

24th June, 2022

It is reported by the Reader that Ishfaq Jadoon, DEO (M) Lower Kohistan and Rahim Dad, ADEO had marked attendance on behalf of the respondents but before the matter could be taken up they left the court. Therefore, they are directed to appear in person alongwith proper implementation report on 16.08.2022 before S.B.



(Kalim Arshad Khan)
Chairman

16.08.2022

Petitioner alongwith his counsel present. Mr. Kabirullah Khattak, Additional Advocate General alongwith Mr. Ashfaq Jadoon, DEO for the respondents present.

Learned Additional Advocate General as well as DEO requested for adjournment while committing at the bar that they will submit final and conclusive implementation report on the next date. Considering the request as well as commitment at the bar, last chance is granted. To come up for proper implementation report on 13.10.2022 before S.B.



(Mian Muhammad)
Member (E)

18.05.2022

Learned counsel for the appellant present. Mr. Muhammad Adeel Butt, Addl. AG alongwith Mr. Faheem, Assistant for the respondents present.

Respondent department produced yet another office order dated 11.05.2022 according to which in the light of orders of respondent No.1 dated 23.12.2021 and guidance of law, Parliamentary Affairs and Human Rights department dated 07.05.2021 denovo enquiry under Rule 14(6) of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 has been ordered. According to the TORs of the enquiry committee, the denovo enquiry is destined to be conducted under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 and Khyber Pakhtunkhwa Civil Servants Revised Leave Rules 1981 by two members (BS-17) committee headed by a Chairman (BS-18). This way out has already been pointed out by the court in order sheet dated 09.11.2021. Copy of the office order dated 11.05.2022 is placed on file as well as provided to the learned counsel for the petitioner. To come up for further proceedings on 24.06.2022 before S.B.

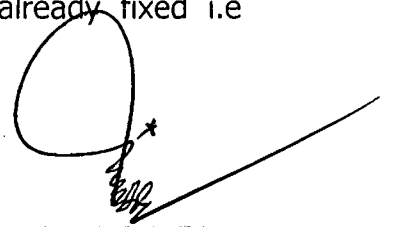


(MIAN MUHAMMAD)
MEMBER (E)

29.03.2022

Mr. Muhammad Ishfaq Khan, DEO (M) Kohistan Lower
alongwith Mr. Muhammad Adeel Butt, Addl: AG present.

An application has been submitted to the Chairman for early hearing. Stance taken in the application is that the incumbent DEO(M) Kohistan Lower has taken over the charge on 27.01.2022 whereas the court has taken notice of the prolong delay in execution on 19.01.2022. On factual grounds, he is not personally responsible for delay in execution. Moreover, technical grounds are also involved which needs consideration of the court. Detail reply received which is placed on file and a copy thereof provided to the learned counsel for the petitioner. Request for early hearing as well as release of salary of DEO(M) Kohistan Lower is allowed. To come up for further proceedings on the date already fixed i.e 18.05.2022 before S.B.



(MIAN MUHAMMAD)
MEMBER(E)

19.01.2022

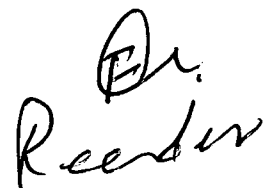
Petitioner in person present. Mr. Muhammad Adeel Butt, Addl: AG alongwith Mr. Abdullah Hashmi, Assistant Accounts for respondents present.

Despite last chance given, DEO (M) Kohistan did neither turn up nor submitted implementation report. Monthly salary of the DEO (M) Kohistan is therefore, attached. Copy of the order sheet be provided to the concerned DAO to take immediate action under intimation to the office of Registrar, Service Tribunal. To come up for further proceedings on 07.03.2022 before S.B.


(Mian Muhammad)
Member(E)

7-3-2022

Due to retirement of the Honorable Chairman the case is adjourned to come up for the same as before on 18-5-2022


Registrar

12.01.2022

Petitioner alongwith his counsel present. Mr. Raheem Dad, ADEO (Litigation) alongwith Mr. Muhammad Adeel Butt, Additional Advocate General for the respondents present and requested that he will take up the matter with the concerned quarters and the implementation report will be submitted tomorrow. Adjourned. To come up for implementation report as well as depositing of cost of Rs. 3000/- on 13.01.2022 before the S.B.



(Salah-Ud-Din)
Member (J)

13.01.2022

Petitioner with counsel present.

Muhammad Adeel Butt, learned Additional Advocate General for respondents present.

Cost paid to the petitioner. In this regard, signature of learned counsel obtained on the margin of order sheet. Learned AAG made a request for short adjournment in order to submit implementation report. Last chance is given. Otherwise, coercive measures would be taken. To come up on 19.01.2022 S.B.



(Rozina.Rehman)
Member (J)

01.12.2021

Mr. Hamza Durrani, Advocate present and submitted Wakalatnama on behalf of the petitioner. Mr. Kabirullah Khattak, Addl: AG alongwith Hafiz Muhammad Nawaz, DEO(M) for respondents present.

SO (Litigation), as per directions of the court recorded in the order sheet dated 09.11.2021, did not appear in person to apprise the court of the latest position but DEO(M) Kohistan Lower appeared in person. However, he could not proceed beyond the point as earlier stated and recorded in the preceding order sheet. He is therefore, directed to take appropriate action on the recommendations of de-novo enquiry and come up with solid implementation report in the form of a proper Notification or office order. The case is adjourned on the request of learned AAG but as a last chance. Adjourned. To come up for further proceedings on 10.12.2021 before S.B.


(MIAN MUHAMMAD)
MEMBER (E)

10.12.2021


Learned counsel for the petitioner present. Mr. Raheem Dad, ADEO alongwith Mr. Muhammad Adeel Butt, Additional Advocate General for the respondents present.

Vide order sheets dated 09.11.2021 Section Officer (Litigation) was directed to appear in person and apprise the Tribunal regarding latest position but he did not turn up on 01.12.2021. The respondent department was again directed to come up with solid implementation report but no response received till closing time of the court. Cost of Rs. 3000/- is therefore imposed to be paid to the petitioner before the next date. To come up for implementation report in the form of a proper Notification or office order on 12.01.2022 before S.B.


(Mian Muhammad)
Member (E)

06.10.2021

Learned counsel for the petitioner present. Mr. Raheem Dad, ADO (Litigation) alongwith Mr. Muhammad Adeel Butt, Additional Advocate General for the respondents present and sought time for submission of implementation report. Adjourned. To come up for implementation report before the S.B on 09.11.2021.


(SALAH-UD-DIN)
MEMBER (JUDICIAL)

09.11.2021

Petitioner alongwith counsel and Mr. Kabirullah Khattak, Addl. AG for the respondents present.

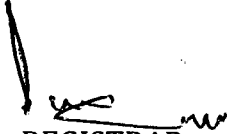


Copies of the letters dated 11.03.2021 and 07.05.2021 have been produced and placed on file. According to the letter dated 10.03.2021 addressed to the Section Officer (Litigation-II) E&SE Khyber Pakhtunkhwa Peshawar by District Education Officer (M) Kohistan Lower, the case after enquiry was submitted to the addressee for guidance. Letter dated 07.05.2021 contains opinion of the Law Department according to which two options are available with the Competent Authority either he may remand the enquiry back to the enquiry Committee with such direction as the competent authority may like to give or order another denovo enquiry through different enquiry officer or committee. The said letter has been sent to the Secretary, Government of Khyber Pakhtunkhwa E&SE Department. Let the Section Officer (Litigation) of said Department come up on next date to discuss about the said opinion. Case to come up on 01.12.2021 before S.B.


Chairman

Form- A
FORM OF ORDER SHEET

Court of _____


Execution Petition No. 133 /2021

| S.No. | Date of order proceedings | Order or other proceedings with signature of judge |
|-------|---------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1 | 2 | 3 |
| 1 | 14.07.2021 | <p>The execution petition of Mr. Dar-ul-Uloom submitted today by post through Mr. Zaheer Ahmad Qureshi 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</p> |
| 2- | | <p>This execution petition be put up before S. Bench at Peshawar on <u>06/08/21</u>. Notice be given to the respondents for the date fixed.</p> <p style="text-align: right;"> CHAIRMAN</p> |
| | 03.08.2021 | <p>Notices be issued to petitioner/counsel as well as respondents. To come up for implementation report on 06.10.2021 before S.B.</p> <p style="text-align: right;"> Chairman</p> |

The execution petition of Mr. Darul-uloom received to-day by post i.e. on 07-07-2021 is returned to the counsel for the petitioner with the direction to submit four more copies/sets of the petition along with annexures i.e. complete in all respect within 15 days in file covers.

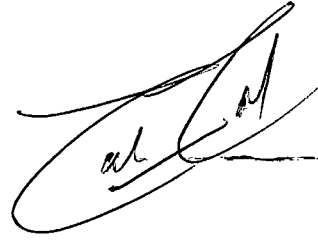
No. 1176 /S.T,

Dt. 08/07 /2021


Registrar,
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Mr. Zaheer Ahmad Qureshi Adv:
High Court Abbottabad.

Four sets & Completed appeal copy
File & Resubmitted full done.



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR
AT CAMP COURT ABBOTTABAD

SERVICE APPEAL NO. 1220/2016

Date of institution ... 18.11.2016

Date of judgment ... 19.02.2019

Dar-ul-Uloom, Ex-Employee (P.E.T), Government High School Jagg Döbair,
Tehsil Pattan, District Kohistan.

... (Appellant)

VERSUS

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

... (Respondents)

APPEAL UNDER SECTION-4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST
THE OFFICE ORDER NO. 1612 DATED 09.04.2016
WHEREBY THE RESPONDENT NO. 3 REMOVED THE
APPELLANT FROM SERVICES, IS ILLEGAL, MALAFIDE,
UNLAWFUL, WITHOUT LAWFUL AUTHORITY, WITHOUT
JURISDICTION, ARBITRARY, PERVERSE HARSH, VOID
AB-INITIO AGAINST THE PRINCIPLES OF NATURAL
JUSTICE AND INEFFECTIVE UPON RIGHT OF THE
APPELLANT.

Mr. Zaheer Ahmad Qureshi, Advocate

.. For appellant.

Mr. Muhammad Bilal Khan, Deputy District Attorney

.. For respondents.

Mr. MUHAMMAD AMIN KHAN KUNDI

.. MEMBER (JUDICIAL)

MR. AHMAD HASSAN

.. MEMBER (EXECUTIVE)

JUDGMENT

MUHAMMAD AMIN KHAN KUNDI, MEMBER: - Counsel for the
appellant present. Mr. Muhammad Bilal Khan, Deputy District Attorney
alongwith Mr. Shah Wali Ullah, Computer Operator for the respondents
present. Arguments heard and record perused.

M. Amin
19.2.2019

2. Brief facts of the case as per present service appeal are that the appellant was serving in Education Department as P.E.T. He was imposed major penalty of removal from service vide order dated 09.04.2016 by the competent authority with retrospective effect i.e from the date of his absence on the allegation of absence from duty due to involvement in the criminal case. The appellant filed departmental appeal on 28.04.2016 but the same was not responded hence, the present service appeal.

3. Respondents were summoned who contested the appeal by filing written reply/comments.

4. Learned counsel for the appellant contended that the appellant was serving in Education Department as P.E.T. It was further contended that the appellant was imposed major penalty of removal from service vide order dated 09.04.2016 on the allegation of absence from duty due to involvement in criminal case. It was further contended that the appellant was hon'ble acquitted by the competent court vide order dated 25.06.2014 but when he reported for duty he was informed that he was removed from service by the competent authority. It was further contended that neither any absence notice was issued to the appellant at his home address nor any advertisement regarding his absence was published in the newspaper. It was further contended that neither any charge sheet, statement of allegation was framed and served upon the appellant nor proper inquiry was conducted nor the appellant was provided opportunity of personal hearing and defence therefore, the impugned order is illegal and liable to be set-aside

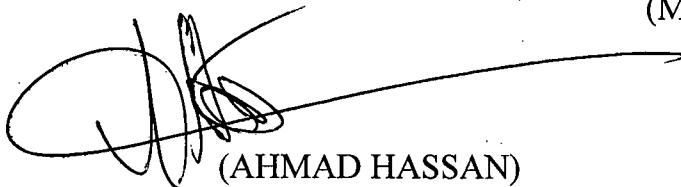
5. On the other hand, learned Deputy District Attorney for the respondents opposed the contention of learned counsel for the appellant and contended that the appellant was serving in Education Department as PET. It was further contended that the appellant remained absent from lawful duty due to


*M. Arjun
19.7.2019*

involvement in criminal case. It was further contended that all the codal formalities were fulfilled and prayed for dismissal of appeal.

6. Perusal of the record reveals that the appellant was serving in Education Department as PET. He ~~was~~ remained absent from duty due to involvement in the criminal case. He was acquitted by the competent court vide judgment dated 25.06.2014. He was removed from service by the competent authority from the date of absence vide order dated 09.04.2016 but neither any absence notice was issued at his home address nor any advertisement regarding his absence was published in the newspaper. Moreover, neither charge sheet, statement of allegation was framed/served upon the appellant nor proper inquiry was conducted nor any show-cause was issued nor opportunity of personal hearing and defence was provided to the appellant therefore, the appellant was condemned unheard which has rendered the whole departmental proceedings illegal and liable to be set-aside. As such, we partially accept the appeal, set-aside the impugned order and reinstate the appellant into service. However, respondent-department is directed to conduct de-novo inquiry within a period of 90 days in the mode and manner prescribed by rules from the date of receipt of this judgment. The issue of back benefits will be subject to the outcome of de-novo inquiry. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
19.02.2019


(AHMAD HASSAN)
MEMBER
CAMP COURT ABBOTTABAD


(MUHAMMAD AMIN KHAN KUNDI)
MEMBER
CAMP COURT ABBOTTABAD

18.09.2018

Mr. Abdul Aziz Tanoli, Advocate on behalf of learned counsel for the appellant present and seeks adjournment. Adjourned. To come up for arguments on 17.12.2018 before the D.B at camp court, Abbottabad.


Member


Chairman
Camp court, A/Abad

17.12.2018

Appellant in person and Mr. Usman Ghani, District Attorney alongwith Shah Waliullah, Computer Operator for the respondents present.

Due to paucity of time it is not possible to conclude arguments in this appeal. Adjourned to 19.02.2019 for arguments before D.B at camp court A/Abad.

19.02.2019



Member



Chairman
Camp Court A/Abad

Counsel for the appellant present. Mr. Muhammad Bilal Khan, Deputy District Attorney alongwith Mr. Shah Wali Ullah, Computer Operator for the respondents present. Arguments heard and record perused.

Vide our detailed judgment of today consisting of three pages placed on file, we partially accept the appeal, set-aside the impugned order and reinstate the appellant into service. However, respondent-department is directed to conduct de-novo inquiry within a period of 90 days in the mode and manner prescribed by rules from the date of receipt of this judgment. The issue of back benefits will be subject to the outcome of de-novo inquiry. Parties are left to bear their own costs. File be consigned to the record room.

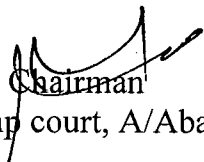
ANNOUNCED
19.02.2019


(MUHAMMAD AMIN KHAN KUNDI)
MEMBER
CAMP COURT ABBOTTABAD


(AHMAD HASSAN)
MEMBER
CAMP COURT ABBOTTABAD

15.1.2018


Appellant in person and Mr. Usman Ghani, District Attorney alongwith Muhammad Alam, ADO for the respondents present. Written reply submitted. The appeal is assigned to D.B for rejoinder, if any, and arguments for 16.04.2018 before the D.B at camp court, Abbottabad.


Chairman
Camp court, A/Abad.

16.04.2018

Counsel for the appellant and Mr. Usman Ghani, District Attorney alongwith Shah Waliullah, Computer Operator for the respondents present. Seeks adjournment. To come up for arguments on 16.07.2018 before the D.B at camp court, Abbottabad.



Member


Chairman
Camp court, A/Abad

16.07.2018

Mr. Muhammad Nadeem, clerk of counsel for the appellant present. Mr. Usman Ghani, District Attorney on behalf of the respondents present. Due to general strike of the K.P Bar Council, counsel for the appellant is not in attendance. To come up for arguments on 18.09.2018 before the D.B at Camp Court, Abbottabad.


Member


Chairman
Camp Court, A/Abad

19.10.2017


Counsel for the appellant and Mr. Kabeerullah Khattak, Addl AG alongwith Muhammad Alam, ADO for the respondents present. Preliminary arguments heard as pre-admission notice was given to the department.

The learned counsel for the appellant argued that the impugned order was passed on 09.04.2016 and he filed departmental appeal on 28.4.2016 but he approached this Tribunal on 16.11.2016. The reason for delay as explained by the learned counsel for the appellant was that the appellant approached the Worthy Peshawar High Court in contempt of court application. That the condonation application has been submitted. He further argued that the impugned order has been passed retrospectively and in view of judgment reported in PLD 2007-Supreme Court-52 wherein the august Supreme Court of Pakistan held that Executive authority has no power to pass order with retrospective effect.

