

1st Mar, 2023

Clerk of learned counsel for appellant present. Mr. Muhammad Jan, District Attorney for respondents present.

Counsel are on strike. The case is adjourned. To come up for arguments on 17.05.2023 before D.B. PP given to the parties.

SCANNED
KPSI
Peshawar



(Rozina Rehman)
Member (J)



(Kalim Arshad Khan)
Chairman

25.08.2022

Appellant alongwith his counsel present. Mr. Naseer-ud-Din Shah, Assistant Advocate General for the respondents present and submitted para-wise comments on behalf of respondents, which is placed on file and copy of the same handed over to learned counsel for the appellant.

Learned Member (Judicial) Ms. Rozina Rehman is on leave, therefore, arguments could not be heard. Adjourned. To come up for arguments on 27.10.2022 before the D.B.



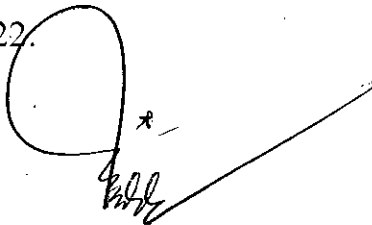
(Salah-Ud-Din)
Member (Judicial)

27.10.2022

Learned counsel for the appellant present. Mr. Naseer-ud-Din Shah, Assistant Advocate General for the respondents present.

Due to paucity of time, arguments could not be heard. Adjourned. To come up for arguments before the D.B on

05.12.2022.



(Mian Muhammad)
Member (E)




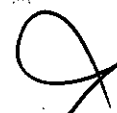
(Salah-ud-Din)
Member (J)

05th Dec. 2022

SCANNED
KPST
Peshawar

Counsel for the appellant present. Mr. Naseerud Din Shah, Assistant Advocate General for the respondents present.

Former seeks adjournment in order to further prepare the brief. Last opportunity is granted. To come up for arguments on 01.03.2023 before the D.B.



(Fareeha Paul)
Member (E)

(Kalim Arshad Khan)
Chairman

20.12.2021

Junior to counsel for the appellant and Mr. Muhamad Adeel Butt, Addl. AG alongwith Azmatullah, Litigation Officer for the respondents present.

The respondents have not submitted written reply/comments and seeks further time. Last opportunity is granted to the respondents to submit written reply/comments on or before next date with the warning that in case they fail to submit the written reply/comments their right for reply/comments shall be deemed as struck off by virtue of this order. Case to come up for arguments on 03.03.2022 before the D.B.

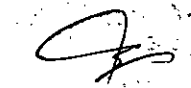

Chairman

03.03.2022

Due to retirement of the Worthy Chairman, the Tribunal is defunct, therefore, case is adjourned to 08.06.2022 for the same as before.


Reader.

8.6.22 Proper D.B is an hour, therefore,
The case is Adjourned to 25/8/2022
for same


Reader

Wahid Ullah 7039/2021

30.08.2021 Counsel for the appellant present. Preliminary arguments heard.

The appellant is aggrieved of the office order dated 10.03.2021 of respondent No.3. His departmental appeal dated 15.03.2021 did not see light of the day, hence, the instant service appeal instituted under Section-4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 on 13.07.2021. The issue involved in the instant service appeal is that the appellant is seeking consequential benefits for the intervening period between 20.07.2011 to 10.06.2016 after reinstatement in service under the Service Tribunal judgement in his service appeal No. 1760/2011 dated 05.06.2014 and Supreme Court Civil Petition No. 448-P/2014 dated 20.04.2016.

Points raised need consideration. The appeal is admitted to regular hearing, subject to all just and legal objections including limitation. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments in office within 10 days after receipt of notices, positively. If the written reply/comments are not submitted within the stipulated time or extension of time is not sought, the office shall submit the file with a report of non-compliance. File to come up for arguments on 20.12.2021 before the D.B.

Appellant Deposited
Security & Process Fee
2/9/21

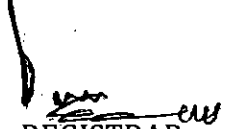


(Mian Muhammad)
Member(E)

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 7039 /2021

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	13/07/2021	<p>The appeal of Mr. Wahid Ullah presented today by Mr. Kamran Khan Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-		<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>30/08/21</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>

BEFORE THE KHYBER PAKHTUKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. _____/2021

WAHID ULLAH

VS

EDUCATION DEPT.

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APPELLANT

THROUGH:



KAMRAN KHAN
ADVOCATE

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. _____/2021

Mr. Wahid Ullah, SPST (BPS-14),
GPS, Shiringal, District Dir Upper.

..... **APPELLANT**

VERSUS

- 1- The Secretary (E &SE) Department, Khyber Pakhtunkhwa, Peshawar.
- 2- The Director (E &SE) Department, Khyber Pakhtunkhwa, Peshawar.
- 3- The District Education Officer, District Dir Upper.

..... **RESPONDENTS**

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 10-03-2021 WHEREBY THE INTERVENING PERIOD W-E-F 20-07-2011 TO 10-06-2016 I.E. FROM THE DATE TERMINATION TILL THE DATE OF RE-INSTATEMENT HAS BEEN TREATED AS LEAVE WITHOUT PAY AND AGAINST THE INACTION OF THE RESPONDENTS BY NOT DECIDING THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS.

PRAYER:

That on acceptance of this appeal the impugned order dated 10-03-2021 may very kindly be modified/rectified to the extent that the intervening period w-e-f 20-7-2011 to 10-06-2016 i.e. from the date of termination till the date of re-instatement may kindly be treated as period spent on duty by allowing consequential benefits to the appellant. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant.

R/SHEWETH:

ON FACTS:

Brief facts giving rise to the present appeal are as under:

R/SHEWETH:

1. That the appellant was initially appointed as PST (BPS-7) in the respondents department vide order dated 20-07-2011 against which the appellant submitted his arrival and started performing his duty with zeal and zest. Copies of the

appointment order dated 20-07-2011 and the arrival report are attached as annexure**A & B.**

2. That while performing his duties the appellant was terminated from his services vide order dated 7-10-2011 without assigning any cogent reasons. That appellant feeling aggrieved from the order dated 7-10-2011 preferred a service appeal No. 1760/2011. Copies of the termination order dated 7-10-2011 and service appeal are attached as annexure.....**C & D.**
3. That the mention service appeal of the appellant was allowed by this Honorable service tribunal vide its judgment dated 5-6-2014 to extent of reinstatement; however the issue of the back benefits was subject to the order of competent authority. Copy of the judgment dated 5-6-2014 is attached as annexure.....**E.**
4. That respondents challenged the judgment dated 5-6-2014 before the apex court of Pakistan, and the appeal of the respondents was also dismissed by the apex court of Pakistan vide its judgment dated 20-04-2016. Copy of the judgment dated 20-04-2016 is attached as annexure.....**F.**
5. That appellant was reinstated in to service in light of the judgment of this august service tribunal and the judgment of the apex court of Pakistan vide order dated 10-06-2016. Copy of the reinstatement order dated 10-06-2016 is attached as annexure.....**G.**
6. That vide reinstatement order the appellant was reinstated into service but unfortunately the intervening period has been treated as leave without pay, therefore the appellant preferred Departmental appeal before the respondents for the grant of back benefits but in vain. Copies of the representations/ applications are attached as annexure.....**H.**
7. That by not deciding the representations of the appellant, he preferred an execution petition No. 34/ 2020 before this august tribunal and during the pendency of that execution petition the impugned order dated 10-3-2021 was produced in the tribunal on 11-03-2021. Copies of the execution, order sheet dated 11-03-2021 and the impugned order dated 10-3-2021 are attached as annexure**I, J & K.**
8. That appellant feeling aggrieved from the impugned order dated 10-3-2021 preferred departmental appeal on 15-3-2021 but the same has not been decided within the statutory period of ninety days. Copy of the departmental appeal is attached as annexure**L.**

