

06.06.2022

None for the appellant present. Mr. Kabirullah Khattak,
Addl: AG for respondents present.

On the call of Khyber Pakhtunkhwa Bar Council, District
Bar Association is observing strike today. Adjourned. To come
up for further proceedings on 07.06.2022 before the S.B at
camp court Swat. .



(Kalim Arshad Khan)
Chairman
Camp Court Swat

7th June, 2022

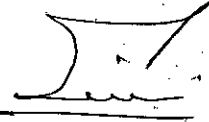
1. None present for the appellant.
2. Since the inception of this appeal on 11.08.2020 no one turned up from the appellant side. It was on 27.08.2021 when my learned predecessor had admitted this appeal to full hearing with the direction to the appellant to deposit security and process fee within 10 days but that has also not been deposited. In view of the above, the appeal is dismissed in default. Consign.
3. *Pronounced in open court in Swat and given under my hand and seal of the Tribunal this 7th day of June, 2022.*



(Kalim Arshad Khan)
Chairman
Camp Court Swat

03.01.2022

Nemo for the appellant. Security and process fee have not been deposited by the appellant, therefore, notice be issued to appellant as well as his counsel through registered post for 10.02.2022 before the S.B at Camp Court Swat.



(Salah-Ud-Din)
Member (J)
Camp Court Swat

10.02.2022

Tour is hereby canceled. Therefore, the case is adjourned to 07.04.2022 for the same as before at Camp Court Swat.



Reader

07.04.2022

Nemo for the appellant.

Previous date was changed on Reader Note, therefore, notice for prosecution of the appeal be issued to appellant as well as his counsel through registered post and to come up for further proceedings on 06.06.2022 before the S.B at Camp Court Swat.



(Salah-Ud-Din)
Member (J)
Camp Court Swat

9264/2021

27.08.2021

Nemo for the appellant.

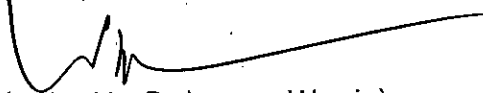
I have gone through the Memo. of appeal and documents attached therewith. Points raised in the memo of appeal need consideration. Subject to all just and legal objections, including that of limitation to be determined during the course of full hearing, this appeal is admitted for full hearing. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments in office at Peshawar within 10 days after receipt of notices, positively. If the written reply/comments are not submitted within the stipulated time, or extension of time is not sought through written application with sufficient cause, the office shall submit the file with a report of non-compliance. File to come up for arguments on 01.11.2021 before the D.B at camp court, Swat.

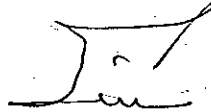
Notices be issued to appellant/counsel to deposit security and process fee within 10 days.


Chairman
Camp court, Swat.

01.11.2021

Nemo for the appellant. Security and process fee have not been deposited by the appellant, therefore, notice be issued to appellant as well as his counsel for 03.01.2022 before the D.B at Camp Court Swat.


(Atiq-Ur-Rehman Wazir)
Member (E)
Camp Court Swat


(Salah-Ud-Din)
Member (J)
Camp Court Swat

02.02.2021

Nemo for appellant.

Preceding date was adjourned on account of Covid-19, therefore, notice be issued to appellant/counsel for 08.04.2021 for preliminary hearing before S.B at Camp Court, Swat



(Rozina Rehman)
Member (J)
Camp Court, Swat

08.04.2021

Due to COVID-19, the case is adjourned to 10.06.2021 for the same.



Reader

26.07.2021

To come up for preliminary hearing on 27.08.2021 before S.B at Camp Court, Swat. Notices be issued to appellant/counsel for the date fixed.

