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**BEFORE THE HONORABLE KHYBER PAKHATUNKHWA SERVICE
TRIBUNAL PESHAWAR.**

Khyber Pakhtunkhwa
Service Tribunal

Service Appeal No: 1209/2022

Case No. 4507

Date 22/3/22

Tahir Saleem, Ex-SST (IT), GHS Takht Nasrati, District Karak.....Appellant.

VERSUS

Secretary E&SED Government of Khyber Pakhtunkhwa & others....Respondents

JOINT PARAWISE COMMENTS ON BEHALF OF THE RESPONDENTS No: 1-3.

Respectfully Sheweth:-

PRELIMINARY OBJECTIONS.

- 1 That the appellant has got no cause of action & locus standi.
- 2 That the Appellant is not an aggrieved person within the meaning of Article-212 of the Constitution of Islamic Republic of Pakistan 1973.
- 3 That the Appellant has concealed material facts from this Honorable Tribunal.
- 4 That the Appellant has not come to this Honorable Tribunal with clean hands.
- 5 That the appeal in hand is bad for mis-joinder & non-joinder of the necessary parties.
- 6 That the Appellant has been found guilty of willful absence from duty.
- 7 That no Departmental appeal has been filed by the appellant against the impugned order dated 28-2-2022.
- 8 That the impugned Notification dated 28-02-2022 according to law & rules.
- 9 That the Notifications dated 15-4-2022 & 30-5-2022 have been withdrawn by the Department vide Notification dated 07-07-2022.

ON FACTS.

1. That Para-1 being pertains to the service record of the appellant.
2. That Para-2 pertains to service record of the appellant.
3. That Para-3 is incorrect on the grounds that the appellant has not performed his duty against the noted post during the said period, hence, his salary was stopped by the competent authority on account of willful absence from duty w.e.f. 23-10-2018 against the noted post in the Department. **(Copy of the absence from duty report is attached as Annexure-A).**
4. That Para-4 as reply to this para has been given in para-3 of the present reply to the titled case on behalf of the Respondents.
5. That Para-5 is correct that a Show Cause Notice dated 15-01-2019 has been served upon the appellant on account of his willful absence from duty against the SST (IT) (BPS-16) post w.e.f. 23-10-2018 till date without the formal approval of leave sanction order of the competent authority which was replied by the appellant in an evasive manner, hence, resulted the impugned order dated 28-02-2022, whereby, the appellant has been removed from service by the Respondent No.2 after due process of law & procedure under the Rules. **(Copy of the Show Cause Notice dated 15-1-2019 is attached as Annexure-B).**
6. That Para-6 is correct that the services of the appellant were regularized against the said post vide Notification dated 8-3-2019 in light of the Khyber Pakhtunkhwa Regularization of Service Act 2018 Act No. II of 2019 attached as **Annexure-C.**
7. That Para-7 is incorrect as no charge report for duty has been submitted by the appellant.
8. That Para-8 is also incorrect as no leave sanction order has been passed by the competent authority in favor of the appellant as evident from the report/letter No. 2972 dated 15-7-2021 of the DEO (M) Karak to the Directorate E&SE Khyber Pakhtunkhwa Peshawar attached as **Annexure-D.**
9. That Para-9 is correct to the extent of serving a Show Cause Notice upon the appellant on dated 01-04-2021 dully received but not replied by the appellant within time limitation under the Rules.
10. That Para-10 is correct.
11. That Para-11 is correct that a report dated 15-7-2021 regarding absence from duty of the appellant was submitted by the Respondent No.3 to the Respondent No.2.

- 12. That Para-12 is subject to proof & verification as no signature of the authorized officer of the Directorate of E&SE is available on the said letter, hence, cannot be owned in the given circumstance of the case in hand.
- 13. That para-13 is needs no comments being pertains to the office record of the Election Commission of Pakistan.
- 14. That para-14 is correct that vide Notification dated 28-02-2022 major penalty of removal from service against the SST (IT) BPS-16 post has been imposed upon the appelland by the Respondent No.2 on account of his willful absence from duty attached as **Annexure-E**
- 15. That Para-15 is incorrect as no Department Appeal against the Notification dated 28-02-2022 has been filed by the Appellant, therefore, the appeal in hand is liable to be dismissed on the following grounds inter alia:-

