


FORM OF ORDER SHEET

Court of _____

Appeal No. 1218/2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	16/08/2024	<p>The appeal of Mr. Fazal Ullah resubmitted today by Mr. Noor Muhammad Khattak Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on 20.08.2024. Parcha Peshi given to counsel for the appellant.</p> <p>By the order of Chairman</p> <p> REGISTRAR</p>

The appeal of Mr. Fazal Ullah received today i.e on 12.08.2024 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- According to sub-rule-4 of rule-6 of Khyber Pakhtunkhwa Service Tribunal rules 1974 respondent no.3 is un-necessary/improper party, in light of the rules ibid and on the written direction of the Worthy Chairman the above mentioned respondent number be deleted/struck out from the list of respondent.
- 2- Wakalat nama in favour of appellant is not attached with the appeal.

No. 559 /Inst./2024/KPST,

Dt. 12/8 /2024.

Amir Ullah
OFFICE ASSISTANT
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Noor Muhammad Khattak Adv.
High Court at Peshawar.

R/sir,

Re-submitted after necessary completion

[Signature]
19/8/24

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Case Title: Fazalullah v/s Peda CHECK LIST

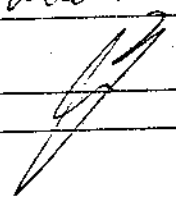
S#	CONTENTS	YES	NO
1	This Appeal has been presented by:	✓	
2	Whether Counsel/Appellant/Respondent/Deponent have signed the requisite documents?	✓	
3	Whether appeal is within time?	✓	
4	Whether the enactment under which the appeal is filed mentioned?	✓	
5	Whether the enactment under which the appeal is filed is correct?	✓	
6	Whether affidavit is appended?	✓	
7	Whether affidavit is duly attested by competent Oath Commissioner?	✓	
8	Whether appeal/annexures are properly paged?	✓	
9	Whether certificate regarding filing any earlier appeal on the subject, furnished?	✓	
10	Whether annexures are legible?	✓	
11	Whether annexures are attested?	✓	
12	Whether copies of annexures are readable/clear?	✓	
13	Whether copy of appeal is delivered to AG/DAG?	✓	
14	Whether Power of Attorney of the Counsel engaged is attested and signed by petitioner/appellant/respondents?	✓	
15	Whether numbers of referred cases given are correct?	✓	
16	Whether appeal contains cutting/overwriting?	✓	
17	Whether list of books has been provided at the end of the appeal?	✓	
18	Whether case relate to this court?	✓	
19	Whether requisite number of spare copies attached?	✓	
20	Whether complete spare copy is filed in separate file cover?	✓	
21	Whether addresses of parties given are complete?	✓	
22	Whether index filed?	✓	
23	Whether index is correct?	✓	
24	Whether Security and Process Fee deposited? On		✓
25	Whether in view of Khyber Pakhtunkhwa Service Tribunal Rules 1974 Rule 11, notice along with copy of appeal and annexures has been sent to respondents? On		✓
26	Whether copies of comments/reply/rejoinder submitted? On		✓
27	Whether copies of comments/reply/rejoinder provided to opposite party? On		

It is certified that formalities/documentation as required in the above table have been fulfilled.

Name: Noor Ali Wazir ASK

Signature: _____

Dated: _____



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.

SERVICE APPEAL No. 1218 /2024

MR. FAZAL ULLAH

V/S

EDU: DEPTT:

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Dated: 05/08/2024

APPELLANT

THROUGH:

NOOR MUHAMMAD KHATTAK
ADVOCATE SUPREME COURT

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

SERVICE APPEAL No. 1218 /2024

Khyber Pakhtunkhwa
Service Tribunal

Discy No. 14895

Dated 12-08-2024

Mr. Fazal Ullah, Chowkidar (BPS-03)
GPS Mela Masjid, Tehsil Takht Bahi
District Mardan.

..... APPELLANT

VERSUS

- 1- The Director Elementary & Secondary Education Department,
Khyber Pakhtunkhwa, Peshawar.
- 2- The District Education Officer (M) Mardan.
- 3- The District Accounts Officer, Mardan.

