

Sr. No	Date of order/ proceedings	Order or other proceedings with signature of Judge or Magistrate
1	26.04.2017	<p style="text-align: center;">3</p> <p style="text-align: center;"><u>BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR</u></p> <p style="text-align: center;">Appeal No, 876/2015</p> <p style="text-align: center;">Zahir Ullah Versus the District Education Officer (Male) District, Mardan and 2 others.</p> <p style="text-align: center;"><u>JUDGMENT</u></p> <p style="text-align: center;"><u>MUHAMMAD AZIM KHAN AFRIDI, CHAIRMAN:-</u></p> <p>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.</p> <p>2. Zahir Ullah Ex-PST Teacher hereinafter referred to as the appellant has preferred the instant service appeal under Section 4 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.</p> <p>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</p>

A

26.04.17

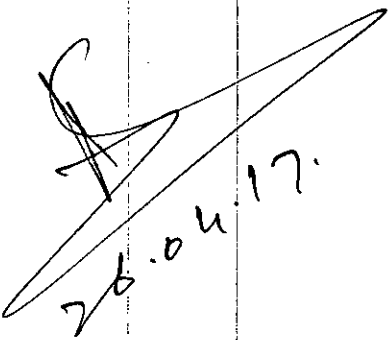
submitted application to E.D.O (Schools & Literacy) Mardan for adjustment followed by similar applications to different authorities. Finally the appellant was removed from service vide order dated 06.05.2014 on the allegations of willful absence which order was not communicated to the appellant and which 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).

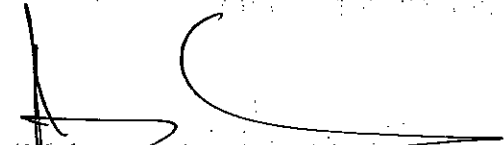
6. We have heard arguments of learned counsel for the parties and perused the record.

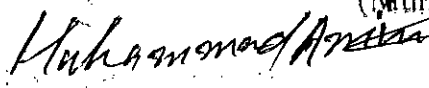
7. It is evident from the record that the appellant has put in almost 17 years service. The appellant was available to the


28.04.17.

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 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.


(Muhammad Azim Khan Afridi)
Chairman


(Muhammad Amin Khan)
Member

26.04.17.

ANNOUNCED
26.04.2017

876/15

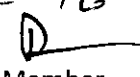
14.4.2016

Agent of counsel for the appellant and Mr. Javed Shah, counsel for respondent No. 1 alongwith Addl. A.G for respondents present. Written statement by respondent No. 1 submitted. Learned Addl. AG relies on the same on behalf of respondent No. 2 and 3. The appeal is assigned to D.B for rejoinder and final hearing for 09.8.2016.


Chairman

09.08.2016

Agent to counsel for the appellant and Mr. Ziaullah, GP for respondents present. To come up for rejoinder and arguments on

~~16-12-16~~

Member


Member

16.12.2016

Junior to counsel for the appellant and Asst. AG for respondents present. Junior to counsel for the appellant seeks adjournment. To come up for rejoinder and arguments on 26.04.2017.


(MUHAMMAD AAMIR NAZIR)
MEMBER


(ASHFAQUE TAJ)
MEMBER

12.08.2015

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant was serving as PST when subjected to inquiry on the allegations of wilful absence and dismissed from service vide impugned order dated 6.5.2014 which came into the notice of appellant during writ proceedings on 14.4.2015 where-after he preferred departmental appeal on 29.4.2015 which was not responded and hence the instant service appeal on 5.8.2015.

That the appellant has applied for adjustment after availing sanctioned leave and as such his absence was not wilful and, moreover, neither proper inquiry was conducted nor opportunity of hearing was extended to the appellant in the prescribed manners.

Points urged need consideration. Admit. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply/comments for 27.10.2015 before S.B.


Chairman

27.10.2015

Appellant in person and Mr. Hameed-ur-Rehman, AD (lit.) alongwith Addl: A.G for respondents present. Requested for adjournment. To come up for written reply/comments on 9.02.2016 before S.B.


Chairman

09.02.2016

Appellant in person, M/S Hameed-ur-Rehman, AD (lit.) and Javed Shah Legal Advisor alongwith Addl: A.G for respondents present. Written reply not submitted. Requested for further adjournment. Last opportunity granted. To come up for written reply/comments on 14.4.2016 before S.B.


Chairman



Appellant Deposited
Security & Process Fee



Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 876 /2015

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	05.08.2015	<p style="text-align: center;">The appeal of Mr. Zahir Ullah presented today by Mr. Khushdil Khan Advocate may be entered in the Institution register and put up to the Worthy Chairman for proper order.</p> <p style="text-align: right;"> REGISTRAR</p>
2	10-8-15	<p style="text-align: center;">This case is entrusted to S. Bench for preliminary hearing to be put up thereon <u>12-08-2015</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 876 /2015

Zahir Ullah Appellant

VERSUS

The DEO (Male) Mardan & others Respondents

INDEX

S.No.	Description of Documents	Date	Annexure	Pages
1.	Memo of Service Appeal			1-6
2.	Application for condonation with Affidavit			7-8
3.	Copy of Application of appellant for three years earned leave	10.08.2005	A	0-9
4.	Copy of the order whereby leave was sanctioned	03.04.2006	B	0-10
5.	Copy of application of appellant for adjustment	25.05.2011	C	0-11
6.	Copy of letter of DDO (M) thereby by forwarded the application of appellant for adjustment	18.06.2001	D	0-12
7.	Copy of application of appellant before the Hon'ble former Chief Minister, Khyber Pakhtunkhwa	03.10.2012	E	0-13
8.	Copies of Letters/ correspondences between the authorities concerned	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 29.01.2013	F/1 to F/10	14-24
9.	Copy of Writ Petition No.716-P/2014	01.03.2014	G	25-31
10.	Copy of Parawise Comments of Respondent No.1	05.07.2014	H	32-36
11.	Copy of Impugned Order whereby appellant was removed from service under F.R-18	06.05.2014	I	0-37
12.	Copy of Order Sheet thereby W.P. No.716-P/2014 was withdrawn	14.04.2015	J	0-38
13.	Copy of departmental appeal with application for condonation of delay with Receipt of registered post	30.04.2015	K	39-42
14.	Copy of Notification thereby an Inquiry Committee was constituted in connection with the case of	13.04.2012	L	0-43

S.No.	Description of Documents	Date	Annexure	Pages
	adjustment of appellant			
15.	Copy of Inquiry Report	17.05.2012	M	44-45
16.	Wakalat Nama			

Through


Appellant

Khush Dil Khan
Advocate,

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

Dated: 03 / 08/ 2015

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

S.W.F. Province
 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-Dept.*
 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:-

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**)
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

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.

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

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.

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

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR**Service Appeal No. _____/2015**

Zahir Ullah Appellant

Versus

The DEO (Male) Mardan & others Respondents

Application for condonation of delay in filing the accompanying appeal, if any.

Respectfully Sheweth,

1. That the above titled service appeal is being filed today which is yet to be fixed for hearing.
2. That the impugned order dated 06.05.2014 passed by Respondent No.1 has never communicated to appellant through any source nor any notice was issued to him before passing the said order. For the first time, appellant came to know about the impugned order when Respondent No.1 filed the same with its comments before the Hon'ble Peshawar High Court, Peshawar.
3. That Respondent No.1 has malafidely and deliberately kept away the impugned order from the knowledge of appellant in order to defeat the rights of appellant, which is an illegal act and appellant should not be suffered for the act of Respondent No.1.
4. That the appellant has acted vigilantly and timely filed this appeal after completing the statutory period of 90

days of the departmental appeal before Respondent No.1.

5. That the delay, if any, caused due to non-communication of the impugned order to appellant under registered post or otherwise. Moreover, earlier no notice was given to appellant nor informed him about taking any adverse action against him. Thus the delay, if any, is not intentionally rather the same was due to lack of knowledge.

It is, therefore, humbly prayed that on acceptance of this application, the delay, if any in filing of this appeal may graciously be condoned in the interest of justice and the main appeal may kindly be decided on merit.

Through


Applicant

Khush Dil Khan,
Advocate,
Supreme Court of Pakistan

Dated: 03 / 08/ 2015

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 are true and correct to the best of his knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.


