

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
CAMP COURT, ABBOTTABAD.

Service appeal No. 769/2016

Date of institution ... 27.07.2016
Date of decision 29.06.2018

Mujeeb-ur-Rehman son of Gul Samar, P.E.T, Government Middle School Mandraza,
Tehsil Pattan, District Kohistan, ... (Appellant)

Versus

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

Mr. Abdul Saboor Khan,
Advocate ... For appellant.

Mr. Ziaullah,
Deputy District Attorney ... For respondents.

MR. SUBHAN SHER, ... CHAIRMAN
MR. AHMAD HASSAN, ... MEMBER.

JUDGMENT

SUBHAN SHER, CHAIRMAN:-

The short facts making the background of the present appeal are, that the appellant joined the Education Department as PET Teacher in the year 1998. However, in this period, he remained absent particularly on 27.01.2016. Show cause notice dated 15.02.2016 was given wherein besides willful absence from duty other omission as allegedly committed by the appellant, were also include in the charges and show cause notice. This show cause notice was duly replied by the appellant on 22.02.2016, however, later on, the respondents No.3 i.e District Education Officer vide impugned order dated 22.03.2016 imposed major penalty of removal from service with retrospective effect. Aggrieved from the impugned order, the appellant preferred appeal before the appellate

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authority which was not responded in time so, he was compelled to approach this Tribunal through the instant appeal. At this Stage, it will be relevant to mention here that during the pendency of appeal before this Tribunal, appellate authority decided the departmental appeal of the appellant on 04.01.2017 whereby the appeal of the appellant was partly allowed to the extent that the major penalty was converted into minor penalty of withholding of annual increment for the year 2018 with accumulative effect and treated the intervening period as Extra Ordinary Leave without pay. So the appellant again approached this court to amend the appeal which was allowed accordingly and the order of the appellate authority dated 04.01.2017 was also impugned.

2. Arguments heard and record perused.

3. Mr. Abdul Saboor, Advocate, counsel for the appellant assailed the impugned order passed by respondent No.3 and the appellate order passed by respondent No.2 on legal and factual ground. He contended that the first impugned order passed by the respondent No.3 is defective in the eyes of law as the removal order has been passed and given effect with retrospective but the same has been passed without adopting the procedure prescribed under the law. Similarly, he also challenged the order of the appellate authority by arguing that the appellate authority admitted in its impugned order that neither the charges of absence were proved against the appellant nor any enquiry conducted as required under the law and due to all those lacunas, the appeal was allowed. So there was left no justification to impose even minor penalty. At the end, he requested to set aside both the impugned orders and reinstate the appellants with all back benefits.

4. Mr. Ziaullah, Deputy District Attorney though strongly opposed the contentions of the learned counsel for the appellant and argued that the orders have been passed by the

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respondents after observing all the codal and legal formalities and requested to dismiss the appeal.

5. After perusal of the available record and keeping in view the arguments of the parties, this Tribunal straightaway agrees with the contention of the learned counsel for the appellant as the same are not only cogent, valid, admitted based on facts but gets fully support from the record itself, as is evident from the following discussion.

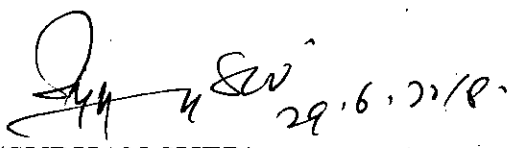
6. The appellant was given show cause notice on 15.02.2016 which was responded by the appellant on 22.02.2016 but strange enough, on 22.03.2016 passed the impugned order whereby the appellant was removed from service without conducting any enquiry as prescribed under the law. Respondents before imposing major penalty of removal from service, were bound to proceed strictly in accordance with the law like conducting of inquiry, issuance of show cause notice, charge sheet etc but all these legal formalities were ignored and major punishment was imposed.

7. So far the order dated 04.01.2014 passed by the respondent No.2(Appellate Authority) is concerned, again on its bare reading it would reveal that it has been categorically admitted in the said impugned order that neither enquiry was conducted nor the charge of misconduct is proved against the appellant and so the appeal was allowed and the major punishment was converted into minor penalty. But with profound respect, this imposition of minor penalty is not only against the facts and circumstances of the case but even against the law. As stated earlier, the appellate authority itself admitted that neither enquiry was conducted nor any charge was proved against the appellant then there was left no justification even to impose minor penalty. Similarly, as already stated that the annual increment has been held with cumulative effect which is against F.R-29. In short, from the above stated factual and legal position of the appeal, this Tribunal reached

SW 29.6.2016
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to the conclusion that the impugned orders suffer from serious legal infirmities and passed against the Khyber Pakhtunkhwa Government Servant (E&D) Rules 2011, hence, justified interference under appellate jurisdiction of this Tribunal. As such, on acceptance of this appeal, both the impugned orders passed by respondent No.2 dated 04.01.2017 and respondent No.3 dated 22.03.2016 are set aside. In the circumstances of the case, parties shall bear their own costs. . No order as to costs. File be consigned to the record room.


(AHMAD HASSAN)
Member


(SUBHAN SHER)
Chairman
Camp Court, Abbottabad.

ANNOUNCED
29.06.2018

769/2016

29.06.2018

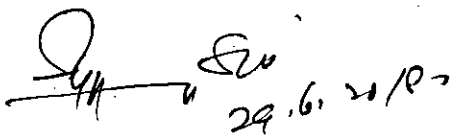
Counsel for the appellant Mr. Abdul Saboor Khan, Advocate present. Mr. Shah Wali Ullah, KPO on behalf of the respondents alongwith Mr. Ziaullah, Deputy District Attorney present.

Arguments heard and file perused.

Vide our detailed judgment of today placed on file, , on acceptance of this appeal, both the impugned orders passed by respondent No.2 dated 04.01.2017 and respondent No.3 dated 22.03.2016 are set aside. In the circumstances of the case, parties shall bear their own costs. . No order as to costs. File be consigned to the record room.



Member

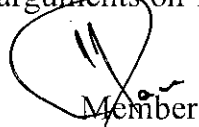



Chairman
Camp court, A/Abad

ANNOUNCED
29.06.2018

19.02.2018

Learned counsel for the appellant and Mr. Kabirullah Khattak, Addl. AG for the respondents present. Counsel for the appellant requested for adjournment. Request accepted. To come up for arguments on 17.04.2018 before the D.B camp court, A/Abad.


Member


Chairman
Camp Court, A/Abad

17.04.2018


Counsel for the appellant and Mr. Usman Ghani, District Attorney alongwith Shah Waliullah, Computer Operator for the respondents present. Counsel for the appellant stated that during the pendency of the present appeal the impugned order of dismissal from service has been modified into minor penalty of withholding of increments. In this regard, he submitted an application for amendment in the prayer in the memorandum of appeal. Application is accepted. The prayer be amended accordingly. To come up for arguments on 25.6.2018 before the D.B at camp court, Abbottabad.


