


FORM OF ORDER SHEET

Court of _____

Appeal No. 834/2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	12/06/2024	<p>The appeal of Mr. Ali Rahman re-filed today by registered post through Mr. Rahim Khan Advocate. It is fixed for preliminary hearing before touring Single Bench at Swat on 04.07. 2024. Counsel for the appellant has been informed telephonically.</p> <p>By the order of Chairman</p> <p> REGISTRAR</p>

IN THE KHYBER PUKHTONKHWA SERVICE TRIBUNAL AT PESHAWAR

CHECK LIST

		<u>Yes</u>	<u>No</u>
1.	Case Title . <i>Ali Rahman vs DE O Malik Bhatti</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2.	Case is duly signed <i>of others.</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3.	The law under which the case is preferred has been mentioned	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4.	Approved file cover has been used	<input checked="" type="checkbox"/>	<input type="checkbox"/>
5.	Affidavit is duly attested and appended	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6.	Case and the annexure are properly paged and numbered according to the index	<input checked="" type="checkbox"/>	<input type="checkbox"/>
7.	Copies of the annexure are legible and attested . if not then better copies duly attested has been annexed	<input checked="" type="checkbox"/>	<input type="checkbox"/>
8.	Certified copies of all the requisite documents have been filed	<input checked="" type="checkbox"/>	<input type="checkbox"/>
9.	Certificate specifying that no case on the similar grounds was earlier submitted or filed in this court/tribunal	<input checked="" type="checkbox"/>	<input type="checkbox"/>
10.	Case is within time	<input checked="" type="checkbox"/>	<input type="checkbox"/>
11.	The value for the purpose of the court fee and jurisdiction has been mentioned in the relevant column	<input checked="" type="checkbox"/>	<input type="checkbox"/>
12.	Court fee in shape of stamp is affixed (for writ is required only) <i>n. applicable</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
13.	Power of attorney is in proper form	<input checked="" type="checkbox"/>	<input type="checkbox"/>
14.	Memo of addresses has been filed	<input checked="" type="checkbox"/>	<input type="checkbox"/>
15.	List of books mentioned in the service appeal	<input checked="" type="checkbox"/>	<input type="checkbox"/>
16.	The requisite number of spare copies have attached	<input checked="" type="checkbox"/>	<input type="checkbox"/>
17.	Case is filed in prescribed manner	<input checked="" type="checkbox"/>	<input type="checkbox"/>
18.	Power of attorney if the case is not proceeded in person	<input checked="" type="checkbox"/>	<input type="checkbox"/>

It is certified that the formalities /documents are required in column 2 to 8 above have been fulfilled .

Name *Ali Rahman*
 Signature - *[Signature]*
 Dated *03/06/2024*

03/06/2024
 Advocate High Courts
 National Service Tribunal

For Office use only

Case No. _____

Case received on _____

Completed in all respect Yes /NO(if no the grounds)

Date in court _____

Signature _____ Reader

Date _____

Countersigned _____

(Additional registrar)

IN THE KHYBER PUKHTONKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 834 /2024.

Ali Rahman VERSUS D.E.O (Male) E&S Education & others.

INDEX

S. No	Description of Contents	Annexure	Page No
1	Memo of Services Appeal		01-05
2.	affidavit		00-06
3.	Memo of Addresses of Parties		<u>00-07</u>
4.	Copy of Memo No.7766 dated 24/11/2023.	"A"	<u>00-08</u>
5.	Copy of the Order impugned dated 10/02/2024. (Removal from service)	"B"	<u>00-09</u>
6.	Copy of Departmental Appeal dt.19/02/2024. + Postal Reg: Slip.	"C"	<u>10-11</u> 00-12
7.	Wakalathnama		00-13

Through counsel



APPELLANT

Rahim Khan

Adv High Court

Office ; at Distt; Courts Daggar Buner

Cell= 03439049185

Dated 03/06/2024.

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IN THE KHYBER PUKHTONKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 834 /2024.

ALI RAHMAN S/O Muhammad JAMAL R/O Village Elum Pirbaba Tehsil Gadezai
District Buner / NAIB QASID G.M.S Elum (Pirbaba) District Buner.

