

BEFORE THE HONOURABLE SERVICE TRIBUNAL KPK PESHAWAR

SERVICE APPEAL No. 27/23

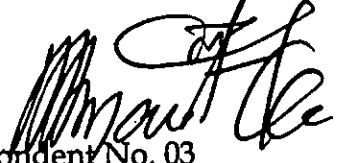
Qari Fakhar ud Din

VS

Government of KPK

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Respondent No. 03
District Education Officer
(Male) Dera Ismail Khan

Before the Honorable Service Tribunal KPK Peshawar

Service Appeal No: 27/2023

Qari Fakhar Ud Din

vs

Govt: of KPK

Comments on Behalf of Respondents No. 1 to 3

Respectfully Sheweth.

Preliminary Objections

1. That the appellant has no got no cause of action / locustandi.
2. That the appellant has not come to the honorable tribunal with clean hands.
3. That the appellant has filed the service appeal on malafide objectives.
4. That the instant appeal is against the prevailing laws and rules.
5. That the appeal is barred by Law/Limitation.
6. That the instant appeal is illegal and against facts.
7. That the service appeal is not maintainable in its, present form.
8. That the appellant has concealed the material facts from the honorable tribunal.
9. That the service appeal is against the actual facts.

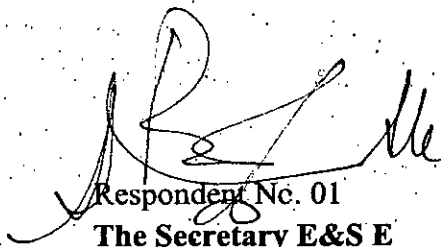
Para-wise Reply.

1. Para pertains to the appointment of appellant as a Qari Teacher on disable quota on 01-10-2007 as the appellant is one of Ex 1613 terminated teachers. The appellant has filed service appeal No. 27/2023 on 01-10-2023 after the laps of 16 years which is badly time barred. The appellant has got no cause of action. All the 1613 teachers were removed from service in compliance with the judgement of Honourable service tribunal (A).
2. Para pertains to the removal of Ex 1613 teachers in year 2010.
3. Para pertains to the corrigendum order issued by respondent No. 3 DEO (M) DIKhan in year 2010 in which hundreds of teachers were removed from service.
4. Para pertains to the writ petition filed by in year 2016 in Peshawar High Court.
5. Para pertains to the application of appellant about re instatement in service in year 2010.
6. Para pertains to the writ petition No. 614-D/2016 in Peshawar High Court D.I.Khan bench.
7. Para pertains to the writ petition of appellant in Peshawar High Court D.I.Khan bench in which writ petition of appellant was converted to the departmental presentation to the respondent No. 2 by the Director E&SE.
8. Para pertains to the departmental presentation of appellant in year 2022 which was not badly timebarred.
9. Para pertains to the service appeal No. 27/2023 in service tribunal Court.

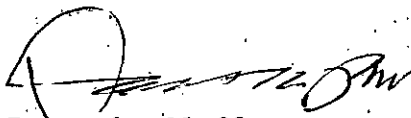
GROUNDS

- a. Incorrect / not admitted. Para strongly denied. The service appeal of appellant of is badly time barred after laps of 16 years so the act of respondent was according to law and facts.
- b. Incorrect / not admitted. The appellant was removed from service along with other EX 1613 teachers. So the appellant is not entitled for reinstatement in service.
- c. Incorrect / not admitted. Para is strongly refuted. As replied above.
- d. Incorrect / not admitted. The appellant is not entitled for re instatement of service as the appellant was removed from service along other 1613 teaches.
- e. Para pertains to the departmental appeal of appellant which was badly timebarred.
- f. Para pertains to the instant appeal of appellant.
- g. Para pertains to the departmental presentation of appellant on 26-09-2022 after the laps of 12 years which is badly time barred.
- h. Incorrect / not admitted. The appellant is not entitled for re instatement in service as a Qari Teacher.
- i. That any further grounds will be agitated during the course of arguments with the permission of tribunal.

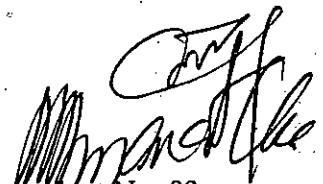
So it is humbly prayed that service appeal of appelant may kindly be dismissed with cost as having no legal justification.



**Respondent No. 01
The Secretary E&S E
KPK Peshawar**



**Respondent No.02
The Director E&S E
KPK Peshawar**



**Respondent No. 03
District Education Officer
(Male) Dera Ismail Khan**

OFFICE THE EXECUTIVE DISTRICT OFFICER (E&SE) D.I.Khan

ORDER:

In pursuance of order dated 27-10-2011 of the KPK Service Tribunal in service appeal No. 1407/2010 and other connected appeals, committee headed by the Secretary to Govt. of Khyber Pakhtunkhwa (E&SE) Department considered the cases of the appellants and similar placed persons and came to the conclusion that the appointment of the following Qari (Male) was illegal, irregular and void ab-initio in terms of rule 10(2) of the NWFP Civil Servants (Appointment, Promotion and Transfer) Rules 1989 and prescribed method of recruitment. On the recommendation of the committee contained at page 103-104 of the enquiry report, their so called services are hereby terminated.

S. No	Appeal No/year	Name of appellant	Father's Name	School
1	2001/10	Qari Rahmatullah	Bashir Ahmad	GHS Shore Kot
2	nil	Sabira Bibi	Muneer Ahmed	GGHS Fateh/GGHS Rammak
3	1778	Abdul Haq	Samandar Khan	GHS W.Sheru
4	2301/10	Sanaullah	Muhammad Ramzan	GHS Saidan wali
5	2420/10	Saifullah	Amir Abdullah	GHS Kot Jai/GHS Mandhran Kalan
6	1775	Muhammad Imran	Haq Nawaz	GHS Wanda Jamal/W.Maddat
7	1448	Qazi Hafiz Mukhtiar Ahmed	Qazi Gulzar Ahmed	GHSS No. 4 DIKhan/No.1 Kulachi
8	2426/10	Muhammad Riffat	Abdul Latif	GHS No.5 DIKhan
9	1776	Zaheer Ullah	Shaista Khan	GHS No.1 Paharpur
10	1777	Muhammad Idress	Muhammad Akram	GHS Paniala
11	1780	Aziz Ur Rehman	Fazal Ur Rehman	GHS Kot Jai/GHS Bahadri
12	1782	Abdur Rehman	Muhammad Ramzan	GHS Kirri Khaisor/Bagi Qamar
13	2046	Muhammad Bilal	Muhammad Amin	GHSS Muryali
14	2417	Muhammad Faheem Khan	Raheem Bakh	GHS Mahra/GHSS No.4 DIKhan
15	2428	Fakhr u Din	Abdul Qayyum Khan	GHS No. 2 DIKhan/GHSS Yarik
16	1549/10	Hafiz Zia ud Din	Umer Daraz	GHS No. 1 Kulachi/Daraban Kalan
17	1708/10	Amir Hamza	Gul Zaman	GHSS NO. 3 DIKhan
18	1773/10	Farman Ullah	Aman Ullah	GHS Gara Hayat
19	1774/10	Ulfatullah	Ahmed Khan	GHS No. 2 Phahapur/W.Sheru
20	1779/10	Misbah Ur Rehman	Abdur Rashid	GHS Looni
21	1835/10	Waheedullah	Abdul Manan	GHS Bagi Qammar/Athog
22	2414/10	Muhammad Suleman	Abdul Salam	GHSS Muryali
23	2416/10	Muhammad Ali	Muhammad Bilal	GHS Himmat
24	2419/10	Qari Ghulam Haider	Ghulam Abbas Shah	GHSS No. 2

8

OFFICE OF THE EXECUTIVE DISTRICT OFFICER
ELEMENTARY & SECONDARY EDUCATION
DISTRICT DERA ISMAIL KHAN

No. 102881

Dated: 04-09-2009

To

- 1-2 The district officer (Male/female) I. & SE. DIKhan
3-10 All the deputy district officer (male/female) Primary, DIKhan District
11-130 All the principals/Headmasters/Headmistresses (Male/Female)
GHSS/GGISS/GCMIIS/GHS/GGHS of DIKhan District.

Subject: ILLEGAL/IRREGULAR APPOINTMENTS IN ELEMENTARY & SECONDARY EDUCATION DEPARTMENT DIKHAN

Memo:

In continuation of this letter No. 10238 dated 04-08-2009.

The district coordination officer, DIKhan has terminated the services of all those candidates of DIKhan District whose appointments were made w.e from 01-01-2007 to 30-06-2008 vide his office Order No. 8021/DCO (Edu) Dated 04-09-2009. This all is the compliance & implementation of standing committee provincial assembly NWFP & the Govt. of NWFP & SI: Department letter No. SO(AB) E&SED/10-11 STD dated 20-08-2009 & writ petition of 252/2009 dated 11-06-2009 in the Honorable High court Bench of DIKhan by Hassan Ara etc.

You are therefore directed to enforce/implement the said order to District Coordination officer DIKhan & furnish the following information.

1. No. of existing vacant posts (Category Wise BPS-1-1)
2. Resultant vacant posts of all category after compliance the district coordination officer order, reference above.
3. No of vacant posts in all cadres due to superannuation retirement/retirement (deal etc).

Attested
M. M. M. M. M.

Executive District Officer
Elementary and Secondary
Education D I Khan

Executive District Officer
Male, DIKhan

illegal appointment
1613

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:
MR. JUSTICE UMAR ATA BANDIAL
MR. JUSTICE IJAZ UL AHSAN

CIVIL PETITION NOS. 2238 OF 2018 TO 2263 OF 2018
AND 2499, 2682, 2778 TO 2781 OF 2018
AND 3505 OF 2018 TO 3514 OF 2018.

(On appeal from the judgment/order dated 14.03.2018 of the Khyber-Pakhtunkhwa Service Tribunal, Peshawar Camp Court - D.L. - Case No. 943/2012, 1107, 1112, 1092, 1110/2015, 1919/2012, 946/2012, 926/2012, 949/2012, 537/2012, 1197/2012, 947/2012, 934/2012, 927/2012, 950/2012, 967/2012, 944/2012, 943/2012, 956/2012, 953/2012, 934/2012, 926/2012, 954/2012, 936/2012, 1095/2015, 587/2015, 558/2015, 1190/2015, 1302/2015, 1206/2015, 583/2015, 573/2015, 559/2015, 560/2015, 562/2015, 565/2015, 566/2015, 568/2015, 569/2015, 571/2015, 1118/2015)

Rahmat Ullah
Sibt-ul-Hassan Shah
Matiullah (in C.P. No.
Muhammad Shahid,
Muhammad Ibrahim
Inam Ullah
Barkatullah
Ghazi Marjan
Mst. Fozia Malik
Aziz-ur-Rehman
Muhammad Arif
Muhammad Azeem
Hidayatullah
Muhammad Hassan Khan
Ala-ud-Din
Noor Aslam
Samiullah
Mst. Bibi Ayesha
Mst. Mehnaz Begum
Imranullah
Saleemullah
Samiullah
Abdul Qadir
Ghulam ud Din
Abdul Jalil
Kifayatullah
Shahid Nawaz
Tahir Bashir
Ghulam Fareed
Saifullah Khan
Abdul Rasheed Khan
Inayat Ullah Khan
Razia Sultana
Muhammad Ramzan
Abdul Ghaffar
Muhammad Iqbal Khan
Naeema Sadia
Nasim Bibi
Rehana Andaleeb
Muhammad Sohail
Shazia Malik
Muhammad Ilyas

(in C.P. No.2238/2018)
(in C.P. No. 2239/2018)
(in C.P. No.2240/2018)
(in C.P. No. 2241/2018)
(in C.P. 2242/2018)
(in C.P. No. 2243/2018)
(in C.P. No.2244/2018)
(in C.P. No.2245/2018)
(in C.P. No.2246/2018)
(in C.P. No.2247/2018)
(in C.P. No.2248/2018)
(in C.P. No.2249/2018)
(in C.P. No.2250/2018)
(in C.P. 2251/2018)
(in C.P. No.2252/2018)
(in C.P. No.2253/2018)
(in C.P. No.2254/2018)
(in C.P. No.2255/2018)
(in C.P. No.2256/2018)
(in C.P. No.2257/2018)
(in C.P. No.2258/2018)
(in C.P. No.2259/2018)
(in C.P. No.2260/2018)
(in C.P. No.2261/2018)
(in C.P. No.2262/2018)
(in C.P. No.2263/2018)
(in C.P. No.2499/2018)
(in C.P. No.2682/2018)
(in C.P. No.2778/2018)
(in C.P. 2779/2018)
(in C.P. No.2780/2018)
(in C.P. No.2781/2018)
(in C.P. No.3505/2018)
(in C.P. No.3506/2018)
(in C.P. No.3507/2018)
(in C.P. No.3508/2018)
(in C.P. No.3509/2018)
(in C.P. No.3510/2018)
(in C.P. No.3511/2018)
(in C.P. No.3512/2018)
(in C.P. No.3513/2018)
(in C.P. No.3514/2018).

