16th Dec. 2022

SCANNED K T Pesnawati Counsel for the appellant and Mr. Muhammad Jan, District Attorney for the respondents present. Mrs. Rozina Rehman, learned Member (J) is on leave, therefore, the case is adjourned to 08.03.2023 before the D.B.

(Fareeha Paul) Member(E) 13th Oct., 2022

Counsel for the appellant present. Mr. Muhammad Riaz Khan respondents Advocate General for the Paindakhel, Asstt. present.

Learned counsel for the appellant seeks adjournment in order to further prepare the brief. Last opportunity is granted. To come up for arguments on 24.11.2022 before the D.B.

(Fareeha Paul) Member (E)

(Kalim Arshad Khan) Chairman

24.11.2022

Mr. Umar Farooq, Advocate, junior of learned counsel for the appellant present. Mr. Muhammad Riaz Khan Paindakhel, Assistant Advocate General for the respondents present.

Junior of learned counsel for the appellant requested for adjournment on the ground that learned counsel for the appellant is busy in the august Peshawar High Court, Peshawar. Adjourned. To come up for arguments on 16.12.2022 before the D.B.

(Mian Muhammad)

Member (E)

(Salah-Ud-Din)

Member (J)

16.06.2022

Learned counsel for the appellant present. Mr. Muhawar Khan, ADEO (Litigation) alongwith Mr. Kabirullah Khattak, Additional Advocate General for the respondents present.

Learned counsel for the appellant requested for adjournment on the ground that he has not made preparation for arguments. Adjourned. To come up for arguments before the D.B on 05.07.2022.

(MIAN MUHAMMAD) MEMBER (EXECUTIVE) (SALAH-UD-DIN) MEMBER (JUDICIAL)

05.07.2022

Appellant alongwith his counsel present. Mr. Muhammad Adeel Butt, Additional Advocate General for the respondents present.

Due to paucity of court time, arguments could not be heard. Adjourned. To come up for arguments before the D.B on 15.09.2022.

(MIAN MUHAMMAD) MEMBER (EXECUTIVE) (SALAH-UD-DIN) MEMBER (JUDICIAL)

15.09.2022

Appellant present in person.

Muhammad Jan, learned District Attorney alongwith Munawar Khan, ADEO for respondents present.

Former made a request for adjournment as his learned counsel is not available today. Adjourned. To come up for arguments on 13.10.2022 before D.B.

(Fareeha Paul) Member (E)

(Rozina Rehman) Member (J)

Due to non availability of Bench, the case is 11.03.2021 adjourned to 26.04.2021 for arguments before D.B

pue to covid-19, the case is affairmed to
16.8.2021 for the barne.

Since 16.08.2021 has been declared as Public holiday on 16.08.2021 account of Moharram, therefore, case is adjourned to 01.12.2021 for the same as before.

As an Town, Turnifate The date is adjustated to the 14.2. to 14.3.22 for frame.

One to Retriement of the Hon blicher or -Un case is adjourned to come up for the Sume as before on 16-6-22

Counsel for the appellant is present. Mr. Usman Ghani, District Attorney alongwith Mr. Munawar Khan, SST for the respondents is present.

Learned counsel for the appellant while making reference to impugned order dated 05.06.2014 submitted that retrospective effect was given to the referred to order, the issue with retrospectivity is pending before the Larger Bench of this august Tribunal constituted for the purpose, therefore, unless and until judgment is made by the worthy Larger Bench of this Tribunal this appeal is kept pending.

File to come up for further proceedings on 22.12.2020

before D.B

(Mian Muhammad)
Member (E)

(Rozina Rehman) Member(J)

22.12.2020

Mr. Noor Muhammad Khattak, Advocate, for appellant is present. Mr. Kabirullah Khattak, Additional Advocate General and Mr. Munawar Khan, SST, for the respondents are also present.

Learned counsel representing appellant while making reference to impugned order dated 05.06.2014 submitted that retrospective effect was given to the referred to order, since the issue with retrospectivity is pending before the Larger Bench of this Tribunal constituted for the purpose, therefore, unless and until judgment is made by the worthy Larger Bench of this Tribunal, this appeal is kept pending. File to come up for further proceedings on 11.03.2021 before D.B.

(ATIQ-UR-REHMAN WAZIR) MEMBER (EXECUTIVE) (MUHAMMAD JAMAL KHAN) MEMBER (JUDICIAL) Junior to counsel for the appellant present. Mr. Zia Ullah learned Deputy District Attorney for the respondents present.

