

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR

Service Appeal No: 7950/2021

Faiz Rasan SPST GPS Ferozpur Tehsil Takht Bai , District Mardan.

(Appellant)

Versus

The Secretary of (E & SE) Education, Khyber Pakhtunkhwa, & Others.

(Respondents)

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Respondent

District Education Officer
(Male) Mardan

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Para Wise Comments On Respondents 1 to 4

Respectfully Sheweth,

PRELIMINARY OBJECTIONS:

1. That the appellant has got no cause of action as well as locus standi to file the instant appeal, hence the appeal is liable to be dismissed.
2. That the instant appeal is badly time barred, hence the appeal is liable to be dismissed.
3. That the appellant has not come to this Honorable Tribunal with clean hands.
4. That the appellant has concealed the material facts from this Honorable Tribunal, hence the appeal is liable to be dismissed.
5. That the appellant has submitted an application for back benefits dated 19/07/2021.
(Copy of application is as Annexure- A)
6. That the SDEO (Takht Bhai) has forwarded the application of the appellant through a letter No 1554 dated 05/08/2021, for necessary action.
(Copy of letter is as Annexure –B)
7. The respondent No 4 has reinstated the appellant into service vide order No 2223/24 dated 19/03/ 2020 **(Copy of Notification is as Annexure –C)**
8. That the appellant has not taken over charge due FIR lodged on 20/01/2020 against him. The respondent conducted inquiry and the inquiry officer recommended the order of the official concerned may be revalidated.
(Copy of Inquiry is as Annexure –D)
9. The respondent No 4 has revalidated the order of the appellant, Endst No7297/98 dated 08/12/2020. **(Copy of Revalidated Order is as Annexure –E)**
10. The respondent No 4 has issued order No 6051 dated 03/09/2021 regarding grant of all back benefits. The period w.e.f 17-04-2017 to 08-12-2020 treated Leave without pay while period w.e.f 01-02-2014 to 17-04-2017 has already been considered as on duty under FR-54 by the respondent No 2&3 (appellate authority).
(Copy of letter is as Annexure –F)

11. That the appellant was Compulsory Retired from service vide order Endst No 2148/G dated 04-03-2022. The service appeal No 1071/2022 regarding compulsory Retirement is filed before the Honorable Service Tribunal Peshawar which pending before the Honorable Tribunal.

FACTS:

1. Para No 1 Pertains to record, hence needs no comments.
2. Para No 2, is incorrect baseless against facts & law, as there are so many complaints reported against him due to which the appellant was Compulsory Retired from service vide order Endst No 2148/G dated 04-03-2022. The service appeal No 1071/2022 regarding compulsory Retirement is filed before the Honorable Service Tribunal Peshawar which pending before the Honorable Tribunal.
3. Para No 3 is correct, hence needs no comments.
4. Para No 4, Pertains to record, hence needs no comments.
5. Para No 5 is correct, the appellant is Reinstated into Serves vide order No 2223/24 dated 19/03/ 2020 **(Copy of Notification is as Annexure –C)**
6. Para No 6, Pertains to record, hence needs no comments.
7. Para No 7, Pertains to record, hence needs no comments.
8. Para No 8, is correct, hence needs no comments.
9. Para No 9, Pertains to record, hence needs no comments.
10. Para No 10, Pertains to record, hence needs no comments.
11. Para No 11, is incorrect baseless against facts & law, as the respondent No 4 has issued order No 6051 dated 03/09/2021 regarding grant of all back benefits. The period w.e.f 17-04-2017 to 08-12-2020 treated Leave without pay while period w.e.f 01-02-2014 to 17-04-2017 has already been considered as on duty under FR-54 by the respondent No 2&3 (appellate authority).

(Copy of letter is as Annexure –F)

12. No Comments, The detail grounds as under:

GROUND:

- A. Para No A is incorrect, as the action is taken against the appellant according to law and rules, hence denied.
- B. Para No B is incorrect, as, the appellant has not taken over charge due FIR lodged on 20/01/2020 against him. The respondent conducted inquiry and the inquiry officer recommended the order of the official concerned may be revalidated and the respondent No 4 has revalidated the order of the appellant dated 08/12/2020, hence denied.


