Appellant in person present.

Requests for adjournment in order to further prepare the brief. Adjourned to 18.06.2019 before S.B at camp court, Abbottabad.

> Chairman Camp.:court, A/Abad

18.06.2019

Appellant in person present.

Appellant submitted an application for withdrawal of appeal with the permission to file a fresh one. It is noted in the application that the respondents have verbally assured the appellant regarding the resolution of his grievance, therefore, the appellant does not wish to proceed with the appeal at present.

Dismissed as withdrawn. In case the appellant is left with any grievance he may proceed for its redressal in accordance with the law.

ANNOUNCED

18.07.2019

Chairman Camp court, A/Abad

Form- A FORM OF ORDER SHEET

Court of		-	
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Case No.	 1371 /2018		

	Case No	1371 /2018	
S.No.	Date of order	Order or other proceedings with signature of judge	· :
	proceedings		,
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	05 /11/2018	The appeal of Mr. Abdul Shakoor received today b	y post may
1-		be entered in the Institution Register and put up to t	he Worthy
-		Chairman for proper order please.	
		REGISTRÁR .	<u>v</u>
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BEFORE KHYBER PAKHTUNHWA SERVICE TRIBUNAL / PESHAWAR

Service Appeal No: 1371 of 2018

Abdul Shakoor PST Govt Primary School Dannah Circle Lora, District, Abbottabad.

....APPELLANT

VERSUS

Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Department Peshawar and 02 others.

....RESPONDENTS

SERVICE APPEAL INDEX

S.No	DESCREPTION OF DOCUMENTS	ANNEXURE	PAGE NO
1	Service Appeal alongwith Affidavit		1 to 4
2	Copy of appointment order of appellant	"A"	5-7
3	Copies of order dated 12/02/2010, 20/05/2010 and relieving certificate	"B, C & D"	8-10
4	Copies of letter dated 02/09/2013 & 11/12/2013	"E"	· 11-12
5	Copy of compulsory retirement order dated 11/12/2015	"F"	13
6	Copies of Service Appeal No. 478/2016 and Judgment dated 17/10/2017 of KPK Service Tribunal	"G & H"	14-21
· 7.	Copies of order sheet, re-instatement order dated 26/06/2018 and charge report	"I,J & K"	22-24
8.	Copies of Application dated 25/07/2018 and rejection order dated 05/10/2018	"L & M"	25-26

Dated 03/11/2018

(Abdul Shakoor) (appellant inperson)

BEFORE KHYBER PAKHTUNHWA SERVICE TRIBUNAL **PESHAWAR**

Service Appeal No: 1371 of 2018

Abdul Shakoor PST Govt Primary School Dannah Circle Lora, District, Abbottabad.

Khyber Pakhtukhwa Service Tribunal.APPELLANT

VERSUS

- 1. Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Department Peshawar.
- 2. Director of Elementary & Secondary Education Department, Khyber Pakhtunkhwa, Peshawar.
- 3. District Education Officer (Elementary & Secondary Education) (Male), Abbottabad.

....RESPONDENTS

APPEAL UNDER SECTION 4 OF KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 FOR RELEASE OF PAY OF APPELLANT W.E.F. 01/02/2015 TO 30/06/2018 AND, FOR PROMOTION TO THE HIGHER SCALE AND POST, Miledito-day ACCORDING TO THE SENIORITY LIST WITH ALL BACK BENEFITS.

PRAYER:

ON ACCEPTANCE OF INSTANT APPEAL, DIRECTIONS BE ISSUED TO THE RESPONDENTS FOR GRANT OF PAY OF APPELLANT W.E.F. 01/02/2015 TO 30/06/2018 AND PROMOTION TO HIGHER SCALE AND POST WITH ALL BACK BENEFITS.

Respectfully Sheweth,

FACTS

- That, the appellant was appointed as PST BPS-07 on 20/03/2000 in the E&S Education Department District Abbottabad and performed his duty up to entire satisfaction of his superiors. (Copy of appointment order is annexed as annexure "A")
- That, the appellant is living in Islamabad with his family and his wife is also working as "Teacher" in Federal Directorate of Education, Islamabad, which is evident from the certificate of Principal Islamabad Model School. Therefore, the appellant applied for transfer on deputation to Federal Directorate of Education, Islamabad for three years which was approved by the Federal Directorate of Education Islamabad on 12/02/2010 and, on the basis of which KPK Education Department also allowed vide order dated 20/05/2010 and the appellant relieved on 12/11/2010. (Copies of order dated 12/02/2010, 20/05/2010 and relieving certificate are annexed as annexure "B, C & "D")
- That, the appellant applied for further extension of deputation before six months of expiry of his transfer on deputation by letter dated 04/05/2013 regarding which the corresponding between Federal Directorate of Education Islamabad and E & S Education Department KPK was in process meanwhile appellant relieved from Federal Directorate of Education Islamabad on 31/01/2015 and arrived before respondent No.3 for further adjustment of appellant. (Copies of letter dated 02/09/2013 & 11/12/2013 annexed as annexure "E")
- That, on 11/12/2015, respondent No.3, issued an order of compulsory retirement of appellant with retrospective effect i.e. 12/11/2013. (Copy of compulsory retirement order dated 11/12/2015 is annexed as annexure "F")
- That, the appellant feeling aggrieved by the said order, filed a service appeal No.478/2016 before KPK Service Tribunal through proper channel in which appellant prayed as under:-

