

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR
AT CAMP COURT, SWAT.

Service Appeal No.1451/2018

Date of Institution ... 03.12.2018
Date of Decision ... 04.10.2021

Karim Khan son of Shah Khail Resident of Chungai, Shamozaï,
Tehsil Barikot, District Swat.

... (Appellant)

VERSUS

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

... (Respondents)

Arshad Khan,
Advocate

... For appellant.

Asif Masood Ali Shah,
Deputy District Attorney

... For respondents.

Rozina Rehman
Atiq ur Rehman Wazir

... Member (J)
... MEMBER (E)

JUDGMENT

Rozina Rehman, Member (J): Briefly stating the facts necessary for the disposal of the lis in hand are that appellant was a regular employee of the Education Department. He was proceeded against departmentally on the charges of dual duties but was exonerated of the charges. Despite inquiry report, neither his salary was released nor adjustment order related to the posting of appellant was acted upon, he, therefore, filed writ petition in the august Peshawar High Court, Peshawar but he was advised to approach Service Tribunal. In the meanwhile, Show cause notice was issued to the appellant and

major penalty of removal from service was imposed upon appellant. He preferred departmental appeal which was not responded to, hence, the present service appeal.

2. We have heard Arshad Khan Advocate for appellant and Asif Masood Ali Shah learned Deputy District Attorney for the respondents and have gone through the record and the proceedings of the case in minute particulars.

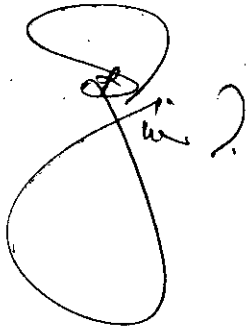
3. Arshad Khan Advocate learned counsel appearing on behalf of appellant, inter-alia, argued that show cause notice and the impugned order has been passed in violation of the decision rendered by the upper hierarchy and that frequent transfer posting of the appellant violated the rights of appellant. He contended that case of the appellant was decided in a mechanical manner without diverting to the facts of the case and that the appellant was subjected to administrative persecution.

4. Conversely, learned D.D.A submitted that the appellant remained absent from duty on the dates of the visits of the officers as well as during the entire period between 01.03.2017 to 15.12.2017. He contended that the appellant never performed duty at his duty station since 14.11.2017 and as per complaints of the S.D.E.O Barikot Swat, appellant remained absent from duty time & again as he was working abroad and lastly, he submitted that show cause notice was served upon the appellant and after observing codal formalities, he was removed from service.

5. From the record, it is evident that appellant filed writ petition in the august Peshawar High Court, Peshawar and he prayed for



issuance of directions to the Department to release his salary since August, 2017 and to make his adjustment at G.P.S Zarkhela. As the writ petition was not maintainable, therefore, was dismissed and appellant approached Service Tribunal by filing appeal U/S 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the respondents, whereby, his salary was held since August, 2017 and regarding issuance of his premature and illegal transfer posting from one station to another. It merits to mention here that the said service appeal was adjourned sine die. The order which is impugned before this bench in the instant service appeal was passed on 31.07.2008, whereby, major penalty of removal from service was imposed upon appellant. From the impugned order, it is evident that the proceedings were initiated against the appellant under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011. Admittedly, no charge sheet and statement of allegations were served upon appellant and no proper inquiry was conducted into the matter. The appellant was not given any opportunity of production of defense. Similarly, no witness was examined in his presence. The respondents have placed on file traveling history of the appellant but he was never confronted with these documents as no regular inquiry was conducted. It is also on record that initially an inquiry was conducted before passing of the impugned order which report was submitted by the Inquiry Officer Assistant Director (G) Directorate of Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar on 25.01.2018, whereby, the allegations leveled by the S.D.E.O against the present appellant were declared baseless and it was recommended that the S.D.E.O may be reverted to his original post of Subject Specialist. It was also recommended that salary of the



appellant may be released with all back benefits and he may be adjusted at his original duty station. From the record, it is evident that no proper inquiry was conducted in respect of the allegations mentioned in the show cause notice. Travelling history coupled with other material available on file were not provided to the appellant. The respondents have candidly violated the set norms & rules and conducted the proceedings in an authoritarian manner. We have observed that the appellant was kept deprived of affording opportunity of defense. It is a well settled legal proposition duly supported by numerous judgment of the apex court that for imposition of major penalty, regular inquiry is a must.

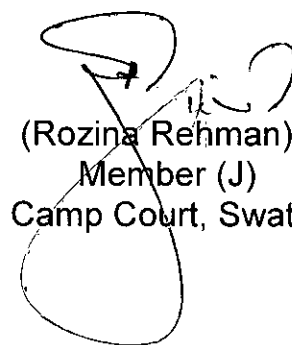
6. For what has been discussed above, this appeal is allowed. The respondents are directed to reinstate the appellant into service for the purpose of de-novo inquiry to be conducted within 90 days of the receipt of this judgment. Needless to mention that the appellant shall be provided proper opportunity of defense during the inquiry proceedings. The issue of back benefits shall be subject to final outcome of the de-novo inquiry. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED.

04.10.2021



(Atiq ur Rehman Wazir)
Member (E)
Camp Court, Swat



(Rozina Rehman)
Member (J)
Camp Court, Swat

Order

04.10.2021

Appellant present through counsel.

Asif Masood Ali Shah learned Deputy District Attorney alongwith Hussain Ali Litigation Assistant for respondents present. Arguments heard and record perused.


Vide our judgment of today of this Tribunal placed on file, this appeal is allowed. The respondents are directed to reinstate the appellant into service for the purpose of de-novo inquiry to be conducted within 90 days of the receipt of this judgment. Needless to mention that the appellant shall be provided proper opportunity of defense during the inquiry proceedings. The issue of back benefits shall be subject to final outcome of the de-novo inquiry. Parties are left to bear their own costs. File be consigned to the record room.

Announced.

04.10.2021



(Atiq Ur Rehman Wazir)
Member (E)
Camp Court, Swat



(Rozina Rehman)
Member (J)
Camp Court, Swat

5.01.2021

Due to COVID 19, the case is adjourned to
2 .03.2021 for the same as before.

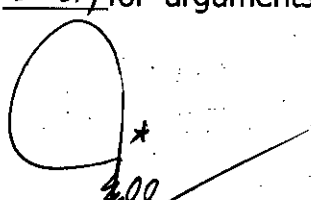

Reader

02.03.2021

Nemo for appellant.

Noor Zaman Khan Khattak learned District Attorney
alongwith Hussain Ali Litigation Officer for respondents
present.

Preceding date was adjourned on a Reader's note while
today, lawyers community is on strike, therefore, case is
adjourned, however, appellant/counsel be put on notice for
3/5/2021 for arguments before D.B at Camp Court,
Swat.


(Mian Muhammad)
Member (E)
Camp Court, Swat


(Rozina Rehman)
Member (J)
Camp Court, Swat

Due to COVID-19 therefore to
come up for the same on ⁰⁴~~04~~/10/21.

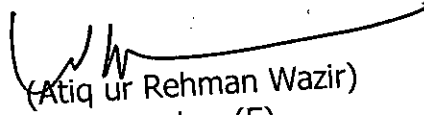

Reader


03.11.2020

Attorney of appellant on behalf of appellant present.

Learned Assistant Advocate General alongwith Bakht
Rehman Headmaster for respondents present.

Lawyers are on general strike, therefore, case is
adjourned to 05.01.2021 for arguments, before D.B at Camp
Court, Swat.


(Atiq ur Rehman Wazir)
Member (E)
Camp Court, Swat



(Rozina Rehman)
Member (J)
Camp Court, Swat

08.09.2020

Appellant with counsel present.

Mr. Muhammad Jan learned Deputy District Attorney for respondents present.

Partial arguments heard. To come up for remaining arguments on 09.09.2020 before D.B at Camp Court, Swat.



(Attiq ur Rehman)
Member (E)
Camp Court, Swat



(Rozina Rehman)
Member (J)
Camp Court, Swat

09.09.2020

Appellant present in person.

Mr. Muhammad Jan learned Deputy District Attorney for respondents present.


Admittedly, another service appeal of the appellant was pending and the same has been adjourned sine-die. During arguments it came to surface that decision in the instant service appeal would affect the merits of other appeal which has been adjourned sine-die. As such, that file be made available before date in order to reach at a correct conclusion. To come up for arguments on 03.11.2020 before D.B at Camp Court, Swat.



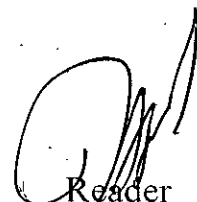
(Attiq ur Rehman)
Member (E)
Camp Court, Swat



(Rozina Rehman)
Member (J)
Camp Court, Swat

Due to cottona vixous
tour to camp court swat
has been cancelled. To
come up the same on
02/06/2020

Reader

02.06.2020 Due to Covid-19, the case is adjourned. To come up for the
same on 07.07.2020, at camp court Swat.


Reader

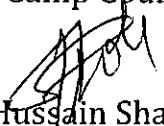
06.07.2020 Bench is incomplete. Therefore, the case is adjourned.
To come up for the same on 08.09.2020, at camp court
Swat.

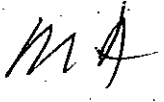

Reader

Service Appeal No. 1451/2018

08.01.2020

Shoukat Ali, Attorney for the appellant and Mr. Riaz Ahmad Paindakheil, Assistant AG alongwith Mr. Hussain Ali, Litigation Officer for the respondents present. Attorney for the appellant requested for adjournment on the ground that learned counsel for the appellant is not available today due to general strike of Khyber Pakhtunkhwa Bar Council. Adjourned to 03.03.2020 for rejoinder, if any, and arguments before D.B at Camp Court Swat.


(Hussain Shah)
Member
Camp Court Swat



(M. Amin Khan Kundi)
Member
Camp Court Swat

03.03.2020

Appellant absent. Attorney of the appellant alongwith learned counsel for the appellant present. Mr. Riaz Paindakheil learned Assistant Advocate General alongwith Hussain Ali Litigation Officer for the respondents present.

Learned AAG referred to the Travel History of the appellant available on file.


Learned counsel for the appellant stated that the appellant is present in country at Karachi and seeks adjournment to produce him before this Tribunal. Adjourn. To come up for further proceedings/arguments on 07.04.2020 before D.B


Member


Member
Camp Court, Swat.


11.06.2019

Appellant in person present. Written reply not submitted. Hussain Ali Litigation Officer representative of the respondent department present and seeks time to furnish written reply/comments. Granted. To come up for written reply/comments on 02.09.2019 before S.B at Camp Court, Swat.


Member
Camp Court, Swat.


02.09.2019


Learned counsel for the appellant and Mr. Mian Amir Qadir learned Deputy District Attorney alongwith Hussain Ali Litigation Officer present and submitted written reply/comments. Adjourn. To come up for rejoinder if any and arguments on 04.11.2019 before D.B at Camp Court, Swat.


Member
Camp Court, Swat.

04.11.2019

Clerk of counsel for the appellant and Mr. Riaz Ahmad Paindakheil, Assistant AG alongwith Mr. Hussain Ali, Litigation Officer for the respondents present. Clerk of counsel for the appellant submitted application for adjournment on the ground that daughter of learned counsel for the appellant is ill. Application is placed on record. Case to come up for rejoinder if any and arguments on 08.01.2020 at Camp Court Swat.


(Hussain Shah)
Member
Camp Court Swat


(M. Amin Khan Kundi)
Member
Camp Court Swat


1451/2018

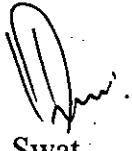
07.03.2019

Counsel for the appellant present.

Contends, inter-alia, that the appellant was imposed upon major penalty of removal from service through notification dated 31.07.2018 on the ground of absence from duty. The appellant duly replied the show cause notice but his reply was not considered satisfactory, however, no proper enquiry was conducted in the matter. In a case where major penalty, that too, of removal from service, is awarded to a civil servant the departmental proceedings by way of a regular enquiry become all the more necessary, it was added. The competent authority did not opt to dispense with such enquiry through a specific order in that regard.

