

25.11.2019

Petitioner in person and Addl. AG alongwith Javed Khan,  
Focal Person for the respondents present.

The representative of respondents has produced modified  
reinstatement order dated 26.10.2019 whereby the petitioner has  
been reinstated with all benefits under the rules/policy of the  
Government. Petitioner, in view of the development, requests for  
consigning the proceedings to the record.

Order accordingly.



Chairman

26.09.2019

Counsel for the petitioner present. Addl: AG for respondents present. Notices be issued to the respondents for submission of implementation report. Case to come up for further proceedings on 22.10.2019 before S.B.

  
Member

22.10.2019

Petitioner alongwith his counsel and Mr. Kabirullah Khattak, Additional AG alongwith Mr. Shakeel, Superintendent for the respondents present.

Representative of respondents has produced copy of order dated 11.09.2019 whereby the petitioner has been reinstated for the purpose of inquiry. It is also provided in the order that the petitioner would not claim any financial benefits during the reinstatement period.

Learned counsel for the petitioner strongly objects to the content of reinstatement order and states that the same is not in line with the judgment under execution. Through the judgment, the order of termination pertaining to the petitioner was set-aside while the respondents were allowed opportunity to conduct de-novo inquiry in accordance with law. The judgment, therefore, never required the reinstatement of petitioner merely for the purpose of de-novo inquiry.


In view of the objections of learned counsel for petitioner and also contents of judgment under implementation, the respondents are required to issue modified reinstatement order in accordance with the relief granted by Tribunal.

Adjourned to 25.11.2019 for further proceeding before S.B.

  
Chairman

24.06.2019

Counsel for the petitioner present. Addl: AG alongwith Mr. Daud Jan, Supdt for respondents present. Notice be issued to the respondents for submission of implementation report on the next date of hearing. Case to come up for further proceedings on 07.08.2019 before S.B.

  
(Ahmad Hassan)  
Member

07.08.2019

Counsel for the petitioner and Mr. Muhammad Jan, DDA alongwith Shakeel Khan, Superintendent and Javed Khan, Focal Person for the respondents present.




The representative of respondents has submitted copy of enquiry report wherein it is concluded that the termination/removal of petitioner was absolutely right because he remained abroad on two occasions. The enquiry report though is not followed by any order against the petitioner while the previous order dated 26.05.2011 has already been set aside by this Tribunal.

In the circumstances the respondents are required to submit an implementation report on next date of hearing positively. Adjourned to 26.09.2019 for further proceedings before S.B.

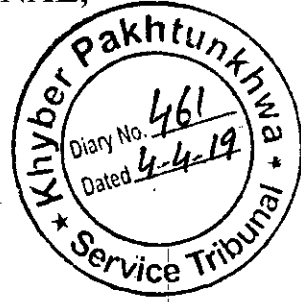
  
Chairman

Form- A  
FORM OF ORDER SHEET

Court of \_\_\_\_\_  
Execution Petition No. 176/2019

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	04.4.2019	<p>The execution petition of Mr. Said Rasool Shah submitted today by 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 4/4/19</p>
2	09/04/19	<p>This execution petition be put up before S. Bench on <u>06/05/19</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
06.05.2019		<p>Counsel for the petitioner present. Notice be issued to the respondents for implementation report for 24.06.2019 before S.B.</p> <p style="text-align: right;"> (MUHAMMAD AMIN KHAN KUNDI) MEMBER</p>
24.06.2019		<p>Counsel for the petitioner present. Addl: AG for respondents present. Notices be issued to the respondents for submission of implementation report on the next date of hearing. Case to come up for further proceedings on 7.08.2019 before S.B.</p> <p style="text-align: right;">  (Ahmad Hassan) Member</p>

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



Execution Petition No. 176 /2019  
In Service Appeal No.867/2015

Said Rasool shah, Ex-PTC,  
GPS Kamali Yousaf Khel, Mohmanad Agency.

**PETITIONER**

**VERSUS**

1. The Secretary (E&SE) KPK, Peshawar.
2. The Director of Education, (FATA), Warsak Road, KPK, Peshawar /  
Director Education (Merged Areas) Warsak Road Peshawar.
3. The Agency Education Officer, Mohmand Agency / District  
Education Officer, District Mohmand.

**RESPONDENTS**

.....  
**EXECUTION PETITION FOR DIRECTING THE  
RESPONDENTS TO IMPLEMENT THE  
JUDGMENT DATED 20.11.2018 OF THIS  
HONOURABLE TRIBUNAL IN LETTER AND  
SPIRIT.**  
.....