Member

Chairman
Camp court, A/Abad

25.06.2018

Neither appellant nor his counsel present. Mr. Shah Waliullah, Computer Operator alongwith Mr. Usman Ghani, District Attorney for the respondents present. To come up for amendment in the prayer of appeal/further proceedings 29.06.2018 before the D.B at camp court, Abbottabad.


Member
Camp court, A/Abad

769/2016

17.02.2017

Clerk of counsel for the appellant and Mr. Shah Waliullah, Computer Operator alongwith Mr. Muhammad Siddique Sr.GP for the respondents present. Written reply submitted. The appeal is assigned to D.B for rejoinder and final hearing for 21.08.2017 at camp court, Abbottabad.

Member
Camp court, A/Abad

21.08.2017

Counsel for the appellant and Mr. Muhammad Bilal, Deputy District Attorney alongwith Shah Waliullah, Computer Operator for the respondents present. Counsel for the appellant seeks adjournment to prepare rejoinder. Adjourned. To come rejoinder and final hearing on 23.11.2017 before the D.B at camp; court, Abbottabad. b

Member

Chairman
Camp court, A/Abad

23.11.2017

Counsel for the appellant and Mr. Kabeerullah Khattak, Addl. AG alongwith Shah Waliullah, Computer Operator for the respondents present. Counsel for the appellant seeks adjournment. Granted. To come up for arguments on 20.02.2018 before D.B at camp court, Abbottabad.

Member

Chairman
Camp court, A/Abad


22.09.2016

Counsel for the appellant present. Learned counsel for appellant argued that the appellant was serving as PET when removed from service vide impugned order dated 22.3.2016 on the allegations of absence where-against he preferred departmental appeal on 28.3.2016 which was not responded and hence the instant service appeal on 27.7.2016.

That the appellant has never remained absent and that no enquiry in the mode and manners prescribed by rules was conducted.


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 22.12.2016 before S.B at camp court, Abbottabad.

Appellant
Security
Process Fee


Chairman
Camp court, A/Abad

22.12.2016

Agent of counsel for the appellant and Mr. Shah Waliullah, Computer Operator alongwith alongwith Mr. Muhammad Siddique, Sr.GP for the respondents present. Requested for adjournment. To come up for written reply/comments on 17.02.2017 before S.B at camp court, Abbottabad.


Chairman
Camp court, A/Abad

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 769/2016

S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	27/07/2016	<p>The appeal of Mr. Mujeeb-ur-Rehman received today by post through Mr. Abdul Saboor Khan. Advocate may be entered in the Institution Register and put up to Worthy Chairman for proper order please.</p> <p style="text-align: right;"><i>[Signature]</i> REGISTRAR</p>
2-	28-07-2016	<p>This case is entrusted to Touring S. Bench at A.Abad for preliminary hearing to be put up there on. <u>22-09-2016</u></p> <p style="text-align: right;"><i>[Signature]</i> CHAIRMAN</p>

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

Service Appeal No. 769 of 2016

Mujeeb-ur-RehmanAppellant

VERSUS

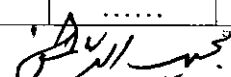
The Government of Khyber Pakhtunkhwa
through Secretary Elementary and
Secondary Education, Peshawar and others
.....Respondents

SERVICE APPEAL

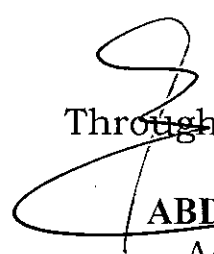
INDEX

S#	Particulars of documents	Annexure	Pages
1	Memo of service appeal alongwith affidavit.	1-6
2	Correct addresses of the parties.	7
3	Copy of the appointment order.	"A"	8-9
4	Copy of the show cause notice alongwith better copy.	"B"	10-11
5	Copy of the reply.	"C"	12
6	Copy of the impugned order dated 22.03.2016 alongwith better copy.	"D"	13-14
7	Copy of the departmental appeal and letter regarding comments.	"E"	15-17
8	Copy of extract of Register.	"F"	18-19
9	Wakalat Nama	20

Dated 20.07.2016


Mujeeb-ur-Rehman
...Appellant

Through


ABDUL SABOOR KHAN,
Advocate High Court,
Mansehra.

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

Service Appeal No. 769 of 2016

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 767

Dated 27-7-2016

Mujeeb-ur-Rehman son of Gul Samar, P.E.T
Government Middle School Mandraza,
Tehsil Pattan District Kohistan
.....Appellant

VERSUS

1. The Government of Khyber Pakhtunkhwa through Secretary Elementary and Secondary Education, Peshawar.
2. The Director Elementary and Secondary Education, Peshawar.
3. The District Education Officer (Male), Kohistan.....Respondents.

**SERVICE APPEAL UNDER SECTION
4 OF KPK SERVICE TRIBUNAL ACT,
1974 AGAINST THE IMPUGNED
ORDER ENDST. NO.1360-65 DATED
22.03.2016 PASSED BY THE
RESPONDENT NO.3 WHEREBY THE
APPELLANT WAS REMOVED FROM
SERVICE ON THE SO-CALLED
ALLEGATION OF MISCONDUCT.**

Filed to-day

[Signature]
Registrar

27/7/16

PRAYER: -

On acceptance of the instant appeal, the impugned order bearing No.1360-65 dated 22.03.2016 passed by the respondent No.3 may

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please be set aside and the appellant be re-instated into service with all back benefits.

Respectfully Sheweth!

1. That, the appellant was initially appointed against the post of P.E.T by competent authority after observing all the legal formalities vide appointment order dated 29.04.1998.

(Copy of the appointment order is annexed as annexure "A").

2. That, since appointment, the appellant had been performing his duties with utmost devotion and satisfaction to the concerned with unblemished service career.
3. That, the respondent No.3 vide office order No.257 dated 19.02.2016 issued a baseless and vague show cause notice to the appellant with the allegation of willful absent from duty with effect from 27.01.2016 to which the petitioner duly replied.

(Copies of show cause notice and reply are annexed as annexure "B" & "C" respectively)

4. That, the respondent No.3 without adhering to the law on the subject, straightaway removed the appellant from service vide impugned order bearing Endst.No.1360-65 dated 22.03.2016.

(Copy of the impugned order dated 22.03.2016 is annexed as annexure "D").

5. That, feeling aggrieved, the appellant filed a departmental appeal with the respondent No.2 who called for comments from the respondent No.3 and thereafter it has been pending before the respondent No.3 without any decision as required under the law till now.

(Copy of the departmental appeal and letter regarding comments are annexed as annexure "E").

6. That, the appellant being dissatisfied with the impugned order and inaction of respondent No.2, seeks the gracious indulgence of this Honourable Court, inter alia, on the following grounds: -

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GROUNDS

- a. That, the very show cause notice is vague, incomplete and confusing one because it does not contain the description and details of the alleged misconduct.
- b. That, no explanation was ever called from the appellant nor proper inquiry as required under the law has every been initiated.
- c. That, neither charge sheet nor statement of allegation has ever been communicated to the appellant for the purpose of providing him the opportunity of defense.
- d. That, the opportunity of personal hearing has never been afforded to the appellant before passing the impugned order.
- e. That, as per averment contained in the impugned order that the appellant was absent from school on 28.02.2016 which is ridiculous in the sense that it was Sunday on 28.02.2016.

