

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL.

Service Appeal No:- 169/2024

WAQAS AHMAD

VS

EDU: DEPTT:

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THROUGH:

Appellant
Waqas Ahmad

Umar Farooq Mohmand
Advocate High Court

(1)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL.

Service Appeal No:- 169/2024

WAQAS AHMAD

VS

EDU: DEPTT:

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

PRELIMINARY OBJECTIONS:

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 12977

Date 24-05-2024

1 TO 7

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

R/SHEWETH:

ON FACTS:

1. Para No 1 of the reply is correct.
2. Para No 2 of the reply is correct.
3. Para No 3 of the reply is incorrect, misleading, hence denied. The appellant has not received nor communicated the appellant any order regarding his withdrawal of transfer order, infact, the appellant visited several times to the respondents, but of no avail.
4. Para No 4 of the appeal is correct.
5. Para No 5 of the reply is incorrect, misleading, hence denied. That the appellant after his transfer to GPS Pakha Ghulam submitted his arrival report and started/performing his duties quite efficiently, but the salaries of the appellant were stopped without any justification. That aggrieved from the inaction of the respondents, the appellant moved several representations to the respondents and also visited time and again the office of the

respondents, but of no avail, after that the respondent department conducted an inquiry and Mr. Parvez Ahmad Khan Principle GSAETHSS, Gulbahar, Peshawar was nominated as inquiry officer and through letter dated 07/03/2023 submitted his detail inquiry report before the respondent No 2. Copies of the inquiry report and letter are attached as annexure.....**R/I**

- 6. Para No 6 of the appeal is correct as proper record has been attached with appeal.
- 7. Para No 7 of the reply is totally incorrect, hence denied. The appellant is highly aggrieved from the inaction of the respondent by not releasing the monthly salaries, hence the cause of action accrued to the appellant to file the instant service appeal on the ground mentioned in the service appeal.

GROUND:
A to G

All the grounds of appeal are correct and in accordance with law and prevailing rules and that of the respondent are incorrect and baseless hence denied. That the appellant has been deprived from his fundamental, legal and service rights.

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

Appellant
Waqas Ahmad 

THROUGH:

Umar Farooq Mohmand
Advocate High Court

AFFIDAVIT

I, **Waqas Ahmad** (the appellant) do hereby solemnly affirm that the contents of this **Rejoinder** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Court.




DEPONENT

24 MAY 2024

R/1

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INQUIRY REPORT

CAPTION OF INQUIRY	To conduct a detailed inquiry against the appeal of Mr. Waqas ahmad Chowkidar and to check and verify the service record and duty status of the said Chowkidar and to investigate whether he is eligible for re-instatement or otherwise.
INQUIRY COMMITTEE	Mr. Pervalz Ahmad Khan, Principal GSAETHSS, Gulbahar, Peshawar. (Inquiry Officer).
REFERENCE/TORS	The inquiry was initiated upon the direction of the worthy District Education Officer Peshawar vide Notification No: 10479-83/P. F File.144/ESB/Waqas Chowkidar Date: 17.10.2022. for finding the facts and thoroughly examine the case.
BRIEF HISTORY OF CASE	<p>The genesis of the inquiry is the Appeal received District Education Officer Peshawar regarding the reinstatement of Mr. Waqas Ahmad (Chowkidar) GPS No:3 Pakha Ghulam District Peshawar. (Annexure-A)</p> <p>The brief history of the case is as under.</p> <p>Mr. Waqas Ahmad (Chowkidar) bearing CNIC NO.17301-9909300-1 was appointed on 31.01.2018, AVP of Chowkidar at GHSS Gul Bela Peshawar. (Annexure-B)</p> <p>Mr. Waqas Ahmad Chowkidar of GHSS Gul Bela was transferred to GPS No :3 Pakha Ghulam AVP of Chowkidar vide Endorsement NO: 1756367/P File No 144 Chowkidar Dated: 06-11-2018. (Annexure-C)</p> <p>Mr. Waqas Ahmad took charge at GPS No:3 Pakha Ghulam Peshawar on 10-11-2018. (Annexure-D)</p> <p>Mr. Waqas Ahmad in response to the transfer issued by DEO (M) Peshawar was duly relieved by principal GHSS Gul Bela Peshawar on 08-11-2018. Vide No: 1779 Dated 08-11-2018. Hence he took charge of his duties at GPS No: 3 Pakha Ghulam Peshawar as mentioned earlier. When he was given charge at GPS No :3 Pakha Ghulam AVP of Chowkidar vide Endorsement NO: 1756367/P File No 144 Chowkidar Dated: 10-11-2018. But the said post was already occupied in the in GPS No: 3 Pakha Ghulam. (Annexure-E)</p> <p>It is also hereby brought into your notice that a letter was addressed by the Head Teacher of GPS No: 3 Pakha Ghulam Mr. Jehangir Mughal to SDEO Town 2 E&SED Peshawar on 22-06-2018, to the effect that the post of Chowkidar is already occupied. Since the salary of two chowkidars cannot be drawn on same post, therefore Mr. Waqas Ahmad may be posted somewhere else or be placed at disposal of Education office. (Annexure-F)</p> <p>In response to the letter addressed to SDEO Town 2 Peshawar, the Head Teacher of GPS No: 3 Pakha Ghulam Peshawar was verbally directed by the then ASDEO and SDEO to relieve Mr. Waqas Ahmad and to send him to his previous station GHSS Gul Bela Peshawar. But when he reported to GHSS Gul Bela the Principal there refused him to give him charge on the valid grounds that the post is already occupied and the DEO Peshawar, has issued your permanent transfer order. Thereafter another letter is also addressed to ASDEO and SDEO Town 2 that IMU is demanding that verbal orders have no legal sanctity therefore Mr. Waqas Ahmad be allowed to do his duty at GPS No:3 Peshawar. (Annexure-G)</p>