Deponent

خدمت جناب ڈسٹرکٹ ایجوکیشن آفیسر (مردانہ) برائے مری

درخواست نمبر (مختص) درج ذیل استحقاقیہ

(17/09/08 تا 18/10/05)

جناب عالی

تذکرہ میں ہے کہ فدیہ مدرسہ 17 سال سے محکمہ تعلیم میں

بھیٹ P.S.T خدمات سرانجام دے رہا ہے۔ اور آجکل G.P.S

کے کورونہ سران میں ڈیوٹی انجام دے رہا ہے۔ فدیہ کا یہ بیوی

کراچی میں رہتا ہے۔ چونکہ فدیہ کے بیوی نے ایڈمنسٹریٹ

کیا ہے۔ جسے کسی وجہ سے فدیہ نے ان کا دوبارہ سنبھال لیا ہے۔

لینے آپ صاحبان سپرانی کر کے فدیہ کو تین سال

18/10/05 تا 17/09/2008 درج ذیل استحقاقیہ دیکر

مختون فرماویں۔

جناب عالی
درخواست برائے فدیہ
کارروائی اسباب خدمت ہے۔

العارض

10/8/05
Head Teacher
Govt. Pry. School
Kass Koroona Mardan

آپ کا تابع فرمان طاہر اللہ

P.S.T نائب مدرس G.P.S کے

کورونہ سران

رستونہ: طاہر اللہ

Forwarded to The D.D.O (M) Mardan for n/a please.

ATTESTED

Dy. Distt. Officer
(Male) Mardan

Dy. Distt. Officer (Tep)
(M) Pry. Teh: Mardan

Better Copy

Annex - B ✓

P-10

OFFICE OF THE EXECUTIVE DISTRICT OFFICER SCHOOLS & LITERACY MARDAN

GRANT OF LEAVE

Sanction is hereby accorded to the Grant of Leave in favour of Mr. Zahir Ullah PST GPS, Kass Koroon (Mardan) on private affairs as due and admissible to him under revised leave rules 1981, as per detail given below.

Earned Leave:

W.E.F.	18.10.2005	TO.	9.10.2006	(356 Days)	E/L on half pay. average pay.
W.E.F.	10.10.2006	TO.	17.4.2007	(189 Days)	E.O.L. with-out Pay.

Necessary entries to this effect should be made in his Service Book.

(MIAN WALI MUHAMMAD).
EXECUTIVE

Endst: No. 5104-06/PF/Zahir Ullah/PST/MM/Dated 3-4-2006.

Copy forwarded to the :-

1. Deputy District Officer (M/F) Mardan w/r to his No. 313 dated 4.6.2006 alongwith Service Book.
2. District Account Officer (Mardan).
3. Master file.

Sd/-

EXECUTIVE DISTRICT OFFICER
SCHOOLS & LITERACY MARDAN.

ATTESTED

GRANT OF LEAVE.

ANNX: ① 2

ANNEX- P-10

Sanction is hereby accorded to the Grant of Leave in favour of Mr. Zahir Ullah PST GPS, Kassa Koreena (Mardan) on private affairs as due and admissible to him under revised leave rules 1981, as per detail given below.

Earned Leave.

- W.E.R. 18.10.2005 TO. 9.10.2006 (356 Days) E/L on Half Exx average pay.
- W.E.P. 10.10.2006 TO 17.4.2007 (189 Days) E.O.L. With-out Pay.

Necessary entries to this effect should be made in his Service Book.

(MIAN WALI MUHAMMAD).
EXECUTIVE.

Endst: NO. 5104-06 /PF/Zahir Ullah/PST/NK/dated 3-4- / 2006.

Copy forwarded to the :-

1. Deputy District Officer (M/F) Mardan w/r to his NO. 313 dated 4.3.2006 alongwith Service Book.
2. District Account Officer (Mardan).
3. Master file.

Mian Wali Muhammad
EXECUTIVE DISTRICT OFFICER
SCHOOLS & LITERACY MARDAN.

ATTESTED

حکومت پاکستان
قومی شناختی کارڈ
10101-36004866-7

The E.D.O.

Annex - C
P-115

S + L Mardan.

Through The D.D.O.
03/04/1964

Male Primary Edu. Mardan

Sub; Request for adjustment on return from long leave.

Sir,

With due respect, I beg to state that I had availed sanctioned long leave w.e.f. 10.10.2005 to 17.04.2007. But due to certain unavailable reasons, I prolonged the foresaid leave till 31.12.2007 while required sanction was not taken properly for extension in my long leave.

Now, since I have arrived to join my duty and I have properly submitted my application for adjustment to the concerned authority on 01.01.2010. But, still I am waiting for my adjustment.

Therefore, in the light of the above facts, it is requested to kindly grant me sanction for unsanctioned period of leave. And kindly adjust me as P.S.T on any vacant post.

Dated:

No... 1724
Dated 25/5/10
Mardan

Your's obedient,
Zahir-ullah P.S.T Mardan.

Note: My service history is enclosed here with.

Dear Sir,
The Application of Mr Zahir-ullah is

Forwarded for
N/A to A.D.O.

HEAD TEACHER
G.P.S. Khas Koroon
Mardan.
24/5

Forwarded to
D.D.O for A.S.P.C.Z.

Assistant District Officer
(E.S) Education.
24/5

verified for N/A re

ATTESTED

Atiq Ullah
Pay Centre Incharge
G.P.S. No.1, Baghdad.

24/5

Annex - D

P-10

DEPUTY DISTRICT OFFICER
(MAEE) PRIMARY MARDAN.

NO. 1492/MAE FILE.

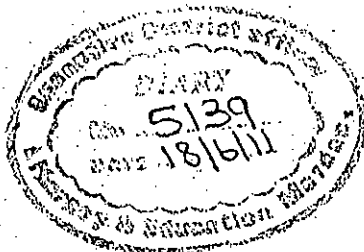
Dated 18/6/2011.

TO

The Executive District Officer
Elementary and Secondary Education
Mardan.

Subject:- APPLICATION FOR ADJUSTMENT.
Memo,

Please find herewith the application for
adjustment in respect of Zahir Ullah PST Govt: Primary
School Kassi Kereena Mardan for favour of ~~fruther~~ further
necessary action.



~~DEPUTY DISTRICT OFFICER
(MAEE) PRIMARY MARDAN~~

17/6/11

Encl:

- ① Application
- ② Original SB
- ③ Identity Card.

for info
18/6

ATTESTED

بذریعہ خطاب عزت مآب وزیر اعلیٰ صاحب ضیاء بختو

19/12/87
سی ایس ایف
سی ایس ایف
سی ایس ایف
سی ایس ایف

درخواست برائے بحالی ملازمت -

A. 11
3-2-12

ضباب عالی -
موردانہ گزارش کھنڈر اور چیف منسٹر
KHYBER PAKHTUNKHWA

17-12-1987 سے اجلاس میں بحالت P.T.C میں بحالت

اجلاس کچھ ناگزیر حالات کے باعث مورخہ 10-10-2010 سے سبک

31-12-2010 تک لمبی رخصت (Long Leave) لیا گیا ہے۔

مورخہ 01/2010 کو میں نے Adjustment کیلئے باقاعدہ

درخواست دے دیا۔ لیکن تاحال اس پر کوئی عمل نہیں ہوا۔

اسکے علاوہ EDO سکول اینڈ ٹیچرس مینسٹری مردان کو یاد دہانی

کے درخواست دیا۔ لیکن ابھی انہوں نے بھی کوئی کارروائی نہیں کی۔

اور اسی طرح بے روزگاری کی زندگی بسر کرنے پر مجبور ہوں۔

اسلئے اب صاحبان کی خدمت اخذ میں التماس کیجاتی ہے۔

کہ مہربانی کریں میری بحالی ملازمت کا حکم صادر فرمائیں۔

مشکور فرمائیں۔ تاہم دعائوں میں دعا ہے۔

DSA
10/3

Ask
مکمل
PC

3932
9/3

العارض - مورخہ - 03/02/2012

اپ کا تابع فرمان ظاہر اللہ
P.T.C شیخ مردان
10/3

239
10/3/12

ATTESTED

Annex - F₁ - 10

P 14

(2)



GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT
No. SO(PE)5-19/Reint/2012
Dated Peshawar the 16-3-2012.

To, The Director
Elementary & Secondary Education
Khyber Pakhtunkhwa, Peshawar.

Subject:- REQUEST OF MR. ZAHIRULLAH PTC DISTRICT MARDAN FOR
ADJUSTMENT.

I am directed to refer to the above noted subject and to forward herewith a self explanatory application in respect of Mr. Zahirullah PST district Mardan. The Chief Minister Khyber Pakhtunkhwa has seen application of the teacher and recorded the following remarks thereon:-

"Secy: E&SE for necessary action and report at the earliest."

2. In view of the above remarks further action may please be taken immediately and report sent to this department within two days for onward submission to the Chief Minister Khyber Pakhtunkhwa.

(MOHAMMAD AYUB KHAN)
SECTION OFFICER (PRIMARY)

Encls. As above.

