

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWARDated 15-05-23**Appeal No. 1218/2022**

Ahmad Hanif S/O Jan Muhammad Hanif R/O Village Sikandarpur, Tehsil and District Haripur...

(Appellant)**Versus**Govt: of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Peshawar
& Others.....**(Respondents)****INDEX**

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(Respondent)
District Education Officer (M)
Haripur

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Appeal No. 1218/2022

Ahmad Hanif S/O Jan Muhammad Hanif R/O Village Sikandarpur, Tehsil and District Haripur.....

(Appellant)

VERSUS

Govt: of Khyber Pakhtunkhwa through Secretary E&SED Khyber Pakhtunkhwa & Others.....

(Respondents)

Respectfully Sheweth:

Para wise Comments on behalf of respondent No.1 & 3.

Preliminary Objections:

- 1 That the appellant has got no cause of action to file the instant appeal.
- 2 That the appellant has not come to this Honorable Tribunal with clean hands.
- 3 That the Appellant has got no locus standi to file the instant appeal.
- 4 That the appellant has concealed the material facts from this Honorable Tribunal, hence the appeal in hand is liable to be dismissed.
- 5 That the appellant has filed the instant appeal on malafide motives.
- 6 The appellant has filed the instant appeal just to pressurize the respondents.
- 7 That the appeal of the appellant is barred by law and limitation.
- 8 That the appeal is bad for mis-joinder and non-joinder of necessary parties.

ON FACTS

1. Para 1 pertains to the appointment of the appellant which needs no comment.
2. Para 2 pertains to sanction of EOL for 365 days which also needs no comment.
3. Para 3 pertains to reporting to return back on duty by the appellant after the completion EOL for 365 days which also needs no comment.
4. Para 4 pertains to adjustment of appellant at GPS Talhad which also needs no comment.
5. Para 5 is incorrect. The extra ordinary leave of the appellant w.e.f. 23-10-2013 to 15-08-2020 was not sanctioned at that time.
6. Para 6 is correct to the extent of adjustment of the appellant at GPS Muradabad but further process for the release of pay could not be completed because the service book of the appellant was misplaced and the respondent No. 1 has provided the sanction for the preparation of duplicate service book vide order endst: No. 2590 dated 11-06-2021. **(Copy of the sanction letter is attached as Annexure-A)**
7. Para 7 pertains to taking over the charge as PST at GPS Muradabad which also needs no comment.
8. Para 8 is incorrect. The SDEO (Male) Haripur, the Drawing and Disbursing Officer (DDO) concerned has also prepared the source form-II for activation of salary of appellant for the month of January 2021 but the respondent No. 2 has returned the same for the fixation by the Fixation Party as **reported SDEO concerned. (Copies of source form- II and relevant page of service book are attached as B&C)**

9. Para 9 is incorrect. The departmental appeal has not been filed through proper channel. However the SDEO (M) Haripur, the Drawing and Disbursing Officer (DDO) concerned has also sought the guidance vide letter endst: No. 322 dated 19-02-2022 for the verification of service w.e.f. 01-09-2012 till the date. However the then DEO (Male) Haripur in response of the ibid letter has directed the SDEO (Male) Haripur that pay of the appellant will not be drawn till the finalization of inquiry conducted by Worthy Director E&SE Khyber Pakhtunkhwa Peshawar. **(Copies of guidance letter and direction letter are attached as Annexure-D&E)**
10. Para 10 is incorrect. The respondent No. 1 has finally directed the SDEO (Male) Haripur the Drawing and Disbursing Officer (DDO) concerned to release the salary of the appellant and also conducted the inquiry to dig out the facts of the matter. However appeal of the appellant is liable to be dismissed inter alia on the following grounds. **(Copies of salary release order and inquiry letter are attached as Annexure-F&G)**

REPLY ON THE GROUNDS:


- a. Ground "a" is incorrect. The impugned act of the respondents is in accordance with law, rules and policy on the subject.
- b. Ground "b" is incorrect. That the appellant is not entitle to receive salary without fulfilling of codal formalities.
- c. Ground "c" is incorrect. The respondents are not authorize to release the salary without the fulfilling of all codal formalities.
- d. Ground "d" is incorrect. The appellant was not obtained the sanction of EOL within stipulated time period.
- e. Ground "e" is incorrect. The case of the appellant for release of salary is in process which would be finalized after the fulfilling of all codal formalities.
- f. Ground "f" pertains to the jurisdiction of Honorable Service Tribunal. However the appeal of the appellant is time barred.
- g. Ground "g" is incorrect. The appellant is not entitle for any remedy through instant appeal.
- h. That the other points shall be agitated at the time of arguments with the leave of this Honorable Tribunal.