In view of the above, instant appeal is admitted for regular hearing. 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 04.04.2019 before S.B at camp court Swat.


Appellant Deposited
Security & Process Fee


Chairman
Camp Court, Swat

04.04.2019

Clerk to counsel for the appellant present. Written reply not submitted. No one present on behalf of respondent department. Notice be issued to the respondent department with direction to furnish written reply/comments. Adjourn, To come up for written reply/comments on 11.06.2019 before S.B at Camp Court, Swat.


Member
Camp Court, Swat

07.03.2019

Counsel for the appellant present.

Contends, inter-alia, that the appellant was imposed upon major penalty of removal from service through notification dated 31.07.2018 on the ground of absence from duty. The appellant duly replied the show cause notice but his reply was not considered satisfactory, however, no proper enquiry was conducted in the matter. In a case where major penalty, that too, of removal from service, is awarded to a civil servant the departmental proceedings by way of a regular enquiry become all the more necessary, it was added. The competent authority did not opt to dispense with such enquiry through a ^{specific} ~~separate~~ order in that ~~in that~~ regard.

In view of the above, instant appeal is admitted for regular hearing. 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 04.04.2019 before S.B at camp court Swat.




Chairman
Camp Court, Swat

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Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 1451/2018

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	03/12/2018	<p>The appeal of Mr. Karim Khan presented today by Mr. Arshad Khan Advocate 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</p>
2-	12-12-18	<p>This case is entrusted to touring S. Bench at Swat for preliminary hearing to be put up there on <u>06 02 2019</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
	06.02.2019	<p>Appellant still absent. Shoukat Ali relative of the appellant present on behalf of appellant. Lawyers community is on strike. Therefore, the case is adjourned. To come up for preliminary hearing on 07.03.2019 before S.B at camp Court Swat.</p> <p style="text-align: right;"> Member Camp Court Swat.</p>

**BEFORE THE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA AT PESHAWAR**

Service Appeal No 1451 of 2018

Karim Khan (Appellant)

VERSUS

Govt. of KPK through Secretary & others (Respondents)


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5.	Copies of writ petition & judgment dated 21-03-2018	B	17-30
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13	Wakalatnama	****	

Appellant

Karim
Karim Khan

Through Counsel


ARSHAD KHAN
Advocate, High Court

Office: Opposite Grassy
Ground Saidu Sharif, Swat
Cell No: 0300-5985653

**BEFORE THE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA AT PESHAWAR**

Service Appeal No 1451 of 2018

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 1719

Dated 03/12/2018

Karim Khan son of Shah Khail

Resident of Chungai, Shamoza, Tehsil Barikot,

District Swat

.....Appellant

VERSUS

1. Govt. of KPK through Secretary Elementary & Secondary Education Khyber Pakhtunkhwa at Peshawar.
2. Director Elementary & Secondary Education Khyber Pakhtunkhwa at Peshawar.
3. District Education Officer (M) District Swat.

.....Respondents

SERVICE APPEAL UNDER SECTION 4,
OF THE KPK SERVICE TRIBUNAL ACT,
1974, AGAINST THE impugned order
dated 31-07-2018, whereby the major
penalty of "Removal from Service" has
been imposed upon the appellant.

Filed to-day

Registrar

3/12/18

PRAYER IN APPEAL

On acceptance of this appeal, the
impugned order dated 31-07-2018
passed by respondent may kindly be set-

aside and the appellant may kindly be reinstated with all back benefits. Any other remedy not specifically asked for in the appeal and the appellant is entitled, therefore may kindly be granted.

Respectfully Sheweth,

The facts of the instant case are as under:-

- 1) That the appellant is a regular employee of the Education Department currently posted at GPS Zarakhela, Tehsil Barikot, District Swat.
- 2) That frequent transfer posting of the appellant was agitated before the respondent No.2.
- 3) That in the meanwhile departmental proceedings also been initiated on the charges of dual duties, the inquiry report was submitted, wherein the appellant has been exonerated of the charges leveled, and it was held in the aforesaid inquiry report that the allegation of complainant are based on malevolent intentions, hence the recommendation for punitive action against the complainant / official was also suggested. (Copy of inquiry report dated 07-02-2018 is attached as annexure "A")

- 4) That it is depressing, to mention that despite of the aforementioned inquiry report neither the salary of the appellant has been released nor the adjustment order related to posting of the appellant has been acted upon, and a service book of the Appellant has also not been recovered, and the complainant still working as SDEO Barikot, Swat despite of clear recommendation by the inquiry officer.
- 5) That after the result of the inquiry in favour of the appellant, the respondent No. 3 did not implement the recommendation of the inquiry report, therefore, the appellant went to the Honorable Peshawar High Court for redressal of his grievances. But the Honorable Court held that the relief sought in the writ petition pertains to the "terms & condition" of service, hence having no jurisdiction to entertain the same and held to approach this Honorable Tribunal. (Copies of writ petition & judgment dated 21-03-2018 are attached "B")

So, the appellant approached the Tribunal, and the appeal is pending for adjudication. (Copies of service appeal is attached as annexure "C")

- 6) That the respondent No. 3 again issued show cause notice to the appellant, related to the issue already decided by the upper hierarchy. (Copy of show cause notice is attached as annexure "D")

- 7) That the appellant filed written reply to the allegations leveled. (Copy of reply is attached as annexure "E")
- 8) That the respondent No. 3 imposed a major penalty upon the appellant. (Copy of impugned order dated 30-07-2018 is attached as annexure "F")
- 9) That the appellant preferred departmental appeal against the impugned order and is still pending for adjudication, hence filed the instant appeal. (Copy of appeal is attached as annexure "G")
- 10) That to the utter surprise of the appellant, another show cause notice been issued to the appellant on 15-10-2018. (Copy of notice is attached as annexure "H")
- 11) That the appellant have no other proper remedy, except to file the appeal this Honorable Tribunal Court, on the following grounds..

GROUNDS:-

- A) That the action of respondent No. 1 is unlawful, against the law, arbitrary and against the norms of justice.
- B) That the show cause notice and the impugned order has been passed in violation of the decision rendered by the upper hierarchy i.e.,

respondent No. 2, hence, not sustainable in the eyes of law.


- C) That frequent transfer posting of the petitioner has violated statutory right of the petitioner.
- D) That the respondent No. 3 has decided the case of the appellant in mechanical manner without adverting to the facts of the case, hence, liable to be set aside.
- E) That impugned order is devoid of any merit, and has been issued with sheer abuse of power on the part of the respondent No. 3, which need interference of this honorable tribunal in safeguarding the fundamental right of the appellant.
- F) That the whole proceedings has been conducted in violation of due process, hence, not sustainable.
- G) That the appellant has been subjected to administrative persecution out of mala-fide and ill will, which is evident from the fact that a subsequent show cause notice has been issued to the appellant after removal of service vide impugned order.

- i) That further grounds, with leave of this Honorable Court, would be raised at the time of arguments before this Honorable Court.

PRAYER

It is therefore humbly prayed that on acceptance of this appeal, the impugned order dated 31-07-2018 passed by respondent may kindly be set-aside and the appellant may kindly be reinstated with all back benefits. Any other remedy not specifically asked for in the appeal and the appellant is entitled, therefore may kindly be granted.

Appellant


Karim Khan

Through Counsel


ARSHAD KHAN
Advocate, High Court

CERTIFICATE:

No such like appeal earlier has been filed by the Appellant on the subject matter before this Honorable Court.


Appellant

Karim Khan

**BEFORE THE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA AT PESHAWAR**

Service Appeal No _____ of 2018

Karim Khan (Appellant)

VERSUS

Govt. of KPK through Secretary Education Department & others

..... (Respondents)

ADDRESSES OF THE PARTIES


APPELLANT

Karim Khan son of Shah Khail Resident of Chungai, Shamoza, Tehsil Barikot, District Swat

Respondents

1. Govt. of KPK through Secretary Elementary & Secondary Education Khyber Pakhtunkhwa at Peshawar.
2. Director Elementary & Secondary Education Khyber Pakhtunkhwa at Peshawar.
3. District Education Officer (M) District Swat.
4. Abdul Mastan SDEO (M) Tehsil Barikot, District Swat.

Appellant


Karim Khan

Through Counsel


ARSHAD KHAN
Advocate, High Court

**BEFORE THE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA AT PESHAWAR**

Service Appeal No _____ of 2018

Karim Khan (Appellant)

VERSUS

Govt. of KPK through Secretary Education Department & others
..... (Respondents)

AFFIDAVIT

I, Karim Khan son of Shah Khail Resident of Chungai,
Shamozai, Tehsil Barikot, District Swat, do hereby solemnly
affirm and declare on oath that the contents of the above titled
appeal is true and correct to the best of my knowledge and
belief.



DEPONENT

Identified by

Arshad Khan
Advocate High Court

Annex "A"

(9)

SUBJECT: ENQUIRY REPORT

Introduction:

The undersigned has been nominated as enquiry officer vide Directorate of Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar Notification Lndst: No: 6375-77 dated 27/12/2017 to hunt out the facts in the light of the request of District Education Officer (M) Swat letter No.5582 dated 28-11-2017 which is self-explanatory (F/A).

Case History:

A letter was submitted by District Education Officer (M) Swat wherein, it was mentioned that an enquiry committee constituted consisting upon Mr. Zulfiqar ul Malk Dy. DEO (M) Swat as Chairman & Mr. Mohsin ADEO (Establishment Secondary) as member to enquire the matter regarding complaint against Mr. Abdul Mastaan SDEO (M) Barikot and Karim Khan SPST for his long absence/dual duties etc.

Meanwhile, the alleged Mr. Abdul Mastaan SDEO (M) Barikot submitted an application requesting that he is not satisfied with enquiry committee and demanded for conduction an impartial enquiry regarding the subject issue

It is further mentioned in there, that a complaint was submitted by Mr. Karim Khan SPST regarding personal grudges with the earlier mentioned SDEO and he was complaining that his missing service book may kindly be recovered and his salary be released.

Procedure:

In compliance with the notification of the Directorate of E&SE and to find out the factual position of the case the undersigned proceeded as follows:

Checking of record:

All the available record has been thoroughly checked and enclosed herewith wherever necessary for further proceedings (F/B).

Statement/opinion of the Ex-Enquiry Officers:

For a crystal clear findings the undersigned met with the Ex-enquiry committee to record their opinion regarding the case and proceed further on the track (F/C).

Statement of the alleged SDEO:

A structured questionnaire was served to Mr. Abdul Mastaan the alleged SDEO and record his reply (F/D).

Statement of the Mr. Karim Khan SPST:

To justify the case, a similar natured questionnaire was also served to the teacher concerned for recording his reservations (F/E).

Findings:

Following findings drawn after conducting enquiry:

1416
29/1/18

C.T.C
Jad

BA
28/01/18

18

20

- 1) According to available record and evidence, the allegation labeled by Mr. Abdul Mustaan SDEO against Mr. Karim Khan were baseless as they were not supported with any documentary proof.
- 2) Mr. Abdul Mustaan failed to provide any evidence which shows Mr. Karim Khan has ever been abroad.
- 3) Charges of dual duty of Mr. Karim Khan could not be proved.
- 4) Charges framed against the said teacher shows malevolent intentions.
- 5) Cancellation of sanctioned leave without pay of 275 days before availing completely and thrice adjustments of the teacher concern during a month shows personal dislikes.
- 6) The teacher concerned proved a regular official through documental proof yet again his salary was not released up till now.

Conclusion:

After following the procedural sequence mentioned above, snooping into the matter through documentary evidences the under signed came to the conclusion that:

1. Charges labeled against Mr. Karim Khan SPST were not proved.
2. The above findings reflected that there were personal grudges between SDEO concerned and Mr. Karim Khan SPST.

Recommendations:

Keeping all the facts in view, it is recommended that:

1. Since Mr. Abdul Mustaan SDEO (M) Barikot failed to prove any charge labeled against Mr. Karim Khan SPST hence, he may be reverted to his original post of Subject Specialist and may never be appointed on any managerial post in future.
2. The salary of Mr. Karim Khan SPST may be released with immediate effect along with all benefits.
3. The teacher concern may be adjusted at his original duty station.
4. The teacher concern may be kept under strict observations on his duty place in future.