(Copy of extract of Register is annexed as annexure "F").

- f. That, three allegations have been made the basis of the removal of the appellant which are
 - i. Engaging you with the private school.
 - ii. Habitual absent from duty.
 - iii. Poor performance

But all these allegations are vague, incomplete and baseless in the sense that neither any description of private school nor evidence in support thereof has ever been collected and the rest of the allegations are also baseless and without evidence.

- g. That, no complaint whatsoever has ever been filed by anyone regarding the alleged habitual absence of the appellant from duty.
- h. That, there is no evidence worth name in support of the allegations as levelled by the respondent No.3 in the impugned order.
- i. That, the impugned order is totally illegal, discriminatory, without

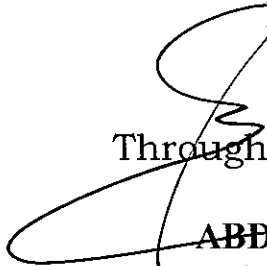
lawful authority and having no legal effect hence, liable to be set aside by this Honourable Court.

It is, therefore, most humbly prayed that on acceptance of the instant appeal, the impugned order bearing No.1360-65 dated 22.03.2016 passed by the respondent No.3 may please be set aside and the appellant be re-instated into service with all back benefits.

Dated 20.07.2016

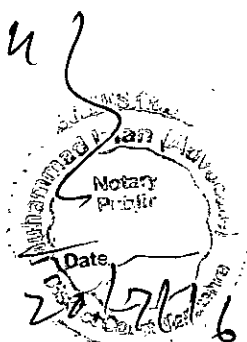

Mujeeb-ur-Rehman
...Appellant

Through

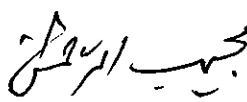

ABDUL SABOOR KHAN,
Advocate High Court,
Mansehra.

AFFIDAVIT.

I, Mujeeb-ur-Rehman son of Gul Samar, P.E.T Government Middle School Mandraza, Tehsil Pattan District Kohistan, Appellant, do hereby solemnly affirm and declare on oath that the contents of the foregoing appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Court.



Dated 20.07.2016


Mujeeb-ur-Rehman
(DEPONENT)

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

Service Appeal No. _____ of 2016

Mujeeb-ur-RehmanAppellant

VERSUS

The Government of Khyber Pakhtunkhwa
through Secretary Elementary and
Secondary Education, Peshawar and others
.....Respondents

SERVICE APPEAL

CORRECT ADDRESSES OF THE PARTIES

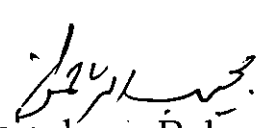
APPELLANT

Mujeeb-ur-Rehman son of Gul Samar, P.E.T
Government Middle School Mandraza,
Tehsil Pattan District Kohistan.

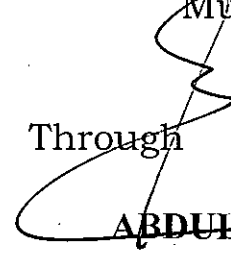
RESPONDENTS

1. The Government of Khyber Pakhtunkhwa
through Secretary Elementary and
Secondary Education, Peshawar.
2. The Director Elementary and Secondary
Education, Peshawar.
3. The District Education Officer (Male),
Kohistan.

Dated 20.07.2016


Mujeeb-ur-Rehman
...Appellant

Through


ABDUL SABOOR KHAN,
Advocate High Court,
Mansehra.

Annex A

Assessed
27/7/2016

OFFICE OF THE DIVISIONAL DIRECTOR OF EDUCATION
HAZARA DIVISION ABBOTTABAD.

APPEAL/APPOINTMENT.

Consequent upon scrutiny of merit list and acceptance of appeal the following P.E.T teachers, who were skipped over due to clerical mistake are hereby appointed as P.E.T. teachers against vacant posts in the schools mentioned below on SPS(9) Rs.1605/- P.M. plus usual allowances as admissible under the rules in the interest of public service with immediate effect subject to the following conditions:-

S.NO.	name of teacher.	Father's name	name of school.	Remarks.
1.	Shafee Muhammad	Said Rahim r/o Kohistan	G.M.S. Mulakhel Gabral	A.V.P.
2.	Mujeeb-ur-Rehman	Gul Samar r/o Kohistan	G.M.S. Mandraga.	A.V.P.

CONDITIONS.

- the appointments are purely on temporary basis and are liable to termination at any time without any notice.
- they should produce Health and age certificates from the DHO, Kohistan.
- The Head of Institution is required to check all the original qualification Certificates before handing over the charge.
- the Head of Institution is required to get verify their certificates from board/university.
- Appointment of trained candidates who have passes their professional examination from other than NWFP is provisional and subject to verification of certificates.
- In case they wish to resign from service, they will have to give one month prior notice or forfeit one month pay in lieu of short notice.
- The appointments shall stand cancelled if they failed to join the post within one month of the issuance of this order.
- Special relaxation of upper age limit for two years as already allowed vide NWFP, SOGAD letter No. SOS-I I/ 94 dated 12/7/1994
- No TA/DA is allowed.
- Charge report should be submitted to all concerned.

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Handwritten signature
27/7/18

1. They should not hand over the charge if their age exceeds 25 years and below 18 years.

Signature
Divisional Director
of Schools Hazara Division
Abbottabad.

Erdst No. 8645-52 dated A/abad the 29/4 /98.

Copy of the above is forwarded to the:-

1. P/S to Minister for Education, NWFP, Peshawar.
2. Director of Secondary Education, NWFP, Peshawar.
3. District Education Officer (M) Secondary Kohistan.
4. District Accounts Officer, Kohistan.
5. Head Masters of Concerned Schools.
6. Candidates concerned.
7. Office order file.

Signature
For Divisional Director
of Schools Hazara Division
Abbottabad.

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Annex B

Alotted
27/7/16

OFFICE OF THE DISTRICT EDUCATION OFFICER
(MALE) KOHISTAN

Email: emiskohistan@yahoo.com

Phone No: 099-107123

SHOW CAUSE NOTICE

I, Riasat Khan, District Education Officer, (Male) Kohistan, as competent authority under the Khyber Pakhtunkhwa Govt: Servants (E&D) Rules, 2011, do hereby serve you, Musabbih Rehman PET as follows:

That as per visit of Male Education Office, (Male) Kohistan you have committed the following acts/omissions specified in rule 3 of the said rules.

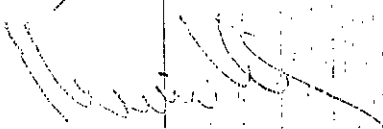
- a.) Inefficiency /poor performance
- b.) Indicate fake report about Class-IV/Chrohidar.
- c.) Willful absent from your duty w.e.f 27/7/16 to _____
- d.) Guilty of mis-conduct.

