

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 329 / 2023

Mujeeb Ur Rahman S/O Nowsherwan R/O Maneri Payan, Swabi.
(Ex- Lab Attendant)

..... (Appellant)

VERSUS

1. Govt. of Khyber Pakhtunkhwa through Chief Secretary KP Peshawar
2. Secretary Elementary and Secondary Education, KP Peshawar
3. Director E&SE Dept. KP Peshawar
4. District Education Officer (M) Swabi
5. Principal GHSS Dobian Swabi
6. Head Master GPS Rafiq Abad Swabi
7. Principal GHSS Mansabdar

..... (Respondents)

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(Midrar Ullah)
District Education Officer
Male Swabi
Respondent No. 4

Dated: 17 / 10 / 2024

(2)

BEFORE THE KHYBER PAKHTUNKHWA
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5. Principal GHSS Dobian Swabi
6. Head Master GPS Rafiq Abad Swabi
7. Principal GHSS Mansabdar

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 16940

Dated 18.10.24

..... (Respondents)

PARA-WISE COMMENTS ON BEHALF OF THE RESPONDENTS.

PRELIMINARY OBJECTIONS:

CONTROVERSY:

From the very first days of his first appointment Mr. Mujeeb ur Rahman (Ex-Lab Attendant) has remained absent from duty frequently on one pretext or other. In addition to minor penalties, under the Section 4 (b)-iii of KP E&D Rules 2011, he was removed from service by the competent authority on dated 19-09-2018. The appellant challenged his removal from service through S.A No. 403/2019, decided on 25-03-2022; wherein the appeal was partially accepted and the case was remitted to the department for De Novo inquiry. In compliance of the judgement of the Honorable Service Tribunal the appellant was reinstated on 01-07-2022 for the purpose of de novo inquiry. After conducting the said de novo inquiry under Khyber Pakhtunkhwa E&D rules, the competent authority imposed upon him the major penalty of "Removal from Service" vide Endst No. 8457-63 dated Swabi the 23-09-2022.

1. That the service appeal is in violation of rule 23 of the Khyber Pakhtunkhwa Service Tribunal Act 1974.
2. That the service appeal is badly barred by time, hence not maintainable.

3. That the service appeal is wrong, baseless and not maintainable, it shows no strong cause to be taken for adjudication; therefore, the same service appeal is liable to be rejected/ dismissed.
4. That the service appeal is unjustifiable, baseless, false, frivolous and vexatious. Hence the same is liable to be dismissed with the order of special compensatory cost in favor of respondents.
5. That the appellant has not come to the Court/Tribunal with clean hands.
6. That the appellant has concealed the material facts from this Honorable Tribunal.
7. That the appeal is bad for misjoinder and non-joinder of the necessary party.
8. That the appellant has filed the instant appeal just to pressurize the respondents.
9. That the appellant has no cause of action to file the instant appeal.
10. That the appeal is not maintainable in the eye of law.
11. That the instant appeal is not maintainable in the present form and also in the present circumstances of the issue.
12. That the appellant has no locus standi to file appeal against the respondents.

FACTS:

1. Incorrect, hence denied. The appellant was appointed Lab Attendant at GHS Gulshan Abad Maneri Swabi on contract basis on 07-10-2006. But from the very first day of his appointment the appellant has been absent from duty frequently on one pretext or other, and thus was transferred from one station to another on administrative grounds. The appellant also did not comply with the orders of the DEO (M) Swabi to join his duty at GHSS Dobian that were issued in light of the judgement of the Honorable Peshawar High Court in WP No.2081-P/ 2018 (filed by the present appellant).
2. Incorrect, hence denied. In light of the judgement of the Honorable Peshawar High Court in WP No.2081-P/ 2018 filed by the appellant and as per his own request, the competent authority posted the appellant against his original cadre post i.e Lab Attendant at GHSS Dobian, but he did not comply with the orders and absented himself from duty.
3. That in light of the judgement of the Honorable Service Tribunal in SA No. 403/2019, decided 25-03-2022 filed by the appellant, the DEO (M) Swabi re-instated the appellant into service for the purpose of de novo inquiry vide Endst No. 6213-16/ Dated Swabi the 01/07/2022.
4. That judgement of the Honorable Service Tribunal in SA No. 403/2019, decided 25-03-2022 has been implemented in true letter

and spirit by the DEO (M) Swabi by re-instating the appellant into service for the purpose of de novo inquiry vide Endst No. 6213-16/ Dated Swabi the 01/07/2022.