Enquiry Officer

Assistant Director (G)

Directorate of Elementary & Secondary Education
Khyber Pakhtunkhwa, Peshawar

C-T-6
Prof.



OFFICE OF THE DISTRICT EDUCATION
OFFICER (M) SWAT
(9240228-9240209)

OFFICE ORDER.

Consequent upon the cancellation of leave vide this office order issued under Endst:No.10835-40/P.F/66/Karim Khan/SPST dated 19.07.2017 already sanctioned vide this office Endst:No.4643-45 dated 04.02.2017 w.e.f 01.03.017 to 15.12.2017 in respect of Mr.Karim Khan SPST GPS Dedawar, The above named teacher is hereby adjusted at school GPS Dedawar w.e.f 03.08.2017 in the interest of public service.

Necessary entry to this effect should be made in his original service book accordingly.

(Mohammad Amin)
DISTRICT EDUCATION OFFICER (M)
SWAT

Endst:No:1353-55/PF/66/Karim Khan/SPST/DEO/M.

Dated 11/9/2017

Copy forwarded to:

- 1- The District comptrollers of Account Swat at Saidu Sharif.
- 2- The Sub Divisional Education Officer (M) Barikot Swat w/r to his No.311 dated 27/09/2017.
- 3- P.A to District Education Officer (M) Swat the local office.
- 4- The teacher concerned.


DISTRICT EDUCATION OFFICER (M)
SWAT

C.T.C
and

Charge Report

(17)

(18)

Certified that Mr. Karim Khan SPST
Govt. Primary School Dedawar took
over charge at Govt Primary School
Dedawar at afternoon of this day.

Date 03/08/2017.

Karim Khan
SPST GPS Dedawar.

Muhammad
Head Master,
Govt. Primary School
Dedawar, Swat
HEAD MASTER
GPS DEDAWAR

C.T.C
[Signature]

13

Arrival Report

2

Certified that Mr. Karim Khan SPST
 GPS Dedawar arrived at afternoon of
 this day, Date: 03/08/2017. He was on leave
 w.e.f 01/03/2017 to 15/12/2017 vide letter No. —
4643-45 Dated: 04/02/2017. The said leave was
 cancelled by the same office Endst. NO: 10835.
 He availed only Five months of his Ten
 Months Leave and he obeyed the order of
 the office and he arrived at GPS Dedawar
 on the date mentioned above.

Karim Khan
03/08/2017
 Karim Khan SPST
 GPS Dedawar.

[Signature]
 Headmaster, Govt. Primary School
 Dedawar, Swat

[Signature]
 Headmaster,
 Govt. Primary School
 Dedawar, Swat
 HEAD MASTER
 GPS DEDAWAR.

C.T. V
 P.H.

14

Annex "F"

(Signature)



OFFICE OF THE
DISTRICT EDUCATION OFFICER
(MALE) SWAT

CORRIGENDM.

Please read Zarakhela instead of GPS Dadawar in the adjustment order of Karim Khan SPST issued vide this office order under Endst:1353-55/P.F/66/Karim Khan dated 11/09/2017 in the interest of public service.

(MOHAMMAD AMIN)
DISTRICT EDUCATION OFFICER
MALE SWAT

Dated 9/10/2017

Endst: NO. 2811-13

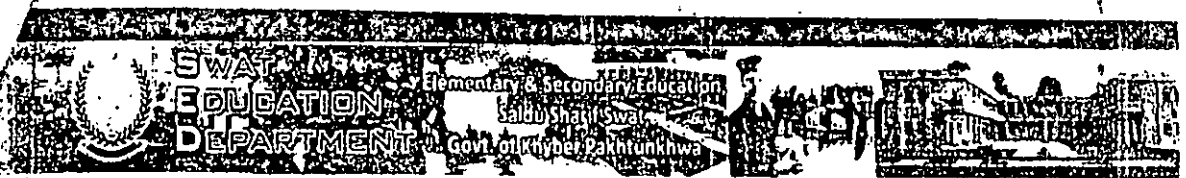
Copy forwarded to :-

1. District Comptroller of Accounts Swat.
2. The SDEO (M) Circle Barikot Swat.
3. Teachers concerned.
4. PA to DEO Swat

(Signature)
DISTRICT EDUCATION OFFICER
MALE SWAT

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P.A.

~~Amir~~ 15 22 17/1



CHARGE REPORT

I certify that Mr./ Miss. KARIM KHAN Son/daughter of SHAH KHAIL
CHUNGAI is hereby ^{Transferred} appointed against the post of SPST
School based in BPS: 14 at (School Name) GPS ZARAKHELA
The District Education Officer Endstt No: 2811-13 Dated 09-10-2017

10-10-2017

Karim
Signature of the Official
Swat, KP Pakistan

FOR HEAD OF THE SCHOOL ONLY

I certify that we have on the (fore/afternoon) FORE of this day (date) 10-10-2017
I have and gave a charge of post SPST in above mentioned school to this charge report holder,
I have received his/her require documents file for school record.

Z-Shah
Head Master,
Govt. Primary School,
Zarakhela. Distt: Swat.

Seal & Signature
Head of the School

Copy of the above is forwarded to:
Head of the concern school.
ASDEO Circle Office
The Sub Divisional Education Officer (SDEO) Swat.
District Education Officer (DEO) Office Swat.
To concern for his/her Record.

C.T.C
prof

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OFFICE OF THE
DISTRICT EDUCATION OFFICER
(MALE) SWAT

ENDM

Please read Barcham Rangila instead of GPS Dedawar in the adjustment order of Mr. Kamal Khan issued vide No.1353-55 11/09/2017. and this office agendum order issued vide No:28.11-13 dated 9.10.2017 is hereby cancelled in the interest of public service.

Note:-All terms and conditions will remain the same

(MOHAMMAD AMIN)
DISTRICT EDUCATION OFFICER
MALE SWAT

Dated 16/10/2017

Endst: NO. 3162-63 /

Copy forwarded to :-

- 1. District Comptroller of Accounts Swat.
- 2. The SDEO (M) Circle Barikot Swat.
- 3. Teachers concerned.
- 4. PA to DEO Swat

DISTRICT EDUCATION OFFICER
MALE SWAT

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Handwritten: Attached is the true copy of the original

Sub Divnl: Edu: Officer (M)
Tehsil Barikot District Swat

~~Annex "A"~~ (17) (28)
Annex "B"

Page

**BEFORE THE PESHAWAR HIGH COURT MINGORA BENCH (DARUL QAZA) AT SWAT.
OPENING SHEET FOR WRIT PETITION**

Case No. _____
Date of Filing: 10/2/2018
District: Swat

Case type: Writ Petition		Nature of Original Proceedings: Initial				
Original Order		Review/Appellate/Revision			Order	
Forum	Date	S. No.	Forum	Date	Interlocutory	Bench
Nil	Nil	Nil	Nil	Nil	Final Order	O. Single Bench O. Divisional Bench O. Full Court

- Petitioner(s)*: Karim Khan son of Shah Khail Resident of Chungai, Shamoza, Tehsil Barikot, District Swat
Cell No: 0346-2409677 CNIC No: 15607-1553077-1
- Petitioner (s) Counsel*: Arshad Khan Advocate, High Court
Office: Opposite Grassy Ground Saidu Sharif, Swat
Cell No: 0300-5985653 CNIC No: ~~15607-0476686-5~~
- Respondent (s) *: Govt. of KP through Secretary & others
Mobile No. Nil CNIC: Nil
Address: as mentioned in the heading of writ petition

<p>Original Order / Action / Inaction Complained of: Against the action / inaction of respondents</p> <p>Prayer (in brief): On acceptance of this writ petition, to issue directions to the respondent department.</p> <p>i. To release the salary of petitioner since august 2017 till date.</p> <p>ii. To issue directions to the respondent No. 3 to make adjustment of the petitioner at GPS School Zara Khela.</p> <p>iii. To handover the service book illegally retained by the respondent No. 3. Any other relief which this Honorable Court deems fit and proper in the circumstances may also be very kindly granted.</p> <p>Law/Articles governing the original proceedings/Action/Inaction: Writ petition under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973.</p>
--

Signature of Petitioner or Counsel

[Handwritten Signature]

Dated: 19-2-2018

[Handwritten initials]

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**BEFORE THE PESHAWAR HIGH COURT MINGORA
BENCH (DARUL QAZA) AT SWAT**

W.P No _____ M of 2018

Karim Khan son of Shah Khail

Resident of Chungai, Shamoza, Tehsil Barikot,

District Swat

.....Petitioner

VERSUS

1. Govt. of KPK through Secretary Elementary & Secondary Education Khyber Pakhtunkhwa at Peshawar.
2. Director Elementary & Secondary Education Khyber Pakhtunkhwa at Peshawar.
3. District Education Officer (M) District Swat.
4. Abdul Mastan SDEO (M) Tehsil Barikot, District Swat.

.....Respondents

**WRIT PETITION UNDER ARTICLE 199 OF
THE CONSTITUTION OF ISLAMIC
REPUBLIC OF PAKISTAN, 1973.**

Respectfully Sheweth,

The facts of the instant case are as under:-

- 1) That the petitioner is a regular employee of the Education Department currently posted at GPS Dedawar, Tehsil Barikot, District Swat.

(2)

(19)

- 2) That the petitioner applied for the grant of leave which was granted to the petitioner for the period of 01-03-2017 to 15-12-2017 under the relevant rules. (Copy of order dated 04-02-2017 is attached as annexure "A")
- 3) That the petitioner went on leave, in the meanwhile the respondent No. 4 with mala-fide intention and out of personal grudges made a complaint against the petitioner, consequently the respondent No. 3 cancelled the leave granted to the petitioner vide office order dated 19-07-2017. (Copy of office order dated 19-07-2017 is attached as annexure "B")
- 4) That upon the cancellation of the leave the petitioner had reported back, in compliance of the office order issued by the respondent No. 3 and assumed his duty at GPS Dedawar on 03-08-2017. (Copies of office order dated 11-09-2017, arrival report & charge report are attached as annexure "C")
- 5) That the petitioner till date is performing his duties, but the salary of the petitioner has not been released by the respondent department, hence the petitioner filed written request to the respondent No. 3 to the effect to make adjustment of the petitioner so as to release the salary of the petitioner. (Copy of application is attached as annexure "D")

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P.H.

(31)

(20)

- 6) That in meanwhile the centre incharge / respondent No. 5 collected service book of all teachers of Illaqa Shamozaï for allocation of annual increment of the year 2016, including the petitioner. Later on, the petitioner needed his service book for necessary entries in DAO office, therefore, the petitioner approached the respondent No. 4 office for collection of service book, respondent No. 4 out of personal grudges with the petitioner withheld the original service book, and said that the same has been lost in his office. The petitioner again made an application to the respondent No. 3 for handing over the original service book, but of no avail. (Copy of the application is attached as annexure "E")
- 7) That after bringing into notice the aforementioned harassment at the hands of respondent No. 4, the petitioner had been further humiliated by making another premature and illegal transferred of the petitioner from GPS Dedawar to GPS Zara Khela vide corrigendum dated 09-10-2017. (Copy of corrigendum dated 09-10-2017 is attached as annexure "F")
- 8) That despite of usurping the statutory right of the petitioner, the petitioner assumed duty at GPS Zara Khela on 10-10-2017. (Copy of charge report is attached as annexure "G")
- 9) That the wrath of the respondent No. 4 does not end here, and after one week another corrigendum issued by the

C.T.C
Prof.

respondent No. 3 vide which again the adjustment order of the petitioner was placed at GPS Bar Cham, Rangila on dated 16-10-2017. (Copy of corrigendum is attached as annexure "H")

10) That the petitioner agitated the maltreatment, harassment and humiliation by filing written application before the respondents No. 2 & 3, but the same was not been responded. (Copies of applications dated 19-10-2017 & 21-11-2017 are attached as annexure "I")

11) That in the meanwhile departmental proceedings also been initiated on the charges of dual duties, the inquiry report was submitted, wherein the petitioner has been exonerated of the charges leveled upon the complaint of respondent No. 4, and it was held in the aforesaid inquiry report that the allegation of respondent No. 4 are based on malevolent intentions, hence the recommendation for punitive action against the respondent No. 4 was also suggested. (Copy of inquiry report dated 07-02-2018 is attached as annexure "J")

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Prof.

