

FORM OF ORDER SHEET

Serial No. _____

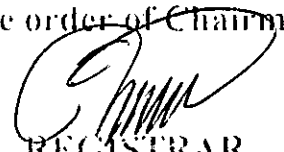
Appeal No. 328/2024

S.No	Date of order, proceedings	Order or other proceedings with signature of judge
1	2	3

28/02/2024

The appeal of Mr. Muhammad Ayub resubmitted today by Mr. Saadullah Khan Marwat Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on 29.02.2024 .Parcha Peshi is given to counsel for the appellant.

By the order of Chairman



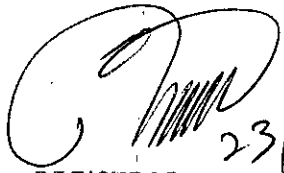
REGISTRAR

The appeal of Mr. Muhammad Ayub received today i.e on 22.02.2024 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

Annexure-J of the appeal is illegible be replaced by legible/better one.

No. 409 /S.T.


Dt. 23/2 /2024.


23/2/24
REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Saadullah Khan Marwat Adv.
High Court at Peshawar.

Sir,

Re-submitted after removing
the objections.


28/2/24

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

S.A No. 328/2024

Muhammad Ayub

versus

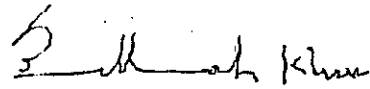
DEO (M) & Others

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Appellant

Through



Saadullah Khan Marwat
Advocate.
21-A Nasir Mansion,
Shoba Bazaar, Peshawar.
Ph: 0300-5872676

Dated: 20-02-2024

BEFORE THE KPK, SERVICE TRIBUNAL, PESHAWAR

S.A No. 328 /2024

Muhammad Ayub S/O Mirbat Khan,
R/O Mandikass Bara, District Khyber,
Primary School Head Teacher,
GPS Surkas No. 1, Bara,
District Khyber Appellant

VERSUS

1. District Education Officer (M),
District Khyber.
2. Director Elementary & Secondary
Education, KP, Peshawar Respondents

**APPEAL U/S 4 OF THE SERVICE TRIBUNAL ACT, 1974
AGAINST OFFICE ORDER NO. 9114-23 DATED 06-10-
2023 OF R. NO. 01 WHEREBY MAJOR PENALTY OF
REDUCTION TO A LOWER POST OR PAY SCALE FROM
PSHT B-15 TO SPSI B-14 WAS IMPOSED AND HIS
TRANSFER FROM GPS SURKASS NO. 01 NOOR HAIDER
BARA TO GPS NO. 01 LANDI KOTAL OR OFFICE ORDER
NO. 554-15 DATED 08-01-2024 WHEREBY APPEAL OF
APPELLANT WAS REJECTED:**

Respectfully Sheweth:

1. That since the date of appointment appellant is serving the department to the best of the ability and without any complaint since 23-09-1998.
2. That on 28-10-2020 appellant submitted complaint before Judicial Magistrate Peshawar against the persons mentioned therein to book them for criminal liability for harassment and threats of appellant (Copy as annex 'A')

3. That anyhow the matter was patched up with some terms and conditions mentioned therein by the DPO Khyber. (Copy as annex "B")
4. That on 15-10-2022, appellant recorded Naqal Mad No. 15 in Police Station Bara by hitting him with Suzuki Carry Daba when he was on way to school for duty at his Motorcycle. (Copy as annex "C")
5. That 03-07-2023, enquiry into the matter was initiated but the same was not conducted as per the mandate of law, yet appellant was recommended for disciplinary action under E & D Rules, KP. (Copy as annex "D")
6. That on 26-07-2023, appellant was served with Show Cause Notice on the charges mentioned therein by R. No. 01. (Copy as annex "E")
7. That the said Show Cause Notice was replied by denying the allegation that appellant is ready to take oath on the Holy Quran regarding his innocence and to satisfy the complainant Mst. Noorina Sayed. (Copy as annex "F")
8. That on 17-08-2023, personal hearing was afforded to appellant. (Copy as annex "G")
9. That thereafter, appellant recorded his statement before the enquiry Committee. (Copy as annex "H")
10. That on 06-10-2023 major penalty of reduction to a lower post or pay scale from B-15 to B-14 and transfer from the school to other by R. No. 01. (Copy as annex "I")
11. That on 10-10-2023 appellant submitted representation before R. No. 02 for setting aside the aforesaid major punishment which was rejected on 08-01-2024 which copy was remitted to appellant on 24-01-2024. (Copies as annex "J" & "K")

Hence this appeal inter alia, on the following grounds:-

G R O U N D S :

- a. That harassment of one and other was reported and to resolve the same, the matter was patched up by the parties but the rival party violated the terms and conditions of the agreement and appellant was hit by the Suzuki when on way to school for duty.
- b. That after patching up the matter, there was no need to serve appellant with Show Cause Notice and to revive the patched up matter.
- c. That major punishment of reduction to lower post or pay scale was made by the authority but leally procedure was not adopted for the same. No statement of any concerned was recorded nor appellant was afforded opportunity of cross examination.
- d. That appellant was never served with Final Show Cause Notice nor enquiry proceedings, if any, was provided to him to depend himself from the charges, so the impugned punishment is of no legal effect.
- e. That the matter was not dealt with by the respondents in accordance with law so the impugned punishment is neither justified nor is per the mandate of law rather based on malafide.
- f. That rejection order of the appeal of appellant by the authority is not supported by any reason.

