


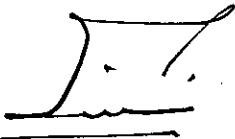
13.09.2022

Nemo for the petitioner. Mr. Muhammad Riaz Khan Paindakhel, Assistant Advocate General for the respondents present.

The restoration application in hand was called on for hearing after various intervals, however none appeared on behalf of the petitioner till the closing time, therefore, the restoration application in hand stands dismissed in default. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
13.09.2022


(Mian Muhammad)
Member (Executive)


(Salah-Ud-Din)
Member (Judicial)

16-12-21

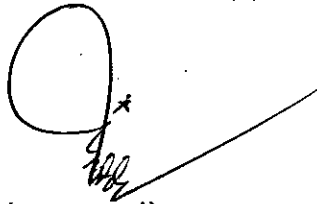
DB is on Tax case to come up
For the same on Dated. 12-4-22

Reads

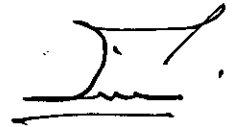
12.04.2022

Nemo for the petitioner. Mr. Jehanzeb, Superintendent alongwith Mr. Naseer-ud-Din Shah, Assistant Advocate General for the respondents present.

Previous date was changed on Reader Note, therefore, notice for prosecution of the petition be issued to the petitioner as well as his counsel and to come up for reply as well as arguments on restoration application on 24.06.2022 before the D.B.



(Mian Muhammad)
Member (E)



(Salah-ud-Din)
Member (J)

24.06.2022

Mr. Babar Khan, Advocate (junior of learned counsel for the appellant present) Mr. Farhan, Assistant alongwith Mr. Riaz Ahmed Paindakhel, Assistant Advocate General for the respondents present.

Junior of learned counsel for the appellant requested for adjournment on the ground that learned counsel for the appellant is busy in the august Peshawar High Court, Peshawar. Adjourned. To come up for arguments on 13.09.2022 before the D.B.



(Mian Muhammad)
Member (E)




(Salah-ud-Din)
Member (J)

28.01.2021

Junior to counsel for the petitioner and Addl. AG alongwith Jehanzaib, Superintendent for the respondents present.

Former requests for adjournment due to engagement of learned senior counsel for the petitioner before the Hon'ble High Court in many cases today. Adjourned to 28.04.2021 for arguments on application before the D.B.



(Atiq-ur-Rehman Wazir)



Chairman

28.04.2021

Due to demise of the Worthy Chairman, the Tribunal is non-functional, therefore, case is adjourned to 24.08.2021 for the same as before.

Member(E)

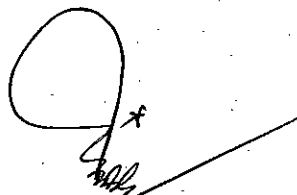


Reader

24.08 .2021

Nemo for the petitioner present. Mr. Muhammad Rasheed, DDA alongwith Mr. Jehanzeb Awanb, Supdt for the respondents present.

Previous date was changed on Reader note, therefore, notice of prosecution of application be issued to the petitioner as well as learned counsel for the petitioner. To come up for reply as well as argument on restoration application before the D.B on 16.12.2021.



(MIAN MUHAMMAD)
MEMBER (EXECUTIVE)



(SALAH-UD-DIN)
MEMBER (JUDICIAL)

18.06.2020

Due to Covid-19, the case is adjourned. To come up for the same on 08.09.2020 before D.B

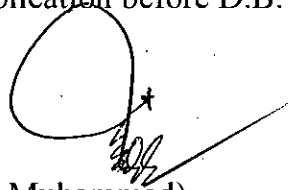


Reader

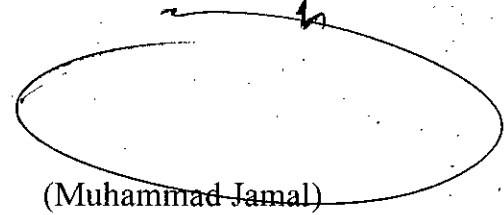
08.09.2020

None for the appellant is present.

Consistent calls were made for procuring the attendance of the appellant Fazal Wahid but neither he himself nor anyone else representing him has attended the Tribunal. Whereas Mr. Kabirullah Khattak, Additional Advocate General alongwith Mr. Jehanzeb Awan, Supdt for respondents are present. Respondents submitted replies to the application for condonation and restoration application which is placed on file. The record reveals that two consecutive dates were adjourned due to prevalence ^{of} pandemic of Covid-19, therefore, we deem it appropriate to issue notice to the appellant as well as his counsel on 13.11.2020 for arguments on application before D.B.



(Mian Muhammad)
Member (E)

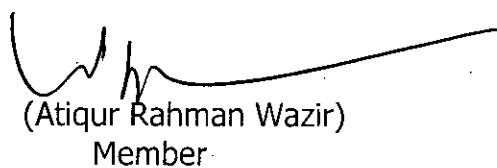


(Muhammad Jamal)
Member(J)

13.11.2020

Junior to counsel for the appellant and Zara Tajwar, DDA for the respondents present.

The Bar is observing general strike, therefore, the matter is adjourned to 28.01.2021 for hearing before the D.B.



(Atiqur Rahman Wazir)
Member



Chairman

15.01.2020

Petitioner absent. Learned counsel for the petitioner absent. Lawyers are on strike on the call of Khyber Pakhtunkhwa Bar Council. Abid Khan Assistant representative of the respondent department present and seeks time to furnish reply. Adjourn. To come up for further proceedings/arguments on 24.02.2020 before D.B. Petitioner be put to notice for the date fixed.


Member


Member

24.02.2020

Learned counsel for the petitioner present. Kazi Ayaz Litigation Officer (for respondent No.4) absent. Respondents as well as absent representative of respondent No.4 be put to notice for the date fixed. Adjourn. To come up for reply and arguments on 27.03.2020 before D.B.


Member


Member

27.03.2020





Due to public holidays on account of Covid-19, the case is adjourned. To come up for the same on 18.06.2020 before D.B.


Reader

Form-A
FORM OF ORDER SHEET

Court of _____

Appeal's Restoration Application No. 300/2019

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge
1	2	3
1	06.08.2019	<p>The application for restoration of appeal No.1045/2016 submitted by Malik Nasruminalah 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 restoration application is entrusted to D. Bench to be put up there on <u>12-11-19</u></p> <p style="text-align: right;"> CHAIRMAN</p>
12.11.2019		<p>Petitioner absent. Learned counsel for the appellant absent. Notice of the present application be issued to the respondents for 15.01.2020. Adjourn. To come up for reply and arguments on 15.01.2020 before D.B. Petitioner be also put to notice for the date fixed.</p> <p style="text-align: center;"> Member</p> <p style="text-align: right;"> Member</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Restoration Application No. 300/2019

C.M. No. _____/2019

In

Service Appeal No. *1045/16*

Fazal-e-Wahid.....Petitioner

V E R S U S

Secretary Education & others.....Respondents

I N D E X

S.No	Description of Documents	Annex	Pages
1.	Application for restoration		1-2
2.	Affidavit & condonation of duty		3-5
3	order dated 8-7-19		6-7

Petitioner

Through

Malik Nasrunmiallah

Malik Nasrunmiallah

Advocate

Supreme Court of Pakistan

Cell No.0333-9148358

Dated: 05.08.2019

(1)

BEFORE THE K.P.K SEVICES TERIBUNAL PESHAWAR.

C.M NO /2019

Appeal No.1045/ 2016.

Restoration application no. 300/2019



Fazl-e-Wahid.

.....Petitioner.

VERSUS

1) Secretary education & others.

.....Respondents.

APPLICATION FOR RESTORATION OF THE ABOVE MENTIONED
SERVICE APPEAL WHICH WAS DISMISSED IN DEFAULT/NON
PROSECUTION ON 8/7/2019.

Respectfully Sheweth:-

- 1) That the Captioned service appeal was fixed for 08.07.2019 before this Honourable court which was dismissed in default on the same day.
(Copy of order is annexed as "A").
- 2) That counsel for petitioner has inadvertently noted wrong date as 5/8/2019 instead of 08.07.2019 and when the petitioner appear in this Hon'ble tribunal on 05.08.2019 he came to know that his case was dismissed on 08.07.2019 due to non prosecution.
- 3) That instant Application is within time and this Hon'ble court is vested with the jurisdiction to restore captioned Appeal.
- 4) That absence of the counsel for petitioner /Attorney for petitioner and absence of petitioner was neither intentional nor deliberate.
- 5) That valuable rights of the petitioner are involved in the captioned Appeal, hence Petitioner seeks restoration of his case on the above ground as petitioner case was pending since long.
- 6) That there is no legal bar in restoration of the instant Appeal.
- 7) That it is well establish principle of the superior court that case must be decided on merits and should not be dismissed on technicalities.
- 8) That if the tile appeal is not restored than the petitioner would suffer irreparable loss because there are sufficient chances of success of instant appeal on merits.

