

BEFORE THE KHYBER PAKTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 798/2022

Nisar Khan S/O Sarwat Khan R/O Village & Post Office Fathe Pur, District Swat.

Khyber Pakhtunkhwa Service Tribunal Appellant

Versus

Diary No. 4025

Dated 2/3/2023

1. Government of Khyber Pakhtunkhwa through Secretary Elementary and Secondary Education Peshawar.
2. Director Elementary and secondary education Khyber Pakhtunkhwa at Peshawar.
3. District Education officer (Male) Swat.

..... Respondents

INDEX

S.No	Description of Documents	Annexures	Pages
1	Para-wise-comments	-	1-3
2	Affidavit	-	4
3	Authority Letter	-	5
4	Attendance Register	"A"	6-30
5	ASDEO Report & Log Book	"B"	31
6	call notice	"C"	32


DISTRICT EDUCATION OFFICER (M)
SWAT AT GULKADA

BEFORE THE KHYBER PAKTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 798/2022

Nisar Khan S/O Sarmat Khan R/O Village & Post Office Fathe Pur, District Swat.
.....Appellant

Versus

- 1. Government of Khyber Pakhtunkhwa through Secretary Elementary and Secondary Education Peshawar.
- 2. Director Elementary and secondary education Khyber Pakhtunkhwa at Peshawar.
- 3. District Education officer (Male) Swat.
- 4. District Account officer, Swat.

..... Respondents.

Parawise Comments on Behalf of the Respondent No 1-3

Respectfully shewith

Preliminary objections

- 1. That the Appellant is not an aggrieved person within the meaning of Section 4 of the Service Tribunal Act, 1974.
- 2. That the Appellant has no cause of action / locus standi.
- 3. That the Appellant has not come to this Honorable Tribunal with clean hands.
- 4. That the Appellant has filed this instant Service Appeal just to pressurize the respondents.
- 5. The present Service Appeal is liable to be dismissed for non-joinder/mis joinder of necessary parties.
- 6. That the instant Service Appeal is against the prevailing law and rules.
- 7. That the Appellant has filed this instant Service Appeal on malafide motives.
- 8. That the instant Appeal is **badly time barred**.
- 9. That the instant Service Appeal is not maintainable in the present form, and above in the present circumstances of the issue.
- 10. That the Appellant has been estopped by his own conduct.
- 11. That the Appellant has concealed the material facts from this honorable tribunal.

FACTS

- 1. That the Para No.1 pertains to record, hence no comments.
- 2. That the Para No.2 is incorrect and denied. The Appellant has no clear service record. He remained absent from his duty time and again during his entire service which is evident from the copies of the teachers attendance register of the School and the ASDEO report therein. Even in September 2004 and October 2004 he remained absent for many days

and obtained salaries without any duty. **(Copies of attendance register attached as annexure A)**

- 3. That the Para No.3 is correct.
- 4. That the Para No.4 is correct as the appeal of the Appellant was badly time barred.
- 5. That the Para No. 5 is correct to the extent of filing of instant Service Appeal, the rest of the para is incorrect and denied. The Appellant is not an aggrieved person within the meaning of Section 4 of the Service Tribunal Act, 1974. Moreover, the instant Service Appeal of the Appellant is once again badly time barred and bereft of any merit, hence, liable to be dismissed inter-alia following grounds.

