


# FORM OF ORDER SHEET

Court of \_\_\_\_\_

**Appeal No.** 1109/2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	07/08/2024	<p>The appeal of Mr. Umar Rehman presented today by Mr. Mir Zaman Safi Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on 09/08.2024. Pareha Peshi given to counsel for the appellant.</p> <p>By the order of Chairman</p>  <p><b>REGISTRAR</b></p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
PESHAWAR.

Appeal NO. \_\_\_\_\_/2024

Umar Rehman. VS Education Deptt

APPLICATION FOR FIXATION OF THE ABOVE TITLED Appeal AT  
PRINCIPAL SEAT, PESHAWAR

Respectfully Sheweth:

1. That the above mentioned *Appeal* is pending adjudication before this Hon'ble Tribunal in which no date has been fixed so far.
2. That according to Rule 5 of the Khyber Pakhtunkhwa Service Tribunal Rules 1974, a Tribunal may hold its sittings at any place in Khyber Pakhtunkhwa which would be convenient to the parties whose matters are to be heard.
3. That it is worth mentioning that the offices of all the respondents concerned are at Peshawar and Peshawar is also convenient to the appellant/applicant meaning thereby that Principal Seat would be convenient to the parties concerned.
4. That any other ground will be raised at the time of arguments with the permission of this Hon'ble tribunal.

*Appeal* It is therefore prayed that on acceptance of this application the \_\_\_\_\_ may please be fixed at Principal Seat, Peshawar for the Convenience of parties and best interest of justice.

Appellant/Applicant

Dated: \_\_\_\_\_

Through

*M. Zaman Safi*  
MIR ZAMAN SAFI  
ADVOCATE

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

APPEAL NO. 1109 /2024

UMAR REHMAN

VS

EDUCATION DEPTT:

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**APPELLANT**

THROUGH: 

**MIR ZAMAN SAFI,**  
**ADVOCATE**

Room No. 6-E, 5<sup>th</sup> Floor,  
Rahim Medical Centre,  
Hashtnagri, Peshawar  
0333-9991564

①

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

APPEAL NO. 1109 /2024

Mr. Umar Rehman, Ex-Chowkidar,  
GPS Sabar Shah, Batkhela, District Malakand.....**APPELLANT**

**VERSUS**

- 1- The Director, E&SE Department, Khyber Pakhtunkhwa, Peshawar.
  - 2- The District Education Officer (Male) District Malakand.
- .....**RESPONDENTS**

**SERVICE APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 01.04.2024 WHEREBY ORDER OF THE REMOVAL FROM SERVICE DATED 06.11.2019 HAS BEEN KEPT INTACT AND AGAINST NO ACTION TAKEN ON THE DEPARTMENTAL APPEAL OF APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS.**

**PRAYER:**

That on acceptance of this departmental appeal the impugned order dated 01-04-2024 may very kindly be set aside and the appellant be reinstated into service with all back benefits i.e. w.e.f 06-11-2019. Any other relief which this August Tribunal deems appropriate may also be granted in favour of the appellant.

**R/SHEWETH:**

**ON FACTS:**

- 1- That the appellant was the employ of education department and was serving as chowkedar at GPS Sabar Shah Batkhela District Malakand quite efficiently and up to the entire satisfaction of his superiors.
- 2- That the appellant while performing his duty at the concerned station an allegation of moral turpitude by attempting sexual harassment of minor girls were leveled against the appellant on the basis of malafide intention and personal grudges. That on the basis of above mentioned allegations criminal case U/S-377B PPC/53 CPA under FIR No .106, dated 27/05/2019 in Levy Post Batkhela was registered against the appellant and as such departmental inquiry was conducted during the period when the appellant was behind the bar. Copy of the FIR & inquiry report are attached as annexure.....**A & B.**

respondent department issued the order of removal from service vide dated 06/11/2019. Copies of the Trial Court judgment dated 25.10.2019 and removal order dated 06.11.2019 are attached as annexure.....C & D.

- 4- That the appellant feeling aggrieved from the impugned order dated 06.11.2019 preferred departmental appeal followed by service appeal No. 1793/2019 before this august Tribunal which was accepted in favor of the appellant vide judgment dated 06/12/2023 by setting aside the impugned order dated 06/11/2019 with further directions to the authorities to conduct de-novo inquiry in the matter but the same was not conducted in the proper manner as per directions of the Hon'ble Service Tribunal. Copies of the departmental appeal, memo of service appeal & judgment dated 06.12.2023 are attached as attached as annexure.....E, F & G.
- 5- That in light of the direction issued by the Khyber Pakhtunkhwa Service Tribunal Peshawar in its judgment dated 06/12/2023, the respondent department conducted de nova inquiry in a hasty manner without associating the appellant and neither recorded statements of the affectees and as such other witnesses shown in the previous inquiry which shows clear malafide on the part of respondents. Copy of the Inquiry report are attached as annexure.....H.
- 6- That inquiry conducted by the respondent department is against the spirit of the judgment whereas the respondents badly failed to justify and prove their stance against the appellant. That on the basis of above alleged inquiry the respondent No.2 issued the impugned order dated 01/04/2024 whereby the removal order dated 06/11/2019 has been kept intact which has already been set aside by this august Tribunal vide judgment dated 06/12/2023. Copy of the impugned order is attached as annexure.....I.
- 7- That appellant feeling aggrieved from the impugned order dated 01/04/2024 preferred departmental appeal before the appellate authority, but no reply has been received so far from the quarter concerned. Copy of the departmental appeal is attached as annexure.....J.
- 8- That the appellant feeling aggrieved and having no other remedy but to file the instant appeal on the following grounds inter alia.

**GROUND**

A- That the impugned order dated 06/12/2023 issued by the respondent No.2 is against the law, facts, norms of natural justice and materials on the record, hence not tenable in the eye of law and the same is liable to be set aside.

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

- C- That respondent department has not issued charge sheet and statement of allegations before issuing the impugned order dated 01/04/2024.
- D- That no chance of personal hearing/defense has been provided to the appellant before issuing the impugned order dated 01/04/2024 which is necessary as per law and judgments of the Apex Court.
- E- That the inquiry conducted by the respondent department in answer question form, therefore the same is illegal and unlawful and as such the Apex Court declared such like inquiry in its judgments as null and void.
- F- That the inquiry officer recorded statements of the witnesses against the appellant in a same manner in the previous inquiry while no opportunity of cross examination has been provided to the appellant, hence the inquiry conducted by the respondent department is not in accordance with law and rules *ibid*.
- G- That the respondent department acted in arbitrary and malafide manner while issuing the impugned order dated 01/04/2024.
- H- That the impugned order dated 01/04/2024 is violative of the principle of natural justice, hence not tenable and liable to be set aside.
- I- That no final show cause notice has been issued by the respondent department before issuing the impugned order dated 01/04/2024.
- J- That no separate order has been issued by the respondent department while the previous order dated 06/11/2019 has been kept intact which has already been set aside by this August Tribunal in its judgment dated 06/12/2023.
- K- That the appellant seeks permission to advance other grounds and proofs at the time of hearing.

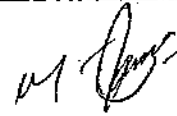
It is therefore, most humbly prayed that the appeal of appellant may very kindly be accepted as prayed for.

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Appellant

  
UMER REHMAN

Through:

  
MIR ZAMAN SAFI  
Advocate High Court Peshawar

**CERTIFICATE:**

It is certified that no other earlier appeal was filed between the parties.

  
DEPONENT

**LIST OF BOOKS:**

- 1- CONSTITUTION OF PAKISTAN, 1973.
- 2- SERVICES LAWS BOOKS.
- 3- ANY OTHER CASE LAW AS PER NEED.

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE, PESHAWAR

APPEAL NO. \_\_\_\_\_ /2024


UMAR REHMAN

VS

EDUCATION DEPTT:

AFFIDAVIT

I, Umar Rehman S/O Said Manan R/O Batkhela, District Malakand, do hereby solemnly affirm that the contents of this APPEAL are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Court.

  
UMAR REHMAN  
(APPELLANT)

CNIC NO. 15402-0193419-5  
CELL NO: 0300-2091821



(6)

# ابتدائی اطلاعی رپورٹ

کارم نمبر ۲۳-۱۵ (۱)  
 سائبہ تنہا  
 ۱۱۰۱-۱۹۴۱-۸۵  
 ۵۳۰۰-۵۷۳۸-۶۹

تاریخ وقت رپورٹ	24/5/2019
تاریخ وقت رپورٹ	27/5/2019
نام و سکونت اطلاع دہندہ مستفید	NIC: 15402-1005601-1 MOB: 0345-6040947
مختصر کیفیت جرم (معدومہ) حال اگر کچھ لیا گیا ہو	376-5H-53CPA 377B
جاے وقوعہ فاصلہ تھانہ سے اور سمت گورنمنٹ پولیس اسٹیشن کا نام	عمر علی ولد سیرض خان ساکی مرشد شاہ
نام و سکونت ملزم	عمر علی ولد سیرض خان ساکی مرشد شاہ
کارروائی جو تفتیش کے متعلق کی گئی اگر اطلاع درج کرنے میں توقف ہوا ہو تو وجہ بیان کرو	نہ دستبرد رپورٹ پر جہاں جاہاں ہے
تبادلہ سے روانگی کی تاریخ و وقت	

