

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL.

Service Appeal No. 1392/2015

Date of Institution... 17.12.2015

Date of decision... 20.12.2017

Mr. Riaz Ahmad Ex-PST (BPS-7) Now (BPS-2) GPS Darmalak, District Kohat.
... (Appellant)

Versus

1. The Government of Khyber Pakhtunkhwa through Secretary (E&SE) Department, Khyber Pakhtunkhwa Peshawar and 2 others. (Respondents)

MR. NOOR MUHAMMAD KHATTAK,
Advocate ... For appellant.

MR. MUHAMMAD RIAZ PAINDAKHEL,
Assistant Advocate General ... 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 accused was charged in a murder case vide FIR dated 31.07.1998. Thereafter he was suspended on 29.08.1998 till the finalization of the criminal case in the court of law. In the said suspension order, the appellant was allowed to draw only subsistence allowance. The appellant was finally acquitted by the court of law on 28.11.2013. Thereafter, the appellant filed a departmental appeal against the suspension order on 13.12.2013 which was not responded to and then he filed service appeal No. 573/2014 which was finally dismissed as withdrawn by the appellant on 24.08.2015 for the reason that the department had initiated enquiry proceedings against the appellant. The appellant in the said order reserved his right

of seeking legal remedy in case of any adverse order in the departmental proceedings. The appellant was removed from service four days before the said order i.e. on 20.8.2015 against which he filed departmental appeal on 25.08.2015 which was not responded to and thereafter he filed the present service appeal on 17.12.2015

ARGUMENTS

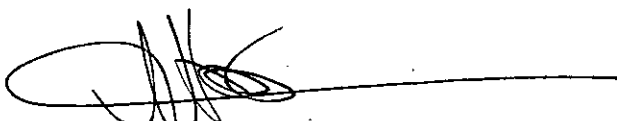
3. The Learned counsel for the appellant argued that after chalking out of the FIR no departmental proceedings were initiated against the appellant except the suspension order mentioned above. That the said suspension order was illegal due to its duration and also for allowing only subsistence allowance to the appellant. That in view of F.R 53 the appellant was entitled to full salary. That in the departmental proceedings during the pendency of the earlier service appeal, the appellant was not served with any charge sheet alongwith statement of allegations. That no proper enquiry was conducted. That no witnesses were examined, nor opportunity of cross examination was afforded to the appellant. That no copy of enquiry report was supplied to the appellant. That no final show cause notice was issued to the appellant.


4. On the other hand the learned Assistant Advocate General argued that the impugned order of removal was passed on 20.08.2015 four days before the order of withdrawal of the earlier service appeal. That in the light of judgment reported as 2017-SCMR-965, back benefits of the period of abscondance could not be paid. That the enquiry officer tried to make the appellant appear before him but he through written application refused to appear before the enquiry officer for the reason that his service appeal was pending before this Tribunal and that he would consult his counsel.

CONCLUSION

5. Relevant rules applicable to the disciplinary proceedings against the appellant are Khyber Pakhtunkhwa Government Servants (E&D) Rules, 2011. The department was either to adopt the proceedings under Rule 9 of the said rules in case of willful absence or to choose amongst other two options i.e. regular enquiry and dispensing with the regular enquiry. In this case the department has opted for regular enquiry. But the regular enquiry cannot be conducted without issuance of charge sheet and statement of allegations. There is no charge sheet and statement of allegations in the present disciplinary proceedings. In the absence of charge sheet and statement of allegations, the appellant was deprived of his right of defence. His refusal to join proceedings on any ground would not legalize illegal proceedings initiated against the appellant. Above all, no final show cause notice alongwith copy of enquiry report was issued to the appellant. The withdrawal of the appeal 4 days after the impugned order would in no way prejudice the appellant nor his right of resorting to legal remedy would be extinguished.

6. As a result of the above discussion, the present appeal is accepted; the department is directed to hold denovo proceedings in accordance with the law within a period of ninety days from the date of receipt of this judgment. The issue of back benefits including pay during suspension shall be decided by the department in accordance with the law on the subject. Parties are left to bear their own costs. File be consigned to the record room.


(Ahmad Hassan)
Member


(Niaz Muhammad Khan)
Chairman

ANNOUNCED
20.12.2017

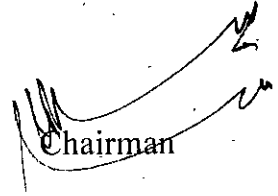
1392/2015

20.12.2017

Counsel for the appellant and Mr. Muhammad Riaz Painda Khel, Assistant Advocate General for the respondents present. Arguments heard and record perused.

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


Member


Chairman

ANNOUNCED
20.12.2017

20.04.2017

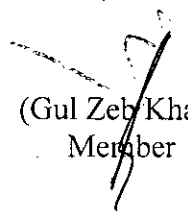
Appellant alongwith his counsel for the appellant present. Mr. Muhammad Jan, Government Pleader for the respondents also present. Learned counsel for the appellant requested for adjournment. Adjourned. To come up for arguments on 20.06.2017 before D.B.



(Ahmad Hassan)
Member


(Muhammad Amin Khan Kundi)
Member

20.06.2017

Counsel for the appellant and Mr. Ziaullah, Deputy District Attorney for the respondents present. Counsel for the appellant requested for adjournment. Adjourned. To come up for arguments on 15.09.2017 before D.B.

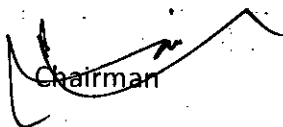

(Gul Zeb Khan)
Member


(Muhammad Amin Khan Kundi)
Member

15/9/2017

Counsel for the appellant and Mr. Usman Ghani, District Attorney for the respondents present. Counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 20/12/2017 before DB.


MEMBER


Chairman

1392/2015

09.05.2016

Agent of counsel for the appellant and Mr. Muhammad Ilyas, SDEO alongwith Asstt. AG for the respondents present. Written reply submitted. The appeal is assigned to D.B. for rejoinder and final hearing for 22.08.2016.

Chairman

22.08.2016

Clerk to counsel for the appellant and Mr. Muhammad Ilyas, SDEO alongwith Muhammad Jan, GP for respondents present. Clerk to counsel for the appellant requested for adjournment. Request accepted. To come up for arguments on 13.12.2016.

Member

Chairman

13.12.2016

Clerk counsel for the appellant and Mr. Habibullah, SDEO alongwith Additional AG for the respondents present. Rejoinder submitted which is placed on file. To come up for arguments on ~~20.4.17~~ before D.B.

(ASHFAQUE TAJ)
MEMBER

(MUHAMMADAAMIR NAZIR)
MEMBER

04.01.2016

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant was serving as PST (BPS-7) when charged in a criminal case registered vide FIR No. 130 dated 31.7.1998 registered under sections 302/324/34 PPC at PS Lachi Kohat and on the basis of the said FIR appellant suspended under FR-53. That the appellant was acquitted of the criminal case vide judgment dated 28.11.2013 but his suspension orders were not withdrawn finally compelling the appellant to prefer service appeal which was withdrawn later on. That the appellant was thereafter removed from service vide impugned order dated 20.8.2015 where against he preferred departmental appeal on 28.8.2015 and after lapse of statutory period of 90 days the instant service appeal was preferred on 17.12.2015.

Appellant Deposited
Security & Process Fee

8/1
7-1-2016

That the impugned order is violative of law as the appellant services were liable to restoration after acquittal in view of FR-53.

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 1.3.2016 before S.B.


