

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

Service Appeal No.831/2019

Date of Institution ... 20.06.2019  
Date of Decision ... 28.07.2021

Farman Ali S/O Siyar Khan R/O Village Yaqoobi, Tehsil Razzar,  
District Swabi.

... (Appellant)

**VERSUS**

Government of Khyber Pakhtunkhwa, through Secretary Elementary  
& Secondary Education Civil Secretariat Peshawar and two others.

... (Respondents)

Muhammad Asghar Khan Kundi,  
Advocate

... For appellant.

Muhammad Adeel Butt,  
Additional Advocate General

... For respondents.

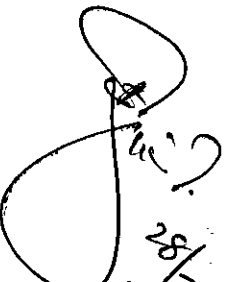
AHMAD SULTAN TAREEN  
ROZINA REHMAN

... CHAIRMAN  
... MEMBER (J)

**JUDGMENT**

ROZINA REHMAN, MEMBER : This appeal has been filed U/S 4 of the  
Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the order dated  
18.10.2018, whereby, the appellant was awarded major penalty of  
removal from service.

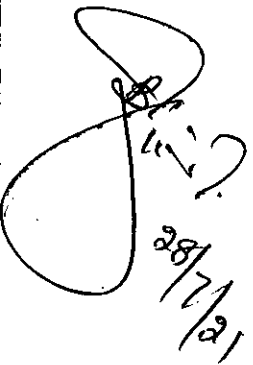
2. The relevant facts leading to the filing of the instant appeal are  
that appellant was serving as Chowkidar. He was proceeded against  
departmentally for charges of willful absence. He was awarded major  
penalty of removal from service. He filed departmental appeal which was  
rejected, hence, the present service appeal

  
28/7/21

3. We have heard Muhammad Asghar Khan Kundi Advocate learned counsel for appellant and Muhammad Adeel Butt learned Additional Advocate General for the respondents and have gone through the record and the proceedings of the case in minute particulars.

4. Muhammad Asghar Khan Kundi Advocate appearing on behalf of appellant, inter-alia, contends that the impugned order of removal from service is based on malafide, therefore, illegal, against law and facts as provisions of law as contained in the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 regarding the procedure was violated. He argued that from the contents of show cause notice dated 20.05.2017, it is evident that inquiry was dispensed with by the competent authority, whereas, the impugned order states that regular inquiry was conducted through an Inquiry Committee. He contended that appellant was never associated with any proceedings and that the entire process was conducted in his absence. He submitted that allegation of willful absence and keeping of proxy are false and concocted as appellant was regular and diligently attending to his duty which fact was verified by the Headmistress of the School. Lastly, he submitted that he was forcibly made to deposit amount of Rs.89978/- by the respondent through the Anti-Corruption Establishment and that competent authority was ignorant of law as no proper inquiry was conducted.

5. Conversely, learned A.A.G submitted that removal of appellant from service was legal and in accordance with law, rules and policy after observance of all codal formalities. That rules of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 have been implemented in letter and spirit and that the appellant himself was

  
28/7/21

disobedient and habitual absentee. He contended that Rule-9 of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 was strictly implemented and that inquiry was initiated just to unearth the facts as to whether appellant had nominated someone to act as his proxy.

6. As the appellant was proceeded against departmentally and it was observed that the respondents have eluded the set norms of law and rule, hence, it would be expedient to examine his case on the yardstick of legal procedure to this effect with a clamant review of the disciplinary proceedings conducted so far by the respondents against the appellant. It was noted that the disciplinary proceedings against the appellant were initiated on the charges of absence from duty and by keeping a proxy named Mir Muhammad and the competent authority while invoking jurisdiction of Rule-5 of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 dispensed with the inquiry and directly served him with a show cause notice bearing endorsement No.2369-65 dated 20.05.2017. Rule-5 (1) (a) of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 provides that reasons are required to be recorded in writing in case the inquiry is dispensed with but the respondents, while dispensing with the inquiry, failed to show any such reasons recorded by the competent authority. The respondents were required under Rule-7(c) of the Rules ibid to decide his case within a period of 90 days but such show cause notice went in hibernation and it was on 01.11.2017 when the competent authority while leaving behind the proceedings initiated under Rule-5 of the Rules ibid budged over the issue and constituted an Inquiry Committee to conduct regular inquiry against the appellant under the Khyber Pakhtunkhwa Government Servants


Handwritten signature and date: 28/12/21

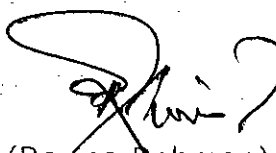
(Efficiency & Discipline) Rules, 2011 which report was submitted by the Inquiry Committee and vide order dated 19.10.2018, appellant was awarded major penalty of removal from service and his absence period was treated as unauthorized absence.


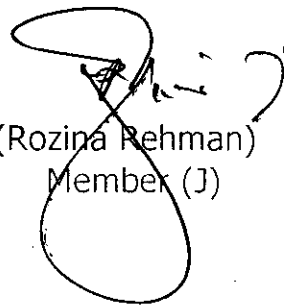
7. It is evident from the above discussion that the competent authority was ignorant of law as no proper inquiry was conducted and the appellant was not given proper opportunity of defense. The perusal of entire record shows that the proceedings conducted against the appellant have exhumed numerous lacunas and respondents have very candidly violated the set norms and rules and conducted the proceedings in an authoritarian manner. We have observed that the appellant was kept deprived of having appropriate opportunity of defense as is required under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011. It is a well-settled legal proposition duly supported by numerous judgments of the Apex Court that for imposition of major penalty, regular inquiry is a must.

8. For the foregoing reasons, this appeal is partially accepted and case is remitted to the Department for de-novo inquiry. His reinstatement and back benefits shall be subject to the outcome of de-novo inquiry. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED.  
28.07.2021

  
(Ahmad Sultan Tareen)  
Member (E)

  
(Rozina Rehman)  
Member (J)

S.No	Date of order/ proceedings	Order or other proceedings with signature of Judge or Magistrate and that of parties where necessary.
1	2	3
	28.07.2021	<p><u>Present:</u></p> <p>Muhammad Asghar Khan Kundi, Advocate ... For Appellant</p> <p>Muhammad Adeel Butt, Additional Advocate General ... For respondents</p> <p>Vide our detailed judgment of today this Tribunal placed on file, instant service appeal is partially accepted and case is remitted to the Department for de-novo inquiry. His reinstatement and back benefits shall be subject to the outcome of de-novo inquiry. Parties are left to bear their own costs. File be consigned to the record room.</p> <p><u>ANNOUNCED.</u> 28.07.2021</p> <div style="display: flex; justify-content: space-around; align-items: center;"> <div style="text-align: center;">               (Ahmad Sultan Tareen)              Chairman         </div> <div style="text-align: center;">               (Rozina Rehman)              Member (J)         </div> </div>

08.02.2021

Learned counsel for the appellant and Mr. Riaz Khan Paindakhel, learned Assistant Advocate General alongwith Fazle Khaliq Litigation Officer for respondents present.

Learned AAG, at the outset, pointed out that penalty in the instant matter was awarded to the appellant with retrospective effect. A Larger Bench is scheduled in matters involving the similar proposition. This appeal is, therefore, adjourned to 13.04.2021 before D.B in order to avail the outcome of hearing by the Larger Bench.



(Atiq Ur Rehman Wazir)  
Member (E)



Chairman

13.04.2021

Due to demise of Hon'able Chairman, the Tribunal is defunct, therefore, the case is adjourned to 28.07.2021 for the same.



Reader

25.06.2020

Appellant in person and Mr. Kabirullah Khattak learned Addl. AG alongwith Mr. Fazle Khaliq Litigation Officer for the respondents present.

The representative of respondents has submitted copy of inquiry report dated 01.01.2017 which is made part of the record. The appellant, however, requests for adjournment due to engagement of learned counsel before the Hon'ble Peshawar High Court today.

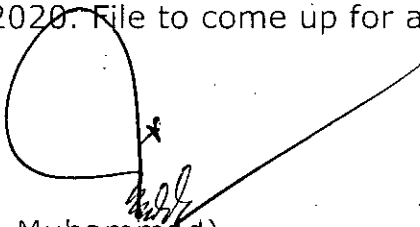
Adjourned to 21.09.2020 before D.B.

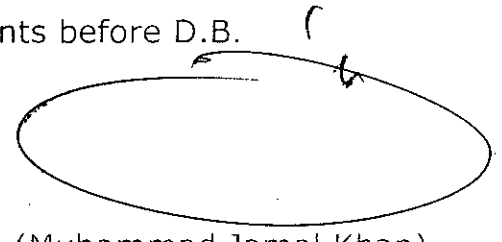
  
Member

  
Chairman

21.09.2020

Appellant himself alongwith Mr. Muhammad Asghar Khan Kundi, Advocate are present. Mr. Riaz Ahmad Painsakheil, Assistant Advocate General for the respondents is also present. Learned counsel for appellant is seeking adjournment. Adjourned to 30.11.2020. File to come up for arguments before D.B.

  
(Mian Muhammad)  
Member (Executive).

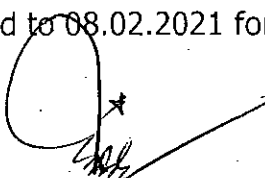
  
(Muhammad Jamal Khan)  
Member (Judicial)

30.11.2020

Counsel for the appellant and Addl. AG alongwith Fazle Khaliq, ADEO for the respondents present.

Learned AAG has provided copy of enquiry report. Placed on record. Learned counsel for the appellant seeks time to go through the same and address arguments thereabout also.

Adjourned to 08.02.2021 for hearing before the D.B.

  
(Mian Muhammad)  
Member(E)

  
Chairman

09.03.2020

Appellant with counsel present. Mr. Zia Ullah learned Deputy District Attorney alongwith Fazal Khaliq ADO present. During the course of arguments learned DDA seeks adjournment to furnish complete record supposed to be annexed with reply. Adjourn. To come up for record/arguments on 01.04.2020 before D.B.

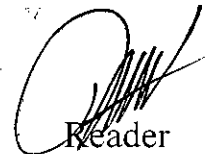
It is unfortunate that office of learned AAG do not care for the availability of relevant documents at the stage of filing reply.

  
Member

  
Member

01.04.2020

Due to public holidays on account of Covid-19, the case is adjourned. To come up for the same on 25.06.2020 before D.B.

  
Reader



18.10.2019

Miss Rabia Muzafar, Advocate on behalf of counsel for the appellant and Addl. AG alongwith Irfanullah, Assistant for respondent \no. 2 present.

Representative of respondent No. 2 requests for further time to submit the reply. He also undertakes to inform the respondent No. 3 regarding the proceedings before the Tribunal and also to submit the requisite reply.

