BEFORE THE KHYBER PAKTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 330/2024
Idrees Ahamd Chowkidar Government Primary School Kalam, District Swat.
Appellant
Versus
The District Education Officer (Male) District Swat at Gulkada

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otrosident,

DISTRICT EDUCATION OFFICER (M)
SWAT AT GULKADA



BEFORE THE KHYBER PAKTUNKHWA SERVICE TRIBUNAL PESHAWAR

Versus

The District Education Officer (Male)	District Swat at Gulkada
	Responden

Parawise Joint Comments on Behalf of the Respondents 1

Respectfully Shewith

Preliminary Objections

- 1. That the Appellant is not an aggrieved person within the meaning of section 4 of the Service Tribunal Act, 1974.
- 2. That the Appellant has no cause of action / locus standi.
- 3. That the Appellant has not come to this Honorable Tribunal with clean hands.
- 4. That the Appellant has filed this instant Service Appeal just to pressurize the respondents.
- 5. The present Service Appeal is liable to be dismissed for non-joinder/mis joinder of necessary parties.
- 6. That the instant Service Appeal is against the prevailing law and rules.
- 7. That the Appellant has filed this instant Service Appeal on malafide motives.
- 8. That the instant Appeal of the Appellant is badly time barred.
- 9. That the instant Service Appeal is not maintainable in the present form, and above in the present circumstances of the issue.
- 10. That the departmental appeals annexed with instant Service Appeal has not been found in official record as it is without any diary number and date.
- 11. That the Appellant has estopped by his own conduct by not resuming his duty after expiry of his sanctioned medical leave w.e.f 05.12.2022.
- 12. That the Appellant has concealed the material facts from this Honorable Tribunal.

FACTS

- i. Pertains to record, hence, no comments.
- ii. Pertains to record, hence, no comments.
- iii. That this para is irrelevant to the respondent, hence no comments.
- iv. Correct. However, it is worth to mention here that the Appellant did not resume his duty after the expiry of his sanctioned medical leave w.e.f 05.12.2022
- v. That this Para is incorrect and not admitted. On expiry of medical leave the Appellant should have resumed his duty but the Appellant admittedly did not resume his duty and remained absent for a long time. Furthermore, the Appellant submitted application direct to the Secretary Elementary and Secondary Education Department for his transfer instead of joining his duty to GHS Shin on the post of Naib Qasid but his application was not



- entertained as the respondent cannot change his post from Chowkidar to Naib Qasid as per rules. (Application of Appellant & letter of DEO annexed as annexure A & B)
- vi. That this para is quite astonishing, the Appellant being a civil servant should have abide by the rules. The Appellant should have joined his duty after the expiry of leave.
- vii. That this Para is misconceived one. The Appellant remained absent for a long time and did not even report to his duty station or leave sanctioning authority and is trying to get sympathy of this Tribunal. It is quite astonishing that how can a civil servant wait for his transfer and remains absent from his original duty station. Furthermore, the Sub Divisional Education Officer male Bahrain Swat/DDO reported the Appellant absent from duty w.e.f 05.12.2022 dated 21.02.2023. (Report of SDEO Bahrain annexed as annexure C)
- viii. Incorrect and denied. The annexed departmental appeal of the Appellant has not been found in official record as it is without any diary number and date.
- Incorrect and denied. The Appellant wants to get benefit of the order dated ix. 07.011.2023 of this Honorable Tribunal to safeguard his instant Service Appeal from the issue of limitation I,e time barred. In fact, the Appellant was removed from service vide order dated 03.05.2023 after fulfilling all codal formalities. As far as the unawareness of the Appellant about his removal order, the Appellant's statement is absolutely incorrect and false. He has properly been informed by the concerned SDEO through Primary School Head Teacher. According to the written statement of the head teacher, the Appellant was informed through WhatsApp as well as he also received his luggage and utensils from the school. It clearly means that the Appellant was well aware of his removal order. Now, the instant Service Appeal of the Appellant is badly time barred and is liable to be dismissed on this score alone. It is further clarified that the Appellant had filed Service Appeal No 1493/2023 on 19.07.2023 whereas he was already removed from service on 03.05.2023. It means that the Appellant has even filed his previous Service Appeal No 1493/2023 for release of salary after about two and a half months later than his removal order. The Appellant has even concealed this very important aspect of the case from this Honorable Tribunal while submitting his earlier Service Appeal duly on sworn affidavit. Therefore, he should be punished by this Honorable Tribunal for incorrect and false statement. (Head teacher and SDEO statement & Form of order sheet annexed as annexure D1 & D)
- x. Incorrect and denied. Call notice under the rules was issued to the Appellant on his home address dated 01.03.2023 through registered post vide RGL 105856990 dated 02.03.2023 to attend the office of the respondent within 07 days but he neither bother to attend the office nor did he resumed his duty. On the basis of the call notice, the SDEO concerned again reported the Appellant absent from duty dated 25.03.2023. As required under E&D Rules 2011 a notice mandatory under article 9 was also published in two leading newspapers "The Daily Ajj and The Daily Azadi" dated

