

BEFORE THE KHYBER PUKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 12/2024

Muhammad Nasar _____ (APPELANT)

Versus

District Education Officer Male District Buner and others

_____ (RESPONDENTS)

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Deponent

15101-0882586-3

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 12/2024

**Khyber Pakhtunkhwa
Service Tribunal**

Diary No. 13746

Muhammad Nasar PST, R/O Village Jowar, Tehsil Daggar, District Buner

Dated 24/10/24
Appellant

1. District Education Officer District Buner
 2. Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar
 3. Govt of Khyber Pakhtunkhwa through secretary E & SE Khyber Pakhtunkhwa at Peshawar.
- Respondents**

Written Reply/Para wise Comments for & on behalf of Respondents No. 1,2 & 3

Respectfully Sheweth

Preliminary Objections

1. That the service appeal is wholly incompetent, misconceived and untenable.
2. That the service appeal is wrong, baseless and not maintainable, it shows no strong cause to be taken for adjudication, therefore, the same service appeal is liable to be rejected/ dismissed.
3. That the appellant has not come to the Court/Tribunal with clean hands.
4. That the appellant has concealed the material facts from this Honourable Tribunal.
5. That the appellant has no cause of action to file the instant appeal.
6. That the instant appeal is not maintainable in the present form and also in the present circumstances of the issue.

FACTS:

1. Pertains to record.
2. Incorrect hence strongly denied. District Education Officer(M) Buner being the competent authority issued the charge sheet dated 26/05/2023 and the statement of allegations dated 26/05/2023 in the name of the appellant is attached as annexure "A" & "B".
3. Incorrect and hence denied. The competent authority was not satisfied with the reply of the appellant to the show cause issued by district Education Officer(M) Buner to the alleged servant.
4. Incorrect and hence denied. The competent authority District Education Officer (M) Buner constituted an inquiry committee to probe into the allegations against the accused/delinquent official. Before awarding the major penalty, the competent authority fulfilled all the codal formalities in accordance with rules as laid down in E&D Rules 2011. Notification dated 22/07/2023, inquiry report and the impugned order are attached as annexure "C", "D" and "E".

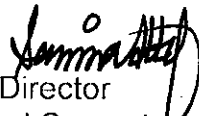


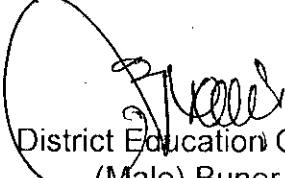
- 2
5. Pertains to record.
 6. Incorrect and hence denied. The impugned order was issued by the competent authority after fulfilling all the codal formalities in accordance with rules.

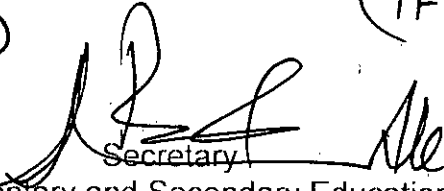
GROUND:

- A. Incorrect, hence denied. The impugned order is in accordance with rules and policy. The competent authority has no personal grudges or ulterior motives against the appellant but working in the best interest of public and their education.
- B. Incorrect, hence denied. The impugned order was issued after fulfilling all the codal formalities by the competent authority in accordance with rules and policy.
- C. Incorrect, hence denied. Already explained in para no "A" of the grounds.
- D. Incorrect hence denied. Already explained in para "B" of the grounds.
- E. Incorrect and hence denied. Already explained in para "4" of the facts.
- F. Incorrect hence denied. The action of the respondent no 1 is in accordance with rules and policy. Before the impugned order, the respondent no 1 fulfilled all the codal formalities.
- G. Incorrect and hence denied. Already explained in para no. 4 of the facts.
- H. Incorrect and hence denied. All the codal formalities were fulfilled under the Khyber Pakhtunkhwa Government Servant Efficiency and Discipline Rules 2011.
- I. The respondent also seeks the permission of this honourable court to present additional proofs/documents at the time of arguments.

It is earnestly requested that the appeal in hand may very graciously be dismissed.


