

BEFORE THE KHYBER PAKTUNKHWA SERVICE TRIBUNAL CAMP COURT
SWAT

Service Appeal No. 7686/2021

Hamayoon S/O Muhammad Yousaf Khan Village & Post Office Runyal Tehsil
Matta, District Swat.

.....Appellant

Versus

Provincial Govt. of Khyber Pakhtunkhwa & others

..... Respondents

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DISTRICT EDUCATION OFFICER (M)
SWAT AT GULKADA

**BEFORE THE KHYBER PAKTUNKHWA SERVICE TRIBUNAL CAMP COURT
SWAT**

Service Appeal No. 7686/2021

Hamayoon S/O Muhammad Yousaf Khan Village & Post Office Runyal Tehsil
Matta, District Swat.

.....Appellant

Versus

1. Government of Khyber Pakhtunkhwa through Secretary Elementary and Secondary Education Peshawar.
2. Director Elementary and secondary education Khyber Pakhtunkhwa at Peshawar.
3. District Education officer (Male) Swat.

..... Respondents

Parawise Joint Comments on Behalf of the Respondents 1-3:

Respectfully Shewith

Preliminary Objections

1. That the appellant is not an aggrieved person within the meaning of section 4 of the service tribunal Act, 1974.
2. That the appellant has no cause of action / locus standi.
3. That the appellant has not come to this Honorable Tribunal with clean hands.
4. That the appellant has filed this instant service appeal just to pressurize the respondents.
5. The present service appeal is liable to be dismissed for non-joinder/miss joinder of necessary parties.
6. That the instant service appeal is against the prevailing law and rules.
7. That the appellant has filled this instant Service Appeal on malafide motives.
8. That the instant Appeal of the Appellant is **badly time barred by more than ten years.**
9. That the instant service appeal is not maintainable in the present form, and above in the present circumstances of the issue.
10. That the departmental appeal annexed with instant Service Appeal is without any diary number and date. And even without any sign of the Appellant.
11. That the appellant has estopped by his own conduct.
12. That the appellant has concealed the material facts from this honorable tribunal.

FACTS

1. That the Para No.1 pertains to record, hence, no comments.
2. That the Para No.2 pertains to record, hence, no comments.
3. That the Para No.3 is correct to the extent of grant of leave, the rest of the para is incorrect and denied. In fact, the Appellant concealed the material facts from this Honorable Tribunal. The Appellant availed leave in the following periods:
 1. 07-11-1998 to 07-05-2001 (881 days) L.W.P

2. 01-06-2021 to 30-04-2002 (334 days) L.W.P

3. 01-05-2005 to 31-07-2005 (92 days) full pay

4. 01-08-2007 to 13-07-2009 (730 days) L.W.P

Meaning there by that the Appellant availed 2037 days of leave (5 years 7 months and 2 days)and still remained absent until 21-09-2010. (**Absence from duty memo annexed as annexure A**)

4. That the detail reply of this para is given in Para No 3 above.
5. That the Para No.5 is incorrect and not admitted. On expiry of leave the Appellant should have resumed his duty but the Appellant admittedly remained absent for a long time.
6. That the Para No.6 is incorrect and denied. The Appellant submitted affidavits on legal stamp papers along with applications that he will remain in Pakistan and will not leave the country time and again. Accordingly leave was accorded to the Appellant. And affidavit was submitted by the Appellant to the effect that he will attend the education department every 3 months but he failed to do so. After expiry of his leave, the Appellant submitted another application through his son Waseem Abbas Khan for another one year leave w.e.f 14-07-2009 to 13-07-2010 but his application was not allowed and he was directed to resume his duty. The Headmaster of GHS Nazar Abad Swat was directed to ask the Appellant to resume his duty immediately otherwise disciplinary action would be initiated against him vide letters dated 07-12-2009 & 22-07-2010. The Headmaster concerned issued written instructions through special messenger on the home address of the Appellant but the Appellant was not present at home and his brother received the letters on 16-12-2009. But the Appellant failed to resume his duty. An enquiry committee was constituted and statement of allegations was issued which was received by his brother Mr. Mumtaz Ali. The enquiry committee conducted a detail enquiry and it was found that the teacher concerned is out of the country and as per the statement of the other teachers of the school that the Appellant is in Canada. Notices were issued and finally notice was published in daily Mashriq dated 15-01-2010 but the Appellant failed to resume his duty. Enquiry committee recommended removal from service under special power ordinance 2000. Show Cause Notice was issued dated 21-01-2011 and finally removal order was issued vide order dated 22-06-2011 after observing all codal formalities.**(Affidavits, Applications, Notices, Teachers Statements, Daily Mashriq Publication Notice, Statement of Allegations, Enquiry, Show Cause Notice annexed as annexures B, C, D, E, F, G, H & I)**
7. That the Para No. 7 is irrelevant and misconceived one. The Appellant remained absent for a long time. The Appellant is trying to take benefits of technicalities of minor nature. If the Appellant was not even in service and was absent for a long time, how can he claim retirement?
8. That the Para No. 8 is quiet astonishing as the Appellant on one hand submitted affidavits that he will not leave the country and stated that he is going to Karachi while on other hand he admits in this Para that he was abroad and came to Pakistan. As for as the departmental appeal is concerned,

it has not been found in official record as it is without any diary number and date and even the Appellant has also not signed it.

9. The instant Service Appeal of the Appellant is bereft of any merit, hence, liable to be dismissed inter-alia following grounds.

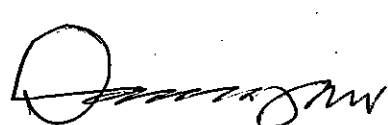
GROUND

- A. That the Para No. A is incorrect and not admitted. The Appellant has been issued Show Cause Notice and finally notice was also published in daily Mashriq dated 15-01-2010.
- B. That the Para No. B is incorrect and denied. The Appellant remained willfully absent from his duty and stayed abroad without taking any legal sanction/NOC from the department even he went abroad without taking Leave Ex-Pakistan.
- C. That the Para No. C is irrelevant, hence no comments.
- D. That the Para No. D is about this Honorable Tribunal judgment. Hence, no comments. However, the case of the Appellant is totally different in nature as on one hand the appeal of the Appellant is badly time barred and on the other hand the Appellant concealed the material facts from this Honorable Tribunal as well as the department.
- E. That detail reply of this Para has been given in Para No. 7 above.
- F. That the Para No. F is the repetition of above paras, hence, no comments.
- G. That the Para No. G is incorrect and denied. The Appellant is not entitled for any service benefits/pensionary benefits as per available record and nature of the case.
- H. That the Para No. H is legal, however, the respondents also seek permission of this honorable Tribunal to advance further grounds at the time of arguments.


It is therefore very humbly prayed that the instant Service Appeal of the Appellant may be dismissed with cost in favor of the respondents.



