# Form-A FORMOF ORDERSHEET

Court of	 	 _
Case No	 649/2018	

	Case No	. 649/2018
S.No.	Date of order proceedings	Order or other proceedings with <b>signature</b> of judge
1	2	3
1	16/05/2018	The appeal of Mr. Mohib Jan presented today by Mr.
		Muhib Jan Salarzai Advocate may be entered in the Institution
•		Register and put up to the Worthy Chairman for proper order
		please.
		REGISTRAR
2-	18/05/18.	This case is entrusted to S. Bench for preliminary hearing
		to be put up there on 31/65/18.
		CHAIRMAN
!		
	•	
	• .	
·		
	31.05.2018	Appellant with counsel present. Counsel for the appella
		requested for withdrawal of the instant service appeal, as I
		grievances have been redressed departmentally vide office ord
	•	dated 23.05.2018 which is placed on file. Request accepted and t
	·	instant appeal is hereby dismissed as withdrawn. File
•		consigned to the record room.
	•	
		Announced: 31.05.2018
		(Ahmad Hassan)
		Member

## BEFORE THE SERVICE TRIBUNAL KPK AT PESHAWAR

Service Appeal No: 649 /2018 ----(Appellant) Mohib Ullah (PSHT) **VERSUS** Director Elementary & Secondary Education KPK Peshawar & Others ----(Respondents)

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ohib Ullah (PSHT)

Through

Mohib Jan Salarzai

M Irshad Mohmand

Ádvocates

High Court Peshawar

Cell # 0333-2445986

Dated:-/5/05/2018

# BEFORE THE KPK SERVICE TRIBUNAL AT PESHAWAR

Service Appeal No: 649

1349 /2018

Diary No. 689

Dated 16-5-2018

Mohib	Ullah	S/o	Misal	Khan	Resident	of	Village	Kot,	Tehsil	&
Distric <sup>*</sup>	t Char	sadd	la							

----(Appellant)

#### **VERSUS**

- 1. Director Elementary & Secondary Education, Khyber Pakhtunkhwa Peshawar
- 2. District Education Officer (DEO) Male Charsadda
- 3. Assistant Sub Divisional Education Officer (ASDEO) (Male) Charsadda

-----(Respondents)

Registrar

APPEAL UNDER SECTION 4 OF THE KPK SERVICE TRIBUNAL ACT, 1974 AGAINST THE APPELLATE ORDER OF RESPONDENT NO.1 DATED 19/04/2018 WHEREBY APPEAL OF THE APPELLANT AGAINST THE OFFICE ORDER DATED 19/01/2018 PASSED BY RESPONDENT NO.2 HAS BEEN DISMISSED AND THE PUNISHMENT AWARDED TO THE APPELALNT FOR WITHHOLDING OF TWO INCREAMENTS FOR TWO YEARS HAS BEEN MAINTAINED

#### **PRAYER**

On acceptance of this appeal the impugned appellate order of Respondent No.1 dated 19/04/2018 & initial office order dated 19/01/2018 of the Respondent No.2 may kindly be set aside and the appellant be exonerated from the charge leveled against him being baseless, illegal, harsh and based on malafide intention.

#### Respectfully Sheweth:-

The appellant submit as under:-

- That initially the appellant was appointed in the year 1988 as Primary School Teacher (PST) (BPS-9) in the department of respondents and presently performing his duty as Primary School Head Teacher at GPS Kot Charsadda.
- 2. That as the Appellant is performing his duty with great care and honestly, therefore the appellant was promoted from PST (BPS-9) to PSHT (BPS-15) and since from the date of initial appointment till date the appellant has served in the department for 28 years and in this long period of service the appellant has never committed any misconduct during his service
- 3. That on 20/10/2017 the appellant due to some personal exigency made request to the Respondent No.3 for one day