Junior to counsel for the appellant requested for adjournment on the ground that senior counsel for the appellant is not available today. Adjourn. To come up for arguments 23.04.2020 before D.B.

Member

Member

23.04.2020

Due to public holidays on account of Covid-19, the case is adjourned. To come up for the same on 04.08.2020 before D.B.

04.08.2020 Due to summer vacation case to come up for the same on 15.10.2020 before D.B.

eader.

13.11.2019

Mir Zaman Advocate present on behalf of learned counsel for the appellant. Mr. Kabir Ullah Khattak learned Additional Advocate General present. Mir Zaman Advocate seeks adjournment as learned counsel for the appellant is not in attendance. Adjourned by way of last chance. To come up for arguments on 31.12.2019 before D.B.

Member

Member .

31.12.2019

Counsel for the appellant and Mr. Riaz Ahmad Paindakheil, Assistant AG for the respondents present. Learned counsel for the appellant requested for adjournment. Adjourned to 17.02.2020 for arguments before D.B.

(Hussain Shah) Member

(M. Amin Khan Kundi) Member

17.02.2020

Counsel for the appellant present. Asst: AG for respondents present. Learned counsel for the appellant seeks adjournment. Adjournal To come up for arguments on 10.03.2020 before D.B.

Member

Member

24,04,2019

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

Learned Addl. AG requests for adjournment to produce the requisite record noted in the order dated 11.03.2019. The requisite record shall positively be submitted within a fortnight alongwith extra copy.

Adjourned to 11.07.2019 for arguments before the D.B.

Member

11.07.2019

Appellant in person and Mr. Usman Ghani learned District Attorney present. Appellant seeks adjournment as his counsel is not in attendance. Adjourn. To come up for arguments on 29.08.2019 before D.B.

Member

 $\cdot 29.08.2019$

Learned counsel for the appellant and Mr. Usman Ghani learned District Attorney present. Learned counsel for the appellant seeks adjournment.. Adjourn. To come up for arguments on 13.11.2019 before D.B

Member

Member

28.12.2018

Mr. Mir Zaman, Advocate to Mr. Noor Muhammad Khattak Advocate for appellant, Mr. Ziaullah, DDA for the respondents present.

Learned senior counsel for the appellant is reported to be indisposed. Adjourned to 11.03.2019 for arguments before the D.B.

Affol Member

Chairman

11.03.2019

Counsel for the appellant and Mr. Muhammad Jan, DDA alongwith Daud Jan, Superintendent for the respondents present.

The representative of respondents requests for some time in order to update the brief of instant appeal with document(s) relating to the travel history of appellant as the impugned order carries a reference thereto.

The requisite record may be submitted within a fortnight alongwith extra copy. Adjourned to 24.04.2019 for arguments before the D.B.

J Member

Chairman

Due to sickness of learned Member (Executive), further proceedings could not be conducted. Adjourned. To come up for arguments on 19.09.2018 before D.B.

Member

19.09.2018

Junior counsel for the appellant and Mr. Kabirullah Khattak, Additional AG alongwith Mr. Daud Jan, Superintendent for the respondents present. Counsel for the appellant is directed to provide Member copy of the present appeal on or before the next date of hearing. Adjourned. To come up for arguments on 05.11.2018 before D.B.

(Ahmad Hassan) Member

(M. Amin Khan Kundi) Member

05.11.2018

Due to retirement of Hon'ble Chairman, the Tribunal is defunct. Therefore, the case is adjourned. To come up on 31.12.2018.

20.03.2018 le

Learned counsel for the appellant and Mr. Muhammad Jan, learned Deputy District Attorney for the respondents present. Learned counsel for the appellant seeks adjournment. Adjourn. To come up for arguments on \$\frac{27}{10}\$5.2018 before D.B

(Muhammad Ardin Kundi) Member

(Muhammad Hamid Mughal) Member

24.05.2018 Clerk of the counsel for appellant and Addl: AG for the respondents present. Arguments could not be heard due to incomplete bench. Adjourned. To come up for arguments on 12.06.2018 before D.B.

(Muhammad Amin Khan Kundi) Member

12.06.2018

Junior to counsel for the appellant and MR. Kabir Ullah Khattak learned Additional Advocate General present. Junior to counsel for the appellant seeks adjournment as senior counsel is not in attendance. Adjourned by way of last chance. To come up for arguments on 26.07.2018 before D.B.

(Ahmad Hassan) Member

(Muhammad Hamid Mughal) Member 18/10/2017

Clerk of counsel for the appellant present and seeks time for deposit of security and process fee. Clerk of counsel for the appellant is directed to deposit security and process fee within 7 days, thereafter notices be issued to respondents for submission of written reply/comment 30/11/2017 before SB.

