

Execution Petition 10/2020

19th July, 2022

1. None for the petitioner present. Syed Naseer Ud Din Shah, Asst: Advocate General for respondents present.

2. On 22.12.2021 in compliance with the directions contained in order dated 13.10.2021, respondents produced copy of an order End: No. 8376-85 DEO(M) Kohistan Esttab: Sec: dated 16.12.2021, copy of which was handed over to the clerk of learned counsel for the petitioner. Since no body is present today, it seems that the petitioner is satisfied with the order dated 16.12.2021, therefore, this execution petition is filed. Consign.

3. *Pronounced in open court in Abbottabad and given under my hand and seal of the Tribunal on this 19th day of July, 2022.*

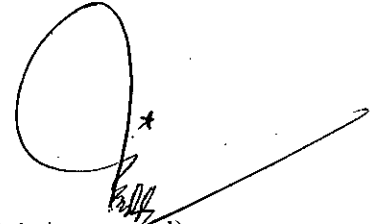


(Kalim Arshad Khan)
Chairman
Camp Court Abbottabd.

22.12.2021

Clerk of learned counsel for the petitioner present. Mr. Muhammad Riaz Khan Paindakhel, Assistant Advocate General alongwith Mr. Muhammad Amin, DEO (M) Kohistan for respondents present.

Respondent-department produced office order dated 16.12.2021 in pursuance of the Service Tribunal judgement dated 17.06.2019 as well as orders contained in order sheet dated 13.10.2021. According to the office order, the petitioner has been granted earned leave with full pay w.e.f. 29.04.2016 to 13.12.2016 (224 days) and w.e.f 14.12.2016 to 16.12.2021 (1827 days) treated as leave without pay. Copy of the said office order is placed on file as well as handed over to the clerk of learned counsel for the petitioner. Adjourned. To come up for further proceedings on 15.02.2022 before S.B at camp court Abbottabad.



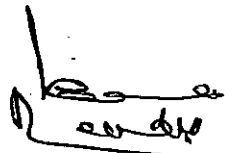
(Mian Muhammad)

Member(E)

Camp Court Abbottabad

10-2-22

Due to nativement of Martyr Chaudhary case is adjourned. To come up for the same as before on 19-7-2022.



13.10.2021

Counsel for the petitioner and Mr. Muhammad Adeel Butt, Addl. AG alongwith Muhammad Amin, DEO Upper Kohistan and Muhammad Siddique, Litigation Officer for the respondents.

The latter has produced the copy of order dated 08.10.2019, whereby the petitioner was reinstated into service for regular enquiry in compliance with the judgment of this Tribunal. He was also posted by the same order as T.T at GMS Bariyar against the vacant post on his own pay and scale in the light of the judgment of this Tribunal w.e.f. 25.09.2019. The copy of the said order is already annexed with the Execution Petition as Annexure-B. According to version of the respondent No. 3 in attendance, the petitioner after reinstatement did not take over the charge and remained absent. On the other hand, learned counsel for the petitioner produced the charge report and application addressed to the respondent No. 3 for back benefits which are also placed on file. It has further been stated on behalf of the petitioner by his counsel that the petitioner met an accident and was indisposed to attend the school and informed the department through application for medical leave but no action was taken. The things are not clear as to whether the petitioner after joining duty in pursuance to reinstatement order was attending his duty regularly or not. Similarly, the department is also not in a position to substantiate the absence of the petitioner due to administrative lapses of the field staff responsible for checking of the school and ensuring attendance of the teachers.

According to operative part of the judgment, the orders dated 12.07.2017 and 29.04.2019 as passed by DEO and Director E&SE Peshawar respectively, were set aside. The appellant was reinstated into service with direction to respondents to conduct a regular enquiry in his case. It was also directed that the enquiry shall be concluded within a period of ninety days from the date of receipt of copy of judgment by the respondents. The issue of back benefits in favour of the appellant/petitioner was conditional with the outcome of enquiry. It is no more disputed that the appellant was reinstated into service in compliance with the judgment of this Tribunal. However, the respondents have not been able to bring on record of any proceedings showing that the enquiry was conducted in pursuance to judgment of this Tribunal. In absence of the proof of enquiry, it can be safely presumed that the respondents omitted to avail the option of enquiry against the appellant/petitioner within three months as directed in the operative part of the judgment. Therefore, the order of reinstatement of the appellant/petitioner has become final. In view of the reinstatement order having got finality, the petitioner has become entitled for back benefits. However, the judgment of this Tribunal is silent as to treatment with the absence period and nature of the back benefits. As far as the intervening period in between removal of the petitioner from service and his reinstatement vide order dated 08.07.2019 is concerned, the same shall be treated as leave of the kind due with accruable financial benefits. As far as the post-