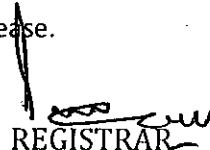




Chairman

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- _____ /2020

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	11/08/2020	<p>The appeal of Mr. Mehmood Idress presented today by Mr. Muhammad Nabi Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p> REGISTRAR</p>
2-		<p>This case is entrusted to touring S. Bench at Swat for preliminary hearing to be put up there on <u>3-11-2020</u></p> <p> CHAIRMAN</p>
	03.11.2020	<p>Nemo for appellant.</p> <p>Lawyers are on general strike, therefore, case is adjourned to 08.12.2020 for preliminary hearing, before S.B at Camp Court, Swat.</p> <p> (Rozina Rehman) Member (J) Camp Court, Swat</p>
	8/12/20	<p>DUE to COVID-19 case is adjourned to 02/02/2021</p> <p> Reader</p>

BEFORE THE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA AT PESHAWAR

Service Appeal No 9264 of 2020

Mehmood Idress (Appellant)

VERSUS

Govt. of KP and others (Respondents)

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4.	Copy of order dated 05-12-2019	B	10
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Appellant

Through counsel


MUHAMMAD NABI
Advocate, High Court

Office: Nisar Plaza, 2nd Floor, Near District Courts Swat
Cell No. 0312-9992347

BEFORE THE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA AT PESHAWAR

Khyber Pakhtunkhwa
Service Tribunal

Service Appeal No 9264 of 2020

Diary No. 8622

Dated 11/08/2020

Mehmood Idress presently service as SPST, GPS Jughbanj,
District Dir Upper,

.....Appellant

VERSUS

- 1) Govt. of KP through Secretary Education at Peshawar.
- 2) Director Elementary & Secondary Education Khyber
Pakhtunkhwa at Peshawar.
- 3) District Education Officer Dir Upper.

.....Respondents

SERVICE APPEAL UNDER SECTION 4, OF
THE KPK SERVICE TRIBUNAL ACT, 1974,
AGAINST THE ORDER DATED 05-12-2019
(COMMUNICATED ON 20-12-2019),
WHEREBY THE APPELLANT WAS
REINSTATED IN SERVICE WITH
IMMEDIATE EFFECT AND THE
INTERVENING PERIOD CONVERTED AS
LEAVE WITHOUT PAY AND AGAINST
WHICH DEPARTMENTAL APPEAL WAS
FILED BEFORE THE COMPETENT

Filed to-day

Aw
Registrar
11/08/2020

2)

AUTHORITY ON 16-01-2020, BUT AS NO
REPLIED / DECIDED AFTER THE LAPS OF
STATUTORY PERIOD OF 90 DAYS.

PRAYER IN APPEAL

On acceptance of this appeal the reinstatement order dated 05-12-2019 to the extent of the intervening period converted as leave without pay, may be modified and the appellant reinstatement order would be made with all back benefits. Any other relief which are proper in the instant circumstances of the may also be granted.

Respectfully Sheweth,

1. That the appellant was initially appointed as P.S.T teacher and was posted at Govt. Primary School Jughabang Upper Dir, ever since my appointment I had performed my duties as assigned with great zeal & devotion and there was no complaint whatsoever regarding my performance.
2. That while serving in the said capacity as P.S.T at Government Primary School Jughabang Upper Dir, a compliant was made by the headmistress of Govt. Girls Primary School Kotkai, District Dir Upper regarding the embezzlement in stipend for girls students, and after so called inquiries the appellant

was removal from service vide impugned order dated 13-04-2018. (Copy of order dated 13-04-2018 is attached as annexure "A")

3. That the appellant filed a service appeal No. 1176 of 2018 before this honorable tribunal, but during the pendency of the said appeal the appellate competent authority on the appeal of the appellant reinstate him into service but quite illegally without any legal justification order the reinstatement with immediate effect and the intervening period converted as leave without pay. (Copy of the reinstatement order dated 05-12-2019 is attached as annexure "B")
4. That the appellant aggrieved from the impugned order dated 05-12-2019 communicated on 20-12-2019 partially against which the appellant filed department appeal to the competent authority but the same was not decided till yet but due to the Covid-19 pandemic and also due to the lock down in the country the appellant could not approached to this honorable tribunal within the stipulated time as (from 18-03-2020 till 31-05-2020) within the statutory period of 90 days. (Copy of department appeal is attached as annexure "C")

- 4)
5. That the appellant is approached this Honorable Tribunal for the redressal of his grievances against the action and inaction of the respondents on the following ground inter alia.

