

BEFORE THE LEARNED SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA HON'BLE PESHAWAR

Service Appeal No. 1520/2022

Amended Appeal —

Faheemullah..... Appellant

VERSUS

Govt of KPK & others..... Respondents

I N D E X

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Through


Appellant


AW

BASHIR KHAN WAZIR
Advocate, High Court
Peshawar

BEFORE THE LEARNED SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA HON'BLE PESHAWAR

Service Appeal No. 1520/2022

**Faheemullah S/o Ali Khan R/o Qoum Koki Khel tapa Sher
Khan Khel, Ghundi, jamrud District Khyber**

..... Appellant

VERSUS

1. Secretary, Elementary & Secondary Education, KPK Peshawar.
2. Director Education Elementary & Secondary Education, KPK Peshawar.
3. District Education Officer (M) District Khyber.

..... Respondents

AMENDED SERVICE APPEAL UNDER SECTION 4
OF KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
ACT 1974 AGAINST THE ORDER DATED
18.12.2014, WHEREBY THE APPELLANT WAS
REMOVED FROM SERVICE, AGAINST WHICH
THE DEPARTMENTAL APPEAL WAS FILED,
WHICH WAS NOT DECIDED EVEN THE
MANDATORY PERIOD HAS BEEN EXPIRED.

Respectfully Sheweth:-

1. That the Appellant is peaceful and law abiding citizen of Pakistan and belongs to respectable family and entitled for all the legal and fundamental rights guaranteed under the constitution of Islamic Republic of Pakistan.
2. That the Appellant belongs to the merged area district Khyber and before promulgation of the 25th amendment of the Constitution the said area was fall in FATA and before merger of FATA the forefather of the Appellant offered the land for establishment of School and the competent authority appointed the Appellant on the post of Mali on dated 10.09.1995. **(Copy of the Appointment Order and medical Report is attached as annexure A)**

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3. That since his appointment the Appellant performing his duty with great zeal and zest and no complaint whatsoever has been filed against the Appellant before the competent Authority.
 4. That in the year 2014 the Appellant left the country for medical treatment and submitted Application to the Competent Authority for Ex-Pakistan Leave but without decision of the said Application, the Appellant proceeded Abroad for medical purpose. **(Copy of the Medical history is attached as annexure B)**
 5. That the Respondent No 3 without deciding the Application of the Appellant, inquiry proceedings had been initiated against the Appellant and lastly the impugned order in respect of removal from service on dated 18.12.2014 has been issued. **(Copy of the Inquiry proceedings and impugned Order are attached as annexure C)**
 6. That after the return of the Appellant from Abroad, he got the knowledge of removal from service, the Appellant submitted Application to the Respondent No 3 for issuance obtaining of impugned order and also filed Application for re-instatement into service, which Application was communicated to the Respondent No 1 & 2 for onward decision, but no avail. **(Copy of the reinstatement Application is attached as annexure D)**
 7. That the Appellant submitted a proper Departmental Appeal after getting the impugned order to the Respondent No 1 & 2 and the Respondent No 1 & 2 are bound to decide the Departmental Appeal of the Appellant, however the Appellant was informed by the Respondent No 1 & 2 that the Appeal of the Appellant is kept pending. **(Copy of the Departmental Appeal along with better Copy is attached as annexure E)**
 8. That the Respondents No 1 & 2 being the competent authority and it is the duty of the Respondents No 1 & 2 to decide the Departmental Appeal of the Appellant, but the Respondents are reluctant to decide the same without any cogent reasons.
 9. That thereafter the Appellant approaches the Hon'ble Peshawar High Court Peshawar in Writ Petition No.

3023-P/2022, in which the Hon'ble Peshawar High Court Peshawar issued direction to Approach this Hon'ble Tribunal vide Order and Judgment dated 25.08.2022. **(Copy of Writ Petition and Order dated 25.08.2022 is attached as annexure F)**

10. That the Appellant feeling aggrieved, now having no other adequate remedy but to approach this Hon'ble Court, inter alia on the following grounds:

GROUNDS:-


- A) That the Appellant is peaceful and law abiding citizen of Islamic Republic of Pakistan and is fully entitled to all the basic and fundamental rights as enshrined in the fundamental law of the state, interpreted and guaranteed by the law of the land.
- B) That the fundamental right of the Appellant has blatantly violated by the Respondents and the Appellant have been discriminated and has been denied his due rights under the Constitution of Islamic Republic of Pakistan, 1973.
- C) That the acts of the Respondents of not following the same criteria which has been safeguarded by the law and rules and guidelines provided by the apex courts that when the employee serving on respective post the competent authority is not allowed to removed the employee with malafide intention or for ulterior motives, while in the present case the respondents neither only violated the prescribed rules and regulations but also harassed the Appellant which can easily be gathered from the face of order, which is illegal, unlawful, unnatural, ab-initio, null and void in the eye of law, hence liable to be declared so.