(3)
C4

5. Incorrect, hence denied. That the appellant is misguiding the Honorable Service Tribunal, because the DEO (M) Swabi (a) re-instated the appellant for the purpose of de novo inquiry; **(Annex-A)** (b) constituted Inquiry Committee **(Annex-B)**; (c) issued show cause notice to the appellant for being absent **(Annex-C)**; (d) properly charged the appellant with charge sheet **(Annex-D)**; (e) proceeded against the appellant as per KP E&D Rules, 2011 by presenting statement of allegations to him **(Annex-E)**; (f) Personally heard the appellant **(Annex-F)**; and finally (g) removed him from service under Section 4 (1)(b) (iii) of the Khyber Pakhtunkhwa E&D Rules, 2011 **(Annex-G)**. Besides, the appellant disobediently did not cooperate with the inquiry commission duly constituted by the DEO (M) Swabi in compliance with the orders of the Honourable Service Tribunal for the purpose of de novo inquiry. He even did not bother to answer within the specified time the questionnaire handed to him by the inquiry commission on dated 15-07-2022, and thus defaulted himself. The inquiry commission concluded that the appellant was ill-disciplined and dis-interested in govt. service; hence, recommended the major penalty of removal from service under KP E&D Rules, 2011. Also, the appellant appeared before the DEO (M) Swabi for Personal Hearing on dated 16-9-2022 but failed to defend his case.
6. Incorrect, hence denied. In light of the judgement of the Honorable Peshawar High Court in WP No.2081-P/ 2018 filed by the appellant and as per his own request, the DEO (M) Swabi posted the appellant against his original cadre post i.e. Lab Attendant at GHSS Dobian but the appellant in defiance floated the orders of both the DEO (M) Swabi and the Honorable Peshawar High Court and did not join and wilfully absented himself from duty. The question of COC becomes irrelevant when the judgement of PHC has been implemented by the respondents.
7. That the appellant has no reasons/ grounds to file the instant service appeal, and that the service appeal is liable to be dismissed in favor of the respondents on the following grounds.

GROUND:

- A. Incorrect, hence denied. The said order is legal, not void and is with lawful authority and tenable before the eyes of law.

- B. Incorrect, hence denied. The said order is not against any law and principles of natural justice. The appellant has been provided with several opportunities to defend himself, but he has badly failed in defending himself. Several warnings (verbal and written), show cause notices and notices in daily newspapers have been published to give him opportunity to defend himself but he failed. All the proceedings against him are according the rules and procedure in the field.
- C. Incorrect, hence denied. The DEO (M) Swabi formally constituted an inquiry commission dated 01-07-2022, which submitted its report on dated 11-08-2022 and recommended removal from service of the appellant (Annex- H). The appellant was properly informed about the said de novo inquiry. He knew all about the inquiry and did appear before the inquiry commission on dated 15-07-2022 where he was given a questionnaire, which he, however, never returned (Annex-I).
- D. Incorrect, hence denied. The appellant was charged with minor penalties of transfer on administrative grounds and stoppage of two annual increments after following all the procedures as laid down in KP E&D Rules, 2011. As far the question of removal from service, the removal has been the result of a lengthy and lawful procedure under Section 4 (1)(b) (iii) of the Khyber Pakhtunkhwa E&D Rules, 2011. This is not a case of double jeopardy altogether.
- E. Incorrect, hence denied. As regards the allegations of marking false attendance, during the de novo inquiry the appellant was provided with a golden opportunity to prove his innocence, but he badly failed. The allegations have been proved to be correct.
- F. Incorrect, hence denied. In compliance of the orders of the Honorable Service Tribunal, the DEO (M) Swabi re-instated the appellant and formally constituted an inquiry commission dated 01-07-2022, and the appellant was properly informed about the said de novo inquiry. He knew all the facts about the inquiry and did appear before the inquiry commission on dated 15-07-2022 where he was given a questionnaire, which he, however, never returned. The appellant has committed a serious breach of law by submitting false statement and misguiding the Honorable Service Tribunal.

