

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 856/2019

Date of Institution ... 20.06.2019

Date of Decision ... 13.01.2022

Islam uddin, Ex-Chowkidar Government Primary School Ilamgudar Bara District Khyber. ... (Appellant)

VERSUS

The Secretary Elementary and Secondary Education (Merged Areas) Khyber Pakhtunkhwa Peshawar and others. ... (Respondents)

Yasir Saleem,
Advocate

... For Appellant

Muhammad Adeel But,
Additional Advocate General

... For respondents

AHMAD SULTAN TAREEN
ATIQU-UR-REHMAN WAZIR

...
...

CHAIRMAN
MEMBER (EXECUTIVE)

JUDGMENT

ATIQU-UR-REHMAN WAZIR MEMBER (E):- This single judgment

shall dispose of the instant service appeal as well as the following connected service appeals, as common question of law and facts are involved therein:-

1. Service Appeal bearing No. 759/2019 titled Jamal uddin
2. Service Appeal bearing No. 760/2019 titled Wajiuddin

02. Brief facts of the case are that the appellant was appointed as Chowkidar in Education Department vide order dated 31-08-1999 after observing all the codal formalities. The appellant performed his duty for almost 20 years. It was in 2017, when salary of the appellant was stopped and later on was dismissed from service vide order dated 25-01-2019. Feeling aggrieved, the appellant filed

departmental appeal dated 20-02-2019, which was not responded within the statutory period, hence the instant service appeal with prayers that the impugned order dated 25-01-2019 may be set aside and the appellant may be re-instated in service with all back benefits.

03. Learned counsel for the appellant has contended that the appellant has not been treated in accordance with law, hence his rights secured under the law has badly been violated; that the impugned order is against law, facts and norms of natural justice, therefore, not tenable, hence liable to be set aside; that neither any inquiry was conducted nor the appellant was afforded opportunity of defense; that no charge sheet/statement of allegation or any show cause notice was served upon the appellant and the appellant was condemned unheard; that the appellant has not been afforded opportunity of personal hearing before awarding major punishment of dismissal from service; that valuable rights have been accrued in his favor, which cannot be snatched away through such impugned order; that the inquiry officer suggested penalty of compulsory retirement from service, as is evident from the impugned order, but the appellant was awarded with major punishment of dismissal from service without giving any reason, so the impugned order is defective and liable to be set aside; that the appellant has at his credit a spotless service, who never committed any act of misconduct and was appointed through a legal process and received salaries for almost 19 years and the principle of locus poenitentiae strongly favors the case of the appellant; that it would be un-just and illegal to remove an official from service without observing the formalities as prescribed in law; that the appellant was illegally and un-lawfully dismissed from service, hence needs interference of this tribunal.

04. Respondents were given several opportunities to submit reply, but they failed to submit reply, failing which, their right of defense was struck off, but the impugned order alone would suffice resolving the riddle. The impugned order would suggest that appointment of the appellant as Chowkidar is not disputed nor

is declared as fake. It is also not disputed that the appellant served for almost 20 years against the post, receiving perquisites and privileges of the post for the entire period. The issue surfaced during checking of Master Payroll, when the assistant district education officer came to know that the appellant holding personal number 00412704 is drawing pay with effect from 31-08-1999 at Government Primary School Illamgudar Bara, District Khyber, where there is no sanctioned post of chowkidar occupied by the appellant, hence pay of the appellant was stopped and his name alongwith personal number was published in leading news papers dated 27-05-2018. The impugned order further reveals that the competent authority constituted an inquiry committee on 28-09-2018 and the committee recommended compulsory retirement but not agreeing with suggestion of the committee, the competent authority himself conducted inquiry dated 22-01-2019 and dismissed the appellant from service vide order dated 25-01-2019 within three days.

05. We have observed that personal number is issued by the Account Office against a regular sanctioned post. Similarly, pay is also released against a sanctioned post and as rightly argued by counsel for the appellant that as per practice in vogue in Education Department, an employee is appointed against a sanctioned post and is deputed to serve in another station in exigency of service, but is supposed to draw his salary against his original post. It never happens that any of the employees could draw salary without sanctioned post for long 20 years. Same is the case with the appellant that he was appointed against a sanctioned post after observing all the codal formalities and being an illiterate individual, he served, where he was deputed to serve and once he was allotted personal number by Account Office against a sanctioned post, he started performing his duty and started receiving his salary. It was not fault of the appellant, if he was deputed to serve in a school, where sanctioned post of chowkidar was not available, nor was it an act of misconduct, rather it was due to

reckless approach of the respondents finding an irregularity after 20 years, for which the appellant shall not suffer. The impugned order would suggest that the appellant was dismissed from service without affording him opportunity of defense, as no charge sheet/statement of allegation or any showcause notice is mentioned to be served upon the appellant, nor any regular inquiry is mentioned in the impugned order. The Supreme Court of Pakistan in its judgment reported as 2008 SCMR 1369 has held that in case of imposing major penalty, the principles of natural justice required that a regular inquiry was to be conducted in the matter and opportunity of defense and personal hearing was to be provided to the civil servant proceeded against, otherwise civil servant would be condemned unheard and major penalty of dismissal from service would be imposed upon him without adopting the required mandatory procedure, resulting in manifest injustice.

06. Record would suggest that the appellant was appointed against a sanctioned post after fulfilling the codal formalities back in 1999, which is not disputed but his dismissal through a summary trial is against law as well as norms of natural justice. Since the appellant served against the post for almost 20 years and developed vested rights over the post, which cannot be taken away with a single stroke of pen for no fault of the appellant. The Supreme Court of Pakistan in its judgment reported as 1996 SCMR 1350 has held that authority having itself appointed civil servant could not be allowed to take benefit of its lapses in order to terminate service of civil servant merely because it had itself committed an irregularity in violating procedure governing appointment and an employee could not be blamed or punished for the laxities on part of the respondents. The order affecting the rights of a person had to be made in accordance with the principle of natural justice, order taking away the rights of a person without complying with the principles of natural justice had been held to be illegal. Government was not vested with the authority to withdraw or rescind an order if the same had taken


legal effect and created certain legal rights in favor of the appellant. Reliance is place on 2017 PLC (CS) 585.


