
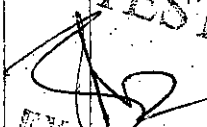


Sr. No	Date of order/ proceedings	Order or other proceedings with signature of Judge or Magistrate
1	2	
<p align="center"><u>BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL</u></p> <p align="center">Appeal No. 1067/2016</p> <p>Date of Institution ... 06.10.2016 Date of Decision ... 11.09.2018</p> <p>Mr. Ibad Khan, Ex-Constable No.865, Police Lines Shah Mansoor, Swabi</p> <p align="right">-----Appellant</p> <p>1. Provincial Police Officer Khyber Pakhtunkhwa Peshawar. 2. Deputy Inspector General of Police Mardan Region-I, Mardan. 3. District Police Officer Swabi.</p> <p align="right">-----Respondents</p> <p>Mr. Hussain Shah.....Member Mr. Muhammad Hamid Mughal.....Member</p> <p>11.09.2018</p> <p align="center"><u>JUDGMENT</u></p> <p><u>HUSSAIN SHAH, MEMBER:</u> - Appellant, learned counsel for the appellant and Mr. Muhammad Jan, Deputy District Attorney on behalf of the official respondents present.</p> <p>2. Appellant Ibad Khan in the instant appeal u/s 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974, has contested the impugned order dated 05.03.2015 whereby the appellant was dismissed from service. The appellant has also challenged the order dated 16.05.2016 regarding rejection of his departmental appeal. The appellant prayed for setting aside the impugned orders and for re-instatement in service with all back wages and back</p>		

ATTESTED



EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

benefits of service.

3. Facts:- The appellant was serving in Police department as Constable. He was posted at Police Lines Shah Mansoor District Swabi. The Competent Authority initiated disciplinary proceeding against the appellant on the basis of two (2) FIRs registered against the appellant. One is FIR No. 414 dated 14.06.2014, under section 392 PPC, at Police Station Yar Hussain Swabi and the other is FIR No. 583 dated 14.09.2014, under section 392 PPC, at Police Station Kalu Khan Swabi. After due process of law the competent authority dismissed the appellant from service on 04.03.2016. Being aggrieved the appellant submitted departmental appeal to the appellant authority, which was rejected /filed by the appellate authority on 16.05.2016 hence the appellant submitted the instant appeal on 06.10.2016.

4. Learned counsel for appellant argued that the appellant preferred the present service appeal within the period of thirty (30) days of the communication of order dated 16.05.2016 of the appellate authority. Learned counsel for the appellant argued that neither the charge sheet and statement of allegations were served upon the appellant nor he was associated with inquiry proceedings as during those days the appellant was behind the bar.

5. On the other hand learned Deputy District Attorney argued that the appellant is involved in serious criminal activities and besides case FIR No. 414 and 583 mentioned above he is also involved in FIR No.666 of the year 2014 P.S Swabi an FIR No. 668

ATTESTED

EMAN ZINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

of the year 2014.

6. Arguments heard. File perused.

7. It is not disputed that the appellant was behind the bar when the inquiry proceeding was conducted by the inquiry officer against the appellant. Learned Deputy District Attorney could not rebut the arguments of learned counsel for the appellant that neither the appellant was served with charge sheet/statement of allegation nor he was associated with the inquiry proceedings. Consequently while considering the circumstances of the case the order of appellate authority dated 16.05.2016 is set aside. The departmental action against the appellant shall be deemed pending. The competent authority (respondent No.3) is directed to serve the charge sheet and statement of allegation upon the appellant and conduct de-novo inquiry against the appellant strictly in accordance with law. The issue of reinstatement of appellant shall remain subject to the outcome of de-novo inquiry. The present service appeal is disposed off in the above terms. Parties are left to bear their own costs. File be consigned to the record room.

Announced

11.09.2018

Sd/- Hussain Shah
Member

Sd/- M. Hamid Nughal
Member

Certified to be true copy
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Date of Presentation	19-9-18
Number of Bundles	1600
Copying Fee	10
Urgent	
Total	10
Name of Copyist	
Date of Completion of Copy	02-10-18
Date of Delivery of Copy	02-10-18

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL PESHAWAR
AT CAMP COURT ABBOTTABAD

Service Appeal No. 570/2018

Date of Institution ... 25.04.2018

Date of Decision ... 01.12.2021

Masood Ahmad Khan, Primary School Teacher (PST), R/O District Haripur.

... (Appellant)

VERSUS

Government of Khyber Pakhtunkhwa, through Secretary Education Peshawar and four others.

... (Respondents)

MR. MUHAMMAD ARSHAD TANOLI,
Advocate

--- For appellant.

MR. RIAZ AHMED PAINDAKHEL,
Assistant Advocate General

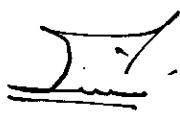
--- For respondents.

MR. AHMAD SULTAN TAREEN
MR. SALAH-UD-DIN

--- CHAIRMAN
--- MEMBER (JUDICIAL)


JUDGMENT:

SALAH-UD-DIN, MEMBER:-


Precise facts giving rise to filing off instant service appeal are that the appellant, while serving as Primary School teacher in Government Primary School Sector-4 Khalabat Township Haripur, was charged in a murder case vide FIR registered on 28.08.1996, therefore, he remained absent from duty from the said period till his arrest on 19.02.2001. During the period of his absence from duty, no departmental action whatsoever was taken against the appellant. The appellant remained behind the bar and was convicted by the trial court, however he was ultimately acquitted by the august Supreme Court of Pakistan vide judgment dated 14.10.2011 on the

basis of compromise. The appellant after his acquittal approached the department through various applications and ultimately notification dated 02.06.2012 was issued by Executive District Officer Elementary & Secondary Education Haripur, whereby appellant was adjusted at GPS Gandaf against vacant post of PST in his own pay and grade with effect from 14.10.2011 i.e the date of his acquittal. The appellant preferred departmental appeal seeking recovery of the arrears of salary with effect from 01.09.1996 till the date of his adjustment i.e 14.10.2011, however no favourable action was taken upon the departmental appeal of the appellant, therefore, he approached august Peshawar High Court, Abbottabad Bench through filing of Writ Petition, which was sent by the august Peshawar High Court, Abbottabad Bench to this Tribunal for its decision in accordance with law.

2. Notices were issued to the respondents, who submitted their comments, wherein they denied the assertions made by the appellant in his appeal.

 3. Learned counsel for the appellant has contended that after charging of appellant in the murder case, no departmental action was taken against him and as the appellant has been acquitted in the murder case, therefore, he is entitled to all back benefits; that the appellant has been acquitted in the murder case on the basis of compromise, however there are numerous rulings of august Superior Court, wherein it has been held that all acquittals are honourable and there can be no acquittal which can be termed as dishonourable; that the issue is one of financial nature, therefore, there cannot arise any question of limitation. Reliance was placed on 2001 PLC (C.S) 316, PLJ 2007 Supreme Court 496, 2005 PLC (C.S) 1193 as well as unreported judgment dated 31.10.2013 passed by august Peshawar High Court, Abbottabad Bench in Writ Petition No. 655 of 2012.

4. On the other hand, learned Assistant Advocate General for the respondents has argued that the intervening period of

absence of the appellant from duty is about 15 years and the case of the appellant has already been processed vide letter dated 11.12.2018 for obtaining sanction of EOL from competent forum for bridging of his services for the purpose of further promotion under the relevant law/rules; that the appellant has already been granted BPS-12 and the due benefits from 14.10.2011 have been granted to him; that the appellant has not yet retired, therefore, the question of gratuity and GP Fund are premature at this stage; that the appeal in hand is against law and facts, therefore, the same is liable to be dismissed.

5. We have heard the arguments of learned counsel for the appellant as well as learned Assistant Advocate General for the respondents and have perused the record.

6. A perusal of the record would show that the appellant was charged in a murder case vide FIR registered on 28.08.1996 and it is an admitted fact that he remained absent from the said date till his arrest on 20.02.2001, however no departmental action was taken against him. The appellant was convicted by the trial court, however he was ultimately acquitted by the august Supreme Court of Pakistan on 14.10.2011 on the basis of compromise. The appellant was arrested on 20.02.2001, who remained in custody and was ultimately released from jail after his acquittal on 14.10.2011. The appellant shall thus be considered as under suspension from his arrest on 20.02.2001 till his release from custody on 14.10.2011. CSR-194 is reproduced for ready reference as below:-

"A Government Servant who has been charged for a criminal offence or debt and is committed to prison shall be considered as under suspension from the date of his arrest. In case such a Government servant is not arrested or is released on bail, the competent Authority may suspend him, by specific order, if the charge against him is connected with his position as government servant or is likely to embarrass him in the discharge of his duties or involves moral turpitude. During suspension period the Government servant

shall be entitled to the subsistence grant as admissible under F.R-53".

Similarly, FR-53 is also relevant for resolving of the controversy, which is reproduced as below:-

"F.R.53 A government servant under suspension is entitled to the following payments:-

- (a) In the case of 1 [an employee of the Armed Forces] who is liable to revert to Military duty, to the pay and allowances to which he would have been entitled had he been suspended while in military employment.*
- (b) 2[(b) In the case of a government servant under suspension, other than that specified in clause (a), he shall be entitled to full amount of his salary and all other benefits and facilities provided to him under the contract of service, during the period of his suspension.]*

7. On careful perusal of CSR-194 as well as FR-53 (b), it can safely be concluded that the appellant upon his acquittal in the criminal case is entitled to all back benefits. The appellant has however admittedly remained absent from duty with effect from 28.08.1996 till 19.02.2001, therefore, the said period is treated as extraordinary leave without pay.

8. Furthermore, during the course of arguments, representative of the respondents produced copy of letter No. SO(PE)E&SED/5-19/Masood Ahmad Ex-PST/Haripur dated Peshawar the 23.04.2018 addressed by Section Officer (Primary) to Secretary to Government of Khyber Pakhtunkhwa, Finance Department Peshawar, which would show that the department has also initiated process upon the application submitted by the appellant to the competent Authority. The relevant para of the aforementioned letter is reproduced as below:-

"Keeping in view of his long absence from duty an inquiry was conducted by Muhammad Asif Khan, HM, GHS No. 3, Haripur who recommended the following actions to be taken by Finance Department for converting his long absence into EOL without pay:-

1. Sanction of EOL of his absent/absconder period (28.08.1996 to 19.02.2001) (04 years, 05 months and 21 days),
2. Ex-post facto sanction of suspension/grant of allowance i.e 20.02.2001 to 14.10.2011. (10 years, 07 months and 24 days).
3. Up-gradation as per policies in vogue i.e grade 7 to 12 with award of arrears since his re-instatement (policies 2007 & 2012).
4. Promotion from grade 12 to 14 and further promotion from grade 14 to grade 15 under Departmental Promotion Committee (DPC) as per policy in vogue.

9. In view of the above discussion, the appeal in hand is accepted and the appellant is held entitled to all back benefits. The period of his absence from duty with effect from 28.08.1996 till 19.02.2001 (04 years 05 months and 21 days) shall however be treated as extraordinary leave without pay. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED

01.12.2021



(AHMAD SULTAN TAREEN)
CHAIRMAN
CAMP COURT ABBOTTABAD



(SALAH-UD-DIN)
MEMBER (JUDICIAL)
CAMP COURT ABBOTTABAD

Service Appeal No. 570/2018

01.12.2021

Appellant alongwith his counsel Mr. Mohammad Arshad Tanoli, Advocate, present. Mr. Salah Mushtaq, ADEO alongwith Mr. Riaz Ahmed Paindakhel, Assistant Advocate General for the respondents present and produced copies of letter No. SO(PE)E&SED/5-19/Masood Ahmad Ex-PST/Haripur dated Peshawar the 23.04.2018 and letter No. SO(FR)FD/10-22/2017/Vol-1/6298/E&SE dated Peshawar the 07th June 2018, which are placed on file. Arguments heard and record perused.

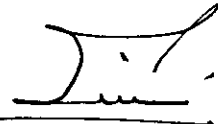
Vide our detailed judgment of today, separately placed on file, the appeal in hand is accepted and the appellant is held entitled to all back benefits. The period of his absence from duty with effect from 28.08.1996 till 19.02.2001 (04 years 05 months and 21 days) shall however be treated as extraordinary leave without pay. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED

01.12.2021



(Ahmad Sultan Tareen)
Chairman
Camp Court Abbottabad




(Salah-Ud-Din)
Member (J)
Camp Court Abbottabad

S.A No. 570/2018

11.10.2021

Appellant in person present. Mr. Muhammad Adeel Butt, Additional Advocate General alongwith Mr. Saleh Muhammad, ADEO for the respondents present.

Lawyers are on strike therefore, arguments could not be heard. To come up for arguments before the D.B on 17.01.2022 at Camp Court Abbottabad.



(SALAH-UD-DIN)
MEMBER (JUDICIAL)
CAMP COURT ABBOTTABAD



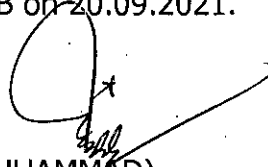
CHAIRMAN
CAMP COURT ABBOTTABAD

24.08.2021

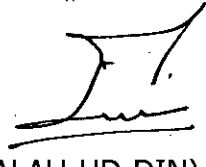
*Be fixed at Camp Court
Abbottabad for the date
of already given. 07/9/2021*

Appellant alongwith Mr. Muhammad Arshad Tanoli, Advocate present. Mr. Muhammad Adeel Butt, Additional Advocate General alongwith Mr. Muhammad Saleh Mushtaq, ADEO, for the respondents present.

Learned AAG requested for time on the ground that the brief appeal was not available. Adjourned. To come up for argument before the D.B on 20.09.2021.



(MIAN MUHAMMAD)
MEMBER (EXECUTIVE)



(SALAH-UD-DIN)
MEMBER (JUDICIAL)

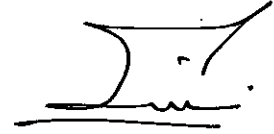
20.09.2021

Appellant in person present. Mr. Usman Ghani, District Attorney for the respondents present.

Appellant requested for adjournment on the ground that his counsel is unable to appear before the Tribunal today due to strike of lawyers. Adjourned. To come up for arguments before the D.B on 11.10.2021 at Camp Court Abbottabad.



(ATIQ-UR-REHMAN WAZIR)
MEMBER (EXECUTIVE)
CAMP COURT ABBOTTABAD



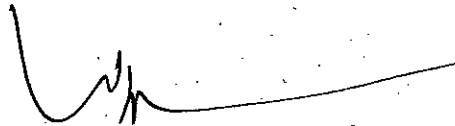
(SALAH-UD-DIN)
MEMBER (JUDICIAL)
CAMP COURT ABBOTTABAD

17.03.2021

Nemo for appellant.

Riaz Khan Paindakheil learned Assistant Advocate General for respondents present.

Preceding date was adjourned on a Reader's note, therefore, appellant/counsel be put on notice for 17/042021 before D.B at Camp Court, Abbottabad.