"That on the acceptance of this appeal, the order dated 11/12/2015, may be set aside and the appellant may be reinstated with all back and consequential benefit", which was accepted by the Learned KPK Service Tribunal. (Copies of Service Appeal No. 478/2016 and Judgment dated 17/10/2017 of KPK Service Tribunal are annexed as annexure "G & H")

- That, the said judgment of Hon'ble KPK Service Tribunal has not been implemented by the respondents and appellant filed Execution Petition No. 257/2017 dated 27/12/2017, before this Hon'ble Tribunal and appellant was re-instated in Service on 26/06/2018 in the light of directions of this Hon'ble Tribunal and appellant took over charge on 27/06/2018. (Copies of order sheet, re-instatement order dated 26/06/2018 and charge report are annexed as annexure ", I, J & K")
- 7) That, the appellant submitted an application before respondent No.2 for grant of all back benefits of the appellant which was rejected on 05/10/2018 by the respondent No.3. (Copies of Application dated 25/07/2018 and rejection order dated 05/10/2018 are annexed as annexure "L & M")
- That, during the deputation and termination of service period of appellant, many teachers, junior to appellant, was promoted in higher post and scale but the appellant is still being ignored by the respondents.

GROUNDS:

- a) That, the service appeal of appellant was accepted just according to the prayer of appellant.
- b) That, the according to the FR-54, any employee who was re-instate in service, have a fundamental right to received all back benefits / arrears.
- c) That, the termination of appellant was only due to the malafide act of respondents, and there was no mistake from the appellant side.

- d) That, all the employees who were re-instated after termination, through court's / Tribunal Judgments, have been granted all the constitutional benefits.
- e) That, the present appeal is well within time and other points shall be agitated at the time of arguments with the permission of Hon'ble Tribunal.

It is therefore, humbly prayed that the instant appeal may graciously be accepted, and directions be issued to the respondents that:-

- ii. The pay of appellant w.e.f. 01/02/2015 to 30/06/2018 be granted.
- iii. According to the seniority list, the appellant may be promoted to the higher scale and post with all back benefits.

Dated 03/11/2018

(Alfaut Shakeor) (appellant in person)

AFFIDAVIT:

I, Abdul Shakoor PST Govt Primary School Dannah Circle Lora, District, Abbottabad, the appellant, do hereby affirm on oath that contents of instant appeal are correct and true to the best of my knowledge and belief and nothing has been suppressed from this Honourable Tribunal and instant appeal is first appeal and same nature of any other appeal is not pending before this Honourable Tribunal.

DEPONENT

Dated 03/11/2018





OFFICE OF THE DISTRICT FOUCATION OFFICER (MALE) PRIMARY ABBUTTAGAD.

OFFICE ORDER NO. 01 /PIC

DATED A. ASAD THE 20/03/2060

APPOINTMENT -

Consequent upon their approval by the Ospartmental Selection Committee and qualifying prescribed test/interview purely on merit, the District Education Utificer (Male) Primary Abbottahad has been pleased to appoint the following PTC trained candidates, in BPS://(Rs.1480-81-2695) and in case of FA/Fsc 2nd Division in BPS://(Rs.1480-81-2695) and in case of FA/Fsc 2nd Division in BPS No.9 (Rs.1605-97-3060) plus usual allowances as admissible to them under the rules in the schools mentioned against each their them under the rules in the date of their taking over charge in the interest of public service, Subject to the following terms and conditions:

OPEN MERIT 1. Segheer Ahmad 5/0 Azix Ur Rehman 55.59 GMPS Rakar r/o Tandara Katan (RDE) rhata(P/K/N) r/o Tandara Katan (RDE) Havelian r/o Rajoya (RDE) 3. M.lbrar Khan s/o Dost Mohammad 53.33 GPS No.1 Havelian r/o Rajoya (RDE) 4. Hakim Murtaza Khan s/o Abdullah 51.70 GPS Chera Go Khan e/o N.Shehr (RDE) 5. Rashid Iqbat s/o Iqbal Shaheen 49.33 GPS Raga Ko r/o Malik Pura (RDE) 6. Muhammad Nadeem s/o Lat Akbar 49.97 GMPS Jul Gran r/o Beran Gali (RDE) 7. Muhammad Shamratz s/o Jehandad 48.46 GPS Nari Ka r/o Bagh (RDE) 8 Muhammad Tariq s/o M.Aslam 48.19 GPS Jangra r/o Phalkote (RDE) 9. Muhammad Tariq s/o M.Aslam 47.80 GPS Kali Da r/o Ahmad Abad (RDE) (Chamhad) 10. Abdul Shakoor s/o Abdul Waheed 47.77 GMPS Barthu (Nagri Bala r/o Abbottabad City (RDE) (Majuhan)	post Inido do tedo
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OISABLE Azhar: Mehmood s/o Abdul Shakoor r/o Banda Saib Khan (RDE)

aps Cheera doini (Sarbhana) 🤺

Their appointments are purely on temporally basis and liable to termination at any time without notice or assigning any reason.

