

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Service Appeal No. 820/2018

BEFORE: **MR. KALIM ARSHAD KHAN, ... CHAIRMAN**
 MISS. FAREEHA PAUL, ... MEMBER(E)

Zahir Ullah, PST, Office of the District Education Officer (Male), District Mardan, R/o Moh: Barshah, Katlang, Tehsil & District Mardan.

.... (*Appellant*)

Versus

1. **District Education Officer (Male), District Mardan.**
2. **The Director Elementary & Secondary Education Department, Khyber Pakhtunkhwa, Peshawar.**
3. **The Secretary, Elementary & Secondary Education Department, Govt. of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.**
4. **Mr. Arshad Hussain, Enquiry Officer/Principal, GHS Babu Zai, Katlang, Mardan.**

.... (*Respondents*)

Mr. Khush Dil Khan,
Advocate

...

For appellant.

Mr. Muhammad Riaz Paindakhel,
Asstt. Advocate General

...

For respondents.

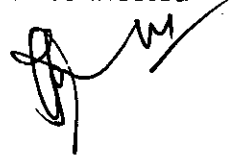
Date of Institution.....13.06.2018
Date of Hearing.....10.05.2022
Date of Decision.....11.05.2022

JUDGEMENT

FAREEHA PAUL MEMBER (E). The service appeal in hand has been instituted under Section-4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1975 against the impugned order dated 31.01.2018, whereby, appellant was awarded major penalty of compulsory retirement from service 17.04.2017 (the date of his absence).

2. Brief facts of the case, as per memorandum of appeal, are that the appellant was initially appointed as Primary School Teacher on 17.12.1987 and posted in Government Primary School Kass Koroona Mardan. He was removed from service by an order dated 06.05.2014 on the plea of absence. The appellant challenged the said impugned order in the Service Tribunal through Service Appeal No. 876/2015 after exhausting departmental remedy, which was allowed on 26.04.2017 on the terms, "in the view of above we accept the present appeal, set aside the impugned order referred to above and reinstate the appellant in service by placing the respondents at liberty to conduct de-novo enquiry against the appellant in the mode and manner prescribed by rules and there-after pass orders deem appropriate." After obtaining attested copy of judgment of Service Tribunal, the appellant submitted an application on 12.05.2017 to the District Education Officer (Male) District Mardan for reinstatement in service. But instead of reinstating him the DEO directly initiated de-novo enquiry, report of which was submitted on 23.08.2017. Based on the enquiry report the DEO (Male) District Mardan issued a notification dated 31.01.2018 thereby imposing major penalty of compulsory retirement from service upon the appellant. The appellant filed departmental appeal on 26.02.2018 before the Director Elementary & Secondary Education Department, Khyber Pakhtunkhwa, Peshawar, but the same was not replied within statutory period of 90 days. Feeling aggrieved the appellant filed appeal before service tribunal.

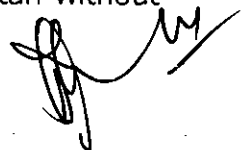
3. Respondents were put on notice who submitted written replies/ comments on the appeal. We have heard the learned counsel for the appellant as well as the Asstt. Advocate General and perused the case file with connected documents minutely and thoroughly.



4. Leaned counsel for the appellant argued that the DEO acted in an arbitrary manner and conducted the de-novo inquiry without reinstating the appellant in service which was violation of the order of Service Tribunal. Neither charge sheet with statement of allegation was framed nor any show cause notice was given to appellant before passing the impugned order. The learned counsel further contended that enquiry report was very clear and the appellant was not held responsible for any alleged charge of absence and that the penalty of compulsory retirement from service was imposed malafiedly upon the appellant which was unfair and unjust and that the appellant was condemned unheard.

5. The learned Addl. AG referred to para-3 of the service appeal in which appellant himself admitted that he submitted an application with the copy of judgment of the service tribunal for necessary action to Respondent No.1 as a result of which de-novo enquiry was ordered. As far as show cause notice was concerned the learned Addl. AG admitted that it was not served upon the appellant but every opportunity was given to him to defend his case which was evident from the record of personal hearing dated 20.12.2017 before the DEO (Male), District Mardan, in which the appellant himself admitted that he had erred and that the department had proceeded against him as per law. The appellant himself stated that he remained absent for 3 years without any approval from the department and that he was away in Malaysia from where he came on 30.12.2009. He further admitted that as a result of long absence he was dismissed form service and that he did not present any departmental appeal.

6. Perusal of the record reveals that the appellant remained absent from service without informing his competent authority and was ex-Pakistan without



the approval of government. Keeping in view the above discussion and facts, the appeal in hand stands dismissed. Consign.

7. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal this 11th day of May, 2022.*



(KALIM ARSHAD KHAN)
Chairman

(FAREEHA PAUL)
Member (E)

Service Appeal No. 820/2018

Mr. Khushdil Khan, Advocate for the appellant present. Mr. Muhammad Riaz Khan Paindakhel, Assistant Advocated General for the respondents present. Arguments heard and record perused.

2. Vide our detailed judgement containing 04 pages, we have arrived at the conclusion that the appellant remained absent from service without informing his competent authority and was ex-Pakistan without the approval of government. Keeping in view the above discussion and facts, the appeal in hand stands dismissed. Consign.

3. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal this 11th day of May, 2022.*





(KALIM ARSHAD KHAN)
Chairman


(FAREEHA PAUL)
Member (E)

10.05.2022

Counsel for the appellant. Muhammad Riaz Paindakhel
Assistant Advocate General for the respondents present.

Argument heard. To come up for order on 11.05.2022
before D.B.


(Fareeha Paul)
Member(E)

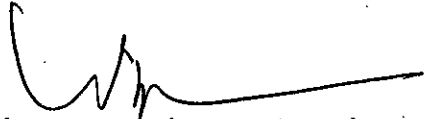
Chairman

26.05.2021

Nemo for appellant.

Mr. Adeel Butt learned Additional Advocate General
alongwith Sajid ADO for respondents present.

Notice be issued to appellant/counsel on
15/9/21 for arguments before D.B.



(Atiq Ur Rehman Wazir)
Member (E)



(Rozina Rehman)
Member (J)

15.09.2021

Junior to counsel for appellant present.

Muhammad Adeel Butt learned Additional A.G for
respondents present.

Former made a request for adjournment as senior
counsel is not available today. Request is accorded. To come up
for arguments on 17.01.2022 before D.B.



(Rozina Rehman)
Member (J)

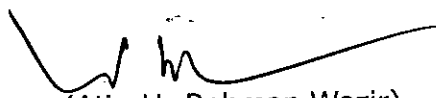


Chairman


17.01.2022

Appellant present in person and Mr. Muhammad
Rasheed, DDA alongwith Sajjad, ADEO for the
respondents present.

Former seeks adjournment as his learned counsel
is indisposed today. Request accorded. To come up for
arguments on 10.05.2022 before the D.B.



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



Chairman

29.09.2020

Counsel for the appellant and Addl. AG for the respondents No. 1 to 3 present.


Parawise comments on behalf of respondents No. 1 to 3 have already been furnished. Nemo on behalf of respondent No. 4 nor his written reply received, hence proceeded against ex-parte. The matter is assigned to D.B for arguments on 07.12.2020. The appellant may furnish rejoinder to the comments of respondents No. 1 to 3, within one month, if so advised.


Chairman

07.12.2020

Appellant in person and Mr. Muhammad Jan, learned Deputy District Attorney for respondents present.

Due to general strike of the bar, the matter is adjourned to 26.02.2021 for hearing before D.B.

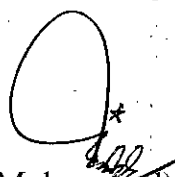

(Atiq-Ur-Rehman Wazir)
Member (E)


Chairman

26.02.2021

Junior to counsel for the applicant and Addl. AG for the respondents present.

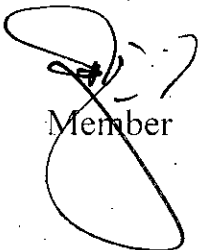
The Hon'ble Chairman is on leave. Due to incomplete bench, the matter is adjourned to 26.05.2021 for hearing before the D.B.


(Mian Muhammad)
Member(E)

22.06.2020

Junior to counsel for the appellant present.

Mr. Kabir Ullah Khattak learned Additional Advocate General for the respondents present and requested for adjournment in order to submit written reply/comments on the next date. Opportunity is granted. To come up for attendance and submission of written reply/comments on 05.08.2020 before S.B


Member

05.08.2020

Counsel for the appellant and appellant himself are present. Mr. Kabirullah Khattak, Additional AG alongwith Mr. Sajid, ADEO (Litigation) on behalf of official respondents No. 1 to 3 are also present.

Representative of respondents No. 1 to 3 submitted para-wise comments on behalf of respondents No. 1 to 3 which are placed on record. Neither written reply/comments on behalf of private respondent No. 4 submitted nor anyone on his behalf is present, therefore, notice be issued to him for submission of written reply/comments by way of last chance. File to come up for written reply/comments on behalf of private respondent No. 4 on 29.09.2020 before S.B.


(MUHAMMAD JAMAL KHAN)
MEMBER

31.12.2019

Appellant in person and Mr. Muhammad Riaz Khan Pindakhel, Asstt. AG for the respondents present.

Learned AAG seeks time to contact the respondents and furnish the requisite reply/comments. Adjourned to 11.02.2020 on which date the requisite reply/comments shall positively be furnished.


Chairman

11.02.2020

Clerk to counsel for the appellant and Mr. Kabirullah Khattak, Additional AG for the respondents present. Written reply on behalf of respondents not submitted. Learned Additional AG requested for further time to file written reply/comments. Case to come up for written reply/comments on 30.03.2020 before S.B.


(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

30.03.2020

Due to public holiday on account of COVID-19, the case is adjourned for the same on 22.06.2020 before S.B.


Reader

31.10.2019

Counsel for the appellant present.


Contends that through judgment in Appeal No. 876/2015 this Tribunal required the reinstatement of the appellant in service with option to the respondents to conduct denovo enquiry in accordance with law. On the contrary the denovo proceedings were undertaken against the appellant but without issuance of any order of his reinstatement. The denovo proceedings resulted in passing of impugned order dated 31.01.2018 whereby major penalty of compulsory retirement from service was imposed upon the appellant but with retrospective effect. It is the argument of learned counsel that no departmental proceedings could be initiated against a civil servant who was out of service at the relevant time and the reinstatement order was yet to be issued.

