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**BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR.**

SERVICES APPEAL NO 218/2024

Sifat Ullah Khan S/O Sher Afzal Khan Sikandery R/O Shahbaz
Azmat khel, Tehsil & District Bannu Appellant

VS

Government of Khyber Pakhtunkhwa through Secretary (E&SE)
Education Department and others Respondents

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Dated: ____ / ____ /2024

Through

Deponent


DEO (M) BANNU

22-07-24

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR.

(1)

SERVICES APPEAL NO. 218/2024

Sifat Ullah Khan S/O Sher Afzal Khan Sikandery R/O Shahbaz Azmat
Khel, Tehsil & District BannuAppellant

VS

Government of Khyber Pakhtunkhwa through Secretary (E&SE)
Education Department and otherRespondents

PARA WISE COMMENTS ON BEHALF OF RESPONDENT

RESPECTFULLY SHEWETH:-

That the respondents from 1 to 3 submit as under:

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 14188

Dated 11-07-2024

PRELIMINARY OBJECTIONS:

1. That the present appellant has got no cause of action and locus standi.
2. That the present Appeal of the Appellant is not maintainable in its present form.
3. That the present case is bad for non-joinder and miss-joinder of necessary parties having vital role in the instant appeal.
4. That the Appellant has logged the instant Appeal to waste the precious time of this Honorable Services Tribunal.
5. That the case of the Appellant is devoid of merit and having no legal force hence liable to be dismissed.

ON FACTS:

1. That Para No 1 is related to the service record of the appellant.
2. That Para No 2 is related to the personal assertion of the appellant about the performance of his duty.
3. That Para No 3 pertains to official record of this office. The appellant was reported 5 times absent by education Monitoring authority (EMA) in the year 2022-23. Committee was constituted under the chairmanship of DDEO (male) Bannu, along with district administration and EMA representatives. Moreover the appellant failed to convince the competent authority about his unauthorized absenteeism from his duty by providing cogent reason and solid proof. His case was discussed in the committee and it was decided that a

major penalty of removal from services may be imposed upon all those teachers who are willfully unauthorized absent from duty. (Annexure A)

(2)

4. That Para No 4 is incorrect and denied, as proper procedure was adopted and all codal formalities has been observed and after that a major penalty of removal from services was rightly imposed upon the appellant as per existing law, rules and policy. (Annexure B)
5. That Para No 5 is incorrect and denied, as the competent authority has properly adopted the procedure and the appellant was in habit of habitual absenteeism and the competent authority was not satisfied with the reason provided by the appellant and hence a penalty of removal from service was imposed accordingly. (Annexure C & D)
6. That Para 6 is related to the official record, as the appellant remained willfully absent from his official duty and was reported severely by the Education Monitoring Authority and the District Education officer then provided an opportunity of personal hearing after show cause notice and after that such action was taken in the light of notification No 7970-8031 dated 08-07-2021 (Annexure E).

GROUND

- A. That Para A on ground is incorrect and denied, this office has followed the law, rules and policy where the case of the appellant was a case of habitual absenteeism which was clear from the record and then in the personal hearing he failed to convince the committee and to put forward any cogent, convincing and logical plea/reason for his absenteeism and hence penalty was imposed after a proper procedure for rest of the reply see Para 5 on facts.
- B. That Para B on ground is incorrect and denied, the appellant remained absent unauthorized from his duty and this matter was properly investigated, enquired and after that proper show cause notes was served and the appellant miserably failed to provide any solid proof for his absenteeism from the duty and hence he was treated as per law, rules and policy as stated in the preceding paras. Moreover the present appellant even violated the rules by passing adverse comments/ baseless complaints against the authorities in various forums and thus became guilty of disobedience for which the major penalty is dismissal from service under the law. (Annexure F)

C. That Para C on ground is incorrect and denied, see Para B on grounds. (3)

D. That Para D on ground is incorrect and denied to the extent of violation of any article of the Constitution of Islamic Republic of Pakistan 1973, as the appellant himself accept that not only he but other male and female teachers who have ever violated the law, rules and policy and were in habit of habitual absenteeism were also penalized according to the nature of their cases while the case nature of the appellant is different from others.

E. That Para E on ground is related to the appellant and his counsel, but in fact the respondents may kindly be allowed for additional arguments at the time of hearing.

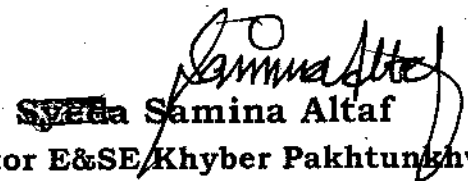
PRAYER:

In view of the above made submissions it is requested that this Honorable Services Tribunal may very graciously be please to dismiss the instant appeal with heavy cost.