Copy of the above is forwarded to the Executive District Officer Elementary & Secondary Education Mardan for similar necessary action.

SECTION OFFICER (PRIMARY)

DDEMO
17/3/2012

P. A. to Director E & S E
Khyber Pakhtunkhwa Peshawar.
D. No. 530
Dated 19.3.12

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19/3

-1910: 20
P-15 (25)

**DIRECTORATE OF ELEMENTARY AND SECONDARY EDU; KHYBER
PAKHTUNKHWA PESHAWAR.**

No. 416 /F.No.141/Vol:I/PST/Mardan

Dated Peshawar the: 3/4 /2012.

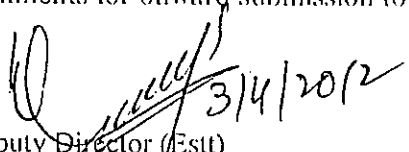
To,

The Executive District Officer
(E&SE) Mardan.

Subject:- **REQUEST OF MR. ZAHIRULLAH PTC DISTRICT MARDAN FOR
ADJUSTMENT**

Memo:-


I am directed to enclose herewith a copy of the application of Mr. Zahirullah Ex-PST received from the SO (Primary) vide his letter No. SO (PE)5-19/Reint/dated 16.3.2012, and to ask you to look into the matter and submit a detail report/comments for onward submission to the Provincial Government,


Deputy Director (Estt)
Elementary and Secondary Education
Peshawar.

Endst: No. _____

Copy forwarded to the:

1. Section Officer (PE) w/r his letter No. quoted above.
2. P.A to Director Elementary and Secondary Education local Office.


Deputy Director (Estt)
Elementary and Secondary Education
Peshawar

2934
31412

ATTESTED

P216/26

EXECUTIVE DISTRICT OFFICER
(E & S) EDUCATION MARDAN.
No. 9214 P.F Dated 20/6/2012

To,

The Director,
Elem: & Secy: Education
Khyber Pakhtunkhwa Peshawar.

Subject:-

REQUEST OF MR. ZAHIR ULLAH P.T.C DISTT: MARDAN FOR
ADJUSTMENT.

Memo:-

Reference your letter No. 416/F.No. 141/Vol:1/PST/Mardan Dated
Peshawar the 03.04.2012.

Enclosed pleased find herewith the Photo copy of inquiry report of the
inquiry Committee against Mr, Zahir Ullah PST Distt: Mardan for onward submission to
section officer (Primary) for perusal and further order please.

[Signature]
EXECUTIVE DISTRICT OFFICER
(E & S) EDUCATION MARDAN.

ATTESTED
[Signature]

P-23
12/18 (27)

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

File.No.141/Vol-1/PTC(M).
No. _____ /
Dated Peshawar the _____ /2012
15/8

To
The Section Officer (PE),
Elementary & Secondary Education Deptt.

Subject: Request of Zahir Ullah PTC Distt. Mardan for Adjustment.

I am directed to refer to your letter No. SO (PE) 5-19/Reinst/2012, dated 16.3.2012 and to enclose herewith a copy of the EDO Mardan letter No. 9214, dated 20.6.2012 alongwith enquiry report for necessary action, please.
Encl; As above.

s/d
Deputy Director (Estt)
(E&SE) Khyber Pakhtunkhwa,
Peshawar

Endst. No. 1162 /
Copy forwarded

✓ EDO (E&SE) Mardan w/r to his letter No. 9214, dated 20.6.2012 with the remarks to implement recommendation of the enquiry committee under intimation to this office.

[Signature]
Deputy Director (Estt)
(E&SE) Khyber Pakhtunkhwa,
Peshawar
17/8/2012

DA P J
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17-8-2012



ATTESTED

P-18



GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT
No. SO(PE)5-19/Reint/10/Vol.V
Dated Peshawar the 13-9-2012.

To,

The Director
Elementary & Secondary Education
Khyber Pakhtunkhwa, Peshawar.

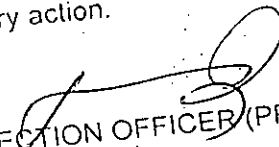
Subject:- REQUEST OF ZAHIR ULLAH PTC DISTT. MARDAN FOR ADJUSTMENT.

I am directed to refer to your letter No. 141/Vol.1/PTC(M)1161 dated 15-8-2012 on the subject noted above and to state that it may please be intimated as to what action has been taken when enquiry was conducted and report was submitted to the EDO E&SE Mardan.

2. The factual position may please be clarified so that report on the subject matter could be sent to the Chief Minister as desired by him.

(MUHAMMAD AYUB KHAN)
SECTION OFFICER (PRIMARY)

Copy to Executive District Officer Elementary & Secondary Education Mardan w/r to his letter No. 9214/PF dated 20-6-2012 for information & necessary action.


SECTION OFFICER (PRIMARY)



ATTESTED

Vol 19
P-19



**Directorate of Elementary & Secondary Education
Khyber Pakhtunkhwa Peshawar.**
No. 10297
F.No. 141/Vol-I/PST(M)
Dated Peshawar the 8/10 /2012

To The Executive District Officer
(E&SE)Mardan

Subject REQUEST OF ZAHIRULLAH PTC DISTRICT MARDAN
FOR ADJUSTMENT.

Memo

I am directed to refer to your letter No.9214 dated, 20.6.2012 and to enclose herewith a copy of the Section Officer(PE)letter No SO(PE)5-19/10/Vol V dated, 9.2012 and to ask you to furnish the reply/factual position in subject enquiry for onward submission to the Govt is desired

[Signature]
8/10/2012
Assistant Director (E&SE)
Elementary & Secondary Education
Khyber Pakhtunkhwa Peshawar.

Endst No.
Copy forwarded to the;
Section Officer(PE)E&SE Khyber Pakhtunkhwa Peshawar with
reference to his letter No cited above.



S/L
Assistant Director (E&SE)
Elementary & Secondary Education
Khyber Pakhtunkhwa Peshawar

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10/10



GOVERNMENT OF KHYBER PAKHTUNKHWA
 ELEMENTARY & SECONDARY EDUCATION DEPARTMENT
 No. SO(PE)5-19/Reinstatement/10/Vol.VI
 Dated Peshawar the 03-12-2012.

P-90

IENT

To

The Director
 Elementary & Secondary Education
 Khyber Pakhtunkhwa, Peshawar.

P-22/K

Subject:- REQUEST OF ZAHIRULLAH PTC DISTRICT MARDAN FOR ADJUSTMENT.

I am directed to refer to your letter No. 1568/F.No. 141/Vol. I PST(M)Mardan dated 14-11-2012 on the subject noted above and to state that a teacher having 19 years service availed 5 years EOL/Leave on half pay and was absent from duty since 18-4-2007 to 28-4-2012. The rules and policy on the subject are very clear and you are advised to guide EDO Mardan in accordance with rules / policy on the subject and report be submitted immediately to this Department for onward submission to the Chief Minister's Secretariat.

[Signature]
 SECTION OFFICER (PRIMARY)

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04/12

2012

ATTESTED

6/12/12

Hyber Pakhtunkhwa
 Dated: 5/12

1345
 5/12

CHIEF MINISTER'S SECRETARIAT
KHYBER PAKHTUNKHWA
PESHAWAR.

P-18
324
P-20

2012/12/04

No.SO-II/CMS/KPK/3-1/2012.
Dated Pesh: the 04-12-2012.

1932

To,

The Secretary to Govt. of Khyber Pakhtunkhwa,
Elementary & Secondary Education Department,
Peshawar.

Subject: APPLICATION FOR REINSTATEMENT AS PTC.

Dear Sir,

I am directed to refer to the subject noted above and to forward herewith a self-contained application of Mr. Zahirullah Ex-PTC Teacher and to say that his case may be expedited as desired by the Hon'able Chief Minister Khyber Pakhtunkhwa please.

Yours Faithfully,

[Signature]
Section Officer-I

Copy to:-

1. PSO to the Chief Minister Khyber Pakhtunkhwa.

ATTESTED

Section Officer-I

311
6/12
6/12/12
6/12

P-20
B22



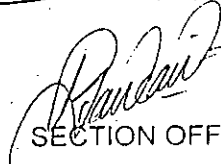
GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT
No. SO(PE)3-2/CMS/12
Dated Peshawar the 21-12-2012.

To,

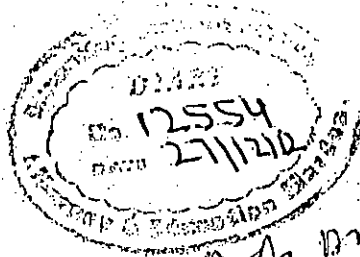
The Executive District Officer
Elementary and Secondary Education
Mardan.

