

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL PESHAWAR.

Service Appeal No. 1101/2019

Date of Institution ... 29.08.2019

Date of Decision ... 17.06.2022

Muhammad Idress, Senior Qari (BPS-15), GHS Shanwori Naryab,
Hangu.

... (Appellant)

VERSUS

The Secretary (E&SE) Khyber Pakhtunkhwa, Peshawar and three
others.

... (Respondents)

MR. TAIMUR ALI KHAN,
Advocate

--- For appellant.

MR. ASIF MASOOD ALI SHAH,
Deputy District Attorney

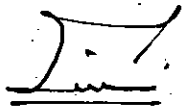
--- For respondents.

MR. SALAH-UD-DIN
MR. MIAN MUHAMMAD

--- MEMBER (JUDICIAL)
--- MEMBER (EXECUTIVE)

JUDGMENT:

SALAH-UD-DIN, MEMBER:- Precise facts forming background of the instant service appeal are that the appellant while serving as Senior Qari (BPS-15), was taken into custody by the Law Enforcement Agency on 15.05.2015, who was later on convicted by Assistant Political Agent/Additional Magistrate Upper Kurram. The appellant challenged his conviction through filing of Writ Petition before the august Peshawar High Court, Peshawar, which was allowed vide judgment dated 30.11.2018 and the appellant was ordered to be released forthwith if not required to be detained in any other case. The appellant went to office for joining of his duty but he was informed that the competent Authority had removed him from service vide order dated 09.11.2016. The appellant filed departmental appeal, which was



not responded within the statutory period of 90 days, therefore, he filed Service Appeal No. 404/2019 before this Tribunal. It was during the pendency of the service appeal that the departmental appeal of the appellant was accepted on 25.04.2019 and he was reinstated in service, however the intervening period was treated as leave due. In this scenario, the appellant withdrew his service appeal and filed departmental appeal before the Secretary Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar, seeking modification of Notification dated 25.04.2019 by treating the intervening period as on full pay. The departmental appeal of the appellant was not responded within the statutory period, therefore, he filed the instant service appeal for redressal of his grievance.

2. Notices were issued to the respondents, who submitted their comments, wherein they refuted the assertions made by the appellant in his appeal.

3. Learned counsel for the appellant has contended that the appellant was admittedly in custody of Law Enforcement Agency, therefore, the absence of the appellant from duty was not willful and he was thus entitled to have been granted full pay for the period of his absence from 15.05.2015 to 08.11.2016 as well as the intervening period with effect from 09.11.2016 to 24.04.2019; that in view of FR-53 & FR-54, the respondents were legally bound to grant full pay to the appellant for the absence period as well as the intervening period but the appellant has been deprived of the same for no valid reason; that after acceptance of his previous departmental appeal vide Notification dated 25.04.2019, new cause of action accrued to the appellant and the instant service appeal is not hit by mischief provided in Rule-24 of Khyber Pakhtunkhwa Service Tribunal Rules, 1974. Reliance was placed on 2011 CLC 319, 2007 SCMR 373, PLD 1967 Dacca 809, PLD 1966 (W.P) Karachi 126, PLD 1999 Lahore 340 and 2000 CLC 1226.

4. On the other hand, learned Deputy District Attorney for the respondents has contended that after acceptance of previous departmental appeal of the appellant, the appellant withdrew his

previous service appeal and filed another departmental appeal to the Secretary Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar, which was not at all maintainable; that the relief sought by the appellant through instant service appeal was also sought in previous service appeal by way of grant of back benefits, however after withdrawal of the previous service appeal, the appellant is legally debarred to file the instant service appeal.

5. Arguments have already been heard and record perused.

6. A perusal of the record would show that the appellant was removed from service vide order dated 09.11.2016. The same was challenged by the appellant through filing of departmental appeal, which was not responded within the statutory period of 90 days, therefore, the appellant filed Service appeal No. 404/2019 titled "Qari Muhammad Idress Versus the Secretary (E&SE) Khyber Pakhtunkhwa Peshawar and two others", before this Tribunal. During pendency of the aforementioned service appeal, the departmental appeal of the appellant was allowed vide Notification dated 25.04.2019, whereby the appellant was reinstated in service, however the intervening period was treated as leave of kind due. It was in this backdrop that learned counsel for the appellant sought withdrawal of the Service Appeal bearing No. 404/2019 and the same was thus dismissed as withdrawn by this Tribunal vide order dated 15.07.2019. Now, it needs to be determined as to whether the appellant could legally bring the appeal in hand after withdrawal of the previous appeal filed by him in this Tribunal. In order to appreciate the controversy in a proper manner, Rule-24 of Khyber Pakhtunkhwa Service Tribunal Rules, 1974, is reproduced as below"

"24. Appellant precluded from bringing another appeal in certain cases:- Where an appeal has been withdrawn by the appellant and is in consequence dismissed by a Tribunal, the appellant shall, unless otherwise directed by a Tribunal be precluded from bringing another appeal in respect of the same cause of action".

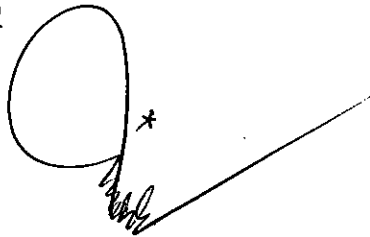
7. While going through the prayer made by the appellant in his previous Service Appeal No. 404/2019, it is crystal clear that

the appellant had sought reinstatement alongwith all back and consequential benefits. The prayer made by the appellant in the instant service appeal was a part of the prayer made in previous service appeal, therefore, the appeal in hand is hit by the mischief contained in Rule-24 of Khyber Pakhtunkhwa Service Tribunal Rules, 1974, hence not maintainable.


8. It is also worth mentioning that after withdrawal of previous Service Appeal No. 404/2019, the order dated 25.04.2019 passed by Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar was challenged by the appellant through filing of departmental appeal before Secretary Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar, which was not maintainable for the reason that no right of second appeal is available to an aggrieved civil servant under Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011.

9. In view of the above discussion, the appeal in hand stands dismissed being not maintainable. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
17.06.2022



(MIAN MUHAMMAD)
MEMBER (EXECUTIVE)



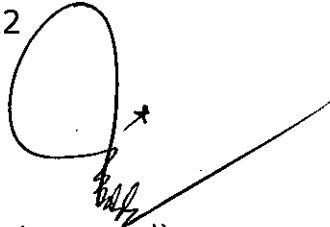
(SALAH-UD-DIN)
MEMBER (JUDICIAL)

ORDER
17.06.2022

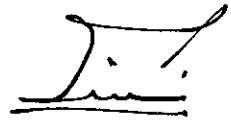
Appellant alongwith his counsel present. Mr. Muhammad Nawaz, ADEO (Litigation) alongwith Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present. Arguments have already been heard and record perused.

Vide our detailed judgment of today, separately placed on file, the appeal in hand stands dismissed being not maintainable. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
17.06.2022

A handwritten signature in black ink, consisting of a large, stylized 'M' followed by a long horizontal stroke and some smaller scribbles below it.

(Mian Muhammad)
Member (Executive)


A handwritten signature in black ink, appearing to be 'Salah-Ud-Din' written in a cursive style.