..... RESPONDENTS

**SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE
IMPUGNED OFFICE ORDER DATED 22/11/2022
COMMUNICATED TO THE APPELLANT ON 15/04/2024
WHEREBY THE APPOINTMENT ORDER OF THE APPELLANT
DATED 08/10/2022 HAS BEEN WITHDRAWN AND AGAINST
NO ACTION TAKEN ON THE DEPARTMENTAL APPEAL OF THE
APPELLANT WITHIN THE STATUTORY PERIOD OF 90 DAYS.**

Prayer:-

Filed to day
Registrar
12/8/24
On acceptance of this Service Appeal, the impugned order dated 22/11/2022 communicated to the appellant on 15/04/2024 may very kindly be set aside and the appellant may kindly be reinstated into service with all back benefits. Any other remedy which this august Service Tribunal deems fit that may also be awarded in favor of the appellant.

R/SHEWETH:

ON FACTS:

Brief facts giving rise to the present appeal are as under:-

1. That the appellant being the bonafide resident of Tehsil Takht Bahi District Mardan was appointed as Chowkidar (BPS-03) on regular basis and on the recommendation of the Departmental Selection Committee vide office order dated

Re-submitted to day
and filed.

Registrar
12/8/24

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

SERVICE APPEAL NO. 1218 /2024

Mr. Fazal Ullah, Chowkidar (BPS-03)
GPS Mela Masjid, Tehsil Takht Bahi
District Mardan.

..... APPELLANT

VERSUS

- 1- The Director Elementary & Secondary Education Department,
Khyber Pakhtunkhwa, Peshawar.
- 2- The District Education Officer (M) Mardan.

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R/SHEWETH:
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**Brief facts giving rise to the present appeal are as
under:-**

1. That the appellant being the bonafide resident of Tehsil Takht Bahi District Mardan was appointed as Chowkidar (BPS-03) on regular basis and on the recommendation of the Departmental Selection Committee vide office order dated

08/10/2022. Copies of CNIC and appointment order are attached as annexure.....**A&B**

2. That in response to the ibid appointment order dated 08/10/2022, the appellant submitted his charge report as Chowkidar at GPS Mela Masjid and started performing his duty quite efficiently and upto the entire satisfaction of his superiors. Copy of the charge report is attached as annexure.....**C**
3. That after verification of the documents of the appellant, proper DEO Code was allotted to the appellant for the purpose of drawl of salary as Chowkidar (BPS-03). Copy of the slip is attached as annexure.....**D**
4. That despite of regular performance of duty, salaries of the appellant were not released by the respondents and as such the appellant time and again visited the concerned quarters for the release of his salary, but of no avail. Copy of application is attached as annexure.....**E**
5. That unfortunately the respondents issued the impugned order dated 22/11/2022 whereby the appointment order of the appellant was withdrawn without communicating the ibid order to the appellant. That after several efforts the ibid impugned order was communicated to the appellant on 15/04/2024. Copies of the application and impugned order are attached as annexure.....**F&G**
6. That appellant feeling aggrieved form the impugned order dated 22/11/2022 communicated to the appellant on 15/04/2024, filed departmental appeal but no response has been received so far, hence the instant service appeal on the following grounds amongst the others. Copy of departmental appeal is attached as annexure.....**H**

GROUND:

- A- That impugned order dated 22/11/2022 communicated to the appellant on 15/04/2024 is against the law, facts and principles of natural justice, therefore, the same is liable to be set aside.
- B- That impugned order dated 22/11/2022 is illegal and void ab-initio, hence untenable in the eyes of law.
- C- That mandatory provisions of law and rules have badly been violated and the appellant has not been treated according to law and rules on the subject noted above and as such the

respondents violated Article 4, 25 of the Constitution of Islamic Republic of Pakistan, 1973.

- D- That no show cause notice has been issued before issuing the impugned order dated 22/11/2022.
- E- That no charge sheet and statement of allegation has been issued by the concerned authority before issuing the impugned order dated 22/11/2022.
- F- That no chance of personal hearing/defense has been provided to the appellant before issuing the impugned order.
- G- That no regular inquiry has been conducted in to the matter, hence the appellant has been condemned unheard.
- H- That impugned order dated 22/11/2022 issued by the respondents in arbitrary and mala fide manner, therefore, the same is not tenable in the eye of law and liable to be struck down.
- I- That, the treatment meted out to the appellant clearly based on discrimination and mala fide and as such the respondents violated the Principle of natural justice.
- J- That neither the impugned order dated 22/11/2022 has been issued in the public interest nor the same has been issued in exigencies of public service. The respondent department also violated the principle of locus Poenitentiae.
- K- That appellant seeks permission to advance other grounds and proofs at the time of hearing.

It is therefore most humbly prayed that the appeal of the appellant may be accepted as prayed for. Any other remedy which this august Court deems fit that may also be awarded in favor of the appellant.

