

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
CAMP COURT SWAT

Service Appeal No. 354/2013

Date of Institution... 11.02.2013

Date of decision... 09.11.2017

Amjad Ali S/O Wazir Ahmad,  
R/o Ouch, Tehsil Adenzai, District Dir Lower ... (Appellant)

Versus

1. The Government of Khyber Pakhtunkhwa through Secretary E&SE,  
Education Department, Peshawar: and 3 others. ... (Respondents)

MR. Abdul Haq, .. For appellant.  
Advocate

Mr. Kabir Ullah Khatta, ... For respondents.  
Additional Advocate General

MR. NIAZ MUHAMMAD KHAN, ... CHAIRMAN  
MR. MUHAMMAD HAMID MUGHAL, ... MEMBER

JUDGMENT

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

FACTS

2. Appellant was removed from service on 08.03.2012 against which he filed  
departmental appeal on 26.03.2012 which was rejected on 31.12.2012 and  
communicated to the appellant on 16.01.2013. thereafter the appellant filed the  
present appeal on 08.03.2013.

ARGUMENTS

3. The learned counsel for the appellant argued that the appellant was  
appointed in service on 01.06.1992. That he applied for leave without pay which  
was granted to him from 02.04.2002 to 01.5.2004. That due to some enmity in the  
village the appellant and his family could not manage to return back to their

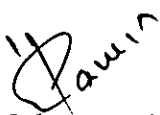
village and the appellant could not join his duty for almost six (06) years. That the appellant then submitted an application for allowing him to resume his duty on 09.03.2010. That an inquiry was appointed which submitted its report on 09.06.2011. That in the said inquiry report it was recommended that the appellant should be adjusted against the vacant post. But the authority instead issued show cause notice to the appellant and finally terminated the appellant vide the impugned order. Learned counsel for the appellant stressed on the harshness of the penalty of removal from service. In this regard, he relied upon 2008 SCMR 214 and 2006 SCMR 60.

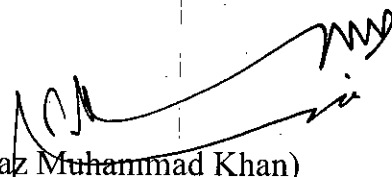
4. On the other hand Learned Additional Advocate General argued that this appeal is not maintainable being time barred and in this regard he pressed into service judgment reported as 2005-SCMR-1206. He further argued that the appellant has himself admitted his absence by filing the application for adjustment. He next argued that no plausible explanation was given by the appellant in support of his enmity in the village that the authority has rightly removed the appellant from service.

### CONCLUSION

5. The judgment relied upon by the Addl; AG regarding the limitation is not attracted in the present appeal as in the reported judgment the appeal was not decided and in the present case the appeal was decided on 31.12.2012 and communicated to appellant on 16.01.2013 and thereafter he filed the present service appeal within thirty (30) days which is within time. Regarding the absence of the appellant the appellant himself has admitted that he remained absent for almost six (06) years in his application submitted to the authority. Since the appellant himself has admitted his absence and this Tribunal is of the view that there was no need of further inquiry regular or otherwise any advantage of any

lapses in the inquiry or the decision of the authority could be given to the appellant. Learned counsel for the appellant has also not touched any legal weakness in the whole proceedings. His main argument was severity of the penalty and the judgment upon which he relied also speaks about the quantum of punishment. Keeping in view of the charges leveled against the delinquent proceedings were initiated under the Khyber Pakhtunkhwa Removal from Service (Special Powers) Ordinance, 2000 by removing the appellant and not under the special provision like Rule 8-A of the Khyber Pakhtunkhwa Government Servant (E&D) Rules 1973 in which the authority has no option but to remove the delinquent. Under the RSO 2000 the authority had the option of imposing the penalties other than removing from service. Keeping in view the nature of guilt and charge against the appellant this Tribunal is of the view that in the circumstances the penalty of removal from service is too harsh. The appellant had completed service of ten (10) years and the allegations against the appellant was not of any disobedience of the orders of the superiors nor was he contumacious in any respect. He simply absented himself which is surely a misconduct but in such circumstances he should have been treated leniently in imposition of penalty. This Tribunal by accepting this appeal converts the penalty of removal from service into compulsory retirement. Parties are left to bear their own costs. File be consigned to the record room.

  
 (Muhammad Hamid Mughal)  
 Member

  
 (Niaz Muhammad Khan)  
 Chairman  
 Camp Court, Swat

ANNOUNCED  
 08.11.2017

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

Amended Service Appeal No. 354/2013

Amjad Ali S/o Wazir Ahmad,  
R/o Ouch, Tehsil Adenzai, District Dir Lower.....**Appellant**

**V E R S U S**

1. Govt. of KPK, through Secretary E&SE,  
Education Department, Peshawar
2. District Education Officer,  
Elementary, Secondary Education,  
Dir Lower at Timargara.
3. District of Education Govt. of KPK, Peshawar
4. District Coordination Officer, Dir Lower  
Now Director Education at Peshawar.....**Respondents**

*Respected No. 4  
Respondent get  
co-signature  
vide order  
dt 24/1  
19*

**APPEAL U/S 4 OF THE KPK SERVICE  
TRIBUNAL ACT, 1974, AGAINST THE  
ORDER DATED 31.12.2012 WHEREBY  
APPELLANT HAS BEEN TERMINATED  
ON THE BASIS OF NOTIFICATION  
ISSUED BY THE RESPONDENT NO.2,  
VIDE NOTIFICATION FROM THE  
DATE OF HIS ABSENCE.**

**PRAYER IN APPEAL**

On acceptance of the order of  
termination /removal passed by the  
respondent No.2 & 4 may please be

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
CAMP COURT SWAT

Service Appeal No. 354/2013

Date of Institution... 11.02.2013

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Amjad Ali S/O Wazir Ahmad,  
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Advocate

... For appellant.

Mr. Kabir Ullah Khatta,  
Additional Advocate General

... For respondents.

MR. NIAZ MUHAMMAD KHAN,  
MR. MUHAMMAD HAMID MUGHAL,

... CHAIRMAN  
... MEMBER

JUDGMENT

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

FACTS

2. Appellant was removed from service on 08.03.2012 against which he filed  
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ARGUMENTS

3. The learned counsel for the appellant argued that the appellant was  
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was granted to him from 02.04.2002 to 01.5.2004. That due to some enmity in the  
village the appellant and his family could not manage to return back to their

village and the appellant could not join his duty for almost six (06) years. That the appellant then submitted an application for allowing him to resume his duty on 09.03.2010. That an inquiry was appointed which submitted its report on 09.06.2011. That in the said inquiry report it was recommended that the appellant should be adjusted against the vacant post. But the authority instead issued show cause notice to the appellant and finally terminated the appellant vide the impugned order. Learned counsel for the appellant stressed on the harshness of the penalty of removal from service. In this regard, he relied upon 2008 SCMR 214 and 2006 SCMR 60.

4. On the other hand Learned Additional Advocate General argued that this appeal is not maintainable being time barred and in this regard he pressed into service judgment reported as 2005-SCMR-1206. He further argued that the appellant has himself admitted his absence by filing the application for adjustment. He next argued that no plausible explanation was given by the appellant in support of his enmity in the village that the authority has rightly removed the appellant from service.

### CONCLUSION

5. The judgment relied upon by the Addl; AG regarding the limitation is not attracted in the present appeal as in the reported judgment the appeal was not decided and in the present case the appeal was decided on 31.12.2012 and communicated to appellant on 16.01.2013 and thereafter he filed the present service appeal within thirty (30) days which is within time. Regarding the absence of the appellant the appellant himself has admitted that he remained absent for almost six (06) years in his application submitted to the authority. Since the appellant himself has admitted his absence and this Tribunal is of the view that there was no need of further inquiry regular or otherwise any advantage of any


lapses in the inquiry or the decision of the authority could be given to the appellant. Learned counsel for the appellant has also not touched any legal weakness in the whole proceedings. His main argument was severity of the penalty and the judgment upon which he relied also speaks about the quantum of punishment. Keeping in view of the charges leveled against the delinquent proceedings were initiated under the Khyber Pakhtunkhwa Removal from Service (Special Powers) Ordinance, 2000 by removing the appellant and not under the special provision like Rule 8-A of the Khyber Pakhtunkhwa Government Servant (E&D) Rules 1973 in which the authority has no option but to remove the delinquent. Under the RSO 2000 the authority had the option of imposing the penalties other than removing from service. Keeping in view the nature of guilt and charge against the appellant this Tribunal is of the view that in the circumstances the penalty of removal from service is too harsh. The appellant had completed service of ten (10) years and the allegations against the appellant was not of any disobedience of the orders of the superiors nor was he contumacious in any respect. He simply absented himself which is surely a misconduct but in such circumstances he should have been treated leniently in imposition of penalty. This Tribunal by accepting this appeal converts the penalty of removal from service into compulsory retirement. Parties are left to bear their own costs. File be consigned to the record room.

354/2013

03.04.2017


Clerk of the counsel for appellant and Mr. Muhammad Zubair, Senior Government Pleader for respondents present. Clerk of the counsel for appellant requested for adjournment on the ground that his counsel is not available. Adjourned. To come up for arguments on 07.08.2017 before D.B at Camp Court ~~Swat~~ Swat.


  
(AHMAD HASSAN)  
MEMBER

  
(MUHAMMAD AMIN KHAN KUNDI)  
MEMBER  
Camp Court Swat.

07.08.2017

Appellant present in person and Mr. Muhammad Zubair, District Attorney for the respondents present. Appellant seeks adjournment as his counsel is not in attendance due illness. To come up for arguments on 9.11.2017 before the DB at camp court, Swat.

  
Member

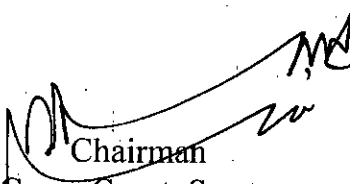
  
Chairman  
Camp court, Swat

09.11.2017

Counsel for the appellant and Addl. A.G for the respondents present. Arguments heard and record perused.

This appeal is accepted as per our detailed judgment of today. Parties are left to bear their own costs. File be consigned to the record room.

  
Member


  
Chairman  
Camp Court, Swat.


ANNOUNCED  
09.11.2017



24.03.2016


Appellant in person and Mr. Muhammad Jan, GP for respondents present. Appellant stated that the case may be transfer to Camp Court Swat. Request is accepted. To come up for arguments on 02.08.2016 at Camp Court Swat.

  
Member

  
Member


02.08.2016

Appellant in person and Mr. Fayazud Din, ADO alongwith Mr. Muhammad Zubair, Sr.GP for the respondents present. Due to non-availability of D.B arguments could not be heard. To come up for arguments on 06.12.2016 before D.B at camp court, Swat.

  
Chairman  
Camp court, Swat.

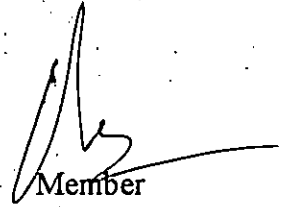
06.12.2016

None present for the appellant. Mr. Muhammad Zubair, Sr.GP for the respondents present. Since none is present for the appellant and the bench is also incomplete, therefore, arguments could not be heard. To come up for final hearing on 03.04.2017 before D.B at camp court, Swat.

  
Chairman  
Camp court, Swat.

10.6.2014

Appellant in person and Mr. Khurshid Khan, SO for respondent No. 1 with AAG for the respondents present. Arguments could not be heard due to incomplete bench. To come up for arguments on 5.12.2014.



Member

05.12.2014

Appellant in person and Mr. Muhammad Adeel Butt, AAG for the respondents present. The Tribunal is incomplete. To come up for arguments on 15.04.2015.



Reader

15.04.2015

Clerk of counsel for the appellant and Mr. Ziaullah, GP with Javed Ahmad, Supdt. for the respondents present. Due to general strike of the Bar, counsel for the appellant is not available. To come up for arguments on 24.11.2015.




MEMBER

24.11.2015

Counsel for the appellant and Mr. Hameed-ur-Rehman AD (Litigation) alongwith Asst. AG for respondents present. Arguments could not be heard due to learned Member (Judicial) is on official tour to D.I. Khan. Therefore, the case is adjourned to

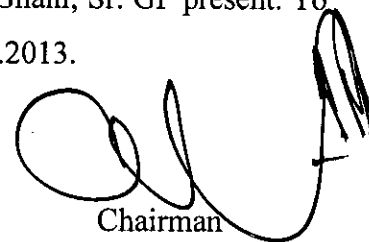
24/3/16 for arguments



Member

25.6.2013

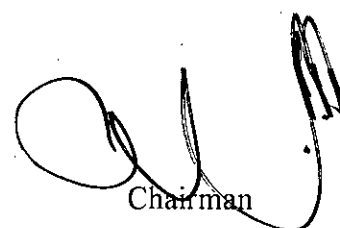
No one is present on behalf of the appellant and Mr. Khurshid Khan, SO for respondents with Mr. Usman Ghani, Sr. GP present. To come up for written reply/comments on 3.10.2013.



Chairman

03.10.2013

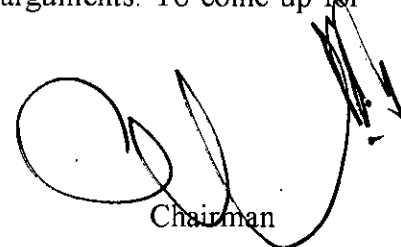
Appellant in person, M/S Khurshid Khan, SO for respondent No. 1, Fayaz-ud-Din, ADO for respondent No. 2 and Mosam Khan, AD for respondent No. 3 with AAG for respondents No. 1 to 3 present. No one is present on behalf of respondent No. 4, therefore, respondent No. 4 is proceeded against ex-parte. Written reply/para-wise comments received on behalf of respondents No. 1 to 3, a copy whereof is handed over to the appellant for rejoinder on 24.1.2014.



Chairman

24.01.2014

Appellant in person and Mr. Khurshid Khan, SO for respondent No. 1 with AAG for the respondents present. Rejoinder has not been received, and appellant stated that there was no need to file rejoinder, and that the appeal be fixed for arguments. To come up for arguments on 10.6.2014.



Chairman

Appeal No. 354/2013,  
Mr. Anjum Ali

22.4.2013

Counsel for the appellant present and heard.

Counsel for the appellant contended that the appellant was posted as PST Teacher in BPS-7 vide order dated 1.6.1992. He was transferred to G.P.S Laram, Dir Lower vide order dated 27.11.2001. Appellant applied for grant of long leave without pay for the period from 2.4.2002 to 1.5.2004 and his application was accepted by the competent authority vide order dated 1.4.2002. During period from 5.2.2004, to 8.3.2010, the appellant was out of his Home Town due to unavoidable and critical circumstances, and security risk to his family so he was not in position to resume his duty within time. When the situation became bearable the appellant returned home and file application in the office for adjustment on his post. Inquiry was conducted against the appellant who submitted their inquiry report dated 9.6.2011 and removed the appellant from service vide order dated 8.3.2012. Feeling aggrieved the appellant filed departmental appeal which is turned down on 31.12.2012. Respondents sent the termination order to the appellant through postal address which he received on 20.1.2013. Points raised need consideration; therefore, the appeal is admitted to regular hearing. Process fee and security be deposited within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments on 25.6.2013.

Appellant deposited security  
Process fee Rs 2000/- Bank  
receipt is attached with  
file

UWA

Member

22.4.2013

This case be put up Before the Final Bench  
for further proceedings.

Chairman

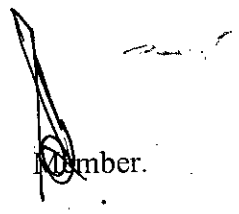
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Chairman

3.

28.3.2013

Counsel for the appellant present and requested for adjournment to submit application for correction/modification and to make out some legal deficiencies in the subject as well as in the prayer of appeal. Case adjourned to 22.4.2013 for P.H.

  
Member.

Form- A

FORM OF ORDER SHEET

Court of \_\_\_\_\_

Case No. 354/2013

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	11/02/2013	<p>The appeal of Mr. Amjid Ali presented today by Syed Abdul Haq Advocate may be entered in the Institution Register and put up to the Worthy Chairman for preliminary hearing.</p> <p style="text-align: right;"><i>[Signature]</i> REGISTRAR</p>
2	18-2-2013	<p>This case is entrusted to <del>Touring Bench Swat</del> for preliminary hearing to be put up there on <u>28-3-2013</u>.</p> <p><i>at Peshawar</i></p> <p style="text-align: right;"><i>[Signature]</i> CHAIRMAN</p>

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

Amended Service Appeal No. 356/2013

Amjad Ali S/o Wazir Ahmad,  
R/o Ouch, Tehsil Adenzai, District Dir Lower.....**Appellant**

**V E R S U S**

1. Govt. of KPK, through Secretary E&SE,  
Education Department, Peshawar
2. District Education Officer,  
Elementary, Secondary Education,  
Dir Lower at Timargara
3. District of Education Govt. of KPK, Peshawar
4. District Coordination Officer, Dir Lower  
Now Director Education at Peshawar.....**Respondents**

**APPEAL U/S 4 OF THE KPK SERVICE  
TRIBUNAL ACT, 1974, AGAINST THE  
ORDER DATED 31.12.2012 WHEREBY  
APPELLANT HAS BEEN TERMINATED  
ON THE BASIS OF NOTIFICATION  
ISSUED BY THE RESPONDENT NO.2,  
VIDE NOTIFICATION FROM THE  
DATE OF HIS ABSENCE.**

**PRAYER IN APPEAL**

On acceptance of the order of  
termination /removal passed by the  
respondent No.2 & 4 may please be

*Revised No.4  
Proceeding against  
respondent No. 4  
vide order  
dt 24/1  
19*

set aside and the appellant be reinstated back to his service with all back benefits.

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**Respectfully Sheweth:-**

1. That the appellant is bonafide resident of Dir lower and appointed as P.T.C Teacher in BPS-7, vide order dated 01.06.1992. (Copy of the appointment order is attached as annexure "A").
2. That the appellant filed appeal in which during preliminary hearing on 28.03.2013 on the request of appellant the learned tribunal allowed the appellant to file an amended appeal.
3. That the appellant was transferred to Sub-Division Wari Dir Upper and for a long time serving and after he w was transferred to Sub-Division at Timargara, Dir Lower.
4. That the appellant was transferred to G.P.S Laram Dir Lower vide order dated 27.11.2001.
5. That the appellant applied for grant of long leave without pay for the period from 02.04.2002 to 01.05.2004 and his application was accepted by the competent authority vide order dated 01.04.2002. (Copy of application & order regarding leave is attached as annexure "B" & "C").



6. That the appellant during period from 05.02.2004, to 08.03.2010, was out his Home Town due to unavoidable and critical circumstances, and security risk to his family so the appellant was not in position to resume his duty within time.
7. That after the appellant seeking further leave without pay through postal service as because it was not possible for him to attend the concerned office personally for the reason mentioned above.
8. That when the situation become bearable the appellant returned home and immediately file an application in the office of respondent No.2 for his adjournment on his post. (Copy of application is attached as annexure "D").
9. That the respondent No.2 appointed an inquiry committee who submit their inquiry report dated 09.06.2011. (Copy of the inquiry report is attached as annexure "E"). And the respondent No.2 issued show cause notice basing the inquiry report. (Copy of show cause notice is annexure "F").
10. That the respondent No.2, was not satisfied and based inquiry report for removal from service of the appellant vide order dated 08.03.2012. (Copy of removal order is attached as annexure "G").

11. That feeling aggrieved the appellant filed a Departmental appeal before respondent No.4, which was turned down vide order dated 31.12.2012. (Copy of Departmental Appeal and termination order is attached as annexure "H" & "I").
12. That the respondent sent the termination order to the appellant through postal address which he received on 20.01.2013. (Copy of termination order received by the appellant is attached as annexure "J").
13. That when the appellant got knowledge about his termination then the appellant have not other remedy except to approach this Hon'ble Tribunal on the following grounds:

**GROUND S:-**

- A. That the above said order of termination /removal of the appellant is illegal, unlawful, without authority/ jurisdiction and being based on the malafide intention because the removal from service ordinance 2000 has been repelled in 2011 so concerned authority has no jurisdiction to termination the appellant of the basis of said repelled ordinance
- B. That on inquiry proceedings has been prescribed under the prevailing laws was ever conducted, and in the findings of the inquiry the absence period of the teacher/appellant has been proposed to be convert in leave without pay, but the appellant was awarded the

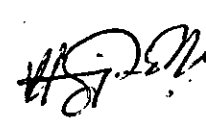
major penalty of termination from service without mentioning any reason for dis-aggring of the recommendation of the inquiry committee.

- C. That the punishment awarded to the appellant was not proportionate with his fault and he was awarded the maximum punishment and the funning authority die not considered the situation face by the appellant as during the said period the appellant was migrated to some other place due to threat to his life.
- D. That no process /procedure as prescribed in the service Laws were ever adopted by the respondent, not he was ever serviced with a final show cause Notice.
- E. That the termination order of the appellant was not in accordance with the allegations leveled in the show cause and it was harsh punishment as against the misconduct whatsoever mentioned in the show cause Notice.
- F. That on the basis of enquiry conducted in the matter the respondent No.2 have not power to hold the Civil Servant guilty of misconduct and as per law he has the power for denovo inquiry but the respondent/ Department violated all the settle principles of law, hence the impugned removal order is ineffective in the interest, and upon the rights of the appellant.

- G. That the unauthorized absence on the basis of which major penalty was imposed upon the appellant although Department responsible for the lapse and for not taking notice of such absence at an early stage, so the unavoidable circumstances metni0oined by the appellant requires due consideration of this Hon'ble Tribunal, so the respondent exercise their power not vested in them.
- H. That impugned order of removal from service without holding regular inquiry without issuing final show cause notice and also without giving an opportunity of hearing to appellant can not be maintained.
- I. That some other grounds may be adduced at the time of arguments with the permission of this Hon'ble Court.

It is, therefore, prayed that on acceptance of this appeal the order of termination/removal from service passed by respondent No.2 & , may please be set aside and the appellant be reinstated back to his service with all back benefits.

Appellant  
Through

  
**Syed Abdul Haq**  
Advocate High Court  
Cell #0333-9546154

Dated 22/04/2013

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

Amended Service Appeal No. \_\_\_\_\_/2013

Amjad Ali ..... **Appellant**

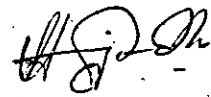
**VERSUS**

Govt. of KPK, through Secretary E&SE,  
Education Department, Peshawar & others..... **Respondents**

**AFFIDAVIT**

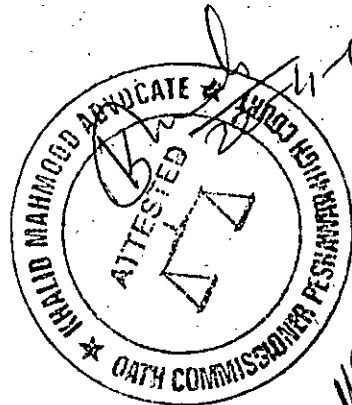
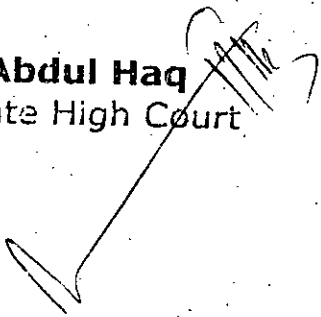
I, Amjad Ali S/o Wazir Ahmad, R/o Ouch, Tehsil Adenzai, District Dir Lower, do hereby solemnly affirm and declare on oath that the contents of the accompanying **Service Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.

Identified by:-



DEPONENT

**Syed Abdul Haq**  
Advocate High Court



22.4.2013



BEFORE THE SERVICE TRIBUNAL K.P.K. PESHAWAR.

SERVICE APPEAL NO. 354 / 2013.

\*\*\*\*

Amjad Ali ..... Versus..... Govt; of K.P.K. through  
Secretary E & S.E) & others.

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I N D E X.

S.No.	Description of documents.	Annexure	Pages.
1.	Grounds of appeal.,	=	1 - 6
2.	Addresses of parties.	=	7
3.	Application for condonation of delay with affidavit.	-	8 -9
4.	Appointment order of Appellant.	"A"	10
5.	Transfer order of the appellant to G.P.S. Laram.	=	11
6.	Order regarding sanction of leave without pay dated 1/4/2002.	"B"	12
7.	Application for adjoustment.	"D"	13
8.	Copy of Inquiry Report .	"E"	14- 14A
9.	Copy of Show Cause Notice.	"F"	15
10.	Copy of Reply.	=	16
11.	Copy of Removal order of appellant.	"G"	17
12.	Copy of Departmental appeal.	"H"	18
13.	Copy of Termination order issued by Respondent No.4.	"I"	19
14.	Copy of Termination order alongwith envolp received by the appellant on 20/1/2013.	"J"	20
15.	Wakalatnama.		21

Through:-

Appellant  
Amjad Ali,

(SYED ABDUL HAQ) Advocate  
High Court, Peshawar  
Cell# 03339546154.

Dated : 8/2/2013.

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BEFORE THE SERVICE TRIBUNAL K.P.K. PESHAWAR.

SERVICE APPEAL NO. 354 / 2013.

**L.W.F. Peshawar**  
Case No. 396  
Date 11-2-2013

Amjad Ali son of Wazir Ahmad , R/O Ouch, Tehsil Adinzai,  
District Dir Lower . . . . . APPELLANT.

VERSUS.

1. Govt: of K.P.K. through secretary E & S.E.  
Education Department, Peshawar.
2. District Education Officer, Elementary & Secondary  
Education, Dir Lower at Timargara.
3. Director of Education Govt: of K.P.K. Peshawar.
4. Deputy Commissioner, ( D.C.O ) Dir Lower at Timargara.

..... RESPONDENTS.

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APPEAL U/S 4 of THE K.P.K. SERVICE TRIBUNAL ACT,  
1974, AGAINST THE ORDER DATED 31/12/2012. WHEREBY  
APPELLANT HAS BEEN TERMINATED ON THE BASIS OF  
NOTIFICATION ISSUED BY THE RESPONDENT NO. 2,  
VIDE NOTIFICATION DATED 8/3/2012, FROM THE DATE  
OF HIS ABSENCE I.E. 2/5/2004.

*Handwritten signature and date*  
11/2/13

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PRAYER IN APPEAL: On acceptance of this appeal the  
order of termination / removal passed by the Respdnt:  
No. 2, & 4 may please be set-aside and the Appellant  
be re-instated back to his service with all back benefits.

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RESPECTFULLY SHEWETH:

1. That the appellant is bonafide resident of Dir Lower and appointed as P.T.C. Teacher in EPS-7, vide order dated 1/6/1992. ( Copy of the appointment order is Annexure "A" ).
2. That the appellant was transferred to sub-division Wari Dir Upper and for a long time serving and after he was transferred to sub-division at Timargara, Dir Lower.
3. That the appellant was transferred to G.P.S. Laram Dir Lower vide order dated 27/11/2001.
4. That the appellant applied for grant of long leave without pay for the period from 2/4/2002 to 1/5/2004 and his application was accepted by the Competent Authority vide order dated 1/4/2002. ( Copy of  order regarding leave is Annexure "B" & "C" ).
5. That the appellant during period from 5/2/2004, to 8/3/2010, was out his Home town due to unavodiable and critical circumstances , and security risk to his family so the appellant was not in position to resume his duty within time.
6. That after the appellant seeking further leave without pay through postal service as because it was not possible for him to attend the concerned office personally for the reason mentioned above .

MEMORANDUM

TO : SAC, NEW YORK  
FROM : SAC, PHOENIX  
SUBJECT: [Illegible]

Reference is made to your memorandum dated [Illegible] and [Illegible].

ADMINISTRATIVE

It is noted that [Illegible] and [Illegible] are currently [Illegible].

It is recommended that [Illegible] be [Illegible] and [Illegible].

Very truly yours,  
[Illegible Signature]

7. That when the situation became bearable the appellant returned home and immediately file an application in the office of Respondent No.2 for his adjoument on his post. ( Copy of application is Annexure "D").
8. That the Respondent No.2 appointed an Inquiry Committee who submit their inquiry report dated 9/6/2011 . ( Copy of the inquiry Report is Annexure "E" ), and the Respondent No.2 issued a Show Cause Notice basing the inquiry Report . ( Copy of Show Cause Notice is Annex:F").
9. That the respondent No.2, was not satisfied and based Inquiry Report for Removal from service of the appellant vide order dated 8/3/2012. ( Copy of Removal order is Annexure "G").
10. That feeling aggrieved the appellant filed a Departmental Appeal before Respondent No.4, which was turned down vide order dated 31/12/2012. ( Copy of Departmental appeal and termination order is Annexure "H" & I").
11. That the Respondent sent the termination order to the appellant through postal address which he received on 20/1/2013. (Copy of termination order received by the appellant is Annexure "J").
12. That when the appellant got knowledge about his termination then the appellant have no other remedy except to approach this Hon'ble Tribunal on the following grounds:-

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G R O U N D S :

- A). That the above said order of termination / Removal of the appellant is illegal, unlawful, without authority/ jurisdiction and being based on the malafide intention, is liable to be set-aside.
- B). That no inquiry proceedings has been prescribed under the prevailing Laws was ever conducted, and in the findings of the inquiry the absence period of the teacher/ appellant has been proposed to be convert in leave without pay, but the appellant was awarded the major penalty of termination from service without mentioning any reason for dis-aggring of the recommendation of the Inquiry Committee.
- C). That the punishment awarded to the appellant was not proportionate with his fault and he was awarded the maximum punishment and the funing Authority did not considered the situation face by the appellant as during the said period the appellant was migrated to some other place due to threat to his life .
- D). That no process / procedure as prescribed in the service Laws were ever adopted by the Respondent, not he was ever servied with a final Show Cause Notice .
- E). That the termination order of the appellant was not in accordance with the allegations levelled in the show Cause and it was harsh punishment as against the misconduct

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whatsoever mentioned in the Show Cause Notice.

- F). That on the basis of enquiry conducted in the matter the Respondent No.2, have no power to hold the Civil Servant guilty of misconduct and as per law he has the power for denovo inquiry but the Respondent / Department violated all the settle principles of law , hence the impugned removal order is ineffective in the interest, and upon the rights of the appellant.
- G). That the unauthurise absence on the basis of which major penalty was imposed upon the appellant although Department responsible for the lapse and for not taking notice of such absence at an early stage , so the unavidable circumstances mentioned by the appellant requires due consideration of this Hon'ble Tribunal, so the Respondent exercise their power not vested in them.
- H). That impugned order of removal from service without holding regular inquiry without issuing final Show Cause Notice and also without giving an oppportunity of hearing to appellant can not be maintained .
- I). That some other grounds may be adduced at the time of arguments with the permission of this Hon'ble Court.



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It is, therefore, prayed that on acceptance of this appeal the order of termination/ Removal from service passed by Respondents No. 2 & 4, may please be set-aside and the appellant be re-instated back to his service with all back benefits.

Appellant

Amjad Ali EX-P.T.C.

Through:-

(*Handwritten Signature*)  
SYED ABDUL HAQ )  
Advocate, High Court,  
17-B, Haroon Mansion,  
Peshawar.

Dated : 8/2/2013.

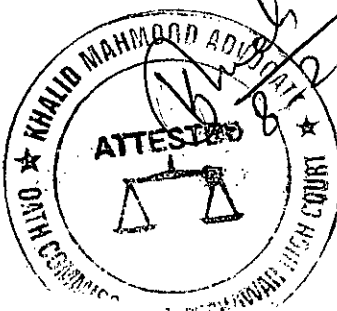
Cell# 03339546154.

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A F F I D A V I T.

I, Mr. Amjad Ali S/O Wazir Ahmad R/O Cauch, Tehsil Adinzai, Dir Lower, do hereby solemnly affirm and declare on oath that the contents of this appeal are true and correct to the best of my knowledge and belief and nothing has been kept concealed from this Hon'ble Tribunal.

DEPONENT.

Amjad Ali *(Handwritten Signature)*



1-1-1

The first part of the document discusses the importance of maintaining accurate records of all transactions. It emphasizes that every entry should be supported by a valid receipt or invoice. This ensures transparency and allows for easy auditing of the accounts.

In the second section, the author details the process of reconciling bank statements with the company's ledger. This involves comparing the opening and closing balances, as well as all deposits and withdrawals. Any discrepancies should be investigated immediately to identify errors or unauthorized transactions.

The third part of the document covers the preparation of financial statements. It outlines the steps for calculating net income, determining the cost of goods sold, and preparing the balance sheet. The author stresses the need for precision and attention to detail in these calculations.

Finally, the document concludes with a summary of the key points discussed. It reiterates the importance of regular financial reviews and the use of reliable accounting software to streamline the process. The author expresses confidence that these practices will lead to improved financial management and overall business success.

The following table provides a summary of the financial data for the period covered by the report. It includes the opening and closing balances, total revenue, and net profit.

Item	Amount
Opening Balance	\$10,000.00
Total Revenue	\$50,000.00
Total Expenses	\$35,000.00
Net Profit	\$15,000.00
Closing Balance	\$25,000.00

The data shows a significant increase in revenue compared to the previous period, which is a positive indicator for the business. However, the increase in expenses is also notable and should be monitored closely to ensure that profitability is maintained.

In conclusion, the financial performance for the period is generally strong, but there are areas for improvement. The company should continue to focus on reducing unnecessary expenses and improving operational efficiency to maximize its profit potential.

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BEFORE THE SERVICE TRIBUNAL K.P.K. PESHAWAR.

IN RE: SERVICE APPEAL N.O. \_\_\_\_\_ / 2013.

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ADDRESSES OF THE PARTEIS.

Amjad Ali S/O Wazir Ahmad R/O Oach , Tehsil Adinzai,  
District Dir Lower . . . . .Appellant.

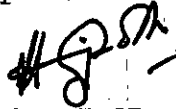
Versus.

1. Govt: of K.P.K. through Secretary E & SE,  
Education Department , Peshawar.
2. District Education Officer, Elementary & Secondary  
Education , Dir Lower at Timargara.
3. Director of Education Govt: of K.P.K. Peshawar.
4. Deputy Commissioner, ( D.C.O.) Dir Lower ,  
at Timargara . . . . . Respondents.

=====

Through:-

Appellant



( SYED ABDUL HAQ )

Advocate High Court,

27/B, Haroon Mansion,

Khyber Bazar, Peshawar

Cell # 03339546154.

Dated : 8/2/2013.



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BEFORE THE SERVICE TRIBUNAL , K.P.K. PESHAWAR.

C.M. No. \_\_\_\_\_ / 2013.

IN

Service Appeal No. \_\_\_\_\_ / 2013.

\*\*\*\*\*

Amjad Ali . . . . Versus.... Govt; of K.P.K. through secretary  
E & S.E. & others.

\*\*\*\*\*

APPLICATION FOR CONDONATION OF DELAY

IN FILING OF INSTANT APPEAL.

\*\*\*\*\*

Respectfully sheweth:

1. That the departmental was rejected on 31/12/2012, which was sent to the appellant through postal address , the impugned termination order was sent to the appellant by the concerned post office on 16/1/2013 and the same was received on 20/1/2013. ( The envolp bearing termination order already attached with the service appeal may be considered part of petition.
2. That the appellant / petitioner has got a strong prema facie case and the said period may be condoned as per law.

It is, therefore, humbly prayed that on acceptance of this application the appeal of appellant may be considered well within time.

Appellant/petitioner

Through ( SYED ABDUL HAQ ) Advocate  
High Court, at Peshawar.

Dated : 8/2/2013.

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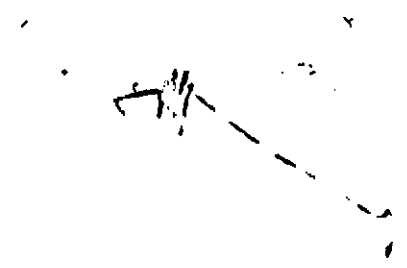
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BEFORE THE SERVICE TRIBUNAL K.P.K. PESHAWAR.

IN RE: C.M. NO. \_\_\_\_\_ / 2013.

IN

Service Appeal No. \_\_\_\_\_ / 2013.

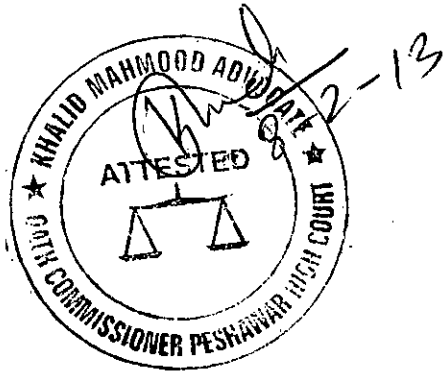
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Amjad Ali ..... Versus..... Govt; of K.P.K. through secretary  
E & S.E. & others.

\*\*\*\*\*

A F F I D A V I T.

I, Amjad Ali S/O Wazir Ahmad, R/O Cuch, Tehsil Adinzai, Distt; Dir Lower, do hereby solemnly affirm and declare on oath that the contents of the accompanying application for condonation of delay are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Hon'ble Tribunal.



Deponent.

Amjad Ali.

*[Handwritten signature]*



OFFICE ORDER:-

"A" (10)

purely from the M/list. The following untrained PTC, candidates are hereby appointed as PTC, teachers in BPS, NO.7 with effect from 1/6/92 in the schools as noted against their names subject to the following conditions:-

SNO.	Name of Candidate/ Father's Name	Village.	School where Appointed.	Name of S. Div:	Remarks.
1.	Mohammad Rahim, S/O Sarfaraz Khan,	Khadigzai.	MPS, Shagai.	T. Gara.	N.C. Post.
2.	Amjad Ali, S/O Wazir Ahmad,	Ouch,	:.Zarbaig Batan.	-dO-	-dO-
3.	Fazal Akbar, S/O Menjavar.	Brangola.	:.Shorshing Khurd.	-dO-	-dO-
4.	Fazal Hadi, S/O Abdul Ahad,	Warsak.	:.Deran Asbanr.	-dO-	-dO-
5.	Hasham Khan, S/O Mohd Zaman Khan,	Shawa.	:.Amin Khan Korona.	-dO-	-dO-
6.	Ali Mohammad, S/O Abdul Qadar.	Shingrai.	:.Jabagai Badwan.	-dO-	-dO-
7.	Rashid Ahmad, S/O Habibur Rehman,	Chakdara.	:.Sangzal Osakai.	-dO-	-dO-
8.	Iqbal Shah, S/O Mohd Salim,	Tazagram.	:.Doga Mayar.	-dO-	-dO-
9.	Bacha Khan, S/O Naeem Shah.	Shalambaba.	:.Danda.	-dO-	-dO-
10.	Ijaz Ahmad, S/O Mohd Mehtar,	Ouch,	:.Dada Khairabad.	-dO-	-dO-
11.	Alam Khan, S/O Yusuf Khan,	Tazagram.	:.Shawa Kohai.	-dO-	-dO-

TERMS AND CONDITIONS:-

1. NO TA/DA is allowed.
2. Charge report should be submitted to all concerned.
3. Health & Age certificate should be produced from the Civil Surgeon, Dir at Timergara.
4. Their appointment being temporarily are liable to termination at any time without notice. In case of leaving service in this Deptt: they will have to give one month's notice in advance or deposit one month's pay.
5. They may not be handed over the charge if their age exceeds 28 years or below 18 years.
6. Their original certificates should be checked before handing over charge to them.
7. In case they failed to take over charge within 15 days from the date of issue of this order, their appointment orders shall stand automatically cancelled.

A Tested 1/17

(KARIMULLAH KHAN)  
DISTT: EDUCATION OFFICER (M)  
PRY: DIR AT TIMERGARA.

OFFICE OF THE DISTT: EDUCATION OFFICER (M) PRY: DIR AT TIMERGARA.  
Endst: NO. 1566-79 / PED/A-I Dated Timergara the, 28/5/92

Copy of the above is forwarded for information necessary action and compliance, to:-

1. The SDEO, (M) Timergara.
- 2-13. The Candidates concerned.
14. The Distt: Accounts Officer, Dir at Timergara.

M. Anwar/

DISTT: EDUCATION OFFICER (M)  
PRY: DIR AT TIMERGARA 27/5/92

(11)

OFFICE OF THE EXECUTIVE DISTRICT OFFICER (L&E) DIR LOWER AT T.GARA.  
OFFICE ORDER -

On return from Long Leave Mr. Anjad Ali, PTC  
GPS Ouch Gharbi, is hereby adjusted at GPS Laram Timergara Sub  
Division against vacant PTC post with effect from 20.11.2001.

Charge report should be submitted to all concerned.

(MR. GUL NAWAZ KHAN)  
Executive District Officer,  
(L&E) Dir Lower at T.Gara.

Enst: No. 4-60-62 / Dated Timergara the 27 / 11 / 2001.

Copy of the above is forwarded for information  
and necessary attention to:-

1. The Dy: District Officer Primary Education Timergara w/r  
to his Memo: No. 1371 dated 20.11.2001.
2. The District Accounts Officer Dir Lower at Timergara.
3. The teachers concerned.

*[Handwritten Signature]*  
District Officer (Literacy),  
Primary Education Dir,  
Lower at Timergara.

27/11/2001

*Attested*  
*[Signature]*

*Better copy*

OFFICE OF THE EXECUTIVE DISTRICT OFFICER(E & SE) DIR LOWER  
TIMARGARA.

OFFICE ORDER :

On return from long leave Mr. Amjad Ali PTC,  
GPS. Guch Ghabi ass hereby adjusted at G.P.S. Laram  
Timargar Sub Division against vacant PTC. Post w.e.f.  
20/11/2001. Charge report should be submitted to all  
concerned.

Mr. GUL NAWAZ KHAN )  
Executive Distt: Officer  
(L&E) Dir lower at Timargara.

No. 4060/62, dated Timargara the 27/11/2001.

Copy of the above is forwarded for information  
and n/ action .

1. The Dy: District Officer(male) primary Education  
Timargara.
2. The Distt: Account Officer Dir lower at Timargara.
3. The candidate concerned.

Sd/- Executive Distt:  
officer Timargara.

B (12)

OFFICE OF THE EXECUTIVE DISTRICT OFFICER (L&E) DIR LOWER AT T.GARA.  
OFFICE ORDER:-

Sanction is hereby recorded to the grant of long leave with out pay for the period from 2.4.2002 to 1.5.2004 (765 Days) in favour of Mr. Amjad Ali, PTC Govt. Primary School Laram Sub-Division Timergara as due and admissible to him under the leave rules.

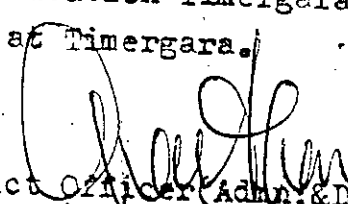
Necessary entries to this effect should be made in his Service Book & Leave Account form accordingly.

(MR. QADAR KHAN)  
District Officer (Admn. & Dev.),  
(Lit. & Edu) Dir Lower at T.Gara.

Endst: No. 3531-35 Dated Timergara the 21/04/2002.

Copy of the above is forwarded for information and necessary action to:-

1. The Deputy District Officer (M) Primary Education Timergara.
2. The District Accounts Officer Dir Lower at Timergara.

  
District Officer (Admn. & Dev.),  
(Lit. & Edu) Dir Lower at T.Gara.

*Attested*  
✓

حضرت جناب ڈپٹی ڈسٹرکٹ ایجوکیشن افسر صاحب قمبر گرنہ ضلع دیر (پاکستان)

درخواست برائے ایڈجسٹمنٹ

جناب عالی!

موردہ بات گزارش ہے کہ خدوی نے گھریلو مسائل کی وجہ سے دو سال Without Pay چھٹی (جولائی 2002 تا ایلیم مئی 2004) کیلئے درخواست دیا تھا۔ جو منظور ہوا تھا۔ لیکن 2004 میں ہمارے گھریلو مسائل کی وجہ سے شہرت اختیار کر گئے۔ کئی مہینوں گاڑوں چھوڑنا پڑا اور حالات اتنے سنگین ہو گئے کہ میرے لئے ضرور تاریخ پیر ڈیوٹی پر حاضر ہونا ناممکن ہو گیا۔ اور اسی وقت سے میں اس میں حقروں وقت پیر رپورٹ نہ کر سکا۔ بلکہ بذریعہ ڈاک میں نے دوبارہ LEAVE WITHOUT PAY کے لئے درخواست دے دیا۔ لیکن اس کا مجھے کوئی رسالہ نہیں ملا۔ اس دوران میں نے وقتاً فوقتاً بذریعہ ڈاک رابطہ رکھا لیکن اس کا بھی مجھے کوئی رسالہ نہیں ملا۔ بذریعہ ڈاک رابطہ کرنا میری خدوئی تھی۔ کیونکہ بذات خود اس کے رپورٹ کرنا میرے زندگی کیلئے خطرناک تھا۔ اب جبکہ حالات میرے لئے سازگار ہو گئے ہیں۔ اور میں واپس گاڑوں اچھا ہوں اسلئے اپنے پہلے ہی فرصت میں بذریعہ درخواست رابطہ کر رہا ہوں۔ اور درخواست کرتا ہوں کہ برائے میرے مافیہ حادہ یہ پیر کیلئے Leave without Pay کی منظوری دے کر کسی پیرائٹری سکول میں خالی پوسٹ پر میرے تعیناتی کے احکامات صادر فرما کر مشکور و مشکور فرماؤں۔

تو میں گزارش ہوگی۔

العارض

ایمانت علی بی بی سی ضلع دیر (پاکستان)

No. 3920 dt. 09/03/2010

Forwarded to original to

The EDO (Esse) Dair

with records that the teacher remained absent for more than six (6) years. However sympathetic orders be issued on this regard on humanitarian basis

DDO (Esse) Dair

ENQUIRY REPORT IN RESPECT OF AMJAD ALI PST.

M. Nawshad  
4/1/11

Introduction:-

Muhammad Nagin DO (M) (E&SE) Dir lower along with Mr.Saeed Ullah SET GHS.Kotigram Dir lower commenced the enquiry of Mr Amjad Ali PST vide EDO(E&SE) Dir lower letter No.6940 dated 26-4-2011 received on 5-5-2011 with vigilant eyes and cold mind from his departmental and personal record / Service book. The Service book of the teacher concerned not only shows illegalities, negligence and irregularities, but he also violated all the rules and regulations.

All kinds of entries related to transfers , annual increments , adjustments and long leave are seemed ambiguous w.e.from 31-3-1998 upto 2-5-2004. No leave account proforma / form has used. Entry of the last granted leave in the service book is incomplete in that time is no signature and seal of the immediate boss/officer.

It is not only a plain and clear negligence , but is the climax of tyranny with the department in that the Service Book of the teacher concerned is deep and dumb from all sort of procedures and actions after ending the leave on 1-5-2004 /

There upon we visited GPS.Laram to detect in detail about the out put and activities of the teachers concerned. We reached there at 9:00 A:M and met with the Head teacher. We asked him for the provision of the present and ex attendance registers of the staff, files / record consist upon correspondence and official letter /order of the department.

We checked the aforesaid record with the presence of mind and with vigilant eyes. The teacher Mr. Amjad Ali had taken over the charge on 20-11-2001 vide order No.4060-62 dated 27-11-2001 which is existed on the school's record.

In this period / duration the school record, attendance register shows nice and better performance of the teacher from the date of takingover the charge upto closing the school for winter vacation on 24-12-2001 without availing casual leave. After ending winter vacation, teacher attendance register is silent about the duty and other activities or out put of Mr.Amjad Ali PST w.e.from 1-3-2002 upto 01-11-2002.

Then the teacher has been succeeded in gaining long leave w.e.from 2-4-2002 upto 1-5-2004. But it is so regretted that the negligence of the department workers have violated all the rules and regulations once again in that the salary of absent/un /absent teacher has been drawn and paid to Mr. Zar Muhammad ex-head teacher of GPS.Laram. Signature of the aforesaid Head teacher is existed on the cash book. The monthly pay of Mr.Amjad Ali in March

Nawshad  
PU

4/1/11

Attested  
[Signature]

(14 A)

0945-9250003 - Office-  
1997-12 - R.G.

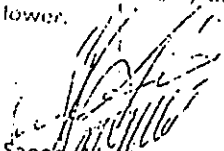
2002 was Rs,3436-43. In this connection we met with Mr. Bakht roidar PST pay centre incharge and gave him a written questionnaire. The questionnaire along with his response is attached with this report.

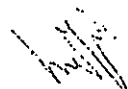
Findings:-

1. The service book of the concerned has not been maintained by the drawing and disbursing authority in a proper way or time to time.
2. Entry of the granted leave w.e. from 2-4-2002 upto 1-5-2004 is incomplete because of without seal and signature.
3. Illegal increments for the year 1999 and 2000 have been allowed while the teacher has availed leave without pay. Entry in the service book is existed.
4. The teacher has not properly applied for long leave in that the service book was in his custody / possession during the absence period.
5. Both the parties viz the teacher concerned, the DDOs reporting officer and the local account branch have committed negligence and ignorance.

Proposal:-

- a. Necessary deduction of illegal annual increments of 1999 and 2000 may be made.
- b. The illegal paid / drawn pay of Rs,3436/43 for the month of March 2002 may be refunded.
- c. The teacher is a trained and senior one, so his services for ESSE department may be kept in view and the absentism / absence period of the teacher may be converted in leave without pay under the rules and then may be adjusted against vacant post in Dir lower.

  
Saeed Qadir SET  
GHS, Kotigram Dir(L).

  
Muhammad Nagin  
Enquiry Office / DO (Male)  
(E&SL) District Dir Lower.

SHOW CAUSE NOTICE.

1. I Mohammad Ibrahim Executive District Officer (E&SE) Dir lower as a competent authority, under the Khyber Pukhtoonkhwa Removal from Service (Special Powers) Ordinance 2000, do here by serve you Mr, Amajd Ali ex PST GPS Ouch Gharbi Tehsil Adenzai Distt; Dir(L).

2. Consequent upon the Inquiry report conducted against you, and on going through its reports/recommendation of the Inquiry committee, about your willful absence w.e.f 2/5/2004 to-date has been proved.

3. I am satisfied that you have committed the following acts / omissions specified in the section 3 of the said ordinance.

- a. In efficiency.
- b. Miss conduct.
- c. Negligence in government duty.

4. As a result thereof, I being a competent authority have tentatively decided to impose upon you the penalty of termination from service.

5. You are therefore directed to submit reply to show cause notice as to why the aforesaid penalty should not be imposed upon you.

6. If no reply to this notice is received within 15 days of its delivery in the normal course of circumstances, it shall be presumed that you have no defense to put in, in that case, ex party decision will be taken against you.

*[Signature]*  
Executive District Officer  
(E&SE) District Dir lower

OFFICE OF THE EXECUTIVE DISTRICT OFFICER (E&SE) DISTRICT DIR LOWER.

Endst: No. 17049-51 / Dated Timergara the 3/10 / 2011.

1. Copy forwarded to:-
- 1. The District Coordination officer Dir lower at Timergara.
  - 2. Mohammad Raza Shah ADO O/O DDO(M) Timergara, with direction to serve the show cause notice on the accused official and acknowledgement receipt may be sent to this office for record.
  - 3- The accused concerned.

*Attested*  
*[Signature]*

*[Signature]*  
Executive District Officer



جناب عالی!

اپکا شوکار لٹریس والے عمر 51-17049 بتاریخ 3/10/2011 کے جواب میں عرض لیا کرتی ہے۔ کہ گھریلو مسائل اور خاندانی دشمنی کی وجہ سے میرے گھریلو حالات اتنے خراب ہوئے۔ کہ ڈیوٹی دینا میرے لئے ناممکن ہو گیا۔ اور میں گاؤں چھوڑنا چاہتی ہوں۔ جس کی وجہ سے میں نے دو سال کیلئے چھٹی کی درخواست دی۔ اور 2/5/2004

تک میری چھٹی منظور ہوئی۔ لیکن بد قسمتی سے میری چھٹی ختم ہونے تک پھر بھی میرے حالات ایسے نہ تھے۔ کہ میں اگر ڈیوٹی جاسں کرتا۔

اسلئے میں نے بزرگیہ ڈاک دربارہ چھٹی کیلئے درخواست دی۔ جس پر ایسی نیت بھی درج تھا۔ لیکن مجھے اس کا کوئی جواب نہیں ملا۔ دو تین مرتبہ رالپٹاکر نے آجے بعد بھی یہاں چھٹی کی منظوری یا نامنظوری

کی کوئی اطلاع نہ ملی۔ لہذا حالات سازگار ہونے کا منتظر کرنے لگا۔ اس امید پر حالات سازگار ہوتے ہی میں بذات خود دفتر میں حاضری دوں گا۔ لیکن بد قسمتی کی وجہ سے اس میں بے وقت لگا۔ اور ڈیوٹی سے

غیر حاضر رہا۔ اب جب 2010 میں بیماری صلح ہوئی اور حالات میں بہتری آئی۔ لہذا اپنے پہلی خدمت میں دفتر میں حاضری دی۔ اور Leave without pay اور اینڈ جسٹمنٹ کیلئے 2010 میں درخواست

دے دی۔ اور تقریباً دو سال تک برابر دفتر کے چکر لگا رہا ہوں۔ لیکن ابھی تک آپ کے سہرا نام کارروائی کا منتظر ہوں۔ جناب عالی میں غریب آدمی ہوں۔ اور یہی نوکری میری زرلیف معاش ہے۔

انڈین میں اپنی ڈیوٹی میں کبھی بھی کوتاہی نہیں کرونگا۔ میری نوکری خد اور آپ کے ہاتھ میں ہے۔ میں اپنے خدمت میں عرض کرتا ہوں۔ کہ مجھے اور میرے بچوں کو دردمندی تو کریں

کھانے سے چھٹی۔ اور اپنے خصوصی اختیارات کو استعمال کرتے ہوئے اینڈ جسٹمنٹ کے احکامات صادر فرمائیں کہ نو روٹوں فرمائیں۔ تو بندہ میرے والدین اور میرے بچے زندگی بھر آپ کو دعاؤں دیتے رہیں گے۔

Attested

العارض  
ایمانت بدار  
محمد علی بی بی سی

18/10/11

Notification:-

WHEREAS one Mr,Amjad Ali PST GPS Laram was on long leave wef 2/4/2002 to 01/5/2004.He was required to report for joining his service on 2/5/2004,but he failed,and willfully remained absent wef 2/5/2004 to 8/3/2010.On 9/3/2010,he submitted an application for adjustment,and grant of leave for the absence period wef 2/5/2004 to 8/3/2010(05 years 10 months & 08 days)which was beyond from the competency of the undersigned.The case was sent to the Distt;Coordination Officer Dir Lower vide this office No,9468 dated 22/6/2010,and No,18386 dated 7/10/2010 for decision,which was returned,and directed that the case may be thoroughly investigated by conducting inquiry,and fix the responsibility on the person at fault vide letter No,10843 dated 08/11/2010.Inquiry conducted in the instance case,and was submitted to the quarter concerned vide this office No,10959 dated 15/6/2011.After that the Distt;Coordination Officer Dir Lower directed this office that "proper action under Removal from service(Special Powers)Ordinance 2000(amended from time to time)may be initiated and concluded against the teacher vide letter No,7511 dated 8/7/2011.

AND WHEREAS show cause notice was issued / served upon him through ADO Circle.Reply to the show Notice received from the accused teacher,and put up to the District Coordination Officer Dir Lower,for which again directed to comply with the directives issued vide letter No,7511 dated 8/7/2011 referred above.

Now,the undersigned, being the competent authority do hereby order the removal from service of Mr,Amjad Ali PST Govt; Primary School Laram Tehsil Adenzai Dir Lower,under the Khyber Pakhtun Khwa Government Servants (Efficiency & Discipline) rules 2011, from the date of his absence.

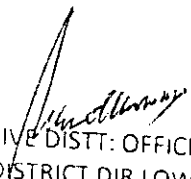
(Mohd Ibrahim)  
EXECUTIVE DISTT: OFFICER  
(E&S) DISTRICT DIR LOWER

3420-24  
Endst: No. \_\_\_\_\_ / Dated Timergara the 08 / 05 2012.

Copy to:-

1. The District Coordination Officer Dir lower
2. The District Accounts Officer Dir lower.
3. The District Officer (F) local office.
4. The Deputy Distt;Officer(F)Samar Bagh.
5. The accused Teacher concerned.

Attested  
Ms

  
EXECUTIVE DISTT: OFFICER  
(E&S) DISTRICT DIR LOWER

حضرت جناب D.C.O صاحب پسر گری - ضلع دیپ لوئر  
عنوان :- ایسٹ برائے بحالی ملازمت

جیسا کہ بالا کی  
موردیانتہ گزارش ہے۔ کتا بندہ نے عمر ۲۰ دو سال سے  
Leave without pay اور تعیناتی کیلئے درخواست دی تھی۔ اور مختلف قسم  
کی حکمانہ کارروائیاں اور تصدیقات کی تھی جو میرے حق میں ہیں۔ جس میں  
میرے سابقہ سپردانہ کارروائی کی سفارشی کی گئی ہے۔ کتا بندہ کیلئے کسی بھی قسم  
میں نے جو کسی بھی طور پر بیان دیا ہے۔ کتا بندہ کیلئے کسی بھی قسم  
کی غفلت اور لاپرواہی کا مظاہرہ نہیں کریں گا۔  
اپنی طرف سے بھی میرے سابقہ سپردانہ کارروائی کی سفارشی کی گئی تھی۔  
تین (۱) تک میرے سابقہ کسی قسم کی سپردانہ کارروائی عمل میں نہیں لائی گئی ہے

جناب عالی!

میں ایک اشتیاق فریب ادی ہوں۔ اور مشعل سے اپنے  
بیوی۔ بچوں کی کفالت کی ذمہ داری اٹھایا ہوں۔ اور اس مہنگائی کے  
دور میں یہی نوکری میرا واحد سہرا ہے۔

جناب عالی!

میرے اور میرے بیوی بچوں کے مستقبل کی خاطر اور مجھے  
اور میرے بیوی بچوں کو درد رز کی فکر کریں کھانے سے پانے کی خاطر میری  
نوکری بچائیں۔  
جناب والا میری نوکری الٹا اور آپ کے ہاتھ میں ہے۔  
سہجائی فرحانہ میں ذلت کی زندگی گزارنے سے بچائیں۔  
جناب صاحبان کی خدمت میں عرض کی جاتی ہے۔  
کہ میری «LEAVE WITHOUT PAY» کی منظوری دے کر میری  
بحالی ملازمت کے احکامات صادر فرمائیں تاکہ مشہور و ممنون فرمادیں۔  
تو عین لوازم ہوگی۔

میں اور میرے گھروالے آپ کے احسان فرم رہے ہیں۔ اور ساری  
عمر آپ کو دعا میں دیتے رہیں گے۔

Reader

26-03-2012

Attested

العارض

الکاتب فرحان

ایڈریس (کئی)

21/3/12

"1" (19)

OFFICE OF THE  
DISTRICT COORDINATION OFFICER,  
DIR LOWER.

No. 16761 /EA  
Dated Timergara the 31 /12 /2012.

To  
Mr. Amjad Ali  
Ex- PTC GPS Laram.

Subject: RE-INSTATEMENT / APPEAL.

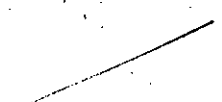
In order to decide your appeal, the same was sent to Deputy District Officer (J)/ Executive Magistrate Timergara for report/ comments. Now, comments of the Deputy District Officer (J)/ Executive Magistrate has been received.


On the basis of his report/ comments, it reveals that your service has been terminated by the Executive District Officer E&SE Dir Lower, after fulfilling the laid down procedure & rules, therefore, your appeal is filed.

  
District Coordination Officer,  
Dir Lower.

No. \_\_\_\_\_

Copy forwarded to the Executive District Officer E&SE Dir Lower for information.

  
District Coordination Officer,  
Dir Lower.

*Attestee*  


بعدالت

سروس ٹریڈنگ

پشاور

2013 پنجاب ایبلز

8 فروری

مورخہ

بنام

محمد علی (EX-P.T.C)

مقدمہ

دعویٰ

جرم

حکومت K.P.K سباز  
مزاریم سکرٹری ایجوکیشن پشاور

سروس ایبل باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی وجواب دہی وکل کاروائی متعلقہ  
آن مقام پشاور کیلئے سید عبدالحق ایبلز

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز  
وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ پر حلف دیئے جواب دہی اور اقبال دعویٰ اور  
بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق  
زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا ایبل کی بزمادگی  
اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا۔ از بصورت ضرورت  
مقدمہ مذکور کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے  
تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے  
اور اس کا ساختہ پرداختہ منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے  
سبب سے وہ ہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں  
گے۔ کہ پیروی مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سندر ہے۔

محمد علی

2013

8 فروری

المرقوم

العبد العبد العبد

پشاور سروس ٹریڈنگ کے لئے منظور ہے۔

مقام

Attested and accepted

**BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUN KHWA AT PESHAWAR.**

SERVICE APPEAL NO. 3548 2013.

**AMJAD ALI PST S/O WAZIR AHMAD R/O OUCH DISTRICT DIR LOWER.**

..... Appellant

**VERSUS**

The Secretary Elementary & Secondary Education Department Khyber Pakhtun  
khwa, Peshawar & Others

..... Respondents

**PARA WISE COMMENTS? REPLY FOR AND ON BEHALF OF THE RESPONDENTS**

**No: 1, 2, 3.**

**Respectfully Sheweth:-**

**Preliminary objections**

- 1 The appellant has no cause of action/locus standi.
- 2 The instant appeal is badly time barred.
- 3 The appellant has concealed the material fact from this Hon! Able Tribunal hence liable to be dismissed.
- 4 The appellant has not come to Hon! Able Tribunal with clean hands.
- 5 The present appeal is liable to be dismissed for non-joinder/ mis-joinder for parties.
- 6 The appellant has filed the instant appeal on malafide motives.
- 7 The instant appeal is against the prevailing laws & rules.
- 8 The appellant is stopped by his own conduct to file in present appeals.
- 9 The instant appeal is not maintainable in the present form & also in the present circumstances of the issue.
- 10 Hon! able Tribunal has no jurisdiction to adjudicate the present appeal.

**ON FACTS**

- 1 Pertain to appellant service record, however, it would not be out of place to mention here the appellant was appointed on fixed pay.
- 2 Incorrect & not admitted. The statement of the appellant in this Para has no concern with the prayer of the appeal, hence denied without proof.
- 3 Incorrect. The statement of the appellant is against the facts and material record.
- 4 Correct however the appellant remained absent willfully from his duty after availing the sanctioned leave.

- 5 Incorrect. The appellant after the expiry of the leave did not report of his arrival to the department & remained absent since 2-5-2004. It is further stated that appellant did not report any un-avoidable critical circumstances which he faced through any FIR nor through his parents. He did not report to the department willfully.
- 6 Incorrect and not admitted. No such leave has been sought by the appellant through any means.
- 7 Incorrect. The appellant never reported any critical situation due to which he was not able to perform his duty, hence denied.
- 8 The mention enquiry was initiated by the competent authority in accordance with the rules on the subject.
- 9 Correct. As the appellant remained absent for along time, hence removed from service under the rule on the subject in vogue at that time.
- 10 Incorrect. The appellant has not locus stnadi case, hence the competent authority has filed the said appeal as per law & rules.
- 11 Incorrect.
- 12 Incorrect. The statement of the appellant is false, baseless one which the appellant himself confessed his negligence and willful absence (annexure "H" of the appeal) in his application dated 21-3-2012, hence the whole is denied.

#### ON GROUNDS.

- A. Incorrect. The order was issued after performing all the codal formalities i.e enquiry & show cause notice, hence legal, lawful and by the lawful authority.
- B. Incorrect. Proper enquiry was conducted in after that show cause notice was issued to him and according to the finding of the enquiry committee the appellant committed inefficiency, misconduct & negligence in duty.
- C. Incorrect. The appellant remained absent for along time, hence removal from service was justified and according to the law & rules.
- D. Incorrect all the codal formalities were observed, hence denied.
- E. Incorrect. As replied in Para - B above.
- F. As replied in foregoing, the appellant was found guilty after complying the codal formalities.
- G. As replied in foregoing Para.
- H. Incorrect & not admitted. The order of removal from service is in accordance with rules on the subject in vogue for the time.

The respondents also seeks the permission of this Hon! Tribunal to adduce more grounds in proofs at the time of arguments.

In view of the above submission, it is requested that his Hon' able Tribunal may very graciously be pleased to dismiss the appeal with cost in favour of the respondent Department.




Director

Elementary & Secondary Education  
Khyber Pakhtunkhwa Peshwar.

  
Secretary

Elementary & Secondary Education  
Department, Government of Khyber  
Pakhtunkhwa.

  
District Education Officer (M)  
E & SE District Dir (Lower)



BEFORE THE SERVICE TRIBUNAL KHYBER PUKHTUN KHWA AT PESHAWAR.

SERVICE APPEAL NO. 354/2013.

AMJAD ALI PST S/O WAZIR AHMAD R/O OUCH DISTRICT DIR LOWER.  
..... Appellant

**VERSUS**

The Secretary Elementary & Secondary Education Department Khyber Pakhtun  
khwa, Peshawar & Others ..... Respondents

PARA WISE COMMENTS? REPLY FOR AND ON BEHALF OF THE RESPONDENTS

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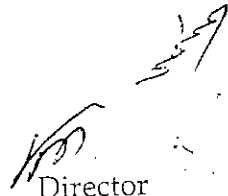
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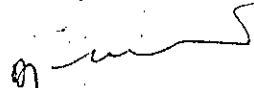
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In view of the above submission, it is requested that his Hon' able Tribunal may very graciously be pleased to dismiss the appeal with cost in favour of the respondent Department.




Director

Elementary & Secondary Education  
Khyber Pakhtunkhwa Peshwar.



Secretary

Elementary & Secondary Education  
Department, Government of Khyber  
Pakhtunkhwa.



District Education Officer (M)  
E & SE District Dir (Lower)

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

No 2493 /ST

Dated 20 /11/2017


To

The District Education Officer,  
Government of Khyber Pakhtunkhwa,  
Dir Lower at Timaraga.

Subject: JUDGEMENT IN APPEAL NO. 354/13, MR.AMJID ALI.

I am directed to forward herewith a certified copy of Judgment dated 09/11/2017 passed by this Tribunal on the above subject for strict compliance.

Encl: As above

  
REGISTRAR  
KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL  
PESHAWAR.

BEFORE THE SERVICES TRIBUNAL PESHAWAR

Service appeal No. \_\_\_\_\_/2012.

Amjad Ali son of Wazir Ahmad resident of Ouch Dir  
Lower.....Appellant.

VERSUS


Government of KPK Peshawar.....Respondants.

APPLICATION FOR THE TRANSFER OF THE ABOVE TITLED  
APPEAL TO DARUL QAZA KALAKAND DIVISION SWAT.

Respectfully Sheweth:-

1. That the above titled case/appeal is pending adjudication before this Honourable Service Tribunal since last three years.
2. That during this long period no proceedings have been initiated and every in the case is more than 6/7 months.
3. That the petitioner come from District Dir and for coming and going sufficient expenses have been occurred and the petitioner being poor employee has got no source to arrange this havey expenses and borrowed from the local persons.
4. That the petitioner/appellant have got no other adequate and speedy remedy except to file this application for entrustment of the case to Malakand Division Distt Swat for just and proper disposal of the case.
5. That in compelling circumstances the instant petition has been filed for proper adjudication of the case.

It is, therefore, humbly prayed that on acceptance of this application the case may very graciously be transferred to Darul Qaza Swat for proper disposal of the case, any other relief which deems fit and proper in the interest of justice may also be awarded in favour of the petitioner.



Petitioner/appellant

( AMJAD ALI SON/OF WAZIR AHMAD  
R/O OUCH DISTRICT DIR LOWER

Dated:-24.3.2016.

AFFIDAVIT

I, Amjad Ali appellant, do hereby solemnly affirm and declare that the contents of the above application are true and correct to the best of my knowledge and belief.

DEPONENT