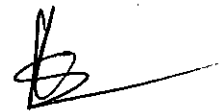
(Atiq-Ur-Rehman Wazir)
Member (E)
Camp Court A/Abad



(Rozina Rehman)
Member (J)
Camp Court, A/Abad

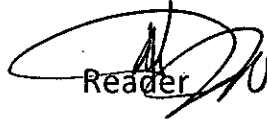
23.06.2021

Appellant in person present. He submitted an application for fixation of the date at Peshawar in Service Appeal No. 570/2018. Previously the appeal was fixed for hearing at Camp Court, Abbottabad for 17.03.2021. However, hearing could not take-place due to cancellation of the tour. It has been stated in the application that the appellant is going to retire on superannuation within the period of three months. He requested for urgent disposal of the matter. The application is placed on file. Office is directed to fix the case before the D.B. at Peshawar on 24.08.2021, subject to notice to the respondents.



Chairman

Due to covid ,19 case to come up for the same on 14/4/20
at camp court abbottabad.


Reader

14.4.20

Due to summer vacation case to come up for the same on
20 / 10 / 20 at camp court abbottabad.

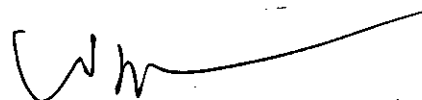

Reader


20.10.2020

Appellant in person present.

Usman Ghani learned District Attorney for respondents
present.

Due to general strike of the bar, case case is adjourned to
16.12.2020 for arguments, before D.B at Camp Court,
Abbottabad.


(Atiq ur Rehman Wazir)
Member (E)
Camp Court, A/Abad


(Rozina Rehman)
Member (J)
Camp Court, A/Abad

Due to COVID-19 case is
adjourned to 17-03-2021


Reader

Service Appeal No. 570/2018

17.12.2019

Appellant in person and Mr. Usman Ghani, District Attorney alongwith Mr. Sajid, Superintendent for the respondents present. Appellant requested for adjournment on the ground that his counsel is not available today. Adjourned to 21.01.2020 for rejoinder if any, and arguments before D.B at Camp Court Abbottabad.



(Hussain Shah)

Member

Camp Court Abbottabad



(M. Amin Khan Kundi)

Member

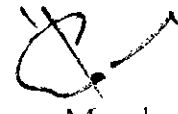
Camp Court Abbottabad

21.01.2020

Appellant in person present. Mr. Ziaullah, DDA alongwith Mr. Muhammad Shamim, SO for respondents present. Due to general strike of the bar on the call of Khyber Pakhtunkhwa Bar Council, the case is adjourned. To come up for further proceedings/arguments on 19.02.2020 before D.B at camp court Abbottabad.



Member



Member

Camp Court A/Abad

18.06.2019

Appellant in person and Mr. Muhammad Bilal, DDA alongwith Mr. Muhammad Shamim, SO and Mr. Sardar Wali Ur Rehman, Assistant for respondents present. Written reply/comments on behalf of the respondents not submitted. Representative of the respondents produced letter dated 13.06.2019 addressed to the Secretary to government of Khyber Pakhtunkhwa, Law Department for signing the para-wise comments already submitted. Adjourned. Case to come up for written reply/comments on 20.08.2019 before S.B at camp court Abbottabad.


(Ahmad Hassan)
Member

20.08.2019


Appellant in person present. Mr. Muhammad Bilal/
Camp Court A/Abad learned Deputy District Attorney alongwith Bashir Ahmad J.C present and submitted written reply/comments. Adjourn. To come up for rejoinder if any, and arguments on 23.10.2019 before D.B at Camp Court, Abbottabad.


Member
Camp Court A/Abad

23.10.2019

Appellant in person present. Mr. Usman Ghani, District Attorney for respondents present. Appellant in person seeks adjournment as his counsel is not available today. Adjourn. To come up for further proceedings/arguments on 17.12.2019 before D.B at Camp Court, Abbottabad.



Member


Member
Camp Court Abbottabad

Service Appeal No. 570/2018


18.02.2019

Clerk of counsel for the appellant present. Mr. Said Badshah, ADO alongwith Mr. Muhammad Bilal Khan, Deputy District Attorney for the respondents present. Written reply on behalf of respondents not submitted. Learned Deputy District Attorney requested for further adjournment. Adjourned to 15.04.2019 for written reply/comments before S:B at Camp Court Abbottabad.


(Muhammad Amin Khan Kundi)
Member
Camp Court Abbottabad

15.04.2019




Counsel for the appellant present. Mr. Muhammad Bilal, DDA alongwith Mr. Waheed Ur Rehman, Assistant for respondents present. Written reply not submitted. Requested for adjournment. Adjourned. Case to come up for written reply/comments on 18.06.2019 before SB at camp court Abbottabad.


(Ahmad Hassan)
Member
Camp Court A/Abad

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 570/2018

S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	25/04/2018	<p>The present appellant initially went in Writ Petition before the Hon'ble Peshawar High Court Abbottabad Bench and the Hon'ble High Court vide its order dated 21.03.2018 while treating the Writ Petition into an appeal and has sent the same to this Tribunal for decision in accordance with law. The same may be entered in the Institution register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR 25/4/18</p>
2-	15.5.2018	<p>This case is entrusted to Touring S. Bench at A.Abad for preliminary hearing to be put up there on <u>20-7-2018</u>.</p> <p style="text-align: center;"> CHAIRMAN</p>
17.12.2018		<p>Appellant in person present. Mr. Sardar Wali Ur Rehman, Senior Clerk alongwith Mr. Usman Ghani, District Attorney for respondents present. Written reply not submitted. Requested for adjournment. Granted. Case to come up for written reply/comments on 18.02.2019 before S.B at camp court A/Abad.</p> <p style="text-align: right;"> (Ahmad Hassan) Member Camp Court A/Abad.</p>


20.07.2018

Appellant Masood Ahmad in person alongwith his counsel Mr. Arshad Khan Tanoli, Advocate present and heard in limine.

Contends, that after acquittal of the appellant in a murder case by the competent court and in the light of the judgment of the Hon'ble Superior Courts, he was entitled for reinstatement in service with all back benefits but the respondents deprived him from the date benefits.


Points raised need consideration. The appeal is admitted for regular hearing, however, subject to all the legal objections if raised by the respondents. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents. To come up for written reply/comments on 15.10.2018 before S.B at camp court, Abbottabad.

Appellant Deposited
Security & Process Fee


Chairman
Camp court, A/Abad

15.10.2018

Appellant in person present and submitted fresh Wakalatnama of Mr. Muhammad Arshad Khan Tanoli, Advocate. The same is placed on record. Mr. Muhammad Irshad, S.O (Litigation) alongwith Mr. Usman Ghani, District Attorney for the respondents present. Written reply on behalf of the respondents not submitted. Learned District Attorney requested for adjournment. Adjourned. To come up for written reply/comments on 17.12.2018 before S.B at camp court, Abbottabad.


Member
Camp Court, A/Abad



THE
PESHAWAR HIGH COURT
ABBOTTABAD BENCH

Ph: 0992-9310058
Fax: 0992-9310055

No: 42

Dated Abbottabad 17/4/ April, 2018

From

The Additional Registrar,
Peshawar High Court,
Abbottabad Bench.

Khyber Pakhtukhwa
Service Tribunal

Diary No. 486

To

The Chairman,
Service Tribunal,
KPK Peshawar.

Dated 25/04/2018

Subject:

WRIT PETITION NO. 258-A OF 2016.

Masood Ahmed Khan

Petitioner.

Versus

Govt. of KPK & others

Respondents.

Memo.

I am directed to forward herewith file WP No. 258-A/2016 titled "Masood Ahmed Khan VS Govt. of KPK & others" Total Sheets (68) alongwith judgment of the Honourable Division Bench for further necessary action.


Additional Registrar

Judgment Sheet

**IN THE PESHAWAR HIGH COURT, ABBOTTABAD
BENCH
JUDICIAL DEPARTMENT**

Writ Petition No. ~~258~~ 258-A/2016

JUDGMENT

Date of hearing.....21.03.2018.....

Petitioner (Masood Ahmad Khan) By Mr. Muhammad Nawaz
Khan Swati, Advocate.

Respondents (State) by Mr. Yasir Zahoor Abbasi, Assistant AG.

LAL JAN KHATTAK, J.- Through this petition, petitioner has prayed for issuance of a writ directing the respondents not only to pay him his monthly salaries w.e.f. 14.10.2011 but all the arrears and allowances for the aforesaid period. He has also claimed his seniority and promotion through the desired writ.

2. Learned counsel for the petitioner was directed to argue the petitioner's case on the point of maintainability as pay, seniority and promotion are terms and conditions of service of a civil servant and of a civil is aggrieved of any breach of any of the terms and conditions of his service then he shall approach the services Tribunal constituted for the purpose but on court he can agitate the




aforementioned issues before this court in constitution petition.

3. Though learned counsel for the petitioner argued the petitioner's case for some length but on second thought he submitted at the bar that he would not press the instant petition before this court if, in the interest of justice, the case is sent to Khyber Pakhtunkhwa Services Tribunal for its decision in accordance with law to which the learned Law Officer readily agreed.

4. In view of the above, office is directed to send this case to Khyber Pakhtunkhwa Services Tribunal for its decision in accordance with law after retaining copies thereof, for record.

Announced:
21.03.2018.


JUDGE


JUDGE

Arshad Iqbal
Justices Lal Jan Khattak & Syed Arshad Ali

BEFORE THE PESHAWAR HIGH COURT,
ABBOTTABAD BENCH

service appeal no. 570/2018

W.P No. 258 -A/2016

Masood Ahmad Khan, Primary School Teacher (PST), resident of District Haripur.

...PETITIONERS

VERSUS

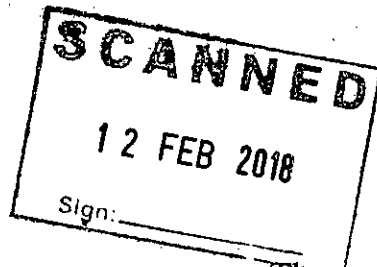
Govt. of Khyber Pakhtunkhwa, through Secretary Education Peshawar & others.

...RESPONDENTS

WRIT PETITION

INDEX

S. #	Description	Page Nos.	Annexures
1.	Writ petition with affidavit & certificate	1 to 9	
2.	List of books	10	
3.	Addresses of the parties	11	
4.	Copy of judgment of Supreme Court of Pakistan dated 14/10/2011 and complete relevant record of compromise	12-19	"A"
5.	Copy of application and correspondence of department	20-22	"B"
6.	Copy of office order Endst No. 6049-50 dated 02/05/2012	23-	"C"
7.	Copy of judgment of W.P No. 655/12 dated 31/10/2013	24-26	"D"
8.	Court fee stamp paper worth Rs. 500/-		
9.	Wakalatnama		



...PETITIONER

Dated: 14/03 /2016

Through

M. A. Khan Swati

FILED TODAY

(Muhammad Nawaz Khan Swati)
Advocate Supreme Court of Pakistan,

Muhammad Nawaz Khan Swati
Advocate
Supreme Court Of Pakistan
Haripur

A
Additional Registrar
Peshawar High Court
Abbottabad Bench
13/3/16

BEFORE THE PESHAWAR HIGH COURT,
ABBOTTABAD BENCH

Service Appeal no. 570/2018

W.P No. 258 -A/2016

Masood Ahmad Khan, Primary School Teacher (PST), resident of District Haripur.

...PETITIONER

VERSUS

1. Govt. of Khyber Pakhtunkhwa, through Secretary Education Peshawar.
2. Director, Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
3. Executive District Officer, Elementary & Secondary Education, Haripur.
4. Govt. of Khyber Pakhtunkhwa, Law Parliamentary Affairs & Human Right Department, through Secretary, Peshawar.
5. Govt. of Khyber Pakhtunkhwa, Finance Department, through Secretary, Peshawar.

...RESPONDENTS

WRIT PETITION UNDER ARTICLE 199 OF THE
CONSTITUTION OF ISLAMIC REPUBLIC OF
PAKISTAN, 1973 FOR THE ISSUANCE OF
DIRECTOR TO THE EFFECT THAT AFTER

No 1293
18-3-16
FILED TODAY

Additional Registrar
Peshawar High Court
Abbottabad Bench

ACQUITTAL OF LATTER ON RE-STATEMENT
MADE BY THE COMPETENT AUTHORITY I.E.
RESPONDENT NO. 5 VIDE ORDER DATED
02/05/2015, WITH EFFECT FROM 14/10/2011 I.E.
(THE DAY OF PETITIONER'S ACQUITTAL)
STOPPAGE OF PAY, PAYMENT OF ARREARS OF
INTERVENING PERIOD AFTER RE-
STATEMENT, ALLOWANCES AND AMOUNT OF
GRATUITY & GENERAL PROVIDENT FUND &
PENSION ETC. IS ILLEGAL, UNLAWFUL,
PERVERSE, DESPOTIC, AGAINST THE LAW, RULE
AND POLICY & AGAINST THE NATURAL JUSTICE
AND FAIR PLAY.

PRAYER: ON ACCEPTANCE OF THE INSTANT
WRIT PETITION, WHILE NOTICING THE
INACTION AND HIGH HANDEDNESS OF THE
RESPONDENT, THE ULTIMATE DIRECTION OF;

i. PAYMENT OF PAY AFTER ACQUITTAL AND
WITH PAY EFFECT FROM 14/10/2011.

ii. PAYMENT OF ALL THE ARREARS &
ALLOWANCES OF THE ABOVE SAID
PERIOD.

FILED TODAY

Additional Registrar
Peshawar High Court
Abbottabad

- iii. SENIORITY OF PETITIONER BE DIRECTED TO BE CONSIDERED FROM THE DATE OF HIS INVOLVEMENT IN THE CASE.
- iv. PROMOTION OF PETITIONER BE ORDERED AS PER SENIORITY.
- v. BACK BENEFITS IN SALARY ETC AS PER RULE.

ANY OTHER RELIEF WHICH THIS HONOURABLE COURT DEEMS FIR AND PROPER IN THE CIRCUMSTANCES OF THE CASE MAY ALSO BE GIVEN TO THE PETITIONER.

Respectfully Sheweth:-

Brief facts giving rise to the instant writ petition are arrayed as under:-

1. That the petitioner was appointed in Education Department on 03/10/1985.
2. That unfortunately, the petitioner was entangled in a murder case on 28/08/1996.

FILED TODAY

Additional Registrar
Peshawar High Court
Abbottabad Bench
18/11/16

3. That the petitioner remained absent w.e.f. 28/08/1996 to 19/02/2001 & it is pertinent to mention here that no adverse action was taken by the department against the petitioner.
4. That later on the petitioner was arrested on 20/02/2001 and remained behind the bar.
5. That ultimately the petitioner was acquitted on 14/10/2011 by the August Supreme Court of Pakistan. Copy of judgment of Supreme Court of Pakistan dated 14/10/2011 and complete relevant record of compromise is attached as annexure "A".
6. That then the petitioner started to contact with department for with different application. Copy of application and correspondence of department is attached as annexure "B".
7. That ultimately the respondent No. 3 issued the reinstatement & adjusted the petition vide office order Endst No. 6049-50 dated 02/05/20012. Copy of office order Endst No. 6049-50 dated 02/05/2012 is attached an annexure "C".

FILED TODAY

Additional Registrar
Peshawar High Court
Abbottabad Bench
17/12/12

8. That after issuance of above said letter, the petitioner completed his tenure of service but nothing at all was ever paid to petitioner even till his retirement and after his retirement.

Feeling aggrieved the petitioner has come to this Honourable Court, inter-alia, amongst many other grounds;

GROUNDS

- a. That inaction of respondent is nothing but sheer malafide and high-handedness which must be curbed with iron hand.
- b. That after acquittal, and especially reinstatement in service, it is bonafide right of the petitioner to be paid with all legal pay, allowance, arrears gratuity, G.P fund and pension etc. as per law.
- c. That the respondents have made the petitioner a shuttle cock by throwing here and there in the colourful exercise of power.

