


Form-A

FORM OF ORDERSHEET

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

Case No. 1579/2024


S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	23.09.2024	<p>As per verbal direction of the Hon'ble Member Judicial the present appeal is fixed for preliminary hearing before Single Bench at Peshawar on 27.09.2024. Parcha Peshi giving to the counsel for the appellant.</p> <p style="text-align: right;"> REGISTRAR</p>

The appeal of Mr. Faiz Rasan received today i.e on 11.09.2024 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

1- Copy of departmental appeal against the impugned order dated 16.08.2024 is not attached with the appeal be placed on it.

No. 741 /Inst./2024/KPST,

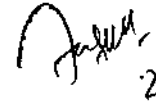
Dt. 12/9 /2024.

  
OFFICE ASSISTANT  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

Mr. Hamza Amir Gulab Adv.  
High Court at Peshawar.

See,

The impugned order has been passed by Appellate Authority v/R 17(2)(C) of E & D Rules, hence Appellant has impugned the same before this Hon'ble Tribunal.

  
23/9/24

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

Service Appeal No: 1579/2024

Faiz Rasan SPST GPS Aslam Abad Takht bhai District Mardan

..... Appellant

**VERSUS**

Director Elementary and Secondary Education Khyber Pakhtunkhwa  
Peshawar and other

..... Respondents

**INDEX**

S#	Description of Documents	Annex	Pages
1.	Service Appeal with Certificate		1-4
2.	Affidavit		5
3.	Addresses of parties		6
4.	Copy of order No. 2148-G, Dated: 04.03.2022	A	7
5.	Copy of Service Appeal No. 1071/2022	B	8-12
6.	Copy of judgment/Order Dated: 04.03.2024	C	13-18
7.	Copy of inquiry report No. 4046	D	19-23
8.	Copy of impugned order Dated: 16.08.2024	F	24
9.	Wakalatnama		25

*Rasan*  
Appellant

Through

*Hamza Amir Gulab*  
Hamza Amir Gulab

&

*Sidra Ali Khan*  
Sidra Ali Khan  
Advocates

(1)

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

Service Appeal No: 1579 /2024

Faiz Rasan SPST GPS Aslam Abad Takht bhai District Mardan

..... Appellant

**VERSUS**

1. Director Elementary and Secondary Education Khyber Pakhtunkhwa Peshawar.
2. District Education Officer (Male) Mardan

..... Respondents

**SERVICES APPEAL UNDER SECTION 4 OF KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED APPELLATE ORDER DATED: 16/08/2024 OF RESPONDENT NO 1 WHEREBY THE INTERVENING PERIOD HAS BEEN CONVERTED INTO LEAVE WITHOUT PAY.**

**PRAYER**

On acceptance of this appeal the impugned order Dated: 16/08/2024 of Respondent No 1 may graciously be modified to the extent of intervening period (with effect from 04.03.2022 to 07.09.2024) which has been converted into leave without pay be converted to period spent on duty along with all back benefits.

**Respectfully Sheweth**

**FACTS**

1. That the Appellant was inducted in Education Department in the year 1997 as PST and now serving as SPST GPS Aslam Abad Takht Bhai in BPS-14.

2. That the District Education Officer (Male) Mardan (Respondent No 2) vide order No. 2148-G Dated: 04/03/2022 imposed major penalty of compulsory retirement upon the Appellant. **Copy of order No. 2148-G, Dated: 04.03.2022 attached as Annexure A**
  
3. That feeling aggrieved the appellant filled his departmental appeal which was not Responded by Respondent No 1. Thereafter Appellant filed Service Appeal No. 1071/2022 before this Tribunal. **Copy of appeal No. 1071/2022 attached as Annexure B**
  
4. That this Honourable Tribunal Vide judgement/Order Dated: 04/03/2024 set aside the impugned order dated 04.03.2022 reinstated the Appellant into service for the purpose of a proper departmental inquiry under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011. **Copy of judgement Dated: 04/03/2024 attached as Annexure C**
  
5. That Respondent No 1 in compliance of the order of this Honourable Tribunal re-instated the Appellant and for the purpose of Departmental Inquiry, Mr. Ashraf Ali Principle (BPS-19) GHSS Baghdada District Mardan was nominated as the inquiry officer to probe into the matter. Inquiry officer submitted the inquiry report vide No. 4046 Dated: 28/06/2024 with the recommendation that appellant be honourably acquitted from all the charges levelled against him and may be re-instated with all back benefits. **Copy of the inquiry report No. 4046 attached as Annexure D**

