

14th April, 2022

Petitioner alongwith counsel present. Mr. Muhammad Adeel Butt, Addl. AG alongwith Faizan, SO for the respondents present.

Representative of the respondents submitted copy of Notification No. SO(SM)E&SED/4-17/2015/Mr. Rambail Khan, dated 06.12.2022, whereby the competent authority conditionally reinstated the petitioner with all back benefits subject to the outcome of CPLA pending in the august Supreme Court of Pakistan. The petitioner is fully satisfied. Consign.

Pronounced in open court and given under my hand and seal of the Tribunal this 14th day of April, 2022.

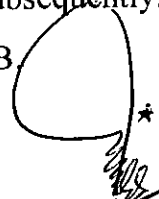


Chairman

17.01.2022


Petitioner in person present. Mr. Muhammad Adeel Butt, Additional Advocate General for respondents present.

The respondent department vide Notification dated 21st December 2021, has conditionally posted/adjusted the petitioner as Head Master (BS-17) GHS Sikandar Bharat District Bannu. So far his promotion from BS-17 to BS-18 is concerned, the case is under process in the department and complete implementation report will be submitted subsequently. To come up for implementation report on 03.03.2022 before S.B


(Mian Muhammad)
Member (E)

3-3-2022

Due to retirement of the Honble Chairman the case is adjourned to come up for the same as before on 14-4-2022


Reader

06.12.2021

Counsel for the petitioner present. Mr. Kabirullah Khattak, Addl: AG alongwith Syed Naseer Ud Din, Assistant for respondents present.

Implementation report not submitted. Learned AAG seeks time for submission of implementation report as the same is under process and will be submitted on the next date. Granted. To come up for further proceedings on 15.12.2021 before S.B.


(MIAN MUHAMMAD)
MEMBER (E)

15.12.2021

Petitioner alongwith his counsel present. Mr. Kabirullah Khattak, Addl: AG alongwith Mr. Faheem Ullah, SO (Lit) for respondents present.

Respondent-department produced notification dated 06.12.2021 whereby the petitioner has been conditionally reinstated in service with all back benefits subject to the outcome of CPLA in the august Supreme Court of Pakistan. Moreover, the case for his posting/adjustment is under process in the respondent-department as is evident from correspondence dated 07.12.2021 which is placed on file. Copy of the same is provided to the learned counsel for the petitioner. Adjourned. To come up for further proceedings on 17.01.2022 before S.B.


(MIAN MUHAMMAD)
MEMBER (E)

E.P.No. 81/2021


04.10.2021 Petitioner alongwith his counsel Mr. Taimur Ali Khan, Advocate, present. Mr. Saleem, Section Officer alongwith Mr. Kabirullah Khattak, Additional Advocate General for the respondents present and produced copy of summery, which has been sent by the Secretary E&SED to Chief Minister Khyber Pakhtunkhwa, which is placed on file.

Representative of the department sought further time for submission of implementation report. Adjourned. To come up for implementation report on 03.11.2021 before the S.B.


(SALAH-UD-DIN)
MEMBER (JUDICIAL)

03.11.2021 Petitioner in person and Mr. Muhammad Adeel Butt, Addl. AG alongwith Syed Nasirud Din Shah, Assistant for the respondents present.

Although the implementation report is still awaited but the learned AAG on assurance of the departmental representative states that he will personally take up the matter with concerned quarter for speedy approval of the summary. Adjourned. Case to come up on 06.12.2021 before S.B.


Chairman

07.06.2021

Petitioner in person and Mr. Noor Zaman Khattak, District Attorney, alongwith Saleem Khan, S.O for the respondents present.

Representative of the respondents seeks further time to furnish implementation report. Respondents are strictly directed to submit implementation report before next date. Adjourned to 28.07.2021 for further proceedings before S.B.



(Rozina Rehman)
Member(J)

28.07.2021

Counsel for the petitioner and Mr. Muhammad Adeel Butt, Addl. AG alongwith Saleem Khan, S.O for the respondents present.

Judgment under execution has not been implemented by the respondents. They are required to implement the judgment and submit compliance report positively on next date. Case to come up on 07.09.2021 before S.B.


Chairman

07.09.2021

Petitioner with counsel and Mr. Muhammad Adeel Butt, Addl. AG alongwith Saleem Khan, S.O for the respondents present.

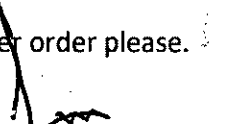

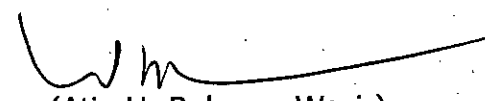
Representative of the department has stated that summary for conditional reinstatement of the petitioner has been moved for submission before the Honourable Chief Minister, Khyber Pakhtunkhwa. Accordingly efforts for execution of the judgment is in progress. The department is directed to submit conditional reinstatement order of the petitioner subject to outcome of CPLA on next date. Case to come up on 04.10.2021 before S.B.