FILED TODAY

Additional Registrar
Peshwar High Court
Abbottabad 18/2/14h

d. That the petitioner is the poor-fellow and many dependant to pull on being the elder.

e. That no-effective, prompt of efficacious remedy is available to the petitioner except the instant writ petition.

f. That in similar nature case, this Honourable in W.P No. 655 of 2012 decided on 31/10/2013 accepted all the pleas of the petitioner. Copy of judgment of W.P No. 655/12 dated 31/10/2013 is attached as annexure "D".

g. That the petitioner has been informing the respondent in this respect through letter. (Record is attached) but in vain.

h. That rest of the legal points world and raised at the time of agreement.

It is, therefore, humbly prayed that on acceptance of the instant writ petition, while noticing the inaction and high handedness of the respondent, the ultimate direction of;

vi. Payment of pay after acquittal and with pay effect from 14/10/2011.

FILED TODAY

Additional Registrar
Feshawar High Court
Abbottabad
18/10/13

- vii. Payment of all the arrears & allowances of the above said period.
- viii. Seniority of petitioner be directed to be considered from the date of his involvement in the case.
- ix. Promotion of petitioner be ordered as per seniority.
- x. Back benefits in salary etc as per rule.

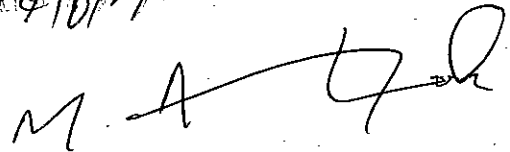
Any other relief which this Honourable Court deems fit and proper in the circumstances of the case may also be given to the petitioner.

FILED TODAY

Additional Registrar
Peshawar High Court
Abbottabad 18/3/16
PETITIONER

Dated: 14/03 /2016

Through



(Muhammad Nawaz Khan Swati)
Advocate Supreme Court of Pakistan,
Office at Haripur
Muhammad Nawaz Khan Swati
Advocate
supreme Court Of Pakistan
Haripur

VERIFICATION

Verified on oath that the contents of foregoing writ petition are true and correct to the best of my knowledge and belief and nothing has been suppressed from this Honourable Court.

....PETITIONER

BEFORE THE PESHAWAR HIGH COURT,
ABBOTTABAD BENCH

W.P No. _____ -A/2016

Masood Ahmad Khan, Ex-Primary School Teacher (PST), resident of District Haripur.

...PETITIONERS

VERSUS

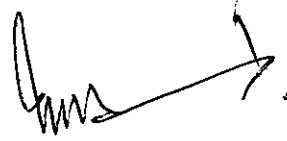
Govt. of Khyber Pakhtunkhwa, through Secretary Education Peshawar & others.

...RESPONDENTS

WRIT PETITION

AFFIDAVIT

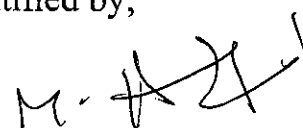
I, Masood Ahmad Khan, Ex-Primary School Teacher (PST), resident of District Haripur., do hereby declare on oath that the contents of foregoing writ petition are true and correct to the best of my knowledge and belief and nothing has been suppressed from this Honourable Court.



13302 - 2546216 - 9 DEPONENT

AFFIDAVIT

Identified by;



(Muhammad Nawaz Khan Swati)
Advocate Supreme Court of Pakistan,
Office at Haripur

S.No: 1000/14 Receipt No: 14
Certified that the above deponent has affirmed on Solemn affirmation before me on this day of 18th day of Mar 2016, by Masood Ahmad Khan Ex-Primary School Teacher, C.P.S. District Haripur, House No 1155 District Haripur.

Muhammad Nawaz Khan Swati
Advocate
Supreme Court Of Pakistan
Haripur

Oath Commissioner
(Additional Registrar)
Peshawar High Court (Circuit) Bench
Abbottabad

11/3/16

Additional Registrar
Peshawar High Court
Abbottabad
18/3/16

BEFORE THE PESHAWAR HIGH COURT,
ABBOTTABAD BENCH

W.P No. _____ -A/2016

Masood Ahmad Khan, Primary School Teacher (PST), resident of District Haripur.

...PETITIONERS

VERSUS

Govt. of Khyber Pakhtunkhwa, through Secretary Education Peshawar & others.

...RESPONDENTS

WRIT PETITION

CERTIFICATE

Certified that no writ petition on the subject has earlier been filed by the petitioner.

...PETITIONER

Dated: 14/03 /2016

Through

M. A. Swati

(Muhammad Nawaz Khan Swati)
Advocate Supreme Court of Pakistan,
Office at Haripur

FILED TODAY

A
Additional Registrar
Peshawar High Court
Abbottabad Bench

Muhammad Nawaz Khan Swati
Advocate
Supreme Court Of Pakistan
Haripur

BEFORE THE PESHAWAR HIGH COURT,
ABBOTTABAD BENCH

W.P No. _____-A/2016

Masood Ahmad Khan, Primary School Teacher (PST), resident of District Haripur.

...PETITIONERS

VERSUS

Govt. of Khyber Pakhtunkhwa, through Secretary Education Peshawar & others.

...RESPONDENTS

WRIT PETITION

LIST OF BOOKS

1. Constitution of Islamic Republic of Pakistan 1973
- 2.
3. Relevant case law will be cited at the Bar.

...PETITIONER

Dated: 14/03 /2016

Through

M. A. Swati

(Muhammad Nawaz Khan Swati)
Advocate Supreme Court of Pakistan,
Office at Haripur

FILED TODAY

Q
Additional Registrar
Peshawar High Court
Abbottabad Bench
14/3/16

Muhammad Nawaz Khan Swati
Advocate
Supreme Court Of Pakistan
Haripur

BEFORE THE PESHAWAR HIGH COURT,
ABBOTTABAD BENCH

W.P No. _____ -A/2016

Masood Ahmad Khan, Primary School Teacher (PST), resident of District Haripur.

...PETITIONERS

VERSUS

Govt. of Khyber Pakhtunkhwa, through Secretary Education Peshawar & others.

...RESPONDENTS

WRIT PETITION

ADDRESSES OF THE PARTIES

Respectfully Sheweth;-

Addresses of the parties are as under;-

Masood Ahmad Khan, Primary School Teacher (PST), resident of District Haripur.

...PETITIONER

VERSUS

1. Govt. of Khyber Pakhtunkhwa, through Secretary Education Peshawar.
2. Director, Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
3. Executive District Officer, Elementary & Secondary Education, Haripur.
4. Govt. of Khyber Pakhtunkhwa, Law Parliamentary Affairs & Human Right Department, through Secretary, Peshawar.
5. Govt. of Khyber Pakhtunkhwa, Finance Department, through Secretary, Peshawar.

...RESPONDENTS

...PETITIONER

Dated: 14/03/2016

Through

M. A. Swati

FILED TODAY

A
Additional Registrar
Peshawar High Court
Abbottabad *14/03/16*

(Muhammad Nawaz Khan Swati)
Advocate Supreme Court of Pakistan,
Office at Haripur
Muhammad Nawaz Khan Swati
Advocate
Supreme Court Of Pakistan
Haripur

Annexure
A²
197 page 12

In the Supreme Court of Pakistan
(Appellate Jurisdiction)

Present:

Mr. Justice Mian Shakirullah Jan
Mr. Justice Jawwad S. Khawaja
Mr. Justice Anwar Zaheer Jamali

Crl. Misc. Application No.483 of 2011
in Crl.P.L.A. No.73 of 2010

(On appeal from judgment of Peshawar High Court, Peshawar dated 23.2.2010 passed in Criminal Appeal No.25 of 2006, C.M.A. for approval of compromise)

Masood Ahmad alias Guddoo

Petitioner

Versus

The State & another

Respondents

For the petitioner:

Mr. Mehmood Ahmed Sheikh,
ASC/AOR

For State/respondent No.1:

Mr. M. Bilal, Sr. ASC

For respondent No.2:

Nemo.

Date of hearing:

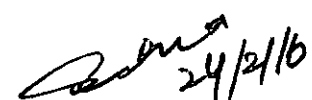
14.10.2011

Order

Mian Shakirullah Jan, J - During the pendency of Criminal Petition for leave to appeal No.73 of 2010, filed by the petitioner-convict-Masood Ahmed alias Guddoo against his conviction and sentence of death under section 302(b) PPC with compensation of Rs.100,000/- each to the legal heirs of the deceased, he has filed C.M.A. No.483 of 2011 seeking permission of this Court for acceptance of compromise with the complainant party i.e: legal heirs of the deceased, with the request for his release on the basis of such compromise.

2. The application/compromise was sent to the trial Court for ascertaining the genuineness or otherwise of the

ATTESTED


24/11/16
Court Associate
Supreme Court of Pakistan
Islamabad

107
190/4
To: The Registrar,
Supreme Court of Pakistan,
Islamabad.

From: Wajid Ali
Additional District & Sessions Judge-II,
Haripur.

Through: Proper Channel.

No. 216 Dated Haripur the 26th August, 2011.

Subject:- CRIMINAL MISC. APPLICATION NO.483 OF 2011
CRIMINAL PETITION NO.73 OF 2010
(MASOOD AHMED @ GUDDO VS THE STATE AND ANOTHER)

(On appeal from the Judgment and order of the Peshawar High Court, Abbottabad Bench dated 23.02.2010 in CrI.A.No.25/2006 and M.R.No.03/2006 in case FIR No.321/1996 dated 28.08.1996, P.S. Khalabat Township, Haripur)

Reference:- SUPREME COURT OF PAKISTAN LETTER NO.CRL.P.73/2010-SCI.
DATED 20TH AUGUST, 2011.

R/Sir,

With reference to the subject noted above, the report alongwith statement of the legal heirs, Jirga member and verification of legal heirs by the SHO concerned (in original) is hereby submitted for consideration as directed & required, please.



(Wajid Ali)

Additional District & Sessions Judge-II,
Haripur.

Witnessed to be true copy
Authorized U/A 87 of
Qanoon-e-Shahadat order; 198

Date: 26/8/11

Examiner
Distt. & Session Judge
Haripur

12

لیدر آف ڈی ایڈیشنل سیشن جج ہری پور
قصور نامہ

FORM "A"

22/8/11 522/190/4

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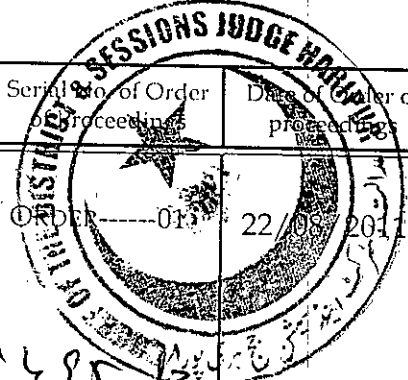
FORM OF ORDER SHEET

Court of ASJ - II

25/11

Case No. 190/4 of 2011

16/11



Serial No. of Order of Proceedings Date of Order of Proceedings Order or other proceedings with signature of Judge or Magistrate and that of Parties or Counsel, where necessary

Serial No. of Order of Proceedings: 249
Date of Order of Proceedings: 22/08/2011

Mr. Shafqat Zaman Advocate and Pervaiz Akhtar Rana Advocate produced attested copy of the letter addressed by the Honourable, The Registrar Supreme Court of Pakistan to the undersigned alongwith order of the august Supreme Court of Pakistan, dated 19/08/2011, copies of application for acquittal of accused on the basis of compromise, the compromise deed and copies of affidavits executed by legal heirs of the deceased Zahoor Ahmed.

Perusal of the order dated 19/08/2011, passed by august Supreme Court of Pakistan, reveals that the learned trial court has been directed to submit report about the genuineness or otherwise of the compromise entered between the parties within the period of two weeks, positively. It transpired that the accused was convicted by the learned Additional Sessions Judge-III, but the learned Additional Sessions Judge-III, is availing summer vacations that the urgent work of the said Court has already been entrusted to learned Additional Sessions Judge-II, due to non availability of Additional Sessions Judge-III, and the august Supreme Court of Pakistan, has directed to conclude the proceedings within period of two weeks positively, therefore, the matter is entrusted to the Court of learned ASJ-II, with the direction to conduct proceedings in the light of order passed by august Supreme Court of Pakistan, and to submit report before the apex Court within two weeks positively. The learned counsel for the petitioner are directed to appear in the Court of ASJ-II, on 24/02/2011. The SHO Police Station KTS, is directed to submit list of legal heirs of the deceased before the Court of learned Additional Sessions Judge-II on the date fixed.

Attested to be true copy
Authorized U/A 87 of
Qanoon-e-Shahadat order; 198

Date: 26/2/16

Examiner
Dist. & Session Judge
Haripur

The case file be sent to the Court of learned ASJ-II where

ASJ

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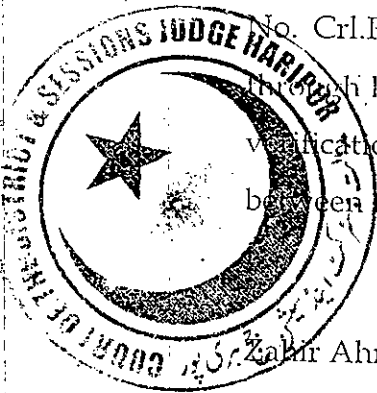
190/4

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Order -- 3
Continued:

with compensation of Rs.100,000/- vide its order & judgment dated 23.02.2006. An appeal was preferred before the worthy Peshawar High Court, Peshawar, which also upheld decision of the learned trial Court vide order & judgment dated 23.02.2010. Thereafter, the appellant/convict also preferred an appeal before the august Supreme Court of Pakistan vide Crl M.A.No.483/2011 in Crl.PLA No.73/2010, which is pending now.

During proceedings before the august Supreme Court of Pakistan, the parties took the plea of compromise between the parties in the present case as a result of which, the august Supreme Court of Pakistan vide its order dated 19.08.2011 & communicated through letter No. Crl.P.73/2010-SCJ. Dated 20th August, 2011 received by this Court through learned District & Sessions Judge, Haripur on 24.08.2011 ordered verification about genuineness or otherwise of the compromise reached at between the parties and report the same within two weeks.



Joint statement of Mst. Ajaib Sultan (mother of deceased), Mst. Zahoor Ahmed (brother of deceased), Mst. Misbah, Mst. Mansha Khatoon & Mst. Shama Fiaz (sisters of deceased) recorded wherein they stated that a case vide FIR No.321 dated 28.08.1996 under Sections 302 PPC was registered at PS KTS, Haripur against the accused/convict Masood alias Guddo s/o Sardar Khan regarding commission of murder of deceased Zahoor Ahmed s/o Mir Dad Khan. Now, the convict/accused led a Jirga of the elders of the locality for effecting compromise. After due discussion and consultation, they have forgiven the accused/convict in the name of Allah Almighty without receiving any compensation. There remains no ill will or grudge and clash between the parties as they belong to the same Illaqa. They are the only legal heirs of the deceased Zahoor Ahmed and besides them there is no other legal heir of the deceased. They have waived off their right of Qisas & Diyat and have forgiven the accused/convict in the name of Allah Almighty and have no objection on his acquittal in the present case. The compromise deed is Ex PA and Proforama for effecting compromise under Qisas & Diyat Ordinance is Ex PB, (original of which are already produced before the august Supreme Court)

Handwritten signature and date 23/8/11, with a stamp from the District & Sessions Judge, Haripur.

