

23<sup>rd</sup> June, 2022 Appellant in person present and submitted an application for adjournment wherein he stated that learned counsel was busy in some other cases at outstation. Adjourned. To come up for preliminary hearing on 16.08.2022 before S.B.



(Kalim Arshad Khan)  
Chairman

16.08.2022

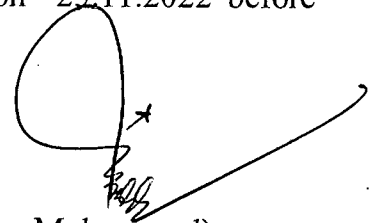
Learned counsel for the appellant present and requested for adjournment on the ground that he has not gone through the record. Adjourned. To come up for preliminary hearing on 04.10.2022 before S.B.



(Mian Muhammad)  
Member (E)

04.10.2022

Clerk of counsel for the appellant present and requested for adjournment due to non-availability of learned counsel for the appellant. Adjourned subject to payment of cost of Rs. 2000/-. To come up for preliminary hearing and cost on 25.11.2022 before S.B.



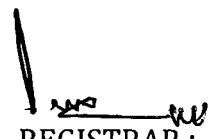

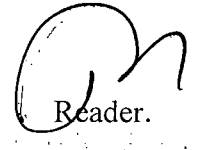

(Mian Muhammad)  
Member (E)

Form- A

FORM OF ORDER SHEET

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

Case No.- 7950 /2021

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	29/12/2021	<p>The appeal of Mr. Faiz Rasan presented today by Mr. Hamza Amir Gulab Advocate, may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p> <p>This case is entrusted to S. Bench at Peshawar for preliminary hearing to be put up there on <u>21/02/22</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
2-	21.02.2022	<p>Due to retirement of the Worthy Chairman, the Tribunal is defunct, therefore, case is adjourned to 17.05.2022 for the same as before.</p> <p style="text-align: right;"> Reader.</p>
	17.05.2022	<p>Learned counsel for the appellant present and requested for adjournment in order to further prepare the brief. Adjourned. To come up for preliminary hearing on 23.06.2022 before S.B.</p> <p style="text-align: right;"> (MIAN MUHAMMAD) MEMBER (E)</p>

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

Service Appeal No. 7950 /2021

Faiz Rissan

....Appellant

**VERSUS**

Secretary Elementary and Secondary Education Khyber Pakhtunkhwa  
Peshawar  
..... Respondents

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Appellant

Through

  
**Hamza Amir Gulab**

&

  
**Muhammad Nouman**  
Advocates High Court  
Cell: 03005936155

①

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

Service Appeal No. \_\_\_\_\_/2021

Faiz Rasan SPST GPS Ferozpur Takht bai District Mardan

....Appellant

**VERSUS**

1. Secretary Elementary and Secondary Education Khyber Pakhtunkhwa Peshawar.
2. Director Elementary and Secondary Education Khyber Pakhtunkhwa Peshawar.
3. Assistant Director(Estab) Elementary and Secondary Education Khyber Pakhtunkhwa Peshawar
4. District Education Officer (Male) Mardan

..... Respondents

**SERVICE APPEAL UNDER SECTION 4 OF KP SERVICE TRIBUNAL ACT,1974 AGAINST ORDER OF RESPONDENT 3 WHEREBY APPEAL OF APPELLANT WAS PARTIALLY ALLOWED AND OF APPELLATE AUTHORITY WHEREBY HE DID NOT RESPOND TO DEPARTMENTAL APPEAL /REPRESENTATION OF THE APPELLANT**

**PRAYER**

On acceptance of this appeal the impugned order dated 07.05.2021 of Respondent 3 may kindly be modified and the appellant may be held entitled for all back benefits for the period 18.04 .2017 to 08.12.2020.

Respectfully Sheweth

**FACTS**

1. That the appellant was inducted in Education Department in the year 1997 and thus he has 23 years of service in his credit.
2. That in the long career of the appellant no complaint has ever been reported against him and thus he is having an unblemished service record.
3. That the appellant was removed from service on 09.01.2015 on the allegation of wilful absence from duty.
4. That the appellant in the year 2017 preferred an appeal/representation against that very such order of removal from service on the ground that he was in the custody of Pak army from 2014 to 2017.
5. That an inquiry was conducted and the inquiry report recommends that the appellant be reinstated in service.
6. That the Director E and SE KP Peshawar accepted the appeal on dated 07.01.2020, reinstated the appellant and the intervening period 120 days on full pay and 240 days on half pay and the remaining period was treated as leave without pay.  
**(copy of reinstatement order is attached as Annex A)**
7. That the appellant didn't take charge after his reinstatement order as he was in custody of police in a false and baseless FIR.
8. That the DEO(Male ) Mardan on 08.12.2020 revalidate the reinstatement order and the intervening period w.e.f date of reinstatement to issuance of revalidation order was treated as leave without pay.  
**(copy of revalidation order is attached as Annex B).**