(Copy of Revalidated Order is as Annexure –E)

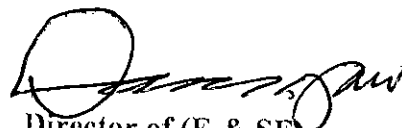
- C. Para No C is incorrect, baseless as the order of the Respondent with legal sphere & liable to be maintained, hence needs no comments.
- D. Para No D, is incorrect, baseless as the respondent has issued the order, in accordance with law, and the period w.e.f 17-04-2017 to 08-12-2020 treated Leave without pay while period w.e.f 01-02-2014 to 17-04-2017 has already been considered as on duty under FR-54 by the respondent No 2&3 (appellate authority), hence denied,

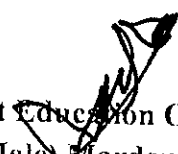
(Copy of letters are as Annexure –F & G)

E. That the respondents seek permission to raise additional grounds at the time of arguments.

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


Secretary (E & SE)
Education KPK, Peshawar
(Respondent No 1)


Director of (E & SE)
Education KPK, Peshawar
(Respondent No 2 & 3)


District Education Officer
(Male) Mardan
(Respondent No 4)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
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(Appellant)

Versus

The Secretary of (E & SE) Education, Khyber Pakhtunkhwa, & Others.

(Respondents)

AFFIDAVIT

I, Mr. Sajid Khan Legal representative in Education Department Mardan do hereby solemnly affirm and declare that the contents of Para Wise Comments submitted on behalf of respondents are true to the best of my knowledge and belief and nothing has been concealed from this Honorable Tribunal.



Deponent

Sajid Khan
Sajid Khan

16101-6005318-5



OFFICE OF THE DISTRICT EDUCATION OFFICER

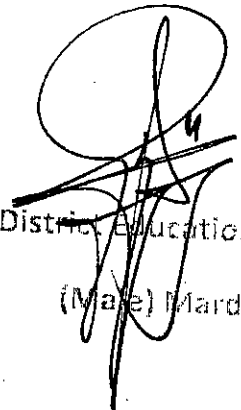
(MALE) MARDAN

No. 6728

DATED 29-08-2022

AUTHORITY LETTER

I, District Education Officer (Male) Mardan do hereby authorize Mr. Abdul Jamil,
Litigation officer of the District Education Officer (Male) Mardan to Deal with the
issues regarding Litigation, Represent & to attend the Hon, ble Service Tribunal
Regarding Litigation.


District Education Officer
(Male) Mardan

محضور جناب ڈسٹرکٹ ایجوکیشن آفیسر صاحب، مردانہ، مردانہ

Anneauve A-6

جناب عالی!

درخواست برآمد عطائے سبب (All Back Benefits)

گزارش حسب ذیل ہے۔

یہ کہ بندہ افرودی 2014ء سے 17 اپریل 2017ء تک دستگیر کی وجہ

سے نوکری سے برخاست کیا گیا تھا۔

2017/11 کو بندہ کے بحالی کے احکامات صادر فرمائے؟

سائل نے 9/12/20 کو واپس اپنے گھر کا چارج لیا۔

بہر ازاں سائل نے (All Back Benefits) کی عطائے سبب کے لئے

افسران بالا سے اپیل کی۔ جس کی رو سے سائل کے 14-12 سے 17-4-17 تک کے بقایا جات کے ادائیگی کے احکامات بحورضہ 7/5/21 کو صادر فرمائے؟

جس میں سائل کے 17/4/17 سے 9/12/20 تک کے (Period) دورانیے کی کوئی وضاحت نہیں کی گئی ہے۔ لہذا بندہ 17/4/17 سے 9/12/20 تک کے بقایا جات کے احکامات صادر فرمائیں۔

صفحہ 19/7/21

محمد اسحاق

محمد اسحاق، ایس پی ایس فیروز پور، کنگ جمالی مردانہ

(سرکل مندر)

Mob = -0313-9257559

CNIC = -16101-9180515-5

انٹرنیٹ / e-Post

21/7/21
Assistant Superintendent
Education
Muzaffargarh District

19/7/21

Annexure B - (7)



OFFICE OF THE SUB-DIVISIONAL EDUCATION OFFICER,
(Male) Takht Bhai
EMAIL :- sdeo.m.t.bhai@gmail.com

132

No. 1554 / Dated: 05/08/2021

To *

The District Education Officer,
(Male) Mardan.

Pr
Bhai

Subject: APPLICATION FOR THE GRANT OF ALL BACK BENIFITS.