Abdul Akram
Additional Secretary(General),
E&SED

On behalf of
Masood Ahmad
Secretary E&SED
(Respondent No.1)



Syeda Samina Altaf
Director E&SE/Khyber Pakhtunkhwa
Peshawar

(Respondent No.2)



Muhammad Tariq
District Education Officer
(Male) Bannu
(Respondent No.3)



**OFFICE OF THE DISTRICT EDUCATION OFFICER
(MALE) BANNU**

(Address: Outside Miryan Gate Near GHS No 4 Bannu)

4



AUTHORITY

Certified that Mr. Bakhmal Jan ADEO Litigation of this Office is hereby authorized to submit this Para wise comments on behalf of under signed in connection with the Case titled as Mr. Sifat Ullah Khan Vs Govt; in services appeal No 218/2024.

Muhammad Tariq
DISTRICT EDUCATION OFFICER
(MALE) BANNU



**OFFICE OF THE DISTRICT EDUCATION OFFICER
(MALE) BANNU**



(Address: Outside Miryan Gate Near GHS No 4 Bannu)

AUTHORITY

Certified that Mr. Bakhmal Jan ADEO Litigation of this Office is hereby authorized to submit this Para wise comments on behalf of under signed in connection with the Case titled as Mr. Sifat Ullah Khan Vs Govt; in services appeal No 218/2024.

*The answering Department have neither been placed
ex-Parte nor their defences have been struck off*

Muhammad Tariq

**Muhammad Tariq
DISTRICT EDUCATION OFFICER
(MALE) BANNU**



Annex (A)

06

GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT

OFFICE OF THE
DISTRICT EDUCATION OFFICER (MALE) BANNU



0928-660005



emisbannu@yahoo.com



District Education Office Bannu Male

NO. 9543 /GPS(ShowCauseNotice)

Date: 04/08/2023

SIFFAT ULLAH KHAN (PSHT)

GPS SHAHBAZ AZMAT KHEL NO.4 BANNU (11841),

Show Cause Notice for Major Penalty

I, the District Education Officer (BANNU, Male), as Competent Authority, under the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011 do hereby serve upon you this show cause as follows.

1. That as per EMA monitoring report you were found absent from duty 5 times in academic year 2022-23 without prior permission of the competent authority.
2. Now, therefore, I as the Competent Authority have tentatively decided to impose upon you the major penalty in accordance with Rule-4 (b) (iii), Finance Department Notification No. So (FR)/FD/5-14/2014 dated 16-12-2014 and Directorate of Elementary & Secondary Education, Khyber Pakhtunkhwa Notification No. 9970-8031/F.No.1/B&T/OAMS/2016-17 dated:08-07-2021.
3. You are, therefore, required to show cause as to why the aforementioned penalty should not be imposed upon you and also intimate whether you desire to be heard in person.
4. If no reply to this show cause is received within 7 days of its delivery, it shall be presumed that you have no defense to put in and, in that case, an Ex-Parte decision shall be taken against you.

DISTRICT EDUCATION OFFICER
(MALE) BANNU

Endst: Even No. & Date:

Copy of above is forwarded to the:

1. Director, Elementary & Secondary Education Department, Peshawar.
2. SDEO/DDO concerned.
3. ASDEO concerned.
4. District Monitoring Officer (EMA) Bannu.
5. Master File

Attested

DISTRICT EDUCATION OFFICER
(MALE) BANNU

Anwar (B) 07



GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT



OFFICE OF THE
DISTRICT EDUCATION OFFICER (MALE) BANNU

☎ 0928-660005



emisbannu@yahoo.com



District Education Office Male Bannu

10. 11686-80

Date: 18/9/2023

Notification for Major Penalty

1. Whereas; Mr. **SIFFAT ULLAH KHAN, (PSHT), (11841 - GPS SHAHBAZ AZMAT KHEL NO. 4 BANNU)** was proceeded according to Directorate of Elementary and Secondary Education Khyber Pakhtunkhwa, Peshawar Notification Endst.No. 9970-8031/E.No.I/B&T/OAMS/2016-17 Dated: 08-07-2021 for the charges of willful absence from government duty.
2. And whereas, a show cause notice was served upon him for guilty of habitually absenting himself from government duty without prior approval of leave from competent authority.
3. And whereas, the Competent Authority after having considered the charges, evidence on record, and the personal hearing granted to him dated: 21-08-2023 is of the view that the charges mentioned in the show cause notice have been proved against the above-named government servant/official concerned.
4. In the light of which the undersigned, being competent authority is satisfied that the above-mentioned charges have been proved upon you.
5. Now, Therefore, the Competent Authority is pleased to impose major penalty of Removal from service upon the above-named teacher with immediate effect.