**RESPECTFULLY SHEWETH:**

1. That the petitioner has filed service appeal No.867/2015 against the order dated 26.05.2011, whereby the petitioner was terminated from service and not taking action on the departmental appeal of the petitioner within the statutory period of ninety days.
2. The said appeal was finally heard by this august Service Tribunal on 20.11.2018 in which the august Service Tribunal set aside the impugned order and the respondents were placed at liberty to re-enquire the matter but absolutely in accordance with law. **(Copy of judgment dated 20.11.2018 is attached as Annexure-A)**
3. That since the announcement of the judgment, the petitioner waited for more than four months to implement judgment dated 20.11.2018 of this Honourable Service Tribunal, but the respondent department


did not take any action on the judgment of this august Service tribunal till date.

4. That in-action and not fulfilling formal requirements by the department after passing the judgment of this august Service Tribunal, is totally illegal amount to disobedience and Contempt of Court.
5. 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 20.11.2018 of this Honourable Service Tribunal in letter and spirit.
6. That the petitioner has having no other remedy except to file this execution petition.

It is, therefore, most humbly prayed that the respondents may be directed to implement the judgment dated 20.11.2018 of this august 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.

  
PETITIONER

THROUGH:

  
(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.

  
DEPONENT



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
PESHAWAR

Appeal No. 867/2015

Date of Institution ... 31.07.2015

Date of Decision ... 20.11.2018



Said Rasool Shah, Ex-PTC GPS Kamali Yousaf Khel, Mohmand Agency.  
... (Appellant)

VERSUS

The Secretary (E&SE) Khyber Pakhtunkhwa, Peshawar and others.  
... (Respondents)

SYED NUMAN SHAH BUKHARI,  
Advocate.

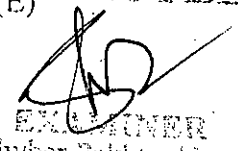
... For appellant

MR. KABIRULLAH,  
Addl. Advocate General

... For respondents.

MR. HAMID FAROOQ DURRANI,  
MR. AHMAD HASSAN.

... CHAIRMAN  
... MEMBER(E)

**ATTESTED**  
  
EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

JUDGMENT

HAMID FAROOQ DURRANI, CHAIRMAN:-

The case of appellant is that he joined the Education Department as PTC in the year, 1995 and during the course of his service, was transferred through order dated 06.07.2005 to GPS Kamali Yousaf Khel, Mohmand Agency where he took charge on 08.07.2005. That ever-since, he was regularly performing his duty at his place of posting. However, without any intimation to him, his salary was stopped from 01.04.2007. On enquiry about the salary, he was informed that his service stood terminated w.e.f. 26.5.2011 on account of absence. That against the termination order, he file a departmental appeal on 08.4.2015 which remained un-responded.

2. In the instant case notices were issued to the respondents upon which respondents No. 2 and 3 duly submitted parawise comments wherein the claim of the appellant was



*Attested*  
*[Signature]*

denied. A copy of termination order dated 26.5.2011 was also attached with the comments.

3. We have heard learned counsel for the parties and have also gone through the available record with their assistance.

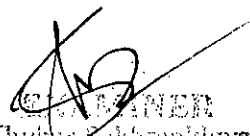
4. It was the contention of learned counsel for the appellant that the respondents did not follow the requisite procedure for proceedings against the appellant, so much so that no enquiry was held against him. The other requirements including service of charge sheet and statement of allegations were also not complied with. Even show cause notice was not issued to the appellant before imposing the major penalty of removal from service.

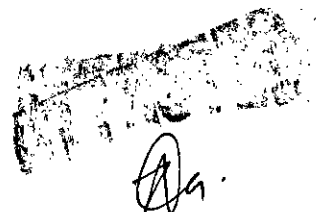
5. On the other hand, the only argument advanced on behalf of the respondents was the delay in filing of appeal in hand.

6. We have examined the available record in the light of submissions by learned counsel. It is evident that the appellant was transferred to GPS Kamali Yousaf Khel, Mohmand Agency vide office order dated 06.07.2005 on mutual transfer basis. The appellant reported at the school of his posting vide charge report dated 08.07.2005 and started performing his duty there. The record appended with the instant appeal also includes copy of attendance register of staff of GPS Kamali Yousaf Khel which reflects that the appellant was marked present in the school throughout upto March, 2015. The respondents however, did not specifically contradict the said record.