On the other hand, the learned Addl. AG argued that the present appeal is hopelessly time barred. The appellant should have approached this Tribunal within 120 days after the filing of departmental appeal. The reason for condonation of delay as argued ^{by the} the learned counsel for the appellant are not plausible.

After hearing the arguments, this Tribunal is of the view that prima-facie the impugned order has been passed retrospectively ^{which} appears to be void order. A good case is made out for condonation of delay. At present this appeal is accepted for full hearing. However, the matter of limitation and the effect of the impugned order shall be determined finally at the time of arguments of the appeal by the D.B. The appellant is directed to deposit security and process fee within 10 days. Thereafter, fresh notices be issued to the respondents. To come up for written reply/comments on 15.1.2018 before S.B at camp court, Abbottabad.

Appellant Deposited
Security / Process Fee


Chairman
Camp court, A/Abad.

25.05.2017

Since tour programme to camp court, Abbottabad for the month of May, 2017 has been cancelled by the Worthy Chairman, therefore, to come up for the same on 21.07.2017 at camp court, Abbottabad. Notices be issued to the parties for the date fixed accordingly


Registrar

21.07.2017

Counsel for the appellant present. Pre-admission notice be issued to the respondents. To come up for preliminary hearing on and requested for adjournment. To come up for preliminary hearing on 19.10.2017 before S.B. at camp court, Abbottabad.


Chairman
Camp Court, A/Abad

10.01.2017

None present on behalf of the appellant. The appeal pertains to the territorial limits of Hazara Division as such assigned to Camp Court Abbottabad. Notice be issued to appellant and his counsel for preliminary hearing for 16.02.2017 before S.B at Camp Court Abbottabad.


Chairman


16.02.2017

Clerk of counsel for the appellant present. Due to strike of the Bar, counsel for the appellant is not in attendance. To come up for preliminary hearing on 16.03.2017 before S.B at camp court, Abbottabad.


MEMBER
Camp Court, A/Abad

16.03.2017

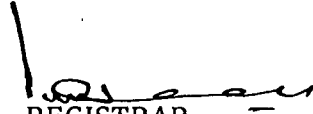
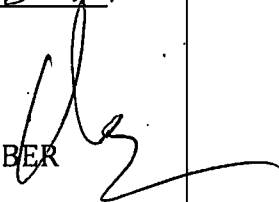
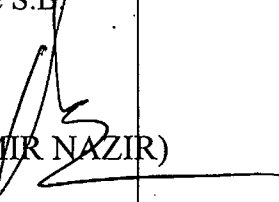
Learned counsel for the appellant argued that the impugned order of removal of appellant is void ab-initio. Regarding delay in submitting service appeal after expiry of statutory period of departmental appeal, learned counsel for the appellant argued that since the impugned order is void ab-initio as such limitation would not run in the instant case. Let pre-admission notice be issued to the respondents for preliminary hearing for 18.05.2017 at camp court. Abbottabad.


Chairman
Camp court, A/Abad

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 1220 /2016


| S.No. | Date of order proceedings | Order or other proceedings with signature of judge or Magistrate |
|-------|---------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1 | 2 | 3 |
| 1 | 07/12/2016 | <p>The appeal of Mr. Dar-ul-Uloom resubmitted today by post through Mr. Zaheer Ahmad Qureshi Advocate may be entered in the Institution Register and put up to the Learned Member for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p> |
| 2- | | <p>This case is entrusted to Touring S. Bench at A.Abad for preliminary hearing to be put up there on <u>20-12-16</u></p> <p style="text-align: right;"> MEMBER</p> |
| | 20.12.2016 | <p>None for the appellant present. The appeal be relisted. To come up for preliminary hearing on 10.01.2017 before S.B</p> <p style="text-align: right;"> (MUHAMMAD AAMIR NAZIR) MEMBER</p> |

The appeal of Mr. Dar-ul-Uloom Ex-PET GHS Jagg Dubair Kohistant received today i.e. on 21.11.2016 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Memorandum of appeal may be got signed by the appellant.
- 2- Annexure-A of the appeal is illegible which may be replaced by legible/better one.
- 3- Annexures of the appeal may be attested.
- 4- Annexures of the appeal may be flagged.
- 5- Three more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No. 1939 /S.T,

Dt. 21/11 /2016


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Zaheer Ahmad Qureshi Adv.
High Court A.Abad.

*Needful done.
file & submitted.
5/12/16*

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

Appeal no. 1220/16

Dar-Ul-Uloom

...APPELLANT

VERSUS

Govt of Khyber Pakhtunkhwa & Others

...RESPONDENTS

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| S.No. | Description of Documents | Annexure | Pages |
|-------|------------------------------------------------------------------------------|---------------|-----------|
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| 2 | Copy of appointment letter | "A" | 11 - 11-C |
| 3 | Copies of the application Dated 14.05.2013 and office order dated 18.09.2013 | "B"- "C" | 12-13 |
| 4 | Copy of order dated 25.06.2014 | "D" | 14-14-A |
| 5 | Copy of the Writ petition and order dated 10/03/2016 | "E" & "F" | 15-25 |
| 6 | Copy of the order dated 09.04.2016 | "G" | 26 |
| 7 | Copy of Departmental Appeal, Contempt Petitioner and order dated 17.10.2016 | "H" "I" & "J" | 27-30 |
| 8 | Vakaltnama | | 31 |

Dated: 16 /11/2016

Dar-ul-Uloom
....APPELLANT

Through:


(ZAHEER AHMAD QURESHI)
Advocate High court Abbottabad

1

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Appeal No. 1220/2016

Dar-ul-uloom, Ex Employee (P.E.T), Government High School Jagg Dobair, Tehsil Pattan, District Kohistan

...APPELLANT

Khyber Pakhtunkhwa Service Tribunal

Diary No. 1202

Dated 18-11-2016

VERSUS

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

...RESPONDENTS

=====

APPEAL:- UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE OFFICE ORDER NO 1612 DATED 09/04/2016 WHEREBY THE RESPONDENT NO 3 REMOVED THE APPELLANT FROM SERVICES, IS ILLEGAL, MALAFIDE, UNLAWFUL, WITHOUT LAWFUL AUTHORITY, WITHOUT JURISDICTION, ARBITRY, PERVERSE, HARSH, VOID-ABNITIO AGAINST THE PRINCIPLES OF NATURAL JUSTICE AND INEFFECTIVE UPON RIGHTS OF THE APPELLANT.

Filed to-day

Registrar

18/11/16

Re-submitted to -day and filed.

Registrar

8/12/16

=====

PRAYER:- ON ACCEPTANCE OF INSTANT APPEAL THE ORDER DATED 1612 DATED 09/04/2016 PASSED BY RESPONDENT NO.3 MAY KINDLY BE

SET ASIDE APPELLANT MAY GRACIOUSLY BE REINSTATED IN SERVICE WITH ALL BACK BENEFITS.

Respectfully Sheweth

FACTS:-

1. That the Appellant is a resident of Dobair, Tehsil Pattan District Kohistan and was appointed as Physical Education Teacher(P.E.T) in the respondents department vide appointment order dated 05.04.1999 and served the respondents department with due diligence since appointment. ***(Copy of the appointment letter is attached and marked as annexure "A")***.
2. That a case FIR No.116 dated 05.10.2002 under section 302/342/148/149 PPC was registered against the Appellant at Police Station Dobair and after the registration of the FIR, the Appellant performed his professional duties regularly.
3. That the Appellant surrendered himself to the process of law and got Pre-Arrest bail on 16.04.2013 from the Court of District Kohistan, which was turned down and appellant was sent to jail.

4. That the Appellant submitted an application to the respondent No.3 for release of his monthly salaries through Superintendent Sub Jail Dasu Kohistan.
5. That on receipt of the application by the respondent No.3 suspended the appellant with effect from 16.04.2013 and only suspension allowances were allowed to the appellant. **(Copies of the application Dated 14.05.2013 and office order dated 18.09.2013 are attached as annexure "B" "C" respectively)**
6. That the appellant was acquitted of the Charges by learned District & Session Judge, Dasu Kohistan in view of compromise between the parties vide order Dated 25/06/2014. **(Copy of the order is attached and marked as annexure "D")**
7. That after the release the appellant approach the respondent No.3 for release of salary but goes all in vain, feeling aggrieved the appellant filed Writ petition before the Peshawar High Court Bench Abbottabad which was decided on 10/03/2016 which is reproduced as under:-**"That later stated before the Court that he will pass the final order pursuant to the inquiry dated 01/02/2014**

regarding the adjustment or otherwise of the petitioner into service, to which the learned counsel for the petitioner got no objection, however requested that while passing any order the petitioner be given right of audience and the order must be in accordance with law and rule on the subject”

In view of the above, we dispose of this Writ petition in terms that the respondent No.3 shall pass appropriate order in case of the petitioner after hearing him. The order must be in accordance with law and rules on the subject but within the period of one month”.(Copy of the Writ petition and order dated 10/03/2016 is attached and marked as annexure “E” & F” respectively)

8. That in light of the order of the Honorable High Court rather to adjust or otherwise appellant into services the respondent No.3 removed the appellant from services vide Order Dated 09/04/2016. *(Copy of the order is attached and marked as annexure “G”).*
9. That the appellant feeling aggrieved filed departmental appeal on 28/04/2016 which still not decided appellant also filed Contempt of Court

petition before the Peshawar High Court Peshawar Bench Abbottabad which was disposed off on 17/10/2016. ***(Copy of departmental appeal & contempt petition and order dated 17.10.2016 is attached as Annexure "H" , "I" & "J" respectively)***

10. That feeling aggrieved from the Order Dated 09/04/2016 the appellant approaches this honorable tribunal for redressal of his grievances on the following amongst other grounds.

GROUND

- a. That impugned order against the law and facts hence liable to be set-aside.
- b. That the Impugned order dated 9/4/2016 is illegal, void ab-initio having no legal effects is liable to be set aside
- c. That the inquiry and charge against the appellant is baseless having no footings hence impugned order is liable to be set aside.
- d. That inquiry was conducted in the absence of the appellant furthermore no opportunity was provided to cross examine the witness.
- e. That there no evidence against the appellant which amounts to the major penalty.

- f. That the Respondent No 3 has not advanced any reasons while issuing the impugned order and also by passed the directions of Peshawar high Court.
- g. That no opportunity of hearing has been given to the appellant by the respondent No 3 as he made Commitment before the honorable Peshawar High Court Bench Abbottabad on 10/03/2016.
- h. That under the law, no major penalty can be imposed upon the appellant or any other employee without adopting the proper procedure under the law.
- i. That the impugned order suffers from the principle of natural justice as the same was passed at the back of the appellant without providing any opportunity of being heard to appellant.
- j. That the appellant served in the respondents department with unblemished service record and the same taken into consideration while awarding major penalty.
- k. That impugned order is absolutely wrong illegal, void ab-anitio hence not maintainable and liable to be struck down.
- l. That this honorable tribunal has the jurisdiction to entertain instant appeal.
- m. That other grounds will be agitated with the permission of this Honorable Tribunal at the time of arguments.

7

ON ACCEPTANCE OF INSTANT APPEAL THE
ORDER DATED NO. 1612 DATED 09/04/2016
WHEREBY THE RESPONDENT NO 3 BE SET
ASIDE APPELLANT BE REINSTATED IN THE
SERVICE WITH ALL BACK BENEFITS.

...APPELLANT

Through:

Dated:- 16/11/2016


(ZAHEER AHMAD QURESHI)
Advocate High Court, Abbottabad.

VERIFICATION:-

*Verified that the contents of the instant **APPEAL** are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Hon'ble Court.*

Dated: 16/11/2016

...APPELLANT

Danuloom

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR.

Dar-Ul-Uloom

...APPELLANT

V E R S U S

Govt of Khyber Pakhtunkhwa & Others

...RESPONDENTS

APPEAL

APPLICATION FOR CONDONATION OF
DELAY IN FILLING THE INSTANT APPEAL.

Respectfully Sheweth,

1. That, the titled appeal is being filed before this Honourable Tribunal.
2. That, the appellant/petitioner has moved departmental appeal in respect of his matter and was also frequently requesting the concerned authorities of the department for his re-instatement along with back benefits.
3. That, appellant filed and contempt application before the Peshawar High Court Bench Abbottabad which was disposed off on 17/10/2016 more over order dated 9/4/2016 is void ab-initio against which no limitation runs and result of the departmental appeal is still awaited so the case of the appellant good prima-facie and arguable case should not be ill treated due to technicalities.
4. That, it is within the power of this Honourable Tribunal to condone any delay if so caused.
5. That, any delay if appears, was neither within the knowledge of appellant nor is intentional and therefore, is beyond the perception and control of the appellant. Affidavit to this effect is submitted accordingly.

10


6. That, the precious rights of the appellant is involved.

It is, therefore, humbly prayed that on acceptance of foregoing application, any delay if so caused May graciously be condoned and the appeal of the appellant be decided on merits.

Darukubom
...APPELLANT/APPLICANT

Through:

Dated:- 16/11/2016


(ZAHEER AHMAD QURESHI)
Advocate High Court, Abbottabad

P 11
Annex A

OFFICE ORDER NO. _____

DATED DATESU THE _____/_____/99.

OFFICE ORDER NO. _____

Consequent upon the selection by District Selection Committee in the light of interview held on 17.2.1999, the following persons (Males) untrained candidates are hereby appointed on BPS posts at the college noted against each their names in BPS-9 (No. 1605-27-206 plus usual allowances as due and admissible under the rules in the interest of public service w.e.f the date of their taking over charge

| S. No. | Name/Father's Name and Address | Merit | Subsidiary position appointed | Remarks |
|--------|-------------------------------------------------|-------|-------------------------------|---------|
| 01. | Abdul Wakil S/O Lal Khan S/O M/S Daud Kohistan. | 32 | Subst. Teacher | Ag. V/P |
| 02. | Muzil Akbar S/O Said Khan R/O Kohistan. | 31.5 | Subst. Teacher | do |
| 03. | Imtiaz U/O Javed Said W/O Kamila Kohistan. | 30.6 | Subst. Teacher | do |
| 04. | Mohd. Saif S/O ... R/O Kohistan. | 30.3 | Subst. Teacher | do |
| 05. | Mohd. Saif S/O ... R/O Kohistan. | 30.1 | Subst. Teacher | do |
| 06. | Mohd. Saif S/O ... R/O Kohistan. | 29.4 | Subst. Teacher | do |
| 07. | Mohd. Saif S/O ... R/O Kohistan. | 29.0 | Subst. Teacher | do |
| 08. | Mohd. Saif S/O ... R/O Kohistan. | 28.8 | Subst. Teacher | do |
| 09. | Mohd. Saif S/O ... R/O Kohistan. | 28.2 | Subst. Teacher | do |
| 10. | Mohd. Saif S/O ... R/O Kohistan. | 28.1 | Subst. Teacher | do |
| 11. | Mohd. Saif S/O ... R/O Kohistan. | 27.9 | Subst. Teacher | do |
| 12. | Mohd. Saif S/O ... R/O Kohistan. | 27.8 | Subst. Teacher | do |
| 13. | Mohd. Saif S/O ... R/O Kohistan. | 27.7 | Subst. Teacher | do |
| 14. | Mohd. Saif S/O ... R/O Kohistan. | 27.1 | Subst. Teacher | do |
| 15. | Mohd. Saif S/O ... R/O Kohistan. | 26.8 | Subst. Teacher | do |
| 16. | Mohd. Saif S/O ... R/O Kohistan. | 26.6 | Subst. Teacher | do |
| 17. | Mohd. Saif S/O ... R/O Kohistan. | 26.1 | Subst. Teacher | do |
| 18. | Mohd. Saif S/O ... R/O Kohistan. | 25.8 | Subst. Teacher | do |
| 19. | Mohd. Saif S/O ... R/O Kohistan. | 25.7 | Subst. Teacher | do |
| 20. | Mohd. Saif S/O ... R/O Kohistan. | 25.3 | Subst. Teacher | do |
| 21. | Mohd. Saif S/O ... R/O Kohistan. | 24.7 | Subst. Teacher | do |

Attended
C.A.S.