...Petitioner(s)

ATTESTED

Court Associate
Supreme Court of Pakistan
Islamabad

VERSUS

Director, Elementary and Secondary Education Department,
Peshawar and others
(in C.P. Nos. 2238 to 2242/2018)

The Government of KPK thr. its Secretary, Elementary and
Secondary Education, Peshawar and others
(in C.P. Nos. 2243 to 2262/2018)

Director, Elementary and Secondary Education Department,
Peshawar and others
(in C.P. Nos. 2263, 2499, 2682/2018)

Ministry of Education thr. Secretary Elementary and Secondary
Education, Peshawar and others
(in C.P. Nos. 2778-2780/2018)

Director Education (E & SE), KPK, Peshawar and others
(in C.P. No. 2781/2018)

The Director, Elementary and Secondary Education Department,
Peshawar and others
(in C.P. Nos. 3505-3514/2018)

...Respondent(s).

For the petitioner(s) Mian Abdul Rauf, ASC
(in all cases)

For the respondent(s) N.R
(in all cases)

Date of Hearing: 19.09.2018

ORDER

UMAR ATA BANDIAL, J.— The petitioners were terminated firstly in the year 2009 on account of legal defects in their appointments. By order of the Khyber Pakhtunkhwa Service Tribunal, Peshawar dated 27.10.2011 the petitioners underwent another inquiry by a Committee constituted by Provincial Government wherein the termination of services of the petitioners was affirmed on 08.2.2012. The appointments of the petitioners were determined to be in violation of the provisions of Rule 10(2) of the KPK Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, in that, either the advertisement was missing or the Departmental Selection Committee had not been appointed or a merit list of the candidates had not been prepared. The learned Tribunal by the impugned judgment dated 14.3.2018 has upheld the termination of service of the petitioners by holding that the said

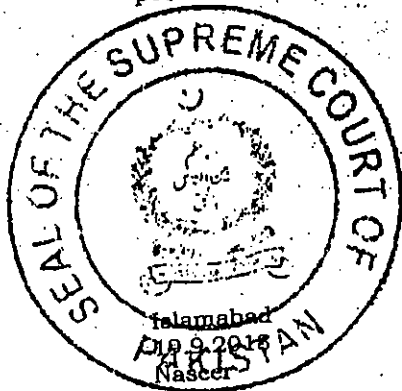
ATTESTED

Court Associate
Supreme Court of Pakistan
Islamabad

C.F. NO. 2218 OF 2018 ETC.

defects constituted a failure to comply the mandatory requirement of law.

2. We do not find any ground to interfere with the view taken in the impugned judgment which is based on the record and the correct enunciation of law. For the foregoing reason, all these petitions are dismissed and leave to appeal is refused.



(Handwritten signatures)

Certified to be True Copy

Court Associate
Supreme Court of Pakistan
Islamabad

Not approved for reporting

(Handwritten initials and date)
3/10/18

GR No: 26128/18 Civil/Criminal

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BEFORE THE HONOURABLE SERVICE TRIBUNAL KPK PESHAWAR

SERVICE APPEAL No. 27/2023

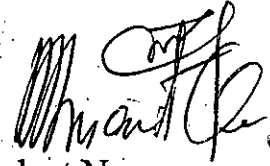
Mr. Fakhar ud Din

VS

Government of KPK

Authority

I District Education Officer (M) D.I.Khan do hereby authorized Mr. Muhammad Kamran Khan to attend the honorable Service Tribunal KPK Peshawar on behalf of respondent in connection with submission para wise comments till the decision of service appeal.



Respondent No.
District Education Officer
(M) D.I.Khan

BEFORE THE HONOURABLE SERVICE TRIBUNAL KPK PESHAWAR

SERVICE APPEAL No. 27/2023

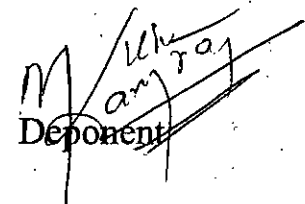
Mr. Fakhar ud Din

VS

Government of KPK

Affidavit

I Mr. Muhammad Kamran Khan Legal Representative of DEO (M) D.I.Khan do solemnly affirm and declare on oath that contents of written reply are correct to the best of my knowledge and nothing has been concealed from this honorable Court. It is further stated that on oath in this appeal the answering respondents have been neither placed ex-parte nor their defense has been struck off.



Deponent