7. On available record, the assertion of appellant regarding lapse on the part of the respondents in conducting proceedings under the law also finds support from the fact that the respondents had relied on a solitary document i.e. the impugned order dated

ATTESTED

  
 CHAIRMAN  
 TRIBUNAL

  
 CHAIRMAN



26.5.2011. This aspect of the case could not be controverted even at the time of hearing of the appeal.

8. The arguments by the learned counsel for the respondents regarding delay in submission of instant appeal also does not have much force as after communication of termination order, the appellant submitted departmental appeal on 08.4.2015 which though remained un-responded. coupled with the said fact the appellant was prima facie marked present for his duty at his place of posting i.e. GPS Kamali Yousaf Khel, Mohmand Agency till March, 2015.

9. It would not be out of place to note that while responding to the appeal in hand, in black & white, the respondents did not provide exact date of alleged absence of appellant from duty. Nor any dates of issuance of letter/show cause notice were given. Evasive defence was taken in para-3 of the their comments by respondents. Evidently, enquiry proceedings against the appellant were either not taken at all or, if taken, were not in accordance with obligatory requirement.

10. For what has been the discussed above, the impugned order merits setting aside which is accordingly determined. The respondents shall be at liberty to re-enquire the matter but absolutely in accordance with law. Needless to note that the respondents, in such eventuality, should not disregard the necessary documents and provide fair opportunity of defence to the appellant. Parties are left to bear their respective costs. File be consigned to the record room.

(AHMAD HASSAN)  
MEMBER

(HAMID FAROOQ DURRANI)  
CHAIRMAN

ANNOUNCED  
20.11.2018

Certified to be true copy

KHAWAR  
Service Tribunal,  
Peshawar

ATTACHED

Date of Purchase 03-12-18  
Number of Units 1200  
Original Price 8.00  
Type of \_\_\_\_\_ 2.00  
Total \_\_\_\_\_ 10.00  
Name of \_\_\_\_\_  
Date of \_\_\_\_\_ 03-12-18  
\_\_\_\_\_ 03-12-18

بعدالت

سرورسٹریٹسول لیسٹاور

سرورسول شاہ  
سرورسول شکیام  
فلمہ (ہیلم)

مورخہ

مقدمہ

دعویٰ

جرم

### باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی و کل کاروائی متعلقہ  
آن مقام لیسٹاور کیلئے ہنرمیں خان اور اسد محمد اور دیگر  
مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز  
وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ پر حلف دیئے جواب دہی اور اقبال دعویٰ اور  
بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ عرضی دعویٰ اور درخواست ہر قسم کی تصدیق  
زر میں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی  
اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا۔ از بصورت ضرورت  
مقدمہ مذکور کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے  
تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے  
اور اس کا ساختہ پر داختمنظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے  
سبب سے وہ ہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں  
گے۔ کہ پیروی مذکور کریں۔ لہذا کالت نامہ لکھ دیا کہ سند ہے۔

Accepted  
& Attested  
[Signature]

20

ماہ

المرقوم

العبد العبد

کے لئے منظور ہے۔

SRO

مقام

## **ENQUIRY REPORT OF MR SAID RASOOL SHAH EX- PST**

### **INTRODUCTION:**

District Education Officer Mohmand vide Endst No. 61 dated 08-01-2019 assigned an impartial enquiry to the principal of GHS Haji Yar Jan Mr Israj Ali and Principal of GHSS Ghalanai Mr. Momin khan in remova /termination case of Mr Said Rasool Shah Ex-PST GPS Yousaf Khel Kamali Tehsil Halimzai Tribal Distt Mohmand to dig out factual position.

### **BRIEF HISTORY**

- 1- A letter for Explanation was issued to the accused employee No.417 dated 05-04-2011.
- 2- another show cause was then issued to him letter No. 428 dated 07-05-2011
- 3- Final show cause notice was issued to him letter No.475 dated 16-05-2011.
- 4- And finally the accused employee had been removed/terminated vide letter No.520 - 23 and dated 26-05-2011

### **FINDINGS**


- 1- The enquiry committee visited GPS Kamali Yousaf khel and checked thoroughly the attendance register of the school from April 2005 to Dec 2011 .it is found that attendance register possesses his signatures from April 2005 to2011
- 2- The head teacher and the class-IV of the school presented their statement in favor of the teacher as witnesses. (The statements are attached with the report).
- 3- The inquiry committee also found in checking the past record of the case that no inquiry had ever been conducted before the termination order.
- 4- The inquiry committee also found that the accused employee had visited Afghanistan two times i.e. 14-04-2007 to 09-05 2007 (25 days) and 20-06-2008 to 17-07-2008 (27 days). It is pertinent to mention here that his signatures are present in the attendance register of the school even in the days when he was out of country (Pakistan).