Chairman

01.03.2016



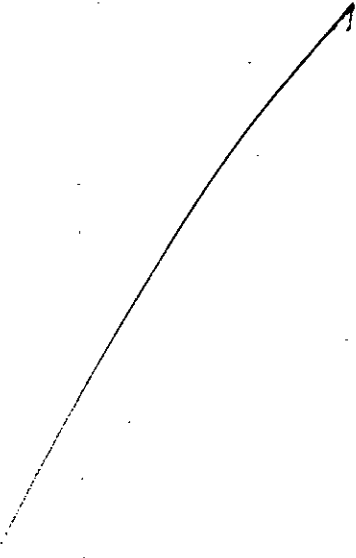
Counsel for the appellant, M/S Khurshid Khan, SO and Muhammad Ilyas, SDO (lachi) alongwith Addl: A.G for respondents present. Written reply not submitted. Requested for adjournment. Last opportunity granted. To come up for written reply/comments on 9.5.2016 before S.B.


Chairman

Form- A
FORM OF ORDER SHEET

Court of _____

Case No.: _____ 1392/2015 _____

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	17.12.2015	<p style="text-align: center;">The appeal of Mr. Riaz Ahmad presented today by Mr. Noor Muhammad Khattak 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	21-12-15.	<p style="text-align: center;">This case is entrusted to S. Bench for preliminary hearing to be put up thereon <u>04-1-16</u>.</p> <p style="text-align: right;"> CHAIRMAN</p> 

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. 1392 /2015

RIAZ AHMAD

VS

EDUCATION DEPTT:

INDEX

S.NO.	DOCUMENTS	ANNEXURE	PAGE
1.	Memo of appeal	1- 3.
2.	Appointment order	A	4- 5.
3.	Charge report	B	6.
4.	Medical certificate	C	7.
5.	FIR	D	8.
6.	Suspension order	E	9.
8.	Judgment	F	10- 15.
9.	Order sheet	G	16.
10.	Order	H	17.
11.	Departmental appeal	I	18- 21.
12.	Forwarding letter	J	22.
13.	Vakalat nama	23.

APPELLANT

THROUGH:


NOOR MUHAMMAD KHATTAK
ADVOCATE

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. 1392 /2015

N.W.F. Province
Service Tribunal
Diary No. 1469
Date 17-12-15

Mr. Riaz Ahmed, Ex: PST (BPS-7) Now (BPS-12),
GPS Darmalak, District Kohat.

..... **APPELLANT**

VERSUS

- 1- The Government of Khyber Pakhtunkhwa through Secretary (E&SE) Department, Khyber Pakhtunkhwa, Peshawar.
- 2- The Director (E&SE) Department, Khyber Pakhtunkhwa, Peshawar.
- 3- The District Education Officer (Male), District Kohat.

..... **RESPONDENTS**

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 AGAINST THE IMPUGNED ORDER DATED 20-08-2015 WHEREBY MAJOR PENALTY OF REMOVAL FROM SERVICE WAS IMPOSED ON THE APPELLANT W.E.F. 31.7.1998 WITHOUT CONDUCTING REGULAR INQUIRY IN THE MATTER AND AGAINST NO ACTION TAKEN ON THE DEPARTMENTAL APPEAL OF APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS

PRAYER: That on acceptance of this appeal the impugned order dated 20-08-2015 may very kindly be set aside and the appellant may kindly be re-instated in to service with all back benefits. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant.

Filed to-
Registrar
12/12/15

R.SHEWETH:
ON FACTS:

- 1- That appellant was appointed as PST (BPS-7) in the respondent Department on the proper recommendation of Departmental selection committee vide order dated 26.4.1984. That in response the appellant submitted his charge report and started performing his duty quite efficiently and up to the entire satisfaction of his superiors. Copies of the appointment order, charge report and medical certificate are attached as annexure **A, B and C.**

- 2- That appellant while serving as PST at GPS darmalak an FIR under section 302/324/34 PPC was lodged against the appellant vide dated 31.7.1998. That due to the above mentioned FIR the respondent No.3 suspended the appellant from service till the finalization of his criminal case vide dated 29.8.1998. Copies of the FIR and suspension order are attached as annexure **D and E.**
- 3- That finally the Honorable additional Session Judge honorably acquitted the appellant from the criminal charge vide judgment dated 28.11.2013. Communicated to appellant on 2.12.2013. That after acquittal the appellant approached the respondent No.3 for his re-instatement and setting aside the order dated 29.8.1998. That no heed was paid by the respondent No.3 to the said request of the appellant. Copies of the judgment and application are attached as annexure **F.**
- 4- That feeling aggrieved the appellant knocked the door of this august Tribunal in appeal No.573/2014 but the same was withdrawn due pending inquiry against the appellant in the said matter. Copy of the order sheet is attached as annexure **G.**
- 5- That vide impugned order dated 20.8.2015 the appellant was removed from service on the basis of the above mentioned FIR dated 31.7.1998 inspite of knowing the fact that appellant has been acquitted by the trial Court. Copy of the order is attached as annexure **H.**
- 6- That feeling aggrieved the appellant prefer Departmental appeal before the respondent No.2 vide dated 25.8.2015 but no reply has been received so far. Copies of the Departmental appeal and forwarding letter are attached as annexure **I and J.**
- 7- Hence the instant appeal inter alia on the following grounds.

GROUND:

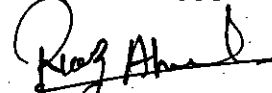
- A- That the impugned order dated 20.8.2015 issued by the respondent No.3 is against the law, facts, norms of natural justice and materials on the record hence not tenable and liable to be set aside.
- B- That the appellant has not been treated by the respondent Department in accordance with law and rules and as such the respondent Department violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.

- C- That appellant has been honorably acquitted by the trial Court from the FIR dated 31.7.1998, therefore the respondents are duty bound under F.R 53 to re-instate the appellant in to service with all back benefits.
- D- That the respondents acted in arbitrary and mala fide manner while issuing the impugned order dated 20.8.2015.
- E- That charge sheet and statement of allegation has been issued against the appellant while issuing the impugned order dated 20.8.2015.
- F- That no chance of personal hearing/ defense has been given to the appellant while issuing the impugned order dated 20.8.2015 against the appellant.
- G- That no show cause notice has been served on the appellant before issuing the impugned order dated 20.8.2015.
- H- That no regular inquiry has been conducted before issuing the impugned order dated 20.8.2015 against the appellant which is as per Supreme Court judgments is necessary in punitive actions against the appellant.
- I- That appellant seeks permission to advance other grounds and rooves at the time of hearing.

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

Dated: 14.12.2015

APPELLANT



RIAZ AHMED

THROUGH:



**NOOR MOHAMMAD KHATTAK
ADVOCATE**

OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) KOHAT.

APPOINTMENT.

