

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

APPEAL NO. 391 /2022

SCANNED
KPST
Peshawar

Naimat Ullah

VS


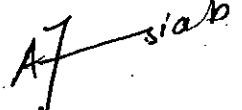
EDUCATION DEPTT:

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لفعل
APPELLANT

THROUGH:


Yasir Saleem
&

Afrasiab Khan Wazir
Advocate high Court

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Khyber Pakhtunkhwa
Service Tribunal

Service Appeal No. 391/2022

Diary No. 2674

Date 2-1-2023

Mr. Naimat ullah, PST (BPS-12), in district education Officer
District North Waziristan**APPELLANT.**

Versus

1. Director education merged district, Khyber Pakhtunkhwa Peshawar.
2. District education officer, District North Waziristan.
3. District Account Officer, District North Waziristan.
4. *Sery B.U.S.E. Dept. 114 Peshawar***RESPONDENTS**

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 AGAINST INACTION OF THE RESPONDENT BY NOT RELEASING SALARIES W.E.F 01.07.2019 OF THE APPELLANT AND AGAINST INACTION ON DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STIPULATED PERIOD.

Prayer:

That on acceptance of this instant service appeal of the appellant the inaction of the respondents by not releasing salaries of the appellant w.e.f 01.07.2019 till dated may very kindly be declared illegal and without lawful authority of law, and the respondents may further please be directed to release salaries of the appellant w.e.f 01.07.2019 till dated, with all back benefits. Any other remedy which august tribunal deems fit that may also be decided in favor of the appellant.

R/SHEWETH:

ON FACTS:

Brief facts of the appeal are as under;

1. That the appellant is working as PST (BPS-12) in the respondent department. *(Copy of appointment letter is attached as Annexure 'A')*
2. That the appellant approached respondent No.1 to kindly released our salaries while respondent No.1 vide order dated 09.01.2019 issued order to respondent No.3 to release their salaries if not terminated. *Copy of order dated 09.01.2019 is attached as annexure.....A/1*
3. That in response of order dated 09.01.2019 the respondent No.3 issued the outstanding salary released order dated 07.02.2020 after scrutiny and enquiry. Copy of the order dated 07.02.2020 is attached as annexure.....**B.**

*filed to day
Registrar
re-submitted to
and filed.*

4. That on 10.02.2020 the respondent No.3 made an observation over the impugned bills which was removed by the respondent No.2 and resubmitted to respondent No.3 vide order dated 12.02.2020 which is still pending. Copy of letters are attached as annexureC.
5. That the Respondent No.2 sent letters date 03.03.2020 regarding the outstanding salaries but the respondent No.3 is still mum over it. Copy of letter 03.03.2020 is attached as annexureD.
6. That against the inaction of the respondents with regard to the outstanding salaries of the appellant, he also filed departmental appeal to the appellate authority which is still pending. Copy of the departmental appeal is attached as annexure.....E.
7. That appellant further feeling aggrieved and having no other remedy but to file this appeal on the following grounds inter alia.

ON GROUNDS:

- A. That the inaction of the respondents by not releasing salaries of the appellant w.e.f 01.07.2019 is against law, rules and norms of natural justice.
- B. That the appellant have not be treated in accordance with law and rules and as such respondents violated Article 4 and 24 of the constitution of Islamic republic of Pakistan 1973.
- C. That the action of the respondent No.3 amounts to sheer arbitrary and autocratic in nature hence against the norms of natural justice.
- D. That the conduct of respondent No.3 is not only ignoring the competent authority orders but conduct and attitude of the respondents No.3 from such inaction show something unfair means hence also violating the mandatory provision of the constitution that all Govt. departments are duty bound to strictly act in accordance with law.
- E. That its apex court decisions that salary is not bounty that can be stopped at the wishes of high ups.
- F. That the inaction of the respondents by not releasing salaries of the appellant is against Article 38(e) of the Constitution of Islamic republic of Pakistan, 1973.

G. That the respondents are using colorful exercise of power regarding not releasing the salaries outstanding against the respondents hence this action of the respondents is unwarranted under the law.

H. That the appellant seeking indulgence of this honorable Tribunal for intervening in the matter to release immediately the outstanding salaries and clear the bill pending before the respondent No.3 without any cogent reason and the respondent No.3 has no locus standi to stop the bills being clear cut orders of the high ups and competent authority.

I. That the remaining points if any arise during the course of hearing may also be allowed.

It is therefore humbly prayed that the appeal of the appeal may very kindly be accepted as prayed for.

