


FORM OF ORDER SHEET

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

**Appeal No.** 2048/2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	22/10/2024	<p>The appeal of Mr. Altaf Abdul Nasir resubmitted today by Mr. Mir Zaman Safi Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on 25.10.2024. Parcha Peshi given to counsel for the appellant.</p> <p>By order of the Chairman</p> <p> REGISTRAR</p>

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE, PESHAWAR**

APPEAL NO. 2048 /2024

**ALTAF ABDUL NASIR**

**VS**

**EDUCATION DEPTT:**

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**APPELLANT**

**THROUGH:**

*M. Safi*  
**MIR ZAMAN SAFI,  
ADVOCATE**

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

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

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

Mr. Altaf Abdul Nasir, Ex-Junior Clerk (BPS-11),  
GHSS Palai, District Malakand.....APPELLANT

**VERSUS**

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

.....RESPONDENTS

**APPEAL UNDER SECTION-4 OF THE KHYBER**  
**PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST**  
**THE IMPUGNED ORDER DATED 27.06.2024 WHEREBY**  
**MAJOR PENALTY OF REMOVAL FROM SERVICE HAS**  
**BEEN IMPOSED UPON THE APPELLANT AND AGAINST NO**  
**ACTION TAKEN ON THE DEPARTMENTAL APPEAL OF**  
**APPELLANT WITHIN THE STATUTORY PERIOD OF**  
**NINETY DAYS**

**PRAYER:**

That on acceptance of this appeal the impugned order dated 27.06.2024 may very kindly be set aside and the appellant be reinstated into service with all back benefits i.e. with effect from 03.06.2013. Any other relief which this august Tribunal deems appropriate may also be granted in favor of the appellant. /

**R/SHEWETH:**

**ON FACTS:**

*Brief facts of the present appeal are as under:-*

- 1- That the appellant was the employee of elementary and secondary education department and was serving as Junior Clerk (BPS-11) at GHSS Palai, District Malakand quite efficiently and upto the entire satisfaction of his superiors.
- 2- That during service the appellant was charged in case FIR No.1 dated 25.09.2012 U/S 409/419/420/468/471/472 PPC and FIR No.1 dated 25.03.2013 U/S PPC 409/419/420/468/471/5(2) PPC Act. That the appellant

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3- That during such period when the appellant was behind the bar the respondents issued removal order of the appellant vide dated 03.06.2013 without fulfilling the codal formalities as per law and rules. That later on the appellant was acquitted in both the cases by the Learned Special Judge Anti-Corruption, (Provincial, Khyber Pakhtunkhwa, Peshawar vide its judgments dated 26.02.2019. Copies of the removal order & judgments are attached as annexure.....B, C & D.

4- That after acquittal in the above mentioned charges the appellant preferred departmental appeal for his re-instatement followed by service appeal No.871/2019 before the Khyber Pakhtunkhwa Service Tribunal, Peshawar which was accepted vide judgment dated 01.01.2024 with the directions that:-

*“For what has been discussed above, we are unison to set aside impugned order dated 03.06.2013 and re-instate the appellant for the purpose of inquiry with direction to respondents to conduct regular inquiry by providing proper opportunity of hearing, defence and cross examination to the appellant. Respondents are further directed to conclude inquiry within sixty days of receipt of copy of this judgment. The issue of back benefits shall be subject to the outcome of inquiry”.*

Copy of the judgment dated 01.01.2024 is attached as annexure.....E.

5- That after acquiring attested copy of the judgment dated 01.01.2024 the appellant submitted the same before the respondents for implementation but no response was received from the quarter concerned. That the appellant preferred execution petition before this august Service Tribunal and during pendency of the execution petition the department conducted inquiry in the matter without issuing charge sheet and statement of allegations to the appellant and as such the appellant has not been associated properly in the said alleged inquiry. Copy of the inquiry report is attached as annexure.....F.

6- That astonishingly the District Education Officer (M), District Malakand issued the impugned order dated 27.06.2024 whereby major penalty of removal from service once again imposed upon the appellant without fulfilling the codal formalities as per law and rules ibid and as per directions in the judgment of this Tribunal. Copy of impugned order dated 27.06.2024 is attached as annexure.....G.

7- That the appellant feeling aggrieved from the impugned order dated

GRUNDS:


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- A- That the impugned order dated 27.06.2024 is against the law, facts, norms of natural justice and materials on the record, hence not tenable and liable to be set aside.
- B- That the appellant has not been treated by the respondent department in accordance with law and rules on the subject noted above and as such the respondents violated Article-4 and 25 of the Constitution of Islamic Republic of Pakistan, 1973.
- C- That the respondents acted in arbitrary and malafide manner while issuing the impugned order dated 27.06.2024 which is not tenable in the eye of law and the same is liable to be set aside.
- D- That no charge sheet and statement of allegations has been issued to the appellant before issuing the impugned order dated 27.06.2024.
- E- That no chance of personal hearing/defence has been provided to the appellant before issuing the impugned order dated 27.06.2024 which is necessary as per law, rules and judgments of the Apex Court before taking punitive actions against the civil servants.
- F- That no regular inquiry has been conducted in the matter, hence the impugned order dated 27.06.2024 is not tenable and liable to be set aside.
- G- That no show cause notice has been served upon the appellant before issuing the impugned order dated 27.06.2024.
- H- That the statements of the evidence have not been recorded during the course of inquiry neither any chance of cross examination has been provided which is necessary as per law, rules and judgment of the Apex Court.
- I- That the inquiry conducted by the authority concerned is not in accordance with judgment passed by the august Service Tribunal, Peshawar.
- J- That the appellant seeks permission to advance any other ground and proofs at the time of hearing.

It is therefore most humbly prayed that the appeal of appellant may

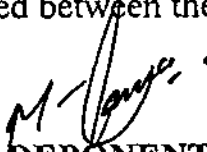
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Appellant  
  
ALTAF ABDUL NASIR

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

ALTAF ABDUL NASIR

VS

EDUCATION DEPTT:

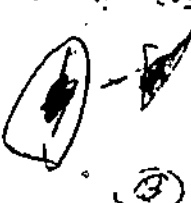
AFFIDAVIT

I, Altaf Abdul Nasir S/O Abdul Manan R/O Gulshan Colony, Jehan Abad, District Mardan, 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.

  
ALTAF ABDUL NASIR  
(APPELLANT)

Handwritten notes in Urdu script, including the number 103 and various mathematical or technical expressions.

103	
829/ACE	
15.2.12	
1695-99	
BRS-7	
BRS-14	
SET	
HSS	
409/419/428/437/448	
3/10	
251/9	



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197

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Main body of handwritten notes in Urdu script, detailing various points or observations.

Handwritten notes in Urdu, likely describing technical specifications or measurements. Includes numbers like 205910 and 56914.

NO (S/M) 14-17/2012	NO-DNA/2012
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ایمان گارنٹی اور پی

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"C"

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REGISTERED



GOVERNMENT OF KHYBER PAKHTUNKHWA  
ELEMENTARY & SECONDARY EDUCATION  
DEPARTMENT

Dated Peshawar the June 03, 2013

NOTIFICATION

1. NO.SOIS/M/E&S/ED/4-17/2012/Muhammad Shakoor (SS): WHEREAS Mr. Altaf Abdul Nasir, Junior Clerk (Impersonated as Shah-e-Mulk), Ex-SET (BS-16) GHSS Palai Malakand Agency (Now in Judicial Lockup Malakand at Malakand), proceeded against under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 for the charges mentioned in the charge sheet and statement of allegations.

2. AND WHEREAS Mr. Hayat Muhammad, Principal (BS-18) GHSS Wartair Malakand Agency was appointed as Inquiry Officer to conduct Inquiry against the accused officer, for the charges leveled against him in accordance with the rules vide Notification dated 06-09-2012.

3. AND WHEREAS the Inquiry Officer, after having examined the charges, evidence on record and explanation of the accused officer has submitted the report.

4. AND WHEREAS a show cause notice was served upon Mr. Altaf Abdul Nasir, Junior Clerk (Impersonated as Shah-e-Mulk), Ex-SET (BS-16) GHSS Palai Malakand Agency (Now in Judicial Lockup Malakand at Malakand) dated 08-03-2013.

5. AND WHEREAS the Competent Authority (Chief Secretary Khyber Pakhtunkhwa) after having considered the charges and evidence on record, inquiry report, non response to the Show Cause Notice, is of the view that the charges against the accused officer have been proved.

6. NOW, THEREFORE, in exercise of the powers conferred under Rule-14 (5) of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, the Competent Authority (Chief Secretary, Khyber Pakhtunkhwa) is pleased to impose major penalty of "Removal from Service" upon Mr. Altaf Abdul Nasir, Junior Clerk (Impersonated as Shah-e-Mulk), Ex-SET (BS-16) GHSS Palai Malakand Agency (Now in Judicial Lockup Malakand at Malakand) with immediate effect.

