

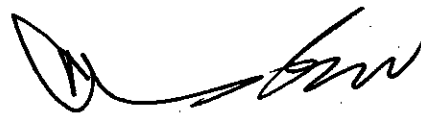
Execution Petitions . 212/2018

29<sup>th</sup> June, 2022

1. Petitioner alongwith his counsel present. Mr. Muhammad Adeel Butt, Additional Advocate General for alongwith DEO (M) D.I.Khan in person respondents present.

2. DEO(M) D.I.Khan present and submitted copy of an order in compliance of the judgment of this Tribunal passed on 19.02.2018. Learned counsel appearing on behalf of the petitioner referred to in the order sheet dated 23.11.2021 of my learned predecessor and submitted that payment of salaries for the period since appointment of the petitioner on 05.02.2012 till the first date of alleged absence from duty i.e 15.10.2013 was missing. The learned counsel submitted that the date in the above order sheet might be read as 05.12.2012 instead of 05.02.2012 as that was not correct. He agitated that as there was no direction regarding payment of salaries from the date of appointment, therefore, the order produced by the DEO (M) was not complete. Learned counsel was confronted with the memo and grounds of appeal as well as the judgment passed by the Tribunal wherein there was nothing said about the non-payment of salaries from the date of appointment i.e 05.12.2012 till the date of alleged absence of the petitioner. There is no denial of the fact that the executing court cannot go beyond the terms of the decree/judgment or order. So when there was nothing of the sort granted in the judgment, the petitioner cannot ask for that nor that could be granted. This being so it appears that the judgment of the Tribunal has been complied with in letter and spirit, therefore, this petition is filed. Consign.

3. *Pronounced in open court in D.I.Khan and given under my hand and seal of the Tribunal on this 29<sup>th</sup> day of June, 2022.*




(Kalim Arshad Khan)  
Chairman  
Camp Court D.I.Khan

28<sup>th</sup> June 2022

Petitioner in person present. Muhammad Adeel Butt,  
Adll: AG alongwith Mr. Kamran Khan, ADEO for respondents  
present.

Learned AAG assured that the judgment of the Tribunal  
will be implemented today and will submit compliance report  
tomorrow. To come up for implementation report on  
29.06.2022 before S.B at camp court D.I.Khan.

  
(Kalim Arshad Khan)  
Chairman  
Camp Court D.I.Khan

26.05.2022

Petitioner in person present. Mr. Muhammad Kamran, ADEO (Litigation) alongwith Mr. Farhaj Sikandar, District Attorney for the respondents present.

Representative of the respondents stated at the bar that as District Education Officer (Male) D.I.Khan has proceeded to Peshawar for appearance before Service Tribunal in other appeals, therefore, time may be granted for production of corrigendum notification of order dated 26.08.2019. Last opportunity given. Respondents shall issue corrigendum notification and shall produce implementation report on 26.07.2022 before the S.B at Camp Court D.I.Khan, failing which coercive measures shall be initiated against them under the law.

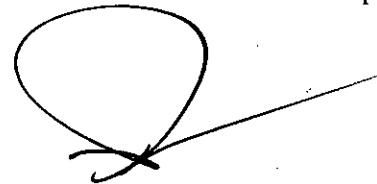


(Salah-Ud-Din)  
Member (J)  
Camp Court D.I.Khan

27<sup>th</sup> June 2022

Petitioner alongwith his counsel present. Mr. Muhammad Adeel Butt, Addl: AG alongwith Mr. Kamran Khan, ADEO (Litigation) for respondents present.

Representative of the respondents submits that the corrigendum notification will be submitted tomorrow positively. Last opportunity is granted failing which coercive measures would be taken against them. To come up for implementation report on 28.06.2022 before S.B at camp court D.I.Khan.



(Kalim Arshad Khan)  
Chairman  
Camp Court D.I.Khan

25.01.2022


Tour is cancelled, therefore, case is adjourned to 25.05.2022 for the same as before.

  
Reader.

25.05.2022

Learned counsel for the petitioner present. Mr. Muhammad Kamran, ADEO (Litigation) alongwith Mr. Farhaj Sikandar, District Attorney for the respondents present and produced letter No. 132 dated 17.11.2021, which is placed on file.

Representative of the respondents stated at the bar that corrigendum notification for implementation of the judgment under execution in letter and spirit shall be issued and produce before the Tribunal tomorrow. Respondents shall issue corrigendum notification in light of the direction mentioned in order dated 23.11.2021 passed by this Tribunal in the instant execution petition, failing which they shall expose themselves to the coercive measure hinted to in the order dated 23.11.2021. To come up for corrigendum notification on 26.05.2022 before the S.B at Camp Court D.I.Khan.

  
(Salah-Ud-Din)  
Member (J)  
Camp Court D.I.Khan

EP 212/2018

23.11.2021

Petitioner alongwith counsel and Mr. Muhammad Rasheed, DDA alongwith Muhammad Kamran, ADO (Litigation) for the respondents present.

The petitioner through this execution petition is seeking the implementation of judgment dated 19.12.2018 of this Tribunal at his credit whereby his appeal was accepted and the impugned order dated 03.08.2016 about his removal from service was set aside with his reinstatement into service. However, liberty was given to the respondents to conduct proper enquiry within a period of three months from the date of receipt of the judgment. The issue of back benefits was kept pending subject to final outcome of the enquiry. The execution petition was filed on 02.07.2018 after about five months of the passing of judgment in favour of the petitioner. The petitioner annexed an application with his execution petition wherein he stated the fact of disciplinary action against him and its setting aside by the judgment of the Tribunal and requested for his reinstatement with payment of all outstanding dues. First attendance of the respondents in the course of execution proceedings was marked on 25.02.2018 in order of even date. It was observed in the said order that the respondents were under direction to reinstate the petitioner into service and to conduct enquiry within a period of three months from the date of receipt of the judgment and the issue of back benefits was subject to the final outcome of the inquiry but the judgment of this Tribunal has not been implemented so far. Therefore, respondent-department is directed to submit implementation report on the next date with warning of coercive measures. Despite coercive measures taken by orders in subsequent proceedings, the implementation report was not submitted and lastly office order dated 26.08.2019 alongwith arrival report dated 27.09.2019 of the petitioner was submitted before the Tribunal on 24.09.2019. Learned counsel for the petitioner sought time to furnish written objection against the order dated 26.08.2019. His request was accorded, however, the objection against the said order was not submitted on behalf of the petitioner on any of the subsequent adjourned dates. It was observed vide order dated 21.09.2020 that the petitioner was reinstated into service but nothing is available on file to show proceedings of denovo enquiry. The respondents were directed to produce progress report in respect of denovo enquiry on the next date i.e



