

BEFORE THE HONOURABLE SERVICE TRIBUNAL KPK PESHAWAR

SERVICE APPEAL No. 1561/2022


Muhammad Imran

VS

Government of KPK

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

BEFORE THE HONOURABLE SERVICE TRIBUNAL KPK PESHAWAR .

SERVICE APPEAL No. 1561-2022.

Muhammad Imran

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.

2

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

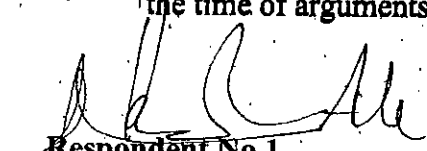
DIKhan

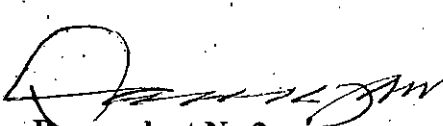
Respected Sir, The respondents humbly submits as under

1. Para pertains to the appointment of appellant as a PST teacher on 05-02-2008.
2. Para pertains to the transfer of applicant from GPS No. 3 DIKhan to GMKS Kanjal.
3. The salary of appellant was stopped due his first appointment on 05-02-2008. Falls in the Domain of Ex-1613 teachers. All the teachers appointment in period of 01-01-2007 to 30-06-2008. Were as terminated with Ex-1613 teachers. (Annex-A). as the appellant is one of them where as remaining para is related to the w.p.No. 464-D/2016. Decided on 16-06-2022 with drawal of W.P and permission for filling service appeal before the competent forum.
4. Incorrect/not admitted. Para is strong denied and refuted. As the appellant was terminated from service on 08-02-2012 along with all Ex-1613 teachers. (Annex-B) where as the appellant filed departmental appeal on 07-07-2022. After the laps of ten years so the departmental appeal is badly time barred.
5. Incorrect/not admitted. The appellant has no cause of action as the departmental appeal is badly time barred.

GROUND

- i. Incorrect / not admitted. The impugned order dated 08-02-2012 is according to law, service rules and which is not liable to be set a side.
- ii. Incorrect / not admitted. Para is strongly refuted. The appellant is one of Ex-1613 teachers and was terminated from service on 08-02-2012.
- iii. Para pertains to the salaries of appellant. Hence no comments.
- iv. Incorrect / not admitted. Para is strongly denied. No single teacher was appointed after permfoming the codal formalities.
- v. Incorrect / not admitted. Para is strongly refuted. The impugned notification of 08-02-2012 for termination of Ex 1613 teachers was 100% correct based upon natural principals of justice.
- vi. Incorrect / not admitted. Para is strongly denied. The opportunity of personal hearing show cause notice was given to all ex-terminated 1613 teachers.
- vii. Incorrect / not admitted. As replied and discussed above.
- viii. That the counsel for respondent may graciously be allowed to raise additional grounds at the time of arguments.


Respondent No.1
The Secretary E&SE KPK
Peshawar


Respondent No.2
Director E&SE KPK
Peshawar


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

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

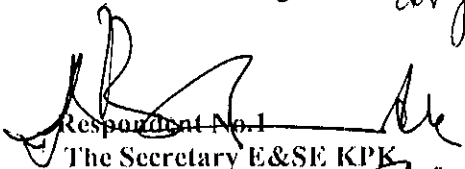
DIKhan

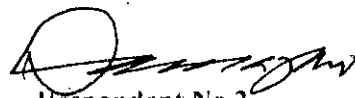
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GROUND

1. Incorrect / not admitted. The impugned order dated 08-02-2012 is according to law, service rules and based on ^{bonafide} ~~bonafide~~ objections is not liable to be set a side.
2. Incorrect / not admitted. Para is strongly refuted. The appellant is one of Ex-1613 teachers and was terminated from service on 08-02-2012.
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8. That the counsel for respondent may graciously be allowed to raise additional grounds at the time of ~~grounds.~~ ^{arguments.}


 Respondent No.1
 The Secretary E&SE KPK
 Peshawar


 Respondent No.2
 Director E&SE KPK
 Peshawar


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

P.T.O

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

~~DEPT~~

4

No. 10238 /

Dated DIKhan the 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/GHSS/GCIAHS/GHS/GHIS of DIKhan District.

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

Memorandum

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/DCCO (Edu) dated 04-09-2009. This all is the compliance & implementation of Standing Committee Provincial Assembly NWFP & the Govt. of NWFP E & SE Department letter No. SO(AH) E & SED/10-11 STD dated 26-08-2009 & Writ Petition of 252/2009 dated 11-06-2009 in the Honourable High Court Bench of DIKhan by Hussain Ara etc.

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

1. No. of existing vacant posts (Category Wise: DPS I-12)
2. Resultant vacant posts if all category after implementing the District Coordination Officer order, reference above.
3. No of vacant posts in all Cadres due to superannuation/Retirement/Retirement/Death etc.

NO. 10239 - 10364 ED. D. I. KHAN
Order No. 10239

[Signature]
EXECUTIVE DISTRICT OFFICER
ELEMENTARY AND SECONDARY
EDUCATION, D. I. KHAN

Copy of the above forwarded for information to the:-

1. PS to Chief Minister, NWFP, Peshawar.
2. PS to Chief Secretary, NWFP, Peshawar
3. PS to Minister for Education, NWFP, Peshawar
4. Mr. Mukhtar Ali Khan Advocate MPA, Chairman Standing Committee No. 26, Provincial Assembly NWFP, Peshawar.
5. PS to Secretary for Education, NWFP, Peshawar
6. PS to Director for Education, NWFP, Peshawar
7. All MPA's in DIKhan District
8. District Accounts Officer, DIKhan
9. All concerned.

Attested
[Signature]
M. A. KHAN
Advocate
EXECUTIVE DISTRICT OFFICER
ELEMENTARY AND SECONDARY
EDUCATION, D. I. KHAN

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/GGHSS/GCMIIS/GHS/GGHS of DIKhan District.

Subject: **H.I.E GAL/IRRE (ULAR APPOINTMENTS IN ELEMENTARY &
SECONDARY EDUCATION DEPARTMENT DIKHAN**

Memo:

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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 to implement the district coordination officer order, reference above.
3. No of vacant posts in all cadres due to superannuation retirement/retirement(deal etc).

Executive District Officer
Elementary and Secondary
Education D I Khan

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.I. Khan passed in Appeal Nos.943/2012,1107,1112,1092, 1110/2018,1210/2012,946/2012,929/2012,932/2012,949/2012,937/2012,1197/2012,947/2012,938/2012,927/2012,950/2012,957/2012,944/2012,943/2012,955/2012,953/2012,934/2012,928/2012, 954/2012,936/2012,1095/2018,857/2018,858/2018,1190/2018,1202/2018,1208/2018,2333/2018,573/2018,859/2018,860/2018,862/2018,865/2018,866/2018,868/2018,869/2018,871/2018,1118/2018).

- | | |
|------------------------|-------------------------|
| Rahmat Ullah | (in C.P. No.2238/2018) |
| Sibt-ul-Hassan Shah | (in C.P. No. 2239/2018) |
| Matiullah (in C.P. No. | (in C.P. No.2240/2018) |
| Muhammad Shahid, | (in C.P. No. 2241/2018) |
| Muhammad Ibrahim | (in C.P. 2242/2018) |
| Inam Ullah | (in C.P. No. 2243/2018) |
| Barkatullah | (in C.P. No.2244/2018) |
| Ghazi Marjan | (in C.P. No.2245/2018) |
| Mst. Fozia Malik | (in C.P. No.2246/2018) |
| Aziz-ur-Rehman | (in C.P. No.2247/2018) |
| Muhammad Arif | (in C.P. No.2248/2018) |
| Muhammad Azeem | (in C.P. No.2249/2018) |
| Hidayatullah | (in C.P. No.2250/2018) |
| Muhammad Hassan Khan | (in C.P. 2251/2018) |
| Ala-ud-Din | (in C.P. No.2252/2018) |
| Noor Aslam | (in C.P. No.2253/2018) |
| Samiullah | (in C.P. No.2254/2018) |
| Mst. Bibi Ayesha | (in C.P. No.2255/2018) |
| Mst. Mehnaz Begum | (in C.P. No.2256/2018) |
| Imranullah | (in C.P. No.2257/2018) |
| Saleemullah | (in C.P. No.2258/2018) |
| Samiullah | (in C.P. No.2259/2018) |
| Abdul Qadir | (in C.P. No.2260/2018) |
| Ghulam ud Din | (in C.P. No.2261/2018) |
| Abdul Jalil | (in C.P. No.2262/2018) |
| Kifayatullah | (in C.P. No.2263/2018) |
| Shahid Nawaz | (in C.P. No.2499/2018) |
| Tahir Bashir | (in C.P. No.2682/2018) |
| Ghulam Fareed | (in C.P. No.2778/2018) |
| Saifullah Khan | (in C.P. 2779/2018) |
| Abdul Rasheed Khan | (in C.P. No.2780/2018) |
| Inayat Ullah Khan | (in C.P. No.2781/2018) |
| Razia Sultana | (in C.P. No.3505/2018) |
| Muhammad Ramzan | (in C.P. No.3506/2018) |
| Abdul Ghaffar | (in C.P. No.3507/2018) |
| Muhammad Iqbal Khan | (in C.P. No.3508/2018) |
| Naeema Sadia | (in C.P. No.3509/2018) |
| Nasim Bibi | (in C.P. No.3510/2018) |
| Rehana Andaleeb | (in C.P. No.3511/2018) |
| Muhammad Sohail | (in C.P. No.3512/2018) |
| Shazia Malik | (in C.P. No.3513/2018) |
| Muhammad Ilyas | (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

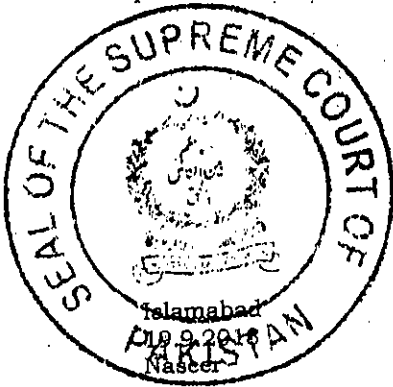
ORDER

UMAR A'TA 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

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

26128/18

GR No: _____ Civil/Criminal

Date of Presentation: 25.10.18

No. of Words: 400

No of Folios: 9

Requisition Fee Rs: 500

Copy Fee in: 500

Court Fee Stamps: 1000

Date of Completion of Copy: 28/10/18

Date of delivery of Copy: 5/11/18

Compared by/Prepared by: [Signature]

Received by: [Signature]

BEFORE THE HONOURABLE SERVICE TRIBUNAL KPK PESHAWAR

SERVICE APPEAL No. 1561-2022

Muhammad Imran

VS

Government of KPK

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.

M Kamran Khan
Deponent

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BEFORE THE HONOURABLE SERVICE TRIBUNAL KPK PESHAWAR

SERVICE APPEAL No. 1561-2022

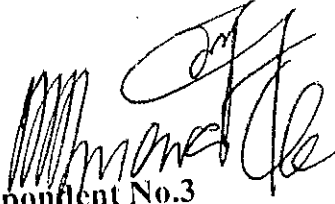
Muhammad Imran

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.3
District Education Officer
(M) D.I.Khan