Authorized U/A 87 of
Qanoon-e-Shahadat order; 198

Date 26/8/11

Examiner
Distt. & Session Judge

Serial No. of Order of Proceedings	Date of Order of proceedings	Order or other proceedings with signature of Judge or Magistrate and the Counsel, where necessary
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learned counsel for petitioners are directed to appear on 24/08/2011.

(Signature)
 (SHAIBER KHAN)
 SESSIONS JUDGE,
 HARIPUR

0 - - - 02 24.08.2011.

The compromise documents received from the Court of learned Sessions Judge Haripur. Be entered. Learned counsel for the petitioners present and requested for adjournment for the reason that the legal heirs of the deceased are not in attendance. To come up on 25.08.2011.

(Signature)
 Additional District & Sessions Judge,
 HARIPUR



Attested to be true copy
 Authorized U/A 87 of
 Qanoon-e-Shahadat order, 1988
 Date 26/08/2011
(Signature)
 Examiner,
 Dist. & Sessions Judge,
 Haripur
 Additional District & Sessions Judge,
 HARIPUR

Order -- 3
 25.08.2011

Mr. Parvez Akhtar Rana Advocate present on behalf of the accused party whereas Mr. Saeed Akhtar Advocate present on behalf of the complainant besides the presence of SPP for the State. Legal heirs of deceased Zahoor Ahmed in person present. Gulzar Ahmed (Jirga Member) & Sultan Khalid Khan Advocate present. SHO PS KTS submitted list of legal heirs of deceased Zahoor Ahmed, which is placed on file.

A case vide FIR No.321 dated 28.08.1996 under Sections 302 PPC was registered at PS KTS, Haripur against the accused/convict Masood alias Guddo s/o Sardar Khan regarding commission of murder of deceased Zahoor Ahmed s/o Mir Dad Khan for which he was tried by the Court of learned Additional District & Sessions Judge-III, Haripur. The learned trial Court convicted the accused and sentenced him to death under Section 302(b) PPC

Order -- 3

Continued:

Court of Pakistan) which are correct and correctly bear their signatures as well as signatures of marginal witnesses. The compromise is genuine and in the best interest of both the parties.

In this regard, statement of the Jirga member namely Gulzar Ahmed s/o Sher Ahmed, resident of Sector No.1, Khalabat Township, Tehsil & District Haripur recorded wherein he stated that accused/convict Masood alias Guddo through his brother and relatives led him to the legal heirs of the deceased Zahoor Ahmed. A Jirga was convened wherein the matter has been patched up after due discussion and consultation, the complainant party being legal heirs of the deceased has forgiven the accused/convict of the charge u/s 302 PPC in the name of Allah Almighty as stated by the legal heirs in their joint statement. Mst. Ajaib Sultan (mother of deceased), Zahir Ahmed (brother of deceased), Mst. Misbah, Mst. Mansha Khatoon & Mst. Shama Fiaz (sisters of deceased) are the only legal heirs of the deceased as he was unmarried and has no other legal heir. The compromise is in the best interest of both the parties, the compromise is genuine and the same may kindly be accepted, and in the light of the same accused/convict may kindly be acquitted from the charges.

The legal heirs of the deceased were duly identified by Mr. Khalid Sultan Khan Advocate, Haripur who is also their close relative. Similarly, the Jirga member has also been identified by the stated Advocate. The list of the legal heirs is verified by the legal heirs themselves, the Jirga member namely Gulzar Ahmed & a report in this respect was also sought from the SHO PS KTS, Haripur.

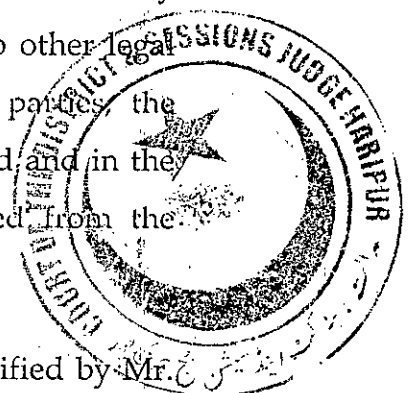
As the legal heirs of the deceased have entered into a compromise, they have waived off their rights of Qisas & Diyat and they have no objection on the acquittal of the accused/convict. So, in the light of joint statement of legal heirs of the deceased & statement of the Jirga member, coupled with Proforma for Affecting Compromise under Qisas & Diyat Ex PA and compromise affidavit Ex PB and the compromise

Attested to be true copy
Authenticated U/A 87 of
Qanoon-e-Shahadat order; 1974

Date 26/11/14

Examined
Distt. & Session Judge
Haripur

Authorised
JUDGE
HARIPUR



17

190/4

مذکورہ بالا

ASG II

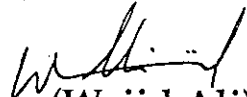
Order -- 3
Continued:

affected between the parties, I am satisfied that the same is genuine and in the best interest of the both the parties.

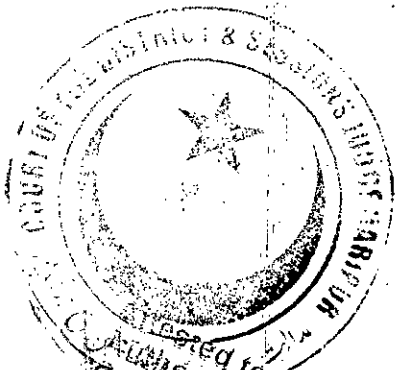
I have personally verified and satisfied that a genuine compromise has been effected between the parties whereby the legal heirs of the deceased have pardoned the accused/convict in the name of Allah Almighty, have waived off their right of Qisas & Diyat and have no objection on acquittal of the accused/convict in the present case.

Report alongwith statements of the legal heirs, Jirga member and verification of legal heirs by the SHO in this respect be forwarded to the august Supreme Court of Pakistan through proper channel forthwith and attested copies of the same be kept on the record of this Court. File of this Court be consigned to the Record Room after completion.

Announced
25.08.2011


(Wajid Ali)

Additional District & Sessions Judge-II,
Haripur.



Deputed to be true copy
Authorized U/A 87 of
Qanoon-e-Shahadat order, 198

Date

26/8/11

Examiner
Distt. & Session Judge
Haripur

No. 855-26-16
Date of presentation of Application
No of Words 9 p.c.g.s
Copying Fee
Urgent Fee
TOTAL
Name of Copy/its
Date of Receipt of File 26-8-11
Date of Preparation of Copy 26-8-11
Date of Delivery of Copy 26-8-11

17-45 JII 19/0/4

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COMPROMISE CONFIRMATION REPORT

A case vide FIR No.321 dated 28.08.1996 under Sections 302 PPC was registered at PS KTS, Haripur against the accused/convict Masood alias Guddo s/o Sardar Khan regarding commission of murder of deceased Zahoor Ahmed s/o Mir Dad Khan for which he was tried by the Court of learned Additional District & Sessions Judge-III, Haripur. The learned trial Court convicted the accused and sentenced him to death under Section 302(b) PPC with compensation of Rs.100,000/- vide its order & judgment dated 23.02.2006. An appeal was preferred before the worthy Peshawar High Court, Peshawar, which also upheld decision of the learned trial Court vide order & judgment dated 23.02.2010. Thereafter, the appellant/convict also preferred an appeal before the august Supreme Court of Pakistan vide CrI.M.A.No.483/2011 in CrI.PLA.No.73/2010, which is pending now.

During proceedings before the august Supreme Court of Pakistan, the parties took the plea of compromise between the parties in the present case as a result of which, the august Supreme Court of Pakistan vide its order dated 19.08.2011 & communicated through letter No. CrI.P.73/2010-SCJ. Dated 20th August, 2011 received by this Court through learned District & Sessions Judge, Haripur on 24.08.2011 ordered verification about genuineness or otherwise of the compromise reached at between the parties and report the same within two weeks.

W. H. Khan
25/8/11



In compliance with the order of august Supreme Court of Pakistan vide letter No. CrI.P.73/2010-SCJ. Dated 20th August, 2011 received through learned District & Sessions Judge, Haripur on 24.08.2011, legal heirs of the deceased Zahoor Ahmed appeared before this Court alongwith the Jirga member Gulzar Ahmed in presence of Mr. Parvez Akhtar Rana Advocate on behalf of the accused party, Mr. Saeed Akhtar Advocate on behalf of the complainant besides the SPP for the State on 25.08.2011. The legal heirs & Jirga member were duly identified by Mr. Khalid Sultan Khan Advocate, who is also close relative of the legal heirs of the deceased. The list of legal heirs has also been verified from the local police, report of which is also available on the record. Joint statement of the legal heirs of

The legal heirs true copy
Authorized U/A 87 of
Daud Khan Shahadat order; 19/0/4

26/8/11
Examiner
Distt. & Session Ju
Haripur

7

190/4

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the deceased as well as statement of Jirga member recorded. They were inquired about the factum of compromise, who affirmed the same.

I have personally verified and satisfied that a genuine compromise has been effected between the parties whereby the legal heirs of the deceased have pardoned the accused/convict in the name of Allah Almighty, have waived off their right of Qisas & Diyat and have no objection on acquittal of the accused/convict in the present case.

The report alongwith statement of the legal heirs, Jirga member and verification of legal heirs by the SHO concerned (in original) is submitted as directed & desired, please.

Dated: 25.08.2011

W. Ali
(Wajid Ali)

Additional District & Sessions Judge-II,
Haripur.



Attested to be true copy
Authorized U/A 87 of
Qanoon-e-Shahadat order; 198

Date 26/8/11

Examiner
Distt. & Sessions Judge
Haripur

Annexure (C)

Consequent upon the advice of the Law Department received vide Govt of Khyber Pakhtunkhwa Elementary & Secondary Education Department No. SO (PE), 19/Rc instatment/M.Ahmed ex PST/2012 dated 14-07-2012; based on the judgment of Honourable Supreme Court of Pakistan in criminal miscellaneous application No: 438 of 2011 in Cr. PIA No. 73 of 2012 (Cr. A.No. 353/11) on appeal from judgment of Peshawar High Court, Peshawar dated 23-03-2010 passed in Criminal Appeal No. 25 of 2006, C.M.A for approval of compromise regarding acquittal of petitioner Mr. Masood Ahmed Khan PST Teacher, Mr. Masood Ahmed Khan is hereby adjusted at GPS Gandaf against PST vacant post on his own pay & grade with effect from 14-10-2011 i.e. the day of his acquittal.

Note:-

1. As desire by Govt of Khyber Pakhtunkhwa Establishment & Admin: Department (Regulation Wing) No. SOR-I(E&AD)-19 Vol, III dated 28-04-2012 his case for sanction of EOL for the period of his absence due to involvement in a case is required to be put up for onward submission to provincial Finance Department Govt of Khyber Pakhtunkhwa for obtaining sanction to regularized his service.
2. That his adjustment is on provisional basis and regularized subject to sanction of EOL in his favour by the Finance Department for intervening period.
3. Charge reports should be submitted to all concerned.

Endst: No. 6049-50

[Signature]
 Executive District Officer
 Elementary & Secondary Education
 Haripur
 Dated: 02/05/2012

Cc:

1. The Saction Officer (Primary) E.&SE Deptt: Govt of Khyber Pakhtunkhwa Peshawar.
2. The Director E.&SE Deptt: Govt of Khyber Pakhtunkhwa Peshawar.
3. The Senior District Accounts Officer Haripur.
4. The Dy: District Officer (M) Elementary Education Haripur.
5. The Head Teacher concerned.
6. The Teachers concerned.
7. Office record file.

[Signature]
 Executive District Officer
 Elementary & Secondary Education
 Haripur

Answer
(0)
29

PESHAWAR HIGH COURT ABBOTTABAD BENCH

JUDICIAL DEPARTMENT

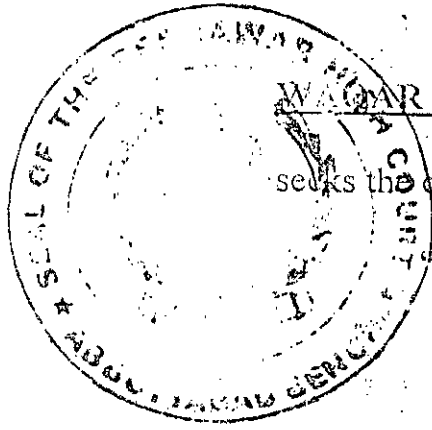
JUDGMENT SHEET

W.P. No. 655 of 2012

Date of hearing 31-10-2013

Petitioner Muhammad Khalid by Adur Rehman Dadar, Adv

Respondents Govt by SAC and Sardar Sajad Ahmed, A-d
for-CP No. 5



WAGAR AHMAD SETHI, J. Muhammad Khalid petitioner seeks the constitutional jurisdiction of this Court praying for :-

that on acceptance of the writ petition, the impugned order dated 11.08.2011 may graciously be reversed / set-aside and the acquittal of the petitioner be declared honourable in line with the judgment already delivered by the Honourable Peshawar High Court in criminal appeal with ultimate direction of payment of arrears of pay and allowances of the intervening period of removal and reinstatement in service to the petitioner with cost of the petition".

Certified to be True Copy
08/11/13
Peshawar High Court
Abbottabad Bench
Authorized Under Section 15 Acts Ordins

2- Brief facts, as per contents of petition, are that the petitioner, who was serving as Naib Qasid in Zillah Council Abbottabad, was removed from service vide order dated 07.05.2005 on account of his involvement in case FIR No.28 dated 15.06.2004. The petitioner was tried and convicted by the trial court but on appeal was acquitted on the basis of compromise.

3. Arguments heard and record perused.

4. The record reveals that petitioner's services were terminated on account of his involvement in the murder case vide FIR No.28 dated 15.04.2004. The petitioner after trial earned conviction by the trial court whereas he was acquitted by the High Court on the basis of compromise. The contention of petitioner that although he was acquitted on the basis of compromise but the same is to be treated as acquitted honourably has substance in view of case law reported as Attaullah Sheikh Vs. WAPDA and others (2001 PLC (C.S.) 316 and Dr. Muhammad Islam Vs. Govt. of NWFP (1998 PLC (C.S.) 1430, wherein it was held "all acquittals are 'honourable' and there can be no acquittal which can be termed as 'dishonourable'.

5. Taking advantage of FR 54(a) the petitioner has been denied the pay and allowances for the period removed from service onwards, till reinstatement and the said period is treated as leave without pay. The reason given is that the acquittal is not honourably. This reason seems not to be legal because law has not drawn any distinction between any type of acquittal including acquittal on the basis of compromise. Reliance is placed on 1998 PLC (C.S.) 1430 (d), PLJ 2011 SC 280 (h & I) and 2007 SCMR 537.

6. In view of the above-referred reported judgments this writ petition is allowed, the impugned order dated

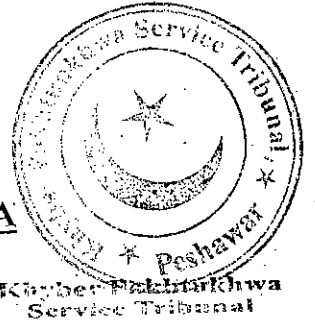
Copy to be filed in Court
 Dr. Muhammad Islam Vs. Govt. of NWFP
 28.4.13

11.08.2011 is held illegal, unlawful, passed against the mandatory statutory provisions of law. Respondents are directed to release the arrears of pay and allowances for the intervening period of removal and reinstatement in service to the petitioner. No order as to costs.