reinstatement period is concerned, it is an admitted position that no salary has been paid to the petitioner. However, there is a dispute as to attendance of the petitioner during this period. Therefore, the period during which the petitioner applied for medical leave, if available on record, he shall be granted medical leave and remaining period shall be treated as leave of the kind due. To come up for implementation report on 22.12.2021 before the S.B at camp court, Abbottabad. The respondent No. 3 is directed to obtain the copy of this order sheet for implementation.



Chairman
Camp Court, A/Abad

+


21.1.2021

Due to covid-19, case is
adjourned to 21-9-2021 for same.


Reade

21.09.2021 Mr. Nizakat Ali, Advocate, Junior of learned counsel for the petitioner present. Mr. Riaz Khan Paindakheil, Assistant Advocate General for the respondents present.

Junior of learned counsel for the petitioner requested for adjournment on the ground that counsel for the petitioner is not available today. Adjourned. To come up for further proceedings on 12.10.2021 before S.B at Camp Court, Abbottabad.


(ATIQ-UR-REHMAN WAZIR)
MEMBER (EXECUTIVE)
Camp Court, Abbottabad.

11.10.2021 counsel for the petitioner and Mr. Muhammad Adeel Butt, Addl. AG for the respondents.

Learned AAG seeks time to contact the respondents and apprise the Tribunal about the progress taken till today by the respondents for implementation of the judgment at credit of the petitioner. Request is accorded. To come up for implementation report/further proceedings on 12.10.2021 before the S.B at camp court, Abbottabad.


Chairman
Camp Court, A/Abad

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

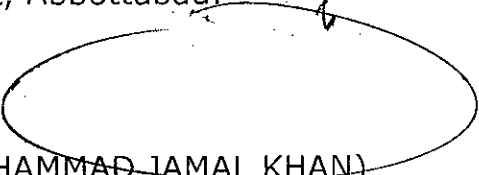
Reader

Due to summer vacation case to come up for the same on 1/14
9/12/20 at camp court abbottabad.


Reader

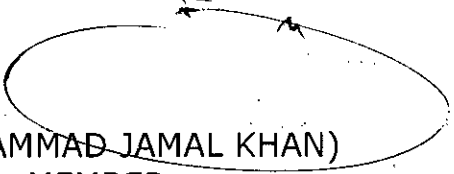
14.09.2020

None for the petitioner is present at the time 03:13 P.M.
The instant execution petition was adjourned due to summer
vacation, therefore, notice be issued to the petitioner as well as
his counsel for 17.11.2020. File to come up for further
proceedings before S.B at Camp Court, Abbottabad.


(MUHAMMAD JAMAL KHAN)
MEMBER
CAMP COURT ABBOTTABAD

17.11.2020

Counsel for petitioner is present. Mr. Usman Ghani,
District Attorney for the respondents is also present.
Learned counsel for petitioner requests for adjournment.
Adjourned to 21.01.2021 on which date file to come up for
further proceedings before S.B at Camp Court,
Abbottabad.