### **CONCLUSION:**

After probing various documents and enquiring various sources and aspect of the case committee has reached on the conclusion that the termination/removal of Mr.Said Rasool Shah EX.-PST on the basis of impersonation was absolutely right because he has been abroad for two times from (14-04-2007 to 09-05-2007 and from 20-06-2008 to 17-07-2008) as evident from his passport (copy annexed ).

The committee has concluded that how a person who has abroad can perform duty here in Pakistan. So the honorable court may decide the case under the provided and prevailing proofs, keeping in view the legalities of the case and service roles.

### **ENQUIRY COMMITTEE**

1. MR.Israj Ali   
Principal GHS Haji Yar Jan  
District Mohmand

2. Mr. Momin Khan   
Principal GHSS Ghalanai  
District Mohmand

۷۱۶

حلندی بیان

سن سٹیٹس گل خان د پست (P.S.) اقرار نامہ لکھو۔

کہ سپڈ رسول شاہ د پست (P.S.) بیمار سہا قہ یکم ستمبر ۲۰۰۵ء

ادریلے ۱۹۹۲ء ونگد گورنمنٹ ہیر ایڈورٹس اسکول یوسف فضل عالی لہندہ ایس پی اینا

دو فونٹی ایڈیٹری سے سہرا ایف ام د رہا تھا۔

بہتر سہرا کس فور سہرتاج خان کس بائے کا گواہ ہے۔

Amelka PST

17101-1943470-3

صاحب گل خان سہرا قہ کارڈنگ

19/9/2005

Head Office  
GPS Yousaf Khel  
Mahmand Agency

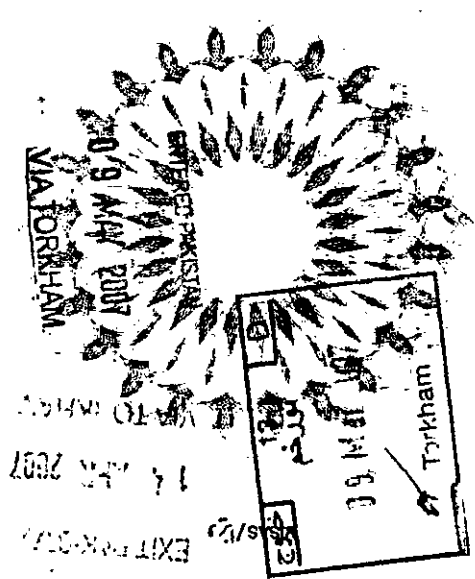
21406-2403685-7

سہرتاج خان سہرا قہ کارڈنگ