"Appellant"

VERSUS

1. D.E.O (Male) E&S Education Deptt; District Buner.
2. Director E&S Education KP Peshawar. "Respondents"

Khyber Pakhtukhwa
Service Tribunal

Diary No. 13477

Dated 12-06-2024

SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PUKHTONKHWA SERVICE TRIBUNAL ACT 1974, AGAINST THE NOTIFICATION/OFFICE ORDER, IMPUGNED End; No.402-06 DATED, 10/02/2024, PASSED BY THE RESPONDENT No. 1, WHEREBY THE APPELLANT HAS WRONGLY, BEEN REMOVED FROM HIS SERVICE, FROM DATED 10/02/2024, WITHOUT ANY FAULT OF THE APPELLANT OR WITHOUT ANY RESONABLE GORNDTS BY LEVELING FALSE AND BASELESS CHARGES AND WITHOUT ANY ENQUIRY BY CONDEMNING THE APPELLANT UNHEARD AND BY AWARDING VERY HARSH PUNISHMENT TO THE APPELLANT, WHILE ADDITIONALLY MONTHLY SALARY OF THE APPELLANT HAS ALSO NOT BEEN PAID SINCE 1ST SECEMBER, 2023, TILL THE ISSUANCE O F THE ORDER IMPUGNED (10/2/2024)WITHOUT PASSING ANY ORDER FOR OR SHOWING ANY RESON. WHICH IS ALSO WRONG AND NOT SUSTAINABLE IN THE EYES OF LAW, BUT NEEDS DIRECTION FOR PAYMENT AS ARREAR FOR THE PERIOD CONCERNED TO THE APPELLANT TOO.

Prayer In Appeal

By acceptance of the instant Service Appeal of the appellant, the order impugned dated 10/2/2024, may be set aside and service of the appellant may be re instated, from the date of the order impugned with all back benefits and also the salary of the appellant for the period from 01/09/2023 to 10/02/2024 be directed to pay the appellant.

further relief to which the appellant is otherwise entitle under the law, though not specifically prayed for, may also graciously be granted in favour of the appellant.

FACTS

1. That the appellant, since his 1st appointment day (30/03/2018), has been performing his duty with showing his due punctuality up to the entire satisfaction of all of his bosses by giving no chance of complaint .
2. That the appellant has never remained absent from his duty while he only had availed casual leave with due prior approval and permission of his immediate boss. However No earned Leave whatsoever be, on the credit of the appellant or other leave, has ever not been availed by the appellant.
3. That the charges of willful absence from duty, leveled against the appellant, is totally wrong , false and baseless, hence denied same.
4. That not a single explanation of the appellant during his past service has been called and no notice has been served up on the appellant but actually the respondent No.1, has mala fide to the appellant and having ill will, so he intended to punish the appellant for no fault or any wrong of the appellant .
5. That no any show cause notice on the appellant has so far been served or communicated to the appellant .
6. That all the charges leveled by the respondent No.1, against the appellant, is mere assertion of him which he is basing only to spoil the handsome service career of the appellant for no reasonable grounds or any fault of the appellant .
7. That the respondent No.1 had always proved himself as negative towards the appellant and also to one other of his colleague, (working in the same school as sweeper /class iv, namely, Shair Zaman). So as a pre plan, to get any complaint against the appellant and the other concerned, better my be wrong, but to punish them , by any way or ground, so the respondent No.1 , in addition to his repeated verbal directions to the Head Master of GMS Elum in this

3

respect, when he found no compliance of that directions, he even too in written had pressurized and threatened, the head Master concerned for the purpose to make false complaint against the appellant and his other colleague. Copy of the office letter No. 7766/Estab; Secy; dated 24/11/2023, addressed to the In charge H/Master GMS Elum with endorsed, to Director E & S Edu; KP Peshawar obtained is annexed as "A" for ready reference and kind perusal.

8. That resultantly the respondent No. 1, without further waiting for any expected such false complaint against the appellant and his other colleague, in hurry, the respondent No.1, then has wrongly and without any show cause Notice or conducting any enquiry, against the appellant, (or the other concerned), issued the impugned Removal From Service Notification/order dated 10/02/2024, where by the service of the appellant has been wrongly and quite in disregard and adopting the desired /required proceeding and coddle formalities, under K.P E & D rule 2011, removed. Copy annexed as "B".
9. That also monthly salary of the appellant has wrongly been stopped without any notice or any blonder or fault of the appellant for the month September, 2023 onward without passing any order or any reason or written notice of order despite the appellant has been performed his duty.
10. That the appellant, by assailing the impugned notification/order dated 10/02/2024, had filed against a departmental appeal on dated 19/02/2024. Copy annexed as "C".
11. That the respondents, after the expiry of 90 days, statutory period, has not responded on the appeal of the appellant, hence the appellant, having no alternative, efficacious adequate remedy, except to file the instant service appeal, on the following grounds, amongst other inter alia.