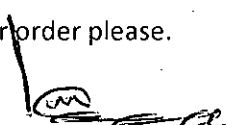


(MUHAMMAD JAMAL KHAN)
MEMBER
CAMP COURT ABBOTTABAD

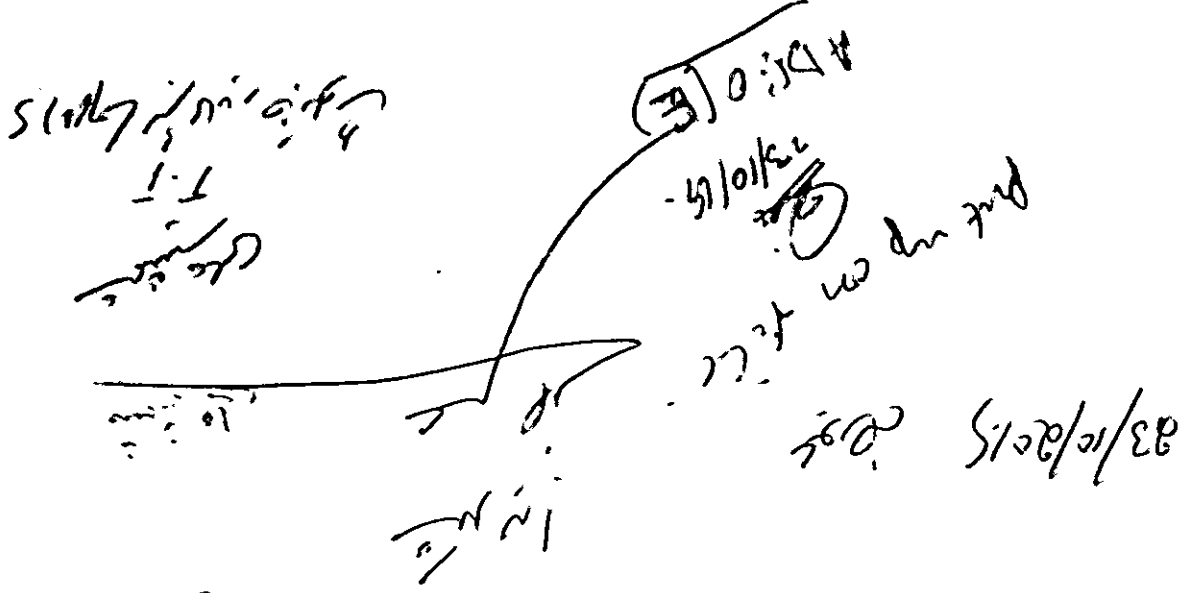
Form- A

FORM OF ORDER SHEET

Court of _____

Execution Petition No. 10/2020

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	08.01.2020	<p>The execution petition of Mr. Shamsheer Ali submitted today by Qazi Muhammad Azhar Advocate may be entered in the relevant register and put up to the Court for proper order please.</p> <p style="text-align: right;">  REGISTRAR - 8/1/2020 </p>
2-		<p>This execution petition be put up before touring S. Bench at A.Abad on <u>16-03-2020</u></p> <p style="text-align: right;">  MEMBER </p>



Part up on floor
 23/10/2015 Date
 23/10/15 Date
 Line

16-10-2015-2015-10-16
 Back Benefit
 23/10/15 Date
 23/10/2015 Date
 Line

Back Benefit
 23/10/15 Date
 23/10/2015 Date
 Line

چارچ رپورٹ

حسب الحکم جناب ا۔ DEO (M) Upper Kohistan صاحب ضلع کوہستان

تقرری آرڈر نمبر 67 - 6360

تاریخ 10 / 10 / 2019ء کی تکمیل میں آج مورخہ 10 / 10 / 2019ء کو قبل از دوپہر

معلومی شمش علی نے GMS ٹیڑی مار / میں اپنی منصب نشست TT کا چارج سنبھال کر ڈیوٹی کا آغاز کر دیا۔

لہذا چارج رپورٹ حاضر خدمت ہے۔

FRESH START
Govt. Middle School
Barlya, Dist. Kohistan

چارچ دہندہ ولی الرحمن P.E.A

شمش علی
چارچ گرہندہ

GMS ٹیڑی

GMS ٹیڑی مار

BEFORE KHYBER PAKHTUNKHWA SERVICE

TRIBUNAL PESHAWAR

Execution Petition No. 10/2020

Shamsher Ali S/o Gul Rehan T.T Govt. High School, Baryar
District Kohistan.

... APPELLANT/ PETITIONER

VERSUS

1. Government of Khyber Pakhtunkhwa, through Secretary Education, Peshawar
2. Director, Elementary And Secondary Education, Peshawar
3. District Education Officer (Male), Kohistan.

...RESPONDENTS/ CONTEMNORS

PETITION FOR IMPLEMENTATION PETITION

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2.	Copy of Order	A	5 to 9
3.	Copy of Order of re instate	B	10
4.	Wakalatnama		11

Dated: 13/11/2019

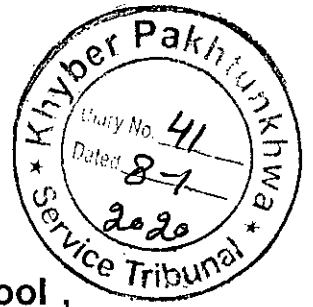
شامشر علی
PETITIONER

Through

Qazi Muhammad Azhar
**QAZI MUHAMMAD AZHAR
ADVOCATE HIGH COURT,
ABBOTTABAD**

①

BEFORE KHYBER PAKHTUNLHWA SERVICE
TRIBUNAL PESHAWAR



Execution Petition No. 10/2020

Shamsher ali S/O Gul Rehan T.T Govt high school ,
Baryar District Kohistan .

