

original

BEFORE THE KHYBER PUKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 13/2024

Younas Ali _____ (APPELLANT)

Versus

District Education Officer Male District Buner and others

_____ (RESPONDENTS)

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[Signature]
Deponent

15101-0882586-3

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 13/2024

Younas Ali CT, R/O Village Shalbandi, Tehsil Daggar, District Buner

**Khyber Pakhtunkhwa
Service Tribunal**

Diary No. 13792

Appellant 24/8/24

Dated 24/8/24

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".




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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.

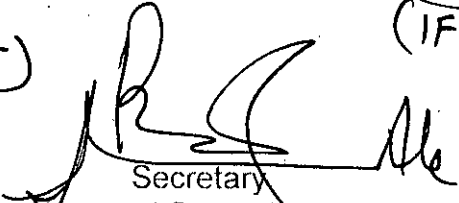
GROUND:

- 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 ALTAJ)


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. 13/2024

Younas Ali

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.

[Handwritten Signature]

Deponent

15101-0882586-3

[Handwritten Signature]

[Handwritten Signature]





Amma AIAI
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 Younas CT GHS Shalbandi 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.

Mr. Muhammad Younas
CT GHS Shalbandi


DISTRICT EDUCATION OFFICER
(MALE) BUNER


DISTRICT EDUCATION OFFICER
(MALE) BUNER

To

Amir Khan ID 1

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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 Daggar 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 daggar 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 daggar 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

08/06/2023

Principal

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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 Younas CT GHS Shalbandi, 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
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.

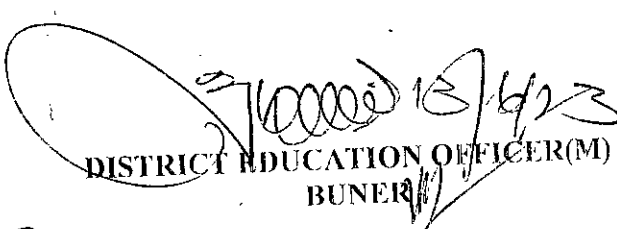
As a result, thereof, I as the Competent Authority, have tentatively decided to proceed against you under the above mentioned rules. You are, therefore, required to show cause as to why one of the major/minor penalties specified in Rule 4 of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) 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. 2853-56 Dated 13/6/2023.

Copy forwarded for information to the;

1. Director Elementary & Secondary Education, Khyber Pakhtunkhwa Peshawar
2. Deputy Commissioner Buner.
3. Principal Concerned.
4. Official Concerned:


DISTRICT EDUCATION OFFICER (M)
BUNER





Amma m E

**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 Younas CT GHS Shalbandi 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 Younas CT GHS Shalbandi.
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 Younas CT GHS Shalbandi 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 Younas CT GHS Shalbandi 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 Younas CT GHS Shalbandi vide this office Endst No.2853-56 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.3079-81 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 Younas CT GHS Shalbandi, 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.

Endst No. 3439-45 Dated 22/07 2023.

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

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. Principal concerned.
6. Official concerned.
7. Master File.

22/07/23

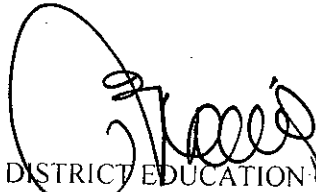
DISTRICT EDUCATION OFFICER (M)
DISTRICT BUNER

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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 Younas Ali Versus Govt; in the
honorable court of service Tribunal Khyber Pakhtunkhwa, Peshawar.


DISTRICT EDUCATION OFFICER
MALE DISTRICT BUNER