

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No. 6130/2020

BEFORE: MRS. ROZINA REHMAN ... MEMBER(J)
MISS FAREEHA PAUL ... MEMBER(E)

Hidayatur Rehman, SST (BPS-17) Headmaster, Government Middle School Sabai District, Peshawar. (*Appellant*)

Versus

1. The Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education, Peshawar.
2. The Director, Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
3. The District Education Officer (Male) District Peshawar.
4. The Assistant Accounts Officer, Accountant General office, Khyber Pakhtunkhwa, Peshawar. (*Respondents*)

Mr. Adnan Aman,
Advocate

... For appellant

Mr. Muhammad Adeel Butt,
Addl. Advocate General

... For respondents

Date of Institution.....18.03.2020
Date of Hearing.....24.11.2022
Date of Decision..... 24.11.2022

JUDGEMENT

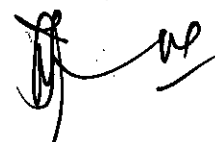
FAREEHA PAUL, MEMBER (E): The service appeal in hand has been instituted under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the impugned order dated 14.11.2019 of respondent No. 1 and order dated 18.02.2020 of departmental appellate authority whereby the



departmental appeal of the appellant against the impugned order dated 14.11.2019 was regretted.

2. Brief facts of the case, as given in the memorandum of appeal, are that the appellant was initially appointed as PST in the Elementary & Secondary Education Department on 29.09.1984. Later on, he was promoted as C.T and then as SST (BPS-17) and is presently serving as Head Master, Government Middle School Sabi, Peshawar. During the entire service career, the appellant performed his duty with full devotion, dedication and commitment and neither applied nor sought any earned leave. On 14.10.2019, he applied for grant of earned leave to the respondent department (Elementary & Secondary Education Department) which was recommended. The application was endorsed by respondent No. 4 (Assistant Accounts Officer, Accountant General Office, Khyber Pakhtunkhwa) by certifying that the appellant was entitled for 90 days leave under Khyber Pakhtunkhwa Revised Leave Rules, 1981. On 14.11.2019, respondent No. 1 accorded sanction for earned leave of 90 days, without pay, w.e.f. 15.08.2019 to 15.11.2019. The appellant being aggrieved from the impugned order preferred his departmental appeal to the departmental appellate authority which was regretted vide impugned order dated 18.02.2020; hence this service appeal.

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 learned Additional Advocate General for the respondents and perused the case file with connected documents in detail.



4. Learned counsel for the appellant presented the details of the case and contended that Khyber Pakhtunkhwa Civil Servants Revised Leave Rules, 1981 provided for grant of earned leave on full pay, to be calculated at the rate of four days for every calendar month of the duty period a civil servant had rendered, and thus the appellant had a lot of earned leave on full pay in his account. He further contended that the respondents while passing the impugned orders dated 14.11.2019 and 18.02.2020 totally failed to adhere to the law on the subject and hence their orders were liable to be set aside.

5. The learned Additional Advocate General at the very onset contended that the Service Appeal was badly time barred. As regard submission of application for earned leave, he agreed that the appellant submitted the same on 14.10.2019 but informed the bench that he was already absent and that was the reason that when his application was processed, he was sanctioned 90 days earned leave without pay, based on his absence. He referred to Section 18 of Khyber Pakhtunkhwa Civil Servants Act, 1973 which stated that a civil servant should be allowed leave in accordance with the leave rules applicable to him; provided that the grant of leave would depend on the exigencies of service and be at the discretion of the competent authority. He requested to dismiss the instant service appeal in favour of respondents.

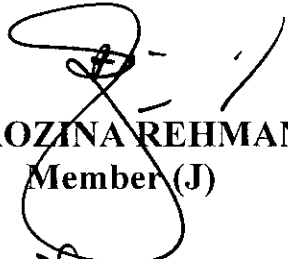
6. After hearing both the learned counsel for appellant and the learned Additional Advocate General and going through the record presented before us, it is clear that the appellant requested the Director, Elementary & Secondary Education Khyber Pakhtunkhwa for grant of three months earned




leave, for processing his retirement case, through an application dated 14.10.2019. The leave requested by him was with effect from 15.08.2019 to 15.11.2019. Date mentioned on the application indicates that the appellant was already absent/on leave from his official duty and asked for sanction from a back date. Record further indicates that he was entitled to 90 days earned leave under the Khyber Pakhtunkhwa Revised Leave Rules, 1981 as certified by the Assistant Accounts Officer, office of the Accountant General, Khyber Pakhtunkhwa. While according sanction to that leave, the competent authority allowed it without pay, whereas enough leave was available on his account and the earned leave requested by the appellant should have been sanctioned with full pay. The argument presented by the learned Additional Advocate General that the appellant was already absent from duty and hence the leave was sanctioned without pay is not acceptable on the ground that the notification dated 14.11.2019 does not mention such a reason.

7. In view of the above, the instant service appeal is allowed as prayed for. Parties are left to bear their own costs. Consign.

8. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal this 24th day of November, 2022.*


(ROZINA REHMAN)
Member (J)

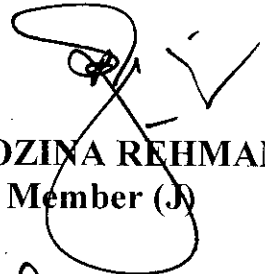

(FAREEHA PAUL)
Member (E)


Service Appeal No. 6130/2020

24.11.2022 Mr. Adnan Aman, Advocate for appellant present. Mr. Muhammad Adeel Butt, Additional Advocate General for the respondents present. Arguments heard and record perused.