..... Appellant/ PETITIONER

Versus

- 1) Government Of Khyber Pakhtoonkhawa, Through
Secretary Education, Peshawar
- 2) Director, Elementary And Secondary Education,
Peshawar
- 3) District Education Officer (Male), Kohistan

Respondents /Contemnors

**IMPLEMENTATION PETITION FOR OBEYING
THE ORDERS OF THIS AUGUST COURT
DATED 17/06/2019 IN SERVICE APPEAL NO
607/2018 TO THE EXTENT OF ISSUING BACK
BENEFITS.**

Respectfully Sheweth,

1. That the august court vide order dated 17/06/2019
in Appeal No 607/2018 directed the

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respondents/contemnors to conduct of enquiry within 90 days from the receipt of judgment and issue back benefits in favour of petitioner shall follow the outcome of enquiry required to be conducted. The copy of the order is annexed as annexure "A".

2. That enquiry was conducted and petitioner was re-instated into his services, but his back benefits was not restored from the date of his alleged termination/dismissal. Copy of the order is annexed as annexure B.
3. That despite numerous requests, the respondents are wilfully disobeying the orders of this august court contumaciously and disobeyed the orders of this august court.
4. That the respondents are habitual in disobeying the orders of court and contumacy and obduracy in their modus operandi.
5. That wilful disobedience of the order of this august court is illegal and hence they are liable to be prosecuted and punished accordingly.
6. That the respondents despite clear orders, disobeyed the directions of this august court and hence the present petition, which speaks volumes about the high headedness of the respondents and their contumacious attitude.

It is therefore most humbly prayed that on acceptance of the instant petition respondents be directed to immediately issue/ release the back benefits of petitioner form the date of his termination/

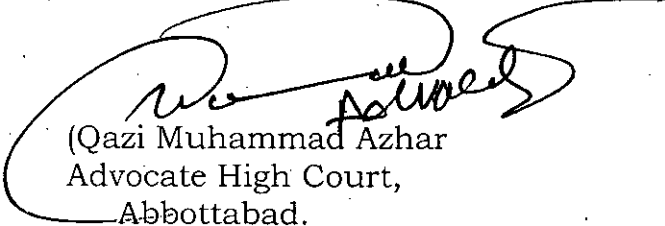
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dismissal, and may also be directed to release monthly salary and other relief which this honorable court deems fit and proper.

Dated. 13/11/2019

شہزاد علی
Petitioner

THROUGH:


(Qazi Muhammad Azhar
Advocate High Court,
Abbottabad.

VERIFICATION

Verified that the contents of foregoing implementation petition are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable court.

شہزاد علی
PETITIONER

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BEFORE KHYBER PAKHTUNLHWA SERVICE TRIBUNAL
PESHAWAR

Shamsher ali S/O Gul Rehan T.T Govt high school , Baryar
District Kohistan .

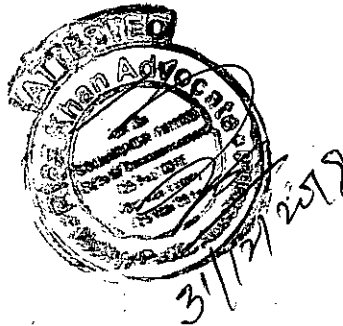
Versus

- 1) Government Of Khyber Pakhtoonkhawa, Through
Secretary Education, Peshawar
- 2) Director, Elementary And Secondary Education,
Peshawar
- 3) District Education Officer (Male), Kohistan

AFFIDAVIT

I, SHAMSHER ALI S/O GUL REHAN T.T GOVT HIGH
SCHOOL , BARYAR DISTRICT KOHISTAN DO, HEREBY
SOLEMNLY AFFIRM AND DECLARE THAT THE
CONTENTS OF FOREGOING COC PETITION ARE TRUE
AND CORRECT AND NOTHING HAS BEEN SUPPRESSED
FROM THIS HONORABLE COURT.

