

BEFORE THE HONRABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR.

SA.No. 630 /2024.

MUHAMMAD HASHIR Petitioner

Vs

GOVT of KPK & Others Respondents

JOINT PARAWISE COMMENTS ON & FOR BEHALF OF RESPONDENTS NO: 1-2,

INDEX SHEET.

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~~DISTRICT EDUCATION OFFICER
(FEMALE) CHARSADDA~~

*one copy
submitted
to court.*

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

Service Appeal No: 630/2024

Muhammad Hashir Ex-Junior Clerk SDEO (F) Charsadda.....Appellant.

VERSUS

Director E&SE Department, Khyber Pakhtunkhwa & others.....Respondents

JOINT PARAWISE COMMENTS ON & FOR BEHALF OF RESPONDENTS No: 1-2.

Respectfully Sheweth :-

The Respondents submit as under:-

Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Case No. 16467

Date: 09-10-24

PRELIMINARY OBJECTIONS.

- 1 That the Appellant has got no cause of action and locus standi to file instant appeal before this Honorable Tribunal against the Respondents.
- 2 That the appellant is not an aggrieved person within the meaning of Section-4 Khyber Pakhtunkhwa Service Tribunal Act 1974 read with Article-212 of the constitution of Islamic Republic of Pakistan 1973.
- 3 That the impugned order dated 08-12-2023 regarding the removal from service of the appellant against the Junior Clerk post is legal & liable to be maintained.
- 4 That the appeal is not maintainable in terms of the inquiry report dated 18-12-2023 and even incompetent under the relevant provision of law & rules in vogue.
- 5 That the appellant has been found guilty regarding his direct role in the fake & bogus appointments of PSTs & subsequent withdrawal of their salaries without lawful authority.
- 6 That the matter in hand is already been inquired in view of the Notification dated 05-09-2023 by the Respondent No.2.
- 7 That the impugned order dated 08-12-2023 has been passed on the basis of inquiry report dated 21-10-2023 submitted by the inquiry committee.
- 8 That formal show cause Notice has already been served upon the appellant vide letter dated 08-11-2023 replied in an unsatisfactory way by the appellant resulted in the imposition of the major penalty of removal from service under Rule-4 (b) (iii) of E&D Rules, 2011.
- 9 That the Departmental appeal of the appellant dated 01-01-2024 against the cited impugned order dated 08-12-2023 resulted in the nomination of a formal inquiry committee vide Notification dated 22-05-2024 who submitted his inquiry report on 29-07-2024, whereunder, the major

(2)

penalty of removal from service was converted into the minor penalty of withholding of 02 annual increments for the year 2024 & 2025 under the provision of Rule-4 (a) (ii) (iii) of E&D Rules, 2011 vide Notification dated 05-08-2024 issued by the Respondent No. 1 as an appellate authority in the titled appeal.

- 10 That consequent upon the said Notification dated 05-08-2024, vide order dated 26-08-2024, the appellant has been reinstated in service against the Junior Clerk post at GGHS Tarnab Charsadda, hence, the titled appeal has automatically become infructuous under the law.
- 11 That the appellant is estopped by his own conduct to file the instant appeal against the Respondent Department.
- 12 That the appellant has not come to this Honorable Tribunal with clean hands and has also concealed material facts from the ambit of this Honorable Tribunal in the titled appeal.
- 13 That the appeal is bad for mis-joinder and non-joinder of necessary parties to the titled appeal.
- 14 That the instant Service Appeal is badly time barred.
- 15 That the Appellant has concealed material facts from this Honorable Tribunal.
- 16 That the instant Service Appeal is based on mala-fide intentions.