Apperate Caposited

30/11/2017

Counsel for the appellant and M

AAG alongwith Mr. Daud Jan, Litigation Officer for respondent present. Written reply not submitted and AAG seeks further time. To come up for written reply/comments on 29/12/2017 before BB.

(Ahmad Hassan)

29.12.2017

None present on behalf of appellant and membernsel.

Mr. Kabir Ullah Khattak, Learertd Addl: AG present. None present on behalf of respondent. Therefore, notice be issued to the appellant and his counsel as well as respondents for attendance. Written reply not submitted and AAG seeks further time. To come up for written reply/comments on 16.01.2018 before S.B.

Member (E)

16.01.2018

Counsel for the appellant present. Mr. Kabirullah Additional AG alongwith Mr. Daud Superintendent and Mr. Hajj Muhammad, AAEO for the respondents also present. Written reply on behalf of respondent No. 2 submitted. Representative of respondent No. 2 rely on the written reply submitted by respondent No. 2 on behalf of respondents No. 1 and 3. Adjourned. To come up for rejoinder and arguments on 20.03.2018 before D.B.

(Muhammad Amin Khan Kundi)

Member



Counsel for the appellant present and seeks adjournment. Adjourned. To come up for preliminary hearing on 13/9/2017 before SB.

(GUL ZEB KHÂN) MEMBER

13.09.2017

Counsel for the appellant present. Preliminary arguments heard. The learned counsel for the appellant argued that the impugned order of termination was passed against the appellant on 05.06.2014 against which he filed departmental appeal on 29.06.2014 which was not responded to and thereafter, the present appeal on 14.10.2014. The learned counsel for the appellant further argued that the termination order was passed without following the procedural due process. That no charge sheet and statement of allegations was served upon the appellant nor proper enquiry was conducted.

The points raised need consideration. The appeal is admitted to regular hearing. 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 18.10.2017 before S.B.

Chairman

04.07.2017

Appellant with counsel present. Learned counsel for the appellant advanced arguments on the application for restoration of appeal dismissed in default vide order dated 31.07.2015. Attention is invited to order sheet dated 30.01.2017, whereunder the appeal in hand was restored for regular hearing. As such stands restored. To come up for preliminary hearing on 25.07.2017 before S.B.

(Ahmad Hassan) Member

25.07.2017

Counsel for the appellant seeks adjourned. Granted. To come up for preliminary hearing on 08.08.2017 before S.B.

Chairman

08.08.2017

Clerk to counsel for the appellant present and seeks adjournment due to general strike of the Bar. Adjourned. To come up for preliminary hearing on 24.08.2017 before S.B.

(Ahmad Hassan) Member



29.05.2017

Counsel for the appellant present and requested for adjournment. Request accepted. To come up for preliminary hearing on 04.07.2017 before S.B.

(AHMAD HASSAN) MEMBER

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20.02.2017

Clerk to counsel for the appellant present. Requested for adjournment. Request accepted. To come up for preliminary hearing on 08.03.2017 before S.B.

Y (AHMAD HASSAN) MEMBER

08.03.2017

None present on behalf of the appellant, Notice be issued to appellant and his counsel for prosecution for 30.03.2017 before S.B.

(ASHFAQUE FAJ) MEMBER

30.03.2017

Junior to counsel for the appellant (Noor Muhammad Khattak, Advocate), Requested for adjournment as learned Senior counsel for the appellant has gone abroad for performing Umra. Adjourned for preliminary hearing to 26.4.2017 before S.B.

Chartman

26.04.2017

Counsel for the appellant present and requested for adjournment. Request accepted. To come up for preliminary hearing on 29.05.2017 before S.B.

Ahmad Hassan)

Member

31.10.2016

Clerk to counsel for the petitioner and Addl. AG for respondents present. Requested for adjournment. Request accepted. To come up for written reply and arguments on application on 20.12.2016 before S.B.

MEMBER

20.12.2016

Clerk of Mr. Noor Mohammad Khattak, Advocate filed Wakalat Nama on behalf of the petitioner and requested for adjournment. Adjournment granted. To come up for written reply and arguments on application on 30.01.2017.

(MUHAMMAD AAMIR NAZIR) MEMBER

30.01.2017

Counsel for the petitioner present. Arguments on restoration application heard and record perused.