شامشیر علی
DEPONENT





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Annexure "A"



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
CAMP COURT, ABBOTTABAD.

Appeal No. 607/2018

Date of institution ... 04.05.2018

Date of decision 17.06.2019

Shamsher Ali son of Gul Rehan Ex-T.T, Government High School, Baryar
District Kohistan. (Appellant)

Versus

Govt. of Khyber Pakhtunkhwa through Secretary Elementary & Secondary
Education Peshawar and others. (Respondents)

Present

Qazi Muhammad Azhar,
Advocate ... For appellant.

Mr. Muhammad Bilal,
Deputy District Attorney ... For respondents.

MR. HAMID FAROOQ DURRANI, ... CHAIRMAN
MR. AHMAD HASSAN, ... MEMBER.

JUDGMENT

HAMID FAROOQ DURRANI, CHAIRMAN:-

1. The appellant is aggrieved of order dated 29.04.2016 issued by respondent No. 3 through which he was removed from service with immediate effect on account of wilful long absence.
2. We have heard learned counsel for the appellant, learned Deputy District Attorney on behalf of the respondents and have also gone through the available record.

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar



Learned counsel for the appellant argued that the appellant was not posted as T.T Government High School Baryar, Kohistan at the relevant time while he was shown to have been posted as such in the impugned order. It was contended that under Rule 9 of the Khyber Pakhtunkhwa Civil Servants (E&D) Rules, 2011, in order to proceed ex-parte against a civil servant, publication in two leading newspapers was mandatory. The said requirement was not fulfilled by the respondents. It was also contended that the notice requiring the appellant to resume duty was not sent on his residential address through registered post. In the said manner, the departmental proceedings were not taken in accordance with rules and the impugned order was, therefore, nullity in the eyes of law.

Learned Deputy District Attorney attempted to rebut the arguments of learned counsel and argued that the appeal in hand was barred by time as it was submitted on 04.05.2018 against the order of rejection of departmental appeal of appellant on 12.07.2017.

3. Before proceeding further in the matter, we consider it appropriate to attend to the objection of learned Deputy District Attorney. The record shows that departmental appeal was submitted by the appellant on 01.06.2016 which was rejected on 12.07.2017. The respondent department did not make any attempt to communicate the order of rejection of departmental appeal to the appellant and, on 19.04.2018, he was sent the requisite information by Deputy Director (Estab:.) Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar with reference to his application dated 11.01.2018. Upon receipt of the information the appeal in hand was submitted on 04.05.2018.

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar



4. Adverting to the merits of the case in hand, it is seen that the show cause notice issued to the appellant on 15.02.2016 conveyed that proceedings against him were intended on account of:-

- a. Inefficiency/poor performance.
- b. Indicates fake report about Class-IV Chowkidar.
- c. Wilful absence from duty since long.
- d. Guilty of misconduct.

Noticeably, the date on show cause notice contained overwriting while the impugned order dated 29.04.2016 was passed against the appellant on the sole ground of "wilful long absence". It is very strange that the respondents did not have any record and were not sure about the specific period of absence of the appellant. On the other hand, he was removed from service on account of such absence.

5. We are in agreement with the argument of learned counsel regarding non-observance of legal requirements contained in Rule 9 of the Rules ibid by the respondents while proceeding against the appellant. Mandatory provisions contained in the rules were not complied with, therefore, it can be safely held that the appellant was not extended any opportunity of defending his cause. Such act on the part of respondents was in clear violation of the Constitution and law of the land regarding fair trial of an accused.

6. For what has been discussed above we allow the appeal in hand and set aside the orders dated 29.04.2019 and 12.07.2017 passed by District Education Officer (Male) Kohistan and Director, Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar, respectively. Resultantly, the appellant is reinstated into service with the directions to respondents to

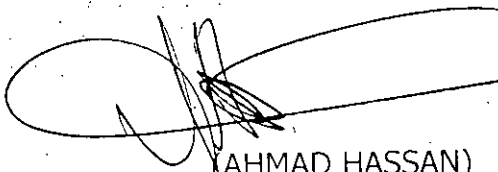
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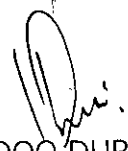
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

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conduct a regular enquiry in his case. The enquiry shall be concluded within a period of ninety days from the date of receipt of copy of instant judgment by the respondents but in accordance with law. The issue of back benefits in favour of the appellant shall follow the outcome of enquiry required to be conducted.