Announced.
31.10.2013

SD JUDGES

Certified to be true Copy
28.11.13
Court
Akhilendra Singh
District Judge



BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 153

Dated 06-10-2016

Appeal No 1067/2016

**Ibad Khan, Ex-Constable No.865, Police Lines Shah
Mnasoor, Sawabi.**

(Appellant)


VERSUS

1. The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. Deputy Inspector General of Police, Mardan Region-I, Mardan.
3. District Police Officer, Sawabi.

(Respondents)

Appeal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974, against the order dated: 05.03.2015, whereby the appellant has been award the major Punishment of dismissal from service. Against which the departmental appeal has also been rejected vide order dated: 16.05.2016, Communicated to the appellant on 16.09.2016.

ATTESTED


Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Prayer in Appeal: -

~~Friday~~

~~6/10/2016~~

On acceptance of this appeal impugned orders dated 05.03.2015, and 16.05.2016, may please be set-aside and the appellant may please be re-instated in service with all back wages and benefits of service.

Respectfully Submitted:

Re-submitted to-day
and filed.
6/10/2016
Registrar

1. That the appellant was enlisted as Constable in the Police department in year 2008. Ever since his enlistment the appellant had performed his duties as assigned with Zeal and devotion and there was no complaint whatsoever regarding his performance.

MUHAMMAD NAWAZ KHAN SWATI SUPREME COURT OF PAKISTAN
Office # 4, Sherpao Lawyers Complex District Courts Haripur

=====

Ref. No. _____

Dated _____

To.

- (1) Govt. of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education, KPK Peshawar
- (2) Director Elementary & Secondary Education, Peshawar
- (3) Executive District Officer, Elementary & Secondary Education Haripur
- (4) Govt. of Khyber Pakhtunkhwa, Law Parliamentary Affairs and Human Right Department, through Secretary, Peshawar
- (5) Govt. of Khyber Pakhtunkhwa, Finance Department through Secretary, Peshawar

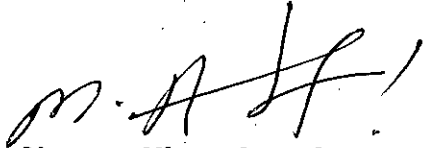
Subject:- NOTICE UNDER REGISTERED A/D

Sir,

It is for your kind information, and you are hereby intimated by this notice under Registered A/D, the undersigned had filed a writ petition before the Honourable Peshawar High Court Bench Abbottabad titled "**Masood Ahmad Khan V/S Govt. of KPK etc**" against your illegal not paying arrears and allowances from date of acquittal.

Note:- Notice is send to you through registered A/D.

Masood Ahmed Khan


M. Nawaz Khan Swati
Advocate Supreme Court
At Haripur
Cell # 0300 5250604

Muhammad Nawaz Khan Swati
Advocate
Supreme Court Of Pakistan
Haripur

BEFORE THE PESHAWAR HIGH COURT ABBOTABAD BENCH

Petition No 258-A/2016

Masood Ahmad Khan PST Tehsil & District Haripur.... (Petitioner)

VERSUS


Govt of Khyber Pakhtunkhwa Through Secretary E&SE Peshawar etc

(Respondents)

INDEX

S.No	Description of Documents	Annex	Pages
1	Para wise Reply / Comments		1-2
2	Affidavit		03
3	Copy of adjustment order	A,	04
4	Copy of salary slip	B,	05-06
5	Copy of Ex-Post facto sanction	C	07
6	Copies of letters dated 12-06-15,17-4-17 and 08-05-17	D,D1 D2	08-12

Through


Respondent

FILED TODAY
ADDITIONAL REGISTRAR
PESHAWAR HIGH COURT
ABBOTABAD BENCH

13/07/17

BEFORE THE HONORABLE PESHAWAR HIGH COURT
ABBOTTABAD BENCH

W.P No. 258-A/2016

Title: Mr. Masood Ahmad Khan PST Tehsil & District Haripur

(Petitioner)

V/S

Govt. of Khyber Pakhtunkhwa through Secretary E&SE Department KPK, Peshawar &
Others.....

(Respondents)

AFFIDAVIT

I Mr. Said Badshah, Assistant District Education Officer (M) Haripur do hereby solemnly affirm and declare that contents of accompanying comments, on behalf of the respondents are true and correct to the best of my knowledge and belief and nothing has been suppressed/concealed from this Honorable Court.

Deponent



Assistant District Education Officer (Lit :)
Haripur
CNIC# 16202-0942984-1

16202-0942984-1

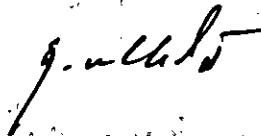
S.No. 240/198

Copy

at Aid

Said Badshah, Assistant District Education Officer (M) Haripur
13/7 July 17

R/O Haripur



17/7

FILED TODAY

ADDITIONAL REGISTRAR
PESHAWAR HIGH COURT
ABBOTTABAD BENCH

13/07/17

petitioner. It is further stated that further advantages shall also be granted as per admissible to him under the rules and policy after obtaining sanctioned of POL from the concerned quarter. (Copies of the letters attached as annexure D,D1 and D2)

- b. That the petitioner is receiving his salary on current pay scale while sanction has also been accorded to him for other allowances and arrears admissible under the rules.
- c. That the case of the petitioner has already been submitted to the quarter concerned for on word necessary action.
- d. No comments.
- e. That the case of the petitioner has already been submitted to the quarter concerned for on word necessary action.
- f. That the answering respondents have already taken measure and recently submitted his case or onward necessary action.
- g. That the case of the petitioner is in progress and as and when decided shall be intimated to him and further advantages shall also be granted as per law,rules and policy.
- h. Those other points shall also be agitated at the time of the arguments with the leave of this Honorable court.

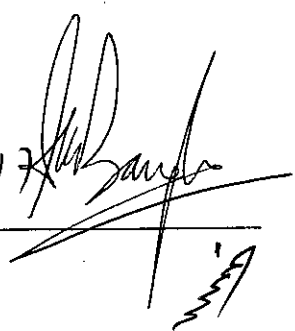
Prayer:

In the light of the above made submissions, it is humbly prayed that on acceptance of Para wise comments, the instant writ petition may graciously be dismissed with costs please.

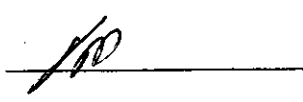
FILED TODAY
 ADDITIONAL REGISTRAR
 PESHAWAR HIGH COURT
 ABBOTTABAD BENCH

Respondents.

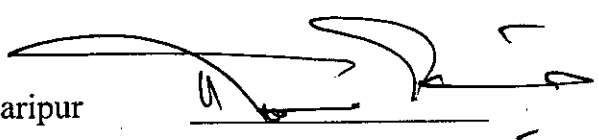
1. Secretary E&SE Peshawar

11/10/11


2. Director E&SE Peshawar



3. District Education Officer Haripur



Elementary & Secondary Education Haripur

Consequent upon the advice of the Law Department received vide Govt of Khyber Pakhtunkhwa Elementary & Secondary Education Department No. SO (PE)5-19/Re-instatement/M.Ahmed ex PST/2012 dated 14-05-2012, based on the judgment of Honourable Supreme Court of Pakistan in criminal miscellaneous application No. 438 of 2011 in Crl. PLA No. 73 of 2012 (Crl. A.No. 353/11) on appeal from judgment of Peshawar High Court, Peshawar dated 23-03-2010 passed in Criminal Appeal No. 25 of 2006, C.M.A for approval of compromise regarding acquittal of petitioner Mr. Masood Ahmed Khan PST Teacher, Mr. Masood Ahmed Khan is hereby adjusted at GPS Gandaf against PST vacant post on his own pay & grade with effect from 14-10-2011 i.e. the day of his acquittal.

Note:-

1. As desire by Govt of Khyber Pakhtunkhwa Establishment & Admin: Department (Regulation Wing) No. SOR-I(E&AD)1-19 Vol, III dated 28-04-2012 his case for sanction of EOL for the period of his absence due to involvement in a case is required to be put up for onward submission to provincial Finance Department Govt of Khyber Pakhtunkhwa for obtaining sanction to regularized his service.
2. That his adjustment is on provisional basis and regularized subject to sanction of EOL in his favour by the Finance Department for interviewing period.
3. Charge reports should be submitted to all concerned.

Endst: No. 6049-54

Executive District Officer
Elementary & Secondary Education
Haripur
Dated: 02/05/2012

Cc:

1. The Section Officer (Primary) E & SE Deptt: Govt of Khyber Pakhtunkhwa Peshawar.
2. The Director E & SE Deptt: Govt of Khyber Pakhtunkhwa Peshawar.
3. The Senior District Accounts Officer Haripur.
4. The Dy: District Officer (M) Elementary Education Haripur.
5. The Head Teacher concerned.
6. The Teachers concerned.
7. Office record file.

Executive District Officer
Elementary & Secondary Education
Haripur

AK File EMIS CELL Haripur

No. 7122
Dated 14-7-2012. DED
Submitted to finance deptt.
Received along with
original Service Book

Handwritten signatures and initials at the bottom of the page.

BEFORE THE PESHAWAR HIGH COURT ABBOTABAD BENCH

Petition No 258-A/2016

Masood Ahmad Khan PST Tehsil & District Haripur....

(Petitioner)

VERSUS

1. Govt of Khyeber Pakhtunkhwa Through Secretary E&SE Peshawar etc
(Respondents)

Respectfully Sheweth:-

Para wise Comments for & on behalf of respondent No 1,2 &3.

Preliminary Objections

1. That the petitioner has got no cause of action.
2. That the Petitioner has not come to this Honorable Court with clean hands.
3. That the petitioner has got no locus standi to file the instant writ petition.
4. That petitioner has concealed the material facts from this honorable court, hence liable to be dismissed.
5. That the Petitioner has filed the instant writ petition on malafide motives.
6. That the petitioner has filed the instant writ petition just to pressurize the respondents.

Reply /Comments on facts.

1. ParaNo.1,2,3, 4 & 5 are correct, hence no comments.
2. That the petitioner was re-instated / adjusted into his service in the light of judgment passed by the august Supreme Court of Pakistan in CMA No.483 of 2011 in Crl.P.L.A. No.73of 2010 vide this office adjustment order bearing No. 6049-54 dated 02-06-2012. (Copy of order is attached as annexure-A)
3. That the detail reply is given in the preceding Para above.
4. That Para No. 8 is incorrect; the petitioner is still working as an employee in Education Department against PST post and is receiving his monthly salary on current pay scale. (Copy of salary slip is attached as annexure-B)

Furthermore, Ex-post facto sanction in BPS-12 has also been accorded to the petitioner vide order bearing No. 4324-29 dated 18-05-2017. (Copy of order is attached as annexure-C)

Reply/Comments On Grounds

- a. That the case of the petitioner has already been taken up with the higher authority for sanction of EOL for above Fifteen Year vide letter No.1600 dated 12- 06-2015 ,and recently vide No 1353 dated17-04-2017 and No 3075 dated 08-05-17 which is in progress while Ex- post Facto sanctioned in BPS-12 has also accorded to

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ADDITIONAL REGISTRAR
PESHAWAR HIGH COURT
ABBOTABAD BENCH

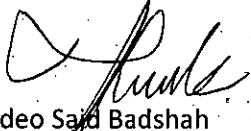
12.07.17

No 3377

5

Certificate

Certified that copy of comments with annexure in W.P.No 258-A /2017 , MASood Ahmad Khan Vs Govt of KPK etc has been sent to Mr Masood Ahmad Khan through registered post .Copy of receipt is attached.



Adeo Sajid Badshah
District Haripur

FILED TODAY

**ADDITIONAL REGISTRAR
PESHAWAR HIGH COURT
ABBOTTABAD BENCH**

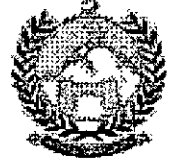
13/07/17

Annexure - B

P-05

8

Dist. Govt. NWFP-Provincial District Accounts Office Haripur
Monthly Salary Statement (March-2017)



Personal Information of Mr MASOOD AHMAD KHAN d/w/s of SAFDAR KHAN

Personnel Number: 00683325 CNIC: 1330225462169 Length of Service: 31 Years 05 Months 030 Days
Date of Birth: 01.10.1965 Entry into Govt. Service: 03.10.1985

Employment Category: Active Permanent

Designation: PRIMARY SCHOOL TEACHER Vendor Number:
DDO Code: HR6109-DEPUTY DISTRICT EDUCATION 80002138-DISTRICT GOVERNMENT KHYBE
GPF A/C No: EDUAD 5327 Interest Applied: Yes GPF Balance: 48,704.00

Pay and Allowances: Pay scale: BPS For - 2016 Pay Scale Type: Civil BPS: 07 Pay Stage: 17

Wage type		Amount	Wage type		Amount
0001	Basic Pay	17,890.00	1000	House Rent Allowance	1,059.00
1210	Convey Allowance 2005	1,932.00	1300	Medical Allowance	1,500.00
2148	15% Adhoc Relief All-2013	530.00	2199	Adhoc Relief Allow @10%	353.00
2211	Adhoc Relief All 2016 10%	1,789.00			0.00

Deductions - General

Wage type		Amount	Wage type		Amount
3007	GPF Subscription - Rs 844	-844.00	3501	Benevolent Fund	-600.00
3990	Emp.Edu. Fund KPK	-90.00	4004	R. Benefits & Death Comp:	-450.00

Deductions - Loans and Advances

Loan	Description	Principle amount	Deduction	Balance
------	-------------	------------------	-----------	---------

Tax Payable: 0.00 Recovered till March-2017: 0.00 Exempted: Recoverable: 0.00

Gross Pay (Rs.): 25,053.00 Deductions: (Rs.): -1,984.00 Net Pay: (Rs.): 23,069.00

Account Number: PLS 7937-1 Bank Details: NATIONAL BANK OF PAKISTAN, 230337 MAIN BRANCH HARIPUR

P-06

**Dist. Govt. NWFP-Provincial District Accounts Office Haripur
Monthly Salary Statement (June-2016)**



Personal Information of Mr MASOOD AHMAD KHAN d/w/s of SAFDAR KHAN

Personnel Number: 00683325 CNIC: 1330225462169 Length of Service: 30 Years 08 Months 029 Days
Date of Birth: 01.10.1965 Entry into Govt. Service: 03.10.1985

Employment Category: Active Permanent

Designation: PRIMARY SCHOOL TEACHER Vendor Number:
DDO Code: HR6109-DY.DISTT:OFFICER (M/P) HARIPUR. 80002138-DISTRICT GOVERNMENT KHYBE
GPF A/C No: EDUAD 5327 Interest Applied: Yes GPF Balance: 37,658.00

Pay and Allowances: Pay scale: BPS For - 2015 Pay Scale Type: Civil BPS: 07 Pay Stage: 16

Wage type		Amount	Wage type		Amount
0001	Basic Pay	14,130.00	1000	House Rent Allowance	1,059.00
1300	Medical Allowance	1,500.00	1973	Adhoc Allowance 2011 @ 50%	1,765.00
2148	15% Adhoc Relief All-2013	1,590.00	2174	Adhoc Relief Allow-2014	1,060.00
2199	Adhoc Relief Allow @10%	1,413.00			0.00

Deductions - General

Wage type		Amount	Wage type		Amount
3007	GPF Subscription - Rs 686	-686.00	3501	Benevolent Fund	-180.00
3511	Addl Group Insurance	-7.00	3604	Group Insurance	-67.00
3990	Emp.Edu. Fund KPK	-75.00			0.00

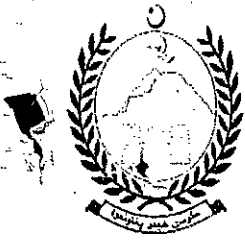
Deductions - Loans and Advances

Loan	Description	Principle amount	Deduction	Balance
------	-------------	------------------	-----------	---------

Tax Payable: 0.00 Recovered till June-2016: 0.00 Exempted: Recoverable: 0.00

Gross Pay (Rs.): 22,517.00 Deductions: (Rs.): -1,015.00 Net Pay: (Rs.): 21,502.00

Account Number: PLS 7937-1 Bank Details: NATIONAL BANK OF PAKISTAN, 230337 MAIN BRANCH HARIPUR



OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) HARIPUR

Ph: No. 0995-610178, 610268
Email: emisharipur@yahoo.com

EX-POST FACTO SANCTION

In supersession of this office Notification No. 6049-54 dated; 02-06-2012 in respect of Mr. Masood Ahmad Khan PST GPS Mari, who has been granted BPS-07 after his re-instatement into his service w.e.f 14-10-2011 in the light of acquittal by august Supreme Court of Pakistan vide judgment passed in crl. Misc. / application No. 483/2011 in crl. PLA No. 73 of 2010 dated 14-10-2011.

