

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 758/2020

Date of Institution ... 31.01.2020

Date of Decision ... 20.01.2022

Din Muhammad S/o Khair Muhammad Now Beheshti, Government Middle School
Multan Manjiwala, Lakki Marwat. Ex-Workshop Attendant, Lakki Marwat.

... (Appellant)

VERSUS

District Education Officer, Elementary & Secondary Education, Lakki Marwat, and
others. ... (Respondents)

Arbab Saiful Kamal,
Advocate

... For Appellant

Muhammad Adeel Butt,
Additional Advocate General

... For respondents

AHMAD SULTAN TAREEN
ATIQU-UR-REHMAN WAZIR

...
...

CHAIRMAN
MEMBER (EXECUTIVE)

JUDGMENT

ATIQU-UR-REHMAN WAZIR MEMBER (E):-

Brief facts of the

case are that the appellant as appointed as Workshop Attendant BPS-1 at GHS
Lakki vides order dated 01-06-1998. After serving for 12 years, the appellant was
transferred to GHS Sarai Naurang as Water Career vide order dated 28-04-2009
and was again transferred to GMS Manjiwala as Naib Qasid in 2010. That
appellant was terminated vide order dated 20-09-2012 on the charges of
absence. The appellant filed departmental appeal before the then DCO, which
was accepted vide order dated 31-12-2012 and the appellant was re-instated
from the date of termination with all back benefits. The respondents were not
implementing such order, hence the appellant filed service appeal before this
tribunal and this Tribunal referred the case for decision on case through a

speaking order. The respondents re-instated the appellant vide order dated 12-03-2018 and was posted against the vacant post of water career in GMS Manjiwala and the intervening period was treated as without pay. The appellant filed implementation application on 31-01-2019, which was decided on 08-10-2019. The appellant filed departmental appeal dated 09-10-2019, which was not responded, hence the instant service appeal with prayers that the impugned order dated 12-03-2018 be set aside to the extent of clauses b and c and the appellant be paid all consequential benefits of service since his date of termination dated 20-09-2012 and onward.

02. Learned counsel for the appellant has contended that the authority is not empowered to change the nomenclature of appellant from one post to another, as he was basically appointed as workshop attendant; that appeal of the appellant was accepted by DCO and was re-instated with all back benefits, but the order dated 31-12-2012 was not acted upon by the respondents for ulterior motives and there is no legal hindrance in his way; that even the judgment dated 13-02-2018 was not implemented in letter and spirit and by quoting order dated 12-03-2018 clause b that appellant has not performed his duty during the intervening period was not fault of the appellant but was of the respondents, so lapses on part of the respondents cannot be attributed to him as in order dated 31-12-2012 appellant was re-instated with all back benefits; that the appellant agitated the issue since his termination from service with effect from 29-09-2012 till dated but respondents turned deaf ear; that the appellant is entitled to all consequential benefits of service since the date of termination.

03. Learned counsel for the respondents has contended that the appellant was not performing his duty regularly, proper opportunity was given to him in shape of his transfer from one station to another but he did not take his duty seriously; that proper inquiry to this effect was conducted and the appellant was served with charge sheet/statement of allegations was served upon him,

subsequently show cause notice was served upon him; that the inquiry officer declared the appellant guilty of misconduct and after fulfilling all the codal formalities, the appellant was terminated from service vide order dated 20-09-2012; that in pursuance of judgment of this tribunal, the appellant was re-instated in service vide order dated 12-03-2018 and the period he remained out of service was treated as without pay.

04. We have heard learned counsel for the parties and have perused the record.

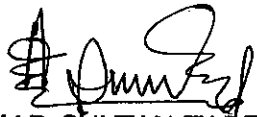
05. Record reveals that the appellant was proceeded against on the charges of absence from duty and was ultimately terminated from service vide order dated 20-09-2012. The appellant was again re-instated into service vide order dated 31-12-2012 by the appellate authority with all back benefits, but the respondents did not adjust him, hence the appellant filed application dated 20-02-2013 for his adjustment and payment of back benefits, which was not responded, hence the appellant filed Service Appeal No. 693/2014, which was decided vide judgment dated 13-02-2018 and his case was remanded to respondents for deciding his appeal dated 20-02-2013 through a speaking order within 60 days. the respondents vide order dated 12-03-2018 issued fresh re-instatement order and the appellant was adjusted against his original post and the period he remained without day was treated as leave without pay.

06. We have observed that the appellant was re-instated in service with all back benefits by the appellate authority vide order dated 31-12-2012, but the respondents did not adjust him well in time and subjected the appellant to submit appeal and later on filed service appeal and it took considerable time in his re-adjustment. The appellant was kept out of service for no fault of him, rather the respondents delayed his adjustment under lame excuses and finally was adjusted vide order dated 12-03-2018 but his intervening period was treated as without pay. It was not the appellant but the respondents delayed his adjustment inspite

of the fact that the appellant was re-instated by the appellate authority with all back benefits; hence, the respondents did not obey the lawful orders of the appellate authority, which however was not warranted.

07. In view of the foregoing discussion, the instant appeal is accepted as prayed for. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED
20.01.2022



(AHMAD SULTAN TAREEN)
CHAIRMAN



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

ORDER

20.01.2022


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

Vide our detailed judgment of today, separately placed on file, the instant appeal is accepted as prayed for. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED

20.01.2022


(AHMAD SULTAN TAREEN)
CHAIRMAN



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

758/2020

13.01.2022

Arbab Saiful Kamal, Advocate for appellant and Mr. Muhammad Adeel Butt, Addl. AG for the respondents present.

Arguments heard. To come up for order on 20.01.2022 before the D.B.


(Atiq-Ur-Rehman Wazir)
Member (E)



Chairman

10.02.2021

Counsel for appellant present.

Kabir Ullah Khattak learned Additional Advocate General alongwith Kashif Munir Librarian for respondent No.1, Hayat Khan Assistant Director for respondent No.2 and Abdul Shakoor Assistant Accounts Officer for respondent No.4 present.

Written reply submitted on behalf of respondent No.1. Representatives of respondents No.2 & 4 stated that respondents No.2 & 4 rely on reply of respondent No.1. To come up for rejoinder, if any, and arguments on 24.05.2021 before D.B.


(Rozina Rehman)
Member (J)

24.05.2021

Due to demise of the Worthy Chairman, the Tribunal is non-functional, therefore, case is adjourned to 02.09.2021 for the same as before.


Reader

02.09.2021

Due to summer vacations, the case is adjourned to 12.01.2022 for the same as before.


READER

07.09.2020

Junior to counsel for the appellant and Addl. AG for the respondents present.

Learned AAG seeks further time to furnish reply/comments of the respondents. Adjourned to 29.10.2020 on which date the requisite reply/comments shall positively be furnished.


Chairman

30.10.2020

Appellant present in person.

Mr. Kabir Ullah Khattak learned Additional Advocate General alongwith Kashif Munir Librarian for respondents present.

Written reply was not submitted. Representative of respondents seeks time to furnish reply/comments. Opportunity is granted. To come up for written reply/comments on 24.12.2020 before S.B.


(Rozina Rehman)
Member (J)

24.12.2020 Counsel for the appellant and Asstt. AG alongwith Umar Sharif, Litigation Officer for the respondents of bewolte of respondents present. Representative of respondents seeks further time to furnish the requisite reply/comments. Last opportunity is granted to the respondents for submission of reply/comments on 10.02.2021.