GROUNDS


- A. That the Para No. A is incorrect and denied. The respondent department has not acted against the norms of services, laws and rules.
- B. That the Para No. B is incorrect and denied. The Appellant remained wilfully absent from duty and was a habitual irregular in his duties. He remained absent for a number of occasions which is evident from attendance register and reports of IMU and ASDEO concerned. It is further clarified before this Honorable Tribunal that the Appellant has illegally and without performing duty has received monthly salaries and resultantly caused a huge financial loss to the public exchequer. **(Copies of ASDEO Report and log book attached as annexure B)**
- C. That the Para No. C is absolutely incorrect and denied. The Appellant himself remained absent from his duty and was rightly removed from service. No Article of the constitution provides protection to such inefficient and irregular civil servants and the respondent department has not violated any article of the constitution.
- D. That the Para No. D is incorrect and denied. Show cause notice as well call notice were served upon the Appellant and being reported by IMU for continues so many months, therefore, the competent authority being satisfied that there needs no enquiry, issued removal from service order in respect of the Appellant. **(Call Notice as Annexure C)**
- E. That Para No. E is incorrect and denied. Detail reply has already been given in the foregoing paras.
- F. That Para No. F is incorrect and denied. No discrimination has been made with the Appellant by the respondent department.
- G. That the Appellant wants to obtain illegal and unjust benefit of the rules as narrated in para No. G of the instant Service Appeal. The Appellant wants undue favor of the rules in such a belated stage for the fault of his own.
- H. That Para No. H is incorrect and denied. The competent authority being satisfied with the reports of absenteeism and service record of the Appellant was rightly removed from service. It is further to be noted by this Honorable tribunal that if the Appellant was aggrieved of the

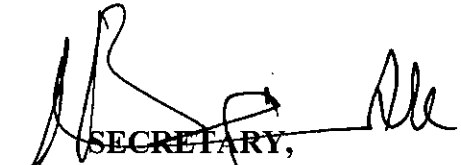
removal order, he should have submit departmental appeal for redressal of his grievances (if any) within the stipulated time. Hence, his appeal being badly time barred is liable to be dismissed on this score alone.

- I. That Para No. I is the repetition of above paras, hence, no comments.
- J. That Para No. J is incorrect and denied. The worthy Apex Court has not guaranteed the undue rights of anyone in such a manner and after such a long time.
- K. That Para No. K is correct to the extent of qualifying service for pension but the Appellant wants to use this statement for his own benefits without considering other relevant rules and procedures. The benefits of pension on the basis of minimum qualifying service of 10 years is only applicable to those civil servants who gets honorable retirement I,e pre-mature retirement, medical ground retirement etc whereas the Appellant has got no retirement but he was removed from service and there are no rules that on removal from service the Appellant could be granted pensionary benefits.
- L. That detail reply of this para has already been given in the foregoing paras.
- M. That the respondent also seek permission of this Honorable Tribunal to raise/argue further grounds at the time of arguments.

It is, therefore, very humbly prayed that the instant Service Appeal of the Appellant may be dismissed with cost in favor of the respondents.


DISTRICT EDUCATION OFFICER (M)
SWAT AT GULKADA


DIRECTOR,
ELEMENTARY AND SECONDARY
EDUCATION KHYBER PAKHTUNKHWA


SECRETARY,
ELEMENTARY AND SECONDARY
EDUCATION PESHAWAR

BEFORE THE KHYBER PAKTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 798/2022

Nisar Khan S/O Sarmat Khan R/O Village & Post Office Fathe Pur, District Swat.
.....Appellant


Versus

Provincial Govt. of Khyber Pakhtunkhwa & others

..... Respondents

AFFIDAVIT

I, Hussain Ali Legal Representative, do hereby solemnly affirm and declare on oath on the directions and on the behalf of the Respondents that the contents of the comments are true and correct to the best of my knowledge and belief and nothing has been kept secret from this Honorable Tribunal.



**HUSSAIN ALI LEGAL REPRESENTATIVE
O/O DEO (M) SWAT**

5



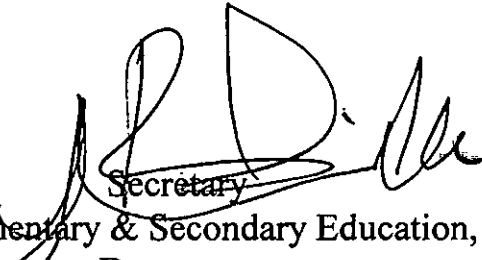
GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT

Block "A" Civil Secretariat, Peshawar

Phone No. 091-9211128

AUTHORITY LETTER

It is certified that Hussain Ali, Legal Representative Office of District Education Officer (Male) Swat, Elementary & Secondary Education Department is hereby authorized to submit para-wise comments and attend the Service Tribunal, Camp Court Swat on behalf of Respondent Nos. 01, 02 & 03 in Service Appeal No. 798/2022 Title Nisar Khan Vs Government of Khyber Pakhtunkhwa & Others on the eve of each hearing till the disposal of the instant case and shall also be responsible to obtain certified copy of the final judgment/order and submit the same to the department within limitation period.


Secretary
Elementary & Secondary Education,
Department.
SECRETARY
Elementary & Secondary Edu: Deptt:
Govt: of Khyber Pakhtunkhwa

Handwritten scribble or signature at the top of the page.

1	...	...	...	...
2	...	...	...	...
3	...	...	...	...
4	...	...	...	...
5	...	...	...	...
6	...	...	...	...
7	...	...	...	...
8	...	...	...	...
9	...	...	...	...
10	...	...	...	...
11	...	...	...	...
12	...	...	...	...
13	...	...	...	...
14	...	...	...	...
15	...	...	...	...
16	...	...	...	...
17	...	...	...	...
18	...	...	...	...
19	...	...	...	...
20	...	...	...	...
21	...	...	...	...
22	...	...	...	...
23	...	...	...	...
24	...	...	...	...
25	...	...	...	...
26	...	...	...	...
27	...	...	...	...
28	...	...	...	...
29	...	...	...	...
30	...	...	...	...
31	...	...	...	...
32	...	...	...	...
33	...	...	...	...
34	...	...	...	...
35	...	...	...	...
36	...	...	...	...
37	...	...	...	...
38	...	...	...	...
39	...	...	...	...
40	...	...	...	...
41	...	...	...	...
42	...	...	...	...
43	...	...	...	...
44	...	...	...	...
45	...	...	...	...
46	...	...	...	...
47	...	...	...	...
48	...	...	...	...
49	...	...	...	...
50	...	...	...	...
51	...	...	...	...
52	...	...	...	...
53	...	...	...	...
54	...	...	...	...
55	...	...	...	...
56	...	...	...	...
57	...	...	...	...
58	...	...	...	...
59	...	...	...	...
60	...	...	...	...
61	...	...	...	...
62	...	...	...	...
63	...	...	...	...
64	...	...	...	...
65	...	...	...	...
66	...	...	...	...
67	...	...	...	...
68	...	...	...	...
69	...	...	...	...
70	...	...	...	...
71	...	...	...	...
72	...	...	...	...
73	...	...	...	...
74	...	...	...	...
75	...	...	...	...
76	...	...	...	...
77	...	...	...	...
78	...	...	...	...
79	...	...	...	...
80	...	...	...	...
81	...	...	...	...
82	...	...	...	...
83	...	...	...	...
84	...	...	...	...
85	...	...	...	...
86	...	...	...	...
87	...	...	...	...
88	...	...	...	...
89	...	...	...	...
90	...	...	...	...
91	...	...	...	...
92	...	...	...	...
93	...	...	...	...
94	...	...	...	...
95	...	...	...	...
96	...	...	...	...
97	...	...	...	...
98	...	...	...	...
99	...	...	...	...
100	...	...	...	...

Handwritten text at the bottom of the table area, possibly a signature or title.

Handwritten text below the table, possibly a date or reference.

Handwritten text at the bottom left of the page, possibly a name or title.

