

Service Appeal No. 1163/2016

03.12.2018

Neither appellant nor his counsel present. Mr. Kabirullah Khattak, Additional AG alongwith Mr. Sajid Khan, ADO (Litigation) for the respondents present. Notice be issued to appellant and his counsel for attendance and arguments for 23.01.2019 before D.B.


(Ahmad Hassan)
Member


(Muhammad Amin Khan Kundi)
Member

23.01.2019

Counsel for the appellant present. Mr. Kabirullah Khattak, Additional AG alongwith Mr. Sajid Khan, ADO (Litigation) for the respondents present. Learned counsel for the appellant requested for adjournment. Adjourned to 29.03.2019 for arguments before D.B. Notice be also issued to appellant for attendance for the date fixed.

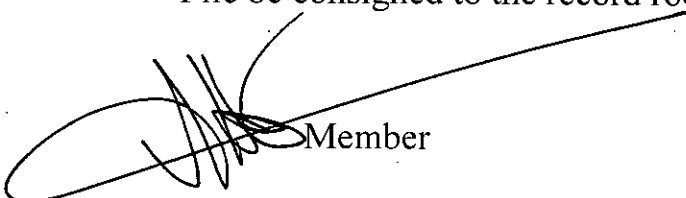

(HUSSAIN SHAH)
MEMBER


(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

29.03.2019

Nemo for appellant. Addl. AG for the respondents present.

Case was called several times but the appellant remained un-represented. It is already past 3:00 P.M, hence the appeal is dismissed for non-prosecution. File be consigned to the record room.


Member


Chairman

ANNOUNCED
29.03.2019

28.06.2018

Appellant absent. Mr. Muhammad Jan, Learned Deputy


28.06.2018 District Attorney alongwith Mr. Sajid Khan, ADO for respondent No.1, 2 & 4 present. Written reply on behalf of respondents No. 1,2 & 4 received and placed on file. None present on behalf of respondent No.3. At this stage it does not appear that respondent No.3 is necessary or proper party in the present service appeal. As such to come up for rejoinder and final hearing on 29.08.2018 before D.B.



Member

29.08.2018

Neither appellant nor his counsel present. Mr. Kabirullah Khattak, Additional AG for the respondents present. Adjourned. To come up for rejoinder and arguments on 18.10.2018 before D.B.



(Ahmad Hassan)
Member



(Muhammad Amin Khan Kundi)
Member

18.10.2018

Junior to counsel for the appellant Mr. Kabirullah Khattak learned Additional Advocate General for the respondents present. Junior to counsel for the appellant seeks adjournment that his senior counsel is not in attendance. Adjourned. To come up for rejoinder and arguments on 03.12.2018 before D.B.



(Hussain Shah)
Member




(Ahmed Hassan)
Member

29.01.2018

Appellant Deposited
Security & Process Fee

Junior to counsel for the appellant and Asst. AG for respondents present. Security and process fee not deposited. Appellant is directed to deposit security and process fee within 10 days, thereafter notices be issued to the respondents for written reply/comments. Adjourned. To come up for written reply on 01.03.2018 before S.B.


(Ahmad Hassan)
Member(E)

01.03.2018

None present on behalf of the appellant. Mr. Kabirullah Khattak, Additional AG for the respondents present. Notice be issued to appellant and his counsel with the direction to submit spare copy of the instant appeal for respondent No. 3 on 29.03.2018 before S.B.


(Muhammad Amin Khan Kundi)
Member

29.03.2018

Appellant absent. Mr. Kabir Ullah Khattak, Additional AG alongwith Mr. Hameed-ur-Rahman, AD (Lit) for the respondent present. The appellant is also directed to submit copies of memo appeal for respondent No. 3. Thereafter notices be issued to the respondents No. 3 copies of memo appeal. To come up for written reply/comments on 03.05.2018 before S.B.


Chairman

03.05.2018

The Tribunal is non functional due to retirement of the Honorable Chairman. Therefore, the case is adjourned. To come up for the same on 28.06.2018 before S.B.


Reader

05.12.2017

✓
Learned counsel for the appellant present.
Preliminary arguments heard and case file perused.

Learned counsel for the appellant argued that the appellant is appointed as Qari vide order dated 13.03.2010. That respondent no. 4 issued impugned order dated 15.08.2012 whereby major penalty of removal from service was imposed upon appellant with effect from 05.09.2011. ^{which is void order ab-initio} That the appellant ^{had} submitted resignation dated 05.09.2011. ^{when} That show cause notice of absence dated 3.10.2011 was issued, ~~the~~ ^{that the} appellant ^{had} submitted another resignation dated 05.12.2011. Further argued that instead of acceptance of resignation the appellant received removal order dated 18.05.2012 ^(Copy of records obtained 5/12) through his own efforts on 15.07.2012. That the appellant filed departmental appeal dated 29.07.2016 but in vain. Further argued that the impugned order is void as the proceedings have been allegedly carried-out under RSO 2000, which has been repealed prior to impugned order. That the provisions of Section-8-A have not been complied with ~~the~~ ^{substance is not}


~~reported in a leading newspaper.~~

Points raised need consideration. Admitted for regular hearing subject to all legal objections including limitation. The appellant is also directed to deposit security and process ^{see} within (10) days, whereafter notice be issued to the respondents department for written reply/comments on 29.01.2018 before S.B.


(Gul Zeb Khan)
Member


22/8/2017

Clerk of counsel for the appellant present and requested for adjournment as his counsel is not available due to strike of the bar. To come up for preliminary hearing on 14/9/2017 before SB.


(GUL ZEB KHAN)
MEMBER

14.09.2017

None present on behalf of the appellant. Notice be issued to appellant and his counsel for attendance for 13.11.2017 before S.B.


(Muhammad Amin Khan Kundi)
Member

13.11.2017

Appellant in person present and requested for adjournment due to non availability of his learned counsel. Adjourned. To come up for preliminary hearing on 05.12.2017 before S.B.


