

A

APPELLANT/  
PETITIONER

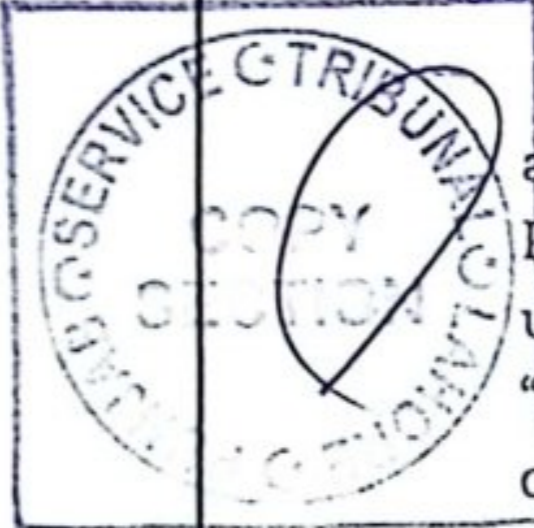
APPEAL NO. 4069/2022 **200**

Zafar Iqbal, Ex-PST

**Versus**

Chief Executive Officer (DEA) District Khushab and another  
**RESPONDENT**

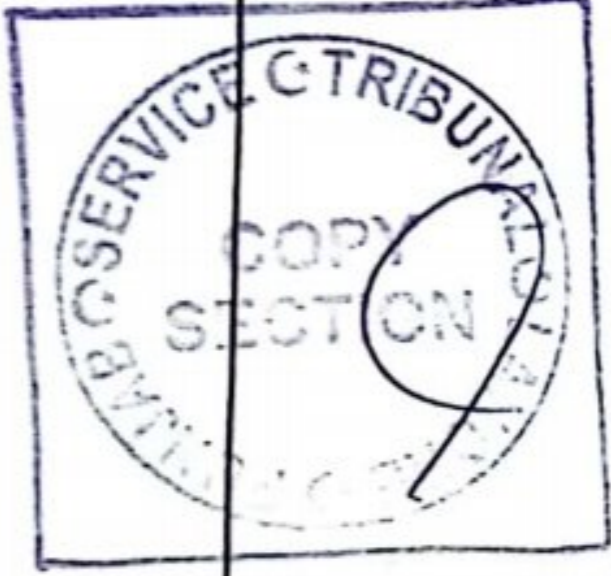
Serial No. of order of proceeding	Date of order of proceeding	Order with signature of Chairman, Members and that of parties or counsel, where necessary.
1	2	3
13.03.2024		<p style="text-align: center;">PRESENT</p> <ol style="list-style-type: none"> <li>1. Mr. Allah Nawaz Khosa, Advocate Counsel for the appellant.</li> <li>2. Hafiz M. Asif, Deputy District Attorney.</li> <li>3. Rana Abdul Rehman Law Officer, DR.</li> </ol> <p>Brief facts as gleaned out from the memorandum of appeal are that the District Education Officer (MEE) Khushab/Competent Authority proceeded against the appellant under PEEDA Act, 2006 and awarded the major penalty of "Removal from Service" vide order dated 30.05.2022. Against this order, the appellant preferred departmental appeal before the Chief Executive Officer (DEA) Khushab/Appellate Authority which was rejected vide order dated 01.07.2022. Hence, this appeal.</p> <ol style="list-style-type: none"> <li>2. Learned counsel for the appellant inter-alia contended that the impugned punishment is a result of an inquiry conducted by inquiry officer but during inquiry proceedings, the appellant was deprived of his right of fair trial as well as to produce evidence with liberty and also not granted a chance to cross-examine the witnesses/material evidence; that the punishing authority as well as the appellate authority also failed to take notice of illegalities taken place in the inquiry proceedings.</li> <li>3. Conversely, learned Deputy District Attorney maintained that the inquiry proceedings were conducted in accordance with law and that no illegality in the inquiry proceedings could be pointed out; that the evidence recorded during inquiry proceedings was sufficient to prove the charges, hence the appeal in hand has no force.</li> <li>4. Arguments raised by the learned counsel appellant as well as learned D.D.A heard and available record perused.</li> </ol>



2

P.T.O.

