BEFORE THE HON'BLE TRIBUNAL,

S.Appeal No.:1451/2023

Elahi Baksh

Nest date

Versus

Secretary E&SE Department & Others

S.No	Description of Documents	Annexure	Page No.		
1.	Reply 1 & 2		1-2		
2.	Report of the Head Master & Attendance Register	"A" & "B"	3-7		
3.	Speaking Order	"C"	8		
4.	Affidavit		9		
5.	Authority Letter		10		

Petitiôner

District Education Officer

Peshawar.

Dated: 11/09/2023 ESHAWAR

Service Appeal No.1451/2023

Titled Elahi Baksh Vs Secretary E&SE Department & others

PARA WISE REPLY ON BEHALF ON RESPONDENT NO. 1 TO 3

Respectfully Sherweth:

Preliminary Objections

- 1. That the appellant has got no cause of action/locus standi.
- 2. That the Appellant has concealed material facts from this Hon'ble Tribunal.
- 3. That the appellant has been estopped by his own conduct to file the instant appeal before this Hon'ble Tribunal.
- 4. That the instant appeal is badly time barred.
- 5. That the instant appeal is not maintainable in its present form.
- 6. That the instant appeal is bad for non-joinder of the necessary and proper parties.
- 7. That the appellant has not come with clean hands to this Hon'ble Tribunal.

Reply of facts:

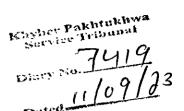
- 1. That in reply to Para No.1 it is submitted that the appellant was appointed as a daftari in BPS-02 on 06-01-1991 but latter on he was willful absent and the competent authority removed him from service under the rules.
- 2. That Para No.2 is pertains to record.
- 3. That in reply Para No.3 it is submitted that the appellant was posted as a Data Entry operator in his own pay and scale in the office of the DEO as the appellant has been surplus.
- 4. That Reply to Para No. 4 it is submitted that the appellant was transferred/adjusted on his own pay and BPS-05 against the vacant post of Elementary teacher in GPS Garhi Qamar Din on 25-06-2003 but he did not joint and remained willful abasent from his duty.

(Report of the Head Master and attendance register are attached as Annex-A &B)

- 5. That in reply to Para No.5 has already been given in the above para.
- 6. That Para No.6 is correct to the extent that the appellant was adjusted at GPS Garhi Qamar Din on 25-06-2003 but he did not resume on his duty.
- 7. That in reply to Para No.7 it is submitted that the appellant did not resume on his duty therefore he was not entitled of salary.
- 8. That Para No.8 pertains to record.
- 9. That in reply to Para No.09 it is submitted that in light of Court judgment dated 17-12-2018 the director (E&SE) KP decided the appeal of the appellant on 16-03-2020.

(Speaking order is attached as Annex-C).

10. That Para No.10 is incorrect, misleading and against the facts. Detail reply has been given in the above Para.



- 11. That Para No.11 is also misleading. Moreover there is no record of the mentioned letter in the office record of the respondents.
- 12. That in reply to Para No.12 it is submitted that the appellant has no cause of action to filed the instant appeal in this Hon'ble Tribunal with the following grounds.

Reply of Grounds:

- A. That reply to Ground-A is incorrect, misleading and against the facts. Orders dated 09-10-2019 and 16-03-2022 is according to law and rules.
- B. That Ground-B is incorrect, misleading and against the fact. Article 10-A of the constitution is not applying on the case of the appellant.
- C. That Ground- C is also incorrect, misleading and against the fact. The respondent department is bound to act upon the existing law and rules.
- D. That Ground-D is incorrect, misleading and against the fact. Detail reply has been given in the above Para.
- E. That Ground-E is misleading and against the fact. As replied in facts.
- F. That Ground-F is incorrect, misleading and against the fact.
- G. That Ground-G is incorrect, misleading and against the fact. The appellant was willful absent from his duty therefore, the competent authority removed him from his service under the rules.
- H. That reply in Ground-H is incorrect, misleading and against the fact. The respondent department fulfilled all the codel formalities. Moreover the said rules and judgments is not applicable on the case of appellant.
- I. That reply in Ground-I is incorrect, misleading and against the fact. Detail reply has been given in the above Para.
- J. That reply in Ground-J is incorrect, misleading and against the fact. The mentioned rules and judgment did not applicable on the case of appellant.
- K. That reply in Ground-K is not related to respondents.
- L. That the respondents department also seek permission to advance other ground and proofs at the time of arguments.