12) That it is depressing to mention that despite of the aforementioned inquiry report neither the salary of the petitioner has been released nor the adjustment order related to posting of the petitioner has been acted upon, and a service book of the petitioner has also not been recovered, and the respondent No. 4 still working as

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5 | Page

SDEO Barikot, Swat despite of clear recommendation by the inquiry officer.

- 13) That the petitioner have no other proper remedy, except to file the instant writ petition in this Honorable Court, on the following grounds..

GROUND:-

- A) That the action of respondents are unlawful, against the law, arbitrary and against the norms of justice.
- B) That the august Apex Court of the County have laid guiding principles in many judgments that authority cannot stop salary even at the time of suspension so the act of respondents are contrary to those guidelines therefore it is liable to set aside.
- C) That it is admitted position that the petitioners were still working in the department and salaries has not been released to them without any reason, so the act of respondents as with holding of salaries of the petitioners is not in accordance with law.

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Page

- D) That the sheer abuse of the powers and consequent harassment of the petitioner at the hand of the respondent No. 4 is gross violation of fundamental right of the petitioner.
- E) That the stoppage / non-payment of salary since august, 2017, is an inhuman treatment on the part of respondents No. 3 and 4 and the petitioner has been relegated to the status of bonded labour.
- F) That withholding the service book of the petitioner and frequent transfer / posting speak volume of the misuse, and arbitrary exercise of power on the part of respondents No. 3 & 4, which need the interference of this honorable court.
- G) That the high handedness of the respondent No. 4 is evident from the facts that the despite of clear recommendation related to release of salary of the petitioner, and reverting the respondent No. 4 from SDO post have not been implemented so far.
- H) That as per consistent view of the superior courts matters salary, and pension of civil servant can right to be looked in to by the High Court in original jurisdiction, hence, the

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bar contained in Article 212 does not attracted to the instant petition in this Honorable Court to adjudicate upon the matter.

- I) That in view of the above legal and factual position as well as poor condition of the petitioners, there is no speedy and efficacious remedy for petitioners except to invoke the Constitution jurisdiction of this Honorable Court for redressal of his genuine grievances.
- i) That further grounds, with leave of this Honorable Court, would be raised at the time of arguments before this Honorable Court.

PRAYER

It is therefore humbly prayed that on acceptance of this writ petition, to issue directions to the respondent department.

- i) To release the salary of petitioner since august 2017 till date.
- ii) To issue directions to the respondent No. 3 to make adjustment of the petitioner at GPS School Zara Khela.

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Prof.

(21) (25)

**BEFORE THE PESHAWAR HIGH COURT MINGORA
BENCH (DARUL QAZA) AT SWAT**

W.P No 219 M of 2018

Karim Khan son of Shah Khalil

Resident of Chungai, Shamoza, Tehsil Barikot,

District Swat

.....Petitioner

VERSUS

1. Govt. of KPK through Secretary Elementary & Secondary Education Khyber Pakhtunkhwa at Peshawar.
2. Director Elementary & Secondary Education Khyber Pakhtunkhwa at Peshawar.
3. District Education Officer (M) District Swat:
4. Abdul Mastan SDEO (M) Tehsil Barikot, District Swat.

.....Respondents

**WRIT PETITION UNDER ARTICLE 199 OF
THE CONSTITUTION OF ISLAMIC
REPUBLIC OF PAKISTAN, 1973.**

Respectfully Sheweth,

The facts of the instant case are as under:-

- 1) That the petitioner is a regular employee of the Education Department currently posted at GPS Dedawar, Tehsil Barikot, District Swat.

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A.K.

(26)

**PESHAWAR HIGH COURT, MINGORA BENCH/
DAR UL QAZA, SWAT**

FORM OF ORDER SHEET

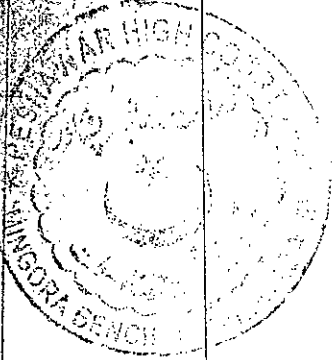
Court of

Case No. of

Serial No. of order or proceeding	Date of Order or Proceedings	Order or other Proceedings with Signature of Judge or Magistrate and that of parties or counsel where necessary.
1	21.03.2018	<p style="text-align: center;"><u>W.P. No. 219-M/2018</u></p> <p>Present: Mr. Arshad Khan, Advocate for the Petitioner.</p> <p style="text-align: center;">***</p> <p><u>MOHAMMAD IBRAHIM KHAN, J.-</u> Karim Khan the Petitioner herein, is imploring the constitutional jurisdiction of this Court with the following perspective prayer:-</p> <p style="text-align: center;"><i>"It is therefore humbly prayed that on acceptance of this writ petition, to issue directions to the respondent department:-</i></p> <ol style="list-style-type: none">1. To release the salary of Petitioner since august 2017 till date.2. To issue directions to the Respondent No. 3 to make adjustment of the Petitioner at GPS School Zara Khela.3. To handover the service book illegally retained by the Respondent No.3.4. Any other relief which this Honorable Court deems fit and proper in the circumstances may also be very kindly granted. <p style="text-align: left; margin-left: 50px;">C.T.C Adj. Khal</p>

2. Arguments of learned counsel for the Petitioner heard in motion and available record perused with his able assistance.

3. From perusal of the record and contention raised by learned counsel for the Petitioner, it transpires that in essence the Petitioner is aggrieved from his repeated transfer orders from one school to another during the shortest span of time. He has also prayed for release of his salary coupled with request for adjustment at the school of his choice i.e. GPS Zara Khela and handing over of service book for necessary entries. But as the above-referred matters relate to terms and conditions of his service, for which the competent forum is the Khyber Pakhtunkhwa Service Tribunal constituted under Service Tribunals Act, 1973. The jurisdiction of all other Courts including the High Court is specifically ousted because of the provision contained in Article 212 (2) of the Constitution. So, the prayers of the Petitioner in view of *ibid* Article



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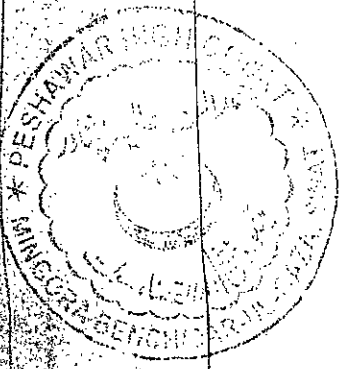
212 (2) could not be acceded to, which reads as under: -

(2) Notwithstanding anything hereinbefore contained where any Administrative Court or Tribunal is established under clause (1), no other court shall grant an injunction, make any order or entertain any proceedings in respect of any matter to which the jurisdiction of such Administrative Court or Tribunal extends and all proceedings in respect of any such matter which may be pending before such other court immediately before the establishment of the Administrative Court or Tribunal; other than an appeal pending before the Supreme Court, shall abate on such establishment.

4. Similarly, Section 4 of Khyber Pakhtunkhwa Service Tribunal Act, 1974

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provides a complete procedure to the Petitioner in such like circumstances. According to the said Section any civil servant aggrieved by any final order upon presentation or departmental appeal, whether original or appellate, made by a departmental authority in respect of any of the terms and conditions of his/her service, may within thirty days of the communication of such order to his/her or within six months of the establishment of the appropriate Tribunal, whichever is later, prefer an appeal before the Tribunal having jurisdiction in the matter.

5. As admittedly transfer is one of the terms and conditions of civil servant as defined in Chapter-II Section 10 of Civil Servants Act, 1973, therefore, this Court lacks jurisdiction to entertain the writ petition challenging the transfer orders.

6. Consequently, this writ petition being not maintainable before this Court is hereby dismissed in limine. However, the Petitioner

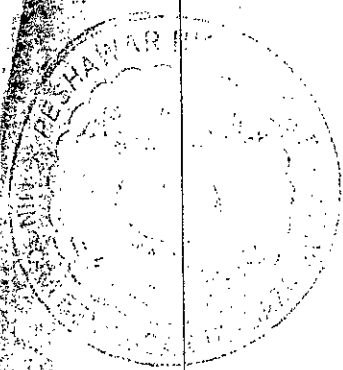
(42) (30)

would be at liberty to approach the proper forum for redressal of his grievances, if need be.

Announced
Dt. 21st.03.2018.

~~JUDGE~~

[Signature]
JUDGE



No. 28
Name of party *U. B. Khan*
Date of Filing *26.3.18*
Date of Court *26.3.18*
No. of Pages *6P*
Amount *10/-*
Directly *26.3.18*

Certified to be true copy

[Signature]

For the Court *26/3/18*

*C-T-C
Prof.*

*Office
22/03/18*

**BEFORE THE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA AT PESHAWAR**

Service Appeal No _____ of 2018

Karim Khan son of Shah Khail

Resident of Chungai, Shamoza, Tehsil Barikot,

District Swat

.....Appellant

VERSUS

1. Govt. of KPK through Secretary Elementary & Secondary Education Khyber Pakhtunkhwa at Peshawar.
2. Director Elementary & Secondary Education Khyber Pakhtunkhwa at Peshawar.
3. District Education Officer (M) District Swat.
4. Abdul Mastan SDEO (M) Tehsil Barikot, District Swat.

.....Respondents

SERVICE APPEAL UNDER SECTION 4,
OF THE KPK SERVICE TRIBUNAL ACT,
1974, AGAINST THE action & inaction of
the respondent No. 3 WHEREBY the
appellant's salary has been with held
since august, 2017 till date, issuing
premature and illegal transfer / posting
from one station to another and
Department Appeal filed by the appellant
on 19-10-2017, which is still pending

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R.A.

before the Respondent No. 2, hence, the instant appeal.

PRAYER IN APPEAL

On acceptance of this appeal, to issue directions to the respondent department.

- i) To release the salary of Appellant since august 2017 till date.
- ii) To issue directions to the respondent No. 3 to make adjustment of the Appellant at GPS School Zara Khela.
- iii) To handover the service book illegally retained by the respondent No. 3.
- iv) Any other relief which this Honorable Court deems fit and proper in the circumstances may also be very kindly granted.