02. Vide our detailed judgement containing 04 pages, it is clear that the appellant requested the Director, Elementary & Secondary Education Khyber Pakhtunkhwa for grant of three months earned leave, for processing his retirement case, through an application dated 14.10.2019. The leave requested by him was with effect from 15.08.2019 to 15.11.2019. Date mentioned on the application indicates that the appellant was already absent/on leave from his official duty and asked for sanction from a back date. Record further indicates that he was entitled to 90 days earned leave under the Khyber Pakhtunkhwa Revised Leave Rules, 1981 as certified by the Assistant Accounts Officer, office of the Accountant General, Khyber Pakhtunkhwa. While according sanction to that leave, the competent authority allowed it without pay, whereas enough leave was available on his account and the earned leave requested by the appellant should have been sanctioned with full pay. The argument presented by the learned Additional Advocate General that the appellant was already absent from duty and hence the leave was sanctioned without pay is not acceptable on the ground that the notification dated 14.11.2019 does not mention such a reason. In view of the above, the instant service appeal is allowed as prayed for. Parties are left to bear their own costs. Consign.

03. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal this 24th day of November, 2022.*



(ROZINA REHMAN)
Member (J)


(FAREEHA PAUL)
Member (E)

12.09.2022

Appellant alongwith his counsel present. Mr. Muhammad Riaz Khan Paindakhel, Assistant Advocate General alongwith Mr. Arshad Khan, ADO for the respondents present.

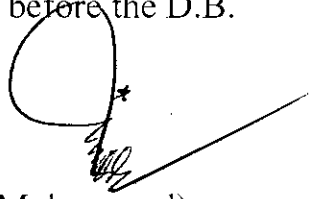
Mr. Mian Muhammad, learned Member (Executive) is on leave, therefore, arguments could not be heard. Adjourned. To come up for arguments before the D.B on 25.10.2022



(Salah-Ud-Din)
Member (J)

25.10.2022

Appellant alongwith his counsel present. Mr. Muhammad Riaz Khan Paindakhel, Assistant Advocate General for the respondents present.

Learned counsel for the appellant requested for adjournment on the ground that he has not made preparation for arguments. Adjourned. To come up for arguments on 24.11.2022 before the D.B.

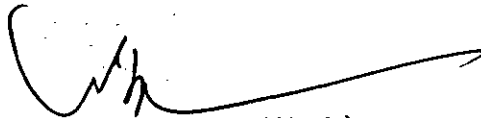

(Mian Muhammad)
Member (E)


(Salah-Ud-Din)
Member (J)

01.02.2022

Counsel for the appellant present. Mr. Muhammad Adeel Butt, Addl. AG for the respondents present.

Due to paucity of time arguments could not be heard. To come up for arguments on 17.03.2022 before the D.B.



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



Chairman

17.03.2022

Due to retirement of the Worthy Chairman, the Tribunal is defunct, therefore, case is adjourned to 21.06.2022 for the same as before.



Reader.

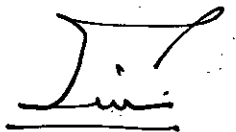
21.06.2022

Nemo for the appellant. Mr. Riaz Ahmed Paindakheil, Assistant Advocate General for the respondents present.

Previous date was changed on Reader Note, therefore, notice for prosecution of the appeal be issued to the appellant as well as his counsel through registered post and to come up for arguments on 12.09.2022 before the D.B.



(Fareeha Paul)
Member (E)




(Salah-ud-Din)
Member (J)

Counsel was informed telephonically for the date fixed 12/09/2022

25.03.2021

Appellant in person present. Mr. Kabirullah Khattak
learned Addl. AG for respondents present.

Reply/comments on behalf of respondents No. 1, 2
and 4 has been already submitted. Learned Additional
Advocate General is required to contact the respondent No.3
and facilitate the submission of reply/comments. Last
opportunity is granted. To come up for written
reply/comments on behalf of respondent No. 3 on
31.05.2021 before S.B.


(Atiq Ur Rehman Wazir)
Member (E)

31.05.2021

Counsel for the appellant, Mr. Kabirullah Khattak,
Addl. AG alongwith Farman Shah, representative of
respondents No. 1, 2 & 4 present.

Reply/comments on behalf of respondents No. 1, 2
and 4 has already been submitted. Learned AAG states
that respondent No. 3 is a proforma respondent and
there is no need to wait for submission of his reply. The
appeal is assigned to D.B for arguments on 28.09.2021.


Chairman

28.9.21

DB is on Tono case to come up
Reo Mr Same on Dated 1-2/2022


Reader

07.12.2020

Appellant in person present.

Kabir Ullah Khattak learned Additional Advocate General for respondents present.

Representative of respondents is not in attendance, therefore, case is adjourned on the request of learned A.A.G with direction to submit written reply/comments on 26.01.2021 before S.B.



