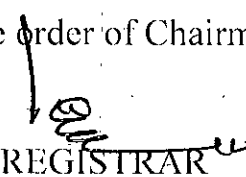


FORM OF ORDER SHEET

Court of _____

Case No.- _____ **416/2023**

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	02/03/2023	<p>The appeal of Mst. Saqib Ruhin received today by registered post through Mr. Gul Tiaz Khan Marwat Advocate. It is fixed for preliminary hearing before touring Single Bench at D.I.Khan on _____. Notices be issued to appellant and her counsel for the date fixed.</p> <p>By the order of Chairman  REGISTRAR</p>

BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR

Service Appeal No 416 /2023

Saqib Ruhin Ex-PST GPS Qismat Khan Koroona District
Tank **APPELLANT**

VERSUS

Govt: of KPK through Secretary Education and others.

.....**RESPONDENTS**

INDEX

S.No	Description	Annexure	Page No
1	Grounds of Appeal		1-7
2	Copy of appointment order dated 10.02.2022	A	8-9
3	Copy of impugned order dated 11.10.2022	B	10
4	Copy of departmental appeal and original postal receipt	C&D	11-14
5	Vakalatnama		15

Dated: 25 /02/2023

Your Humble Appellant

**SAQIB RUHIN
Through Counsel**


**GUL TIAZ KHAN MARWAT
Advocate High Court DIKhan**

I

BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR

Service Appeal No 416 /2023

Saqib Ruhin Ex-PST GPS Qismat Khan Koroona District
Tank **APPELLANT**

VERSUS

1. Govt: of KPK through Secretary Education
Department Govt: of KPK Civil Secretariat Peshawar.
2. Director Elementary & Secondary Education, Govt. of
KPK Peshawar.
3. District Education Officer (M) Tank.

.....**RESPONDENTS**

**APPEAL U/S 4 OF KPK SERVICE TRIBUNAL ACT 1974
AGAINST THE ORDER OF WITHHOLDING AND NON-
DISPOSAL OF DEPARTMENTAL APPEAL DATED
29.10.2022 OF THE APPELLANT BY RESPONDENT NO. 2
WITHIN THE STATUTORY PERIOD OF 90 DAYS AGAINST
THE ORDER BEARING ENDST: NO 6126-32/DEO-M DATED
11.10.2022 ISSUED BY RESPONDENT NO. 3 VIDE WHICH
APPOINTMENT ORDER OF APPELLANT AS PST BEARING
NO. 1302-08 DATED 10.02.2022 HAS BEEN WITHDRAWN
WITHOUT PROVIDING ANY OPPORTUNITY OF HEARING
AND WITHOUT ISSUANCE OF ANY SHOW CAUSE NOTICE
AND WITHOUT CONDUCTING REGULAR INQUIRY ETC.**

Respected Sir,

- (1) That the Appellant is a citizen of Islamic Republic of
Pakistan and being a citizen of the Country has the
rights and obligation under the constitution.
- (2) That the Appellant was appointed as PST on the basis

Just

of deceased employee quota in the GPS Qismat Khan Koroona Distt: Tank vide office order No. 1302-08 dated 10.02.2022. Copy of appointment order is enclosed as **Annexure-A**.

- (3) That after issuance of appointment order, the appellant completed all the codel formalities such as Medical Fitness Certificate etc. and submitted arrival report and performed his duties in the GPS Qismat Khan Koroona District Tank to the entire satisfaction of his superiors and there was no complaint etc. against the appellant.
- (4) That the DEO (M) Tank, suddenly, silently and abruptly issued the impugned order of withdrawal of appointment order of appellant and that too from the date of issuance of appointment order i.e. 10.02.2022 without any show cause Notice or conducting any inquiry and without providing an opportunity of hearing to the appellant. Copy of impugned order is enclosed as **Annexure-B**.
- (5) That the appellant preferred departmental appeal before Appellate Authority/ Respondent No. 2 on 29.10.2022 which was sent to the Respondent No. 2 through registered post. Copy of departmental appeal and original postal receipt are enclosed as **Annexure - C & D** respectively.

