



GOVERNMENT OF KHYBER PAKHTUNKHWA
OFFICE OF THE DISTRICT EDUCATION OFFICER
MALE DIR UPPER.

PH No. 0944-881400

E-mail: deomdirupper@gmail.com



No. 3830-37 /

Dated 21.10.2023.

To



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

Subject: - COMPLIANCE REPORT IN SERVICE APPEAL NO.1146/2016 – MUHAMMAD ISMAIL V/S GOVT OF KHYBER PAKHTUNKHWA

Sir,

It is submitted that, Mr. Muhammad Ismail was appointed as PTC Teacher (untrained) and posted at Vegal Primary School vide order dated 29.10.1986 (copy enclosed as A). The Appellant was removed from service due to absence from duty w.e.f 16-07-1989 to 15-08-1996. The appellant after exhausting departmental remedies, filed service appeal in Khyber Pakhtunkhwa Service Tribunal Peshawar for re-instatement which was accepted and the Tribunal directed to re-instate the appellant w.e.f 15.08.1996 instead of first appointment i.e. 29.10.1986 vide Judgment dated (copy enclosed as B) with the condition that he will not claim pay/seniority for the absence period. Accordingly, the appellant was reinstated in service w.e.f. 15.08.1996 vide order dated **Copy enclosed as C**).

2. Meanwhile, Finance Department, vide its letter No.FD(PRC)5-2/2002 dated 30.03.2009, allowed the benefit of annual increments to the untrained teachers from the date of their regular appointment with the condition that no arrears shall be admissible/payable prior to the date of issuance of this circular. Accordingly, the benefit of annual increments was extended to the Appellant with effect from his first appointment i.e. 29.10.1986. However, the pay fixation party observed that the appellant is not entitled to the said benefit. Accordingly, on the direction of pay fixation party, recovery was started from the appellant. However, aggrieved of the same, the appellant filed service appeal in the KP Service Tribunal for non-recovery. Now, the august Tribunal has directed that advice of Finance Department may be solicited in the matter.

3. In view of the above, it is requested that Finance Department may kindly be approached for advice as to whether the appellant is entitled to the benefit of annual increment as per Finance Department's letter dated 30.03.2009 referred to above or otherwise. If he is entitled, then from which date the benefit may be allowed to him whether w.e.f. 29.10.1986 his first appointment or w.e.f. 15.08.1996 (the date

from which he is reinstated into service). Moreover, it may also be clarified as to whether he is entitled to arrears prior to 30.03.2009 or otherwise.

4. The case has been fixed for 03.04.2023; therefore, an early response is requested, please.


DISTRICT EDUCATION OFFICER (M)
DIR UPPER

Even No and dated
Copy Forwarded for information to the :-

- ✓ 1. Registrar Service tribunal Peshawar
2. AAG Service tribunal Peshawar
- ✓ 3. SO litigation II E&SE Peshawar
- ✓ 4. AD Litigation II E&SE Peshawar
- ✓ 5. PA to Director Elementary
- ✓ 6. Secretary Finance Khyber Pakhtunkhwa Peshawar
7. Additional Deputy Commissioner Finance Dir Upper
8. Deputy Commissioner Dir Upper


DISTRICT EDUCATION OFFICER (M)
DIR UPPER

OFFICE OF THE DISTRICT EDUCATION OFFICER(M) DIR AT TIMERGARA.
OFFICER ORDER.

The following U/Trd:PTC candidates of Dir Sub-Division are hereby appointed in the B.P.S.No.7 in the schools as noted against their names w,e,f, the date of taking over charge in the interest of public service with immediate effect subject to the following terms and conditions:-