Chairman

FORM OF ORDER SHEET

Court of _____

Execution Petition No. 80 /2021

S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	09.03.2021.	<p>The Execution Petition submitted by Mr. Rambail Khan through Mr. Taimur Ali Khan Advocate may be entered in the relevant Register and put up to the Court for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p> <p>2- This Execution Petition be put up before S. Bench on.....<u>02/04/21</u></p> <p style="text-align: right;"> CHAIRMAN</p>
01.04.2021		<p>Counsel for the petitioner present. Notice be issued to respondents for submission of implementation report on 07.06.2021 before S.B.</p> <p style="text-align: right;"> (Atiq Ur Rehman Wazir) Member (E)</p>

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

Execution Petition No. 81 /2021 **Khyber Pakhtunkhwa
Service Tribunal**
In Amended Service Appeal No.353/2018

Diary No. 423

Dated 09/03/2021

Rambail Khan, Ex-Dy:DEO,
D.I.Khan.

PETITIONER

VERSUS

1. The Government of Khyber Pakhtunkhwa through Chief Secretary KP, Civil Secretariat, Peshawar.
2. The Chief Secretary Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
3. The Secretary (E&SE), Khyber Pakhtunkhwa, Peshawar.
4. The Director (E&SE) Khyber Pakhtunkhwa, Peshawar.

RESPONDENTS

.....
**EXECUTION PETITION FOR DIRECTING THE
RESPONDENTS TO IMPLEMENT THE
JUDGMENT DATED 18.01.2021 OF THIS
HONOURABLE TRIBUNAL IN LETTER AND
SPIRIT.**
.....

RESPECTFULLY SHEWETH:

1. That the petitioner has filed amended service appeal No.353/2018 against the order dated 12.04.2018, whereby the major penalty of removal from service was converted into major penalty of compulsory retirement from service by the appellate authority on the review petition of the petitioner.
2. The said appeal was finally heard by this Honourable Service Tribunal on 08.01.2021. The Honourable Service Tribunal was kind enough to accept the appeal, the impugned order dated 12.04.2018 was set aside and the petitioner was reinstated into service with all back benefits. (Copy of judgment dated 18.01.2021 is attached as Annexure-A)

3. That in compliance of the judgment dated 18.01.2021, the petitioner also filed application for reinstatement and arrival on his post along with the judgment dated 18.01.2021 to respondent No.3. **(Copy of application is attached as Annexure-B)**
4. That as the petitioner was reinstated into service by this Honourable Tribunal through judgment dated 18.01.2021, but the respondents did not reinstate the petitioner on service implement after the lapse of about 02 months.
5. That in-action and not fulfilling formal requirements by the department after passing the judgment of this Honourable Service Tribunal, is totally illegal amount to disobedience and Contempt of Court.
6. That the judgment is still in the field and has not been suspended or set aside by the Supreme Court of Pakistan, therefore, the department is legally bound to obey the judgment dated 18.01.2021 of this Honourable Service Tribunal in letter and spirit.
7. That the petitioner has having no other remedy except to file this execution petition.

It is, therefore, most humbly prayed that the respondents may kindly be directed to implement the judgment dated 18.01.2021 of this Honourable Service Tribunal in letter and spirit. Any other remedy, which this august Service Tribunal deems fit and appropriate that, may also be awarded in favour of petitioner.

Rambail
PETITIONER
Rambail Khan

THROUGH:

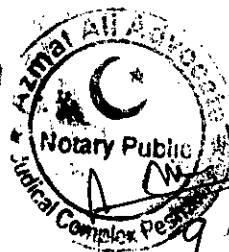
(Signature)
(TAIMUR ALI KHAN)
ADVOCATE HIGH COURT
&

(ASAD MAHMOOD)
ADVOCATE HIGH COURT

AFFIDAVIT:

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

ATTESTED



(Signature)
DEPONENT

A (3)

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

AMMENDED APPEAL NO. 353/2018



Rambail Khan, Ex-Dy: DEO,
D.I.Khan.

(Appellant)

VERSUS

1. The Government of KPK, through Chief Secretary KPK, Civil Secretariat, Peshawar.
2. The Chief Secretary KPK, Civil Secretariat, Peshawar.
3. The Secretary (E&SE), KPK, Peshawar
4. The Director of Education (E&SE), KPK, Peshawar

(Respondents)

AMMENDED APPEAL UNDER SECTION 4 OF THE SERVICE TRIBUNAL ACT, 1974 AGAINST THE ORDER DATED 12.04.2018 WHEREBY THE MAJOR PENALTY OF REMOVAL FROM SERVICE WAS CONVERTED INTO MAJOR PENALTY OF COMPULSORY RETIREMENT FROM SERVICE BY THE APPELLATE AUTHORITY/REVIEWABLE AUTHORITY ON THE REVIEW PETITION OF THE APPELLANT.

PRAYER:

THAT THE ACCEPTANCE OF THIS APPEAL, THE IMPUGNED ORDER DATED 12.04.2018 MAY BE SET ASIDE. THE RESPONDENT DEPTT: MAY PLEASE BE DIRECTED TO REINSTATE THE APPELLANT WITH ALL BACK AND CONSEQUENTIAL BENEFITS. ANY OTHER REMEDY WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT MAY ALSO BE AWARDED IN FAVOUR OF APPELLANT.