Jan 2

- 3
- (6) That the appellant anxiously waited for the result of the departmental appeal by Respondent No. 2 but the same has not been decided by Respondent No. 2 within the statutory period of 90 days as no intimation of the disposal of appeal has been communicated to the appellant till today.
- (7) That feeling aggrieved from the impugned order of withdrawal of appointment order of Appellant and non-disposal of departmental appeal by Respondent No. 2 within statutory period, the Appellant seeks the indulgence of this learned Tribunal under its appellate jurisdiction inter alia on the following grounds:

GROUNDS:

- A. That neither any charge sheet, statement of allegations and nor any show cause notice has been served upon the appellant and the impugned order of withdrawal of appointment of the Appellant has been passed without holding regular inquiry while by now it is a settled principal of law that regular inquiry is must and there should be no punishment without holding regular inquiry.
- B. That the impugned action / office order of withdrawn the appointment order of the Appellant without issuance of show cause notice and without conducting any inquiry and without providing any opportunity of
- Amr*

hearing to the appellant is arbitrary, malafide, void ab-
initio, without lawful authority, without jurisdiction
and of no legal effects qua the rights of Appellant.

- C. That the impugned order, action and inaction of DEO(M) Tank is against the provisions of fundamental rights guaranteed under the constitution of Islamic Republic of Pakistan and is thus against the principles of natural Justice as well as the provisions of General Clauses Act.
- D. That the impugned order of withdrawal of appointment order amounts to dismissal/removal from the service of Appellant which is not sustainable under the law and rules holding the field but the Appellant being a citizen of the Pakistan, has fundamental rights under the Constitution of Islamic Republic of Pakistan to be treated and be provided justice in accordance with law but here the Appellant has met out discriminatory treatment.
- E. That no opportunity of personal hearing has been provided to the Appellant prior to issuance of order of withdrawal of appointment order of appellant and the impugned order has passed in the absence of Appellant and at the back of Appellant
- F. That Appellant became victim of use of colourable exercise of powers which amounts exploitation and is

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against the fundamental rights guaranteed under the constitution of the country.

- G. That the impugned action/order of respondent No.3 of ousting of Appellant from service is not sustainable without holding regular inquiry and without proving an opportunity of personal hearing but the Appellant was punished without observing all these legal and mandatory formalities and requirements of law.
- J. That the Appellant has been met out discriminatory treatment and he has not been treated under the law as required under the provisions of fundamental rights guaranteed the Constitution of Islamic Republic of Pakistan.
- K. That this Honorable Tribunal is creation of Constitution under which fundamental rights of the citizens of the Country are protected and having vast Constitutional Power, this Honorable Tribunal is competent and authorized to correct the failure, faults, dereliction of duty, laches, defects in jurisdiction denial of justice, bias or disability and to set aside/struck down illegal and order without lawful authority of the Departmental Authorities of Government Offices/ Departments including the Respondents.
- L. That the Appellant is jobless from the date of withdrawal of appointment order and he has never been gainfully

Amir

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employed elsewhere.

M. That Counsel for the Appellant may please be allowed to raise additional ground during the course of arguments.

It is, therefore, humbly prayed on acceptance this Appeal this Honorable Tribunal may very graciously be pleased to set aside the impugned order of withdrawal of appointment as PST bearing No. 6126-32/DEO(M) Tank dated 11.10.2022 and as a consequence thereof the Appellant may please be reinstated into service with all back benefits as the Appellant is jobless since date of his order of withdrawal of order of appointment.

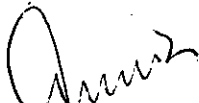
Any other relief deemed appropriate in the prevailing circumstances may also be granted.

Your humble appellant,


Saqib Ruhin

Through Counsel

Dated: 25/02/2023


Gul Tiaz Khan Marwat
Advocate High Court
DIKhan

CERTIFICATE

Certified that it is a first appeal by the appellant before this learned tribunal against the impugned orders of respondents.


APPELLANT

7

BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR

Service Appeal No _____/2023

Saqib Ruhin Ex-PST GPS Qismat Khan Koroona District
Tank **APPELLANT**

VERSUS

Govt: of KPK through Secretary Education and others.

.....**RESPONDENTS**

AFFIDAVIT

I, Saqib Ruhin Ex-PST GPS Qismat Khan Koroona District
Tank, the appellant do hereby solemnly affirm and declare on
Oath that the contents of appeal are true and correct to the
best of my knowledge and belief and nothing has been
concealed from this Honorable Tribunal.


DEPONENT



A B 8

**OFFICE OF THE DISTRICT EDUCATION OFFICER
(MALE) TANK**

APPOINTMENT ORDER:

In exercise of the powers conferred upon the undersigned under Section-10 Sub-Section-4 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules 1989, amended notification issued vide No. SO(R-IV)E&AD/1-3/2015 Dated: 10-04-2016, the undersigned is pleased to appoint the following candidates against the vacant post of PST BPS-12 @Rs. (13320-960-42120) fixed plus all usual allowances on regular basis under 100% deceased sons / incapacitated or invalidated persons quota as admissible under the rules on the terms and conditions given below with immediate effect.