APELLANT

Naimat Ullah
Naimat Ullah

THROUGH:

Yasir Saleem
Yasir Saleem
&
Afrasiab Khan Wazir
Afrasiab Khan Wazir
Advocates high Court

Certificate:

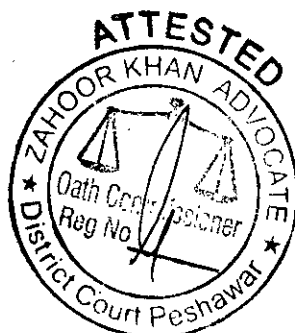
That no earlier appeal is preferred before this august tribunal.

Naimat Ullah
Deponent

Affidavit:

I Naimat Ullah S/O Aslam Khan, resident of district north waziristan, solemnly affirm and declare that the contents of this Appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this August Tribunal.

Naimat Ullah
Deponent




OFFICE OF THE AGENCY EDUCATION OFFICER NORTH WAZIRISTAN
AGENCY

Appointment order

As per recommendation of the departmental selection committee the following Male/Female PST teachers are hereby appointed against the vacant posts with immediate effect from the date of taking over charge in the best interest of public.

1. Mr. Niamat Ullah PST GPS Bare kot.
2. Mr. Asad Ullah PST GPS Data Khel.
3. Mr. Ghulam Rasool PST GPS inayat Khan kot.
4. Mr. Zahid Ullah PST GPS Zindai Kot.
5. Mr. Abid Ullah PST GPS Salman Kot.
6. Mr. Sher Abbas Khan PST GPS Mami Rogha Manzar Khel.
7. Mr. Inam Ullah PST GPS Dari Wasta.
8. Mr. Naseer Ud Din PST GPS M. Aslam Kot.
9. Mst. Salma PST GGPS Akhtar Nawaz Kot.
10. Mst. Safia PST GGPS Said Rasool Kot.
11. Mst. Saima PST GGPS Siraj Ud Din Kot.
12. Mst. Zainab PST GGPS Muhammad Amin Kot.
13. Mr. Israr Ullah PST GPS Maaz Alam Kot.
14. Mr. Abdul Tawab PST GPS Hassan Shah Kot.


Agency Education Officer
North Waziristan Agency

Endst No. 388-90/AEO/NWA

Dated: 15/3/2014

Copy to:

1. Director Education FATA, FATA Secretariat Peshawar.
2. Political agent North Waziristan Agency.
3. Agency account Officer NWA.
4. AAEO circle Concerned.
5. Candidates concerned.


Agency Education Officer
North Waziristan Agency

ATETSTED





ANNEX A/1

41

DIRECTORATE OF EDUCATION
 NEWLY MERGED TRIBAL DISTRICTS
 WARSAK ROAD PESHAWAR, PAKISTAN
 PHONE: 091-9210166 FAX 091-9210216
 No. 1200 / Date Pesh: the 9/1/2019

Handwritten notes:
 1200
 1200
 1200

Handwritten notes:
 M. Shariq
 discuss and verify
 the case with Supdt
 M. Shariq
 9/1/2019

To

The District Education Officer,
North Waziristan District.

Subject; APPEAL FOR ADJUSTMENT/RELEASE OF PAY.

Memo:

I am directed to refer to subject cited above and to enclose herewith an application in respect of Mr. Niamatullah PST and Imrana PST and others of North Waziristan District for necessary action after proper verification under intimation to this office to resolve the issue once for all.

Encl: As Above.

Signature
 Deputy Director (F/A)

Endst: No. 1201-2 /-

Dated Pesh: the _____ /2019
 9/1/19

Copy forwarded to the :-

1. District Accounts Officer, NWD
2. PA to Director Education NMTD.

Signature
 Deputy Director (F/A)

ATTESTED
 ATTESTED
 Afshar
 Afshar

ANNEX B (5)

OFFICE OF THE DISTRICT EDUCATION OFFICER NORTH WAZIRISTAN TRIBL
DISTRICT

No. ____/DHO/NWD/MRN/

Dated: 07/02/2020

To

The District Account Officer
North Waziristan District

Subject : RELEASE OF PAY IN R/o Nimat Ullah and others.

In pursuance of the approval of director of education merged districts vide order No.12.20.2022 dated 09.01.2019 and the recommendations of enquiry officers the outstanding salaries of the following male and female teachers, PST teachers are hereby released from the date of stoppage 01.07.2019 on the basis of non termination and they are the regular employees of this office performing duties regularly and there is no complaint/enquires against them.