Dated: 05/08/2024


APPELLANT

THROUGH:

NOOR MUHAMMAD KHATTAK
ADVOCATE SUPREME COURT


WALEED ADNAN


UMAR FAROOQ MOHMAND
ADVOCATES HIGH COURT

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.

SERVICE APPEAL No. _____ /2024

MR. FAZAL ULLAH

V/S

EDU: DEPTT:

AFFIDAVIT

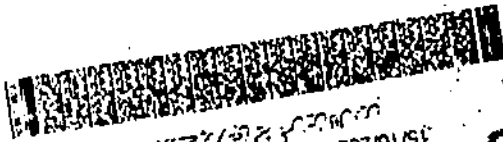
I, Mr. Fazal Ullah, Chowkidar (BPS-03) GPS Mela Masjid, Tehsil Takht Bahi District Mardan, (the appellatant), do hereby solemnly affirm on oath that the contents of the above appeal are true and correct to the best of my knowledge and believe and nothing has been concealed from this Honorable Tribunal.



Fazal Ullah

DEPONENT

ARRESTED



15/10/2024
15/10/2014



190420
16102-4074558-3

13/05/1995

16102-4074558-3



16102-4074558-3

6-9
A



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

☎ & 📠 0937-933151 , 📧 deomalemardan@gmail.com

"B"
7-



APPOINTMENT

Consequent upon the recommendation of the departmental selection committee in its meeting held on 06-10-2022, the appointment of the following candidate is hereby ordered against the vacant Class-IV post in Open Quota in BPS-03 (Rs:14260-580-31660) P.M. plus usual allowances as admissible to him under the rules in the interest of public service with effect from the date of his taking over charge in the school noted against his name with the terms and conditions noted below.

S.NO	NAME	FATHER NAME	ADDRESS & CNIC	DATE OF BIRTH	PLACE OF APPOINTMENT	POST
01	FAZAL ULLAH	MUHAMMAD JAVED	HAJI ABDUL WAHID SHERGARH TAKHT BHAI MARDAN CNIC:16102-4074558-3	13-Jun-95	GPS MAINA MASJID	CHOWKIDAR

TERMS AND CONDITIONS:

- No TA/DA etc. is allowed for joining his duty.
- He will be governed by Khyber Pakhtunkhwa Civil Servant Act, 1973 and the rules made thereunder.
- His services shall be considered regular and he will be eligible for pension/deduction of GP Fund in terms of Khyber Pakhtunkhwa Civil Servant Act, 1973 as amended in 2013.
- The age limit of the above post is 18-40 years.
- He should not be handed over charge if he exceed 40 years or below 18 year of age. Age relaxation case may be submitted to the competent authority.
- If he is over age less than 2 years, his upper age limit less than 2 years is hereby relaxed.
- He will be on probation for initial period of one year extendable for further one year as per rules.
- His services can be terminated at any time, in case of his performance is found unsatisfactory during probationary period. In case of misconduct, he will be proceeded under the rules framed from time to time.
- His services are liable to termination on one month's notice from either side. In case of resignation without notice his one month pay/allowances shall be forfeited to the Government.
- He should join his post within 15 days of the issuance of this Notification failing which his candidature shall expire automatically and no subsequent appeal etc. shall be entertained.
- Health and age certificate should be produces from the Medical Superintendent concerned before taking over charge to the DDO concerned and the same date of birth shall be reckoned till retirement.
- His pay will be released subject to verification of his documents/testimonials (i.e. Domicile, CNIC etc.) from the concerned authorities by the District Education Officer (Male) concerned.
- Charge assumption report should be submitted to all concerned.

(ZULFIQAR UL MULK)
DISTRICT EDUCATION OFFICER
(MALE) MARDAN

Dated Mardan the 08/10/2022

Endst. No: 8/58/2

Copy forwarded for information and necessary action to the:-

- P.S. to Secretary to the Govt. E&SED Khyber Pakhtunkhwa Peshawar
- Director E & SE Khyber Pakhtunkhwa, Peshawar
- Deputy Commissioner Mardan
- District Comptroller of Accounts Mardan
- Principals/Headmasters concerned
- SDEO (Male) Mardan, Takht Bhai, Katlang, Rustam & Garhi Kapoora
- District Monitoring Officer(EMA) Mardan
- Budget and Accounts Officer Local Office
- Officials concerned