(Rozina Rehman)
Member (J)

26.01.2021

Appellant is present in person. Mr. Kabirullah Khattak, Additional Advocate General alongwith representatives of the department Mr. Abdul Wahid, Litigation Officer, on behalf of respondents No. 1 & 2 and Mr. Zakiullah, Senior Auditor, on behalf of respondent No. 4 are also present.

Representatives of respondents No. 1, 2 & 4 submitted written replies which are placed on file. Neither written reply on behalf of respondent No. 3 submitted nor any representative on his behalf is present, therefore, learned Additional Advocate General is directed to contact the respondent No. 3 and furnish written reply/comments on the next date of hearing. Adjourned to 25.03.2021 on which date file to come up for written reply/comments on behalf of respondent No. 3 before S.B.



(MUHAMMAD JAMAL KHAN)
MEMBER (JUDICIAL)

02/10

08.10.2020

Counsel for the appellant present.

Contends that the appellant applied for 90 days earned leave but through the impugned order dated 14.11.2019 he was granted 90 earned leave without pay. Learned counsel referred to the endorsement of Assistant Accounts Officer, office of Accountant General Khyber Pakhtunkhwa upon proforma application for leave. Through the endorsement it was certified that the appellant was entitled for 90 days leave under the Khyber Pakhtunkhwa Revised Leave Rules, 1981. The departmental appellate authority, while deciding the appeal though regretted the relief to appellant, no reason was provided for the decision. It is also the argument of learned counsel that the impugned order is violative of Rule 2 and 4 of the rules *ibid*.

In view of the arguments of learned counsel and the available record, instant appeal is admitted to regular hearing, subject to all just exceptions. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents. To come up for written reply/comments on 07.12.2020 before S.B.

Appellant Deposited
Security & Process Fee

CS/10/20




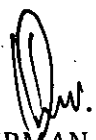

Chairman

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 6130 /2020

1S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	22/06/2020	<p>The appeal of Mr. Hidayat-ur-Rehman resubmitted today by Mr. Adnan Awan Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p> REGISTRAR</p>
2-		<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>24/07/2020</u>.</p> <p> CHAIRMAN</p>
24.07.2020		<p>Mr. Kamran Khan, Advocate is present for Adnan Aman. Requested for adjournment that he is suffering from fever and could not attend this Tribunal today. Adjourned to 08.10.2020. To come up for preliminary hearing before S.B.</p> <p> (MUHAMMAD JAMAL KHAN) MEMBER</p>


P-14

Isab-entiret... (handwritten note)

The appeal of Mr. Hidayat-ur-Rehman SST Headmaster GMS Sabai District Peshawar received today i.e. on 18.03.2020 is incomplete on the following score which is returned to the counsel for the appellat for completion and resubmission within 15 days.

- 1- Memorandum of appeal may be got signed by the appellat.
- 2- Index of the appeal may be prepared according to the Khyber Pakhtunkhwa Service Tribunal rules 1974.
- 3- Copies of impugned orders dated 14.11.2019 and 18.02.2020 mentioned in the heading of the appeal are not attached with the appeal which may be placed on it.
- 4- Copy of departmental appeal mentioned in the memo of appeal is not attached with the appeal which may be placed on it.
- 5- Annexures referred to in the memo of appeal are not attached with the appeal which may be placed on it.
- 6- Five more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

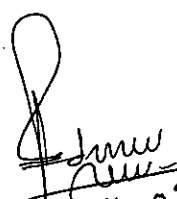
No. 969 /S.T.,
Dt. 18/3 /2020.


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Adnan Aman Adv. Pesh.

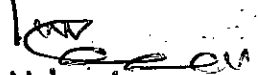
Respected Sir,

Due to the corona pandemic & public holidays announced by the Govt of KP the deficiencies can't be addressed as the offices are closed therefore the time for resubmission of instant appeal may be accordingly extended, in the larger interest of justice.



11-05-2020

No: 1116
Pated 11-05-20

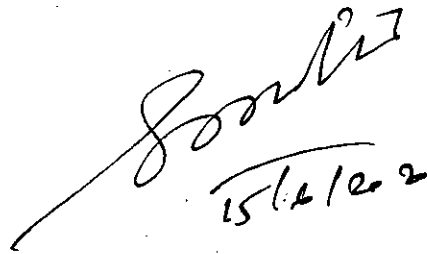
(15) days time further extended.


11/5/2020

⑮ Day time further extended.


01/06/2020

one week extra for completion.


15/6/2020

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Service Appeal No. **6130**/2020

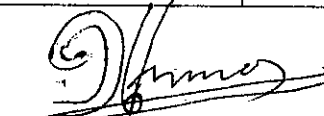
Hidayat ur Rehman.....Appellant

VERSUS

The Government of Khyber Pakhtunkhwa
Through Secretary E&SE & others.....Respondents

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Appellant

Through


Adnan Aman
Advocate High Court(s)

Dated 18.03.2020

①

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Service Appeal No. **6130** /2020

Khyber Pakhtunkhwa
Service Tribunal

Diary No. **2289**

Dated **18/3/2020**

HidayaturRehman,
SST (BPS-17), Headmaster
Govt. Middle School Sabai District Peshawar

.....Appellant

VERSUS

1. The Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education, Civil Secretariat Peshawar
2. The Director Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar
3. The District Education Officer (Male) District Peshawar.....**Respondents**
4. *The Assistant Accounts Officer, AG office Khyber Pakhtunkhwa-*

