

06.04.2018

Clerk to counsel for the appellant and Mr. Muhamamd Jan, DDA for respondents present. Clerk to counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 19.06.2018 before D.B.



(Ahmad Hassan)  
Member



(M. Hamid Mughal)  
Member

19.06.2018

Counsel for the appellant and Adil: AG for respondents present. Counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 08.08.2018 before D.B.



(Ahmad Hassan)  
Member




(M. Amin Khan Kundi)  
Member

08.08.2018

Appellant Haziq-Ur-Rehman in person alongwith his counsel Mr. Nasir Mehmood, Advocate present. Mr. Muhammad Jan, DDA for respondents present.

At the very outset of the hearing, the learned counsel for the appellant request before this Tribunal that as per instruction of his client he wants to withdraw the present appeal. As such, statement of the learned counsel for the appellant made before this Tribunal in the presence of the appellant, the appeal in hand stands dismissed being withdrawn. No order as to costs. File be consigned to the record room.

Announced:  
07.08.2018




Member




Chairman 8.8.2018

27.09.2017

Counsel for the appellant and Mr. Ziaullah, DDA for the respondents present. Counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 27.12.2017 before D.B.

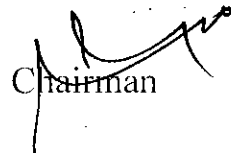
  
Member

  
Chairman

27.12.2017


Counsel for the appellant present. Mr. Muhammad Jan, Deputy District Attorney for the respondents present. Counsel for the appellant seeks adjournment. Adjourned. To come for arguments on 15.02.2018 before the D.B.


  
Member

  
Chairman

15.02.2018

Clerk to counsel for the appellant and Mr. Muhammad Jan, learned DDA for the respondents present. Clerk counsel for the appellant seeks adjournment as counsel for the appellant is not available. Adjourned. To come up for arguments on 06.04.2018 before D.B.

  
(Ahmad Hassan)  
Member(E)

  
(Muhammad Hamid Mughal)  
Member(J)

07.09.2016

Counsel for the appellant and Addl. AG for respondents present. Rejoinder submitted copy of which is placed on file. To come up for arguments on

12-1-17

Member

Member

12.01.2017

Junior to counsel for the appellant and Mr. Ziaullah, GP for respondents present. Junior to counsel for the appellant requested for adjournment due to non-availability of his senior counsel. Request accepted. To come up for arguments on 02.06.2017.

(AHMAD HASSAN)  
MEMBER

(MUHAMMAD AAMIR NAZIR)  
MEMBER

02.06.2017

Counsel for the appellant and Mr. Muhammad Adeel Butt, Additional AG for the respondent present. Counsel for the appellant requested for adjournment. Adjourned. To come up for arguments on 27.09.2017 before D.B.

(Gul Zeb Khan)  
Member

(Muhammad Amin Khan Kundi)  
Member

30.11.2015

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant was serving as DEO when subjected to inquiry on the allegations of committing irregularities in appointments and vide impugned order dated 9.7.2015 penalty in the shape of censure was awarded where against appellant preferred review on 3.8.2015 which was rejected on 9.10.2015 and hence the instant service appeal on 6.11.2015.

Appellant Deposited  
Security & Process Fee

That two Members committee was constituted wherein appellant was exonerated by one member while the other recommended the proposed punishment. That the appellant is an innocent and the impugned orders are against facts and law.

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 28.3.2016 before S.B.

  
Chairman


28.03.2016

Agent of counsel for the appellant and Mr. Khurshid Khan, SO alongwith Assistant AG for respondents present. Requested for adjournment. To come up for written reply/comments on 25.5.2016 before S.B.

  
Chairman

25.05.2016

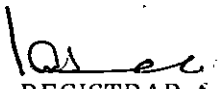

Counsel for the appellant, Mr. Hameed-ur-Rehamn, AD (Litigation) alongwith Assistant AG for respondents present. Written reply submitted. The appeal is assigned to D.B for rejoinder and final hearing for 7.9.2016.

  
Chairman

Form- A  
FORM OF ORDER SHEET

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

Case No. 1316/2015


S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	25.11.2015	<p>The appeal of Mr. Haziq-ur-Rehman resubmitted today by Mr. Nasir Mahmood 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>
2	27-11-15	<p>This case is entrusted to S. Bench for preliminary hearing to be put up thereon <u>30-11-15</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>

The appeal of Mr. Haziq-Ur-Rehman DEO Lakki Marwat received to-day i.e. on 06.11.2015 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Memorandum of appeal of appeal may be got signed by the appellant.
- 2- Affidavit may be got attested by the Oath Commissioner.
- 3- Copy of show cause notice mentioned in para-3 of the memo of appeal is not attached with the appeal which may be placed on it.
- 4- Five more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal in file covers.

No. 1745 /S.T,


Dt. 10/11 /2015

  
REGISTRAR  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

Mr. Nasir Mehmood Adv. Peshawar.

Sir,

Resubmitted after doing the needfull.

  
25/11/15

BEFORE THE SERVICE TRIBUNAL KPK, PESHAWAR

IN RE; Service Appeal NO 1316..2015

Haziq-ur-Rehman.....Appellant

Versus

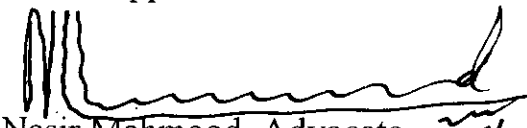
Chief Minister KPK.....Respondents

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3.	Inquiry Reports	C	10-17
4.	Final Show Cause Notice dt.01.04.2015	D	18-18A
5.	Reply dt.07.04.2015	E	19-20
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Appellant

Through

  
Nasir Mahmood Advocate,  
Supreme Court of Pakistan  
13-D Haroon Mansion Peshawar.  
Mob.No.0333-9176275  
5/11/15

①

BEFORE THE SERVICE TRIBUNAL KPK, PESHAWAR

**N.W.F. Province**  
**Service Tribunal**  
Diary No. 1330  
Dated 06-11-2015

IN RE; Service Appeal NO.....1316.....\2015

Haziq-ur-Rehman District Education Officer Lakki Marwat.....Appellant

Versus

1.Chief Minister KPK, Chief Minister Secretariat Peshawar.

2.Secretary Elementary & Secondary Education Department Civil Secretariat  
KPK Peshawar. ....Respondents

**Service Appeal U\Section 4** of the KPK Service Tribunal Act, 1974 against the order dated 09-10-2015 passed by respondent no.1 whereby review petition of the appellant was rejected which was filed against order dated 09.07.2015 passed by respondent no.1 whereby Minor penalty of "Censure" was imposed upon the appellant hence the instant appeal.

**Prayer in Appeal;** To set-aside the orders dated 09-10-2015 and 09.07.2015 passed by respondent no.1 whereby review petition of the appellant was rejected and penalty of Censure was imposed upon the appellant and the appellant may be declared/cleared of the charges leveled against him.

Respectfully Sheweth;

1. That the appellant while serving as DEO Hangu was proceeded under E&D Rules, 2011 by giving him charge sheet dated 09.10.2014 by respondent no.1 by making allegation of (i) commission of irregularities in the appointment of teachers of different categories in violation of rules (ii) non observance of disabled quota during the recruitment of different categories of male teachers. Copy of the charge sheet and statement of allegations is attached as annexure-A.

Filed to-day

Registrar

re-submitted to-day  
and filed.

Registrar



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2. That two member inquiry committee was constituted and the appellant was asked to submit reply to the inquiry committee which the appellant submitted the same on 27.10.2014. Copy of the reply is attached as annexure-B.
3. That as both the members conducted separate inquiries therefore one member of the inquiry committee submitted his report on 26.11.2014, to other member of the committee. The other member then submitted its report to the competent authority and the competent on the basis of inquiry report issued final show cause notice to the appellant on 01.04.2015. The appellant submitted reply to the show cause on 07.04.2015. Copy of the inquiries report, final show cause notice and reply of the same is attached as annexure-C, D & E respectively.
4. That vide order dated 09.07.2015 the competent authority was pleased to impose minor penalty of censure upon the appellant. Copy of the order is attached as annexure-F.
5. That the appellant preferred review petition (Copy attached as annexure-G) to respondent No. 1 which was rejected by the said respondent through order dated 09.10.2015 (Copy attached as annexure-H) hence the present appeal inter alia on the following grounds;

### Grounds

- A. That the respondents have not treated the Appellant in accordance with law and rules on the subject and acted in violation of article-4 and 25 of the constitution of Islamic republic of Pakistan, 1973 and unlawfully imposed the penalty of "censure" upon the appellant which is unjust, unfair hence not sustainable in the eye of law.
- B. That under rule-5 of E&D Rules, 2011 charge sheet can be issued to a civil servant by competent authority if he on the basis of its own knowledge or information placed before it is of the opinion that there are sufficient grounds for initiating proceedings for misconduct but in the case of appellant the charge would show nothing of the sort has been mentioned, thus making the whole process dubious. *Sheet*
- C. That the appellant has been proceeded for violation of the rules and policy of the provincial govt. but no rules and policy has been mentioned which was violated

③

by the appellant so the appellant has been proceeded for vague allegations. Neither specific rule nor specific policy has been pointed out in the charge sheet.