26.10.2020. On the subsequent adjourned dates, similar direction was repeated but the respondents have not been able to produce the outcome of enquiry, if any, till today. The departmental representative though stated that an enquiry officer was appointed but he has not been able to provide any tangible proof of the charge sheet and statement of allegations about nature of the enquiry. Even otherwise, the matter of denovo enquiry if taken inconsonance with timeline of three months by specific direction, the timeline so provided has not been respected by the Department. Thus, the question of denovo enquiry has become out of question. With the consent of the petitioner, it is directed that he be paid salary for the period since his appointment on 05.02.2012 till the first alleged date of absence from duty i.e. 15.10.2013, if not already paid; the period in-between 25.10.2013 to 18.12.2015 be treated as extraordinary leave without pay; and for the period onward from the said last date till his reinstatement vide order dated 26.08.2019, the petitioner is held entitled for the payment of salary when ~~the impugned order of his removal from service has been set aside~~. It is a matter of law by virtue of second proviso to Section 17 of the Khyber Pakhtunkhwa Civil Servants Act, 1973 that every civil servant, under any order, which is latter set aside, being dismissed or removed from service or reduced in rank, he shall, on sitting aside of such order, be entitled to such arrears of pay as the authority sitting aside such order may determine.

The respondents are directed to provide the corrigendum of order dated 26.008.2019 giving effect to the order as far as direction relating to the treatment of absence period as extraordinary leave without pay and about his entitlement for arrears of pay with effect from the date of removal of his service till his reinstatement made vide order dated 26.08.2019; and to produce the copy of the amended order alongwith proof of the submission of bill of arrears to the concerned Accounts Office for both the period i.e. the period in-between the appointment and the first alleged absence from duty and the second period for which the petitioner has been held entitled for salary in consequence of setting aside of the impugned order. To come up for implementation report on 25.01.2022 before S.B at camp court, D.I.Khan.



Chairman  
Camp Court, D.I.Khan

28.09.2021

Petitioner in person present. Mr. Farhat Hussain, DEO (Male) D.I.Khan alongwith Mr. Usman Ghani, District Attorney for the respondents present.

Mr. Farhat Hussain, DEO (Male) D.I.Khan stated at the bar that he will positively apprise the Tribunal regarding progress in the matter on the next date. Adjourned. To come up for implementation report before the S.B at Camp Court D.I.Khan on 23.11.2021.



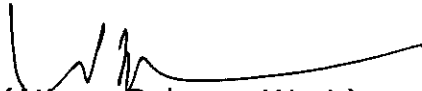
(SALAH-UD-DIN)  
MEMBER (JUDICIAL)  
CAMP COURT D.I.KHAN

24.02.2021

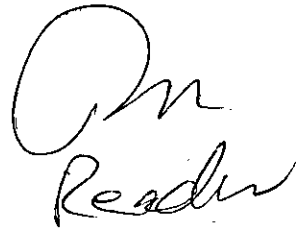
Petitioner present through counsel.

Muhammad Riaz Khan Paindakhel learned Assistant Advocate General alongwith Muhammad Kamran ADEO for respondents present.

Representative of respondents submitted order dated 26.08.2019, stated that the case of the petitioner is in progress and requested for time to furnish proper implementation report; granted. To come up for proper implementation report on 25.05.2021 before S.B at Camp Court, D.I.Khan.

  
(Atiq ur Rehman Wazir)  
Member (E)  
Camp Court, D.I.Khan


*Due to COVID-19 therefore  
to come up for the same on 28/9/21*

  
Reader



26.10.2020


Petitioner is present in person. Mr. Muhammad Jan, Deputy District Attorney is also present. Representative of the department is absent, therefore, notice be issued to the respondents for 24.11.2020 by directing them to produce progress report in respect of de-novo inquiry. File to come up for further proceedings before S.B at Camp Court, D.I.Khan.

  
(MUHAMMAD JAMAL KHAN)  
MEMBER  
CAMP COURT D.I.KHAN

24.11.2020

Counsel for petitioner and Muhammad Jan, learned DDA alongwith Kamran ADO for respondents present.

Representative of respondents seeks time to submit progress report in respect of de-novo inquiry on the next date. He is strictly directed to submit progress report in respect of de-novo inquiry on the next date of hearing positively. Adjourned to 26.01.2021 before S.B at Camp Court, D.I.Khan.

  
(Atiq-Ur-Rehman Wazir)  
Member (E)  
Camp Court, D.I.Khan

26-01-2021 Due to Covid-19, case is adjourned  
to 24-02-2021 for the same as before

  
Redden

20.04.2020

Due to COVID-19 the case is adjourned to 21.09.2020 for the same as before.



Rehman

21.09.2020

Appellant present through counsel.

Mr. Muhammad Jan, learned Deputy District Attorney alongwith Muhammad Kamran, ADO for respondents present.

At the very outset, Tribunal was informed that the petitioner has been reinstated into service. Nothing is available on file to show the proceedings of de-novo inquiry. Respondents are directed to produce progress report in respect of de-novo inquiry on the next date of hearing. To come up for further proceedings on 26.10.2020 before S.B at Camp Court, D.I Khan.



(Rozina Rehman)  
Member (J)  
Camp Court, D.I Khan

26.02.2020

Counsel for the petitioner Mr. Ziaullah, Deputy District Attorney alongwith Mr. Muhammad Kamran, ADO (Litigation) for the respondents present. Adjournment requested. Adjourned to 20.04.2020 for further proceedings before S.B at Camp Court D.I.Khan.