Respectfully Sheweth,

The facts of the instant case are as under:-

- 1) That the appellant is a regular employee of the Education Department currently posted at GPS Dedawar, Tehsil Barikot, District Swat.
- 2) That the appellant applied for the grant of leave which was granted to the appellant for the period of 01-03-2017

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to 15-12-2017 under the relevant rules. (Copy of order dated 04-02-2017 is attached as annexure "A")

- 3) That the appellant went on leave, in the meanwhile the respondent No. 4 with mala-fide intention and out of personal grudges made a complaint against the appellant, consequently the respondent No. 3 cancelled the leave granted to the appellant vide office order dated 19-07-2017. (Copy of office order dated 19-07-2017 is attached as annexure "B")
- 4) That upon the cancellation of the leave the Appellant had reported back, in compliance of the office order issued by the respondent No. 3 and assumed his duty at GPS Dedawar on 03-08-2017. (Copies of office order dated 11-09-2017, arrival report & charge report are attached as annexure "C")
- 5) That the appellant till date is performing his duties, but the salary of the appellant has not been released by the respondent department, hence the appellant filed written request to the respondent No. 3 to the effect to make adjustment of the appellant so as to release the salary of the appellant. (Copy of application is attached as annexure "D")
- 6) That in meanwhile the centre incharge / respondent No. 4 collected service book of all teachers of Illaqa Shamozaï for allocation of annual increment of the year 2016,

C-12
H

including the appellant. Later on, the appellant needed his service book for necessary entries in DAO office, therefore, the appellant approached the respondent No. 4 office for collection of service book, respondent No. 4 out of personal grudges with the appellant withheld the original service book, and said that the same has been lost in his office. The appellant again made an application to the respondent No. 3 for handing over the original service book, but of no avail. (Copy of the application is attached as annexure "E")

- 7) That after bringing into notice the aforementioned harassment at the hands of respondent No. 4, the appellant had been further humiliated by making another premature and illegal transferred of the Appellant from GPS Dedawar to GPS Zara Khela vide corrigendum dated 09-10-2017. (Copy of corrigendum dated 09-10-2017 is attached as annexure "F")
- 8) That despite of usurping the statutory right of the Appellant, the appellant assumed duty at GPS Zara Khela on 10-10-2017. (Copy of charge report is attached as annexure "G")
- 9) That the wrath of the respondent No. 4 does not end here, and after one week another corrigendum issued by the respondent No. 3 vide which again the adjustment order of the appellant was placed at GPS Bar Cham, Rangila on

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dated 16-10-2017. (Copy of corrigendum is attached as annexure "H")

10) That the appellant agitated the maltreatment, harassment and humiliation by filing department appeal before the respondent No. 2 against the action & omission adverse to the rights of the appellant, but the same is not been decided, and remains pending before the authority. (Copy of application ¹⁹⁻¹⁰ -2017 are attached as annexure "I")

11) That in the meanwhile departmental proceedings also been initiated on the charges of dual duties, the inquiry report was submitted, wherein the appellant has been exonerated of the charges leveled upon the complaint of respondent No. 4, and it was held in the aforesaid inquiry report that the allegation of respondent No. 4 are based on malevolent intentions, hence the recommendation for punitive action against the respondent No. 4 was also suggested. (Copy of inquiry report dated 07-02-2018 is attached as annexure "j")

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12) That it is depressing to mention that despite of the aforementioned inquiry report neither the salary of the appellant has been released nor the adjustment order related to posting of the appellant has been acted upon, and a service book of the Appellant has also not been recovered, and the respondent No. 4 still working as

SDEO Barikot, Swat despite of clear recommendation by the inquiry officer.

- 13) That after the result of the inquiry in favour of the appellant, the respondent No. 3 did not implement the recommendation of the inquiry report, therefore, the appellant went to the Honorable Peshawar High Court for redressal of his grievances. But the Honorable Court held that the relief sought in the writ petition pertains to the "terms & condition" of service, hence having no jurisdiction to entertain the same and held to approach this Honorable Tribunal. (Copies of writ petition & judgment dated 21-03-2018 are attached "K")
- 14) That the appellant have no other proper remedy, except to file the appeal this Honorable Tribunal Court, on the following grounds..

GROUNDS:-

C-17-C
p-4

- A) That the action of respondents are unlawful, against the law, arbitrary and against the norms of justice.
- B) That the august Apex Court of the County have laid guiding principles in many judgments that authority cannot stop salary

even at the time of suspension so the act of respondents are contrary to those guidelines therefore it is liable to set aside.

- C) That it is admitted position that the Appellants were still working in the department and salaries has not been released to them without any reason, so the act of respondents as with holding of salaries of the Appellants is not in accordance with law.
- D) That the sheer abuse of the powers and consequent harassment of the Appellant at the hand of the respondent No. 4 is gross violation of fundamental right of the Appellant.
- E) That the stoppage / non-payment of salary since august, 2017, is an inhuman treatment on the part of respondents No. 3 and 4 and the Appellant has been relegated to the status of bonded labour.
- F) That withholding the service book of the Appellant and frequent transfer / posting speak volume of the misuse, and arbitrary exercise of power on the part of respondents

C.F.C.
Ad.

No. 3 & 4, which need the interference of this honorable court.

- G) That the high handedness of the respondent No. 4 is evident from the facts that the despite of clear recommendation related to release of salary of the Appellant, and reverting the respondent No. 4 from SDO post have not been implemented so far.
- i) That further grounds, with leave of this Honorable Court, would be raised at the time of arguments before this Honorable Court.

PRAYER

It is therefore humbly prayed that on acceptance of this appeal, to issue directions to the respondent department.

- i) To release the salary of Appellant since august 2017 till date.
- ii) To issue directions to the respondent No. 3 to make adjustment of the Appellant at GPS School Zara Khela.
- iii) To handover the service book illegally retained by the respondent No. 3.

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iv) Any other relief which this Honorable Court deems fit and proper in the circumstances may also be very kindly granted

Appellant

Karim
Karim Khan

Through Counsel

ARSHAD KHAN
ARSHAD KHAN
Advocate, High Court

CERTIFICATE:

No such like appeal earlier has been filed by the Appellant on the subject matter before this Honorable Court.

Appellant

Karim
Karim Khan

Through Counsel

ARSHAD KHAN
ARSHAD KHAN
Advocate, High Court

CT-C
Ad.

Annex "D"

(40)

Show Cause
Notice

**OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE)
DISTRICT SWAT**

Email: emisswat@gmail.com, Phone No. 09469240228

Office order/ Show Cause Notice:

I, Nawab Ali District Education officer (M) Swat, the Competent Authority under the Khyberpukhtun Khawa Government Servant Efficiency & Disciplinary, Rules 2011, do hereby serve upon you, Mr Karim Khan PST GPS Cham Rangila Swat, this show cause notice as follows:-

1. Consequent upon the report of DDEO (M) Swat, recorded on the school logbook of GPS Cham Rangila, Dated: 16-5-2018, you Mr Karim Khan PST GPS Cham Rangila have committed the following shortcomings while your service.
2. You remained wilful absent from your duty since 14-11-2017.
3. You did not comply your posting order No. 3162-63, Dated: 16-10-2017, in letter and spirit.
4. As per previous record and report of the concerned SDEO, you are irregular, non-punctual and disobedient teacher and you have you have proceeded abroad Pakistan while in your service several times without proper permission and leave.
5. You proved an inefficient, disobedient, corrupt and subvert teacher and have wasted the precious time of the students.

While going through the material on record, my personal observation and report of the concerned officers, the allegations levelled against you have been proved under the provisions of E& D Rules 2011.

As a result thereof, I as the Competent Authority, have tentatively decided to impose upon you one or more penalties mentioned in Rule 4 (b), (i) to (iv) of the ibid Rules.

You are, therefore, required to show cause as to why major or minors penalty provided in the aforesaid Rules should not be imposed upon you and also intimate whether you desire to be heard in person.

If no reply to this office is received within 07 days of delivery of this show cause, it shall be presumed that you have no defense to put in and in that case Ex-parte action will be taken against you.

(Nawab Ali)

District Education Officer (M)

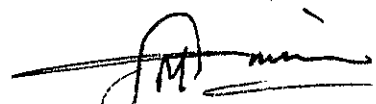
Swat.

Endorsement No. 14195-99

Dated: 07/16/2018

Copies for information and necessary action forwarded to the:

1. Director Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
2. The Deputy Commissioner Swat.
3. The DMO Swat District Swat.
4. DDEO (M) Swat with reference to his report dated 16-5-2018.
5. P.A to District Education Officer (M) Swat local Office.
6. SDEO (M) Barikot, with the directions to provide the relevant record with his own comments and to hand over show cause notice to the teacher concerned properly, under intimation to this office.
7. Official concerned.
8. Office file.


Deputy District Education Officer (M)
Swat.

The DEO (M) Swat.

Subject: Reply of Show Cause dated 08/06/2018. END No. 14195-93

Dear Sir,

In reply to the show cause notice dated 08⁰⁶/₂₀₁₈, it is submitted that the same has been issued in blatant violation of due process, as no charge sheet and statement of allegation been issued to me. Further, no regular enquiry has been held as provided under the relevant law, hence the show cause notice is manifestly, illegal and nullity in the eyes of law.

In reply to para 1, 2, 3, as stated in the Show Cause notice, it is stated that a regular enquiry has been held, wherein, the frequent transfer/posting of mine are ~~are~~ held to have been made in violation of law and rules and it is clearly recommended that services of Mr. "Karim Khan" to be placed at Gps Zaskhela. The same enquiry/recommendation is conducted by the Superior authority of DEO office which has not been implemented so far. I have filed an appeal before the Service Tribunal which has been admitted for hearing. Further more, your good office again directed by the Directorate of F&S Education to release the salary and to make adjustment of Mr. Karim Khan (SPST) at Gps Zaskhela. Therefore, the allegations cancelled

(continon on page 2)

(42)

in the instant notice has no legal effect what's over
 (Copies of enquiry dated 06/02/2018, Copy of letter dated 06/06/2018,
 Copy of appeal) are annexed herewith.

In reply to para 4, it is stated that in the
 enquiry/recommendations the SDEO namely "Abdul Mastan"
 has been held guilty for his actions are based on
 malafied and directed your good office to remove
 him from his post of SDEO and revert to his original
 post Subject Specialist, but the same has not been
 implemented, for which I reserve the right to
 avail the appropriate remedy at the appropriate
 time. SDEO also instructed # teacher not to allow me sign in
 attendance register.

Reply to para 5, The allegations are without
 any substance are false and frivolous. Actually
 the named SDEO (Barikot Circle) is corrupt because
 he is a subject specialist and performs on wrong
 post, he wasted precious time of the new generation
 because he did not convert his knowledge to the students.

Your obedient

KARIM KHAN.
 SPST.

(Karim)
 12-06-2018

C-T-C
 put.



Annex "F" (43)
OFFICE OF THE
DISTRICT EDUCATION OFFICER
(MALE) SWAT.

Removal

NOTIFICATION

1. Whereas Mr. Karim Khan SPST GPS Barcham Rangela Swat, was proceeded against the Khyber Pakhtunkhwa Government servant (Efficiency & Discipline) Rules 2011 for the charges mentioned in the show cause notice and as per visit remarks of Dy District Education Officer (M) of this office dated 16.5.2018.
2. Whereas reported by the Sub Divisional Education Officer (M) Barikot vide his letter No.362 dated 5.12.2017 that you were found absent from your duty since 14.11.2017 without any proper sanction of leave from the competent authority.
3. Whereas a show cause notice was served upon you on your home address vide this office Endst: No.14195-99 dated 08.06.2018
4. Whereas your reply dated 12.6.2018 to the show cause notice dated 8.6.2018 was found unsatisfactory.
5. Whereas the District Education Officer (M) Swat being competent authority after having considered the charges and evidences on the record against you were proved.
6. Now, Therefore I Nawab Ali District Education Officer (M) Swat being competent authority do hereby impose upon you the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules 2011 "the major penalty of **"REMOVAL FROM SERVICE"** under Rules 4 (b) (iii) with immediate effect in the interest of public service.

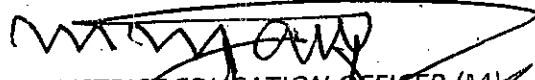
(NAWAB ALI)
DISTRICT EDUCATION OFFICER (M)
SWAT

754-60
Endst: No. _____ /P.F/Show Cause Notice/PST/DEO/M.

Dated 31/7/2018.

Copy forwarded to:

- 1- The Director Elementary & Secondary Education KPK Peshawar w/r to his letter No2580/F.No.9/Enquiry of Abdul Karim with the request that the pay can not be drawn due to removal from service being absent from duty since long.
- 2- The District comptrollers of Account Swat at Saidu Sharif.
- 3- The District Monitoring Officer Swat.
- 4- The Sub Divisional Education Officer (M) Barikot Swat with the direction to make necessary entry in original service book under intimation to this office.
- 5- ASDEO (M) concerned with the direction to serve the order on the accused teacher.
- 6- P:A to District Education Officer (M) Swat the local office.
- 7- The teacher concerned.


DISTRICT EDUCATION OFFICER (M)
SWAT

C.T-6
Ad

Annex "G" (49)

BEFORE THE Director Elementary & Secondary
Education Khyber Pakhtunkhwa Peshawar.

Department Appeal No _____ of 2018

Karim Khan "SPST" Government Primary School
Zara Khela, Tehsil Barikot, Swat.....Appellant

VERSUS

District Education (M) District Swat
.....Respondent

DEPARTMENTAL APPEAL AGAINST THE
ORDER DATED 31-07-2018 PASSED BY
THE RESPONDENT, WHERE BY THE
PETITIONER HAS BEEN REMOVED FROM
SERVICE.