S.No.	Name of candidate.	Father name.	Village.	Schools where R appointed.	marks.
1.	Mohammad Tahir FA.	Mohd Fazil.	Bibyawar.	GPS Dam Jabbar.	Post.
2.	Raza Khan F.A.	Said Hakim.	Qulandai.	MPS Shomai.	-do-
3.	Abdullah FA.	Adil Mohammad.	Chiragalai.	" Kas.	-do-
4.	Rahmanud Din FA.	Abdul Wahab.	Rehankot.	" Gujarokali.	-do-
5.	Zafarullah FA.	Abdullah.	Serai.	GPS Doonsarai.	-do-
6.	Abdul Hadi FA.	Nowshad.	Gandigar.	GPS Dheri Hatan.	-do-
7.	Ghuncha Gul FA.	Khazada Gul.	Bekarai.	" Lilbenr.	-do-
8.	Mohammad Anwar FA.	Ghulam Mohd.	Gawnai.	" Sonai.	-do-
9.	Hamim Khan FA.	Azam Khan.	Sarai.	MPS Jaba Khwar.	-do-
10.	Bakht Munir FA	Umar Yar.	Sarai.	MPS Doba.	-do-
11.	Gul Hamim FA.	Zer Mohammad.	Rehankot.	" Khanader.	-do-
12.	Ariful Haq FA	Mahibullah.	Janbatai.	" Shatáá.	-do-
13.	Abdul Wahab Mat:	Abdul Ghafar.	Malookkhar.	GPS Thal.	-do-
14.	Badshah Rahman Mat:	Sikandar Khan.	Dir.	" Thal.	-do-
15.	Mohammad Gul Mat:	Mian Gul.	Rundish.	" Jenea.	-do-
16.	Inayatullah Mat:	Izaatullah.	Sorai.	MPS Kumrat.	-do-
17.	Fazal Munir Mat:	Fazal Khaliq.	Dir.	" Kumrat, 8	-do-
18.	Mohammad Ilyas Mat:	Mohammad Ghafoor.	Badarkanai.	MPS Doon.	-do-
19.	Mohd Ismail. Mat:	Gul Mohd Shah.	Barawal.	" Waigal.	-do-
20.	Abdul Matin Mat:	Abdul Wakil.	Barawal.	GPS Nasratdara.	-do-
21.	Fazal Khan Mat:	Sher Wali.	Nagrail.	" Nasratdara.	-do-
22.	Bakhtullah Jan Mat:	Fam Jan.	Barawal.	MPS Khatgal.	-do-
23.	Shafiur Rahman Mat:	Fazal Rahman.	Sharingal.	GPS Narkoon.	-do-
24.	Badshah Mohammad Mat:	Sardul Khan.	Darara.	" Gurial.	-do-
25.	Basheer Ahmad	Mian Amirzada.	Gandigar.	" Achar(P).	-do-

~~XXXXXXXXXXXXXXXXXXXX~~
TEACHERS SON.

1.	Rafiud Din Mat:	Sultanud Din.	Kardara.	GPS Achar(P).	-do-
2.	Saeedullah Mat:	Shamsul Arif.	Barawal.	" Chundalgel.	-do-
3.	Mohammad Amin Mat	Mohd Shuib.	Tarpatar.	" Dadbanr.	-do-
4.	Ihsanullah Mat:	Sadatullah.	Barawal.	" Konai.	-do-

TERMS AND CONDITIONS:-

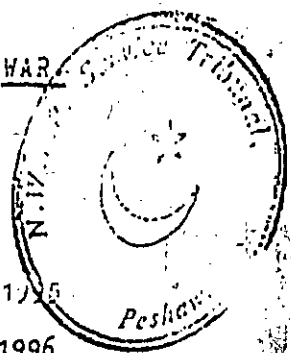
1. Charge report should be submitted to all concerned.
2. They may not be handedover the charge if their age exceeds 28 year or below 18 years.
3. Their original certificates should be checked at the time of handing over charge and see that they have passed Mat:Exam:in full subject.
4. Their appointment being temporary as liable to termination at any time without notice. In case they want to leave service in this Deptt: they should give one month's notice in advance or deposit one month pay.
5. Their appointment shall stand automatically terminated in case they failed to take over charge within 15 days.
6. They will have to produce Health and Age certificate from the Civil Surgeon Dir at Timergara and submit the same alongwith charge report to the SDEO(M) Dir.

(MOHAMMAD ZAFAR JALIL)
DISTT:EDUCATION OFFICER(M)
DIR AT TIMERGARA.

Endst:No. 11760-92 E-8 Dated Timergara the 29/10/86.