Since the appeal was dismissed in default at the stage of preliminary hearing and when no notice was issued to the respondents as such the application for restoration of appeal is accepted and the appeal restored for regular hearing. To come up for preliminary hearing on 20.02.217 before S.B.

30.01.2017

22.02.2016

Counsel for the petitioner and Addl: A.G for respondents present. To come up for reply and arguments on application on 25.4.2016 before S.B.

Chaigalan

25.4.2016

Agent of counsel for the petitioner and Addl. AG for the respondents present. Counsel for the appellant as well as counsel for Political Agent Khyber are not in attendance. Seeks adjournment. Adjourned for reply and arguments on application for 21.7.2016 before S.B.

Chairman

21.07.2016

Agent of counsel for the petitioner and Additional AG for the respondents present. Agent of counsel for the petitioner requested for adjournment due to sickness of learned counsel for the petitioner. Request is accepted. To come up for reply and arguments on application on 29.08.2016 before S.B.

MEMBER

29.08.2016

None for the petitioner and Mr. Daud Jan, Sudt. Alongwith Addl. AG for respondents present. Addl. AG requested for adjournment. To come up for reply and arguments application on 31.10.2016 before S.B.

Chairman

FORM OF ORDER SHEET

Court of			
Misc. Application No	1229	/2015	

	Misc. Applicat	ion No. 1224 /2015	•
S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate	
1	2	. 3	,
1	16/11/2015	The application for restoration of appeal no. 12	229/2014
-		submitted by Mr. Haji Muhammad through Mr. Nawab Zada	Advocate
		may be entered in the relevant Register and put up to the C	Court for
2		proper order please.	
2-		This Miss application he nut up before S. Rench	
		This Misc. application be put up before S. Bench on 25-11-15	
		on 25-11-13	
		CHAIRMAN	, .
	25.11.2015	Agent of counsel for the petitioner present. Notice	And the second
		and record for 22.2.2016 before S.B.	1
	,	Chairman	i
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BEFORE THE LEARNED SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR

misc. application no. 137/2015. vi.s. in Service Appeal No. 1229 of 2014

bery No. 1.315

Haji Muhammad

<u>VERSUS</u> AEO, Khyber Agency and others

APPLICATION FOR RESTORATION OF THE ABOVE TITLED SERVICE APPEAL.

Respectfully Sheweth:

- 1- That the above titled service appeal pending adjudication before this august Tribunal.
- 2- That the above titled service appeal is fixed for preliminary hearing and due to non-functioning of august Tribunal the case was adjourned several time.
- 3- That on date fixed my clerk attend this gaugust Court and Conway 10/11/2015 to me on that my child was hospitalized due to which I was unable to personally appear before your lordship.
- 4- That on 10/11/2015 the titled case was not mentioned in the cause list the Tribunal reader information me that the case is dismissed in default.
- 5- That non-appearance on date fixed was nor deliberately nor intentionally but due the above mentioned reasons.

It is, therefore, most humbly prayed that on acceptance of this application, the above titled case may kindly be restored.

Dated 12/11/2015

Through

Nawab Zada Advocate, Peshawar 30.06.2015

Agent of counsel for the appellant present. Counsel for the appellant is stated indisposed. Adjourned to 31.7.2015 for preliminar hearing before S.B.

Charman

g 31.07.2015

None present for appellant despite repeated calls. The Court time is about to over. Dismissed for want of prosecution. File be consigned to the record.

<u>ANNOUNCED</u> 31.7.2015.

Chairman .

Reader Note:

24.12.2014

No one is present on behalf of the appellant. Since the Tribunal is incomplete, therefore, case is adjourned to 06.03.2015 for the same.

٤

Reader

06.03.2015

Counsel for the appellant present and requested for adjournment. Request accepted. To come up for Preliminary on 31.63,2015.

Member

31.03.2015

Counsel for the appellant present and requested for adjournment. Request accepted. To come up for preliminary hearing on 18.05.2015.

Member

18.05.2015

None for the appellant present. Notices be issued to the appellant/counsel for the appellant for preliminary hearing on 30.06.2015 before S.B.

