

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

APPEAL NO. 404 /2022

SCANNED
KPST
Peshawar

Saima

VS

EDUCATION DEPTT:

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APPELLANT

THROUGH:

y
Yasir Saleem
& *Afrasiab*
Afrasiab Khan Wazir
Advocate high Court

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Pakhtunkhwa
Service Tribunal

Diary No. 2673

Dated 2-1-2023

Service Appeal No. 404 /2022

Mr. Saima, 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. Secy D & SE.....*D. M. A. P. 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 order is attached as Annex 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/*
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

21/1/23
Registrar

Re-submitted to - disty and filed

Registrar 2/3/23

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 annexure.....D.
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

ilp
Saima

THROUGH: *✓*

Yasir Saleem
&
Afrasiab Khan Wazir
Advocates high Court

Afrasiab

Certificate:

That no earlier appeal is preferred before this august tribunal.

ilp
Deponent

Affidavit:

I Saima, 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.

ilp
Deponent



OFFICE OF THE AGENCY EDUCATION OFFICER NORTH WAZIRISTAN

AGENCY

Appointment order

As per recommendation of the departmental selection committee the following Male/Fe-male 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

Dated: 25/3/2014

Endst No. 386-90/AEO/NWA

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

ATETCTED





ANNEX A/1

48

DIRECTORATE OF EDUCATION
 NEWLY MERGED TRIBAL DISTRICTS
 WARSAK ROAD PESHAWAR, PAKISTAN
 PHONE. 091-9210166 FAX 091-9210216
 No. 12100 / Date Pesh: the 09/01/2019

To

The District Education Officer,
North Waziristan District.

M. Shariq
discuss and verify
the case with supdt
M. Shariq
20/01/2019

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

Ahmed
A7 siab

ANNEX B

(5)

OFFICE OF THE DISTRICT EDUCATION OFFICER NORTH WAZIRISTAN TRIBL
DISTRICT

No. ____/DHO/NWD/MRN/

Dated: 03/03/2020

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. 3285-90/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.

~~ATEISTED~~

DISTRICT EDUCATION OFFICER
DISTRICT NORTH WAZIRISTAN
ATTESTED

Attested

Amur C (9)

6



OFFICE OF THE DISTRICT ACCOUNTS OFFICER

NORTH WAZIRISTAN (TRIBAL DISTRICT) MIRANSHAH

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

Dated 10/1/2020

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

Attested
AT swas

ANN

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 this.

DISTRICT EDUCATION OFFICER
DISTRICT NORTH WAZIRISTAN

ATTESTED

A. J. Sial

Attested
A. J. Sial

ANNEX 1D

OFFICE OF THE DISTRICT EDUCATION OFFICER
NORTH WAZIRISTAN DISTRICT MIRAN SHAH

8

No. 2127 /DEO/NWTD

Dated: 3/3 /2020

To

The District Account Officer,
North Waziristan District.

Subject:

REQUEST FOR PUNCHING OF SOURCE I & II PROFARMA.

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 employee 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.

AAO please examine

*W/S
BAO*

Info for...

DISTRICT EDUCATION OFFICER,
DISTRICT NORTH WAZIRISTAN

*Mr. Sadeq Ali punch
all the profarma*

W/S

Attested

*and All. Off. tel. verified from the
found in system computer. by
District Accounts Officer
NWTD Miran Shah*

29/12/20

ATTESTED
ATTESTED

*Attested
A7 sides*

9) صواب سلیب کی رپورٹ کے لیے تیار کرو

عنوان: ایپل برک ریپورٹ آف سیلینٹ

موردہ نام لڈار میں ہے کہ سیر تنخواہ لکیر کی وجہ کے رخصت ہو گئے
 رخصت ہونے کے بعد اس کے خلاف عدالت ڈائریکٹر رپورٹنگ خانہ کو
 درخواست کی۔ ڈائریکٹر طلبہ درخواست پر عمل کر دیا اور ABO
 نامی نوٹس جاری فرمایا۔ تو اس لکیر کی روشنی میں ABO نامی
 نے لکیر بنائی تو لکیر میں حق میں فضلہ دیا۔ کہ سیر تنخواہ
 ریپورٹ کرنے تو میں بنا کر اکاؤنٹس آفس میں جمع کیا، تو اکاؤنٹس
 آفس نے کچھ اعتراضات بنا کر میں دایں کیا۔ اعتراضات دور
 کر دیے اور اکاؤنٹس آفس میں جمع کیا۔ تو میں سلیب میں AG
 رکھنے میں DA0 آفس کو صلاحات جاری فرمایا۔
 سلیب میں DA0 موجود ہے اکاؤنٹس آفس میرا لٹا ہوتی دار
 اس کے بعد تیار کیا گیا۔

سلیب میں DA0 اور DA0 کے

تاریخ و تنخواہ ریپورٹنگ کے احکامات صادر کرنا مشکل
 فرمایا گیا۔

تاریخ 03/10/22

ایپل برک

PS 2/2

SO (PE)

ANNEX E

3/10

Attached

Please ask
Report from DEO
Concerned

9

POWER OF ATTORNEY

In the Court of Service Tribunal of Saima

For
Plaintiff
Appellant
Petitioner
Complainant

VERSUS

Sout 7 of 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 _____

A Faris Khan Advocate

A Faris Khan

03129888752

YASIR SALEEM
Advocate High Court
ADVOCATES, LEGAL ADVISORS, SERVICE & LABOUR LAW CONSULTANT
FR-4, Fourth Floor, Bilour Plaza, Saddar Road, Peshawar Cantt

VAKALATNAMA

SCANNED
KPS
Peshawar

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

_____ OF 2023

Salma

(APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

Bolu Dept

(RESPONDENT)
(DEFENDANT)

I/We *Salma*


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: 35076-21 / DEO/NWTD/
Phone: 0928-313040

Dated: 19/12/2022
Email: doanolewtd@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:1656 dated, 30-01-2019 and secretary Education No.SO(PE)/E&SE/1/Gen Misc/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 Zindaie.
- 5- Mr. Abid ullah PST GPS Salman.
- 6- Mr. Sher Abbas 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. SD (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