07. We are of the considered opinion that the appellant has not been treated in accordance with law and was dismissed from service for no fault of him. The appellant served for almost 20 years with the respondents and now is reaching his age of superannuation and at such a belated stage, penalizing him for a fault, which has not been committed by the appellant would result in manifest injustice. The order of dismissal appears to be arbitrary and without lawful authority, which is liable to be set aside. We did not notice any irregularity in appointment of the appellant as chowkidar nor any of the allegations of inefficiency or misconduct were found against him. The appellant was charged only for the fault that he has drawn salary in a school, where no post of chowkidar was available, which was not his fault, rather it was responsibility of the respondents to post him in a station, where regular sanctioned post was available. The correct course in case of the appellant would have been to transfer him back to the school, where he was initially appointed, instead he was dismissed, which however was not warranted.

08. In view of the foregoing discussion, the instant appeal as well as the connected service appeals are accepted. The impugned orders are set aside and the appellant are re-instated in service with all back benefits. Respondents however are at liberty to conducted inquiry if they so desire. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED

13.01.2022


(AHMAD SULTAN TAREEN)
CHAIRMAN


(ATIQ-UR-REHMAN WAZIR)
MEMBER (E)

ORDER

13.01.2022


Learned counsel for the appellant present. Mr. Muhammad Adeel Butt, Additional Advocate General for respondents present. Arguments heard and record perused.

Vide our detailed judgment of today, separately placed on file, the instant appeal as well as the connected service appeals are accepted. The impugned orders are set aside and the appellant are re-instated in service with all back benefits. Respondents however are at liberty to conducted inquiry if they so desire. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED

13.01.2022


(AHMAD SULTAN TAREEN)
CHAIRMAN


(ATIQ-UR-REHMAN WAZIR)
MEMBER (E)

25.11.2021

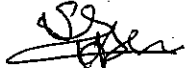
Junior to counsel for the appellant present. Mr. Muhammad Adeel Butt, Additional Advocate General present.

Amount Deposited
Security & Process Fee

Learned Member Executive (Mr. Atiq-ur-Rehman Wazir), is on leave, therefore, case is adjourned. To come up for arguments on 17.03.2022 before D.B.

Noted for
check

Sheikh Harisam



14-12-21



(Rozina Rehman)
Member (J)

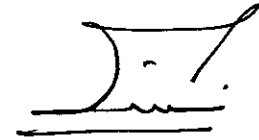
04.10.2021

Mr. Yasir Saleem, Advocate, for appellant present. Mr. Munawar Khan, ADO (Litigation) alongwith Mr. Muhammad Adeel Butt, Additional Advocate General for the respondents present.

Vide order of today passed in Restoration Application bearing No. 457/2019 dated 04.10.2021, the appeal in hand stands restored on its original number.

Security and process fee have not been deposited by the appellant, therefore, the appellant is directed to deposit security and process fee within 10 days.

Comments on behalf of respondents submitted. File to come up for rejoinder, if any, as well as arguments before the D.B on 25.11.2021.



(SALAH-UD-DIN)
MEMBER (JUDICIAL)

Service Appeal No. 856/2019

Islam-ud-Din vs Govt

23.09.2019

Nemo for appellant.

It is now 4:00 P.M and the case has been called several times but no one is in appearance on behalf of the appellant.

Dismissed for non-prosecution. File be consigned to record room.



CHAIRMAN

Announced
23.09.2019

25.07.2019

Counsel for the appellant present.

Contends that the appellant was appointed as Chowkidar in BPS-01 on 31.08.1999 who continued to serve as such till the passing of impugned order on 25.01.2019. In the impugned order it was noted that the post against which the appellant was appointed was not sanctioned, therefore, his salary was stopped and resultantly major penalty of dismissal from service was imposed upon him. It was further contended that there was apparently no error in appointment of the appellant while the respondents took twenty long years to reach the fact that the post was not sanctioned. The period for which the appellant served the respondents also created valuable service rights in his favour. Besides, before passing the impugned order no proper departmental proceedings were undertaken against the appellant hence he was deprived the right of defending his cause.

In view of the arguments of learned counsel and available record, instant appeal is admitted for regular hearing subject to all just exceptions. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents. To come up for written reply/comments on 23.09.2019 before S.B.




Chairman

Form- A

FORM OF ORDER SHEET

Court of _____

Case No. - 856/2019

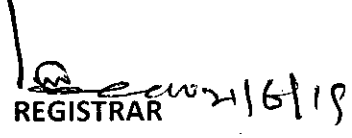
| S.No. | Date of order proceedings | Order or other proceedings with signature of judge |
|-------|---------------------------|---|
| 1 | 2 | 3 |
| 1- | 26/06/2019 | <p>The appeal of Mr. Islam-ud-Din resubmitted today by Mr. Yasir Saleem Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please</p> <p style="text-align: right;"> REGISTRAR 26/6/19</p> <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>25/07/19</u></p> <p style="text-align: right;"> CHAIRMAN</p> |
| 2- | | |

The appeal of Mr. Islam-ud-Din Ex-Chowkidar GPS Illamgudar Bara District Khyber received today i.e. on 20.06.2019 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Annexures of the appeal may be attested.
- 2- Power of Attorney is unattested.
- 3- Affidavit may be got attested by the Oath Commissioner.
- 4- Memorandum of appeal may be got signed by the appellant.
- 5- In the memo of appeal places have been left blank which may be filled up.
- 6- Copy of impugned order is illegible which may be replaced by legible/better one.

No. 1112 /S.T,

Dt. 21-6- /2019.


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

M. Yasir Saleem Adv.Pesh.

*Repeatedly
objections have been
removed. Resubmitted today
26/6/19*

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

Appeal No. 856 /2019

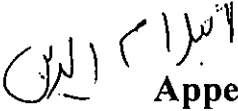
Islam uddin, Ex-Chowkidar Government Primary School
Illamgudar Bara District Khyber(Appellant)

VERSUS

The Secretary Elementary and Secondary Education Khyber
Pkhtunkhwa Peshawar and others(Respondents)

INDEX

| S. No | Description of documents | Annexure | Page No |
|--------------|--|-----------------|----------------|
| 1 | Memo of appeal and Affidavit | | 1-5 |
| 2 | Copy of appointment letter dated 31.08.1999 | A | 6-9 |
| 3 | Copies of medical certificate & service Book | B & C | 7-10 |
| 4 | Copy of salary slip | D | 11-12 |
| 5 | Copy of application dated 12.02.2018 | E | 13 |
| 5 | Copy of Office Order dated 25.01.2019 | F | 14 |
| 6. | Copy of the departmental appeal dated 20.02.2019 | G | 15 |
| 14. | Vakalatnama | | 16 |


Appellant

Through


YASIR SALEEM
Advocate Peshawar.