9. That having no other remedies the appellant preferred present service appeal on the following grounds amongst others.

GROUND:

- A- That the impugned orders dated 10-03-2021 is against the law, facts, norms of natural justice and materials on the record hence not tenable and liable to be modified/ rectified to the extent of back benefits.
- B- That appellant has not been treated by the respondent Department in accordance with law and rules on the subject noted above and as such the respondents violated Article 4 and 25 of the constitution of Islamic Republic of Pakistan 1973.
- C- That appellant was deprived from performing his services by an unlawful and illegal order of the respondents and the appellant has no fault in that, therefore the appellant is entitled for the back benefits.
- D- That as it is evident from the judgment of this august service tribunal and the judgment of the apex court of Pakistan that the respondents order was illegal and unlawful and the appellant was not at fault, hence it is the cardinal principle of natural justice that no one should be punished for the fault of other, therefore the appellant is entitled for the back benefits.
- E- That the respondents acted in arbitrary and malafide manner while issuing the impugned orders 10-03-2021.
- F- That the appellant seeks permission to advance other grounds and proofs at the time of hearing.

It is therefore, most humbly prayed that the appeal of the appellant may be accepted as prayed for.

Dated: 12-07-2021

APPELLANT
Wahid Ullah
WAHID ULLAH

THROUGH:

Kamran Khan
KAMRAN KHAN

Umer Farooq
UMER FAROOQ
ADVOCATES

AFFIDAVIT:

It is stated 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.

Wahid Ullah
DEPONENT



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A

OFFICE OF THE EXECUTIVE DISTRICT OFFICER E&SE DIR UPPER.

OFFICE ORDER.

Consequent upon their selection by the Departmental Selection Committee, the following male candidates are hereby appointed as PSTs in BPS-07 (5800-320-15400) plus usual allowances as admissible to them under the rules on UNION COUNCIL MERIT 40% on regular basis but without PENSION and GRATUITY in terms of Section -19 of the Civil Servants Act, 1973 as amended vide KHYBER PAKHTUNKHWA Civil Servants (Amendment) Act, 2005 bearing No.SOR-6(E&A/D)-13-1/2005 dated 10.08.2005 and adjusted in the schools noted against each name with immediate effect subject to the following terms and conditions in the interest of public service:-

Sl#	Name	Father's Name	Union Council	Qualification	Score/Merit	School where adjusted	Remarks
1	Hazrat Wahab	Ghulam Wahab	Bibyawa	FA/PTC	57.55	GPS Unkar	A.V.P
2	Hayatullah	Mohammad Iqbal	Brawal	BA/PTC	57.15	GPS Chapatpora	A.V.P
3	Mohammad Israr	Gul Zman	Brawal	BA/PTC	55.06	GPS Tanga	A.V.P
4	Mohammad Usman	Mohammad Azam Mohammad Zahir Shah	Darikand	MSc/PTC	57.52	GPS Kass Shingara	A.V.P
5	Mohammad Ismail		Darikand	MA/PTC	56.73	GPS Giro	A.V.P
6	Irfanullah	Mian Umar Zada	Darora	MA/PTC	57.08	GMPS Shaldan	A.V.P
7	Imran Khan	Rahmanuddin Mohammad Shah Wali Khun	Darora Doog Dorra	BA/PTC	56.46	GMPS Qawanay	A.V.P
8	Ihtiramul Haq			BA/PTC	56.96	GPS Shot Bala	A.V.P
9	Mohammad Akram	Mohammad Hakim	Garon	FA/PTC	57.73	GPS Baghro	A.V.P
10	Bahadar Khan	Pacha	Gwaldi	MA/PTC	58	GPS Narkoon	A.V.P
11	Usman Ali	Hazrat Ghulam	Gwaldi	BA/PTC	57.89	GPS Kundkiw	A.V.P
12	Mohammad Ikram	Khan Wali	Gwaldi	MA/PTC	57.06	GPS Gurrat	A.V.P
13	Bahadar Zaib	Bardshah Zamin	Jabar	BA/PTC	57.67	GMI'S Senor	A.V.P
14	Abdullah	Pajlas Khan	Kalkol	FA/PTC	56.64	GPS Mako Kunrat	A.V.P
15	Jehanullah	Khaista Rahman	Pajam	BA/PTC	56.36	GPS Gorkohay	A.V.P
16	Zahor Ilahi	Fazal Ilahi	Palam	BA/PTC	55.43	GPS Kass Barkand #1	A.V.P
17	Mirza Khan	Akbar Khan	Patrak	BA/PTC	54.41	GMPS Dogal	A.V.P
18	Rasool Khan	Fazal Rahman	Patrak	BA/PTC	54.37	GMPS Chamkol	A.V.P
19	Wahidullah	Gul Azim Khan	Patrak	BA/PTC	54.33	GPS Boshu No.1	A.V.P
20	Amanullah	Umar Sa Khan	Sawnai	BA/PTC	58.26	GPS Daqoor	A.V.P
21	Mohammad Usman	Mohammad Shouaib	Sawnai	BA/PTC	57.42	GPS Vegai	A.V.P
22	Fazal Zada	Shah Nazir	Shahikot	BA/PTC	56.03	GPS Sawansar	A.V.P
23	Dawood Shah	Salar Khan	Shahikot	BA/PTC	54.6	GPS Sro Kaly	A.V.P
24	Ali Rahman	Aqal Rahman	Tarpalar	BA/PTC	54.26	GMPS Ganshall Bala	A.V.P
25	Liaqat Ali	Sar Zamin	Akhagran	BA/PTC	57.03	GMI'S Gorkand	A.V.P
26	Mohammad Ilyas	Ihsanul Haq	Akhagran	BA/PTC	56.86	GMPS Chindog	A.V.P
27	Rahatullah	Azizul Hakim	Akhagran	BA/PTC	55.81	GPS Gul Bagha Payoon	A.V.P
28	Azmat Khaliq	Ghulam Khaliq	Akhagran Bandi	BA/PTC	55.67	GPS Darokai	A.V.P
29	Amir Sawab	Nadar Khan	Wari	BA/PTC	57.55	GPS Badnai Bala	A.V.P
30	Saeedullah	Sazbar Khan	Chapar	BA/PTC	57.67	GPS Ballei Payoon	A.V.P
31	Inayatullah	Mohammad Zaman	Chapar	BA/PTC	56.28	GPS Gato	A.V.P
32	Jamil Ahmad	Sahibzada	Chapar	BA/PTC	55.54	GPS Samai	A.V.P
33	Imran	Ali Headar	Dislower	BA/PTC	57.84	GMPS Wazir Abad	A.V.P
34	Niamat Khaliq	Ghulam Khaliq	Dislower	MA/PTC	57.78	GPS Charkom BK	A.V.P
35	Nazir Gul	Niaz Gul	Dislower	BA/PTC	57.73	GPS Charkom Bala	A.V.P
36	Iqbal Rawan	Ras Mohammad	Nihag	MA/PTC	57.65	GPS Karbada	A.V.P
37	Hafizur Rahman	Gul Manan	Pashta	BA/PTC	56.72	GPS Kass Mirora	A.V.P
38	Latif Ahmad	Sher Ahmad	Sundail	BA/PTC	59.05	GPS Kandaw Maskari	A.V.P

TERMS AND CONDITIONS.