**DISTRICT EDUCATION OFFICER (M)
SWAT AT GULKADA**



**DIRECTOR,
ELEMENTARY AND SECONDARY
EDUCATION KHYBER PAKHTUNKHWA**



**SECRETARY,
ELEMENTARY AND SECONDARY
EDUCATION DEPTT PESHAWAR**



OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE)
DISTRICT SWAT

Email: emisswat@gmail.com,

Phone No. 09469240228

(2)

AUTHORITY LETTER

Mr. Hussain Ali Legal Representative, office of the undersigned is hereby authorized to submit comments in *Service Appeal No. 7686/2021* case titled *Humayoon Vs Govt of KPK and others* and attend Khyber Pakhtunkhwa Service Tribunal Camp Court Swat on behalf of respondents no: 1-3.

DISTRICT EDUCATION OFFICER (M)
SWAT AT GULKADA

DIRECTOR,
ELEMENTARY AND SECONDARY
EDUCATION KHYBER PAKHTUNKHWA

SECRETARY,
ELEMENTARY AND SECONDARY
EDUCATION PESHAWAR

5

**BEFORE THE KHYBER PAKTUNKHWA SERVICE TRIBUNAL CAMP
COURT SWAT**

Service Appeal No. 7686/2021

Hamayoon S/O Muhammad Yousaf Khan Village & Post Office Runyal Tehsil
Matta, District Swat.

.....Appellant


Versus

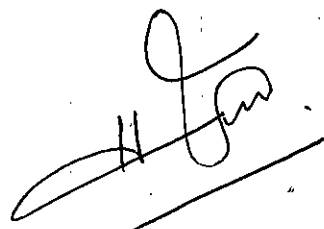
Provincial Govt. of Khyber Pakhtunkhwa & others

..... Respondents

AFFIDAVIT

I, Hussain Ali Legal Representative, do hereby solemnly affirm and declare on oath on the directions and on the behalf of the Respondents that the contents of the comments are true and correct to the best of my knowledge and belief and nothing has been kept secret from this Honorable Court.


Khawaja Yasir Abbas
ADVOCATE
OATH COMMISSIONER
District Courts Swat.
No.....Date.....
09 - 09 - 022


HUSSAIN ALI LEGAL REPRESENTATIVE
O/O DEO (M) SWAT

OFFICE OF THE EXECUTIVE DISTRICT OFFICER
ELEMENTARY AND SECONDARY
EDUCATION SWAT

No. 18657 /
F. No. 289/Hamayoon/CT
Dated: 21/9 /2010

Annexure "A"

To

The District Coordination Officer,
Swat at Gulkada.

Subject: **ABSENCE FROM DUTY**

Memo:

It is submitted that one Mr. Hamayoon CT GHS: Nazar Abad CT proceeded on leave without pay for the period from 01.08.2007 to 13.07.2009 (730 days). He then applied for extension in his leave for further period up to 13.07.2010 in absentia. His application for extension in leave was rejected vide this office No. 5630 dated 19.10.2009 and he was directed through the Headmaster to resume duty.

He was then directed through the Headmaster vide this office letter No. 10909 dated 07.12.2009 to join duty immediately but in vain.

The teacher concerned was once again directed through the Headmaster GHS: Nazar Abad vide this office memo No. 22.07.2010 to report for duty but he failed to do so.

A preliminary enquiry was constituted against him and Mr. Muhammad Ibrahim Headmaster GHS: Shawar was appointed as enquiry officer vide this office No. 16652-53 dated 04.08.2010.

The enquiry officer has submitted his report vide No. Nil dated 23.08.2010. **The enquiry officer has proposed a compulsory retirement of the accused.**

In this connection it is added for your kind information that:-

a. 1st appointment of the teacher is: 13.10.1982.

b. During the entire service he availed

Leave for the following periods:

With effect from: 07.11.1998 to 07.05.2001=881days (L.W.P)

With effect from: 01.06.2001 to 30.04.2002=334days (L.W.P)

With effect from: 01.05.2005 to 31.07.2005=092days (Full Pay)

With effect from: 01.08.2007 to 13.07.2009=730days (L.W.P)

Total leave availed in days: = 2037 days

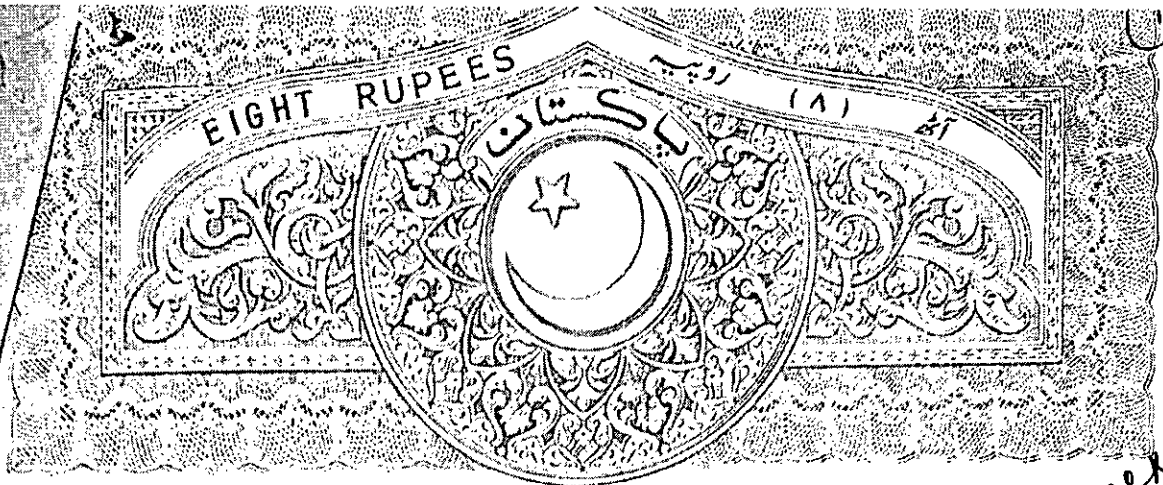
The leave availed by the teacher concerned is more than **five years** and he is still absent from duty since 14.07.2009.

It is therefore submitted that action under the Removal from service Ordinance 2000 may be taken against the teacher concerned please.

EXECUTIVE DISTRICT OFFICER
ELEMENTARY AND SECONDARY
EDUCATION SWAT

attached for appropriate
consideration pl.

