

70

09.07.2019

Petitioner alongwith his counsel and Addl: AG for respondents present.

The petitioner states that as a consequence to de-novo enquiry, he has been compulsorily retired from service on 31.1.2018. He, therefore, requests for consignment of the instant execution petition to the record room.

Orders accordingly. File be consigned to the record room.

Announced:
09.07.2019


Chairman

E.P No. 33/2018

04.10.2018

Petitioner in person present. Mr. Ziaullah, Deputy District Attorney alongwith Mr. Sajid, ADO (Litigation) for the respondents present. Petitioner requested for adjournment. Adjourned. To come up for further proceedings on 16.11.2018 before S.B.

MA
(Muhammad Amin Khan Kundi)
Member

16-11-2018

Due to retirement of Honorable Chairman the Tribunal is now functional therefore the case is adjourned to come up for the same on 4-1-2019

Reader

04.01.2019

Counsel for the petitioner present. Mr. Kabirullah Khattak, Additional AG for the respondents present. Neither implementation report submitted nor representative of the department is present therefore, notice be issued to the respondents with the direction to direct the representative to attend the court and submit implementation report on the next date positively. Adjourned. To come up for implementation report on 19.03.2019 before S.B.

MA
(Muhammad Amin Khan Kundi)
Member

E.P No. 33/2018

04.10.2018

Petitioner in person present. Mr. Ziaullah, Deputy District Attorney alongwith Mr. Sajid, ADO (Litigation) for the respondents present. Petitioner requested for adjournment. Adjourned. To come up for further proceedings on 16.11.2018 before S.B.

MA
(Muhammad Amin Khan Kundi)
Member

16-11-2018

Due to Retirement of Honorable Chairman the Tribunal is now functional therefore the case is adjourned to come up for the same on 4-1-2019

R. Reader

04.01.2019

Counsel for the petitioner present. Mr. Kabirullah Khattak, Additional AG for the respondents present. Neither implementation report submitted nor representative of the department is present therefore, notice be issued to the respondents with the direction to direct the representative to attend the court and submit implementation report on the next date positively. Adjourned. To come up for implementation report on 19.03.2019 before S.B.

MA
(Muhammad Amin Khan Kundi)
Member

19.03.2019

Learned counsel for the petitioner and Mr. Kabirullah Khattak learned Additional Advocate General alongwith Mr. Sajid ADEO for the respondents present. Representative of the respondents is directed to produce complete record. Adjourn. To come up for complete record on 22.04.2019 before S.B.


Member


22.04.2019

Counsel for the petitioner and Addl: AG alongwith Mr. Sajid Khan, ADO (Lit) for respondents present. Representative of the respondents produced record as required vide order sheet dated 19.03.2019 and the same is placed on file. A copy of the same was also handed over the learned counsel for the petitioner. Case to come up for further proceedings on 11.06.2019 before S.B.


(Ahmad Hassan)
Member

11.06.2019

Counsel for the petitioner and Addl: AG for respondents present. Learned counsel for the petitioner sought time to go through the record submitted by the respondents. Allowed. Case to come up further proceedings on 09.07.2019 before S.B.


(Ahmad Hassan)
Member

02.05.2018

Petitioner in person present and Mr. Kabirullah Khattak, Additional AG for the respondents present. The Tribunal is non-functional due to retirement of our Hon'ble Chairman. Therefore, the case is adjourned. To come up for same on 24.07.2018.


Reader

24.07.2018

Petitioner present. Mr. Muhammad Jan learned Deputy District Attorney present and submitted copy of order dated 31.01.2018 whereby the petitioner was awarded major penalty of compulsory retirement from service. Denovo inquiry report is also annexed therewith. Learned counsel for the petitioner not available. Adjourned. To come up for further proceedings on 29.08.2018 before S.B


Member


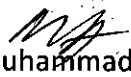

29.08.2018

Clerk of the counsel for petitioner and Mr. Kabirullah Khattak, Additional AG for the respondents present. Clerk of the counsel for petitioner requested for adjournment. Adjourned. To come up for further proceedings on 04.10.2018 before D.B.


(Muhammad Amin Khan Kundi)
Member

FORM OF ORDER SHEET

Execution Petition No. 33/2018

S.No.	Date of order Proceedings	Order or other proceedings with signature of Judge
1	2	3
1	30.01.2018	<p>The Execution Petition of Mr. Zahir Ullah submitted to-day by Mr. Khushdil Khan Advocate may be entered in the relevant Register and put up to the Court for proper order please.</p> <p style="text-align: right;">REGISTRAR</p>
2-	06/02/18	<p>This Execution Petition be put up before S. Bench on- <u>12/02/18</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
	12.02.2018	<p>Petitioner in person present. Notice be issued to the respondents for implementation report for 05.03.2018 before S.B.</p> <p style="text-align: right;"> (Muhammad Amin Khan Kundi) Member (J)</p>
	05.03.2018	<p>Clerk of the counsel for petitioner and Assistant AG present. None present on behalf of respondent department, therefore fresh notice be issued to the respondent department for attendance. Clerk of the counsel for petitioner seeks adjournment. Adjourned. To come up for implementation report on 02.05.2018 before S.B.</p> <p style="text-align: right;"> (Gul Zohor Khan) Member</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Execution Application No. 33/2018

IN

Service Appeal No. 876/2015

Zahir Ullah,
PST Teacher, R/o Moh: Barshah,
Katlang Teh: & District MardanApplicant

Versus

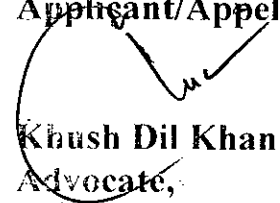
Mr. Ijaz Ali,
District Education Officer,
District Mardan & othersRespondents

INDEX

S.No.	Description of Documents	Date	Annexure	Pages
1.	Memo of Application.			1-3
2.	Copy of Service appeal No.876/2015		A	4-9
3.	Copy of decision/order of the Service Tribunal thereby appeal was allowed on 26-04-2017	26-04-2017	B	10-13
4.	Copy of application for implementation the decision/ order of the Tribunal	15-05-2017	C	0-14
5.	Copy of inquiry report	06-11-2017	D	0-15
6.	Copy of letter thereby respondent No.1 sought guidance from respondent No.2	06-10-2017	E	0-16
7.	Letter thereby respondent No.2 replied accordingly	23-08-2017	F	17-23
8.	Wakalat Nama			


Applicant/Appellant

Through


Khush Dil Khan
Advocate,
Supreme Court of Pakistan
9-B, Haroon Mansion,
Khyber Bazar, Peshawar.
Cell # 091-2213445

Dated 26/01/2018

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Execution Application No. 33 /2018

IN

Service Appeal No. 876 /2015

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 156

Dated 30-1-2018

Zahir Ullah,
PST Teacher,
R/o Moh: Barshah,
Katlang Teh: & District Mardan.....Applicant

Versus

1. Mr. Ijaz Ali,
District Education Officer,
District Mardan.
2. Mr. Muhammad Rafiq Khattak,
Director,
Elementary & Secondary Education Department
Khyber Pakhtunkhwa, Peshawar.
3. Mr. Fakhr-e-Alam,
Secretary,
Govt. of Khyber Pakhtunkhwa,
Elementary & Secondary Education Department.
Civil Secretariat, Peshawar.....Respondents

APPLICATION UNDER CLAUSE (d) OF SUB-SECTION 2 OF THE SECTION 7 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 FOR EXECUTION OF THE DECISION/ORDER PASSED ON 26-04-2017 BY THE LEARNED BENCH OF THIS TRIBUNAL IN SERVICE APPEAL NO. 876/2015 THEREBY THE IMPUGNED ORDER DATED 06-05-2014 OF REMOVAL WAS SET ASIDE AND APPLICANT WAS REINSTATED IN SERVICE.

Respectfully Sheweth,

1. That applicant was the employee of Respondent Department holding the post of PST in District Mardan. On the plea of absence he was removed from service by impugned order dated 06-05-2014 against which he filled Service appeal No.876 of 2015 (**Annexed-A**) after exhausting departmental remedy.
2. That the appeal was decided on merit vide order dated 26-04-2017 (**Annexed-B**) and the relevant para thereof is reproduced as under.

8. *In view of the above we accept the present appeal set aside the impugned order referred to above and reinstate the appellant in service by placing the respondent at liberty to conduct denovo enquiry against the appellant in the mode and manner prescribed by rules and there-after pass orders deem appropriate. Parties are left to bear their own costs. File be consigned to the record room.*

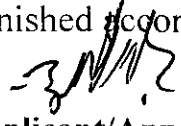
3. That after obtaining the attested copy of the order of this Hon'ble Tribunal, the applicant/ petitioner submitted an application for its implementation before the respondent No.1 vide dairy No.4442 dated 15-05-2017 (**Annexed-C**)
4. That respondent No.1 partially executed the order to the extent of denovo enquiry without reinstating the applicant/petitioner in service and directly initiated fresh inquiry proceeding by appointing an inquiry officer who carried out the inquiry and submitted the report on 23-08-2017 (**Annexed-D**). In pursuance of which respondent No.1 has sought guidance from respondent

No.2 through letter dated 06-10-2017 (**Annexed-E**) who replied it on 06-11-2017 (**Annexed-F**) therein directed him to decide the case in accordance with rules on subject but till filling this application the respondent No.1 has taken no action and the matter is still pending as such.

5. That respondent No.1 has deliberately not implemented the order of this Hon'ble Tribunal as a whole and malafidely initiated the denovo inquiry proceedings without reinstating applicant/petitioner in service which amounting to contempt of Court/ Tribunal.

It is therefore, prayed that on acceptance of this application, the Respondents may graciously be strictly directed to execute the decision of this Tribunal in letter and spirit and reinstate the applicant into service without further delay and the defaulter may kindly be proceeded under the law of contempt and be punished accordingly.

Through


Applicant/Appellant

Khush Dil Khan

Advocate,

Supreme Court of Pakistan

Dated: 26 / 01/ 2018

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Execution Application No. _____/2018

IN

Service Appeal No. 876 /2015

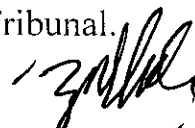
Zahir Ullah,
PST Teacher,
R/o Moh: Barshah,
Katlang Teh: & District Mardan.....Appellant

Versus

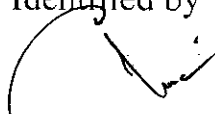
Mr. Ijaz Ali,
District Education Officer,
District Mardan.

AFFIDAVIT

I, Zahir Ullah, PST Teacher, R/o Moh: Barshah, Katlang Teh: & District Mardan do hereby affirm and declare on oath that the contents of this application for execution of the decision of this Hon'ble Tribunal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.


Deponent

Identified by


Khush Dil Khan
Advocate, Peshawar

Annex: A
1
P. 4

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 876 /2015

Zahir Ullah,
PST Teacher,
R/o Moh: Barshah,
Katlang Teh: & District Mardan.....Appellant


Versus

1. The District Education Officer (Male),
District Mardan.
2. The Director,
Elementary & Secondary Education Department
Khyber Pakhtunkhwa, Peshawar.
3. The Secretary,
Govt. of Khyber Pakhtunkhwa
Civil Secretariat, Peshawar.....Respondents.

SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNALS ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 06.05.2014 (ANNEX:-I) WHICH CAME INTO KNOWLEDGE OF APPELLANT WHEN THE COPY OF THE SAME WAS FILED BY THE RESPONDENT NO.1 WITH ITS COMMENTS FILED IN WRIT PETITION NO.716-P/2014 UPON WHICH HE WITHDREW THE PETITION VIDE ORDER SHEET 14.04.2015 (ANNEX:-J) WITH THE PERMISSION TO APPROACH PROPER FORUM FOR THE REDRESSAL OF HIS GRIEVANCES, AFTER THAT APPELLANT FILED DEPARTMENTAL APPEAL ON 30.04.2015 (ANNEX:-K) UNDER REGISTERED POST WITH AN APPLICATION FOR CONDONATION OF DELAY BUT THE SAME WAS NOT DISPOSED OFF WITHIN STATUTORY PERIOD OF 90 DAYS.

Respectfully Sheweth,

Facts giving rise to the present appeal are as under:-


ATTESTED

1. That appellant initially appointed as Primary School Teacher on 17.12.1987 and posted in Govt. Primary School Kass Koroona Mardan. Meanwhile, he applied for three years earned leave on private affairs with effect from 18.10.2005 to 17.09.2008 vide his application dated 10.08.2005 which was allowed after due process by the Respondent No.1 in the terms i.e. with effect from 18.10.2005 to 09.10.2006 (356 days) on half pay while from 10.10.2006 to 17.04.2007 (189 days) without pay by an office order Endst: No. 5104-06/PF/Zahir Ullah/PST/MM dated 03.04.2005. (Copies of Application dated 10.08.2005 Annex:-A and Sanction leave order dated 03.04.2006 Annex:-B)

*Process is incorrect
baseless complaint
fact + law as stated
Thoroughly explain
Supra is not
Preliminary
objection hence
denied*

2. That on the expiry of sanctioned leave, the appellant applied for extension of the same but neither his request for extension of leave was turned down nor any notice was issued to him for resuming duties and after availing the requisite leave, he submitted his arrival report for resuming his duties in the office of the Respondent No.1 which was not heeded to. Then he filed another application which was duly forwarded by the Deputy District Officer (Male) Primary, Mardan to Respondent No.1 vide No.1492/P dated 18.06.2001. (Copies of application dated 25.05.2011 Annex:-C and letter dated 18.06.2011 as Annex:-D).

3. That though the conceivable efforts were made by the appellant to get adjustment order from the office of the Respondent No.1 and to resume his duties but failed due to lukewarm attitude of Respondent No.1 who always used delay tactics for unknown reasons which constrained him to file an application dated 03.10.2012

[Signature]
ATTESTED

03.02.2012

before the former Hon'ble Chief Minister of Khyber Pakhtunkhwa, who endorsed the same to the Respondent No.3 with remarks "*for necessary action and report for the earliest*" but no remedial action was taken by the authorities concerned except the change of correspondences. (Copies of application dated 03.02.2012 Annex:-E, letters dated 16.03.2012, 03.04.2012, 20.06.2012, 15.08.2012, 13.09.2012, 08.10.2012, 03.12.2012, 04.12.2012, 21.12.2012 and 29.01.2013 Annex:-F/1 to F/10)

4. That then appellant filed a Writ Petition No.716-P/2014 on 01.03.2014 (Annex:-G) in the Peshawar High Court Peshawar and on the first hearing the case was noticed to respondents and also asked for comments. The Respondent No.1 submitted the requisite comments (Annex:-H) on 05.07.2014 along with necessary documents i.e. letter dated 03.04.2006, application dated 25.05.2011, Notification dated 13.04.2012, Inquiry Report and removal order of appellant. Thus for the first time appellant came to know about the impugned order dated 06.05.2014 (Annex:-I) thereby he was removed from service under F.R-18 with immediate effect. Therefore, he was constrained to withdraw the aforesaid writ petition with the permission to approach the proper forum for the redressal of his grievances vide Order Sheet dated 14.04.2015 (Annex:-J).
5. That soonly appellant filed departmental appeal on 30.04.2015 (Annex:-K) under registered post accompanying by an application for condonation of delay before Respondent No.2 but the same was not disposed off within statutory period of 90 days.

ATTESTED

Hence the present appeal is submitted on the following amongst other grounds:-

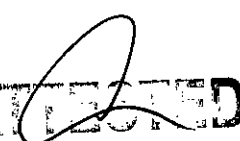
Grounds:

- A. That the Respondent No.1 has not treated appellant in accordance with law and rules on subject and malafidely passed the impugned order in clandestine manner without any notice to appellant which is not sustainable under the law being violative of the principle of natural justice.
- B. That Respondent No.1 has wrongly applied F.R. 18 and unlawfully passed the impugned order thereunder because the said Rule has no more on the statutory book and that has been omitted in the year 1992, therefore, the impugned order is not sustainable under the law and liable to be set aside.
- C. That Respondent No.1 had appointed an Inquiry Committee in connection with the case of adjustment of the appellant vide order dated 13.04.2012 (Annex:-L). The Inquiry Committee conducted the inquiry and submitted an Inquiry Report to Respondent No.1 on 17.05.2012 (Annex:-M) but Respondent No.1 has totally ignored the recommendations and findings of the Inquiry Committee and the same was kept dormant without further action for unknown reasons. Thus Respondent No.1 acted in arbitrary manner and ignored the findings of Inquiry Committee without legal justification which is unfair and unjust.
- D. That in view of rule 12(1) of the Khyber Pakhtunkhwa Civil Servants Revised Leave Rules, 1981 a civil servant

ATTESTED

can avail leave without pay upto a maximum period of five years at a time when he has continuous service at his credit not less than 10 years. The appellant has more than 17 years continuous service at his credit while the period of leave as he availed is 1534 days comes to four years two months and 24 days including 356 days leave on half pay thus the period of his leave comes within the purview of admissible period as mentioned in the aforesaid rule. Therefore, Respondent No.1 was not justified to keep the arrival report pending without cogent reasons and not allow him to resume his duties, which was an unlawful act and appellant was not treated in accordance with the law and rules on subject.

- E. That Respondent No.1 acted in arbitrary manner and passed the impugned order in slipshod manner, without providing a fair opportunity of hearing and defence to appellant and passed the impugned order at his back which is illegal, unlawful, having no legal sanctity and inoperative on the rights of appellant thus liable to be set aside.
- F. That the impugned order is unjustified and passed afterthought with malafide intention just to defeat the rights of appellant with inordinate delay without cogent reason thus the same is not sustainable.
- G. That Respondent No.2 has not acted in accordance with law and unlawfully kept pending the departmental appeal of appellant with the application of condonation of delay without any action and violated his obligatory duties.


ATTESTED

It is, therefore, humbly prayed that on acceptance of this service appeal, the impugned order dated 06.05.2014 may kindly be set aside and appellant may graciously be reinstated into service with all back benefits.

Any other relief as deemed appropriate in the circumstances of case not specifically asked for, may also be granted to appellant.

Through


Appellant

Khush Dil Khan,
Advocate,
Supreme Court of Pakistan


ATTESTED

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Annex B ①
P/10

Service Appeal No. 876 /2015

Zahir Ullah,
PST Teacher,
R/o Moh: Barshah,
Katlang Teh: & District Mardan.....Appellant

M. W. F. Peshawar
Service Tribunal
Diary No. 936
Dated 05/8/2015

Versus

1. The District Education Officer (Male),
District Mardan.
2. The Director,
Elementary & Secondary Education Department
Khyber Pakhtunkhwa, Peshawar.
3. The Secretary,
Govt. of Khyber Pakhtunkhwa *Edu-Deptl.*
Civil Secretariat, Peshawar.....Respondents.

5/8/15

SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNALS ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 06.05.2014 (ANNEX:-I) WHICH CAME INTO KNOWLEDGE OF APPELLANT WHEN THE COPY OF THE SAME WAS FILED BY THE RESPONDENT NO.1 WITH ITS COMMENTS FILED IN WRIT PETITION NO.716-P/2014 UPON WHICH HE WITHDREW THE PETITION VIDE ORDER SHEET 14.04.2015 (ANNEX:-J) WITH THE PERMISSION TO APPROACH PROPER FORUM FOR THE REDRESSAL OF HIS GRIEVANCES, AFTER THAT APPELLANT FILED DEPARTMENTAL APPEAL ON 30.04.2015 (ANNEX:-K) UNDER REGISTERED POST WITH AN APPLICATION FOR CONDONATION OF DELAY BUT THE SAME WAS NOT DISPOSED OFF WITHIN STATUTORY PERIOD OF 90 DAYS.

Respectfully Sheweth,

Facts giving rise to the present appeal are as under:-

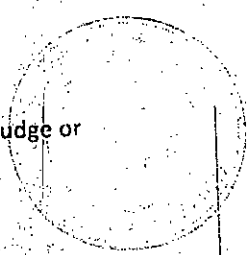
ATTESTED

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P. 11

Date of order/proceedings

Order or other proceedings with signature of Judge or Magistrate



2

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Appcal No. 876/2015

Zahir Ullah Versus the District Education Officer (Male) District, Mardan and 2 others.

JUDGMENT

MUHAMMAD AZIM KHAN AFRIDI, CHAIRMAN:-

26.04.2017

Counsel for the appellant and Mr. Muhammad Jan, Government Pleader alongwith Hameedur Rahman, A.D (Litigation) for respondents present. Rejoinder submitted by learned counsel for the appellant.

2. Zahir Ullah Ex-PST Teacher hereinafter referred to as the appellant has preferred the instant service appeal under Section 41 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against order dated 06.05.2014 communicated to him on 14.04.2015 vide which he was removed from service and where-against his departmental appeal dated 29.04.2015 was not responded constraining the appellant to prefer the instant service appeal on 05.08.2015.

3. Brief facts of the case of the appellant are that the appellant was appointed as PST on 17.12.1987. That while serving as such he applied for earned leave which was sanctioned w.e.f. 18.10.2005 to 17.04.2007. It was on 24.5.2011 when appellant

ATTACHED

6/01

P-12

submitted application to E.D.O (Schools & Literacy) Mardan for adjustment followed by similar applications to different authorities. Finally the appellant was removed from service vide order dated 06.05.2014 on the allegations of willful absence which order was not communicated to the appellant and which came in his notice after perusal of comments submitted in the High Court dated 05.07.2014 which constrained the appellant to withdraw the Writ Petition on 14.04.2015 where-after he preferred departmental appeal on 29.04.2015.

4. Learned counsel for the appellant has argued that though the appellant has remained absent from service without any sanction leave but he was available to the respondents to face the allegations of willful absence and justify his stance. That the appellant was not associated with any enquiry despite his availability and as such the impugned order of removal of appellant is against facts and law and liable to be set aside.

5. Learned Government Pleader has argued that when the absence is admitted then there is no justification to direct the respondents to conduct any regular enquiry. Reliance was placed on judgment reported as 2011-SCMR-1429 (Supreme Court of Pakistan).

6. We have heard arguments of learned counsel for the parties and perused the record.

7. It is evident from the record that the appellant has put in almost 17 years service. The appellant was available to the

6
10

ATTESTED

P 13
56
4

competent authority during the days of fact finding enquiry. Thus the respondents were obliged to have conducted a proper and regular enquiry as required under the Government Servants (Efficiency & Discipline) Rules, 2011. In the absence of any such enquiry we observe that the appellant was condemned unheard and treated otherwise than in accordance with law.

8. In view of the above we accept the present appeal set aside the impugned order referred to above and reinstate the appellant in service by placing the respondents at liberty to conduct de novo enquiry against the appellant in the mode and manner prescribed by rules and there-after pass orders deem appropriate. Parties are left to bear their own costs. File be consigned to the record room.

Ed. M. Azim Khan Afridi,
Chairman

Ed. M. Azim Khan,
Member

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1600
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02-05-12
02-05-12

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ATTESTED

بذرت صواب ڈسٹرکٹ ایجوکیشن آفیسر صاحب (پروان) - پروان

درفوسٹ سروس

58

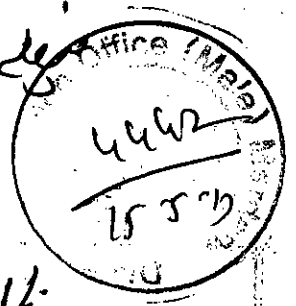
صوبہ خیال

حربیہ تزارش کے حوالے کے مذکورہ 1987/12/14 سے فیکلٹی
سین کثیف P.S.T یوسٹ ڈسٹرکٹ ایجوکیشن آفیسر صاحب
کی بناء پر 18/10/2005 تا 17/04/2007 کا باقاعدہ آئندہ یوسٹ اور وہ رولز
کے مطابق منظور ہوا۔ لیکن چونکہ یہ درخواست کی۔ لیکن فیکلٹی کو باقی
کی وجہ سے منظور کرنے میں سکی۔ اور مذکورہ سروس کی غیر معمولی حالت
مجھے سروس بنانا پڑا۔

مذکورہ حالیہ سروس ڈسٹرکٹ ایجوکیشن آفیسر صاحب کو اس کی سروس کی مشقت
ہوئے میں سکی۔

اس کے علاوہ گورنمنٹ میں اس سروس کی۔ اور مذکورہ حوض عبداللہ نے
اس سروس کی مشقت ختم ہونے سے اس سروس کی مشقت ختم ہونے کو
ذبح کیا۔ اور اس سروس کی مشقت ختم ہونے سے اس سروس کی مشقت ختم ہونے کو
مذکورہ سروس کی مشقت ختم ہونے سے اس سروس کی مشقت ختم ہونے کو
یوسٹ سروس کی مشقت ختم ہونے سے اس سروس کی مشقت ختم ہونے کو

مذکورہ سروس کی مشقت ختم ہونے سے اس سروس کی مشقت ختم ہونے کو
12/05/2017



الیا خان
محکمہ ایجوکیشن P.S.T ڈسٹرکٹ ایجوکیشن آفیسر صاحب (پروان)

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16101-3636456
0331-2211834

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ATTACHED

Annex: 'D'

P. 15

67

①

Enquiry report: Denovo Enquiry Directed by Service Tribunal
Khyber Pukhtoonkhwa In the case of Mr Zahidullah Ex-PST GHS Kas
Koroona Mardan Adjustment/Termination

Assigned by: District Education Officer Male
Elementary and Secondary Mardan

Date of submission of Enquiry Report: 22/08/2017

Enquiry Officer: Mr. Arshad Hussain ✓
Principal GHS Babuzai Katlang Mardan.



ATTESTED


PRINCIPAL
G.H.S. Babuzai Katlang,
Distt: Mardan.

A. D. D. (P)
23/8/17

Amec: E
R 16

(2)

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ENQUIRY REPORT AGAINST MR Zahirullah EX PST GPS KAS KOROONA DISTRICT MARDAN ABOUT HIS ABSENCE FROM DUTY W.E.F 18/04/2007 TO 28/04/2012 AND REMOVAL FROM SERVICE.

No. 400

Dated: 23/08/2017

Inquiry Officer Arshad Hussain Principal GHS Babuzai Katlang Mardan
Dates of Inquiry 10.08.2017
12.08.2017
15.08.2017
18.08.2017
Venue (1) DEO E/S Male Office ~~Mardan~~ Mardan
(2) SDEO Male office Mardan
(3) GPS Kas Koroona Mardan
(4) GHS Babuzai Katlang Mardan

Subject : INQUIRY REPORT AGAINST MR Zahirullah EX PST GPS KAS KOROONA DISTRICT MARDAN ABOUT HIS ABSENCE FROM DUTY W.E.F 18/04/2007 TO 28/04/2012 AND REMOVAL FROM SERVICE.

Introduction

Mr Zahirullah was a PST teacher appointed on 20/12/1987 and performing his duty at GPS Kas koroona Mardan. He was absent w.e.f 18/04/1987 to 28/04/2012 and was removed from service on 06/05 2014. He filed appeal in Service Tribunal Khyber Pukhtoonkhwa which set aside the removal order against him and ordered for the denovo enquiry to DEO Male E/S Mardan. Having obeyed the order DEO Male E/S Mardan assigned me the task to conduct the enquiry vide Endst; No 6507-09 Dated 02/08/2017.



PRINCIPAL
G.H.S. Babuzai Katlang,
Distt: Mardan

ATTESTED

Annex: "F"

P. 17

3

Procedure adopted

I collected his personal file from DEO office on 10/08/2017, and also received required information from SDEO Mardan and informed Mr Zahirullah about the enquiry through mobile phone and fixed the date and place of enquiry. Mr Zahirullah met me at GHS Babuzai Katlang Mardan on 16/08/2017. A questionnaire (attached) was given to him in which some questions were asked. He was also interviewed. His personal file, the decision of Service Tribunal Khyber Pukhtoonkhwa, previous enquiry report against him and other relevant documents of Mr Zahirullah Ex- PST were thoroughly checked and studied.

65

Statement of Mr Zahirullah in his favour

When he was asked about the case he said, "I had been appointed on 17/08/1984 and for the last time I had submitted application for EOL w.e.f 10/10/2005 to 17/04/2007 and on 17/04/2007 I had given application for the extension in leave w.e.f 18/04/2007 to 31/12/2009 and I thought that my application had been accepted for the extension in leave up to the required period as I had not been replied by the concerned authority. I was in Karachi and came back to school on 01/01/2010 and gave application for adjustment but I was told that I was absent w.e.f. 18/04/2007 to that day and was not adjusted. I had not been informed about my absence neither through written letter or verbally nor by a messenger and was kept totally in darkness about my case. Since then I have started my struggle for adjustment. And in High Court Peshawar I came to know that I had been removed from service. Again I was not informed about my case. No Show cause notice or the process of personal hearing etc has been observed. It is totally unjust with me and I have knocked the door of the court which has given decision in my favour". When I asked Mr Zahirullah about his struggle for leave and absence he gave me the following precedents in his favour.

1; A PST teacher Mr Naweed Akhtar GPS Sadiq Abad Takht Bhai who was granted EOL w.e.f 30/05/2001 to 31/10/2001 (155) days vide Endst; No 252-55 dated 05/01/2006 though he had availed all his E.O.L.

2; A teacher named Mr Hazrat Jamal PST GPS No 3 Palo Dheri Rustam was absent from his duty w.e.f 07/10/1999 and had been removed from service on 10/07/2000 vide Endt; 2155-60 Dated 07/10/2000. Then he has been awarded E.O.L 07/10/1999 to 31/12/2000 almost more than eleven years vide Endst; No 09-13 dated 01/01/2011 and has been reinstated by the department." In the light of above precedents I may please be reinstated" . He requested.

I personally verified the above two cases and found his arguments correct.


PRINCIPAL
G.H.S. Babuzai Katlang,
Distt: Mardan.



P.18

(4)

Statement of the Head Teacher Mr Syed Khalid Shah EX HPST present CT.

When he was asked about the case he said, " Mr Zahirullah was on EOL wef 18/10/2005 to 17/04/2007 and from 18/04/2007 he was absent. I have informed the then ADEO about his earned leave and on 24/08/2008 I had written about his E.O.L in General Accounts Proforma to him .when Mr Zahidullah did not refund his loan to the bank from which he has taken the loan I wrote to the ADEO on 08/11/2006 that he was on E.O.L and Mr BaKhtiar Ali PST had been appointed against his post but the ADEO/SDEO Primary did not take any action against him and not informed Zahirullah about his absence". (His answers attached) It means no disciplinary action has been taken by the concerned officers against the case.

66

Findings

Record of his service and leave.

After a methodical and deep study of entire relevant record the following facts were pointed out.

_Mr Zahirullah had been appointed on 15/12/1987 and took over the charge on 20/12/1987 at GMS Juwar Bazar.

_He availed Extra Ordinary Leave w.e.f 01/09/1994 to 01/09/1996 (two years) without pay vide Endst; No 3360 dated 20/09/1994.

_ He joined his duty on 02/09/1996 vide sanction No 3412 Dated 01/09/1996.

_He was given E.O.L w.e.f 01/10/1996 to 31/08/1997 (11 Months) vide Endst; No 3523-24 Dated 11/11/1996.

_He rejoined his duty at GPS Sardar Abad Mardan on 01/09/1997 vide sanction Endst; No 2475-76 Dated 31/08/1997.

_According to his service book his service was verified up to 30/11/2004.

_He was granted earned leave w.e.f 18/10/2005 to 09/10/2006 (356) days on half pay and w.e.f 10/10/2006 to 17/04/2007 (189) days without pay vide Endst; No 5104-06 Dated 03/04/2006 while during his service in GPS Kas Koroona Mardan. And thus he has availed almost (03) three years and (06) six months E.O.L.

_The teacher had submitted one application due the illness of his brother in law for the extension in leave up to 31/09/2009 on date 17/04/2007 and did not join his duty in the hope that his extension in leave had been sanctioned by the EDEO concerned because he



PRINCIPAL
G.H.S. Babuzai Katlang,
Distt: Mardan

ATTACHED

P. 19

(5)

had not been informed by the offices concerned about his not extension in leave though one year and six months approximately could be awarded to him. The officers concerned neither informed the teacher nor maintained his service book after 02/04/2006. Thus the teacher remained absent w.e.f 18/04/2007 to 06/05/2014 (his removal date). According to his service book in my hand and the personal file his service and leave are as under.

Service: 1; 20/12/1987 to 31/08/1994 (06 years, 08 months and eleven days)

02; 02/09/1996 to 31/09/1996 (29 days)

03; 01/09/1997 to 17/10/2005 (08 years, one month and sixteen days)

Total Service= 14 years, 09 months and twenty seven days+178 days

= 15 years, 05 months.

Leave Period

E.O.L

01/09/1994 to 01/09/1996 (02 years)

01/10/1996 to 31/08/1997 (Eleven months)

18/10/2005 to 17/04/2007 (356 days with half pay, 189 days without pay).

Total Extra Ordinary Leave availed= 03 Years and almost 06 months.

According to the leave rules not more than 240 days is allowed as Earned leave on half pay, so here the competent authority has not flowed the rules.

The teacher has not been granted E.O.L up to 31/05/2008 nor awarded sanction in E.O.L up to 31/12/2009 though the officer concerned could grant him E.O.L up to approximately 17/10/2008. However it was the discriminatory power of the EDEO.

Absent period

18/04/2007 to 06/05/2014 (date of termination)

His strife for adjustment and then for reinstatement

When he attended the school on 01/01/2010 and submitted application for adjustment he was told that he was absent w.e.f 18/04/2007 till that day. His post had also been filled by Mr Bakhtyar Ali PST vide order No 19138-40 dated 09/10/2006. And Mr Zahirullah has been striving for his adjustment since 01/01/2010. He wrote many applications to many officers in rank but in vain. He was trying for his adjustment and an enquiry committee


PRINCIPAL
G.H.S. Babuzai Katlang,
Distt: Mardan.

P-20

6

62

comprising Mr Shamshad Khan Head Master GHS Dakki Mardan and Mr Mukhtiar Ali ADO Circle Takkar Takht Bahi conducted enquiry in this case and gave their recommendation in favour of the teacher accused urged that he was not properly informed about his absence and consequences. After the enquiry conducted on 28/04/2012 the teacher was removed from service vide Endst; No 4099/G Dated 06/05/2014. When the teacher submitted appeal in the honourable Peshawar High Court for the adjustment he came to know that he had been dismissed from service. It means that once again the teacher was not informed about his case and no show cause notice or personal hearing was processed against him by the office concerned which is not according to the rules.

According to first enquiry report and office record the teacher has received his salary regularly w.e.f 18/10/2005 to 30/06/2006 though he was on leave.


Conclusion


Keeping in view the above facts it is concluded that Mr Zahirullah Ex-PST has been remained absent from his duty w.e.f 18/04/2007 to the date of first enquiry conducted on 28/04/2012. He has submitted application on 17/04/2007 for the extension in leave up to 31/12/2009 but not accepted. He has also submitted another application to EDEO on 11/04/2007 for earned leave w.e.f 18/04/2007 to 31/05/2008 but has not been accepted though the concerned Officer could award it as the teacher had availed almost 03 years, and 06 months E.O.L while his total regular service was 15 years, 04 months and 28 days and could avail one year and almost 06 months approximately more if awarded.

According to note sheet of the personal file of the teacher he had submitted application for extension in leave up to 31/12/2009. On 01/01/2010 as he had given application for extension up to 31/12/2009, he came to his school for joining duty but came to know that his application for extension had not been accepted and he had been deemed as absent.

According to first enquiry report in this case the teacher has received the salary w.e.f 18/10/2005 to 30/06/2006 though he was on leave which shows the negligence of the then concerned officers and the first enquiry committee has recommended the teacher for adjustment.

The teacher has not been informed by the concerned officers about his absence and has taken no proper action against him and that is why the first enquiry committee has given credit to him. After a long journey of strife for adjustment once again he came to know in Peshawar High Court that he had been terminated by the department on 06/05/2014 when he submitted application for adjustment. Here once again the teacher has not been properly informed. No show cause notice or the process of personal hearing has


PRINCIPAL
G.H.S. Babuzai Katlang
Distt: Mardan


ATTESTED

7

P. 21
61

been carried out by the Education department and that is why I can say that my favour goes to Mr Zahirullah and will not be wrong enough to give him the credit.

Recommendations.

The facts were discussed above in detail hence the case of Mr Zahirullah Ex- PST may please be decided by the offices concerned keeping in view his efforts, poverty and the precedents given by him on page 04 and negligence of the office.

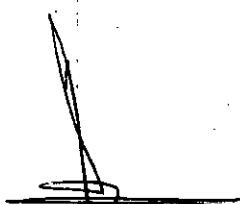
Enclosures.

- 1; Answers of the questionnaire of Mr Zahirullah asked from him.
- 2; Answers of the questionnaire of Mr Syed Khalid Shah the then Head Teacher of GPS Kas koroona Mardan asked from him.
- 3; Personal file of Mr Zahirullah contains comprehensive record.
- 4; Previous Enquiry report against Mr Zahirullah .
- 5; Photo copy of the service Book of Mr Hazrat Jamal HPST presented by Zahirullah as precedent in his favour for reference of reinstatement on service.
- 6; Application for extension of teacher ^{in leave}.
- 7; Photo copy of not sheet about the extension in leave up to 31/12/2009.

The End

Certified that this enquiry report contains 07 pages and each has been signed by me.

Enquiry Officer


 23/08/2017

Arshad Hussain principal GHS Babuzai Katlang Mardan

PRINCIPAL
G.H.S. Babuzai Katlang
Distt: Mardan


ATTESTED

OFFICE OF THE DISTRICT EDUCATION OFFICER
(MALE) MARDAN

P.22

No. 8539 /Dated 6-10-2017

129

TO

The Director
E&S Education Khyberpakhtunkhwa
Peshawar.

Subject:

**GUIDANCE REGARDING WITHDRAWAL OF REMOVAL FROM SERVICE ORDER IN
THE LIGHT OF COURT DECISION.**

Memo:

It is submitted that one Mr. Zahirullah s/o Musharaf khan resident of Katlang was appointed as PST Untrained vide Div. DEO No. 8110-11 dated 17-12-1987 and he took overcharge on 20-12-1987. He performed his duty upto 31-08-1994 and got leave w.e.f 01-09-1994 to 01-09-1996 (02 years). After availing his long leave he was adjusted vide DEO (M) Mardan Endst No. 3412 dated 01-09-1996. He performed his duty for one month only and re-applied for leave w.f 01-10-1996 31-08-1997 (11 months) which was sanctioned by DEO vide order no.3523-24 dated 11-11-1996. After availing 11 months leave he was once again adjusted vide DEO Endst No.2475-76 dated 31-08-1997. He performed his duty upto 17-10-2005 and once again he applied for leave w.e.f 18-10-2005 to 17-04-2007 which was sanctioned vide DEO No.5104-06 dated 02-04-2006. After expiry of leave he remained absent from duty w.e.f 18-04-2007 to 28-04-2012. The detail of his leave is as under:

1. Total service upto 17-04-2007 (09 years)
2. Total leave availed (about 05 years)
3. Absent from duty (more than 05 years)

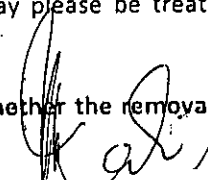
Due to his long absence he was removed from service vide DEO (M) Mardan Endst No.4092/G dated 06-05-2014. After removal from service Mr. Zahirullah filed an appeal in your good office which was received to this office vide your letter No.892/f.No 141/Pst/Mardan dated 08-05-2015. The comments regarding appeal was submitted to your good office vide this office No.3597 dated 25-05-2017.


Later on Mr. Zahirullah filed a Service appeal No.876/2015 in the khyberpakhtunkhwa Service Tribunal Peshawar regarding his re-instatement. And the honorable court announced decision in the appeal on 26-04-2017 with the Order that " IN VIEW OF THE ABOVE WE ACCEPT THE PRESENT APPEAL SET ASIDE THE IMPUGNED ORDER REFERRED TO ABOVE AND REINSTATE THE APPEALANT IN SERVICE BY PALCING THE RESPONDENTS AT LIBERTY TO CONDUCT DENVE INQUIRY AGAINST THE APPEALANT IN THE MODE AND MANNER PRESCRIBED BY RULES AND THERE-AFTER PASS ORDERS DEEM APPROPRIATE. PARTIES ARE LEFT TO BEAR THEIR OWN COSTS". Annex-A

Hence, this office nominated Mr. Arshad Hussain Principal GHS Babuzai Katlang for conducting denve inquiry in the case in the light of court decision vide No.6507-09 dated 02-08-2017.

The inquiry office conducted inquiry in the case and submitted his recommendations that, " in the light of the above facts, precedents and services of Mr. Zahirullah his case may please be treated with favour as per rule if agreed." Annex-B

In this connection it is humbly requested to guide the undersigned that whether the removals order may be remained intact or otherwise.


DISTRICT EDUCATION OFFICER
(MALE) MARDAN


ATTESTED

Directorate of Elementary & Secy: Education
Khyber Pakhtunkhwa, Peshawar
No. 853 /F.No.141/PST (M) Mardan.
Dated Peshawar the 06/11 2017

P.23


To

The District Education Officer,
(Male) Mardan.

Subject: - GUIDANCE REGARDING WITHDRAWAL OF REMOVAL FROM
SERVICE ORDER IN THE LIGHT OF COURT DECISION.


Memo:

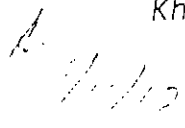
I am directed to refer to your letter No. 8539 dated 06-10-2017 on the subject cited above and to ask you to decide the case in respect of Mr. Zahirullah S/O Musharaf Khan resident of Katlong (Mardan) under the rules/policy being competent authority under intimation to all concerned.


Deputy Director (Estab)
Elementary & Secondary Education
Khyber Pakhtunkhwa.

Endst: No. 814
Copy of the above is to:-

1. PA to Director (E&SE) Local Directorate.


Deputy Director (Estab)
Elementary & Secondary Education
Khyber Pakhtunkhwa


ATTESTED

WAKALAT NAMA

IN THE COURT OF K.P. Service Tribunal Rhee

Zahir Ullah

Appellant(s)/Petitioner(s)

VERSUS

Mr. Ijaz Ali

D/O (M) Morden & others Respondent(s)

I/We Zahir Ullah do hereby appoint **Mr. Khush Dil Khan, Advocate** Supreme Court of Pakistan in the above mentioned case, to do all or any of the following acts, deeds and things.

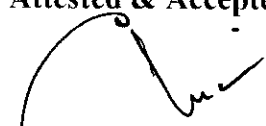
1. To appear, act and plead for me/us in the above mentioned case in this Court/Tribunal in which the same may be tried or heard and any other proceedings arising out of or connected therewith.
2. To sign, verify and file or withdraw all proceedings, petitions, appeals, affidavits and applications for compromise or withdrawal or for submission to arbitration of the said case, or any other documents, as may be deemed necessary or advisable by them for the conduct, prosecution or defence of the said case at all its stages.
3. To receive payment of, and issue receipts for, all moneys that may be or become due and payable to us during the course of proceedings.

AND hereby agree:-


- a. That the Advocate(s) shall be entitled to withdraw from the prosecution of the said case if the whole or any part of the agreed fee remains unpaid.

In witness whereof I/We have signed this Wakalat Nama hereunder, the contents of which have been read/explained to me/us and fully understood by me/us this _____

Attested & Accepted by



Khush Dil Khan,
Advocate,
Supreme Court of Pakistan
9-B, Haroon Mansion
Off: Tel: 091-2213445


Signature of Executants

3

OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) MARDAN

NOTIFICATION

I, Ijaz Ali Khan District Education officer (Male) Mardan as Competent Authority under the Khyber Pakhtunkhwa Government servants (Efficiency & Discipline) Rules, 2011, do hereby serve Mr. Zahirullah PST GPS Kass Korona Mardan, follows:

- **Where As** Mr. Zahirullah PST GPS Kass Korona availed leave w.e.f 18-10-2005 to 17-04-2007 and after availing leave, remained absent w.e.f 18-04-2007 to 28-04-2012 from his duty.
- **And Where As** a Denve inquiry was conducted in the light of decision issued from Honorable Service Tribunal Khyberpakhtunkhwa Peshawar on 26-04-2017 appeal No.876/15.
- **And Where As** In the light of inquiry report, he was directed through an official letter for personal hearing on 17-12-2017.
- **And Where As** He attended the office of the undersigned on 20-12-2017.
- **And Where As** he admitted the charges in his personal hearing on 20-12-2017.
- **And Where As** the Competent Authority, after having considered the charges and evidence on record is not satisfied from his written statement at the time of personal hearing.
- **And Where As** He found guilty of gross misconduct under KPK Govt servant E&D rules 2011.

Now in exercise of the power conferred to me under the Khyberpakhtunkhwa Govt servant E&D rules 2011, being competent authority is pleased to impose the major penalty of Compulsory Retirement from the service upon Mr. Zahirullah PST GPS Kass Korona w.e.f 17-04-2017. i.e the date of his absence.

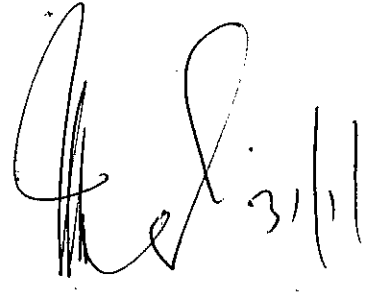

(Ijaz Ali Khan)
District Education Officer
(Male) Mardan

Endst: No. 918/8 P.F

Dated 31/11 /2018.

Copy forwarded to the:-

1. Registrar, Service Tribunal Khyberpakhtunkhwa Peshawar for information in Service appeal No.876/2015.
2. SDEO(M) Mardan
3. District Accounts Officer Mardan.
4. Mr. Zahirullah PST GPS Kass Korona.


District Education Officer
(Male) Mardan

OFFICE OF THE DISTRICT EDUCATION OFFICER(MALE) MARDAN

OFFICE ORDER

In the light of decision issued from the Khyberpakhtunkhwa Service Tribunal Peshawar announced on 02-05-2017 in r/o Mr. Zahir Ullah Ex-PST GPS Kaskorona Mardan. He is hereby re-instated in service with immediate effect for the purpose of conducting de-novo inquiry.

JA

(IJAZ ALI KHAN)

DISTRICT EDUCATION OFFICER
(MALE) MARDAN

Endst:No. 5690-6 /Dated: 13-6 /2017

Copy forwarded to the:-

1. SDEO(M) Mardan
2. DAO Mardan
3. Mr. Zahirullah Ex-PST GPS Kaskorona Mardan/ C/O Head Teacher GPS Kaskorona Mardan

[Signature] 13/6/17

DISTRICT EDUCATION OFFICER
(MALE) MARDAN

[Signature]

(2)

66

ENQUIRY REPORT AGAINST MR Zahirullah EX PST GPS KAS KOROONA DISTRICT MARDAN ABOUT HIS ABSENCE FROM DUTY W.E.F 18/04/2007 TO 28/04/2012 AND REMOVAL FROM SERVICE.

No. 400

Dated 23/08/2017

Inquiry Officer Arshad Hussain Principal GHS Babuzai Katlang Mardan

Dates of Inquiry 10.08.2017

12.08.2017

15.08.2017

18.08.2017

Venue (1) DEO E/S Male Office ~~Mardan~~ Mardan

(2) SDEO Male office Mardan

(3) GPS Kas Koroona Mardan

(4) GHS Babuzai Katlang Mardan

Subject : INQUIRY REPORT AGAINST MR Zahirullah EX PST GPS KAS KOROONA DISTRICT MARDAN ABOUT HIS ABSENCE FROM DUTY W.E.F 18/04/2007 TO 28/04/2012 AND REMOVAL FROM SERVICE.

Introduction

Mr Zahirullah was a PST teacher appointed on 20/12/1987 and performing his duty at GPS Kas koroona Mardan. He was absent w.e.f 18/04/1987 to 28/04/2012 and was removed from service on 06/05 2014. He filed appeal in Service Tribunal Khyber Pukhtoonkhwa which set aside the removal order against him and ordered for the denovo enquiry to DEO Male E/S Mardan. Having obeyed the order DEO Male E/S Mardan assigned me the task to conduct the enquiry vide Endst; No 6507-09 Dated 02/08/2017.

PRINCIPAL
G.H.S. Babuzai Katlang,
Distt: Mardan

PRINCIPAL
G.H.S. Babuzai Katlang,
Distt: Mardan

Office of the principal

GHS Babuzai Katlan Mardan

No 446 Dated 29/09/2017

District Education Officer Male
Elementary and secondary Education
Mardan

Subject; Resubmission of De-novo Enquiry in the case of Ex PST Mr Zahirullah GPS Kas
Koroona Mardan proposed by Service Tribunal Khyber Pukhtoonkhwa Peshawar.

Respected Sir

Reference to your Office Order No 7954 Dated 18/09/2017 it is stated that the
report of De-novo enquiry proposed by honourable Service Tribunal Khyber Pukhtoonkhwa
Peshawar is resubmitted with the following recommendations.

1; In the light of discussed facts, precedents provided by the applicant and his services it is
recommended that Mr Zahirullah Ex-PST may please be treated with favour as per rule if agreed.

Arshad Hussain Enquiry Officer

Principal GHS Babuzai Katlang

Mardan
PRINCIPAL
GHS Babuzai Katlang
Dist. Mardan

In this connection it is humbly requested to guide the undersigned that whether the removals order
may be remained intact or otherwise.

DISTRICT EDUCATION OFFICER
(MALE) MARDAN

67

Enquiry report; Denovo Enquiry Directed by Service Tribunal
Khyber Pukhtoonkhwa In the case of Mr Zahirullah Ex-PST GHS Kas
Koroona Mardan Adjustment/Termination

Assigned by; District Education Officer Male
Elementary and Secondary Mardan

Date of submission of Enquiry Report; 23/08/2017

Enquiry Officer; Mr. Arshad Hussain ✓
Principal GHS Babuzai Katlang Mardan.



PRINCIPAL
G.H.S. Babuzai Katlang,
Distt: Mardan.

A. D. D. (P)
23/8/17

PRINCIPAL
G.H.S. Babuzai Katlang,
Distt: Mardan

Procedure adopted

I collected his personal file from DEO office on 10/08/2017 and also received required information from SDEO Mardan and informed Mr Zahirullah about the enquiry through mobile phone and fixed the date and place of enquiry. Mr Zahirullah met me at GHS Babuzai Katlang Mardan on 16/08/2017. A questionnaire (attached) was given to him in which some questions were asked. He was also interviewed. His personal file, the decision of Service Tribunal Khyber Pukhtoonkhwa, previous enquiry report against him and other relevant documents of Mr Zahirullah Ex- PST were thoroughly checked and studied.

65

Statement of Mr Zahirullah in his favour

When he was asked about the case he said, "I had been appointed on 17/08/1984 and for the last time I had submitted application for EOL w.e.f 10/10/2005 to 17/04/2007 and on 17/04/2007 I had given application for the extension in leave w.e.f 18/04/2007 to 31/12/2009 and I thought that my application had been accepted for the extension in leave up to the required period as I had not been replied by the concerned authority. I was in Karachi and came back to school on 01/01/2010 and gave application for adjustment but I was told that I was absent w.e.f. 18/04/2007 to that day and was not adjusted. I had not been informed about my absence neither through written letter or verbally nor by a messenger and was kept totally in darkness about my case. Since then I have started my struggle for adjustment. And in High Court Peshawar I came to know that I had been removed from service. Again I was not informed about my case. No Show cause notice or the process of personal hearing etc has been observed. It is totally unjust with me and I have knocked the door of the court which has given decision in my favour". When I asked Mr Zahirullah about his struggle for leave and absence he gave me the following precedents in his favour.

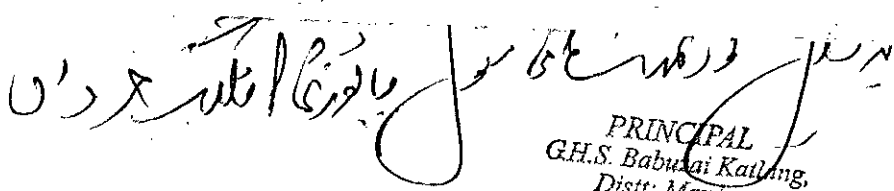
1; A PST teacher Mr Naweed Akhtar GPS Sadiq Abad Takht Bhai who was granted EOL w.e.f 30/05/2001 to 31/10/2001 (155) days vide Endst; No 252-55 dated 05/01/2006 though he had availed all his E.O.L.

2; A teacher named Mr Hazrat Jamal PST GPS No 3 Palo Dheri Rustam was absent from his duty w.e.f 07/10/1999 and had been removed from service on 10/07/2000 vide Endt; 2155-60 Dated 07/10/2000. Then he has been awarded E.O.L 07/10/1999 to 31/12/2000 almost more than eleven years vide Endst; No 09-13 dated 01/01/2011 and has been reinstated by the department." In the light of above precedents I may please be reinstated" , He requested.

I personally verified the above two cases and found his arguments correct.



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Distt: Mardan

(4)

Statement of the Head Teacher Mr Syed Khalid Shah EX HPST present CT.

When he was asked about the case he said, " Mr Zahirullah was on EOL wef 18/10/2005 to 17/04/2007 and from 18/04/2007 he was absent. I have informed the then ADEO about his earned leave and on 24//08/2008 I had written about his E.O.L in General Accounts Proforma to him .when Mr Zahidullah did not refund his loan to the bank from which he has taken the loan I wrote to the ADEO on 08/11/2006 that he was on E.O.L and Mr BaKhtiar Ali PST had been appointed against his post but the ADEO/SDEO Primary did not take any action against him and not informed Zahirullah about his absence". (His answers attached) It means no disciplinary action has been taken by the concerned officers against the case.

64

Findings

Record of his service and leave.

After a methodical and deep study of entire relevant record the following facts were pointed out.

_Mr Zahirullah had been appointed on 15/12/1987 and took over the charge on 20/12/1987 at GMS Juwar Bazar.

_He availed Extra Ordinary Leave w.e.f 01/09/1994 to 01/09/1996 (two years) without pay vide Endst; No 3360 dated 20/09/1994.

_ He joined his duty on 02/09/1996 vide sanction No 3412 Dated 01/09/1996.


_He was given E.O.L w.e.f 01/10/1996 to 31/08/1997 (11 Months) vide Endst; No 3523-24 Dated 11/11/1996.

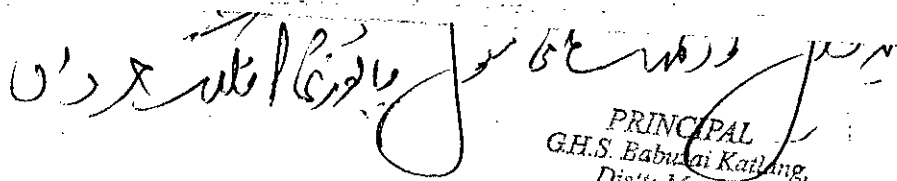
_He rejoined his duty at GPS Sardar Abad Mardan on 01/09/1997 vide sanction Endst; No 2475-76 Dated 31/08/1997.

_According to his service book his service was verified up to 30/11/2004.

_He was granted earned leave w.e.f 18/10/2005 to 09/10/2006 (356) days on half pay and w.e.f 10/10/2006 to 17/04/2007 (189) days without pay vide Endt; No 5104-06 Dated 03/04/2006 while during his service in GPS Kas Koroona Mardan. And thus he has availed almost (03) three years and (06) six months E.O.L.

_The teacher had submitted one application due the illness of his brother in law for the extension in leave up to 31/09/2009 on date 17/04/2007 and did not join his duty in the hope that his extension in leave had been sanctioned by the EDEO concerned because he


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Distt: Mardan

(5)

had not been informed by the offices concerned about his not extension in leave though one year and six months approximately could be awarded to him. The officers concerned neither informed the teacher nor maintained his service book after 02/04/2006. Thus the teacher remained absent w.e.f 18/04/2007 to 06/05/2014 (his removal date). According to his service book in my hand and the personal file his service and leave are as under.

Service: 1; 20/12/1987 to 31/08/1994 (06 years, 08 months and eleven days)

02; 02/09/1996 to 31/09/1996 (29 days)

03; 01/09/1997 to 17/10/2005 (08 years, one month and sixteen days)

Total Service= 14 years, 09 months and twenty seven days+178 days
= 15 years, 05 months.

Leave Period

E.O.L

01/09/1994 to 01/09/1996 (02 years)

01/10/1996 to 31/08/1997 (Eleven months)

18/10/2005 to 17/04/2007 (356 days with half pay, 189 days without pay).

Total Extra Ordinary Leave availed= 03 Years and almost 06 months.

According to the leave rules not more than 240 days is allowed as Earned leave on half pay. so here the competent authority has not flowed the rules.

The teacher has not been granted E.O.L up to 31/05/2008 nor awarded sanction in E.O.L up to 31/12/2009 though the officer concerned could grant him E.O.L up to approximately 17/10/2008. However it was the discriminatory power of the EDEO.

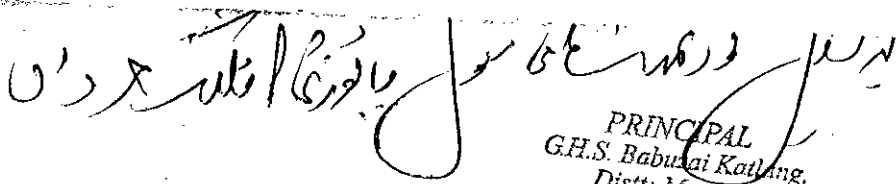
Absent period

18/04/2007 to 06/05/2014 (date of termination)

His strife for adjustment and then for reinstatement.

When he attended the school on 01/01/2010 and submitted application for adjustment he was told that he was absent w.e.f 18/04/2007 till that day. His post had also been filled by Mr Bakhtyar Ali PST vide order No 19138-40 dated 09/10/2006. And Mr Zahirullah has been striving for his adjustment since 01/01/2010. He wrote many applications to many officers in rank but in vain. He was trying for his adjustment and an enquiry committee


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Distt: Mardan

63

6

comprising Mr Shamshad Khan Head Master GHS Dakki Mardan and Mr Mukhtiar Ali ADO Circle Takkar Takht Bahi conducted enquiry in this case and gave their recommendation in favour of the teacher accused urged that he was not properly informed about his absence and consequences. After the enquiry conducted on 28/04/2012 the teacher was removed from service vide Endst; No 4099/G Dated 06/05/2014. When the teacher submitted appeal in the honourable Peshawar High Court for the adjustment he came to know that he had been dismissed from service. It means that once again the teacher was not informed about his case and no show cause notice or personal hearing was processed against him by the office concerned which is not according to the rules.

62

According to first enquiry report and office record the teacher has received his salary regularly w.e.f 18/10/2005 to 30/06/2006 though he was on leave.

Conclusion

Keeping in view the above facts it is concluded that Mr Zahirullah Ex-PST has been remained absent from his duty w.e.f 18/04/2007 to the date of first enquiry conducted on 28/04/2012. He has submitted application on 17/04/2007 for the extension in leave up to 31/12/2009 but not accepted. He has also submitted another application to EDEO on 11/04/2007 for earned leave w.e.f 18/04/2007 to 31/05/2008 but has not been accepted though the concerned Officer could award it as the teacher had availed almost 03 years, and 06 months E.O.L while his total regular service was 15 years, 04 months and 28 days and could avail one year and almost 06 months approximately more if awarded.

According to note sheet of the personal file of the teacher he had submitted application for extension in leave up to 31/12/2009. On 01/01/2010 as he had given application for extension up to 31/12/2009, he came to his school for joining duty but came to know that his application for extension had not been accepted and he had been deemed as absent.

According to first enquiry report in this case the teacher has received the salary w.e.f 18/10/2005 to 30/06/2006 though he was on leave which shows the negligence of the then concerned officers and the first enquiry committee has recommended the teacher for adjustment.

The teacher has not been informed by the concerned officers about his absence and has taken no proper action against him and that is why the first enquiry committee has given credit to him. After a long journey of strife for adjustment once again he came to know in Peshawar High Court that he had been terminated by the department on 06/05/2014 when he submitted application for adjustment. Here once again the teacher has not been properly informed. No show cause notice or the process of personal hearing has


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Distt: Mardan


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Distt: Mardan

7

Been carried out by the Education department and that is why I can say that my favour goes to Mr. Zahir Ullah and will not be wrong enough to give him the credit.

Recommendations:

In the light of the above facts, precedents and services of Mr. Zahir Ullah his case may please be treated with favour as per rule if agreed.

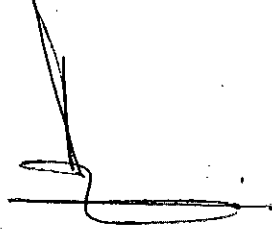
Enclosures:

1. Answers of the questionnaire of Mr. Zahir Ullah asked from him.
2. Answers of the questionnaire of Mr. Sayyad Khalid Shah the then Head Teacher Of GPS Kas Kaoruna Mardan.
3. Personal file of Mr. Zahir Ullah contains the entire record.
4. Previous inquiry report against the teacher.
5. Photocopy of service book of Mr. Hazrat Jamal HPST presented by Zahir Ullah as precedents for reference of reinstatement on service.
6. Application for extension in leave of the teacher concerned.
7. Photocopy of not sheet about the extension in leave up to 31/12/2009.

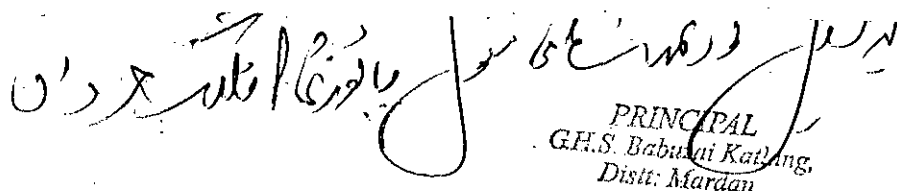
The End

Certified that this enquiry report contains 07 pages and each has been signed by me.

Enquiry Officer


29/9/2017

Arshad Hussain Principal GHS Babuzai Katlang Mardan.



PRINCIPAL
G.H.S. Babuzai Katlang,
Distt: Mardan

been carried out by the Education department and that is why I can say that my favour goes to Mr Zahirullah and will not be wrong enough to give him the credit.

61

Recommendations.

The facts were discussed above in detail hence the case of Mr Zahirullah Ex- PST may please be decided by the offices concerned keeping in view his efforts, poverty and the precedents given by him on page 04 and negligence of the office.

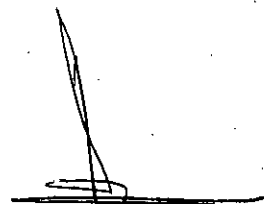
Enclosures.

- 1; Answers of the questionnaire of Mr Zahirullah asked from him.
- 2; Answers of the questionnaire of Mr Syed Khalid Shah the then Head Teacher of GPS Kas koroona Mardan asked from him.
- 3; Personal file of Mr Zahirullah contains comprehensive record.
- 4; Previous Enquiry report against Mr Zahirullah .
- 5; Photo copy of the service Book of Mr Hazrat Jamal HPST presented by Zahirullah as precedent in his favour for reference of reinstatement on service.
- 6; Application for extension of teacher ^{in leave}.
- 7; Photo copy of not sheet about the extension in leave up to 31/12/2009.

The End

Certified that this enquiry report contains 07 pages and each has been signed by me.

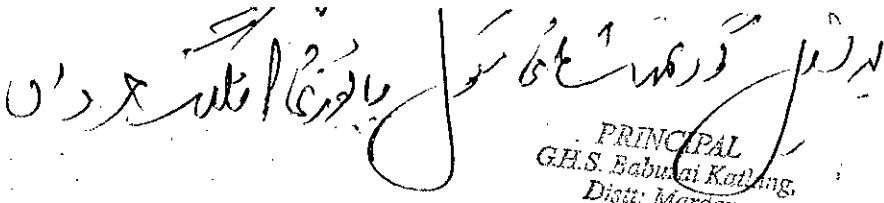
Enquiry Officer



23/08/2017

Arshad Hussain principal GHS Babuzai Katlang Mardan

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Distt: Mardan



PRINCIPAL
G.H.S. Babuzai Katlang,
Distt: Mardan

OFFICE OF THE DISTRICT EDUCATION OFFICER
(MALE) MARDAN

No. 10768 / Dated 6/12/17 /2017

To

Mr. Zahirullah s/o Musharaf Khan
Ex-PST GPS Kass korona.

73

Subject: PERSONAL HEARING

Memo:

You are hereby directed to attend the office of the undersigned on 12-12-2017 at 11:00 AM for personal hearing regarding your application submitted for re-instatement.


DISTRICT EDUCATION OFFICER
(MALE) MARDAN

10769
Endst.No. _____ / Dated: _____ /2017

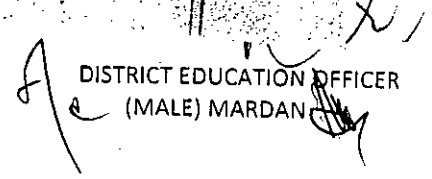
Copy forwarded to the:-

1. SDEO(M) Mardan for information.


DISTRICT EDUCATION OFFICER
(MALE) MARDAN

In this connection, the original order may be remained intact or otherwise.

original order


DISTRICT EDUCATION OFFICER
(MALE) MARDAN

Personal Hearing of Mr. Zahirullahi

PST

The DEACM, Mandan

on dated: 20-12-2017

25

سزا آپ کی پیشین گوئی میں بطور پھیلنے کی برقی سزا؟

جواب۔ 1987ء سے 1987-12-17ء میں برقی سزا

س 2 کیا آپ = untrained برقی سزا؟

جی ہاں میں untrained برقی سزا

س 3 آئیے۔ PTC پاس کیا ہے؟

س 4 میں نے PTC پاس نہیں کیا۔ تمام توڑنے کے بعد short term کو میں پاس کیا تھا

س 4 آئیے۔ 400 کس کورونہ میں چارج کیا تھا

س 5 میں نے 1998-01-27 کو 400 کس کورونہ میں چارج کیا تھا

س 5 آئیے چھٹی کی سزا۔ پہلی درخواست کب دی تھی اور کتنی مدت لگتا تھی؟

س 2 میں نے چھٹی کی پہلی درخواست 1994 میں (18 مہینے) دی تھی اور یہ سزا sanctioned ہی ہوئی تھی

س 6 آئیے مزید چھٹی کی درخواست کب اور کتنی مدت لگتا دی تھی

س 2 مجھے درخواست دینے کی تاریخ اور سال یاد نہیں۔ تاہم ایک سال کی چھٹی کی درخواست دی تھی

س 3 اس کے علاوہ چھٹی کی کوئی اور درخواست آئی ہے؟

س 2 میں نے 2002 میں 18 مہینے کی چھٹی کی درخواست دی تھی جو منسوخ ہوئی تھی

س 4 آئیے لیٹر چھٹی کی حکم سے کتنی مدت لگتا غیر حاضر رہا

س 2 میں تین سال (3 سال) حکم کی اجازت کے بغیر اپنے ذمہ داری سے غیر حاضر رہا

س 5 آئیے ان تین سال میں کیا کیا تھے؟

س 2 میں حکم کے باہر ملیشیا میں صحت مندوری کے سلسلے میں مقیم تھا

Handwritten signature and date: 20/12/17

سرخ ۱۰۔ اپنے مزید چھوٹے درخواست برائے خود دی تھی؟

ج. میں نے اپنے بھائی کے توسط سے چھوٹے درخواست دی تھی۔ معلوم کرنا ہے کہ وہ منظور نہیں ہوگا۔

سرخ ۱۱۔ آپ ملبشیا سے اپنے ملک واپس کب آئے؟

ج. میں 30 دسمبر 2009 کو اپنے ملک واپس آیا۔

سرخ ۱۲۔ آپ نے الرضفہ کے بارے میں حکم کو کوئی درخواست دی تھی؟

ج. میں نے حکم کو برائے خود ایک منظوری 2010 طلب کیا تھا (A00) کو درخواست دی تھی۔

سرخ ۱۳۔ آپ کے درخواستی حکم سے کسی وجہ سے ہو گیا؟

ج. طویل غزطری کے حکم سے میرا درخواستی عمل میں لانا گناہ۔

سرخ ۱۴۔ کیا آپ نے درخواستی کے خلاف حکمانہ اپیل کی تھی؟

ج. میں نے حکمانہ اپیل نہیں کی تھی۔

سرخ ۱۵۔ آپ اپنے حکمانہ میں کو کیا چاہتے ہیں؟

ج. رہا سہجہ۔ کہ مجھے غلطی ہوئی ہے۔ اور حکم نے اس بات کو کارروائی کی ہے

وہ قانونی ہے۔ تاہم میں اپنی ذمہ داریاں شرمندہ ہوں۔ اور انہی غلطی منٹا ہوں

اور حکم سے اپیل کرنا ہوں۔ کہ مجھے انسانیت کے ناطے ایک موقع اور

دیاجاتا۔ میں اپنے ذمہ داریاں (انجام دینا)۔ محتاط رہوں گا

اور حکم سے کو شکایت کا موقع نہیں دوں گا۔

Handwritten signature and date
20/12/17

نام: ظاہر اللہ ولد مشرف خان
NIC No: 16101-3636456-7

Handwritten signature
20/12/17



نشان انکوشا۔

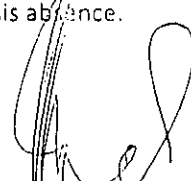
OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) MARDAN

NOTIFICATION

I Ijaz Ali Khan District Education officer (Male) Mardan as Competent Authority under the Khyber Pakhtunkhwa Government servants (Efficiency & Discipline) Rules, 2011, do hereby serve Mr. Zahirullah PST GPS Kass Korona Mardan, follows:

- Where As Mr. Zahirullah PST GPS Kass Korona availed leave w.e.f 18-10-2005 to 17-04-2007 and after availing leave, remained absent w.e.f 18-04-2007 to 28-04-2012 from his duty.
- And Where As a Denve inquiry was conducted in the light of decision issued from Honorable Service Tribunal Khyberpakhtunkhwa Peshawar on 26-04-2017 appeal No.876/15.
- And Where As In the light of inquiry report, he was directed through an official letter for personal hearing on 17-12-2017.
- And Where As He attended the office of the undersigned on 20-12-2017.
- And Where As he admitted the charges in his personal hearing on 20-12-2017.
- And Where As the Competent Authority, after having considered the charges and evidence on record is not satisfied from his written statement at the time of personal hearing.
- And Where As He found guilty of gross misconduct under KPK Govt servant E&D.rules 2011.

Now in exercise of the power conferred to me under the Khyberpakhtunkhwa Govt servant E&D rules 2011, being competent authority is pleased to impose the major penalty of Compulsory Retirement from the service upon Mr. Zahirullah PST GPS Kass Korona w.e.f 17-04-2017, i.e the date of his absence.

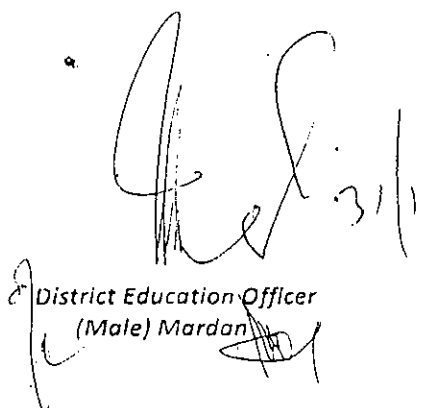

(Ijaz Ali Khan)
District Education Officer
(Male) Mardan

Endst: No. 918/8 P.F

Dated 31/11 /2018.

Copy forwarded to the:-

1. Registrar, Service Tribunal Khyberpakhtunkhwa Peshawar for information in Service appeal No.876/2015.
2. SDEO(M) Mardan
3. District Accounts Officer Mardan.
4. Mr. Zahirullah PST GPS Kass Korona.


District Education Officer
(Male) Mardan

OFFICE OF THE DISTRICT EDUCATION OFFICER(MALE) MARDAN

OFFICE ORDER

In the light of decision issued from the Khyberpakhtunkhwa Service Tribunal Peshawar announced on 02-05-2017 in r/o Mr. Zahir Ullah Ex-PST GPS Kaskorona Mardan. He is hereby re-instated in service with immediate effect for the purpose of conducting de-novo inquiry.

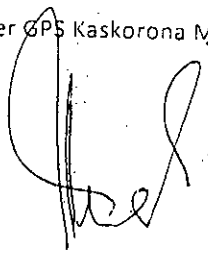

(IJAZ ALI KHAN)

DISTRICT EDUCATION OFFICER
(MALE) MARDAN

Endst:No. 5690-6 /Dated: 13-6 /2017

Copy forwarded to the:-

1. SDEO(M) Mardan
2. DAO Mardan
3. Mr. Zahirullah Ex-PST GPS Kaskorona Mardan/ C/O Head Teacher GPS Kaskorona Mardan


13/6/17
DISTRICT EDUCATION OFFICER
(MALE) MARDAN

Office of the principal

GHS Babuzai Katlan Mardan

No 446 Dated 29/09/2017

District Education Officer Male
Elementary and secondary Education
Mardan

Subject; Resubmission of De-novo Enquiry in the case of Ex PST Mr Zahirullah GPS Kas
Koroona Mardan proposed by Service Tribunal Khyber Pukhtoonkhwa Peshawar.

Respected Sir

Reference to your Office Order No 7954 Dated 18/09/2017 it is stated that the
report of De-novo enquiry proposed by honourable Service Tribunal Khyber Pukhtoonkhwa
Peshawar is resubmitted with the following recommendations.

1; In the light of discussed facts, precedents provided by the applicant and his services it is
recommended that Mr Zahirullah Ex-PST may please be treated with favour as per rule if agreed.

Arshad Hussain Enquiry Officer

Principal GHS Babuzai Katlang

Mardan

In this connection it is humbly requested to guide the undersigned that whether the removals order
may be remained intact or otherwise.

DISTRICT EDUCATION OFFICER
(MALE) MARDAN

67

Enquiry report; Denovo Enquiry Directed by Service Tribunal
Khyber Pukhtoonkhwa In the case of Mr Zahirullah Ex-PST GHS Kas
Koroona Mardan Adjustment/Termination

Assigned by; District Education Officer Male
Elementary and Secondary Mardan

Date of submission of Enquiry Report; 23/08/2017

Enquiry Officer; Mr. Arshad Hussain ✓
Principal GHS Babuzai Katlang Mardan



PRINCIPAL
G.H.S. Babuzai Katlang,
Distt: Mardan.

A. D. D. (P)
23/07/17

PRINCIPAL
G.H.S. Babuzai Katlang,
Distt: Mardan

Procedure adopted

I collected his personal file from DEO office on 10/08/2017 and also received required information from SDEO Mardan and informed Mr Zahirullah about the enquiry through mobile phone and fixed the date and place of enquiry. Mr Zahirullah met me at GHS Babuzai Katlang Mardan on 16/08/2017. A questionnaire (attached) was given to him in which some questions were asked. He was also interviewed. His personal file, the decision of Service Tribunal Khyber Pukhtoonkhwa, previous enquiry report against him and other relevant documents of Mr Zahirullah Ex- PST were thoroughly checked and studied.

65


Statement of Mr Zahirullah in his favour

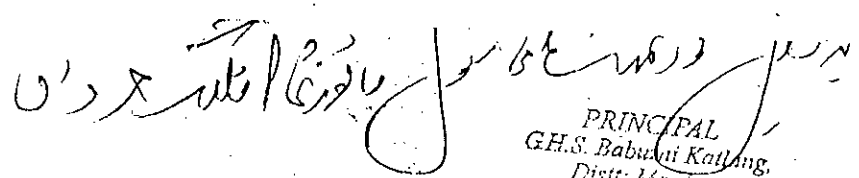
When he was asked about the case he said, "I had been appointed on 17/08/1984 and for the last time I had submitted application for EOL w.e.f 10/10/2005 to 17/04/2007 and on 17/04/2007 I had given application for the extension in leave w.e.f 18/04/2007 to 31/12/2009 and I thought that my application had been accepted for the extension in leave up to the required period as I had not been replied by the concerned authority. I was in Karachi and came back to school on 01/01/2010 and gave application for adjustment but I was told that I was absent w.e.f. 18/04/2007 to that day and was not adjusted. I had not been informed about my absence neither through written letter or verbally nor by a messenger and was kept totally in darkness about my case. Since then I have started my struggle for adjustment. And in High Court Peshawar I came to know that I had been removed from service. Again I was not informed about my case. No Show cause notice or the process of personal hearing etc has been observed. It is totally unjust with me and I have knocked the door of the court which has given decision in my favour". When I asked Mr Zahirullah about his struggle for leave and absence he gave me the following precedents in his favour.

1; A PST teacher Mr Naweed Akhtar GPS Sadiq Abad Takht Bhai who was granted EOL w.e.f 30/05/2001 to 31/10/2001 (155) days vide Endst; No 252-55 dated 05/01/2006 though he had availed all his E.O.L.

2; A teacher named Mr Hazrat Jamal PST GPS No 3 Palo Dheri Rustam was absent from his duty w.e.f 07/10/1999 and had been removed from service on 10/07/2000 vide Endt; 2155-60 Dated 07/10/2000. Then he has been awarded E.O.L 07/10/1999 to 31/12/2000 almost more than eleven years vide Endst; No 09-13 dated 01/01/2011 and has been reinstated by the department." In the light of above precedents I may please be reinstated" , He requested.

I personally verified the above two cases and found his arguments correct.


PRINCIPAL
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Distt: Mardan


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Distt: Mardan

Statement of the Head Teacher Mr Syed Khalid Shah EX HPST present CT.

When he was asked about the case he said, " Mr Zahirullah was on EOL wef 18/10/2005 to 17/04/2007 and from 18/04/2007 he was absent. I have informed the then ADEO about his earned leave and on 24/08/2008 I had written about his E.O.L in General Accounts Proforma to him .when Mr Zahidullah did not refund his loan to the bank from which he has taken the loan I wrote to the ADEO on 08/11/2006 that he was on E.O.L and Mr BaKhtiar Ali PST had been appointed against his post but the ADEO/SDEO Primary did not take any action against him and not informed Zahirullah about his absence". (His answers attached) It means no disciplinary action has been taken by the concerned officers against the case.

64

Findings

Record of his service and leave.

After a methodical and deep study of entire relevant record the following facts were pointed out.

_Mr Zahirullah had been appointed on 15/12/1987 and took over the charge on 20/12/1987 at GMS Juwar Bazar.

_He availed Extra Ordinary Leave w.e.f 01/09/1994 to 01/09/1996 (two years) without pay vide Endst; No 3360 dated 20/09/1994.

_ He joined his duty on 02/09/1996 vide sanction No 3412 Dated 01/09/1996.


_He was given E.O.L w.e.f 01/10/1996 to 31/08/1997 (11 Months) vide Endst; No 3523-24 Dated 11/11/1996.

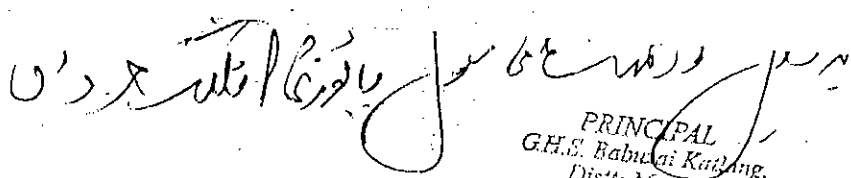
_He rejoined his duty at GPS Sardar Abad Mardan on 01/09/1997 vide sanction Endst; No 2475-76 Dated 31/08/1997.

_According to his service book his service was verified up to 30/11/2004.

_He was granted earned leave w.e.f 18/10/2005 to 09/10/2006 (356) days on half pay and w.e.f 10/10/2006 to 17/04/2007 (189) days without pay vide Endt; No 5104-06 Dated 03/04/2006 while during his service in GPS Kas Koroona Mardan. And thus he has availed almost (03) three years and (06) six months E.O.L.

_The teacher had submitted one application due the illness of his brother in law for the extension in leave up to 31/09/2009 on date 17/04/2007 and did not join his duty in the hope that his extension in leave had been sanctioned by the EDEO concerned because he


PRINCIPAL
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Distt: Mardan.


PRINCIPAL
G.H.S. Babuzai Katlang,
Distt: Mardan

5

had not been informed by the offices concerned about his not extension in leave though one year and six months approximately could be awarded to him. The officers concerned neither informed the teacher nor maintained his service book after 02/04/2006. Thus the teacher remained absent w.e.f 18/04/2007 to 06/05/2014 (his removal date). According to his service book in my hand and the personal file his service and leave are as under.

63

Service: 1; 20/12/1987 to 31/08/1994 (06 years, 08 months and eleven days)

02; 02/09/1996 to 31/09/1996 (29 days)

03; 01/09/1997 to 17/10/2005 (08 years, one month and sixteen days)

Total Service= 14 years, 09 months and twenty seven days+178 days

= 15 years, 05 months .

Leave Period

E.O.L

01/09/1994 to 01/09/1996 (02 years)

01/10/1996 to 31/08/1997 (Eleven months)

18/10/2005 to 17/04/2007 (356 days with half pay, 189 days without pay).

Total Extra Ordinary Leave availed= 03 Years and almost 06 months.

According to the leave rules not more than 240 days is allowed as Earned leave on half pay. so here the competent authority has not flowed the rules.

The teacher has not been granted E.O.L up to 31/05/2008 nor awarded sanction in E.O.L up to 31/12/2009 though the officer concerned could grant him E.O.L up to approximately 17/10/2008. However it was the discriminatory power of the EDEO.

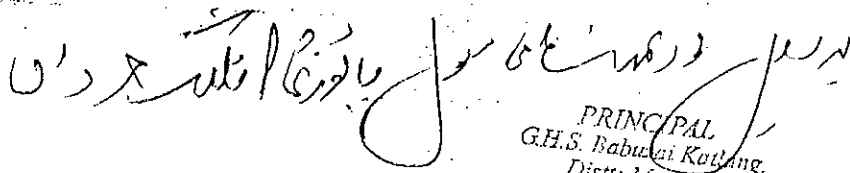
Absent period

18/04/2007 to 06/05/2014 (date of termination).

His strife for adjustment and then for reinstatement.

When he attended the school on 01/01/2010 and submitted application for adjustment he was told that he was absent w.e.f 18/04/2007 till that day. His post had also been filled by Mr Bakhtyar Ali PST vide order No 19138-40 dated 09/10/2006. And Mr Zahirullah has been striving for his adjustment since 01/01/2010. He wrote many applications to many officers in rank but in vain. He was trying for his adjustment and an enquiry committee


PRINCIPAL
G.H.S. Babuzai Katlang,
Distt: Mardan.


PRINCIPAL
G.H.S. Babuzai Katlang,
Distt: Mardan

62

comprising Mr Shamshad Khan Head Master GHS Dakki Mardan and Mr Mukhtiar Ali ADO Circle Takkar Takht Bahi conducted enquiry in this case and gave their recommendation in favour of the teacher accused urged that he was not properly informed about his absence and consequences. After the enquiry conducted on 28/04/2012 the teacher was removed from service vide Endst; No 4099/G Dated 06/05/2014. When the teacher submitted appeal in the honourable Peshawar High Court for the adjustment he came to know that he had been dismissed from service. It means that once again the teacher was not informed about his case and no show cause notice or personal hearing was processed against him by the office concerned which is not according to the rules.

According to first enquiry report and office record the teacher has received his salary regularly w.e.f 18/10/2005 to 30/06/2006 though he was on leave.


Conclusion

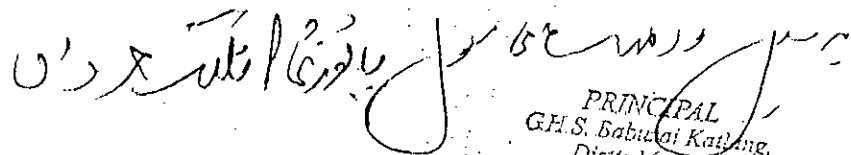
Keeping in view the above facts it is concluded that Mr Zahirullah Ex-PST has been remained absent from his duty w.e.f 18/04/2007 to the date of first enquiry conducted on 28/04/2012. He has submitted application on 17/04/2007 for the extension in leave up to 31/12/2009 but not accepted. He has also submitted another application to EDEO on 11/04/2007 for earned leave w.e.f 18/04/2007 to 31/05/2008 but has not been accepted though the concerned Officer could award it as the teacher had availed almost 03 years, and 06 months E.O.L while his total regular service was 15 years, 04 months and 28 days and could avail one year and almost 06 months approximately more if awarded.

According to note sheet of the personal file of the teacher he had submitted application for extension in leave up to 31/12/2009. On 01/01/2010 as he had given application for extension up to 31/12/2009, he came to his school for joining duty but came to know that his application for extension had not been accepted and he had been deemed as absent.

According to first enquiry report in this case the teacher has received the salary w.e.f 18/10/2005 to 30/06/2006 though he was on leave which shows the negligence of the then concerned officers and the first enquiry committee has recommended the teacher for adjustment.

The teacher has not been informed by the concerned officers about his absence and has taken no proper action against him and that is why the first enquiry committee has given credit to him. After a long journey of strife for adjustment once again he came to know in Peshawar High Court that he had been terminated by the department on 06/05/2014 when he submitted application for adjustment. Here once again the teacher has not been properly informed. No show cause notice or the process of personal hearing has


PRINCIPAL
G.H.S. Babuzai Katlang,
Distt: Mardan


PRINCIPAL
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Distt: Mardan

(7)

Been carried out by the Education department and that is why I can say that my favour goes to Mr. Zahir Ullah and will not be wrong enough to give him the credit.

Recommendations:

~~In the light of the above facts, precedents and services of Mr. Zahir Ullah his case may please be treated with favour as per rule if agreed.~~

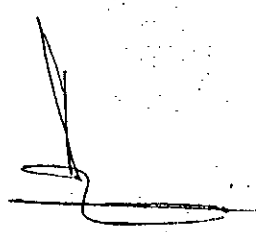
Enclosures:

1. Answers of the questionnaire of Mr. Zahir Ullah asked from him.
2. Answers of the questionnaire of Mr. Sayyad Khalid Shah the then Head Teacher Of GPS Kas Kaoruna Mardan.
3. Personal file of Mr. Zahir Ullah contains the entire record.
4. Previous Inquiry report against the teacher.
5. Photocopy of service book of Mr. Hazrat Jamal HPST presented by Zahir Ullah as precedents for reference of reinstatement on service.
6. Application for extension in leave of the teacher concerned.
7. Photocopy of not sheet about the extension in leave up to 31/12/2009.

The End

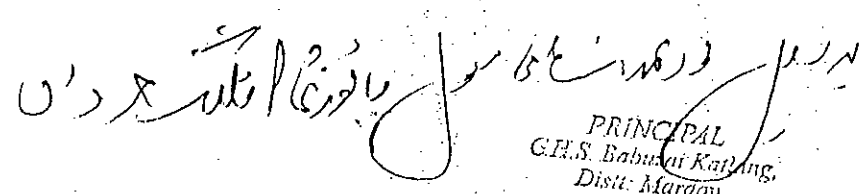
Certified that this enquiry report contains 07 pages and each has been signed by me.

Enquiry Officer



29/9/2017

Arshad Hussain Principal GHS Babuzai Katlang Mardan.



PRINCIPAL
G.H.S. Babuzai Katlang,
Distt: Mardan

been carried out by the Education department and that is why I can say that my favour goes to Mr Zahirullah and will not be wrong enough to give him the credit.

6/1

Recommendations.

The facts were discussed above in detail hence the case of Mr Zahirullah Ex- PST may please be decided by the offices concerned keeping in view his efforts, poverty and the precedents given by him on page 04 and negligence of the office.


Enclosures.

- 1; Answers of the questionnaire of Mr Zahirullah asked from him.
- 2; Answers of the questionnaire of Mr Syed Khalid Shah the then Head Teacher of GPS Kas koroona Mardan asked from him.
- 3; Personal file of Mr Zahirullah contains comprehensive record.
- 4; Previous Enquiry report against Mr Zahirullah .
- 5; Photo copy of the service Book of Mr Hazrat Jamal HPST presented by Zahirullah as precedent in his favour for reference of reinstatement on service.
- 6; Application for extension of teacher. ^{in leave}
- 7; Photo copy of not sheet about the extension in leave up to 31/12/2009.

The End

Certified that this enquiry report contains 07 pages and each has been signed by me.

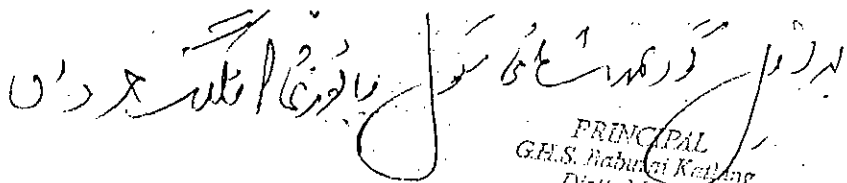
Enquiry Officer



23/08/2017

Arshad Hussain principal GHS Babuzai Katlang Mardan

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OFFICE OF THE DISTRICT EDUCATION OFFICER
(MALE) MARDAN

No. 10768 / Dated 6/12 / 2017

To

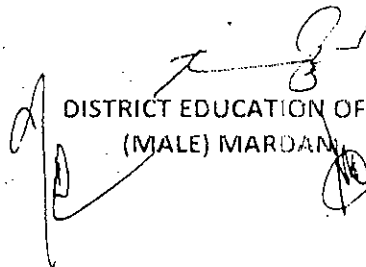
Mr. Zahirullah s/o Musharaf Khan
Ex-PST GPS Kass korona.

73

Subject: PERSONAL HEARING

Memo:

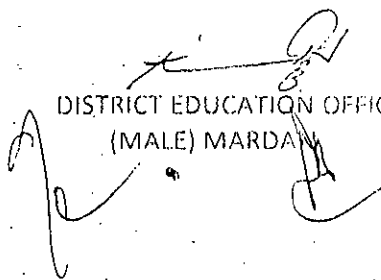
You are hereby directed to attend the office of the undersigned on 12-12-2017 at 11:00 AM for personal hearing regarding your application submitted for re-instatement.


DISTRICT EDUCATION OFFICER
(MALE) MARDAN

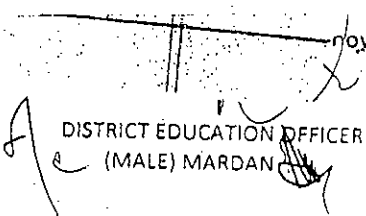
10769
Endst:No. _____ / Dated: _____ / 2017

Copy forwarded to the:-

1. SDEO(M) Mardan for information.


DISTRICT EDUCATION OFFICER
(MALE) MARDAN

In this connection, the original copy of this order may be remained intact or otherwise.


DISTRICT EDUCATION OFFICER
(MALE) MARDAN

M. Mardan

108) آپ نے مزید چیف کی درخواست برائے فود دی تھی؟

2. میں نے اپنے کھائی کے توسط سے چیف کی درخواست دی تھی۔ معلوم کرنے پر ایسے ہیلا
74) تم وہ منظور نہیں ہو گے۔

11) آپ ملبشیا سے اپنے ملک واپس کب آئے؟

2. میں 30 دسمبر 1982ء کو اپنے ملک واپس آ گیا۔

12) آپ نے انٹرنیشنل کیمپ کے حکم کو کونسا درخواست دی تھی۔

13) آپ نے درخواستی حکم سے کسی وجہ سے ہونے لے
2. طویل فرسٹریاں وہم سے میرا بہرہ مناسکی عمل میں لانے لگا۔

14) کیا آپ نے بہرہ مناسکی کے خلاف حکمانہ ایسے کی تھی۔

2. میں نے حکمانہ ایسے نہیں کی تھی۔

15) آپ نے ایسے حکمانہ میں کو کتنا چھپانے میں

2. رہا ہے۔ کہ جموں کے غلطی ہونے سے اور حکم نے اس عبادت جو کارروائی کی ہے

وہ قانونی ہے۔ تاہم میں اپنی غیر منظمیوں پر شرمندہ ہوں۔ اور انہی غلطی مناسکیوں

اور حکم سے ایسے کرنا ہوں۔ کہ مجھے انسانیت کے قاطع ایک موقع اور

دیا جائے۔ میں اپنے رشتہ ایسے پر لائے سے انجام دوں گا۔ محتاط رہوں گا
اور حکم سے کو شکایت کا موقع نہیں دوں گا۔

Handwritten signature and date: 20/12/80

نام: ظاہر اللہ ولد مشرف خان
NIC No. 16101-3636456-7

Handwritten signature

دستخط

20/12/80



نشان انصاف

Personal Hearing of Mr. Zahidullah

PST

on dated - 20-12-2017

یو ایو ڈی سی ایم مندان

78

سرخ: آپ کو کتنی ڈیپارٹمنٹ میں بطور لیجر کب بھرتی ہوئے؟

جواب: 1987ء میں 17-12-1987ء میں بھرتی ہوئے

س 2: کیا آپ - Untained بھرتی ہوئے؟

ج 2: جی ہاں میں Untained بھرتی ہوا

س 3: آئیڈیو PTC پاس کیا ہے؟

ج 2: میں نے PTC پاس نہیں کیا۔ کام تقریباً 2 لبر Short term کو میں پاس کیا تھا

سرخ 4: آئیڈیو 4 پم کس کورونہ میں چارج کیا گیا

ج 2: میں نے 27-11-1998ء کو 4 پم کس کورونہ میں چارج کیا تھا۔

سرخ 5: آپ نے چھٹی کی رول لیبیل درخواست کب دی تھی اور کتنی مدت لکھا تھی؟

ج 2: میں نے چھٹی کی رول لیبیل درخواست 1994ء میں (18 مئی) سے دی تھی اور یہ چھٹی sanctioned ہی ہوئی تھی۔

سرخ 6: آئیڈیو مزید چھٹی کی درخواست کب اور کتنی مدت لکھا دی تھی۔

ج 2: چھٹی درخواست دینے کی تاریخ اور سال بتاؤ۔ تاہم آئیڈیو کی چھٹی کی درخواست دی تھی۔

سرخ 7: اس کے علاوہ چھٹی کی کوئی اور درخواست آئیڈیو کی ہے؟

ج 2: میں نے 2002ء میں 18 مئی کی چھٹی کی درخواست دی تھی جو منگوا ہوئی تھی۔

سرخ 8: آئیڈیو لیبیل چھٹی کی حکم سے کتنی مدت لکھا غیر حاضر رہا؟

ج 2: میں تین سال (تھو سال) حکم کے اجازت سے لیبیل چھٹی کی درخواست سے غیر حاضر رہا

سرخ 9: آئیڈیو ان تین سال میں کیاں تھے؟

ج 2: میں حد تک باہر ملیشیا میں محبت مزدوری کے سلسلے میں مقیم تھا۔

17/12/17