Subject:- APPLICATION FOR REINSTATEMENT AS PTC.

I am directed to refer to the subject noted above and to forward herewith a copy of Chief Minister's Secretariat letter No. SO.I/CMS/KPK/3-1/2012/21932 dated 4-12-2012 along with its enclosure in respect of Mr. Zahirullah Ex-PTC Teacher R/O District Mardan for further necessary action as per rules/policy.


SECTION OFFICER (PRIMARY)

Encl. as above.



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42
27/12

ATTESTED 



Directorate of Elementary & Secondary Education
Khyber Pakhtunkhwa Peshawar.

No. 3539 / F.No. 141/Vol I/PST(M)Mrdn
Dated Peshawar the 24 / 11 / 2013

P-23-
24/11/13

To The Executive District Officer
(E&SE)Mardan

Subject REQUEST OF ZAHIRULLAH PTC DISTRICT MARDAN
FOR ADJUSTMENT.

Memo

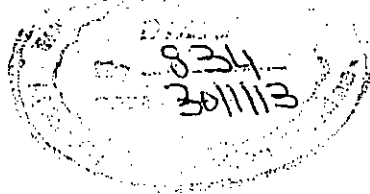
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11/11/13
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I am directed to refer to your letter No.15259 dated, 16.10.2012 and to enclose herewith a copy of the Section Officer (PE) letter bearing No. SO(PE)5-19/Reinstatement/10/Vol VI dated, 3.12.2012 on the subject noted above for further necessary action under intimation to this office for onward submission to the Govt as desired

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

Endst No.
Copy forwarded to the;
Section Officer (PE) E&SE Khyber Pakhtunkhwa Peshawar with
reference to his letter No cited above.

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



ATTESTED

Better Copy

P-24

OFFICE OF THE EXECUTIVE DISTRICT OFFICER SCHOOLS & LITERACY MARDAN

ADJUSTMENT

As per recommendation of the Deputy District Officer (Male) Primary Mardan, Mr. Bukhair Ali PST GPS, Mohammad Ali Killi Peshawar under transfer to GPS, Mohib Banda is hereby adjusted at GPS, Kass Koroona against leave vacancy vide Zahirullah proceeded on long leave with effect from the date of taking over charge in the internet of public Service.

Note:- The terms & Conditions will be the same as notified by the Director, (S&L) from S.No. 1 to 05.

**(MIAN WALI MUHAMMAD)
EXECUTIVE.**

Endst: No. 19138-40/PF/Mukhtair Ali PST/MM/Dated 09-10-2006.

Copy forwarded to the :-

1. Deputy District Officer (M/F) Mardan.
2. District Account Officer (Mardan).
3. Head Teacher concerned.
4. Master file.

**Sd/-
EXECUTIVE DISTRICT OFFICER
SCHOOLS & LITERACY MARDAN.**

ADJUSTMENT.

As per recommendation of the Deputy District Officer (Male) Primary Mardan, Mr. Bukhtair Ali PBT GPS, Mohammad Ali Killi Peshawar under transfer to GPS, Mohib/Bandu is hereby ~~adjusted~~ adjusted at GPS, Kass Koroonah against leave vacancy vide Zahirullah proceeded on long leave with effect from the date of taking over-charge in the interest of public Service.

Note:- The terms & Conditions will be the same as notified by the Director, (S&L) from S.NO. 1 to 05.

(MIAN WALI MUHAMMAD).
EXECUTIVE.

Endst: NO. 19138-40 /PF/Mukhtair Ali PBT/EM/Dated 9-10-2006.

Copy forwarded to the :-

1. Deputy District Officer (M/P) Mardan.
2. District Account Officer (Mardan).
3. Head Teacher concerned.
4. Master file.

EXECUTIVE DISTRICT OFFICER
SCHOOLS & LITERACY MARDAN.

مردان کے لیے - سہ ماہی کے لیے - مردان

Annex: G-1-P-95

IN THE PESHAWAR HIGH COURT PESHAWAR

WRIT PETITION No. _____/2014


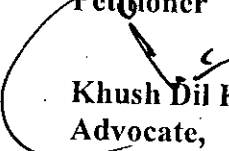
Zahir Ullah, PSTPetitioner

Versus

The District Education Officer (Male)
E&SE Department, Mardan and others.....Respondents

INDEX

S.No.	Description of Documents	Date	Annexure	Pages
1.	Writ Petition with Affidavit			1-5
2.	Memo of Addresses of Parties			0-6
3.	Copy of application for earned leave with effect from 18.10.2005 to 17.09.2008	10.08.2005	A	0-7
4.	Copy of leave granting order thereby sanctioned leave w.e.f 18.10.2005 to 09.10.2006 and 10.10.2006 to 17.04.2007	03.04.2006	B	0-8
5.	Copy of application as reminder for entertaining his earlier application with arrival report dated 01.01.2010	25.05.2011	C	0-9
6.	Copy of letter of Deputy District Officer (Male) Primary Mardan thereby his application dated 25.05.2011 was forwarded to District Education Officer (Respondent No.1) for necessary action	18.06.2011	D	0-10
7.	Copy of application to former Hon'ble Chief Minister, Khyber Pakhtunkhwa	03.02.2012	E	0-11
8.	Copies of letters between the Respondents regarding the adjustment of petitioner	16.03.2012 To 29.01.2013	F1-F10	12-21
9.	Stamp Paper			
10.	Wakalat Nama			


 Petitioner
 Through

 Khush Dil Khan
 Advocate,
 Supreme Court of Pakistan

ATTACHED

Dated: 01 / 03/2014

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 876/2015

Zahir Ullah,
PST Teacher,
R/o Moh: Barshah, Katlang,
The: & District MardanAppellant

Versus

The District Education Officer (Male),
District Mardan and others.....Respondents

INDEX

S.No.	Description of Documents	Date	Annexure	Pages
1.	Memo of Rejoinder.			1-3
2.				

Through

ظاہر اللہ

Appellant

Khush Dil Khan
Advocate,

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

Dated: 25/04 /2017

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 876/2015

Zahir Ullah,
 PST Teacher,
 R/o Moh: Barshah, Katlang,
 The: & District MardanAppellant

Versus

The District Education Officer (Male),
 District Mardan and others.....Respondents

**REJOINDER ON BEHALF OF APPELLANT IN RESPONSE TO
 REPLY FILED BY RESPONDENTS.**

Respectfully Sheweth,

PRELIMINARY OBJECTIONS:

Preliminary objections raised by answering respondents are erroneous and frivolous which are denied in toto. The detail reply of each one is given as under:-

- I. That the removal order of appellant was passed in violation of rules on subject which given rise cause of action and locus standi to file the instant appeal.
- II. That the appeal is fully competent in all respects.
- III. That the appeal is well within time.
- IV. That the appeal is maintainable in all respects.
- V. That appellant has rightly filed the present appeal.

- VI. That principle of estoppel is not applicable to the present case.
- VII. That the appellant has expressed the material facts which are genuine and true.
- VIII. That the grievances of appellant are genuine and rightly filed the present appeal
- IX. That the appeal has been filed in the prescribed manner.
- X. That appellant was not treated in accordance with law and rules on subject.
- XI. That this preliminary object is void as when appellant submitted his arrival report for joining the duty and adjustment so the authority was ^{under} legal obligation to entertain his request and then it could take any action as per rules on subject.
- XII. That preliminary objection is also invalid and not sustainable.

REJOINDER TO REPLY OF FACTS:

1. That the answering respondents have admitted the facts of Para No.1 to the extent that on his application the leave as due was granted to him. Rest of reply is against the facts so denied.
2. That the reply is evasive in nature so not tenable.
3. That this reply is also evasive in nature and not tenable.
4. That this reply is also evasive in nature and not tenable.
5. That this reply is also evasive in nature and not tenable.

REJOINDER TO REPLY OF GROUNDS:

- A. Incorrect so denied.

- B. Incorrect so denied.
- C. Incorrect so denied.
- D. Incorrect so denied.
- E. Repetition of the earlier reply of the grounds so denied.
- F. Incorrect so denied.
- G. Incorrect so denied.

It is, therefore, humbly prayed that the reply of answering Respondents may graciously be rejected and the appeal as prayed for may graciously be accepted with costs.

