

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR
AT CAMP COURT D.I.KHAN.

Appeal No. 1051/2016

Date of Institution ... 21.06.2016

Date of Decision ... 26.11.2018

Muhammad Fiaz S/o Muhammad Riaz, Caste Sheikh, R/o Tehsil Parova, District D.I.Khan. ... (Appellant)

VERSUS

1. The Secretary Education Khyber Pakhtunkhwa, Peshawar and 3 others. (Respondents)

MR. FAZAL-UR-REHMAN BALOCH,
Advocate

--- For appellant.

MR. USMAN GHANI,
District Attorney

--- For respondents

MR. AHMAD HASSAN,
MR. MUHAMMAD AMIN KHAN KUNDI

--- MEMBER(Executive)
--- MEMBER(Judicial)

JUDGMENT

AHMAD HASSAN, MEMBER.- Arguments of the learned counsel for the parties heard and record perused.

FACTS

2. The brief facts are that the appellant was appointed as Chowkidar at GPS Fateh Mando vide order dated 01.07.2010. Through impugned order dated 20.02.2016, he was dismissed from service against which he filed departmental appeal on 24.02.2016 but was not responded within the stipulated period followed by service appeal on 27.06.2016.

ARGUMENTS

3. Learned counsel for the appellant argued that he was posted as Chowkidar in GPS Fateh Mando, District D.I. Khan, but due to land dispute between the land owner and the respondents, the former was not letting him to perform duty. It was

also confirmed during the visit of the then SDEO, the school was found locked. The appellant was verbally directed by Mr. Asim Saeed, the then SDEO to perform duty in his office. He complied with the orders and performed duty at the said place till June 2014. Mr. Muhammad Nawaz Qanoni, SDEO asked the appellant to perform duty in the school referred to above and thereafter stopped his salary. That he preferred departmental appeal which was not responded by the respondents. Thereafter show cause notice dated 12.05.2015 was served on him to which he replied accordingly. He was removed from service vide impugned order dated 20.02.2016. Reliance was placed on case law reported as 2009 SCMR 339, 2007 SCMR 229 and PLD 2008 Supreme Court 451.

4. On the other hand learned District Attorney argued that appellant remained willfully absent from duty w.e.f 01.06.2014 to 28.03.2015. The competent authority decided to dispense with regular enquiry as guilt of the appellant was established beyond any shadow of doubt. After observance of codal formalities he was awarded major penalty of removal from service vide order dated 20.02.2016. He further argued that all codal formalities were observed before passing the impugned order. He was treated according to law and rules, hence, there was no illegality in the said order. The appeal was not maintainable and be dismissed.

CONCLUSION.

5. The appellant was posted at Govt: Primary School, Fatih Mando, Tehsil Parowa, District D.I.Khan. There was a land dispute between the owner and the respondents. The owner was not allowing the appellant to perform duty. During the visit of Mr. Asim Saeed, the then SDEO the school was found locked. He was directed by the said SDEO to perform duty in his office. That he continued performing duty till June 2014. On 01.06.2014 Mr. Muhammad Nawaz Kanoni took over the charge as SDEO, Parowa and directed the appellant to perform duty in the school and also stopped his salary. It was followed by a show cause notice dated

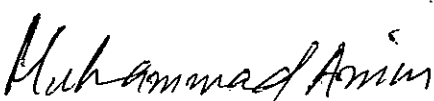
12.05.2015 and finally major penalty of removal from service was imposed on him vide impugned order dated 20.02.2016. While going through his reply to the show cause notice, it was observed that defense offered by him was not considered by the respondents.

6. Case of the appellant was dealt with under Sub-rule(a)(b)(d) of Rule-3 of Khyber Pakhtunkhwa Government Servant (Efficiency and Discipline) Rules 2011 and finally major penalty of removal from service was imposed on him on the basis of show cause notice. In case regular enquiry is dispensed with then the competent authority is required to give reasons for the same but nothing was mentioned in the said notice. There are numerous judgments of the superior courts that in case major penalty is to be awarded then regular enquiry should be conducted. In the present case we have no hesitation in admitting that the elements of due process and fair trial were missing. He was not dealt with according to Article-4 and 10-A of the Constitution, rather was condemned unheard.

7. In view of the fore-going the appeal is accepted, impugned order dated 20.02.2016 is set aside and the appellant is reinstated in service. The respondents are directed to conduct de-novo enquiry within a period of ninety days from the date of receipt of his judgment. The issue of back benefits shall be subject to the outcome of the de-novo enquiry. Parties are left to bear their own costs. File be consigned to the record room.



(AHMAD HASSAN)
MEMBER
CAMP COURT D.I.KHAN


(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

ANNOUNCED
26.11.2018

Service Appeal No. 1051/2015

12.09.2018

12th September has been declared as public holiday on account of 1st Muharram therefore, the case is adjourned for the same on 26.11.2018 before D.B at Camp Court D.I.Khan.



Camp Court D.I.Khan

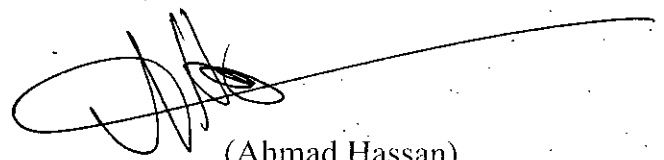
Order

26.11.2018

Counsel for the appellant present. Mr. Muhammad Kamran, ADO alongwith Mr. Usman Ghani, District Attorney for respondents present. Arguments heard and record perused.

Vide detailed judgment of today of this Tribunal placed on file, the appeal is accepted, impugned order dated 20.02.2016 is set aside and the appellant is reinstated in service. The respondents are directed to conduct de-novo enquiry within a period of ninety days from the date of receipt of his judgment. The issue of back benefits shall be subject to the outcome of the de-novo enquiry. Parties are left to bear their own cost. File be consigned to the record room.

Announced:
26.11.2018



(Ahmad Hassan)
Member

Camp Court D.I.Khan



(Muhammad Amin Khan Kundi)
Member

13.03.2018

Counsel for the appellant and Mr. Ziaullah, DDA for the respondents present. Rejoinder submitted. Counsel for the appellant seeks time. To come up for arguments on 25.06.2018 before D.B. at camp court, D.I.Khan.

Member

Chairman
Camp court, D.I.Khan

25.05.2018

As per direction of the Hon'able Chairman tour to D.I.Khan is rescheduled. To come up for arguments on 20.06.2018 instead of 25.06.2018. Notices be issued to the parties accordingly.

Member

20.06.2018

Neither the appellant nor his counsel present. Mr. Muhammad Kamran ADO (Litigation) alongwith Mr. Usman Ghani, learned District Attorney for the respondents present. Adjourned. To come up for arguments on 27.08.2018 before the D.B. at camp court D.I.Khan.

Member

Chairman
Camp Court, D.I.Khan

27.08.2018


No one present for the appellant. Mr. Kamran ADO for respondents present. Tour is hereby cancelled, therefore, the case is adjourned for the same on 12-9-18, before D.B. at camp court D.I.Khan.

Chairman

Service Appeal No. 1051/2016


30.11.2017

Appellant in person present. Mr. Farhaj Sikandar, District Attorney alongwith Mr. Muhammad Kamran, ADO (litigation) for the respondents also present. Written reply on behalf of respondents not submitted. Learned District Attorney requested for further adjournment. Adjourned. To come up for written reply/comments on 25.01.2018 before S.B at Camp Court D.I.Khan.


(Muhammad Amin Khan Kundi)
Member
Camp Court D.I. Khan


25.01.2018


Appellant in person present. Mr. Farhaj Sikandar, District Attorney alongwith Mr. Muhammad Kamran, ADO (litigation) for the respondents also present. Written reply on behalf of respondents submitted. Adjourned. To come up for rejoinder and arguments on 19.02.2018 before D.B at Camp Court D.I.Khan.


(Muhammad Amin Khan Kundi)
Member
Camp Court D.I. Khan

19.02.2018

Appellant with counsel present. Mr. Usman Ghani, District Attorney alongwith Mr. Muhammad Kamran, ADO for the respondents also present. Rejoinder not submitted. Learned counsel for the appellant requested for adjournment. Adjourned. To come up for rejoinder and arguments on 13.03.2018 before D.B at Camp Court D.I.Khan.