The undersigned being competent authority is pleased to accord BPS-12 instead of BPS-07 w.e.f his date of re-instatement into service i.e. 14-10-2011, in the light of Notification No. FD/80(FR) 10-22/2007, dated. 26-01-2008 issued by the Govt of K.P.K Finance Department (Regulation Wing).

- NOTE--
1. Necessary entries to this effect should be made in his service book accordingly.
 2. SDEO Male Haripur is required to submit his claim / arrears to the Account office, immediately.
 3. Service book may be maintained updated, accordingly.

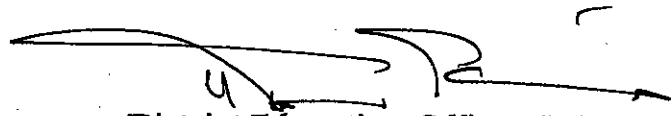
District Education Officer (M)
Haripur

Endst. No. 4324-29 /Estb.

Dated. 18 / 05 / 2017

Copy forwarded for information to the--

1. Director E&SED Khyber Pakhtunkhwa, Peshawar.
2. Senior District Accounts Officer Haripur.
3. Registrar Honorable High Court Peshawar, Abbottabad bench.
4. SDEO (M) Haripur for strict compliance.
5. Teacher concerned.
6. Office record file.


District Education Officer (M)
Haripur

Annezure - "D" P-08

OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE)
HARIPUR.

Ph: 0995-610178

No. 1600
To

Dated Haripur the 12/6/2015

The Director,
Elementary & Secondary Education,
Khyber Pakhtunkhwa Peshawar.

Subject: - GRANT OF E.O.L FROM 28-08-1996 TO 19-02-2001 & 20-02-2001 TO 13-10-2011.

Memo:-

Kindly reference to your letter No. 2768/F.No.14/Vol:IV/PST (M) Haripur dated 13-03-2015 on the subject cited above.

It is submitted that the undersigned has called explanation in connection with direct correspondence with the higher authorities to the concerned SDEO (M) Haripur & obtained the reply which is enclosed, wherein he has regretted under his letter No.1123 dated 07-04-2015. The case is again submitted with the remarks that a detailed history of the case in question in r/o Mr. Masood Ahmed Khan which was submitted to your office by the concerned SDEO (M) Haripur is attached for ready reference and further necessary action, please.


District Education Officer
Haripur

o/c

Office of the District Education Officer (Male) Haripur

PH No. 0995-610178-610268

No. 1354

Dated. 17/04/2017

To

The Director,
Elementary & Secondary Education
Khyber Pakhtunkhwa, Peshawar.

Subject: GRANT OF EOL W.E.F 28-08-1996 TO 19-02-2001 & 20-02-2001 TO 13-10-2011. (15 YEARS 01 MONTH & 15 DAYS) IN R/O MR. MASOOD AHMAD KHAN PST.

Memo:

In continuation of this office letter No-1600 dated 12-06-2015 on the subject and with reference to Law Department KPK letter No-6637 dated 27-04-2012 received in this office vide your letter No-739F.No. 14 /Vol: No.4 / PST (M.) Haripur dated 06-06-2012 on the subject noted above,

it is stated that as the law department vide letter under reference advised this office in the case of one Mr. Masood Ahmad Khan PST , who was reinstated in to service on 14-10-2011. (case history attached) , operative part of the referred letter is as under;

"Hence upon acquittal, the official is to be reinstated in service by the administrative department, the period of absence from duty may be treated as extra ordinary leave without pay".

As now the said teacher has filed W.P No-258-A/2017 before the Honorable Peshawar High Court Abbottabad Bench requesting for back benefits as well as for the due promotion to next grades.

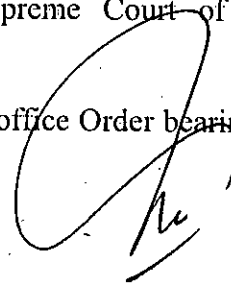
In this regard it is requested that in the light of Law department letter referred herein above the Finance department may please be approached to accord sanction for EOL (excess of the maximum leave admissible to a civil servant) under the civil servant revised leave rules 1981, Section 12 (4)

It is further stated that as the case is fixed for hearing before the Honorable Peshawar High Court Abbottabad Bench and the Honorable Court has taken serious notice in the case in hand. Therefore the matter in hand may kindly be taken up at the earliest please.

[Signature]
District Education Officer (M)
Haripur

Brief History of the case in R/O Masood Ahmad Khan PST

1. Mr. Masood Ahmad Khan was appointed as PTC teacher at GPS Gandaf on 03-10-1985 and he performed his duties up to 27-08-1996 (Total period served: 10 years 10 Months and 24 days).
2. He was involved in a murder case dated 28-08-1996 and remained absconder with effect from 28-08-1996 to 19-02-2001 (total period 04 years, 05 months , 18 days).
3. He was arrested on 20-02-2001 and sentenced to death.
4. He remained in Jail w.e.f 20-02-2001 to 14-10-2011 (10 years, 07 months and 24days).
5. He was acquitted on 14-10-2011 by the august Supreme Court of Pakistan on compromise base.
6. He was reinstated into service w.e.f 14-10-2011 vide this office Order bearing Endst: No-6049-54 dated 02-06-2012 .(Copy attached).



District Education Officer (M)
Haripur

Office of the District Education Officer (Male) Haripur

PH No. 0995-610178-610268

No. 3075

Dated. 08 / 05 / 2017

Request-I
Most urgent being serious Court matter

To

The Director,
Elementary & Secondary Education
Khyber Pakhtunkhwa, Peshawar.

Subject: GRANT OF EOL W.E.F 28-08-1996 TO 19-02-2001 & 20-02-2001 TO 13-10-2011.(15 YEARS 01 MONTH & 15 DAYS) IN R/O MR. MASOOD AHMAD KHAN PST.

Memo:

In continuation of this office letter No- 1354 dated 17-04-2017 & No-1600 dated 12-06-2015 on the subject and with reference to Law Department KPK letter No-6637 dated 27-04-2012 received in this office vide your letter No-739F.No. 14 /Vol: No.4 / PST (M.) Haripur dated 06-06-2012 on the subject noted above,

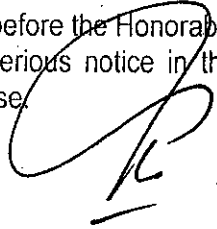
it is stated that as the law department vide letter under reference advised this office in the case of one Mr. Masood Ahmad Khan PST , who was reinstated in to service on 14-10-2011. (case history attached) , operative part of the referred letter is as under;

"Hence upon acquittal, the official is to be reinstated in service by the administrative department, the period of absence from duty may be treated as extra ordinary leave without pay".

As now the said teacher has filed W.P No-258-A/2017 before the Honorable Peshawar High Court Abbottabad Bench requesting for back benefits as well as for the due promotion to next grades.

In this regard it is requested that in the light of Law department letter referred herein above the Finance department may please be approached to accord sanction for EOL (excess of the maximum leave admissible to a civil servant) under the civil servant revised leave rules 1981, Section 12 (4)

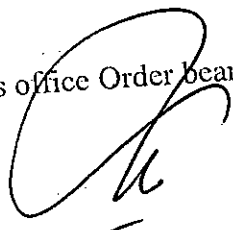
It is further stated that as the case is fixed for hearing before the Honorable Peshawar High Court Abbottabad Bench and the Honorable Court has taken serious notice in the case in hand. Therefore the matter in hand may kindly be taken up at the earliest please.


District Education Officer (M)
Haripur

o/c

Brief History of the case in R/O Masood Ahmad Khan PST

1. Mr. Masood Ahmad Khan was appointed as PTC teacher at GPS Gandaf on 03-10-1985 and he performed his duties up to 27-08-1996 (Total period served: 10 years 10 Months and 24 days).
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3. He was arrested on 20-02-2001 and sentenced to death.
4. He remained in Jail w.e.f 20-02-2001 to 14-10-2011 (10 years, 07 months and 24days).
5. He was acquitted on 14-10-2011 by the august Supreme Court of Pakistan on compromise base.
6. He was reinstated into service w.e.f 14-10-2011 vide this office Order bearing Endst: No-6049-54 dated 02-06-2012 .(Copy attached)


District Education Officer (M)
Haripur

o/c

BEFORE THE HIGH COURT BENCH, ABBOTTABAD.

CM. NO. 341-A/17

WP No. 258-A/2016.

Masood Ahmed Khan

Petitioners.

Versus.

Govt: of KPK etc:

Respondents.

Index.

S.No.	Description of documents	Annexure	Pages.
1.	Application alongwith affidavit		1 - 3
2.	Sanctioned leave application	A	4

FILED TODAY

**ADDITIONAL REGISTRAR
PESHAWAR HIGH COURT
ABBOTTABAD BENCH**

20/11/17

BEFORE THE HIGH COURT BENCH, ABBOTTABAD.

C.M. NO. 341-A/17

WP No. 258-A/2016.

Masood Ahmed Khan

Petitioners.

Versus.

Govt: of KPK etc:

.....
Respondents.

APPLICATION FOR PLACING ON RECORD THE SANCTIONED APPLICATION
FOR LEAVE OF RESPONDENT NO.3.

Respectfully Sheweth.

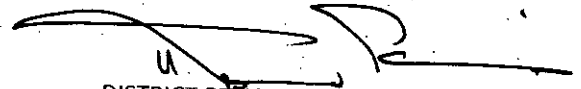
- 20-1906
20/4/17
1. That the above titled case was fixed before this Honourable Court on 10.04.2017 and observed that Respondent No.3 i.e. Executive District Officer, Elementary and Secondary Education, Haripur is not present in person despite his service, therefore, salary of respondent No.3 was ordered to be attached till such time he submit his sanctioned application for leave and appear in person on 26.04.2017.
 2. It is submitted that the petitioner has wrongly impleaded the Executive District Officer, Elementary and Secondary Education, Haripur as respondent No.3, as there is no post exist in the nomenclature of Executive District Officer, Elementary and Secondary Education, Haripur. The District Education Officer (Male) Elementary and Secondary Education, Haripur is dealing the affairs of Education Department, Haripur.
 3. That as per ordered by this Honourable Court the copy of sanctioned application for leave for 10.04.2017 and 11.04.2017 of the undersigned/applicant is attached at annexure-A.

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ADDITIONAL REGISTRAR
PESHAWAR HIGH COURT
ABBOTTABAD BENCH

20/4/17

It is therefore, humbly prayed that on acceptance of above application
the copy of sanctioned application for leave may graciously be ordered to be placed
on record of the above titled case.



DISTRICT EDUCATION OFFICER (MALE)
HARIPUR.

FILED TODAY

ADDITIONAL REGISTRAR
PESHAWAR HIGH COURT
ABBOTTABAD BENCH

Dr. Rafiq

BEFORE THE HIGH COURT BENCH, ABBOTTABAD.

WP No. 258-A/2016.

Masood Ahmed Khan

Petitioners.

Versus.

Govt: of KPK etc:

Respondents.

AFFIDAVIT.

I, Mr. Umar Khan Kundi, District Education Officer(Male), Haripur do hereby solemnly affirm and declare that the contents of the accompanying application are true and correct to the best of my knowledge and belief.

12201-7727802-7
AFFIDAVIT

S.No: 2036/316 Folio No: 216

Certified that the above was made in my presence and I have read the affirmation *AKK* on this

..... *20* at *Haripur* on this

..... *2016* day of *April*

..... *Umar Khan Kundi, D.E.O.*
I do hereby affirm and declare that the above is true and correct to the best of my knowledge and belief.

Jud. Commissioner
District Registrar,
Peshawar High Court (Circuit) Bench
Abbottabad

20/4/16

[Signature]
DEPONENT.
Identified by
[Signature]
Additional District Registrar
Khyber Pakhtunkhwa
Abbottabad

FILED TODAY
[Signature]
ADDITIONAL REGISTRAR
PESHAWAR HIGH COURT
ABBOTTABAD
20/4/16



Office of the District Education Officer(M)
Haripur

PH No. 0995-610178, 610268

No. 1022 /PA:

Dated 06 /04/2017.

To

The Director
Elementary & Secondary Education
Khyber Pakhtun Khawa Peshawar.

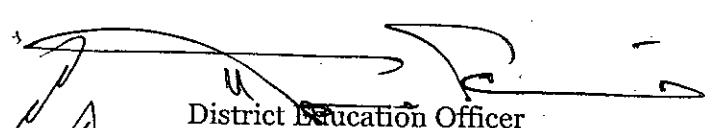
Subject: Casual Leave.

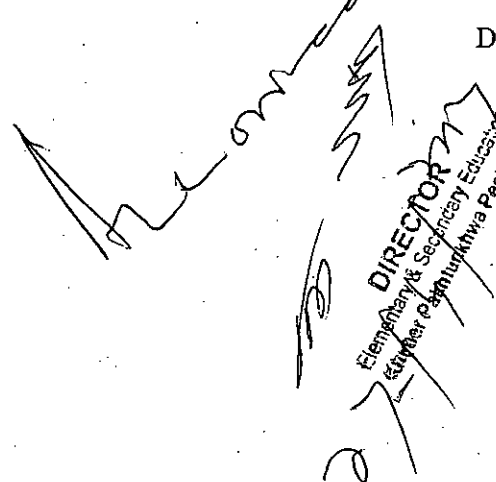
Respected Sir:-

With due regards it is submitted that I am proceeding to home.

Kindly Grant me 02 Day Casual Leave i.e 10-04-2017 & 11-04-2017

(Monday/Tuesday) & obliged.