In view of arguments of learned counsel and the available record, instant appeal is admitted to regular hearing. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments on 31.12.2019 before the S.B.

Appellant Deposited
Security & Process Fee

4/11/19

Chairman



17.09.2019

Counsel for the petitioner present.

Instant application is for restoration of Service Appeal No. 820/2018 which was dismissed for non-prosecution on 14.03.2019. The application was submitted on 11.07.2019. Learned counsel contended that on the date preceding to 14.03.2019, the Tribunal was pleased to order issuance of fresh notice to the appellant as well as his counsel. No notice, however, was issued to the counsel while the one that was purportedly sent to the appellant was never received by him. It was contended that learned counsel for the appellant being busy in general elections, 2018 was not available on the dates of hearing previous to that when dismissal order was passed.

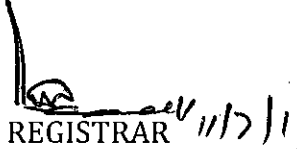
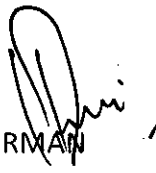
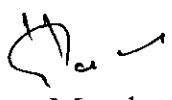
In view of the arguments of learned counsel and also to extend the opportunity to appellant for decision of his case on merits, instant application is allowed. The appeal shall be restored to its original number and shall come up for preliminary hearing on 31.10.2019 before S.B.


Chairman

Form-A
FORM OF ORDER SHEET

Court of _____

Appeal's Restoration Application No. 271/2019

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge
1	2	3
1	11.07.2019	<p>The application for restoration of appeal No. 820/2018 submitted by Mr. Khushdil Khan Advocate, may be entered in the relevant register and put up to the Court for proper order please.</p> <p style="text-align: right;"> REGISTRAR 11/7/19</p>
2	12.07.2019	<p>This restoration application is entrusted to S.Bench to be put up there on <u>12/7/2019</u></p> <p style="text-align: right;"> CHAIRMAN</p> <p>Clerk to counsel for the appellant present. Adjournment requested. Adjourned to 17.09.2019 for further proceedings before S.B.</p> <p style="text-align: right;"> Member</p>

14.03.2019

Appellant absent. Learned counsel for the appellant absent. On the previous dates fixed as 21.12.2018 and 29.01.2019 the appellant and his counsel were also absent. Consequently the present service appeal is hereby dismissed in default. No order as to costs. File be consigned to the record room.



Member

ANNOUNCED
14.03.2019

09.10.2018

None present for the appellant. To come up
for preliminary hearing on 05.11.2018 before S.B.


Chairman

5-11-2018

Due to Retirement of the Honorable
Chairman the Tribunal is non functional
therefore the case is adjourned to come
up for the same on 21-12-2018


Reader

20.12.2018

Appellant absent. Learned counsel for the
appellant absent. Adjourn. To come up for preliminary
hearing on 29.01.2019 before S.B


Member

29.01.2019

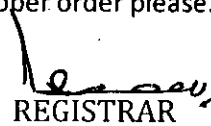


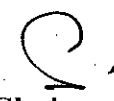
None present on behalf of the appellant. Notice be issued to
appellant and his counsel for attendance and preliminary arguments for
14.03.2019 before S.B.


(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. _____ 820/2018 _____


S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	25/06/2018	<p>The appeal of Mr. Zahir Ullah resubmitted today by Mr. Khushdil Khan Advocate may be entered in the Institution Register and put up to the Learned Member for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-	06.07.2018	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>6/7/18</u>.</p> <p style="text-align: right;"> MEMBER</p> <p>Clerk of the counsel for appellant present and requested for adjournment. Adjourned. To come up for preliminary hearing on 10.08.2018 before S.B.</p> <p style="text-align: right;"> (Muhammad Amin Khan Kundi) Member</p>
10.08.2018		<p>Neither appellant nor his counsel present. Case to come up for preliminary hearing on 09.10.2018 before S.B.</p> <p style="text-align: right;"> Chairman</p>

The appeal of Mr. Zahir Ullah PST Teacher office of the DEO Male Mardan received today i.e. on 13.06.2018 is incomplete on the following score which is returned to the counsel for the appellatant for completion and resubmission within 15 days.

- 1- Address of respondent No. 3 is incomplete which may be completed according to Khyber Pakhtunkhwa Service Tribunal rules 1974.
- 2- Annexures of the appeal may be attested.
- 3- One more copy/set of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No. 1222 /S.T,

Dt. 13/06 /2018.

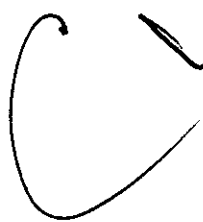

REGISTRAR 13/6/18
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Khushdil Khan Adv. Pesh.

Sir,

All objection has
Completed and Re Submitted

Thanks


25/06/2018

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 820/2018

Zahir Ullah Appellant

VERSUS

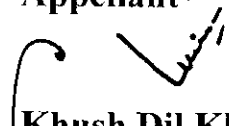
The DEO (Male) Mardan & others Respondents

INDEX

S.No.	Description of Documents	Date	Annexure	Pages
1.	Memo of Service Appeal.			1-5
2.	Copy of the impugned order thereby appellant was removed from service under F.R-18	06.05.2014	A	0-6
3.	Copy of judgment/order of the Service Tribunal passed in Service Appeal No.876/2015 thereby appeal was allowed.	26.04.2017	B	7-10
4.	Copy of application for implementation of the judgment/ order of the Service Tribunal	12.05.2017	C	0-11
5.	Copy of denovo enquiry report conducted by Mr.Arshad Hussain Principal GHS Babu Zai, Katlang Mardan .	23.08.2017	D	12-18
6.	Copy of the letter thereby respondent No.1 sought guidance from respondent No.2 in connection of enquiry report.	06.10.2017	E	0-19
7.	Copy of the Letter thereby respondent No.2 replied to respondent No.1	06.11.2017	F	0-20
8.	Copy of Notification thereby appellant was awarded major penalty of compulsory retirement from service with effect from 17.04.2017.	31.01.2018	G	0-21
9.	Copy of departmental appeal with registry receipt.	26.02.2018	H	22-24
10.	Wakalat Nama			


Appellant

Through


Khush Dil Khan
Advocate,
Supreme Court of Pakistan

Dated: 08 / 06/ 2018

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 820 / 2018

Zahir Ullah,
PST Teacher,
Office of the District Education Officer (Male),
District Mardan,
R/o Moh: Barshah, Katlang,
Tehsil & District Mardan.....Appellant

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 1051

Dated 13/08/2018

Versus

1. The District Education Officer (Male),
District Mardan.
2. The Director,
Elementary & Secondary Education Department,
Khyber Pakhtunkhwa, Peshawar.
3. The Secretary, *(CE&SE) Department,*
Govt. of Khyber Pakhtunkhwa,
Civil Secretariat, Peshawar.
4. Mr. Arshad Hussain,
Enquiry Officer/Principal,
GHS Babu Zai,
Katlang , Mardan.....Respondents.

Filed to-day SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER
Registrar PAKHTUNKHWA SERVICE TRIBUNALS ACT, 1974
15/6/18 AGAINST THE IMPUGNED ORDER DATED 31.01.2018
THEREBY APPELLANT WAS AWARDED MAJOR
PENALTY OF COMPULSORY RETIREMENT FROM THE
SERVICE WITH EFFECT FROM 17.04.2017 (THE DATE OF
HIS ABSENCE) AGAINST WHICH HE FILED
DEPARTMENTAL APPEAL ON 26.02.2018 BEFORE THE
RESPONDENT NO.2 UNDER REGISTERED POST BUT THE

Re-submitted to-day
and filed.

Registrar
15/6/18

SAME WAS NOT DISPOSED OF WITHIN STATUTORY PERIOD OF 90 DAYS.

Respectfully Sheweth,

Facts giving rise to the present appeal are as under:-

1. That appellant initially appointed as Primary School Teacher on 17.12.1987 and posted in Govt. Primary School Kass Koroona Mardan. Later on he was removed from service by the order dated 06.05.2014 (**Annexed-A**) on the plea of absence. The appellant had challenged the said impugned removal order in this Hon'ble Service Tribunal through the Service Appeal No.876/2015 after exhausting departmental remedy.

2. That the Service Appeal was allowed on 26.04.2017 by the learned Chairman Bench in the following terms of para-8 of the order reproduced as under;

8. *In the view of above we accept the present appeal set aside the impugned order referred to above and reinstate the appellant in service by placing the respondent at liberty to conduct *denovo* enquiry against the appellant in the mode and manner prescribed by rules and there-after pass orders deem appropriate. Parties are lest to bear their own costs. File be consigned to the record room.*

Copy of judgment/order is attached as
(**Annexed-B**)

3. That after obtaining attested copy of the judgment/order of this Service Tribunal, the appellant submitted an

application on 12.05.2017 (**Annexed-C**) with the copy of judgment/order before the respondent No.1 for his reinstatement in service but instead of reinstating him the respondent No.1 directly initiated denovo enquiry by appointing an enquiry officer Mr. Arshad Hussain Principal GHS Babu Zai Katlang, Mardan who conducted the enquiry vide enquiry report dated 23.08.2017. Copy of the enquiry report attached as (**Annexed-D**).

4. That on the submission of enquiry report, the respondent No.1 has written a letter vide No.8539 dated 06.10.2017 (**Annexed-E**) to the respondent No.2 for guidance regarding the enquiry findings which were in favour of appellant which was replied by the office of respondent No.813/F.No141/PST (M) Mardan dated 06.11.2017 (**Annexed-F**) therein he was instructed to decide the case as per rules by himself being a competent authority.
5. That on 31.01.2018 (**Annexed-G**) a Notification was issued by the respondent No.1 thereby imposed major penalty of compulsory retirement from service upon the appellant against which he filed departmental appeal on 26.02.2018 before the respondent No.2 under registered post but the same was not replied within statutory period of 90 days. Copy of departmental appeal with registry receipt attached as (**Annexed-H**)

Hence this service appeal is submitted on the following amongst other **grounds**;

- A. That respondent No.1 acted in arbitrary manner and without reinstating appellant in service in view of judgment/order of this Hon'ble Service Tribunal he appointed an enquiry officer to conduct the denovo enquiry which is in violation of the order of this Tribunal and not sustainable and liable to be set aside.
- B. That respondent No.1 was under legal obligation to first reinstate appellant into service and then initiate the denovo enquiry proceeding after completing codal formalities which has not done in this case and thus the entire proceedings are illegal and without lawful authority liable to be set aside and the impugned order based on such illegal proceedings has no legal sanctity.
- C. That respondent No.1 has not fulfilled the mandatory requirements before initiating the denovo enquiry proceedings. Neither charge sheet with statement of allegations was framed nor any show cause notice was given to appellant before passing the impugned order. Thus the impugned order is invalid and not tenable.
- D. That the enquiry report is very clear and appellant was not held responsible for any alleged charge of absence rather it blamed the authority concerned for such irregularities but then malafidely imposed the penalty of compulsory retirement from service upon appellant which is unfair, unjust and not warranted by law and rule on subject.
- E. That appellant was condemned unheard and entire proceedings carried out at his back which is illegal being violative of the principle of natural justice.
- F. That the impugned order has been passed after lapse of five months from the submission of enquiry report which has lost its legal effect and the same was passed after thought to defeat the execution proceedings pending against the respondent department in the same matter in this Hon'ble Service Tribunal which indicates the malafide on behalf of respondent authority.