(Ahmad Hassan)
Member
Camp Court D.I.Khan


(Muhammad Amin Khan Kundi)
Member
Camp Court D.I.Khan

22.02.2017

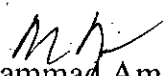
Appellant Deposited
Security & Process Fee

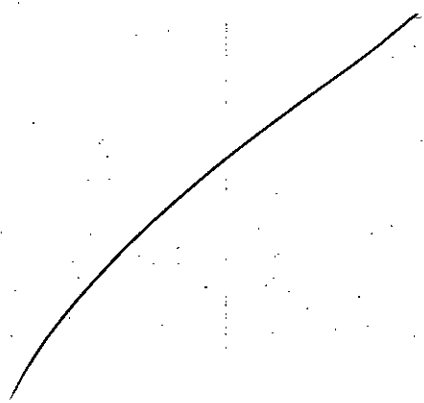
Mr. Fazal Rehman Baloch learned counsel for appellant present. Preliminary arguments heard. Point raised needs consideration. The appeal is admitted for regular hearing. The appellant is directed to deposit the security and process fee within 10 days there-after notices be issued to the respondents for written reply/comments for 26.07.2017 before S.B at Camp Court D.I.Khan.


(ASHFAQUE TAJ)
MEMBER
Camp Court D.I.Khan

26.07.2017

Counsel for the appellant present. Mr. Muhammad Kamran, ADO alongwith Mr. Farhaj Sikandar, District Attorney for the respondents also present. Representative of respondent-department requested for further time for submission of written reply. Adjourned. To come up for written reply/comments on 29.11.2017 before S.B at Camp Court D.I.Khan.


(Muhammad Amin Khan Kundi)
Member
Camp Court D.I. Khan






Form- A
FORM OF ORDER SHEET

Court of _____

Case No _____

1051/2016

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	13.10.2016	<p>The present appeal was received on 21.06.2016 which was returned to the counsel for the appellant for completion and resubmission within 15 days. Today i.e on 13.10.2016 he resubmitted the same late by 87 days. The same may be entered in the institution register and put up to the Worthy Chairman for appropriate order please.</p> <p style="text-align: right;"> REGISTRAR</p> <p>This case is entrusted to Touring S. Bench at D.I.Khan for preliminary hearing to be put up there on <u>28.11.16</u>.</p> <p style="text-align: right;"> CHAIRMAN</p> <p>Since D.I.Khan tour dated 28.11.2016 has been cancelled, therefore, case to come up for preliminary hearing on 22.02.2017 before S.B at Camp Court D.I.Khan.</p> <p style="text-align: right;"> Reader</p>
	28.11.2016	
	29.11.2016	

The appeal of Mr. Muhammad Faiz son of Muhammad Riaz Caste Sheikh r/o Teshil Parova Distt. D.I.Khan received to-day i.e. on 21.06.2016 is incomplete on the following score which is returned to the counsel for the appellants for completion and resubmission within 15 days.

- 1- Index of the appeal may be prepared according to the rules. — Don
- 2- Memorandum of appeal is unsigned which may be got signed. — Don
- 3- Copy of show cause notice mentioned in para-2 of the memo of appeal is not attached with the appeal which may be placed on it. — Don
- 4- Annexures of the appeal may be attested. — Don
- 5- Annexures of the appeal may be annexed serial wise as mentioned in the memo of appeal. — Don
- 6- Appeal may be page marked. — Don
- 7- Approved file cover is not used. — Don
- 8- Annexures of the appeal may be flagged. — Don
- 9- Seven more copies/sets of the appeal along with annexures i.e. complete in all respect may be submitted with the appeal. — Don

No. 1061 /S.T,

Dt. 22-6 /2016

Singh
22-6-16
REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Fazal-Ur-Rehman Baloch
Adv. High Court D.I.Khan

Sir,
After removal of objection
the appeal in hand is submitted.
It is also mention here that
according to the Supreme court
Decision that such like situation
Appeal is to considered with
in time Pr 2013 SC 392

Fazal-Ur-Rehman Baloch
Fazal-Ur-Rehman Baloch
M.A. LL.B.
Advocate High Court
Dera Ismail Khan.

BEFORE THE HONOURABLE SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA, PESHAWAR.

Service Appeal No. 105 /2016

Muhammad Fiaz(Petitioner)

VERSUS

Secretary Education KPK etc.....(Respondents)

INDEX

<u>S.NO</u>	<u>PARTICULARS</u>	<u>ANNEXURE</u>	<u>PAGE NO.</u>
1	Grounds of service appeal		1-3
2	Copy of appointment letter	"A"	4
3	Copy of medical certificate.	"B"	05
4	Copy of salary	"C"	6-7
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6	Copy of reply	"E"	9
7	Copy of Writ Petition.	"F"	10-14
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Your Humble Petitioner

M. Fiaz

Muhammad Fiaz

Through counsel

Dated: /10/2016

Fazal ur Rehman Baloch
Fazal ur Rehman Baloch
M.A. L.L.B.
Advocate High Court
Dera Ismail Khan

(FAZAL UR REHMAN BALOCH)

Advocate High Court

Dera Ismail Khan.

0333-9952545

①

BEFORE THE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA, PESHAWAR

Service Appeal No. 1051 Of 2016.

Muhammad Fiaz S/o Muhammad Riaz, Caste sheikh, R/o Tehsil Parova, District D.I.Khan. (12101-3593095-3) (Petitioner)

VERSUS

1. Secretary Education Khyber Pakhtunkhwa Peshawar.
2. Director Education Khyber Pakhtunkhwa Peshawar.
3. District Education Officer Male Primary D.I.Khan.
4. Sub Division Education Officer Male Primary, Tehsil Parova, District D.I.Khan. (Respondents)

Khyber Pakhtunkhwa Service Tribunal

Diary No. 655

Dated 21-6-2016

Service appeal under section 4 of the service tribunal act against the illegal order dated: 20/02/2016 passed by the respondent No.3 while departmental appeal not decided yet.

Respectfully Sheweth:-

That the petitioner amongst other grounds respectfully submits as follows:-

- 1) That petitioner was appointed as chokidar in BPS=01 class at Govt Primary School Fateh Mando and petitioner took the charge and submitted his arrival report to head master alongwith medical certificate and petitioner draw his monthly salary. Copy of appointment letter, medical certificate, Pay Slip are annexed as ANNEXURE-A TO C.
- 2) That on 12/05/2015 respondent No.4 issued a show cause notice dated nil and petitioner submitted his reply. Copy of show cause notice and reply are annexed as ANNEXURE-D&E.
- 3) That all of the sudden respondent No.4 stopped the salary of the petitioner from 01/06/2014 in this respect petitioner instituted writ petition for releasing of salary but during the pendency of the instant writ petition respondent No.3 removed from service vide order NO 3221-26 dated 20/02/2016. Copy of the letter is annexed as ANNEXURE-F. -F-1

Filed to-day

Registrar

21/6/16.

Re-submitted to-day and filed. petitioner filed /sent department appeal to respondent NO.2 but

Registrar

13/10/16.

[Signature]
Fazal-ur-Rizvi Saloch
Advocate High Court
Dera Ismail Khan.

not decided yet. Copy of the department appeal is annexed as ANNEXURE-G.

GROUNDS:-

- a) That petitioner being performs the duty regularly and draws his salary.
- b) That the Govt Primary School Fateh Mando, tehsil parova, district D.I.Khan due to local dispute over the donation of the school land, school were locked by the land owners and matter was reported to the higher by the petitioner and the then S.D.E.O Mr. Asim Saeed visited the spot and found that school was locked by the land owners. The then S.D.E.O tehsil parova Mr. Asim Saeed issued verbally order the petitioner should perform his duty in the office of S.D.E.O parova and petitioner was performing his duty till june 2014.
- c) That Mr. Asim Saeed was transferred and Mr. Inayat Ullah Khan Sappal took the charge as S.D.E.O Male parova and petitioner continuously performed the duty with the said S.D.E.O.
- d) That on 01/06/2014 Muhammad Nawaz Khan Qanooni took the charge of S.D.E.O parova and directs the petitioner that he should performed his duty at the school mention in order. And thereafter he stopped the salary of the petitioner.
- e) That petitioner filed Writ petition for releasing of his salary but respondent No.3 issued a order removal of service of the petitioner without any cogent reason and cause.
- f) That petitioner preferred a departmental appeal dated 14/02/2016 to respondent No.2 but no order has been passed till date.
- g) That the impugned order dated 20/02/2016 is being against the principal of natural justice null, void ab-initio and ineffective upon the wasted right of the appellant / petitioner for the reason that appellant/ petitioner was condemd unheard. The impugned order issued with melafide, in flagrant violation of the law and policy of the government.