PRAYER


In view of the above made humble submissions, it is most respectfully prayed that on acceptance of foregoing factual position/ Comments, the instant appeal may very graciously be dismissed being meritless.



Director E&SE
Khyber Pakhtunkhwa,
Peshawar.
(Respondent No.3)



District Education Officer (Male)
Haripur.
(Respondent No.1)



BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Appeal No. 1218/2022

Ahmad Hanif S/O Jan Muhammad Hanif R/O Village Sikandarpur, Tehsil and District Haripur...

(Appellant)

Versus

Govt: of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Peshawar & Others.....

(Respondents)

AFFIDAVIT

I Mr. Mukhtar Ahmad Khan DEO Litigation o/o DEO (M) Haripur do hereby solemnly affirmed and declare that the contents of accompanying Para wise comments are true and correct to the best of my knowledge and belief and nothing has been suppressed/concealed from this Honorable High Court.



Deponent

[Signature]
District Education Officer
(M) Haripur.

Annexure - A

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OFFICE OF THE DISTRICT EDUCATION OFFICER (M)

HARIPUR

Ph. No. 0995-920150, 920151, 920152
Email: deomahat@kpsd.karnataka.gov.in



Sanction:

The undersigned is please to accord the sanction for preparation of duplicate Service Book in respect of Mr. Ahmed Hanif PST GPS Muradabad Haripur duly recommended by the enquiry committee in the interest of public service.

Note:

1. All the codal formalities may be observed before preparation of duplicate service book.
2. An undertaking must be obtained from individual concerned on judicial stamp paper to the effect that he have not conceal any thing and he never taken any advance i.e. HBA/MCA in the whole service.
3. He may be directed to provide the photocopies of service book if any proof.
4. Necessary entries to this effect should be made in his service book.

-----Sd/-----
District Education Officer (Male)
Haripur

No. 2590 /F.No.2-3/C.B/Duplicate Service Book Dated Haripur the 11/05/2021.

Copy for information to:

1. The Senior District Account Officer Haripur.
2. The Account Officer Pay & Fixation Party for necessary process.
3. The SDEO (M) Haripur.
4. The Teacher concerned.
5. The office Record File.

Attested
#

District Education Officer (Male)
Haripur

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PAYROLL SYSTEM
AMENDMENT FORM
SINGLE EMPLOYEE ENTRY

FORM: PAY02

DATE¹ _____
Page No.² _____



OFFICE OF THE³ OFFICE OF THE SDEA (M) Haripur
FOR THE MONTH OF 01/2021 12046

DDO Code⁴ (Cost Center) HRG109 Description⁵ SDEA (M) Haripur
Personnel Number⁶ 00478396 Name⁷ Ahmad Hanif National ID⁸ Card 13302-0889767-1
Grade (Pay Scale Group)⁹ 112 PST Salary¹⁰ Status GPS Mirad Abad Start Stop

Info ¹¹ Type	Field ID ¹²	New Contents ¹³	Wage Type ¹⁴	Rupees ¹⁵	Postal Adj ¹⁶	Effective Date ¹⁷	Remarks ¹⁸
		Pay Active After Return	0601	14280		01-01-2021	Pay Active After
		Long leave w/e 16-08-2020	1500	1961			Return Leave w/e
			1210	2856			16-08-2020 w/e
			1300	1500			D.E.O (M) Haripur
		B-12	2148	375			No. 5238-43
			2199	243			Dated 16-09-2020
		Position Code:-	2211	1194			Re Adjusted
			2224	1428			at GPS Mirad Abad
			2247	1428			w/e 16-08-2020
			2264	1428			
			3012	2220			
			3501	600			
			3990	125			
			4004	600			

Attested
[Signature]

Amended - B-

Prepared By¹⁹ _____ Audited/Checked By²⁰ _____ Entered / Verified By²¹ _____

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Amennure - D -

(4)

(36)

(15)



**OFFICE OF THE SUB DIVISIONAL EDUCATION OFFICER
MALE HARIPUR**

Phone: 0995-920153
Email: hr7040@gmail.com



No: 322 /EB/SDEO/HR

Dated: 19/02/2022

To

The District Education Officer (M),
Haripur.

