

24.11.2021

None present on behalf of the petitioner. Mr. Asif Masood Ali Shah, Deputy District Attorney alongwith Muhammad Kamran, ADO (Legal) for the respondents present.

Representative of the respondents has submitted copy of office order dated 09.03.2020, whereby the petitioner has been reinstated into Government service w.e.f. 26.02.2019 till final decision of of CPLA by the august Supreme Court of Pakistan. In pursuance to his reinstatement, the petitioner was also adjusted at GPS Sheikh Yousaf, D.I.Khan against vacant post of PST (BPS-12) and his pay released w.e. from the decision of this Tribunal dated 26.02.2019. Copy placed on file. It seems that the petitioner is satisfied with the execution of the judgment at his credit and is not interested in further pursuit of the execution petition at hands. The petition at hands is, therefore, consigned to the record room. If the judgment of this Tribunal is maintained by the August Supreme Court of Pakistan, the petitioner would be at liberty to file fresh execution petition, if any portion of the judgment remained unimplemented.


Chairman

Camp Court, D.I.Khan


26.10.2021

Nemo for petitioner.

Mr. Asif Masood Ali Shah, Deputy District Attorney alongwith Mr. Kamran Khan ADO (Litigation) for respondents present.

Representative of respondents submitted copy of salary slip and office order Edst: No. 15837-46/F.PST/ADEO dated 04.09.2020 whereby, the petitioner is adjusted at GPS Sheikh Yousaf Dera Ismail Khan against the vacant post of PST in BPS-12 and his pay has been released from the date of his taking over charge at that post. Record shows that the judgment of this Tribunal has been implemented.


Previous date was changed on the basis of Note Reader, therefore, notice be issued to petitioner and his counsel for 24.11.2021 before S.B at Camp Court, D.I. Khan.


(ATIQ-UR-REHMAN WAZIR)
MEMBER (EXECUTIVE)
CAMP COUR D.I KHAN

25.11.2020

Petitioner with counsel and Mr. Muhammad Jan, learned DDA alongwith Kamran ADO for respondents present.

Learned counsel for the petitioner has referred to the order sheet dated 27.10.2020, whereby this Hon'ble Tribunal has referred to the order/judgment dated 26.02.2019, and reinstatement order of the petitioner was made by the District Education Officer D.I. Khan on 09.03.2020 which was to reckoned w.e.f 26.02.2019 but the District Accounts Officer who has raised the queries by precluding the petitioner from receiving benefits was summoned by this Tribunal vide order dated 27.10.2020, but he did not turned up. The respondent department is directed to allow the back benefits to the petitioner w.e.f 26.02.2019. To come up for implementation on 27.01.2021 before-S.B at Camp Court, D.I Khan.


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

27.1.2021

Due to COVID 19, the case is adjourned to 25.3.2021 for the same.

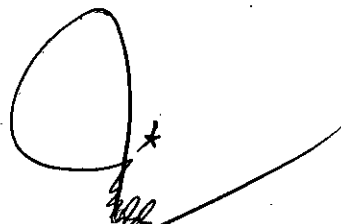


25.03.2021

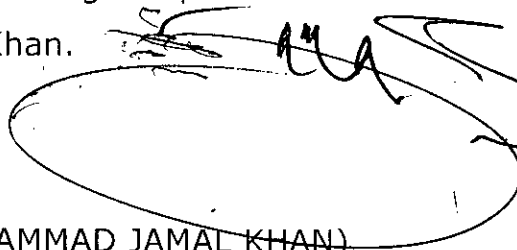
Nemo for the petitioner. Mr. Muhammad Rashid, DDA for respondents present.

On the last date of hearing the case was adjourned on the strength of Reader note, therefore notices shall be issued to the petitioner/counsel as well as to the respondents for submission of implementation report.

Adjourned to 20.06.2021 before S.B at camp court D.I.Khan.


(Mian Muhammad)
Member(E)
Camp Court D.I.Khan

has been withheld/stayed, therefore, the Tribunal is left with no option but to proceed with the execution process. As regards the principle laid down by the august Supreme Court of Pakistan that when there is no work there is no pay, in utmost deference to that very judgment reported in 2003 SCMR 228 that has obviously been pressed into service in the appeal as no back benefits were allowed to petitioner and that issue has already been settled by the Tribunal. At the moment the payment of that benefits is involved which accrued after pronouncement of judgment by the Services Tribunal, therefore, the authority referred to cannot be pressed into service at this stage when the issue has already been adjudicated. These are the benefits accrued with effect from 26.02.2019 and again not prior to that date. Since the reinstatement order of petitioner was made by the District Education Officer (Male) D.I.Khan on 09.03.2020 which was to be reckoned with effect from 26.02.2019, therefore, he has rightly made the case before the District Accounts Officer D.I.Khan who has raised the queries by precluding petitioner to receive the benefits therefore, he has to be summoned for 25.11.2020 for explaining his position in this regard before S.B at Camp Court, D.I.Khan.



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

judgment of this Tribunal was implemented by virtue of office order dated 09.03.2020 passed by District Education Officer (Male) D.I.Khan to be effective from 26.02.2019. The issue of back benefits has been settled by the judgment of this Tribunal as the appeal was allowed sans back benefits. Since the judgment of the Services Tribunal has been given effect at a belated stage therefore, petitioner was rightly precluded from placing any claim with regard to the period for which he has not rendered any duty or performed any work and when there is no work there is no pay which is the golden principle governing the issue being laid down by the august Supreme Court of Pakistan. When the department realized their error it issued corrigendum/office order whereby petitioner was reinstated into government service with effect from 09.03.2020 instead of 26.02.2019 in accordance with the decision of the Khyber Pakhtunkhwa Service Tribunal, therefore, the learned Deputy District Attorney defended the vey stance of the respondents.

4. It is an admitted fact that the service appeal of the appellent/petitioner was accepted and he was reinstated in service with immediate effect without any back benefits. Now the authority was required to give effect to the judgment of the august Tribunal, obviously the judgment of the Service Tribunal was to be made efficacious since 26.02.2019 and in this regard it must have been complied with no sooner did the copy of the judgment was communicated nevertheless, the District Education Officer (Male) D.I.Khan issued the very office order although reinstating the petitioner with effect from 26.02.2019 but with an inordinate delay of more than an year which is not the fault of petitioner and he cannot be deprived of the benefits arising there-from. Again the anomaly or lapses in this regard can never stand as an impediment in his way of receiving that benefits which accrued in his favour after the announcement of judgment. A civil servant cannot be punished for the omissions of others. As far as the question of pendency of CPLA in the august Supreme Court of Pakistan is concerned whatever may be the decision of the hon'ble court it has to be complied with accordingly however, at the moment neither the judgment of this august Tribunal passed on 26.02.2019 has been suspended nor the current execution petition pending in this Service Tribunal

27.10.2020

Petitioner in person alongwith Mr. Umer Farooq, Advocate are present. Mr. Muhammad Jan, Deputy District Attorney alongwith representative of the department Mr. Muhammad Kamran, ADO (Litigation) are also present.

2. Learned counsel for petitioner submitted that by virtue of the judgment dated 26.02.2019 passed by this august Service Tribunal petitioner the then appellant was reinstated in service with immediate effect without any back benefits. By virtue of the office order dated 09.03.2020 he was reinstated in to government service with effect from 26.02.2019 subject to the decision of CPLA pending adjudication in the Hon'ble Supreme Court of Pakistan. His pay was released in the light of decision of Hon'ble Service Tribunal with effect from 26.02.2019. When his case was submitted to the District Accounts Officer D.I.Khan it was observed by the latter that due to belated compliance of the decision of the Services Tribunal, reinstatement order dated 09.03.2020 was issued to be efficacious from 26.02.2019 which is contrary to the decision of august Supreme Court of Pakistan as when there is no work there is no pay which is unprecedented having no sanctity under the prevailing rules therefore, the District Education Officer (Male) D.I.Khan was requested to revise reinstatement order with immediate effect by simultaneously withdrawing the aforesaid adjustment order and then resubmitting the case for consideration and he was forewarned of his responsibility for losses and control of expenditure under para-23 of GFR Volume-I. The District Education Officer later on again requested the District Accounts Officer D.I.Khan by virtue of a letter dated 29.07.2020 to reconsider the case of petitioner however, his efforts in this regard did not materialize and his response was the same vide letter bearing No. PR-II/DAO-DIK/2019-20/453-56 dated 24.07.2020. The learned counsel submitted that the anomalies if any are there on the part of respondents and there is no fault on his part and he is being punished for nothing.