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	<p>During the period Mr. Waqas Ahmad performed his duty efficiently and diligently and has not committed any moral misconduct. His attendance record till September 2019 is hereby attached (Annexure-H)</p>
<p>PROCEDURE/FACTS & FINDINGS</p>	<p>The Inquiry Officer confirmed and verified all the relevant documents painstakingly and also got firsthand information through his sources about Mr. Waqas Ahmad from that locality and found no violations and misconduct on part of Mr. Waqas Ahmad during his duties. Further the duty, conduct and character of Mr. Waqas Ahmad was also confirmed from the Head Teacher GPS No: 3 Pakha Ghulam and no anomalies found. Mr. Waqas Ahmad was also thoroughly interrogated through a questionnaire especially his leaving the country during the said period. Here it was found out that Mr. Waqas Ahmad was transferred in good intentions from GHSS Gul Bela to GPS No: 3 Pakha Ghulam by the then DEO Peshawar. But later on it was found out that the post was already occupied, which was vacant in the official record and hence the resulting problem of charge resumption of Mr. Waqas Ahmad at GPS No:3 Pakha Ghulam Peshawar. Later on some verbal directives have been issued by SDEO Town 2 to the effect of his transfer to his previous station which have no legal binding. During this whole period Mr. Waqas Ahmad 's salary was not drawn and he continued to perform his duty at the said station. After some time when he could not sustain his family he started laboring work in the vicinity. His response to the questionnaire is hereby attached. (Annexure-N)</p>
<p>RECOMMENDATIONS</p>	<p>After detailed study and keeping in view the analysis of all the documentary evidences, questionnaires and statements of respondents/parties, the inquiry committee suggests the following two recommendations.</p> <ol style="list-style-type: none">1. Mr. Waqas Ahmad be adjusted at any nearest station/be placed at the disposal of Education office, for the purpose of salary.2. Hence Mr. Waqas Ahmad performed his duties during that period efficiently and diligently and his not been found in any gross misconduct and violations of rules. Therefore, he should be given complete arrears and if possible be compensated.3. Since the whole episode was caused due to negligence in maintaining and updating the official record, which in my opinion and appraisal of the situation is the responsibility of the clerical staff. Therefore, I request the competent authority to reinstate Mr. Waqas Ahmad Chowkidar GPS No: 3 Pakha Ghulam Peshawar on any vacant post for the purpose of salary with complete arrears.

Place: Peshawar

Date:



(INQUIRY OFFICER)

Pervaiz Ahmad Khan
Principal
GSAETHSS Gulbafar Peshawar

(J)

OFFICE OF THE PRINCIPAL GSAETHSS GULBAHAR PESHAWAR

No. 524 Dated: 7/3/2023

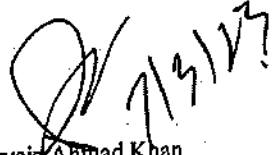
To

The DEO(Male)
Peshawar

Subject: Inquiry report regarding complaint against Mr. Waqas Ahmad (Chowkidar)
GPS No:3 Pakha Ghulam District Peshawar.

Memo:

Please find enclosed inquiry report in light of office Endst: No.10479-83/P. F
File.144/ESB/Waqas Chowkidar Date: 17.10.2022.


Pervaiz Ahmad Khan
GSAETHSS Gulbahar Peshawar

a/c

(J)