


16.11.2022

Counsel for the appellant present.

Muhammad Jan learned District Attorney for respondents present.

Former requested for adjournment on the ground that he has not prepared the brief. Adjourned. To come up for arguments on 10.01.2023 before D.B.


(Fareeha Paul)
Member (E)



(Rozina Rehman)
Member (J)

SCANNED
KPST
Peshawar

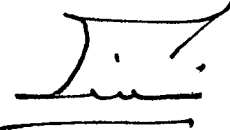
13.06.2022

Clerk of counsel for the appellant present. Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present.

Clerk of counsel for the appellant stated that learned counsel for the appellant is unable to attend the Tribunal today due to strike of Lawyers. Adjourned. To come up for remaining arguments before the D.B on 07.09.2022.



(MIAN MUHAMMAD)
MEMBER (EXECUTIVE)



(SALAH-UD-DIN)
MEMBER (JUDICIAL)

7th Sept, 2022

Appellant in person present. Mr. Kabirullah, Addl: AG for respondents present.

Appellant seeks adjournment on the ground that learned counsel is not available today. Last opportunity granted for arguments. To come up for arguments on 16.11.2022 before the D.B



(Farecha Paul)
Member(Executive)

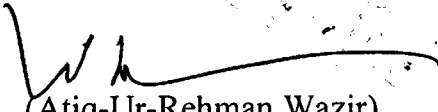


(Kalim Arshad Khan)
Chairman

01.02.2022

Junior to counsel for the appellant present. Mr. Muhammad Adeel Butt, Addl. AG alongwith Mr. Haseen Ullah Assistant and Mr. Arshad Khan ADEO for respondents present.

Reply/comments on behalf of respondents submitted, which are placed on file and copy of the same is handed over to learned counsel for the appellant. Mr. Arshad Khan, representative of respondent No. 2 rely on the comments submitted by respondents No. 1, 3 & 4. To come up for rejoinder if any, and arguments before the D.B on 15.02.2022.


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

15.02.2022

Due to retirement of the Worthy Chairman the Tribunal is defunct, therefore, case is adjourned to 06.04.2022 for the same as before.


Reader

06.04.2022

Clerk to counsel for appellant present. Mr. Kabirullah Khattak Adl. AG present for respondents present.

Counsel are at strike. Therefore the case is adjourned to 13.06.2022 before D.B.




Chairman

S.A 3386/2021

14.01.2022 Counsel for the appellant present. Preliminary arguments have been heard.

Points raised need consideration. The appeal is admitted for hearing, subject to all just and legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments 26.01.2022 before the S.B.



2-1/01/22


Chairman

26.01.2022 Learned counsel for the appellant present. Mr. Kabirullah Khattak, Additional Advocate General for respondents present.

Learned counsel for the appellant submitted application for impleadement of Secretary Elementary & Secondary Education Peshawar in the panel of respondents. Application is allowed and office is directed to include the same in the panel of respondents.

On the other hand learned Additional Advocate General did not object the application submitted by learned counsel for the appellant. Reply/comments on behalf of respondents are still awaited. Learned Additional Advocate General requested for short adjournment to submit reply/comments. Granted by way of last chance. To come up for reply/comments before the S.B on 28.01.2022.


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

SCANNED
PESHAWAR

14.10.2021

Learned counsel for the appellant present.

Learned counsel for the appellant requests for adjournment on the ground that he has not prepared the brief. Granted. To come up for preliminary hearing before the S.B on 15.12.2021.


(MIAN MUHAMMAD)
MEMBER (E)

15.12.2021

Junior to counsel for the appellant present.

Former requests for adjournment on the ground that senior counsel is busy before the august Supreme Court of Pakistan. Adjourned. To come up for preliminary hearing on 24.01.2022 before S.B.