1	2	3
		<p>5. In order to dig out the truth, Mr. Faiz Hussan Malik, Dy. District Education Officer (M-EE) Tehsil Noorpur Thal was appointed as inquiry officer, who after conducting the inquiry submitted his report and after perusing the report as well as record, the Competent Authority imposed the major penalty of "removal from service", which subsequently upheld by the Appellate Authority while rejecting the departmental appeal of the appellant.</p> <p>6. Perusal of the inquiry proceedings conducted by Dy. District Education Officer (M-EE) Tehsil Noorpur Thal reveals that the said inquiry was not in the proper form and without examining the witnesses/material evidence in support of charges and opportunity of cross-examination to the appellant. Therefore, such report is not acceptable under the eye of law. Reliance is placed on <u>1993 S C M R 1440 titled "Jan Mohammad Vs. General Manger etc."</u></p> <p>7. As the department has failed to get conducted proper regular inquiry against the present appellant before imposing impugned major penalty in this case, hence the punishment impugned is not justified. The inquiry officer failed to adopt proper procedure as laid down in judgment reported in <u>PLJ 2011 Tr.c (services) 131 titled as Javid Qurashi Vs. Chief Post Master Hyderabad, etc</u> and this amounts to violation of the principle of natural justice, therefore, taking legal light from the case law mentioned above, this appeal is <b>partially allowed</b> and the <u>impugned orders, challenged therein, are set aside and the appellant is reinstated in service.</u> However, keeping in view the seriousness of the matter, this case is remanded to the Competent Authority for denovo proceedings and disposal of the same strictly in accordance with law. Intervening period of the appellant shall also be decided by the Competent Authority after the outcome of the denovo proceedings. This Tribunal has shunned itself from touching the merits of the case, so that it may not prejudice the wisdom of the Competent Authority. Be consigned.</p>



Punjab Service Tribunal Lhr. Form No. 1346-27

Date of submission of application for certified copy.....	<u>21-3-27</u>
The date on which inquiry was completed, examined & reported.....	<u>22-3-27</u>
Total number of pages.....	<u>5</u>
The cost of copy as per the rules.....	<u>40</u>
Urgent fee per page.....	<u>8</u>
Normal fee per pages.....	<u>40</u>
Total cost / fee.....	<u>48</u>
Date of Delivery.....	<u>22-3-27</u>
Initial of examiner / Copy Clerk.....	<u>[Signature]</u>

[Signature]  
**(SHAUKAT ALI)**  
 MEMBER-I

**CERTIFIED TO BE A TRUE COPY**  
[Signature]  
 Registrar  
 Punjab Service Tribunal,  
 Lahore

BEFORE THE PUNJAB SERVICE TRIBUNAL, LAHORE



Service Appeal No. \_\_\_\_\_/2022

Zafar Iqbal S/o Umar Hayat ,EX-PST ,R/o P.O Pail  
,District Khushab.

...APPELLANT

VERSUS

- 1) Chief Executive Officer (DEA) District Khushab .
- 2) District Education Officer(MEE)Khushab .

...RESPONDENTS

APPEAL UNDER SECTION 4 OF THE PUNJAB SERVICE  
TRIBUNALS ACT, 1974 READ WITH ALL OTHER  
ENABLING PROVISIONS OF LAW

Respectfully Sheweth:-

1. That the addresses of the parties have rightly been incorporated in the title / instant appeal for effective service of summons and notices upon the parties.
2. That the appellant was appointed as PST on 15-02-1997 against the regular vacancy in the Education Department.
3. That succinct fact regenerating the instant Appeal are that the appellant while posted as PST at

Handwritten notes and stamps on the left side of the page. A large handwritten '1' is visible. There are also some illegible handwritten notes and a small stamp that says 'COPY'.

Government Primary School Dhoke Changa Tehsil  
Khushab charged with the following allegations

You used a fake PTC certificate at the time of appointment as Primary School teacher.