Fazal ur Rehman
 Fazal ur Rehman
 M.A. LL.B.
 Advocate High Court
 Dera Ismail Khan.

h) That the petitioner counsel may be permitted to argue additional grounds during hearing of the petition with regards to his grievances.

PRAYER:-

In view of the submission made here in above, it is respectfully prayed that while accepting the instant service appeal of the appellant / petitioner, with all back benefits and impugned order dated 20/02/2016 No.3221-26 may please be declare as null and void, in effective on the right of the appellant / petitioner.

Dated:18/06/2016

Your Sincerely

M Fiaz

Muhammad Fiaz

Fazal Ur Rehman Baloch

Advocate High Court

Distt: Dera Ismail Khan.

0333-9952545

AFFIDAVIT

I, Muhammad Fiaz, petitioner Do hereby solemnly affirms and declare on Oath That the service appeal has been drafted by my counsel under my direction and at my instance and that the contents of the same are true and correct to the best of my knowledge and belief and that nothing has been concealed from this honorable court.

Dated:18/06/2016



DEPONENT

Fazal Ur Rehman Baloch

Fazal Ur Rehman Baloch

Advocate High Court

M.A. LL.B.

Advocate High Court

Dera Ismail Khan.

0333-9952545

OFFICE OF THE EXECUTIVE DISTRICT OFFICER (E & S) EDUCATION DIKHAN

Annex- A

APPOINTMENT ORDER:

Under the provision of Govt: Finance Department No BoI/F-22/2007-2008/FD, Dated 29-01-2008, and SO(G) S & G AD/2007-08, Dated 15-07-2008, following candidates are hereby appointed as Class -IV BPS-01 plus usual allowances as admissible under the rules in the interest of public service from the date of taking over charge.

S. No.	Name of Candidate with Father's Name	School Where Posted
I:	Muhammad Fiaz S/o Moh. Riaz Ahmad.	Chowk:, GPS Fateh Mando Gara Thoke Abdullah Paroa, D.I. Khan.

TERMS & CONDITIONS.

1. Charge report should be submitted to all concerned.
2. The service of the above named candidates are made purely on temporary basis and liable to the terminate at any time without assigning any reason/notice.
3. They will produce health and age certificate from the MS concerned.
4. The original document may be checked/verified by the concerned Board/University through DDO before handing over charge.
5. No pension benefit will be allowed, except CP, Fund as admissible under the rule.

[Signature]

EXECUTIVE DISTRICT OFFICER
(E&S) EDUCATION DIKHAN

Ends No. 11710-1A

Dated DIKhan the 01/7/2010.

Copy to the:

1. District Coordination Officer D.I.Khan.
2. District Accounts Officer D.I.Khan.
3. Dy. District Officer (Male/Female) Concerned.
4. Headmistress/Headmaster concerned.
5. Candidate Concerned.

[Signature]

EXECUTIVE DISTRICT OFFICER
MEDICAL SUPERINTENDENT

Civil Hospital: D.I. Khan

IMPRESSIONS: 18/07/2010

Attested
[Signature]
Fazal Ahmad Baloch
M.A. LL.B.
Advocate High Court
Dera Ismail Khan.

Annex B

MEDICAL CERTIFICATE

Name of Official..... Mr. Muhammad Fiaz
 Caste or Race..... Shaikh
 Father's Name..... Mr. Muhammad Fiaz
 Residence..... Teh. Parva Distt. D.I. Khan
 Date of Birth..... 12/02/1985 (12101-3593095-3)
 Exact height by measurement..... 5' 7"
 Personal marks of identification..... Black mole on (RT) side of neck
 Signature of the Official..... M. Fiaz
 Signature of.....
 head of office.....

Took over charge on 02-07-2010

Seal of Office.....

Anam Saad
 Deputy District Officer
 (M) P. Parva, D.I. Khan

I do hereby certify that I have examined Mr. Muhammad Fiaz
 a candidate for employment in the Office of the Education Deptt.
 and can not discover that head any disease communicable or other constitutional
 effication or bodily infirinity except..... Nil

I do not consider this as disqualification for employment in the office of the
 Education His age according to his own statement 25 5/12 year and
 by appearance about 25 5/12 years.



LEFT HAND THUMB AND FINGER
 IMPRESSIONS... 18/07/2010

M. B. Khan
 MEDICAL SUPERINTENDENT
 D.H.Q. Teaching Hospital
 D.I. Khan
 Medical Superintendent,
 Civil Hospital, D.I. Khan

Attested
Fazal Rehman
 Advocate High Court
 D.I. Khan

1948 Adhoc Allowance 2010
1970 Adhoc Relief Allow 2
2118 Adhoc Relief Allow ()
2148 15% Adhoc Relief All

1,530.00
459.00
1,080.00
810.00

PAYMENTS
Branch Code: 231418

13,070.00
H. B. P. RAMAK BRANCH

DEDUCTIONS
National Bank of Pakistan

443.00
H. B. P. RAMAK BRANCH

NET PAY
D. I. KHAN

12,627.00 01.05.2014 31.05.2014
Acct. No: 3091-2

08570549 MUHAMMAD FIAZ
PAYMENTS

0801 Basic Pay
1000 House Rent Allowance
1210 Convey Allowance 20
1300 Medical Allowance
1516 Dress/ Uniform Allow
1567 Washing Allowance
1948 Adhoc Allowance 2010
1970 Adhoc Relief Allow 2
2118 Adhoc Relief Allow ()
2148 15% Adhoc Relief All

Prev Pers No:
AMOUNT
5,250.00
891.00
1,700.00
1,000.00
100.00
100.00
1,485.00
445.00
1,050.00
787.00

Desig: CHOWKIDAR
DEDUCTIONS
3001 GPF Subscription - Rs
3501 Benevolent Fund
3511 Addl Group Insurance
3604 Group Insurance
3990 Emp. Edu. Fund KPK

(00000357)
AMOUNT
212.00-
120.00-
3.00-
58.00-
50.00-

Grade: 01 NTH:
LDAN/FUND

Buckle No.:
PRINCIPAL

Gazette/Non-Gazette: N
REPAID BALANCE

2,968.00

Annex C

127/127

PAYMENTS
Branch Code: 221189

12,808.00
PARDA, D. I. KHAN.

DEDUCTIONS
Habib Bank Limited

443.00-
PARDA, D. I. KHAN.

NET PAY
D. I. KHAN

12,365.00 01.05.2014 31.05.2014
Acct. No: 11897100224803

08573052 ALLAH DITTA
PAYMENTS

0801 Basic Pay
1000 House Rent Allowance
1210 Convey Allowance 20
1300 Medical Allowance
1516 Dress/ Uniform Allow
1567 Washing Allowance
1948 Adhoc Allowance 2010
1970 Adhoc Relief Allow 2
2118 Adhoc Relief Allow ()
2148 15% Adhoc Relief All

Prev Pers No:
AMOUNT
5,250.00
891.00
1,700.00
1,000.00
100.00
100.00
1,485.00
445.00
1,050.00
787.00

Desig: CHOWKIDAR
DEDUCTIONS
3001 GPF Subscription - Rs
3501 Benevolent Fund
3511 Addl Group Insurance
3604 Group Insurance
3990 Emp. Edu. Fund KPK

(00000357)
AMOUNT
212.00-
120.00-
3.00-
58.00-
50.00-

Grade: 01 NTH:
LDAN/FUND

Buckle No.:
PRINCIPAL

Gazette/Non-Gazette: N
REPAID BALANCE

2,968.00

128

PAYMENTS
Branch Code: 231373

12,808.00
H. B. P. GOMAL UNIVERSITY BRANCH

DEDUCTIONS
National Bank of Pakistan

443.00-
H. B. P. GOMAL UNIVERSITY BRANCH

NET PAY
D. I. KHAN

12,365.00 01.05.2014 31.05.2014
Acct. No: 1804-8

08590670 MUHAMMAD JEHANGIR AHMAD
PAYMENTS

0801 Basic Pay
1000 House Rent Allowance
1210 Convey Allowance 20
1300 Medical Allowance
1516 Dress/ Uniform Allow

Prev Pers No:
AMOUNT
5,250.00
891.00
1,700.00
1,000.00
100.00

Desig: CHOWKIDAR
DEDUCTIONS
3001 GPF Subscription - Rs
3501 Benevolent Fund
3511 Addl Group Insurance
3604 Group Insurance
3990 Emp. Edu. Fund KPK