GROUNDS:-

- A. **Incorrect, hence, denied.** The appelland has been treated in accordance with relevant Law & Rules by the Department vide the Notification dated 28-02-2022.
- B. **Incorrect, hence, denied.** Detail reply to this ground has already been given above, hence, needs no further comments.
- C. **Incorrect, hence, denied.** The appelland has been found guilty of absence from duty w.e.f. 01-10-2018 by the competent authority resulted in the Notification dated 28-02-2022.
- D. **Incorrect, hence, denied.**
- E. **Incorrect, hence, denied.** The plea of the appelland is against the facts of the case, hence, denied in view of the above made submission by the Department.
- F. **Incorrect, hence, denied.** The plea of the appelland is against the facts of the case on the grounds the Notification dated 15-4-2022 has been withdrawn vide Notification dated 07-07-2022 by the competent authority attached as **Annexure-F**.
- G. **Incorrect, hence, denied.** The act of the Department with regard to the Notification dated 28-02-2022 is legal.
- H. **Legal.** However, the department also seek leave of this Honorable Tribunal to submit additional grounds, record & case law at the time of arguments on the date fixed please

PRAYER:

Therefore, in view of the above made submissions, the appeal in hand may kindly be dismissed in favor of the Respondent Department in the interest of justice.




SECRETARY
E&SE Department Khyber
Pakhtunkhwa, Peshawar.
(Respondent No: 1)



DIRECTOR
E&SE Department Khyber
Pakhtunkhwa, Peshawar.
(Respondents No: 2 & 3)

AFFIDAVIT

I, Dr. Hayat Khan Assistant Director (Litigation-II) E&SE Department Khyber Pakhtunkhwa, do hereby solemnly affirm & declare on oath that the contents of the instant para wise Comments are true & correct to the best of my knowledge & belief.


Deponent

ATTESTED

22/03/23

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(24)

OFFICE OF THE DISTRICT EDUCATION OFFICER MALE KARAK

Dated Karak the 15/7/2021

Letter No 2972/SST IT/Absent

To

The Director
Elementary and Secondary Education
Khyber Pakhtunkhwa Peshawar.

Subject: - Detail report of Mr. Tahir Saleem SST IT GHS Takht-e-Nasrati District Karak

Memo:

It is stated for your kind information that Mr. Tahir Saleem S/O Awal Muhammad was appointed as IT teacher BPS-16 by "PROJECT MANAGER IT/COMPUTER SCIENCE TEACHERS AND COMPUTER LABS PROJECT (PHASE-II), E & SE DEPARTMENT, GOVERNMENT OF KHYBER PAKHTUNKHWA" on dated Peshawar the November 17, 2014. (See appointment order attached as annex A).

He performed his duty w. e. f 18.11.2014 to 01.10.2018. He was paid from 18.11.2014 to 30.6.2017. After that his salary was stopped as because the project was closed on 30.6.2017 and the status of the project employees was not clear. He remained absent from his duty from 01.10.2018. His absent report was submitted to your good office for necessary actions vide this office letter No. 5468 dated 8/11/2018. (Copy attached as Annex B).

On dated 13.12.2018 a letter of your good office was received regarding sending absent notice to Mr. Tahir Saleem on his home address. (Copy attached as annex C)

In light of your office order, Principal GHS Takht-e-Nasrati was directed to send absent notice at the home address of the said teacher. (Copy attached as Annex D)

In response to this office absent notice, Principal GHS Takht-e-Nasrati submitted reply of Mr. Tahir Saleem which was submitted to your good office vide this office letter No. 1366 dated 27.02.2019. (Copy attached as Annex E/1, E/2, and E/3)

Meanwhile on dated 21.03.2019, he again took overcharge at GHS Takht-e-Nasrati. (Copy attached as Annex F)

Principal GHS Takht-e-Nasrati submitted his application for leave without pay w. e. f. 01.04.2019 to 31.03.2021. Application for leave without pay was rejected due to the reason that the application was received too late and there was no substitute teacher to teach IT subject and he was directed not to leave station before sanction of leave. (Copy of Principal letter, application for leave and this office letter attached as Annex G/1, G/2, and G/3).

