

4.8.2022

Due to Swatman's negligence the case is
adjourned to 4-10-2022 for the same.



04.10.2022

Learned counsel for the appellant present and sought adjournment on the ground that he has not prepared the brief of the instant appeal. Adjourned. To come up for preliminary hearing on 09.11.2022 before the S.B at Camp Court Swat.



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

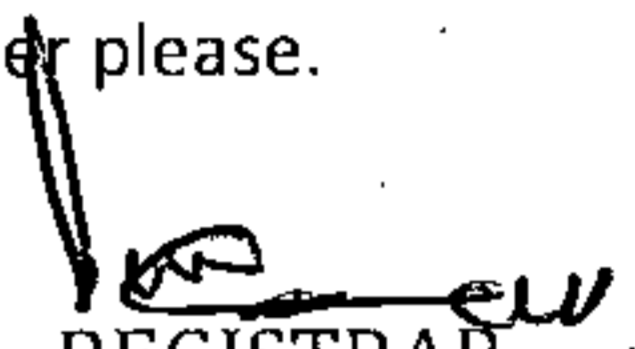

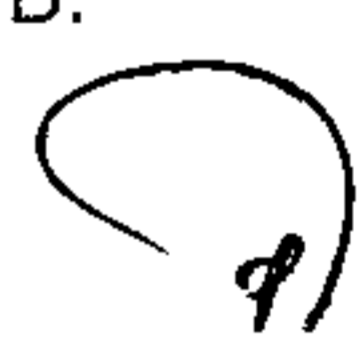
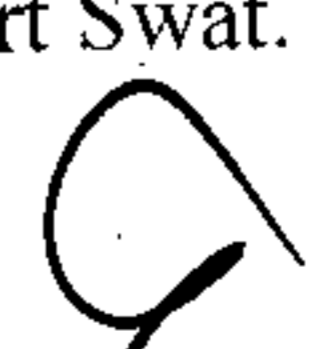


Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 413/2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	22/03/2022	<p>The appeal of Mr. Sabir Khan resubmitted today by Mr. Noor Muhammad Khattak Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p> REGISTRAR</p>
2-	<p><i>Noted</i> <i>27.04.2022</i> <i>27/4/2022</i></p>	<p>This case is entrusted to S. Bench at Peshawar for preliminary hearing to be put there on <u>27-04-2022</u></p> <p> CHAIRMAN</p> <p>Junior to counsel for appellant present.</p> <p>He made a request for adjournment as senior counsel for appellant is out of station. Adjourned. To come up for preliminary hearing on 16.06.2022 before S.B.</p> <p> (Rozina Rehman) Member (J)</p>
	16 th June, 2022	<p>Counsel for the appellant present.</p> <p>Learned counsel for the appellant sought adjournment. Last chance is given. To come up for preliminary hearing on 04.08.2022 before S.B at camp court Swat.</p> <p> (Kalim Arshad Khan) Chairman</p>

The appeal of Mr. Sabir Khan, PST GMPS Mandān, District Swat received today i.e. on 11.03.2022 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 Annexure A attached with the appeal is illegible which may be replaced by legible/better one.


No. 665 /S.T,

Dt. 14-03 /2022


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Noor Muhammad Khattak Adv. Pesh.

*Resubmitted after being
needed*


22/03/2022

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

CHECK LIST

Case Title:

Sabir Khan

v/s

Education Deptt

S#	CONTENTS	YES	NO
1	This Appeal has been presented by: <u>Noor Mohd Khabtak</u>	✓	
2	Whether Counsel/Appellant/Respondent/Deponent have signed the requisite documents?	✓	
3	Whether appeal is within time?	✓	
4	Whether the enactment under which the appeal is filed mentioned?	✓	
5	Whether the enactment under which the appeal is filed is correct?	✓	
6	Whether affidavit is appended?	✓	
7	Whether affidavit is duly attested by competent Oath Commissioner?	✓	
8	Whether appeal/annexures are properly paged?	✓	
9	Whether certificate regarding filing any earlier appeal on the subject, furnished?	x	✓
10	Whether annexures are legible?	✓	
11	Whether annexures are attested?	✓	
12	Whether copies of annexures are readable/clear?	✓	
13	Whether copy of appeal is delivered to AG/DAG?	✓	
14	Whether Power of Attorney of the Counsel engaged is attested and signed by petitioner/appellant/respondents?	✓	
15	Whether numbers of referred cases given are correct?	✓	
16	Whether appeal contains cutting/overwriting?	x	✓
17	Whether list of books has been provided at the end of the appeal?	✓	
18	Whether case relate to this court?	✓	
19	Whether requisite number of spare copies attached?	✓	
20	Whether complete spare copy is filed in separate file cover?	✓	
21	Whether addresses of parties given are complete?	✓	
22	Whether index filed?	✓	
23	Whether index is correct?	✓	
24	Whether Security and Process Fee deposited? On _____	✓	
25	Whether in view of Khyber Pakhtunkhwa Service Tribunal Rules 1974 Rule 11, notice along with copy of appeal and annexures has been sent to respondents? On _____	✓	
26	Whether copies of comments/reply/rejoinder submitted? On _____	✓	
27	Whether copies of comments/reply/rejoinder provided to opposite party? On _____	✓	

It is certified that formalities/documentation as required in the above table have been fulfilled.

Name: Noor Mohammad Khabtak

Signature: _____

Dated: _____



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

SERVICE APPEAL NO. 413 /2022

SABIR KHAN

V/S

EDUCATION DEPTT:

I N D E X

S.N	DOCUMENTS	ANNEXURE	PAGE
1	Memo of appeal	1-3
2	Affidavit	4
3	Appointment order	A	5
4	Service book	B	6-15
5	Memo of appeal	C	16-18
6	Reply & Impugned order dt: 05.03.2008	D & E	19-22
7	Departmental appeal	F	23
8	Wakalat Nama	24

Dated: /03.2022

APPELLANT

Through:

NOOR MOHAMMAD KHATTAK

ADVOCATE

0345-9383141

1

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. 413 /2022

Mr. Sabir Khan, PST (BPS-7 NOW BPS-12),
GMPS Mandan, District Swat.

..... **APPELLANT**

VERSUS

- 1- Government of Khyber Pakhtunkhwa through Secretary Elementary and Secondary Education, Department Peshawar.
- 2- The Director (E&SE) Department, Khyber Pakhtunkhwa, Peshawar.
- 3- District Education Officer (male) Swat at Guldara Swat.

..... **RESPONDENTS**

APPEAL UNDER SECTION 4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974
AGAINST THE IMPUGNED ORDER DATED 5.3.2008
COMMUNICATED TO THE APPELLANT ON 16.11.2021
WHEREBY THE APPELLANT HAS BEEN TERMINATED
FROM SERVICE AND AGAINST NO ACTION TAKEN ON
THE DEPARTMENTAL APPEAL OF APPELLANT WITHIN
THE STATUTORY PERIOD OF NINETY DAYS

Prayer:

That on acceptance of this service appeal the impugned order dated 5.03.2008 communicated to the appellant on 16.11.2021 may very kindly be set aside and the appellant may be reinstated into service with all back benefits. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant.

R/SHEWETH:

ON FACTS:

- 1- That appellant is the bonafide resident of District Swat and belongs to a respectable family.
- 2- That the appellant was appointed as primary school Teacher (BPS-07) now (BPS-12) on the recommendation of proper Departmental Selection Committee in the respondent department vide order dated 06-12-1990. That in response the appellant submitted his charge report at GMPS Mandan District Swat and started performing his duty quite efficiently and to the entire satisfaction of his superiors. Copies of the

appointment order & service book are attached as annexure **A & B.**

- 3- That after expiry of the said leave the appellant submitted his arrival report and started performing his duty on the concerned station quite efficiently. That due to the law and order situation in District Swat and life threat to the appellant was not able to continue his duty, therefore, the appellant was not able to continue his duty, therefore the appellant requested to the respondents No, 3 for further leave which was sanctioned and appellant along with his family was shifted to Karachi to secure his life.
- 4- That after taking over Pak Army I the area the appellant came back and approach the concerned office to submit his arrival report but the respondent No.3 orally stated about the termination of the appellant but till date no any order has been issued to the appellant regarding his termination.
- 5- That it is pertinent to mentioned here that the appellant filed Service Appeal No. **1228/2019** before this August Tribunal and during the proceeding of the ibid Service Appeal the respondents produced the impugned order dated 5-3-2008 whereby the appellant has been terminated from service. Copies of the Memo of appeal, reply & impugned order 5-3-2008 are attached as annexure **C, D & E.**
- 6- That after the communication of the impugned order 5-3-2008, the appellant filed departmental appeal dated 18-11-2021 before the appellate authority but no action was taken on the departmental appeal of the appellant by the respondents. Copy of the departmental appeal is attached as annexure..... **F.**
- 7- That appellant feeling aggrieved and having no other remedy but to file the instant service appeal on the following grounds amongst the others.

GROUND:

- A- That the impugned order dated 5.03.2008 is against the law, rules, norms of natural justice and materials on the record, hence not tenable and liable to be set aside.
- B- That the appellant has not been treated by the respondents in accordance with law and rules on the subject noted above and as such the respondents

3

violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.

- C- That the respondents acted in arbitrary and malafide manner while issuing the impugned order dated 5-03-2008.
- D- That the word termination is alien to law, therefore the impugned order dated 5.3.2008 is void ab initio in the eye of law.
- E- That no charge sheet & statement of allegation has been issued prior to the issuance of the impugned order dated 5.3.2008.
- F- That no show cause notice nor chance of personal hearing has been provided to the appellant and as such the appellant has been condemned unheard.
- G- That no regular inquiry has been conducted in the matter which is as per Supreme Court Judgments is necessary in punitive actions against the civil servant.
- H- That the 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: 28.2.2022

APPELLANT



SABIR KHAN

THROUGH:



**NOOR MUHAMMAD KHATTAK
ADVOCATE**

4

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

SERVICE APPEAL NO. _____/2022

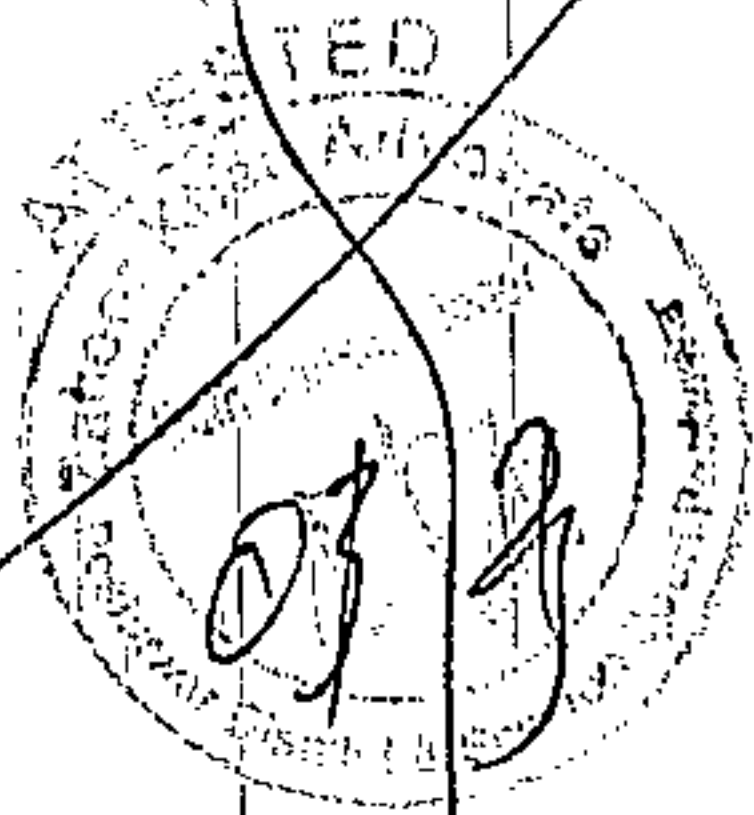
SABIR KHAN

VS

EDUCATION DEPTT:

AFFIDAVIT

Stated on oath that the contents of the accompanying service appeal are correct to best of my knowledge and belief and nothing has been concealed from this Honorable Service Tribunal.



Sabir Khan
DEPONENT

CERTIFICATE:

Certify that no earlier service appeal has been filed by the appellant in the instant matter before this Honorable Service Tribunal.

[Signature]
CERTIFICATION

Better copy ANNEX "A"

(5)

OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) SWAT AT GUL KADA

APPOINTMENT.

Appointment of the following persons is/are here by ordered against

Against the post of PTC on temporary and Adhoc basis at Rs: 750/- P.M fixed rules usual allowances as admissible under the rules in BPS-7 (Rupees 750-31-1370 on or his/ their own pay and grade which over is beneficial to him/ them at the office or Institution noted against each name:

S.No:	name & qualification/ address.	Post.....	Remarks
1.	Sabir khan s/o Amir Nawab r/o Hazara	GPS Mandan	(V.P)

CONDITION OF APPOINTMENT (only one)

1. His / their appointment is/ are subject to the approval of Deptt: selection committee.
2. He / they will not claim any seniority or regular appointment the post which is filled on merit basis from the candidates of relevant
3. His / their services is / are liable to termination / reversion without any being assigned.
4. In case of resignation he / they will have to submit one month notice to the Deptt: or forfeit one Month's pay in thereof to the Govt:
5. He / they is / are required to produce health and age certificate from the medical supdtt: concerned before taking over charge.
6. No TA/DA etc is allowed.
7. Charge report should be submitted to all concerned in duplicate.
8. In service teacher are not required to produce Health and age certificate.
9. He / they should not be allowed to take over charge if his / their age then 28 years or above 28 years.
10. His / their apptt: is / are subject to further condition that he / they are domicile of Disst: swat his educational cert: / degree character and antecedents form should obtained duly certified by the local authorities and submit to this office gather with appl: on prescribed from undertaking declaration of moveable and immoveable propriety and security bond where necessary for record in this office.
11. This apptt: does not confer on him any right to claim seniority over his counter parts or those who have higher marks and have not been appointed so fare , for one or other reason.
12. If he fail to make over charge of the post within a week after the issue of these order's the offer of the apptt: shall stand cancelled.
13. subject in metric he may not be handed over charge.

(.....)
Disst: Education officer
Swat saidu sharif .

Endt: No: 37158-59/AS1/PTC

Dated: 06/12/1989

Copy of the above is forwarded for information and necessary action to the:-

1. SDEO(M) Swat at Gul kada.
2. H/Teacher concerned.
3. Teacher concerned.

Distt: Education Officer (M)
Swat saidu sharif



OFFICE OF THE HEAD DISTRICT EDUCATION OFFICER (M) SWAT

Appointment of the person is/are subject to the approval of the District Education Officer (M) Swat. The person is/are subject to the condition of appointment as mentioned below. The person is/are subject to the condition of appointment as mentioned below. The person is/are subject to the condition of appointment as mentioned below.

CONDITIONS OF APPOINTMENT (Only one)

- 1. The person is/are subject to the approval of the District Education Officer (M) Swat.
- 2. The person is/are subject to the condition of appointment as mentioned below.
- 3. The person is/are subject to the condition of appointment as mentioned below.
- 4. The person is/are subject to the condition of appointment as mentioned below.
- 5. The person is/are subject to the condition of appointment as mentioned below.
- 6. The person is/are subject to the condition of appointment as mentioned below.
- 7. The person is/are subject to the condition of appointment as mentioned below.
- 8. The person is/are subject to the condition of appointment as mentioned below.
- 9. The person is/are subject to the condition of appointment as mentioned below.
- 10. The person is/are subject to the condition of appointment as mentioned below.
- 11. The person is/are subject to the condition of appointment as mentioned below.
- 12. This apptt. does not confer on him any right to claim seniority over others counter parts or those who have higher ranks and have not been appointed so far for one or other reason.
- 13. If he fails to make over charge of the post within a week after the issue of the order the offer of the Apptt. shall stand cancelled.
- 14. If he has not paid all the subject in district he may not be handed over charge.

Office of the District Education Officer (M) Swat, Saidu Shajid, Swat

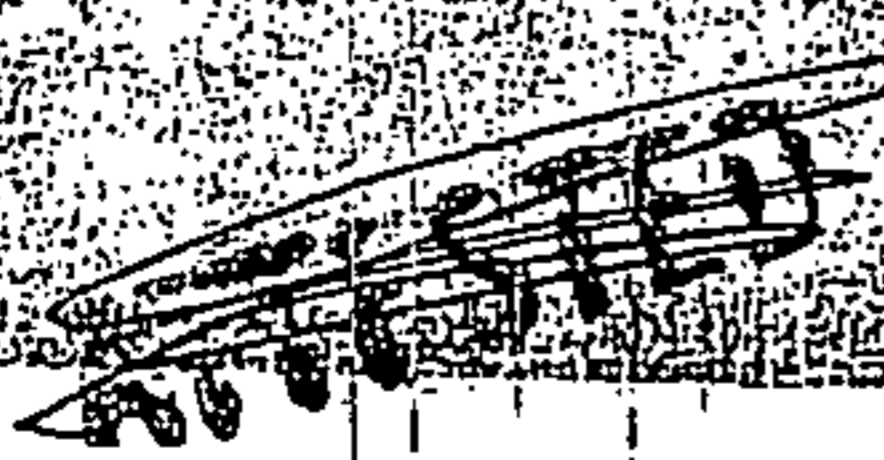
Andt: No: 37/58-53/A-53/PTC

Dated 12/12/2010

Copy of the above is forwarded for information and necessary action to the:-

- 1. The SDEO (M) Swat at Gulistan.
- 2. H/Teacher concerned.
- 3. Teacher concerned.

District Education Officer (M) Swat, Saidu Shajid



6

ANNEXURE

B

Verification Roll No. dated received back

Left thumb impression

Ex. No. R. No. Marks Div. Year
SSC 3970 48 03 11
PWA 15758 417 CES 1976

Signature
Date

English

Sub Division
Pashuram

Order

Plan drawing

Finger print

Drill instructing

Court duties

Reserve duties

ATTESTED

Note: The entries in this page should be renewed or re-attested at least every five years and the Signature to lines 9 and 10 should be dated.

1. Name Sabir Khan

2. Race Afghan

3. Residence village. Hazara P.O. Hazara Tehsil Kabal Distt, Swat

4. Father's name and residence Amir Nawab

5. Date of birth by Christian era as nearly as can be ascertained 1st February N.H. Sixty Three (1-2-1963)

6. Exact height by measurement five feet six inches (5-6)

7. Personal marks for identification Nil

8. Left hand thumb and finger impression of (non-gazetted) officer

Little Finger

Ring Finger

Middle Finger

Fore Finger


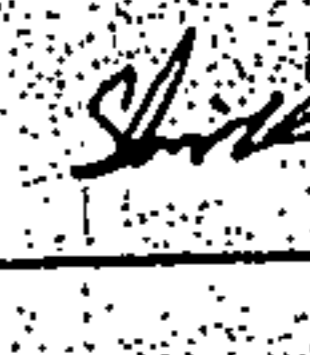
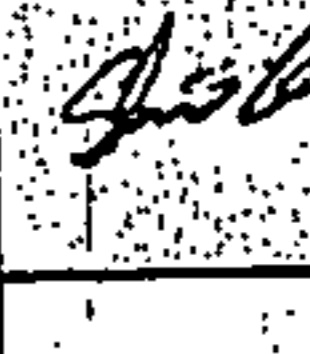
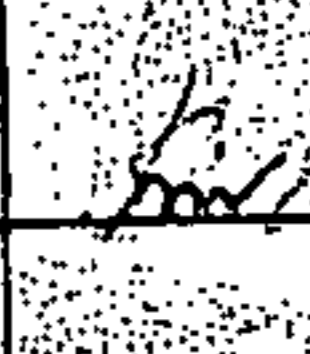
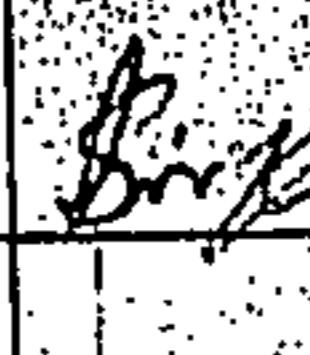
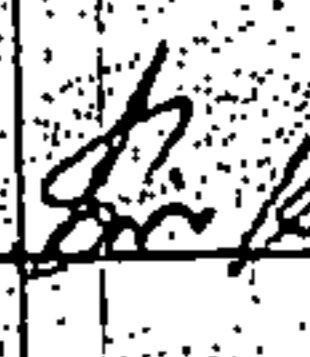

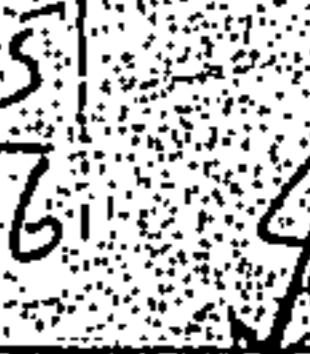
Thumb

9. Signature of Government servant

10. Signature and designation of the Head of the Office, or other Attesting Officer.

Sub Divisional Police Officer,
Saidu Sharif, Swat

ATTESTED

1	2	3	4	5	6	7	8
Name of post	Whether substantive or officiating and whether permanent or temporary	If officiating, state (i) substantive appointment, or (ii) whether service counts for pension under Art. 371 C. S. R.	Pay in substantive post	Additional pay for officiating	Other emolument falling under the term 'Pay'	Date of appointment	Signature of Government servant
MPS	BPS NO. 7	(750-31-1310)					
zudau	Per Sub	Rs. 750 fixed				1/90	
P.T.C							
MPS Danda - do -		Rs. 750 fixed				13 12/90	
P.S. Hozara		RPS No 7 = 1095 - 60 - 1995					
- do -	- do -	1095	Rs. 1215 fixed			1 6/91	
- do -	- do -	RPS No 7 (1480 - 81 - 2695)	Rs. 1480			1 6/94	
Following on payment made may be received.			<p>Office of the Accountant General B. G. P. P. Pathak Pay Band in the Revised Pay Scale 1991 of Rs. 10,000/- M. V. P. 1-6-91 with effect from 1-1-1991</p> <p>Accountant General B. G. P. P. Pathak</p>				
12th pay band 1480			<p>12th pay band 1480</p> <p>1480 - 81 - 2695</p> <p>1480</p>				
Total 720			<p>Total 720</p>				
A. G. P. P.			<p>A. G. P. P.</p>				
1480 - 81 - 2695			<p>1480 - 81 - 2695</p>				
1480			<p>1480</p>				
			<p>1 12/94</p>				
			<p>2596</p>				
			<p></p>				
			<p></p>				

ATTESTED

10	11	12	13	14	15	
Name and designation of the officer or employee at the time of appointment	Date of termination of appointment	Reason of termination (such as promotion, transfer, dismissal, etc.)	Signature of the head of the office or other attesting officer	Nature and duration of leave taken	Signature of the head of the office or other attesting officer	Reference to any recorded punishment or censure, or reward or praise of the Government servant
S.D.E.O. Saidu Sharif	12-12-70	Transferred	S.D.E.O. Saidu Sharif	Allocated period of leave on average pay upto four months for which leave salary is debitable to another Government	Appointed as P.T.C. unit teacher at MPS	
D.E.O. Saidu Sharif	31-5-71	Scale revised	S.D.E.O. Saidu Sharif	Period Government to which debitable	Maudan vide D.E.O. Memo No. 37158-59/A-53/PT	dated 6-12-1989
S.D.E.O. Saidu Sharif	31-5-74	R.P. Scale	S.D.E.O. Saidu Sharif		Sub Divisional Edu. Officer, Saidu Sharif Sub Division	
S.D.E.O. Saidu Sharif	31-5-74	Scale revised	S.D.E.O. Saidu Sharif	pay fixed in 6-7 on point to point basis		
S.D.E.O. Saidu Sharif	30-11-74	Ann. Grant	S.D.E.O. (M) Saidu Sharif	w.e.f. 1-6-91 as under:	pay in PPS No 7 = Rs. 750/-	pay fixed in Modified = Rs. 755/-
S.D.E.O. Saidu Sharif	31-12-92	Record of this office	S.D.E.O. (M) Saidu Sharif	pay fixed in RPS = Rs. 1215/-	Sub Divisional Edu. Officer (M) Saidu Sharif Sub Division	
S.D.E.O. Saidu Sharif	31-12-95	Record of this office	S.D.E.O. (M) Saidu Sharif	Departmental Pay Fixation in Revised Pay Scale No 7 (14.80-81-2695) w.e.f. 1-1-94	Sub Divisional Edu. Officer (M) Saidu Sharif Sub Division	
S.D.E.O. Saidu Sharif	31-12-95	Record of this office	S.D.E.O. (M) Saidu Sharif	Notification No. PFC/1194 Dated 15-5-94	Existing Pay in 15-94 Rs. 10,95/-	Increase Rs. 350/- in Basic Pay Rs. 383/25
S.D.E.O. Saidu Sharif	31-12-94	Record of this office	S.D.E.O. (M) Saidu Sharif	Equal/Next pay fixation in Revised Pay Scale Rs. 1480/-	Basic of next increment on 1-12-94 fixed	14,28/25
S.D.E.O. Saidu Sharif	24-5-96	Pushed P.T.C. revised	S.D.E.O. Saidu Sharif	UNDER TAKING	Mr. Sabir Khan	Mr. Sabir Khan
S.D.E.O. Saidu Sharif	24-5-96	Entry Revised due to Belonging to FA	S.D.E.O. Saidu Sharif	Taking to the effect that any over pay is recovered as a result of the correction of pay fixation after recovery from any activity	Mr. Sabir Khan	Mr. Sabir Khan

TESTED

Mr. Sabir Khan
Mr. Sabir Khan

1 Name of post	2 Whether substantive or officiating and whether permanent or temporary	3 If officiating, state (i) substantive appointment or (ii) whether service counts for pension under Art. 371 C. S. R.	4 Pay in substantive post	5 Additional Pay for officiating	6 Other emolument falling under the term "Pay"	7 Date of appointment	8 Signature Government servant
PTC C.P.S. Heraras	Sub/Perm		1480/-			25/5/96	[Signature]
-Do-	Do		1642/-	✓		25/5/96	[Signature]
-Do-	Do		Rs. 1723/-	✓		1/12/96	[Signature]
-Do-	-Do-		Rs. 1804/-	✓		1/12/97	[Signature]
Do not posted at	Do		Rs. 1885/-	✓		12/1/98	[Signature]
C.P.S. Shah Dharai	Do		Rs. 1885/-	✓		2/3/99	[Signature]

Office of The Accountant General,
N.W.F.P. Peshawar.
Pay fixed in the ... and basic pay scales 1994
of Rs. 1480/- with next ...
Accounts Office
Pay Fixation Party N.W.F.P. Peshawar.

A sum of Rs. 720/- is receivable.

Service ... 1-1-1999
to 3-3-1999
to Chief ... Office.

[Signature]
Sub-Divisional Officer (M)
Sub-Divisional Officer

Cancelled leave
un-availed portion of leave
w.e.f. 1-10-2000 to 4-3-2001,
is hereby cancelled at admissibility
at C.P.S. Shah Dharai 30-9-2000
by Dy. Commr. (M) P.W. No. ...
6753-35 dt. 3-10-2000
Sub-Divisional Officer (M)
Sub-Divisional Officer

ATTESTED

11

9	10	11	12	13	14	15
Signature and designation of the head of the office or other attesting officer in attestation (in columns 1 to 3)	Date of termination of appointment	Reason of termination (such as promotion, transfer, dismissal etc.)	Signature of the head of the office or other attesting officer	Leave Allocation of period of leave on average pay upto four months for which leave salary is debitable to another Government Per-iod Government to which debitable	Signature of the head of the office or other attesting officer	Reference to any recorded punishment or censure, or reward or praise of the Government Servant.
Amrj Res	25/5/96	Bater allowed 2 adv 90c	Amrj Res	Allowed graded pay sanction w.e.f 25-5-96 vide DEO (M) Primary Swat office orders Enclst no. 2804-96 dated 30.0.96	Amrj Res	
Amrj Res	30/11/96	Annual increment	M. D. B. O. SAIDU SHARIF	2779-96	Sub Divisional Edu. Officer, Saibu Sharif Sub Division	
S. D. B. O. SAIDU SHARIF	30/11/97	Annual increment	S. D. B. O. SAIDU SHARIF	Sanction is hereby accorded to grant two advance 90c on RA @ 255.96 vide DEO (M) Primary Swat office orders Enclst no. 4053-59 dated 2/9/96	Amrj Res	
S. D. B. O. SAIDU SHARIF	3/3/99	Promoted on leave	S. D. E. O. (M) SAIDU SHARIF	Sanction is hereby accorded to the grant of 2 adv 90c on RA w.e.f 25-5-96 vide DEO (M) Primary Swat office orders Enclst no. 4053-59 dated 2/9/96	Sub Divisional Edu. Officer (I) Saibu Sharif Sub Division	
S. D. E. O. (M) SAIDU SHARIF	30/11/1999	ANNUAL INCREMENT	S. D. E. O. (M) SAIDU SHARIF	Sanction is hereby accorded to the grant of leave salary from w.e.f. 4-3-1999 to 21-6-1999 (110 days) on full pay and from 22-6-1999 to 4-3-2001 (621 days) without pay vide DEO (M) Primary Swat Enclst no. 969-63-Dtd 24-3-1999	Sub Divisional Edu. Officer (I) Saibu Sharif Sub Division	
S. D. E. O. (M) SAIDU SHARIF	30/4/99	Leave Salary w.e.f 4-3-99 to 30-4-99 amounting to Rs. 5345/- paid	S. D. E. O. (M) SAIDU SHARIF	TOTAL Rs. 720/-	RECEIVED PAYMENT	2/10/96
S. D. E. O. (M) SAIDU SHARIF	30/12/98	Leave Salary w.e.f 15-99 to 21-6-99 amounting to Rs. 4725/- paid	S. D. E. O. (M) SAIDU SHARIF	Service Verified w.e.f 1-1-96 to 31-12-97	Service Verified w.e.f 1-1-1998 to 31-12-98 from sq. Roll & other Record of this office.	17/2/99
S. D. E. O. (M) SAIDU SHARIF	30/12/98	Leave Salary w.e.f 15-99 to 21-6-99 amounting to Rs. 4525/- paid	S. D. E. O. (M) SAIDU SHARIF	ATTESTED	S. D. E. O. (M) SAIDU SHARIF	

1	2	3	4	5	6	7	
Name of post	Whether substantive or officiating and whether permanent or temporary	If officiating state (i) substantive appointment or (ii) whether service counts for pension under Art. 371, C.S.R.	Pay in substantive post	Additional Pay for officiating	Other emolument falling under the term "pay"	Date of appointment	Signature of Government servant
lps Hazara	Per sub		Rs 1966	✓		12/1999	[Signature]
do	do		Rs 2047	✓		12/2000	[Signature]
lps Hazara	do		Rs 1885	✓		12/1998	[Signature]
			Rs 1966	(with Annual increment)		12/1999	[Signature]
Adjusted at lps Shahdahan			Rs 1966	✓		10/2000	[Signature]
			Rs 2047	✓		12/2000	[Signature]
		R.B.P.S 2220-120-5826					
	Rs		3060	✓		12/2001	[Signature]
			Rs 3180	✓			
			Rs 3300	1/2		12/2002	[Signature]

(2001)
 Office of the Accountant General
 H. W. T. P. Pathan
 Pay Fixed in the revised public pay scale 2001
 of Rs. 2220-120-5826 (7)
 at Rs. 3060/120-5826 (7)
 with next 4% increment (12-2001)

Note: The following
 work payment may be
 recovered
 12/2001 to 31/5/2003
 @ 120/12 x 21 = 2520
 Total 2520

Service Verified to 31-12-02 from eqg: Bolk & other Record of this office.

[Signature]

ATTESTED

Signature and designation of the head of the office or other attesting officer in columns 1 to 8	Date of termination of appointment	Reason of termination (such as promotion, transfer, dismissal, etc.)	Signature of the head of the office or other attesting officer	Leave		Signature of the head of the office or other attesting officer
				Nature and duration of leave taken	Allocation of period of leave on average pay upto four months for which leave salary is debitable to another Government	
				Period	Government to which debitable	
<i>[Signature]</i> S.D.E.O. (M) SAIDU SHARIF	30/11/2000	Ann. Inc.	<i>[Signature]</i> S.D.E.O. (M) SAIDU SHARIF			Service verified w.r. of 1/1/1998 to 31/12/1998 from the acq. roll & other record of this office
<i>[Signature]</i> S.D.E.O. (M) SAIDU SHARIF	ENTRIES REVISI 1-12-1998	REVISI	<i>[Signature]</i> S.D.E.O. (M) SAIDU SHARIF			Diop. Edu. Officer (Ed) SAIDU SHARIF
<i>[Signature]</i> S.D.E.O. (M) SAIDU SHARIF	3/3/1999	PROCEEDINGS ON LONG LEAVE	<i>[Signature]</i> S.D.E.O. (M) SAIDU SHARIF			Service Verified w.r. of 1-10-2000 to 31-12-2000 from Acq. Roll & other records of this office.
<i>[Signature]</i> S.D.E.O. (M) SAIDU SHARIF	30/9/2000	Remained on LEAVE	<i>[Signature]</i> S.D.E.O. (M) SAIDU SHARIF			Sub Divn. Officer (Ed) SAIDU SHARIF
<i>[Signature]</i> S.D.E.O. (M) SAIDU SHARIF	30/11/2000	Annual increment	<i>[Signature]</i> S.D.E.O. (M) SAIDU SHARIF			Sub Divn. Officer (Ed) SAIDU SHARIF
<i>[Signature]</i> S.D.E.O. (M) SAIDU SHARIF	30/11/2001	Ann. Inc R.P.S	<i>[Signature]</i> S.D.E.O. (M) SAIDU SHARIF			Service Verified w.r. of 1-10-2000 to 31-12-2000 from Acq. Roll & other records of this office.
<i>[Signature]</i> S.D.E.O. (M) SAIDU SHARIF	30/11/2002	Ann. Inc	<i>[Signature]</i> S.D.E.O. (M) SAIDU SHARIF			Sub Divn. Officer (Ed) SAIDU SHARIF
<i>[Signature]</i> S.D.E.O. (M) SAIDU SHARIF	30/11/2002	Ann. Inc	<i>[Signature]</i> S.D.E.O. (M) SAIDU SHARIF			Sanction accorded to the grant of Extra ordinary leave 1/3 of Sabir Khan P. Gps. Shah. Dherai WEF 3.3.2001 to 2.3.2002 (30) with out pay vide DEO/pty. Edu. Swat Endst N. 864-65/A-12/PTG II Dated 27.2.2001
Departmental Pay fixation in revised pay scale @ Rs. 2220-120-587 vide F.O. No. 11101 dated 1-12-2001				Pay in existing scale Rs. 2047 Annual increment Rs. 51 Equalized Rs. 2128 Pay Fixed on 1-12-2001 (7) Rs. 3180 With Next Annual Increment on 1-12-2002		
Dy. Distt. Officer (M) Primary Edu. Swat				Dy. Distt. Officer (M) P.T.G. Swat		
Vaken No	1161	Dated	8-1-2004	Service Verified w.r. of 1-10-2000 to 31-12-2000 from Acq. Roll & other records of this office.		
Total Rs. 87/				Dy. Distt. Officer (M) Primary Edu. Swat		

ATTESTED

Name of post

Whether substantive or officiating and whether permanent or temporary

If officiating, state (i) substantive appointment or (ii) whether service counts for pension under Art. 371 C.S.R.

Pay in substantive post

Additional pay for officiating

Other emolument falling under "Pay"

Date of appointment

P.P.S.No. (2220-120-5870)

P.L. SPS Subal Sherawat

Sub/PL

Rs. 3300/-

6/12/2002

~~ATTESTED~~

9	10	11	12	13 Leave:		14	15
Signature and designation of the head of the office or other attesting officer in attestation of columns 1 to 8.	Date of termination of appointment	Reason of termination (such as promotion, transfer, dismissal, etc).	Signature of the head of the office or other attesting officer	Nature and duration of leave taken	Allocation of period of leave on average pay upto four months for which leave salary is debtable to another Government.	Signature of the head of the office or other attesting officer	Reference to any recorded punishment or censure, or reward or praise of the Government Servant.
					Per-iod		
<p><i>(Signature)</i> Dy. Distt. Officer (M) Primary Education Sialkot</p>		<p>No record on E.O. Leave</p>					

~~ATTESTED~~

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR**

APPEAL NO. 1228 /2018

Mr. Sabir Khan, PST (BPS-7 now BPS-12),
GMPS Mandan, District Swat..... **APPELLANT**

VERSUS

- 1- The Government of Khyber Pakhtunkhwa through Secretary (E&SE) Department, Khyber Pakhtunkhwa, Peshawar.
- 2- The Director (E&SE) Department, Khyber Pakhtunkhwa, Peshawar.
- 3- The District Education Officer (M), at Gulkada Swat.

..... **RESPONDENTS**

**APPEAL UNDER SECTION- 4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974
AGAINST THE INACTION OF THE RESPONDENTS
BY NOT ALLOWING THE APPELLANT TO SUBMIT
HIS ARRIVAL REPORT AS PRIMARY SCHOOL
TEACHER AND AGAINST NO ACTION TAKEN ON
THE DEPARTMENTAL APPEAL OF THE APPELLANT
WITH IN THE STATUTORY PERIOD OF NINETY
DAYS**

PRAYER:

That on acceptance of this appeal the respondents may very kindly be directed to allow the appellant to submit his charge report as P.S.T (BPS-12) OR the respondents may be directed to communicate the adverse order if issued against the appellant by the respondents. Any other remedy which this august Tribunal deems fit may also be awarded in favor of the appellant.

R/SHEWETH:

ON FACTS:

1. That appellant is the bonafide resident of District Swat and belongs to a respectable family.
2. That the appellant was appointed as primary school Teacher (BPS-07) now BPS-12 on the recommendation of proper Departmental selection committee in the respondent Department vide order dated 06.12.1990. That in response the appellant submitted his charge report at GMPS Mandan District Swat and started performing his duty quite efficiently and to the entire satisfaction of his superiors. Copies of the

appointment order & service book are attached as annexure
..... A & B.

3. That during service due to some unavoidable circumstances applied for leave for the period from 03.03.2001 to 02.03.2002 which was granted to the appellant.
4. That after expiry of the said leave the appellant submitted his arrival report and started performing his duty on the concerned station quite efficiently. That due to the law and order situation in District Swat and life threat the appellant was not able to continue his duty, therefore, the appellant requested the respondent No.3 for further leave which was sanctioned and the appellant along with his family was shifted to Karachi to secure his life.
5. That after taking over Pak Army in the area the appellant came back and approach the concerned office to submit his arrival report but the respondent No. 3 orally stated about the termination of the appellant but till date no any order has been issued to the appellant regarding his termination.
6. That feeling aggrieved the appellant filed Departmental appeal before the appellate authority for acceptance of arrival report/adjustment against the vacant post of PST anywhere in District Swat or issue any adverse order regarding termination of the appellant but of no avail. Copy of the Departmental appeal is attached as annexure.....C.
7. That appellant feeling aggrieved and having no other remedy but to file the instant service appeal on the following grounds amongst the others.

GROUND:

- A- That neither adjusting the appellant on the post of Primary School Teacher nor issuing any adverse order by the respondents is against the law, facts and norms of natural justice.
- B- That the appellant has not been treated by the concerned authorities in accordance with law and rules on the subject noted above and as such the concerned authorities violated article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.
- C- That the concerned Department acted in arbitrary and malafide manner by not allowing the appellant to submit his arrival report on the post of Primary School Teacher.
- D- That no adverse order has been passed/ issued by the respondents against the appellant, therefore under the law

the appellant is entitled to be adjusted against the post of PST.

- E- That after arrival the respondents even not bothered to conduct inquiry in the matter of appellant and thus the appellant was kept in hanging position till date.
- F- That till date the respondents kept the appellant in hanging position and as such the respondent No.3 is not willing to adjust the appellant on the post of PST.
- G- That valuable rights of the appellant have been accrued, therefore under the prevailing rules the appellant is entitled to be adjusted on the Post of Primary School Teacher with all back benefits.
- H- That appellant has school going children and have no other source of income to support his family, therefore the principle of natural justice demands that the appellant be allowed to resume his duty as P.S.T.
- I- That the appellant seeks permission to advance other grounds and proofs at the time of hearing.

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

Dated: 11.09.2019

APPELLANT


SABIR KHAN

THROUGH:


NOOR MOHAMMAD KHATTAK

SHAHZULLAH YOUSAFZAI

&


MIR ZAMAN SAFI
ADVOCATES

BEFORE THE KHYBER PAKTUNKHWA SERVICE TRIBUNAL
PESHAWAR.

Service Appeal No. 1228/2019

Sabir Khan PST (BPS-7 now BPS-12) GMPS Mandan, District Swat.

.....Appellant

Versus

1. Government of Khyber Pakhtunkhwa through Secretary Elementary and Secondary Education Peshawar.
2. Director Elementary and secondary education Khyber Pakhtunkhwa at Peshawar.
3. District Education officer (Male) Swat and others..... Respondents

Parawise Comments on Behalf of the Respondent 1 to 3:

Respectfully Shewith

Preliminary objections

1. That the Appellant is not an aggrieved person within the meaning of Section 4 of the service Tribunal Act, 1974.
2. That the Appellant has no cause of action / locus standi.
3. That the Appellant has not come to this Honorable Court with clean hands.
4. That the Appellant has filed this instant service appeal just to pressurize the respondents.
5. The present service appeal is liable to be dismissed for non-joinder/miss joinder of necessary parties.
6. That the instant service appeal is against the prevailing law and rules.
7. That the Appellant has filed this instant Service Appeal on malafide motives.
8. That the instant appeal is badly time barred.
9. That the instant service appeal is not maintainable in the present form, and above in the present circumstances of the issue.
10. That the Appellant has estopped by his own conduct.
11. That the Appellant has concealed the material facts from this Honorable Tribunal.

~~ATTESTED~~

FACTS:

1. That the Para No.1 pertains to personal record of the Appellant. Hence no comments.
2. That the Para No.2 is correct. Hence no comments.
3. That the Para No.3 is correct to the extent of leave. However, it is worth to mention here that the Appellant has availed another long leave w.e.f 04-03-1999 to 30-09-2000 clearly reported by the Enquiry Officer in his enquiry report. (Copy of Enquiry Report annexed as Annexure A)
4. That the Para No. 4 is incorrect and denied. The Appellant did not submit his arrival report and did not perform his duty. The Deputy District Officer Male Primary Swat had issued absenteeism notices to the Appellant for joining his duty via Endst No. 5546 dated 26-03-2002 and Endst No. 5936 dated 20-04-2002 positively and subsequent office letter No. 9782 dated 18-11-2002, but the Appellant did not resume his duty. Furthermore, the Appellant did not apply for further leave and if the Appellant claim further sanctioned leave, he must produce proofs in front of this Honorable Tribunal. (Copies of Absenteeism Notices & Letter annexed as Annexure B, C & D)
5. That the Para No. 5 is irrelevant to the extent of taking over charge by Pak Army in the area, the rest of the para is incorrect and denied. As mentioned in the foregoing para, the Appellant remained absent from his duty in spite of notices and letters issued to the Appellant for joining his duty. Moreover, the Appellant was also directed to resume duty through daily Aaj dated 29-11-2007 but he also failed to resume duty. Further, the Appellant was reported by Deputy District Officer Male Primary Swat to the respondent No. 3 once again via Endst No. 4489 dated 02-02-2008. As the Appellant failed to resume duty, he was terminated from the service vide Office Order/termination No. 4110-14 dated 05-03-2008 after following all codal formalities. {Copies of Letter for Publication, Publication, Absent from duty/Enquiry, (Enquiry report already annexed as Annexure A) & Termination Order annexed as Annexure E, F, G & H}
6. That the Para No. 6 is incorrect and denied. The Appellant was terminated from the service dated 05-03-2008 while he has annexed Adjustment/Departmental Appeal dated 21-06-2019 with the instant Service Appeal which is badly time barred. Moreover, it is worth to mention here that the said document has no official receiving diary number and also not traceable in the office of the respondents.
7. That the instant service appeal of the Appellant is bereft of any merit, hence, liable to be dismissed inter alia following grounds.