District Education Officer
Haripur


DIREKTOR
Elementary & Secondary Education
Khyber Pakhtunkhwa Peshawar

in:sent

Gmail

Move to Inbox

More

10

COMPOSE

WP NO 258 OF 16 Masood Khan VS Govt kpk

Inbox (152)

Starred

Sent Mail

Drafts (2)

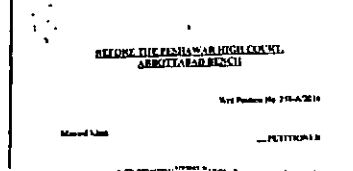
More

 BEHRAM

+

BEHRAM KHAN <phcatdscbranch@gmail.com>

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**ADDITIONAL REGISTRAR
PESHAWAR HIGH COURT
ABBOTTABAD**

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Start a new one

BEFORE THE PESHAWAR HIGH COURT,
ABBOTTABAD BENCH

Writ Petition No. 258-A/2016

Masood Khan.

....PETITIONER

VERSUS

Govt. of Khyber Pakhtunkhwa.

...RESPONDENT

REJOINDER ON BEHALF OF PETITIONER

INDEX

S. #	Description	Page Nos.	Annexure
1.	Rejoinder alongwith affidavit	1 to 7	

...PETITIONER

Through

Dated: 13/03 /2018

1

(Muhammad Nawaz Khan Swati)
Advocate Supreme Court of Pakistan,
Haripur

M. A. Swati

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ADDITIONAL REGISTRAR
PESHAWAR HIGH COURT
ABBOTTABAD BENCH

SCANNED FILE

Date 13/03/18

Sign D. Ali

BEFORE THE PESHAWAR HIGH COURT,
ABBOTTABAD BENCH

Writ Petition No. 258-A/2016

Masood Khan.

...PETITIONER

VERSUS

Govt. of Khyber Pakhtunkhwa.

...RESPONDENT

WRIT PETITION

REJOINDER ON BEHALF OF PETITIONER

It may please your lordships:-

Rejoinder on behalf of petitioner is as under:-

PRELIMINARY OBJECTIONS:

1. That, petitioner has got cause of action.
2. That, petitioner comes to this Honourable Court with clean hands.
3. That, petitioner being aggrieved person has locus standi to file the titled petition.

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ADDITIONAL REGISTRAR
PESHAWAR HIGH COURT
ABBOTTABAD BENCH

No. 1494
 13/3/18

4. That, titled petition is self explanatory the petitioner did not concealed any material fact from this Honourable Court.
5. That, petitioner filed the titled petition for redressal of his legal and genuine grievances with bonafide attentions.
6. That, the titled petition has only been filed for redressal of his genuine grievance and not to pressurize the answering respondents.

UP ON FACTS:-

1. Para No.1 of the petition is correct.
2. Para No.2 of the petition as well as comments are correct.
3. Para No.3 of the petition is correct. Rather admitted.

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ADDITIONAL REGISTRAR
PESHAWAR HIGH COURT
ABBOTTABAD BENCH

4. Para No.4 of the petition is correct, no reply has been made in comments, hence, admitted.
5. Para No.5 of the petition is correct, no reply has been made in comments, hence, admitted.
6. Para No.6 of the petition is correct, no reply has been made in comments by answering respondents, hence, admitted.
7. Para No.7 of the petition is correct, no reply has been made in comments, hence, admitted.
8. Para No.8 of the petition is correct, reply is misconceived as despite of completing his tenure of service, he had not been paid his back benefits for which he is running from pillar to post and finally came before this August court by way of titled petition.

FILED TODAY
ADDITIONAL REGISTRAR
PESHAWAR HIGH COURT
ABBOTTABAD BENCH

GROUNDS:-

- a. Ground "a" of the petition is correct, in reply to comments it is submitted that answering respondents are delaying the issue from last 2½ years, and attached letters are also not yet been finalized.

- b. Para "b" of the grounds of petition is correct, comments are not clear, as petitioner is demanding his benefits as per rule for the period in which the petitioner was involved in case, and after his acquittal and reinstatement in service he is entitled for his salaries and other benefits.

- c. Para "c" of the grounds of petition is correct, no such reply in comments has been made to rectify the grievance of petitioner, the answering respondents are delaying the issue without any plausible reasons.

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ADDITIONAL REGISTRAR
PESHAWAR HIGH COURT
ABBOTABAD BENCH

- d. Para "d" of the grounds of the petition is correct.
- e. Para "e" of the grounds of the petition is correct. Comments reflects the same delaying tectus.
- f. Para "f" of the grounds of petition is correct. Reply has already been made in above para's.
- g. Para "g" of the grounds of petition is correct, comments amounts to admission on part of answering respondents.
- h. Para "h" no comments.

It is, therefore, most humbly prayed that on acceptance of the instant petition, while noticing the inaction and high handedness of the respondent, the ultimate direction of;

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ADDITIONAL REGISTRAR
PESHAWAR HIGH COURT
ABBOTTABAD BENCH


- i. payment of pay after acquittal and with pay effect from 14/10/2011.

- ii. Payment of all the arrears & allowances of the above said period.
- iii. Seniority of petitioner be directed to be considered from the date of his involvement in the case.
- iv. Promotion of petitioner be ordered as per seniority.
- v. Back benefits in salary etc as per rule.

Any other relief which this Honourable Court deems fit and proper in the circumstances of the case may also be given to the petitioner.

...PETITIONER

Through

Dated: 13/03/2018

M. A. Swati

(Muhammad Nawaz Khan Swati)
Advocate Supreme Court of Pakistan,
Haripur

FILED TODAY

8
ADDITIONAL REGISTRAR
PESHAWAR HIGH COURT
ABBOTTABAD BENCH

7

BEFORE THE PESHAWAR HIGH COURT,
ABBOTTABAD BENCH

Writ Petition No. 258-A/2016

Masood Khan.

....PETITIONER

VERSUS

Govt. of Khyber Pakhtunkhwa.

...RESPONDENT

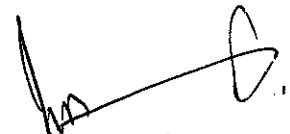
REJOINDER ON BEHALF OF PETITIONER

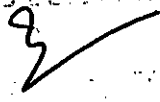
AFFIDAVIT

I, Masood Ahmed Khan, Ex. Primary School Teacher (PST), resident of District Haripur, do hereby solemnly affirm and declare on oath that the contents of foregoing rejoinder are true and correct to the best of my knowledge and belief and nothing has been concealed therein from this Honourable Court.

13302 - 2546216 - 9

No. 1449/360 Receipt No. 360
I, Masood Ahmed Khan, Ex. Primary School Teacher (PST), resident of District Haripur, do hereby solemnly affirm and declare on oath that the contents of foregoing rejoinder are true and correct to the best of my knowledge and belief and nothing has been concealed therein from this Honourable Court.
Masood Ahmed Khan Et Al
Primary School Teacher Haripur


DEPONENT



FILED TODAY
Peshawar
ADDITIONAL REGISTRAR
PESHAWAR HIGH COURT
ABBOTTABAD BENCH, 01/11/16



لسٹ اور طحاں کورٹ ایڈووکیٹس

گورنمنٹ آف KPK

مسعود احمد خان

باعث تحریر آنکہ

دعویٰ یا جرم

مندرجہ بالا عنوان میں اپنی طرف سے پیروی و جوابدہی مقام


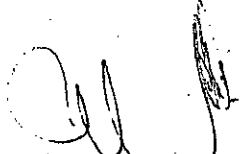
محمد نواز خان سسوائی ایڈووکیٹ بدیں شرط وکیل مقرر کیا۔ کہ میں ہر پیشی پر خود یا بذریعہ مختار خاص رو برو عدالت حاضر ہوتا رہوں گا۔ اور بوقت پکارے جانے وکیل صاحب موصوف کو اطلاع دے کر حاضر کروں گا۔ اگر کسی پیشی پر مظہر حاضر نہ ہوا۔ اور حاضری کی وجہ سے کسی وجہ پر مقدمہ میرے خلاف ہو گیا تو صاحب موصوف اس کے کسی طرح ذمہ دار نہ ہونگے۔ نیز وکیل صاحب موصوف صدر مقام پکھری کے علاوہ کسی اور جگہ یا پکھری کے مقرر اوقات سے پہلے یا بروز تعطیل پیروی کرنے کے مجاز نہ ہونگے۔ اگر مقدمہ مقام پکھری کے کسی اور جگہ سماعت ہونے یا بروز پکھری کے اوقات کے آگیا یا پیچھے ہونے پر مظہر کو کوئی نقصان پہنچے تو ذمہ دار یا اس کے رابطے کسی معاوضہ ادا کرنے مختار نامہ واپس کرنے کے بھی صاحب موصوف ذمہ دار نہ ہونگے۔ مجھے کل ساختہ پرواختہ صاحب مثل کردہ ذات خود منظور و قبول ہوگا اور صاحب موصوف کو عرضی دعویٰ اور درخواست اجراءے ڈگری و نظر ثانی اپیل نگرانی دائر کرنے نیز ہر قسم کی درخواست پر دستخط تصدیق کرنے کا بھی اختیار ہوگا۔ اور کسی حکم یا ڈگری کے اجرا کرنے اور ہر قسم کاروبار وصول کرنے اور رسید دینے اور داخل کرنے کا ہر قسم کا بیان دینے اور سپروٹاشی و راضی نامہ و فیصلہ برخلاف کرنے اقبال دعویٰ کا اختیار ہوگا۔ اور بصورت اپیل و برآمدگی مقدمہ یا منسوخی ڈگری یکطرفہ درخواست حکم امتناعی یا ڈگری قبل از فیصلہ اجراءے ڈگری بھی صاحب موصوف کو بشرط ادائیگی علیحدہ پیروی مختار نامہ کرینکا مجاز ہوگا۔ اور بصورت ضرورت اپیل یا اپیل کے واسطے کسی دوسرے وکیل یا بیرسٹر کو بجائے اپنے ہمراہ مقرر کریں اور ایسے مشیر قانونی کو بھی اس امر میں وہی اختیارات حاصل ہونگے جیسے صاحب موصوف کو۔ پوری فیس تاریخ پیشی سے پہلے ادا نہ کروں گا۔ تو صاحب موصوف کو پورا اختیار ہوگا کہ مقدمہ کی پیروی نہ کریں اور ایسی حالت میں صاحب موصوف کے برخلاف نہیں ہوگا۔ لہذا مختار نامہ لکھ دیا ہے کہ سند رہے مضمون مختار نامہ سن لیا ہے اور اچھی طرح سمجھا لیا اور منظور ہے۔

مورخہ: 20

العبد العبد العبد

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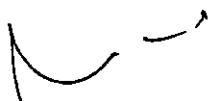

PESHAWAR HIGH COURT ABBOTTABAD BENCH.
FORM "A"
FORM OF ORDER SHEET

Serial No of order or proceeding 1	Date of Order or Proceeding 2	ORDER OF THE COURT WITH SIGNATURE (s) OF HON'BLE JUDGE (s) 3
	16.05.2016	<p><u>WP No.258-A/2016</u></p> <p>Present: Petitioner in person.</p> <p style="text-align: center;">****</p> <p>Seeks adjournment as the learned counsel for the petitioner has proceeded to Peshawar due to his pre-occupation at principal seat of this Court. Adjourned.</p> <div style="text-align: right; margin-top: 20px;">  JUDGE </div> <div style="text-align: right; margin-top: 20px;">  JUDGE </div>



/MSA/

PESHAWAR HIGH COURT, ABBOTTABAD BENCH.
FORM "A"

FORM OF ORDER SHEET.

Serial No of order or proceeding	Date of Order or Proceeding	Order or other proceedings with Signature of judge or Magistrate and that of parties or counsel where necessary
1	2	3
	07.06.2016.	<p><u>W.P.No.258-A/2016.</u></p> <p><u>Present:-</u> Mr.Muhammad Nawaz Khan Swati, Advocate for the petitioner.</p> <p>====</p> <p>Let respondent No.3 be put on notice to appear in person on the next date of hearing.</p> <p style="text-align: right;">  JUDGE </p> <p style="text-align: right;">  JUDGE </p>

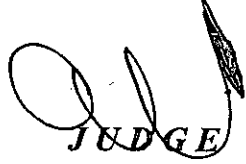

PESHAWAR HIGH COURT ABBOTTABAD BENCH.
FORM "A"
FORM OF ORDER SHEET

Serial No of order or proceeding	Date of Order or Proceeding	ORDER OF THE COURT WITH SIGNATURE (s) OF HON'BLE JUDGE (s)
1	2	3
	10.4.2017	<p><u>W.P. No.258-A/2016.</u></p> <p>Present:- Muhammad Nawaz Khan Swati, Advocate for petitioner.</p> <p>Raja Muhammad Zubair, Addl: A.G for respondents alongwith Said Bad Shah, ADEO, E&SE, Haripur.</p> <p style="text-align: center;">****</p> <p>Respondent No.3 i.e. Executive District Officer, Elementary & Secondary Education, Haripur, is not present in person despite his service. His salary is therefore attached till such time he submits his sanction application for leave and appear in person on 25.4.2017.</p> <div style="text-align: right; margin-top: 20px;">  JUDGE </div> <div style="text-align: right; margin-top: 20px;">  JUDGE </div>

PESHAWAR HIGH COURT, ABBOTTABAD BENCH.**FORM OF ORDER SHEET**

Court of.....

Case No.....of.....

Date of Order of Proceedings	Order or other Proceedings with Signature of Judge (s)
1	2
25.04.2017	<p><u>W.P.No. 258-A/2016.</u></p> <p>Present: Petitioner with clerk of learned counsel for the petitioner.</p> <p>Raja Muhammad Zubair, AAG alongwith Umar Khan Kundi, EDO Haripur.</p> <p>***</p> <p>The former requested for adjournment on the ground of pre-occupation of learned counsel for the petitioner in the Apex Court at Islamabad. The latter stated that after resumption of duty, the petitioner is receiving current salary and that for payment of arrears for the period of his absence from duty, stretching over almost fifteen (15) years, a case has been sent to Finance Department through Education Department, as the period was beyond the powers of Executive District Officer. Anyhow, the respondents are directed to furnish their comments within a fortnight. The order of attachment of salary of EDO is hereby withdrawn / recalled. Adjourned to a date in office.</p> <p style="text-align: right;"> JUDGE</p> <p style="text-align: right;"> JUDGE</p>



/*Saif*/

PESHAWAR HIGH COURT, ABBOTTABAD BENCH.

FORM OF ORDER SHEET

Court of.....



Case No.....of.....

Date of Order of Proceedings	Order or other Proceedings with Signature of Judge (s)
1	2
09.11.2017.	<p><u>W.P.No.258-A/2017.</u></p> <p>Present:- Mr. Muhammad Nawaz Khan Swati, Advocate for petitioner.</p> <p>Mr. Yasir Zahoor Abbasi, AAG for respondents.</p> <p>***</p> <p>The former wants to go through the comments filed by the respondents and file rejoinder. May do so within a fortnight. Adjourned to a date in office.</p> <p style="text-align: right;"> JUDGE</p> <p style="text-align: right;"> JUDGE</p>

PESHAWAR HIGH COURT, ABBOTTABAD BENCH.**FORM OF ORDER SHEET**

Court of.....

Case No.....of.....

Date of Order of Proceedings	Order or other Proceedings with Signature of Judge (s)
1	2
18.01.2018	<p><u>WP No. 258-A/2016.</u></p> <p>Present: . Nemo for the petitioner.</p> <p>Raja Muhammad Zubair, AAG for respondents.</p> <p>***</p> <p>Adjourned for want of service to a date in office.</p> <p style="text-align: right;"> JUDGE</p> <p style="text-align: right;"> JUDGE</p>

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BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR CAMP COURT ABBOTTABAD.