G. That the said impugned order is not illegal, void and without lawful authority. It is not violation of the principles of natural justice but is in accordance with law and rules of the Khyber Pakhtunkhwa E&D Rule, 2011.

Therefore, in view of the above made submissions, it is earnestly prayed that on acceptance of the instance reply to the titled sevice appeal, the appeal in hand may very graciously be dismissed by maintaining the order dated 23-09-2022 in favour of the Respondent Department in the interest of justice.

Dated: 17 / 10 / 2024

(MASOOD AHMAD)
SECRETARY

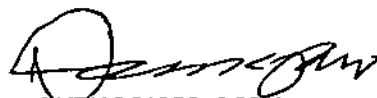


AUTHORISED OFFICER
FAIZ ALAM
ADDITIONAL SECRETARY (G)
E&SE Department, Khyber
Pakhtunkhwa, Peshawar
Respondent No.2,

(SAMINA ALTAF)
DIRECTOR



(MIDRAR ULLAH)
District Education Officer
Male Swabi
Respondent No.4



AUTHORISED OFFICER
ABDUS SAMAD
DEPUTY DIRECTOR
E&SE Department, Khyber
Pakhtunkhwa, Peshawar
Respondent No.3

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 329 / 2023

Mujeeb Ur Rahman S/O Nowsherwan R/O Maneri Payan, Swabi.
(Ex- Lab Attendant)

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1. Govt. of Khyber Pakhtunkhwa through Chief Secretary KP Peshawar
2. Secretary Elementary and Secondary Education, KP Peshawar
3. Director E&SE Dept. KP Peshawar
4. District Education Officer (M) Swabi
5. Principal GHSS Dobian Swabi
6. Head Master GPS Rafiq Abad Swabi
7. Principal GHSS Mansabdar

..... (Respondents)

AFFIDAVIT

I, Midrar Ullah, DEO (M) Swabi do hereby solemnly affirm and declare on oath that the contents of the comments submitted by the respondents are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Honourable Tribunal: It is further stated on oath that in this appeal answering respondents have neither been ex-parte nor has their defense struck off.



(Midrar Ullah)
District Education Officer
Male Swabi
Respondent no. 4

Dated: 17 / 10 / 2024

OFFICE OF THE DISTRICT EDUCATION OFFICER (M) SWABI

AUTHORITY LETTER

I, Midrar Ullah, DEO (M) Swabi do hereby authorised Mr. Nadeem Akhtar, Head Master GHS Ghulama Swabi for submission of Para-wise comments in Service Appeal No. 329/2023 case titled Mujeed Ur Rahman VS E&SE Department, Govt of Khyber Pakhtunkhwa. Hence, an authority letter is hereby issued in favor of the above-named officer.



(Midrar Ullah)

District Education Officer

Male Swabi

Respondent No.4

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8-A+B

Annex. A+B



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DISTRICT EDUCATION OFFICE (MALE) SWABI
(Office phone & Fax No 0938280239, emis_swabi@yahoo.com)

CONSTITUTION OF ENQUIRY COMMITTEE:

The following committee is hereby constituted to enquire and probe the habitual absenteeism of Mr. Mujeeb ur Rahman S/O Nowsherwan resident of Mohallah Dagai Cham, Village and post office Maneri Payan Tehsil and District Swabi Ex-Laboratory Attendant GHSS Dobian and submit report to this office with clear cut recommendations for further necessary action within fortnight positively.

In compliance of Honourable Service Tribunal Peshawar judgment dated 25.03.2022 in SA No.403/2019, Mr. Mujeeb ur Rahman Laboratory Attendant is re-instated into service for the purpose of de-novo inquiry.

- | | | |
|----|--|----------|
| 1. | Muhammad Mutahir, Principal GHSS Jehangira | Chairman |
| 2. | Muhammad Naeem, Headmaster GHS Shera Ghund | Member |

(IRFAN ALI)
DISTRICT EDUCATION OFFICER
(MALE) SWABI

Endst:No. 6213-16 Dated Swabi the 01/07 2022.

