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BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR

Service Appeal. 2549/2023


Imad Ud Din.....Appellant

VERSUS

The Secretary to Government E&SE Khyber, Pakhtunkhwa &
others.....Respondent

INDEX

S.No	Description	Annexure	Page
1	Joint Parawise Comments along with affidavit		1-3
2	Copy of the inquiry report	A	4-5
3	Copy of the letter dated 08-09-2023	B	6
4	Copy of inquiry statement of the appellant	C	7-11
5	Authority letter.		12


SHERIN ZADA
District Education Officer
(Male) Bajour

**BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR**

Appeal No: 2549/2023

Imad Ud Din.....Appellant

**Khyber Pakhtukhwa
Service Tribunal**

VERSUS

Diary No. 12366

Dated 24/4/24

The Secretary to Government Elementary & Secondary Education Khyber
Pakhtunkhwa Peshawar & OthersRespondents.

Respectfully Sheweth: -

Para wise comments on behalf of respondent No.1-3

PRELIMINARY OBJECTIONS

1. That the appellant has no cause of action.
2. That the appellant has got no locus standi to file service appeal.
3. That the appellant has not come to this Honorable Court with clean hands rather than the instant appeal is mainly based on malafide intentions just to put pressure on the respondent department for illegal reinstatement.

ON FACTS

- 1- Correct. Para 1: Pertains to the record, requires no comments.
 - 2- Incorrect. The appellant has just joined his duty, and after that, he has been absent from his duty since the date of appointment.
 - 3- Incorrect. According to the report of the Assistant District Education Officer (Secondary), the appellant did not perform his duty regularly.
 - 4- Show cause notice was issued to the appellant, but the reply was not satisfactory. Respondent No.3 constituted an inquiry committee against the appellant to find out the factual position of the case. The inquiry report is attached as **Annex "A"**. According to the inquiry committee report, the appellant was called and given a chance for self-defense. A questionnaire was also served upon him. In his statement, he affirmed that he is a student of M-Phil, while government servants are not allowed to take admission as regular students without permission/NOC or leave, according to the Government Servants Conduct Rules 1987.
- A. Government servants should not, under any circumstances, be allowed to attend any classes or courses during office hours.

- B. Absence without leave, even for a single day, is misconduct and makes a civil servant liable to disciplinary action (No. S.RII (S&GAD) S(29)186 Vol:B dated 7 August 1993). After the recommendation of the inquiry committee, the appellant was once again called for a personal hearing, but he failed to attend.
- 5- Incorrect. The removal order from service was sent to his home address through the post office.
- 6- Incorrect. The appellant submitted a departmental appeal through the Directorate of Elementary & Secondary, and it was received by this office on September 14, 2023. A copy of the letter is attached as **Annex "B"**.
- 7- The appellant has no cause of action to file instant appeal.

ON GROUNDS:

- A. Incorrect, the respondent is bound by rules and policy.
- B. Incorrect, proper inquiry was conducted and also called for personal hearing. (copies of inquiry report and the appellant statement are attached as **Annex "C"**)
- C. As replied above.
- D. Incorrect, after fulfilling all the codal formalities the appellant was removed from his service.
- E. Incorrect, as replied in facts.
- F. Incorrect the penalty is commensurate with the misconduct.
- G. **Legal.** However, the respondent also seek leave of this Honorable Court to submit additional grounds, record & case law at the time of arguments on the date fixed in the titled case.

PRAYER

In view of the above made submission it is requested that this Tribunal may very graciously be pleased to dismiss the instant service appeal with cost in favor of the Respondent Department.

Dated ___/___/2024

Masood Khan
 Secretary
 E&SE Khyber Pakhtunkhwa, Peshawar
 (Respondents No: 1)

(Signature)
(SAMINA ALTAF)
 DIRECTOR
 E&SE Khyber Pakhtunkhwa, Peshawar
 (Respondents No: 2)

(Signature)
 AN. Aboobakar
 Additional Secy (4)
 E&SE
 (Respondent No: 3)

(Signature)
(SHERIN ZADA)
 DEO (Male) Bajaur
 (Respondent No: 3)