Director
Elementary and Secondary Education
Khyber Pakhtunkhwa,
Peshawar.
(SAMINA ALTAF)


District Education Officer
(Male) Buner
(IFTIKHAR-UL-GHANI)


Secretary
Elementary and Secondary Education
Khyber Pakhtunkhwa Peshawar
(ABDUL AKRAM)

BEFORE THE KHYBER PAKHTUN KHAWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 12/2024

Muhammad Nasar

V/S

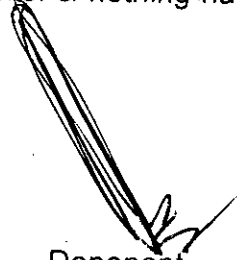
Appellant

District Education Officer Male District Buner & OTHERS

Respondents

AFFIDAVIT

I, Ubaid ur Rahman, Superintendent BPS-17, District Education Office (Male) Buner, do hereby solemnly affirms & state on oath that the whole contents of the comments are true & correct to the best of my knowledge & belief & nothing has been concealed from this Honourable Court.



Deponent

15101-0882586-3



Amir Ali

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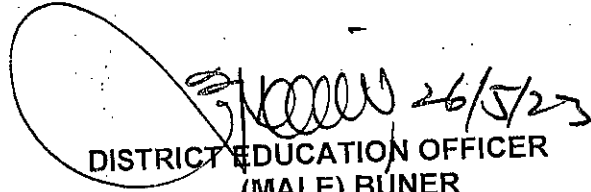
OFFICE OF THE DISTRICT EDUCATION OFFICER
(MALE) DISTRICT BUNER
PHONE & FAX NO. 0939-555110
EMAIL: edobuner@gmail.com



CHARGE SHEET

I, Mr. Iftikhar Ul Ghani, District Education Officer (M) Buner, as the Competent Authority, hereby charge you Mr. Muhammad Nasir PST GPS Landai Jowar as follows:

1. That you have committed the following acts/ omissions specified in rule 3 of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules 2011:
 - a. That the law enforcing agencies reported that you were involved in the protest against state institutions on 9th May 2023.
 - b. That you have participated in the protest against state institutions on 9th May 2023.
 - c. That you were involved in slogans against state institutions during the aforementioned protest.
2. You are, therefore, required to submit your written defense within ten days of the receipt of this charge sheet to the inquiry committee in black and white as the case may be.
3. Your written defense, if any, should reach the inquiry officer/inquiry committee within specified period, failing which it shall be presumed that you have no defense to put in and in that case ex-parte action shall be taken against you.
4. Intimate whether you desire to be heard in person.
5. A statement of allegations is enclosed.


26/5/23
DISTRICT EDUCATION OFFICER
(MALE) BUNER

Mr. Muhammad Nasir
PST GPS Landai Jowar



Amir 11 B

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OFFICE OF THE DISTRICT EDUCATION OFFICER
(MALE) DISTRICT BUNER
PHONE & FAX NO. -- 0939-555110
EMAIL: edobuner@gmail.com



DISCIPLINARY ACTION

I, Mr. Iftikhar Ul Ghani, District Education Officer (M) Buner, as the Competent Authority, am of the opinion that Mr Muhammad Nasar PST GPS Landai Jowar has rendered himself liable to be proceeded against, as he has committed the following acts/omissions within the meaning of Rule -3 of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules 2011.

STATEMENT OF ALLEGATIONS

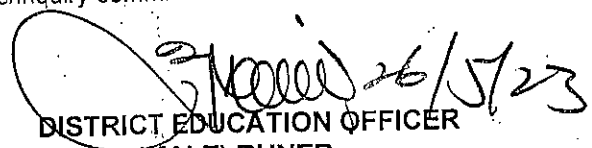
- a. That the law enforcing agencies reported that he was involved in the protest against state institutions on 9th May 2023.
- b. That he has participated in the protest against state institutions on 9th May 2023.
- c. That he was involved in slogans against state institutions during the aforementioned protest.

2. For the purpose of inquiry against the accused with reference to the above allegations, an inquiry committee, consisting of the following officers, is constituted under Rule 10(1) (a) of the ibid Rules.

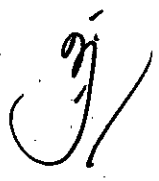
i. Mr. Dilawar Khan-BPS 20	Principal GCMHS Daggar	(Chairman)
ii. Mr. Sartaj Khan- BPS 18	Principal GHS Shalband	(Member)
iii. Mr. Iftikhar Javed-BPS 17	SS GHSS Kulyarai	(Member)

3. The inquiry officers/ inquiry committee shall, in accordance with the provision of the ibid rules, provide reasonable opportunity of hearing to the accused, record its findings and make, within ten days of the receipt of this order, recommendations as to punish or other appropriate action against the accused.