~~AFFECTED~~


GROUNDS

- A. That the Para No. A is incorrect and denied. The respondent department issued termination order in accordance with law, facts and norms of natural justice.
- B. That the Para No. B is incorrect and not admitted. The respondent department cannot even think of the violation any Article of the Constitution.
- C. That the detail reply of this Para has already been given in Paras No. 4 & 5 of the facts above.
- D. That the Para No. D is repetition of the foregoing paras.
- E. That the Para No. E is incorrect and not admitted. The Appellant was terminated after proper enquiry by the respondent department as mentioned in para No. 7 of the facts above.
- F. That the Para No. F is incorrect and denied. The Appellant has been terminated from service after observing all codal formalities back in 2008.
- G. That the Para No. G is incorrect and not admitted. The Appellant is not entitled to be adjusted on the post of PST after almost 13 years of his termination.
- H. That the Para No. H is irrelevant.
- I. That the Para No. I is irrelevant, however the respondents also seek permission of this Honorable Tribunal to advance further grounds at the time of arguments.

It is, therefore, very humbly prayed that the instant service appeal of the Appellant may be dismissed with cost in favor of the respondents.


DISTRICT EDUCATION OFFICER (M)
SWAT AT GULKADA


DIRECTOR,
ELEMENTARY AND SECONDARY
EDUCATION KHYBER PAKHTUNKHWA


SECRETARY,
ELEMENTARY AND SECONDARY
EDUCATION PESHAWAR

~~ATTESTED~~

OFFICE OF EXECUTIVE DISTRICT OFFICER SCHOOLS & LITERACY SWAT

OFFICER ORDER/TERMINATION

Mr. Sabir Khan PST/GPS Shah Dehrai who remained absent from duty w.e.f 3-3-2002 was directed by the Deputy District Officer (Male) Schools & Literacy Swat to resume his duty vide his office memo: No. 5546 dated 26-3-2002, No. 5936 dated 22-4-2002 and No. 9782 dated 18-11-2002 but he failed to resume his duty.

He was then directed to resume duty through daily Aaj dated 2-9-11-2007 but he also failed to resume duty.

An enquiry was also conducted against him by Mr. Fazal Khalig ADO Circle Kabal who recommended his termination from service vide Memo: No 4499 dated 2-2-2008.

In view of the above facts, the EDO Schools & Literacy Department Swat being the competent authority as per notification No. SOR-V/(E&AD)/2-7/2003 dated 7-10-2005 is pleased to terminate Mr. Sabir Khan PST/GPS. Shah Dehrai from service w.e.f 3-3-2002.

[Signature]
SHER AFZAL KHAN
EXECUTIVE DISTRICT OFFICER
SCHOOLS & LITERACY SWAT

Endst: No. 4/10-14

Dated 05/03/2008

Copy of the above forwarded to:-

- 1) The Director of Schools & Literacy Department NWFP Peshawar.
- 2) The District Coordination Officer Swat.
- 3) The District Accounts Officer Swat.
- 4) The Deputy District Officer (Male) Schools & Literacy Swat w/r to his No. & dated cited above.
- 5) Mr. _____ PST/GPS
C/O Head Teacher GPS
Under Registered cover with the direction to inform the teacher accordingly.

[Signature]
EXECUTIVE DISTRICT OFFICER
SCHOOLS & LITERACY SWAT

ATTESTED

ANNEX F

23

To

The Director Elementary & Secondary Education,
Khyber Pakhtunkhwa.

Subject: - Departmental appeal against the order dated 5.3.2008 communicated to the appellant on 16.11.2021

Sir,

Kindly refer to letter Executive District Officer Schools and Literacy Swat office order No.4110-14 dated 05-03-2008, the appellant received reply during the pendency of Service Appeal No, 1228/2019 by the respondent department on 16-11-2021 and to submit that the appellant was serving as PST (BPS-07) now (BPS-12), however due to worst law and order situation in the whole region of Malakand particularly in Swat when the life was at stake, the appellant remained unable to continue his duty. That I was granted leave. On extension of leave by the competent authority, the appellant along with family shifted to Karachi just to protect himself from militancy. That during the era when the Pak Army took control over the region the appellant approached the concerned office to submit his arrival report; however, it was told verbally that the appellant has been terminated from service. That no order in black and white was given to me. That during the pendency of ibid service appeal the respondents produced the impugned order dated 5.3.2008 communicated to the appellant on 16.11.2021..

Forgoing in view, it is humbly requested that the impugned order dated 5.3.2008 may kindly be set aside and the appellant may kindly be reinstated in service with back benefits.

Dated: 18-11-2021

Yours obediently

(Sabir Khan)

Ex- PST GMPS Mandan Swat

~~ATTESTED~~

24

VAKALATNAMA

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

APPEAL NO: _____ OF 2022

Sabir Khan (APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS


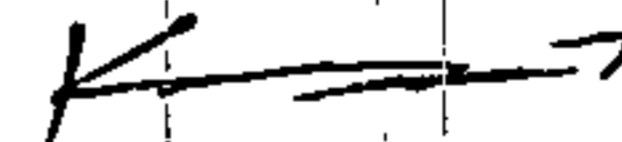


Education Deptt. (RESPONDENT)
(DEFENDANT)

I/We _____
Do hereby appoint and constitute **NOOR MUHAMMAD KHATTAK 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. _____/_____/2022



CLIENTS

ACCEPTED

NOOR MUHAMMAD KHATTAK

KAMRAN KHAN

SAID KHAN

HAIDER ALI
&
KHAZAD GUL
ADVOCATES