(Salah-Ud-Din)
Member (Judicial)

06.01.2022

Junior to counsel for the appellant present. Mr. Kabirullah Khattak, Addl. AG for the respondents present.

Junior to counsel for the appellant requested for adjournment on the ground that senior counsel for the appellant is not available today, due to general strike of the bar. Adjourned. To come up for arguments before the D.B on 14.03.2022.


(Atiq-ur-Rehman Wazir)
Member(E)


Chairman

14-3-22

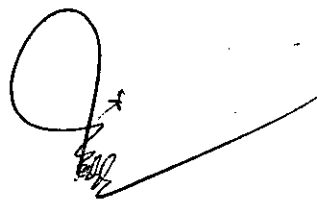
*Due to retirement of the Hon,ble
Chairman the case is adjourned to
come up for the same as before on
16-6-22*


*Shah
Rehman*

16.06.2022

Appellant alongwith his counsel Mr. Taimur Ali Khan, Advocate present. Mr. Muhammad Nawaz, ADEO (Litigation) alongwith Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present.

Arguments heard. To come up for order before the D.B on 17.06.2022.

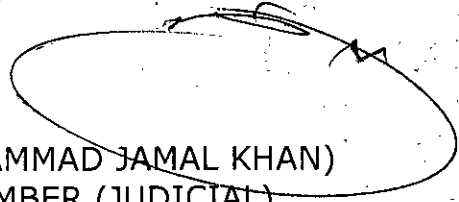

(MIAN MUHAMMAD)
MEMBER (EXECUTIVE)


(SALAH-UD-DIN)
MEMBER (JUDICIAL)

28.01.2021

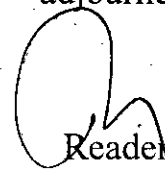
Counsel for appellant is present. Mr. Kabirullah Khattak, Additional Advocate General and Mr. Sajid, Superintendent, on behalf of respondent No. 4, are also present.

Written reply on behalf of respondents No. 2 & 3 has already been submitted while representative of respondent No. 4 stated at the bar that he relies on the written reply submitted by respondents No. 2 & 3 on behalf of respondent No. 4. Therefore, file to come up for rejoinder and arguments on 11.05.2021 before D.B.


(MUHAMMAD JAMAL KHAN)
MEMBER (JUDICIAL)

11.05.2021

Due to demise of the Worthy Chairman, the Tribunal is non-functional, therefore, case is adjourned to 31.08.2021 for the same as before.


Reader

31.08.2021

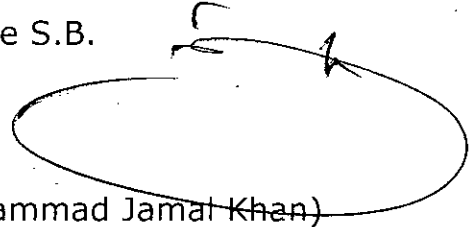
Due to summer vacations, the case is adjourned to 06.01.2022 for the same as before.


READER

20.10.2020

Appellant is present in person. Mr. Kabirullah Khattak, Additional Advocate General is also present.


Neither written reply on behalf of respondents submitted nor any representative on behalf of the respondent-department is present, therefore, notices be issued to them for submission of written reply/comments. File to come up for written reply/comments on 08.12.2020 before S.B.



(Muhammad Jamal Khan)
Member (Judicial)


08.12.2020

Appellant with counsel present.



Kabir Ullah Khattak learned Additional Advocate General alongwith Naseem Khan S.O for respondents present.


Written reply on behalf of respondents No.2 & 3 submitted. Representative of respondents No.1 & 4 made a request for adjournment in order to furnish reply/comments; granted. To come up for written reply/comments on 28.01.2021 before S.B.



(Rozina Rehman)
Member (J)

20.08.2020

Counsel for the appellant present. Preliminary arguments heard and case file perused. Learned counsel for the appellant contended that the appellant was appointed as Qari (BPS-07) and subsequently promoted as Senior Qari (BPS-15). That the appellant while working in the said capacity being suspected was picked up/detained by the law enforcing Agency on 15.05.2015. In this respect his mother wrote an application to the department on 07.06.2015 informing about the detainee/appellant taken by the law enforcing Agency and requested to retain the appellant on his post till the conclusion of the issue of the appellant. That after the acquittal the appellant went to office to join his duty, but he was informed that he had been removed from service vide order dated 09.11.2016. Against the said order he filed departmental appeal on 19.12.2018 within thirty days of his acquittal i.e 30.11.2018. The departmental appeal was followed by service appeal No. 404/2019 in this Tribunal. During the pendency of the said service appeal, the appellant was reinstated by the department on 25.04.2019 but the intervening period from the date of his removal till reinstatement i.e 09.11.2016 to 24.04.2019 was treated as leave of the kind due. He filed Departmental appeal on 15.05.2019 to modify the notification dated 25.04.2019 to the extent of, on full pay for the intervening period with effect from 09.11.2016 to 24.04.2019 under FR-54. The appellant has not been treated in accordance with rules and due course of law has not been observed in the instant case.


Appellant Deposited
Security & Process Fee ▶

Points urged need consideration. Service appeal is admitted subject to all legal objections. Appellant is directed to deposit security and process fee within 10 days, thereafter, notices be issued to the respondents for written reply/comments for 20.10.2020 before S.B.


(MAIN MUHAMMAD)
MEMBER (E)

18.02.2020

Learned counsel for the appellant present. Mr. Kabir Ullah Khattak learned Additional Advocate General alongwith Nisar Ahmad ADEO for the respondents present. Learned AAG seeks adjournment for arguments on the issue of maintainability of the instant appeal. Adjourn. To come up for preliminary hearing on 01.04.2020 before S.B


Member

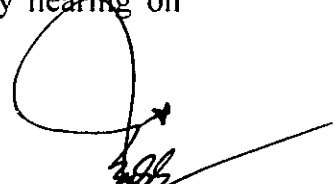
01.04.2020

Due to public holiday on account of COVID-19, the case is adjourned to 24.06.2020 for the same. To come up for the same as before S.B.


Reader

24.06.2020

Counsel for the appellant present. Addl: AG alongwith Mr Nawaz, ADEO for respondents present. Representative of the respondents submitted written reply on behalf of respondents No. 2 and submitted which is placed on file. Notice be issued to respondents No. 1 and 4 for submission of written reply. To come up for reply/preliminary hearing on 20.08.2020 before S.B.


MEMBER

29.11.2019

Counsel for the appellant present.

Learned counsel contends that after issuance of notification dated: 25.04.2019, whereby, although the appellant was reinstated into service ~~while~~ the intervening period was declared as leave due. The second part of the order arose fresh cause of action in favour of appellant, hence the appeal in hand could be proceeded with and Rule 24 of the Khyber Pakhtunkhwa Service Tribunal Rules, 1974 may not become any hurdle in that respect.

Issue pre-admission notice to respondents regarding maintainability of instant appeal in view of the rule *ibid*.
Adjourned to 08.01.2020 before S.B.

Chairman 

08.01.2020

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



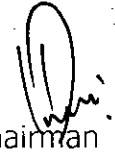
Requests for adjournment due to general strike of the Bar. Adjourned to 18.02.2020 before S.B.