Principal GHS Takht-e-Nasrati submitted a letter that Mr. Tahir Saleem has left the station before sanction of the leave. (Copy attach as Annex H)

Absent report of the mentioned teacher was submitted to your good office vide this office letter No.4242 dated 08/06/2019 for further action. (Copy attached as annex I)

DDM-I

28-7-2021

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Show Cause notice was issued by respected Director (E&SE) and submitted to this office vide your office letter No. 3546/F. No. 04/SST (M) Leave cases dated 16/7/2019 and the same was forwarded to Principal GHS Takht-e-Nasrati vide this office letter No.5888/P. F. Tahir dated 22/7/2019. (Copy attach as Annex J/1, J/2)

The same was served on Mr. Tahir Saleem by Principal concerned and receiving copy was received and submitted to your good office vide this office letter No.6074 dated 31/7/2019. (Copy attached as Annex K/1, K/2)

Another letter for issuing absent notice of Mr. Tahir Saleem in two daily News paper was submitted to your office for further proceeding in the case vide this office letter No. 1905 dated 10.6.2021. (Copy attach as Annex L)

In light of the above detail history the case is submitted for further process please.

 15/7/21

District Education Officer

Male Karak

No 170 /Leave Dated T.Nasrati the 15/11 2019

From,

The Principal
Govt; High School
Takhte Nasrati

To,

Mr, Tahir Saleem
IT Teacher
Village Mohabat Khel Bogara
Takhte Nasrati

Subject

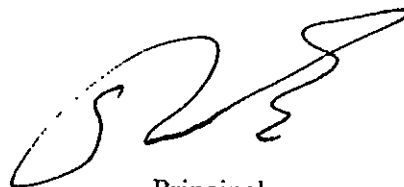
SHOW CAUSE NOTICE

Memo

In the light of Director E&SE KPK Peshawar No23214-F/No01/IT Teacher Dated Peshawar the 24.12.2018. and DEO(M)Karak Under Endst;No6402Dated 26.12.2018 on the subject cited bove.

You Mr Thir Salim IT teacher of this school are absent from your duty wef 23.10.2018 still now. This office has contacted you many time in telephonic conversation in this regard but you could not give a satisfactory response.

You are once again directed to report in the institution immediately and join your services.



Principal
GHS T.Nasrati

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Annex = D



DIRECTORATE OF ELEMENTARY & SECONDARY
EDUCATION KHYBER PAKHTUNKHWA

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Amir F

NOTIFICATION.

In pursuance of Section-2 of the Khyber Pakhtunkhwa Employees of the Elementary and Secondary Education Department (Appointment and Regularization of Services) (Amendment) Act, 2018 (Khyber Pakhtunkhwa Act No. 11 of 2019) read with Section-1 of the Act ibid and SO(S/M)E&SED/185/SS-IT/2018/19 dated 13/02/2019, the services of the following 45 (Forty Five) Male Information Technology Teachers re-designated as Secondary School Teacher (IT) in Elementary & Secondary Education Department are hereby regularized in (BFS-16) from their initial appointment on the below mentioned terms and conditions:

ABBOTTABAD

S#	Name	Father Name	Domicile	School	Date of Initial Appointment
1	Faisal Rehman	Miradad	Abbottabad	GHS No.1 Havelian, Abbottabad	12-09-2014

BANNU

1	Sulaiman Khan	Raza Khan	Bannu	GHS No.1 Bannu City	12-09-2014
2	Amir Ali	Syed Ghulam	Bannu	GHS Azim Kria, Bannu	12-09-2014
3	Muhammad Muneer	Muhammad Hayat Khan	Bannu	GHS No.2 Bannu City	12-09-2014

BATAGRAM

1	Saf Ullah	Amir Muhammad Khan	Batagram	GHS Dagal, Batagram	12-09-2014
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BUNER

1	Fazal Razi	Fazal Razi	Buner	GHS Dagal, Buner	12-09-2014
2	Ahmed Ur Rahman	Sharif Ur Rahman	Buner	GHS Karapa, Buner	12-09-2014

CHARSADDA

1	Muhammad Irfan	Muhammad Javid Khan	Charsadda	GHS Shahqadar Fort, Charsadda	12-09-2014
2	Daisai Chan	Zamarud Shari	Charsadda	GHS Bahagram, Charsadda	12-09-2014
3	Fazal Khan	Gul Zarif	Charsadda	GHS Kano Zai, Charsadda	12-09-2014
4	Ahmed Khan	Muhammad Ibrahim	Charsadda	GHS No.1 Rajjar, Charsadda	12-09-2014