Copy forwarded to:-

1. The Director of Education(S) NWFP, Peshawar for information please.
2. The Director of Education(S) MKD: Division Saidu Sharif Swat for infor:pl:
3. The S.D.E.O.(M) Dir for information.
4. The candidates concerned for stric compliance.



APPEAL NO. 44/1995

Date of institution .. 22.1.1995

Date of decision .. 26.2.1996

Mohammad Ismail son of Gul Mohammad Shah,
Resident of Village Luhango Cus Tehsil &
Post Office Braval Bandi, District Dir. .. APPELLANT

VERSUS

- 1- Divisional Director of Education Schools(M),
Dir Division Dir at Timergara.
- 2- Director of Education Schools (M),
NWFP, Peshawar.
- 3- District Education Officer (M),
District Dir at Timergara.
- 4- Sub-Divisional Education Officer School(M),
District Dir at Timergara.
- 5- Headmaster, Govt. Primary School, Marano,
Tehsil Braval District Dir. ..

RESPONDENTS

25 FEB 1996

Mr. Mohammad Asif,
Advocate. .. For appellant

Mr. Sikandar Sahibzada,
Advocate (Govt. Pleader). .. For respondents
No. 2 to 5.

Mr. Mohammad Qaim Jan Khan,
Arbab Azizullah Khan, .. Chairman
Member

JUDGMENT

MOHAMMAD QAIM JAN KHAN, CHAIRMAN: This is a service
appeal under section 4 of the Service Tribunal Act, 1974 filed
by appellant Mohammad Ismail against the impugned order dated
21.12.94, whereby the services of the appellant have been ceased
instead of allowing him to continue his service as PTC Teacher.

Facts giving rise to the present appeal are that the appel-
lant was appointed as PTC Teacher on 1.12.1994.

EXAMINED
NWFP Service Tribunal

ATTESTED

Notices were issued to the respondents. Respondent No.1 did not appear in this Tribunal despite proper service, hence proceeded against ex-parte vide order sheet No.8 dated 29.8.95. Respondents 2 to 5 contested the appeal, submitted reply to which the appellant has also submitted his re-joinder and after that detailed arguments of Mr. Mohammad Asif, Advocate for appellant and Mr. Sikandar Sahibzada, Advocate (Govt. Pleader) for respondents have been heard and record perused.

The case is very simple and clear. The appellant was appointed as U.T PTC Teacher on 29.10.86 purely on temporary basis and he served the department upto 15.7.89 and then dis-appeared and did not come for duty upto 15.8.94. According to the appellant he remained absent due to some family blood-feud and the reasons were beyond his control and he could not attend his duty, so he remained absent for this long period of 5 years and one month. The department on the other hand also committed mistakes after mistakes and they have not passed any order whatsoever knowingly the absence of the appellant. If he was a temporary employee then his services could have been terminated by way of one month notice but the respondents also kept him for this long period of 5 years and one month and when the appellant came back for duty even then they have not passed any order, so the appellant was forced to knock the doors of Service Tribunal and finally on the direction of the NWFP Service Tribunal, the respondent department passed a final order on 21.12.94 to the effect that no leave was sanctioned in favour of the appellant and as he is ^{an} untrained teacher with a service of only 2 years and 9 months and he could not be granted leave without pay, so his services have been "ceased". This impugned order of respondent No.3 is also not a legal order in which the services of the appellant have been termed as "ceased" because due to Notification No. F.1(11)R.4/89 dated Islamabad 21 November, 1992, PAR 13 has been omitted.

