

BEFORE THE HON'BLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR

Service Appeal No. 1213/2024

Misbah Ullah (Sweeper) Vs District Education Officer (Male) etc.

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Irfan Ali
District Education Officer,
(Male) Peshawar

Respondent No. 2

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BEFORE THE HON'BLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR

Service Appeal No. 1213/2024

Misbah Ullah (Sweeper) Vs District Education Officer (Male) etc.

PARA WISE COMMENTS FOR AND ON BEHALF OF RESPONDENTS NO. 1 & 2.

Respectfully Sheweth:-

The respondents submit as under:-

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 17095

Dated 24-10-24

PRELIMINARY OBJECTIONS.

1. That the appellant has got no cause of action/locus standi.
2. That the Appellant has concealed material facts from this Hon'ble Tribunal.
3. That the appellant has been estopped by his own conduct to file the instant appeal before this Hon'ble Tribunal.
4. That the instant appeal is badly time barred.
5. That the instant appeal is not maintainable in its present form.
6. That the instant appeal is bad for mis-joinder and non-joinder of the necessary and proper parties.
7. That the appellant has not come with clean hands to this worthy Tribunal.
8. That the appellant does not come in the definition of Aggrieved Person.
9. That the instant appeal barred by law.

ON FACTS.

1. That Para No.1 is correct to the extent that appellant was appointed by the Respondent Department as Sweeper while rest of the Para pertains to record.
2. That in reply to Para No. 02, it is submitted that appellant was charged in F.I.R No.873 dated 11-11-2021 under Section-324/337-F-VI PPC Police Station Mathra Peshawar.

That in light of aforesaid F.I.R, the Respondent Department vide Endst No. 80-83 dated 04-03-2022, suspended the appellant from service till the final decision of the Court.

(Copy of Suspension order is attached as Annex-A)

3. That in reply to Para No. 03 & 04, it is submitted that the Hon'ble Court of Additional Sessions Judge Peshawar convicted the appellant for 07 years rigorous imprisonment in F.I.R No. 873 dated 11-11-2021 under Section-324/337-F-VI PPC. However, the Hon'ble Peshawar High Court Peshawar reduced the aforesaid sentence to 04 years rigorous imprisonment and reduced the fine from 10 lacs to 05 lacs.

Therefore, on conviction of the appellant, the Respondent Department under the Khyber Pakhtunkhwa Removal From Service (Special Powers) Ordinance, 2000 vide Endst No. 10995-11001 dated 13-06-2024, removed the appellant from service.

(Copies of Certificate of Superintendent Central Prison Peshawar and Removal from Service Order are already attached vide page No. 09 & 10 with the instant appeal)

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5. That in reply to Para No. 05 it is submitted that the appellant had no casue of action/locus standi therefore, his Departmental Appeal was rejected.

(Copy of rejection letter is already attached at Page No. 12 of the instant appeal)


6. That in reply to Para No. 06 it is submitted that the appellant has no casue of action/locus standi to file the instant appeal before this worthy Tribunal.

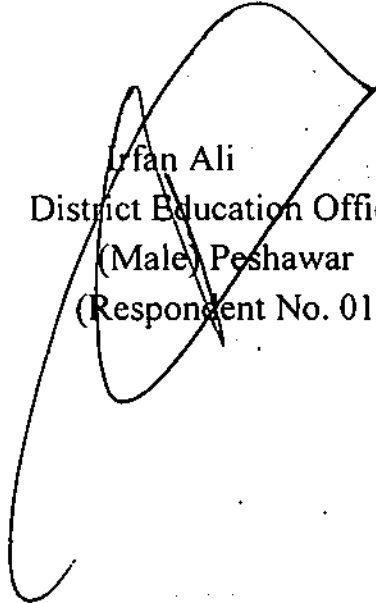
Grounds:

- A. That Ground-A is incorrect, misleading and against the facts. The detail reply has been given in the above Para of facts.
- B. That Ground- B is incorrect, misleading and against the fact. The Respondent Department has acted according to law, rules and policy in the best interest of public.
- C. That Ground- C is incorrect, misleading and against the fact. The Respondent Department has acted according to law, rules and policy in the best interest of public.

