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BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR

Service Appeal No: 1579/2024

Faiz Rasan SPST GPS Aslam Abad Tehsil Takht Bai, District Mardan.

(Appellant)

Versus

The Director of (E & SE) Education, Kyber Pakhtunkhwa, & Others.

(Respondents)

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Respondent


District Education Officer
(Male) Mardan

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(Appellant)

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(Respondents)

Para Wise Comments On behalf of Respondents

Khyber Pakhtunkhwa
Service Tribunal

Respectfully Sheweth:-

Date: 17/11/24

PRELIMINARY OBJECTIONS:

Dated: 01-11-24

1. That the appellant has got no cause of action as well as locus standi to file the instant appeal, hence the appeal is liable to be dismissed.
2. That the instant appeal is badly time barred by law, hence the appeal is liable to be dismissed.
3. That the appellant has not come to this Tribunal with clean hands.
4. That the appellant has concealed the material facts from this Honorable Tribunal, hence the appeal is liable to be dismissed.
5. That the Respondent No 2 has issued a Show cause Notice to the appellant through a letter No. 1468 on 11-02-2022. Regarding has ill manner with the direction to submit your defense in writing within (07) days.
(Copy of Show Cause Notice is as annexure A)

6. That the appellant reply of his show cause and he stated himself that I am suffering from psycho troubles for some times, I have forgotten my memories at all. The way from masjid to home has also forgotten and the neighbor help me. The appellant deeply narrate his mental level in the reply of his show cause notice.
(Copy of Reply Show Cause Notice is as annexure B)

7. That after fulfillment of all the codal formalities, the appellant has been Compulsory Retired from service since 04-03-2022 in accordance with law.
(Copy of Compulsory Retirement Order as Annexure-C)

8. That the appellant has filed a service appeal No 1071 which has been decided on 04/03/2024 with the direction to conduct proper Departmental Inquiry and the issue of back benefits is subject to the outcome of inquiry.
9. That after inquiry the respondent No 1 is pleased to re-instate the appellant into service with immediate effect and converted all his absence/ intervening period into leave without pay (EOL) in the best interest of public. **(Copy of order is as Annexure D)**

FACTS:

1. Para No 1 related to his appointment, needs no comments.
2. Para No 2 is Correct, however the appellant reply of his show cause and he stated himself that I am suffering from psycho troubles for some times, I have forgotten my memories at all. The way and route from Masjid to home has also forgotten and the neighbor help me. **(Copy of Reply Show Cause Notice is as annexure D)**
3. Para No 3 is related to his previous service appeal, need no comments.
4. Para No 4 is related to his previous judgment on 24/03/2024, need no comments.
5. Para No 5 is related to his inquiry report and the appellant has reinstated into service with immediate effect while his absence period has treated leave without pay.
6. Para No 6, Pertains to record, however the respondent No 1 is pleased to re-instate the appellant into service with immediate effect and converted all his absence/ intervening period into leave without pay, and the appellant has not on duty in the said period therefore his absence period converted into leave without pay. **(Copy of order is as Annexure D)**

7. Para No 7 No comments, The detail grounds as under:


GROUND:

- A. Para A is **Incorrect & not admitted**, as the Order on 16/08/2024 issued by the Respondent No.1 with legal sphere & liable to be maintained.
- B. Para B is related to his inquiry report and the appellant has reinstated into service with immediate effect while his absence period treated leave without pay.


- C. Para C is Incorrect & not admitted, as the respondent is not bound to reinstate the appellant with all back benefits, and the appellant has not on duty in the said period, therefore his absence period converted into leave without pay, hence denied
- D. Para D is Incorrect & not admitted, as there is no negligence occur on the part of the respondent department, and the punishment is not harsh and suitable for the appellant, because the appellant reply in his show cause and stated himself that I am suffering from psycho troubles for some times, I have forgotten my memories at all. The way and rout from masjid to home has also forgotten and the neighbor helps me, hence denied. (Copy of Reply Show Cause Notice is as annexure D)
- E. That the respondents seek permission to raise additional grounds at the time of arguments.

Therefore, in view of the above made submissions, it is most humbly prayed that on the acceptance of this reply, the appeal in hand may kindly be dismissed in favor of the Respondent Department in the interest of justice.

ZAHID MUHAMMAD


 District Education officer
 (Male) Mardan
 (Respondent No: 2)

SAMINA ILTAF
 DIRECTOR


 AUTHORIZED OFFICER
 ABDUS SAMAD
 DEPUTY DIRECTOR
 E&SE Department Khyber
 Pakhtunkhwa, Peshawar.
 (Respondent NO 1)

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(Appellant)

Versus

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(Respondents)

AFFIDAVIT

I, Mr. Zahid Muhammad DEO (Male) Mardan do hereby solemnly affirm and declare that the contents of Para Wise Comments submitted on behalf of respondents are true to the best of my knowledge and belief and nothing has been concealed from this Honorable Court. It is further stated on oath that in this appeal, the answering respondents have neither been placed ex-parte nor their defense has been struck off *cost*.

