it is pertinent to mention here that ever since my appointment, I am performing my duties as assigned with zeal, devotion, sincerity and have never given any chance of complaint whatsoever regarding my performance.
4. That during his long service career I have performed my duties at different stations, presently I am performing my duties at GC Rustum as Associate Professor.
5. That while serving as Associate Professor at Government Degree College Khan Kohi, Nizampur, Nowshera, and the undersigned was served with charge sheet and statement of allegations dated 27.02.2018 containing certain baseless allegations. *(Copy of charge sheet is attached as Annexure A)*
6. That I duly replied to the charge sheet and refuted allegations leveled against me. The contents of my reply to charge sheet may kindly be considered as integral part of my review petition. *(Copy of reply to charge sheet is attached as Annexure B)*


ATTESTED

- 7. That an inquiry was also conducted in the matter and the inquiry committee submitted its report wherein the committee held that out of three charges last two were not proved. *(Copy of report of inquiry committee is attached as Annexure C)*
- 8. That thereafter the undersigned was also served with a show cause notice communicated to him 08.10.2018. The undersigned again duly replied to the notice and refuted the allegations leveled against him. The contents of my reply to show cause may kindly be considered as integral part of my review petition. *(Copy of reply to show cause notice is attached as Annexure D)*
- 9. That without considering my defense reply, the undersigned was awarded minor penalty of "withholding of two increments for two years" has been imposed vide notification dated 10.01.2019 intimated to him vide letter dated 22.01.2019 communicated to him on 25.01.2019. *(Copy of notification dated 10.01.2019 and letter dated 22.01.2019 are attached as Annexure E)*
- 10. 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.

GROUND OF REVIEW PETITION

- A. That I have not been treated in accordance with law hence my rights secured and guaranteed under the law and constitution is badly violated.
- B. That no proper procedure has been followed before awarding me the penalty of stoppage of increments. I have not been properly provided the opportunity to defend myself against the charges. Thus the whole proceedings are defective in the eye of law.
- C. That during the inquiry neither any witness has been examined in my presence nor I have been given opportunity to cross examine those witnesses who may have deposed against me.
- D. That the undersigned never imagine to commit to conduct any misconduct. In-fact he was the member of college council and this was the reason the principal of the Khan Kohi College became personal to him. The attitude of the principal, not only towards him but also towards all those who did not obey his illegal orders was in human and insulting. Since the undersigned was one of the members of college council and he did not obey


ATTESTED

his illegal orders therefore he dragged the undersigned in the issue.

- E. That the Principal was the complainant against me and even his statement was not recorded in my presence nor was I allowed to cross examine him. So on this ground also the inquiry report is defective and the impugned penalty imposed upon the recommendations of the inquiry committee is illegal.
- F. That it is pertinent to mention here that not a single witness during the inquiry, deposed against the undersigned. Only the statement of complainant deposed against him and that too in his absence and he was not allowed to cross examine him.
- G. That I have never committed any act or omission which could be termed as misconduct. I have performed my duties as assigned with zeal and devotion albeit I have been awarded the penalty.
- H. That I have a spotless service career of about 31 years, during my entire service I have always perform my duties honestly and to the best of my abilities and have never given any chance of complaint to my superiors regarding my performance. The penalty imposed upon me is a stigma on my bright and spotless service career hence liable to be set aside.

It is, therefore, humbly prayed that on acceptance of this Review Petition the order dated 10.01.2019 may kindly be set-aside and the annual increments of the undersigned may kindly be restored with consequential benefits.

[Signature]
ATTESTED

Yours Obediently

[Signature]
ABID HUSSAIN
Associate Professor
Govt. Degree College
Rustum Mardan *daggu Buner*

Dated:21/02/2019

(Contact No. _____)

Am (A) 28

MOST IMMEDIATE



**GOVERNMENT OF KHYBER PAKHTUNKHWA
HIGHER EDUCATION, ARCHIVES &
LIBRARIES DEPARTMENT
CIVIL SECRETARIAT**

NO.SO(C-I)/HE/1-2/2016/Summary for CM/Abid Hussain
Dated Peshawar the 31/05/2019

173-75

To

The Director,
Higher Education Khyber Pakhtunkhwa,
Peshawar.