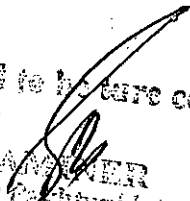
Parties are left to bear their respective costs. File be consigned to the record room.


(AHMAD HASSAN)
Member


(HAMID FAROOQ DURRANI)
Chairman
Camp Court, Abbottabad.


ANNOUNCED
17.06.2019

Certified to be true copy


EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Date of Presentation of Application 04-7-2018
Number of Words 2000
Copying Fee 14-
Urgent 2-
Total 16-
Name of Copyist [Signature]
Date of Completion of Copy 04-7-2019
Date of Delivery of Copy 04-7-2019

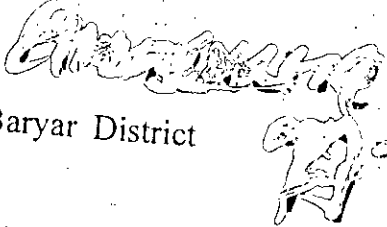
(9)



**BEFORE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR**

Service Appeal No. 607/2018

Shamsher Ali son of Gul Rehan, Ex. T.T, Govt. High School, Baryar District
Kohistan.


...APPELLANT

VERSUS


Diary No. 655

Dated 24-5-2018

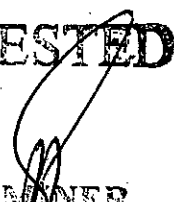
1. Govt. of Khyber Pakhtunkhwa, through Secretary Elementary & Secondary Education, Peshawar.
2. Director Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar.
3. District Education Officer (Male), Kohistan

....RESPONDENTS

APPEAL UNDER SECTION 4 OF KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL, ACT,
1974 AGAINST THE ORDER ENDORSMENT NO.
ESTAB. 1996-2001 DATED 29/04/2016 ISSUED BY
RESPONDENT NO. 3 VIDE WHICH THE
SERVICES OF THE APPELLANT WERE
TERMINATED.

Filed today

Registrar
4/5/18

ATTESTED


EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

PRAYER: ON ACCEPTANCE OF INSTANT
APPEAL IMPUGNED ORDER OF REMOVAL
FROM SERVICE bearing Endst. No! Estab: 1996-
2001 dated 29/04/2016 MAY GRACIOUSLY BE
SET-ASIDE AS ILLEGAL, UNLAWFUL, AGAINST



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OFFICE OF THE DISTRICT EDUCATION OFFICER (M) KOHISTAN

Annexure "B"

OFFICE ORDER.

Whereas Mr. Shamsheer Ali Ex- TT GMS Bariyar Tehsil Dassu District Kohistan was submitted his service appeal No. 607/2018, Dated 17-06-2019 before Honorable Service Tribunal Khyber Pakhtunkhwa Peshawar, (Camp Court Abbottabad). The Honorable Service Tribunal Peshawar accepted his appeal, the appellant was Re-Instated into service and the case was returned to Department for regular enquiry in accordance with rules as per judgment announced on 17-06-2019.

Whereas the department submitted the case to law department for getting opinion for filling CPLA.

In view of the above facts, Mr. Shamsheer Ali Ex- TT GMS Bariyar Tehsil Dassu District Kohistan is hereby Re-Instated into service at GMS Bariyar against the vacant post of TT on his own pay and grade in the light of judgment of Honorable Service Tribunal w,e,f 25/09/2019.

Note:

1. No TA /DA is Allowed.
2. Charge Report should be submitted to all concerned.

[Signature]
District Education Officer
(Male) Kohistan.

Endst: No. 6360-67 DEO (M) KH Dated Dassu the 8/10 /2019

Copy of the above is forwarded to the:-

1. Director E&SE Khyber Pakhtunkhwa Peshawar.
2. Advocate General Khyber Pakhtunkhwa Peshawar.
3. Deputy Commissioner Kohistan.
4. Deputy District Education Officer (M) Kohistan.
5. District Accounts Officer, Kohistan.
6. ADEO (Litigation) Local Office.
7. PA to DEO (M) Kohistan.
- ✓ 8. Official Concerned

[Signature]
District Education Officer
(Male) Kohistan.