GROUNDS

- a. That the order /Notification impugned dated 10/02/2024 , passed by the respondent No.1 is totally based on Mala fide intention and ill will. Hence is not maintainable and sustainable under the law and liable to be set aside from the date of its issue .
- b. That monthly salaries of the appellant has also illegal and without any reason or showing any reason and without any notice or passing any written order, has been stopped for the month of September 2023 and onward , in violation of fundamental rules while the same right has been protected under article 25 of the constitution of Pakistan 1973.
- c. That the order impugned and stoppage of monthly salary both are in violation of relevant law and without any Show cause Notice or any conduction of enquiry hence the same are not sustainable in the eyes of law but are liable to be set aside in favour of the appellant.
- d. That non rebuttable written material are available on record that the order impugned was a pre planed mala fide project of the respondent No.1, who had asked even the In charge/Head Master GMS Elum to sent false complaints against the appellant and one of his other colleague to be based for the action and inaction impugned . wich proves this fact that the respondent No.1 has personal grudge, mala fide intention so the order and inaction impugned both are fal exclusively in personal interest of the respondent No.1. Hence are against the public interest and also not sustainable in the eyes of law but are liable to set aside in favour of the appellant.
- e. That no proper oral or documentary evidence are available or have been produced against the appellant for proving the charges or charge so leveled wrongly in the order impugned or for the inaction impugned non drawl of monthly salary of the appellant .


(5)

- f. That no enquiry as required under the E & D rules 2011 or 1973 has been conducted against the appellant or any chance of cross examination on any has been produced but the appellant has been condemned un heard.
- g. That no 2nd show cause or final show cause Notice, has been served up on the appellant before passing of the order impugned or stopping of the monthly salary of the appellant. Hence the same are not sustainable in the eyes of law, but is liable to be set aside, in favour of the appellant.
- h. That further legal and factual grounds would be advanced before this Hon; Tribunal, with due permission of this Hon; Tribunal, at the time of arguments.

Therefore it is most humbly prayed that on acceptance of the instant service appeal the relief sought in the prior column /portion of this appeal, may be granted in favour of the appellant . Further relief to which the appellant is otherwise entitle under the law, may also graciously, be awarded, to the appellant, though not specifically prayed for .

Through counsel


APPELLANT


Rahim Khan

Adv High Court

Office ; at Distt; Courts Daggar Buner

Cell= 03439049185

Dated 03/06/2024.

Certificate

It is to certify that the entire contents of this service appeal are true and correct and nothing has been concealed from this Hon; Tribunal and that no such like service appeal has earlier been filed before this Hon; service Tribunal or before any other competent forum or has been earlier decided by any forum or this Hon; Tribunal.


APPELLANT

6

IN THE KHYBER PUKHTONKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. _____ /2024.

Ali Rahman VERSUS D.E.O (Male) E&S Education & others.

AFFIDAVITE

I, Ali Rahman S/O Muhammad Jamal R/O Village Elum Pirbaba Tehsil Gadezai District Buner /Niab Qasid G.M.S Elum (Pirbaba) District Buner "Appellant", do hereby affirm and declare on oath that entire contents of the TITLE Service Appeal are true and correct and that also no such like Service appeal on the title and subject has earlier been filed before this Hon; Tribunal, by me/the appellant OR is pending before adjudication or has been decided earlier.

Rahman

Deponent

Said Nowshad /appellant.

15701-2816173-4

ATTESTED
Muhammad Rizwan
Adv. to
Oath Commission
Dist. Buner
No. 06/2024



GOVERNMENT OF KHYBER PAKHTUNKHWA
OFFICE OF THE DISTRICT EDUCATION OFFICER
MALE BUNER

Phone & Fax No.0939-555110 Email: edobuner@gmail.com

NO. 7766/Estab:Secy

Dated: 24/11/2023

To

Imran Khan SST (G)
Incharge GMS Elum, Buner

Handwritten signature and initials in Urdu script.