Prayer of appeal

On acceptance of this
Departmental appeal the order
dated 31-07-2018 passed by
respondent may kindly be set-
aside and the appellant may
kindly be reinstated with all
back benefits. Any other remedy

C-T-C
Adh

not specifically asked for in the appeal and the appellant is entitled, therefore may kindly be granted.

Respectfully Sheweth:

BRIEF FACTS

- 1) That, the appellant was serving as SPST at Government Primary School Zara Khela, Tehsil Barikot, District Swat by virtue of order dated 25-01-2018 of this office. (Copy of order is attached)
- 2) That in compliance of the above mentioned order, the petitioner regularly attended his duty at GPS Zara Khela, but on mala-fide and personal grudges SDEO Tehsil Barikot namely Abdul Mastan the concerned principal refused to provide the register for attendance.
- 3) That this office continually directed the office of District Education Officer Swat to adjust the services of the petitioner at GPS Zara Khela, and also to release the salary of the petitioner by order dated 07-06-2018. (Copy of order dated 07-06-2018 is attached)
- 4) That the respondent / DEO Swat in blatant violation of the direction of this office initiated another inquiry at the behest of

C-T-C
And

SDEO Abdul Mastan, to which the petitioner replied but the respondent in clear defiance of the repeated orders of this office, and at the instigation of SDEO Barikot imposed a major penalty upon the petitioner, which is glaring illustration of making mockery of the rights of the petitioner, and an unprecedented abuse of authority by the respondent and SDEO Barikot.

PRAYER

On acceptance of this Departmental appeal the order dated 31-07-2018 passed by respondent may kindly be set-aside and the appellant may kindly be reinstated with all back benefits.

Any other remedy not specifically asked for in the appeal and the appellant is entitled, therefore may kindly be granted.

Appellant

Karim Khan "SPST"
Government Primary School
Zara Khela Swat.
Cell No. 0340-5839785
Dated: 20th August, 2018

C.T-6
Adf.

Annex "H1"

Show Cause Notice
after removal

(47)

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

File No: 3968

Dated: 15-Oct-2018

To,
KARIM KHAN, (Senior PST)
GPS RANGILA BARCHAM, SHAMOZI, BARIKOT, SWAT

C. P. E. E

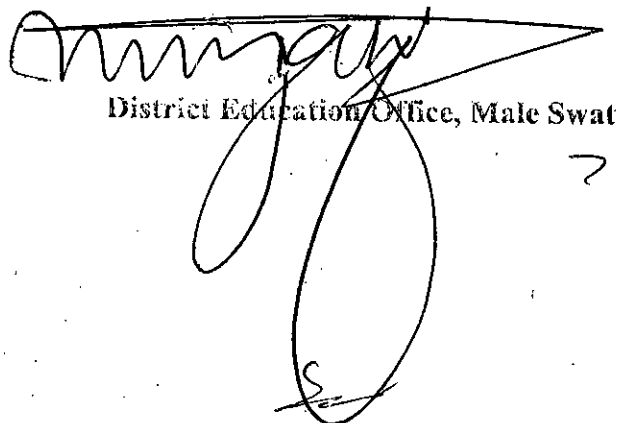
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Subject: - SHOW CAUSE NOTICE

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

2. You are therefore directed to furnish your reply to the Show Cause Notice as to why the aforesaid penalty should not be imposed upon you and also intimate whether you desire to be heard in person.

3. Your reply should reach to this Office within Seven (07) days of receipt of this letter otherwise action under the rules shall be taken against you.



District Education Office, Male Swat

Encl: As Above**Endst: Even No. & Date**

Copy of the above is forwarded to the:-

1. Copy to all concerned

District Education Office, Male Swat

C-T-1
Redd

48

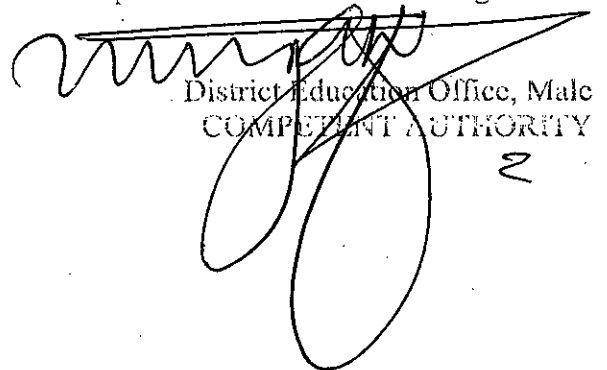
SHOW CAUSE NOTICE

I, District Education Officer, Male, SWAT, Khyber Pakhtunkhwa, as competent authority, under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, do hereby serve you, Mr. KARIM KHAN Senior PST) as follows:

i. That as confirmed by the IMU monitoring report you were found absent from duty on 02-Aug-2018 and 14-Jun-2018 without lawful authority in sheer violation of the rules, the material on record and other connected papers under Rule-5 (i) (a) read with Rule-7 of the said Rules, I am satisfied that you have committed the following acts/omissions specified in Rule-3 of the rules ibid:

- a. Inefficient
- b. Misconduct

1. Therefore, I as competent authority, have tentatively decided to impose upon you the penalty of Stoppage of Two Increments under rule 4 of the said rules.
2. You are, thereof, required to show cause as to why the aforesaid penalty should not be imposed upon you and also intimate whether you desire to be heard in person.
3. If no reply to this notice is received within seven days or not more than fifteen days of its delivery, it shall be presumed that you have no defense to put in and in that case an ex-parte action shall be taken against you.


 District Education Officer, Male
 COMPETENT AUTHORITY

135746-284982

C-T-c
Ref.

منجانب

20

مورخہ

سرگرم خان بنام حکومت

مقدمہ

دعویٰ

جرم

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنے طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ آن مقام پشاور میں شروع اور شرفان اربیر میں مہاشی سرگرم خان مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کمال اختیار ہوگا۔ نیز وکیل صاحب کو راضی نامہ و تقرر ثالث و فیصلہ بر حلف دینے جواب دہیا اور اقبال دعویٰ اور درخواست ہر قسم کی تصدیق زر اور اس پر دستخط کرنے کا اختیار ہوگا۔ نیز بصورت عدم پیروی یا ڈگری ایک طرف اپیل کی برآمدگی اور منسوخ مذکور کے مکمل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنی ہمراہ یا اپنی بجائے تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی جملہ مذکورہ بالا اختیارات حاصل ہونگے اور اسکا ساختہ برواختہ منظور و قبول ہوگا۔ اور دوران مقدمہ میں جو خرچہ و ہرجانہ التوائے مقدمہ کے سبب سے ہوگا اسکے مستحق وکیل صاحب ہونگے۔ نیز بقایا و خرچہ کی وصولی کرتے وقت کا بھی اختیار ہوگا۔ اگر کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہونگے کی پیروی مقدمہ مذکور لہذا وکالت نامہ لکھ دیا کہ سند رہے

20/

ماہ نومبر

المرقوم 29

العبد

گواہ شہد

العبد

(سرگرم خان)

العبد

گواہ شہد

العبد

کیلئے منظور ہے۔

Accepted
Accepted
Accepted
Accepted
A.S. No. 111

بمقام پشاور

BEFORE THE KHYBER PAKTUN KHIWA SERVICE TRIBUNAL AT CAMP COURT SWAT.

Service Appeal No. 1451/2018

Karim Khan S/O Shah khail

R/O Chungai Shamozaï tehsil Barikot District Swat.

.....Appellant

Versus

1. Government of Khyber Pakhtunkhwa through Secretary Elementary and Secondary Education Peshawar.
2. Director Elementary and secondary education Khyber Pakhtunkhwa at Peshawar.
3. District Education officer (Male) Swat.Respondents.

Parawise Comments on Behalf of the Respondents

Respectfully shewith

Preliminary objections

1. That the appellant is not an aggrieved person within the meaning of section 4 of the service tribunal Act, 1974.
2. That the appellant has no cause of action / locus standi.
3. That the appellant has not come to this honourable court with clean hands.
4. That the appellant has filed this instant service appeal just to pressurize the respondents.
5. The present service appeal is liable to be dismissed for non-joinder/miss joinder of necessary parties.
6. That the instant service appeal is against the prevailing law and rules.
7. That the appellant has filled this instant Writ service appeal on malafide motives.
8. That the instant service appeal is not maintainable in the present form, and above in the present circumstances of the issue.
9. That the appellant has estopped by his own conduct.
10. That the appellant has concealed the material facts from this honourable tribunal.

FACTS

1. That the Para No. 1 is correct to the extent of the employment of the appellant in education department, the rest of the Para is incorrect and not admitted. In fact the appellant was posted at GPS Rangila Barcham in corrigendum order on need basis within the same Union Council. The appellant remained absent from his duties since 14.11.2017 without proper leave. **order and attendance register copy as Annexure A,B)**
2. That the Para No.2 is irrelevant to the present issue, hence no comments. However it is worth to mention here that transfer is not a penalty. It is the discretionary powers of the competent authority to adjust/ transfer any employee according to the needs of the department and in public interest.
3. That the Para No.3 is correct to the extent of the said enquiry report. The rest of the Para is incorrect and not admitted. The appellant has concealed the material facts from the Honourable Service Tribunal. The sanctioned leave for the period of 01/03/2017 to 15/12/2017 was cancelled on 19/07/2017 by the competent authority on the written complaint of the SDEO Barikot Swat and the appellant was directed to join his duty. The SDEO Barikot Swat submitted the absence report of the appellant on 18/03/2017, 17/11/2017, respectively. The appellant remained absent from duty on the dates of visits of the officers as well as the

entire period between the dates mentioned above. The appellant has never performed duty at his duty station i.e GPS Rangila since 14.11.2017. As per complaints of the SDEO Barikot Swat, the appellant remained absent from duty time and again because he was also working abroad as seaman.

As per FIA report the appellant arrived on 04/08/2017 at Peshawar International Airport through Flight No. G9566, under documents No.PP-4100773 after cancellation of his leave by the competent authority. The appellant took over charge on 03/08/2017 while he arrived from abroad on 04/08/2017, which is clearly fraudulent. Hence the competent authority did not agree with the said enquiry.

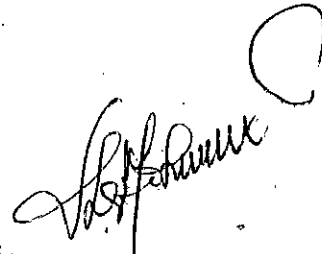
(Copies of the log book, SDEO Reports, FIA report, as annexure C, D, E, F)

4. That the Para No.4 is incorrect and denied. The appellant has been removed from service due to willful absence from duty. Therefore, he cannot claim salary as far as the service book of the appellant is concern, service book is not a personal document, and it is an official document and should be in the custody of the concern department. Hence his service book is lying in the safe custody of the official respondents. Whereas the SDEO Barikot Swat has been transferred as headmaster to GHS Gogdara Swat. Hence his objection on the said SDEO is baseless.
5. That the Para No.5 is correct to the extent of the appellant approach to the Honourable Peshawar High Court and the judgment of the Honourable High Court, the rest of the Para is the repetition of the above Para. Hence no comments.
6. That the Para No.6 is incorrect and not admitted. Respondent No.3 is the competent authority in the instant issue. Being competent authority respondent No.3 did not agree with the recommendations of the said enquiry, because the said enquiry was in contradiction with the FIA report and other relevant record, hence the appellant cannot claim the implementation of the said enquiry according to his whims and wishes.
7. That the Para No.7 is correct to the extent of reply, however it is worth to mention here that the story written in the reply by the appellant is based on ill will of the appellant. In fact the appellant remained absent from his duty time and again and went abroad time and again without proper leave as stated in the foregoing Para and clear from the FIA report. In fact the appellant has not performed his duty at any station/ GPS Zara khella. **(Head Master Report and teacher report as annexure G, H)**
8. That the Para No.8 is correct. The Deputy DEO (M) Swat and SDEO (M) Barikot visited GPS Rangila Barcham on 16.5.2018. Show Cause notice was served upon the appellant and after observing all codal formalities, the appellant was removed from service.
9. That the Para No.9 is correct to the extent of the departmental appeal, however the said appeal has not been accepted as the records show that the appellant remained absent from his duties time and again.
10. That the Para No.10 is correct to the extent of the other show cause. However it is worth to mention here that the said show cause notice was issued on the IMU report and was immediately cancelled by the respondent No.3, as the appellant was already removed from service. **(order as Annexure I)**
11. That the instant service appeal of the appellant is bereft of any merit, hence liable to be dismissed inter alia following grounds.