(Gul Zeb Khan)
Member

22.05.2017

Appellant in person present and requested for adjournment. Request accepted. To come up for preliminary hearing on 12.06.2017 before S.B.



(Ahmad Hassan)
Member

12.06.2017

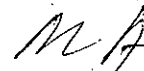
Appellant in person present and requested for adjournment. Request accepted. To come up for preliminary hearing on 10-07-17 before S.B.



(Ahmad Hassan)
Member

10.07.2017

None present on behalf of the appellant. Notice be issued to appellant and his counsel for preliminary hearing for 08.08.2017 before S.B.



(Muhammad Amin Khan Kundi)
Member

08.08.2017

Clerk to counsel for the appellant present and seeks adjournment due to general strike of the Bar. Adjourned. To come up for preliminary hearing on 22.08.2017 before S.B.



(Ahmad Hassan)
Member

1163/2016

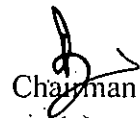
09.03.2017

Appellant in person present. Mr. Amjid Ali Advocate according to appellant has left to Islamabad and requested for adjournment. Adjournment granted. To come up for preliminary hearing on 05.04.2017 before S.B.


(ASHFAQUE TAJ)
MEMBER

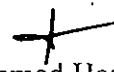
05.04.2017

Appellant in person and Addl. AG for the respondents present. Requested for adjournment. To come up for preliminary hearing on 24.04.2017 before S.B.


Chairman

24.04.2017

None present for the appellant. Notice be issued to the appellant and his counsel. To come up for preliminary hearing on ~~24.04.2017~~ 22.5.2017 before S.B.


(Ahmad Hassan)
Member

05.12.2016

Counsel for the appellant present. Preliminary arguments heard and case file perused. Through the instant appeal, the appellant has impugned order dated 15.08.2012 vide which the appellant was awarded major punishment of removal from service. Against the impugned order appellant filed departmental appeal on 29.07.2016 *which was not responded in* hence the instant appeal.

Since the question of limitation is involved, hence pre-admission notice be issued to the AAG. To come up for further preliminary arguments on 05.01.2017 before S.B



MEMBER

05.01.2017

None present for the appellant. Notice be issued to the appellant and his counsel. To come up for preliminary hearing on 09.02.2017 before S.B.



(MUHAMMAD AAMIR NAZIR)
MEMBER

09.02.2017

Counsel for the appellant present and requested for adjournment. Request accepted. To come up for preliminary hearing on 09.03.2017 before S.B.





(MUHAMMAD AAMIR NAZIR)
MEMBER

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 1163 /2016

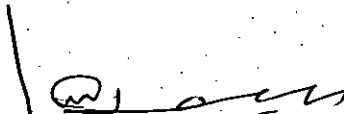
| S.No. | Date of order proceedings | Order or other proceedings with signature of judge or Magistrate |
|-------|---------------------------|---|
| 1 | 2 | 3 |
| 1 | 18/11/2016 | <p>The appeal of Mr. Qiyam-ud-Din resubmitted today by Mr. Amjid Ali Advocate may be entered in the Institution Register and put up to the Learned Member for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p> <p>2-</p> <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>5-12-16</u>.</p> <p style="text-align: right;"> MEMBER</p> |

The appeal of Mr. Qiyam-ud-Din GHS Pati Kalan Distt. Mardan received today i.e. on 15.11.2016 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Copies of charge sheet, statement of allegations, show cause notice, enquiry report and replies thereto are not attached with the appeal which may be placed on it.
- 2- Copy of resignation application mentioned in para-3 of the memo of appeal (~~Annexure C~~) is not attached with the appeal which may be placed on it.

No. 1920 /S.T,


Dt. 16/11 /2016


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Amjid Ali Adv. Mardan.

Sis file Resubmit copy of charge sheet / statement of Allegation. Show cause notice - Enquiry Report and replies and Resignation application mentioned in para-3 of the appeal are not available with appellant so the case may please be placed before the court for further order

*Amjad Ali
Mardan*


18/11/2016

BEFORE THE SERVICES TRIBUNAL, KPK, PESHAWAR

Service Appeal No. 1163 /2016

Qiyam-ud-DinAppellant

V E R S U S

Govt of KPK and others.....Respondents

I N D E X

| S.No | Description of Documents | Annex | Pages |
|------|---|-------|-------|
| 1. | Grounds of service appeal with affidavit | | 1-3 |
| 2. | Addresses of Parties | | 4 |
| 3. | Copy of order dated 13.03.2010 | A | 5 |
| 4. | Copy of order dated 13.03.2010 | B | |
| 5. | Copy of order dated 13.03.2010 | C | |
| 6. | Copy of removal order dated 15.08.2012 | B | 6 |
| 7. | Copy of Departmental Appeal dt 29-7-2016 | E | 7 |
| 8. | Copy of order dated 13.03.2010 | F | |
| 9. | Wakalat Nama | | 8 |

Gill
Appellant

Through

Date: 10/11/2016

Amjad Ali *Amjad Ali*
Advocate Supreme Court
At Mardan
Cell: 0321-9882434

①

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR

Service Appeal No. 1163 /2016

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 1185

Dated 15-11-2016

Qiyam-ud-Din
GHS Pati Kalan, District Mardan.....Appellant

VERSUS

- 1) Govt. of KPK through Secretary Education, Civil Secretariat,
Peshawar.
- 2) Director of Education (E&S), Peshawar Civil Secretariat,
Peshawar.
- 3) ~~Deputy Commissioner~~ Officer, District Mardan.
Education
- 4) ~~Deputy Commissioner~~ District Officer (E&S), District Mardan.