SECRETARY

Number of Copies: 8

Copy forwarded to the:-

- 1- Addl. Secy. General, Khyber Pakhtunkhwa, Peshawar.
- 2- Director, Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
- 3- District Education Officer (Male) Malakand/Charsadda/Mardan/Buner/Swat/Nowshera/Swabi.
- 4- District Accounts Officer Malakand/Charsadda/Mardan/Buner/Swat/Nowshera/Swabi.
- 5- Director, Anti Corruption Establishment, Khyber Pakhtunkhwa, Peshawar.
- 6- PS to Secretary, E&S, Khyber Pakhtunkhwa, Peshawar.
- 7- PS to Secretary, E&S Department, Khyber Pakhtunkhwa.
- 8- Mr. Altaf Abdul Nasir, Junior Clerk (Impersonated as Shah-e-Mulk), Ex-SET GHSS Palai Malakand.

ATTESTED

B.C.F.

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In the Court of Ikhtiar Khan, Special Judge, Anti-Corruption,  
(Provincial), Khyber Pakhtunkhwa, Peshawar.

Case No. 67 of 2013.

Date of Institution: 08.10.2013.

Date of Decision: 26.02.2019.

State..... Versus.

Iltaf Abdul Nasir alias Nasir Babu S/o Abdul Manan, R/o Gulshan  
Colony, Jehan Abad District Mardan.

Case FIR No.01 dated 25.03.2013 v/s 409/419/420/468/471/PPC read with  
section 5(2) PC Act of P.S. ACE, Buner.

Judgment.

1) Complainant Saidul Amin the then C.O. F.S. ACE, Buner submitted source report to the effect that accused Abdul Nasir alias Nasir Babu S/o Abdul Manan was taking salary from Education Department against two seats i.e. BPS-17 SS Economics in GHS Chaena and BPS-17 SS History in GHSS Jangal and he had secured his appointment through fake and bogus orders. The source report was followed by an open inquiry in which it was dig out that accused facing trial had received Rs.56,914/- for the period from 29-05-2012 to 31-07-2012 with the name of Abdul Nasir and for the period of 01-03-2012 to 31-07-2012 received the salary to the tune of Rs.1,48,996/- with the name of Iltaf against the said two posts and thus he had caused the loss of Rs.2,05,910/- to the exchequer.

2) After completion of inquiry, instant case was registered against the accused. He was arrested and after completion of investigation his case was sent to this court for the purpose of trial. The accused was charge sheeted to which he pleaded not guilty and claimed trial.

3) The prosecution in support of its case has examined as many as three PWs and following is the gist of their statements:-

- i) Saidul Amin, CTD Shangla, (PW-1) stated that during the relevant days he was posted as C.O. ACE Buner. On 08-10-2012 he prepared a source

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26/07/2019  
Anti-Corruption  
Khyber Pakhtunkhwa, Peshawar

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conducting open inquiry which was allowed vide letter Ex.PW1/2. He took into possession the relevant record consisting of attested copy of pay roll in the name of Abdul Nasir Ex.P-1, attested photo copy of pay roll Altaf Ex.P-2, attested copy of letter No.453 Ex.P-3, attested copy of letter No.452 Ex.P-4, attested copy of letter No.450 Ex.P-5, attested copy of computer source (2 in number) Ex.P-6, copy of charge report Ex.P-7, copy of attendance certificate Ex.P-8 (2 in number), attested copy of charge report Ex.P-9 (2 in number), attested copy of transfer order Ex.P-10, attested copy of letter to EDO Bunair Ex.P-11 vide recovery memo Ex.PW1/3, produced by Islam Muhammad in charge of GHSS Jangai. He also took into possession the charge report reports Ex.P-12, attendance register Ex.P-13, Goshwara Ex.P-14, pay roll Ex.P-15 (2 in number), copy of dispatch register Ex.P-16 vide recovery memo Ex.PW1/4, produced by Maazullah Head teacher GHS Cheena. He also took into possession the personal file of Altaf consisting of pay roll (5 in number) Ex.P-17, LPC Ex.P-18, Pay slip for the month of January of District Swabi Ex.P-19, transfer order Ex.P-20, charge report Ex.P-21, charge relinquishment report Ex.P-22, appointment order Ex.P-23, medical examination report Ex.P-24, specimen signature Ex.P-25, computer source for stoppage of salary Ex.P-26, application for LPC Ex.P-27, relieving documents (7 in number) Ex.P-28. He also took into possession the personal file in the name of Abdul Nasir consisting of pay roll for July 2012 Ex.P-29, transfer order GHSS Jangai to Dir Upper Ex.P-30, charge relinquishment report Ex.P-31, copy of NIC Ex.P-31, specimen signature Ex.P-32, charge report Ex.P-33, medical examination report Ex.P-34, posting order GHSS Jangai Ex.P-35. filed

26.02.2018

SPECIAL JUDGE  
 Cyber Pak. District Swabi

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 [Signature]

ATTESTED  
 [Signature]

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computer source for stoppage of pay Ex.P-38, copy of letter No. 3058 Ex.P-39, computer source (in number) Ex.P-40 vide recovery memo Ex.PW1/5.

ii) Muhammad Zahid Shah Moharrir P.S. ACE Buner (PW-2) is the marginal witness of recovery memo Ex.PW1/3 to Ex.PW1/5 vide which the I.O. has taken into possession the documents mentioned in these recovery memos.

iii) Zahir Shah, DSP appeared as PW-3 and stated that on his transfer to District Buner as C.O. ACE, the case was entrusted to him for inquiry. He vide his application Ex.PW3/1 sent the documents for verification. In response Director ACE wrote a letter Ex.PW3/2 to Secretary Government, Elementary and Secondary Education Department and the reply of the Secretary Education Department is Ex.PW3/3 that the documents were fake. PW-3 obtained the detail of payment from District Accounts Officer Buner vide application Ex.PW3/4 and thereafter he prepared his final report Ex.PW3/5 and made a request for registration of case which was allowed vide letter Ex.PW3/6. The case was registered vide FIR Ex.PA duly signed by PW-3. PW-3 vide letter Ex.PW3/7 made a request to Sessions Judge Buner for transfer of accused as he was in the judicial lock up in District Malakand and subsequently the accused was handed over and interrogated by PW

3. He produced the accused for physical custody as well as for recording his confession but accused refused to confess and was sent to judicial lock up.

4) After close of prosecution evidence the accused was examined u/s 342 Cr.PC wherein he denied the allegations and claimed his innocence. However, he neither wished to be examined on oath nor to produce any defence evidence.

5) Arguments of learned Sr. PP Muhammad Khalid and Mr. Said Akbar Ali advocate, learned defence counsel already heard and file

24/03/2018  
SPECIAL JUDGE  
Khyber Pakhtunkhwa

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commission of offence. Accused has fraudulently secured the government jobs with different names at two different places and his appointment order and subsequent transfer order from Swabi to Buner were found forged by the concerned quarter. The accused has admittedly served in two different places and received the amount of Rs.2,05,910/- as salary. The accused is an habitual offender and in another case registered vide FIR No.01 dated 25-09-2012 in P.S. ACE, Malakand he has made a judicial confession in which he also admitted his involvement in instant case, therefore the accused may be convicted and sentenced according to law.

7) I have considered the above submissions and perused the available record.

8) It is the case of prosecution that in the year 2012 within the criminal jurisdiction of P.S. ACE Buner the accused had fraudulently and dishonestly shown himself as Subject Specialist through impersonation in the name of Utaf through bogus notification and drawn the salary amount of Rs.1,48,996/- for the period from 01-03-2012 to 31-07-2012. Similarly he had also shown himself to be Abdul Nasir and through bogus notification drawn the salary amounting of Rs.56,914/- for the period from 29-05-2012 to 31-07-2012 against the seat of Subject Specialist.

9) The statement of PW-1 suggests that the relevant record in shape of Ex.P-1 to Ex.P-11 were produced before him by PW Islam Muhammad incharge of GHSS Jangai but this PW was not produced by prosecution whose statement was necessary not only to support the production of said documents but also to prove that it was the accused facing trial who by impersonation had drawn the salary against the seat of Subject Specialist in GHSS Jangai. In the same way Maazullah, Head Master of GHS Cheena had produced the photo copies of charge reports Ex.P-12, attested photo copy of attendance register Ex.P-13, attested copy of Goshwara Ex.P-14, attested photo copy of pay roll Ex.P-15 & attested photo copy of dispatch register Ex.P-16 but the name of said person is not included even in the list of witnesses. The statement of Maazullah being Head Master of GHS Cheena could support the prosecution case but he was not examined as PW. In the same way Mir Zaman DAO Buner who produced different documents as Ex.P-17 to Ex.P-40 which includes the personal file, specimen signature, application for grant of LPC, CNIC in the name of Abdul Nasir S/o Fazal Sher and medical reports but this witness was also not examined by the prosecution in support of its case. Thus the presumption under Article 109 (a) of Qanun-e-Shahadat Ordinance, 1984 is not attracted.