- 4
- D) That it is well settled Law and consistent view of the August Superior Courts that whenever any major punishment the procedure provided under the E&D rules 2011 must be followed and without proper inquiry no order in respect of Civil Servant is sustainable in the eyes of law.
- E) That the respondents No. 1 & 2 violated the fundamental rights of the Appellant enshrined under the article 4 and 10 of the constitutional of Pakistan.
- F) That it is the bounded duty of the Competent Authority to issue speaking order, the public functionaries are bound to decide the cases of their subordinates after Application of mind with cogent reasons with reasonable time and according to the section 24-A of the Act 1897, however in the present case Respondent No 1 & 2 violated the prescribed procedure of Law and Rules.
- G) That according to the Article 4 & 5 every citizen has inalienable right to be treated in accordance with law as envisaged by Article 4 of the Constitution, the public functionaries are obliged to act within the four corners of mandate of constitution and law, even Chief Executive of the Country is not above the constitution and is bound to obey, command of constitution as envisaged under Article 5 of the Constitution.
- H) That any other ground not raised here specifically may graciously be allowed to be raised at the time of arguments.


It is therefore, most humbly prayed that "On acceptance of the instant Appeal, the Impugned Order dated 18.12.2014, whereby the Appellant was removed from service may kindly be set aside and the Appellant

may graciously be reinstated to his respective post
with all back benefits”

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


Appellant

Through


BASHIR KHAN WAZIR
Advocate, High Court
Peshawar

CERTIFICATE:

It is certified that no such like Service Appeal has earlier
been filed before this Hon'ble Tribunal.


DEPONENT

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BEFORE THE LEARNED SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA HON'BLE PESHAWAR

Service Appeal No. 1520/2022

Faheemullah..... Appellant

VERSUS

Govt of KPK & others..... Respondents

AFFIDAVIT

I, **Faheemullah S/o Ali Khan R/o Qoum Koki Khel Tapa Sher Khan Khel, Ghundi, jamrud District Khyber**, do hereby solemnly affirm and declare that the contents of the accompanying **Service Appeal** true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.


DEPONENT

CNIC # 21202-2039883-7

Cell # 0300-5889422

Identified By:


BKW

BASHIR KHAN WAZIR
Advocate, Peshawar



13-12-2022

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BEFORE THE LEARNED SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA HON'BLE PESHAWAR

Service Appeal No. 1520/2022

Faheemullah..... Appellant

VERSUS

Govt of KPK & others..... Respondents


APPLICATION FOR CONDONATION OF DELAY OF FILING OF
APPEAL IF ANY

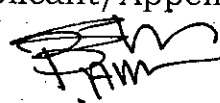
Respectfully Sheweth:

1. That the above noted Appeal is being filed before this Hon'ble Tribunal in which no date of hearing has yet been fixed.
2. That during course of departmental Appeal the Appellant filed Writ Petition before the Hon'ble Peshawar High Court Peshawar, which was disposed off with direction to approach proper forum.
3. That there is no legal bar on acceptance of the instant Application.

It is, therefore, most humbly prayed that on acceptance of this application, the delay, if any, may kindly be condoned in the interest of justice.

Through


Applicant/Appellant


BASHIR KHAN WAZIR
Advocate, High Court
Peshawar

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BEFORE THE LEARNED SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA HON'BLE PESHAWAR

Service Appeal No. 1520/2022

Faheemullah..... Appellant

VERSUS

Govt of KPK & others..... Respondents

AFFIDAVIT

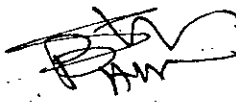
I, **Faheemullah S/o Ali Khan R/o Qoum Koki Khel Tapa Sher Khan Khel, Ghundi, Jamrud District Khyber**, do hereby solemnly affirm and declare that the contents of the accompanying **Application** true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.

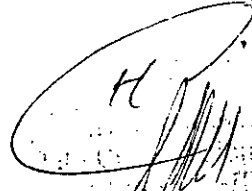

DEPONENT

CNIC # 21202-2039883-7

Cell # 0300-5889422

Identified By:


BASHIR KHAN WAZIR
Advocate, Peshawar


13-12-2022

(A) 11 33 A 1

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OFFICE OF THE AGENCY EDUCATION OFFICER, KHYBER AGENCY-AT JAMRUD.

APPOINTMENT ORDER:

Mr. Faheemullah Son/Daughter of Ali Khan
is hereby appointed as Head at GHS, Ghundi Wali Khan Killi in BPS No 1
of Rs 1245-35-1770. PM fixed plus usual allowances as admissible under the rules with effect from
the date of His/Her taking over charge against a newly created Post.

Note:

- A. Charge report should be submitted to all concerned.
- B. The appointment of the candidate is being made purely on temporary basis and is liable to termination any time without any notice. In case He/She wishes to resign his/her post He/She shall have to give one month prior notice or forfeit one month pay in lieu thereof. His/Her services will be considered if He/She is not selected by the selection committee.
- C. His/Her Original Education Qualification, date of birth and Domestic Certificate should be checked before He/She is handed over charge of the post and attested copies thereof be kept on record of the school/office.
- D. He/She should produce Health and Age Certificate from the Agency Surgeon Concerned.
- E. Age should be recorded to the Government Data.
- F. He/She fails to report within 15 days the order will be treated as cancelled.

Faheemullah
Agency Education Officer,
Khyber Agency at Jamrud

Order No 64035-37 / Dated 10/09/2016

- A. Director of Education (FATA) / NWFP, Peshawar.
- B. Agency Account Officer, at Peshawar.
- C. Head Master/ Faheemullah GHS, Ghundi Wali Khan Killi.
- D. A. F. C. Khyber / Faheemullah.