اجروز ۲۷/۵/۲۰۱۹ کو بوقت ابتدائی اطلاع نیچے درج کروئے صدر سے مستفید منزل خانہ میں پھر ان محل زیب خان ولد سردار عالم ساکی یہاں دو سیرہ علیہ عا و سیرہ خان مرشد شاہ طے کرنے میں ہی ہم نے سہ حاصل دینی ہر طرف ۱۱/۹ سال دستاورد ہاں جہاں رہے اسی رپورٹ کرنا سیرہ دستاورد ہو کر رہا، سیرہ حاصل ۶/۶ سال دستاورد سیرہ جو کہ گل زینت خان کی کچھ نہ۔ کہ شاہ بروز جمع فورم ۲۴/۵/۲۰۱۹ کو وقت کھوشل قریبی پڑوسی کسی ظالم ارحمان گھوسا کے بیٹے کی والدی پرنسڈ نوٹس ڈرامی سکول مرشد شاہ طے پہلے ملزم کے محل سیر خان ساکی مرشد شاہ طے جہاں مزورہ سکول میں نوٹس ڈرامی کے پیرہوں سے پیرہوں کے ناموں کی فہرستیں تیار کیں گے کے بیان سکول ضرورت کے اندر کے سائبر ایک کا پانڈ ہیر رہے ہے۔ اور جو وقت ضرورت کے بعد ملزم کے سکول کو سکول سے خارج کر کے ایسے ماحول میں لائے ہیں۔ اور پھر تدارک کی صورت میں ملزم کو بلائے ضرورت کے سکول سے غلطی مرتکب کی ہے۔ سکول سے واقفیت کے تحت تلی سے معلومات کی توجہ سے ہم نے محکمہ سٹانا اور واقفیت سے اجازت لیا۔ سیرہ ہیرے رپورٹ کے

CERTIFIED TO BE TRUE COPY

پاورٹ و ف ۲۰۱۹ صدر پورٹ سائیل کے لئے پورٹ و ف ۲۰۱۹  
 پورٹ و ف ۲۰۱۹ صدر پورٹ سائیل کے لئے پورٹ و ف ۲۰۱۹



پورٹ و ف ۲۰۱۹ صدر پورٹ سائیل کے لئے پورٹ و ف ۲۰۱۹  
 پورٹ و ف ۲۰۱۹ صدر پورٹ سائیل کے لئے پورٹ و ف ۲۰۱۹

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27/05/2019

CERTIFIED TO BE TRUE COPY  
 Registrar General  
 Malakand Division

NO OF APPLICANTS	2062
DATE OF APPLICATION	23.11.18
ADVANCE FEE	Nil
DATE OF COMPLETION	23.11.18
NO OF PAGES	02 pages
COURT FEE	
URGENT FEE	
NAME OF CLERK	ANNA HUSSAIN
DATE OF SIGNATURE	23.11.18

پاورٹ و ف ۲۰۱۹ صدر پورٹ سائیل کے لئے پورٹ و ف ۲۰۱۹

خدمت جناب اسٹریٹ ایکویکیشن آفیسر (مردانہ) ملاکنڈ

(49)

جناب درخواست بہت انکوائری جی نمبر 750792 مورخہ 27/08/2019 بر خلاف امرتسن  
(چوکیدار) گورنمنٹ پرائمری سکول نمبر 3 سبر شاہت علیہ ضلع ملاکنڈ

جناب عالی!

جناب درخواست جناب امرتسن حسب ذیل ہے۔

عذرات تمہیدی:

- (1) یہ کہ میں نے گناہوں اور میرے خلاف جھوٹی دعوی داری کی گئی ہے نیز میں تقریباً 21/22 سال سے سکول مذکورہ میں بحیثیت چوکیدار تعینات ہوں اور ان تمام عرصہ میں کوئی غیر اخلاقی کردار ادا نہیں کیا ہے بدیں وجہ انکوائری قابل اخراج ہے۔
- (2) یہ کہ میں دونوں مساتان مذکورہ کو نہیں جانتا ہوں اور نہ ہی ان کے ساتھ کوئی خلاف حرکت کی ہے اور دونوں مساتان سکول ہذا کے طلب علم نہ ہے، اور دونوں مساتان کے والدین نے اپنی ذاتی رجحان کی بنا پر میرے ساتھ مار پیٹ کر کے مجھے اس موجودہ بنیاد مقدمہ میں ملوث کیا ہے۔ اس لیے انکوائری قابل اخراج ہے۔
- (3) یہ کہ مقدمہ ہذا میرے خلاف جھوٹ پڑھی ہے اور میرے خلاف کسی قسم کے کوئی نا تعلق گواہ نے کوئی بیان نہیں دیا ہے اور موجودہ گواہان و تمام مقدمہ میں بر بدعتی رسالتی ہے۔ مقدمہ ابتدائی مراحل میں ہے اور تا فیصلہ عدالت محکمہ ہذا مجھے نوکری سے برخواست کر نیکار کرنا مجاز نہ ہے۔
- (4) یہ کہ میں نے محکمہ ہذا کے کسی قسم کی روڈز اتانوں کی خلاف ورزی نہیں کی ہے، اور نہ ہی اپنے تمام عرصہ نوکری میں کسی قسم کی شکایت / جرم میں ملوث رہا ہوں۔
- (5) یہ کہ میں ایک معزز و شریف خاندان سے تعلق رکھتا ہوں۔ اور میرے خلاف مقدمہ ہذا جھوٹ پر بنی ہے۔ اور مذکورہ انکوائری حکمانہ میرے غیر موجودگی میں ہو رہی ہے۔ اور مجھے اپنی صفائی کا پورا پورا حق حاصل ہے اور تا فیصلہ مقدمہ محکمہ ہذا میرے خلاف کسی ایکشن کا مجاز نہ ہے۔ بدیں وجہ مذکورہ انکوائری قابل اخراج ہے۔
- (6) یہ کہ میں اپنے محکمہ ہذا کو اپنے بے گناہی کی بہت ہر قسم کی تسلی دینے کو تیار ہوں۔ اور مقدمہ ہذا تا حال عدالت میں زیر تجویز ہے اور فیصلہ شدہ نہ ہے۔

باقی:

(1) ...

*Mehar Chand*

ہوں اور ان تمام عرصہ میں میرے خلاف کسی قسم کی غیر اخلاقی حکمانہ اعتراض موجود نہ ہے۔ نیز میں نے سہ ماہی مسائل اور مسائل ذہنی کیساتھ کسی قسم کا کوئی غیر اخلاقی حرکت نہیں کی ہے اس لیے انکار ہے۔

(2) فقرہ نمبر 2 غلط ہے بنیاد اور منکھوت ہے میں نے سہ ماہی مسائل اور سہ ماہی مسائل ذہنی کیساتھ کسی قسم کی غلط حرکت نہیں کی ہے اور نہ انکو جانا ہوں۔ اور دونوں مساتان سکول ملکہ روہ کے طالب علم نہ ہیں بلکہ وہ دونوں ایک پبلک سکول میں زیر تعلیم ہے۔ اور جو عویذ اور الزام میرے خلاف کی گئی ہے وہ جھوٹ پر مبنی ہے اس لیے انکار ہے۔

(3) فقرہ نمبر 13 اس حد تک درست ہے کہ مشیخت فریق نے بغیر کسی وجہ کے مجھے اپنے سکول کے اندر مارا یا اور میری تعین اور شلواری پھاڑ کر میری بے عزتی کی اور جب میں پولیس سٹیشن برائے رپورٹ بر خلاف مشیخت چلا گیا تو مشیخت فریق کی سیاسی اثر رسوخ کی وجہ سے متعلقہ پوسٹ کا اندر نے میرے خلاف جعلی FIR درج کی اور میرا رپورٹ درج کرنے سے انکار کیا اس لیے انکار ہے۔

(4) فقرہ نمبر 4 غلط اور بے بنیاد ہے میں مشیخت فریق کے خلاف FIR درج کرنے کے لیے متعلقہ تمام چلا گیا لیکن متعلقہ پوسٹ کا اندر نے میرا رپورٹ درج کرنے سے انکار کیا اور ایک جھوٹی مقدمہ موجودہ میں ملوث کر کے گرفتار کیا گیا اس لیے انکار ہے۔

(5) فقرہ نمبر 5 غلط ہے بنیاد اور منکھوت ہے۔ مشیخت فریق نے میرے خلاف کسی قسم کی کوئی لا تعلق گواہ کا بیان تلمیذ نہیں کیا ہے نیز مقدمہ ہذا اتذکرہ بالا ابتدائی مراحل میں ہے اور تاحال اشخاص نے کسی گواہ کا بیان تلمیذ نہیں کیا ہے نیز موجودہ گواہان اشخاص کے موقف کی تائید نہیں کرتے ہیں کیونکہ وقوعہ کا کوئی چشم دید گواہ موجود نہ ہے بدیں وجہ میرے خلاف کسی قسم کی انکوائری کرنے کا سوال ہی پیدا نہیں ہوتا ہے اور محض ننگہ ہذا کی قیمتی وقت کی ضیاع کے مترادف ہے اس لیے انکار ہے۔

(6) فقرہ نمبر 6 غلط ہے بنیاد اور منکھوت ہے میں نے کسی قسم کا جرم سرزد نہیں کیا ہے اور نہ ہی میں نے اپنی تمام سر دس کے عرصے میں ننگہ ہذا کے کسی قسم کے قانون اور لڑکی خلاف ورزی کی ہے۔ میں ایک شریف اور معزز خاندان سے تعلق رکھتا ہوں متذکرہ سکول کے لیے اراضی میرے والد نے دی تھی اور مشیخت امجدہ کی فاتح رحمن اور اس کی برادران کو میری نوکری کی تعیناتی پر اعتراض تھا جس کی وجہ سے ہمارے مابین کچھ عرصہ قبل شرف نسا دہا تھا اور اس خاندان کی وجہ سے مشیخت نے مجھ کو ایک جھوٹی مقدمہ میں ملوث کیا ہے۔ اس لیے انکار ہے۔

(7) فقرہ نمبر 7 غلط ہے بنیاد اور منکھوت ہے میں نے ابتداء ہی سے اپنی ذہنی بطریق احسن

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Annexure (2/1)

(3)

(8) فقرہ نمبر 10 سے لیا اور منکھوات ہے۔ میں نے کسی قسم کی جرم یا باغیاتی نہیں کی ہے اور

نہ کوئی انتہائی جرم کیا ہے نیز اس وقت میرے خلاف اپنا موقف ثابت نہیں کیا ہے اور خذ کر