As approved by the Chairman District Council, Kohat, the following candidates are here-by appointed against the newly created posts of PTC teachers in B.P.S.7 @ Rs.560/- fixed plus usual allowances in the interest of public service with effect from the date of taking over charge:-

S.No.	Name of Candidate/Address Where appointed.	Remarks.
1.	M.Anwer Majid S/O Ghulam Habib Vill: Meri Banda Kohat (Mat: 698 Marks).	GPS, Mir Ahmad Khel. against newly created post.
2.	M.Azim Khan S/O Hakim Khan Vill: Togh Bala (Mat:353 (Marks)).	GPS, Band Banda. Against vacant post.
3.	M.Zar Mast Khan S/O Yar Khan, Vill:Sur Gul (Mat:608 Marks)	-do- -do-
4.	M.Mohabat Ali Khan S/O Zakria Khan Vill: Rhoda (Mat:382 Marks).	GPS, Mitha Khan. Against Newly created post.
5.	M.Abdul Wahid S/O Abdur Rashid Vill: Shadi Khel (Mat: 557 Marks).	GMS, Mohammad Khoja. Against vacant post.
6.	Abdul Khslia S/O Abdur Rahman Vill: Billitang (Mat: 538 Marks).	GPS, Alwara Mela. Vice Mr.Abbas Khan absent from duty.
7.	M.Saud Anwar S/O Abdul Baqi Vill: Lachi (Mat: 535 Marks).	GPS, Sheikhon Banda Lachi. Against vacant post.
8.	Ajmal-ud-Din S/O Islam-ue-Din Vill: Lachi Bala (Mat: 518 Marks).	GPS, Inzer Wala. Against Newly created post.
9.	Ghalib Hussain S/O Ali Kazim Vill: Lodhi Khel (Mat: 498 Marks).	GPS, Serozai Payala. Against vacant post.
10.	M. Mohammad Tariq S/O Mohammad Qayyum Vill:Shadi Khel (Mat: 500 Marks).	GPS, Matu Khel. Against Newly created post.
11.	Jehanzeb S/O Kinar Gul Vill:Takht (Mat: 498 Marks).	GPS, Khaisari Banda. against Newly created post.
12.	Mohammad Shoib S/O Asad Ali Vill: Alizai. (Mat:472 Marks).	GPS, Mitha Khan. -do-
13.	M.Said Jamal S/O Zaid Gul Vill:Dar Tappi (Mat: 445 Marks).	GPS, Dar Tappi. -do-
14.	Gul Jan S/O Mohammad Khan Vill: Mandooni (Chorlaki), (Mat: 504 Marks)	GPS, Dhok Said Bad Shah. -do-
15.	M.Riaz Ahmad S/O Taj Ali Khan Vill: Dar Malik (Mat: 2nd Divin:).	GPS. Tharmatoo (Darmalik. Against vacant post.
16.	M.Habit-ur-Rahman S/O Sher Zaman Vill: Dhand Saghri (Mat: 551, Ex-Serviceeman)	GPS, Serozai North. -do-
17.	M.Sarwar Hussain S/O Jaffar Ali Vill: Khoja Khel. (Mat: Ex-Serviceeman)	CPS, Era Banda, Near Ghazi Pump Hangu. -do-
18.	M.Javid Iqbal S/O Habib-ullah Khan Vill: Borhi Saghri (Mat: 2nd Divin; T.Son).	CPS, Serozai North. -do-

(Continued on Page-2)

5

19. M. Riazuddin S/O Hazrat Amir GPS, Serozai Payala Against newly
Vill: Nari Shakardara (F.A). created post.
Ex-Serviceman Son). -db-
20. M. Sunab Gul S/O Umar Gul GPS, Mian Koi.
21. M. Noor Bad Shah S/O Khan Bad GPS, Shinali Kahi Against vacant post.
Shah Vill: Kamal Khel (Mat: 582 Marks).
22. M. Khushab Gul S/O Siraj Gul MP, Latif Abad Against transferred
Vill: Dhoda (Mat: 334 Marks). Kharmatoo. post of Mian Koi.
23. M. Nawait Khan S/O Iqrat Gul GPS, Dhok Said Bad Against Newly created
Vill: Chorlaki (Mat: 474 Marks) Shah. post.

TERMS/CONDITIONS.

1. Their appointment are purely temporary and liable to termination at any time without assigning any reason or notice.
2. In case of resignation they will have to submit one month's prior notice to the Department or forfeit one month's pay in lieu thereof to the Government.
3. They are required to produce Health and age Certificate from the Medical Supdt: concerned before taking over charge.
4. Their Educational original Certificates shall be checked before handing over charge.
5. Their appointments are purely temporary and will not confer on them any right/claim to permanent retention in service.
6. They shall be Governed by such service, Discipline and conduct rules as have been or be prescribed here-after by the Government of NWFP.
7. They shall not be allowed to take over charge in case their age is above 25 years or less 18 years.
8. If any one failed to take over charge of the post within 15 days of the receipt of their order, they offer of appointment shall stand cancelled.
9. No TA/DA etc is allowed/ Charge reports should be submitted in duplicate to all concerned.

HAJI ABDUR RAZIQ KHAN
Distt: Education Officer,
(Male) Kohat.

Endst: No. 9902-27 /A-I/PTC/I-AG, Dated Kohat the 26/4/1984.
Copy of the above is forwarded for information and
necessary action to the:-

- 1). Chairman Distt: Council, Kohat as approved,
- 2-3).. SDEO (Male) Kohat and Hangu.
- 4-26). Candidate concerned.

Jur.
Shah
Distt: Education Officer,
(Male) Kohat. *and*
26/4/1984

"SHAKIR
KHATTAK."

dated 28/4/84

Charge Report

certified that Mr. ~~Abd~~ Reaz
Ahmed S/O Taj Ali Khan took over the charge
of newly opened school Harnatao
(Kohat) as a P.T.C on vacant Post.

B-6

vide DFO (Mali) Kohat Endt. No.
9902-27/A-1/P.T.C/-Ac dated Kohat
the 26/4/84.

Relieved Servant
الم بان لوف
Designation
پوئین کوئٹہ ڈسٹرکٹ (کھات)

Relieving Servant
Designation

Forwarded to DFO (M) Kohat
for consideration.

J/c

(3) برت 31/7/98 کو ایف آر نمبر 130 سے 31/7/98
302/325
34
- (نیشنل ایف آر نمبر 130)

(4) برت 31/7/98 کو ایف آر نمبر 130 سے 31/7/98
302/325
34
- (نیشنل ایف آر نمبر 130)

P.T.O

ATTESTED

[Signature]

HEALTH AND AGE FCMA.

C-2

Name RIAZ AHMED

Nationality: Pakistani.

Caste AFGHAN

Fathers' Name with Residence TAJ ALI KHAN VILL DARMALAK
KOHAT.

Date of birth by christian era as nearly as can be ascertained 19 years.

Exact height measurement 1.80 M

Personal mark of Identification Rt. hand dog's ear Vertical
Scar 2 cm x 1/2

Head of office.

I hereby certify that I have examined RIAZ AHMED
for employment in EDUCATION Dept. and cannot discover
that he/she has any communicable disease constitutional
affection or bodily infirmity except NIL

I do not consider this disqualification for employment in
EDUCATION Department. His age according to his
statement is 19 years and by appearance he is about
Nineteen years of age.

LEFT HAND THUMB AND FINGER IMPRESSION.

THUMB

FIRST FINGER

SECOND FINGER

THIRD FINGER

SMALL FINGER



Signature

Handwritten mark

Medical Superintendent,
Distt HQ Hospital Kohat.