6/08/2019  
 1709419  
 Khyber Pakhtunkhwa High Court

ATTESTED

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10) The documents in shape of medical certificate, specimen signature, charge assumption/relinquishment reports and the application for grant of LPC bears the signatures of Abdul Nasir and Itaf on whose names the accused facing trial had allegedly secured the job but the Investigating Officer has failed to compare these signatures with the signature of the accused facing trial and without this piece of evidence how it can be held that it was the accused facing trial who committed the forgery by impersonation. The address and picture of CNIC Ex.P-31/Ex.PW1/D-1 are different from the picture and address of the CNIC of accused facing trial but the I.O. has not taken any pain to verify both the CNICs from NADRA. PW-1 admitted that he had not collected educational documents/certificates of the accused or of the person with the name of Abdul Nasir. PW-1 also admitted that he had not conducted any identification parade from any official of education department in order to confirm that the accused facing trial was the person who served with two different names. PW-1 also stated that he had recorded the statement of one Sayal Khan SET and Islam Muhammad incharge of GHSS Jangai regarding handing and taking of charge from Itaf but also admitted that the said two persons had not stated before him that they had identified Itaf Abdul Nasir. PW-1 also admitted that he had not verified the signatures on the documents of Abdul Nasir and Itaf to confirm that whether these were the signatures of accused Itaf Abdul Nasir or not. PW-3 Zahir Shah DSP who partially conducted the inquiry and investigation in the case also admitted in his cross examination that he had not recorded the statement of any official regarding the identification of accused facing trial. He further admitted that no identification of accused was conducted by him in order to prove the charge against him.

26/10/2019

Shahidullah Khan

11) By taking into account the evidence discussed in the preceding paragraphs it can safely be held that the prosecution has failed to prove beyond any shadow of doubt that it was the accused who had committed any cheating by impersonation, therefore the mere fact that the transfer and posting orders were fake could not connect the accused with the allegations. Likewise, the confession of the accused in another case which was neither made part and parcel of this file nor the concerned Magistrate was produced before this court during this trial cannot be used as incriminating evidence against the accused facing trial.

UNTESTED

BY/...

12) Resultantly, I am of the affirm opinion that the case of the



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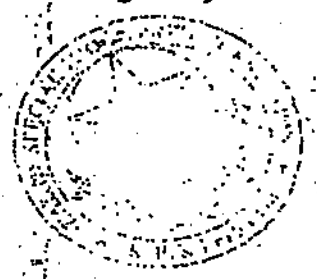
FROM THE CHARGES LEVELLED AGAINST HIM, HE IS ON BAIL, HE AND HIS SURETIES ARE discharged from the liabilities of bail bonds. The case property be kept intact till the expiry of the period of limitation prescribed for appeal/revision where after be dealt in accordance with law. File be consigned to the record room after completion and compilation.

Announced.  
Peshawar.  
26-02-2019.

(Ikhtiar Khan)  
Special Judge,  
Anti-Corruption (Provincial),  
Khyber Pakhtunkhwa, Peshawar.

Certificate:

Certified that this Judgment consists of six pages, each of which has been signed by me.



Special Judge,  
Anti-Corruption (Provincial),  
Khyber Pakhtunkhwa, Peshawar.

ATTESTED

EXAMINED  
Corrupt Special Judge,  
Anti Corruption K P K Peshawar

ATTESTED

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In the Court of Ikhtiar Khan, Special Judge, Anti-Corruption,  
(Provincial), Khyber Pakhtunkhwa, Peshawar.

Case No. 34 of 2013.

Date of Institution. 00.10.2013.

Date of Decision. 26-02-2019.

State..... Versus:

Itaf Abdul Nasir S/o Abdul Manan, Junior Clerk GHSS Palai, R/o  
Dochra Chowk Gulshan Iqbal colony Mohallah Jan Abad Mardan.

Case FIR No.01 dated 25.09.2012 u/s 409/419/420/468/471/472/PPC read  
with section 5(2) PC Act of P.S. ACE, Malakand.

Judgment.

1) In pursuance of complaint against Education Department, Malakand on the allegations of corruption an open inquiry No.103 of 2011 was conducted during which it was dig out that Itaf Abdul Nasir S/o Abdul Manan with different names and through forged documents had succeeded to secure the post of SET BPS-16 with the name of Shahi Mulk, post of CT, BPS-14 with the name of Imad Ali and Junior clerk in the name of Itaf Abdul Nasir and received the salaries against the said posts. It was also alleged against him that he had abused his official position as public servant and fraudulently and dishonestly misappropriated the school private fund, thus he had caused the total loss of Rs.11,42,628/- to the exchequer.

2) Initially, the interim challan was submitted against the accused and vide order dated 07-02-2014 the case was returned to the prosecution for submission of complete challan. On receiving the complete challan in this court on 19-05-2014, the accused was charge sheeted on 23-05-2014. The prosecution in support of its case has examined as many as fourteen (14) PWs and following is the gist of their statements:-

i) Fazal-e-Ahad (PW-1) deposed that he was posted as District Officer Education Malakand and on the directions of EDO Malakand he and Khog Badshah conducted departmental inquiry against Shahi Mulk SET and submitted the inquiry report Ex.PW1/1 consisting of 5 sheets.

ii) Shah Jehan Senior Auditor (PW-2) conducted the

ATTESTED

EXAMINER

Court of Special Judge  
Anti Corruption P.S. Malakand

26.02.2019

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- iii) Shah Jehan FC (PW-3) is the marginal witness of recovery memos Ex.PW3/1 to Ex.PW3/3 vide which the I.O. has taken into possession 12 attested pages i.e. NIC, opening form, bank account ~~documental details with vouchers from NBP Mardan~~ 32 attested documents regarding opening of bank account of Imad Ali from NBP Khawaja Ganj Mardan, NIC, pay statement, service certificate and 12 documents of different kinds from the possession of accused.
- iv) Muhammad Ayaz (PW-4) is the marginal witness of recovery memo Ex.PW4/1 vide which the I.O. has taken into possession letter bearing No.1229 of Director Education KPK and the questionnaire and NIC issued in the name of Shahi Mulk. He is also a marginal witness to recovery memo Ex.PW4/2 vide which the I.O. has taken into possession the personal file in the name of Shahi Mulk consisting of 16 pages. PW-4 is also the marginal witness of recovery memo Ex.PW4/3 vide which the I.O. has taken into possession the computerized detail of Shahi Mulk, Iltaf Abdul Nasir and Imad Ali.
- v) Shah Mulk, (PW-5) deposed that in the year 2008 he was posted as SST teacher in GHS Qadra for one year but due to his personal engagement he did not complete one year contract and he started practices as lawyer in Islamabad. During this period he received questionnaire from ACE Malakand and came to know that a person with the name of Iltaf Abdul Nasir by showing himself as Shahi Mulk prepared a bogus transfer order from GHS Qadra to GHSS Palai and took charge there on the same name and designation. PW-5 further stated that a questionnaire was served on him to which he submitted his reply. He further stated that accused Iltaf Abdul Nasir withdraw his salary from

26.02.2019  
 SPECIAL JUDGE  
 And District  
 Khyber Pakhtunkhwa Peshawar

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vi) Shahi Mulk S/o Qeemat Khan (PW-6) stated that on 10-07-2007 he was appointed as SET teacher in GHS Afrido kailey for a period of six months. His contract was renewed for one year from 16-09-2008 to 16-09-2009. He further stated that he performed his duty in the above mentioned school and received his pay through ABL Nowshera. After the expiry of contract he was relieved and further contract was not extended.

vii) Majid Ali Khan S/o Jamshed Khan (PW-7) stated that he is the permanent resident of Badar Banda and used to live with his cousin. His cousin has a datsun who used to ply it from Katlang to Palai. The accused facing trial used to travel in the datsun and represent him with the name of Shahi Mulk who informed that there is a vacant post in GHSS Palai for which he needed a teacher. Accused facing trial offered him teaching which was accepted and he performed his duty as teacher in GHSS Palai for one year for which accused facing trial paid Rs.5000/- per month to him.

viii) Bashir Khan Inspector (PW-8) stated that a letter No.3112 dated 03-10-2011 Ex.PW8/1 was marked by the DCO regarding inquiry against Shahi Mulk. So he vide application Ex.PW8/2 sought permission for open inquiry which was granted vide letter Ex.PW8/3. He further stated that vide recovery memo Ex.PW4/1 he took into possession letter bearing No.1229 dated 10-10-2011 Ex.P-1 and letter No.3861 dated 29-10-2011 Ex-P-2. PW-8 also submitted an application Ex.PW8/4 for nomination of auditor. He served the questionnaire upon Shahi Mulk S/o Subhanullah which is Ex.PW8/5 and the reply to the questionnaire is Ex.PW8/6.