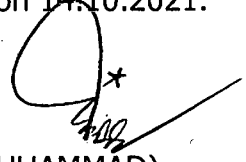

(MIAN MUHAMMAD)
MEMBER (E)

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 3386 /2021

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	02/03/2021	<p>The appeal of Mr. Shakirullah resubmitted today by Mr. Irshad Ahmad Khalil 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-	19.05.2021	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>19/05/21</u></p> <p style="text-align: right;"> CHAIRMAN</p>
	01.09.2021	<p>Due to demise of the Worthy Chairman the Tribunal is defunct, therefore, case is adjourned to 01.09.2021 for the same as before.</p> <p style="text-align: right;"> Reader</p>
		<p>Counsel for the appellant present.</p> <p>Learned counsel for the appellant requested for adjournment as he has not made preparation for arguments. Adjourned. To come up for preliminary hearing before the S.B on 14.10.2021.</p> <p style="text-align: right;"> (MIAN MUHAMMAD) MEMBER (E)</p>

The appeal of Mr. Shakirullah son of Abdul Hanan r/o Dag Behsud Tehsil Babbi District Nowshera received today i.e. on 12/02/2021 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 leave sanctioned order mentioned in the memo of appeal is not attached with the appeal which may be placed on it.
- 2- Copy of impugned order is not attached with the appeal which may be placed on it.
- 3- Three more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No. 337 /S.T,

Dt. 15/02 /2021


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Irshad Ahmad Khalil Adv. Pesh.

In Response of objector No 1 copy of leave application is not available with the appellant while in Response of objector No 2 it was a case of Re-instatement/adjustment. No appellate order has been passed on Departmental appeal and objector No 3 has been removed.



BEFORE THE HON'BLE SERVICE TRIBUNAL
PESHAWAR

In Re S.A No. 3386 /2021

Mr. Shakir Ullah

VERSUS

Director Elementary & Secretary Education KPK Peshawar
& Others

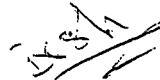
INDEX

S#	Description of Documents	Annex	Pages
1.	Grounds of Petition.		1-5
2.	Affidavit.		6
3.	Addresses of parties		7
4.	Application of Condonation of delay		8-9
5.	Copy of appointment order	"A"	10 To 11
6.	Copy of departmental appeal	"B"	13 To 14
7.	Wakalat Nama		

Dated: 12/02/2021


APPELLANT

Through


Irshad Ahmad Khalil
Advocate, High Court
Peshawar.

BEFORE THE HON'BLE SERVICE TRIBUNAL
PESHAWAR

In Re S.A No. _____/2021

Mr. Shakir Ullah S/o Abdul Hanan R/o Dag Behsud
P.O Tehsil Pabbi District Nowshera.

....Appellant

VERSUS

1. Director Elementary & Secretary Education KPK Peshawar.
2. District Education Officer (Male) Peshawar.
3. Deputy Director (Estab) Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.

....Respondents

APPEAL U/S-4 OF THE KHYBER
PAKHTUNKHWA SERVICES TRIBUNAL ACT
1974 THAT THE RESPONDENT DEPARTMENT
MAY KINDLY BE DIRECTED TO ALLOW/
ADJUST THE APPELLANT TO PERFORM HIS
DUTY ON HIS ORIGINAL POST AS THE
RESPONDENT DEPARTMENT ILLEGALLY
RESTRAINED THE APPELLANT TO PERFORM
HIS DUTY ON HIS ORIGINAL POSTS.

Prayer:-

ON ACCEPTANCE OF THIS APPEAL THE
APPROPRIATE DIRECTION TO

**RESPONDENT DEPARTMENT TO
ALLOW/ADJUST THE APPELLANT ON
HIS ORIGINAL POSTS WITH ALL BACK
BENEFITS AND THAT ANY OTHER
RELIEF MAY KINDLY BE GRANTED
DEEMED FIT IN THE CIRCUMSTANCES.**

Respectfully Sheweth.