- 01- The appointees will be on probation for a period of one year in terms of Rule 15(1) of KHYBER PAKHTUNKHWA Civil Servants (Appointment, Promotion and Transfer) Rules 1989.
- 02- The Certificates /Degrees of the appointee will be verified from the concerned institutions. No pay etc is allowed before verification of certificates/degrees.
- 03- Their academic, professional and domicile certificates will be verified on their own expenses from the institutions concerned. No pay etc will be released before the verification of certificates. If the documents found fake and bogus, their service will be terminated and proper FIR will be lodged against the accused in the Anti-Corruption Department.

ATTESTED

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- 04- Their Services will be considered as regular but without pension and gratuity in terms of 19 of KHYBER PAKHTUNKHWA Civil Servants Act 1973 as amended by KHYBER PAKHTUNKHWA Civil Servants Act 2005.
- 05- They will contribute C.P Fund @ 10 % of the minimum of pay and 10 % contribution will be borne by the Government.
- 06- The appointees will provide Health and age certificate from the concerned Medical Superintendent.
- 07- Their age should not be less than 18 years and above 35 years.
- 08- The appointees will be governed by such rules and regulations /policies as prescribed by the Government from time to time.
- 09- If the appointees fail to take over charge with in fifteen days after issuance of this order their appointments may be deemed as automatically canceled.
- 10- Charge report should be submitted to all concerned.
- 11- No TA /DA is allowed.
- 12- The errors and omissions in merit etc if found at any stage can be rectified and the affected will have no right to claim the order already issued.
- 13- The appointees will strictly abide the terms and conditions laid down therein.
- 14- The appointees will take over charge of their duty w.e.f 01.08.2011.

(Ziaud Din)
 EXECUTIVE DISTRICT OFFICER,
 ELEMENTARY AND SECONDARY EDUCATION
 DIR UPPER.

No 5036-41 /F-03/EDO/E&SE/ADO(P) Dated 20/07/2011

Copy forwarded to the

- 01- District Coordination Officer Dir Upper.
- 02- P. S to Secretary Elementary and Secondary Education Department KHYBER PAKHTUNKHWA Peshawar.
- 03- Director Elementary and Secondary Education KHYBER PAKHTUNKHWA Peshawar.
- 04- District Accounts Officer Dir Upper.
- 05- Deputy District officer MALE Dir & War.
- 06- Appointees concerned.

Ziaud Din
 EXECUTIVE DISTRICT OFFICER,
 ELEMENTARY AND SECONDARY EDUCATION
 DIR UPPER

ATTESTED

B. (7)

جارج راجپوت

میں نے آج پورے گرانٹ سے اس کے آگے آگے اور امداد دفتر ای ڈی اور گرانٹ سے
لمتعلق آرڈر نمبر 5036 کے ذریعے گرانٹ کے سیکولر سٹوڈنٹس میں اپنے گرانٹ سے
جارج راجپوت مبلغ 730 روپے سے متعلق ہے۔

جارج راجپوت
وہمہ

جارج راجپوت
Head Teacher
P.S. Beshnoor
District of Jullundur

ATTESTED

ANNEXURE C 8

BETTER COPY

OFFICE OF THE EXECUTIVE DISTRICT OFFICER (E&SE)
DIR UPPER.

OFFICE ORDER.

Mr. Wahidullah son of Gul Azim Khan R/O Union Council Patrak was appointed as PST teacher at GPS Besho No.1 on the basis of Union Council merit of W/C Patrak vide this office order No. 5036-1-03/AD^o (E&SE)(AD^o)(P) dated 20-07-2011 at serial No.19.

On verification of his domicile certificate it has been proved that he is double domicile holder one of Union Council Gwaldai while the other is Union Council Patrak. The District Officer Revenue & Estate Dir Upper has cancelled the domicile of Union Council Patrak vide office order No. 3376-30/DOR/2A/G dated 29-08-2011.

Therefore, his services are hereby terminated from the date of his appointment.

Sd/-

Executive District Officer
Elementary and Secondary Education
Dir Upper.

No. 6520-28/F-03/AD^o/E&SE/AD^o(P) dated 7-10-2011

ATTESTED

17 8 8

OFFICE OF THE EXECUTIVE DISTRICT OFFICER E&SE DIR UPPER

OFFICE ORDER

Mir Waidullah son of Gul Azim Khan R/O Union Council Patrak was appointed as P.S.T teacher at G.P.S. Besho No.1 on the basis of Union Council order of U/C Patrak vide this office order No:5030-F-03/EDO(E&SE/ADO) dated 29.07.2011 at S.No.111

On verification of his domicile certificate it has been proved that he is a domicile holder one of Union Council Gwaldar while the other is union council Patrak. The District Officer Revenue & Estate Dir Upper has cancelled the domicile of union council Patrak vide office order No.3376-80/ADO(E&SE) dated 29.08.2011.

Therefore his services are hereby terminated from the date of his appointment.

EXECUTIVE DISTRICT OFFICER
ELEMENTARY AND SECONDARY EDUCATION
DIR UPPER.


No. 6520-28 /F-03/EDO/E&SE/ADO(P) Dated 7/10/2011

Copy forwarded to the

- 01- District Coordination Officer Dir Upper
- 02- District Officer Revenue & Estate Dir Upper
- 03- P.S. to Minister Elementary and Secondary Education Department Khyber PAKHTUNKHWA Peshawar
- 04- P.S. to Secretary Elementary and Secondary Education Department Khyber PAKHTUNKHWA Peshawar
- 05- Director Elementary and Secondary Education KHYBER PAKHTUNKHWA Peshawar
- 06- District Accounts Officer Dir Upper
- 07- Deputy District officer Male Dir
- 08- Official concerned

For information and necessary action

DPO(m) Dm


EXECUTIVE DISTRICT OFFICER
ELEMENTARY AND SECONDARY EDUCATION
DIR UPPER

ATTESTED

ANNEXURE 'D'

9

BEFORE THE SERVICE TRIBUNAL K.P.K., PESHAWAR

Service Appeal No. 1760 /2010

Wahidullah (Ex-PTC)Appellant

Versus

Govt. of K.P.K., through Secretary Elementary & Secondary Education Department Peshawar & others
.....Respondents

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4	Copy of the charge report	'B'	11
5	Copy of the said letter	'C'	12
6	Copy of the application alongwith the I.D.Card grandfather of the appellant	'D','E'	13-14
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8	Copy of the appeal along with the comments and dismissal order	'G' & 'H'	18-22
	Wakaltnama		

Through Appellant
Ghulam Nabi
Ghulam Nabi
Advocate Supreme Court
&
Abdul Qayyum
Abdul Qayyum
Advocate High Court

ATTESTED

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BEFORE THE SERVICE TRIBUNAL K.P.K., PESHAWAR

Service Appeal No. 1760 /2011

Wahidullah S/o Gul Azeem Khan (Ex-PTC)

GPS Besho No. 1

R/o Dambarkon Union Council Patrak

Tehsil Kalkot

District Dir Upper.....Appellant

S. W. J. Durrani
Secretary
No. 1746
01/11/2011

Versus

1. Secretary to Govt. of K.P.K., Elementary & Secondary Education, Peshawar.
2. Director Elementary & Secondary Education K.P.K., Peshawar.
3. District Coordination Officer District Dir Upper.
4. Executive District Officer, ^{Edel} District Dir Upper.