Member

Sold State

Form- A FORM OF ORDER SHEET

Court of	
Case No.	1229/2014

	Court of	
	Case No	1229/2014
S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	14/10/2014	The appeal of Mr. Haji Muhammad presented today by Mr. Nawabzada Advocate may be entered in the Institution
	,	register and put up to the Worthy Chairman for preliminary
2	16-10-2019	hearing. REGISTRAR This case is entrusted to Primary Bench for preliminary hearing to be put up there on CHAIRMAN
	:	

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No. 1991/2014

Haji Mohammad S/O Allah Baz, R/O Sipah, Haji Abad, Tehsil, Bara,

Khyber Agency, Ex-PTC, BCS Shakirullah, Bara Khyber Agency. (Appellant)

VERSUS

1. The Agency Education Officer, Khyber Agency etc. (Respondents)

INDEX OF APPEAL

5.No.	Description of documents		nnexure		Par	<u>e Nu</u>	<u>imber</u>
1.	Memo: of appeal.	•	-	•		1 -	4
2.	Appointment order		"A"	•.	٠.	5 -	6
3,.	Copy of Service Book	٠	"B"		÷	7 -	10
4. 5· 6.	Copy of termination order. Wakalatnama		"D"	•		,	11 /2 13

Through:

(NAWABŽADA) Advocate, Peshawar.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No/	2014
Haji Mohammad S/O Allah Baz, R/O Sipah, Haji Al Agency, Ex-PTC, BCS Shakirullah, Bara Khyber Ag	bad, Tehsil, Bara, Khyber gency (Appellant)

<u>VERSUS</u>

- 1. The Agency Education Officer, Khyber Agency.
- 2. The Director of Education (FATA) Khyber Pakhtunkhwa, Peshawar.

SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974, AGAINST THE IMPUGNED ORDER NO. 5320-28, DATED 05.06.2014, WHEREBY THE APPELLANT HAS BEEN TERMINATED FROM SERVICE WITH EFFECT FROM 01.03.2014.

PRAYER

On acceptance of the appeal, the impugned order may be set aside and the appellant may be reinstated in service with all back benefits. Any other relief deemed appropriate may also be granted to the appellant.

RESPECTFULLY SHEWETH

1. That the appellant having fully qualified for the post of PTC, was appointed as PTC Teacher by the Competent Authority alongwith others after observing all the codal formalities vide order dated 31.3.2005 Copy of appointment order is attached as annexure-A.

- 2. That service book of the appellant prepared and entries made therein from time to time. Copy of service book is attached as annexure-8.
- 3. That the appellant was serving to the best of his ability and to the entire satisfaction of his superiors.
- 4. That all of a sudden vide impugned order No. 5320-28, dated 05.06.2014, services of the appellant have been terminated in a single stroke of pen with recovery of absence period. Copy of impugned order is attached as annexure-C.
- 5. Feeling aggrieved, the appellant filed departmental appeal against the impugned order, before the departmental appellate authority which has not been decided within the statutory period, hence the present appeal.

GROUNDS

- 1. That the appellant has not been treated in accordance with the law and rules on the subject.
- 2. That no charge sheet & statement of allegations served upon the appellant.
- 3. That no proper enquiry was conducted into the matter and the appellant has not been given proper opportunity of defence.
- 4. That no show cause notice issued to the appellant, no chance of personal hearing afforded to him and he has been condemned unheard.
- 5. That the appellant has been punished twice against one and the same charge which comes under the purview of double jeopardy and not maintainable in the eyes of law.

that the impugned order is void ab-intitio and based on surmises and conjectures.

That the appellant seeks permission to advance other grounds and proofs at the time of hearing.

In view of the above, the impugned order dated 05.06.2014 may very graciously be set aside and the appellant may be reinstated in service with all back benefits. Any other relief deemed appropriate may also be granted to the appellant.

Through:

(NAWABZADA) Advocate, Peshawar.

AFFIDAVIT

I, Haji Mohammad S/O Allah Baz, the appellant do hereby solemnly affirm and declare that the contents of the appeal are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Hon'ble Tribunal.

DEPONENT

Consequent upon the recommendation of Political Administration and most by the coast F. Lucation FATA Peshawar the following candidates are hereby appointed must the Project port or PTC in BPS No.BWPMI fixed for the Project period for (L)-years at Boyset and ananunal Schools in Landi Kotal/ Bara & Januard Telisil Khyber Agency with effect from the date of their taking over charge,

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The employees shall serve the Govt; as communal school teachers from the date of · assumption of charge.

They shall devote their whole time to their duties as communal schoolteachers,

They shall submit themselves to the lawful orders of the Govt; Officers,

They shall motivate the parents to send their children to school,

These posting will be not be transferable, however local teachers preferably trained can be adjusted against regular Posts on case-to- case basis.

They shall produce Health and Age certificate from Agency Surgeon concerned.

Their Original Education Qualifications, date of birth and Domicilé certificille should be checked before handing over charge of the school. ŝ.

If they full to report with in 15 days, the order will automatically be treated as cancelled Charge reports should be submitted to all concerned.

They will not be handed to over the charge if they are below 18-years and above 3 byear

(DILBAR KRAN) AGENCY EDUCATION OFFICER KHYBER AGENCY AT JAMIRUD.

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MEDICAL CERTIFICATE. P-10-A
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Cause or racs. Sepaih Father's name Ste Allah Baz
Residence Village Lunch Khal Armaz Khal
Date of birth 7/4/1986
Exact height by measurement
Personal mark of identification. Hole Rt Cal Nove of face. Signature of the Official. 24451
Signature of head of effice
Seal of Office
1 do hereby cortify that I have examined Mr Majs Multi-d a candidate for comployment in the Office of the Education Ocpariment.
and can not discover that he had any disease communicable or other constitutional
I do no consider this as disqualification for employment in the office of the
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KHYBER AGENCY

AGENCY EDUCATION OFFICE PHONE: 091-5820584 FAX 091-5820584 NO:5320-28 DATED 05/06/2014

TERMINATION

Ann-C

P-11

As a consequence of their being abroad and verified from their "TRAVEL, HISTORY" received from the Additional Director FIA Khyber Pakhtunkhwas vide his No.FIA/KPK/Immigration-Control/14/4640 dated 01/05/2014 read with Assistant Director/FIA immigration Peshawar No. Immigration 215 dated 08/03/2014.

A huge banner was affixed in this office to the effect that they should present themselves before the Agency Education Officer Khyber within 15 days and clarify their position but they badly failed to present themselves before the Agency Education Officer khyber thereby reflecting that they still abroad

1. Atiq-ur-Rahaman, the Agency Education Officer Khyber Agency in the capacity of the competent authority do hereby terminate the services the following community Schools Staff Members with effect from March 1, 2014.

The recovery of Abroad/Absence period is hereby made effective.

	S.No	Name and designation	School
	1	Haji Mohammad PTC	BCS Shakirullah Bara
1	2	Molid Ayaz PTC	BCS Malak Murad Stoori Kheil
	3	Shoukat Khan PT/C	BCS Said Ahmad Shah
	4	Abdul Majeed PTC	BCS Nooran Shah BOK
	5	Abaseen Khan PTC	BCS Malak Darya Khan
	6.	Maza Khan Chowkidar	BCS Wachan Gul Kamar Khel

AGENCY EDUCATION OFFICER, KHYBER AGENCY AT JARMUD.

Endst No. 53.20-28 dated 57/05/2014

- 1. Additional Chief Secretary FATA Secretariat Peshawar.
- 2. Secretary Social Sector Department FATA Secretariat Peshawar
- 3. Director Education FATA at Peshawar.
- Political Agent Khyber at Khyber House Peshawar.
- 5. AAEO Bara/LKL
- 6. APA Bara/LKL
- 7. Superintendant local officer
- 8. Asghar Gul dealing clerk communal project teachers
- 9. Official concerned

KHYBER AGENCY AT JARMUD.

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BEFORE THE KHYBER PUKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Appeal No: 1225/2014

Haji Muhammad Ex-PTC BCS Shakirullah Bara Khyber Agency Appellant.

VERSUS

- 1. The Agency Education Officer Khyber Agency.
- 2. The Director Education FATA.
- 3. Political Agent Khyber Agency.......Respondents.

Para-wise comments on behalf of respondent No: 2 & 3

Respectively Sheweth:

Preliminary Objection

- 1. That the appellant has got no cause of action to file the instant appeal.
- 2. That the appellant has not come to this Honourable Tribunal with clean hands.
- 3. That the appellant has concealed material facts from this Honourable Tribunal.
- 4. That the appellant is estopped by his own conduct to bring the present appeal.
- 5. That the appeal is bad due to mis-joinder and non-joinder of necessary parties.

On Facts:

- 1. No comments. Pertains to record.
- 2. No comments. Pertains to record.
- Incorrect. The appellant was not present on his duty; his seniors were not satisfied from his duty. He remained himself absent from Government Duty for a long time.
- 4. Incorrect. On account of willful absence from duty the Competent Authority passed termination order of the appellant. In this regard the Competent Authority verified his absence from the Quarter concerned i.e., from his "Travel History" received from the Additional Director F/A Khyber Pakhtunkhwa vide his Letter No. FLA/KPK/Immigration contract/14/46401 dated 01/05/2014. The termination order of the appellant is self explanatory, copy of the same is attached as (Annexure-A).
- 5. Incorrect. The departmental appeal of the appellant has been sent by the Deputy Director (P&D) to the Agency Education Officer Khyber Agency for comments/views to proceed further into the matter. As & when received the same will be decided in accordance with law/rules, copy of the letter is attached as (Annexure-B).

