BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 9621/2020

Date of Institution: 26.08.2020

Mr. Saleem Khan, Lab Attendant, GHS Ghalanai, District Mohmand.

Versus

The Secretary E&SE Department, Khyber Pakhtunkhwa, Peshawar and four others.

ORDER

24.08.2022 Appellant in person present. Mr. Naseer Ud Din Shah, Assistant Advocate General for the respondents present.

Appellant stated at the bar that his grievance has been redressed, therefore, he wants to withdraw the instant appeal. In the respect, he submitted an application, which is placed on file.

In the light of the above, the appeal in hand stands dismissed as withdrawn. Parties are left to bear their own costs. File be consigned to the record room after its completion.

ANNOUNCED
24.08.2022

(Rozina Rehman)
Member (J)

(Salah Ud Din)
Member (J)

22.08.2022 Appellant in person present. Nemo for the petitioner. Mr. Naseer Ud Din Shah, Assistant Advocate General for the respondents present.

Appellant sought adjournment on the ground that his counsel is not available due to some domestic engagement. Adjourned. To come up for arguments on 24.08.2022 before the D.B.

(Rozina Rehman)
Member(J)

(Salah-Ud-Din)
Member(J)

Stipulated period passed reply not submitted.

29.07.2021 Learned Addl, A.G be reminded about the omission and for submission of reply/comments within extended time of 10 days.

Chairman

10.11.2021 None for the appellant present. Mr. Kabirullah Khattak, Addl: AG for respondents present.

Notices be issued to the appellant and his counsel. Adjourned. To come up for arguments on 03.03.2022 before D.B.

(Mian Muhammad)
Member(E)

(Rozina Rehman)
Member(J)

03.03.2022 Due to retirement of the Worthy Chairman, the Tribunal is defunct, therefore, case is adjourned to 08.06.2022 for the same as before.

Reader.

8-6-22 Proper DB is on Tour, therefore the case is adjourned to 22.8.22 for same.

16.03.2021 Due to tour of Camp Court Abbottabad and shortage of Members at Principal Bench Peshawar, the case is adjourned to 23.06.2021 before S.B.

Reader

23.06.2021 Counsel for the appellant present. Preliminary arguments heard.

Points raised need consideration. The appeal is admitted to regular hearing. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments in office within 10 days of the receipt of notices, positively. If the written reply/comments are not submitted within the stipulated time, the office shall submit the file with a report of non-compliance. File to come up for arguments on 10.11.2021 before the D.B.

Appellant Deposited Security & Process Fee
01/7/21

Chairman

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 9621 /2020

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	26/08/2020	The appeal of Mr. Saleem Khan presented today by Mr. Shahzullah Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please. REGISTRAR
2-		This case is entrusted to S. Bench for preliminary hearing to be put up there on 05/10/2020 CHAIRMAN
	05.10.2020	Nemo for appellant. Issue notice to appellant/counsel for preliminary hearing on 10.12.2020 before S.B. Chairman
	10.12.2020	Appellant present through counsel. He made a request for adjournment. Adjourned. To come up for preliminary hearing on 16.03.2021 before S.B. (Rozina Rehman) Member (J)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

APPEAL NO. 9621 /2020

SALEEM KHAN VS EDUCATION DEPTT:

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APPELLANT

THROUGH:

SHAHZULLAH YOUSAFZAI
ADVOCATE
Flat no 4, Upper Floor,
Juma khan plaza near FATA secretariat,
Warsak road, Peshawar
0302-8578851

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Khyber Pakhtukhwa Service Tribunal
Diary No. 8977
Dated 26-8-2020

APPEAL NO. 9621 /2020

Mr. saleem khan, Lab Attendant ,
GHS ghalanai, district mohmand.

..... **APPELLANT**

VERSUS

1- The Secretary E&SE Deparment, Khyber Pakhtunkhwa, Peshawar.
2- The Director E&SE Department, Merged Area, Former FATA Secretariat, Warsak Road, Peshawar.
3- The Director E&SE Department, Khyber Pakhtunkhwa Peshawar.
4- The District Education Officer, District Mohmand .
5- The District Account Officer, District Mohmand.

.....**RESPONDENTS**

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKWA SERVICE TRIBUNAL ACT 1974 AGAINST THE INACTION OF THE RESPONDENTS BY NOT RELEASING THE REMAINING MONTHLY SALARIES OF APELLANT FROM 01/01/2014 TO 01/10/2017 AMOUNTING TO 210000/- AND AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS.

PRAYER:

That on acceptance of this appeal the respondents may kindly be directed to release the remaining monthly salaries of the appellant w.e.f 01/01/2014 till 01/10/2017 amounting to Rs 210000/-. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant.