3. On the other hand, learned Deputy District Attorney submitted that the judgment of this Service Tribunal has been challenged in CPLA before the august Supreme Court of Pakistan which is still pending adjudication. He further submitted that the

24/3/2020

Due to COVID-19 the case is adjourned. To come up for the same 21/4/2020 at Camp Court, D.I Khan

Reader

21/4/2020

Due to COVID-19 the case is adjourned. To come up for the same 22/9/2020 at Camp Court, D.I Khan

Reader

22.09.2020

Petitioner present in person.

Mr. Usman Ghani, District Attorney alongwith Muhammad Kamran ADEO for respondents present.

At the very outset, office order in respect of reinstatement of the petitioner was produced before the Tribunal vide which he was adjusted at GPS Sheikh Yousaf D.I.Khan and his pay was also released w.e.f the decision of this Tribunal dated 26.02.2019.

Another office order/corrigendum was produced by the petitioner vide which he was adjusted with immediate effect but his pay was released from the date of his taking over charge at that post. Representative as well as learned District Attorney is directed to apprise this Tribunal in respect of these two different office orders in the light of judgment of this Tribunal on 27.10.2020 before S.B at Camp Court D.I Khan.

(Rozina Rehman)
Member (J)

Camp Court, D.I Khan




E.P No. 248/2019

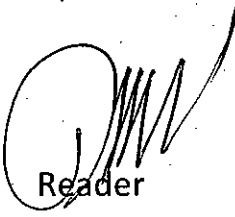
25.02.2020

Counsel for the petitioner and Mr. Usman Ghani, District Attorney alongwith Mr. Muhammad Kamran, ADO (Litigation) for the respondents present.

Record reveals that after dismissal from service, the petitioner filed service appeal which was accepted, the impugned order was set-aside, the petitioner was reinstated with immediate effect but without back benefits and the respondent-department was directed to keep the appellant under special report vide judgment dated 26.02.2019 but the respondent-department has not implemented the judgment of this Tribunal so far, therefore, respondents are directed to implement the judgment of this Tribunal on or before the next date positively otherwise, coercive measures would be adopted against the respondents. To come up for implementation report on 24.03.2020 before S.B at Camp Court D.I.Khan.

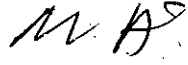

(M. Amin Khan Kundi)
Member
Camp Court D.I.Khan

22/10/2019 Since tour to D.I.Khan has been cancelled .To come for the same on 26/11/2019.


Reader


26.11.2019

None present on behalf of the petitioner. Mr. Ziaullah Deputy District Attorney alongwith Mr. Muhammad Kamran, ADO (Litigation) for the respondents present. Notice be issued to petitioner and his counsel for attendance for 28.01.2020 before S.B at Camp Court D.I.Khan.


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

28.01.2020

Petitioner in person and Mr. Usman Ghani, District Attorney alongwith Mr. Muhammad Kamran, ADO (Litigation) for the respondents present. Petitioner requested for adjournment on the ground that his counsel is not available today due to general strike of Khyber Pakhtunkhwa Bar Council. Adjourned to 25.02.2020 for further proceeding before S.B at Camp Court D.I.Khan.

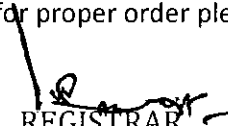



(M. Amin Khan Kundi)
Member
Camp Court D.I.Khan

Form- A

FORM OF ORDER SHEET

Court of _____

Execution Petition No. 248/2019

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	19.06.2019	<p>The execution petition of Mr. Muhammad Umar Irfan submitted today by Mr. Ahmad Ali Advocate may be entered in the relevant register and put up to the Court for proper order please.</p> <p> REGISTRAR</p>
2-	8-8-2019	<p>This execution petition be put up before touring S. Bench at D.I.Khan on <u>28-8-2019</u></p> <p> CHAIRMAN</p>
28.08.2019		<p>Petitioner in person present. Notice be issued to the respondents for implementation report for 22.10.2019 before S.B at Camp Court D.I.Khan.</p> <p> (Muhammad Amin Khan Kundi) Member Camp Court D.I.Khan</p>

1

**BEFORE HON'BLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR, CAMP AT D.I.KHAN.**

Civil Misc/Execution Petition No. 248 of 2019

Muhammad Umar Irfan Vs. Govt. of K.P.K. etc
Execution Petition


Index

S#	Particulars of Documents	Annexure	Page No.
1.	Execution Petition	---	1-4
2.	Copy of the Service Appeal No.1069/2017	A	5-14
3.	Copy of the Judgment dated 26.02.2019	B	15-19
4.	Vakalatnama	--	20

Yours Humble Petitioner

(Muhammad Omar Irfan)
Through Counsel

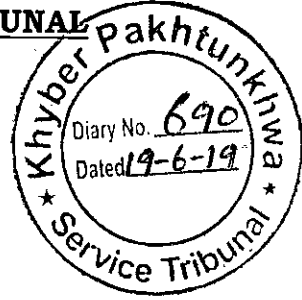
Dt. 18 June, 2019


Ahmad Ali
Advocate Supreme Court


Miss Shumaila Awan
Advocates High Court, D.I.Khan.

BEFORE HON'BLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR, CAMP AT D.I.KHAN.

Civil Misc./Execution Petition No. 248 of 2019



Muhammad Umar Irfan, son of son of Muhammad Usman, caste Saddozai, resident of Mohallah Garhi Saddozai, D.I.Khan.

PETITIONER

VERSUS

1. Secondary Education Department, Peshawar.
2. Secretary to Govt. of Khyber Pakhtunkhwa, Elementary & Secondary Education Department, Peshawar.
3. Director, Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
4. District Education Officer (Male), Elementary & Secondary Education Department, D.I.Khan.
5. Sub-divisional Education Officer (Male) (concerned) Elementary & Secondary Education, D.I.Khan.

RESPONDENTS

**PETITION UNDER SECTION 7(2)(D) OF THE K.P.K. PROVINCE
SERVICE TRIBUNALS ACT, 1974, FOR EXECUTION OF THE
JUDGMENT DATED 26.02.2019, PASSED IN SERVICE
APPEAL No. 1069/2017.**

Respectfully Sheweth,

- i. That the petitioner filed service appeal No.1069/2017 before this Honourable Tribunal seeking his reinstatement by cancellation of Notification dated 21.08.2017 and office order No.10775 dated 22.04.2017. Copy of the service appeal is enclosed as **Annexure**

A.

- ii. That the said service appeal came up for final hearing before this Honourable Tribunal on 26.02.2019 and vide judgment of even dated this Honourable Tribunal was pleased to reinstate the petitioner with immediate effect without any back benefit. Copy of the Judgment dated 26.02.2019 is enclosed as **Annexure B.**
- iii. That it is pertinent to mention here that the petitioner for the purpose of back benefits, has filed a civil petition for leave to appeal before the august Supreme Court of Pakistan which is pending till date.
- iv. That now about four months have been passed to the ibid Judgment, but official respondents are not taking into account the rights of petitioner as to his reinstatement in line with ibid Judgment dated 26.02.2019; and instead they are delaying the matter without any justified reason.
- v. That the petitioner has no other source of income and owing to delay in reinstatement of petitioner, petitioner is under heavy financial constraints and his family has been suffering from starvations.
- vi. That valuable and vested right of petitioner, as declared by this Honourable Tribunal, are being refused by official respondents, therefore, petitioner has been constrained to file present petition for the execution of Judgment dated 26.02.2019 of this Honourable Tribunal in Service Appeal No.1069/2017.
- vii. That this Honourable Tribunal in view of the clause (d), sub-section (2) of section 7 of the Khyber Pakhtunkhwa Service

Tribunals Act, 1974, is having the powers to execute its judgments.