Adjourned to 20.11.2019 on which date the respondents shall positively do the needful.

  
Chairman

20.11.2019

Mr. Majid, son of appellant present and submitted power of attorney in his favour. Placed on record. Addl. AG present. No representative on behalf of the respondents is in attendance.

Fresh notices be issued to the respondents by way <sup>of</sup> last chance to furnish the requisite reply/comments on the next date. To come up for written reply/comments on 07.01.2020 before S.B.

  
Chairman

07.01.2020

Junior to counsel for the appellant and Addl. AG alongwith Abdul Ghaffar Suleman, Superintendent for the respondents present.

Parawise comments on behalf of respondents have been furnished. Placed on record. The appeal is assigned to D.B for arguments on 09.03.2020. The appellant may furnish rejoinder, within one month, if so advised.

  
Chairman

23.07.2019

Counsel for the appellant present.

Contends that in the show cause notice dated 20.05.2017 it was clearly noted that the competent authority had dispensed with enquiry against the appellant. On the other hand, the impugned order of removal from service passed against the appellant on 18.10.2018 suggested that proper enquiry was held against the appellant by an enquiry committee and in view of recommendations of the committee the order was passed. It was further contended that through act of dispensing with the regular enquiry against the appellant the impugned order was rendered legally defective, as by now it is well settled that in the proceedings entailing major penalty detailed enquiry was all the more necessitated.

Appellant Deposited  
Security & Process Fee

*sf*  
2/8/19

In view of the arguments of learned counsel, instant appeal is admitted for regular hearing. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents. To come up for written reply/comments on 23.09.2019 before S.B.

  
Chairman

23.09.2019

Nemo for the appellant. Mr. Kabirullah Khattak, Additional AG for the respondents present.

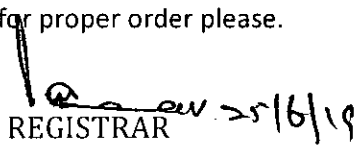

Written reply on behalf of respondents not submitted. Learned Additional AG seeks further time. Adjourned to 18.10.2019 for written reply/comments before S.B.

CHAIRMAN 

Form- A  
FORM OF ORDER SHEET

Court of \_\_\_\_\_

Case No.- 831/2019

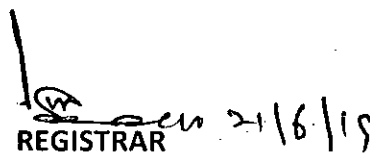
S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	25/06/2019	<p>The appeal of Mr. Farman Ali resubmitted today by Mr. Muhammad Asghar Khan Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR 25/6/19</p> <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>23/07/19</u></p> <p style="text-align: right;"> CHAIRMAN</p> <p style="text-align: right;">1. 17-19</p>

The appeal of Mr. Farman Ali son of Siyar Khan r/o village Yaqoobi Tehsil Razzar District Swabi received today i.e. on 20.06.2019 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Annexures of the appeal may be attested.
- 2- Power of Attorney is unattested.
- 3- Affidavit may be got attested by the Oath Commissioner.

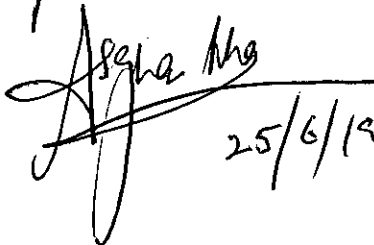
No. 1111 /S.T,

Dt. 21-6- /2019.

  
REGISTRAR

SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

M. Asghar Khan Kundi Adv.Pesh.

Re submitted after compliance  
  
25/6/19

**BEFORE THE SERVICES TRIBUNAL, KHYBER PAKHTUNKHWA,**  
**PESHAWAR**

Service Appeal No. 831 /2019

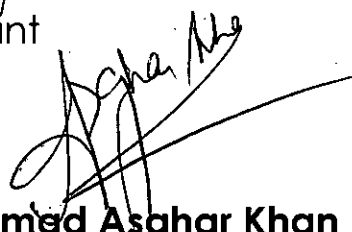
Farman Ali. .... **APPELLANT**

**VERSUS**

Govt. of Khyber Pakhtunkhwa & others. .... **RESPONDENTS**

**I N D E X**

S.No.	Description of Documents	Annex	Pages
1.	Service Appeal		1-5
2.	Affidavit		6
3.	Addresses of the Parties		7
4.	Copy of the Order dated 18.10.2018	A	8
5.	Copy of the Departmental Appeal dated 29.10.2018	B	9-11
6.	Copy of the Order dated 21.05.2019	C	12
7.	Copy of the Show Cause Notice	D	13
8.	Copy of the Certificate	E	14
9.	Copy of the Bank Challan dated 24.10.2018	F	15
10.	Wakalatnama		16

Through <sup>ذریعہ</sup> Appellant  
  
**Muhammad Asghar Khan Kundi**  
Advocate High Court

Dated: 20.06.2019

**BEFORE THE SERVICES TRIBUNAL, KHYBER PAKHTUNKHWA,**  
**PESHAWAR**

Service Appeal No. 831 /2019

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 875

Dated 20/6/2019

Farman Ali S/o Siyar Khan

R/o Village Yaqoobi, Tehsil Razzar, District Swabi. . . . **APPELLANT**

**VERSUS**

1. Govt. of Khyber Pakhtunkhwa,  
Through Secretary,  
Elementary & Secondary Education,  
Civil Secretariat, Peshawar.
2. Director,  
Elementary & Secondary Education,  
Khyber Pakhtunkhwa, Peshawar.
3. District Education Officer (Female), Swabi. . . **RESPONDENTS**

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**APPEAL U/S 4 OF THE KHYBER  
PAKHTUNKHWA SERVICES TRIBUNAL ACT,  
1974 AGAINST THE ORDER DATED  
18.10.2018 OF THE RESPONDENT NO.3,  
WHEREBY THE APPELLANT HAS BEEN  
AWARDED MAJOR PENALTY OF REMOVAL  
FROM SERVICE AND RECOVERY OF PAY  
AND ALLOWANCES.**

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**Filed to-day**

**Registrar**

20/6/19

**Re-submitted to -day  
and filed.**

**Registrar**

25/6/19

**Respectfully Sheweth:**

1. That the appellant was serving as Chowkidar at Govt. Girls Primary School Thana Banda (Yaqoobi), Tehsil Razzar, District Swabi.
2. That the respondent No.3 imposed major penalty of removal from service and recovery of pay and allowances upon the appellant vide order dated 18.10.2018. **(COPY OF THE ORDER DATED 18.10.2018 IS ANNEXURE "A")**.
3. That the appellant submitted a departmental appeal dated 29.10.2018 to the respondent No.2, the appellate authority, as against the impugned order. **(COPY OF THE DEPARTMENTAL APPEAL DATED 29.10.2018 IS ANNEXURE "B")**.
4. That the appellate authority (respondent No.2) vide order dated 21.05.2019, rejected the appeal of the appellant. **(COPY OF THE ORDER DATED 21.05.2019 IS ANNEXURE "C")**.
5. That aggrieved of the same and finding no other remedy, the appellant approaches this Honourable Tribunal on the following amongst other grounds:-

**GROUNDS:**

- A. That the impugned order of removal from services is based on malafide, illegal on the face of it and is therefore, liable to be set aside.
- B. That the provisions of law as contained in the Khyber Pakhtunkhwa Government Servant (Efficiency & Discipline) Rules, 2011 regarding the procedure to be adopted has been gravely violated, resulting in miscarriage of justice.
- C. That the contents of the show cause notice dated 20.05.2017 states that the competent authority has dispensed with the inquiry, whereas the impugned order dated 18.12.2018 states the conduct of regular inquiry through an inquiry committee. This contradiction is in itself sufficient enough to discredit the entire authenticity of the proceedings against the appellant. **(COPY OF THE SHOW CAUSE NOTICE IS ANNEXURE "D")**.
- D. That the appellant has never been informed/ associated with any inquiry proceedings against him.



The entire inquiry proceedings, if any, have taken place in an ex-parte manner.

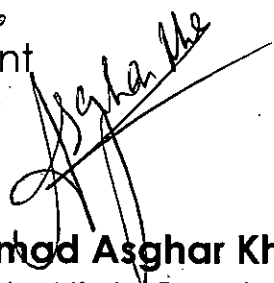
- E. That the allegations of willful absence and keeping of proxy are false and concocted. The appellant has been regularly and diligently attending to his duty and the same has been verified by the Headmistress of the school, vide certificate dated 27.10.2018. **(COPY OF THE CERTIFICATE IS ANNEXURE "E")**.
- F. That the appellant has been forcibly made to deposit an amount of Rs.89,978/-, vide bank challan dated 24.10.2018, by the respondents through the Anti-Corruption Establishment in respect of the recovery of pay and allowances from the appellant. The respondents did not bother to wait for the outcome of the departmental appeal. **(COPY OF THE BANK CHALLAN DATED 24.10.2018 IS ANNEXURE "F")**.
6. That the appellant seeks leave of this Honourable Tribunal to raise further points at the time of arguments.

It is, therefore, most humbly prayed that on acceptance of this Appeal, the impugned order dated 18.10.2018 of the respondent No.3 imposing major penalty of removal from service and recovery of pay and allowances may very graciously be set aside and as a consequential relief, the appellant be re-instated in service with all back benefits.

Any other remedy which is deemed fit by this Honourable Tribunal in the interest of justice, may also be granted in favour of appellant.

Through

فرمان کدی  
Appellant



**Muhammad Asghar Khan Kundi**  
Advocate High Court

Dated: 20.06.2019

**BEFORE THE SERVICES TRIBUNAL, KHYBER PAKHTUNKHWA,**  
**PESHAWAR**

Service Appeal No. \_\_\_\_\_/2019

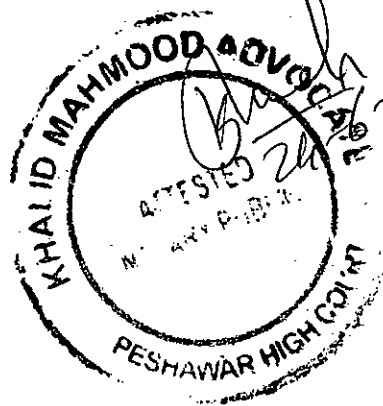
Farman Ali. .... **APPELLANT**

**VERSUS**

Govt. of Khyber Pakhtunkhwa & others. .... **RESPONDENTS**

**AFFIDAVIT**

I, Farman Ali S/o Siyar Khan R/o Village Yaqoobi, Tehsil Razzar, District Swabi, do hereby solemnly affirm and declare that the contents of the accompanying **Service Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.