MAJID JAMAL CHAIRMAN
MEMBER


Chairman

10.03.2020

Learned counsel for the appellant present. Preliminary arguments heard.

Learned counsel for the appellant contended inter-alia that upon his reinstatement vide order dated 12.03.2018 the appellant was also entitled to benefits of the out of service period but the same were not granted in the order dated 12.03.2018 rather the intervening period was converted into leave without pay.

Submissions made by the learned counsel for the appellant, need consideration. The present service appeal is admitted for regular hearing subject to all just legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter notices be issued to the respondents for written reply/comments. To come up for written reply/comments on 23.04.2020 before S.B.

23.04.2020

Due to COVID19, the case is adjourned to 20.07.2020 for the same as before.

Member

Reader

20.07.2020

Mr. Saadullah Khan Marwat, Advocate for appellant is present and submitted an application for extension of time for submitting court fees.

Application is accepted. The appellant is allowed to deposit the security and process fee within three working days from today. After the requisite deposit notices be issued to the respondents for submission of reply/comments on 07.09.2020 before S.B.

App. Deposited
Security & Process Fee

23/7/20



(MUHAMMAD JAMAL KHAN)
MEMBER

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 758 /2020

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	31/01/2020	<p>The appeal of Mr. Din Muhammad presented today by Mr. Saadullah Khan Marwat Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please. decrease</p> <p style="text-align: right;"> REGISTRAR 31/01/2020</p> <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>10/03/2020</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
2-		

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BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

S.A No. 758/2020

Din Muhammad

versus

D.E.O & Others


INDEX

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Dated: 27-01-2020

Through

Appellant



Saadullah Khan Marwat
Advocate.
21-A Nasir Mansion,
Shoba Bazaar, Peshawar
Ph: 0300-5872676
0311-9266609

BEFORE KPK, SERVICE TRIBUNAL, PESHAWAR

S.A No. 758/2020

Din Muhammad S/O Khair Muhammad
Now Beheshti, Government Middle
School Multan Manjiwala, Lakki Marwat.
Ex-Workshop Attendant,
Lakki Marwat. Appellant

Khyber Pakhtunkhwa
Service Tribunal

Case No. 922

Dated 31-01-2020

Versus

1. District Education Officer, Elementary & Secondary Education, Lakki Marwat.
2. Director of Education, Directorate of Elementary & Secondary Education, KP, Peshawar.
3. Secretary, Government of KP, Elementary & Secondary Education Department, Peshawar.
4. District Accounts Officer,
Lakki Marwat Respondents

⇔<=>⇔<=>⇔<=>⇔<=>⇔

APPEAL U/S 4 OF SERVICE TRIBUNAL ACT, 1974
AGAINST OFFICE ORDER NO. 2313-18, DATED
12-03-2018 HANDED OVER ON 08-10-2019 TO
APPELLANT IN THE HONOURABLE TRIBUNAL
WHEREBY INTERVENING PERIOD BETWEEN THE
TWO QUALIFYING SERVICES WAS CONVERTED
INTO LEAVE WITHOUT PAY FOR NO LEGAL
REASO:.

⇔<=>⇔<=>⇔<=>⇔<=>⇔

Filed to-day
Registrar
31/01/2020

Respectfully Sheweth;

1. That appellant was appointed as Workshop Attendant B-01 at Government High School No. 01, Lakki City on 01-06-1998. That after serving for 12 years, at the said post and place, appellant was transferred not only from the present place but also from the post to Government Higher Secondary School Serai Naurang as Water Carrier on 28-04-2009 and from GHSS Serai Naurang to GMS Multan Manjiwala as Naib Qasid in the year 2010.
2. That on 20-09-2012, without any reason and justification appellant was terminated from service. He then filed departmental appeal before the then DCO which was accepted on 31-12-2012 and reinstated him in service from the date of termination with all back benefits. (Copies as Annex "A" & "B")
3. That respondents were not implementing order dated 31-12-2012, so appellant filed appeal before this hon'ble Tribunal on 08-05-2014 to direct them to implement order dated 31-12-2012. (Copy as Annex "C")
4. That the said appeal came up for hearing on 13-02-2018 which was decided that the matter be referred to R. No. 01 for deciding the application dated 20-02-2013 through a speaking order within a period of 60 days from the date of receipt of this judgment, failing which appellant shall be deemed to have been reinstated in service from the date of reinstatement with all back benefits. (Copy as Annex "D")
5. That the said judgment was remitted to R. No. 01 for compliance and in pursuance of the same he passed order on 12-03-2018 stating therein:-
 - a. The appellant is hereby reinstated and further posted against the vacant post of Water Carrier Class-IV in Government Middle School Multan Manjewala.
 - b. He has not performed his duty during intervening period, hence the period is converted leave without pay, and

c. Necessary entries to this effect is made in his Service Book.
(Copy as Annex "E").

6. That the department was not implementing the judgment of the hon'ble Tribunal, so on 31-01-2019, implementation application was filed before the hon'ble Tribunal which was decided on 08-10-2019 as per order sheet.

Learned Counsel request for consigning the instant proceedings to record in view of officer order dated 12-03-2018 but with the reservation of right of petitioner to seek remedy against conversation of the intervening period as leave without pay, in accordance with law. (Copy as Annex "F" & "G")

7. That on 09-10-2019, appellant submitted departmental appeal before R. No. 02 with met dead response till date. (Copy as Annex "H")

Hence this appeal, inter alia, on the following grounds:-

GROUND S:

- a. That the authority was not in power to change the nomenclature of appellant from one post to another. He was basically appointed as Workshop Attendant.
- b. That appellant preferred appeal against order dated 20-09-2012, terminating him from service which was accepted by the then DCO on 31-12-2012 with direction to respondents to reinstate him in service from the date of termination with all back benefits.
- c. That appellant was made escape-goat for no legal reason and order dated 31-12-2012 was not acted upon by the respondents for ulterior motive as there was no legal hindrance in his way.
- d. That even then judgment dated 13-02-2018 was also not implemented in letter and spirit and by coating in order dated 12-03-2018 clause "b" that appellant has not performed his duties during intervening period was not the fault of appellant was of the respondents, so lapses on the part of respondents cannot be

attributed to him as in order dated 31-12-2012 appellant was reinstated in service with full back benefits.

- e. That appellant agitated the matter since the date of termination from service i.e. 20-09-2012 till date but respondents turned deaf and he was put to loose of salaries.
- f. That appellant is entitled to all consequential benefits of service since the date of termination.
- g. That the act of the respondents is quite based on malafide.

It is, therefore, most humbly prayed that on acceptance of the appeal order dated 12-03-2018 to the extent of clause "b" and "c" be set aside and appellant be paid all consequential benefits of service since date of termination 20-09-2012 and onward too.

Appellant

Through

Saadullah Khan Marwat

Arbab Saif-ul-Kamal

Amjad Khan
Advocates.

