

11.10.2022

Counsel for the appellant present. Preliminary arguments heard and record perused

Points raised need consideration. The appeal is admitted for regular hearing subject to all legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to respondents for submission of written reply/comments. To come up for written reply/comments on 15.11.2022 before S.B.

Rs-100/-
Appellant Deposited
Security & Process Fee

A. J. Khan
19/10/22



(Fareeha Paul)
Member (E)

15.11.2022

Clerk of learned counsel for the appellant present. Mr. Kabriullah Khattak, Additional Advocate General alongwith Mr. Arshad Khan, ADEO for the respondents present.

Reply/comments on behalf of respondents not submitted. Representative of the respondents requested for time to submit reply/comments on the next date. Adjourned. To come up for reply/comments before the S.B on 07.12.2022.

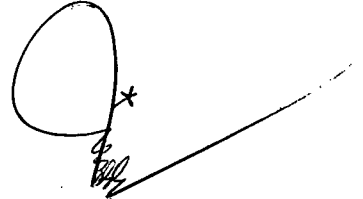
SCANNED
KFET
Peshawar


(Mian Muhammad)
Member (E)

19.04.2022

Appellant in person present.

Appellant seeks adjournment on the ground that his counsel is not available today due to demise of his sister. Adjourned. To come up for preliminary hearing on 05.07.2022 before S.B.



(MIAN MUHAMMAD)
MEMBER(E)

5th July, 2022

Appellant in person present.

Appellant seeks adjournment as his counsel is not available today. To come up for preliminary hearing on 06.09.2022 before S.B.



(Kalim Arshad Khan)
Chairman

6th September, 2022

Appellant in person present.

Appellant seeks adjournment on the ground that his counsel is not available today. Last opportunity granted. To come up for preliminary hearing on 11.10.2022 before S.B.




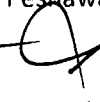

(Kalim Arshad Khan)
Chairman

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 177/2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	09/02/2022	<p>The appeal of Mr. Jehanzeb Khan resubmitted today by Mr. Ashraf Ali Khattak 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-		<p>This case is entrusted to S. Bench at Peshawar for preliminary hearing to be put there on <u>01-04-2022</u></p> <p style="text-align: right;"> CHAIRMAN</p>
	01.04.2022	<p>Junior of learned counsel for the appellant present and seeks adjournment on the ground that learned senior counsel has proceeded to Hon'ble Federal Service Tribunal, Islamabad. Adjourned. To come up for preliminary hearing on 19.04.2022 before the S.B.</p> <p style="text-align: right;"> Chairman</p>

The appeal of Mr. Jehanzeb Khan son of Mir Akbar Sweeper GMS Garhi Mumtaz village Badber District Peshawar received today i.e. on 26.01.2022 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Copy of departmental appeal against the impugned order dated 01.03.2019 is not attached with the appeal which may be placed on it.
- 2- Page no. 15, 18, 19, 20 and 23 of the appeal are illegible which may be replaced by legible/better one.

No. 178 /S.T,

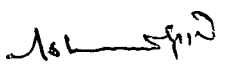
Dt. 27/01 /2022


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Ashraf Ali Khattak Adv. Pesh.

Objection Attended,

- 1) Order dated 01-03-2019 has been passed on De-nov inquiry directed by the Honorable Court therefore there is no need of filing departmental appeal against the impugned order dated 01-03-2019.
- 2) Objection no. 2 has been duly attended and better copies are attached.


Ashraf Ali Adv

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWARSERVICE APPEAL No. 177 /2022

Jehanzeb KhanAppellant.

Versus

The District Education Officer & others Respondents

INDEX

S.No.	Description of Documents	Date	Annexure	Pages
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4.	Copy of the Execution Petition		B	10-13
5.	Copy of inquiry Report		C	14-21
6.	Copy of the Application		D	22
7.	Copy of the Impugned order dated 21.03.2019		E	23-28
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Appellant

Through

Ashraf Ali Khattak
Ashraf Ali Khattak

Advocate,

Supreme Court of Pakistan

Dated: 24 / 01 / 2022

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

SERVICE APPEAL No. _____ /2022

Jehanzeb Khan
S/o Mir Akbar, Sweeper
Govt Middle School Garhi Mumtaz
Village Badaber District Peshawar

.....Appellant.

Versus

1. **THE DISTRICT EDUCATION OFFICER MALE**
Elementary and Secondary Education Department
Peshawar, Near Malak Saad BRT Buss Terminated
GT Road Peshawar

2. **DIRECTOR EDUCATION**
Elementary and Secondary Education Department
Peshawar, Near Malak Saad BRT Buss Terminated
GT Road Peshawar

.....Respondents.

**SERVICE APPEAL UNDER SECTION 4 OF THE
KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
ACT 1974 AGAINST THE IMPUGNED ORDER
DATED 01.03.2019 OF RESPONDENT NO. 1
(COMMUNICATED VIDE ORDER SHEET DATED
12.01.2022 OF THIS HON'BLE TRIBUNAL).**

Prayer:

ON ACCEPTANCE OF THE INSTANT SERVICE
APPEAL, THIS HONORABLE TRIBUNAL MAY
GRACIOUSLY BE PLEASED TO:-

1. DECLARE:-

I. THE IMPUGNED ORDER DATED 01.03.2019 OF
RESPONDENT NO. 1 TO THE EXTENT OF THE
DENIAL OF BACK BENEFIT IS ILLEGAL, AB INITO
VOID AND WITHOUT LAWFUL AUTHORITY AND
SET ASIDE THE SAME.

2. DIRECT

- i. REINSTATE THE APPELLANT WITH ALL BACK BENEFITS.
- ii. ANY OTHER RELIEF DEEMS FIT AND APPROPRIATE NOT SPECIFICALLY BEEN PRAYED FOR MAY ALSO BE GRANTED IN FAVOUR OF THE APPELLANT

Respectfully Sheweth.

1. That the appellant is low paid employee of the respondent department and was removed from service on allegation of willful absence vide order dated 15.05.2015, which he impugned before this Hon'ble Court in Service Appeal No 961/2015.
2. That this Hon'ble Tribunal vide judgment dated 02.08.2017 directed the respondent to reinstate the appellant in service. The respondents were placed at liberty to conduct denovo inquiry within a period of 90 days from the receipt of the Judgment in the Mode and manner prescribed in the rules fully associating the appellant with the inquiry proceedings. The issue of bank benefits shall be subject to the outcome of the denovo inquiry. **(Copy of Judgment dated 02.08.2017 is attached as annexure A)**
3. That the appellant was reinstated but not approached, nor summoned for conducting of inquiry as per direction of this Hon'ble Court; therefore appellant filed execution petition No. 169/2020. **(Copy of the Execution Petition is attached as annexure B)**
4. That respondents were put to notice and directed to submit implementation report but they filed implementation report after sufficient delay. Respondents annexed only copy of inquiry report with its implementation report and whereas intentionally avoid to attached any final order on the out come of the Inquiry Proceedings. **(Copy of inquiry Report is attached as annexure C)**
5. That Appellant filed Application before the respondents No 1 for the provision of attested copy of order if any was made on the completion of inquiry proceedings. **(Copy of the Application is attached as annexure D)**, but the same was not provided.
6. That that since the execution petition was still pending and was fixed on 12.01.2022, therefore the Appellant brought this fact into the notice of this Hon'ble Court and this Hon'ble Court was pleased to direct the respondents to produce final order if any notified in consequence of the recommendation of the Inquiry proceedings.

7. That the representative of the respondents went back to the office and accordingly produced the impugned back dated order dated 21.03.2019 and as such the same was communicated to the Appellant vide order sheet dated 12.01.2022. **(Copy of the Impugned order dated 21.03.2019 is attached as annexure E)**
8. That the appellant is going to file objection Application in this respect on next coming date i.e 28.02.2022. **(Copy of Objection Application is attached as annexure F)**
9. That the appellant now being aggrieved of the impugned Order dated 21.03.2019 to the extent of denial of back benefits prefers the instant service Appeal inter alias on the following **grounds.**

GROUNDS:

- A. That the appellant has not been treated by the respondents in accordance with law, rules and policy and acted in violation of Article 4 & 10-A of the Constitution of Islamic Republic of Pakistan 1973. Section 16 of the Khyber Pakhtunkhwa Civil Servant Acts provides that every civil servant is liable for prescribed disciplinary actions through prescribed procedure. In the instant case Appellant has been treated in violation of the prescribed rules on the subject and, moreso in violation of the clear cut direction of this Hon'ble Court vide its Judgment dated 02.08.2017, wherein this Hon'ble Court made it mandatory for the respondents to associate the appellant during the denovo inquiry proceedings.
- B. That from the perusal of the report of the inquiry proceedings it is clear that the charge of willful absence has not been proved against the Appellant. The report of inquiry committee is worth perusal. Since the charge of willful absence has not been proved against the appellant therefore in the absence of the evidence to the contrary that appellant was elsewhere employed in any other department or entity, appellant was entitled for reinstatement with all back benefits. The denial of the back benefit is against the principal laid down by the Hon'ble Apex Court.

Burden of proof on the prosecution to prove the charge.

The law in the country is still unchanged and is governed by law of Qanoon-e-Shahadat in Vogue and by virtue of the same, we have to see, that it is for the prosecution to establish the guilt of the person and if it fails to do so, the result is that benefit goes to the accused of the said failure.

Anx - A

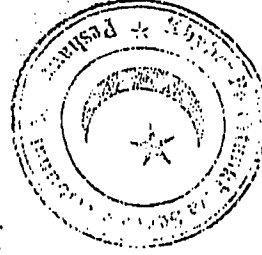
(7)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

Appeal No. 961/2015

Date of Institution ... 25.8.2015

Date of Decision ... 02.08.2017



Mr. Muhammad Shabbir Son of Muhammad Nazir.
Ex-Naib Qasid. Govt. Middle School.
Garhi Muntaz. Peshawar.

(Appellant)

VERSUS

1. The District Education Officer (Male) (E&SE) Department Peshawar.
2. The Deputy District Education Officer (Male). (E&SE) Department Peshawar.
3. The Director (E&SE) Department. Khyber Pakhtunkhwa Peshawar.
4. The Secretary. (E&SE) Department. Khyber Pakhtunkhwa

(Respondents)

MR. KHUSHI DIL KHAN.
Advocate

For appellant.


MR. Adeel Butt.
Addl: Advocate General

For respondents.

MR. GUL ZEB KHAN
MR. MUHAMMAD HAMID MUGHAL

MEMBER
MEMBER

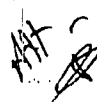
ATTESTED


EXAMINER
Khyber Pakhtunkhwa
Service Tribunal.
Peshawar

JUDGMENT

GUL ZEB KHAN, MEMBER. - This judgment shall dispose of the aforesaid Appeal as well as the connected Service Appeal No. 962/2015 titled "Jehanzeb Khan Versus District Education Officer (Male) (E&SE) Department Peshawar & Others" as similar question of law and facts are involved in both the appeals.

2. The aforesaid appeal dated 25/8/2015 has been lodged by Mr. Muhammad Shabbir, ex-Naib Qasid hereinafter referred to as appellant, under Section-4 of Khyber Pakhtunkhwa Service Tribunal Act 1974, wherein he has impugned the order dated 9/6/2014, vide which appellant was awarded major penalty of Removal from Service. The appellant filed departmental appeal against the impugned order on 15/5/2015 which was not disposed of within statutory period of ninety days and hence this appeal.



Brief facts of the case giving rise to the instant appeal are that the appellant joined Education Department as Naib Qasid on 5/11/2012. He joined duty after fulfilment of all the requisite formalities. That since then, appellant was performing his duties regularly to the entire satisfaction and during this period, no complaint whatsoever was made about his alleged absence to any quarter by any authority. Similarly, he was regularly paid salary without any break. That all of a sudden, his monthly salary was stopped without any notice and reason, so he submitted applications to higher authorities for release of salary but no action was taken thereon. Thereafter he filed a Writ Petition No. 1511-P/2014 titled "Muhammad Shabbir and others versus The Secretary Govt. of Khyber Pakhtunkhwa Elementary and Secondary Education Peshawar and other", in response to which, the respondents filed parawise comments with document pertaining to disciplinary action and removal of the appellant from service. That for the first time, appellant came to know about the disciplinary proceedings conducted against him by the respondents on false charge of absence culminating, in the impugned order dated 9/6/2014 of removal of the appellant from service, when relevant documents as referred above were filed by respondents in the Peshawar High Court. Hence in view of this scenario, the appellant withdrew his writ petition vide order sheet dated 22/4/2015. Thereafter the appellant filed departmental appeal before the respondent No. 3, but the same was not disposed of within statutory period of ninety days. Hence the instant appeal.

3. Learned counsel for the appellant argued at the bar that mandatory provisions of law and rules have badly been violated by the respondents and the appellant has not been treated according to law and rules. That neither any notice was issued directly to the appellant nor on his proper home address as required under Rule-9 of the E&D Rules 2011 nor any chance of personal hearing/defense was given to him before passing the impugned order and that no regular enquiry was conducted by the respondent-department which was mandatory requirement of the law while awarding such major punishment. That since the impugned order is illegal and without any justification, hence the same be set-aside. In this respect, the learned counsel relied on citation (b) Interpretation of statutes as contained in

ATTESTED
 E. ANJUM
 Khyber Pakhtunkhwa
 Secy.

ATTESTED

2017 PLC (CS) 771 titled "Abdul Bashir and 9 Others Versus Govt of Baluchistan through Chief Secretary and 3 Others".

4. In rebuttal, learned Government Pleader argued before the court that since the appellant has willfully absented himself without any leave, hence he was rightly proceeded against and removed from service vide impugned order dated 9/6/2014. Relying on 2002 SCMR 1004 titled "Pakistan International Airlines Corporation versus Captain MSK Lodhi... Respondents" the learned Government Pleader contended that the instant appeal is badly time barred and without any substance, hence may be dismissed with cost.

5. We have heard arguments of learned counsel for the appellant and learned Government Pleader for the respondents and have gone through the record available on file.

6. Perusal of record revealed that no opportunity of personal hearing or self-defense during the course of departmental proceedings were provided to the appellant. The respondents could not produce any documentary proof in the shape of a letter bearing registered acknowledgment-due at home address of the appellant which was mandatory under the rules. In view of the above discussion the impugned order is set-aside and the appellant is reinstated in service. The respondents are at liberty to conduct denovo inquiry within a period of 90 days from the receipt of this judgment, in the mode and manner prescribed in the rules fully associating the appellant with the inquiry proceedings. The issue of back benefits shall be subject to the outcome of the de-novo inquiry. In case inquiry is not conducted within the stipulated period, the appellant shall be deemed to have been reinstated in service from the date of dismissal from service and the absence period shall be treated as leave of the kind due. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED

02.08.2017

[Signature]
(Muhammad Hamid Mughal)
MEMBER

[Handwritten initials]

[Signature]
Certified to be true copy.
(Gul Zeb Khan)
MEMBER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Anx-B (10)

BEFORE THE KHYBER PAKHTUNKHAW SERVICE TRIBUNAL,
PESHAWAR

Execution Petition No. _____ / 2020

IN

Service Appeal No. 961/2015

Jehanzeb Khan,
S/o Mir Akbar, Sweeper,
Govt. Middle School Garhi Mumtaz,
R/o Lalma Delidher,
Village Badaber, District Peshawar.....Applicant.

Versus


Mr. Harnid Mahmood,
The District Education Officer (Male),
Elementary and Secondary Education, Department.
District Peshawar & other.....Respondents.

INDEX

S.No.	Document	Date	Annexure	Page
1.	Execution Petition with Affidavit.			1-3
2.	Copy of the Judgment of this Hon'ble Tribunal in Service Appeal No.961/2015.	02-08-2017	A	4-8
3.	Wakalat Nama.			

Applicant

Through


Ashraf Ali Khattak
Advocate, Peshawar

AHT
SR

(11)

1

BEFORE THE KHYBER PAKHTUNKHAW SERVICE TRIBUNAL,
PESHAWAR

Execution Petition No. _____ / 2020

IN

Service Appeal No. 961/2015

Jehanzeb Khan,
S/o Mir Akbar, Sweeper,
Govt. Middle School Garhi Mumtaz,
R/o Lalma Delidher,
Village Badaber, District Peshawar.....Applicant.

Versus

1. Mr. Hamid Mahmood,
The District Education Officer (Male),
Elementary and Secondary Education, Department.
District Peshawar.
2. Mr. Hafiz Muhammad Ibrahim,
The Director,
Elementary and Secondary Education, Department.
Khyber Pakhtunkhwa, Peshawar.....Respondents.

APPLICATION FOR EXECUTION OF ORDER /
JUDGMENT DATED 02-08-2017 PASSED IN
SERVICE APPEAL NO. 961/2015.

Respectfully Sheweth

1. That applicant / appellant filed service appeal No. 961/2015 before this Hon'ble Tribunal which was disposed of vide Order / Judgment dated 02-08-2017. The operative part of the Judgment is hereby reproduced for kind perusal and consideration of this Hon'ble Tribunal;
6. Perusal of record revealed that no opportunity of personal hearing or self defense during the course of departmental proceedings were provided to the appellant. The respondents could not produced any documentary proof in shape of a letter bearing register acknowledgment due at home address of the appellant which was mandatory under the rules. In view of the above discussion, the impugned order is set aside and the appellant is reinstated in service. The respondents are at liberty to conduct denovo inquiry within a

Att
*

period of 90 days from receipt of this Judgment, in the mode and manner prescribed in the rules fully associating the appellant with the inquiry proceedings.

The issue of back benefit shall be subject to the outcome of denovo inquiry.

The copy of Judgment / Order dated 02-08-2017 is attached as Annexure-A.

- 2. That applicant was reinstated in service but the respondents failed to conduct denovo inquiry within specified time.
- 3. That appellant has been remained out of service since the order of removal from service therefore, he was entitled for back benefits. Section 17 of the Civil Servants Act, 1973 provides that "a civil servant who is removed from service and later on the removal order is set aside then such civil servant is entitled for the pay during which he remained out of service".
- 4. That applicant submitted application for the back benefits but the same was not responded.
- 5. That applicant is entitled for back benefits as per Judgment / Order of this Hon'ble Court dated 02-08-2017.

It is therefore, humbly prayed that this Hon'ble Tribunal may graciously be pleased to direct the respondents to grant the applicant back benefits for the time he remained unemployed / out of service till the Order of reinstatement.

Applicant

Through

Ashraf Ali Khattak
 Ashraf Ali Khattak
 Advocate, Peshawar

Ashraf Ali Khattak

(13)

BEFORE THE KHYBER PAKHTUNKHAW SERVICE TRIBUNAL,
PESHAWAR

Execution Petition No. _____ / 2020

IN

Service Appeal No. 961/2015

Jehanzeb Khan,
S/o Mir Akbar, Sweeper,
Govt. Middle School Garhi Mumtaz,
R/o Lalma Delidher,
Village Badaber, District Peshawar.....Applicant.

Versus

Mr. Hamid Mahmood,
The District Education Officer (Male),
Elementary and Secondary Education, Department.
District Peshawar & other.....Respondents.

AFFIDAVIT

I, Jehanzeb Khan, S/o Mir Akbar, Sweeper, Govt. Middle School Garhi Mumtaz,
R/o Lalma Delidher, Village Badaber, District Peshawar do hereby solemnly
affirm and declare on oath that the contents of this Execution Petition are true and
correct to the best of my knowledge and nothing has been concealed from this
Hon'ble Tribunal.



Deponent

CNIC:

Cell: 0318-9146928

AAH
*

Anx-C (14)

BEFORE THE HON'BLE CHAIRMAN, KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

Execution Petition No.169/2020

Jehanzeb Khan.....Petitioner

Vs

Mr. Hamid Mehmood DEO & OTHERS.....Respondents

REPLY TO EXECUTION PETITION ON BEHALF OF RESPONDENT
DEPARTMENT.

RESPECTFULLY SHEWETH.

1. That Para No.1 pertains to record.
2. That in reply to Para No.2, it is submitted that the Respondent Department re-instated the Petitioner in light of the judgment of this Hon'ble Service Tribunal and conducted the de veno inquiry.
(Copy of Inquiry is annexed as Annex: A)
3. That in reply to Para No.3, it is submitted that the Respondent Department implemented the judgment of this Hon'ble Tribunal with in true letter and spirit.
4. That Para No.4 is pertains to record.
5. That reply of Para No.5 has already given in the above Para.

It is therefore, prayed that on acceptance of this reply, the execution petition may very kindly be dismissed.

AK

District Education Officer
(Male) Peshawar.

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OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) PESHAWAR.
TO BE SUBSTITUTED WITH THIS OFFICE NOTIFICATION HEARING SAME NO. & DATE.
OFFICE ORDER

Consequent upon the approval of the competent authority, the following officials are hereby transferred / adjusted on their own pay and BPS, in the Schools noted against their name in the interest of public service with immediate effect.

S/N	Name & Designation	From	To	Remarks
1.	Mr. Muhammad Shahn HQ	GIS Shah Muntaz Peshawar	GIS Gharhi Ghulam Shah Peshawar	Against Vacant Post
2.	Mr. Jehanzeb Khan Sweeper	GIS Shah Muntaz Peshawar	GIS Matani Peshawar	Against Vacant Post

NOTE

1. No TADA is allowed.
2. Change Report should be submitted to all concerned.

(MADDI KHAN KHALIL)
DISTRICT EDUCATION OFFICER
(MALE) PESHAWAR.

Dated: D/o [22677/SPL File -21/Shahn & Jehanzeb dated 25 / / 0] /2012.

Copy of the above is forwarded to the

1. Accountant General Fhyber Pakhtunkhwa Peshawar
2. Principal GIS Gharhi Ghulam Shah Peshawar
3. Principal GIS Matani Peshawar
4. Officials concerned
5. Master File

BY: DISTRICT EDUCATION OFFICER
(MALE) PESHAWAR

C/c

AA

LEGIBLE COPY

OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) PESHAWAR

OFFICE ORDER

Consequent upon the approval of the competent authority, the following officials are hereby transferred / adjusted on their own pay and BPS in the Schools noted against their name of interest of public service with immediate effect.

S#	Name & Designation	From	To	Remarks
1	Mr Muhammad Shabir	GMS Garhi Mumtaz Peshawar	GHSS Garhi Gulam Shah Peshawar	Against vacant post
2	Mr Jehanzeb Khan Sweeper	GMS Garhi Mumtaz Peshawar	GHS Mattani Peshawar	Against vacant post

NOTE:

1. No TA/DA is allowed.
2. Charge Report should be submitted to all concerned.

**JADDI KHAN KHALIL
DISTRICT EDUCATION OFFICER
(MALE) PESHAWAR**

Endst No. 12867/SPL/File-21/Shabir & Jehanzeb Dated 25.01.201

Copy to the above is forwarded to the:

1. Accountant General Khyber Pakhtunkhwa Peshawar
2. Principal GHSS Gharhi Ghulam Shah Peshawar
3. Principal GHS Mattani Peshawar
4. Official concerned
5. Master File.

**DY: DISTRICT EDUCATION OFFICER
(MALE) PESHAWAR**

16

1

OFFICE OF THE PRINCIPAL GOVERNMENT HIGH SCHOOL BADABER PESHAWAR

No. 34 Dated: 07/11/2017

DENOVE INQUIRY IN RESPECT OF:

1. Mr. Muhammad Shabeer N/Qasid GMS Garhi Mumtaz Peshawar.
1. Mr. Jahan Zeb Khan Chowkidar GMS Garhi Mumtaz Peshawar.

AUTHORITY

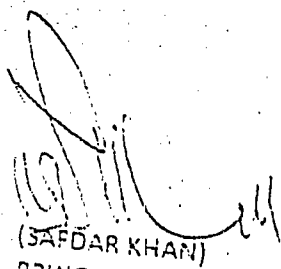
DISTRICT EDUCATION OFFICER (MALE)

PESHAWAR

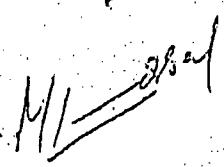
INQUIRY OFFICERS:

1. MR. MUHAMMAD IQBAL
PRINCIPAL G.H.S BADABER PESHAWAR
2. MR. SAFDAR KHAN
PRINCIPAL GOVT. SHAHEED SAAD-UR-RAHMAN HIGH SCHOOL GULSHA
RAHMAN COLONY PESHAWAR

AKK



(SAFDAR KHAN)
PRINCIPAL BPS-18
GOVT. SHAHEED SAAD UR REHMAN HIGH SCHOOL
(GULSHAN REHMAN COLONY PESHAWAR)



(MUHAMMAD IQBAL)
PRINCIPAL BPS-19
GOVT. HIGH SCHOOL

17

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TERMS OF REFERENCE:

The District Education Officer (Male) Peshawar has constituted an enquiry committee vide Notification No.6536-38 dated 25-09-2017 to order a Denovo Inquiry in pursuance of the Honorable KP Service Tribunal judgment dated 02/08/2017, in respect of the following class IVs GMS Garhi Mumtaz Peshawar.

- I. Mr. Muhammad Shabeer N/Qasid GMS Garhi Mumtaz Peshawar.
- II. Mr. Jahan Zeb Khan Chowkidar GMS Garhi Mumtaz Peshawar.

HISTORY OF THE INQUIRY:

Mr. Muhammad Shabeer Naib Qasid and Mr. Jahan Zeb Khan Chowkidar had been removed from their services vide the District Education Officer (Male) Peshawar Notifications No. 3994-4000 dated 09-06-2013 and 8317-23 dated 24-07-2014, respectively for the charge of their willful absence from their duties.

Mr. Muhammad Shabeer Naib Qasid and Mr. Jahan Zeb Khan Chowkidar had filed a case in the Honorable Service Tribunal of Khyber Pakhtunkhwa against the decision of their removal which has passed finally its judgment on 02/08/2017 reproduced as under:

"In view of the above discussions the impugned order is set aside and the appellant is reinstated in service. The respondents are at liberty to conduct Denovo inquiry within a stipulated period of 90 days from the receipt of this judgment in the mode and manner prescribed in the rules fully associating the appellant with the inquiry proceedings. The issue of back benefits shall be subject to outcomes of the Denovo inquiry."

In pursuance of the Honorable Service Tribunal of Khyber Pakhtunkhwa judgment, the District Education Officer (Male) Peshawar has reinstated Mr. Muhammad Shabeer Naib Qasid and Mr. Jahan Zeb Khan Chowkidar in service at GMS Garhi Mumtaz Peshawar vide Endst: No. 7074-81 dated 28-09-2017, therein constituting this inquiry committee vide Notification No. No.6536-38 dated 25-09-2017 for the purpose of back benefits as required in the judgment.

MECHANISIM OF THE INQUIRY:

The following procedure, in line with judgment, associating the appellants, was adopted to conduct this inquiry:

AAH
AS

(18)

Mr. Muhammad Shabeer Naib Qasid and Mr. Jahan Zeb Khan Chowkidar were called to GHS Badher Peshawar on 23/10/2017 and a questionnaire was served upon both to probe the matter further. (Copies annexed as "A" & "B")

2. Also both the affected class IVs were asked to furnish a written statement at their liberty to the inquiry committee in case the questionnaires don't fully cover their grievances.
3. The inquiry committee visited GMS Garhi Muntaz Peshawar on 02/11/2017 to investigate as to when the school started its proper functioning and whether the affected class IVs have rendered their services there or not. For this purpose the first attendance register of the school was examined and photo copies of its pages were extracted duly signed by the Head Teacher concerned (Copy annexed as "C"). Also the Head Teacher was asked to furnish a written statement regarding the opening of the school and the matter in question regarding the services of Mr. Muhammad Shabeer Naib Qasid and Mr. Jahan Zeb Khan Chowkidar.
4. The land owner Mr. Samiullah s/o Rifaqat Khan was investigated/interrogated for his claim of appointments from the members of his family and opinion about adjustment of Mr. Muhammad Shabeer Naib Qasid and Mr. Jahan Zeb Khan Chowkidar who had been appointed against the newly created vacancies in the school established on his inherited plot of land.

FINDINGS OF THE INQUIRY:

After thorough examination of the record, statements of both the parties and their informal interviews/personal hearing the inquiry committee record its findings as under.

1. Mr. Muhammad Shabeer Naib Qasid and Mr. Jahan Zeb Khan Chowkidar had been appointed against the newly created vacant posts lying at GMS Garhi Muntaz Peshawar which was established on the land of one Mr. Rifaqat Khan and it remained in nonfunctional condition up to 01/05/2014 as evident from the first attendance register of the school.
2. In the written statement obtained from the Head Teacher Mr. Kifayatullah SST (G) (Copy annexed as "D") he has declared that his brother Mr. Latifullah C.T took the charge of the school and thus the school started functioning on 02/05/2014.
3. Both the affected class IVs attended the school on 06/05/2012 to submit their arrival report there to the Head Teacher but the school was closed and they were not allowed by the land owner to take over the charge on ground there, as the land

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owner of the said school was demanding appointment of Class IVs from his family members as he deserved per agreement with the Education department.

4. The confession of the land owner Mr Samiullah in front of the inquiry committee endorsed the narrative and written statement of Mr Muhammad Shabeer Naib Qasid and Mr Jahan Zeb Khan Chowkidar that they were not allowed to take over the charge on the day of their arrival on 06.11.2012 as the land owner had applied for appointment of class IVs for his own family members.
5. Compellingly both the affected class IVs submitted their arrival reports in paper, to the then SDEO (Male) Primary Peshawar on 06.11.2012 (copies annexed as "E" & "F") where they were asked to arrange service books, handing them over to the official concerned for further process.
6. On 12.11.2012 both the affected class IVs requested in written to the then SDEO (Male) Primary Peshawar to adjust them at a station where they could perform their duties normally (Copies annexed as "G" & "H") but the authority concerned failed to pay any heed to the significant matter of their indefeasible vested rights and other prerogatives and unfortunately they remained without any station of duty till their removal.
7. After fulfillment of the requisite codal formalities their salaries were started and necessary entries to the effect have been made in their service books but the matter of their place of duty was left undecided and they were told verbally by the then SDEO (Male) Primary Peshawar to wait for their corrigendum /further order thereto.
8. In their written statement, (Copy annexed as "I") they have declared that again they have re-appealed on 15.10.2013 to the then SDEO (Male) Primary Peshawar for their re-adjustment at a station where they could perform their duties normally notwithstanding no step has been taken in this regard by the authority concerned till last.
9. The competent authority, the then DEO (M) Peshawar has proceeded against them a disciplinary action under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules 2011, on the charge of willful absence from duty wherewith they were removed from their services but the fact cannot be denied that they have not been provided the opportunity to render their services normally as required, in view of the ground reality they were unable to perform their duties in the mentioned school because they had been debarred by the land owner.

CONCLUSIONS OF THE INQUIRY

In view of the Denovo inquiry proceedings carried out, it is concluded that

1. In pursuance of the District Education Officer (Male) Peshawar dated 05/11/2012 the affected class IVs attempted to take over the charge in G.M.S. Garhi Khattar Peshawar but as a matter of fact the school was closed and they were not allowed by the land owner to take over the charge there.
2. The then P.E.O (AI) had appointed these two class IVs on the recommendations of Mr. Shamsul Khan, the then deputy speaker provincial assembly Khyber Pakhtunkhwa, in violation of the agreement with the land owner wherein it was committed by the D.E.O (M) Peshawar that class IVs will be employed from among the family members of the land owner.
3. The affected class IVs have duly submitted their arrival reports to the then S.D.E.O (Male) Primary Peshawar and a written request has been made by them simultaneously to redress their grievances of the place of their duty.
4. The then S.D.E.O (Male) Primary Peshawar has proceeded for drawl of their salaries and their salaries were released in due course of time but he has, neither ensured their duties on the disputed station where they were appointed nor they had been provided another place for their posting, in view of their grievances based on facts. The competent authority, the then D.E.O (Male) Peshawar before initiating disciplinary proceedings against them has not ensured a remedial and corrective measure either to persuade the land owner not to hinder the affected class IVs to render their services normally on the disputed station or therefrom transfer and adjust them elsewhere.
5. Though all the codal formalities for removal of the affected class IVs have been duly fulfilled by the competent authority but the inquiry committee on its visit to the D.E.O (Male) Peshawar and a meeting therein with the present D.E.O (Male) Peshawar requested for provision of supporting documents i.e. inquiry report etc. that nothing was found in this regard to depict the delinquency on the part of the affected class IVs which may tantamount to the instant inefficiency or misconduct liable to disciplinary action under the rules.
6. The Mr. Muhammad Shabeer Malik Qasid has been removed from his services on 06/06/2014 and the other Mr. Jahan Zeb Khan Chowkidar on 24/07/2014 from the same disputed station without redressing their above mentioned grievance and thus the instant case might not speak fully of the inefficiency, omission and

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CONCLUSIONS OF THE INQUIRY

In view of the Denovo inquiry proceedings carried out, it is concluded that

1. In pursuance of the District Education Officer (Male) Peshawar endst No 5708-55 dated 05.11.2012 the affected class IVs attempted to take over the charge at GMS Garhi Mumtaz Peshawar but as a matter of fact the school was closed and they were not allowed by the land owner to take over the charge there.
2. The then DEO (M) had appointed these two class IVs on the recommendations of Mr Khushdil Khan, the then deputy speaker provincial assembly Khyber Pakhtunkhwa, in violations of the agreement with the land owner wherein it was committed by the DEO (M) Peshawar that class IVs will be employed from among the family members of the land owner.
3. The affected class IVs have duly submitted their arrival reports to the then SDEO (Male) Primary Peshawar and a written request has been made by them simultaneously to redress their grievances of the placed of their duty.
4. The then SDEO (Male) Primary Peshawar has proceeded for drawl of their salaries and their salaries were released in due course of time but he has, neither ensured their duties on the disputed station where they were appointed nor they had been provided another place for their posting, in view of their grievances based on facts.
5. The competent authority, the then DEO (Male) Peshawar before initiating disciplinary proceedings against them has not ensured a remedial and corrective measure either to persuade the land owner not to hinder the affected class IVs to render their services normally on the disputed station or therefrom transfer and adjust them elsewhere.
6. Though all the codal formalities for removal of the affected class IVs have been duly fulfilled by the competent authority but the inquiry committee on its visit to the DEO (Male) Peshawar and a meeting therein with the present DEO (Male) Peshawar requested for provision of supporting document i.e inquiry report etc. but nothing was found in this regard to depict the delinquency on the part of the affected class IVs which may tantamount to the instant inefficiency or misconduct liable to disciplinary action under the rules.
7. One Mr Muhammad Shabeer Naib Qasid has been removed from his services on 09.06.2014 and the other Mr Jahanzeb Khan Chowkidar on 24.07.2014 from the same disputed station without redressing their above mentioned grievance and thus the instant case might not speak fully of the inefficiency, omission and

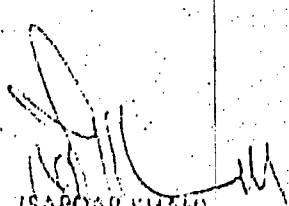
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commission based on malafide intentions of the affected class IVs liable to the instant disciplinary action.

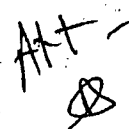
8. The appointment of Mr. Muhammad Shabeer Naib Qasid and Mr. Jahan Zeb Khan Chowkidar on the school constructed on the land of Mr. Rifaqat Khan, as revealed during the course of the inquiry, on the recommendations of the then Deputy speaker provincial assembly Khyber Pakhtunkhwa, is really an act unbecoming of a competent civil servant and their removal from service without the insurance of a convenient place of their duty, is a gross negligence on the part of the competent authority.

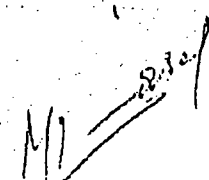
RECOMMENDATIONS OF THE INQUIRY:-

1. The Honorable Khyber Pakhtunkhwa Service Tribunal vide its judgment dated 02/08/2017 has already set aside the removal orders of Mr. Muhammad Shabeer Naib Qasid and Mr. Jahan Zeb Khan Chowkidar conditioning the back benefits with a De novo inquiry. So this enquiry committee also recommends their reinstatement without back benefits.
2. The then D.E.O (Male) Peshawar may be taken to task, issuing him a letter of explanation under the Khyber Pakhtunkhwa Government servants (Efficiency & Discipline) Rules 2011 for his two fold omissions and commissions, one for illegally appointing both the affected class IVs on a disputed station i.e. a school established on the land of another owner in violation of the agreement with him and afterwards removing these class IVs without redressing their grievance of disputed place of their duty.



(SAQAR KHAN)
PRINCIPAL BPS-18
GOVT SHAHID SAAD UR REHMAN HIGH SCHOOL

AT -




(MUHAMMAD IQBAL)
PRINCIPAL BPS-19
GOVT HIGH SCHOOL
.....

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OFFICE OF THE DISTRICT EDUCATION OFFICER, PESHAWAR

NOTIFICATION

1. **WHEREAS**, Mr. Jehanzaib Khan ex-Sweeper GMS Garhi Mumtaz Peshawar was instated in service & adjusted against the vacant post of Sweeper at GMS Garhi Mumtaz Peshawar vide this office Notification issued under endst No 7074-81 dated 28.09.2017 in pursuance on Court judgment dated 02.08.2017 passed by Khyber Pakhtunkhwa Service Tribunal Peshawar in service appeal no 962/of 2015 with the direction that the issue of back benefits shall be subject to the outcome of the De-Novo inquiry.
2. **AND WHEREAS** the enquiry committed consisting of Mr Iqbal Bangash Principia GHS Badaber (Chairman) and Mr. Safdar Khan Principal GHS Gulshan Rehman Colony Peshawar was constituted to conduct detailed **DE-NOVO** enquiry against the Appellant concerned.
3. **AND WHEREAS** an enquiry report submitted by the enquiry committee vide letter No 33 dated 07.11.2017. The enquiry committee recommended that the official may be reinstated in service without back benefits.
4. **NOW THEREFORE**, the DEO(M) Peshawar being competent authority is please to decide the issue of back benefits in the light of De-Novo enquiry and his intervening / absence period wef 13.12.2013 (date of absence) to 02.08.2017 (date of judgment) is hereby treated as Extra Ordinary Leave without pay Under FR-85.

**District Education Officer
(Male) Peshawar**

Endst No. 3622-28/SPL-File 21- Shabir & Jehanzeb Dated 21.03.2019

Copy forwarded to the:-

1. Registrar, Khyber Pakhtunkhwa Service Tribunal Peshawar in reference with service appeal No 962/of 2015, Judgment dated 02.08.2017.
2. Accountant General Khyber Pakhtunkhwa Peshawar
3. PS to Secretary E&SED Khyber Pakhtunkhwa Peshawar.
4. PA to Director E&SE Khyber Pakhtunkhwa Peshawar
5. Cashier Local Office
6. Official concerned
7. P/File.

**De: District Education Officer
(Male) Peshawar**

ANNEX-D

22

To

The Worthy District Education Officer (Male),
District, Peshawar.

Subject: APPLICATION FOR GRANT OF ATTESTED COPY OF ORDER IF ANY MADE IN PERSUANCE OF THE RECOMMENDATION OF DE NOVE INQUIRY CONDUCTED BY MR. SAFDAR KHAN PRINCIPAL (BPS-18) AND MUHAMMAD IQBAL PRINCIPAL (BPS-19) IN PERSUANCE OF THE DIRECTIONS/JUDGMENT OF THE HON'BLE SERVICE TRIBUNAL DATED 02-08-2017 IN SERVICE APPEAL NO.981/2015.

Respected Sir,

With due respect the applicant humbly submits as under;

1. That applicant filed Service Appeal No.961/2015 before the Hon'ble Khyber Pakhtunkhwa Service Tribunal, Peshawar, which was allowed vide judgment dated 02-08-2017 with directions to re-instate the appellant in his service and conduct De-Novo Inquiry against the appellant and determine the question of back benefits on the outcome of the De Novo inquiry.
2. That applicant file execution petition before the Hon'ble Tribunal for implementation of the judgment cited ibid.
3. That during the course of proceeding the representative of the respondent vide order sheet dated 24-11-2021 submitted para wise reply along with copy of De Nove inquiry report but without any formal order on the basis of recommendations of inquiry committee. A copy of the reply alongwith inquiry report was also handed over to the applicant.
4. That formal order on the basis of inquiry report was missing with reply and inquiry report, which is against law.

In view of the above explained submissions, it is humbly requested that on acceptance of this application Your Honour may graciously be pleased to grant formal order if any made on the recommendation of the inquiry report.

Your's faithfull.

Jahan Zeb Khan

Class-IV

Govt Middle School

Gachi Muntaz, Peshawar

Cell#0319-9146928.

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Recd
W. A.
07/12/2021

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OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) PESHAWAR

NOTIFICATION:-

- 1 **WHEREAS** Mr. Jehnzaib Khan Ex-Sweeper GMS Garhi Muntaz Peshawar was re instated in service & adjusted against the vacant post of Sweeper at GMS Garhi Muntaz Peshawar vide this office Notification issued under endst:No. 7074-81 dated 28-09-2017, in pursuance of Court Judgment dated 02-08-2017 passed by Khyber Pakhtunkhwa Service Tribunal Peshawar in service appeal No.962/of 2015, with the direction that the issue of back benefits shall be subject to the outcome of the De-novo inquiry.
- 2 **AND WHEREAS** the enquiry committed consisting of Mr. Iqbal Bangush Principal GHS Badaber (Chairman) and Mr. Safdar Khan Principal GHS Gulshan Rehman Colony Peshawar was constituted to conduct detailed **DE-NOVO** enquiry against the appellant concerned.
- 3 **AND WHEREAS** an enquiry report submitted by the enquiry committee vide letter No. 34 dated 07-11-2017. The enquiry committee recommended that the official may be reinstated in service without back benefits.
- 4 **NOW THEREFORE**, the DEO(M) Peshawar, being competent authority, is pleased to decide the issue of back benefits in the light of De-Novo enquiry and his intervening /absence period wef 13-12-2013(date of absence) to 02-08-2017 (date of Judgment) is hereby treated as Extra Ordinary Leave without Pay under FR-85.

District Education Officer
(Male) Peshawar.

Endst: No. 3622-28 / SPL-File 21- Shabir & Jehanzaib Dated 21 / 03 / 2017

Copy forwarded to the:-

1. Registrar, Khyber Pakhtunkhwa Service Tribunal Peshawar in reference with service appeal No.962/of 2015, judgment dated 02-08-2017.
2. Accountant General Khyber Pakhtunkhwa Peshawar.
3. PS to Secretary E&SED Khyber Pakhtunkhwa Peshawar.
4. PA to Director E&SE Khyber Pakhtunkhwa Peshawar.
5. Cashier Local Office
6. Official Concerned.
7. P/File.

By: District Education Officer
(Male) Peshawar

21/03

ART.
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BEFORE THE KHYBER PAKHTUNKHAW SERVICE TRIBUNAL,
PESHAWAR

Execution Petition No. 169 / 2020

IN

Service Appeal No. 961/2015

Khyber Pakhtunkhwa Service Tribunal
Peshawar
Entry No. 169
Dated 7/12/2020

Jehanzeb Khan,
S/o Mir Akbar, Sweeper,
Govt. Middle School Garhi Mumtaz,
R/o Lalma Delidher,
Village Badaber, District Peshawar.....Applicant.

Versus

1. Mr. Hamid Mahmood,
The District Education Officer (Male),
Elementary and Secondary Education, Department.
District Peshawar.
2. Mr. Hafiz Muhammad Ibrahim,
The Director,
Elementary and Secondary Education, Department.
Khyber Pakhtunkhwa, Peshawar.....Respondents.

APPLICATION FOR EXECUTION OF ORDER /
JUDGMENT DATED 02-08-2017 PASSED IN
SERVICE APPEAL NO. 961/2015.

Respectfully Sheweth

1. That applicant / appellant filed service appeal No. 961/2015 before this Hon'ble Tribunal which was disposed of vide Order / Judgment dated 02-08-2017. The operative part of the Judgment is hereby reproduced for kind perusal and consideration of this Hon'ble Tribunal;

6. Perusal of record revealed that no opportunity of personal hearing or self defense during the course of departmental proceedings were provided to the appellant. The respondents could not produced any documentary proof in shape of a letter bearing register acknowledgment due at home address of the appellant which was mandatory under the rules. In view of the above discussion, the impugned order is set aside and the appellant is reinstated in service. The respondents are at liberty to conduct denovo inquiry within a

Certified to be true copy
Jehanzeb Khan
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

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12.01.2022

Petitioner alongwith his counsel present. Mr. Arshed Ali, ADEO (Litigation) alongwith Mr. Muhammad Adeel Butt, Additional Advocate General for the respondents present and produced copy of office order dated 21.03.2019 by stating that the same has been passed in light of de-novo inquiry.. Copy of the same handed over to learned counsel for the petitioner, who sought time for perusing of the order dated 21.03.2019. Adjourned. To come up for further proceedings before the S.B on 28.02.2022.

(Salah-Ud-Din)
Member (J)

Certified to be true copy

Khaydar Pakhankhwa
Service Tribunal
Peshawar

Date of Presentation of Application 17-1-22
Number of Words 1250
Copying Fee 14/-
Urgent 4/-
Total 18/-
Name of Copyist [Signature]
Date of Completion of Copy 17-1-22
Date of Delivery of Copy 17-1-22

29.09.2021

Petitioner alongwith his counsel present. Mr. Kabirullah Khattak, Addl: AG alongwith Mr. Arshad Ali, ADEO(Lit) and Mr. Touseef Ur Rehman, ADEO (Lit) for respondents present.

Representative of the respondents submitted reply to the execution petition which is placed on file. Adjourned. To come up for further proceedings before the S.B on 25.10.2021.

(MIAN MUHAMMAD)
MEMBER (E)

25.10.2021

Mr. Afrasyab Wazir, Advocate is present as proxy on behalf of the learned counsel and Mr. Muhammad Adeel Butt, Addl. AG alongwith Tauseefur Rehman, ADEO (Litigation) for the respondents present.

Former requests for adjournment due to engagement of learned counsel for the petitioner before the Hon'ble High Court today. Request is accorded. To come up for further proceedings on 24.11.2021 before the S.B.

Chairman

24.11.2021

Counsel for the petitioner present. Mr. Muhammad Adeel Butt, Addl: AG alongwith Mr. Arshad Ali, ADEO for respondents present.

Copy of implementation report which has already been submitted by the respondents is handed over to the learned counsel for the petition today. Learned counsel for the petitioner seeks adjournment. Adjourned. To come up for further proceedings on 12.01.2022 before S.B.

(MIAN MUHAMMAD)
MEMBER (E)

Certified to be true copy

Khayr Pakhankhwa
Service Tribunal
Peshawar

27 27



29.09.2021

Petitioner alongwith his counsel present. Mr. Kabirullah Khattak; Addl: AG alongwith Mr. Arshad Ali, ADEO(Lit) and Mr. Touseef Ur Rehman, ADEO (Lit) for respondents present.

Representative of the respondents submitted reply to the execution petition which is placed on file. Adjourned. To come up for further proceedings before the S.B on 25.10.2021.

(MIAN MUHAMMAD)
MEMBER (E)

25.10.2021

Mr. Afrasyab Wazir, Advocate is present as proxy on behalf of the learned counsel and Mr. Muhammad Adeel Butt, Addl. AG alongwith Tauseefur Rehman, ADEO (Litigation) for the respondents present.

Former requests for adjournment due to engagement of learned counsel for the petitioner before the Hon'ble High Court today. Request is accorded. To come up for further proceedings on 24.11.2021 before the S.B.

Chairman

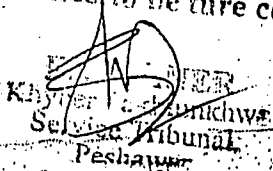
24.11.2021

Counsel for the petitioner present. Mr. Muhammad Adeel Butt, Addl: AG alongwith Mr. Arshad Ali, ADEO for respondents present.

Copy of implementation report which has already been submitted by the respondents is handed over to the learned counsel for the petition today. Learned counsel for the petitioner seeks adjournment. Adjourned. To come up for further proceedings on 12.01.2022 before S.B.

(MIAN MUHAMMAD)
MEMBER (E)

Certified to be true copy



Date of Presentation of Application	03/12/21
Number of Sheets	12
Copies	4/1
Date of Presentation of Copy	03/12/21
Date of Delivery of Copy	03/12/21

28

25.02.2021

The learned Member Judicial Mr. Muhammad Jamal Khan is under transfer, therefore, the case is adjourned. To come up for the same before S.B on 29.04.2021.

Reader

29.04.2021

Due to demise of the Worthy Chairman, the Tribunal is defunct, therefore, case is adjourned to 22.06.2021 for the same as before.

Reader

22.06.2021

Counsel for the petitioner present and Wakalatnama placed on file. Mr. Kabirullah Khattak, Addl. AG alongwith Arshad Ali, ADO (Lit) for the respondents present.

On previous date, the case was adjourned through Note Reader, therefore, learned AAG seeks time to submit implementation report. To come up for implementation report on 10.08.2021 before S:B.


Chairman

10.08.2021

Since 10.08.2021 has been declared public holiday on account of Ist Muharram. therefore. case to come up for the same on 29.09.2021 before S.B.

Reader

ATTESTED


MEMBER JUDICIAL

FORM OF ORDER SHEET

Court of _____

Execution Petition No. 169 /2020

S.No.	Date of order proceedings	Order or other proceedings with signature of Judge or Magistrate
1	2	3
1	07.12.2020	<p>The Execution Petition submitted by Mr. Jehanzeb Khan through Mr. Ashraf Ali Khattak Advocate may be entered in the relevant Register and put up to the Court for proper order please.</p> <p style="text-align: right;"><i>[Signature]</i> REGISTRAR</p> <p>2-</p> <p>This Execution Petition be put up before S. Bench on <u>08/01/2021</u></p> <p style="text-align: right;"><i>[Signature]</i> CHAIRMAN</p>
08.01.2021		<p>Counsel for petitioner is present. Notice be issued to the respondents for implementation report for 25.02.2021 before S.B.</p> <p style="text-align: right;">(MUHAMMAD JAMAL KHAN) MEMBER (JUDICIAL)</p> <p style="text-align: center;">ATTESTED</p> <p style="text-align: center;"><i>[Signature]</i> MEMBER Nispet ul Makhkhwa Secty of Tribunal Peshawar</p>

Anx - F

(29)

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

Misc Application No. _____/2022

IN

Execution Petition No. 169/2020

Jehanzeb Khan.....Appellant.

Versus

The District Education Officer & others Respondents

**OBJECTION PETITION AGAINST THE IMPUGNED ORDER
DATED 21.03.2019 DELIVERED ON 12.01.2022 DURING THE
TRIBUNAL PROCEEDINGS.**

Respectfully Sheweth:

1. That Applicant had filed execution petition titled above before this Hon'ble Tribunal, which is fixed for further proceedings before the S.B on 28.02.2022.
2. That this Hon'ble Tribunal had directed the respondents to submit implementation report but they delayed the matter for long consideration time and at last submitted implementation (Inquiry report) and that to without any formal order based on the recommendation of the alleged inquiry report.
3. That Applicant submitted Application before the competent authority and requested for the provision of any order made in the light of the recommendation of the inquiry report. But the same was not provided as per rules.
4. That during the course of proceedings dated 12.01.2022 applicant brought this fact before this Hon'ble Tribunal and this Hon'ble Tribunal was pleased to direct the representative of the Department to produce before this Hon'ble Tribunal any order if made in consequence of the alleged inquiry report, which the representative of the department produced before this Hon'ble Tribunal on the same date.
5. That neither the inquiry report, nor the order dated 21.03.2019 has been communicated to the Applicant in due course of time with malafide intention in order to deprive the Applicant from questioning the same before this Hon'ble Tribunal in shape of the service appeal.

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6. That the order dated 21.03.2019 seems to have been return afresh with back date. The respondent shall be called to establish that the order dated 21.03.2019 was notified on 21.03.2019 with documentary evidence along with the evidence that the same was duly communicated to the Applicant.

In view of the above explained position, this Hon'ble Tribunal may graciously be please to direct the respondents to produce any document which may establish that the order dated 21.03.2019 was passed on the same date and not afresh with back date along with prove of communication to the applicant in due course of time.

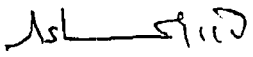
OR

Condoned the delay if any in case of filing of service appeal against the impugned order dated 21.03.2019.

Applicant

Through

Dated: ___/___/2022


Ashraf Ali Khattak
Advocate,
Supreme Court of Pakistan

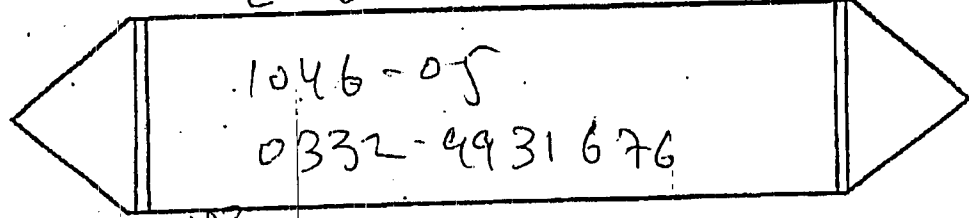
AFFIDAVIT

I, Jehanzeb Khan S/o Mir Akbar, Sweeper Govt Middle School Garhi Mumtaz Village Badaber District Peshawar, do hereby solemnly affirm and declare on oath that the contents of the accompanied **Objection Application** are true and correct to the best of my knowledge and belief and nothing has been kept concealed from this Hon'ble Tribunal

DEPONENT



بعدالت سرسٹریٹونل کے لیے



2022ء منجانب
جسٹس فیاض بنام حکومت

موزخہ
مقدمہ
دعویٰ
جرم

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ /
آن مقام لسٹ کیلئے السٹریٹونل 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 ثالثتہ فیصلہ برحلف دیئے جواب دہی اور اقبال دعویٰ اور
بصورت ڈگری کرنے اجراء اور صولی چیک و روپیہ از عرضی دعویٰ اور درخواست ہر قسم کی تصدیق
ذرائع پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری کی طرف یا اپیل کی برآمدگی اور منسوخی
نیز دائر کرنے اپیل گمانی 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 لے جانے بجائے تقرر کا اختیار
ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ بالا اختیارات حاصل ہوں گے اور اس کا ساختہ
پرداختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ دہر جائنا لتوا نے 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
مذکورہ کریں۔ لہذا وکالت نامہ لکھدیا کہ سند ہے۔

Accepted
2022
المرقوم 24
واہ العباد

بمقام لسٹ کے لئے منظور ہے۔

“B”

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

No.

Appeal No. 177 of 20 22 ^{SB}

Jehanzeb Khan Appellant/Petitioner

Versus

DEO Male Respondent

Respondent No. (1)

Notice to: District Education Officer (Male) EGSE department
Peshawar.

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal on 15/11/2022 at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

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

Copy of appeal is attached. ~~Copy of appeal has already been sent to you vide this office Notice No. dated~~

Given under my hand and the seal of this Court, at Peshawar this 19th

Day of Oct 2022

For Reply

[Signature]

Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

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

24/10/2022
12/11/2022
SB

"B"

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

No.

SB
177
Appeal No. of 20 22

Jehanzeb Khan Appellant/Petitioner

Versus
DEO Male Respondent

Respondent No. (2)

Notice to: Director Education ESSE KPK Peshawar.

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal on 15/11/2022 at 8.00 A.M. If you wish to urge anything against the appelland/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

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

office Notice No. dated

Given under my hand and the seal of this Court, at Peshawar this 19th

Day of Oct 2022

For Reply [Signature] 24/10/22 [Signature]

Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

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