- viii. That the counsel for petitioner may be allowed to argue additional grounds at the time of arguments.

It is, therefore, humbly prayed that by executing the judgment dated 26.02.2019 in Service Appeal No.1069/2017 of this Honourable Tribunal, respondents may please be directed to implement the same in the letter and spirit and to reinstate the petitioner from the date of said judgment.

Yours Humble Petitioner

(Muhammad Omar Irfan)
Through Counsel

Dt. 18 June, 2019

Ahmad Ali
Advocate Supreme Court

Miss Shumaila Awan
Advocate High Court, D.I.Khan.

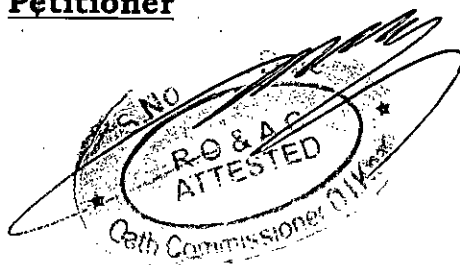
VERIFICATION:

It is solemnly affirmed that the contents of this petition are true and correct to the best of my knowledge and belief.

AFFIDAVIT: I, *the petitioner*, do hereby solemnly affirm and declare on oath that all the Para-wise contents of above **petition** are true & correct to the best of my knowledge and belief and nothing has been deliberately concealed from this Honourable Tribunal.

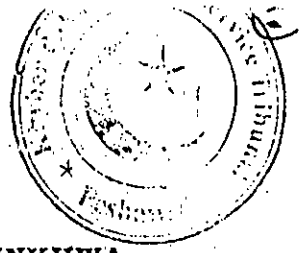
Petitioner

Deponent



AM-A 5

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

Khyber Pakhtunkhwa
Service Tribunal

Service Appeal No. 1069 of 2017

Diary No. 1095

Dated 25-9-2017

Muhammad Umar Irfan, son of son of Muhammad Usman, caste Saddozai, resident of Mohallah Garhi Saddozai, D.I.Khan

Appellant

VERSUS

1. Govt. of Khyber Pakhtunkhwa, through Secretary Elementary & Secondary Education Department, Peshawar.
2. Secretary to Govt. of Khyber Pakhtunkhwa, Elementary & Secondary Education Department, Peshawar.
3. Director, Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
4. District Education Officer (Male), Elementary & Secondary Education Department, D.I.Khan.
5. Sub-divisional Education Officer (Male) (concerned) Elementary & Secondary Education, D.I.Khan.

Respondents

SERVICE APPEAL UNDER SECTION 4 OF THE KPK SERVICE TRIBUNAL ACT, 1974, AGAINST NOTIFICATION BEARING ENDST. NO.4783-85/F. NO.114/APEAL OF PST(M) D.I.KHAN DATED 21.08.2017 OF THE RESPONDENT NO.3, RECEIVED TO APPELLANT ON 28.08.2017 FROM OFFICE OF RESPONDENT NO.4; WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT, FILED AGAINST DISMISSAL FROM SERVICE ORDER BEARING NO.10775 DATED 22.04.2017, WAS REJECTED.

Filed to-day

Registrar
25/9/17

PRAYER:

TO PLEASE TAKE COGNIZANCE OF THIS SERVICE APPEAL AND BY SETTING ASIDE THE IMPUGNED NOTIFICATION BEARING ENDST. NO.4783-85/F. NO.114/APEAL OF PST(M) D.I.KHAN DATED 21.08.2017, AS WELL AS DISMISSAL FROM SERVICE ORDER BEARING NO.10775 DATED 22.04.2017,

ATTESTED

Registrar
Peshawar

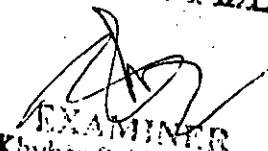
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~~THE APPELLANT MAY PLEASE BE REINSTATED IN THE SERVICE
WITH ALL BACK BENEFITS.~~

RESPECTFULLY SHEWETH,

1. That the appellant was appointed as Primary School Teacher vide appointment letter No.880-98 dated 15.02.1996 (Annexure A) where-after the appellant vide transfer/adjustment order bearing Endst. No.1160-75 dated 26.02.1996 (Annexure B) was posted as Govt. Primary School Kotla Saidan; and thereafter appellant was transferred to Govt. Primary School No.6, D.I.Khan.
2. That the appellant after taking over the charge of the post of Primary School Teacher, started to perform his official duties with due care, diligence and devotion. Copy of the Service Book of appellant is enclosed as Annexure C.
3. That thereafter the appellant vide transfer letter bearing Endst. No.3088-93 dated 11.10.2004 the appellant was transferred from Govt. Primary School No.6 to Govt. Primary School Kat Kachi Paind Khan. The Appellant was relieved from Govt. Primary School No.6, D.I.Khan and accordingly took the charge at Govt. Primary School Kat Kachi Paind Khan on 12.10.2004. Copies of the transfer letter bearing Endst. No.3088-93 dated 11.10.2004, Relieving Chit are enclosed as Annexure D & E respectively.
4. That vide transfer letter bearing Endst. No.2394-99 dated 18.03.2013 (Annexure F), the appellant was transferred from GPS Kat Kachi Paind Khan to GPS Basti Tareen D.I.Khan; however, in the meanwhile the appellant vide letter dated 22.03.2013 (Annexure G) was directed to work in the office of District Education Officer, D.I.Khan; thus appellant accordingly started to work in office.

ATTESTED



EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

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5. That the appellant was then relieved from duties in the office of respondent No.4 and was adjusted against the vacant post at Govt. Primary School Singhar, D.I.Khan, vide Office Order bearing Endst. No.12364-68 dated 21.08.2014. The appellant accordingly took over the charge at Govt. Primary School Singhar on 23.08.2014. Copies of the Office Order bearing Endst. No.12364-68 dated 21.08.2014 and charge report dated 23.08.2014 are enclosed as **Annexure H & I** respectively.
6. That on 23.09.2014 vide Office Order bearing Endst. No.17856-57 dated 23.09.2014, the respondent No.4 cancelled the Office Order No.12364-68 dated 21.08.2014 (*Annexure I*). Copy of the Office Order bearing Endst. No.17856-57 dated 23.09.2014 is enclosed as **Annexure J**.
7. That after cancellation of his transfer at G.P.S. Singhar the respondents due to malafide and without any justified reason, did not assign any place of duty to the appellant and also not allowed him to perform duties in the office. The appellant time and again requested the respondents No.4 & 5 orally as well as through written applications to adjust him against the post of Primary School Teacher at any Primary School. But respondents turned a deaf ear towards repeated requests of the appellant and thereby the appellant left without any place of duty. Copies of applications are enclosed as **Annexure K**.
8. That the respondents just after issuing the Office Order No.12364-68 dated 21.08.2014 (*Annexure I*), stopped monthly salary of appellant w.e.f. August-2014. Thus aggrieved of the stoppage of his salary and non-posting of appellant at any school, the appellant filed a Writ Petition before Honourable Peshawar High Court, D.I.Khan Bench. Certified copy of W.P. No. 260-D/2015 is enclosed as **Annexure L**.

ATTESTED

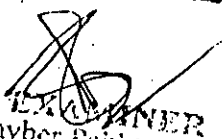

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

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9. That in the meanwhile respondents issued letter No.1181 dated 13.10.2014 to the appellant along with other calling therein the explanation and to provide details of their appointment, postings and transfers etc as respondents wrongfully initiated Departmental Proceedings against the appellant on account of alleged wilful absence from duty. Appellant submitted reply of the said letter. Copies of the letters No.1181 dated 13.10.2014 and reply are enclosed as Annexure M & M-1 respectively.
10. That thereafter departmental proceedings were initiated against the appellant on the basis of alleged absence of appellant from duties w.e.f. 12.10.2004 to 21.08.2014 despite the fact that the appellant each time appeared before respondents and requested for his adjustment/posting. Thereafter the respondent No.4 vide Office Order bearing Endst. No.14576-82/DEO.Estab(P) dated 12.08.2015 dismissed the appellant from service. Nevertheless, in Service Appeal bearing No.34/2016, this Honourable Tribunal vide Judgment dated 24.10.2016 was pleased to set aside the said office order 12.08.2015 and reinstated the appellant for the purpose of de-novo inquiry to be conducted within 60 days after the receipt of judgment. Copies of the Office Order bearing Endst. No.14576-82/DEO.Estab(P) dated 12.08.2015 and Judgment dated 24.10.2016 in Service Appeal No.34/2016 are respectively enclosed as Annexure N & O.
11. That the judgment was received to the respondent No.4 and de-novo inquiry was started into the matter but the same was not conducted in accordance with law nor the same was concluded within 60 days as was directed by this Honourable Tribunal. Appellant was not associated with the inquiry proceedings except that the inquiry officer directed the appellant for reply of questionnaire and to submit his (appellant's) stance in writing, which appellant submitted accordingly. Moreover, report of said de-novo inquiry was not communicated to the appellant

ATTESTED


EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

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nor final show cause notice was given to the appellant rather the respondent No.4 vide office order bearing No.10775 dated 22.04.2017 dismissed the appellant from service on the basis of alleged absence. Copies of the Questionnaire and written reply of the appellant are enclosed as Annexure P & Q whereas, copy of office order bearing No.10775 dated 22.04.2017 is enclosed as Annexure R.


12. That discontented with the Office Order bearing No.10775 dated 22.04.2017 the appellant preferred a departmental appeal to the respondent No.3. Respondent No.3 rejected the departmental appeal vide Notification bearing Endst. No.4783-85/F. No.114/Appeal of PST(M) D.I.Khan dated 21.08.2017. The said Notification was received to appellant through the office of respondent No.4 on 28.08.2017. Copy of the Notification bearing Endst. No.4783-85/F. No.114/Appeal of PST(M) D.I.Khan dated 21.08.2017 is enclosed as Annexure S; whereas copy of the departmental appeal is enclosed as Annexure S-1

13. That aggrieved of the Notification bearing Endst. No.4783-85/F. No.114/Appeal of PST(M) D.I.Khan dated 21.08.2017 of the respondent No.3 and also dis-satisfied with the office order bearing No.10775 dated 22.04.2017 of the respondent No.4, the appellant wants cancellation of the same and his reinstatement through the present Service appeal on, inter alia, the following grounds:

GROUND:

- i. That the impugned Notification bearing Endst No.4783-85/F. No.114/Appeal of PST(M) D.I.Khan dated 21.08.2017 of the respondent No.3 and impugned office order bearing No.10775 dated 22.04.2017 of the respondent No.4, are against law & facts, illegal, unlawful, based on mala fide and against the admitted realities thus, the same is liable to be set aside.

ATTESTED


Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

- ii. That vide judgment dated 24.10.2016 of this Honourable Tribunal, passed in service appeal No.34/2016, respondents were directed to hold de-novo inquiry in the matter and to conclude the same within 60 days after the receipt of judgment. But neither the inquiry was concluded within 60 days nor the de-novo inquiry was conducted in accordance with law. Therefore, both the impugned Notification and order are liable to be set aside.
- iii. That during de-novo inquiry no fresh charge or statement of allegations were communicated to the appellant; rather appellant was directed to answer the questionnaire of inquiry officer and to submit his written reply; which appellant did. Thereafter, appellant was not associated with the inquiry proceedings and all the proceedings in de-novo inquiry have been conducted in the absence and at the back of appellant. Thus, dismissal of appellant from such an inquiry is not warranted under the law.
- iv. That no statement of any witness was recorded in the presence of appellant nor the appellant was afforded with opportunity to cross examine any such witness to safeguard his valuable rights. De-novo Inquiry proceedings are violative of the Rule 11 of Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011; hence, a great injustice has been done to the appellant.
- v. That inquiry report was not communicated to the appellant. Also, the appellant was not given final show-cause notice as required under sub-Rule (4) of Rule 14 of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011. Hence, the dismissal from service order is having no legal sanctity and is liable to be set aside by setting aside the impugned Notification of the rejection of departmental appeal.

That there is no wilful, deliberate and intentional absence on the part of appellant. previously, when appellant was serving in

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 Service Tribunal,
 Peshawar

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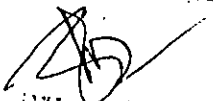
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GPS Basti Tareen D.I.Khan; however, in the meanwhile the appellant vide letter dated 22.03.2013 (Annexure H) was directed respondent No.4 to work in the office of District Education Officer, D.I.Khan; thus appellant accordingly started to work in office; but thereafter the appellant was transferred to GPS Singher vide Office Order No.12364-68 dated 21.08.2014 (Annexure I) but this Office Order was transferred through subsequent office order bearing Endst. No.17856-57 dated 23.09.2014 (Annexure K) and thereby the appellant was left without any place of posting. Respondents wrongly and erroneously shifted the responsibility upon appellant; hence a great injustice has been done to the appellant.

vii. That as per the Rule 9 of the K.P. Government Servants (Efficiency & Discipline) Rules, 2011, there is no room for deputing any enquiry officer or enquiry committee. Rather, there shall be a notice served upon the wilful absentee on his home address by registered post directing him to appear on the place of his duty within 15 days. Failing to appear within 15 days, the competent authority shall publish the notice in at least two leading daily newspapers. Whereas in the present case, appellant time and again put his appearance before the respondents No. 4 & 5, made replies of explanation etc and also requested time and again to provide him any place of posting. Thus the entire inquiry process as well as impugned termination letter are having no sanctity of law and are squarely illegal and against law.

viii. That the appellant performed his official duties regularly and devotedly, and in this regard Monthly Goshwaras are enclosed as Annexure T. Moreover, in November 2011 service certificate (Annexure U) was issued to the appellant. Appellant requested for Advance Salary Loan in the month of 2012 which was duly and accordingly processed in the office of respondent No.4 & 5 prior to its submission to concerned bank. It is also a noticeable

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Service Tribunal,
Peshawar

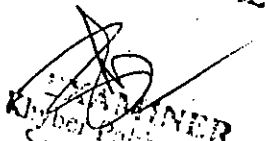
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fact that upon his transfer to GPS Singher, the appellant took over the charge of said school. All these facts prove regular performance of duties by the appellant. On this score alone the impugned officer order is liable to be cancelled.

- ix. That it is very important to mention that besides appellant some other teachers (such as Ameer Abdullah, Sher Khan and M. Sajjad PST etc) were also proceeded departmentally on the allegation of long absence from duty and finally they were also dismissed from service like appellant. Allegations of absence and footings for dismissal of appellant and that of the other employees (i.e. Ameer Abdullah etc) were same; however, the Departmental Appeals of said Ameer Abdullah and two others PSTs were allowed and they were reinstated by the respondent No.3 vide Office Order bearing Endst. No.2652-54/F No.114/PST(M) D.I.Khan dated 21.12.2015 (Annexure V), whereas the appellant has been discriminated due to malafide and thus the appellant is entitled for similar treatment and protection of law.
- x. That it remained the practice of Education Department D.I.Khan that learning coordinators, ADIs, SDEOs, DEOs (*being supervising staff*) used to check the working of the schools and teachers on monthly basis. But none of the supervising staff complained about absence of appellant; meaning thereby appellant was dutiful and ever found present on his duty by the supervising staff.
- xi. That the appellant is blamed absent from duties w.e.f. 12.10.2004 whereas KP Government Servants (Efficiency & Discipline) Rules 2011 are having no retrospective effect and therefore entire departmental proceedings under the said rules against appellant are illegal and void.
- xii. That the appellant does not come within the definition of wilful absentee. Even no proper procedure as envisaged under Khyber Pakhtunkhwa Civil Servants (Efficiency & Discipline)

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Khyber Pakhtunkhwa
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Rules, 2011, for wilful absentee has been adopted. Thus impugned penalty cannot be imposed upon the appellant.

xiii. That pervious service of the appellant, prior to 23.09.2014, has properly and regularly been verified by the then officers of the Department and not a single report of absence by any of the supervising staff is there.