ATTESTED

DISTRICT EDUCATION OFFICER
(MALE) MARDAN

-8-

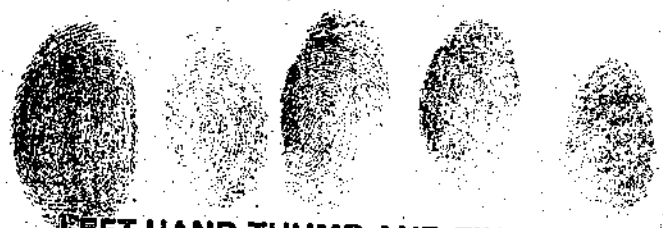
MEDICAL CERTIFICATE

Name of Official Fazal Ullah
 Caste of Race Atghan
 Father's Name Muhammed Javed
 Residence Haji Abdul Wahid Banda, P.O. Shergarh
Teh: Techt Bhai Dist: Mardan
 Date of Birth 13-06-1995
 Exact Height by measurement 5'-6"
 Exact mark of identification NIL
 Signature of the Official _____
 Signature of the Head of Office _____

Seal of Office _____

I do hereby certify that I have examined Mr. Fazal Ullah
 for employment in the office of the DED(M) Mardan
 and cannot discover that he had any disease communicable or other constitutional
 affection or bodily infirmity expect _____

I do not consider this is disqualification for employment in the office of
 the above as Chowkidar BPS-03 his age according to his own statement
27 year and appearance about year _____



LEFT HAND THUMB AND FINGER IMPRESSION

M Medical Superintendent,
 DHQ Hospital, Mardan.

Date 12/10/22

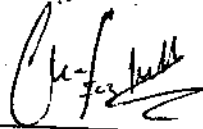
ATTESTED

"E"
9-

Charge Report

Consequent upon Mr. Fazal ullah S/O Muhammad Javed Took over charge as Chowkidar BPS- 03 at GPS Mela Masjid Circle Shergarh on Dated, 18 / 10 / 2022 before noon vide DEO (M) Mardan. Endst.No. 8158/G dated: 08 / 10/ 2022.

Signature of Chowkidar : _____



Issuing Authority: _____



HEAD MASTER
GPS MELA MASJID
SHERGARH Teh. T. BHAI

ATTESTE

ATTESTER

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06/12/90

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ATTEST

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13/2/23

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ATTESTE

~~Handwritten signature~~

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12/7/23

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ATTESTET

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19/10/23

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15-

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ATTESTED

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07/12/23

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ATTESTE

05/3/24

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OFFICE OF THE DISTRICT EDUCATION OFFICER

(MALE) MARDAN.

☎ 0937-933151 , Sidcomalemardan.

11G
18-**OFFICE ORDER.**

This office order issue vide this office Endst: No. 8158/G dated 08/11/2022 in R/O Mr. Fazal ullah Chowkidar GPS Maina Masjid is here by with drawn from the date of issuance.

(ضابطہ جاری شدہ)

DISTRICT EDUCATION OFFICER
MALE MARDAN.

Endst: No. 7829-30 /withdrawl Fazal ullah Chowkidar dated 22-11-2022.
Copy to the:-

1. P.S to Secretary to the Govt: E&SED Khyber Pakhtunkhwa Peshawar.
2. Director E&SE Khyber Pakhtunkhwa Peshawar.
3. Deputy Commissioner Mardan.
4. District Comptroller of Accounts Mardan.
5. Head Teacher GPS Maina Masjid.
6. SDEO (Male) Takht Bhai.
7. District Monitoring Officer(EMA)Mardan.
8. Budget & Accounts Officer Local Office.
9. Official Concerned.



DISTRICT EDUCATION OFFICER
MALE MARDAN.

ATTESTED

کتابخانه ملی افغانستان
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ATTESTE

22/4/24

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VAKALATNAMA
BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Appeal No /2024

Fazal Ullah

(APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

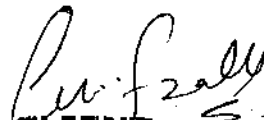
Education Deptt

(RESPONDENT)
(DEFENDANT)

I/We Fazal Ullah

Do hereby appoint and constitute **Noor Mohammad Khattak Advocate Supreme Court** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate Counsel on my/our cost. I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter.

Dated. / /2024


CLIENT

ACCEPTED


NOOR MOHAMMAD KHATTAK
ADVOCATE SUPREME COURT


WALEED ADNAN


UMAR FAROOQ MOHMAND


MAHMOOD JAN

&


ABID ALI SHAH
ADVOCATES

OFFICE:

Flat No. (TF) 291-292 3rd Floor,
Deans Trade Centre, Peshawar Cantt.
(0311-9314232)