

**BEFORE THE HON'BLE KHYBER PAKHTUNKHWA TRIBUNAL**  
**PESHAWAR.**

Service Appeal No.1083

Zabih Ullah

.....Appellant

**VERSUS**

Govt. of Khyber Pakhtunkhwa and other

.....Respondents

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**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
PESHAWAR.**

S.A/No.1083/2022

Mr. Zabih Ullah

.....Appellant

VERSUS

The Secretary E&SE & others..... Respondents

**COMMENTS ON BEHALF OF THE RESPONDENTS NO 01-02 & 03.**

**Respectfully Sheweth,**

**Preliminary Objections:**

1. That the appellant has got no cause of action/locus standi to file the instant appeal.
2. That the Honorable Tribunal has no jurisdiction to entertain the instant appeal having factual controversy.
3. That the appellant has not come to this Tribunal with clean hands.
4. That the appellant has concealed material facts from the Honorable Tribunal.
5. That the conduct of the appellant estopped himself to bring the instant appeal.
6. That the service appeal of the appellant is badly time barred.

**RESPECTFULLY SHEWETH**

1. Pertains to record.
2. Incorrect, in the year 2014 the appellant was on duty in Govt. Higher Secondary School Ghallanai District Mohmand, the appellant was arrested by Mohmand Rifles on dated 10-11-2014. He was not suspended by competent authority, later on his suspension/ reinstatement was consider under CSR.194 and E&D rule-6, he was remained in custody/internment center. The appellant was hand over to the District Administration on 20-08-2020 for further process and released on bail on 20-11-2018. He was charged in criminal charge (BLACK) mention in their provided documents (copy attached) (Annex-A-B). The internment center of Mohmand Rifle not provided detail criminal record to District Administration. The appellant was not filed any application/complaint for trail against his criminal charges in

the competent court, therefore appellant was not acquitted criminal (BLACK) charge on him.

- 3. Incorrect, that after release of the appellant respondent No. 02 issued a letter to respondent No. 01 for guidance copy of the letter is attached (Annex-C).
- 4. Incorrect, As his case is still pending for trail and release on bail has not been ~~not~~ acquitted by the trail court, however appellant was in the custody of Mohmand rifle internment center, therefore 04 years leave without pay by the respondent No. 02 being not on duty.
- 5. Incorrect. As in Para -04 the period of absence of the appellant was treated as leave without pay with the approval of competent authority. Copy of the letter is attached. ( Annex .D).


**Grounds:**

- A. That the order 25-03-2022 is legal and lawful.
- B. That the appellant has been treated according to law, rules and constitution of Islamic Republic of Pakistan
- C. Incorrect, the appellant is not entitled of salary for a period he remained in jail.
- D. Incorrect, under rule-06 of the Khyber Pakhtunkhwa Government Service (E&D) Rules 2011, a Government Servant against whom action is proposed to be initiated may be placed on the suspension for a period of 90 days.
- E. As stated a Para-04 of the facts above.
- F. Incorrect, order dated 25-03-2022 is according to law/rules.
- G. Incorrect, the appellant was remained in the custody of Mohmand Rifles and a period of 04 years and release him on bail on strong surety bond of the local elders.
- H. All the proceedings have been carried out accordingly to law.
- I. Incorrect, hence denied.
- J. No comments. .
- K. That the respondent will also seek the permission for further additional grounds at the time of arguments.

**Pray**

In light of the above stated facts and legal position, it is humbly requested that the appeal may kindly be dismissed with cost.

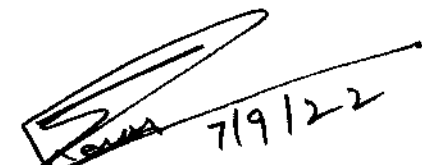
**Respondent No. 3**

  
Secretary  
Elementary & Secondary Education  
Khyber Pakhtunkhwa

**Respondent No. 1**

  
Director E & SE  
Khyber Pakhtunkhwa

**Respondent No. 2**

  
District Education Officer  
District Mohmand

**BEFORE THE HON'ABLE KHYBER PAKHTUNKHUA SERVICE TRIBUNAL**  
**PESHAWAR**

Service Appeal No .1083-P/2022.

Zabih Ullah

.....Appellant

**Versus**

Education Department

.....Respondents

**AFFIDAVIT**

I am Mr. Abdul Manan District Education officer Mohmand do hereby declare and affirm on oath that above comments are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon, rabble court.



**District Education Officer**

**Mohmand**

**ATTESTED**  
Abdul Manan  
District Education Officer  
Mohmand  
06 DEC 2022

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HANDING / TAKEN OVER CERTIFICATE

Internee Zabih Ullah (Black) s/o Fazal Wahid r/o Mullano Mandi Teh Halimzal District  
Mohmand

is hereby handed over to Deputy Commissioner Mohmand for Rel On Strong Surety  
bond of local elders.

HANDING OVER

TAKEN OVER

Rank Sub

Appointment Sub

Name Fazal Wahid

Name Mullano Mandi

Date 20/08/18

Date 20/08/18

Signature [Signature]

Signature [Signature]

HQ Mohmand Rifles  
20<sup>th</sup> Scouts Corps  
Ghallanai  
Tel: 0924 - 290005  
No.330/11/B/DC Tribal /G  
20 Aug 2018

Fwd to: Deputy Commissioner Mohmand Tribal District  
in triplicate.

Please return two copies duly receipted for our  
record.

Copy to: Headquarters Frontier Corps KP SCTC Et  
wrt their ltr No. 173 /disposal/ 05 / SCTC  
dated 08 Aug 2018.

Please wdr internment orders IRO a/m  
Internee.

[Signature]  
Captain  
Commandant

OFFICE OF THE ASSISTANT COMMISSIONER  
UPPER MOHMAND TRIBAL DISTRICT

Tel No: 09 24 2 10004 Email: amtt@ppp.gov.pk

No. 2547/JAC (HM)

Dated 06 December, 2018

To: Major for Commandant  
Mohmand Rifles

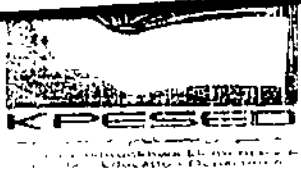
Subject: REQUEST FOR RELEASE OF SALARIES  
Memorandum:

Please refer to endst. No. 10616/Reader dated 04 12-2018 on the above noted subject

It has been reported by Naib Tehsildar Halimzai that Mr. Zabih ullah s/o Fazli Walud is a permanent resident of Mulyano Mani Tehsil Halimzai. He was performing duty as Lab Attendant in GHSS Ghallanai. He was arrested by Mohmand Rifles in Ghallanai on suspicious on date 10-11-2014 but later on 20-05-2018 he was referred to this Administration for further process. District Administration released him on date 20-11-2018 on bail of local elders as local elders are sureties on the good behaviour of the aforementioned person. The salaries of the applicant have been stopped by the Principal of the aforementioned School. The applicant is requesting for the release of his salaries.

In view of the above, request of the applicant for release of salaries is forwarded for consideration as per policy please.

Assistant Commissioner  
Upper Mohmand Tribal District



OFFICE OF THE DISTRICT EDUCATION OFFICER TRIBAL DISTRICT MOHMAND

No. \_\_\_\_\_ Dated \_\_\_\_\_

To

- 1. The Director Education  
NMTD Khyber Pakhtunkhwa Peshawar
- 2. The Director Education  
Elementary and Secondary Education  
Khyber Pakhtunkhwa Peshawar

Subject: **GUIDANCE IN THE RELEASE OF SALARIES IN F/C MR. ZABIR ULLAH TAE ATI ENCL 1**

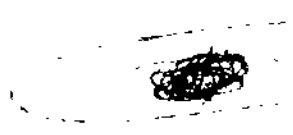
Memo

It is submitted that Mr. Zabir Ullah was serving as a teacher at Ghalianai. But on 10/11/2014 he was suddenly disappeared from his duty for some unknown reasons. Later on it came to know that he was in the internment center and his salary was stopped from mentioned date.

District Administration released him on dated 20/11/2018 on the basis of the order vide.

Now he has joined his duty and the Deputy Commissioner Mohmand has issued order vide letter No.1158 dated 25/12/2018 for the release of his salaries as per rules policy.

In the light of above facts this office may very graciously be guided to release the arrears he claims where as he has been remained the internment by law enforcement agencies for period 10/04/2014 to 20/04/2018.



District Education Officer  
Tribal District Mohmand



To

The District Education Officer,  
Tribal District Mohmand at Ghallanai..

Subject: - GUIDANCE IN THE RELEASE OF SALARIES IN R/O  
MR. ZABIHULLAH, LAB: ATTENDANT.

Memo:-

I am directed to refer to your memo: No. Nil dated Nil on the subject noted above and to inform you that the worthy Director of Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar has been please<sup>d</sup> ordered to convert the absence period into the Leave without Pay in respect of the above named Lab: Attendant and released his salaries from the date of Joining his duty.

Necessary entries to this effect should be made in his Service Book and other office record.

*[Signature]*  
Deputy Director Education (FIA)  
NMTD KPK Peshawar

Dated Pesh: the \_\_\_\_\_/2019. *[Signature]*

Encls: No. 1249-51

Copy forwarded to the:-

- (1) District Account Officer Mohmand at Ghallanai.
- (2) Principal: GHSS Ghallanai Mohmand
- (3) PA to Director, E&SE, KPK Peshawar.

*[Signature]*  
Deputy Director Education (FIA)  
NMTD KPK Peshawar. *[Signature]*