مقدمہ میں میں حامل ہوا ہوں اور میں نے منکر ہذا کی کسی تاوان و Efficiency

and Discipline Rules 2011 کی خلاف ورزی نہیں کی ہے۔ میں نے منکر ہذا

تین دفعہ سے اس مرتبے پر منکر ہذا کو کسی سے برخواست کرنے کا مطالبہ ہے۔ اس لیے انکار ہے۔

(9) فقرہ نمبر 9 کے ضمن میں عرض ہے کہ میں نے گناہوں میں جوڑ بٹھل حوالات میں بے بنیاد

مقدمہ میں مفید ہوں۔ گناہوں کی فہرست میں اور ہی ہے جو کہ غیر قانونی اور غیر شرعی

ہے اور میرے خلاف تمام کارروائیوں کو ازلی جھوٹ پر مبنی ہے نیز میرا جواب درخواست اور

معیار ہے۔ اس لیے انکار ہے۔

(10) فقرہ نمبر 10 کے ضمن میں عرض ہے کہ میں نے گناہوں میں اپنے منکر ہذا کی ہر قسم کی تامل کر سکتا

ہوں۔ اور مجھے ایک جھوٹے اور بے بنیاد مقدمہ میں پابند سلاسل کیا گیا ہے۔

(11) فقرہ نمبر 11 غلط اور بے بنیاد ہے میرے خلاف کسی بھی لائق شخص نے کوئی بیان نہیں دیا ہے

بیانات اثنا جھوٹ پر مبنی ہے اور مجھے بدگناہی سے مقدمہ ہذا میں ملوث کیا گیا ہے۔

لہذا استدعا ہے کہ منظور کی جواب درخواست ہذا میرے خلاف دعویداری جھوٹ پر مبنی ہے اور

مقدمہ مسترد کر دیا جائے اور میرے خلاف کسی قسم کی گناہوں کی فہرست میں اور غیر شرعی ہے

پر میں نے گناہوں کی تین دفعہ مقدمہ ملوثی کیا جائے۔ اور مجھے اپنے بے گناہی ثابت کرنا پورا پورا حق دیا

جائے۔

مورخہ 02/09/2019

عریفی

(چوکیدار) عمر حسن ولد سید منان بکنہ محلہ نشا پیمان باغونہ صبر شاہ پٹ خیلہ ضلع لاہور حال جوڑ بٹھل

حوالات لاہور

Attested (Signature)

Superintendent  
O/o DEO (Welfare) at Bakhela

1

"C" - 10

IN THE COURT, OF  
AKBAR ALI, SCJ/ JUDGE MODEL TRIAL MAGISTRATE COURT  
MALAKAND AT BATKHELA.

Case No. 63/2 of 2019



STATE VS UMAR RAHMAN

Date of submission of challan: 11-07-2019  
\* Date of institution in this court: 20-09-2019  
Date of Decision: 25-10-2019

**J U D G M E N T**

Accused namely Umar Rahman S/O Said Manan was charged in case FIR No. 106 dated: 27-05-2019 U/S 377B PPC/53CPA Levy Post Batkhela.

Brief facts of the case as divulged in the FIR are that complainant Amjad S/O Amanullah alongwith Gulzaib Khan S/O Sardar Alam lodged the report to the effect that on 24-05-2019 at Asar Vaila Mst Manahil Deni D/O Amjad and Manahil D/O Alamzeb were enticed away by the accused Umar Rahman S/O Said Manan and took them to the Government Primary School for giving them books. Inside a room of the School accused facing trial had allegedly taken-off the cloths of Mst Manahil Deni aged 09/10 years and dabbed his hand on her private parts of the body for satisfaction of his sexual lust. Hence, the present FIR.

After completion of investigation in the case, complete challan was put in the Court on 11-07-2019 and the case was sent to Hon'ble District & Sessions Judge for trial in compliance with the provision of section 190(2) Cr.PC. Accused was summoned via Zamima bay who produced on 27-07-2019 and on the same day copies of relevant documents was provided to the accused. Charge against accused was framed on 07-08-2019 to which he did not pleaded guilt and claimed to face trial. Hence, prosecution witnesses were summoned. After establishment of Model Trial Magistrate Court, the case in hand was sent to this court for trial vide office order bearing endorsement No. 1601-15/D&SJ/ZQ, Malakand dated 11-07-2019 of the Honorable District & Sessions Judge Malakand. Prosecution in support of its case examined as many as 07 witnesses. A gist of prosecution evidence is as under.

AKBAR ALI  
District Magistrate  
Malakand

EXHIBIT  
CERTIFIED TRUE COPY  
Sessions District Judge Malakand

~~11~~ 11

PW-1 Ziyart Gul stated that he is marginal witness to the recovery memo Ex:Pw-  
vide which the I.O took into possession two separate books Ex:P1 and Ex:P2.



PW2 Naib Subedar Umar Wahid stated that he submitted complete challan Ex:Pw-

PW-3 Gul Zeb Khan, PW-4 Amjad and PW-5 Alamzaib repeated the story of FIR.

PW-6 Muharrar Zakir Hussain No. 5249 stated that he reduced into writing the report in shape of FIR Ex:PA and he placed on file copies of daily dairy No. 12 and 13 Ex:Pw-6/1 and Ex:Pw-6/2.

PW-7 IHC Ali Rahmat stated that on receipt of copy of FIR he proceeded to the spot, vide application Ex:Pw-7/1 sought opinion of DPP, inserted section 377B vide memo Ex:Pw-7/2, prepared site plan Ex:Pw-7/3, placed on file daily dairy No. 12 already Ex:Pw-6/1, issued card of arrest of accused Ex:Pw-7/4, placed on file daily dairy No. 13 already Ex:Pw-6/2, took into possession two books Ex:P1, Ex:P2 vide recovery memo already Ex:Pw-1/1 and Ex:Pw-1/2, placed on file pictures of the victims Ex:Pw-7/5, Ex:Pw-7/6, placed on file copy of register No. 19 applied for departmental proceedings against the accused vide application Ex:Pw-7/8, produced the accused for physical custody vide application Ex:Pw-7/9, produced the accused pre-remand medical examination vide application Ex:Pw-7/10, produced the accused for recording confessional statement vid application Ex:Pw-7/11, placed on file copy of the letter for departmental action against accused Ex:Pw-7/12, recorded statements of PWs u/s 161 Cr.PC and on completion of investigation handed over the case file to Post Commander for submission of complete challan.

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Sessions Division Malakand

Thereafter learned APP for the State closed prosecution evidence. After the closure of prosecution evidence statement of accused U/Sec: 342 Cr.PC recorded wherein he denied all the allegations. He neither wished to be examined on oath U/Sec: 340 (2) Cr.PC nor to produce evidence in defence.

After having heard the arguments of both sides and gone through the evidence in minute manner, it reveals that complainant and attestator of FIR are not the eyewitness of the occurrence. Similarly, the FIR was lodged with unexplained delay of 03 days. It is interesting to note that both the female victims are students of private schools and

AKBAR ALI  
Magistrate Court  
Malakand

question does arise in the mind of prudent as to why they opt to collect books of Government Schools. The story of prosecution is not supported by any independent and impartial evidence. Moreover, Pw-3. Gulzaib Khan, Pw-4 Amjad and Pw-5, Alamzaib admitted in the cross examination that they have patched up the matter with accused facing trial. Admittedly Section 377B PPC is not compoundable, however, according to the worthy judgment reported in PLD 2016 Peshawar 26 non compoundability of a section of law should not be read in isolation but it should be read in the background of each case and beneficiary interpretation should be given. It was further held that when the parties in the case have earnestly decided to live in peace by forgetting all the differences then it would be a need of the hour to accept compromise and to acquit the accused despite the non compoundability.

There are many contradictions in the statements of PWs. This phenomena has made the case of prosecution highly doubtful. Therefore benefit of doubt goes in favour of the accused facing trial.

It has been held by his Lordship in his Worthy judgment, reported as 2013 YLR 684, Peshawar., Relevant Para is reproduced is as under:

**Criminal Trial:-**

---Appreciation of Evidence---*To disbelieve a witness, it was not necessary that there should be numerous infirmities. Even if there was only such infirmity which impeached the credibility of the witnesses, same could make the entire statement doubtful. Conviction must be based on unimpeachable evidence and certainty of guilt, and any doubt arising in the prosecution case must be resolved in favour of accused.*

**Criminal Trial:-**

-----Conviction-----*Principles of Sharia Law -----Scope-----Basic principle of Sharia Law was that conviction must be based on evidence beyond any shadow of doubt; as the damage resulting from erroneous sentence was irreversible and due to the principle, that it was better to acquit guilty person than to punish an innocent one.*

Further, it has been held by their Lordships in the Worthy judgment, reported as 2013, PCrLJ, 1122 Peshawar., Relevant Para is reproduced is as under:

**Criminal Trial:-**

----Appreciation of Evidence--- *Principles-----Prosecution has to prove his case beyond any shadow of doubt-----Evidence produced by the prosecution*



(AKBAR ALI)  
Saddat Raza (C.A. Case)  
Malakand at Bathel, Swat

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Sessions Court Malakand





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should prove un-interrupted chains to involve accused for the commission of offence -----If important chains to connect accused in the case were missing, entire prosecution story would be shrouded under the clouds of doubt.

Thus, in the light of above-mentioned facts and circumstance, it is crystal clear that prosecution has badly failed to prove the case against the accused beyond any shadow of doubt. Therefore, by extending the benefit of doubt in favour of accused, the accused facing trial is hereby acquitted from the charges leveled against him on merits as well as compromise. As he is in custody therefore, be released forthwith if not required in any other case. Case property, if any, be dealt in accordance with law. File after completion and compilation be consigned to record room of Hon'ble District & Session Judge Malakand.

ANNOUNCED  
25-10-2019

(AKBAR ALI)  
SCJ(Admn)/Judge MTMC,  
Malakand at Batkhela.  
(AKBAR ALI)  
Judge Model Trial Magistrate Court  
Malakand at Batkhela

CERTIFICATE

It is certified that this judgment consists of 04 pages each page has been duly read over, corrected and signed.