ON FACTS

- 1 That Para-1 pertains to the office addresses of the appellant as well as of the Respondents.
- 2 That Para-2 is also relates to the service record of the appellant against the Junior Clerk in BPS-11 regarding his initial appointment on dated 26-02-2018 as Junior Clerk & subsequent adjustment at GHSS Sherpao Charsadda. (*attached as Annex-A*)
- 3 That Para-3 is incorrect, on the grounds that the appellant has served the Respondent Department against the above-said post in lieu of the salaries & allied service benefits drawn by the appellant from the Govt: Treasury.
- 4 That Para-4 is correct that the appellant has been proceeded under the afore-cited E&D rules, 2011 in terms of the inquiry report dated 21-10-2023 submitted by the inquiry committee in view of the order dated 05-09-2023 passed by the Respondent No. 2 on the material ground of:
 - i. Guilty of mis-using of official capacity in the alleged PSTs appointments.
 - ii. Guilty of mis-conduct & violation of the Rules & Policy in vogue.
 - iii. Guilty of in-efficiency as evident from the Show Cause Notice dated 08-11-2023 served by the Respondent No. 2 upon the appellant

which was replied on 23-01-2023 in a mis-directed way without any plausible substance therein, hence, not considered. *attached as Annex-B, C, D & E.*

- 5 That Para-5 is correct to the extent of nomination of an inquiry committee vide order No. 7986-90 dated 05-09-2023 for probing the matter to the extent of direct role of the appellant in the fake & bogus appointments of PSTs & Chowkidars namely: -
 - a. Mst: Samina PST GGPS Sheren Khan Kally.
 - b. Mst: Sana GGPS Amir khan Kally.
 - c. Shakil Hassan Chowkidar GGPS Palato Rajar all residents of District Charsadda.
- 6 That Para-6 is incorrect & denied on the grounds that the act of the Respondent No. 2 with regard to the nomination of the 1st inquiry committee vide order dated 05-09-2023 & subsequent removal from service of the appellant vide order dated 08-12-2023 is legal & liable to be maintained on the grounds of direct role & guilty of the appellant as per report dated 21-10-2023 of the inquiry committee. *(Copy of the inquiry nomination letter & report are Annex-F & G)*
- 7 That Para-7 is correct that in the light of the recommendations of the inquiry committee report dated 21-10-2023, the appellant was removed from service vide order dated 08-12-2023 by the Respondent No. 2 under the rules as referred above after due process of law *attached as Annex-G & H.*
- 8 That Para-8 is correct to the extent of Show Cause Notice dated 08-11-2023 served upon the appellant by the respondent No. 2 with the allegations as mentioned in the preliminary objections of the instant reply.
- 9 That Para-9 is correct that a Departmental appeal dated 01-01-2024 has been filed by the appellant against the order dated 08-12-2023 to the Respondent No. 1, whereupon, second inquiry was nominated vide Notification dated 23-05-2024 by the Respondent No. 1 & on the basis of the report of the inquiry committee, the appeal dated 01-01-2024 was allowed by converting the major penalty of removal from service into minor penalty of withholding of (02) annual increments for the year 2024 & 2025 under the provision as referred above vide Notification dated 05-08-2024 issued by the Respondent No. 1, whereunder, the services of the appellant was placed at the disposal of the Principal GGHS Tarnab Charsadda vide office order dated 26-08-2024 by the Respondent No. 2, hence, the instant appeal has become infructuous under the Rules in vogue *(attached as Annex-I & J).*
- 10 That Para-10 is also incorrect. Hence the appeal/case of the appellant is liable to be dismissed on the following grounds inter alia : -

ON GROUNDS.

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- A. Incorrect & not admitted, the order dated 08-12-2023 is legally competent & even in accordance with norms of natural justice.
- B. Incorrect & not admitted. The appellant has been treated as per law & Rules vide order dated 08-12-2023 by serving formal Show Cause Notice duly supported by the statement of allegation upon the appellant under the provision of cited E&D Rules, 2011 by the Respondents.
- C. Incorrect & not admitted. the plea of the appellant is illegal in terms of the submission made by the respondents in the forgoing paras by the Respondents.
- D. Incorrect & not admitted. the stand of the appellant is against the law, Rules, policy & even against the facts of the case in hand, hence, deserved to be rejected.
- E. Incorrect & not admitted, the statement of the appellant is without any proof & justification as formal inquiry has been conducted both by the Respondent No. 1 & 2 under the Rules, whereunder, action against the appellant vide order dated 08-12-2023 was taken, where against, he filed an appeal on 01-01-2024 which was allowed on the recommendations of the 2nd inquiry vide Notification dated 05-08-2024 by converting the major penalty of removal from service into minor penalty by the Department.
- F. Incorrect & not admitted, the act of the Department with regard to the order dated 08-12-2023 is legal & is the result of process of law.
- G. Incorrect & not admitted, already replied above.
- H. Correct, that the appellant has filed an appeal dated 01-01-2024 against the order dated 08-12-2023 which was allowed by the Respondent No. 1 vide order dated 05-08-2024 by converting the major penalty of removal from service into minor penalty by the Department.
- I. Incorrect & not admitted, the appellant has been found guilty by the 1st inquiry committee regarding his direct role in the fake & bogus appointments of the afore-said PSTs in the Department.
- J. Incorrect & not admitted, as replied in the fore-going Paras of the present reply by the Respondents.
- K. Incorrect & not admitted, the order dated 08-12-2023 is legal in all respect, hence, liable to be maintained, however, the Respondents further seek leave of this Honorable Tribunal to submit additional grounds record & case law at the time of arguments on the date fixed in the titled case.