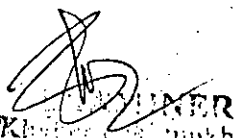
xiv. That the appellant was not provided with the copy of inquiry report nor grounds of awarding him major penalty were apprised to appellant by the authority; even no final show cause notice was issued to appellant. The entire enquiry and onward process was conducted in a slipshod, shortcut, hasty and unlawful manner which has resulted in grave miscarriage of justice.

xv. That the impugned notification of rejection of departmental appeal as well as impugned dismissal from service order are based on malafide and the appellant has not been treated in accordance with the relevant law & record.

xvi. That besides appellant, other teachers of the Education Department were also dismissed from service on the allegation of absence from duty; however in appeal the said teachers were reinstated into service by the respondent No.3 but appellant has been discriminated due to malafide. The appellant is entitled for similar treatment which is the constitutional right of appellant. Copy of the reinstatement order of one Mr. Ameer Abdullah PST is enclosed as Annexure W.

xvii. That the counsel for appellant may be allowed to raise additional grounds at the time of hearing.

ATTESTED


K. S. JAIN
Secretary
Peshwar

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It is, therefore, humbly prayed that on acceptance of the present Service Appeal and by setting aside the impugned Notification dated 21.08.2017 as well as impugned office order No.10775 dated 22.04.2017, the appellant may please be reinstated into service with all back & future benefits.

Yours Humble Appellant

(Muhammad Umar Irfan)
Through Counsel

Dt. _____ September, 2017.

Ahmad Ali
Advocate Supreme court

Miss Shumaila Awan
Advocate High Court, D.I.Khian.

CERTIFICATE

I, the appellant, do hereby certify that it is the first Service Appeal on behalf of appellant and no appeal on the subject has earlier been filed.

Appellant

AFFIDAVIT

I, the Appellant, do hereby solemnly affirm and declare on oath that all the Para-wise contents of above Service Appeal are true & correct to the best of my knowledge and belief and nothing has been deliberately concealed from this Honourable Court.

DEPONENT

Certified to be true copy
Khalid Muhammad Awan
Service Appeal No. 10775
Peshawar

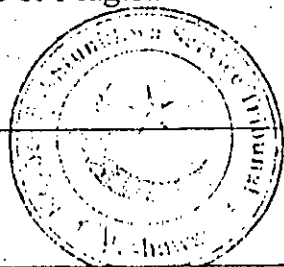
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Total _____ 34-00
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Date of Deposition _____ 11-3-18
Date of delivery of Copy _____ 11-3-18

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Sr. No	Date of order/proceedings	Order or other proceedings with signature of Judge or Magistrate
1	2	3
<p style="text-align: center;">BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL Camp Court, D.I.Khan Service Appeal No. 1069/2017</p> <p style="text-align: center;">Date of Institution 25.09.2017 Date of Decision 26.02.2019</p> <p>Muhammad Umar Irfan son of Muhammad Usman, caste Saddozai, resident of Mohallah Garhi Saddozai, D.I.Khan.</p> <p style="text-align: right;">Appellant</p> <p style="text-align: center;">Versus</p> <ol style="list-style-type: none">1. Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Department, Peshawar.2. Director Elementary & Secondary Education Department, Peshawar.3. District Education Officer (Male), Elementary & Secondary Education Department, D.I.Khan4. Sub Divisional Education Officer (Male) (Concerned) Elementary & Secondary Education D.I.Khan. <p style="text-align: right;">Respondents</p> <p>26.02.2019 Mr. Muhammad Hamid Mughal-----Member (J) Mr. Muhammad Amin Kundi-----Member (J)</p> <p style="text-align: center;">JUDGMENT</p> <p>MUHAMMAD HAMID MUGHAL, MEMBER: - Appellant present. Learned counsel for appellant and Mr. Farhaj Sikandar learned District Attorney present.</p> <ol style="list-style-type: none">2. The appellant has filed the present appeal u/s 4 of Khyber		



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Pakhtunkhwa Service Tribunal Act 1974 against the order dated 22.04.2017 whereby the order of dismissal of the appellant from service dated 12.08.2015 was retained, on the ground that the appellant willfully remained absent from duty w.e.f 12.10.2004 to 21.08.2014. The appellant has also challenged the order dated 21.08.2017 through which is departmental appeal was rejected.

3. Learned counsel for the appellant argued that the appellant was appointed as Primary School Teacher in the year 1996; that vide order dated 12.08.2015 the appellant was dismissed from service being ghost employee, having remained absent from duty w.e.f 12.10.2004 to 21.08.2014, however this Tribunal vide judgment dated 24.10.2016 passed in Service Appeal No.34/2016 filed by the appellant set aside the order dated 12.08.2015 of dismissal of the appellant from service and reinstated the appellant for the purpose of de-novo inquiry to be conducted in a period of sixty days after the receipt of judgment. Next contended that the respondent department conducted de-novo inquiry but without issuance of any charge sheet /statement of allegation. Next contended that in the de-novo inquiry proceeding, the inquiry officer conducted inquiry but thereafter no Show Cause Notice was issued/served upon the appellant alongwith the inquiry report. Next contended that other teachers were also dismissed from service on the allegation of absence from duty, however the appellate authority reinstated those teachers hence the appellant was also discriminated. Next contended that the respondent department remained unable to conclude the de-novo inquiry

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proceeding within the time limits prescribed by this Tribunal for de-novo inquiry. Learned counsel for the appellant stressed that the appellant regularly performed his duties and that the impugned orders are illegal and against the norms of justice.


4. As against that learned District Attorney argued that the appellant remained a ghost employee and was detected through fake adjustment order; that the absence of the appellant was proved through both the inquiries; that the cases of other teachers referred to by the learned counsel for the appellant were different as in case of other teachers the inquiry officers concerned recommended for their reinstatement; that the appellant remained absent from duty for a period of ten (10) years; that all the legal requirements were observed and that the impugned orders do not warrant any interference.

5. Arguments heard. File perused.

6. It is not disputed that the appellant was appointed as PST in the year 1996.

7. Vide order dated 12.08.2015 the appellant was dismissed from service being a ghost employee having remained absent from duty w.e.f 12.10.2004 to 21.08.2014. The appellant approached this Tribunal through Service Appeal bearing No.34/2016, and this Tribunal vide judgment dated 24.10.2016 passed in the earlier Service Appeal No.34/2016 while observing that instead of conducted a regular inquiry, summary proceeding was adopted by issuing of Show Cause Notice and affording of personal hearing,

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Khyber Pakhtunkhwa
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reinstated the appellant for the purpose of de-novo inquiry to be conducted in a period of sixty days after the receipt of this judgment.

8. As a result of direction by this Tribunal for de-novo inquiry proceeding, inquiry officer Mr. Atta Ullah Khan conducted inquiry.

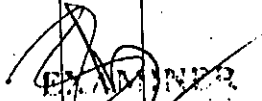
9. In both the inquiries conducted against the appellant, the inquiry committee/officer held the appellant guilty of charges. While the other teachers referred to by the learned counsel for the appellant were reinstated as inquiry officers concerned recommended their reinstatement.

10. Learned counsel for the appellant remained unable to demonstrate that the finding of the inquiry officer against the appellant is actuated with malice or grudge.

11. The appellant has pressed his case on technical grounds as there is no dispute that the de-novo inquiry proceeding was conducted without issuance of any charge sheet/statement of allegation. Similarly no Show Cause Notice alongwith copy of inquiry report of Mr. Atta Ullah Khan was served upon the appellant prior to the issuance of impugned order dated 22.04.2017. This Tribunal therefore observed with concern that the respondent department again failed to fulfill the necessary legal requirements and codal formalities, for which purpose the de-novo inquiry was ordered. Hence the impugned orders are not tenable.


