BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR CAMP COURT ABBOTTABAD.

Service Appeal NO. 345/2024

Muhammad Ayyaz.....APPELLANT

VERSUS

Director Elementary and Secondary Education Khyber Pakhtunkhwa, Peshawar

Amended Parawise Comments on behalf of Respondents No. 01 & 02

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(Muhammad Tanveer)
District Education Officer (M)
Abbottabad
(Respondent No. 02)

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR CAMP COURT ABBOTTABAD.

| • | Service | Appea | I No. | 345 | <u>/2024</u> |
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Muhammad Ayyaz ...

VERSUS

Director Elementary and Secondary Education Khyber Pakhtunkhwa, Peshawar

Amended Parawise Comments on behalf of Respondents No. 01 & 02

Respectfully Sheweth:

Para wise comments on behalf of respondents are submitted as under:

PRELIMINARY OBJECTIONS:-

Diary No. 12799

- 1. That the appellant has no cause of action to file the instant amended service appeal.
- 2. That as per Section 10 of Civil Servant Act 1973, every Government Servant is bound to serve anywhere within the District in the best interest of public service without raising any objection in this regard.
- 3. That the appellant has no locus standi to file the instant amended service appeal.
- 4. That the instant amended service appeal is not maintainable as appellant did not challenge the Notification Endstt: No. 714-16 dated 12-02-2024 whereby the departmental appeal of the appellant was rejected by the respondent No 01 hence, instant amended appeal is liable to be dismissed without any further proceedings.
- 5. That the appellant did not come to this Honorable Tribunal with clean hands hence, not entitled for any relief.
- 6. That the appellant concealed and distorted the material facts from this Honorable Tribunal.
 - 7. That the present amended service appeal has been filed just to pressurize the respondents.

- 8. That order dated 28-10-2023 and 07-12-2023 issued by the competent authority as well as in best interest of the public service hence, same are liable to be maintained.
- 9. That the instant amended service appeal is liable to be dismissed due to non-joinder & mis-joinder of necessary parties.
- 10. That all the proceedings have been done by the competent authority as per Rule & Law hence, the instant amended service appeal is liable to be dismissed without any further proceedings.

Factual Objections:-

- 1. That Para No. 01, of the instant amended service appeal is subject to cogent proof.
- 2. That in Para No. 2, of the instant amended service appeal; appellant admitted that he has completed his normal tenure.
- 3. That the Para No. 3, of the instant amended service appeal as composed is incorrect hence, denied. No inquiry was conducted by Deputy Director Education. Answering respondent nominated Mr. Ikram Ul Haq, Principal GHSS No. 1 Abbottabad as inquiry officer vide Notification Endstt: No. 7417-20 dated 30-09-2023 to conduct the fact finding inquiry against appellant as well as Mr. Ishtiaq Hussain Naib Qasid GHS Jabrian. Inquiry officer submitted his inquiry report vide letter No. 271 dated 07-10-2023 and recommended that both the appellant as well as Mr. Ishtiaq Hussain Naib Qasid may be transferred and appellant was transferred and posted at Govt Middle School Banda Qazi and Mr. Ishtiaq Hussain Naib Qasid was transferred to SDEO (M) Abbottabad and both took over the charge. Furthermore, Headmaster GHS Jabrian has already requested for transfer of appellant being problematic for school's conducive environment. (Copy of letter Endstt: No. 7417-20 dated 30-09-2023, Inquiry Report, Headmaster GHS Jabrian request, Transfer Order dated 28-10-2023, Charge report of appellant and Charge report of Mr. Ishtiaq Hussain Naib Qasid are annexed as Annexure "A", "B", "C", "D", "E" & "F" respectively)