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PRAYER

In view of the above made submissions, it is most humbly prayed that this Honorable Tribunal may very graciously be pleased to dismiss the titled service appeal with cost in favor of the Respondents No. 1 to 2 in the interest of justice please.

Dated ___/___/2024.

~~DR. FANOOS JAMAL~~
District Education Officer,
(F)Charsadda

Respondent No-2

SAMINA ALTAF
DIRECTOR



AUTHORIZED OFFICER
ABDUS SAMAD
DEPUTY DIRECTOR

E&SE Department Khyber
Pakhtunkhwa, Peshawar.

Respondent No-1

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BEFORE SERVICE TRIBUNAL PESHAWAR

SERVICE APPEAL No. 630/2024.

Muhammad Hashir Petitioner

VS

GOVT Of KPK & Others Respondents

AFFIDAVIT

I, **Mst: Roqia Bahar ADEO Litigation / Legal Representative of DEO (F) Office Charsadda** , do hereby solemnly affirm and declare upon oath that the contents of accompanied comments are true and correct to the best of my knowledge and belief and nothing has been intentionally concealed from this Hon'ble Service Tribunal Peshawar.

It is further stated on oath that the answering respondent have neither been placed ex-parte, nor their defence struck off/ cost.

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Deponent

Respondent No.02

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Through

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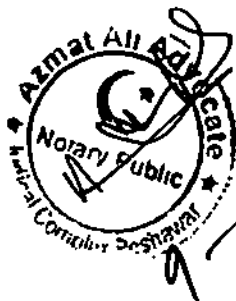
Roqia Bahar ADEO Litigation

CNIC No.17101-6476794-8

Mobile No. 0300-0246100

Litigation Officer DEO (F)
Charsadda

ATTESTED




10-10-2024

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OFFICE OF THE DISTRICT EDUCATION OFFICER (F)
CHARSADDA

Authority Letter

Mst: Roqia Bahar (ADEO) Litigation Charsadda is here by authorized to submit comments in Service Appeal No. 630/2024 , on behalf of respondent.


DISTRICT EDUCATION OFFICER
(FEMALE) CHARASADDA.

(A)

(8)