Grounds:

- 1 Incorrect. Respondents have not taken any action which is against law/rules.
- 2 Incorrect. The Competent Authority has taken action after fulfillment of all codal formalities.
- 3 Incorrect. The absence period has been verified from the immigration Authority. It has been found that the appellant was abroad from country. The termination order of the appellant is self-explanatory.
- 4 As explained in Para-3 above.
- 5 Incorrect. As the appellant was abroad from the Country therefore on the basis of no work no payment, the appellant is not entitle for any benefits.



6 No comments. As explained in Para-5 above.

7 Respondents are also seek permission to advance other grounds & proofs at the time of arguments.

In the light of the above facts it is humbly prayed to please dismiss the appeal

having no legal force.

Respondent NO. 2

4

;

Director Education FATA Peshawar

Respondent NO. 1.

Agency Education Officer Khyber Agency

AFFIDAVIT

We the above respondents do hereby declare and affirm that the above comments are true and correct to the best of our Knowledge and belief that nothing has been concealed from this Honorable Tribunal.

Respondent NO. 2

Director Education FATA Peshawar

Respondent NO. 1

Agency Education Officer Khyber Agency



KHYBER AGENCY

AGENCY EDUCATION OFFICE HONE. 091-5820584 FAX 091-5820584 NO.5320-28 DATED 05/06/2014

TERMINATION

Ann-C

P-11

As a consequence of their being abroad and verified from their "TRAVEL HISTORY" received from the Additional Director FIA Khyber Pakhtunkhwas vide his No.FIA/KPK/Immigration-Control/14/4640 dated 01/05/2014 read with Assistant Director/FIA immigration Peshawar No. Immigration 215 dated 08/03/2014.

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The recovery of Abroad/Absence period is hereby made effective.

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4	Abdul Majeed PTC	BCS Nooran Shah BQK
5	Abaseen Khan PTC	BCS Malak Darya Khan
6 '	Maza Khan Chowkidar	BCS Wadhan Gui Kamar Khel

AGENCY EDUCATION OFFICER, KHYBER AGENCY AT JARMUD.

Endst No. 5320-28 dated 5/05/2014

- 1. Additional Chief Secretary FATA Secretariat Peshawar.
- 2. Secretary Social Sector Department FATA Secretariat Peshawar
- 3. Director Education FATA at Peshawar,
- 4. Political Agent Khyber at Khyber House Peshawar.
- 5. AAEO Bara/LKL
- 6. APA Bara/LKL
- 7. Superintendant local officer
- 8. Asghar Gul dealing clerk communal project teachers
- 9. Official concerned

KHYBER AGENCY AT JARMUD.

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,				
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- N	Haji Muhammad	VS	AEO.Kh	vber Agency

APPLICATION FOR REQUISITIONING THE ABOVE TITLED APPEAL FOR EARLY HEARING

R/SHEWETH:

NFA

The applicant submits as under:

1- That the captioned service appeal is pending adjudication before this Hon'ble Tribunal, in which 14-03-2022 is fixed for hearing.

- 2- That appellant has filed the above mentioned service appeal wherein the appellant has challenged the dismissal order dated 5-06-2014.
- 3- That the service of the appellant is fixed for arguments and also a pre-mature case, since linger on from 2014.
- 4. That as valuable rights of the applicant is attached to the instant appeal, therefore it is essential that the mentioned appeal be fixed as early as possible.

It is therefore most humbly prayed that on acceptance of this application the mentioned appeal may be requisition for early hearing to any convenient date.

APPLICANT

Kaji Muhammad

THROUGH:

NOOR-MUHAMMAD KHATTAK ADVOCATE

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

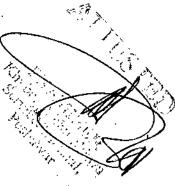
Service Appeal No. 1929 /2014

Haji Mohammad S/O Allah Baz, R/O Sipah, Haji Abad, Tehsil, Bara, Khyber Agency, Ex-PTC, BCS Shakirullah, Bara Khyber Agency. (Appellant)

VERSUS

- The Agency Education Officer, Khyber Agency.
- 2. The Director of Education (FATA) Khyber Pakhtunkhwa, Peshawar.
- 3. The Political Agent, Khyber Agency, Peshawar Cantt.