ix) Zahir Shah DSP (PW-9) vide letter Ex.PW9/1

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2012 he arrested accused Iltaf Abdul Nasir vide card of arrest Ex.PW9/3 and during his personal search a plastic sack was recovered from him, in which a file containing 12 documents were taken into possession vide recovery memo Ex.PW3/3. The file cover was having the words "Government of Pakistan, Accountant General NWFP" and the twelve documents are Ex.P-2. He vide application Ex.PW9/4 obtained the custody of the accused. During interrogation the accused disclosed that the other bogus documents and stamps were lying in his house. So Fida Muhammad, the brother-in-law of accused, who brought 7 bogus stamps and various documents which were taken into possession vide Ex.PW5/1. The 7 stamps were exhibited as Ex.P-3, the service book of Iltaf Abdul Nasir Ex.P-4 consisting of 10 sheets, LPC certificate in the name of Abdul Nasir Ex.P-5, LPC certificate in the name of Abdul Nasir Ex.P-6, notification No. 2011 Ex.P-7, medical certificate in the name of Abdul Nasir S/o Afzal Sher Ex.P-8, the letter No.232-34 dated 6-8-2008/2009 Ex.P-9, medical certificate in the name of Iltaf Khan without signature Ex.P-10; photo copy of notification 1-85, 2009 Ex.P-11, letter issued from Section Officer namely Mujeebur Rehman Ex.P-12 (5 pages), scale wise proforma dated 01-7-2007 Ex.P-13, pay slip in the name of Iltaf Ex.P-14, pay slip in the name of Shahi Mulk Ex.P-15, pay slip in the name of Abdul Nasir Ex.P-16, pay slip in the name of Imad Ali and Shahi Mulk Ex.P-17, appointment form blank Ex.P-18, letter issued from Mujeebur Rehman Section Officer Ex.P-19, notification issued from Mujeebur Rehman Section Officer dated 28-09-2011 Ex.P-20, order of appointment notification dated 27-05-2012 Ex.P-

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Khyber Pakhtunkhwa  
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receipt regarding Rs.1000/- Ex.P-25, receipt of NBP Mardan dated 28-05-2012 Ex.P-26, empty form of charge report duly signed by Principal GHSS Bamb khel Ex.P-27, empty medical certificate Ex.P-28, empty photo stat form LPC Ex.P-29, blank charge report three in numbers Ex.P-30, HR form three in numbers Ex.P-31, various copies of other documents 16 in numbers Ex.P-32. PW-9 vide application Ex.PW9/5 produced PW Fida Muhammad brother-in-law of the accused for his statement u/s 164 Cr.PC and vide application Ex.PW9/6 produced the accused before the JMIC for recording his confession. He also took into possession the personal file Ex.P-33 of accused facing trial maintained in the name of Shahi Mulk vide recovery memo Ex.PW2/2. PW-9 submitted his final report Ex.PW9/7 consisting of four pages. The final report was returned back vide letter Ex.PW9/8 and after making clarification another report was submitted. PW-9 vide his application Ex.PW9/9 requested for submission of supplementary challan against the accused and thereafter he was transferred.

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x)

Muhammad Humayun Assistant Director Admn: & Finance, Finance Department Peshawar (PW-10) stated that during the relevant days he was Admin Assistant in District Accounts Office Malakand and during the inquiry he handed over the attested copies of documents relating to the release of pay regarding three person namely Shahi Mulk, Imad Ali and Iltaf Abdul Nasir consisting of, 11 pages which were taken into possession vide recovery memo Ex.PW10/1.

xi)

Alangir Khan SI (PW-11) submitted complete challan Ex.PW11/1 against the accused.

xii)

Muhammad Naeem Khan DSP (PW-12) conducted

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statement of Muhammad Shakoor vide application Ex.PW12/1. He also submitted an application Ex.PW12/2 to the District & Sessions Judge, Malakand for issuance of directions to the bank authorities for provision of record in the name of Shahi Mulk. The permission was granted vide court order Ex.PW12/3. Thereafter, the bank authority provided the record consisting of 5 pages which included bank statement, bank opening form and photo copy of CNIC which is Ex.PC. He vide application Ex.PW12/4 requested the District & Sessions Judge Mardan for provision of bank record of Iltaf Abdul Nasir and Imad Ali. The request was allowed vide order Ex.PW12/5 and the concerned bank provided the relevant record consisting of 13 pages Ex.PD which were taken into possession vide recovery memo Ex.PW3/1. He also took into possession 2 pages of record which is Ex.PE. He also submitted final report Ex.PW12/6 and made a request for submission of challan. He submitted supplementary challan Ex.PW12/6.

- xiii) Saidul Amin (PW-13) is the marginal witness of recovery memo Ex.PW13/1 vide which the I.O. taken into possession the 7 stamps, 2 service books in the name of Iltaf Abdul Nasir and Imad Ali and other documents which were produced by Fida Muhammad.
- xiv) Muhammad Qasim Civil Judge-I, Balakot Mansehra (PW-14) stated that during the relevant days he was posted as Civil Judge-I/Illaqqa Qazi Batkhela District Malakand. On 16-10-2012 he was present in his court when the local police of ACE Malakand produced Iltaf Abdul Nasir alias Nasir Babu S/o Abdul Manan for recording his confession. PW-14 further stated after compliance

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the confessional proceeding which was started at 1200 PM and on ended 1.20 PM. The questionnaire issued to the accused is Ex.PW14/1 (two pages), the confession of accused is Ex.PW14/2 (9 pages) and the court certificate is Ex.PW14/3.

- 3) After close of prosecution evidence the accused was examined u/s 342 Cr.PC wherein he denied the allegations and claimed his innocence. However, he neither wished to be examined on oath nor to produce any defence evidence.
- 4) Arguments of learned Sr. PP Muhammad Khalid and Mr. Said Akbar Ali advocate, learned defence counsel already heard.
- 5) Learned Sr.PP has argued that the accused facing trial is fully connected with the commission of forgery and losses to the government on the basis of documentary and circumstantial evidence. The accused had also made judicial confession which is duly proved through statement of Muhammad Qasim Judicial Magistrate PW-14. He further argued that an open inquiry was conducted during which the involvement of accused facing trial was surfaced. At the time of arrest various documents were recovered from accused and later on, on his pointation his brother-in-law, Fida Muhammad had produced 7 fake stamps and other fake documents from the house of accused. The accused had committed forgery by impersonation and succeeded in securing three different government jobs on fake documents and received salary from the government against the posts of SET, CT and Junior Clerk, therefore he may kindly be convicted and sentenced according to law.
- 6) On the contrary, learned defence counsel has argued that the accused facing trial is innocent and he was made scapegoat as the high ups of the education department were involved in corrupt practices. None of the PWs have deposed against the accused facing trial that he had received any salary or he had posed himself to be Shahi Mulk or Imad Ali. There is no evidence on the available file that the accused facing trial was identified by any of the witnesses. The bank record, though was taken into possession by the I.O. but it cannot prove any criminal case against the accused. The confession allegedly recorded by PW-14 was the result of

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recorded in utter violation of High Court Rules & Order therefore, the accused facing trial may kindly be acquitted.

7) I have considered the above submissions and perused the record.

8) As per allegations a complaint was filed against the Education Department, Malakand regarding corrupt practices which resulted into an open inquiry No.103 of 2011, in which accused Iltaf Abdul Nasir was blamed with the allegations that he with different names and with forged documents had succeeded to secure the posts of SET with the name of Shahi Mulk, the post of CT with the name of Imad Ali and as Junior Clerk on his own name. The audit report Ex.PW2/1 suggests that accused facing trial had misappropriated the school private fund to the tune of Rs.1,22,943, drawn the pay amount to Rs.3,15,878/- for the period from 01-12-2009 to 31-08-2011 in the name of Shahi Mulk, SET through HBL Palai, drawn the amount of Rs.2,15,140/- as pay and allowances as junior clerk through NBP main branch Mardan by producing fake transfer order to DAO and drawn the amount of Rs.4,88,667/- by producing fake record/transfer order in the name of Imad Ali CT teacher from Swabi to GHSS Palai and this amount was paid to him through account No.00375 of NBP Khawaja Ganj branch Mardan. Thus he had allegedly caused the total loss of Rs.11,42,628/- to the exchequer.

9) In order to prove the said allegations the prosecution is relying on the confession Ex.PW14/2 of the accused recorded by PW-14, the departmental inquiry Ex.PW1/1 consisting of 5 sheets conducted by PW-1 & Khog Badshah, the record of HBL Malakand in shape of bank statement (two pages) bank form (two pages), photo copy of CNIC (Ex.PC); vide recovery memo Ex.PW3/1, the record of NBP Mardan consisting of 12 pages and record of NBP Khawaja Ganj Mardan consisting of 32 documents vide recovery memo Ex.PW3/2 and 12 documents of different kinds which were allegedly recovered from the possession of accused at the time of his arrest vide recovery memo Ex.PW3/3. The prosecution is also relying on different letters from the concerned quarter according to which the posting/transfer orders were found to be fake and on the fact that there was no teacher with the name of Shahi Mulk and Imad Ali. In addition to this the prosecution also relied on the 7 bogus stamps and various documents produced by one Fida Muhammad on the directions of accused when he was in police custody.