**SERVICE APPEAL U/S 4 OF THE KHYBER
PAKHTUNKHWA SERVICES TRIBUNAL ACT,
1974, AGAINST THE IMPUGNED ORDER OF
RESPONDENT NO.1 DATED 14.11.2019
AND ORDER OF DEPARTMENTAL
APPELLATE AUTHORITY DATED 18.02.2020,
WHEREBY THE DEPARTMENTAL APPEAL OF
THE APPELLANT AGAINST THE IMPUGNED
ORDER DATED 14.11.2019 WAS
REGRETTEED.**

Filed to-day

[Signature]
Registrar

12/3/2020

Prayer

By accepting this appeal, the impugned order passed by respondent No.1 dated 14.11.2019 and the order of departmental appellate authority dated 18.02.2020 may please be set aside and consequently the appellant may please be held entitle for grant of leave (earned leave) of ninety days on full pay and the respondents be directed to pay him fully salary of ninety days. OR

Any other relief deems fit and appropriate in the circumstances of the instant appeal may also be passed.

Respectfully Sheweth:

1. That the appellant was initially appointed as PST in the respondents Department (Elementary & Secondary Education Department) way back on 29.09.1984.
2. That later on the appellant was promoted as C.T then as S.S.T (BPS-17) and presently he is serving as Head Master, Govt. Middle School Sabi Peshawar and thus he is having thirty four (34) of total service in his credit.

3. That throughout his service career, the appellant has performed his duty with full devotion, dedication and commitment and his performance is undergird by the fact, that in the past, he has neither applied nor sought earned leaves throughout his thirty four (34) years of service career.
4. That on 14.10.2019, the appellant applied to the respondents Department (Elementary & Secondary Education) for grant of earned leaves which was recommended to the Respondent No.3 (DEO) for necessary action.

It is worth to mention here that the application was endorsed by the respondent No.4, by certifying that the appellant is entitled for ninety (90) days leaves under the Rules of 1981. (Copies of applications are attached as annexure "A" & "A/1").

5. That on 14.11.2019, the respondent No.1, vide impugned order dated 14.11.2019, accorded the sanction to grant earned leaves (90 days without pay) w.e.f 15.08.2019 to 15.11.2019. (Copy of the impugned order is attached as annexure "B").

6. That the appellant being aggrieved of the aforesaid impugned order dated 15.11.2019, preferred his departmental appeal to the departmental appellate authority. (Copy of Departmental Appeal is attached as annexure "C").
7. That the departmental appeal of the appellant was regretted by the competent authority vide impugned order dated 18.02.2020. (Copy of the impugned order is attached as "D").
8. That the appellant being aggrieved of the impugned order dated 14.11.2019 (Annexure-B) and order of Departmental appellate authority, dated 18.02.2020 (Annexure-D) prefers this service appeal before this Hon'ble Tribunal for the following amongst other grounds:

GRUNDS:-

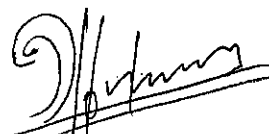
- A. That as stated in the body of the appeal that the appellant has thirty four (34) years of regular service in his credit and has never applied for earned leaves in his whole service career therefore under the law, he is entitled for grant of leave with full pay.

- B. That the KP Civil Servants Revised Leave Rules 1981 provides for grant of earned leave on full pay, to be calculated at the rate of four days for every calendar month of the duty period, a civil servant has rendered and thus through this way, the appellant have a lot of earned leave (on full pay) in his account.
- C. That the respondents while passing the impugned orders dated 14.11.2019 and 18.02.2020 has totally failed to adhere to the law on the subject and thus on this score alone, the impugned orders are liable to be set aside.
- D. That the appellant has been treated against the law as if law has provided him an opportunity to avail a privilege then how the same can be denied to him by the respondents and thus through this way, they have fallen into serious error while passing the impugned orders.
- E. That the impugned orders dated 14.11.2019 and 18.02.2020 passed by the respondents are illegal, unlawful, void-ab-initio and thus this Hon'ble Tribunal needs to interfere to meet the ends of justice.

- F. That the appellant has been treated against the law and has also been deprived of equal protection of law.
- G. That any other ground, not specifically mentioned, may be raised at the time of arguments, with the prior permission of this Hon'ble Tribunal.

It is, therefore, most humbly prayed that by accepting this appeal, the impugned order passed by respondent No.1 dated 14.11.2019 and the order of departmental appellate authority dated 18.02.2020 may please be held set aside and consequently the appellant may please be entitled for grant of leave (earned leave) of ninety days on full pay and respondents be directed to pay him full salary of ninety days. OR

Any other relief deems fit and appropriate in the circumstances of the instant appeal may also be passed.


Appellant

Through


Adnan Aman
Advocate High Court(s)

Dated 18.03.2020

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Service Appeal No. _____/2020

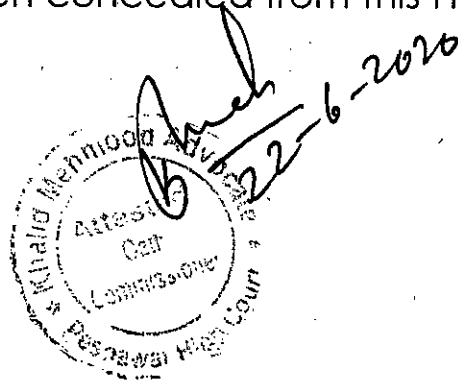
Hidayat ur Rehman.....**Appellant**

VERSUS

The Government of Khyber Pakhtunkhwa
 Through Secretary E&SE & others.....**Respondents**

AFFIDAVIT

I, Hidayat ur Rehman, SST (BPS-17), Headmaster Govt. Middle School Sabai District Peshawar, do hereby solemnly affirm and declare on oath that the contents of the accompanying **Service Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.