4. The accused and a well conversant representative of the Department shall join the proceedings on the date, time and place fixed by the inquiry officers/inquiry committee.


DISTRICT EDUCATION OFFICER
(MALE) BUNER

Mr Muhammad Nasar
PST GPS Landai





OFFICE OF THE DISTRICT EDUCATION OFFICER
(MALE) DISTRICT BUNER
PHONE & FAX NO. 0939-555110
EMAIL: edobuner@gmail.com



Substituted with Notification No.2465-69 dated 24/5/2023

NOTIFICATION.

Consequent upon the report of Military Intelligence and other Agencies via WhatsApp and in various meetings, regarding anti-state slogans, vandalism, uprising and violent protest against state institutions on 9/5/2023 by the nominated employees (List attached) of this department, the Competent Authority is pleased to constitute an inquiry committee comprising of the following officers to inquire into the case and unearth officers/officials involved in the above referred activities.

COMMITTEE MEMBERS

1. Dilawar Khan Principal BS-20, GCMHS Daggar (Buner) (Chairman)
2. Sartaj Khan Principal BS-18, GHSS Dewan Baba (Buner) (Member)
3. Iftikhar Javed SS BS-17, GHSS Kulyarai (Buner) (Member)

Being a sensitive matter, the committee is further directed to wind up and submit its report with clear cut recommendations within 3 days positively. The Inquiry Committee is further directed to proceed with the following TORs.

TORs

1. To accumulate information/evidences from various Agencies i.e DPO, M.I, ISI, Special Branch Buner.
2. To bring out a complete record of the protest and identify the nominated persons/employees.
3. To establish gravity of their respective offences in order to be in commensurate with their penalty/punishment

(IFTIKHAR UL GHANI)
DISTRICT EDUCATION OFFICER (M)
BUNER

Endst: No.2508-14

Dated. 26/5/2023

Copy forwarded for information to the:-

1. Secretary Elementary & Secondary Education KFK Peshawar.
2. Director Elementary & Secondary Education KPK Peshawar.
3. Deputy Commissioner Buner.
4. DPO/M.I/ISI Buner with the request to fully cooperate with the Inquiry Committee.
5. Principals/ Head Masters concerned.
6. Committee Members. (~~Charge sheets~~ statements of allegations are attached)
7. Officials/Officers Concerned. (DO)


DISTRICT EDUCATION OFFICER
(MALE)BUNER

To

Amir Zaidi

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THE DISTRICT OFFICER EDUCATION OFFICER (M)

BUNER

Subject: INQUIRY REGARDING NOTIFICATION NUMBER 2465-69 DATED 24/05/2023 IN RESPECT OF NOMINATED EMPLOYEES REPORTEDLY TOOK PART IN 9TH MAY. PROTEST AT DAGGAR

MEMO:

Reference subject cited above the committee under the chairmanship of Mr: Dilawar Khan Principal BS 20 GCMHS Daggur Buner (Chairman) and the other two committee members Sartaj Khan Principal Bs 18 GHS Dewana baba And Iftikhar Javid SS BS 17 GHSS Kulyari visited the reporting offices/Agencies i.e DPO Buner, ISI Buner, MI Buner and Special Branch Buner for accumulating information/evidences/data of the protest.

1. The DPO/Police department provided some pictures/images of some of the employees mentioned in the attached list.
2. The department failed to provide any other solid evidence/Audio/Video etc regarding the protest that is slogans against the state, blocking the roads or damaging any government property during the protest.
3. Some of the employee have been charged, arrested under 3mpo for the reasons best known to law enforcing Agencies
4. The committee also discussed the matter with the reporting agency MI and committee waited For the Evidences as per request of the incharge of the agency but no evidence or information provided to committee
5. The committee also met the ISI/Incharge who also failed to provide any other solid evidence against the charged employees. Further the committee visited offices of the special branch at the police line at daggur and discussed the matter in great details but no fruitful and solid evidence was provided. In the light of the above accumulated data/evidence, the committee informed the charged employees through telephonic calls for taking written and verbal statement at GCMHS school daggur in the supervision of chairman of the committee at office of the principal.
6. The accused employees were given free, transparent and relaxed environment for interview. Questionnaire and discussion one by one in written and verbal form and thus recorded.