Through

ظاہر اللہ

Appellant

Khush Dil Khan
Advocate,
Supreme Court of
Pakistan

Dated: 25/04/2017

IN THE PESHAWAR HIGH COURT PESHAWAR

WRIT PETITION No. _____/2014

Zahir Ullah,
 PST (Primary School Teacher),
 Govt: Primary School, Kasskoroona Mardan.....Petitioner

Versus

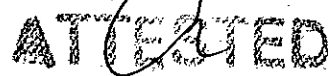
1. The District Education Officer (Male),
 Elementary and Secondary Education Department,
 District Mardan.
2. The Director,
 Elementary and Secondary Education Department,
 Khyber Pakhtunkhwa, Peshawar.
3. The Secretary,
 Govt: of Khyber Pakhtunkhwa,
 Elementary and Secondary Education
 Department,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

**WRIT PETITION UNDER ARTICLE, 199 OF THE CONSTITUTION OF
 ISLAMIC REPUBLIC OF PAKISTAN, 1973.**

Respectfully Sheweth,

The brief facts giving rise to the present petition are as under:-

1. That petitioner was initially inducted in the service by Respondents No.1 as Primary School Teacher (PST) on 17.12.1987 and posted in Govt: Primary School, Kasskoroona Mardan. During this period his work was found satisfactory with efficient performance without any complaint. He had 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/Zahirullah/PST/MM dated 03.04.2006. Copy of application and leave granting order as Annex: A & B.



2. That on the expiry of sanctioned leave, the petitioner had applied for extension of the same but neither his request for extension of leave was

turned down nor notice was issued to him for resuming duties and after availing the requisite leave he submitted his report for resuming his duties in the office of Respondent No.1 which was not heeded to. Then the petitioner filed another application which was duly forwarded by the Deputy District Officer (Male) Primary Mardan to Respondent No.1 vide No.1492/P dated 18.06.2011. Copy of the **application and Letter** are as **Annex: C & D.**

3. That though the conceivable efforts were made by the petitioner to get his adjustment order from the office of 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 before the former Hon'ble Chief Minister Khyber Pakhtunkhwa on 03.10.2012 who endorsed the same to Respondent No.3 with the remarks "**for necessary action and report at the earliest**" but no remedial action was taken by the Respondents except the change of correspondence between them which is evident from the letter dated 16.03.2012, 03.04.2012, 20.06.2012, 05.08.2012, 13.09.2012, 08.10.2012, 03.12.2012, 04.12.2012, 21.12.2012 and 29.01.2013. Copies these letters as **Annex: E & F1- F10.**
4. That petitioner was continuously pursuing his departmental remedy for the requisite adjustment and resuming his duties but in vain. The petitioner being aggrieved of such unlawful act of the Respondents and finding no adequate and efficacious remedy is constrained to file this petition on the following amongst other grounds:

Grounds:

- A. That Respondents have not treated the petitioner in accordance with law and rules on subject and malafidely deprived him of his right to resume his duties on submission of his arrival report after leave.
- B. That in view of Rule 12(1) of the Khyber Pakhtunkhwa Civil Servants Revised leave rules, 1981 a civil servant 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 ten years.

The petitioner has more than seventeen 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.

ATTESTED

the period of his leave comes within the purview of admissible period as mentioned in the aforesaid rule. Therefore the Respondent No.1 was not justified to keep the report of his arrival pending and not allow him to resume his duties which is an unlawful act having no legal sanctity and of no legal effect.

- C. That service of petitioner is still intact and no disciplinary action is pending against him in this regard therefore petitioner has vested right to resume his duties and deliver service to department without any hindrance.
- D. That Respondents were under legal obligation to act in accordance with law and rules and petitioner be adjusted against the post of PST and the period of unsanctioned leave be counted as leave without pay as required by the law but they acted in arbitrary manner and malafidely kept hanging his case without any fruitful result one way or the other.
- E. That Respondents have deliberately wasted time in useless correspondence in terse and unlawfully prevented petitioner from resuming his duties which not only adversely affected the service career of petitioner but also deprived the students of his teachings.

It is therefore, humbly prayed that this Hon'ble Court may be pleased to:-

- (i) **Direct** the Respondents to act in accordance with law and also treat petitioner in accordance with law with further direction to Respondent No.1 to issue order of the adjustment of petitioner against the post of PST in any Government Primary School District Mardan from the date on which he had submitted his arrival report dated 01.01.2010 after leave with all back benefits and the period of unsanctioned leave be treated as leave without pay.
- (ii) Any other relief as deemed appropriate in the circumstances of case not specifically asked for, may also be granted to petitioner.

Through

Khush Dil Khan
Petitioner

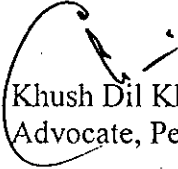
Khush Dil Khan
Advocate,
Supreme Court of Pakistan

ATTESTED

Dated: 01 / 03/ 2014

CERTIFICATE

Certified on instruction that petitioner has not previously moved this Hon'ble Court under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973 regarding present matter.



Khush Dil Khan
Advocate, Peshawar.

List of Books

1. The Constitution of the Islamic Republic of Pakistan, 1973.
2. Services Law.

NOTE

1. Three spare copies of the Writ Petition are enclosed in a separate file cover.
2. Memo of addresses is also attached.


Khush Dil Khan
Advocate, Peshawar

ATTACHED

IN THE PESHAWAR HIGH COURT PESHAWAR

W.P. No. _____/2014.

Zahir Ullah.....Petitioner

Versus

The District Education Officer (Male)
and others.....Respondents

Affidavit

I, Zahe r Ullah, PST (Primary School Teacher), Govt: Primary School, Kass Korona Mardan, do hereby solemnly affirm and declare on oath that the contents of this writ petition are true and correct to the best of my knowledge, and nothing has been concealed from this Hon'ble Court.

Zahid
Deponent

16101-3626458-7

Identified by

Khush Dil Khan
Advocate,
Supreme Court of Pakistan.

8667-.....
 Verified that the above was verified on solemnly
 affirmation before me in office, this.....3rd.....
 day of.....March.....2014 by.....Zahir Ullah
 of.....Musharraf Khan.....Mardan
 who was identified by.....Khushdil Khan.....
 who is personally known to me:
 3/3/2014
 Oath Commissioner
 Peshawar High Court, Peshawar

ATTESTED

1231

IN THE PESHAWAR HIGH COURT PESHAWAR.

W.P. No. _____/2014

Zahir Ullah.....Petitioner

Versus

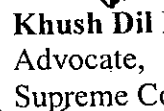
The District Education Officer (Male)
and others.....RespondentsAddresses of Parties.Zahir Ullah,
PST (Primary School Teacher),
Govt: Primary School, Kasskoroona Mardan.....Petitioner

Versus

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

Through


 Zahir Ullah
 Petitioner


 Khush Dil Khan
 Advocate,
 Supreme Court of Pakistan

Dated: 01 / 03/ 2014


 ATTESTED

Annex: "H" - P-32

BEFORE THE PESHAWAR HIGH COURT, PESHAWAR

Writ Petition No.716-P/2014

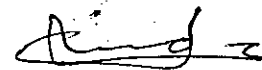
Zahir Ullah (P.S.T)(Petitioner)

VERSUS

The District Education Officer (Male) Elementary & Secondary Education
Department District Mardan & Others(Respondents)

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District Education
Officer (M) Mardan

ATTACHED

BEFORE THE PESHAWAR HIGH COURT, PESHAWAR

Writ Petition No.716-P/2014

Zahir Ullah (P.S.T)(Petitioner)

VERSUS

The District Education Officer (Male) Elementary & Secondary Education
Department District Mardan & Others(Respondents)

Parawise Comments on behalf of respondents No. 1 to 3

Respectfully Sheweth,

Preliminary Objections,

1. That the petitioner has got no cause of action and locus standi to file the instant writ petition.
2. That the petitioner has not come to this Honourable Court with clean hands.
3. That the instant writ petition is not maintainable in the eye of law.
4. That the petitioner was a civil servant and the subject matter in the instant writ petition pertains to terms & conditions of civil servants, and the appropriate forum in such like matters is service tribunal and jurisdiction of this Honourable Court is barred under Article 212 of the Constitution of Islamic Republic of Pakistan 1973 as amended upto date.
5. That as per application of the petitioner, the respondent No.1 accorded sanctioned of leave with effect from 18-10-2005 to 09-10-2006 (365 days earned leave on half average pay) and from 10-10-2006 to 17-04-2007 (189 days leave without pay) vide order No. 5104-06 dated 03-04-2006. **(Copy is attached as annexure A)**
6. That after expiry of the said leave on 17-04-2007, the petitioner had not resumed his duty and remained absent and later on in this respect the petitioner moved an application vide diary No.1724 dated 25-05-2011 for adjustment on return from long absence and admitted in the said application which is reproduced as under, "that due to certain reasons, required sanction was not taken properly for extension".
(Copy of application is attached as annexure B)
7. That the respondent No.1 ordered to inquire the matter and appointed the Inquiry Officers on 13-04-2012 and the Inquiry Officers submitted their report. **(Copies of the same are appended as annexure C & D)**
8. That as per Inquiry report the petitioner was absent from duty more than 5 years and resultantly the competent authority removed the petitioner from service. **(Copy of removal order is attached as annexure E)**

ATTESTED

1234

ON FACTS

1. Para 1, pertains to record and thoroughly explained in the preliminary objections, hence no comments.
2. Para 2 is incorrect, baseless against law and facts and thoroughly explained in Para 6 of the preliminary objections and the petitioners has been removed from service, hence denied.
3. Para 3 is incorrect, baseless, against law and facts to the extent of negative attitude of respondent No.1 and remaining Para pertains to official correspondence. Hence no comments.
4. That the petitioner remained willful absent for a long period and the instant writ petition is liable to be dismissed, because the petitioner has been removed from his service and he should adopt proper procedure for the redressal of his grievances.

