

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,

Service Appeal No. 46/2016

Date of Institution... 08.01.2016

Date of decision... 19.12.2017

Muhammad Israr Khan, Ex-CT, S/o Sardar Gul R/o presently at Gulli Bagh Tehsil Char Bagh District Swat ... (Appellant)

Versus

1. District Education Officer (M) Kohistan and three others.
... (Respondents)

MR. Muhammad Arif Jan,
Advocate ... For appellant.

MR. Mr. Muhammad Jan,
Deputy District Attorney ... For respondents.

MR. NIAZ MUHAMMAD KHAN, ... CHAIRMAN
MR. AHMAD HASSAN, ... MEMBER

JUDGMENT

NIAZ MUHAMMAD KHAN, CHAIRMAN: - Arguments of the learned counsel for the parties heard and record perused.

FACTS

2. The appellant was removed from service through an order having no date. Against which the appellant filed departmental appeal on 06.10.2015 which was rejected on 28.12.2015 and thereafter he filed the present service appeal on 08.01.2016. The charge against the appellant was his willful absence.

ARGUMENTS

3. The learned counsel for the appellant argued that no charge sheet and statement of allegations were issued to the appellant. Only a show cause notice

was issued to the appellant on 20.08.2015. That in the said show cause notice nothing was written about the absence period. That only in para-3 of the written reply, the respondents mentioned about the visit paid by the DEO on 05.10.2015 and found the appellant absent. The learned counsel for the appellant further argued that how in the show cause notice issued on 20.08.2015 the absence of the appellant on 05.10.2015 could be covered. He further argued that regular enquiry was not dispensed with. That no proceedings under Rule 9 of the Khyber Pakhtunkhwa Government Servants (E&D) Rules, 2011 were conducted.

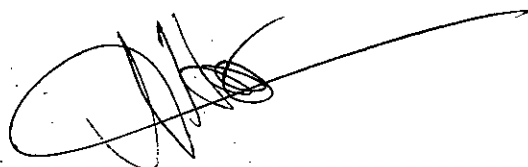
4. On the other hand the learned Deputy District Attorney argued that the proceedings were taken in accordance with the law. That show cause notice was issued to the appellant. That proper enquiry was conducted. That personal hearing was afforded. That in accordance with the judgment reported as 2011-PLC(C.S) 990, there was no need of any charge sheet and statement of allegations and even enquiry in the case of absence.

CONCLUSION

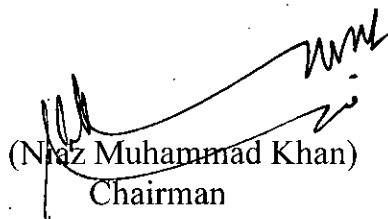
5. Undoubtedly, the rules applicable to the appellant are Khyber Pakhtunkhwa Government Servants (E&D) Rules, 2011. In these rules the appellant could have been proceeded either under Rule 9 or the authority could have opted for regular enquiry and the third option was to dispense with the regular enquiry. Proceedings under Rule 9 has not been followed. Enquiry has also not been dispensed with. The third option of regular enquiries was adopted. In case of regular enquiry a charge sheet and statement of allegations was must, which has not been done. No evidence was collected by the enquiry officer nor statement of any witness was recorded. Above all, the impugned order has not

been given any date. In the impugned order alongwith the appellant 8 other civil servants were awarded penalties. Though no date is given in the order but Mr. Talib Jan at S.No. 1 was removed from service w.e.f. 31.05.2015 which means that this order was issued after 31.05.2015, at least. If this order was issued after 31.05.2015 then how the appellant could be removed w.e.f. a back date i.e. 30.04.2015. Any order of removal with retrospective effect is a void order and this Tribunal on the basis of a judgment of the august Supreme Court of Pakistan reported as 1985-SCMR-1178 has held in so many judgments that retrospective orders are void orders, which cannot be sustained in the eyes of law.

6. In view of the above discussion, this appeal is accepted and the appellant is reinstated in service. The department is however, at liberty to hold denovo proceedings in accordance with the rules, within a period of ninety days from the date of receipt of this judgment. The issue of back benefits etc. shall be subject to final outcome of the denovo proceedings and the rules on the subject. Parties are left to bear their own costs. File be consigned to the record room. //



(Ahmad Hassan)
Member



(Naz Muhammad Khan)
Chairman

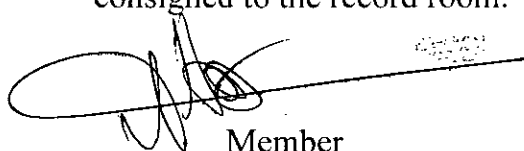
ANNOUNCED

19.12.2017

19.12.2017

Counsel for the appellant and Mr. Muhammad Jan, Deputy District Attorney alongwith Muhammad Alam, ADO for the respondents present. Arguments heard and record perused.

This appeal is accepted as per our detailed judgment of today. Parties are left to bear their own costs. File be consigned to the record room.



Member



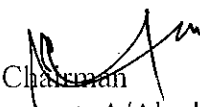
Chairman

ANNOUNCED
19.12.2017

10. 17.07.2017

Counsel for the appellant and Mr. Muhammad Bilal, DDA alongwith Mr. Shah Wali Ullah, Computer Operator for the respondents present. Rejoinder submitted by the counsel for the appellant. Learned counsel for the appellant submitted before the court that one case of similar nature is fixed before this Tribunal on 19.07.2017 at camp court Abbottabad and two other similar appeals No. 620/16 and 621/16 are pending at the principal seat on 08.11.2017. He requested that those two cases of principal seat may also be heard at camp court Abbottabad. Requested is accepted. To come up for arguments on 21.11.2017 before D.B at camp court, Abbottabad.



Member


Chairman
Camp court, A/Abad

21.11.2017

Appellant in person and Mr. Kabeerullah Khattak, Addl. AG alongwith Muhammad Alam, ADO for the respondents present. Two other connected appeals entitled "Inayatur Rahman" and "Abdul Saboor" are fixed at Principal Seat at Peshawar for 19.12.2017. This case is also fixed for arguments at Principal Seat for arguments on 19.12.2017 before the D.B. alongwith the aforementioned service appeals.


Member


Chairman
Camp court, Abbottabad.

20.12.2016

Appellant in person, M/S Hameed-Ur-Rehman, AD(Lit) and Shah Wali Ullah, Computer Operator alongwith Asst: AG for respondents present. None for respondent No.3 present nor reply submitted. Last chance is given to him. To come up for written reply/comments of respondent No.3 on 26.01.2017 before S.B.