Head Master
Govt. High School
Shawar, Distt. Swat
8/10



7

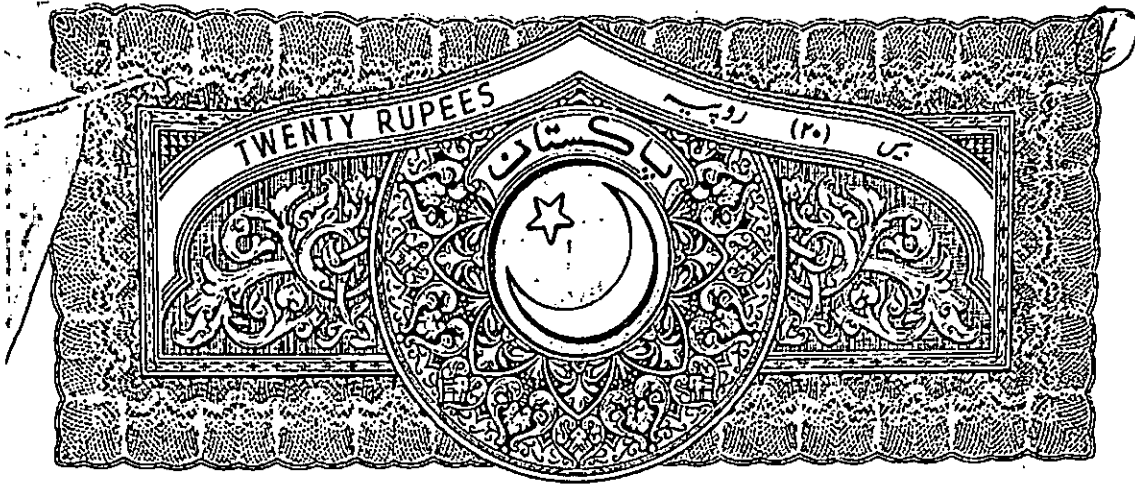
Annexure 'B'

ر بیان حلفی جوئے چھٹی ہیں

زندگی میں پہلے اور محمد یوسف خان اسحاق اور نیال شملوئی صاحبہ سے
 کہ بیوک اندر وقت بقیہ خوش و خوش ہوئے جس حلفی بالی تو کیا ہو
 کہ منگول سے ^{C.A} یوسف پور سے بہت سے حلفی ابا چھٹی لیا چھٹی
 پہلے بہت سے حلفی چھٹی بالی لیا گیا ہے چھٹی سے
 حلفی کا بیان ہے اور دوست ہے۔ اور تو کیا ہے چھٹی
 نہ ہے۔ لہذا بیان حلفی سننا کر بیچ

المقاربہ 6/11/98
 6/11/98
 District Courts

محمد یوسف خان اسحاق
 اور نیال شملوئی صاحبہ
 رہائشی گھر 51-56-57



بیان حلفی

من کہ حلف ہمایون ولد محمد یوسف خان ساکن رونیال۔ شنائوئی
 تحصیل سٹوٹ سوات انڈیا میں وقت حلقہ اقرار کرنے سے کچھ دنوں
 کہ من حلف حکمہ قیام میں سی۔ ٹی لوسٹ پر متعین ہوں۔ من حلف
 کو اپنے ضرورت کے تحت ایک عرصہ کیلئے انٹی فرانس سے کنارہ
 کئی کرنے کی وجہ سے چھٹی لینی ہے۔ من حلف اس غرض
 کے اپنے حکمہ میں درخواست دیا ہوں۔ کہ مجھے دو سال
 کی رخصت دلا دی جائے۔ اگر چھٹی مذکورہ عرصہ کیلئے منظور
 ہوئی تو من حلف حلقہ کہتا ہوں کہ یہ چھٹی میں پاکستان
 میں گزاروں گا۔ بیرون ملک نہیں جاؤں گا