6. That despite the clear recommendation Respondent No 1 reinstated re-instated the Appellant in service but and converted all his absence/intervening period into leave without pay. **Copy of impugned order Dated: 16/08/2024 attached as Annexure F**
7. That feeling aggrieved from the order Dated: 16/08/2024 Passed by Respondent No1 (Appellate Authority) to the extend of intervening period which has been converted into leave without pay Appellant having no other remedy is preferring the instant service appeal before this Honourable Court on the following grounds;

#### **GROUND**


- A. That the impugned order of treating the intervening period into leave without pay is illegal, ultra vires, unfounded, void ab-initio unlawful and thus ineffective upon the rights of the appellant, there lies negligence on part of the Respondents.
- B. That despite the Inquiry Officer recommended the honourable acquittal of the appellant from all the charges levelled against him. Further more advised the reinstatement of the appellant into service with all the back benefits from the date of his compulsory retirement. But Respondent No 1 ignored this important aspect of the case.
- C. That nothing illegal/misconduct was found against the Appellant during the inquiry therefore Respondent No 1 was bound to re-instate the Appellant with all back benefits from the date of his compulsory retirement.

- D. That the appellant has incurred financial losses and damages as a direct result of the Respondents negligence and breach of duty for which the appellant played no casual role.
- E. That the appellant is entitled to reinstatement into service, along with full restitution of all back benefits in order to meet the ends of justice.
- F. That other grounds will be taken at the time of arguments with prior approval from this hon'ble tribunal.


It is therefore most humbly prayed that by accepting this Appeal, the impugned order Dated: 16/08/2024 of Respondent No 1 may graciously be modified to the extent of intervening period (with effect from 04.03.2022 to 07.09.2024) which has been converted into leave without pay be converted to period spent on duty along with all back benefits. **OR** any other relief this honourable court may deem just and proper be also passed in favour of appellant.

  
Appellant

Through

  
**Hamza Amir Gulab**  
Advocate high court

&

  
**Sidra Al Khan**  
Advocate

**CERTIFICATE**

Certified that no such like Appeal has been filed earlier than this Appeal before this Honourable Court.

  
Advocate

5

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL PESHAWAR**

Service Appeal No: \_\_\_\_\_/2024

Faiz Rasan SPST GPS Aslam Abad Takht bhai District Mardan

..... Appellant

**VERSUS**

Director Elementary and Secondary Education Khyber  
Pakhtunkhwa Peshawar and other

..... Respondents


**AFFIDAVIT**

I, Faiz Rasan SPST GPS Aslam Abad Takht bhai District Mardan, do hereby solemnly affirm and declare on oath that the contents of the accompanying **Service Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.

Identified by

  
Hamza Amir Gulab

Advocate

  
**DEPONENT**

CNIC#:16101-9180515-5





**BEFORE THE KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL PESHAWAR**

Service Appeal No: \_\_\_\_\_/2024

Faiz Rasan SPST GPS Aslam Abad Takht bhai District Mardan

..... Appellant

**VERSUS**

Director Elementary and Secondary Education Khyber  
Pakhtunkhwa Peshawar and other

..... Respondents

**ADDRESSES OF PARTIES**

**APPELLANT:**

Faiz Rasan SPST GPS Aslam Abad Takht bhai District Mardan

**RESPONDENTS**

1. Director Elementary and Secondary Education Khyber  
Pakhtunkhwa Peshawar.
2. District Education Officer (Male) Mardan

Appellant

Through

*Hamza Amir Gulab*  
**Hamza Amir Gulab**

&

*Sidra Ali Khan*  
**Sidra Ali Khan**

Advocates

OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) MARDANOFFICE ORDER

WHEREAS, Mr. Faiz Rasan SPST GPS Ferozpur was reported by SDEO(M) Takht Bhal vide letter No:239 dated 01-01-2022.

WHEREAS, an explanation was also called from him by SDEO concerned but he neglected and ignored.

AND WHEREAS, a show cause notice was issued to him vide this office under Endst No 1468 dated 11-02-2022.

AND WHEREAS, he has submitted reply to the show cause notice and in light of which he was called for personal hearing.

WHEREAS, during personal hearing and written reply to show cause notice he himself confessed that he is a psyche and trouble in performing duties.

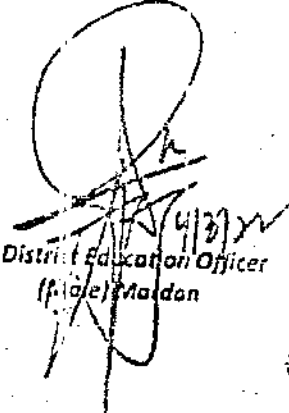
Now in exercise of the power conferred under KhyberPakhtunkhwa Govt servants E&D rules 2011 (4b-ii) and on the basis of personal hearing and other evidence from the record, the undersigned being Competent Authority is pleased to impose the penalty of Compulsory Retirement upon, Mr. Faiz Rasan SPST GPS Ferozpur with immediate effect.