26 FEB 1996

AWJES
EXAM
NWFP Service Tribunal
Peshawar

order No. 11760-92 dated 29.10.86. That on 24.8.87 through order No. 1812-21/PTC, appellant was transferred to Govt. Primary School, Marano. The appellant did his duty upto 15.7.89 and served the department efficiently and with hard work. That due to some blood-feud, appellant neither continue his service nor informed the office well in time, so he remained absent from his duty and now a compromise has been affected between the parties so the appellant informed his department and made his presence. That after a compromise under the custom, appellant was able to report for duty so on 15.8.94 he reported to respondent No.5 for duty but he refused to take the appellant on duty and was dismissed from service and he should file an appeal with a response. The appellant moved an application/appeal to respondent No.3 with the request that the absence of the appellant from 16.7.89 till 15.8.94 be treated as leave without pay. That after passing three months and receiving no reply, the appellant filed an appeal in this Hon'ble Tribunal which was dismissed in limine on 30.11.94 with the direction to the respondents that they should pass a final order in this case and on 3.1.95 the appellant has received an order dated 21.12.94 (impugned) through which the services of the appellant have been ceased, hence this appeal. The grounds of appeal are that the absence from duty by the appellant was due to the reasons beyond his control. Moreover, the respondents should have treated the absence of the appellant as leave without pay but instead they have passed an order by which the services of the appellant have been ceased while under the law there is no such power with the respondents. Moreover the oral order dated 15.8.94 and the impugned order are against law and facts, hence untenable. In the prayer the appellant has asked for setting aside the impugned order dated 21.12.94 and to allow him to continue his service as PTC with all

26 FEB 1996

EXAM
Peshawar

ATTESTED

... out an illegal order. The
 ... have also not performed their duty. The
 respondent remained absent for 5 years and one month. No ter-
 mination notice has been issued against him nor any other
 final order was passed and the impugned order was passed on
 the direction of the Service Tribunal but strangely enough
 the impugned order itself is not a legal order. So in this
 back-ground of the case, the instant case is remanded to the
 respondent department to pass an appropriate, valid and
 legal order whatsoever. Parties are left to bear their own
 costs. File be consigned to the record.

ANNOUNCED
 26.2.1996

Mohammad Qaim Jan Khan
 (MOHAMMAD QAIM JAN KHAN)
 CHAIRMAN

Arbab Azizullah Khan
 (ARBAB AZIZULLAH KHAN)
 MEMBER

Certified to be true Copy.

M. J. Khan
 EXAMINER,
 N.W.F.P. SERVICE TRIBUNAL
 PESHAWAR.

Date of presentation of application 29.2.96
 Number of W.O.s 1600
 Copping fee 6000
 Urgent
 Total 6000
 Name of copyist APSR...
 Date of completion of copy 6.3.96
 Date of delivery of copy 6.3.96

OFFICE ORDER

In light of the decision made by service Tribunal Govt:Of NWFP Peshawar dated 29/2/1996 Mr. Mohammad Ismail S/O Gul Mohammad Shah is hereby re-instated with effect from the date of his arrival i.e 15.8.1994 placed at the disposal of SDEO (M) Dir for adjustment against available vacancy subject to the following conditions:-vide District Education Officer,(M)Fry:Dir at T/Gara Andst:No.1931-32-dated 17.6.1996.
1. He will not claim his seniority/pay for the period he remained absent till the date of his adjustment against available vacancy.
Mr.Mohammad Ismail S/O Gul Mohammad Shah of village Bawal Bandi is hereby adjusted at GPS Nasrat Dara against leave vacancy w.e.f 1.8.1996 in the interest of public service,

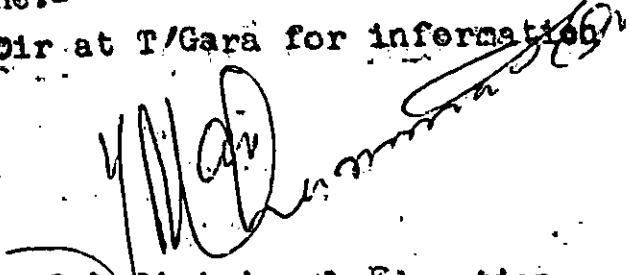
Note:Charge report should be submitted to this office in duplicate.

(YAR MOHAMMAD)
Sub Divisional Education
Officer,(M) Dir.

Andst:No. 15-28-82 Dated Dir the 29-7-1996

Copy of the above is forwarded to the:-

1. District Education Officer,(M) Fry:Dir at T/Gara for information
2. H/Teacher GPS Nasrat Dara.
3. Mr.Mohammad Ismail.
4. ASDEO Concerned.
5. Accountant of this office.


Sub Divisional Education
Officer,(M) Dir.

11/3