 DEPONENT

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Service Appeal No. _____/2020

Hidayat ur Rehman.....Appellant

V E R S U S

The Government of Khyber Pakhtunkhwa
 Through Secretary E&SE & others.....Respondents

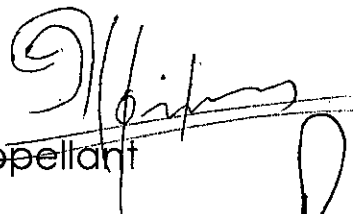
ADDRESSES OF PARTIES

A P P E L L A N T:

Hidayat-ur-Rehman,
 SST (BPS-17), Headmaster
 Govt. Middle School Sabai District Peshawar

R E S P O N D E N T S

1. The Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education, Civil Secretariat Peshawar
2. The Director Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar
3. The District Education Officer (Male) District Peshawar
4. The Assistant Accounts Officer, AG Office Khyber Pakhtunkhwa


 Appellant

Through

Adnan Aman
 Advocate High Court(s)

Dated 18.03.2020

9

Annexure

"A"

The Director,
Elementary and Secondary Education,
Khyber Pakhtunwkh Peshawar.

Subject: REQUEST FOR THREE MONTHS EARNED LEAVE DUE TO
DELAY IN PROCESSING OF RETIREMENT CASE.

Dear Sir,

I am to refer to the subject cited above with due respect and to state that I had applied for premature retirement w.e.f 30-06-2019, and submitted application according to the office DEO Male Peshawar which was forwarded to your good office.

The above mentioned application got delayed during processing and I left the school from August 15, 2019 onward in connection with some personal issues and health problems. Later on learned that my retirement case could not be processed in time and due to revised retirement case could not be considered.

It is therefore, requested to grant me sanction of earned leave w.e.f 15-08-2019 to 15-11-2019 (Three Months in the light of attached leave admissibility report.

It shall be grateful to you for this kindness.

*sent & recommended
to DEO (E&S) for n/a per
53*

Hidayat
HEAD OFFICE
G.M.S. BUDHNI
PESHAWAR

14/10/19

*DEO officer (M)
no: 53-14-10-19*

Hidayat
Hidayat Ur Rehman
SST, GMS Budhni Sabi
Peshawar
Dated: 14-10-19

*Attested to be
true copy
[Signature]*

[Redacted] - 1 (old) (10)
- 87

APPLICATION FOR LEAVE

Note: Item 1 to 09 must be filled in by all applicants. Items 12 applies only in the case of Government servants of BPS-16 above.

1. Name of Applicant. Hidayat ul Rehman

2. Leave Rules applicable 1981 Annexure

3. Post Held SST " A/1 "

4. Department of Office E & SE

5. Pay. Rs 67170/-

6. House Rent Allowance: Conveyance Allowance or other compensatory allowance drawn in the present post.

7. (a) Nature of Leave applied for Earned leave

(b) Period of leave in days 90 days

(c) date of commencement. 15-8-2019 (10)

8. Particular Rule/ Rules under which leave is admissible.

9. (a) date of return form last leave. /

(b) Nature of leave. /

(c) Period of leave in days /

Date _____

Signature [Signature]

10. Remarks and Recommendation of the Controlling Officer.

11. Certified that Leave applied for is admissible under rule _____ and necessary conditions are fulfilled.

Date _____

Signature [Signature]

12. Report of Audit Officer

Date _____

Signature: _____

Designation: _____

13. Orders of the sanctioning authority certifying that on the expiry of leave the applicant is likely to same post carrying the compensatory allowance being drawn by him

Date _____

Signature: _____

Designation: _____

It is certified that the above name official/office is entitled for 90 (Ninety) days leave under earned leave rules 1981.

Attested to be true copy

[Signature]

[Signature]

Asstt: Accounts Officer
O/o A.G. Khyber Pakhtunkhwa
15/8/19

Annexure

" B "

Dated Peshawar the 14.11.2019

NOTIFICATION.

No.SO.Audit/E&SED/6-4/E-Leave(103)/2019. Sanction is hereby accorded to grant Earned Leave (**90 days without pay**) w.e.f. 15.08.2019 to 15.11.2019 in favour of Mr. Hidayat ur Rehman, SST (BPS-17) Personal at GMS Sabi Peshawar, as admissible under Revised leave Rules, 1981.

11

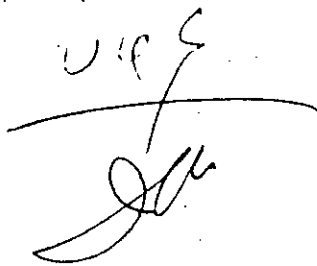
Secretary
E&SE Department,
Khyber Pakhtunkhwa, Peshawar.

Endst: Even No. & Date.