- G. That respondent No.2 has also acted in violation of law and rules and without legal justification, the departmental appeal of appellant was not considered and kept pending purposely.

It is, therefore, humbly prayed that on acceptance of this service appeal, the impugned order dated 31.01.2018 may kindly be set aside and appellant may graciously be reinstated into service with all back benefits.

Any other relief as deemed appropriate in the circumstances of case not specifically asked for may also be granted to appellant.

Through



Appellant

Khush Dil Khan,
Advocate,
Supreme Court of Pakistan

DISTRICT EDUCATION OFFICER(MALE) MARDAN.

Annex B. 5
D. 1. 2. 3

OFFICE ORDER.

Consequent upon the recommendations of the inquiry committee Mr. Zahar Ullah PST GPS, Kass Koroon, who has been remained absent from duty w.e.f 18.4.2007 to 28.4.2012, thereof the undersigned being competent authority is pleased to issue the removal from service order in r/o the above teacher under FR 18 with immediate effect.

(HANIF ULLAH FAROOQI)
DISTRICT EDUCATION OFFICER
(M) MARDAN.

Endat: NO.

4099/4
6666

Dated.

16/5/14.

Copy forwarded to the:-

1. SDEO(M) Mardan.
2. DAO Mardan.
3. Official concerned.

DISTRICT EDUCATION OFFICER
(M) MARDAN

Q

ATTESTED

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

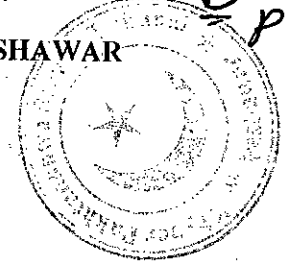
Service Appeal No. 876 /2015

Zahir Ullah,
PST Teacher,
R/o Moh: Barshah,
Katlang Teh: & District Mardan.....Appellant

Versus

1. The District Education Officer (Male),
District Mardan.
2. The Director,
Elementary & Secondary Education Department
Khyber Pakhtunkhwa, Peshawar.
3. The Secretary,
Govt. of Khyber Pakhtunkhwa *Edu-Deptl.*
Civil Secretariat, Peshawar.....Respondents.

M. W. F. PROVINCE
Service Tribunal
Diary No. 936
Dated 05/8/2015



SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNALS ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 06.05.2014 (ANNEX:-I) WHICH CAME INTO KNOWLEDGE OF APPELLANT WHEN THE COPY OF THE SAME WAS FILED BY THE RESPONDENT NO.1 WITH ITS COMMENTS FILED IN WRIT PETITION NO.716-P/2014 UPON WHICH HE WITHDREW THE PETITION VIDE ORDER SHEET 14.04.2015 (ANNEX:-J) WITH THE PERMISSION TO APPROACH PROPER FORUM FOR THE REDRESSAL OF HIS GRIEVANCES, AFTER THAT APPELLANT FILED DEPARTMENTAL APPEAL ON 30.04.2015 (ANNEX:-K) UNDER REGISTERED POST WITH AN APPLICATION FOR CONDONATION OF DELAY BUT THE SAME WAS NOT DISPOSED OFF WITHIN STATUTORY PERIOD OF 90 DAYS.

Respectfully Sheweth,

Facts giving rise to the present appeal are as under:-

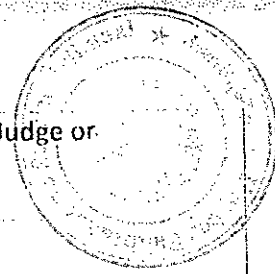
ATTESTED

ATTESTED

Date of order/ proceedings

2

Order or other proceedings with signature of Judge or Magistrate



P.8

3

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Appel No. 876/2015

Zahir Ullah Versus the District Education Officer (Male) District, Mardan and 2 others.

JUDGMENT

MUHAMMAD AZIM KHAN AFRIDI, CHAIRMAN:-

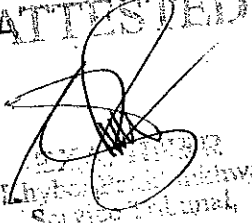
26.04.2017

Counsel for the appellant and Mr. Muhammad Jan, Government Pleader alongwith Flameedur Rahman, A.D (Litigation) for respondents present. Rejoinder submitted by learned counsel for the appellant.

2. Zahir Ullah Ex-PST Teacher hereinafter referred to as the appellant has preferred the instant service appeal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against order dated 06.05.2014 communicated to him on 14.04.2015 vide which he was removed from service and where-against his departmental appeal dated 29.04.2015 was not responded constraining the appellant to prefer the instant service appeal on 05.08.2015.

3. Brief facts of the case of the appellant are that the appellant was appointed as PST on 17.12.1987. That while serving as such he applied for earned leave which was sanctioned w.e.f. 18.10.2005 to 17.04.2007. It was on 24.5.2011 when appellant

ATTESTED


Chairman
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

ATTESTED

P.9

submitted application to E.D.O (Schools & Literacy) Mardan for adjustment followed by similar applications to different authorities. Finally the appellant was removed from service vide order dated 06.05.2014 on the allegations of willful absence which order was not communicated to the appellant and which came in his notice after perusal of comments submitted in the High Court dated 05.07.2014 which constrained the appellant to withdraw the Writ Petition on 14.04.2015 where-after he preferred departmental appeal on 29.04.2015.

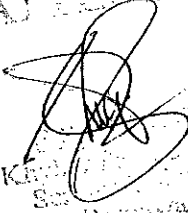
4. Learned counsel for the appellant has argued that though the appellant has remained absent from service without any sanction leave but he was available to the respondents to face the allegations of willful absence and justify his stance. That the appellant was not associated with any enquiry despite his availability and as such the impugned order of removal of appellant is against facts and law and liable to be set aside.

5. Learned Government Pleader has argued that when the absence is admitted then there is no justification to direct the respondents to conduct any regular enquiry. Reliance was placed on judgment reported as 2011-SCMR-1429 (Supreme Court of Pakistan).


6. We have heard arguments of learned counsel for the parties and perused the record.

7. It is evident from the record that the appellant has put in almost 17 years service. The appellant was available to the

ATTESTED



K. M. ...
S. ...
Peshawar



(Handwritten scribble)

P-10

competent authority during the days of fact finding enquiry. Thus the respondents were obliged to have conducted a proper and regular enquiry as required under the Government Servants (Efficiency & Discipline) Rules, 2011. In the absence of any such enquiry we observe that the appellant was condemned unheard and treated otherwise than in accordance with law.

8. In view of the above we accept the present appeal set aside the impugned order referred to above and reinstate the appellant in service by placing the respondents at liberty to conduct denovo enquiry against the appellant in the mode and manner prescribed by rules and there-after pass orders deem appropriate. Parties are left to bear their own costs. File be consigned to the record room.

Sd/- M. Azim Khan Afridi,
Chairman

Sd/- M. Amin Khan,
Member

Certified to be a true copy
Khyber Pakhtunkhwa
Government
Peshawar

Date of Presentation of Appeal: 02-05-12
Number of Pages: 1600
Copy to Govt: 10
Unsent: 2
Total: 12
Number of Pages: *(scribble)*
Date of Completion: 02-05-12
Date of Delivery: 02-05-12

(Large handwritten signature)

گورنمنٹ ڈپارٹمنٹ ڈیپوٹیشن آفیسر صاحب (پوران) پوران

Reintate in Service درخواست

صحت کے لیے

حریانہ ٹرانزیشن کے حوالے سے مذکورہ 20/12/1987 سے قبل کے
سینئر پوسٹ ڈپوٹیشن آفیسر صاحب، آفیسر ڈپوٹیشن حالت
کی بناء پر 15/10/2005 تا 17/04/2007 کا عرصہ آئندہ لوٹا اور وہ روٹن
کے مطابق منظور ہوا۔ مگر یہ صحیح نہیں ہے۔ مگر یہ صحیح نہیں ہے۔ مگر یہ صحیح نہیں ہے۔
کی بناء پر منظور ہونے میں سبکی۔ اور مذکورہ سبکی کی بناء پر اس کی جگہ
مجھے سروس سنبھالنا ہے۔

مذکورہ حالیہ سبکی ڈپوٹیشن آفیسر صاحب کو اس کی سبکی سے قبل
حوالے میں ہے۔

اس کے علاوہ گورنمنٹ ڈپوٹیشن آفیسر صاحب کی - اور مذکورہ حریانہ ٹرانزیشن
سے اس میں سبکی کی بناء پر ڈپوٹیشن آفیسر صاحب کو
ذبح ہے۔ اور سروس ڈپوٹیشن آفیسر صاحب نے سبکی سے قبل صادر کردہ
ہذا استدعا کی گئی ہے کہ آج صوبائی سطح پر دوبارہ مذکورہ
پوسٹ پر ڈپوٹیشن آفیسر صاحب کے احکامات صادر کرے۔

ذیل کے حوالے سے سبکی کی بناء پر - شکریہ
المقوم 12/5/2017

الکلیان
محکمہ پوسٹ ڈپوٹیشن آفیسر صاحب کی سبکی سے قبل حریانہ

NIC # 16101-3636456 →

C # 0331-2211834

12/5/2017

Amex. D
P. 12

67


Enquiry report; Denovo Enquiry Directed by Service Tribunal
Khyber Pakhtoonkhwa In the case of Mr Zahidullah Ex-PST GHS Kas
Koroona Mardan Adjustment/Termination

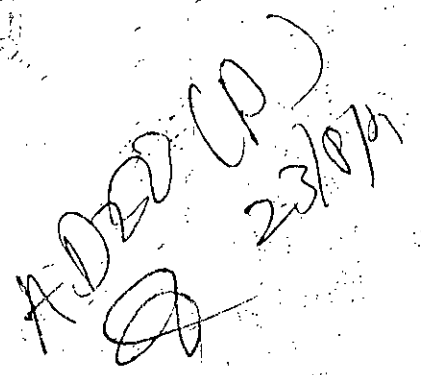
Assigned by; District Education Officer Male
Elementary and Secondary Mardan

Date of submission of Enquiry Report; 23/08/2017

Enquiry Officer; Mr. Arshad Hussain
Principal GHS Babuzai Katlang Mardan




PRINCIPAL
G.H.S. Babuzai Katlang,
Distt: Mardan.