9. That the appellant made departmental representation on 17.03.2021 and request for payment of all back benefits.  
**(Copy of Departmental representation is annexed as annex C).**
10. That on 07.05.2021 Assistant Director(estab) E and SE KP Peshawar partially accepted the appeal of appellant and intervening period w.e.f 01.02.2014 to 17.04.2017 was treated as on duty under the FR 54 Rules.  
**(Order of Assistant Director E & SE dated 07.05.2021 is Annex D).**
11. That the appellant feeling aggrieved from order of Assistant Director E & SE KP Peshawar preferred an appeal on 02.09.2021 to Director E & SE and prayed that benefits from 2017 to 2020 may also be granted but no order has been made under the statutory period of 90 days  
**(Copy of departmental appeal dated 02.09.2021 is annex E)**
12. That aggrieved by the inaction of Respondent No 2 the Appellant is constrained to file the instant service appeal before this Hon'ble Tribunal on the following grounds:

### **GROUND**

- A. That the non granting of back benefits is against equity and norms of justice.
- B. That the appellant had filed appeal against his removal in 2017 but his appeal was decided in the year 2020 i.e after 3 long years. On this score alone the order dated 7.5.2021 is liable to be modified as the delay can not be attributed to appellant. Had the appeal decided on time no such like situation would arise.
- C. That the impugned order has been passed in vacuum without having solid, cogent and convincing evidence and is the result of colorable exercise of powers.

- D. That undue harm is caused to the Appellant as a result of delay in redressal of his grievance, hence the Appellant is entitled to the back benefits for the period he was kept out of service for no fault of his own by the Respondents.
- E. That no fair opportunity of hearing has been afforded to the Appellant.
- F. That other grounds will be taken at the time of arguments with prior approval from this Hon'ble Tribunal.

It is, therefore most humbly prayed that by accepting this appeal, the impugned order dated 07.05.2021 of Respondent 3 may kindly be modified and the appellant may be held entitled for all back benefits for the period 18.04 .2017 to 08.12.2020.**OR** any other relief this Honourable Court may deem just and proper be also passed in favour of Appellant.

*Narain*

Appellant

Through

*Hamza Amir Gulab*

**Hamza Amir Gulab**

&

*Muhammad Nouman*

**Muhammad Nouman**

Advocates High Court

**CERTIFICATE**

Certified that no such like Appeal has been filed earlier than this Appeal before this Honourable Court.

*[Signature]*  
Advocate

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

Service Appeal No. \_\_\_\_\_/2021

Faiz Rasan

....Appellant

**VERSUS**

Secretary Elementary and Secondary Education Khyber  
Pakhtunkhwa Peshawar ..... Respondents

**AFFIDAVIT**

I, Faiz Rasan S/O Behram Khan R/O SPST GPS Ferozpur Takht bai District Mardan , 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.



**DEPONENT**

**CNIC#:16101-9180515-5**

**Identified by**



**Hamza Amir Gulab**

Advocate



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

Service Appeal No. \_\_\_\_\_/2021

Faiz Rasan

....Appellant

**VERSUS**

Secretary Elementary and Secondary Education Khyber  
Pakhtunkhwa Peshawar ..... Respondents

**ADDRESSES OF PARTIES**

**APPELLANT:**

Faiz Rasan SPST GPS Ferozpur Takht bai District Mardan

**RESPONDENTS**

1. Secretary Elementary and Secondary Education Khyber Pakhtunkhwa Peshawar.
2. Director Elementary and Secondary Education Khyber Pakhtunkhwa Peshawar.
3. Assistant Director(Estab) Elementary and Secondary Education Khyber Pakhtunkhwa Peshawar
4. District Education Officer (Male) Mardan

*Rasan*  
Appellant

Through

*Hamza Amir Gulab*  
Hamza Amir Gulab  
Advocate

&

*Muhammad Nouman*  
Muhammad Nouman  
Advocates High Court



**DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION  
KHYBER PAKHTUNKHWA PESHAWAR.**

Annex A

**OFFICE ORDER.**

**WHEREAS**, Mr. Faiz Rasan PST GPS Sadiq Abad Mardan was proceeded against under the E&D Rules-2011 by the DEO (M) Mardan Endst No. 201-09 dated 09-01-2015, and removed from service accordingly due to his willful absence from duty without any permission w.e.f 31.01.2014 to 09.01.2015.

**WHEREAS**, the appellant concerned submitted appeal before the Director E&SE Khyber Pakhtunkhwa for reinstatement in service due to the reason that he had been taken in custody by the Pak Army Personnel on 02.02.2014 and released later on. 17.4.2017.