RESPECTFULLY SHEWETH:

FACTS:

1. That the appellant was working as Dy: DEO (M) D.I Khan with honesty and devotion.


ATTESTED

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No.353/2018

Date of Institution: 09.03.2018
Date of Decision: 18.01.2021

Mr. Rambail Khan Ex-Deputy District Education Officer, Dera Ismail Khan.

... (Appellant)

VERSUS

Government of Khyber Pakhtunkhwa, through Chief Secretary and three others.

... (Respondents)

Mr. Taimour Ali Khan,
Advocate

... For Appellant

Mr. Riaz Khan Paindakhel,
Assistant Advocate General

... For Respondents

Mr. MUHAMMAD JAMAL KHAN
Mr. ATIQ UR REHMAN WAZIR... MEMBER (J)
... MEMBER (E)**JUDGEMENT: -**

Mr. ATIQ UR REHMAN WAZIR: - Brief facts of the case are that the appellant, Mr. Rambail Khan, while serving as Deputy District Education Officer (DDEO) Dera Ismail Khan, was proceeded against on the charges of unlawful release of salaries to a class-iv employee. On the basis of inquiry conducted to this effect, charge sheet/statement of allegations were served upon appellant, to which he responded, thereafter issue show cause notice to the appellant, which also was accordingly responded and as a result thereof, major penalty of removal from service was imposed upon appellant. Feeling aggrieved, the appellant filed review petition before the competent forum, which was accepted and major penalty of removal from service was converted into major penalty of compulsory retirement from service, but in the meanwhile the appellant had already filed the instant service appeal, hence the appellant requested for amendment in

ATTESTED

ATTESTED
 MEMBER (J)
 MEMBER (E)
 KHYBER PAKHTUNKHWA
 SERVICE TRIBUNAL
 PESHAWAR

service appeal, which was accepted. The appellant prayed for setting aside the impugned order dated 12-04-2018 and his re-instatement with all back benefits.

02. Written reply/comments were submitted by respondents.

03. Arguments heard and record perused.

04. Learned counsel for the appellant contended that no regular inquiry was conducted in case of appellant skipping the mandatory provisions of law. No opportunity of personal hearing as well as opportunity to cross-examine witnesses was afforded to the appellant, whereas in case of imposing major penalty, the principles of natural justice requires that a regular inquiry be conducted and proper opportunity of defense be provided to the civil servant proceeded against, Non adoption of required mandatory procedure would result in miscarriage of justice. Reliance was placed on 2008 SCMR 1369, 2002 SCMR 433, 1997 SCMR 1543, 2012 PLC (CS) 728 and 2012 PLC (CS) 166. The learned counsel further added that action against the appellant was discriminatory to the effect that five other accused in the issue were also recommended for imposition of major penalty but only the appellant was targeted and the remaining accused were exonerated of the charges, who however, were more responsible than the appellant. That such penalty is not tunable in the eyes of law and not warranted. Reliance was placed on 1993 PLC (CS) 1754. The learned counsel contended that the appellant was charged on the allegations that source-1 of salary of Mr. Younas Class-iv was signed by the appellant, who however refused genuineness of such signatures, which was not accepted, whereas in case of other accused, refusal from signature was accepted, which too was discriminatory. That inspite of the fact that the concerned class-iv in his statement has categorically accepted that he himself prepared such documents and the appellant was not responsible for such act. That attributing such signatures to appellant is based on presumption having no evidence on its back and facts had to be proved and not presumed particularly for awarding major penalty.


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Khyber
Pakhtunkhwa
Government

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was also declared fake. The fake employee in his statement recorded before the inquiry officer also pointed out that he was assisted by one clerk namely Arshad in activation of his salary with no mention of the appellant. Because of inquiry, the fake employee Mr. Younas was terminated from service along with recovery of the salaries drawn. It was further noted that the formal inquiry in its findings has attributed the activation of salary of the fake employee for the first time to Ex-DDEO Mr. Taus Khan and Ex-DEO, Mr. Feruz Hussain Shah, but since they refused such signatures, hence their excuse was accepted and salary of the fake employee was stopped, yet the fake employee maneuvered to release his salaries again through fake submission of papers under the signature of the appellant, which was also denied by the appellant but his denial was not accepted, which was discriminatory. Record reveals that three inquiries conducted to this effect concludes that the whole process of appointment as well as drawl of salaries by the fake employee was done under fake signatures and stamps. It was also noted that other co-accused in the issue were also recommended for major penalty, but they were exonerated for their denial from their signatures. The appellant was charged on the presumption that he was incumbent during the occurrence, the fake employee however, in his written statement recorded before the formal inquiry has also mentioned that one clerk Mr. Arshad assisted him in activation of salary and the appellant was declared innocent, still the appellant was penalized, which was an act of discrimination on part of the respondents. The appellant also need the same treatment as was done with other co-accused. The inquiry so conducted is also replete with deficiencies and which cannot be termed as a regular inquiry to substantiate their claims with evidences, as no proper opportunity of defense was afforded in terms of personal hearing and cross-examination of witnesses. We could not find any clue to ascertain that signatures and stamp of the appellant was original, whereas that of the others were fake. Inquires conducted so far reveals that the whole process right from


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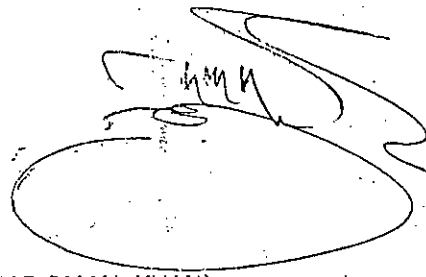
ATTESTED

 MEMBER
 Service Tribunal
 Faisalabad

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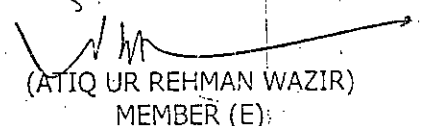
appointment till release of salaries in respect of the fake employee were fake and the appellant was penalized for an act not committed by him.