- 1- Mr. Naimat ullah PST GPS Kharsin.
- 2- Mr. Ghulam rasool PST GPS Inayat Khan Kot.
- 3- Mr. Asad Ullah PST GPS Datakhel.
- 4- Mr. Zahid ullah PST GPS Zindaie.
- 5- Mr. Abid ullah PST GPS Salman.
- 6- Mr. Sher Abas Khan PST GPS Mamirogha Munzer Khel.
- 7- Mr. Inam ullah PST GPS Dari Wastha.
- 8- Mr. Nazir Ud Din PST GPS Aslam Kot.
- 9- Mrs. Salma PST GGPS Akhter Nawaz Kot.
- 10- Mrs. Safia PST GGPS Said Rasool.
- 11- Mrs. Saima PST GGPS Siraj Ud Din Kot.
- 12- Mrs. Zainab PST GGPS Muhammad Amin Kot.
- 13- Mr. Israr Ullah PST GPS Mazalam Kot.
- 14- Mr. Abdul Tawad PST GPS Hassan Shah.

DISTRICT EDUCATION OFFICER
DISTRICT NORTH WAZIRISTAN

Endst: No. 9285-90/DEO/NWD dated 7/02.02.2020

Copy to;

- 1- The Director Education Merged Districts with reference to his letter Number quoted above.
- 2- PS to Secretary SSD FATA Secretariat.
- 3- Deputy Commissioner NWD.
- 4- District Account officer NWD with the release the salaries being low paid government servant,
- 5- AAEO circle concerned.
- 6- Candidates concerned.

ATTESTED

DISTRICT EDUCATION OFFICER
DISTRICT NORTH WAZIRISTAN

Attested

Annex C (9)

6



OFFICE OF THE DISTRICT ACCOUNTS OFFICER

NORTH WAZIRISTAN (TRIBAL DISTRICT) MIRANSHAH

No. DAO/MRN/NWTD/2020-21/ 801

Dated 19/1/2020

To

The District *Edul* Officer
District North Waziristan.

Subject:

Appeal for Release of Pay in r/o Siraj ud Din & Others & Punching their Source-II

Kindly refer to the subject noted above and to state that:

- 1) Whether they have been regular and bonafide employees of your department.
- 2) Whether they are performing their duties regularly.
- 3) Whether they were appointed on regular sites or otherwise.
- 4) Whether they are involved in any inquiry.
- 5) Whether their salaries were stopped due to non-opening of their bank accounts or otherwise.

Therefore, it is further requested a clear-cut decision may kindly be intimated to this office for further process the case and also after fulfilling the above observations, kindly submit all bills/source II forms to process in the matter being low-paid Govt employees.

[Signature]
 District Accounts Officer
 NW (Tribal District) Miran Shah

ATTESTED
ATTESTED

Attestation
AF swas

Amir

(7)

OFFICE OF THE DISTRICT EDUCATION OFFICER NORTH WAZIRISTAN TRIBL
DISTRICT

No. _____/DHO/NWD/MRN/

Dated: 02/02/2020

To

The District Account Officer
North Waziristan District

Subject ~~APPEAL~~ For RELEASE OF PAY IN R/o Nimat Ullah and others and Punching their source II forms

Kindly refer to your letter dated 10-02-2020 on the subject noted above and to state that;

- 1- They are regular and bonafide employees of this department
- 2- They are performing their duties regularly to the entire satisfaction of their superiors.
- 3- They have appointed on regular sides.
- 4- They are not involved in any type of inquiry i.e Anti Corruption and NAB etc
- 5- Their salaries have been stopped due to non opening of bank accounts as intimated by your good office vide letter dated 22-1-2021 and 18-2-2021 (Copy attached)

It is therefore requested the observations has been removed by the under sign and verified the source forms and re submitted to your good office for further necessary actions being low paid Government servants and to perform their duty with zeal more than ever.

DISTRICT EDUCATION OFFICER
DISTRICT NORTH WAZIRISTAN

ATTESTED
ATTESTED

Attested
A7 sial

OFFICE OF THE DISTRICT EDUCATION OFFICER
NORTH WAZIRISTAN DISTRICT MIRAN SHAH

ANNEX 10

8

No. 2/27 /DEO/NWTD

Dated: 3/3 /2020

To

The District Account Officer,
North Waziristan District.

Subject:

REQUEST FOR PUNCHING OF SOURCE I & II PROFARMAS.

Refer to subject noted above and to state that the pending source I & II profarma may kindly be punched as soon as possible which have already been still pending in your office. (Copies attached).

It is further stated that they are verified and bonafide employees of this office. They are regularly performing their duties under the prevailing rules but unexpectedly their salaries have been stopped time and again rendering the employees uncomfortable leading to directly impact in a sense of their service and resultantly proving the detrimental to the system.

