

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL PESHAWAR.

Service Appeal No. 1129/2014

Date of Institution ... 19.08.2014

Date of Decision ... 17.05.2022

Sajjad Haider S/O Faqir Mohammad, PST Government Primary School Aziz Khel, Mattani, Peshawar.

... (Appellant)

VERSUS

Government of Khyber Pakhtunkhwa, through Secretary Education Khyber Pakhtunkhwa, Peshawar and four others.

... (Respondents)

SYED NOMAN ALI BUKHARI,
Advocate

--- For appellant.

MR. KABIRULLAH KHATTAK,
Additional Advocate General

--- For respondents.

MR. SALAH-UD-DIN
MS. ROZINA REHMAN

--- MEMBER (JUDICIAL)
--- MEMBER (JUDICIAL)

JUDGMENT:

SALAH-UD-DIN, MEMBER:- Precise facts forming the background of the instant service appeal are that the appellant was appointed as PST in the year 1992 and performed his duty in various schools. The appellant applied for leave without pay with effect from 01.03.2003 to 12.04.2004, which was allowed. Disciplinary action was taken against the appellant on the allegation of willful absence from duty and he was removed from service vide impugned order dated 05.03.2014. The departmental appeal of the appellant was not responded within the statutory period, hence the instant service appeal.

2. Notices were issued to the respondents, who submitted their comments, wherein they refuted the assertions made by the appellant in his appeal.

3. Learned counsel for the appellant has contended that the appellant performed his duty with zeal and zest and is having an

unblemished record of service; that whole of the proceedings were conducted at the back of the appellant without affording him an opportunity of personal hearing or self defense; that the appellant was admittedly granted leave without pay with effect from 01.03.2003 to 12.04.2004, however it is astonishing that in the impugned removal order dated 05.03.2014, the appellant has been mentioned as absent with effect from 19.01.2014; that no regular inquiry was conducted in the matter and the appellant was wrongly and illegally awarded major punishment, which is against the norms of natural justice as well as various judgments of the worthy apex court; that the impugned order is wrong, illegal and void ab-initio, therefore, the same is liable to be set-aside. Reliance was placed on 2015 PLC (C.S) 381, 2008 PLC (C.S) 77 and 2007 PLC (C.S) 685.

4. On the other hand, learned Additional Advocate General for the respondents has contended that the appellant had remained in willful absence for considerable long period, therefore, departmental action was taken against him; that all legal and codal formalities as required under the relevant rules were complied with, however the appellant did not attend his duty, therefore, the competent Authority has rightly removed him from service; that the departmental appeal of the appellant was time barred, therefore, the service appeal in hand is not maintainable and is liable to be dismissed on this score alone.

5. Arguments of learned counsel for the appellant as well as learned Additional Advocate General for the respondents have already been heard and record perused.

6. The appellant has alleged in his appeal that he was granted leave without pay with effect from 01.03.2003 to 12.04.2004. The aforementioned assertion of the appellant has been admitted as correct by the respondents in their reply/comments. The appellant was thus on leave till 12.04.2004, however it is astonishing that in the absence notice as well as other correspondence, the appellant has been shown as absent from duty with effect from 19.01.2004. Moreover, while going through the impugned order dated 05.03.2014, it can be observed that the appellant was proceeded against on the ground of willful absence from duty. Procedure require to be adopted in case of willful absence from duty of a government servant has been provided in Rule-9 of Khyber Pakhtunkhwa Government Servants

(Efficiency & Discipline) Rules, 2011, which is a self contained rule and also provides the punishment for willful absence. However, while going through the impugned order dated 05.03.2014, the appellant has been awarded punishment of removal from service in exercise of power conferred under Rule-4 (b) (iii) of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, which could have been attracted, had the appellant been proceeded against on the ground of habitual absence. Furthermore, Rule-9 of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 prescribes that the absence notice shall be published in at least two leading newspapers, however in the instant case, the same has been published only in one newspaper.


7. It is evident from the record that the competent Authority had issued absence notice to the appellant, which was replied by the appellant through submission of reply on 26.08.2013. Copy of reply of the appellant has been annexed by the respondents alongwith their comments, which bears Diary No. 2517 dated 26.08.2013 as well as the signature of DDEO (Male). It is clearly mentioned in reply so submitted by the appellant that he made his arrival on 26.08.2013 but it is astonishing that he was still considered as absent and notice regarding his absence was published in daily "AAJ" on 19.10.2013 and he was removed from service vide impugned order dated 05.03.2014. In these circumstances, the impugned order dated 05.03.2014 passed by the competent Authority is not sustainable in the eye of law and is liable to be set-aside.


8. The appellant was removed from service by the competent Authority vide impugned order dated 05.03.2014, which was challenged by the appellant through filing of departmental appeal on 12.05.2014, which remained un-responded. The appellant alongwith his appeal has filed an application for condonation of delay duly supported by an affidavit, wherein he has specifically alleged that he got knowledge of the impugned order on 10.05.2014. The aforementioned assertion of the appellant has not been rebutted by the respondents through filing of any counter affidavit. According to Rule-3 of Khyber Pakhtunkhwa Civil Servants (Appeal) Rules, 1986, a civil servant aggrieved by an order passed or penalty imposed by the competent Authority relating to the terms and condition of his service

may, within 30 days from the date of communication of the order to him, prefer an appeal to the appellate Authority. Nothing is available on the record, which could show that the impugned order dated 05.03.2014 was communicated to the appellant on any date prior to 10.05.2014, therefore, the departmental appeal filed by the appellant was not hit by limitation.

9. In view of the above discussion, the appeal in hand is allowed by setting-aside the impugned order and the appellant is reinstated in service for the purpose of de-novo inquiry with the directions to the respondents to conduct de-novo inquiry strictly in accordance with the relevant law/rules within a period of 60 days of receipt of copy of this judgment. Needless to mention that the appellant shall be associated with the inquiry proceedings and fair opportunity be provided to him to defend himself. The issue of back benefits shall be subject to outcome of de-novo inquiry. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
17.05.2022


(ROZINA REHMAN)
MEMBER (JUDICIAL)

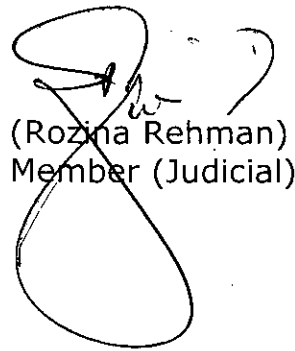

(SALAH-UD-DIN)
MEMBER (JUDICIAL)

O R D E R
17.05.2022

Learned counsel for the appellant present. Mr. Arshad Ali, ADEO (Litigation) alongwith Mr. Kabirullah Khattak, Additional Advocate General for the respondents present. Arguments have already been heard and record perused.

Vide our detailed judgment of today, separately placed on file, the appeal in hand is allowed by setting-aside the impugned order and the appellant is reinstated in service for the purpose of de-novo inquiry with the directions to the respondents to conduct de-novo inquiry strictly in accordance with the relevant law/rules within a period of 60 days of receipt of copy of this judgment. Needless to mention that the appellant shall be associated with the inquiry proceedings and fair opportunity be provided to him to defend himself. The issue of back benefits shall be subject to outcome of de-novo inquiry. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
17.05.2022



(Rozina Rehman)
Member (Judicial)



(Salah-Ud-Din)
Member (Judicial)

24-2-22

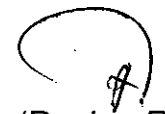
Due to retirement of worthy chairman, the case is adjourned to 16-5-22 for same.



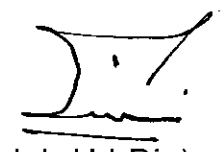
16.05.2022

Counsel for the appellant present. Mr. Arshad Ali ADEO alongwith Mr. Kabir Ullah Khattak learned Additional Advocate General for the respondents present.

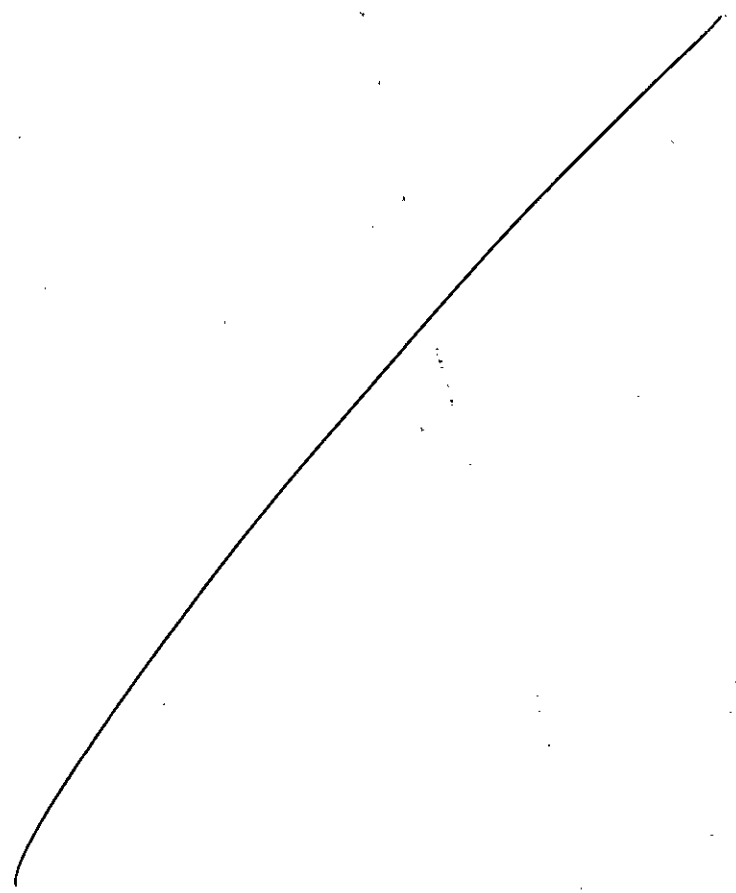
Arguments heard. To come up for order by tomorrow i.e. 17.05.2022 before the D.B.