(M. Amin Khan Kundi)  
Member  
Camp Court D.I.Khan


23/10/2019

Since tour to D.I.Khan has been cancelled .To come for the same on 27/11/2019.

  
Reader


27.11.2019

Counsel for the petitioner and Mr. Ziaullah Deputy District Attorney alongwith Mr. Muhammad Kamran, ADO (Litigation) for the respondents present. Learned counsel for the petitioner requested for adjournment. Adjourned to 29.01.2020 for further proceeding before S.B at Camp Court D.I.Khan.

  
(Muhammad Amin Khan Kundi)  
Member  
Camp Court D.I.Khan

29.01.2020

Petitioner in person and Mr. Usman Ghani, District Attorney alongwith Mr. Muhammad Kamran, ADO (Litigation) for the respondents present. Petitioner requested for adjournment on the ground that his counsel is not available today due to general strike of Khyber Pakhtunkhwa Bar Council. Adjourned to 26.02.2020 for further proceeding before S.B at Camp Court D.I.Khan.

  
(M. Amin Khan Kundi)  
Member  
Camp Court D.I.Khan

Execution Petition No. 212/2018  
M. Farooq vs Edu: Deptt.

28.08.2019

Petitioner alongwith his counsel and Mr. Farhaj Sikandar, District Attorney alongwith Mr. Muhammad Kamran, ADO (Litigation) for the respondents present. Representative of the department stated that the implementation report is in process and requested for further time. Representative of the department also requested for release of salary of respondent No. 3 i.e Executive District officer (Elementary & Secondary), Dera Ismail Khan/DEO (Male), D.I.Khan and in this respect he also submitted application. The application is allowed and the salary of respondent No. 3 i.e Executive District officer (Elementary & Secondary), Dera Ismail Khan/DEO (Male), D.I.Khan is released. However, respondents are strictly directed to furnish implementation report on the next date positively. Adjourned to 24.09.2019 for implementation report before S.B at Camp Court D.I.Khan.



(Muhammad Amin Khan Kundi)  
Member  
Camp Court D.I.Khan

24.09.2019

Petitioner with counsel present. Mr. Farhaj Sikandar learned Deputy District Attorney alongwith Kamran ADEO present and submitted office order dated 26.08.2019 alongwith Arrival Report dated 27.08.2019 of the petitioner. Learned counsel for the petitioner seeks adjournment to furnish written objection against the order dated 26.08.2019. Adjourn. To come up for further proceedings on 23.10.2019 before S.B at Camp Court, D.I.Khan.




Member  
Camp Court, D.I.Khan.

E.P No. 212/2018


24.06.2019

Counsel for the appellant and Mr. Farhaj Sikandar, District Attorney alongwith Mr. Muhammad Kamran, ADO for the respondents present. The petitioner was removed from service on the allegation of absence from duty. The appeal of the petitioner was partially accepted vide judgment dated 19.02.2018, the impugned order dated 03.08.2016 was set-aside and the petitioner was reinstated into service with the direction to the respondents to conduct proper inquiry within a period of three months from the date of receipt of this judgment. The issue of back benefits was also ordered to the subject of final outcome of the inquiry. But the respondent-department has not furnished the implementation report so far despite repeated opportunities, therefore, salary of respondent No. 3 is attached till further orders. He is strictly directed to furnish the implementation report on 26.08.2019 positively before S.B at Camp Court D.I.Khan.

  
(Muhammad Amin Khan Kundi)  
Member  
Camp Court D.I.Khan

26.08.2019

Counsel for the petitioner and Mr. Farhaj Sikandar, District Attorney alongwith Mr. Muhammad Kamran, ADO (Litigation) for the respondents present. Representative of the department stated that the implementation report is in process and requested for short date. Granted. Case to come up for implementation report on 28.08.2019 before S.B at Camp Court D.I.Khan.

  
(Muhammad Amin Khan Kundi)  
Member  
Camp Court D.I.Khan

KHYBER PAKHTUNKWA SERVICE TRIBUNAL, PESHAWAR

No. 1169-70 /ST

Dated 4-7- /2019

To


1. The District Accounts Officer,  
Government of Khyber Pakhtunkhwa,  
D.I.Khan.
2. District Education Officer Male,  
Government of Khyber Pakhtunkhwa,  
D.I.Khan.

Subject: -

ORDER IN EXECUTION PETITION NO. 212/2018, MR. MUHAMMADW FAROOQ.

I am directed to forward herewith a certified copy of order dated 24.06.2019 passed by this Tribunal on the above subject for strict compliance.

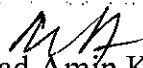
Encl: As above

  
REGISTRAR  
KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL  
PESHAWAR.

25.02.2019


Petitioner alongwith his counsel present. Mr. Farhaj Sikandar, District Attorney alongwith Mr. Muhammad Kamran, ADO for the respondents present.

The service appeal of the petitioner was accepted by this Tribunal vide judgment dated 19.02.2018 with the direction to respondent-department to reinstate the appellant into service with further direction to conduct proper inquiry within a period of three months from the date of receipt of this judgment and the issue of back benefits shall be subject to the final outcome of the inquiry but the judgment of this Tribunal has not been implemented so far therefore, respondent-department is directed to submit implementation report on the next date otherwise, coercive measure including attachment of salary shall be taken in to account. To come up for implementation report on 23.04.2019 before S.B at Camp Court D.I.Khan.

  
(Muhammad Amin Khan Kundi)  
Member  
Camp Court D.I.Khan

23.04.2019

Petitioner in person and Mr. Farhaj Sikandar learned District Attorney alongwith Kamran SDEO present. Implementation report not submitted. Representative of the respondent department seeks time to furnish implementation report. Granted. To come up for further proceedings/implementation report on 24.06.2019 before S.B at Camp Court, D.I.Khan.


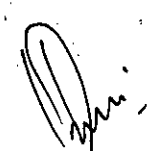

  
Member  
Camp Court, D.I.Khan.