Faheemullah
Agency Education Officer,
Khyber Agency at Jamrud

**OFFICE OF THE AGENCY EDUCATION OFFICER, KHYBER
AGENCY AT JAMRUD**

APPOINTMENT ORDER

Mr/Mrs/Miss. Faheemullah, Son/daughter of Ali Khan, is hereby appointed as Mali, at GHS Ghundi Wala Khan Killi in BPS No. I, of Rs. 1245-35-1770, PM fixed plus usual allowances as admissible under the rules with effect from the date of his/her taking over charge against a newly created Mali Post.

Note:

- A. Charge report should be submitted to all concerned.
- B. The appointment of the candidate is being made purely on temporary basis and is liable to termination any time without any notice. In case he/she wished to resign his/her post he/she shall have to give one month prior notice or forfeit one month pay in lieu thereof his/her services will be terminated if he/she is not selected by the selection committee.
- C. His / Her original education Qualification date of birth and domicile certificate should be checked before he /she is handed over charge of the post and attached copies thereof be kept on record of the school/office.
- D. He/she should produce Health and Age Certificate from the Agency Surgeon Concerned.
- E. Age should be accorded to Government Policy.
- F. He / she fails to report within 15 days the order will be treated as cancelled.

**Agency Education Officer
Khyber Agency at Jamrud**

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MEDICAL CERTIFICATE

Name of Official: Mr. Faheemullah
 Category: Medical
 Employer's Name: Mr. Ali Khan
 Address: Malik Wali Khan Kili Jamrud
Khyber Agency
 Date of birth: 2.12.72
 Exact height by measurement: 3'4"
 Personal marks of identification: Small mole on chest
 Signature of the Official: _____
 Signature of head of office: _____

Seal of Office: _____

I do hereby certify that I have examined Mr. Faheemullah, a candidate for employment in the Office of the Education Officer, Khyber Agency and have not discovered that he has any disease communicable or other constitutional affliction or bodily infirmity except _____

I do not consider this as disqualification for employment in the office of the Education Officer, Khyber Agency. His age according to his own statement, 23 years and by appearance about 23 years.

LEFT HAND THUMB AND FINGER
IMPRESSIONS: _____

[Signature]
 Agency Surgeon General
Khyber Agency

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North Bristol
NHS Trust

Frenchay
Frenchay Park Road
Bristol
BS16 1LE
Info@dr.martin/nhs.gov.uk
0117 9505050

Good Morning,

Dear Sir/Madam I am doctor Lesley Martin my specialist field is the diagnosis and treatment of mental illness. I qualified as a doctor in 1998. I can confirm from the Frenchay Hospital record that Fahem ullah/o Ali Khan was my patient who was diagnosed with severe anxiety, Trauma and Mental stress in January, 2011. He is a Pakistani National. Cause of mental illness was stressful situation back home in Pakistan as well as internal family issues.

If you need any further assistance please do not hesitate to contact.
Kinds regards.

Dr. Lesley Martin.
09/06/2021.



Agency Education Office
Khyber Agency at Jamrud
PHONE. 091-5820584 FAX 091-5820023

Ref. B:117

Date: 18/10/2014

To

Saleem Khan Wazir,
Head Master GHS Hashim Abad
Jamrud Khyber Agency.

Subject:- INQUIRY OF ABROAD/ABSENT TEACHERS

Memo,

Reference the Faxed complaint received in this office where in Mr. Zia ur Rahman PTC GPS Zabit Noor Killi NOC, resignation & extra ordinary leave application sanction seem fake and Mr. Fahcem Khan S/O Ali Khan Class iv and Mr. Saif Ullah PTC are abroad.

You are requested to inquire the matter in detail and submit report to that effect within seven days so the further action could be devised.

Agency Education Officer,

Khyber Agency at Jamrud.



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AGENCY EDUCATION OFFICE
KHYBER AGENCY AT JAMRUD
PHONE: 091-5820584 FAX 091-5820584
NO. 664 DATED 13/08/2014

To

The Director of Education FATA,
FATA secretariat Peshawar.

Subject:

FAXED COMPLAINT

against abroad teachers

Memo

The complaint faxed to this office, by your good office, including three officials reportedly abroad.

1. Mr. Zia ur Rahman PTC GPS Zabit Noor Killi is working as Assistant Director (Agency coordinator) in FDMA. He has been granted extra ordinary leave without pay by the then AEO vide No 2707-10 dated 03/05/2013 w.e.f 03/06/2013 to 03/06/2014. He has also been granted NOC for working in FDMA vide this office No 2711 dated 03/05/2013. Where there seems to be over writing in NOC date. He has also tendered resignation w.e.f 03/06/2014. His personal Mo has been sent to the concerned in order to verify where they he is in receipt of salary or otherwise.
2. Mr. Faheem Khan S/O Ali Khan Class iv is also not perform his duty the detailed report the Principal concerned, the DDO, having his own cost center is enclosed for perusal.
3. The report of Mr. Saif Ullah PTC has been asked of the AAEO Bara, the same will be sent to your office as and when the AAEO turned up for duty.