Copy of the above is forwarded for information and n/action to the:-

1. Director Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
2. Registrar Service Tribunal, Peshawar.
3. District Monitoring Officer, Swabi.
4. Members of committee,

Attested

C. Malik
17-10-24

[Signature]
DISTRICT EDUCATION OFFICER
(MALE) SWABI

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Annex-e



DISTRICT EDUCATION OFFICE (MALE) SWABI
(Office phone & Fax No 0938280239, emis_swabi@yahoo.com)

No. _____ Dated Swabi the _____ / _____ /2022.

SHOW CAUSE NOTICE.

I, Irfan Ali, District Education Officer (Male) Swabi, Under the Khyber Pakhtunkhwa, Government Servant (Efficiency & Discipline), Rules, 2011, do hereby serve upon you, Mr. Mujeeb-ur-Rahman, Ex-Lab Attendant Govt: Higher Secondary School Dobian, District Swabi, R/O Mohallah Dagai VPO, Maneri Payan Tehsil & District Swabi this show cause notice as follow:-

1. That you remained absent from your duty on different dates i.e with effect from 20/04/2010 to 10/10/2010, 19/10/2010 to 03/02/2011 & 15/01/2016 to 31/03/2016, your signatures in the attendance Register are fake/bogus after February, 2011 to 31/11/2015.
2. That you were transferred to GPS Rafiq Abad (Swabi) on disciplinary grounds where you could not perform duty as usual. You pretended that your actual post is Lab Attendant but posted against Chowkdiar posts.
3. That you filed writ petition No.2081-P/2018 in PHC, Peshawar. During the courser of time, you were transferred to GHSS Dobian (Swabi) against your original post of Lab Attendant vide Endst:No.12623-G/ C.IV/Apptt: dated Swabi the 07/12/2007 as a redressal of grievance. You failed to comply and did not take over charge their. You with drew your WP on 10/07/2018.
4. That the enquiry committee was ordered vide DEO(M) Swabi No.6213-16 dated Swabi the 01/07/2022 to enquiry and probe the habitual absenteeism of you and report with clear cut recommendations. The Chairman enquiry committee himself contacted you to present before the committee at DEO(M) Swabi office and record your version and defend your self, but you did not bother to submit your reply.
5. That the overall record of you is full of absence, enquires, litigation and disputes.
6. That you are non serious, disobedient, ill discipline and habitual violator of rules regulation.
7. That your service record is spotted with absenteeism, defiance and disputes.
8. That you did not bother to present your self before the enquiry committee for recording your version in this particular case.

Attested

[Signature]

By reasons of the above, you appear to be guilty of misconduct, inefficiency and disobedience under rules 3 (a) (b) and (d) defined in Rules I (i), (ii), (iv), and (vi) of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules 2011 and have rendered yourself liable to all or any of the penalties specified in Rules-4 of the Rules ibid.

As a result thereof, I, Irfan Ali District Education Officer (M) Swabi as the competent authority have tentatively decided to proceed against you under the above

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Annex-e

mentioned rules. You are, therefore, required to show cause as to why major penalty of "Removal from service under Rules 4 (b) (iii) of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules 2011", should not be imposed upon you and also intimate whether you desire to heard in person. If no reply to this office is received within 07 days of its delivery, it shall be presumed that you have no defense to put in and in that case Ex-parte action will be taken against you.

(IRFAN ALI)
DISTRICT EDUCATION OFFICER
(MALE) SWABI

Endst: No. 7163-08 /Dated Swabi the 22/08 /2021.

Attested

Copy forwarded to:-

1. Registrar Service Tribunal, Peshawar for information please.
2. Director E&SE, Khyber Pakhtunkhwa, Peshawar.
3. Deputy Commissioner, Swabi.
4. DMO, IMU, Swabi.
5. Principal, GHSS Dobian (Swabi),
6. Mr. Mujeeb-ur-Rahman, Ex-Lab Attendant Govt: Higher Secondary School Dobian, Swabi, R/O Mohallah Dagai VPO, Maneri Payan Tehsil & District Swabi (Under Registered Cover).