As a result thereof, I, as competent authority, have tentatively decided to impose upon you the penalty of RECOVERY OF SALARY FOR THE ABSENT PERIOD AND DEPRIVAL FROM SERVICE under rule 4 of the said rule.

You are, thereof required to show cause as to why the aforesaid penalty should not be imposed upon you and also intimate whether you desired to be heard in person.

If no reply to this notice is received within seven days or not more than fifteen days of its delivery, it shall be presumed that you have no defiance to put in and in that case an ex-parte action shall be taken against you.

Endstt: No 257 /Dated Kohistan the 15/2/2016


COMPETENT AUTHORITY

Accepted
27/2/2016

BETTER COPY

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Annex B

OFFICE OF THE DISTRICT EDUCATION OFFICER
(MALE), KOHISTAN

SHOW CAUSE NOTICE

I, Riasat Khan, District Education Officer, (Male) Kohistan, as competent authority under the Khyber Pakhtunkhwa Govt: Servants (E&D) Rules, 2011, do hereby serve you **MUJEEB-UR-REHMAN, P.E.T MANDRAZA** as follows:

That as per District Education Officer (M) Kohistan you have committed the following acts/omissions specific in rule-3 of the said rules.

- a) Inefficiency/poor performance.
- b) Indicate fake report about Class-IV/Chowkidar.
- e) Willful absent from your duty w.e.f. 27.01.2016 to ____
- d) Guilty of mis-conduct.

As a result thereof, I as competent authority, have tentatively decided to impose upon you the penalty of RECOVERY OF SALARY FOR THE ABSENT PERIOD AND REMOVAL FROM SERVICE under rule-4 of the said rule.

You are, therefore required to show cause as to why the aforesaid penalty should not be imposed upon you and also intimate whether you desired to heard in person.

If no reply to the notice is received within seven days or not more than fifteen days of its delivery, it shall be presumed that you have no defiance to put in and in that case an ex-parte action shall be taken against you.

Endstt: No.257/Dated Kohistan the 15.02.2016.

Sd/-
COMPETENT AUTHORITY

(2) تجھ سے صواب طوطی ای او صبا سب سبھی کو کوشش کرنی ہے

(20) (C) ANNEX
آداب: گزارش ہے کہ سائل گورنمنٹ مڈل سکول مندرازہ میں

بمخیت PET فراہم کیا گیا ہے اور ڈیوٹی باقاعدگی سے سرانجام دیا گیا ہے

27/01/2016 کو جمع سویرے صبحی والدہ کی طبیعت خراب ہوئی تھی
جس کو لے کر میں داکو آیا تھا۔ جہاں علاج نہ ہونے کی
سبب رات میں اسے اسپتال آباد بھیجا گیا جس کے ساتھ
شام تک جا کر واپس آیا۔ جس کی وجہ سے سکول سے
غیر حاضر رہا ہوں۔

بمذا میں گزارش ہے کہ اس بار سائل
کو معاف فرمائیں آئندہ کیسے اس قسم کی کوئی کوتاہی نہیں ہوگی
بصورت دیگر قانونی کارروائی کی جائے۔ اور جو بھی مناسب

تذرا دنیا سو دی جائے۔
A/G
Reply of Shareholder
22/02/2016
P.T.O

حسب الرحمان P-ET
GMS مندرازہ کوستان
المرفوم 22/02/2016

Advised
27/2/16



OFFICE OF THE DISTRICT EDUCATION OFFICER

(MALE) KOHISTAN

Email: emiskohistan@yahoo.com

Phone #: 0998-407128

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D

OFFICE ORDER REMOVAL FROM SERVICE

Mr. Mujeeb Ur Rahman, PET, GMS Madraza Kohistan.

You have been reported absent from duty variously by the community and field staff of the department.

Whereas a show cause notice was served to you by this office vide No 257 dated 15/02/2016 with the charge that you are guilty of

1. Engaging you with a private school.
2. Habitual Absent from duty.
3. Poor Performance.

Whereas your reply found dissatisfactory and the undersigned personally visited the school on 28/02/2016 and you were absent, again on the visit dated 09/03/2016 at 10am the column of your attendance in teaching attendance register was signed but you was absent.

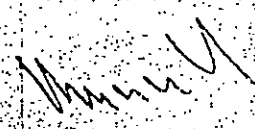
Whereas now a days you continuously engaging yourself with students of your private school for Un Fair Men in the examination.

Now, as on the above stated facts, the charges upon you have been proved. Therefore Riasat Khan (District Education Officer (M) Kohistan) being a competent authority under the efficiency and discipline rules 2011 is fully satisfied to impose upon you the major penalty of REMOVAL FROM SERVICE with retrospective effect under


District Education Officer
(Male) Kohistan.

Endstt. / No. / Estab. 1360-65 / dated Kohistan 22/03/2016

- Copy of the above is forwarded to the
1. Director Elementary and Secondary Education Kohistan.
 2. Deputy Commissioner Kohistan
 3. Deputy District Education Officer (M) Kohistan.
 4. District Accounts Officer Kohistan.
 5. Teachers concerned.
 6. Office File.


District Education Officer
(Male) Kohistan.

BETTER COPY

OFFICE OF THE DISTRICT EDUCATION OFFICER
(MALE) KOHISTAN

OFFICE ORDER REMOVAL FROM SERVICE

Mr. Mujeeb-ur-Rehman PET GMS Madraza Kohistan.

You have been reported absent from duty variously by the community and field staff of the department.

Whereas a show cause notice was served to you by this office vide No.257 dated 15.02.2016 with the charge that you are guilty of

1. Engaging you with a private school.
2. Habitual Absent from duty.
3. Poor Performance.

Whereas your reply found dissatisfactory and the undersigned personally visited the school on 28/02/2016 and you were absent, again on the visit dated 09/03/2016 at 10am the column of your attendance in teaching attendance register was signed but you were absent.

Whereas now a days you continuously engage yourself with students of your private school for Un Fair Men in the examination. Now, as on the above stated facts, the charges upon you have been proved. Therefore, I Riasat Khan (District Education Officer (M) Kohistan) being a competent authority under the efficiency and discipline rules 2011 is fully satisfied to impose upon you the major penalty of REMOVAL FROM SERVICE with retrospective effect under.

Sd/-

District Education Officer
(Male) Kohistan.

Endstt:/No./Estab: 1360-65/dated Kohistan 22.03.2016

Copy to the above is forwarded to the: -

1. Director Elementary and Secondary Education Kohistan.
2. Deputy Commissioner Kohistan.
3. Deputy District Education Officer (M) Kohistan.
4. District Accounts Officer Kohistan.
5. Teachers concerned.
6. Office File.

Sd/-

District Education Officer
(Male) Kohistan.

To

The Director,
Elementary & Secondary Education,
Kohistan.