80650  
DEPONENT



**BEFORE THE SERVICES TRIBUNAL, KHYBER PAKHTUNKHWA,  
PESHAWAR**

Service Appeal No. \_\_\_\_\_/2019

Farman Ali.....**APPELLANT**

**VERSUS**

Govt. of Khyber Pakhtunkhwa & others.....**RESPONDENTS**

**ADDRESSES OF THE PARTIES**

**APPELLANT:**

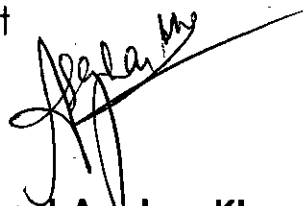
Farman Ali S/o Siyar Khan  
R/o Village Yaqoobi, Tehsil Razzar, District Swabi

**RESPONDENTS:**

1. Govt. of Khyber Pakhtunkhwa,  
Through Secretary,  
Elementary & Secondary Education,  
Civil Secretariat, Peshawar.
2. Director,  
Elementary & Secondary Education,  
Khyber Pakhtunkhwa, Peshawar.
3. District Education Officer (Female), Swabi.

Through

فرمان علی  
Appellant



**Muhammad Asghar Khan Kundi**  
Advocate High Court

Dated: 20.06.2019

AMA 'C'

12

151

**Directorate of Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar**

WHEREAS, Mr. Farman Ali Chowkidar GGPS Thana Banda (Yaqubi) Swabi was removed from Government Service under Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011 by the DEO (Female) Swabi vide his Notification No Endst No 3931-33 dated 18/06/2018.

2. AND WHEREAS, the said aggrieved Chowkidar filed a departmental appeal received through Section Officer (Primary) Elementary & Secondary Education Department grant of LPR vide letter SO[PE]E&SED/5-19/Re-instatement-2018 dated 01/11/2018 to the Director, E&SE Khyber Pakhtunkhwa Peshawar (appellate Authority) for redressal of his grievances/reinstatement in service.

3. AND WHEREAS, the appellate authority in pursuance of Section 17 read with sub rule (1) & (2) of the E&D Rules-2011 called for the record of the case and comments from the concerned DEO vide letter No. 4769 dated 20.11.2018 for consideration of the appeal.

4. AND WHEREAS, the DEO concerned provided the requisite record/comments accordingly vide his letter No. 2063 dated 17.04.2019 describing the reason/circumstances under which the appellant was removed from service after fulfillment of code formalities.

5. AND WHEREAS, consequent upon perusal of relevant record, reason and circumstances by the appellate authority under which Mr. Farman Ali Chowkidar GGPS Thana Banda (Yaqubi) Swabi (appellant) was removed from service, the appeal submitted by the aforesaid Ex-Chowkidar for reinstatement was not found tenable.

6. NOW, THEREFORE, in exercise of the powers conferred under Section-17 rule (2) (a) of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules-2011, the Director, E&SE/appellate authority "upholds the order of Major penalty and reject the appeal" lodged by Mr. Farman Ali Chowkidar GGPS Thana Banda (Yaqubi) Swabi (appellant).

DIRECTOR  
Elementary & Secondary Education  
Khyber Pakhtunkhwa, Peshawar

Dated Peshawar the 21/05/2019

Endst: No. 5669-85 /F.No. 431 /A-20/C-IV/Swabi-III

Copy of the above is forwarded for information and n/action to the:-

- 1- District Education Officer (Female) Swabi w/r. to his letter No. cited above.
- 2- District Account Officer Swabi.
- 3- Appellant concerned.
- 4- PA to the Director E&SE Khyber Pakhtunkhwa Peshawar.

o/c

Assistant Director (Admh)  
E&SE, Khyber Pakhtunkhwa, Peshawar

21/5/19

Afc

R



Annex-A

8

**DISTRICT EDUCATION OFFICE (FEMALE) SWABI**  
(Office phone Fax No 0938280339)

NOTIFICATION.

1. WHEREAS Mr, Farman Ali Chowkidar Govt: Girls Primary School Thana Banda (Yaqubi) Tehsil Razzar and District Swabi was proceeded against under the Khyber Pakhtunkhwa Government Servants (Efficiency & Disciplinary) Rules 2011 for the charges of having been willful absent from duty (habitual absent) and proxy Mr, Mir Muhammad s/o Sanobar was performing his duties as reported by IMU.
2. AND WHEREAS inquiry committee was constituted comprising the following officers to conduct regular inquiry against the accused MR. Farman Ali for the charges leveled against him in accordance with the rules.
  - i. Laiq Zaman ADEO(M) establishment Primary.
  - ii. Muhammad Naeem H/M GHS Gohar Abad.
3. AND WHEREAS the inquiry committee after having examined the charges, evidence on record and explanation of the accused submitted the report. According to report/recommendation submitted by inquiry officer (1) The Concerned Chowkidar recommended that the under E & D rules, 2011, the reported chowkidar deserves major penalty i.e removal from service. (2) deduction be made from his pay under the rules.
4. AND WHEREAS Mr. Farman Ali Chowkidar GGPS Thana Banda Yaquobi has been served show cause notice vide No. 2369-75 dated 20.5.2017 as he was again found absent(proxy) as reported by IMU.
5. AND WHEREAS the final show cause notice published in the daily Mashriq Peshawar dated 25.12.2017 he failed to resume his duty and appeared before the undersigned but failed to justify allegation leveled against him.
6. NOW, THEREFORE, in exercise of the power conferred under section 4 Khyber Pakhtun khawa Govt. Servant (Efficiency and discipline) rules 2011, the District Education Officer (Female) Swabi in the capacity of competent authority is pleased to impose the major penalty of **REMOVAL FROM SERVICE** upon the accused Mr, Farman Ali , Chowkidar, GGPS Thana Banda (Yaqubi) from Service with effect from 31-10-2015 and his absent period with effect from 6-11-2015 to 30-11-2015/01-01-2015 to 31-12-2015/01-01-2016 to 31-1-2016/24,25,26,27,29 February 2016 (5 days)/01-03-2016 to 31-03-2016 /13 May 2016 (1 day)/19 October 2016 (01 day)/ 09,11 November 2016 (02 days) 01 February 2017 (01 day) 11 April 2017 (01 day) 22 May 2017 (01 day) 09/2017 (01 Months) 10/2017 (01 Month) and 11/2017 (01 Month) may be treated as unauthorized absence.

(REHANA YASMIN)  
DISTRICT EDUCATION OFFICER  
(FEMALE)SWABI

Endst: No. 2971-7F, No. DA-III/Comp. Ret. dated Swabi the: 18/12/2018

Copy of the above is forwarded for information and reaction to the:-

7. Director Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar.
8. District Accounts Officer, Swabi.
9. Deputy Commissioner Swabi.
10. District Monitoring Officer Swabi
11. Circle Officer Anti-Corruption District Swabi with the requested to recover the over payment of Rs: - 89978/- from Mr, Farman Ali Ex- Chowkidar GGPS Thana Banda (Yaqubi).
5. Sub-Divisional Education Officer (Female) Razzar
6. Mr Farman Ali , Chowkidar GGPS Thana Banda YAQOOBI.

DISTRICT EDUCATION OFFICER  
(FEMALE)SWABI

Ato  
B

9

حکومت پنجاب اور نیشنل ڈیولپمنٹ کونسل کے درمیان - ایجنسی کی سرپرستی اور نیشنل ڈیولپمنٹ کونسل کی سرپرستی

# Exams & Process Comments

پیشن برطرف معزولی حکم برقی  
3931-33/F.No.DA  
حصہ 18.10.2018 اور اجلاس برقی اور (زبان) معزولی

ASIA

یا اجلاس برقی

DS(A/B)  
So(Comp)

1 یہ کہ سائل / پینشن / حقیقت جو کبھی گورنمنٹ ٹرن اوور ایسوسی ایٹس (پنشن) میں ڈیوٹی پر تھے۔

2 یہ کہ سائل کو میزبان ٹرن اوور ایسوسی ایٹس کے دوران مقررہ مدت سے از مقررہ 2015-10-31 سے معزولی کر دیا گیا۔ یہ کہ حکم مذکورہ لبروریات فیصل غنیمت قانونی اور بے القیامی پر مبنی ہے۔

3 یہ کہ حکم مذکورہ لبروریات سے پہلے چھ ماہوں سے پہلے اس کے دوران (24 گھنٹے) کی ڈیوٹی کی حالت میں چھ ماہوں میں کو چھٹی لبروریات ہے۔ اور ضرورت کے وقت چھ ماہوں کے دوران میں سائل نے کبھی بھی ایسی جگہ نہیں کی ہے۔ بلکہ سکول کے عمل کے ضرورت کو مد نظر رکھ کر اس کے دوران میں دو گھنٹے کو ڈیوٹی دینے میں چھوڑ دیا ہے۔ اگر حکم اس کو بھی رد کرتی ہے، تو یہ ہماری سیمپل سے ملتا ہے۔ اس حکم رضقت اتفاقہ پر مبنی آئی کی ڈیوٹی لگانا چاہتا ہوں۔ لیکن تو ہسٹریکل اس دن کو واقعہ اپنے پر دم داری کسی کی ہوتی

(ب) حکم مذکورہ بالا میں سائل کو یکم ستمبر 2017 تا 30 نومبر 2017 مسلسل غیر حاضر رکھا گیا ہے۔ جبکہ اس دوران سائل صرف اور صرف اس دن مورخہ 25.11.2017 کو رضقت میں رہے۔ مدد حکم پر بصرہ معزولین کی مسئلہ کو تو قبول اور سکول صحت کے سہ ماہی کے لئے لبروریات نام۔

(ج) آئینہ کار / ڈی او ایس کے احکامات شمولاً نوٹس بحریہ 20.5.2017 اور سائل کے معزولی کا حکم نامہ بحریہ 18.10.2018 میں لکھا ہے۔ یہ کہ شمولاً نوٹس میں وزیر اعلیٰ کی برطرفی معزولی آرڈر کے سہ ماہی کے لئے تصدیق ہے۔

(د) مورخہ 25. نومبر 2017 کو جناب لارڈز نے اجلاس کیا اور نوٹس لبروریات کے لئے تشریح آوری اور سہ ماہی کے لئے دو مہینوں (ستمبر اور اکتوبر 2017) کے غیر حاضر کے بارے میں مجھے ماحولہ ماحولہ کو کچھ ذکر نہ کرنا۔

(باقی صفحہ 2 پر)

AHC  
PC



(س) روز کے مطابق شوکار نوٹس کے ہمراہ انٹرویو رپورٹ بھیجی جاتی ہے۔ جو کہ اس کے ساتھ بھیجی گئی اور ابھی تک انٹرویو رپورٹ سے آگاہی ہے۔

