



OFFICE OF THE DISTRICT EDUCATION OFFICE (M)

HARIPUR

No. 524850 /SA:355/2022/Abdul Jameel/lit:/HRP

Dated 12/11/2022



To

The Director
E&SE Khyber Pakhtunkhwa,
Peshawar.

Subject:-

EXTRA ORDINARY LEAVE FOR PERIOD OF TEN (10) YEARS IN THE LIGHT OF JUDGEMENT IN SERVICE APPEAL NO. 355/2019 TITLED ABDUL JAMIL V.S GOVT OF KHYBER PAKHTUNKHWA.

Memo:

It is submitted:-

1. That one Mr. Abdul Jamil was appointed as a projectionist in Education Department vide order dated 08-08-1985 and later on he was promoted to the post of senior clerk at GHSS Bareela District Haripur.
2. That thereafter he was transferred from GHSS Bareela District Haripur to GHSS Ziarat Masoom District Abbotabad vide order dated 23-12-2009 and in pursuance of his inter district transfer order dated 23-12-2009 he was relieved from his duty from GHSS Bareela Haripur with the clear cut direction to report to principal GHSS Ziarat Masoom District Abbotabad vide relieving chit dated 31-12-2009.
3. That the appellant after relieving from District Haripur did not take over the charge of his post in GHSS Ziarat Masoom District Abbotabad.
4. The official concerned filed service appeal No. 355/2019 titled Abdul Jameel VS Government of Khyber Pakhtunkhwa before the Honourable Khyber Pakhtunkhwa Service Tribunal Peshawar with the prayer that "On acceptance of instant appeal, respondents may graciously be directed to adjust the appellant with all back benefits w.e.f December 2009 up to final disposal of the instant appeal. Furthermore, the last application of appellant before the respondent No. 2, dated 06-11-2018, may kindly be treated as a departmental appeal because no speaking order like show cause, suspension and termination has been issued by the respondents so far and the appellant is still enrolled in the department."
5. That department contested the case and filed comments.
6. That on 18-01-2022 Honourable Khyber Pakhtunkhwa Service Tribunal Peshawar disposed off the appeal and the operative part of the judgment is reproduced for ready reference:
"The appellant shall be considered as retired from service on 07-04-2021 by treating the absence period as well as intervening period as extra-ordinary leave without pay. The appeal in hand is disposed of accordingly. " (Copy of Judgment dated 18-01-2022 is annexed herewith as Annexure "A").
7. That the case was put for filing of CPLA before the scrutiny committee of Law Department.
8. That the Scrutiny Committee for filing of CPLA before the August Supreme Court of Pakistan has provided the grounds/discussion as under.
 - i. The Scrutiny Committee perused the record of the case and the impugned judgment which revealed that the appellant has submitted application to the District Education Officer (Male) Abbottabad requested that the appellant may be adjusted at GHSS Langrial Abbottabad and his absence period w.e.f 01-10-2010 to 15-01-2011 may be treated as Extra Ordinary Leave (EOL) but the same application was neither accepted nor rejected. The record further reveals that the department had not initiated any disciplinary action against the appellant under prevailing rules.
 - ii. The record transpired that during pendency of the subject service appeal, the appellant stood retired on the basis of superannuation on 07-04-2021. The scrutiny committee noticed that the absence period of the appellant has been treated by the service

tribunal as Extra Ordinary Leave (EOL) without pay and after being retired from service the department could not initiate any disciplinary action against the appellant. The scrutiny committee held that the competent authority was required to initiate disciplinary proceedings against the appellant but the competent authority was failed to initiate disciplinary action against the appellant. The scrutiny committee further held that no plausible grounds existed against which CPLA before the Supreme Court of Pakistan could be filed. **(Copy of Minutes of Meetings of Scrutiny committee is attached as Annexure-B)**

9. That the scrutiny committee decided that the subject case may be returned to the administrative department as unfit.
10. That this office has already submitted that the case pertains to DEO (M) Abbottabad and does not relate to DEO (M) Haripur and the case may kindly be referred to DEO (M) Abbottabad for doing necessary action vide letter No. 732-35 dated: 27-06-2022 and Letter No. 4994-96 dated: 23-11-2022 respectively. **(Copy of Letters annexed as Annexure-C & D)**
11. Now the official concerned has filed CM No. _____-A/2022 in Service Appeal No. 355/2019 which is fixed for hearing 14-11-2022 before Honourable Service Tribunal Peshawar Camp Court Abbottabad. **(Copy of CM is annexed as Annexure-E)**
12. In view of above discussion the undersigned has decided to implement the Judgment rendered in Service Appeal No. 355/2019 to avoid any further litigation in the subject case.

It is therefore, submitted that as per leave rules 1981, the Department has power for sanctioning of leave only for five (05) years without pay only. According to said rules this office is not authorized to sanction extra ordinary leaves for ten (10) years. However, it is suggested that subject case may be referred to Finance Department for further guidance/sanction please to implement the decision/judgment rendered in service appeal No. 355/2019 dated: 18-01-2022.

Enclosure: 02 pages


District Education Officer (M)
Haripur.

Even No. & date:

Copy forwarded for information to the:

1. Registrar Service Tribunal Khyber Pakhtunkhwa Peshawar.
2. Abdul Jameel S/O Muhammad Amin Ex- Senior Clerk GHSS Ziarat Masoom Abbottabad.
3. Office record file.


District Education Officer (M)
Haripur.