DISTRICT EDUCATION OFFICER
(MALE) BANNU

Endst: Even No. & Date:

Copy of above is forwarded to the:

1. Director, Elementary & Secondary Education Department, Peshawar.
2. Deputy Commissioner Bannu.
3. SDEO/DDO concerned with the remarks to make necessary entry in his service book accordingly under intimation to this office.
4. District Monitoring Officer (EMA) Bannu.
5. District Account Officer Bannu.
6. Master File

Attested

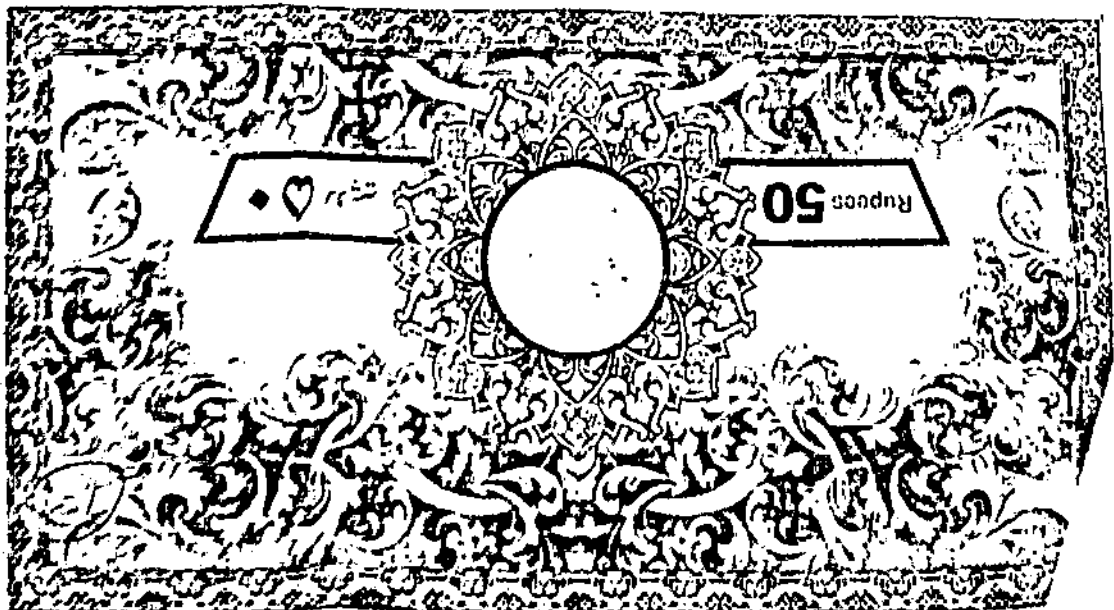
18/9/2023
DISTRICT EDUCATION OFFICER
(MALE) BANNU



1101-089959-7
 1101-5351334-9
 Post Office
 Post Office

1101-1142544-9
 Post Office

Handwritten text in Urdu script, likely a letter or official communication, containing several lines of text and a signature at the bottom.





Annex - D

09

**DIRECTORATE OF ELEMENTARY & SECONDARY
EDUCATION, KHYBER PAKHTUNKHWA, PESHAWAR**

NOTIFICATION

Consequent upon the approval of the Competent Authority (Secretary Elementary & Secondary Education Department Khyber Pakhtunkhwa), the new Online Action Management System (OAMS) has taken place w.e.f 01-04-2019 in Khyber Pakhtunkhwa. The following system/mechanism will be observed.

1. **On First Time Absenteeism**

Show cause notice will be issued to the delinquent teacher/official and the competent authority will decide whether to exonerate or deduct one day salary on the basis of reply/explanation of the concerned alleged accused teacher duly supported by valid documentary proof in support with the explanation/reply.

2. **On Second Time Absenteeism**

Show cause notice will be issued followed by imposition of minor penalty of "Censure" and deduction of one-day salary.

3. **On Third Time Absenteeism**

Show cause notice for stoppage of one increment for one year.

4. **On Fourth Time Absenteeism**

Show Cause Notice for stoppage of two increments for three years.

5. **On Fifth Time Absenteeism**

Show Cause Notice for imposition of any of the major penalties specified under E&D Rules 2011, which includes Down-grading, Compulsory retirement, Removal from Service or Dismissal from service as the case may be.

NOTE:

- For each academic year, teacher absenteeism will start from the first occurrence.
- District Education Officer (M&F) will be responsible to take action against the teacher from BPS-01 to BPS-15 (Being Competent Authority)
- The District Education Officer (M&F) will forward cases of BPS-16 and above to the Director E&SE, Khyber Pakhtunkhwa. The Director E&SE, Khyber Pakhtunkhwa will take action against the staff in BPS-16 being Competent Authority.
- The Director E&SE, Khyber Pakhtunkhwa will forward the cases of BPS-17 and above to the Secretary E&SE Department Khyber Pakhtunkhwa for necessary action.

Director
E&SE Department
Khyber Pakhtunkhwa

Index No. 7970-8031 / F.No. D/DET/OAMS/2016-17

Dated 28/07/2021

Copy forwarded for information to the:

1. Director EMIS E&SED Khyber Pakhtunkhwa, Peshawar.
2. Director General BMA, Khyber Pakhtunkhwa with the request to inform and direct all District Monitoring Officers to observe the above notification in true letter and spirit.
3. All the District Education Officers (M&F) in Khyber Pakhtunkhwa with the directions have a strict compliance with the above notification.
4. P.O. Secretary E&SD DE Khyber Pakhtunkhwa, Peshawar.
5. P.O. Director E&SE, Khyber Pakhtunkhwa, Peshawar.
6. Head of A/S, P.O. Hotel Peshawar.
7. My file

Attested

Deputy Director (D/F)
Directorate of E&SE
Khyber Pakhtunkhwa Peshawar