07. In view of the situation, the impugned order dated 12-04-2018 is set aside and the appellant is re-instated into service with all back benefits. Parties are left to bear their own cost. File be consigned to record room.

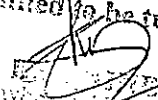
ANNOUNCED
18.01.2021



(MUHAMMAD JAMAL KHAN)
MEMBER (J)



(ATIQ UR REHMAN WAZIR)
MEMBER (E)

Certified to be true copy

Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Date of Presentation of Application 27/01/2021
Number of Volumes 24/00
Copying Fee 26/-
Urrent 4/-
Total 30/-
Name of the Applicant _____
Date of Completion of Copy 27/01/2021
Date of Delivery of Copy 27/01/2021


ATTESTED

VAKALAT NAMA

NO. _____/2021

IN THE COURT OF KP Service Tribunal, Peshawar

Rambail Khan

(Appellant)
(Petitioner)
(Plaintiff)

VERSUS

Govt. of KP etc.

(Respondent)
(Defendant)

I/We, _____

Do hereby appoint and constitute **Taimur Ali Khan, Advocate High Court 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 costs.

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. The Advocate/Counsel is also at liberty to leave my/our case at any stage of the proceedings, if his any fee left unpaid or is outstanding against me/us.

Dated _____/2021

Rambail Khan

(CLIENT)

ACCEPTED

TAIMUR ALI KHAN
Advocate High Court
BC-10-4240

CNIC: 17101-7395544-5
Cell No. 0333-9390916

OFFICE:

Room # FR-8, 4th Floor,
Bilour Plaza, Peshawar,
Cantt: Peshawar

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

Execution Petition No. 81 /2021
In Amended Service Appeal No.353/2018

Rambail Khan, Ex-Dy:DEO,
D.I.Khan.

PETITIONER

VERSUS

1. The Government of Khyber Pakhtunkhwa through Chief Secretary KP, Civil Secretariat, Peshawar.
2. The Chief Secretary Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
3. The Secretary (E&SE), Khyber Pakhtunkhwa, Peshawar.
4. The Director (E&SE) Khyber Pakhtunkhwa, Peshawar.

RESPONDENTS

.....
**EXECUTION PETITION FOR DIRECTING THE
RESPONDENTS TO IMPLEMENT THE
JUDGMENT DATED 18.01.2021 OF THIS
HONOURABLE TRIBUNAL IN LETTER AND
SPIRIT.**
.....

RESPECTFULLY SHEWETH:

1. That the petitioner has filed amended service appeal No.353/2018 against the order dated 12.04.2018, whereby the major penalty of removal from service was converted into major penalty of compulsory retirement from service by the appellate authority on the review petition of the petitioner.
2. The said appeal was finally heard by this Honourable Service Tribunal on 08.01.2021. The Honourable Service Tribunal was kind enough to accept the appeal, the impugned order dated 12.04.2018 was set aside and the petitioner was reinstated into service with all back benefits. (Copy of judgment dated 18.01.2021 is attached as Annexure-A)

3. That in compliance of the judgment dated 18.01.2021, the petitioner also filed application for reinstatement and arrival on his post along with the judgment dated 18.01.2021 to respondent No.3. **(Copy of application is attached as Annexure-B)**
4. That as the petitioner was reinstated into service by this Honourable Tribunal through judgment dated 18.01.2021, but the respondents did not reinstate the petitioner on service implement after the lapse of about 02 months.
5. That in-action and not fulfilling formal requirements by the department after passing the judgment of this Honourable Service Tribunal, is totally illegal amount to disobedience and Contempt of Court.
6. That the judgment is still in the field and has not been suspended or set aside by the Supreme Court of Pakistan, therefore, the department is legally bound to obey the judgment dated 18.01.2021 of this Honourable Service Tribunal in letter and spirit.
7. That the petitioner has having no other remedy except to file this execution petition.

It is, therefore, most humbly prayed that the respondents may kindly be directed to implement the judgment dated 18.01.2021 of this Honourable Service Tribunal in letter and spirit. Any other remedy, which this august Service Tribunal deems fit and appropriate that, may also be awarded in favour of petitioner.