They will be governed by such rules and regulations enforced and as may be prescribed by the Govt: from time to time for the category of government servants to which they belong.

P.No.3

Charge reports should be submitted to all concerned and this office as well as immediately.

The SDEO(M) Abbottabad is responsible to get verity the certificates/Degrees.etc, from the concerned University/BISE/ ROE before the drawl of their pay and report of genuiness or otherwise be submitted to this office .

Service Books of the teachers must be prepared/completed in 5. all respect soon after taking over charge.

The deceleration of assets should be obtained from them

immediately and placed on record. They are required to produce their Age & Realth Certificates from Medical Supor: DHQ Hospital Abbottabad before taking over charge.

Efforts for transfer before the completion of tenure 8. disquality them from service.

The above appointments are subject to the production/ verification of original Degree/Certificates by the SOEO. (M) Abbottabad. Any candidate if fails to produce requisite documents should not be allowed to take over charge and report submitted to this office immediately.

In case any of the above candidate fails to assume the charge 10. of his post within filteen days of his appointment/candidature ship will stand automatically cancelled.

They should not be allowed to take over charge if they are

below 18 years and above 33 years. No Th/DA etc. is allowed being first appointment.

> (PROFEMUHAMMAD PARVALZ KHAN) DISTRICT EDUCATION OFFICER (MALE) PRIMARY ABBOTTABAD.

Endst: NO. 1043-1112 /AE-I Apptt: PTC/Trained/Dated. 20.03.2000

Copy of the above is forwarded to the:-

..R.S to Minister for Education NWFP Peshawar to Govt: of NWFP, Education to Secretary

Peshawar.

Director Primary Education NWFP Peshawar. з.

P.A to Director Primary Education NWFP Peshawar.

4. sub Divisional Education Officer (H) Abbottabad for

necessary action. District Accounts Officer Abbottabad.

A.D.E.O. (Accounts) Local office.

Head Teachers of school concerned. 8-38.

All Candidates concerned. 39-69.

office order file.

GISTRICA EBUTATION OF BICER (MALE) PRIMARY ABBOTTABAD.

6.

11.





F.03-5/2010 (SA) FDE Government of Pakistan Federal Directorate of Education

Islamabad, the 12th February, 2010

The Section Officer (Primary). Government of NWFP. Elementry and Secondary Education Department, Peshawar.

Subject:

TRANSFER ON DEPUTATION

I am directed to refer to your letter No. SO (PE) 5-2/02/IPT/A-ABAD/VOL-III, dated 13-02-2009 on the subject captioned above and to inform that the Competent Authority has approved the transfer of Mr. Abdul Shakoor. Primary School Teacher (BPS-09) Government Primary School. Banda Ghazan. District Abbottabad on deputation from Elementry and Secondary Education Department. Government of NWFP to Federal Directorate of Education, Islamabad, on deputation on the following terms and conditions:

- i. Federal Directorate of Education, Islamabad will not pay Pension Contribution Share/ Gratuity for the period of deputation.
- ii. He will claim no seniority.
- iii. The initial period of deputation will be for three years.
- iv. The deputationist will join at its own expences.
- v. No TA/DA will be paid in this conection on joining in the Department.
- vi. No deputation allowance will be paid.
- vii. The deputationist will draw salary as per Last Pay Certificate.
- viii. He will be repatriated to the parent department after completion of deputation period and no extension in deputation period will be granted.
- ix. The joining authority will check relevant documents of the teacher concerned before joining.
- 2. It is, therefore, requested that the concerned official may be informed regarding his transfer on deputation, may please be relieved from his present assignment and directed him to report before the undersigned within 15 days of issuance of this letter.
- 3. This is issued with the approval of Joint Educational Advisor, Ministry of Education, Islamabad.

(MALIK MUHAMMAD ALI)
Deputy Director (Male)

Copy'to:-

Mr. Abdul Shakoor, C/O Shaista Bibi, MTT, FGGSS, Dhoke Gangal, (F.A.) Ibd.

The Headmaster, Govt Primary School, Banda Ghazan, District Abbottabad.

> The Office File.

The Personal File.

(ABDUL RAZZAQ) Admn Officer (Male)

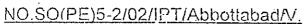
MISTED



GOVERNMENT OF KHYBER PAKHTUNKHWA ELEMENTARY & SECONDARY EDUCATION DEPARTMENT

Date a Peshawar the 20-05-2010.





In pursuance of the Establishment and Administration Department Govt. of NWFP NOC contained in letter No. SOR-I(E&AD)1-14/82/Vol.XVIII dated 13-6-2010, the services of Mr. Abdul Shakoor PST (BS-9) GPS Banda Ghazan. District Abbottabad (Khyber Pakhtunkhwa) are hereby placed at the disposal of the Federal Directorate of Education Islamabad on deputation basis—for initial period—of—three (03)—years—vide—their letter—No. F. 03-5/2010 (SA)FDE dated 12-2-2010.

SECRETARY TO GOVE OF A PHYSER PAKETUME HWA ELEMENTARY & SECONDARY EDUCATION DEPARTMENT.

Endst. No. & Date as above.