GROUNDS

- A. That the Para No. A is incorrect and not admitted. The action of the respondent department is not illegal, Un-lawful, arbitrary and against the norms of justice.
- B. That the Para No. B is incorrect and not admitted. The detail reply of this Para has been given in the foregoing Paras.
- C. That the Para No. C is incorrect and not admitted. as stated in the foregoing Paras, the transfer/adjustment of the employees is the discretionary powers of the competent authority, hence the order of the respondent department is not illegal.
- D. That the Para no. D is the repetition of the above Paras, hence no comments.
- E. That detail reply has been given in the foregoing Paras.
- F. That the Para No.F is incorrect and not admitted. The respondent No.3 has acted upon the rules, policy and procedure. The appellant remained absent time and again and was also working as sea-man therefore he has been treated as per law, rules and policy.
- G. That the para No.G is the repetition of the above paras, hence no comments.
- i. That the Para No.I is irrelevant, hence no comments. However respondents also seek permission of this Honourable Tribunal to raise further grounds at the time of arguments.

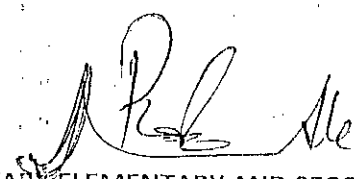
It is, therefore, very humbly prayed that the instant writ service appeal of the appellant may be dismissed with cost in favour of the respondents.



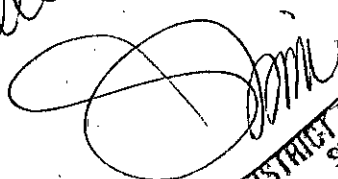
DISTRICT EDUCATION OFFICER (M)
SWAT AT GULKADA



DIRECTOR ELEMENTARY AND SECONDARY
EDUCATION KHYBER PAKHTUNKHWA AT PESHAWAR.



SECRETARY ELEMENTARY AND SECONDARY
EDUCATION PESHAWAR.

✓

DISTRICT ATTORNEY
SWAT.

113 (23)
OFFICE OF THE
DISTRICT EDUCATION OFFICER
(MALE) SWAT

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92
Annex- A.

CORRIGENDUM

Please read "Barcham Rangila" instead of GPS Dedawar in the adjustment order of Mr. Kamran Khan issued vide No.1353-55 11/09/2017 and this office corrigendum order issued vide No.28.11-13 dated 9.10.2017 is hereby cancelled in the interest of public service.

Note: All terms and conditions will remain the same.

(MOHAMMAD AMIN)
DISTRICT EDUCATION OFFICER
MALE SWAT

Dated 16/10/2017

Enst. NO. 3162-63

Copy forwarded to :-

1. District Comptroller of Accounts Swat.
2. The SDEO (M) Circle Barikot Swat.
3. Teachers concerned.
4. PA to DEO Swat.

DISTRICT EDUCATION OFFICER
MALE SWAT

Attested to be true copy of the original

Sub-Divnl. Edu. Officer (M)
Tehsil Barikot District Swat

Corrigendum & Adjustment
at GPS Barcham Rangila

16/10/2017

NOV-2017

Annex-B

رجسٹرڈ حاضرین کی فہرست
 Attendance Register

3. پنجاب ایس ایس ٹی ایف

نومبر



امیدوار		کے پی ٹی				پس ٹی				پس ایف ٹی				تاریخ
سلاخ	آر	سلاخ	سلاخ	آر	سلاخ	سلاخ	آر	سلاخ	سلاخ	آر	سلاخ	سلاخ	آر	تاریخ
P	C	Leave	Leave	8/30	11:35	11:35	8:30	Az	11:35	Az	8:30	8:30	1	
P	Kom	01/35	Kom	8/30	11:35	11:35	8:30	Az	11:35	Az	8:30	8:30	2	
P	071	stut			11:35	11:35	8:30	Az	11:35	Az	8:30	8:30	3	
P	Kom	01/35	Kom	8/30	11:35	11:35	8:30	Az	11:35	Az	8:30	8:30	4	
P	S	U	U	8/30	N	N	D	A					5	
P	Kom	01/35	Kom	8/30	11:35	11:35	8:30	Az	11:35	Az	8:30	8:30	6	
P	Kom	01/35	Kom	8/30	11:35	11:35	8:30	Az	11:35	Az	8:30	8:30	7	
P	C	Leave	C	Leave				Az	11:35	Az	8:30	8:30	8	
P	Kom	01/35	Kom	8/30	11:35	11:35	8:30	Az	11:35	Az	8:30	8:30	9	
P	Kom	11/35	Kom	8/30	11:35	11:35	8:30	Az	11:35	Az	8:30	8:30	10	
P	Kom	01/35	Kom	8/30	11:35	11:35	8:30	Az	11:35	Az	8:30	8:30	11	
P	S	U	U	8/30	N	N	D	A					12	
P	?	?	?	?	11:35	11:35	8:30	Az	11:35	Az	8:30	8:30	13	
P	Absent	Absent	Absent	Absent	11:35	11:35	8:30	Az	11:35	Az	8:30	8:30	14	
P	Do	-	Do	-	11:35	11:35	8:30	Az	11:35	Az	8:30	8:30	15	
P	Do	-	Do	-	11:35	11:35	8:30	Az	11:35	Az	8:30	8:30	16	
P	Do	-	Do	-	11:35	11:35	8:30	Az	11:35	Az	8:30	8:30	17	
P	Do	-	Do	-	11:35	11:35	8:30	Az	11:35	Az	8:30	8:30	18	
P	S	U	U	8/30	N	N	D	A					19	
P	Do	-	Do	-	11:35	11:35	8:30	Az	11:35	Az	8:30	8:30	20	
P	Do	-	Do	-	11:35	11:35	8:30	Az	11:35	Az	8:30	8:30	21	
P	Do	-	Do	-	11:35	11:35	8:30	Az	11:35	Az	8:30	8:30	22	
P	Do	-	Do	-	11:35	11:35	8:30	Az	11:35	Az	8:30	8:30	23	
P	Do	-	Do	-	11:35	11:35	8:30	Az	11:35	Az	8:30	8:30	24	
P	Do	-	Do	-	11:35	11:35	8:30	Az	11:35	Az	8:30	8:30	25	
P	Do	-	Do	-	11:35	11:35	8:30	Az	11:35	Az	8:30	8:30	26	
P	Absent	Absent	Absent	Absent	11:35	11:35	8:30	Az	11:35	Az	8:30	8:30	27	
P	Do	-	Do	-	11:35	11:35	8:30	Az	11:35	Az	8:30	8:30	28	
P	Do	-	Do	-	11:35	11:35	8:30	Az	11:35	Az	8:30	8:30	29	
P	Do	-	Do	-	11:35	11:35	8:30	Az	11:35	Az	8:30	8:30	30	

Principal Officer (M)
 District Office
 District Office

Principal Officer (M)
 District Office
 District Office

تمہاری خدمت میں
 سہ ماہیہ میزبان
 سہ ماہیہ میزبان
 سہ ماہیہ میزبان
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 سہ ماہیہ میزبان
 سہ ماہیہ میزبان

GPS Baruchum Ranyala Annex-B

Amir C ✓

VISIT by
SDEO (M)

Tehsil
Banikot (حصہ دوم)

~~Amir C~~
لاکھ پور

13

رپورٹ کی روشنی میں سکول انصراف
نے جو کارروائی کی

رائے / رپورٹ معائنہ

رہنوشی میں سکول
جو کارروائی کی

29/11/2017

29/11/2

The undersigned visited the school on 29/11/2017 at 10 AM. The school was functioning. The teaching learning process was all pleasant.

The school consists of three teachers one is headmaster, and the other two are (Kamran Khan & Naveed Ali). It is my duty to visit to this school. That Kamran Khan SPST was absent on 29/11/2017. Now he is absent since 13/11/2017. He is sick & absent. The head teacher is arrogant & no punctual. He is no interested in his assigned duties.

So I recommended him to the higher up to remove him from services under B & D rules. The headmaster full length recovery from him if his absent period is more than 15 days full service.

- 1) Copy to Z.O. Secy.
- 2) Copy to Deputy Commissioner Secy.
- 3) Copy to District Inspector S.P.K.

Sub Divy. Edu. Office
Tehsil Banikot District S.P.K.

Visit by
SDEO (M)

Tehsil Barikot (Swat)

لاک پور

~~Annex~~

14

1-3-18

رپورٹ کی روشنی میں
نہ ہو کارروائی

لاک پور ضلع ہوائی

5 Class Room
Langwith
At the
idat was
It, this a
lost man
in Khan
14-11-2
nd report
M), 2
had not add

The undersigned visited the
school on 1-3-2018. The school
was found closed.
The head teacher of the school
Mr. Aziz Ahmad was absent
although he had his sign in
the book of attendance register
the witness teacher told me about
and also mentioned the search
time. The time was too early
about 10:40 AM.

So he is directed to explain the
reason of his full absence.

The other teacher Kasim was also
absent. He is also well full about
since long.

1) advised the teacher to have
them interest in the teaching
learning process of an student.

1-3-2018
Sub Divn: Edu. Officer (M)
Tehsil Barikot District Swat.

16
14
the class
is of FTB
d than
red area
e require
as found
ng has
o based
and re

Visit by
SDEO (M)
Tehsil
Barikot

لاک پور

79
Annex

رپورٹ کی روشنی میں
نے کارروائی

رائے / رپورٹ نمبر

15

30/6/18

The undersigned visited
the school on 30 June 2018.
The school was functional.
The school staff consist of
three teachers, two were
present, but Karim Khan
is still absent from his
duties.
He is directed to attend his
duties, otherwise strict dis-
iplinary action will be taken
against him, and I recommend
him to remove him from
his services under ESO
rules 2011.

30 June 2018
Sub Divnl. Edu. Officer (M)
Tehsil Barikot District Swat.

~~Annex M~~
LPS Barchinop
Rangela

16

Tomb visited by
- Dy. DEO (M) Swat
SDBO (M)
Jehsil Barchinop

الک بچ

Annex-M

ریپورٹ کی روشنی میں سکول انصراف
نے جو کارروائی کی

16/5/2018

The undersigned visited LPS Chaw
on 16-5-2018 11:00 AM, along with
Mustaan 86 SDEO (M) Barchinop. At
entrance gate, the chawlidar was
found and he was absent, this
In teachers only 2 teachers were
found present - Mr. Karim Khan
was found absent since 14-11-
He has been morried and kept
absent by the SDEO (M), 2
during this period. The student
was

Kd	1st	2nd	3rd	4th	5
21	25	19	18	16	
23	30	26	25	24	

The undersigned inspected the class
and observed that dumps of P.T.
are scattered here and there
the classrooms are covered area
the school is less than the require
2 Kms. The school was found
very dirty. The teaching was
not conceptual and SLO based
and the students cannot re

آگے (مقررہ)

17

پروپوزیشن کی روشنی میں
نے جو کارروائی

dispense
within
expended
for case
provided
it
implem

Simple lessons and the teaching is found not conceptual and comprehensible. The CRC & PTR has not been utilized properly. No quotations are on record for the purchase of Solar Panel. According to PSHT, some amount is cash in hand, which is 28500 which exceeds the prescribed limit. The following comparison Spot decisions are hereby ordered

SM
16-5
DY/DEO
Swa

- 1- Show cause to be issued to Karim Khan for the absent period and previous reports
- 2- 10 day pay deduction is ordered for the Chaukidar for his absence and dirty school.
3. PSHT is hereby directed to explain his absence on 29/3/18 and loss of discipline and

لاکھ پیک (حقوقہ دوم)

18

رپورٹ کی روشنی میں سکول انصراف
نے جو کارروائی کی

رائے / رپورٹ مہمانہ

فی میں سکول
روائی کی

16/5/2018

dirty conditions and dispersed
position of the FTB within 3
days

4. Bank statement, expenditure
and PTC record for last
3 years may be provided
to SDEO for audit.
5. SDEO is directed to implement
the decisions.