Subject: **APPEAL AGAINST MALICIOUS ACTION TAKEN BY THE D.E.O; MALE, KOHISTAN,
NEGLECTING ALL STEPS OF PROCEEDING / IMPOSITION OF MAJOR PENALTY
WITHOUT PROPER INVESTIGATION/ ABUSE OF OFFICE & POWERS.**

Reverend Sir,

With the most profound sense of veneration, it is stated that I have serving as P.ET. in
GMS; Mandraza, Kohistan. The District Education Officer (Male), Kohistan has imposed on me the major
penalty of "Removal from service) vide Order No: 1360-65, dated: 22/3/2016. The action is biased and
on the contrary to the basic right of a Govt: servant. Following are the points which prove his action as
extreme violation of the E & D Rules, 2011.

- The action has been taken without calling explanation from me. No enquiry has been conducted.
- No charge sheet alongwith statement of allegation has been sent to me.
- The so called charges are not so far, of the immense nature, resulting in such a highest quantum of penalty.
- The D.E.O; has levelled against me the charge of having been indulged in a Private school whereas, I am not having any link with such activity. My immediate Boss has neither been complained against me.
- The D.E.O; in the second allegation, is of the view that I have been a habituated absentee. This is totally wrong. He had made mind to remove me from service because the Community has not submitted any complaint against me; the Head master has not forwarded any complaint, the students have not contacted the concerned.
- The D.E.O; has claimed in his show cause No: 257, dated: 15/02/2016 that I remained absent while his visit to school on 28/02/2016. How queer and strange point that it was Sunday on that date. This very point seems sufficient evidence of his prejudice attitude to me.
- To assess my performance is the Head master, G.M.S; Mandraza, where I am posted. The D.E.O; has mentioned this point as a base to remove me from service which is baseless and malicious.
- "Removal from service" is a major penalty and demands proper proceeding i.e. calling explanation of the accused, conduct of enquiry, issuing charge sheet alongwith statement of allegations, show cause, final show cause, personal hearing of the accused Govt: servant etc. But all these basic requirements have been skipped and jump to action has been made without keeping in view any of the point, stated.

In the light of above facts, I have come to you and want justice. The D.E.O; has autocratically imposed very high penalty on me just like a summary trial. Kindly, look into the matter and give a judicious decision.

Yours Obediently,

MUJEEB-UR RHMAN,
P.E.T.

28/03/06

DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION
KHYBER PAKHTUNKHWA, PESHAWAR

P. (16)

No. 2798 / F.No. 15 Vol-2nd / Appeals of PET/DPE (M)
Dated Peshawar the: 18/4 /2016.

Abdullah
22/2/16
To

The District Education Officers,
(Male) Kohistan.

Subject: - **APPEAL**

I am directed to refer to the subject cited above and to enclose herewith a copy of appeal in respect of Mr. Mujeeb-ur-Rehman PET GMS Madraza District Kohistan and to ask you to submit detail report alongwith relevant documents in the light of attached appeal of the PET concerned to this Directorate within 7 days positively to proceed further into the matter.

Deputy Director Estab (Male)
Elementary & Secondary Education
Khyber Pakhtunkhwa Peshawar

12/04/2016

A/E
Pwmp is
D.E.O for comments

25/4/16

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yoi
Ends
Elemen



Accepted

22/7/16

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

No 1895 /Dated Kohistan the 27/04/ /2016.

P. (17)

To

Director,
Elementary & Secondary Education
Khyber Pakhtunkhwa Peshawar.

Subject:- **APPEAL**

Memo:-

Kindly reference your letter No.2798/F.No.15-Vol:2nd/Appeals of PET/DPE(M) dated 18/4/2016 on the subjected above.

It is submitted that Mr, Mujeebur Rahman PET GMS Madraza Kohistan was removal from service vide this Office Endstt: No, 1360-65 dated 22/3/2016 on the charge of

1. Engaging you with a private school.
2. Habitual absent from duty.
3. Poor performance.

Whereas on the charges mentioned above a show cause notice was served to him and the reply was poorly and dissatisfactory.

Whereas on the public complaints the undersigned personally paid visit on 27/2/2016 and found the teacher absent.

Whereas his attendance in the column of teachers attendance register. The copy of removal order and reply of show cause notice is attached for further necessary action please.

W
District Education Officer
(Male) Kohistan.

07e

Endstt; No. 1895-98 /

Copy of the above is forwarded to the Deputy Director (Estab:) Elementary and Secondary Education Khyber Pakhtunkhwa Peshawar.

W
District Education Officer
(Male) Kohistan.

07e

مستشفى حرمين

قسم جراحة الكلى والاسفنج
 2016
 2016
 2016

2017/16
 Dr. M. Aly

رقم المريض	اسم المريض	العمر	الجنس	العنوان	تاريخ التقييم	الحالة	التاريخ	العلاج	النتيجة
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19	Casim	30	M

SHERZAD
 A.S.D.KHILJI

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بھارتی سروس

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Day	12
Hour	8:30
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Year	2016
Month	July
Day	12
Hour	8:30
Location	...

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Office

14

وکالت نامہ

کورٹ فیس

KPK Service Tribunal, Peshawar بعدالت

عنوان: محمد امجد علی خان بنام حکومت KPK برائے سکرٹری سیکرٹریٹ

APPELLANT

منجانب:

SERVICE APPEAL

نوعیت مقدمہ:

باعث تحریر آنکہ

مقدمہ مندرجہ میں اپنی طرف سے واسطے پیروی و جواب دہی کل کارروائی متعلقہ آں مقام

سید العوض بن امجد علی خان استغاثی احمد صاحب (مذکورہ) صاحب کارروائی

کو وکیل مقرر کر کے اقرار کرتا ہوں کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا نیز وکیل صاحب موصوف کو کرنے راضی نامہ و تقرر حالت فیصلہ بر حلف دینے اقبال دعویٰ اور بصورت دیگر ڈگری کرانے اجراء

وصولی چیک روپیہ و عرضی دعویٰ کی تصدیق اور اس پر دستخط کرنے کا اختیار ہوگا اور بصورت ضرورت مقدمہ مذکور کی کل یا کسی جزوی کارروائی کے لئے کسی اور وکیل یا مختار صاحب قانونی کو اپنے ہمراہ اپنی بجائے تقرر کا اختیار بھی ہوگا اور صاحب مقرر شدہ کو بھی وہی اور ویسے ہی اختیارات ہوں گے اور اس کا ساختہ پرداختہ مجھ کو منظور و قبول ہوگا۔ دوران مقدمہ جو خرچہ و ہر جانہ التوائے مقدمہ کے سبب ہوگا اس کے مستحق وکیل صاحب ہوں گے۔

نیز بقایا رقم وصول کرنے کا بھی اختیار ہوگا۔ اگر کوئی پیشی مقام دورہ پر ہو یا جسد سے باہر ہو تو وکیل صاحب موصوف پابند ہوں گے کہ پیروی مقدمہ مذکورہ کریں اور اگر مختار مقرر کردہ میں کوئی جزو بقایا ہو تو وکیل صاحب موصوف مقدمہ کی پیروی کے پابند نہ ہوں گے۔ نیز درخواست براد استجارت ناشر، بیخہ مفلسی کے دائرہ کرنے اور اس کی پیروی کا بھی صاحب موصوف کو اختیار ہوگا۔

لہذا وکالت نامہ تحریر کر دیا تاکہ سند رہے۔

المرقوم: 18.07.2016

بمقام:

Accepted

18/7/16

محمد امجد علی خان (مذکورہ) صاحب کارروائی

Handwritten signature and date: *F. R. [unclear]*
1962

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.
(CAMP COURT ABBOTTABAD)

APPEAL NO 769 OF 2016

Mujeeb ur Rehman ----- Appellant

VERSUS

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

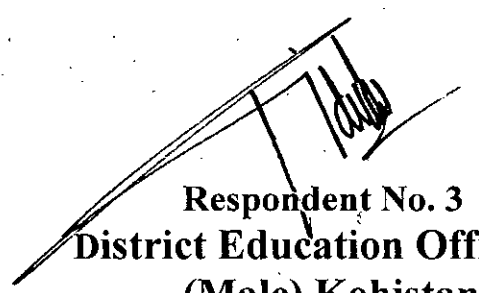
Respondents

PARAWISE COMMENTS FOR & ON BEHALF OF RESPONDENT NO.1, 2, 3.