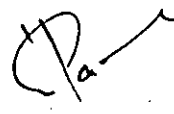
12. In the light of above discussion, the impugned orders are set aside. The appellant is reinstated in service with immediate effect without any back benefit. The respondent department is directed to

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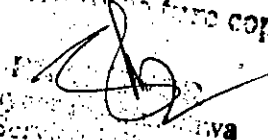

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		<p>keep the appellant under special report. The present service appeal is accepted in the above terms. Parties are left to bear their own costs. File be consigned to the record room.</p> <p style="text-align: center;">  (Muhammad Amin Kundi) Member </p> <p style="text-align: center;">  (Muhammad Hamid Mughal) Member Camp Court, D.I.Khan </p> <p style="text-align: center;"> <u>ANNOUNCED</u> 26.02.2019 </p>
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Khawaja
Service Tribunal,
Peshawar


Date of Presentation of Appeal 11-3-19

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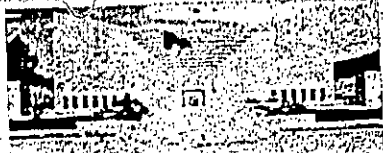
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Name of Applicant 

Date of Appeal 11-3-19

Date of Delivery of Copy 11-3-19



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وکالت نامہ



SUPREME COURT BAR ASSOCIATION PAKISTAN

Ahmad Ali Advocate



Life Member

President

Secretary

ایک روپیہ

کورت فیس

بعدالت جناب **خیدرت خواجہ سروس ٹریڈنگ لٹڈ**

منجانب **محمد عرفان** نام کورٹنگ لٹڈ

دعویٰ یا جرم

تفصیل دعویٰ یا جرم

اترک

باعث تحریر آنکہ

مقدمہ مندرجہ بالا عنوان میں اپنی طرف واسطے پیروی و جوہد ہی برائے پیشی یا تصفیہ مقدمہ بمقام **ایکریٹ لٹڈ**

کو حسب ذیل شرائط بروکل مقرر کیا ہے، کہ میں ہر پیشی پر خود بذریعہ اختیار خاص رو برو عدالت حاضر ہوتا ہوں گا۔ اور ہر وقت پکارے جانے مقدمہ وکیل صاحب موصوف کو اطلاع دیکر حاضر عدالت کروں گا، اگر پیشی پر منظر حاضر نہ ہوں اور مقدمہ میری غیر حاضری کی وجہ سے کسی طور پر میرے برخلاف ہو گیا۔ تو صاحب موصوف اسکے کسی طرح ذمہ دار نہ ہوں گے، نیز وکیل صاحب موصوف صدر مقام بکھری کے علاوہ کسی جگہ یا بکھری کے اوقات سے پہلے یا بیچے یا بروز تعطیل بیروی کرنے کے ذمہ دار نہ ہوں گے۔ نیز وکیل صاحب موصوف صدر مقام بکھری کے علاوہ کسی جگہ یا بکھری کے اوقات سے پہلے یا بیچے یا بروز تعطیل بیروی کرنے کے ذمہ دار نہ ہوں گے۔ اور مقدمہ صدر بکھری کے علاوہ اور جگہ ہاجت ہونے یا بروز تعطیل یا بکھری کے اوقات کے آگے بیچے پیش ہونے پر منظر کو کوئی نقصان پہنچے تو اس کے ذمہ دار یا اس کے واسطے کسی معاوضہ کے ادا کرنے یا بخانہ واپس کرنے کے بھی موصوف ذمہ دار نہ ہوں گے۔ مجھ کو کل ساختہ پر داخلہ صاحب موصوف مثل کردہ ذات خود منظور و قبول ہوگا۔ اور صاحب موصوف کو عرض یعنی، یا جواب دعویٰ یا درخواست اجراء کے ذریعہ نظر ثانی اپیل گرانٹی و ہر قسم درخواست پر دستخط و تصدیق کرنے کا بھی اختیار ہوگا۔ اور کسی حکم یا ذمہ داری اور ہر قسم کارروائی وصول کرنے اور رسید دینے اور داخل کرنے اور ہر قسم کے بیان دینے اور اس پر پیشی یا راضی تہ و لیصلہ پر حلف کرنے و اقبال دعویٰ کا بھی اختیار ہوگا۔ اور بصورت مقرر ہونے تاریخ پیشی مقدمہ مذکورہ بیرون از بکھری صدر بیروی مقدمہ مذکورہ نظر ثانی، اپیل و گرانٹی، برآمدگی مقدمہ یا منسوخی ذمہ داری یا طرف یا درخواست حکم استقامی یا ترقی یا گرفتاری قبل از لیصلہ اجراء کے ذمہ داری بھی صاحب موصوف کو بشمول ادائیگی میں، ضمانت بیروی کا اختیار، دونوں اور تمام ساختہ پر داخلہ صاحب موصوف مثل کردہ ذات خود منظور و قبول ہوگا۔ اور بصورت ضرورت صاحب موصوف کو یہ بھی اختیار ہوگا کہ مقدمہ مذکورہ یا اس کے کسی جزو کی کارروائی یا بصورت درخواست نظر ثانی اپیل یا گرانٹی یا دیگر معاملہ مقدمہ مذکورہ کسی دوسرے وکیل یا ایجنٹ کو اپنے ہاتھ سے یا اپنے امراء مقرر کریں۔ اور ایسے مشیر قانون کو بھی ہر امر میں وہی اور ویسے اختیارات حاصل ہوں گے، جیسے صاحب موصوف کو حاصل ہیں، اور وہ ان مقدمہ میں جو کو ہر جائز انتظام پر کیا گیا، وہ صاحب موصوف کا حق ہوگا۔ مگر صاحب موصوف کو پوری فیس تاریخ پیشی سے پہلے ادا نہ کروں گا۔ تو صاحب موصوف کو پورا اختیار ہوگا کہ وہ مقدمہ کی بیروی نہ کریں اور ایسی صورت میں میرا کوئی مطالبہ کسی قسم کا صاحب موصوف کے برخلاف نہیں ہوگا۔

موز 18 06 2019

مضمون وکالت نامہ من لیا ہے۔ اور اچھی طرح سمجھ لیا ہے اور منظور ہے۔

العبد العبد العبد

محمد عرفان - سائل

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

Tel # 0966-9280128/9280131
Emis. emisdikhan@gmail.com

OFFICE ORDER

Mr. Muhammad Umer Ifran, Ex-PST, Govt: Primary School Singhar D.I.Khan terminated from Govt: Service vide this office Endst: No. 24576-82 dated 12.08.2015 is hereby re-instated into Government service w.e.from 26.02.2019 ✓ on the basis of acceptance his Service appeal by the Honourable Khyber Pakhtunkhwa Service Tribunal Peshawar decision dated 26.02.2019 till the final decision of CPLA. ✓ He is adjusted at GPS Sheikh Yousaf D.I.Khan against vacant post of PST in BPS-12 and his pay is also released w.e.from the decision of Honourable Khyber Pakhtunkhwa Service Tribunal Peshawar dated 26.02.2019 .

Note:-

1. Intervening period w.e.from 12.08.2015 to 25.02.2019 may be treated as Leave without pay.
2. Necessary entry to this effect should be made in his service book.

Sd/-


DISTRICT EDUCATION OFFICER
(MALE) DERA ISMAIL KHAN

Endst: No. 8466-73 /PST

Dated D.I.Khan the 09/03 /2020 ✓

Copy is forwarded to the:-

1. Director, (E&SE) Khyber Pakhtunkhwa Peshawar.
2. Registrar Khyber Pakhtunkhwa Service Tribunal Peshawar.
3. Dy: District Education Officer, (Male) D.I.Khan.
4. Sub Divisional Education Officer, (Male) D.I.Khan.
5. District Comptroller of Accounts D.I.Khan.
6. Head Teacher concerned.
7. Official concerned.
8. Master File.