(Zulfiqar ul Mulk)  
District Education Officer  
(Male) Mardan

Endst No. 2148-6 /SDEO T.Bhal/ Dated: 04/03/2022

copy forwarded for information and necessary action to the:-

1. Director E&SE Education KPK, Peshawar.
2. DAO Mardan.
3. SDEO(M) Takht Bhal
4. Official concerned.

  
District Education Officer  
(Male) Mardan

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

Service Appeal No. \_\_\_\_\_/2022

Faiz Rasan SPST GPS Ferozpur Takht bai District Mardan

....Appellant

**VERSUS**

1. Secretary Elementary and Secondary Education Khyber Pakhtunkhwa Peshawar.
2. Director Elementary and Secondary Education Khyber Pakhtunkhwa Peshawar.
3. District Education Officer (Male) Mardan
4. SDEO (M) Takht Bhai Mardan

..... Respondents

**SERVICE APPEAL UNDER SECTION 4 OF KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 04.03.2022 OF RESPONDENT 3 WHEREBY APPELLANT WAS IMPOSED PENALTY OF COMPULSORY RETIREMENT AND OF APPELLATE AUTHORITY (RESPONDENT NO 2) WHEREBY HE DID NOT RESPOND TO DEPARTMENTAL APPEAL / REPRESENTATION OF THE APPELLANT**

**PRAYER**

On acceptance of this appeal the impugned order dated 04.03.2022 of Respondent 3 regarding compulsory retirement of Appellant may graciously be set aside and the Appellant be reinstated in service with all back benefits.

Respectfully Sheweth

**FACTS**

1. That the appellant was inducted in Education Department in the year 1997 as PST and now serving as SPST GPS Ferozpur in BPS-14 and thus he has about 25 years of service in his credit.
2. That in the long career of the appellant no complaint has ever been reported against him and thus he is having an unblemished service record.
3. That on 13.01.2022 SDEO (M) Takht Bhai (Respondent No 4) visited the school and alleged that the Appellant was busy in playing with mobile and his child studying in class has long hair.  
**Copy of Visit report is annexed as Annexure A.**
4. That on 11.2.2022 vide letter No 1468/sdea t.bhai, Appellant was served with show cause notice regarding misbehaviour and indiscipline in providing information/response.  
**Copy of Show Cause notice dated 11.2.2022 is annexed as Annexure B**
5. That Appellant replied to the show cause notice and statements of Mr. Ayub Khan PSHT GPS Ferozpur Takhtbhai and Mr. Hamil Ahmad SPST GPS Ferozpur Takhtbhai was also attached with the reply wherein both the teachers stated that the undersigned was only giving information regarding his sons form-B from the Mobile for uploading the same in soft form to ASDEO Circle, hence he was not playing with mobile.

**Copy of Reply and statements are annexed as Annexure C and D**

6. That after receiving the reply to show cause notice, DEO (male) Mardan (Respondent No 3) directed the Appellant to attend personal hearing on 5.3.2022 at 1.00 Pm.

**Copy of letter dated 2.3.2022 is annexed as Annexure E**

7. That without waiting for the personal hearing, on 04.03.2022 vide letter Endst No. 2148-G/SDEO.T.Bhai, District Education Officer (Male) Mardan (Respondent No 3) imposed major penalty of Compulsory Retirement upon the undersigned.

**Copy of Impugned Order dated 04.03.2022 is annexed as Annexure F**

8. That aggrieved from the Order of Respondent No 3 the Appellant preferred Departmental Appeal/Representation to Respondent No.2 on 07.03.2022. But the appeal till now the same has not been responded yet.

**Copy of the departmental Appeal/Representation is annexed as Annexure G**

9. That the appellant after exhausting the departmental remedy and waiting for statutory period i.e. ninety 90 days, is preferring the instant service appeal before this Hon'ble Court on the following grounds:

(10) (11)

## GROUNDS

- A. That no regular or proper inquiry as required was conducted nor the mandatory procedure for inquiry was adopted and thus the impugned order of compulsory retirement is standing in vacuum.
- B. That as stated above that the applicant was never associated with any inquiry nor any opportunity of personal hearing was provided to him and thus he has been condemned unheard.
- C. That the impugned Order has been passed in vacuum without having solid, cogent and convincing evidence and is the result of colourable exercise of power.
- D. That the impugned Order of Compulsory Retirement is illegal, ultra vires, unfounded, void an initio, unlawful and thus ineffective upon the rights of the Appellant.
- E. That in view of the above facts and circumstances, the impugned order dated 04.03.2022 of compulsory retirement is void ab-initio as neither the appellant was served any statement of allegation, nor he was associated with any inquiry nor any opportunity of personal hearing was provided to him.
- F. That no fair opportunity of hearing has been afforded to the Appellant.
- G. That the impugned punishment is prima facie harsh and unreasonable when the same is placed in juxta position with the nature of allegations therefore this Hon'ble Court needs to interfere to pass an appropriate order to meet the ends of justice.