1. That the Appellant was initially appointed as S.E.T Science at GHS Muhalkay Nowshera on 03.09.1989. (Copy of appointment order is annexed as annexure "A").
2. That the appellant was posted different places and was lastly transferred to GHS Mathra Peshawar on 12.03.2007.
3. That the appellant performed his duty with full devotion and hard work with effect from 03.09.1989 to August 2007 and now complain what so ever has been made against the appellant.
4. That the appellant arises domestic problems on 2007 due to which the appellant was unable to perform his duty with respondent department and submitted a leave application to respondent department w.e.f 01.09.2007 to 31.12.2008 but the copy of the leave application is not available with the appellant.

5. That on 2010 the appellant visited to respondent department for joining his duty with respondent department when his domestic problems have been solved, whereby the appellant came to know that the respondent department not allow/adjust the appellant for performing his duty.
6. That after that the appellant visited to respondent department for so many time for adjustment/performing his duty but no response has been given by the respondent department and lastly submitted a departmental appeal to respondent department on 13.10.2020 for reinstatement / adjustment. **(Copy of departmental appeal is attached as annexure "B")**.
7. That feeling aggrieved the Appellant prefers the instant service appeal before this Hon'ble Tribunal on the following grounds inter alia:-

GROUND:-

- A. That not allowing of the appellant on his original post is an illegality on the part of the Respondent Department and utter violation of law and rules on the subject.

(4)

B. That the appellant has not been treated according to law and mandatory provisions of law have been violated by Respondents.

C. That the appellant is a Civil Servant and it is the responsibility of the Department to allow/adjust the appellant because the appellant was still on the strength of respondent department.

D. That the absence of the appellant was not deliberately or intentionally but due to domestic problems which was beyond the control of the appellant.

E. That the appellant has not been removed or dismissed from service so not allowing of the appellant on his job is clear cut malafidely on part of Respondent department.

F. That not allowing of the appellant is void and not in according to law because not allowing of the appellant is an illegality on part of the Respondent department.

(5)

G. That the appellant seeks permission of this Hon'ble Tribunal for further additional grounds at the time of arguments.


It is therefore, most humbly prayed that on acceptance of this appeal the appropriate direction to respondent department to allow/adjust the appellant on his original posts with all back benefits and that any other relief may kindly be granted deemed fit in the circumstances

Any other relief not specifically asked for may also graciously be extended in favour of the Appellant in the circumstances of the case.

Dated: 12/02/2021

APPELLANT

Through


Irshad Ahmad Khalil
Advocate, High Court
Peshawar.

NOTE:-

As per information furnished by my client, no such like appeal for the same petitioner, upon the same subject matter has earlier been filed, prior to the instant one, before this Hon'ble Tribunal.


Advocate.

6

BEFORE THE HON'BLE SERVICE TRIBUNAL
PESHAWAR

In Re S.A No. _____/2021

Mr. Shakir Ullah

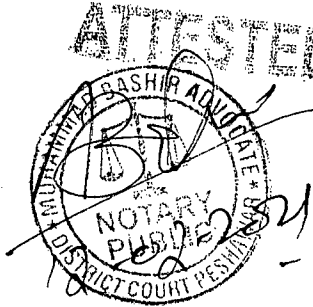
VERSUS

Director Elementary & Secretary Education KPK Peshawar
& Others

AFFIDAVIT

I, Mr. Shakir Ullah S/o Abdul Hanan R/o Dag Behsud P.O
Tehsil Pabbi District Nowshera, do hereby solemnly affirm and
declare that all the contents of the instant appeal are true and
correct to the best of my knowledge and belief and nothing has been
concealed or withheld from this Hon'ble Court.

ATTESTED



[Signature]
DEPONENT

Identified by:

[Signature]
Irshad Ahmad Khalil
Advocate High Court
Peshawar.