رجسٹر حاضری مدرسین GPS نگر بولڈینہ ضلع لودھیانہ

نام مدرسین		رہائش گاہ			پست			نمبر			خانہ		
محمد حسین		ایس ایم ایس			PST			PSHT			جوگندہ		
تاریخ	آمد	دستخط	راستی	آمد	دستخط	راستی	آمد	دستخط	راستی	آمد	دستخط	راستی	
1													
2													
3													
4													
5													
6													
7													
8													
9													
10													
11													
12													
13													
14													
15													
16													
17													
18													
19													
20													
21													
22													
23													
24													
25													
26													
27													
28													
29													
30													
31													

circles' medium

Head Master
Government Primary School
Tahsil Bahawalpur
Distt Bahawalpur

No	Name	Age	Sex	Religion	Caste	Occupation	Education		Status	Remarks
							Level	Year		
1										
2										
3										
4										
5										
6										
7										
8										
9										
10										
11										
12										
13										
14										
15										
16										
17										
18										
19										
20										
21										
22										
23										
24										
25										
26										
27										
28										
29										
30										
31										
32										
33										
34										
35										
36										
37										
38										
39										
40										
41										
42										
43										
44										
45										
46										
47										
48										
49										
50										
51										
52										
53										
54										
55										
56										
57										
58										
59										
60										
61										
62										
63										
64										
65										
66										
67										
68										
69										
70										
71										
72										
73										
74										
75										
76										
77										
78										
79										
80										
81										
82										
83										
84										
85										
86										
87										
88										
89										
90										
91										
92										
93										
94										
95										
96										
97										
98										
99										
100										

31/10/19

Case: 22230

Govt. Primary School
Flood District

Sl. No.	Name	Age	Sex	Religion	Address	Signature	Remarks
1							
2							
3							
4							
5							
6							
7							
8							
9							
10							
11							
12							
13							
14							
15							
16							
17							
18							
19							
20							
21							
22							
23							
24							
25							
26							
27							
28							
29							
30							
31							
32							
33							
34							
35							
36							
37							
38							
39							
40							
41							
42							
43							
44							
45							
46							
47							
48							
49							
50							
51							
52							
53							
54							
55							
56							
57							
58							
59							
60							
61							
62							
63							
64							
65							
66							
67							
68							
69							
70							
71							
72							
73							
74							
75							
76							
77							
78							
79							
80							
81							
82							
83							
84							
85							
86							
87							
88							
89							
90							
91							
92							
93							
94							
95							
96							
97							
98							
99							
100							

Total: 100

Date: 31/10/19

Signature: _____

Name: _____

Head Master		Date										Total	
Sl. No.	Name	1	2	3	4	5	6	7	8	9	10	Sum	Average
1													
2													
3													
4													
5													
6													
7													
8													
9													
10													
11													
12													
13													
14													
15													
16													
17													
18													
19													
20													
21													
22													
23													
24													
25													
26													
27													
28													
29													
30													
31													
32													
33													
34													
35													
36													
37													
38													
39													
40													
41													
42													
43													
44													
45													
46													
47													
48													
49													
50													
51													
52													
53													
54													
55													
56													
57													
58													
59													
60													
61													
62													
63													
64													
65													
66													
67													
68													
69													
70													
71													
72													
73													
74													
75													
76													
77													
78													
79													
80													
81													
82													
83													
84													
85													
86													
87													
88													
89													
90													
91													
92													
93													
94													
95													
96													
97													
98													
99													
100													

رئیس، حافظی مدرسه کورنر ایف بی اسکول، کورنر ایف بی اسکول، کورنر ایف بی اسکول

بابت ماه مارچ 2015

ردیف	PST			PST			PST			ملاحظات
	آدم	دستخط	درجہ	آدم	دستخط	درجہ	آدم	دستخط	درجہ	
1	P	S	U	N						
2	P									
3	P									
4	P									
5	P									
6	P									
7	P	S	U	N	D	A	X			
8	P									
9	P									
10	P									
11	P									
12	P									
13	P									
14	P	S	U	N	D	A	X			
15	P									
16	P									
17	P									
18	P									
19	P									
20	P									
21	P									
22	P	S	U	N	D	A	X			
23	P									
24	P									
25	P									
26	P									
27	P									
28	P									
29	P	S	U	N	D	A	X			
30	P									
31	P									