This may be treated as in intern reply.

[Signature]
Agency Education Officer,
Khyber Agency at Jamrud.

Endst: No. 6625-26 Dated 13/08/2014

Copy of the above is forwarded to the:-

1. Secretary Social Sector Department FATA Secretariat.
2. Political Agent Khyber Agency at Khyber House Peshawar.

[Signature]
Agency Education Officer,
Khyber Agency at Jamrud.



Agency Education Officer
Khyber Agency at Jamrud Date 28/10/2014
PHONE. 091-5820265 FAX 091-5820041

Ref: 8346-52

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You the following officials of Khyber Education are absent wef the date noted against your name until now.

	Name	F/Name	Absent wef	Remarks
1	Mr Salfullah	Pir Muhammad	30-Sept-07	Personal #4231929
2	Mr Said Karim	Faqir Gul	10-sep-11	Personal #467176
3	Mr Bad Shah khun	Hazrat khun	-- to 18-jul-14	CNIC#1201-2260669-5
4	Mr Khan Akbar	Shezad khun	17-jul-07	CNIC#1201-7775543-1
5	Mr Hkmat khun	Khan Muhammad	11-jul-07	17301-190866-3
6	Mr Shauatullah	Rehamatullah	29-aug-09	
7	Mr Fataemullah	Ali khun	13-dec-10	

I, Atiq-ur-Rahman, Agency Education Officer Khyber, in the capacity of the competent authority do hereby issue this notice, through a registered acknowledgement, on your home address directing you to show cause of your absence within 15 days of issuance of this notice. It must be noted that if this notice is received back as undelivered or no response is received from you, within the stipulated time period, another notice would be published in two leading news papers Daily Aaj and Daily Mashriq for directing you to show cause of your willful absence with in another 15 days of the publication of that notice, failing which an ex-parte decision would be taken against you. On the expiry of that stipulated period in the notice, major penalty of removal from service will be imposed upon you.

Agency Education Officer,
Khyber Agency at Jamrud

Endstt No. 8353-59 dated 28/10/2014

Copy for information and necessary action to:-

1. Additional chief Secretary FATA Secretariat Peshawar
2. Secretary (AI&C) FATA Secretariat Peshawar.
3. Director Education FATA
4. Political Agent Khyber at Khyber House.
5. DD (M&E) Directorate of Education FATA
6. AAEO (C) local office.
7. Pn- Clerk (C)

Agency Education Officer,
Khyber Agency at Jamrud



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KHYBER AGENCY
AGENCY EDUCATION OFFICE
PHONE: 091-5320384 FAX 091-5820584
NO. 6690
DATE: 21/08/2014

To
The Deputy Director, Immigration,
Bacha Khan International Air Port,
Peshawar.

Subject:- ABROAD OFFICIALS

Memo,

You are requested to send the TRAVEL HISTORY of the following officials of this department, in the light of their CNIC, to this department so that further course of legal proceedings against these officials could be devised in the light of your report.

These officials have managed by some how to escape either by using substitutes with fake NIC having pictures of substitutes whereas the Nos. of the CNIC is the same.

The only way to curb this practice of these officials is the TRAVEL HISTORY, so sent by your office.

1. Rukhsana Shoukat SET D/o Shoukat Ali Shah Personal No# 00423241 Her CNIC# is 17301-1266619-8. Reportedly she is still in London. On investigation it was reported that her date of 1st appointment is 06.09.2003. Her salary was stopped wef 01.04.2009 to 30.04.2012 but the same restarted wef 01.05.2012 to 30.06.2014 (25 months) while she was abroad. Her salary had been stopped by AAO Khyber wef 01.07.2014 after the frequent repeated requests of the undersigned in writing through proper source.
2. Naheed Akhtar SST GGMS Haji Musokhan Lal Shalman Landi kotal Personal No# 50155190 absent from her duty since 01/01/2013, Her CNIC # is 16101-11084230 and her 1st appointment date is 25/06/2012.
3. Saif Ullah S/O Pjr Muhammad Personal No. 004231929 CNIC # 17301-1423773-7
4. Sald karim S/o Faqeer Gul Personal No. 00407176 CNIC # 21201-9294925-7
5. Badshah Khan S/O Hazrat Khan CNIC # 21202-2260669-5
6. Khan Akbar S/O Shahzad Gul CNIC # 21201-7775543-1
7. Hikmat Khan S/O Khan Muhammad CNIC # 17501-4508866-3
8. Numan S/O Muhammad Anwar had come back from Dubai CNIC # 21201-9493453-1
9. Jalalabad P.No00414675 he is in Dubai CNIC # 21202-1121185-5
10. Khalid Razo S/o Ghulam Muhammad in Egypt CNIC # 21203-4441464-5
11. Shaat Ullah S/o Rehmat Ullah Personal No. 00494349 in America CNIC # 21203-3525452-9
12. Sajjad Afridi S/o Mewa Khan in Kuwait CNIC # 21202-2330707-1
13. Faheemullah S/O Ali Khan CNIC#21202-2939883-7

You are once again very earnestly requested to send the TRAVEL HISTORY of the above officials, in the light of their CNIC, to this department and oblige

Agency Education Officer,
Khyber Agency at Jamrud.