GROUND:-

- i) That the petitioner has not been dealt with in accordance with law and rules regulating service of the appellant.
- ii) That no procedure has been followed before awarding to appellant the penalty of "intervening period converted as leave without pay", the appellant have not been served with any charge sheet or statements of allegations or any inquiry has been conducted to probe the charges, the whole proceedings are thus nullity in the eyes of law.
- iii) That the ends of justice so requires that the appellant be reinstated in service with all back benefits, but the competent authority very hasty manner passed the order.
- iv) That the case of the appellant is covered under FR-54 which provides that:-
"F.R-54---Where a Government Servant has been dismissed or removed is reinstated, the revising or appellant

5

authority may grant to him for the period of his absence from duty---

a) If he is honorably acquitted, the full pay to which he would have been entitled if he had not been dismissed or removed, and, by an order to the separately recorded, any allowance of which he was in receipt prior to his dismissal removal; or

b) If otherwise, such portion of such pay and allowances as the revising or appellant authority may prescribed.

In a case falling under clause (a), the period of absence from duty will be treated as period spent on duty unless the revising appellate authority so directs.

- v) That during the intervening period the appellant never remained in gainful employment, therefore on his reinstatement he is entitled for the grant of all benefits also.
- vi) That the action & inaction of respondents are whimsical, capricious and founded on surmises and conjectures.
- vii) That the impugned treatment given by the Respondents to the petitioner is violation of the Articles 4, 9, 25 & 27 of the constitution of the Islamic Republic of Pakistan, 1973.

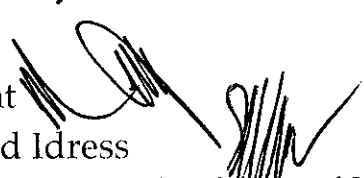
6)

viii) That the petitioner has not join any other job during the period, when he remained out of service. Hence, according to the judgments of superior courts he is entitled for the salaries / pay of the intervening period along with all back benefits.

ix) That some other grounds may be argued at the time of arguments with the prior permission of this Honorable Tribunal.

Therefore in view of the above submissions, it is most humbly prayed that on acceptance of this appeal the reinstatement order dated 05-12-2019 to the extent of the intervening period converted as leave without pay, may be modified and the appellant reinstatement order would be made with all back benefits. Any other relief which are proper in the instant circumstances of the may also be granted.

Appellant
Mehmood Idress


(Muhammad Nabi Adv.)
(Counsel for appellant)

CERTIFICATE:

It is certified by that the amended service appeal is file with the direction of this Honorable Tribunal.


Advocate

7)

BEFORE THE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA AT PESHAWAR

Service Appeal No _____-M of 2020

Mehmood Idress (Appellant)

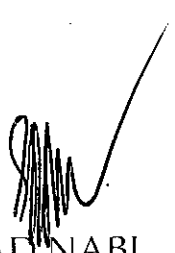
VERSUS

Govt. of KP and others..... (Respondents)

AFFIDAVIT

I, Mehmood Idress (appellant), do hereby solemnly affirm
and declare on oath that the contents of the above titled Appeal
is true and correct to the best of my knowledge and belief.

Identified by


MUHAMMAD NABI
Advocate, High Court
(Counsel for appellant)

DEPONENT


Mehmood Idress

BEFORE THE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA AT PESHAWAR

Service Appeal No _____ -M of 2020

Mehmood Idress (Appellant)

VERSUS

Govt. of KP and others..... (Respondents)

ADDRESSES OF THE PARTIES

APPELLANT

Mehmood Idress presently service as SPST, GPS Jughbanj,

District Dir Upper,

CNIC No:15701-2480143-1


Cell No:0313-8578537

RESPONDENTS

1. Govt. of KP through Secretary Education at Peshawar.
2. Director Elementary & Secondary Education Khyber Pakhtunkhwa at Peshawar.
3. District Education Officer Dir Upper.