P. 15

| | | |
|------|---------------------|----|
| 23.0 | GMS Jalkat KH | do |
| 23.2 | GMS Lakoo Pattan KH | do |
| 23.4 | GMS. Chaharshel KH | do |
| 22.9 | GMS Shattal Villi | do |
| 22.0 | GMS Kikpaly Mangla | do |
| 22.7 | GMS Buriyar Kili | do |
| 22.5 | GMS Illil KH | do |
| 21.7 | GMS Doozi Saei KH | do |
| 21.4 | GMS Karang KH | do |
| 21.1 | GMS Charri Shab | do |

governed by the rules and regulations as may be
 the Government of Punjab, Lahore
 to which they belong for the category of the
 will be liable to termination on one month's notice
 in case of resignation without notice one month
 in lieu thereof.
 they should join the posts within one month from the issue of this
 report should be sent to all concerned.
 from the Government of Punjab and the concerned
 should be checked and verified
 before handing over charge.
 will not be handed over to over and candidates
 on arrival of trained P.M.S.
 (GHULAM JILANI)

DISTRICT EDUCATION OFFICER (II)
 SECONDARY SCHOOLS
 LAHORE
 Dt: 5/6/99

Work sheet
 Aladar
 7/11/99

DISTRICT EDUCATION OFFICER
 (II) SECONDARY SCHOOLS
 LAHORE

BETTER COPY

11-A

OFFICE OF THE DISTRICT EDUCATION OFFICER DIRECTOR (M&F)
SECONDARY KOHISTAN

OFFICE ORDER NO _____/

DATED DASSU THE _____/99

OFFICE ORDER

Consequent upon the selection by the District selection committee in the light of interview held on 17.2.199, the following P.E.T (MALE) untrained are hereby appointed on P.E.T post at the school noted each their/Names in BPS-9(Rs1605-97-306 plus annual allowances as due and admissible under the rules in the interest of public services w.e.f the date of their taking over charge.

| <u>S.No</u> | <u>Name / Father Name and address</u> | <u>Merit Position</u> | <u>School Where Appointed</u> | <u>Remarks</u> |
|-------------|-------------------------------------------------------|-----------------------|---------------------------------------|----------------|
| 01. | Abdaul wakil S/o Lal khan R/O GHS Dassu Kohistan. | 32 | PET GMS IV/PET POST Gujar Banda KH | do do |
| 02. | Fazli Akbar S/o Said Faqir R/O Sao Kohistan. | 31.5 | PETGMS Ashpidar KH | do |
| 03. | Musamil S/o Jumma said R/O Komila Kohistan | 30.6 | PET GMS Dassu KH | do |
| 04. | Mohd Qasim S/o Muzamil R/O Shatial Kohistan | 30.3 | GMS KAfar Banda | do |
| 05. | Mohd Jehan S/oPakhteen R/O Shatial Kohistan | 30.1 | GMS Sareen KH. Bala | do |
| 06. | Zahid Malik S/oNagir Shah R/O Shatial Kohistan | 29.4 | GMS Sareen KH | do |
| 07. | Abdur Rehman R/O Jalkot kohistan | 28.9 | GMS Thial KH | do |
| 08. | Sha Nazar S/O.....Khan R/O jijul Kohistan | 28.4 | Kolai KH | do |
| 09. | Sirajul Haq S/O Malik Samandar R/O Jalkot Kohistan | 28.2 | GMS Coshalf KH | do |
| 10. | Badar Alam S/o Sheikh hussain R/o Palas kohistan | 28.1 | GMS Jabba Mikhel | do |

ZAHHEER AHMAD
Advocate High Court
Abbottabad

11-B

BETTER COPY

| | | | |
|------------------------------------------------------------|------|---------------------|----|
| 11. Saiful amir s/O Taib Khan R/o Batara Kohistan | 27.9 | GMS Qila Kolai KH | do |
| 12. Hamayun S/O Laiq R/o Pattan Kohistan.J/C GHS Pattan | 27.8 | GMSGalgan KH | do |
| 13. Didar Shah S/O Abdul Hakim R/oKandia kohistan | 27.7 | GMS Mula Kh,Gabral | do |
| 14. Abdur rehman S/O Fazal Ahmad R/o Seo Kohistan | 27.1 | GMS Razaka KH | do |
| 15. Asghar khan S/o Malik qasim R/o Palas Kohistan | 26.8 | GMS Shilkan Abad | do |
| 16. Aurang Zeb s/o Amani mulk R/O Dubair Kohistan | 26.6 | GMS Sangal KH | do |
| 17. Sher Mohammad S/O Yardad R/o seo Kohistan | 26.1 | GMS Paree KH | do |
| 18. Mohd Aman S/o Nawab R/oSasean kohistan | 25.8 | GMS Harban KH | do |
| 19. Abdul Salam S/o Ghulam Ali R/O Choohang Kohistan | 25.7 | GMS Choochand KH | do |
| 20. Shah Zarin S/o Abdul Hamid R/o Jijal Kohistan | 25.3 | GMS Hukam Abad KH | do |
| 21. Wali Ur Rehman S/O Dost Mohd R/O Sherakot Kohistan | 24.7 | GMS Badakot KH | do |
| 22. Hazrat Ali S/O Malik Samander Khan | 24.1 | GMS Loohi KH. | do |
| 23. Mohd Sharif S/o Hazrat Mian R/O Plals Kohistan | 24.1 | GMS Paragari KH | do |
| 24. Nousherwan S/oAmir Wahid R/o Jijal Kohistan | 24 | GMS Peech Bala KH | do |
| 25. Abdul Mnana S/O Sabar Khan R/O Jalkot Kohistan | 23.8 | GMS Jalkot KH | do |
| 26. Jehan zeb S/o Yardad R/OPattan Kohistan | 23.8 | GMS Mazoo pattan KH | do |
| 27. Doltana Khan S/OAbdul Shakoor R/O Teyal kohistan | 23.4 | GMS Sawsteel KH | do |
| 28. Gulab Khan S/oNidha Khan R/oShatial Kohistan | 22.9 | GMS Shatial Vill | do |

3000



Inquiry

Answer B

OFFICE OF THE DISTRICT EDUCATION OFFICER, (MALE) KOHISTAN.

PH: & FAX NO. 0998407128

No. 19/Estab: _____ /DEO (M) KH: dated 01-02-2013

To,

The Director,
Elementary & Secondary Education,
Khyber Pakhtunkhwa at Peshawar.

Subject:
Memo:

ADJUSTMENT OF PET TEACHER.

It is submitted that Mr. Darul Uloom S/O Haji Noor Aftab r/o Dubair was appointed as PET at GMS Chari Shabi Khel vide DEO Kohistan order dated 5/4/1999. He has got his pay from GMS Munjgali upto November, 2002. Mean while his pay was stopped due to involvement in criminal case and absence from school duty.

On 17/5/2013, an application was received through Superintendent Sub Jail Dassu to the effect that the above named person has been arrested in a criminal case on 16/4/2013 and is confined in Sub Jail Dassu. On the above letter, the applicant was suspended from services. The Deputy District Education Officer, (M) Kohistan reported that the teacher is not adjusted at any school and needs to be adjusted for pay purpose.

On the above report of DDEO (M) Kohistan, an enquiry committee comprising Mr. Abdul Rasheed DDEO (M) and Mr. Furqan Acting Principal, GHSS Chakai was constituted to probe in to the matter and find out the factual position. The enquiry Committee submitted the following findings.

1. The appointment seems genuine.
2. His 1st appointment was made in GMS Chari Shabi Khel.
3. No written proof regarding his transfer is found.
4. As per record of DDEO (M) Kohistan, pay has been paid to the teacher upto November, 2002.
5. There is no written record of absent period nor any documents found regarding departmental action taken against him.
6. No leave record is found.
7. No attendance has been found after November 2002.

On report of enquiry committee, a show cause notice of removal from Service has been served upon him on 28/12/2013 and in the response on 2/1/2014, a reply was received through his relative mentioning that he has been arrested on 23/4/2013 and now he is in Sub Jail Dassu.

In view of the above, this office may kindly be advised as to whether a Govt. servant who found absent from duty for the period more than 10 years can be Permitted to continue the services and whether an official in prison can be preceded and removed from service.

E/No. 19/Estab: 526 /DEO (M)

**District Education Officer
(Male) Kohistan.**

Copy to the Deputy District Education Officer, (M) Kohistan with the remarks to submit the report regarding absentee of the above teacher and action taken against him. The reason of stoppage of pay may also be furnished with complete detail.

[Signature]
District Education Officer
(Male) Kohistan

District Education Officer

BETTER COPY

11-C

| | | | |
|------------------------------------|------|---------------------|----|
| 29. Fazal Samad S/O sheikh UIIslam | 22.9 | GMS K:Kelay Ranolia | do |
| R/oRanolia kohistan | | | |
| 30. Abdul Mateen S/O Fazal Noor | 22.7 | GMS Bariyar KH | do |
| R/o Kandia Kohistan | | | |
| 31. Khan Zeb S/O Malik Saman Jan | 22.5 | GMS Tllil KH | do |
| R/O Kandia Kohistan | | | |
| 32. Khan Bacha S/o Aftab Malik | 21.7 | GMS Boomi Seer KH | do |
| R/O Seo kohistan | | | |
| 33. Mohd murtaza S/O Karim Dad | 21.4 | GMS Karung KH | do |
| R/O seo kohistan | | | |
| 34. Darul Uloom S/O Noor Aftab | 21.1 | GMSCharri Shah | do |
| R/O Dubair kohistan | | | |

TERMS&CONDITIONS

1. They will be governed by the such rules and regulations as may be prescribed by the Govt:from time to time for category of Govt servant to which they belong.
 2. Their services wioll be liable to termination one month send from either side. In case of resignation without notice one month pay will be forfeited in lieu of thereof.
 3. They will join the posts within one month from the issue of Order.
 4. Charge report should be sent to all concerned.
 5. They are required to produce their health and age certificate from DHO Kohistan.
 6. Their original certificates /Degrees Should be checked and verified from the concerned Board/University before handing over Charge.
 7. Charge will not be handed over to over age candidates.
 8. Their services will be terminated on arrival of trained PETS.
 9. If candidate found bogus through verification
- ENDST:No 1611-43 Dt:5-4-1999/SECONDARY KOHISTAN

Copy To:

1. The Director of Secondary Education NWFP, Peshawar.
2. The District Account officer Kohistan.
3. 37 All the concerned Departments.
- 38.71 All above mentioned candidates.
72. Cashier Local Office.
73. Office order file.

DISTRICT EDUCATION OFFICER

(M&F) SECONDARY KOHISTAN

ZAHEER AHMAD
Advocate High Court
Abbottabad

12

ANNEX B

The Deputy Education Officer
c/o Superintendent Sub Post Office
Sirohi

with due respect and in the submission of being to
State that as per P.R. registered against me

of 05-10-2002

my salary has been stopped since the above mentioned

date I have not been present at 16-11-2013

for attendance (not to be taken as per

my case in form 16-11-2013

of releasing my salary and be made you

get this kindness

Yours obediently

Sanjay Kumar P.T.

11-11-2013

Forwarded an application
in original (self explanatory) submitted by U.T. P. No.
Dated 11-11-2013 in form 16-11-2013
for your further necessary action

12/11/13
11-11-2013

BETTER COPY

12-A

To,

THE DEPUTY EDUCATION OFFICER, KOHISTAN
C/O Superintendent Sub-Jail, Dassu Kohistan

Sir,

With due respect and humble submission I beg to state that a false FIR registered against me at 05.10.2002.

My salary has been stopped since the above mentioned date.

I have got bail before arrest at 16.04.2013. The Honourable Court sent me to prison at 26.04.2013.

My case in trial. Kindly grant the order of releasing my salary. I will be thankful for this kindness.

Your obediently,

DAR-UL-ULOOM PET,
Govt. School Banil Jag
10.05.2013

Forwarded an application

In original (Self explanation) submitted by U/T Prison Dar-ul-Uloom confined in Sub Jail Dassu, Kohistan for your further necessary action.

Sd/- (English)
SUPERINTENDENT
Sub-Jail Dassu Kohistan.
14.05.2013

13

Amexna 'C'

OFFICE OF THE DISTRICT EDUCATION OFFICER, (MALE) KOHISTAN.

Ph: & Fax No. 0998407128

OFFICE ORDER.

Mr. Darus Salam PET GHS Banil Jagg is hereby suspended from Services with effect from 16/4/2013, as he has been arrested by the local police and is in judicial lock up in a criminal case, as per report of Suptt: Sub Jail Jalcoat Dassu.

- Only suspension allowance is hereby allowed to him accordingly.

[Signature]
District Education Officer
(Male) Kohistan.

E/No.19/Estab: 13810-15 /DEO dated 18/04 /2013.

Copy forwarded to:

1. The P.A to Director, E&SE Khyber Pakhtunkhwa.
2. The Deputy District Education Officer, (M) Kohistan.
3. The District Accounts Officer, Kohistan.
4. The Head Masters GHS Banil Jagg
5. The Sptt: Sub Jail Jalcoat.
6. The Official concerned.

[Signature]
District Education Officer
(Male) Kohistan.

[Signature]
ZAKEER AHMAD
Advocate High Court
Abbottabad

[Signature]
Suptt: Sub Jail
Jalcoat

(SARFARAZ AHMED KHAN)
Sessions Judge

District Sessions Judge
High Court of Sindh
Ministerial Under Section 207

Certified to be true copy
15-6-2014

ANNOUNCED

In this state of affairs while acceding to compromise accused facing trial Dar-ul-Uloom stand acquitted. He is in custody, he be set at liberty forthwith if not required to be detained in any other case. Case properly be kept intact till expiry of period fixed for appeal/revision. He be consigned to record room.

deceased could compound the same within the meaning of section 345 Cr.P.C. which according to 2nd schedule of Cr.P.C are compoundable and FIRs of charged in the FIR for commission of offences U/S 302/324/148/149 PPC. The compromise appears genuine and in the interest of both the parties as it would eliminate the enmity between them. The accused stood through registered deed No. 168 dated 20-06-2014 which is Ex-2A/1 transferred landed property measuring 3 Kanals in favour of above minor one minor L.R. of deceased namely Abdul Wahid. The accused have proceeded ahead with the case against accused in addition to above their pardon to the accused in the name of Almighty Allah and did not intend to Commission wherein they admitted compromise and stated to have granted (deceased) and Mst Shola Bibi (Mother of deceased) recorded through Local I.R.s. Mst. Bibi Gull (widow of deceased), Bakhat Juma (Daughter of Wazir (son of deceased) recorded on 19-06-2014 while statements of female joint statement of Sher Bahadar (Complainant/Brother of deceased), Abdul Afdavars BX-PA, PD and Proforma BX-PB and BX-PD were produced. At very outset learned counsel appearing on behalf of accused submitted at the bar that parties have effected compromise. In this regard

At very outset learned counsel appearing on behalf of accused submitted at the bar that parties have effected compromise. In this regard

Order 27
5-06-2014

Present

Mr. Khan Zaman A.P.P. for state

Mr. Iqbal Khan Batagram Advocate along with accused in custody.

Kohistan

Handwritten notes and signatures at the bottom of the page, including a large signature and the date 18/6/14.

14-A

Order.....27

25.06.2014

Present: Mr. Khan Zaman APP for state.
Mr. Iqbal Khan Battagrami Advocate alongwith accused in custody
At very out-set learned counsel appearing on behalf of accused submitted at the bar that parties have effected compromise. In this regard affidavits Ex-PA, PD and Proforma Ex-PB and Ex-PD were produced. Joint statement of Sher Bahadar (Complainant/Brother of deceased), Abdul Waris (Son of deceased) recorded on 19.06.2014 while statements of Female LRs Mst. Bibi Gul (widow of deceased), Bakhat Juma (daughter of deceased) and Mst. Shola Bibi (Mother of deceased) recorded through Local commission wherein they admitted compromise and stated to have granted pardon to the accused in the name of Almighty Allah and did not intend to proceed ahead with the case against accused. In addition to above there is one minor L.R. of deceased namely Abdul Wahid. The accused have transferred landed property measuring 3.0 Kanals in favour of above minor through registered deed No.168 dated 20.06.2014 which is Ex.PA/1.

The compromise appears genuine and in the interest of both the parties as it would eliminate the enmity between them. The accused stood charged in the FIR for commission of offences U/S 302/324/148/149 PPC which according to 2nd schedule of Cr.P.C are compoundable and LRs of deceased could compound the same within the meaning of section 345 Cr.P.C.

In this state of affairs while acceding to compromise accused facing trial Dar-ul-Uloom stand acquitted. He is in custody, he be set at liberty forthwith if not required to be detained in any other case. Case property be kept intact till Expiry of period fixed for Appeal/Revision. File be consigned to record room.

ANNOUNCED

25.06.2014

Sd/-
Sessions Judge,
Kohistan.

ZAHED
Advocate
Sessions Court

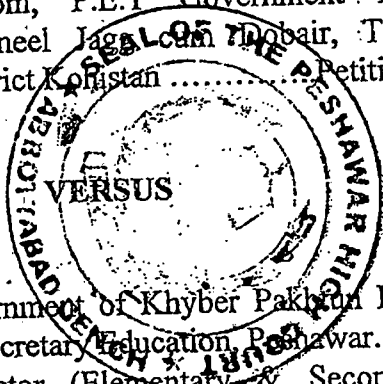
Ameruwa - R.E.M

P.
F.S

**BEFORE THE PESHAWAR HIGH COURT,
BENCH ABBOTTABAD**

W.P No. S834 of 2014

Dar-ul-Uloom, P.E.T Government High School Baneel Jagal Khan Tumbair, Tehsil Pattan District Kohistan Petitioner



1. The Government of Khyber Pakhtunkhwa through Secretary Education, Peshawar.
2. The Director (Elementary & Secondary) Education, Peshawar.
3. The District Education Officer (Male), Dassu Kohistan.
4. The Deputy District Education Officer (Male), Dassu Kohistan.
5. The Assistant District Officer (ADO Male), Dassu Kohistan.
6. The District Accounts Officer, Dassu Kohistan Respondents.