It is, therefore most humbly prayed that on acceptance of the appeal, orders dated 06-10-2023 and 08-01-2023 of the respondents be set aside and appellant be restored to his original post of PSHT No. 5 with all service benefits or as the case may be.

Appellant

Through

Saadullah Khar Marwat

Arbab Saiful Kamal


Amjad Nawaz

Advocates

Dated: 20-02-2024

CERTIFICATE:

As per instructions of my client, no such like Service Appeal has earlier been filed by the appellant before this Hon'ble Tribunal.


Advocate

AFFIDAVIT

I, Muhammad Ayub, (appellant), do hereby solemnly affirm and declare that contents of Service Appeal are true and correct to the best of my knowledge and belief


DEPONENT



5
لہذا صاحبہ جو پیش کردہ ناموں کے ساتھ

محمد ایوب ولد میرت خانہ نے نئے پھر اچھن کے ساتھ اپنا پتہ لکھا

800% proceed
in accordance
with law



- (1) محمد ایوب ولد میرت خانہ
- (2) عبد ولہ شاہ
- (3) صاحب نون ولد شاہ
- (4) احمد شاہ ولد ناظم
- (5) سید ولد ناظم مسلمان
- (6) صاحبہ قرینہ زوجہ نامعلوم

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پتہ

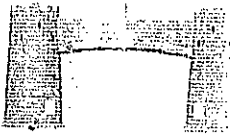
استقامت زبرد سے 107/151 پر خلاف اصول ایماں

عاب عالی سائل صاحبہ زلیخہ بیگم کے ساتھ

- (1) یہ کہ سائل ایک شخص زلیخہ بیگم کے ساتھ اور بطور سہولت دہی
- (2) یہ کہ سائل ایماں کے قومی سے تعلق رکھتا ہے
- (3) یہ کہ سائل ایماں کے رشتہ دار اور سید صاحبہ کے ساتھ 500 روپے کے ہر پے سائل کے مختلف دیوے کے بیانات سے منگ کرتے ہیں
- (4) یہ کہ سائل ایماں نے سائل کے ساتھ کوئی سہولت یا سہولت

(1) یہ کہ سائل ایماں کا کافی سہولت اور سہولت اور
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 ایماں اور سہولت اور سہولت اور سہولت اور
 کو سہولت اور سہولت اور سہولت اور سہولت اور

محمد ایوب ولد
 صاحبہ
 مورخہ 28/10/20



Office of the District Police Officer
Khyber



بیان حلی

بسلسلہ کمپینٹ پاکستان سیٹیزن پورٹل منجانب درخواست کنندہ سید عبید ساء ولد سید شاہد اقبال شاہ سکھ فیزا حیات آباد پشاور انکوائری کی گئی جہاں پر درخواست کنندہ اور فریق دوم محمد ایوب ولد میربت خان کو بھی بلایا۔

درخواست کنندہ سے تمام حالات کا استفسار کیا گیا جن کی بنیاد پر مذکورہ بلا کمپینٹ دائر کی گئی جن کی رو سے فریق دوم محمد ایوب درخواست کنندہ کی گھر کی خاتون کو ہراساں کرنے، اور پیچھا کرنے کا مرتکب قرار دیا۔ یہ بھی الزام لگایا گیا کہ فریق دوم نے مذکورہ خاتون کو میسج و کالز کرنے اور گاڑی کا تعاقب کرنے کا بھی مرتکب رہا ہے۔ جو کہ درخواست کنندہ کے خاندان اور مذکورہ خاتون کی بے عزتی کا باعث بنا۔ اسی سلسلے میں شکایت بھی رجسٹر کر رکھی ہے۔

فریق دوم نے انکوائری سیشن میں مذکورہ بلا تمام الزامات کو مسترد کرنے ہونے اقرار کیا کہ وہ ان حرکات کا مرتکب نہیں ہوا اور اگر کوئی غلطی ہوئی ہو تو معافی کا خوشگوار ہے۔

فریق دوم نے اس امر کا بھی اقرار کیا کہ وہ اس سلسلے میں فریق اول کی تسلی کے لئے ہر وقت قرآن پاک پر ہاتھ رکھنے کے لئے تیار ہوں۔