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against this seat/post through FBL, Palai Branch. However, except the retracted confession of accused, the available evidence and record nowhere indicate that it was accused facing trial who had performed any duty in GHSS Palai. In order to prove this allegation the prosecution was under obligation to produce any witness from GHSS Palai who could say that yes it was the accused facing trial who performed his duty as SET in the said school. In this respect the learned Sr.PP has placed reliance on the statement of PW-7 Majid Ali Khan. According to this PW his cousin had a datsun which was used to ply from Katlang to Palai. The accused was usually travelling in the said datsun and he represented himself to be Shahi Mulk. He offered a teaching job to PW-7 at the rate of Rs.5000/- per month in GHSS Palai. PW-7 also stated that he was paid by accused for 9 months. However, when PW-7 was subjected to cross examination he candidly conceded that he met Shahi Mulk and he did not identify the person who disclosed his name as Shahi Mulk. PW-7 further admitted that he was not taken by the police for identification of accused. Thus, the statement of PW-7 is not helpful to the case of prosecution.

11) The prosecution also alleged that the accused facing trial had drawn the salary of Rs.3,15,878/- through HBL Palai and the I.O. during investigation vide application Ex.PW12/2 had taken into possession the relevant record Ex.PC from the bank in shape of bank statement, bank form and photo copy of CNIC, however the name of Shahi Mulk is mentioned in these documents including in the CNIC and these documents by itself nowhere prove that the account was operated by the accused facing trial. It was necessary for the I.O. to examine anyone from the bank or to send the recovered documents for comparison with the signature of the accused facing trial in order to prove that either the account was opened by accused facing trial or he was operating the same but no such evidence is available on file to prove the withdrawal of Rs.3,15,878/- from HBL Palai.

12) The second allegation against the accused facing trial is that he had prepared a fake transfer order in the name of Imad Ali CT and succeeded in getting his salary to the tune of Rs.4,88,667/- on the basis of fake transfer order through bank A/C No.004715-4 NBW Khawaja Ganj Mardan. Again none of the PWs produced by the prosecution have stated that infact it was the accused facing trial who had produced the fake transfer order to DAO in the name of Imad Ali from Swabi to GHS Palai

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Sessions Judge, Mardan for issuance of directions for provision of bank record of Itaf Abdul Nasir and Imad Ali which was allowed vide order Ex.PW12/5 and he has taken into possession the 13 pages record Ex.PD but again no comparison to the extent of signature on the account opening form and bank cheque for withdrawal of amount was made. PW-12 has also failed to take any pain for identification of the accused facing trial from the officials of the bank of NBP Khawaja Ganj branch Mardan because without any comparison of the signature on the bank record with the signature of accused and without identification of the accused through bank official or school staff it cannot be proved that this bank account was opened or operated by accused facing trial. Similarly, in respect of the amount of Rs.2,15,140/- which was allegedly drawn by the accused facing trial against the post of junior clerk by producing a fake transfer order to DAO (through account No.600901-1 of NBP main branch Mardan) also cannot be proved on the basis of record of said bank as the prosecution evidence is silent that who had opened this account and who was operating this account. Moreover, the concerned DAO before whom the transfer order was produced was not examined by the police in support of the allegations whose statement was crucial for identification of the accused.

13) The prosecution also relied on the documents which were taken into possession vide recovery memo Ex.PW1/3 from the possession of accused at the time of his arrest. The contents of said recovery memo suggests that when the accused was arrested from Lari Adda Butkhela, he was having plastic sack containing one file cover on which words "Government of Pakistan, Accountant General NWFP" were printed, notification dated 28-09-2012 in the name of Itaf issued by Mujeebur Rehman S.O. schools, LPC certificate in the name of Itaf Khan, Subject specialist B-16 dated 05-10-2012 issued by DAO Swabi, relieving certificate issued by Principal GHSS Bamkhel, charge report dated 09-10-2012 of Itaf Khan verified by Principal, house rent certificate, transfer certificate, medical certificate in the name of Itaf Khan, notification dated 27-05-2012 issue by Mujeebur Rehman S.O. (Schools, male) but these documents by itself nowhere proved that the accused facing trial was the person who committed the cheating by impersonation or he had drawn any of the alleged amount on the basis of these documents.

14) During the investigation the I.O. has taken into possession

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produced on the pointation of accused facing trial nor these documents in any manner can be used as incriminating evidence against the accused in support of the prosecution case.

15) So far as the allegations of misappropriation of Rs.1,22,943/- of school private fund is concerned, there is no direct evidence against the accused on the basis of which it can be believed that the accused facing trial was entrusted with any government fund or he had misappropriated the same. The prosecution was required to produce any one from the Education Department or from the concerned school who could say that the accused facing trial was entrusted with fund and he had misappropriated the same but no such witness was examined by prosecution. In the audit report Ex.PW2/1 it is mentioned that the relevant record pertains to the private school fund checked and was noticed that Rs.1,22,943/- was misappropriated by the then accountant/clerk Abdul Nasir but there is no other supporting evidence on the available record in this respect.

16) The prosecution in support of its case also relied upon the departmental inquiry Ex.PW1/1 conducted by Fazal Ahad (PW-1) and Khog Badshah. However, PW-1 in his cross examination categorically admitted that he did not remember about the evidence/statement collected by him during the inquiry on the basis of which it could be held that actually Shahi Mulk was Iltaf Abdul Nasir. He also admitted that no statement of any person to this effect is available on the record that Shahi Mulk was actually Iltaf Abdul Nasir. So the inquiry report Ex.PW1/1 also cannot be used against the accused. Likewise, the statement of Muhammad Humayun Assistant Director Admn: (PW-10) is also vital. He stated that during the inquiry he handed over the attested documents relating to the release of pay regarding three personnel namely Imad Ali, Shahi Mulk and Iltaf Abdul Nasir. He also admitted that the documents were duly verified by the EDO Education and thereafter the salary was released to the concerned officials which means that the salaries were issued to three different persons and not to a single person.

17) Now, diverting to the retracted confession of the accused facing trial and its credential value. The alleged confession was made before Mr. Muhammad Qasim (PW-14) who was then posted as Civil Judge-I/Ilaga Qazi Batkhela. The confession is Ex.PW14/2 consisting of 9 pages. The accused facing trial had allegedly narrated his involvement in commission

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Court of Special Judge  
Corruption Cell, Peshawar

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the purpose of conviction. Moreover, the accused facing trial was detained in police custody for 4 days and the elements of force on the part of police cannot be ignored. Moreover, PW-14 admitted in his cross examination that the accused after recording his confession was handed over to the same police officer and this act on the part of Magistrate was also in violation of the directives of the High Court Rules and Orders which rendered confession of accused as unreliable. A retracted confession made by an accused could be used for the purpose of conviction if such confession is corroborated by other evidence but the available record of this case suggests that the investigating officer has failed to collect any such evidence in support of confession. The police had not examined any of the official from the education department particularly the Principal or other teachers of the schools in which the accused facing trial had allegedly produced the fake transfer order and drawn the salary against the said post. The identification of accused was possible through those teachers and principal who were posted in GHSS Pallai and Bamkhel or through bank officials, but unfortunately none of those persons have been examined by the police for this purpose. Thus the presumption under Article 129 (g) of Qanoon-e-Shahadat Order, 1984 shall be taken against the prosecution for withholding the best evidence.

18). Resultantly, while extended benefit of doubt in favour of accused Iltaf Abdul Nasir S/o Abdul Manan, I acquit him from the charges leveled against him. He is on bail, he and his sureties are discharged from the liabilities of bail bonds. The case property be kept intact till the expiry of the period of limitation prescribed for appeal/revision where after be dealt in accordance with law. File be consigned to the record room after completion and compilation.

Announced.  
Peshawar.  
26-02-2019.



**ATTESTED**

(Ukhtiar Khan)  
Special Judge,  
Anti-Corruption (Provincial),  
Khyber Pakhtunkhwa, Peshawar.

**ATTESTED**

Certificate.

Certified that this Judgment consists of Twelve pages, each of which has been signed by me.

EX-13179  
Court of Special Judge  
Corruption K.P.K.