2

It is therefore most humbly prayed that acceptance of this application the title appeal may kindly be restored in original number and be heard , in the best interest of justice.

Dated; 6/08/2019

Petitioner

Through:-


(Malik Nasrum Minallah)

Advocate supreme court
of Pakistan.

3

BEFORE THE HON'BLE K.P.K SERVICE TRIBUNAL PESHAWAR.

Misc: Petition No. _____ 2019.

In Ref. Appeal No.1045/2016.

Fazl-e-Wahid.

.....Petitioner.

VERSUS

Secretary education & others.

.....Respondents.

APPLICATION CONDONATION OF DELAY IF ANY.

Respectfully Sheweth:

1. That the Application for is being filed before this Hon, able court, wherein number of grounds have been taken for setting aside the order of respondents, which may be considered as integral part of the present Misc: Petition for condonation of delay.
2. That in view of the said grounds sufficient material is available on record to warrant the Restoration of the main appeal of the petitioner.
3. That counsel for petitioner has inadvertently noted wrong date as 5/8/2019 instead of 08.07.2019 and when the petitioner appear in this Hon'ble tribunal on 05.08.2019 he came to know that his case was dismissed on 08.07.2019 due to non prosecution.
3. That valuable rights of the petitioner/appellant are involved in the instant case and if the delay has not been condoned, the petitioner would be suffer great loss and might be denied of his in alienable right of enjoying equality before law and equal protection of law guaranteed by the constitution of Pakistan.
4. That the petitioner/appellant is having a good case in his favor and if proper opportunity of proper hearing has been provided to the petitioner/appellant there is every likely hood of the success of the case of the petitioner.

(4)

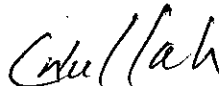
5. That by now it is a settled principle of law that the cases must be decided on merits and not merely on technicalities.
6. That on permission of this Hon, able court the Petitioner/Appellant reserves the right to urge other grounds at the time of arguments

It is therefore most humbly prayed that on acceptance of this petition the delay in filing the restoration petition may kindly be condoned.

Dated: ___/08/2019.

Petitioner/Appellant

Through:-


(Malik Nasrum-Minallah)
Advocate Supreme Court
Of Pakistan.

5

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

C.M .No. _____/2019

In

Service Appeal No. 1045/16

Fazal-e-Wahid.....**Petitioner**

V E R S U S

Secretary Education & others.....**Respondents**

A F F I D A V I T

I, Waleed Son of Minjawar Khan R/o Jamal Garhi District Mardan (Special Attorney for petitioner), do hereby solemnly affirm and declare on oath that the contents of the accompanying **Application** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.

Waleed

Identified by

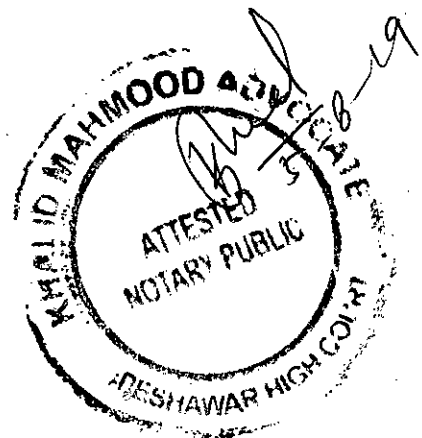
DEPONENT

CNIC#:16101-4772601-3

Cell # : 0345-9391200

Malik Nasrunmiallah

Malik Nasrunmiallah
Advocate High Court



6

BEFORE THE K.P.K SERVICES TRIBUNAL PESHAWAR.

Appeal No. 1045 / 2016.



Fazl Wahid Ex. Lecturer in Computer Science, Govt. Degree College Garhi Kapura Mardan.

Appellant.

Khyber Pakhtunkhwa Service Tribunal

Diary No. 1022

Dated 27-9-2016

VERSUS

1. Chief Secretary K.P.K. Peshawar.
2. Principal Govt. Degree College Garhi Kapura Mardan.
3. Director Higher Education K.P.K Peshawar.
4. Secretary Higher Education, K.P.K Peshawar

Respondents.

APPEAL/S 4 OF THE KPK SERVICES TRIBUNAL ACT, 1974
AGAINST THE ORDER DATED: 27/05/2016, WHEREBY THE
APPELLANT WAS REMOVED FROM SERVICE.

PRAYER

On acceptance of the appeal the order dated: 27/05/2016, may graciously be set aside, and the appellant may graciously be reinstated in service with all back benefits etc, and any other/orders deem proper may also be passed in the matter.

ATTESTED

EXAMINER
Khyber Pakhtunkhwa Service Tribunal,
Peshawar

Respectfully Sheweth:-

1. That after recommendation of provincial Public Service Commission KPK appellant was appointed as Lecturer computer Science (BPS-17) vide office order dated: 13.12.2012, and during his entire service he has got no adverse remarks or any other charge and as such having an excellent record and spotless service.

(Copy annexed as A)

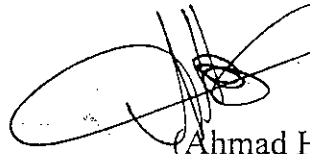
Filed to-day
Registrar
22/9/16


Re-submitted to-day
and filed.
Registrar
2/10/16

08.07.2019


(7)

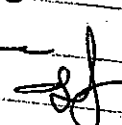
Appellant absent. Learned counsel for the appellant absent. Mr. Kabir Ullah Khattak learned Additional Advocate General present. Case called but none appeared on behalf of appellant. Consequently the present service appeal is hereby dismissed in default. No order as to costs. File be consigned to the record room.


(Ahmad Hassan)
Member


(Muhammad Hamid Mughal)
Member

ANNOUNCED.
08.07.2019

Certified to be true copy

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Date of Presentation of Application	5-8-2019
Number of Words	800
Copying Fee	12/-
Urgent	4/-
Total	16/-
Name of Copyist	
Date of Completion of Copy	5-8-2019
Date of Delivery of Copy	5-8-2019

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

CM No. 300/2019

In

SA# 1045/2016

Mr. Fazal Wahid.....

Appellant

Versus

Govt. of Khyber Pakhtunkhwa

Through Chief Secretary,


Khyber Pakhtunkhwa & others.....

Respondents

INDEX

S.No	Description of documents	Annexure	Page No.
1.	Reply to application for condonation of delay		1
2.	Reply to application for restoration of service appeal		2
3.	Affidavit		3

Identified by:


Deponent
17301-8792433-6

(10)

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

CM No. 300/2019
in
S.A # 1045/2016
Fazal Wahid.....

Applicant

Versus

Govt. of Khyber Pakhtunkhwa
Through Chief Secretary Khyber Pakhtunkhwa
and others.....

Respondents.

**SUBJECT: REPLY TO APPLICATION FOR CONDONATION OF DELAY ON BEHALF
OF RESPONDENTS NO. 1, 2, 3 & 4**

Respectfully Sheweth: -

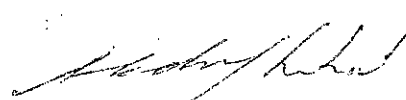
1. Correct to the extent that application for restoration of service appeal has been filed.
2. Incorrect. That the applicant is misleading and wasting time of tribunal and respondents.
3. Incorrect. That the applicant/appellant is misleading this Hon'ble tribunal. That applicant and his council was aware of the date fixed for hearing but the applicant/appellant wilfully did not come to the Hon'ble service tribunal, because the applicant/appellant is not interested to pursue the service appeal filed by him and he is only wasting time of the Hon'ble tribunal and respondents.
4. Incorrect. That if the applicant/appellant was interested in the captioned appeal then he must attend the tribunal on the date fixed.
5. Incorrect. Each case has its own merits and facts.
6. That on permission of this Hon'ble tribunal the respondents reserve the right to urge other grounds at the time of arguments.

Prayer:

It is therefore, humbly prayed that condonation may not be granted in the instant case.


Chief Secretary,

Govt. of Khyber Pakhtunkhwa
Respondent No. 01


Director,

Directorate of Higher Education
Respondent No. 03


Secretary, 6.2.2020

Higher Education, Archives
& Library Department
Respondent No. 04


Principal,

Govt. Degree College,
Garhi Kapura, Mardan
Respondent No. 02

(59)

BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

CM No. 300/2019

in

S.A # 1045/2016

Fazal Wahid.....Applicant

Versus

Govt. of Khyber Pakhtunkhwa

Through Chief Secretary Khyber Pakhtunkhwa

and others.....Respondents.

SUBJECT: REPLY TO APPLICATION FOR RESTORATION OF SERVICE APPEAL
ON BEHALF OF RESPONDENTS NO. 1, 2, 3 & 4

Preliminary Objection:-

1. That the petitioner/applicant is estopped by his own conduct.
2. That the non-prosecution of the case is intentional and deliberate.
3. That the instant application is time barred.

Respectfully Sheweth: -

1. Correct.
2. Incorrect. That the applicant/appellant was aware of the date fixed for hearing but the applicant wilfully did not come to the Hon'ble Service Tribunal because the applicant/appellant was not interested to pursue the service appeal filed by him and he is only wasting time of the Hon'ble service tribunal and of the respondents.
3. Incorrect. That the instant application is time barred.
4. Incorrect. That the applicant/appellant is misleading the Hon'ble tribunal and wasting time of the tribunal.
5. Incorrect. That if the applicant/appellant was interested in the captioned appeal then he must have come to court on the date fixed for hearing.
6. Incorrect. That the instant application is time barred.
7. Incorrect. Each case has its own merits and facts.
8. Incorrect. That the applicant is only wasting time of Hon'ble tribunal and respondents.

Prayers:-

It is, therefore, humbly prayed that this Hon'ble tribunal may be pleased to dismiss the instant application.


Chief Secretary,

Govt. of Khyber Pakhtunkhwa
Respondent No. 01


Secretary,

Higher Education, Archives
& Library Department
Respondent No. 04


Director,


Directorate of Higher Education
Respondent No. 03


Principal,

Govt. Degree College,
Garhi Kapura, Mardan
Respondent No. 02

08.07.2019

Appellant absent. Learned counsel for the appellant absent. Mr. Kabir Ullah Khattak learned Additional Advocate General present. Case called but none appeared on behalf of appellant. Consequently the present service appeal is hereby dismissed in default. No order as to costs. File be consigned to the record room.



(Ahmad Hassan)
Member



(Muhammad Hamid Mughal)
Member

ANNOUNCED.
08.07.2019

28.12.2018

Mr. Farhanullah Advocate junior to Mr. Nasrum Minallah, Advocate for appellant and Mr. Ziaullah, DDA for the respondents present.

States that learned senior counsel for the appellant has to participate in a funeral, therefore, instant matter may be adjourned.

Adjourned to 15.02.2019 for arguments before the D.B.


Member


Chairman

15.02.2019

Junior to counsel for the appellant and District Attorney for the respondents present.

A request for adjournment is made on behalf of learned senior counsel for the appellant due to his engagement before the Honourable High Court today.

Adjourned to 25.04.2019 before the D.B.


Member


Chairman

25.04.2019

Counsel for the appellant and Addl. AG for the respondents present.

Learned counsel for the appellant requests for adjournment to further prepare the brief of instant matter.

Adjourned to 08.07.2019 for arguments before the D.B.



Member


Chairman

19.07.2018


Clerk counsel for the appellant and Mr. Zia Ullah learned Deputy District Attorney present. ~~Clerk~~ counsel for the appellant seeks adjournment as learned counsel for the appellant is not in attendance. Adjourned. To come up for arguments on 13.09.2018 before D.B


(Ahmad Hassan)
Member


(Muhammad Hamid Mughal)
Member

13.09.2018


Junior to counsel for the appellant and Mr. Usman Ghani Learned District Attorney for the respondents present. Junior to counsel for the appellant seeks adjournment as his senior is not in attendance. Adjourned. To come up for arguments on 06.11.2018 before D.B


(Hussain Shah)
Member


(Muhammad Hamid Mughal)
Member

06.11.2018


Due to retirement of Hon'able Chairman, the Tribunal is defunct. Therefore, the case is adjourned for the same on 28.12.2018 before D.B.


Reader

23.10.2017


Junior counsel for the appellant and Mr. Muhammad Jan, Deputy District Attorney for the respondents present. Junior counsel for the appellant seeks adjournment on the ground that his senior counsel is not available today. Adjournment granted. To come up for arguments on 02.01.2018 before D.B.

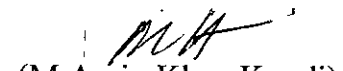

Member


Chairman

02.01.2018


Counsel for the appellant present. Mr. Usman Ghani, District Attorney for the respondents also present. Learned counsel for the appellant requested for adjournment. Adjourned. To come up for arguments on 06.03.2018 before D.B.



(Ahmad Hassan)
Member(E)


(M. Amin Khan Kundi)
Member (J)

06.03.2018

Mr. Waleed, brother of the appellant on behalf of the appellant and Mr. Riaz Pinda Kheil, learned Assistant Advocate General for the respondents present. Brother of the appellant stated that the appellant is abroad and seeks adjournment as learned counsel for the appellant is busy before Peshawar High court, Peshawar. Adjourned by way of last opportunity. To come up for arguments on 09.05.2018 before D.B


(Muhammad Amin Kundi)
Member


(Muhammad Hamid Mughal)
Member

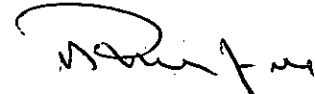
09.05.2018

The Tribunal is defunct due to retirement of Hon'ble Chairman. Therefore, the case is adjourned. To come on 19.07.2018


READER

28.02.2017

Fazal Wahid appellant through his brother Waleed present. Mr. Muhammad Adeel Butt, Additional AG with Mr. Naeem Gul, AD for respondents present. Brother of appellant Mr. Waleed informed that on next date he will produce proper power of attorney on behalf of his brother and that appellant is abroad. Additional AG for respondents requested for some extension of time for submission of written reply as they are in process of vetting. Granted. To come up for written reply/comments on 29.03.2017 before S.B.


(ASHFAQUE TAJ)
MEMBER


29.03.2017

Counsel for the appellant and Mr. Irfan Ullah, Assistant (Litigation) alongwith Addl: AG for the respondents present. Written reply submitted. To come up for rejoinder and arguments on 20.06.2017 before D.B.


(AHMAD HASSAN)
MEMBER

20.06.2017

Junior in counsel for the appellant and Mr. Muhammad Adeel Butt, Additional AG for the respondents present. Junior in counsel for the appellant requested for time to file rejoinder. Request accepted. To come up for rejoinder and arguments on 23.10.2017 before D.B.


(Muhammad Amin Khan Kundi)
Member


(Gul Zeb Khan)
Member

24.11.2016

Appellant with counsel present. Preliminary arguments heard and case file perused. Learned counsel for the appellant submitted that duly recommended by the Public Service Commission, the appellant was appointed as Lecturer in the Education Department on 13.12.2012 and took over charge as such in the Govt: Degree College Ghari Kapoora, Mardan. He submitted that the appellant applied for Extra Ordinary Leave and it is evident from report of the Accounts Office available on record that he had a leave balance for the said period. It was argued that the appellant left charge of the post with permission of the Principal concerned and also submitted his clearance certificate but it is strange that departmental proceedings were initiated against the appellant on the charge of absence from duty. It was argued that while coming to know about the said, the appellant immediately submitted his arrival report dated 18.05.2016 where-after he was not lawfully removed from service vide impugned order dated 27.05.2016. The learned counsel for the appellant submitted that the timely moved departmental appeal was not responded by the department, hence this appeal which is quit within time. The learned counsel further argued that removal of the appellant is not in accordance with law and rules and no opportunity of defense and hearing was provided to the appellant. He submitted that no regular enquiry was conducted against the appellant nor any show cause notice was issued to him despite the fact that at the relevant time the appellant was in service.

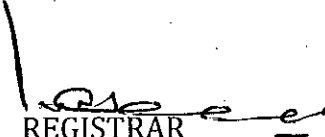


Points raised at the Bar need consideration. The appeal is admitted to regular hearing subject to all legal objections. The appellant is directed to deposit the security amount and process fee within 10 days. Thereafter, Notice be issued to the respondents for submission of written reply. To come up for written reply/comments on 28.02.2017 before S.B.