.....Respondents

**SERVICE APPEAL U/S 4 OF KPKSERVICE
TRIBUNAL ACT, 1974 AGAISNT THE ORDER
DATED 15.08.2012 PASSED BY RESPONDENT
NO.4, WHEREBY MAJOR PENALTY OF
REMOVAL FROM SERVICE WAS IMPOSED**

Filed to-day UPON APPEALNT

[Signature]
Registrar

15/11/16

Respectfully Sheweth:-

Belief facts giving rise to the appeal are as under:

Re-submitted to -day
and filed. 1) That appellant is appointed as Qari vide order dated
13.03.2010. (Copy of order dated 13.03.2010 is Annexure "A")

[Signature]
Registrar

18/11/16

That appellant submitted registration dated 05.09.2011.
resignation
[Signature]

(2)

3. That show cause notice of absence dated 03.10.2011 was issued to appellant and appellant submitted another resignation dt.05.12.2011. ~~(Copy of resignation dated 05.12.2011 is Annexure "C")~~
4. That appellant was shocked to know that instead of acceptance of resignation appellant received through his own efforts removal order dated 18.05.2012 on 15.07.2012 ~~(Copy of removal order dated 15.08.2012 is Annexure "B")~~ *ASB*
5. That appellant filed departmental appeal dated 29.07.2012 but in vain. (Copy of departmental appeal is Annexure "C").
6. That appellant approaches this Honourable Tribunal, on the following grounds:

GROUNDS:

- A. Because appellant has submitted resignation twice and there seems no reason for remaining silent over resignation of appellant.
- B. Because impugned order is void as the proceedings have been allegedly carried-out under RSO, 2000, which has been repealed prior to impugned order. ~~(Copy of repealed RSO, 2000 is Annexure "D")~~
- C. Because impugned order is arbitrary, capricious and not maintainable.

- D. Because provisions of Section 8-A have not been complied with as the absence is not reported in two leading newspaper.
- E. Because impugned order is result of malafide of respondents.
- F. Because any other ground may be adduced during the course of arguments, with the kind permission of this Honourable Tribunal.

It is, therefore, most humbly prayed that removal order dated 15.08.2012 may please be set aside and *resignation* registration of appellant may please be accepted.

Any other relief deemed fit may also graciously be granted in favour of appellant.

[Signature]
Appellant

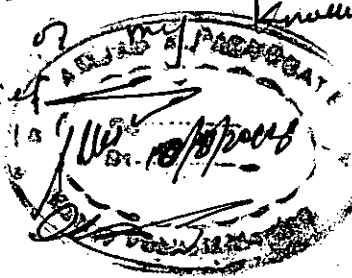
Through

Date: 10/10/2016

Amjad Ali
Advocate Supreme Court
At Mardan *[Signature]*

Affidavit &

That the content of Appeal are true and correct to the best of my knowledge and belief



[Signature]
Deponent

BEFORE THE SERVICES TRIBUNAL, KPK, PESHAWAR

Service Appeal No. _____/2013

Qiyam-ud-DinAppellant

VERSUS

Govt of KPK and others.....Respondents

ADDRESSES OF PARTIES

APPELLANT

Qiyam-ud-Din,
GHS Pati Kalan, Mardan

RESPONDENTS

1. Govt of KPK through Secretary Education,
Civil Secretariat, Peshawar
2. Director of Education (E&S), Peshawar
Civil Secretariat, Peshawar
3. ~~District Commissioner~~ *Education* Officer, Mardan
4. ~~Executive~~ District Officer (E&S), Mardan

Through
Appellant

Amjad Ali
Amjad Ali
Advocate Supreme Court
At Mardan

Date: 10/13/2018

Better copy of Page 110

Ali

BETTER COPY

(5)

OFFICE OF THE EXECUTIVE DISTRICT OFFICER ELEMENTARY AND
SECONDARY EDUCATION MARDAN

OFFICE ORDER

Consequent upon the advertisement published in Daily Mashriq, Aaj dated 23.04.2009 and 21.04.2009 respectively and test/ interview held at GHS Shagai, Hoti Mardan 05.09.2009, 16.09.2009 respectively and approval given by the departmental selection committee Mardan in its meeting held on 09.03.2010 the undersigned being competent authority is passed appointment the following Qari (Male) candidate in BPS-7 No.3820-230-10720 plus usual allowance as admissible to them under the rule against the vacant post at the school noted against each w.e.f the date of their taking over charge in the interest of public subject on the following terms and conditions.

| Name | Father's name | Home address | Total score | School where appointed |
|-------------------|-------------------|-----------------------------|-------------|------------------------|
| Qiam ud Din | Fazal Maula | Moh: Rustam Khel, Mardan | 65.69 | GHS Pati Kala |
| Majid Ali | Muhammad Afsar | Moh: Deh | 65.27 | Seri Balol |
| Sajjad Ahmad | Sarfaraz Khan | Dhundiya Lund Khuwar | 64.23 | GHS Tor Dher |
| Sharif Gul | Ahmad Sharif | Dheri Lakpani | 63.23 | GHS Badar Banda |
| Muhammad Sadiq | Fazal Manan | Rustam Khel Mardan | 60.99 | GHS Jalala |
| Muhammad Ali | Fazal Rabi | Bakhshali | 60.73 | GHS Barigan |
| Farhan | Muhammad Javed | Zamin Abad | 60.52 | GHS Shah Baig |
| Muhammad Bilal | Hussain | Zamin Abad | 60.24 | GHS Shahbaz Garhi |
| Ajmal Shah | Afzal Shah | Dheri Lakpani | 59.20 | GHS Kot Takhtbai |
| Badar Munir | Sange Marmar | Norman Khel | 58.25 | GHS Saro Shah |

TERMS AND CONDITIONS:

Hanif Ullah
Executive District Officer
E&S Education Mardan

Endst No.2278/9 dated 13.03.2010

Executive District Officer
E&S Education Mardan

Access Available

Aux-A

(5)

