

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

**Service Appeal No. 710/2018**

**BEFORE:** SALAH UD DIN --- MEMBER(J)  
MIAN MUHAMMAD --- MEMBER(E)

Qazi Salah Ud Din Ex-S.CT GHS Ahamd Khel,  
Peshawar..... (*Appellant*)

**VERSUS**

1. Secretary to Government of Khyber Pakhtunkhwa Elementary & Secondary Education Department, Civil Secretariat Peshawar.
2. Director Elementary & Secondary Education Department, Khyber Pakhtunkhwa Education Directorate, GT Road, Peshawar.
3. District Education Officer (Male), Peshawar..... (*Respondents*)

**Present:**

MUHAMMAD ANWAR,  
Advocate

--- For Appellant.

MUHAMMAD RIAZ KHAN PAINDAKHEL,  
Assistant Advocate General,

--- For respondents.

Date of Institution.....24.05.2018

Date of Hearing.....21.09.2022

Date of Decision.....21.09.2022

**JUDGEMENT.**

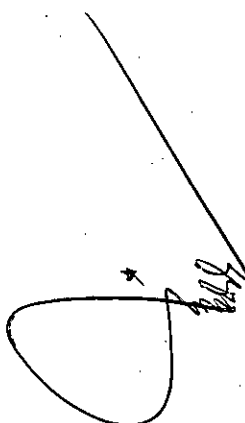
**MIAN MUHAMMAD, MEMBER(E):-** The appellant has invoked jurisdiction of the Service Tribunal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the impugned Notification of respondent No. 3 dated 06.02.2015 whereby beside other periods, the period allegedly spent under suspension was treated as leave without pay. It has been prayed that "on acceptance of this appeal, the impugned order to the extent of Para-1 may please be revised and may be treated as

earned leave with pay as the appellant has sufficient earned leave at his credit and the appellant may kindly be allowed to get his salary from 01.02.2009 to 15.10.2009 with all back benefits, including promotion, up-gradation of the post etc.”

02. Brief facts of the case, as averred in the service appeal, are that the appellant has been working in the respondent department since 1985 and while posted as S.CT GHS Ahmad Khel Peshawar, he was implicated in FIR No. 735 dated 02.10.2008 under Section 302/34 PPC, Police Station Badaber Peshawar. On his acquittal by the competent court of law on 30.06.2014, the appellant was reinstated into service and period of his absence from duty counted while dividing it into three separate parts/periods under the impugned Notification dated 06.02.2015. The appellant challenged it in departmental appeal dated 25.01.2018 but the same was not responded within the statutory period of 90 days hence the instant service appeal was filed in Service Tribunal on 24.05.2018.

03. On 02.08.2018 pre-admission notices were issued to the respondents for submission of reply/comments. Reply/Parawise comments were submitted on 18.10.2018 and the case was posted to D.B for arguments. We have heard learned counsel for the appellant as well as learned Assistant Advocate General for the respondents in Divisional Bench and gone through the record thoroughly with their assistance today.

04. Learned counsel for the appellant contended that the appellant was falsely implicated in the criminal case, upon which the respondent department suspended the appellant from service. On honourable acquittal by the court on 30.06.2014, the appellant was reinstated into service from the date of acquittal but the period spent under suspension (01.02.2009 to 15.10.2009) was treated as leave without pay vide impugned Notification dated 06.02.2015 which should have been treated under FR-53. He further argued that the appellant has sufficient earned leave to his credit and the impugned Notification has been issued in utter disregard to the law, rules, regulation and is therefore liable to be revised to the extent of Para-1, he concluded.



05. Learned Assistant Advocate General on the other hand contended that the appellant after acquittal and release from Prison was reinstated into service w.e.f 30.06.2014 vide impugned Notification dated 06.02.2015 and in pursuance of which he rejoined his duty at GHS Ahmad Khel Peshawar. His grievances have already been addressed and properly resolved in the impugned Notification. Moreover, he filed departmental appeal after lapse of 02 years. He further argued that the appellant has been treated in accordance with law, rules, regulations and he has no cause of action to approach the Service Tribunal. The appeal being devoid of merit may graciously be dismissed with costs, he concluded his arguments.

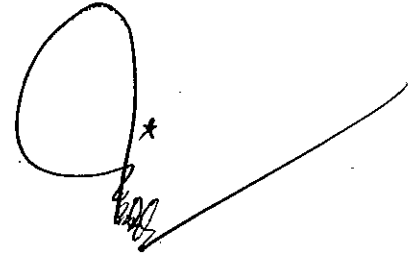
06. From careful perusal of the record it is evident that the appellant while posted as S.CT at GHS Ahmad Khel Peshawar was nominated in FIR No. 735 dated 02.10.2008 under Section 302/34 PPC. The claim of appellant that he was suspended by the respondents is not substantiated with credible documentary evidence that he was actually placed under suspension as per requirement of CSR-194. Learned Assistant Advocate General also did not produce suspension order of the appellant when confronted by the Bench during course of the arguments. It transpires that the appellant on nomination in the said FIR was absconding and had not surrendered before law voluntarily. On acquittal, from Prison he was reinstated into service in pursuance of the judgement of Additional Sessions Judge-II Peshawar dated 30.06.2014 with effect from the same date i.e. 30.06.2014 and his period of absence from duty spent in Jail till his acquittal on 30.06.2014 was treated as on duty vide impugned Notification dated 06.02.2015. However, the disputed period i.e. 01.02.2009 to 15.10.2009 purported to have been spent while under suspension, has been treated as leave without pay being unauthorized absence as reported by Head Master of the School he was posted at relevant time. It is also clear from the record that FIR No. 735 was registered on 02.10.2008 and the appellant absented himself from duty since 01.02.2009 till 15.10.2009 meaning thereby he was absconder during the period till he was arrested on 16.10.2009.