Copy forwarded to:-

- 1. The Secretary to Govt. of Knyber Pakhtunkhwa Establishment* Department w/r to his letter No. quoted above.
- 2. The Director (General) Federal Directorate of Education Islamabad w/r to his letter quoted above.
- 3. The Director Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar w/r to his letter No. 2586/F.No.15/PST(M)IPT/Abdul Shakoor PST dated 23-1-2009.
- 4. The Distt. Accounts Officer Abbottabad.
- 5. The Executive Distt. Officer Elementary & Secondary Education Abbottabad with the request to relieve the teacher concerned and direct him to report for duty to the Federal Directorate of Education Islamabad for further adjustment

6. Mr. Abdul Shakoor PST GPS Banda Ghazan Abboltabad.

(ARIF JAMIL) SECTION OFFICER (PRIMARY)

(10)



CERIOR OF THE DEPUTY DISTALLIF CAPIDAR (MAIM) P. C. LET GROWLEAD.

NO 15065

DATED A-ABAD THE 12/11/2010.

To

The Addul Shakoor (PST)
Govt Primary School Banda Ghazan
A b b o t t a b a d.

Subject :-

RELIEVING CERTIFICATE.

With reference to Admn: Officer (Male) Govt of Pakistan; Federal Directorate of Education Islamabad No. F.3-5/2010 (SA) EDE; Dated 28-10-2010. You are hereby relived from your services with immediate effect and directed to report in the office of Federal Directorate of Education Islamabad.

DY: DISTRICT OFFICER (MALE)

Dy: Distt: Officer (M).
Pry: Abbottabad

NESTED



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AMERICA

GOVERNMENT OF KHYBER PAKHTUNKHWA ELEMENTARY & SECONDARY EDUCATION DEPARTMENT No. SO(PE)5-2//IPT/ Abbotabad / Vol-V/Abdul Shakoor PST - Dated Peshawar the 02-09-2013.

Tc.

The Director, Federal Directorate of Ecucation Islamabad.

Subject:

REQUEST OF MR. ARDUL SHAKOOR PST FOR FURTHER EXTENSION IN DEPUTATION PERIOD FOR TWO YEARS.

t am directed to refer to your letter No. F.3-5/2010(SA)FDE dated 12-02-2010 and to enclose herewith a copy of letter No.3170/F.No.15/Inter Provincial Transfer/Abdul Shakoor PST dated 28-08-2013 alongwith its enclosures received from the Directorate of E&SE Khyber Pakhtunkhwa on the subject noted above in r/o Mr. Abdul Shakoor PST with the request that No Objection Certificate/consent of the Fiederal Directorate of Education Islamabad, may kindly be conveyed to this department for further processing the case.

Encl: As Above:

(HINA SAEED) SECTION OFFICER (PRIMARY)

Copy of the above is forwarded for similar necessary action to:
The Secretary to Government of Khyber Pakhtunkhwa, Establishment & Administration
Department Peshawar w/r to his letter NO.SOR-I(E&AD)1-14/82/Vol XVIII 13-52010.

NY NY 13 NY 13 SECT!

CECTION OFFICER (PRIMARY)

May I had head

A -100

July 1



No.F.3-5/2010-Dep(SA)-FDE Government of Pakistan Federal Directorate of Education

Islamabad, the 11th December 2013.

The Section Officer (Primary), Government of Khyber Pakhtunkhwa, Elementary & Secondary Education Department, Peshawar.

Subject:

NOC FOR EXTENSION IN DEPUTATION PERIOD

ar Sir,

Please refer to your Notification No.SO(PE)5-2/02/TPT/Abbottabad/V dated 20.05.2010 regarding issuance of NOC for 02-years (4th & 5th years) for deputation in respect of Mr. Abdul Shakoor, PST (PS-9), Government Primary School Banda Ghazana Khan in Federal set up with effect from 12.11.2010.

The present period of deputation in respect of Mr. Abdul Shakoor, (.T (BS-09) has expired on 11.11.2013. He has applied for further extension in deputation period (copy enclosed). It is requested that further NOC for extension in deputation period for 02-years may be issued with effect from 12.11.2013 to 11.11.2015 to process the case further.

Yours Truly,

(MUHAMMAD IQBAL AWAN)
DEPUTY DIRECTOR SCHOOLS (M)

Copy to:

Principal, IMSB (I-x) Khana Dak (FA), Islamabad

Person concerned

> Personal file

(MUHAMMAD IQBAL AWAN)
DEPUTY DIRECTOR SCHOOLS (M)

MESTED





NOTIFICATION

WHEREAS, you Mr. Abdul Shakoor while serving as PST at GPS Banda Ghazan, Abbottabad were proceeded for having committed the following acts which constitute inefficiency and misconduct under Rule-3 of the Khyber Pakhtunkhwa Govt: Servants (Efficiency & Discipline) Rules, 2011.