OFFICE OF THE EXECUTIVE DISTRICT OFFICER ELEMENTARY AND SECONDARY EDUCATION MARDAN

OFFICE ORDER

Consequent upon the advertisement published in Daily Mashriq and Daily Aaj Dated 23.04.2009 and 24.04.2009 respectively and Test/Interview held at GHS Shariq Hoti Mardan 05.09.2009; 16.09.2009 respectively and approval given by the Departmental Selection Committee District Mardan in its meeting held on 09.03.2010 the undersigned being Competent Authority is pleased to appoint the following Qari Male Candidates in BPS-07(3820-230-10720) Plus usual allowance as admissible to them under the rule against the vacancies at the schools noted against each w.e.f. the date of their taking over charge in the interest of public service subject to the following existing terms and conditions

| Name | Father Name | Home Address | Total Score | School Where Appointed |
|-----------------|----------------|-------------------------|-------------|------------------------|
| QIYAM UDDIN | FAZLI MAHA | Mohi Rostan Khel Mardan | 65.69 | GHS Fati Kalan |
| SAJAD AHMAD | MUHAMMAD AFSAR | Mohallah Doh | 65.27 | Seri Bahlol |
| SHARIF GHIL | SARFRAZ KHAN | Dhundiya Lund Khwar | 64.23 | GHS Goor Dher |
| MUHAMMAD SADIQ | AMMAD SHEEL | Dhen Likpani | 63.23 | GHS Badar Banda |
| USAF AHMAD SULT | FAZLI MAHA | Rostan Khel Mardan | 60.99 | GHS Jalala |
| GHILAN | FAZLI MAHA | Bakhshtali | 60.73 | GHS Baringan |
| MUHAMMAD HILAL | MUHAMMAD DAVID | Zamin Abad | 60.53 | GHS Shan Balg |
| AMMAL SHAFI | HUSSAIN GHIL | Zamin Abad | 60.24 | GHS Shahbar Garhi |
| BADAR MURSHID | AJZAL SHAFI | Dhen Likpani | 59.20 | GHS Kot Takri Bhai |
| | SANGHE MAMMAR | Norman Khel | 58.25 | GHS Saro Shah |

TERMS AND CONDITIONS

- 1. Their appointments are made on contract policy 2005 and they will not be entitled for pension gratuity and are liable to termination at any time with any notice as per contract.
- 2. They will be governed by such Rules and Regulations as may be prescribed by the Govt. for the category of the Govt. Servants to which they belong, from time to time.
- 3. Their services will be terminable on one month's notice on either side or payment of one month's pay in lieu thereof.
- 4. The Principal/Head Master should furnish certificate to the effect that the candidates have joined posts within 15 days or otherwise the appointment order shall automatically stand canceled.
- 5. They will be on probation for a period of two years.
- 6. They are required to produce health and age certificate from the concerned Medical Superintendent before taking over charge.
- 7. They are not allowed to take over charge if their age is less 18 years and more than 35 years.
- 8. The Head Master/Principal should check their original Certificate/Degree/DMC and Domicile before taking over charge.
- 9. To be verified from concerned Tanzeem & Rabit ul Madris recognized by HEC and concerned Deem Madaris and institutions. A committee shall be constituted set-up and notified for the verification of Deem Asnad etc. and shall submitted verification report. No pay shall be released before the verification. Authentications reports of the committee.

GHANIF HILALI
EXECUTIVE DISTRICT OFFICER
E&S EDUCATION MARDAN

- Handst No. *2278/10* Dated *13/3* 2010
- Copy of the above is forwarded for information and necessary action.
1. Director Elementary and Secondary Education S&EP Peshawar
 2. District Co-ordinator, Officer Mardan
 3. District Accountant, Office Mardan
 4. District Officer (M&S) Local Office
 5. Principal/Head Master, Concerned
 6. ADO Local Office
 7. Budget and Accounts Officer, Local Office
 8. The Candidates

[Signature]
EXECUTIVE DISTRICT OFFICER
E&S EDUCATION MARDAN

Aux B
6

NOTIFICATION.

1. WHERE AS Mr. Qiyamud Din Qari GHS, Pati Kalan has been willfully absent from duty since 5.9.2011.

2. AND WHEREAS, according to Khyber Pakhtun khwa removal from service (Special Powers) ordinance 2000, revised in devolution of powers in 2011, a notice was issued to on his home address and directed him to resume his duty and explain your position vide letter of the Headmaster GHS, Pati Kalan letter No. 3798 dated 3.10.2011, but no response has been received from him. A final whow cause notice was also issued in leading news-papers i.e. Daily Mashriq on 26.6.2012 with the direction to resume duty with in Seven days of the publication of that notice, failing which an ex-party decision will be taken against him, but he failed to report for duty. After the expiry date of the final whow cause notice an application received from the H.M. GHS, Pati-Kalan T. Bhai vide No. 3854 dated 11.7.2012 regarding resignation from service w.e.f. 30.9.2011 received in respect of the above named Qari.

3. AND WHEREAS, the expiry of the stipulated period given in the notice, the enquiry officer has already recommended the teacher concerned for removal from service vide his letter No. 1137 dated 28.5.2012.

4. NOW, THEREFORE in exercise of powers conferred under special power of the Govt: of Khyberpakhtun khwa removal from service as per Rules 2011, Being competent authority (Executive District Officer (E&SE) Mardan, is please to imposed major penalty of removal from service upon Mr. Qiyamud Din Qari, GHS, Pati Kalan T. Bhai Mardan w.e.f. 5.9.2011.

(Bahadar Khan Marwat)
Executive District Officer
(E&S.E.) Mardan

Endst: No. 11635-38 / E-V/PF Qiyamud Din Ex-Qari / Dated 15/8 / 2012.

- 1. copy forwarded for information & n/action to the:-
- 2. Headmaster, GHS, Pati Kalan Mardan
- 3. J.A.O. Mardan.
- 4. Ex Qari-Qiyamud Din Qari GHS, Pati Kalan T. Bhai.
- 5. Gen: file.