3

C/Leave which was duly granted to the appellant through telephonically which was duly entered in the register of attendance as well as movement register. Furthermore the appellant being head of the school also made entry in the order book register by handing over the charge to the senior school teacher. (Copy of Attendance Register, Order Book Register is Attached as Annexure "A")

- 4. That unfortunately on the said day the IMU Monitor team inspected the school of the appellant and the Respondent No.3 being immediate head of the appellant also accompany with them did not inform the said monitoring team about the granting of leave to the appellant, therefore the appellant was mark absent for one day.
- That astonishingly on the back of appellant & without fulfilling the legal service requirement the Respondent No.2 issued office order dated 19/01/2018 whereby the appellant was awarded minor penalty of withholding of two increments for two years which is clear violation of KPK Government Servants (Efficiency and Discipline) Rule 2011.

(Copy of Impugned Office Order dated 19/01/2018 along with Show Cause Notice is attached as Annexure "B")

6. That thereafter the appellant made a department appeal to the competent authority (Respondent No.1) which was dismissed vide order dated 19/04/2018 without any legal & lawful reasons.

(Copy of Departmental Appeal & Appellate Order dated 19/04/2018 is attached as Annexure "C & D")

7. That the Appellant being aggrieved from the dismissal of departmental appeal vide order dated 19/04/2018 as well as from the impugned office order dated 19/01/2018 whereby the appellant was awarded minor punishment of withholding of two increments for two years which is illegal, unwarranted, without lawful authority, based on malafide intention and liable to be struck down on the following grounds:-

#### **GROUNDS**

- A. That the impugned orders of the Respondents No.1 & 2 are totally illegal against justice and facts of the case therefore not tenable.
- B. That no proper inquiry was conducted in case of the appellant, what to speak of inquiry even the show cause notice and statement of allegation was not issued to the appellant and all the proceedings were carried out on the back of appellant, therefore the impugned orders of Respondents are in utter violation of Civil Servant efficiency & disciplinary rules, 2011.
- C. That the appellant has not been treated by the Respondents 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.

- D. That no charge sheet has been served against the appellant by the concerned authority before issuing the impugned order, therefore the impugned order of the Respondents is not tenable under the law and liable to be cancelled.
- E. That no chance of personal hearing/defense has been given to the appellant before issuing the impugned orders rather the appellant has been condemned unheard which is against the natural justice.
- F. That no regular inquiry has been conducted in the matter which as per Supreme Court judgments is necessary in punitive actions against the civil servant.
- G. That the impugned punishment awarded to the appellant is also in violation of the Section 4, sub-section (1) (a) of proviso clause as the penalty of withholding increments shall not be imposed on a government servant who has reached to the maximum of his pay scale, therefore the punishment awarded to the appellant is illegally, unwarranted and untenable in the eye of law.
- H. That the appellant has not been absented rather the appellant was granted C/Leave by the Respondent No.3 being immediate

n - 1

head of the appellant which was duly entered in the relevant register but the same was not conveyed to the IMU team at the time of inspection by the Respondent No.3 on the basis of malafide intention and ulterior motive, therefore the punishment awarded to the appellant is not sustainable under the law.

- I. That the punishment is very much harsh as the appellant has served in the department for 28 years and also at verge of retirement and in this long period the appellant has never committed any misconduct during his service.
- J. That the order of punishment is also strange enough which shows the malafide and biasness of the Respondent No.2 & 3, as during the whole proceeding the appellant was not informed despite the fact that the appellant is regularly performing his duty at GPS Kot Charsadda.
- K. That appellant is at the verge of retirement and at this last stage of service such like punishment will badly effect his pension benefits, which has earned by the appellant after long service therefore the punishment awarded to the appellant is unwarranted and unjustified and also harsh and is liable to be set aside.
- L. That the impugned punishment of the appellant is amount to double jeopardy as on the pretext of alleged absentee two days salary of the appellant has been deducted from his monthly

1

salary, therefore punishing on the same ground is against the constitutional mandate. (Copy of Pay Slips, application & Attendance register is Annexure"E")