23/8/17

P.13

(2)

66

ENQUIRY REPORT AGAINST MR Zahirullah EX PST GPS KAS KOROONA DISTRICT MARDAN ABOUT HIS ABSENCE FROM DUTY W.E.F 18/04/2007 TO 28/04/2012 AND REMOVAL FROM SERVICE.

No. 400

Dated 23/08/2017

Inquiry Officer Arshad Hussain Principal GHS Babuzai Katlang Mardan

Dates of Inquiry 10.08.2017
12.08.2017
15.08.2017
18.08.2017

Venue (1) DEO E/S Male Office ~~Mardan~~ Mardan
(2) SDEO Male office Mardan
(3) GPS Kas Koroona Mardan
(4) GHS Babuzai Katlang Mardan

Subject INQUIRY REPORT AGAINST MR Zahirullah EX PST GPS KAS KOROONA DISTRICT MARDAN ABOUT HIS ABSENCE FROM DUTY W.E.F 18/04/2007 TO 28/04/2012 AND REMOVAL FROM SERVICE.

Introduction

Mr Zahirullah was a PST teacher appointed on 20/12/1987 and performing his duty at GPS Kas koroona Mardan. He was absent w.e.f 18/04/1987 to 28/04/2012 and was removed from service on 06/05 2014. He filed appeal in Service Tribunal Khyber Pukhtoonkhwa which set aside the removal order against him and ordered for the denovo enquiry to DEO Male E/S Mardan. Having obeyed the order DEO Male E/S Mardan assigned me the task to conduct the enquiry vide Endst; No 6507-09 Dated 02/08/2017.

ATTEST

PRINCIPAL
G.H.S. Babuzai Katlang,
Distt: Mardan

P.14

(3)

Procedure adopted

I collected his personal file from DEO office on 10/08/2017 and also received required information from SDEO Mardan and informed Mr Zahirullah about the enquiry through mobile phone and fixed the date and place of enquiry. Mr Zahirullah met me at GHS Babuzai Katlang Mardan on 16/08/2017. A questionnaire (attached) was given to him in which some questions were asked. He was also interviewed. His personal file, the decision of Service Tribunal Khyber Pukhtoonkhwa, previous enquiry report against him and other relevant documents of Mr Zahirullah Ex- PST were thoroughly checked and studied.

Statement of Mr Zahirullah In his favour

When he was asked about the case he said, "I had been appointed on 17/08/1984 and for the last time I had submitted application for EOL w.e.f 10/10/2005 to 17/04/2007 and on 17/04/2007 I had given application for the extension in leave w.e.f 18/04/2007 to 31/12/2009 and I thought that my application had been accepted for the extension in leave up to the required period as I had not been replied by the concerned authority. I was in Karachi and came back to school on 01/01/2010 and gave application for adjustment but I was told that I was absent w.e.f. 18/04/2007 to that day and was not adjusted. I had not been informed about my absence neither through written letter or verbally nor by a messenger and was kept totally in darkness about my case. Since then I have started my struggle for adjustment. And in High Court Peshawar I came to know that I had been removed from service. Again I was not informed about my case. No Show cause notice or the process of personal hearing etc has been observed. It is totally unjust with me and I have knocked the door of the court which has given decision in my favour". When I asked Mr Zahirullah about his struggle for leave and absence he gave me the following precedents in his favour.

- 1; A PST teacher Mr Naweed Akhtar GPS Sadiq Abad Takht Bhai who was granted EOL w.e.f 30/05/2001 to 31/10/2001 (155) days vide Endst; No 252-55 dated 05/01/2006 though he had availed all his E.O.L.
- 2; A teacher named Mr Hazrat Jamal PST GPS No 3 Palo Dheri Rustam was absent from his duty w.e.f 07/10/1999 and had been removed from service on 10/07/2000 vide Endst; 2155-60 Dated 07/10/2000. Then he has been awarded E.O.L 07/10/1999 to 31/12/2000 almost more than eleven years vide Endst; No 09-13 dated 01/01/2011 and has been reinstated by the department." In the light of above precedents I may please be reinstated". He requested.

I personally verified the above two cases and found his arguments correct.

PRINCIPAL
G.H.S. Babuzai Katlang,
Distt: Mardan

(4)

Statement of the Head Teacher Mr Syed Khalid Shah EX HPST present CT.

When he was asked about the case he said, " Mr Zahirullah was on EOL wef 18/10/2005 to 17/04/2007 and from 18/04/2007 he was absent. I have informed the then ADEO about his earned leave and on 24/08/2008 I had written about his E.O.L in General Accounts Proforma to him. When Mr Zahirullah did not refund his loan to the bank from which he has taken the loan I wrote to the ADEO on 08/11/2006 that he was on E.O.L and Mr Bakhtiar Ali PST had been appointed against his post but the ADEO/SDEO Primary did not take any action against him and not informed Zahirullah about his absence". (His answers attached). It means no disciplinary action has been taken by the concerned officers against the case.

Findings

Record of his service and leave.

After a methodical and deep study of entire relevant record the following facts were pointed out.

_ Mr Zahirullah had been appointed on 15/12/1987 and took over the charge on 20/12/1987 at GMS Juwar Bazar.

_ He availed Extra Ordinary Leave w.e.f 01/09/1994 to 01/09/1996 (two years) without pay vide Endst; No 3360 dated 20/09/1994.

_ He joined his duty on 02/09/1996 vide sanction No 3412 Dated 01/09/1996.

_ He was given E.O.L w.e.f 01/10/1996 to 31/08/1997 (11 Months) vide Endst; No 3523-24 Dated 11/11/1996.

_ He rejoined his duty at GPS Sardar Abad Mardan on 01/09/1997 vide sanction Endst; No 2475-76 Dated 31/08/1997.

_ According to his service book his service was verified up to 30/11/2004.

_ He was granted earned leave w.e.f 18/10/2005 to 09/10/2006 (356) days on half pay and w.e.f 10/10/2006 to 17/04/2007 (189) days without pay vide Endt; No 5104-06 Dated 03/04/2006 while during his service in GPS Kas Korooma Mardan. And thus he has availed almost (03) three years and (06) six months E.O.L.

_ The teacher had submitted one application due the illness of his brother in law for the extension in leave up to 31/09/2009 on date 17/04/2007 and did not join his duty in the hope that his extension in leave had been sanctioned by the EDEO concerned because he

PRINCIPAL
G.H.S. Babuzai Kattlang
Distt: Mardan

P-16

had not been informed by the offices concerned about his not extension in leave though one year and six months approximately could be awarded to him. The officers concerned neither informed the teacher nor maintained his service book after 02/04/2006. Thus the teacher remained absent w.e.f 18/04/2007 to 06/05/2014 (his removal date). According to his service book in my hand and the personal file his service and leave are as under.

- Service: 1; 20/12/1987 to 31/08/1994 (06 years, 08 months and eleven days)
- 02; 02/09/1996 to 31/09/1996 (29 days)
- 03; 01/09/1997 to 17/10/2005 (08 years, one month and sixteen days)

Total Service= 14 years, 09 months and twenty seven days+178 days.
= 15 years, 05 months.

Leave Period E.O.L

01/09/1994 to 01/09/1996 (02 years)

01/10/1996 to 31/08/1997 (Eleven months)

18/10/2005 to 17/04/2007 (356 days with half pay, 189 days without pay).

Total Extra Ordinary Leave availed= 03 Years and almost 06 months.

According to the leave rules not more than 240 days is allowed as Earned leave on half pay, so here the competent authority has not flowed the rules.

The teacher has not been granted E.O.L up to 31/05/2008 nor awarded sanction in E.O.L up to 31/12/2009 though the officer concerned could grant him E.O.L up to approximately 17/10/2008. However it was the discriminative power of the EDEO.

Absent period

18/04/2007 to 06/05/2014 (date of termination)

His strife for adjustment and then for reinstatement.

When he attended the school on 01/01/2010 and submitted application for adjustment he was told that he was absent w.e.f 18/04/2007 till that day. His post had also been filled by Mr Bakhtyar Ali PST vide order No. 19138 40 dated 09/10/2006. And Mr Zahidullah has been striving for his adjustment since 01/01/2010. He wrote many applications to many officers in rank but in vain. He was trying for his adjustment and an enquiry committee

PRINCIPAL
G.F.S. Babuzai Katlang,
Distt: Mardan.

63

P17
P20

6

62

comprising Mr Shamshad Khan Head Master GHS Dakki Mardan and Mr Mukhtiar Ali ADO Circle Takkar Takht Bahi conducted enquiry in this case and gave their recommendation in favour of the teacher accused urged that he was not properly informed about his absence and consequences. After the enquiry conducted on 28/04/2012 the teacher was removed from service vide Endst; No 4099/G Dated 06/05/2014. When the teacher submitted appeal in the honourable Peshawar High Court for the adjustment he came to know that he had been dismissed from service. It means that once again the teacher was not informed about his case and no show cause notice or personal hearing was processed against him by the office concerned which is not according to the rules.

According to first enquiry report and office record the teacher has received his salary regularly w.e.f 18/10/2005 to 30/06/2006 though he was on leave.

Conclusion

Keeping in view the above facts it is concluded that Mr Zahirullah Ex-PST has been remained absent from his duty w.e.f 18/04/2007 to the date of first enquiry conducted on 28/04/2012. He has submitted application on 17/04/2007 for the extension in leave up to 31/12/2009 but not accepted. He has also submitted another application to EDEO on 11/04/2007 for earned leave w.e.f 18/04/2007 to 31/05/2008 but has not been accepted though the concerned Officer could award it as the teacher had availed almost 03 years, and 06 months E.O.L while his total regular service was 15 years, 04 months and 28 days and could avail one year and almost 06 months approximately more if awarded.