.....Respondents

Appeal u/s 4 of KPK Service Tribunal Act, 1974 against the impugned order dated 07.10.2011, whereby the service of the appellant has been terminated.

Prayer:

~~Filed to the~~

[Signature]

1/11/2011

On acceptance of this appeal this Honourable Tribunal may be pleased to set-aside the impugned order dated 07.10.2011 and the appellant be reinstated to his service with all back benefits.

ATTESTED

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Respectfully Sheweth:

1. That the respondent No. 4 advertised some posts in the teaching cadre including the post of PTC.
2. That the appellant being qualified for the said post applied for the post of PST (BPS-07) and submitted his application along with the requisite qualification documents.
3. That after going through all the prescribed procedure/process of the appointment a merit list was prepared by the respondent department, thereby the appellant secured 54.33 marks and was appointed on the union council quota at Govt. Primary Besho No. 1 situated at Union Council Patrak. (Copy of the appointment letter dated 20.07.2011 is attached herewith as Annexure-'A').
4. That the appellant then took over his charge report at the above said school on 1st August, 2011. (Copy of the charge report is attached herewith as Annexure-'B').
5. That the appellant has been serving in the above noted school for more than two months to the utmost satisfaction of his highups as well as the student community and has given no chance of any complaint throughout his tenure of service.
6. That to the astonishment of the appellant he was served with an office order dated 07.10.2011,

ATTESTED

whereby the services of the appellant were terminated from the date of his appointment. (Copy of the said letter is attached herewith as Annexure-'C').

7. That the reason for the termination as mentioned in the above said letter was that the appellant was a double domicile holder of village Narkoon Union Council Gwaldi while the other is Union Council Patrak Village Dambarkon Tehsil Kalkot.
8. That the appellant has already submitted his application for the cancellation of his Domicile with regard to Village Narkoon Union Council Gwaldi, as the grand father of the appellant belong to village Dambarkon Union Council Patrak. (Copy of the application alongwith the I.D.Card grandfather of the appellant is attached herewith as Annexure-'D','E').
9. That this will be pertinent to bring into the kind notice of this Honourable Tribunal that the grandfather of the appellant was the resident as well as the property holder of the Union Council Patrak in Village Dambarkon.
10. That the appellant has also filed a civil suit against the concerned authorities with regard to the cancellation of the domicile of the appellant relating to the village Narkoon Union Council Gwaldi and the case is still under adjudicating before the

ATTESTED

competent court. (Copy of the plaint is attached herewith as Annexure-'F').

11. That the appellant filed a departmental appeal before the competent authority against his termination and the said appeal was dismissed by the appellate authority on 22.10.2011. (Copy of the appeal along with the comments and dismissal order is attached herewith as Annexure-'G', 'H').
12. That the appellant now approaches this Honourable Tribunal on the following grounds amongst the others.

Grounds

- a) That the said order of termination of the appellant are illegal unlawful without authority/jurisdiction and being based on the malafide intentions of the respondent department are liable to be set-aside.
- b) That the appellant has been taken to the surprise while issuing the above said impugned order and no chance of hearing whatsoever has been given to the appellant. Hence the appellant has been condemned unheard.
- c) That no show cause notice/statement of allegation has been issued in this respect before passing the above said impugned order nor his process/procedure as prescribed under the relevant rules for the enquiry proceedings have

ATTESTED

been adopted, hence the order has been passed without adopting the prescribed legal procedure.

- d) That the appellant is duly qualified for the above said post and has been appointed by the competent authority, hence nobody whatsoever it may be has got any right to terminate the service of the appellant in such a simplicator manner without adopting the proper procedure.
- e) That the appellant has got the legal and lawful domicile of Union Council Patrak Village Dambarkon and the said domicile is still valid for the appellant, hence the appointment of the appellant in the above said union council could not be terminated before the cancellation of the above said domicile by the competent authority.
- f) That the appellant is agreed upon to retain his domicile for Village Dambarkon Union Council Patrak and also trying to cancel his domicile for Union Council Gwaldi Village Narkoon , still the respondent department is bent upon to terminate the service of the appellant.
- g) That the above said act of the respondent department is not only unlawful but also unconstitutional for the reason that he has not been treated as according to the law and a discriminatory attitude has been adopted to the appellant, furthermore his constitutional right for

ATTESTED

15.

earning his livelihood has been snatched thereby
on issuance of the above said letter.

It is, therefore, prayed that on acceptance of this
Service Appeal the termination order of the appellant
dated 07.10.2011 being illegal unlawful without
authority/jurisdiction and being based on the malafide
intentions of the respondent department be set-aside
and the appellant very kindly be reinstated to his
service with all his back benefits.



Appellant

Through



Ghulam Nabi
Advocate Supreme Court

&



Abdul Qayyum
Advocate High Court

ATTESTED

16

BEFORE THE SERVICE TRIBUNAL K.P.K., PESHAWAR

Service Appeal No. _____/2010

Wahidullah S/o Gul Azeem
R/o Dambarkon Union Council Patrak
Tehsil Kalkot
District Dir Upper.....Appellant

Versus

Govt. of K.P.K., through Secretary Elementary & Secondary
Education Department Peshawar & others
.....Respondents

AFFIDAVIT

I, Wahidullah S/o Gul Azeem R/o Dambarkon Union Council Patrak Tehsil Kalkot District Dir Upper do hereby solemnly affirm and declare on oath that contents of the accompanying Service Appeal are true and correct to the best of my knowledge and belief and nothing has been kept concealed from this Honourable Tribunal.