(AKBAR ALI)  
SCJ(Admn)/Judge MTMC,  
Malakand at Batkhela.  
(AKBAR ALI)  
Judge Model Trial Magistrate Court  
Malakand at Batkhela

CERTIFIED TO BE TRUE COPY  
Examined  
Secy. Dist. J. Malakand

NO OF APPLICANTS	7042
DATE OF APPLICATION	23-11-19
ADVANCE FEE	
DATE OF COMPLETION	23-11-19
NO OF PAGES	04 pages
COURT FEE	
URGENT FEE	
NAME OF COPYIST	PCOA KAS
DATE OF DELIVERY	23-11-19

"D"

14

OFFICE OF THE DISTRICT EDUCATION OFFICER  
(MALE) MALAKAND

Removal From Service/

WHEREAS, Mr. Umar Rahman, Chowkidar GPS Sabar Shah Batkhela District Malakand was proceeded against under the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011 on account of moral turpitude by attempting sexual harassment with two minor girls i.e. Manahil D/O Alamzeb and Manahil Deeni D/O Amjad in light of the complaint letter by the Sub-Divisional Magistrate Batkhela under memo: No. 2600 dated 27-05-2019 and its subsequent procedure under E&D Rules, 2011.

2. AND WHEREAS, a suspension order issued vide this office No. 4873-78/PST/Suspension 2019 dated 28-05-2019 and inquiry committee was constituted in light of the FIR No: 106 dated 27-05-2019 U/S 337B/53CPA at Levy Post Batkhela and requested for departmental action in the matter.

3. AND WHEREAS, the commitment of charges have been confessed as per Police Report, press clipping of Daily Mashriq Peshawar dated 30-05-2019.

4. AND WHEREAS, an inquiry committee consisting Mr. Fida Muhammad Principal GZSHS Dargai (Chairman Inquiry Committee) and Mr. Fazal Ahad Principal GHSS D/Julagram (Member Inquiry Committee) was constituted to report the facts in the matter vide this office Endst: 4880-84/Pry/Inq: dated 28-05-2019

5. AND WHEREAS, the inquiry Committee has also reported that the accused Chowkidar has been found guilty of committing the heinous and inhuman crime of sexual assault/ harassment with above two minor girls and recommended for imposing the major penalty under E&D Rules, 2011.

6. AND WHEREAS, Charge sheet, statement of allegations and show cause were served but the replies received from the Class-IV have been found clearly against the facts and charges levelled against the guilty class-IV have been proved.

7. Now, therefore, in exercise of powers conferred upon him under the rules 4 (B) (iii) of the Government servant (Efficiency and Discipline) Rules 2011, the competent Authority is pleased to impose upon Umar Rahman, Chowkidar GPS No. 3 Batkhela Sabar Shah District Malakand the major penalty of "Removal from service" from the date of his arrest i.e. 27-05-2019.

(Siraj Muhammad)

Competent Authority

District Education Officer (M)  
Malakand

Dated Batkhela the 26/11/2019

Endst; No. 1564-73 / Inquiry File Umar Rahman Chow:

Copy of the above is forwarded for information to the:-

- 1 Director, Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
- 2 Deputy Commissioner Malakand.
- 3 DMO, IMU E&SE Department Malakand At Batkhela.
- 4 DAO Malakand for necessary action at his end
- 5 SDEC (M) Batkhela, Distt: Malakand with the direction to recover salary/ of suspended period if drawn.
- 6 ADO-Litigation Local Office.
- 7 PSHT GPS No. 3 Batkhela District Malakand with the direction to hand over copy of this Notification to the accused Class-IV through any of his family member.
- 8 Umar Rahman Ex-Chowkidar GPS No. 3 Batkhela Sabar Shah District Malakand
- 9 Dealing Assistant, IMU matters local office.
- 10 Office Copy.

District Education Officer (M)  
Malakand

بخدمت جناب ڈسٹرکٹ ایجوکیشن آفیسر (مردانہ) ملاکنڈ

ڈیپارٹمنٹل ایپل ایل بر خلاف جی نمبر 73-1564 مورخہ 06/11/2019 جسکے رو سے محکمہ ہذا نے ایپلٹ کو غیر قانونی، غیر شرعی طور پر Service Rules and Regulation کے خلاف پوسٹ چوکیدار سے Remove کیا گیا ہے جو کہ قابل منسوخی ہے۔

"E" - (16)

استدعا ایپل بمنظوری ایپل ہذا Removal from Service order

محررہ 06/11/2019 منسوخ کرنے اور سن ایپلٹ کو اپنے پوسٹ پر دوبارہ تعینات کرنے کے احکامات صادر فرمائیں۔

جناب عالی:

ایپلٹ حسب ذیل عرض کرتا ہے۔

- (1) یہ کہ ایپلٹ محکمہ ہذا میں سال 27/11/1996 سے بطور چوکیدار تعیناتی ہوئی ہے اور اس پورے عرصے میں ایپلٹ اپنے ڈیوٹی ایچھے طریقے سے سرانجام دی ہے۔ (نقل سروس کارڈ لف ہے)
- (2) یہ کہ ایپلٹ کے خلاف ایک جھوٹی فوجداری مقدمہ علت نمبر 106 مورخہ 27/05/2019 Show Cause 377B/53CPA تھا نہ بٹ خلیلہ دائر کی گئی تھی اور اس وجہ سے محکمہ ہذا نے سن ایپلٹ کو Show Cause نوٹس بھجوایا تھا جس کے تفصیلی جواب بروقت داخل کی گئی ہے۔
- (3) یہ کہ متذکرہ بالا فوجداری مقدمہ میں استغاثہ اپنے موقف کو ثابت کرنے میں بری طرح ناکام ہوئی اور سن ایپلٹ کو عدالت مجاز نے باعزت طور پر بری کیا گیا ہے۔ (نقل فیصلہ لف ہے)
- (4) یہ کہ محکمہ ہذا نے بغیر کسی خوب تسلی اور اطمینان کے اپنے ذاتی احساسات اور مفروضات پر سن ایپلٹ کو غیر قانونی، غیر شرعی اور Service Rules Regulation اور حسب ضابطہ کاروائی سے قبل سروس سے Remove کیا گیا ہے جو کہ قابل منسوخی ہے۔
- (5) یہ کہ سن ایپلٹ بے گناہ ہے اور کبھی بھی کسی کے ساتھ کوئی غیر اخلاقی حرکت نہیں کی ہے اور استغاثہ نے محض اپنے ذاتی عناد کی وجہ سے سن ایپلٹ کے خلاف جھوٹی FIR درج کی تھی جسکو استغاثہ نے میرے خلاف ثابت نہیں کیا ہے۔
- (6) یہ کہ قانون اور انصاف کا تقاضا ہے کہ ہر فریق کو اپنے دفاع کے لیے پورا موقع دینا چاہیے۔ بدیں وجہ بھی Removal Order قابل منسوخی ہے۔

لہذا استدعا ہے کہ بمنظوری ڈیپارٹمنٹل ایپل Removal Order کو منسوخ فرمایا جا کر اپنے پوسٹ پر دوبارہ تعینات کرنے کے احکامات صادر کریں۔ نیز دیگر دائر کی جو قرین انصاف ہو بھی مرحمت فرمائیں۔

التاریخ 11/11/2019



عریضے

عمر رحمان ولد سید منان پکنہ نشا پچیاں باغون میزارہ تحصیل بٹ خلیلہ ضلع ملاکنڈ

-5- "F" (16)

**BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR**

Service Appeal No \_\_\_\_\_/2019

Umar Rehman S/O Said Manan Ex Chowkidar Govt. Primary School Sabar Shah Batkhela District Malakand.

.....Appellant

**V E R S U S**

1. District Education Officer (Male) Malakand.
2. Director, Elementary and Secondary Education Khyber Pakhtunkhwa Peshawar.
3. Secretary, Elementary and Secondary Education Khyber Pakhtunkhwa Peshawar. ....Respondents

**APPEAL U/S 4 OF THE KPK SERVICE TRIBUNAL ACT 1974 AGAINST THE ORDER/LETTER DATED 20-11-2019 WHEREBY DEPARTMENTAL APPEAL OF THE APPELLANT FILED AGAINST THE ORDER DATED 06-11-2019 OF RESPONDENT NO 2 HAS BEEN REJECTED.**

**PRAYER:-**

On acceptance of this appeal the impugned Orders dated 20-11-2019 and Order dated 06-11-2019, may kindly be set aside and the appellant may kindly be ordered to be reinstated in service with all back benefits.

**Respectfully Submitted:-**

1. That the appellant was appointed as Class-IV employee in the respondent department on 21-11-1996 and since then he performed his duties with honesty and full devotion and to the entire satisfaction of his high ups.
2. That the appellant while lastly posted as Chowkidar Govt. Primary School Sabar Shah Batkhela was suspended vide Order dated 28-05-2019 and was issued Charge Sheet with statement of allegations on 26-08-2019, which the appellant replied in detail denying the allegations. **(Copy of Suspension Order dated 28-05-2019, Charge Sheet & Reply therein is enclosed as Annexure A, B & C).**

- 2-      (17)
3. That there after an illegal inquiry was conducted where after Show Cause Notice was issued to the appellant which he also replied refuting the allegations. **(Copy of Show Cause Notice & Reply is enclosed as Annexure D & E).**
  4. That finally the appellant was acquitted of the charges by the Court of competent jurisdiction vide Judgment dated 25-10-2019. **(Copy of Judgment dated 25-10-2019 is enclosed as Annexure F).**
  5. That the appellant was awarded the punishment of removal from service by respondent No 1 vide Order dated 06-11-2019 from the date of arrest. **(Copy of Order dated 06-11-2019 is enclosed as Annexure G).**
  6. That the appellant filed departmental appeal on 11-11-2019 which was responded being regretted vide letter/order dated 20-11-2019. **(Copy of Departmental appeal and Order dated 20-11-2019 is enclosed as Annexure H & I).**
  7. That the impugned Orders dated 20-11-2019 and Order dated 06-11-2019 are against the law, facts and principles of justice on grounds inter alia as follows:-

#### GROUND S:-

- A. That the impugned Orders are illegal, unlawful and void ab-initio.
- B. That mandatory provisions of law and rules have badly been violated by the respondents and the appellant has not been treated according to law and rules.
- C. That the appellant was proceeded on the allegations of being involved in criminal case from which he has been acquitted by the Court of competent jurisdiction.
- D. That the appellant no proper inquiry has been conducted and the appellant was never provided opportunity of cross examination nor ever any evidence was collected during inquiry.
- E. That the appellant was suspended so the respondents were required to have waited till the decision of the Court.
- F. That the version of the appellant was never considered and as such too the inquiry is not a proper legal inquiry.