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

Appeal No 856 /2019

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 876

Dated 20/6/2019

Islam uddin, Ex-Chowkidar Government Primary School
Illamgudar Bara District Khyber

(Appellant)

VERSUS

1. The Secretary Elementary and Secondary Education (Merged Areas) Khyber Pkhtunkhwa Peshawar.
2. The Director Elementary and Secondary Education (Merged Areas) Khyber Pkhtunkhwa Peshawar.
3. District Education Officer, District Khyber.

(Respondents)

Appeal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974, against the order dated 25.01.2019, whereby the appellant has been awarded the Major Punishment of dismissal from Service, against which his departmental appeal dated 20.02.2019 has not been respondent within the statutory period of ninety days.

Prayer in Appeal: -

Filed to-day

Registrar

On acceptance of this appeal the impugned order dated 25.01.2019, may kindly be set aside and the appellant may be re-instated into service with all back benefits and wages of service.

Re-submitted to-day
and filed.

Registrar 26/6/19

Respectfully Sheweth,

The appellants humbly submit as under.

1. That appellants were appointed as Chowkidar in the Respondent Department vide appointment letter dated 31.08.1999. ***(Copy of appointment letter dated 31.08.1999 is attached as Annexure A)***
2. That he was medically examined and when found fit he started performing his duties. It is pertinent to mention here that his service book was also prepared for the purpose of pay and pension. ***(Copies of medical certificate & service Book are attached as Annexure B & C)***
3. That ever since his appointment, the appellants had performed his duties as assigned with zeal and devotion and has never given any chance of complaint whatsoever regarding his performance. It is pertinent to mention here that his service book and pay roll was also prepared for the purpose of pay and pension. The appellants regularly got his monthly salaries for the work he performed till October 2017. ***(Copy of salary slip is attached as Annexure D)***
4. That while performing his duties in the said capacity, without serving any charge sheet or conducting any inquiry and personal hearing, the salary of the appellants was stopped in the year 2017 in the name of conducting inquiry. The appellants submitted application for the release of salaries vide his application dated 12.02.2018, however he was initially assured that soon his salary would be released. ***(Copy of the application dated 12.02.2018 is attached as Annexure E)***
5. That however the respondent neither conducted any impartial inquiry nor provided any kind of personal hearing to the appellants and he was just kept on waiting for release of his salary.
6. That astonishingly, instead of releasing of salary of the appellants, quite illegally he has been awarded the major penalty of dismissal from service vide office order dated 25.01.2019, communicated to the appellants on 28-01-2019. ***(Copy of Office Order dated 25.01.2019 is attached as Annexure F)***

7. That the appellant submitted his departmental appeal dated 20.02.2019, however the same has not been within the statutory period of ninety days. (*Copy of the departmental appeal dated 20.02.2019 is attached as Annexure G*)
8. That the impugned order dated 25.01.2019 is illegal unlawful against the law and facts hence liable to be set aside inter alia on the following grounds:

GROUND OF APPEAL.

- A. That the appellant has not been treated in accordance with law hence his rights secured and guaranteed under the law are badly violated.
- B. That no procedure has been followed before his dismissal from service. He has never been served any charge sheet and statement of allegations nor any regular/ impartial inquiry has been conducted to dig out the facts before passing the impugned order of dismissal, thus the impugned order is defective in the eyes of law.
- C. That the appellant has not been provided proper opportunity of personal hearing before awarding him the penalty hence the appellant have been condemned unheard.
- D. That no charge sheet or statement of allegations as prescribed under the law and rules has been served upon him hence the appellant have not been provided fair opportunity to defend his self against the charges leveled. The impugned order is thus passed in violation of the principles of natural justice.
- E. That the appellant has never committed an act or omission which could be termed as misconduct, albeit he has been awarded the penalty. He has been appointed in the year 2005 and since then he had been performing his duties as chowkidar and got his monthly salaries hence valuable rights have been accrued in his favor which could not snatched away through such impugned order.
- F. That it is also pertinent to mention here that the inquiry report (if any) has never been provided to the appellant, thus whole

proceedings before the imposition of penalty are defective in the eye of law.

- G. That it is pertinent to mention here that the enquiry officer suggested the penalty of compulsory retirement from service (as is highlighted in impugned order) while the appellant was imposed the major penalty of dismissal from service without giving any reasons, so the impugned order is defective and liable to be set aside on this ground too.
 - H. That the Appellant has been appointed by the competent authority he was medically examined and when found fit, duly took over charge of his post and started performing duties, his pay roll was also prepared and he got his salaries for more than 12 years, thus the order of appointment had been acted upon and valuable rights had been created in favour of him. As principle of *LOCUS PONATENTIE* strongly lied in his favor so the services could not be snatched away illegally with one stroke of pen.
 - I. That if all there were any irregularity or illegality committed in the process of appointment, the same can neither be attributed to the appellant nor can he be punished and suffered for the faults or lapses committed by others.
 - J. That he has never committed any act or omission which could be termed as misconduct, albeit he has been dismissed from service.
 - K. That the appellant has at his credit a spotless service career, the penalty imposed upon him is harsh and liable to be set aside.
 - L. That the appellant is jobless since his illegal dismissal from Service.
9. That the appellant seeks the permission of this Honorable Tribunal to rely on additional ground at the hearing of this appeal

It is, therefore, humbly prayed that on acceptance of this appeal the impugned order 25.01.2019, may kindly be set aside and the appellant may be re-instated into service with all back benefits and wages of service.