Handwritten mark

ابتدائی اطلاعی رپورٹ

۴۳

۲۱-۱-۹۸

کونسل
رٹائرمنٹ
تاریخ

تاریخ دوستی دوم ۳۱-۹۸ اور ۰۷-۳۰

۱۳۹

۱	تاریخ دوستی	۳۱-۹۸ اور ۰۷-۳۰
۲	نام دسکوت اہلکار و منصفین	شاد محمد خان ولد دوست محمد خان لیبر ۶۴ سال کا عمر
۳	مقرر کیفیت جرم و مقدمہ حال اگر کوئی لیا گیا ہو	۳۰۲/۳۲۴/۳۴
۴	جائے وقوعہ قاتل قاتل سے اور پتہ	نزد بوسہ کوٹس درکن لاکھم ۸ موٹر گاڑی پر یہاں تک
۵	نام دسکوت جرم	میراں احمد پورن مقدمہ درجہ اولیٰ
۶	کا رہنمائی و تحقیق کے متعلق کہ جسٹس اگر اطلاع ہونے کو نہیں تو پتہ بیان کریں	بطور پتہ پتہ پتہ
۷	قائم رہنے والی تاریخ و وقت	

ابتدائی اطلاع غے درجہ کو مستحق مقدمہ خانہ مجریہ کے متعلق

میراں احمد پورن مقدمہ درجہ اولیٰ میں شاد محمد خان ولد دوست محمد خان لیبر ۶۴ سال کا عمر کو قاتل قرار دیا گیا ہے۔

میراں احمد پورن مقدمہ درجہ اولیٰ میں شاد محمد خان ولد دوست محمد خان لیبر ۶۴ سال کا عمر کو قاتل قرار دیا گیا ہے۔

میراں احمد پورن مقدمہ درجہ اولیٰ میں شاد محمد خان ولد دوست محمد خان لیبر ۶۴ سال کا عمر کو قاتل قرار دیا گیا ہے۔

میراں احمد پورن مقدمہ درجہ اولیٰ میں شاد محمد خان ولد دوست محمد خان لیبر ۶۴ سال کا عمر کو قاتل قرار دیا گیا ہے۔

APPROVED

کفر صبا دسرک ایجوکیشن آفسر صاحب سندھ کوہاٹ

24

19

E-9

198

OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) PRIMARY KOHAT.

SUSPENSION.

Mr. Mohammad Riaz PTC GPS Darmalak is hereby suspended from his duty with effect from 31/7/98 with ~~with~~ subsistence allowance till the finalization of his case due to the involvement 392/394/98 case at Police Station Lachi.

(SHER BANADAR KHAN)
DISTRICT EDUCATION OFFICER (MALE)
PRIMARY KOHAT.

ENDST. NO. 2091-93 / ENO. 84/DISCIPL. CASES DATED BY THE 29.8.1998

COPY TO:-

1. SDEO (MALE) PRIMARY KOHAT W/R TO HIS LETTER NO. 10195 /D.NO.47
FIR DATED 28/8/98.
2. H/T GPS DARMALAK.
3. DAO, KOHAT.

[Signature]
DISTRICT EDUCATION OFFICER,
(MALE) PRIMARY KOHAT
29/8.

SUSP. CAS

ATTESTED

[Signature]

ATTESTED

(5) بیگم سائل اب۔ دوبارہ اس پر ملذت پر مجال کا
خدا شکر ہے۔

بیگم سائل آئندہ بھی ایسا ہی لکھیں اور بقیہ سے بھاری کا۔

لیکن اللہ تعالیٰ بیگم سائل کو ملذت پر مجال لکھنے
کا حکم صادر فرمائے۔ آمین

PST بیگم سائل اب۔ دوبارہ اس پر ملذت پر مجال کا
خدا شکر ہے۔

24

5

E-9

OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) PRIMARY, KOHAT.

SUSPENSION:

Mr. Mohammad Riaz PTC GPS Darmalak is hereby suspended from his duty with effect from 31/7/98 with ~~with~~ subsistence allowance till the finalization of his case due to the involvement 302/324/98 case at Police Station Lachei

(SHER DANADAN KHAN)
DISTRICT EDUCATION OFFICER (MALE)
PRIMARY KOHAT.

11
7

ENDST: NO. 2091-93 / ENG. SA / DISCIPL. CASES DATED BY THE 29.8.1998

COPY TO:-

- 1. SDEO (MALE) PRIMARY KOHAT W/R TO HIS LETTER NO. 15153 / D. NO. 40
FIR DATED 28/8/98
- 2. H/T GPS DARMALAK.
- 3. DAC, KOHAT.

[Signature]
DISTRICT EDUCATION OFFICER,
(MALE) PRIMARY KOHAT
29/8.

SUSP. CAS

ATTESTED

[Signature]

ATTESTED

E-10

لواء جناب ایئر ڈیپوٹیشن چیف صاحبہ اور کورٹ

14B/13 سے رجسٹرڈ 19/7/13 منسلک 26/11/13

منفرد = سرکارمنٹ ریاض احمد

مبلغ 13000 روپے 31/7/88 سے 30/2/2003 تک

1 / 1 / 1



PP for State present. Accused produced in custody.

Accused Riaz Ahmad is facing trial in case FIR # 130 dated 31.07.1998 u/s 302/324/34 PPC of PS Lachi, Kohat.

Facts of the case are that, 31.07.1998 at 0835 hours complainant Shad Muhammad Khan brought the dead bodies of his sons Irshad Muhammad and Hidayat Ullah to PS Lachi and reported that in the morning at 0730 hours he along with Naeem Khan and his two sons were proceeding to Kohat on foot in order to attend the courts. Irshad Muhammad and Hidayat Ullah were going a few paces ahead of them while the complainant and Naeem Khan were following them and when they reached near Union Council Darmalak, Taj Ali Khan, Riaz Mohammad, Dilbar Khan and Muhammad Saeed came out from the UC armed with rifles

ATTESTED

Handwritten signature of the attesting officer.

ATTESTED TO BE TRUE COPY

Handwritten signature and date 22/12/13.

COPIES FORWARDED TO THE DISTRICT POLICE STATION, KOHAT

Serial No. of Order or Proceedings	Date of Order or Proceedings	Order or other Proceedings with Signature of Judge or Magistrate and that of parties or counsel where necessary
	<p>Contd- 0-13 - 02 -</p> <p><i>[Handwritten Signature]</i></p> <p>ATTESTED</p> <p><i>[Handwritten Signature]</i></p> <p>02/12/13</p> <p><i>[Handwritten Signature]</i></p>	<p>and opened fire on the complainant and his companions. As a result of which Irshad Muhammad and Hidayat Ullah were hit and died on the spot, while complainant and Naeem Khan escaped unhurt. Motive was disclosed as previous enmity. Upon the report of the complainant instant case was registered.</p> <p>Previously the accused along with his co-accused was absconding and challan u/s 512 Cr.P.C was submitted against them and they were declared proclaimed offenders by the order of then ASJ, Kohat dated 17.05.2000.</p> <p>Later on co-accused namely Taj Ali Khan was arrested and was sent to face the trial before the then DSJ/JSC, Kohat but accused has earned acquittal through judgment dated 17.04.2003. That judgment has become final because no appeal or revision has been filed against him.</p> <p>Now after the arrest of present accused, he has been sent to face the trial and on 10.10.2013 formal charge was framed against him. Prosecution evidence was summoned and so far prosecution has produced 03 witnesses against the accused.</p> <p>PW-01 is Anwar Shah, ASI who arrested accused vide card of arrest Ex:PW-1/1 and submitted supplementary challan against accused.</p> <p>PW-02 is the statement of Abdur Rashid who identified the dead bodies of deceased.</p> <p>PW-03 is Mujahid Ali, SI registered the case vide FIR Ex:PA, prepared injury sheets. Ex:PW-3/1 to Ex:PW-3/3 respectively and inquest report Ex:PW-3/4. He also prepared</p>

(11)

Serial No. of Order or Proceedings	Date of Order or Proceedings	Order or other Proceedings with Signature of Judge or Magistrate and that of parties or counsel where necessary
------------------------------------	------------------------------	---

Case No. O-12
- 03 -

12

recovery memos Ex:PW-3/5 to Ex:PW-3/7 respectively. He also recorded statement of PWs. He initiated the proceedings u/s 204 & 87 Cr.P.C vide his applications Ex:PW-3/8 & Ex:PW-3/9. After completion of investigation, he submitted complete challan against all the four accused u/s 512 Cr.P.C.