(Rozina Rehman)
Member (J)



(Salah-Ud-Din)
Member (J)



04.06.2021

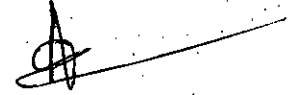
Appellant present in person.

Muhammad Adeel Butt, learned Additional Advocate General for respondents present.

Former requests for adjournment on the ground that his counsel is not available today; adjourned to 02.09.2021 for arguments before D.B.



(Rozina Rehman)
Member (J)



Chairman

02.09.2021

Due to summer vacations, the case is adjourned to 13.01.2022 for the same as before.

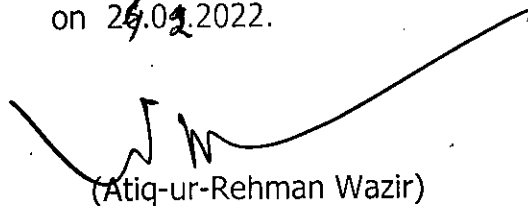


READER

13.01.2022

Learned counsel for the appellant present. Mr. Kabirullah Khattak, Addl. AG alongwith Arshad Ali, Litigation Officer for respondents present.

Learned counsel for the appellant seeks adjournment in order to further prepare the brief. Request is accorded. To come up for arguments before the D.B on 24.02.2022.



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



Chairman

18.02.2021

Appellant with counsel and Mr. Muhammad Rashid, DDA alongwith Mr. Muhammad Arshad, ADEO for respondents present.

In pursuance to the order dated 15.1.2021, the appellant has deposited cost of Rs. 1000/-. A request for adjournment is yet again made today.

The appellant was allowed his request for adjournment on the last date as a last chance, that too, against cost of Rs. 1000/-. In the circumstances, the request for adjournment is though allowed but as a last chance. The appellant is burdened with further cost for Rs. 1000/- to ^{be paid} pay on the next date.

Adjourned to 26.03.2021 for arguments before D.B.



(Mian Muhammad)
Member (E)

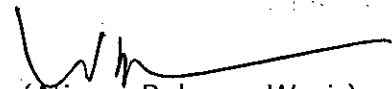


Chairman

26.03.2021

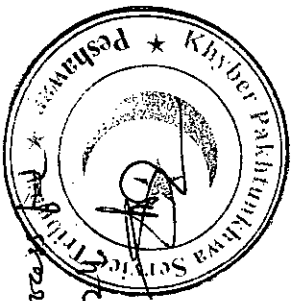
Appellant in person and Asstt. A.G for the respondents present.

The Worthy Chairman is on leave, therefore, case is adjourned to 04.06.2021 for hearing before the D.B.



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

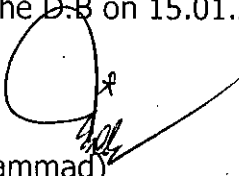
Appellant deposited Rs. 1000/-
as cost by appellant on 18.02.21.
entry made in the process
Register at Sr. No. 12



14.12.2020 Appellant in person and Addl. AG alongwith Arshad Ali, Litigation Officer for the respondents present.

An application has been submitted for adjournment due to illness of learned counsel for the appellant.

Being an old matter of the year 2014, we adjourn the proceedings but as last chance. To come up for hearing before the D-B on 15.01.2021.


(Mian Muhammad)
Member(E)


Chairman

15.01.2021 Appellant in person and Mr. Muhammad Riaz Khan Paindakhel, Asstt. AG for the respondents present.

Former yet again requests for adjournment as his learned counsel has left for attending a bereavement.

The appeal was adjourned for today as a last chance. Request of appellant is, therefore, allowed but on payment of costs of Rs. 1000/- (Rs. One thousand only) by the appellant.

Adjourned to 18.02.2021 for hearing before the D.B.


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


Chairman

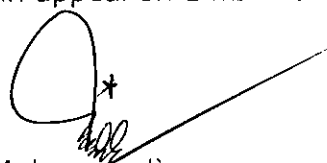
14.10.2020

Counsel for petitioner present.

Zara Tajwar learned Deputy District Attorney for respondents present.

Perusal of record would reveal that Sajjad Haider the present petitioner filed service appeal U/S 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the Government of Khyber Pakhtunkhwa through Secretary Education Khyber Pakhtunkhwa and four others, however, it was on 15.10.2019 when his service appeal was dismissed in default.

Application seeking restoration of appeal was filed on 02.12.2019 stating therein that main service appeal was fixed for arguments on 15.10.2019 but counsel for petitioner being not in the knowledge of date of hearing, could not attend the Tribunal due to general strike on 23.09.2019. The case was posted to 15.10.2019 but neither the petitioner nor his counsel were in the knowledge of the next date of hearing because the preceding date had been adjourned due to general strike. After getting knowledge of dismissal, instant petition was filed. Even otherwise, law favors adjudication on merits and procedural technicalities could not be allowed to stand in the way of administration of justice. As such, by acceptance of the instant application, appeal stands restored. It be properly registered and this application stands consigned to the record room, copy whereof be placed on original file. To come up for arguments in the main appeal on 14.12.2020 before D.B.


(Mian Muhammad)
Member (E)


(Rozina Rehman)
Member (J)

08.07.2019

Mr. Fayaz Khalil, Advocate present and submitted Wakalat Nama of Mr. Hidayatullah, Advocate in favour of the appellant and seeks adjournment being freshly engaged. Mr. Ziaullah, DDA for respondents present. Appellant is also directed to submit member copy of the instant appeal. Case to come up for arguments on 23.09.2019 before D.B.



Member



Member

23.09.2019

Due to general strike on the call of Khyber Pakhtunkhwa Bar Council learned counsel for the appellant is not in attendance. Mr. Assistant Advocate ^{Riaz Painsdakhe} General for the respondents present. Adjourned. To come up for arguments on 15.10.2019 before D.B.



(Hussain Shah)
Member



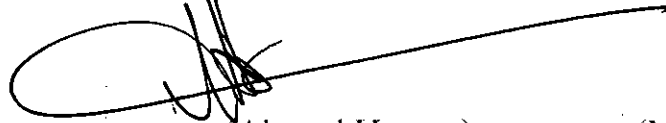
(M. Amin Khan Kundi)
Member

15.10.2019

None present on behalf of the appellant. Mr. Kabirullah Khattak, Additional AG for the respondents present. Called for several times but no one appeared on behalf of the appellant, therefore, the instant service appeal is hereby dismissed in default. File be consigned to the record room.

ANNOUNCED

15.10.2019



(Ahmad Hassan)
Member



(M. Amin Khan Kundi)
Member

27.12.2018

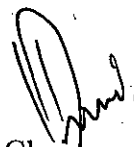
Nemo for appellant. Addl. AG for the respondents present.

On the last date the matter was adjourned through a Reader Note, therefore, notice to appellant shall be issued for 12.02.2019.

To come up for arguments before the D.B on the next date.



Member



Chairman

12.02.2019

Appellant in person and District Attorney for the respondents present.

Requests for adjournment on account of engagement of learned senior counsel for the appellant before the Honourable High Court. Adjourned to 25.04.2019 before the D.B.



Member



Chairman

25.04.2019

Counsel for the appellant and Addl. AG for the respondents present.

Learned counsel for the appellant requests for adjournment to further prepare the brief of instant matter.

Adjourned to 08.07.2019 for arguments before the D.B.



Member



Chairman

20.06.2018

Appellant in person and Mr. Kabirullah Khattak, Additional AG for the respondents present. Appellant seeks adjournment on the ground that his counsel is not available today. Granted. To come up for arguments on 06.08.2018 before D.B.



(Ahmad Hassan)
Member


(Muhammad Amin Khan Kundi)
Member

06.08.2018

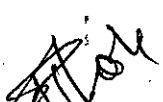
Clerk to counsel for the appellant and Mr. Muhammad Jan, learned Deputy District Attorney for the respondents present. Clerk to counsel for the appellant seeks adjournment as counsel for the appellant is not in attendance. Adjourned. To come up for arguments on 24.09.2018 before D.B.



(Muhammad Amin Kundi)
Member


(Muhammad Hamid Mughal)
Member

24.09.2018

Appellant in person and Mr. Zia Ullah learned Deputy District Attorney present. Appellant seeks adjournment as his counsel is not in attendance. Adjourned. To come up for arguments on 06.11.2018 before D.B.


(Hussain Shah)
Member


(Muhammad Hamid Mughal)
Member


06.11.2018


Due to retirement of Hon'able Chairman, the Tribunal is defunct. Therefore, the case is adjourned for the same on 27.12.2018 before D.B.


Registrar

06.12.2017

Appellant in person present. Mr. Muhammad Jan, Deputy District Attorney for respondent also present. Appellant submitted Wakalat Nama of Mr. Fazal Haq, Advocate and requested for adjournment. Adjourned. To come up for arguments on 09.02.2018 before the D.B.


(Ahmad Hassan)
Member (E)


(Muhammad Amin Khan Kundi)
Member (J)

09.02.2018

Clerk of counsel for the appellant and Mr. Muhammad Jan, Deputy District Attorney for the respondents present. Counsel for the appellant is not in attendance. Seeks adjournment. To come up for arguments on 10.04.2018 before the D.B.



Member


Chairman

10.04.2018

Appellant in person and Mr. Ziaullah, DDA for respondents present. Appellant seeks adjournment. Adjourned. To come up for arguments on 20.06.2018 before D.B.


(Ahmad Hassan)
Member



(M. Hamid Mughal)
Member

1129/2014

10.04.2017

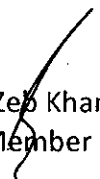
Appellant in person present. Mr. Ziaullah, Government Pleader for respondents also present. Appellant requested for adjournment that his counsel is busy in the apex court. Adjourned. To come up for arguments on 28.07.2017 before D.B.

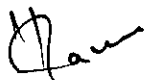

(Ahmad Hassan)
Member


(Muhammad Amin Khan Kundi)
Member

28.07.2017

None present on behalf of the appellant. Mr. Muhammad Jan, Deputy District Attorney for the respondents present. Notice be issued to appellant and his counsel for attendance and arguments for 06.12.2017 before D.B.


(Gul Zeb Khan)
Member


(Muhammad Hamid Mughal)
Member

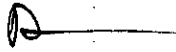
Appellant in person present. Mr. Muhammad Jan, Deputy District Attorney for respondent ~~is~~ present. Appellant submitted Wakalat Nama of Mr. Fazal Haq, Advocate and requested for adjournment. Adjourned. To come up for arguments on 09.02.2018 before the D.B.

(Ahmad Hassan)
Member (E)

(Muhammad Amin Khan Kundi)
Member (J)

22.04.2016

None for the appellant present. Asst: AG for respondents present. To come up for arguments on 07.09.2016.

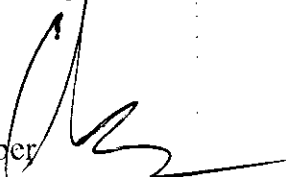

Member



Member

07.09.2016

Akbar Ali Advocate, counsel for the appellant and Mr. Muhammad Jan, GP for respondents present. Counsel for the appellant submitted Wakalat Nama and requested for adjournment. To come up for arguments on

15-12-16


Member


Member

15.12.2016

Appellant in person and Assistant AG for the respondents present. Appellant requested for adjournment due to non-availability of his counsel. Request accepted. To come up for arguments on 10.04.2017 before D.B.


(ASHFAQUE TAJ)
MEMBER


(MUHAMMAD AAMIR NAZIR)
MEMBER

25.05.2015

Appellant in person and Mr. Khurshid Khan, SO alongwith Addl: A.G for respondents present. Written reply not submitted. Requested for adjournment. To come up for written reply/comments on 10.7.2015 before S.B.


Chairman

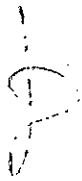
10.07.2015

Counsel for the appellant, M/S Khurshid Khan, SO and Sajjad Haider, ADO alongwith Assistant A.G for respondents present. Written reply not submitted. Requested for further adjournment. To come up for written reply/comments on ~~29.9~~ 2015.


Member

29.09.2015

Appellant in person and Mr. Raham Taj, ADO alongwith Addl: A.G for respondents present. Para-wise comments on behalf of respondents No. 1, 3, 4 & 5 submitted. Learned Addl: A.G rely on the same on behalf of respondent No. 2. The appeal is assigned to D.B for rejoinder and final hearing for 22.12.2015.



22.12.2015

Appellant in person and Mr. Ziaullah, GP for respondents present. Rejoinder submitted. To come up for arguments on 22.4.2016


Chairman


Member


Member

3.
Reader Note:

26.11.2014

Counsel for the appellant present. Since the Tribunal is incomplete, therefore, case is adjourned to 11.02.2015 for the same.


Reader

4


11.02.2015

Appellant with counsel present. Requested for adjournment. Adjourned for preliminary hearing to 23.02.2015 before S.B.


Chairman

5

23.02.2015

Appellant deposited process fee & security.


Counsel for the appellant present. Learned counsel for the appellant argued that the appellant was serving as PST in GPS Aziz Khel, Mattani and that vide order dated 5.3.2014 the appellant was removed from service on the plea of wilful absence. That no inquiry whatsoever was conducted nor the appellant was associated with the inquiry in any manners and that the impugned order ~~was~~ came to the knowledge of appellant on 10.5.2014 whereafter he preferred departmental appeal on 12.5.2014 which remained un-responded and hence the present appeal on 19.8.2014 after lapse of statutory period of 90 days.

The appellant has also submitted application for condonation of delay, *notice wherever be issued.*

Points urged need consideration. Admit. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply for 25.5.2015 before S.B.


Chairman

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 1129/2014


S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	10/09/2014	<p>The appeal of Mr. Sajad Haider resubmitted today by Mr. Zia-ul-Haq Advocate may be entered in the Institution register and put up to the Worthy Chairman for preliminary hearing.</p> <p style="text-align: right;"><i>[Signature]</i> REGISTRAR</p>
2	15-9-2014	<p>This case is entrusted to Primary Bench for preliminary hearing to be put up there on 26-11-2014</p> <p style="text-align: right;"><i>[Signature]</i> CHAIRMAN</p>

The appeal of Mr. Sajid Haider son of Faqir Muhammad PST GPS Aziz Khel Mattani, Peshawar received today i.e. on 19.08.2014 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Heading of the appeal is incomplete which may be completed.
- 2- Copies of charge sheet, statement of allegations, Show cause notice, enquiry report and replies thereto are not attached with the appeal which may be placed on it.
- 3- Annexures of the appeal may be attested.

No. 1227 /S.T.

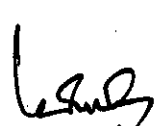
Dt. 20/8 /2014.


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Zia-ul-Haq Adv. Pesh.

Resubmitted after necessary completion and compilation. As far as record at objection no. 2 is concerned that is not in custody of P. [Signature] appellants and may please be requisitioned from record.

Time is extended upto 15th instant.


4/9/14.

Resubmitted. Department is reluctant to grant the relevant record. despite of moving an application for granting the same.

The appeal be placed before 10/9/2014 the court.

BEFORE THE KPK SERVICE
TRIBUNAL PESHAWAR

Service Appeal No. 1129 /2014

Sajad Haider.....Appellant

VERSUS

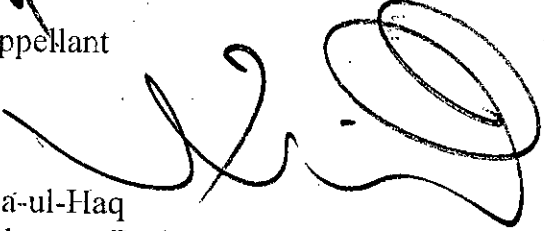
Govt. of Khyber Pakhtunkhwa, through Secretary
Education KPK, Peshawar and othersRespondents

INDEX

S.No.	Description of documents.	Annexure	Dated
1.	Memo of appeal with affidavit.		1-6
2.	Application for condonation of delay with affidavit		7-8
3.	PTC Certificates etc	A	9-11
4.	Pay slips/ pay roll	B	12-14
5.	Leave sanctioning order	C	15
6.	Copy of order dated 05.03.2014	D	16
7.	Departmental representation	E	17
8.	Wakalatnama		18


Appellant

Through

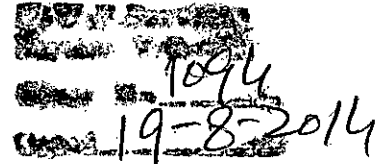

Zia-ul-Haq
Advocate Peshawar
Cell: 0300-5878178

Dated: 19.08.2014

BEFORE THE KHYBER PAKHUTUNKHWA SERVICE
TRIBUNAL, PESHAWAR

Service Appeal No. 1129 /2014

Sajad Haider S/o Faqir Mohammad
PST Govt. Primary School Aziz Khel,
Mattani, Peshawar.....Appellant


1094
19-8-2014

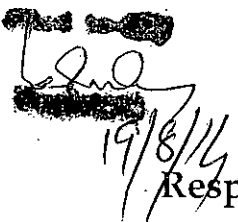
VERSUS

- 1) Govt. of Khyber Pakhtunkhwa, through Secretary Education KPK, Peshawar.
- 2) Deputy Commissioner, Peshawar.
- 3) Executive District Officer, Elementary and Secondary Education, Peshawar.
- 4) District Education Officer (Male) Peshawar.
- 5) A.D.O Elementary & Secondary Education, Peshawar.

.....Respondents

SERVICE APPEAL U/S 4 OF SERVICE

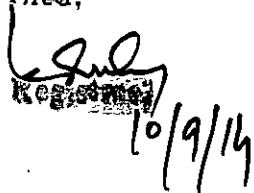
TRIBUNAL ACT, 1974. against the impugned dated 5/3/2014 whereby appellant has been removed from service against which appellant filed an appeal on 12/5/14 with no reply under Respectfully Sheweth:- The mandatory period of 60 days, hence this appeal.


19/8/14

Appellant humbly submits as under

- 1) That appellant has been appointed as P.S.T in 1992 in BPS-7.

As submitted to-~~the~~
and filed,


10/9/14

- 2) That the appellant has been performing his duties as such at GPS Aziz Khel, Mattani, Peshawar, the appellant had been performing his duties with full devotion, dedication, honesty and having unblemished record of his service.
- 3) That throughout his service record, there has been no complaint of any kind against the appellant from any corner whatsoever. He enjoyed good reputation among his colleagues.
- 4) That the appellant due to his bad health condition he applied for leave without pay and was granted the same from 01.03.2003 to 12.04.2004. (Copy attached)
- 5) That in the month of March, 2014 the services of the appellant were dispensed with and was 'removed from service' vide impugned order dated 05.03.2014, received on 10.05.2014, which is illegal, against law and facts. (Copy of order dated 05.03.2014 is attached)
- 6) That appellant served departmental appeal upon respondents on 12.05.2014, which remained unresponded even after lapse of 90 days. (Copy of Departmental Appeal is attached)
- 7) That impugned order of removal dated 05.03.2014 is illegal against law and facts on following grounds.

GROUND.

- A. Because the impugned order is void ab-initio, illegal, unlawful, arbitrary and having no legal effects against the rights of the appellant.
- B. Because the appellant served department for a long period and through out he was kept deprived of his due right of promotion upgradation and arrear as since his appointment in 1992 in BPS-7 he was kept on the same through out malafidely he was not granted graded pay, General upgradation plus premature advance increments on running pay. As the appellant had passed his P.S.T in 1996, hence, he was also entitled for seniority and graded pay from 1996 and the same had not been given to appellant which shows malafidey and ill will of respondents and the instant order of removal from service is also illegal.
- C. Because the order dated 05.03.2014 on the face of record is violative of appellant right.
- D. Because the impugned order has been passed against the appellant without holding a regular inquiry, as is evident from order dated 05.03.2014, which is violative to the principle/ law and dictum laid down by the august Supreme Court of Pakistan in its various judgments reported as:-
- i. 2002-SCMR-57
 - ii. 2001-SCMR-1566
 - iii. 2000-SCMR-1321
 - iv. 1994-PLC(CS)-171(FST)
 - v. 1993-SCMR-603

Hence the impugned order was passed in violation of the principle/ law and dictum laid down by the august Supreme Court of Pakistan.

- E. Because the impugned order has been passed against the appellant without issuing any show-cause notice to him, while it has been wrongly mentioned in the impugned order that a show cause notice has already been served upon the appellant, but the fact is that the appellant never received any show cause notice from the department so far. The impugned order has been passed without issuing a show cause notice or without affording an opportunity of personal hearing which is mandatory provision of law, hence the impugned order is against the principle of natural justice and the dictum laid down by the apex court in the judgments reported as 200/-SCMR-1034 and 1994-SCMR-2232.
- F. Because the appellant was not habitual absentee, hence the impugned order passed against the appellant under the Rules are not sustainable as the Rules were applicable only to the cases of habitual absentee. Reference is made to the judgment of Hon'ble Federal Service Tribunal titled as "Naghmana Saher Vs. PIA".
- G. Because prior to the instant charge, the appellant had been maintaining absolutely unblemished service record in reference to punctuality and discharge of his duties. The instance in question constitutes to be the first lapse on his part during his entire service and he

has not been liable to such a harsh punishment of removal from service. Therefore, he has been entitled to be reinstated into service. Reliance is placed on the ruling containing in 1986 PLC (CS) 465.

- H. Because the impugned order is very harsh and does not commensurate with the facts and circumstances of the case as the only charge of absence from duty has been leveled against the appellant, hence the impugned order passed against the appellant is not maintainable in the eye of law.
- I. Because impugned punishment for absence is too harsh, especially in view of past unblemished long service.
- J. Because impugned order is against dictum of Hon'ble Supreme Court of Pakistan as laid down in 2009 SCMR 1157, 2009 SCMR 157 and numerous other consistent judgments of Supreme Court and this Hon'ble Court.
- K. Because if for corruption and embezzlement, punishment is removal, then for absence too, punishment of removal does not commensurate.
- L. Because the absence is not advertised in two leading newspapers.
- M. Because instant case is classical example of misapplication of law.

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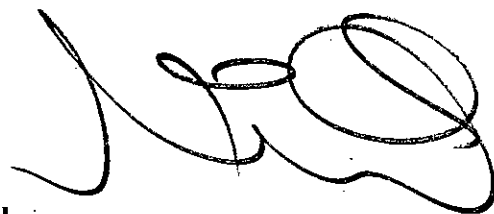
In view of above-mentioned facts and circumstances, it is respectfully prayed that the instant departmental appeal may graciously be accepted and the impugned order may kindly be set-aside and in consequence thereof, the appellant be reinstated in service with all consequential back benefits in the interest of justice.



Appellant

Through

Zia-ul-Haq
Advocate Peshawar

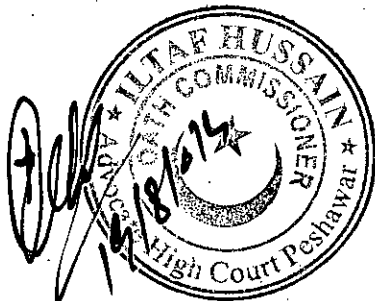


AFFIDAVIT

I, do hereby affirm and declare on oath that the contents of the appeal are true and correct to the best of my knowledge and belief and nothing material has been concealed from this Hon'ble Tribunal.

ATTESTED

Deponent



BEFORE THE KHYBER PAKHUTUNKHWA SERVICE
TRIBUNAL, PESHAWAR

Service Appeal No. _____/2014

Sajad Haider.....Appellant

VERSUS

Govt. of Khyber Pakhtunkhwa, through Secretary

Education KPK, Peshawar and othersRespondents

APPLICATION FOR CONDONATION OF DELAY

Respectfully Sheweth:

1. That the titled appeal has been filed today wherein no date of hearing has been fixed so far.
2. That the appeal is within time for the reason that appellant was kept unaware of the proceedings against him and the impugned order dated 05.03.2014 and he got knowledge of the same on 10.05.2014, where after he filed departmental representation within time and now this appeal also as per the statutory period, but still this Hon'ble Court consider the same as time barred then this application on the following amongst other grounds.

GROUND

- A. That the delay is not intentional nor willful, but due to the unavoidable circumstances
- B. That the appellant was not served with any proceedings by the department and he was kept unaware of the impugned order

and in such like circumstances time will begin from the date of knowledge and not from the date of order.

- C. That grounds raised in the appeal shall also be considered as integral part of this application.
- D. That the other grounds may also be allowed during arguments.

It is, therefore, very graciously requested that, the delay if any in filing the appeal, the appeal may kindly be allowed and the services of the appellant may graciously be restored alongwith any ancillary and necessary relief.

Appellant

Through

Zia-ul-Haq
Advocate Peshawar

AFFIDAVIT

I, do hereby affirm and declare on oath that the contents of the appeal are true and correct to the best of my knowledge and belief and nothing material has been concealed from this Hon'ble Tribunal.

ATTESTED

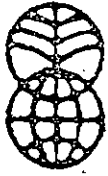
Deponent



A handwritten signature in black ink, appearing to be the signature of the deponent.

9

SR NO. :- 13939



ALLAMA IQBAL OPEN UNIVERSITY
ISLAMABAD



Registration No.
94 NPT-9292

CERTIFICATE

Roll No.
F6796144

MR./MS. SAJJAD HAIDER

FATHER'S NAME FAQUIR MUHAMMAD

HAS PASSED NEW PRIMARY TEACHER'S ORIENTATION COURSE
(PTOC-650) OFFERED DURING SEMESTER SPRING/AUTUMN 1997
IN COLLABORATION WITH NORAD OF ROYAL NORWEGIAN GOVERNMENT.

HE/SHE ACTIVELY PARTICIPATED IN ALL THE ACTIVITIES OF THE
COURSE AND HAS COMPLETED ALL REQUIRMENTS FOR OBTAINING THIS

CERTIFICATE.

HE/SHE OBTAINED 69 % MARKS AND HAS BEEN PLACED IN GRADE B

[Signature]
PROJECT DIRECTOR

[Signature]
CONTROLLER OF EXAMINATION

DATE: 31-03-1998

[Handwritten initials]
[Handwritten signature]

PAGE NO. 4063
PAYMENT ADVISE
1000

GOVERNMENT OF PAKISTAN
ACCOUNTANT GENERAL W.P.R.
DISTRICT
PAY ROLL SYSTEM

BY: DISTRICT OFFICER (M) P.R.Y. & D.U.P.
PRIMARY EDUCATION S&P SCHOOLS

DEPT CODE		0400000	
PAYMENTS		0000000	
133 SPL ADD AL	370.00	308 G P FUND	308.00
108 CHARGE ALL	40.00	337 E W F	3.00
178 MED ALL	180.00	381 B FUND	1.80
121 H R A	328.80	DEDUCTIONS/RECOVERIES	
001 B PAY	2700.00	381 G INS	20.00
TOTAL ***	3828.80	TOTAL ***	229.80
BALANCE	1010.00		
TOTAL ***	2818.80		

NET AMOUNT PAYABLE

CASH PAYMENT THRU DEPT

QUALIFYING SERVICE
MON 330

PAGE NO. 4063
PAYMENT ADVISE
1000

GOVERNMENT OF PAKISTAN
ACCOUNTANT GENERAL W.P.R.
DISTRICT
PAY ROLL SYSTEM

BY: DISTRICT OFFICER (M) P.R.Y. & D.U.P.
PRIMARY EDUCATION S&P SCHOOLS

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BALANCE	1010.00		
TOTAL ***	2818.80		

NET AMOUNT PAYABLE

CASH PAYMENT THRU DEPT

QUALIFYING SERVICE
MON 330

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(15)

OFFICE OF THE EXECUTIVE OF DISTRICT OFFICER (SCHOOLS & LITERACY) PESHAWAR.

GRANT OF LEAVE.

Under the provision of revised leave rules, 1981. Sanction is hereby accorded to the grant of leave in respect of Mr. Sajjad Haider PTC QES Mattani Peshawar as under;-

From, 1.3.2003 to 12.4.2004 (406 days) with out pay.

Note:-

1. On the expiry of leave he is likely to resume his duty on the same post and station from where he proceeded on leave.
2. Necessary entry to this effect should be made in his S/Book.

Encl; as S/Book,
with sr.No. 2.

(Mr. Ayaz Khan)
Executive District Officer
Schools & Literacy Peshawar.

Enclst; No 5639-42 / F.No. 18/PTC/Male/dated Peshawar the 28/4 /03.
Copy of the above is forwarded to the :-

1. District Account Officer Peshawar.
2. ✓ By; District Officer (Male) Primary Peshawar w/r/to his No. 2067 dated 1.3.2003 alongwith S/Book.
3. Teacher Concerned.
4. Supdt; local office;

[Signature]
District Officer (Male)
Schools & Literacy Peshawar.

[Handwritten initials/signatures]

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16
3515/101
3) (1/1)
Pe.

DISTRICT EDUCATION OFFICER (MALE) PESHAWAR.NOTIFICATION :-

1. WHEREAS Asstt:Sub Divisional Education Officer (Male) Circle Daudzai, Peshawar reported that Mr. Sajjad Haider PST, Government Primary School Aziz Khel Mattani Peshawar was absent from duty with effect from 19/01/2004.
2. AND WHEREAS Mr. Sajjad Haider PST, Government Primary School Aziz Khel Mattani Peshawar was proceeded against under Khyber Pakhtunkhwa Govt: Servant (Efficiency & Discipline) Rules 2011, for the charged of "wilful absence from duty with effect from 19/01/2004 as mentioned in the Absence notice served upon him under registered post at his home address vide No. 1486 dated: 21/08/2013."
3. AND WHEREAS the accused official did not submitted his reply to the absent notice.
4. AND WHEREAS Absent Notice served upon Mr. Sajjad Haider PST, GPS Aziz Khel Mattani Peshawar through Daily News Paper "AJJ" on 19/10/2013 to attend the office and explain his absent period but he remained absent and did not report for duty in response to the above mentioned notice.
5. AND WHEREAS the competent authority, District Education Officer (Male) Peshawar, after having considered the charges, evidence on record, of the accused official in response to the absent notice, facts of the case, his of the view that the charge of misconduct/wilful absent from duty against the accused official has been proved.
6. NOW THEREFORE, in exercise of the Powers conferred under Rules-4 (b) iii of Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules 2011, I the competent Authority District Education Officer (Male) Peshawar is pleased to impose major penalty of "Removal from Service" upon Mr. Sajjad Haider PST GPS Aziz Khel Mattani Peshawar with immediate effect. The period of his absence with effect from 19/01/2004 till date is hereby treated as unauthorized absence from duty without pay.

Sharif Gul
District Education Officer
(Male) Peshawar.

Endst: No. 4636-43 Dated Peshawar the 5/3 /2014.

Copy forwarded to the :-

1. Accountant General Khyber Pakhtunkhwa Peshawar.
2. Sub Divisional Education Officer (Male) Peshawar with the remarks to recover any over payment made to the above named official and deposit in to Govt: Treasury under intimation to this office.
3. ASDEO (Male) Circle Mattani Peshawar.
4. PS to Secretary E&SED Khyber Pakhtunkhwa Peshawar.
5. PA to Director E&SE Khyber Pakhtunkhwa Peshawar.
6. PA to District Education Officer (Male) Peshawar.
7. Cashier o/o the SDEO(M) Peshawar.
8. Official Concerned.

6-8-14

4-8-14

2/11

Rywan ulah H-C.

خدمت جناب ڈسٹرکٹ ایجوکیشن افسر مردانہ D.C. لاہور

درفواست برائے بحالی پر ملازمت P.S. آ

جناب عالی

موجودہ گزارش ہے کہ سائل فیکہ تعلیم میں سال 1992 سے بطور P.S. آ مدرس کے سرورس کر رہا ہے جسکو حکام نے مورخہ 04-3-5 کو ملازمت سے برطرف کر دیا گیا ہے۔

سائل ایئر ایجنڈام اور قابض و فتنہی مدرس ہے۔ جنکا سرورس ریکارڈ بھی قابل ملاحظہ ہے۔ ان کے خلاف بدروان کہی قسم کی حکمانہ انتوائٹریں پیش کیا اور پورا سرورس ریکارڈ تسلسلہ پیش ہے۔

لہذا حکم مورخہ 04-3-5 خلاف قانون واقعات و ریکارڈ ہے۔

کیونکہ اس دوران سائل نے خدمات سر انجام دی ہے مگر افسران کی ملی ننگت سے اسے نثری ایڈوائس انٹریٹ و دیگر فرمائش سے بھی غیر قانونی طور پر قروا رکھا گیا ہے۔ جس سے فیکہ کی سائل کے خلاف بدینہی ظاہر ہو رہی ہے لہذا سائل کی ملازمت سے برطرفی بحوالہ آرڈر 04-3-5 خلاف قانون اور ریکارڈ ہے۔

لہذا مندرجہ بالا وجوہات کی بنیاد پر گزارش کی جاتی ہے کہ سائل کو ملازمت پر بطور P.S. آ مدرس بحال کرنا جائز و صحیح ہے اور ساتھ ساتھ دیگر اصلاحات حسب ضابطہ مناسبت کی جائے۔

العرض علیہ السلام

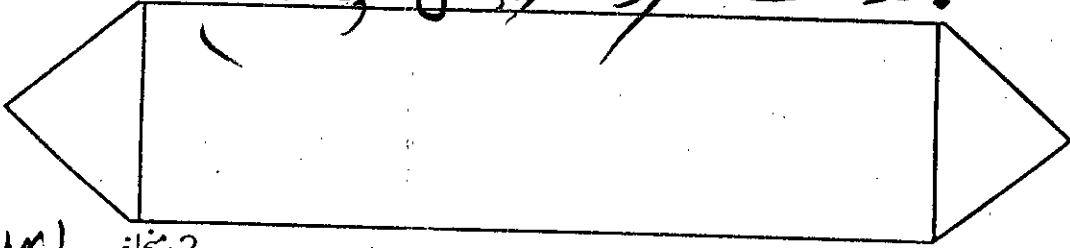
12-5-04

سجاد صدیق ولد فقیر محمد سکنہ مٹنی ٹاؤن

سابقہ P.S. آ مدرس P.S. آ عزیز مٹنی

17301 1454746-7

بعدالت لہروی ٹریسٹل کے ساتھ



2 منجانب (ادو) سید

بنام کبار صدر بنام فکر

مورخہ
مقدمہ
دعویٰ
جرم

باعث تحریر آنکے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ
آن مقام مہاراجہ کیلئے سید احمد شاہ شاہ حجاز انٹرنیٹ

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز
وکیل صاحب کو راضی نامہ کرنے و تقرر ثالثہ فیصلہ برحلف دیئے جواب دہی اور اقبال دعویٰ اور
بصورت ڈگری کرنے اجراء اور صولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق
ذرائع پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی
نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا 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 با اختیارات حاصل ہوں گے اور اس کا ساختہ
پروا ختم منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ و ہرجانہ التوائے مقدمہ کے سبب سے ہوگا۔
کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی
مذکور کریں۔ لہذا ادکالت نامہ لکھ دیا کہ سند ہے۔

20
ماہ

18
الرقوم

کے لئے منظور ہے۔
S. W. Adv.
Shah Nawaz Adv.

بمقام
کبار صدر

خدمتِ قندباد و شکرکده انجمن المهندسين الهندسيين في الهند - بنگالور - ۱۳۵۰

درفواست بمراد مخلصي تقورات، وراج شيت - شيتي شيتا انوار شيتي
شوقاز نو شيس - انوار شيتا الورث اور جوبان و دريم جلم انوار شيتي

صنابعه گزارش بطور انورج -

گر سائل کو فکر تعلق سے بہر فست کیا گیا ہے -

جس سے پہلے پہل گیا دستاویز ان امور کو بلاع جلم انوار
بابت سائل درکار ہے -

لکھنا اسلحا ہے - کہ جلم انوار و خبر دورہ بالا بطور سائل
صورت کیا گیا ہے -

سائل -

المرفوع - 5/9/14

سجاد احمد اولر منتظر
آ. س. آ. نور عنتیہ امیر سول انوار شیت
لکھنا

①
29/9/15

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR

SERVICE APPEAL NO. 1129/2104

SAJJAD HAIDER

V/S

GOVT.

Para wise reply on behalf of the Respondents 1,3,4 & 5

Respectfully Sheweth:-

The Respondents submit below:-

Preliminary objections:-

- 1.** That the Appellant has got no cause of action/ locus standi.
- 2.** That the Appellant has concealed material facts from this Hon, able Tribunal.
- 3.** That the instant Appeal is based on mala fide intentions.
- 4.** That the Appellant is estopped by his own conduct to file the instant Appeal.
- 5.** That the instant appeal is badly time barred.
- 6.** That the instant Appeal is not maintainable in its present form.
- 7.** That the instant Appeal is bad for mis- joinder and non- joinder of the necessary parties.
- 8.** That the Appellant has not come to this Hon, able Tribunal with clean hands.
- 9.** That the Appellant does not fall within the ambit of aggrieved person.
- 10.** That the Departmental Appeal is badly time barred.
- 11.** That there is no record of Departmental Appeal in the office of the Respondent No.4; hence the instant the Service Appeal is not maintainable.
- 12.** That this Hon' able Tribunal has got no jurisdiction to entertain this appeal.
- 13.** That the instant appeal is barred by law.

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ON FACTS.

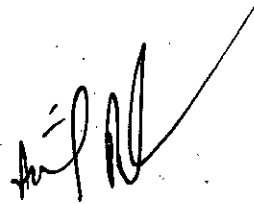
1. That the Para No.1 is correct.
2. That Para No. 2 is correct that the appellant was posted in G.P.S Aziz Khel, Mattani while rest of the Para pertains to record.
3. That Para No.3 is also pertains to record, hence denied.
- ✓ 4. That Para No.4 is correct to extant that the appellant proceeded on leave while rest of the Para is denied.
5. That as the Appellant was not interested in his service and has been willfully remained absent from service from 2003 to 2014, therefore, the appellant has been dismissed from service after adopting all legal procedures.
6. That Para- 6 is in correct and misleading, the appellant has filed no Departmental Representation, hence Para-6 is denied.
7. That Para-7 is incorrect and misleading, hence denied.

On Grounds.


- A. That Ground-A is incorrect, hence denied. Detailed reply has been given in Para-5.
- B. As the Appellant willfully absented himself from service for unauthorized long period, therefore he has been dismissed service according to law, hence, Ground-B is incorrect and misleading hence denied. .
- C. That Ground-C is incorrect and misleading, after fulfillment of codal formalities, the appellant was rightly been removal from service.
- D. That Ground-D is incorrect and misleading, the Appellant willfully absented himself from service for unauthorized period, therefore, Ground-D is denied.
- E. That Ground-E is incorrect and misleading. All the legal formalities have been dully adopted while dismissing the appellant from his service.
- F. That as the appellant willfully absented himself from service for unauthorized long period; therefore, the appellant has been dismissed from service after adopting all the legal procedures, hence Ground-F is denied. (Absentee Notice, show cause notice and notice and notice through daily news are attached as annexure A, B & C).
- G. That Ground-G is fully replied in the above Paras.

- H. That Ground-H is incorrect and denied. The appellant is fully aware of the fact the absence is one of the misconduct as per law. All the codal formalities have been observed.
- I. That Ground- I is incorrect. Replied as above.
- J. That Ground-J is incorrect and misleading, hence denied the appellant has been dismissed from service after adopting all the legal procedures.
- K. That Ground-K is fully replied in Ground- F, denied and incorrect. All the legal formalities have been fulfilled.
- L. That Ground-L is incorrect and denied.
- M. That Ground- M is incorrect and misleading, All the codal formalities are fulfilled.

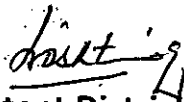
It is therefore, humbly requested that on acceptance of this reply, the Appeal in hand may very graciously be dismissed.



Secretary,
(E & SE) KPK



District Education Officer,
(Male) Peshawar



Assistant District Education Officer
Circle Mattani, Peshawar

4
Ann. A
246
REGISTERED POST

DISTRICT EDUCATION OFFICER,
(MALE) PESHAWAR.
No. 1486 / P/F/
Dated 21/2 /2013.

To,

Mr. Sajjad Haider S/O Faqir
PST GPS Aziz Khel Mattani Peshawar.
R/ Muhallah Chachu Khel Village & PO Mattani,
Peshawar.

Subject
Memo:

SHOW CAUSE NOTICE.

Enclosed please find herewith a copy of show cause notice which is being served

upon you.

You are therefore directed to reply of the same at the earliest so as to reach the undersigned within a week time of the receipt of this letter otherwise action under E&D rules 2011 will be taken against you.

07
District Education Officer,
(Male) Peshawar.

S Ann - B

2/12

ABSENTEE NOTICE.

I Abdul Basit DEO (Male) Peshawar, as competent authority, under the Khyber Pakhtunkhwa Govt: servants (Efficiency and Discipline) Rules, 2011 do hereby serve you Mr. Sajjad Haidar PST GPS Aziz Khel Mattani Peshawar as follows:

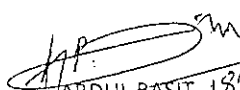
Assistant Sub. Divisional Education Officer (ASDEO Male) circle Mattani Peshawar has reported that you are willfully absent from duty w.e.f 19/1/2004 till date without any application. Absentee notices have been served upon you by ASDEO (M) Circle Mattani Vide No. 503 Dated; 23/10/2012 and No. 549 Dated: 13/08/2013 but no response has been received from your end.

I am satisfied that you have committed the following acts/omissions specified in rule 3 of the said rules.

" Misconduct "

As a result thereof, I as competent authority have tentatively decided to impose upon you the major penalty of removal from service under rules 4 of the said rules.

1. You are, therefore, directed to report for duty within seven days of issuance of this notice and indicate the cause of your absence.
2. If no reply to his notice is received within seven days or not more than 15 days of its delivery, it shall be presumed that you have no defense to put in and in that case and ex-parte action shall be taken against you.


ABDUL BASIT 18/8/2013
District Education Officer Male
Peshawar

Ann-B

23/8

DITRICT EDUCATION OFFICER,
(MALE) PESHAWAR.
NO. 1957
Dated 19/8/2013

To,

The Assistant Sub Divisional Education Officer,
(Male) Circle Mattani Peshawar.

Subject ABSENTEE NOTICE.

Memo:

You are requested to serve upon the enclosed absentee notices upon the following PST and a copy thereof sent to this office for record please.

1. Mr. Bakhat Munir PST GPS Aziz Khel Mattani
2. Mr. Sajjad Haidar, PST GPS Aziz Khel Matani

Encl: As above.

Enst: No. 1957

19/8/2013
District Education Officer
(Male) Peshawar

Copy for information and necessary action to the :-

1. Sub Divisional Education Officer (Male) Peshawar.

19/8/2013
District Education Officer
(Male) Peshawar

The Dist. Education Office
Male, Keshm.

Subject: Absentee notice

Respectfully it is stated
that I am in receipt of absentee
notice from your office. My reply
is submitted as under

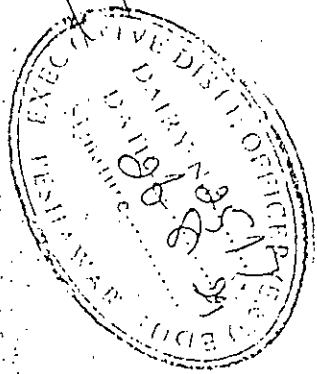
I applied for three years
leave for the period from 19-1-2004
to 18-1-2007. After the expiry
of leave I could not join
my duty due to my unavoidable
circumstances.

I abstracted one of my
relatives to hand over my
application for extension in
leave for he failed to
do so. Now I have reported

on absence day. It is before
requested that I may be allowed
to resume duty and leave period
from 19-1-2004 to 20-8-2012 may
be decided. Thank you
Yours sincerely,
SATTAR HAIDAR

Bahar Baksh
26/8/13

DDP/01(M)
27/8/13



779

DISTRICT EDUCATION OFFICER,
(MALE) PESHAWAR
No. 3522-25

Dated 21/9 /2013

TO

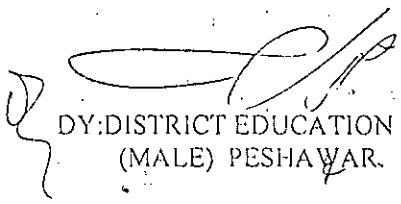
The Sub Divisional Education Officer,
(MALE) Peshawar

Subject: PERSONAIL HEARING/SHOW CAUSE NOTICE

Memo:

You are requested to direct the following PST teachers to attend the office of the under-
signed on 26/09/2013 at 9:00am positively for personal hearing.

- 1) Sajjad Haidar PST GPS Aziz Khel Mattani.
- 2) Mohammad Riaz PST GPS Zargar Abad.


DY: DISTRICT EDUCATION OFFICER
(MALE) PESHAWAR.

Malik

Before The Service Tribunal, KPIC, Peshawar

SAJJAD HAIDER VS GOVT ETC

Rejoinder on behalf of the appellant

On Preliminary objections.

- 1— Para No 1 is incorrect and denied. Appellant was a regular civil servant who was illegally fired hence is armed with a cause of action
- 2— Para No 2 is incorrect hence denied. Respondent being custodian of record concealed material fact and record and had produced false documents.
- 3— Para No 3 is incorrect hence denied. Appeal is bonafide for enforcement of service rights;
- 4— Para No 4 is incorrect hence denied
- 5— Para No 5 is incorrect even otherwise Application for condonation of delay with plausible grounds is there with the appeal
- 6— Para No 6 is incorrect and misleading hence denied;

7-10 - Para No 7-10 being incorrect, misleading and false hence denied. detailed reply is given earlier;

11 - Para 11 speak volumes of the inefficiency and mismanagement of respondent that they could not maintain their own record. Appeal is very much maintainable;

12-13 - Para No 12+3 are incorrect hence denied;

On facts

1-2 is No comments as Para No 1 and 2 have been admitted as correct;

3 - Para No 3 has been admitted to pertain to record but inspite of being custodian of record nothing have been produced in rebuttal hence this para is presumed to have been admitted

4-5 - Para. No 5-6 are misleading and incorrect Appellant had remained a dutiful servant and he has been hit below the belt by ignoring all codal formalities. All acts and omissions of respondent are illegal and document produced are fake and concocted;

6 - Para No 6 is denied is denied being incorrect;

7 - Para No 7 is incorrect hence denied;

On Grounds

A - Para A is incorrect hence denied;

B - Para B is also incorrect and denied.

Appellant availed sanction leave and was later not allowed to do his job. With the previous EDO offered the restoration and appellant gave a written representation on stamp paper which had been made a secret by respondent and had not produced the same. The same was not acted upon by the new EDO as the then EDO in the meanwhile got transferred;

C - Para C is denied.

D - Para D. is also incorrect detailed reply given earlier

E - Para E is denied being incorrect;

F - Para F is incorrect misleading and after thought. Document produced are fake and legal formalities have not been fulfilled;

G-M - All grounds raised from G to M are incorrect and denied. detailed reply given earlier

It is therefore requested that by setting aside all the objection appellant appeal may please be allowed.

Affidavit

Declared & affirmed that all the contents of this rejoinder are true and correct & nothing concealed. Through

Appellant



21/11/2014

قیمت
50 روپے

20855



ایڈویکٹ: BC-15-5662
بار کونسل/ایسوسی ایشن نمبر: BC-15-5662
رابطہ نمبر: 0333-1974274

پشاور بار ایسوسی ایشن، خیبر پختونخواہ

بعدالت جناب: مسٹر بیونل پشاور

Appellant- منجانب:	Appellant دعویٰ:
سیجا حیدر	علت نمبر:
بنام	مورخہ:
خیبر پختونخواہ ایجوکیشن	جرم:
کمیٹی ایڈووکیٹ	تھانہ:

باعث تحریر آگہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کاروائی متعلقہ خانہ کی طرف سے کسٹمس
آن مقام پشاور کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا، نیز وکیل صاحب کو
راضی نامہ کرنے و تقرر ثالث و فیصلہ برحلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق
زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی، نیز
دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ 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 وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ پر داختم منظور و قبول ہوگا
دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ یا حد سے
باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے

المرقوم: 8-5-2019


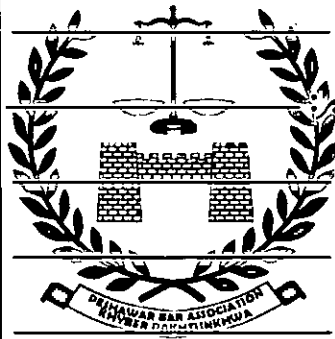
العبد سیجا حیدر العبد
مقام پشاور کے لیے منظور ہے۔

Attested and Accepted Si

نوٹ: اس وکالت نامہ کی فوٹو کاپی نام قابل قبول ہوگی۔

		67128
		
ایڈووکیٹ/دستخط: _____ بارنومل ابار ایسوسی ایشن: _____ رابطہ نمبر: 0300 5959601	پشاور بار ایسوسی ایشن، خیبر پختونخواہ	

Khyber Pakhtunkhwa Service Tribunal, Peshawar
بعدالت جناب: _____

Appellant منجانب:	دعویٰ: علت نمبر: مورثہ: جرم: تھانہ:
	
بابت تحریر آگے	

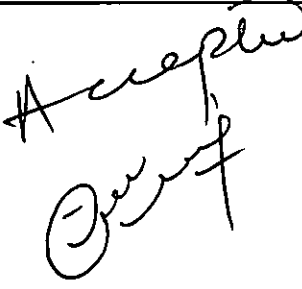
مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کاروائی متعلقہ