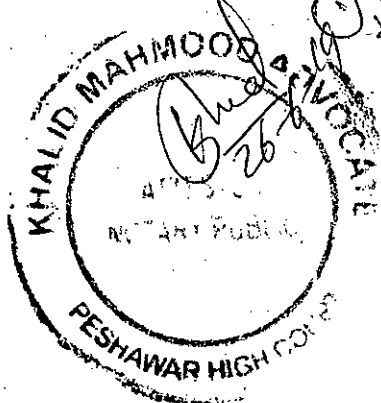
[Handwritten Signature]
Appellant

Through

[Handwritten Signature]
YASIR SAEEM
Advocate Peshawar

AFFIDAVIT

It is solemnly affirm and declare on oath that the contents of the above noted appeal are true and correct to the best of my knowledge and belief and that nothing has been kept back or concealed from this Honorable Tribunal.

[Handwritten Signature]
Deponent


OFFICE OF THE AGENCY EDUCATION OFFICER, KHYBER AGENCY AT JAMRUD

APPOINTMENT ORDER:

Amir (A)
(B)

Mr./Miss/Mrs Islan-Ud-Din Son/Daughter of Abdur Rashid

is hereby appointed as Chaukidar at GPS Lillamgudar Bara in BPS No. I
of Rs (1245-35-1770) PM fixed plus usual allowances as admissible under the rules with effect from
the date of His/Her taking over charge against a Vacant Post.

Note:

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

Amir
ABDUR RAHIM OL DRESHI
Agency Education Officer,
Khyber Agency at Jamrud.

Endst. No. 3348-51 / Dated 31 / 8 / 1999

- A. Director of Education (FATA) NWFP, Peshawar.
- B. Agency Account Office, at Peshawar.
- C. Head Master/Head Mistress _____
- D. A.P.C. Khyber/FR Peshawar.

Yes
Attested

sol/s
Agency Education Officer,
Khyber Agency at Jamrud.

MEDICAL CERTIFICATE.

B
Handwritten signature/initials

Name of Official Mr. Islam-Ud-Din
Caste or race Masood
Father's Name Mr. Abdur Rashid.
Residence Vill:Regi Lalma Industrial Estate.

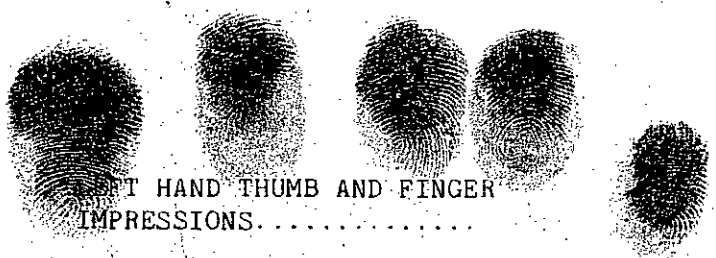
Date of birth 1980
Exact height by measurement 5-6"

Personal mark of identification *Scar on lips upper*
Signature of the Official *[Signature]*
Signature of head of office *[Signature]*

Agency Education Officer
Seal of Office *[Seal]*

I do hereby certify that I have examined Mr. *Islam-Ud-Din* a candidate for employment in the office of the *Education Department* and can not discover that he had any disease communicable or other constitutional effectation or bodily infirmity except *Education Department*.

I do not consider this as disqualification for employment in the office of the *19*..... His age according to his own statement *19*..... years and by appearance about *19*..... years.



LEFT HAND THUMB AND FINGER IMPRESSIONS.....

Attested *[Signature]*
Medical Superintendent,
Civil Hospital, ~~Medical Superintendent~~
~~Agency Education Officer~~
~~MOBI HOTAL~~
15/9/91

Amir
8

Note:- The entries in this page should be renewed or re-attested at least every five years and the Signature to lines 9 and 10 should be dated.

1. Name: Islamud Din

2. Race: Masood

3. Residence: Village Reji Labma industrial state Jamrud Dist.


4. Father's name and residence: H. bolow Rasid


5. Date of birth by Christian era as nearly as can be ascertained: 1-9-1980
According to Medical certificate issue by Medical Supdt. LKL

6. Exact height by measurement: 5-6"

7. Personal marks for Identification: Scar on upper lip

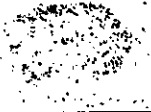
8. Left hand thumb and Finger Impression of (Non-Gazetted) Officer.

Little Finger 

Ring Finger 

Middle Finger 

Fore Finger 

Thumb 

9. Signature of Government Servant: 

10. Signature and Designation of the Head of the Office, or other Attesting Officer: Amir

Amir
Attested

| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 |
|--------------------|---|---|-------------------------|--------------------------------|--|---------------------|-------------------------|---|
| Name of Post | Whether substantive or officiating and whether permanent or temporary | If Officiating, state (i) Substantive appointment, or (ii) whether service counts for pension under Art. 371 C.S.R. | Pay in substantive Post | Additional Pay for officiating | Other emolument falling under the term "Pay" | Date of Appointment | Signature of Government | Signature of the office or existing office attestation columns 1 to 4 |
| <i>Chow post</i> | | | | | | | | |
| <i>By PS Ekan</i> | | | <i>1245/-</i> | | | <i>1/9/99</i> | | <i>[Signature]</i> |
| <i>By Mr. B...</i> | | | | | | | | <i>[Signature]</i> |
| <i>dr</i> | | | <i>1245</i> | | | <i>1/12/99</i> | | <i>[Signature]</i> |
| <i>dr</i> | | | <i>Rs. 1280/-</i> | | | <i>1/12/2000</i> | | <i>[Signature]</i> |
| <i>dr</i> | | | <i>Rs. 1315/-</i> | | | <i>1/12/2001</i> | | <i>[Signature]</i> |
| | | <i>BPS No. 1870-55-3520</i> | | | | | | |
| <i>dr</i> | | | <i>Rs. 1380/-</i> | | | <i>1/12/2001</i> | | <i>[Signature]</i> |
| <i>dr</i> | | | <i>Rs. 2035/-</i> | | | <i>1/12/2002</i> | | <i>[Signature]</i> |
| <i>dr</i> | | | <i>Rs. 2090/-</i> | | | <i>1/12/2003</i> | | <i>[Signature]</i> |
| <i>dr</i> | | | <i>Rs. 2145/-</i> | | | <i>1/12/2004</i> | | <i>[Signature]</i> |
| | | <i>BPS No. 1 (Rs. 2150-65-4100)</i> | | | | | | |
| <i>dr</i> | | | <i>Rs. 2475/-</i> | | | <i>1/6/2005</i> | | <i>[Signature]</i> |
| <i>dr</i> | | | <i>Rs. 2540/-</i> | | | <i>1/12/2005</i> | | <i>[Signature]</i> |