H. That other grounds will be taken at the time of arguments with prior approval from this Hon'ble Tribunal.

It is, therefore most humbly prayed that by accepting this appeal, the impugned order dated 04.03.2022 of Respondent 3; regarding compulsory retirement of Appellant may graciously be set aside and the Appellant be reinstated in service with all back benefits. OR any other relief this Honourable Court may deem just and proper be also passed in favour of Appellant.

*[Handwritten Signature]*  
Appellant

Through

*[Handwritten Signature]*  
Hamza Amir Gulab

&

*[Handwritten Signature]*  
Muhammizad Nouman  
Advocates High Court

**CERTIFICATE**

Certified that no such like Appeal has been filed earlier than this Appeal before this Honourable Court.

*[Handwritten Signature]*  
Advocate

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

Service Appeal No. 1071/2022

BEFORE: MRS. RASHIDA BANO ... MEMBER (J)  
MISS FAREEHA PAUL ... MEMBER (E)

Faiz Rasan SPST GPS Ferozpur Takht Bhai, District Mardan.

..... (Appellant)

Versus

1. Secretary Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.
2. Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.
3. District Education Officer (Male) Mardan.
4. SDEO (M) Takht Bhai, Mardan. .... (Respondents)

Mr. Hamza Amir Gulab,  
Advocate

... For appellant

Mr. Asif Masood Ali Shah,  
Deputy District Attorney

... For respondents

Date of Institution..... 20.06.2022  
Date of Hearing..... 04.03.2024  
Date of Decision..... 04.03.2024

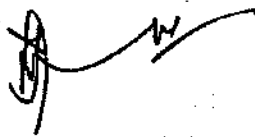
**JUDGEMENT**

**FAREEHA PAUL, MEMBER (E):** The service appeal in hand has been instituted under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the order dated 04.03.2022 of respondent No. 3 whereby penalty of compulsory retirement was imposed upon the appellant against which his departmental appeal/representation was not responded by the appellate authority. It has been prayed that on acceptance of the appeal, the appellant might be reinstated into service with all back benefits.



2. Brief facts of the case, as given in the memorandum of appeal, are that the appellant was inducted in Education Department in the year 1997 as PST and served as SPST GPS Ferozur in BPS- 14. He was having 25 years of service at his credit. On 13.01.2022, SDEO (M) Takht Bhai (respondent No. 4) visited the school and alleged that the appellant was busy in playing with his mobile phone and his child studying in class 4 had long hair. Vide letter dated 11.02.2022, the appellant was served with show cause notice regarding misbehavior and indiscipline in providing information/response. He replied to the show cause notice and statements of Mr. Ayub Khan PSHT and Mr. Hamil Ahmad SPST of the concerned school were also attached with the reply wherein both the teachers stated that the appellant was only giving information regarding his son's form-B from the phone for uploading the same in soft form to ASDEO Circle, hence he was not playing with his mobile phone. After receiving the reply to show cause notice, DDEO (Male) Mardan directed the appellant to attend personal hearing on 05.03.2022 at 1.00 PM, but without waiting for personal hearing, vide order dated 04.03.2022, he was awarded major penalty of compulsory retirement. Feeling aggrieved, the appellant preferred departmental appeal which was not responded within the statutory period of ninety days; hence the instant service appeal.

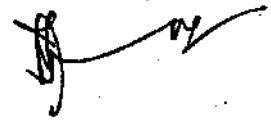
3. Respondents were put on notice who submitted their joint parawise comments on the appeal. We heard the learned counsel for the appellant as well as learned Deputy District Attorney for the respondents and perused the case file with connected documents in detail.



4. Learned counsel for the appellant, after presenting the case in detail, argued that the impugned order was illegal, ultra vires, unfounded, void ab initio and unlawful. He further argued that neither the appellant was served with any statement of allegations nor associated with the inquiry proceedings. He was also not afforded with opportunity of personal hearing and was punished in a slipshod manner. He requested that the appeal might be accepted as prayed for.