Deponent

ATTESTED

01 NOV 2011

ATTESTED

S.No. of order or proceedings	Date of Order or proceedings.	Order or other proceedings with signature of Judge or Magistrate and that of parties where necessary.
1	2	3
	5.6.2014	<p style="text-align: center;"><u>Appeal No.1760/2011</u> (<u>Wahidullah-vs-Secretary, E&SE, Peshawar and three others.</u>)</p> <p>Appellant with counsel, M/S Khurshid Khan, SO for respondent No. 1, Sajjad Rashid, AD for respondent No. 2 and Pir Muhammad, ADO for respondents No. 3 & 4 with AAG present. Arguments heard and record perused.</p> <p>During the course of his arguments, the learned counsel for the appellant submitted a copy of the judgment dated 27.2.2013 by the Senior Civil Judge/Aala Illaqa Qazi, Dir Upper, whereby a decree for issuance of domicile of Union Council Patrak Dambarkon has been passed in favour of the appellant against respondent No.3 and two others.</p> <p>The case of the appellant, Wahidullah, as gleaned from the appeal, is that he was validly and lawfully appointed against the post of PST (BPS-7) after fulfilling the requisite qualification and meeting the required criteria. The appellant claimed that after undergoing the prescribed procedure/process of appointment, he was appointed against the quota of Union Council Patrak and posted at GPS Besho No.1, situated in the same Union Council. According to appellant, he reported arrival and started serving the department, but suddenly his services were terminated vide impugned order dated 7.10.2011. The termination order was based on the ground that the appellant was holding double domicile of village Narkoon Union Council Gwaldi as well as Union Council Patrak village Dambarkon Tehsil Kalkot. The appellant claimed that he had already applied for cancellation of his domicile pertaining to village Narkoon Union Council Gwaldi as his grandfather originally belonged to village Dambarkon Union Council</p>

Patrak. It was further brought to the notice of the Tribunal, in the appeal, that the appellant had lodged a civil suit for cancellation of his domicile of village Narkoon Union Council Gwaldi, which was pending adjudication before competent court. On the receipt of impugned order dated 7.10.2011, the appellant preferred departmental appeal on 10.10.2011, which was filed/rejected by the appellate authority i.e District Coordination Officer, Dir Upper (Respondent No.3) vide memo dated Nil/10/2011, hence this appeal on 01.11.2011, inter-alia, on the grounds that the order was illegal and without jurisdiction and that no notice was issued prior to the impugned termination order. The appellant claimed that he was duly qualified for the post and was validly and lawfully appointed, but his appointment order was cancelled and his services terminated on the ground which was taken to the Court and was sub-judice in the competent court of law.

The respondents resisted the appeal on several grounds including the main ground that the other two candidates for the post, namely, Raees Ahmad and Liaqat Ahmad complained about double domicile of the appellant, which was enquired into through DOR Dir Upper, and on the receipt of his inquiry report and cancellation of domicile of the appellant pertaining to Union Council Patrak (Damberkoon), the services of the appellant were terminated. The respondents informed that a proper FIR will also be lodged against the appellant.

The appellant also filed rejoinder, wherein, he refuted allegations of the respondents and reiterated his case; where-after arguments of the learned counsel for the appellant and learned AAG heard.

ATTESTED

It is an admitted fact that the appellant was appointed as PST in BPS-7 on Union Council merit 40% and posted at GPS Besho No.1 in Union Council Patrak vide order of the Executive District Officer, E&SE, Dir Upper (Respondent No.4) dated 20.7.2011. The appellant has placed on file his charge report dated 01.8.2011. The services of the appellant were, however, terminated from the date of his appointment by respondent No.4 vide order dated 7.10.2011 on the ground that on verification of his domicile certificate the DOR&E, Dir Upper found the appellant holder of double domicile and, as such, cancelled his domicile of Union Council Patrak vide order dated 20.8.2011.

In support of his plea with regard to cancellation of his domicile pertaining to Union Council Gwaldi, the appellant placed on file his application for cancellation of his other domicile pertaining to Union Council Gwaldi moved to the DOR Dir Upper on 1.10.2009, alongwith a photo copy of National Identity Card of his grandfather showing his residence as Dambarkon Patrak Tehsil Kalkot, and a copy of his suit in the Court of Senior Civil Judge/Aala Illaqa Qazi, Dir Upper. Today, the learned counsel for the appellant also submitted a copy of the judgment of Senior Civil Judge/Aala Illaqa Qazi, Dir Upper dated 27.2.2013, whereby his suit for domicile of Dambarkon Patrak, has been decreed in favour of the appellant.

While placing reliance on the judgment of the august Supreme Court of Pakistan, reported as 2004 PLC(C.S) 992 (Supreme Court of Pakistan), the learned counsel for the appellant argued that services of the appellant have been terminated without serving him with show cause notice prior to the impugned order and providing him opportunity of hearing; while, on the other hand, the learned AAG stated that the termination order was made by the competent authority after holding inquiry into the matter of double domicile of the

appellant through DOR Dir Upper, who also cancelled domicile of the appellant pertaining to Union Council Patrak.

Needless to say that even in the case of an inquiry, the appellant had a vested right, in the light of the aforesaid judgment of the august Supreme Court of Pakistan, to be served with a show cause notice before termination of his services, especially so when he was legally and lawfully appointed, following which he had taken over charge and performed duties. In other words, services of the appellant could not be terminated from the date of appointment by respondent No. 4 by simply referring to the act of the DOR of cancellation of domicile of the appellant pertaining to Union Council Patrak. Besides, the order of the appellate authority i.e respondent No. 3 also shows non-application of mind by the appellate authority as the same has been made 'on the grounds mentioned in your (respondent No. 4) above letter'.

Moreover, a decree with regard to domicile of Union Council Patrak in favour of the appellant by Senior Civil Judge/Aala Illaqa Qazi, Dir Upper is also a development subsequent to the institution of the appeal and, obviously, before the impugned order of termination as well as filing of the appeal of the appellant by the appellate authority, which needs to be taken into consideration by the competent authority for a just and proper order in the case.

In the light of foregoing discussion, the appeal is accepted and both the impugned orders dated 7.10.2011 of the competent authority and that of appellate authority dated nil/10/2011 are set aside. Resultantly, the appellant is reinstated in service, and the case is remanded/sent back to the competent authority for an order afresh, in accordance with law, of course, after serving the appellant with a show cause notice, if need be, within reasonable time, but not beyond the period of one month after receipt of this judgment/order. The issue

ATTESTED

of back benefits, if any, will be subject to the decision/order of the competent authority. In case the appellant is still aggrieved of the order of the competent authority, he may have recourse to the remedy available to him under the law. There shall, however, be no order as to costs.

ANNOUNCED

5.6.2014



MEMBER



CHAIRMAN

~~ATTESTED~~

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ANNEXURE - F

IN THE SUPREME COURT OF PAKISTAN
(APPELLATE JURISDICTION)

PRESENT:

MR. JUSTICE EJAZ AFZAL KHAN
MR. JUSTICE SARDAR TARIQ MASOOD

CIVIL PETITION NO. 448-P OF 2014

(On appeal against the order dated 05.06.2014 passed by
Service Tribunal KPK, Peshawar in S.A. No. 1730 of 2011)

Govt. of KPK through Secretary Elementary &
Secondary Education Peshawar & others

...Petitioner (s)

Versus

Wahidullah

...Respondent(s)

For the petitioner(s): Mr. Abdul Latif Yousafzai, A.G. KPK

For the respondent(s): Mr. Ghulam Mehboob Khokhar, ASC

Date of Hearing: 20.04.2014

ORDER

EJAZ AFZAL KHAN, J.

This petition for leave to appeal has arisen out of the judgment dated 05.06.2014 of the Service Tribunal whereby it allowed the appeal filed by the respondent, reinstated him into service and directed the competent authority to proceed against him afresh in accordance with law.