Deponent




Zahid Muhammad
DEO (Male) Mardan



**DISTRICT EDUCATION OFFICER
(Male) MARDAN**

No 6317

Dated 26/10/2024

AUTHORITY LETTER

I, Zahid Muhammad District Education Officer (Male) Mardan do hereby authorized Mr.Sajid Khan , Legal Representative on behalf of District Education Office (Male) Mardan, to deal with the issues regarding litigation, represent, submit comments/Reply of the Service Appeals and attend the KPK Honorable Service Tribunal, Peshawar.

ZAHID MUHAMMAD

**District Education Officer
(Male) Mardan**

Anne A - ① ②

OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) MARDAN

No. M/68 /sdeo t. bhai

Dated: 11-07 /2022

SHOW CAUSE NOTICE

I, Zulfiqar ul Mulk, District Education officer (Male) Mardan as Competent Authority under the Khyber Pakhtunkhwa government servants (Efficiency & Discipline) Rules, 2011, do hereby serve you Mr. Faiz Rasan SPST-GPS Ferozpur shows cause notice as follows:

- a. During the visit of the school by SDEO(M) concerned, you showed misbehavior and indiscipline in providing information/response.
- b. In exercise of the power conferred by the KPK Govt servant (Efficiency & Discipline) Rules, 2011, the Competent Authority is hereby pleased to serve you with the instant show cause notice regarding your ill manner with the direction to submit your defense in writing within 07 days of the issuance of this notice as to why the minor/major penalty of Rule 4(a)/(b) of the said rules should not be imposed upon you and also intimate whether you desire to be heard in person.
- c. In case you failed to submit your reply within the stipulated period, it will be presumed that you have no defense to offer and ex-parte decision will be taken against you.

(Zulfiqar ul Mulk)

**DISTRICT EDUCATION OFFICER
(MALE) MARDAN**

Copy to the:

1. SDEO(M) Takht Bhai to serve show cause notice on cited teachers and ensure his reply.

ATTESTED

**DISTRICT EDUCATION OFFICER
(MALE) MARDAN**

ATTESTED

**District Education Officer
(Male) Mardan**

Anex B (X) (B) Anex B"

8

The district education officer (m) Mardan

Subject: - Reply of the showcase notice

ADP (P)
MS
22/2/22

Sir,

It is stated that SDEO (m) T. Bhai visited on 3 of January 2022 during his arrival we were uploading the student's data demanded by the worthy D.E.O. (m) Mardan through SDBOs and A.SDBOs. Mr. Faiz Razaan SPST was telling data of my two sons from Form "B" in my mobile phone in the meanwhile which was uploading and sending by Mr. Jamil Ahmed SPST on which the SDEO T. Bhai mentioned that Mr. Faiz Razaan was playing in mobile which is not correct. The messages of requisitions are on the record.

The other issue he has made that the hairs of me of the my sons M. Waqas are long therefore he expelled and strangled off on the order of SDEO concerned and now he gone to madrasa from school but his hairs.



whereas another objection he made is that the students had written the food lesson in which living organisms word was written in which the alphabet "L" was written (L) style.

ATTESTED

[Signature]
District Education Officer,
(Male) Mardan

(9)

which seems to the strangers just like (d). The photo of workbook of the students of the day is annexed.

Sir, Another question was that he asked a student to say dua-e gunut when she recited the objection that she did not recite

Bismillah.

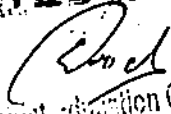
Another question he put to say to the students of class 2nd what is called in English on which he objected

(161)

Dear Sir, I am suffering from Psychic Troubles for sometimes I forget my memories at all. due to financial problems breakthrough occurs in treatment which calls badly on my civil life too. Sometimes the way and rate from masjid to home is also forgotten on which the neighbors help me to arrive at home.

I sometime record something in hard copies and in audio & videos which is part of my treatment by doctors.

ATTESTED


District Education Officer
(Date) 22/04/11

Dear Sirs,

(17) (16) (7) (10)

disfule of my mental and
Psyche Issues I am trying hard work
to teach the students but sometimes my
stars are shut down to the earth with
Crash.

my roles of money is grabbed
by fraudfull persons now I am
in the position to spend normal
and to continue my treatment
and to perform duty simply.