5. Learned Deputy District Attorney, while rebutting the arguments of learned counsel for the appellant, argued that during the visit of the SDEO, the appellant was found sitting outside the class room, playing with his smart phone, his class room was very weak and students were found dirty. When inquired about the situation, the attitude of the appellant was discourteous and primitive to his superiors. He further argued that in his reply to show cause notice, the appellant narrated his psychological troubles, therefore, he was dangerous to teach the minor students. He further argued that the appellant did not appear for personal hearing and after fulfillment of all the codal formalities, he was compulsorily retired from service. He requested that the appeal might be dismissed.

6. The appellant, while serving as Senior Primary Teacher (BS-14) at GPS Ferozpur, was proceeded against departmentally and awarded punishment of compulsory retirement from service vide an order dated 04.03.2022. Arguments and record present before us transpires that the SDEO (Male) Takht Bhai visited the school on 13.01.2022 and found the appellant busy with his cell phone. He found the overall condition of the school not satisfactory and



submitted his report to the District Education Officer (Male) Madan, based on which a show cause notice was issued to the appellant on 11.02.2022. It was stated in the notice as follows:-

- a. *During the visit of the school by SDEO (M) concerned you showed misbehavior and indiscipline in providing information/response.*
- b. *In exercise of the power conferred by the KPK Government Servants (Efficiency & Discipline) Rules, 2011, the Competent Authority is hereby pleased to serve you with the instant show cause notice regarding your ill manner with the direction to submit your defense in writing within 07 days of the issuance of this notice as to why the minor/major penalty of Rule 4(a)/(b) of the said rules should not be imposed upon you and also intimate whether you desire to be heard in person."*

In response to the show cause notice, the appellant submitted his reply in detail, in which he admitted that he had some mental and psychological issues and the extent of those issues was such that sometimes he even forget the way to his home. After getting his reply, the ADI:O (M) Mardan directed him to appear before him for personal hearing on Friday, 5<sup>th</sup> March 2022 at 1.00 pm. The departmental representative present before us clarified that the date for personal hearing was mentioned wrong and it was in fact Friday, the 4<sup>th</sup> of March that he was called for personal hearing. As stated by the learned counsel for the appellant, the impugned order dated 04.03.2022 was issued without giving the opportunity of personal hearing to him. The reply submitted by the respondents states that he was called, but the appellant did not appear for personal hearing. The impugned order, on the other hand, presents a different




picture. It states that in response to the show cause notice, the appellant was called for personal hearing and that he appeared before the DEO (M) Mardan for the same. When confronted on the conflicting statements given by the respondents viz-a-viz the impugned order, the learned Deputy District Attorney as well as the departmental representative could not respond.


7. After going through the details of the entire case, it is clear that major penalty has been imposed upon the appellant in an extremely cursory manner. Before taking any such action in which imposition of major penalty is involved, it would have been in the fitness of the matter to conduct a proper inquiry. Moreover, keeping in view the 25 years of service of the appellant, and his admission that he has certain mental and psychological issues, would it not have been better to refer him for medical board?

8. In view of the above discussion, the impugned order is set aside and the appellant is reinstated into service for the purpose of a proper departmental inquiry under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 with the direction to the respondent department to fully associate him in the inquiry proceedings, which shall be completed within 60 days of the receipt of this judgment. The issue of back benefits is subject to the outcome of inquiry. Cost shall follow the event. Consign.

9. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal this 04<sup>th</sup> day of March, 2024.*

  
(FAREEHA PAUL)  
Member (I)

\*FateSubhan P.S.\*

  
(RASHIDA BANO)  
Member (I)

SA 1071/2022

04<sup>th</sup> Mar. 2024 01. Mr. Hamza Amir Gulab, Advocate for the appellant present. Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present. Arguments heard and record perused.

02. Vide our detailed judgment consisting of 05 pages, the impugned order is set aside and the appellant is reinstated into service for the purpose of a proper departmental inquiry under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 with the direction to the respondent department to fully associate him in the inquiry proceedings, which shall be completed within 60 days of the receipt of the judgment. The issue of back benefits is subject to the outcome of inquiry. Cost shall follow the event. Consign.

03. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 04<sup>th</sup> day of March, 2024.*

  
(FARIEHA PAUL.)  
Member (I)

  
(RASHIDA BANO)  
Member(J)

\*Fazal Subhan PS\*

Annex-D

(19)

## **Inquiry Report**

By

**Ashraf Ali**

**Principal**

**GHSS Baghdada Mardan**

**Government Higher Secondary School Baghdada  
Mardan**

**Inquiry Report about Faiz Rasan SPST GPS Ferozpur Takht Bhai Mardan**

**OFFICE OF THE PRINCIPAL GOVERNMENT HIGHER SECONDARY SCHOOL BAGHDADA  
MARDAN**

No. Ph. 0937 9230217 FB. Ghssbaghdadamardan D.ite. June.25, 2024

Director

E&SED Khyber Pakhtunkhwa.