Dated 27-01-2020

A 5

25

A 5

14

ANNEXURE D

20-9-12

OFFICE OF THE EXECUTIVE DISTRICT OFFICER (E&S) EDUCATION LAKKI MARWAT

OFFICE ORDER:-

Consequent upon the refusal to obey the order of the immediate Officer, regarding performance official duty, by giving show cause notice and statement of allegation through enquiry officer, as well as in the light of finding/report of enquiry officer, the services of Mr. Din Muhammad Behishti (Class IV) Govt. Middle School Multan Manjiwla (Lakki Marwat) are hereby terminated with immediate effect

NOTE:-

Necessary entry to this effect should be made in his S/Book

Executive District Officer
(E&S) Education Lakki Marwat

7422-26

Endst :No. _____ / Dated lakki Marwat the 20.9.2012

Copy for information to

- 01- The District Coordination Officer Lakki Marwat
- 02- The District Officer (M) Local Office
- 03- The District Accounts Officer Lakki Marwat
- ✓ 04- Head Master, GMS, Multan Manjiwla Lakki Marwat
- 05- Official Concerned.

Atty

[Signature]
Executive District Officer
(E&S) Education Lakki Marwat.

[Signature]

B 6

31-12-12

OFFICE OF THE DISTRICT COORDINATION OFFICER, LAKKI MARWAT

No. 1324-25 /DCO/Lakki/PS/Office Order

Dated: 31/12/2012.

OFFICE ORDER

Mr. Din Muhammad Workshop Attendant BPS-01 of Education Department was terminated from services as Water Career vide order No.7422-26 dated 20.09.2012 by Executive District Officer Elementary & Secondary Education Lakki Marwat. He submitted departmental appeal to the undersigned for re-insitatement in service.

The Executive District Officer E&S Education Lakki Marwat and appellant were heard and examined in detail.

After going through the record and statements of both the parties, the appeal is accepted and the appellant is hereby re-instated in service with effect from the date of termination with full back benefits.

District Coordination Officer
Lakki Marwat

Even No. & Date:

Copy forwarded to:

1. The Executive District Officer E&SE Lakki Marwat with the direction to adjust the official concerned on his original post at GCMHS No.1 Lakki Marwat
2. The District Accounts Officer Lakki Marwat
3. Official concerned for compliance

District Coordination Officer
Lakki Marwat

Attest


BEFORE THE KHYBER PAKHTUNKHWA,
SERVICE TRIBUNAL, PESHAWAR

Appeal No _____

Din Muhammad S/O Khair Muhammad Workshop Attendant, R/O Mina
Khel, District & Tehsil Lakki Marwat..... (Appellant)

Versus

1. Secretary Education Khyber Pakhtunkhwa, Peshawar.
2. Director Education (E&S) Khyber Pakhtunkhwa, Peshawar.
3. EDO/DEO (E&S) Education, District Lakki Marwat. *Nazki*
4. DCO/DC, District Lakki Marwat.
5. District Account Officer, District Lakki Marwat. (Respondents)

APPEAL UNDER SECTION 4 OF NWFP SERVICE TRIBUNAL
ACT 1974 FOR THE IMPLEMENTATION OF OFFICE ORDER NO.
PS/DCO LAKKI/1324-25 DATED: 31-12-2012.

PRAYER:-

On acceptance of the appeal in hand, to comply/implement the office order no. 1324-25 dated: 31-12-2012 as related to the reinstatement of the petitioner / appellant at his original post as workshop attendant at Govt. Centennial Model High School No. 1 Lakki city District Lakki Marawat with effect from the date of termination dated: 20-09-2012 along with full back benefits. Also the salary / monthly pay along with back salaries of the appellant from 31-12-2012 up to date and month-wise salary in future to be released.

Shahid

Respectfully Sheweth:-

1. That, the petitioner / appellant is a permanent resident of Lakki city District Lakki Marwat. He was appointed as a workshop attendant BPS-1 at G.H.S.No.1 Lakki city in District Lakki Marwat on 01-06-1998. Copies are enclosed as annexure A:

*Doneed in written statement
So could be considered
final order as stated*

2. That, the petitioner / appellant served about 12 year spotless service at the mentioned post and place. The petitioner / appellant was then illegally transferred not only from the parent place but also from the

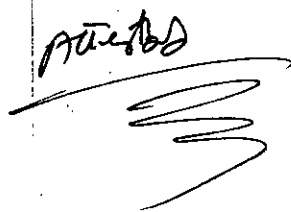
Patel

post to G.H.S.S Sarai Nawrang district Lakki Marwat as water carrier on 28-04-2009 and from Serai Nawrang to Multan Mangiwala district Lakki Marwat as Naib Qasid in 2010, respectively. The discriminative and unlawful acts of respondent No.3 continued against the petitioner / appellant and then by the office order No.7422-26 dated 20-09-2012 terminated, without legal justification and just cause, the service of the petitioner. Copies are enclosed as annexure B, C, D;

3. That, the petitioner / appellant then filed the departmental appeal before the concerned appellant authority respondent No.4 within due course against the order No.7422-26. The respondent No.4 heard and decided the appeal on merit by making order No.1324-25 dated 31-12-2012, according to which the appeal is accepted as per prayed. Copies are enclosed as annexure E, F;

4. That, the petitioner / appellant afterward made an application to the respondent No. 4 for the implementation of the order No.1324-25, but all in vain. Therefore, the petitioner / appellant filed a civil suit of Injunction No.75/1 against the respondents in the court of Civil Judge No. 2 District Lakki Marwat in this regard on 12-03-2013. But learnt civil judge return the plaint by making order no. 13 dated 06-09-2013. The petitioner / appellant file civil appeal no. 26/13 against the order No. 13 to the District Judge District Lakki Marwat on 28-09-2013, but the same was dismissed in limine on 24-01-2014. Copies are enclosed as annexure G, H, I;

5. That, the petitioner / appellant then made an application to the respondent No. 1 for the compliance and implementation of order No. 1324-25. In this regard, a letter No. 1-21 dated: 24-02-2014 was issued to respondent No. 3 for the compliance report, but the same was not concluded yet. Thereafter, the petitioner / appellant again made an application to the respondent No. 4 in regard of order No. 1324-25 and respondent No. 4 formally issued letter No. 328 dated: 09-04-2014 to the respondent No. 3 for the implementation and compliance of the order No.1324-25, but all such are fruitless. Copies are enclosed as annexure J, K;




6. That, from the above mentioned facts and figures, it is very much cleared now that the petitioner / appellant has left no other remedy except to invoke the jurisdiction of this forum through the instant appeal under the following grounds:

Grounds:-

- A. That, delaying tactics in order to avoiding the implementation and compliance of the order No. 1324-25 on the part of Respondents is against Law and Equity.
- B. That, the relief was sought in regard of order No. 1324-25 through the civil court but the same was returned and directed to invoke the jurisdiction of this honorable court, so the instant appeal is also competent in this context under the principles of Law and Equity.
- C. That, the petitioner / appellant knocked at the doors of respondents several times but neither negating nor implementing the concerned order with real spirit which made the petitioner / appellant still aggrieved, so it is malafide on the part of Respondents and is against Law and Policy.
- D. That, the petitioner / appellant has not been treated in accordance with law and not treated equally before the eye of law. In other words, the petitioner / appellant has been discriminated before Law.
- E. That, the counsel for petitioner / appellant also seeks leave of this Honorable Court to argue further Points if rise during the course of arguments.

It is therefore, most humbly prayed that the appeal be accepted as prayed for.

