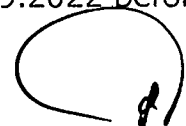


05.09.2022

Appellant present through counsel.

Kabir Ullah Khattak, learned Additional Advocate General alongwith Imran Assistant for respondents present.

Reply on behalf of respondents is still awaited. Representative of respondents requested for time to submit reply/comments. Last opportunity is granted. To come up for reply/comments on 30.09.2022 before S.B.



(Rozina Rehman)
Member(J)

20.05.2022

Learned counsel for the appellant present. Preliminary arguments heard.

Learned counsel for the appellant at the outset of his arguments, contended that the appellant is basically aggrieved of the impugned order dated 16.04.2015 communicated to the appellant during pendency of his service appeal No. 873/2019 on 10.12.2021, whereby the major penalty of removal from service was imposed on the appellant. The appellant submitted departmental appeal to respondent No. 2 on 11.12.2021 which was not decided/responded within the stipulated statutory period. After having waited for the statutory period, the appellant thereafter submitted the instant service appeal on 16.03.2022 by invoking Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974. It was further argued that the laid down procedure has not been followed by the respondents and the impugned order is violative of Rule 9 of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011.

Points raised need consideration. The appeal is admitted to regular hearing, subject to all just and legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments. To come up for reply/comments before the S.B on 04.07.2022.

(Mian Muhammad)
Member(E)

04th July, 2022

Clerk of counsel for appellant present. Mr. Muhammad Kabir Khattak , Additional AG alongwith Munawar Akhtar ADEC for respondents present.

Respondents have not submitted written reply/comments. Learned AAG seeks time for submission of written reply/comments. Adjourned. To come up for written reply/comments on 05.09.2022 before S.B.

(Kalim Arshad Khan)
Chairman

Rs-500/-
Appellant Deposited
Security & Process Fee


A. M. J. / 20/5/22

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 459/2022


S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	31/03/2022	<p>The appeal of Mr. Naeem Said resubmitted today by Mr. Mir Zaman Safi 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> <p>This case is entrusted to Single Bench at Peshawar for preliminary hearing to be put up there on <u>20-05-2022</u></p> <p style="text-align: right;"> CHAIRMAN</p>
	<p><i>Noted</i> <i>M. Zaman</i> <i>19/4/2022</i></p>	

The appeal of Mr. Naeem Syed, Ex-PSHT (BPS-12), GPS Shaloon and District Torghar today i.e. on 16.03.2022 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

1. Checklist is not attached with the appeal.
2. Affidavit attached with the appeal is not attested by the Oath Commissioner.

No. 681 /S.T,

Dt. 16/3 /2022


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Mir Zaman Safi Adv. Pesh.

Sir,

*All objections have been removed,
hence re-submitted today dated
31/3/2022.*

*at Lahore
31/3/2022*

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. 459/2022

NAEEM SAID

VS

EDUCATION DEPTT:

INDEX

S.NO.	DOCUMENTS	ANNEXURE	PAGE
1	Memo of appeal	1- 4.
2	Affidavit	5.
3	Corrigendum	A	6.
4	Sanction order	B	7.
5	Posting order	C	8.
6	Application	D	9.
7	Memo of appeal	E	10- 14.
8	Impugned order	F	15.
9	Application & withdrawal order	G & H	16- 18.
10	Departmental appeal & forwarding letter	I & J	19- 20
11	Wakalat nama	21.

APPELLANT

THROUGH:

MIR ZAMAN SAFI
ADVOCATE

Office: Room No. 6-E, 5th Floor,
Rahim Medical Centre, Hashtnagri,
Peshawar.

Cell: 0333-9991564

0317-9743003

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

APPEAL NO. _____ /2022

Mr. Naeem Said, Ex-PST (BPS-12),
GPS Shaloon, District Torghar.....**APPELLANT**

VERSUS

- 1- The Secretary, E&SE Department, Khyber Pakhtunkhwa, Peshawar.
- 2- The Director, E&SE Department, Khyber Pakhtunkhwa, Peshawar.
- 3- The District Education Officer (M), District Torghar.

.....**RESPONDENTS**

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 16.04.2015 COMMUNICATED TO THE APPELLANT DURING PENDENCY OF APPEAL NO.873/2019 ON 10.12.2021 WHEREBY MAJOR PENALTY OF REMOVAL FROM SERVICE HAS BEEN IMPOSED UPON THE APPELLANT AND AGAINST NO ACTION TAKEN ON THE DEPARTMENTAL APPEAL OF APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS.

PRAYER:

That on acceptance of this appeal the impugned order dated 16.04.2015 communicated to the appellant on 10.12.2021 may very kindly be set aside and the appellant be re-instated into service with all back benefits. Any other relief which this august Tribunal deems fit that may also be awarded in favor of the appellant.

R/SHEWETH:

ON FACTS:

Brief facts of the present appeal are as under:-

- 1- That appellant was appointed as Primary School Teacher (BPS-07 now BPS-12) in the respondent Department on 22.02.2006 and subsequently posted at GPS Sural, Torghar through corrigendum dated 04.03.2006. That right from appointment the appellant had served the department quite efficiently and upto the entire satisfaction of his superiors. Copy of the corrigendum is attached as annexure.....A.
- 2- That during service the appellant applied for Ex-Pakistan leave for the period of two years which had been sanctioned w.e.f 10.08.2012 to

31.08.2014 vide order dated 26.12.2012. Copy of the sanction order is attached as annexure.....**B.**

- 3- That after completion of leave period the appellant re-join his duty at GPS Shaloon Basikhail, through proper order of the SDEO (M), Torghar dated 09.09.2014. That in pursuance of the order dated 09.09.2014 the appellant started performing his duty at the station concerned with full of his devotion and honesty. Copy of the order is attached as annexure.....**C.**
- 4- That the appellant while performing his duty at the concerned station salary of the appellant withheld by the respondents without any reason and clear justification. That appellant time and again requested the authority concerned for release of his salary but instead of releasing of salary, the appellant was verbally informed that he has been terminated from service.
- 5- That appellant feeling aggrieved preferred an application before the respondent No.2 but no response received by the appellant on the same from quarter concerned. That subsequently the appellant preferred service appeal No. 873/2019 before this august Tribunal and during pendency of the aforementioned service appeal the respondent department submitted their reply alongwith impugned removal order dated 16.04.2015 which was communicated to the appellant on 10.12.2021. Copies of the application, memo of service appeal & impugned order are attached as annexure.....**D, E & F.**
- 6- That the appellant after receiving the impugned order dated 16.04.2015 submitted application for withdrawal of the above mentioned service appeal with the permission to file a fresh appeal against the impugned order dated 16.04.2015 which was accepted and consigned the appeal vide order dated 10.12.2021. Copies of the application and order sheet are attached as annexure.....**G & H.**
- 7- That appellant feeling aggrieved from the impugned order dated 16.04.2015 communicated to the appellant on 10.12.2021 preferred departmental appeal to the respondent No.2 but no reply has been received so far. Hence the appellant preferred the instant service appeal on the following grounds amongst the others. Copies of the departmental appeal and forwarding letter are attached as annexure.....**I & J.**

GROUND:

- A- That the impugned order dated 16.04.2015 issued by the respondent No.3 is against the law, facts, norms of natural justice and materials on the record, hence not tenable and liable to be set aside.

- B- That appellant has not been treated by the respondent department in accordance with law and rules on the subjected noted above and as such the respondents violated the Article-4 and 25 of the Constitution of Islamic Republic of Pakistan.
- C- That no absence notice has been served upon the appellant before issuing the impugned order dated 16.04.2015.
- D- That no publication whatsoever been published by the respondent Department before issuing the impugned order dated 16.04.2015 which is mandatory as per Rule-9 of the Civil Servant (Efficiency & Discipline) Rules, 2011.
- E- That the respondent department acted in arbitrary and malafide while issuing the impugned order dated 16.04.2015 which is not tenable in the eye of law and liable to be set aside.
- F- That the impugned order dated 16.04.2015 has been issued by the respondents in violation of the principle of natural justice.
- G- That no chance of personal hearing/defense has been provided to the appellant before issuing the impugned order dated 16.04.2015.
- H- That the appellant seeks permission to advance any other ground and proofs at the time of hearing.

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

Dated: 15.03.2022.

APPELLANT


NAEEM SAID

THROUGH: 

MIR ZAMAN SAFI

&

ABDULLAH KHAN KHATTAK
ADVOCATES



CERTIFICATE:

It is certified that no other earlier appeal was filed between the parties.


DEPONENT

LIST OF BOOKS:

- 1- CONSTITUTION OF PAKISTAN, 1973
- 2- SERVICES LAWS BOOKS
- 3- ANY OTHER CASE LAW AS PER NEED

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. _____/2022

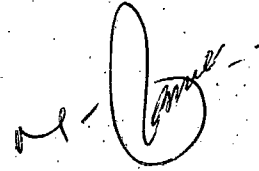
NAEEM SAID

VS

EDUCATION DEPTT:

AFFIDAVIT

I Mir Zaman Safi, Advocate High Court, Peshawar on the instructions and on behalf of my client do hereby solemnly affirm and declare that the contents of this **service appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Court.



MIR ZAMAN SAFI,
Advocate
High Court, Peshawar

Annex "A" 006

OFFICE OF THE EXECUTIVE DISTRICT OFFICER SCHOOLS & LITERACY MANSEHRA.

CORRIGENDUM.

In partial modification of this office E/No.3072-3227, 3043-71 & 3000-21 dated 22/2/2006. The following corrigendum are hereby accorded in the interest of public service with effect from the date mentioned above.

S.No.	S.No.in order	Name of PST	Place of posting recruitment in order.	Place of posting to read as.	Remarks.
1.	2	Nizamul Haq.	GPS Prinjal.	GPS Karan Sydan	V/No.2
2.	18	Abdur Rehman.	GPS Karan Sydan	GPS Prinjal.	V/No.1
3.	9	Ghulam muhd.	GPS Tegram.	GPS Garhi Bala.	V/No.1
4.	8	Ihsanullah.	GPS Legra.	GPS P/Bartoni.	V/No.5
5.	2	M.Wahab,	GPS P/Bartooni.	GPS Tegram.	V/No.3
6.		Ihsanullah.	GPS Surnal.	GPS Leegra.	V/No.4
7.	12	M.Saeed.	GPS S/Kohani.	GPS Koonray.	V/No.8
8.	7	Aleemud Din.	GPS Koonray.	GPS S/Kohani.	V/No.7
9.	16	Naeem Syed.	GPS Kotkay.	GPS Sural.	V/Post.

NOTE:- 1. Charge report should be submitted to all concerned.
2. No TA/DA is allowed.

EXECUTIVE DISTRICT OFFICER (M)
SCHOOLS & LITERACY MANSEHRA.

Endst:No. 3685-95 dated, 04/03/06

Copy to the :-

1. Distt:Accounts Officer mansehra.
2. HT Concerned.
3. Budget & Accounts Officer local office.
4. Teachers concerned.

[Handwritten signature]

[Handwritten signature]
EXECUTIVE DISTRICT OFFICER
SCHOOLS & LITERACY MANSEHRA

ATTESTED

[Handwritten mark]

OF THE EXECUTIVE DISTRICT OFFICER ELEMENTARY AND SECODARY EDUCATION TOR GHAR

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Annex "B" P-

SANCTION OF LEAVE:

Consequent upon the approval of the competent authority and under the provision of leave rules 1981 sanction is hereby accorded to the grant of leave in favor of the following Employees For the period/kind mentioned against each their names as due and admissble under the rules:

S.No	Employee's Name along with Designation and school	Period Leave	Remark
1	Habib ur Razaq AT GMS Kotlay II.Z	05-10-2012 to 20-11-2012 (47 days)	Hajj Leave (Earned Leave)
2	Ameer Zaib AT GMD Judba	17-09-2012 to 05-11-2012 (50 days)	Earned Leave on Medical Ground
3	Khalid Islam PST GPS Jangri	01-09-2012 to 31-08-2014 (730 days)	Ex-pakistan Leave (Without pay)
4	Nacem said PST GPS DADA BANDA	10-08-2012 to 31-08-2014 (752 days)	Ex-pakistan Leave (Without pay)
5	Said Ummat khan Chowkidar GPS kunhar sharif H.Z	15-10-2012 to 20-10-2012 (06 days)	Casual Leave

Note:

- 1- Necessary entries to this effect should be made in his service book and leave account Proforma.
- 2- After expiry of leave he will be adjusted in the school where the vacant post is available in the district.
- 3- If the employee did not submit his arrival report on the expiry of leave, he will be proceeded under the relevant rules.
- 4- In Case of Leave on Medical ground the employee would have to submit the fitness certificate from the Doctor concerned before re-joining the duty.
- 5- No single school teacher/employee is allowed to proceed on leave till the arrangement of his/her substitute.

-sd-
Executive District Officer
(E&S) Tor Ghar

Dated: 26/12/2012

District Officer (M)
(E&SE) Tor Ghar

Endst.No2313/Leave Sanction / EDO/ TG

Copy to the:

- 1- District Accounts Officer Tor Ghar.
- 2- District Officer (M) Local Office.
- 3- Head Master/Head Teacher Concerned School.
- 4- Employee C concerned.
- 5- Leave sanction File

SHAR BAHAGSAD KHAN

Ammer ¹² C-27 ~~8~~
① - ②


Office of SDEO (M)
Tor Ghar

No. .
dt .

Order

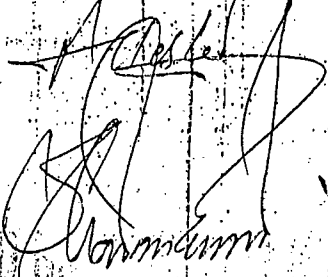
Mr. Naeem Said PST return from
ex-Pakistan leave sanctioned vide No. 2313/L.
/EDO/TG dt. 26/12/2012 is hereby posted
at GPS Shaloon Basikhail with immediate effect
till his proper posting orders.

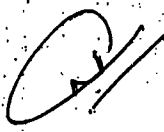
enddt. No. 128-31 dt. 9/9/2014

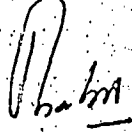

SDEO (M)
Tor Ghar

1. DEO (M) Tor Ghar for information.
2. H/T GPS Shaloon BIK
3. Tenure concern.

ATTESTED


SDEO (M)
Tor Ghar




SDEO (M)
Tor Ghar

Annex 'D' - 9

بخدمت جناب ڈائریکٹر صاحب محکمہ ایجوکیشن
خیبر پختونخواہ

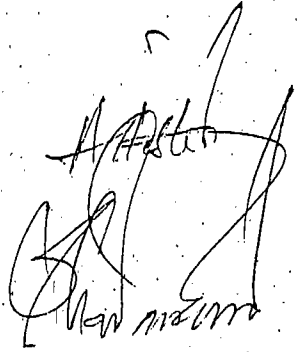
جناب عالی

گزارش ہیجہ سائل مورخہ 10/08/2012 تا 31/08/2014 تک سکول ہذا سے چھٹی پر تھا۔ اور
بعد از مورخہ 09/09/2014 کو چھٹی سے واپس آ کر سکول ہذا میں اپنی پوسٹ کا چارج سنبھال لیا
۔ اور چارج رپورٹ دفتر میں جمع کرادی بعد میں سائل نے اپنی تجواہ کے لئے دفتر کے کئی چکر لگائے مگر
سائل کو کوئی تسلی بخش جواب نہیں ملا بلکہ کچھ عرصہ بعد پتہ چلا کہ سائل کو غیر حاضری کی بنیاد پر نوکری سے
نکال دیا گیا ہے۔ جو کہ سراسر نا انصافی ہے کیونکہ سائل کو نہ Explanation لیٹرنہ شوکا ز اور نہ ہی
ٹر مینیشن آرڈر ملا ہے برائے کرام سائل کو اپنی پوسٹ پر تعیناتی کا حکم صادر فرما کر مشکور فرمائیں
سائل تاحیات دُعا گور ہے گا

العارض

آپ کا مخلص: نعیم سید PST جی پی ایس شالون ضلع تورغر

سکنہ سوراں بسی خیل ضلع تورغر



ATTESTED



P O

E-(10)

BEFORE THE SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA PESHAWAR

Naeem Syed son of Tawiz Syed, resident
of Sooral, Tehsil Judbah District
Torghar.....**Appellant**

Versus

- 1) **District Education Officer Torghar**
- 2) **Director Education KPK
Peshawar.....Respondents**

APPEAL AGAINST THE ORDER OF
RESPONDENT NO. 1 VIDE WHICH
THE APPELLANT WAS TERMINATED
FROM SERVICE.

Respected Sir,

The brief facts leading to the
instant appeal are arrayed as follows: -

ATTESIL

- 1) That, the appellant was appointed
as PTC Teacher on 04.03.2006 vide
order No. 3685-95 dated
04.03.2006 by the District Officer
Schools & Literacy Mansehra. The
appellant joined the service and
performed his duties to the best

(N)

P-0 11
satisfaction of his immediate officers.

(The copy of appointment order is attached as Annexure "A")

- 2) That, the appellant applied for leave to District Education Officer Torghar and his application was accepted and leave for two (2) years from 10.08.2012 to 31.08.2014 was sanctioned.

(The copy of the sanction of leave is attached as Annexure "B").

- 3) That, the appellant after availing the above mentioned leave came back and reported his arrival and was posted as PTC teacher at GPS Shaloon Bassi Khail vide Endst. No. 128-31, dated 09.09.2014.

(The copy is attached as Annexure "C").

- 4) That, the appellant was discharging his duties but, for reason best known his salary was not paid for which he ran from pillar to post but, his grievances were not redressed rather he was terminated from service and even the termination order was not communicated to the appellant. all the efforts made by the appellant did not bring any fruit.
- ATTES
P

P (8) (12)

5) That, finding no any other alternative, the appellant submitted an appeal to respondent No. 2, but even then no any intimation with respect to the fate of his appeal was conveyed to the appellant.

(The copy of appeal is attached as Annexure "D")

6) That, as no reply was given by respondent No. 2 nor any intimation with respect to the fate of appeal was conveyed so, the appellant sent a legal notice to respondent No. 1 to get the order through which he was either removed, dismissed or terminated from service. The legal notice was received and the acknowledgement was returned.

(The copy of legal notice and acknowledgement are attached as Annexure "E" & "F").

7) That, the appellant seeks his reinstatement on the following amongst other grounds: -

ATTESTED



GROUND: -

A) That, the appellant is the eligible and regular employee of

P-0

13

department who had served the department for sufficient long time, but was dismissed without adopting the procedure laid down by the law.

- B) That, the appellant was never served any show cause notice nor any inquiry was conducted against the appellant nor the appellant was intimated in this respect.
- C) That, it is one of the mandatory provision of law that before depriving him, it is incumbent to issue a charge sheet alongwith a statement of allegation, so that the person could know that proceedings have been initiated and he is giving all the options to defend himself.
- D) That, no any regular inquiry has been conducted by the department and as such, the order, if any does not hold legal backing.
- E) That, the constitution as well as the service laws have laid down a mandatory provisions which shall have to be adopted and in case if there is any deviation the entire superstructure is bound to fall.

ATTESTED




P-0

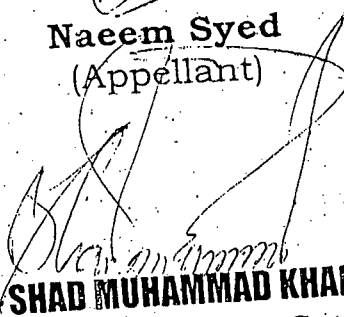
14

It is, therefore, most humbly prayed and requested that on acceptance of appeal, the appellant may kindly be re-instated in service.

Dated 14.06.2019



Naeem Syed
(Appellant)


Through: -


SHAD MUHAMMAD KHAN
Advocate Supreme Court of
Pakistan (Mansehra)

VERIFICATION

I, NAEEM SYED SON OF TAWIZ SYED, RESIDENT OF SOORAL, TEHSIL JUDBAH DISTRICT TORGHAR DO HEREBY VERIFY THAT THE CONTENTS OF FORE-GOING APPEAL ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF AND NOTHING HAS BEEN CONCEALED OR SUPPRESSED FROM THIS HONOURABLE TRIBUNAL.


NAEEM SYED
(DEPONENT)

ATTESTED


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17
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REGISTERED



OFFICE OF THE DISTRICT EDUCATION OFFICER (M) TOR GHAR

NOTIFICATION

ADO (S/E) NAEEM SAID, PST: WHEREAS Mr. Naeem Said PST GPS Shaloon District Tor Ghar proceeded against under Khyber Pakhtunkhwa, Government Servants (Efficiency & Discipline) Rules, 2011 on account of his willful and unauthorized absence from duty.

2. **AND WHEREAS** the accused Teacher was issued show cause through print media Daily Express dated 02/03/2015 and Daily Mashriq Peshawar Dated 05/03/2015 and 3-03-2015, but he failed to submit his reply within stipulated time.

3. **AND WHEREAS** the Competent Authority (District Education Officer 'M') after having considered the charges and evidence on record, response to the Show-Cause Notice, is of the view that the charges against the accused official have been proved.

4. **NOW, THEREFORE**, in exercise of the powers conferred under the Khyber Pakhtunkhwa, Government Servants (Efficiency & Discipline) Rules, 2011, the Competent Authority (District Education Officer 'M') is pleased to impose major penalty of "**REMOVAL FROM SERVICE**" w.e.f 01/09/2014 upon Mr. Naeem Said PST GPS Shaloon District Tor Ghar.

-SD-

District Education Officer (M) /
E&SE Tor Ghar

Endst: No 5570-74 dated 16/04/2015:

Copy forwarded for information and necessary action to the -

1. Director, Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar
2. P,S to Minister Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar
3. District Accounts Officer, Tor Ghar at Mansehra.
4. SDEO (M) Judba Tor Ghar
5. Mr. Naeem Said GPS Shaloon Khall District Tor Ghar.

ATTESTED

Dy; District Education Officer (M)
E&SE Tor Ghar

Before the Kyber Pakhtunkhwa Service Tribunal,
Peshawar.

Appeal No. 873/2019 G-16

Naam Syed vs Education Deptt.

Application for withdrawal of the
above mentioned Service Appeal

R/S Wazir

9. That the above mentioned Service Appeal is pending
adjudication before this august Service Tribunal
which is fixed for hearing today on 10.12.2021.

2. That the appellant filed the above mentioned
Service Appeal against his termination from Service
while the impugned order has not been delivered
by the Respondents to the appellant.

3. That during the pendency of the instant Service Appeal,
the Respondent Deptt. Submitted Supply in the operations
Service Appeal, which is delivered to the appellant
today on dated 10.12.2021.

4. That from the reversal of Supply submitted by the
Respondents, it came into the knowledge of appellant
that his Services had been removed from Service
via order dated 16.4.2015 which is attached
with the Reply as annexure-B.

5. That due to the banking over the impugned order
dated 16.4.2015 today on 10.12.2021, the appeal
in hand become infructuous and the appellant

(A)

wants to challenge the impugned order in a fresh appeal.

16/A

It is therefore, most humbly prayed that on acceptance of this application the appeal in hand may very kindly be dismissed as withdrawn with the permission to file a fresh appeal against the impugned order dated 16.04.2021.

Dated: 10.12.2021.

Appellant
through: Mr. [Signature]
Mr. Zaman Seifi
Advocate

[Signature]

P 0 H-17
**BEFORE THE SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA PESHAWAR**



APPEAL (No. 873/2019)

Naeem Syed son of Tawiz Syed, resident
of Sooral, Tehsil Judbah District
Torghar.....**Appellant**

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 868

Dated 19-6-2019

Versus

- 1) District Education Officer Torghar
- 2) Director Education KPK
Peshawar.....**Respondents**

**APPEAL AGAINST THE ORDER OF
RESPONDENT NO. 1 VIDE WHICH
THE APPELLANT WAS TERMINATED
FROM SERVICE.**

Respected Sir,

The brief facts leading to the
instant appeal are arrayed as follows: -

- 1) That, the appellant was appointed
as PTC Teacher on 04.03.2006 vide
order No. 3685-95 dated
04.03.2006 by the District Officer
Schools & Literacy Mansehra. The
appellant joined the service and
performed his duties to the best of

Certified to be true copy

Registrar
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Filed to-day

Registrar

19/6/19

Re-submitted to-day
and filed.

Registrar

21/7/19

Service Appeal No. 873/2019

18

10.12.2021

Learned counsel for the appellant present. Mr. Noor Zaman Khattak, District Attorney for the respondents present.



Respondent-department submitted reply/comments in the instant service appeal. Placed on file. Learned counsel for the appellant also submitted an application stating therein that during pendency of the service appeal, the impugned order dated 16.04.2015 awarding the appellant major penalty of "removal from service" w.e.f 01.09.2014 was issued which is received to him in the court today. His application for withdrawal of the instant service appeal is accepted. File be consigned to record room.

ANNOUNCED
10.12.2021

(Mian Muhammad)
Member (E)

Certified to be true copy

Date of Presentation of Application 17/2/22
 Number of Words 800
 Copying Fee 4/- 10/-
 Urgent 4/-
 Total 19/-
 Name of Applicant _____
 Date of Receipt of Copy 17/2/22
 Date of Delivery of Copy 17/2/22

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

To,

The Director (E&SE) Department,
Khyber Pakhtunkhwa, Peshawar.

I - (19)

Subject: DEPARTMENTAL APPEAL AGAINST THE IMPUGNED ORDER DATED 16.04.2015 WHEREBY MAJOR PENALTY OF REMOVAL FROM SERVICE HAS BEEN IMPOSED UPON THE APPELLANT AND THE SAME ORDER COMMUNICATED TO THE APPELLANT ON 10.12.2021 DURING PROCEEDING IN APPEAL WHICH WAS PENDING BEFORE THE AUGUST SERVICE TRIBUNAL

Respected Sir,

Brief facts are as under:-

- 1- That the appellant was initially appointed as PST in your good self-Department vide order dated 04.03.2006. That after appointment the appellant performed his duty quite efficiently, whole heartedly and upto the entire satisfaction of his superiors.
- 2- That during service the appellant requested for ex-Pakistan leave for the period of two years in the year 2012 which was properly sanctioned to the appellant vide order dated 26.12.2012.
- 3- That after completion of the said period of leave the appellant came to his native country Pakistan and properly took over the charge against the post of PST at GPS Shaloon Basikhail, Torghar vide dated 09.09.2014 and started performing his duty with all zeal and zest.
- 4- That appellant while performing his duty at GPS Shaloon Basikhail but his salary was not released by the concerned authorities and later on the appellant was verbally informed that he was terminated from service. That the appellant time and again visited the Office of District Education Officer (M) Torghar for issuance of the impugned termination order but he was not willing to handed over the same to the appellant.
- 5- That feeling aggrieved the appellant preferred service appeal No.873/2019 before the august Service Tribunal, Peshawar and during the pendency of the aforementioned service appeal the concerned authority submitted reply before the service Tribunal which was handed over to the appellant on the date of hearing i.e. 10.12.2021.
- 6- That from the perusal of the said reply it came into the knowledge of appellant that he was removed from service vide order dated 16.04.2015. That the appellant feeling aggrieved from the impugned order dated 16.04.2015 preferred the instant Departmental appeal before your good self

ATTESTED

(N)

(20)

on the following grounds and withdrawn the previous service appeal pending before the august Service Tribunal on 10.12.2021.

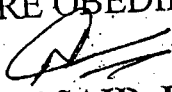
GROUND:

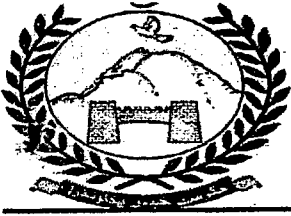
- A- That the impugned order dated 16.04.2015 communicated to the appellant on 10.12.2021 issued by the authorities is against the law, facts, norms of natural justice and materials on the record, hence not tenable and liable to be set aside.
- B- That the appellant has not been treated in accordance with law and rules by the respondent on the subject noted above and as such violated Article-4 and 25 of the Constitution of Islamic Republic of Pakistan, 1973.
- C- That the concerned authority acted in arbitrary and malafide manner while issuing the impugned order dated 16.04.2015 which is not tenable in eye of law and same is liable to be set aside.
- D- That absence notice has been issued by the concerned authority before issuing the impugned order dated 16.04.2015.
- E- That no publication whatsoever been published by the concerned authority in two leading newspapers as per law and prescribed rules before issuance of the impugned order dated 16.04.2015.
- F- That no chance of personal hearing/defence has been provided to the appellant before issuing the impugned order dated 16.04.2015 which necessary as per judgment of the Superior Courts.
- G- That the appellant has not been committed any illegality but despite that the appellant has been removed from his service, which is illegal and violative of the principle of natural justice.

It is therefore, most humbly prayed on acceptance of this Departmental appeal the impugned order dated 16.04.2015 may very kindly be set aside and the appellant be re-instated into service with all back benefits.

Dated: 11.12.2021. ATTEST

(N)

YOU'RE OBEDIENTLY

NAEEM SAID, EX-PST
GPS Shaloon Basikhail, Torghar



OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE)
DISTRICT TOR GHAR

No 3172 Dated 1/ /2022.

20/A

To,

The Director E&SE Khyber Pakhtunkhwa
Peshawar.

Subject: DEPARTMENTAL APPEAL

I am to refer to Assistant Director (Estab) letter No.3303/F.No/departamental appeal/Tor Ghar dated 08.02.2022., on the subject captioned above and to submit the detail report views/comments regarding subject as follow.

1. That the applicant has been performing his duty as PST in GPS Shaloon District Tor Ghar and was accorded to grant Ex-Pakistan Leave without pay w.e.f 10.08.2012 to 31.08.2014 (752 days) by the competent authority vide this office Endst: No. 2313/Leave sanction/EDO/TG dated 26/12/2012. Copy attached.
2. That as per report of the Sub Divisional Education Officer Male Tor Ghar vide his letter No.199/SDEO Male dated 24.10.2014 he has been remained absent from his duty since 01.09.2014 to till date, after expiry of Two years Ex-Pakistan Leave without pay and the community also endorsed that he always remained absent from his duty.
3. That, show cause notice has been issued vide this office letter No. 4722 dated 22.01.2015, where after notices through print media Daily Mashriq Peshawar dated 05/03/2015 and 13/03/2015 has also been issued but he failed to submit his reply with in stipulated time and on finality of disciplinary proceedings, major penalty of removal from service w.e.f 01.09.2014 was imposed upon Mr. Naeem Said by the then DEO Male Tor Ghar vide Notification No.5570-74 dated 16.04.2015. copy of Notification attached)

Now the applicant has approached to your good self for a review as appellate authority against the aforesaid penalty imposed upon him, submitted for further process please.


District Education Officer (M)
E&SE Tor Ghar

Endst: NO 3173-75 Dated 23/02/2022
Copy For information to the.

ATTESTED

1. SDEO Male Judba Tor Ghar
2. Applicant concerned.
3. Office file.


District Education Officer (M)

"B"

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.
JUDICIAL COMPLEX (OLD), KHYBER ROAD, SB
PESHAWAR.

No.

Appeal No. 459 of 20 22

Naeem Said Appellant/Petitioner

Versus

The Secy. ERIE KPK Respondent

Respondent No. 3

Notice to:

the Distt Education Offices (M)
Distt. Toxghar

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal *on 4/7/2022 at 8:00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement along with any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Copy of appeal is attached. Copy of appeal has already been sent to you vide this office Notice No. dated

Given under my hand and the seal of this Court, at Peshawar this 10th

Day of June 20 22

for Reply

Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
2. Always quote Case No. While making any correspondence.

"B"

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.
JUDICIAL COMPLEX (OLD), KHYBER ROAD,
PESHAWAR. S.B

No.

Appeal No. 459 of 20 22

Naeem Said Appellant/Petitioner

Versus

the Secy ERSE KPK Respondent

Respondent No. 1

20/6

Notice to: —

the Secretary ERSE KPK Peshawar.

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal *on 4/7/2022 at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

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“B”

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.
JUDICIAL COMPLEX (OLD), KHYBER ROAD, P.B
PESHAWAR.

No.

Appeal No. 459 of 20 22

Nareem Said Appellant/Petitioner

the Secy. ERSE KPK Versus Respondent

Respondent No. 2

Notice to: the Director ERSE Deptt. KPK
Peshawar

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal *on 4/7/2022 at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

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Given under my hand and the seal of this Court, at Peshawar this 10th

Day of June 2022

for Reply

[Signature]

Registrar,
 Khyber Pakhtunkhwa Service Tribunal,
 Peshawar.

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