Form- A  
FORM OF ORDER SHEET

Court of \_\_\_\_\_

Execution Petition No. \_212/2018

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	02.07.2018	<p>The execution petition of Mr. Muhammad Farooq received today by post through Shaikh Iftikharul Haq Advocate may be entered in the relevant register and put up to the Court for proper order please.</p> <p> REGISTRAR 2/7/18</p>
2	20-11-18	<p>This execution petition be put before Touring S. Bench at D.I.Khan on <u>29-11-18</u>.</p> <p> CHAIRMAN</p>
	29.11.2018	<p>Counsel for the petitioner present. Notice be issued to the respondents for implementation report for 25.02.2018 before S.B at Camp Court D.I.Khan.</p> <p> (Muhammad Amin Khan Kundi) Member Camp Court D.I.Khan</p>

**BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER  
PAKHTUNKHWA, PESHAWAR.**

Implementation Petition No. 219 /2018

In Service Appeal No. 3/2017

Decided on 19/02/2018

Muhammad Farooq

**VERSUS**

Govt; of KPK etc

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<b><u>S.NO</u></b>	<b><u>PARTICULARS</u></b>	<b><u>ANNEXURE</u></b>	<b><u>PAGE NO.</u></b>
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2	Copies of the subject of the grounds of service appeal and order / judgment of this August Tribunal Court.	"A & A/1"	4-9
3	Copy of application and postal receipt	"B"	- 10 -
4	Wakalatnama		- 11 -

Your Humble Appellant.

*M. Farooq*

**Muhammad Farooq**  
Through Counsel

Dated: 27/06/2018

*Sh. Iftikhar*  
**SHAIKH IFTIKHAR UL HAQ**  
Advocate High Court,  
Dera Ismail Khan.

(1)

**BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER  
PAKHTUNKHWA, PESHAWAR.**

Implementation Petition No. 919 /2018

In Service Appeal No. 3/2017

Decided on 19/02/2018

Khyber Pakhtukhwa  
Service Tribunal

Diary No. 727

Dated 02/07/2018

**Muhammad Farooq** S/o Zahoor Khan, Resident of Rehmani  
Khel Tehsil Paharpur District Dera Ismail Khan.

.....(Petitioner)

**VERSUS**

1. Government of Khyber Pakhtunkhwa, through Secretary Education, Peshawar.
2. Director (Elementary & Secondary) Khyber Pakhtunkhwa, Peshawar.
3. Executive District Office (Elementary & Secondary), Dera Ismail Khan / DEO (Male), DIKhan.

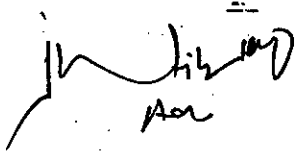
.....(Respondents)

**IMPLEMENTATION PETITION UNDER  
KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL ACT 1974 (SECTION -7) READ  
WITH KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL RULES, 1974 (AS AMENDED)  
FOR IMPLEMENTATION THE ORDER /  
JUDGMENT IN SERVICE APPEAL NO.  
3/2017 DECIDED ON 19/02/2018 BY THIS  
HONOURABLE TRIBUNAL.**

**Respectfully Sheweth:-**

The petitioner humbly submits as under:-

That the petitioner submitted service appeal for reinstated<sup>ment</sup> in service (as Behishti Class-IV) with all back benefits. Copies of the subject of the grounds of service appeal and order / judgment of this August Tribunal are enclosed as **Annexure "A & A/1"**.

1-  
  
Acr

2- That the petitioner submitted application on 15/03/2018 to the respondents, who received the application 21/03/2018 accordingly, but the respondents the said application were not accepted. Hence the instant implementation petition amongst other on the following grounds, the copy of application along with postal receipts are enclosed as Annexure "B".

**GROUND:-**

- a) That the acts and omission of the respondents are clear cuts violations of law and statutes and constitutions.
- b) That the lame excuse on behalf of respondents authority not maintainable and the respondents were required to implement the judgments of this Honourable Tribunal in letter and spirits.
- c) That the Counsel of the petitioner may very graciously be allowed to add further grounds during the course of hearing.

*It is, therefore, humbly prayed that the respondents be directed to implement the judgment / order dated 19/02/2018 of this Honourable Tribunal in letter and sprit. Any other relief deem fit may kindly be given in favour of petitioner. i.e. The appellat be reinstated in services with all back benefits.*

Your Humble Appellant

*M. Farooq*

**Muhammad Farooq**  
Through Counsel

Dated: 27/06/2018

*Shaikh Iftikhar*  
An  
**SHAIKH IFTIKHAR UL HAQ**  
Advocate High Court,  
Dera Ismail Khan.

3

**BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER  
PAKHTUNKHWA, PESHAWAR.**

Implementation Petition No. \_\_\_\_\_/2018

In Service Appeal No. 3/2017

Decided on 19/02/2018

Muhammad Farooq

**VERSUS**

Govt; of KPK etc

**VERIFICATION:-**

It is verified that it is first petition and no such petition has ever been preferred in this Honourable Tribunal by the Petitioner. And all the contents of above petition are true and correct.

*M. Farooq*

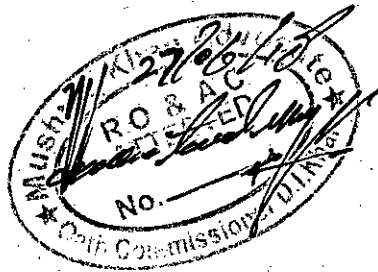
**Muhammad Farooq**

**AFFIDAVIT**

I, **Muhammad Farooq** S/o Zahoor Khan, Resident of Rehmani Khel Tehsil Paharpur District Dera Ismail Khan, the petitioner, do hereby solemnly affirm declared on oath that contents of the above **Implement Petition** are true and correct to the best of my knowledge and nothing has been concealed from this Honourable Tribunal.

*M. Farooq*

**DEPONENT**



(4)

Am-A



**BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER  
PAKHTUNKHWA, PESHAWAR.**

Service Appeal No. 3 /2016

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 1295

Dated 15-12-2016

**Muhammad Farooq** S/o Zahoor Khan, Resident of Rehmani  
Khel Tehsil Paharpur District Dera Ismail Khan.

.....(Appellant)

**VERSUS**

1. Government of Khyber Pakhtunkhwa, through the secretary  
Education, Peshawar.
2. Director (Elementary & Secondary) Khyber Pakhtunkhwa,  
Peshawar.
3. Executive District Officer (Elementary & Secondary), Dera  
Ismail Khan/  
District Education Officer (Male) D.I. Khan.