Dated: 08-05-2014

[Handwritten Signature]

Petitioner / Appellant

[Handwritten Signatures]

Din Muhammad
Through Counsel
Mohammad Tariq Qureshi,
Shakir Ullah Khan
Advocates High Court
Lakki Marwat

D
10

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Appeal No.693/2014

Date of Institution 14.05.2014

Date of Decision ... 13.02.2018



Din Muhammad son of Khair Muhammad Workshop Attendant R/O Mina Khel,
District & Tehsil Lakki Marwat. ... (Appellant)

VERSUS

1. Secretary Education Khyber Pakhtunkhwa Peshawar and 4 others.
...(Respondents)

ARBAB SAIFUL KAMAL,
Advocate

... For appellant

MR. KABIRULLAH KHATTAK,
Addl. Advocate General

... For respondents.

MR. NIAZ MUHAMMAD KHAN,
MR. GUL ZEB KHAN,

CHAIRMAN
MEMBER

ATTESTED

CHAIRMAN
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

JUDGMENT

NIAZ MUIHAMMAD KHAN, CHAIRMAN.- Arguments of the learned
counsel for the parties heard and record perused.

FACTS

2. The appellant was terminated from service on 20.09.2012 and on appeal he was reinstated on 31.12.2012 but till now he has not been adjusted against any post nor any salary is paid to him. The appellant then filed an application before the DEO (Male) Lakki Marwat on 20.02.2013 for adjustment and payment of back

Arrest

benefits but that application was not responded to and thereafter he filed the present service appeal on 14.5.2014.

ARGUMENTS.

3. The learned counsel for the appellant argued that though on departmental appeal the appellant was reinstated but non-implementation of the said order by DEO (respondent No. 3) would give the appellant a new cause of action and the appellant became aggrieved due to non-implementation of the order of the appellate authority. That he filed an application/representation on 20.2.2013 which was not responded to and thereafter the present service appeal. He further argued that the issue pertained to the terms and conditions of service of the appellant (civil servant) and that this Tribunal has the jurisdiction to adjudicate upon the issue.

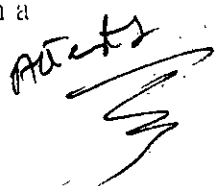
4. On the other hand, the learned Addl. Advocate General argued that the present appeal was not maintainable for the reason that there was no original, or appellate order wherefrom the present appellant was aggrieved. That at the most the appellant could have filed another departmental appeal before the higher authority but could not approach this Tribunal.

CONCLUSION.

5. Admittedly the matter is one of the terms and conditions of the civil servant. Though there is no written order wherefrom the appellant is aggrieved but non-honoring of the order of reinstatement passed by the appellate authority would amount to an order wherefrom the appellant is aggrieved. The appellant then submitted application/representation before the DEO for implementation of the said order but the DEO has not honored the appellate order nor has decided the said application. This Tribunal is, therefore, of the view that the matter may be referred to DEO (Male) Lakki Marat for deciding the application dated 20.02.2013 through a

ATTESTED

CHIEF CLERK
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Attest


speaking order within a period of 60 days from the date of receipt of this judgment, failing which the appellant shall be deemed to have been reinstated in service from the date when he was reinstated by the appellate authority with back benefits. Parties are left to bear their own costs. File be consigned to the record room.

Announced
13-02-2018

Sd/- Niaz Muhammad Khan
Chairman

Sd/- Gulzar Khan,
Number

Certified to be true copy
Khan
Secretary
Peshawar

Date of Receipt of order	26-02-2018
Number of copies	1200
Copying fee	8.00
Urgent	2.00
Total	10.00
Name of Officer	[Signature]
Date of Receipt	26-02-18
Date of Delivery	26-02-18

Attends
[Signature]

E 13

be the case through
be part of
E 13
15/10/18
13
996953829
email:
emislakki@yahoo.com



12-3-18

Office of The
District Education Officer
Male Lakki Marwat

OFFICE ORDER:

THAT, Mr. Din Muhammad was working as Behishti (Class-IV) in GMS Multan Manjiwala.

- 1: **WHEREAS**, after observing all codal formalities his services were terminated vide this office No.7422-26 dated 20/09/2012.
- 2: **WHEREAS**, he submitted an appeal to the next competent authority, i.e. DCO Lakki Marwat and the DCO Lakki Marwat vide Order No.1324-25 dated 31/12/2012 has reinstated his service from the date of his termination with back benefit, but at that time the department did not issue his reinstatement order.
- 3: **WHEREAS**, he has knocked the door of local court and the Honorable Civil Judge-II Lakki Marwat judgment dated 06/09/2013, that the case is not maintainable in court and the application was returned in original.
- 4: **WHEREAS**, he filed service appeal bearing No.693/2014 before the Khyber Pakhtunkhwa Service Tribunal Peshawar.
- 5: **WHEREAS**, the Honorable Service Tribunal Khyber Pakhtunkhwa Peshawar vide judgment dated 13/02/2018 has decided the case which is reproduced as under:

“ this tribunal is, therefore, of the view that the matter may be referred to the District Education Officer (Male) Lakki Marwat for deciding the application dated 20/02/2013, through a speaking order within a period of 60 days from the date of receipt of this judgment failing which the appellant shall be deemed to have been reinstated in service from the date when he was ”

- 6: **WHEREAS**, Diljan Khan Water Career (Behishti) Class-IV GMS Multan Manjiwala has proceeded from retirement w.e.f 10/02/2018 (who has been transferred and adjusted in place of the appellant)

14

14

NOW, THEREFORE, the competent authority is pleased to issue the following orders:

- a. The appellant namely Din Muhammad is hereby reinstated and further posted against the vacant post of water career Class-IV in GMS Multan Manjiwala as per para No.6
- b. He has not performed his duty during intervening period, hence the period is converted leave without pay.
- c. Necessary entries to this effect is made in his service book.

**District Education Officer
(Male) Lakki Marwat**


No: 2313-18 dated 12 / 03 / 2018

Copy to:

1. Registrar Khyber Pakhtunkhwa Service Tribunal Peshawar with reference to his No358/ST dated 16/02/2018
2. Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.
3. Deputy District Education Officer (Male) Lakki Marwat
4. District Accounts Officer Lakki Marwat
5. Headmaster GMS Multan Manjiwala
6. Appellant

**District Education Officer
(Male) Lakki Marwat**

Attests



12/3/18

F 15

31-1-19

BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR

Misc Pett: No. _____ /2019

IN

S.A . No. 693 / 2014


Din Muhammad S/O Khair Muhammad,
Workshop Attendant, R/O Mina Khel,
Lakki Marwat. Applicant

VERSUS

1. Secretary, Government of KP,
Elementary & Secondary Education
Department, Peshawar.
2. Director of Education, Directorate of
Elementary & Secondary Education, KP,
Peshawar.
3. District Education Officer, Elementary &
Secondary Education, Lakki Marwat.
4. DCO / DC, District Lakki Marwat.
5. District Accounts Officer,
Lakki Marwat Respondents

⇔<=>⇔<=>⇔<=>⇔<=>⇔

**APPLICATION FOR DIRECTION TO RESPONDENTS
TO IMPLEMENT THE JUDGMENT DATED 13-02-2018
OF THE HON'BLE TRIBUNAL PASSED IN APPEAL NO
693/2014 AND TO INITIATE CONTEMPT OF COURT
PROCEEDINGS AGAINST THE RESPONDENTS FOR
NOT HONORING THE JUDGMENT OF THE HON'BLE
TRIBUNAL WITHIN THE TARGET PERIOD.**