**Subj: Inquiry Report about Faiz Rasan SPST GPS Ferozpur Takht Bhai Mardan**

It is respectfully stated that the Inquiry Report **Faiz Rasan SPST GPS Ferozpur Takht Bhai Mardan** vide office order endst: no 5476-78/PF:/Faiz Rasan Vs. Govt./SPST/Litt:/Mardan dated 08-04-2024 is hereby submitted for your consideration. It is a 04 (Four only) pages report and has 07 (Seven only) annexures.

Thanking you ma'm.

Principal

GHSS Baghdada Mardan/

Inquiry Officer

CC;

Office Copy.

**Date of inquiry:** May.29, 2024

**Venue of inquiry:** GPS Ferozpur Takht Bhai Mardan

**Inquiry Officer:** Ashraf Ali Principal GHSS Baghdada Mardan

### Background

An inquiry was ordered about Faiz Rasan SPST GPS Ferozpur Takht Bhai Mardan vide office order endst: no 5476-78/PF:/Faiz Rasan Vs. Govt./SPST/Litt:/Mardan dated 08-04-2024 in pursuance of the Court Judgement dated 04-03-2024 passed by the Honourable Khyber Pakhtunkhwa Service Tribunal Peshawar in service Appeal No.1071/2022.

### Findings

The Inquiry officer, for ascertaining facts, visited GPS **Ferozpur Takht Bhai Mardan on May 29, 2024** and received statements of all concerned, checked the record and gave the opportunity of personal hearing to all concerned. The Inquiry Officer visited the office of the District Education Officer (M) Mardan and received Personal File of Faiz Rasan SPST GPS Ferozpur Takhtbhai Mardan. After going through all the available record, personal hearing and written statements of all concerned it is explicitly evident that the concerned teacher, Faiz Rasan SPST GPS Ferozpur Takhtbhai Mardan has been a victim of malice and personal grudges. The allegations levelled against him couldn't be proved. The following pointwise findings brings to the fore the substantive facts about this case.

1. The accused Faiz Rasan SPST GPS Ferozpur Takhtbhai Mardan has submitted a statement that he is a law-abiding citizen and has never thought of doing anything illegal or unlawful. The Personal Statement of Faiz Rasan SPST further mentions that he felt under **DURESS**, pressurized and intimidated throughout this case. (Exhibit-1).
2. The school Head Teacher Muhammad Ayub Khan has testified, in his written statement, that he has never received any complaint against the accused teacher. It further mentions that he is sound physically and mentally. (Exhibit-2).
3. The school Head Teacher Muhammad Ayub Khan written statement of Jan.14, 2022 also gives a clean chit to the accused Faiz Rasan SPST. (Exhibit-3).
4. The written statement of the co teacher Jamil Ahmad SPST GPS Ferozpur Takhtbhai



Mardan also verifies to the fact the accused has done nothing illegal. (Exhibit-4).

5. The School Attendance Register, from Dec.2020 till March 04, 2022, shows that the accused Faiz Rasan SPST is very regular in his duties. (Exhibit-5 A,B,C,D,E,F,G,H,I,J,K,L,M,N,O,P).
6. The School Log Book was perused minutely. All the visits paid to GPS Ferozpur Takhtbhai Mardan by ASDEOs and SDEOs has never reported anything unpleasant and undesirable which is against a government official Efficiency and Discipline under E&D Rules (R) 2011. (Exhibit-6 A,B,C,D,E,F,G,H,I,J).
7. The School Head Teacher who happens to be the immediate boss of the accused has never complained about the Efficiency and Conduct of his immediate subordinate i.e Faiz Rasan SPST. If the accused Faiz Rasan SPST was suffering from such acute mental agony which reportedly turned him psychologically unfit for government job why this was not detected by the Head Teacher, the Co Teacher, the students or their parents. This seems very strange.
8. The school PTC (Parents Teachers Council) register is also silent about this important matter. The school Parents Teachers Council (PTC) is a very important forum and has got immense powers to intervene in such matters. Surprisingly it has never shown any concern about the mental health of the accused although this could pose a direct threat to the lives of their children, if true.
9. The long hair of the students is a routine matter and may be resolved amicably by advising verbally the concerned teacher or head teacher. Furthermore, there are no clear rules or any officially notified set standard about the apparent personality of a student. This is a very flimsy thing and smacks of personal vendetta and appears to intentionally vitiate waters to proceed against the accused.
10. If, as reported, the accused was not sound mentally why the case was not reported to the medical board and why hide and seek was played with him for Personal Hearing?
11. The Inquiry Officer had a few formal and informal sessions with the accused to assess his mental health but could not get any clue about his being unfit mentally. Apparently, he was found sound both physically and mentally.
12. The Personal File of the accused Faiz Rasan SPST, received from the District Education Officer (M) Mardan, doesn't have the confessional statement of Faiz Rasan about his unsound mental status. This matter was taken up with the concerned ADEO (Primary) at DEO (M) Mardan but they failed to provide a copy of the same to the Inquiry Officer.
13. All the concerned government officials were informed verbally to record their statements or provide any relevant documents about the case, if any, to the Inquiry Officer. Later on, a written request was shared with SDEO (M) Takhtbhai and ADEO (M)