Agency Accounts Officer
Office of the Kyber Agency at Jamrud

Year of Account 2012-13

Name of Subscriber Islamuddin

Account No. 15,3807-0

| Opening Balance | Deposits during the year | Particulars of missing credits of previous years adjusted during the year | | Interest for the year | | withdrawals during the year | Balance (1)+(2)+(4)+(6)+(7) | Months of the current year for which credits have not been included in column (2) |
|-----------------|--------------------------|---|-----------------|-----------------------|-----------|-----------------------------|-----------------------------|---|
| | | Months and year | Amount adjusted | Rate | Amount | | | |
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 |
| Rs. | Rs. | | Rs. | | Rs. | Rs. | Rs. | |
| Rs. 371361 | Rs. 44761 | | | | Rs. 43511 | Rs. 453631 | | |

Signature [Signature]
Designation Agency Accounts Officer
Dated Kyber Agency at Jamrud

- NOTE: 1.- The subscriber is requested to state whether he desires to make any alteration in any nomination made under this account.
- 2.- In case where the subscriber had made no nomination in favour of member of his family owing to his having no family at the time but acquired a family thereafter the fact should be reported to the Accounts Officer forthwith together with a formal nomination.
- 3.- The subscriber is requested to satisfy himself as to the correctness of the statement and to bring errors, if any, to the notice of the Accounts Officer, within three months from the date of its receipt.

Attested

[Signature]

12

54-3

Hyber

F Sec: 001 Month: November 2013
KH0012--AGENCY EDUCATION OFFICER I
Min: Min. Of K.A & N.A & S.F.R
NTN:
GPF #: KH EDU 3207 CSS
Old #:

Pers #: 00412704 Puckle:
Name: ISLAM UD DIN
Dsg.: CHOWKIDAR
CNIC No: 2170325668850
GPF Interest Applied
02 Active Temporary

KH0012--022

PAYS AND ALLOWANCES:

| | |
|--------------------------------|-----------|
| 0001-Basic Pay | 6,940.00 |
| 1000-House Rent Allowance | 910.00 |
| 1210-Convey Allowance 2005 | 1,700.00 |
| 1300-Medical Allowance | 1,000.00 |
| 1528-Unattractive Area Allow | 1,000.00 |
| 1567-Washing Allowance | 100.00 |
| 1948-Adhoc Allowance 2010@ 50% | 2,017.00 |
| 1970-Adhoc Relief Allow 2011 | 505.00 |
| 2118-Adhoc Relief Allow (2012) | 1,388.00 |
| Gross Pay and Allowances | 16,354.00 |

DEDUCTIONS:

| | | |
|--------------------------------|--------|--------|
| GPF Balance 39,313.00 | Subtr: | 373.00 |
| 3661-E. E. F (Exchange) | | 50.00 |
| 3701-Benevolent Fund(Exchange) | | 120.00 |
| 3704-Group Insurance(Exchange) | | 58.00 |
| 3711-Addl Group Insuranc(Exch) | | 3.00 |

Attested

Total Deductions

604.00

NET PAYABLE AMOUNT

15,750.00

QUALIFYING SERVICE

Yaa

D. O. B

01.09.1960

LFP Quota: 4

ALLIED BANK LTD.

ABL SMER PALAN SWAT.

14 Years 03 Months 001 Days

0010008007280010

To

The worthy director Edu.
FATA Warsale Road Psh.

E
Area
13

Subject - (Appeal for release of pay)

Respected sir,

With due respect, it is brought into
your kind notice, that I was appointed as
Class IV (Chowkidar) in education department
Khyber Agency in 1999. I was performing my
duties regularly, but suddenly my pay was
stopped, by the education deptt, Khyber
Agency.

Therefore, it is requested that the
A.E.O Khyber may be directed to release my
pay.

I shall be very thankful for your
kindness,
Thanks

Dated
12/02/18

Yours
Attested

Muhammad
Islamuddin
Class IV
Edu. Deptt
Khyber Agency.



DISTRICT EDUCATION OFFICE
 KHYBER TRIBAL DISTRICT KHYBER AT JAMRUD
 PHONE: 091-5820584 FAX 091-5820584
 N.O. DATED: 1 / 12 019

F
 Ahmed
 14

DISTRICT EDUCATION OFFICE KHYBER TRIBAL DISTRICT AT JAMRUD
NOTIFICATION

1. WHEREAS The District Education Officer Khyber Tribal District had come to know through the ADEO Bara by checking of Master Payroll that Mr. Islam Uddin Chowkidar S/O Abdur Rashid Personnel Number.00412704 is drawing Pay w.e.f. 31/08/1999 at GPS Hamidullah Bara Khyber Tribal District whereas there is no sanction post of chowkidar occupied by it accused. The pay of concerned Chowkidar was stopped and his name along with Personnel Number 00412704 was reflected in leading Newspapers "Daily Mashriq" dated 27/05/2018 and "Daily Express" dated 27/05/2018.
2. WHEREAS The Undersigned constituted enquiry committee to probe into the matter 28/09/2018 and recommended Compulsory Retirement than The Undersigned conducts Enquiry and the Enquiry report No. 782 (Annexure A) Dated. 22/01/2019 recommended accused for dismissal from Govt. Service.
3. NOW THEREFORE In exercise of the powers conferred under Para 4 b (iv) of Pakhtunkhwa Government Servants (Efficiency and Disciplinary) rules 2011, the competent Authority, District Education Officer Khyber, is pleased to impose a major penalty "Dis from service" upon Mr. Islam Uddin Chowkidar S/O Abdur Rashid Personnel Number.00412704 GPS Shin Polh Lohi Shalman Landi Kotal Khyber Tribal District immediate effect

(MUHAMMAD JADOON KHAN)
 DISTRICT EDUCATION OFFICER
 KHYBER TRIBAL DISTRICT AT JAMRUD

Dated 25/01/19

Encl: No. 3374-78

- Copy of the above is forwarded to the:
1. Director, Elementary & Secondary Education, Khyber Pakhtunkhwa Pesrawan.
 2. Deputy Commissioner Khyber Tribal District at Pesrawan.
 3. District Accounts Officer at Jamrud.
 4. ADEO Local Office Pay Clerk
 5. To Mr. Islam Uddin Chowkidar S/O Abdur Rashid, Govt. Officer registered cover in his home.