یہ بیان حلفی یزاسنداً تحریر ہے

ATTESTED



26/5/2001 - مورخہ

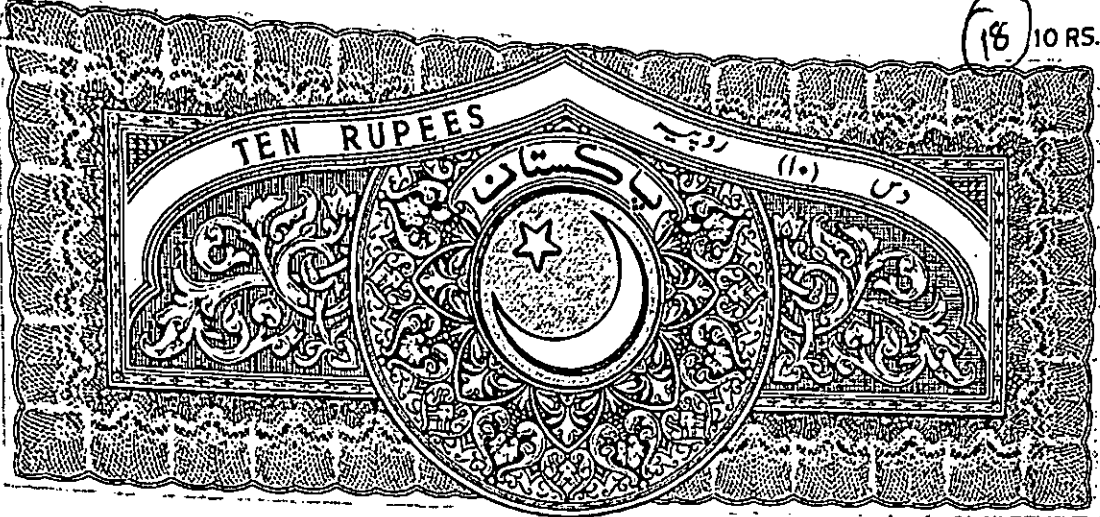
signed by J.P.C.
 U.S. Verified

Tehsildar Bak

M.C. 26/5/2001



ہمایون ولد محمد یوسف خان
 16-51-05 6472



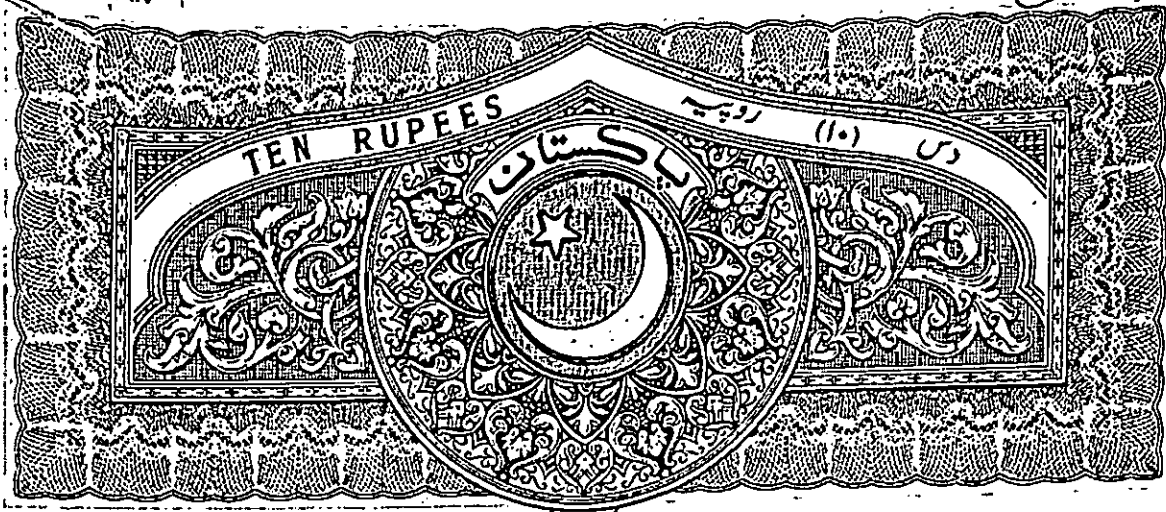
حکومت پاکستان نزد

تقدیرتک رسنی و بیابون دار کے دیونگ سائن روزنیان کسکل شد صلحسرات
 کامبرک اندرین وقت کتابی بیوشن و کورس برکتہ رضاخوری خبردالت بیان کرے
 بکھر تیار کر۔ دے ف تکت فکتہ لکھ پیمین کتف C.T استاد نورکنت یا ئی کول
 نظر تبار سورت میت انیا خدیات سرکام ذبیا کرک۔ فن کتف کے کھر یاکشتی
 خراب ہے اور اسی دربارہ لکھ ضروری ہے۔ کھر یاکشتی اور سول کورڈز میں
 کے نیا پر ف تکت روزنیان بختہ تیکوہ جھتی لکھ کھر کے لکھ تر تاجا نیا کرک
 ذورہ کھر دربارہ لکھ کتف جھتی روزنیان ضروری ہے۔ فن کتف ذورہ جھتی
 ویکے کورں ارضع سوات میت ترورڈکا۔ اور بکھر کتف کتف جھتی جا راکا۔ اور
 کورڈز کے کما کما اور وصال بطور کورڈز کما۔

کند بیاں کتف سند کھر کھر کے کورں اور کتف یا رکتہ
 میت کتف کتف۔ کما کتف کتف کتف کتف
 کما کتف کتف کتف کتف کتف کتف

۱۱-۶۲
 ۳۰/۵
 ۲۵۷
 بیابون دار استاد
 نورکنت یا ئی کول نظر تبار سورت

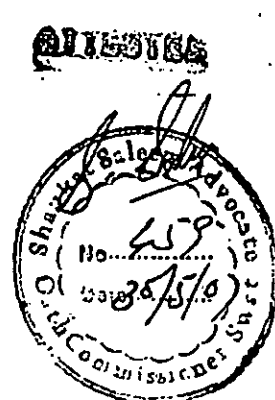




بیان لکھی جانے والی سند پر دستخط کرنا
 سند کے سبھی ہمایوں کو مل کر سند پر دستخط کرنا
 سند کے سبھی ہمایوں کو مل کر سند پر دستخط کرنا
 سند کے سبھی ہمایوں کو مل کر سند پر دستخط کرنا
 سند کے سبھی ہمایوں کو مل کر سند پر دستخط کرنا
 سند کے سبھی ہمایوں کو مل کر سند پر دستخط کرنا

کے لئے بیان لکھی سند کو
 سند کے سبھی ہمایوں کو مل کر سند پر دستخط کرنا

30/5/57
 سند کے سبھی ہمایوں کو مل کر سند پر دستخط کرنا



To *Sgt*
6/11/98

(a)
Annexure "C"

The Distt: Education Officer(M)
Secondary Swat at Gul kada.

Sub:- Two and half years (2 $\frac{1}{2}$) leave Without Pay
w.e.f 7-11-1998 to 7-5-2001 *total 881 days.*

Seventh November 1998 To Seventh May 2001

Sir,

With due respect it is stated that I am a C.T teacher at Govt:high School Nazar Abad,swat. I have been serving in the education depptt: since 13-10-1982.

I want to construct a house for my family due to which I will be unable to perform my duty regularly.

Kindly grant me two and half years leave without pay. I shall be very thank full to you.

Humayoon
Your,s Obediently,

Humayoon S/O Mohammad Yousaf (C.T)
GHS:Nazar Abad distt: swat.

Dated; 1 / 1 /1998.

No 1324-2 D/J G.H.S. Nazar Abad Swat, in 6-11-98.

forwarded & recommended to the D.E.O (M)
secondary edu, swat for favourable consideration
and m/pa please.

Mohammad Ali
Head master,
Govt: High School
Nazarabad, Distt: Swat.

حکومت جناب ڈسٹرکٹ ایجوکیشن آفیسر امروٹہ اضلاع سوات تمام گلارہ
عنوان :-

جناب عالی!

مؤدبانہ گزارش ہے کہ بندہ اپنی ذاتی رہائش گاہ کے لیے ایک مکان
تعمیر کروانا چاہتا ہے جس کے تعمیر کے لیے بندہ کی موجودگی ضروری ہے۔
لہذا آپ سے درخواست کی جاتی ہے کہ اگر آپ صاحبان
مہربان فرما کر بندہ کو از 2001-6-1 تا 2003-5-31 (دو سال) کے
تعمیر متخاواہ کی رقم دینے کا حکم صادر فرماویں تو بندہ تاحیات دعاؤں کا
نقطہ

عرفیہ

آپ کا تابع فرمان
محمد علی

محمد علی گورنمنٹ ہائی سکول شہر اضلاع سوات

Forwarded to the D.E.O. (M) Secondary Education

Sent for a/p. pluss. M. Abdulwahid
Head master,
Govt. High School,
Shawar Distt: Swat.

2282
28/5/01

Estab: sec

30/3/05

(13)

MR. Khawar Tariq
(میں صاحب)

محکمہ خراب EDO جب لیسٹری اینڈ ایگریکلچر خلع سوہانہ
بوسالت: خراب سٹیڈیو میں ٹورنٹیل ہائی سکول نظر آباد سوہانہ

عنوان: دو فاسد برائے آرٹھ لیبو از 1/5/2005 تا 31/7/2005

خواب عالی!

موصوفہ گزارش ہے کہ میں سکول خراب کھیت CT مدرسے اپنے ذرائع منظمی
انجام دے رہا ہوں۔ میں میں ذاتی وجوہات کی بنا پر کراچی چلا گیا ہوں جس وجہ سے یہ سکول
میں صرف 1/5/2005 سے 31/7/2005 یعنی تین ماہ ذرائع منظمی انجام دینے سے قاصر ہوں۔
لہذا اس وجہ سے ذرائع منظمی کے حساب کتابوں میں مذکورہ بالا عنوان کے مطابق آرٹھ لیبو

منظور فرما کر شکور خواجہ - داتا پور

علاقہ

مدرسہ CT
ٹورنٹیل ہائی سکول نظر آباد سوہانہ

No 2003 D. G. H. S. Nazam Abad
Swat, the 30th March 2005.

Date: 30-3-2005

forwarded to the E.D.O.
(H.E)



Swat for favourable
consideration of this matter please

Mr. Khawar Tariq
Head master,
Govt. High School,
Nazam Abad Distt. Swat.