07. As a sequel to the preceding Paras, we have arrived at the conclusion that the appellant has been proceeded for willful absence and not on the basis of FIR or criminal proceedings against him. He has been treated in accordance with law, rules, regulations on the subject and we find no legal infirmity in the impugned Notification dated 06.02.2015 which would warrant to be interfered with and revised. The instant service appeal being devoid of merits, is hereby dismissed. Parties are left to bear their own costs. File be consigned to record room.

08. *Pronounced in open court at Peshawar and given under our hands and seal of the Tribunal this 21<sup>st</sup> day of September, 2022.*



(SALAH UD DIN)  
MEMBER (J)



(MIAN MUHAMMAD)  
MEMBER (E)


**ORDER**

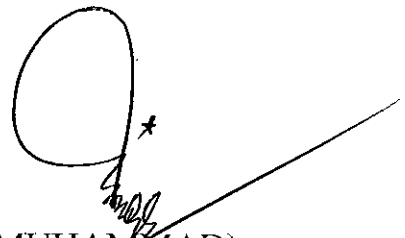
21.09.2022

Mr. Muhammad Anwar, Advocate for the appellant present. Mr. Muhammad Riaz Khan Paindakhel, Assistant Advocate General for the respondents present.

02. Vide our detailed judgement of today separately placed on file containing (05) pages, we have arrived at the conclusion that the appellant has been proceeded for willful absence and not on the basis of FIR or criminal proceedings against him. He has been treated in accordance with law, rules, regulations on the subject and we find no legal infirmity in the impugned Notification dated 06.02.2015 which would warrant to be interfered with and revised. The instant service appeal being devoid of merits, is hereby dismissed. Parties are left to bear their own costs. File be consigned to record room.

03. *Pronounced in open court at Peshawar and given under our hands and seal of the Tribunal this 21<sup>st</sup> day of September, 2022.*

  
(SALAH UD DIN)  
MEMBER (J)

  
(MIAN MUHAMMAD)  
MEMBER (E)

14.02.2022

Due to retirement of the Worthy Chairman, the Tribunal is defunct, therefore, case is adjourned to 12.05.2022 for the same as before.




Reader


12.05.2022

None present on behalf of the appellant. Mr. Muhammad Rasheed, Deputy District Attorney for the respondents present.

Previous date was changed on the basis of Reader Note, therefore, notice be issued to the appellant and his counsel for the date fixed. To come up for arguments before the D.B on 19.07.2022.



(Fareeha Paul)  
Member (E)




(Kalim Arshad Khan)  
Chairman

19.07.2022

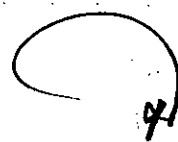
Junior to counsel for appellant present.

Muhammad Adeel Butt, learned Additional Advocate General alongwith Arshid Ali ADEO for respondents present.

Former requested for adjournment as senior counsel for appellant is busy before Hon'ble Peshawar High Court, Peshawar. Adjourned. To come up for arguments on 21.09.2022 before D.B.



(Fareeha Paul)  
Member(E)



(Rozina Rehman)  
Member (J)

07.09.2021

Nemo for the appellant. Mr. Kabirullah Khattak, Additional Advocate General for the respondents present.

Previous date was changed on Reader Note, therefore, notice for prosecution of the appeal be issued to the appellant as well as his counsel and to come up for arguments before the D.B on 16.12.2021.


  
(ATIQ-UR-REHMAN WAZIR)  
MEMBER (EXECUTIVE)

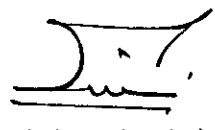
  
(SALAH-UD-DIN)  
MEMBER (JUDICIAL)

16.12.2021

Nemo for the appellant. Mr. Kabirullah Khattak, Additional Advocate General for the respondents present.

Notice for service of appellant was to be issued according to the dictates of the previous order sheet dated 07.09.2021, however no notice has been issued. The office is directed to ensure the compliance of the contents of order sheet dated 07.09.2021 by issuance of notice to the appellant as well as his counsel. To come up for arguments on 14.02.2022 before the D.B.

  
(Atiq-ur-Rehman Wazir)  
Member (E)

  
(Salah-ud-Din)  
Member (J)

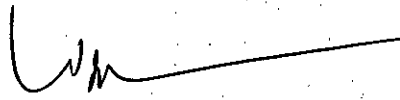





30.11.2020 Appellant in person present.

Kabir Ullah Khattak learned Additional Advocate General  
alongwith Arshid Ali ADEO for respondents present.

Former made a request for adjournment as his counsel is  
not available. Adjourned. To come up for arguments on  
10.02.2021 before D.B.

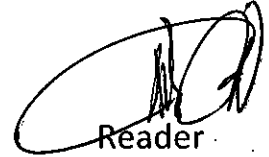


(Atiq ur Rehman Wazir)  
Member (E)



(Rozina Rehman)  
Member (J)

10.02.2021 Due to Pandemic of Covid-19, the case is adjourned to  
06.05.2021 for the same.



Reader

06.05.2021 Due to demise of the Worthy Chairman, the Tribunal is  
non-functional, therefore, case is adjourned to  
07.09.2021 for the same as before.




Reader

11-5 .2020


Due to COVID19, the case is adjourned to

28/7/2020 for the same as before.

  
Reader


28.07.2020

Due to COVID-19, the case is adjourned. To come for the same on 21.09.2020 before D.B.

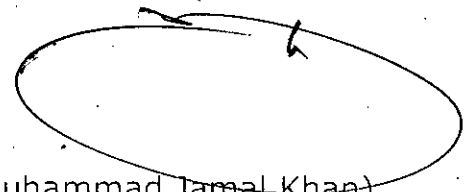
  
Reader

21.09.2020

Appellant is present in person. Mr. Kabirullah Khattak, Additional Advocate General for the respondents is also present. Appellant is seeking adjournment that his counsel is not available today. Adjourned to 30.11.2020 on which to come up for arguments before D.B.