ان مقام پر Atensar Ali Advocates کو وکیل 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 نمائندگی و فیصلہ برطاعت دینے جو اب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق زریں بد دستخط کرنے کا اختیار ہوگا، نیز ضرورت پر پیروی بناؤ گئی ہو تو اس پر ذمہ داری اور منسوخی، نیز دائر کرنے اپیل نگرانی و پیروی کرنے کا اختیار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہو گا اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ اختیارات حاصل ہوں گے اور اس کا ساتھ میں ذرا اختہ منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جہان التوائے مقدمہ کے حساب سے ہوگا وہ وکیل موصوف و قبول کرنے کا اختیار ہوگا کوئی تاریخ پیشی مقام دورہ یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ مندر ہے۔

المرقوم: 07-09-2016



الع ————— واہ شد ————— الع
 بد ————— بد

مقام _____ کے لئے منظور ہے۔



اس کا نام ہے: _____
 اس کا پتہ ہے: _____

Sajjad Haider (Appellant)

قیمت 50 روپے	 	17990
ایڈوکیٹ: <u>Fazal Haseem</u>	پشاور بار ایسوسی ایشن، خیبر پختونخوا	
بار کونسل ایسوسی ایشن نمبر: <u>BC-10-7540</u>		
رابطہ نمبر: <u>0333-9402286</u>		

بعدالت جناب: سروس ٹریبونل مباحثہ اور

مخائب: <u>اسپرٹ</u>	دعویٰ: <u>Appeal</u>
	علت نمبر:
	مورخہ:
	جرم:
	تھانہ:
بابت تحریر آگے	

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کاروائی متعلقہ نورین انور کے آں مقام پشاور کیلئے فضل حق کوہ دلعانی ایڈووکیٹ کو وکیل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کمال اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ برحلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی، نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ 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 وہی جملہ مذکورہ با اختیارات حاصل ہوں گے اور اس کا ساختہ پر داختم منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے

المرقوم: 06/12/17

العبد _____ واہ شد _____ العبد

مقام _____ کے لیے منظور ہے۔

نوٹ: اس وکالت نامہ کی فوٹو کاپی ناقابل قبول ہوگی۔

استاد
Accepted
Supra

(5)

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

Appeal No. 260 /2012

Mr. Amir Arif, Constable No.1085,
Police Line, Shah Mansoor, Swabi.



262
21-2-12

APPELLANT

VERSUS

1. The Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. The D.I.G. Mardan Range, Mardan.
3. The District Police Officer, Swabi.

RESPONDENTS

.....

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA, SERVICE TRIBUNAL ACT, 1974 AGAINST THE ORDER DATED 21.12.2011 WHEREBY THE APPELLANT HAS BEEN REMOVED FROM SERVICE AND AGAINST THE ORDER DATED 21.1.2012 WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT HAS BEEN REJECTED FOR NO GOOD GROUND.

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21/2/12

PRAYER:

.....

THAT ON ACCEPTANCE OF THIS APPEAL, THE IMPUGNED ORDERS DATED 21.12.2011 AND 21.01.2012 MAY BE SET ASIDE AND THE APPELLANT MAY BE REINSTATED INTO SERVICE WITH ALL BACK BENEFITS. ANY OTHER REMEDY, WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND PROPER THAT MAY ALSO BE AWARDED IN FAVOUR OF APPELLANT.

ATTESTED

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EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

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appellant joined the Police Force in the year 2002 as Constable and has round about 10 years service at his credit. That the appellant remained absent from duty from 27.04.2011 till 30.09.2011 for which the appellant was charge sheeted alongwith statement of allegation on 24.11.2011 by the Competent Authority. That after the reply of the charge sheet the enquiry was conducted by the Enquiry Officer in which it was clearly mentioned by the appellant that he remained absent from duty due to severe illness of his wife which resulted in back bone (Spinal chord) operation. That on 10.12.2011, the appellant served with final show cause notice which was replied by the appellant and stated his reasons mentioned above for his absence. That on 21.12.2011, the appellant was removed from service under Police Rules, 1975 against which the appellant filed departmental appeal before the respondent No. 2 on 27.12.2011 but the same has been rejected on 21.01.2012, hence the instant appeal.

4. The learned counsel for the appellant argued that impugned orders dated 21.12.2011 and 21.01.2012 were against the law, rules and norms of justice, therefore not tenable. He further argued that no regular enquiry was conducted under the law nor the appellant was given chance of cross examining the record or witnesses against him. He further argued that reasons of absence were given with proof but the same were not scrutinized by the Enquiry Officer to ascertain the genuineness of the case. He further contended that there was no mention of previous penalties in the charge sheet, but a mention of those

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

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penalties was made in the impugned order which tantamount to double punishment. He further argued that the appellant had more than 10 years service at his credit and Competent Authority was required to take lenient view of the absence which was beyond the control of the appellant. He further argued that though Competent Authority had powers to award any punishment but under the law such punishment should be commensurate to the degree of offence. He prayed that the appeal may be accepted and the appellant may be reinstated into service with all back benefits. He relied on 2006 SMCR 1120, 2007 PLC (C.S) 685, and 2007 PLC (C.S) 678.

5. The learned Government Pleader resisted the appeal and argued that all codal formalities under the Police Rules, 1975 were fulfilled and proper enquiry was conducted before passing the impugned order by the Competent Authority. He further contended that the appellant could not satisfy the Enquiry Officer for his long absence of five months and that too without obtaining leave from the Competent Authority who was justified in the imposition of major penalty of removal from service on him. He prayed that the appeal being devoid of any merits may be dismissed.

6. Arguments of learned counsels for the parties heard and record perused with their assistance.

7. From perusal of the record, it transpired that the appellant remained absent from duty on account of illness of his wife

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

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which was duly supported by documents of treatment before the Enquiry Officer. The Enquiry Officer however recommended the appellant for major penalty on account of failure of the appellant to get leave sanctioned from the Competent Authority. From perusal of the record, it is evident that the appellant failed to adopt proper procedure of sanction of leave from the Competent Authority but at the same time the absence was not without any reasons as his wife was ill and required his attention. In the circumstances, the Tribunal is of the considered view that punishment inflicted upon the appellant was too harsh and keeping the service rendered by the appellant which was pensionable, the major penalty of removal from service is converted into major penalty of compulsory retirement from service. The intervening period shall be treated leave of the type due. Parties are left to bear their own costs. File be consigned to the record.

Sd/- Abdul Latif, Member
Sd/- Muhammad Azim Khan Afzali,
Chairman

Certified to be true copy
 EXAMINER
 Khuzdar Bench
 Service Tribunal,
 Peshawar

ANNOUNCED
 07.01.2016

Date of Presentation of Application 01-06-2016
 Number of Words 2000
 Copying Fee 12
 Urgent 2
 Total 14
 No. of Copies 5
 Date 01-06-2016
 Date of Delivery of Copy 01-06-2016

inquiry 1 Show case 2
Questions with
in the form of
evidence.

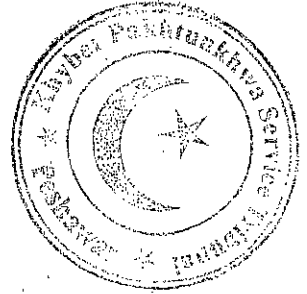
Under appeal

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Appeal No. 1035/2012

Date of Institution ... 18.09.2012

Date of Decision ... 13.09.2017



Robina Syed, Ex-PST, Government Girls Primary School,
Ward No.1 Takht Bhai District Mardan. ... (Appellant)

VERSUS

1. Secretary, Elementary & Secondary Education, Khyber Pakhtunkhwa
Peshawar, and 2 others. ... (Respondents)

MR. SYED NOMAN ALI BUKHARI,
Advocate

For appellant.

MR. MUHAMMAD ADEEL BUTT,
Additional Advocate General

For respondents.

MR. AHMAD HASSAN,
MR. MUHAMMAD HAMID MUGHAL ...

MEMBER(Executive)
MEMBER(Judicial)
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

ATTESTED

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 PST in 1988. That in 1999
due to domestic problems, the appellant applied for Earned Leave for one year. Her
application was properly processed and informed that leave was sanctioned. That the said
leave was accordingly extended till 2003. After completion of the leave, the appellant
joined her duty at her previous place of posting. The appellant performed duty at the
same school from 01.01.2003 to 28.02.2003. She was informed that service record of the
appellant was not available in the office of District Education officer and another teacher
had been appointed against the post of the appellant. That there-after the inquiry

committee was constituted and upon conclusion of inquiry, major penalty of removal from service was imposed impugned order dated 18.06.2012 against which the appellant preferred a departmental appeal but was not responded within the stator period, hence, the instant appeal.

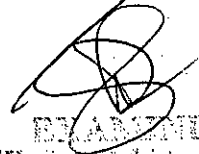
ARGUMENTS

3. The Learned Counsel for the appellant argued that due to some domestic problems she applied for 365 days Earned Leave and was informed that leave had been sanctioned. There-after extension was granted in leave upto 2003. On expiry of leave she reported for duty at GGPS Ward No. 1 Takht Bhai. She continued to perform duty in the above school from 01.01.2003 to 28.02.2003. Afterwards the appellant was informed that her service record was not available n the office of EDO District Mardan and another ^{teacher} had been appointed against the post occupied by her. That an enquiry was conducted and upon culmination major penalty of removal from service was imposed on her vide impugned order dated 18.06.2012. On the one hand the Headmistress as well as the enquiry committee admitted that she performed duty upto 08.09.1999 while in the impugned order she had been shown absent w.e.f 27.01.1999. Enquiry was not conducted in the mode and manner prescribed in the rules. She was not afforded opportunity of cross examining the witnesses. Copy of enquiry report was not annexed with the show cause notice served on the appellant.

4. On the other hand the Learned Additional Advocate General argued that the appellant remained absent willfully and after conducting enquiry major penalty of removal from service was imposed on her. Letter through which leave was sanctioned later on proved as fake. All codal formalities were completed before imposition of penalty.

CONCLUSION.

ATTESTED



EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

leave was sanctioned later on proved as fake. All codal formalities were completed before imposition of penalty.

CONCLUSION.