جناب ایگزیکٹو ڈسٹرکٹ آفیسر (سٹولز و خواندگی) ضلع سوات
عنوان: دو سال کی چھٹی کی منظوری (with out pay) 19/7/07
جناب عالی!

تواضع سے کہ میں ٹورنٹ ہائر سکول نظر آباد سوات میں
C.T. پوسٹ پر 13-10-1982 سے اپنے فرائض منصبی انجام دے رہا ہوں

میرا ذاتی رہائشی مکان بوسیدہ ہو چکا ہے۔ اور گرن کا
خطہ ہے۔ اسی وجہ سے میں نئے مکان کی تعمیر کرنا چاہتا ہوں
جناب عالی! یہ میرے رہتلیاں مشکل ہے۔ کہ اپنی ڈیوٹی
کے ساتھ ساتھ مکان کی تعمیر جاری رکھ سکوں۔

لہذا موجود بلا آر آر۔ صاحب مہربانی فرما کر مجھے
01-08-2007 تا 13-07-2009 تک دو سال کی چھٹی کی
(with out pay) منظوری عنایت فرمائیں۔ (تورزادہ مہربانی ہوں)

العارضی :-

بھالیون C.T.
ٹورنٹ ہائر سکول نظر آباد
ضلع سوات
No 2154 dt: 29/05/2007

Forwarded to the E.D.O (S/L) Swat
for favourable consideration please.

3604
19/7/07

Head master,
Govt: High School,
Nezar Abad Distt: Swat.

حقوق ضابطہ ایگزیکٹو ڈسٹرکٹ ایجوکیشنل آفیسر فرائضی التعمیر مندرجات



ضابطہ 1

حود بن گزارش ہے کہ بندہ نے لائن ہو اور
صرف 01-08-2007 تا 13-07-2009 تک یعنی دو سال بغیر تنخواہ
کی چھٹی کے لیے درخواست جمع کیا تھا۔ اور وہم بڑے چھٹی
دنیا ذاتی معائنہ تعمیر کرانا لکھا تھا۔

ضابطہ 1 جو رقم ملے گا وہ میں میرے صنفی اہلکاروں میں اور میں
ان کا سب سے بڑا ہوں میرے بھائی کے بغیر نوکرانہ کام ہونا بہت
مشکل ہے۔ میں نے درخواست بڑا کے ساتھ دو عدد بیان حلفی
میں دیا ہے جس میں صاف وضاحت کی گئی ہے کہ بندہ نوکرانہ
چھٹی اپنے ہی ملک دور کاوں میں گزارنا چاہتا ہے اور اگر ضرورت
پڑے تو میں برتین میں بے دفتر بڑا اسکول بڑا میں حاضر
ہو جاؤں گا۔ اس لیے بڑا بڑا درخواست عرض گزار ہوں کہ وہ صاحبان
مربانی فرما کر بندہ کو نوکرانہ باوا چھٹی بغیر تنخواہ کے منظور کر کے

عبدالقدیر نونو

مجاہد سید

گورنمنٹ ہائی اسکول فکریہ درجنہ مندرجات

No 2452

dated 25/7/2007
Forwarded in original to the Hon. EDO
542 Street for Honorable Consideration at
requested, please.
Head Master,
Govt High School,
Muz Abad, Distt. Swat.

محرمیت خبا - E. D. O صاحب ضلعی سوات
ایڈیشنری ریٹرنڈ سٹیٹمنٹ ریگریٹریشن

Handwritten signature

آئی ڈی سٹیشن لیٹرون؟ مستطوری لیو لیغیر تنقوہ

آئی سال از 14/7/09 سے 13/7/2010 تک

خبا - عالیہ کسرفن خبا نہ ساتھی گورنمنٹ ہائی سکول نظر تبار
مختصیل سوات میں بحیثیت C.T مدرسن اینیٹات سے
جوندہ موجودہ کشتیہ حالات ضلعی سوات ساتھی اپنے اہل و عیال
سمیٹ پخت کراچی مقیم رہے - اور کراچی میں اپنے ذاتی
رائٹس کے متعلق لیغیر شروع کی تھی جس کے بعد ساتھی کو کراچی
آئی سال لیو لیغیر تنقوہ کی اشود ضرورت تھی - اور حالات
لیو ایسے ہیں جس سے ضلعی سوات میں کشتیہ حالات کیوجہ سے
کراچی کے متعلق تھی اور پھر ایک تعلیم میں بھی ساتھی کو مشکلات
ساتھ تھی کیونکہ تعلیمی ادارے زیادہ تر دھماکوں کی وجہ سے علیحدت
ہو چکے ہیں

Forwarded to EDO CSPT, Swat.
Original for further action pl.
Head master,
Govt. High School,
Nazar Abad District, Swat.
9/3/09.

نیز اشود علیہ کہ مستطوری دادرست صدر اور وجوہات
بالہ ساتھی کو آئی سال کی پھوٹی از 14/7/09 سے 13/7/2010
تک مستطوری کی جاؤ

Handwritten signature

17/9/09

پہا یان خان ولد محمد یوسف خان
C.T مدرسن گورنمنٹ ہائی سکول نظر تبار
ضلعی سوات
نیز ایو لیغیر خود وصیم عباس خان

2118

تقدیر کی جاتی ہے کہ سکول خذاً نو بہایون خان سے ٹی کے ٹیم میں توسیع کرنے کے تعلق

EDOC (E9S) ضلع سورت کا ایڈریس لکھ کر 7/12/2009 Hamayoon dated 10909/F.N-289

خبردار کے ہجرت کے بعد فوٹو سٹیٹ کا پی جی کے ہجرت کے بعد ایس کے دستاویزوں خان کو حضور میں قاصر کے ذریعے بھیجا گیا۔ جو کہ بہایون خان حاضر نہ تھے اس لیے وہ خطوط اسکے کنبائی دستاویز خان نے صرف 16/12/2009 کو وصول کیا۔ جس کی وصولی کی تحریر سکول خذاً کے لیکچرار پر موجود ہے۔ سکین بہایون خان تاحال سکول میں حاضر نہیں ہوئے ہیں۔ اور نہ ہی کوئی تحریریں اطلاع یا خطوط مت سکول خذاً کے سالانہ کی گئی ہے۔

Without pay extension in leave اور یہ کہ سکول خذاً میں بہایون خان کے سلسلے میں درخواست پر بھی واضح تحریر کی گئی ہے کہ سکول خذاً میں بہایون خان کے سلسلے میں درخواست پر بھی واضح تحریر کی گئی ہے اور یہ کہ وہ سکول سے باہر ہے۔

استاذ
Sultan
Govt High School
Shawar
23/8/2010

Handwritten signatures and initials with dates like 23/09/2010 and CT.