Attest


⇔<=>⇔<=>⇔<=>⇔<=>⇔

Respectfully Sheweth:

1. That on 14-05-2014, the applicant filed appeal No. 693/2014 before the hon'ble Tribunal for release of monthly salaries withheld since 31-12-2012 till date. (Copy as annex "A")
2. That the said appeal came up for hearing on 13-02-2018 before this hon'ble Tribunal and after thorough probe, judgment was passed, converting the appeal of applicant along with others into departmental appeal's and remitted the same to departmental appellate authority for decision through speaking order after examining the relevant record within a period of 60 days from the date of receipt of the judgment positively. The departmental / appellate authority was further directed to communicate the said order to the appellants and if any party is aggrieved from that order, the said party reserves right to file fresh appeal subject to all just / legal objections. The appeals were disposed off accordingly. (Copy as annex "B")
3. That the said judgment of the hon'ble Tribunal was remitted to the respondents for compliance by applicant as well as by learned Registrar of the hon'ble Tribunal.
4. That the department / respondents honored the said judgment by paying the withheld salaries from the said dates and the other appellants received salaries in lum-sum and the matter was then finalized but the case of the applicant is still pending for the purpose and was not finalized for the reason best known to the respondents.
5. That in the judgment / order dated 13-02-2018, the hon'ble Tribunal directed respondents to decide the matter within period of 60 days but more than 11 months have been elapsed and applicant was not paid the arrears withheld since 31-12-2012 for no legal reason but for ulterior motive.
6. That when similarly and equally cases were finalized by remitting the withheld salaries to the colleagues of applicant, then no reason exists with the respondents to not treat him at par with others.

ATG


7. That when the case of the applicant was not finalized within a period of 60 days, the respondents extinguished her right and there is no alternate now remained with respondents to deny the right of the applicant.
8. That from the aforesaid facts and circumstances of the case, respondents are not implementing the judgment of the hon'ble Tribunal in letter and spirit, so they deserve punishment as well as huge cost.

It is, therefore, most humbly requested that judgment dated 13-02-2018 of the hon'ble Tribunal be finalized and applicant be paid the withheld salaries along with fringed benefits since 31-12-2012 with all consequential benefits.

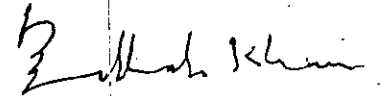
OR

In the alternate Contempt of Court proceedings be initiated and they be punished under the Law.



Applicant

Through



Saadullah Khan Marwat



Amjad Khan
Advocates

Dated: 31-02-2019



G 18



BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR

Execution Petition No. 67/2019

Misc Pett: No. /2019

IN

S.A. No. 693 / 2014

**Khyber Pakhtunkhwa
Service Tribunal**

Diary No. 240

Dated 13-2-2019
Applicant

Din Muhammad S/O Khair Muhammad,
Workshop Attendant, R/O Mina Khel,
Lakki Marwat.

VERSUS

1. Secretary, Government of KP,
Elementary & Secondary Education
Department, Peshawar.
2. Director of Education, Directorate of
Elementary & Secondary Education, KP,
Peshawar.
3. District Education Officer, Elementary &
Secondary Education, Lakki Marwat.
4. DCO / DC, District Lakki Marwat.
5. District Accounts Officer,
Lakki Marwat Respondents

⇄⇄⇄⇄⇄⇄⇄⇄⇄⇄

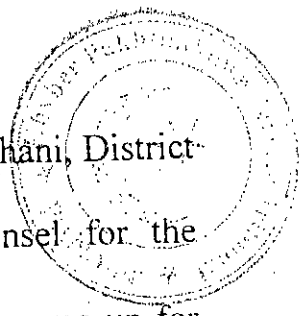
APPLICATION FOR DIRECTION TO RESPONDENTS
TO IMPLEMENT THE JUDGMENT DATED 13-02-2018
OF THE HON'BLE TRIBUNAL PASSED IN APPEAL NO
693/2014 AND TO INITIATE CONTEMPT OF COURT
PROCEEDINGS AGAINST THE RESPONDENTS FOR
NOT HONORING THE JUDGMENT OF THE HON'BLE
TRIBUNAL WITHIN THE TARGET PERIOD.

Certified to be true copy

 Khyber Pakhtunkhwa
 Service Tribunal,
 Peshawar

Atty

⇄⇄⇄⇄⇄⇄⇄⇄⇄⇄



01.08.2019

Counsel for the petitioner and Mr. Usman Ghani, District Attorney for respondents present. Learned counsel for the petitioner seeks adjournment. Adjourned. Case to come up for further proceedings on 11.09.2019 before S.B.

(Signature)
(Ahmad Hassan)
Member

11.09.2019

Counsel for the petitioner and Addl. AG alongwith Akram Khan Marwat, B&AO for the respondents present. Learned counsel requests for adjournment of instant matter in order to seek fresh instructions from the petitioner. Adjourned to 08.10.2019 before S.B.

(Signature)
Chairman

08.10.2019

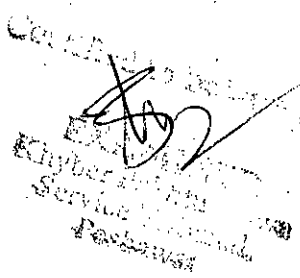
Counsel for the petitioner and Addl. AG alongwith Muhammad Akram Marwat, B&A Officer for the respondents present.

Learned counsel requests for consigning the instant proceedings to record in view of office order dated 12.03.2018 but with the reservation of right of petitioner to seek remedy against conversion of the intervening period as leave without pay, in accordance with law.

Order accordingly.

(Signature)
Chairman

(Signature)



Date of Receipt of Copy of Copy 22/10/2019
 Number of Pages 800
 Copying Fee 10/-
 Urgent 10/-
 Total 10/-
 Name of Copyist [Signature]
 Date of Completion of Copy 22/10/2019
 Date of Delivery of Copy 22/10/2019

بھطور جناب ڈائریکٹر E&SE ایجوکیشن ڈیپارٹمنٹ KPK

عنوان: درخواست دربارہ محکمانہ اپیل برائے تخریبات جاری کرنے کی استدعا

جناب عالی!