Appellant Deposited
Security & Process Fee

(PIR BAKHSH SHAH)
Member

Form- A
FORM OF ORDER SHEET

Court of _____
Case No. 1045/2016

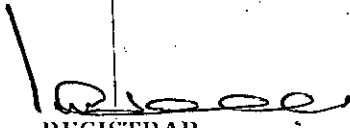
S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	07/10/2016	<p>The appeal of Mr. Fazli Wahid resubmitted today by Mr. Farhanullah Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2	13-10-2016	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>31-10-2016</u></p> <p style="text-align: right;"> CHAIRMAN</p>
	31.10.2016	<p>Agent of counsel for the appellant present. Seeks adjournment as counsel for the appellant is not in attendance. Adjourned for preliminary hearing to 24.11.2016 before S.B.</p> <p style="text-align: right;"> Chairman</p>

The appeal of Mr. Fazal Wahid Ex- Lecturer in computer Science Govt. Degree College Garhi Kapura Mardan received today i.e. on 27.09.2016 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- The authority whose order is challenged has not been arrayed a party.
- 2- Sub-rule-4 of rule-6 of the Khyber Pakhtunkhwa Service Tribunal rules 1974 requires that every memorandum of appeal whose order is challenged shall be shown as respondent No.1.

No. 1610 /S.T,

Dt. 27/9 /2016


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Malik Nasrum-Minallah Adv. Pesh.

Minallah

need fee has done and resubmitted

BEFORE THE K.P.K SEVICES TERIBUNAL PESHAWAR.Appeal No. 1045 / 2016.

Fazal Wahid

.....Appellant.

VERSUS

Principal Govt. Degree College GhariKapura and& another.

.....Respondents.

I N D E X

Sr. No.	Description of Documents	Annexure	Page No.
1)	Memo of Appeal Along with Affidavit and Addresses of the Parties		1-6
2)	Copy appointment order dated:13.12.2012.	A	7
3)	Copy of leave application dated:14.02.2015.	B	8
4)	Copy of leave proforma dated:24.02.2015.	C	9
5)	Copy relieving sheet and clearance certificate	D&E	10-11
6)	Copy of arrival report	F	12
7)	Copy of removal order dated:27.05.2016.	G	13
8)	Copy of Departmental Appeal	H	14-17
9)	WaqalatNama		19

Dated; 27/09/2016.

APPELLANT

Fazal Wahid

Through:-

Farhan Ullah
 (Farhan Ullah)
 Advocate High Court,
 PESHAWAR

Malik Nasrum-Minallah
 (Malik Nasrum-Minallah)
 Advocate Supreme Court,
 of Pakistan

Cell No.0333-9148358Office- F.F 29 Bilor Plaza Peshawar Cantt.

BEFORE THE K.P.K SERVICES TRIBUNAL PESHAWAR.Appeal No. 1045 / 2016.

Fazl Wahid Ex. Lecturer in Computer Science, Govt. Degree College,
GarhiKapuraMardan.

.....Appellant.

Khyber Pakhtukhwa
Service TribunalDiary No. 1022Dated 27-9-2016

VERSUS

1. Chief Secretary K.P.K. Peshawa.
2. Principal Govt. Degree College Garhi KapuraMardan.
3. Director Higher Education K.P.K Peshawar.
4. Secretary Higher Education, K.P.K Peshawar

.....Respondents.

APPEALU/S 4 OF THE KPK SERVICES TRIBUNAL ACT, 1974
AGAINST THE ORDER DATED:27/05/2016, WHEREBY THE
APPELLANT WAS REMOVED FROM SERVICE.

PRAYER

On acceptance of the appeal the order
dated:27/05/2016, may graciously be set aside, and the
appellant may graciously be reinstated in service with all
back benefits etc, and any other/orders deem proper may
also be passed in the matter.

Filed to-day

Registrar

27/9/16

Respectfully Sheweth:-

1. That after recommendation of provincial Public Service Commission KPK appellant was appointed as Lecturer computer Science (BPS-17) vide office order dated:13.12.2012, and during his entire service he has got no adverse remarks or any other charge and as such having an excellent record and spot less service.

(Copy annexed as A)

Re-submitted to-day
and filed.

Registrar

27/10/16

2. That during his service the appellant submitted an application to respondent No.2, through respondent No.2 for Two Years leave without pay on 14-02-2015 vide endsit No. 1135. (Copy of application is annexed as B)
3. That vide endsit No.1166, dated:24.02.2015 respondent No.2 forwarded the application of the appellant to district account officer for report and as such the district account officer reported that appellant is having 730 days of extraordinary leave in his leave account.
(Copy of leave promforma is annexed C)
4. That thereafter the appellant was relieved by respondent No.2 on 27-02-2015 under the endstt No: 1181-84and respondent No.2 (principal), on 02.03.2015, issued clearance certificate to the appellant, hence leave of the appellant was started with effect from 01-03-2015, and as such the salary of the appellant was closed. (Copies are annexed as D&E)
5. That after reliving from the college the appellant was under the impression that the leave of the appellant has been sanctioned by the competent authority, as the appellant has properly been relieved by the respondent No.2 and his salary was also closed by the Respondent No. 2 after fulfillment of all codal formalities, thus he started his leave without any apprehension and dread.
6. That at the back of the appellant respondents initiated proceedings against the appellant, after getting knowledge of the above stated proceeding the appellant submitted his arrival report on 18.05.2016 to the respondent No.3, but his arrival report was not considered by the respondent No.3 and as such the appellant was removed from service vide order dated:27.05.2016.
(Copy of arrival report and order is annexed as F &G)
7. That aggrieved from the impugned order dated:27.05.2016, communicated to appellant on 08.06.2016, the appellant filed a departmental appeal/representation to the chief minister K.P.K which on 28.06.2016, which still pending adjudication.
(Copy of appeal is annexed as H)
8. That after lapse of statutory period for disposal appeal, the appellant now approaches this Hon,able court / tribunal for setting aside impugned orders and re-instatement in service on the following grounds amongst others.

GROUNDS.

- A. That the order of the respondent No. 3 from removal of service of appellant is against the law, facts and violation of the procedure as provided under the law, hence the same is liable to be struck down.
- B. That respondent No. 1 after satisfying himself about the availability of extra ordinary leave of 730 days in his leave account properly not only properly relieved the appellant from duty but also issued him clearance certificate, similarly, the appellant after getting the knowledge of the proceedings initiated against him instantaneously approached the respondent No. 3 but despite that the respondent No. 4 has not considered the same and issued the impugned order, hence removal of the appellant thereafter on the ground of absence from duty is based on malafide, self-motivation and unreasonable, thus cannot be allowed to remain intact.
- C. That no statement of allegations, were issued to the appellant nor the appellant was given an opportunity of personal hearing was provide to the appellant before the passing the impugned orders, hence on this score too the order of respondents in maintainable.
- D. That neither any show cause notice issued to the appellant nor any show cause notice was served to the appellant nor any inquiry was conducted in accordance with law, rules and procedure, thus the order passed without show cause notice and proper inquiry in the matter is having no sanctity in the eye of law.
- E. That being a regular employee the appellant has served the department honestly and whole heartedly for sufficient time, and perform his duties candidly and unequivocally thus the appellant cannot be removed from his service with a stroke of pen as done by the respondent.
- F. That the appellant totally stand condemned unheard, the impugned orders doesn't provide any reason, and the appellant having long years of service to his credit, being a regular employee could not has been thrown out illegally and without any process of law, such orders being void ab-initio could not be allowed to remain in field.
- G. That the conduct of the respondents clearly suggests that appellant has highly been discriminated which is not permissible under the constitution of Islamic Republic of Pakistan 1973.

- H. That the appellant has been condemned totally unheard and as such the basic principle of natural justice is violated in the case of the appellant.
- I. That as per facts and circumstances of the case the principle of locus poenitentiae is also attracted in the case of the appellant.
- J. The contents of the departmental appeal/representation may be considered as integral part of the instant appeal.
- K. That on the permission of this Hon, able court the appellant may urge other additional ground if any, at the time of arguments.

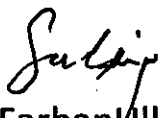
It is therefore most humbly prayed On acceptance of the appeal the order dated:27/05/2016, may graciously be set aside, and the appellant may graciously be reinstated in service with all back benefits etc, and any other orders deem proper may also be passed in the matter




APPELLANT

Dated; ___/09/2016.

Through:-


 (Farhan Ullah)
 Advocate High Court,
 PESHAWAR


 (Malik Nasrum-Minallah)
 Advocate Supreme Court,
 of Pakistan

BEFORE THE K.P.K SERVICES TRIBUNAL PESHAWAR.

Appeal No. _____ / 2016.

Fazli Wahid
.....Appellant.