16-5-2018
SDEO (M)
Bank of
Swat

16-5-
Dy/OEO
Swat

OFFICE OF THE SUB-DIV:EDU; OFFICER(M) TEHSIL BARIKOT SWAT

No: 123-24

Dated: 18/3/2017

To,

The District Education Officer (M)

Gul.Kada Swat

Subject: Report for cancellation of long leave (275) days in r/o Mr Karim Khan SPST
GPS Dedawar Tehsil Barikot swat.

Memo:

Long leave (275) days has been granted to Mr Karim Khan SPST GPS Dedawar Tehsil Barikot through your office order. Endst: 4643-45/PF/66/karim Khan/PST/M
dated: 04-02-2017

Detail report is penned down about the matter.

1-As it is must and legal to submit service book, in case of taking long leave, but Mr Karim Khan has by passed the office of the undersigned, because service book does not reflect any official proceeding, through it is lying over here in the office yet.

2-The teacher was first posted at GPS Gate tangay and was transferred to GPS Dedawar by the former DEO (M) swat Hafiz Dr M Ibrahim by dint of shirking work and exploiting his legal duties, with the aim of bringing him under close observation of the visiting officers. Further more he is ~~playing double game and performing services as seaman while showing no interest in Govt: duties,~~ resultantly he has been lacerating both Govt treasure and killing the precious time of the innocent kids of the nation.

3-The teacher concerned has a bad reputation through out his service period and also availed long leave before if his S/B is seen. So he is not deserved of such sort of long leave to be granted.

The undersigned would like to draw your kind considration toward the matter to call Mr Karim Khan back to his duties as it is his utmost responsibility and leave granted may kindly be cancelled.

5993
02/07/17
SUB-DIV:EDU; OFFICER (M)
TEHSIL BARIKOT SWAT

Copy forwarded for information and necessary action Deputy District officer(M) swat.

SUB-DIV:EDU; OFFICER (M)

Anna - E

NO: 347

17/11/2017

Annex - A

To

The District Education Officer (Muzawat)

7/11/20

Subject: Special report in r/o Mr. Karim Khan SPST GPS Rangila (Bar Cham)

7

Memo:

I have the honour to bring in your kind notice that Mr. Karim Khan SPST GPS Rangila Bar Cha Teh: Barikot has been coming fraudulent, stained, shirker and corrupt since his taking over charge in Education Deptt: He shows no interest to execute his bounden duty and often remains absent from his duties. He is playing double game and performing services as seaman while showing no interest in his duties, resultantly he has been lacerating both Govt: treasure and killing the precious time of the innocent kids of the nation.

He often brushed aside the directions given and made fun of it showing his stubbornness, refractoriness and disobedience.

The detail of his irregularities and fraudulence throughout his service period from the available record is penned down as:

Dates	Nature of Leave	Position of Leave	Remarks
8 & 9/3/2000	On duty		No proof
21 to 31 /3/2000	On duty (11 days)		No proof
1/7/2000 to 3/7/2000	C/Leave		C/Leave availed on 3/7/2000 and summer vacation began from 4/7/2000 so as per rules he availed the leave for the whole month.
18,19,20,21,and 22/9/2000	On duty	Unauthorized	No proof
23/12/2000	C/Leave		C/L availed on 23/12/2000 and winter vacations began from 24/12/2000 so as per rules he availed

~~Sundhke)~~
For immediately
put up on file
NAW
17/11/17

3579
18/11/17

OFFICE OF THE SUB-DIVISIONAL EDUCATION OFFICER (M) TEHSIL BARIKOT SWAT

3,10,13,14,15,16,17,19,20/3/2001	C/Leave	Unauthorized	Unauthorized leave w.e.f 23/12/2000 to 28/2/2001 Against Leave Rules
16/4/2001 to 25/4/2001	On duty (10 days)	Unauthorized	Against the leave rules
16,18,20,21,22,23,24,25,27,28,29,30, and 31 /8/2001	C/Leave	Unauthorized	Against the leave rules
Sep 1 to Nov 16/2001	In the attendance register his boxes are lying blank		No sign and no entries in the attendance register for the mention period
March 1 to March 31 /2002	Absent for the whole month		Marked absent by the circle ASDEO and SDEO (M) as well.
March 2002 to March 2003	Absent / disappeared		No sign and no entries in the attendance register
10/5/2014 to 14/5/2014	On duty	Unauthorized	No proof
4,5,7,8,9,10,11,12,18,19,23,24,28,29/6/2004	C/L	Unauthorized	Against the leave rules
15/12/2005 & 16/12/2005	Absent		Marked absent by circle ASDEO
Sep, Oct and Nov 2013	Absent		Marked absent by circle ASDEO
March to June 17/2013	Absent		Was marked absent by cluster in charge Mr Zafarudin principal GHSS Shamoza
25/8/2014 to 29/8/2014	C/L	Unauthorized	No proof
12/5/2015 to 16/5/2015	On duty		No proof

OFFICE OF THE SUB-DIVISIONAL EDUCATION OFFICER (M) TEHSIL BARIKOT SWAT

13/10/2015 to 31/10/2015	Absent	Unauthorized	Marked absent in the attendance register by ASDEO and SDEO as well.
1/11/2015 to March 2016	Absent	Unauthorized	No proof and no entry

Beside this he has availed 7 times long leave on different occasion which entry has been made in his service book except the long leave that he had got fraudulently from the office of the DEO (M) vide order Endst NO 4643-45 PF/66/ Karim:Khan/PST/M dated 04/02/2017.

As it is must and legal to submit service book in case of taking long leave, but Mr. Karim Khan has bypassed the office of the under signed, because service book does not reflect any official proceeding, though it is lying over here in the office of the under signed yet.

He was not deserved of such sort of leave to be granted. So a report regarding the matter was submitted to DEO (M) swat by this office vide letter Endst No 123-24 dated 18/03/2017 for the cancelation of leave and taking strict disciplinary action.

Although the leave was canceled by DEO (M) swat vide order Endst No 10835-40 dated 19/7/2017 and the teacher was called back to his duties but not an inquiry was conducted nor any punishment was given to him.

Reverend Sir! The under signed would like to say that the afore-said teacher has actually a bad reputation in department and in the public as well. So you are requested to take stern disciplinary action and give him exemplary punishment so that he may not repeat such a habitual exercise in the coming future.

Sub: Div: Edu: Officer (M)
Tehsil Barikot



FIA Report

Anna - 12

OFFICE OF THE DEPUTY DIRECTOR
FEDERAL INVESTIGATION AGENCY
IMMIGRATION AIRPORT PESHAWAR
PH: 091-9213372

Immigration/2018/19

Dated: 1/2/18

The Sub Divni: Edu: Officer (M)
Tehsil Bunkot District Swat.

PASSPORT COPY OF KARIM KHAN PST SINC (27-12-199 TO DATE)

Please refer to your office letter No. 313 dated 14-02-2018 on the subject noted.

Enclosed please find herewith Travel History in the name of Karim Khan
holder of CNIC No. 1560215530771, provided by Assistant Director IBNIS Peshawar
for kind perusal and further necessary action.


For DEPUTY DIRECTOR / FIA
IMMIGRATION BKIA PESHAWAR

Copy to the:

Director FIA KP Peshawar w.r. to your office endorsement No. FIA / KPK / P. 2018/1634 dated 15-02-2018.

IBMS TRAVEL HISTORY REPORT

Name: KASHI MOHAN
 Father/Husband Name: SHAM KHELA
 Personal Number: 156027520115
 Birth Date: 07 MAY 78
 Nationality: IN



Document Number	Event Date	Flight No	Entry Status	Location
PP4100771	14-DEC-07	EK603	departing	INDIA
PP4100771	02 JUN-08	EK606	arriving	INDIA
PP4100771	20-JUL-10	EK603	departing	INDIA
PP4100771	09-NOV-10	VY321	arriving	INDIA
PP4100771	25-MAR-11	EK603	departing	INDIA
PP4100771	22-MAY-11	GF784	arriving	INDIA
PP4100772	19-OCT-11	QR319	departing	INDIA
PP4100772	02-JUN-12	EK606	arriving	INDIA
PP4100772	15-OCT-12	CX2700	departing	INDIA
PP4100772	20-NOV-12	EK600	arriving	INDIA
PP4100772	26-SEP-13	EK607	departing	INDIA
PP4100772	11-MAY-14	EK604	arriving	INDIA
PP4100772	17-JUL-14	NL786	departing	INDIA
PP4100772	26-JUL-14	NL785	arriving	INDIA
PP4100772	05-SEP-15	PK225	departing	INDIA
PP4100772	11-DEC-15	FZ329	arriving	INDIA
PP4100772	14-FEB-17	EK605	departing	INDIA
PP4100773	04-AUG-17	G9555	arriving	INDIA

افزار نامہ

۶

Annex - 6

میں مسیحی ظاہر شاہ ولد شاکرالہ مرحوم سکنہ چوٹلی سہوڑی
ہیڈ ماسٹر GPS ذراہ صلیب سے اقرار کر کے لکھو رہتا رہا۔
کہ مسیحی کریم خان SPT کا بارہ میٹر سکول کو اکتوبر 2017
کو مہوایا۔ اور عید دن بعد دوبارہ اسکا بارہ GPS
رائٹنگ برسم C/A سہوڑی کو ہوا۔ آرڈر کے مطابق
میں نے کریم خان کو Release کر دیا جس کے بعد اسکا میٹر
سکول کے ساتھ کوئی واسطہ نہ رہا، جس کے لئے اساتذہ
حافظی رجسٹر GPS ذراہ صلیب پیشی حضرت ہے۔

Z. Shah.

Head Master,
Govt. Primary School,
Zarakhela, Distt: Swat.

21-6-2018

GPS Zarakhela

اعتراف نامہ

Annex - H


میں مستفی رحمان اللہ spst نے اقرار کرنے لگو دیتا ہوں۔

مہ جو دستخط کریم خان spst نے میرے کرتے ہیں وہ

بالکل جعلی ہیں۔ اور میرا اس سے کوئی سروکار نہیں

اور نہ وہ دستخط میرے ہیں۔ وہ سب جھوٹ اور فریب پر

مبنی ہیں۔

رحمان اللہ  شینا علی ماہر معلم 9-7995186-15602

0332 9139007

15602-0513221-3

گواہ نمبر ① اسد اعجاز
Liakat Ali Khan

گواہ نمبر ② لیاقت علی خان 15602-0263294-5

Gps Zarakhela



OFFICE OF THE
DISTRICT EDUCATION OFFICER
(MALE) SWAT

Amir I
[Stamp]

OFFICE ORDER.

This office show cause notice issued to Mr. Karim Khan Ex-PST GPS Barcham Rangela vide this office No. 3968 15.10.2018 on the report of IMU may be treated as cancel from the date of its issue as Mr. Karim Khan Ex-PST GPS Barchame Rangeela has already been removed from service vide this office order issued under Endst: No. 754-60 dated 31.7.2018.

(NAWAB ALI)

DISTRICT EDUCATION OFFICER (M)

SWAT.

4570-73

Endst: NO. _____ /Karim Khan/SPET/M/DEO/Swat.

Dated 27 / 10 / 2018

Copy forwarded to:-

1. The Director E&SE Khyber Pakhtunkhwa Peshawar.
2. The District Comptroller of Accounts Swat.
3. The DMO Swat.
4. The SDEO Barikot.
5. The Head Master GPS Barcham Rangeela
6. Superintendent local office.
7. PA to DEO Local Office.

DISTRICT EDUCATION OFFICER (M)

SWAT.



**KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR**

No. 2245 /ST

Dated: 15/11 /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 Male,
Government of Khyber Pakhtunkhwa,
Swat.

Subject: JUDGMENT IN APPEAL NO. 1451/2018 MR. KARIM KHAN.

I am directed to forward herewith a certified copy of Judgement dated 04.10.2021 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR