

06.03.2019

Counsel for the petitioner present. Mian Amir Qadir, District Attorney alongwith Mr. Obaid Ur Rehman, ADO for respondents present.

Learned counsel for the petitioner stated at the bar that grievance of the petitioner has been redressed at departmental level and does not want to further pursue the case. As such the execution petition is hereby filed being implemented. File be consigned to the record room.

Announced:
06.03.2019



Member
Camp Court, Swat

03.10.2018

Counsel for the petitioner present. Mr. Muhammad Saeed, SS alongwith Mr. Usman Ghani District Attorney for the respondents present. Representative of the respondents submitted reply of respondents No. 1 & 2. Copy handed over to counsel for the petitioner. Counsel for the petitioner requested for adjournment. Granted. To come up for further proceedings on 04.12.2018 before the D.B at camp court, Swat.



Member
Camp Court Swat

04.12.2018

Imdad Ullah Advocate on behalf of learned counsel for the petitioner and Mr. Usman Ghani learned District Attorney present. Imdad Ullah Advocate requested for adjournment on the ground that learned counsel for the petitioner is not in attendance. Adjourn. To come up for further proceedings on 10.01.2019 before D.B at Camp Court Swat.



Member

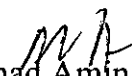


Member

Camp Court, Swat

10.01.2019


Clerk of counsel for the petitioner present. Mr. Mian Ameer Qadir, District Attorney for the respondents present. Clerk of counsel for the petitioner requested for adjournment on the ground that his counsel has gone to Saudi Arabia for performing of Umra. Adjourned. To come up for further proceedings on 06.03.2019 before S.B at Camp Court Swat.



(Muhammad Amin Khan Kundi)
Member
Camp Court Swat

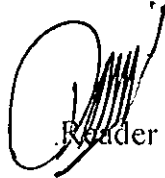
03.04.2018

Counsel for the appellant and Mr. Usman Ghani, District Attorney alongwith Mr. Muhammad Iqbal, Superintendent for the respondents present. Implementation report not submitted. Learned District Attorney seeks adjournment. To come up for implementation report on 08.05.2018 before S.B at Camp Court, Swat.


Chairman
Camp court, Swat


09.05.2018

The Tribunal is non-functional due to retirement of the Worthy Chairman. To come up for the same on 03.07.2018 before the S.B at camp court, Swat.


Reader

03.07.2018

Clerk of counsel for the petitioner Mr. Shamsul Hadi, Advocate present. Mr. Usman Ghani, District Attorney for the respondents present. Judgment of this Tribunal has not been implemented so far. Respondents are directed to implement the judgment and submit implementation report on 08.08.2018 before S.B at camp court, Swat.


Chairman
Camp court, Swat



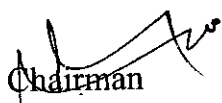
08.08.2018

Clerk to counsel for the petitioner and Muhammad Saeed S.S for the respondents present. Due to summer vacations, the case is adjourned. To come up for the same on 03.10.2018 at camp court Swat


Reader

FORM OF ORDER SHEET

Execution Petition No. 29/2018

S.No.	Date of order Proceedings	Order or other proceedings with signature of Judge
1	2	3
1	24.01.2018	<p>The Execution Petition of Mr. Rashid Ahmad submitted to-day by Mr. Shamsul Hadi Advocate may be entered in the relevant Register and put up to the Court for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-	8-2-18	<p>This Execution Petition be put up before Touring S. Bench at Swat on <u>8-03-18</u></p> <p style="text-align: right;"> CHAIRMAN</p>
08.03.2018		<p>Petitioner in person present. Notices be issued to the respondents. To come up for implementation report on 3.4.2018 before S.B at camp court, Swat.</p> <p style="text-align: right;"> Chairman Camp court, Swat</p>

**BEFORE THE HON'BLE KHYBER PAKHTOON KHWA SERVICE
TRIBUNAL, PESHAWAR.**

Execution Petition No. 29 of 2018.

In

Service Appeal No. 165/2016.

Rashid AhmadPetitioner.

V E R S U S

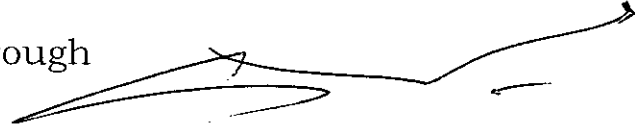
District Education Officer(Male) Swat and an other.....Respondents.

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S.N	Description of Documents	Pages
1.	Memo of Appeal.	1-2
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Petitioner

Through



Shams ul Hadi

Dated: 23/01/2018.

Advocate, Peshawar.

Office: Near Al-Falah Mosque, Hayat

Abad, Mingora.

Cell No. 0347-4773440.

**BEFORE THE KHYBER PAKHTOON KHWA SERVICES
TRIBUNAL, PESHAWAR.**

Execution Petition No. 29/2018

In

Service Appeal No. 165/2016.

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 102

Dated 24/01/2018

Rashid Ahmad (Ex-CT)GHS Dehairai, Swat

R/O Village Kuz Bandy District Swat.....Petitioner.