14.04.2023 to resume his duty within 15 days but the Appellant failed to do so. Therefore, being competent authority under the E&D Rule 2011, the respondent impose upon the Appellant the major penalty of "removal from service" dated 03.05.2023. (Call Notice, Registry receipt, SDEO's Report & Publications annexed as annexure E, F, G & H)

- xi. Incorrect and denied. The annexed departmental appeal of the Appellant has not been found in official record as it is without any diary number and date.
- xii. The instant Service Appeal of the Appellant is bereft of any merit, hence, liable to be dismissed inter-alia following grounds.

GROUNDS

- a. Incorrect and not admitted. The Appellant has been issued Call Notice under the rules and finally notice was also published in two leading newspapers "The Daily Ajj and The Daily Azadi" dated 14-04-2023. 都要通过。**建设的国际中心的企业**,但是是不可以的企业 decopates additionly top dispersed with coquing
- b. Detail reply has given in above paras.
- c. Incorrect and denied. That the respondent has acted under the rule, law and policy.
- d. Incorrect and denied. That the respondent has acted under the rule, law and policy. No discrimination whatsoever has been made to the Appellant.
- e. That the Appellant has estopped by his own conduct by not resuming his duty after expiry of his sanctioned medical leave w.e.f 05.12.2022.
- f. That this Para is the repetition of above paras, hence, no comments.

It is therefore very humbly prayed that the instant Service Appeal of the Appellant may be dismissed with cost in favor of the respondents.

> DISTRICT EDUCATION SWAT AT GULKADA

> > Respondent - No M. Rdaz.

(G)

BEFORE THE KHYBER PAKTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 330/2024
Idrees Ahamd Chowkidar Government Primary School Kalam, District Swat.
Appellan
Versus
The District Education Officer (Male) District Swat at Gulkada
Respondent

AFFIDAVIT

I, Muhammad Riaz, District Education Officer (M) Swat, do hereby solemnly affirm and declare on oath on the directions and on the behalf of the Respondents that the contents of the comments are true and correct to the best of my knowledge and belief and nothing has been kept secret from this Honorable Tribunal. It is further stated on oath that in this appeal the answering respondent have neither been placed ex-parte nor their defense has been struck off.



DISTRICT EDUCATION OF FICER (M)
SWAT AT GULLRADA
District Education
District Education





OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) DISTRICT SWAT

Email: emisswat@gmail.com,

Phone No. 09469240228

AUTHORITY LETTER

It is certified that Hussain Ali, Legal Representative Office of District Education Officer (Male) Swat, Elementary & Secondary Education Department is hereby authorized to submit para-wise comments and attend the Service Tribunal Peshawar (Camp Court Swat) on behalf of the respondent in Service Appeal No. 330/2024 Title Idrees Ahmad Vs DEO Male Swat on the eve of each hearing till the disposal of the instant case.