5. Careful perusal of record reveals that on account of willful absence from duty disciplinary proceedings were initiated against the appellant and upon conclusion major penalty of removal from service was imposed on her vide impugned order dated 18.06.2012. Without adverting to factual controversies, inquiry proceedings were not conducted in the mode and manner prescribed in the rules. Charge sheet and statement of allegations served on the appellant were without any date. Inquiry was conducted in questionnaire form in violation of judgments of superior courts. Neither witnesses were produced nor appellant was afforded an opportunity to cross examine those who deposed against her. She was also not afforded opportunity of personal hearing. Similarly, at the time of serving show cause notice on the appellant a copy of inquiry report was not annexed with it. Show cause notice is also silent about the rules under which it was issued. Hence, procedure prescribed in the rules was violated. Impugned order was passed under the repealed laws, hence, is void ab-initio. As such opportunity of fair trial and due process was denied in the case in hand. The appellant was condemned unheard.

6. In view of the fore-going, the instant appeal is accepted, the impugned order dated 18.06.2012 is set aside and the appellant is reinstated into service. The respondents are at liberty to conduct *de-novo* inquiry in accordance with law. Since it is not disputed that the appellant has not performed duty from 09.09.1999 to 01.01.2003. Plea of the appellant is she applied for leave for the said period and was informed about sanction of leave, but learned counsel for

ATTESTED

 EXAMINER
 Khyber Pakhtunkhwa
 Service Tribunal,
 Peshawar.

the appellant was unable to substantiate the plea that leave was sanctioned in favour of the appellant for the said period. Afterwards the appellant was not adjusted in any school. Moreover, the appellant also approached this Tribunal belatedly in the year 2012. Consequently instant appeal has been accepted on technical grounds. Hence, this Tribunal is of the view that the appellant is not entitled for financial back benefits for the period she did not perform duty. However in case *de-novo* inquiry is conducted against the appellant the issue of payment of financial back benefits to the appellant shall be dependent upon the outcome of the *de-novo* inquiry. Parties are left to bear their own costs. File be consigned to the record room.

SD/- Ahmad Hassan, Member
 SD/- M. Hamid Mughal, Member

MEMBER

ANNOUNCED
 13.09.2017

Certified to be true copy
 MEMBER
 Khwaja Muhammad Hanif
 Service Tribunal,
 Peshawar

Date of Presentation of Application 09-10-17
 Number of Words 1600
 Copying Fee 10
 Urgent 2
 Total 12
 Name of Copyist [Signature]
 Date of Completion of Copy 09-10-17
 Date of Delivery of Copy 09-10-17

23.04.2020

Due to public holidays on account of Covid-19, the case is adjourned. To come up for the same on ⁰⁵~~04~~.08.2020 before D.B.


Reader

05.08.2020

Due to summer vacation case to come up for the same on 13.10.2020 before D.B.


Reader

18.02.2021

Appellant with counsel and Mr. Muhammad Rashid, DDA alongwith Mr. Muhammad Arshad, ADEO for respondents present.

In pursuance to the order dated 15.1.2021, the appellant has deposited cost of Rs. 1000/-. A request for adjournment is yet again made today.

The appellant was allowed his request for adjournment on the last date as a last chance, that to, against cost of Rs. 1000/-. In the circumstances the request for adjournment is though allowed but as a last chance. The appellant is burdened with further cost for Rs. 1000/- to pay on the next date.

Adjourned to 26.03.2021 for arguments before D.B.



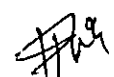

(Mian Muhammad)
Member (E)

Chairman

Form-A
FORM OF ORDER SHEET

Court of _____

Appeal's Restoration Application No. 443/2019

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge
1	2	3
1	02.12.2019	<p>The application for restoration of appeal No.1129/2014 submitted by Syed Noman Ali Bukhari Advocate may be entered in the relevant register and put up to the Court for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2		<p>This restoration application is entrusted to D. Bench to be put up there on <u>10.03-2020</u></p> <p style="text-align: right;"> CHAIRMAN</p>
10.03.2020		<p>Petitioner with counsel present. Notice of the present application be issued to the respondents. Adjourn. To come up on 23.04.2020 before D.B.</p> <p style="text-align: center;"> Member</p> <p style="text-align: right;"> Member</p>

BEFORE THE KHYBER PAKHTUNKHWA, SERVICE TRIBUNAL
PESHAWAR.

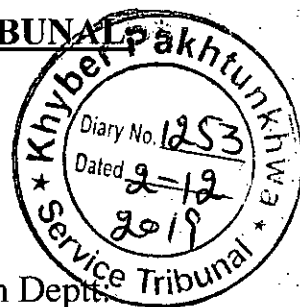
APPEAL NO. 1129/2014

Restoration Application no. 443/2019

Sajjad Haider

V/S

Education Deptt.



APPLICATION FOR RESTORATION OF APPEAL NO.
WHICH WAS DISMISSED ON DEFAULT VIDE ORDER
DATED 15.10.2019.

RESPECTFULLY SHEWETH:

1. That the instant appeal No. 1129/2014 was filed before this Honorable Tribunal.
2. That the instant appeal was in Argument stage at principle Bench Peshawar, on date 15.10.2019 the counsel for the appellant was not appeared and the appellant himself was also not appeared due to he is not aware from the date. Therefore, cannot attend the court
3. That the petitioner regularly attend their dates but on 23.09.2019 the counsel for the appellant informed the appellant that on 23.09.2019 the general strike was announced so the appellant attend the Jirga meeting due to some family issue. Further it is added that the appellant was informed by the clerk of counsel that the next date was fixed as 26.11.2019. So, when the appellant came on 26.11.2019 and know about his appeal that the appeal was fixed on 15.10.2019 and dismissed in default.
4. That the appellant after getting knowledge of dismissed in default order take order sheet dated 15.10.2019 and file the application. the after getting knowledge application is well in time.
5. That it is in the interest of justice and considering the above submissions that the appeal should be dealt on merit rather to dismiss on default.

It is therefore, most humbly prayed, that the instant appeal No. 1129/2014 may be restore on the acceptance of this application.

APPELLANT

Through:

[Signature]
Syed Noman Ali Bukhari
ADVOCATE, High Court

AFFIDAVIT

It is affirmed and declared that the contents of application are true and correct to the best of my knowledge and belief.



DEPONENT



11 2 DEC 2019

BEFORE THE KHYBER PAKHUTUNKHWA SERVICE TRIBUNAL, PESHAWAR



Service Appeal No. 1129 /2014

Sajad Haider S/o Faqir Mohammad
PST Govt. Primary School Aziz Khel,
Mattani, Peshawar.....Appellant

1094
19-8-2014

VERSUS

- 1) Govt. of Khyber Pakhtunkhwa, through Secretary Education KPK, Peshawar.
- 2) Deputy Commissioner, Peshawar.
- 3) Executive District Officer, Elementary and Secondary Education, Peshawar.
- 4) District Education Officer (Male) Peshawar.
- 5) A.D.O Elementary & Secondary Education, Peshawar.

.....Respondents

SERVICE APPEAL U/S 4 OF SERVICE

TRIBUNAL ACT, 1974. against the impugned dated

19/8/14

5/3/2014 whereby appellant has been removed from service again which appellant filed an appeal on 12/5/14 with no reply and Respectfully Sheweth:- The mandatory period of 60 days, hence the appeal

Appellant humbly submits as under

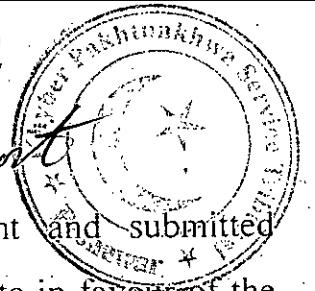
- 1) That appellant has been appointed as P.S.T in 1992 in BPS-7.

as submitted to ~~627~~ and filed.

10/9/14

Certified to be true copy
Khyber Pakhtunkhwa Service Tribunal, Peshawar

Appeal No. 1129/2019
Sajad Haidar vs Govt



08.07.2019

Mr. Fayaz Khalil, Advocate present and submitted

Wakalat Nama of Mr. Hidayatullah, Advocate in favour of the appellant and seeks adjournment being freshly engaged. Mr. Ziaullah, DDA for respondents present. Appellant is also directed to submit member copy of the instant appeal. Case to come up for arguments on 23.09.2019 before D.B.

Member

Member

23.09.2019

Due to general strike on the call of Khyber Pakhtunkhwa Bar Council learned counsel for the appellant is not in attendance. Mr. Assistant Advocate ^{Riaz Painsdakhel} General for the respondents present. Adjourned. To come up for arguments on 15.10.2019 before D.B.

(Hussain Shah)
Member

(M. Amin Khan Kundi)
Member

15.10.2019

None present on behalf of the appellant. Mr. Kabirullah Khattak, Additional AG for the respondents present. Called for several times but no one appeared on behalf of the appellant, therefore, the instant service appeal is hereby dismissed in default. File be consigned to the record room.

ANNOUNCED
15.10.2019

(Ahmad Hassan)
Member

(M. Amin Khan Kundi)
Member

Date of Presentation of Copy _____ 28-11-19

Number of Copies _____ 800

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Khyber Pakhtunkhwa
Service Tribunal
Peshawar

بعدالت

K.P. Service Tribunal

مورخہ
مقدمہ
دعویٰ
جرم

2 جناب
Sajad Haider
بنام
US
Education Dept

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ
آن مقام میں آئیے کیلئے سپر لیٹننٹ کی جی ای او
مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز
وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ پر حلف دیئے جواب دہی اور اقبال دعویٰ اور
بصورت ڈگری کرنے اجراء اور وصولی چیک درو پیہا عرضی دعویٰ اور درخواست ہر قسم کی تصدیق
زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی
اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا۔ از بصورت ضرورت
مقدمہ مذکور کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے
تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے
اور اس کا ساختہ پر داختم منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے
سبب سے وہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں
گے۔ کہ پیروی مذکور کریں۔ لہذا وکالت نامہ لکھدیا کہ سندر ہے۔

20

ماہ

المرقوم

العبد گواہ العبد

کے لئے منظور ہے۔

مقام

3
مختار حسن موہانیل غیر 12/05/2013

7
for
Attest
&
Receipt