Chairman 

Form- A
FORM OF ORDER SHEET

Court of _____

Case No.- 1101/2019

| S.No. | Date of order proceedings | Order or other proceedings with signature of judge |
|-------|---------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1 | 2 | 3 |
| 1- | 29/08/2019 | <p>The appeal of Mst. Muhammad Idrees presented today Mr. Taimur Ali 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 29/8/19</p> |
| 2- | 02/09/19. | <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>15/10/19.</u></p> <p style="text-align: right;"> CHAIRMAN</p> |
| | 15.10.2019 | <p>Counsel for the appellant present.</p> <p>Learned counsel requests for time to further prepare the brief in view of bar contained in Rule 24 of Khyber Pakhtunkhwa Service Tribunal Rules, 1974.</p> <p>Adjourned to 29.11.2019 before S.B.</p> <p style="text-align: right;"> Chairman</p> |

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

APPEAL NO. 1101 /2019

Muhammad Idress

VS

Education Deptt:

INDEX

| S.NO. | DOCUMENTS | ANNEXURE | P. NO |
|-------|---------------------------------------------------------------------------------------------------------------|----------|-------|
| 1. | Memo of Appeal | ----- | 01-05 |
| 2. | Copy of application | A | 06 |
| 3. | Copy of judgment dated 03.05.2017 | B | 07-09 |
| 4. | Copy of judgment dated 30.11.2018 | C | 10-15 |
| 5. | Copies of order dated 09.11.2016, departmental appeal, service appeal No.404/2019, and order dated 25.04.2019 | D,E,F&G | 16-22 |
| 6. | Copies of departmental appeal and order sheet dated 15.07.2019 | H&I | 23-27 |
| 7. | Vakalat nama | ----- | 28 |

APPELLANT

THROUGH:



(TAIMUR ALI KHAN)
ADVOCATE HIGH COURT,



(ASAD MAHMOOD)
ADVOCATE HIGH COURT.

①

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

APPEAL NO. 1101/2019

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 1214

Dated 29-8-2019

Muhammad Idress, Senior Qari (BPS-15),
GHS Shanwori Naryab, Hangu.

(APPELLANT)

VERSUS

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

(RESPONDENTS)

APPEAL UNDER SECTION 4 OF THE KPK SERVICE TRIBUNALS ACT, 1974 AGAINST THE NOTIFICATION DATED 25.04.2019, WHEREBY THE APPELLANT WAS REINSTATED INTO SERVICE FROM THE DATE OF REMOVAL FROM SERVICE, BUT INTERVENING PERIOD FROM THE DATE OF HIS REMOVAL TILL REINSTATEMENT I.E 09.11.2016 TO 24.04.2019 WAS TREATED AS LEAVE OF KIND DUE AND FOR DIRECTING THE RESPONDENTS TO PAY FOR THE PERIOD WITH EFFECT FROM 15.05.2015 TO 08.11.2016 AND AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS.

Filed to-day

Registrar

29/8/19

PRAYER:

THAT ON THE ACCEPTANCE OF THIS APPEAL, THE NOTIFICATION DATED 25.04.2019 MAY KINDLY BE MODIFIED TO THE EXTENT OF, ON FULL PAY FOR THE

INTERVENING PERIOD WITH EFFECT FROM 09.11.2016 TO 24.04.2019 UNDER FR-54 AND THE RESPONDENTS MAY ALSO BE DIRECTED TO PAY FOR THE PERIOD WITH EFFECT FROM 15.05.2015 TO 08.11.2016 UNDER FR-53 AS THE APPELLANT ON BEING SUSPECTED WAS PICKED UP/DETAINED BY THE LAW ENFORCING AGENCY ON 15.05.2015 AND REMAINED IN THEIR CUSTODY TILL HIS REMOVAL ON 09.11.2016. ANY OTHER REMEDY WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT MAY ALSO BE AWARDED IN FAVOUR OF APPELLANT.

RESPECTFULLY SHEWTH:

FACTS:

1. That the appellant was appointed as Qari (BPS-07) and with the passage of time promoted to the post of senior Qari (BPS-15) and since his appointment, the appellant has performed his duty with great devotion and honest whatsoever assigned to him.
2. That the appellant ,while working in the said capacity being suspected was picked up/detained by the law enforcing Agency on 15.05.2015 and in this respect the mother of the appellant wrote an application to the department on 07.06.2015 about the detainee of the appellant by the law enforcing Agency and requested to retain the appellant on his post till the conclusion of the issue of the appellant. **(Copy of application is attached as Annexure-A)**
3. That the mother of the appellant filed writ petition No.2208-P/2016 of Heabus Coprus to produce the appellant and during the proceeding of the case the Ministry of Defence reported in the Court that the appellant is interment Centre Alizai Thal Fort, on which the Writ Petition was infructuous on 03.05.2017. **(Copy of judgment dated 03.05.2017 is attached as annexure-B)**
4. That the appellant was handed over to APA/ADM, Upper Kurram Parchinar on 01.11.2017, who sentenced and convicted the appellant 14 years RI with fine. The appellant then applied to the Commissioner FCR, Kohat Division Kohat who decided the case with certain observation/directions. Then the appellant filed writ petition No.4833-P/2018, which was decide on 30.11.2018 which was allowed, set aside the conviction and sentenced awarded to the appellant. **(Copy of judgment dated 30.11.2018 is attached as Annexure-C)**

5. That after acquittal, the appellant went to office to join his duty , but he was informed that the department has removed him from service vide order dated 09.11.2016 and handed over the removal order and within thirty days of his acquittal, he filed departmental appeal on 19.12.2018 against the removal order dated 09.11.2016, which was not responded within the statutory period of ninety days and after the statutory period, the appellant filed service appeal No.404/2019 in this august Service Tribunal, however the respondent department accepted the departmental appeal of the appellant on 25.04.2019 and the appellant was reinstated from his date of removal from service, but the intervening period from the date of his removal till reinstatement i.e 09.11.2016 to 24.04.2019 was treated as leave of kind due. **(Copies of order dated 09.11.2016, departmental appeal, service appeal No.404/2019 and notification dated 25.04.2019 are attached as Annexure-D,EF&G)**

6. That as the appellant on being suspected was picked up/detained by the law enforcing Agency on 15.05.2015 and remained in their custody till his removal on 09.11.2016 and has not paid for that period and also the intervening period of the appellant from the date of his removal till reinstatement i.e 09.11.2016 to 24.04.2019 was treated as leave of kind due through notification dated 25.04.2019, therefore he filed departmental appeal on 15.05.2019 to modify the notification dated 25.04.2019 to the extent of, on full pay for the intervening period with effect from 09.11.2016 to 24.04.2019 under FR-54 and also withdraw the service appeal No.404/2019 on 15.07.2019 form this august Service Tribunal. **(Copies of departmental appeal and order sheet dated 15.07.2019 are attached as H&I)**

7. That the appellant has no other remedy except to file appeal in this august Service Tribunal for full pay for the period with effect from 15.05.2015 to 08.11.2016 under FR-53 and for modification of the notification dated 25.04.2019 to the extent of, on full pay for the intervening period with effect from 09.11.2016 to 24.04.2019 under FR-54 on the following grounds amongst others.