SUBJECT: - EXPLANATION

Memo,

Reference is made to the departmental proceedings already under process against Mr. Ali Rahman N/Q and Mr. Sher Zaman Sweeper of your school. Who were reported as long absent from their duty and an absence notice was issued on their home addresses vide No. 5348 dated 15-9-2023.

You have given them a clean chit by writing that "They are performing regular duties since they had been reported till date" and have transcended your jurisdiction of authority as they were not to be allowed to perform duty and put signatures in attendance register before they appear for personal hearing and if found guilty, face the departmental penalties.

This obviously divulges irresponsible behavior towards duty and counts for inefficiency and misconduct under Rules 3 (a), (b) and (d) of the E & D Rules 2011.

Hence, you are directed to explain your position in black and white within 3 days of the issuance/receipt of this letter as to why not a stern disciplinary action may be initiated/taken against you under the *Khyber Pakhtunkhwa Govt. Servants (Efficiency & Discipline) Rules, 2011*.

Handwritten signature and date 24/11/23
DISTRICT EDUCATION OFFICER
(MALE) BUNER

Endst: No. _____ Dated _____/2023.

Copy of the above is forwarded to:

1. Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.

Handwritten signature
DISTRICT EDUCATION OFFICER
(MALE) BUNER



1120 (9)
GOVERNMENT OF KHYBER PAKHTUNKHWA
OFFICE OF THE DISTRICT EDUCATION OFFICER
MALE BUNER



Phone & Fax No.0939-555110 Email: cdobuner@gmail.com

NOTIFICATION.

1. WHEREAS Mr. Ali Rahman Naib/Qasid GMS Elum, Buner was reported by the ASDEO Circle Gadezi for his willful absence from duty w.e.f. 02-08-2023 Dated 13-09-2023.
2. AND WHEREAS an absence notice was served to him on his home address vide this office No. 5348 dated 15-09-2023 through registered courier No. RGL 116731354 but the official concerned neither resumed his duty nor reported to this office till date.
3. AND WHEREAS he failed to clarify his position. Neither he reported to this office nor resumed his duty within the stipulated time.
4. AND WHEREAS an absence notice was sent to the Director of information Govt. of Khyber Pakhtunkhwa, Peshawar vide this office No. 03 dated 01-01-2023, regarding the publication of his absence in leading National Dailies.
5. AND WHEREAS as per Rule 9 of Khyber Pakhtunkhwa Govt: Servants (Efficiency & Discipline) Rules 2011, notices were published in two leading newspapers i.e. The Daily Mashriq Peshawar on dated 4-01-2024 and The Daily Chand Swat on 4-01-2024, directing him to resume his duty within 15 days of the publication of absence notice in Newspapers and also show cogent reasons of his absence but he failed to resume his duty and remained absent.
6. NOW, THEREFORE, in exercise of the powers conferred under sub rule 9 of the Khyber Pakhtunkhwa Govt. Servants (Efficiency & Discipline rules 2011), the Competent Authority District Education Officer (Male) Buner is pleased to impose Major penalty of "Removal from Service" with immediate effect upon Mr. Ali Rahman Naib/Qasid GMS Elum, Buner, in the interest of public service with immediate effect.
The intervening period is converted into unauthorized absence from duty.

Note:-

1. Necessary entry to this effect should be made in his service Book accordingly.

(IFTIKHAR UL GHANI)
DISTRICT EDUCATION OFFICER
MALE BUNER.

Endst: No 402-06, Dated 10/02/2024
Copy for information to:-

1. Director Elementary and Secondary Education, Khyber Pakhtunkhwa, Peshawar.
2. District Monitoring Officer EMA, Buner.
3. District Accounts Officer Buner at Daggar.
4. Budget & Account officer, Local office.
5. Official Concerned.

10005 10/02/24
DISTRICT EDUCATION OFFICER
MALE BUNER.

Handwritten notes in Urdu script, likely a list or account. Includes the number '3003' and the year '2018'. The text is written in a cursive style.

Handwritten notes on the left margin, including the number '3003' and other illegible Urdu characters.

Main body of handwritten notes in Urdu script, continuing the list or account. The text is dense and covers most of the lower half of the page.

12

UMS 25249177
PAKISTAN POST OFFICE
U.M.S. RECEIPT
No. 418 Rs. 100
Name of addressee
Post town of destination
Date stamp
Signature of book in official
Service

etc
in
plus
to be (under) etc