Subject: **APPEAL AGAINST IMPOSITION OF MINOR PENALTY OF
"WITHHOLDING OF TWO INCREMENTS FOR 2 YEARS".**

I am directed to refer to the subject noted above and to inform that the Chief Minister, Khyber Pakhtunkhwa being appellate authority has rejected the appeal of Mr. Abid Hussain, Associate Professor (BPS-19) of Statistics, Government Degree College, Daggar (Buner) and retained the penalty "Withholding of two increments for 2 years" already imposed.

(RIAZ)
SECTION OFFICER (COLLEGES-I)

ENDST: NO. & DATE EVEN.

Copy forwarded to the:

- ✓ 1. Principal, Government Degree College, Daggar (Buner).
2. Mr. Abid Hussain, Associate Professor (BPS-19) of Statistics, Government Degree College, Daggar (Buner) w/r to his Appeal dated 21.02.2019.
3. PS to Secretary to Govt. of Khyber Pakhtunkhwa, Higher Education Department.
4. Master File.

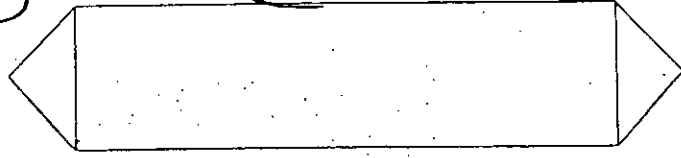
hab
SECTION OFFICER (COLLEGES-I)

ATTESTED

Received on 19/6/2019
by the concerned Professor

[Signature]
Associate Professor
Govt. College Daggar
Distt: Buner

بعدالت جناح سروس کے اصول نامہ



2019ء منجانب

عابد حسین بنام

مورخہ

مقدمہ

دعویٰ

جرم

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کارروائی متعلقہ

آن مقام کے لیے روایتاً حاکم الاولیاء

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا۔ نیز

وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ پر حلف دینے جواب دہی اور اقبال دعویٰ اور

بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق

زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی

اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا۔ از بصورت ضرورت

مقدمہ مذکور کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے

تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے

اور اس کا ساختہ پر داختم منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانبہ التوائے مقدمہ کے

سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں

گے۔ کہ پیروی مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سند ہے۔

2019ء

ماہ جولائی

24

المرقوم

العبد گواہ العبد

کے لئے منظور ہے۔

مقام

Handwritten signature

اسلامک
ایجوکیشن
ڈیپارٹمنٹ

Accepted By
Handwritten initials

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**BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR**

SA# 948 /2019

Mr. Abid Hussain..... Appellant

Versus

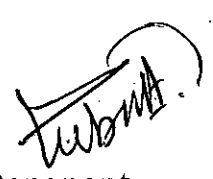
Govt. of Khyber Pakhtunkhwa
Through Secretary, Higher Education
& others.....

Respondents

INDEX

S.No	Description of documents	Annexure	Page No.
1.	Parawise Comments		1-2
2.	Reply to application for condonation of delay		3
3.	Affidavit		4
4.	Inquiry Report	A	5-9

Identified by:


Deponent
17301-8792433-6

15-1

**BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR**

S.A # 948/2019

Abid HussainAppellant

Versus

Govt. of Khyber Pakhtunkhwa

Through Chief Minister,

Director, Higher Education Peshawar & Others..... Respondents

SUBJECT: PARAWISE COMMENTS ON BEHALF OF RESPONDENTS NO. 1, 2 & 3

Respectfully Sheweth: -

Preliminary Objections:-

1. That the appellant has got no cause of action/locus standi to file the instant Service appeal.
2. That the appellant has not come to this Honourable Tribunal with clean hands and is trying to conceal material facts.
3. That the instant service appeal is hit by doctrine of laches.
4. That the appellant is estopped by his own conduct to file the instant service appeal.
5. That the instant service appeal is time barred.

Facts: -

- 1) Correct to the extent that the appellant was initially appointed as Lecturer and the rest of the para is incorrect. The appellant was working with utter dissatisfaction of his high ups.
- 2) Pertains to the record.
- 3) Correct.
- 4) Correct.
- 5) Denied as drafted. That the appellant is misleading the Hon'ble tribunal. That disciplinary proceedings under Efficiency & Discipline Rules, 2011 were conducted and the inquiry committee manifestly stated that charge against the appellant partially stood proved (**Annex-A**).
- 6) Correct to the extent that a show cause notice was served upon him while rest of his claim pertains to the record.
- 7) Correct to the extent that the competent authority imposed minor penalty of withholding of two increments for two (2) consecutive years upon appellant.
- 8) Pertains to the record.