Rambail
PETITIONER
Rambail Khan

THROUGH:

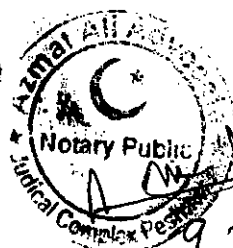
(Signature)
(TAIMUR ALI KHAN)
ADVOCATE HIGH COURT
&

(ASAD MAHMOOD)
ADVOCATE HIGH COURT

AFFIDAVIT:

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

ATTESTED



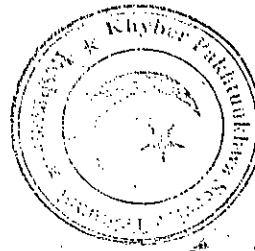
DEPONENT

(Signature)
9-3-2021

A (3)

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

AMMENDED APPEAL NO. 353/2018



Rambail Khan, Ex-Dy: DEO,
D.I.Khan.

(Appellant)

VERSUS

1. The Government of KPK, through Chief Secretary KPK, Civil Secretariat, Peshawar.
2. The Chief Secretary KPK, Civil Secretariat, Peshawar.
3. The Secretary (E&SE), KPK, Peshawar
4. The Director of Education (E&SE), KPK, Peshawar

(Respondents)

AMMENDED APPEAL UNDER SECTION 4 OF THE SERVICE TRIBUNAL ACT, 1974 AGAINST THE ORDER DATED 12.04.2018 WHEREBY THE MAJOR PENALTY OF REMOVAL FROM SERVICE WAS CONVERTED INTO MAJOR PENALTY OF COMPULSORY RETIRMENT FROM SERVICE BY THE APPELLATE AUTHORITY/REVIEWABLE AUTHORITY ON THE REVIEW PETITION OF THE APPELLANT.

PRAYER:

THAT THE ACCEPTANCE OF THIS APPEAL, THE IMPUGNED ORDER DATED 12.04.2018 MAY BE SET ASIDE. THE RESPONDENT DEPTT: MAY PLEASE BE DIRECTED TO REINSTATE THE APPELLANT WITH ALL BACK AND CONSEQUENTIAL BENEFITS. ANY OTHER REMEDY WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT MAY ALSO BE AWARDED, IN FAVOUR OF APPELLANT.

RESPECTFULLY SHEWETH:
FACTS:

1. That the appellant was working as Dy: DEO (M) D.I Khan with honesty and devotion.

A

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No.353/2018

Date of Institution: 09.03.2018
Date of Decision: 18.01.2021

Mr. Rambail Khan Ex-Deputy District Education Officer, Dera Ismail Khan.

... (Appellant)

VERSUS

Government of Khyber Pakhtunkhwa, through Chief Secretary and three others.

... (Respondents)

Mr. Taimour Ali Khan,
Advocate

... For Appellant

Mr. Riaz Khan Paindakhel,
Assistant Advocate General

... For Respondents

Mr. MUHAMMAD JAMAL KHAN
Mr. ATIQ UR REHMAN WAZIR... MEMBER (J)
... MEMBER (E)**JUDGEMENT: -**

Mr. ATIQ UR REHMAN WAZIR: - Brief facts of the case are that the appellant, Mr. Rambail Khan, while serving as Deputy District Education Officer (DDEO) Dera Ismail Khan, was proceeded against on the charges of unlawful release of salaries to a class-iv employee. On the basis of inquiry conducted to this effect, charge sheet/statement of allegations were served upon appellant, to which he responded, thereafter issue show cause notice to the appellant, which also was accordingly responded and as a result thereof, major penalty of removal from service was imposed upon appellant. Feeling aggrieved, the appellant filed review petition before the competent forum, which was accepted and major penalty of removal from service was converted into major penalty of compulsory retirement from service, but in the meanwhile the appellant had already filed the instant service appeal, hence the appellant requested for amendment in

ATTACHED

EXAMINED
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

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service appeal, which was accepted. The appellant prayed for setting aside the impugned order dated 12-04-2018 and his re-instatement with all back benefits.

02. Written reply/comments were submitted by respondents.

03. Arguments heard and record perused.

04. Learned counsel for the appellant contended that no regular inquiry was conducted in case of appellant skipping the mandatory provisions of law. No opportunity of personal hearing as well as opportunity to cross-examine witnesses was afforded to the appellant, whereas in case of imposing major penalty, the principles of natural justice requires that a regular inquiry be conducted and proper opportunity of defense be provided to the civil servant proceeded against, Non adoption of required mandatory procedure would result in miscarriage of justice. Reliance was placed on 2008 SCMR 1369, 2002 SCMR 433, 1997 SCMR 1543, 2012 PLC (CS) 728 and 2012 PLC (CS) 166. The learned counsel further added that action against the appellant was discriminatory to the effect that five other accused in the issue were also recommended for imposition of major penalty but only the appellant was targeted and the remaining accused were exonerated of the charges, who however, were more responsible than the appellant. That such penalty is not tenable in the eyes of law and not warranted. Reliance was placed on 1993 PLC (CS) 1754. The learned counsel contended that the appellant was charged on the allegations that source-1 of salary of Mr. Younas Class-iv was signed by the appellant, who however refused genuineness of such signatures, which was not accepted, whereas in case of other accused, refusal from signature was accepted, which too was discriminatory. That inspite of the fact that the concerned class-iv in his statement has categorically accepted that he himself prepared such documents and the appellant was not responsible for such act. That attributing such signatures to appellant is based on presumption having no evidence on its back and facts had to be proved and not presumed particularly for awarding major penalty.

ATTESTED


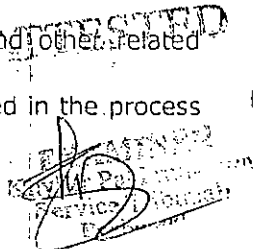
Secretary



Reliance was placed on 2002 PLC (CS) 503. The learned counsel further added that the preliminary inquiry conducted to this effect, clearly manifests that all the documents right from the letter of appointment up to his salary document including the stamp used throughout the pay activation process is fake. Besides the statement of class-iv obtained to this effect also testifies to the fact that such signatures were not affixed by the appellant, but still the formal inquiry apportioned such responsibility on the appellant solely on the presumption that he was incumbent of the post of Deputy Director, who deals in such cases. The learned counsel added that appellant is totally innocent in this case, which is evident from the statements of the class-iv and other co-accused as well as the preliminary inquiry and prayed that the impugned order may be set aside and the appellant may be re-instated into service with all back benefits.

05. Learned Assistant Advocate General appeared on behalf of official respondents contended that regular inquiry was conducted against the appellant and others, where proper chance of defense was provided to the appellant including personal hearing. That as a result of inquiry conducted to this effect, the appellant was held responsible for the unlawful drawl of salaries in respect of a fake employee due to the reason that he was responsible for submission of source-1 form to District Accounts Office, which he submitted under his signature and which clearly depicts that the appellant was responsible for such act. That the competent authority taking a lenient view has converted the penalty of removal from service into compulsory retirement, deserve no further leniency, hence the instant appeal may be dismissed.

06. We have heard learned counsel for the parties and perused the record. It was noted that one Mr. Younas employed as class-IV was declared fake after investigation and preliminary inquiry was conducted to ascertain the genuineness of his appointment order and subsequent drawl of salaries. The inquiry conducted so found that appointment letter, charge assumption report, his transfer orders and other related documents were fake having no official record. The official stamps used in the process

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was also declared fake. The fake employee in his statement recorded before the inquiry officer also pointed out that he was assisted by one clerk namely Arshad in activation of his salary with no mention of the appellant. Because of inquiry, the fake employee Mr. Younas was terminated from service along with recovery of the salaries drawn. It was further noted that the formal inquiry in its findings has attributed the activation of salary of the fake employee for the first time to Ex-DDEO Mr. Taus Khan and Ex-DEO, Mr. Feruz Hussain Shah, but since they refused such signatures, hence their excuse was accepted and salary of the fake employee was stopped, yet the fake employee maneuvered to release his salaries again through fake submission of papers under the signature of the appellant, which was also denied by the appellant but his denial was not accepted, which was discriminatory. Record reveals that three inquiries conducted to this effect concludes that the whole process of appointment as well as drawl of salaries by the fake employee was done under fake signatures and stamps. It was also noted that other co-accused in the issue were also recommended for major penalty, but they were exonerated for their denial from their signatures. The appellant was charged on the presumption that he was incumbent during the occurrence, the fake employee however, in his written statement recorded before the formal inquiry has also mentioned that one clerk Mr. Arshad assisted him in activation of salary and the appellant was declared innocent, still the appellant was penalized, which was an act of discrimination on part of the respondents. The appellant also need the same treatment as was done with other co-accused. The inquiry so conducted is also replete with deficiencies and which cannot be termed as a regular inquiry to substantiate their claims with evidences, as no proper opportunity of defense was afforded in terms of personal hearing and cross-examination of witnesses. We could not find any clue to ascertain that signatures and stamp of the appellant was original, whereas that of the others were fake. Inquires conducted so far reveals that the whole process right from

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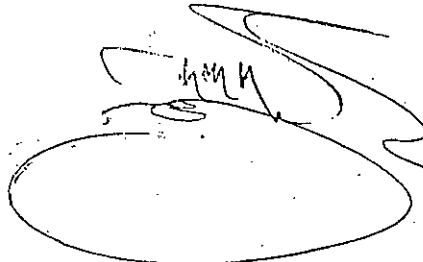
ATTESTED

[Signature]
 MEMBER
 Service Tribunal
 Peshawar

appointment till release of salaries In respect of the fake employee were fake and the appellant was penalized for an act not committed by him.

07. In view of the situation, the impugned order dated 12-04-2018 is set aside and the appellant is re-instated into service with all back benefits. Parties are left to bear their own cost. File be consigned to record room.


ANNOUNCED
18.01.2021



(MUHAMMAD JAMAL KHAN)
MEMBER (J)



(ATIQ UR REHMAN WAZIR)
MEMBER (E)

Certified to be true copy

Atiq Ur Rehman Wazir
Member (E)

Date of Presentation of Application 27/01/2021
Number of Pages 24
Copying Fee 26/-
Urgent 4/-
Total 30/-
Name of Officer _____
Date of Copying of Copy 27/01/2021
Date of Issuance of Copy 27/01/2021



To

The Secretary,
To the Government of Khyber Pakhtunkhwa,
Elementary & Secondary Education Department,
Peshawar.