ردیف	حالت	سابقہ	میزان	مال	سابقہ	میزان	مال	سابقہ	میزان	مال
1										
2										
3										
4										
5										
6										
7										
8										
9										
10										
11										
12										
13										
14										
15										
16										
17										
18										
19										
20										
21										
22										
23										
24										
25										
26										
27										
28										
29										
30										
31										

Head Master
Govt. Primary School
Korner B B School

Date		Time		Place		Remarks	
Day	Month	Hour	Minute	City	State	Notes	Signature
1	1	1	1	1	1	1	1
2	2	2	2	2	2	2	2
3	3	3	3	3	3	3	3
4	4	4	4	4	4	4	4
5	5	5	5	5	5	5	5
6	6	6	6	6	6	6	6
7	7	7	7	7	7	7	7
8	8	8	8	8	8	8	8
9	9	9	9	9	9	9	9
10	10	10	10	10	10	10	10
11	11	11	11	11	11	11	11
12	12	12	12	12	12	12	12
13	13	13	13	13	13	13	13
14	14	14	14	14	14	14	14
15	15	15	15	15	15	15	15
16	16	16	16	16	16	16	16
17	17	17	17	17	17	17	17
18	18	18	18	18	18	18	18
19	19	19	19	19	19	19	19
20	20	20	20	20	20	20	20
21	21	21	21	21	21	21	21
22	22	22	22	22	22	22	22
23	23	23	23	23	23	23	23
24	24	24	24	24	24	24	24
25	25	25	25	25	25	25	25
26	26	26	26	26	26	26	26
27	27	27	27	27	27	27	27
28	28	28	28	28	28	28	28
29	29	29	29	29	29	29	29
30	30	30	30	30	30	30	30
31	31	31	31	31	31	31	31

30/07/15

روز	تاریخ	مرد	زنان	کودک	مجموع	تاریخ	مرد	زنان	کودک	مجموع
1	30/07/15									
2	31/07/15									
3	01/08/15									
4	02/08/15									
5	03/08/15									
6	04/08/15									
7	05/08/15									
8	06/08/15									
9	07/08/15									
10	08/08/15									
11	09/08/15									
12	10/08/15									
13	11/08/15									
14	12/08/15									
15	13/08/15									
16	14/08/15									
17	15/08/15									
18	16/08/15									
19	17/08/15									
20	18/08/15									
21	19/08/15									
22	20/08/15									
23	21/08/15									
24	22/08/15									
25	23/08/15									
26	24/08/15									
27	25/08/15									
28	26/08/15									
29	27/08/15									
30	28/08/15									
31	29/08/15									
32	30/08/15									
33	31/08/15									
34	01/09/15									
35	02/09/15									
36	03/09/15									
37	04/09/15									
38	05/09/15									
39	06/09/15									
40	07/09/15									
41	08/09/15									
42	09/09/15									
43	10/09/15									
44	11/09/15									
45	12/09/15									
46	13/09/15									
47	14/09/15									
48	15/09/15									
49	16/09/15									
50	17/09/15									
51	18/09/15									
52	19/09/15									
53	20/09/15									
54	21/09/15									
55	22/09/15									
56	23/09/15									
57	24/09/15									
58	25/09/15									
59	26/09/15									
60	27/09/15									
61	28/09/15									
62	29/09/15									
63	30/09/15									
64	01/10/15									
65	02/10/15									
66	03/10/15									
67	04/10/15									
68	05/10/15									
69	06/10/15									
70	07/10/15									
71	08/10/15									
72	09/10/15									
73	10/10/15									
74	11/10/15									
75	12/10/15									
76	13/10/15									
77	14/10/15									
78	15/10/15									
79	16/10/15									
80	17/10/15									
81	18/10/15									
82	19/10/15									
83	20/10/15									
84	21/10/15									
85	22/10/15									
86	23/10/15									
87	24/10/15									
88	25/10/15									
89	26/10/15									
90	27/10/15									
91	28/10/15									
92	29/10/15									
93	30/10/15									
94	31/10/15									
95	01/11/15									
96	02/11/15									
97	03/11/15									
98	04/11/15									
99	05/11/15									
100	06/11/15									