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9) Correct to the extent that Revision Petition of the appellant was regretted by the competent authority.

Grounds: -

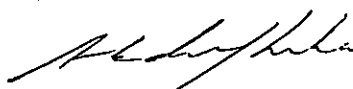
- A. Incorrect. That proper inquiry was conducted against the appellant and after fulfilment of all codal formalities minor penalty was imposed upon the appellant.
- B. Incorrect. That the appellant is treated within four corners of law.
- C. Incorrect as already explained in preceding paras of facts.
- D. Incorrect. That full opportunity was given during inquiry proceedings by the inquiry officer/committee.
- E. Incorrect. That the appellant has not been reduced to lower post but only a minor penalty of stoppage of increments for two (02) years has been imposed which is quite maintainable in the eyes of law as per Rule 4 of Efficiency & Discipline Rules, 2011.
- F. Incorrect. That the orders are well speaking and have been issued after due approval of the competent authority.
- G. Incorrect. That the punishment is quite mild as the officer was creating a lot of problems for the administration and the college.
- H. That the respondents may be allowed to raise any other grounds at the time of arguments.

Prayers: -

It is, therefore, humbly prayed that the instant case is based on misconception/misstatement, hence may graciously be dismissed with appropriate costs.

Chief Minister,
Govt. of Khyber Pakhtunkhwa
Respondent No. 2

Secretary, 6.2.2020
Higher Education Department
Respondent No. 3


Director,
Higher Education Department
Respondent No. 2

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**BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.**

S.A # 948/2019

Abid HussainAppellant

Versus

Govt. of Khyber Pakhtunkhwa
Through Chief Minister,

Director, Higher Education Peshawar & Others..... Respondents

**SUBJECT: REPLY TO APPLICATION FOR CONDONATION OF DELAY ON BEHALF
OF RESPONDENTS NO. 1, 2 & 3**

Respectfully Sheweth: -

1. Needs no comments.
2. Needs no comments.
3. Pertains to the record.
4. Incorrect. That the instant service appeal is time barred.
5. Incorrect. That the appellant is misleading the Hon'ble service tribunal. That disciplinary proceedings under E&D Rules 2011 were conducted and the inquiry committee manifestly stated the charges against the appellant partially stood proved.
6. Incorrect. That ignorance of law is no excuse.

Prayers: -

It is, therefore, humbly prayed that condonation may not be granted in the instant case, please.

~~Chief Minister,
Govt. of Khyber Pakhtunkhwa
Respondent No. 1~~

[Signature]
Secretary, 6.2.2020
Higher Education Department
Respondent No. 3

[Signature]
Director,
Higher Education Department
Respondent No. 2

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**BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR**

SA# 948/2019
Mr. Abid Hussain..... Appellant


Versus

Govt. of Khyber Pakhtunkhwa
Through Chief Minister,
Director, Higher Education & others..... Respondents

AFFIDAVIT

I, Lubna Farman, Assistant Director (Litigation), Higher Education Department do hereby declare and affirm on oath that the contents of Para Wise Comments and reply to application for condonation of delay are correct to the best of my knowledge and belief and that nothing has been concealed from this Honourable Court.

Identified by:



Deponent
17301-8792433-6

Amr (C)

(16)

(5)

(NS)

Annex - A

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INQUIRY REPORT

DISCIPLINARY PROCEEDINGS AGAINST MR. ABID HUSSAIN,
ASSOCIATE PROFESSOR, GOVT. DEGREE COLLEGE KHAN
KOHI, NIZAMPUR, NOWSHERA

Conducted by

Muhammad Akbar Khan, Secretary to Govt. of Khyber Pakhtunkhwa, Food
Department

&

Professor Dr. Muhammad Ishaq, Principal Govt. Postgraduate College
Nowshera

Am (C)

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Annex - A

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INQUIRY REPORT

DISCIPLINARY PROCEEDINGS AGAINST MR. ABID HUSSAIN,
ASSOCIATE PROFESSOR, GOVT. DEGREE COLLEGE KHAN
KOHI, NIZAMPUR, NOWSHERA

Conducted by

Muhammad Akbar Khan, Secretary to Govt. of Khyber Pakhtunkhwa, Food
Department

&

Professor Dr. Muhammad Ishaq, Principal Govt. Postgraduate College
Nowshera

(171) (6) (WW)

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INQUIRY REPORT

Subject: Disciplinary proceedings against Mr. Abid Hussain, Associate Professor, Govt. Degree College Khan Kohi, Nizampur, Nowshera.