(MUHAMMAD AAMIR NAZIR)
MEMBER

26.1.2017

Counsel for the appellant and Hameedur Rahman, AD alongwith Addl. AG for the respondents present. Written reply by respondents No. 1, 2 and 4 submitted Learned Addl. AG relies on the same on behalf of respondent No. 3. The appeal is assigned to D.B for rejoinder and final hearing for 17.07.2017 at camp court, Abbottabad as the same pertains to territorial limits of Hazara Division.

Chairman

08.08.2016

Counsel for the appellant and Mr. Hamced-ur-Rehman, AD (lit.) alongwith Additional AG for respondents present. Written reply not submitted and requested for further time to file written reply. Learned counsel for the appellant submitted that similar nature appeals are fixed for written reply for 25.08.2016 and that the instant case may also be clubbed with those appeals. To come up for written reply/comments on 25.08.2016 before S.B alongwith connected appeals.


Member

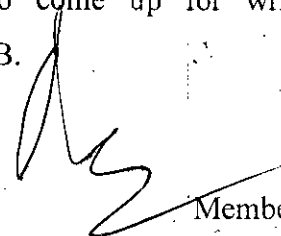
25.08.2016

Counsel for the appellant and Mr. Riasat Khan, DEO alongwith Addl. AG for respondents present. Written reply not submitted. Requested for adjournment. To come up for written reply/comments on 3.11.2016 before S.B.


Chairman

03.11.2016

Counsel for the appellant and Mr. Hameed ur Rehman, AD (Litigation) alongwith Addl. AG for respondents present. Written reply submitted on behalf of respondents No. 1, 2, and 4. Respondent No. 3 not submitted. To come up for written reply/comments on 20.12.2016 before S.B.


Member

18.01.2016

Counsel for the appellant present and preliminary arguments heard.

It was submitted that the appellant was removed from service vide impugned order undated on the grounds of wilful absence from duty and his departmental appeal was also rejected vide order dated 28.12.2015. It was further submitted that relevant portion from the attendance register on file which shows that charges levelled against appellant are totally false. That no opportunity of self defence and proper inquiry was conducted in the matter and appellant has been unlawfully removed from service. Learned counsel for the appellant submitted that the appeal is within time.


Points urged need consideration. Admit. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply/comments for 12.5.2016.

Appellant Deposited
Security & Process Fee


MEMBER

12.05.2016



Appellant in person, M/S Khurshid Khan, SO and Hameed-ur-Rehman, AD (lit.) alongwith Addl: AG for respondents present. Representative of respondent-department informed that written reply is in final stages and will be submitted on the next date. To come up for written reply/comments on 08.08.2016 before S.B.


Member

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. _____ 46/2016 _____


S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	12.01.2016	<p>The appeal of Mr. Muhammad Israr Khan resubmitted today by Mr. Muhammad Arif Jan Advocate may be entered in the Institution register and put up to the Worthy Chairman for proper order.</p> <p style="text-align: right;"> REGISTRAR</p> <p>This case is entrusted to S. Bench for preliminary hearing to be put up thereon <u>18-1-16</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>

The appeal of Mr. Muhammad Israr Khan Ex-CT son of Sardar Gul r/o Gulli Bagh Tehsil Char Bagh Distt. Swat received to-day i.e. on 08.01.2016 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Copies of charge sheet, statement of allegations, show cause notice, enquiry report and replies thereto are not attached with the appeal which may be placed on it.

No. 68 /S.T,


Dt. 11/1 /2016


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Muhammad Arif Jan Adv. Peshawar.

Respected Sir,

Re-submitted, as stated in the body of main appeal, that no proper inquiry has been conducted in proper manner, hence the objected documents has not been provided to the appellant, hence the case may kindly be placed before the Honble Bench.


12/1/16

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

PESHAWAR

Appeal no. 46/2016

Muhammad Israr Khan.....Appellant

VERSUS


District Education Officer and othersRespondents

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Appellant

Through



Muhammad Arif Jan

Advocate, Peshawar

Office: Office No.210 Al-Mumtaz Hotel
G.T. Road Peshawar.

Cell: 0333-2212213

Date: 8/1/2016

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

PESHAWAR

Service Appeal No.....46.../2016

K.W.P. Province
Service Tribunal

Diary No. 25

Dated 08-1-2016

Muhammad Israr Khan Ex-CT

S/o Sardar Gul R/o presently at Gulli Bagh

Tehsil Char Bagh District Swat.....Appellant

VERSUS

1. District Education Officer (M) Kohistan.
2. Director Elementary and Secondary Education Khyber Pakhtunkhwa G.T Road Peshawar.
3. District Accounts Officer District Kohistan.
4. Govt, of Khyber Pakhtunkhwa through Secretary Education E&S Secretariats Peshawar..... Respondents.

Filed to-day
12/1/16
Registrar

APPEAL UNDER SECTION 4 OF KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 28-12-2015 PASSED BY RESPONDENT NO-2 WHEREBY HE DISMISSED THE APPEAL OF THE APPELLANT AND MAINTAINED THE OFFICE ORDER BEARING NO-11029-37 DATED NIL OF RESPONDENT NO-1 IN RESPECT OF REMOVAL FROM SERVICE AS WELL AS RECOVERY FROM THE APPELLANT.

co-submitted to-day
and filed..

Registrar

12/1/16.

PRAYER IN APPEAL;

On acceptance of the instant appeal the impugned order dated 28-12-2015 and order bearing No-11029-37 dated Nil in respect of removal of the appellant from his service passed by respondent No-2 & 1 respectively may graciously be set-aside and the appellant may kindly reinstated in his service with all back benefits and the respondents may also be directed to refrain from the recovery from the appellant for the period 1-4-2014 to 30-4-2015 till the final disposal of the instant appeal.

Any other relief which deems fit and not specifically asked for may also be allowed in favor of appellant against respondents.

Respectfully Sheweth:

Respected Sir,

1. That the appellant was initially appointed as DM on 7-5 1997 and was posted at GMS Gadar Palas Kohistan.
2. That the appellant then was transferred to GMS Gaya Dobair, Kohistan on 6-1-2014 as CT teacher.
3. That the appellant was falsely been shown absented due to some unknown reason since 1-4-2014 to 30-4-2015 and resultantly was removed from service along with recovery for the period of alleged absence without conducting proper inquiry in proper manner.(Copy of removal order is attached as ANNEX-A).

4. That the appellant then preferred a departmental appeal before respondent No-2 on 7-10-2015. (Copy of Departmental appeal is attached as ANNEX-B)
5. That respondent No-2 vide letter dated 19-10-2015 referred the matter to respondent No-1 for further information and action, but no response was made then a second reminder vide office letter dated 11-11-2015 was issued which was responded through letter dated 2-12-2015 by giving the detail pertaining the subject matter. (Copy of letter dated 2-12-2015 is attached as ANNEX-C).
6. That then the appellant himself approached to the respondents No 1 & 2 in respect of the disposal of the appeal but no any information whatsoever been provided and at last due to unavoidable circumstance, the under signed counsel was instructed to inquire about the disposal of the appeal.
7. That the appeal of the appellant was filed and the undersigned counsel applied for the certified copy of the decision on the appeal which was provided on the same day ie 28-12-2015. (Copy of the decision is attached as ANNEX-D).
8. That being aggrieved and having no other efficacious remedy except to file instant appeal on the following amongst other grounds.