**M.** That the appellant seeks leave of this honorable tribunal to raise other grounds at the time of arguments.

It is therefore prayed that on acceptance of this Appeal the impugned order dated 19/04/2018 of Respondent No.1 & Office Order dated 19/01/2018 of Respondent No.2 regarding withholding of two increments for two years may graciously be set aside and the appellant be exonerated from the alleged false charge of absentee with all other benefits

Appellant Muhib Ullah

(Primary School Head Teacher)

**Through** 

Dated:-/5/05/2018

Mohib/Jan Salarzai

&

M Irshad Mohmand

Advoca<del>tes</del>

**High Court Peshawar** 

### BEFORE THE SERVICE TRIBUNAL KPK AT PESHAWAR

	Service Appeal No:	/2018	
Mohib Ullah (PSHT)		(Appellant	t)
	VERSUS		
Director Elementary	& Secondary Education	า KPK Peshawar & Others	3
	·	(Respondents	۰ ع

#### <u>AFFIDAVIT</u>

I Mohib Ullah S/o Misal Khan Resident of Village Kot, Tehsil & District Charsadda do hereby declare that the contents of this appeal is true and correct to the best of my knowledge & belief and nothing has been concealed from this honorable court.

ATTENTAL COUNTRY OF PUBLIC PESHAWAR Of PES

1 4 MAY 2018

Contract Contract

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#### Government of Khyber Pakhtunkhwa DEPARTMENT

-Janes

MOHIB ULLAH, (PSHT), was proceeded against under the Khyber Pakhtunkhwa	Govt Servants (Efficiency
MOHIB OLLAH, (FSH.1), was proceeded against under the thirty of	
& Discipline) Rules, 2011, for the charge of willful absence from duty	
<b>Ψ Δ/10 Φ ( ) • • • • • • • • • • • • • • • • • •</b>	

2. AND WHEREAS a show cause notice was served upon MOHIB ULLAH, (PSHT GPS KOT CHARSADDA, HISARA YASIN ZAI, CHARSADDA, CHARSADDA) dated No. 6828 David 20/10/17

3. AND WHEREAS the Competent Authority District Education Officer, Male after having considered the charges and evidence on record, explanation of the accused officer in response to the Show Cause Notice and personal hearing granted to him/her on 21/11/2017. that the charges against the accused officer have been proved.

4. THEREFORE, in exercise of the powers conferred under section 14 of Khyber Pakhtunkhwa Govt. Servants (Efficiency & Discipline) Rules, 2011, the Competent Authority (District Education Officer, Male, CHARSADDA, Khyber Pakhtunkhwa) is pleased to impose minor penalty of "Withholding of two increments for two years" upon MOHIE ULLAH, (PSHT) with immediate effect.

Endst: of Even No. & Date:

DISTRICT EDUCATION OFFICER (MALE) CHARSADDA

Copy forwarded to the:-

i. District Accounts Officer, CHARSADDA

off. Concerned DDO

iii. Director ESED, Peshawar ...

iv. Headmaster GPS KOT CHARSADDA, HISARA YASIN ZAI, CHARSADDA

v. Official Concerned.

Enclosed AD 2398 DED, circle with the Semantes
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The Concerned teacher for bushings rocks

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(13)

Government of Khyber Pakhtunkhwa
Office of the District Education Officer Male
CHARSADDA

File No:

808

Dated: 20-Oct-2017

MOHIB ULLAH, (PSHT) GPS KOT CHARSADDA

GPS KOT CHARSADDÁ, HISARA YASIN ZAI, CHARSADDA, CHARSADDA

DA THE SUN

Subject: - SHOW CAUSE NOTICE

I am to refer to the subject noted above and to enclose herewith a copy of Show Cause Notice wherein the Competent Authority, District Education Officer, Male, CHARSADDA has tentatively decided to impose upon you the minor penalty of "Stoppage of two increments" under Rule-4 of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 in connection with the charges leveled against you.