B (9)

Subject:

ARRIVAL REPORT IN PURSUANCE OF THE JUDGEMENT AND ORDER
DATED 18/01/2021 OF THE HONORABLE KHYBER PAKHTUNKHWA
SERVICE AP PEAL NO.353/2018 RAMBAIL KHAN Vs GOVT OF KHYBER
PAKHTUKHWA PESHAWAR (THROUGH CHIEF SECRETARY) ETC.

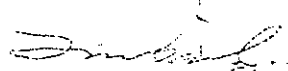
Respected Sir,

With due regards, it is submitted that in pursuance of the Judgment and Order
dated 18-01-2021 of the Honorable Service Tribunal Peshawar in Appeal No. 353/2018, whereby
the order of my Compulsory Retirement has been set aside and I have been reinstated into
Service, I hereby submit my arrival report for your kind acceptance. 18-01-2021

It is therefore, most humbly requested that my arrival report may please be
accepted and I may be allowed to join My duties.
(Copy of the Judgment is attached)

Dated: 27/01/2021


Yours Obediently



Rambail Khan
Ex-Deputy District Education Officer,
(Male) Dera Ismail Khan
0335-1926396

o/c





28/1 D.No-1257



GOVERNMENT OF KHYBER PAKHTUNKHWA

ELEMENTARY AND SECONDARY EDUCATION

DEPARTMENT

Block-"A", Opposite MPA's Hostel, Civil Secretariat Peshawar

Phone: 091-9210480, Fax # 091-9211419

SUMMARY FOR CHIEF MINISTER KHYBER PAKHTUNKHWA

Subject: - REQUEST OF RE-INSTATEMENT INTO THE GOVT SERVICE IN THE LIGHT OF KHYBER PAKHTUNKHWA SERVICE TRIBUNAL JUDGMENT DATE 18-01-2021 AND ON HUMANITARIAN & MEDICAL BASIS.

57. Mr. Rambil Khan, filed a Service Appeal No.353/2018 before the Khyber Pakhtunkhwa Service Tribunal Peshawar and prayed to set aside the order dated 12-04-2018, and he may be re-instated in service with all back benefits (Annex-I). Service Tribunal Peshawar accepted the appeal in favour of the appellant and directed vide judgment dated 18-01-2021 to re-instate the appellant into service with all back benefits (Annex-II& III).

58. Feeling aggrieved of the above judgment of the Khyber Pakhtunkhwa Service Tribunal Peshawar, the department filed CPLA before Supreme Court of Pakistan Islamabad, which is still pending in the Apex Court (Annex-IV). The subject case in Execution Petition and Service Tribunal issued direction vide order dated 07-06-2021, stating therein to implement the judgment and report before next date adjourned to 28-07-2021 for further proceeding before Service Tribunal Peshawar (Annex-V).

59. As per Rule-4 of Khyber Pakhtunkhwa Civil Servant (Appointment Promotion & Transfer) Rules 1989, the Chief Minister Khyber Pakhtunkhwa is the Appointing Authority for the post in BPS-18 & above (Annex-VI).

60. In view of the above this Department proposes that Mr. Rambil Khan Ex Deputy District Education Officer BS-18 (Male) D.i.Khan may be reinstated into service with all back benefits conditionally subject to the final out Come of CPLA in Supreme Court of Pakistan.

61. The Chief Minister/Competent Authority is requested to approve proposal contained in Para-60 ante.

SECRETARY ESTABLISHMENT

Muhammad Yahya Akhunzada
SECRETARY E&SED

11. Office order

SECTION OFFICER

62. The Chief Minister/Competent Authority is requested to approve proposal contained in Para-61 ante.



Muhammad Yahya Akhunzada)
SECRETARY E&SED

SECRETARY ESTABLISHMENT

CHIEF SECRETARY, KHYBER PAKHTUNKHWA

CHIEF MINISTER, KHYBER PAKHTUNKHWA



File Tracking ID
EnSED-13-1181-00329



Print Date: 03-Nov-2021 11:23 AM

File

Subject : re-instatement of Rambil Khan

(Section Officer (Schools/Male))

Elementary & Secondary Education Department
06/08/2021 09:26:18 AM

Additional Secretary Establishment ,Elementary & Secondary Education

2.

(Additional Secretary Establishment ,Elementary & Secondary Education)

Elementary & Secondary Education Department
06/08/2021 04:35:44 PM

Secretary E&SE

3. SE diary No. 69 Dated 12.08.2021

(Secretary E&SE)

Elementary & Secondary Education Department
12/08/2021 03:45:49 PM

Secretary Establishment



GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT

Dated Peshawar the December 21, 2021

NOTIFICATION

NO.SO(SM)E&SED/4-17/2015/Mr. Rambail Khan: In light of the judgment of the Khyber Pakhtunkhwa service Tribunal Peshawar dated 18.01.2021, in Service Appeal No. 353/2018 in the Execution Petition No. 81/2021 and in continuation to this department notification of even number dated 06.12.2021, the Competent Authority is pleased to post/adjust Mr. Rambail Khan, Head Master (BS-17) against the vacant post of Head Master GHS Sikandar Bharat District Bannu in the best public interest with immediate effect.