DISTRICT EDUCATION OFFICER
 KHYBER TRIBAL DISTRICT AT JAMRUD

Attested

DISTRICT EDUCATION OFFICE
KHYBER TRIBAL DISTRICT KHYBER AT JAMRUD

PHONE 091-5820584 FAX 091-5820584

No. _____ dated ____ / ____ /2019

DISTRICT EDUCATION OFFICE KHYBER TRIBAL DISTRICT AT JAMRUD

NOTIFICATION:

1. WHEREAS The District Education officer Khyber tribal District had come to know that the ADEO Bara by checking of master Payroll that Mr. Islam uddin Chowkidar S/o Rashid Personnel number. 00412704 is drawing pay w.e.f. 31/08/1999 at GPS Illamdud; Bara Khyber Tribal District, whereas there is no sanction post of chowkidar occupied by the accused. The pay of concerned chowkidar was stopped and his name alongwith personnel number 00412704 was reflected in leading newspapers "Daily mashriq" dated 27/05/2018 and "Daily Express" dated 27/05/2018.
2. WHEREAS the undersigned constituted enquiry committee to probe into the manner 28/09/2018 and recommended compulsory retirement than the undersigned conduct enquiry and the enquiry report No. 782 (Annexure A) dated 22/01/2019 recommend accused for dismissal from govt. service.
3. Now therefore in exercise of the powers conferred under Para 4 b (iv) of Khyber Paikhtunkhwa government servants deficiency and disciplinary Rules 2011. the competent authority district education officer Khyber is pleased to impose a major penalty "Dis from service" upon Mr. Islamuddin Chowkidar S/o Abdur Rashid Personnel Number 00412704 GPS Shin Pokh Loi Shalman Landi Kotal Khyber Tribal District Immediate effect.

MUHAMMD JADOON KHAN
DISTRICT EDUCATION OFFICER
KHYBER TRIBAL DISTRICT JAMRUD.

Endst No. 3374-78

dated 25/01/____

Copy of the above is forwarded to the:

1. Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar
2. Deputy Commissioner Khyber Tribal District Jamrud
3. District Accounts officer at Jamrud.
4. ADEO Local Office Pay Clerk
5. TO Mr. Islam uddin Chowkidar S/o Abdur Rashid under registered cover to his _____.

DISTRICT EDUCATION OFFICER
KHYBER TRIBAL DISTRICT JAMRUD.

Accepted

Amir 9
45

To

The Director Edu Pata M.T.
Warsaw road Pkhanan

Subject - Departmental appeal against the
order dt 28/1/019 in r/o Islam-u-din class-IV

R/w with great respect it is stated that I was
serving my duty regularly to the entire satisfaction
my superior and there is no complaint against me;
I was dismissed from the service without any legal
reason / order formally. neither I was called for personal
hearing, explanation or show cause notice and my service
is round about 21 years.

Therefore it is humbly prayed that I may very
kindly be restored without any further delay the law

Dated 29/1/019

(Signature) Yours faithfully

Islam-u-din S/o Abdur
Class - IV

19

(Signature)
Attested.

POWER OF ATTORNEY

In the Court of Service Tribunal KP Peshawar

Ghulamuddin

- } For
- } Plaintiff
- } Appellant
- } Petitioner
- } Complainant

VERSUS

Education Department KP

- } Defendant
- } Respondent
- } Accused

Appeal/Revision/Suit/Application/Petition/Case No. _____ of _____
Fixed for _____

I/W, the undersigned, do hereby nominate and appoint

YASIR SALEEM ADVOCATE HIGH COURT

Peshawar, my true and lawful attorney, for me in my same and on my behalf to appear at _____ to plead, act and answer in the

above Court or any Court to which the business is transferred in the above matter and is agreed to sign and file petitions. An appeal, statements, accounts, exhibits, Compromises or other documents whatsoever, in connection with the said matter or any matter arising there from and also to apply for and receive all documents or copies of documents, depositions etc, and to apply for and issue summons and other writs or sub-poena and to apply for and get issued and arrest, attachment or other executions, warrants or order and to conduct any proceeding that may arise there out: and to apply for and receive payment of any or all sums or submit for the above matter to arbitration, and to employ any other Legal Practitioner authorizing him to exercise the power and authorizes hereby conferred on the Advocate wherever he may think fit to do so, any other lawyer may be appointed by my said counsel to conduct the case who shall have the same powers.

AND to all acts legally necessary to manage and conduct the said case in all respects, whether herein specified or not, as may be proper and expedient.

AND I/we hereby agree to ratify and confirm all lawful acts done on my/our behalf under or by virtue of this power or of the usual practice in such matter.

PROVIDED always, that I/we undertake at time of calling of the case by the Court/my authorized agent shall inform the Advocate and make him appear in Court, if the case may be dismissed in default, if it be proceeded ex-parte the said counsel shall not be held responsible for the same. All costs awarded in favour shall be the right of the counsel or his nominee, and if awarded against shall be payable by me/us

IN WITNESS whereof I/we have hereto signed at _____ the _____ day to _____ the year _____

Executant/Executants _____
Accepted subject to the terms regarding fee _____

Yasir Saleem
YASIR SALEEM
Advocate High Court

که است چنانچه سر و دستش در کف است که در ۱۳۸۸

در کف است چنانچه سر و دستش در کف است

856
1000
1509

در کف است چنانچه سر و دستش در کف است
و دستش در کف است چنانچه سر و دستش در کف است
ساز

چنانچه سر و دستش در کف است

چنانچه سر و دستش در کف است
و دستش در کف است چنانچه سر و دستش در کف است
و دستش در کف است چنانچه سر و دستش در کف است

Allowed
06/12/2021

چنانچه سر و دستش در کف است
و دستش در کف است چنانچه سر و دستش در کف است
و دستش در کف است چنانچه سر و دستش در کف است

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و دستش در کف است چنانچه سر و دستش در کف است
و دستش در کف است چنانچه سر و دستش در کف است

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

In the matter of
Appeal No. 856(P) CS-2019.