Appeal No. 570//2018

Masood Ahmad Khan.....

(Appellant)

VERSUS

Govt: of Khyber Pakhtunkhwa & Others.....

(Respondents)

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1	Accompanying Comments	01-03	
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5	Copy of letter seeking sanction of EOL dated 11-12-2018	08	D

(Respondent)


District Education Officer (M)
Haripur

ST

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BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR CAMP COURT ABBOTTABAD.

Appeal No. 570//2018

Masood Ahmad Khan..... (Appellant)

VERSUS

Govt: of Khyber Pakhtunkhwa & Others..... (Respondents)

Joint Para wise Comments for and on behalf of Respondents No. 1 to 5.

Respectfully Sheweth:-

Comments on behalf of respondents are submitted as under:-

Preliminary objection:-

1. That the appellant has got no cause of action to file the instant appeal.
2. That the appeal of the appellant is time barred. Hence liable to be dismissed.
3. That the instant appeal is not maintainable as no final order has been passed against him by the competent authority.
4. That the appellant has filed the present appeal to pressurize the respondents.
5. That the appellant has not come to this Honorable tribunal with clean hands.
6. That the appellant is estopped to sue due to his own conduct.
7. That the instant appeal is not maintainable due to miss-joinder and non-joinder of necessary parties.
8. That this Honorable Tribunal has got no jurisdiction to entertain the present appeal.
9. That the appellant is at liberty to join service after due process of law equivalent to his qualification & the Government is not bound to pay for intervening period as it is settled principle that no work, no pay.

Factual objections:-

1. Para No. 1 is correct hence no comments.
2. That Para No.2 of the appeal is correct as composed hence no comments.
3. That the appellant due to FIR against him was remained absconder / absent from his official duties but has never submitted / acknowledged the case before the competent authority.
4. That Para No.4 of the appeal is correct as composed hence no comments.
5. That Para No. 5 of the instant appeal relates to the judicial record.
6. That In reply to para No. 6, it is submitted that the case of the appellant was taken up with the Law Department at that time by the competent authority and the appellant was reinstated into service in the light of law Department opinion, vide order bearing No.6049-50 dated 02-06-2012. **(Copy of Law Department letter and re-instatement order are attached as annexure A&B).**

7. That Para No.7 of the appeal is correct as composed however later on Ex-post facto sanction was also accorded for BPS-12, to the appellant and he has received the arrears for the intervening period. (**Copy of ex-post facto sanction is attached as annexure-C**)
8. Incorec, misconceived and against the facts, the appellant is still working as PST in BPS-12, and is receiving his monthly salary on current pay scale. It is also a matter of fact that the intervening period of the appellant is about 15 years, which is beyond the capacity of the the answering respondents, however the case of the appellant has already been processed vide letter dated 11-12-2018 for obtaining sanction of EOL from competent forum, for bridging of his service for the purpose of his further promotion under the law, rules. (**Copy of letter seeking sanction of EOL dated 11-12-2018, is attached as annexure-D**)

It is further added that the appellant does not fall within the definition of an aggrieved person in the meaning that no final order has been passed so far by the competent forum against him, inter alia, on the following amongst some other grounds.

GROUNDS

- a. That ground a. is incorrect hence, denied. The case of the appellant has already been taken up vide letter dated 11-12-2018 for obtaining sanction of EOL from competent forum, for bridging of his service for the purpose of his further promotion under the law, rules reply of which is awaited yet. It is further added that the appellant has been awarded B-12 along with due back benefits.
- b. That Para "b" is incorrect, the appellant was first re-instated against PST post in BPS-7, however later on he was awarded BPS-12, arrears of which has also been paid to him. It is pertinent to mention here that gratuity, GP fund and pension etc is to be claimed at the time of sanction for pension, while the appellant is still performing his duty as Primary School Teacher in B-12.
- c. That ground "c" is incorrect, the case of the appellant has already been submitted to the quarter concerned for on ward necessary action.
- d. That the case of the appellant is in progress, which is liable to be dealt under the law.
- e. That complete reply has already been given in above Para's.
- f. That ground "c" is incorrect, the case of the appellant has already been submitted to the quarter concerned for on ward necessary action.
- g. That the case of the appellant is in progress, which is liable to be dealt under the law.
- h. That the respondents seek leave of this Honorable Tribunal to agitate additional grounds at the time of arguments.

PRAYER

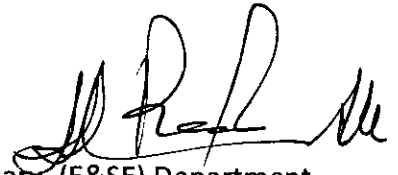
Under the circumstances, it is humbly prayed that the instant appeal is meritless against the law and facts, hence liable to be dismissed without further proceeding.

85
/ 18

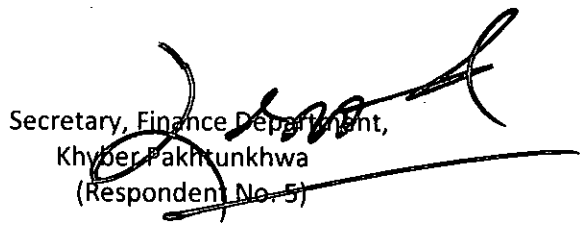
RESPONDENTS



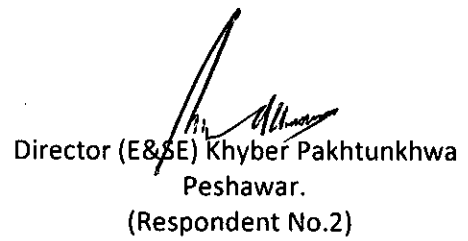
Secretary, Law Parliamentary Affairs
& Human Right Department Khyber Pakhtunkhwa.
(Respondent No. 4)



Secretary, (E&SE) Department
Khyber Pakhtunkhwa
(Respondent No. 1)



Secretary, Finance Department,
Khyber Pakhtunkhwa
(Respondent No. 5)



Director (E&SE) Khyber Pakhtunkhwa
Peshawar.
(Respondent No.2)



District Education Officer (M)
Haripur.
(Respondent No.3)

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR CAMP COURT ABBOTTABAD.

Appeal No. 570//2018

Masood Ahmad Khan.....

(Appellant)

VERSUS

Govt: of Khyber Pakhtunkhwa & Others.....

(Respondents)

AFFIDAVIT

I, Mr. Said Badshah ,Assistant District Education Officer (lit:) Haripur, do hereby affirm and declare that contents of forgoing comments are correct and true according to the best of my knowledge and belief and nothing has been suppressed from this Honorable Tribunal.



Deponent

Ammercise (A)

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19



GOVERNMENT OF KHYBER PAKHTUNKHWA
LAW, PARLIAMENTARY AFFAIRS &
HUMAN RIGHTS DEPARTMENT

No. OP.5(26)/LD/2012
DATED PESH: THE 27 APRIL : 2012

6637

To
The Secretary to Govt of Khyber Pakhtunkhwa,
Elementary & Secondary Education Department.

DFA

Subject: REQUEST OF MR. MASOOD AHMAD, EX-PST FOR RE-INSTATEMENT IN SERVICE.
Dear Sir,

SOPE
P-7/LC
P.H. 1/1
50

I am directed to refer to your letter No. SO(PE)5-19/Re-instatement/Ahmad ex PST/2012 dated 14-04-2012 on the subject noted above and to state that it is evident from the record that the competent authority neither suspended the official from service, nor he was proceeded against under the rule/law. Likewise, no Suspension Allowance was paid to him during the period of absence. However, as he was charged in murder case, therefore, he was deemed to be under suspension vide CSR 194-A. The competent authority should have proceeded against him for his absence from duty during the period he remained at large, but this was not done so by the Administrative Department. Hence, upon acquittal, the official is to be reinstated in service by the Administrative Department, the period of absence from duty may be treated as extra ordinary leave without pay. The competent authority may proceed against the official departmentally on account of his absence from duty.

Moreover, being a service matter, Establishment Department may also be consulted before to proceed further.

Yours Faithfully,

(AZMATULLAH KHAN)
SECTION OFFICER (OPINION-I)

1566
27/4

27/4 21/8

B
Annexure "B"
52
48

Consequent upon the advice of the Law Department received vide Govt of Khyber Pakhtunkhwa Elementary & Secondary Education Department No. SO (PE)5-19/Re-instatement/M.Ahmed ex PST/2012 dated 14-05-2012, based on the judgment of Honourable Supreme Court of Pakistan in criminal miscellaneous application No. 438 of 2011 in CrI. PLA No: 73 of 2012 (CrI. A.No. 353/11) on appeal from judgment of Peshawar High Court, Peshawar dated 23-03-2010 passed in Criminal Appeal No. 25 of 2006, C.M.A for approval of compromise regarding acquittal of petitioner Mr. Masood Ahmed Khan PST Teacher, Mr. Masood Ahmed Khan is hereby adjusted at GPS Gandaf against PST vacant post on his own pay & grade with effect from 14-10-2011 i.e. the day of his acquittal.

Note:-

1. As desire by Govt of Khyber Pakhtunkhwa Establishment & Admin: Department (Regulation Wing) No. SOR-I(E&AD)1-19 Vol, III dated 28-04-2012 his case for sanction of EOL for the period of his absence due to involvement in a case is required to be put up for onward submission to provincial Finance Department Govt of Khyber Pakhtunkhwa for obtaining sanction to regularized his service.
2. That his adjustment is on provisional basis and regularized subject to sanction of EOL in his favour by the Finance Department for interviewing period.
3. Charge reports should be submitted to all concerned.

Endst: No. 6099-54

Executive District Officer
Elementary & Secondary Education
Haripur
Dated: 02/05/2012

Cc:

1. The Section Officer (Primary) E & SE Deptt: Govt of Khyber Pakhtunkhwa Peshawar.
2. The Director, E & SE Deptt: Govt of Khyber Pakhtunkhwa Peshawar.
3. The Senior District Accounts Officer Haripur.
4. The Dy: District Officer (M) Elementary Education Haripur.
5. The Head Teacher concerned.
6. The Teachers concerned.
7. Office record file.

Executive District Officer
Elementary & Secondary Education
Haripur

22
1-7-2012: DED
to finance deptt,
along with
Service Book

file EMIS CELL Haripur

Handwritten signatures and initials at the bottom of the page.



Annexure
OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE)

HARIPUR

Ph: No. 0995-610178, 610268

Email: emisharipur@yahoo.com

EX-POST FACTO SANCTION

In supersession of this office Notification No. 6049-54 dated; 02-06-2012 in respect of Mr. Masood Ahmad Khan PST GPS Mari, who has been granted BPS-07 after his re-instatement into his service w.e.f 14-10-2011 in the light of acquittal by august Supreme Court of Pakistan vide judgment passed in crl. Misc. / application No. 483/2011 in crl. PLA No. 73 of 2010 dated 14-10-2011.

The undersigned being competent authority is pleased to accord BPS-12 instead of BPS-07 w.e.f his date of re-instatement into service i.e. 14-10-2011, in the light of Notification No. FD/80(FR) 10-22/2007, dated, 26-01-2008 issued by the Govt of K.P.K Finance Department (Regulation Wing).

- NOTE-
1. Necessary entries to this effect should be made in his service book accordingly.
 2. SDEO Male Haripur is required to submit his claim / arrears to the Account office, immediately.
 3. Service book may be maintained updated, accordingly.

District Education Officer (M)

Haripur

Endst. No. 4324-29 /Estb.

Dated. 18 / 05 / 2017

Copy forwarded for information to the...

1. Director E&SED Khyber Pakhtunkhwa, Peshawar.
2. Senior District Accounts Officer Haripur.
3. Registrar Honorable High Court Peshawar, Abbottabad bench.
4. SDEO (M) Haripur for strict compliance.
5. Teacher concerned.
6. Office record file.

District Education Officer (M)

Haripur

Annexure - D

سورہ 12/12/18
30/12-19/3/18 50



GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT
No. SO(PE)/E&SED/3-2/CM Dir /2018
Dated Peshawar the 11.12.2018

123

To,

The Secretary to Govt. of Khyber Pakhtunkhwa,
Finance Department,
Peshawar.

Attention: - The Section Officer (FR),
Finance Department, Khyber Pakhtunkhwa,
Peshawar.

Subject: - REQUEST FOR IMPLEMENTATION ON RECOMMENDATION OF
INQUIRY REPORT

Dear Sir,

I am directed to refer to your letter No. SO(FR)FD/10-22/2017/Vol-I/6298/E&SE dated 07.06.2018 and to enclose herewith a copy of Section Officer-I, Chief Minister's Secretariat Peshawar letter No. SO-I/CMS/KPK/3-15/2018/21420 dated 19.11.2018 alongwith connected documents in respect of Mr. Masood Ahmed Khan, PST GPS Sector-4, Kalabat Township Haripur, for further necessary action as per rules/policy, please.

21/12/18

Yours faithfully,

SECTION OFFICER (PRIMARY)

Encl: as above.

End of even No. & date:
Copy forwarded to:

1. The Section Officer -I, Chief Minister Secretariat, Khyber Pakhtunkhwa w/r to her letter quoted above.
2. The DEO (Male), District Haripur.
3. PS to Secretary, Elementary & Secondary Education Department, Peshawar.
4. Mr. Masood Ahmed Khan, PST GPS Sector-4, Kalabat Township, District Haripur.

AD.E.D./S...
9/11/18
20/12/18

SECTION OFFICER (PRIMARY)

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR, BENCH ABBOTTABAD.**

Service Appeal No. 570/2018

Masood Ahmed Khan V/S Education Department.

SERVICE APPEAL

**APPLICATION FOR THE EARLY HEARING OF APPEAL PENDING
IN THIS HONOURABLE TRIBUNAL SINCE 2018.**

Respectfully Sheweth:-

The applicant/appellant would like to state as under:-

1. That the above titled appeal of the appellant's is pending adjudication before this Honourable Tribunal.
2. That the appellant appeared in person before this Honourable Tribunal on 11-10-2021 but due to the strike of lawyers the case could not be heard.
3. That this Honourable Tribunal adjourned the case to the next date i.e. 17-01-2022.
4. That the Honourable Supreme Court of Pakistan has acquitted the applicant/appellant from the charge leveled against him but the Respondent's department did not pay his arrears after passing a prolong period of about 11 years.
5. That this Honourable Tribunal fixed the case for 17-01-2022 which is unjustified being too late.
6. That the applicant/appellant is a poor and deserving man and the Respondents are intentionally depriving him from his genuine and lawful right.

It is therefore, respectfully prayed that the applicant/appellant may graciously be given short dates and his appeal may please be heard and decided on priority basis in the interest of justice.

Dated: _____


Applicant/Appellant
(Masood Ahmed Khan)

*Allowed
For it for
01/12/2021*



**KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR**

No. 2428 /ST

Dated: 08/12 /2021

All communications should be
addressed to the Registrar KPK Service
Tribunal and not any official by name.

Ph:- 091-9212281
Fax:- 091-9213262

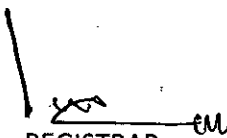
To:

The District Education Officer,
Government of Khyber Pakhtunkhwa,
Haripur.

Subject: JUDGMENT IN APPEAL NO. 570/2018, MR. MASOOD AHMAD KHAN.

I am directed to forward herewith a certified copy of Judgement dated
01.12.2021 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR