

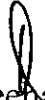
23.12.2022


Counsel for the appellant present.

SCANNED
KST
Peshawar

Naseer Ud Din Shah learned Assistant Advocate
General for respondents present.

Former made a request for adjournment in order
further prepare the brief. Adjourned. To come up for
arguments on 22.03.2023 before D.B.


(Fareeha Paul)
Member (E)


(Rozina Rehman)
Member (J)


22.03.2023

Learned counsel for appellant present.

Mr. Fazal Shah Mohmand, Additional Advocate General for
respondents present.

SCANNED
KST
Peshawar

Learned Member Judicial (Mrs. Rozina Rehman) is on leave,
therefore, case is adjourned to 07.06.2023 for arguments before
D.B. Parcha Peshi given to the parties.


(Muhammad Akbar Khan)
Member (E)

21.02.2022

Due to retirement of the Worthy Chairman, the Tribunal is defunct, therefore, case is adjourned to 30.05.2022 for the same as before.

Reader

30.05.2022

Junior to counsel for the appellant present.

Kabir Ullah Khattak learned Additional Advocate General for respondents present.

Former made a request for adjournment as senior counsel is busy before Apex Court. In this regard, proper application seeking adjournment was filed and is placed on file of Service Appeal No.1133/2019 titled "Muhammad Zeeshan Vs. Government of Khyber Pakhtunkhwa". Case is adjourned to 09.08.2022 for arguments before D.B.

(Fareeha Paul)
Member(E)

(Rozina Rehman)
Member (J)

9-8-2022

Due to the Public holiday the case is adjourned to 9-11-2022

Reader

9.11.22

Since 9th November 2022 has been declared as public holiday the case is adjourned to 23.12.22 for the same.

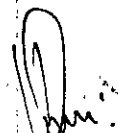
08.03.2021

Junior to counsel for the appellant and Asstt. AG for the respondents present.

Former requests for adjournment due to engagement of learned senior counsel before the Honourable High Court in many cases today. Adjourned to 15.06.2021 for hearing before the D.B.



(Atiq-ur-Rehman Wazir)
Member(E)



Chairman

15.06.2021

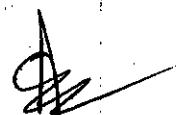
Clerk to counsel for appellant present.

Muhammad Adeel Butt learned A.A.G for respondents present.

Lawyers are on general strike, therefore, case is adjourned. To come up for arguments on 20.10.2021 before D.B.



(Rozina Rehman)
Member (J)

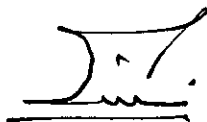


Chairman

20.10.2021

Appellant in person present. Mr. Muhammad Adeel Butt, Additional Advocate General alongwith Mr. Muhammad Saddique, ADO for the respondents present.

Former requests for adjournment due to engagement of his counsel before the Hon'ble High Court. Request is accorded. To come up for arguments on 21.12.2021 before D.B.



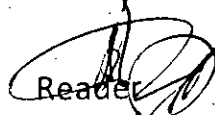
(Salah-Ud-Din)
Member (Judicial)



Chairman

_____ .2020

Due to COVID19, the case is adjourned to
13/8/2020 for the same as before.


Reader

13.08.2020


Due to summer vacations case to come up for the same on
16.10.2020 before D.B.


Reader

16.10.2020

Counsel for appellant present. Mr. Muhammad Jan
learned Deputy District Attorney for respondents
present.

Former requests for adjournment; granted. To
come up for arguments on 10.12.2020 before D.B.



(Atiq-Ur-Rehman Wazir)
Member


(Muhammad Jamal Khan)
Member

10.12.2020

Miss Rabia Muzaffar, Advocate on behalf of counsel
for the appellant and Addl. AG alongwith. Muhammad
Siddique, Litigation Officer for the respondents present.

Requests for adjournment is made as learned senior
counsel for appellant is engaged before the Apex Court at
Islamabad today. Adjourned to 08.03.2021 for hearing
before the D.B.


(Atiq-ur-Rehman Wazir)
Member(E)


Chairman

04.02.2020

Due to general strike of Khyber Pakhtunkhwa Bar Council, learned counsel for the appellant is not available today. Mr. Kabirullah Khattak, Additional AG for the respondents present. Adjourned to 19.03.2020 for rejoinder and arguments before D.B.



(Ahmad Hassan)
Member


(M. Amin Khan Kundi)
Member

19.03.2020

None for the appellant present; Addl: AG alongwith Mr. Zahid Ullah, DEO for respondents present. Due to general strike on the call of Peshawar Bar Council, the case is adjourned. To come up for arguments on 21.05.2020 before D.B.


(MAIN MUHAMMAD)
MEMBER


(M. AMIN KHAN KUNDI)
MEMBER

11.09.2019

Counsel for the appellant and Addl. AG alongwith Muhammad Siddique ADEO for the respondents present.

Learned AAG requests for further time. Adjourned to 04.10.2019 on which date the requisite reply/comments shall positively be submitted before S.B.

Chairman



04.10.2019

Junior counsel for the appellant Mr. Kabirullah Khattak, Additional AG alongwith Mr. Zahidullah, DEO (M) Upper Kohistan for the respondents present.


Representative of respondents submitted para-wise comments on behalf of respondents No. 1 to 3 which is placed on record. The appeal is posted for arguments for 06.12.2019 before D.B. The appellant may submit rejoinder within fortnight, if so advised.

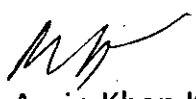
CHAIRMAN



06.12.2019

Due to general strike of Khyber Pakhtunkhwa Bar Council learned counsel for the appellant is not available today. Mr. Kabirullah Khattak, Additional AG alongwith Mr. Zahidullah, DEO (M) Upper Kohistan for the respondents present. Adjourned to 04.02.2020 for rejoinder and arguments before D.B.


(Hussain Shah)
Member


(M. Amin Khan Kundi)
Member

20.05.2019

Learned counsel for the appellant present. Preliminary arguments heard.

The appellant (Primary School Teacher) has filed the present service appeal u/s 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974, against the order dated 25.05.2018 to the extent of treating the abscondance/absence period and intervening period as extraordinary leave without pay.

Points urged need consideration. The appeal is admitted for regular hearing subject to all the legal objections including the issue of limitation. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for written reply/comments. To come up for written reply/comments on 18.07.2019 before S.B.


Member

18.07.2019

Counsel for the appellant present.

An application for extension of time to deposit the security and process fee has been submitted wherein it is stated that the requisite fee could not be deposited due to un-avoidable circumstances.

The application is allowed and period for requisite deposit is extended for 3 days. After deposit by the appellant notices be issued to the respondents for submission of written reply/comments on 11.09.2019 before S.B.

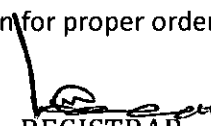

Appellant Deposited
Security & Process Fee


Chairman

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 484/2019

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	10/04/2019	<p>The appeal of Mr. Muhammad Nabi resubmitted today by Mr. Fazal Shah Mohmand Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p> REGISTRAR 10/4/19</p>
2-	11/04/19	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>20/05/19</u></p> <p> CHAIRMAN</p> <p><i>[Handwritten notes at bottom right]</i></p>

The appeal of Mr. Muhammad Nabi PST Teacher GPS Kafar banda Kohistan received today i.e. on 19.03.2019 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Memorandum of appeal may be got signed by the appellant.
- 2- Annexures of the appeal may be attested.
- 3- Annexures of the appeal may be flagged.
- 4- Affidavit may be got attested by the Oath Commissioner.
- 5- Annexures referred to in the memo of appeal are not attached with the appeal which may be placed on it.
- 6- Copy of impugned order and departmental appeal against it are not attached with the appeal which may be placed on it.
- 7- Five more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.


No. 445 /S.T.

Dt. 20-3-2019


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Fazal Shah Mohmand Adv.


Sir
Requested for extension of time
So as to file the copies of
relevant documents.


 Adv.

5/4/19

10 days time further extended.

Sir, Resubmitted after necessary
completion


5/4/19


Adv.

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

Service Appeal No 484/2019

Muhammad NabiAppellant

V E R S U S

DEO and others.....Respondents

I N D E X

S.No	Description of Documents	Annexure	Pages
1.	Service appeal with affidavit		1-4
2.	Application for condonation of delay with affidavit		5-6
3.	Copy of titled page of Appeal & Judgment dated 26-12-2017	A	7-11
4.	Copy of Office Order dated 07-03-2018	B	12-
5.	Copy of Office Order dated 25-05-2018 Copy of Departmental appeal	C	13
6.	Copy of Departmental appeal	D	14
7.	Wakalat Nama		15

Dated:-19-03-2019.


Appellant

Through


Fazal Shah Mohmand
Advocate, Peshawar

OFFICE:- Cantonment Plaza Flat 3/B Khyber Bazar Peshawar Cell# 0301 8804841

Email:- fazalshahmohmand@gmail.com

- 1 -

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

Service Appeal No _____/2019

Muhammad Nabi, Primary School Teacher, Govt. Primary School
Kafar Banda, Kohistan.....

Appellant

Khyber Pakhtunkhwa
Service Tribunal

V E R S U S

Diary No. 352

Dated 19-3-2019

1. District Education Officer (Male) Kohistan.
 2. Director Elementary and Secondary Education, Govt. of KPK Peshawar.
 3. Secretary, Elementary and Secondary Education, Govt. of KPK Peshawar.....
- Respondents**

**APPEAL U/S 4 OF THE KPK SERVICE TRIBUNAL ACT 1974
AGAINST THE ORDER DATED 25-05-2018
(COMMUNICATED TO THE APPELLANT ON 30-10-2018)
WHEREBY THE PERIOD W.E.F 16-12-2003 TO 06-03-2018
HAS BEEN TREATED AS EXTRAORDINARY LEAVE WITHOUT
PAY AND AGAINST WHICH DEPARTMENTAL APPEAL OF
THE APPELLANT HAS NOT BEEN RESPONDED DESPITE THE
LAPSE OF THE STATUTORY PERIOD OF NINETY DAYS.**

PRAYER:-

On acceptance of this appeal the impugned Order dated 25-05-2018 may kindly be modified to the extent of awarding the appellant all the benefits including salaries etc of intervening period w.e.f. 16-12-2003 to 06-03-2018.

Respectfully Submitted:-

1. That the appellant was appointed as Primary School Teacher on 19-12-1995 and was dismissed from service on the allegations of prolong absence on 11-05-2012, against which he filed departmental appeal and then Service Appeal No 43/2016, which was accepted vide Order dated 26-12-2017, the appellant was reinstated in service and department was directed to hold denovo proceedings within a period of ninety days. (Copy of Judgment is enclosed as Annexure A).
2. That the appellant was accordingly reinstated in service vide Order dated 07-03-2018 and denovo proceedings were ordered during which the inquiry officer only recorded the statement of the appellant. (Copy of Order dated 07-03-2018 is enclosed as Annexure B).

led to-day

Registrar

13/19

3. That finally the appellant was reinstated in service and the period w.e.f. 16-12-2003 to 10-05-2012 and 11-05-2012 to 06-03-2018 was treated as extraordinary leave without pay vide Order dated 25-05-2018, however copy was malafidely not communicated to the appellant in time and the same was Obtained by the appellant on 30-10-2018. **(Copy of Order dated 25-05-2018 is enclosed as Annexure C).**
4. That the appellant preferred departmental appeal before respondent No 2 vide diary No 829 dated 26-11-2018 which is still pending and has not been decided despite the lapse of more than the statutory period of ninety days. **(Copy of Departmental Appeal is enclosed as Annexure D).**
5. That the impugned order dated 25-05-2018 of respondent No 1 is against the law, facts and principles of justice on grounds inter alia as follows:-

GRUNDS:-

- A. That the impugned order is illegal and void ab-initio.
- B. That the appellant was dismissed from service through an illegal rather void and as such the appellant is entitled to the benefits of the intervening period.
- C. That no proper proceedings were taken. No notice was issued to the appellant nor was any proper inquiry entailing denial of service benefits conducted.
- D. That the appellant after reinstatement was entitled to the back benefits as per the plethora of Judgments of the Apex Court and the denial of respondents amount to denial of accrued rights
- E. That mandatory provisions of law and rules have badly been violated by the respondents and the appellant has not been treated according to law and rules and salaries have been denied to him in violation of law and rules on the subject.
- F. That there is no omission or commission on part of the appellant as it has been established that the appellant was illegally dismissed from service then law as well as principles of natural justice are in favor of granting service benefits.


G. That ex parte action has been taken against the appellant and he has been condemned unheard in violation of the principles of natural justice..

H. That the appellant has about 24 years of service with unblemished service record.


I. That the appellant seeks the permission of this honorable tribunal for further/additional grounds at the time of arguments.

It is therefore prayed that appeal of the appellant may kindly be accepted as prayed for in the heading of the appeal.

Dated:-19-03-2019.


Appellant

Through


Fazal Shah Mohmand
Advocate, Peshawar

- 4 -

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

Service Appeal No _____/2019

Muhammad Nabi **Appellant**

V E R S U S

DEO and others..... **Respondents**

A F F I D A V I T

I, Muhammad Nabi, Primary School Teacher, Govt. Primary School Kafar Banda, Kohistan, do hereby solemnly affirm and declare on oath that the contents of this **Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this honorable Tribunal.

Identified by



**Fazal Shah Mohmand
Advocate Peshawar**


DEPONENT

- 5 -

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

Service Appeal No _____/2019

Muhammad NabiAppellant

V E R S U S

DEO and others.....Respondents

Application for the condonation of delay if any.

Respectfully submitted:-

1. That the accompanying appeal is being filed today in which no date of hearing has been fixed so far.
2. That the grounds of appeal may be considered as integral Part of this application.
3. That the impugned order being void ab-initio, illegal and time factor becomes irrelevant in such cases, furthermore the appeal is well within time when copy of impugned order was communicated to the appellant.
4. That the law as well as the dictums of the superior Courts also favors decisions of cases on merit besides the matter is money matter and the appellant as such has continuous cause of action.

It is therefore prayed that on acceptance of this application, the delay if any in filing of appeal may kindly be condoned.

Dated:-19-03-2019.


Appellant

Through


Fazal Shah Mohmand
Advocate, Peshawar

- 6 -

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

Service Appeal No _____/2019

Muhammad Nabi **Appellant**

V E R S U S

DEO and others..... **Respondents**

A F F I D A V I T

I, Muhammad Nabi, Primary School Teacher, Govt. Primary School Kafar Banda, Kohistan, do hereby solemnly affirm and declare on oath that the contents of this **Application** are true and correct to the best of my knowledge and belief and nothing has been concealed from this honorable Tribunal.

Identified by



**Fazal Shah Mohmand
Advocate Peshawar**


DEPONENT

- 7 - "A"

BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR

Service Appeal No. 43 /2016.

Muhammad Nabi Ex Primary School Teacher, Govt. Primary School
Chortoo Jalkoat S/O Gul Mashal R/O Sew P/O Kamila Tehsil Dasu
District Kohistan.....



Appellant of Province
Service Tribunal

Diary No. 32
Dated 11-01-2016

V E R S U S

1. Director, Elementary and Secondary Education Govt. of KPK Peshawar.
2. District Education Officer (Male) Kohistan.
3. Secretary, Elementary and Secondary Education Govt. of KPK Peshawar.....

Respondents

**APPEAL U/S 4 OF THE KPK SERVICE TRIBUNAL ACT 1974
AGAINST THE ORDER DATED 23-12-2015 PASSED BY
RESPONDENT NO 1 WHERE BY DEPARTMENTAL
APPEAL OF THE APPELLANT FILED AGAINST THE ORDER
DATED 11-05-2012 OF RESPONDENT NO 2 HAS BEEN
REJECTED/FILED.**

PRAYER:-

On acceptance of this appeal the impugned orders dated 23-12-2015 of respondent No 1 and Order dated 11-05-2012 of respondent No 2 may kindly be set aside and the appellant may kindly be ordered to be reinstated in service with all back benefits.

Respectfully Submitted:-

1. That the appellant joined the respondent Department as Primary School Teacher (herein after referred to as PST) on 19-12-1995, remained posted to various Stations and since then he performed his duties with honesty and full devotion.
2. That the appellant while lastly posted to Govt. Primary School Chortoo Jalkoat District Kohistan, was falsely involved in a murder case vide FIR No 89 dated 18-08-2003 U/Ss 302/324/34RPC of Police Station Kamila and was suspended. (Copy of FIR is enclosed as Annexure A).
3. That the appellant along with two others was dismissed from service on the ground of prolong absence by respondent No 2

ATTESTED

2016

26.12.2017

8-



Counsel for the appellant and Mr. Muhammad Jan, Deputy District Attorney alongwith Muhammad Alam ADO for the respondents present. Arguments heard and record perused.

This appeal is also accepted as per our detailed judgment of today in connected service appeal No. 42/2016 entitled "Izzat Noor Vs. Director E&SE, Khyber Pakhtunkhwa Peshawar and two others". Parties are left to bear their own costs. File be consigned to the record room.

Announced

26.12.2017 *Self*
Members

Self
Chairman

Certified to be true copy
[Signature]
MEMBER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

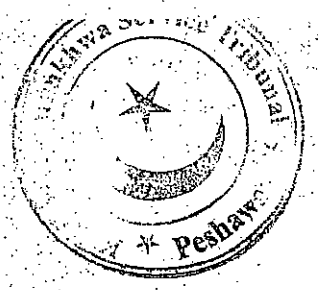
Date of Presentation of Application	10-01-18
Number of Words	800
Copying Fee	60
Urgent	20
Total	80
Name of Copyist	<i>[Signature]</i>
Date of Copying	10-01-18
Date of Delivery of Copy	10-01-18

ATTESTED

9-

Appeal No. 42/2016

Date of Institution... 11.01.2011
Date of decision... 26.12.2017



Izzat Noor Ex-Primary School Teacher, Government Primary School, Chortoo,
Jalkoat son of Gul Mashal R/O Sew Post office Kamila Tehsil Dasu, District
Kohistan. (Appellant)

-Versus

1. Director, Elementary and Secondary Education, Government of Khyber
Pakhtunkhwa, Peshawar and 2 others. (Respondents)

MR. Fazal Shah Mohmand,
Advocate.

For appellant.

MR. Muhammad Jan,
Deputy District Attorney

For respondents.

MR. NIAZ MUHAMMAD KHAN,
MR. GUL ZEB KHAN,

CHAIRMAN
MEMBER

JUDGMENT

NIAZ MUHAMMAD KHAN, CHAIRMAN: - This judgment shall also
dispose of another connected appeal No. 43/2016 Muhammad Nabi as in both the
appeals common questions of law and facts are involved.

2. Arguments of the learned counsel for the parties heard and record perused.

FACTS

2. The appellants were dismissed from service on 11.05.2012 due to his
absence against which they filed departmental appeals (undated) which were
rejected on 23.12.2015 and thereafter, they filed the present service appeals on
11.01.2016.

ATTESTED

ATTESTED

- 10 -

3. The learned counsel for the appellants argued that absence was due to their involvement in a criminal case in which they were acquitted by learned trial court and thereafter they filed departmental appeals. That the impugned order has been given retrospective effect. That no proceedings under the relevant law in force for the time being i.e. Khyber Pakhtunkhwa Removal from Service (Special Power) Ordinance, 2000 were conducted. That the appellate authority rejected departmental appeal under the Khyber Pakhtunkhwa Government Servants (E&D) Rules, 2011 whereas the cases were covered by the RSO mentioned above. That the impugned order was given retrospective effect which was a void order.

4. On the other hand the learned Deputy District Attorney argued that the appeal was time barred as the impugned order was passed on 11.05.2012 and the appellants filed departmental appeals according to para-4 of the appeal on 28.12.2012 and thereafter as per para-6 of the appeal they filed second departmental appeals after acquittal. That the appellants admitted their absence from duty in his memorandum of appeals.

CONCLUSION

ATTESTED

5. This Tribunal in a number of cases delivered judgments that retrospective orders are void orders on the basis of judgment of the august Supreme Court of Pakistan reported as 1985-SCMR-1178. The present orders are also void orders and no limitation shall run against void orders. The department has also not complied with the relevant rules in the case of absence. The department has also not taken into consideration involvement of the appellant in criminal case.

6. As a result of the above discussion, this appeal is accepted and the department is directed to hold denovo proceedings within a period of 90 days of the

ATTESTED

- 11 -

receipt of this judgment in accordance with the rules, failing with the appellants shall be reinstated in service. Parties are left to bear their own costs. File be consigned to the record room.

Sd/- Niaz Muhammad Khan
Chairman

Sd/- Gulzeb Khan,
Member

Certified to be true copy

Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Date of Presentation of Application	10-01-18
Number of Words	1250
Copying Fee	8-00
Urgent	2-00
Total	10-00
Name of Copyist	<i>[Signature]</i>
Date of Copying	10-01-18
Date of Delivery of Copy	10-01-18

TESTED

-12-

4B^U

OFFICE OF THE DISTRICT EDUCATION OFFICER (M) KOHISTAN
OFFICE ORDER

Whereas Mr. Muhammad Nabi, EX PST GPS Chortoo Jalkot Tehsil Dassu District Kohistan submitted his service, appeal No.43/2016 Dated 07/01/2016 before Honorable Service Tribunal Khyber Pakhtunkhwa Peshawar. The Honorable Service Tribunal Peshawar accepted his appeal, the appellant was Re-instated into service and the case was returned to department for denovo proceeding/inquiry in accordance with the rules as per judgment announced on 26/12/2017.

Whereas the department submitted the case to law department for getting opinion for filling CPLA.

Whereas the meeting of the scrutiny committee was held on 22/02/2018 in the office of Secretary Law department. It was decided with consensus by the scrutiny committee that the subject case was not fit for CPLA and the department was advised to conduct denovo enquiry against the appellant vide No. So (Lit/LD/ 9-5(14) E&SED /2018/13220-24/ W.E Dated 26/02/2018.

In view of the above facts, Mr. Muhammad Nabi, Ex-PST GPS Chortoo Jalkot Tehsil Dassu District Kohistan is hereby Re-instated into service conditionally for the purpose of denovo inquiry as per direction of Honorable Service Tribunal Khyber Pakhtunkhwa at GPS Kafar Banda against vacant post as PST on his own pay and grade with immediate effect.

Note:

1. No TA/DA is Allowed
2. Charge Report should be submitted to all concerned.

District Education Officer
(Male) Kohistan

Endstt: No. 1753-61 DEO (M) KH Dated Dassu the 07/03/2018
Copy of the above is forwarded to the

1. Director Element 1, Secondary Education Khyber Pakhtunkhwa Peshawar.
2. Registrar Khyber Pakhtunkhwa Service tribunal Peshawar
3. Advocate General Khyber Pakhtunkhwa Peshawar.
4. Deputy Commissioner Kohistan
5. Deputy District Education Officer (M) Kohistan
6. District Accounts Officer, Kohistan
7. ADEO (litigation) local office
8. PA to District Education Officer Male Kohistan.
9. Official concerned

ATTENDED

District Education Officer
(Male) Kohistan



- 13 - 'C'

OFFICE OF THE DISTRICT EDUCATION OFFICER (M) KOHISTAN

OFFICE ORDER

Whereas Mr. Muhammad Nabi, EX PST GPS Chortoo Jalkot Tehsil Dassu District Kohistan submitted his service, appeal No.43/2016 Dated 07/01/2016 before Honorable Service Tribunal Khyber Pakhtunkhwa Peshawar. The Honorable Service Tribunal Peshawar accepted his appeal, the appellant was Re-instated into service in the case was returned to department for denovo proceeding/inquiry in accordance with the rules as per judgment announced on 26/12/2017.

Whereas the department submitted the case to law department for getting opinion for filling CPLA.

Whereas the meeting of the scrutiny committee was held on 22/02/2018 in the office of Secretary Law department. It was decided with consensus by the scrutiny committee that the subject case was not fit for CPLA and the department was advised to conduct denovo enquiry against the appellant vide No. So (Lit/LD/ 9-5(14) E&SED /2018/13220-24/ W.E Dated 26/02/2018.

Whereas worthy Director appointed Mr, Ali Nawaz Khan Principal GHSS No. 2 Mansehra as inquiry officer for denovo inquiry vide. No. 1263/F.No.34/KC/Denovo inquiry dated 08/02/2018. Inquiry officer submitted his report with the recommendation that his absence period wef 16/12/2003 to 11/05/2012 may be converted into leave without pay and he may be granted suspension pay from his date of custody in law enforcing authorities. As he remained absconder during his involvement in murder case and violated service rules hence he is not entitled for back benefit. However he is recommended to be reinstated into service as acquitted by court and having spotless 16 years 04 months and 22 days long service on his part vide enquiry letter No. 979 dated 10/04/2018..

In view of the above facts, Mr. Muhammad Nabi, Ex-PST GPS Chortoo Jalkot Tehsil Dassu District Kohistan is hereby Re-instated into service as per direction of Honorable Service Tribunal Khyber Pakhtunkhwa at GPS Kafar Banda against vacant post as PST on his own pay and grade after impose the following minor penalties as recommended by enquiry officer vide No. 979 dated 10/04/2018.

1. Absconder/absent period w.e.f 16/12/2003 to 10/05/2012 is converted into extra ordinary leave without pay.
2. The intervening period w.e.f 11/5/2012 to 06/03/2018 is also treated as extra ordinary leave without pay.

Ar. gmet (1-12-2004) = Nil

Note:

1. No TA/DA is Allowed
2. Charge Report should be submitted to all concerned.

**District Education Officer
(Male) Kohistan**

Endstt: No. 4520-28 DEO (M) KH Dated Dassu the 25/05/2018

Copy of the above is forwarded to the

1. Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.
2. Registrar Khyber Pakhtunkhwa Service tribunal Peshawar
3. Advocate General Khyber Pakhtunkhwa Peshawar.
4. Deputy Commissioner Kohistan
5. Deputy District Education Officer (M) Kohistan
6. District Accounts Officer, Kohistan
7. ADEO (litigation) local office
8. PA to District Education Officer Male Kohistan.
9. Official concerned

[Signature]
**District Education Officer
(Male) Kohistan**

ATTESTED

- 14 - 'D'

Before the Director Elementary and Secondary Education KPK Peshawar.

Subject:- APPEAL AGAINST THE ORDER DATED 25-05-2018 OF DISTRICT EDUCATION OFFICER (MALE) KOHISTAN (Communicated to the appellant on 30-10-2018), WHEREBY THE PERIOD W.E.F. 16-12-2003 TO 06-03-2018 HAS BEEN TREATED AS EXTRAORDINARY LEAVE WITHOUT PAY.

Respectfully Submitted:-

The appellant was appointed as Primary School Teacher on 19-12-1995 and was dismissed from service on the allegations of prolong absence on 11-05-2012, against which he filed departmental appeal and then filed Service Appeal No 43/2016 which was accepted vide order dated 26-12-2017, the appellant was reinstated in service and the department was directed to hold denovo proceedings within a period of ninety days. **(Copy of Judgment is enclosed as Annexure A).**

That the appellant was accordingly reinstated in service and denovo proceedings were ordered during which the inquiry officer only recorded the statement of the appellant where after the appellant was reinstated in service and the period w.e.f. 16-12-2003 to 10-05-2012 and 11-05-2012 to 06-03-2018 was treated as extraordinary leave without pay vide order dated 25-05-2018 by the District Education Officer (Male) Kohistan. **(Copy of Office Order dated 25-05-2018 is enclosed as Annexure B).**

That the impugned order dated 25-05-2018 is against the law and facts as no proper proceedings were conducted against the appellant. No Charge Sheet and Show Cause Notice was communicated to the appellant nor was proper legal inquiry conducted in the matter. The appellant was not employed during this period and even as per law and rules the appellant is entitled to the pay and other benefits of the entire period.

It is therefore requested that on acceptance of this appeal, the impugned Office Order dated 25-05-2018 of the DEO (Male) Kohistan may kindly be set aside and the benefits of the period w.e.f 16-12-2003 to 06-03-2018 may kindly be ordered to be paid to the appellant.

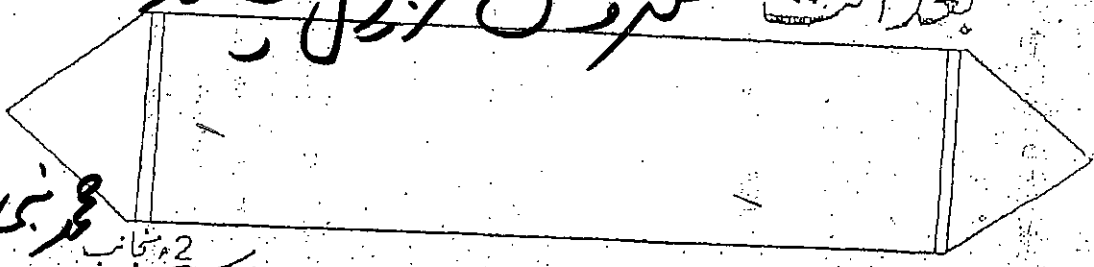
Dated:-26-11-2018.

ATTESTED

Muhammad Nabi, Primary School Teacher,
Govt. Primary School Kafar Banda Kohistan.

Dry
829
26/11/18

بعد الت سروس ٹریبونل



محمد نبی

2 مشابہ

بنام DCA وغیرہ

محمد نبی

- صورت
- مقدمہ
- دعویٰ
- جرم

باعث تحریر آنکھ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے رابطے پیروی درخواست دی رکھ کارروائی متعلقہ
آن مقام کیلئے **مختار شاہ صاحب A.S.**

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا۔ نیز
ڈیکل صاحب کو راضی نامہ کرنے و تقررات ہاں فیصلہ بر حلقہ دیئے جواب دی اور اتنا بال دعویٰ اور
بامسرت ڈگری کرنے اجراء اور وصولی چیک درو پیسہ عرضی دعویٰ اور درخواست ہر قسم کی تصدیق
ذرائع پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برابری اور منسوخی
نیز دائر کرنے اپیل ٹکرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بسورت ضرورت مقدمہ مذکور
کے کل یا جزوی کارروائی کے واسطے اور ڈیکل یا مختار کا ادنیٰ کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار
ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ با اختیار حاصل ہوں گے اور اس کا اجازت
پرداخت منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جانبہ التزامے مقدمہ کے سب سے ادا ہوگا۔
کوئی تاریخ پیشی متتام دورہ پر ہو یا حد سے باہر ہو تو ڈیکل صاحب پابند ہوں گے کہ مقدمہ کے
مذکورہ کریں۔ لہذا ادکالت نامہ لکھ دیا کہ سند ہے۔

محمد نبی

Accepted

المرقوم

محمد نبی

محمد نبی

بنام

کے لئے منظور ہے

Original

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Appeal No.484/2019

Muhammad NabiAppellant

VERSUS

1. District Education Officer (Male) Kohistan & others.
2. Director Elementary & Secondary Education KPK Peshawar.
3. Secretary Elementary Secondary Education Govt of Khyber Pakhtunkhwa Peshawar

Respondents

PARAWISE COMMENTS ON BEHALF OF RESPONDENT NO. 1, 2 & 3.

INDEX

S#	Particulars of documents	Annexure	Pages
1	Comments along with affidavit		1-6
2	Copy of the reinstatement Order	"A"	7


**District Education Officer,
(Male) Kohistan**

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Appeal No.484/2019

Muhammad Nabi Appellant

VERSUS

1. District Education Officer (Male) Kohistan
2. Director Elementary & Secondary Education KPK Peshawar
3. Secretary Elementary Secondary Education Govt of Khyber Pakhtunkhwa Peshawar

Respondents

PARAWISE COMMENTS ON BEHALF OF RESPONDENT NO.1, 2& 3.

Respectfully Sheweth:

1. That the appellant did not come to this Honorable Court with clean hands.
2. That the appellant has got no cause of action /locus standi to file the Instant appeal.
3. That the appellant is estopped to sue through his own conduct.
4. That the present appeal is not maintainable due to non-joinder and mis-joinder of necessary parties.
5. That the appellant has concealed the material facts from this Honorable Court, hence appeal is liable to be dismissed without any further proceeding.
6. That the appellant has already been removed from Service after completion of all codal formalities.
7. That the appeal is time bared hence not maintainable and liable to be dismissed.

Factual Objections:

1. Para No.1 is Correct to the extent that as per acceptance of Service appeal No 42-A/2016, dated 26-12-2017 by Honorable Tribunal, denovo inquiry was conducted and appellant was re-instated into service on the recommendations of the inquiry.