You provided a fake verification of your PTC certificate to the Dy. District Education Officer (M-EE) Tehsil Khushab and misguided the department. iii. Your PTC certificate declared bogus by the Registrar Departmental Examination for District Education Authority, Bahawalpur vide No. 1151/G-III dated 09.03.2022. The same was verified by the CEO (DEA) Bahawalpur vide his letter No. 1346/G-III dated 21.03.2022. Copy of inquiry letter is hereby enclosed as **Annexure-A**



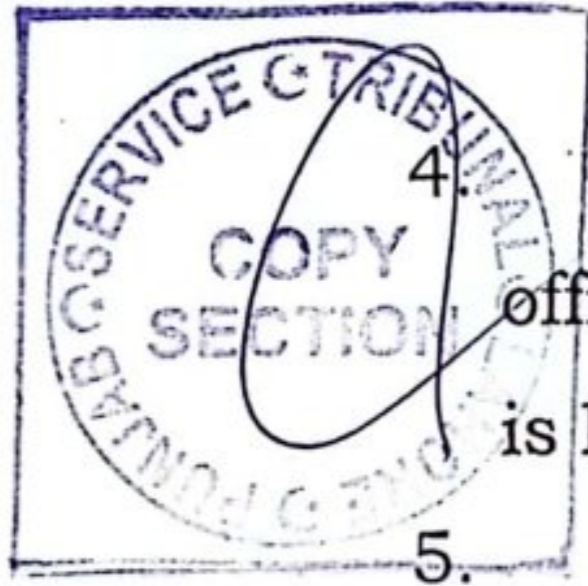
That the appellant replied to the inquiry officer and denied all the allegations. Copy of reply is hereby enclosed as **Annexure-B**

5. That inquiry was conducted in an arbitrary manners and inquiry officer without considering the version of the appellant recommend major penalty of removal from service. Copy of Inquiry report dated 10.05.2022 is hereby enclosed as **Annexure-C**
6. That Show-Cause Notice Cum Personal hearing notice dated 17/05/2022 was served to the appellant on the basis of so called inquiry report. Copy of show-cause notice is hereby enclosed as **Annexure-D**
7. That the appellant replied to the show cause and categorically denied all the allegations. Copy of Reply/written defense is hereby enclosed as **Annexure-E**
8. That the respondent No.02 without considering the version of the appellant awarded

Government Primary School Dhoke Changa Tehsil  
Khushab charged with the following allegations

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That the appellant replied to the inquiry officer and denied all the allegations. Copy of reply is hereby enclosed as **Annexure-B**

That inquiry was conducted in an arbitrary manners and inquiry officer without considering the version of the appellant recommend major penalty of removal from service. Copy of Inquiry report dated 10.05.2022 is hereby enclosed as **Annexure-C**

6. That Show-Cause Notice Cum Personal hearing notice dated 17/05/2022 was served to the appellant on the basis of so called inquiry report. Copy of show-cause notice is hereby enclosed as **Annexure-D**

7. That the appellant replied to the show cause and categorically denied all the allegations. Copy of Reply/written defense is hereby enclosed as **Annexure-E**

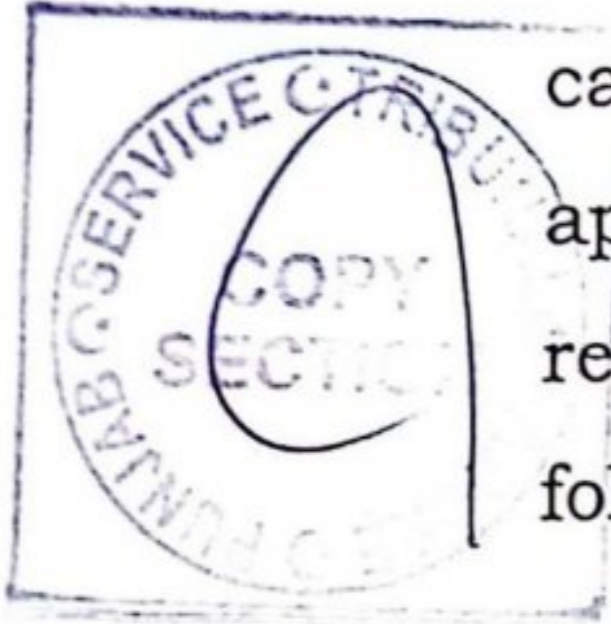
8. That the respondent No.02 without considering the version of the appellant awarded

major penalty of removal from service. Copy of order dated 30-05-2022 is hereby enclosed as **Annexure-F**