(ض) شوکار نوٹس کا انٹرویو سے قبل لکھنا۔

(س) کوئی معلوم نہیں کہ ڈی ای اور صبر نے انٹرویو کسی کتاب حکم لیا۔ اور کب انہوں نے رپورٹ پیش کی۔

(س) انہی کرپشن کے ذریعے جبراً مبلغ 89978/- روپے ریکوری کی تفصیل نہ دیا گیا جس حساب سے ریکوری ہوئی ہے۔ جبکہ از روئے قانون ریکوری غلط اور بے اعتبار ہے۔ یونہی سائل کی ڈیوٹی ریفر مافری موز میں اور ریفر مافری کے تصدیقی رپورٹ سے واضح ہے۔

(س) نرالی بات ہے۔ کہ سائل کے معروضی کے آرڈر میں سائل کو مسلسل از 2015-1-1 تا 31-1-2016 غیر حاضر ٹاپا کر لیا گیا ہے۔ یعنی 13 ماہ۔ اور کلمہ حاضر میں تمام سائل ہی ہوئے ہیں۔

(ض) اعلیٰ نرالی بات ہے۔ کہ سائل ڈیوٹی میں ہوئے ہوتے ہیں لیکن کے تاریخ معقول کیا جاتا ہے۔

ہذا بذریعہ ریل غلط متنبس ہوں۔ کہ آؤ کتاب معقلہ روز مرہ نظر رکھیں۔ جو جو بات ہمارے سائل کے معروضی کے آرڈر کو کالعدم قرار دیتے ہوئے سائل کو رپورٹ ڈیوٹی پر بحال رکھنے اور عوامی حساب کے (ڈیوٹی) کے احکامات ہمارے حرم میں۔

پیشینہ  
مفتی اعلیٰ چوہدری گولڈن ٹرائن (سکول) جھانم باڑھی (تعمیری)  
تعمیل رزرو ضلع مولائی

الموسم 29 اکتوبر 2018

تعمیل ہندرات مسلک

- 1۔ ڈی ای اور (زبان) مولائی کا مورخہ 18 مئی 2018 کا پھر سائل کا حکم معروضی
- 2۔ رقم شوکار نوٹس۔
- 3۔ مستبد۔ اکتوبر اور نومبر 2017ء (حضر طحافری موز میں کے قول)
- 4۔ تصدیقی نامہ از جانب صدر مسلم 2018
- 5۔ مبلغ 89978/- روپے ریکوری کا چالان

ATC  
PC



GOVERNMENT OF KHYBER PAKHTUNKHWA  
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT  
No. SO(PE)E&SED/5-19/Re-Instatement/2018  
Dated Peshawar the 01.11.2018

AD

To,  
The Director,  
Elementary & Secondary Education,  
Peshawar.

Subject: - APPEAL FOR RE-INSTATEMENT

Dear Sir,

I am directed to refer to the subject noted above and to enclose herewith a copy of an application alongwith connected documents in respect of Mr. Farman Ali, Chowkidar, Govt. Girls Primary School Thana Banda, Tehsil Razar, District Swabi, for further necessary action and comments, please.

Yours faithfully,

Encl: as above:

Endst: No. & date even

Copy forwarded to:-

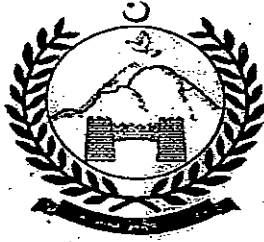
1. The DEO (Female), District Swabi, for similar necessary action.
2. PS to Secretary, Elementary & Secondary Education Department, Peshawar.

  
SECTION OFFICER (PRIMARY)

  
SECTION OFFICER (PRIMARY)

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13

**DISTRICT EDUCATION OFFICE (FEMALE) SWABI**  
(Office phone Fax No 0938280339, emisfswabi@yahoo.com)

**SHOW CAUSE NOTICE.**

I, Miss Naghmana Sardar District Education Officer (F) Swabi, under the Khyber Pakhtunkhwa Government Servant (Efficiency & Disciplinary) Rules 2011, do hereby serve upon you, Mr. Farman Ali, Chowkidar, GGPS Thana Banda, this show cause notice as follow: -

That consequent upon the material on record and other related papers provided by IMU, I am satisfied that you do not perform your duty by yourself and kept a proxy named Mir Muhammad.

You are, therefore, required to show cause as to why the major penalty of dismissal/ removal from service specified in Rule 4(b) of the ibid Rules should not be impose upon you and also intimate whether you desire to be heard in person.

If no reply to this effect is received within 15 days of its delivery, it shall be presumed that you have no defense to put in and in that case Ex-Parte action shall be taken against you.

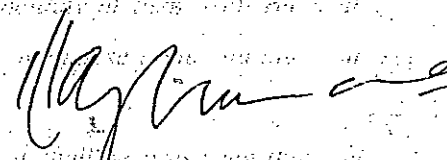
The competent authority has dispensed with the enquiry against you.

(NAGHMANA SARDAR)  
DISTRICT EDUCATION OFFICER  
(FEMALE) SWABI

Endst: No. 2769-75 / Dated Swabi the 20 / 05 / 2017

Copy of the above is forwarded for information to the: -

1. Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.
2. DMO Swabi.
3. Sub-Divisional Education Officer Female Razzar with the remarks to Stop his salary immediately and send his complete record after proper inquiry.
4. Mr. Farman Ali, Chowkidar, GGPS Thana Banda, UC Yaqubi
5. Superintendent Local Office.

  
DISTRICT EDUCATION OFFICER  
(FEMALE) SWABI

AFC  
13

تعمیراتی نصاب کے تحت تعمیراتی کاموں کے

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میں تعمیراتی کاموں کے نصاب کے تحت تعمیراتی کاموں کے  
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HEAD MISTRESS  
G.G.P.S. Thana Banda  
Chota Lahor (Swabi)

27/10/2018

AFC

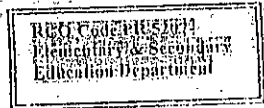
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PROVINCIAL

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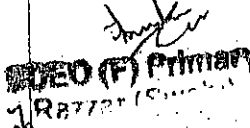
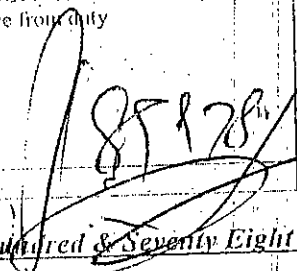

CHALLAN NO

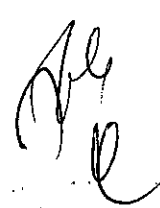
CD - 2822

Dated:- 24-10-2018

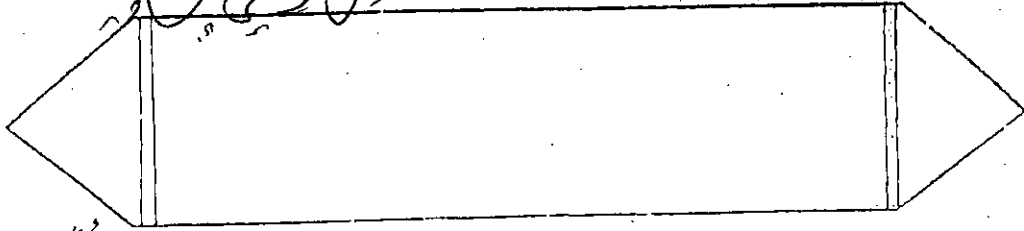
F

CHALLAN OF CASH PAID IN TO THE NATIONAL BANK OF PAKISTAN SWABI

To be filled in the Remitter			To be filled in or the Depts. Officer or Treasury	
By whom Tended	Name or designation and address of the persons on whose Behalf money is paid	Full particulars of the remittance and of authority if any	Amount	Head of Account
Name: SDEO(F) Razzar	SDEO(Female) Razzar District Swabi	Recovery of Pay & Allowance from Mr. Farman Ali Chowkidar: GGPS Tana Banda Yaqoobi on account of absence from duty	Rs:89978/-	602/22 Receipt from G.P.S. Tana Banda Yaqoobi School
Signature	 SDEO (F) Primary Razzar (Swabi)		Rs:89978/-	
(In words Rupees) <u>(Eight Nine thousand Nine hundred &amp; Seventy Eight only)</u>				
Received Payment			Treasury Office 	



بعد الت جواب سوکس ڈیپوٹیل کی اپیل



2019ء پنجاب ہائیڈرو پاور  
فرمان علی بنام حکومت و فلپ

موزخہ  
مقدمہ  
دعویٰ  
م

باعث تحریر آئندہ

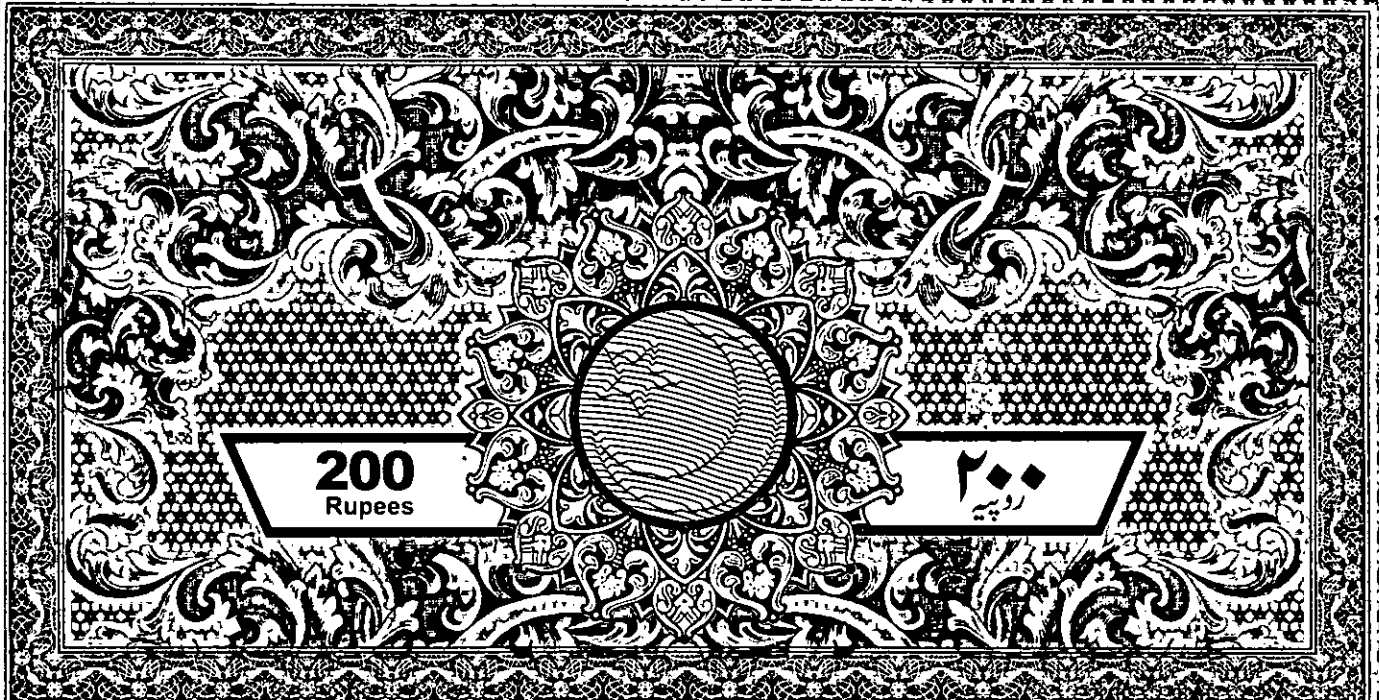
مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیردی و جواب دہی و کل کاروائی متعلقہ  
آج کے مقام پر کیے محمد اصف خان کنڈی اور مونس  
مقررہ کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار دیا گیا۔ نیز  
وکیل صاحب کو رضی نامہ کرنے و تقررات ہاں فیصلہ بر حلف دیے جواب دہی اور اقبال دعویٰ اور  
یہ صورت ڈگری کرنے اجراء اور صولی چیک، ورد پیرار عرضی دعویٰ اور درخواست ہر قسم کی تصدیق  
ذرائع پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیردی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخ  
نیز دائر کرنے اپیل تخرانی و نظر ثانی د پیردی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور  
کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ لیا اپنے بجائے تقرر کا اختیار  
ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساحت  
برداشت منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جائز التوائے مقدمہ کے سبب سے ہوگا۔  
کوئی تا ریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیردی  
مذکور کریں۔ لہذا اذکالت نامہ لکھ دیا کہ سند ہے۔

الرتوم 19 ماہ صوف 2019

فرمان علی خان و شہار خان  
فرمان علی

Accepted  
Jigra Mas

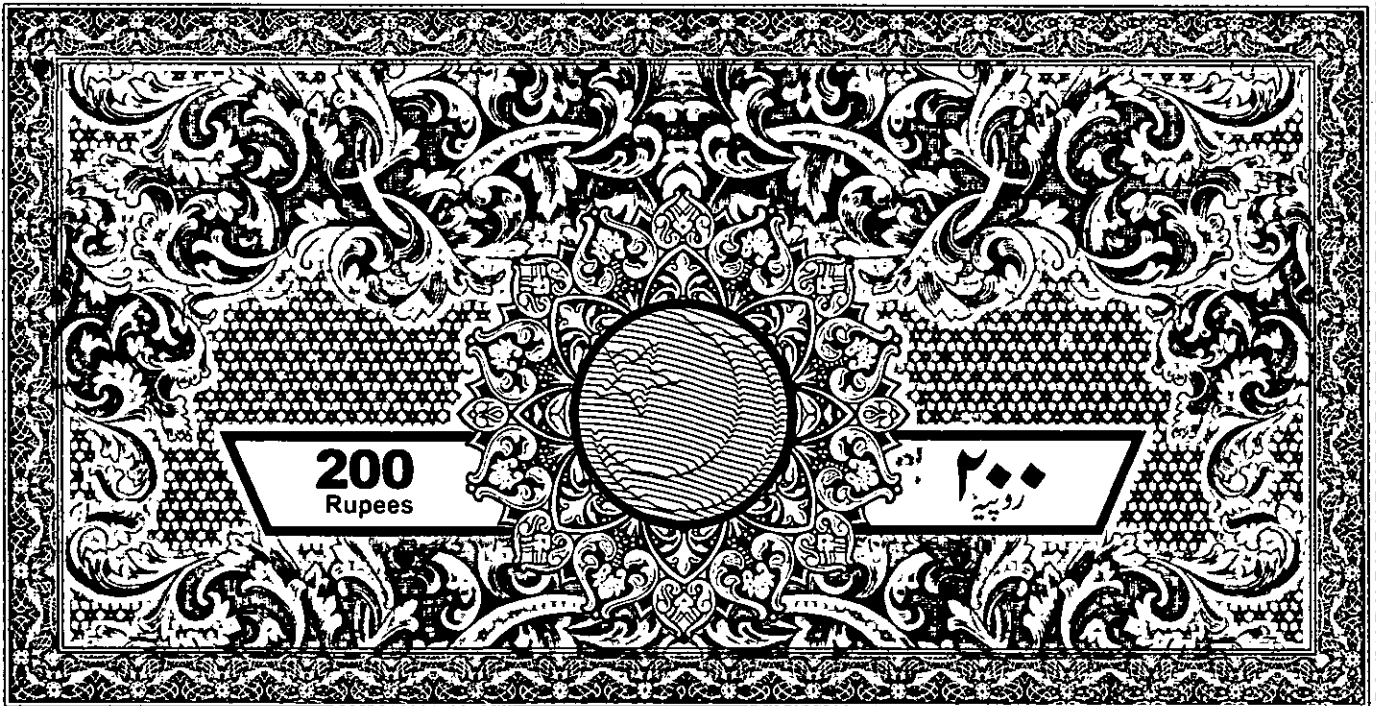
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### SPECIAL POWER OF ATTORNEY FOR COURT CASE

I, **Farman Ali Khan S/o Siyar Khan** R/o Mohallah Ghareeb Abad P/o Khas, Yaqoobi Tehsil Lahor District Swabi, do hereby nominate, constitute and appoint **Majid Ali Khan** S/o Farman Ali Khan R/o Mohallah Ghareeb Abad P/o Khas, Yaqoobi Tehsil Lahor District Swabi, as my Special Attorney and authorize him to appear on my behalf in service appeal titled "**Farman Ali Khan Vs Director Education & others**" in the Services Tribunal KP Peshawar.

Mr. **Majid Ali Khan** is authorized/ empowered through this Special Power of Attorney to file service appeal, revision review, to furnish affidavits, Wakalatnama on my behalf, if need be and to also engage lawyer/ counsel on my behalf.




Every action taken or ought to be taken in this respect shall be admitted to me and shall be deemed to have been performed by me.

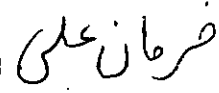
I shall be having no objection to the acts performed by the said attorney on my behalf.

Therefore, this Special Power of Attorney is signed and executed in favour of above mentioned person in presence of witnesses on this 18<sup>th</sup> day of October 2019.

**ACCEPTED BY:**


**EXECUTANT**


Majid Ali Khan   
CNIC: 16201-3414888-3

Farman Ali Khan   
CNIC: 16201-9161371-1

**WITNESS No.1**

**WITNESS No.2**

Shahid Ali   
CNIC: 16201-9162321-1

Maid Ali   
CNIC: 16201-3976155-3



**BEFORE THE SERVICE TRIBUNAL K.P.K, PESHAWAR**

Service Appeal No. 831/2019

Farman Ali S/O Siyar Khan. ....  
R/O Village Yaqoobi, Tehsil Razzar, District Swabi

**Appellant**

**VERSUS**

1. Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Department, Civil Secretariat Peshawar.
2. Director Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
3. District Education Officer (Female) Swabi...

**Respondents**

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4	Show Case Notice	B	07
5	Notification	C	08
6	Absence Report in two News Papers	D & E	09-10

  
DEPONENT  
CNIC NO. 46101-6559498-1

①

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

Service Appeal No. 831/2019

Farman Ali S/O Siyar Khan. ....

R/O Village Yaqoobi, Tehsil Razzar, District Swabi **Appellant**

**VERSUS**

1. Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Department, Civil Secretariat Peshawar.
2. Director Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
3. District Education Officer (Female) Swabi...

..... **Respondents**

**PARAWISE COMMENTS ON BEHALF OF THE RESPONDENTS No.3.**

**Respectfully Sheweth,**

Preliminary Objections;

1. That, the applicant has no cause of action to file the instant appeal.
2. That, the appeal is badly time barred and hit by the principle of laches.
3. That, the applicant has filed the instant appeal just to pressurize the respondents.
4. That, the applicant has not come to the Tribunal with clean hands.
5. That, the applicant concealed the material facts from honorable tribunal.
6. That, the applicant has been estopped by his own conduct to the file the instant appeal.
7. That, upon concealment of fact no one can claim any relief hence the instant appeal is liable to be dismissed.
8. That, the appeal of the appellant is barred by Law.

### **Facts**

1. Admitted to the extent that he was serving as chowkidar at Govt. Girls Primary School Thana Banda (Yaqoobi), Tehsil Razzar, District Swabi. He was removed from service due to long absence as mentioned in the removal order Dated 18-10-2018. He filed a time barred service appeal on 20-06-2019. Hence the service appeal is not maintainable and liable to be dismissed.
2. That the appellant was absent from duty. Hence he was rightly removed from Service by respondent No.3.
3. That, therefore the competent authority has no option than to initiate proceeding against him to remove him from service under Khyber Pakhtunkhwa Government Servants. (Efficiency and Discipline) Rules 2011, rule (9). All the codal formalities have been observed in the removal of the appellant. Inquiry report, show case notice, Absence notices in two newspapers annexed as A,B,C,D,&E.
4. That the para relates to the rejection of departmental appeal of the appellant by the appellate authority.
5. That the appellant has no cause of action to file the instant appeal and the appeal in hand is liable to be dismissed on the following grounds.

### **Grounds.**

- A. Incorrect, hence Strongly denied, the removal from service is legal and in accordance with law, rules and policy. All the codal formalities have been observed in the removal of the appellant. The act of the respondents is according to the norms and the principles of natural justice. The rule of the Khyber Pakhtunkhwa government servants( efficiency and

discipline) Rules 2011 has been implemented in letter and spirit in this particular case. Infact the appellant himself is under the weight of negligence, disobedience willful and habitual absence and defiance. The removal has been strictly made in accordance with law, rules and policy in a fair and transparent way and the space of committing mala fide and illegality is out of question.

- B. Incorrect, hence strongly denied, the removal of the appellant is according to the norms and principles of natural justice. The relevant rule 9 of the Khyber Pakhtunkhwa government servants (Efficiency and discipline) rules 2011 has been strictly Implemented in this particular case. The removal has been strictly made in accordance with law, rules and policy in a fair and transparent way and the space of violation, miscarriage of justice is out of question. Service appeal No.562/2018 titled Rahim-ud-din versus Inspector General of police, Khyber Pakhtunkhwa Peshawar, decided on 02-03-2018 of this service Tribunal is very much clear in this regard. Reliance is placed on the said judgment.
- C. Incorrect, hence denied, the inquiry was made to determine whether the appellant was absent or proxy. Furthermore the act of conduction of inquiry by the respondent is according to the norm and the principles of natural justice.