It is therefore; very humble prayed that on acceptance of this reply, the instant appeal may very kindly be dismissed with cost.

SAMINA ALTAF
DIRECTOR


AUTHORIZED OFFICER
ABDUS SAMAD
DEPUTYDIRECTOR
E&SE Department Khyber
Pakhtunkhwa, Peshawar
(Respondent No.02)


Irfan Ali
District Education Officer
(Male) Peshawar
(Respondent No. 01)

Annex (A) (3)

(29)

OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) PESHAWAR

SUSPENSION ORDER

Mr. Misbah Ullah Sweeper (BPS-3) of Government High School Palosi Maghdarzi Peshawar charge under section 321 PPC of Police Station Mithra Peshawar vide FIR No 873 dated 11-11-2021, is hereby suspended from service w.e.f 11-11-2021 till the final decision of the court.

- NOTE: 1. Necessary entry to this effect should be made in his service book.
2. He is allowed suspension allowance if not absconder.

DISTRICT EDUCATION OFFICER
(MALE) PESHAWAR

Encls No 80-83 P/F No: 76 Misbah Ullah Dated: 04/03/2022

Copy for information to the:

1. Accountant General Khyber Pakhtunkhwa Peshawar.
2. Principal GHIS Palosi Maghdarzi Peshawar.
3. Official concerned.
4. Master file.

Attested

Misbah Ullah

HEAD MASTER
C.G.O Palosi Maghdarzi

DY: DISTRICT EDUCATION OFFICER
(MALE) PESHAWAR

Misbah Ullah

Attested of

LEGIBLE COPY

OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) PESHAWAR

SUSPENSION ORDER

Mr. Misbah Ullah sweeper (BPS-3) of Government High School Palosi Maghdarzai Peshawar charged under section-324/337-F-VI PPC of Police Station Mathra Peshawar vide F.I.R No 873 dated 11-11-2021. is hereby suspended from service w.e.f 11-11-2021 till the final decision of the Court.

- NOTE:** 1. Necessary entry to this effect should be made in his service book.
2. He is allowed suspension allowance if not absconder.

---sd-----

DISTRICT EDUCATION OFFICER
(MALE) PESHAWAR

Endst No 80-83 P/T No. 76 Misbah Ullah Dated: 04/03/2022

Copy for information to the:-

1. Accountant General Khyber Pakhtunkhwa Peshawar.
2. Principal GIS Palosi Maghdarzai Peshawar.
3. Official concerned.
4. Master file.

---sd-----

DY: DISTRICT EDUCATION OFFICER
(MALE) PASHAWAR

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(4)

BEFORE THE HON'BLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR

Service Appeal No. 1213/2024

Misbah Ullah (Sweeper) Vs District Education Officer (Male) etc.

Affidavit

I, Irfan Ali DEO (Male) Peshawar do hereby solemnly affirm and declare on oath that the contents of the Para Wise Comments on behalf of respondents is correct to the best of my knowledge and nothing has been concealed from this Hon,ble court. it is further stated that in this appeal the answering respondents have neither been placed ex-parte nor their defense has been struck off/cost.

ATTESTED
Faria Khan Advocate
Oath
Commissioner
23/10/24

DEPONENT

Irfan Ali
District Education Officer
(Male) Peshawar
(Respondent No.1)

AUTHORITY LETTER

Mr. Hujjat Ullah , ADEO (Litigation) office of the District Education Officer (Male) Peshawar is hereby authorized to submit Para Wise comments in Service Appeal No.1213/2024 titled Misbah Ullah Vs Govt: of Khyber Pakhtunkhwa and others on behalf of the Education Department (E &SE) KP. Peshawar.

District Education Officer
Male) Peshawar
(Respondent No.1)


9/15/2024