Islamuddin Ex- Chowkidar Government Primary School Ilamgudar
Bara District Khyber..... (Appellant)

VERSUS

The Secretary Elementary and Secondary Education Khyber
Pakhtunkhwa, Peshawar and others.....(Respondents)

Application for early fixation of the appeal

Respectfully Submitted:

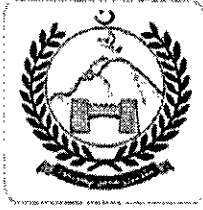
1. That the above noted appeal is pending adjudication in this Honourable Tribunal and is fixed for 16.03.2021.
2. That the date fixed in the instant appeal is too far. The appellant has already suffered a lot and he is jobless also thus the case in hand deserves to be fixed at the earliest.
3. That it will be in the interest of justice too if the petition in hand is fixed at the earliest.
4. That there is no legal impediment in early fixation of the noted appeal.

It is therefore requested that the above noted appeals be fixed at the earliest.

Applicant

Through


YASIR SALEEM
Advocate High court.



**KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR**

No. 1143 /ST

Dated: 24/5 /2022

All communications should be addressed to the Registrar KPK Service Tribunal and not any official by name.

Ph:- 091-9212281
Fax:- 091-9213262

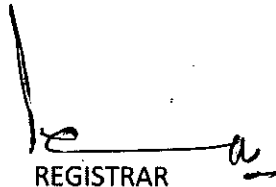
To

The District Education Officer,
Government of Khyber Pakhtunkhwa,
District Khyber .

Subject: JUDGMENT IN APPEAL NO. 856/2019 MR. ISLAM UD DIN & 2 OTHERS.

I am directed to forward herewith a certified copy of Judgement dated 13.01.2022 passed by this Tribunal on the above subject for compliance please.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR

04.10.2021

Mr. Yasir Saleem, Advocate, for the petitioner/appellant present. Mr. Munawar Khan, ADO (Litigation) alongwith Mr. Muhammad Adeel Butt, Additional Advocate General for the respondents present.


Arguments on restoration application heard and record perused.

The petitioner/appellant has alleged in his application that on 23.09.2019 there was complete strike throughout the province on the call of Khyber Pakhtunkhwa Bar Council in order to condemn amendments in constitution made by the Indian Government with regard to Indian held Kashmir, therefore, the appellant as well as his counsel could not attend the Tribunal on the said date. The stance so taken by the appellant is supported by duly sworn affidavit. Moreover, there are numerous rulings of august superior courts, wherein it has been held that cases should be decided on merits by avoiding technicalities. Furthermore, learned Additional Advocate General stated at the bar that he is having no objection on acceptance of the restoration application.

In light of the above discussion, the application in hand is allowed and the Service Appeal bearing No. 856/2019 stands restored on its original number. Copy of this order be placed on file of Service Appeal bearing No. 856/2019. File be consigned to the record room after necessary completion and compilation.

ANNOUNCED

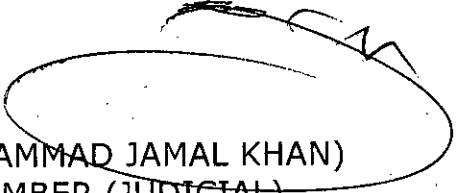
04.10.2021


(SALAH-UD-DIN)
MEMBER (JUDICIAL)

28.01.2021

Mr. Munfat Ali, Advocate, for applicant is present. Mr. Kabirullah Khattak, Additional Advocate General and Mr. Munawar Khan, SST, for the respondents is also present.

Reply on behalf of respondents not submitted. Representative of the department seeks further time for submission of written reply. Time is allowed. Adjourned to 11.05.2021 on which date the requisite reply shall be positively submitted.


(MUHAMMAD JAMAL KHAN)
MEMBER (JUDICIAL)

11.05.2021

Due to demise of the Worthy Chairman the Tribunal is defunct, therefore, case is adjourned to 26.08.2021 for the same as before.


Reader

26.08.2021

Mr. Yasir Saleem, Advocate, for the petitioner present. Mr. Munawar Khan, ADO (Litigation) alongwith Mr. Muhammad Rasheed, Deputy District Attorney for the respondents present and sought time for submission of reply. Last opportunity given. To come up for submission of reply as well as arguments on restoration application before the S.B on 04.10.2021.


(SALAH-UD-DIN)
MEMBER (J)

30.07.2020

Junior to counsel for the petitioner. Nemo for the respondents.

Fresh notice be issued to the respondents for next date of hearing. Adjourned to 08.09.2020 for reply and arguments before S.B.



Chairman

08.09.2020

Nemo for petitioner. Addl. AG alongwith Munawar Khan, SST for the respondents present.

Representative of the respondents requests for further time to submit reply. Adjourned to 11.11.2020 on which date the requisite reply shall be positively submitted.

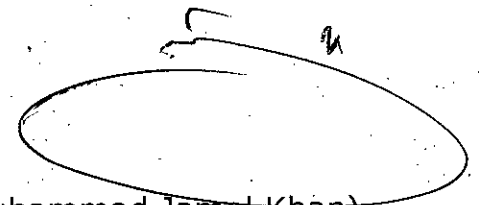


Chairman

11.11.2020

Nemo for the appellant. Mr. Kabirullah Khattak, Additional Advocate General and Mr. Munawar Khan, SST, for the respondents are present.

Reply not submitted. Representative of the respondents requests for further time to submit reply. Adjourned to 28.01.2021 on which date the requisite reply shall be positively submitted.



(Muhammad Jamal Khan)
Member (Judicial)

14.02.2020

Counsel for the appellant and Mr. Kabirullah Khattak, Additional AG alongwith Mr. Waheed Ullah, ADEO for the respondents present. Reply of restoration application not submitted. Representative of the department requested for further time to file reply of restoration application. To come up for reply of restoration application on 12.03.2020 before S.B.


(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

12.03.2020

Nemo for the petitioner. Waheed Ullah ADO representative of the respondent department present and again requested for time to furnish reply. Adjourn. To come up for reply and arguments on 23.04.2020 before S.B. Petitioner be put to notice for the date fixed.