INDEX

S#	Particulars of documents	Annexure	Pages
1	Comments along with affidavit		1-5
2	Copy of Show cause Notice	"A"	6
3	Copy of Removal order	"B"	7
4	Copy of Letter of appeal to Director E&SE	"C"	8
5	Copy of Statement of Resident Inspector SSC Exam 2016 GHS Jalkot	"D"	9

Dated 28 -11-2016



Respondent No. 3
District Education Officer,
(Male) Kohistan

36

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.
(CAMP COURT ABBOTTABAD)

APPEAL NO 769 OF 2016

Mujeeb ur Rehman -----Appellant

VERSUS

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

Respondents

PARAWISE COMMENTS FOR & ON BEHALF OF RESPONDENT NO.1, 2, 3.

Respectfully Sheweth:

- I. That the appellant did not come to this Honorable Court with clean hands.
- II. That the appellant has got no cause of action /locus standi to file the
Instant appeal
- III. That the appellant is estopped to sue through his own conduct.
- IV. That the present appeal is not maintainable due to non-joinder and
mis-joinder of necessary parties.
- V. That the appellant has concealed the material facts from this Honorable
Court, hence appeal is liable to be dismissed without any further
proceeding.
- VI. That the appellant has already been removed from Service after
Completion of all codal formalities vide order dated 22/03/2016, hence
appeal is liable to be dismissed.
- VII. That the appeal is time bared hence not maintainable and liable to be
dismissed.

Factual Objections:

1. Correct,
2. Incorrect strongly denied that the appellant reported absent from duty
variously by the community and field staff of the department and a public
complaint that Mr. Mujeeb Ur Rehman PET GMS Mandraza is completely
attached with Siam Public School Dassu and perform his duties there. To

verify it the then DEO (M) Kohistan personally visited to his school on 27-01-2016 and the teacher was found absent.Hence a show cause notice was served upon him by DEO (M) office Kohistan vide Endost No.257 Dated 15-02-2016 with the charge that he was guilty of engaging him with a private school and habitually absent from hisSchool duty as well as poor performance.(Copy of show cause notice annexed as annexure-A)

The reply of the appellant show cause notice submitted on 22-02-2016 was found dissatisfactory and the then DEO (M) Kohistan personally paid visit his school on 28-02-2016 and he was again found absent, on 09-03-2016 the attendance of the teacher was marked on the attendance registered but physically the teacher was not present.

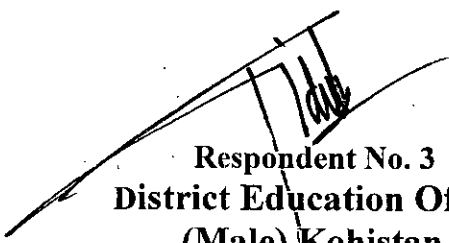
- 3. Incorrect strongly denied that the reply of the appellant was found dissatisfactory again and again he was remained absent from his duty as stated in Para No.2 above.
- 4. Incorrect strongly denied that a show cause notice was served to him and the reply was found poorly and dissatisfactory and a chance of personal hearing was also provided to the appellant in which his willfull absence was proved hence the appellant was removed from service under the efficiency & disciplinary rules 2011 vide Endost No. 1360-65 dated 22-03-2016.(Copy of removal order annexed as annexure-B)
- 5. Correct to the extent that the appellant submitted departmental appeal to the Director E&SE KPK Peshawar and the Director vide his No.2798 dated 18-04-2016 ask for submission of comments and in response to the letter the comments were submitted to Director E&SE KPK Peshawar vide (DEO) Kohistan Endost No.1895-98 dated 27-04-2016.(Copy of reply of Director letter annexed as annexure-C)
- 6. Strongly denied that the appellant is not eligible to seek extra ordinary relief.


GROUND

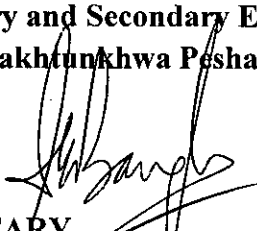
- a. Incorrect, strongly denied that the appellant removed from service after fulfilling of all codal formalities as stated in Para 3 of factual objections.
- b. The para "b" is incorrect hence denied. Detailed reply has been given in para No. 2 &4 of Factual objections.

- c. Incorrect strongly denied that the appellant was provided a chance for personal hearing in which the allegation have been proved upon him as stated in Para 2& 4 above of factual objections.
- d. Incorrect strongly denied that the appellant has provided the opportunity forself-defense and his absence was proved.
- e. Incorrect strongly denied as stated in Para 2&4 of factual objections.
- f. Incorrect strongly denied that the appellant was willfully absented himself from his School duty as the statement of the Resident Inspector SSC Examination 2016 Mr.Ajam Khan SCT GHS Jalkot solemnly declares that Mr.Mujeeb Ur Rehman PET GMS Mandraza was regularly coming to GHS Jalkot from 08:30 am to 1:00 pm w.e.f 15-03-2016 to 04-04-2016 along with students of private School Named“Siam Public School & College Komila” to support them in the SSC Examinations at this Centre.(Copy of the statement of Resident Inspector SSC 2016is annexed as annexure-D).
- g. Incorrect strongly denied that as stated in Para 2 & 4 above of factual objections.
- h. Incorrect strongly denied that as stated in Para 2 & 4 above of factual objections.
- i. Incorrect strongly denied that the appellant removed from service after fulfilling of all codal formalities being a Competent Authority under Efficiency & Disciplinary rule 2011.

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


Respondent No. 3
District Education Officer,
(Male) Kohistan


DIRECTOR
Elementary and Secondary Education
Khyber Pakhtunkhwa Peshawar


SECRETARY
Elementary and Secondary Education
Khyber Pakhtunkhwa Peshawar

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.
(CAMP COURT ABBOTTABAD)

APPEAL NO 769 OF 2016

Mujeeb Ur Rehman -----Appellant

VERSUS

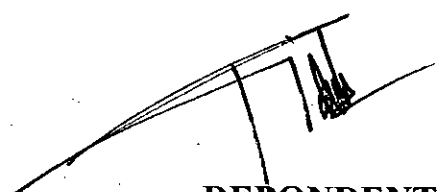
1. Govt of Khyber Pakhtunkhwa through Secretary
Elementary Secondary Education Peshawar
2. Director Elementary & Secondary Education KPK Peshawar
3. District Education Officer (Male) Kohistan

Respondents

PARAWISE COMMENTS FOR & ON BEHALF OF RESPONDENT NO.1, 2, 3.