16/8/21

Memo;

Enclosed please find herewith a self-explanatory application on the subject noted above along with other relevant documents in R/O Mr. Faiz Rasan, PST, GPS, Feroz pur circle takkar is hereby submitted for favor of further necessary action please.

Encl; AS ABOVE.

SUB-DIVISIONAL EDUCATION OFFICER,
(MALE) TAKHT BHAI.

20-8-21

OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) MARDAN

NOTIFICATION

152

WHEREAS, Mr. Faiz Rasan PST GPS Sadiq Abad Mardan was proceeded under E&D rules-2011 by the DEO(M) Mardan vide Endst No:201-09 dated 09-01-2015 due to absence from duty.

WHERE AS the concerned submitted appeal to the Director E&SE Khyber Pakhtunkhwa Peshawar for reinstatement claiming that the appellant was in custody of unknown forces.

AND WHERE AS, the honorable Director E&SE Peshawar nominated an inquiry officer in the cited case.

AND WHERE AS, the inquiry officer recommended that appellant may be reinstated in service.

And Where As the Appellant Authority, Director E&SED Peshawar withdrawn this office order No:201-09 dated 09-01-2015 and reinstated the appellant concerned into Govt Service vide Endst No:619-22 dated 07-01-2020 and converted the intervening period (120 days on full pay, 240 days on half pay and remaining period is treated as leave without pay.)

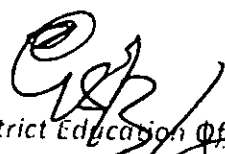
Now therefore In exercise of the power conferred under khyberPakhtunkhwa Govt servants E&D rules 2011, the undersigned being Competent Authority is pleased to re-instate Mr. Faiz Rasan with immediate effect and adjusted him against vacant PST post at GPS Ferozpur Takht Bhai.

(Zahid Muhammad)
District Education Officer
(Male) Mardan

Endst No. 223-24 /P.F./ Dated: 19-03-2020

copy forwarded for information and necessary action to the:-

1. Director E&SE Education KPK, Peshawar.
2. DAO Mardan.
3. SDEO(M) Takht Bhai
4. Teacher concerned.


District Education Officer
(Male) Mardan

OFFICE OF THE PRINCIPAL GHS AZA KHEL PESHAWAR

No. 772 / Dated: 28/10/2020

Subject:

**ENQUIRY IN APPEAL FOR REVALIDATION OF RE-
INSTATEMENT ORDER**

Introduction:

Upon the approval of the competent authority the undersigned was allocated an inquiry regarding the subject captioned above, vide Directorate of Elementary & Secondary Education Notification Endst: No. 659-60 dated 16/09/2020 to probe into the matter and submit facts findings report along with recommendations.

Background:

An appeal from Mr. FaizRassan PST, GPS FerozPurTakhtBahiMardan in the name of Director E&SE received against termination removal from service along with District Education Officer notification Endstt: No. 4701-7 dated 22/04/2019 due to wilful absence from duty.

Procedure:

Meeting with the appellant:

The appellant was visited in person and a written statement has been recorded and filed (See annex-A).

Checking of Available record:

All the record of subject case has been thoroughly checked and enclosed wherever found necessary for ready reference (See Annex-B).

Findings:

From the above facts and figures and checking all of the available record, it is found that:

- 1) Mr. FaizRasan PST GPS Sadiq Abad Mardan has been reinstated on the direction of worthy director office order Endst: No. 619-22, dated 7/1/2020 (See Annex-C).
- 2) In the light of the direction of the worthy director, the DEO (M) Mardan issued reinstatement order Endst: No. 2223-24 dated 19/03/2020 (See Annex-D).

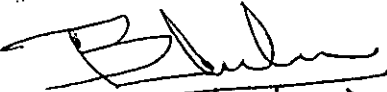
- 3) Meanwhile, the official concerned did not take over charge of his post within the stipulated time due an FIR lodged on 20/01/2020 (See Annex-E)
- 4) The DEO (M) Mardan issued letter No. 3922 dated 05/08/2020 seeking guidance for revalidation from the Directorate of Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar (See Annex-F).
- 5) The Directorate of Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar decided to conduct an inquiry in the said case and nominated the undersigned as inquiry officer vide Directorate of E&SE Endst: No. 659-60 dated 16/09/2020.
- 6) All The available office record has been thoroughly checked (Record attached)
- 7) The official concerned was unable to take charge of his post due to involvement in FIR No 74 dated 20/01/2020.
- 8) In the said case Mr. FaizRasan has been released by Peshawar High Court Peshawar on 28/07/2020 (Record attached).