DISTRICT EDUCATION OF ICER (M) Micer (M) SWAT AT GULKADA TO THE SWIFE TO THE SWIFE

گزارش خدمت اقدی میں کی جاتی ہے کر سائل گاؤں بنوڑی UC فتح پور تھمیل خوازہ خیلہ سوات کا مستقل باشندہ ہے۔ خدمت اقدس میں چند گزار شات مرکل کرتا ہوں جو کہ حسب ذیل ہیں۔

- ا۔ یکمیری تقرری کورنمنٹ پرائمری سکول کالام میں بجیٹیت چوکیدار ہوئی ہے۔ یقرری والدصاحب (مرحوم) جوکہ چوکیدار کے کوئے میں اول ہے۔
- -- سیکمیں فریب بندہ ہوں اور کالام میں ڈیوٹی سرانجام دینامیرے لیے بے حد مشکل کام ہے۔ کیونکہ میراگا ڈن کالام سے 65 کلومیٹر کے فاصلے پر ہے۔
- "- یک جب میرے تقرد کا کے امکابات جناب DEO مناحب فرمادہ ہے۔ تواس وقت ہمارے یونین گونس فنج پورسوات پی پانچ پوسٹ خالی پڑے ہے۔ جو بیہ سے GHS فنٹے پورہ GPS فنٹے پورنبر GPS با چاڑھیری (جوکداب مجمی خال ہے)، GHS جانچرے، GPS مہاہتے۔ جن پرمنظورنظرا شخاص کی تقردی کمل میں لاک گئے۔
 - ۳- سیکه GPS کالام می تقرری کی بناه پر جھے وہاں کے مقامی افراد بارباریہ با تین کرتے رہتے ہیں کدید پوسٹ کالام والوں کاحق ہے۔اور آپ اس پر یونین کونسل نٹخ پورے آئے ہے۔اور وہال کے حالات کی سے پوشید پہنیں اور ہر کئ کوائی زندگی سب سے قیمتی ہوتی ہے۔
 - ٥- يكمن آج ككميد يكل ليوبر قا كيونك بجه كالام ات موت برنيا كاستلابى بين آيا قا جس كاعلاج بغير آيريش نامكن قار
 - ۲۔ یدکرمرے ماتھ ایم بی اسے صاحب (مروار خان) نے وعدہ کیا اور NOC ہمی دیا کہ GHS شین میں خانی ہو نیوائے تا تب قاصد کے پوسٹ تبادلہ ہو۔ لکین وفتر تعلیمات نے محکرادیا۔
 - 2- میکریس پٹادرہمی ممیا تا کرمسئے کاحل نگال سکول۔اورڈ اگریکٹر ماحب سے الماقات کی اور اپنے تکالیف بیان کے انہوں نے بھی آیک خط دے دیا اور سکرٹری ایجوکیشن کے دفتر بھی ممیا۔انہوں نے بھی خطاکھ کر دیا اور درخواست مرسج کیکھ دیا۔
- ۸۔ یکسٹ سیای شخصیات ہے بھی بار بارٹل چکا ہوں انہوں نے بھی تسلیاں دئ ہیں اور DEO صاحب کوفون بھی کیا ہے ۔ لین جناب DEO صاحب پرکوئی اثر نہیں ہوتا۔
 - ۹۔ آخر کاریس DEO صاحب سے لی چکالیکن انہوں نے ایکافت انکار کردیا۔ انبذا درجہ بالا وجوہات کی بنا پراگرمیرے ساتھ ہوئے ناانعانی کے ازالہ کیلے مناسب اقد امات نفر مائے یا اگراس مسلے کا کوئی حل نہ ہوتو ہیں اللہ کے دربار میں اینا مسئلہ چش کرتا ہوں۔
- ا۔ یہکمیں اس سے تھک چکا ہوں کہ مجی سیائ شخصیات کے دربار میں حاضری دون اور مجی سرکاری دکام کے دربار میں انظار کرتے کرتے ناکام لوٹ جاتا ہوں۔ لہٰذا میں موجودہ اوکری سے مجود أوست بردار ہونا جا بتا ہوں۔ فقط

