## BEFORE THE HON'BLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR

Service Appeal No. 565/2022

# Mr Naveed Ahmad VERSUS Secretary Elementary & Secondary Education & others

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	Termination	,	

For

DISTRICT EDUCATION OFFICER (MALE)

HANGU

# BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL PESHAWAR SERVICE APPEAL No.565/2022

Mr. Naveed Ahmad ......Appellant.

#### Versus

- 1. The Secretary, Elementary and Secondary Education Department, Khyber Pakhtunkhwa, Peshawar.
- The Director, Elementary and Secondary Education Department, Khyber Pakhtunkhwa, Peshawar.
- 3. The District Education Officer, Male District Hangu......Respondents.

### PARA-WISE COMMENTS ON BAHALF OF RESPONDENTS NO.1-3 ARE GIVEN AS UNDER.

### Respectfully Sheweth; Preliminary Objections:

- 1) That the instant appeal is hopelessly time barred and is not maintainable.
- 2) That the appellant has got no cause of action nor has any place of standing to file the present appeal
- 3) That the appellant has concealed material facts from this Honorable Tribunal.
- 4) That the appellant has not come to this tribunal with clean hands.
- 5) That the instant appeal is against the prevailing law and rules hence liable to be dismissed.
- 6) That the appellant is not an aggrieved person nor is entitled to any relief he has sought form this Tribunal.
- 7) That the instant appeal has no force and is devoid of any merit, hence liable to be dismissed.
- 8) That the appellant is stopped by his own conduct to file the present appeal.
- 9) That the appellant was willfully absent from his duty for a large inexplained period and was proceeded in accordance with law and procedure and was awarded major penalty of Termination fro Service.
- 10) That the appeal is liable to be dismissed summarily with compensatory costs.

#### REPLY ON FACTS.

- 1. Para No. 1 pertains to record, hence, no need to comment
- 2. Para No. 2 pertains to record, hence, no need to comment
- 3. Para No. 3 is subject to proof
- 4. Para No.4 is subject to proof. However it is pertinent to mention here that from the record available with the appeal. The years of FIR and year of Trial there is a huge un-explained period which indicates the willful avoiding of the appellant from his duty due to which his hopeless time barred appeal is liable to be dismissed. (Copies of FIR is attached). Anex-I
- 5. Para No.5 is incorrect, due course of law was followed by the respondent and the appellant was served with three notices alongwith publication which is the evidence of the knowledge of the appellant about the order of his termination so the stance of appellant of getting knowledge of termination after his acquittal is wrong. (Copies of Publication and Notices are attached). Anex-II
- Para No. 6 is incorrect, the respondent department has acted in accordance with law and dismissed his time barred and baseless departmental appeal. (Copies of Departmental Appeal is attached). Anex-III
- 7. Para No. 7 alongwith all the grounds are incorrect

#### REPLY ON GROUNDS.

- A. Para A is totally incorrect, hence denied.
- B. Para B is incorrect, the respondent has acted in accordance with law
- C. PARA C is incorrect and baseless, hence denied
- D. PARA D is incorrect, due procedure was followed by the then Enquiry
  Officer. (All the relevant documents are annexed with parawise
  comments)
- E. Para E is incorrect, hence denied
- F. PARA F is incorrect and unfit in the present appeal
- G. PARA G is incorrect and baseless, hence denied
- H. PARA H is incorrect, hence denied in the circumstances of appeal
- I. PARA I is incorrect and not permissible

It is therefore most humbly requested that the appeal in hand may kindly be dismissed with cost.

#### **RESPONDENTS**

1. The Secretary

Ementary and Secondary Education Department, Khyber Pakhtunkhwa, Peshawar.

2. The Director,

Elementary and Secondary Education Department, Khyber Pakhtunkhwa, Peshawar.

3. The District Education Officer,

Male District Hangu

Jaged SEP

### BEFORE THE HON'BLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR

Service Appeal No. 565/2022

#### Mr Naveed Ahmad VERSUS

Secretary Elementary & Secondary Education & others

#### **AFFIDAVIT**

I, Muhammad Nawaz ASDEO (BS-16) (Authorized Representative), do hereby solemnly affirm and declare on oath that the contents of the accompanying Comments are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.