GROUND:

- A. That the act, commission and omission of the respondents and the office order bearing No bearing No-11029-37 dated Nil in respect of removal of the appellant from his service passed by respondent No-1 and the order dated 28-12-2015 of respondent

No-2 respectively (hereinafter impugned) are patently illegal, unlawful, without lawful authority, of no legal effect having no value in the eyes of law thus be set-aside and the appellant may kindly be reinstated in his service with all back benefits and the respondents may also be directed to refrain from the recovery from the appellant for the period 1-4-2014 to 30-4-2015 till the final disposal of the instant appeal.

- B. That in fact the appellant was present and attend his duties till October, 2014 which is evident from the attendance register. (Copy of relevant page of attendance register is attached as ANNEX-E).
- C. That the appellant was suffered with some life taking decease and was instructed by his Doctor for complete bad rest where the same facts were immediately brought in the knowledge of the District Education Officer (M) Kohistan.
- D. That the impugned orders are very harsh in nature and also does not commensurate with facts of the case moreover the mala-fide of the respondents / authority is also exist from the record, hence be declared void and be cancelled.
- E. That the appellant has got no alternate source of income to feed mouths of members of family hence living miserable life from hand to mouth.
- F. That while awarding the major penalty the authority also ignored the volume of service as well as the laws rules and regulations governing the subject matter.

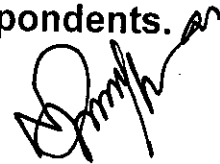
(5)

- G. That no opportunity was provided for self defence while awarding the major penalty moreover no proper inquiry has been conducted in proper manner into the guilt of the appellant and without fulfilling the coddle formalities a harsh order of removal from service was passed which is against the principle of natural justice.
- H. That there is no any complaint or inquiry pending against the appellant in any court of law or at any forum but the appellant always worked honestly and to the entire satisfaction of his superior.
- I. That astonishingly the appellant was present on his duty for the month of April, May and June and then was also present after summer vacations which is evident from the record but the respondent No-1 intentionally shown him absent which is illegal and against the facts and circumstance.
- J. That the payment of salaries also shows the presence of the appellant on his duty and clearly speaks the mala-fide of the respondents hence needs consideration of this Hon'ble Tribunal.
- K. That the report of the respondent No-1 to respondent No-2 in respect of the appellant is also dubious wherein the appellant was also shown as suspect / fake and absent from his duties.
- L. That any other ground which has not been specifically asked for and is fit in the circumstance may also be allowed in favor of the appellant against the respondents.

It is therefore, most humbly prayed that on acceptance of the instant appeal the impugned order dated 28-12-2015 and order bearing No-11029-37 dated Nil in respect of removal of the appellant from his service passed by respondent No-2 & 1 respectively may graciously be set-aside and the appellant may kindly be reinstated in his service with all back benefits and the respondents may also be directed to refrain from the recovery from the appellant for the period 1-4-2014 to 30-4-2015 till the final disposal of the instant appeal.

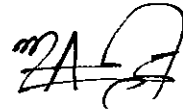
Any other relief which deems fit and not specifically asked for may also be allowed in favor of appellant against respondents.

Dated; 8-1-2016.



Appellant

Through



Muhammad Arif Jan
Advocate, Peshawar.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

PESHAWAR

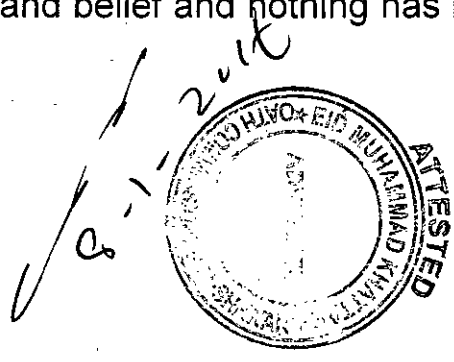
Muhammad Israr Khan.....Appellant

VERSUS

District Education Officer and othersRespondents

AFFIDAVIT

I, Muhammad Israr Khan Ex-CTS/o Sardar Gul R/o presently at Gulli Bagh Tehsil Char Bagh District Swat do hereby solemnly affirm and declare on oath that the contents of the **appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.



[Handwritten Signature]
DEPONENT

8

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

PESHAWAR

Muhammad Israr Khan.....Appellant

VERSUS

District Education Officer and othersRespondents

ADDRESSES OF PARTIES

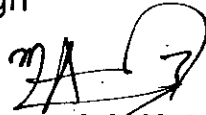
APPELLANT:

Muhammad Israr Khan Ex-CTS/o Sardar Gul R/o presently at Gulli Bagh
Tehsil Char Bagh District Swat

RESPONDENTS

1. District Education Officer (M) Kohistan.
2. Director Elementary and Secondary Education Khyber
Pakhtunkhwa G.T Road Peshawar.
3. District Accounts Officer District Kohistan.
4. Govt, of Khyber Pakhtunkhwa through Secretary Education
E&S Secretariats Peshawar / Appellant

Through



Muhammad Arif Jan
Advocate, Peshawar.

Date: 8/1/2016



9

Amx-A

**OFFICE OF THE DISTRICT EDUCATION OFFICER
(MALE) KOHISTAN**

OFFICE ORDER.

Where as on the public complaints, personal visits of the undersigneds and the absent reports submitted by the respective schools, the following teachers were willfully absented himself from duties.

Whereas on willfull absent show cause notices were served to each teacher and they provide dissatisfactory replies.

Whereas on the replies of showcause notice, an inquiry committee was consituted vide this office order issued under Endst:No.10126-30 dated 20-08-2015.

Where as the chance of personal hearing was given to each teacher before the inquiry committee.

Whereas the inquiry committee submitted a comprehensive report in respect of absent teachers vide letter No. 11022, dated 19-09-2015.


Now in the light of report submitted by inquiry committee and personal satisfaction, I Riasat Khan District Education Officer (M) Kohistan being competant authority is pleased to impose the penalties noted against the name of each teacher mentioned below.