D. That the inquiry has not been conducted in accordance with law and the show cause notice is illegal and not in accordance with rule-14 of the E&D rules. The impugned notification dated 09.07.2015 communicating the penalty has not been properly signed and issued. The secretary can only authenticate order of the competent authority under rule-14(5) of the rules *ibid*.

E. That in the charge sheet charges have not properly been specified nor was apportionment of responsibility determined.

F. That the appellant has falsely been involved/implicated in the whole process at the behest of interested candidates who could not qualify the test or could not submit their application in due time and the impugned <sup>order</sup> has been passed in colorful exercise of power, thus is liable to set-aside on this score alone.

G. That under-14(7) of the rules *ibid* it is for the competent authority to give chance of personal hearing of the accused and the competent can not delegate powers of personal hearing to his subordinate but in case of the appellant the same illegality has been done so the whole process is declared to be illegal on this score alone.

H. That the two member inquiry committee has conducted separate proceeding which can not be approved under the law.

I. That the inquiry is one sided and has been conducted on day to day basis which is against the rules and no chance of cross examination was provided to the appellant. Departmental representative was never confronted with the observation recorded by one member of the inquiry committee rather the departmental representative agreed with the version of the appellant.

J. That the inquiry was not completed within statutory period of 30 days but it was completed in four/five months. The charge sheet was received on 25.10.2014 and the inquiry report was submitted to the competent authority on or after 13.02.2015.


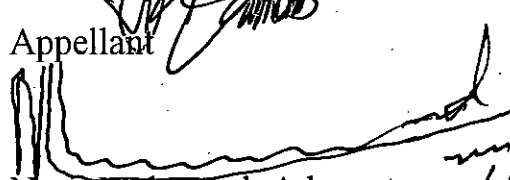
K. That the appellant seeks leave of this honorable tribunal to argue additional grounds at the time of final hearing of this appeal.

(4)

L. That the charge against the appellant in respect of 2% disable quota is absolutely false and the quota has been observed from time to time. During the tenure of appellant the appointments were against the left over vacant posts of the normal quota through the newly introduced system i.e. School Based Recruitment through NTS, thus the charge is illegal and not sustainable in the eyes of law.

For the aforesaid reasons, it is therefore, respectfully prayed that on acceptance of this appeal orders dated 09-10-2015 and 09.07.2015 passed by respondent no.1 may be set aside and the appellant may be declared/cleared of the charges leveled against him.

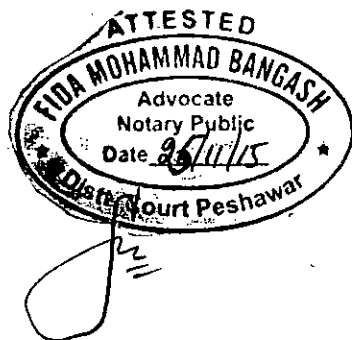
Any other remedy not specifically asked for but appropriate in the circumstances of the case may also be awarded to the appellant.

Appellant   
Through   
Nasir Mahmood Advocate, 6/11/15  
Supreme Court of Pakistan  
13-D Haroon Mansion Peshawar.

Affidavit

I, do hereby declare, and affirm on oath that the contents of accompanying writ petition are true and correct to the best my knowledge and belief and nothing has been concealed from this hon'ble court.

  
Deponent



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Annexure "A"

**CHARGE SHEET**

I, Pervez Khattak, Chief Minister, Khyber Pakhtunkhwa as Competent Authority, hereby charge you, Mr. Haziq-ur-Rehman, District Education Officer (BS-19) Male District Hangu as follows:-

That you, while posted as District Education Officer E&SE (BS-19) District Hangu committed the following irregularities:

- i) "Committed irregularities in the appointment of different categories of teachers i.e. (PST, CT, PET, TT and DM etc.) Male in the office of District Education Hangu during the year 2014 in violation of rules/ policy of the Provincial Govt.
- ii) Ignored disable quota during the recruitment of different categories of male teachers."

2- By reason of the above, you appear to be guilty of corruption/ inefficiency and misconduct under Rule-3 of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011 and have rendered yourself liable to all or any of the penalties specified in Rule-4 of the Rules ibid.

3- You are, therefore, required to submit your written defence within seven days of the receipt of this Charge Sheet to the inquiry officer/ inquiry committee, as the case may be.

4- Your written defence, if any, should reach the inquiry officer/ inquiry committee within specified period, failing which it shall be presumed that you have no defence to put in and in that case ex-parte action shall be taken against you.

5- Intimate whether you desire to be heard in person.

6- A Statement of Allegations is enclosed.

*Pervez Khattak*  
(PERVEZ KHATTAK)  
CHIEF MINISTER KHYBER PAKHTUNKHWA  
COMPETENT AUTHORITY  
09. 10. 2014.

Mr. Haziq-ur-Rehman, District Education Officer  
(BS-19) Male District Hangu.

**Certified to be  
True Copy**

*[Signature]*

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## DISCIPLINARY ACTION

I, Pervez Khattak, Chief Minister, Khyber Pakhtunkhwa as Competent Authority, am of the opinion that Mr. Haziq-ur-Rehman, District Education Officer (BS-19) Male District Hangu has rendered himself liable to be proceeded against, as he committed the following acts/ omissions, within the meaning of Rule-3 of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011.

### STATEMENT OF ALLEGATIONS

- i) "Committed irregularities in the appointment of different categories of teachers i.e. (PST, CT, PET, TT and DM etc.) Male in the office of District Education Hangu during the year 2014 in violation of rules/ policy of the Provincial Govt.
- ii) Ignored disable quota during the recruitment of different categories of male teachers."

2- For the purpose of inquiry against the said accused with reference to the above allegations, an inquiry officer/ inquiry committee, consisting of the following, is constituted under Rule 10(1)(a) of the ibid Rules:

- i. Mr. Hussain Shah (PCS-SG-BS-20)
- ii. Mr. Dilawar Khan. Pyl. GHS. No 2 Kohat.
- iii. \_\_\_\_\_

3- The inquiry officer/ inquiry committee shall, in accordance with the provisions of the ibid Rules, provide reasonable opportunity of hearing to the accused, record its findings and make within thirty days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused.

4- The accused and a well conversant representative of the department shall join the proceedings on the date, time and place fixed by the inquiry officer/ inquiry committee.

*Pervez Khattak*  
(PERVEZ KHATTAK)  
CHIEF MINISTER KHYBER PAKHTUNKHWA  
COMPETENT AUTHORITY  
09. 10. 2014.

Mr. Haziq-ur-Rehman, District Education Officer  
(BS-19) Male District Hangu.

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(7)

OFFICE OF THE DISTRICT EDUCATION OFFICER (M) DISTRICT HAGNU

Annexure "B"

To

1. Mr. Hussain Shah,  
(PCS, SG BS-20) Chairman Health Regulatory Authority.
2. Mr. Dilawar Khan,  
Principal BS-20 GHS No.2 Kohat.

**Subject: REPLY TO THE CHARGE SHEET AS COMMUNICATED VIDE NO. SO (S/M)E & ,  
SED/ 4-17/2014 /HAZIQ-UR REHMAN DEO BS-19/HANGU DATED 14-10-2014.**

Sir,

Reference to the subject noted above, I, Mr Haziq ur Rehman, DEO (M) Hangu received the Charge Sheet through an ordinary mail on 25/10/2014 (Annex: A). The undersigned while posted as DEO (M) Hangu has been charged as under:-

- (i) "Committed irregularities in the appointment of different categories of teachers . i.e. (PST, CT, PET, TT and DM etc.) Male in the Office of District Education, Hangu during the year 2014 in the violation of rules/policy of the Provincial Govt.
- (ii) Ignored disable quota during the recruitment of different categories of Male Teachers"

I hereby submit my written defence against the charges levelled against me as under:-

A: I, the undersigned totally deny and disagree with the charges levelled against me. No rules and policy of the Govt: have been violated. For the disabled quota, not a single candiadate submitted his documents/file within due time. The same has already been observed while making appointments from time to time.

B: As for as the charge (i) regarding irregularities in the appointment of various categories of teachers is concerned, the same is baseless. Neither any preliminary or fact finding enquiry in this respect against the undersigned has been conducted by the Secretary, E&SE or Director, E&SE themselves or by the person(s) duly nominated by them nor any formal explanation as such of the undersigned was called. So it is not clear as to whether the enquiry as ordered by the Competent Authority is being conducted on the basis of his own knowledge or on the basis of information placed before him. In any case, no such information/documents have been provided along with the Charge Sheet. As per Rule 10 (1) (b) of the Khyber Pakhtunkhwa Government Servants (E&D) Rules, 2011, no ground for proceeding against the undersigned has been specified in the Charged Sheet. Furthermore, a very vague term, "violation of the rules and policy of the Provincial Govt" have been used. Neither specific rule nor specific policy point has been mentioned in the Charge Sheet. The charge is therefore illegal and not sustainable in the eyes of law.