Executive District Officer
(E&SE) Mardan.

Amir Khan
Mardan

11/8/2012

To,

The Distt Education Officer,
Mardan

(14)

Ann C
(7)

[Handwritten signature]

Subject: Appeal against order dated 15.08.2012

received on 15-7-2016

Sir,

1. I have been removed from service vide order dated 15.08.2012 received on 15.11.2012, which is illegal, against law and facts.
2. I submitted resignation vide application dated 05.09.2011 and then vide application dated 05.12.2011 but the E.D.O malafidely, proceeded for exparte action.
3. I am entitled for reinstatement.

It is therefore, humbly requested that order dated 15.06.2012 may please be modified to

AB registration dated 15.11.2012.
resignation

Yours obediently,

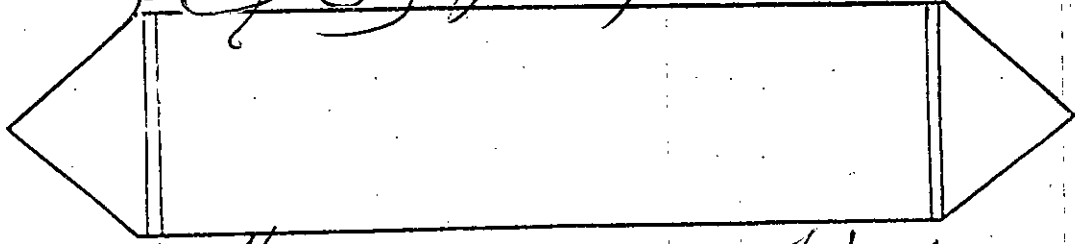
Through

[Handwritten signature]
Qiyam ud-Din
G.H.S, Pati Kalan
At Mardan

Date: 29/7/2016

Through
AB Sajid Ali Advi

بعدالت سندوس طرف سے سونل (لا) م



کتاب 2016ء پنجاب اسلام آباد
بنام
حکومت

فہماکاراٹھ

موزخہ --- 15/11/2016

مقدمہ ---

دعویٰ ---

جرم --- S-A ---

باعث تحریر آنکھ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی و گل کاروائی متعلقہ
آن مقام کیا (مجلس) کیلئے اور (مجلس) اور اور (مجلس) کو اور (مجلس)
مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز
وکیل صاحب کو راضی نامہ کرنے و تقرر ثالت ہ فیصلہ برحلف دیئے جواب دہی اور اقبال دعویٰ اور
بصورت ڈگری کرنے اجراء اور صوبی چیک دروپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق
زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخ
نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور
کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ دینا اپنے بجائے تقرر کا اختیار
ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ
پرواختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جانہ التوا ہے مقدمہ کے سبب سے وہوگا۔
کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی
مذکور کریں۔ لہذا ادکالت نامہ لکھ دیا کہ سند ہے۔

المرقوم --- 15 --- ماہ نومبر 2016

العبد _____ واہ الغیب
مقام _____ کے لئے منظور ہے۔

All seen and Accepted
Anwar Ali
At Mardan

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No: 1163/2016

Qiyam-ud-Din GHS.Pati Kalan, District Mardan.Appellant.

VERSUS

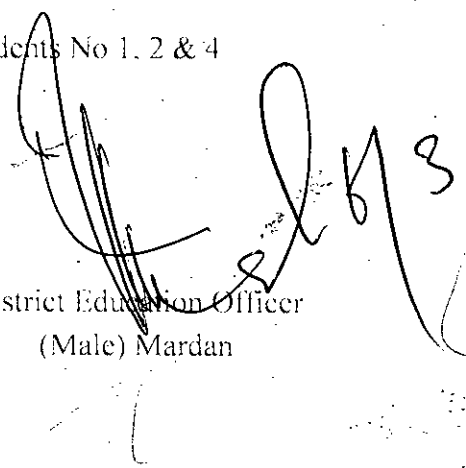
Govt of KPK through Secretary Elementary & Secondary Education KPK &
OthersRespondents.

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| S.NO | DESCRIPTION OF DOCUMENTS | ANNEXURE | PAGES | |
|------|---|----------|-------|----|
| 1. | Para wise comments along with affidavit | | 01 | 04 |
| 2 | copy of explanation | "A" | 05 | -- |
| 3 | copy of Appointment of enquiry officer | "B" | 06 | -- |
| 4 | copy of Enquiry Report | "C" | 07 | -- |
| 5 | copy of show cause | "D" | 08 | -- |
| 6 | copy of publication | "E" | 09 | 10 |
| 7 | copy of Removal Order | "F" | 11 | -- |
| 8 | copy of applications to EDO | "G", "H" | 12 | 13 |
| 9 | Copy of application to DCO | "I" | 14 | -- |
| 10 | Copies of communication with DCO | "J", "K" | 15 | 16 |

Respondents No 1, 2 & 4

Through



Handwritten signature of the District Education Officer, Mardan.

District Education Officer
(Male) Mardan

6/0
9/3/18

Dated: _____

99

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No: 1163/2016

Qiyam-ud-Din GHS.Pati Kalan, District Mardan.Appellant.

VERSUS

Govt of KPK through Secretary Elementary & Secondary Education KPK &
OthersRespondents.

Para Wise Comments on Behalf of Respondents No 1 ,2,& 4.