(00000357)
AMOUNT
212.00-
120.00-
3.00-
58.00-
50.00-

Grade: 01 NTH:
LDAN/FUND

Buckle No.:
PRINCIPAL

Gazette/Non-Gazette: N
REPAID BALANCE

2,968.00

129

Attested
Fazal-ur-Rehman
Advocate High Court
Dera Ismail Khan

1515 Dress/Uniform Allow	100.00
1567 Washing Allowance	100.00
1948 Adhoc Allowance 2010	1,530.00
1970 Adhoc Relief Allow 2	459.00
2118 Adhoc Relief Allow (1,050.00
2148 15% Adhoc Relief All	810.00

3990 Emp.Edu. Fund KPK

PAYMENTS 13,070.00
Branch Code: 231418 H.B.P RAMAK BRANCH

DEDUCTIONS 443.00
National Bank of Pakistan

H.B.P RAMAK BRANCH

NET PAY
D. I. KHAN

12,627.00 01.05.2014 31.05.2
Acct. No: 3091-2

00570549 MUHAMMAD FIAZ PAYMENTS	Prev Pers No:	Desig: CHOKKIDAR	(00000357) Grade: 01 NTH: LOAN/FUND	Buckle No.: PRINCIPAL	Gazette/Hon-Gazetted: REPAID BALANCE
AMOUNT	DEDUCTIONS	AMOUNT			
0801 Basic Pay	5,250.00	3001 GPF Subscription - Rs	212.00-	GPF:	2,968.00
1000 House Rent Allowance	891.00	3501 Benevolent Fund	120.00-		
1210 Convey Allowance 20	1,700.00	3511 Addl Group Insurance	3.00-		
1300 Medical Allowance	1,000.00	3604 Group Insurance	58.00-		
1516 Dress/Uniform Allow	100.00	3990 Emp.Edu. Fund KPK	50.00-		
1567 Washing Allowance	100.00				
1948 Adhoc Allowance 2010	1,485.00				
1970 Adhoc Relief Allow 2	445.00				
2118 Adhoc Relief Allow (1,050.00				
2148 15% Adhoc Relief All	787.00				

PAYMENTS 12,808.00
Branch Code: 221189 PARDA, D. I. KHAN

DEDUCTIONS 443.00-
Habib Bank limited

PARDA, D. I. KHAN

NET PAY
D. I. KHAN

12,365.00 01.05.2014 31.05.2
Acct. No: 11897100224903

00573052 ALLAH DITTA PAYMENTS	Prev Pers No:	Desig: CHOKKIDAR	(00000357) Grade: 01 NTH: LOAN/FUND	Buckle No.: PRINCIPAL	Gazette/Hon-Gazetted: REPAID BALANCE
AMOUNT	DEDUCTIONS	AMOUNT			
0801 Basic Pay	5,250.00	3001 GPF Subscription - Rs	212.00-	GPF:	2,968.00
1000 House Rent Allowance	891.00	3501 Benevolent Fund	120.00-		
1210 Convey Allowance 20	1,700.00	3511 Addl Group Insurance	3.00-		
1300 Medical Allowance	1,000.00	3604 Group Insurance	58.00-		
1516 Dress/Uniform Allow	100.00	3990 Emp.Edu. Fund KPK	50.00-		
1567 Washing Allowance	100.00				
1948 Adhoc Allowance 2010	1,485.00				
1970 Adhoc Relief Allow 2	445.00				
2118 Adhoc Relief Allow (1,050.00				
2148 15% Adhoc Relief All	787.00				

PAYMENTS 12,808.00
Branch Code: 231373 H.B.P GOMAL UNIVERSITY BRANCH

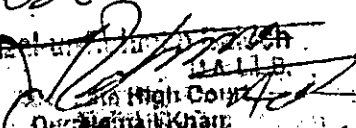
DEDUCTIONS 443.00-
National Bank of Pakistan

H.B.P GOMAL UNIVERSITY BRANCH

NET PAY
D. I. KHAN

12,365.00 01.05.2014 31.05.2
Acct. No: 1804-8

00590670 MUHAMMAD JEHANGIR AHMAD PAYMENTS	Prev Pers No:	Desig: CHOKKIDAR	(00000357) Grade: 01 NTH: LOAN/FUND	Buckle No.: PRINCIPAL	Gazette/Hon-Gazetted: REPAID BALANCE
AMOUNT	DEDUCTIONS	AMOUNT			
0801 Basic Pay	5,250.00	3001 GPF Subscription - Rs	212.00-	GPF:	2,968.00
1000 House Rent Allowance	891.00	3501 Benevolent Fund	120.00-		
1210 Convey Allowance 20	1,700.00	3511 Addl Group Insurance	3.00-		
1300 Medical Allowance	1,000.00	3604 Group Insurance	58.00-		
1516 Dress/Uniform Allow	100.00	3990 Emp.Edu. Fund KPK	50.00-		

Attested

 D. I. KHAN
 High Court
 District Judge



22 8

OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) DERA
ISMAIL KHAN

Annex = D

No. /ADEO (Estab :) Primary.

Dated /2015

SHOW CAUSE NOTICE

I, Muhammad Riaz, District Education Officer (Male) Dera Ismail Khan as competent authority under the Khyber Pakhtunkhwa Government servants (Efficiency & discipline) rules, 2011, do hereby serve you Muhammad Fiyaz (Chowkidar) c/o SDEO (M) Parova.

- w.c.b
- a) You have been absent from duty on-01/06/2014 to date without any application/information as per report of SDEO (M) Parova vide his No 3125 dated 28/03/2015.
- b) In exercise of the power conferred by the Khyber Pakhtunkhwa, Govt: servant.(Efficiency & Discipline) rules, 2011, the Competent Authority is hereby pleased to dispense with the conduct of a formal enquiry and serve you with the instant show cause notice regarding your wilful absence from duty with the direction to submit your defense in writing within 10 (Ten) days of the issuance of this notice as to why the major penalty of rule 4 (b) of the said rules should not be imposed upon you and also intimate whether you desire to be heard in person.
- c) In case you failed to submit your reply within the stipulated period, it will be presumed that you have no defense to offer and ex-parte decision will be taken against you.

COMPETENT AUTHORITY

Muhammad Fiyaz (Chowkidar)
C/O SDEO (M) Parova.

Attested

Fazal-ur-Rehman Baloch
M.A. LL.B.
Page 1 of 1 Advocate High Court
Dera Ismail Khan.

جواب شوکار نولس

جناح - سب ڈویژنل ایجوکیشن آفیسر (مردانہ) تحصیل پروانہ ضلع ڈیرہ اسماعیل خان -
متنیاہن - محمد ضیاء چوکیدار - گورنمنٹ پرائمری سکول جھوک عبداللہ فتح منڈو تحصیل پروانہ -

- 1 جناب عالی! مسائل حسب ذیل جواب شوکارہ پیش گزار ہے
یہ کہ مسائل مورخہ یکم جولائی 2010ء کو بحوالہ تینسائی لیٹر نمبر 14-11710 کو بطور چوکیدار
گورنمنٹ پرائمری سکول فتح منڈو گڑھ جھوک عبداللہ تحصیل پروانہ ضلع ڈیرہ اسماعیل خان، سوی -
یہ کہ مسائل نے فوراً اپنی ڈیوٹی کا چارج سنبھال لیا۔
- 2 یہ کہ گورنمنٹ پرائمری سکول فتح منڈو بوجہ معامی تنازعہ بند پایا۔ اسی نیت اس وقت کے
S.D.F.O جناب عالم سعید صاحب کو اطلاع دی، جس نے نوڈ جا کر سکول کا معائنہ کرنے کے
بعد من مسائل کو دفتر ہی میں ڈیوٹی ادا کرنے کا حکم دیا گیا۔
- 3 یہ کہ مسائل S.D.F.O جناب عنایت اللہ نیل کے ساتھ کبھی دفتر میں ڈیوٹی ادا کرتا رہا۔
یہ کہ آپ جناب محمد نواز خان تالوئی صاحب نے من مسائل کو مورخہ یکم جون 2014ء
سے دفتر کی بجائے سکول ہی میں ڈیوٹی ادا کرتے کہا۔ جس پر من مسائل فوراً سکول پر