DISTRICT EDUCATION OFFICER
(MALE) DERA ISMAIL KHAN



**GOVERNMENT OF KHYBER PAKHTUNKHWA
OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE)**

DERA ISMAIL KHAN

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

CORRIGENDUM / OFFICE ORDER:

Mr. Muhammad Umer Irfan Ex-PST GPS Singhar Sharif Dera Ismail Khan was terminated from Govt: service vide this office Enst: NO. 24576-82 dated 12/08/2015 is hereby reinstated into Govt: service w.e.f 09/03/2020 on the basis of acceptance of his service appeal by the honorable Khyber Pakhtunkhwa, Service Tribunal vide service appeal bearing No. 1069/2017 decided on 26/02/2019 till the final decision of CPLA. He is adjusted at GPS Sheikh Yousaf Dera Ismail Khan against the vacant post of PST in BPS-12 with immediate effect and his pay is also released from the date of his taking over charge at that post.

- Note: 1. Office order bearing Enst: No. 8466-73/PST dated D.I.Khan the 09/03/2020 issued in this regard may be treated as cancelled / withdrawn from date of its issuance.
2. Intervening period w.e.f 12/08/2015 to 08/03/2020 may be treated as extra ordinary leave without pay.

Sd/-

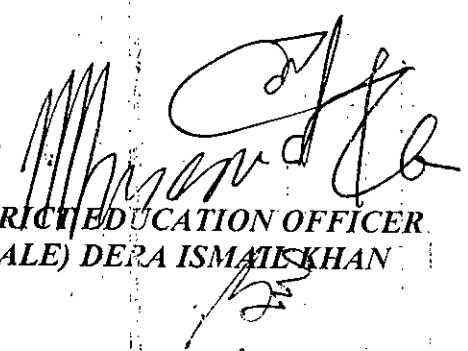
**DISTRICT EDUCATION OFFICER
(MALE) DERA ISMAIL KHAN**

Endst: No. 15837-46/F.PST/ADEO (Pry)

Dated DIKhan the: 04 /09/2020.

Copy is forwarded for information to the:

1. PS to Secretary Elementary & Secondary Education Department, Khyber Pakhtunkhwa, Peshawar
2. PS to Director Elementary & Secondary Education Department, Khyber Pakhtunkhwa, Peshawar
3. Registrar Service Tribunal Court Khyber Pakhtunkhwa, Peshawar.
4. Accountant General, Khyber Pakhtunkhwa, Peshawar
5. Deputy Commissioner Dera Ismail Khan.
6. District Accounts Officer Dera Ismail Khan
7. Deputy District Education Officer (Male) Dera Ismail Khan
8. SDEQ (Male) Dera Ismail Khan
9. PA to District Education Officer (Male) Dera Ismail Khan
10. Office record


**DISTRICT EDUCATION OFFICER
(MALE) DERA ISMAIL KHAN**

بخدمت جناب ڈسٹرکٹ ایجوکیشن آفیسر (مردانہ) ڈیرہ اسماعیل خان

درخواست برائے عمل درآمد فرمائے جانے حکم مورخہ 26/02/2019 مصدرہ ازاں سروس ٹریبونل

خیبر پختونخواہ پشاور۔

جناب عالی! سائل حسب ذیل عرض رساں ہے۔

۱۔ یہ کہ سائل آپ جناب کے زیر سایہ بطور PST اپنی خدمات سرانجام دیتا رہا۔ بعدہ من سائل کو بے بنیاد و من گھڑت الزامات کی بنیاد پر ملازمت سے برخاست کر دیا گیا۔

۲۔ یہ کہ سائل نے اپنی دادرسی کیلئے سروس ٹریبونل خیبر پختونخواہ میں سروس اپیل نمبر 1069/2017 دائر کی جو کہ معزز سروس ٹریبونل نے بروئے حکم مورخہ 26/02/2019 سائل کی سروس اپیل منظور فرماتے ہوئے سائل کو ملازمت پر بحال فرمانے کا حکم صادر فرمایا۔ نقل حکم مورخہ 26/02/2019 لف ہے۔

لہذا استدعا ہے کہ سائل کو بمطابق حکم مورخہ 26/02/2019 ملازمت پر بحال فرماتے ہوئے ڈیوٹی کے فرائض سونپے جائیں اور سائل کی تنخواہ جاری فرمائی جائے۔

مورخہ 19/03/2019

محمد عمر عرفان - PST محکمہ تعلیم ڈیرہ اسماعیل خان

Received

25-3-2019

Handwritten signature and stamp area.

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

No. 3805 /ST

Dated 09 / 11 / 2020

To

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

SUBJECT: - ORDER IN EXECUTION PETITION NO. 248/2019 MR. MUHAMMAD UMAR IRFAN.

I am directed to forward herewith a certified copy of order dated 27.10.2020 passed by this Tribunal on the above subject for strict compliance.

Encl: As above

REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.



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

Tel # 0966-9280128/9280131
Emis. emisdikhan@gmail.com

OFFICE ORDER

Mr. Muhammad Umer Ifran, Ex-PST, Govt: Primary School Singhar D.I.Khan terminated from Govt: Service vide this office Endst: No. 24576-82 dated 12.08.2015 is hereby re-instated into Government service w.e.from 26.02.2019 on the basis of acceptance his Service appeal by the Honourable Khyber Pakhtunkhwa Service Tribunal Peshawar decision dated 26.02.2019 till the final decision of CPLA. He is adjusted at GPS Sheikh Yousaf D.I.Khan against vacant post of PST in BPS-12 and his pay is also released w.e.from the decision of Honourable Khyber Pakhtunkhwa Service Tribunal Peshawar dated 26.02.2019 .

Note:-

1. Intervening period w.e.from 12.08.2015 to 25.02.2019 may be treated as Leave without pay.
2. Necessary entry to this effect should be made in his service book.


Sd/-
DISTRICT EDUCATION OFFICER
(MALE) DERA ISMAIL KHAN

Endst: No. 8466-73 /PST

Dated D.I.Khan the 09/03 /2020

Copy is forwarded to the:-

1. Director, (E&SE) Khyber Pakhtunkhwa Peshawar.
2. Registrar Khyber Pakhtunkhwa Service Tribunal Peshawar.
3. Dy: District Education Officer, (Male) D.I.Khan.
4. Sub Divisional Education Officer, (Male) D.I.Khan.
5. District Comptroller of Accounts D.I.Khan.
6. Head Teacher concerned.
7. Official concerned.
8. Master File.


DISTRICT EDUCATION OFFICER
(MALE) DERA ISMAIL KHAN

04/9/20



OFFICE OF THE
DISTRICT ACCOUNTS OFFICER
DERA ISMAIL KHAN

24/3

No. PR-II/DAO-DIK/2019-20/453-56.

Dated. 24/07/2020.

Office of the Distt. Edu. Officer
(Male) D.I.Khan
To, Diary No. 4318
Date. 12-8-2020

AO: speak as well after scrutiny

AO AG-VI
12/8/2020
AC

AO DEO (P)
12/08/2020

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

SUBJECT: PAY RELEASE IN RESPECT OF MR. MUHAMMAD UMAR IRFAN, PST ALONG WITH UNJUSTIFIED ADJUSTMENT OF PREVIOUS PAY.

Memo:

Refer to your office letter No. 12550/PST/STKPK, Dated 23/06/2020 on the subject noted above.

The undersigned invites your attention towards the sensitivity & actual spirit of the case that the terminated teacher has re-instated by the court without any back benefits and as per available record the CPLA in apex court has also been filed but your office ignored all the facts & figures and on the basis of unknown reason issued the re-instatement order after the lapse of one year approximately instead of waiting for the decision of apex court and also award him irregular adjustment of previous period for which he remain terminated and never perform his duties anywhere which itself contempt of the decision of August Supreme Court of Pakistan i.e. "there is no work, there is no pay."