DEPONENT

CNIC # 14101-6348419-7

Cell # 0332-9615220

رفائين ابتراني اطلاع نب برم قابل است المازي بوليس الميروف متروز يردفون اله الجموع منا ابعا في ميران الميران ا

Attested by

ADEO (Litigation)
D.E.O. (M)
Hangu

e6) Annex 11

NO 1025/P.F.4/Naverel Ahmeel /Dutel المراب لورر احمار داري گورناف مول جدرگل کافین سری ساله تفیس ، دُلان من رضلع دونگو الركام عرام الركام على المعامر كالمرك العراض مے کہ آپ ورم کا - 4- 94 سے لفراطلع کے المام المام مام المام مام المام من الما الماران عرامامری کی دهم بیان کرین . اور فوراً این دوی GHAS. Chamba Gul وهنگو - از این دین در در دات آفر دونداز. EDO (S/K) do Attested by GH\S. Chamba Gul ADEO (Litigation) Scanned with CamS

31-5-20-7-0ps/4-1/4-1/6 ping/sself/2/187 Jula Jus CIHS Jula Jul. in the den't GHS CSG21/100 عنوال ر باره بی بران نورس عرفامری 5-13-5-07 Pm 1157-58 (perm) / 185 22-4-06/20 198 chi ils -/2-63 W Web الرادف المراد من المساكان بيلوك Récious aprisipa, les plus de la contra les ملاازمل ایم نوری کری روی کرے زیر دستولی (200011-1/10/b) 160xple الما الما كواب عارف عالون كاروران كالمال كالمال صین سیجے میں آب سیروس (نوری) بی فتی ر میوسیاسی س. 18 121 UV مدارس رحوالل الملح سابو Attested by

Arnex II

16/6/07 on i/4/1/ juin/0,621/19 -1/19 of decline to the H.M نوبرالد ماری دربری جسترس شو نوشس غيرطافمري يادياني ر فراز الرسوطي . 5-5-1/1 مورض 40-5-3 اور Will de 1 31-5-07 ON 1187, 188. عمان منبوم 198 مورد ، ٥٥- ٤- ١٥ زر دفع ١٩٥٥ مراسير المن المناس كان بلوك مراب - المراس المرام بالا عدالمنا و المعامل كما كما كا الله عدر الله معروى عدرات الرور دستعنع کی و عامری کی د بورط کریں۔ میں ارجہ الان ور مرسم الارع بي مل ب - اسم فرى ال جلاز جلد انی مردانی مکل این درخ ایک فلرد آبانی کاروای Head Master G.H.S. Clariba Gul والمنظم المعالية المال رك اللي Attested by Head Master G.H.S. Chamba Gui , Hangu ADEO (Litigation) **D.**E.O. (M) Hangu



ADEO (Litigation); D.E.O. (M) Hangu

Consequent upon the recommendation of recruitment committee of Schools & Literacy Department Hangu and further approval by the DCO Hangu, the following Male Qari candidates are hereby appointed on contract basis in BPS-7 @ (2220-120-5820) with usual allowances as admissible under the rules with immediate effect. & further posted in the Schools noted against their names subject to the terms and conditions as detail given below.

				4.4.4			
S. No.	Name	Father Name	Address	Merit.	Place of Fosting	Remarks	
1.	Mr. Tayyab Khan	Soor War Khan	RO Naryab	57.71	GHS Shanawari Narvab	A.V.P.	
3.	Mr.Manzoor Almad	HajiYar Bad Sbah	R/O Alsheravi	-17.07	GHS Shabu Khel	A.V.P.	
3.	Mr.Kamranud Din	Aliq ad Din	R/O Thall	45,50	GHS Thall	A.V.F	
14.	Mr.Mohammad Idrees	Homesh Gul	R/O Naryab	40,82	GHS Naryah	A.V.P.	
5.	Mr.Abdul Mateen	Molal:Yousaf	R/O Dervizi Palosa Hanyu	40,65	GHS Shanawari Hangu,	A.V.P.	
6.	Mr.Mohd;Israr	iviolid:iqbal	RO Tavezi Banda Hangu	30,04	GHS Darsamand	A.V.P	
7.	Mir.Naveed Ahmad	Nazar Dymer	R/O Sirki Piayala	39.71	GHS Classiba Gul	A.V.P	
S.	Mr.Mohd:Anwar	Dosi . Mohd:Khan	R/O Shaho Khel	38.29	GMS Mianji , - Khel	A.V.P.	