Endstt No.6690-93 Dated 21.08.2014

1. Secretary Social Sector Department FATA Secretariat
2. Director Education FATA Peshawar.
3. Political Agent Khyber at Peshawar.
4. DS(AI&C) FATA Secretariat Peshawar.

Agency Education Officer,
Khyber Agency at Jamrud.

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NOTIFICATION


1. WHEREAS the Director Education FATA had faxed a complaint 31/03/2014 that Mr Faheemullah Mall S/O Ali Khan GHS Ghundi Jamrud had been abroad.
2. AND WHEREAS the Agency Education Officer Khyber sent the case along with other suspected abroad officials to the FIA Immigration department Peshawar vide this office No.6589 dt 21/08/2014
3. AND WHEREAS the Assistant Director FIA Immigration Peshawar sent the travel history in respect of Mr Fahimullah, along with other 10 abroad officials showing Mr Fahimullah as abroad since 13 December 2010 vide No.508 dt 01/09/2014.
4. AND WHEREAS the Head master GHS Ghundi was had also been asked to report the detail of the case, who admitted that Mr Faheemullah is abroad and is being substituted vide, his letter dt 12/08/2014.
5. AND WHEREAS a committee was also appointed consisting of Mr Saleem Khan Wazir Head Master GHS Hasham Abad as Chairman and all AAEOs as members to dig out the cases of those who were willfully absent. Detailed report and documentary proof to proceed further into the matter in accordance with the rules vide notification No.6153 dated 18/07/14.
6. AND WHEREAS the committee after having examined the record has submitted its report after conducting a deep and detailed scrutiny of papers from all the relevant aspects and reported that Mr Faheemullah S/O Ali Khan GHS Ghundi Jamrud had been abroad since 11/12/2010.
7. AND WHEREAS Mr Faheemullah S/O Ali Khan GHS Ghundi Jamrud who had been to England, was proceeded against under Khyber Pakhtunkhwa Govt: Servant (Efficiency & Discipline) Rules 2011, for the charge of "willful absence from duty, as mentioned in the show cause notice served upon him under registered post at his home address vide No.B346-52 dt 28/10/2014.
8. AND WHEREAS the accused official did not submit his reply to the show cause notice.
9. AND WHEREAS absentee notices were served upon Mr Faheemullah S/O Ali Khan GHS Ghundi Jamrud through print media in daily newspapers "MASHRIQ" and "Express" on 16/11/2014 to attend the office and explain his absence period but he remained absent and did not report for duty in response to the above mentioned notices.
10. AND WHEREAS the competent authority, the Agency Education officer Khyber, after having considered the charges, evidence on record, enquiry report, and facts of the case, in the light of FIA report, is of the view that the charge of willful and unauthorized absence against the accused official has been proved.
11. NOW THEREFORE, in exercise of the Powers conferred under Rules-4 (b) (i) of Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules 2011, the competent Authority, Agency Education officer Khyber, is pleased to impose major penalty of "Removal from Service" upon Mr Faheemullah S/O Ali Khan GHS Ghundi Jamrud had been abroad with immediate effect. The Intervening period wef 13/12/2010 is hereby notified as leave without pay.

(Atiq-ur-Rahman)
Agency Education Officer,
Khyber Agency at Jamrud.

Endst: No. 10228-37 Dated Jamrud the 18/12/2014

Copy forwarded to the:-

1. Additional Chief Secretary FATA Secretariat Peshawar
2. Secretary SSD FATA Secretariat.
3. Director Education FATA
4. Deputy Director M&E Directorate of Education FATA.
5. Agency Account officer Khyber Agency at Jamrud.
6. AAEO concerned.
7. HM GHS Ghundi Jamrud
8. Superintendent/ Accountant
9. Official concerned.
10. Pay clerk local office


Agency Education Officer,
Khyber Agency at Jamrud.

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No. 4/75 6 /AG/V.Post Dated Peshawar the 27 /10 /2015 17

From: The Political Agent Khyber

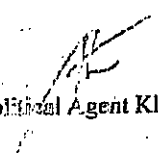
To: The Agency Education Officer,
Khyber Agency at Jamrud

Subject: APPLICATION

Memo:

A copy of an application submitted by Malik Faizullah Jan Kuki Khel Sher Khan Khel Jamrud Khyber Agency alongwith its enclosures is sent herewith.

The Request for appointment of Mehrrood Khan son of Anar Din Kamar Khel as "Mali" may be considered if rules permit.


Political Agent Khyber

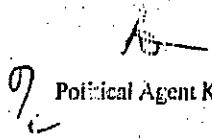
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18
NO /AG/School Dated Peshawar the 15/06/2015

From The political agent- Khyber
To Agency Education officer Khyber at Jamrud

Subject: - APPLICATION OF MALAK FAIZULAH JAN KURI KHEL
SHER KHAN KHEL

Reference This office memo No. 2593/AG/School dated 15/06/2015 Followed by reminder No.4047/AG/School dated 09/9/2015 on the subject noted above.

Action taken in the matter may please be intimated to this office at the earliest please.


Political Agent Khyber

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To: /AC/School Dated Peshawar the 15/6/2015

From: The Political Agent Khyber

To: The Agency Education Officer,
Khyber Agency at Jamrud.