**BEFORE THE HONORABLE KHYBER PAKHATUNKHWA
SERVICE TRIBUNAL PESHAWAR.**

Appeal No: 2549/2023

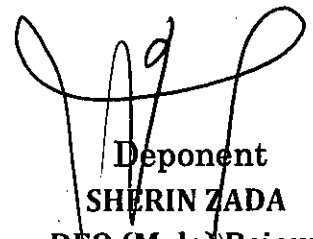
Imad Ud Din.....Appellant

VERSUS

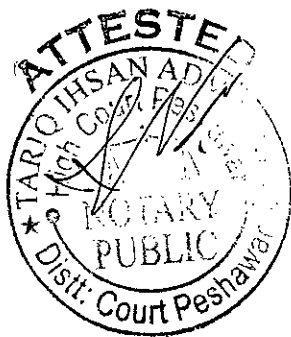
**Government of Khyber Pakhtunkhwa through the Secretary E&SE Khyber
Pakhtunkhwa & others.....Respondents**

AFFIDAVIT

I, Sherin Zada DEO (M) Bajour, do hereby solemnly affirm & declare on oath that the contents of the instant para wise Comments are true & correct to the best of my knowledge & belief. It is further stated on oath that in this appeal the answering Respondents have neither been placed Ex-Parte nor their defense has been struck off/cost.



**Deponent
SHERIN ZADA
DEO (Male) Bajour
(Respondent No: 3)**



INQUIRY REPORT REGARDING C.IV GMS KANDARO BARTRASS SALARZAI
DISTRICT BAJAUR.

1. Mr. Mehran ud Din S/O Khan Zeb Sweeper.
2. Mr. Imad ud Din S/O Khan Zeb Naib Qasid
GMS Kandaro Bartrass Salarzai Bajaur.

Reference to DEO Office (Male) Endst; No. 12707-8 dated 09/01/2023 on the subject noted above, we the committee members conducted an impartial inquiry against the concerned C.IVs on dated 06/02/2023 at District Education Khar Bajaur.

Procedure of the inquiry:

The following documents were collected.

1. Report submitted by Rehan Zeb.
2. Appointment order of C.IVs.
3. Charge Report of concerned C.IVs.
4. Questionnaire.
5. Land Acquisition Certificate.
6. Statement of Head Master GMS Kandaro Bartrass Salarzai.

Back Ground:

An application filed by Mr. Rehan Zeb and Habib Ur Rahman resident of Kandaro Bartrass regarding Mehran ud Din and Imad ud Din, that Mehran ud Din sweeper is student of BS in Hazara University and did not perform his duty in school, and Imad ud Din N/Qasid is student of M.Phil at Sargoda University and have dual job of Village Secretary.

Besides this the school property in which GMS Kandaro Bartrass is situated is common among us and we are coparcenary of it.

Facts Findings:

We the committee members called the concerned C.IVs to DEO office Khar and gave them a chance for self-defense and served a questionnaire upon them. Their statements recorded according to their replies. Both C.IVs affirm that we are students of BS and M.Phil.

ADDO Secondary
 For M/A
 27/8/2023

ADDO for implementation
 Attested
 AS

Mehran ud Din enrolled in BS on 2/9/2019. His degree will be completed in 2023 (Annex-1) while Imad ud Din is student of M.Phil and his course work started in 28/9/2020 and deny from dual job of Village Secretary. Both of them affirmed that we are students of BS and M.Phil and we do not informed our Department nor taken departmental permission in this regard.

It is pertinent to mention that this act of C.IVs is dishonesty, fraud and illegal practice. Government servants are not allowed to take admission as regular students without taking permission/NOC or leave.


According to Government Servants Conduct Rules 1987;

- a. Government servants should not under any circumstances be allowed to attend any classes or courses during office hours.
- b. Absence without leave even for a single day is misconduct and makes civil servant liable to disciplinary action. No. S.R II (S&GAD) 5 (29)186 Vol B dated 7 August 1993.

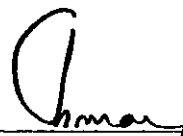
Recommendations;

In the light of above facts findings both C.IVs are guilty of misconduct and absenteeism without prier departmental permission/ NOC/leave. So action may be taken against them under E&D Rules 2011, Rul. 4. (b) iii.

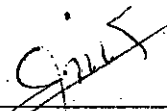
Committee Members:



Mr. Abdul Bar
Principal GHS Loi Sam.