سہرتاج خان  
کارڈنگ





**ويزه**  
**افغانستان**  
**AFGHANISTAN**

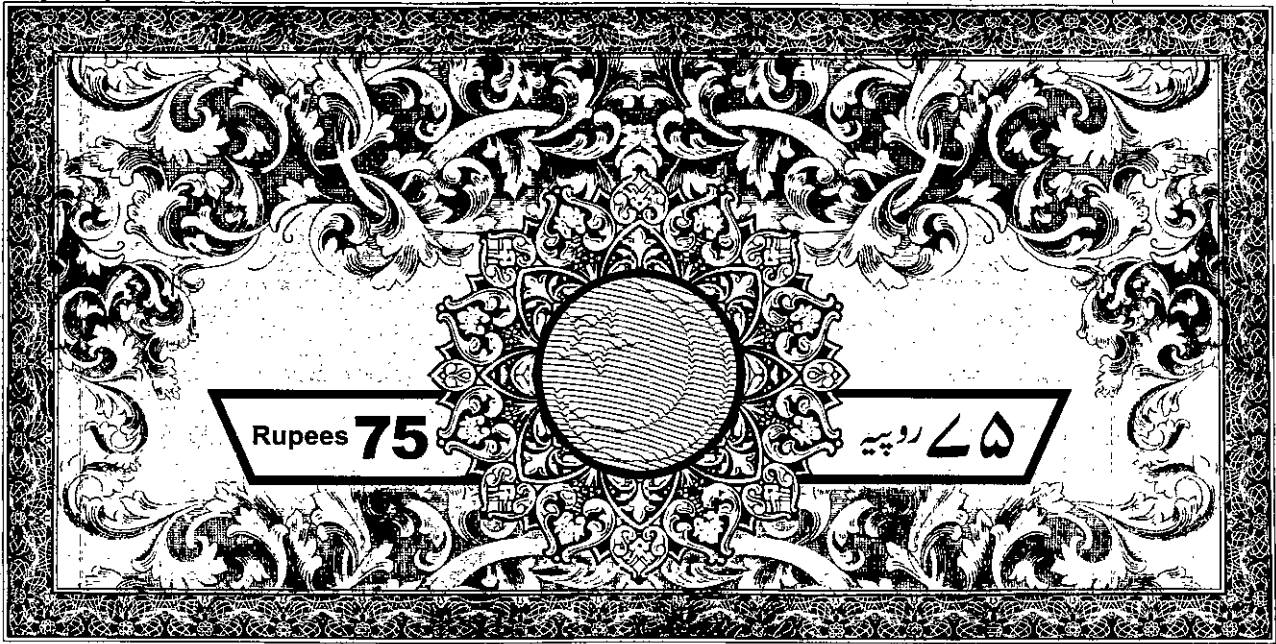
AA482782

Date of Issue / تاريخ صدور: 12-4-07  
 Valid From / اعتبار از: 11-5-07  
 Date of Expiry / تاريخ انتهاء: 12-4-07  
 Type of Visa / نوع ويزه: 37  
 Issued at / صادر في: Torkham  
 Issued by / صادر من: Sazid Razaqul SHAH  
 Place of Issue / مكان تولد: Torkham  
 Date of Birth / تاريخ تولد: 2-11-67  
 Name / اسم: Cheran Shah  
 Passport No / رقم جواز السفر: ER 5162651-1  
 Issued by / صادر من: [Signature]

A Torkham







بیان حلفی / بسم اللہ الرحمن الرحیم

میں نے سید رسول شاہ علی قوامی کے ساتھ ساتھ علی سائین حال شیخ آباد۔ پتہ انڈیا منگل احمد آباد۔  
رہنے کے لیے فیصلہ کیا ہے۔ میں نے سائین سے من سائین کے بیان پر اور ان کے  
کہے ہوئے پر۔ یہ کہ میں سائین کے لیے سال ۲۰۱۱ سے حال سال ۲۰۱۲ تک سائین کے  
دیگر حکام نہیں کیا ہے۔ اگر بیان حلفی غلط ثابت ہوئی تو پورا جواز من سائین  
کے خلاف قانونی کارروائی میں لایا جائے۔ بیان حلفی صرف بہ صرف درستی  
اور حقیقت پر مبنی ہے۔ کوئی دوسرا شخص نہیں کہہ سکتا ہے۔ بیان حلفی سزا  
پر مبنی ہے تاکہ سزا سے لے کر موت وغیرہ قانونی کارروائی میں لایا جائے۔  
بیان حلفی کے ساتھ ساتھ شناختی کارڈ فوٹو لگا ہے۔

۲۰-۰۲-۲۰۱۲ ۱۷۱۰۱-۰۳۰۰۲۶۵-۲

ATTESTED

BABAR KHAN  
District Session Courts Charsadda  
R No. \_\_\_\_\_  
Date 20-02-2012