وکالت نامہ

11

کورٹ فیس
قیمتی

Before Khyber Pakhtunkhwa Service Tribunal

Shamsher Ali Government

Petitioner

دعویٰ یا جرم Implementation باعث تحریر آنکہ

قاضی لاء چیمبر

مندرجہ بالا عنوان میں اپنی طرف سے بیرونی وجود ہی مقام

قاضی محمد اظہر ایڈووکیٹ ہائی کورٹ ایبٹ آباد

کہ ہر پیشی پر خود یا بذریعہ مختار خاص رو برو عدالت حاضر ہوتا رہوں گا اور بوقت پکارے جانے پر وکیل موصوف کو اطلاع دے کر حاضر کروں گا اگر کسی پیشی پر منظر حاضر نہ ہوا اور غیر حاضری کی وجہ سے کسی طور پر مقدمہ میرے خلاف ہو گیا تو صاحب موصوف اس کے کسی طرح ذمہ دار نہ ہوں گے۔ نیز وکیل صاحب موصوف صدر مقام پکھری کے علاوہ کسی اور جگہ یا پکھری کے مقررہ اوقات سے پہلے یا روز تعطیل بیرونی کرنے کے مجاز نہ ہوں گے۔ اگر مقدمہ مقام پکھری کے علاوہ کسی اور جگہ سماعت ہونے پر یا بروز پکھری کے اوقات کے آگے پیچھے ہونے پر منظر کو کوئی نقصان پہنچے تو ذمہ دار یا اس کے واسطے معاوضہ ادا کرنے مختار نامہ واپس کرنے کے بھی صاحب موصوف ذمہ دار نہ ہوں گے۔ مجھے کل ساختہ پرواختہ صاحب مثل کردہ بذات خود منظور و قبول ہوگا۔ اور صاحب موصوف کو عرضی دعویٰ اور درخواست اجراءے ڈگری و نظر ثانی اپیل نگرانی دائر کرنے نیز ہر قسم درخواست پر دستخط تصدیق کرنے کا بھی اختیار ہوگا اور کسی حکم یا ڈگری کے اجراء کرانے ہر قسم کاروبار وصول کرنے اور رسید دینے اور داخل کرانے کا ہر قسم کا بیان دینے اور سپرد و تالی و رضی نامہ و فیصلہ برخلاف کرنے و اقبال دعویٰ کا اختیار ہوگا۔ اور بصورت اپیل و برآمدگی مقدمہ یا منسوخی ڈگری ایک طرف درخواست حکم امتناعی یا ڈگری قبل از فیصلہ اجراءے ڈگری بھی صاحب موصوف کو بشرط ادائیگی علیحدہ بیرونی اختیار نامہ کرنے کا مجاز ہوگا۔ اور بصورت ضرورت اپیل یا اپیل کو واسطے کسی دوسرے وکیل یا ایئر سٹر کو بجائے اپنے ہمراہ مقرر کریں اور ایسے مشیر قانونی کو بھی اس امر میں وہی اختیارات حاصل ہوں گے جیسے صاحب موصوف کو پوری فیس تاریخ پیشی سے پہلے ادا کروں گا۔ تو صاحب موصوف کو پورا اختیار ہوگا کہ مقدمہ کی بیرونی نہ کریں اور ایسی حالت میں میرا مطالبہ صاحب موصوف کے برخلاف نہیں ہوگا۔ لہذا اختیار نامہ لکھ دی ہے کہ سند ہے۔

مضمون مختار نامہ سن لیا ہے اور اچھی طرح سمجھ لیا ہے اور منظور ہے۔

Accepted
&
Attested

20-12-19

العبد العبد العبد العبد

Dezi Muhammad Akbar
Advocat High Court
Abbottabad



OFFICE OF THE DISTRICT EDUCATION OFFICER (M) KOHISTAN (UPPER)

Email: emiskohistan@yahoo.com

Phone Number: 0998407128

OFFICE ORDER

In compliance of court directions issued by Service Tribunal Khyber Pakhtunkhwa Abbottabad Bench, vide order sheet Dated: 13-10-2021 in Execution Petition No. 10/2020, Shamsher Ali VS Govt, an inquiry was conducted vide this office order. No.7316-20/Lit./DEO (M) KH dated 27/10/2021 issued by District Education Officer Male Kohistan Upper regarding Mr. Shamsher Ali TT of GMS Bariyar who has remained absent from his official duty after re-instatement.