- 1. عبدالکرم خان
- 2. محمد رفیق
- 3. محمد رفیق
- 4. کبیر احمد
- 5. حسین

Headmaster
Govt. High School
Shawar Distt. Swa
23/8/2010

علم شاف و رفعت عالی سکول نذر تریبار سکول
حصہ: 2020.12.23

ہم علم شاف لکھنؤ رتہ لکھنؤ میں ہیں۔ ہم جو سوال جاہ
جوئے۔ ہماری علم کے مطابق بالکل صحیح ہے اور ہم نے کوئی
ایسی بات قطعی نہیں فرمائی جس سے حکم کی ممانعت ہے۔ استاد
موصوفت سے باہر ہے اور شاید یہ اس کی بطوری ہے چونکہ
اس نے کافی حضرت کی ہے۔ اسلئے اثر سے ساتھ فری کی
ہے تو زکی خاں سے مراد ہے۔

1) شاہ زین العابدین SET
2) شاہ و خاتون SET

3) عبد السلام خاں SET

16) محمد طاہر
17) محمد طاہر

18) محمد طاہر

- (10) محمد طاہر - M. J. 96
- (11) محمد طاہر - محمد طاہر
- (12) محمد طاہر - محمد طاہر
- (13) محمد طاہر - محمد طاہر
- (14) محمد طاہر - محمد طاہر

درخواست گزار کے نام پر عمل میں لائی جائے گی اور کوئی عذر قابل قبول نہ ہوگا۔

الہ شہر: کنٹونمنٹ ایگزیکٹو آفیسر پشاور

☆☆☆ ڈیوٹی سے غیر حاضری ☆☆☆

جناب چیف سیکرٹری حکومت شمال مغربی سرحدی صوبہ کی حکم کے مطابق بحوالہ چھٹی نمبر I-31/81 (E&AD) SOR-I مورخہ 18 نومبر 2009ء اور چھٹی نمبر COO/E&3/1-15/2001 مورخہ 21 نومبر 2001ء محکمہ تعلیم کے ان تمام ملازمین جو کہ عرصہ دراز سے بغیر کسی اطلاع کے اپنی ڈیوٹی سے غیر حاضر ہیں یا وہ ملازمین جنہوں نے لمبی چھٹی لے کر اور چھٹی کے اختتام پر اپنی ڈیوٹی سے ابھی تک غیر حاضر ہیں آپ کو بذریعہ اشتہار ہذا مطلع کیا جاتا ہے کہ وہ اس اشتہار کی اشاعت کے پندرہ دن کے اندر اندر اپنی ڈیوٹی پر حاضر ہو جائیں بصورت دیگر ان ملازمین کے خلاف محکمہ یکطرفہ کارروائی کر کے ان کی ملازمت (سپیشل آرڈیننس 2000) کی تحت برخاست کی جائیگی اور بعد میں کوئی بھی عذر قابل قبول نہیں ہوگا۔

عبدالله شاہ

ایگزیکٹو ڈسٹرکٹ آفیسر ایلمینٹری و

سیکنڈری ایجوکیشن ضلع سوات

INF(SW) 9

1. The
fend

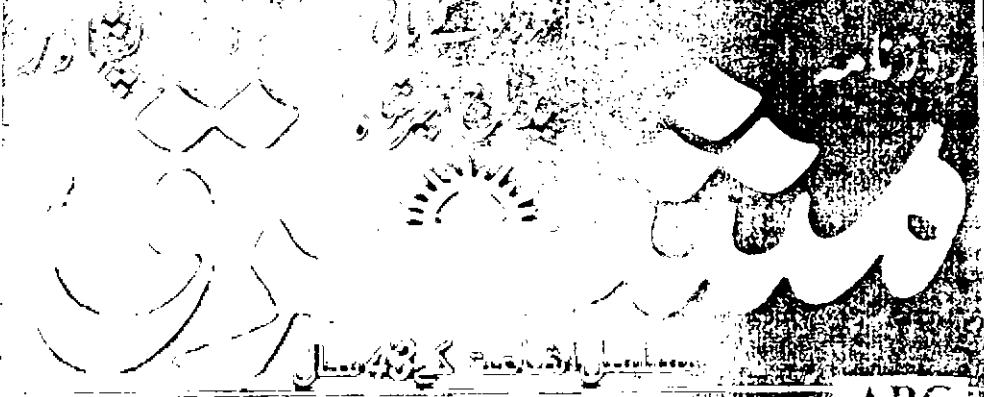
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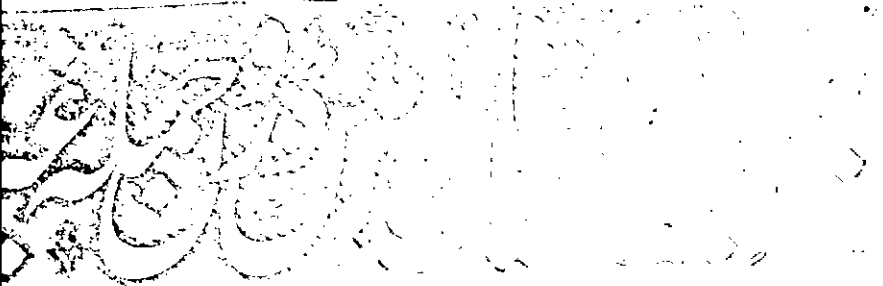
انڈیا کی کیلے میں مشرق و مغرب (آرٹیکل)

DAILY MASHRIQ



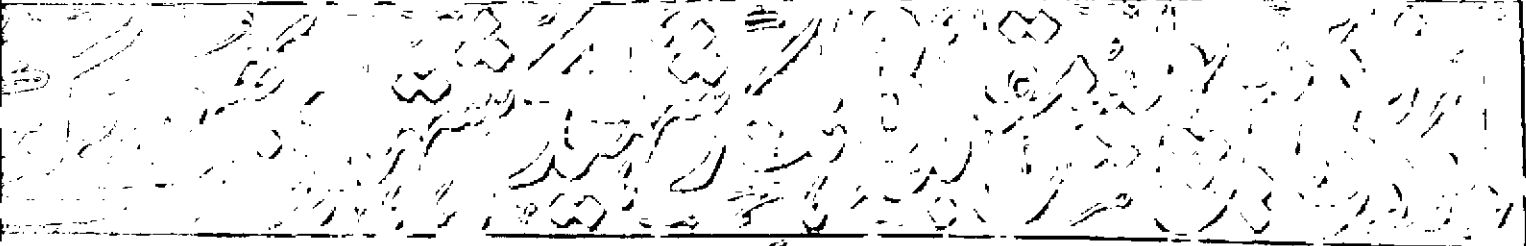
ABC CERTIFIED

جلد 43 نمبر 28 مکرّم 1431ھ 15 جنوری 2010ء قیمت 9 روپے پوسٹل ڈیوڈریم 148



علاقہ شکتوئی میں امریکی جاسوس طیارے نے لاکھوں خاندانوں کی مقامی قبائل (میرٹھ گھیل) کو ہلاک کیا۔

اسلام آباد (این این ٹی) پاکستان ہوائی اڈوں سے سرزمین سے ہٹنے والے اور ڈرون طیاروں کا معاصر اس نفاذ سرگرمی کو منسوخ کر دیا ہے۔



داؤد زئی پولیس نے میوزہ گاؤں میں بدنام زمانہ باسٹک ٹھکانہ کا گھیراؤ کرتے ہوئے اسے ہتھیار ڈالنے کو کہا۔

(21)
Amelune 8Gⁿ

DISCIPLINARY ACTION.

1. Kamran Rehman Khan, District Coordination Officer Swat, as Competent Authority is of the opinion that Mr. Hamayoun Khan CT, Government High School Nazar Abad, Swat has rendered himself liable to be proceeded against as he committed the following acts/ Omissions within the meaning of Section-3 of the North West Frontier Province Removal from service (Special Powers) Ordinance, 2000:-

STATEMENT OF ALLEGATIONS.

As reported by the Executive District Officer, Elementary and Secondary Education Swat that you remained absent from duties with effect from 14-07-2009 till-date without prior permission/approval of the competent authority.

2- For the purpose of scrutinizing the conduct of the said accused with reference to the above allegations, an enquiry committee consisting of the following is constituted under Section-5 of the Ordinance:-

- 1) Mr. Kameen Khan District Officer Elem: and Secondary Education Swat.
- 2) Mr. Taj Muhammad Khan Superintendent Office of the EDO Elementary and Secondary Education Swat.

3- The enquiry committee shall in accordance with the provisions of the Ordinance, provide reasonable opportunity of hearing to the accused record its findings and make within 15 days of the receipt of this order, recommendations to punishment or other appropriate action against the accused.

4- The accused and a well conversant representative of the department shall join the proceedings on the date, time and place fixed by the enquiry committee.

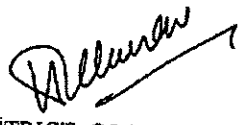

(KAMRAN REHMAN KHAN)
DISTRICT COORDINATION OFFICER SWAT.

No. 22601-04 /24/DCO/Estt.

Dated the 16/11 /2010.

Copy forwarded to:-

- 1-2) Mr. Kameen Khan District Officer Elementary and Secondary Education Swat and Mr. Taj Muhammad Khan, Superintendent Officer of the EDO, Elementary and Secondary Education Swat, for initiating proceedings against the accused Teacher under the provision of NWFP Removal from service (Special Power) Ordinance, 2000.
- 3) Mr. Hamayoun Khan CT GHS Nazar Abad, Swat C/O EDO Elem: and Secy: Edu: Swat with the Direction to appear before the inquiry committee, on the date, time and place fixed by the Committee for the purpose of enquiry proceedings.
- 4) Executive District Officer Elementary and Secondary Education Swat with the request to detail a Departmental Representative well conversant with the facts of the case along with relevant record to assist the inquiry committee during the inquiry proceedings.


DISTRICT COORDINATION OFFICER SWAT.

**OFFICE OF THE EXECUTIVE DISTRICT OFFICER ELEMENTARY AND SECONDARY
EDUCATION SWAT**

(22)
Annexure "H"

TITLE: ENQUIRY AGAINST MR. Hamayun CT GHS; Nazar Abad SWAT.
Date of Enquiry: 23 December 2010.
Place: GHS: Nazar Abad Swat.
Time: 11 AM
Name of Enquiry Officer: Kameen Khan D.O (M) Elementary & Secondary Education Swat.
Coordinator: Haji Muhammad Rasool Khan Assistant o/o EDO (E & SE) Swat.

In compliance with the orders of the District Coordination Officer Swat vide his office letter No. 22601-04/24/DCO/Estt: dated 16.11.2010, I the undersigned accompanied with Haji Muhammad Rasool Khan Assistant local office visited GHS: Nazar Abad Swat 23.12. 2010 to enquiry into the case against the above named accused.


The school staff was present. The accused teacher was found absent on the day of enquiry and as such he is absent from duty without sanction since 14.07.2009. The in charge told to the enquiry officer that the teacher concerned was directed time and again to join duty but as he was out of country therefore he was not able to report for duty.

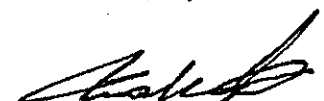
As per statement of the staff of the school, the accused is not in the country since then and according to the questioner filled by the in charge of the school the accused is in Canada.

CONCLUSION/ RECOMMENDATION.

It is obvious from the statement of the staff and in charge of the school that the accused is not interesting in service as he remained out of station for about **SEVEN YEARS**. According to the record the accused availed total **2037** days (**5 years, 7 months and 2 days**) leave in his **16** years and **01** month service. And now he is absent since 14.07.2009 to date. Three call notices were also issued to the accused to join his duty within a stipulated period but he could not join his duty (Copy of notices attached). The accused was also directed through a general press notice regarding absence from duty "The Daily Mashriq" dated 15 January 2010 to resume duty within fifteen days of the publication of the notice but in vain (Copy of paper attached).

In the light of above facts the accused is nemesis for a major penalty i.e. Removal from service (Special Power) Ordinance 2000 as there is not any type of leave at his credit and he remained willfully absent from duty. In view of his continuous willful absence he may either be terminated or compulsory retired from service.


MUHAMMAD RASOOL KHAN
ASSISTANT
O/O EDO (E & SE) SWAT


(KAMIN KHAN)
DISTRICT OFFICER
ELEMENTARY & SECONDARY EDUCATION SWAT
(ENQUIRY OFFICER)

SHOW CAUSE NOTICE.

HR
ESBA (M)
22/11/11
Amir I

I, Kamran Rehman Khan District Coordination Officer Swat as Competent Authority under the North West Frontier Province Removal from Service (Special Powers) Ordinance, 2000 (hereinafter referred to as the said Ordinance), do hereby charge you Mr. Hamayoon CT GIS Nazar Abad, Swat as follows:-

- (a) That consequent upon the completion of inquiry conducted against you by the Inquiry Committee for which you were given opportunity of hearing.
- (b) On going through the findings and recommendations of the Enquiry Committee, the material on record and other connected papers including your defence before the said committee.

I am satisfied that you have committed the following acts/omission specified in section-3 of the said ordinance:-

As reported by Executive District Officer Elementary and Secondary Education Swat, that you remained absent from duties with effect from 14/7/2009 till date, without prior Permission/approval of the Competent Authority.

- 2- As result thereof, I, as Competent Authority, have tentatively decided to impose upon you the penalty of "REMOVAL FROM SERVICE" under Section-3 of the said ordinance.
- 3- You are, therefore, required to show cause as to why the aforesaid penalty should not be imposed upon you.
- 4- If no reply to this notice is received within fifteen days of its delivery, in the normal course of circumstances, it shall be presumed that you have no defence to put in and in that case an ex parte action shall be taken against you.
- 5- You are also advised to appear in person on 28/1/2011 for hearing before major penalty of removal/dismissal from service is imposed.
- 6- The copy of the findings of the Inquiry Committee is enclosed.