#### **TERMS & CONDITIONS**

- 1. Their appointment is made on contract basis in BPS-7 for three years which will be expected to continue on showing good performance/result and punctuality in attendance.
- They will also execute an agreement bond on proscribed form provided by the Govt of NWFP for three years.
- If any candidate is failed to resume his duty within stipulated period of fifteen days of the issue of this order of appointment, will be considered as cancelled.
- 4. If the age of any candidate is less then 18 years or above then 38 years their appointment will also be considered as cancelled.
- Charge report should be submitted to all concerned in duplicate.
- No.TA/DA is allowed.
- Their services are liable to termination at any time without reasons being assigned.
- This appointment does not confer on them any right to claim seniority over their counter part or those who have higher marks & have not been appointed so far for one reason or other reasons.
- Their appointment is subject to further conditions that they are domiciled of Hangii District.
- 10. They will be governed by such rules & regulations as may be prescribed by the Govt: from time to time for the category of the Govt; servents which they belong to.
- 11. Their pay will not be drawn by the concerned DDO till the processes of verification of their documents is completed. 12. The DDO is responsible for verification of their documents from quarter concerned before handing/taking over
- charge & in case any discrepancy found of their documents proved fake, their appointment will be considered as cancelled without any right or previlage.

13. UNDERTAKING. hereby give an undertaking to the effect that if any over sight/mistake/amendments in recruitment policy by the Govt: is made, I will have no objection on my Cari GHS/GMS termination & also will not submit any petition in the court. 14. Health & age certificate must be obtained from Medical supdiconcerned

15. They should be on probation period of three years & will neither apply for long leave or saek admission in any college/university.

> - (HAZRAT KHAN) DISTRICT COORDINATION OFFICER DISTRICT HANGU.

Lindst: No. 856-878 /Qari. Dated Hanguithe 77 4 /04.

Copy forwarded for information & necessary action to the:-Secretary Govi: NWFP Schools & Lit: Deptt:NWFP , Peshawar.

- Director of Schools & Literacy NWFP Peshawar.
- District Coordination Officer Hangu.
- District Nazim Hangu.
- District Accounts Officer Hangu
- District officer (M) EdusLocal Office.
- ADO Est/Ts (M/F) Local Office.
- Candidates concerned.
- 16-23. School Concerned. ...

ECUTIVE DISTRICT OFFICER COLS & LITERACY HANGU

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ADEO (Litigation)

Hangu

Registered / OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) DISTRICT HANGU. Dated the Hangle 10/01 2022. The Director, Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar. DEPARTMENTAL APPEAL AGAINST THE ORDER DATED 23-11-2007, RECEIVED BY THE APPELLANT AFTER AQUITTAL FROM CRIMINAL CASE ON 15-10-2021, WHEREBY THE APPELANT WAS TERMINATED FROM SERVICE Reference your letter No.2257/F. No. Departmental Appeal for Re-Instatement in service in r/o Naveed Ahmad Ex-Qari Hangu Dated Peshawar the 23/11/2021 on the subject cited above and to state that one Mr. Naveed Ahmad Qdri was appointed as Qdri in the year 2004, An FIR was registered against the above named Qari vide FIR No. 198 Dated: 22/04/2006 U/S 302, 324, 3371 (1) 427-148-149 PPC District Hangu. 🕠 1. As per above the Headmaster submitted an absent hotice by informing the ecutive District" Officer School & Literacy District Hangu vide No! 1021/P. File Naveed Ahmad Qari/F-04/Dated GHS Chamba Gul Hangu 03/05/2006, stating that the above named Qari was absent from duty w.e.f. 24/04/2006 without any information to the Headmaster concerned. 2. Upon the direction of this office vide No.5973 Dated:06/05/2006, the Headmaster GHS Chamba Gul issued three absent Notices to the above named Qari. The following absent notices were issued to him with the remarks to follow his trial in a court against the Sections registered in FIR No. & dated as quoted Absent Notice-I, vide Headmaster GHS Chamba Gul No. 1157 Dated 03/05/2007 Absent Notice-II, vide Headmaster GHS Chamba Gul No. I 187 Dated 01/06/200% Absent Notice-III, vide Headmaster GHS Chamba Gul No. 1194 Dated 05/05/2007 3. The Deputy Superintendent of Police submitted an RIR copy as information report to the EDO!(S&L) Hangu vide his office No.55! / Investigation Dated Hangu 06/05/2006 and requested for taking necessary legal action against the above 4. The trial was started on 28/02/2018 and decided on 15/10/2021 while the labove named Qari was remained absconder wes 22/04/2006 upto 28/02/2018 and eventually announced and acquitted the above named Qari of the charges labeled against him on 15/10/2021. (Copy of Court verdict is attached for ready reference) It is pertinent to mention here that the above named Qari, while rendering services has not been found quilty of any departmental/criminal offence during his entire service except the above mentioned incident 10/01/2022 MYMU District Education Officer (Male) Hangu.