Chadur

DISTRICT EDUCATION OFFICER
(MALE) SWABI

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Annex-D



DISTRICT EDUCATION OFFICE (MALE) SWABI
(Office phone & Fax No 0938280239, emis_swabi@yahoo.com)
CHARGE SHEET.

I, Irfan Ali, District Education Officer (Male) Swabi as competent authority hereby charge you Mr. Mujeeb-ur-Rahman Lab Attended office of the District Education Officer (Male) Swabi as follow:

Tha you while posted as Laboratory Attended at GHSS Dobian committed the following irregularities and misconduct.

1. That you have transferred to GHSS Mansabdar on administrative grounds, Due to non availability of Lab Attended post there, you were temporarily adjusted against Chowkidar post.
2. That you have absented himself from duty at this station willfully.
3. That after that you have once again transferred to GPS Rqfique Abad on administrative grounds.
4. That on your wish you have transferred to your original Lab Attended post to GHSS Dobian, you have withdrawn your writ petition No. 2081-P/2018 dated 10.07.2018, with the request grievance has been redressed but you have not taken over charge there.
5. That you have ceased to be efficient and are guilty of misconduct and liable to be proceeded under the rules for the charge given herein above.
6. By reasons of the above you appear to be guilty of dishonesty, inefficiency and misconduct under the Rule-3 (a) of the Khyber Pakhtunkhwa Government servants (Efficiency and discipline) Rules 2011, and have rendered yourself liable to all or any of the penalties specified in Rule-4 of the Rules ibid.
7. You are therefore, requested to submit your written defense within seven days of the receipt of this charge sheet to the inquiry committee in black and white.
8. Your written defense, if any, should reach the inquiry committee within specified period, failing which it shall be presumed that you have no defense to put in and in that case ex-parte action shall be taken against you.
9. Intimate whether you desire to be heard in person.
10. A statement of allegations is attached.

Attested

Gul Naras Khan

Gul Naras Khan, Assistant
Office of the DEO (M) Swabi

(IRFAN ALI)
DISTRICT EDUCATION OFFICER
(MALE) SWABI
District Education Officer
Male Swabi



DISTRICT EDUCATION OFFICE (MALE) SWABI

(Office phone & Fax No 0938280239, emis_swabi@yahoo.com)

DISCIPLINARY ACTION.

I, Irfan Ali District Education Officer (Male) Swabi as competent Authority am of the opinion that Mr. Mujeeb ur Rahman Lab: Attendent office of the District Education Officer (Male) has rendered himself liable to be proceeded against, as he has committed at the following Act mentioned within the meaning of Rue-3 the Khyber Pakhtunkhwa Government servants (Efficiency and discipline) Rules, 2011.

STATEMENT OF ALLEGATIONS.

1. That he has transferred to GHSS Mansabdar on administrative grounds. Due to non availability of Lab Attended posts there, he was temporarily adjusted against Chowkidar posts.
2. That he has absent himself from dut at this station willfully.
3. That after that he has once again transferred to GPS Rafique Abad on administrative grounds.
4. That on his wish, he has transferred to his original post of Lab Attended to GHSS Dobian, he has withdrawn his WP No. 2021-P/2018 dated 10.07.2018 with the request, grievance has been redressed but after that he did not take over charge there.
5. That he has ceased to be efficient and are guilty of misconduct and liable to be proceeded under the rules for the charges given herein above.
6. For the purpose of inquiry against the said accused with reference to the above allegations an inquiry committee consisting of the following is constituted under Rule 10(1) (a) of the ibid Rules.
 - i. Muhammad Mutahir, Principal BPS-19, GHSS Jehangira (Chairman)
 - ii. Muhammad Naeem, Headmaster BPS-17, GHS Shera Ghund (Mamber.
7. The inquiry committee shall in accordance with the provision of the ibid rules, provide reasonable opportunity of hearing to the accused, record its findings and views within fifteen days of the receipt of this order, recommendations as to punish or other appropriate action against the accused.
8. The accused and a well conversant representative of the Department shall join the proceedings on the date, time and place fixed by the inquiry committee.