Sr	Name	Father's Name	Name of Govt. Servant died/ incapacitated / invalidated during service	CNIC No	DOB	Qual	Place of Posting
1.	Saqib Ruhin	Naimat Ullah	Mrs. Yasmin Begum Ex-PST GGPS Wapda Colony Tank	12201-5529940-9	11-09-1996	MA	GPS Qismat Khan Kurona

TERMS & CONDITIONS

1. No TA/DA etc is allowed.
2. Charge reports should be submitted to all concerned in duplicate.
3. He should not be handed over charge if he exceed 35 years or below 18 years of age. Age relaxation case may be submitted to competent authority (if required).
4. Appointment is subject to the condition that the certificate/documents must be verified from the concerned authorities by the District Education Office, anyone found producing bogus certificate will be reported to the law enforcing agencies for further action. Expenditure on verification will be borne by the appointee.
5. He services are liable to terminate on one month notice from either side. In case of resignation without prior notice, one-month pay/allowances shall be forfeited to the Government Treasury.
6. Pay will not be drawn until and unless a certificate regarding verification of his documents is issued by this office.

Attested
Jinnat
Rehman

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He should join his post within 30 days of the issuance of this order. In case of failure to join the post within stipulated period, his appointment will stand expired automatically and subsequent no appeal etc shall be entertained.

- 8. Health and Age certificate should be produced from the Medical Superintendent concerned before taking over charge.
- 9. He will be governed by such rules and regulations as may be issued from time to time by the Govt.
- 10. His services shall be terminated at any time, in case his performance is found unsatisfactory during the contract period. In case of misconduct, he shall be proceeded under the rules framed from time to time.
- 11. Before handing over charge, once again his documents may be checked by the DDO concerned.
- 12. He should receive 09 months mandatory in-service training from RITE/PITE.

--Sd--

(UMAR KHAN)

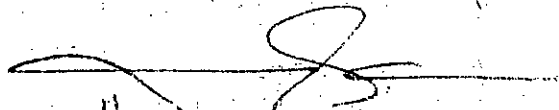
District Education Officer
(Male) Tank

Endst. No. 1302-08 / F.No.1-A/E.B/Recr/Deceased/PST

Dated Tank the 10 / 02 / 2022

Copy of the above is forwarded for information & necessary action to:-

- 1. The District Accounts Officer, Tank.
- 2. The District Monitoring Officer (EMA) Tank.
- 3. The Sub-Divisional Education Officer (Male) Tank.
- 4. The Assistant District Education Officer (E) Primary Local Office.
- 5. The Head Teacher School Concerned.
- 6. The Candidate Concerned.
- 7. Office File.



District Education Officer
(Male) Tank

Attested
Amir
Adhi

OFFICE OF THE DISTRICT EDUCATION OFFICER
(MALE) TANK

B / 10

ORDER:

AS Mr. Saqib Ruhin S/o Naimat Ullah Bearing CNIC No. 1220155299409 was appointed against the vacant post of PST at GPS Qismat Khan Koroonia Union Council Tatta under 100% Deceased Son quota vide appointment order No. 1302-08/F.No. 1-4/EB/Recr/Deceased/PST Dated: 10-02-2022.

WHEREAS, it is come to the notice of this office through SDEO (Male) Office Tank, that his real brother namely Mr. Muhammad Shoaib S/o Naimat Ullah bearing CNIC No. 1220104330237 already appointed against 100% Deceased Son quota vide appointment order No. 1301-19/F.No. 1-1/EB-Recr/Deceased/PST Dated: 18-01-2021.

NOW THEREFORE, in the light of above-stated facts, the competent authority (District Education Officer Male Tank) is pleased to revoke / discontinue the services of Saqib Ruhin PST GPS Qismat Khan Kor from the date of issuance of his appointment order No. 1302-08/F.No. 1-4/EB-Recr/Deceased/PST Dated: 10-02-2022 as well as withdraw the appointment order in respect of Mr. Saqib Ruhin PST GPS Qismat Khan Kor.

---Sd---
(NISAR AHMAD)
District Education Officer
(Male) Tank
Dated Tank the 11/10 / 2022

Order No. 6126-32 / DEO-M

One copy is forwarded for info & action to the:

- 1. Accounts Officer, Tank
 - 2. Officer Monitoring Officer (EMO) Tank
 - 3. Divisional Recruitment Officer (Male) Tank
 - 4. District Headmaster of Education Office Circle Concerned
 - 5. Teacher School Concerned
- 6
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Attested
Qunad
Adv

District Education Officer
(Male) Tank

Better copy

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OFFICE OF THE DISTRICT EDUCATION OFFICER (M) TANK.