Mr. Saidur Rahman
Head Master GHS Lara Banda.



Mr. Muhammad Nazir
ADEO, DEO Office (Male)

C/Signed


District Education Officer (M)
Bajaur

*Amended
AS*

6

Directorate of Elementary & Secondary Education
Khyber Pakhtunkhwa Peshawar
Phone# 091-9330246, 9331240

No. 94001 /-

Dated 08/07/2023

The District Education Officer (M)
District Bajaur

Subject: DEPARTMENTAL APPEAL AGAINST THE ORDER DATED 27-05-2023 ENOST
NO.17452-56 PASSED BY THE DISTRICT EDUCATION OFFICER (MALE)
DISTRICT BAJAUR

Encls:

I am directed to refer to the subject noted above and to enclose herewith an application along with other relevant documents in r/o Mr. Imad ud Din Ex-Naib Qasid SMS Kandaro Barthrus District Bajaur and to ask you for your detail report and Comments please.

Encls: (A.A)

[Handwritten Signature]
Assistant Director (Admin)

Encls, No. _____ / E-4 District Bajaur

Dated _____ / _____ / 2023

Permit
7/9/23

Copy to the -

- 1. P.A to Director E&SE Khyber Pakhtunkhwa Peshawar.
- 2. PA to Addl: Director (Estab:) Local Directorate.

Attested
DL

Assistant Director (Admin)

[Handwritten Signature]

ADEO (Estab) / 8/9/23

For 27/9

[Handwritten Signature]



عماد الدین ولد خان ریب نایب قاصد CMS گنڈروو کراچی

سوالنامہ

1- نام - (2) پندرہ

3- تاریخ سداش (4) سکول

5- تعلیمی قابلیت (8) چارٹریٹڈ لٹریچر

7- آرڈر الزام ہے۔ آرڈر سروس کے ساتھ ایم فل کا ریگولر طالب العلم بھی ہے ؟

8- آرڈر نے MPhil میں کب داخلہ لیا تھا۔

9- بحیثیت متبادل سکول میں کون کام کرتا ہے ؟

10- کیا آرڈر نے حاکم جاز سے متبادل کا اجازت لیا تھا ؟

11- آرڈر اپنی ڈیوٹی صحیح طریقے سے سرانجام نہیں دیتے اور تنخواہ لیتے ہیں۔

کس قانونی طور پر درست ہے۔

12- آرڈر دوسرا الزام ہے۔ کہ آرڈر کی ڈبل فوٹری ہے۔ کیا یہ درست ہے۔

13- آرڈر الزام ہے۔ کہ آرڈر بحیثیت وچم سیکرٹری بھی تعینات ہے ؟

14- کیا سروس رولز کے مطابق ڈبل ڈیوٹی فوٹری کی اجازت ہے۔

15- قانون کے مطابق آرڈر Held in abeyance آرڈر فوراً 16/09/2021 کو ہوئی تو

کیا ان پر عمل درآمد ہو چکا ہے۔

16- پھان ریب اور جسب الرحمان نے آرڈر جو الزامات عائد کیے ہیں۔ اصل تنازعہ کی وجہ بتائیے۔

4/2/2023

6/2/2023

Attest

جوابات منجانب : عمادالربین

(1/3)

- (1) میرا نام عمادالربین ہے ۔
- (2) میں Naib Qasid کے ٹیمرے اور فائنل نوں ۔
- (3) میرا تاریخ پیدائش 18 April 1998 ہے ۔
- (4) GMS کنٹروں برترس ۔
- (5) میری کوا لیفلش Mphil Economics ہے ۔
- (6) میں نے چارج 30/April/2021 کو لیا تھا ۔
- (7) میں Mphil کا طالب العلم ہو ۔ Mphil میں دو سٹریٹجز Course work ہوتا ہے جسے classes لیتا لازمی ہوتا ہے ۔ اسے بعد ایک سال Research ہوتا ہے جس میں classes لیتے ہوتے ۔ میرا Course work 2020 میں شروع ہوا تھا ۔ 2020 میں Covid 19 تھا اس لیے میرا سارا Course work آن لائن ہوا تھا ۔ مطلب میں نے اپنی ساری classes گھر بیٹھ کر لے گئیں ۔ پھر Research شروع ہوا اور اس کے بعد میں نے گھر سے ہی بیٹھ کر Research پورا کیا ۔ اب میرا صرف Thesis submission رہتا ہے اور یہ کام بھی میں گھر سے ہی کر رہا ہوں ۔