FINDINGS:

Keeping in view the verbal, written and other evidences the committee came to the conclusion that

Principal
PRINCIPAL
G.C.M.H.S Daggur
District Buner

08/06/2023

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1. Mr:Abdul Baseer S/o Salawar khan R/O dokadapirbaba PST, GPS dokada that is FIR has been lodge against him. He confessed in verbal statement that peaceful protest is our right while in written statement he denied. He seems sym^l,athetic, lenient and supporting towards PTI activities.
2. In respect of Mr:Amir Alam Khan S/c GGHS cheena the reporting agencies have not provided any audio, video or picture regarding his participation in the protest the accused employee provided some documents in his defense. Neither he accepted in verbal statement nor in written regarding his participation in protest against the state in any form. There is no FIR against him.
3. Habib un Nabi S/o Said Muhammad PST GPS Dokadahad been arrested as per statement of the employee. No Audio, Video evidence provided by the agencies concerned. His verbal statements indicated his a little bit sympathy for the PTI.
4. The agencies provided only picture in respect of Muhammad Younas S/o Muhammad Ghafoor CT GHS Shalbandi.No other evidence of blocking the roads, anti state slogans and damaging the govt property has been provided.The police has lodged FIR against him.
5. FIR has been lodged against Bakht Nawab PST GPS Kund by the police. He has denied participation in the written while Seemed Sympathetic towards PTI and vired his selfie in the time of protest with some irrelevant comments thus dug his own grave.
6. There is no evidence i.e Pictrure,Audio or vedio against Saddar Zaman PST GPS Batara. He totally denied in his written and verbal statements his participation in the protest. He supported his this claim by some witnesses (attached).
7. Masked picture of sardarali S/o Muhammad Saeed SST GMS mulaiYousaf was provided by the agencies regarding his participation in the protest there is no other audio, video against the state. He confessed in his verbal statement and commitment with Kamran Khan Leader of the PTI.
8. Muhammad Nasar S/o Muhammad resident of jowar PST has spent ten days in jail as per his verbal statement except picture there is no other solid evidence of Audio and video against him. He was extremely apologetic for watching the protest and swore by God that he will remain for away from even watching towards the protest of PTI. He confessed that his parents are grate tension hearing this news
9. As for Ashraf Ali S/o Abdul Hassan PST RiazabadMulayousaf is concerned he got trapped in the strike while visiting the BISE swat for F.A certificate to be corrected on the next day (10th May). He denied in his verbal and written statement making slogans, blocking and damaging the govt proprty except his recorded photo.
10. The agencies provided picture of Kamal Said S/o Nizam Said CT GHS Dewana baba but failed to provide any sort of solid evidence

PRINCIPAL
G.C.M.H.S Daggar
District Buner

08/6/2023

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regarding his participation in the protest. The fact is that neither he has any politically affiliation to PTI nor any other political party as per authentic sources. On 9th may he was going toward jowar for paying his debt to naseeb dad SST, got trapped having no conveyance to go back in instant situation.

11. Ihtisham S/o Shams ulHaq SST IT GHS Elai challenged his participation in the protest in the form of picture audio, video etc by any agency or person he swore on God before committee that he was not present in the protest. That he was on the way back along with his wife in taking exam from AIOU Islamabad at GDC Daggar going back toward my home Elai seeing the protest turned towards national bank daggar Square and reached home. He also challenged of proving against him any sort of sympathy, vote and participation in the protest on the call of PTI.