ORDER:

As Mr Saqib Ruhin S/O Naimat Ullah bearing CNIC No. 12201-5529940-9 was appointed against the vacant post of PST at GPS Qismat Khan Koroona Union Council Tatta under 100% Deceased Son Quota vide appointment order No. 1302-08/F.No 1-4/EB/Recr/deceased PST dated 10.02.2022.

Whereas it is come to the notice of this office through SDEO (M) office Tank that his real brother namely Mr. Muhammad Shoaib S/O Naimat Ullah bearing CNIC No. 12201-6133023-7 already appointed against 100% Deceased Son Quota vide appointment order No. 1913-19/F.No 1-4/EB/Recr/deceased PST dated 18.01.2021.

Now therefore, in the light of above stated facts, the Competent Authority, Nisar Ahmad DEO(M) Tank is pleased to revoke/ discontinue the services of Mr. Saqib Ruhin PST at GPS Qismat Khan Koroona from the date of issuance of his appointment order dated 10.02.2022 as well as withdraw the appointment order in respect of Mr. Saqib Ruhin PST GPS Qismat Khan Koroona.

s/d

NISAR AHMAD

**District Education Officer (M)
Tank**

Endst: No. 6126-32/DEO(M) dated Tank the 11.10.2022

Copy of the above is forwarded for information and necessary action to the:

1. The District Accounts Officer Tank.
2. The District Monitoring Officer (EMA) Tank.
3. The Sub Divisional Education Officer (M) Tank.
4. The Assistant Divisional Education Officer circle concerned
5. Head teacher school concerned.
6. Teacher concerned
7. Office File

*Attested
Qumk
Deli*

Sd/-

**District Education Officer (M)
Tank**

To

The Worthy Director
Elementary & Secondary Education
KPK Peshawar.

Subject: DEPARTMENTAL APPEAL AGAINST THE OFFICE
ORDER OF DISTRICT EDUCATION OFFICER (M) TANK
ENDST: NO. 6126-32/DEO-M DATED 10.11.2022 VIDE
WHICH APPOINTMENT ORDER OF APPELLANT
BEARING ENDST: NO. 1302-08/F-NO 1-4/E-B/RECR/
DECEASED/PST DATED 10.02.2022 HAS BEEN
WITHDRAWN WITHOUT ANY SHOW CAUSE NOTICE.

Respected Sir,

The Applicant submits as under:

- (1) That the Applicant is a citizen of Islamic Republic of Pakistan and being a citizen of the Country has the rights and obligation under the constitution.
- (2) That the Applicant was appointed as PST on the basis of deceased employee quota in the GPS Qismat Khan Koroona Distt: Tank vide office order No. 1302-08 dated 10.02.2022. Copy of appointment order is enclosed as **Annexure-A**.
- (3) That after issuance of appointment order the appellant complete^d all the codel formalities such as Medical Fitness Certificate etc, and submitted arrival report and performed his duties in the GPS Qismat Khan Koroona District Tank to the entire satisfaction of his superiors and there was no complaint etc. against the appellant.

Attested
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- (4) That the DEO (M) Tank, suddenly, silently and abruptly issued the impugned order of withdrawal of appointment order of appellant and that too from the date of issuance of appointment order i.e. 10.02.2022 without any show cause Notice or conducting any inquiry and without providing an opportunity of hearing to the appellant. Copy of impugned order is enclosed as **Annexure-B**.
- (5) That feeling aggrieved from the impugned order of withdrawal of appointment order of Appellant, the Appellant seeks the indulgence of the Appellate Authority under its appellate jurisdiction inter alia on the following grounds:

GROUND:

- A. That the impugned action / office order of withdrawn the appointment order of the Appellant without issuance of show cause notice and without conducting any inquiry and without providing any opportunity of hearing to the appellant is arbitrary, malafide, void ab-initio, without lawful authority, without jurisdiction and of no legal effects qua the rights of Appellant.
- B. That the impugned order, action and inaction of DEO(M) Tank is against the provisions of fundamental rights guaranteed under the constitution of Islamic

Attested
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R/W

Republic of Pakistan and is thus against the principles of natural Justice as well as the provisions of General Clauses Act.