S.No	Name of teacher with school address	Punishment	Remarks
01	Talib Jan CT, GMS Qila Kolai	Major penalty of Removal from service w.e.f 31-05-2015, under E&D Rules 2011 and recovery of already drawn salary for the period 01-06-2013 to 31-05-2015, (two years).	
02	Ahmad Zarin CT, GMS Shamal Guli	Major penalty of Dismissal from sevice. being fake w.e.f 31-09-2014, under E&D Rules and recovery of drawn salary by lodging FIR against him.	
03	Abdullah, CT, GMS Basha	Major penalty of Removal from service w.e.f 28-02-2010, under E&D Rules 2011	
04	Azhar Rashid CT, GMS Gulab Abad	Major penalty of Removal from service w.e.f 30-04-2015, under E&D Rules 2011, and recovery of drawn salary for the period 01-05-2013 to 30-04-2015, (Two Years)	
05	Muhammad Israr CT, GMS Gaya Dubair	Major penalty of Removal from service w.e.f 30-04-2015, under E&D Rules 2011 and recovery of drawn salary 01-04-2014 to 30-04-2015 (One year)	
06	Abdul Wahab DM, GMS Razika	Major penalty of Removal from service w.e.f 28-02-2015, under E&D Rules 2011.	

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7	Muhammad Anwar AT, GMS Sazin	Minor Penalty of Censure and recovery of salary for absent period w.e.f 01-05-2014 to 30-04-2015 (One year). He is posted as SAT at GHS Jaba Mada Khel. Head Master GHS Jaba Mada Khel is directed to keep vigilant eyes upon him and submit weekly report of teacher.	
08	Saeed ur Rahman PST GPS Mirshahi	Major penalty of Removal from service w.e.f 30-04-2015, under E&D Rules 2011.	
09	Muhammad Nasim TT, GMS Barigoo	Minor penalty of Censure and adjusted at GMS Kundal against vacant post.	


District Education Officer
(M) Kohistan

Endst: No 11029-37

Copy of the above is forwarded to the:

1. Director, Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar, for information and necessary action please.
2. Deputy Commissioner, Kohistan Upper, for information and necessary action please.
3. Deputy Commissioner, Kohistan Lower, for information and necessary action please.
4. District Accounts Officer Kohistan, for information and necessary action please.
5. Dy: District Education Officer (M) Kohistan, for information and necessary action/ proceeding in the matter for recovery of drawn amount.
6. SDEO (M) Kohistan, for information and necessary action please.
7. Head Master GHS Jaba Mada Khel, for information and necessary action please.
8. PS to Secretary, Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar, for information and necessary action please.
9. Concerned teachers with the direction to deposit overdrawn salary, in the best public interest.


District Education Officer
(M) Kohistan

CTC


(11)

Amma B

**BEFORE THE HONBLE DIRECTOR ELEMENTARY AND
SECONDARY EDUCATION KP, PESHAWAR**

**DEPARTMENTAL REPRESENTATION AGAINST
THE ORDER BEARING NO-11029-37 DATED NIL
PASSED BY DISTRICT EDUCATION OFFICER (M)
KOHISTAN.**

Respected Sir,

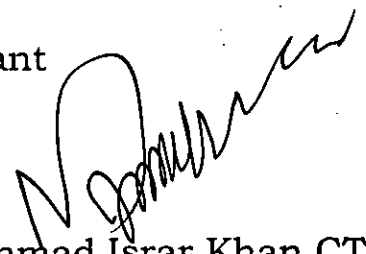
1. That the appellant was initially appointed as DM on 7-5 1997 and was posted at GMS Gadar Palas Kohistan.
2. That the appellant then was transferred to GMS Gaya Dobair, Kohistan on 6-1-2014 as CT teacher.
3. That the appellant was falsely been shown absented due to some unknown reason since 1-4-2014 to 30-4-2015 and resultantly was removed from service without conducting proper inquiry in proper manner.
4. That in fact the appellant was present and attend his duties till October, 2014 which is evident from the attendance register.
5. That the appellant was suffered with some life taking decease and was instructed by his Doctor for complete bad rest where the same facts was immediately brought in the knowledge of the District Education Officer (M) Kohistan. (Impugned order and Medical Documents are attached).
6. That the impugned order is very harsh in nature and also does not commensurate with facts of the case moreover the malafide of the passing authority of the impugned order is also exist from the record, hence be declared void and be cancelled.

- 7. That the appellant has got no alternate source of income to feed mouths of members of family hence living miserable life from hand to mouth.
- 8. That the impugned order is illegal, unlawful, without lawful authority, of no legal effect hence having no value in the eyes of law thus be set-aside and the appellant be reinstated in his service with all back benefits.
- 9. That while awarding the major penalty the authority also ignored the volume of service as well as the laws rules and regulations governing the subject matter.
- 10. That no opportunity was provided for self defence while awarding the major penalty.
- 11. That this Hon'ble authority has got the ample power to set aside the impugned order.

It is, therefore, most humbly submitted that the impugned order bearing No 11029-37 dated nill passed by District Education Officer (M) Kohistan may kindly be declare illegal and be set-aside and the appellant may graciously be reinstated in his service with all back benefits.

Dated; 6-10-2015

Appellant



Muhammad Israr Khan CT
GMS Gaya Dubair Kohistan.
0345-3770008.

Received on 7¹⁰/₁₅

PA to Director
Elementary & Secondary
Education, KPK. Peshawar

امیر ایس آر خان

Dairy No 298
Date 8¹⁰/₂₀₁₅

CTC
9/10/15

13

Amx-C

**OFFICE OF THE DISTRICT EDUCATION OFFICER
(MALE) KOHISTAN**

No. 1289 /Dated Kohistan the 2/15/ 2015

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

Subject: **DEPARTMENTAL REPRESENTATION AGAINST
THE ORDER BEARING NO. 11029-37 DATED
21/09/2015 PASSED BY DEO (M) KOHISTAN.**

Memo

Kindly reference your letter No. 3232/1 No. 1035/Vol:III/A-15 /KC2015 dated Peshawar the 19/10/2015 and reminder No. 968 E.No.1035/Vol:III/A-15 /KC(G) dated Peshawar the 11/11/2015 on the subject cited above.

It is submitted that the Mr. Muhammad Israr Khan CT GMS Gaya Dubair has been reported absent from duty by various complaint of community and school staff.

Whereas on the basis of complaint the undersigned himself visited the school of the teacher on 05/10/2015 and found that there was no record of his attendance in the school from the last many years.

Whereas a showcase notice was served to him and it return back undelivered.

Whereas Mr. Abdul Salam ADO Estab: was appointed as enquiry officer for the subject teacher and as per report the teacher is suspected/Fake and absent from duty.

On basis of above facts, a major penalty of REMOVAL FROM SERVICE has been imposed upon him the report is submitted please.

Endstt; No. 12892 /

*District Education Officer
(Male) Kohistan.*

Handwritten signature

Copy of the above is forwarded to the:

- 1. Deputy Director (Estab:) Directorate of (E&SE) Depart: Peshawar.