2: On the last date of hearing, this Court having heard the learned Additional Advocate General, KPK, expressed regret and surprise over the poor working of the law department in pursuing the cases which more often than not resulted in delayed institution of appeals or petitions for leave to appeal. The learned Advocate General, KPK appearing in person stated at the bar that one of the officers working in the office of Advocate General, KPK, who had been instrumental in delayed institution of appeals and petitions for leave to appeal has been proceeded against and dismissed from service while proceedings against other officers of alike ilk in the other departments are in the pipeline and would soon be finalized.

2: Learned Advocate General, KPK while addressing arguments in the petition stated straight off that he would not press the petition against the impugned judgment of the Service Tribunal reinstating the respondent

ATTESTED

ATTESTED

Deputy Secretary

~~11~~

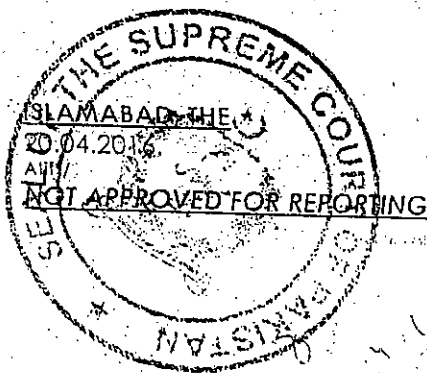
23

and directing inquiry de-novo as he was dismissed from service without issuing any Show Cause Notice. Even otherwise, we do not find any plausible explanation for filing this appeal with a delay of seven days. We therefore dismiss this petition for leave to appeal together with the application of condonation of delay and suspension of the impugned judgment. However we direct all the concerned departments to identify the black sheep who sit, sleep and snore over the extremely important matters with the result that no appeals or petitions for leave to appeal are filed within time. The job be done as soon as possible lest of the departments of the Government in general and law department in particular is damaged beyond repair.

Sd/- Ejaz Afzal Khan, J
Sd/- Sardar Tariq Masood, J

Certified to be true Copy

Court Associate
Supreme Court of Pakistan
(Islamabad)



ATTESTED

[Handwritten signature]

GR No: 1926/15 Civil/Criminal

Date of Production: 20/04/16

No of Words: 100

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Requisition: 10

Copy Fee: 1000

Court Fee: 1000

Date of Completion: 20/04/16

Date of delivery of copy: 20/04/16

Compared by: [Signature]

Received by: [Signature]

~~ATTESTED~~



OFFICE OF THE DISTRICT EDUCATION OFFICER
MALE DIR UPPER

24

PH No. 0944-881400-Fax-880411 E-mail emisdirupper@gmail.com

OFFICE ORDER

ANNEXURE-

Mr, Wahidullah S/O Gul Azim Khan Resident of Damber Koon Union Council Patrak is hereby re-instated (reference his previous appointment order No. 5036-41/F.No.03/EDO(E&SE)/ADO(P) Estt Dated 20-07-2011) against the post of Primary School Teacher (PST) Male at GMRS, Manigat Doag Dara in BPS-12 on regular basis under the existing policy of the Provincial Government, in service in the light of Hon; Service Tribunal Judgment passed on 05-06-2014 and as well as the August Supreme Court of Pakistan Judgment passed on 20-04-2016. The seniority will be intact from the date of 1st appointment.

(Moinud Din Khattak)
District Education Officer
(Male) Dir Upper

No. 2270-75 /F.No.03/DEO(M)/ADO(P)Estt;

Dated Dir, the 12/06/2016.

Copy forwarded for information and necessary action to the ;-

- 01.. Director of Elementary & Secondary Education Khyber Pakhtun Khwa, Peshawar.
- 02.. District Account officer Dir Upper.
- 03.. Dy; District Education Officer male Dir Upper.
- 04.. Sub; Divisional Education Officer (Male) Dir Upper.
- 05.. Official concerned.
- 06.. M. File.

Moinud Din Khattak
District Education Officer
(Male) Dir Upper
12/06/16

ATTESTED
12/06/16

ATTESTED

بخدمت جناب ڈائریکٹر ایلیمینٹری اینڈ سیکنڈری ایجوکیشن، خیبر پختونخوا، پشاور

25

ANNEXURE H

تعمیل کرنے والی فیصلہ از Back Benefits درخواست بمراد

جناب عالی!

مؤدبانہ گزارش کی جاتی ہے کہ سائل آپ کے زیر سایہ مورخہ 20.07.2011 کو ڈسٹرکٹ ایجوکیشن آفیسر دیر آپ کے احکامات کے مطابق بھرتی ہوا۔ سائل کو ڈومیسائل کی بنا پر نوکری سے مورخہ 07-10-2011 کو ختم کیا۔ سائل نے اس آرڈر کے خلاف سروس ٹریبونل میں کیس دائر کیا جو مورخہ 05-06-2014 کو سائل کے حق میں فیصلہ ہوا۔ جس کے بعد محکمہ نے سپریم کورٹ میں سائل کے خلاف کیس دائر کی جو خارج ہو گیا۔ دونوں عدالتوں کے فیصلے آنے کے کچھ عرصہ بعد سائل کو مورخہ 10.06.2016 نوکری پر بحال کر دیا گیا۔ سائل کو اس آرڈر میں بھرتی کے دن سے ہی سینیاریٹی بھی دی گئی لیکن 'back benefits' کے متعلق کچھ ذکر تک نہیں کیا۔ سائل نے آفسران سے بارہا منت سماجت کی اور DEO پر دیر کو بھی اس سے پہلے کئی درخواستیں دی ہے لیکن سائل کے درخواستوں پر کوئی شنوائی نہیں ہوئی اور آج تک سائل کا مسئلہ حل نہیں ہوا۔ اسلئے آپ صاحبان سے التجاء کی جاتی ہے کہ سائل کو عدالتی فیصلہ کی روشنی میں Back Benefits ادا کیے کے احکامات صادر فرمائیں۔ سائل عمر بھر آپ کا مشکور و ممنون رہے گا۔

العارض

آپ کا فرمانبردار
واحد اللہ

PST

گٹ دیر اپر

ATTESTED
to be true
A.O.S.

ATTESTED

The District Education Officer (Male),
District Dir Upper.

Subject: Application For Implementing Service Tribunal Judgment
Regarding Back Benefits

Sir,

With due respect it is stated that I am submits with following requests

1. I am bonafide resident of Union Council Patrak.
2. I was appointed as Primary School Teacher vide order no. 5036-41 dated 20-07-2011 at Serial No. 19 of order.
3. Later on I was terminated from service vide order no. 6520-28 dated 07-10-2011.
4. I challenged the said termination order in local court and later on in Khyber Pakhtunkhwa Service Tribunal.
5. The Khyber Pakhtunkhwa Service Tribunal accepted my service appeal vide order dated 05-0-2014 and directed the respondents for re-instatement in service and granting back benefits.
6. I was re-instated in to service vide order no. 2270-75 dated 10-06-2016 and seniority was also given to me from the date of my appointment but the matter of back benefit was not touched.
7. I personally approached this office for several time but it is not resolved.

In view of the above given facts it is humbly requested that I may be given the back benefits as per the court decision.