V E R S U S

1. District Education Officer(Male) Swat.
2. Director, Elementary & Secondary Education, Khyber Pakhtunkhwa Peshawar.....Respondents

**PETITION FOR IMPLEMENTATION OF THE
ORDER/JUDGMENT DATED:07.12.2017 OF THIS
HONOURABLE TRIBUNAL DELEVERED IN ABOVE TITLE
SERVICE APPEAL.**

Respectfully Sheweth:

1. That initially the petitioner filed the above title service appeal before this hon;ble tribunal which was decided in favour of the petitioner vide judgment dated:07.12.2017, with clear directions to the respondents to reinstate the petitioner.(Copy of judgment is attached)
2. That the petitioner communicated the judgment to respondents through written application and as such waited for the implementation of the judgment but till

date the same has not been implanted nor any positive steps has been taken by the respondents for implementation.(Copy of application is attached)

It is, therefore, most humbly prayed that On acceptance of this petition respondents may kindly be directed to implement the judgment dated:07.12.2017 passed in service appeal No.165/2016 letter in spirit.

Petitioner

Through



Shams ul Hadi

Advocate, Peshawar.

Dated: 23/01/2018

**BEFORE THE HON'BLE KHYBER PAKHTOON KHWA SERVICE
TRIBUNAL, PESHAWAR**

Execution Petition No. _____ of 2018.

In

Service Appeal No. 165/2016.

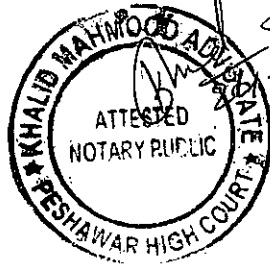
Rashid AhmadPetitioner.

V E R S U S

District Education Officer(Male) Swat and an other.....Respondents.

AFFIDAVIT

I, **Shams ul Hadi**, Advocate, Peshawar do hereby as per information conveyed to me by my client solemnly affirm and declare that the contents of the **petition** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.



ADVOCATE

**BEFORE THE HON'BLE KHYBER PAKHTOON KHWA SERVICE
TRIBUNAL, PESHAWAR.**

Execution Petition No. _____ of 2018.

In

Service Appeal No. 165/2016.

Rashid AhmadPetitioner.

V E R S U S

District Education Officer(Male) Swat and an other.....Respondents.

ADDRESSES OF THE PARTIES

PETITIONER:

Rashid Ahmad (Ex-CT)GHS Dehairai, Swat

R/O Village Kuz Bandy District Swat

Cell No.

RESPONDENTS:

1. District Education Officer(Male) Swat.
2. Director, Elementary & Secondary Education, Khyber Pakhtunkhwa Peshawar.

Petitioner

Through

Shams ul Hadi

Advocate, Peshawar.

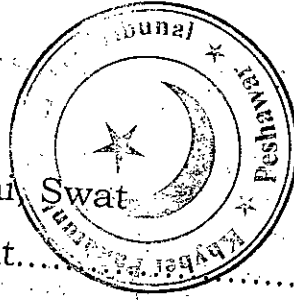
Dated: 23/01/2018

(5)

**BEFORE THE KHYBER PAKHTOON KHWA SERVICES
TRIBUNAL, PESHAWAR**

Service Appeal No. 165 /2016.

Rashid Ahmad (Ex-CT)GHS Dehairai Swat
R/O Village Kuz Bandy District Swat.....Appellant



**K.P.K. Province
Service Tribunal
Diary No. 138
Dated 25/2/2016**

V E R S U S

1. District Education Officer(Male) Swat.
2. Director, Elementary & Secondary Education, Khyber Pakhtunkhwa Peshawar.....Respondents

**APPEAL UNDER SECTION 4 OF KHYBER
PUKHTUNKHWA SERVICES TRIBUNAL ACT
1974 AGAINST THE IMPUGNED OFFICE
ORDERS DATED:18.05.2011 & 02.02.2016.**

PRAYER IN APPEAL:

On acceptance of this appeal the impugned Orders dated: 18.05.2011 and 02.02.2016 regarding major penalty i-e removal of service of appellant may kindly be set aside and the appellant may kindly be re-instated to his service with all back benefits of service.

Respectfully Sheweth:

1. That initially the appellant joined the respondent/department on 11.03.1993 as C.T and as such performed his duties with zeal and zest.
2. That during his service the appellant requested for long leave and as such the same was granted for 1090 days(without pay) from 06.10.2004 to 30.09.2007 vide office order dated:13.10.2004.(Copies of office order dated:13.10.2004 and service book are annexure-A)

Filed to-day

[Signature]
5/2/16

ATTESTED

[Signature]
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
CAMP COURT SWAT

Service Appeal No. 165/2016

Date of Institution... 25.02.2016

Date of decision... 07.12.2017



Rashid Ahmad (Ex-CT) GHS Dehairai, Swat R/O Village Kuz Bandy, District Swat. ... (Appellant)

Versus

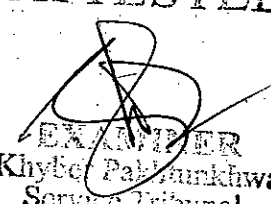
1. District Education Officer (Male) Swat and another. ... (Respondents)

MR. SHAMSUL HADI,
Advocate ... For appellant.

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

MR. NIAZ MUHAMMAD KHAN, ... CHAIRMAN
MR. MUHAMMAD HAMID MUGHAL, ... MEMBER

ATTESTED


CHAIRMAN
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

JUDGMENT

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

FACTS

2. The appellant was removed from service on 18.05.2011 against which he filed departmental appeal on 14.12.2015 which was rejected on 02.02.2016 and thereafter the present service appeal on 25.2.2016.

ARGUMENTS

3. The learned counsel for the appellant argued that the impugned order has been made effective from a back date which is a void order. He further argued that no limitation shall run against void order. He relied upon a judgment reported in

(7)

1985-SCMR-1178 and argued that void order cannot be sustained in the eyes of law.

4. On the other hand the learned Addl. Advocate General argued that the present appeal is hopelessly time barred as the departmental appeal was filed after almost 5 years of the original order. That the department has fulfilled all the codal formalities.

CONCLUSION

5. Admittedly the removal order has been given retrospective effect and in view of so many judgments delivered by this Tribunal on the basis of judgment reported in 1985-SCMR-1178, the retrospective order is a void order and no limitation shall run against void order. Presuming that all other elements of due process have been complied with, the void order cannot be sustained on this score alone.

6. As a sequel to the above discussion, the present appeal is accepted and the appellant is reinstated in service. The department is however, at liberty to hold denovo proceedings in accordance with law within a period of ninety days. The intervening period shall be subject to the final outcome of the denovo proceedings within a period of ninety days. Parties are left to bear their own costs. File be consigned to the record room.

Announced sdy Niaz Muhammad Khan,
Chairman
Conf. Court Sdmt
07-12-2017

sdy M. Hamid Nizhal
Member

Certified to be true copy
EX-AN
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

In respect of:

The Honourable District Education Officer,
(Male) District Swat.

Subject; APPLICATION FOR REINSTATEMENT OF
APPLICANT IN LIGHT OF THE JUDGMENT OF
KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.

Most respected Sir,

With profound respect it is stated that:

1. I was serving as C.T. Teacher in your department and my posting was at GHS Dherai, Swat. But on the basis of absence I was removed from service vide order dated 18.05.2011.
2. Against the dismissal from service, I filed service appeal No. 165/2016 which was allowed through the judgment dated 07.12.2017 and as such the department was directed to re-instate the appellant/applicant against his post. (For your kind perusal copy of the judgment is attached herewith).
Your good self is therefore, requested to reinstate me on my C.T. post in the light of the judgment dated 07.12.2017 passed by the Honorable Services Tribunal Khyber Pakhtunkhwa.

Hope your honour will do the needful soon, for which I shall be highly grateful and pray for you.

Thanks.

Yours obediently,

Rashid Ahmad

RASHID AHMAD (C.T.)
M.Sc. Mathematics, B.Ed.
son of Khurshid Anwar,
r/o Kuza Bandai, Swat.

Dated 23/12/17

مسٹر شمس الدین حسرت

کورٹ فیس

قیمت ایک روپیہ

مورخہ

مقدمہ

دعویٰ

جرم

۲۰ منجانب Plaintiff

رستید احمد بنام DEO (in) Suit دوسرہ

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی کے متعلقہ آن مقام مسٹر شمس الدین حسرت کی طرف سے 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 و تقرر ثالث و فیصلہ پر حلف دینے جواب دی اور اقبال دعویٰ اور درخواست ہر قسم کی تصدیق ذراں پر دستخط کرنے کا اختیار ہوگا نیز بصورت عدم پیروی یا ڈگری ایک طرف یا اپیل کی برآمد ہوگی اور منسوخ وائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ بصورت ضرورت مذکور کے نسل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنی ہمراہ یا اپنی بجائے تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی جملہ مذکورہ بالا اختیارات حاصل ہونگے اور اسکا ساختہ برواختہ منظور و قبول ہوگا اور دوران مقدمہ میں جو خرچہ و ہرجانہ التوائے مقدمہ کے سبب سے ہاگا اسکے مستحق وکیل صاحب ہونگے۔ نیز بقایا و خرچہ کی وصولی کرتے وقت کا بھی اختیار ہوگا اگر کوئی تاریخ پیشی مقام دورہ ہر ہو یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہونگے کی پیروی مقدمہ مذکور لہذا وکالت نامہ لکھ دیا ک سند ہے

المرقوم
ماہ جنوری ۱۹۶۰

Rashid Ahmad

مسٹر شمس الدین حسرت

العبد گواہ شمس الدین حسرت

بمقام مسٹر شمس الدین حسرت کے لئے منظور ہے

Attest and Shamsul Huda Adar

Attest and Shamsul Huda Adar

BEFORE THE HONORABLE KHYBER PAKHTUNKHAWA SERVICE TRIBUNAL PESHAWAR

Execution Petition No 29/2018 in Service Appeal No 165/2016

RASHEED AHMAD EX-CT GHS DHERAI, DISTRICT SWAT

..... Appellant

VERSUS

Director Elementary & Secondary Education Khyber Pakhtunkhwa,
Peshawar & others.

..... Respondents

REPLY / COMMENTS ON BEHALF OF RESPONDENTS NO.1-2

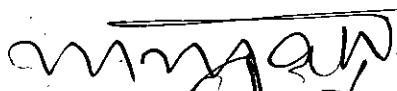
RESPECTFULLY SHEWETH:

The Respondents Submit as under:-

1. That the appellant was reinstated into service against vacant C.T Post at GHS Kedam vide office order Endst No 9860-66 dated 09/03/2018 in the light of the Judgment passed by Honorable Khyber Pakhtunkhwa Service Tribunal Peshawar on 07-12-2017. The Department initiated denovo Proceedings under Efficiency & Discipline rules, 2011 in the light of the said judgment. All codal formalities were observed during the Denovo proceedings & Removal. The appellant was removed from service with immediate effect on 17-07-2018 (Copies of Show case notice, inquiry report, judgment of the service tribunal, and removal from service order are attached as Annexure A,B,C,D & E.)
2. That after the Receipt of judgment from the Honorable Khyber Pakhtunkhwa Service Tribunal Peshawar, the Respondents reinstated the appellant into service and initiated denovo proceedings under Efficiency & Discipline rules, 2011 against

the Appellant and after observance of Codal formalities the appellant was removed from service with immediate effect on 17-07-2018. The Appellant has tendered his Resignation from Service on 19-06-2018. **(Copies of Application and Resignation by the appellant from service are attached as Annexure F & G)**

In view of the above made submissions, it is very humbly prayed that the instant Execution Petition may very kindly be dismissed in favour of the Respondents Please.


District Education Officer
(Male) District, Swat
(For Respondents No 1 & 2)

BEFORE THE HONORABLE KHYBER PAKHTUNKHAWA SERVICE TRIBUNAL PESHAWAR

Execution Petition No 29/2018 in Service Appeal No 165/2016

RASHEED AHMAD EX-CT GHS DHERAI, DISTRICT SWAT

..... Appellant

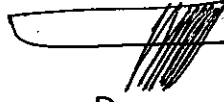
VERSUS

Director Elementary & Secondary Education Khyber Pakhtunkhwa,
Peshawar & others.

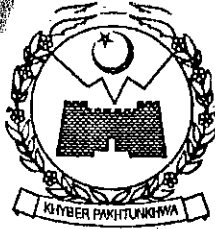
..... Respondents

AFFIDAVIT

I, Muhammad Saeed the Representative of department solemnly affirm & declare on oath that all the contents of this Reply are true and correct to the best of my Knowledge and belief as provided to me by the Concerned Dealing Assistant. Nothing has been kept concealed from this honorable service Tribunal.


Deponent / 6/8/18

Annex-A.



OFFICE OF THE DISTRICT EDUCATION OFFICER
MALE SAIDUSHRIF SWAT.
Phone No.0946-9240228.

SHOW CAUSE NOTICE

I Nawab Ali District Education officer (M) Swat in the capacity of competent authority hereby serve on you Mr. Rashid Ahmad Ex CT B-15 GHSS Dehrai and presently at GHS kedam District Swat as show cause notice as under:-

- (1) Whereas you were absent from your duty since 01/10/2007 without application /permission of the competent authority.
- (2) And whereas you were asked through the principal GHSS Dehrai vide this office No 1551 dated 18/01/2010 No 2953 dated 9/2/2010 and No 5284 dated 30/3/2010 to resume your duties, but you did not turn up and remained absent at your own sweet will.
- (3) And whereas a charge sheet was served upon you through the enquiry committee which remained un responded because you were not available and you proceeded abroad without proper leave and NOC from this department .
- (4) And whereas a final show Cause notice was also served upon your home address vide No 729 dated 15/12/2010, where in you were directed to resume your duties within seven days of the issue of the show Cause notice, but you did not comply.
- 5) And whereas you were called through press daily "Aaj" Peshawar Chand and Shumai District Swat dated 03/04/2011 to resume your duties within fifteen days of the publication of the notice and explain your position regarding willful absence, but again you failed to present yourself for duties..
- 6) And whereas the charge of willful absence inefficiency in service and discipline were proved against you and as such you were removed from service with effect from 1/10/2007 on 18/5/2011 .
- 7) And whereas you came to know in the year 2015, after returning from aboard and feeling aggrieved with your termination order, you filed an appeal in the Khyber Pakhtunkhwa service tribunal Peshawar and honorable Court vide its decision dated 7/12/2017 you were reinstated in service liberty for the Department to start fresh proceeding against you as your termination from retrospective period was declared void.
- 8) And whereas a denovo enquiry committee comprising of Mr.Dilawar Khan and Mr.Muhammad Ismail Principal GHS No 1 Mingora and GHSS Balogram was constituted and vide there inquiry report the allegation of willful absence, inefficiency in service and discipline were proved against you.

16/4/2018

2



Now by reasons shown above you are directed to submit your statement in your defense if any within a period of seven days of receipt of this show cause notice that why one or all major penalties under rules 4(b) (iii) of efficiency and disciplinary rules 2011 shall not be imposed upon you.

You are also directed within the same period that whether you desired to be heard in person or otherwise.

In case no reply is received within the stipulated period it will be deemed that you have no defense in your favor and the undersigned will be constrained to take exparte action stated above against you.


(NAWAB ALI)
COMPETENT AUTHORITY
DISTRICT EDUCATION OFFICER (M) SWAT

Endst: No 11957-60

Dated: 16/4/2018

Copy for information and necessary action to: -

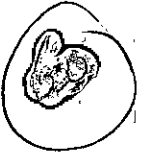
1. The Director Elem & Secondary Edu; KPK Peshawar.
2. The DDEO (M) Swat.
3. The Head Master GHS Kedam Swat with the remarks that the show cause notice be served on the accused teacher under his signature and one copy of the same duly signed be sent to this office.
4. Mr. Rashid Ahmad CT GHS Kedam and Village P/O Bandai Swat.
5. The PA to local Office.


 DISTRICT EDUCATION OFFICER (M)
 SWAT @

16/4/2018

Annex-B

(3)



To,

The District Education officer (M),
E&S Education Deptt: Saidu Sharif Swat.

Subject: - REPLY SHOW CAUSE NOTICE

Dear Sir,

It is requested that in the response to your recent show cause notice
Endst: No. 11957-60 Dated. 16/04/2018, I hereby confirm that I have been performing my duties as
CT at GHS Kedam since my reinstatement.

It is also requested that during my period at GHS Kedam no enquiry have ever been conducted
against me at this school or any other place as well and neither I have given any statement in this
regard to any enquiry officer or committee.

Therefore, you are requested to kindly sympathetically consider my case and allow me the rights for
which I deserve under the rules and regulations.

Regards,

Rashid Ahmad

Dated: 18/04/2018

(RASHID AHMAD)
C.T GHS KEDAM

18/4/2018

DA
Put up on file
for inquiry of
H/M M-196 at
GHS Daloch
as per

JM
19-4-18

Annex-C

④



OFFICE OF THE DISTRICT EDUCATION OFFICER
MALE SAIDUSHRIF SWAT.
Phone No.0946-9240228.

OFFICE ORDER.

The undersigned is pleased to nominate the enquiry committee comprising of the following officers to re-enquire the matter as per this Office Endst No 7925-29 dated 19/1/2018 and submit report to this office within 3 days positively for further necessary action.

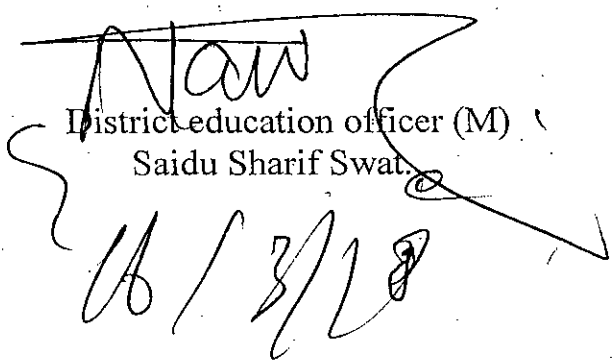
- 1) Mr. Dilawar Khan Pricipal GHS No 1 Mngora Swat Chairman
- 2) Mr. M.Ismail Principal GHSS Balogram Member

(NAWAB ALI)
District education officer (M)
Saidu Sharif Swat.

Endst No 10190-PP Dated 16/3 2018

Copy of the above is forwarded for information to

- 1) Mr Dilawar Khan Principal GHS No 1 Mingora Swat
- 2) Mr. M.Ismail Principal GHSS Balogram Swat.
- 3) The Principal GHSS Dehrai Swat.
- 4) The Official concerned.
- 5) PA to DEO of local Office


District education officer (M)
Saidu Sharif Swat.

Inquiry Committee
Report

OFFICE OF THE PRINCIPAL GOVT: HIGH SCHOOL NO.1 MINGORA SWAT

No 286

Dated: 19/3/2018

To

The District Education Officer
(Male) Swat at Gul Kada.

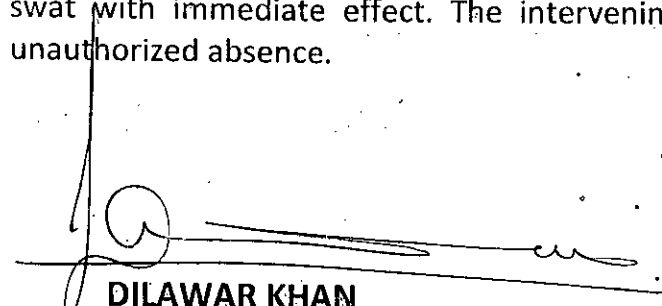
(5)

Subject: ENQUIRY REPORT REGARDING THE JUDGMENT OF THE HONORABLE COURT
TITLED AS RASHID AHMAD CT, GHSS DEHRAI SWAT.

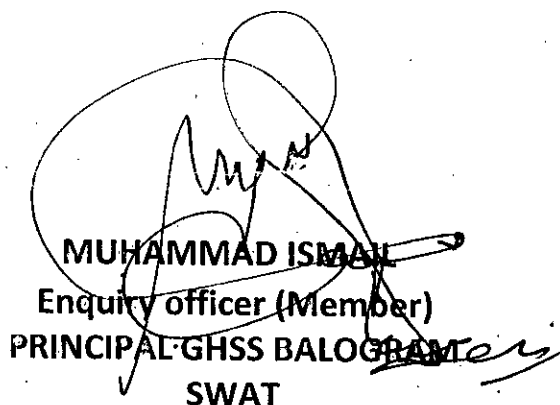
Memo:

With reference to your office order Endst No.10198-99 Dated: 16/03/2018. The undersigned conducted an enquiry on the subject cited above on 19-03-2018 and the following recommendations are here by made.

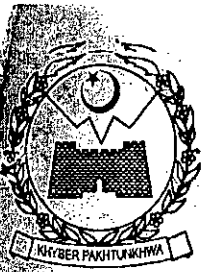
The removal order in respect of Mr. Rashid Ahmad CT, GHS Dherai swat Ends No. 6361-64/F.No.126/Rashid Ahmad/CT Dated 18/05/2011 para 8 may please be revised as: And now therefore, the undersigned being competent authority in exercise of the power conferred upon the under section-3 of the Government Khyber Pakhtoonkhwa Removal from service (Special Power) ordinance Efficiency & Discipline Rules 2011 hereby impose as Major penalty of "Removal from Service" on you Mr.Rashid Ahmad CT, GHS Dherai swat with immediate effect. The intervening period (Absence period) is treated as unauthorized absence.



DILAWAR KHAN
Enquiry officer (Chairman)
PRINCIPAL GHS NO.1
MINGORA SWAT



MUHAMMAD ISMAIL
Enquiry officer (Member)
PRINCIPAL GHSS BALOGRAM
SWAT



OFFICE OF THE DISTRICT EDUCATION OFFICER
MALE SAIDUSHRIF SWAT.
Phone No.0946-9240228.

Annex-D

6

OFFICE ORDER.

In pursuance of the decision /Judgment of Honorable Service Tribunal Khyber Pakhtunkhwa camp court Swat dated 07/12/2017 Mr.Rashid Ahmad S/O Khurshid Anwar is hereby re-instated as CT BPS No 15 at GHS Kedam with immediate effect in the interest of public service.

(NAWAB ALI)
District Education Officer (M)
District Swat.

Endst No

9860-66

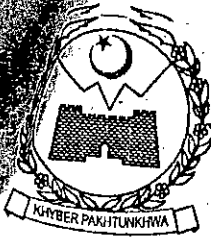
Dated

9/3/2018.

Copy of the above is forwarded for information to .

- 1) The Director Elem& Secy Education KPK Peshawar.
- 2) The District Accounts Officer Saidusahrif Swat.
- 3) The DDEO(M) of local office.
- 4) The Head Master GHS Kedam Swat.
- 5) The Official concerned.
- 6) The Superintendent of Secondary of local office.
- 7) PA to DEO (M) Of local office.

[Signature]
District Education Officer(M)
Saidu Sharif Swat.



OFFICE OF THE DISTRICT EDUCATION OFFICER
MALE SAIDUSHRIF SWAT.
Phone No.0946-9240228.

Annex-D

7

OFFICE ORDER.

In pursuance of the decision /Judgment of Honorable Service Tribunal Khyber Pakhtunkhwa camp court Swat dated 07/12/2017 Mr.Rashid Ahmad S/O Khurshid Anwar is hereby re-instated as CT BPS No 15. at GHS Kedam with immediate effect in the interest of public service.

(NAWAB ALI)
District Education Officer (M)
District Swat.

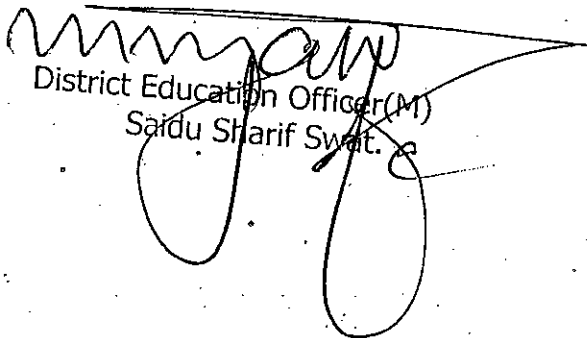
Endst No

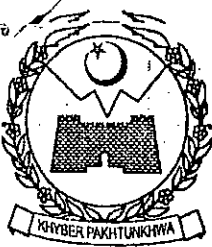
9860-66

Dated 9/3/2018.

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- 4) The Head Master GHS Kedam Swat.
- 5) The Official concerned.
- 6) The Superintendent of Secondary of local office.
- 7) PA to DEO (M) Of local office.


District Education Officer (M)
Saidu Sharif Swat.



OFFICE OF THE DISTRICT EDUCATION OFFICER
MALE SAIDUSHRIF SWAT.
Phone No.0946-9240228.

Annex-D
⑧

OFFICE ORDER.

In pursuance of the decision /Judgment of Honorable Service Tribunal Khyber Pakhtunkhwa camp court Swat dated 07/12/2017 Mr.Rashid Ahmad S/O Khurshid Anwar is hereby re-instated as GT BPS No 15 at GHS Kedam with immediate effect in the interest of public service.

(NAWAB ALI)
District Education Officer (M)
District Swat.

Endst No

9860-661

Dated 9/3/2018.

Copy of the above is forwarded for information to .

- 1) The Director Elem& Secy Education KPK Peshawar.
- 2) The District Accounts Officer Saidusahrif Swat.
- 3) The DDEO(M) of local office.
- 4) The Head Master GHS Kedam Swat.
- 5) The Official concerned.
- 6) The Superintendent of Secondary of local office.
- 7) PA to DEO (M) Of local office.


District Education Officer (M)
Saidu Sharif Swat.



OFFICE OF THE DISTRICT EDUCATION OFFICER
MALE SAIDUSHRIF SWAT.
Phone No.0946-9240228.

Annex-D.
(9)

OFFICE ORDER.

In pursuance of the decision /Judgment of Honorable Service Tribunal Khyber Pakhtunkhwa camp court Swat dated 07/12/2017 Mr.Rashid Ahmad S/O Khurshid Anwar is hereby re-instated as GT BPS No 15 at GHS Kedam with immediate effect in the interest of public service.

(NAWAB ALI)
District Education Officer (M)
District Swat.

Endst No. 9860-66

Dated 9/3 2018.

Copy of the above is forwarded for information to :

- 1) The Director Elem& Secy Education KPK Peshawar.
- 2) The District Accounts Officer Saidusahrif Swat.
- 3) The DDEO(M) of local office.
- 4) The Head Master GHS Kedam Swat.
- 5) The Official concerned.
- 6) The Superintendent of Secondary of local office.
- 7) PA to DEO (M) Of local office.


District Education Officer (M)
Saidu Sharif Swat.

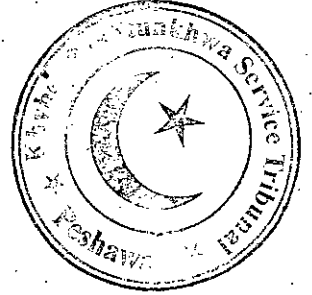
(10)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
CAMP COURT SWAT

Service Appeal No. 165/2016

Date of Institution... 25.02.2016

Date of decision... 07.12.2017



Rashid Ahmad (Ex-CT) GHS Dehairai, Swat R/O Village Kuz Bandy, District Swat. ... (Appellant)

Versus

1. District Education Officer (Male) Swat and another. ... (Respondents)

MR. SHAMSUL HADI,
Advocate

... For appellant.

MR. KABIRULLAH KHATTAK,
Addl Advocate General

... For respondents.

MR. NIAZ MUHAMMAD KHAN,
MR. MUHAMMAD HAMID MUGHAL,

... CHAIRMAN
... MEMBER

JUDGMENT

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

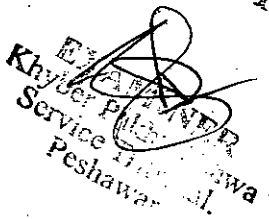
FACTS

2. The appellant was removed from service on 18.05.2011 against which he filed departmental appeal on 14.12.2015 which was rejected on 02.02.2016 and thereafter the present service appeal on 25.2.2016.

ARGUMENTS

3. The learned counsel for the appellant argued that the impugned order has been made effective from a back date which is a void order. He further argued that no limitation shall run against void order. He relied upon a judgment reported in

ATTESTED


 Khyber Pakhtunkhwa
 Service Tribunal
 Peshawar

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1985-SCMR-1178 and argued that void order cannot be sustained in the eyes of law.

4. On the other hand the learned Addl. Advocate General argued that the present appeal is hopelessly time barred as the departmental appeal was filed after almost 5 years of the original order. That the department has fulfilled all the codal formalities.

CONCLUSION

5. Admittedly the removal order has been given retrospective effect and in view of so many judgments delivered by this Tribunal on the basis of judgment reported in 1985-SCMR-1178, the retrospective order is a void order and no limitation shall run against void order. Presuming that all other elements of due process have been complied with, the void order cannot be sustained on this score alone.

6. As a sequel to the above discussion, the present appeal is accepted and the appellant is reinstated in service. The department is however, at liberty to hold denovo proceedings in accordance with law within a period of ninety days. The intervening period shall be subject to the final outcome of the denovo proceedings within a period of ninety days. Parties are left to bear their own costs. File be consigned to the record room.

Announced sdf Niaz Muhammad Khan
07.12.2017 *Chairman*
camp court swat

sdf. M. Hamid Mughal
Member

Certified to be true copy
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Date of Presentation of Application 22-12-17
 Number of Words 800
 Copying Fee 6-0
 Urgent 2-0
 Total 8-0
 Name of Copyist [Signature]
 Date of Completion of Copy 22-12-17
 Date of Delivery of Copy 22-12-17



OFFICE OF THE
DISTRICT EDUCATION OFFICER
(MALE) SWAT.

Amlex-F

12

2

NOTIFICATION.

I. Whereas Mr. Rashid Ahmad CT GHS Kedam Swat, was proceeded against the Khyber Pakhtunkhwa Government servant (Efficiency & Discipline) Rules 2011 for the charges mentioned in the show cause notice.

- (1) Whereas you were absent from your duty since 01/10/2007 without application / permission of the competent authority.
- (2) And whereas you were asked through the principal GHSS Dehrai vide this office No 1551 dated 18/01/2010 No 2953 dated 9/2/2010 and No 5284 dated 30/3/2010 to resume your duties, but you did not turn up and remained absent at your own sweet will.
- (3) And whereas a charge sheet was served upon you through the enquiry committee which remained un responded because you were not available and you proceeded abroad without proper leave and NOC from this department.
- (4) And whereas show Cause notice was also served upon your home address vide No 729 dated 15/12/2010, where in you were directed to resume your duties within seven days of the issue of the show Cause notice, but you did not comply.
- 5) And whereas you were called through press daily "Aaj" Peshawar Chand and Shumal District Swat dated 03/04/2011 to resume your duties within fifteen days of the publication of the notice and explain your position regarding willful absence, but again you failed to present yourself for duties.
- 6) Whereas a final Show Cause was also served upon you home address vide No 13868-75 dated 1/6/18 where in you have directed to submit your statement in you defense if any within a p of seven days of receipt of this show cause notice, but your reply received on 7/6/2018 which not satisfactory.
- 7) And whereas the charge of willful absence inefficiency in service and discipline were proved against you and as such you were removed from service with effect from 1/10/2007 on 18/5/2011
- 8) And whereas you came to know in the year 2015, after returning from abroad and feeling aggrieved with your termination order, you filed an appeal in the Khyber Pakhtunkhwa service tribunal Peshawar and honorable Court vide its decision dated 7/12/2017 you were reinstated in service liberty for the Department to start fresh proceeding against you as your termination from retrospective period was declared void.
- 9) Whereas denovo inquiry against you was conducted by Mr. Dilawar Khan Principal GHS No 1 Mingora and Mr. Mohammad Ismail Principal GHSS Balogram Swat Vide No 10198-99 dated 16/03/2018. They recommended removal from service.

Removal order dated 17/7/2018

and whereas a denovo enquiry committee comprising of Mr. Akhtar Ali Principal GHS Ningolai and Mr. Mohammad Iqbal Head Master GHS Galoch was constituted on your own request for partial enquiry and vide their inquiry report the allegation of willful absence, inefficiency in service and discipline were proved against you.

11) Whereas the charges leveled against you were proved and reported by both the enquiry committees.

12) Whereas the District Education Officer (M) Swat being competent authority after having considered the charges and evidences on record against you were proved.

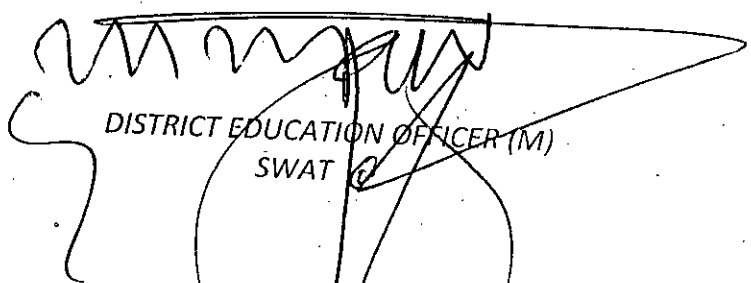
13) Now, Therefore I Nawab Ali District Education Officer (M) Swat being competent authority do hereby impose upon you the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules 2011 " the major penalty of "REMOVAL FROM SERVICE" under Rules 4 (b) (iii) with immediate effect in the interest of public service.

(NAWAB ALI)
DISTRICT EDUCATION OFFICER (M)
SWAT
Dated 17/7/2018.

Endst: No. 1543540 /P.F/CT/DEO/M.-

Copy forwarded to:

- 1- The Director Elementary & Secondary Education KPK Peshawar.
- 2- The District comptrollers of Account Swat at Saidu Sharif.
- 3- The DDEO(M) of local office.
- 4- The Head Master GHS Kedam Swat.
- 5- P.A to District Education Officer (M) Swat the local office.
- 6- The teacher concerned.


DISTRICT EDUCATION OFFICER (M)
SWAT

Removal order dated 17/7/2018

Annex-4.

14

23

To:

The District Education Officer, (Male)
District Swat Saidu Sharif

Subject: RESIGNATION FROM SERVICE

Dear Sir,

Received
19/6/18

Actually I was reinstated in service at G.H.S Kedam a remote school in district swat, after KPK service Tribunal decision my favour while there were many vacant post in nearby local school like GHSS Qambar G.M.S Shakardara etc.

Also after three and Half Month working in school my salary is not released yet and so for I have spent about Rs. 40,000/- in traveling to school and back home and other day to day expenses in job related things.

But I can't afford this anymore, as I don't have any other source of income and have to feed my family too.

A series of Endless enquires, personal hearing and show cause notices are done in my reinstatement without any positive outcome. So because of your ill well and the ill treatment that I have got from your office and some of enquiry officers, I am depressed, and feel forced and pushed to the edge. And I am left with no other option than resignation

Therefor I have decided to resign from my service with immediate effect but will continue my legal Battle for my right

Yours obediently

Rashid Ahmad C.T

G.H.S Keedam

19/6/2018

Date 19/6/2018

103
19/6/18

Annex - H.

61 (15)

In respect of:

The Honourable District Education Officer,
(Male) District Swat.

Subject; APPLICATION FOR REINSTATEMENT OF
APPLICANT IN LIGHT OF THE JUDGMENT OF
KHYHBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.

Most respected Sir,

With profound respect it is stated that:

1. I was serving as C.T. Teacher in your department and my posting was at GHS Dherai, Swat. But on the basis of absence I was removed from service vide order dated 18.05.2011.

2. Against the dismissal from service, I filed service appeal No. 165/2016 which was allowed through the judgment dated 07.12.2017 and as such the department was directed to re-instate the appellant/applicant against his post. (For your kind perusal copy of the judgment is attached herewith).

Your good self is therefore, requested to reinstate me on my C.T. post in the light of the judgment dated 07.12.2017 passed by the Honorable Services Tribunal Khyber Pakhtunkhwa.

Hope your honour will do the needful soon, for which I shall be highly grateful and pray for you.

Thanks.

Yours obediently,

Rashid Ahmad

RASHID AHMAD (C.T.)
M.Sc. Mathematics, B.Ed.
son of Khurshid Anwar,
r/o Kuza Bandai, Swat.

Dated 23/12/17

23/12/2017