Thereafter the complainant and other private PWs including the eyewitness was summoned and it was reported by the DFC that complainant Shad Muhammad, eyewitness Naeem Ullah and another PW Amir Khan have died. Therefore, the statement of Shad Muhammad and Naeem Ullah earlier recorded during the trial u/s 512 Cr.P.C were transposed to this file. Thereafter the learned counsel for the accused has submitted this application u/s 265-K Cr.P.C, which is being disposed off through this order.

I have heard the arguments and gone through the record.

The contents of the report show that complainant had charged four persons for the murder of his two sons and attempting his life and the life of his companion ineffectively. The role attributed to all the accused is similar that, they came armed with firearms and fired at them and as a result of their firing, his two sons were hit and died on the spot and he and his companion escaped unhurt.

The learned counsel for the accused has taken the ground for the acquittal of the accused that, previously co-accused Taj Ali has faced the trial. During that trial the complainant

5)

ATTESTED

02/12/13

FORM "A" FORM OF ORDER SHEET

13

Court of _____

Case No. _____ of _____

Serial No. of Order or Proceedings	Date of Order or Proceedings	Order or other Proceedings with Signature of Judge or Magistrate and that of parties or counsel where necessary
	<p>Court-0-13</p> <p>-04-</p> <p><i>[Signature]</i></p> <p>ATTESTED</p> <p><i>[Signature]</i></p> <p>09/12/13</p>	<p>their evidence was not considered for the</p> <p>conviction of the co-accused Taj Ali and he was acquitted by the learned Sessions Judge, Kohat through judgment dated 17.04.2003. He had argued that, as the role attributed to all the accused was similar and the evidence was also same against all the accused, therefore, the evidence which was not considered against the co-accused Taj Ali, is not considerable against the present accused. The acquitted co-accused Taj Ali is the father of present accused Rinza. The learned Sessions Judge, Kohat in his judgment has held that it is not appealable to common sense that an aged man of 67/68 years would be present duly armed along with his young son and two other young persons in order to commit the crime when he has no direct motive against the complainant and the deceased. It is also on the record that previously the brother of present accused was murdered for which the father of PW Naeem Ullah was charged. Thus PW Naeem Ullah is certainly an interested witness and he has strong motive to implicate the present accused and his father in this case. The complainant has alleged that they were going to District Courts, Kohat to attend the hearing of a case but it has not been established on the record that they were having any case in District Courts, Kohat on the relevant day.</p>

Serial No. of Order or Proceedings 1	Date of Order or Proceedings 2	Order or other Proceedings with Signature of Judge or Magistrate and that of parties or counsel where necessary 3
	<p>Coahd-0-13</p> <p>ATTESTED</p> <p><i>[Signature]</i></p> <p>02/13</p> <p><i>[Signature]</i></p>	<p style="text-align: right;">14</p> <p>There is no doubt that accused facing trial had remained absconder for a considerable period but mere abscondance is not enough to prove the guilt of an accused. The accused facing trial after his arrest has remained in police custody but neither has he confessed his guilt before any court of law nor any incriminating articles have been recovered from his possession or pointation. The arguments of the learned counsel for the accused has force that, the same evidence which was not considered earlier against the co-accused with the same role and that evidence against the present accused cannot be considered for his conviction. Thus I don't see any reason to proceed with the trial of this case.</p> <p>As a result of above discussion, I have come to the conclusion that, there is no probability of the conviction of the accused in this case and there is no need of summoning of remaining prosecution witnesses. Hence, by invoking the powers conferred upon this court w/s 265-K Cr.P.C the accused facing trial namely Riaz Ahmad S/o Taj Ali Khan is acquitted from the charges leveled against him. He is present in custody and is directed to be released if not required in any other case. Case property shall remain intact till the arrest of absconding co-accused. File be consigned to record room after its completion.</p> <p>ANNOUNCED 28.11.2013</p> <p><i>[Signature]</i> 28-11-2013 GOHAR REHMAN ASJ-III, KOHAT</p>

6

02/12/13

02/12/13

02/12/13
02/12/13
02/12/13

02/12/13

حضرت صاحب دستخط ایجوکیشن آفسر صاحب منسل کو مانت

(15)

درخواست عماد جمال کرانے شامل برملڈزٹ PST پیپر بہیں امریکہ
شامل سال 1984 میں لکھن پور تھا۔ اور تو سبباً - 14 سال تک اینا ملڈزٹ
اصن طریقے سے نبھایا۔ اس کے بعد شامل ناخلف ایک فوجداری مقدمہ
عدلت 130 نمبر 317/98 جس کے تحت 302/326/34
تقاضا لایا جس میں دعویٰ کیا گیا ہے
جس میں شامل بٹناہ تھا۔ اور عدالت نے اس میں کو باغرت بہیں کرنا ہے
نمبر 13/28 کو عدالت سے نبھایا ہوا۔ اب شامل اپنی ملڈزٹ
در جمال کا خواستگار ہے۔

صاحب عالیہ شامل ذیل مضامین

(1) ایس ایم شامل صاحب کے زیر سامہ بحشت PST پیپر محتاج
گورنمنٹ پرائمری سکول درنگ میں نصیبت تھا۔

(2) ایس ایم شامل نے 14 سال تک اپنا سرورس اصن طریقے سے
نبھایا۔

(3) ایس ایم نمبر 317/98 کی ایک مقدمہ FIR نمبر 130 نمبر 317/98
302/326/34 تقاضا لایا جس میں دعویٰ کیا گیا ہے۔ (نقل FIR نمبر 1)

(4) ایس ایم اب مقدمہ بلدیہ میں عدالت نے شامل کو باغرت
بہیں کرنا ہے (نقل منسل نمبر 1)

P.T.O

ATTESTED

Handwritten signature

(5) بیگم سائل اب - دوباره اینی نکلزیت پر مجال کا
خداستغاریہ

بم حکم سائل آئندہ بعد رہنمائی پر اسن لڑتے ہمارے گا۔

لکھنؤ اللہ تعالیٰ ہم سائل کو نکلزیت پر مجال کرے
کا حکم ہمارے پاس

PST پتھر راجن اجمر دہلی 2010 عن خان تہم خرمکہ خدیجہ راج
Fratul

G-16



**BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA
PESHAWAR**

Service Appeal No. 573 /2014

Riaz Ahmad S/o Taj Ali Khan

R/o Darmalak Tehsil and District Kohat.

S.W.P. Form No. 1
Form No. 485
Dated 31-3-2014

Appellant

Versus

1. District Education Officer Kohat. ✓
 2. Deputy District Education Officer Kohat.
 3. Sub-Divisional District Education Officer, Kohat.
 4. Secretary Education Elementary and Secondary Education Khyber Pakhtun Khwa Peshawar.
- Respondents**

24.08.2015

Appellant with counsel and Mr. Kabirullah Khan Khattak, Assistant A.G for respondents present. Learned counsel for the appellant pressed into service of letter dated 14.7.2015 according to which inquiry proceedings have been initiated against the appellant.

In view of the afore-stated development, learned counsel for the appellant informed the Tribunal that the appellant is to join the proceedings and in case of any adverse order he will seek his remedy afresh in accordance with law.

In view of the above, the appeal is dismissed as withdrawn. File be consigned to the record.

ANNOUNCED
24.8.2015.