- 4. That Para No. 4, of the amended service appeal as composed is incorrect hence, denied. The said order was issued by the competent authority on the recommendations of Inquiry Officer Mr. Ikram Ul Haq, Principal GHSS No. 1 Abbottabad as well as on the request of HM GHS Jabrian for the conducive learning process of the school.
- 5. That Para No. 5, of the amended service appeal is correct to the extent of filing of appeal while rest of the Para as composed is incorrect hence, denied. Respondent No. 1 rejected the Departmental Appeal of appellant vide Notification Endstt: No. 714-16 dated 12-02-2024 and appellant failed to challenge the said notification hence, instant amended service appeal is liable to be dismissed on this score alone. (Copy of rejection order Notification Endstt: No. 714-16 dated 12-02-2024 is annexed as **Annexure "G"**)
- 6. That Para No. 6, of the amended service appeal as composed is incorrect hence, denied. Departmental appeal of the appellant has been rejected and copy of the same has already been forwarded to the appellant.
- 7. That the Para No. 7, of the amended service appeal is correct to the extent of transfer order dated 07-12-2023 while rest of the Para as composed is incorrect hence, denied.
- 8. In reply to Para No. 8, of the amended service appeal it is submitted that as per section 10 of Civil Servant Act 1973, every Government Servant is bound to serve anywhere within the District in the best interest of public service without raising any objection in this regard. Hence, appellant is neither the aggrieved person nor has got valid grounds to knock the door of this Honorable Tribunal.

GROUNDS:-

- 1. Denied and not admitted.
- 2. Denied and not admitted.
- 3. <u>Denied and not admitted</u>. Appellant alongwith Naib Qasid were transferred in the light of recommendations of the inquiry officer and request of Headmaster GHS Jabrian in the best interest of public service as well as students.

- 4. Denied and not admitted.
- 5. <u>Denied and not admitted</u>. Headmaster GHS Jabrian Abbottabad requested transfer of appellant being problematic for conducive environment of school.
- 6. **Denied and not admitted**. Appellant was transferred in the light of recommendations of inquiry officer.
- 7. Denied and not admitted.
- 8. Correct.
- 9. Denied and not admitted.
- 10. <u>Denied and not admitted</u>. As Section 10 of Civil Servant Act 1973, is very much clear in this regard.
- 11. <u>Denied and not admitted</u>. Appellant did not impugn / challenge the decision/ rejection of the departmental appeal dated 12-02-2024 furthermore, appellant did not prefer departmental appeal against transfer order 07-12-2023, hence, instant amended service appeal is not maintainable in its present form.

It is, therefore, very humbly prayed that in the light of forgoing comments the amended service appeal in hand may graciously be dismissed with cost throughout.

(Samina Altaf)

Director (E&SE) Khyber Pakhturkhwa

Peshawar

(Respondent No. 01)

(Muhammad Tanveer)
District Education Officer (M)
Abbottabad

(Respondent No. 02)

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR CAMP COURT ABBOTTABAD.

Service Appeal. 345/2024

Muhammad Ayyaz.....APPELLANT

VERSUS

Director Elementary and Secondary Education Khyber Pakhtunkhwa, Peshawar

Amended Parawise Comments on behalf of Respondents No. 01 & 02

AFFIDAVIT

I, Mr. Muhammad Tanveer, District Education Officer (M), Abbottabad of Elementary & Secondary Education Khyber Pakhtunkhwa, do hereby affirm and declare that the contents of forgoing Comments are correct and true according to the best of my knowledge and belief and nothing has been suppressed from this Honorable Tribunal.

It is further, stated on oath that in this appeal the answering Respondents have neither been placed ex-parte nor has their defense been struck off.

(Muhammad Tanveer)
District Education Officer (M)
Abbottabad

(Respondent No. 02)
Riaz Advocate

Courts Abbottaba

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR CAMP COURT ABBOTTABAD.

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Director Elementary and Secondary Education Khyber Pakhtunkhwa, Peshawar

Amended Parawise Comments on behalf of Respondents No. 01 & 02

AUTHORITY LETTER

It is certified that Mr. Sohail Ahmed Zeb, Litigation Officer, District Education Officer (Male) Abbottabad is hereby authorized to submit amended parawise comments on behalf of District Education Officer (M) Abbottabad in Service Appeal No. 345/2024 titled Muhammad Ayyaz Vs Director (E&SE) Khyber Pakhtunkhwa Peshawar.