9. That the appellant filed service appeal against the impugned order dated 30-05-2022 within time. Copy of Appeal is hereby enclosed as **Annexure-G**

10. That the respondent No.01 rejected the Appeal of the appellant without any legal justification. Copy of order dated 01-07-2022 is hereby enclosed as **Annexure-H**

11. That the order which are hereinafter called the impugned orders dated 30-05-2022 and appellate order dated 01-07-2022 passed by the respondents is liable to be set aside inter alia on the following



### **GROUND**

- I. That the orders passed by the respondents are not only against the law and facts but also contrary to well established principle of justice, equity and good conscience.
- II. That the respondents have not seen the case in its true perspective thus has committed material illegalities and irregularities while passing the impugned orders; which has resulted in grave miscarriage of justice.
- III. That the orders passed in hasty, mechanical, arbitrary and fanciful manner and passed without applying judicial and judicious mind, in slipshod manner, whereas under the law it is required that the order should be passed with

convincing reasons, which are missing in the impugned order.

IV. That It is also submitted that evidences on record amply prove that I had achieved the certificate of **CT qualification**, which is the higher professional qualification required for appointment as PST, and had not procured the appointment on the strength of forged .Copy of CT certificate is hereby enclosed as **Annexure-J**

V. That the applied for the post in lawful, transparent, structured and proper manner and suffers from no procedural and legal defect in any form whatsoever the Undersigned were short listed and interviewed by a recruitment interview /committee comprising representatives of relevant government authorities. After qualifying all the prescribed stages the Undersigned was declared as successful candidate, it is pertinent to mentioned here that at the time of appointment the appellant submitted CT certificate instead of PTC ,The appellant also submitted an application dated 07/05/2022 and requested for provision of record of appellant's initial appointment but no record is provided to the appellant till today. Copy of application 07/05/22 is hereby enclosed as **Annexure-K**

VI. That that the impugned orders are contrary to the principle of locus poenitentiae because it is well-settled law that once a right is created by extending benefit to employee, the same cannot be taken away on mere assumption, supposition, whims and fancy of any executive functionary. Such right, once vested, could not be



destroyed or withdrawn as legal bar would come into play under the doctrine of locus poenitentiae.

VII. The Honorable Supreme Court in various judgments held that Right of due process and fair trial is a fundamental right of every civil servant. Reliance is placed in **2016 PLC(C.S)281**

VIII. That the impugned punishment orders is wholly illegal, without jurisdiction, ab-initio void, arbitrary, against law and facts and the same is not sustainable in the eyes of law the appellant is innocent, the charge of illegal confinement was not proved and not a single evidence is available against the appellant.



IX. That entire service record of the appellant is clean, blotless, and admirable the appellant always performed my official duties efficiently and diligently. The appellant always obeyed the orders of his Senior Officers and complied with orders/instructions issued by the Senior Officers. It proves my good conduct, behavior, competence; good reputation, honesty, effective supervision; monitoring, management and command

X. That it is settled principle of law that whenever controversial question regarding evidence is involved ,an opportunity of cross examination of witnesses is to be given to accused civil servant and for that proper clause is to initiate regular inquiry against accused civil servant otherwise finding recorded against civil servant will be more on conjectures than on evidence. **2005 TD (Service)625(c)**

XI. That no regular inquiry has been conducted by the competent authority If the



competent authority , was satisfied that there was no need to hold regular inquiry, he should have recorded the reasons in writing to dispense with the inquiry. No reason has been recorded in writing by the punishing authority. By this way I have been deprived of my defense through regular inquiry, only fact finding inquiry was conducted which is not substituted of regular inquiry. Hence act of the competent authority is highly objectionable, arbitrary, and fanciful against the mandate and demand of constitution as well as law. That it is the duty of every public functionary who acts on behalf of Government to act according to the law, fairly and justly with the citizens of this country.