- AND WHEREAS, your transfer on deputation for three years was approved vide Government of Pakistan, Federal Directorate of Education Islamabad letter No.F.03-5/2010 (SA) FDE dated 12.2.2010, wherein it is clearly recorded at S.No. (viii) of terms and conditions of above deputation letter that you will be repatriated to the parent department after completion of deputation period and no extension in deputation period will be granted.
- AND WHEREAS, you were placed at the disposal of Federal Directorate of Education Islamabad on deputation basis for a period of three years (03)) vide Government of Khyber Pakhtunkhwa. Elementary & Secondary Education Department Order No.SO(PE)5-2/02/IPT/Abbottabad dated 20.5.2010 and you were posted as MTT (BS-9) at F.G.Boys Secondary School Khana Dak (FA) Islamabad for a period of three years w.e.f. 12.11.2010 to 11.11.2013 vide Government of Pakistan, Federal Directorate of Education Islamabad Office Order No.F.3-5/2010(SA)FDE dated 23.12.2010.
- AND WHEREAS, your deputation period was expired on 11.11.2013 but you failed to join your parent department after expiry of deputation period; you remained wilful absent from duty w.e.from 12.11.2013 to 30.01.2015 and applied for adjustment on 02.2.2015 w.e.from 31.1.2015.
- 4 AND WHEREAS, you were directed through Sub Divisional Education Officer Abbottabad vide this office Memo: Nos.1069 dated 12.2.2015 and 1195 dated 19.2.2015 to provide notification of extension in deputation period from 12.11.2013 to 12.11.2015 (two years) but you have failed to provide the same uptil now.
- AND WHEREAS, you remained on unauthorized deputation inspite of direction of the Department to report back but you have not complied as per Government of Khyber Pakhtunkhwa, Elementary & Secondary Education Department letter No. SO (PE) 5-2//IPT/03/Battagram/2014 dated
- AND WHEREAS, Show Cause Notice regarding your wilful absence from duty & misconduct was served upon you through Sub Divisional Education Officer (Male) Abbottabad vide this office Memo: Nos.5416 dated 05.6.2015.
- AND WHEREASE, on receipt of your unsatisfactory reply dated 16.6.2015; you were summoned for personal hearing on 27.6.2015 through SDEO (M) Abbottabad vide this office Memo: No.5828 dated 24.06.2015. You appeared for personal hearing on the scheduled date and failed to defence the charges levelled against you.
- AND By reason of the above, charges leveled against you have been proved and you were found guilty of misconduct, wilful absenting yourself from duty, inefficiency, and professional dishonesty under Rule-3 of the Khyber Pakhtunkhwa Govt: Servants (E&D) Rules-2011.

NOW THEREFORE, the Competent Authority, in exercise of the power conferred upon him under Rule-4(1)(b) Sub Rule (ii) of Khyber Palitunkhwa, Government Servant (Efficiency & Discipline) Rules, 2011 is pleased to impose Major Penalty of "COMPULSORY RETEREMENT" upon Mr. Abdul Shakoor PST GPS Banda Ghazan Abbottabad we.from. 12.11.2013 with recovery of pay drawn during the absent period w.e.from. 12.11.2013 to 31.1.2015 out of emoluments/pension/G.P.Fund.

> · 5~\ [DISTRICT EDUCATION OFFICER (M) ABBOTTABAD

Endst: No.9645-68 /EB/IPT/F.No.24/Vol:1

Dated 1/-19 /2015

Copy for information & necessary action to the:-

Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar

District Accounts Officer Abbottabad.

Sub Divisional Education Officer (Male) Abbottabad with the direction that entry be recorded in the Service book of the teacher concerned.

Teacher concerned.

DISTRICT EDUCATION OFFICER (M)

ABBOTTABADY





BEFORE THE KPK, SERVICE TRIBUNAL, PESHAWAR.

APPEAL NO. 478 /2016

Abdul ShaKoor, Ex-PST,

GPS, Banda Ghazan, Abbottabad.

(APPELLANT)

VERSUS

- 1. The Secretary Education KPK, Peshawar.
- 2. The Director Education (E&SE) KPK, Peshawar.
- 3. The District Education Officer (M) Abbottabad.

(RESPONDENTS)

APPEAL UNDER SECTION 4 OF THE KPK SERVICE TRIBUNAL ACT, 1974 AGAINST THE ORDER DATED 11.12.2015, WHEREBY THE MAJOR PENALTY OF "COMPULSORY RETIREMENT" HAS BEEN IMPOSED UPON THE APPELLANT W.E.FROM 12.11.2013 WITH RECOVERY OF PAY DRAWN DURING THE ABSENCE PERIOD W.E.FROM 12.11.2013 TO 31.1.2015 OUT OF HIS EMOLUMENTS PENSION/GP FUND AND AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF NINE DAYS.

PRAYER:

THAT ON THE ACCEPTANCE OF THIS APPEAL, THE ORDER DATED 11.12.2015 MAY BE SET ASIDE AND THE APPELLANT MAY BE REINSTATED WITH ALL BACK AND CONSEQUENTIAL BENEFITS. ANY OTHER REMEDY. WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND

MYESTED

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL CAMP COURT, ABBOTTABAD.

Service Appeal No. 1371/2018

Abdul Shakoor PST Govt Primary School Dannah Circle Lora, District, Abbottabad.

..APPELLANT

VERSUS

Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Department Peshawar and 02 Others.

.....RESPONDENTS

APPLICATION FOR WITHDRAWL OF ABOVE TITLED SERVICE APPEAL WITH THE PERMISSION TO FILE A FRESH ONE.