(Muhammad Tanveer)
District Education Officer (M)
Abbottabad
(Respondent No. 02)



An+- Á' (6)

OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) ABBOTTABAD



NOTIFICATION

Mr. Ikram ul Haq, Principal GHSS No. 1 Abbottabad is hereby nominated as inquiry Officer to conduct the fact finding inquiry against Mr. Muhammad Ayyaz, CT and Ishtiaq Hussain, N/Qasid GHS Jabrian Abbottabad, copies of complaint attached, with the direction to submit comprehensive report within Seven days for further proceeding.

District Education Officer (M)

Abbottabad

Endst: No_____/Complaint/Inquiry C-IV F.No.02

Date 30 - 09 - /2023

Copy forwarded to:-

1. Deputy Commissioner Abbottabad.

2. Mr. Ikram ul Haq, Principal GHSS No. Abbottabad a/w relevant decuments.

3. Headmaster GHS Jabrian Abbottabad.

4. Office File.

District Education Officer (M)

Abbottabad

Assistant District
Education Officer (M)
Abbottabad

OFFICE OF THE PRINCIPAL GOVT HIGHER SECONDARY SCHOOL NO.1

The District Education Officer (Male) Abbottabad

SUBLECT:

INQUIRY REPORT RELATED TO M.AYYAZ (CT) & ISHYLAQ HUSSAIN (NO) GHS JABRIAN ABBOTTABAD.

Memo:

Reference Notification Issued by your good office under Endst No 7417-20 /C4-2 Dated 30-09-2023, the undersigned has been appointed as Inquiry Officer to conduct fact finding inquiry against Mr. Muhammad Ayaaz, CT and Ishtiaq Hussain, N/Qasid GHS Jabrian Abbottabad. The facts and findings are submitted as under please.

Facts

Mr Muhammad Ayyaz (CT) of the School submitted an application to 1. the Head Master of the school wherein he has stated that Ishtiaq Hussain N/Qasid of the school abused him in presence of a teacher on 19-08-2023 when he was asked to sit on stool instead of Teacher's Chair in the verandah. (Annex: 1)

Another application has been submitted by the teaching staff of the school to the Head Master of school on 20-08-2023 regarding the same dispute and requested him to resolve the issue for the protection and preservation of the honour of the teaching profession. (Annex:2)

The Head Master of the school constituted an Internal Inquiry Committee under the supervision of Mr Tariq Mehmood SST of the school to look into the matter who submitted its report to the Head Master on 06-09-

Mr Muhammad Ayyaz CT, the aggrieved teacher, submitted another complaint on the same issue to the DEO (M) Abbottabad on 07-09-2023 for the redressal of his grievances. (Annex:4)

The Head Master of the school submitted a complaint to the DEO(M) Abbottabad against Muhammad-Ayyaz CT on12-09-2023 regarding interference, disobedience and irregularities of the teacher. (Annex:5)

Mr Muhammad Ayyaz CT submitted another complaint to the Deputy Commissioner Abbottabad against the rude behavior of Ishtiaq Hussain N/Qasid, delay in Head Master decision regarding the issue and requested for due relief, justice and transparent inquiry. (Annex:6)

Findings

- The undersigned visited the school for inquiry proceedings and interviewed the Head Master, the complainant, the accused and few Honourable teachers of the school and collected record of the dispute.
- 2. . There is no doubt that Ishtiaq Hussain N/Qasid of the school called names to Mr Muhammad Ayyaz CT and threatened him, but no action has been taken against the C4 servant by the management of the school despite of finding and recommendations of the internal inquiry committee

Reportedly, Ishtiaq Hussain N/Qasid has already quarreled with the Head Master and Senior teachers of the school in the past and called them

Education Officer (M) Anbottabad

names but no action against the accused has been initiated. Due to this encouragement, the accused not only abused Mr Muhammad Ayyaz CT but also threatened him brutally and to face bad consequences.