GROUNDS


- A. Para A is incorrect, baseless, against law and facts and thoroughly, explained supra, hence denied.
- B. Para B is legal, however the petitioner had not legally availed extension of leave, hence terminated from service.
- C. Para C is incorrect, baseless against law and facts the service of the petitioner is not intact and he has been terminated from service, hence denied.
- D. Para D is incorrect, baseless against law and facts, hence denied.

Therefore it is humbly prayed that keeping in view the above mentioned facts the writ petition in hand may kindly be dismissed with cost.

Dated: 05/7/14

Through

Respondents: 1 to 3


 District Education
 Officer (M) Mardan

OFFICE OF THE EXECUTIVE DISTRICT OFFICER SCHOOLS & LITERACY MARDAN.

GRANT OF LEAVE.

12-35

Sanction is hereby accorded to the Grant of Leave in favour of Mr. Zahir Ullah PST GPS, Kass Kereona (Mardan) on private affairs as due and admissable to him under revised leave rules 1981, as per detail given below.

Earned Leave.

W.E.F. 18.10.2005 TO. 9.10.2006 (356 Days) E/L on Half ~~Pay~~ average pay.

W.E.F. 10.10.2006 TO 17.4.2007 (189 Days) E.O.L. With-out Pay.

Necessary entries to this effect should be made in his Service Book.

(MIAN WALI MUHAMMAD).
EXECUTIVE.

Endst: NO. 5104-06 /PF/Zahir Ullah/PST/MM/Dated 3-4- / 2006.

Copy forwarded to the :-

1. Deputy District Officer (M/P) Mardan w/r to his NO. 313 dated 4.3.2006 alongwith Service Book.
2. District Account Officer (Mardan).
3. Master file.

EXECUTIVE DISTRICT OFFICER
SCHOOLS & LITERACY MARDAN.

ATTESTED

To

5

5

The E.D.O
S & L Mardan.

P.36

Through: The D.D.O
Male Primary Edu. Mardan

Sub: Request for adjustment on return from long leave.

Sir,

With due respect, I beg to state that I had availed sanctioned long leave w.e.f. 10.10.2005 to 17.04.2007. But due to certain unavailable reasons, I prolonged theforesaid leave till 31.12.2009 while required sanction was not taken properly for extension in my long leave.

Now, since I have arrived to join my duty and I have properly submitted my application for adjustment to the concerned authority on 01.01.2010. But, still I am waiting for my adjustment.

Therefore, in the light of the above facts, it is requeste to kindly grant me sanction for unsanctioned period of leave. And kindly adjust me as P.S.T on any vacant post.

Dated: No... 1724

Note: My service history is enclosed here with.

Dear Sir,
The Application of Mr Zahir-ullah is

Forwarded for
N/A & A.D.O.

[Signature]
HEAD TEACHER
G.P.S. Kass Koroono
Mardan.
24/5

verified for N/A re

[Signature] 24/5
Atiq Ullah
Pay Centre Incharge
G.P.S. No.1, Baghdad.

Your's obedient,
Zahir-ullah P.S.T. Mardan.

[Signature]

ATTESTED

Forwarded to
D.D.O for U.A.P.C.Z.

[Signature]
Assistant District Office
(E&S) Education. 24/5

[Signature] 24/5
DDO

DISTRICT EDUCATION OFFICER(MALE) MARDAN.

9
Annex: 1-P-37

OFFICE ORDER.

Consequent upon the recommendations of the inquiry committee Mr, Zaher Ullah PST GPS, Kass Koroon who has been remained absent from duty w.e.f 18.4.2007 to 28.4.2012, theref the undersigned being competent authority is pleased to issue the removal from service order in r/o the above teacher under FR 18 wit immediate effect.

(HANIF ULLAH FAROOQI)
DISTRICT EDUCATION OFFICER
(M) MARDAN.

Endat: NO.

4099/2
6666

Dated.

6/5/14.

Copy forwarded to the;-

1. SDEO(M) Mardan.
2. DAO Mardan.
3. Offical concerned.

DISTRICT EDUCATION OFFICER
(M) MARDAN

ATTESTED


Annex-J, P 38

PESHAWAR HIGH COURT, PESHAWAR

FORM OF ORDER SHEET

Court of.....

Case No.....of.....

Serial No. of Order of Proceedings	Date of Order of Proceedings	Order or other Proceedings with Signature of Judge.
1	2	3
	<p>ORDER 14.04.2015</p>	<p><u>Writ Petition No.716-P/2014</u></p> <p>Present: Mr. Khush Dil Khan, Advocate, for Zahir Ullah, petitioner.</p> <p>Mr. Qaiser Ali Shah, Addl. AG, for the respondents.</p> <p>*****</p> <p>MAZHAR ALAM KHAN MIANKHEL, CJ.-</p> <p>Former wants to withdraw this petition with the permission to approach the proper forum for the redressal of his grievance. Order accordingly.</p> <p><u>Announced.</u> 14.04.2015</p> <p><i>sd/ Mazhar Alam Khan</i> <i>sd/ M. Daud Khan</i></p> <p>ATTESTED</p> <p>CERTIFIED TO BE TRUE COPY</p> <p>Examiner Peshawar High Court, Peshawar Authorised Under Article 87 of The Qanun-e-Shahadat Order 1984</p> <p>24 APR 2015</p>

(Fayaz)

File/15/14

To

The Director,
Elementary & Secondary Education Department (M),
Khyber Pakhtunkhwa, Peshawar.

Annex: K P39

Subject: DEPARTMENTAL APPEAL UNDER SECTION 22 OF THE KHYBER PAKHTUNKHWA CIVIL SERVANTS ACT, 1973 READ WITH RULE 3 OF THE KHYBER PAKHTUNKHWA CIVIL SERVANTS (APPEAL) RULES, 1986 AGAINST THE IMPUGNED ORDER DATED 06.05.2014 PASSED BY THE DISTRICT EDUCATION OFFICER MARDAN THEREBY APPELLANT WAS REMOVED FROM SERVICE.

Respected Sir,

1. That I/appellant initially appointed as Primary School Teacher on 17.12.1987 and posted in Govt. Primary School Kasskoroona Mardan. Meanwhile, I applied for three years earned leave on private affairs with effect from 18.10.2005 to 17.09.2008 vide my application dated 10.08.2005 which was allowed after due process by the District Education Officer (Male) Mardan 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.
2. That on the expiry of sanction leave, I applied for extension of the same but neither my request for extension of leave was turned down nor any notice was issued to me for resuming duties and after availing the requisite leave, I submitted my arrival report for resuming my duties in the office of District Education Officer (Male) Mardan which was not headed to. Then I filed another application which duly forwarded by the Deputy District Officer (Male) Primary Mardan to DEO (M) Mardan vide No.1492/P dated 18.06.2001.
3. That though the conceivable efforts were made by me to get adjustment order from the office of DEO (M) Mardan and to resume my duties but failed due to lukewarm attitude of DEO (M) Mardan who always used delay tactics for unknown reasons which constrained me to file an application before the former Hon'ble Chief Minister Khyber Pakhtunkhwa on 03.10.2012 who endorsed the same to Secretary, Elementary and Secondary Education Department 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.
4. That then I/appellant filed a Writ Petition No.716-P/2014 on 01.03.2014 in the Peshawar High Court Peshawar and on the first hearing the case noticed to respondents and also asked for comments which District Education Officer submitted the same on 05.07.2014. It is pertinent to mention that District Education Officer (Male) Mardan for the first time annexed an office order dated 06.05.2014 with the comments thereby I/appellant was removed from service and as such I came to know about the impugned order during hearing held on 14.04.2015 therefore, my counsel requested for withdrawal the Writ Petition in view of fresh cause of action arose in order to approach the proper forum for the redressal which was accepted and the order was passed accordingly on 14.04.2015. Copies of Petition No.716-P/2014 as Annex: A, parawise comments as Annex: B, Removal Order dated 06.05.2014 as Annex: C and Order sheet dated 14.04.2015 as Annex: D.