Respectfully Sheweth:

- 1. That, the above titled; Service Appeal is pending adjudication before this Honourable Tribunal.
- 2. That, the respondents verbally assure the appellant that they will resolve the rievances of the appellant due to which the Appellant is not willing to proceed further the above titled Service Appeal.
- 3. That, if the respondents will not resolve the grievances of the appellant then the appellant be permitted / allowed to file a fresh service appeal.

It is therefore very humbly requested that kindly withdraw the above titled Service Appeal No.1371/2018 with the permission to file a fresh one.

Dated: 18/06/2019

(ABDUL SHAKOOR)

....APPELLANT (INPERSON)

AFFIDAVIT:

I, Abdul Shakoor PST Govt Primary School Dannah Circle Lora, District, Abbottabad. The Appellant, do hereby solemnly affirm and declare on oath that the contents of foregoing application are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Honourable court.

Dated: 18/06/2019

(ABDUL SHAKOOR)

DEPONENT/APPELLANT



RESPECTFULLY SHEWETH:

FACTS:

- That the appellant was appointed as PST on dated 20.3.2000 and perform his duty up to entire satisfaction of his superiors. Copy of appointment order is attached as Annexure-A)
- 2. That the appellant is living in Islamabad with his family and his wife is also working as teacher in Federal Directorate of Education Islamabad which is evident from the certificate of Principal Islamabad Model School. Therefore the appellant applied for transfer on deputation to Federal Directorate of Education Islamabad for 3 years which was approved by the Federal Directorate of Education Islamabad on dated 12.2.2010 and on the basis of which KPK Education also allowed vide order dated 20.5.2010 and the appellant relieved on 12.11.2010 (copies of certificate and order dated 12.2.2010, 20.5.2010 and 12.11.2010 are attached as Annexure-B,C,D&E)
- 3. That the appellant applied for extension of deputation before 6 months of expiry of his transfer on deputation by letter dated 4.5.2013. (Copy of letter dated 4.5.2013 is attached as Annexure-F)
- 4. That on the basis of the application of the appellant, the SDEO (M) Abbottabad wrote an letter on 26.6.2013 to DEO M) Abbottabad for extension of appellant's deputation for two years for kind perusal and further necessary action and on the basis of that the Dy: DEO (M) Abbottabad wrote an letter on 2.7.2013 to SDEO(M) for submission of service book of the appellant on which the SDEO(M) submitted the photocopy of the service book of the appellant vide letter dated 22.7.2013. (Copies of letters 26.6.2013, 2.7.2013 and 22.7.2013 are attached as Annexure- G,H&I)
 - 5. That on the same issue the Dy: DEO (M) wrote a letter to Director E&SE on 3.8.2013 and on 2.9.2013 the SO (Primary) wrote a letter to Director Federal Directorate of Education Islamabad with request that NOC/consent of the Federal Directorate of Education Islamabad may kindly be conveyed to this E&SE Department for further processing the case. On the basis of which the Federal Directorate of Education requested for NOC for extension in deputation period for 2 years with effect from 12.11.2013 to 11.11.2015 to process the case further vide letter dated 11.12.2013. (Copies of letter 3.8.2013, 2.9.2013 and 11.12.2013 are attached as Annexure-J,K&L)



- 6. That on 15.8.2014, the Federal Directorate of Education wrote another letter to SO (Primary) Govt: of KPK E&SE Department for NOC extension in deputation period of the appellant and on the basis of which SO (primary) wrote letter on 3.3.2014 to Director E&SE Peshawar for request to furnish NOC/comments to his department for further processing the case and on that the Dy: Director (Estab) E&SE Edu: KPK Peshawar wrote a letter to DEO(M) Abbottabad on 25.3.2014 for further necessary act. The Dy: Director (Estab) E&SE Edu: KPK Peshawar also wrote a letter the SO (PE) Govt: of KPK, E&SE Edu: Department on 24.6.2014 for the same issue for further necessary action. (Copies of letter dated 15.8.2014, 3.3.2014, 25.3.2014 and 24.6.2014 are attached as Annexure-M,N,O&P)
 - 7. That the appellant also submitted many applications to the department for extension of his deputation for 2 years. (Copy of that applications are attached as Annexure- Q)
 - 8. That the Federal Directorate of Education repatriated the appellant to his parent department i.e E&SE Education Department Govt: of KPK, Peshawar vide order dated 9.12.2014. On the basis of which the appellant relived from Islamabad Model School and took charge in GPS Bostan Lora on dated 31.1.2015. (Copies of order dated 9.12.2014 and charge report dated 31.1.2015 are attached as Annexure R&S)
 - 9. That show cause notice was issued to the appellant in which it was mentioned that there is no need of holding a formal inquiry in the case along with the allegations however the appellant submitted his detail reply to the show cause notice in which he cleared all the situation and denied all the allegations leveled therein. (Copies of show cause notice and reply are attached as Annexure-T&U)
 - 10. That the major penalty of compulsory retirement was imposed upon the appellant along with the recovery of pay drawn during the period w.e.from 12.11.2013 to 31.1.2015 out of his emoluments/ pension/G.P fund vide order dated 11.12.2015 against which the appellant filed departmental appeal on 28.12.2015 which was not responded within the statutory period of ninety days. (Copies of order dated 11.12.2105 and departmental appeal area attached as Annexure-V&W)

The appellant come to this august tribunal on the following

AFFESTED



GROUNDS:

- A) That the impugned order dated 11.12.2015 and not taking action on the departmental appeal of the appellant within the statutory period are against the law, facts, norms of justice and material on record, therefore not tenable and liable to be set aside.
 - B) That the appellant has been condemned unheard and has not been treated according to law and rules.
 - C) That even no inquiry was not conducted against the appellant to dig out the real situation, rather the department did not bother to conduct inquiry and compulsorily retired the appellant in slipshod manner, which is against the law and law and rules.
 - D) That no charge sheet and statement of allegation was served to the appellant which is the violation of law and rules.
 - E) That in the show cause notice the main allegation is that the appellant's deputation was expired on 12.11 2013, but he failed to resume his duty after expiry of deputation period and remained absent from duty w.e.from 12.11.2013 to 30 01.2015, but in fact the appellant was not remained absent but he performed his duty in Islamabad Model school which is evident from the relieving receipt from the Islamabad Model school of the appellant. (Copy of relieving receipt is attached as Annexure-X)
 - F) That appellant applied for his extension of his deputation six month before of expiry of the deputation, but the federal Directorate of Education and KPK E&SE Education department took about 2 years in the correspondence for issuance of NOC on his application and waited for the decision of the concerned departments. Therefore the appellant did not commit any fault on his part but was punished for the fault of others.
 - That the appellant did not remain absent from his duty but he regularly perform his duty in Islamabad Model school till relieved by Federal Govt: and when he was repatriated, he immediately relieved from Islamabad Model school and took over charge in GPS Bostan

- (18)
- H) That the penalty of compulsory retirement from service is very harsh which is passed in violation of law and, therefore, the same is not sustainable in the eyes of law.
- That not responding on the departmental appeal of the appellant is the violation of the Supreme Court judgment reported 2011 SCMR-01.
- J) That no chance of personal hearing was provided to the appellant and as such he has been condemned unheard throughout.
- K) That the appellant seeks permission to advance others grounds and proofs at the time of hearing.

It is, therefore most humbly prayed that the appeal of the appellant may be accepted as prayed for.

APPELLANT

Adul Shakoot

THROUGH:

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EFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL. CAMP COURT ABBOTTABAD

Service Appeal No. 478/2016

Date of Institution... 21.04.2016

17:10.2017 Date of decision...

... (Appellant) Abdul Shakoor Ex-PST, GPS Banda Ghazan, Abbottabad.

<u>Versus</u>

The Secretary Education Khyber Pakhtunkhwa, Peshawar and 2 others. (Respondents)

SYED NOMAN ALI SHAH BUKHARI &

SARDAR M. AKMAL,

Advocates MR. MUHAMMAD BILAL

Deputy District Attorney

MR. NIAZ MUHAMMAD KHAN,

MR. MUHAMMAD AMIN KHAN KUNDI,

For appellant.

For respondents.

CHAIRMAN

MEMBER

JUDGMENT

NIAZ MUHAMMAD KHAN, CHAIRMAN: - Arguments of the learned counsel for the parties heard and record perused.

FACTS

- The appellant was compulsorily retired on 11.12.2015, against which he filed departmental appeal on 28.12.2015 which was not responded to and thereafter the present service appeal on 21.04.2016.
- The charge against the appellant was that he was sent on deputation to Federal 3. Government for a period of three years but he did not report to his parent department after the expiry of period of deputation.



ARGUMENTS

- The learned counsel for the appellant argued that the appellant was sent on deputation for three years but on the expiry of period of deputation, the appellant applied for extension of period of deputation and the borrowing department started correspondence with the lending department regarding extension of period of deputation. That he was finally repatriated by the borrowing department and he reported for duty to the parent department. That the appellant had been performing his duty in the borrowing department under the impression that his deputation period has been extended. That soon after his repatriation, the appellant reported to his parent department. That in similar situation, the august Supreme Court of Pakistan has ruled that the order of compulsory retirement was not justified under the law. In this regard, the learned counsel for the appellant relied upon judgments reported as 1990-SCMR-1170 and 1992-PLC(C.S) 782. The learned counsel for the appellant further argued that the impugned order is from back date and in view of judgment reported as 1985-SCMR-1178 such order is not only unlawful but void.
 - On the other hand, the learned Deputy District Attorney argued that in the very order of deputation it was specifically mentioned that the deputationist would report back to the parent department after expiry of the deputation period and that no further extension would be granted.

CONCLUSION.

The appellant admittedly was on deputation for 3 years. It is also an admitted position that there had been correspondence between the borrowing department and lending department about the extension of time of deputation. That the appellant had been serving in the borrowing department till his repatriation by the borrowing department. In

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view of the judgment referred to above such penalty is illegal and the retrospective effect of the order is also void and illegal.

7. As a sequel to the above discussion, this appeal is accepted, the impugned order is set aside and the appellant is reinstated in service. Parties are left to bear their own costs. File be consigned to the record room.

Certify have copy

Date of Delivery of Andrews An

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(8)04,2018

Petitioner in person and Mr. Usman Ghani. District
Attorney alongwith Syed Hajjad Hussain Shah, Litigation
Officer for the respondents present. The departmental representative submitted implementation report on behalf of respondent No 3 wherein instead of executing the order, the department had written that a CPLA has been filed before the august Supreme Court of Pakistan. But there is no suspenson or stay order granted by the august Supreme Court of Pakistan.