GROUND:

- A) That not taking action on the departmental appeal of the appellant within the statutory period of ninety days and the notification dated 25.04.2019 to extent of intervening period with effect from

09.11.2016 to 24.04.2019 was treated as leave of kind due and not pay for the period with effect from 15.05.2015 to 08.11.2016 are against the FR-54, FR-53, facts, norms of justice and material on record, therefore order dated 25.04.2019 is liable to be modified to extent of, of the intervening period with effect from 09.11.2016 to 24.04.2019 on full pay under FR-54 and the appellant is also entitle for full pay for the period with effect from 15.05.2015 to 08.11.2016 under FR-53.

B) That the appellant on being suspected was picked up/detained by the law enforcing Agency on 15.05.2015, whose was then handed over to APA/ADM, Upper Kurram Parchinar on 01.11.2017, who sentenced and convicted the appellant 14 years RI with fine, which was set aside by the Honourable Peshawar High Court Peshawar on 30.11.2018 and released the appellant, which means that the appellant was in the custody of the law enforcing Agency which was then handed over to concerned APA/ADM and behind the bar from 15.05.2015 from service till his reinstatement on 25.04.2019, therefore the appellant is entitled for full pay for the period with effect from 15.05.2015 to 24.04.2019 under FR-53 and FR-54.

C) That the mother of the appellant wrote an application to the department on 07.06.2015 about the detainee of the appellant by the law enforcing Agency and requested to retain the appellant on his post till the conclusion of the issue of the appellant and the department should suspended the appellant till the decision of his case under CSR-194, but the department removed him from service without waiting the conclusion of the case due to which the appellant was deprived from his legal right of full pay with effect from 15.05.2015 to 24.04.2019.

D) That the appellant did not remain absent from his duty, but on being suspected he was picked up/detained by the law enforcing Agency and due to that reason he was compel to remain absent from his duty and the department also known the reason of his absence but despite that he was removed from service which was later on reinstated into service on 25.04.2019 from the date of his removal on acceptance his department appeal, but intervening period with effect from 09.11.2016 to 24.04.2019 was treated as leave of kind due which is violation of FR-54, therefore the notification dated 25.04.2019 is liable to be modified to extent of, on full pay under FR-54 and also entitle for full

pay for the period with effect from 15.05.2015 to 08.11.2016 under FR-53.

- E) That the appellant on being suspected was picked-up/detained by the law enforcing Agency on 15.05.2015 and was in their custody and in jail with effect from 15.05.2015 to 30.11.2018 and after acquittal he also remained unpaid employee till reinstatement into service on 25.04.2019, therefore the appellant is entitled for full pay for the period with effect from 15.05.2015 to 24.04.2019 under FR-53 and FR-54 and as per Superior Courts judgments.
- F) That the appellant was not treated in accordance with law and rules and has been deprived from his legal right of full pay for the period with effect from 15.05.2015 to 24.04.2019 under FR-53 and FR-54.
- G) That the appellant seeks permission to advance others grounds and proofs at the time of hearing.

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

Muhammad Idress
 APPELLANT
 Muhammad Idress

THROUGH:

Taimur Ali Khan
 TAIMUR ALI KHAN
 ADVOCATE HIGH COURT,
 & *Asad Mahmood*
 (ASAD MAHMOOD)
 ADVOCATE HIGH COURT.

محمدت جناب دسترک ایجوکیشن ایبیر صہلہ ہنگو (مردانہ)

جناب عالی

گزارش بیہوشی ہے کہ میرا بیٹا ماری محمد در لیس
دارہ ای بیٹیں گیل 15/5/2015 پر آر ای والوں
نے شک سے بناء پر گرفتار کیا ہے۔ الزوشن لیشن بی
یو جیو گیمو کر رہے ہیں اب صاحبان کو آقاہ کرتے
ہیں کہ میرے بیٹے یعنی تماری محمد در لیس سے سروس بحال فرما کر
مشکو فرمائیں۔ اور اللہ تعالیٰ آپ کو لوں کو اجر
عظیم عطا فرمائیں

الکھٹو
28/06/2015

العارض

مورد 7/6/2015

آپ کا دلہن دارہ ای محمد در لیس مزید

Attested
[Signature]

B
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BEFORE THE HONORABLE PESHAWAR HIGH COURT
PESHAWAR

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

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

..... Petitioner

Versus

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

Attested

FILED TODAY

Deputy Registrar

06 JUN 2016

..... Respondents

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

Respectfully Sheweth!

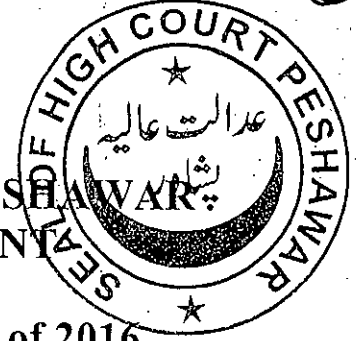
The petitioner submits as under:-

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

2. That the detenue namely Muhammad Idrees s/o Hameesh Gul R/o Village Narwah Tehsil Thall District Mardan at present Dalazak

ATTESTED
EXAMINER
Peshawar High Court

JUDGMENT SHEET
PESHAWAR HIGH COURT, PESHAWAR
JUDICIAL DEPARTMENT



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

JUDGMENT

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

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

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

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

seeks the constitutional jurisdiction of this Court

praying that:-

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

Attested

ATTESTED
EXAMINER
Peshawar High Court

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

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

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

This writ petition is disposed of, accordingly.

Sd/- Judge Azeed-CT

Dt.03-05-2017.

CHIEF JUSTICE

Sd/- Rooh ul-Amin-J

JUDGE

F.Jan/*

CERTIFIED TO BE TRUE COPY

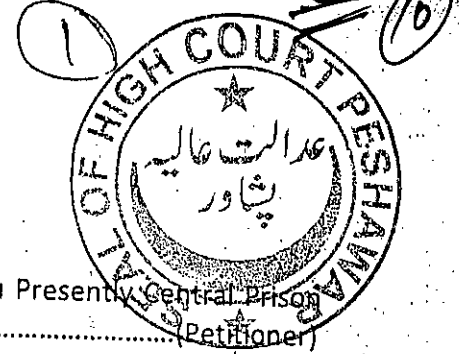
EXAMINER
Peshawar High Court, Peshawar
Authorised Under Article 147 of
The Qanun-e-Bahadur Order 1984

28 MAR 2019

Attested

BEFORE THE PESHAWAR HIGH COURT, PESHAWAR

Writ Petition No. _____ / 2018



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

VERSUS

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

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

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

PRAYERS:-

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

Respectfully Sheweth, Most humbly submitted;

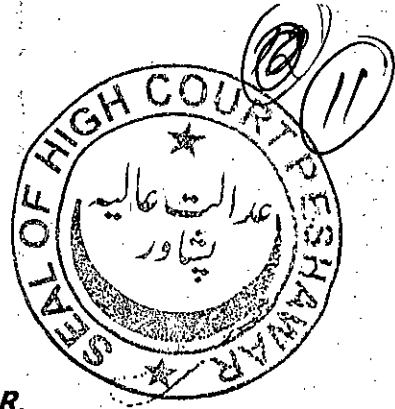
Attested

FACTS:-

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

Continue on page "2"

ATTESTED
EXAMINER
Peshawar High Court
17 JAN 2019



Judgment Sheet

IN THE PESHAWAR HIGH COURT, PESHAWAR.
JUDICIAL DEPARTMENT.

JUDGMENT

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

Date of hearing 30.11.2018.

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

Petitioner by Mr. Saeed Shah Bokhari, advocate.

State by Mr. Kamran Hayat, AAG.

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

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

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

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

SCANNED

Attested

ATTESTED
EXAMINER
Peshawar High Court
17 JAN 2019

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

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

Hence the instant writ petition.

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

"Criminal Reference to Council of Elders- - -

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

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

Attested

ATTESTED
EXAMINER
Peshawar High Court
7 JAN 2019

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

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

Attested

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

ATTESTED
EXAMINER
Peshawar High Court
17 JAN 2019

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

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

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

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

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

ATTESTED
EXAMINER
Peshawar High Court
17 JAN 2019

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

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

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

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


CHIEF JUSTICE

Attested

SCANNED

ANNOUNCED
30.11.2018



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

(REGISTERED)



OFFICE OF THE DISTRICT EDUCATION OFFICER
MALE DISTRICT HANGU

No 1437

Dated 09/11/2016

16

To

The Mr. Muhammad Idress Qari
GHS, Shanawori Hangu/Mohallah

Matinee village & P/O Narujab, Teh. Thalt & Dist. Hangu.

Subject: **REMOVAL FROM SERVICE**
Memo;

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

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

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

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

Recovery of illegal drawn if any is also ordered.

Necessary entries must be made in the relevant record.

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

(MUHAMMAD SHOUKAT)
DISTRICT EDUCATION OFFICER
MALE HANGU

No: _____

Dated: _____, 2016,

Copy to:

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

DISTRICT EDUCATION OFFICER
MALE HANGU.

1437
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E (17)

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

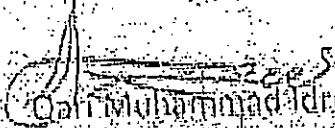
Subject: Re-instatement of service against the post of Qari

Sir,

With due respect it is stated that:-

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

Yours Obediently,


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

Attached

Copy to:

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

E (18)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. 404 /2019

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

(APPELLANT)

VERSUS

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

(RESPONDENTS)

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

PRAYER:

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

RESPECTFULLY SHEWETH:

FACTS:

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

Attested

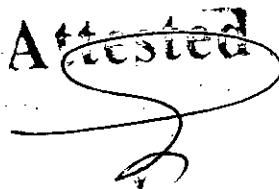
Qari (BPS-15) and since his appointment the appellant has performed his duty with great devotion and honesty whatsoever assigned to him.

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

~~Attested~~

GROUND:

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

Attested


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

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

D. Ees
APPELLANT
Qari Muhhmad Idress

THROUGH:
Amir
M. ASIF YOUSAFZAI
ADVOCATE SUPREME COURT
(TAIMUR ALI KHAN)
ADVOCATE HIGH COURT,
A & L
(ASAD MAHMOOD)
ADVOCATE HIGH COURT

Attested
[Signature]



DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION KHYBER
PAKHTUNKHWA PESHAWAR.

Phone: 091-9210957 Fax: 091-9210936

G 22

NOTIFICATION

1. Whereas, Muhammad Idress Ex:- Qari GHS Shanawari Naryab was appointed against the vacant post of Qari (Bps-15) by DEO (M) Hangu, vide Endorsement No. 856-578/ Qari dated 07-04-2004.
2. And Whereas, the teacher was taken/ detained by law Enforcing Agency dated 15-05-2015 on account of some suspicious involment in anti-state activities.
3. And Whereas, the teacher concerned was repoted as willful absent from the duty since upto 10-10-2015, which was followed by three Show Cause Notices by the DEO concerned vide letter No.4245 dated 12-12-2015(Registry No.630 dated 14-12-2015), letter No. 4432 dated 30-12-2015(Registry No.1376 dated 04-01-2016), and letter No. 5432 dated 13-12-2016(Registry No.835 dated 16-02-2016) respectively.
4. And Whereas, the teacher did not reply to any of the above Show Cause Notices.
5. And Whereas, the teacher was also given an Absence Notice in the "Daily Mashriq" on 22-10-2016 with direction to the teacher to attend the office of the DEO (M); failing which disciplinary action in accordance with Section 07 Under the (E&D) Rules 2011, would be initiated which might lead to his Removal from Service.
6. And Wheras, the teacher failed to attend the office, and consequently, DEO (M) Hangu, being the Competent Authority, exercising the power, invested into him, in accordance with Section 07, Under the E&D Rules 2011, removed him from the service, bearing issuance No. 1437/ Dated 09-11-2016.
7. And Wheras, the teacher appealed to DEO (Male) Hangu for Re-instatement in Service dated 07-02-2017, but was rejected.
8. And Wheras, The teacher filed an appeal before the Honourable High court Peshawar W.P.No. 4833-P/2018 with IR dated 30-11-2018, regarding Acquittal of the Charges levelled against him for involment in anti-state activities.
9. And Whereas, the Honourable High Court Peshawar decided the case in favour of the petitioner with the remarks that "he be released forthwith if not required in any other case, however he shall execute a bond with sureties to the satisfaction of trial court for keeping peace and good behavior in the area in future at the time of his release".
10. And Wheras, the Director E&SED, being the Appellate Authority, getting Surety Bond from the appellanta for remaining peace full in future, on the direction of Honourable High Court Peshawar, accepted his appeal and Re-instated him in service w.e.f his date of Removal from Service. The intervening period will be dealt as leave due.

(DIRECTOR)


Endst No. 25036 /F.No.162/Vol-XI/KC /PST (M) General Appeals,
Dated Peshawar the 25/11/2019.

Copy of the above is forwarded for information and necessary action to

the:-

1. The District Education Officer (M) Hangu.
2. District Account Officer Hangu.
3. Official concerned.
4. PA to Director E&SE Khyber Pakhtunkhwa, Peshawar.
5. Master File.

Atticus


Deputy Director (Estab)
Elementary & Secondary Edu:
Khyber Pakhtunkhwa Peshawar.
106-

To

The Secretary Education,
(E&SE) KPK, Peshawar.

H (23)

SUBJECT: DEPARTMENTAL APPEAL AGAINST THE ORDER DATED 25.04.2019, WHEREBY THE APPELLANT WAS REINSTATED INTO SERVICE FROM THE DATE OF REMOVAL FROM SERVICE, BUT INTERVENING PERIOD FROM THE DATE OF HIS REMOVAL TILL REINSTATEMENT I.E 09.11.2016 TO 24.04.2019 WAS TREATED AS LEAVE OF KIND DUE.

RESPECTED SIR,

Most humbly it is submitted that:

1. That the appellant was appointed as Qari (BPS07) and with the passage of time promoted to the post of senior Qari (BPS-15) and since his appointment the appellant has performed his duty with great devotion and honest whatsoever assigned to him.
2. That the appellant, while working in the said capacity being suspected was picked up/detained by the law enforcing Agency on 15.05.2015 and in this respect the mother of the appellant wrote an application to the department on 07.06.2015 about the detainee of the appellant by the law enforcing Agency and requested to retain the appellant on his post till the conclusion of the issue of the appellant.
3. That the mother of the appellant filed writ petition No.2208-P/2016 of Heabus Coprus to produce the appellant and during the proceeding of the case the Ministry of Defence reported in the court that the appellant is interment Centre Alizai Thal Fort, on which the Writ Petition was infructuous 03.05.2017.
4. That the appellant was handed over to APA/ADM, Upper Kurram Parchinar on 01.11.2017, who sentenced and convicted the appellant 14 years RI with fine. The appellant then applied to the Commissioner FCR, Kohat Division Kohat who decided the case with certain observation/directions. Then the appellant filed writ petition No.4833-P/2018 which was decide on 30.11.2018 which was allowed, set aside the conviction and sentenced awarded to the appellant.