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G. That the appellant was not provided reasonable opportunity of personal hearing and as such too he has been denied fundamental-right of treatment according to law.

H. That the appellant has about 23 years of service with unblemished service record.

I. That the appellant seeks the permission of this honorable tribunal for further/additional grounds at the time of arguments.


It is therefore prayed that appeal of the appellant may kindly be accepted as prayed for in the heading of the appeal.

Any other relief deemed appropriate and not specifically asked for, may also be granted in favor of the appellant.

Dated:-09-12-2019

  
Appellant

Through

  
Fazal Shah Mohmand  
Advocate, Peshawar

## AFFIDAVIT

I, Umar Rehman S/O Said Manan Ex Chowkidar Govt. Primary School Sabar Shah Batkhela District Malakand, do hereby solemnly affirm and declare on oath that the contents of this **Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this honorable Tribunal.

  
DEPONENT

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR AT  
CAMP COURT SWAT

Service Appeal No. 1793/2019

BEFORE: MRS. RASHIDA BANO ... MEMBER (J)  
MR. MUHAMMAD AKBAR KAHAN ... MEMBER (E)

Umar Rehman S/O Said Manan Ex. Chowkidar Government Primary  
School Sabar Shah Batkhela District Malakand.

.... (Appellant)

VERSUS

1. District Education Officer (Male), Malakand.
2. Director, Elementary and Secondary Education Department, Khyber  
Pakhtunkhwa, Peshawar.
3. Secretary, Elementary and Secondary Education Department, Khyber  
Pakhtunkhwa, Peshawar. .... (Respondents)

Mr. Mir Zaman Safi  
Advocate ..... For appellant

Mr. Muhammad Jan  
District Attorney ..... For respondents

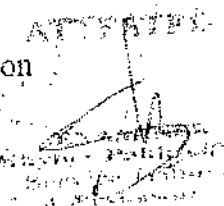
Date of Institution.....16.12.2019  
Date of Hearing.....06.12.2023  
Date of Decision.....06.12.2023

JUDGMENT

RASHIDA BANO, MEMBER (J): The instant service appeal has been  
instituted under section 4 of the Khyber Pakhtunkhwa Service Tribunal, Act  
1974 with the prayer copied as below:

“On acceptance of this service appeal, the impugned order  
dated 20.11.2019 and 06.11.2019 may kindly be set aside  
and the appellant may kindly be reinstated in service with  
all back benefits.

2. Brief facts of the case, as given in the memorandum of appeal, are that  
appellant was appointed as Class-IV vide order dated 21.11.1996 in Education



R

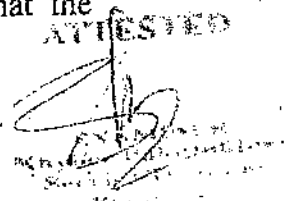
Department. While he was posted as Chowkidar at Primary School Sabar Shah Batkhela, was involved in a criminal case on the basis of which, he was issued a charge sheet and statement of allegations on 26.08.2019, reply of which was given by the appellant, which was found unsatisfactory and enquiry officer submitted his report on 10.08.2019. Final show cause notice was issued to the appellant on 03.10.2021, reply of which was also found unsatisfactory and appellant was dismissed from service vide impugned order 06.11.2019. Feeling aggrieved, appellant filed departmental appeal, which was regretted vide impugned order dated 20.11.2019. Hence, the instant appeal.

3. Respondents were put on notice who submitted written replies/comments on the appeal. We have heard the learned counsel for the appellant as well as the learned District Attorney and perused the case file with connected documents in detail.

4. Learned counsel for the appellant argued that appellant has not been treated in accordance with law and rules. He further argued that impugned orders are illegal, unlawful and void ab-initio, hence liable to be set aside. He further argued that no proper inquiry was conducted and the appellant was never provided opportunity of cross examination nor any evidence was collected during inquiry. He submitted that appellant was suspended so the respondents were required to have waited till the decision of court but they in haste issued impugned orders which is against the norms of natural justice. He further submitted that appellant was proceeded on the allegations of being involved in criminal case from which he has been acquitted and he was treated in accordance with law.

5. Learned District Attorney contended that the appellant has been treated in accordance with law and rules. He further contended that the

ATTESTED



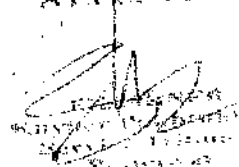


appellant was involved in immoral activities/alleged harassment of two minor girls of the area, on the basis of which appellant was suspended. Inquiry committee was constituted by appointing Mr. Fida Mohammad, Principal and Mr. Fazal Ahaad Khan, Principal. During inquiry charge sheet and statement of allegation was issued to the appellant. After fulfillment of all codal formalities, the appellant was rightly dismissed from service.

6. Record reveals that allegation in a criminal case and in statement of allegation are that appellant attempted sexual harassment with two minor girls namely Manahil d/o Alamzeb, aged 5 years and Manahil Deeni d/o Amjad aged about 9 years. Appellant was arrested on 27.05.2019 and was behind the bar at the time of inquiry which is evident from the reply and final show cause notice as same was sent from judicial lock up. Appellant was acquitted from the said charges by the court of SCI/Judge Model Trial Magistrate Court vide order dated 25.10.2019. Inquiry officer although recorded statement of Manahil Deeni victim girl, Nazim and locals of the vicinity but no chance of cross examination was provided to the appellant, as he was in judicial lockup which means that he was departmentally condemned unheard.

7. It is a well settled legal proposition that regular inquiry is must before imposition of major penalty of removal from service, whereas in case of the appellant, no such inquiry was conducted. The Supreme Court of Pakistan in its judgment reported as 2008 SCMR 1369 have held that in case of imposing major penalty, the principles of natural justice required that a regular inquiry was to be conducted in the matter and opportunity of defense and personal hearing was to be provided to the civil servant proceeded against, otherwise civil servant would be condemned unheard and major penalty of dismissal

ATTENDED



from service would be imposed upon him without adopting the required mandatory procedure, resulting in manifest injustice. In absence of proper disciplinary proceedings, the appellant was condemned unheard, whereas the principle of 'audi alteram partem' was always deemed to be imbedded in the statute and even if there was no such express provision, it would be deemed to be one of the parts of the statute, as no adverse action can be taken against a person without providing right of hearing to him. Reliance is placed on 2010 PLD SC 483.

8. For what has been discuss above, we are unanimous to set aside the impugned order and reinstate the appellant into service for the purpose of de-novo inquiry with direction to respondent to provide opportunity of self-defense hearing and most importantly cross examination upon all whose statement recorded during inquiry. Costs shall follow the event. Consign.

9. Pronounced in open court at camp court swat and given under our hands and seal of the Tribunal on this 6<sup>th</sup> day of December, 2023.

(MUAHAMMAD AKBAR KHAN)  
Member (M)

(RASHIDA BANO)  
Member (J)

\*Kaleemullah

Certified to be true copy

Khayber Pakhtunkhwa  
Service Tribunal  
Peshawar

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Total 20/-  
Name of Officer  
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Date of Receipt of Copy 15/01/24

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Integration Office  
GHS Batkhela

Office of the Principal Government Higher Secondary School Sakhakot, Malakand.


No. 840 GHSS Sakhakot.

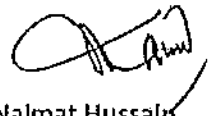
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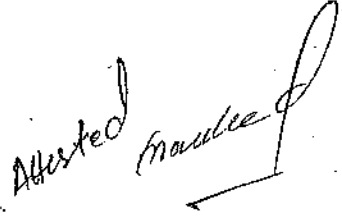
To,  
The DEO (M),  
Malakand at Batkhela.

Subject: Inquiry Report I.r.o. Mr. Umar Rahman chokidar GPS Sabar Shah Batkhela.

Enclosed please find herewith the inquiry report I.r.o Mr. Umar Rahman chokidar GPS Sabar Shah Batkhela conducted by the following inquiry officers:

  
1. Hayat Mohammad Khan  
Principal GHSS Sakhakot, Malakand.

  
2. Nalmat Hussain  
Headmaster GHS Heroshah, Malakand.

  
Muzammil Naveed

MUZAMMIL NAVEED  
Superintendent (SPS-17)  
O/o DEO (Basic) Malakand  
at Batkhela

INQUIRY REPORT

From: The Inquiry committee:

Date: 21/03/2024

- 1) Hayat Mohammad Khan, Principal GHS Sakhakot (chairman)
- 2) Naimat Hussain, Head Master GHS Heroshah (member)

To: The District Education Officer (M), Malakand at Batkhela, Malakand.

**INTRODUCTION**

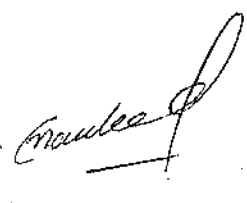
Mr. Umar Rahman, chowkidar, GPS Sabar Shah, Batkhela, was removed from service after his involvement in harassment of two minor girls. Being aggrieved from his removal, he filed a service appeal bearing No. 1793/2019 before the Honourable Service Tribunal Peshawar. He was, therefore, re-instated for the purpose of de-novo inquiry by the Service Tribunal.

The said de-novo inquiry was assigned to this inquiry committee by the DEO (M) Malakand vide his office order Endst. No. 518-25/Dated 24/01/2024 (annexed as A).