According to note sheet of the personal file of the teacher he had submitted application for extension in leave up to 31/12/2009. On 01/01/2010 as he had given application for extension up to 31/12/2009, he came to his school for joining duty but came to know that his application for extension had not been accepted and he had been deemed as absent.

According to first enquiry report in this case the teacher has received the salary w.e.f 18/10/2005 to 30/06/2006 though he was on leave which shows the negligence of the then concerned officers and the first enquiry committee has recommended the teacher for adjustment.

The teacher has not been informed by the concerned officers about his absence and has taken no proper action against him and that is why the first enquiry committee has given credit to him. After a long journey of strife for adjustment once again he came to know in Peshawar High Court that he had been terminated by the department on 06/05/2014 when he submitted application for adjustment. Here once again the teacher has not been properly informed. No show cause notice or the process of personal hearing has

PRINCIPAL
G.H.S. Babuzai Katlang
Distt: Mardan

7

P. 18
[Handwritten signature]

been carried out by the Education department and that is why I can say that my favour goes to Mr Zahirullah and will not be wrong enough to give him the credit.

Recommendations.

The facts were discussed above in detail hence the case of Mr Zahirullah Ex- PST may please be decided by the offices concerned keeping in view his efforts, poverty and the precedents given by him on page 04 and negligence of the office.

Enclosures.

- 1; Answers of the questionnaire of Mr Zahirullah asked from him.
- 2; Answers of the questionnaire of Mr Syed Khalid Shah the then Head Teacher of GPS Kas koroona Mardan asked from him.
- 3; Personal file of Mr Zahirullah contains comprehensive record.
- 4; Previous Enquiry report against Mr Zahirullah .
- 5; Photo copy of the service Book of Mr Hazrat Jamal HPST presented by Zahirullah as precedent in his favour for reference of reinstatement on service.
- 6; Application for extension of teacher ^{in leave}.
- 7; Photo copy of not sheet about the extension in leave up to 31/12/2009.

The End

Certified that this enquiry report contains 07 pages and each has been signed by me.

Enquiry Officer:

Arshad Hussain principal GHS Babuzai Katlang Mardan

PRINCIPAL
G.H.S. Babuzai Kallang
Distt: Mardan

[Handwritten signature]

OFFICE OF THE DISTRICT EDUCATION OFFICER
(MALE) MARDAN

Annex: "E"
P. 19

No. 8539 /Dated 6-10-2017

TO

The Director
E&S Education Khyberpakhtunkhwa
Peshawar.

Subject:

GUIDANCE REGARDING WITHDRAWAL OF REMOVAL FROM SERVICE ORDER IN
THE LIGHT OF COURT DECISION.

Memo:

It is submitted that one Mr. Zahirullah s/o Musharaf khan resident of Katlang was appointed as PST Untrained vide Div. DEO No. 8110-11 dated 17-12-1987 and he took overcharge on 20-12-1987. He performed his duty upto 31-08-1994 and got leave w.e.f 01-09-1994 to 01-09-1996 (02 years). After availing his long leave he was adjusted vide DEO (M) Mardan Endst No. 3412 dated 01-09-1996. He performed his duty for one month only and re-applied for leave w.f 01-10-1996 31-08-1997 (11 months) which was sanctioned by DEO vide order no.3523-24 dated 11-11-1996. After availing 11 months leave he was once again adjusted vide DEO Endst No.2475-76 dated 31-08-1997. He performed his duty upto 17-10-2005 and once again he applied for leave w.e.f 18-10-2005 to 17-04-2007 which was sanctioned vide DEO No.5104-06 dated 02-04-2006. After expiry of leave he remained absent from duty w.e.f 18-04-2007 to 28-04-2012. The detail of his leave is as under:

1. Total service upto 17-04-2007 (09 years)
2. Total leave availed (about 05 years)
3. Absent from duty (more than 05 years)

Due to his long absence he was removed from service vide DEO (M) Mardan Endst No.4092/G dated 06-05-2014. After removal from service Mr. Zahirullah filed an appeal in your good office which was received to this office vide your letter No.892/f.No.141/Pst/Mardan dated 08-05-2015. The comments regarding appeal was submitted to your good office vide this office No.3597 dated 25-05-2017.

Later on Mr. Zahirullah filed a Service appeal No.876/2015 in the khyberpakhtunkhwa Service Tribunal Peshawar regarding his re-instatement. And the honorable court announced decision in the appeal on 26-04-2017 with the Order that " IN VIEW OF THE ABOVE WE ACCEPT THE PRESENT APPEAL SET ASIDE THE IMPUGNED ORDER REFERRED TO ABOVE AND REINSTATE THE APPEALANT IN SERVICE BY PALCING THE RESPONDENTS AT LIBERTY TO CONDUCT DENVE INQUIRY AGAINST THE APPEALANT IN THE MODE AND MANNER PRESCRIBED BY RULES AND THERE-AFTER PASS ORDERS DEEM APPROPRIATE. PARTIES ARE LEFT TO BEAR THEIR OWN COSTS". Annex-A

Hence, this office nominated Mr. Arshad Hussain Principal GHS Babuzai Katlang for conducting denve inquiry in the case in the light of court decision vide No.6507-09 dated 02-08-2017.

The inquiry office conducted inquiry in the case and submitted his recommendations that, " in the light of the above facts, precedents and services of Mr. Zahirullah his case may please be treated with favour as per rule if agreed." Annex-B

In this connection it is humbly requested to guide the undersigned that whether the removals order may be remained intact or otherwise.

DISTRICT EDUCATION OFFICER
(MALE) MARDAN

Annex. 'F'

Directorate of Elementary & Secy: Education
Khyber Pakhtunkhwa, Peshawar
No. 853 / F.No.141/PST (M) Mardan.
Dated Peshawar the 06/10/2017

To

The District Education Officer,
(Male) Mardan.

Subject: GUIDANCE REGARDING WITHDRAWAL OF REMOVAL FROM
SERVICE ORDER IN THE LIGHT OF COURT DECISION.

Memo:

I am directed to refer to your letter No. 853 dated 06-10-2017 on the subject cited above and to ask you to decide the case in respect of Mr. Zahirullah S/O Musharaf Khan resident of Katlong (Mardan) under the rules/policy being competent authority under intimation to all concerned.

Deputy Director (Estab)
Elementary & Secondary Education
Khyber Pakhtunkhwa.

Endst: No. 814

Copy of the above is to:-

1. PA to Director (E&SE) Local Directorate.

Deputy Director (Estab)
Elementary & Secondary Education
Khyber Pakhtunkhwa

OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) MARDAN

Annex G

P. 21

NOTIFICATION

Ijaz Ali Khan District Education officer (Male) Mardan as Competent Authority under the Khyber Pakhtunkhwa Government servants (Efficiency & Discipline) Rules, 2011, do hereby serve Mr. Zahirullah PST GPS Kass Korona Mardan, follows:

- Where As Mr. Zahirullah PST GPS Kass Korona availed leave w.e.f 18-10-2005 to 17-04-2007 and after availing leave, remained absent w.e.f 18-04-2007 to 28-04-2012 from his duty.
- And Where As a Deneve inquiry was conducted in the light of decision issued from Honorable Service Tribunal Khyberpakhtunkhwa Peshawar on 26-04-2017 appeal No.876/15.
- And Where As In the light of inquiry report, he was directed through an official letter for personal hearing on 17-12-2017.
- And Where As He attended the office of the undersigned on 20-12-2017.
- And Where As he admitted the charges in his personal hearing on 20-12-2017.
- And Where As the Competent Authority, after having considered the charges and evidence on record is not satisfied from his written statement at the time of personal hearing.
- And Where As He found guilty of gross misconduct under KPK Govt servant E&D rules 2011.

Now in exercise of the power conferred to me under the Khyberpakhtunkhwa Govt servant E&D rules 2011, being competent authority is pleased to impose the major penalty of Compulsory Retirement from the service upon Mr. Zahirullah PST GPS Kass Korona w.e.f 17-04-2017. i.e the date of his absence.

(Signature)

(Ijaz Ali Khan)
District Education Officer
(Male) Mardan

Endst: No. 918/19 P.F

Dated 31/11 /2018.

Copy forwarded to the:-

1. Registrar, Service Tribunal Khyberpakhtunkhwa Peshawar for information in Service appeal No.876/2015.
2. SDEO(M) Mardan

OFFICE OF THE SUB: DIVISIONAL EDUCATION OFFICER (MALE) MARDAN

Endst: No. 304 / Leave File Dated 2/02/2018

Copy to:-

1. ASDEO Circle Mardan Khas for information.
2. PSHT Govt: Primary School Kass Koroona Mardan for information.
3. Mr. Zahirullah PST Govt: Primary School Kass Koroona Mardan for information.

SUB: DIVISIONAL EDUCATION OFFICER
(MALE) MARDAN 21/1/18

To


The Director,
Elementary & Secondary Education Department,
Khyber Pakhtunkhwa, Peshawar.

Annex: H²
P. 22

**Subject: DEPARTMENTAL APPEAL UNDER RULE 3 OF
THE KHYBER PAKHTUNKHWA CIVIL
SERVANTS (APPEAL) RULES, 1986 AGAINST
THE IMPUGNED ORDER DATED 31.01.2018
PASSED BY DISTRICT EDUCATION OFFICER
(MALE) MARDAN (IJAZ ALI KHAN) THEREBY
APPELLANT WAS COMPULSORY RETIRED
FROM SERVICE W.E.F 17.04.2017.**

Respected Sir,

1. That I appellant was the permanent employee of Education Department, holding the post of PST in District Mardan. Earlier I was removed from service on the plea of absence by the order dated 06.04.2014 which was challenged in the Khyber Pakhtunkhwa Service Tribunal through Service Appeal No.876 of 2015 after exhausting departmental remedy.
2. That the above mentioned Service Appeal was decided on merits and allowed in the following terms vide judgment dated 26.04.2017.
8. *In view of the above we accept the present appeal set aside the impugned order referred to above and reinstate the appellant in service by placing the respondent at liberty to conduct denovo enquiry against the appellant in the mode and manner prescribed by rules and there-after pass orders deem appropriate. Parties are left to bear their own costs. File be consigned to the record room.*
3. That instead of reinstating appellant into service firstly and then initiated denovo enquiry but in this case the DEO (M) Mardan directly initiated enquiry through an enquiry officer Mr.Arshad Hussain Principal GHS Babuzai Katlang Mardan who submitted the report on 23.08.2017. on basis of which the impugned order



was passed on 31.01.2018 by the DEO (M) Mardan thereby I appellant was awarded penalty of Compulsory Retirement w.e.f 17.04.2017.