SECRETARY TO GOVT OF KHYBER AKTHUNKHWA
E&SE DEPARTMENT

Endst: of even No. & Date :-

Copy forwarded to the:

- 1- Registrar Khyber Pakhtunkhwa Service Tribunal Peshawar.
- 2- Accountant General, Khyber Pakhtunkhwa, Peshawar.
- 3- Director, Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
- 4- District Education Officer (Male), Bannu.
- 5- District Accounts Officer, Bannu.
- 6- PS to Secretary, E&SE Department, Khyber Pakhtunkhwa.
- 7- Section Officer (Lit-II), E&SE Department, Khyber Pakhtunkhwa w.r.to his letter No.SO(Lit-II)E&SED/1-3/EP#81/2021 Rambail dated 16.09.2021.
- 8- Officer concerned.
- 9- Office order file.


(HAFEEZ UR RAHMAN SHAH)
SECTION OFFICER (SCHOOLS MALE)



**GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT**

Dated Peshawar the December 06, 2021

NOTIFICATION

NO.SO(SM)E&SED/4-17/2015/Mr. Rambail Khan: WHEREAS Mr. Rambail Khan, Ex-Headmaster (BPS-17) GHS Chehkan D.I.Khan was proceeded under Khyber Pakhtunkhwa Government Servant (Efficiency & Discipline) Rules, 2011.

2. **AND WHEREAS** the Competent Authority (Chief Minister Khyber Pakhtunkhwa) had imposed major penalty of "**removal from service**" upon Mr. Rambail Khan, Ex-Headmaster (BPS-17) GHS Chehkan D.I.Khan vide this Department Notification NO. SO(SM)/ E&SED/4-17/2015/Syed Zawar Hussain Shah & Others dated 12.04.2018.

2. **AND WHEREAS** he filed a service appeal before the Khyber Pakhtunkhwa Service Tribunal. The Service Tribunal vide its judgment dated 18.01.2021, set aside the impugned order of removal from service and re-instated him into service with all back benefits.

3. **AND WHEREAS** he filed an execution petition No. 81/2021 in service appeal No. 353/2018 before the Khyber Pakhtunkhwa Service Tribunal. The Service Tribunal vide its order dated 07.09.2021, has directed to submit conditional reinstatement order of the petitioner subject to the outcome of CPLA.


NOW, THEREFORE, In exercise of the powers conferred under section-4 (1) (a) of the Khyber Pakhtunkhwa Govt. Servants (Appointment, Promotion & Transfer) Rules 1989, the Competent Authority (Chief Minister Khyber Pakhtunkhwa) is pleased to conditionally reinstate Mr. Rambail Khan, Ex-Headmaster (BPS-17), GHS Chehkan D.I.Khan with all back benefits subject to the outcome of CPLA in the Supreme Court of Pakistan.

**SECRETARY TO GOVT OF KHYBER AKTHUNKHWA
E&SE DEPARTMENT**

Endst: of even No. & Date

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- 5- District Accounts Officer, D.I.Khan.
- 6- PS to Chief Secretary Khyber Pakhtunkhwa Peshawar.
- 7- PS to Secretary, E&SE Department, Khyber Pakhtunkhwa.
- 8- Mr. Rambail Khan, Ex-Headmaster (BPS-17) GHS Chehkan D.I.Khan with the direction to submit undertaking on Judicial Stamp Paper that you will deposit the amount of back benefits in the Govt. Exchequer incase CPLA is decide in favour of Provincial Government.
- 9- Section Officer (Lit-II), E&SE Department, Khyber Pakhtunkhwa w.r.to his letter No.SO(Lit-II)E&SED/1-3/EP#81/2021 Rambail dated 16.09.2021.
- 10- Office order file.


(HAFEEZ UR RAHMAN SHAH)
SECTION OFFICER (SCHOOLS MALE)

OFFICE OF THE DISTRICT EDUCATION,
OFFICER (MALE) BANNU

No: _____

Dated: _____

To

The Secretary E&SE,
Khyber Pakhtunkhwa Peshawar

Subject: POST AVAILABILITY/ NO OBJECTION CERTIFICATE

Memo,

Certified that a post of Headmaster (BPS-17) is lying Vacant at GHS Sikander Bharat Bannu, the undersigned has got no objection on the adjustment of Mr.Rambel Khan Headmaster (B-17) against the vacant post.

*District Education
Officer (Male) Bannu*

Endst No: 14968 Dated 07-12-2021

Copy for information to the:

- ✓ 1. Director E&SE Khyber Pakhtunkhwa Peshawar.

*District Education
Officer (Male) Bannu*



GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT

Dated Peshawar the December 06, 2021

NOTIFICATION

NO.SO(SM)E&SED/4-17/2015/Mr. Rambail Khan: WHEREAS Mr. Rambail Khan, Ex-Headmaster (BPS-17) GHS Chehkan D.I.Khan was proceeded under Khyber Pakhtunkhwa Government Servant (Efficiency & Discipline) Rules, 2011.

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SECRETARY TO GOVT OF KHYBER AKTHUNKHWA
E&SE DEPARTMENT

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- 10- Office order file.


(HAFEEZ UR RAHMAN SHAH)
SECTION OFFICER (SCHOOLS MALE)



GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT

Dated Peshawar the December 21, 2021

NOTIFICATION

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(HAFEEZ UR RAHMAN SHAH)
SECTION OFFICER (SCHOOLS MALE)