**PROCEEDINGS AND FINDINGS**

After going through the earlier files of the case, respondents of the previous inquiry were served upon with questionnaires. It is pertinent to mention here that responses of two respondents of the previous inquiry could not be recorded because Mr. Fateh ur Rahman has died (the accusers two minor girls used to go to Fateh ur Rahman's house, for tuition) and Mr. Safdar Ali did not cooperate though the inquiry officers attempted several times through his phone No. 03459337972 to get his response.

- A. Statement given by Mr. Alamzeb (annexed as C), father of the accuser minor girl Manahil Bibi, to the questionnaire (annexed as B), consists of the following points:
  - 1. That he had no quarrel, enmity or any other issue with Mr. Umar Rahman before this incident.
  - 2. That although, Mr. Umar Rahman was not innocent in this case but he made compromise with him after his repeated requests through *jirga*/elders. That the other reason for reconciliation was that the case was a matter of honour not to spread further.
  - 3. That he has no objection if Mr. Umar Rahman is re-instated on his service.
- B. Statement given by Mr. Amjad Ali, father of the accuser minor girl Ms. Manahil Deeni through whatsapp voice message (phone No.03456040947) to the questionnaire (annexed as D), contains the following points: (Amjad Ali is nowadays in Saudi Arabia)
  - 1. That he had good terms with Mr. Umar Rahman before the incident but they beat him and ended relations with him after his dirty act because no one can bear his children's honour being damaged. That the other affected party beat him even more than they did.
  - 2. That they compromised with Mr. Umar Rahman after his repeated requests through his elders for compromise. That they compromised for the sake of their honour not to spread further.
  - 3. That the minor girls gave their own statements at the Levles Thana.
  - 4. That he has no objection if he is re-instated.

*Attested* 

MUHAMMAD MAVEED  
Superintendent (SPS-17)  
O/e DEO (Mats) Malakand  
at Batkhela

- C. Statement given by Mr. Fazal Rahman (annexed as F), chairman PTC, GPS Sabar Shah, Batkhela, to the questionnaire (annexed as E) consists of the following points:
  1. That all the parents of the students used to say that they would take their children out of the school because of Mr. Umar Rahman, so, he was also of the view that Mr. Umar Rahman was not a virtuous man.
  2. That he has no objection if Mr. Umar Rahman is re-instated on his service.

- D. Statement given by Mr. Rasool Bacha (annexed as G), naib nazim, Malzara, Batkhela, to the previous inquiry officers, consisted of the following points:
  1. That Mr. Umar Rahman was a man of savage character.
  2. That the honour of children was not safe in the presence of the chowkidar (Umar Rahman).
  3. That if the chowkidar was re-instated, they would take their children out of the school and admit them in another school.
  4. That there was a fear of public reaction if the chowkidar was re-instated.

Mr. Rasool Bacha was several times contacted by this inquiry committee on phone but each time he was not willing to cooperate. Finally, his response on his previous four points (mentioned above) was taken on phone (03469451436, dated 02/03/2024). He affirmed his previous statement mentioned above.

- E. Mr. Iqbal Hussain PSHT, GPS Sabar Shah, Batkhela had given statement (annexed as H) to the previous inquiry committee in which he had stated that the two affected minor girls had given their statements in front of the school staff. In this connection, Mr. Iqbal Hussain was contacted by this inquiry committee through his phone No.03139866618 about his previous statement mentioned above. He affirmed his statement given to the previous inquiry committee.

- F. Reply of Mr. Umar Rahman (annexed as J) to the 1<sup>st</sup> questionnaire (annexed as I) of this inquiry committee is reproduced here along with questions:

Q.1. Where were you on the day (24 May, 2019) you were accused? Were you at the school? If not, where were you?

Reply 1. On the day of the alleged incident, I was on duty at my school till 12:45 hours and then left for my maternal uncle's house in Badwan, Dir (L).

Q.2. What kind of books were there in the school that you wanted to give to the minor girls?

Reply 2. I do not know about school books because I am illiterate and I did not give any books to the children.

Q.3. Does the PTC chairman Mr. Fazal Rahman belong to your village?

Reply 3. Yes, Mr. Fazal Rahman belongs to my village and he has political differences with me since long.

Q.4. Does Mr. Rasool Bacha who had given statement against you, belong to your village?

Reply 4. Mr. Rasool Bacha belongs to our area, he is not naib nazim and he has given false statement against me to the levies due to his malice/theft.

Q.5. Who is Mr. Safdar Ali? Why did he fight with you?

Reply 5. I know Mr. Safdar Ali. There has been bitterness between us. I did not

*Muhammad Naveed*

MUHAMMAD NAVEED  
 Superintendent (SPS-17)  
 O/o DEO (Male) Malakand  
 at Barkhela

- fight with him but differences have been going on between our elders.
- Q.6. Why did the aforementioned persons give statements against you?  
Reply 6. I have differences with Mr. Fazal Rahman since long. I have differences with Mr. Rasool Bacha due to his previous malice/theft since long. My elders have differences with elders of Mr. Safdar Ali since long. The aforementioned persons implicated me in a false case by giving false statements to the levies.
- Q.7. How far is Mr. Fateh ur Rahman's house from your school?  
Reply 7. Mr. Fateh ur Rahman's house is adjacent to the school but I had bad relations with Mr. Fateh ur Rahman.
- Q.8. Mr. Fateh ur Rahman also gave statement against you, what could be the reason for this?  
Reply 8. Mr. Fateh ur Rahman gave false statement against me to the levies. Mr. Fateh ur Rahman used to demand school keys from me to use the school as a guest house and use school's water and electricity but I plainly refused many times. Due to this reason, relations between us strained. Mr. Fateh ur Rahman, along with other accusers, maliciously conspired to implicate me in a false case for defaming me and getting me removed from the school.
- Q.9. Apart from the aforementioned persons, the school PTC also passed a resolution against you, what could be the reason for this?  
Reply 9. Neither a PTC resolution was passed nor a school meeting was held regarding the allegations made against me. No record of this meeting can be found.
- Q.10. News about the said incident were also published in the newspapers. What could be the reason for this?  
Reply 10. I am unaware of what was published about the incident in the newspapers. It must have been appeared in the newspapers due to the rumours spread by the persons mentioned above including levies personnel to defame me in the society and to get me removed from the government service.
- Q.11. The affected minor girls came to the school and gave their statements against you in front of the inquiry committee on 30 May, 2019, their parents filed a report against you in the levies *thana* and they, along with other people of the area, also took off your *shalwar*. Why did they all take such extreme measures against you? Mention of each of them separately.  
Reply 11. The accuser minor girls have not given their statements against me in front of the inquiry committee. Parents of the minor girls have maliciously filed FIR against me pressurized by the persons mentioned above. No one in the area has tarnished my honour. No one has taken any untoward action against me.
- Q.12. When your *shalwar* was taken off, did you report the incident to the police? If not, why? If yes, what was the outcome?  
Reply 12. I did not report to the local police because no one has taken off my *shalwar* and no one has beaten me up. I was arrested by the levies force while on duty at night at the school.
- Q.13. Both the minor girls and their parents have not made such allegations against anyone in the area before, why did they make it against you?  
Reply 13. Neither I nor anyone else had done any dirty act with the two minor girls before

*Attested Maulana*  
MULLA AHMED MAWLA  
Superintendent (SPG-17)  
O/o DEO (Male) Malakand  
at Baitano

that is why their parents have not accused anyone. Parents and their minor girls made false and baseless allegations against me on the behest and advice of the above-mentioned persons.

Q.14. Has this incident not damaged the honour of the parents of the minor girls in the area? Who is responsible for it?

Reply 14. No such incident has happened and that the respect of the girls' parents has not been damaged. In fact, the above-mentioned persons have made an unsuccessful attempt to mislead the parents of the girls by creating a false story to vilify me and the parents of the girls in the society. I reserve the right to claim for my defamation because the aforementioned persons have unsuccessfully tried to defame me in the society.

Q.15. Have you made a reconciliation/compromise with the families of the minor girls? If yes, on what basis? Also provide us a copy of the compromise.

Reply 15. I have been honourably acquitted by the competent court after going through the entire record.

Q.16. In addition to all these statements and answers, if you have any other verbal or documentary evidence to prove your innocence, submit/describe it in detail.

Reply 16. I am innocent and I have been implicated in the case with bad faith. The prosecution has failed miserably to prove its case. I belong to a respectable and poor family. I have performed my duties as a watchman in the same school for about 22, 23 years. During this entire period, no one has made such absurd and false allegations against me before. My retirement is coming soon. I have four daughters, one married and three unmarried. I am the sole breadwinner of my family, so restoration of my job is requested.

G. Reply of Mr. Umar Rahman (annexed as K) to the 2<sup>nd</sup> questionnaire (annexed as K) of this Inquiry committee is reproduced here along with questions:

Q.1. After the incident, you were arrested where you gave your statement (annexed as L) in the levies *thana* Batkhela in which you confessed in detail what dirty act you had done with the two minor girls but why did you keep denying it afterwards?

Reply 1. I did not give confessional statement in *thana* Batkhela.

Q.2. You submitted an application dated 02/09/2019 (application annexed as M) to the DEO (M) Malakand in which (para 3, page 2) you admitted that people had disgraced you and taken off your *shalwar* but why did you keep denying it afterwards?

Reply 2. I did not submit the said application to the DEO(M).

Q.3. In the first questionnaire, you were asked why did you not report your disgrace to the police to which you replied that you had not been disgraced but, in your application dated 02/09/2019 (annexed as M) submitted to the DEO(M), you stated (para 3-4, page 2) that you wanted to report it to the police but the post commander refused to do so. Why is there a contradiction in your statements?

Reply 3. I did not submit the said application to the DEO (M).