Hence this departmental appeal is submitted on the following grounds

- A. That DEO (Male) Mardan acted in arbitrary manner and without reinstatement me in service appointed enquiry officer who conducted enquiry at my back which is not only violative of rules but also deviation of the decision of the Hon'ble Service Tribunal and in such circumstances, the enquiry proceedings and subsequent report have no legal sanctity and impugned order based on it, is unlawful, of no legal effect and inoperative against my rights and liable to be set aside.
- B. That when my earlier removal order from service was set aside by the Hon'ble Service Tribunal but EDO (M) Mardan failed to issue any order of my reinstatement in service then whether the proceedings under the E&D Rules, 2011 can be initiated against a person who is not in service which has done in this case purposely, which has no legal sanctity.
- C. That the DEO (M) Mardan has not fulfilled the mandatory requirements before initiating the denovo enquiry proceedings. Neither charge sheet with statement of allegations was served upon me nor show cause notice was given before passing the impugned order. Therefore entire proceedings are invalid and not sustainable.
- D. That I appellant was condemned unheard and the entire proceedings carried out at my back which is illegal and unlawful being violative of the principle of natural justice.
- E. That enquiry report though by itself is unlawful but then appellant was not held responsible for the alleged allegations of absence and the report is of general in its nature, thus impugned order based on it has no legal weight and not sustainable.
- F. That the impugned order has been passed after lapse of five months after submission of enquiry report which has lost its legal effect and the same was passed after thought to defeat the execution proceedings pending against the respondent department

ALLI

in the Hon'ble Tribunal. Therefore the entire proceedings and subsequent passing of impugned order tainted with malafide intention which is unfair and unjust.

It is therefore, humbly prayed that on acceptance of this departmental appeal, the impugned order dated 31.01.2018 may graciously be set aside and I may kindly be reinstated into service with all back benefits.

Zaihir Ullah
Yours faithfully,

Zaihir Ullah,
PST Teacher, R/O Moh: BARshah,
Katlang The: & District Mardan

Dated: 26/02/2018

AT QMS

No. 1

For Insurance Notices see reverse. Stamps affixed except in case of uninsured letters of not more than the initial weight prescribed in the Post Office Guide or on which no acknowledgement is due.

Received a registered addressed to The Director Date 26/02/2018 Stamp Mardan

Initials of Receiving Officer [Signature] *Write here "letter", "postcard", "packet" or "parcel" with the word "insured" before it when necessary.

Insured for Rs. 1500 in figures 1500 in words One thousand five hundred only

If insured. } Insurance fee Rs. Rs. 100 Weight 100g Kilo 100 Grams 100

Name and address of sender KATLE Mardan

WAKALAT NAMA

IN THE COURT OF K.P.K Service Tribunal Peshawar

Mr. Zahirullah Pst

Teacher at the Appellant(s)/Petitioner(s)

VERSUS

The Director Education

at the (Male) District Respondent(s)

I/We Mr. Zahirullah do hereby appoint **Mr. Khush Dil Khan, Advocate** Supreme Court of Pakistan in the above mentioned case, to do all or any of the following acts, deeds and things.

1. To appear, act and plead for me/us in the above mentioned case in this Court/Tribunal in which the same may be tried or heard and any other proceedings arising out of or connected therewith.
2. To sign, verify and file or withdraw all proceedings, petitions, appeals, affidavits and applications for compromise or withdrawal or for submission to arbitration of the said case, or any other documents, as may be deemed necessary or advisable by them for the conduct, prosecution or defence of the said case at all its stages.
3. To receive payment of, and issue receipts for, all moneys that may be or become due and payable to us during the course of proceedings.

AND hereby agree:-

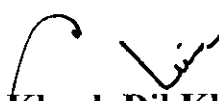
- a. That the Advocate(s) shall be entitled to withdraw from the prosecution of the said case if the whole or any part of the agreed fee remains unpaid.

In witness whereof I/We have signed this Wakalat Nama hereunder, the contents of which have been read/explained to me/us and fully understood by me/us this _____

Attested & Accepted by



Signature of Executants


Khush Dil Khan,
Advocate,
Supreme Court of Pakistan
9-B, Haroon Mansion
Off: Tel: 091-2213445

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No: 820/2018

Zahir Ullah PST Teacher, R/O Moh; Barshah, Tehsil Katlang, District
Mardan

(Petitioner)

Versus

The District Education Officer (M) Mardan & Others..... (Respondents)

INDEX

S.NO	DESCRIPTION OF DOCUMENTS	ANNEXURE	PAGES	
1.	Para wise comments along with affidavit		01	04
2.	Inquiry Report & personal Hearing	A	05	14
3	Retirement Order	B	15	--

Respondents



**District Education Officer
(Male) Mardan**

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR**

Service Appeal No: 820/2018

Zahir Ullah PST Teacher, R/O Moh; Barshah, Tehsil Katlang, District
Mardan

(Petitioner)

Versus

The District Education Officer (M) Mardan & Others..... (Respondents)

Para Wise Comments on Behalf of Respondents

Respectfully Sheweth,

PRELIMINARY OBJECTIONS:

1. That the appellant has got no cause of action as well as locus standi to file the instant appeal.
2. That the instant appeal is badly time barred.
3. That the appellant has not come to this Honorable Tribunal with clean hands.
4. That the appellant has concealed the material facts from this Honorable Tribunal hence, the appeal is liable to be dismissed.
5. That the instant appeal is against the prevailing law and rules.
6. That the appellant has been treated as per law & rules.
7. The service appeal No 876/2015, has decided on dated 26-04-2017, with the direction to Conduct de-novo inquiry.
8. That the respondent compliance the judgment of this honorable Service Tribunal and has conducted De-novo inquiry.
9. That after expiry of leave the appellant did not resume his duty.
10. That as per the inquiry report the appellant remained absent from duty for more than 5 years.
11. The appellant admitted himself, that he was absent from duty for more than 03 years and he has gone to Malaysia for wages/working. The appellant stated that he is ashamed of his absences and admit his mistake.
(Copy of Inquiry along with Personal Hearing is as Annexure A)
12. That the appellant was required to apply for Ex Pakistan Leave.
13. That the respondent fulfill all codal formalities as well as conducted De-novo inquiry and the appellant has Compulsory retired from Service on 17-04-2017. (Copy of retirement order is as Annexure B)

FACTS

1. Para No 1 pertains to records, hence needs no comments.
2. Para No 2 pertains to records, hence needs no comments.
3. Para No 3 pertains to records, hence needs no comments.
4. Para No 4 pertains to records, hence needs no comments.
5. Para No 5 pertains to records, hence needs no comments.

GROUND:

- A. Para A is incorrect baseless against fact & law and the Respondents acted in accordance with the law. the respondent compliance the judgment of this honorable Service Tribunal and has conducted De-novo inquiry, and sustainable in the eye of law as well as maintainable, hence denied.
- B. Para B is incorrect baseless against the law and facts, the answering respondent being responsible government officer acted in accordance the law. The appellant admitted himself, that he was absent from duty for more than 03 years and he has gone to Malaysia for wages/working. The appellant stated that he is ashamed of his absences and admit his mistake. The retirement order is legal and the proceedings is lawful, hence denied.

(Copy of Inquiry along with Personal Hearing is as Annexure A)

- C. Para C is incorrect baseless against the law and facts, the answering respondent being responsible government officer acted in accordance with law, hence denied.
- D. Para D is incorrect baseless against the law and facts as the appellant admitted himself, that he was absent from duty for more than 03 years and he has gone to Malaysia for wages/working. The appellant stated that he is ashamed of his absences and admit his mistake. The retirement order is legal, fair and the proceedings is lawful, hence denied.
- E. Para E is incorrect baseless, against the law and facts as the entire proceedings is legal and according to the principles of natural of justice and the appellant was not condemned unheard, The appellant admitted himself, in his personal hearing, that he was absent from duty for more than 03 years and he has gone to Malaysia for wages/working. The appellant stated that he is ashamed of his absences and admit his mistake hence denied.


(Copy of Inquiry along with Personal Hearing is as Annexure A)


F. Para F is incorrect baseless against the law and facts, the answering respondent being responsible government officer acted in accordance with law, hence denied.

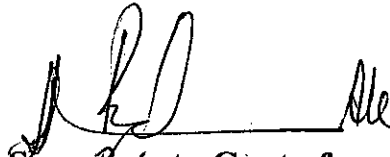
G. Para G is incorrect baseless against the law and facts, the answering respondent being responsible government officer acted in accordance with law, hence denied.

It is therefore humbly prayed that in the light of above facts, the appeal may please be dismissed with cost.

Respondents


Director(E & SE)
Peshawar


District Education Officer
(Male) Mardan


Secretary to Govt of
KPK (E & SE Department)
Peshawar

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No: 820/2018

Zahir Ullah PST Teacher, R/O Moh; Barshah, Tehsil Katlang, District
Mardan

(Petitioner)

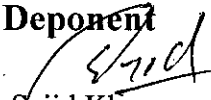
Versus

The District Education Officer (M) Mardan & Others..... (Respondents)

AFFIDAVIT

I, Mr Sajid Litigation Officer Education Department Mardan do hereby solemnly affirm and declare that the contents of Para Wise Comments submitted by respondents No 1 & 3 are true to the best of my knowledge and belief and nothing has been concealed from this Honorable Court.