(Copy of the order is annexed as Annexure "A")

2. Reply of Para No.2 of appeal is that order No.1753-61 dated 7-03-2018 only for purpose of inquiry. Further stated that respondent No.3 initiated DENOVO enquiry in the light of the judgment passed by the Honorable Service Tribunal Peshawar and respondent No. 2 appointed Mr. Ali Nawaz Khan Principal GHSS No.2 Mansehra as inquiry officer. The officer gives them a chance of personal hearing and also recoded the statement.
3. Para No.3 of the appeal is correct to the extent that the appellant was reinstated into service and the inquiry officer submitted his report with the recommendation that the absence period of the appellant may be treated as leave without pay. As he remained absconder during his involvement in murder case and violated service rules, hence the appellant is not entitled for back benefit. The office order dated 25-05-2018 was communicated to the appellant well within time and the appellant was well aware of that order.
4. Reply of Para No. 4 of the appeal is that appellant appeal has not been entertained due to not entitle for having any kind of back benefit as per recommendations of the inquiry report.
5. Reply of Para No. 5 is incorrect and strongly denied that the respondent No.1 treated the appellant as per rules and law.

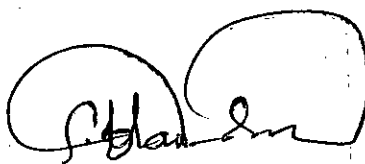
The instant service appeal may be dismissed on the following grounds.

I. Reply of Para No "I" of the ground is that respondent seeks permission of this Honorable Tribunal for additional grounds at the time of arguments.


In view of the above made submissions, this Hon'able Tribunal may very graciously be requested to dismiss the instant appeal in favor of the Respondents in the interest of equity and justice.


Secretary,
Government of Khyber Pakhtunkhwa,
Elementary & Secondary Education Deptt:
Peshawar.

(Respondent No.3)


Director,
Elementary & Secondary Education
Peshawar.

(Respondent No.2)


District Education Officer (Male)
Kohistan

(Respondent No.1)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Appeal No.484/2019

Muhammad Nabi Appellant


VERSUS

1. District Education Officer (Male) Kohistan
2. Director Elementary & Secondary Education KPK Peshawar
3. Secretary Elementary Secondary Education Govt of Khyber Pakhtunkhwa Peshawar

Respondents

AFFIDAVIT

I, Mr. Zahid Ullah DEO (Male) Kohistan do hereby solemnly affirm and declare that the contents of amended reply in the above titled Case are true and correct to the best of my knowledge and belief, and that nothing, material has been suppressed from this Honorable court.


DEPONENT

Annexure
"A"

53
Appel

7

Annexure
"A"

OFFICE OF THE DISTRICT EDUCATION OFFICER (M) KOHISTAN
OFFICE ORDER

Whereas Mr. Muhammad Nabi, EX PST GPS Chortoo Jalkot Tehsil Dassu District Kohistan submitted his service, appeal No.43/2016 Dated 07/01/2016 before Honorable Service Tribunal Khyber Pakhtunkhwa Peshawar. The Honorable Service Tribunal Peshawar accepted his appeal, the appellant was Re-instated into service and the case was returned to department for denovo proceeding/inquiry in accordance with the rules as per judgment announced on 26/12/2017.

Whereas the department submitted the case to law department for getting opinion for filling CPLA.

Whereas the meeting of the scrutiny committee was held on 22/02/2018 in the office of Secretary Law department. It was decided with consensus by the scrutiny committee that the subject case was not fit for CPLA and the department was advised to conduct denovo enquiry against the appellant vide No. So (Lit/LD/9-5(14) E&SED /2018/13220-24/ W.E Dated 26/02/2018.

In view of the above facts, Mr. Muhammad Nabi, Ex-PST GPS Chortoo Jalkot Tehsil Dassu District Kohistan is hereby Re-instated into service conditionally for the purpose of denovo inquiry as per direction of Honorable Service Tribunal Khyber Pakhtunkhwa at GPS Kafar Banda against vacant post as PST on his own pay and grade with immediate effect.

Note:

1. No TA/DA is Allowed
2. Charge Report should be submitted to all concerned.

District Education Officer
(Male) Kohistan

Endstt: No. 1753-61 DEO (M) KH Dated Dassu the 07/03/2018
Copy of the above is forwarded to the

1. Director General, Secondary Education Khyber Pakhtunkhwa Peshawar
2. Registrar Khyber Pakhtunkhwa Service Tribunal Peshawar
3. Advocate General, Khyber Pakhtunkhwa Peshawar.
4. Deputy Commissioner Kohistan
5. Deputy District Education Officer (M) Kohistan
6. District Accounts Officer, Kohistan
7. ADEO (litigation) local office
8. PA to District Education Officer Male Kohistan.
9. Official concerned

ATTACHED

District Education Officer
(Male) Kohistan