Attended

Day no 774

24

5. That after acquittal, the appellant went to office to join his duty, but he was informed that the department has removed him from service vide order dated 09.11.2016 and handed over the removal order and within thirty days of his acquittal, he filed departmental appeal on 19.12.2018 against the removal order dated 09.11.2016, which was accepted on 25.04.2019 and the appellant was reinstated from his date of removal from service, but the intervening period from the date of his removal till reinstatement i.e 09.11.2016 to 24.04.2019 was treated as leave of kind due. (Copy of order dated 25.04.2019 is attached as annexure-A)
6. That now the appellant wants to file departmental appeal to the extent of modification of order 25.04.2019 of the intervening period from his removal till reinstatement i.e 09.11.2016 to 24.04.2019 into full pay under FR-54 on the following grounds.

GROUND:

- A) That the order dated 25.04.2019 to extent of intervening period with effect from 09.11.2016 to 24.04.2019 was treated as leave of kind due is against the FR-54, facts, norms of justice and material on record, therefore order dated 25.04.2019 is liable to be modified to extent of, of the intervening period with effect from 09.11.2016 to 24.04.2019 on full pay under FR-54.
- B) That the appellant on being suspected was picked up/detained by the law enforcing Agency on 15.05.2015, whose was then handed over to APA/ADM, Upper Kurram Parchinar on 01.11.2017, who sentenced and convicted the appellant 14 years RI with fine, which was set aside by the Honourable Peshawar High Court Peshawar on 30.11.2018 and released the appellant, which means that the appellant was in the custody of the law enforcing agency which was then handed over to concerned APA/ADM and behind the bar from his removal from service till his reinstatement, therefore the appellant is entitled for full pay with effect from 09.11.2016 to 24.04.2019 under FR-54.
- C) That the mother of the appellant wrote an application to the department on 07.06.2015 about the detainee of the appellant by the law enforcing Agency and requested to retain the appellant on his post till the conclusion of the issue of the appellant and the department should suspended the appellant till the decision of his case under CSR-194, but the department removed him from service without

Attested

waiting the conclusion of the case due to which the appellant was deprived from his legal right of full pay of the intervening period.

- D) That the appellant did not remain absent from his duty, but on being suspected he was picked up/detained by the law enforcing Agency and due to that reason he was compel to remain absent from his duty and the department also known the reason of his absence but despite that he was removed from service which was later on reinstated into service on 25.04.2019 from the date of his removal on acceptance his department appeal, but intervening period with effect from 09.11.2016 to 24.04.2019 was treated as leave of kind due which is violation of FR-54, therefore the notification dated 25.04.2019 is liable to be modified to extent of, on full pay under FR-54.
- E) That the appellant on being suspected was picked-up/detained by the law enforcing Agency and was in their custody during the intervening period and remained unpaid employee during that period, therefore he is entitled for full pay for the intervening period with effect from 09.11.2016 to 24.04.2019 under FR-54 and Superior Courts judgments.
- F) That the appellant was not treated in accordance with law and rules and has been deprived from phis legal right of full pay for the intervening period with effect from 09.11.2016 to 24.04.2019 under FR-54.

It is, therefore, most humbly requested that on the acceptance of the departmental appeal, the notification dated 25.04.2019 may kindly be modified to the extent of, on full pay of the intervening period with effect from 09.11.2016 to 24.04.2019 under FR-54.

Date: 15/05/2019



APPELLANT

Muhammad Idress

S.Qari BS-15

GHS Shanawari Naryab

Accepted

Cell# 0333-8800574

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR



APPEAL NO. 404 /2019

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 492

Dated 28/3/2019

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

(APPELLANT)

VERSUS

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

(RESPONDENTS)

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

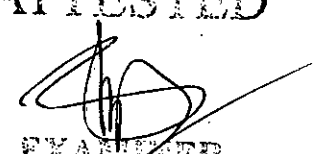
Filed to-day
Registrar
28/3/19
PRAYER:

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

RESPECTFULLY SHEWETH:
FACTS:

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

ATTESTED


EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Appeal No. 404/18
Qari M. Idrees vs Govt



15.07.2019

Counsel for the appellant present.

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

Dismissed as withdrawn. File be consigned to record room.

Member

Chairman

Announced:
15.07.2019

Certified to be true copy

[Signature]
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

| | |
|--------------------------------|--------------------|
| Date of Presentation of Appeal | 29-8-19 |
| Number of Pages | 800 |
| Copying Fee | 12-00 |
| Urgent | 4-00 |
| Total | 16-00 |
| Name of C. | <i>[Signature]</i> |
| Date of Completion of Copy | 29-8-19 |
| Date of Delivery of Copy | 29-8-19 |

قیمت
50 روپے

26422



ایڈوکیٹ: شمس علی خان

بار کونسل/ ایسوسی ایشن نمبر:

رابطہ نمبر: 0333-9390916

پشاور بار ایسوسی ایشن، خیبر پختونخواہ

بعدالت جناب:

| | |
|-----------------------------------------|-------------------------|
| منجانب: <u>محمد ادریس (ایپلائیڈ)</u> | دعویٰ: <u>پمیل نمبر</u> |
| <u>محمد ادریس بنام محلہ سلیم و فہرہ</u> | علت نمبر: |
| | مورخہ: |
| | جرم: |
| | تھانہ: |

باعث تحریر آگہ

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

آن مقام لنڈن کیلئے شمس علی خان اور اسد محمد اور گوگن گوبل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ برحلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت 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 اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب مقرر شدہ کو وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ پر داختم منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے

المرقوم:

گواہ شد

مقام _____ کے لیے منظور ہے

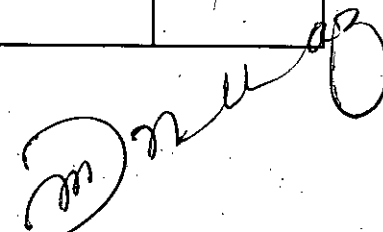
نوٹ: اس وکالت نامہ کی فوٹو کاپی ناقابل قبول ہوگی۔

(Handwritten signature)

**OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE)
HANGU.**

Service Appeal No.1101/2019.
Qari Muhammad Adrees
versus
Elementary and Secondary Education and other

| E | Description of Documents | Page No. |
|----------|---------------------------------------------------|-----------------|
| 1 | Comments | 1-3 |
| 2 | Affidivate | 4 |
| 3 | Absentee Reports | 5-8 |
| 4 | Removal from Services | 9 |
| 5 | Application to the Director E&SED KP Peshawar | 10 |
| 6 | Notification of Service of the intervening period | 11 |
| 7 | Re-instatement Order | 12 |
| | | |


**District Education Officer,
(Male) Hangu.**

(1)



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL. PESHAWAR

SERVICE APPEAL NO.1101/2019

Mr. Muhammad Idress S/o Hamid Gul,

R/o Village Naryab Tehsil & District Hangu.....Appellant.