**WHEREAS**, The District Education Officer (Male) Mardan was asked to furnish detailed report/factual position of the instant case in light of appeal of the Ex-PST concerned vide this office letter No. 4745 dated 29-05-2017.

**WHEREAS**, in response, the DEO (M) Mardan submitted the comments wherein it was stated that appellant concerned was in custody of Pak Army/ Law Enforcement Agency which cleared him of the charges leveled against him.

**WHEREAS**, the DEO (M) Mardan was again asked to provide a certificate in respect of the appellant concerned that he was in the custody of Pak Army during the said intervening period.

**WHEREAS**, DEO (M) Mardan provided the requisite certificate in respect of the appellant concerned issued by Mr. Shafqat Ali Bhatti, Major Commanding Officer (Azad Kashmir Regiment Malakand vide No. 241 dated 17-04-2017, which was got verified from the quarter concerned by this office vide Endst No. 7252-53 dated 07-09-2018, in which his detention by the Pak Army was confirmed by Mr. Yousaf Khakwani Operational Office KRF-II Main office Muzaffarabad vide No. 6116/KRF II dated 25-09-2018.

**WHEREAS**, Mr. Misal Khan Principal, GHSS No. 4 Mardan was nominated as inquiry officer to conduct inquiry into self explanatory appeal submitted by Mr. Faiz Rasan Ex-PST GPS Sadiq Abad Mardan vide Endst No. 2823-24 dated 22.08.2019.

**WHEREAS**, the inquiry officer submitted detailed inquiry report and recommended that the appellant Mr. Riaz Rasan Ex-PST may be reinstated into the service.

**AND WHEREAS**, the inquiry report was examined by the Appellate Authority and the Ex-PST concerned was called for Personal Hearing vide this office letter No. 6674 dated 11-11-2019.

**Now therefore**, the Appellate Authority, Director Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar, after having gone through the entire the case and inquiry report arrived, at the conclusion to withdraw the office order bearing Endst No. 201-09 dated 09-01-2015 issued by DEO (M) Mardan, and to reinstate Mr. Faiz Rasan PST GPS Sadiq Abad Mardan into the service, whereas the intervening period (120 days on full pay, 240 days on half pay) and the remaining period will be treated as Leave Without Pay.

**(DIRECTOR)**

Endst No. 61922 / F.No.162/Vol-VIII of PST (M) G: Dated Peshawar the 07/01/2020.

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

1. District Education (M) Mardan.
2. District Accounts Officer Mardan.
3. Appellant concerned.
4. PA to Director E&SE Khyber Pakhtunkhwa, Peshawar.

**ATTESTED**

**DEPUTY DIRECTOR (ESTAB)  
E&SE KHYBER PAKHTUNKHWA**

07/01/2020

Annex 'B'

8

OFFICE OF THE DISTRICT EDUCATION OFFICER(MALE) MARDAN

OFFICE ORDER

Consequent upon the guidance received from Director E&SE Khyber Pakhtunkhwa Peshawar vide letter No:651 dated 27-11-2020, the undersigned is pleased to revalidate the reinstatement order issued vide this office under Endst No:2223-24 dated 19-03-2020 in r/o Mr. Faiz Rasan PST GPS Ferozpur Takht Bhai from date of its issuance.

Furthermore the intervening period ( w.e.f date of reinstatement to issuance of this order) may be treated as leave without pay.

Note: \* Necessary entry should be made in his service book.

\*No TA/DA is allowed

(Dr. Muhammad Idrees)

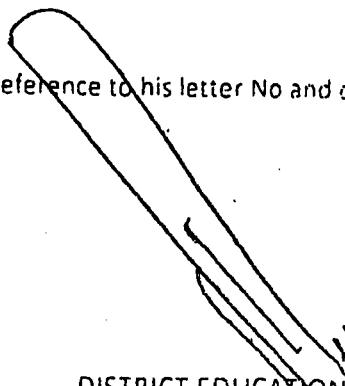
DISTRICT EDUCATION OFFICER  
(MALE) MARDAN

7297-98

Endst.No. \_\_\_\_\_ /P.F/ Dated: 08-12-2020

Copy forwarded to the:-

1. Director E&SE Khyberpakhtunkhwa, Peshawar with reference to his letter No and date mentioned above.
2. SDEO(M) Takht Bhai
3. DAO Mardan
4. Official concerned

  
DISTRICT EDUCATION OFFICER  
(MALE) MARDAN  
08/12/2020  
F.12.2020

DEO

CLB  
Assistant Sub Div:  
Education Officer (M)  
Pvt. Circle Mardan

**ATTESTED**

حضرت جناب ڈائریکٹر صاحب مہاراشٹر ایجوکیشن KPK پشاور

جناب عالی!