بیت

مجموع

مرد

زنان

کودک

مجموع

تاریخ

مرد

زنان

کودک

مجموع

22/12/2015
 Head Primary School
 Head Master

Sl. No.	Name	Age	Sex	Religion	Parent's Name	Address	Remarks
1							
2							
3							
4							
5							
6							
7							
8							
9							
10							
11							
12							
13							
14							
15							
16							
17							
18							
19							
20							
21							
22							
23							
24							
25							
26							
27							
28							
29							
30							
31							
32							
33							
34							
35							
36							
37							
38							
39							
40							
41							
42							
43							
44							
45							
46							
47							
48							
49							
50							
51							
52							
53							
54							
55							
56							
57							
58							
59							
60							
61							
62							
63							
64							
65							
66							
67							
68							
69							
70							
71							
72							
73							
74							
75							
76							
77							
78							
79							
80							
81							
82							
83							
84							
85							
86							
87							
88							
89							
90							
91							
92							
93							
94							
95							
96							
97							
98							
99							
100							

2015
 Head Master
 Head Primary School

Date: 08-02-2016.

Assst. Sub. Secy. Education of
Sindh
Bahawalpur
Bahawalpur

Memo: Mr Nisar Ahmad PST GRS Yaka Badakha
UC Fatehpur is absent since Dec 2014.
His salary has been stopped. It is
once again requested to issue a call notice

PST GRS YAKA BADESHA.

subject: Issuance of call notice to Nisar Ahmad

sent.

The DEO (M),

Annexure 'B'

(30)

Mohammad
10/11/14

Annexure "B"

Visit of GPS YAKA BADESHA

Visit By: Ghulam Sadiq ASDEO (M) Circle Bahraich

Date: 30.09.2015

The school building is consist of two rooms. Staff was found present except 1 PST who is on long leave while Nisar Ahmad PST is absent since long and is already under reported and his salary has been stopped.

Work on B/Wall is in progress while construction of additional room has not been started yet. H/T is directed to submit written explanation as why construction work (additional room) has not been started so far.

Copy to

- ① DEO (M), Swat.
- ② SDEO (M), Swat.

Ghulam Sadiq
 MA (Engg) MB
 Assit. Sub Divisional Officer
 Bahraich, J.K. Swat

20/10/15

03/5/2014

8216

منجانب: ایس ڈی ای او (مردانہ) برائے ضلع سوات
بجانب: نثار احمد
عنوان: ڈپٹی سے غیر حاضری

یادداشت: آپ کو بذریعہ عداد مطلع کیا جاتا ہے کہ آپ کو 19/3/14 سے تاحال اپنی ایوان سے غیر حاضر ہیں۔ ابتدا
آپ کو ہدایت کی جاتی ہے کہ آپ جلد از جلد 15 دن کے اندر اپنی ڈپٹی پر حاضر ہو جائیں اور اپنی غیر حاضری کی وجہ بتائیں۔ بصورت دیگر
آپ کے خلاف حکمانہ کارروائی عمل میں لائی جائے گی۔ اس سے پہلے آپ کو بذریعہ رجسٹری:
ذرا غور فرمائیے۔
موجودہ سال کے لئے ہیں۔

سب ڈویژنل ایجوکیشن آفیسر (مردانہ) پراٹھی
ضلع سوات

نقول احترام

- 1- بناب ڈی۔ ای۔ او صاحب (مردانہ)
- 2- متعلقہ ایس۔ ڈی۔ ای۔ او صاحب (مردانہ)
- 3- متعلقہ ہیڈ ماسٹر
- 4- سب ڈویژنل ایجوکیشن آفیسر (مردانہ) پراٹھی