AFFIDAVIT

I, Fida Muhammad Khan DEO (Male) Kohistan do hereby solemnly affirm and declare that the contents of Para wise reply in the above titled Case are true and correct to the best of my knowledge and belief, and that nothing, material has been suppressed from this Honorable court.


DEPONENT



cc An 2 32

OFFICE OF THE DISTRICT EDUCATION OFFICER
(FATAH KOHISTAN)

28

Phone No. 3008-207123

Email: emiskohistan@yahoo.com

SHOW CAUSE NOTICE

competent authority under the Khyber Pakhtunkhwa Govt. Servants (E&D) Rules, 2011, do hereby serve you Muhammad Rafiq PET Dine as follows:

That as per visit of District Education Officer (F) Kohistan you have committed the following acts/omissions specified in rule 3 of the said rules.

- a.) Inefficiency /poor performance
- b.) Indicate fake report about Class-IV/Chirkhidar.
- c.) Willful absent from your duty on 27/1/016 to _____
- d.) Guilty of mis-conduct.

As a result thereof, I, as competent authority, have tentatively decided to impose upon you the penalty of RECOVERY OF SALARY FOR THE ABSENT PERIOD AND RECALL FROM SERVICE under rule 4 of the said rule.

You are, thereof required to show cause as to why the aforesaid penalty should not be imposed upon you and also intimate whether you desired to be heard in person.

If no reply to this notice is received within seven days or not more than fifteen days of its delivery, it shall be presumed that you have no defiance to put in and in that case an ex-parte action shall be taken against you.

Endstt/No 287 /Dated Kohistan the 15/2/2015

COMPETENT AUTHORITY



OFFICE OF THE DISTRICT EDUCATION

OFFICER

(MALE) KOHISTAN

Email: emiskohistan@yahoo.com

Phone # 0998-407128

OFFICE ORDER REMOVAL FROM SERVICE/

Mr. Mujeeb Ur Rahman PET GMS Madraza Kohistan.

You have been reported absent from duty variously by the community and field staff of the department.

Whereas a show cause notice was served to you by this office vide No. 257 dated 15/02/2016, with the charge that you are guilty of

1. Engaging you with a private school.
2. Habitual Absent from duty.
3. Poor Performance.

Whereas your reply found dissatisfactory and the undersigned personally visited the school on 28/02/2016 and you were absent, again on the visit dated 09/03/2016 at 10am the column of your attendance in teaching attendance register was signed but you was absent.

Whereas now a days you continuously engaging yourself with students of your private school for Un Fair Men in the examination.

Now, as on the above stated facts, the charges upon you have been proved. Therefore I Riasat Khan (District Education Officer (M) Kohistan) being a competent authority under the efficiency and discipline rules 2011 is fully satisfied to impose upon you the major penalty of REMOVAL FROM SERVICE with retrospective effect under

[Signature]
District Education Officer
(Male) Kohistan.

Endstt; /No./Estab: 1360-65 /dated Kohistan 22/03 /2016

Copy of the above is forwarded to the:-

1. Director Elementary and Secondary Education Kohistan.
2. Deputy Commissioner Kohistan
3. Deputy District Education Officer (M) Kohistan.
4. District Accounts Officer Kohistan.
5. Teachers concerned.
6. Office File.

[Signature]
District Education Officer
(Male) Kohistan.

Copy of the above is forwarded to the PA to Director Elementary & Secondary Education, Khyber Pakhtunkhwa Peshawar.

[Signature]

"C" 30

OFFICE OF THE DISTRICT EDUCATION OFFICER (M)

KOHISTAN

No 1895 /Dated Kohistan the 27/04/ 2016.

To

Director,
Elementary & Secondary Education
Khyber Pakhtunkhwa Peshawar.

Subject:- APPEAL

Memo:- Kindly reference your letter No.2798/F.No.15-Vol:2nd/Appeals of PET/DPE(M) dated 18/4/2016 on the subjected above.

It is submitted that Mr, Mujeebur Rahman PET GMS Madraza Kohistan was removal from service vide this Office Endstt: No, 1360-65 dated 22/3/2016 on the charge of

1. Engaging you with a private school.
2. Habitual absent from duty.
3. Poor performance.

Whereas on the charges mentioned above a show cause notice was served to him and the reply was poorly and dissatisfactory.

Whereas on the public complaints the undersigned personally paid visit on 27/2/2016 and found the teacher absent.

Whereas his attendance in the column of teachers attendance register. The copy of removal order and reply of show cause notice is attached for further necessary action please.

*District Education Officer
(Male) Kohistan.*

Endstt; No. 1895-95

Copy of the above is forwarded to the Deputy Director (Estab:) Elementary and Secondary Education Khyber Pakhtunkhwa Peshawar.

*District Education Officer
(Male) Kohistan.*

" C " 99 ✓

**DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION
KHYBER PAKHTUNKHWA, PESHAWAR**

No. 2798 / F.No. 15 Vol-2nd / Appeals of PET / DPE (M)
Dated Peshawar the: 18/4 / 2016.

To

The District Education Officers,
(Male) Kohistan.

Subject: - **APPEAL**

I am directed to refer to the subject cited above and to enclose herewith a copy of appeal in respect of Mr. Mujeeb-ur-Rehman PET GMS Madraza District Kohistan and to ask you to submit detail report alongwith relevant documents in the light of attached appeal of the PET concerned to this Directorate within 7 days positively to proceed further into the matter.

[Signature]
Deputy Director Estab. (Male)
Elementary & Secondary Education
Khyber Pakhtunkhwa Peshawar

12/04/2016


A/E

*PW MP to
DEO for comments*

[Signature]
SEP
25/4/16

1) Mr. Ajam Khan SET Resident Inspector
 Exam Center Nahiya LHS Jalkot solemnly
 declare that Mr. Muzeeb Rehman was
 regularly coming to LHS Jalkot from
 8:30 am to 1:00 pm wef 15³/₀₁₆ to 2⁴/₀₁₆
 along with students of a private school
 Siam Public School and College Komila
 to support them in the SSC Examinations

Resident Inspector


 26/7/06

P

(1)

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

Service appeal No.769 of 2016

Mujeeb-ur-RehmanAppellant

VERSUS

Govt. of Khyber Pakhtunkhwa through
Secretary, Elementary and Secondary
Education, Peshawar and two others
.....Respondents

SERVICE APPEAL NO.769-A OF 2016

**APPLICATION FOR MOLDING THE
RELIEF FROM SETTING ASIDE
THE IMPUGNED ORDER DATED
22.03.2016 TO SETTING ASIDE THE
IMPUGNED ORDER DATED 04.01.2017
WITHHOLDING OF ANNUAL
INCREMENT FOR THE YEAR 2018
WITH ACCUMULATIVE EFFECT
AND TREATING THE INTERVENING
PERIOD EXTRA ORDINARY LEAVE
WITH ALL BACK BENEFITS IN
VIEW OF THE DECISION OF THE
DEPARTMENTAL APPEAL OF THE
APPELLANT DURING PENDENCY
OF THE INSTANT APPEAL ON
04.01.2017.**

KR
17/9/18

Respectfully Sheweth!