*Attested*  
*Muhammad Nawaz*

MUHAMMAD NAWAZ  
Superintendent (SPS-17)  
O/a DEO (M) Malakand  
at Batkhela


- H. The inquiry committee visited GPS Sabar Shah on 02/03/2024 where the PTC meeting record was checked. It was observed that the PTC meeting of the school was held on 03/06/2019 in which a unanimous resolution was passed against Mr. Umar Rahman that Mr. Umar Rahman had committed a dirty act due to which he was termed as condemnable and unforgivable. That if he was not transferred to another school, the parents of the locality would shift their children to another school. (photocopy of the PTC meeting record annexed as N)
- I. The inquiry committee visited the levies thana Batkhela on 02/03/2024 where, the statement given by Mr. Umar Rahman (dated 30/05/2019) during custody in the said levies thana was confirmed in which he had confessed molestation of the minor girls by him. (Confessional statement of Umar Rahman annexed as L).

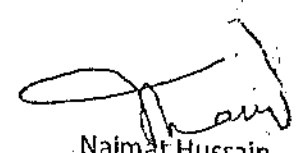
**CONCLUSION**

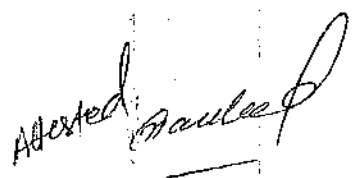
- 1. Though Mr. Umar Rahman evasively denied all the charges leveled against him and termed the respondents of the inquiry as malicious and antagonist to him but did not provide any solid proof in his support. Mere refutation and evasive denial cannot establish any proof in his support.
- 2. The following points support the accusations made against Mr. Umar Rahman:
  - a. Statements given by the two minor girls, their parents, Mr. Rasool Bacha naib nazim and Mr. Fazal Rahman chairman PTC of the school.
  - b. Mr. Umar Rahman's repeated requests for reconciliation with the accuser parties.
  - c. Mr. Umar Rahman's confessional statement in Thana Batkhela.
  - d. Contradictions in the statements given by Mr. Umar Rahman.
  - e. PTC's resolution passed in condemnation of Mr. Umar Rahman.
- 3. This inquiry confirms the reliability of the previous inquiry. It was properly conducted.

**RECOMMENDATION**

- 1. It is inferred from this inquiry that Mr. Umar Rahman could not prove himself as innocent. Therefore, Conclusion and Recommendations of the previous inquiry are upheld.

  
 Hayat Mohammad Khan  
 Principal GHSS Sakhakot,  
 Malakand. (Inquiry Officer)

  
 Naimat Hussain  
 Headmaster GHS Heroshah,  
 Malakand (Inquiry Officer)

  
 Muhammad Naveed  
 Superintendent (SPS-17)  
 O/e DEO (Male) Malakand  
 at Batkhela



سوالنامہ: نام عالم زینب والدہ مناعل

مقام: دفتر تعلیم (سی ای او) (مہربانی) جاکر اور بٹ جیلہ مورخہ: 21/02/2024

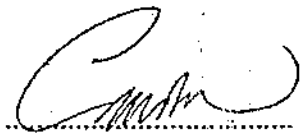
گورنمنٹ پرائمری سکول مہر شاہ بٹ جیلہ کے چوکیدار عمر رحمان کو آپ کی اور امجد کی کسمن بیچوں کے ساتھ نازیبا حرکات کرنے کی پاداش میں نوکری سے برخاست کر دیا گیا۔ اس نے سرواں ٹرائیکوئل میں درخواست دی کہ مجھے صفائی کا موقع نہیں دیا گیا۔ سرواں ٹرائیکوئل نے فیصلہ دیا کہ اس کو بھی سنا جائے اور ان تمام لوگوں کو بھی دوبارہ سنا جائے جو پہلی انکوائری میں شامل تھے۔ اس سلسلے میں آپ کے تعاون کی ضرورت ہے تاکہ انصاف کے تقاضے پورے ہوں۔ برائے مہربانی درج ذیل سوالات کے جوابات الگ کاغذ پر اپنے دستخط کے ساتھ لکھ کر دیں۔

سوال ۱: کیا چوکیدار عمر رحمان کے ساتھ وقوعہ سے پہلے آپ کی کوئی دشمنی یا جھگڑا یا کوئی اور مسئلہ تھا؟

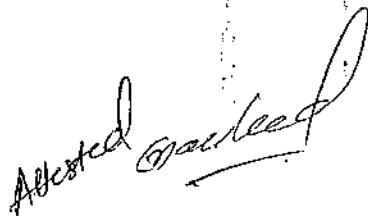
سوال ۲: کیا آپ نے چوکیدار عمر رحمان کے ساتھ صلح کیا ہے؟ اگر ہاں تو کیوں؟ کیا جرگے نے آپ کو مجبور کیا یا اگر وجہ کوئی اور تھی تو وضاحت کریں۔



نعت حسین (انکوائری آفسر)



حیات محمد خان (انکوائری آفسر)



MUBASHIR AHMAD  
Superintendent (SP-1-17)  
O/e DEO (M.A. Chakani)  
at Bahawalpur

حرفہ 21/02/24

انٹرویو اشرفی کے سامنے بیان

مقام: دفتر ڈی ای او (مردانہ) ٹاکنڈ ہسپتال

جواب 1- محترم عمران جویدار کیساتھ وقوع سے پہلے میدرا کوئی جھوٹا  
ڈھنسی یا کوئی اور جھنڈا نہیں تھا۔

جواب نمبر 2- میں نے محترم عمران جویدار کیساتھ میں نے صلح کیا ہے  
کیونکہ وہ مسلسل اشرفی کے ذریعے صلح کرنے پر مجبور کرنا تھا  
لیڈ میں نے نہیں چاہتا تھا کہ عزت کی یہ بات مزید نہ اچھائی جائے  
انکریم عمران کے لئے نہیں تھا۔ لیکن میں نے اپنی عزت کی خاطر اسے  
سالہ صلح کیا۔ اب انکریم کو اسے نوکری بحال کرنے چاہیے تو مجھے  
اس پر بھی کوئی اعتراض نہیں ہے۔

Blungob  
21/02/2024

عالم ریاض خان والد متامل بی بی  
NIC: 17101-0320834-1  
Cell No. 03163515142

c/signed

صابتہ عرفان  
میدرمن ڈیوٹی کیٹی

Niamat Hussain  
member Inquiry  
Committee

Attested

(31)

Page 10/11 Annexure D

سعودی عرب چلا گیا ہے

سوالنامہ بنام امجد والد مناعل دہلی

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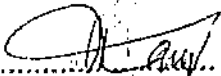
مقام: سعودی عرب۔ روزنامہ: ٹینس اینڈ فورن سیرس۔ مورخہ: 08/03/2024

گورنمنٹ پرائمری سکول صبر شاہ بٹ خیلہ کے چوکیدار عمر رحمان کو آپ کی اور عالم زیب کی کسٹ پیسوں کے ساتھ نازیبا حرکات کرنے کی پاداش میں نوکری سے برخاست کر دیا گیا۔ اس نے سروس ٹرانسپوٹ میں درخواست دی کہ مجھے صفائی کا موقع نہیں دیا گیا۔ سروس ٹرانسپوٹ نے فیصلہ دیا کہ اس کو بھی سنا جائے اور ان تمام لوگوں کو بھی دوبارہ سنا جائے جو پہلی انکوائری میں شامل تھے۔ اس سلسلے میں آپ کے تعاون کی ضرورت ہے تاکہ انصاف کے تقاضے پورے ہوں۔

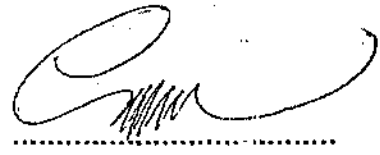
برائے مہربانی درج ذیل سوالات کے جوابات الگ کاغذ پر اپنے دستخط کے ساتھ لکھ کر دیں۔

سوال ۱: کیا چوکیدار عمر رحمان کے ساتھ وقوع سے پہلے آپ کی کوئی دشمنی یا جھگڑا یا کوئی اور مسئلہ تھا؟

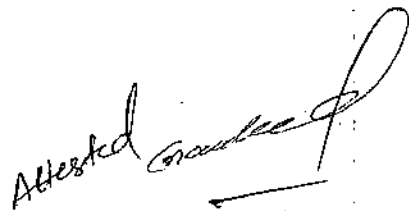
سوال ۲: کیا آپ نے چوکیدار عمر رحمان کے ساتھ صلح کیا ہے؟ اگر ہاں تو کیوں؟ کیا جرگے نے آپ کو مجبور کیا یا اگر وجہ کوئی اور تھی تو وضاحت کریں۔



نعت حسین (انکوائری افسر)



حیات محمد خان (انکوائری افسر)

Attested 


MUSLIM AGENCIES BOARD  
Superintendent (P&T)  
O/o DEO (Male) Malakand  
at Batkhela

سوالنامہ تمام فضل رحمان و جہمین بی بی ای سی گورنمنٹ پرائمری سکول مہر شاہ بٹ خیلہ، بالاکوٹ

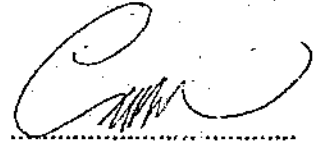
مقام: دفتر ڈی ای او (مردانہ) حاکم آباد بٹ خیلہ مورخہ: 21/02/2024

گورنمنٹ پرائمری سکول مہر شاہ بٹ خیلہ کے چوکیدار عمر رحمان کو دو کسٹن بچیوں کے ساتھ نازیبا حرکات کرنے کی پاداش میں اوکری سے برخاست کر دیا گیا۔ اس نے سروس ٹرانسپورٹ میں درخواست دی کہ مجھے صفائی کا موقع نہیں دیا گیا۔ سروس ٹرانسپورٹ نے فیصلہ دیا کہ اس کو بھی سنا جائے اور ان تمام لوگوں کو بھی دوبارہ سنا جائے جو پہلی انکوائری میں شامل تھے۔ اس سلسلے میں آپ کے تعاون کی ضرورت ہے تاکہ انصاف کے تقاضے پورے ہوں۔ برائے مہربانی درج ذیل سوال کا جواب الگ کاغذ پر اپنے دستخط کے ساتھ لکھ کر دیں۔