Filedto-day
Registrar
26/8/2020

R/SHEWETH:
ON FACTS:

Brief facts giving rise on the present appeal are as under:

1- That appellant is serving as lab attendant in govt. high school ghalanai and performing his duty quite efficiently and up to the entire satisfaction of his superiors.

2- That it is pertinent to mention here that the appellant was performing his duty in GHSS Ghalanai when his salary was

stopped by the respondents from 01/01/2014 till 01/10/2107 without any reasons.

3- That feeling aggrieved the appellant filed departmental appeal and consequently he was adjusted against the vacant of Lab-attendent in GHS Danish koh vide order dated 29/09/2017 and the concerned officer was directed to release the salary/arrears of appellant from 01/01/2014 to 01/10/2017. Copy of the oder dated 29/09/2017 is attached as annexure ..... **A.**

4- That thereafter the head master GHS danish koh submitted the demand of appellant salaries/arrears of the above mentioned period to respondent no 4 vide letter dated 17/10/2017, however he was paid PKR 5 lac and the remaining 210000 is still not paid to appellant. Copy of letter dated 17/10/2017 is attached as annexure.....**B.**

5- That the appellant feeling aggrieved approached the respondents time and again for payment of outstanding amount Rs two lac and ten thousand and finally filed departmental appeal on 23/04/2020. That the head master submitted demand bill of Rs two lac and ten thousand to respondent no.4 vide letter dated 18/06/2020. Simlilarly respondent no.4 submitted demand bill of aforementioned amount in respect of appellant salary to deputy commissioner for further necessary action vide letter dated 25/6/2020 but the outstanding amount is still not paid to appellant. Copies of departmental appeal and demand letters are attached as annxue.....**C&D.**

6- That feeling aggrieved and having no other remedy the appellant filed the instant appeal on following grounds inter alia.

GROUNDS:

A- That the inaction of the respondents by not releasing the remaining monthly salaries to the tune of Rs two lac and ten thousand is against the law, facts and norms of natural justice.

B- That the petitioner has not been treated in accordance with law and rules by the respondent Department on the subject noted above and as such the respondents violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.

C- That the respondents acted in arbitrary and malafide manner by not releasing the remaining salaries of appellant.

D- That the appellant has been discriminated on the subject noted above and as such the respondents violated the principle of natural justice.

E- That there is no provision under the law wherein salary of a civil servant could be stopped without any reasons.

F- That appellant seeks permission to advance other grounds and proofs at the time of hearing.

It is therefore most humbly prayed that the appeal of the appellant may be accepted as prayed for.

Dated: 10.08.2020

APPELLANT

SALEEM KHAN

THROUGH:
SHAHZULLAH YOUSAFZAI
ADVOCATE

A-4

OFFICE OF THE AGENCY EDUCATION OFFICER
MOHMAND AGENCY AT GHALLANAI
P.NO.0924290180 FAX:0924290180
Email:- education.mohmand@yahoo.com

ADJUSMENT/RELEASE OF PAY ORDER

Consequent upon the approval of Deputy Director (F&A) vide letters No.907 dated 19/01/2017, 14094 dated 26/05/2017, 12482 dated 01/08/2017 and 14049 dated 08/09/2017 Mr. Salim Khan Lab.Attendent is hereby Adjusted in GHS Danish Kool Tehsil Pandiali against vacant post.

Mr. Sana Ullah H/M GHS Danish Kool has given in written shape to the undersigned that he has no objection on this adjustment.

Note: DDO concerned is further directed to recover Rs.178000 (proposed by the enquiry officers comprising of Mr. Sardar Hussain Principal GHS Ekka Ghund and Mr.Muhammad Ilyas Principal GHS Pandiali from Mr.Salim Khan Lab.Attendent and deposit in Govt. Treasury under intimation to this office.

(Farid Ullah)
Agency Education Officer
Mohmand Agency

Endst.No. 39479-84 (Estab) Dated. 29/09/2017.

Copy to the;

1. Director Education FATA Secretariat Peshawar.
2. DDO Concerned is directed to release his arrear from 14/01/2015 to 01/10/2017.
3. Accountant Local Office.
4. Pay Clerk Local Office.
5. Salim Khan.
6. Office Record

Sir
Attested

Agency Education Officer
Mohmand Agency

7/10

بخدمت جناب ڈسٹرکٹ ایجوکیشن آفیسر ضلع مہمند

بعنوان: درخواست برائے اداری کرنے باقی ماندہ تنخواہ جات

بلغ =/210,000 روپے

C-6

ضلع مہمند

MJ 8838-

B-5

OFFICE OF THE HEAD MASTER
GHS DANISH KOOL M. AGENCY
NO. 876 DATE 17/10/2017

TO

THE DIRECTOR OF EDUCATION
FATA K.P.K PESHAWAR Worsak Road

Subject; **DEMAND OF BUDGET FOR MR. SALEEM KHAN L/Atd RS. 847930/-**

Sir,

Respectfully it is stated that Mr. Saleem khan was working against L/attendant post in GHSS Ghallani , due to some reasons his pay stopped by his relevant officers as per rule.