VERSUS

Principal Govt. Degree College GhariKapura and& others.
.....Respondents.

AFFIDAVIT

I, Fazli Wahid Ex. Lecturer in Computer Science, Govt. Degree College, GhariKapuraMardan, do hereby solemnly affirm and states on oath that the contents of accompanying appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon' able Court.

Fazli Wahid
(Deponent)

16161-9528165-3

ATTESTED



BEFORE THE K.P.K SEVICES TERIBUNAL PESHAWAR.

Appeal No. _____ / 2016.

Fazal Wahid

.....Appellant.

V E R S U S

Principal Principal Govt. Degree College GhariKapura and& another.

.....Respondents.

ADRESSES OF THE PARTIES

Fazli Wahid S/O Manjawar Khan, MuhallahKhattak, Jamal Garhi, Mardan, ex.
Lecturer in Computer Science, Govt. Degree College GarhiKapura, Mardan.

.....Appellant.

V E R S U S

- 1) Chief Secretary K.P.K. Peshawar.
- 2) Principal Govt. Degree College GarhiKapura, Mardan.
- 3) Director Higher Education K.P.K Peshawar.
- 4) Secretary Higher Education, K.P.K Peshawar


.....Respondents.


Dated; 27/09/2016.

APPELLANT



Through:-


 (Fakhani Ullah)
 Advocate High Court,
 PESHAWAR


 (Malik Nasrum-Minallah)
 Advocate Supreme Court,
 of Pakistan

Duplicate

(Registered)

7

A 21

Telephone No. 091-9213750

Fax No. 9211795



KHYBER PAKHTUNKHWA
PUBLIC SERVICE COMMISSION
2-FORT ROAD, PESHAWAR CANTT
(NEAR GOVERNOR HOUSE)

NO. SR-VIII-35415
DATE: 3/18/2012

To

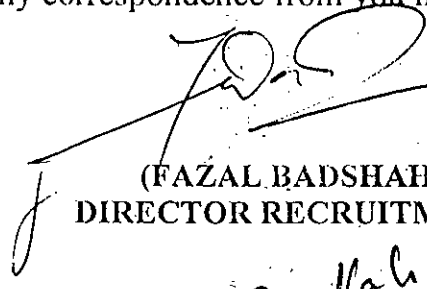
FAZLI WAHID S/O MANJAWAR KHAN
MOHALLAH KHATTAK VILLAGE AND P/O JAMAL GARHI
DISTRICT AND TEHSIL MARDAN KPK.

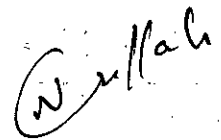
Subject:

RECT. OF MALE LECTURER IN COMPUTER SCIENCE (BPS-17) IN HIGHER
EDUCATION DEPARTMENT (ADVT. NO 94/2010).

The Commission has recommended you to the Government for appointment but please do not treat this as a letter of appointment for which Government is the final authority.

The Commission can not entertain any correspondence from you in this regard.


(FAZAL BADSHAH)
DIRECTOR RECRUITMENT


ATTESTED

The Director,

Higher Education Department,

Khyber Pakhtunkhwa, Peshawar.

8

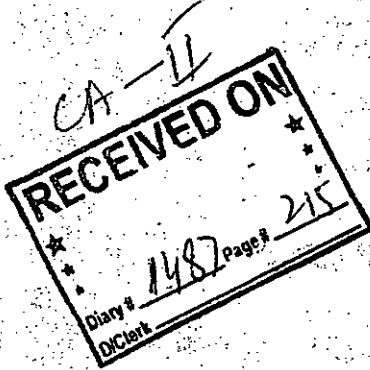
Annex (B)

Subject: APPLICATION FOR GRANT OF LEAVE WITHOUT PAY

Sir,

Most respectfully, it is stated that I have been working as lecturer in computer science in higher education department, Khyber Pakhtunkhwa, Peshawar since 13-12-2012 till date. Now, I cannot make sure my regular attendance in the college due to some domestic problems. Therefore, it is requested to kindly grant me leave for two years without pay so that I may be able to resolve the issues.

I will be very thankful to you for this act of kindness.



Thanks

Obediently yours,

Fazli Wahid

Fazli Wahid

Lecturer in Comp. Science,

GDC Garhi Kapura,

Mardan.

Encls. No. 1135 dated: 14-2-15

Dated: 14-02-2015

Forwarded in original to Director Higher Edu. Khyber Pakhtunkhwa for
r/o please along with admirability report of DAO Mardan / relevant charge report.

14/2/15
Principal
G.D.C Garhi Kapura
Mardan.

Wullah

TESTED

APPLICATION FOR LEAVE

9

Notes: Item 1 to 9 must be filled by all applicants. Item 12 applies only in the case

Of Government servant of B.P.S 16 and above.

Area (C)

- 1. Name of applicant. Fazli Wahid
- 2. Leave Rules applicable. 1981
- 3. Post held. Lecturer
- 4. Department or Office. Higher Education.
- 5. Pay 12400/-
- 6. House Rent Allowance/Conveyance Allowance or other compensatory Allowance drawn in the present post.
- 7. (a) Nature of leave applied for. Leave without pay.
 (b) Period of leave in days. 730
 (c) Date of commencement. 08-03-2015 - To 27-2-2017.
- 8. Particular Rule /Rules under which leave is admissible.
- 9. (a) Date of return from last leave. NA
 (b) Nature of leave. NA
 (c) Period of leave in days. NA

Endst. No 1166 dt 24-02-2015

Date Forward in original to Dist. Account Officer for signature Fazli Wahid
Signature of applicant

- 10. Remarks recommendation of the Controlling Officer. 24/2/15
Gurji Kapora
Baran
- 11. Certified that leave applied for is admissible under rule 16/15 and necessary conditions are fulfilled.

Date 16/03/15

Signature [Signature]
Designation 16/15

12. Report of Audit Officer. Verified that extra Ord. leave (with out to
Date for 730 days to 13
Mr. Fazli Wahid Lecturer G. College Gorkha
under the rule 1981

The P. O.
AC Gorkha

ATTESTED

10

Annex D 15

CERTIFICATE OF TRANSFER OF CHARGE

Certified that we have on the After/Fore Noon 01-03-2015 of this day respectively made and received /Take over charge of Lecturer in computer Science at GDC Garhi Kapura Mardan.

Station: GDC GARHI KAPURA MARDAN

Signature of relieved Fazli Wahid

Government servant Fazli Wahid

Designation Lecturer BS-17

Signature of relieving GIRAN HAN

Government servant GIRAN HAN (Adic)

Designation LECTURER

OFFICE OF THE PRINCIPAL GOVT. DEGREE COLLEGE GARHI KAPURA MARDAN.

Endstt: No. 1181-84 Dated: 27/2/ 2015

Copy forwarded to the:

1. Director Higher Education KPK Peshawar.
2. District/ Accounts Officer Concerned.
3. Officer concerned.

Mullah

ATTESTED

27/2/2015

Principal
GDC Garhi Kapura
Mardan.

(11)

AS
Hb.
Anex (E)

CLEARANCE CERTIFICATE

Certified that there is nothing out standing against the outgoing lecturer Mr. Fazli Wahid.

1. Librarian [Signature]

2. D.P.E [Signature]

3. Accountant [Signature]

[Signature]

Principal

Govt. Degree College
Garhi Kapura Mardan.

[Signature]

ATTESTER

LIBRARIAN



(12)

To

The Director,
Higher Education,
KPK, Peshawar.

Annex (F)

Subject: Arrival Report

Sir,

With due respect, it is stated that I, Fazli Wahid, Lecturer in computer science, GDC, Gashi Kapura, Mardan, applied for two years leave without pay and my application was forwarded by Principal, GDC Gashi Kapura on 14-02-2015 under the endstt No: 1135. I was relieved by the principal on 27-02-2015 under the endstt No: 1121-24. My salary was closed by the principal and I left the college. On May 5, 2016, I came to know about the letter issued by the principal, GDC Gashi Kapura on 22-03-2016 under the endstt No: 1679-21. about my absence from my duty. On 17-05-2016, I reported my arrival in GDC, Gashi Kapura but principal was not in the college. Later I talked to him on mobile and he asked me to report my arrival in the directorate of higher education, KPK, Peshawar. Therefore, it is requested to consider my arrival.

put up
CA-I

18/5/16
RECEIVED ON
18 MAY 2016
Diary # 5090 Reg. # 3

Date: 18-05-2016

Copy for Information to

Principal, GDC, Gashi Kapura, Mardan.