Versus

1. The Director, (E&SE) Khyber Pakhtunkhwa, Peshawar
2. The District Education Officer Male, Hangu.....Respondents

**PARAWISE COMMENTS ON BEHALF OF THE RESPONDENTS
NO.1 & 2 ARE GIVEN AS UNDER:**

Preliminary objections:

Respectfully Sheweth:-

- 1) That the present appellant has no cause of action.
- 2) That the instant appeals is bad for mis-joinder and non-joinder of parties
- 3) That the instant appeal is not maintainable in its present forms.
- 4) That the appellant has not come to the court with clean hands.
- 5) That the appellant has concealed some important material/facts from the Hon'ble Tribunal.
- 6) That the applicant has been estopped by his own conduct to file the appeal.
- 7) That this Hon'ble Tribunal has no jurisdiction to entertain the appeal.

PRAYERS/FACTS

1. Para 1 is correct.
2. Para 2 pertains to record
3. Para 3 needs no reply not relevant to the answering/respondent.
4. Para 04 needs no reply not relevant to the answering respondent.

2)

3

5. Para 05 incorrect. The teacher was reported as absent by the Head Master concerned vide his office bearing No.1674-48 dated 07.03.2016 three absent notices on his home address were also served for joining the duty. But he failed to join his duty. At last final show cause notice was issued in Daily Mashriq dated 22.10.2016 with the direction to resume his duty within 15 days. After fulfilling all codal formalities against him. He was removed from Service vide this office Endst No.1437 Dated 09.11.2016. The appellant submitted his departmental appeal to the next higher authority i.e. Director (E&SE) Khyber Pakhtunkhwa. The worthy Director accepted his appeal vide No.9503-6/F.No.162/Vol-XI/KC/PCT(M) General Appeals dated Peshawar the 25.04.2019. (Copy attached). The respondent department issued his reinstatement order (Copy attached) as per direction of the worthy Director vide No, & Dated as quoted above.

6. Para No.6 is incorrect; the appellant has been re-instated w.e.f the date of removal from his service and the intervening period as prayed for has been directed to be dealt as leave due as per Notification of reinstatement as stated in Para No5

7. Pertains to court matter

8. All other facts and material will be placed before the Hon'ble Tribunal if any, at the time of arguments.

GROUND:

- A. That appellant has been treated as per direction of the Notification issued by the Director i.e next higher authority.
- B. Para B needs no reply not relevant to the answering /Respondent.
- C. Para C pertains to record.
- D. Para D is baseless, as per report of the head Master/Principal, he was absent from duty. However the Head Master was silent that or he has no evidence

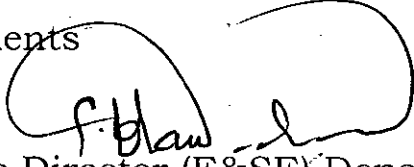
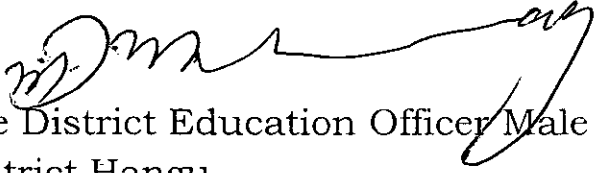


regarding the appellant that he is in the custody of law Enforcement Agencies.

- E. Para E is baseless as stated in Para D.
- F. That act of the respondent authority is legal & lawful.
- G. All other facts and material will be placed before the Hon'ble Tribunal if any, at the time of arguments.

Prayer: Keeping in view the above given comments, the appeal may kindly be dismissed with cost.

Respondents

1. 
The Director (E&SE) Department
Government of Khyber Pakhtunkhwa
Peshawar
2. 
The District Education Officer Male
District Hangu

13/2/2020

4

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL PESHAWAR

SERVICE APPEAL No.1101/2019

Mr.Muhammad Idrees.....Appellant

Versus

The Director,(E&SE) KPK Peshawar & others.....**Respondents**

AFFIDAVIT

I, Muhammad Nawaz, ADEO (M) E&SE Hangu, , do hereby solemnly affirm and declare on oath that the contents of the accompanying **parawise comments** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.



DEPONENT

CNIC#: 14101-6348419-7

Cell # : 0332-9615220

154
R/11

گورنمنٹ ایگسٹریٹو سکول شناوری نریاب ضلع ہنگو

عنوان :- غیر حاضری کی رپورٹ بابت محمد ادریس تارا

رپورٹ سر ہے۔ کہ محمد ادریس تارا نے 22 مئی 2015 سے سکول سے غیبت اختیار کی۔ اس سلسلے میں ہم نے 3/6/2015 کو غیر حاضری کی رپورٹ بحوالہ آرڈر نمبر 1573-74 پیر ایجوکیشن دفتر کو بذریعہ ڈائری نمبر 176 مورخہ 4/4/2015 کو جمع کیا ہے۔ اس کے علاوہ غیر حاضری کی شکایت نوٹ بحوالہ 60-1553 محمد ادریس کے گھر کے پتہ پر بھیج دی گئی تھی۔ لیکن تا حال گھر سے کوئی مثبت جواب نہیں ملا ہے۔

اس کے علاوہ دفتر بڑا کو ہم دوبارہ بحوالہ نمبر 43-1642 مورخہ 23/2/2016 بذریعہ ڈائری نمبر 1254 مورخہ 23/2/2016 ڈی۔ای۔او آفیس میں باقاعدہ جمع کیا گیا ہے۔

لہذا آپ مہامیان کی خدمت میں رپورٹ سر ہے کہ ان کی غیر حاضری کے متعلق محکمہ کارروائی کریں۔

سراسر نمبر 48-1647
مورخہ 7/3/2016

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ADEO (Litigation)
D.E.O. (M)
Hangu

Attested

Copy To

1) D.E.O. copy

2) official copy

7

P-109

OFFICE OF THE HEAD MASTER GHS SHANAWARI NARYAB HANGU

Endst No: 2069-70

Dated: 20-09-2016

To

The District Education Officer (M) Hangu

Subject: Absentee Report Of Muhammad Idrees (S Qari)

Memo,

It is stated that Mr. Muhammad Idrees (S Qari) has been absent since 22nd May 2015.

In this connection three(3) absent showcase notes have been sent on his home address under the following details.

Showcase Note1; Endst No;1559-60 Dated; 01/06/2015.

Showcase Note2: Endst No 1647-48 Dtaed: 07/03/2016

Showcase Note 3: Endst No 2067-68 Dtaed; 10/09/2016.

The full detail is hereby sent to your office for furthers necessary action.