درخواست برآمد عطا بنی (All Back Benefit)

گزارش کی جاتی ہے کہ بندہ سٹڈ پر سن آئی و ج سے نوکری سے درخواست

کیا گیا تھا۔ 200-7-1 کو (Reinstated) کیا گیا۔ چونکہ بندہ نے ایچوں کا غیر موجودگی

میں کوئی ذریعہ دکھان سکی تھا اس لیے بندہ نے ایچوں نے بیماری کے حکم قہر ضوں کا سہارا  
لا کر اپنی تعلیمی ضرورت پوری کی۔ پھر بندہ چونکہ آرمی کی کھول سے نکلی ہے  
لے بندہ All Back benefit اور ایسی کے اوقات ہمارے پاس

الذرائع

فصلی بیان ایس ٹی جی ڈی ایس فیروز پور تخت کبائی حیدران  
S.P.S.T

سرکل کبائی

17/3/21

الذرائع

پر سنل نمبر - 05128705

صفا ضی کارڈ نمبر - 16161-918055

پوسٹل نمبر - 0313-9257559

1110  
17-3-2021

ATTESTED



Amex D<sup>y</sup> 10

**DIRECTORATE OF ELEMENTARY AND SECONDARY EDUCATION**  
**KHYBER PAKHTUNKHWA PESHAWAR.**

No: 5497 /F. No.162/Vol:8/Appeal  
of PST (M) General.  
Dated Peshawar the 7/5 /2021.

To,

The District Education Officer (M)  
Mardan.

Subject: - **APPLICATION FOR BACK BENEFITS**

Memo:-

I am directed to refer to appeal on the subject cited above in respect of Mr. Faiz Rasan PST GPS Sadiq Abad District Mardan, and to state that the Appellate Authority, has accepted his appeal, and hence the intervening period w.e.f 01.02.2014 to 17.04.2017, is treated as on duty, under the FR-54 Rules.

~~10/7/5/2021~~  
Assistant Director (Etab :)  
Elementary & Secondary Edu:  
Khyber Pakhtunkhwa Peshawar.

Copy forwarded to the:-

1. P.A to Director Elementary and Secondary Education local office.

Assitant Director (Etab :)  
Elementary & Secondary Edu:  
Khyber Pakhtunkhwa Peshawar.

**ATTESTED**

Annex E (11)

بکھنور جناب ڈائریکٹر صاحب ایجوکیشن E& Se خیبر پختونخواہ پشاور

جناب عالی!

(All Back Benefits)

درخواست براد عطا یگی

گزارش کی جاتی ہے کہ سائل یکم فروری 2014ء کو آرمی نے لاپتہ کیا۔ جس کی وجہ سے سائل کو نوکری سے برخاست کیا گیا۔

(آرڈر لف ہے)

اپریل 2017ء کو واپس چھوڑ دیا گیا۔ سائل نے اپنی ڈیوٹی پر رجوع کیا تو معلوم ہوا کہ بندہ (Terminate) کیا گیا ہے۔

بندہ نے افسران بالا سے اپیل کی جس کی رو سے اپریل 2020ء تک مختلف انکوائریاں منعقد ہوئیں۔ جس میں بندہ کے

(Re- instatment) کے بارے جناب ڈائریکٹر ایجوکیشن صاحب (E&SE KP) پشاور نے احکامات صادر فرمائے۔ بندہ نے

چارج سنبھال کر اپنے بقایا جات کے حصول کے لئے جناب ڈائریکٹر صاحب E&SE سے اپیل کی۔

(اپیل ڈائری نمبر 1110/17-03-21) جس کی رو سے بندہ کو فروری 2014 سے لیکر اپریل 2017 کے بقایا جات کے عطا یگی

کے احکامات صادر فرمائے گئے۔

جناب والا!

بندہ آرمی کے حراست سے آزاد ہو کر فوراً افسران بالا سے اپیل کی۔ اور اپنے آپ کو واپس ڈیوٹی کے پیش کیا۔ چونکہ 2017

سے 2020 کا عرصہ محکمانہ کارروائیوں میں صرف ہوا۔ سائل نے تو حاضری دی تھی۔ چونکہ بندہ کو اپریل 2017 سے لیکر 2020

تک کے بقایا جات سے محروم کیا ہوا ہے۔ اس لئے کہ بندہ کا اسی دوران کوئی روزگار نہیں تھا۔ اور یہ سارا عرصہ بحالی کے تک و دو میں صرف

ہوا۔ جس کی وجہ سے میٹارڈیکر مصیبتوں کا بھی سامنا کرنا پڑا۔

لہذا بندہ کو 2017 سے لیکر واپس چارج لینے تک دورانے کے بقایا جات کی عطا یگی کے احکامات صادر فرمائیں۔

ATTESTED

فیض رساں SPST جی پی ایس فیروز پور تحت بھائی ضلع مردان 0313-9257559

2-9-21

008  
2-9-21

ڈائریکٹر ایجوکیشن  
بکھنور