Keeping in view the above facts it is requested that the salaries of the employees may be released so that the employees may feel at easy and perform their duties with zeal more than this.

ATCO please examine

PA/s
DAO/s

Copy for my
file

Mr. Sadeq Ali punch
all the profarma

PA/s

DISTRICT EDUCATION OFFICER,
DISTRICT NORTH WAZIRISTAN

Attested

and DA attested
found in system verified from the
computer. by
District Accounts Officer
NWTD Miran Shah
22/12/2021

ATTESTED
ATTESTED

Attested
A7/s

صدا - سیکریٹری ریکورڈنگ کے لیے تیار ہے۔

عنوان: ایچ آر ڈی سیکریٹری

موردہ نامہ گزارشت ہے کہ سیر تنخواہ لکچرنگ و ج کے رخصت ریکورڈنگ
 رخصت بند کیا ہے۔ اس کے خلاف عدالت ڈائریکٹر ریکورڈنگ خانہ کو
 درخواست کی۔ ڈائریکٹر لکچرنگ طلبہ درخواست پر عمل کر دیا اور
 تا وقت کو خدمات جاری فرمایا۔ تو اس لکچرنگ روٹی میں AEO
 نے لکچرنگ بنائی تو لکچرنگ میں حق میں فضلہ دیا۔ کہ سیر تنخواہ
 ریکورڈنگ کے تو میں بنا کر اکاؤنٹس افسر میں جمع کیا، تو اکاؤنٹس
 افسر نے لکچرنگ اعتراضات بنا کر میں دائیں کیا۔ اعتراضات جاری
 کیے۔ اکاؤنٹس افسر میں جمع کیا۔ تو میں سلو میں AG
 رخصت ہے۔ AEO افسر کو خدمات جاری فرمایا۔
 نتیجہ میں کہ موجودہ اکاؤنٹس افسر میرا لکچرنگ میں دار
 اس صورت میں کہ

سیکریٹری ایچ آر ڈی کے AEO اور AAO

تا وقت کو تنخواہ ریکورڈنگ کے احکامات صادر کرنا مشکل
 فرمایا۔

تاریخ 03/10/22

ایچ آر ڈی سیکریٹری
 ایچ آر ڈی سیکریٹری
 PS: ایچ آر ڈی

SOCPE
 ATETSTL
 Please ask
 Report from DEO
 concerned
 3/10/22
 Attached

POWER OF ATTORNEY

In the Court of Justice Mubashir
Naima Akhtar

For
Plaintiff
Appellant
Petitioner
Complainant

VERSUS

Soul 7 up & other
Defendant
Respondent
Accused

Appeal/Revision/Suit/Application/Petition/Case No. _____ of _____ Fixed for _____

I/We, the undersigned/ _____ do hereby nominate and appoint **YASIR SALEEM ADVOCATE HIGH COURT**, my true and lawful attorney, for me in my name and on my behalf to appear at _____ to appear, plead, act and answer in the above Court or any Court to which the business is transferred in the above matter and is agreed to sign and file petitions, an appeal, statements, accounts, exhibits, Compromises or other documents whatsoever, in connection with the said matter or any matter arising there from and also to apply for and receive all documents or copies of documents, depositions etc. and to apply for and issue summons and other writs or sub-poena and to apply for and get issued and arrest, attachment or other executions, warrants or order and to conduct any proceeding that may arise there out; and to apply for and receive payment of any or all sums or submit for the above matter to arbitration, and to employ any other Legal Practitioner authorizing him to exercise the power and authorizes hereby conferred on the Advocate wherever he may think fit to do so, any other lawyer may be appointed by my said counsel to conduct the case who shall have the same powers.

AND to all acts legally necessary to manage and conduct the said case in all respects, whether herein specified or not, as may be proper and expedient.

AND I/we hereby agree to ratify and confirm all lawful acts done on my/our behalf under or by virtue of this power or of the usual practice in such matter.