- 2. You are therefore directed to furnish your reply to the Show Cause Notice as to why the aforesaid penalty, should not be imposed upon you and also intimate whether you desire to be heard in person.
- 3. Your reply should reach to this Office within Seven (07) days of receipt of this letter otherwise action under the rules shall be taken against you.

DISTRICT EDUCATION OFFICER

MALE) CHARSADDA

Encl: As Above

Endst: Even No. & Date

Copy of the above is forwarded to the: -

i. Copy to all concerned

SDEO Chaosadda.

Dono Charsadda.

Sd

DISTRICT EDUCATION OFFICER

(MALE) CHARSADDA

OF DETED

(4)

#### SHOW CAUSE NOTICE

Muhammad District Education Officer, Male, CHARSADDA, Khyber Pakhtunkhwa, as competen fity, under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, do by serve you, Mr. MOHIB ULLAH PSHT) as follows:

- i. That as confirmed by the IMU monitoring report you were found absent from duty on 20-Oct-2017 and 18-Feb-2017 without lawful authority in sheer violation of the rules, the material on record and other connected papers under Rule-5 (i) (a) read with Rule-7 of the said Rules, I am satisfied that you have committed the following acts/omissions specified in Rule-3 of the rules ibid:
  - a. Inefficient
  - b. Misconduct
- 1. Therefore, I, as competent authority, have tentatively decided to impose upon you the penalty of Stoppage of Two Increments under rule 4 of the said rules.
- 2. You are, thereof, required to show cause as to why the aforesaid penalty should not be imposed upon you and also intimate whether you desire to be heard in person.
- 3. If no reply to this notice is received within seven days or not more than fifteen days of its delivery, it shall be presumed that you have no defense to put in and in that case an ex-parte action shall be taken against you.