.....(Respondents)

**SERVICE APPEAL UNDER SECTION 4  
OF KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL ACT 1974 AGAINST THE  
IMPUGNED ORDER DATED 03/08/2016  
OF TERMINATION OF APPELLANT  
PASSED BY RESPONDENT NO. 3.**

**PRAYER:-**

**ON ACCEPTANCE OF THE INSTANT  
APPEAL THE IMPUGNED ORDER  
BEARING NO. 14150-55 DATED  
03/08/2016 VIDE WHICH THE  
APPELLANT WAS TERMINATED MAY  
KINDLY BE SET ASIDE AND THE  
APPELLANT BE REINSTATED WITH ALL  
BACK BENEFITS AND INDIFFERENCES  
IN THE STIPULATED PERIODS QUO  
THE DEPARTMENTAL APPEAL OF  
HIGHER AUTHORITIES /  
RESPONDENTS MEANING HEREBY  
REJECTION OF APPEAL.**

**ATTESTED**

Filed to-day

Registrar

15/12/16

Re-submitted to -day  
and filed.

Registrar

3/1/17

**EXAMINER**  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar



Respectfully Sheweth:-

The appellant humbly submits as under:-

- 1- That on 05/12/2012 vide order No. 18508-13, the appellant was appointed as Behishti (Class-IV) on the basis of deceased son quota on the direction of order of Civil Judge-VII, Dera Ismail Khan. Copy of appointment order is enclosed as Annexure "A".
- 2- That the appellant after submitting Medical Certificate and charge report and performed their duties with full satisfaction of superiors.
- 3- That thereafter the appellant have been terminated vide order bearing No. 14150-55 dated 03/08/2016 without any reasons and justification. Copy of termination order is enclosed as Annexure "B".
- 4- That the appellant feeling aggrieved submitted departmental appeal on 22/08/2016. But the respondent authority has not accepted the departmental appeal within stipulated period. The copy of departmental appeal / representation and receipt are enclosed as Annexure "C & D" respectively.
- 5- That in the attendance circumstances, the instant appeal on the following grounds amongst other:-

GROUND:-

- a) That the impugned order is against law, facts and circumstances of the case.
- b) That the impugned order is against the principle of law and policy of the service rules and is not in the commence of Esta Code.
- c) That no charge sheet, show case notice etc have been given to the appellant and thus so enquiry have been conducted against the appellant by the respondent authority.

**ATTESTED**

**EXAMINER**  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar



6

d) That the appellant has been terminated on lopsided and slipshod manner.

e) That the Counsel of the Appellant may very graciously be allowed to add further grounds during the course of arguments.

It is, therefore, humbly prayed that the instant appeal may be accepted as prayed for.

Your Humble Appellant

M. Farooq  
Muhammad Farooq  
Through Counsel

Dated: 07/12/2016

Shahkhan Iftikhar Ul Haq  
Advocate High Court,  
Dera Ismail Khan.

**AFFIDAVIT**

I, **Muhammad Farooq** S/o Zahoor Khan, Resident of Rehmani Khel Tehsil Paharpur District Dera Ismail Khan, the appellant, do hereby solemnly affirm declared on oath that contents of the above **Appeal** are true and correct to the best of my knowledge and nothing has been concealed from this Honourable Tribunal.

Certified to be true copy

Stamp: Khyber Pakhtunkhwa Service Tribunal, Peshawar

**DEPONENT**

M. Farooq

Signature  
7/12/2016

Date of Presentation of Application 14-3-18  
Number of Words 1200  
Copying Fee 200  
Urgent 2-0  
Total 10-0  
Name of Copyist [Signature]  
Date of Completion of Copy 14-3-18  
Date of Delivery of Copy 14-3-18



7

Ann - "A/1"

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR  
AT CAMP COURT D.I.KHAN.

Appeal No. 03/2017

Date of Institution ... 15.12.2016

Date of Decision ... 19.02.2018



Muhammad Farooq S/o Zahoor Khan, Resident of Rehmani Khel Tehsil Paharpur  
District Dera Ismail Khan.

... (Appellant)

VERSUS

1. The Govt. of Khyber Pakhtunkhwa through Secretary Education, Peshawar  
and 2 others. ... (Respondents)

MR. SHAIKH IFTIKHAR UL HAQ,  
Advocate

--- For appellant.

MR. USMAN GHANI,  
District Attorney

--- For respondents

MR. AHMAD HASSAN,  
MR. MUHAMMAD AMIN KHAN KUNDI

--- MEMBER (Executive)  
--- MEMBER (Judicial)

JUDGMENT

AHMAD HASSAN, MEMBER. - Arguments of the learned counsel for the  
parties heard and record perused.


FACTS

2. The brief facts are that the appellant was appointed as Behishti (BPS-I). He  
was removed from service vide impugned order dated 03.08.2016 on the ground of  
absence from duty against which he preferred departmental appeal on 22.08.2016  
which was not responded, hence, the instant service appeal.

ARGUMENTS

3. Learned counsel for the appellant argued that vide order dated 05.12.2012 he was  
appointed as Behishti (Class-IV) in the light of judgment of Civil Judge-7 D.I.Khan against  
deceased son quota. He submitted arrival report and started performing duty. That vide

**ATTESTED**

  
**EXAMINER**  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

8

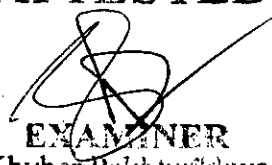
impugned order dated 03.08.2016 major penalty of removal from service was imposed on him on account of willful absence from duty. He preferred department appeal on 22.08.2016 which was not responded within stipulated period, hence, the instant service appeal. A fact finding enquiry was conducted in which the enquiry officer recommended adjustment/transfer of the appellant near his home district apart from other recommendations. Direct show cause notice was served on him. It is provided in E&D rules that in case direct show cause notice is served on a government servant then the competent authority is bound to record reasons for dispensing with regular enquiry. No such justification is given in the show cause notice. As proper charge sheet statement of allegation etc were not served on the appellant so due process of law was not followed and he was condemned unheard.

4. On the other hand learned District Attorney argued that he remained absent from duty w.e.f 25.10.2013 to 18.12.2015 willfully/deliberately. It amount to cross misconduct and there was no need to conduct formal enquiry. Major penalty of removal from service was imposed on the appellant according to law and rules.

**CONCLUSION.**

5. Careful perusal of record would reveal that the appellant was appointed as Behishti (BPS-01) at GMS Wanda Dhawa D.I.Khan on 05.02.2012 by terminating the services of Muhammad Arsalan s/o Abdur Rehman, Behishti. On account of willful absence from duty primary enquiry was conducted against the appellant by Fakhar ud Din, Principal GHSS, Kurai D.I.Khan and his findings included initiating disciplinary action against the appellant by publication in the newspapers apart from other findings. Thereafter show cause notice was served on the appellant and vide impugned order dated 03.08.2016 major penalty removal from service was imposed on him. It is now a well settled principle duly supported by numerous judgments of the superior courts that in case major penalty is to be imposed on a civil servant regular enquiry should be conducted against him. In case regular enquiry is dispensed with the competent authority is required to give reasons/ plausible explanation. This fatal element of due process is missing in this case. It can be safely said that

**ATTESTED**

  
**EXAMINER**  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

9

opportunity of fair trial was denied to him and he was condemned unheard in violation of Article-4 and 11-A of the Constitution of Islamic Republic of Pakistan 1973.

6. As a nutshell to the above discussion, the appeal is accepted, impugned order dated 03.08.2016 is set aside and the appellant is reinstated into service with the direction to the respondents to conduct proper enquiry within a period of three months from the date of receipt of this Judgment. The issue of back benefits shall be subject to the final outcome of the inquiry. Parties are left to bear their own costs. File be consigned to the record room.

Announced  
19.02.2018

SD/- Ahmad Hassan,  
Member  
Camp court D.I. Khan

Certified to be true copy  
MEMBER  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

SD/- M. Amin Khan Keundi  
Member

Date of Presentation of Application 14-03-2018  
 Number of Words 1200  
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 Date of Delivery of Copy 14-3-18





**OFFICE OF THE DISTRICT EDUCATION OFFICER  
(MALE) DERA ISMAIL KHAN**

Tell: 09669280128 / 09669280131

Email: emisdikhan@yahoo.com

**SUBSTITUTE ORDER:**

WHEREAS Mr. Muhammad Farooq was appointed as Baheshti in middle school on 05/12/2012.

WHEREAS he was removed from service vide DEO(M) DIKhan Endst No. 14150-55 dated 03/08/2016.

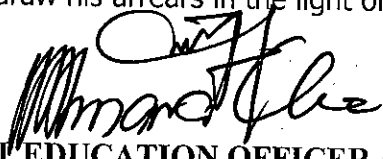
WHEREAS on the judgment of Honorable service tribunal he was reinstated into service on 26-08-2019.

WHEREAS DE novo inquiry was conducted by Mr. Asim Saeed Principal GHS Himmat DIKhan.

WHEREAS he recommended in the light of the judgment of August Supreme Court, "No duty no salary".

THEREFORE he declared that he has not entitled for that benefits. So in the light of the judgment of the honorable service tribunal, the competent authority is pleased to dispose-off the case as below:

1. The intervening period w.e.f 25/10/2013 to 03/08/2016 has been declared as Extra Ordinary Leave without pay.
2. The intervening period w.e.f 04/08/2016 to 25/02/2018 and 26/02/2019 to 25/08/2019 will be considered as on duty and he is authorized to draw his arrears in the light of the judgment of the honorable service tribunal.

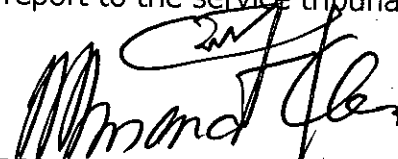
  
DISTRICT EDUCATION OFFICER  
(MALE) DIKHAN

Endst No. 10678-82

Dated: 23/5/2022

Copy for information to the:-

1. District Accounts Officer DIKhan with the request to honor his arrear bills as and when submitted by the concerned DDO due to court matter.
2. Deputy DEO (Male) DIKhan.
3. Headmaster GHS Kata Khel with the directions to submit his arrear bills in the account office and submit the compliance report to the service tribunal on date fixed.
4. Officer concerned.
5. Master file.

  
DISTRICT EDUCATION OFFICER  
(MALE) DIKHAN

KHYBER PAKHTUNKWA SERVICE TRIBUNAL, PESHAWAR

No. 1588 /ST

Dated 18-9- /2019

To


The District Accounts Officer,  
Government of Khyber Pakhtunkhwa,  
D.I.Khan.

Subject: -

ORDER REGARDING RELEASE OF SALARY IN EXECUTION PETITION NO. 212/2018, MR. MUHAMMAD W. FAROOQ.

I am directed to forward herewith a certified copy of order dated 28.08.2019 passed by this Tribunal on the above subject for strict compliance.

Encl: As above

  
REGISTRAR  
KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL  
PESHAWAR.



**OFFICE OF THE DISTRICT EDUCATION OFFICER  
(MALE) DERA ISMAIL KHAN**

Tell: 09669280128- 09669280131. Email: emisdikhan@gmail.com

**ORDER**

WHEREAS Mr. Muhammad Farooq s/o Zahoor Khan was appointed as Behishti at GMS Wanda Dhawa DIKhan vide Executive District Officer E&SE DIKhan order No. 13508-13/EDO/Class IV dated 05-12-2012.

AND WHEREAS the said official was reported absent w.e.f 25-10-2013 to 18-02-2015 vide Head Master GMS Wanda Dhawa letter NO.93 dated 18-03-2015.

AND WHEREAS show cause notice was served to the official vide DEO (M) DIKhan Endst No. 11588-89 dated 01-04-2015.

AND WHEREAS personal hearing of the said official was done on 10-08-2015, but he failed to provide any documentary proof and record in his favor as he claimed.