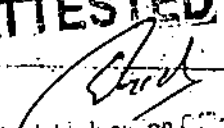
These are the caused on the
base of which the worthy SDEO
concern has called me therefore
my to be obliged and not to order
six ex party but my obligations
to be accepted by the
worthy DFO(M) Moradabad

Thanks

Fai3 Rasan SPST GPS F0003PUR

T. Bhai Nalanda
16/2/22

ATTESTED


District Education Officer
(Male) Moradabad

Annex C - (18) (11) Annex C (11)

OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) MARDAN

OFFICE ORDER

WHEREAS, Mr. Faiz Rasan SPST GPS Ferozpur was reported by SDEO(M) Takht Bhai vide letter No:235 dated 01-01-2022.

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

AND WHEREAS, a show cause notice was issued to him vide this office under Endst No 1458 dated 11-07-2022

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

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


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

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

Endst No. 2148-4 /SDEO T.Bhai/ Dated: 04/03/2022

copy forwarded for information and necessary action to the:-

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


 District Education Officer
 (Male) Mardan

ATTESTED


 District Education Officer
 (Male) Mardan



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

NOTIFICATION

1. WHEREAS, District Education Officer (Male) Mardan was proceeded Mr. Faiz Razzan Ex SPST (HPS-14) GPS Ferozpur Takht Bhai Mardan and imposed the major penalty of "Compulsory Retirement" under Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011 vide order No. 2148-G Dated 04-03-2022.
 2. AND WHEREAS, feeling aggrieved the appellant filed an appeal by filing Service Appeal No. 1071/2022 before the Honorable Khyber Pakhtunkhwa Service Tribunal Peshawar under case Titled Vs Secretary Education Khyber Pakhtunkhwa, Peshawar & Others which has been decided vide Judgment dated 04-03-2024 and ordered that the impugned order is set aside and the appellant is re-instated into service for the purpose of a proper departmental inquiry under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011
 3. AND WHEREAS, in compliance of the said judgment, the Director (E&SE, Khyber Pakhtunkhwa Peshawar), re-instated Mr. Faiz Razzan Ex-SPST (HPS-14) GPS Ferozpur Takht Bhai Mardan being Appellate Authority for the purpose of Departmental Inquiry vide this office Notification bearing No. 5476-78/F.No./Faiz Razzan SPST VS Govt/14-II Dated 08-04-2024, wherein, Mr. Ashraf Ali Principal (HPS-19) GISS Baghlada District Mardan was nominated as inquiry officer to probe into the matter. Inquiry officer submitted the inquiry report vide No. 4046 Dated 28-06-2024.
 4. AND WHEREAS, this Directorate called Mr. Faiz Razzan Ex-SPST (HPS-14) GPS Ferozpur Takht Bhai Mardan for personal hearing vide letter No. 8675 Dated: 29-07-2024 which was attended by him on due date. He was cross examined and questionnaire's was also served upon him.
- NOW THEREFORE, after having examined the evidences available on record/file, in exercise of powers conferred upon the Director (Elementary and Secondary Education Khyber Pakhtunkhwa, Peshawar), Director, Elementary and Secondary Education Khyber Pakhtunkhwa being Appellate Authority, is pleased to re-instate Mr Faiz Razzan SPST (HPS-14) GPS Ferozpur Takht Bhai Mardan with immediate effect under Rule 17(2)(c) of Khyber Pakhtunkhwa (Efficiency and Discipline) Rules, 2011 and hereby convert all his absence/intervening period into leave without pay (EOL) in the best interest of public.

DIRECTOR

Elementary & Secondary Education
Khyber Pakhtunkhwa, Peshawar

4953-55

Endst. No. / F.No. / F.No./Faiz Razzan SPST VS Govt/14-II Dated Pesh: the 16/08/2024

Copy forwarded for information to the:-

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

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

ATTESTED
[Signature]



OFFICE OF THE DISTRICT EDUCATION OFFICER
(MALE) MARDAN

OFFICE ORDER

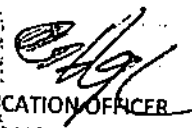
In light of notification issued by the Appellate Authority i.e Director E&SED Khyber Pakhtunkhwa, Peshawar vide Endst No: 4952-55 dated 16-08-2024 and re-instated Mr. Faiz Rasani Ex-SPST, GPS Ferozpur Takht Bhai with intervening period converted into Leave Without ^{Pay} the undersigned is pleased to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

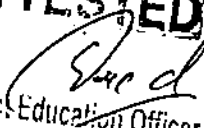
(Zahid Muhammad)
DISTRICT EDUCATION OFFICER
(MALE) MARDAN

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

Copy forwarded to the:-

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


DISTRICT EDUCATION OFFICER
(MALE) MARDAN

ATTESTED

District Education Officer
(Male) Mardan