

BEFORE THE KHYBER PAKHTUNKHAWA SERVICES TRIBUNAL PESHAWAR.

APPEAL NO. 1432/2023

1. Samina Ara PST D/of Khyal Tawan GGPS No I Latamber District Karak

..... **APPELLANT.**

Versus

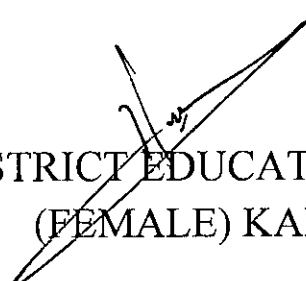
2. Government of Khyber Pakhtunkhawa through Chief Secretary Khyber Pakhtunkhawa Peshawar.
3. Secretary to Govt of Khyber Pakhtunkhawa Elementary & Secondary Education Department Civil Secretariat Peshawar.
4. Director Elementary and Secondary Khyber Pakhtunkhawa Peshawar,
5. District Education Officer (F) Karak..
- 6., District Accounts Officer Karak.

RESPONDENTS.

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Respondent No . . _____


DISTRICT EDUCATION OFFICER
(FEMALE) KARAK.

23/08/23

Peshawar.

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4. District Education Officer (F) Karak..
5. District Accounts Officer Karak.

Khyber Pakhtunkhawa
Service Tribunal

Diary No. 6933

Dated 09/08/23

RESPONDENTS.

Para wise comments on behalf of the Respondent No .1 ,2,3 &4.

RESPECTFULLY SHEWETH.

PRELIMINARY OBJECTION.

1. That the appellant has got no cause of action to file the instant appeal
2. That the appellant has not come to this Honourable Tribunal with clean hands.
3. That the appellant has concealed material facts from tis Honourable Tribunal.
4. That the appellant is estopped by his own conduct to bring the present appeal.
5. That the appeal is bad due for misjoinder and non-Joinder of necessary parties.
6. That the appeal is barred by law and limitation No Departmental appeal has been filed to the competent authority against the impugned Order. Hence not maintainable under Section-4 of Service Tribunal Act.

Facts-

1. That Para I pertains to Record.
2. That Para 2 also pertains to Record.
3. That Para 3 is incorrect and not admitted the appellant was Re-Instated into Service without back benefits by the Respondent Department as no back benefits are awarded by the Tribunal to the appellant.
4. That Para 4 pertains to Record.
5. That Para No.5 pertains to record of the appellant.
6. That Para 6 is incorrect and not admitted, the pay of the appellant was released vide this office No.4346-48 dated 8.9.2021,and the duty period salary was paid to the appellant.

7. That Para No.7 is incorrect and not admitted the observation raised by the respondent no.5 on source I which was removed , her salary bill was passed by the DAO Karak and paid to the appellant.
8. That Para No.8 of the appellant is correct.
9. That Para No.9 is incorrect and not admitted, the Respondent Department No.4 Clarified the position of the intervening period of the appellant which was converted into leave without pay vide Endst:No.4988-90 dated 22.11.2022 as in the mentioned period ,the appellant has not been performed her duty, and not entitled for such benefits nor any kind back benefits have been granted to the appellant by the Honourable Service Tribunal judgment dated 25.5.2016.Hence her appeal was correctly regretted.
10. Para No.10 pertains to record.
11. The appellant has no cause of action to file instant appeal.

GROUND.

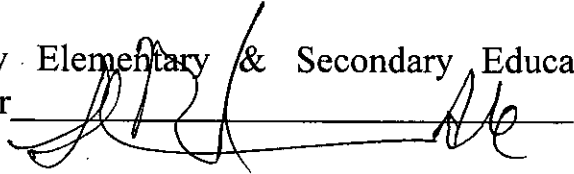
- A. **Incorrect and Denied**, The Decision made by the Respondent Department is accorded with the law as the appellant has not performed her duty of the period which she claimed salary, hence no duty no pay.
- B. **Incorrect and Denied**, the Service Tribunal disposed of her appeal and set-aside the said order of 25 July 2012 and directed the Respondent Department to decide appeal of the appellants afresh through a speaking order there is no single word for back benefits in the decision of the Tribunal.
- C. **Incorrect and Denied**, the Respondent Department issued her withdrawal order according to the Rules and policy.
- D. **Incorrect and Denied**, the seniority is not affected in case of Extra Ordinary leave, hence the wording of seniority intact with their seniority counterparts could not grant any kind of relief to the appellant for the purpose of salary.
- E. **Incorrect and Denied**, the appellant is not entitled for back benefits as the appellant has not performed her duty.
- F. **Incorrect and Denied**, According the Supreme Court Judgment when a Govt: servant not performed her duty he is not entitled for any kind of salary, and such period be considered as leave without pay.
- G. **Incorrect and denied**, the appellant is not entitled for any kind of salary due to non-performance of duty, the Extra Ordinary leave without pay has been granted to the appellant according to the frame rules.
- H. **As replied above.**

1. No comments. However the Respondents are also seeking permission of the Honourable Tribunal to produce additional grounds and proofs at the time of Hearing.

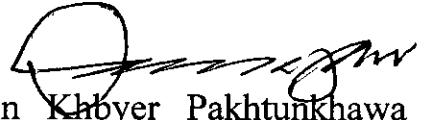
Prayer:-

In the light of the above stated facts, it is requested to dismiss the case of the appellant.as the case of the appellant is badly time barred.

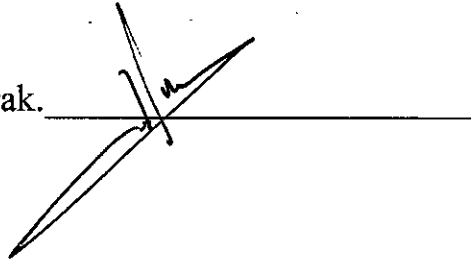
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2. Director Elementary and Secondary Education Khyber Pakhtunkhawa Peshawar,



3. District Education Officer (F) Karak.



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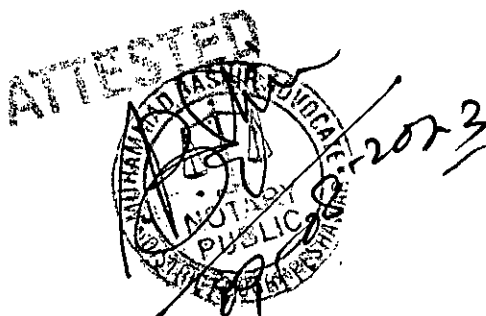
AFFIDAVIT

I, Muhammad Sultan, Budget & Accounts Officer BPS-17 in District Education Officer (Female), Karak do hereby solemnly affirm and declare on oath that all the contents of accompanying comments are true and correct as per record of the office and knowledge and belief, nothing is lie and nothing has been concealed from this honorable court. It is further stated on oath that in this appeal the answering respondent have neither been placed Ex Party nor their defense has been struck off / Cost.

Dated -----/0 /2023.


Deponent
Muhammad Sultan
ID No. 14202-1347715-3

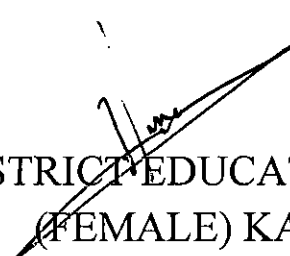
Identification.



OFFICE OF THE DISTRICT EDUCATION OFFICER (FEMALE)
KARAK.

AUTHORITY.

Mr. Muhammad Sultan Budget & Accounts Officer Office of the District Education Officer (Female) Karak is hereby authorized to submit Para wise comments in the Honourable Service Tribunal in the Services Appeal No.1432/2023 titled Samina Ara vrs Govt:of Khyber Pakhtunkhawa & others. He is also authorized to attend the Hon: Tribunal on behalf of the undersigned.


DISTRICT EDUCATION OFFICER
(FEMALE) KARAK.