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

1. The Accountant General of Khyber Pakhtunkhwa Peshawar.
2. The Director, E&SE Khyber Pakhtunkhwa Peshawar.
- ✓ 3. The District Education Officer, (Male), Peshawar.
4. The Section Officer (School/Male) Elementary & Secondary Education Department.
5. P.S to Secretary E&SE Department Khyber Pakhtunkhwa Peshawar.
6. Officer concerned.

1088
19/11/19

U/S


(Said Gul)
Section Officer (Audit)

Attested to be
true copy



TO,

The Director,
Elementary & Secondary Education,
Khyber Pukhtoonkhwa Peshawar.

Subject:-

APPEAL

Respected Sir,

With due respect It is requested that, I had given an application for three months leave. Leave admissibility, from AG Office was also attached herewith. I have enjoyed no earned leave in all my 34 years' service.

My case was considered as leave without pay. Notification is attached. You are requested to award me (Earned leave with pay) for the said three months. I shall pray for your long life, sir

Hidayat Ur Rehman
Hidayat Ur Rehman
SST, GMS Sabi
Peshawar

Attested to be
true copy
[Signature]

2/3/11-58

Annexure

12



**GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT**

No. SO(Audit)E&SED/6-10/R/2019
Dated Peshawar the 16.12.2019

To

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

13

Subject:- **EARNED LEAVE.**

I am directed to refer to your letter No. 4305/F.No.511/SST(M)Deptt:Perm/KK. Dated 10.12.2019 and to state that Leave case (90 days) in respect of Mr. Hidayat Ur Rehman, SST (BPS-17) Personal at GMS Sabi Peshawar, was processed/sanctioned by E&SED leave without pay keeping in view of suggestion/recommendation made by DEO (M) Peshawar vide his letter No. 5994/AE-III dated 30.10.2019.

Now your directorate has furnished as application vide letter referred to above in r/o the above named officer requesting there in to convert his leave into full pay.

I am therefore, directed to request to ask views/seek advice in the matter from DEO (M) Peshawar and submit the same to this department for processing of the leave case.

(Said Gul)
Section Officer (Audit)

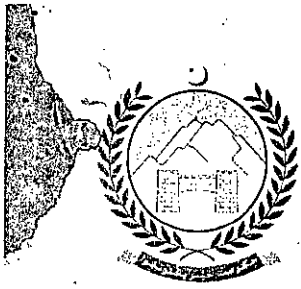
Endst: even No. & date.

Copy of the above is forwarded to:-

1. The District Education Officer, (Male) Peshawar.
- ✓ 2. Mr. Hidayat Ur Rehman, SST (BPS-17) Personal at GMS Sabi Peshawar.
3. PA to Deputy Secretary (Budget) E&SE, Khyber Pakhtunkhwa Peshawar.

Said Gul
Section Officer (Audit)

*Attested to be
true copy*
Said Gul



**GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT**

No. SO(Audit)E&SED/6-10/R/2019
Dated Peshawar the 18.02.2020

To

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

Annexure

Subject:- **GRANT OF EARNED LEAVE.**

"D"
14

Dear Sir,

I am directed to refer to your letter No. 4321/F.No.11/09(M) Establishment Leave cases dated 17.01.2020 on the subject noted above and to state that proposal contained in leave request of Mr. Hidayat Ur Rehman, SST (BPS-17) Personal at GMS Sabi District Peshawar has been regretted by the competent authority.

(Said Gul)
Section Officer (Audit)

Endst: even No. & date.

Copy of the above is forwarded to:-

1. The District Education Officer, (Male) Peshawar.
- ✓ 2. Mr. Hidayat Ur Rehman, SST (BPS-17) Personal at GMS Sabi District Peshawar.

Said Gul
Section Officer (Audit)

*Attested to be
true copy*

Said Gul

WAKALATNAMA
(Power Of Attorney)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

15

Hidayat ur Rehman.....Appellant

VERSUS

The Government of Khyber Pakhtunkhwa
Through Secretary E&SE & others.....Respondents

We, The undersigned (Appellant) in the

above noted Service appeal, do hereby appoint **Mr. Adnan**

Aman, Advocate to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my /our counsel in the above noted matter, without any liability for their default and with the authority to engage/ appoint any other Advocate/Counsel at my/our matter.

Attested & Accepted By.



Adnan Aman

bc-13-4253

Cell No.0321-9853530

Advocates High Court(s), Peshawar

15-B Haroon Mansion, Khyber Bazar,
Peshawar


Signature of Executants

Hidayat - ur - Rahman
(appellant)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

APPEAL NO .6130/2020

Hidayat ur Rehman.....Appellant.

V/S

Secretary Elementary & Secondary Education Department,
Khyber Pakhtunkhwa, Peshawar and othersRespondents.

(Para wise reply on behalf of respondent No. 4)

Respectfully Sheweth:-

Para 1 to 8:

Being an Administrative matter the issue relates to other Respondents. And they are in a better position to redress the grievances of the Appellant. Besides the Appellant has raised no grievances against Respondent No.04.

It is pertinent to mention here that if any Administrative Department concerned of any government servant submitted application for leave entitlement, Accounts office only issue certificate for entitlement and has no concern with the nature of leave. Accordingly leave entitlement certificate issued to the appellant under the rules (copy enclosed).