AUTHORITY/ CHARGES:

Reference to Section officer (C-1) Govt. of Khyber Pakhtunkhwa Higher Education Department No. SO(C-1)HE/1-2/2016 summary for CM/Abid Hussain/81307 Dated January 23, 2018, wherein the undersigned were appointed as inquiry officers for holding inquiry against Mr. Abid Hussain, Associate Professor, Govt. Degree College Khan Kohi, Nizampur, Nowshera. (Annex-I)

Gist of charges/statement of allegations leveled against the accused officer are given below (Annex-II & III)

- I. That the accused officer while posted at Govt. Degree College Khan Kohi, Nizampur, Nowshera, had a rude behavior with the college administration and did not accept the authority of the Principal.
- II. That during the course of inquiry conducted by Professor Sharif Gul, former Principal Govt. Degree College Khan Kohi Nowshera, now working as Principal Govt. College Peshawar, he did not respond to the questionnaire, rather he raised questions about the inability of the inquiry officer and leveled baseless allegations on the inquiry officer and others.
- III. That his Principal complained about his casual behavior, irresponsible and incapable performance, hatching conspiracies against the Principal, being habitual late comer, using abusive and insulting language with the staff members and writing letters to high ups with fake names.

BACKGROUND:

The background of the case is that a number of complaints against the accused were pouring in from the Principal of Govt. Degree College Khan Kohi such as casual behavior, irresponsible and incapable performance, hatching conspiracies against the Principal, habitual late comer, using abusive and insulting language with the staff members and writing letters to high ups with fake names. The allegations mentioned above were found established in the fact finding inquiry conducted by Professor Sharif Gul, former Principal Govt. Degree College Pabbi now working as Principal Govt. College Peshawar (Annex-IV). Hence the formal inquiry against the accused Mr. Abid Hussain under (E&D) Rules, 2011.

PROCEEDINGS:

Mr. Anjad Khan, senior clerk, Directorate of Higher Education, was nominated as departmental representative vide letter No 2641-42 Dated 26-02-2018 to assist the inquiry committee (Annex IV). The accused officer was served upon charge sheet and

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statement of allegation vide letter No SOG/FD/7-23/2015-16/Dated: 27-02-2018 wherein he was also asked to submit his written reply within 07 days (Annex-VI).

Following officers of Govt. Degree College Khan Kohi, Nizampur, Nowshera were called upon to appear before the inquiry committee and record their statements.

S.No	Name of officer	Designation
1	Professor Sher Bahadur	Principal Govt. Degree College Khan Kohi, Nizampur, Nowshera
2	Mr. Shahzeb	Assistant Professor of Urdu, Govt. Degree College Khan Kohi, Nizampur, Nowshera
3	Mr. Zahirullah	Librarian, Govt. Degree College Khan Kohi, Nizampur, Nowshera
4	Mr. Muhammad Iqbal	Lecturer, History cum Civics Govt. Degree College Khan Kohi, Nizampur, Nowshera

List of statements of witnesses and the accused officer are given as under:-

S.No	Name of officer/Designation	Statement
1	Professor Sher Bahadur Principal Govt. Degree College, Khan Kohi, Nizampur, Nowshera. (Annex-VII)	<p>I. He said that the accused did not register himself on Biometric Machine and submitted report of biometric attendance machine for the month of November, 2016 and March, 2017.</p> <p>II. He stated that he attended staff meeting only once so far.</p> <p>III. That although he was advised to attend Bazm-e-Adab on 28/11/2015 but he left the college before start of the program at 11:30 AM</p> <p>IV. That he compelled students to change subject of statistics and to opt for any other subject.</p> <p>V. That he created different pressure groups amongst the staff to disturb smooth functioning of the college.</p> <p>VI. That he used abusive language against Naib Qasid, Mr. Meraj Sharif.</p>
2.	Mr. Shahzeb, A/P of Urdu Govt. Degree College (Annex-VIII)	He stated that it never happened to hear an exchange of abusive language between Professor Sher Bahadur and Mr. Abid Hussain
3.	Mr. Zahirullah, Librarian Govt. Degree College (Annex-IX)	He stated that there was fight once between Principal Professor Sher Bahadur and Mr. Abid Hussain but he did not hear abusive words from any side. However, he said that Mr. Ikramullah, Lecturer in Pashto use abusive language.