Attested

Gul Naras Khan
Ar

Gul Naras Khan, Assistant
Office of the DEO (M) Swabi

(IRFAN ALI)
DISTRICT EDUCATION OFFICER
(MALE) SWABI

District Education Officer
Male Swabi

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Annex. F1

Registered on Home Address)



DISTRICT EDUCATION OFFICE (FEMALE) SWABI

(Office phone & Fax No 0938280339, emisfswabi@yahoo.com)

No. 7887 Dated Swabi the 10/09/ 2022

To,

Mr. Mujeeb ur Rahman Ex-Lab Attendant,
Govt: Higher Secondary School Dobian (Swabi)
VPO, Maneri Payan, Mohallah Dagai, Cham
Tehsil & District Swabi

Attested
Mujeeb

Subject: **Personal Hearing.**

Memo:

As you were transferred to GHS Dobian (Swabi) against your original post of Lab-Attendant vide Endt:No.12623-G/C-IV/Appointment dated Swabi the 07/12/2017 as redressal of your grievance, but you failed to comply and did not take over charge there. You filed writ petition, which was dismissed as withdrawn on 10/07/2018.

An Inquiry was conducted against you but you did not appear before the Inquiry committee. In the light of recommendations of Inquiry Committee, a show cause was issued to you vide this office Endst:No.7103-08/ dated Swabi the 22/08/2021, wherein you were directed to reply the show cause but you did not submit your reply till date.

Therefore, you are hereby directed to appear before the competent authority in his office on 16/09/2022 for personal hearing to defend your case, otherwise Ex-Parte action will be taken against your.

DISTRICT EDUCATION (FEMALE)
SWABI

Personal Hearing Report in R/O Mr. Mujeeb ur Rahman Lab-Attendant, GHSS Dobian (Swabi)

Whereas an inquiry was ordered vide this office No.6213-16 dated Swabi the 01/07/2022, comprising of Muhammad Mutahir Principal BPS-19, GHS Jehangira (Swabi) Muhammad Naeem Head Master, GHS Shera Ghund (Swabi). The inquiry was submitted on 11/08/2022. He received questionnaire but he did not bother to submit his reply.

In response to inquiry recommendations, a show cause notice was issued to the person (under inquiry) but he did not submit his reply.

Then the competent authority provided him an another opportunity to defend his case and was issued a letter No.7887 dated Swabi the 10/09/2022 for personal hearing to be appeared before the competent authority on 16/09/2022.

He appeared before the competent authority but badly failed to defend his case. Therefore, I the competent authority (Irfan Ali) DEO(M) Swabi decided to proceed him under E & D rules; 2011; rule 4(b)(iii).

*Attested
Irfan Ali*

DISTRICT EDUCATION OFFICER
(MALE) SWABI
16/9/22



DISTRICT EDUCATION OFFICE (MALE) SWABI

(Office phone & Fax No 0938280239, emis_swabi@yahoo.com)

ORDER

WHEREAS, disciplinary proceedings were initiated against Mr. Mujeeb ur Rahman, Lab Attendant Govt. Higher Secondary School Dobian, Swabi, under the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011. The accused was served with charge sheet and statement of allegations.

AND WHEREAS, an enquiry committee, conducted the enquiry as per rules and submitted his report, thereafter the accused was served with final show cause notice and after receiving no reply to the same, the accused also opted for personal hearing. Accordingly he was personally heard on 16/09/2022, wherein he badly failed to defend his case.

AND WHEREAS after going through the findings and recommendations of the enquiry committee, materials on record, status of reply to the show cause and subsequent personal hearing, the accused found guilty of misconduct.

NOW, THEREFORE, in exercise of the powers, conferred upon the undersigned (Irfan Ali, DEO Male Swabi) under Section 4(1) (b)(iii) of the Khyber Pakhtunkhwa (Efficiency & Discipline) rules, 2011, the Competent Authority is pleased to impose the major penalty of "**Removal from Service**" upon Mr. Mujeeb ur Rahman, Lab Attendant Govt. Higher Secondary School Dobian, Swabi with immediate effect. The whole absence period till date is treated as unauthorized absence from duty.

(IRFAN ALI)
DISTRICT EDUCATION OFFICER
(MALE) SWABI

Attested
[Signature]

Endst:No. 8257-63 / Dated Swabi the:- 23/09 /2022.