PROVIDED always, that I/we undertake at time of calling of the case by the Court/my authorized agent shall inform the Advocate and make him appear in Court, if the case may be dismissed in default, if it be proceeded ex-parte the said counsel shall not be held responsible for the same. All costs awarded in favour shall be the right of the counsel or his nominee, and if awarded against shall be payable by me/us

IN WITNESS whereof I/we have hereto signed at _____ the _____ day to _____ the year _____
Executant/Executants _____
Accepted subject to the terms regarding fee _____

Afarsia Akhtar Adolab

Afiah
63129888758

YASIR SALEEM
Advocate High Court

ADVOCATES, LEGAL ADVISORS, SERVICE & LABOR LAW CONSULTANT
FR: 4, Fourth Floor, Bilour Plaza, Saddar Road, Peshawar Cantt

VAKALATNAMA

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

_____ OF 2023

SCANNED
KPSI
Peshawar

Naimalullah

(APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

Edu Dept

(RESPONDENT)
(DEFENDANT)

I/We *Naimalullah*


Do hereby appoint and constitute, **Yasir Saleem & Afrasiab Khan, Advocates High Court, 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. _____/_____/2023

[Signature]


CLIENT(S)

ACCEPTED
YASIR SALEEM
&
AFRASIAB KHAN
ADVOCATES HIGH COURT
PESHAWAR

 OFFICE OF THE DISTRICT EDUCATION OFFICER Male
District North Waziristan, Miranshah

No: 35018-21 / DEO/NWTD/
Phone: 0928-313040

Dated: 19/12/2022
Email: doomalewtd@gmail.com



To: The District account Officer,
North Waziristan Tribal District.

Subject: RELEASE OF SALARIES.

In pursuance of the approval of Director of Education Merged District vide order No:1220-22 dated:09-01-2019 and No:1666 dated, 30-01-2019 and secretary Education No.SO(PE)/E&SE/Gen Misce/2022 dated,11-08-2022 and this office letter No:10095-99 dated,21-11-2019 and the recommendation of the Inquiry officer dated,05-09-2019 the out standing salaries of the following Male & F, Male teachers are hereby released from the date of stoppage with effect from 01-01-2019 on the basis of, not terminated and they are regular employees of this office.They are performing their duties regularly and there is no complaint/Inquiries against them.

- 1- Mr. Nalmat ullah PST GPS Kharsin.
- 2- Mr. Ghulam Rasool PST GPS Inayat Khan Kot.
- 3- Mr. Asad Ullah PST GPS Datakhel.
- 4- Mr. Zahid ullah PST GPS Zindaic.
- 5- Mr. Abid ullah PST GPS Salman.
- 6- Mr. Sher Abas Khan PST GPS Mamirogha
- 7- Mr. Inam ullah PST GPS Dari Wastha.
- 8- Mr. Nazir Ud Din PST GPS Aslam Kot.
- 9- Mrs. Salma PST GGPS Akhter Nawaz Kot.
- 10- Mrs. Safia PST GGPS Said Rasool.
- 11- Mrs. Saima PST GGPS Siraj Ud Din Kot.
- 12- Mrs. Zainab PST GGPS Muhammad Amin Kot.
- 13- Mr. Israr Ullah PST GPS Mazalan Kot.
- 14- Mr. Abdul Tawad PST GPS Hassan Shah.
- 15- Hamid Ur Rehman PST GPS Inayat Khan Kot.

Date and even No

Copy forwarded to the:-

1. Director Education Merged Districts with reference to his order No. quoted above.
2. SO (PE) Education E&SE Department with reference to his order No. quoted above.
3. Deputy Commissioner North Waziristan District.
4. Accountant local Office.
5. Candidates concerned.

DISTRICT EDUCATION OFFICER
NORTH WAZIRISTAN MIRANSHAH

DISTRICT EDUCATION OFFICER
NORTH WAZIRISTAN MIRANSHAH



23rd May, 2023

1. Learned counsel for the appellant submits that in view of letter No.669/DHO/Released dated 07.03.2022, the desired relief has otherwise been granted to the appellant, therefore, this appeal has outlived its utility.
2. Disposed of accordingly. Consign.
3. *Pronounced in open Court at Peshawar under my hand and seal of the Tribunal on this 23rd of May, 2023.*

(Kalim Arshad Khan)
Chairman

Mutazem Shah

Date of Presentation of Application 24-5-2023
Number of Words Page 2
Copying Fee 10/-
Agent -
Fees 10/-
Name of -
Date of Court 25-5-2023
Date of Delivery of Copy 25-5-2023

Certified to be true copy

MUTAZEM SHAH
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

04.05.2023


01. Learned counsel for the appellant present.

02. Learned counsel for the appellant produced copy of office order 09.03.2022 issued by District Health Officer North Waziristan Miranshah. By virtue of the order, the outstanding salaries of the appellant have been released against any vacant post. Copy of the same is placed on file.

03. In view of the development, learned counsel for the appellant states that the appeal in hand has met its purpose.

04. Disposed of having been infructuous. Cosign.

05. *Pronounced in open court at Peshawar and given under my hand and seal of the Tribunal this 04th day of May, 2023.*


(Muhammad Akbar Khan)
Member (E)

Korunkhah