Deponent


Mr. Sajid Khan

16101-6005318-5

ENQUIRY REPORT AGAINST MR Zahirullah EX PST GPS KAS KOROONA DISTRICT MARDAN ABOUT HIS ABSENCE FROM DUTY W.E.F 18/04/2007 TO 28/04/2012 AND REMOVAL FROM SERVICE.

bb

No. 400Dated 23/08/2017

Inquiry Officer Arshad Hussain Principal GHS Babuzai Katlang Mardan

Dates of Inquiry

10.08.2017

12.08.2017

15.08.2017

18.08.2017

Venue

(1) DEO E/S Male Office ~~Mardan~~ Mardan

(2) SDEO Male office Mardan

(3) GPS Kas Koroona Mardan

(4) GHS Babuzai Katlang Mardan

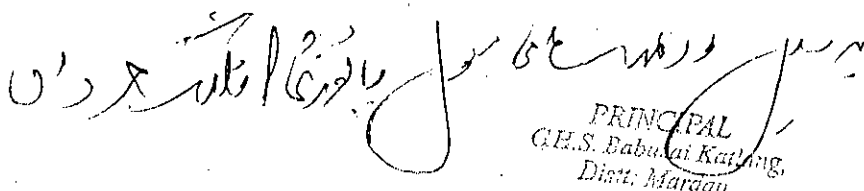
Subject : INQUIRY REPORT AGAINST MR Zahirullah EX PST GPS KAS KOROONA DISTRICT MARDAN ABOUT HIS ABSENCE FROM DUTY W.E.F 18/04/2007 TO 28/04/2012 AND REMOVAL FROM SERVICE.

Introduction

Mr Zahirullah was a PST teacher appointed on 20/12/1987 and performing his duty at GPS Kas koroona Mardan. He was absent w.e.f 18/04/1987 to 28/04/2012 and was removed from service on 06/05 2014. He filed appeal in Service Tribunal Khyber Pukhtoonkhwa which set aside the removal order against him and ordered for the denovo enquiry to DEO Male E/S Mardan. Having obeyed the order DEO Male E/S Mardan assigned me the task to conduct the enquiry vide Endst; No 6507-09 Dated 02/08/2017.



PRINCIPAL
G.H.S. Babuzai Katlang,
Distt: Mardan.



PRINCIPAL
G.H.S. Babuzai Katlang,
Distt: Mardan

6

Office of the principal

GHS Babuzai Katlan Mardan

No 446 Dated 29/09/2017

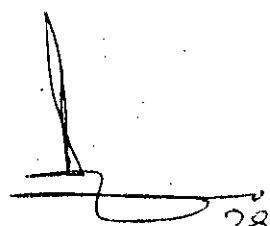
District Education Officer Male
Elementary and secondary Education
Mardan

Subject; Resubmission of De-novo Enquiry in the case of Ex PST Mr Zahirullah GPS Kas
Koroona Mardan proposed by Service Tribunal Khyber Pukhtoonkhwa Peshawar.

Respected Sir

Reference to your Office Order No 7954 Dated 18/09/2017 it is stated that the
report of De-novo enquiry proposed by honourable Service Tribunal Khyber Pukhtoonkhwa
Peshawar is resubmitted with the following recommendations.

1; In the light of discussed facts, precedents provided by the applicant and his services it is
recommended that Mr Zahirullah Ex-PST may please be treated with favour as per rule if agreed.

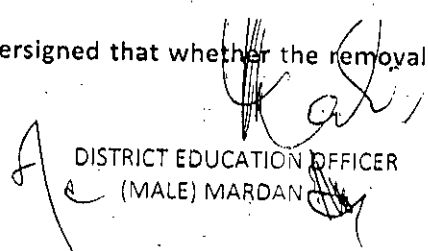

Arshad Hussain Enquiry Officer

Principal GHS Babuzai Katlan

Mardan

29/9/2017

In this connection it is humbly requested to guide the undersigned that whether the removals order
may be remained intact or otherwise.


DISTRICT EDUCATION OFFICER
(MALE) MARDAN

7

[Handwritten mark]

Enquiry report; Denovo Enquiry Directed by Service Tribunal
Khyber Pukhtoonkhwa In the case of Mr Zahirullah Ex-PST GHS Kas
Koroona Mardan Adjustment/Termination

Assigned by; District Education Officer Male
Elementary and Secondary Mardan

Date of submission of Enquiry Report; 23/08/2017

Enquiry Officer; Mr. Arshad Hussain ✓
Principal GHS Babuzai Katlang Mardan



[Signature]
PRINCIPAL
G.H.S. Babuzai Katlang,
Distt: Mardan.

[Handwritten signature]
A. D. D. (P)
23/8/17

[Large handwritten signature]
PRINCIPAL
G.H.S. Babuzai Katlang,
Distt: Mardan

(8)

(3)

Procedure adopted

I collected his personal file from DEO office on 10/08/2017 and also received required information from SDEO Mardan and informed Mr Zahirullah about the enquiry through mobile phone and fixed the date and place of enquiry. Mr Zahirullah met me at GHS Babuzai Katlang Mardan on 16/08/2017. A questionnaire (attached) was given to him in which some questions were asked. He was also interviewed. His personal file, the decision of Service Tribunal Khyber Pukhtoonkhwa, previous enquiry report against him and other relevant documents of Mr Zahirullah Ex- PST were thoroughly checked and studied.

Statement of Mr Zahirullah in his favour

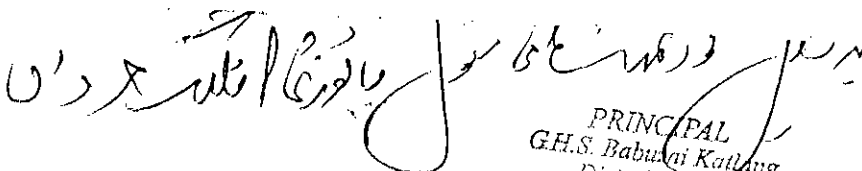
When he was asked about the case he said, "I had been appointed on 17/08/1984 and for the last time I had submitted application for EOL w.e.f 10/10/2005 to 17/04/2007 and on 17/04/2007 I had given application for the extension in leave w.e.f 18/04/2007 to 31/12/2009 and I thought that my application had been accepted for the extension in leave up to the required period as I had not been replied by the concerned authority. I was in Karachi and came back to school on 01/01/2010 and gave application for adjustment but I was told that I was absent w.e.f. 18/04/2007 to that day and was not adjusted. I had not been informed about my absence neither through written letter or verbally nor by a messenger and was kept totally in darkness about my case. Since then I have started my struggle for adjustment. And in High Court Peshawar I came to know that I had been removed from service. Again I was not informed about my case. No Show cause notice or the process of personal hearing etc has been observed. It is totally unjust with me and I have knocked the door of the court which has given decision in my favour". When I asked Mr Zahirullah about his struggle for leave and absence he gave me the following precedents in his favour.

1; A PST teacher Mr Naweed Akhtar GPS Sadiq Abad Takht Bhai who was granted EOL w.e.f 30/05/2001 to 31/10/2001 (155) days vide Endst; No 252-55 dated 05/01/2006 though he had availed all his E.O.L.

2; A teacher named Mr Hazrat Jamal PST GPS No 3 Palo Dheri Rustam was absent from his duty w.e.f 07/10/1999 and had been removed from service on 10/07/2000 vide Endt; 2155-60 Dated 07/10/2000. Then he has been awarded E.O.L 07/10/1999 to 31/12/2000 almost more than eleven years vide Endst; No 09-13 dated 01/01/2011 and has been reinstated by the department." In the light of above precedents I may please be reinstated" , He requested.

I personally verified the above two cases and found his arguments correct.


PRINCIPAL
G.H.S. Babuzai Katlang,
Distt: Mardan


PRINCIPAL
G.H.S. Babuzai Katlang,
Distt: Mardan

Statement of the Head Teacher Mr Syed Khalid Shah EX HPST present CT.

When he was asked about the case he said, " Mr Zahirullah was on EOL wef 18/10/2005 to 17/04/2007 and from 18/04/2007 he was absent. I have informed the then ADEO about his earned leave and on 24/08/2008 I had written about his E.O.L in General Accounts Proforma to him .when Mr Zahidullah did not refund his loan to the bank from which he has taken the loan I wrote to the ADEO on 08/11/2006 that he was on E.O.L and Mr BaKhtiar Ali PST had been appointed against his post but the ADEO/SDEO Primary did not take any action against him and not informed Zahirullah about his absence". (His answers attached) It means no disciplinary action has been taken by the concerned officers against the case.

64

Findings

Record of his service and leave.

After a methodical and deep study of entire relevant record the following facts were pointed out.

_Mr Zahirullah had been appointed on 15/12/1987 and took over the charge on 20/12/1987 at GMS Juwar Bazar.

_He availed Extra Ordinary Leave w.e.f 01/09/1994 to 01/09/1996 (two years) without pay vide Endst; No 3360 dated 20/09/1994.

_He joined his duty on 02/09/1996 vide sanction No 3412 Dated 01/09/1996.


_He was given E.O.L w.e.f 01/10/1996 to 31/08/1997 (11 Months) vide Endst; No 3523-24 Dated 11/11/1996.

_He rejoined his duty at GPS Sardar Abad Mardan on 01/09/1997 vide sanction Endst; No 2475-76 Dated 31/08/1997.

_According to his service book his service was verified up to 30/11/2004.

_He was granted earned leave w.e.f 18/10/2005 to 09/10/2006 (356) days on half pay and w.e.f 10/10/2006 to 17/04/2007 (189) days without pay vide Endt; No 5104-06 Dated 03/04/2006 while during his service in GPS Kas Koroona Mardan. And thus he has availed almost (03) three years and (06) six months E.O.L.

_The teacher had submitted one application due the illness of his brother in law for the extension in leave up to 31/09/2009 on date 17/04/2007 and did not join his duty in the hope that his extension in leave had been sanctioned by the EDEO concerned because he


PRINCIPAL
G.H.S. Babuzai Kallang
Distt: Mardan


PRINCIPAL
G.H.S. Babuzai Kallang
Distt: Mardan

(A) (16)

had not been informed by the offices concerned about his not extension in leave, though one year and six months approximately could be awarded to him. The officers concerned neither informed the teacher nor maintained his service book after 02/04/2006. Thus the teacher remained absent w.e.f 18/04/2007 to 06/05/2014 (his removal date). According to his service book in my hand and the personal file his service and leave are as under.

Service: 1; 20/12/1987 to 31/08/1994 (06 years, 08 months and eleven days)

02; 02/09/1996 to 31/09/1996 (29 days)

03; 01/09/1997 to 17/10/2005 (08 years, one month and sixteen days)

Total Service= 14 years, 09 months and twenty seven days+178 days

= 15 years, 05 months.

Leave Period

E.O.L

01/09/1994 to 01/09/1996 (02 years)

01/10/1996 to 31/08/1997 (Eleven months)

18/10/2005 to 17/04/2007 (356 days with half pay, 189 days without pay).

Total Extra Ordinary Leave availed= 03 Years and almost 06 months.

According to the leave rules not more than 240 days is allowed as Earned leave on half pay, so here the competent authority has not flowed the rules.