Qv/

DISTRICT EDUCATION OFFICER

Pr

96/10h

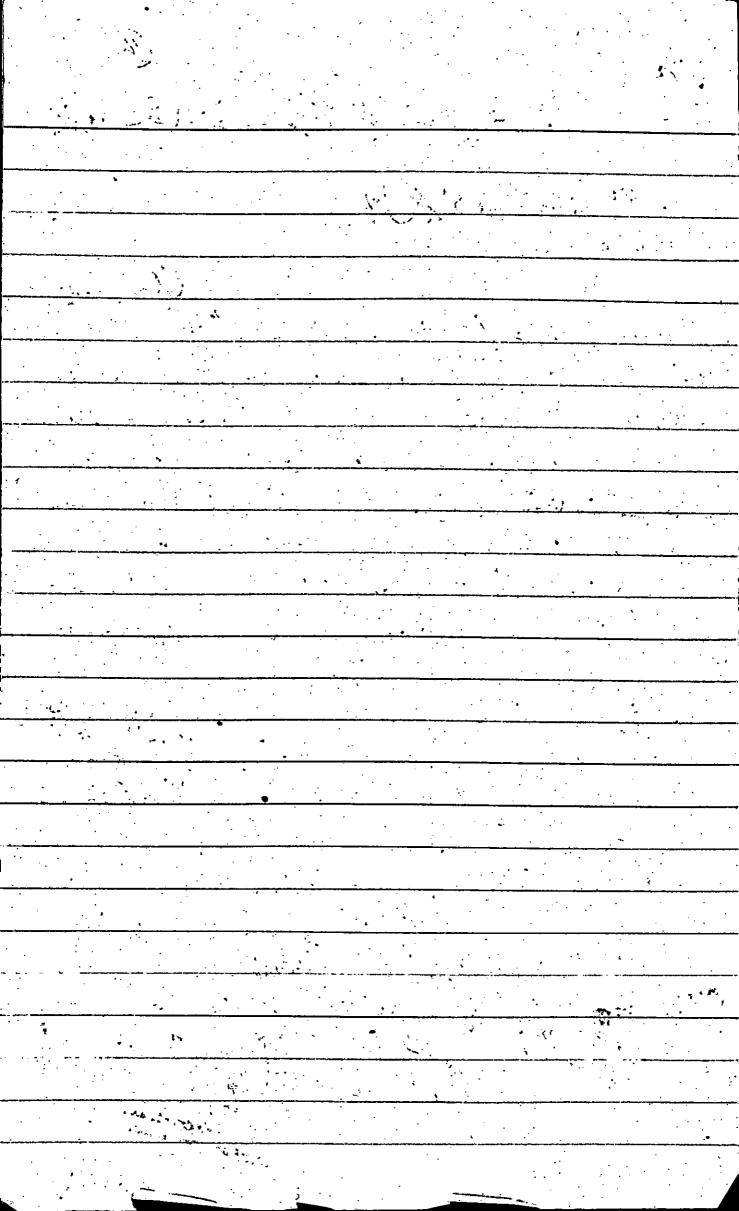
(MALE) CHARSADDA

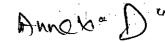
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# DIRECTORATE OF ELEMENTARY AND SECONDARY EDUCATION KHYBER PAKHTUNKHWA PESHAWAR.

No. \_\_\_\_/F.No.162/Vol:14/Appeal of PST(M) General.
Dated Peshawar the \_\_\_\_\_/2018.

To,

The District Education Officer (M) Charsadda.

Subject:-

**DEPARTMENTAL APPEAL.** 

Memo:-

I am directed to refer to your letter No.21651 dated 31.03.2018 on the subject cited above and to state that the appeal of Mr. Mohibullah PSHT GPS Kot Charsadda in light of DEO(M)Charsadda report is hereby rejected.

I am further directed to ask you to inform the teacher concerned accordingly

Deputy Director (Estate)
Elementary & Secondary Edu:
Khyber Pakhtunkhwa Peshawar

(8) 4)18

Endst: No.

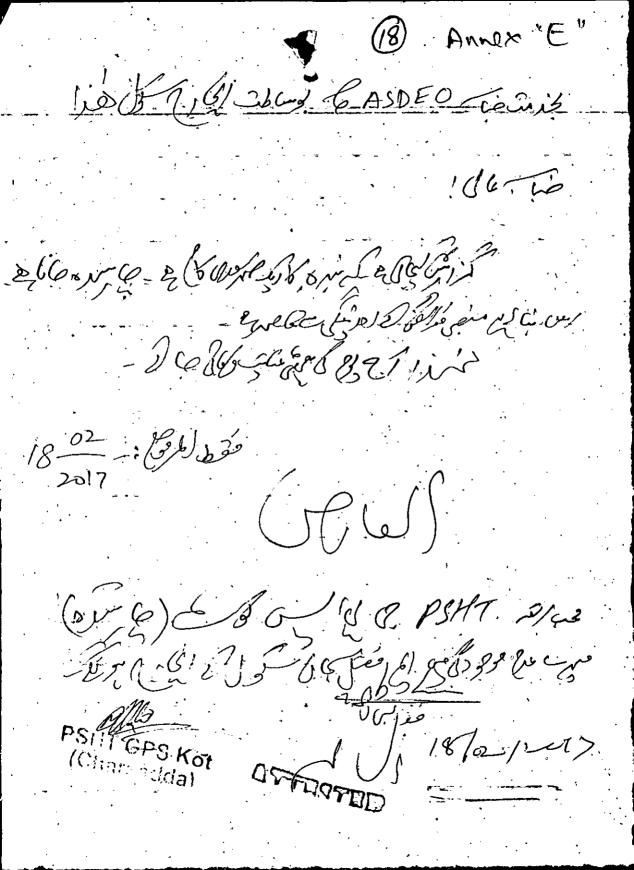
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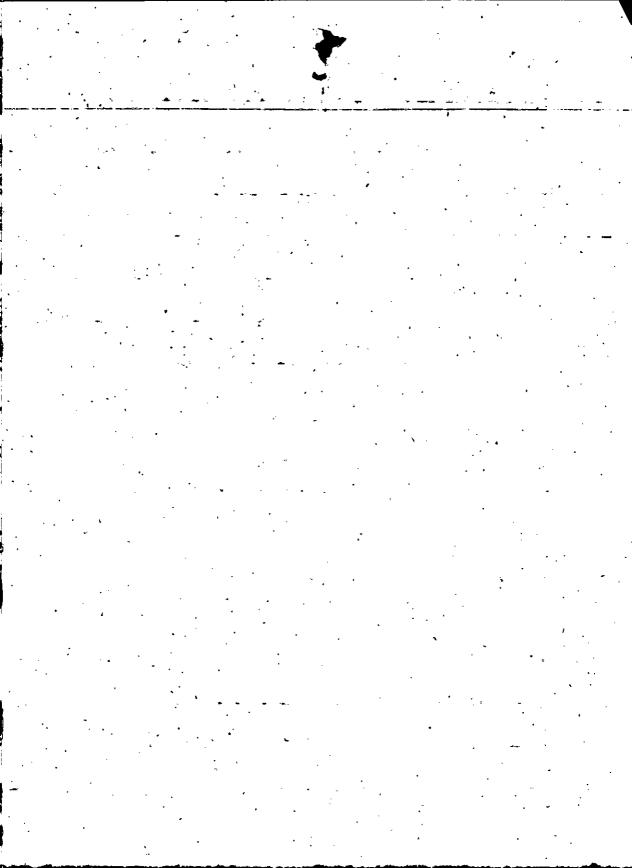
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D. N.O. 845