تمام واقعات کو تفصیل سے سننے کے بعد دفتر بذات اس نتیجے پر پہنچا کہ فریق دوم کہ مذکورہ بالا خاتون کے گھر کے حدود میں بھی نہیں جاؤنگا فریق دوم کو اس بات کا سبب سے پابند کیا جاتا ہے کہ مذکورہ خاتون مسماء نورینہ سید دختر سید شاہین شاہ کی بے حرمتی، ذہنی کوفت، یا جسمانی تکلیف کا باعث نہیں بنے گا۔

بصورت دیگر درخواست کنندہ وہ دفتر بذات فریق دوم محمد ایوب ولد میربت خان کے خلاف ہر قسم کے قانونی اقدامات میں آزاد ہونگے۔

M. A. J.
فریق دوم

212012789503-5

ڈی ایس پی بلڈکو رٹر خیبر
محمد ایوب ولد میربت

Syed Ubaid Shah
S/o Syed Shahid Iqbal
Shah

Shah

21302-9484862-9

S.D.P.O
HEAD QUARTERS
KHYBER

نقلہ 15 روزہ ناچ 15/10/22

مبلغ ضرر

17-10-22

شہداء محمد ایوب ولد میر بہت خان عمر 50 سال قوم لہر قہر خیل بھنگان منڈی کس بوقت 11:10 بجے موضع 15/10/22
 محاضری تھانہ اگرو پورہ کے تعلقہ میں سوڑکس لہندرا GPS میں نصب شدہ ٹیچر بیوں بوقت تقریباً
 07:40 بجے میں اپنے موٹر سائیکل نمبری LR-7698 پش پر ڈیوٹی کیلئے سکول جا رہا تھا کہ سب با با قہر خان
 لہندرا کے سوڑکی ڈیم نمبر نامعلوم لہندرا کے سفید رنگ کے موٹر سائیکل پر سوار ہو کر میرے
 ڈیوٹی پر آیا اور سارے بدن پر درج نمبر لپوا۔ جبکہ میرے موٹر سائیکل کے ہینڈل پر لہندرا کے
 رسیدہ ہوئے۔ میرے دست میں FIR نہیں لگنا چاہتا لہذا معلومات کرنے پر قاعدہ ڈیوٹی کے واکا
 میرے دست میں اپنے ٹیچر و حیات اور موٹر سائیکل کی نمبروں کی مسامی کا لہندرا کے در ٹیچر ملزم سوڑکی
 نمبری ڈیم نمبر نمبر نمبر ڈیوٹی کے ہوں اور لہندرا کے روٹی کے حساب سے سامنے
 حرفت کے درج ہوا ہے کہ لہندرا کے لپوائے گئے اور لہندرا کے لپوائے گئے۔ لہذا ج کا معاملہ روڈ
 انسپکشن کا ہے اور نوٹس کی خود FIR کی بجائے روزنامہ کا پرائیوٹ لہندرا کے لہندرا کے لہندرا کے لہندرا کے
 رتبہ لہندرا کے لہندرا کے لہندرا کے لہندرا کے لہندرا کے لہندرا کے لہندرا کے لہندرا کے لہندرا کے
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GOVERNMENT OF KHYBER PAKHTUNKHWA
OFFICE OF THE PRINCIPAL GHS ALAM GUDAR BARA KHYBER
ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT KHYBER PAKHTUNKHWA

NO. 1053 /OFFICIAL LETTERS/AG-BARA/

DATED: 05/07/2023



To

The District Education Officer,
District Khyber.

Subject: Inquiry Report in Respect of Mr. Muhammad Ayub PSHT GPS Noor Haider

Memo,

Reference to the letter DEO Khyber Endst No: 4845-52 dated: 23/05/2023, the inquiry in respect of Mr. Muhammad Ayub PSHT GPS Noor Haider Bara, has been assigned to the committee members given below;

- Mr. Rifaqat Ali Shah Principal GHS Alam Gudar Bara (Chairman)
- Mr. Abdul Nawaz SDEO Jamrud (Member) (Annex A)

Background History

The complainant, Miss Noorena Headmistress GGHS Abdullah Jan Bara Khyber, has registered various complaints of harassment against the defendant Mr. Muhammad Ayub PSHT GPS Noor Haidar Bara, District Khyber. The list of complaints registered by the complainant against the defendant is given below;

1. The complainant lodged the complaint against the defendant at Hayatabad Police Station on 7th October 2020. (Annex B)
2. The complainant also registered a complaint against the same defendant at the office of District Education Officer Khyber on 9th October 2020. (Annex C)
3. Again, she approached and registered a complaint at the office of District Police Officer on 13th October 2021 (Annex D)
4. During the ongoing series of complaints, she also registered an FIR against the defendant at Bara Police Station on 4th October 2021. (Annex E)
5. The complainant has registered two complaints against the defendant. The first one has been dispatched to DEO Male Khyber through DEO Female Khyber (Annex F) whereas she dispatched the second complaint directly to the office of DEO Female (Annex G).