Subject: APPLICATION OF MALAK FAIZULLAH JAN KUKI
KHEDI, SHER KHAN KHEL.

Memorandum:-

Reference your letter No. 10869 dated 22/01/2015 on the
subject noted above

Please process the case in light of the notification issued by
FATA Secretariat vide No. F/S/E/100-19(Vol-41)/1445-51 dated 02/02/2015.

[Signature]
o/c Political Agent Khyber

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10/20

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FATA SECRETARIAT
 DIRECTORATE OF EDUCATION
 PHASE I, LAHORE ROAD, WAZIRABAD ROAD, PESHAWAR, PAKISTAN
 PHONE 091-9210166 FAX 091-9210215
 No. _____
 Dated Pesh: the _____ / _____ / 2018

To

The Agency Education Officer,
Khyber Pakhtunkhwa

Subject: GUIDANCE
Memo:

I am directed to refer to your office letter No.11148, dated,09-03-2018 on the subject cited above. It is that as per available record (Pay Slip enclosed), one Mr. Faheem Ullah (Ex. N/A), has drawn his salary up to December 2014. Thus the period is less than five years, please

By Director (F&A)

To,

The Agency Education Officer
Khyber Agency

Subject: **GUIDANCE**

Memo:

I am directed to refer to your office letter No 11148 dated 09.03.2018 on the subject cited above (sic) that as per available record, pay slip enclosed. One Mr Faheem Ullah Ex mali has drawn his salary up to December 2014. This the period is less than five years, please.

Dy. Director (F&A)

حکومت عدالت برائے لوگوں کی خدمت - حکومت پاکستان

دعوت برائے نامزدگی برائے تقرری پالی ڈال
عمدہ (دکنہ علی خان علی) جمیہ دکنہ (170)

پالی

گزارش ہے کہ بندہ نے عائشہ فہیمہ اللہ صاحبہ ولدہ علی خان (لاہور) کو
کوئی خیال نہ ہو کہ حکومت عدالت برائے لوگوں کی خدمت پالی سٹیٹ
مڈ وی خان پور وائرل ایجنسی - حیدرآباد کے سربراہ
(Services) کو حکم کر دیا گیا ہے اور اس کے ساتھ ساتھ پالی ہے۔

اس کے ساتھ ساتھ عائشہ فہیمہ - کم فہیمہ اللہ صاحبہ کے محالے
مقررہ نام و لہذا ان کے نام کو نامزد کر کے
مقررہ نام کے سربراہ کو تقرری کے لیے
مقررہ نام کے سربراہ کو تقرری کے لیے Forward کیا گیا ہے۔

نوٹیشن نمبر - ال مارچ 30/9/2015

1۔ کامیاب خان و لہذا فہیمہ اللہ صاحبہ کوئی خیال جمیہ دکنہ

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بہتر دستہ، جناب محترم ڈائریکٹر صاحب محکمہ ایجوکیشن PE&SE

ایچیل اور خواست برائے ہمدردانہ غور

جناب عالی

مدہاندہ گزارش ہے کہ بندہ فقیر اللہ ولد علی خان (مرحوم) شیر خان خیل ملک آباد جمرو گورنمنٹ ہائی سکول ملک ملی خان مرحوم سکول میں بطور فرانسس سرانجام دے رہا تھا چونکہ مسائل بیماری کی وجہ سے علاج کیلئے باہر گیا تھا اور 2014ء میں لاٹری سے برخصات کیا گیا۔ اس کے بعد بندہ 2018ء میں اس وقت کے فنانس ڈائریکٹر نے بندہ کی ایچیل منظور کر کے جمرو د DEO کو دوبارہ بنیادی کیلئے بھیج دیا اور DEO نے ٹال مٹول سے کام لے کر ذاتی عناد کی بنیاد پر بندہ کا دوبارہ --- آج تک نہیں کیا گیا۔

جناب والا! بندہ کا خاندان ہیا اور بال بچ دار ہے بندہ کا سروں تھا لہذا استدعا کی جاتی ہے کہ بندہ کا سزا میں Compulsory خوشنکشی میں تبدیل کیا جائے۔
المرقوم 09/2021/

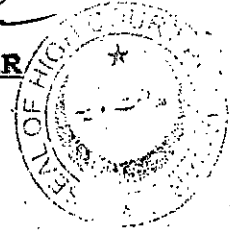
عرض گزار

فہیم اللہ جان ولد علی خان شیر خان خیل غنڈی جمرو

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IN THE HON'BLE PESHAWAR HIGH COURT PESHAWAR

W.P No. ____/2022



**Faheemullah S/o Ali Khan R/o Qoum Kohi Khel tapa
Sher Khan Khel, Ghundi, Jamrud District Khyber**

..... Petitioner

VERSUS

1. Secretary, Elementary & Secondary Education, KPK Peshawar.
2. Director Education Elementary & Secondary Education, KPK Peshawar.
3. District Education Officer (M) District Khyber.