*District Education Officer
(Male) Kohistan.*

Handwritten signature

*CTC
MA*

(14)
Annex 'D'

DIRECTORATE OF ELEMENTARY AND SECONDARY EDUCATION
KHYBER PAKHTUNKHWA.

No 3625/F.No.1035/Vol:III/A-15/KC (G).

Dated Peshawar the 28/12/2015.

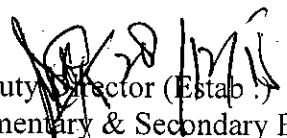
To,

Mr. Arif Jan Advocate,
Peshawar.

Subject: - **APPLICATION.**

Memo:-


I am directed to refer to your application No. Nil dated 23.012.2015, on the subject cited above and to enclose herewith a copy of the appeal in respect of Muhammad Israr Ex-CT GMS Gaya Dubair District Kohistan has been considered filed which is not covered under the rules/policy.


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

Endst: No. _____ /

Copy forwarded to the:-

1. P.A to Director Elementary and Secondary Local Office.


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

5

Annex - E

راجستری حاضر کی مدد سے گورنمنٹ مڈل اسکول گاما جونیئر ہائی اسکول سکول میں

بابت ماہ اپریل 2019 APRIL

روز	مدرسہ ایشیا		ایس سی ان		ایس سی ایم		وقت
	وقت	روز	وقت	روز	وقت	روز	
1	7:30	1-30	7:30	1-30	7:30	1-30	vacation of Spring
2	7:30	1-30	7:30	1-30	7:30	1-30	vacation of Spring
3	7:30	1-30	7:30	1-30	7:30	1-30	vacation of Spring
4	7:30	1-30	7:30	1-30	7:30	1-30	vacation of Spring
5	7:30	1-30	7:30	1-30	7:30	1-30	vacation of Spring
6	from APRIL to APRIL						
7	from APRIL to APRIL						
8	7:30	1-30	7:30	1-30	7:30	1-30	vacation of Spring
9	7:30	1-30	7:30	1-30	7:30	1-30	vacation of Spring
10	7:30	1-30	7:30	1-30	7:30	1-30	vacation of Spring
11	7:30	1-30	7:30	1-30	7:30	1-30	vacation of Spring
12	7:30	1-30	7:30	1-30	7:30	1-30	vacation of Spring
13	SUNDAY						
14	7:30	1-30	7:30	1-30	7:30	1-30	vacation of Spring
15	7:30	1-30	7:30	1-30	7:30	1-30	vacation of Spring
16	7:30	1-30	7:30	1-30	7:30	1-30	vacation of Spring
17	7:30	1-30	7:30	1-30	7:30	1-30	vacation of Spring
18	7:30	1-30	7:30	1-30	7:30	1-30	vacation of Spring
19	7:30	1-30	7:30	1-30	7:30	1-30	vacation of Spring
20	SUNDAY						
21	7:30	1-30	7:30	1-30	7:30	1-30	vacation of Spring
22	7:30	1-30	7:30	1-30	7:30	1-30	vacation of Spring
23	7:30	1-30	7:30	1-30	7:30	1-30	vacation of Spring
24	7:30	1-30	7:30	1-30	7:30	1-30	vacation of Spring
25	7:30	1-30	7:30	1-30	7:30	1-30	vacation of Spring
26	7:30	1-30	7:30	1-30	7:30	1-30	vacation of Spring
27	SUNDAY						
28	7:30	1-30	7:30	1-30	7:30	1-30	C. Leave
29	7:30	1-30	7:30	1-30	7:30	1-30	C. Leave
30	7:30	1-30	7:30	1-30	7:30	1-30	C. Leave
31	SUNDAY						

HEAD MASTER
Govt. Middle School
Gama Juniors

Handwritten signature and notes at the bottom right of the page.

راجہ چتر حاضری مدرسیں
GMS بلا دوہر سکول میں صلح کوہستان

بابت ماہ اکتوبر 2014ء

No	امیر سیکان			کان قمر			محمد سہار خان			No	
	D.M			P.E.T			C.T				
1	امیر سیکان	1-30	7-30	Rad	1-30	Rad	7-30	محمد سہار خان	1-30	7:30	1
2	امیر سیکان	1-30	7-30	Rad	1-30	Rad	7-30	محمد سہار خان	1-30	7:30	2
3	امیر سیکان	11-30	7-30	Rad	11-30	Rad	7-30	محمد سہار خان	11-30	7:30	3
4	امیر سیکان	1-30	7-30	Rad	1-30	Rad	7-30	محمد سہار خان	1-30	7:30	4
5	SUNDAY									5	
6	امیر سیکان	1-30	7-30				7				6
7	امیر سیکان	11-30									7
8	امیر سیکان										8
9	SUNDAY									9	
10	امیر سیکان	11-30	7-30	Rad	11-30	Rad	7-30	محمد سہار خان	11-30	7:30	10
11	امیر سیکان	1-30	7-30	Rad	1-30	Rad	7-30	محمد سہار خان	1-30	7:30	11
12	SUNDAY									12	
13	امیر سیکان	1-30	7-30	Rad	1-30	Rad	7-30	محمد سہار خان	1-30	7:30	13
14	امیر سیکان	1-30	7-30	Rad	1-30	Rad	7-30	محمد سہار خان	1-30	7:30	14
15	امیر سیکان	1-30	7-30	Rad	1-30	Rad	7-30	محمد سہار خان	1-30	7:30	15
16	امیر سیکان	1-30	7-30	Rad	1-30	Rad	7-30	محمد سہار خان	1-30	7:30	16
17	امیر سیکان	11-30	7-30	Rad	11-30	Rad	7-30	محمد سہار خان	11-30	7:30	17
18	امیر سیکان	1-30	7-30	Rad	1-30	Rad	7-30	محمد سہار خان	1-30	7:30	18
19	SUNDAY									19	
20	امیر سیکان	1-30	7-30	Rad	1-30	Rad	7-30	محمد سہار خان	1-30	7:30	20
21	امیر سیکان	1-30	7-30	Rad	1-30	Rad	7-30	محمد سہار خان	1-30	7:30	21
22	امیر سیکان	1-30	7-30	Rad	1-30	Rad	7-30	محمد سہار خان	1-30	7:30	22
23	امیر سیکان	11-30	7-30	Rad	11-30	Rad	7-30	محمد سہار خان	11-30	7:30	23
24	امیر سیکان	11-30	7-30	Rad	11-30	Rad	7-30	محمد سہار خان	11-30	7:30	24
25	امیر سیکان	1-30	7-30	Rad	1-30	Rad	7-30	محمد سہار خان	1-30	7:30	25
26	SUNDAY									26	
27	امیر سیکان	1-30	7-30	Rad	1-30	Rad	7-30	محمد سہار خان	1-30	7:30	27
28	امیر سیکان	1-30	7-30	Rad	1-30	Rad	7-30	محمد سہار خان	1-30	7:30	28
29	امیر سیکان	1-30	7-30	Rad	1-30	Rad	7-30	محمد سہار خان	1-30	7:30	29
30	امیر سیکان	1-30	7-30	Rad	1-30	Rad	7-30	محمد سہار خان	1-30	7:30	30
31	امیر سیکان	11-30	7-30	Rad	11-30	Rad	7-30	محمد سہار خان	11-30	7:30	31

HEAD MASTER
Govt: Middle School
Gaya Dubair Kohistan.