C: As far as the charge (ii) regarding the non-observance of the disable quota @ 2% is concerned, it is stated that the same has already been observed by the Office of the DEO (M) Hangu from time to time while making appointment against the total sanctioned post of PST. No such documents/file was submitted within due time. The instant appointments are for the left over vacant posts of the normal quota through the newly introduced system i.e. "School Based Recruitment through NTS". This charge is also illegal and not sustainable in the eyes of law.

D: The Department of Elementary and Secondary Education is one of the largest departments of the Provincial Govt: in term of human resource, infrastructure and budgetary allocation .The Provincial Govt: has given the Education Department one of its top priority. Hence an emergency in the Education Department has been declared during the Year 2014-15 in various sectors including recruitment against the vacant posts of teachers. Several meetings were held with the Director (E&SE) Khyber Pakhtunkhwa Peshawar. The main issue was to complete the newly introduced " School Based ppointment /Recruitment

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through NTS" on top priority/emergency basis. In this connection several SMS messages were also received from the Director (E&SE) Khyber Pakhtunkhwa Peshawar, to complete the process with immediate effect.

E: An advertisement with detailed terms and conditions agreed by the all DEOs and approved by the Director (E&SE) Khyber Pakhtunkhwa Peshawar was made in the daily "Mashriq" and "Aaj" on 06-08-2014 (Copy At Annexure B). Last date for the receipt of the application forms with the NTS was 20-01-2014. After completing their formalities, a merit list of all the candidates was downloaded from NTS. In this connection a meeting was already held with Director (E&SE) Khyber Pakhtunkhwa Peshawar, who emphasized early completion of the recruitment process both by the NTS and all the DEOs in the Education Department. For scrutinizing record of the Top-ten candidates of various categories, four different committees were constituted vide this Office Order No. 844-49 dated 28/04/2014 (copy at Annexure C). On the report/recommendation of these committees, appointment orders of the 56 PSTs was issued on 03-05-2014 (copy at Annexure D), whereas orders of the remaining categories i.e.; 17 CT, 07 PET, 05 TT and 06 DM were issued on 02-05-2014 (copies at Annexure E(1-4)). Appointment against disable quota could not be made as no such candidate has submitted his documents/file with in due time. The same has already been observed while making appointments against these posts from time to time. Moreover, the instant appointments were for the left over vacant posts to be recruited through the newly introduced "School Based Recruitment through NTS". The same was not mentioned in the advertisement.

F: During the entire process, the procedure for the newly introduced system "School Based Recruitment through NTS" as mentioned in the advertisement has thoroughly been followed. No violation of the rules and policy of Govt: whatsoever have been made.

G: After the issuance of the appointment orders, no formal complaint from any candidate was received in this Office. The effected candidates seem to have lodged their complaints with the Commissioner, Kohat Division, Kohat who directed the Deputy Commissioner, Hangu to probe in the matter. An enquiry committee was constituted by the DC, Hangu consisting of the following:-

- 1: Additional Deputy Commissioner, Hangu, Chairman
- 2: Israeel Khan, Principal, GHSS Doaba, Hangu.
- 3: Shakir Ahmed, Principal, GHS No 2, Hangu.
- 4: Lal Baz, Principal, GHS Darsamand, Hangu

H: The undersigned was called to assist the aforesaid committee. At the very outset, the undersigned objected to the constitution of the said committee which was not competent. The committee was illegal, unwarranted, and uncalled for. The three members of the said committee i.e. Principals of the GHSS, Doaba, GHS No. 2, Hangu and GHS, Darsamand respectively are junior and subordinate to the undersigned. The undersigned is the first Countersigning Officer for the purpose of ACR for the aforementioned Principals. It is not understood as to how they were nominated into the committee and how they participated in the proceeding of the committee without proper permission of the undersigned, the Director and the Secretary, S&ES? For scrutinizing record of this Office, the Director, E&SE, the Secretary, E&SE Khyber Pakhtunkhwa Peshawar, the Chief Secretary, or the Chief Minister Khyber, Pakhtunkhwa Peshawar are the competent authorities to order any sort of inquiries. No other authorities without permission of the aforesaid authorities can conduct enquiries against this Office. No such order of the aforementioned authorities was shown, therefore, the undersigned could not participated further in the proceedings of the aforesaid committee. The Addl: Deputy Commissioner, Hangu (Chairman of the aforesaid inquiry committee) insisted on the supply of all the documents relating to the appointment of teachers but latter on vide his letter No. 968/AG-I/DC(H) dated 26-5-2014 (copy at Annex:F), copies of the following documents were demanded which were handed over to them:-

1. Recruitment Policy/letters in the light of which recent recruitment have been made
2. Copies of the merit lists, Appointment orders and minutes of the Departmental candidate committees of all categories.

I: The aforesaid inquiry committee of the Deputy Commissioner Office, Hangu did not check none of the school based appointment record of the candidate for the individual school. The committee without having sufficient knowledge/information observed certain irrelevant observations /remarks which might have created upheaval and turmoil among the disgruntled candidates. It was for the Deputy Commissioner Office Hangu to furnish all the complaints along with other record (if any) to the Office of DEO (M) Hangu for proper scrutiny where all other relevant record & case files were available. Unfortunately this procedure

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was not followed which might have further deteriorated the situation. These observations /remarks as referred to above were furnished to this Office vide their letter No. 1021/AG-I/DC(H) dated 13-6-2014 (copy at Annex:G). These were properly scrutinized and checked with available record for the individual school/posts and returned to the Office of the Deputy Commissioner, Hangu along with the remarks of this Office vide No.1896 dated 17-6-2014 (copy at Annexure H) I, the undersigned still hold my views /remarks as communicated to the Deputy Commissioner office Hangu referred to above.


J: It is once again emphasized that the charge at Sr. no. (i) is vague as no specific rule/policy point has been mentioned. The charge is baseless and against the factual position. The entire process of "School Based Recruitment through NTS" has properly been followed as per advertisement. No violation of the rules and policy of the Govt: whatsoever have been made. If the charge is based on the observations/remarks of the inquiry committee constituted by Deputy Commissioner Office Hangu, then the same have already been denied and disagreed by undersigned that the said committee constituted by the DC, Hangu is not competent and is illegal and unwarranted. The enquiry is onesided, unfair, baseless and mala fide. The recommendations of the committee are also illegal and not sustainable in the eyes of law.

K: As far as the charge at Sr. No. (ii) is concerned, the quota for disable person @ 2% has already been observed by this Office from time to time. The quota for disable person for the "School Based Recruitment through NTS" was allowed, but no such candidate has submitted his Document/file for appointment under the said quota within due time as explained above. Hence the charge is also baseless and uncalled for.

3: In the view of the foregoing paras, it is requested that I may very kindly be exonerated from the charges levelled against me.

4: I also desire to be heard in person please.

Dated - 27/10/2014

  
HAZIQ-UR-RAHMAN  
DEO (MALE) HANGU  
Cell NO. 0302-5657853  
Office No. 0925-621083

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Annexure 'C'

OFFICE OF THE PRINCIPAL  
GHS NO: 2 KOHAT  
(MEMBER ENQUIRY COMMITTEE)  
No. 560 /  
DATED KOHAT THE 26/11 2014

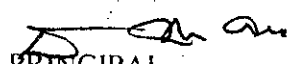
To

Mr. Shah Hussain  
Chairman Health Regulatory Authority  
Govt. of Khyber Pakhtun Khwa. Bunglow # 69  
Street No: 2 Defence Officer's Colony  
Khyber Road Peshawar Cantt

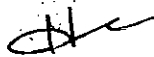
Subject ENQUIRY REPORT OF DEO(M) & (F) HANGU.

Memo:-

The attached enquiry report (findings) conducted against the following officers i.e. Mr. Haziq ur Rehman DEO(M) Hangu & Miss Farzana Sardar DEO(F) Hangu is send herewith for your further necessary action please.