Recommendations:

Keeping in view the above facts and findings, it is recommended that:

1. The order of the official concerned may be revalidated.

Enquiry Officer


28/10/2020
Principal

GHS Aza Khel Peshawar

Annex E - 11

OFFICE OF THE DISTRICT EDUCATION OFFICER(MALE) MARDAN

OFFICE ORDER

Consequent upon the guidance received from Director E&SE Khyber Pakhtunkhwa Peshawar vide letter No:651 dated 27-11-2020, the undersigned is pleased to revalidate the reinstatement order issued vide this office under Endst No:2223-24 dated 19-03-2020 in r/o Mr. Faiz Rasan PST GPS Ferozpur Takht Bhai from date of its issuance.

Furthermore the intervening period (w.e.f date of reinstatement to issuance of this order) may be treated as leave without pay.

Note: * Necessary entry should be made in his service book.
*No TA/DA is allowed

(Dr. Muhammad Idrees)

DISTRICT EDUCATION OFFICER
(MALE) MARDAN

7297-98

Endst.No. _____ /P.F/ Dated: 08-12-2020

Copy forwarded to the:

1. Director E&SE Khyberpakhtunhwa, Peshawar with reference to his letter No and date mentioned above.
2. SDEO(M) Takht Bhai
3. DAO Mardan
4. Official concerned

11/08/2020
 DISTRICT EDUCATION OFFICER
 (MALE) MARDAN
 Faiz Rasan

DEC

CLs
 Assistant Sub Div.
 Education Officer (M)
 P/o: Faiz Rasan

ATTESTED

Annexure - R-12

OFFICE OF THE DISTRICT EDUCATION OFFICER
(MALE) MARDAN

No. 6051 / Dated 03-09-2021

To

The SDEO(M) Takht Bhai.

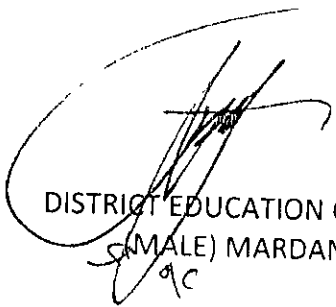
SUBJECT: APPLICATION FOR GRANT OF ALL BACK BENEFITS

Memo:

Reference your letter No:1554 dated 05-08-2021 on the subject cited above.

It is stated that Mr. Faiz Rasan PST GPS Ferozpur has been reinstated vide this office No:2223-24 dated 19-03-2021 and revalidated order issued vide No:7297-98 dated 08-12-2021 and in both orders the intervening period has been treated as leave without pay.

Therefore the period which he is claiming w.e.f 17-04-2017 to 08-12-2020 may be treated as leave without pay under cited orders while period w.e.f 01-02-2014 to 17-04-2017 has already been considered as on duty under FR-54 rules through Director E&SE Khyber Pakhtunkwa Peshawar letter No:8693 dated 07-05-2021 in response to his appeal decided by the Appellate Authority.


DISTRICT EDUCATION OFFICER
(MALE) MARDAN
9C



DIRECTORATE OF ELEMENTARY AND SECONDARY EDUCATION
KHYBER PAKHTUNKHWA PESHAWAR.

Amex 13
No. 8/57 /F. No.162/Vol:8/Appeal
of PST (M) General.
Dated Peshawar the 7/5 /2021.

To,

The District Education Officer (M)
Mardan.

Subject: - **APPLICATION FOR BACK BENEFITS**

Memo:-

I am directed to refer to appeal on the subject cited above in respect of Mr. Faiz Rasan PST GPS Sadiq Abad District Mardan, and to state that the Appellate Authority, has accepted his appeal, and hence the intervening period w.e.f 01.02.2014 to 17.04.2017, is treated as on duty, under the FR-54 Rules.

7/5/2021
Assistant Director (Estab :)
Elementary & Secondary Edu:
Khyber Pakhtunkhwa Peshawar.

Copy forwarded to the:-

1. P.A to Director Elementary and Secondary Education local office.

Assitant Director (Estab :)
Elementary & Secondary Edu:
Khyber Pakhtunkhwa Peshawar.

ATTESTED