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**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**  
**AT CAMP COURT SWAT**

Service Appeal No. 871/2019

BEFORE: MR. SALAH UD DIN MEMBER (Judicial)  
MRS. RASHIDA BANO MEMBER (Judicial)

Mr. Altaf Abdul Nasir, Ex: Junior Clerk, GHSS Palai, District Malakand. .... (Appellant)

**VERSUS**

1. The Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
2. The Secretary Elementary & Secondary Education Department Khyber Pakhtunkhwa Peshawar.
3. Director Elementary & Secondary Education Department Khyber Pakhtunkhwa Peshawar.
4. District Education Officer (Male) Swat. .... (Respondents)

Mr. Umar Farooq Mohmand Advocate ..... For appellant

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

Date of Institution.....02.07.2019  
 Date of Hearing.....01.01.2024  
 Date of Decision.....01.01.2024

**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 instant appeal the impugned order dated 03.06.2013 may very kindly be set aside and the appellant may be reinstated into service with all back benefits.”

ATTACHED

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MEMBER  
KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL  
PESHAWAR

2. Brief facts of the case, as given in the memorandum of appeal, are that the appellant was appointed as Junior Clerk in the respondent department vide

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entire satisfaction of his superiors. During service appellant was charged in case FIR No. 1 dated 25.09.2012 under section 409/419/420/468/471/472 PPC and in FIR No.1 dated 25.03.2013 under section PPC 409/419/420/468/471/5(2) PC Act. The appellant was sent behind the bar in the above mentioned FIRs and remained there from the date of his arrest in criminal cases. Respondents without fulfilling the codal formalities and waiting for final decision of the court remove the appellant from service vide order dated 03.06.2013. After removal from service, competent court of law acquitted the appellant vide judgment dated 26.02.2019. Feeling aggrieved from order of removal, appellant filed departmental appeal which, which was not responded to, hence the instant service 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 the appellant has not been treated in accordance with law and rules and respondents violated Article 4 & 25 of the Constitution of the Islamic Republic of Pakistan, 1973. He further argued that order passed by the respondents is against the law, facts and norms of natural justice and material on the record hence not tenable and liable to be set aside. He further argued that no charge sheet, statement of allegation, show cause notice has been issued to the appellant nor chance of personal hearing has been provided to the appellant. He further argued that no regular inquiry has been conducted against him. He submitted that respondents removed the appellant in a hasty manner without waiting for the outcome of the trial which

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5. Conversely, learned District Attorney for the respondent contended that the appellant has been treated in accordance with law and rules. He further contended that appellant was charged in two FIRs dated 25.09.2012 and 25.03.2013 on the charges of illegal, fake and bogus appointments against various posts has thus found guilty of causing huge financial losses to the government exchequer, on the basis of which he was arrested by the local police and was sent behind the bars. He further contended that departmental proceeding were initiated against the appellant under (E&D) Rules, 2011 by nominating Hayat Mohammad, Principal as enquiry officer who conducted inquiry against the appellant and had found the appellant guilty of charges, hence, show cause notice was issued to the appellant which was not at all replied by the appellant resultantly impugned order was issued.

6. Perusal of record reveals that appellant was appointed as junior clerk in respondent department on 23.06.1997. During the course of his service, the appellant was charged in criminal case bearing FIR No. 1 dated 25.09.2012 as well as FIR No. 1 dated 25.03.2013 and after arrest, he was sent behind the bars. Respondent department initiated departmental proceedings against the appellant and he was removed from service vide order dated 03.06.2013. Appellant was acquitted from the charges levelled against him in both the FIRs. Respondents have alleged that regular inquiry has been conducted against the appellant, which is also mentioned in the impugned order dated 03.06.2013 as under:

*"Whereas Mr. Altaf Abdul Nastr, Junior Clerk (Impersonated as Shah-e-Mulk), Ex-SET (BS-16) GHSS Palai Malakand Agency (Now in judicial lockup Malakand at Malakand) proceeded against under the Khyber Pakhtunkwa Government*

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EXAMINER  
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Service Tribunal  
Peshawar



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*Servants (Efficiency & Discipline) Rules, 2011, for the charges mentioned in the charge sheet and statement of allegation"*

Respondents, despite directions failed to produce said charge sheet and statement of allegation, which were allegedly issued to the appellant. It is also pertinent to mention here that inquiry was initiated against one Mohammad Shakoor S.S/DDO GHSS Palai by the authority wherein Mr. Hayat Mohammad was appointed as Enquiry Officer who conducted inquiry against said Muhammad Shakoor and submitted his report. As a result of which, show cause notice was issued to the appellant which means that no regular inquiry was conducted against the appellant by providing chance of personal hearing and self-defence. Moreover, it is also evident from record that appellant was in the judicial lockup and was behind the bar at the time of issuing show cause notice which fact is mentioned at the bottom of show cause notice which is read as:

*"Mr. Altaf Abdul Nasir, Junior Clerk (impersonated as Shah-e-Mulk) Ex-SET (BPS-16) GHSS Palai Malakand Agency, (Now in Judicial Lockup, Malakand, at Malakand)"*

7. Appellant was awarded major penalty of removal from service without conducting regular inquiry as it is established on record that appellant was not afforded with an opportunity of personal hearing and self-defence and was condemned unheard which is against the settled norms and rules on the subject.


8. 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 has held that in case of

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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 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.

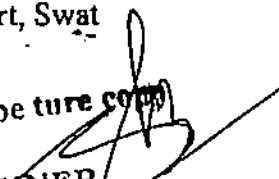
9. For what has been discussed above, we are unison to set aside impugned order dated 03.06.2013 and reinstate the appellant for purpose of inquiry with direction to respondents to conduct regular inquiry by providing proper opportunity of hearing, defence and cross examination to the appellant. Respondents are further directed to conclude inquiry within sixty days of receipt of copy this judgment. The issue of back benefits shall be subject to the outcome of inquiry. Costs shall follow the event. Consign.

10. Pronounced in open court at Swat and given under our hands and seal of the Tribunal on this 1<sup>st</sup> day of January, 2024.

  
(SALAH UD DIN)  
Member (J)  
Camp Court, Swat


\*Kaleemullah

Certified to be true copy

  
EXAMINER  
Khyber Pakhtunkhwa  
Tribunal

  
(RASHIDA BANO)  
Member (J)

Camp Court, Swat  
Date of Presentation of Application 24-01-2024  
Number of Words 5-P  
Copying Fee 25/-  
Urgent 1/-  
Total 30/-

  
ATTACHED

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**INQUIRY REPORT IRO ALTAF ABDUL NASIR, EX/J/C ( IMPERSONATED AS SHAH-E-MULK); EX-SET(BPS-16) GHSS PALAI MALAKAND**

Authority/Reference: Worthy Director (E&SE) Khyber Pakhtunkhwa, Peshawar Vide Endst. No 1618-23 dated 27/02/2024 (Annex -A)

Inquiry Committee: (i) Mr. Shah-E-Mulk Principal (BS-19), GHS Shamshatoo, HSD Peshawar (Chairman)

(ii) Mr. Shabeer Ahmad Principal (BS-19) GHSS Musa Zai, Peshawar. (Member)

As the Letter received, the Inquiry Committee informed Mr. Shakoor SSS GHSS Ghani Dheri, (EX.DDO GHSS Palai Malakand through letter No.955 dated:6.3.2024 to appear before the inquiry committee for conducting proper inquiry on 8<sup>th</sup> March 2024 as directed by Worthy Service Tribunal in its judgment dated:01.01.2024. (Annex-B) Mr. Altaf Abdul Nasir (J/C) GHSS Palai District Malakand was also informed on his contact number: 0348-9000974 to appear before the inquiry committee on 16<sup>th</sup> March 2024 (10a.m) at Directorate of E&SE khyberpakhtunkhwa ( Litigation section) in the subject case.

**HISTORY OF THE CASE**

- (i) Mr. Altaf Abdul Nasir was appointed as junior clerk in the E&SE DEPARTMENT vide order dated:23.6.1997.
- (ii) He worked as (J/C) , SET, CT, SS in different Male and Females schools, impersonating as Shah-e-Mulk, Imad Ali Altaf through preparation of fake documents
- (iii) During his service at GHSS Palai Malakand impersonating as Shah-e-Mulk SST through fake transfer order from GHS Qadra District Swabi along with Imad Ali CT and Altaf Abdul Nasir (J/C), he received three salaries at this station. Then he remained absconder.
- (iv) Two different inquiries were conducted against impersonating Mr. Shah-e-Mulk SET GHSS Palai Malakand and Mr. Shakoor EX.DDO GHSS Palai Malakand. In the subject inquiry Mr. Shakoor was removed from service
- (v) Two FIR's were registered against him and finally he was arrested by local Police and went behind the bar. He was then acquitted by court of law. In the meanwhile, while the accused was in Judicial lockup, he was removed from service by the department under E&D rules, 2011 vide order dated 03-06-2013.
- (vi) The aggrieved Altaf Abdul Nasir filed appeal in the service Tribunal KP against the impugned order. The court in its judgment give direction to the respondent department to conduct proper inquiry in the subject case. The aggrieved Altaf Abdul Nasir filed appeal in the Service Tribunal KP against the impugned order. The court in its judgement set aside impugned order dated 03-06-2013 and reinstate the appellant for purpose of inquiry with direction to respondents to conduct regular inquiry by providing proper opportunity of hearing, defence and cross examination to the appellant.