- 6 یہ کہ سکول کا بندش کی اطلاع آپ جناب کو دی، جس پر آپ جناب نے مجھے حکم دیا کہ
تم ہر حال میں سکول پر ڈیوٹی کرو۔ جبکہ سکول ہزار بوجہ تنازعہ مابین Land ownz
بند ہے۔ جبکہ مسائل رات کو اپنی ڈیوٹی پر چدا جاتا اور باقاعدگی سے بطور چوکیدار
Night watchman اپنی ڈیوٹی ادا کرتا رہا ہے۔
7 یہ کہ آپ جناب خود موقع پر آکر اس نیت تسلیم کر سکتے ہیں۔ آپ جناب کو کسی نے غلط اطلاع
دی ہے۔ جبکہ سکول ہزار پر مالک زمین نے قبضہ کیا ہے۔ اور مسائل اپنی ڈیوٹی پر
خاطر رہتا ہے۔
- 8 یہ کہ آپ جناب نے بلاوجہ مسائل کی ماہانہ تنخواہ بند کر دی ہے۔ مسائل ایک غریب شخص ہے اور
جہنگالی کے اس دور میں لینئر تنخواہ کے گزارہ مشکل ہے۔
لہذا استدعا ہے کہ مسائل کے خلاف Show Cause Notice کو ختم فرمایا جائے
اور مسائل کی تنخواہ بحال کی جائے۔
المرقوم ۲۱ مئی ۲۰۱۵ء

محمد ضیاء چوکیدار گورنمنٹ پرائمری سکول فتح منڈو

Received
21.5.2015

Attested
Fazal Rehman Baloch
Advocate High Court
Dera Ismail Khan.

(7) (10)

BEFORE PESHAWAR HIGH COURT, BENCH AT D.I. KHAN

Writ Petition No. 575-D Of 2015.

Muhammad Fiaz S/o Muhammad Riyaz, Caste sheikh, R/o Tehsil Paroa,

District Dera Ismail Khan.

Mob No 0342-959-3041



Annex - 1
..... (Petitioner)

Filed today 2/6/21

Adk Registrar.

VERSUS

- 5/09/2015
1. Secretary Education KPK Peshawar.
 2. Director Education KPK Peshawar.
 3. District Education Officer (Male) Dera Ismail Khan.
 4. Sub Divisional Education Officer, (M) Paroa.
 5. District Coordination Officer D.I.Khan.

..... (Respondents)

Writ Petition Under Article 199 Of The Constitution
Of Islamic Republic Of Pakistan 1973.

Respectfully Sheweth:-

That the petitioner amongst other grounds respectfully submits as follows:-

- 1) That petitioner was appointed as Chowkidar in BPS-01 Class-IV at Govt Primary School Fateh Mando (Gara Jhoke Abdullah) Tehsil Paroa, District Dera Ismail Khan. Copy of appointment Letter is annexed as ANNEXURE-A.
- 2) That after medical examination medical certificate issued in favour of petitioner and soon after petitioner took the charge and submit his arrival report through Head Teacher Primary School Fateh Mando. Medical certificate is annexed as ANNEXURE-B.
- 3) That petitioner was allotted personal number and draws his salary. Copy of Pay slip is annexed as ANNEXURE-C.
- 4) That on 12/05/2015 respondent No.3 issued a show cause notice against me while Show Cause Notice No,Nil dated Nil was issued by the respondent No.3 which is serve through unknown person. Copy of the letter and Show

ATTESTED
6/7/10/16
EXAMINOR
Peshawar High Court
D.I.Khan Bench

cause notice are annexed as ANNEXURE-D.

- 5) That on 21/05/2015 petitioner submits his reply. Copy of reply is annexed as ANNEXURE-E.
- 6) That feeling aggrieved and having no other alternative remedy the present Petitioner approaches this August Court, inter alia on the following grounds:-

Filed today 26/2/15

Addl Registrar.

05/09/2015

GROUND:

1. That petitioner being chowkidar performed his duty regularly that is why petitioner draws his salary from the department.
2. That Govt Primary School Male fateh Mando due to local dispute over the donation of the school land, school were locked by the land owners and matter was reported to the higher by the petitioner and the then S.D.E.O Mr. Asim Saeed was visited the spot and found that school was locked by the land owner. The then S.D.E.O Paroa Mr. Asim Saeed, verbally issued order that petitioner should perform his duty in the officer of S.D.E.O at Paroa, District Dera Ismail Khan, and petitioner was performing his duty till June 2014.
3. That Mr. Asim Saeed. S.D.E.O was transferred and Mr. Inayat Ullah Khan Sappal, took the charge as S.D.E.O male Paroa, Dera Ismail Khan, and petitioner continuously performed his duty with the said S.D.E.O.
4. That on 01/06/2014 Mr. Muhammad Nawaz Khan Qanooni took the charge as S.D.E.O male Paroa and he ordered that Petitioner should perform his duty at the school mention in appointment order without any delay.
5. That petitioner performing his duty at the school mention in appointment order till date because he is night watch man that is why petitioner is always present on his duty but due to unknown reason Mr. Muhammad Nawaz Khan Qanooni without any cogent reason OR any complaint he stopped the petitioner salary from 01-06-2014
6. That petitioner being a Govt servant and performing his duty. He is

ATTESTED
EXAMINOR
Peshawar High Court
Dera Ismail Khan

(12)
#

entitled to receive the salary but respondent No.3 and 4 without any cogent reason and justification stopped the salary of the petitioner which is against the law and facts.

It is therefore, humbly prayed that the instant Writ Petition may kindly be accepted and order may please be issued to respondents for releasing of salary of the petitioner from 01-06-2014 To Till date. Any other relief as deemed appropriate in the circumstances of case not specifically asked for may also be granted to petitioner.

Filed to Tax 2621

Addl. Registrar.

05/09/2015

Dated: 03/09/2015

Your Sincerely

M. Faiz
Muhammad Faiz

(FAZAL UR REHMAN BALOCH)

Advocate High Court

District Dera Ismail Khan

CERTIFICATE:

It is the first petition of subject matter from the petitioner's side and nothing has been concealed from this Honorable Court.

M. Faiz
Petitioner

Reference Books:

- The Constitution of Islamic Republic Of Pakistan.
- Reported Judgment on the subject Matter.
- C.P.C.

AFFIDAVIT

I, Fazal ur Rehman Baloch Advocate, Do hereby solemnly affirms and declare on Oath That the Writ Petition has been drafted by my counsel under my direction and at my instance and that the contents of the same are true and correct to the best of my knowledge and belief and that nothing has been concealed from this honorable court.

Dated: 03/09/2015

[Signature]
ATTESTED
07/10/16
EXAMINOR
Peshawar High Court
D.I. Khan Bench

DEPONENT

[Signature]
Fazal Ur Rehman Baloch
Advocate High Court
Distt: Dera Ismail Khan.

17/11

ATTESTED
27/10/15
D.J. Khan Bench
Peshawar High Court
EXAMINER

JUDGE

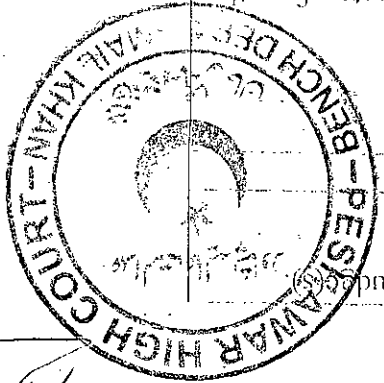
JUDGE

Court. Adjourned to a date in office.
committed an offence, shall be brought before this
school shall be taken to task and if they have
and all those persons involved in closing the said
with intimation to Additional Registrar of this Court
directed to look after the matter and close the school
matter, the District Police Officer, District D.J. Khan is
of the influential of the area, so in such view of the
(Gara Jhok Abdullah), Tehsil Paroa is locked by some
the petitioner that Govt. Primary School Fatch Mandoo
It is reported by the learned counsel for
wise comments within a fortnight.

Respondents No.3 & 4 shall file para-

for the respondents.
Mr. Kamran Hayat Mian Khel, A.A.G.

Present:- Mr. Fazal Rehman, Advocate for the
petitioner.



17.11.2015

W.P. No.575-D/2015.

(2)

(1)

proceedings

order or

Date of

Order or other proceedings with signature of Judge

FORM OF ORDER SHEET

IN THE PESHAWAR HIGH COURT, D.J. KHAN BENCH

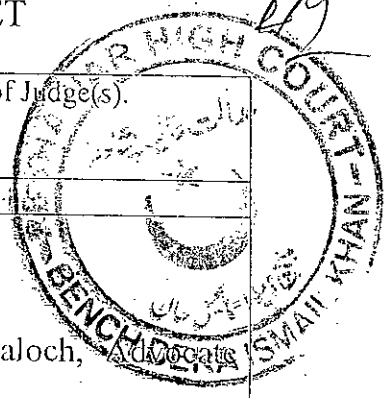
13

(16)

PESHAWAR HIGH COURT, D.I.KHAN BENCH

FORM OF ORDER SHEET

Date of Order or proceedings	Order or other proceedings with signature of Judge(s).
(1)	(2)
07.6.2016.	<p style="text-align: center;"><i>W.P.No.575-D/2015.</i></p> <p>Present: Mr. Fazlur Rehman Baloch, Advocate for the petitioner.</p> <p style="text-align: center;">***</p> <p><u>MUHAMMAD GHAZANFAR KHAN, J.-</u> Learned counsel for the petitioner stated at the bar that during pendency of the instant petition, the petitioner has been removed from service, therefore, the instant petition has become infructuous. Dismissed accordingly.</p> <p><i>Announced.</i> <i>Di: 07.6.2016.</i></p> <p style="text-align: right;"><i>[Signature]</i> JUDGE</p> <p style="text-align: right;"><i>[Signature]</i> JUDGE</p> <p style="text-align: center;">ATTESTED <i>7/10/16</i> EXAMINOR Peshawar High Court D.I.Khan Bench</p> <p><i>Habib/*</i></p>



[Handwritten signature]
7/6

G.R. No. 2648.
Application received on 6-10-16
Copying Fee deposited Rs. 06/Pages
No. of Pages 06 Pages
Copying Fee 7/-
Urgent Fee 7/-
Total Fee 14/-
Copy ready for delivery 7-10-16
Copy delivered on 7-10-16
Signature of Examiner [Signature]

07/10/16

Certified to be true Copy

[Signature]
Peshawar High Court
Authorized Officer
07/10/16



OFFICE OF THE DY. DISTRICT EDUCATION OFFICER

(MALE) DERA ISMAIL KHAN

Phone No. 0966-928012

(15) (18)

Anne-F=1

ORDER

WHEREAS you Mr. Muhammad Fayaz (Chowkidar) S/O Riaz Ahmad, GPS Fateh Mandu Tehsil Parova DIKhan were proceeded for having committed the following gross irregularities which constitute inefficiency and misconduct under rule 3 sub rule (a), (b) & (d) of the Khyber Pakhtunkhwa Govt Servant (Efficiency & Discipline Rules, 2011) and your service record was not found in office of SDEO(M) Parova as per report of SDEO(M) Parova DIKhan Endst: No. 3247 dated 28-05-2015.

AND WHEREAS a show cause notice was served upon you vide DEO(M) DIKhan Endst. No 122326 dated 12-05-2015 through SDEO(M) Parova DIKhan wherein you were asked to submit your reply within ten (10) days.

AND WHEREAS you have submitted reply of show cause notice in which according to your statement you have been performing duties in non-functional school i.e GPS Fateh Mandu.

AND WHEREAS you were summoned for personal hearing on 25-01-2016 through SDEO(M) Parova DIKhan vide this office letter no. 1515-16 dated 20-01-2016.

AND WHEREAS during personal hearing you were directed to provide your attendance from your place of duties duly verified by ASDEO(M)/SDEO(M) Concerned. But you have failed to provide any documentary proof of your performance of duties.

AND WHEREAS it is clear that you have received salary without performing your duties.

NOW THEREFORE the undersigned being competent authority in exercise of power conferred upon me under sub rule 4-B (III) and 9 of Khyber Pakhtunkhwa Civil Servant (Efficiency and Discipline rules, 2011) is pleased to impose the Major penalty of "REMOVAL FROM SERVICE" of Mr. Muhammad Fayaz chowkidar GPS Fateh Mandu Tehsil Parova DIKhan with immediate effect.

DISTRICT EDUCATION OFFICER
(MALE) DERA ISMAIL KHAN.

Endst. No. 3221-26

dated DIKhan 20/2/2016

Copy to the

1. Sub Divisional Education Officer (Male) Parova DIKhan with the remarks that you calculate the amount he un lawfully received without performing duties and submit the name of concerned DDO's, which were responsible for release of salary in connection with recovery of pay for the said period.
2. Director Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar.
3. District Accounts Officer DIKhan.
4. District Monitoring Officer (IMU) DIKhan.
5. Mr. Muhammad Fayaz (Chowkidar) GPS Fateh Mandu.
6. PA to DEO(M) DIKhan.

DISTRICT EDUCATION OFFICER
(MALE) DERA ISMAIL KHAN.

روبرو جناب ڈائریکٹر تعلیمات صوبہ خیبر پختونخواہ - پشاور

حکمانہ اپیل برخلاف فیصلہ و حکم بحوالہ چٹھی نمبر 26-3221 مورخہ 20/02/2016

مصدرہ ڈسٹرکٹ ایجوکیشن آفیسر مردانہ ڈیرہ اسماعیل خان۔

جناب عالی من اپیلانٹ حسب ذیل عرض گزار ہے۔

- 1- یہ کہ من سائل / اپیلانٹ بطور چوکیدار بنیادی پے سکیل -1، کلاس -IV گورنمنٹ پرائمری سکول فتح مندو، تحصیل پروا ضلع ڈیرہ اسماعیل خان پر بحوالہ حکم تعیناتی نمبر 14-11710 مورخہ 01/07/2010 بھرتی ہوا۔ اور ڈیوٹی پر حاضر ہونے کے لئے سکول مذکور پر پہنچا۔ نقل حکم تعیناتی لف ہذا ہے۔
- 2- یہ کہ گورنمنٹ پرائمری سکول فتح مندو (گرہ جھوک عبداللہ) بوجہ مقامی تنازعہ مابین مقامی افراد (Land Owner etc) بند پایا جو کہ تاحال بند ہے۔
- 3- یہ کہ من سائل / اپیلانٹ نے اس وقت کے SDEO مردانہ جناب عاصم سعید کو فوراً اطلاع دی اور SDEO مذکور نے موقع پر جا کر سکول کا معائنہ کیا اور من سائل / اپیلانٹ کو زبانی حکم دیا کہ وہ دفتر میں حاضری دیکر کام کرتا رہے۔
- 4- یہ کہ جناب عاصم سعید صاحب کے تبادلہ کے بعد جناب عنایت اللہ خان سپل نے SDEO کا چارج سنبھالا اور من سائل / اپیلانٹ بدستور دفتر محکمہ تعلیم واقع پروا پر کام کرتا رہا۔
- 5- یہ کہ من سائل / اپیلانٹ از تاریخ تعیناتی تا یکم جون 2014 تک دفتر ہذا میں ڈیوٹی ادا کرتا رہا۔
- 6- یہ کہ اب محمد نواز المعروف قانونی نے SDEO کا چارج سنبھالتے ہی من سائل / اپیلانٹ کو حکم دیا کہ وہ سکول پر جا کر ڈیوٹی کرے جبکہ سکول کی بندیش کا محمد نواز المعروف قانونی کو بخوبی علم تھا کہ سکول مذکور بند ہے۔ مگر محمد نواز المعروف قانونی نے من سائل / اپیلانٹ کے ساتھ ذاتیات کرتے ہوئے اولاً ماہانہ تنخواہ بند کی اور بعد میں بلاوجہ اور غیر قانونی شوکار نوٹس جو بغیر نمبر اور تاریخ کے جاری کیا جس کا جواب من سائل / اپیلانٹ نے داخل کیا۔ نقل شوکار نوٹس و جواب نوٹس لف ہذا ہے۔
- 7- یہ کہ من سائل / اپیلانٹ نے اپنی ماہانہ تنخواہ کو جاری کرنے کی خاطر عدالت عالیہ پشاور ہائی کورٹ سنج،

Attested
Fazal ur Rehman D. Koch
 M.A., LL.B.
 Advocate High Court
 Dera Ismail Khan.