### **Prayer:-**

In view of the above submission, it is therefore respectfully prayed that the impugned order of removal from service dated 30-05-2022 passed by the respondent No.02 and appellate order dated 01-07-2022 passed by the CEO Khushab may very kindly be set-aside, after declaring the same to be illegal, without jurisdiction, ab-initio, void, arbitrary, discriminatory , against law and facts and very kindly order the re-instatement of the appellant in service, along with all back benefits and as such

service appeal of the appellant may very kindly be accepted accordingly.

**Humble Appellant**



...APPELLANT

Through

**Allah Nawaz Khosa**

Advocate High Court

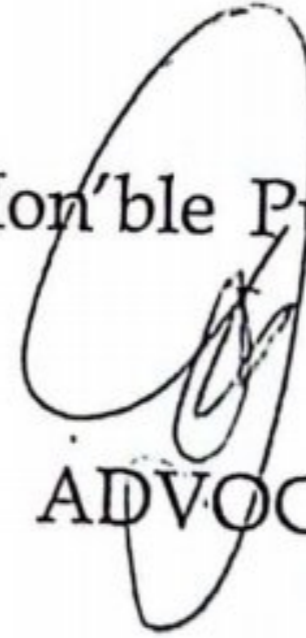
Cell No: 0333-6073636

Office No.09, Ground Floor, Peoples Building,5-Link,Faridkot Road, Lahore



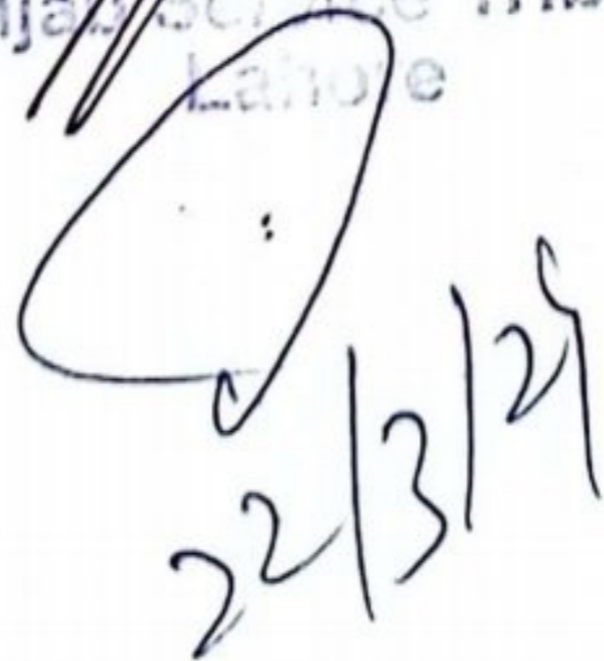
**CERTIFICATE:**

As per instructions, this is the first appeal in this Hon'ble Punjab Service Tribunal, Lahore.



ADVOCATE

CERTIFIED TO BE A TRUE COPY  
Registrar  
Punjab Service Tribunal  
Lahore





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NO. 2892 /CC  
CHIEF EXECUTIVE OFFICER  
(DEA) KHUSHAB  
DATED: 01-07-2022

Office of the  
District Education Officer  
(MEE) Khushab

Subject:- DECISION OF APPEAL

DIARY NO.	1972
DATE	02/07/2022
Tehsil & District	
Admn	
B&A	
Discipline	
30.03.2022	
G.B.	
C.C	✓
Authority	
Lit	
Physical	
Competent	
PA	
30.05.2022	

WHEREAS, Mr. Zafar Iqbal, PST, Government Boys P/S Dhoke Changa Tehsil & District Khushab was proceeded under Section 5 read with Section 9 of the Punjab Employees Efficiency & Accountability Act-2006 by the competent authority vide his office order No. 1495/CC dated 30.03.2022 on the charges of "Inefficiency & Misconduct".

AND WHEREAS, the Inquiry Officer submitted his inquiry report to the Competent Authority vide Memo No. 640/Admn dated 10.05.2022. On above mentioned charges, recommendations of the inquiry committee, facts of the case, the District Education Officer (M-EE), Khushab being competent authority imposed the major penalty of "Removal from Service" vide order No. 2217/CC dated 30.05.2022 upon the appellant.