- (vii) In pursuance of court judgement and direction, the instant de-novo inquiry is hereby initiated vide Notification dated 27/2/2024 by department.

### BIO-DATA OF MR. ALTAF ABDUL NASIR

Name : Altaf Abdul Nasir

F. Name: Abdul Manan

D.O.B: 09/11/1977

Domicile : Mardan

Address : Gulshan Colony, Nisata Road, Jan Abad Mardan, KPK

CNIC: 16101-1131687-3

Qualification: B.Com . MSC ( Economic ); B.Ed

Date of 1st Appointment: 23/06/1997 as (J/C)

Contact No: 0348-9000974

### Service Record of Mr. Altaf Abdul Nasir

- (i). Mr. Altaf Abdul Nasir was appointed as J/C at GGHS Rustam on 23/6/1997.
- (ii). He was transferred to: GGHS Sher Garh dated 01/07/1998; to GGHS Hoti Landaky Mardan dated 10/12/1998; to GHSS Katlang Mardan dated 01/04/2004; to GHS Mohabat Abad Mardan dated 01/05/2005; to GHSS Shahbaz garhay Mardan dated 01/07/2006; to GHSS Baghicha dherai Mardan dated 01/09/2006; to GGHS NSR, dated 01/09/2007; to GHS Otter NSR dated 01/12/2007; to GHS Alam Godar Bara khyber Agency dated 01/05/2008. (Annex-C)
- (iii). Appointed as CT BPS-14 at GHS Badaber Peshawar through Fake order impersonating as Imad Ali S/O Ahmad Gul resident of Jehan Abad Mardan; transferred to C.S Bobak Charsada as CT dated 01/09/2009; Transfer to GHS Qadra District Swabi as Imad Ali CT dated 01/11/2009.
- (iv). He prepared transfer order impersonating as Shah-E- Mulk SET BPS -16 from GHS Qadra to GHSS Palai Malakand dated 01/04/2010. He remained here till 10/06/2011. Then he remained Absconder.
- (v). He took over charge as SS BPS-17 at GHSS Kargani District Swabi; Transferred to GHS Cheena dated 01/04/2012 as H.M; Transferred to GHSS Jangai District Buner as Altaf SS-Economics.
- (vi). He was arrested by Anti-corruption Department while travelling from GHSS Bam khel district Swabi to GHSS Samarbagh Dir Lower as SS Economics impersonating Altaf Khan S/o Ubaid -Ur- Rahman.

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(VII) In the meanwhile, while the accused was in Judicial lockup, he was removed from service by the department under E&O rules, 2011 vide order dated 03-06-2013.

(VIII) The aggrieved Altaf Abdul Nasir filed appeal in the Service Tribunal KP against the impugned order. The court in its judgement dated 24-01-2024 set aside impugned order dated 03-06-2013 and reinstate the appellant for purpose of inquiry with direction to respondents to conduct regular inquiry by providing proper opportunity of hearing, defence and cross examination to the appellant.

(IX) In pursuance of court judgement and direction, the Instant de-novo inquiry is hereby initiated vide Notification issued by department dated 27/02/2024.

#### **Inquiry Proceeding:**

Mr Mohammed Shakoor, the then SS/DDO Palai, Malakand, now SSS at GHSS Ghani Dheri, was summoned by Inquiry Committee on 8-3-2024 at 10:00 AM at Directorate of E&SE KP (litigation section) in order to probe the matter thoroughly. The matter in hand was discussed with Mr. Mohammad Shakoor in great detail and a written statement was also taken from him in this regard

#### **Summary of verbal and written statement of Mr Muhammad Shakoor EX- SS/DDO, Palai, Malakand, now SSS at GHSS Ghani Dheri**

- 1.) Mr. Altaf Abdul Nasir is a cheater and imposter.
- 2.) He had drawn pays from government treasury against the post of J/C CT, SET and SS at various times.
- 3.) The accused has used various names as Shah-E-Mulk, Altaf and Imad instead of his original name Altaf Abdul Nasir S/O Abdul Manan.
- 4.) The accused has drawn dual pays simultaneously against the post of SET and J/C at GHSS Palai. ( Annex-D)

#### **Mr Altaf Abdul Nasir J/C GHSS, Palai, Malakand (impersonating as Shah-E-Mulk EX-SET)**

- (i) Mr. Altaf Abdul Nasir was summoned by inquiry committee on 16/3/2024 at 9:00 AM at GHS No 1, Peshawar city to conduct regular inquiry by providing proper opportunity of hearing, defence and cross examination.
- (ii) He had shown full confidence and trust on the neutrality and impartiality of the inquiry committee and the inquiry proceeding was conducted as per his consent and free will.
- (iii) He refused all the allegations levelled against him. (Annex-E)

**Mr. Said Nawab Ex-Principal GHS Alam Godar Khyber (Contact :0333-9166429)**

- (i) The accused Altaf Abdul Nasir, through fake and bogus order transferred to GHS Alam Godar, Khyber Agency as J/C, dated 01.05.2008
- (ii) He prepared a new service book as Altaf Abdul Nasir (J/C). Here, the accused declared himself as dead through a messenger, to take advantage of Rs:0.6/0.7 million as pensionary benefit. All the schools staff including Ex-principal Mr. Said Nawab went to Mardan for Fateha Khuwani. There they got the information that Altaf Abdul Nasir was alive.



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- (iii) Mr. Sald Nawab Ex-principal, GHS Alam Godar Khyber Agency, now resident of Taj Abad, Near BISE Peshawar, was contacted regarding this unusual incident as mentioned by circle officer Anti-Corruption District Malakand, In his investigation report, he verified and testified this content of the report.

#### FINDINGS

In view of all the oral and documentary evidence collected from the heads of the institutions, the victim (Mr Muhammad Shakoor) and the official/ officer of the department, the inquiry committee has reached to the following findings/ conclusions.

- i. It is the considered and unchangeable opinion of the Inquiry Committee that the accused is the prime actor in fabricating, manipulating, altering, designing the letters, orders, notifications and fake signature, keeping in view his previous devil nature.
- ii. An organized hidden hands do exist in the Department who act as facilitator to materialize the evil design of the prime accused. Hence need to conduct inquiry to dig out such network to save department from embarrassment in future.
- iii. The prime accused named Altaf Abdul Nasir, seems to be the main beneficiary regarding fabrication, manipulation, affixing fake signature, and culprit.
- iv. The accused has a persistent reputation of being corrupt in the district where he worked as per rule 2 (1) (g) (VI) of E&D Rule 2011.
- v. From perusal of the record it is crystal clear that Altaf Abdul Nasir S/O Abdul Manaan was appointed as Junior/Clerk in the E&SE Department during 2005. He is an expert forger and on the basis of his skillfully counterfeited documents he not only transferred himself but also transferred Shah-e-Mulk SST while actually impersonating him and one Imad Ali, CT to District Malakand from District Swabi.
- vi. Copy of fake transfer order of Shah E Mulk, SET as (Annexure-F), fake LPC (Annexure-G) Charge Report duly signed by Muhammad Shakoor, SS(DDO) as (Annexure -H) and Computer source form signed by the DDO as (Annexure-I) copy of fake transfer order of Imad Ali, CT as (Annexure-J), fake LPC as (Annexure-K) and copies of computer source forms duly signed by Muhammad Shakoor, SS (DDO as (Annexure-L & M) and copies of computer source forms in respect of Altaf, J/C duly signed by Muhammad Shakoor, SS/DDO are attached as (Annexure N & O).
- vii. AT GHSS Palai Malakand The accused Altaf Abdul Nasir put the government exchequer into loss of Rs/ 781079/ on account of salaries, on the basis of forgery detailed below;

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Month	Shah E Mulk, SET Per: 00434705	Imad Ali, CT Per: 00433281	Altaf J/C Per: 124070	Total
04/2010	55770			55770
05/2010	11154			11154
06/2010	11154			11154
07/2010	15204			15204
08/2010	15204	52560		67764
09/2010	15304	12006		27270
10/2010	15204	13326	130440	158970
11/2010	15204	12486	15896	43586
12/2010	16168	13132	16219	45519
01/2011				45519
02/2011				45519
03/2011				45519
04/2011				45519
05/2011				45519
06/2011				45519
07/2011		16388	19399	35787
08/2011		16388	19399	35787
			G.Total	Rs. 781079/-

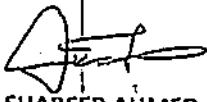
Source: Inquiry Report submitted by Fazl Ahad Khan against Shah E Mulk EX-SET, GHSS, Palai. page-4

- viii. The accused through fraud and impersonation transferred himself to various male and female schools in a different district as J/C, CT, SET, SS and HM, with reference to inquiries conducted by Fazl Ahad Khan District Officer E&S Malakand and Hayat Muhammad Khan, Principal GHS, Wartair, Malakand agency. The interrogation report prepared by Circle Officer Anti corruption District Malakand also reflect the trend of frequent transfers of the accused. It is astonishing to note that why a government servant preferred different duty stations at different Districts. The only reason is that Mr Altaf Abdul Nasir is the real forger who actually perpetrated the fraud and impersonating as Shah E Mulk, Imad Ali, Altaf etc.
- ix. Telephonic verbal statement of Mr Sai Nawab, Ex- Principal GHS Alam Gudar, Khyber Agency that Mr Altaf Abdul Nasir transferred to the subject school as J/C. After some time he remained absent from duty. Meanwhile we received telephonic message about his death. We went for "Fateha Khani" to his village Mardan and his relative informed us that he is alive.
- x. Mr Muhammad Shakoor, the then SS/DDO, GHSS, Palai, Malakand and now SSS at GHSS Ghani Ghari was removed from service due to wrong doings of the accused Altaf Abdul Nasir.
- xi. All the charges leveled against the accused have been proved.