CONSEQUENTLY, One of THE FOLLOWING RECOMMENDATIONS ARE MADE FOR PENALTY/EXONERATION TO THE TEACHER NOTED AGAINST HIM

- ✓ 1. Mr:Abdul Baseer S/o Salawar khan R/O dokada Pirbaba PST, GPS dokada (a) censure (b) with holding of increment for the maximum period. (C) Both of them.
- ✗ 2. Mr:AmirAlam Khan S/c GGHS cheena (a) (Censure)
- ✓ 3. Habib un Nabi S/o Said Muhammad PST GPS (a)censure (b) with holding of increment for the one year. (C). Both of them.
- ✓ 4. Muhammad Younas S/o Muhammad Ghafoor CT GHS Shalbandi (a) censure. (b) With holding of increment for one year.
- ✓ 5. Bakht Nawab PST GPS Kund. (a) censure (b) with holding of increment for the maximum period. (c) both of them.
- ✓ 6. Saddar Zaman PST GPS Batara (a) Censure
- ✓ 7. Sardar Ali S/o Muhammad Saeed SST GMS mula Yousaf (a)censure (b)with holding of increment for the Minemum Period. (C) Both of them.
- ✓ 8. Muhammad Nasar S/o Muhammad resident of Jowar PST (a)censure (b) With holding of increment for the one year. (C). Both of them.
- ✓ 9. Ashraf Ali S/o Abdul Hassan PST Riaz Abad Mulayousaf. (a)censure (b) with holding of increment for the two years. (C) Both of them.
- ✓ 10. Kamal Said S/o Nizam Said CT GHS Dewana baba (a) May be exonerated
- ✓ 11. Ihtisham S/o Shams ulHaq SST IT GHS Elai(a) May be exonerated.

Signatures:

1. Dilawar Khan Principal BS-20

GCMHS Daggar Buner (Chairman) 08/06/2023

PRINCIPAL
GCMHS Daggar
District Buner

Iftikhar Javid SS BS-17

GHSS Kulyari Buner

A. Engr. Iftikhar Javid

Subject Specialist

EGSE Buner

2. Sartaj Khan Principal BS-18

GHS dewana baba Buner

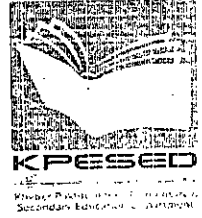
PRINCIPAL
GHS Dewana Baba
Distt. Buner

8/06/2023

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OFFICE OF THE DISTRICT EDUCATION OFFICER
(MALE) DISTRICT BUNER
PHONE & FAX NO. 0939-555110
EMAIL: edobuner@gmail.com



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SHOW CAUSE NOTICE

I, Mr. Iftikhar Ul Ghani, District Education Officer (M) Buner, as the Competent Authority, under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules 2011, do hereby serve upon you, Mr. Muhammad Nasar PST GPS Landai Jowar, this show cause notice as follows:

1. That as per the report of various agencies, you were involved in the protest against the state institutions on 9th May, 2023.
2. That the Competent Authority conducted an inquiry vide this office notification No.2508-14 dated 26/05/2023 to probe into the allegations against you.
3. That the inquiry committee, after conducting a comprehensive inquiry, recommended various recommendations commensurate with each delinquent official's guilt.
4. That the said inquiry committee recommended the following penalties against you commensurate with your guilt:
 - (a) Censure
 - (b) Withholding of increment for one year, or
 - (c) both of them.
5. That you are guilty of misconduct under Rule-3(b) of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules 2011, read with Conduct Rules 1987.
6. By reasons of the above, you appear to be guilty of misconduct under Rules 3(b) of the Khyber Pakhtunkhwa Servants (Efficiency and Discipline) Rules 2011.

In terms of Rule-5(a) of the Khyber Pakhtunkhwa Government Servants E & D Rules 2011, I, as the Competent Authority, serve upon you with this show cause notice under Rule-7 of the ibid rules.

As a result, thereof, I as the Competent Authority, have tentatively decided to proceed against you under the above mentioned rules. You are, therefore, required to show cause as to why one of the major/minor penalties specified in Rule 4 of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules 2011, should not be imposed upon you and also intimate whether you desire to be heard in person. If no reply to this show cause is received within 07 days of its delivery, it shall be presumed that you have no defence to put in and in that case Ex-parte action will be taken against you, which may culminate in your removal from service.

(IFTIKHAR UL GHANI)
DISTRICT EDUCATION OFFICER (M)
BUNER

Endst: No. 2837-40 Dated. 13/6/2023.

Copy forwarded for information to the;

1. Director Elementary & Secondary Education, Khyber Pakhtunkhwa Peshawar
2. Deputy Commissioner Buner.
3. S.D.E.O Concerned Buner.
4. Official Concerned.

DISTRICT EDUCATION OFFICER (M)
BUNER

Amr... (11)



**OFFICE OF THE DISTRICT EDUCATION OFFICER
(MALE) DISTRICT BUNER**
PHONE & FAX NO. 0939-555110
EMAIL: edobuner@gmail.com



NOTIFICATION.