ATTACHED


Hence this departmental appeal is submitted on the following amongst other grounds: 1240

Grounds:

- A. That District Education Officer (Male) Mardan has not treated me in accordance with law and rules on subject and malafidely deprived me of the right to resume my duties on submission of my Arrival Report after sanctioned leave.
- B. That in view of rule 12(1) of the Khyber Pakhtunkhwa Civil Servants Revised Leave Rules, 1981 a civil servant 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. I have more than 17 years continuous service at my credit while the period of leave as I availed is 1534 days comes to four years two months and 24 days including 356 days leave on half pay thus the period of my leave comes within the purview of admissible period as mentioned in the aforesaid rule. Therefore, DEO (M) Mardan was not justified to keep the arrival report pending and not allow me to resume my duties which is an unlawful act, having no legal sanctity and of no legal effect.
- C. That the District Education Officer acted in arbitrary manner and passed the impugned order in slipshod manner, without providing me a fair opportunity of hearing and defence. Thus the impugned order is unlawful, being violative of the principle of natural justice.
- D. That the impugned order has passed in view of F.R. 18 which is not in existence and the same was omitted in the year 1992 therefore, the impugned order is void ab initio and not sustainable in the eyes of law, liable to be set aside.
- E. That the impugned order is unjustified and passed after thought with malafide intention just to defeat the rights of appellant with inordinate delay without cogent reason thus the same is not sustainable.

It is, therefore, humbly prayed that on acceptance of this departmental appeal, the impugned order dated 06.05.2014 thereby appellant was removed from service under F.R.18, may kindly be set aside and I/appellant may graciously be reinstated into service with all back benefits.


Yours faithfully,


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

Dated: ⁰⁴29 / 04 / 2015
2015


ATTACHED

To

The Director,
Elementary & Secondary Education Department (Male),
Khyber Pakhtunkhwa, Peshawar.

12-41


Subject: APPLICATION FOR CONDONATION OF DELAY IF ANY.

Respected Sir,

1. That I/appellant filed departmental appeal against the impugned order dated 06.05.2014 thereby I was removed from service under F.R.18. I came to know about the impugned order when the District Education Officer (Male) Mardan filed the same with comments filed by him in the Peshawar High Court Peshawar on 14.04.2015.
2. That the delay caused due to non communication of the impugned order to appellant under registered post or otherwise. Moreover, earlier no notice was given to me nor informed me about taking any adverse action against me. Thus the delay if any is not intentionally rather the same was due to lack of knowledge.

It is, therefore, humbly prayed that on acceptance of this application, the delay if any in filing the departmental appeal may graciously be condoned in the interest of justice.

Yours faithfully,

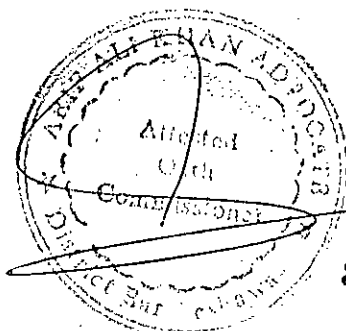

Zahir Ullah,
PST Teacher,
R/o Moh: Barshah,
Katlang Teh: & District Mardan.


Dated: ⁰⁴ 29 / 04 / 2015
2015

Affidavit

ATTACHED

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




Deponent

Annex: 1-12-43 (6)

OFFICE OF THE EXECUTIVE DISTRICT OFFICER (E & S) EDUCATION MARDAN.
NOTIFICATION.

The following officers are hereby appointed as inquiry officers to conduct inquiry in connection with the case of adjustment in respect of Mr, Zahir Ullah PST. *9PS Kas/Kurram*

1. Mr, Shamshad Khan Head Master Dakki.
2. Mr, Mukhtiar Khan A.D.O Takkar.

The detail report should be send to this office with in week positively.

Endst: No. 4598-4601 /P.F Dated 13/4/ 2012.

(BAHADAR KHAN MARWAT)
EXECUTIVE DISTRICT OFFICER
(E & S) EDUCATION MARDAN.

Copy forwarded to the:-

1. Dy: District Officer (M) Pry: Mardan.
2. Mr, Shamshad Khan Head Master Dakki.
3. Mr, Mukhtiar Khan A.D.O Takkar.
4. Official Concerned.

Mr
EXECUTIVE DISTRICT OFFICER
(E & S) EDUCATION MARDAN.
12/4/11

ATTESTED

Annex - M^⑦

P 44

ADO (P)
H
17/5/12

Enquiry report against Zahir Ullah PST GPS Kass Koroona Mardan

Name of enquiry committee : 1. Shamshad Ali Head Master GHS Dakki Mardan
2. Mukhtiar Khan ADO (C) Takkar Takht Bhai Mardan

Date of enquiry : 28-04-2012

Place of Enquiry : GPS Kass Koroona

Tools of enquiry : 1. Service Book checking
2. Dy:DO (MP) record
3. H/Teacher record and his statement
4. EDO (E & SE) Mardan office record
5. Statement of accused

Purpose of Enquiry : To detect the factual position of the absence of the above named accused w.e.f 18-04-2007 to 28-04-2012.

History of Case:

Zahir Ullah was appointed on PST post on 15-12-1987. He carried his duties on. But during the year 1994 he submitted an application for earned leave for the period w.e.f 01-09-1994 to 31-08-1997. He resumed to his duty on the expiry of the said leave.

The said teacher applied once again for E/leave w.e.f 18-10-2005 to 17-04-2007. The EDO(E&SE) Mardan accorded sanction of leave vide his Endst No.5104-06 dated 03-04-2006 on the recommendation of the Dy:DO Mardan vide No. 313 dated 04-03-2006. **(Annex-1)**

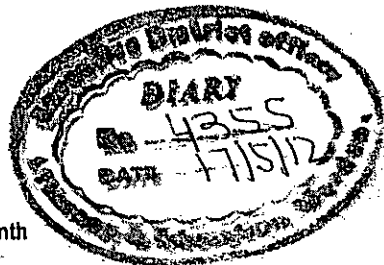
In his absence his leave vacancy was filled by the EDO (E&SE) Mardan by the transfer of Bakhtiar Ali PST GPS Muhammad Ali Killi Peshawar to GPS Kass Koroona. **(Annex-2)**

Zahir Ullah PST could not report his arrival on the expiry of his second term leave and remained absent.

The said teacher received his pay regularly upto 30-06-2006. **(Annex-3)**
No record prior than 18-06-2011 is available in the office of the DDO(M) Mardan and before 14-11-2005, in the office of EDO (E&SE) Mardan.

Total availed leave position

01-09-1994 - 01-09-1996	} 3 years
01-10-1996 - 31-08-1997	
18-10-2005 - 07-04-2007	} 1 Year -6 Month



Proceeding of Enquiry:

As per the directives of EDO (E&SE) Mardan the committee visited the appointed places as per programme and checked the relevant record from which the following findings come to hand.

Findings:

Statement of the accused. (Annex-4)

According to the statement the accused was absent from duty due to his brother in law illness, and he has submitted application for the adjustment on 01-10-2010, but no proper action has been taken on his application. So, on 10-3-2012 he filed an appeal to Chief Minister Khyber Pukhtunkhwa Peshawar **(Annex-5)** but his absence is unjustified. Since, 07-4-2007 till 01-10-2010 he could neither submit any application nor

ATTESTED

12457 (8)

report for the duty which is negligence on his part. He was only in Karachi and it was possible in fast media process. So his absence w.e.f. 08-4-2007 to 28-04-2012 is justified. He also kept his service book in his custody.

Statement of H/Teacher (Annex-6)

Head Teacher Said Khalid Shah PST recorded in his statement that on 24-8-2008, he has informed the office. He also stated that on 01-10-2010 when accused teacher came to school, he guided him to report to office for adjustment, which was not a proper way. It was the duty of H/Teacher to send written report through ADO to Dy:DO on the expiry of his leave but here both the officers H/Teacher and ADO did not play their proper role.

On the basis of the above facts our conclusions are as under.

The accused was on earned/leave and then w.e.f 18-04-2007 to the date of enquiry he is absent from duty, but no disciplinary action has been taken by the department.

The accused has submitted an application for adjustment which is under process. As no disciplinary action has been taken therefore, the credit goes to the accused.