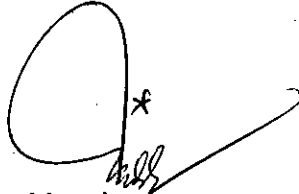
(Mian Muhammad)  
Member (Executive)



(Muhammad Jamal Khan)  
Member (Judicial)

11.03.2020

Appellant in person present. Addl: AG for  
respondents present. Appellant seeks adjournment.  
Adjourned. To come up for arguments on 11.05.2020  
before D.B.

  
Member

  
Member

09.10.2019

Appellant present. Mr. Kabir Ullah Khattak learned Additional Advocate General alongwith Arshid ADO present. Appellant seeks adjournment as his counsel is not in attendance. Application allowed. Adjourn. To come up for arguments on 22.11.2019 before D.B.

  
Member

  
Member

22.11.2019

Counsel for the appellant and Mr. Kabirullah Khattak, Additional AG for the respondents present. Learned counsel for the appellant requested for adjournment. Adjourned to 22.01.2020 for arguments before D.B.

  
(Hussain Shah)  
Member

  
(M. Amin Khan Kundi)  
Member

22.01.2020

Due to general strike on the call of the Khyber Pakhtunkhwa Bar Council, learned counsel for the appellant is not available today. Mr. Usman Ghani learned District Attorney for the respondents present. Adjourned to 11.03.2020 for further proceedings/arguments before D.B.

  
(Hussain Shah)  
Member

  
(M. Amin Khan Kundi)  
Member

29.04.2019

Appellant in person and Mr. Kabirullah Khattak learned Additional Advocate General for the respondents present. Appellant seeks adjournment as his counsel is not in attendance. Adjourn. To come up for arguments on 01.07.2019 before D.B.

  
Member

  
Member

01.07.2019

Junior counsel for the appellant and Mr. Kabirullah Khattak, Additional AG for the respondents present. Junior counsel for the appellant requested for adjournment on the ground that learned senior counsel for the appellant is busy before Hon'ble Peshawar High Court, Peshawar and cannot attend the Tribunal today. Adjourned to 27.08.2019 for arguments before D.B.


  
(HUSSAIN SHAH)  
MEMBER

  
(M. AMIN KHAN KUNDI)  
MEMBER

27.08.2019

Junior to counsel for the appellant and Khyber Pakhtunkhwa present. Junior to counsel for the appellant seeks adjournment as senior counsel for the appellant is not in attendance. Adjourn. To come up for arguments on 09.10.2019 before D.B.

  
Member

  
Member

18.10.2018

Junior to counsel for the appellant and Mr. Kabir Ullah Khattak alongwith Mr. Arshid Ali AD legal for the respondents present. Representative of the respondents submitted written reply/comments. Adjourn. To come up for rejoinder if any and arguments on 04.12.2018 before D.B

  
Member

04.12.2018

Counsel for the appellant present. Mr. Ziaullah, DDA for respondents present. Counsel for the appellant seeks adjournment. Granted. To come up for arguments on 24.01.2019 before D.B.


  
(Ahmad Hassan)  
Member

  
(M. Amin Khan Kundi)  
Member

24.01.2019


None for the appellant present. Addl: AG for respondents present. Case to come up for arguments on 08.03.2019 before D.B.

  
(Ahmad Hassan)  
Member

  
(M. Amin Khan Kundi)  
Member

08.03.2019

Counsel for the appellant and Mr. Kabirullah Khattak, Additional AG for the respondents present. Learned counsel for the appellant seeks adjournment. Adjourn. To come up for arguments on 29.04.2019 before D.B.

  
(M. AMIN KHAN KUNDI)  
MEMBER

  
(M. HAMID MUGHAL)  
MEMBER

18.07.2018

Counsel for the appellant present and seeks adjournment. Adjourned. To come up for preliminary hearing on 02.08.2018 before S.B.

  
(Ahmad Hassan)  
Member

02.08.2018

Appellant Qazi Salah Ud Din in person alongwith his counsel Mr. Muhammad Anwar, Advocate present and heard in limine.

Main grievance is against the first portion of the impugned order whereby his absence from 01.02.2009 to 15.10.2009 was considered as leave without pay. In the circumstances it will be proper and suitable purview, pre-admission notice be given to the respondents for assistance. Case to come up for preliminary hearing on 11.09.2018 before S.B.

  
Chairman

11.09.2018

Neither appellant nor his counsel present. Mr. Kabirullah Khattak, Addl: AG for respondents present. Case to come up for preliminary hearing on 18.10.2018 before S.B.

  
Chairman





**BEFORE THE SERVICE TRIBUNAL, KPK, PESHAWAR**

Service Appeal No. 710 of 2018

Qazi Salah Ud Din ..... Appellant

**VERSUS**

Secretary and others..... Respondents

**I N D E X**

S.No	Description of Documents	Annex	Pages
1.	Grounds of service appeal		1-5
2.	Addressees of Parties		6
3.	Copy of impugned Notification Endst: No. 4003-5/P.F dated 06/02/2015	A	7
4.	Copy of Departmental Appeal	B	8
5.	Copy of office order dated 05/10/1985	C	9-9/A
6.	Copies of Criminal case	D	10-15
7.	Wakalat Nama		16

*Muhammad Anwar*  
Appellant

Through

**Muhammad Anwar**

**Inamullah Alizia**

**Jahanzeb Shinwari**

Advocates Peshawar,

Cell: 0333-8866902

Date: 24/05/2018

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

Khyber Pakhtunkhwa  
Service Tribunal

Service Appeal No. 710 /2018

Diary No. 966

Dated 24-5-2018

**Qazi Salah Ud Din** Ex-S.CT GHS Ahmad Khel, Peshawar  
.....Appellant

**V E R S U S**

1. Secretary to Government of Khyber Pakhtunkhwa  
Elementary & Secondary Education Department, Civil  
Secretariat, Peshawar
2. Director Elementary & Secondary Education  
Department, KPK Education Directorate, GT Road,  
Peshawar
3. District Education Officer (Male), Peshawar  
.....Respondents