The pay of the concern stopped w.e.f 1/1/2014 up to now. Now this office issue an order to release his pay from the date it stopped.

Therefore it is requested to the honorable authority to grant the same budget to meet the the expenditure of the concern.

Head Master
GHS Danish Kool
M. Agency

Attested

Saleem

سلیم خان
لیب اسسٹنٹ
گورنمنٹ ہائیسکول غلنی

بخدمت جناب ڈسٹرکٹ ایجوکیشن آفیسر ضلع مہمند

C-6

بعنوان: درخواست برائے جاری کرنے باقی ماندہ تنخواہ جات
بلغ 210,000/= روپے

جناب عالی!

مودبانہ گذارش ہے کہ سائل گورنمنٹ ہائی سکول غلنی میں بطور لیب اٹینڈنٹ (Lab attendant) خدمات سرانجام دے رہا ہے۔ سائل کی تنخواہ سال 2016 سے 2017 تک نامعلوم وجوہات کی بنا پر روک دی گئی۔ آپ جناب کے دفتر نے سال 2017 میں ایک کلیم کے تحت میرے تنخواہ جات جاری کرنے جس پر مزید کارروائی ہوئی اور مجھے کچھ تنخواہ جاری ہوئے جس کو سائل نے وصول کیا۔ ہم سائل کو جملہ تنخواہ جات ادا کر دیے لیکن 210,000/= روپے بغیر کسی عذر کے روک دیے اور جاری نہ ہو سکے۔ پس سائل نے دفتر ہذا میں ایک درخواست گذارا اور سکول کے پرنسپل صاحب کو بھی درخواست گذارا لیکن ابھی تک کوئی شنوائی و پیشرفت نہ ہو سکی۔

جناب والا! آپ صاحبان کے خدمت اقدس میں التماس ہے کہ سائل ایک غریب بندہ ہے لہذا اس پر رحم فرما کر مذکورہ تنخواہ جات بلغ 210000/= روپے سائل کے نام پر جاری کرنے کی احکامات صادر فرمائیں۔ سائل زندگی بھر دعا گو رہے گا۔

العارض

آپ کا تابعدار
سلیم خان
لیب اٹینڈنٹ
گورنمنٹ ہائی سکول غلنی

20/5/2020: المرقوم

No. 1072 /

Dated 18/6/2020

From:

D-7

The Head Master
GHS Danish Kool
District Mohmand

To:

The District Education Officer
Mohmand Tribal District.

Subject: DEMAND OF LEAVE SALARY
Memo:

Enclosed please find herewith an application along with required documents regarding demand of leave salary in r/o Mr.Salim Lab:Attendant GHS Danish Kool District Mohmand amounting to Rs.210000/- for further necessary action Please.

Encl: (AA)

Attested

Head Master
GHS Danish Kool
District Mohmand

Qayyum
Plz. confirm from the school head whether leave salary has been drawn or otherwise
25/6/20

The leave salary has not been drawn by the concerned officer
25/6/2020

Head Master
G.H.S. Danishkool
Mohmand Agency

R/Sir, Resubmitted with the [illegible] have personally confirmed regarding the drawn of L/salary in r/o the applicant from the HM concerned, which has not yet been drawn as per minutes statement of the HM concerned.

No. 1076 / Dated. 18/6 /2020.

(8)

From:

The Head Master
GHS Danish Kool
District Mohmand

To:

The Deputy Commissioner
Mohmand Tribal District.

Subject: DEMAND OF LEAVE SALARY
Memo:

Enclosed please find herewith an application along with required documents regarding demand of leave salary in r/o Mr.Salim Lab:Attendant GHS Danish Kool District Mohmand amounting to Rs.210000/- for further necessary action Please.