Fazli Wahid

Sincerely,
Fazli Wahid,
Lecturer in Computer Science,
GDC Gashi Kapura, Mardan.

Wullah

ATTESTED



- 32 -

(13)

**GOVT. OF KHYBER PAKHTUNKHWA
HIGHER EDUCATION, ARCHIVES &
LIBRARIES DEPARTMENT**

Dated Peshawar the 27.05.2016.

Ans (G)

NOTIFICATION

No. SO (C-II)HED/12-6/2014. WHEREAS Mr. Fazal Wahid, lecturer in Computer Science (BS-17), Govt. Degree College Garhi Kapura, Mardan is absent from duties since 01-03-2015.

2. AND WHEREAS absence notices were issued to him on his home address as well as in leading newspapers with the direction to resume duty failing which ex-parte action under Khyber Pakhtunkhwa Efficiency & Discipline Rules, 2011 would be taken against him.

3. AND WHEREAS the accused lecturer did not report for duty in response to the absence notices.

4. NOW THEREFORE, The Competent Authority, in exercise of powers conferred upon him under the Khyber Pakhtunkhwa Efficiency & Discipline Rules, 2011, is pleased to impose upon the said officer the penalty of removal from service with immediate effect. The absence period w.e.f 01-03-2015 till imposition of penalty shall be treated as unauthorized absence from duty (without leave).

SECRETARY TO GOVT. OF
KHYBER PAKHTUNKHWA
HIGHER EDUCATION DEPARTMENT

Endst: No. & Date Even.

Copy for information forwarded to the:-

1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. Director Higher Education, Khyber Pakhtunkhwa, Peshawar.
3. Principal Govt. Degree College Garhi Kapura, Mardan.
4. Officer concerned. GDC, GARHI KAPURA

Gullah
ATTESTED

Rukhsana Jabeen
(RUKHSANA JABEEN)
SECTION OFFICER (COLLEGES-II)

14

BEFORE THE HONORABLE CHIEF MINISTER KPK, PESHAWAR.

Departmental Appeal against the order Dated
27.05.2016 vide which the appellant was removed
from service

Anex (H)

Respectfully Sheweth;

Short but brief facts are narrated before your honor for sympathetic consideration please;

1. That on the recommendations of Public Service Commission i was appointed as lecturer in computer science BPS-17 on 13-12-2012 and since then was performing services honestly, regularly, with dedication to work and to the entire satisfaction of my immediate officer. It may be noted here that no single adverse entry in my ACR has been noted.

2. That I moved application on 14-02-2015 to Director, Higher Education Department, KPK, Peshawar through Principal GDC Garhi Kapura, Mardan for leave without pay for two years.

3. That clearance certificate was issued to me on 02-03-2015 by the Principal of the college and on 27-02-2015, I was relieved from duty and the leave was to start from 01-03-2015 and my salary was closed.

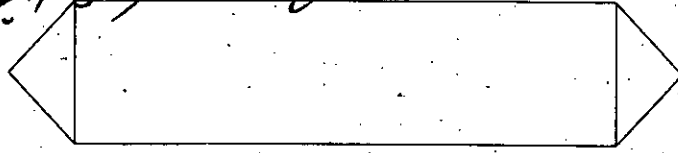
4. That account officer of Mardan Distt also reported to the competent authority that I was having 730 days extra ordinary leave in my leave account.

5. That after relieving from college, I was under the impression that my leave has been sanctioned by the competent authority because I was properly relieved by the principal of the college, so I could not contact the college to know about my leave sanction application.

6. That at my back, proceedings were initiated against me and allegedly notices were issued to me and at the end Ex-party action was initiated against me and

E. Allah
TRUSTED

بعدالت جناح ماہ سروس بیرون KPK شمارہ



ماہ 2016ء پنجاب سائلز ایسوسی ایشن
فصل واحد بنام سید حسین رفیق

مورخہ
مقدمہ
دعوی
جرم

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ

آن مقام میں مقرر کیے گئے صاحب نعرین احمد و فرحان احمد و دیگر
مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز
وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ پر حلف دیئے جواب دہی اور اقبال دعویٰ اور
بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق
زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی
اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا۔ از بصورت ضرورت
مقدمہ مذکور کے کل یا جزوی کاروائی 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 باختیارات حاصل ہوں گے
اور اس کا ساختہ پرداختہ منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے
سبب سے وہوگا۔ 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 لکھد یا کہ سندر ہے۔

Accepted
By
Muhammad

Jahid

الرقوم 27
ماہ ستمبر
20/6

الع د گ و الع
مقام
کے لئے منظور ہے۔

احمد رفیق

فصل واحد سبب بیعت
سید حسین رفیق
کے لئے منظور ہے۔
0179

BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

S.A#1045/2016

Mr. Fazal WahidAppellant.

VS

Director of Higher Education & others Respondents

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5.	Reminder	C	6
6.	Reminder-II	D	7
7.	Letter to the appellant	E	8
8.	Notice in daily Newspaper "Aaj"	F	9
9.	Notice in daily Newspaper Mashriq	G	10
10.	Provincial Government Notification	H	11

Ramiz
29/3/2017
Respondents

Service Appeal No.1045/2016

Mr. Fazal Wahid..... Appellant.

VERSUS

Govt of Khyber Pakhtunkhwa,

Through Secretary and Director,

Higher Education Department,

Peshawar..... Respondents.

SUBJECT: -PARWISE COMMENTS BEHALF OF RESPONDENTS NO.1,3 AND 4.

PRELIMINARY OBJECTIONS. -

Respectfully Sheweth: -

1. That the Applicant has got no cause of action/locus standi to file the instant Service appeal.
2. That the appellant has concealed material facts from the Hon'able Tribunal.
3. That the Hon'able Tribunal lacks jurisdiction to entertain the instant appeal.
4. That the Appellant has not come to the honourable Tribunal with clean hands.
5. That the Appellant is estopped by his own conduct to file the instant appeal.
6. That the appeal is hit by doctrine of laches.
7. That the instant appeal is based on mis-conception/mis-statement of facts, hence, liable to be dismissed.

Facts: -

1. Correct to the extent that the appellant was recommended by the Khyber Pakhtunkhwa Public Service Commission and was appointed as Lecturer in Computer Science, while the rest of the para in subject to proof.
2. Correct that the appellant submitted an application to respondent No.2 for two years leave (without pay) w.e.f. 01-03-2015 to 27-02-2017 on account of domestic problem.
3. Pertains to record.
4. Incorrect. The appellant only submitted an application for extra ordinary leave (without pay) for two years and left the College without approval of the competent authority. The Principal, Government Degree College, Garhi Kapora, (Mardan) directed the appellant time and again to resume your duties but to no avail, (Annex-A, B, C, D). Moreover, the respondent No.3 also informed the appellant vide letter No. 15626 dated 17/06/2015 and directed to explain the reason of his wilful absence from duties and assume his duties within a week failing which disciplinary action under E & D Rules, 2011 will be initiated against him (Annex-E).
5. Incorrect. The appellant was required to wait for the sanctioning of his extra ordinary leave and only submission of an application does not mean that his leave was sanctioned. The appellant is misleading the honourable Tribunal that all codal formalities were fulfilled before leaving the College.

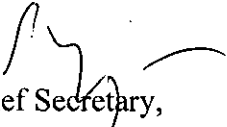
6. Correct that several letters were sent on the home address of the appellant for the resumption of duties, but the appellant failed to resume his duty and he was alleged to proceed to Korea without obtaining permission/leave, which is tantamount to misconduct. The Department Published absence notices in two leading Newspapers, wherein the appellant was directed to report to duty within 15 days, failing which it will be presumed that he is no more interested in his service and ex-parte action will be taken against him culminating in his dismissal from service (Annex-F&G), but the appellant did not bother to reply. Hence, the appellant was removed from service vide Notification dated 27-05-2016 (Annex-H).
7. Pertains to the record of Chief Minister, Secretariat.
8. Needs no Comments.


Grounds: -

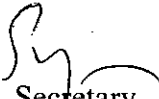
- A. Incorrect. The respondents issued the order of removal of the appellant from service in accordance with law, rules and policy in vogue.
- B. Already explained in Para No. 6 on facts.
- C. Incorrect. The respondent fulfilled all the codal formalities before removing the appellant from service. The appellant was directed to resume duties failing which Ex-parte proceeding will be initiated against him, but he did not bother to reply.
- D. Already explained in proceeding para.
- E. Incorrect. The appellant was irresponsible Government servant because he left the College without the sanctioning of leave from the competent authority.
- F. Already explained in the proceeding paras.
- G. Incorrect. The appellant has not been discriminated and he is estopped by his own conduct.
- H. Incorrect and already explained in para 4 on facts.
- I. Incorrect. The appellant was treated as per law.
- J. Needs no comments.
- K. The respondents may be allowed to raise additional grounds at the time of hearing of instant case.