(Signature)

(Signature)

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4. Mr. Muhammad Iqbal, Lecturer,
History cum civics, Govt.
Degree College
(Annex-X)

He stated that accused once in a meeting called me "Iqbalia" in place of Mr. Muhammad Iqbal for which the Principal asked him not to use inappropriate names for any officer. He also stated that once there was a fight between the Principal and the accused but he did not hear abusive language from any side.

5. Mr. Abid Hussain, Associate
Professor, Govt. Degree College
(the accused)
(Annex-XI)

1. To a question that why he did not accept legal authority of the Principal, he said that he always accomplished any official duty assigned by the Principal. In this favor, he produced college result for the session 2014-15, which he had prepared as a controller of examination. However, he could not produce a documentary proof of any official assignment that he had done recently.
2. To a question that why he did not cooperate with the inquiry officer Professor Sharif Gul? He said that the situation arises when they were forcing for college council file which he did not possess.
3. To the allegation that he was having casual, irresponsible and incapable behavior, he said that his capability can be seen from the results of students he taught.
4. He rejected the allegations that he was hatching conspiracies against the Principal and writing letters to high ups with fake names.
5. About coming late to college, he said that he was not allowed to be picked and dropped by the college vehicle although other staff members were provided the said facility.

Subra

Subra

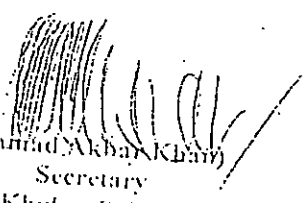
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FINDINGS:

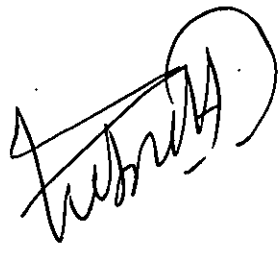
From the examination of statements from the witnesses, written reply and personal hearing of the accused and record available it transpired that the charges/allegations are general in nature which cannot be reduced to a measurable specific frame to prove or disprove in the process of inquiry. The complainant/Principal witness is the Principal of the College Prof. Sher Bahadur. During course of inquiry it also came to limelight that the accused and the complainant were class fellows in their university education. They joined service together and remained in the same college for a longer period. Over a period of time the accused officer developed jealousy. Analysis of the personal hearing and statements of the accused and the Principal witness revealed that the accused officer had attitudinal problem. He did not register himself on biometric machine. He was reluctant to attend staff meeting in the college. He has not yet complied with his transfer order despite lapse of about 07 months. As such the allegation/charge No.1 stands proved against him. The other two charges could not be substantiated. In the over context of the charge sheet statement of allegations the charge against him is partially proved.



(Muhammad Akbar Khan)
Secretary
Govt. of Khyber Pakhtunkhwa
Food Department / Enquiry Officer



(Prof. Dr. Muhammad Ishaq)
Principal,
Govt. Post Graduate College,
Nowshera / Enquiry Officer



KHYBER PAKHTUNKWA SERVICE TRIBUNAL, PESHAWAR

No. 1391 /ST

Dated 19/07 / 2021

To

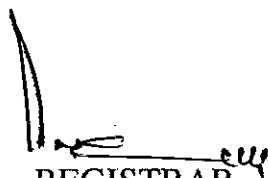
The Secretary Higher Education Archives and Libraries
Department,
Government of Khyber Pakhtunkhwa,
Peshawar.

Subject: -

JUDGMENT IN APPEAL NO. 948/2019, MR. ABID HUSSAIN.

I am directed to forward herewith a certified copy of Judgement dated 22.06.2021 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.

BEFORE THE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA PESHAWAR

In S.A # 948/2019

Mr. Abid Hussain

Versus

Government of KPK through secretary Higher Education

REJOINDER ON BEHALF OF
APPELLANT

Respectfully Sheweth,

All the Preliminary objection raised by the Respondents are incorrect and baseless and not in accordance with law and rules rather the Respondents are stopped due to their own conduct to raised any objection at the stage on the appeal.