The teacher has not been granted E.O.L up to 31/05/2008 nor awarded sanction in E.O.L up to 31/12/2009 though the officer concerned could grant him E.O.L up to approximately 17/10/2008. However it was the discriminative power of the EDFO.

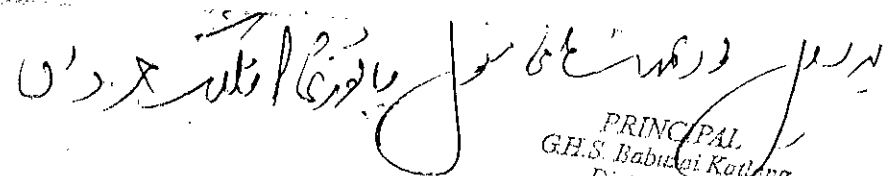
Absent period

18/04/2007 to 06/05/2014 (date of termination)

His strife for adjustment and then for reinstatement.

When he attended the school on 01/01/2010 and submitted application for adjustment he was told that he was absent w.e.f 18/04/2007 till that day. His post had also been filled by Mr Bakhtyar Ali PST vide order No 19138-40 dated 09/10/2006. And Mr Zahirullah has been striving for his adjustment since 01/01/2010. He wrote many applications to many officers in rank but in vain. He was trying for his adjustment and an enquiry committee


PRINCIPAL
G.H.S. Babuzai Katlang,
Distt: Mardan.


PRINCIPAL
G.H.S. Babuzai Katlang,
Distt: Mardan

(X) (12)

Been carried out by the Education department and that is why I can say that my favour goes to Mr. Zahir Ullah and will not be wrong enough to give him the credit.

Recommendations:

In the light of the above facts, precedents and services of Mr. Zahir Ullah his case may please be treated with favour as per rule if agreed.

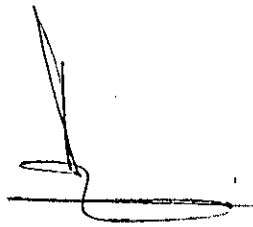
Enclosures:

1. Answers of the questionnaire of Mr. Zahir Ullah asked from him.
2. Answers of the questionnaire of Mr. Sayyad Khalid Shah the then Head Teacher Of GPS Kas Kaoruna Mardan.
3. Personal file of Mr. Zahir Ullah contains the entire record.
4. Previous Inquiry report against the teacher.
5. Photocopy of service book of Mr. Hazrat Jamal HPST presented by Zahir Ullah as precedents for reference of reinstatement on service.
6. Application for extension in leave of the teacher concerned.
7. Photocopy of not sheet about the extension in leave up to 31/12/2009.

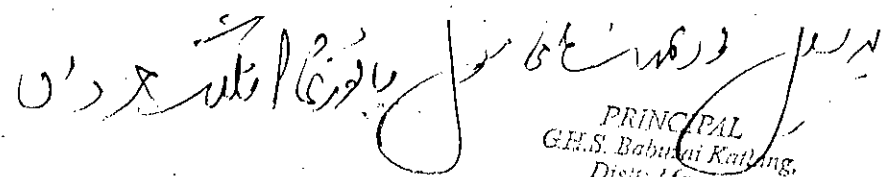
The End

Certified that this enquiry report contains 07 pages and each has been signed by me.

Enquiry Officer


29/9/2017

Arshad Hussain Principal GHS Babuzai Katlang Mardan.



PRINCIPAL
G.H.S. Babuzai Katlang,
Distt: Mardan

Personal Hearing of Mr. Zahirullah

PST

on dated - 20-12-2017

The DEO (M) Mardan

25

صوبہ، آب و ہوا کی ڈیپارٹمنٹ میں بطور ایگزیکٹو بھرتی ہوئے؟

جواب۔ 1987ء میں 17-12-1987ء میں بھرتی ہوئے۔

2۔ کیا آپ = Untained بھرتی ہوئے؟

2۔ جی ہاں میں Untained بھرتی ہوئے۔

3۔ آپ نے B.T.C پاس کیا ہے؟

2۔ میں نے B.T.C پاس نہیں کیا۔ کام تقریباً لبر Shift term کو میں پاس کیا تھا۔

4۔ آپ نے 4 مہینے کورس میں چارہ کب لیا تھا۔

2۔ میں نے 1998-01-27 کو 4 مہینے کورس میں چارہ لیا تھا۔

5۔ آپ نے چھٹی کی پبلسٹی ڈروائٹ کب دی تھی اور کتنی مدت لیا تھا؟

2۔ میں نے چھٹی کی پبلسٹی ڈروائٹ 1994ء میں 18 مہینے لیا تھا اور یہ چھٹی Sanctioned ہی ہوئی تھی۔

6۔ آپ نے مزید چھٹی کی ڈروائٹ کب اور کتنی مدت لیا دی تھی۔

2۔ چھٹی ڈروائٹ دینے کی تاریخ اور سال یاد نہیں۔ تاہم ایک سال کی چھٹی کی ڈروائٹ دی تھی۔

7۔ اس کے علاوہ چھٹی کی کوئی اور ڈروائٹ آپ نے دی تھی؟

2۔ میں نے 2005ء میں 18 مہینے کی چھٹی کی ڈروائٹ لے لی۔ جو منظور ہوئی تھی۔

8۔ آپ نے لیٹر چھٹی کے حکم سے کتنی مدت لیا غیر حاضر رہا؟

2۔ میں تین سال (3 سال) حکم کے اجازت سے لیٹر اپنے ڈیوٹی سے غیر حاضر رہا۔

9۔ آپ نے ان تین سال میں کیا کیا تھے؟

2۔ میں صدمہ سے باہر ملنے میں محنت مزدوری کے سلسلے میں مصروف تھا۔

12/1/17

سرخ 10. اپنے مزید چھٹے کے درخواست بیزارت خود دی تھی؟

2. میں نے اپنے بھائی کے توسط سے چھٹے کے درخواست دی تھی۔ معلوم کیا جا رہا ہے۔
74 کہ وہ منظور نہیں ہوگا۔

سرخ 11. آپ ملیشیا سے اپنے ملک واپس کب آئے؟

2. میں 30 دسمبر 2009 کو اپنے ملک واپس آ گیا۔

سرخ 12. اپنے الرضفہ کے بعد حکم کو کونسی درخواست دی تھی۔

2. میں نے حکم کو بیزارت فور ریگمنٹری مشن، ظاہر شاہ آباد (A.D.O) کی درخواست دی تھی۔

سرخ 13. آپ کے بھائی حکم سے کس وجہ سے ہو گیا؟

2. طویل عرصہ تک وہ وہاں سے میرا بھائی کے عمل میں لگا رہا۔

سرخ 14. کیا آپ نے بھائی کے خلاف حکمانہ اپیل کی تھی۔

2. میں نے حکمانہ اپیل نہیں کی تھی۔

سرخ 15. آپ اپنے حکمانہ میں کچھ لکھا ہے یا نہیں؟

2. ہاں، یہ ہے کہ جموں کے غلطی ہو گیا ہے اور حکم نے اس سبب جو کارروائی کی ہے وہ قانونی ہے۔ تاہم میں اپنے غم مندی میں شریعتیوں اور اپنے غلطی منکابوں اور حکم سے اپیل کرنا ہوں۔ کہ مجھے انسانیت کے ناطے ایک موقع اور

دیاجاتا۔ میں اپنے غلطی اس پر لے کر سے انجام دیتا ہوں۔ حکمانہ میں لکھا ہے اور حکم سے کو شکایت کا موقع نہیں دیا گیا۔

Handwritten signature

20/12/09

نام: ظاہر اللہ ولد مشرف خان

NIC No: 16101-3636456-7

Handwritten signature

دستخط

20/12/09



سٹیشن انکوائری

Annex B = 15

OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) MARDAN

NOTIFICATION

I Ijaz Ali Khan District Education officer (Male) Mardan as Competent Authority under the Khyber Pakhtunkhwa Government servants (Efficiency & Discipline) Rules, 2011, do hereby serve Mr. Zahirullah PST GPS Kass Korona Mardan, follows:

- **Where As** Mr. Zahirullah PST GPS Kass Korona availed leave w.e.f 18-10-2005 to 17-04-2007 and after availing leave, remained absent w.e.f 18-04-2007 to 28-04-2012 from his duty.
- **And Where As** a Denve inquiry was conducted in the light of decision issued from Honorable Service Tribunal Khyberpakhtunkhwa Peshawar on 26-04-2017 appeal No.876/15.
- **And Where As** In the light of inquiry report, he was directed through an official letter for personal hearing on 17-12-2017.
- **And Where As** He attended the office of the undersigned on 20-12-2017.
- **And Where As** he admitted the charges in his personal hearing on 20-12-2017.
- **And Where As** the Competent Authority, after having considered the charges and evidence on record is not satisfied from his written statement at the time of personal hearing.
- **And Where As** He found guilty of gross misconduct under KPK Govt servant E&D rules 2011.

Now in exercise of the power conferred to me under the Khyberpakhtunkhwa Govt servant E&D rules 2011, being competent authority is pleased to impose the major penalty of Compulsory Retirement from the service upon Mr. Zahirullah PST GPS Kass Korona w.e.f 17-04-2017, i.e the date of his absence.

(Ijaz Ali Khan)
District Education Officer
(Male) Mardan

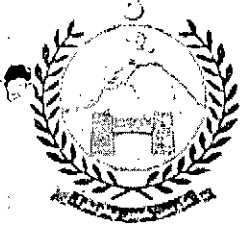
Endst: No. 918/8 P.F

Dated 31/11 /2018.

Copy forwarded to the:-

1. Registrar, Service Tribunal Khyberpakhtunkhwa Peshawar for information in Service appeal No.876/2015.
2. SDEO(M) Mardan
3. District Accounts Officer Mardan.
4. Mr. Zahirullah PST GPS Kass Korona.

District Education Officer
(Male) Mardan



KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

No. 1239 /ST

Dated: 03/06/2022

All communications should be addressed to the Registrar KPK Service Tribunal and not any official by name.

Ph:- 091-9212281

To

District Education Officer (Male),
District Mardan.

Subject: JUDGMENT IN APPEAL NO 820/2018 MR. ZAHIR ULLAH

I am directed to forward herewith a certified copy of Judgment dated 11.05.2022 passed by this Tribunal on the above subject for strict compliance.

Encl: As Above.


(WASEEMAKHTAR)

REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.