سائل حسب ذیل عرض گزار ہے۔

سائل کو مورخہ 20-09-2012 کو نوکری سے برخاست کیا گیا تھا۔ جس کے خلاف سائل محکمانہ اپیل متعلق اتھارٹی کو جمع

کیا تھا لیکن مذکورہ بالا درخواست پر کسی قسم کی کارروائی نہیں کی گئی

لہذا سائل نے خیبر پختونخواہ سروس ٹریڈینگ پبلسٹیٹی اور اپیل نمبر 693/14 دائر کیا تھا جس میں مجاز اتھارٹی کو حکم نامہ جاری کیا

گیا کہ میری درخواست پر باقاعدہ طور پر حکم جاری کر دیا جائے

جناب والا! بروئے حکم نامہ مورخہ 12-03-2018 سائل کے گذشتہ میعاد مورخہ 20/09/2012 سے

12/03/2018 کو بغیر تخریبات کے چھٹی میں تبدیل کر دیا گیا۔

لہذا استدعا ہے کہ سائل کو گذشتہ میعاد مورخہ 20-09-2012 سے 12-03-2018 کے تخریبات جاری کرنے کے

احکامات صادر فرمائے جائیں۔

نوازش ہوگی

مورخہ: 09-10-2019

العید۔

ذیل محمد بشیر شوریٹھ نڈل سکول ملتان پنجاب علی مورث

Attest



پبلک جوائنٹ سروس ٹریڈ یونٹن صوبہ سندھ پشاور

مخاطب ایڈوانس
دین محمد بنام محکمہ تعلیم
دعویٰ اپیل

باعث شکریہ ایٹکہ

مقررہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کارروائی متعلقہ آن مقام پشاور کیسٹیل اسٹیل انڈسٹریز خان سردوٹے ایڈووکیٹ ہائی کورٹ کو وکیل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا مکمل اختیار ہوگا نیز وکیل صاحب کو کرنے راضی نامہ و تقریر ثالثہ وغیرہ بریٹف دینے جواب دہی اور اقبال دعویٰ اور بصورتہ ڈگری کرنے اجراء اور وصولی چیک و روپیہ اور بعضی دعویٰ اور درخواست پر قسم کی تفریق اور اس پر دستخط کرنے کا اختیار ہوگا نیز بصورتہ عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور مستثنیٰ نیز دائر کرنے اپیل نگران و نظارتی و پیروی کرنے کا اختیار ہوگا اور بصورتہ ضرورت مقدمہ منکرہ کے کل یا جزوی کارروائی سے واسطے اور وکیل یا نڈنار قانونی کو اپنے ہمراہ یا اپنی بجائے تفرز کا اختیار ہوگا اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ بالا اختیارات حاصل ہوں گے اور اس کا ساختہ پروا خستہ منٹاور قبول ہوگا و دوران مقدمہ میں جو خرچہ و پر جانہ التواء مقدمہ کے سبب سے ہوگا اس کے مستحق وکیل صاحب موصوف ہوں گے نیز بقایا دفر جبکہ وصولی کرنے کا بھی اختیار ہوگا اگر کوئی تاریخ پیشی مقام روزہ پیر ہو یا حد سے باہر ہو تو وکیل صاحب یا بند نہ ہوں گے کہ پیروی مذکور کریں۔

لہذا وکالت نامہ لکھ دیا کہ سند ہے۔

المرقوم 2020-01-24

القائد القائد القائد
دین محمد
سعد اللہ خان صروت ایڈووکیٹ
ایڈووکیٹ
ایڈووکیٹ
ایڈووکیٹ
ایڈووکیٹ
ایڈووکیٹ

Before the KP Service Tribunal, Peshawar.

Service Appeal NO: 772/2020

Diam Muhammad

vs

Educational Deptt

Application for extension of time
for submitting court fees.

Sir,
With due regard it is stated that the
counsel for the appellant has been ill
since few days, due to which the counsel
for the appellant could not submit court fee.
That kindly due to the above mentioned
reason the date of court fee may kindly
be extended, so that they may submit.

Mr.

Appellant

through

A
Counsel II
Aizab Saif-ul-Kamal

20-7-2020

**BEFORE KHYBER PAKHTUN KHWA SERVICE TRIBUNAL,
PESHAWAR**

**S.A No758/2020
Din Muhammad**


Versus

DEO (Male) Lakki Marwat and others

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3	Enquiry Report	A	6
4	Show Cause	B	7
5	Termination order	C	8
6	Judgment	D	9-11
7	Re-Instatement order	E	12-13
8	Authority Letter		14

Dated: 23 -12-2020


**DISTRICT
EDUCATION OFFICER (M)
LAKKI MARWAT.**
Respondent No. 1

**BEFORE KHYBER PAKHTUN KHWA SERVICE TRIBUNAL,
PESHAWAR**

Din Muhammad

Versus

Secretary E&S Education Department and others

Written Reply on behalf of Respondent No1.

Respectfully Sheweth:

Preliminary Objections:

- A. The appeal is wholly incompetent and untenable.
- B. The appellant has not come to the Hon'ble tribunal with clean hands.
- C. The appeal is filed by the petitioner with malafide intent.
- D. The appeal is suffer from exaggeration and mis-statement.
- E. The appellant has no locus standi and cause of action. Because after re-instatement order the appellant didn't arrived in the stipulated period on his duty and he willfully concealed this fact from this Hon'ble Court.
- F. That the appellant was terminated after adopting all codal formalities and after finding absent from duty for more than 4 times during inquiry / visit to school by inquiry officer.
- G. That the appellant is not entitled to back benefit because he never performed his duty.
- H. The appellant has not come to the Hon'ble Tribunal with clean hands. The appeal also suffers from mis-statement and concealment of facts and as such the appellant is not entitled to any relief. The appellant intentionally and deliberately concealed the fact about his abscondence and according to law and rulings of the worthy Apex courts of Pakistan; the absconder is not entitled to any relief, whatsoever.

REPLY ON FACTS:

1. Para No.1 is replied as that the appellant was not performing his duties regularly. Proper opportunity was given to the appellant in shape of transfer from various schools but the appellant didn't take his duty seriously.
2. Para No.2 is incorrect. The appellant rude behavior and lack of interest in his duty was reported to the department by the head of the schools. As mentioned above, firstly he was transferred from various schools but when it came to the knowledge of the department that the appellant is regularly absent from his duty, the then EDO nominated enquiry officer Amir Nawaz, who declared the appellant guilty of misconduct. Proper show cause and charge sheet was served upon appellant and after fulfillment of all codal formalities the appellant was terminated from service under KP efficiency and disciplinary rules 2011 through officer order No. 7422-26 dated: 20-09-2012. The competent authority is only bound to obey the orders issued by the high-up's of E&SE Department. It is worth mentioned that in compliance with the judgment of this worthy Tribunal the than DEO re-instated the appellant but this time the appellant even bother to take charge in his concerned school during stipulated period. Later-on the appellant was reinstated by the then EDO but this time the appellant even bother to take charge in his concerned school in stipulated period. **(Copies of enquiry report, Show cause, termination order judgment dated. 13-02-2018 & Re-instatement order dated. 12-03-2018 are Annexure-A,B,C,D & E).**
3. Para No.3 is replied as that the appellant failed to took over charge in his concerned school within the stipulated period after he was re-instated. The appellant clearly neglect his job and didn't take his duty seriously. Previously he was terminated due to his absence from duty but this time he didn't take charge in his concerned school or report matter to competent authority within stipulated period.
4. Para No.4 that the than DEO issued speaking order in compliance with worthy Tribunal Judgment dated. 13-02-2018 already annexed.
5. Para No.5 is replied as that the concerned authority correctly passed the order dated: 12-03-2018 after properly perusing the record and situation of the

case. The appellant didn't performed his duties during intervening period, therefore, his that period was correctly converted to leave without pay.

6. Para No.6 is incorrect that the department has correctly implemented order / judgment of this Hon'ble Court and passed a proper order (**already annexed as "E"**)
7. Para No.7 is concerned with record. But as departmental appeal is concerned the appellant didn't took any plea or submit any reason in his appeal which would entitle him for previous pay or back benefits.