WRIT PETITION UNDER ARTICLE 199
OF THE CONSTITUTION OF ISLAMIC
REPUBLIC OF PAKISTAN, 1973 FOR A
DECLARATION TO THE EFFECT
THAT WITHHOLDING AND NON-
RELEASING OF THE MONTHLY
SALARIES OF THE PETITIONER
FROM 01.10.2002 UPTIL NOW IS UN-
CONSTITUTIONAL, ILLEGAL, UNLAWFUL,
WITHOUT LAWFUL AUTHORITY
AND AGAINST THE FUNDAMENTAL
RIGHTS OF THE PETITIONER.

Certified to be True Copy
 11.5.16
 Examiner
 Peshawar High Court
 Abbottabad Bench
 Authorized Under Sec 75 Acts O. 1973

NO 3173
16/8/14
 TODAY

16/8/14
 Registrar
 Peshawar High Court
 Abbottabad Bench

Attorney
 ZAHEER AHMAD
 Peshawar High Court
 Abbottabad

PRAYER:-

On acceptance of the instant Constitutional Petition, the respondents No. 3 to 6 may graciously be directed to treat the petitioner as a regularly appointed teacher and release/pay the monthly salaries of the petitioner from 01.10.2002 uptil now or any other writ, order or direction which is deemed appropriate in the circumstances of the case, may please be issued/passed.

Respectfully Sheweth!

1. That, the petitioner is a resident of Dobair, Tehsil Pattan District Kohistan and was appointed as Physical Education Teacher (PET) in Education Department by respondent No.3 vide appointment order dated 05.04.1999 and after appointment, the petitioner took over the charge of the post vide charge report dated 05.04.1999.

(Copies of the appointment order and charge report are annexed as annexure "A" & "B" respectively).

Certified

Pcs
Al
Authoriza

Certified to be True Copy

M.S. 10

Registrar, Peshawar High Court
Dobair Bench
Authorized Under Sec 75 Act 1973

NO -

Additional Registrar
Peshawar High Court
Dobair Bench

16/9/14

Sub.
Peshawar
Dobair

17

2. That, since appointment, the petitioner has been performing his professional duties regularly and to the entire satisfaction of his superiors and the students.
3. That, a case FIR No.116 dated 05.10.2002 under section 302/324/148/149 PPC was registered against the petitioner and others at police Station Dobair and after the registration of the FIR, the petitioner performed his professional duties regularly.
4. That, the petitioner surrendered himself to the process of law and got pre-arrest bail on 16.04.2013 from the District Court of District Kohistan, which was turned down and the petitioner submitted an application to the respondent No.3 for release of his monthly Salaries through Superintendent District Sub-Jail Dassu Kohistan vide application dated 14.05.2013, on receipt of the application the respondent No.3 suspended the petitioner with effect from 16.04.2013 and only suspension allowance was allowed to him.

PL 82 2011

Handwritten signature
Additional Registrar
Peshawar High Court
Peshawar

Handwritten signature
Certified to be true copy
Additional Registrar
Peshawar High Court
Peshawar

18

(Copies of the application dated 14.05.2013 and office order dated 18.09.2013 are annexed as annexure "C" & "D" respectively).

- 5. That, the petitioner was ultimately acquitted of the charges by learned District & Sessions Judge, Dasso Kohistan in view of compromise arrived at between the parties vide order dated 25.06.2014.

(Copy of the order dated 25.06.2014 is annexed as annexure "E").

- 6. That, after being acquitted of the criminal charge, the petitioner approached the respondents No.3 to 6 for release of his monthly salaries but all in vain.

77 20 10047

*Assistant Registrar
Peshawar High Court
Abbottabad Bench*

16/9/14

- 7. That, the petitioner has no other alternative, efficacious or speedy remedy except to invoke the constitutional jurisdiction of this Honourable Court, inter alia on the following grounds: -

M.S. 16
 Certified to be True Copy
 Examiner
 Peshawar High Court
 Abbottabad Bench
 Authorized Under Sec 75 Acts Ord 1973

19

GROUNDS

- i. That, the petitioner is a regular teacher under respondent No.3 and has been performing his duties regularly.
- ii. That, since the lodgment of FIR on 05.10.2002 the petitioner was regularly performing his duties that is why he was not served upon any show cause notice etc. and he was only suspended from service with effect from 16.04.2013 after he submitted an application through Superintendent Jail to respondent No.3 for release of his salaries and the petitioner was allowed suspension allowance during his custody in Jail.
- iii. That, the respondent No.3 was under legal obligation to treat the petitioner in accordance with article-4 of the Constitution of Islamic Republic of Pakistan, 1973 by releasing the monthly salaries of the petitioner after being acquitted of the charges on 25.06.2014.

NO TODAY

S. ul-Haq
16/08/14

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H.S. Khan
Peshawar High Court
Abbottabad Bench
Authorized under Sec 27 of the Ordinance

20

○

iv. That, the salaries relate to fundamental rights and it cannot be stopped (withheld) without assigning any valid and legal justification.

v. That, as the petitioner was performing his duties regularly till he surrendered himself to the process of law and he was only suspended when he was behind the bar.

vi. That, had the petitioner not performed his duties, he would have been served upon show cause notice, charge sheet and publication in the newspaper and ultimately terminated from service but the fact of the matter is that the petitioner never absented himself from performing his professional duties.

vii. That, the act of the respondents of not treating the petitioner in accordance with article-4 and relevant service laws/rules is unconstitutional, illegal, unlawful, without lawful authority, without jurisdiction and is of no legal effect.

It is, therefore, most humbly prayed that on acceptance of the instant Constitutional Petition, the

AND TODAY

S. ul-Allah
Additional Registrar
Islamabad High Court
Abottabad Bench

14/9/11

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11.5.16
Registrar
Abottabad Bench

21

17

respondents No. 3 to 6 may graciously be directed to treat the petitioner as a regularly appointed teacher and release/pay the monthly salaries of the petitioner from 01.10.2002 uptil now or any other writ, order or direction which is deemed appropriate in the circumstances of the case, may please be issued/passed.

INTERIM RELIEF:

It is further prayed that the respondents No.3 to 6 may graciously be directed to release the salaries of the petitioner till the disposal of the instant Writ Petition.

Dated 15.08.2014

Dar-ul-Uloom *Darul Uloom*
...Petitioner

Through

ABDUL SABOOR KHAN
Advocate High Court,
Mansehra.

FILED TODAY

Abdul Saboor Khan
Advocate High Court,
Mansehra.
16/8/14
115/16

22
8

AFFIDAVIT.

I, Dar-ul-Uloom, P.E.T Government High School Baneel Jagg cum Dobair, Tehsil Pattan District Kohistan, Petitioner, do hereby solemnly affirm and declare on oath that the contents of the foregoing Writ Petition are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Court.

Dated 15.08.2014

Dar-ul-Uloom *Dar-ul-Uloom*
(DEPONENT)

FILE NO. 13403-6156340-1

Abdullah
Additional Registrar
Peshawar High Court
Abbottabad Bench
15/8/14

13403-6156340-1

5084/110

at Atd
16th
Dar-ul-Uloom PET Govt High School
Baneel Jagg Dobair, Kohistan District
Sohawal Khan Sidi

Certified to be True Copy
11/8/14
Registrar
Peshawar High Court
Abbottabad Bench
Authorized Under Sec 75 Acts Ordms

g. ill p.
16/8/14

23 P. 9

BEFORE THE PESHAWAR HIGH COURT,
BENCH ABBOTTABAD

W.P No. 583 A of 2014

Dar-ul-Uloom.....Petitioner

VERSUS

The Government of Khyber Pakhtun Khwa
through Secretary Education, Peshawar and
othersRespondents

WRIT PETITION

CORRECT ADDRESSES OF THE PARTIES

PETITIONER

Dar-ul-Uloom, P.E.T Government High
School Baneel Jagg cum Dobair, Tehsil
Pattan District Kohistan.

RESPONDENTS

1. The Government of Khyber Pakhtun Khwa
through Secretary Education, Peshawar.
2. The Director (Elementary & Secondary)
Education, Peshawar.
3. The District Education Officer (Male), Dassu
Kohistan.
4. The Deputy District Education Officer
(Male), Dassu Kohistan.
5. The Assistant District Officer (ADO Male),
Dassu Kohistan.
6. The District Accounts Officer, Dassu
Kohistan.

Additional Registrar
Peshawar High Court
Abbottabad Bench

Certified to be True Copy Dated 15.08.2014

EM/MS
Peshawar High Court
Abbottabad Bench
Authorized Under Sec 75 of the Ordinance

Dar-ul-Uloom
Dar-ul-Uloom
...Petitioner

Through

ABDUL SABOOR KHAN,
Advocate High Court,
Mansehra.

24

10

CERTIFICATE.

Certified that no such like Writ
Petition has ever been preferred nor
decided from any court.

Dated 15.08.2014

Through *Darul Uloom*
Dar-ul-Uloom
...Petitioner
[Signature]
ABDUL SABOOR KHAN,
Advocate High Court,
Mansehra.

LIST OF LAW BOOKS.

1. Constitution of Islamic Republic of
Pakistan, 1973.
2. Other law books as per need.

Dated 15.08.2014

Through *Darul Uloom*
Dar-ul-Uloom
...Petitioner
[Signature]
ABDUL SABOOR KHAN,
Advocate High Court,
Mansehra.


[Circular Stamp]
Certified to be True Copy
Examiner
Peshawar High Court
Abbottabad Bench
Under Section 75 Acts Ordinance
[Signature]
16/8/14

25

Announced

PESHAWAR HIGH COURT, ABBOTTABAD BENCH

FORM 'A'
FORM OF ORDER SHEET

| Date of Order or Proceedings | ORDER OR PROCEEDINGS WITH SIGNATURE OF JUDGE/JUDGES |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1 | 2 |
| 10.03.2016 | <p data-bbox="550 723 837 759"><u>W.P No.583-A/2014.</u></p> <p data-bbox="550 801 1209 870">Present: Mr. Abdul Saboor Khan, Advocate, for petitioner.</p> <p data-bbox="721 909 1310 1014">Riasat Khan, DEO (Male) Kohistan with Mr. Muhammad Naeem Abbasi, Additional AG for respondents</p> <p data-bbox="916 1051 963 1071">***</p> <p data-bbox="550 1089 1337 1504"><u>LAL JAN KHATTAK, J:-</u> The latter stated before the Court that he will pass final order pursuant to the inquiry report dated 01.02.2014 regarding adjustment or otherwise of the petitioner into service, to which learned counsel for petitioner got no objection, however, requested that while passing any order the petitioner be given a right of audience and the order must be in accordance with law and rule on the subject.</p> <p data-bbox="550 1527 1342 1772">In view of the above, we dispose of this writ petition in terms that the respondent No.3 shall pass appropriate order in the case of the petitioner after hearing him. The order must be in accordance with law and rules on the subject but within a period of one month.</p> <p data-bbox="550 1792 722 1862"><u>Announced.</u> <u>10.03.2016.</u></p> <p data-bbox="1075 1813 1390 1908">SO: JUDGE</p> |
| <p data-bbox="357 1993 683 2029">Certified to be True Copy</p> <p data-bbox="469 2029 619 2081">11.5.16</p> <p data-bbox="405 2081 639 2140">Peshawar High Court Abbottabad Bench</p> <p data-bbox="363 2140 683 2166">Registered Under Sec. 75 Act Ord.</p> | <p data-bbox="970 2210 1257 2449">  JUDGE ABBOTTABAD BENCH PESHAWAR HIGH COURT ABBOTTABAD </p> |

(Ayub)



American G

26

OFFICE OF THE DISTRICT EDUCATION OFFICER

(M) KOHISTAN

No 1612 Dated 09/09/2016

To

Darul Uloom, Ex-PET.
GM'S Mujgali.

Subject- ADJUSTMENT AS PET TEACHER.
Memo:-

Reference letter No. 526 dated 01/02/2014 of this office addresses to Director E&SE Khyber Pakhtunkhwa Peshawar on the subject cited above and in the light of findings of enquiry committee comprising of Mr. Abdur Rashid DDEO (M) and Mr. Furqan Principal GHSS Chakai, the Director E&SE in response to subject letter vide letter No.7696/AT (PE&SE) 78/ complaint of PETs dated Peshawar 18/03/2014, clearly directed "to proceed against the concerned teacher immediately and he may be removed from service after observing all the codal formalities for his willful absence from duty from the date of absence".

As your case was admitted in the honourable High Court Abbottabad Bench with titled writ petition No. 583-A/2014 Darul Uloom V/S Govt. of KPK and others and the honourable Court dispose the writ petition on 10/03/2016 with the direction to DEO (M) Kohistan to pass final order pursuant to the enquiry report dated 01/02/2014 and providing a chance of personal hearing to you according to the law and rule to the subject.

Whereas you was called for personal hearing on 29/03/2013 and informed you that the position of your adjustment as per law and rule to the subject is not possible by the reason that as you was appointed as a teacher on 05/04/1999 and was involved in a murder case vide FIR No. 116 dated 05/10/2002 and you became absconder and did not perform your duty after 05/10/2002 to till date.

It is further to informed you that as per provision contained in section 12 regarding EOL without pay may be granted outside leave account on each occasion up to maximum period of five years at a time provided that a civil servant to whom such leave is granted has been in continuous service for the period not less 10 years, in case a civil servant has not completed 10 year of continuous service, EOL without pay for a maximum period 02 years may be granted at the discretion of Leave Sanctioning Authority.

Whereas your length of service is 03 years and 06 months which is less than 10 years and your period of absconderness w.e.f 05/10/2002 to date is more than 12 years.

Whereas this office has no jurisdiction to treat your prolong, willful absent into EOL without pay under the law and rule and it is not possible to adjust you on the post.

Therefore in the light of above mentioned facts and on the direction of decision of Honourable High Court Abbottabad Bench dated 10/03/2016, I Riasat Khan District Education Officer, (M) Kohistan being competent authority is fully satisfied to remove you from the service w.e.f 05/10/2002.

[Handwritten Signature]

District Education Officer
(Male) Kohistan

Endst-No. 1613-15 dated 9/9/16 2016.

Copy of the above is forwarded to:

1. The Additional-Registrar Peshawar High Court Abbottabad Bench Abbottabadd.
2. Director Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
3. Darul Uloom, PET, GM'S DUBAI SAIDA

[Handwritten Signature]

District Education Officer
(Male) Kohistan

[Handwritten Signature]
ZAFER (A.S.A.)
Advocate High Court
Abbottabad

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~~28-04-2016
Dorchester
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(97)

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(TB)

Amerik

(1)

BEFORE THE PESHAWAR HIGH COURT,
BENCH ABBOTTABAD.

C.O.C No. 32-A /2016

Dar-ul-uloom, Ex Employee (P.E.T), Government High School Baneel Jagg Dobair,
Tehsil Pattan, District Kohistan.

...PETITIONER

V E R S U S

Riasat Khan, District Education Officer (Male), Kohistan.

...RESPONDENT

**PETITION FOR INITIATING CONTEMPT
PROCEEDINGS AGAINST THE RESPONDENT UNDER
ARTICLE 204 OF THE CONSTITUTION OF ISLAMIC
REPUBLIC OF PAKISTAN 1973 READ WITH SECTION
5 OF CONTEMPT OF COURT ACT/ORDINANCE IV OF
2003, FOR KNOWINGLY AND DELIBERATELY
DISOBEYED THE ORDER OF THIS HONOURABLE
COURT IN WRIT PETITION NO.583-A/2016 DATED
10/3/2016.**

No 2362
19-5-16

Respectfully Sheweth;

1. That petitioner filed Writ petition No.583-A/2014 before this honorable Court to the effect that withholding and non- releasing of the monthly salaries of the applicant /petitioner from 01/10/2002. **(Copy of the Writ petition is attached and marked as Annexure "A")**

FILED TODAY

Additional Registrar
Peshawar High Court
Abbottabad Bench
19/5/16

Certified to be True Copy

1

[Handwritten signature]

[Handwritten signature]
ZAHHEER AHMAD
Advocate
Abbottabad

(29)

Amerne J

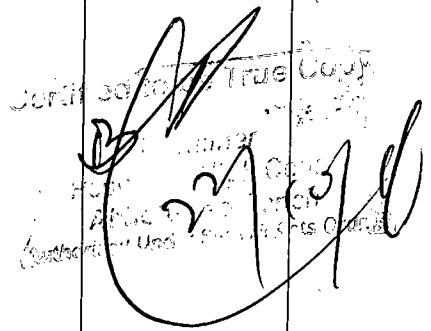
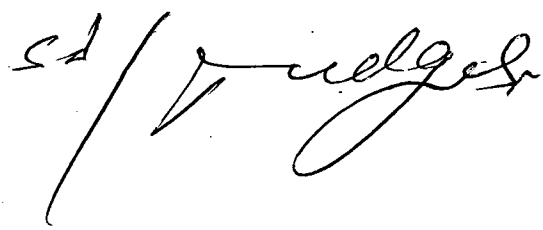
PESHAWAR HIGH COURT ABBOTTABAD BENCH.
FORM "A"
FORM OF ORDER SHEET

| Serial No of order or proceeding | Date of Order or Proceeding | ORDER OF THE COURT WITH SIGNATURE (s) OF HON'BLE JUDGE (s) |
|----------------------------------|-----------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1 | 2 | 3 |
| | 17.10.2016 | <p><u>COC No.32-A/2016</u></p> <p>Present: Mr. Zaheer Ahmad Qureshi, Advocate, for the petitioner.</p> <p>Mr. Muhammad Naecm Abbasi, AAG, for the respondent.</p> <p>****</p> <p><u>MUHAMMAD GHAZANFAR KHAN, J:</u> Petitioner, Dar-ul-uloom, has moved this petition for initiation of contempt proceedings against the respondent for deliberately disobeying the order of this Court dated 10.03.2016 passed in writ petition No.583-A/2016. The said order reads that:</p> <p><i>'We dispose of this writ petition in terms that the respondent No.3 shall pass appropriate order in the case of the petitioner after hearing him. The order must be in accordance with law and rules on the subject but within a period of one month.'</i></p> <p>2. The respondent submitted his reply, wherein, he refuted the allegations of the petitioner regarding non-compliance of the order of this Court. Learned counsel for the petitioner failed to show any sort of disobedience on the part of the respondent justifying initiation of contempt proceedings against</p> |

Certified to be True Copy.

him. The petitioner was given opportunity of personal hearing. Thus, in the circumstances, this petition is misconceived, which is dismissed.