(7)

BEFORE THE HON'BLE SERVICE TRIBUNAL
PESHAWAR

In Re S.A No. _____/2021

Mr. Shakir Ullah

VERSUS

Director Elementary & Secretary Education KPK Peshawar
& Others

ADDRESSES OF PARTIES

PETITIONER:

Mr. Shakir Ullah S/o Abdul Hanan R/o Dag
Behsud P.O Tehsil Pabbi District Nowshera.


ADDRESSES OF RESPONDENTS

1. Director Elementary & Secretary Education KPK
Peshawar.
2. District Education Officer (Male) Peshawar.
3. Deputy Director (Estab) Elementary & Secondary
Education Khyber Pakhtunkhwa Peshawar.

Dated: 12/02/2021


APPELLANT

Through


Irshad Ahmad Khalil
Advocate, High Court
Peshawar.

(8)

BEFORE THE HON'BLE SERVICE TRIBUNAL
PESHAWAR

In Re S.A No. _____/2021

Mr. Shakir Ullah

VERSUS

Director Elementary & Secretary Education KPK
Peshawar & Others

APPLICATION FOR CONDONATION OF DELAY (IF
ANY)

Respectfully Sheweth,

Petitioner submits as under:

1. That the above mentioned appeal is filing before this Hon'ble Tribunal in which no date is fixed for hearing so far.
2. That the appellant is a Civil Servant and it is the responsibility of the Department to allow/adjust the appellant because the appellant was still on the strength of respondent department.

9

3. That the absence of the appellant was not deliberately or intentionally but due to domestic problems which was beyond the control of the appellant.

Grounds:

- A. That there are number of precedents of the Supreme Court of Pakistan which provides that the cases shall be decided on merits rather than technicalities.
- B. That there are many judgment of the superior courts that limitation his not becomes a huddle in way of justice.

It is, therefore, requested that the limitation period (if any) may kindly be condone in the interest of justice.

Appellant

Through

Date : 12.02.2021

Irshad Ahmad Khalil

Advocate, High Court

Peshawar.

Appointment of the following persons is/are hereby ordered against the post of SET. (G) UT on temporary and adhoc basis at Rs: 1165/- Fixed plus usual allowance as admissable under the rules in P.P.S. No. 15 / (Rev 1165/P.M. fix) at the Institutions/~~Offices~~ noted against each name.

S.No.	Name, Qualification and Address	Posted at	Remarks.
1.	Mr. Shahkireullah S/O Abdul Hanan M.Sc. Maths Village Darg Besud P.O. Pabbi Tehsil N.S.R. Distt Peshawar.	(2nd) SET. (G) UT. GHS Mughalkhi Teh Nowshera	Against vacant SE Post.

TERMS AND CONDITIONS

1. Her appointment is purely temporary and liable to termination any time without any assigning/reasons or notice.
2. In case of resignation they/She will have to submit one Month's prior notice to the Department or forfeit one Month's pay in lieu thereof to the Government.
3. She/They is/are required to produce Health and Age Certificates from the Medical authorities concerned before taking over charge, provide they are not in Government Service.
4. She/They not be allowed to take over charge if her/their age is/are less than 18 years or above 38 years.
5. Her/Their appointment is/are subject to further condition that she/they is/are domicile of N.W.F.P.
6. Her/Their antecedents forms should be obtained duly verified by the Local Police Authorities and submit to this office together with application for appointment on prescribed form and under taking declaration of movable and immoveable property for record in this office.
7. All Original Educational Character and Domicile Certificates should be thoroughly checked before handing over charge if necessary it should be verified from the Institutions concerned.
8. If she/they fails to take over charge of the post of within a week of the receipt of these orders, the offer of appointment shall stand cancelled.
9. Charge reports should be submitted to all concerned.
10. No In/Dn etc: is allowed.
11. She/They should be given test in Nazira Quran and Pakistan Studies and result intimated to this office.

Uzaj Abdul Rehman Khan
Director of Education (Schools),
Peshawar Division Peshawar.

Enst: No. _____ / F.No. _____ / MDEC / _____ / Dated Peshawar the _____ / 88.

Copy for information and necessary action to the; -
District Education Officer (Male), Peshawar.

2. Sub-Divisional Officer (General)
3. Headmistress, Government Girls High/Middle School, Mughalkhi N.S.R.
4. Supdt. Establishment Branch.
5. Candidate Concerned.
6. Personal File
7. G file

A.P.T./J.T./T.M.E.N.T./

Appointment of the following persons/is/are hereby ordered against the post of _____/on temporary basis at Rs. _____/plus usual allowance as admissible under the rules in P.S.No. _____/(Rs. _____/at the Institution/ Offices noted against each name-

S.No.	Name	Qualification & address.	Posted at.	Remarks/
1.	2.		3	4

1.				
2.				
3.				
4.				

T.E.R.N.S. & C.O.N.D.I.T.I.O.N./

1. His apptt: is purely temporary & liable to termination any time without any assigning/reasons or notice.
2. In case of resignation he will have to submit one month's prior notice to the Deptt: or forfeit one month's pay in lieu thereof to the Government.
3. He is required to produce health & age Certificates from the Medical Authorities concerned before taking over charge provide they are not in Government Service.
4. He is not allowed to take over charge if his age is less than 15 years or above 35 years.
5. His apptt: is subject to further condition that he is Domicile of N.W.F.P.
6. His antecedents forms should be obtained duly verified by the Local Police authorities & submit to this office together with application for apptt: on prescribed form & under taking declaration of moveable & immoveable property for record in this office.
7. All original Educational Character & Domicile Certificates should be thoroughly checked before handing over charge if necessary it should be verified from the Institutions concerned.
8. If he fails to take over charge of the post of within a week of the receipt of these orders, the offer of apptt: shall stand cancelled.
9. Charge report should be submitted to all concerned.
10. No TA/DA etc: is allowed.
11. He should be given test in Nazira quran & Pakistan Studies & result intimated to this office.

(HAJI ABDUL QAJAR KHAN)
DIRECTOR OF EDUCATION(SCHOOLS)
PESHAWAR DIVISION PESHAWAR.

Dated Peshawar the 30/9/1989.

Endst.No. 8364-70,

Copy for information & n/action to the :-

1. Distt: Edu: Officer(M) H. R.
2. Sub Divl: Edu: Officer(M)
3. Head Master/Principal/Principal Peshawar.
4. Supt: Estt: Branch.
5. Candidate concerned.
6. P/File.
7. etc.

S SHAH S/

Attested
Mohammad Saif
37/9/2001

Jalal Qureshi
D.D. 9/10/91
FOR: DIRECTOR OF EDUCATION(SCHOOLS)
PESHAWAR DIVISION PESHAWAR.



"B"

13

25

Director

Elementary and Secondary Education

Peshawar, KPK.

Date 14/10/2020

Subject: Request for reinstatement

17 Aug / Adjustment

Dear Sir,

I have the honour to submit the followings please.

I was appointed as S.E.T Science at GHS Muhalkay Nowshera

On 30/09/1989. Then transferred to GHS Dak Ismail Khel on 07/05/1990

And till 05/93. Next I was Transferred to GHSS Tehkal Peshawar where I served for 6 years.

I was transferred again to GHS Dabgari GATE Peshawar as SET science on 10/12/1998 where I continued till August 2001.

Next I went on long leave 110 days from 1/09/2001 till 19/12/2001.

Also I availed extra ordinary leaves without pay 20/12/2001 till 19/12/2006

That means 5 years.

After that completion of leaves I applied for reinstatement and was appointed as S.E.T at GHS Mathra Peshawar against the vacant post On 12/03/2007 and could continues for short time of three months only when I was threaten and my my family for life. I had to move and disappeared till last year.