1. WHEREAS, the law enforcement agencies reported some employees included Mr Muhammad Nasar PST GPS Landai Jowar of this department to the Secretary Elementary and Secondary Education Khyber Pakhtunkhwa Peshawar who were allegedly involved in the protest and slogans against state institutions on 9th May 2023, as mentioned in the charge sheet and statement of allegations, for the purpose of disciplinary proceedings.
2. AND WHEREAS, the same list was delivered by the Secretariat Elementary and Secondary Education Khyber Pakhtunkhwa Peshawar for disciplinary proceedings against the accused/delinquent employees which, inter alia, included Mr Muhammad Nasar PST GPS Landai Jowar.
3. AND WHEREAS, the undersigned constituted an inquiry committee vide this office Endst No.2508 dated 26/05/2023 to probe into the allegations against the accused/delinquent officials. The inquiry committee comprised of the following officers:
 - i. Mr Dilawar Khan-BPS 20 Principal GCMHS Daggar
 - ii. Mr Sartaj Khan- BPS 18 Principal GHS Diwana Baba
 - iii. Mr Iftikhar Javed- BPS 17 SS GHSS Kulyarai
4. AND WHEREAS, the undersigned, being the Competent Authority, suspended the services of Mr Muhammad Nasar PST GPS Landai Jowar vide this office Endst No.2527-31 dated 27/05/2023.
5. AND WHEREAS, the inquiry committee conducted a comprehensive inquiry and submitted its report wherein Mr Muhammad Nasar PST GPS Landai Jowar was found guilty of the acts and omissions as given in the charge sheet and statement of allegations.
6. AND WHEREAS, in the light of the inquiry report, the undersigned issued a show cause notice to Mr Muhammad Nasar PST GPS Landai Jowar vide this office Endst No.2837-40 dated 13/06/2023, to which he submitted reply.
7. AND WHEREAS, the undersigned called the accused for personal hearing on 10/07/2023 vide this office letter No.3067-69 dated 03/07/2023. The accused appeared before the undersigned on 10/07/2023 in person for personal hearing but he failed to defend himself against the allegations levelled against him.
8. AND WHEREAS, the Competent Authority (DEO (M) Buner), after having considered the charges, evidences on record, inquiry report, explanation of the accused in response to show cause notice and personal hearing on 10/07/2023, is of the view that charges against the accused have been proved.

NOW, THEREFORE, in exercise of the powers conferred under rule 14(5) of the Khyber Pakhtunkhwa Govt Servants (Efficiency & Discipline) Rules 2011, as amended vide Government of Khyber Pakhtunkhwa Establishment Department (Regulation Wing) No.SO (Policies)E&AD/2-6/2021 Peshawar Dated the 31/12/2021, I, Mr. Iftikhar Ul Ghani DEO(M) Buner as the Competent Authority, am pleased to impose minor penalty of "withholding of two annual increments for two years without cumulative effect" upon Mr. Muhammad Nasar PST GPS Landai Jowar, keeping in view the gravity of his guilt, with immediate effect in the interest of public service.

Note: Necessary entry to this effect should be made in his Service Book accordingly.

[Handwritten signature]

(IFTIKHAR UL GHANI)
DISTRICT EDUCATION OFFICER (M)
DISTRICT BUNER

Endst No. 3446-52 Dated 22/07 /2023.

Copy is forwarded for information to the;

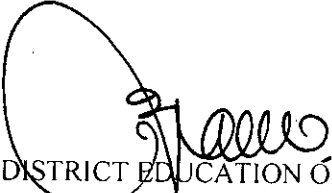
1. Director Elementary & Secondary Education Khyber Pakhtunkhwa.
2. Deputy Commissioner Buner.
3. District Monitoring Officer Buner.
4. District Accounts Officer.
5. SDEO(M) concerned.
6. Official concerned.
7. Master File.

[Handwritten signature] 22/7/23
DISTRICT EDUCATION OFFICER (M)
DISTRICT BUNER

OFFICE OF THE DISTRICT EDUCATION OFFICER MALE DISTRICT BUNER

AUTHORITY LETTER

Mr. Ubaid Ur Rahman ADEO Litigation Office of the District Education Officer Elementary & Secondary Education Buner is hereby authorized to submit Para Wise Comments on behalf of the undersigned in connection with case Title Muhammad Nasar Versus Govt; in the honorable court of service Tribunal Khyber Pakhtunkhwa, Peshawar.


DISTRICT EDUCATION OFFICER
MALE DISTRICT BUNER