As per findings of the inquiry, Mr. Shamsher Ali TT has been appointed in Education Department w.e.f 29/08/1997 and took over charge of his post on 01-09-1997. He has been removed from service, on prolonged absence from duty, w.e.f 29/04/2016 after fulfilling all codal formalities. He filed a Service Appeal NO. 607/2018 in Khyber Pakhtunkhwa Service Tribunal. He was reinstated into service in the light of judgement of the tribunal for de novo inquiry vide Notification No.6033-37/DEO (M) Kohistan/Establishment Secondary dated 14-09-2019 and Mr. Muhammad Alam Ex. ASDEO Circle Dassu/Harban and Mr. Saeed Shah Ex. ASDEO Circle Seo/Kandia were nominated as inquiry officers and were directed to submit the report within 15 days positively, but they failed to submit any report/refusal. After reinstatement, Mr. Shamsher Ali took over charge from Mr. Wali ur Rahmat PET of GMS Bariyar, although there is no signature/attendance of Mr. Shamsher Ali in the teacher attendance register (TAR), and Mr. Wali ur Rahman did not submit the copy of charge report nor absent report to the office concerned for intimation.

As per statement of Mr. Shamsher Ali TT, he applied for Medical leave after re-instatement in service i.e. 09-10-2019, but no record was found in this office i.e. Diary No. leave account proforma + Medical Certificate. He has only 224 days leave in his credit. The intervening period is 5 years, 7 months and 17 days.

In the light of the facts mentioned above Earned Leave with full pay is granted to Mr. Shamsher Ali TT wef 29-4-2016 to 13-12-2016(224) days, available in his credit and rest of the period w.e.f 14-12-2016 to 16-12-2021(1827 Days) is treated as leave without pay. Show cause notices will be issued to all delinquents.

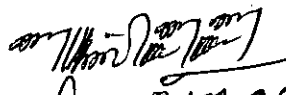

(MUHAMMAD AMIN)

District Education Officer (M)

District Kohistan Upper.

End No. 8376-85 DEO (M) Kohistan Esttab: Sec: Dated: 16 /12/2021

1. The Registrar Khyber Pakhtunkhwa Service Tribunal, Abbottabad.
2. The PA to Director Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
3. The Deputy Commissioner Kohistan Upper.
4. The District Monitoring Officer Kohistan Upper.
5. The District Accounts Officer Kohistan Upper.
6. The PA to District Education Officer (M) Kohistan Upper.
7. The Deputy District Education Officer (M) Kohistan Upper.
8. The Head Master GMS Bariyar Kohistan Upper.
9. The Official concerned.
10. Copy to Master File for record.



District Education Officer (M)
District Kohistan Upper.



OFFICE OF THE DISTRICT EDUCATION OFFICER (M) KOHISTAN

OFFICE ORDER

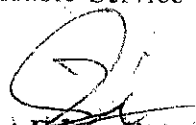
Whereas Mr. Shamsheer Ali Ex- TT GMS Bariyar Tehsil Dassu District Kohistan was submitted his service appeal No. 607/2018, Dated 17-06-2019 before Honorable Service Tribunal Khyber Pakhtunkhwa Peshawar, (Camp Court Abbottabad). The Honorable Service Tribunal Peshawar accepted his appeal, the appellant was Re-Instated into service and the case was returned to Department for regular enquiry in accordance with rules as per judgment announced on 17-06-2019.

Whereas the department submitted the case to law department for getting opinion for filling CPLA.

In view of the above facts, Mr. Shamsheer Ali Ex- TT GMS Bariyar Tehsil Dassu District Kohistan is hereby Re- Instated into service at GMS Bariyar against the vacant post of TT on his own pay and grade in the light of judgment of Honorable Service Tribunal w.e.f 25/09/2019.

Note:


1. No TA /DA is Allowed.
2. Charge Report should be submitted to all concerned.


District Education Officer
(Male) Kohistan.

Endst: No. 6360-67 /DEO (M) KH Dated Dassu the 08/10 /2019

Copy of the above is forwarded to the:-

1. Director E&SE Khyber Pakhtunkhwa Peshawar.
2. Advocate General Khyber Pakhtunkhwa Peshawar.
3. Deputy Commissioner Kohistan.
4. Deputy District Education Officer (M) Kohistan.
5. District Accounts Officer, Kohistan.
6. ADEO (Litigation) Local Office.
7. PA to DEO (M) Kohistan.
8. Official Concerned


District Education Officer
(Male) Kohistan.

O/c