

8/11/18
Before Khyber Pakhtunkhwa Service Tribunal, Peshawar

Appeal No. 448/2018

Asad Ali (Ex-PST) Rustam, Mardan.

.....APPELLANT

VERSUS

Govt of KPK through Secretary Elementary & Secondary Education Khyber Pakhtunkhwa & others.

..... RESPONDENTS

REJOINDER ON BEHALF OF APPELLANT

PRELIMINARY OBJECTIONS:

All objections raised by respondents are incorrect and baseless rather estopped by their own conduct.

Respectfully Sheweth,

FACTS:

1. Admitted correct as the fact pertaining to the service record available with respondents department.
2. Admitted correct as the fact pertaining to the service record available with respondents department.
3. Incorrect, hence denied. De-novo enquiry was ordered by Service Tribunal through its decision in the service appeal no. 1386/2014 and directed the respondent's department to conduct proper regular enquiry satisfying the codal procedure but department fails to adopt a proper procedure by affording appellant full opportunity of defense and cross examination the witness which made enquiry null and void in the eyes of law. Hence, penalty order of compulsory retirement in violation of law is not tenable in the eyes of law.

4. Admitted correct as the fact pertaining to the service record available with respondents department.
5. Admitted correct as the fact pertaining to the service record available with respondents department.
6. Admitted correct as the fact pertaining to the service record available with respondent's department.
7. That the penalty order of compulsory retirement is illegal, unlawful and liable to be set aside on the grounds inter alia:

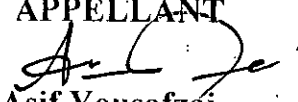
GROUND:

- A. Incorrect, hence denied. Orders dated 27.02.2018 and 13.12.2018, on the basis of defective enquiry, are null and void in the eyes of law, hence liable to be dismissed.
- B. Incorrect, while para-B of appeal is correct.
- C. Reply being irrelevant is liable to be struck down.
- D. Incorrect. Law does not permit to issue two show cause notices on the same charges, hence illegal act of government warrants to be set aside.
- E. Incorrect while Para-E of appeal is correct.
- F. Incorrect while Para-F of appeal is correct.
- G. Being legal.


It is, therefore, most humbly prayed that a appeal may kindly be accepted as prayed for.

Through


APPELLANT


M. Asif Yousafzai
Advocate Supreme Court

Asad Mahmood
Advocate High Court

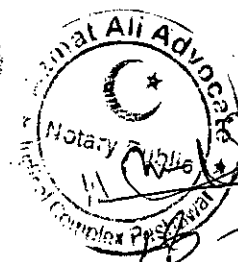

Noman Bukhari
Advocate High Court

Taimur Ali Khan
Advocate High Court

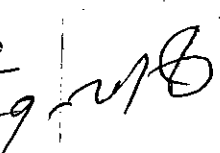
AFFIDAVIT

It is solemnly affirm that contents of this appeal are true and correct to the best of my knowledge and belief.

ATTESTED




DEPONENT



Annex C

(8)

31

Registered

OFFICE OF THE DISTRICT EDUCATION OFFICER
(MALE) MARDAN

No. 8195 /Dated 27-9-2017

184

TO


Mr. Asad Ali s/o Fanoos Khan
Moh: Juna khel village Bazar p/o Rustam, Mardan.

Subject:

PERSONAL HEARING

Memo:

You are hereby directed to attend the office of the undersigned on any working day within a week time for personal hearing.


DISTRICT EDUCATION OFFICER
(MALE) MARDAN

15/10

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Personal Hearing of Mr. Asad Ali (PST)
GPS Bazar Rustam dated 09-11-2017

30
P-1

Q No. 1. Original CNIC No: 16101-1297749-7

185

Asad Ali s/o Farooz Khan
Present Address: Mahalla Ajoon Khel, Bazar, P/O Rustam
Tal & Dist Warden.

Q No. 1. Have you copy of court case?

Ans: Yes, I have copy of court judgement dated
13/12/2016.

Q No. 2. Mr. Asad Ali, on 18-3-2009, Mr. Kashif a
Student of 4th class of GPS Bazar Blamed
you with immoral ^{act} attitude with him.

Ans: on 18-3-2009, as usual I attended the school
at 8:00 AM, as there was no teacher at the
school at that time, I recorded the
attendance of all the ~~the~~ class
part of chowkhar was vacant in the
school. for this reason the water filling
for the classes was made by class monitors,
I have not asked Mr. Kashif (Student)
to fill the water cooler, as we have enmity
with their parents in our locality.

P.T.O

The said student is our relative also.

He blamed me taken the advantage of this opportunity.

There were 120 students in the school. It is most difficult to do such immoral act with the student in the presence of 120 students.

It is the nature of students that in presence of teacher they remained inside the class and in the absence of teacher they make their mischiefs.

As the morning time, there is rush of students in and out of classrooms.

The school Bp. wall was destroyed, and the villagers have to use the school ground as thoroughfare. It was impossible to do such an act with such unsafe conditions of the school.

I am resident of that village, and the villagers have enmity with each other. The parents of the student are our neighbours and have enmity with us on land issues so they take the opportunity.

our culture we do not blame each other
for such act which effecting our children,
What is your opinion?


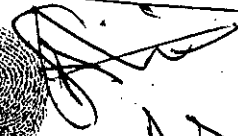
P-3

113
110
28

Ans. If the act was tone, they may make quarrell
with me, and have to kill me. In previous
(near past) there were some FIRs logged
against me, on the basis of which they
blammed me.

Q. Is there any FIR against you logged by
parents of students?

Ans. No.

 
09/11/17 Asad Ali
S.P.S. Bazar