10 سہ ماہی

ایڈووکیٹ اسٹوڈنٹس ایسوسی ایشن

پشاور بار ایسوسی ایشن

1375

رابطہ نمبر: 0333 2212418

پشاور بار ایسوسی ایشن، خیبر پختونخواہ

19980




بعدالت جناب: خیبر پختونخواہ سروس ٹرمینول لیٹ

<p>مخاطب: اسپیکر</p> 	<p>دعوی:</p> <p>علت:</p> <p>مورد:</p> <p>جرم:</p> <p>تھانہ:</p> 
---	---

بابت تحریر آگے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کاروائی متعلقہ آن مقام لیٹ در ایجنسی محمد عارف خان ایڈووکیٹ صاحب کا تحریر کو ذیل 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 کتابت و فیصلہ برطین دینے جواب دعوی اقبال دعوی اور درخواست از ہر قسم کی تصدیق زریں ہر دستخط کرنے کا اختیار ہوگا، نیز ضرورت ہر ویں جانب سے خط و کتابت یا اپیل کی برآمدگی اور منسوخی، نیز دائر کرنے اپیل نگرانی و پیروی کرنے کا مختار ہوگا اور ضرورت ہر وقت 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 بھی وہی جملہ مذکورہ اختیارات حاصل ہوں گے اور اس کا ساتھ ہر وقت منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے کسب سے ہوگا وہ وکیل موصوف وکیل کرنے کا اختیار ہوگا کوئی تاریخ پیشی مقام دورہ یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ اپنی پیروی ہر وقت کو قبول، لہذا وکالت نامہ لکھ دیا تاکہ مندر ہے۔

المرقوم: 4-11-2015

العبد _____

العبد _____

مقام _____

کے لئے منظور ہے۔

نوٹ: اس وکالت نامہ کی ذمہ داری کا حامل قبول ہوگی

Attested & accepted

AS

37

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.
(Camp Court Abbottabad)

Muhammad Israr Khan

VS

DEO & Others

APPEAL NO 46 OF 2016

PARAWISE COMMENTS FOR & ON BEHALF OF RESPONDENTS NO1,2 , 3 & 4.

INDEX

S#	Particulars of documents	Annexure	Pages
1	Comments along with affidavit		1-4
2	Copy of show cause notice	A	5
3	Copy of inquiry report	B	6-9
4	Copy of letter of Director	C	10
5	Copy of reply of director letter	D	11
6	Copy of decision of director	E	12

Dated 03.04.2016


Respondent No.1

36

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

APPEAL NO 46 OF 2016

Muhammad Israr Khan

Petitioner

VERSUS

1. District Education Officer Male Kohistan
 2. Director Elementary & Secondary Education KPK Peshawar
 3. District Accounts Officer District Kohistan
 4. Govt of Khyber Pakhtun Khwa through Secretary
(Elementary Secondary) Education Peshawar
- Respondents**

COMMENTS FOR & ON BEHALF OF RESPONDENTS NO 1,2& 3

Respectfully Sheweth:

PRILIMINARY OBJECTIONS:-

1. That the appellant has not come to this Honourable Court with clean hands.
2. That the appellant has got no cause of action/ locus standi to file the instant appeal.
3. That the appeal has been filed to pressurize the respondents.
4. That the appellant is estopped to sue through his own conduct.
5. That the present appeal is not maintainable due to mis-joinder and non-joinder of necessary parties.
6. That the appellant has concealed the material facts from this Honourable Court.
7. That the appellant has been removed from service due to willful long absence hence the appeal is liable to be dismissed.
8. That the competent authority has removed the appellant after fulfillment of all codal formalities, hence the instant appeal is liable to be dismissed.

Factual Objections:

1. Para No 1 is correct to the extent of appointment of appellant, hence no comments.
2. Para No 2 correct to the extent of transfer to GMS Gia Dobair on 06.01.2014.
3. Para No 3 is incorrect, strongly denied with the facts that the appellant was reported absent from duty by school staff and local community and as result of complaint, a surprise visit was paid by DEO on 05.10.2015 to GMS Gia Dobair and it was found that the name of appellant was not written in the teachers attendance register nor the appellant was known by any one of the staff member. On the basis of visit report, the salary of the appellant was stopped and show cause notice was served to appellant (Copy of show cause notice is attached as Annexure A) and on receiving no reply from the appellant, final show cause notice was served but invain and for the purpose of proceeding, Mr Abdus Salam ADEO was appointed as inquiry officer for the identification of the appellant and the inquiry officer in the inquiry report, stated that the appellant did not attend the school after his transfer in the school nor any staff member or local person of community is familiar with the appellant and the appellant is a suspected/fake teacher. The inquiry officer recommended termination of appellant from the service(Copy of inquiry report is annexed as Annexure B).
4. Para No 4 is correct to the extent that the appellant preferred a departmental appeal before the respondent No 2 and respondent No 2 asked to respondent No 1 for submission of comments vide letter No 3232 dated 19.10.2015(copy is attached as annexure C) and in response, the comments were submitted to director vide letter No 02.12.2015 (Copy of letter is attached as annexure D).
5. Para No 5 is correct. As stated in Para 4 above.
6. Para No 6 is incorrect, strongly denied.
7. Correct to the extent that the council of appellant applied for the decision on the appeal and the director (respondent No 2) provided the decision on appeal Vide letter No 3625 dated 28.12.2015(Copy is attached as Annexure E).
8. Incorrect and denied.

GROUNDS

- A. Incorrect, strongly denied that the office order bearing No 11029- 37 dated nil of respondent No 1 and office order dated 28.12.2015 of respondent No 2 are according to law, facts, norms and natural justice and the appellant was removed from the service after fulfilling of all the codal formalities.
- B. Incorrect, strongly denied. As stated in Para No 3 above of the facts that the appellant was reported absent from duty by school staff and local community and as result of complaint, a surprise visit of DEO was paid to GMS Gia Dobair on 05.10.2015 and it found that the name of appellant was not written in the teachers attendance register nor the appellant was known by any one of the staff member. On the basis of visit report, the salary of the appellant was stopped and show cause notice was served to appellant and on receiving no reply from the appellant, final show cause notice was served but invain. Therefore for the purpose of proceeding, Mr Abdus Salam ADEO was appointed as inquiry officer for the identification of the appellant

and the inquiry officer in the inquiry report, stated that the appellant did not attend the school after his transfer in the school nor any staff member or local person of community is familiar with the appellant and the appellant is a suspected/fake teacher. The inquiry officer recommended termination of appellant from the service. 34

- C. Incorrect hence denied and as stated above in B of grounds.
- D. Incorrect hence denied.
- E. Incorrect hence denied.
- F. Incorrect hence denied.
- G. Incorrect hence denied. As stated in Para 3 above of the facts.
- H. Incorrect hence denied.
- I. Incorrect hence denied and copies of attendance register attached are fake.
- J. Incorrect hence denied.
- K. Incorrect hence denied.
- L. The respondents seeks permission for arguing the other points at the time of Arguments.