Copy of the above is forwarded for information and n/action to the:-

1. Director E&SE Khyber Pakhtunkhwa Peshawar.
2. Registrar, Service Tribunal, Peshawar.
3. District Accounts Officer Swabi.
4. District Monitoring Officer (DMO) Swabi.
5. Principal, GHSS Dobian, Swabi.
5. Mr. Mujeeb ur Rahman, Lab Attendant, under transfer to Govt. Higher Secondary School Dobian, Swabi (Mohallah Dagai Lar, VPO Maneri Payan Tehsil & District Swabi), Under Registered cover.
6. Master file.

[Signature]
DISTRICT EDUCATION OFFICER
(MALE) SWABI

ENQUIRY REPORT

On

"Mr. Mujeeb ur Rahman Ex-Lab Attendant removal from service by the Competent authority and in service appeal No 403/2019 as it has been partially accepted that the appellant may be given appropriate opportunity of defense as required under KPK Govt Servant E&D rules 2011 While imposing major penalty i.e. removal from service."

Reference DEO (M) Swabi No 6213-16 Dated Swabi the 01/07/2022, a committee has been constituted on the above titled subject to enquire and probe the habitual absenteeism of Mr. Mujeeb ur Rahman S/O Nowsherwan Ex-Lab Attendant GHSS Doblan to submit report with clear cut recommendations,

The committee comprises:

1. Muhammad Mutahir, Principal GHSS Jehangira
(Chairman)
2. Muhammad Naeem, Head Mastar ,GHSS Shera Ghund
(Member)

Attested

Naeem

Problem Preview:

Mr. Mujeeb Ur Rehman Ex-Lab Attendant remained absent from duty frequently on one pretext or the other during his service tenure .Enquiries have been conducted against him from time to time with minor penalties have been imposed on him under E&D rules ,2011 as necessary by the time.

Lastly, an enquiry dated 01/8/018 was conducted against him recommending his removal from service if he cannot defend himself in personal hearing.

The competent authority vide Endstt No. 8262-68/Absence/Removal from service /F.No.4187 dated Swabi the .19 /9/2018, the above mentioned lab Attendant was removed from service under Rule 4 (b)-III E&D rules ,2011

The employee challenged his removal through service appeal 403/2019 decided on 25-3-2022.

Wherein the appeal was partially accepted and the case was remitted to the department for De Novo enquiry as the appellant was not given appropriate opportunity of defense as is required under KPK Govt Servants (E&D) rules, 2011 while imposing

Major Penalty i.e., removal from service by the Competent authority. Consequently, this enquiry has been ordered to dig out facts.

The above said Lab Attendant was informed properly to appear before the enquiry committee to defend himself. Record perused and facts were recorded.

FACTS:

1. Mr. Mujeeb Ur Rahman Ex-Lab Attendant was appointed as lab Attendant at GHS Gulshan Abad Maneri Payan (swabi) on Contract salary basis on 07-10-2006. He was transferred to E.D.O office. Due to unavailability vacant post there, he was adjusted against Chowkidar post temporary on 01/10/2009, he was adjusted as Chowkidar at GHSS Mansabdar (Swabi) Due to unavailability of Chowkidar post there his ill-disciplined attitude and absence from duty, on the basis of enquiry, he was transferred again on administrative grounds.
2. Due to absence from duty, another enquiry was conducted consequent upon which his 215 days absence period was converted into leave pay, stoppage of 02 annual increments and transfer to any other school.
3. He was transferred to GPS Rafique Abad (Swabi) on disciplinary grounds on 31/5/2016 but could not perform duty there as usual. He pretended that his actual post lab attendant but he had been posted against Chowkidar post.
4. He filed W.P 2081-p/2018 in PHC Peshawar. During the course of time, he was transferred to GHSS Dobian (Swabi) against his original post of lab attendant vide Endstt: No12623-G/F.CIV/apptt:Dated swabi the 7/12/2007 as a redressal of his grievance but he failed to comply on the basis of this grievance redressal, he withdrew his W.P on 10-7-2018.
5. An enquiry dated 01/8/2018 was conducted the recommendation of which was the person under enquiry (Mujeeb Ur Rahman) Seems extremely irresponsible and not fit for govt job. He may be called for personal hearing by the DEO (M) Swabi and proceeded upon major penalty of removal from service if he cannot defend himself.
6. He was issued two absence notices in public dailies
 - A). In daily Mashriq Dated June 28, 2018 and
 - B). In daily Express Dated 26 June, 018 at S.No 1.
7. Vide Endstt .No 678/A Dated 13-12-017 absence notice was issued to attend the School positively.