It was the demand of fulfillment of codal; formalities which was rightly done in this particular case. The stance of the appellant is conjectural and ludicrous. He is talking argy bagry just to create right for his reinstatement which is bad in the eye of law. The conduction of inquiry made the process more genuine and authentic. The Space of contradiction and discredit of the entire authenticity of the proceedings against the appellant is out of question.

- D. Incorrect, hence denied, the appellant had been properly informed. The stance of the appellant is conjectural and ludicrous. He is talking argy

bagry just to create right of his reinstatement, which is the worst in the eye of law. He was kept Properly informed during the entire inquiry proceedings.

E. Incorrect, hence strongly denied, the inquiry committee probe into the matter and declared that appellatant was willful absent and proxy. He did not perform his duty, that is why he was removed from service after completing all the codal formalities. The act of the respondents is according to the norms and principles of natural justice. The certificate he attached is not signed by any competent authority. It is not an authentic document.

F. Incorrect, hence denied, the appellatant was disobedient. He deposited the amount after removal from service. He was removed on 18-10-2018 while deposited the amount on 24-10-2018, which shows his negligence and disobedience.

G. That the respondents seek permission of the honorable service Tribunal to raise / argue further points at the time of arguments.

In wake of the above submissions it is earnestly requested that this honorable service Tribunal may very graciously be pleased to dismiss the instant appeal with cast in favor of the respondents department.



**SECRETARY**  
ELEMENTARY AND SECONDARY  
EDUCATION DEPARTMENT  
CIVIL SECRETARIAT  
KHYBER PAKHTUN KHUWA  
PESHAWAR



**DIRECTOR**  
ELEMENTARY AND SECONDARY  
EDUCATION KHYBER PAKHTUN KHUWA  
PESHAWAR

**SECRETARY**  
Elementary and Secondary Education  
Govt. of Khyber Pakhtunkhwa



**DISTRICT EDUCATION OFFICER**  
FEMALE SWABI  
District Edu. Officer  
(Female) Swabi

**BEFORE THE SERVICE TRIBUNAL K.P.K, PESHAWAR**

Service Appeal No. 831/2019

Farman Ali S/O Siyar Khan. ....

R/O Village Yaqoobi, Tehsil Razzar, District Swabi

**Appellant**


**VERSUS**

1. Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Department, Civil Secretariat Peshawar.
2. Director Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
3. District Education Officer (Female) Swabi...

**Respondents**

**AFFIDAVIT**

Mr. Abdul Ghaffar Khan (Litigation officer) office of the District Education Officer (Female) Swabi on the instruction of DEO(F) Swabi, do here by solemnly affirm & declare that the contents of the accompanying parawise comments submitted by respondent No.1 & 3 is true and correct to the best of my Knowledge and belief that nothing has been concealed from this Honourable Court.

  
**DEPONENT**  
CNIC NO.16407-6559490-1

**IDENTIFIED BY**

**ADOCATE GENERAL  
OF KHYBER PAKHTUNKHUWA**

Annexure A (6)

ANNEXURE "A"

DISTRICT EDUCATION OFFICE (FEMALE) SWABI  
(Office phone Fax No 0938280339)

(8)

NOTIFICATION

1. WHEREAS Mr, Farman Ali Chowkidar Govt: Girls Primary School Thana Banda (Yaqubi) Tehsil Razzar and District Swabi was proceeded against under the Khyber Pakhtunkhwa Government Servants (Efficiency & Disciplinary) Rules 2011 for the charges of having been willful absent from duty (habitual absent) and proxy Mr., Mir Muhammad s/o Sanobar was performing his duties as reported by IMU.
2. AND WHEREAS inquiry committee was constituted comprising the following officers to conduct regular inquiry against the accused MR. Farman Ali for the charges leveled against him in accordance with the rules.
  - i. Laiq Zaman ADEO(M) establishment Primary.
  - ii. Muhammad Naeem H/M GHS Gohar Abad.
3. AND WHEREAS the inquiry committee after having examined the charges, evidence on record and explanation of the accused submitted the report. According to report/recommendation submitted by inquiry officer (1) The Concerned Chowkidar recommended that the under E & D rules, 2011, the reported chowkidar deserves major penalty i.e removal from service. (2) deduction be made from his pay under the rules.
4. AND WHEREAS Mr. Farman Ali Chowkidar GGPS Thana Banda Yaqoobi has been served show cause notice vide No. 2369-75 dated 20.5.2017 as he was again found absent(proxy) as reported by IMU.
5. AND WHEREAS the final show cause notice published in the daily Mashriq Peshawar dated 25.12.2017 he failed to resume his duty and appeared before the undersigned but failed to justify allegation leveled against him.
6. NOW, THEREFORE, in exercise of the power conferred under section 4 Khyber Pakhtun khawa Govt. Servant (Efficiency and discipline) rules 2011, the District Education Officer (Female) Swabi in the capacity of competent authority is pleased to impose the major penalty of REMOVAL FROM SERVICE upon the accused Mr, Farman Ali , Chowkidar, GGPS Thana Banda (Yaqubi) from Service with effect from 31-10-2015 and his absent period with effect from 6-11-2015 to 30-11-2015/01-01-2015 to 31-12-2015/01-01-2016 to 31-1-2016/24,25,26,27,29 February 2016 (5 days)/01-03-2016 to 31-03-2016 /13 May 2016 (1 day)/19 October 2016 (01 day)/ 09,11 November 2016 (02 days) 01 February 2017 (01 day) 11 April 2017 (01 day) 22 May 2017 (01 day) 09/2017 (01 Months) 10/2017 (01 Month) and 11/2017 (01 Month) may be treated as unauthorized absence.

(REHANA YASMIN)  
DISTRICT EDUCATION OFFICER  
(FEMALE)SWABI

Endst: No. 2177. No. DA-III/2018. Ret: dated Swabi the: 18/12/2018.

Copy of the above is forwarded for information and n/action to the:

7. Director Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar.
8. District Accounts Officer, Swabi.
9. Deputy Commissioner Swabi.
10. District Monitoring Officer Swabi
11. Circle Officer Anti-Corruption District Swabi with the requested to recover the over payment of Rs: - 89978/- from Mr, Farman Ali Ex- Chowkidar GGPS Thana Banda (Yaqubi).
5. Sub-Divisional Education Officer (Female) Razzar
6. Mr Farman Ali , Chowkidar GGPS Thana Banda YAQOUBI.

DISTRICT EDUCATION OFFICER  
(FEMALE)SWABI

Attested  
SUPERINTENDENT  
Distt: Edu Offi  
(Female) Swabi





Amexine B 7



Amexine D 13

DISTRICT EDUCATION OFFICE (FEMALE) SWABI  
(Office phone Fax No 0938280339, emisfswabi@yahoo.com)

SHOW CAUSE NOTICE.

I, Miss Naghmana Sardar District Education Officer (F) Swabi, under the Khyber Pakhtunkhwa Government Servant (Efficiency & Disciplinary) Rules 2011, do hereby serve upon you, Mr. Farman Ali, Chowkidar, GGPS Thana Banda, this show cause notice as follow: -

That consequent upon the material on record and other related papers provided by IMU, I am satisfied that you do not perform your duty by yourself and kept a proxy named Mir Muhammad.

You are, therefore, required to show cause as to why the major penalty of dismissal/ removal from service specified in Rule 4(b) of the ibid Rules should not to be impose upon you and also intimate whether you desire to be heard in person.

If no reply to this effect is received within 15 days of its delivery, it shall be presumed that you have no defense to put in and in that case Ex-Parte action shall be taken against you.

The competent authority has dispensed with the enquiry against you.

(NAGHMANA SARDAR)  
DISTRICT EDUCATION OFFICER  
(FEMALE) SWABI

Endst: No. 2769-75 / Dated Swabi the 20 / 05 / 2017

Copy of the above is forwarded for information to the: -

1. Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.
2. DMO Swabi.
3. Sub-Divisional Education Officer Female Razzar with the remarks to Stop his salary immediately and send his complete record after proper inquiry.
4. Mr. Farman Ali, Chowkidar, GGPS Thana Banda, UC Yaqubi.
5. Superintendent Local Office.

Handwritten signature of Superintendent  
SUPERINTENDENT  
Distt: Edu Officer  
(Female) Swabi

Handwritten signature of District Education Officer  
DISTRICT EDUCATION OFFICER  
(FEMALE) SWABI

Annexure  
AMA  
8

12

151

**Directorate of Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar**

**NOTIFICATION**

1. WHEREAS, Mr. Farman Ali Chowkidar GGPS Thana Banda (Yaqubi) Swabi was removed from Government Service under Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011 by the DEO (Female) Swabi vide his Notification No Endst No 3931-33 dated 18/06/2018.
2. AND WHEREAS, the said aggrieved Chowkidar filed a departmental appeal received through Section Officer (Primary) Elementary & Secondary Education Department grant of LPR vide letter SO(PE)E&SED/5-19/Re-instatement-2018 dated 01/11/2018 to the Director E&SE Khyber Pakhtunkhwa Peshawar (appellate Authority) for redressal of his grievances/reinstatement in service.
3. AND WHEREAS, the appellate authority in pursuance of Section 17 read with sub rule (1) & (2) of the E&D Rules-2011 called for the record of the case and comments from the concerned DEO vide letter No. 4769 dated 20.11.2018 for consideration of the appeal.
4. AND WHEREAS, the DEO concerned provided the requisite record/comments accordingly vide his letter No. 2063 dated 17.04.2019 describing the reason/circumstances under which the appellant was removed from service after fulfillment of code formalities.
5. AND WHEREAS, consequent upon perusal of relevant record, reason and circumstances by the appellate authority under which Mr. Farman Ali Chowkidar GGPS Thana Banda (Yaqubi) Swabi (appellant) was removed from service, the appeal submitted by the aforesaid Ex-Chowkidar for reinstatement was not found tenable.
6. NOW, THEREFORE, in exercise of the powers conferred under Section-17 rule (2) (a) of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules-2011, the Director E&SE/appellate authority "upholds the order of Major penalty and reject the appeal" lodged by Mr. Farman Ali Chowkidar GGPS Thana Banda (Yaqubi) Swabi (appellant).

DIRECTOR  
Elementary & Secondary Education  
Khyber Pakhtunkhwa, Peshawar

Dated Peshawar the 21/05/2019.

Endst: No. 5669-25 /F.No. 431 /A-20/C-IV/Swabi-III

- Copy of the above is forwarded for information and n/action to the:-
- 1- District Education Officer (Female) Swabi w/r to his letter No. cited above.
  - 2- District Account Officer Swabi.
  - 3- Appellant concerned.
  - 4- PA to the Director E&SE Khyber Pakhtunkhwa Peshawar.