It is therefore, in the light of above stated facts and circumstances, Very humbly prayed that the appeal in hand may please be dismissed with cost.

Humayun
Respondent No. 1
District Education Officer,
(Male) Kohistan

DIRECTOR
Elementary and secondary Education
Khyber Pakhtun Khawa Peshawar *10/1/2016*

9/1/16
SECRETARY *9/5/2016*
Elementary and secondary Education
Khyber Pakhtun Khawa Peshawar

27

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

APPEAL NO 46 OF 2016

Israr Khan -----

Petitioner

VERSUS


1. District Education Officer Male Kohistan
2. Director Elementary & Secondary Education KPK Peshawar
3. District Accounts Officer District Kohistan
4. Govt of Khyber Pakhtun Khwa through Secretary
(E&S) Education Peshawar

Respondents

AFFIDAVIT.

I, Riasat Khan DEO (Male) Kohistan do hereby solemnly affirm and declare that the contents of Parawise comments in the above titled case are true and correct to the best of my knowledge and belief, and that nothing material has been suppressed from this Honourable court.

Identified by,



DEPONENT.

- 8
- 96
- 28
- 29
- S. Defaming the holly profession of teaching.
T. Playing with the future of the nation.

It is recommended that Muhammad Anwar AT GMS Sazeen may be imposed major penalty of removal from service w.e.f 30.04.2015 under E&D rules 2011.

- 6- Mr Abdullah CT GMS Bashah. The case has been minutely discussed and scrutinized regarding the long absence of the teacher. The teacher was served show cause notice but he neither submitted reply of the show cause notice nor appeared before the enquiry committee for personal hearing. The record shows that he has not drawn salary after February 2010 and is working in NGO. The committee is convinced that he is guilty of Long absence.

It is recommended that Mr Abdullah CT GMS Bashah. may be imposed major penalty of removal from service from 28.02.2010 under E&D rules 2011.

- 7- Ahmad Zareen CT MS Shamal Guli. The case has been minutely discussed and scrutinized regarding the long absence of the teacher. The teacher was served show cause notice but he neither submitted reply of the show cause notice nor appeared before the enquiry committee for personal hearing. The record shows that he has drawn salary up to September 2014. It comes in the notice of committee that the said teacher is fake.

The committee recommends that Ahmad Zareen CT MS Shamal Guli may be imposed major penalty of removal from service from 01.10.2014 under E&D rules 2011.

- 8- Mr. Muhammad Naseem TT GMS Barigoo. The teacher has been reported absent Teacher appeared before the committee for personal hearing. The teacher produced record and the Committee goes through the record. It is found that the teacher was posted at GMS Barigoo and transferred to the school where the post of TT was not available, vide office Endstt: No EDO 1443-46 dated: 24.04.2009
Hence committee recommends the adjustment of the teacher against the vacant post.

- 9- Mr. Talib Jan CT GMS Qilla Kolai. The teacher was reported absent since long and was served show cause notice. In reply he submitted his resignation due to the reason that he has joined a new job in WAPDA. He was called upon to appear before the enquiry committee wide Endstt: No. 10145-48 dated: 20.08.2015 to appear before the enquiry committee for personal hearing. A questionnaire was served and on the basis of the answers following facts have been revealed:
- A. The teacher was inducted in education department in April 1999. He got salary up to May 2014.
- B. In reply of question No 5 about his willful absence from duty the teacher has nothing in his defense. He cleverly intended to divert the attention of the enquiry committee and written an imaginary story for face saving and to misguide the committee, all excuses seem lame and has no solid reason and justification.

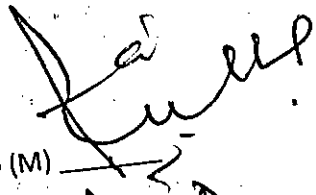
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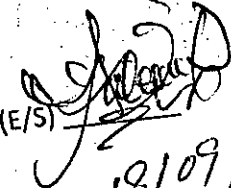
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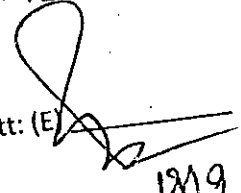
- C. After joining education department he also served in different NGOs simultaneously without applying for any leave or permission from the department.
- D. Recently the teacher has been appointed as assistant director in WAPDA for dassu Dam project but astonishingly he neither got NOC from the department nor informed the department in this regard which shows his priorities and weight age for education department.

The committee is fully convinced to impose the major penalty of removal from service w.e.f 31.05.2013 under E&D rules 2011 and recovery of salary for the period 01.06.2013 to 31.05.2014 (12 Months)

Dy: DEO (M) 

ADEO (E/S) 
18/09/15

SDEO (M) _____

Supdt: (E) 
18/9

Amr: C

(10)

97

OFFICE OF THE DIRECTOR ELEMENTARY &
SECONDARY EDUCATION KHYBER
PAKHTUNKHWA PESHAWAR
NO. 3232 / F.No.1035/V-III/A-15/KC
Dated Peshawar the 19/10 /2015

To
The District Education Officer
(Male) Kohistan

SUBJECT:- DEPARTMENTAL REPRESENTATION AGAINST THE ORDER BEARING NO.11029-37 DATED NIL PASSED BY DEO(M) KOHISTAN

Memo:-

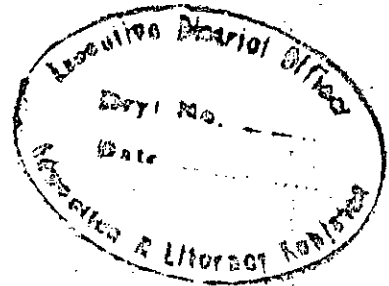
I am directed to enclose herewith ^{an} application in respect of Muhammad Israr Khan CT GMS Gaya Dubian Kohistan on the subject noted above and to ask you to submit views/comments to this office at an early date.