Member

23.04.2020




Due to public holiday on account of COVID-19, the case to come up for the same on 30.07.2020 before S.B.

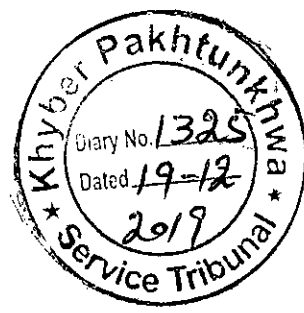

Reader

Form-A
FORM OF ORDER SHEET

Court of _____

Appeal's Restoration Application No. 457/2019

| S.No. | Date of order Proceedings | Order or other proceedings with signature of judge |
|-------|---------------------------|---|
| 1 | 2 | 3 |
| 1 | 19.12.2019 | <p>The application for restoration of appeal No. 856/2019 submitted by Mr. Yasir Saleem 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 19/12/19</p> |
| 2 | 20/12/19 | <p>This restoration application is entrusted to S. Bench to be put up there on <u>17/01/20</u></p> <p style="text-align: right;"> CHAIRMAN</p> |
| | 17.01.2020 | <p>Nemo for petitioner.</p> <p>Notices be issued to petitioner as well as respondents. To come up for reply of restoration application on 14.02.2020 before S.B. Learned Addl. A.G shall also be served for the next date.</p> <p style="text-align: right;"> Chairman</p> <p style="text-align: center;"><u>i</u></p> |



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

In the matter of *Restoration Application* NO. 457/19
Appeal No. 856(P) CS-2019.
Dismissed in default on 23.09.2019.

Islamuddin Ex- Chowkidar Government Primary School
Illamgudar Bara District Khyber..... (Appellant)

VERSUS

The Secretary Elementary and Secondary Education Khyber
Pakhtunkhwa, Peshawar and others.....(Respondents)

**Application for restoration of titled service appeal
which has been dismissed for non-prosecution vide
order dated 23.09.2019.**

Respectfully Submitted:

1. That the above noted appeal was pending in this Honorable Court and fixed for reply (not a hearing date) on 23.09.2019, however it was dismissed for non-prosecution on the said date. *(Copy of order dated 23.09.2019 is attached herewith)*
2. That the applicant prays for the restoration of the titled appeal inter alia on the following grounds:

GROUND OF APPLICATION

A. That on 23.09.2019, there was complete strike through out the province on the call of Kyber Pakhtunkhwa bar Council to condemn amendment in constitution by the Indian government with regard to the Indian held Kashmir.

B. That it is pertinent to mention here that on the previous date the appeal was admitted for regular hearing and next date i.e. 23.09.2019 was fixed for attendance of the Respondents and filling of reply and as such it was not fixed hearing of the appeal and in Rue 19 of the Khyber Pakhtunkhwa Service Tribunal Rules, 1974 the word "hearing" has been mentioned. Meaning thereby an appeal may be dismissed in default when it is fixed for hearing and appellant do not appear.

C. That it has been a consistent view of the superior courts that date fixed for reply or for notice to Respondents is not a hearing date. The captioned case was also fixed for


notice to respondents and for of filling of reply, so it could not be dismissed for non-prosecution.

- D. That on 23.09.2019 there was strike and clerk of the counsel for applicant could not appear and mark his attendance, however identical nature cases were fixed for 10.12.2019 so he mistakenly presumed that the captioned appeal would also be fixed for 10.12.2019 however on the date fixed when counsel for the applicant inquired about the case it came to the light that the date in appeal was on 23.09.2019, and on the same date the appeal has been dismissed for non prosecution.
- E. That non appearance of the applicant or his counsel on the crucial date was not willful but due to the reason stated above.
- F. That the applicant is ready to pursue the case in hand diligently and vigilantly in future if the Honourable Tribunal allows restoration of the appeal.
- G. That valuable rights of the applicant are involved in the instant appeal, hence the case deserves to be decided on merit.
- H. That the superior courts have always favoured adjudication of disputes on merits rather than technicalities.

It is, therefore, prayed that on acceptance of this application, the instant appeal may please be restored and be decided on merit.

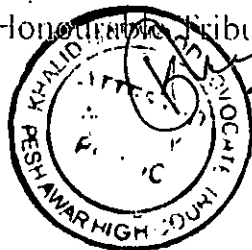
Applicant

Through,


YASIR SALEEM
Advocate High Court
Peshawar

AFFIDAVIT

I, do hereby solemnly affirm and declare on oath that the contents of the above application are true and correct to the best of my knowledge and belief and that nothing has been kept back or concealed from this Honourable Tribunal.




Deponent

(8)



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

Appeal No 856 /2019

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 876

Dated 20/6/2019

Islam uddin, Ex-Chowkidar Government Primary School
Illamgudar Bara District Khyber

(Appellant)

VERSUS

1. The Secretary Elementary and Secondary Education (Merged Areas) Khyber Pkhtunkhwa Peshawar.
2. The Director Elementary and Secondary Education (Merged Areas) Khyber Pkhtunkhwa Peshawar.
3. District Education Officer, District Khyber.

(Respondents)

Appeal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974, against the order dated 25.01.2019, whereby the appellant has been awarded the Major Punishment of dismissal from Service, against which his departmental appeal dated 20.02.2019 has not been respondent within the statutory period of ninety days.

Prayer in Appeal: -

Filed to-day

Registrar

20/6/19

On acceptance of this appeal the impugned order dated 25.01.2019, may kindly be set aside and the appellant may be re-instated into service with all back benefits and wages of service.

Re-submitted to -day and filed.

Registrar 20/6/19

Certified to be true copy
AS
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

4

Service Appeal No. 856/2019, Islam-ud-Din vs Govt



23.09.2019


Nemo for appellant.

It is now 4:00 P.M and the case has been called several times but no one is in appearance on behalf of the appellant.

Dismissed for non-prosecution. File be consigned to record room.

SD/ 
CHAIRMAN

Announced
23.09.2019

Certified to be true copy

CHAIRMAN
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Date of Presentation of Appellate 18-12-19
Number of Words 800
Number of Pages 10
Number of Exhibits 10
Date of Delivery of Copy 18-12-19