Subject: GUIDANCE

Memo:

Enclosed please find herewith Duplicated Service Book in respect of Mr. Ahmed Haneef (PST) GPS Murad Abad Circle Srai Saleh alongwith all relevant documents with details appended below:

1. Duplicated Service Book
2. Undertaking on Judicial Stamp Paper regarding submission of documents.
3. Sanction of duplicate Service Book issued on 11-06-2021
4. Application from Head Teacher GEMPS Bandi Sher Khan on 08-06-2021
5. Re-Adjustment order Photocopy dated 24-09-2013.
6. Order of adjustment by DEO(M) Haripur dated 16-09-2020
7. Charge report of Mr. Ahmed Haneef Dated 21-09-2020
8. Charge report of Mr. Haneef (PST)-at GPS Talhad Dated 14-09-2013
9. Adjustment order of Mr. Ahmed Haneef returned from leave dated 24-09-2013
10. Sanction of leave w.e.f 01-09-2013 to 31-08-2013 dated 04-07-2013.
11. Pay not drawn certificate by SDEO(M) Haripur dated 14-09-2020.
12. Charge report of Mr. Ahmed Haneef (PST) dated 01-09-2009 at GEMPS Kharoch.
13. Appointment order of Mr. Ahmed Haneef dated 29-08-2009
14. PTC, SSC, Inter Certificates (Photocopies) and (DMC) Copy.

The undersigned seeks guidance in this regard as his service has not been verified w.e.f 01-09-2012 till date.

Signature
Sub Divisional Education Officer (M)
Haripur

736
19/2/2022

Attested
Signature

Annexure - E -

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OFFICE OF THE DISTRICT EDUCATION OFFICER (M)

HARIPUR

Ph. No. 0995-920150,920151,920152

Email: deomalehrp@gmail.com



Dated: 06/04/2022

11179 / 28-1/EB/Release of pay

To:

1. The Sub Divisional Education Officer,
(Male) Haripur.

Subject:-

RE-INSTATEMENT IN SERVICE PST MUHAMMAD HANEEF.

Memo:

Reference your letter No 323/EB/SDEO/HR Dated 19/02/2022, on the subject cited above.

It is stated that after checking the case in respect of Muhammad Haneef PST GPS Muradabad Haripur it is pointed out that in which leave rule 1981 section 12 sub section (3) the above name teacher was reinstated in service vide Ex DEO (M) Haripur Endst No 5238/F.No 5-1/Leave case Dated 16/09/2020, says that :- Extraordinary leave may be granted retrospectively in lieu of absence without leave, but the same rule section 12 (1 and 2) shows that :- (a Govt servant has not completed ten year continuous service, extraordinary leave without pay for maximum period of 2 year may be granted at the discretion of leave sanctioning authority). And section 2 shows that :- (the maximum period of extraordinary leave without pay combined with leave on full pay and leave on half pay shall be subject to the limit of 5 years prescribed in FR 18, a civil servant who has rendered continuous service for period of not less than 10 year shall be 5 years less the period of leave on full pay and leave on half pay so combined).

Now the question is that the above named teacher having 4 year 1 month and 29 days service w.e.f 29/08/2009 to 23/10/2013, and his absent period w.e.f 23/10/2013 to 15/08/2020 6 year 07 month 22 days is in the power of DEO (M) Haripur. Hence it is directed that his pay will not be drawn till the finalization of his inquiry decision already conducted by worthy Director E&SE KPK Peshawar.

05/04/2022
District Educational Officer (Male)
Haripur

Attested

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Annexure - F



OFFICE OF THE DISTRICT EDUCATION OFFICER (M)
HARIPUR.



F.No. 2479-82 /Ahmad Hanif/SA.1218/2022/Lit:

Dated: 08/04/2023

MOST URGENT BEING COURT MATTER

To,

SDEO (Male)
Sub Division Haripur.