Appellant

Mehmood Idress


MUHAMMAD NABI
Advocate, High Court
(Counsel for appellant)

9)

Amir

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Before the
3rd May

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

NOTIFICATION

- 1- WHEREAS, Muhammad Idrees SPST GPS Jughapang District Dir Upper was proceeded against under the Khyber Pakhtunkhwa Government Servant (Efficiency & Discipline) Rules 2011, for the charges mentioned in the Show Cause Notice issued vide this office No.3768/A-17 /SST/F/Complaint/Dir Upper/Vol.II dated 13-02-2017.
- 2- AND WHEREAS, inquiry committee was constituted comprising the following officers to conduct formal inquiry against the accused officer, for the charges leveled against her in accordance with the rules.
 - iii- Mr Muhammad Uzair DEO(M) Malakand
 - iv- Mr. Aurangzeb Assistant Director Local office
- 3- AND WHEREAS, after having examined the charges, evidence on record and explanation of the accused officer, has submitted the report.
- 4- AND WHEREAS, a show cause notice was served upon Muhammad Idrees SPST GPS Jughapang District Dir Upper dated 13-02-2017 which was conveyed to her on 08-03-2017.
- 5- AND WHEREAS, the competent authority (Director E&SE Khyber Pakhtunkhwa) after having considered the charges, evidence on the record enquiry report, explanation of the accused officer in response to the show cause notice and personal hearing granted to her on 07-03-2018 is of the view that the charges leveled against the accused officer have been proved.
- 6- NOW THEREFORE, in exercise of powers conferred under section 14 of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules 2011, the competent authority (Director E&SE Khyber Pakhtunkhwa) is pleased to impose the penalty of "removal from service" upon Muhammad Idrees SPST GPS Jughapang District Dir Upper

Director
Elementary & Secondary Education
Khyber Pakhtunkhwa Peshawar

10000 No. 2-284-26 /A-17/Complaint/F/Dir Upper/Vol..II

Dated Peshawar the 13/4 /2018

Copy of the above is forwarded to the:-

- 1- District Education Officer(Female) Dir Upper
- 2- District Accounts Officer Dir Upper
- 3- Section Officer(Complaint) Govt. of Khyber Pakhtunkhwa Elementary & Secondary Education Department w/r to her letter No.SO(Complaint)E&SED/KPK/1-7/2016/Mahmood/SE-2047 dated 31-01-2018
- 4- Principal concerned
- 5- Muhammad Idrees SPST GPS Jughapang District Dir Upper
- 6- PA to Director (E&SE) Local Office.
- 7- Master file.

Deputy Director Establishment(F)
(E&SE) Khyber Pakhtunkhwa,

Noor/AR

**Attested & Accepted by
Muhammad Nabi
Advocate, High Court**



10)

~~Admitted~~ B's

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

Phone: 091-9225338 Fax: 091-9225345

NOTIFICATION

1. WHEREAS, Mehamood Idrees SPST GPS Jughapang District Dir Upper was proceed against under the E&D Rules-2011 this office Endst No. 2884-86 dated 13-04-2018 and was removed from vide on the charges that you have embezzled the amount regarding Girls stipend program during the period of 2010 to 2015.
2. WHEREAS, the appellant concerned submitted appeal before the Director E&SE Khyber Pakhtunkhwa for reinstatement in service.
3. WHEREAS, The District Education Officer (Male) Dir Upper vide this office letter No. 7838 dated 26-03-2019, was asked to furnish complete record/history in r/o the appellant concerned.
4. WHEREAS, the DEO provided the requisite record alongwith comments vide letter No. 1686 dated 23-05-2019 in respect of the appellant concerned.

Now Therefore, the Appellate Authority, Director Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar, after having considered the charges, evidence on record, Mehamood Idrees SPST GPS Jughapang District Dir Upper is hereby reinstated in service with immediate effect and the intervening is hereby converted as leave without pay subject to the condition that if any liabilities against him should be deducted from his salaries or pension.

(DIRECTOR)

Endst No. 3399-3402 /F.No.162/Vol:XI.KC/PST (M) Dated Peshawar the 5-12/2019.
Copy of the above is forwarded for information and necessary action to the:-