> ADEO (Prigation) **D.**E.D. (M) **Hang**U

ŧ.

ii.

iii.

Subject: -

Memo:,

above.

named Qari.

D.NO: 318





### DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION KHYBER PAKHTUNKHWA PESHAWAR.

NO. <u>668</u>

/F.No./Deptt: Appeal for Re-instatement in Service/Hangu Dated Peshawar the \_\_\_\_\_\_/2022

Tổ )

The District Education Officer

(Male) Hangu.

Subject: -

DEPARTMENTAL APPEAL AGAINST THE ORDER DATED: 23-11-2007 RECEIVED BY THE APPELLANT AFTER ACQUITTAL FROM CRIMINAL CASE ON 15-10-2021, WHEREBY THE APPELLANT WAS

TERMINATED FROM SERVICE

Memo:

I am directed to refer to your letter No. 79 dated 10-01-2022 on the subject noted above and to enclose herewith an departmental appeal lodged by Mr. Naveed Ahmad Ex-Qari GHS Chamba Gul District Hangu and to ask you to inform the appellant that his appeal has rejected being time barred under E&D Rules 2011.

Assistant Director (Estab-1)

Directorate of Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar

Endst; No.

Copy forwarded to the: -

- PA to Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.
- 2. Master File.

ADEO Sec Est

Assistant Director (Estab-1)

Directorate of Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar

Aftested by

DAFARMAN~INSTABL~INGENERA~INDEPARTMENTAL APPEAL AGAINST THE ORDER DATED 23 11 2007 RECEIVED BY THE APPELLANT AFTER ACQUITTAL FROM CRIMINAL GASE ON AS 10-2024, WHEREBY THE APPELLANT WAS TERMINATED FROM SERVICE IN TO MI. Naveed Ahmad Qari Hangu doc

D.E.O. (M) Hangu

#### THE EXECUTIVE DISTRIC? OFFICER SCHOOLS AND LITERACY HANG

/2007 Dated

1)Mr, Mohammad Hassan Chairman Princi GCMHS No 1 Hangu ')Mr,Mohamm'ad Quresh Member Jy District Officer Male Primary District Hangu

Sub:-

ENQUIRY /DEFAULTER

Memio

You both are hereby appointed as enquiry officer Chairman/Member respectively in r/o Mr Qari Navid Ahmad of GHS Chamba Gul absent from duty w.e.f 24-04-2006.

You are further directed to collect necessary documents in r/o the above named official from this office in office hour within a week time positively and conduct detailed enquiry against the official concerned to proceed further into the matter.

**EXECUTIVE DISTRICT OFFICER** SCHOOLS & LITERACY HANGU

Copy to the:-

Head Master GHS Chamba Gul for information.