- 69
- When the accused, Ishtiaq Hussain N/Qasid has been asked by the Jirga comprising of few school teachers to swear before the Holy Quran that he had not abused the aggrieved teacher, but the accused N/Qasid refused to do so which is a confession in other words.
- 5. Mr Muhammad Ayyaz CT has leveled so many other allegations against Ishtiaq Hussain N/Qasid regarding locking of FTBs room, disappearing of stock register and locking up his personal belongings.
- 6. The Head Master of the school has leveled a lot of allegations against Mr Muhammad Ayyaz CT and proposed his transfer from the school. The allegations bear due weightage but these are one sided and the malpractices and misconduct of C4 servant has been ignored altogether.
- 7. Mr Muhammad Ayyaz CT has been witnessed a source of problem's for the administration of the school. He is no doubt an aggrieved person but he sometimes takes matters of school's administration in his own hands and hence creates problems for this school Head. The teacher wishes to run administrative matters by his personal will due to which the Head Master of the school has been compelled to lodge a complaint against him to the office of DEO (M) Abbottabad. The complainant interferers in the administrative affairs of the school unnecessarily.

CONCLUSION

RECOMMDATIOS

It is quite evident from the interviews of all the stake holders and examination of internal inquiry report that Ishtiaq Hussain N/Qasid of the school is habitual ill-tempered, bad mannered and acts upon the plans to humiliate respectable teaching staff members on the back support of some authority. It is ironical that no action has been taken against the culprit in the past regarding his rude attitude and misbehavior with the Head Master and other teachers of the school.

Mr Muhammad Ayyaz CT interferes and challenges administrative powers and creates problems for the school administration.

A scenario of draggers drawn at each other of both the Government servants is not acceptable.

In the light of above facts and findings it is recommended that:

- 1. Both of the problematic staff members i.e Mr Muhammad Ayyaz CT (the complainant) and Ishtiaq Hussain N/Qasid (the accused)of the school may be transferred immediately from this school and be posted at far flung stations to enable the school administration run smoothly and effectively.
- 2. Minor penalty "Censure" letter be issued to Ishtiaq Hussain N/Qasid of the school in accordance with the provisions of E&D rules 2011.
- 3. The Head Master Of the school may be directed not to ignore unpleasant gestures of his subordinate staff which promote irregularities, and lead to future complications.

Principal LMM, 07/x/2022 Govt Higher Secondary School No.1 Abbottabad

Sovt: Higher Secondary
School # I Abbottabad

A Sustan Officer (M).
Education Officer (M)

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To,

DEO (M) E & Secondry Education Abbottabad

Subject: Detail Of Incidence Mentioned In Complain

It is Stated, that Complain applications were lodged by
Muhammad Ayaz CT & Ishtiaq Hussain N/Q. against each other on 19/08/2023
For which inquiry is carried out by Tariq Mehmood SST of this school
From the inquiry report of Tariq Mehmood SST it can be concluded that both person are against each other & have enmity & wrong emotion against each other and showed rude behavior in absence of each other which is morally not correct.

it needed patch up between them. For which I tried my best through some honourable elder teachers & my self but all efforts proved fruitless.

From inquiry report some other facts came into my notice

A few days ago before incidence I notice that some teacher used to sit in groups in veranda of middle classes building and some in high classes building & remained busy in gossiping When period was overed, students had to search the teachers in many places for next period and a lot of time of students was wasted, To avoid this situation I directed class iv servant to pickup all the chairs from varandas of both buildings and take chairs in to the sta ffroom so that teacher should use the sta ffroom for preparation of their lesson & notebook checking, hetan the very next day on 18/08/2023 when I reached the school early the morning at 07:10am I noticed sweeper of this school were busy in keeping the chairs in varanda, on asking him why you are doing so he replied that Muhammad Ayaz CT ordered me for keeping the chair in veranda in I forbade him from keeping the chairs in veranda during the day time. After some time when Ishtiaq Hussain N/Q who is patient of sciatic disease was siting in front of my office in a chair, M Ayaz CT came to my office & complained me that why Istiaq Hussain N/Q was using chair like teacher weather he was some special person, I replied it is not your issue I allowed Ishtiaq Hussain N/Q (sciatic paitient to use chair for siting & also sad to Muhammad Ayaz CT "you may sit on two chairsin sta ffroom but not in veranda". In the very next day Ishtiaq Hussain was sitting in front of my office as usual on stool & Ghulam Musa CT was also siting besides ishtiaq hussain & was doing some paper work Muhammad Ayaz CT said to Ghulam Musa CT not to sit here with Ishtiaq Hussain but sit with respectable people, but Ghulam Musa CT ignored him. After sometime Tariq Mehmood SST was also sitting the same place with Ishtiaq Hussain N/Q. Muhammad Ayaz Ct said the same word to tariq mehmood not to sit here & he took away the chair in a very rude manner which was lying near Ishtiaq Hussain.