Keeping in view the above mentioned facts it is, therefore, humbly prayed that the name of Respondent No.4 may kindly be deleted from the list of Respondents.


**ADDITIONAL ACCOUNTANT GENERAL
KHYBER PAKHTUNKHWA**

4 sets

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

Service Appeal No: 6130/2020

Hidayat Ur Rehman SST B-17 (P) GMS Sabi District Peshawar.....Appellant.

VERSUS

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

JOINT PARAWISE COMMENTS FOR & ON BEHALF OF RESPONDENTS No:1-2

Respectfully Sheweth:-

The Respondents No.1-2 submit as under:-

PRELIMINARY OBJECTIONS.

- 1 That the Appellant has got no cause of action/locus standi.
- 2 That the instant Service Appeal is badly time barred.
- 3 That the Appellant has concealed material facts from this Honorable Tribunal in the instant service appeal.
- 4 That the instant Service Appeal is based on mala-fide intentions.
- 5 That the Appellant has not come to this Honorable Tribunal with clean hands.
- 6 That the Appellant is not entitled for the relief he has sought from this Honorable Tribunal.
- 7 That the instant Service Appeal is against the prevailing law & rules.
- 8 That the instant Appeal is based on mala fide intentions just to put extra pressure on the Respondents for gaining illegal service benefits.
- 9 That the instant Service Appeal is not maintainable in its present form.
- 10 That the instant Service Appeal is bad for mis-joinder & non-joinder of the necessary parties.
- 11 That the instant Service Appeal is barred by law.
- 12 That the Appellant is not competent to file the instant appeal against the Respondents.

13 That the appellant is not entitled for the grant of earned leave of 90 days under the rules.

14 That the impugned Notification dated 14-11-2019 & 18-02-2020 are legally competent.

ON FACTS.

- 1 That Para-1 needs no comments being relates to the service record of the appellant in the respondent Department.
- 2 That Para-2 is also needs no comments being relates to the service record of the appellant in the Respondent Department.
- 3 That Para-3 is incorrect & denied as each & every civil servant is liable to serve his parent Department with his utmost devotion for the salary he has drawing from the Govt; Treasury.
- 4 That Para-4 is correct to the extent of filling of an application for the grant of 90 days earned leave w.e.f. 15-08-2019 to 15-11-2019 on dated 14-10-2019 to the Respondent No.2 which was accorded vide notification No.So.Audit/E&SED/leave(103)/2019 dated 14-11-2019 by the Respondent No.1 without Pay. **(Copies of the application dated 14-10-2019 & leave sanction order 14-11-2019 are Ann-A & B).**
- 5 That Para-5 is correct, hence, needs no further comments.
- 6 That Para-6 is correct that an appeal against the Notification dated 14-11-2019 has been filed by the appellant to the respondent No.2 which was forwarded to the Respondent No.1 vide letter dated 10-12-2019 & is response to the letter under reference. The Respondent No.1 vide his letter dated 16-12-2019 directed the Respondent no.2 for seeking advice from the Respondent no.3 & consequent upon the same the Departmental appeal of the appellant was regretted vide letter dated 18-02-2020 by maintaining the notification dated 14-11-2019 as legally competent. **(Copies of the appeal, letter dated 16-12-2018 & 18-02-2020 are Ann-C, D & E).**
- 7 That Para -7 is correct, hence, needs no comments.
- 8 That Para-8 is 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 & policy by the Respondent Department in the instant case, hence, the stand of the appellant is baseless & liable to be rejected as the Notification dated 14-11-2019 is legally competent.

- B **Incorrect & not admitted.** The appellant has been treated as per law, rules & policy by the Respondent Department in the instance case, hence, the stand of the appellant is baseless & liable to be rejected.
- C **Incorrect & not admitted.** The statement of the appellant is without any cogent reason & justification on the grounds as agitated in the foregoing paras of the present reply by the Respondents.
- D **Incorrect & not admitted.** The stance of the appellant is without any cogent reason & legal justification & liable to be rejected.
- E **Incorrect & not admitted.** The stance of the appellant is without any legal force & justification as proper explanation has been given in the above mentioned paras in the present reply.
- F **Incorrect & not admitted.** The stance of the appellant is without any legal force & justification as proper explanation has been given in the above mentioned paras in the present reply.
- F **legal.** However, the Respondents No.1-3 also seek leave of this Honorable Tribunal to submit additional grounds, case law and record at the time of arguments on the date fixed before this Honorable Bench.

In view of the above made submissions, it is most humbly requested that this Honorable Tribunal may very graciously be pleased to dismiss the instant Service Appeal in favor of the Respondents in the interest of justice.

Dated ___ / ___ /2020

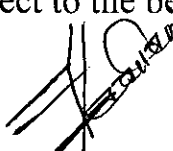

SECRETARY
E&SE Department Khyber
Pakhtunkhwa, Peshawar
(Respondent No: 1)


DIRECTOR

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

AFFIDAVIT

I, **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

Annex (A)

(9)

(A)

Annexure

"A"

The Director,
Elementary and Secondary Education,
Khyber Pakhtunwkhah Peshawar.

Subject: REQUEST FOR THREE MONTHS EARNED LEAVE DUE TO
DELAY IN PROCESSING OF RETIREMENT CASE.

Dear Sir,

I am to refer to the subject cited above with due respect and to state that I had applied for premature retirement w.e.f 30-06-2019 and submitted application according to the office DEO Male Peshawar which was forwarded to your good office.