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

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

**Attested & Accepted by
Muhammad Nabi
Advocate, High Court**

بخدمت جناب سیکرٹری صاحب ایلیمنٹری اینڈ سیکنڈری ایجوکیشن خیبر پختونخوا۔

درخواست برائے اپیل بقایا جات تنخواہ بعد از دوبارہ ایڈجسٹمنٹ
عنوان:-

جناب عالی۔

انتہائی ہمدردانہ درخواست ہے۔

- ۱۔ یہ کہ سائل GPS جو غانج دیر بالا میں بحیثیت SPST بی۔ پی۔ ایس 14 میں فرائض منصبی انجام دے رہا تھا۔
 - ۲۔ یہ کہ سائل کو سابقہ ڈائریکٹر صاحب ایلیمنٹری اینڈ سیکنڈری ایجوکیشن خیبر پختونخوا نے گرلز ہائی سکول کو نکلے دیر بالا کے طالبات کے سکالرشپ تقسیم کرنے کے بے بنیاد الزام پر بحوالہ ملازمت سے برخاستگی آرڈر نمبر 86-2884 مورخہ 13-4-2018 کو ملازمت سے برخاست کیا تھا۔
 - ۳۔ بعد میں ڈائریکٹر صاحب ایلیمنٹری اینڈ سیکنڈری ایجوکیشن پشاور نے سائل کو بذریعہ آرڈر نمبر 3402-3399 مورخہ 5-12-2019 کو بحال کیا تھا۔ اور سائل نے باقاعدہ اپنی ڈیوٹی بھی سنبھال لی ہے۔ بحالی کی آرڈر لف ہے۔
 - ۴۔ یہ کہ سائل کو بحال کرنے کے بعد سائل کو تا حال 13-4-2018 سے اب تک بلا جواز تنخواہوں سے محروم رکھا گیا ہے۔ اور سائل سخت مالی مشکلات کا شکار ہے۔ یہ کہ بحالی کے بعد سائل کو تنخواہوں کی ادائیگی قرین انصاف ہے۔
- درجہ بالا گزارشات کی روشنی میں آپ صاحبان کی خدمت میں عرض گزار ہوں۔ کہ ڈائریکٹر صاحب کو احکامات صادر فرمائیں تاکہ ملازمت سے برخاستگی کے بعد یعنی 13-4-2018 سے تنخواہیں دینے کے احکامات صادر فرمائیں تو بڑی مہربانی ہوگی۔ امید ہے میرے مشکلات کو مد نظر رکھ کر آپ صاحبان تنخواہیں دینے کے احکامات صادر فرمائیں گے۔ بڑی مہربانی ہوگی۔

فقط زیادہ اداب

العارض۔

محمود ادریس SPST گورنمنٹ پرائمری سکول جو غانج ضلع دیر بالا۔

16/01/2020

Attested & Accepted by
Muhammad Nabi
Advocate, High Court

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA AT PESHAWAR

WAKALAT NAMA

Service Appeal No. _____ of 2020

Mehmood Idress (Appellant)

VERSUS

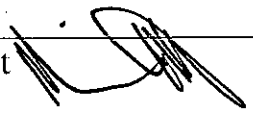
Govt. of KP and others..... (Respondents)

I/We, Mehmood Idress (appellant), do hereby appoint **Muhammad Nabi Advocate**, High Court, in the above mentioned case, to do all or any of the following acts, deeds and things:-

- 1) To appear, act and plead for me in the above mentioned case in this Court/Tribunal in which the same may be tried or heard, and any other proceedings arising out of or connected therewith.
- 2) To sign and verify and file, petitions, appeals, affidavits and applications as my be deemed necessary or advisable by them for the conduct, prosecution or defense of the said case at all its stages.
- 3) That entire fee so fixed will be payable in two equal installments: i.e., half fee at this time of signing Wakalat Nama and remaining on the first date of hearing.
- 4) To receive payment of, and issue receipts for, all moneys that may be or become due and payable to us during the course of the proceedings.
- 5) To do any act necessary or ancillary to the above acts, deed and things.
- 6) To appoint any other counsel to do any /all of the acts, deeds and things.
- 7) I/We, shall appear in the court/tribunal on every date of hearing for assistance and if due to my non appearance, any adverse judgment / order / decree is passed, they will not be held responsible.

IN WITNESS whereof I / We have signed this Wakalat Nama hereunder, the contents of which have been read / explained to me and fully understood by me this 08th August, 2020.

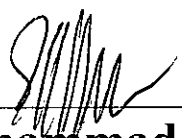
Signature of Executant
Mehmood Idress



CNIC No:15701-2480143-1

Cell No:0313-8578537

ATTESTED & ACCEPTED BY:


Muhammad Nabi
 Advocate, High Court