**APPEAL U/S 4 OF THE KHYBER  
PAKHTUNKHWA SERVICE  
TRIBUNAL ACT, 1974 AGAINST  
THE NOTIFICATION UNDER  
ENDST: NO. 4003-5/P.F DATED  
06/02/2015 (COPY OF IMPUGNED  
ORDER IS ANNEXED AS  
ANNEXURE A) ISSUED BY THE  
OFFICE OF THE DISTRICT**

**Filed to day**  
*Sondal*  
*24/5/18*  
**Registrar**

2

**EDUCATION OFFICER (MALE),  
PESHAWAR AGAINST WHICH  
THE APPELLANT PREFERRED  
DEPARTMENTAL APPEAL ON  
25/01/2018 (COPY ANNEXED  
HERETO MARKED B) BUT THE  
SAME HAS NOT BEEN  
RESPONDED WITHIN THE  
STATUTORY PERIOD OF 90 DAYS,  
HENCE THIS SERVICE APPEAL.**

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**RESPECTED SIR:**

1. That the appellant joined the education department in the capacity of SV/OT in the strength of office order dated 05/10/1985. (Copy of office order dated 05/10/1985 is annexed as annexure C).
2. That the whole service career of the appellant is spotless and to this effect the ACRs bear the testimony.
3. That later on the appellant was promoted to the post of S.CT GHS Ahmad Khel, Peshawar.

4. That appellant was falsely implicated in criminal case vide FIR No. 735 dated 02/10/2008 under section 302/34 PPC, PS Badaber, Peshawar.
  
5. That the appellant has been Honorably acquitted of the false charges vide judgment/order dated 30/06/2014. (Copies of Criminal case are annexed as annexure D)
  
6. That after acquittal from the criminal case, the competent authority was please to reinstate the appellant w.e.f 30/06/2014 vide impugned notification (annexure A) with the following decision:
  - I. 01/02/2009 to 15/10/2009 as leave without pay as he remained absent from duty as per report of Head Master.
  - II. From 16/10/2009 to 13/12/2009 to be treated as on duty (Jail Period)
  - III. From 14/12/2009 to 29/06/2014 to be treated on duty as he remained in the School.
  
6. That the appellant, being aggrieved of the order dated 06/02/2015 (Annexure A) invoked the Appellate Departmental Jurisdiction through Departmental Appeal (Annexure B) but the said appeal has not been responded within the statutory period of 90 days.
  
7. That the appellant feeling aggrieved and having no other adequate remedy, invokes the appellate jurisdiction of

4


this Hon'ble Service Tribunal, on the following grounds,  
inter alia:

**GROUND S:**

- A. That the impugned notification to the extent of para-1 is against the law, rules, regulation and thus liable to be cancelled.
- B. That the appellant has/had sufficient earned leave at his credit, but this aspect has not been taken into consideration by the respondents/department.
- C. That the appellant has not been treated according to law, rules and regulations meant for leave.
- D. That the impugned notification/order is harsh and the appellant has been penalized for no fault on his part.
- E. That any other additional grounds will be raised at the time of final hearing of this appeal.

It is therefore, humbly requested that on acceptance of this Service appeal, the impugned order (Annexure A) to the extent of Para-1 may please be revised and may be treated as earned leave with pay as the appellant has sufficient earned leave at his credit and the appellant may kindly be allowed to get his salary from 01/02/2009 to 15/10/2009 with all back benefits, including promotion, upgradation of

the post etc. Any other relief, which has not been asked for specifically and the appellant is entitled to, may also be granted to the appellant.

  
Appellant

Through

**Muhammad Anwar**

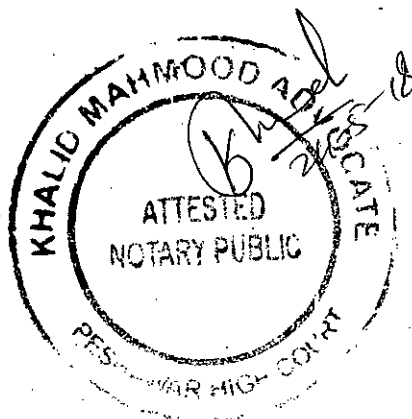
  
**Jahanzeb Shinwari**

**Inamullah Alizai**  
Advocates, Peshawar

Date: 24/05/2018

### **AFFIDAVIT**

I, **Qazi Salah Ud Din**, do hereby solemnly affirm and declare on oath that the contents of the accompanying **Service Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.



  
**DEPONENT**

6/

**BEFORE THE SERVICE TRIBUNAL, KPK,**  
**PESHAWAR**

Service Appeal No. \_\_\_\_\_ of 2018

Qazi Salah Ud Din ..... Appellant

**V E R S U S**

Secretary and others..... Respondents


**ADDRESSES OF PARTIES**

**APPELLANT:**

**Qazi Salah Ud Din**  
Ex-S.CT GHS Ahmad Khel, Peshawar

**RESPONDENTS:**

1. Secretary to Government of Khyber Pakhtunkhwa  
Elementary & Secondary Education Department, Civil  
Secretariat, Peshawar
2. Director Elementary & Secondary Education  
Department, KPK Education Directorate, GT Road,  
Peshawar
3. District Education Officer (Male), Peshawar

  
Appellant

Through

**Muhammad Anwar**

**Jahanzeb Shinwari**

**Inamullah Alizai**  
Advocate, Peshawar

Date: 29/05/2018

Ant - 'A'

7

OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) PESHAWAR.