Respectfully, Sheweth,

PRELIMINARY OBJECTIONS:

1. That the appellant has got no cause of action as well as locus standi, to file the instant appeal.
2. That the instant appeal is incompetent in its present form, hence the appeal is liable to be dismissed.
3. That the instant appeal is badly time barred.
4. That the appeal is not maintainable in its present form.
5. That the appellant has not come to this Honorable Tribunal with clean hands.
6. That the appellant is estopped by his own conduct.
7. That the appellant has concealed the material facts from this Honorable tribunal hence the appeal is liable to be dismissed.
8. That the instant appeal is against the prevailing law and rules.
9. That the respondent has issued explanation, vide No 3799 dated 03-10-2011 to the appellant, and directed to the appellant to explain his position that he is absent from duty w-c-f 05-09-2011 up till now without any information. (Copy of explanation is as Annex "A")
10. That the answering respondent has appointed an enquiry officer and conducted an enquiry dated 21-4-2012 for the absent appellant. The enquiry officer enquired the case that the appellant is not interested in the duty, and the respondent issued show-cause as well as publication of an absent notice on 26-06-2012, to direct the appellant for resuming his duty, but the appellant failed. (Copy of appointment of Enquiry officer, Enquiry , Show-cause & publication as Annex , B, C, D, E)
11. That the respondent after completion of all codal formalities, removed the appellant from service vide Endst No 11635-38 on dated 15-08-2012. (copy of removal order as Annex F)

FACTS:

1. Para No 1 Pertains to record, hence need no comments.
2. Para No 2 is incorrect, baseless, against facts as the appellant hid the material facts from the Honorable Tribunal. The appellant submitted application through EDO Diary No 614 dated 11-7-2012, as well as another application dated 10-9-2012 but in the mean while the Enquiry was completed by the respondent on dated 21-4-2012, hence denied. (Copies of the applications is as Annex G & H).
3. Para No 3 is incorrect, baseless, against facts as the respondents issued an explanation dated 03-10-2011 and the appellant submitted application to the DCO regarding change of his termination order into resignation upon which the DCO issued a letter No 12260/61 dated 19-10-2012 to the respondent and directed him to examine the contents of the application of the appellant and requested for comments. The respondent submitted brief comments to the DCO that the removal order of the appellant is issued after completion of all codal formalities, hence denied (Copy of the application to DCO, Letter from DCO and response to DCO is As Annex I ,J & K).
4. Para No 4 is incorrect, baseless, against facts as the removal of the appellant was made after the completion of all codal formalities, hence denied.
5. Para No 5 needs no comments.

However detail reply of the grounds is as under:

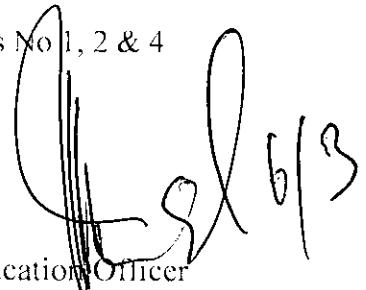
GROUND:

- A. Para A is incorrect, baseless, against fact & law, as the appellant submitted application through EDO Diary No 614 dated 11-7-2012, as well as another application dated 10-9-2012 but in the mean while the Enquiry was completed by the respondent on dated 21-4-2012, hence denied.
- B. Para B is incorrect, baseless, against facts as the removal order dated 15-08-2012 is valid and according to law, hence denied.
- C. Para C is incorrect, baseless, against law and facts as the order is neither arbitrary, nor capricious and is maintainable in the eye of law, hence denied.
- D. Para D is incorrect, baseless, against the fact & law, as the respondent issued show-cause as well as publication of an absent notice on 26-06-2012, to direct the appellant for resuming his duty, but the appellant failed, hence denied.
- E. Para No E is incorrect, baseless, against fact as the removal order is according to law and is not in the result of any malafide action, hence denied.

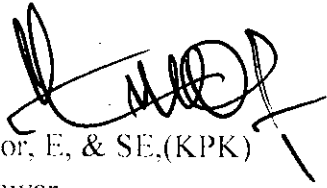
F. That the respondent seeks permission to raise additional grounds at the time of arguments.

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

Respondents No 1, 2 & 4
Through



District Education Officer
(Male) Mardan



The Director, E, & SE, (KPK)
Peshawar.



The Secretary E & S E (KPK)
Peshawar.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No: 1163/2016

Qiyam-ud-Din GHS.Pati Kalan, District Mardan.Appellant.

VERSUS

Govt of KPK through Secretary Elementary & Secondary Education KPK &
OthersRespondents.

AFFIDAVIT

I, Mr Sajid Khan Litigation Officer Education Department Mardan do hereby solemnly affirm and declare that the contents of Para Wise Comments submitted by on behalf of Respondents No 1, 2 and 4 are true to the best of my knowledge and belief and nothing has been concealed from this Honorable Court.

Deponent

Sajid Khan
16101-6005318-5

Annex (A)

(5)

(19)

Registered

No. 3798 /Dated Mardan the 3/10 - /2011

From

The Headmaster,
GHS, Pati Kalan T. Bhai Mardan

To

Mr. Qiyamud Din Qari
r/o Moh. RUSTUM Kheel Mardan.

Subject:-

EXPLANATION/ABSENCE FROM DUTY.

Memo:

Reference Executive District Officer (E&SE) Mardan letter
No. 10902 dated 26.9.2011.

You are hereby directed to explain your position that you are absent from duty w.e.f. 5.9.2011 up till now with out any information. You were several times informed verbally & through office order book to be punctual in your duty but you do not attend the school accordingly. This is becoming wide spread dais in the congenial atmosphere of this school which is not reducible.

Your reply should reach this office with in three days other exparty Report will be sent to the high up against you so as to reduce anomolies to rules.

— Sd —
Headmaster,
GHS, Pati Kalan T. Bhai
Mardan.

Endst: No. 3799 /

Copy forwarded to the Executive District Officer (E&SE) Mardan w/r to his letter No. & date cited above for information please.

Headmaster,
GHS, Pati Kalan T. Bhai
Mardan.

3/10/11

7289
4/10/2011

AE: V
Q
9/10

Annex B = (6) 390

OFFICE OF THE EXECUTIVE DISTRICT OFFICER (E.S.O) MARDAN.