387
26/11/2011

Kamran
DISTRICT COORDINATION OFFICER SWAT/
(COMPETENT AUTHORITY).

To, Mr. Hamayoon CT,
GIS Nazar Abad Swat,
C/O EDO Elem: and Secy:
Education Swat.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

In the matter of:-

_____ علی Appellant
VERSUS
7686/21 _____ Respondent

KNOWN ALL to whom these present shall come that I/we, the undersigned appoint

AZIZ-UR-RAHMAN and IMDAD ULLAH

Advocates High Court

To be the advocate for the اسرار in the above mentioned case to do all the following acts, deeds and things or any one of them, that is to say:-

- ❖ To acts, appear and plead in the above mentioned case in this court or any other Court in which the same may be tried or heard in the first instance or in appeal or review or revision or execution or at any other stage of its progress until its final decision.
- ❖ To present pleadings, appeals, cross objections or petitions for execution review, revision, withdrawal, compromise or other petition or affidavits or other documents as shall be deemed necessary or advisable for the prosecution of the said case in all its stages.
- ❖ To withdraw or compromise the said or submit to arbitration any difference or dispute that shall arise touching or in any manner relating to the said case.
- ❖ To receive money and grant receipts therefore, and to do all other acts and things which may be necessary to be done for the progress and in the course of the prosecution of the said case.
- ❖ To employ any other Legal Practitioner authorizing him to exercise the power and authorities hereby conferred on the Advocate wherever he may think fit to do so.
- ❖ I understand that the services of aforesaid lawyer are hired irrespective of the outcome of the case.

And I/We hereby agreed to ratify whatever the advocate or his substitute shall to do in the said premises.

And I/We hereby agree not to hold the Advocate or his substitute responsible for the result of the said case in consequences of his absence from the Court when the said case is called up for hearing.

And I/We hereby agree that in the event of the whole or any part of the fee agreed by me/us to be paid to the Advocate remaining unpaid, the Advocate shall be entitled to withdraw from the prosecution of the case until the same is paid.

IN THE WITNESS WHEREOF I/WE hereunto set my/our hand(s) to these present the contents of which have been explained to and understood by me/us, this 13 day of 03 2023

(Signature or thumb impression)

_____ Hamid
(Signature or thumb impression)

(Signature or thumb impression)

Accepted subject to terms regarding fees

Asrar
(AZIZ-UR-RAHMAN)

Advocate High Court

Office: Khan Plaza, Gulshone Chowk

G.T. Road Mingora, District Swat.

Cell No. 0300 907 0671

Imdad
(IMDAD ULLAH)

Advocate High Court

Office: Khan Plaza, Gulshone Chowk,

G.T. Road, Mingora, District Swat

Cell No. 0333 929 7746



KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

No. 1595 /ST Dated 07/06 /2023

All communications should be addressed to the Registrar KPK Service Tribunal and not any official by name.

Ph:- 091-9212281
Fax:- 091-9213262

To

District Education Officer (Male), Saidu Sharif Swat.

SUBJECT JUDGMENT IN SERVICE APPEAL NO. 7686/2021 TITLED HUMAYOON VERSUS THE GOVERNMENT OF KHYBER PAKHTUNKHWA THROUGH SECRETARY (E&SE) DEPARTMENT AND OTHERS

I am directed to forward herewith a certified copy of judgment dated 02.05.2023, passed by this Tribunal in the above mentioned appeal for compliance.

Encl. As above.

(AAMIR FAROOQ)
ASSISTANT REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 7686 of 2021

Hamayoon S/o Muhammad Yousaf.

...Appellant

VERSUS

The Government of Khyber Pakhtunkhwa through
Secretary E&SE and Others.

...Respondents

REJOINDER BY THE APPELLANT

Respectfully Sheweth:

Preliminary Objections:

That all the preliminary objections are incorrect, baseless, against the law, rules and facts, hence are specifically denied. Moreover the Appellant has got a prima facie case in his favour and has approached this Honourable Tribunal well within time with clean hands and this Honourable Tribunal has got the jurisdiction to adjudicate upon the same.

On Facts:

1. Para 1 of the comments amounts to admission, hence needs no reply.
2. Para 2 of the comments also amounts to admission, hence needs no reply as well.
3. Para 3 of the comments needs no reply.

4. Para 4 of the comments as drafted is evasive, thus amounts to admission.
5. Para 5 of the comments as drafted is illusive and devoid of merits, thus the same is denied.
6. Para 6 of the comments as drafted also is based on misstatements and concealment of material facts, thus the same is denied.
7. Para 7 of the comments as drafted is incorrect, devoid of merits and against the law and rule on the subject, thus the same is denied.
8. Para 8 of the comments as drafted also is incorrect, illusive and against the facts, thus the same is denied. The Appellant while in the country fully abide by his words, but due to circumstances beyond his control could not report for his duties.
9. Para 9 of the comments as drafted is vague, evasive and devoid of merits, thus the same is denied.

On Grounds:

- A. Ground A of the comments as drafted is incorrect, baseless and against the facts, thus the same is denied.
- B. Ground B of the comments as drafted also is incorrect and baseless, the Appellant never remained willfully absent, but his absence was due

to circumstances beyond his control, thus the para
is denied.

C. Ground C of the comments as drafted amounts to
admission, thus needs no reply.

D. Ground D of the comments as drafted also is
incorrect and ill construed, thus the same is denied
as well.

E. Ground E of the comments as drafted also is evasive
and incorrect, thus the same is denied as well.

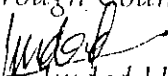
F. Ground F of the comments as drafted also being
evasive and devoid of merits, hence the same is also
denied.

G. Ground G of the comments as drafted also is evasive
and against the law and rules on the subject, thus
the same is denied as well.

H. Ground H of the comments as drafted will be
rebutted at the time of the arguments, with the leave
of this Honourable Tribunal.

It is, therefore, very respectfully prayed that
on acceptance of this rejoinder the appeal of the
Appellant may very kindly be decided as prayed for
originally.


Appellant

Hamayoon
Through Counsel,

Imdad Ullah
Advocate Swat

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 7686 of 2021

Hamayoon S/o Muhammad Yousof.

...Appellant

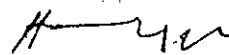
VERSUS

The Government of Khyber Pakhtunkhwa through
Secretary E&SE and Others.

...Respondents

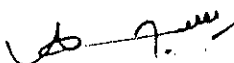
AFFIDAVIT

It is solemnly stated on Oath that all the contents of
this rejoinder are true and correct to the best of my
knowledge and belief and nothing has either been
misstated or kept concealed before this Honourable
Tribunal.



Deponent

Hamayoon



Muhammad Ilyas

ADVOCATE

OATH COMMISSIONER

District Courts, Swat.

No. 69 Date 2-5-20