Hence this appeal of the appellant is liable to be dismissed.

REPLY ON GROUNDS:

- a) Para-A is replied as that the appellant was not interested in his duties therefore, he was given some warning but in-vain, therefore, he was transferred to various school, that he could show interest in his duties. The concerned authority was competent to change duties of any Class-IV, therefore, the appellant was transferred correctly.
- b) Para No. B is replied as that the competent authority is only bound to obey the orders issued by the high-up's of E&SE Department. It is worth mentioned that in compliance with the judgment of this worthy Tribunal the than DEO re-instated the appellant but this time the appellant even bother to take charge in his concerned school during stipulated period. Later-on the appellant was reinstated by the then EDO but this time the appellant even bother to take charge in his concerned school in stipulated period.
- c) That the detail reply has already given in Para No-B of the ground.
- d) Para NO.D .The judgment of this Hon'ble court was implemented in latter and spirit. The fault of not performing of duties was on the part of appellant. He never tried to take charge or report to any competent authority for complaining that the appellant's request for taking charge was refused by any officer. Even the appellant didn't mentioned a single document in shape of complaint or application to competent authority alleging that any one refused or reject to take charge from him.

- e) Para No. E is incorrect. The appellant willfully absented from his duties and after of his re-instatement order dated: 31-12-2012, he willfully neglect to take charge and even didn't bother to report to the competent authority.
- f) Para No. F is replied that the appellant being regular absentee is not entitled to back benefits / previous salaries.
- g) Para No.G needs no reply.

It is, therefore, most respectfully prayed that the appeal of the appellant may kindly be dismissed with special compensatory costs coupled with expenses of litigation.

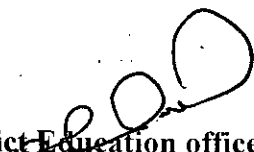
Dated: 23 -12-2020


**District Education officer
(M), Lakki Marwat**

- e) Para No. E is incorrect. The appellant willfully absented from his duties and after of his re-instatement order dated: 31-12-2012, he willfully neglect to take charge and even didn't bother to report to the competent authority.
- f) Para No. F is replied that the appellant being regular absentee is not entitled to back benefits / previous salaries.
- g) Para No.G needs no reply.

It is, therefore, most respectfully prayed that the appeal of the appellant may kindly be dismissed with special compensatory costs coupled with expenses of litigation.

Dated: 23 -12-2020


**District Education officer
(M), Lakki Marwat
Respondent No.1**

AFFIDAVIT

I, Kashif Munir Librarian GHSS Dara Pezu/ Litigation Officer O/O DEO Male lakki Marwat, do hereby solemnly affirm and declare upon oath that the contents of the accompanied written reply are true and correct to the best of my knowledge and belief and nothing has been intentionally concealed from this Hon'ble Tribunal.


Deponent

(6) (A)

(69)

OFFICE OF THE HEAD MASTER,
GOVT. HIGH SCHOOL DALO KHEL
NO: 76 DATED: 21 / 04/2012.

To

Executive Distr. Officer,
(E&SE) Lakki Marwat.

INQUIRY REPORT.

Subject:
Memo:

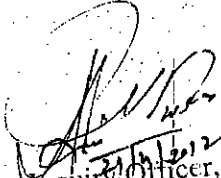
Reference of inquiry order No: 1986-96 dated: 21.03.2012.
The undersigned visited GHS Mandan Manjiwala, GMS Multan Manjiwala, GPS Bhana Manjiwala, GPS Yasin Manjiwala and GPS Qimat Manjiwala in different times in case of the said inquiry.

I informed all the chowkidars of the said schools about the security/ duties of the Govt. I also informed about their absence from their schools & their punishment. I visited about five times to these schools but I found Din Muhammad- the chowkidar of GMS Multan Manjiwala absent in the school.

Moreover, the Head Master of GMS Multan Manjiwala gave me a written statement against Din Muhammad that he is not performing his duties as chowkidar & is drawing his pay regularly. Even he does not consider himself as a chow. As I found him absent every time and it shows his absence and negligence to his duties. Therefore, due to his irresponsible behavior, he deserve to be given major punishment.

However, the previous punishment of the remaining chowkidars is enough for them because they seem to be careful due to previous punishment. However It is proposed to be checked them regularly, so that the Govt. property should be saved from the terrorists,

THANKS.


Inquiry Officer,
Head Master GHS
Dalo Khel Lakki Marwat.

(7) (B)

(15)

SHOW CAUSE NOTICE

I Mir Azam Khan Executive District Officer (E&S) Education Lakki Marwat as competent authority, under the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011, do hereby serve you, Mr. Din Muhammad Behshti as follows:

- 1.
- (i) that consequent upon the completion of inquiry conducted against you by the inquiry officer/inquiry committee vide communication No. 76 dated 21/4/2012;
 - (ii) On going through the findings and recommendations of the inquiry officer/inquiry committee, the material on record and other connected papers including your defence before the inquiry officer/inquiry committee,-

I am satisfied that you have committed the following acts/omission specified in rule 3 of the said rules:

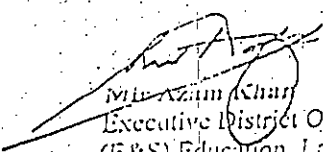
- (a) You have refused to obey the order of immediate boss
- (b) You failed to performed the duty as Chowkidar, as per your written statement On the order boob of the Head Master.

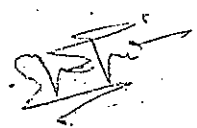
2. As a result thereof, I, as competent authority, have tentatively decided to impose upon you the penalty of termination from Service under rule 4 of the said rules.

3. You are, thereof, required to show cause as to why the aforesaid penalty should not be imposed upon you and also intimate whether you desire to be heard in person.

4. If no reply to this notice is received within seven days or not more than fifteen days of its delivery, it shall be presumed that you have no defense to put in and in that case an ex-parte action shall be taken against you.

5. A copy of the findings of the inquiry officer / inquiry committee is enclosed.


Mir Azam Khan
Executive District Officer
(E&S) Education Lakki Marwat
Competent Authority

Refered.


OFFICE OF THE EXECUTIVE DISTRICT OFFICER (E&S) EDUCATION LAKKI MARWAT

OFFICE ORDER:-

Consequent upon the refusal to obey the order of the immediate Officer, regarding performance official duty, by giving show cause notice and statement of allegation through enquiry officer, as well as in the light of finding/report of enquiry officer, the services of Mr. Din Muhammad Behishti (Class IV) Govt. Middle School Multan Manjiwla (Lakki Marwat) are hereby terminated with immediate effect

NOTE:-

Necessary entry to this effect should be made in his S/Book

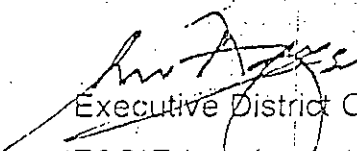
Executive District Officer
(E&S) Education Lakki Marwat

7422-26

Endst. No. _____ / Dated Lakki Marwat the 20.9.2012

Copy for information to

- 01- The District Coordination Officer Lakki Marwat
- 02- The District Officer (M) Local Office
- 03- The District Accounts Officer Lakki Marwat
- ✓ 04- Head Master, GMS, Multan Manjiwal Lakki Marwat
- 05- Official Concerned.