APPOINTMENT OF ENQUIRY OFFICER

Mr. Tamin Khan Headmaster, GIS, Mohib Banda Mardan is hereby appointed as enquiry officer in the case of Mr. Qiamud Din Qari GIS, Pati Kalan.

He is directed to conduct enquiry in the above cited case and submit report & recommendation to this office for taking further necessary action please.

(Bahadur Khan Marwat)
Executive District Officer
(E.S.O) Mardan.

3681-82

Order No. _____ /E-V/PP Qiamud Din Qari/Dated 22/3/12

copy for information & n/a on to the:-

1. Mr. Tamin Khan Headmaster, GIS, Mohib Banda Mardan.
2. Headmaster, GIS, Pati Kalan.

[Signature]
Executive District Officer
(E.S.O) Mardan
17/3/12

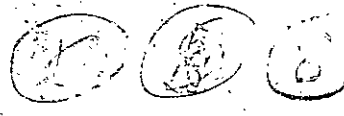
Inquiry report against Qari Qaym ud Dinn GHS Parli Kalan Takhat Bhal Mardan dated 21-4-2012

By the order worthy EDO (E&S) Education Mardan I appointed as inquiry officer under the endost: No. 3681-82 Dated 22-3-2012, against Mr Qiam ud Din Qari GHS Pati Kalan. The H/M submitted a absentee report against Qari Qiuam ud Din to the EDO(E&S) Education Mardan that the above named Qari not interest in his duty and remained absent on 21-4-2012. I visited the school. The Head of the Institute was present along with his staff except Qari Qiam ud Din Qari. First of all I checked the school attendance register and the teacher concerned remained absent w.e.f. 1-9-2011 till to the date of inquiry. Then I inquired the case from the Head Master of the school. He stated that he wrote a order book to the concerned teacher to perform your duty and not waste the students precious time, he refused to sign the order book. He also stated that he has written a letter to the concerned teacher to attend the school but he refused to take the letter.

I inquired the case from the school attendance register and the Head Master of the concerned school that the teacher not interest in the school duty. In the light of the statements I have suggestion to dismiss the above named teacher under Special Power Ordinance 2001. In the interest of Public service, to solve the problem.



(TAMIN KHIANI)
ENQUIRY OFFICER/
H/M, GHS MOHIB BANDA MARDAN.



8
117
18

Annex D = 8

فائل شوکار نوٹس

آپ مستی قیام الدین قاری گورنمنٹ ہائی سکول پاتی کلاں تخت بھائی مورخہ 01-09-2011 سے مسلسل غیر حاضر ہیں۔ آپ نے مورخہ 24-09-2011 کو ایک درخواست برائے لائگ ایوڈوسال کے لئے جمع کی۔ جبکہ اسی تاریخ کو ایک اور درخواست برائے دو سال لائگ ایواز 07-09-2011 تا 06-09-2013 جو پہلے والے درخواست سے مختلف تاریخوں میں برائے منظوری چھٹی جمع کی ہے۔ اسکے بعد دفتر ہذا سے آپکو بذریعہ ہیڈ ماسٹر مطلع کیا گیا۔ کہ آپکے چھٹی کی منظوری نہیں ہوئی ہے۔ مگر آپ کوئی پروا کئے بغیر مورخہ 05-09-2011 سے غیر حاضر ہیں۔

اس لئے آپ کو بذریعہ نوٹس اطلاع دی جاتی ہے۔ کہ سات دن کے اندر اندر زبردستی کے روبرو پیش ہو جائیں اور اپنی غیر حاضری کی معقول وجہ بتائیں بصورت دیگر آپ کے خلاف یکطرفہ قانونی کارروائی عمل میں لائی جائے گی۔ جس میں آپکی ملازمت سے بر طرفی بھی ہو سکتی ہے۔

ایگزیکٹو ڈسٹرکٹ آفیسر
ایلیمنٹری اینڈ سیکنڈری ایجوکیشن مردان

Annex E (9) 17 9
15-5-72
15/6/12

8956

E-V/PP Qiyamud Din Qari/Dated 15/6/12

پشاور کی بلدیہ کی طرف سے
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From

The Executive District Officer
(ESSE) Mardan.

To

The Director Information,
Khyberpakhtun Khwa Peshawar.

Subject:- ABSENCE NOTICE.
-6-.....

Memo:

Enclosed please find herewith seven copies of absence notice of Mr. Qiyamud Din Qari GHS, Pati Kalan T. Dhai Mardan for publication in the two daily news papers Roznama Mashriq and Daily Ajj.

Expenditure regarding advertisement charged will be met out from the current financial budget as and when bill received from your end.

Encl: As above.

Executive District Officer.
(ESSE) Mardan. 9/6

Annex F (11) 13

OFFICE OF THE EXECUTIVE DISTRICT OFFICER (E&SE) MARDAN.
NOTIFICATION.

1. WHERE AS Mr. Qiyamud Din Qari GHS, Pati Kalan has been willfully absent from duty since 5.9.2011.

2. AND WHEREAS, according to Khyber Pakhtun khwa removal from service (Special Powers) ordinance 2000, revised in devolution of powers in 2011, a notice was issued to on his home address and directed him to resume his duty and explain your position vide letter of the Headmaster GHS, Pati Kalan letter No. 3798 dated 3.10.2011, but no response has been received from him. A final whow cause notice was also issued in leading news-papers i.e. Daily Mashriq on 26.6.2012 with the direction to resume duty with in Seven days of the publication of that notice, failing which an ex-party decision will be taken against him, but he failed to report for duty. After the expiry date of the final whow cause notice an application received from the H.M. GHS, Pati-Kalan T. Bhai vide No. 3854 dated 11.7.2012 regarding resignation from service w.e.f. 30.9.2011 received in respect of the above named Qari.

3. AND WHEREAS, the expiry of the stipulated period given in the notice, the enquiry officer has already recommended the teacher concerned for removal from service vide his letter No. 1137 dated 28.5.2012.