Announced.
Dated.17.10.2016.



Justified True Copy
Handwritten signature

وکالت نامہ

کورٹ فیس

بعدالت ضاب سرمنسٹر ٹرائبنل ICPC لیسار

عنوان: دارالعلوم بنام گورنمنٹ آف ICPC صدر

منجانب: ایڈووکیٹ

نوعیت مقدمہ:

باعث تحریر آنکہ

مقدمہ مندرجہ میں اپنی طرف سے واسطے پیروی و جواب دہی کل کاروائی متعلقہ آں مقام

اصول کے مطابق ایڈووکیٹ صاحب کی طرف سے

کو وکیل مقرر کر کے اقرار کرتا ہوں کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا نیز وکیل صاحب موصوف کو کرنے راضی نامہ و تقرر ثالث و فیصلہ برحلف و دینے اقبال دعویٰ اور بصورت دیگر ڈگری کرانے اجراء وصولی چیک روپیہ و عرضی دعویٰ کی تصدیق اور اس پر دستخط کرنے کا اختیار ہوگا اور بصورت ضرورت مقدمہ مذکور کی کل یا کسی جزوی کاروائی کے لئے کسی اور وکیل یا مختار صاحب قانونی کو اپنے ہمراہ اپنی بجائے تقرر کا اختیار بھی ہوگا اور صاحب مقرر شدہ کو بھی وہی اور ویسے ہی اختیارات ہوں گے اور اس کا ساختہ پرداختہ مجھ کو منظور قبول ہوگا۔ دوران مقدمہ جو خرچہ و ہرجانہ التوائے مقدمہ کے سبب ہوگا اس کے مستحق وکیل صاحب ہوں گے۔ نیز بقایا رقم وصول کرنے کا بھی اختیار ہوگا۔ اگر کوئی پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب موصوف پابند ہوں گے کہ پیروی مقدمہ مذکورہ کریں اور اگر مختار مقرر کردہ میں کوئی جزو بقایا ہو تو وکیل صاحب موصوف مقدمہ کی پیروی کے پابند نہ ہوں گے۔ نیز درخواست بمراد استجارت نالش بصیغہ مفلسی کے دائر کرنے اور اس کی پیروی کا بھی صاحب موصوف کو اختیار ہوگا۔

لہذا وکالت نامہ تحریر کر دیا تاکہ سند رہے۔

المرقوم: 23/1/16

بمقام: اصغر علی

العبد

العبد

Accepted
[Signature]دارالعلوم ولد نور امباب
Darululoom

"A"

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

IB

No.

APPEAL No.....1220..... of 2016.

Das ul Uloom

Appellant/Petitioner

Regd

Versus

through Say Elementary & Secondary Edu Peshawar
RESPONDENT(S)

Notice to Appellant/Petitioner Das ul Uloom Ex Employee
(PET) Government High School Jagg Dohair
Tahsil Pattan District Kohistan

Take notice that your appeal has been fixed for Preliminary hearing, replication, affidavit/counter affidavit/record/arguments/order before this Tribunal on 16/2/2017 at 8:00:am

You may, therefore, appear before the Tribunal on the said date and at the said place either personally or through an advocate for presentation of your case, failing which your appeal shall be liable to be dismissed in default.

(at comp court Abbottabad)

[Signature]

Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

"A"

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

T.B

No.

APPEAL No. 1220 of 20 16

Darul Uloom

Appellant/Petitioner

Recd

Versus

through Sayy Elementary & Secondary Edu. Peshawar
RESPONDENT(S)

Notice to Appellant/Petitioner ^{counsel} Zaher Ahmad Durrani
Advocate High court Abbottabad

Take notice that your appeal has been fixed for Preliminary hearing, replication, affidavit/counter affidavit/record/arguments/order before this Tribunal on 16/2/2017 at 8.00 am

You may, therefore, appear before the Tribunal on the said date and at the said place either personally or through an advocate for presentation of your case, failing which your appeal shall be liable to be dismissed in default.

(at camp court K. Abad)

[Signature]
Registrar,
Khyber Pakhtunkhwa Service Tribunal
Peshawar.

"B"

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

TB

No.

Pre-admission Notice

Appeal No. 1220 of 2016

Das-ul-Uloom Appellant/Petitioner

Versus

Through Secy. Edn. Respondent No. 3

Notice to:

Distt. Education Officer Ete. & Sec. Education (Male) Kohistan

WHEREAS an appeal/petition under the provision of the North-West Frontier Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal *on 18-5-2017 at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

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

Copy of appeal is attached. Copy of appeal has already been sent to you vide this

office Notice No. dated

Given under my hand and the seal of this Court, at Peshawar this 21/11/16

Day of March 20 17

(at camp court A. A. Bad)

Registrar, Khyber Pakhtunkhwa Service Tribunal, Peshawar.

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

"A"

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

No.

5B

APPEAL No. 1220 of 20 16

Dar-ul-Uloom

Appellant/Petitioner

Versus

Through Secy. Education Pesh.

RESPONDENT(S)

Notice to Appellant/Petitioner

Dar-ul-Uloom Ex-Employee
P.E.T. GHS Jagg Dabir
Pattan Distt. Kohistan

Take notice that your appeal has been fixed for Preliminary hearing, replication/ affidavit/counter affidavit/record/arguments/order before this Tribunal on 21/7/2017 at 8:00 AM

You may, therefore, appear before the Tribunal on the said date and at the said place either personally or through an advocate for presentation of your case, failing which your appeal shall be liable to be dismissed in default.

at comp Court A-Ahead

[Signature]

Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.
(CAMP COURT ABBOTTABAD)

APPEAL NO 1220 OF 2016

Dar-ul-Uloom -----

Appellant

VERSUS

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

Handwritten signature/initials

Respondents

PARAWISE COMMENTS FOR & ON BEHALF OF RESPONDENT NO.1, 2, & 3,

INDEX

| S# | Particulars of documents | Annexure | Pages |
|----|--------------------------------------|----------|-------|
| 1 | Comments along with affidavit | | 1-5 |
| 2 | Copy of inquiry report | "A" | 6 |
| 3 | Copy of letter of DEO(M) to Director | "B" | 7 |
| 4 | Copy of letter of Director | "C" | 8 |
| 5 | Copy of Leave rule | "D" | 9 |
| 6 | Copy of personal hearing | "E" | 10 |
| 7 | Copy of removal Order | "F" | 11 |

Dated 02 -06-2017

Handwritten signature

Respondent No.3
District Education Officer,
(Male) Kohistan

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.
(CAMP COURT ABBOTTABAD)

APPEAL NO 1220 OF 2016

Dar-ul-Uloom -----

Appellant

VERSUS

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

Respondents

PARAWISE COMMENTS FOR & ON BEHALF OF RESPONDENT NO.1, 2, &3

Respectfully Sheweth:

PRELIMINARY OBJECTIONS

- I. That the appellant did not come to this Honorable Court with clean hands.
- II. That the appellant has got no cause of action /locus standi to file the Instant appeal
- III. That the appellant is estopped to sue through his own conduct
- IV. That the present appeal is not maintainable due to non-joinder and Mis-joinder of necessary parties.
- V. That the appellant has concealed the material facts from this Honorable Court, hence appeal is liable to be dismissed without any further Proceeding.
- VI. That the appellant has already been removed from Service after Completion of all codal formalities vides DEO (M) Kohistan Office Endst: No.1613-15- dated 09-04-2016; hence appeal is liable to be dismissed.
- VII. That the demand of the appellant is against the law, unethical and the same is alien to law, hence appeal is liable to be dismissed.
- VIII. That the appeal is time bared hence liable to be dismissed on this score Alone.

Factual Objections:

- 1. Para No.1 is correct to the extent that the appellant was appointed as PET on 05-04-1999; remaining Para is incorrect, hence denied.
- 2. Para No.2 of the appeal is incorrect, strongly denied that the appellant has performed his duties up to 05-10-2002 and got the salary of that period

3. Para No.3 of the appeal is correct to the extent that a case FIR No.116 dated 05-10-2002 under Section 302/234/148/149 PPC was registered against the appellant and others at Police Station Dubair and after that the appellant did not perform his duties and remained absent from his duties. In that regard an inquiry committee was constituted by the authority concerned vide office order No. 15781-84 dated 17-12-2013 and according to the report of inquiry committee "No attendance of the appellant has been found after 06-10-2002" . Then the authority concerned wrote a letter Under Endstt; No.526 dated 01-02-2014 to Respondent No.2 (Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar)strongly denied that the charges and evidence on record against the concerned teacher have been proved, hence there is no question to perform further dutyfor seeking advice as "to whether a teacher who found absent from duties for a period more than 10 years can be permitted to continue the service and whether an official in prison can be proceeded and removed from service"(Copy of inquiry report and letter are attached as Annexure -A & B)where as in the reply, the respondent No.2 vide letter No. 7696/AD(PE&S)78/complaints of PETs dated Peshawar 18-03-2014 directed to authority concerned "that Proceed against the concerned teacher immediately and he may be removed from service after observing of all codal formalities for his willful absence from duty from the date of absence. (Copy of Letter of Respondent No.2 is attached as annexure- C)
4. Para No.4 of the appeal isIncorrect, against the facts , hence vehemently denied that the appellant absented himself from duties w.e.f 10-06-2002 to till date without any intimation to the Department .Moreover the appellant never applied for any kind of leave with /without pay , therefore the salary of the appellant was stopped by drawing and disbursing officer, further more according to the leave rules of civil servants Rule 12 (1) extra ordinary leave may be granted outside leave account on each occasion to a maximum period of Five years at a time , provided that the civil servant to whom such leave is granted has been in continuous service for a period of not less than ten years.in case a civil servant not completed a ten years of continues service extra ordinary leave without pay for a maximum period of two years may be granted at the discretion of leave sanctioning authority, that the appellant absented himself for a period of more than 10 years with a continuous service less than five years, hence the service of the appellant has

automatically been ceased.(Copy of leave rules is attached as Annexure-D).

5. Para No.5 of the appeal is Incorrect strongly denied that as stated at Para No.4 of the above of factual objections.

6. Needs not to reply

7. Para No.7 of the appeal is correct to the extent that the appellant applied for the release of his salary , where upon an inquiry committee was constituted by the authority concerned , that inquired into the matter and submitted a report in which it was found that the appellant absented himself from his duty without any lawful justification and without any prior notice to the department and in the light of willful absence , the official concerned is liable to be termination from service under FR-18 subject to the observation of all codal formalities.Furthermore in compliance of Peshawar High Court Abbottabad Bench Judgment dated 10-03-2016, the appellant was directed to appear personally in the office of DEO(M) Kohistan on 28-03-2016, The appellant appeared before the specified committee for personal hearing on 29-03-2016, accordingly, and the appellant admitted himself that he had remained absent from duty with effect from 05-10-2002 to till date and is not adjustable on the post due to his long willful absence.

(Copy of personal hearing attendance is attached as annexure-E)

8. Correct to the extent that in compliance of the Peshawar High Court Abbottabad Bench Judgment dated 10-03-2016, the appellant was directed to appear personally in the office of DEO (M) Kohistan on 28-03-2016, The appellant appeared before the specified committee for personal hearing on 29-03-2016, accordingly and the appellant admitted himself that he had remained absent from duty with effect from 05-10-2002 to till date and is not adjustable on the post due to his long willful absence after that the appellant removed from service w.e.f. 05-10-2002 Vide DEO (M) Kohistan Endstt: No.1613-15 dated 09-04-2016(Copy of Removal from Service is attached as annexure -F).

9. Para 9 relates to record.

10.Incorrect, strongly denied that the appellant has not been aggrieved from the respondents and seeks extra ordinary relief, it is further submitted that the respondent/authority passed the order in accordance with law and respondent seeks permission argue for further points at the time of hearing.

GROUND

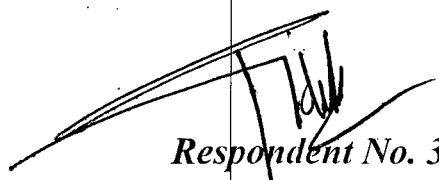
a. Incorrect, strongly denied that the appellant removed from service after fulfilling of all codal formalities as stated in Para 3 & 4 above of factual objections.


b. Incorrect strongly denied as stated in Para 3 &4 above of factual objections.

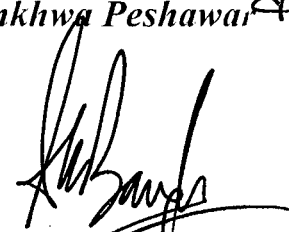
c. Incorrect strongly denied that the appellant has been treated in accordance with law, and a chance of personal hearing was also given to him but he admitted his absence himself as stated in Para“8” above of factual objections.

- d. Incorrect strongly denied as stated in Para "3 & 4" above of factual objections
- e. Incorrect strongly denied that the appellant has been treated in accordance with law as stated in Para "3 & 4" above of factual objections.
- f. Incorrect strongly denied as stated in Para "3 & 4" above of factual objections.
- g. Incorrect strongly denied as stated in Para "3 & 4" above of factual objections.
- h. Incorrect strongly denied as stated in Para "3 & 4" above of factual objections.
- i. Incorrect strongly denied as stated in Para "8" above of factual objections.
- j. Incorrect strongly denied as stated in Para "3 & 4" above of factual objections.
- k. Incorrect strongly denied as stated in Para "8" above of factual objections.
- l. Legal treated as per law
- m. That the respondent seeks permission argue for further points at the time of hearing

It is therefore, in the light of above stated facts and circumstances,
 Very humbly prayed that the appeal in hand may please be dismissed with cost


 Respondent No. 3
 District Education Officer,
 (Male) Kohistan


 DIRECTOR
 Elementary and Secondary Education
 Khyber Pakhtunkhwa Peshawar


 SECRETARY
 Elementary and Secondary Education
 Khyber Pakhtunkhwa Peshawar

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.
(CAMP COURT ABBOTTABAD)

APPEAL NO 1220 OF 2016

Dar-ul-Uloom -----

Appellant

VERSUS

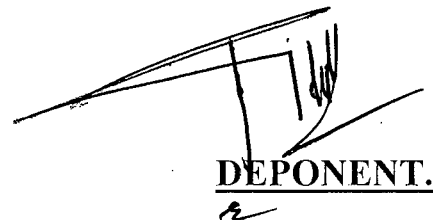
1. Govt of Khyber Pakhtunkhwa through Secretary
Elementary Secondary Education Peshawar
2. Director Elementary & Secondary Education KPK Peshawar
3. District Education Officer (Male) Kohistan.

Respondents

PARAWISE COMMENTS FOR & ON BEHALF OF RESPONDENT NO.1, 2, & 3

AFFIDAVIT

I, Fida Mohammad Khan DEO (Male) Kohistan do hereby solemnly affirm and declare that the contents of Para wise reply in the above titled Case are true and correct to the best of my knowledge and belief, and that nothing, material has been suppressed from this Honorable court.


DEPONENT.