Regards

M. Farooq

Head Master
GHS Shanawari (N)
Distt; Hangu

M. Farooq

ADEO (Litigation)
D.F.O.
Hangu

Attested

تمام طلبہ کی فہرست (معاہدہ)

ہر گاہ کہ آپ کو اپنے... کے بارے میں کسی بھی شک یا سوال کے لیے... کے دفتر سے رابطہ کرنا چاہیے۔
تمام طلبہ کی فہرست (معاہدہ) کی توثیق کے لیے اس کے ذریعہ... کے دفتر سے رابطہ کرنا چاہیے۔
موسم میں آپ کے خلاف کی گئی کارروائی کی جانے کی... کے دفتر سے رابطہ کرنا چاہیے۔

| مبشر شمار | نام بہت سکول نام | مستحق ہے | تاریخ غیر ماضی | مبشر شمار | تاریخ غیر ماضی |
|-----------|------------------|------------------------|----------------|-----------|----------------|
| 1 | خاں عبدالرحمن | گورنمنٹ ہائی سکول تورہ | 02-09-2010 | 1 | 133 |
| 2 | GMS AT | | 01-10-2010 | 2 | 134 |
| 3 | GMS | | 22-05-2010 | 3 | 135 |

تاریخ: 10/10/2010

ADEO (Litigation)
D. S. O (M)
Hanju

attested



109, (REGISTERD)
OFFICE OF THE DISTRICT EDUCATION OFFICER
MALE DISTRICT HANGU

No. 1437

Dated 09/11/2016



To

The Mr. Muhammad Idress Qari
GHS, Shanawori Hangu, Mohallah Martineer village of P/O Naryab, Teh. Thall & Distt. Hangu.

Subject: REMOVAL FROM SERVICE
Memo;

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

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

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

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

Recovery of illegal drawn if any is also ordered.

Necessary entries must be made in the relevant record.

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

(MUSHAMMAD SHOUKAT)
DISTRICT EDUCATION OFFICER
MALE HANGU


No: _____

Dated: _____ 2016

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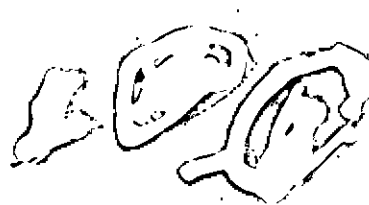
1. Deputy Commissioner Hangu
2. District Nazim Hangu
3. Head Master GHS Torawori Hangu
4. EMIS Local office Hangu
5. IMU Office Hangu
6. Office Copy

DISTRICT EDUCATION OFFICER
MALE HANGU.


ADEO (Litigation)
D.E.O. (M)
Hangu

Attested

10



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

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

With due respect it is stated that:-

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

Yours Obediently,

ADEO (Litigation)
D.E.O. (M)
Hangu

Opri Muhammad Idress
GHS Shina Wari, Distt Hangu
Date: 19/12/2018

Copy to: *Attested*
1) DEO (M) Distt Hangu
2) Principal/Head Master GHS Shina Wari



DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION KHYBER
PAKHTUNKHWA PESHAWAR.

Phone: 091-9210957 Fax: 091-9210936

NOTIFICATION

1. Whereas, Muhammad Idress Ex:- Qari GHS Shanawari Naryab was appointed against the vacant post of Qari (Bps-15) by DEO (M) Hangu, vide Endorsement No. 856-578/ Qari dated 07-04-2004.
2. And Whereas, the teacher was taken/ detained by law Enforcing Agency dated 15-05-2015 on account of some suspicious involment in anti-state activities.
3. And Whereas, the teacher concerned was repoted as willful absent from the duty since upto 10-10-2015, which was followed by three Show Cause Notices by the DEO concerned vide letter No.4245 dated 12-12-2015(Registry No.630 dated 14-12-2015), letter No. 4432 dated 30-12-2015(Registry No.1376 dated 04-01-2016), and letter No. 5432 dated 13-12-2016(Registry No.835 dated 16-02-2016) respectively.
4. And Whereas, the teacher did not reply to any of the above Show Cause Notices.
5. And Whereas, the teacher was also given an Absence Notice in the "Daily Mashriq" on 22-10-2016 with direction to the teacher to attend the office of the DEO (M); failing which disciplinary action in accordance with Section 07 Under the (E&D) Rules 2011, would be initiated which might lead to his Removal from Service.
6. And Wheras, the teacher failed to attent the office, and consequently, DEO (M) Hangu, being the Competent Authority, excercing the power, invested into him, in accordance with Section 07, Under the E&D Rules 2011, removed him from the service, bearing issuance No. 1437/ Dated 09-11-2016.
7. And Wheras, the teacher appealed to DEO (Male) Hangu for Re-instatement in Service dated 07-02-2017, but was rejected.
8. And Wheras, The teacher filed an appeal before the Honourable High court Peshawar. I.P.No. 4833-P/2018 with IR dated 30-11-2018, regarding Acquittal of the Charges levelled against him for involment in anti-state activities.
9. And Whereas, the Honourable High Court Peshawar decided the case in favour of the petitioner with the remarks that "he be released forthwith if not required in any other case, however he shall execute a bond with sureties to the satisfaction of trial court for keeping peace and good behavior in the area in future at the time of his release".
10. And Wheras, the Director E&SED, being the Appellate Authority, getting Surety Bond from the appellants for remaining peace full in future, on the direction of Honourable High Court Peshawar, accepted his appeal and Re-instated him in service w.e.f his date of Removal from Service. The intervening period will be dealt as leave due.

(DIRECTOR)

Endst No. ASO 3 b /F.No.162/Vol-XI/KC /PST (M) General Appeals,
Dated Peshawar the 25/11/19 2019.

Copy of the above is forwarded for information and necessary action to

the:-

1. The District Education Officer (M) Hangu.
2. District Account Officer Hangu.
3. Official concerned.
4. PA to Director E&SE Khyber Pakhtunkhwa, Peshawar.
5. Master File.

Deputy Director (Estab.)
Elementary & Secondary Edu;

Khyber Pakhtunkhwa Peshawar.

ADEO (Litigation)
D.E.O.
Hangu

Attested



12
**OFFICE OF THE EXECUTIVE DISTRICT OFFICER
ELE: & SEC: EDU: DEPTT: DISTRICT HANGU**

No. _____ / Dated _____ / 2012

RE-INSTATMENT ORDER

In the light of Khyber Pakhtunkhwa Services Tribunal Peshawar Service Appeal No.1036/2010 Decision announced on 01-03-2012, the services of Mr.Qari Muhammad Idrees already terminated vide Endst No.595 Dated 15-02-2010 are hereby re-instated on his own pay and scale along with full back benefits and with the cost of litigation to be borne by (Elementary & Secondary Education Department) w.e.f the date of termination as,mentioned above and further adjusted at GHS,Shanawori Naryab District Hangu against vacant Qari Post.

Note: - 1) Necessary entry to this effect should be made in the service Book of the official concerned.


EXECUTIVE DISTRICT OFFICER
ELE & SEC EDU DEPTT HANGU

Endst No. 1035-43 / Dated 26/07 / 2012

Copy to the:-

- 1) District Account Officer District Hangu.
- 2) P.A to Director (Elementary & Secondary Education Khyber Pakhtunkhwa) Peshawar.
- 3) Section Officer Litigation (Ele: & Sec:Edu:Deptt:)District Hangu.
- 4) District Officer Male Secy:(E&SED)Hangu.
- 5) DEMIS Cell Local Office.
- 6) ADO (Establishment) Local Office.
- 7) Head Master GHS, Shanawori Naryab Hangu.
- 8) Qari Muhammad Idrees R/O Village Naryab Hangu.
- 9) Dealing Assistant.
- 10) Office Copy

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EXECUTIVE DISTRICT OFFICER
ELE & SEC EDU DEPTT HANGU


D.E.O. (M)
Hangu

Attested