The accused availed leave

01-09-1994 to 01-09-1996	} 2 10 EOL
01-10-1996 to 31-08-1997	
18-10-2005 to 17-04-2007	
18-04-2007 to 28-04-2012	— Absent from duty

1. So, the office of the EDO is requested to regularize the case.
2. To accord sanction for period captioned above.
3. To accord sanction for his re-adjustment (Coding the rules)
4. To recover salary drawn for the period w.e.f 18-10-2005 to 30-06-2006.

ATTESTED

Enquiry Committee

1. Shamshad Ali Head Master 11/5
GHS Dakki Mardan 20
2. Mukhtiar Khan ADO 11/2
Circle Takkar Takht Bhai
Mardan

WAKALAT NAMA

IN THE COURT OF K.P. Service Tribunal, Peshawar

Zahir ulloh PST teacher

Appellant(s)/Petitioner(s)

VERSUS

District Education Officer

District Mardan

Respondent(s)

I/We _____ 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.

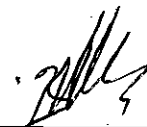
In witness whereof I/We have signed this Wakalat Nama hereunder, the contents of which have been read/explained to me/us and fully understood by me/us this _____

Attested & Accepted by



Khush Dil Khan,
Advocate,
Supreme Court of Pakistan

9-B, Haroon Mansion
Khyber Bazar, Peshawar
Off: Tel: 091-2213445


Signature of Executants

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No: 876/2015

Zahir Ullah PST Teacher, R/O Moh; Barshah, Tehsil Katlang, District Mardan

..... Petitioner

Versus

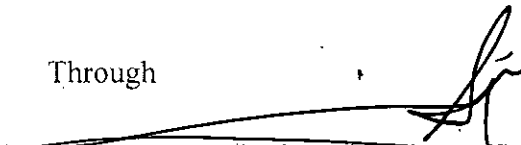
The District Education Officer (M) Mardan & Others..... Respondent

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2.	Reply to application for condonation of delay		04	--

Respondents No 1 & 3

Through


District Education Officer
(Male) Mardan

Dated: _____

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No: 876/2015

Zahir Ullah PST Teacher, R/O Moh; Barshah, Tehsil Katlang, District Mardan.

..... Petitioner

Versus

The District Education Officer (M) Mardan & Others..... Respondent

Para Wise Comments on Behalf of Respondents

Respectfully Sheweth,

PRELIMINARY OBJECTIONS:

1. That the appellant has got no cause of action as well as locus standi to file the instant appeal.
2. That the instant appeal is incompetent in its present form, hence liable to be dismissed.
3. That the instant appeal is badly time barred.
4. That the appeal is not maintainable in its present form.
5. That the appellant has not come to this Honourable Tribunal with clean hands.
6. That the appellant is estopped by his own conduct.
7. That the appellant has concealed the material facts from this Honourable tribunal hence liable to be dismissed.
8. That the instant appeal is based on malafide intention, hence liable to be dismissed.
9. That the instant appeal is against the prevailing law and rules.
10. That the appellant has been treated as per law & rules.
11. That after expiry of leave the appellant did not resume his duty later on submitted an application for adjustment wherein he admitted that "due to certain reason required sanction was not taken properly for extension". (Copy of application is already appended with the Appeal as **Annex-"C"**)
12. That as per the inquiry report the appellant remained absent from duty for more than 5 years resultantly the competent authority removed the appellant from service in accordance the law. (Copy of order of removal is already appended with the Appeal as **Annex-"I"**)

FACT:

1. Para No 1 is correct as the appellant being PST teacher was accorded sanctioned of leave w.e.f 18-10-2005 to 09-10-2006 (365 days earned leave on half average pay) and from 10-10-2006 to 17-04-2007 (189 days leave without pay) Vide Order No. 5104-06 dated

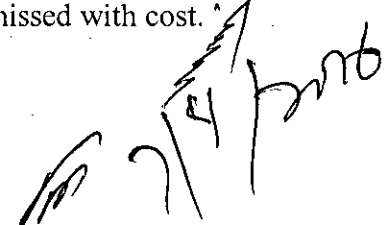
03-04-2006 later on remained absent from his duty for more than 5 years. (Copy of Order is already appended with the appeal as **Annex-"B"**).

2. Para No 2 is incorrect baseless against fact and law, as thoroughly explained supra in the preliminary objection, hence denied.
3. Para No 3 is incorrect, baseless, against law and facts to the extent of negative attitude of the Respondent No 1 being responsible government official and remaining para pertains to official correspondence, hence need no comments.
4. Para No 4 pertains to record, however the Respondent No 1 ordered the inquiry on which the appellant was found guilty of being absent from his duty for more than 5 years resultantly the competent authority removed the appellant from service in accordance the law, hence denied.
5. Para No 5 pertains to record, hence need no comments.

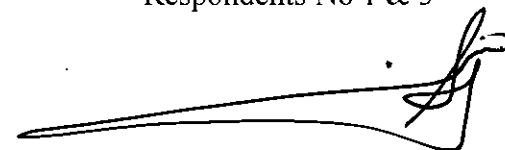
GROUND:

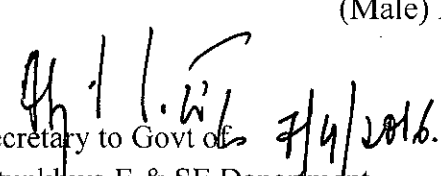
- A. Para A is incorrect baseless against fact & law and the Respondents acted in accordance with the law.
- B. Para B is incorrect, The appellant has been treated in accordance with the law and rules, hence denied.
- C. Para C pertains to record, hence need no comments.
- D. Para D is incorrect, thoroughly explained supra in the preliminary objections as the appellant was accorded sanctioned leave but the appellant remained absent after the expiry of the same. hence denied.
- E. Para E is incorrect baseless against the law and fact, The answering respondent being responsible government officer acted in accordance the law, hence denied.
- F. Para F is incorrect baseless, proper opportunity was given to the appellant wherein the appellant admitted the negligence on his part before the inquiry officers, hence denied.
- G. As replied above the respondents acted in accordance with law.

It is therefore humbly prayed that in the light of above facts, the appeal may please be dismissed with cost.


Director E & SE
Peshawar

Respondents No 1 & 3


District Education Officer
(Male) Mardan


Secretary to Govt of
Khyber Pakhtunkhwa E & SE Department
Peshawar

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No: 876/2015

Zahir-Ullah PST Teacher, R/O Moh; Barshah, Tehsil Katlang, District Mardan
..... Petitioner

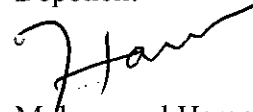
Versus

The District Education Officer (M) Mardan & Others..... Respondent

AFFIDAVIT

I, Mr Muhammad Haroon Legal Advisor Education Department Mardan do hereby solemnly affirm and declare that the contents of Para Wise Comments submitted by respondents No 1 & 3 are true to the best of my knowledge and belief and nothing has been concealed from this Honourable Court.

Deponent



Muhammad Haroon,
16101-4819092-1

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No: 876/2015

Zahir Ullah PST Teacher, R/O Moh; Barshah, Tehsil Katlang, District Mardan
..... Petitioner

Versus

The District Education Officer (M) Mardan & Others..... Respondent

Reply to Application for condonation of delay.

Respectfully Sheweth,

PRELIMINARY OBJECTIONS:

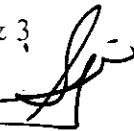
1. That the petitioner has got no cause of action & locus standi to file the instant application.
2. That the application in hand is not maintainable in its present form.
3. That the appellant has not come to this Honourable Tribunal with clean hand.
4. That the delay has not been justified by the petitioner.
5. That the appellant is estopped by his own conduct.
6. That the appellant has concealed the material facts from this Honourable tribunal hence liable to be dismissed.

ON FACTS:

1. Para No 1 pertains to filling of the instant appeal.
2. Para No 2 to 5 are incorrect, baseless, against law and facts which is thoroughly explained in preliminary objection, hence denied. The appellant appeared before the inquiry committee, recorded his statement wherein accepted his negligence as well. The appellant was aware of all the proceeding but kept this Honourable Tribunal in dark, further reply to main appeal may kindly be considered part of this reply.

Therefore it is humbly prayed that keeping in view the above mentioned fact, the instant application along with appeal may kindly be dismissed with cost.

Respondents No 1 & 3



District Education Officer
(Male) Mardan

Director E & SE
Peshawar

Secretary to Govt of
Khyber Pakhtunkhwa E & SE Department
Peshawar

KHYBER PAKHTUNKWA SERVICE TRIBUNAL, PESHAWAR

No. 999 /ST Dated 27 / 4 / 2017


To

The District Education, Officer (M),
Government of Khyber Pakhtunkhwa,
Mardan.

Subject: - JUDGMENT

I am directed to forward herewith a certified copy of Judgement dated 26.4.2017 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.