After some time he lodged a complain in written application against Ishtiaq Hussain N/Q that he abused me & my parents in my absence in the presence of Saad Iqball SST, then I assigned the duty to Tariq Mehmood SST to inquire & investigate the matter & report me At the same time I directed three respectable white beared teacher to patch up between Ishtiaq Hussain N/Q & Muhammad Ayaz CT, I also motivate press Ishtiaq Hussain to apologise to Muhammad Ayaz CT for the respect of Muhammad Ayaz CT. The Ishtiaq Hussain become ready to apologise him but Muhammd Ayaz CT said that he should accept his act of guilty Ga in written form otherwise he should be ready for punishment But Ishtiaq Hussain refused to give written apology.

On 30/08/2023 when I was sitting my office,I heard a loud sound/noise from middle section building & I sent Ishtiaq Hussain to check why students were making noise wether teacher was

Education Officer (M)

waz CT was busy in gossping with other teacher in the other class.

one 1/08/2023 when I sent order book through Muhammad Ayaz Chokidar to teachers for signing, Muhammad Ayaz Chokidar replied me that Muhammad Ayaz CT did not sign the order book by seeing me in angry mode and he shut the door on my face & he also lodged written application against M Ayaz CT.

From a few days I felt that Muhammad Ayaz CT is busy in conspiracy against me, & tried to make group of some young idle teacher which are naturally against the head of any institution.

Muhammad Ayaz CT remained busy in finding fault in me he is trying to disturb the smooth and conducive environment of the school. Muhammad Ayaz CT were PSHT before this ct post & he want to lead this group, In other words he want to be head of institution but unfortunately there is one head master post in this institution.

So, It is my humble request that he my be adjusted in any other school for the betterment of the student and school.

Headmaster Ghs Jabrian Abbbottabad

Assistant District Education Officer (M) Appollabad

Ant-D (4)

OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) ABBOTTABAD

TRANSFER.

The Following teachers/C-IV are hereby transferred against the school recorded against them on their own pay and scale in the interest of public service with immediate effect.

| S.No | Name/Designation | From | To ' | Remarks |
|------|-----------------------------|-----------------------|------------------------|-----------------|
| 01. | Muhammad Ayyaz, CT | GHS Jabbrian | IGMS Banda Qazi ATD | V/S.No.2 |
| 02' | Raja Khizar, CT | GMS Banda Qazi ATD | GHS Jabbrian ATD | V/S.No.1 |
| 03 | Ishtiaq Hussain, N/Qasid | GHS Jabbrian ATD | SDEO (M) Abbottabad | Ag: Vacant Post |

Note:-

- 1. Charge report should be submitted to all concerned.
- 2. No TA/DA is allowed.

District Education Officer (M) .
Abbottabad

Endst No: <u>8748-53</u> /InquiryC-IV F.no.02

Date 28/10 /2023

Copy forwarded to the :-

- 1. District Accounts Officer Abbottabad.
- 2. SDEO (M) Abbottabad.
- 3. Headmaster GHS Jabbrian ATD.
- 4. Headmaster GMS Banda Qazi ATD.
- 5. AD EMIS Local Office Abbottabad.

Education Officer (M)

6. Official Concerned.

DY: District Education Officer (M)

Abbottabad.

in Coms Bund bas today detect 30-10hus been transfered from BHS Tubbrian contifical that Mr Muhammad 1943 . T Home he has down Tolding over their se This of shirt reduction offices (m) About vilor 10 8748-53 obted 28-10-2023

Mollated.