*[Signature]*  
Assistant Director (Admn)  
E&SE, Khyber Pakhtunkhwa, Peshawar  
21/5/19

*[Signature]*  
**SUPERINTENDENT**  
Distt: Edu Officer  
(Female) Swabi

Don't forget to check the folder 'Re-instatement' from the folder 'down appeal doc'

Annexure 019  
 25/12/2017

Refer to advertisement No. INF(P)7158 published in various newspaper dated 19.12.2017, the limit for the post will be 20-30 year.

Project Director Project Implementation Unit (Gomal Zam Dam Command Area Development Project, Water Management Training Center, Danna Road, Sheikh Yousof, Ada D. Khan, Pm: 0956-730091/652650)

INF(P)7158

SAY NO TO CORRUPTION / DRUGS  
 Also available on www.khyberpakhtunkhwa.gov.pk

آپ سے درخواست ہے کہ آپ اپنے پاس موجود تمام دستاویزات اور تصدیقی کاپیاں جمع کر کے اپنے تعلقہ کے ایجنٹ کے پاس پیش کریں۔ اس کے ساتھ ساتھ آپ کو اپنی تعلیمی اور پیشہ ورانہ صلاحیتوں کی تفصیلات بھی پیش کرنی ہوں گی۔ اس کے علاوہ آپ کو اپنی تعلیمی اور پیشہ ورانہ صلاحیتوں کی تفصیلات بھی پیش کرنی ہوں گی۔ اس کے علاوہ آپ کو اپنی تعلیمی اور پیشہ ورانہ صلاحیتوں کی تفصیلات بھی پیش کرنی ہوں گی۔

Sl. No.	Post Name	Qualification	Experience
1	Senior Lecturer	B.A. / B.S. / B.Ed.	10-15 years
2	Junior Lecturer	B.A. / B.S. / B.Ed.	5-10 years
3	Assistant Lecturer	B.A. / B.S. / B.Ed.	3-5 years

INF(P)7235 www.khyberpakhtunkhwa.gov.pk

تعمیراتی امور کے لیے درخواستیں جمع کروانے کے لیے ایجنٹ کے پاس اپنی تعلیمی اور پیشہ ورانہ صلاحیتوں کی تفصیلات پیش کرنی ہوں گی۔ اس کے علاوہ آپ کو اپنی تعلیمی اور پیشہ ورانہ صلاحیتوں کی تفصیلات بھی پیش کرنی ہوں گی۔ اس کے علاوہ آپ کو اپنی تعلیمی اور پیشہ ورانہ صلاحیتوں کی تفصیلات بھی پیش کرنی ہوں گی۔

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تعمیراتی امور کے لیے درخواستیں جمع کروانے کے لیے ایجنٹ کے پاس اپنی تعلیمی اور پیشہ ورانہ صلاحیتوں کی تفصیلات پیش کرنی ہوں گی۔ اس کے علاوہ آپ کو اپنی تعلیمی اور پیشہ ورانہ صلاحیتوں کی تفصیلات بھی پیش کرنی ہوں گی۔ اس کے علاوہ آپ کو اپنی تعلیمی اور پیشہ ورانہ صلاحیتوں کی تفصیلات بھی پیش کرنی ہوں گی۔

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1	Senior Lecturer	B.A. / B.S. / B.Ed.	10-15 years
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3	Assistant Lecturer	B.A. / B.S. / B.Ed.	3-5 years

Keyber Pakhtunkhwa Suitable candidates of PSC-AOP Scheme

Lady Incharge one each for (Sawabi), Narayan Khael, Armandrac Mug Chitral

Lady Supervisor one each for (Pahri kabir and Nondrac Singoor (Chitral)

Sewing Work one each for (Sawabi), Narayan Khael, Armandrac Mug Chitral

Peon one each for (Sawabi), Narayan Khael, Armandrac Mug Chitral

Chowkidar one each for (Sawabi), Narayan Khael, Armandrac Mug Chitral

Qualification recognized by the respective subject like  
 Level-I (Paeds) qualification approved by SRC and recognized by PM & DC.  
 Two years Teaching Experience Qualification as Senior Registrar in relevant subject.  
 One Year Teaching Experience as equivalent in relevant subject before selection.  
 Qualification in respective speciality, NO minimum qualification recognized by the relevant subject like  
 OR  
 Level-III relevant (Paeds) qualification approved by SRC and recognized by DC.  
 Two years Teaching Experience in relevant subject.  
 One Year Teaching Experience as equivalent in relevant subject before selection.  
 Qualification in respective speciality, NO minimum qualification recognized by the relevant subject like  
 OR  
 Level-III relevant (Paeds) qualification approved by SRC and recognized by DC.  
 Two years Teaching Experience in relevant subject.  
 One Year Teaching Experience as equivalent in relevant subject before selection.  
 Qualification in respective speciality, NO minimum qualification recognized by the relevant subject like

Major Degree in Arts along with one in Computer from Board of Technical Education.  
 Academic / experience / domicile photocopy duly attested must reach within prescribed form.  
 Documents should reach personally or fore due date of closing.  
 Missing will be done either by written last or  
 Khyber Pakhtunkhwa Medical & Teaching Institutions  
 falls on an official holiday, the next projected.  
 Applications are incomplete. However the COM/MT/HT/TC for review. The decision of who have experience in relevant subject  
 Government Rules accordingly.  
 If any candidate furnishes any false information, (d) disqualification (e) Attempts to obtain support forged certificates, (g) Tempers with the Commission for review.

INF(P)7235 www.khyberpakhtunkhwa.gov.pk

(10)

26/12/2017

Asst. Commr. Swabi

Sl. No.	Name of the Person	Address	Remarks
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Sl. No.	Name of the Person	Address	Remarks
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Attd  
 Shafiq  
 SUPERINTENDENT  
 Distt: Edu Officer  
 (Female) Swabi

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

In Re:

Service Appeal No.831/2019

Farman Ali. . . . . **APPELLANT**

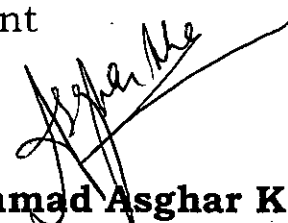
**VERSUS**

Govt. of Khyber Pakhtunkhwa & others. . . . . **RESPONDENTS**

**I N D E X**

<b>S.No.</b>	<b>Description of Documents</b>	<b>Annex</b>	<b>Pages</b>
1.	Rejoinder		1-2
2.	Affidavit		3
3.	Copy of the Extract from Attendance Register	A	4-6
4.	Copy of Extract from Office Record	B	7

Appellant  
Through



**Muhammad Asghar Khan Kundi**  
Advocate, Peshawar  
Cell: 0333-9127288

Dated: 09.03.2020

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

In Re:

Service Appeal No.831/2019

Farman Ali. . . . . **APPELLANT**

**VERSUS**

Govt. of Khyber Pakhtunkhwa & others. . . . . **RESPONDENTS**

**REJOINDER ON BEHALF OF THE APPELLANT**

**Respectfully Sheweth:**

The appellant submits as follow:-

1. That the appellant never absented himself from duty and performed his duties diligently and to the best of his abilities.
2. That the appellant's removal from service is based upon malafide and ulterior motives, as apparent from record.
3. That the malafide of the respondents is evident from the fact that the impugned removal from service order dated 18.10.2018 show the appellant absent for the

months of September, October and November, 2017. However, extract from the register of attendance for the subject three months reveal that the appellant was present on duty for the subject three months. **(COPY OF THE EXTRACT FROM ATTENDANCE REGISTER IS ANNEX "A")**.

4. That the respondent No.3 office record also show that for the year 2017 the non-teaching staff attendance was 50% which increased to 100% in the following year 2018. This by itself falsifies the case of the respondents. **(COPY OF EXTRACT FROM OFFICE RECORD IS ANNEX "B")**.

It is, therefore, humbly prayed that keeping in view the averments of the appellant, the appeal in hand may very graciously be allowed as prayed for.

Appellant  
Through

  
**Muhammad Asghar Khan Kundi**  
Advocate, Peshawar

Dated: 09.03.2020

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

In Re:

Service Appeal No.831/2019

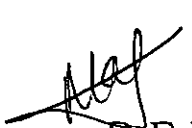
Farman Ali. . . . . **APPELLANT**

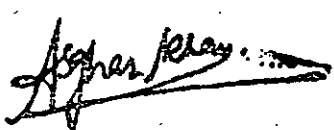
**VERSUS**

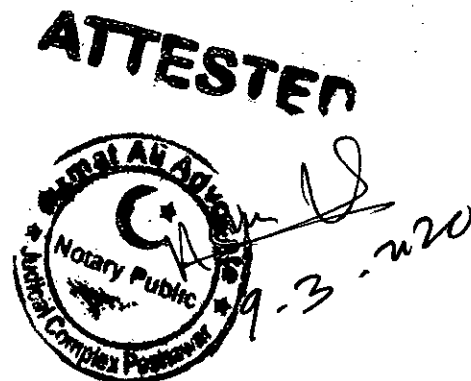
Govt. of Khyber Pakhtunkhwa & others. . . . . **RESPONDENTS**

**AFFIDAVIT**

I, Majid Ali Khan S/o Farman Ali R/o Village Yaqoobi, Police Station Yar Hussain, Tehsil Chota Lahor, District Swabi (Son/Special Attorney of Appellant), do hereby solemnly affirm and declare on oath that the contents of accompanying **Rejoinder** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.