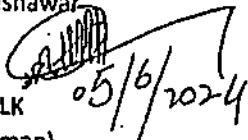
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Recommendation:

The major penalty of removal from service under Rule 14 (5) ii of the Khyber Pakhtunkhwa, Govt servant ( Efficiency and Discipline) Rule, 2011, already imposed upon the accused namely Mr Altaf Abdul Hasir, J/C (Impersonated as Shah E Mulk ), EX-SET (BS-19), GHSS, Palai, Mlakand Agency, dated: 03/06/2013, may be upheld.



SHABEER AHMED  
Principal (Member)  
GHSS Musa Zai Peshawar



05/6/2024

SHAH-E-MULK  
Principal (Chairman)  
GHS Shamshatoo HSD Peshawar



"G"

38



OFFICE OF THE  
DISTRICT EDUCATION OFFICER (M)  
MALAKAND



☎ 0932-410281 📠 DEOMMalakand 📧 emismalakandmala@gmail.com

**OFFICE ORDER**

1. Whereas, Mr. Altaf Abdul Nasir Junior Clerk (Impersonated as Shah-e-Mulk) Ex Junior Clerk GHSS Palai Malakand proceeded against under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules 2011.

2. And Whereas, the Honorable Khyber Pakhtunkhwa Service Tribunal Peshawar has decided his service Appeal No. 871/2019 titled Altaf Abdul Nasir VS Government of Khyber Pakhtunkhwa & others, with the directions to Respondents for De-Novo Inquiry in judgment announced on dated. 01.01.2024.

3. And Whereas, Mr. Altaf Abdul Nasir was previously removed from service in exercise of powers conferred under Rule- 14 (5) ii of the Khyber Pakhtunkhwa, Government Servants (Efficiency & Discipline) Rules 2011 by the then chief secretary Khyber Pakhtunkhwa, Dated Peshawar the June 03, 2013, and being aggrieved he filed above service Appeal which was accordingly decided as stated above.

4. And Whereas, in compliance of Honorable Service Tribunal Khyber Pakhtunkhwa Judgment a regular Inquiry was conducted by Directorate of E&SE, Peshawar by nominating Mr. Shah-e-Mulk Principal GHS Shamshato, HSD Peshawar (Chairman), and Mr. Shabeer Ahmad Principal GHSS Musa Zai, Peshawar (Member), for the charges leveled against him, in which his removal from service notification was issued as mentioned above.

5. And Whereas, according to the recommendations & findings of inquiry report the accused has no right to be reinstated into service or any back benefits, and he was proven guilty of miss-conduct and corrupt practices under Government Servants (Efficiency & Discipline) Rules 2011.

6. And Whereas, a show cause notice was served upon Mr. Altaf Abdul Nasir, Ex-Junior Clerk GHSS Palai Malakand dated 13.06.2024.

7. And Whereas, the competent authority i.e. DEO (M) Malakand after having considered the charges and evidence on record, Inquiry, report non response to the show cause notice, is of the view that the charges against the accused official have been proved.

Now Therefore, in exercise of the powers conferred under Rule 14 (5) ii of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules 2011, I Mr. Midrar Ullah DEO (M) Malakand at Bakhela, being the competent authority, pleased enough to impose major penalty of "**REMOVAL FROM SERVICE**" upon Mr. Altaf Abdul Nasir, Junior Clerk GHSS Palai Malakand.

(MIDRAR ULLAH)  
DISTRICT EDUCATION OFFICER  
(MALE) MALAKAND

Endst. No. 15688 / Dated. 27 / 06 / 2024.  
Copy forwarded for information and necessary action to the:-

1. Learned Registrar, Khyber Pakhtunkhwa Service Tribunal Peshawar.
2. Learned AAS Khyber Pakhtunkhwa Service Tribunal Peshawar.
3. PS to Secretary, ESSE Department Khyber Pakhtunkhwa Peshawar.
4. Director (ESSE) Khyber Pakhtunkhwa Peshawar.
5. Deputy Commissioner Malakand.
6. District Account Officer Malakand.
7. DMO (EMA) Malakand.
8. Mr. Altaf Abdul Nasir Ex-Junior Clerk GHSS Palai Malakand.
9. Office Record.

To,

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

"H"

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Subject: DEPARTMENTAL APPEAL AGAINST THE IMPUGNED ORDER DATED 27.06.2024 WHEREBY MAJOR PENALTY OF REMOVAL FROM SERVICE HAS BEEN IMPOSED UPON THE APPELLANT

Respected Sir,

With due respect it is most humbly stated that the appellant was the employee of your good self department and was serving as Junior Clerk (BPS-11) at GHSS Palai, District Malakand quite efficiently and upto the entire satisfaction of his superiors.

That during service the appellant was charged in case FIR No.1 dated 25.09.2012 U/S 409/419/420/468/471/472 PPC and FOR No.1 dated 25.03.2013 U/S PPC 409/419/420/468/471/5(2)PC Act. That the appellant was arrested and sent behind the bar and as such the appellant remained in prison since the date of his arrest.

That during such period when the appellant was behind the bar the authority concerned issued removal order of the appellant vide dated 03.06.2013 without fulfilling the codal formalities. That later on the appellant was acquitted by the Learned Special Judge Anti-Corruption, (Provincial, Khyber Pakhtunkhwa, Peshawar vide its judgments dated 26.02.2019.

That after acquittal in the above mentioned charges the appellant preferred departmental appeal for his re-instatement into service followed by service appeal No.871/2019 before the Khyber Pakhtunkhwa Service Tribunal, Peshawar which was accepted vide judgment dated 01.01.2024 with the directions that:-

*"For what has been discussed above, we are unison to set aside impugned order dated 03.06.2013 and re-instate the appellant for the purpose of inquiry with direction to respondents to conduct regular inquiry by providing proper opportunity of hearing, defence and cross examination to the appellant. Respondents are further directed to conclude inquiry within sixty days of receipt of*

(40)

That after acquiring attested copy of the judgment dated 01.01.2024 the appellant submitted the same before the authority concerned for implementation but no response was received from the quarter concerned. That the appellant preferred execution petition before the august Service Tribunal and during pendency of the execution petition the department conducted inquiry in the matter without issuing charge sheet and statement of allegations to the appellant and as such the appellant has not been provided any opportunity of defence.

That astonishingly the District Education Officer (M), District Malakand issued the impugned order dated 27.06.2024 whereby major penalty of removal from service once again imposed upon the appellant without fulfilling the codal formalities as per law and rules ibid.

That the statements of the evidence has not been recorded during the course of inquiry neither any chance of cross examination has been provided which is necessary as per law, rules and judgment of the Apex Court.

That the inquiry conducted by the authority concerned is not in accordance with judgment passed by the august Service Tribunal, Peshawar.

That the appellant feeling aggrieved from the impugned order dated 27.06.2024 preferred this departmental appeal before your good self.

It is, therefore, most humbly prayed that on acceptance of this department appeal the impugned order dated 27.06.2024 may very kindly be set aside and the authority concerned may be directed to re-instate the appellant into service with all back i.e. with effect from 03.06.2013. Any other relief which your good self deems appropriate that may also be awarded in favor of the appellant.

Dated: 12.07.2024.

APPELLANT

ALTAF ABDUL NASIR, Ex-J/Clerk (BPS-11),  
GHSS Palai, District Malakand

(42)

VAKALATNAMA

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
PESHAWAR

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

Attaf Abdul Nasir

(APPELLANT)  
(PLAINTIFF)  
(PETITIONER)

VERSUS

Education Deptt.

(RESPONDENT)  
(DEFENDANT)

I/We Attaf Abdul Nasir

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



CLIENT

  
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