Procedure Adopted

The concerned committee visited GHS Abdullah Jan Bara Khyber and GPS Noor Haidar Bara on 3rd June 2023. During the visit, both the officials (complainant and defendant) were served with the respective questionnaires in their concerned institutions. Meanwhile, the complainant responded the questionnaire according to the format, while the defendant is reluctant to respond the official questionnaire till date. (Annex H)



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GOVERNMENT OF KHYBER PAKHTUNKHWA
OFFICE OF THE PRINCIPAL GHS ALAM GUDAR BARA KHYBER
ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT KHYBER PAKHTUNKHWA



No. _____ OFFICE: JALPERS/GHDAR BARA/ _____ DATED: / / 2023

(Signature)

Finding

The concerned inquiry committee has extracted some findings regarding the defendant which is given below;

1. The defendant has inked an affidavit at the office of SDPO Headquarter Khyber that he will restrict himself from wandering in the premises of the complainant's house. (Annex I)
2. Also, the defendant was released from jail on bail bond in the sum up Rs: 80000/- with the two sureties to abide by the law. (Annex J)

Recommendations

In the light of aforementioned findings and personal hearing of both the contesting officials, the thoroughly investigation of various complains by the complainant indicate that , Mr. Muhammad Ayub (the defendant) is involved in the harassment, hence, the inquiry committee came to the conclusion of the inquiry in hand as follows:

- Mr. Muhammad Ayub (the defendant) maybe proceeded under E&D Rules of Khyber Pakhtunkhwa.

(Signature)

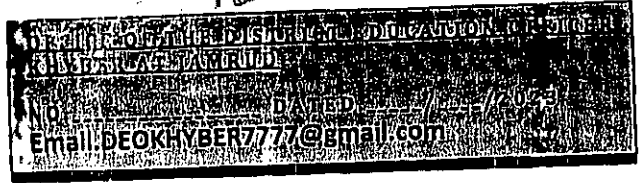
Mr. Syed Rifaqat Ali Shah (Chairman)

(Signature)

Mr. Abdul Nawaz (Member)

Principal
GHS Alam Gudar Bara Khyber

SDEO Jamrud



26-7-23

SHOW CAUSE NOTICE

I, Muhammad Uzair Ali, the District Education Officer (M) Elementary & Secondary Education Khyber, Khyber Pakhtunkhwa as Competent Authority under the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011 do hereby serve you Mr. Muhammad Ayub PSHT GPS Noor Haider Bara District Khyber as follows:

1. That you have been reported by DEO (Female) District Khyber vide letter No.4302 dated 19/05/2023 for harassment of Miss Noorina Syed, Headmistress GGHS Abdullah Jan Bara, on her complaint dated 01.05.2023, which is a gross misconduct as well as a criminal act against a serving government official.
2. That accordingly an inquiry committee, comprising of Mr. Rifaqat Ali Shah Principal GHS Alam Gadar Bara and Mr. Abdul Nawaz SDEO Jamrud, was constituted vide No 4845-52 dated 19/05/2023 to probe into this harassment case and submit comprehensive report.
3. That the inquiry committee submitted its report vide No.1053 dated 05/07/2023 which proved the case against you.
4. That you were previously also proceeded for the similar harassment of the similar official but you still did not mend your conduct and continued harassing the mentioned Headmistress after you somehow got away with the proceedings.
5. That after going through the inquiry report and other material on record, I am satisfied that you have committed act/omission mentioned in Rule 3 (b) of the aforementioned Rules.
6. That in exercise of powers conferred under the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011, I as the Competent Authority have tentatively decided to impose upon you any of the major penalties mentioned in Rule-4 (b) of the said rules.
7. You are, therefore, required to show cause as to why the aforementioned penalty should not be imposed upon you and also intimate whether you desire to be heard in person.
8. If no written reply to this show cause is received within 15 days of its receipt it shall be presumed that you have no defense to put in and, in that case, an Ex-Parte decision shall be taken against you.

(Muhammad Uzair Ali)
Competent Authority
District Education Officer (M)
E&SE Khyber, Khyber Pakhtunkhwa.
Date: 26/7/2023

Endst: No. 6708-15

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

1. Director Elementary & Secondary Education Khyber Pakhtunkhwa.
2. Deputy Commissioner Khyber.
3. DEO (F) District Khyber.
4. SDEO Bara District Khyber.
5. Litigation Officer Local Office.
6. ADEO Primary Local Office.
7. Official concerned.
8. Master File.


District Education Officer (M)
E&SE Khyber, Khyber Pakhtunkhwa

Mr. Muhammad Ayub PSHT GPS Noor Haider Bara District Khyber.

To

District Education Officer,
District Khyber.

Subject: Written Reply to the Show Cause Notice

Respected Sir,

In response to your show cause notice issued against me on 26-07-2023, I would like to submit my humble replay as under.