DERA ISMAIL KHAN

1	Kifayatullah	Inayatullah	D.I.Khan	GCMHS No. 1 D.I.Khan	12-09-2014
2	Muhammad Amir Shah	Ghulam Akbar Shah	D.I.Khan	GHS Bilot Sharif, D.I.Khan	17-11-2014

DIR LOWER

1	Qaisar Khan	Nawab Khan	Dir Lower	GHSS Chakdara, Dir Lower	17-11-2014
2	Amin Ur Rahman	Tej Muhammad	Dir Lower	GHS Rabat, Dir Lower	12-09-2014

DIR UPPER

1	Khush Dil	Asfandyar	Dir Upper	GHS Nenag, Dir Upper	12-09-2014
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Amir F

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S#	Name	Father Name	Domicile	School	Date of Initial Appointment
HARIPUR					
1	Muhammad Zaheer Babar	Muhammad Yousaf	Haripur	GHS Central Jail, Haripur	12-09-2014
KARAK					
1	Tahir Saleem	Awal Muhammad	Karak	GHS Takht-e-Nasrat, Karak	17-11-2014
2	Nisar Ahmed	Momeen Khan	Karak	GHS Ahmadi Banda, Karak	17-11-2014
KOHISTAN					
1	Nasir Ullah	Saeed Ullah	Kohistan	GHS Pattan, Kohistan	17-11-2014
MALAKAND					
1	Waqas Ul Islam	Farman Ali Shah	Malakand	GHS Thana No.1, Malakand	12-09-2014
MANSEHRA					
1	Zahir Khan	Muhammad Yousaf	Mansehra	GHS Shamdhara, Mansehra	12-09-2014
2	Imran Khan	Wali Dad	Mansehra	GHS Bajna, Mansehra	12-09-2014
3	Majid Khan	Muhammad Ajmal	Mansehra	GHS Shohal Maazulian, Mansehra	17-11-2014
4	Muhammad Junaid	Muhammad Iqbal	Mansehra	GCMHS No. 3 Mansehra	12-09-2014
5	Majid Khan	Behram Khan	Mansehra	GHS Bagra, Mansehra	17-11-2014
6	Muhammad Ali	Faiz Muhammad	Mansehra	GHS Dilbari, Mansehra	12-09-2014
MARDAN					
1	Imran Ahmad	Anwar Khan	Mardan	GHS Ruslan, Mardan	12-09-2014
2	Muhammad Siddiq	Sardar Muhammad	Mardan	GHS Gumbat, Mardan	12-09-2014
3	Abdul Manan	Chulam Rahim	Mardan	GHS Badar Banda, Mardan	12-09-2014
4	Majid Ali	Sarfaraz	Mardan	GHS Naseer Kili, Mardan	12-09-2014
5	Naseer Khan	Misri Khan	Mardan	GCMHS No.3 Mardan	12-09-2014
NOWSHERA					
1	Farooq Ahmad	Gulnar Din	Nowshera	GHS Misri Banda, Nowshera	12-09-2014
2	Imran Pervez	Pervez Ahmad Khan	Nowshera	GHS No. 2 Nowshera Cantt	12-09-2014
PESHAWAR					
1	Zeesan Sohail	Mukhtar Ahmed Sohail	Peshawar	GHS Landi Arbab, Peshawar	12-09-2014
2	Naseer Muhammad	Ahmad Gul	Peshawar	GHS Gulshan Rehman Colony, Peshawar	12-09-2014
3	Sohail Ahmad	Muhammad Akram	Peshawar	GHS Tarnab Farm, Peshawar	17-11-2014
4	Yasin Shah	Hussain Shah	Peshawar	GHS Malthra, Peshawar	08-12-2014
SHANGLA					
1	Fayaz Ali	Maraj Khan	Shangla	GHS No.2 Alpura, Shangla	12-09-2014

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(HB)