NOTIFICATION.

Consequent upon his acquittal vide judgment of Additional Session Judge II Peshawar dated 30-06-2014 in the case No:113 /SC of 2011 state versus Salah ud Din & others, the competent authority is pleased to reinstate Mr. Salah ud Din CT GHS Ahmad Khel Peshawar w.e.f, 30-06-2014.

His Suspension period is decided as under:

- 1- 01-02-2009 to 15-10-2009 as Leave without Pay as he remained absent from duty as per report of the Head Master.
- 2- From 16-10-2009 to 13-12-2009 to be treated as on duty (Jail Period).
- 3- From 14-12-2009 to 29-06-2014 to be treated on duty as he remained in the school

DISTRICT EDUCATION OFFICER  
(MALE) PESHAWAR.

Endst: No: 4003-S/P.F/ Dated 6/2 /2015.

Copy for information to the:-

- 1- Accountant General Khyber Pakhtunkhwa Peshawar.
- 2- Head Master GHS Ahmad Khel Peshawar w/r to his No:685 dated 06-12-2014.
- 3- Teacher concerned.

DY: DISTRICT EDUCATION OFFICER  
(MALE) PESHAWAR.

ATTESTED



Ant - "B"

8/1

بخدمت جناب ڈسٹرکٹ ایجوکیشن آفیسر (پندرہ دانہ)  
خیبر پختونخواہ، پشاور

اپیل برائے تنخواہ بقایا جات معطلی

جناب عالی!

مودبانہ التماس عرض خدمت ہے کہ سائل مورخہ 02/02/2009 میں 302 FIR کیس میں چارج ہوا تھا۔

سائل کو ملازمت سے Suspend بمورخہ 11/01/2009 کیا گیا تھا۔ سائل کو Suspend پیریڈ کی تنخواہ بمورخہ 13/12/009 سے دیا گیا ہے۔ کہ سائل کو مذکورہ بالا کیس میں پشاور ہائی کورٹ سے بری الذمہ بمورخہ 30/06/2014 قرار دیا ہے۔ Suspend Period کو آپ فرائض احکامات جاری

*M. S. S. S.*  
ATTESTED

کہ سائل نے اپنی Suspend پیریڈ کی تنخواہ وصول کی ہے۔ لیکن کچھ مدت کی بقایا جات از 01/02/2009 سے 12/10/2009 کا بقایا ہے۔ لہذا اس پیریڈ کی تنخواہ تا حال بقایا ہے۔ لہذا اس پیریڈ کی تنخواہ کی وصولی کے لئے احکامات جاری فرما کر مشکور فرمائیں۔

نوٹ: درخواست ہذا کے ساتھ عدالتی فیصلے کی نقل کاپی اور FR(Rules) بھی کارروائی کے لئے منسلک ہیں۔

شکریہ

(المرقوم: 25/01/2018)

Forwarded to DEO(M) for n/a pl.

*M. S. S. S.*

قانون صلاح الدین SCT

گورنمنٹ ہائی سکول احمد خیل پشاور



Any - "C"

9

OFFICE OF THE DIRECTOR OF EDUCATION (SCHOOLS) PESHAWAR DIVISION, PESHAWAR.

APPOINTMENTS.

Appointments of the following persons are hereby ordered against the post of SV/OT on temporary & Adhoc basis at Rs.620/- P.M. fixed plus usual allowances as admissible under the Rules in Basic Pay Scale 5.9 at the Institutions noted against each name:-

Name, Qualification & Address	Posted at	Remarks.
1. Qazi Salahud Din M.A. / S/O Jamalud Din Vill: Ahmad Khel Tehsil & District Peshawar.	GHS: Sufaid Dheri (Peshawar)	Against newly created SV post.
2. Abdur Rahim B. Theology/Arabic S/O Hafiz Abdul Hakim Village & P/O Hazar Khawani (Peshawar).	GHS: No.1 Peshawar Cantt:	Against SV/OT post, vice Khalilur-Rehman retired.
3. Mohammad Mushtaq MA S/O Faiz Rasool C/O Faiz Rasool, Sub Inspector P.S. Sharqi Pesh:.	GMS: Bana Mari Peshawar City.	Vice Shabir Ahmad SV transferred to CT post.
4. Sharafat Gul B.Sc Hons: S/O Saeed Gul Vill: Banda Sheikh Ismail Teh: Nowshera Distt: Pesh:	GMS: Banda Sheikh Ismail (Nowshera)	Against vacant post vice Mohammad Tahir SV selected for BEd.
5. Ibrahim Jan B.A, S/O Yousaf Jan Vill: Frang Teh: Charsadda (Pesh:).	GHS: Hajizai (Chd)	Against vacant post Vice Imdadul Haq SV transferred.
6. Fazli Mabood F.Sc S/O Abdul Wadud Vill: & P/O Amir Abad Pull Killi Tehsil Charsadda Distt: Peshawar.	GHS: Haji Zuhra- Gul Killi (Chd:).	Vice Mohammad Ayaz SV absent from duty.
7. Khurshid Alam FA S/O Jan Alam, Tx SV Teacher Government High School Dak Esmail Khel: (Nowshera)	GHS: Khaisari (Nowshera).	Against vacant post.
8. Shahid Ayaz B.A, S/O Abdul Mastan. Vill: Ziarat Kaka Sahib (Nowshera).	GMS: Nowshera Kalan.	Vice Gohar Ali SV selected for B.Ed Course.
9. Murad Ali MA Edu: (Appear) S/O Misal Khan Vill: Dagai (Swabi).	GMS: Pehur Hemlet (Swabi).	Against newly created SV post.
10. Mr. Abdul Majid Khan B.Sc/MA Edu: (Appear) S/O Naushad Khan Vill: & P/O Kotha Tehsil Swabi (Mdn:).	GMS: Kaddi. (Swabi).	-do-
1. Ahmad Jalil F.Sc S/O Jamalud-Din Vill: & P/O Pir Saddi (Mardan).	GHS: Pir Saddi (Mardan).	Against vacant SV post.