Executive District Officer
(E&S) Education Lakki Marwat.

Handwritten notes:
Noted.
JST

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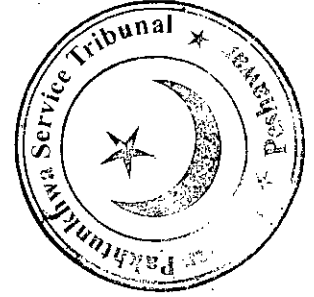
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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Appeal No.693/2014

Date of Institution ... 14.05.2014

Date of Decision ... 13.02.2018



Din Muhammad son of Khair Muhammad Workshop Attendant R/O Mina Khel,
District & Tehsil Lakki Marwat. ... (Appellant)

VERSUS

1. Secretary Education Khyber Pakhtunkhwa Peshawar and 4 others.
...(Respondents)

ARBAB SAIFUL KAMAL, ... For appellant
Advocate

MR. KABIRULLAH KHATTAK, ... For respondents.
Addl. Advocate General

MR. NIAZ MUHAMMAD KHAN, ... CHAIRMAN
MR. GUL ZEB KHAN, ... MEMBER

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

JUDGMENT

NIAZ MUIHAMMAD KHAN, CHAIRMAN.- Arguments of the learned
counsel for the parties heard and record perused.

FACTS

2. The appellant was terminated from service on 20.09.2012 and on appeal he
was reinstated on 31.12.2012 but till now he has not been adjusted against any post
nor any salary is paid to him. The appellant then filed an application before the
DEO (Male) Lakki Marwat on 20.02.2013 for adjustment and payment of back

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benefits but that application was not responded to and thereafter he filed the present service appeal on 14.5.2014.

ARGUMENTS.

3. The learned counsel for the appellant argued that though on departmental appeal the appellant was reinstated but non-implementation of the said order by DEO (respondent No. 3) would give the appellant a new cause of action and the appellant became aggrieved due to non-implementation of the order of the appellate authority. That he filed an application/representation on 20.2.2013 which was not responded to and thereafter the present service appeal. He further argued that the issue pertained to the terms and conditions of service of the appellant (civil servant) and that this Tribunal has the jurisdiction to adjudicate upon the issue.

4. On the other hand, the learned Addl. Advocate General argued that the present appeal was not maintainable for the reason that there was no original, or appellate order wherefrom the present appellant was aggrieved. That at the most the appellant could have filed another departmental appeal before the higher authority but could not approach this Tribunal.

CONCLUSION.

5. Admittedly the matter is one of the terms and conditions of the civil servant. Though there is no written order wherefrom the appellant is aggrieved but non-honoring of the order of reinstatement passed by the appellate authority would amount to an order wherefrom the appellant is aggrieved. The appellant then submitted application/representation before the DEO for implementation of the said order but the DEO has not honored the appellate order nor has decided the said application. This Tribunal is, therefore, of the view that the matter may be referred to DEO (Male) Lakki Marat for deciding the application dated 20.02.2013 through a

ATTESTED

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EXAMINER
Khyber Pakhtunkhwa

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speaking order within a period of 60 days from the date of receipt of this judgment, failing which the appellant shall be deemed to have been reinstated in service from the date when he was reinstated by the appellate authority with back benefits. Parties are left to bear their own costs. File be consigned to the record room.

S.D.
(GUL ZEB KHAN)
MEMBER

S.D.
(NIAZ MUHAMMAD KHAN)
CHAIRMAN

ANNOUNCED
13.02.2018

Certified to be true copy
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

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OFFICE ORDER:

THAT, Mr. Din Muhammad was working as Behishti (Class-IV) in GMS Multan Manjiwala.

1: WHEREAS, after observing all codal formalities his services were terminated vide this office No.7422-26 dated 20/09/2012.

2: WHEREAS, he submitted an appeal to the next competent authority, i.e. DCO Lakki Marwat and the DCO Lakki Marwat vide Order No.1324-25 dated 31/12/2012 has reinstated his service from the date of his termination with back benefit, but at that time the department did not issue his reinstatement order.

3: WHEREAS, he has knocked the door of local court and the Honorable Civil Judge-II Lakki Marwat judgment dated 06/09/2013, that the case is not maintainable in court and the application was returned in original.

4: WHEREAS, he filed service appeal bearing No.693/2014 before the Khyber Pakhtunkhwa Service Tribunal Peshawar.

5: WHEREAS, the Honorable Service Tribunal Khyber Pakhtunkhwa Peshawar vide judgment dated 13/02/2018 has decided the case which is reproduced as under:

“ this tribunal is, therefore, of the view that the matter may be referred to the District Education Officer (Male) Lakki Marwat for deciding the application dated 20/02/2013, through a speaking order within a period of 60 days from the date of receipt of this judgment failing which the appellant shall be deemed to have been reinstated in service from the date when he was ...”

6: WHEREAS, Diljan Khan Water Career (Behishti) Class-IV GMS Multan Manjiwala has proceeded from retirement w.e.f 10/02/2018 (who has been transferred and adjusted in place of the appellant)

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NOW, THEREFORE, the competent authority is pleased to issue the following orders:

- a. The appellant namely Din Muhammad is hereby reinstated and further posted against the vacant post of water career Class-IV in GMS Multan Manjiwala as per para No.6
- b. He has not performed his duty during intervening period, hence the period is converted leave without pay.
- c. Necessary entries to this effect is made in his service book.

**District Education Officer
(Male) Lakki Marwat**

No: 2313-18 dated 12 / 03/2018

Copy to:

1. Registrar Khyber Pakhtunkhwa Service Tribunal Peshawar with reference to his No358/ST dated 16/02/2018
2. Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.
3. Deputy District Education Officer (Male) Lakki Marwat
4. District Accounts Officer Lakki Marwat
5. Headmaster GMS Multan Manjiwala
6. Appellant

**District Education Officer
(Male) Lakki Marwat**

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AUTHORITY

Mr. Kashif Munir Librarian GHSS Dara Pezu/ Litigation officer (BPS-17) Office of District Education officer (Male) Lakki Marwat is hereby authorized to Submit Para wise comments/Reply in Honorable Service Tribunal Khyber Pakhtunkhwa in S.A No. 785/2020 Title Din Muhammad Versus Government of Khyber Pakhtunkhwa on behalf of the undersigned.



District Education Officer (M)
Lakki Marwat

OFFICE OF THE DISTRICT ACCOUNTS OFFICER LAKKI MARWAT

No/DAO/LMT/Admn/2020-21/ 43


Dated: - 08.02.2021

AUTHORITY LETTER

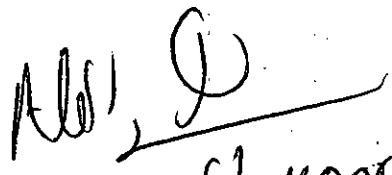
Mr. Abdul Shakoor Assistant Accounts Officer (BPS-17) is hereby authorized to attend the Honorable Service Tribunal Peshawar in connection of the following case on behalf of the undersigned on 10.02.2021

Titled Name: **Din Muhammad vs Govt:**

No : SA No.758/2020


**District Accounts Officer
Lakki Marwat**

I agree with the
comments of DEO (M)
on behalf of DAO Lakki


Abdul Shakoor
A.A.O
o/o DAO Lakki