ڈیرہ اسماعیل خان میں رٹ دائر کی جس میں ریسیانڈنٹس سے جواب طلب کیا گیا۔ نقل رٹ و نقل آرڈر شیٹ لف ہذا ہیں۔

8- یہ کہ ریسیانڈنٹس نے بجائے ہائی کورٹ میں جواب داخل کرنے کے من سائل / اپیلانٹ کو دفتر میں بلا کر بے عزت کرتے ہوئے نکال دیا۔

9- یہ کہ ڈسٹرکٹ ایجوکیشن آفیسر مردانہ ڈیرہ اسماعیل خان نے من سائل / اپیلانٹ کو بغیر کسی انکوائری رپورٹ کے و بغیر کسی جواب طلبی کے اور صفائی کا موقع دیئے بغیر من سائل / اپیلانٹ کو ملازمت سے برخاست کر دیا۔ نقل حکم زیر اپیل لف ہذا ہے۔

10- یہ کہ ڈسٹرکٹ ایجوکیشن آفیسر مردانہ ڈیرہ اسماعیل خان نے محض محمد نواز المعروف قانونی جو کہ محکمہ ہذا میں اہلکار دشمن کے نام سے مشہور ہے کی بے بنیاد رپورٹ پر من سائل / اپیلانٹ کو ملازمت سے برخاست کیا۔

11- یہ کہ من سائل / اپیلانٹ نے جناب عاصم سعید صاحب اور جناب عنایت اللہ خان سپل SDEO's کے ساتھ کام کیا تھا! کو بھی Examine نہیں کیا۔ واضح رہے کہ من سائل / اپیلانٹ کی تعیناتی سکول پر کی گئی تھی بدیں وجہ ہر دو افسران نے سکول کے کھلنے تک من سائل / اپیلانٹ کو دفتر میں کام کرنے کا حکم دیا۔ یوں دفتر میں من سائل / اپیلانٹ کی حاضری قانوناً نہیں لگ سکتی تھی کیونکہ من سائل / اپیلانٹ دفتر کی Strength پر نہیں تھا۔

12- یہ کہ من سائل / اپیلانٹ کو زبانی بھی سنے جانے کی استدعا ہے۔

لہذا استدعا ہے کہ بمنظوری محکمانہ اپیل ہذا حکم بحوالہ چٹھی نمبر 26-3221

مورخہ 20/02/2016 کو منسوخ فرمایا جا کر من سائل / اپیلانٹ کو واپس

نو کری پر بحال کیے جانے کا حکم صادر فرمایا جاوے اور من سائل / اپیلانٹ کی

ماہانہ تنخواہ بھی بحال کی جاوے۔ فقط مورخہ 24/02/2016

محمد فیاض ولد محمد ریاض قوم شیخ سکنہ پروا تحصیل پروا ضلع ڈیرہ اسماعیل خان۔

موبائل نمبر 0342-9593041


M. Fiaz

Attested
Fazal-Ul-Rizwan Baloch
Advocate High Court
Dera Ismail Khan.

18

KHYBER PAKHTUNKHWA
BAR COUNCIL

Fazal Ur Rehman Baloch
Advocate High Court
N.C. (2-101-49626-19)
S.No. 1567



قیمتی
ایک روپیہ

کورٹ
فیس

بعد ازاں
محمد رضا
دعویٰ یا جرم
تفصیل دعویٰ یا جرم

سروس ٹریبونل ہونے کے لیے کے پاس
محمد رضا
نام
محمد رضا
سروس ایس ایس

باعث تحریر آنگہ

مقدمہ مندرجہ بالا مٹوان میں اپنی طرف واسطے ہر ایک طرف دہلی برائے پیش یا تفسیر مقدمہ نام
فصلہ الراجحی لوج

کو حسب ذیل شرائط پر پیش مقرر کیا ہے کہ میں نے خود یا ذرا بذریعہ برادر عدالت حاضر ہونا روٹی کا اور ہر وقت پکارے جانے مقدمہ دیکھ صاحب
موصوف کو اطلاع دے کر حاضر عدالت کروں گا اگر پیشی پر مظہر حاضر نہ ہو اور مقدمہ میری غیر حاضری کی وجہ سے کسی طور میرے خلاف ہو گیا تو صاحب
موصوف اور کے پاس ٹریبونل ہونے سے پہلے یا بیچے یا بروز تعطیل یا بیچے پیش ہونے
پر مجھے کوئی نقصا پہنچے تو اس کے ذمہ دار یا اسکے واسطے کسی معاوضہ کے ادا کرنے یا منت نہ واپس کرنے کے بھی صاحب موصوف ذمہ دار نہ ہوں گے جو
کوکل سائنٹ پر داخست صاحب موصوف مثل کردہ ذرا خود منظور قبول ہو گا اور صاحب موصوف کو عرض دعویٰ یا جواب دعویٰ یا درخواست اجراء اسے اپنی
نظر ثانی اپیل کوئی دہرسم درخواست ہر قسم کے بیان دینے اور پر پیشی یا راضی نامہ و فیصلہ برطرف کرنے اقبال دعویٰ کا بھی اختیار ہو گا اور بصورت مقرر ہونے
تاریخ پیشی سے منکرہ بیرون از پکھری صدر جیرونی مقدمہ مقرر نظر ثانی اپیل و دگرمانی و برآمدگی مقدمہ یا سنوٹی ذری یک طرفہ یا درخواست عم امتیاض یا ترقی
یا گرفتاری یا از فیصلہ تیزائے ذری بھی صاحب موصوف کو شرط ادائیگی علیحدہ ہر قسمی کا اختیار ہو گا اور تمام سائنٹ پر داخست صاحب موصوف مثل کردہ
از خود منظور قبول ہو گا اور بصورت ضرورت صاحب موصوف کو یہ بھی اختیار ہو گا کہ مقدمہ مقررہ یا اس کے کسی جزو کی کاروائی یا بصورت درخواست نظر ثانی
اپیل دگرمانی یا دیگر سائنٹ مقدمہ مقررہ کسی دوسرے پیش یا ہر مقررہ اپنے بجائے یا اپنے ہمراہ مقرر کریں اور ایسے مشیر قانون کو بھی ہر امر میں وہی اور دیے
اختیارات حاصل ہوں گے جیسے صاحب موصوف حاصل ہیں اور دوران مقدمہ میں جو کچھ ہر جانب التواء پڑے گا وہ صاحب موصوف کا حق ہو گا کہ
صاحب موصوف کو ہر وہ نہیں تاریخ پیشی سے پیش ادا نہ کروں گا تو صاحب موصوف کو پورا اختیار ہو گا کہ مقدمہ کی پروا نہ کریں اور ایسی صورت
میں میرا کوئی مطالبہ کسی قسم کا صاحب موصوف کے بر خلاف نہیں ہوگا

بند اولت نامہ لکھ دیا ہے تاکہ سند ہے
18
مضمون وکالت نامہ سن لیا ہے اور اچھی طرح سمجھ لیا ہے اور منظور ہے

محمد رضا
ME/18

Accepted

Fazal-Ur-Rehman Baloch
Advocate High Court
M.A. LL.B.
Dera Ismail Khan.

محمد رضا لوج
محمد رضا لوج
محمد رضا لوج

714812-995-2545-333

BEFORE THE HONOURABLE SERVICE TRIBUNAL KPK PESHAWAR

Service Appeal No. 1051 / 2016

Muhammad Fiaz

VS

Government of KPK

JOINT PARA WISE COMMENTS

PRELIMINARY OBJECTIONS

1. That the appellant has got no cause of action / locus standi.
2. That the service appeal is not maintainable in its present form.
3. That the appeal is not maintainable and incompetent in the eyes of law in its present form.
4. That the appellant is estopped by his own conduct to file instant appeal.
5. That the appellant has not come to the Honourable Tribunal with clean hands and has suppressed all relevant facts.
6. That the appeal is bad on account of mis-joinder / non-joinder of necessary parties.
7. That the appellant has concealed material facts from the Honourable Tribunal.
8. That the Honourable Service Tribunal has no jurisdiction to entertain the instant appeal in present form.
9. That the appellant was willful absent from his official duties for a period of 09 months and 27 days.
10. That the service appeal of the appellant is badly time barred.

OBJECTION ON FACTS

1. Para pertains to the appointment of the appellant as Chowkidar hence no comments.
2. Incorrect / not admitted. As the appellant was absent from his duty. W.e.f 01.06.2014 to 28.03.2015 without any application / information. As per report of SDEO (M) Parova Dikhan so show cause notice was served under the Efficiency and Discipline Rule 2011. (Annexure A)
3. As the appellant was absent from duty without of any prior permission from the competent authority the appellant has committed the irregularity, inefficiency and misconduct under rule 3(a),(b) and (d) of the Khyber Pakhtunkhwa Government Servant Efficiency and Discipline Rule 2011. The competent authority has imposed the Major Penalty of Removal from Service upon appellant by the Ends No. 3221-26 dated 20.02.2016.
4. No comments.