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HEAD MASTER  
G.H.S Ahmad Khel  
Peshawar

TERMS & CONDITIONS:

- Their services are liable to termination/reversion to lower post/cadre, as the case may be, without notice during the period of probation.
- Their appointments are purely temporary and their services will be terminated on fourteen days prior notice or payment of fourteen days pay in lieu thereof by the Department.
- In case any one of them wishes to resign at any time, One month's prior notice will be necessary or in lieu thereof a month's pay shall be forfeited.
- They are required to produce health and age certificates from the Medical authorities concerned before taking over charge. Inservice teachers are not required to produce the required certificate.
- They/Fresh appointees shall not be allowed to take over charge if age of the individual is less than 18 years or above 30 years prescribed in service rules.

P.T. [Signature]  
ACCEPTED

9/A

- 6. Their appointment is subject to further condition that they are domicile of N.W.F.P. They will be governed by Service Rules and regulations applicable to the post. Their antecedents forms should be obtained duly verified by the Legal Police Authorities and submit to this office together with application for appointment on prescribed form & under taking declaration of moveable and immoveable property for record in this office.
- 8. All Educational, Character & Domicile Certificates should be thoroughly checked before handing over charge & if necessary it should be verified from the Institutions concerned.
- 10. T4, D& Transfer grant is not allowed on this appointment/posting.

(SHAH I. KHAN)  
 DIRECTOR OF EDUCATION (SCHOOLS),  
 PESHAWAR DIVISION, PESHAWAR.

Order No. 41715-60/A-6/Genl. Apptt: of SV/OT/ Dated Peshawar the 5th Oct. 1985. VI-AE/MDEO

Copy forwarded for information & necessary action to the:-

- 1. District Education Officers (Male) Peshawar & Mardan.
- 2. Sub Divl. Education Officers (Male) Peshawar, Nowshera & Swabi.
- 3. Headmasters of concerned schools.
- 4. P.S. to Minister for Education Govt. of NWFP Peshawar.
- 5. P.S. to Minister for Agriculture Govt. of NWFP Peshawar vide his Dy:No. 1004 dated 4-8-1985.
- 6. P.A. to Director of Education (Schools) NWFP Peshawar.
- 7. Mayor Municipal Corporation Peshawar.
- 8. P.S. to Chief Minister Government of N.W.F.P. Peshawar with reference to his recommendation on application dated 26-9-1985.
- 9. Candidates concerned.
- 10. Supdt: E/Branch.
- 11. Personal Files.

D.D.S.  
 FOR/DIRECTOR OF EDUCATION (SCHOOLS)  
 PESHAWAR DIVISION, PESHAWAR

MUKHTIAR KHAN  
 5-10-1985

9x-4183

Ant - 'D'

10

IN THE COURT OF BADAR-UD-DIN  
ADDITIONAL SESSIONS JUDGE-II, PESHAWAR



Case No. 113/SC of 2011  
Date of institution 16.11.2011  
Date of Decision 30.06.2014  
Place of Trial Peshawar

State ..... Vs. Abdul Wakeel S/O Salaj Ud Din, Fazli  
Hadi S/O Alam Khan, Allauddin, Salah Ud  
Din sons of Jamal Ud Din all r/o Ahmad  
Khan Peshawar

FIR No. 735  
Dated 02.10.2008  
U/S 302/34 PPC  
Police Station Badaber, Peshawar

ORDER  
30.06.2014

The accused Abdul Wakeen is on bail present while rest of the  
accused are exempted. Counsel for the accused and SPP for the state  
present. PWs are absent despite notice to the prosecution u/s 265-F(III)  
Cr.PC.

In the meanwhile arguments on application U/S 255-K Cr.PC filed  
by the learned counsel for the accused on 30.05.2014 heard. I proceed to  
disposed of the same as under:

Brief facts behinds the registration of the instant FIR are that on  
02.12.2008, accused/petitioner Alla Ud Din brought the dead body of his  
brother Naseer Ud Din at 12:30 hours to Police Station Badaber and  
reported to the effect that his deceased brother being married but due to  
strained relation had divorced his wife, that he alongwith his other family  
members was going to Swat to celebrate Eid there in the house of his law,

ATTESTED  
8/9/14  
(Examiner)  
Sessions Court Peshawar

*[Handwritten signature]*  
ATTESTED

Or. 22  
24.06.2014

19  
Accused Abdul Wakeel in on bail while rest of the accused are exempted. Counsel for the accused and SPP for the State present. Process not returned. In the meanwhile notice u/s 265-F-III, Peshawar be given to the prosecution. Fresh NBWA be issued against the complainant with the direction to the SHO concerned to positively execute the same personally and submit his report on 30.6.14

*Badar-Ud-Din*  
Badar-Ud-Din  
ASJ-II, Peshawar

*Badar-Ud-Din*  
ATTACHED

and when reached near ring road received an information on his cell phone to come back to home, consequent upon said information he went back to his house whereby he was informed that his said brother Naseer Ud Din had at 11:15 hours committed suicide in his hujra with fire arm, further that his said brother was mentally unstable and that they have no enmity with anybody. Report was jotted down in daily diary No. 22 dated 02.10.2008.

Later on 13.10.2008 during the course of inquiry u/s 174 Cr.PC statement of mother of deceased namely Mst. Mumtaza widow of Jamal Ud Din was recorded u/s 164 Cr.PC before the court of learned JMJC, Peshawar for the murdered of her deceased son. On the basis of said statement FIR referred above was registered.

On 13.10.2008 statement of Mst. Mina Gul widow of said Naseer Ud Din was also recorded before the Judicial Magistrate, Peshawar wherein she charged the accused facing trial for the murdered of her deceased husband.