Chairman

Date 3.9.2015

N 400

4

6

Date 3.9.2015
3.9.2015

Certified
Khyber Pakhtunkhwa
Service Tribunal
Peshawar
COPY

[Signature]

OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) KOHAT

OFFICE ORDER

H-(17)

Mr. Riaz Ahmad S/O Taj Ali Khan PST GPS Darmalak Tehsil Lachi District Kohat r/o village Darmalak Tehsil Lachi District Kohat was charge sheeted for "inefficiency of Misconduct" under section Para 4 (b) (iii), Para 9 removal from service under Efficiency & Disciplinary Rules 2011 on account of willful absence, the undersigned being authorized officer imposed major penalty from the removal from service from the date of his willful absence from duty i.e. 31.07.1998

You Mr. Riaz Ahmad PST had been charged in FIR No: 130 dated 31.07.1998 at Police Station Lachi Kohat under Sections 302/324/34 PPC, right from chalking FIR dated 31.07.1998 you remained absconder and did not performed duty till now.

Accordingly an enquiry has been constituted vide this office No: 3284 dated 02.06.2015 to probe into the matter. The enquiry officer conducted enquiry and asked the accused Mr. Riaz Ahmad S/O Taj Ali Khan to present before enquiry officer and defend the allegations leveled against him regarding his willful absence/ absconder period w.e.f. 31.07.1998 till now.

Enquiry officer offered opportunity to defend your self and explain your willful absence from duty but you Mr. Riaz Ahmad flatly refused to explain cogent reasons which signify your rampant attitude absolutely tantamount to misconduct.

After going through all the available record place in disciplinary case file, the undersigned in the capacity of authority imposed upon Riaz Ahmad PST the major penalty of removal from service w.e.f. 31.07.1998 under section Para 4 (b) (iii)/ Para 9 removal from service under E&D Rules 2011.

ROZ WALI KHAN
DISTRICT EDUCATION OFFICER
(MALE) KOHAT

Endst No. 4607-9 / OF Riaz Ahmad PST Dated Kohat the 20.8 2015

Copy of the above is forwarded to the:-

1. District comptroller of Accounts Kohat
2. Sub Divisional Education Officer (Male) Lachi & Kohat
3. Mr. Riaz Ahmad S/O Taj Ali Khan R/O Vill Darmalak Tehsil Lachi District Kohat

ATTESTED

DISTRICT EDUCATION OFFICER
(MALE) KOHAT
20/8/15

OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) KOHAT

OFFICE ORDER

H-17

Mr. Riaz Ahmad S/O Taj Ali Khan PST GPS Darmalak Tehsil Lachi District Kohat r/o village Darmalak Tehsil Lachi District Kohat was charge sheeted for "inefficiency of Misconduct" under section Para 4 (b) (iii), Para 9 removal from service under Efficiency & Disciplinary Rules 2011 on account of willful absence, the undersigned being authorized officer imposed major penalty from the removal from service from the date of his willful absence from duty i.e. 31.07.1998

You Mr. Riaz Ahmad PST had been charged in FIR No: 130 dated 31.07.1998 at Police Station Lachi Kohat under Sections 302/324/34 PPC, right from chalking FIR dated 31.07.1998 you remained absconder and did not performed duty till now.

Accordingly an enquiry has been constituted vide this office No: 3284 dated 02.06.2015 to probe into the matter. The enquiry officer conducted enquiry and asked the accused Mr. Riaz Ahmad S/O Taj Ali Khan to present before enquiry officer and defend the allegations leveled against him regarding his willful absence/ absconder period w.e.f. 31.07.1998 till now.

Enquiry officer offered opportunity to defend your self and explain your willful absence from duty but you Mr. Riaz Ahmad flatly refused to explain cogent reasons which signify your rampant attitude absolutely tantamount to misconduct.

After going through all the available record place in disciplinary case file, the undersigned in the capacity of authority imposed upon Riaz Ahmad PST the major penalty of removal from service w.e.f. 31.07.1998 under section Para 4 (b) (iii)/ Para 9 removal from service under E&D Rules 2011.

ROZ WALI KHAN
DISTRICT EDUCATION OFFICER
(MALE) KOHAT

Endst No. 4607-9 / OF Riaz Ahmad PST Dated Kohat the 20.8 2015

Copy of the above is forwarded to the:-

1. District comptroller of Accounts Kohat
2. Sub Divisional Education Officer (Male) Lachi & Kohat
3. Mr. Riaz Ahmad S/O Taj Ali Khan R/O Vill Darmalak Tehsil Lachi District Kohat

ATTESTED

[Handwritten signature]

[Handwritten signature]
DISTRICT EDUCATION OFFICER
(MALE) KOHAT
20/8/15

To

The Most Respected
Director Education,
Khyber Pakhtunkhwa, Peshawar.

I-18

Subject:- DEPARTMENTAL APPEAL AGAINST THE
TERMINATION ORDER OF THE
APPLICANT DATED 20/08/2015.

Respected Sir,

Applicant most humbly submits as under:-

1. That the applicant is appointed as PST at
GPS Harnato, District Kohat on
26/04/1984 and presently as PST at
GPS Darmalak Tehsil Lachi District
Kohat.

2. That applicant fulfilled his obligations
with zeal and zest and never ever
remained irregular or otherwise
irresponsible with the continuity of his
responsibilities.

ATTESTED

67

2- Mail, on 31/7/98 FIR No. 130

3. That on 29/08/1998, the suspension
order was passed against the applicant
without adopting legal and departmental
required requisitions.

ps Lachi was lodged against
applicant in which

4. That it is worth to mention here for your kind consideration that applicant falsely implicated in the criminal case by some one, therefore, applicant was not aware from his service necessities.
5. That after taking bit relaxation from criminal case, applicant hurriedly approached to concerned officials and authorities for quashment of suspension order and in this regard, and departmental appeal was also preferred.
6. That no response did received on that departmental appeal and thereafter, applicant approach to Service Tribunal Khyber Pakhtunkhwa, Peshawar for acquiring legal remedy.
7. That Service Tribunal ordered that since no final termination order has been passed yet, so the case may be brought after final termination order if so, hence this appeal.

(19)

ATTESTED



A. That applicant legally entitled for quashment of termination order on the grounds

20

i. That no legal proceedings has been adopted before passing of termination order of the applicant, which is otherwise required by prescribed law and manner.

ii. That inquiry whatsoever with regard to the case of the applicant has been initiated and no show cause notice has also be served upon the applicant before the termination order.

iii. That since suspension order has been passed against applicant about 17 years ago, thus although sufficient reasons have been mentioned in the departmental appeal in response of the suspension order, so after such a long time the final order is ultimately have become of no

ATTESTED



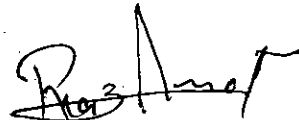
legal force and become
infructuous in its nature and
hopelessly time barred also.

(21)

- iv. That on the allegation of the mere irregularity, major penalty of termination cannot be sufficient or justified or legal.

It is, therefore, most humbly prayed that on acceptance of this Departmental Appeal, the termination from service order may kindly be recalled in the larger interest just, fair, proper & legal.

Dated:- 25/08/2015


Your Faithfully,

Riaz Ahmad
S/o Taj Ali Khan,
PST GPS Darmalak
District Kohat.
Postal Address:-
P/O Darmalak, Tehsil Lachi
District Kohat.
Cell No:- 0333-5017172

ATTESTED



OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) KOHAT

No. 14934 dated 8/16/2015

J-22

To

The Director
Elementary & Secondary Education
Khyber Pakhtunkhwa Peshawar

Subject- DEPARTMENTA APPEAL AGAINST THE TERMINATION ORDER
OF THE APPLICATION DATED 20-08-2015

Memo.