4. NOW, THEREFORE in exercise of powers conferred under special power of the Govt: of Khyberpakhtun khwa removal from service as per Rules 2011, Being competent authority (Executive District Office (E&SE) Mardan, is please to imposed major penalty of removal from service upon Mr. Qiyamud Din Qari, GHS, Pati Kalan T. Bhai Mardan w.e.f. 5.9.2011.

11635-38

(Bahadar Khan Murwat)
Executive District Officer
(E&S.E.) Mardan

Endst: No. /E-V/PF Qiyamud Din Ex-Qari/ Dated 15/8/2012.
copy forwarded for information & n/action to the:-
Headmaster, GHS, Pati Kalan Mardan.
D.A.O. Mardan.
Ex Qari-Qiyamud Din Qari GHS, Pati Kalan T. Bhai.
Gen: file.

- 1.
- 2.
- 3.
- 4.

Executive District Officer
(E&SE) Mardan.

U/A: 10-9-12

Annex = 12 = 67 = 12
Annex etc
Term etc

Annex = 12 = 67 = 12
کے ساتھ ساتھ ایک ایک کیسوں کی آفیسر کے لئے ایڈیشن
12
6
51

صاف عالی
گزارش کی بجائی ہو کہ میں نے حصول تعلیم
دو سال لائنگ لیو کی درخواست ارسال خدمت کی تھی
جو کہ منظور نہیں ہوئی۔ میں حصول علم کا خواہشمند ہوں
لیکن اپنی ملازمت کیسے کہ حصول تعلیم کا سلسلہ ناممکن ہے
لہذا آپ صاحبان سے یہ بات فرما کر 30-09-2011 سے میرا
استعفیٰ منظور فرما کر منگوا فرمائیں۔

العارفین

قیام الدین "قاری" گورنمنٹ ہائی اسکول، پٹی کلاں

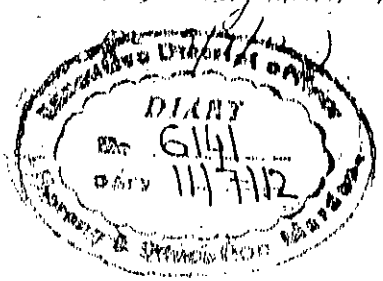
AE: M
AL
11/7/2012

No 3854 Dated 11-7-2012

Forwarded to the
Executive district Education officer Mardan for further
necessary consideration under The Rules in this regard.

(Note: This resignation is received to 11/7/12)

Head Master
G.H.S Pati Kalan
Bakht Bhal (Mardan)



Handwritten signature or initials.

The Executive Education
Office Mandan

To change the termination order
in to Resignation.

Dear Sir,

With due respect I beg to say
that due to some personal reasons I cannot
continue as a teacher in GHS Pat. Kala
and I wanted to resign. I was asked
to submit resignation within one week but
I could not comply with order and submit
the resignation application with a bit delay.
Therefore, I was terminated from the position.
I therefore request you to please
change my termination order into my resignation.
I shall be thankful to you.

Yours sincerely,

Asi Chiam udhany
GHS Pat. Kala

Date: 10-9-12

Annex I 215/14/114 = 14/10/12
54

11983
18/10

To

The district coordinator officer

Mardan

Sub; Change Termination order into Resign

Dear Sir,

With due respect I big to say that I had been selected as a teacher GHS pati kala. I have given application for study leave from the school but the authorities did not accept my application. The authorities then issued notices in newspaper asking of join the school with in seven days but due to my personal problems I could not join the school with in given time thus I was terminated. I then rendered my resignation from the job but they did not accept it and I was declared as a terminated.

Therefore I request you to please change the termination order into resignation. I shell be very thankful to you

Your sincere

Qam Qiam uddin
Qam Qiam uddin

Date ; 15.10.2012

ACO
Plz take n.a.
as per rule
16/10

EA
16/10

[Signature]

Annex J → (15) (16) (17) (18) (19)

OFFICE OF THE
DISTRICT COORDINATION OFFICER
MARDAN.

No 12260-81 /DCO(M)/EA-14-A
Dated Mardan the 13/10 /2012

To

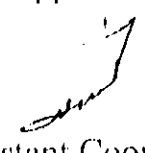
The Executive District Officer (E&SE)
Mardan.

Subject: Change of Termination order into resign

Memo:

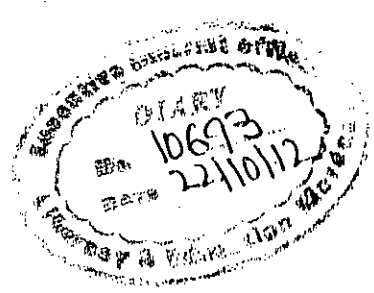
I am directed to enclose herewith a copy of an application submitted by Qari Qiamuddin ex-Qari GHS Pathi Kalan on the subject noted above.

You are requested to please examine the contents of the application and offer your comments in the matter.


Assistant Coordination Officer
Mardan.

Endst: No. & Date Even

Copy forwarded to PS to District Coordination Officer, Mardan.





Annex 2 K = (16) (16) (16) (10)

No. 17210 / E-V/PF Qiamud Din Qari / Dated 21/11 / 2012.

From

The Executive District Officer
(E&SR) Mardan.

To

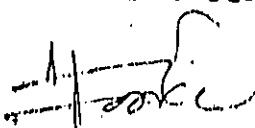
The District Coordination Officer
Mardan.

Subject: - CHANGE OF TERMINATION ORDER INTO RESIGN.

Manor

Reference your office letter No. 12260-61/DCO(M)EA-14/
A dated 19.10.2012.

It is submitted that the removal from service order
of Mr. Qiamud Din Qari has been issued after a long and tiresome
process and after completion of all legal formalities.


Executive District Officer
(E&SR) Mardan

17/11