Prayer: -

It is, therefore, humbly prayed that the service appeal is based on mis-statement and hence, may graciously be dismissed.


Chief Secretary,
Higher Education Department.
Respondent No.1


Director,
Higher Education Department.
Respondent No.3


Secretary
Higher Education Department
Respondent No.4

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

S.A#1045/2016

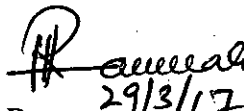
Mr. Fazal Wahid..... Appellant.

VERSUS

Director Higher Education Department & others..... Respondents

AFFIDAVIT

I, Irfan Ullah, Assistant Director (Litigation), Higher Education Department do hereby declare and affirm on oath that the contents of Para Wise Comments are correct to the best of my knowledge and belief and that nothing has been concealed from this Hon'able Court.


Deponent 29/3/17

Annex - A

19



PRINCIPAL
GOVT. DEGREE COLLEGE GARHI KAPURA
MARDAN.

PHONE # 0937-869700

FAX 0937-869700

Email principalgdcgk@hotmail.com



Dated 28/4/15 2015

No 1306

The Director
Higher Education Department
Khyber Pakhtunkhwa
Peshawar.

P-17

Subject: APPLICATION FOR THE GRANT OF LEAVE WITHOUT PAY.

Memo:

Reference to your memo No. 9577/CA-II/Estt.Branch/A-12/Fazli Wahid/Comp. Science
Dated Peshawar the 13-04-2015. It is to inform your kind honour that Mr. Fazli Wahid Lecturer in
Computer Science was inform several time to resume his duty without delay, due to not submitting
proper NOC from the competent authority, but he failed to do so nor reply of the letter sent to him on
his available home address.

From the reliable source he has gone abroad (Korea) for higher studies and remained
absent from duty w.e.f. 01-03-2015.

Moreover his salary has been stopped w.e.f.01-03-2015 on his own request. The case is
forwarded for further necessary action please.

PRINCIPAL
Govt. Degree College
Garhi Kapura Mardan

Enclstt: No. 1307-8 Dated 28/04/2015

1. Principal Govt. Post Graduate College Mardan.
2. Officer concerned.

CA II
27/09/15

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sd.
PRINCIPAL
Govt. Degree College
Garhi Kapura Mardan

Annex - B

21



PRINCIPAL
GOVT. DEGREE COLLEGE GARHI KAPURA
MARDAN.

PHONE # 0937-869700
FAX 0937-869700
Email principalgdcgk@hotmail.com



Ref. No. 1398

Dated 28/6/2015

To:

Fazli Wahid
Lecturer in Computer Science
Mohallah Khattak, Village & P/O Jamal Garhi
Thesil Mardan District Katlang.

Subject:

ABSENT FROM DUTY/LEAVE WITHOUT PAY.

Memo:

Reference letter No. 15627-28 dated 17-06-2015. You are once again directed to join resume your duties within seven days positively, otherwise action will be initiated under E & D Rules 2011 against you.

sd-
PRINCIPAL
Govt. Degree College
Garhi Kapura Mardan.

Encls. No. 1398 Dated 28/6/2015

Copy to:

- 1. Director Higher Education with the remarks that the officer concerned is still absent from his duties nor he has contact the under signed please.



29/6/15
PRINCIPAL
Govt. Degree College
Garhi Kapura Mardan.

*File and his action
7/7/15*

99712/15

Annex - C

24



PRINCIPAL
GOVT. DEGREE COLLEGE GARHI KAPURA
MARDAN.

PHONE # 0937-869700
FAX 0937-869700
Email principalgdcgk@hotmail.com



Dated.....2015

Reminder

By Regd. Post.

Fazli Wahid
Lecturer in Computer Science
Mohallah Khattak, Vollage & P/O Jamal Garhi
Thesil Mardan District Katlang.

ABSENT FROM DUTY/LEAVE WITHOUT PAY

Subject:

Memo:

Reference this office Memo No. 1230 Dated 30-03-2015, 1348 Dated 25-05-2015 & 1398 Dated 29-06-2015 respectively.

You are once again directed to join/resume your duties with immediate effect. Otherwise action will be initiated against you.

sd.

PRINCIPAL
Govt. Degree College
Garhi Kapura Mardan.

Enstt: No. 1413 Dated 29.7.2015

Copy for information to:

Director Higher Education Govt. of Khyber Pakhtunkhwa Peshawar.

27/7/15
PRINCIPAL
Govt. Degree College
Garhi Kapura Mardan.

*CA II
41390*

Handwritten signature/initials

Amma - D

25



PRINCIPAL
GOVT. DEGREE COLLEGE GARHI KAPURA
MARDAN.

PHONE # 0937-869700
FAX 0937-869700
Email principalgdcgk@hotmail.com



Dated.....2015

Reminder

Fazli Wahid
Lecturer in Computer Science
Mohallah Khattak, Village & P/O Jamal Garhi
Thesil Mardan District Katlang.

Subject:

ABSENT FROM DUTY/LEAVE WITHOUT PAY

Memo:

Reference this office Letter No. 1230 Dated 30-03-2015, 9577 dated 13-04-2015, 12275 dated 18-05-2015, 1348 dated 25-05-2015, 15627-28 dated 17-06-2015, 1398 dated 29-06-2015, 1398 Dated 29-06-2015, 1416 dated 30-07-2015, 1459 dated 15-08-2015, 1488 dated 03-09-2015, 1513 dated 29-09-2015 respectively.

You Mr. Fazli Wahid Lecturer in Computer Science are hereby once again directed to resume your duties with in a weak failing which disciplinary action under E & D rules 2011 will be initiated against you by the competent authority.

sd
PRINCIPAL
Govt. Degree College
Garhi Kapura Mardan.

Enclt: No. 1542 Dated. 30-10-2015

Copy for information to:

- 1. Director Higher Education with the remarks that the officer concerned is still absent from his duties nor he has contact the under signed please.

30/10/15
PRINCIPAL
Govt. Degree College
Garhi Kapura Mardan.

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[Signature]

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90



Annex - E
**DIRECTORATE OF HIGHER EDUCATION
KHYBER PAKHTUNKHWA,
KHYBER ROAD PESHAWAR**

Phone # 091-9210242, 9211025/Fax # 9210215
No. 15626 / CA-11 / Estt: Branch/A-12/Fazli Wahid/ Comp: Science *Q10*

Dated Peshawar the 17/6 /2015

REGISTERED
MOST IMMEDIATE

Mr. Fazli Wahid
Lecturer in Computer Science
Mohallah Khattak, Village & P.O Jamal Garhi
Tehsil & District Mardan.

SUBJECT
Memo:

ABSENT FROM DUTY/ LEAVE WITHOUT PAY.

As per report of the Principal Govt; Degree College, Garhi Kapura (Mardan), you applied for Extra Ordinary Leave (without pay) for two years w.e.f 01.03.2015, to 27.02.2017 and left the College without approval of the Competent Authority which is willful and tantamounts to misconduct. You has been willfully absent from duties since 01.03.2015.

I am, therefore, directed to call upon you to explain the reason of your willful absence from duties and assume your duties within a week failing which disciplinary action under E&D Rules, 2011 will be initiated against you.

Encl: No.

15627-28

3
DY: DIRECTOR (ESTABLISHMENT)

Copy of the above is forwarded to the:-

1. Section Officer (Colleges-II) Govt; of Khyber Pakhtunkhwa, Higher Education Department Peshawar.
2. Principal Govt; Degree College, Garhi Kapura (Mardan) with the remarks to intimate latest to this office accordingly.

3
DY: DIRECTOR (ESTABLISHMENT)

any officer in teaching, administrative or research posts in the University shall be eligible to apply for this position. The candidate must be a graduate or above with a minimum qualification of BSc/B.A. or equivalent (24-12-1985) or above (retired army officer).

The University Web Site (www.uoi.edu.pk) should be visited for complete details to SSB/C.A.C. No. 1071/2015/2016. The candidate should be furnished with a copy of the advertisement with all relevant documents to be submitted to the office of the Registrar, University of Information Technology, F-7/1, Sector 7, Islamabad.

Details shall not be entertained in the case of interview.

The candidate should be aware that the advertisement is for Contract Mode and not for regular employment. The candidate should also be aware of the number of posts available with the University.