Encls: As Above

/Noor/15

19/10/15
Deputy Director Establishment
Elementary & Secondary Education
Khyber Pakhtunkhwa Peshawar

A/E
PUT UP IS
DEO
supd:
3/11/15



1. Deputy Director (Establishment)

[Signature]
District Education Officer



Annex-D

(11)

[Handwritten mark]

**OFFICE OF THE DISTRICT EDUCATION OFFICER
(MALE) KOHISTAN**

No. 1289 /Dated Kohistan the 2/15/2015

To,

The Director,
Elementary and Secondary Education
Khyber Pakhtunkhwa Peshawar.

Subject:

**DEPARTMENTAL REPRESENTATION AGAINST
THE ORDER BEARING NO. 11029-37 DATED
21/09/2015 PASSED BY DEO (M) KOHISTAN.**

Memo:

Kindly reference your letter No. 3232/F.No.1035/Vol:III/A-15 /KC2015 dated Peshawar the 19/10/2015 and reminder No. 968 F.No.1035/Vol:III/A-15 /KC(G) dated Peshawar the 11/11/2015 on the subject cited above.

It is submitted that the Mr. Muhammad Israr Khan CT-GMS-Gaya Dubair has been reported absent from duty by various complaint of community and school staff.

Whereas on the basis of complaint the undersigned himself visited the school of the teacher on 05/10/2015 and found that there was no record of his attendance in the school from the last many years.

Whereas a showcase notice was served to him and it return back undelivered.

Whereas Mr. Abdul Salam ADO Estab: was appointed as enquiry officer for the subject teacher and as per report the teacher is suspected/Fake and absent from duty.

On basis of above facts, a major penalty of REMOVAL FROM SERVICE has been imposed upon him the report is submitted please.

Endstt; No. 12892

Copy of the above is forwarded to the:

1. Deputy Director (Estab:) Directorate of (E&SE) Depart: Peshawar.

[Signature]
District Education Officer
(Male) Kohistan.

[Signature]
District Education Officer
(Male) Kohistan.

(14) Amx - E (12) 25

DIRECTORATE OF ELEMENTARY AND SECONDARY EDUCATION
KHYBER PAKHTUNKHWA.

No. 3625 / F.No. 1035 / Vol: III / A-15 / KC (G).

Dated Peshawar the 28/12/2015.

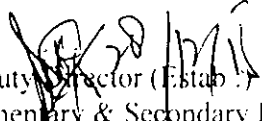
To,

Mr. Arif Jan Advocate,
Peshawar.

Subject: - **APPLICATION.**

Memo:-

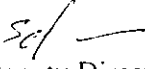
I am directed to refer to your application No. Nil dated 23.012.2015, on the subject cited above and to enclose herewith a copy of the appeal in respect of Muhammad Israr Ex-CT GMS Gaya Dubair District Kohistan has been considered filed which is not covered under the rules/policy.


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

Endst: No. _____ /

Copy forwarded to the:-

1. P.A to Director Elementary and Secondary Local Office.


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

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

No 2732 /ST

Dated 22 /12/2017


To

The Director Elementary and Secondary Education,
Government of Khyber Pakhtunkhwa,
Peshawar.

Subject: **JUDGEMENT/ ORDER IN APPEAL NO. 46/16, MR.MUHAMMAD ISRAR
KHAN.**

I am directed to forward herewith a certified copy of Judgment/order dated 19/12/2017 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.

BEFORE THE HON'BLE SERVICE TRIBUNAL K.P PESHAWAR

Muhammad Israr Khan

V/S

DEO and others

M
172
17

**REJOINDER ON BEHALF OF APPELLANT TO THE COMMENTS FILED
BY THE RESPONDENTS.**

On Preliminary objections:

All the Objections raised by the respondents in their comments are totally incorrect and against the facts and circumstances.

Misconceived and Misleading objections have been raised for the sake of more objections only. The objections are nothing but callus attempt to side the main issue, whereby the appellant was charged in a baseless and for unreasonable grounds of willful absence, fake attendance, cheating the Department and Playing with the future of the Nation and resultantly was removed from service without holding proper inquiry.

The concealment, failure and un satisfactory reply by the respondents clearly speaks the malafide of the respondents and show the personal grudges of the respondents by depriving him from his protected constitutional rights of service and service benefits moreover there is also nothing on the record to prove and justify the baseless allegation leveled against the appellant.

The unfair, discriminatory and malafide conduct is even established from the improper inquiry into the matter by the respondents.

ON FACTS:

1. Para No-1 of the comments is correct and admitted hence needs no reply.
2. Para No-2 is also correct and admitted hence needs no reply.
3. Para No-3 of the comments is totally incorrect, infact, the appellant was present on his duty which is evident from the attached relevant page of attendance register moreover the respondents badly failed to bring on record any statement of the Head Teacher, other staff members and even from the local inhabitants to prove their stance. The respondents also badly failed to conduct proper inquiry into the matter and to attach some document against the appellant. It is worth mentioning here that the malafide of the respondents is even established from the replying Para's as one way the appointment of the appellant is considered as correct while further it has been declared as suspected and fake thus needs consideration of this Hon'ble Tribunal.
4. Para No-4 of the comments is correct and admitted hence needs no reply.
5. Para No-5 is also correct and admitted hence needs no reply.

6. Para No-6 of the comments is incorrect while it has been then admitted by the respondents in the preceding as well as in the para No-7 too which clearly shows the malafide of the respondents.
7. Para No-7 of the comments is correct and admitted hence needs no reply.
8. Para No-8 of the comments is incorrect while Para of the main appeal is correct.

GROUND S;

Grounds are more-bold un-substantiated and baseless. Denial of the legal grounds has been raised in the comments would not absolve the respondents from their duties.

Grounds A to L of the comments are totally incorrect while correct of the main appeal, the appellant was present on his duty which is evident from the attached relevant page of attendance register moreover the respondents badly failed to bring on record any statement of the Head Teacher, other staff members and even from the local inhabitants to prove their stance. The respondents also badly failed to conduct proper inquiry into the matter and to attach some document against the appellant. It is worth mentioning here that the malafide of the respondents is even established from the replying Para's as one way the appointment of the appellant is considered as correct while further it has been declared as suspected and fake thus needs consideration of this Hon'ble Tribunal, hence the appellant deserve to be reinstated into his service with all back benefits.

The appellant has also not given/provided the opportunity of personal hearing of his defence etc and this act of the respondents crystal clear from the denial of the legal rights. The respondents brings little on surface and concealed more in pipe lines by involving the appellant in a case of fake appointment without any justification.

It is, therefore, most humbly prayed that on acceptance of the re-joinder the comments filed by the respondents may graciously be rejected and the appeal of the appellant may kindly be allowed as prayed for.

Appellant

Through

Muhammad Arif Jan

Advocate Peshawar

Affidavit As per information of my client the contents of the re joinder is true and correct to the best of my knowledge.



ADVOCATE

17/7/19