The learned counsel for the accused argued that the instant case is pending for trial since long time and there is no iota of cogent, trustworthy evidence to connect the accused with the commission of offence, hence further proceeding in the instant case would be a futile exercise.

On completion of investigation the complete challan was submitted on 16.11.2011 and the accused put up their appearance on 13.12.2011 on which late provision u/s 205 Cr.PC were complied with. Charge u/s 302-324-34 PPC was framed on 03.01.2012 and the evidence was called. The record would show that only five witnesses were produced by the prosecution till date. The record would show that the prosecution was given approximately 2 years and five months after framing of formal

ATTESTED  
8/19/11  
(Examiner)  
Sessions Court Peshawar

ATTESTED

charge for production of entire witnesses but despite issuance of NBWA, attachment of salaries of the official PWs, and notice u/s 265-F(III) Cr.PC to the prosecution the evidence could not be procured. Rather the proceedings of the court were used to be detriment and interest of the accused while court cannot sit and watch as a silent spectator and leave the accused at the mercy of the prosecution to suffer the miseries of protracted trial.

The record would transpire that the complainant failed to appear in the court despite issuance of several summons and NBWA issued against her for recording her statement. The summons/warrant returned with the report of Shakeeb DFC that he visited the house of the complainant Mst. Mumtaza as well as in the surrounding area but he could not trace down her on the available address as she has abandoned her place of abode for some unknown destination.

PW-1 Raiq Gul Bacha SI who was partially investigated the instant case in his cross examination the DD was recorded on 02.10.2008 while statement of Mst. Mumtaza was recorded on 12.10.2008 and while recording the statement of Mst. Mumtaza non of the complainant i.e side were present. It was further admitted it correct that when Mst. Mumtaza was produced before the court of learned JMJC she did not mention any thing rather just charge the accused Salah Ud Din and her son Wakeel.

Mst. Mina Gul widow of deceased appeared in the court and recorded her statement as PW-5. This witness in her cross examination admitted that she was informed by someone from outside that there is quarrel in the house of her in laws but she could name said person. She further admitted it correct that when they came to her house they narrated the whole story regarding the occurrence to her sister, mother and people of the locality and her statement was recorded for the first time on

ATTESTED  
EXAMINED  
SIGNATURES

*M. Seel*  
ATTESTED

3

22.10.2008 even before they were in contact with the police but they did not record her report. She further admitted it correct that she has not disclosed the facts to the police before 22.10.2008; but self stated that she has contacted so many time but the police did not record her statement and later on approach the court. She further admitted it correct that she had not seen the accused facing trial made firing at the deceased but after the commission of offence all the accused was decamping from the spot with deadly weapons.

Hussain Shah who is shown to be marginal witness of the occurrence appeared in the court and recorded his statement as PW-5 this witness in his examination in chief stated that her daughter was informed that there is a quarrel at house of her husband on such information he took her on motorcycle to the house of her husband. When they reached near the tube well they herd fire shots from the hujra of his deceased son in law in the meantime he stopped the motorcycle and saw Fazali Hadi, Sal-huddin and Wakeel duly armed with fire arm were running towards filed. This witness in his cross examination admitted it correct that usually their information is known to the person who share information but he do not remember his name. He further admitted it correct that his statement u/s 161 Cr.PC was recorded on 22.10.2008 i.e. after 11 days of the occurrence. It was further admitted it correct that from the very day of the occurrence he was in contact with the police but they were not ready to recording his statement. self stated that he made an application before the police high-up and where after his statement was recorded in the court. He further admitted it correct that in his 161 and 164 Cr PC he has not disclosed this fact that he approached the police high ups. He further admitted it correct that he has seen the accused facing trial firing at the deceased with their lethal weapons at the deceased.

ATTESTED  
8/10/11  
(Examiner)  
Sessions Court Peshawar

*Attested*  
ATTESTED



15  
As such the available evidence do not establish the case of the prosecution while the complainant the mother of the deceased has not appeared to record her statement and in absence of any cogent and reliable evidence there is no likely hood of the conviction of the accused/petitioner.

The record further reveals that nothing incriminating has been recovered or discovered from the possession of the accused or at his instance during investigation.

All such fact puts the entire case of the prosecution under serious doubt.

In the light of above discussion further trial of the accused particularly when the complainant is not attending the court seems no more interested to prosecute the case and it would be a futile exercise to call for the evidence of the remaining FVys and I am of the view that the same would not be sufficient and would not lead to the conviction of the accused, therefore, on accepting the application u/s. 265 k Cr.PC, the accused facing trial are acquitted from the charges leveled against them. They are on bail, they and their sureties are relieved from the liabilities of bail bonds.

Case property if any be dealt in accordance with law after the expiry of period of appeal/revision.

File be consigned to record room after its completion.

Announced:  
30.06.2014

*[Signature]*  
Badar-Ud-Din,  
Addl. Sessions Judge-II,  
Peshawar

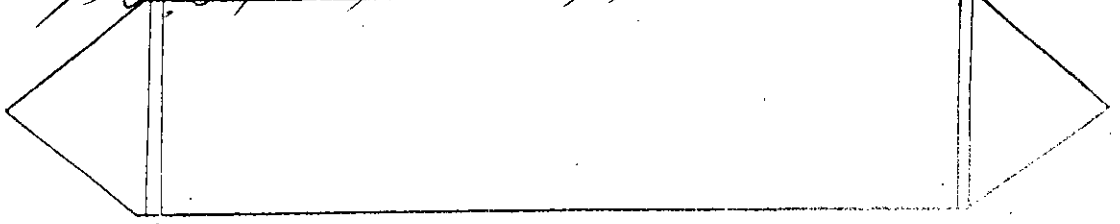
No.	8416-
Date of Application	28-9-14
Name of Applicant	<i>[Signature]</i>
Case No.	2000 = <i>[Signature]</i>
Place	<i>[Signature]</i>
Name of Court	Mamona 8-?
Date of Delivery	28-9-14