Despite of all remedial actions taken in his favour, he failed to report for duty due un Known Reasons.

8. After fulfilling all the codal formalities under E&D rules, 2011 section 9, he was removed from service vide DEO (M) Endstt: No 8262-68/Absence/removal from service/F.No 4/87 Dated Swabi the 19-2-2018, dispatched through Registered letter No camp POP-822 Dated 22-9-2018 on his permanent residential address.

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- 9. In service appeal No. 463/2019 decided on 25-3-2022, the appeal was partially accepted and the case was remitted to the department for denovo enquiry as the appellant was not given appropriate opportunity of defense as is required under KPK Govt Servants (F&D) rules, 2011 while imposing Major Penalty i.e. removal from service by the competent authority.
- 10. The chairman enquiry committee himself contacted the employee to present before the enquiry committee at DEO(M) Swabi office, to record his version and defend himself. He received a questionnaire as annexed as A receiving signs exist and demanded time to respond. The committee waited almost 02 weeks for his reply but he did not bother to submit his reply.
- 11. The overall record of the employee is full of absence, enquiries, litigation and disputes.

Conclusion:

Record of the employee shows that:

- 1. The employee is non-serious disobedient, ill-disciplined and habitual violator of rules and regulation.
- 2. His service record is spotted with absenteeism, defiance and disputes.
- 3. He did not bother to present himself before the enquiry committee for recording his version in this particular case which shows his psyche.
- 4. The committee is unanimous to conclude that the employee has no interest in his case and his service record testifies that he cannot be retained in service as per KPK Govt. servant (E&D) rules, 2011.

Recommendation:

The committee recommends that:

" Mr. Mujeeb ur Rahman Ex-Lab Attendant GHSS Dobian is ill-disciplined and dis-interested in Govt: Service. Hence, major Penalty under KPK Govt servants E&D rules 2011, shall be imposed on him under Rule 4b-iii.

Reference: Personal file of the employee In DEO(M) Swabi.

1. Muhammad Mutahir, Principal GHSS Jenangira
(Chairman)

2. Muhammad Naeem, Head Master GHS Shera Ghund
(Member)

[Signature]
11/8/2022

Attested
[Signature]

15-7-2022

حکومت پاکستان

اسلام آباد

محترم چیف جسٹس
اسلام آباد ہائی کورٹ
اسلام آباد

Attested
[Signature]

محترم چیف جسٹس، اسلام آباد ہائی کورٹ، اسلام آباد۔

میں نے ذیل درجہ ذیل فیصلوں کی تصدیق کی ہے:

1. فیصلہ نمبر 19-9-2022ء کی تاریخ میں جاری شدہ۔

2. فیصلہ نمبر 19-9-2022ء کی تاریخ میں جاری شدہ۔

3. فیصلہ نمبر 19-9-2022ء کی تاریخ میں جاری شدہ۔

4. فیصلہ نمبر 19-9-2022ء کی تاریخ میں جاری شدہ۔

5. فیصلہ نمبر 19-9-2022ء کی تاریخ میں جاری شدہ۔

6. فیصلہ نمبر 19-9-2022ء کی تاریخ میں جاری شدہ۔

7. فیصلہ نمبر 19-9-2022ء کی تاریخ میں جاری شدہ۔

8. فیصلہ نمبر 19-9-2022ء کی تاریخ میں جاری شدہ۔

9. فیصلہ نمبر 19-9-2022ء کی تاریخ میں جاری شدہ۔

10. فیصلہ نمبر 19-9-2022ء کی تاریخ میں جاری شدہ۔

محترم چیف جسٹس، اسلام آباد ہائی کورٹ، اسلام آباد

محترم چیف جسٹس، اسلام آباد ہائی کورٹ، اسلام آباد