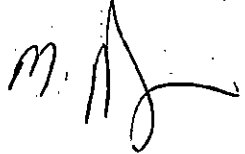
- Before going to the bare allegations leveled against me by Miss Noorina Syed, Headmistress GGHS Abdullah Jan Bara, I would like to bring in your kind notice some real and undeniable facts.
- That I am a married person having five children and living a happy and joyful life with my family. That since I have joined this profession, there is no single complaint of the nature of such like allegation that is leveled against me by one Miss Noorina Syed.
- That I have never harassed the said Miss Noorina syed, except the bare allegation, there is no documentary proof/evidence in the shape of CDR messages history or any direct or indirect contact with her.
- That the motive behind her series of complaints is that her family male members and we are having dispute regarding landed property at our village. As most of our people are uneducated and I am the only family member having education and providing legal support to my family members in that landed dispute, that's why Miss Noorina Syed is after my service and she is using by her family male as tool against me.

- That I have also approached the concerned authority by lodging a complaint under section 107/151 Cr.Pc, in the court of judicial magistrate Peshawar against Miss Noorina Syed and others.
- Coming to the show cause notice, it came to my knowledge through the said show cause notice, that Miss Noorina Syed also filed a complaint in your office where in she charged me for harassment etc. in connection of the said complaint an inquiry committee was constituted.
- To dig out the real facts and submit its report. I have gone through the inquiry report, on the basis of which I was declared accused of the baseless charges leveled against me by Miss Noorina Syed in the shape of complaint. The so called inquiry committee gave its findings on the basis of a complaint which was not filed by Miss- Noorina Syed but filed by one Syed Ubaid Shah on the basis of that complaint both the parties i.e. I, Muhammad Azub and Syed Ubaid Shah were called to the office of SDPO head quarter Khyber where we jointly narrated our stances to the concerned authority in the shape of an affidavit and later on the concerned police officer also give him precautionary suggestion. The inquiry committee in read the contents of the said affidavit and associated the precautionary suggestion of concerned police officer with me, which is never of mine. In the said affidavit my stance is crystal clear and I negated the allegation leveled.
- Against me by one Syed Ubaid Shah and Miss Noorina Syed in the shape of different complaints. I also opted to take oath on the Holy Quran regarding my innocence and to the satisfaction of complaints.
- The second finding given by the inquiry committee, where I was declared accused/convert on the basis of bail bond, submitted by me. The incompetency of inquiry committee and their lack of knowledge regarding the law of the land is very much clear from the inquiry report as is a golden principle of law that an accused person is presumed to be innocent unless

and until proved guilty. The submission of bail bonds do not amount to convection and it is just the changing of custody from the police authorities to the hand of sureties. Both the finding, of inquiry committee are immature, baseless and without solid reason and justification.

- That the inquiry committee failed to collect any documentary evidence from me which is mandatory as per prescribed rules. Different people have given affidavits regarding my sound character and also my hard work and efficiency in my profession. (Affidavits are annexed).

In your honour need more details, we can meet in your office. Thank you.

M. Ayub 
PSHT GPS
Noor Haider Bara
District Khyber .

Dated:



OFFICE OF THE DISTRICT EDUCATION OFFICER
KHYBER AT JAMRUD MAHE
NO. 2232/EDU DATED 21/8/2023
Email: DEOKHYBER7777@gmail.com

To

Mr. Muhammad A. Sub PSHT GPS Noor Haider Bara District Khyber.

Subject: PERSONAL HEARING

Memo:

Reference is made to the subject cited above.

You are hereby informed to appear in person before the personal hearing committee under the chairmanship of the undersigned in his office at 11:00 am Monday the 21st August, 2023 positively.

Committee members.

1. Principal GHS Hashim Abad Jamrud District Khyber.
2. SDEO Bara.
3. ADEO Primary


DISTRICT EDUCATION OFFICER

DISTRICT KHYBER AT JAMRUD

Dated _____

Endst: No. _____

Copy of the above is forwarded to the;

1. Director I & SED Khyber Pakhtunkhwa.
2. Deputy Commissioner Khyber.
3. Principal GHS Hashim Abad Jamrud.
4. SDEO Bara.
5. ADEO Primary Local Office.
6. Office Copy.


DISTRICT EDUCATION OFFICER

DISTRICT KHYBER AT JAMRUD

17

15

To

The Inquiry Committee,
District Khyber.

Respected Sir! It is submitted as under:

That I am serving as a teacher at PSHT GPS Noor Haider Bara District Khyber, prior to this written explanation. I was served with a show cause notice, wherein one miss Noorina Syed leveled against me some baseless and concocted allegations of harassment in that an inquiry committee was constituted, which declared me accused without being heard me and without adopting the proper procedure as laid down in Khyber Pakhtunkhwa government servants rules 2011. The findings given by the then inquiry committee on the basis of which I was declared accused are very immature and not appealable to common mind.