Mardan, on their Whatsapp numbers on June 05, 2024. This request was shared with the Deputy DEO (M) Mardan and DEO (M) Mardan on their personal number on June 05,2024. (Exhibit-7A,B,C,D).

- 14. The SDEO (M) Takhtbhai Mardan met the Inquiry Officer and narrated the whole incident. He also did not provide any other documents or proofs to the Inquiry Officer other those already shared.

**Conclusion**

In the light of the above **FINDINGS**, it is concluded that;

- 1. The accused Faiz Rasan SPST is efficient for his job **under E&D Rules (R) 2011.**
- 2. The accused could not be proved guilty of misconduct and doesn't seem to be involved in anything prejudicial to service discipline **under E&D Rules (R) 2011.**

**Recommendations**

In the light of the above findings it is recommended that;

- 1. The accused Faiz Rasan SPST may be acquitted honourably from all the allegations levelled against him.
- 2. Furthermore, he may be reinstated into the government service, with all the back benefits, from the date of his Compulsory Retirement.

Ashraf Ali  
 Principal/ Inquiry Officer  
 Govt Higher Secondary School  
 Baghdada Mardan



**DIRECTORATE OF ELEMENTARY AND SECONDARY EDUCATION**  
**KHYBER PAKHTUNKHWA PESHAWAR.**

**NOTIFICATION**

1. **WHEREAS**, District Education Officer (Male) Mardan was proceeded Mr. Faiz Rasan Ex SPST (BPS-14) GPS Ferozpur Takht Bhai Mardan and imposed the major penalty of "**Compulsory Retirement**" under Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011 vide order No. **2148-G** Dated **04-03-2022**.
2. **AND WHEREAS**, feeling aggrieved the appellant filed an appeal by filing Service Appeal No. **1071/2022** before the Honorable Khyber Pakhtunkhwa Service Tribunal Peshawar under case Titled Vs Secretary Education Khyber Pakhtunkhwa, Peshawar & Others which has been decided vide Judgment dated **04-03-2024** and ordered that the impugned order is set aside and the appellant is re-instated into service for the purpose of a proper departmental inquiry under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011.
3. **AND WHEREAS**, in compliance of the said Judgment, the Director (E&SE, Khyber Pakhtunkhwa Peshawar), re-instated Mr. Faiz Rasan Ex-SPST (BPS-14) GPS Ferozpur Takht Bhai Mardan being Appellate Authority for the purpose of Departmental Inquiry vide this office Notification bearing No. **5476-78/F.No./Faiz Rasan SPST VS Govt./Lit-II** Dated **08-04-2024**, wherein, Mr. Ashraf Ali Principal (BPS-19) GHSS Baghtada District Mardan was nominated as inquiry officer to probe into the matter. Inquiry officer submitted the inquiry report vide No. **4046** Dated **28-06-2024**.
4. **AND WHEREAS**, this Directorate called Mr. Faiz Rasan Ex-SPST (BPS-14) GPS Ferozpur Takht Bhai Mardan for personal hearing vide letter No. 8675 Dated: 29-07-2024 which was attended by him on due date. He was cross examined and questionnaire's was also served upon him:

**NOW THEREFORE**, after having examined the evidences available on record/file, in exercise of powers conferred upon the Director (Elementary and Secondary Education Khyber Pakhtunkhwa, Peshawar), Director, Elementary and Secondary Education Khyber Pakhtunkhwa) being Appellate Authority, is pleased to re-instate Mr. Faiz Rasan SPST (BPS-14) GPS Ferozpur Takht Bhai Mardan **with immediate effect** under Rule (17)(2)(c) of Khyber Pakhtunkhwa (Efficiency and Discipline) Rules, 2011 and hereby convert all his absence/intervening period into leave without pay (EOL) in the best interest of public.