(8) میں نے Mphil میں 28/9/2020 کو لیا تھا

(9) متبادل سکول میں کوئی بھی کام نہیں کرتا ۔ میں اپنی ڈیوٹی خود احسن طریقے سے سرانجام دے رہا ہوں ۔

Attested
AD

2/3

(10) یہ فقرہ نمبر (10) غلط ہے اس لیے انکار، کیونکہ میں اپنی ڈیوٹی خود سرانجام دے رہا ہوں۔

(11) یہ فقرہ نمبر (11) غلط، منگھڑت اور بے بنیاد ہے۔ جواباً عرض ہے کہ میں اپنی ڈیوٹی اور فرائض سرانجام دے رہا ہوں۔

(12) یہ فقرہ نمبر (12) غلط، منگھڑت اور بے بنیاد ہے۔ میری کوئی ڈیل نوٹری نہیں ہے اور اگر کوئی لکھا ہے کہ میری دوسری نوٹری بھی ہے تو آپ ان سے ثبوت مانگ سکتے ہیں۔

(13) یہ فقرہ نمبر (13) غلط، منگھڑت اور بے بنیاد ہے۔ میں کسی دوسری جگہ تعینات نہیں ہوں۔

(14) سروس کے مطابق ڈیل نوٹری کی اجازت نہیں ہے لیکن میں دوسری نوٹری کرتا بھی نہیں ہو۔

(15) Head in obedience آرڈر 9/06/2021 کو ہوئی تھی اور اس پر عمل ہی ہو چکا تھا۔ تقریباً ایک سال تک میری تنخواہ بند تھی۔ اسے بعد جو بھی فیصلہ ایجوکیشن آفس نے کیا قانون کے مطابق کیا۔

(16) مزکورین نے میری اولیٰ جہا الزامات عائد کیے دونوں کے الزامات بدلتی رہتی رہتی ہیں اصل میں دونوں مزکورین کے ساتھ ہمارے کھیلے 22 سال سے بہت سارے تنازعات موجود ہے اس لیے اب یہ دونوں مزکورین ہمیں نقصان پہنچانے کے لیے کوئی موقع

Alkeshal


3/3

پاٹھ سے جائے نہیں دیتے۔ آپ ان دونوں سے میری یہ نوٹری پر اعتراض
نہیں ہوگی اس لیے یہ بے بنیاد، منگھڑت اور غلط التزامات لکائی
ہیں۔

آخر میں آپ صاحبان سے استوعا کرتا ہوں کہ ان مزوریں
(ریحان زیب اور حبیب الرحمن) نے ذاتی مفادات کے لیے دو دفعہ

GMS کنفیڈرل پورٹس کو بند کرنے کے لیے 20 قیبتی دنوں کی
اور سب سے گورنمنٹ کو چیلنج بھی کیا، آپ ان کے خلاف کارروائی
کرنے کے لیے قیبتی وقت فیاع پر ملامت کرے۔

لیجنا استوعا ہے کہ ان مزوریوں نے لگائے گئے بے جا التزامات پر
شروع کی گئی انکو الٹی کو خارج فرمایا جائے۔


27/02/2023

شکریہ

Attested

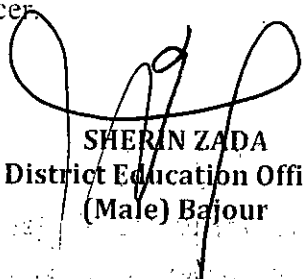



(12) (13)

**OFFICE OF THE DISTRICT EDUCATION OFFICER
(MALE) BAJOUR.**

AUTHORITY LETTER

I, **SHERIN ZADA District Education Officer (Male) Bajour** do hereby authorized Mr. Sayyed Akbar Shah, ASDEO Litigation office of the District Education Officer (M) Bajour for submission of Joint Parawise Comments in **Service Appeal No. 2549-50/2023 case titled Imad Ud Din and 01 others District Bajour Vs Government of Khyber Pakhtunkhwa & others**, hence, an authority letter is hereby issued in favor of the above-named officer.


SHERIN ZADA
District Education Officer
(Male) Bajour