Our circumstances are back to normal and ready to serve ,if given a chance please.

alc

425
13-10-2020

13/1

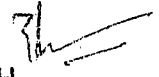
23

I knew that I have no leaves left on my account but I am surprised to know that that no letter or warning has been issued from department. I would like to serve and have potential and confident to teach any subject.

I am very optimistic and looking forward to be considered tom serve please.

Thank you

Kind Regards



SHAKIR ULLAH

0312 43 43 363

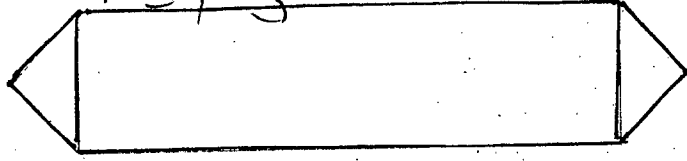
Village : Das Behsud

P.O Pabbi

District : Nowshera

Tehsil : Pabbi

بعدالت بنجاب
مقدمہ



مورخہ

مقدمہ

دعویٰ

جرم

الحقہ 2021ء منجانب

شاہد احمد خلیل بنام

باعث تحریر آنکہ

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

آن مقام کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز

وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ پر حلف دیئے جواب دہی اور اقبال دعویٰ اور

بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق

زراریں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی

اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا۔ از بصورت ضرورت

مقدمہ مذکور کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے

تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے

اور اس کا ساختہ پر داختم منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے

سبب سے وہ ہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں

گے۔ کہ پیروی مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سندر ہے۔

2021ء

ماہ فروری

۱۵

الرقوم

العبد گواہ العبد

کے لئے منظور ہے۔

شاهد احمد خلیل

مقام

Accepted

15-2-2021

شاهد احمد خلیل

“B”

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

No.

Appeal No. of 20 ..

3386

.....Appellant/Petitioner

Shakir Ullah

Versus

.....Respondent

Director Edu: Pesh

Respondent No.

3

Notice to: —

Deputy Director (Estb) (ESSE)

WHEREAS an appeal/petition under the ~~provision~~ 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.....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~~ 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.....

21

Day of.....20

24/1/22

22

Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

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

“B”

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

S. 13

No.

Appeal No. 3386 of 20 21

Shakir Ullah Appellant/Petitioner

Versus

Director (E&SE) Pesh Respondent

Respondent No. 2

Notice to: - DIST Education officer (male)
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 26-1-22 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 21

Day of 7 20 22

[Handwritten signature]

[Handwritten mark]

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.

“B”

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

S.B

No.

Appeal No. 3386 of 20 21

Shakir Ullah Appellant/Petitioner

Director (CESSE) Pesh Respondent

Respondent No.

Notice to: — Director (CESSE) 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 26-1-2022 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.

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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 24

Day of 1 20 22


24/1/22





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.
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BEFORE THE HONORABLE KHYBER PAKHATUNKHWA SERVICE TRIBUNAL
PESHAWAR.

Service Appeal No: 3386/2021

Shakir Ullah Ex-SST B-16 District Nowshera.....Appellant.

VERSUS

Secretary E&SE Department Khyber Pakhtunkhwa & others.....Respondents

JOINT PARAWISE COMMENTS FOR & ON BEHALF OF RESPONDENTS No: 1-3.

Respectfully Sheweth:-

The Respondents submit as under:-

PRELIMINARY OBJECTIONS.