I have already submitted my detailed reply to that show cause notice issued from the office of District Education Officer Khyber. I would like to reiterate my stance before your good self too. The then inquiry committee accused me on the basis of an affidavit which was jointly submitted by me and one Syed Ubaid Shah. Interestingly, the then inquiry committee associated the precautionary suggestion given by concerned police officer related to wandering near the house of complainant in future, with me I had never said these wordings, before the concerned police officer.

The said affidavit is in very simple words but the then inquiry committee totally misread the said affidavit and gave their erroneous finding which is not justifiable by any means. If your honour may peruse the said affidavit, wherein it is stated that the applicant (CM. A sub) have sent messages and contained through mobile phone these are the allegations and on per law they have to prove it by submitting the CA and DA LA record of my cell number and that of Miss Noorina Syed, that whether any call was made, they must also have to submit before your

goodsself the message chat of mine with Miss Noorina Syed. In the said affidavit, I have clearly denied the bare allegation leveled against me and I was ready to take special oath on Holy Quran regarding my innocence and to the satisfaction of complainant. My offer for special oath on the Holy Quran was as per Islam. As the Holy Prophet Hazrat Muhammad (PBUH) said "Burden of proof lies on the plaintiff/Complainant and the oath is on the person who denies" as per law of the land and above hadith, I was and am totally innocent but due to the lack of knowledge of law the then inquiry committee totally misread the said affidavit and gave an erroneous finding against me. Coming to the second finding of the then inquiry committee on the basis of which I was declared accused, that I was released from jail and submitted bail bonds in the like amount of Rs. 80,000/- with two sureties.

The finding of the then inquiry committee is also the result of their ignorance of the law of the land. I would like to bring in your kind notice, that I never went to judicial lockup in the connected complaint, rather I submitted bail bonds for security for keeping the peace, and it may be taken from any person the submission of bail bonds does not amount to the confession of guilt nor it is an offence by itself.

There are two types of laws one is called procedural law and the other is substantive law. substantive law is that which governs the original rights and obligations of individuals. If someone violate it, he may be charged for the commission by an offence punishable under Pakistan penal code, 1860 and if proved guilty may be convicted if not be acquitted.

The bail bonds which I have submitted was under section 107/151 Cr. P.C 1898. So Cr. PC is a procedural law and in such case offence has not yet committed but bound and person not to commit an offence which seem to likely committee in future and keep the public peace and tranquility. I would like to refer to your good self a case law.

2000 PCR. LJ page-69 apprehension of breach of peace, initiation of proceedings. Scope mere fact that enmity or im feeling existed between the two parties was not sufficient to warrant action under section 107, Cr. P.C.

In light of the above detail explanation, I prayed for setting aside the impugned inquiry report and the baseless and connected charges leveled against me .

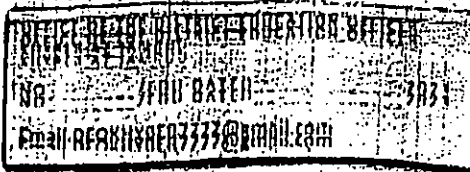
Thank You



Muhammad Ayub

PSHT GPS Noor Haider

Bara District Khyber



6-10-23

Notification

1. Whereas, Muhammad Ayub PSHT GPS Sur Kas No.1 Noor Haider Bara District Khyber was proceeded against in accordance with Efficiency & Discipline Rules, 2011 for harassing Miss. Nourida Syed Headmistress GHS Alimuddin Jan Bara District Khyber and hence his conduct.
2. And whereas, he was been reported by JMO (Female) District Khyber vide letter No.1302 dated 19/07/2023 for harassment of Miss. Nourida Syed, Headmistress GHS Alimuddin Jan Bara on her complaint dated 02/05/2023.
3. And whereas, the enquiry committee, comprising of Mr. Rifaqat Ali Shah Principal GHS Alam Gudar and Mr. Abdul Nawayz SDO Jamrud, constituted vide No.1815-52 dated 23/05/2023 proved the harassment/harassment case against Muhammad Ayub PSHT GPS Sur Kas No.1 Noor Haider Bara.
4. And whereas, he was also previously proceeded for the similar harassment of the similar official but he did not mend his conduct and continued harassing the mentioned Headmistress.
5. And whereas, a show cause notice was served upon him vide this office No.6708-15 dated 26/07/2023 in which his reply dated 07/8/2023 was found unsatisfactory.
6. And whereas, he was twice called for personal hearing vide No.7310 dated 22/8/2023 and vide No.7310 dated 03/10/2023 to allow him ample opportunity for clear himself of the accusation/charges mentioned in the complaint as well as in show cause.
7. And whereas, he availed personal hearing but could not defend himself and instead used threatening language against the complainant during the course of personal hearing.
8. And whereas, the Competent Authority, after having considered the charges, evidence on record, reply to the show cause and his defense in personal hearing (minutes recorded formally) has come to the conclusion that the charges contained in the show cause against Muhammad Ayub PSHT GPS Sur Kas No.1 Noor Haider Bara have been proved to the extent of penalization under Rule-4 (b) of the above mentioned Rules.
9. NOW THEREFORE, in exercise of powers conferred under the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011, the District Education Officer (M) Khyber, Khyber Pakhtunkhwa as the Competent Authority is pleased to impose the major penalty of "reduction to a lower post or pay scale," i.e. from PSHT BPS-15 to SPST DPS-14 as specified in Rule-4 (b) (i) of the above-mentioned Rules with immediate effect along with his transfer on administrative ground from GPS Sur Kas No.1 Noor Haider Bara to GPS No.1 Landi Kotwal in the interest of public service.