~~RECEIVED TO BE FILED~~  
8/9/14  
(RECEIVED)  
Magistrate Agency Sessions Court  
Peshawar

*[Signature]*  
ATTESTED

78

بعد الت جناب خیر محترموں کو اطلاع کے لیے درخواست ٹریبونل لکھنؤ



2 منجانب  
بنام

مافی صراح دین

مقدمہ  
دعوی  
جرم

سندھ ایس ای گورنمنٹ سکول

### باعث تحریر آئیکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کارروائی متعلقہ  
 آن مقام لکھنؤ کیلئے محمد انور چھوٹا نذیرا شهنواری (الما اذہ علیہ السلام) کی  
 مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا۔ نیز  
 وکیل صاحب کو راضی نامہ کرنے و تقرر ثالثتہ فیصلہ برحلف دیئے جواب دہی اور اقبال دعوی اور  
 بصورت ڈگری کرنے اجراء اور وصولی چیک دروپیا عرضی دعوی اور درخواست ہر قسم کی تصدیق  
 زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یا سرفہ یا اپیل کی برآمدگی اور منسوخی  
 نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور  
 کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار  
 ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ با اختیارات حاصل ہوں گے اور اس کا ساختہ  
 پرداختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جانب التوائے مقدمہ کے سبب سے ہوگا۔  
 کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی  
 مذکور کریں۔ لہذا وکالت نامہ لکھدیا کہ سند ہے۔

المرقوم 24 ماہ مئی 2018

العبد \_\_\_\_\_ واہ العبد \_\_\_\_\_

بمقام لکھنؤ کے لئے منظور ہے۔

Accept  
[Signature]

**Qazi Salah Ud Din**

**V/S**

**Secretary (E &SE) & others**

**REPLY ON BEHALF OF RESPONDENTS. NO.1, 2 & 3.**

Respectively Sheweth:

The Respondent submits below:

**PRELIMINARY OBJECTIONS:**

1. That the Appellant has got no cause of action /locus standi.
2. That the Appellant has concealed material facts from this Hon,ble Tribunal.
3. That the Appellant has been estopped by his own conduct to file the instant appeal before this Hon'ble Tribunal.
4. That the instant Appeal is badly time barred.
5. That the instant Appeal is not maintainable in its present form.
6. That the instant Appeal is bad for mis- joinder and non- joinder for the necessary parties.
7. That the Appellant has not come with clean hands to this Hon'ble Tribunal.
8. That the instant Appeal is barred by law.
9. That the Appellant does not fall within the ambit of aggrieved person.

**ON FACTS.**

1. That Para No.1 pertains to record.
2. That Para No.2 pertains to record.
3. That Para No.3 also pertains to record.
4. That Para No.4 pertains to record. However, FIR No.735 dated 2-10-2008 was lodged against the Appellant.
5. That in reply to Para No.5, it is submitted that the Appellant was involved in a criminal case and acquitted from the charge on the grounds of non pursuance of the case by the complainant. (Copy of Judgment is already attached as Annex: D with the instant Service Appeal)
6. That Para No.6 is correct.
6. That in reply to Para No.6, it is submitted that after release from the jail, the Appellant was reinstated in service w.e.f, 30-06-2014 and the suspension period was also decided in the same Notification. In compliance of the said Notification, the Appellant joined his duty in Govt: High School Ahmad Khel.
7. It is pertinent to mention here that the Appellant complied with the said Notification bearing Endst: No.4003-5 dated 6-2-2015 and the grievances of Petitioner were resolved in the said Notification. (Copy of Notification is already attached as Annex: A with the instant Service Appeal)

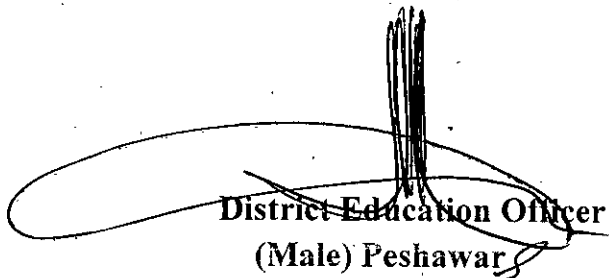
It is further submitted that the above mentioned Notification is correct and is in accordance with law, rules and policy and the Petitioner has no right to challenge the same Notification after lapse of 02 years.

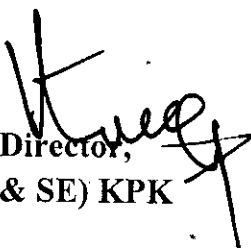
7. That Para No.7 incorrect and misleading. The Appellant has no cause of action to knock the door of this Hon'ble Court.

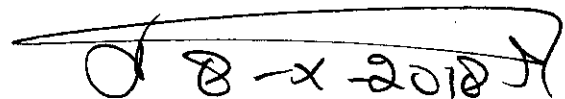
**GROUNDS**

- A. That Ground – A is incorrect, misleading and against the facts. The Respondent Department acted according to law, rules and policy.
- B. That Ground – B is incorrect, misleading and against the facts. Detail reply has been given in the above Para.
- C. That Ground – C is incorrect, misleading and against the facts. The Respondent Department acted according to law, rules and policy.
- D. That Ground – D is incorrect, misleading and against the facts. The Respondent Department acted according to law, rules and policy.
- E. That respondent also seek leave of this Hon'ble Tribunal to present case law and to raise additional grounds at the time of arguments.

It is therefore, very humbly prayed that on acceptance of this reply, the instant appeal may very kindly be dismissed with cost.

  
District Education Officer  
(Male) Peshawar

  
Director,  
(E & SE) KPK

  
SECRETARY  
(E & SE) KPK