جناب ڈسٹرکٹ ایجوکیشن افسر (مردانہ) کوئٹہ

No. 91 DDO

Date 18/12/2013

حوالہ جمعہ نمبر 84 - 15781 حوالہ 13.12.17 رتھواری

Annexure A

رپورٹ مضمون ہے۔

① درخواست دہندہ دارالعلوم کے بچانے ایک تقرری آرڈر پر مورخہ 05-04-1999ء پیش کیا جو صحیح معلوم ہو رہا ہے کیونکہ تقرری

آرڈر اجتماعی ہے نہ انفرادی۔ اس کے علاوہ اس EDO EOSE کی طرف سے جاری کیا گیا ایک سروس دستخط کی بھی پیش کیا۔ اس کی تقرری EMS/445 مختصر دستی میں ہوئی ہے۔

③ ٹرانسفر کا کوئی ثبوت نہیں ملتا۔

④ دفتر DDO کے ریکارڈ میں دیکھنے سے معلوم ہوا کہ دارالعلوم PEY کو EMS/33 بجلی (Mujerai) سے نومبر 2002ء تک تنخواہ کی ادائیگی کی گئی ہے اس کے بعد درجین ماہ کے Pay Bill میں EMS بجلی میں نام ہے لیکن تنخواہ نہیں ملتا۔ اس کے بعد Pay Bill میں نام بھی نہیں ہے۔

⑤ Absent Period کا کوئی ثبوت موجود نہیں۔

⑥ اسی طرح غرضی کیوں سے اس کے خلاف حکیمانہ کارروائی کی ثبوت بھی نہ مل سکا اور نہ پیش کیا گیا۔

⑧ چھٹی کے بارے میں کوئی تقرری ثبوت نہیں ملتا۔

رپورٹ ہے۔ دستخط: محمد رفیق بھٹو

⑨ خزانہ دار

① عبدالرشید DDO



Answer B

OFFICE OF THE DISTRICT EDUCATION OFFICER, (MALE) KOHISTAN.

PH: & FAX NO.0998407128

No.19/Estab: _____ /DEO (M) KH: dated 01-02-2013

To,

The Director,
Elementary & Secondary Education,
Khyber Pakhtunkhwa at Peshawar.

Subject:
Memo:

ADJUSTMENT OF PET TEACHER.

It is submitted that Mr. Darul Uloom S/O Haji Noor Aftab r/o Dubair was appointed as PET at GMS Chari Shabi Khel vide DEO Kohistan order dated 5/4/1999. He has got his pay from GMS Munjgali upto November, 2002. Mean while his pay was stopped due to involvement in criminal case and absence from school duty.

On 17/5/2013, an application was received through Superintendent Sub Jail Dassu to the effect that the above named person has been arrested in a criminal case on 16/4/2013 and is confined in Sub Jail Dassu. On the above letter, the applicant was suspended from services. The Deputy District Education Officer, (M) Kohistan reported that the teacher is not adjusted at any school and needs to be adjusted for pay purpose.

On the above report of DDEO (M) Kohistan, an enquiry committee comprising Mr. Abdul Rasheed DDEO (M) and Mr. Furqan Acting Principal, GHSS Chakai was constituted to probe in to the matter and find out the factual position. The enquiry Committee submitted the following findings.

1. The appointment seems genuine.
2. His 1st appointment was made in GMS Chari Shabi Khel.
3. No written proof regarding his transfer is found.
4. As per record of DDEO (M) Kohistan, pay has been paid to the teacher upto November, 2002.
5. There is no written record of absent period nor any documents found regarding departmental action taken against him.
6. No leave record is found.
7. No attendance has been found after November 2002.

On report of enquiry committee, a show cause notice of removal from Service has been served upon him on 28/12/2013 and in the response on 2/1/2014, a reply was received through his relative mentioning that he has been arrested on 23/4/2013 and now he is in Sub Jail Dassu.

In view of the above, this office may kindly be advised as to whether a Govt: servant who found absent from duty for the period more then 10 years can be Permitted to continue the services and whether an official in prison can be preceded and removed from service.

E/No.19/Estab: 526 /DEO (M)

District Education Officer
(Male) Kohistan.

Copy to the Deputy District Education Officer, (M) Kohistan with the remarks to submit the report regarding absentee of the above teacher and action taken against him. The reason of stoppage of pay may also be furnished with complete detail.

District Education Officer
(Male) Kohistan
District Education Officer



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

No. 2696 /AD (PE&S) 78/Complaint of PETs.
Dated Peshawar the: 12/3 /2014.

To

District Education Officer (Male),
Kohistan.

Subject: - **ADJUSTMENT OF PET TEACHER.**

I am directed to refer to your No. 525 dated 01.02.2014 on the subject noted above and to state that proceed against the concerned teacher immediately and he may be removed from service after observing all codal formalities for his willful absence from duty from the date of absence.

Assistant Director (PE&S)
Elementary & Secondary Education
Khyber Pakhtunkhwa Peshawar

Endst No. _____/

Copy forwarded to the:

1. PA to Director E&SE local Directorate.

Assistant Director (PE&S)
Elementary & Secondary Education
Khyber Pakhtunkhwa Peshawar

service, disabled by injury, ailment or disease contracted in course or in consequence of duty or official position.

2) The leave salary during disability leave shall be equal to full pay for the first one hundred and eighty days and on half pay for the remaining period.

12. **Extraordinary leave (Leave without pay)**-(1) Extraordinary leave may be granted outside leave account on each occasion up to a maximum period of five years at a time; provided that the civil servant to whom such leave is granted has been in continuous service for a period of not less than ten years. In case a civil servant has not completed ten years of continuous service, extraordinary leave without pay for a maximum period of two years may be granted at the discretion of the leave sanctioning authority. This leave can be granted irrespective of the fact whether a civil servant is a permanent or temporary employee.

2) The maximum period of extraordinary leave without pay combined with leave on full pay and leave on half pay shall be subject to the limit of 5 years prescribed in FR-18, i.e. the maximum period of extraordinary leave without pay that would be admissible to a civil servant who has rendered continuous service for a period of not less than 10 years shall be 5 years less the period of leave on full pay and leave on half pay so combined.

3) Extraordinary leave may be granted retrospectively in lieu of absence without leave:

4)* Notwithstanding anything to the contrary contained in the preceding sub-rules, the Finance Department may in cases of individual hardship, grant extra-ordinary leave in excess of the maximum leave admissible to a civil servant under sub-rule(1) or sub-rule(2), as the case may be. *Added vide No.FD.SO(SR-IV)5-54/80.Vol-IV dated 6-7-1999.

CLARIFICATION.

i) Extra ordinary leave (Leave without pay) of 5 years is admissible to a Government servant for 'each spell' of 10 years of continuous service. If, however, a civil servant has not completed 10 years of continuous service on each occasion/time, Extra Ordinary leave (leave without pay) for maximum period of two years may be granted at the discretion of the Competent Authority.

ii) Maximum leave availed during one continuous period of 10 years should also not exceed 5 years. The cases already decided need not be reopened.

13. **Leave on Medical Certificate.** Leave applied for on medical certificate shall not be refused. The authority competent to sanction leave may, however, at its discretion, secure a second medical opinion by requesting the Civil Surgeon or the Medical board to have the applicant medically examined. The existing provisions contained in Supplementary Rules 212,213 and Rules 220 to 231 for the grant of leave on medical grounds will apply.

No. FD/SO(SR-IV)5-54/80/Vol-III, dated 31.7.91.

14. **Leave preparatory to retirement.** The maximum period up to which a Civil Servant may be granted leave preparatory to retirement shall be 365 days only. It may be taken subject to availability in the leave account, either on full pay or partly on full pay or partly on half pay, or entirely on half pay, at the discretion of the Civil Servant and shall not extend beyond the age of superannuation.

"E"

— Indorse Sheet for Personal
Hearing in R/O Darul Uloom
PET on 29-3-2016

① Darul-Uloom @ Ex-PET ~~Darul-Uloom~~

②

③

~~AD (Genl) Secy~~ ~~Secy~~ ~~DEO~~

AD EO (Litigation)



AMMOUWA = E

F

16

OFFICE OF THE DISTRICT EDUCATION OFFICER

(M) KOHISTAN

No. 1612 Dated 09/04/2016

To:

Darul Uloom, Ex-PET.
GMS Mujgali.

Subject- ADJUSTMENT AS PET TEACHER.
Memo:-

Reference letter No. 526 dated 01/02/2014 of this office addresses to Director E&SE Khyber Pakhtunkhwa Peshawar on the subject cited above and in the light of findings of enquiry committee comprising of Mr. Abdur Rashid DDEO (M) and Mr. Furqan Principal GHSS Chakai, the Director E&SE in response to subject letter vide letter No. 7696/ AT (PE&SE) 78/ complaint of PET's dated Peshawar 18/03/2014, clearly directed "to proceed against the concerned teacher immediately and he may be removed from service after observing all the codal formalities for his willful absence from duty from the date of absence".

As your case was admitted in the honourable High Court Abbottabad Bench with titled writ petition No. 583-A/2014 Darul Uloom V/S Govt. of KPK and others and the honourable Court dispose the writ petition on 10/03/2016 with the direction to DEO (M) Kohistan to pass final order pursuant to the enquiry report dated 01/02/2014 and providing a chance of personal hearing to you according to the law and rule to the subject.

Whereas you was called for personal hearing on 29/03/2013 and informed you that the position of your adjustment as per law and rule to the subject is not possible by the reason that as you was appointed as a teacher on 05/04/1999 and was involved in a murder case vide FIR No. 116 dated 05/10/2002 and you became absconder and did not perform your duty after 05/10/2002 to till date.

It is further to informed you that as per provision contained in section 12 regarding EOL without pay may be granted outside leave account on each occasion up to maximum period of five years at a time provided that a civil servant to whom such leave is granted has been in continuous service for the period not less 10 years, in case a civil servant has not completed 10 year of continuous service, EOL without pay for a maximum period 02 years may be granted at the discretion of Leave Sanctioning Authority.

Whereas your length of service is 03 years and 06 months which is less than 10 years and your period of absconderness w.e.f 05/10/2002 to date is more than 12 years.

Whereas this office has no jurisdiction to treat your prolong, willful absent into EOL without pay under the law and rule and it is not possible to adjust you on the post.

Therefore in the light of above mentioned facts and on the direction of decision of Honourable High Court Abbottabad Bench dated 10/03/2016, I Riasat Khan District Education Officer (M) Kohistan being competent authority is fully satisfied to remove you from the service w.e.f 05/10/2002.

Handwritten signature

District Education Officer
(Male) Kohistan

Endst:-No. 1613-15, dated 9/4/15 2016.

Copy of the above is forwarded to:

1. The Additional Registrar Peshawar High Court Abbottabad Bench Abbottabad.
2. Director Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
3. Darul Uloom - PET GMS DUBAI BAZAR

Handwritten signature

District Education Officer
(Male) Kohistan

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

Appeal no 1220/16

Dar-Ul-Uloom

...APPELLANT

VERSUS

Govt of Khyber Pakhtunkhwa & Others

...RESPONDENTS

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| 3 | Copies of the application Dated 14.05.2013 and office order dated 18.09.2013 | "B"- "C" | 12-13 |
| 4 | Copy of order dated 25.06.2014 | "D" | 14-14-A |
| 5 | Copy of the Writ petition and order dated 10/03/2016 | "E" & "F" | 15-25 |
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| 8 | Vakalnama | | 31 |

Dated: 16/11/2016

....APPELLANT

Through:


(ZAHEER AHMAD QURESHI)
Advocate High court Abbottabad

(1)

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

Dar-ul-uloom, Ex Employee (P.E.T), Government High School Jagg Dobair, Tehsil
Pattan, District Kohistan

...APPELLANT

VERSUS

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

...RESPONDENTS

APPEAL:- UNDER SECTION 4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974
AGAINST THE OFFICE ORDER NO 1612 DATED
09/04/2016 WHEREBY THE RESPONDENT NO 3
REMOVED THE APPELLANT FROM SERVICES, IS
ILLEGAL, MALAFIDE, UNLAWFUL, WITHOUT
LAWFUL, AUTHORITY, WITHOUT JURISDICTION, ARBITRY,
PERVERSE, HARSH, VOID-ABNITIO AGAINST THE
PRINCIPLES OF NATURAL JUSTICE AND INEFFECTIVE/
UPON RIGHTS OF THE APPELLANT.

PRAYER:- ON ACCEPTANCE OF INSTANT APPEAL
THE ORDER DATED 1612 DATED 09/04/2016
PASSED BY RESPONDENT NO.3 MAY KINDLY BE

2

SET ASIDE APPELLANT MAY GRACIOUSLY BE REINSTATED IN SERVICE WITH ALL BACK BENEFITS.

Respectfully Sheweth

FACTS:-

1. That the Appellant is a resident of Dobair, Tehsil Pattan District Kohistan and was appointed as Physical Education Teacher(P.E.T) in the respondents department vide appointment order dated 05.04.1999 and served the respondents department with due diligence since appointment. *(Copy of the appointment letter is attached and marked as annexure "A")*.
2. That a case FIR No.116 dated 05.10.2002 under section 302/342/148/149 PPC was registered against the Appellant at Police Station Dobair and after the registration of the FIR, the Appellant performed his professional duties regularly.
3. That the Appellant surrendered himself to the process of law and got Pre-Arrest bail on 16.04.2003 from the Court of District Kohistan, which was turned down and appellant was sent to jail.

4. That the Appellant submitted an application to the respondent No.3 for release of his monthly salaries through Superintendent Sub Jail Dassu Kohistan.
5. That on receipt of the application by the respondent No.3 suspended the appellant with effect from 16.04.2013 and only suspension allowances were allowed to the appellant. *(Copies of the application Dated 14.05.2013 and office order dated 18.09.2013 are attached as annexure "B" "C" respectively)*
6. That the appellant was acquitted of the Charges by learned District & Session Judge, Dasu Kohistan in view of compromise between the parties vide order Dated 25/06/2014. *(Copy of the order is attached and marked as annexure "D")*
7. That after the release the appellant approach the respondent No.3 for release of salary but goes all in vain, feeling aggrieved the appellant filed Writ petition before the Peshawar High Court Bench Abbottabad which was decided on 10/03/2016 which is reproduced as under: "That later stated before the Court that he will pass the final order pursuant to the inquiry dated 01/02/2014

4

regarding the adjustment or otherwise of the petitioner into service, to which the learned counsel for the petitioner got no objection, however requested that while passing any order the petitioner be given right of audience and the order must be in accordance with law and rule on the subject”

In view of the above, we dispose of this Writ petition in terms that the respondent No.3 shall pass appropriate order in case of the petitioner after hearing him. The order must be in accordance with law and rules on the subject but within the period of one month”.(Copy of the Writ petition and order dated 10/03/2016 is attached and marked as annexure “E” & F” respectively)

8. That in light of the order of the Honorable High Court rather to adjust or otherwise appellant into services the respondent No.3 removed the appellant from services vide Order Dated 09/04/2016. *(Copy of the order is attached and marked as annexure “G”).*
9. That the appellant feeling aggrieved filed departmental appeal on 28/04/2016 which still not decided appellant also filed Contempt of Court

5

petition before the Peshawar High Court Peshawar Bench Abbottabad which was disposed off on 17/10/2016. *(Copy of departmental appeal & contempt petition and order dated 17.10.2016 is attached as Annexure "H", "I" & "J" respectively)*

10. That feeling aggrieved from the Order Dated 09/04/2016 the appellant approaches this honorable tribunal for redressal of his grievances on the following amongst other grounds.

GROUNDS

- a. That impugned order against the law and facts hence liable to be set-aside.
- b. That the Impugned order dated 9/4/2016 is illegal, void ab-initio having no legal effects is liable to be set aside
- c. That the inquiry and charge against the appellant is baseless having no footings hence impugned order is liable to be set aside.
- d. That inquiry was conducted in the absence of the appellant furthermore no opportunity was provided to cross examine the witness.
- e. That there no evidence against the appellant which amounts to the major penalty.

(6)

- f. That the Respondent No 3 has not advanced any reasons while issuing the impugned order and also by passed the directions of Peshawar high Court.
- g. That no opportunity of hearing has been given to the appellant by the respondent No 3 as he made Commitment before the honorable Peshawar High Court Bench Abbottabad on 10/03/2016.
- h. That under the law, no major penalty can be imposed upon the appellant or any other employee without adopting the proper procedure under the law.
- i. That the impugned order suffers from the principle of natural justice as the same was passed at the back of the appellant without providing any opportunity of being heard to appellant.
- j. That the appellant served in the respondents department with unblemished service record and the same taken into consideration while awarding major penalty.
- k. That impugned order is absolutely wrong illegal, void ab-anitio hence not maintainable and liable to be struck down.
- l. That this honorable tribunal has the jurisdiction to entertain instant appeal.
- m. That other grounds will be agitated with the permission of this Honorable Tribunal at the time of arguments.

7

ON ACCEPTANCE OF INSTANT APPEAL THE
ORDER DATED NO. 1612 DATED 09/04/2016
WHEREBY THE RESPONDENT NO 3 BE SET
ASIDE APPELLANT BE REINSTATED IN THE
SERVICE WITH ALL BACK BENEFITS.

...APPELLANT

Through:

Dated:- 16/11/2016


(ZAHKEER AHMAD QURESHI)
Advocate High Court, Abbottabad.

VERIFICATION:-

Verified that the contents of the instant APPEAL are true and
correct to the best of my knowledge and belief and that nothing has
been concealed from this Hon'ble Court.

Dated: 16/11 2016

...APPELLANT



(8)

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

Dar-UI-Uloom

...APPELLANT

VERSUS

Govt of Khyber Pakhtunkhwa & Others

...RESPONDENTS

AFFIDAVIT

I *Dar-UI-Uloom S/o Noor Aftab R/o Ex Employee (P.E.T), Government High School Jagg Dobair, Tehsil Pattan, District Kohistan* do hereby solemnly affirm and declare on oath that contents of the above appeal are true and correct to the best of my knowledge and belief and nothing has been kept secret from this Honourable tribunal.