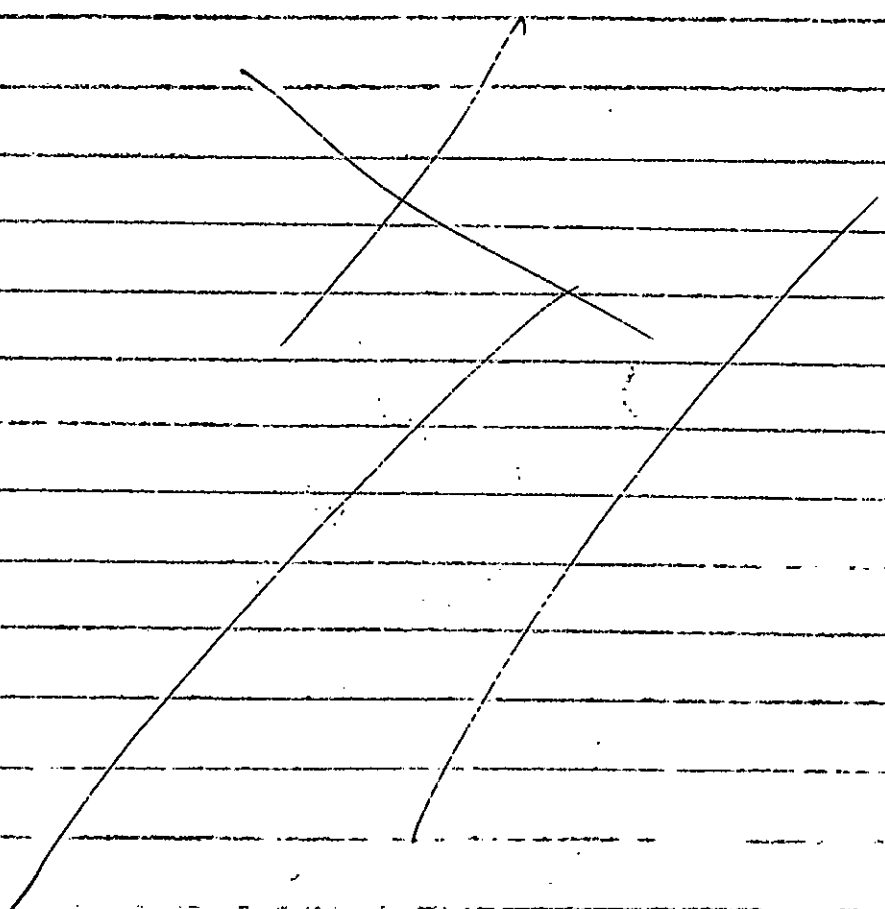
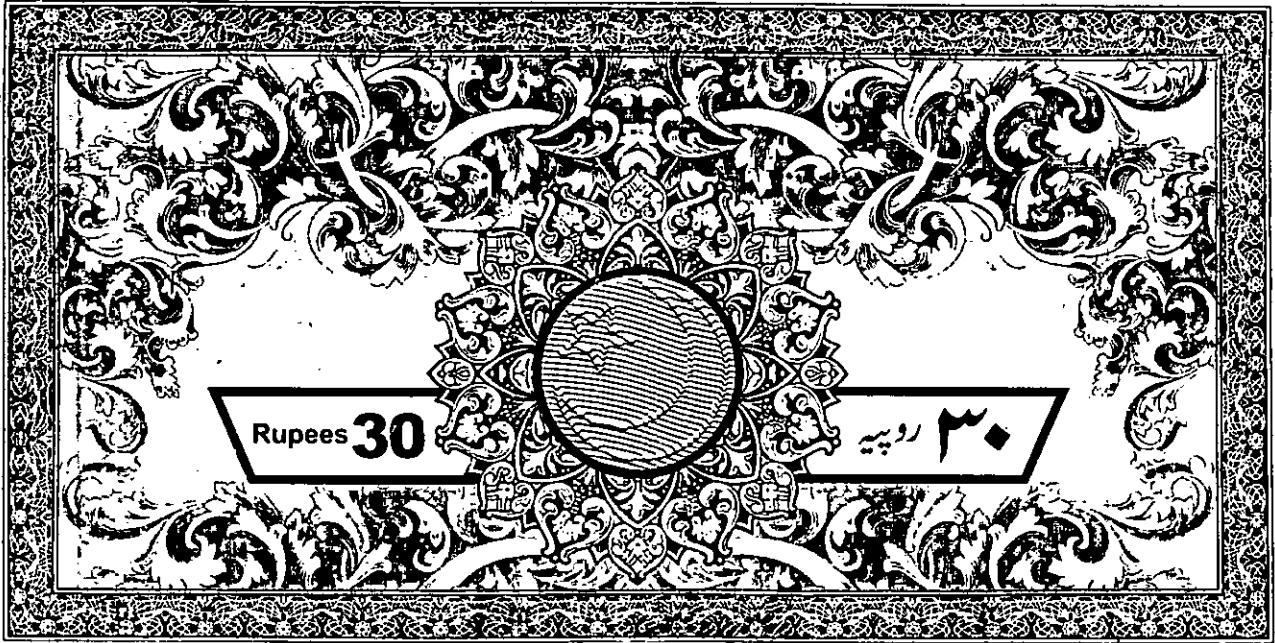
السید رسول شاہ علی قوامی  
0333-9284859