**DIRECTOR**

Elementary & Secondary Education  
Khyber Pakhtunkhwa, Peshawar

4953-55

Endst.No: /E.No. / F.No./FaizRasan SPST VS Govt./Lit-II Dated Pesh: the **16/08/2024**.

Copy forwarded for information to the:-

1. Learned Additional Registrar Honorable Khyber Pakhtunkhwa Service Tribunal Peshawar.
2. District Education Officer (Male) Mardan.
3. District Accounts Officer Mardan.
4. Mr. Faiz Rasan SPST (BPS-14) GPS Ferozpur Takht Bhai Mardan.
5. P.A to Director Elementary & Secondary Education, Local Directorate, Peshawar.

*M.A. 16/8/2024*  
**Assistant Director (Estab-M-1)**  
Elementary & Secondary Education  
Khyber Pakhtunkhwa, Peshawar



OFFICE OF THE DISTRICT EDUCATION OFFICER  
(MALE) MARDAN

(24-A)

OFFICE ORDER

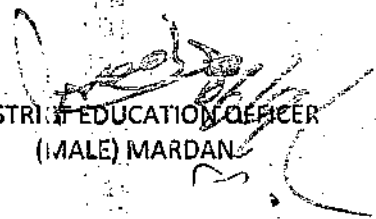
In light of notification issued by the Appellate Authority i.e Director E&SED Khyber Pakhtunkhwa, Peshawar vide Endst No: 4952-55 dated 16-08-2024 and re-instated Mr. Faiz Rasan Ex-SPST GPS Ferozpur Takht Bhai with intervening period converted into Leave Without Pay the undersigned is pleased to adjust the teacher concerned in GPS Aslam Abad Takht Bhai in his own pay and BPS with immediate effect.

(Zahid Muhammad)  
DISTRICT EDUCATION OFFICER  
(MALE) MARDAN

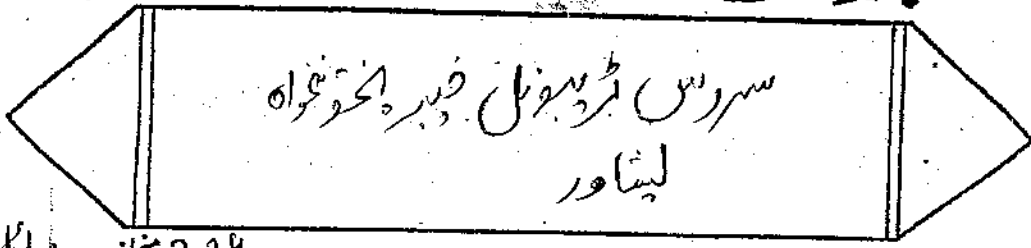
Endst: No. 5070 / Dated: 07-09-2024

Copy forwarded to the:-

1. Director E&SED Khyber Pakhtunkhwa, Peshawar.
- ✓ 2. SDEO(M) Takht Bhai
3. DAO Mardan
4. Official concerned.

  
DISTRICT EDUCATION OFFICER  
(MALE) MARDAN

## بعد الت



2024ء منجانب صاحب

فیض رسان بنام ڈائریکٹر EGS  
لیساورService Appeal # \_\_\_\_\_ / 2024  
موزخہ  
مقدمہ  
دعویٰ  
جزم

## باعث تحریر آئندہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیردی و جواب دہی دکل کاروائی متعلقہ  
آن مقام لیساور \_\_\_\_\_ کیلئے جرنل اصغر گللا سرور علی خان

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز  
دیکل صاحب کو راضی نامہ کرنے و تقرر ثالثہ فیصلہ برحلف دیئے جواب دہی اور اقبال دعویٰ اور  
بصورت ڈگری کرنے اجراء اور صولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق  
زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیردی یا ڈگری یکطرفہ یا اپیل کی برادگی اور منسوخی  
نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیردی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور  
کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار  
ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ یا اختیارات حاصل ہوں گے اور اس کا ساختہ  
پر داخستہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا۔  
کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیردی  
نہ کر کریں۔ لہذا وکالت نامہ لکھ دیا کہ سندر ہے۔

المرقوم \_\_\_\_\_ 11 \_\_\_\_\_ ماہ ستمبر 2024

کے لئے منظور ہے۔

Attested & Accepted  
سرور گللا

سرور گللا

cnc # 17301-8118204-3

cell # 03005936155

bc # 14-4722

Attested &amp; Accepted

Sikra Khan

فیض رسان  
5-50505936155-16101