DEPONENT

Dar-UI-Uloom

(9)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR.

Dar-UI-Uloom

...APPELLANT

VERSUS

Govt of Khyber Pakhtunkhwa & Others

...RESPONDENTS

APPEAL

APPLICATION FOR CONDONATION OF
DELAY IN FILLING THE INSTANT APPEAL.

Respectfully Sheweth,

1. That, the titled appeal is being filed before this Honourable Tribunal.
2. That, the appellant/petitioner has moved departmental appeal in respect of his matter and was also frequently requesting the concerned authorities of the department for his re-instatement along with back benefits.
3. That, appellant filed and contempt application before the Peshawar High Court Bench Abbottabad which was disposed off on 17/10/2016 more over order dated 9/4/2016 is void ab-initio against which no limitation runs and result of the departmental appeal is still awaited so the case of the appellant good prima-facie and arguable case should not be ill treated due to technicalities.
4. That, it is within the power of this Honourable Tribunal to condone any delay if so caused.
5. That, any delay if appears, was neither within the knowledge of appellant nor is intentional and therefore, is beyond the perception and control of the appellant. Affidavit to this effect is submitted accordingly.


6. That, the precious rights of the appellant is involved.

It is, therefore, humbly prayed that on acceptance of foregoing application, any delay if so caused May graciously be condoned and the appeal of the appellant be decided on merits.

...APPELLANT/APPLICANT

Through:

Dated:- 16/11/2016


(ZAHEER AHMAD QURESHI)
Advocate High Court, Abbottabad

11 - A

BETTER COPY

OFFICE OF THE DISTRICT EDUCATION OFFICER DIRECTOR (M&F)
SECONDARY KOHISTAN

OFFICE ORDER NO. _____/

DATED DASSU THE _____/99

OFFICE ORDER

Consequent upon the selection by the District selection committee in the light of interview held on 17.2.199, the following P.E.T (MALE) untrained are hereby appointed on P.E.T post at the school noted each their/Names in BPS-9(Rs1605-97-306 plus annual allowances as due and admissible under the rules in the interest of public services w.e.f the date of their taking over charge.

| <u>S.No</u> | <u>Name / Father Name and address</u> | <u>Merit Position</u> | <u>School Where Appointed</u> | <u>Remarks</u> |
|-------------|-------------------------------------------------------|-----------------------|---------------------------------------|----------------|
| 01. | Abdaul wakil S/o Lal khan R/O GHS Dassu Kohistan. | 32 | PET GMS IV/PET POST Gujar Banda KH | do do |
| 02. | Fazli Akbar S/o Said Faqir R/O Sao Kohistan. | 31.5 | PETGMS Ashpidar KH | do |
| 03. | Musamil S/o Jumma said R/O Komila Kohistan | 30.6 | PET GMS Dassu KH | do |
| 04. | Mohd Qasim S/o Muzamil R/O Shatial Kohistan | 30.3 | GMS KAfar Banda | do |
| 05. | Mohd Jehan S/oPakhteen R/O Shatial Kohistan | 30.1 | GMS Sareen KH. Bala | do |
| 06. | Zahid Malik S/oNagir Shah R/O Shatial Kohistan | 29.4 | GMS Sareen KH | do |
| 07. | Abdur Rehman R/O Jalkot kohistan | 28.9 | GMS Thial KH | do |
| 08. | Sha Nazar S/O.....Khan R/O jijul Kohistan | 28.4 | Kolai KH | do |
| 09. | Sirajul Haq S/O Malik Samandar R/O Jalkot Kohistan | 28.2 | GMS Coshalf KH | do |
| 10. | Badar Alam S/o Sheikh hussain R/o Palas kohistan | 28.1 | GMS Jabba Mikhel | do |

BETTER COPY

11-B

| | | | |
|-------------------------------------------------------------|------|---------------------|----|
| 11. Saiful amir s/O Taib Khan R/o Batara Kohistan | 27.9 | GMS Qila Kolai KH | do |
| 12. Hamayun S/O Laiq R/o Pattan Kohistan. J/C GHS Pattan | 27.8 | GMSGalgan KH | do |
| 13. Didar Shah S/O Abdul Hakim R/oKandia kohistan | 27.7 | GMS Mula Kh, Gabral | do |
| 14. Abdur rehman S/O Fazal Ahmad R/o Seo Kohistan | 27.1 | GMS Razaka KH | do |
| 15. Asghar khan S/o Malik qasim R/o Palas Kohistan | 26.8 | GMS Shilkan Abad | do |
| 16. Aurang Zeb s/o Amani mulk R/O Dubair Kohistan | 26.6 | GMS Sangal KH | do |
| 17. Sher Mohammad S/O Yardad R/o seo Kohistan | 26.1 | GMS Paree KH | do |
| 18. Mohd Aman S/o Nawab R/oSasean kohistan | 25.8 | GMS Harban KH | do |
| 19. Abdul Salam S/o Ghulam Ali R/O Choohang Kohistan | 25.7 | GMS Choochand KH | do |
| 20. Shah Zarin S/o Abdul Hamid R/o Jijal Kohistan | 25.3 | GMS Hukam Abad KH | do |
| 21. Wali Ur Rehman S/O Dost Mohd R/O Sherakot Kohistan | 24.7 | GMS Badakot KH | do |
| 22. Hazrat Ali S/O Malik Samander Khan | 24.1 | GMS Loohi KH. | do |
| 23. Mohd Sharif S/o Hazrat Mian R/O Plals Kohistan | 24.1 | GMS Paragari KH | do |
| 24. Nousherwan S/o Amir Wahid R/o Jijal Kohistan | 24 | GMS Peech Bala KH | do |
| 25. Abdul Mnana S/O Sabar Khan R/O Jalkot Kohistan | 23.8 | GMS Jalkot KH | do |
| 26. Jehan zeb S/o Yardad R/OPattan Kohistan | 23.8 | GMS Mazoo pattan KH | do |
| 27. Doltana Khan S/O Abdul Shakoore R/O Teyal kohistan | 23.4 | GMS Sawsteel KH | do |
| 28. Gulab Khan S/o Nidha Khan R/o Shatial Kohistan | 22.9 | GMS Shatial Vill | do |

BETTER COPY

11-C

| | | | |
|-------------------------------------|------|---------------------|----|
| 29. Fazal Samad S/O sheikh UllIslam | 22.9 | GMS K:Kelay Ranolia | do |
| R/oRanolia kohistan | | | |
| 30. Abdul Mateeen S/O Fazal Noor | 22.7 | GMS Bariyar KH | do |
| R/o Kandia Kohistan | | | |
| 31. Khan Zeb S/O Malik Saman Jan | 22.5 | GMS Tilil KH | do |
| R/O Kandia Kohistan | | | |
| 32. Khan Bacha S/o Aftab Malik | 21.7 | GMS Boomi Seer KH | do |
| R/O Seo kohistan | | | |
| 33. Mohd murtaza S/O Karim Dad | 21.4 | GMS Karung KH | do |
| R/O seo kohistan | | | |
| 34. Darul Uloom S/O Noor Aftab | 21.1 | GMSCharri Shah | do |
| R/O Dubair kohistan | | | |

TERMS & CONDITIONS

1. They will be governed by the such rules and regulations as may be prescribed by the Govt: from time to time for category of Govt servant to which they belong.
 2. Their services will be liable to termination one month send from either side. In case of resignation without notice one month pay will be forfeited in lieu of thereof.
 3. They will join the posts within one month from the issue of Order.
 4. Charge report should be sent to all concerned.
 5. They are required to produce their health and age certificate from DHO Kohistan.
 6. Their original certificates /Degrees Should be checked and verified from the concerned Board/University before handing over Charge.
 7. Charge will not be handed over to over age candidates.
 8. Their services will be terminated on arrival of trained PETS.
 9. If candidate found bogus through verification
- ENDST:No 1611-43 Dt:5-4-1999/SECONDARY KOHISTAN

Copy To:

1. The Director of Secondary Education NWFP, Peshawar.
2. The District Account officer Kohistan.
3. 37 All the concerned Departments.
- 38.71 All above mentioned candidates.
72. Cashier Local Office.
73. Office order file.

DISTRICT EDUCATION OFFICER

(M&F) SECONDARY KOHISTAN

18

8

ANK

The Deputy Education Officer
c/o Superintendent Sub-Office
Sir,

With due respect and humble submission, I beg to

state that a G.O. No. 100 registered against me

of 05.10.2002

my salary has been stopped since the above mentioned

date. I have got half pay amount of Rs. 40,000/-

per month from 01.10.2002 to 31.03.2013.

My case in G.O. No. 100 is still pending.

It is requested that you may be good enough

to get this matter

settled at the earliest.

Yours faithfully,

Dr. M. S. Subramanian, P.T.

Forwarded in application

dated 05.10.2002.

Done at Bangalore on 10.10.2002.

For your further necessary action.

BETTER COPY

12-A

To,

THE DEPUTY EDUCATION OFFICER, KOHISTAN
C/O Superintendent Sub-Jail, Dassu Kohistan

Sir,

With due respect and humble submission I beg to state that a false FIR registered against me at 05.10.2002.

My salary has been stopped since the above mentioned date.

I have got bail before arrest at 16.04.2013. The Honourable Court sent me to prison at 26.04.2013.

My case in trial. Kindly grant the order of releasing my salary. I will be thankful for this kindness.

Your obediently,

DAR-UL-ULOOM PET,
Govt. School Banil Jag
10.05.2013

Forwarded an application

In original (Self explanation) submitted by U/T Prison Dar-ul-Uloom confined in Sub Jail Dassu, Kohistan for your further necessary action.

Sd/- (English)
SUPERINTENDENT
Sub-Jail Dassu Kohistan
14.05.2013

OFFICE OF THE DISTRICT EDUCATION OFFICER, (M) KHOSIAIN

Ph: 8, Fax No. 0998407128

OFFICE ORDER

Mr. Darius Galam PET GHS Banil Jagi is hereby suspended from services with effect from 16/4/2013, as he has been arrested by the local police and is in judicial lock up in a criminal case, as per report of Suptt. Sub Jail Jalokat Dasau.

Only suspension allowances is hereby allowed to him accordingly.

[Signature]
District Education Officer
(M) Khosia, Kohistan.

E/No. 19/Esttd. /DCO dated 16/4/2013

Copy forwarded to:

1. The P.A to Director, E&SE Khyber Pakhtunkhwa.
2. The Deputy District Education Officer, (M) Kohistan.
3. The District Accounts Officer, Kohistan.
4. The Head Masters GHS Banil Jagi.
5. The Sptt. Sub Jail Jalokat.
6. The Official concerned.

[Signature]
District Education Officer
(M) Khosia, Kohistan.

13
Amo -
C

قلمی فیصلہ
مقامی عدالت
کوہستان

309/304 / 19
148/149 / 19

Order 27
5-06-2014

Present Mr. Khani Zaman APP for state
Mr. Iqbal Khari, Battagram Advocate along with accused in custody.

Kohistan

At very out set learned counsel appearing on behalf of accused submitted at the bar that parties have effected compromise. In this regard affidavits EX-PA, PD and Proforma Ex-PB and Ex-PD were produced. Joint statement of Sher Bahadar (Complainant/Brother of deceased) Abdul Waris (son of deceased) recorded on 19-06-2014 while statements of female LRs Mst. Bibi Gul (widow of deceased), Bakhat Juma (Daughter of deceased) and Mst. Shola Bibi (Mother of deceased) recorded through Local Commission wherein they admitted compromise and stated to have granted pardon to the accused in the name of Almighty Allah and did not intend to proceed ahead with the case against accused. In addition to above there is one minor L.R. of deceased namely Abdul Wahid. The accused have transferred landed property measuring 3 Kanals in favour of above minor through registered deed No. 168 dated 20-06-2014 which is Ex-PA/1.

The compromise appears genuine and in the interest of both the parties as it would eliminate the enmity between them. The accused stood charged in the FIR for commission of offences U/S 302/324/148/149 PPC which according to 2nd schedule of Cr.P.C. are compoundable and LRs of deceased could compound the same within the meaning of section 345 Cr.P.C.

In this state of affairs while acceding to compromise accused facing mal Dar-ul-Uloom stand acquitted. He is in custody, he be set at liberty forthwith if not required to be detained in any other case. Case property be kept intact till expiry of period fixed for Appeal/Revision. File be consigned to record room.

ANNOUNCED

15-6-2014

(SARDAR MUHAMMAD IRSHAD)
Sessions Judge
KOHISTAN

Certified in True Copy

Disincorporated in the
Official Gazette of Kohistan
Authentic Under Section 20

BETTER COPY

14-A

Order.....27
25.06.2014

Present: Mr. Khan Zaman APP for state
Mr. Iqbal Khan Battagrami Advocate along with accused in custody
At very out-set learned counsel appearing on behalf of accused submitted at the bar that parties have effected compromise. In this regard affidavits Ex-PA, PD and Proforma Ex-PB and Ex-PD were produced. Joint statement of Sher Bahadar (Complainant/Brother of deceased), Abdul Waris (Son of deceased) recorded on 19.06.2014 while statements of Female LRs, Mst. Bibi Guli (widow of deceased), Bakhat Juma (daughter of deceased) and Mst. Shola Bibi (Mother of deceased) recorded through Local commission wherein they admitted compromise and stated to have granted pardon to the accused in the name of Almighty Allah and did not intend to proceed ahead with the case against accused. In addition to above there is one minor L.R. of deceased namely Abdul Wahid. The accused have transferred landed property measuring 3-0 Kanals in favour of above minor through registered deed No. 168 dated 20.06.2014 which is Ex.PA/1.

The compromise appears genuine and in the interest of both the parties as it would eliminate the enmity between them. The accused stood charged in the FIR for commission of offences U/S 302/324/148/149 PPC which according to 2nd schedule of Cr.P.C are compoundable and LRs of deceased could compound the same within the meaning of section 345 Cr.P.C.

In this state of affairs while acceding to compromise accused facing trial Dar-ul-Uloom stand acquitted. He is in custody, he be set at liberty forthwith if not required to be detained in any other case. Case property be kept intact till expiry of period fixed for Appeal/Revision. File be consigned to record room.

ANNOUNCED

25.06.2014

Sd/-
Sessions Judge
Kohistan

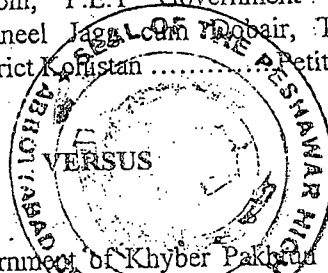
American - 6.11

P.
P.S.

BEFORE THE PESHAWAR HIGH COURT,
BENCH ABBOTTABAD

W.P No. 5834 of 2014

Dar-ul-Uloom, P.E.T Government High School Baneel Jagal, Dabair, Tehsil Pattan District Kohistan Petitioner



1. The Government of Khyber Pakhtunkhwa through Secretary Education, Peshawar.
2. The Director (Elementary & Secondary) Education, Peshawar.
3. The District Education Officer (Male), Dasso Kohistan.
4. The Deputy District Education Officer (Male), Dasso Kohistan.
5. The Assistant District Officer (ADO Male), Dasso Kohistan.
6. The District Accounts Officer, Dasso Kohistan Respondents.

WRIT PETITION UNDER ARTICLE 199
OF THE CONSTITUTION OF ISLAMIC
REPUBLIC OF PAKISTAN, 1973 FOR A
DECLARATION TO THE EFFECT
THAT WITHHOLDING AND NON-
RELEASING OF THE MONTHLY
SALARIES OF THE PETITIONER
FROM 01.10.2002 UPTIL NOW IS UN-
CONSTITUTIONAL, ILLEGAL, UNLAWFUL,
WITHOUT LAWFUL AUTHORITY
AND AGAINST THE FUNDAMENTAL
RIGHTS OF THE PETITIONER.

Certified to be True Copy
 11.5.16
 Examiner
 Peshawar High Court
 Abbottabad Bench
 Authorized Under Sec 273 of S.O. 111/2002

No 3173
16/8/14
 16/8/14

16/8/14
 Registrar
 Peshawar High Court
 Abbottabad Bench

Annexure

P. 2
16

PRAYER:-

On acceptance of the instant Constitutional Petition, the respondents No. 3 to 6 may graciously be directed to treat the petitioner as a regularly appointed teacher and release/pay the monthly salaries of the petitioner from 01.10.2002 upto now or any other writ, order or direction which is deemed appropriate in the circumstances of the case, may please be issued/passed.

Respectfully Sheweth!

1. That, the petitioner is a resident of Dobair, Tehsil Pattan District Kohistan and was appointed as Physical Education Teacher (PET) in Education Department by respondent No.3 vide appointment order dated 05.04.1999 and after appointment, the petitioner took over the charge of the post vide charge report dated 05.04.1999.

(Copies of the appointment order and charge report are annexed as annexure "A" & "B" respectively).