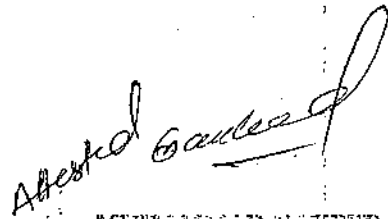
سوال: آپ نے اپنے بیان میں عمر رحمان چوکیدار کو بد چلن اور ناموسور کہا تھا۔ آپ نے اس کو ایسا کیوں کہا تھا؟



نعت حسین (انکوائری افسر)



حیات محمد خان (انکوائری افسر)



MUNSHI ATIQUL GADER  
Superintendent (S.O. 127)  
O/o DEO (N. No. Malakand  
at Batakhele

میان فضل رحمان ولد رحمان

بیٹی سی حیرتین جی ایس عبدالشاه بیٹ فیصلہ

مقام: دفتر ڈی ای او (مردانہ) مالاکنڈ بمقام بیٹ فیصلہ - مردانہ 21/02/2024

جواب: چونکہ اس وقت والدین سب عمر رحمان کو کیدار کے بارے

میں کہتا کرتا ہے کہ عمر رحمان کی وجہ سے ہم رہنے کیوں کو

سکوں سے نکال دیں گے لہذا ہم بیمار ہیں یہی خیال تھا

کہ یہ آدمی گھیب نہیں ہے۔ اب اگر حکومت عمر رحمان کو کیدار

کو فونکری پر بحال کرے تو ہمیں کوئی اعتراض نہیں ہے۔

*[Signature]*

فضل رحمان ولد رحمان 21/02/2024

NIC: 15402-6073173-9

cell no: 03449778897

c/signed

*[Signature]*

صیغہ لکھن

حیرتین رحمان لکھی

*[Signature]*

Niamat Hussain  
member Inquiry  
Committee

Attested *[Signature]*

MUHAMMAD NAWAZ  
Superintendent (Dy. 17)  
D/o DEO (P.O. & S.A. attend)  
at Bokinela



OFFICE OF THE  
DISTRICT EDUCATION OFFICER (M)  
MALAKAND

0932-410281

DEOMMalakand

emismalakandmale@gmail.com



**OFFICE ORDER**

"I" (34)

1. Whereas, Mr. Umar Rahman Chowkidar GPS Sabar Shah Batkhela District Malakand was proceeded under Khyber Pakhtunkhwa Government Servant (Efficiency and Discipline) rules, 2011 on account of moral turpitude by attempting sexual harassment of two minor girls i.e. Manahil D/O Alam Zeb and Manahil Deeni D/O Amjad, As a result there of, regular inquiry was conducted in the matter by the authority concerned, keeping in view the confessional statement of accused as per police reports and witness written statements through regular inquiry a major penalty of "Removal from Service" was imposed upon the accused under the rules 4(B) (iii) of the Government Servants (Efficiency & Discipline) rules, 2011. vide order bearing Endst No. 1564-73 dated, 06.11.2019. And.

2. Whereas, feeling aggrieved, the appellant invoked the constitutional jurisdiction under Article, 212 of the constitution of Islamic Republic of Pakistan, 1973 while filing service appeal No. 1793/2019 before the Honorable Khyber Pakhtunkhwa Service Tribunal Peshawar, which was decided vide judgment dated 06.12.2023, at camp court swat with the directions to the respondent Department for conducting proper inquiry/De-novo inquiry in the matter within a period of 90 days of receipt of copy the judgment ibid. And

3. Whereas, in compliance of the judgment ibid Mr. Umar Rahman S/O Said Manan Chowkidar GPS Sabar Shah Batkhela district Malakand was Re-instated for the purpose of De-Novo inquiry vide bearing Endst: No. 526-33 dated 24.01.2024, and a proper inquiry committee was constituted vide bearing Endst: No. 518-25 dated 24.01.2024, as per directions of the Honorable Service Tribunal, Peshawar rendered in judgment dated 06.12.2023. And

4. Whereas, an opportunity for personal hearing was provided to accused Mr. Umar Rahman through written questionnaire and written reply was recorded. All the previous witnesses were cross examined and report was submitted to the office of DEO (M) Malakand vide memo dated 21.03.2024; Perusal of the inquiry report transpires that Mr. Umar Rahman S/O Said Manan Chowkidar GPS Sabar Shah Batkhela district Malakand could not prove himself as innocent. therefore conclusion and recommendations of the previous inquiry are upheld. And

5. Whereas, as per the recommendations of De-Novo inquiry the major penalty of "Removal from Service" upon the accused may be up held, as it was previously imposed upon him.

Therefore, in compliance of the judgment dated 06.12.2023, of the Honorable Khyber Pakhtunkhwa Service Tribunal Peshawar, at camp court swat and as per the recommendations of the inquiry report dated 21.03.2024, discussed herein above, I, Midrar Ullah DEO (M) Malakand at Batkhela, being the competent authority, pleased enough to uphold the major penalty of "Removal from Service" imposed upon Mr. Umar Rahman Chowkidar GPS Sabar Shah Batkhela District Malakand by maintaining the order bearing Endst: No. 1564-73 dated 06.11.2019 in term of rule 4(B) (iii) of Government Servants (Efficiency & Discipline) rules, 2011.

(MIDRAR ULLAH)  
DISTRICT EDUCATION OFFICER  
(MALE) MALAKAND

Endst: No. 17762-70 Dated. 01/104/2024.

Copy forwarded for information and necessary action to the:-

1. Learned Registrar, Khyber Pakhtunkhwa Service Tribunal Peshawar.
2. Learned AAG Khyber Pakhtunkhwa Service Tribunal Peshawar.
3. PS to Secretary EBSE Department Khyber Pakhtunkhwa Peshawar.
4. Director (ESSED) Khyber Pakhtunkhwa Peshawar.
5. Deputy Commissioner Malakand.
6. District Account Officer Malakand.
7. SDED (M) Batkhela.
8. Mr. Umar Rahman Chowkidar GPS Sabar Shah Batkhela.
9. Office Record.

  
DISTRICT EDUCATION OFFICER  
(MALE) MALAKAND

To,

The Director,  
E&SE Department,  
Khyber Pakhtunkhwa, Peshawar.

"J" (35)

Subject: DEPARTMENTAL APPEAL AGAINST THE IMPUGNED ORDER DATED 01.04.2024 WHEREBY THE ORDER OF REMOVAL FROM SERVICE DATED 06.11.2019 HAS BEEN KEPT INTACT BY THE COMPETENT AUTHORITY

Respected Sir,

With due respect it is most humbly stated that the appellant was the employee of your good self-department and was performing his duty as Chowkidar at GPS Sabar Shah, Batkhela, District Malakand quite efficiently and upto the entire satisfaction of his superiors.

That the appellant was performing his duty at the concerned station an allegation of moral turpitude by attempting sexual harassment of minor girls were leveled against the appellant on the basis of malafide intention and personal grudges. That on the basis of above mentioned allegations criminal case under section 377B PPC/53CPA under FIR No. 106, dated 27.05.2019 in Levy Post Batkhela was registered against the appellant and as such departmental inquiry was conducted during the period when the appellant was behind the bar.

That the allegations leveled against the appellant has not been proved during the course of trial and as such the appellant was Honorably acquitted by the Trial Court vide judgment dated 25.10.2019 but despite that the authority concerned issued the order of removal from service vide dated 06.11.2019 against which the appellant preferred departmental appeal before your good-self followed by service appeal No. 1793/2019 before the Khyber Pakhtunkhwa Service Tribunal, Peshawar which was accepted in favor of the appellant vide judgment dated 06.12.2023 by setting aside the impugned order dated 06.11.2019 with further directions to conduct de-novo inquiry in the matter but the same was not conducted in the proper manner as per directions of the Hon'ble Service Tribunal.

That on the basis of above inquiry the authority concerned i.e. the District Education Officer (M), Malakand issued the impugned order dated 01.04.2024 whereby the removal order dated 06.11.2019 has been kept intact which has already been set aside by the august Service Tribunal in its judgment dated 06.12.2023.

That the allegation leveled against the appellant is baseless and the FIR was lodged against the appellant was on malafide intention just to

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vacate the post of Chowkidar in the above mentioned School where the appellant was performing his duty.

That in the enquiry the enquiry officer recorded statements of the witnesses in absence of the appellant and no chance of cross examination has been provided to the appellant.

That the appellant feeling aggrieved from the impugned order dated 01.04.2024 preferred this departmental appeal before your good self.

It is, therefore, most humbly prayed that on acceptance of this departmental appeal the impugned order dated 01.04.2024 may very kindly be set aside and the appellant be re-instated into service with all back benefits. Any other relief which your good self deems fit that may also be awarded in favor of the appellant.

Dated: 27.04.2024.

APPELLANT



UMAR REHMAN, Chowkidar,  
GPS Sabar Shah Batkhela, District Malakand



719

For RGL124346668

Rs. Ps.

Stamps annexed except in case of uninsured letters of not more than the initial weight prescribed in the Post Office Guide or on which no acknowledgement is due.

60

Insured a registered\*  
addressed to

12/1/4

Date Stamp

\*Write here "letter", "postcard", "packet" or "parcel" with the word "insured" before it when necessary.

Insured for Rs. (in figures)

(in words)

Insured

Insurance fee Rs. Ps. Name and address

Weight in words } Kilo Grams

VAKALATNAMA

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
PESHAWAR

\_\_\_\_\_ OF 2024

Umar Rehman

(APPELLANT)  
(PLAINTIFF)  
(PETITIONER)

VERSUS

Education Deptt.

(RESPONDENT)  
(DEFENDANT)

I/We Umar Rehman

Do hereby appoint and constitute **MIR ZAMAN SAFI, Advocate, Peshawar** 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

Umar Rehman

CLIENT.

Mir Zaman Safi

ACCEPTED

**MIR ZAMAN SAFI**  
**ADVOCATE**

OFFICE:

Room No.6-E, 5<sup>th</sup> Floor,  
Rahim Medical Centre, G.T Road,  
Hashtnagri, Peshawar.

Mobile No.0333-9991564  
0317-9743003