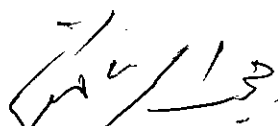
1. That, appellant had challenged the impugned order dated 22.03.2016 through service appeal No.769 of 2016 whereby major penalty of removal from service with retrospective effect was imposed upon him.
2. That, at the time of filing of the instant appeal, the departmental appeal of the appellant had not been decided by then and it was decided during the pendency of the instant appeal on 04.01.2017 whereby major penalty of removal from service was converted into minor penalty of withholding annual increment for the year 2018 with accumulative effect and treating the intervening period i.e. extra ordinary relief without pay. *(Copy of order dated 04.01.2017 is annexed herewith).*
3. That, after decision of the departmental appeal on 04.01.2017, the prayer in the main appeal requires to be molded to setting aside the impugned order dated 04.01.2017 withholding of annual increment for

the year 2018 with accumulative effect and treating the intervening period extra ordinary leave with all back benefits in view of the decision of the departmental appeal of the appellant during pendency of the instant appeal on 04.01.2017.

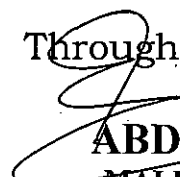
.....PRAYER

It is, therefore, very humbly prayed that on acceptance of the instant application, the relief/prayer from setting aside the impugned order dated 22.03.2016 to setting aside the impugned order dated 04.01.2017 withholding of annual increment for the year 2018 with accumulative effect and treating the intervening period extra ordinary leave with all back benefits in view of the decision of the departmental appeal of the appellant during pendency of the instant appeal on 04.01.2017 may please be molded.

Dated 16.04.2018


Mujeeb-ur-Rehman
.....Appellant

Through

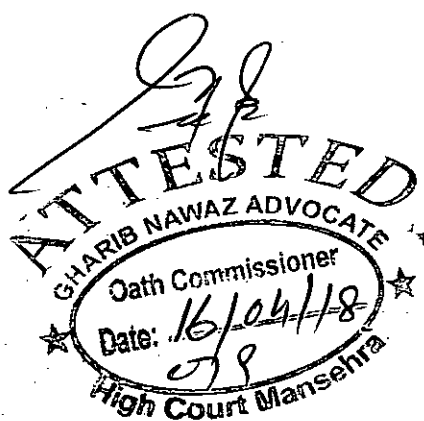

ABDUL SABOOR KHAN
MALIK ASHFAQ AHMED JILANI,
Advocates High Court,
Mansehra.

9

AFFIDAVIT.

I, Mujeeb-ur-Rehman son of Gul Samar,
P.E.T Government Middle School
Mandraza, Tehsil Pattan District Kohistan,
appellant, do hereby solemnly affirm and
declare on oath that the contents of the
foregoing application are true and correct
and nothing has been concealed from this
Honourable Court.

Dated 16.04.2018



[Handwritten Signature]
Mujeeb-ur-Rehman
(DEPONENT)

P. (16)
ANNEX (E)

DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION
KHYBER PAKHTUNKHWA, PESHAWAR

1. WEHREAS, Mr. Mujeeb-ur-Rehman PET GMS Madraza was preceded under E&D Rules 2011, for the charge of absent from duty on 27/01/2016 by the DEO (M) Kohistan as per Show Cause Notice issued on 15/02/2016.

AND WHEREAS, the reply was found unsatisfactory, and the DEO (M) Kohistan again visited the school on 09/03/2016 and found that in the attendance register the PET concerned was marked present, but physically absent.

2. AND WHEREAS, on finality of disciplinary proceeding against the said PET, Major penalty of "Removal from Service with retrospective effect" was imposed upon him by the DEO (M) Kohistan being competent authority vide Office order No. 1360-65 dated 22/03/2015.

3. And WHEREAS, the aggrieved PET Teacher lodged an appeal to the Director Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar (appellant authority) against the aforesaid penalty imposed upon him by the DEO concerned on the grounds that he was absent from duty only for one day on 27/01/2016 due to illness of his Mother on the day the DEO concerned visited the school.

3. AND WHEREAS, his appeal was considered for review by the Director E&SE Khyber Pakhtunkhwa, Peshawar being appellant authority and Mr. Khan Muhammad the then DEO (F) Kohistan was appointed as Inquiry Officer vide this office Notification No. 3594-96 dated 22/06/2016 to conduct inquiry against Mr. Mujeeb-ur-Rehman PET GMS Madraza Kohistan.

4. AND WHEREAS, the inquiry Officer visited the DEO (M) Kohistan office on 11/07/2016 to investigate the charges leveled by DEO (M) Kohistan against Mr. Mujeeb-ur-Rehman Ex-PET, GMS Madraza Kohistan.

5. AND WHEREAS, the inquiry officer in his report stated that no proper inquiry procedure was adopted nor conveyed to the accused teacher, no chance for personal hearing is given to the accused teacher by DEO (M) Kohistan, the charge of engaging with the private school of the accused is also not properly investigated by the competent authority, the charge of the poor performance of the teacher is also neither conveyed nor proved by concerned authority to the accused teacher.

6. AND WHEREAS, having examine the inquiry report/other record, the appeal of Mr. Mujeeb-ur-Rehman Ex-PET GMS Madraza Kohistan was found justified under the circumstances reviewed by the appellant authority in terms of the procedure as laid down in the E&D Rules-2011.


7. Now, THEREFORE, in exercise of powers conferred by the Khyber Pakhtunkhwa Govt Servants (Efficiency & Discipline) Rules-2011, the Director Elementary & Secondary Education, the appellant authority is pleased to accept the appeal of Mr. Mujeeb-ur-Rehman Ex-PET GMS Madraza Kohistan on the grounds mentioned in para-5 and he is hereby re-instated in service and the penalty imposed upon him vide DEO (M) Kohistan vide Office Order No. 1360-65 dated 22/03/2015 is hereby converted into minor penalty of withholding his Annual increment for the year 2018 with accumulative effect and treating the interviewing period i.e Extra Ordinary leave without pay.

Director
Elementary & Secondary Education
Khyber Pakhtunkhwa, Peshawar

Endst No. 652-55 /F.No. 205/PET Male Appeals Dated: 2/1 /2017

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

- District Accounts Officer Kohistan.
- District Education Officer (Male) Kohistan.
- Appellant concerned.
- PA to Director E&SE Khyber Pakhtunkhwa, Peshawar.


DEPUTY DIRECTOR
Elementary & Secondary Education
Khyber Pakhtunkhwa, Peshawar

2/1/2017