DISTRICT OFFICER MALE

SCHOOLS & LITERACY HANGU

D.E.O. (M)

Hangu

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STANKE YES

#### REMINDER

OFFICE OF THE	BXECUTI	<u>VE DISTRICT (</u>	) FFICER S	- CHOOLS	AND LITER	RACY HANGU
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No				Dated	<u> </u>	/2007
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То .		•	!			•
•		·				
•		1)Mr,Mohamm Principal GCM! 2)Mr,Mohamm Dy District Off	HS No 1 Ha ad Ouresh	ingu Member	rict Hangu	
Sub:-	••	ENQUIRY /DI	<u>EFAULTE</u>	<u>R</u>	•	:
	•	,				RALLY HE NOT
Momo respectively in r/ 2006.	o Mr Qari ì	You both were Navid Ahmad of ( But it is regrett	GHS Cham	ba Gul abse	officer Chai	irman/Member y w.e.f 24-04-
from your end, y concerned and so documentary rec well as in this of	ibmit your ord in r/o t	findings/report to	the understand will be	gned for no available i (FAZL) ECUTIVE	ecessary acu	On The Chamba Gul as
Endst No 6	823	/	Dat	ed <u>2/</u>	1.8	_/2007 · · ·
	Copy	y to the:-				
<b>/</b> ¹.	Head M	aster GHS Chaml	ba Gul for is	nformation		Frank (demba) Culvielf 24401
						CER MALE: ACY HANGU
	Pti	tested	by		:	South the state of

Annex: F.

#### ENQUIRY REPORT.

**Enquiry Committee:** 

.1.Mohammad Hassan Principal

Govt:Centennial Model High School Hangu

2. Mohammad Quresh Niazi Dy:D.O.(M) Primary Hangu.

Accused:-

Naveed Ahmad Qari

G.H.S.Chamba Gul

Authorized officer:-

Executive District Officer (Sch. & Lit) Hangu.

Place of Enquiry:-

Govt:High School Chamba Gul.

Date of Enquiry:.

27/8/2007.

Charges:.

WILLFUL ABSENT FROM DUTY/INVOLVED IN

CASE F.II NO.198 DT:22-4-06 U/S 302/324/427/148/149

PPC POLICE STATION HANGU.

History:

Mr.Naveed Ahmad Qari GHS Chamba Gul remained absent from duty w.e.f. 24/4/06 & involved in 302 case. FIR entered /recorded in Police Station Hangu vide his office letter No.198 dated 22/4/06.

In this connection, the I/C Head Master GHS Chamba Gui has been issued Absent Notices to the official concerned vide his office No. 1157 Dated 3/5/07. No.1187 Dated 31/5/07 & No.1194 Dated 16/6/07 to attend the School & pursue the case but he failed to do so. Final Notice regarding absent from duty has also been published/Advertised in the daily news paper "Tascer" Kohat under the signature of DiO.(M) Sch. & Lit: Hangu on 11/3/07 but he could not report for duty so far.

#### **RECOMMENDATION/FINDING:-**

1. Three absent Notices has been issued to the official concerned by the I/C Head master concerned well as by your office.

2. Final Absent Notice has been published in the daily News paper "Tascer" Kohat. Probably he is still absent & all necessary coddle formalities have been completed & directed by EDO S&L Hangu that his service may be recommended for dispense under the special power ordinance (Remval from service) 2000.

(Mohamamd Quresh) Dy:D.O.(M) Primary/ Hangu/Member Enquiry Committee Hangu.

(Mohammad Hassan) Principal.GCMHS Hangu/Chairman Enquiry

Mer aus

Committee Hangu.

Altested by ADEO (Litigation)

**D.**E.O. (M) Hangu,

Annen 1111

#### OFFICE OF THE EXECUTIVE DISTRICT OFFICER SCHOOLS & LITERACY HANGE

#### TERMINATION ORDER

In the light of Enquiry conducted by enquiry officers the services of Mr. Navid Ahmad Qari of GHS Chamba Gul Hangu is hereby terminated on account of involvement in criminal case 302 under special powers ordinance 2000 w.e.f. 04-2006. As all codal formalities have been observed /fulfilled by the enquiry officer.

Endst No 9774-77 /

(FAZLE UMER)
EXECUTIVE DISTRICT OFFICER
SCHOOLS & LITERACY HANGU

Copy to the:-

1) District Coordination Officer District Hangu.

2) District Account Officer District Hangu.

Head Master GHS Chamba Gul with the remarks to make proper entry in the service book of the above named official.

Official concerned.

Office Copy.

DISTRICT OFFICER MALE SCHOOLS & LITERACY HANGU

on icea Headb

ADEO (Litigation)
D.E.O. (M)

Hangu