Kindly refer your letter No 14934 No.110/Vol:III/2015 (wb) Kohat dated 07/09/2015 on the above cited subject.

I am directed to inform you that, In the light of willfully absconding from School duty i.e. more than 15 years therefore, the undersigned imposed upon the major penalty of removal from service (Removal from service copy attached) for ready reference

BY DISTRICT EDUCATION OFFICER
(MALE) KOHAT

ADDE
Please put up on file
30/7/2015

ATTESTED

[Handwritten signature]

30/7/2015

VAKALATNAMA

IN THE COURT OF Justice Service Tribunal Peshawar

OF 2015

Riaz Ahmad

(APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

Education Deptt.

(RESPONDENT)
(DEFENDANT)

I/We Riaz Ahmad

Do hereby appoint and constitute **NOOR MOHAMMAD KHATTAK, Advocate, Peshawar** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate Counsel on my/our cost. I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter.

Dated. ___/___/2015

Riaz Ahmad
CLIENT

ACCEPTED
NOOR MOHAMMAD KHATTAK
(ADVOCATE)

OFFICE:
Room No.1, Upper Floor,
Islamia Club Building, Khyber Bazar,
Peshawar City.
Phone: 091-2211391
Mobile No.0345-9383141

BEFORE THE HON'ABLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR.

Appeal No 1392/2015

Riaz Ahmad EX: PST GPS Darmalak (BPS-7) Now (BPS-12).

.....APPELLANT

VERSUS

1. Govt. of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education.
2. Director Elementary & Secondary Education Peshawar.
3. District Education Officer (Male) Kohat.

..... RESPONDENTS.

I N D E X

S.No.	Description of Documents	Annex	Pages
1	Affidavit.		A
2	Para wise comments.		B,C
3	Appellant Statements Before Enquiry Officer on 28-07-2015 and 01-08-2015		1-2
4	None Payment Certificate		3
5	Registered letter to appellant from Enquiry Officer		4-5
6	Letter from enquiry officer to DEO (M) Kohat regarding appellant request		6
7	<i>Enquiry Report</i>		7

BEFORE THE HON'ABLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR.

Appeal No 1392/2015

Riaz Ahmad EX: PST GPS Darmalak (BPS-7) Now (BPS-12).

.....APPELLANT

VERSUS

1. Govt. of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education.
2. Director Elementary & Secondary Education Peshawar.
3. District Education Officer (Male) Kohat.

..... RESPONDENTS.

AFFIDAVIT

I Roz Wali Khan DEO M Kohat do hereby solemnly affirm and declare on oath that the contents of the accompanying Para Wise Comments on behalf of respondent No.1 to 3 are true and correct to the best of my knowledge and belief and that nothing has been concealed from this honorable Tribunal.


DEPENDENT

CNIC No. 17301-1406724-5

BEFORE THE HON'ABLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR.

Appeal No 1392/2015

Riaz Ahmad EX: PST GPS Darmalak (BPS-7) Now (BPS-12).

.....APPELLANT

VERSUS

1. Govt. of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education.
2. Director Elementary & Secondary Education Peshawar.
3. District Education Officer (Male) Kohat.

..... RESPONDENTS.

AFFIDAVIT

I **Roz Wali Khan DEO M Kohat** do hereby solemnly affirm and declare on oath that the contents of the accompanying **Para Wise Comments** on behalf of respondent No.1 to 3 are true and correct to the best of my knowledge and belief and that nothing has been concealed from this honorable Tribunal.


DEPONENT

CNIC No.17301-1406724-5

BEFORE THE HON'ABLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR.

Appeal No 1392/2015

Riaz Ahmad EX: PST GPS Darmalak (BPS-7) Now (BPS-12).

.....APPELLANT

VERSUS

1. Govt. of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education.
2. Director Elementary & Secondary Education Peshawar.
3. District Education Officer (Male) Kohat.

..... RESPONDENTS.

REPLY ON BEHALF OF RESPONDENTS 1 to3.

RESPECTFULLY SHEWITH

PRELIMINARY OBJECTIONS:

1. That the appellant has got no cause of action/locus standi to file the present appeal as he has been given opportunity twice i-e on 28-7-2015 & 1-8-2015 for self defense .His own hand written statements are attached as annexed 1& 2 & respectively.
2. That the appellant has not come to the honorable service tribunal with clean hands.
3. That the appellant has suppressed/concealed material facts from the honorable service tribunal.
4. That the present appeal is bad in its present form, hence not maintainable and liable to be dismissed with cost.
5. That the appeal is bad for mis joineder & non Joineder of unnecessary parties.

RESPCETFULLY SHEWITH:
ON FACTS

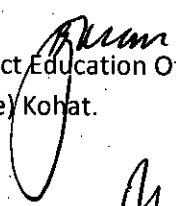
1. Pertains to record.
2. Pertains to record.
3. The appellant wilfully remained absent & absconder from his duty for more than 14 years & no salary for the mentioned period has been paid (Non Payment certificate of concerned DDO attached as annexed at page 3).
4. No Comments. However the impugned order was issued after conducting proper inquiry & the appellant wilfully & flatly refused to defend the charges of wilful absenteeism leveled against him.(copy annexed 1&2).
5. Incorrect. The appellant through impugned order dated 20/8/2015 has been removed from service due to wilfull absence from service for more than fourteen (14) years & he has been given opportunity twice, as mentioned above to defend the charges of wilful absence & he wilfully & flatly refused to explain cogent reasons of his wilful absenteeism.

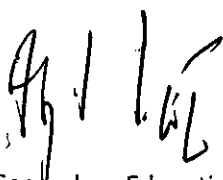
6. Partain to record.
7. The Appellant has got no cause of action to file instant appeal.

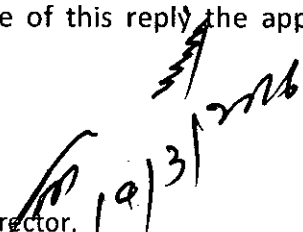
Grounds.

- A) Incorrect, the impugned order dated 20.8.2015 issued by the respondent No 3 is according to the law, facts, norms & natural justice & may be keep intact.
- B) Incorrect, respondent department has given opportunities twice to the appellant & the appellant wilfully, intentionally & flatly refused to entertain the questioner offered by the Inquiry officer. In fact the appellant has concealed the facts from the honorable Tribunal.
- C) No comments .However the appellant wilfully remained absconder for more than 14 years.
- D) Incorrect. The respondents have fulfilled all codel formalities before issuing impugned order dated 20.8.2015.
- E) As Replied in above para.
- F) In correct. The appellant has been called to appear before Inquiry officer in his office through Registered letter no 369-70 dated 14/7/2015 (Copy attached at page 4 &5) on 28/7/2015 & accordingly the appellant appear before the inquiry officer & his request to re-appear before the inquiry officer on 1/8/2015 after consultation with his legal consultant(Copy attached at page 1) was honored by the inquiry officer & respondent no 3 was informed accordingly thorough letter no 381 dated 28/7/2015 (copy annexed page 6) by the inquiry officer so that opportunity of self defense is provided to appellant. On dated 1/8/2015 the appellant appear before the inquiry officer & he flatly refused to explain cogent reasons which signify rampant attitude absolutely tantamount to misconduct. (Copy annexed at page 2).
- G) Incorrect. As replied above.
- H) In correct. As per Para mentioned above.
- I) The respondents also seek permission of this Honorable Tribunal to raise additional grounds at the time of arguments.