(Muhammad Uzair Ali)
 Competent Authority
 District Education Officer (M)
 E&SE Khyber, Khyber Pakhtunkhwa.

Encls: Even No.9114 - 23 Date: 06/10/2023

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

1. Director Elementary & Secondary Education Khyber Pakhtunkhwa.
2. Deputy Commissioner District Khyber.
3. District Account Officer Khyber.
4. District Monitoring Officer Education Monitoring Authority Khyber.
5. SDO Bara, District Khyber with directions to immediately remove the Ex-PSHT from GPS Sur Kas No.1 Noor Haider Bara.
6. SDO Landi Kotwal.
7. ADCO Litigation Local Office.
8. AP Elms Coll, Local Office.
9. Official Teacher concerned.
10. Master file.

(Signature)
 Competent Authority
 District Education Officer (M)
 E&SE Khyber, Khyber Pakhtunkhwa.

Before Director Education KPK

Muhammad Ayub PSH GPS Noor Haider Bara District Khyber (Appellant)

V/S

1. District Education Officer Khyber at Jamrud.
2. Syed Razaqat Ali Shah Principal Alam Gudar Bara
3. Abdul Nawaz SDEO Jamrud
4. Miss Noorina Syed Headmistress GGHS, Abdullah Jan Bar.

(Respondents)

Appeal under 17 of the Khyber Pakhtunkhwa government servants (Efficiency and discipline) rules 2011, against the order dated 06-10-2023.

Respected Sir! It is submitted as under.

1. That respondent No-4 made a baseless and conceited application against the appellant on 02-05-2023 for her harassment to district education officer (Female) district Khyber.
2. That respondent No.4 within a short span of time lodged complaints of the same nature to different forums i.e. on 7-10-2020 at Hayatabad police station, 9-10-2020, at the officer of DEO Khyber and on 13-10-2021 registered a complaint at District Police Officer Khyber. These baseless complaints are nothing more than as a tool used against the appellant to mentally torture him.
3. That to find out the real facts and reach to a correct conclusion, an inquiry committee comprising of respondents No-2 and 3 was constituted.
4. That the inquiry committee gave its findings wherein they found the appellant guilty of the charges levelled against him.
5. That a show cause notice was issued from the office of respondent No-1 on 26-07-2023 to which the appellant submitted in written reply on 07-08-2023, and negated all the allegation levelled against him (copies are attached).
6. That after submission of written reply to the show cause notice the appellant was summoned personally by respondent No-1 but instead of following the legal and conodal formalities, he misused his position and became an interested party.
7. That respondent No 1 without any documentary proof, oral evidence of any impartial witnesses, penalized the appellant with major penalty of reduction of

basis pay scale from 15 to 14. Felling grieved of the said order the appellant approached its forum on the following grounds.

Grounds

1. That respondents No 2 and 3 gave their findings, which was filed by Syed Ubaid Shah, but in their whole inquiry proceeding, the said syed Ubaid shah was never examined by them nor they recorded his statement, which is a gross violation of the rules specified in the KP, government servants efficiency and discipline, rules 2011
2. That the inquiry committee was not constituted as per the ibid rules, nor respondent No-3 had ever visited the school of appellant in connection of inquiry proceedings, which is violation of the rules specified in the KP, government servant (Efficiency and Discipline) rules 2011.
3. That respondents No-2 and 3 misread the contents of an affidavit, submitted at the office of SDPO headquarter Khyber, wherein, the appellant stance regarding the baseless allegations is crystal clear and had clearly negated the allegation levelled by Syed Ubaid Shah.
4. That the respondents No-2 and 3 failed to collect any documentary evidence against the appellant except the baseless complaints, they also failed to record statement of any independent witness to substantiates the stance of respondent No-4.
5. That respondents No-2 and 3, also failed to collect CDR reports of the appellant and respondent No4, to established their connection and contact with each other.
6. That the respondent No-2 and 3 due to their lack of knowledge of the law, in their report had given their finding threat to appellant was sent to jail and had submitted bail bond, in the sum of Rs. 80000/- with two sureties, and had incised an affidavit that he would never wander around the premises of the house of respondent No-4 but both these findings of respondent No-2 an 3 are against the spirit of the law and natural justice.
7. No such opportunity was provided by respondent No.1 for personal hearing except once wherein he pressurized the appellant and followed ignorant approach towards law of the land nor the requirements were fulfilled as prescribed in the KP, Government servants, (efficiency and discipline) rules 2011. The biased and ignorant approach of respondent No-1 is also clear from him order wherein he stated that appellant had twice availed personal hearing opportunities one on 22-08-2023 and other is 03-10-2023, but from

documentary proof the dates mentioned in the letters fixed for personal hearing are: 21-08-2023 and 05-10-2023.