The above mentioned application got delayed during processing and I left the school from August 15, 2019 onward in connection with some personal issues and health problems. Later on I learned that my retirement case could not be processed in time and due to revised retirement case could not be considered.

It is therefore, requested to grant me sanction of earned leave w.e.f 15-08-2019 to 15-11-2019 (Three Months in the light of attached leave admissibility report.

It shall be grateful to you for this kindness.

sent & recommended
to DEO (E&S) for info file

53

14/10/19

DEO officer (M)
no: 53-14-10-19

Hidayat Ur Rehman

SST, GMS Budhni Sabi
Peshawar

Dated: 14-10-19

Attested to be
true copy
[Signature]

Annex B

(A)

(B)

Annexure

" B "

Dated Peshawar the 14.11.2019

(11)

NOTIFICATION.

No. SO: Audit/E&SED/6-4/E-Leave(103)/2019. Sanction is hereby accorded to grant Earned Leave **(90 days without pay)** w.e.f. 15.08.2019 to 15.11.2019 in favour of Mr. Hidayat ur Rehman, SST (BPS-17) Personal at GMS Sabi Peshawar, as admissible under Revised leave Rules, 1981.

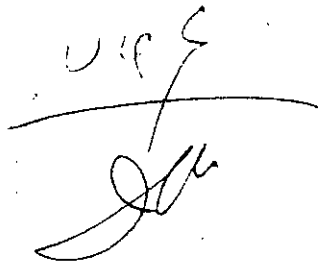
Secretary
E&SE Department,
Khyber Pakhtunkhwa, Peshawar.

Endst: Even No. & Date.

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

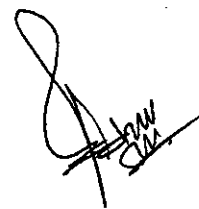
1. The Accountant General of Khyber Pakhtunkhwa Peshawar.
2. The Director, E&SE Khyber Pakhtunkhwa Peshawar.
- ✓ 3. The District Education Officer, (Male), Peshawar.
4. The Section Officer (School/Male) Elementary & Secondary Education Department.
5. P.S to Secretary E&SE Department Khyber Pakhtunkhwa Peshawar.
6. Officer concerned.

1088
19/11/19

U.P.S.


(Said Gul)
Section Officer (Audit)

Attested to be
true copy



Annex C

3/1/58
85-58

TO,

The Director,
Elementary & Secondary Education,
Khyber Pukhtoonkhwa Peshawar.

Annexure

"C"
12


Subject:-

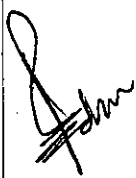
APPEAL

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With due respect It is requested that, I had given an application for three months leave. Leave admissibility, from AG Office was also attached herewith. I have enjoyed no earned leave in all my 34 years' service.

My case was considered as leave without pay. Notification is attached. You are requested to award me (Earned leave with pay) for the said three months. I shall pray for your long life, sir


Hidayat Ur Rehman
SST, GMS Sabi
Peshawar

Attested to be
true copy


ANNEX D



**GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT**

No. SO(Audit)E&SED/6-10/R/2019
Dated Peshawar the 16.12.2019

To

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

13

Subject:- **EARNED LEAVE.**

I am directed to refer to your letter No. 4305/F.No.511/SST(M)Deptt:Perm/KK. Dated 10.12.2019 and to state that Leave case (90 days) in respect of Mr. Hidayat Ur Rehman, SST (BPS-17) Personal at GMS Sabi Peshawar, was processed/sanctioned by E&SED leave without pay keeping in view of suggestion/recommendation made by DEO (M) Peshawar vide his letter No. 5994/AE-III dated 30.10.2019.

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I am therefore, directed to request to ask views/seek advice in the matter from DEO (M) Peshawar and submit the same to this department for processing of the leave case.

(Said Gul)
Section Officer (Audit)

Endst: even No. & date.

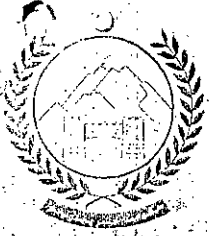
Copy of the above is forwarded to:-

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2. Mr. Hidayat Ur Rehman, SST (BPS-17) Personal at GMS Sabi Peshawar.
3. PA to Deputy Secretary (Budget) E&SE, Khyber Pakhtunkhwa Peshawar.

(Signature)
Section Officer (Audit)

Attested to be
true copy
(Signature)

E
Annex D



**GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT**

No. SO(Audit)E&SED/6-10/R/2019
Dated Peshawar the 18.02.2020

To

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

Annexure

Subject:-

GRANT OF EARNED LEAVE.

"D"
14

Dear Sir,

I am directed to refer to your letter No. 4321/F.No.11/09(M) Establishment Leave cases dated 17.01.2020 on the subject noted above and to state that proposal contained in leave request of Mr. Hidayat Ur Rehman, SST (BPS-17) Personal at GMS Sabi District Peshawar has been regretted by the competent authority.

(Said Gul)
Section Officer (Audit)

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- ✓ 2. Mr. Hidayat Ur Rehman, SST (BPS-17) Personal at GMS Sabi District Peshawar.

Said Gul
Section Officer (Audit)

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true copy*

Said Gul