..... Respondents

**WRIT PETITION UNDER ARTICLE
199. OF CONSTITUTION OF THE
ISLAMIC REPUBLIC OF PAKISTAN,
1973.**

Respectfully Sheweth:-

1. That the Petitioner is peaceful and law abiding citizen of Pakistan and belongs to respectable family and entitled for all the legal and fundamental rights guaranteed under the constitution of Islamic Republic of Pakistan.
2. That the Petitioner belongs to the merged area district Khyber and before promulgation of the 25th amendment of the Constitution the said area was fall in FATA and before merger of FATA the forefather of the Petitioner offered the land for establishment of School and the competent authority appointed the Petitioner on the post of Mali on dated 10.09.1995. (Copy of the **Appointment Order and medical Report** is attached as annexure A)
3. That since his appointment the Petitioner performing his duty with great zeal and zest and no complaint whatsoever has been filed against the Petitioner before the competent Authority.

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4. That in the year 2014 the Petitioner left the country for medical treatment and submitted Application to the Competent Authority for Ex-Pakistan Leave but without decision of the said Application, the Petitioner proceeded Abroad for medical purpose. **(Copy of the Medical history is attached as annexure B)**
 5. That the Respondent No 3 without deciding the Application of the Petitioner, inquiry proceedings had been initiated against the Petitioner and lastly the impugned order in respect of removal from service on dated 18.12.2014 has been issued. **(Copy of the Inquiry proceedings and impugned Order are attached as annexure C)**
 6. That after the return of the Petitioner from Abroad, he got the knowledge of removal from service, the Petitioner submitted Application to the Respondent No 3 for issuance obtaining of impugned order and also filed Application for re-instatement into service, which Application was communicated to the Respondent No 1 & 2 for onward decision, but no avail. **(Copy of the reinstatement Application is attached as annexure D)**
 7. That the Petitioner submitted a proper Departmental Appeal after getting the impugned order to the Respondent No 1 & 2 and the Respondent No 1 & 2 are bound to decide the Departmental Appeal of the Petitioner, however the Petitioner was informed by the Respondent No 1 & 2 that the Appeal of the Petitioner is kept pending. **(Copy of the Departmental Appeal along with better Copy is attached as annexure E)**
 8. That the Respondents No 1 & 2 being the competent authority and it is the duty of the Respondents No 1 & 2 to decide the Departmental Appeal of the Petitioner, but the Respondents are reluctant to decide the same without any cogent reasons.
 9. That the Petitioner feeling aggrieved, having no other adequate remedy but to approach this Hon'ble Court, inter alia on the following grounds:

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GROUNDS:-

- A) That the Petitioner is peaceful and law abiding citizen of Islamic Republic of Pakistan and is fully entitled to all the basic and fundamental rights as enshrined in the fundamental law of the state, interpreted and guaranteed by the law of the land.
- B) That the fundamental right of the Appellant has blatantly violated by the Respondents and the Appellant have been discriminated and has been denied his due rights under the Constitution of Islamic Republic of Pakistan, 1973.
- C) That the acts of the Respondents of not following the same criteria which has been safeguarded by the law and rules and guidelines provided by the apex courts that when the employee serving on respective post the competent authority is not allowed to removed the employee with malafide intention or for ulterior motives, while in the present case the respondents neither only violated the prescribed rules and regulations but also harassed the Petitioner which can easily be gathered from the face of order, which is illegal, unlawful, unnatural, ab-initio, null and void in the eye of law, hence liable to be declared so.
- D) That it is well settled Law and consistent view of the August Superior Courts that whenever any major punishment the procedure provided under the E&D rules 2011 must be followed and without proper inquiry no order in respect of Civil Servant is sustainable in the eyes of law.
- E) That the respondents No. 1 & 2 violated the fundamental rights of the Petitioner enshrined under the article 4 and 10 of the constitutional of Pakistan.
- J

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- F) That it is the bounded duty of the Competent Authority to issue speaking order, the public functionaries are bound to decide the cases of their subordinates after Application of mind with cogent reasons with reasonable time and according to the section 24-A of the Act 1897, however in the present case Respondent No 1 & 2 violated the prescribed procedure of Law and Rules.
- G) That according to the Article 4 & 5 every citizen has inalienable right to be treated in accordance with law as envisaged by Article 4 of the Constitution, the public functionaries are obliged to act within the four corners of mandate of constitution and law, even Chief Executive of the Country is not above the constitution and is bound to obey, command of constitution as envisaged under Article 5 of the Constitution.
- H) That any other ground not raised here specifically may graciously be allowed to be raised at the time of arguments.

It is therefore, most humbly prayed that on acceptance of the instant Writ petition the impugned Order may kindly be declared illegal, void ab initio and in effective upon the rights of the Petitioner.

Furthermore the Respondent No 1 & 2 are bound to decide the Appeal of the Petitioner within the four corners of law and the act of the Respondent No 1 & 2, whereby the Petitioner has been informed that the Appeal of the Petitioner is kept pending without any cogent reason, is illegal,

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unlawful, without lawful authority and they may be directed to decide the same in accordance with law.

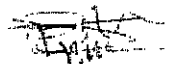
Any other relief not specifically asked for may also graciously extended in favour of the Petitioners in the circumstances of the case.