Education Officer (M) alesistant District

Appollabad

CamScanner

CERTIFICATE OF TRANSFER OF CHARGE

Anx- F? 14

Certified that Mr. ISHTIAO HUSSAIN (NAIB OASID) at the office of Sub visional Education Officer (M) Abbottabad has on this day 31/10/2023 (F/N) took over charge of the post of NAIB OASID in Sub Divisional Education Officer (M) Abbottabad vide District Education Officer Male Abbottabad vide Endst No: 8748-53/Inquiry C-IV F.No.02 Dated 28-10-2023

Signature of Relieved:

Government Servant:

Designation:

<u>A.V.P</u>

(Naib Qasid)

- Signature of Receiving:

Government Servant:

<u>ISHTIAQ HUSSAIN</u>

Designation:

(Naib Qasid)

STATION: SDEO (M) ABBOTTABAD.

Dated: 31-10-2023 (F/N).

OFFICE OF THE SUB DIVISIONAL EDUCATION OFFICER (MALE) ABBOTTABAD.

Endst; No. 4205-7

Dated 3 / /10/2023.

Copy of the above is submitted to the following Officers for information and further necessary action please.

- 1. District Education Officer (Male) Abbottabad.
- 2. District Accounts Officer Abbottabad.
- 3. Official Concerned.
- 4. Office Record.

Sub Divisional Education Officer (Male) Abbottabad

Assistant District

Assistant District

And Officer (M)

And Officer (M)

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DIRECTORATE OF ELEMENTARY AND SECONDARY EDUCATION KHYBER PAKHTUNKHWA PESHAWAR.

NOTIFICATION

- 1. WHEREAS, Muhammad Ayyaz GT (BPS-15) and Mr. Ishtiaq Hussain, Naib Qasid was transferred from GHS Jabbrian to GMS Banda Qazi in District Abbottabad by District Education Officer (M) Abbottabad vide Endst: No. 8748-53 dated 28-10-2023 as per recommendations of inquiry report conducted by Principal GHSS No.1 Abbottabad and complaint submitted by Head Master GHS Jabbrian Abbottabad against the above quoted teacher/official by voilating the disciplinary rules and trying to disturb the smooth and conducive environment of the school.
- 2. AND WHEREAS, feeling aggrieved, the appellant filed a Writ Petition No. 1558-A/2023 before Honorable Peshawar High Court Abbottabad Bench.
- 3. AND WHEREAS, Honorable Court vide order sheet dated 06-12-2023 converted the petition into Departmental Appeal and sent the same to Respondent No.2 with the direction to decide the same in accordance with law.

NOW, THEREFORE, after having examined the DEO (M) Abbottabad detail report, and evidences available on record, in exercise of powers conferred upon the Director Elementary and Secondary Education Khyber Pakhtunkhwa Peshawar (Respondent No. 2), is pleased to intact the DEO (M) Abbottabad Order No. 8748-53 Dated 28-10-2023 and reject the appeal of Muhammad Ayaz CT (BPS-15) GHS Jabbrian District Abbottabad under Section-5, 6 and 7 under the Provision of Khyber Pakhtunkhwa Civil Servant (Appeal) Rules-1986 read with Rule (17)(2)(a) of Khyber Pakhtunkhwa (Efficiency & Discipline) Rules, 2011, in the best interest of public.

DIRECTOR

Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar

Dated Pesh: the 12/02/2024.

Copy forwarded for information to the:-

- 1. Additional Registrar (Judicial) Magistrate Honorable Peshawar High Court Abbottabad Bench.
- 2. District Education Officer (Male) Abbottabad w/r to his letter No. 38 & Dated: 02-01-2024.
- 3. Head Master/Principal Concerned
- 4. Officers/Officials Concerned.

5. P.A, to Director Elementary & Secondary Education, Local Directorate, Peshawar.

Equication Officer (W).

Abbolläba**d**

Pli Take

sistant Director (Estab-1, M)

12/2024

Elementary & Secondary Education

Khyber Pakhtunkhwa, Peshawar