Facts

All the facts of the appeal are correct while reply of the Respondent Department is incorrect wide abinitio and illegal, because there is no proof regarding the allegation leveled against the appellant according to the inquiry report conduct be the inquiry officer against the appellant no allegation or illegality has been proved against the appellant which has been clarified from the statement of witnesses examine by the inquiry officer and so concerned the statement of Mr. Sher Bahadar principle GDC Khan, Pur Nizam Pure no opportunity of cross examination has been provided to the appellant, the impugned order is


also void because it has been passed by in competent authority.

ON GROUNDS:-

All the grounds of the appeal are correct and accordance with law and prevailing rules and that of the Respondents are incorrect baseless and not in accordance with law and rules hence denied, the impugned order is void because the appellant has not been treated according law and rules. Because the impugned order has been passed by Secretary Higher Education, charged sheet has been issued by Chief Secretary while show cause notice has been issued by Chief Minister KPK. Furthermore the appellant has been submitted properly replied of the charge sheet whereby the appellant denied all the allegations leveled against the appellant. (Copy of reply of charge sheet is attached).

It is, therefore, requested that the appeal may kindly be accepted as prayed for.

Dated 22/03/2021

Petitioner
Through 
ROEEDA KHAN
Advocate, High Court
Peshawar.

To

The Inquiry Committee

**Subject: REPLY TO CHARGE SHEET DATED 27-02-2018
COMMUNICATED TO THE UNDERSIGNED ON 28-
02-2018.**

Respectfully Submitted,

1. That the undersigned has been initially appointed as a lecturer on 10-12-1988.
2. That during the course of service the undersigned remain at different stations and ever since appointment performed his duties with zeal and devotion and without any complaint whatsoever with regard to his duties.
3. That lastly the undersigned has been posted at Govt. Degree College Khan Kohi Nizampur in the year 2011-12.
4. That the undersigned at the vary out set denies and refuted the allegations leveled against him being baseless and against the facts.

CHARGE NO.1:

Charge No.1 is false and against the facts. My behavior with the college administration ever since my posting at GDC Nizampur has been vary cooperative and friendly. So far as the college principle concerned I always obey his lawful orders. I regularly attended my classes on the directive of Principal.

CHARGE NO.2:

Charge No.1 is also baseless. I duly appeared before the inquiry officer during the fact finding inquiry. I duly replied

to the questioner, put to me by the inquiry officer which he has admitted in his inquiry report that reply to questioner has submitted. The undersigned never put any questions or objections over the inability of the inquiry officer, nor leveled any allegations upon him.

CHARGE NO.3.

Charge No.3 is also baseless and against the facts. In fact the undersigned is innocent. Never thinks about ~~doing~~ ^{doing} any thing illegal and contrary to this duties. Actually the undersigned remained the member of college council and because of this fact the principal became personal to the undersigned. The attitude of the principal towards his staff specially those who do not obey his illegal orders is very inhuman and insulting. This is the principal who used insulting, abusive and un-parliamentary language with staff members. Under the rules the college council file is in the custody of principal and the controversy arose in the year 2014 when one Mr. Shabir filed complaint to the commissioner R.T.I Peshawar for the provision of copy of college council file. The principal alleged that the college council file is in the custody of undersigned whereas by that time the college council file was not in existence, in this regard later dated 18-08-2017 is proof of this fact. Even otherwise if there were college file even then the principal was under obligation to keep the file but since the undersigned was the member of college council who do not obey his illegal orders, the principal dragged in the issue and accused the undersigned of having the college council file in his custody. From their onwards the relationship of the principal with the undersigned became strain. The undersigned and his other staff fellow filed various complaints to the Secretary and Director High Education Peshawar complaining therein the inhuman and insulting

attitude of the principal not only towards his subordinate staff but also the students of the college. In the light of those complaints the High ups has taken action against the principal and transfer him from the college vide notification dated 14-11-2017. However the principal did not obey his transfer order and still occupy the post at the college. The undersigned has always been punctual towards his duties and attended all the classes he has been given. The undersigned cannot imagine to write letters to high ups with fake names.

5. That the undersigned never committed any act or omission which could be termed as mis-conduct.
6. That the undersigned would also like to be heard in person.

It is therefore requested that the subject charge sheet and the allegations therein may kindly be dropped and the undersigned may be exonerated from the charges leveled against him.



Abid Hussain

(Associate Professor)

Government Degree College
Khan Kohi District Nowshera.

Mob#0336-9482101