Deputy Director (Estab :)
Elementary & Secondary Edu:
Khyber Pakhtunkhwa Peshawar.

ATTESTED





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#### Dist. Govt. NWFP-Provincial District Accounts Office Charsadda Monthly Salary Statement (November-2017)





#### Personal Information of Mr MOHIBULLAH d/w/s of MISAL KHAN

Personnel Number: 00147239

CNIC: 1710102961763

Date of Birth: 15.04.1965

Entry into Govt. Service: 13.10.1988

NTN:

Length of Service: 29 Years 01 Months 019 Days

**Employment Category: Vocational Permanent** 

Designation: PRIMARY SCHOOL HEAD TEACH

80001042-DISTRICT GOVERNMENT KHYBE

DDO Code: CA6012-DEPUTY DISTRICT OFFICER (MALE) PRIM EDUCATION CHARSADDA (REGULAR)

Payroll Section: 001

GPF Section: 001

Interest Applied: Yes

Cash Center: 03

377,400.00

GPF A/C No: 2535 Vendor Number: -

Pay and Allowances:

Pay scale: BPS For - 2017

Pay Scale Type: Civil

GPF Balance:

**BPS: 15** 

Pay Stage: 19

Wage type		Amount		Wage type	Amount
	Basic Pay	41,390.00	1000	House Rent Allowance	1,566.00
1210	Convey Allowance 2005	2,856.00		Medical Allowance	1,500.00
<u>1505</u>	Charge Allowance	40.00	2148	15% Adhoc Relief All-2013	1,020.00
2199	Adhoc Relief Allow @10%	682.00		Adhoc Relief All 2016 10%	3,479.00
2224	Adhoc Relief All 2017 10%	4,139.00			0.00

#### **Deductions - General**

Wage	type	Amount		Wage type	Amount
3015 GPF Subscription	- Rs2890	-2,890.00	3501	Benevolent Fund	-600.00
3609 Income Tax		-545.00	3990	Emp.Edu. Fund KPK	-125.00
4004 R. Benefits & De	ath Comp:	-1,052.00	5801	Adj Basic Pay	-1,420.00

#### **Deductions - Loans and Advances**

	T"			
Loan	Description	Principal amount	Deduction	Balance

**Deductions - Income Tax** 

Payable:

10,646.55

Recovered till November-2017:

2,576.00 Exempted: 4258.21

Recoverable:

3,812.34

Gross Pay (Rs.):

56,672.00

Deductions: (Rs.):

-6,632.00

Net Pay: (Rs.):

50,040.00

Payee Name: MOHIBULLAH

Account Number: 4974-2

Bank Details: NATIONAL BANK OF PAKISTAN, 230410 TEHSIL BAZAR TEHSIL BAZAR,

Leaves:

**Opening Balance:** 

Availed:

Earned:

Balance:

Permanent Address: SDEO MALE CHARSADDA

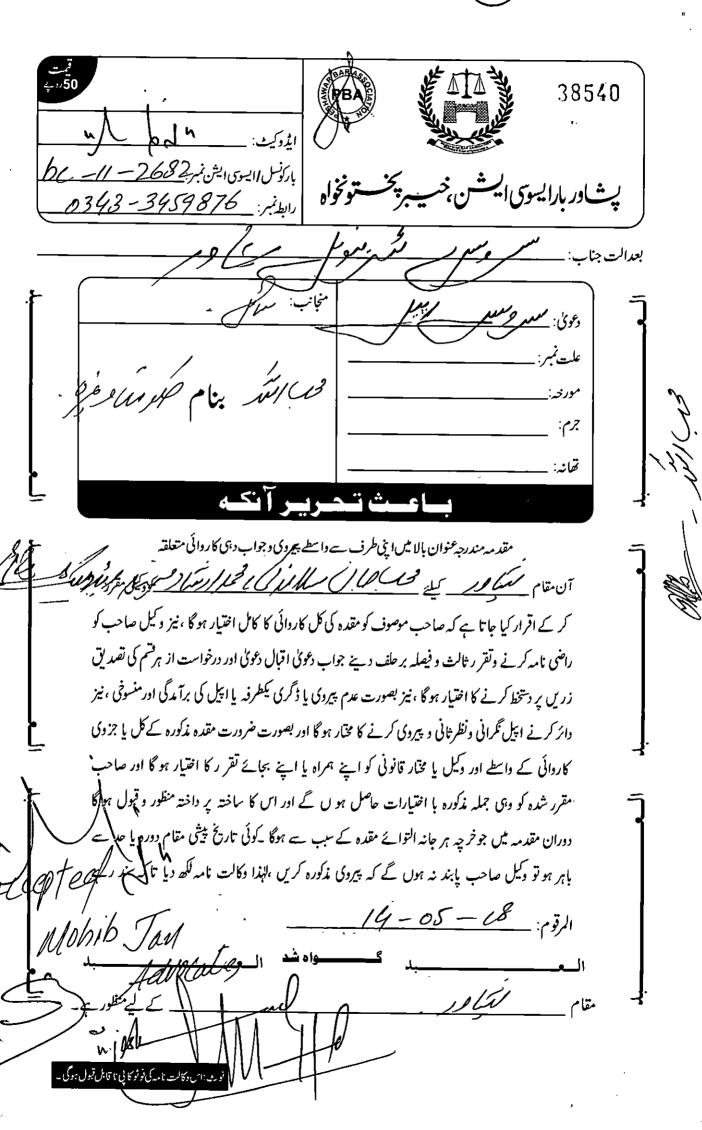
City: CHARSADDA

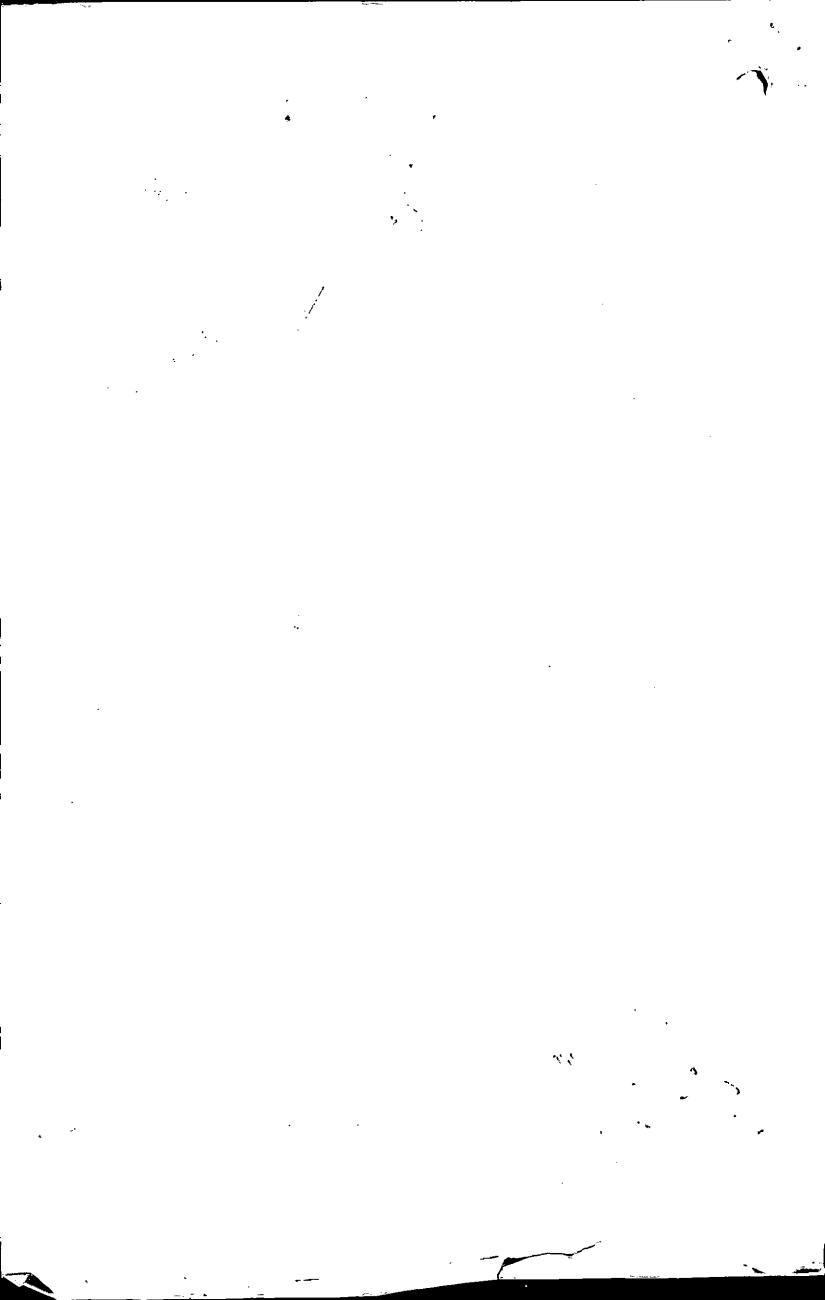
Domicile: NW - Khyber Pakhtunkhwa

Housing Status: No Official

Temp. Address: City:

Email: muhibullahchd5@gmail.com









## OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) CHARSADDA

#### **OFFICE ORDER:**

The Competent Authority has been pleased to withdraw the office order vide this office Endst: No. 9493-97 Dated 24/11/2017 regarding withholding / stoppage of two increments (for two years) in r/o Mr. Mohib Ullah (PSHT) GPS Kot, Charsadda.

(SIRAJ MUHAMMAD)
DISTRICT EDUCATION OFFICER
(MALE) CHARSADDA

Endstt: No 26860 -6 3

/ Dated

23

13

/2018

Copy for information to the: -

- 1. District Monitoring Officer Charsadda.
- 2. SDEO (Male) Charsadda.
- Official Concerned.
  - 4. Office File.

DISTRICT EDUCATION OFFICER

ور (MALE) CHARSADDA