. العارض

ادرلین احمدولدمحمه (مرحوم) سابقه چوکیدار ساکن گاؤن بنوژی ایوی نتح پورخصیل خوازهٔ حیله سوات (۱۹۹۶)

دستخط درخواست كننده

مودفه: 05-12-2022

رابط فمبر:0345-4331130 / 0332-4331130

جناب گودزعا جب KP جناب دو درانگی صاحب KP جناب جنت میکرزی بسا حب KP جناب جنت میکرزی بسا حب ۲۵ ما جناب در رقعلیم صاحب ۲۵ ما

جناب در درتعلیم صاحب KP جناب میکرثری ایج کیشن KP

جناب ڈائر کیٹرصا حب سکنڈری ایلیمٹری ایجوکیشن KP جناب DCO صاحب KP جناب (DEO(M) صاحب وات

جناب DEO(M)صاحب وات جناب SDEOصاحب مرکل بحرین جناب بیڈیا شرصاحب GPS کالام

N. W. KP

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Annexume



OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE)

DISTRICT SWAT #: (0946) 9240228 Email: deomswat@gmall.com

#: (0946) 9240228 Web: www.sed.edu.pk

To,

The Director, E&SED Khyber Pakhtunkhwa Peshawar.

Subject:-

REQUEST FOR JUSTICE/TRANSFER.

Memo:-

Reference to your good office letter No.6311/F.No451/A-20/C-

IV/Swat/Vol-7 dated Peshawar 10/01/2023 on the subject cited above.

It is stated that this office has appointed the applicant at GPS Kalam as Chowkidar in retired 25% quota, as your good self is well aware that appointment in 25% quota can be made in each and every school on vacant post.

It is further stated that there was no vacancy in GHSS Fatehpur, GPS Fatehpur, GHS Chanchary, and GPS Mahabaty and no appointment was made in the above mentioned schools:

The applicant further stated that there is a vacant post of Naib Qasid at GHS Shin and applicant has been appointed as Chowkidar, therefore, this office cannot change his post from Chowkidar to Naib Qasid as per rules.

Applicant has applied for medical leave and this office has approved it for his convenience, and in future he will be accommodated as per rules and policy. The report is submitted please.

> RIAZ) DISTRICT EDUCATION OFFICER (M)

/Transfer/C-IV/M/DEO/Swat. Endst:NO.

Dated.

Copy forwarded to:-

1. PA to the Section Officer (PE) Govt of Khyber Pakhtunkhwa E&SED Peshawar.

2. PA to Director E&SED Knyber Pakhtunkhwa E&SED Peshawar.

3. PA to the DEO (M) Swat Local Office.

DISTRICT EDUCATION (MALE) SWAT



Reminder-1

DIRECTORATE OF ELEVISIONARY & SECONDARY EDUCATION

KHYBER PARTEUNKUPVA PESHAWAR. JF.No.451/A-26/C-1\//awat/Vol-7

Dated Peshawar the 10 -1/2023

Phone: 091-9225344

Email: ddadmn.csc@gmail.com

To

The District Education Officer (Male) Swat.

Subject:

REQUEST FOR JUSTICE/TRANSFER.

Memo:

I am directed to refer to this office letter No. 6589 dated 07/11/2022 on the subject noted above and to enclose herewith a copy of self-explanatory application submitted by Mr. Idress Ahmad S/O Muhammad (Late) Ex- Chowkidar residence of Village Banozal UC Fatah Pur Tehsil Khwaja Khel District Swat received from Section Officer (PE) Govt. of Khyber Pakhtunkhwa Elementary & Conondary Education Department vide No. SO(PE)E&SED/2-1/G.Transfer/2022 dated 26/12/7022 and to ask you once again to resolve the issue under rule/policy.