Peshawar.....(Respondents)



SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974, AGAINST THE IMPUGNED ORDER NO. 5320-28, DATED 05.06.2014, WHEREBY THE APPELLANT HAS BEEN TERMINATED FROM SERVICE WITH EFFECT FROM 01.03.2014.

PRAYER

10/10/14

On acceptance of the appeal, the impugned order may be set aside and the appellant may be reinstated in service with all back benefits. Any other relief deemed appropriate may also be granted to the appellant.

RESPECTFULLY SHEWETH

1. That the appellant having fully qualified for the post of PTC, appointed as PTC Teacher by the Competent Authority alongwith after observing all the codal formalities vide order dated 31.3.20 of appointment order is attached as annexure-A.

31.07.2015

None present for appellant despite repeated calls. The Court time is about to over. Dismissed for want of prosecution. File be consigned to the record.

ANNOUNCED 31.7.2015.

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015.

Certified to be pure copy

Kbylog Tilliam Feshaw

Date of 1 wary of 16 - 11 - 2015

BEFORE THE LEARNED SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR

Service Appeal No. _____ of 2014

Haji Muhammad <u>VERSUS</u> AEO, Khyber Agency and others

APPLICATION FOR RESTORATION OF THE ABOVE TITLED SERVICE APPEAL.

Respectfully Sheweth:

- 1- That the above titled service appeal pending adjudication before this august Tribunal.
- 2- That the above titled service appeal is fixed for preliminary hearing and due to non-functioning of august Tribunal the case was adjourned several time.
- 3- That on date fixed my clerk attend this august Court and Conway 10/11/2015 to me on that my child was hospitalized due to which I was unable to personally appear before your lordship.
- 4- That on 10/11/2015 the titled case was not mentioned in the cause list the Tribunal reader information me that the case is dismissed in default.
- 5- That non-appearance on date fixed was nor deliberately nor intentionally but due the above mentioned reasons.

It is, therefore, most humbly prayed that on acceptance of this application, the above titled case may kindly be restored.

Dated 12/11/2015

Applicant
Through

Nawab Zada Advocate, Peshawar

VAKALATNAMA

IN THE COURT OF HPK Service Tribunal Perhawar					
OF 2016					
Haji Mohammad (APPELLANT) (PLAINTIFF) (PETITIONER)					
<u>VERSUS</u>					
I/We Hoi Mohammal					
KHATTAK, Advocate, Peshawar to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate Counsel on my/our cost. I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter.					
Dated. 20 /12 /2016					
CLIENT ACCEPTED NOOR MOHAMMAD KHATTAK (ADVOCATE)					
OFFICE: Room No.1, Upper Floor, Muhammael Mang Madmi. Islamia Club Building, Khyber Bazar, Advocate Peshawar City. Phone: 091-2211391 Mobile No.0345-9383141					



BEFORE THE KHYBER PUKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Appeal No: 1229/2014

Haji Muhammad Ex-PTC BCS Shakirullah Bara Khyber Agency Appellant.

VERSUS

- 1. The Agency Education Officer Khyber Agency.
- 2. The Director Education FATA.
- 3. Political Agent Khyber Agency......Respondents.

Para-wise comments on behalf of respondent No: 2 & 3

Respectively Sheweth:

Preliminary Objection

- 1. That the appellant has got no cause of action to file the instant appeal.
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- 3. That the appellant has concealed material facts from this Honourable Tribunal.
- 4. That the appellant is estopped by his own conduct to bring the present appeal.
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On Facts:

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In the light of the above facts it is humbly prayed to please dismiss the appeal

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Respondent NO. 2

Director Education FATA Peshawar

Respondent NO. 1

Agency Education Officer Khyber Agency

AFFIDAVIT

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Respondent NO. 2

Director Education FATA Peshawar

Respondent NO. 1

Agency Education Officer Khyber Agency



KHYBER AGENCY

EDUCATION OFFICE 091-5820584 FAX 091-5820584 NO.5320-28 DATED 05/06/2014

TERMINATION

Hmn-C

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5	Abaseen Khan PTC	BCS Malak Darya Khan
6	Maza Khan Chowkidar .	BCS Wachan Gul Kamar Khel

AGENCY EDUCATION OFFICER. KHYBER AGENCY AT JARMUD.

Endst No. 5320-28 dated 5705/2014

- 1. Additional Chief Secretary FATA Secretariat Peshawar.
- 2. Secretary Social Sector Department FATA Secretariat Peshawar
- 3. Director Education FATA at Peshawar.
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- 9. Official concerned

LY EDUCATION KHYBER AGENCY AT JARMUD.