However, the complete case was referred to competent authorities i.e Accountant General, Khyber Pakhtunkhwa Peshawar vide this office letter No. PR-II/DAO-DIK/2019-20/190-95, dated: 20-03-2020 and in response the competent authority confirm the view of this office vide his office letter No. H-24/(81)/DAO/D.I.Khan/Vol-X/985, dated: 09/06/2020 that the given adjustment to above teacher is irregular and it is also pertinent to mentioned that your good self also countersign the undertaking of the concerned teacher in which he took the oath that only his pay may please be activated and he will never claim the previous adjustment of pay.

Page 1 of 2

No 3642 /DC (AG-VI)/Edu Dated: 11-08-2020

Forwarded to DEO (Male) D.I.Khan

for necessary action and Report.

Deputy Commissioner

Copy attached for ready reference for your kind attention & reconsideration of the matter please. There is no provision nor required any further consideration according to the content of the affidavit of the teacher concerned, therefore it is, requested to re-consider your memo under reference.

Now, the matter of dozen officers of E&SED in BPS-19 and 18 working as OSD and waiting for their adjustment/posting but they are receiving monthly emolument regularly cannot be comparable to a teacher who was terminated from service & whos CPLA in the apex court for final decision.

It is very sorry to say that such kind of example cannot be expected by district level officer who control the larger number of government employees of education department.

In the light of fact stated above it is hoped that your goodself would not pressurize to this office for undue/irregular claim of the teacher concerned till the final decision of CPLA by the apex court.

District Accounts Officer,
Dera Ismail Khan.

Copy to:-

1. The Accountant General, Khyber Pakhtunkhwa Peshawar w/r to your letter as referred above.
2. The Director, Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.
3. The PS to Secretary E&SED, Khyber Pakhtunkhwa Peshawar with the request to issue some clarification to DEO (M) D.I.Khan in this regard to settle the matter once for all please.
4. The Deputy Commissioner D.I.Khan for information & necessary action please.

Mae B. Khan
District Accounts Officer,
Dera Ismail Khan.

24/07



GOVERNMENT OF KHYBER PAKHTUNKHWA
OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE)
DERA ISMAIL KHAN

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

CORRIGENDUM / OFFICE ORDER:

Mr. Muhammad Umer Irfan Ex-PST GPS Singhar Sharif Dera Ismail Khan was terminated from Govt. service vide this office Enst: NO. 24576-82 dated 12/08/2015 is hereby reinstated into Govt. service w.e.f 09/03/2020 on the basis of acceptance of his service appeal by the honorable Khyber Pakhtunkhwa, Service Tribunal vide service appeal bearing No. 1069/2017 decided on 26/02/2019 till the final decision of CPLA. He is adjusted at GPS Sheikh Yousaf Dera Ismail Khan against the vacant post of PST in BPS-12 with immediate effect and his pay is also released from the date of his taking over charge at that post.

- Note: 1. Office order bearing Enst: No. 8466-73/PST dated D.I.Khan the 09/03/2020 issued in this regard may be treated as cancelled / withdrawn from date of its issuance.
2. Intervening period w.e.f 12/08/2015 to 08/03/2020 may be treated as extra ordinary leave without pay.

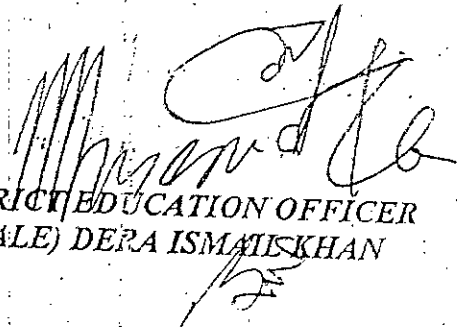
Sd/-
DISTRICT EDUCATION OFFICER
(MALE) DERA ISMAIL KHAN

Endst: No. 15837-46/F.PST/ADEO (Pry)

Dated DIKhan the: 04 /09/2020.

Copy is forwarded for information to the:

1. PS to Secretary Elementary & Secondary Education Department, Khyber Pakhtunkhwa, Peshawar
2. PS to Director Elementary & Secondary Education Department, Khyber Pakhtunkhwa, Peshawar
3. Registrar Service Tribunal Court Khyber Pakhtunkhwa, Peshawar
4. Accountant General, Khyber Pakhtunkhwa, Peshawar
5. Deputy Commissioner Dera Ismail Khan.
6. District Accounts Officer Dera Ismail Khan
7. Deputy District Education Officer (Male) Dera ismail Khan
8. SDEO (Male) Dera Ismail Khan
9. PA to District Education Officer (Male) Dera Ismail Khan
10. Office record


DISTRICT EDUCATION OFFICER
(MALE) DERA ISMAIL KHAN

Dist. Govt. NWFP-Provincial
District Accounts Office D.I.Khan
Monthly Salary Statement (December-2020)



Personal Information of Mr MUHAMMAD UMER IRFAN d/w/s of
Personnel Number: 00187167 CNIC: 14970314482
Date of Birth: 01.09.1970 Entry into Govt. Service: 01.01.1995

NTN:
Length of Service: 26 Years 00 Months 001 Days

Employment Category: Vocational Temporary

Designation: PRIMARY SCHOOL TEACHER

80001680-DISTRICT GOVERNMENT KHYBE

DDO Code: DI6119-DY: D O (M) PRY DIK

Payroll Section: 002

GPF Section: 001

Cash Center: 08

GPF A/C No:

Interest Applied: Yes

GPF Balance:

57,086.00

Vendor Number: -

Pay and Allowances:

Pay scale: BPS For - 2017

Pay Scale Type: Civil BPS: 12

Pay Stage: 20

Wage type		Amount	Wage type		Amount
0001	Basic Pay	32,520.00	1000	House Rent Allowance	1,961.00
1210	Convey Allowance 2005	2,856.00	1300	Medical Allowance	1,500.00
2148	15% Adhoc Relief All-2013	800.00	2199	Adhoc Relief Allow @10%	535.00
2211	Adhoc Relief All 2016 10%	2,634.00	2224	Adhoc Relief All 2017 10%	3,252.00
2247	Adhoc Relief All 2018 10%	3,252.00	2264	Adhoc Relief All 2019 10%	3,252.00
5002	Adjustment House Rent	23,742.00	5011	Adj Conveyance Allowance	26,010.00
5012	Adjustment Medical All	18,161.00	5309	Adj. 15% Adhoc Allowance	9,686.00
5322	Adj Adhoc Relief All 2018	38,498.00	5336	Adj Adhoc Relief All 2019	25,536.00
5801	Adj Basic Pay	384,981.00	5964	Adj Adhoc Relief All 2015	6,477.00
5975	Adj Adhoc Relief All 2016	31,890.00	5990	Adj Adhoc Relief All 2017	38,498.00

Deductions - General

Wage type		Amount	Wage type		Amount
3012	GPF Subscription	-2,220.00	3501	Benevolent Fund	-600.00
3609	Income Tax	-3,484.00	3990	Emp.Edu: Fund KPK	-125.00
4004	R. Benefits & Death Comp:	-600.00	6001	Adj Benevolent Fund	-7,200.00
6075	Adj GPF	-26,640.00	6164	Adj E.E.F NWFP Fund	-1,500.00
6217	Adj R. Ben & Death Comp:	-9,912.00			0.00

Deductions - Loans and Advances

Loan	Description	Principal amount	Deduction	Balance

Deductions - Income Tax

Payable: 32,798.20 Recovered till December-2020: 3,700.00 Exempted: 8198.76 Recoverable: 20,899.44

Gross Pay (Rs.): 656,041.00 Deductions: (Rs.): -52,281.00 Net Pay: (Rs.): 603,760.00

Payee Name: MUHAMMAD UMER IRFAN

Account Number: 2831-6

Bank Details: NATIONAL BANK OF PAKISTAN, 231545 PAROA ROAD D.I.KHAN PAROA ROAD D.I.KHAN,

Leaves: Opening Balance: Aailed: Earned: Balance:

Permanent Address: D I KHAND I KHAN

City: D.I.KHAN

Domicile: NW - Khyber Pakhtunkhwa

Housing Status: No Official

Temp. Address:

City:

Email:

(191573/06.01.2021/10:05:09) 2) All amounts are in Pak Rupees 3) Errors & omissions excepted