> Assistant(D)rector (Admn) president R& Secondary Education Khypa-Yakhtunkhwa, Peshawar

Endst; No.

Copy forwarded to the: -

Section Officer (PE) Govt. of Khyber Pakhtunkhwa Elementary & Secondary Education Department w/r to his letter No. SCOPE)E&SED/2-1/G.Transfer/2022 1.

Mr. Idress Ahmad S/O Muhammad (Late) Fx- Chowkidar residence of Village Banozal UC Fatah Pur Tehsil Khwaj i Med District Count. 2.

PA to Director Elementary & Company to Hion Khyber Pakhtunkhwa 3. Peshawar.

Master File. 4.

> Assistant Director (Admn) Disconnected 1.8 Secondary Education

ት "ካtunkhwa, Peshawar 2 1

D:\Admn\Irshad Ali\Class IV\For further N A\Idress Ahmad Khan Swat.dec

OFFICER (M) BAHRIAN SAVAT Email: gsadiq78@yahoo.com OFFICE OF THE SUBDIVISIONAL EDUC

Cell No: 0314-9019323

No:_1581

Date: 1 / 02/2023

To

THE DISTRICT EDUCATION OFFICER (M),

SWAT AT GUL KADA.

Subject: - "Absentee report of Mr. Idrees Ahmad Chowkidar GPS Kalam"

Referring to the letter submitted in your office vide Letter No. 1513 Dated: 28/12/2022 regarding absentee of the above named class IV w.e from 05/12/2022. He was on medical leave till Memo:-04/12/2022 and onward reported absent from the school.

The report is hereby submitted once again for information and further necessary action please.

note: 415 palong has been slopped since

Sub Divisional Education Officer (M)

(1) Office Copy

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Annexume PDA (19)

Office of the Headmuster GPS Kalam

letter of Mr. Idrees Shmad Slo Muhammad.

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Chowkidar GPS Kalam has been received

on 03 May 2023 from SDEO office Behrain

on 03 May 2023 from SDEO office Behrain

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No (6345-4231139) the same day (3 May 2023). After

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: - FORM OF ORDER SHEET

Court of _____

Annexure (D)

	<u>A</u>	ppeal No.	1494/2023	
S.No.	Date of order	Order or other pro	ceedings with signature of jud	dge

1- 19/07/2023

The appeal of Mr. Idrees Ahmad presented today by Mr. Imdad Ullah Advocate. It is fixed for preliminary hearing before Touring Single Bench at Swat on

By the order of Chairman

REGISTRAR

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Anneine E OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) DISTRICT SWAT

[#: (0946) 9240228 Email: deomswat@gmail.com

(0946) 9240228 Web: www.scd.edu.pk

No	_	10057 1
-		·

To,

Mr. Idrees Ahmad S/O Muhammad (Late), Chowkidar GPS Kalam Resident of Village Benorai U/C Fatehpur Tahsil Khwazkhela District Swat. Contact No's 03454331130, 03324331130.

CALL NOTICE. Subject

Memo;.

A compliant received from the SDEO (M) Bahrain Swat vide No 1581 dated 21/02/2023 with the remarks that, you are absent from duty with effect from 05/12/2022 up till now without any application or prior permission of the competent authority which is against the rules.

You are directed to attend the office of the undersigned within 07 days positively. Otherwise disciplinary action under E&D rules 2011 will be taken against you.

(Muhammad DISTRICT EDUCATION OFFICER (M)

/F.N-12/C-IV Absent Dated Endst: No

/2023..

1- The Director of Elementary and Secondary Education Khyber Pukhtun Khwa, Peshawar.

2- The SDEO (M) Bahrain Swat W/r to his No.1581 dated 21-02-2023 and further directed to acknowledge and report back to this office.

3- P.A to DEO (M) Swat local office.