OBJECTION ON GROUND

- i. Incorrect / not admitted. As the appellant was appointed on 01.07.2010 and the appellant performed his duty from the dated of appointment to the 01.06.2014. Therefore appellant has received his monthly salary but the appellant was absent from duty w.e.f 01.06.2014 so the salary of the appellant was stopped and appellant was removed from the service.
- ii. Incorrect / not admitted. The petitioner was not working anywhere and remained absent from duty. So the appellant was removed from service.
- iii. Incorrect / not admitted. There is no proof of appellant duty neither his presence is shown by the attendance register of the SDE (M) Parova Office.
- iv. Incorrect / not admitted. As the school was not locked. The appellant's behavior was wintoful and highly irregular / irresponsible. Therefore the salary of the appellant was stopped and he was removed from service.

- v. Incorrect / not admitted. As the departmental action against the appellant was continued; therefore show cause notice was served and personal hearing was conducted. Hence the respondent No. 3 has imposed the major penalty of removal from service. As the proceedings against the appellant was started from April 2015 and appellant filed writ petition on 05.09.2015. However the writ petition of the appellant was dismissed being in-fructuous.
- vi. No comments.
- vii. Incorrect / not admitted. As discussed above.
- viii. The Learned Counsel for the respondents may also be allowed to argue further grounds at the time of hearing.

In the view of above submission it is humbly prayed that the writ petition may kindly be dismissed with cost.



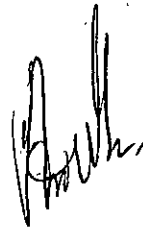
Secretary

Elementary & Secondary Education Department
Khyber Pakhtunkhwa, Peshawar



Director

Elementary & Secondary Education Department
Khyber Pakhtunkhwa, Peshawar



District Education Officer
(Male) Dera Ismail Khan

Sub Divisional Education Officer
(M) Primary Parova DIKhan

25-22

BEFORE THE HONOURABLE SERVICE TRIBUNAL KPK PESHAWAR

Service Appeal No. 1051/16

Muhammad Fiaz

VS

Government of KPK

Affidavit

I Mr. Muhammad Kainran Khan Legal Representative of District Education Officer (M) D I Khan do hereby solemnly affirm and declared on oath that content of the written reply of the above mentioned service appeal are correct to the best of my knowledge and nothing has been concealed from this Honorable Court.

M. Khan
Deputy
[Signature]

24 22

BEFORE THE HONOURABLE SERVICE TRIBUNAL KPK PESHAWAR

Service Appeal No. 1051/2016

Muhammad Fiaz

VS

Government of KPK

Authority

I District Education Officer (M) D I Khan do hereby authorized Mr. Muhammad Kamran Khan legal representative to attend Honorable Khyber Pakhtunkhwa Service Tribunal on behalf of respondents in connection with submission of joint para wise comments till the decision of the service appeal.



**District Education Officer (M)
Dera Ismail Khan**

27
25

BEFORE THE HONOURABLE SERVICE TRIBUNAL KPK PESHAWAR

Service Appeal No. 1051 / 2016

Muhammad Fiaz

VS

Government of KPK

JOINT PARA WISE COMMENTS

PRELIMINARY OBJECTIONS

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- vi. No comments.
- vii. Incorrect / not admitted. As discussed above.
- viii. The Learned Counsel for the respondents may also be allowed to argue further grounds at the time of hearing.

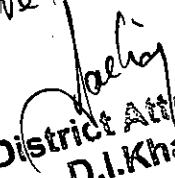
In the view of above submission it is humbly prayed that the writ petition may kindly be dismissed with cost.

Secretary
Elementary & Secondary Education Department
Khyber Pakhtunkhwa, Peshawar

Director
Elementary & Secondary Education Department
Khyber Pakhtunkhwa, Peshawar

Sub Divisional Education Officer
(M) Primary Parova D.I.Khan


District Education Officer
(Male) Dera Ismail Khan

Vetted

District Attorney
D.I.Khan

Annex = D

ADEO (Estab:) Primary.

Dated _____/2015

SHOW CAUSE NOTICE

Muhammad Riaz, District Education Officer (Male) Dera Ismail Khan as competent authority under the Khyber Pakhtunkhwa Government servants (Efficiency & discipline) rules, 2011, hereby serve you Muhammad Fiyaz (Chowkidar) c/o SDEO (M) Parova.

- u.s.c.b
- a) You have been absent from duty on-01/06/2014 to date without any application/information as per report of SDEO (M) Parova vide his No 3125 dated 28/03/2015.
 - b) In exercise of the power conferred by the Khyber Pakhtunkhwa, Govt servant (Efficiency & Discipline) rules, 2011, the Competent Authority is hereby pleased to dispense with the conduct of a formal enquiry and serve you with the instant show cause notice regarding your wilful absence from duty with the direction to submit your defense in writing within 10 (Ten) days of the issuance of this notice as to why the major penalty of rule 4 (b) of the said rules should not be imposed upon you and also intimate whether you desire to be heard in person.
 - c) In case you failed to submit your reply within the stipulated period, it will be presumed that you have no defense to offer and ex-parte decision will be taken against you.

COMPETENT AUTHORITY

Muhammad Fiyaz (Chowkidar)
C/O SDEO (M) Parova.

Attested
[Signature]
Facilitator, Catch

BEFORE THE HONOURABLE SERVICE TRIBUNAL, K.P.K PESHAWAR

Service Appeal No.,1051/16 of 2016

Mohammad Faiz VS Govt. of Khyber Pakhtunkhwa

REJOINDER BEHALF OF PETITIONER

Next date = 13 ³/₂₀₁₈

REPLY ON PRELIMINARY OBJECTGIONS

1. In Correct
2. In Correct
3. In Correct
4. In Correct
5. In Correct
6. In Correct
7. In Correct
8. In Correct
9. In Correct
10. In Correct

M
13 ³/₁₈

REPLY ON OBJECTION ON FACTS

1. Need not to reply
2. In Correct. Appellant was performed his duty with Mr. Asim Saeed & Mr. Inayatullah Khan Sappal the then S.D.E.O Male Paroa because the said school were locked by the land owners due to local dispute over the donation of the school land.
3. In Correct. Brief facts narrated by the petitioner in his service appeal. Petitioner did not commit any irregularity, in efficiency and misconduct and the respondent has imposed wrongly major penalty of removal from service without any inquiry.
4. Need not to reply.

REPLY ON OBJECTION ON GROUNDS

- i. In Correct because appellant was perform his duty and received monthly pay till 31/05/2014. If appellant was absent from his duty then how he received the salary. It is also mentioned here that on 01/06/2014 Mohammad Nawaz Khan urf Qanooni took the charge as S.D.E.O Male Paroa and he malafiedly stopped the salary. The set S.D.E.O was known as "AHAL KAR DUSHMAN" that's why petitioner was removed from his service without any inquiry.

- ii. In Correct. Brief facts are stated in his service appeal.
- iii. In Correct.
- iv. In Correct.
- v. In Correct. Because Mr. Ahmad Nawaz was in hurry to remove the petitioner due to unknown reason while petitioner submitted his reply on showcase notice and demanded inquiry but respondent in harsh and hastily manner imposed the major penalty of removal from service without any inquiry. The superior Courts give so many guidance on this law point that no body should be removed from his service without inquiry proceeding.
- vi. Need not to reply
- vii. In Correct. As discussed above.
- viii. The learned council for the appellant may also be allowed to argue further grounds at the time arguments.

It is, therefore, requested that the instant service appeal may please accepted and impute order dated 20/02/2016 may please be declare null and void.

Dated: 20/02/2018.

Your Humble Petitioner

M Faiz

Mohammad Faiz

Through Council

Fazal ur Rehman Baloch
Fazal ur Rehman Baloch

Advocate High Court

AFFIDAVIT

I, **Mohammad Faiz**, petitioner do hereby solemnly affirms and declare on oath that contents of the rejoinder of the are true and correct to the best of my knowledge and belief and that nothing has been concealed from the honorable court.

M Faiz
DEPONENT



KHYBER PAKHTUNKWA SERVICE TRIBUNAL, PESHAWAR

No. 2369 /ST

Dated 10/12/2018

To


The District Education Officer Male,
Government of Khyber Pakhtunkhwa,
D.I. Khan.

Subject: -

JUDGMENT IN APPEAL NO. 1051/2016, MR. MUHAMMAD FIAZ.

I am directed to forward herewith a certified copy of Judgement dated 26.11.2018 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.