AND WHEREAS an inquiry was conducted vide DEO (M) DIKhan No. 1489/DEO (M) dated 20-01-2016, which confirmed his absenteeism.

AND WHEREAS in light of all the above, major penalty "removal from service" was imposed upon the said official vide DEO (M) DIKhan Endst No. 14150-55 dated DIKhan the 03-08-2016.

AND WHEREAS the said official filed his appeal in the Service Tribunal, Khyber Pakhtunkhwa Peshawar.

AND WHEREAS in the light of the decision of Khyber Pakhtunkhwa Service Tribunal, Peshawar at Camp Court DIKhan appeal No. 03-2017 dated 19-02-2018, an inquiry officer was nominated vide DEO (M) DIKhan No. 1375 dated 09-01-2019 and the operating para of the judgment of Honorable service tribunal KPK Peshawar is reproduced as "The appeal is accepted, impugned order dated 03-08-2016 is set aside and the appellant is reinstated into service with the direction to the respondents to conduct proper inquiry within the period of three months from the date for receipt of this judgment. The issue of back benefits shall be subject to the final outcome of inquiry".

NOW THEREFORE, the Competent Authority in exercise of the Power conferred upon me is pleased to "RE-INSTATE" Mr. Muhammad Farooq s/o Zahoor Khan at his original post of Behishti BPS-03 and adjust him at the post of Bahishti at GHS Giloti with immediate effect.

Sd/-

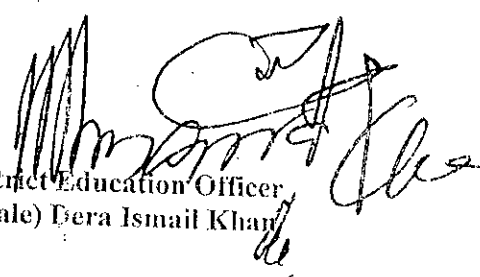
(Musarat Hussain)  
District Education Officer  
(Male) Dera Ismail Khan

Endst: No. 22144-50

Copy forwarded to the:

1. Director Elementary and Secondary Education Department, KPK, Peshawar.
2. Registrar Service Tribunal KPK Peshawar.
3. Deputy District Education Officer (M) DIKhan.
4. District Comptroller of Accounts DIKhan.
5. Headmaster GHS Giloti DIKhan.
6. Official Concerned.
7. Master File.

Dated DIKhan 26/8 2019

  
District Education Officer  
(Male) Dera Ismail Khan

OFFICE OF THE PRINCIPAL GOVT HIGHER SECONDARY SCHOOL GILOTI (D.I. KHAN)

CERTIFICATE OF TRANSFER OF CHARGE

1. Certified that we have on the For-noon of the d. 27/08/2019 took over the charge of the post of BAHESHTI BPS 3 GHS Giloti (D.I. Khan) due to the adjustment (RE-INSTATMENT) made vide the Office Order of District Education Officer Dera Ismail Khan Endst No. 22144-50 dated 26/08/2019

Station.

GHS GILOTI (D. I. KHAN)

Signature of relieved VACANT POST

Government Servant  
Designation

Signature of relieving,

Government Servant

Designation

*M. Farooq*  
MUHAMMAD FAROOQ

BAHESHTI

Endst No. 767(a) GHS Giloti (D.I. Khan) Dated 27/08/2019

Copy of the above is submitted for information to the

1. District Education Officer(M) Dera Ismail Khan
2. District Accounts Officer Dera Ismail Khan
3. District Monitoring Officer Dera Ismail Khan
4. Official concerned

*[Signature]*  
PRINCIPAL  
GHS GILOTI  
Dera Ismail Khan  
Govt High School  
Giloti (D.I. Khan)





**OFFICE OF THE DISTRICT EDUCATION OFFICER  
(MALE) DERA ISMAIL KHAN**

Tell: 09669280128- 09669280131. Email: emisdikhan@gmail.com

**ORDER**

WHEREAS Mr. Muhammad Farooq s/o Zahoor Khan was appointed as Behishti at GMS Wanda Dhawa DIKhan vide Executive District Officer E&SE DIKhan order No. 18508-13/EDO/Class IV dated 05-12-2012.

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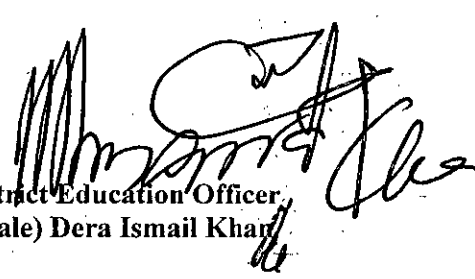
Sd/-  
(Musarat Hussain)  
District Education Officer  
(Male) Dera Ismail Khan

Endst: No. 22144-50

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5. Headmaster GHS Giloti DIKhan.
6. Official Concerned.
7. Master File.

Dated DIKhan 26/8 2019

  
District Education Officer  
(Male) Dera Ismail Khan

OFFICE OF THE PRINCIPAL GOVT HIGHER SECONDARY SCHOOL GILOTI (D.I.KHAN)

CERTIFICATE OF TRANSFER OF CHARGE

1. Certified that we have on the forenoon of this day 27 / 08 / 2019 took over charge of the post of BAHESHTI BPS-3 GHS Giloti (D.I.Khan) due to the adjustment (RE-INSTANTMENT) made vide the Office Order of District Education Officer Dera Ismail Khan Endst: No. 22144-50 dated 26/08/2019.

Station, GHS GILOTI (D. I. KHAN)

Signature of relieved. VACANT POST

Government Servant  
Designation

Signature of relieving.