- 1 That the Appellant has got no cause of action/locus standi.
- 2 That the Appellant is not an aggrieved person within the meaning of Article-212 of the Constitution of Islamic Republic of Pakistan 1973.
- 3 That the instant Service Appeal is badly time barred under relevant provision of law of limitation Act 1908.
- 4 That the Appellant has concealed material facts from this Honorable Tribunal in the instant Service Appeal.
- 5 That the instant Service Appeal is based on mala-fide intentions as the appellant has been found guilty of willful absence from official duty against the SET/SST post without formal leave sanctions & approval of the competent authority.
- 6 That the Appellant has not come to this Honorable Tribunal with clean hands.
- 7 That the Appellant is not entitled for the relief he has sought from this Honorable Tribunal.
- 8 That the instant Service Appeal is against the prevailing law & rules.
- 9 That the instant Appeal is based on mala fide intentions just to put extra pressure on the Respondents for gaining illegal service benefits.
- 10 That the instant Service Appeal is not maintainable in its present form.
- 11 That the instant Service Appeal is bad for mis-joinder & non-joinder of the necessary parties.
- 12 That the instant Service Appeal is barred by law as no cogent reason & proof has been produced by the appellant prior to leaving his duty station at GHS Mattra District Peshawar against the noted post.

- 13 That the Appellant is not competent to file the instant appeal against the Respondents.
- 14 That the appellant is a habitual litigant against the Respondent Department on mala fide intentions for gaining illegal reinstatement in Service against the SST (Sc) in BS-16 post from the Respondent No.01.
- 15 That the appellant is not entitled for the grant of back service benefits against the SST post in the Respondent Department under the Rules.

ON FACTS.

- 1 That Para-1 is correct to the extent of the appointment of the appellant against the S.E.T (Sc) in BS-15 post vide appointment order dated 03-09-1989 along with his adjustment against the noted post at GHS Muhalkay District Nowshera & a copy whereof is Annexure-A for ready reference.
- 2 That Para-2 is correct to the extent of his posting & transfer to different schools against the mentioned post under the mandatory provision of Section-10 of Civil Servant Act-1973, whereby, the competent authority has got power & competency to transfer & post a Civil Servant wherever his services are required by the authority concerned against the noted post in the Respondent Department which was resulted in his last transfer & posting vide order dated 12-03-2007 at GHS Mattra District Peshawar where from, he has left the schools & stations without formal intimations & approval/leave sanction of the competent authority, hence resulted in his removal from service under the relevant provision of Law & Rules in filed.
- 3 That Para-3 is incorrect as the appellant was bound to perform his duty against the noted post for the salary he was drawing from the Govt; Treasury.
- 4 That Para-4 is also incorrect as the appellant has been failed to apply for leave sanction for the period w.e.f. 01-09-2007 to 31-12-2008 nor any cogent documents have been attached by them in support of his stand, hence, liable to be rejected of being based on mala fide intentions.
- 5 That Para-5 is also incorrect & denied as detail reply to this para has already been given in the forgoing paras of the present reply, hence, needs no further comments.
- 6 That Para-6 is also incorrect & denied as the case of the appellant badly time barred under the relevant provision of Law of limitation Act-1908
- 7 That Para-7 needs no comments, however, the Respondents further submit on the following grounds inter alia:-

GROUND.

- A **Incorrect & not admitted.** The appellant has been treated as per Law & Rules by the Respondent Department & has been made not entitled for the grant of reinstatement & back service benefits against the SST (Sc) post in the Respondent Department under the Rules in field.
- B **Incorrect & not admitted.** The stand of the appellant is without cogent reason & legal justification liable to be rejected by this Honorable Bench as act of the Respondent Department for the non-reinstatement & grant of back benefits against the SST (Sc) post in BP-16 is legal having no question of violating the provision of Articles-4 & 25 of the 1973 constitution.

C **Incorrect & not admitted.** The appellant is misleading the issue as he has treated in accordance with Law & Rules. Moreover, he has concealed material facts from this Honorable Tribunal.

D **Incorrect & not admitted.** Hence, needs no further comments as detail reply to this grounds has been given in the above mentioned paras.


E **Incorrect & not admitted.** The appellant is misleading the issue as he has been treated in accordance with Law & Rules. He has concealed material facts from this Honorable Tribunal.


F **Incorrect & not admitted.** The appellant has been treated as per Law & Rules by the Respondent Department & has been made not entitled for the grant of reinstatement & back service benefits against the SST (Sc) post in the Respondent Department under the Rules in field.