Certified

Pcs
Al
Authoriz

Certified to be True Cop,

M.S. 16

Peshawar High Court

Abdullah Barch

NO -

Additional Registrar
Peshawar High Court
Abdullah Barch

16/9/11

16/9/11

(175)

2. That, since appointment, the petitioner has been performing his professional duties regularly and to the entire satisfaction of his superiors and the students.
3. That, a case FIR No.116 dated 05.10.2002 under section 302/324/148/149 PPC was registered against the petitioner and others at police Station Dobair and after the registration of the FIR, the petitioner performed his professional duties regularly.
4. That, the petitioner surrendered himself to the process of law and got pre-arrest bail on 16.04.2013 from the District Court of District Kohistan, which was turned down and the petitioner submitted an application to the respondent No.3 for release of his monthly Salaries through Superintendent District Sub-Jail Dassu Kohistan vide application dated 14.05.2013, on receipt of the application the respondent No.3 suspended the petitioner with effect from 16.04.2013 and only suspension allowance was allowed to him.

PL 80 10047

Kullas
 Additional Magistrate
 Peshawar High Court
 District Sub-Jail Dassu

H. S. Khan
 Certified to the Court
 District Sub-Jail Dassu

18

(Copies of the application dated 14.05.2013 and office order dated 18.09.2013 are annexed as annexure "C" & "D" respectively).

5. That, the petitioner was ultimately acquitted of the charges by learned District & Sessions Judge, Dassu Kohistan in view of compromise arrived at between the parties vide order dated 25.06.2014.

(Copy of the order dated 25.06.2014 is annexed as annexure "E").

6. That, after being acquitted of the criminal charge, the petitioner approached the respondents No.3 to 6 for release of his monthly salaries but all in vain.

7. That, the petitioner has no other alternative, efficacious or speedy remedy except to invoke the constitutional jurisdiction of this Honourable Court, inter alia on the following grounds: -

Handwritten signature and date: 18/9/14

Handwritten signature: M.S. Talwar
Certified to be True Copy
Examiner
Peshawar High Court
Abbottabad Bench
Authorized Under Sec-75 Act 1973

19

GROUNDS

- i. That, the petitioner is a regular teacher under respondent No.3 and has been performing his duties regularly.
- ii. That, since the lodgment of FIR on 05.10.2002 the petitioner was regularly performing his duties that is why he was not served upon any show cause notice etc. and he was only suspended from service with effect from 16.04.2013 after he submitted an application through Superintendent Jail to respondent No.3 for release of his salaries and the petitioner was allowed suspension allowance during his custody in Jail.
- iii. That, the respondent No.3 was under legal obligation to treat the petitioner in accordance with article-4 of the Constitution of Islamic Republic of Pakistan, 1973 by releasing the monthly salaries of the petitioner after being acquitted of the charges on 25.06.2014.

77047

S. ul-Haq

16/09/14

Certified to be True Copy

H.S. 16

Peshawar High Court
Abbottabad Bench
Audited under Sec 29 Act 1973

20

- iv. That, the salaries relate to fundamental rights and it cannot be stopped (withheld) without assigning any valid and legal justification.
- v. That, as the petitioner was performing his duties regularly till he surrendered himself to the process of law and he was only suspended when he was behind the bar.
- vi. That, had the petitioner not performed his duties, he would have been served upon show cause notice, charge sheet and publication in the newspaper and ultimately terminated from service but the fact of the matter is that the petitioner never absented himself from performing his professional duties.
- vii. That, the act of the respondents of not treating the petitioner in accordance with article-4 and relevant service laws/rules is unconstitutional, illegal, unlawful, without lawful authority, without jurisdiction and is of no legal effect.

17.12.2014

S. ul Haq
Advocate
Abdullah Khan
Abdullah Khan
Abdullah Khan

11/5/16

Certified to be True Copy

11.5.16
Abdullah Khan
Abdullah Khan
Abdullah Khan

It is, therefore, most humbly prayed that on acceptance of the instant Constitutional Petition, the

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respondents No. 3 to 6 may graciously be directed to treat the petitioner as a regularly appointed teacher and release/pay the monthly salaries of the petitioner from 01.10.2002 uptil now or any other writ, order or direction which is deemed appropriate in the circumstances of the case, may please be issued/passed.

INTERIM RELIEF:

It is further prayed that the respondents No.3 to 6 may graciously be directed to release the salaries of the petitioner till the disposal of the instant Writ Petition.

Dated 15.08.2014

Dar-ul-Uloom
...Petitioner

Dar-ul-Uloom

Through

ABDUL SABOOR KHAN
Advocate High Court,
Mansehra.

8: 20 TODAY

Abdul Saboor Khan
Advocate High Court
Mansehra
11.5.14
16/8/14

22
8

AFFIDAVIT.

I, Dar-ul-Uloom, P.E.T Government High School Baneel Jagg cum Dobair, Tehsil Pattan District Kohistan, Petitioner, do hereby solemnly affirm and declare on oath that the contents of the foregoing Writ Petition are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Court.

Dated 15.08.2014

Dar-ul-Uloom *Darul-Uloom*
(DEPONENT)

FI DE T...

6. uelal
Additional Registrar
Peshawar High Court
Abbottabad Bench

13403-6156340-1

5064/110

at Atd
16/8
Dar-ul-Uloom P.E.T Govt High School
Baneel Jagg Dobair, Kohistan District
Sohawal-Khan-Devi

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16/8/14
Registrar
Peshawar High Court
Abbottabad Bench
Authorized Under Sec 25 Acts Ordms

(23) P. 9

BEFORE THE PESHAWAR HIGH COURT,
BENCH ABBOTTABAD

W.P No. 583 A of 2014

Dar-ul-Uloom.....Petitioner

VERSUS

The Government of Khyber Pakhtun Khwa
through Secretary Education, Peshawar and
othersRespondents

WRIT PETITION

CORRECT ADDRESSES OF THE PARTIES

PETITIONER

Dar-ul-Uloom, P.E.T Government High
School Baneel Jagg cum Dobair, Tehsil
Pattan District Kohistan.

RESPONDENTS

1. The Government of Khyber Pakhtun Khwa
through Secretary Education, Peshawar.
2. The Director (Elementary & Secondary)
Education, Peshawar.
3. The District Education Officer (Male), Dassu
Kohistan.
4. The Deputy District Education Officer
(Male), Dassu Kohistan.
5. The Assistant District Officer (ADO Male),
Dassu Kohistan.
6. The District Accounts Officer, Dassu
Kohistan.

Additional Registrar
Peshawar High Court
Abbottabad Bench

Certified to be True Copy Dated 15.08.2014
M.S. Khan
Peshawar High Court
Abbottabad Bench
Established under Section 415 of Ordinance

Darul uloom
Dar-ul-Uloom
...Petitioner

Through
ABDUL SABOOR KHAN,
Advocate High Court,
Manshra.

24

10

CERTIFICATE.

Certified that no such like Writ
Petition has ever been preferred nor
decided from any court.

Dated 15.08.2014

Darul Uloom
Dar-ul-Uloom
...Petitioner

Through

ABDUL SABOOR KHAN
ABDUL SABOOR KHAN,
Advocate High Court,
Mansehra.

LIST OF LAW BOOKS.

1. Constitution of Islamic Republic of
Pakistan, 1973.
2. Other law books as per need.

Dated 15.08.2014

Darul Uloom
Dar-ul-Uloom
...Petitioner

Through

ABDUL SABOOR KHAN
ABDUL SABOOR KHAN,
Advocate High Court,
Mansehra.

Certified to be True Copy

Exhibitor
Abbottabad Bench
Abbottabad Bench
Abbottabad Bench

16/8/14

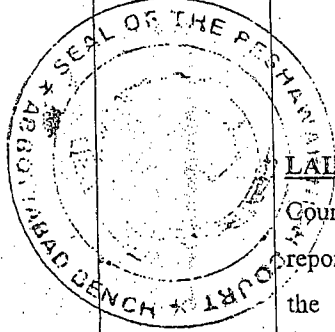
25

Amicus

PESHA WAR HIGH COURT, ABBOTTABAD BENCH

FORM 'A'
FORM OF ORDER SHEET

| Date of Order or Proceedings | ORDER OR PROCEEDINGS WITH SIGNATURE OF JUDGE/JUDGES |
|------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1 | 2 |
| 10.03.2016 | <p><u>W.P No.583-A/2014.</u></p> <p>Present: Mr. Abdul Saboor Khan, Advocate, for petitioner.</p> <p>Riasat Khan, DEO (Male) Kohistan with Mr. Muhammad Naeem Abbasi, Additional AG for respondents.</p> <p style="text-align: center;">***</p> <p><u>LAL JAN KHATTAK, J:-</u> The latter stated before the Court that he will pass final order pursuant to the inquiry report dated 01.02.2014 regarding adjustment or otherwise of the petitioner into service, to which learned counsel for petitioner got no objection, however, requested that while passing any order the petitioner be given a right of audience and the order must be in accordance with law and rule on the subject.</p> <p>In view of the above, we dispose of this writ petition in terms that the respondent No.3 shall pass appropriate order in the case of the petitioner after hearing him. The order must be in accordance with law and rules on the subject but within a period of one month.</p> <p><u>Announced.</u> <u>10.03.2016.</u></p> <p style="text-align: right;"></p> |



Certified to be True Copy
11.5.16
Peshawar High Court
Abbottabad Bench
Under Sec 75 Act Ord

(Ayub)

~~28-04-2016~~
~~PER (Gulistan) - 1/2/2016~~

~~Handwritten notes in Urdu script, including the word 'Bottle' and various illegible text.~~

(97)

~~Amanco-H~~

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Amroli - G

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OFFICE OF THE DISTRICT EDUCATION OFFICER

(M) KOHISTAN

No. 1612 Dated 09/04/2016

To

Darul Uloom, Ex-PET,
GMS Meigali.

Subject: ADJUSTMENT AS PET TEACHER.

Memo:-

Reference letter No. 526 dated 01/02/2014 of this office addresses to Director E&SE Khyber Pakhtunkhwa Peshawar on the subject cited above and in the light of findings of enquiry committee comprising of Mr. Abdur Rashid DDEO (M) and Mr. Furqan Principal GHSS Chakai, the Director E&SE in response to subject letter vide letter No.7696/ AT (PE&SE) 78/ complaint of PETs dated Peshawar-18/03/2014, clearly directed "to proceed against the concerned teacher immediately and he may be removed from service after observing all the codal formalities for his willful absence from duty from the date of absence".

As your case was admitted in the honourable High Court Abbottabad Bench with titled writ petition No. 533-A/2014 Darul Uloom V/S Govt. of KPK and others and the honourable Court dispose the writ petition on 10/03/2016 with the direction to DEO (M) Kohistan to pass final order pursuant to the enquiry report dated 01/02/2014 and providing a chance of personal hearing to you according to the law and rule to the subject.

Whereas you was called for personal hearing on 29/03/2013 and informed you that the position of your adjustment as per law and rule to the subject is not possible by the reason that as you was appointed as a teacher on 05/04/1999 and was involved in a murder case vide FIR No. 116 dated 05/10/2002 and you became absconder and did not perform your duty after 05/10/2002 to till date.

It is further to informed you that as per provision contained in section 12 regarding EOL without pay may be granted outside leave account on each occasion up to maximum period of five years at a time provided that a civil servant to whom such leave is granted has been in continuous service for the period not less 10 years, in case a civil servant has not completed 10 year of continuous service, EOL without pay for a maximum period 02 years may be granted at the discretion of Leave Sanctioning Authority.

Whereas your length of service is 03 years and 06 months which is less than 10 years and your period of abscondersness w.e.f 05/10/2002 to date is more than 12 years.

Whereas this office has no jurisdiction to treat your prolong, willful absent into EOL without pay under the law and rule and it is not possible to adjust you on the post.

Therefore in the light of above mentioned facts and on the direction of decision of Honourable High Court Abbottabad Bench dated 10/03/2016, Riasat Khan District Education Officer (M) Kohistan being competent authority is fully satisfied to remove you from the service w.e.f 05/10/2002.

Handwritten signature

District Education Officer
(Male) Kohistan

Endst:-No. 1613-15, dated 9/4/15, 2016

Copy of the above is forwarded to:

1. The Additions Registrar Peshawar High Court Abbottabad Bench Abbottabadd.
2. Director Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
- 3- Darul Uloom, PET, GMS DUBAI, SAJID

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District Education Officer
(Male) Kohistan

(28)

Annexure 1

BEFORE THE PESHAWAR HIGH COURT,
BENCH ABBOTTABAD.

C.O.C No. 32-A/2016

Dar-ul-uloom, Ex Employee (P.E.T), Government High School Baneel Jagg Dobair,
Tehsil Pattan, District Kohistan.

...PETITIONER

V E R S U S

Riasat Khan, District Education Officer (Male), Kohistan:

...RESPONDENT

**PETITION FOR INITIATING CONTEMPT
PROCEEDINGS AGAINST THE RESPONDENT UNDER
ARTICLE 204 OF THE CONSTITUTION OF ISLAMIC
REPUBLIC OF PAKISTAN 1973 READ WITH SECTION
5 OF CONTEMPT OF COURT ACT/ORDINANCE IV OF
2003, FOR KNOWINGLY AND DELIBERATELY
DISOBEYED THE ORDER OF THIS HONOURABLE
COURT IN WRIT PETITION NO.583-A/2016 DATED
10/3/2016.**

Respectfully Sheweth;

1. That petitioner filed Writ petition No.583-A/2014 before this honorable Court to the effect that withholding and non-releasing of the monthly salaries of the applicant /petitioner from 01/10/2002. (Copy of the Writ petition is attached and marked as Annexure "A")

FILED TODAY

Additional Registrar
Peshawar High Court
Abbottabad Bench
19/5/16

Certified to be a true copy

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20/5/16

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Amer J

PESHAWAR HIGH COURT ABBOTTABAD BENCH.
FORM "A"
FORM OF ORDER SHEET

| Serial No of order or proceeding | Date of Order or Proceeding | ORDER OF THE COURT WITH SIGNATURE (s) OF HON'BLE JUDGE (s) |
|----------------------------------|-----------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1 | 2 | 3 |
| | 17.10.2016 | <p>COC No.32-A/2016</p> <p>Present: Mr. Zaheer Ahmad Qureshi, Advocate, for the petitioner.</p> <p>Mr. Muhammad Naeem Abbasi, AAG, for the respondent.</p> <p>****</p> <p>MUHAMMAD GHAZANFAR KHAN, J. Petitioner, Dar-ul-uloom, has moved this petition for initiation of contempt proceedings against the respondent for deliberately disobeying the order of this Court dated 10.03.2016 passed in writ petition No.583-A/2016. The said order reads that:</p> <p><i>'We dispose of this writ petition in terms that the respondent No.3 shall pass appropriate order in the case of the petitioner after hearing him. The order must be in accordance with law and rules on the subject but within a period of one month.'</i></p> <p>2. The respondent submitted his reply, wherein, he refuted the allegations of the petitioner regarding non-compliance of the order of this Court. Learned counsel for the petitioner failed to show any sort of disobedience on the part of the respondent justifying initiation of contempt proceedings against</p> |

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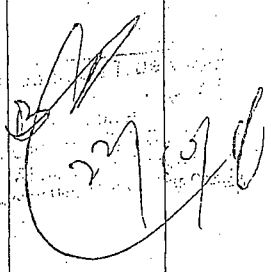
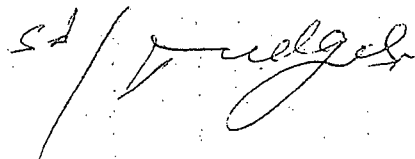
Certified to be True Copy

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him. The petitioner was given opportunity of personal hearing. Thus, in the circumstances, this petition is misconceived, which is dismissed.

Announced.
Dated.17.10.2016.



KHYBER PAKHTUNKWA SERVICE TRIBUNAL, PESHAWAR

No. 467 /ST

Dated 20 - 3 - / 2019


To

The District Education Officer Male,
Government of Khyber Pakhtunkhwa,
Kohistan.

Subject: - JUDGMENT IN APPEAL NO. 20/2016, MR. DARUL ULOOM

I am directed to forward herewith a certified copy of Judgement dated 19.02.2019 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.

proceedings was owing to the fact that she had proceeded to perform Hajj and subsequently, ^{had} stayed for another couple of months in Saudi Arabia where her husband was in employment. Learned counsel for the appellant ^{further} stated that the appellant would be satisfied if she is given an opportunity to appear before the departmental authority ^{yes} and explain her alleged absence as she remained unassociated with the disciplinary proceedings, all along, for reasons beyond her control. The appellant would not press the present appeal in such eventuality.

3. ^{To} Explaining her defence is a valuable right of the appellant which the respondents are expected to acknowledge by extending her an opportunity for the purpose. Her disciplinary issue may, therefore, be re-decided also keeping in view the defence of the appellant. The appeal is disposed of accordingly. File be consigned to the record room.

(AHMAD HASSAN)
Member

(HAMID FAROOQ DURRANI)
Chairman
Camp Court, Abbottabad.

ANNOUNCED
17.12.2018