It is therefore most humbly prayed that on acceptance of this reply the appeal may very kindly be dismissed with cost.


District Education Officer
(Male) Kohat.


Secretary,
Elementary & Secondary Education,
Khyber Pakhtoon Khwa Peshawar


Director,
Elementary & Secondary Education,
Khyber Pakhtoon Khwa Peshawar.

ضاب عالی

آج مورخہ 28-7-2015 کو میں دفتر ہذا میں حاضر ہوا۔
 چونکہ دفتر ہذا کے طرف سے مجھے 14-7-2015 کو لڈالیم
 ڈاک ایک لیٹر موصول ہوا تھا، اور میں کراچی تھا۔ اور
 آج کراچی سے پہنچا کیر الیس ڈی. او ہاؤس کے ساتھ
 جلد لیٹر میں مجھے انکوٹری میں اسپتال ہونے کا لکھا ہے
 چونکہ میرا کیر الیس عدالت میں چل رہا ہے۔ لہذا میں
 اپنے وکیل سے مشورہ کر کے ایک دو دن بعد کراچی
 دونا 2015-8-1 کو میں دفتر ہذا میں حاضر ہوؤں گا۔

رہنما امجد۔ سابقہ جی۔ ٹی۔ سی ٹی۔ جی پی ایس دروازہ

بکھورنا - ایس ڈی - ای صاحب لاپچی

صاحب عالی

میرا کیس عدالت میں چل رہا ہے۔ اس موقع پر

میں اپنی لٹریچر مائلوں کو جواب نہیں دے سکتا۔

F.A. d.

1-8-2015 ریاض صاحب - ایس ڈی - ای صاحب لاپچی

3

59

NON PAYMENT CERTIFICATE

Certified that no salary payment has been made to Mr: Riaz Ahmad

Ahmed PTC GPS Darmalak (Involved in murder case) since 09/1998 up till now.

Handwritten signature

Handwritten signature

Handwritten signature

Sub: Divisional Education Officer

Sul. no. (Male) Kohat Office

(Male) Kohat

9

OFFICE OF THE SUB-DIVISIONAL EDUCATION OFFICER (M) LACHI.

No. _____

Dated Lachi the 14/07/2015.

To

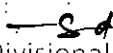
Riaz Ahmad,
PST GPS Darmalak.

Subject: ENQUIRY.

Memo:


In compliance to the direction issued by DEO (M) Kohat through notification No. 3284 dated 02-06-2015. The undersigned has been appointed as enquiry officer against you. The said enquiry will held in the office of the undersigned on 28-07-2015.

You are therefore requested to make sure your presence on the mentioned date in the office of undersigned during working hours to justify your unauthorized absenteeism since 31-07-1998 to date. Non compliance to this will mean ex-party decision against you.


Sub- Divisional Education Officer,
(Male) Primary LACHI.

Endst: 370

1. District Education Officer (Male) Primary Lachi.


Sub- Divisional Education Officer,
(Male) Primary LACHI.

Pcs-7
6

**OFFICE OF THE SUB: DIVISIONAL EDUCATION
OFFICER (MALE) LACHI**

No. 3391

Dated Lachi the 06 / 08 / 2015

To

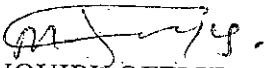
The District Education Officer
(Male) Kohat

Subject: **ENQUIRY REPORT**

Memo:

In compliance of DEO (M) Kohat letter No 3284 dated 02-06-2015, the undersigned carried out inquiry against Mr. **Riaz Ahmad** PST GPS Darmalak Kohat, in this connection the stale record of SDEO (M) Kohat has been consulted as the said office was DDO at that time. proceedings/finding of which are as under:

1. That accused had been served as PTC for the period from 26-04-1984 to 31-07-1998.
2. That accused was charged in FIR at police station Lachi under section 302/324/43 dated 31-07-1998.
3. That right from chalking FIR, remained absconder/willful absent from duty w.e.f. 31-07-1998.
4. After reconciliation, the accused bailed out on BBA on 19-03-2013.
5. The accused was asked for present before inquiry officer on 01-08-2015 to defend the allegations about his willful absence from 31-07-1998 till now but the accused flatly refused to response the questionnaire with the plea that he sued writ-petition in court of law and did not bother to face the enquiry.
6. Due to lapsed of more than 15 years whatsoever disciplinary action on behalf of education department, but could not traced in dormant file.
7. The case is submitted for further consideration.


(INQUIRY OFFICE)
SUB: DIVIL: EDUCATION OFFICER
(MALE) LACHI

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. 1392/2015

RIAZ AHMAD

VS

EDUCATION DEPTT:

REJOINDER ON BEHALF OF APPELLANT IN RESPONSE
TO THE REPLY SUBMITTED BY THE RESPONDENTS

R/SHEWETH:

PRELIMINARY OBJECTIONS:

(1 To 5):

All the preliminary objections raised by the respondents are incorrect, baseless and not in accordance with law and rules rather the respondents are estopped due to their own conduct to raise any objection at this stage of the case.

ON FACT:

- 1- Admitted correct hence need no comments.
- 2- Admitted correct hence need no comments.
- 3- Incorrect and not replied accordingly. That the FIR which was lodged under section 302/324/34 PPC against the appellant vide dated 31.7.1998, the Honorable Additional Session Judge acquitted the appellant from the criminal above mentioned charges vide judgment dated 28.11.2013. That after acquittal appellant approached the District Education Officer (Male) District Kohat but no heed was paid on the request of the appellant.
- 4- Incorrect and replied accordingly. That the respondent Department straight away removed the appellant from his service without conducting regular inquiry.
- 5- Incorrect and not replied accordingly. That appellant has been removed from his service due to the above mentioned FIR inspite of knowing the fact that appellant has been acquitted from the said charges by the trial Court vide 28.11.2013.
- 6- Admitted correct hence need no comments.
- 7- Incorrect and not replying accordingly hence denied.

GROUND:

(A TO I):

appeal
appellant
 All the grounds of main ~~with~~ petition of the ~~petitioner~~ are correct and in accordance with law and prevailing rules and that of the respondents are incorrect and baseless. That appellant has been honorably acquitted by the trial Court from the FIR dated 31.7.1998, therefore the respondents are duty bound under F.R 53 to re-instate the appellant in to service with all back benefits. That the respondent Department acted in arbitrary and malafide manner while issuing the impugned order dated 20.8.2015. That no charge sheet and statement of allegation has been served on the appellant before issuing the impugned order dated 20.8.2015. That no show cause notice has been served on the appellant before issuing the impugned order dated 20.8.2015. That no chance of personal hearing/defense has been given to the appellant while issuing the impugned order. That no regular inquiry has been conducted in the matter which is as per Supreme Court judgments is necessary in punitive actions against the civil servants.

It is therefore, most humbly prayed that on acceptance of this rejoinder the appeal of the appellant may very kindly be accepted in favor of the appellant.

APPELLANT



RIAZ AHMAD

THROUGH:

**NOOR MOHAMMAD KHATTAK
ADVOCATE**

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

No 02 /ST

Dated 01/01/2018


To

The District Education Officer (Male),
Government of Khyber Pakhtunkhwa,
Kohat.

Subject: **JUDGEMENT/ORDER IN APPEAL NO. 1392/15 MR.RIAZ AHMAD.**

I am directed to forward herewith a certified copy of Judgment/Order dated 20/12/2017 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.

0/2