Information by the University



ایس سی ڈی آر ایف
ارتقاء
Public Notice

The University of Information Technology is pleased to announce the recruitment of...

Items
The United Nations
Logo

Of Interest - Zaid

The Commission for African Resources (CAR) under the Korea (KP) seeks to solicit interest from leading firms in enhancing public health and education

Relevant information

Mansabara: construction of new classrooms.

KVC City 2 along with installation of steel gutters

Mansabara: construction of labour conveyer, medical equipment, rehabilitation of existing

Swabi: construction of labour conveyer, medical equipment, rehabilitation of existing buildings, etc.

Swabi: construction of new classrooms, etc.

Swabi: construction of labour conveyer, medical equipment, rehabilitation of existing buildings, etc.

Punjab: construction of new classrooms.

Punjab: construction of labour conveyer, medical equipment, rehabilitation of existing buildings, etc.

Interested (CEO) are requested to submit documents by sending an e-mail to info@ama-kp.com (AMA KP CEO (I)). A link for downloading the form is attached herewith.

For more information, please contact the P.O. BOX listed in the CEO document. The deadline for the submission of the documents is 31.6.2016. The date of the post office registered stamp should be before this date.

Peshawar General Hospital JOB OPPORTUNITIES

The Peshawar General Hospital is seeking qualified candidates for the following positions: Medical Officer, Staff Nurse, etc. Details are available on the hospital website.

پشاور جنرل ہسپتال
ایس سی ڈی آر ایف
ایس سی ڈی آر ایف
ایس سی ڈی آر ایف

4-3-2016

پشاور جنرل ہسپتال
ایس سی ڈی آر ایف
ایس سی ڈی آر ایف

INVITING TENDER

(Two stage two envelope procedure)

Government of Khyber Pakhtunkhwa invites sealed bids in accordance with KPPRA procurement rules 2014 on single stage for the following works. The bidders should be registered with Pakistan C&W in relevant category & field of specialization, enlisted with C&W and have adequate financial soundness, relevant experience, personnel and others as included in ITB

Item No.	Required Category of PEC	Bid Security	Period of completion	Last date submission and time	Date of Opening & Time
1	C-6	2% of bid cost	6/2016	24/3/2016 12:00 noon	24/3/2016 14:00 noon
2	C-6	2% of bid cost	12 Months	=do=	=do=
3	C-6	2% of bid cost	6/2016	=do=	=do=

Bids for BOQ and instruction to bidders can be downloaded up to 24/3/2016 from C&W web site (www.cwd.gkp.pk). In case of call deposit in the name of Executive Engineer C&W Charasadda. Original and Duplicate. The Original shall be sent to the Executive Engineer Charasadda and the Duplicate to Superintending Engineer Charasadda. Duplicate bids shall reach the concerned office before 24/3/2016. The undersigned on cash payment of Rs. 1030 (Non-refundable) and attached it with the financial bid.

TECHNICAL DIVISION CHARSADDA

Phone: 091-9220091
Say No to Corruption

COMMUNITY DRIVEN LOCAL DEVELOPMENT (CDLD)

اظهار و اجنبی برائے مال
حکومت خیبر پختونخوا اور ضلع پشاور کی حکومت اس آرڈر آف ایشن سے درج شدہ اعلیٰ اور کم قیمتوں والے کاموں کی فراہمی کے لیے اس پیشکش کو منظور کیا گیا ہے۔

سلسلہ نمبر	محلہ	محلہ	محلہ
1	داری کنڈ	داری کنڈ	داری کنڈ
2	کس داروہ	کس داروہ	کس داروہ
3	پاشا	پاشا	پاشا
4	پاشا	پاشا	پاشا

تعمیراتی کاموں اور فنڈنگ کے لیے درخواستیں جمع کروانی ہیں۔ اس کے لیے درخواستیں جمع کروانی ہیں۔ اس کے لیے درخواستیں جمع کروانی ہیں۔ اس کے لیے درخواستیں جمع کروانی ہیں۔

انٹرنیٹ جرنل (توسیہ) نکلایا جاسکتا ہے اور ڈی وی ڈی ایف جرنل

091-9210309 نمبر
تفصیلات
INF (P) 522
2016

پرائیویٹ ڈائریکٹر جنرل کے دفتر میں اسٹیشننگ سروس

پرائیویٹ ڈائریکٹر جنرل کے دفتر میں اسٹیشننگ سروس کے لیے درخواستیں جمع کروانی ہیں۔ اس کے لیے درخواستیں جمع کروانی ہیں۔ اس کے لیے درخواستیں جمع کروانی ہیں۔ اس کے لیے درخواستیں جمع کروانی ہیں۔

انٹرنیٹ جرنل (توسیہ) نکلایا جاسکتا ہے اور ڈی وی ڈی ایف جرنل

091-9210309 نمبر
تفصیلات
INF (P) 522
2016

انٹرنیٹ جرنل (توسیہ) نکلایا جاسکتا ہے اور ڈی وی ڈی ایف جرنل

انٹرنیٹ جرنل (توسیہ) نکلایا جاسکتا ہے اور ڈی وی ڈی ایف جرنل کے لیے درخواستیں جمع کروانی ہیں۔ اس کے لیے درخواستیں جمع کروانی ہیں۔ اس کے لیے درخواستیں جمع کروانی ہیں۔ اس کے لیے درخواستیں جمع کروانی ہیں۔

1. (a) 320 Liters of Diesel (b) 320 MHR (c) 320 MHR (d) 320 MHR
2. (a) 320 Liters of Diesel (b) 320 MHR (c) 320 MHR (d) 320 MHR
3. (a) 320 Liters of Diesel (b) 320 MHR (c) 320 MHR (d) 320 MHR
4. (a) 320 Liters of Diesel (b) 320 MHR (c) 320 MHR (d) 320 MHR

Annex - #

51

**GOVT. OF KHYBER PAKHTUNKHWA
HIGHER EDUCATION, ARCHIVES &
LIBRARIES DEPARTMENT**

Dated Peshawar the 27.05.2016.

NOTIFICATION / 357

NO. SO (C-II)HED/12-6/2014. WHEREAS Mr. Fazal Wahid, lecturer in Computer Science (BS-17), Govt. Degree College Garhi Kapura, Mardan is absent from duties since 01-03-2015.

2. AND WHEREAS absence notices were issued to him on his home address as well as in leading newspapers with the direction to resume duty failing which ex-parte action under Khyber Pakhtunkhwa Efficiency & Discipline Rules, 2011 would be taken against him.

3. AND WHEREAS the accused lecturer did not report for duty in response to the absence notices.

4. NOW THEREFORE, The Competent Authority, in exercise of powers conferred upon him under the Khyber Pakhtunkhwa Efficiency & Discipline Rules, 2011, is pleased to impose upon the said officer the penalty of removal from service with immediate effect. The absence period w.e.f 01-03-2015 till imposition of penalty shall be treated as unauthorized absence from duty (without leave).

SECRETARY TO GOVT. OF
KHYBER PAKHTUNKHWA
HIGHER EDUCATION DEPARTMENT

Under No. & Date Even.

Copy for information forwarded to the:-

1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. Director Higher Education, Khyber Pakhtunkhwa, Peshawar.
3. Principal Govt. Degree College Garhi Kapura, Mardan.
4. Officer concerned.

For m/a pl. JWC 10/6/2016

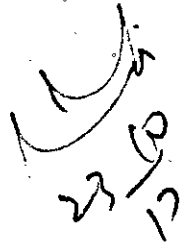
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Diary # 4154 Page # 228
DICT

Rukhsana Jabeen
(RUKHSANA JABEEN)
SECTION OFFICER (COLLEGES-II)

Before The Honorable Judge Services Tribunal
KPK Peshawar.

Fazal Wahid VS Director Education and others.

Application for Adjournment
of the captioned case due
to busy schedule of the
counsel.



23/10/17

Respect Fully Sheweth,

- (1) That the captioned case is pending before this Honorable Tribunal wherein the date of hearing is fixed for today (i.e) 23-10-2017.
- (2) That the counsel for the petitioner is busy before the Honorable Peshawar High-Court and therefore is unable to appear before this Honorable Tribunal.
- (3) That the unavailability of the counsel before the Honorable Tribunal is neither wilful nor intentional but due to the above stated reason.

It is therefore humbly
Prayed that on acceptance
of instant application the
captioned case may kindly
be adjourned for today.

Date 23-10-17

 Nulhak Malik Nasrum Minalah (Asc)
Counsel for
Fazl Wahid