S#	Name	Father Name	Domicile	School	Date of Initial Appointment
SWABI					
1	Sajid Amin	Iqbal Ud Din	Swabi	GHS Lahor Sharqi, Swabi	12-09-2014
2	Mehboob Ahmad	Hafiz Ur Rehman	Swabi	GHS Shah Mansoor, Swabi	12-09-2014
3	Hamid Bacha	Mian Jamee Uddin	Swabi	GHS Lahor Gharbi, Swabi	12-09-2014
SWAT					
1	Raz	Raza Khan	Swat	GHS Qalagay, Swat	12-09-2014
2	Bakht Azam	Ali Akbar	Swat	GHS Mingora No.1, Swat	12-09-2014
TANK					
	Muhammad Shahid Khan	Umar Hayat	Tank	GCMHS NO. 1 Tank	12-09-2014

Terms and Conditions:

1. The employees shall have held their posts validly till the 30-06-2017.
2. The regularization will not be in favour of those IT Teachers, who left the Department/ remained absent from duty or resign from service prior or on 30-06-2017 and also not in favour of those IT Teachers who have under disciplinary proceedings.
3. The DEO (Male) concerned is required to ensure the last Pay Roll, Duty Certificate of the IT Teachers concerned before handing over charge.
4. They shall possess the same qualification and experience as required for a regular post.
5. Their services are regularized with effect from their initial appointment in BPS-16.
6. Their services shall be governed by the Khyber Pakhtunkhwa Civil Servant Act, 1973, the Khyber Pakhtunkhwa (Appointment, Deputation, Posting and Transfer of Teachers, Lecturer, Instructor and Doctors) Regularity Act, 2011 and such rules and regulations as may be issued from time to time by the Government.
7. They have not resigned or terminated from their services on account of misconduct, in efficiency or any other ground, before 30-06-2017.
8. Their regularization shall not affect the promotion quota of existing holders of posts in respective service cadre.
9. They shall also junior to all other employees belonging to the same Cadre, who are in service on regular basis on the commencement of this Act, and shall also junior to such other persons, if any, who, in pursuance of the recommendation of the Commission made before the commencement of this Act, are to be appointed to the Cadre, irrespective of their actual date of appointment.
10. The seniority inter-se of those employees, whose services are regularized under this Act within the cadre, shall be determined on the basis of their continuous service in Cadre.

Director

2435-43

Endst: No. 2435-43 /File No:02/IT Teachers regularization Dated Peshawar the 8/3/ 2019.

1. Accountant General of Khyber Pakhtunkhwa Peshawar.
2. Secretary Khyber Pakhtunkhwa Public Service Commission Peshawar.
3. District Education Officers (Male) concerned.
4. District Accounts Officers concerned.
5. Deputy Director EMIS/Project Manager-IT, E&SE Department
6. PS to Secretary Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
7. PA to Director Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
8. Official Concerned
9. Master File

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



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**DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION
KHYBER PAKHTUNKHWA PESHAWAR.**

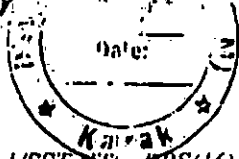
Phone: 091-9225344

Email: ddadmn.es@amaf.gov.pk

OFFICE ORDER

The Competent Authority is pleased to impose a major penalty of Removal from Service upon Mr. Tahir Saleem SST(IT)-GHS Takhte Nasrati District Karak appointed vide notification bearing Endst. No. PM-IT/E&SE/1-3/Recruitment/IT-Male/2014 dated 17-11-2014 on account of his unauthorized absence w.e.f 01-10-2018, in the light of DEO (M) Karak detail report bearing No. 2972 dated 15-07-2021, under rule 4(b) (iii) of the Khyber Pakhtunkhwa Govt. Servants Efficiency & Disciplinary Rules 2011, in the best interest of public service.

ADEo Secy
14/13/22



DIRECTOR
Elementary & Secondary Education
Khyber Pakhtunkhwa

Endst. No. SS-1-64 / F.No. 1/SST (IT) - BPS(16) Contract Appointment. Dated Peshawar the 28/02 2022

Copy of the above is forwarded to the:-

1. District Education Officer Karak.
2. District Accounts Officer Karak.
3. Mr. Tahir Saleem Ex-SST(IT) GHS Takhte Nasrati District Karak.
4. PA to Director (E&SE) Khyber Pakhtunkhwa, Peshawar.
5. Master File.

Assistant Director (Estab-MI) 25/02/2022
Elementary & Secondary Education
Khyber Pakhtunkhwa

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