Subject:- RELEASE OF SALARY AND COMPLETION OF SERVICE BOOK IN
R/O MR. AHMAD HANIF PST GPS MURADABAD.

Memo:

With reference your letter No. 3339 dated 03-04-2023, you are hereby strictly directed as under.

1. That the above mentioned official has been remained absent from his duty for the period of 6 years, 7 months and 22 days w.e.f. 23-10-2013 to 15-08-2020 but your office has not reported the matter and taken any action against the said employee.
2. That the above mentioned official has been adjusted by the then DEO (M) Haripur being competent authority vide endst: No. 5238-43 dated 16-09-2020 and he has taken over the charge against the post of PST BPS-12 in GPS Muradabad on 21-09-2020. Charge report was submitted by the concerned official in your office which clearly shows that your office was well aware of the fact that he was adjusted in the said school despite your office has not taken any action against the official concerned and he has been performing his duty regularly in the said school under your supervision since 21-09-2020.
3. That As per statement mentioned in Para 07 of note sheet No. 03 attached to the file of the said official, it is very much clear that no inquiry in r/o Mr. Ahmad Hanif PST GPS Muradabad has been conducted (or in under process) by worthy Director E&SE Khyber Pakhtunkhwa and no record is found regarding said inquiry in record rooms of General and Establishment branches of this office.
4. That in light of Para 3 the letter of this office bearing endst: No. 11179 dated 06-04-2022 disposed of as ineffective in the matter.
5. That the inquiry regarding your reservations in the matter is being conducted by this office.
6. That the official concerned is entitle for his salary to be received till the final outcome of the inquiry.
7. That you shall release the salary of the said official, complete the service book and submit the case in District Account Office being DDO within 03 days positively and submit compliance report in this office accordingly.

District Education Officer (M)
Haripur

Even No.& date:

Copy forwarded for information to the:-

1. Registrar Service Tribunal Khyber Pakhtunkhwa Peshawar.
2. PA to Director E&SE Khyber Pakhtunkhwa Peshawar.
3. District Accounts Officer Haripur.
4. Office Copy.

Attested
[Signature]

District Education Officer (M)
Haripur

Annexure - G -

(10)



**OFFICE OF THE DISTRICT EDUCATION OFFICER (M)
HARIPUR**



Ph. No. 0995-920150, 920151
Email: deomalehrp@gmail.com

OFFICE ORDER:

The following inquiry committee is constituted to check the procedure of readjustment in r/o Mr. Ahmad Hanif PST GPS Muradabad after his absence from duty w.e.f. 23-10-2013 to 15-08-2020 and grant of Extra Ordinary Leave (EOL) for mentioned period.

1. Mr. Saleem Javed Principal GHS Kangra Colony Haripur.
2. Mr. Muhammad Sultan Principal GHSS Jatti Pind Haripur.

Note: Complete inquiry report with clear cut recommendations may be submitted to this office within 07 days positively being urgent court matter.

Endst No. 2535-38 Litigation/Ahmad Hanif.

District Education Officer (M)
Haripur

Dated: 10/04/2023

Copy forwarded for information to the:-

1. Registrar Service Tribunal Khyber Pakhtunkhwa Peshawar.
2. PA to Director E&SE Khyber Pakhtunkhwa Peshawar.
3. SDEO (Male) Haripur with reference this office letter No. 2479-82 dated 08-04-2023.
4. District Accounts Officer Haripur.
5. Office Copy.

District Education Officer (M)
Haripur

Attended
M

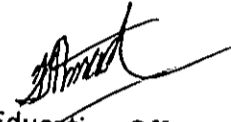


OFFICE OF THE DISTRICT EDUCATION OFFICER (M)
HARIPUR

Ph. No. 0995-920150, 920151
Email: deomalehrp@gmail.com

AUTHORITY LETTER

Mr. Shakeel Ahmad ADEO Litigation office of the undersigned is hereby authorized to submit comments/reply in Honorable High Court Abbottabad Bench in c/w Appeal No 1218/2022, titled Ahmad Hanif VS Government etc for affidavit and onward submission to Honorable Court on behalf of all official respondents.


District Education Officer (M)
Haripur.