Interim Relief:

By way of Interim Relief, the Respondents may be directed to decide the Appeal of the Petitioner, till the final disposal of the instant Writ Petition

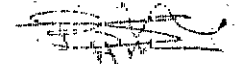
Petitioner

Through



BASHIR KHAN MAZHAR
Advocate, High Court
Peshawar

CERTIFICATE:

Certified on instructions of my client that petitioner has not previously moved this Hon'ble Court under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973 regarding the instant matter.


ADVOCATE

LIST OF BOOKS:

1. Constitution of Islamic Republic of Pakistan, 1973
 2. Any other law books according to need 
- ADVOCATE

IN THE HON'BLE PESHAWAR HIGH COURT PESHAWAR

28

W.P No. _____/2022

Faheemullah..... Petitioner

VERSUS

Govt of KPK & others..... Respondents

AFFIDAVIT
(Faheem Affidavit)

I, Faheemullah/S/o Ali Khan R/o Qourn Koldi Khel Tapa Sher Khan Khel, Ghundi, Jamrud District Khyber, do hereby solemnly affirm and declare that the contents of the accompanying Writ Petition true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.

DEPONENT

CNIC # 21202-2039883-7 ✓

Cell # 0300-5889422

Identified By:

BASHIR KHAN WAZIR
Advocate, Peshawar

15825
Mr. Faheemullah
Khyber
Bashir Khan Wazir

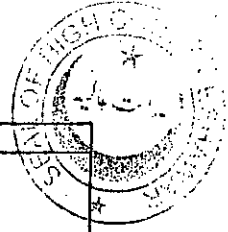
Mr. Faheemullah
Khyber
Bashir Khan Wazir

10/08/2022

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PESHAWAR HIGH COURT, PESHAWAR.

FORM 'A'
FORM OF ORDER SHEET



Date of order.	Order or other proceedings with the order of Judge
25.08.2022	<p data-bbox="624 461 863 493"><u>WP No.3023-P/2022</u></p> <p data-bbox="624 524 1235 589"><u>Present:-</u> Mr. Bashir Khan Wazir, Advocate, for the petitioner.</p> <p data-bbox="754 624 821 645">*****</p> <p data-bbox="605 687 1235 1242"><u>ROOH-UL-AMIN KHAN, J.:</u> Through the instant constitutional petition under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973, Faheemullah, the petitioner, seeks issuance of an appropriate writ to the effect that order dated 18.12.2014 passed by the respondent whereby he has been removed from service be declared as illegal, unlawful and without lawful authority and that the respondents be directed to decide his pending appeal.</p> <p data-bbox="597 1267 1227 1368">2. Learned counsel for the petitioner heard and record annexed with the petition perused.</p> <p data-bbox="597 1401 1251 1758">3. Admittedly, petitioner is a civil servant, who has been terminated from service by the respondents through the impugned order, which matter is falls within the ambit of terms and conditions of civil service. Disputes relating to such matters fall within the exclusive jurisdiction of the Service Tribunal while the jurisdiction</p>

MSajj Amir CS

DB of Mr. Justice Rooh ul Amin Hon'ble Senior Justice Judge
and Hon'ble Mr. Justice Muzaffar

Rooh ul Amin

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of the High Court is barred by the express provisions of Article 212 (2) of the Constitution of Islamic Republic of Pakistan, 1973.

3. Accordingly, this petition being not maintainable stands dismissed.

Announced:
25.08.2022

Rooh ul Ameen
Senior Puisne Judge

Feroz
JUDGE

SENIOR PUISNE JUDGE
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SEP 2022

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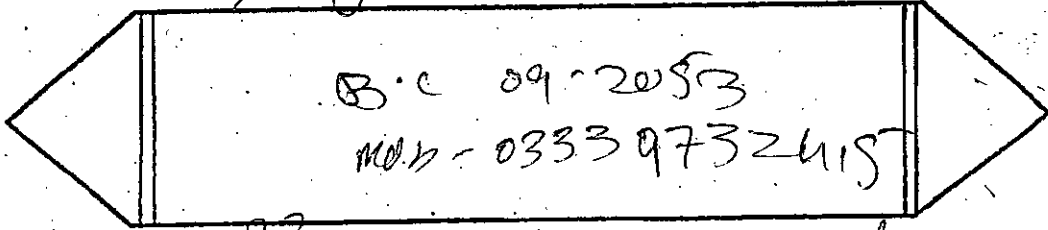
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بعدالت سندس سرٹیفکیٹ کی



2022ء پنجاب

محمد خیر اللہ بنام عروسہ

موزخہ	-----
مقدمہ	-----
دعویٰ	-----
جرم	-----

باعث تحریر آنکے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ آن مقام ~~کے لئے~~ کیلئے ~~کے لئے~~ مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز وکیل صاحب کو راضی نامہ کرنے و تقریر حالتہ فیصلہ برحلف دیئے جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق و زرائع پر دستخط کرانے کا اختیار ہوگا۔ نیز بصورت عدم پیروی یا ڈگری کی طرفہ یا اپیل کی برآمدگی اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ پرواختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ و ہرجانہ التوائے مقدمہ کے سبب سے وہ ہوگا کوئی تاریخ پیشی مقام دورہ نہ ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ مندر ہے۔

Accepted by

المرقوم 13 _____ ماہ 12 _____ 2022

واہ العب

کے لئے منظور ہے۔

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بمقام