8. That the respondent No-1 misused his lawful position by penalizing the appellant without any solid and documentary evidence for a major penalty which is against the rules and justice.

Prayer

On acceptance of this appeal, the impugned order dated 06-10-2023, may kindly be set aside and the appellant may kindly be exonerated from the charges levelled against him.

Appellant

Muhammad Ayub

(PSHTS GPS)



Surkass No-1 Noor Haider Bara

Dated: 10-10-2023



Directorate of Elementary and Secondary Education

Khyber Pakhtunkhwa Peshawar

PH No. 091-9330242 Fax 091-9210936

No. 554-55

/EM/II/M/Khyber Vol: IV

Dated 08/10/2023



To

✓ Muhammad Ayub (PSHT)
GPS SurKas No 1 Tesil Bara
District Khyber

Through: District Education Officer Male Khyber

Subject: RESTORATION OF ANNUAL INCREMENT
Memo:

I am directed to refer to the subject cited above and to state that after analyzing through the entire case the competent authority is pleased to reject your appeal (Muhammad Ayub (PSHT) GPS SurKas No.01 Tehsil Bara District Khyber), received vide this Directorate Diary No 2630 dated 13/10/2023.

[Handwritten signature]
28/10/23

Assistant Director (Estab :)
Elementary and Secondary Education
Khyber Pakhtunkhwa Peshawar

[Handwritten signature]
27/10/23

Endst. of even No. & Date:
Copy forwarded for information to the;

1. PA to Addl: Director (Estab :) NMDs (E&SE) Khyber Pakhtunkhwa Pesh:

Assistant Director (Estab :)
Elementary and Secondary Education
Khyber Pakhtunkhwa Peshawar

[Handwritten signature]
ADEO Pesh

[Handwritten signature]
22/10/23
DND M83

[Handwritten signature]
24/10/23

بعد التّ جتای سرورس طر بیوتل صوبہ سندھ پشاور

منجانب ایڈووکیٹ

محمد اویب

بنام محمد اویب

دعویٰ اپیل

باعث شکریہ ایٹیکہ

مشترکہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی و کل کاروائی متعلقہ آن مقام پشاور کیسٹیم اسٹیل انڈیا سٹیل پلانٹ سے ایڈووکیٹ، ہائی کورٹ کو وکیل مقرر کر کے ایڈووکیٹ کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کابل اختیار ہوگا نیز وکیل صاحب کو کرنے باہمی نامہ و آفٹر ٹائلٹ و فیصلہ برتلاف دینے جواب دہی اور اقبال دعویٰ اور بھرتی و ڈگری کرنے اجراء اور وصولی چیک و ڈیپو اور رضی دعویٰ اور درخواست ہر قسم کی تقدیر اور اس پر دستخط کرنے کا اختیار ہوگا نیز بھرتی عام پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور تسخیر نیز دائر کرنے اپیل نگران و نظر ثانی و پیروی کرنے کا اختیار ہوگا اور بصورت ضرورت مقدمہ منکر کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مشاور قانونی کو اپنے ہمراہ یا اپنی بجائے تقرر کا اختیار ہوگا اور اس پر مقرر شدہ کو بھی وہی جملہ مذکورہ بالا اختیارات حاصل ہوں گے اور اس کا ساختہ پرواختہ منٹلو بڑ قبول ہوگا اور دوران مقدمہ میں جو خرچہ و ہرجانہ التوا مقدمہ کے سبب ہوگا اس کے مستحق وکیل صاحب موصوف ہوں گے نیز بقایا دفعہ کی وصولی کرنے کا بھی اختیار ہوگا اگر کوئی تاریخ پیشی مقام ذریعہ پر ہو یا عد سے باہر ہو تو وکیل صاحب یا بندہ ہوں گے کہ پیروی مذکور کریں۔

لہذا نکالت نامہ رکھ دیا کہ سند ہے۔

۲۰/۰۲/۲۱

التّ بّد

۱۱
ارباب نیفا اتمال
ایڈووکیٹ

۳
سیدہ اللہ بیگم خان
ایڈووکیٹ

محمد نواز
ایڈووکیٹ

۲۱
۲۰/۹/۲۱