G **Incorrect & not admitted.** Hence, needs no further comments, however, the Respondents seek leave of this Honorable Tribunal to submit additional grounds, documents, case Law & record at the time of arguments on the date fixed.

Therefore, it is humbly requested that the appeal in hand may kindly be dismissed in favor of the Respondents in the interest of justice please.


Dated: ___/___/2022.


SECRETARY
E&SE Department Khyber
Pakhtunkhwa, Peshawar.
(Respondent No: 1).


DIRECTOR
E&SE Department Khyber
Pakhtunkhwa, Peshawar.
(Respondents No: 2-3)

AFFIDAVIT

I. Dr. Hayat Khan Asstt: Director (Litigation-II) E&SE Department Khyber Pakhtunkhwa, do hereby solemnly affirm & declare on oath that the contents of the instant Parawise Comments in the titled appeal are true & correct to the best of my knowledge & belief.


Deponent

**BEFORE THE HONORABLE KHYBER PAKHATUNKHWA SERVICE TRIBUNAL
PESHAWAR.**

Service Appeal No: 3386/2021

Shakir Ullah Ex-SST B-16 District Nowshera.....Applicant.

VERSUS

Secretary E&SE Department Khyber Pakhtunkhwa & others.....Respondents

**REPLY TO THE APPLICATION FOR CONDONATION OF DELAY FOR & ON BEHALF OF
RESPONDENTS No: 1-3.**

Respectfully Sheweth:-

The Respondents submit as under:-

1. That Para-1 needs no comments.
2. That Para-2 is incorrect as the applicant has been found guilty of willful absence from duty against the SST (Sc) in BP-16 post at GHS Mattra District Peshawar, hence, he was removed from service against the noted post by the competent authority after due process of Law & Rules.
3. That Para-3 is also incorrect as the applicant has been found guilty of willful absence from duty against the SST (Sc) in BP-16 post at GHS Mattra District Peshawar, hence, he was removed from service against the noted post by the competent authority after due process of Law & Rules, hence, the application in hand is liable to be dismissed on the following grounds inter alia:-

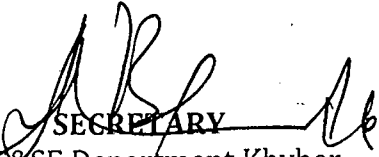
GROUND.


A **Incorrect & not admitted.** The applicant has been treated as per Law & Rules by the Respondent Department & has been made not entitled for the grant of reinstatement & back service benefits against the SST (Sc) post in the Respondent Department under the Rules in field nor any such reported judgment has been attached by him upon which he is relying before this Honorable Bench in support of his plea.

B **Incorrect & not admitted.** The stand of the applicant is without cogent reason & legal justification liable to be rejected by this Honorable Bench as act of the Respondent Department for the non-reinstatement & grant of back benefits against the SST (Sc) post in BP-16 is legal having no question of violating the provision of Articles-4 & 25 of the 1973 constitution with further submission that the case of the applicant is also badly time barred under the Law of limitation Act-1908.

Therefore, it is humbly requested that the application in hand may kindly be dismissed in favor of the Respondents in the interest of justice please.

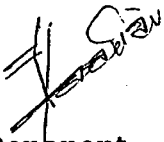
Dated: ___/___/2022.


SECRETARY
E&SE Department Khyber
Pakhtunkhwa, Peshawar.
(Respondent No: 1).


DIRECTOR
E&SE Department Khyber
Pakhtunkhwa, Peshawar.
(Respondents No: 2-3)

AFFIDAVIT

I, Dr. Hayat Khan Asstt: Director (Litigation-II) E&SE Department Khyber Pakhtunkhwa, do hereby solemnly affirm & declare on oath that the contents of the instant reply to the titled application are true & correct to the best of my knowledge & belief.


Deppnent