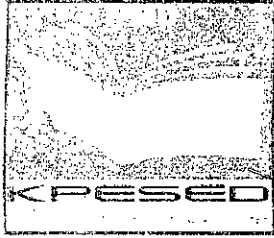


ATTESTED

Sahar Zohra  
District Session Courts Charsadda  
R.No. \_\_\_\_\_  
Cath. Commissioner  
Date 20-02-2012  
Asstt. Clerk Nadir Khan

N153950





OFFICE OF THE DISTRICT EDUCATION OFFICER  
MOHMAND TRIBAL DISTRICT AT GHALLANAI  
PHONE NO: 0924-290180 FAX NO: 0924-290180

( ESTABLISHMENT-I )

RE-INSTATEMENT ORDER:-

In compliance with the Judgment of Service Tribunal Khyber Pakhtunkhwa Peshawar Appeal No. 867/2015 dated 20-11-2018, the service of the following Teacher is re-instated for the purpose of inquiry till further order. The subject teacher will not claim any financial benefits during the re-instatement period.

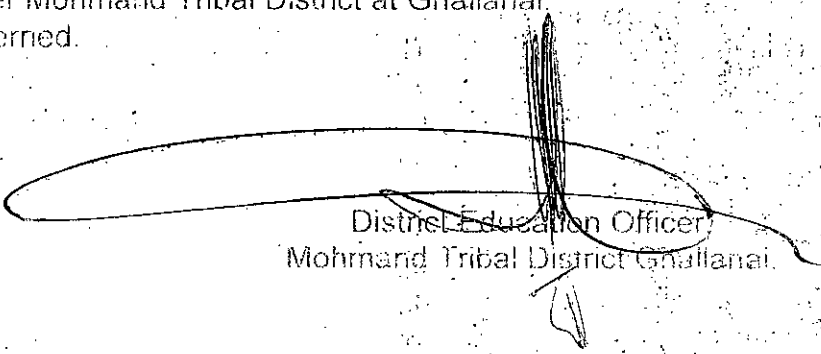
S.No.	Name/ Father's Name with Design:	Adjusted at	Remarks
01	Mr.Said Rasool Shah PTC	GPS Yousaf Khel, District Mohmand	Against a Vacant Post.

( MR. JADDI KHAN KHALIL )  
District Education Officer  
Mohmand Tribal District Ghallanai

Enjst.No. 2768-71 /dated 11/09/2019

Copy forwarded for information to the:-

- 1) Director of Education NMD KPK Peshawar.
- 2) District Account's Officer Mohmand Tribal District at Ghallanai.
- 3) ADEO (M) Circle Concerned.
- 4) EMIS Concerned.

  
District Education Officer  
Mohmand Tribal District Ghallanai

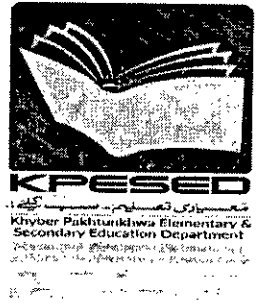


OFFICE OF THE DISTRICT EDUCATION OFFICER  
MOHMAND TRIBAL DISTRICT

Ph. No. : 0924-290180

FAX : 0924-290180

Email : - deomohmand@gmail.com



## RE-INSTATEMENT ORDER

In compliance of the Judgment in Service Appeal No.867/2015 Dated 20/11/2018, under Title Said Rasool Shah VS District Education Officer Mohmand & Others, the services of the following teacher is hereby re-instated with all benefits as provided under the rules/Policy of the Government.

S.No	Name & Desig:	Adjusted at	Remarks
1	Said Rasool Shah PTC	GPS Yousaf Khel District Mohmand	Against Vacant Post

### TERMS & CONDITIONS

1. NO TA/DA etc. is allowed.
2. Charge reports should be submitted to all concerned in duplicate.


(JADDI KHAN KHALIL)  
District Education Officer  
Mohmand Tribal District

Endst.No. 5484 /

dated. 26 / 10 / 2019

Copy to the:-

1. Director of Education Elementary & Secondary Khyber Pakhtunkhwa Peshawar.
2. Director of Education NMD Secretariat Peshawar.
3. District Account Officer Mohmand Tribal District.
4. ADEO concerned.
5. Teachers Concerned.
6. Office record.

  
District Education Officer  
Mohmand Tribal District