Encl: (AA)

Head Master
GHS Danish Kool
District Mohmand

ADC (F&P)

for n/a as per rules/ law

Attested

DCM

OFFICE OF THE DISTRICT EDUCATION OFFICER
MOHMAND TRIBAL DISTRICT
Ph. No. : 0924-290180
FAX : 0924290180
Email :- deomohmand@gmail.com

KPESED
Khyber Pakhtunkhwa Elementary & Secondary Education Department

No 2651 **Dated** 25-06-**2020**

To

The Deputy Commissioner
Tribal District Mohmand

Subject: **DEMAND OF LEAVE SALARY AMOUNTING TO RS.210000/-**
Memo:-

Reference to the Head Master GHS Danish Koll letter No.1077 dated 15-06-2020 on th above cited subject and to enclose herewith a letter regarding demand of Leave Salary in r Mr.Saleem Lab:Assistan GHS Danish Kool Tehsil Pandialai Mohmand Tribal District under Hea (**A01278-Leave Salary**) amounting to Rs.210000/- and cost center **MG6017-GHS Danish Kool** Distri Mohmand for further necessary action as per rules please.

Encl: (Letter attached)

District Education officer
Mohmand Tribal District

Endst:No._____/Dated._____/2020.

Copy forwarded to the:-

1:-Head Master GHS Danish Kool District Mohmand w/r to his letter No & dated quoted above.

ADC(FAP)
for n/a as per rules/law/SOP.

District Education officer
Mohmand Tribal District

No. 1424/S
29.6.2020

DC-M

Attested

VAKALATNAMA

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

9621 OF 2020

Saleem Khan (APPELLANT) (PLAINTIFF) (PETITIONER)

VERSUS

EDUCATION DEPTT: (RESPONDENT) (DEFENDANT)

I/We Saleem Khan
Do hereby appoint and constitute **SHAHZULLAH YOUSAFZAI, Advocate, Peshawar** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate Counsel on my/our cost. I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter.

Dated.____/____/2020

CLIENT(S)

ACCEPTED
SHAHZULLAH YOUSAFZAI
&
KAMRAN KHAN
ADVOCATES

BEFORE THE HON'BLE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA PESHAWAR

Saleem Khan

Petitioner/Appellant

VERSUS

INSPECTOR GENERAL OF POLICE KPK & Others

Respondents

APPLICATION FOR EARLY HEARING OF THE ABOVE TITLED CASE

Respectfully Sheweth,

1. That the above titled service appeal no 9621/20 is pending before the Hon'ble Tribunal and is fixed for upcoming date i.e 08-06-2022.

2. That in the above captioned case the date given i.e 08-06-2022 is too late and the appellant has legitimate concern in the speedy disposal of the captioned case.

3. That there is no legal bar if the captioned service appeal is fixed for an early date of hearing.

4. That in the given circumstances, the fixation of the captioned case for an early date is indispensible.

It is, therefore, most humbly prayed that on acceptance of the instant petition, the captioned case may very graciously be fixed for an early date of hearing as convenient to this Hon'ble Tribunal in the best interest of justice.

Dated: 06-04-2022

Petitioner

Through

Roeeda Khan
Advocate High Court,
Peshawar

بعدالت صاحب

منجانب

بنام

مورخہ
مقدمہ
دعویٰ
جرم

باعث تحریر آنکہ

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

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 برحلف دینے جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرنے اجراء اور صولی چیک و روپیہ ارعرضی دعوی اور درخواست ہر قسم کی تصدیق زرایں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برامدگی 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 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 با اختیارات حاصل ہوں گے اور اس کا ساختہ پرداختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ و ہرجانہ التوائے مقدمہ کے سبب سے وہ 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 رہے۔

المرقوم 6 ماہ 6 سنہ 2022ء

العبد گواہ العبد

بمقام کے لئے منظور ہے۔

بعدالت جناب سروس ٹریبونل پشاور خیبر پختونخوا

درخواست برائے واپسی اپیل نمبر 9621/2020

جناب عالی

گزارش ہے کہ اپیلنٹ Appellant ، سلیم خان Lab. Attach نے فورم عدالت ہذا میں اپیل نمبر 9621/2020 دائر کی تھی۔ جسمیں ایجوکشن افسر کے خلاف بقایاجات کا دینے کیلئے کہا تھا لیکن اسی دوران Respondent نے اپیلنٹ کا مسئلہ حل کرکے بقایاجات دے دی۔

اسلئے میں سلیم خان اپنا اپیل 9621/2020 واپس لیتا ہوں آپ معزز جج صاحبان اس پر احکامات صادر فرمائیں۔

تاریخ 24.8.2022

درخواست گزار سلیم خان Lab. Attendant ڈسٹرکٹ فیمل اپیل نمبر 9621/2020

ATTESTED 24-8-22
IRFAN ULLAH
Oath Commissioner
Advocate

محمد بالا دست تسلیم ہیں کہ مندرجہ بالا درخواست
پوشیدہ نہیں۔

محمد سلیم