The department is directed to accept the charge assumption report of the petitioner from tomorrow. To come up for implementation report on 27.6.2018 before the S.B at camp court, Abbottabad.

Chairman Camp court, A/Abad

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Date of Presentation of Annual Control of Annual

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OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) ABBOTTABAD

REINSTATEMENT

In pursuance to Judgment of Honourable Khyber Pakhtunkhwa Service Tribunal Camp Court Abbottabad passed in Service Appeal No.478/2016 dated 17.10.2017 & order sheet dated 18.4.2018, Mr. Abdul Shakoor, Ex-PST GPS Banda Ghazan, Abbottabad is hereby reinstated in service and further posted at GPS Dannah (Lora) Havelian with immediate effect till the decision of CPLA filed before the August Supreme Court of Pakistan.

DISTRICT EDUCATION OFFICER (M)
ABBOTTABAD

Endst: No. ______/ PF Abdul Shakoor (Litig)
Copy forwarded to the:-

Dated $\frac{36/\epsilon}{2018}$

- 1. Registrar Honourable Khyber Pakhtunkhwa Service Tribunal Camp Court Abbottabad w/r to Judgment passed in Service Appeal No. 478/2016 dated 17.10.2017.
- 2. Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.
- 3. District Comptroller of Accounts Abbottabad
- 4. Sub Divisional Education Officer (Male) Abbottabad & Havelian.
- 5. Mr. Abdul Shakoor, Ex-PST GPS Banda Ghazan presently reinstated & posted at GPS Dannah (Lora) Havelian.

DISTRICT EDUCATION OFFICER (M)

NABBOTTABAD

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ANNEXURE

13/ Cile

من عبرالسكور 15 م عدا 27/06/2018 و عدا 27/06/2016 عبرالسكور 15 مر 1/06/2018 مر المرسل المرسل

جاری تریزه الشدر بی البید

Head Teacher (GPS) Dannah, Abbotabad

Lit Sub Distriction of Control of Charles of

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بخدمت جناب ڈائر بکٹر E&S ایجوکیشن ،KPK ، پیٹاور

عنوان: أبيل برائه اوائيكي تخواه از 31/01/2015 تا30/06/2018 اور پروموش BPS-12، BPS-15، BPS-14، جمله بقایا جات سمیت

جناب عالى!

مؤد بانہ گزارش ہے کہ سائل کی تقرری بحثیت PST محکمہ تعلیم ضلع ایبٹ آباد میں مورخہ 24/03/2000 کوگریڈ نے 07 میں ہوئی۔اس کے بعد سائل کی ترقی BPS-09 میں ہوگئی۔

ید کہ مورخہ 12/11/2010 کوسائل Deputation پر فیڈرل گورنمنٹ اسلام آباد چلا گیا اور مورخہ 31/01/2015 کوواپس اینے

یہ کہ مور ند 11/12/2015 کوسائل کو DEO (مردانہ) ضلع ایب آباد نے ملازمت سے برخاست کردیا گیا اور سائل نے کہ مور ند 11/12/2015 کوسائل نے ملازمت نے ملازمت برخانگی آرڈر کے خلاف آپ کے پاس محکماندا پیل کی جو کہ مستر دکردی گئی۔اس کے بعد سائل نے ملازمت برخانگی کے فیصلہ کوسروس ٹریونل نے مور ند 17/10/2017 کوسائل کی اپیل منظور کرتے ہوئے سائل کو ملازمت پر بحال کرنے کا تھم دیا۔

یہ کہ مور ند 26/06/2018 کو DEO (مردانہ) ضلع ایبٹ آباد نے سائل کو Conditionally ملازمت پر بحال کر دیا گرآ رڈر میں سائل کے بقایا جات اور Due پروموثن جاری کرنے کے احکامات صادر نہیں گئے۔

ا۔ یہ کہ مور خد 31/01/2015 تا مور خد 30/06/2018 تک سائل کی تخواہ کی ادائیگی نہیں ہوئی ہے۔

1۔ یہ کہ گورنمنٹ آف خیبر پختونخوا کے نوٹیفکیشنز کے مطابق سائل کی ترتی BPS-12 سے BPS-12اور BPS-14اور BPS-15مین نہیں ہوئی ہے۔

لہذا استدعا ہے کہ سائل کو جملہ تخواہوں کی ادائیگی اور پروموثن جملہ بقایا جات سمیت جاری کرنے کے احکامات صادر فرمائے جائیں۔

الرقوم:25/0**9**/2018

العارض

عبدالشكور (PST) گۈرنمنٹ پرائمرى سكول دناه، سركل لوره، ايب آباد

رابط نمبر: 0344-8941787

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AMNEXURE

OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) ABBOTTABAD

No. //457 /F.No.24/Vol-I

Dated 5/10 /2018

Mr. Abdul Shakoor, PST GPS Dannah Lora

Subject:

APPLICATION FOR PAY

Memo:

I am directed to refer to your application dated 22.9.2018 and to state that the case is subjudiced in the August Supreme Court of Pakistan and all be entertained after

the decision of CPLA.

DY: DISTRICT EDU: OFFICER (M)

/ABBOTTABAD

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