  
PRINCIPAL  
GOVT. HIGH SCHOOL NO 2  
KOHAT

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**OFFICE OF THE PRINCIPAL GOVT: HIGH SCHOOL NO: 2 KOHAT**  
**Detailed Report regarding the Enquiry conducted against Mr. Haziq ur Rehman**  
**DEO(M) Hangu & Miss Farzana Sardar DEO(F) Hangu in connection with the**  
**charges pf irregularities & ignoring Disable quota in the appointment if CT, DM,**  
**PET, AT, TT, Qari & PST (Male & Female)**

Consequent upon the checking of office record of both the DEOs (M/F) Hangu & personal hearing of the concerned officers i.e. Mr. Haziq ur Rehman DEO(M) Hangu & Miss Farzana Sardar DEO(Female) Hangu the undersigned traced out the following findings in connection with the charges pf irregularities & ignoring Disable quota in the appointment if CT, DM, PET, AT, TT, Qari & PST (Male & Female) the irregularities & ignoring 02% Disable quota in the current appointments as mentioned above. They following candidates have already submitted their case in Peshawar High Court

Sr No:	Name of Petitioner	Petition No	Name of Court	Hearing date
1	Abdul Hadi S/O Jan Muhammad R/O Mohallah Hayat Abad UC Kach Tehsil & District Hangu	2323-P/2014	High Court Peshawar	28.11.2014 Copy Attached
2	Muhammad Farooq S/O Muhammad Khan R/O Vill Tarki Banda Kahi UC Kahi Tehsil & District Hangu	2323-P/2014	High Court Peshawar	28.11.2014 Copy attached
3	Shahzad Malik S/O Gul Malik Village Chapper Hangu Tehsil & District Hangu	-	-do-	- copy attached
4	Sher Dil Khan	2550-P 2014	High Court Peshawar	Copy attached
5	Saifullah Shah( for Qari Post)	2549-P 2014	High Court Peshawar	Copy attached
6	Saifullah Shah (for AT Post)	2548-P 2014	High Court Peshawar	Copy attached
7	Raza Ullah Khan S/O Himat Ullah Khan R/O Mohallah Bahadur Ghari District Hangu (For PST Post)	255-P 2014	High Court Peshawar	Copy attached
8	Hadi Rehman S/O Abdul Aziz R/O Kotki Bala Hardeo PO Kotki District Hangu	-do-	-do-	-do-
9	Muhammad Qasim S/O Adil Khan R/O Abab Kar, Marhdu Khel-PTC District Hangu (For PST Post)	-do-	-do-	-do-
10	Umar Farooq S/O Khail Mat Guil R/O Khawaja Muhand Kor Hangu (For PST Post)	-do-	-do-	-do-

**Personal Hearing**

Both the Officers were heard in person and interrogated about the irregularities & ignoring 02% Disable quota in connection with above mention subject. Both of them observed that they are ready to take OATH on the Holly Quran that they have not taken even a single piney as bribe from any candidate & have made all the appointments in accordance the existing appointment policy & Rules. They further added that some candidates had not submitted their educational documents in due date & time, Hence their case were not honored.

Please See Next Page 2

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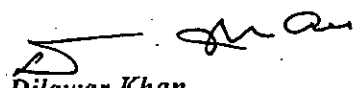
Disable Quota

Regarding 02% Disable quota the concerned accused Officers said that as there is no clear cut Policy for the appointments of Disable policy from the Department , nor they have received a separate Merit list from the NTS, so they were unable to appoint disable candidates in the PTC teachers because 100% union council quota were allotted to PTC/PST.

Recommendation/ Conclusion

As no irregularity in the appointment has been noticed in the office record & in the personal hearing of the concerned accused officers it seems that they have not committed in a corruption in the appointment because being a Muslim they are ready to swear on Holly Quran which is a very sacred Book of our Muslims. Moreover 10 candidates have filed their case in the August High Courts Peshawar and before verdict of court in this connection we can not prove these officers to be guilty. Besides this according to the English proverb "to ear is human to for give is divine"

Hence it is suggested that both the officers are pitiable so they may be exonerated from the charges leveled against them.



**Dilawar Khan**  
Principal BPS-20  
Govt: High School No: 2 Kohat  
(Member of enquiry committee)

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INQUIRY REPORTINQUIRY AGAINST MR. HAZIQ UR REHMAN DISTRICT EDUCATION OFFICER AND MASTMATA FARZANA BEGUM DISTRICT HANGU

The Govt. of Khyber Pakhtunkhwa elementary and secondary education departments intimated vide notification No:SO(S/M)E&SED/4-17/2014/ dated 14<sup>th</sup> October 2014 (Anex-1) that the competent authority has appointed Mr. Hussain Shah and Mr. Dilawar Khan as inquiry committee to conduct formal inquiry against Mr. Haziq ur Rehman DEO male and Mst. Farzana Begam Deputy District Education officer BPS-18 female for charges mentioned in the charge sheet and statement of allegation, issued individual to both of the accused officers. The following two charges/ allegation have been leveled against both the accused.

- i. Committed irregularities in the appointment of different categories of teachers i.e. (PST, CT, PET, TT and DM etc.) male (female) in the office of District Education Hangu during the year 2014 in violation of rules/ policy of the Provincial Govt.
- ii. Ignored disable quota during the recruitment of different categories of male teachers.

Both the officers were called for presenting their defense in front of the committee (Anex-2). The accused Officers appeared accordingly before the committee on 12-11-2014. The department was represented by Deputy Director Finance and Accounts (Annexure III). The written defense of the accused officers are at (annexure IV & V) in there written statement as well as the question and answer during the inquiry they did not pleat guilty of misconduct. ~~They stated that they did not violate the procedure/policy during the recruitment in question and stated that the charges against them are baseless and base on malafidi. The representative of department did not challenge the statement of the accused or there arguments in there defense.~~ Both the accused officers also stated that the members of the fact finding enquiry ordered by Deputy Commissioner Hangu were bised and had professional jealousy with the accused. The enquiry committee, after mutual consultation, decided that one of the member i.e. Mr. Dilawar Khan be assigned the job to check in detail the record of the case in the offices of DEOs (Male/Female) district Hangu. He (i.e. Mr. Dilawar Khan member of the enquiry committee) submitted his report (Annexure-VI). He reported that 10 candidates have challenged the process of recruitment through writ petitions in Peshawar high court Peshawar. He also submitted

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his recommendations/conclusions that no irregularity in the appointment had been noticed in the records of the case and the accused officers had not committed any corruption hence they may be exonerated from the charges leveled against them.

The undersigned has noted the following observations while examining the record provided by the accused officers in their defense as well as by some of aggrieved persons (informally) and the representative of the department.

A. The district education officer (males and females) of district Hangu asked through advertisement for applications to fill the posts of 07 categories of teachers against the vacant vacancies on adhoc basis. The categories included CT, DM, PET, AT, TT, Qari and PST males and females. The candidates were asked to submit the applications on the format available on the NTS website. In the advertisement the qualification, age limit and basic pay scale for each category of posts were given. It was also clarified that the merit for selection will be determined on the basis of marks obtained in the NTS screening test in educational qualification. Moreover the formula for quantification of the qualification was also given. It was clarified in the advertisement that for each school separate merit list will be determined for the available vacant vacancy on the basis of aforementioned merit. Each candidate could obtain the NTS application form at the cost of Rs. 300/- per post while Rs. 1200/- will be charged by NTS for five school of the choice of the candidate. In general conditions for the recruitment it was mentioned that candidate should be bonafied and permanent resident of the district. In case of PST posts the candidate should be the resident of the union council wherein the schools with vacant post exist.

B. The District Education officers (male) district Hangu constituted four (4) scrutiny committees were constituted on 28-04-2014 to check the documents of top ten candidates with direction to complete the process of appointment on war footing basis. One committee each for the post of CT/DM/PET, one committee for the posts of AT/TT/Qari and two committees for the post of PSTs. The role of the scrutiny committees was very vital in the sense that the determination of the final merit list for each vacancy dependent on the verification of documents like domicile, detail marked certificates of each exam and the institutions from which the professional certificates obtained. Keeping in view the quantum of assignment and the number of variables required to check these committees should have been given at least one week time specially the committees for PSTs posts. It is very

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strange to note that the scrutiny committee was given only one day to complete the huge task. Similarly the DEO (female) Hangu constituted three scrutiny committees with similar directions on 24-04-2014. These committees were also given one day to complete the entire process of scrutiny of vital documents required for determination/ verification of merit.

C. The departmental selection committees for male and female held their meetings on 30-04-2014 and completed the task of selection of candidates for appointment against the posts in each category on adhoc basis. It is very strange to note that no interviews were conducted nor the tentative merit was issued to general public. The provision of interview was included in the advertisement but this provision was skipped over.

D. The provision of submitting applications for posts in the multiple schools within the union council made the whole process further complicated and difficult to be managed. The capacity for fluidity in the entire situations was enhanced making the whole process dubious and objectionable which ultimately resulted into complaints and allegations.

E. On various complaints against the recruitment in the district, the Deputy Commissioner Hangu ordered an enquiry to find out the facts and dispose up the complaints. The fact finding enquiry, headed by Additional Deputy Commissioner, conducted a detailed enquiry and submitted reports on the process of recruitment of male and female teachers. A large number of complaints were found reasonable and worth further investigations. Both the DEO male and female were asked for justification of these complaints. Both the officers given their comments in addition to their objections on the enquiry committee. The enquiry committee, after examining the comments of the accused officers dropped some preliminary objections while upheld the rest of objections/ observations/ violations noted by the fact finding committee. The committee concluded that the overall policy was set aside in the recruitment of all categories in both the cases of male and female teachers.

COMMENTS

In the service rules notified by the department vide Notification No:SO(PE)4-5/SSRC/Meeting/2012/Teaching cadre dated the 13-11-2012 for the teaching cadre the following conditions have been prescribed for recruitment:-

*S. K. K.*

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a. The concerned appointing Authority will scrutinize and verify the documents and make the appointment as per prescribed rules and will get the documents verified after the issuance of appointment orders within shortest possible time, not exceeding 90 days.

b. The merit list prepared by the appointing Authority shall be displayed for 10 days to receive the objection/ appeals, if any and shall issue the final merit list after making necessary corrections while addressing the observation/ objections/ appeals followed by the requisite appointment orders.

c. In case of fake/ forged/ bogus documents not only the service of the teacher concerned be terminated, FIR may also be lodged and the salary paid to him/her be recovered.

The involvement of NTS in the recruitment process though was to ensure merit, made the situations further complicated on many counts. For instance the candidates were required to apply through NTS website, filling in the applications or a fixed format. The authenticity of the marks in academic certificates required a detailed scrutiny of the original documents which necessitated not only the demonstration of the merit list but also the provision of interviews as provided in the recruitment rules. As stated earlier these mandatory condition were not fulfilled by the accused officers and exposing themselves to multifold objection and rendering the entire process dubious.

The restriction of giving preference to the candidates belonging to a particular Union Council, for selection against the vacancy in a school, located in the same Union Council, over other candidates who belong to other Union Council, irrespective of their merit position further contributed to the complexity of the situation from management point of view.

The provision of special quota for disable person and minorities in the recruitment is not clear and explicitly prescribed for the purpose of implementation. As argued by the accused DEO male Hangu Mr. Haziq in his written statement that the quota reserved for disable person @ 2% has already been observed on the basis of total sanctioned posts while making recruitment from time to time. Both the accused officers did not mention any thing about the minority's quota. The confusion regarding these special quota i.e. disables and minorities, is that as to how their respective number of reserved vacancies be calculated whether it should be on the basis total sanctioned posts or on the basis of individual advertisement. In the instant recruitment case the school cum union council

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All the incidents during making documents.  
No. 5th April 2016  
Date: 10/04/2016

*Handwritten signature:* S.H. Haziq

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*Handwritten signature:* [Signature]

cum merit based selection system had no special arrangements for recruitment on the basis reserved quota. Advertisement offered recruitment on the basis of special quota and candidates also applied on these quotas.

The government of Khyber Pakhtunkhwa declared emergency in education during the year 2014-15. Both the accused officers have referred to the directions of Director (E&SE) regarding earlier completion of the newly introduced school based recruitment through NTS system.


The scrutiny of the NTS merit list for individual schools shows that due to non availability of a foolproof system for scrutiny of the documents candidates at higher merit list were ignored and candidates at lower merit were appointed.

**CONCLUSION AND RECOMMENDATIONS**

It is concluded that both the officers failed as managers to ensure transparency and merit in the whole process. It may be correct that they were under pressure from the government for earlier completion of the recruitment process but it cannot be an excuse to justify the violation of merit for the sake of efficiency. Both the accused also failed to exert their official positions to prevent the pick and choose of candidates for contact to provide documents.

The charges of irregularities in recruitment substantiated to the extent which demands penalty of stoppage of increment for a period of three years.

The department may consult the E&A Department Government of Khyber Pakhtunkhwa for clear and explicit clarification/ directions pertaining to the implementation of the reserved quota for disable persons and minorities.

  
Hussain Shah  
Enquiry Officer

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3/10/16

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
CAMP COURT SWAT

Service Appeal No 215/2016

Date of Institution... 1.03.2016

Date of decision... 03.10.2017

Hafiz Muhammad Ibrahim son of Buzarg Jamehr C/O DEO (Male) Gulkada,  
Saidu Sharif, Swat. ... (Appellant)

Versus

1. Government of Khyber Pakhtunkhwa through Chief Secretary, Peshawar and  
4 others. ... (Respondents)

MR. MUJAHID FAROOQ,  
Advocate

... For appellant.

MR. MUHAMMAD ZUBAIR,  
District Attorney

... For respondents.

MR. NIAZ MUHAMMAD KHAN,  
MR. GUL ZEB KHAN,

... CHAIRMAN  
... MEMBER

JUDGMENT

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

FACTS

2. The appellant was awarded minor penalty of censure on 02.11.2015 which  
order was communicated to him on 30.11.2015, against which he filed  
departmental appeal on 17.12.2015 which was rejected on 04.02.2016, hence the  
present appeal on 01.03.2016.

~~APPEAL~~

3/10/16

3. The charge against the appellant was that he committed certain irregularities in appointments made in May, 2014 which were later corrected by another order dated 30.05.2014.

### ARGUMENTS

4. The learned counsel for the appellant argued that the enquiry committee has not held the appellant guilty of the charge rather the enquiry committee had exonerated the appellant. That the authority held the appellant guilty of the charges contrary to the findings of the enquiry committee.

5. On the other hand, the learned Deputy District Attorney argued that the disciplinary proceedings were conducted quite in accordance with law and rules. That the enquiry committee in her report held the appellant guilty of the negligence and the authority has rightly imposed the minor penalty of censure.

### CONCLUSION

6. If we go through the enquiry report nowhere the committee has held that the charges for which the appellant was held responsible were proved. The overall effects of the enquiry report is that no malafide intentions could be attributed to the appellant. That the irregularities pointed out were only due to heavy work load which means that the enquiry committee had exonerated the appellant by giving the reason of work load to be the cause of irregularities. How a human being can perform efficiently when he is over burdened by the department. Inefficiency being a relative term is to be gathered in the circumstances under which an individual is to perform his duties. An individual can be inefficient if he is burdened with normal work load. Over burdened individual cannot perform efficiently as it is but natural not to handle the over work properly. The conclusion of the competent authority is therefore, not proper.

EXAMINED  
 Kimberley  
 Service Tribunal  
 Appeal Court, Swaziland

7. As a result thereof this appeal is accepted. Parties are left to bear their own costs. File be consigned to the record room.

*gd-*  
(Gul Zeb khan)  
Member

*sd-*  
(Niaz Muhammad Khan)  
Chairman  
Camp Court, Swat

ANNOUNCED  
03.10.2017

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EXAMINER  
K... ..  
Services... ..  
Camp Court, Swat

Date of Disposal of Application 3-10-17  
1200  
8-00  
8-00 *[Signature]*

6-10-17  
6-10-17

Date of Disposal of Application

REGISTERED

18

GOVERNMENT OF KHYBER PAKHTUNKHWA  
ELEMENTARY & SECONDARY EDUCATION  
DEPARTMENT

- No.SO (S/M) E&SED/4-17/2014/Haziq-ur-Rehman DEO Hangu  
Dated Peshawar the April 01, 2015

Annexure "D"

To

✓ Mr. Haziq-ur-Rehman,  
District Education Officer (Male), BS-19  
Hangu.

Subject: - SHOW CAUSE NOTICE

I am directed to refer to the subject noted above and to enclose herewith a copy of Show Cause Notice wherein the Competent Authority (Chief Minister Khyber Pakhtunkhwa) has tentatively decided to impose upon you the major penalty of "Censure" under Rule-4 of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 in connection with the charges leveled against you.

2. You are therefore directed to furnish your reply to the Show Cause Notice as to why the aforesaid penalty should not be imposed upon you and also intimate whether you desire to be heard in person.

3. Your reply should reach to this Department **within Seven (07) days** of the delivery of this letter otherwise ex-parte action shall be taken against you.

4. Copy of the inquiry report is enclosed herewith.

Encl: As Above:

Endst: Even No. & Date:

Copy of the above is forwarded to the:-

- i. Director E&SE Khyber Pakhtunkhwa Peshawar.
- ii. PS to Secretary E&SE Khyber Pakhtunkhwa Peshawar.

SECTION OFFICER (SCHOOLS/MALE)

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REGISTERED

18-A

GOVERNMENT OF KHYBER PAKHTUNKHWA  
ELEMENTARY & SECONDARY EDUCATION  
DEPARTMENT

No.SO(S/M)E&SED/4-17/2014/Haziq-ur-Rehman DEO Hangu.  
Dated Peshawar the June 08, 2015

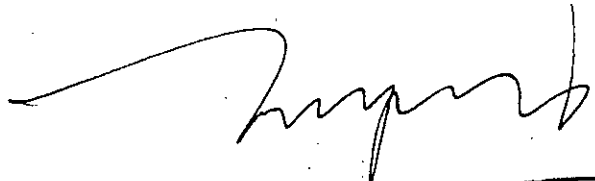
To

- i. Mr. Haziq-ur-Rehman,  
District Education Officer (Male), BS-19  
Hangu.
- ii. Mrs. Farzana Begum,  
Dy. District Education Officer (Female), BS-18  
Hangu.

Subject: - **REPLY TO SHOW CAUSE NOTICES IN DISCIPLINARY ACTION AGAINST MR. HAZIQ-UR-REHMAN DISTRICT EDUCATION OFFICER MALE (BS-19) DISTRICT HANGU AND OTHERS.**

I am directed to refer to the subject noted above and to state that it has been intimated by the Establishment Department, Khyber Pakhtunkhwa Peshawar vide letter No. SOR-I(E&AD)8-114/2014 dated 03-06-2015 that the Chief Minister Khyber Pakhtunkhwa has authorized Secretary, Establishment Department Khyber Pakhtunkhwa Peshawar for personal hearing before him on 16-06-2015 at 1400 hours in his office.

2. You are hereby directed to ensure your presence during the personal hearing with the Secretary Establishment Department Khyber Pakhtunkhwa Peshawar on the above mentioned date, time and venue.



(MUJEEB-UR-REHMAN)  
SECTION OFFICER (SCHOOLS/MALE)

Endst: Even No. & Date:

Copy of the above is forwarded to the:-

- i. Director, E&SE Khyber Pakhtunkhwa Peshawar.
- ii. Section Officer (R-I) Establishment Department Khyber Pakhtunkhwa w/r to his letter referred to above.
- iii. PS to Secretary E&SE Department Khyber Pakhtunkhwa.

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Annexure "E"

To

The Chief Minister,  
Khyber Pakhtunhwa,  
Peshawar.

Subject: REPLY TO THE SHOW CAUSE NOTICE

Sir,

Reference to S.O (S/M), Govt; of K.P.K, E & S Education Deptt; letter No SO (S/M) E & S ED/ 4 – 17/ 2014/ Haziq – ur Rehman DEO Hangu dated 1.04.2015, Copy of the show cause Notice has not been received and only copy of the inquiry report is received. However, I would add the followings in support of my defense before the competent authority.

1. The enquiry has not been conducted in accordance with the KPK Govt; servants (E & D) rules 2011 and merit of the case. None of the charges has been proved. The enquiry is totally one sided. The enquiry was not conducted on day to day basis. No formal summon was issued for attending the enquiry proceedings.
2. The undersigned was called for appearance before the enquiry committee on 12.11.2014 at Peshawar through a telephonic message from PA to the chairman, HRA (Mr. Hussain Shah, member Inquiry Committee and Dilawar Khan, principal GHS No 2 Kohat. Then on 16 – 19. 11.2014 at Kohat only one member (Mr. Dilawar Khan, Principal GHS No 2 Kohat) was present and checked all recruitment process properly.
3. The undersigned submitted his written statement/ defense to both the members of the inquiry committee. I was not asked to record my statement before members of the inquiry committee. Similarly the departmental representative has also not recorded his statement before the undersigned.
4. No proper examination of the charges has been observed. The undersigned was not properly questioned to explain his position. The written statement/ defense was not properly cross – examined. The departmental representative has not challenged the written statement/ defense of the undersigned. He did not cross – question during the inquiry proceeding.
5. As would appear from the inquiry report, two different inquiries have been conducted by both the members. Mr. Dilawar Khan, Member (Principal, GHS No.2 Kohat) has submitted separate report is at Annexure "A". As also mentioned in the report of the other member (Received with SO (S/M) letter referred to above).


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6. The inquiry report prepared by Mr. Hussain Shah, Member (Chairman Health Regulatory Authority) seems to have been signed by the other member (Mr. Dilawar Khan, principal GHS No 2 Kohat) on 13.02.2015. Annexure "B"
7. The observations as recorded by the member (Mr. Hussain Shah) have never put into cross – question/ examination before the departmental representative. The inquiry is totally one sided.
8. The whole procedure for conducting the inquiry was to be completed within 30 days as requested under the rules 11 (7) but it took more than 5 months. The charge sheet was received on 25.10.2014. Annexure "C"
9. The very charge sheet/ conduction of enquiry against the undersigned is illegal, void and against the law. No specific grounds and appointment of the responsibility as per rule 10 (1) (b) for proceeding against the undersigned has been mentioned. No specific rule/ policy point has been mentioned.
10. The disable quota during the instant recruitment process has not been violated. There was not clear- cut policy pertaining to the implementation of the reserved quota for disable person. This point has well taken by the inquiry committee in their report.
11. The undersigned desire to be heard in person.

Keeping in view the above, it is requested that the undersigned may be exonerated of the charges. I shall be thankful to you.

Date: 07.04.2015

  
(HAZIQ UR REHMAN)  
D.E.O  
Hangu

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(21)

Annexure "F"

REGISTERED

GOVERNMENT OF KHYBER PAKHTUN  
ELEMENTARY & SECONDARY EDUCATION  
DEPARTMENT

Dated Peshawar the July 09, 2015

NOTIFICATION

NO.SO(S/M)E&SED/4-17/2014/Mr. Haziq-ur-Rehman DEO Hangu: WHEREAS Mr. Haziq-ur-Rehman District Education Officer (BS-19), Male Hangu was proceeded against under the Khyber Pakhtunkhwa Govt: Servants (Efficiency & Discipline) Rules, 2011 for the charges mentioned in the charge sheet and statement of allegations.

2. AND WHEREAS inquiry committee was constituted comprising the following officers to conduct formal inquiry against the accused officer, for the charges leveled against him in accordance with the rules.

- i. Mr. Hussain Shah; (PCS SG BS-20), Chairman Health Regulatory Authority.
- ii. Mr. Dilawar Khan, Principal BS-20 GHS No.2 Kohat.

3. AND WHEREAS the Inquiry committee after having examined the charges, evidence on record and explanation of the accused officer has submitted the report.

4. AND WHEREAS a show cause notice was served upon Mr. Haziq-ur-Rehman District Education Officer (BS-19), Male Hangu dated 26-03-2015 circulated to him on 01-04-2015.

5. AND WHEREAS the Competent Authority (Chief Minister, Khyber Pakhtunkhwa) after having considered the charges and evidence on record, inquiry report, explanation of the accused officer in response to the Show Cause Notice and personal hearing granted to him by Secretary Establishment Khyber Pakhtunkhwa on behalf of Chief Minister Khyber Pakhtunkhwa on 16-06-2015 at 1400 hours. is of the view that the charges against the accused officer have been proved.

6. NOW, THEREFORE, in exercise of the powers conferred under section 14 of Khyber Pakhtunkhwa Govt: Servants (Efficiency & Discipline) Rules, 2011, the Competent Authority (Chief Minister, Khyber Pakhtunkhwa) is pleased to impose minor penalty of "Censure" upon Mr. Haziq-ur-Rehman District Education Officer (BS-19), Male Hangu with immediate effect.

SECRETARY

Endst: of Even No. & Date:

Copy forwarded to the: -

- 1- Accountant General, Khyber Pakhtunkhwa, Peshawar.
- 2- PSO to Chief Minister Khyber Pakhtunkhwa Peshawar.
- 3- Director, Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
- 4- Mr. Haziq-ur-Rehman District Education Officer BS-19 Male Hangu.
- 5- District Accounts Officer Hangu.
- 6- PS to Secretary, E&SE Department, Khyber Pakhtunkhwa.
- 7- Office order file.

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SECTION OFFICER (SCHOOLS/MALE)



(22)

**BEFORE THE CHIEF MINISTER KHYBER PAKHTUNWA  
(THE COMPETENT AUTHORITY)**

**SUBJECT: REVIEW PETITION UNDER SECTION 17 OF THE KHYBER PAKHTUNKHWA GOVT; SERVANTS (EFFICIENCY & DISCIPLINE) RULES, 2011 AGAINST THE NOTIFICATION NO. SO(S/M)E&SED/4-17/2014/MR. HAZIQ -UR- REHMAN DEO HANGU DATED JULY 09,2015**

**GROUND OF OBJECTIONS IN THE IMPUGNED ORDER :-**

1. The Petitioner has falsely been implicated/ involved in the instant Disciplinary Action;
2. The charges have not been properly specified nor apportionment of responsibilities was determined;
3. No specific Rule /Policy point violated has been mentioned;
4. The inquiry by the inquiry committee has not been conducted in accordance with the law and merit of the case;
5. The Show Cause Notice is illegal and not accordance with Rule 14 of the Rules ibid;
6. The undersigned has not been properly afforded an opportunity of personal hearing; and
7. The notification dated 09.07.2015 as referred to above has been issued by an incompetent authority.

**Respectfully** it is stated that a minor penalty of "Censure" has been imposed upon the undersigned vide Notification dated 09-7-2015 referred to above (Annexure – A). The same is illegal, in violation of law, against the rules, unwarranted and void.

2. The Show Cause Notice under Section 14 with special reference to sub section (4)(a) of the Khyber Pakhtunkhwa Govt: Servants (Efficiency & Discipline) Rules , 2011 showing charges proved against the undersigned was not properly issued nor a copy of the same was provided to the undersigned except copy of the letter No. SO(S/M)E&SED/4-17/2014/Haziq-ur-Rehman DEO Hangu Dated 01-4-2015 (Annexure – B). The undersigned was only provided a copy of the inquiry report.

3. During the written reply to the so called Show Cause Notice, the undersigned requested for personal hearing before the Competent Authority. It was for the Competent Authority to call the undersigned by in order in writing to appear before him for personal hearing on the date and time fixed. As stated in Para 5 of the notification dated 9/7/2015

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(Annexure – A), the undersigned was given personal hearing by the Secretary to Govt of Khyber Pakhtunkhwa, Establishment Department, which is also against the law as provided under Section 15 read with Section 14(7) of the Rules *ibid*. Transfer of authority to the Secretary Establishment Department, Khyber Pakhtunkhwa as per Notification No. SO(S/M)E&SED/4-17/2014/Haziq-ur-Rehman DEO Hangu dated 08.06.2015 (Annexure – C) is also illegal. The Notification dated 09.7.2015, communicating the minor penalty "Censure" has not been properly signed and issued. The Secretary to Govt of Khyber Pakhtunkhwa, Elementary & Secondary Education Department can only authenticate order of the Competent Authority as provided under rule 14(5) of the Rules *ibid*.

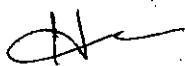
4. The undersigned was suspended vide order No SO(S/M)E&SED/4-17/2014/Haziq-ur-Rehman DEO BS-19/Hangu Dated October 14, 2014 (Annexure – D) and proceeded under Khyber Pakhtunkhwa Govt: Servants (Efficiency & Discipline) Rules, 2011 and an inquiry was conducted through Inquiry Committee. The Inquiry Committee consisting of Mr. Hussain Shah, (PCS SG BS-20), Chairman Health Regulatory Authority and Mr. Dilawar Khan, Principal BS-20 GHS No 2 Kohat was constituted vide order No SO(S/M)E&SED/4-17/2014/Haziq-ur-Rehman DEO BS-19/Hangu Dated October 14, 2014 (Annexure – E). The inquiry committee has not conducted the inquiry in accordance with law and merit of the case. The inquiry was one sided and conducted by one of the member only. It was not conducted on day to day basis and no formal summon issued to the undersigned for attending the inquiry proceeding. The undersigned was not asked to record his statement before the inquiry committee. The charges have not properly been examined nor the undersigned was properly questioned and cross examined to explain his position.

5. The departmental representative almost agreed to the written reply of the undersigned. He has not submitted his written statement and did not raise any objection on the written reply of the undersigned.

6. As would appear from the inquiry report, two different inquiries have been conducted by both the members separately. Mr. Dilawar Khan, Member (Principal, GHS No 2 Kohat) has submitted separate report is at Annexure "A" of the Inquiry Report submitted by the Inquiry Committee.

7. The inquiry report prepared by Mr. Hussain Shah, Member (Chairman Health Regulatory Authority) seems to have been signed by the other member (Mr. Dilawar Khan, Principal GHS No 2 Kohat) on 13.02.2015. (Annexure "B" of the inquiry report submitted by the Inquiry Committee).

**Certified to be  
True Copy** 2



(24)

8. The observations as recorded by the member (Mr. Hussain Shah) have never put into cross question/ examination before the departmental representative. The inquiry is totally one sided.

9. The whole procedure for conducting the inquiry was to be completed within 30 days as per rule 11(7) but it took more or less than 4 months. The charge sheet was received on 25.10.2014 and the Inquiry Report was submitted to the Competent Authority on or after 13.02.2015.

10. The very Charge Sheet/ Conduction of inquiry against the undersigned is illegal, void and against the law. No specific grounds for charges and apportionment of the responsibility as per rule 10(1)(b) of the rules ibid for proceeding against the undersigned has been mentioned. The specific rule/ policy point that is violated has not been mentioned. In short none of the charges was proved nor properly communicated to the undersigned.

*Keeping in view the above, it is therefore requested that the Notification NO. SO(S/M)E&SED/4-17/2014/Mr. Haziq -Ur- Rehman DEO Hangu Dated July 09,2015 (Annexure - A) may kindly be declared as null and vide and set aside and the undersigned exonerated of the charges leveled against him w.e.f October 14, 2014, the date of suspension and the Notification No SO(S/M)E&SED/4-17/2014/Haziq-ur-Rehman DEO Hangu Dated 31.03.2015 (Annexure - F) modified accordingly . I shall be very thankful to you for this act of kindness.*

Date: August 2, 2015

Petitioner : .....MR. HAZIQ -UR- REHMAN  
DEO (Male) HANGU

Endst; No 1893-95

Dated: 3/08/2015

Copy of the above is forwarded for information & necessary action to:-

1. The Chief Secretary Khyber Pakhtunkhwa, Peshawar
2. The Secretary to Govt; of Khyber Pakhtunkhwa, Elementary & Secondary Education, Peshawar.
3. The Director Govt; of Khyber Pakhtunkhwa, Elementary & Secondary Education, Peshawar.
4. Office Record

HAZIQ UR REHMAN  
District Education Officer  
(Male) Hangu

**Certified to be True Copy**  
*[Signature]*

(25)

Annexure "H"

REGISTERED

GOVERNMENT OF KHYBER PAKHTUNKHWA  
ELEMENTARY & SECONDARY EDUCATION  
DEPARTMENT

No.SO(S/M)E&SED/4-17/2014/Haziq-ur-Rehman/DEO  
Dated Peshawar the October 09, 2015



To

Mr. Haziq-ur-Rehman,  
District Education Officer (Male), BS-19  
Hangu (now District Education Officer (Male), BS-19 Lakki Marwat).

Subject. -

REVIEW PETITION IN DISCIPLINARY ACTION AGAINST MR. HAZIQ-UR-REHMAN DISTRICT EDUCATION OFFICER (BS-19) MALE DITRICT HANGU AND OTHERS.

I am directed to refer to your review petition dated 03-03-2015 received through Chief Minister's Secretariat Khyber Pakhtunkhwa, Peshawar on the subject noted above and to state that the Chief Minister Khyber Pakhtunkhwa/ Competent Authority has considered your review petition and rejected having no valid grounds.

(MUJEEB-UR-REHMAN)  
SECTION OFFICER (SCHOOLS/MALE)

Endst: Even No. & Date:

Copy of the above is forwarded to the:-

- i. PS to Secretary E&SE Department Khyber Pakhtunkhwa.

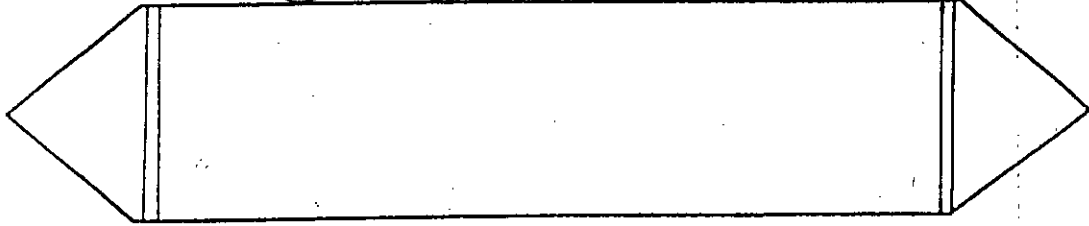
SECTION OFFICER (SCHOOLS/MALE)

**Certified to be  
True Copy**

12/19/18

A handwritten signature in black ink, appearing to be 'C. M. ...' with a stylized flourish at the end.

یعدالت سرورس ٹریبونل حیدرآباد



حازق الرضی بنام چیف منسٹر و غیرہ۔

2 منجانب

Service Appeal

مورخہ  
مقدمہ  
دعویٰ  
جرم

باعث تحریر آئیکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی دکل کاروائی متعلقہ  
آن مقام پیشاور کیلئے ناصر محمود سید عید اکبر نے جملہ اہم اہم و سبب پیشاور

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار دیا۔ نیز  
وکیل صاحب کو راضی نامہ کرنے و تقرر ثالثتہ فیصلہ برحلف دیئے جواب دہی اور اقبال دعویٰ اور  
بصورت ڈگری کرنے اجراء اور صولی چیک در و پیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق  
ذرایں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی  
نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور

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 با اختیار حاصل ہوں گے اور اس کا ساختہ  
پرواختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جائز التوائے مقدمہ کے سبب سے وہوگا۔

کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے کہ پیروی  
مذکور کریں۔ لہذا دالالت نامہ لکھد یا کہ سند پر

المرقوم 8  
ماہ نومبر 20  
واہ الع

بمقام پیشاور کے لئے منظور ہے۔

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

Service Appeal # 1316/2015.

Haziq ur Rehman, DEO (M) Lakki Marwat ..... **Appellant**  
VERSUS  
Secretary E&SE, Deptt: Govt: of Khyber Pakhtunkhwa & others ..... **Respondents**

Parawise comments for & on behalf of Respondents No. 1-2.

**Respectfully Sheweth,**

**The Respondents submit as under:-**

**Preliminary Objections:-**

1. The appellant has got no cause of action/ locus standi.
2. The instant appeal is badly time barred.
3. The appellant has concealed the material facts from this Hon 'able Tribunal, hence is liable to be dismissed on this score.
4. The appellant has not come to this Hon 'able Tribunal with clean hands.
5. The present appeal is liable to be dismissed for mis-joinder & non joinder of necessary parties.
6. The instant appeal is against the prevailing law and rules.
7. The appellant is estopped by his own conduct to file the instant appeal.
8. The instant appeal is not maintainable in its present form and also in the present circumstances of the issue.
9. That this Hon'able Tribunal has got no jurisdiction to entertain the instant service appeal.
10. That the instant Appeal is barred by Law..

**FACTS.**

1. Para-1is correct that the Appellant has been charge sheeted vide order dated 09-10-2014 by the Respondent No. 1 with the statement of allegation regarding:-
  - i. The commission of irregularities in the appointment of teachers of various cadets including PST, CT, PET, TT & DM etc while serving as a DEO (M) Hangu during the period of 2014 in violation of the prescribed criteria and rules/policy of the Provincial Government:
  - ii. Ignored the disable reserve quota during the recruitments of different categories of Male Teaching and non teaching staff in District Hangu. Hence the Appellant has been found guilty of corruption , in efficiency and mis conduct under reule-3 of KPK E&D Rules 2011 and has been made entitled for the penalty as specified in Rule-4 of the said Rules. Hence an inquiry under Rule 10 (1)(a) of the said rules was constituted through Mr. Hussain Shah (PCS-SG-BS-20) and Dilwar Khan Principal GHS, NO.2 Kohat by the Respondent No. 1 who submitted their respective inquiry report to the competent authority on 26-11-2014 wherein the Appellant has been found guilty of corruption, in efficiency and mis conduct hence he has been proceeded against the E&D Rules 2011 vide the impugned Notification dated 09-07-2015 by imposing the

minor penalty of **CENSURE** upon the Appellant under the said Rules after adopting the prescribed procedure of serving a show cause notice dated 26-03-2015 circulated to the Appellant on 01-04-2015 which was replied by the Appellant in an unsatisfactory forum on 07-04-2015. Similarly an opportunity of personal hearing was also provided to the Appellant vide office letter dated 16-06-2015 at 10:00 AM in the office of Respondent No.1. Hence the impugned Notification dated 09-07-2015 against the Appellant issued by the Respondent No.1 and aggrieved from said Notification, the Appellant has filed a review petition dated 03-08-2015 but the same was too rejected by the Respondent No. 2 on the grounds of having no legal force (copies of the relevant documents including impugned Notification, Show Cause Notice, reply to the Show Cause Notice, Inquiry Reports, review petition and its rejection are attached as Annex-A, B, C, D, E, F & G) of the Appeal.

2. Para-2 is correct to the extent that vide Notification dated 09-10-2014 an inquiry Committee constituted by the Respondent No. 2 to probe into the matter regarding the statement of allegation as mentioned in the said Notification.
3. Para-3 is also correct to the extent that the inquiry officer have submitted their respective inquiry reports to the Respondents and on the basis of the same, a final show cause notice dated 01-04-2015 was served upon the Appellant of which the Appellant has submitted reply on 07-04-2015 to the Respondents.
4. Para-4 is correct that in view of the above made submissions including nomination of the inquiry officers, inquiry report show cause notice and reply to the show cause notice by the Appellant has resulted an imposition of minor penalty CENSURE vide the impugned Notification dated 09-07-2015 upon the Appellant by the Respondent No. 2 in the light of the facts and circumstances of the case after affording due opportunity of his personal hearing on 16-06-2015 at 10:00 AM in the office of Respondent No. 1 in defense of the statement of allegations to the Appellant, hence the impugned Notification dated 09-07-2015 issued by the Respondent No.2. Aggrieved from the said Notification the Appellant has filed a Review Petition on 03-08-2015 to the Respondent No. 1 but the same has too rejected vide order dated 09-10-2015 on the grounds of being without any legal course.
5. Para-5 is correct to the extent that the appellant has filed a review petition against the impugned order dated 09-07-2015 to the Respondent No. 1 which was rejected vide letter dated 09-10-2015 of being without any legal force, hence the Respondent further submits on the following grounds inter-alia.

**GROUND.**

- A. Incorrect and denied: The appellant has been treated as per Law, Rules and Procedure prior to the issuance of impugned Notification dated 09-07-2015




against the Appellant by the Respondent No. 2 , hence no question of violation of Article 4 & 25 of the constitution of 1973.

- B. Incorrect and denied. The Respondents have adopted and observed set procedure under the relevant rules and provision of E&D Rules 2011 prior to the issuance of impugned Notification dated 09-07-2015 against the Appellant wherein minor penalty of CENSURE has been imposed upon the Appellant by the Respondents.
- C. Incorrect and denied. The statement of Appellant is baseless on the grounds that the prescribed rules, criteria and relevant policy of the Govt: have been violated in the appointment process pertaining to the various teaching and non teaching cadre posts by the Appellant during his tenure in the year 2014 against the DEO (M) post District Hangu.
- D. Incorrect and denied. The referred rules of 14 (5) of E&D Rules 2011 is not applicable upon the case of the Appellant, hence denied.
- E. Incorrect and denied, Detailed reply has already been given in the foregoing paras of the present reply, hence no further comments.
- F. Incorrect and denied, The Appellant has been found guilty of misconduct, inefficiency, corruption and committing serious irregularities in the recruitment process of the above mentioned post in District Hangu, hence he has been proceeded against the E&D Rules 2011 vide the impugned Notification issued by the Respondent No. 2 in the interest of justice.
- G. Incorrect and denied. Fair chance of his personal hearing has been given to the Appellant vide office letter dated 16-06-2015 in the office of Respondent No.1 under Rule 14(7) of the E&D Rules 2011 by the Respondent, hence this ground is also liable to be dismissed.
- H. Incorrect & denied. There is no hard and fast rule regarding conducting joint or otherwise inquiry through the inquiry officers by the Respondent Department for the purpose of maintaining impartiality and natural justice in the inquiry proceedings against the accused/Appellant.
- I. Fair Chance of personal hearing and other prescribed procedure has been adopted prior to the issuance of the above said impugned Notification against the Appellant, hence the stand of the Appellant regarding chance of cross examination is baseless and deserves to be struck down in favour of the Respondents.
- J. Incorrect and denied. Detailed reply has already been given in the foregoing paras, hence needs no comments.

- K. Legal, however, the Respondent seek leave of this Hon'able Tribunal to submit additional grounds and case law at the time of arguments on the concerned date fixed before this Hon'able bench.
- L. Incorrect and denied. The Appellant is violated and even failed to observed 2% reserve quota for disable candidates of District Hangu on malafide intention in violation of the prescribed policy.

**In view of the above made submissions, it is, therefore, most humbly requested that on acceptance of this reply, the appeal in hand may very graciously be pleased to dismissed in favour of the Respondents with cost under Section 35-A, CPC, 1908 in the interest of justice.**

  
Secretary 18/5/2016.  
Elementary & Secondary Education,  
Department

(Respondent No. 1 & 2)

BEFORE THE SERVICE TRIBUNAL KPK, PESHAWAR

IN RE; Service Appeal NO.1316/2015

Haziq ur Rehman.....Appellant

Versus

Secretary E&SE Depart. Govt. of KPK and other.....Respondents

Rejoinder on behalf of appellant to the reply of  
respondent No.1&2.

Preliminary Objections:

All the preliminary objections have been taken in routine. Appellant has got cause of action and the appeal is within time. It is further submitted that the appellant has presented true picture before this honorable tribunal and nothing has been concealed by the appellant. The appellant has come to this honorable tribunal with clean hands. The appeal is not bad for mis-joinder and non-joinder of necessary parties. The appeal is in accordance with the prevailing law and rules. The appellant has not done anything which could esstopped him from filing the appeal. The appeal is competent in its present form. This honorable tribunal has got the jurisdiction to entertain the appeal. The appeal is not barred by any law.

ON FACTS:

1. Para-1 of the reply is wrong and incorrect. The whole proceeding from the start up to the imposition of penalty is illegal.
2. Para-2&3 of the reply needs no rejoinder.
3. Para-4 of the reply needs no rejoinder however it is added that no chance of personal hearing was given to the appellant by the competent authority.
4. In reply to Para-5 it is submitted that review was illegally rejected.

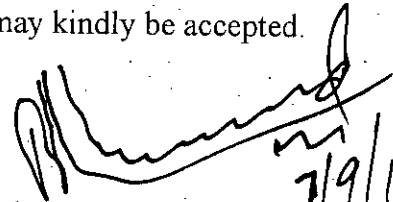
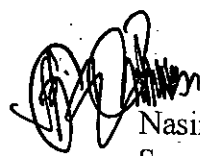
GROUND:

- A. Ground-A of the reply is wrong and incorrect. Ground-A of the appeal reiterated.

- B. Ground-B of the reply is wrong and incorrect. No direct reply has been given to the assertion made by the appellant in ground-B.
- C. Ground-C to K of the reply is wrong and incorrect. Ground-C to K of the appeal is reiterated. There was no clear cut policy for the observance of disabled quota.

In the light of the above rejoinder the appeal may kindly be accepted.

Through

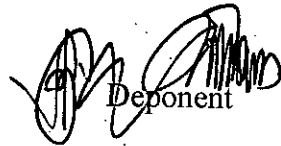


7/9/16

Nasir Mahmood Advocate  
Supreme Court of Pakistan  
13-D Haroon Mansion Peshawar.

Affidavit

I do hereby declare, and affirm on oath that the contents of accompanying rejoinder are true and correct to the best my knowledge and belief and nothing has been concealed from this hon'ble tribunal.



Deponent

