

BEFORE THE HONOURABLE SERVICE TRIBUNAL KPK PESHAWAR

SERVICE APPEAL No. 1460/2022

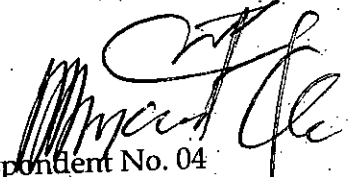
Waris Khan

VS

Government of KPK

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Respondent No. 04
District Education Officer
(Male) Dera Ismail Khan

BEFORE THE HONOURABLE SERVICE TRIBUNAL KPK PESHAWAR

SERVICE APPEAL No. 1460-2022

Waris Khan

VS

Government of KPK

COMMENTS ON BEHALF OF RESPONDENTS.

PRELIMINARY OBJECTIONS

1. That the appellant has got no cause of action / locus standi.
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/limitations.
6. That the instant appeal is illegal and against the 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.

Respectfully Sheweth, Reply on behalf of Respondents No.3 DEO M

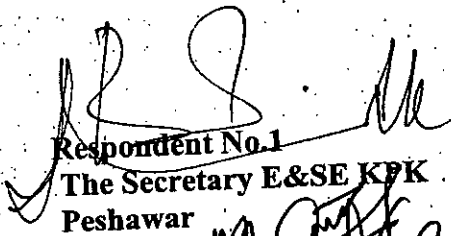
DIKhan


Respected Sir, The respondents humbly submits as under

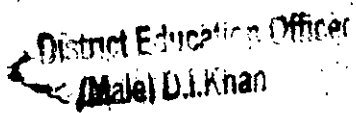
1. Para pertains to the duty appellant.
2. Para pertains to the duty place of appellant at Govt. Primary School Wazir Abad D.I.Khan.
3. Para pertains to the removal from service of appellant on 23-06-2021 notified by respondent No. 4 D.E.O (M) D.I.Khan.
4. Para is correct to the extent that appellant filed the departmental appeal which was accepted and the appellant was re-instated in service where as the absent period was treated as leave with out pay which is according to law & facts.

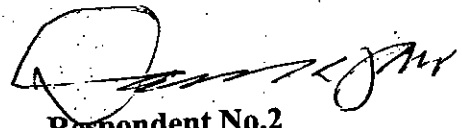
GROUND

- A. Para pertains to the re-instatement notification on of appellant on 24-08-2022 in which his absent period is treated as a leave pay which was based on natural principals of justice.
- B. Incorrect/not admitted. Para is strongly denied and refuted. The order issued by respondent No. 3 is according to law & facts based on natural principals of justice.
- C. Incorrect/not a admitted. Para is strongly negated. The decision portion treating absent period is based on the principal of no work no pay.
- D. Incorrect/not admitted. The appellant authority has no performed the duty. So he is not entitled for pay of said period.
- E. In correct/ not admitted. The appellant authority has decided the departmental appeal of appellant with his appellate jurisdiction, based upon natural principal of justice, equity, legal norms and plausible justification as absent period of leave with out pay is tenable in the eyes of law.
- F. That the counsel of respondents may be allowed to raise additional ground during the course of arguments.


Respondent No.1
The Secretary E&SE KPK
Peshawar


Respondent No.3
District Education Officer
(M) D. I. Khan


District Education Officer
(Male) D.I.Khan


Respondent No.2
Director E&SE KPK
Peshawar

**OFFICE OF THE DISTRICT EDUCATION OFFICER
(MALE) DERA ISMAIL KHAN**

Tell: 09669280131

Email: deom.di@kpese.gov.pk

Dated DIKhan the 23/06/2021

No. 12505

WHERE AS you Mr. **WARIS KHAN** while serving as Chowkidar at GPS Wazir Abad DIKhan were proceeded for having committed the following acts which constitutes inefficiency and misconduct under rules 3, sub rules (a),(b) & (d) of the Khyber Pakhtunkhwa Govt: Servants (Efficiency & Discipline) rules 2011.

- a. That you were appointed against the post of Chowkidar vide this office Endst No. 1018-1118 dated 12/01/2018 whereas you submitted arrival on 13/01/2018.
- k. That you remained absent from duties as reported by EMA (Education Monitoring Authority) as mentioned in various show cause notices served upon you.

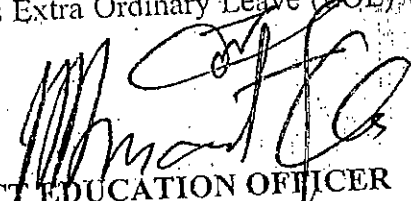
AND WHERE AS show cause notices were served upon you vide this office No. 16117 dated 12/06/2019, No. 16147 dated 12/06/2019, No. 26172 dated 03/10/2019 and No. 29665 dated 18/10/2019 by the competent authority i.e. District Education Officer (Male) DIKhan.

AND WHERE AS your reply to any of show cause notices was not received.

AND WHERE AS you were called to be heard in person vide 31727-80 dated 06/11/2019 but you were failed to appear on personal hearing.

AND WHERE AS you were intimated to join the duties through public notice in Daily Mashriq dated 18/02/2021 within 15 days but you failed to do so.

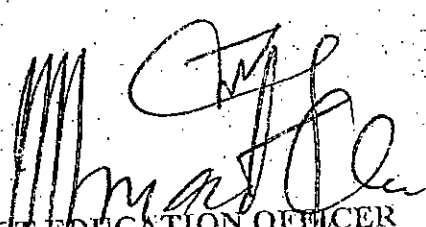
NOW THEREFORE the Competent Authority in exercise of the power conferred under Sub Rules 4-b (iii) and 9 of Govt: of Khyber Pakhtoonkhawa, Establishment & Administration Department Rules 2011, I Mr. Musarrat Hussain Khan District Education Officer (Male) DIKhan as competent authority is pleased to impose the Major Penalty of "REMOVAL FROM SERVICE" upon Mr. **WARIS KHAN** Chowkidar at GPS Wazir Abad from the date of his first show cause notice i.e. 12.06.2019. Moreover, the absence period will be considered as Extra Ordinary Leave (EOL) without pay.


DISTRICT EDUCATION OFFICER
(MALE) DIKHAN

Dated 23/06/2021

Endst: No. 12506-10 /PF
Copy for information & necessary action to the:-

31. Director Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar.
32. Deputy Commissioner Dera Ismail Khan.
33. District Comptroller of Accounts DIKhan.
34. Principal/ Head Master/SDEO concerned.
35. Master file.


DISTRICT EDUCATION OFFICER

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Affidavit

I Mr: Muhammad Kamran Khan ADEO (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

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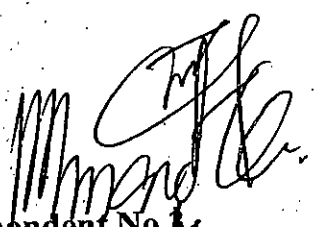
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Authority

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. 1
District Education Officer
(M) D.I.Khan

District Education Officer
(Male) D.I.Khan