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

Phone: 091-9225344

Email: ddadm.ese@gmail.com

NOTIFICATION

1. **WHEREAS**, Mr. Muhammad Hashir, was appointed as Junior Clerk under the deceased son quota by DEO (F) Charsadda at GHSS Sherpao, Charsadda vide Endst; No. 1831-36 dated 26/02/2018.
2. **WHEREAS**, he was proceeded under Khyber pakhtunkhwa E&D Rules 2011 on the charges of fake/bogus appointments of PST Teachers and illegal drawl of salaries of the teachers concerned.
3. **AND WHEREAS**, the DEO (F) Charsadda conducted inquiry to find out the factual position and constituted a committee vide Endst. No 7986-90 dated 05-09-2023.
4. **AND WHEREAS**, the inquiry committee submitted its recommendations vide No. 2615 dated 21-10-2023.
5. **AND WHEREAS**, a show cause notice was served upon Mr. Muhammad Hashir Ex- JC vide office letter No. 1531-36 dated 08-11-2023, but he failed to submit satisfactory reply.
6. **AND WHEREAS**, in the light of inquiry report and recommendation, the DEO (F) Charsadda imposed the major penalty of "Removal from Service" upon Muhammad Hashir Ex-Junior clerk SDEO (F) Charsadda under rule 4 (b) (iii) of Khyber Pakhtunkhwa E&D rules 2011.
7. **AND WHEREAS** Mr. Muhammad Hashir, Junior Clerk submitted an appeal for Re-instatment to worthy Director E&SE KPK Peshawar against the DEO (F) Charsadda Office Notification under Endst No. 2530-40 dated 08/12/2023 vide this Office Diary No. 1062 dated 19/03/2024.
8. **AND WHEREAS**, the worthy Director E&SE Khyber Pakhtunkhwa, nominated Inquiry Officer vide this Office Endst; No. 6383-89 dated 22/05/2024, to find out the factual position of the matter and to submit clear cut recommendations.
9. **AND WHEREAS**, the inquiry officer has submitted his report to this Office vide this Office Diary No. 1065 dated 29/07/2024 after scrutiny/investigation of the case.
10. **AND WHEREAS**, the Director E&SE Khyber Pakhtunkhwa Peshawar, the Appellate Authority, under section-17 read with rules 2(b) of E&D Rules-2011 has decided to reinstate the appellant, by setting aside the major penalty of "Removal from Service" into minor penalty of "withholding of two annual increments for two years i.e 2024, 2025", under section 4 (a) sub section (ii) and (iii) Khyber Pakhtunkhwa E&D rules 2011 and furthermore, in light of the recommendations of IO, the appellant may be adjusted in any Higher Secondary School.

DIRECTOR
Elementary & Secondary Education Khyber
Pakhtunkhwa Peshawar

Endst: No. 1231-35 /F.No/ JA-23/MS/Inquiry/Hashir/SDEO (F) Charsadda

Dated Peshawar the 05 of 08 2024

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

- 1- District Education Officer (Male/Female) Charsadda
- 2- District Account Officer Charsadda.
- 3- SDEO (F) Charsadda.
- 4- Official Concerned.
- 5- PA to the Director E&SE Khyber Pakhtunkhwa Peshawar
- 6- Master file.

Attested

Deputy Director (F&A)
Directorate E& Secondary Education
Khyber Pakhtunkhwa, Peshawar

05/08/24

"B"

(9)

OFFICE OF THE DISTRICT EDUCATION OFFICER (FEMALE) CHARSADDA.

OFFICE ORDER

Consequent upon the recommendation of the inquiry officer, and office Notification No. 1231-35/TN/A-23/MIS/Inquiry/Hashir, SDEO (Female) CHD dated Peshawar the 05-08-2024, Muhammad Hashir Ex-Junior Clerk BPS-11, office of the SDEO (Female) Charsadda is hereby adjusted at GGHS Tarnab against the vacant Post on his own pay scale & grade in the interest of Public Service.

- Note: 1. The Appellant Authority under section -17 read with rules 2(b) of F&D Rules-2011 has decided to reinstate the appellant, by setting aside the major Penalty of "Removal from Service" into minor penalty of "withholding of two annual increments for two years i-e 2024,2025.
2. Charge report should be submitted to all concerned.
3. Necessary Entry should be made in his service book.
4. No. TA/DA is allowed.

(MST: DR FANOS JAMAL)
DISTRICT EDUCATION OFFICER
(FEMALE) CHARSADDA.

Endstt: No. 7662-72 Dated/ 26/08/2024

Copy to the:

1. PA to Director E&SE Khyber Pakhtunkhwa Peshawar.
2. PA to Deputy Commissioner Charsadda.
3. District Account officer Charsadda.
4. The District Monitoring Officer Charsadda.
5. ADO B&AO/Supdt: Local office.
6. Head Mistress GGHS Tarnab Charsadda.
7. Focal Person of EMIS Local Office Charsadda.
8. Official Concerned.
9. Office Copy.

Attested
[Signature]

~~*[Signature]*~~
DISTRICT EDUCATION OFFICER
(FEMALE) CHARSADDA.