Yours Obediently

Wahidullah to Gul Azim

PST GMPS Mani GAT, Dir Upper

ATTESTED

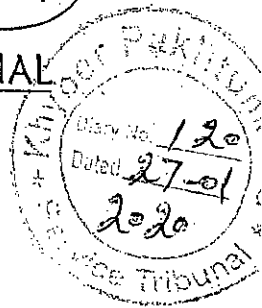
to 
Associate

~~ATTESTED~~

ANNEXURE I

27

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR



EXECUTION PETITION NO. 34 /2020
IN
APPEAL NO. 1760/2011

MR. WAHID ULLAH s/o Gul Azeem Khan, SPST (BPS-14),
Govt. Primary School, Shiringal Dir Upper,
r/o Dambarkon, UC-Patruk, Tehsil Kalkot District Dir Upper.
..... PETITIONER

VERSUS

1. THE GOVT. OF KHYBER PAKHTUNKHWA,
through SECRETARY, Elementary & Secondary Education, Civil
Secretariat, Peshawar.
2. THE DIRECTOR (Elementary & Secondary Education),
Khyber Pakhtunkhwa, near Govt. Hasnain Shaheed High School,
Peshawar.
3. THE DISTRICT EDUCATION OFFICER,
District, Dir Upper.

..... RESPONDENTS

EXECUTION PETITION FOR DIRECTING THE RESPONDENTS
TO OBEY THE JUDGMENT DATED 05-06-2014 IN ITS TRUE
LETTER AND SPIRIT

R/SHEWETH:
ON FACTS:

*Brief facts giving rise to the present execution petition are
as under:*

- 1- That petitioner was initially appointed as PST vide order dated 20.07.2011 which was later on cancelled vide order dated 07-10-2011 against which the petitioner filed Service Appeal No. 1760/2011 after fulfilling all the legal formalities required for filing of Service Appeal before the Khyber Pakhtunkhwa Service Tribunal.
- 2- That the appeal of the appellant was accepted in favour of the appellant in its detail judgment dated 05-06-2014 in which the impugned cancellation order dated 07-10-2011 has been set aside and the appellant has been reinstated into service.

Copy of the judgment dated 05.06.2014 is
attached as ANNEXURE A.

ATTESTED

ANNEXURE - J


28

11.03.2021

Petitioner with counsel present. Addl: AG alongwith Mr. Ahmad Hussain, Litigation Officer for respondents present.

Learned AAG produced order dated 10.03.2021, whereunder the petitioner has been reinstated in service from the date and seniority as it stood on his first appointment. Copy of the said office order is handed over to the learned counsel for the petitioner. Learned counsel for the petitioner submitted before the court that he does not want to further pursue his case, therefore, the instant execution petition is hereby disposed of being executed. File be consigned to the record room.

Announced:
11.03.2021


(Mian Muhammad)
Member (E)

~~ATTESTED~~



ANNEXURE K (29)

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



PH No. 0944-881400

E-mail: deomdirupper@gmail.com

No. 4399/05/F.No/DEO (M)/ADO (P) Estab:

Dated Dir Upper 10/03/2021.

OFFICE ORDER

In continuation of office order No. 2270-75 dated 10-06-2016 that Mr. Wahidullah S/O Gul Azim Khan resident of Damber Koon U/C Partak is hereby re-instated with reference to previous appointment No. 5036-41/F. No 03 DEO (E&SE)/ ADO (P) Estt. dated 20-07-2011) against the post of Primary School Teacher (PST) Male at GMPS Manigat Doag Dara in BPS-12 on regular basis under the existing policy of the Provincial Government and in the light of Judgment passed on 05-06-2014 by the service tribunal and as well as judgment passed on 20-04-2016 by the Supreme Court of Pakistan. The seniority is intact from the date of 1st appointment.

It is further clarified that appellant Mr. Wahidullah PST is not entitled to be granted back benefits/ financial benefits as he did not perform his duty from 20-07-2011 to 10-06-2016.

Sd
DISTRICT EDUCATION OFFICER
MALE DIR UPPER

Endst: Even No. & date.
CC to:-

01. Director Elementary & Secondary Education Department KP at Peshawar.
02. District Accounts Officer Upper Dir.
03. Dy. District Education Officer (M) Upper Dir.
04. Sub-Divisional Education Officer (M) Dir.
05. Official concerned.
06. M. File.

[Signature]
DISTRICT EDUCATION OFFICER
MALE DIR UPPER

~~SECRET~~

To

THE DIRECTOR (E&SE),
Government of Khyber-Pakhtunkhwa,
Education Department, Peshawar

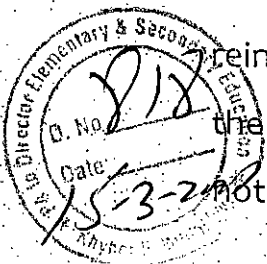
Subject: DEPARTMENTAL APPEAL AGAINST THE ORDER DATE 10-03-2021
FOR THE GRANT OF BACK BENEFITS

Sir,

Most respectfully, it is stated that I am permanent resident of Dambarkon Union Council Patrak Tehsil Kalkot District Dir (Upper). I was initially appointed as PST vide order dated 20-07-2011 which was later on cancelled and I was terminated from service vide order dated 07-10-2011. I challenged the termination order dated 07-10-2011 in Service Appeal No. 1760/2011 before the Service Tribunal Khyber Pakhtunkhwa which was very graciously allowed vide judgment dated 05-06-2014 by setting aside and declaring the impugned order dated 07-10-2011 as "Audi alteram partem" and direction was issued for my reinstatement.

The Department challenged the judgment dated 05-06-2014 before Supreme Court of Pakistan by filing CPLA which was dismissed vide judgment dated 20-04-2016, hence, implementing the judgment passed by Service Tribunal Khyber Pakhtunkhwa and decision passed issued by the august Supreme Court of Pakistan I was issued with the reinstatement order dated 10-06-2016 and as reinstated on service from the date of my first appointment i.e. 20-07-2011 along with seniority, but nothing was written regarding back benefits.

I filed several application for my back benefit and the outstanding salaries for which I served from 20-07-2011 to 07-10-2011 but all in vein hence, I filed Execution Petition No. 34/2020. After a passage of sufficient time reply and execution order dated 10-03-2021 was issued from the office of District Education Officer (Male) Dir Upper by making necessary modification in my reinstatement order dated 10-06-2016 and refusing the back benefit with the plea that I am not entitle for the grant of back benefits/financial benefits as I did not performed my duty from 20-07-2011 to 10-06-2016.



~~ATTACHED~~

The said modified order dated 10-03-2021 is passed by the DEO (Male) Dir Upper without application of mind and is passed in as hasty manner.

After submission of my arrival on my initial appointment in 2011, I have performed my duty till termination order dated 07-10-2011 but no salary was paid to me for the period and terminated without going through any legal proceeding.

As per various judgments passed by the apex Supreme Court of Pakistan that where the termination order is held as wrongful then the civil servant is entitle for back benefits and as such my termination order dated 07-10-2011 is declared illegal by the Honourable Service Tribunal, I was never involved in any gainful employment during the period I was terminated that too entitles me for the back benefits from 20-07-2011 to 10-06-2016.

I was out of service for no fault on my behalf and as per the judgment of the apex court no one should be penalized for the fault of others.

In view of the above, it is therefore, most kindly requested that the impugned order dated 10-03-2021 may be set aside to the extent of back benefits and I may be allowed all back & consequential benefits for the period from 20-07-2011 to 10-06-2016.

I shall be very thankful to you for this kindness.

Dated: 15-03-2021

Yours Obediently,



MR. WAHID ULLAH,
SPST (BS-14),

Govt. Primary School,
Shiringal, Dir Upper

0321-9003228

~~ATTESTED~~

VAKALATNAMA

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

APPEAL NO: _____ OF 2021

WAHID ullah (APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

Education Deptt (RESPONDENT)
(DEFENDANT)

I/We Wahidullah

Do hereby appoint and constitute **KAMRAN KHAN Advocate, Peshawar** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate Counsel on my/our cost. I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter.

Dated. ____/____/2021

Wahid Ullah

CLIENTS

Kamran Khan
ACCEPTED

KAMRAN KHAN

Umer Farooq Mohmand
UMER FAROOQ MOHMAND

&

Said Khan

SAID KHAN
ADVOCATES

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.

Service Appeal No. 7039/2021

Wahid Ullah , District Dir Upper SPST (BPS-14) GPS Sheringal
District dir upper.
.....(Appellant)

Versus

1. Secretary, Elementary and secondary Education Khyber Pakhtunkhwa Peshawar.
2. Secretary, Finance Department, Khyber Pakhtunkhwa Peshawar.
3. Director, Elementary and secondary Education Khyber Pakhtunkhwa Peshawar
4. District Education Officer (M) DIR Upper(Respondents)

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District Education officer (M)

District Dir Upper

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.

Service Appeal No. 7039/2021

Wahid Ullah, District Dir Upper SPST (BPS-14) GPS Sheringal
District dir upper (Appellant)

Versus

1. Secretary, Elementary and secondary Education Khyber
Pakhtunkhwa Peshawar.

2. Director, Elementary and secondary Education Khyber Pakhtunkhwa
Peshawar.

3. District Education Officer (M) DIR Upper

(Respondents)

JOINT PARA WISE COMMENTS ON & FOR BEHALF OF RESPONDENT NO: 3 & Other

Respectfully Sheweth:-

PRELIMINARY OBJECTIONS.

1. That the Appellant is not the "aggrieved" persons with the meaning of Article 212 of the Constitution of the Islamic Republic of Pakistan 1973.
2. That the Appellant has got no cause of action /locus standi to file the instant appeal because the Appellant did not come on merit.
3. That the Appellant has not come to this Honorable court with clean hands.
4. That the Appellant is estopped by his own conduct.
5. That the appeal is barred by law and badly time barred.
6. Hence as per judgment of the Apex Supreme Court of Pakistan Seniority has been given while he never perform his duties in the impugned period, so not entitled for financial back benefits.

ON FACTS.

1. Para -1 of the facts pertains to record and extent of appointment hence needs no comments.

2. Para- 2 of the facts pertains to record, hence need no comments.
3. Para-3 of the facts is correct and further stated that in the judgment ibid the appellant was reinstated and seniority was given while the appellant was not in service and did not perform his duties , so not entitled for financial back benefits.
4. Para-4 of the facts is correct, needs no comments.
5. Para-5 of the facts is also correct that the appellant was reinstated with seniority from the date of first appointment, while he has not served the department in the intervening period, so not entitled for back benefits.
6. Para-6, needs no comments, details has been submitted in the facts above.
7. Para-7 may also be considered as para's of the facts above.
8. Para-8 needs no comments.
9. Para-9 pertains to record. However, the appeal of the appellant is not maintainable and the appellant has no locus standi.

GROUND'S.

A) In correct. The respondents always follow rules and policies consigned by government and the Appellant has been treated as per law rules and policies. Speaking order dated 10-03-2021 has been issued as per law and rules.

B) Incorrect, hence denied , the official respondents always follows rules and policies in letter and spirit and no illegality has been made by the official respondents. And the appellant has been treated as per law and policies.

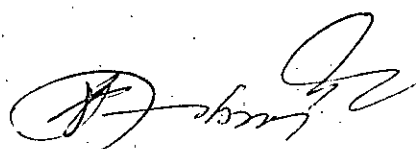
C) In correct hence denied. Detail reply has been submitted in the above Para's.

D) In correct hence denied. Detail reply has been submitted in the above Para's.

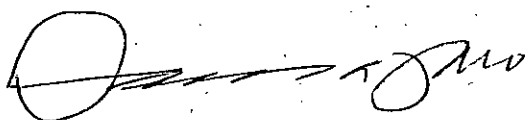
E) Incorrect hence not admitted. the appellant was reinstated as per judgment of the Apex Supreme Court of Pakistan, and seniority has been given as per judgment from the date of first appointment, whereas so far the financial back benefits is concern, the appellant has not served the department so not entitled for financial back benefits.

F) Legal, however the respondents also seeks permission for additional grounds during arguments.

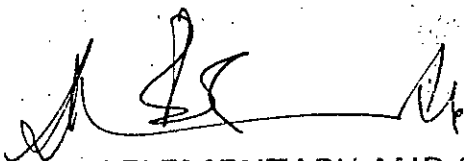
It is, therefore, humbly prayed that on acceptance of the above submission, the instant service appeal may very graciously be dismissed in favor of the answering respondents with cost.



DISTRICT EDUCATION OFFICER (M) DISTRICT DIR UPPER



DIRECTOR ELEMENTARY AND SECONDARY EDUCATION
KHYBERPAKHTUN KHWA



SECRETARY ELEMENTARY AND SECONDARY EDUCATION
KHYBERPAKHTUN KHWA

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.

Service Appeal No. 7039/2021

Wahid Ullah , District Dir Upper SPST (BPS-14) GPS Sheringal
District dir upper.
.....(Appellant)

Versus

1. Secretary, Elementary and secondary Education Khyber Pakhtunkhwa Peshawar.
2. Secretary, Finance Department, Khyber Pakhtunkhwa Peshawar.
3. Director, Elementary and secondary Education Khyber Pakhtunkhwa Peshawar
4. District Education Officer (M) DIR Upper(Respondents)

Affidavit

I, Syed Alamzeb Shah litigation officer Dir Upper do hereby solemnly affirm and state on oath that the whole contents of this reply are true and correct to the best of my knowledge and belief and nothing has been concealed from this August court.

Identified by

Add; Advocate General
Khyber Paktunkhwa.



Deponent

Syed Alamzeb Shah
Dir Upper
Litigation Officer DEO (M) Dir Upper

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
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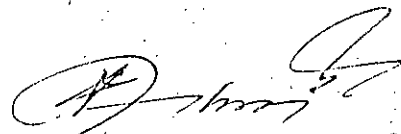
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4. District Education Officer (M) DIR Upper(Respondents)

AUTHORITY LETTER

Mr.Syed Alamzeb Shah litigation Officer of the office of the
undersigned is hereby authorized to submit the comments /reply in the
service appeal No. 7039/2021

Title: Waheed Ullah v/s Govt : of KP and others On my behalf.



District Education officer (M)

District Dir Upper