  
DEPONENT  
CNIC: 16201-3414888-3  
Cell: 0345-8553040

  
Muhammad Asghar Khan Kuneli





رجسٹر حاضری مدرسین جی بی ایس کواٹریٹرز  
2017ء

بابت ماہ ستمبر		عبدالرحمن علی				عالمہ علی				رجسٹرار PSH				تاریخ	
		جو کبھی				جو کبھی				PSHT				نمبرہ	
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		P		P		Am 12:30	Am 7:30	Am 12:30	Am 7:30	Am 12:30	Am 7:30	Am 12:30	Am 7:30		27
		P		P		Am 12:30	Am 7:30	Am 12:30	Am 7:30	Am 12:30	Am 7:30	Am 12:30	Am 7:30		28
		P		P		Am 11:30	Am 7:30	Am 11:30	Am 7:30	Am 11:30	Am 7:30	Am 11:30	Am 7:30		29
															30
															31
میزان	سابقہ	حال	میزان	سابقہ	حال	میزان	سابقہ	حال	میزان	سابقہ	حال	میزان	سابقہ	حال	تقریرت
															اتفاقہ
															استحقاق
															بیماری
															میزان

دکھ ایڈمانٹر

کتابخانه

# رجسٹر حاضری مدرسین

(5)

2018

پست نام		عالم		فرمان		پست نام		عالم		فرمان	
PSHT		عالمی		عالمی		عالمی		عالمی		عالمی	
روزگار	دست	روزگار	دست	روزگار	دست	روزگار	دست	روزگار	دست	روزگار	دست
Sunday											
P	U	P	Ali	1:35	Ali	8:30	P	1:35	P	8:30	1
P	U	P	Ali	1:35	Ali	8:30	P	1:35	P	8:30	2
P	U	P	Ali	1:35	Ali	8:30	P	1:35	P	8:30	3
P	U	P	Ali	1:35	Ali	8:30	P	1:35	P	8:30	4
P	U	P	Ali	1:35	Ali	8:30	P	1:35	P	8:30	5
P	U	P	Ali	1:35	Ali	8:30	P	1:35	P	8:30	6
Sunday											
P	U	P	Ali	1:35	Ali	8:30	P	1:35	P	8:30	8
P	U	P	Ali	1:35	Ali	8:30	P	1:35	P	8:30	9
P	U	P	Ali	1:35	Ali	8:30	P	1:35	P	8:30	10
P	U	P	Ali	1:35	Ali	8:30	P	1:35	P	8:30	11
P	U	P	Ali	1:35	Ali	8:30	P	1:35	P	8:30	12
P	U	P	Ali	1:35	Ali	8:30	P	1:35	P	8:30	13
Sunday											
P	U	P	Ali	1:35	Ali	8:30	P	1:35	P	8:30	15
P	U	P	Ali	1:35	Ali	8:30	P	1:35	P	8:30	16
P	U	P	Ali	1:35	Ali	8:30	P	1:35	P	8:30	17
P	U	P	Ali	1:35	Ali	8:30	P	1:35	P	8:30	18
P	U	P	Ali	1:35	Ali	8:30	P	1:35	P	8:30	19
P	U	P	Ali	1:35	Ali	8:30	P	1:35	P	8:30	20
Sunday											
P	U	P	Ali	1:35	Ali	8:30	P	1:35	P	8:30	21
Sunday											
P	U	P	Ali	1:35	Ali	8:30	P	1:35	P	8:30	22
P	U	P	Ali	1:35	Ali	8:30	P	1:35	P	8:30	23
P	U	P	Ali	1:35	Ali	8:30	P	1:35	P	8:30	24
P	U	P	Ali	1:35	Ali	8:30	P	1:35	P	8:30	25
P	U	P	Ali	1:35	Ali	8:30	P	1:35	P	8:30	26
P	U	P	Ali	1:35	Ali	8:30	P	1:35	P	8:30	27
Sunday											
P	U	P	Ali	1:35	Ali	8:30	P	1:35	P	8:30	28
P	U	P	Ali	1:35	Ali	8:30	P	1:35	P	8:30	29
P	U	P	Ali	1:35	Ali	8:30	P	1:35	P	8:30	30
Sunday											
P	U	P	Ali	1:35	Ali	8:30	P	1:35	P	8:30	31

6

# رجسٹر حاضری مدرسین گھانہ ہائری

2017

بابت ماہ نومبر

فنون علی		علاء		رضانہ		تاریخ
دست	آمد	دست	رواگی	دست	آمد	دست
P	N	P	Ain 1:35	Ain 8:30	P	1
P	N	P	Ain 1:35	Ain 8:30	P	2
P	N	P	Ain 1:35	Ain 8:30	P	3
P	N	P	Ain 1:35	Ain 8:30	P	4
Sunday			Sunday			5
P	N	P	Ain 1:35	Ain 8:30	P	6
P	N	P	Ain 1:35	Ain 8:30	P	7
P	N	P	Ain 1:35	Ain 8:30	P	8
P	N	P	Ain 1:35	Ain 8:30	P	9
P	N	P	Ain 1:35	Ain 8:30	P	10
P	N	P	Ain 1:35	Ain 8:30	P	11
Sunday			Sunday			12
P	N	P	Ain 1:35	Ain 8:30	P	13
P	N	P	Ain 1:35	Ain 8:30	P	14
P	N	P	Ain 1:35	Ain 8:30	P	15
P	N	P	Ain 1:35	Ain 8:30	P	16
P	N	P	Ain 1:35	Ain 8:30	P	17
P	N	P	Ain 1:35	Ain 8:30	P	18
Sunday			Sunday			19
P	N	P	Ain 1:35	Ain 8:30	P	20
P	N	P	Ain 1:35	Ain 8:30	P	21
P	N	P	Ain 1:35	Ain 8:30	P	22
P	N	P	Ain 1:35	Ain 8:30	P	23
P	N	P	Ain 1:35	Ain 8:30	P	24
P	N	P	Ain 1:35	Ain 8:30	P	25
C / Leave			C / Leave			26
Sunday			Sunday			27
P	N	P	Ain 1:35	Ain 8:30	P	28
P	N	P	Ain 1:35	Ain 8:30	P	29
P	N	P	Ain 1:35	Ain 8:30	P	30
31						

Handwritten notes and signatures on the left side of the register, including names like 'Fayyaz' and 'Adeeb'.

روز	دست	آمد	دست	تاریخ
				1
				2
				3
				4
				5
				6
				7
				8
				9
				10
				11
				12
				13
				14
				15
				16
				17
				18
				19
				20
				21
				22
				23
				24
				25
				26
				27
				28
				29
				30
				31

قسم رخصت	حالیہ	سابقہ	میزان	حالیہ	سابقہ	میزان	حالیہ	سابقہ	میزان
اتفاقہ									
اتفاقہ									
بیازا									
میزان									

دستخط ہیڈ ماسٹر

Amn B (7)



District Education Office Swabi

Target Matrix 2018-

District	Tehsil	UC	Circle/Office	emis code	School Name	Level	Type	Gender	Indicator	Baseline 18	2017	Target 2018-19 (Realistic)	Target 2018-19 (Ambitious)
SWABI	RAZAR	YAQOOBI	GGCMS Yar Hussain	29762	GGPS THANA BANDA	PRIMARY		GIRL	PTC functionality	Functional		Functional	Functional
SWABI	RAZAR	YAQOOBI	GGCMS Yar Hussain	29762	GGPS THANA BANDA	PRIMARY		GIRLS	No. of times School reported Closed	0	0	0	0
SWABI	RAZAR	YAQOOBI	GGCMS Yar Hussain	29762	GGPS THANA BANDA	PRIMARY		GIRLS	Enrollment	35	40	43	43
SWABI	RAZAR	YAQOOBI	GGCMS Yar Hussain	29762	GGPS THANA BANDA	PRIMARY		GIRLS	Teacher Attendance	100%	100%	100%	100%
SWABI	RAZAR	YAQOOBI	GGCMS Yar Hussain	29762	GGPS THANA BANDA	PRIMARY		GIRLS	Student Attendance	68%	80%	82%	82%
SWABI	RAZAR	YAQOOBI	GGCMS Yar Hussain	29762	GGPS THANA BANDA	PRIMARY		GIRLS	Non Teaching Staff Attendance	50%	100%	100%	100%

It is certified that all the above (Target Matrix) schools are on school premises



**KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL, PESHAWAR**

No. 1668 /ST

Dated: 25/08 /2021

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

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


To

The District Education Officer Female,  
Government of Khyber Pakhtunkhwa,  
Swabi.

Subject: JUDGMENT IN APPEAL NO. 831/2019, MR. FARMAN ALI.

I am directed to forward herewith a certified copy of Judgement dated  
28.07.2021 passed by this Tribunal on the above subject for strict compliance.

Encl: As above

  
REGISTRAR  
KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL  
PESHAWAR

## Inquiry Report

Title: Farman Ali Chowkidar at GGPS Thana Kali Yaqubi reported as proxy.

### Reference:

Vide DEO (F) Swabi No. 4779/EMIS/IMU/ST 2017 Dated 01-11-2017, the undersigned committee was constituted to conduct impartial inquiry and to submit comprehensive report to DEO (F) Swabi to proceed further.

The reported chowkidar is accused of doing his duty by proxy.

The two members committee visited GGPS Thana Kali Yaqubi on October 25, 2017 at 12:00 noon and started its proceedings.

### Methodology

Questionnaires, statements, and physical checking of record.

### Facts

The committee with physical evidence derived the following facts:

1. The committee, in front of the main gate of the above-mentioned school, met a 75 years old person named Mir Muhammad S/O Sanobar, a local, CNIC No. nil. Who on the query told the committee that he was doing proxy for Farman Ali Chowkidar and he is a peasant on Farman's land, too.
2. The Head Teacher of the school opened gate for us and replied all questions we asked from her about Farman under inquiry. She also filled up the questionnaire. She was not seemed confident and impartial, we guessed from his erubescence face.
3. The reported chowkidar was not present at school. The Head Teacher presented his application for leave without any approval and casual leave written before his name in the attendance, certainly written in a hurry on our arrival at school.
4. The teachers affirmed that the chowkidar under inquiry has become regular in performance of his duty after September 2017, but the fact might be otherwise.
5. Pay of the chowkidar has been stopped for last 7 months after the issuance of show-cause notice by DEO (F) Swabi No. 2369-75 dated 20-05-2017, further record about the reply of the show-cause notice was available at the school.
6. On perusal of the attendance register of the school, the following chart can easily show his performance of duty.

21-10-2017 DP

S No.	Month/Year	Dates	Days	Present/Absent
1	November-15	06 to 30 Nov	24	Absent
2	December-15	Whole Month	31	Absent
3	January-16	Do	31	Absent
4	February-16	24, 25, 26 27, 29 Feb	5	Absent
5	March-16	Whole Month	31	Absent
6	May-16	13-May	1	Proxy
7	October-16	19-Oct	1	Proxy
8	November-16	9, 11 November	2	Proxy
9	February-17	1-Feb	1	Proxy
10	April-17	11-Apr	1	Proxy
11	May-17	22-May	1	Proxy
12	September-17			Proxy
13	October-17			Proxy
14	November-17	18-Sep	1	Proxy

**Conclusion**

It is crystal clear from the above list that:

1. The reported chowkidar is doing his duty by proxy which is illegal and misconduct on his part.
2. His peasant Mir Muhammad as mentioned above, is doing proxy for him.
3. The Head Teacher seemed helpless and biased in the case needs to be reprimanded.

**Recommendations**

1. It is recommended that under E & D rules, 2011, the reported chowkidar deserves major penalty i.e removal from service.
2. Deduction be made from his pay under the rules.

MUHAMMAD NAEEM  
HEADMASTER  
GHS GOHARABAD ISMAILA (SWABI)

LAIQ ZAMAN  
ADEO (PRIMARY)  
DISTRICT EDUCATION OFFICE  
(MALE) SWABI



**KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL, PESHAWAR**

No. 1760 /ST

Dated: 03/09 /2021

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

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

To

The District Education Officer Female,  
Government of Khyber Pakhtunkhwa,  
Swabi.

Subject: JUDGMENT IN APPEAL NO. 831/2021, MR. FARMAN ALI.

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Encl: As above

REGISTRAR

KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL  
PESHAWAR