AND WHEREAS, he filed an appeal against the decision of the competent authority before the undersigned/appellate authority vide diary No. 3099 dated 15.06.2022. The same appeal was forwarded to the competent authority vide this office No. 2644/CC dated 16.06.2022 for detailed report and para wise comments.

AND WHEREAS, the competent authority submitted detailed report and para wise comments vide No. 2573/CC dated 22.06.2022 with the remarks that the said appeal is baseless and against the facts. Hence the same may kindly be REJECTED. After receiving of detailed report and para wise comments, an opportunity of personal hearing on 29.06.2022 was afforded to the appellant vide this office No. 2824/CC dated: 23.06.2022, the appellant availed the opportunity of personal hearing on 29.06.2022 and submitted his written reply and not proved himself innocent from the above said charges.

NOW THEREFORE, I, Allah Ditta Khan, Chief Executive Officer (DEA) Khushab being Appellate Authority after perusing the record, facts of the case and agreed with the detailed report and comments of the competent authority, the instant appeal of Mr. Zafar Iqbal, PST, Government Boys P/S Dhoke Changa Tehsil & District Khushab is hereby REJECTED and "UP-HOLD" the decision of the competent authority under section 16(2) (a) of the PEEDA Act, 2006.

(Allah Ditta Khan)  
Chief Executive Officer (DEA)  
Khushab/ Appellate Authority

NO. & DATE EVEN

- 1. A copy is forwarded for information and necessary action to;
- 2. The District Education Officer (M-EE), Khushab.
- 3. The District Accounts Officer, Khushab.
- 4. The appellant concerned.
- 5. Notification file.

Chief Executive Officer (DEA)  
Khushab



No. 2217 /CC  
OFFICE OF THE  
DISTRICT EDUCATION OFFICER  
(MEE) KHUSHAB  
Dated 30-05/2022

F

ORDER

WHEREAS, the undersigned, being Competent Authority, ordered initiation of disciplinary proceedings under Section 3 of the PEEDA Act, 2006 against Mr. Zafar Iqbal, PST, Govt. Primary School Dhoke Changa Tehsil Khushab on the charges of Misconduct and Inefficiency vide order No. 1495/CC dated 31.03.2022 and appointed Mr. Faiz Hassan Malik, Dy. District Education Officer (M-EE) Tehsil Noorpur Thal as Inquiry Officer to proceed further:

2. AND WHEREAS, the Inquiry Officer submitted his report concluding that the charges leveled vide above referred order against the accused are fully proved and recommended that the major penalty of "REMOVAL FROM SERVICE" may be imposed upon him.

3. AND WHEREAS, the undersigned/Competent Authority afforded opportunity of personal hearing under section 13(4) of the PEEDA Act, 2006 to the accused vide Show Cause-cum-Personal Hearing Notice No. 2029/CC dated 17.05.2022. The accused availed the opportunity of personal hearing on 26.05.2022.

4. NOW THEREFORE, the undersigned/ Competent Authority, after due examination of facts of the case, findings/ recommendations of the Inquiry Officer and averments made by the accused during personal hearing, concluded that the charges as detailed in the inquiry report are proved against him. Therefore, the undersigned/ Competent Authority, in exercise of powers under Section 13(5)(ii) of the PEEDA Act, 2006 imposed the major penalty of "REMOVAL FROM SERVICE" under section 4(1)(b)(v) of the Act ibid upon the accused with immediate effect:

DISTRICT EDUCATION OFFICER  
(MEE) KHUSHAB  
(Competent Authority)

No. & Date Even

A copy is submitted / forwarded for information and necessary action to:

1. The Chief Executive Officer (District Education Authority) Khushab.
2. The District Accounts Officer Khushab.
3. The Dy. District Education Officer (M-EE) Tehsil Khushab with request to ensure the implementation of the penalty awarded upon the accused.
4. The Teacher Concerned.
5. Office Copy.

DISTRICT EDUCATION OFFICER  
(MEE) KHUSHAB

30/5/22