- C. That the impugned order of withdrawal of appointment order amounts to dismissal/removal from the service of Appellant which is not sustainable under the law and rules holding the field but the Appellant being a citizen of the Pakistan, has fundamental rights under the Constitution of Islamic Republic of Pakistan to be treated and be provided justice in accordance with law but here the Appellant has met out discriminatory treatment.
- D. That it is an admitted fact proved from record that neither any show cause Notice has ever been served upon the appellant nor any charge-sheet and statement of allegation has been served and nor any inquiry has been conducted but the appellant has been knocked out from service through slip shod manner which prima facie suggests that the impugned order is outcome of personal grudges, ill will and predetermined action of the Competent Authority/DEO(M) Tank.
- E. That no opportunity of personal hearing has been provided to the Appellant prior to issuance of order of withdrawal of appointment order of appellant and the

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impugned order has passed in the absence of Appellant and at the back of Appellant

F. That Appellant became victim of use of colourable exercise of powers which amounts exploitation and is against the fundamental rights guaranteed under the constitution of the country.

In view of the submissions made above, it is, therefore, humbly prayed that on acceptance this Appeal, the impugned order of withdrawal of appointment order of appellant bearing No. 6126-32/DEO(M) Tank dated 11.10.2022 may please be set aside/ recall and the Appellant may please be reinstated into service with all back benefits.

The Appellant may please be provided an opportunity of personal hearing also.

Dated: 29/10/2022

Your Humble Appellant,
Saqib Ruhin
Ex-PST
GPS Qiamst Khan Koroon
Distt. Tank

Attested
Qiamst Khan
Adv

No.1207 For Insurance Notices see reverse. Stamps affixed except in case of **RGL10631377** more than the initial value of the Post Office Guide or on which no acknowledgement is due.

Received a registered addressed to **To Director** Date-Stamp **D**

Rs. **130-** Ps.

Initials of Receiving office **SE** *Write here "letter", "postcard", "packet" or "parcel" with the word "insured" before it when necessary.

Insured for Rs. **1000** (in figures) **KPK** (in words)

If insured, Insured fee Rs. **20** Ps. (in words) Weight **1** Kilo Grams

Name and address **Peshawar**

29/10/22



KHYBER PAKHTUNKHWA
BAR COUNCIL

ADVOCATE HIGH COURT

GUL TIAZ KHAN

Advocate
bc-11-2787
Date of Issue: June 2023
Valid upto: June 2023



Secretary
KP Bar Council

By the virtue of being or carrying on any other profession, service or business, the holder will not be entitled to use this card and shall be liable to surrender it to the AP Bar Council

Father's Name: MUHAMMAD NAWAZ KHAN
Address: E-27, COMMISSIONERS COLONY NORTH
CIRCULAR ROAD D.I. KHAN

15

Contact No:
Enrolment Date L.C.03-July-2008
Enrolment Date H.C.08-November-2010
Place of Practice: D.I. KHAN
Date of Birth: 01-November-1961
Blood Group: B+ VE
C.NIC No.: 12101-5311190-1

Card No.
19150

KHYBER PAKHTUNKHWA BAR COUNCIL
Office: Gul Tiaz Khan, Khyber Road, Peshawar, Ph: 091-9211372, 9212113, Fax: 091-7417314
E-mail: support@kpbarkouncil.com, www.kpbarkouncil.com

VAKALATNAMA

IN THE ~~COURT OF~~ KPK Service Tribunal Peshawar

Saqib Rukh'm VERSUS Govt. of KPK etc

Title Appeal

I/Saqib Rukh'm

The above named Appellant herby appoint Gul Tiaz Khan Marwat Advocate High Court D.I.Khan, in the above mentioned case to 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 or any other proceedings out of our connected therewith.
 2. To sign and verify and file or withdraw all proceedings, petitions, appeals, affidavits, and applications for compromise or withdrawal, or for the submission to arbitration of the said case or any other documents, may be deemed necessary or advisable by them by the conduct, prosecution or defense of the said case at all its stages.
 3. To receive payments of and issue receipts for all moneys that may be or become due and payable to us during the course on conclusion of the proceeding.
To do all other acts and things, which may deemed necessary or advisable during the course of proceedings.
- AND hereby agree:
- a. To ratify whatever advocates may do the proceedings.
 - b. Not to hold the advocates responsible if the said case be proceed ex-parte or dismissed in default in consequence of their absence from the court when it is called for hearing.
 - c. That the advocates shall be entitled to withdraw from the prosecution of the said case if the whole or any part of the agreed fee remains un-paid.
 - d. That advocates may be permitted to argue any other point at the time of arguments.

In witness whereof I/we have signed this vakalatnama here under the contents of which have been read/explained to me/us which is fully understood by me/us.

Date: 25/2/2023

Attested & Accepted:

Gul Tiaz Khan Marwat
Advocate High Court D.I.Khan (KPK)
Cell No. 0300-9092488 / 0345-9853488

Signature of Executants (s)

(Saqib Rukh'm)