RICER (M) DISTRICT EDUCATION SWAT 010.

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No: 1633

Date: \$\frac{7}{2}\inf/03/2023

To

THE DISTRICT EDUCATION OFFICER (M),

SWAT AT GUL KADA.

Subject: - "Fresh absentee report of Mr. Idress Ahmad chowkidar GPS Kalam"

Memo:

Reference to the subject cited above and subsequent absentee report already submitted in your good office vide SDEO (M) Bahrain No. 1581 dated: 21/02/2023, on the basis of which call notice has been issued to him. In this connection another fresh report received from the head teacher GPS Kalam contents of which are self explanatory is hereby submitted for information and further necessary action please.

Sub Divisional Education Officer (M)

Bahrain Swat

(1) Office Copy



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	تنصيل	ڈیوٹی نے غیر حاضری	غيرها ضرى كال نوثس	نمبرشاراورنام
شے فیرحامرے	آپ موري 1/10/2022	. بورى 1/10/2022	نو ^ن س ئېر 1360	(1)_الورالق في اليس في مور منك
ے باہرانگلید	اور 5اکٹویر 2022 گوملگ)'•	مودفته 8/11/2022	برائمري سكول تعكم آبادواري
* * *	ہے گئے ہیں۔	,	•	
س بغير سي اطلاع	آپ کم دستر 2022ء	مود تا 1/12/2022	دوش نبر 11608	(2) ـ ا تبال حسين لي ايس في كور منت
AND THE STREET	م فيروا مرب -	".	مودفد 30/03/2023	براتمری سکول کواره
	آپ کم ارچ 2023 =	1/3/2023	زش نبر 10771	(3) مران على في ايس في مور منت
	اطلاع سے فیر حاضر ہے۔	~ · ·	مودي 18/3/2023	پرائمری سکول و تا توباند کی
	آپَ كِم مارج 2023	1/3/2023 عود 1/3/2023	إوش فبر 10785	(4) ـ مك شامير بي ايس في كورمنث
a transfer has	اطلاع کے فیرحاضر سے۔		مودى 18/3/2023	پرائمری سکول بزاره
عميلس بغيرسي	آپ كم مارج "2023"	مودند 1/3/2023	نوش نبر 11292	(5) ـ اكرام يوم لي ايس في كور منث
	اطلاح کے غیرحا مترہے۔		مودفته 28/3/2023	پرائمری سکول چنداخواره کبل
	آپ2اري2023ء	مورد 2/3/2023	نولس نبر 10837	(6) يحمد اسحاق اليس في في محور منث
	ع فير حاضر ب المالي		مورى 20/3/2023	ما کی سکول منگوره نمبر 1
	آپ کم ارچ 2023		وس بر 11457 ـ	(7) _انتارىلى كى أن الى فى كورنمنك
	اطلاع کے فیرحامرے۔		18/3/2023 18/8 נכת וצרט 14485	ما تیرسیکنڈری سکول مجمل سوات
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7 7 7	.آپ کِم بارج 2023 ب		ن ^{ائر} 22/3/2023	(8) يزيز الأكرام اليم اليم في
	اطلاع سے فیرحاضرے۔،	and the same of the		مور منت ائير سيندري سكول اكليال
للسل بغيراطلاع	آپ کم اکتر 2022ء	1/10/2022	لوش نبر 1419	(9) عبدالله چكيدار كورتمنت يرائمري
	کے فیروا ضرے ہے	الموادية ا	مورفته 10/11/2022	سكول كوشه
ل يغيركم اطلاح	آب5 کیر 2022ء	5/12/2022	نوش قبر 10057 مورقه	(10) ـ ادريس احمد چوكيدار كورمنث
	ے فیروا مرے۔		1/3/2023	پرائمری سکول کالام

محدریاض دُسٹر کٹ ایجو کیش آفیسر (مردانه) ضلع سوات معرر مانه) علام ایجو کیش آفیسر (مردانه) صلع سوات

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