Government Servant

Designation

*M-Farooq*  
MUHAMMAD FAROOQ

BAHESHTI

Endst. No. 767(a) GHS Giloti (D.I.Khan) Dated 27 / 08 / 2019

Copy of the above is submitted for information to the,

1. District Education Officer(M) Dera Ismail Khan
2. District Accounts Officer Dera Ismail Khan
3. District Monitoring Officer Dera Ismail Khan
4. Official concerned

*[Signature]*  
PRINCIPAL  
GHS GILOTI  
Dera Ismail Khan High School  
Ghoti (D.I.Khan)



**OFFICE OF THE DISTRICT EDUCATION OFFICER  
(MALE) DERA ISMAIL KHAN**

Tell: 09669280128- 09669280131. Email: emisdikhan@gmail.com

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Sd/-  
(Musarat Hussain)  
District Education Officer  
(Male) Dera Ismail Khan

Endst: No. 22144-50  
Copy forwarded to the:

Dated DIKhan 26/8 /2019

1. Director Elementary and Secondary Education Department, KPK, Peshawar.
2. Registrar Service Tribunal KPK Peshawar.
3. Deputy District Education Officer (M) DIKhan.
4. District Comptroller of Accounts DIKhan.
5. Headmaster GHS Giloti DIKhan.
6. Official Concerned.
7. Master File.

  
District Education Officer  
(Male) Dera Ismail Khan

OFFICE OF THE PRINCIPAL GOVT HIGHER SECONDARY SCHOOL GILOTI (D.I. KHAN)

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Station, GHS GILOTI (D. I. KHAN)

Signature of relieved. VACANT POST

Government Servant  
Designation

Signature of relieving.

Government Servant

Designation

*M. Iqbal*  
MUHAMMAD IQBAL

BAHESHTI

Endst. No. 767(a) GHS Giloti (D.I. Khan) Dated 27/08/2019

Copy of the above is submitted for information to the.

1. District Education Officer (M) Dera Ismail Khan
2. District Accounts Officer Dera Ismail Khan
3. District Monitoring Officer Dera Ismail Khan
4. Official concerned

*M. Iqbal*  
PRINCIPAL  
GHS GILOTI  
Dera Ismail Khan High School  
Giloti (D.I. Khan)



**OFFICE OF THE DISTRICT EDUCATION OFFICER  
(MALE) DERA ISMAIL KHAN**

Tel: 09669280128- 09669280131. Email: emisdikhan@gmail.com

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Sd/-  
(Musarat Hussain)  
District Education Officer  
(Male) Dera Ismail Khan

Dated DIKhan 26/8/2019

Endst: No. 22144-50

Copy forwarded to the:

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2. Registrar Service Tribunal KPK Peshawar.
3. Deputy District Education Officer (M) DIKhan.
4. District Comptroller of Accounts DIKhan.
5. Headmaster GHS Giloti DIKhan.
6. Official Concerned.
7. Master File.

  
District Education Officer  
(Male) Dera Ismail Khan



**OFFICE OF THE DISTRICT EDUCATION OFFICER**

**(MALE) DERA ISMAIL KHAN**

Tell: 09669280128- 09669280131

Email: emisdikhan@yahoo.com

No. 26/60

Dated DIKhan the 15/11/21

To

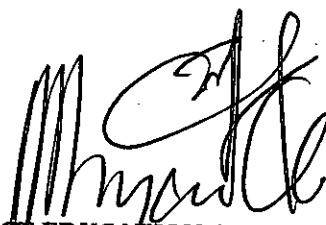
The Principal,  
GHS Himmat D I Khan,

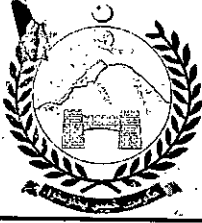
Subject: **REQUEST FOR SUBMISSION OF REPLY IN EXECUTION PETITION NO  
212/2018 TITLED AS M. FAROOQ.**

Memo:

Reference to the subject cited above it is submitted that You are appointed as a  
Inquiry officer in the above mentioned EP.

It is, therefore, requested to your kind honor that kindly submit reply / report in  
the above EP as soon as possible.

  
DISTRICT EDUCATION OFFICER  
(MALE) DIKHAN  
District Education Officer  
(Male) Dera Ismail Khan



OFFICE OF THE PRINCIPAL  
GOVERNMENT HIGH SCHOOL  
HIMMAT, DERA ISMAIL KHAN.

No. 132 / Dated 17/11/21

To

District Education Officer (M),  
D. I. Khan.

**Title of Inquiry**

Inquiry report against Mr. M. Farooq S/O Zahoor Khan (Behisti) GMS Wanda Dhawa D.I.Khan.

**Procedure of inquiry:**

An inquiry was conducted by the undersigned. The said class-IV **M. Farooq** was found and reported absent by the head teacher vide letter no. 93 dated 18/03/2015 w.e.f 25/10/2013 to 18/02/2015. I have personally visited the school and checked the relevant record which was found correct. The official was served show cause notice by the D.E.O (M) 11588-89 dated 01/04/2015, and personal hearing was done on 10/08/2015. **Mr. Farooq** was unable to provide any documentary proof and record in his favor.

He was then removed from the service by imposing major penalty by the D.E.O (M) D.I.Khan vide letter no. 22144-50 dated 26/08/2019. Mr. Farooq appealed in the service tribunal appeal no. 03-2017 dated 19/02/2018 and the appellant has applied for the back benefits. After going through the reports submitted by the Head Master GMS Wanda Dhawa and the relevant records from the school the following findings were concluded.

**Findings:**

1. **Mr. Farooq** (Behishti) was found absent from 25/10/2013 to 18/02/2015, from the school.
2. During this absent period i.e. 25/10/2013 to 18/02/2015, he has not contacted his parent department or school.
3. The where about of **Mr. Farooq** Behishti during the absent period of one year four month is unknown.
4. There is no written application found in the record for leave.
5. He was given all the relevant forums i.e. show cause notices and personal hearing, an official inquiry no. 1489 dated 20/01/2016 in which he was unable to provide record and prove his innocence.

**Conclusion:**

After going through the relevant record it was found that **Mr. Farooq** S/O Zahoor Khan has not performed his duties as Behishti at GMS Wanda w.e.f 25/10/2013 to 18/02/2015 without taking leave and prior permission from the competent authority.

**Recommendations:**

1. According to a judgment by the honorable Supreme Court of Pakistan, salary is bound to the duties performed by a person.
2. The person under inquiry has not performed his duties from 25/10/2013 to 18/02/2015 and is not liable to claim for back benefits as he has not performed any duty during the absent period.

*Arum Saeed*  
Principal/ Inquiry Officer  
Government High School,  
Himmat, Dera Ismail Khan.

D.I.Khan