It is therefore; very humble prayed that on acceptance of this reply, the instant appeal may very kindly be dismissed with cost.

District Education Officer (Malc) Peshawar

Elementary & Secondary Education

Khyber Pakhtunkhwa, Peshawar

Flerhandary & Secondary Education Khyber Pakhtunkhwa, Peshawar P-2

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EX- HEAD MASTER 1/5/2016
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KHYBER PAKHTUNKIIWA PESHAWAR. Phone: 091-9225344

Email: ddadmn.ese@gmail.com

MOTIFICATION

1) WHEREAS, Mr. Elabi Rakhsh appellant had submitted his service appeal in the Khyber Pakhtunkhwa Service Tribunal Peshawar vide appeal No 1303/15 titled "Elahi Bakhsh verses Director E&SE and others" for adjustment /release of monthly salary.

- 2. AND WHEREAS, the Khyber Pakhtunkhwa Service Tribunal converted his appeal in presentation vide Judgment dated 17/12/2018 with the direction to Director E&SE KP, "To Examine the relevant record as to whether, the appellant has performed his duty or he remained absent since 2003 and thereafter decided the departmental appears thin period of 90 days from receipt of copy of this judgment through speaking order
- 3. AND WHEREAS, to find out the factual position of the case, the Director (Appellant Authority) conducted renquiry by appointing Mr. Misri Khan Ex-SDEO (M) Town-I Peshawar vide office order No 4676-78 datad 15/03/2019.
- 4. AND WHEREAS, the enquiry officer submitted his report dated 09/05/2019, wherein it has been found that 'Mr. Elahi Bakhsh remained absent from duty since his adjustment as Elementary Teacher from 25/06/2003 to date Le 09/05/2019, as there is no record of his attendance in the concerned school.
- 5. AND WHEREAS, Mr. Elahi Bakhsh Ex-Daftan DEO (F) Peshawar subsequently adjusted as key punch operator/Elementary. Teacher BPS-05 at GMPS Gharigamar Din Peshawar was proceeded under E3D Rules 2011 and removed from service vide Notification Issued under Endt.No. 944-50 dated 09/10/2019 by the District Education Officer (M) Peshawar.
- 6. AND WHEREAS, The Director E&SE Khyber Pakhtunkhwa, Appellate Authority after having considered the findings/recommendations of the enquiry officer and perusal of record is satisfied that the charge of willful absence from duty has been proved against the appellant Mr. Elahi Baksh, Ex-Daftari/Elementary Teacher.

NOW/THEREFORE, the Appellate authority the Director ERSE KP under the provision of Rules-17 2(a) of ERD Rules-2011 has decided to uphold the major penalty of removal from service in r/o Mr. Elahl Bakhsh Ex-Daftan/Elementary Teacher GMPS Ghari Qamar Din Notified by the DEO (M) Peshawar vide Notification No 944-50 dated 09/10/2019.

Director

Directorate E& Secondary Education Khyber Pakhtunkhwa, Peshawar

7F.No: /A-23/MS/ElahiBakhsh Dated Peshawar the 16/3/2020. Copy of the above is forwarded for information and n/action to the:-District Education Officer (Male) Peshawar

District Account Officer Peshawar.

Appellant concerned.

PA to the Director E&SE Khyber Pakhtunkhwa Peshawar.

Assistant Director (Admn) Olrectorate E& Secondary Education Khyber Pakhtunkhwa, Peshawar

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BEFORE THE HON'BLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR

Service Appeal No.1451/2023

Titled Elahi Baksh Vs Secretary E&SE Department & others

Affidavit

I, Arshad Ali, ADEO (Litigation) O/O DEO (Male) Peshawar do hereby solemnly affirm and declare on oath that the contents of the reply on behalf of respondents is correct to the best of my knowledge and nothing has been concealed from this Hon, ble court. Fully shaded on oath that the contents of the reply on behalf of respondents is correct to the best of my knowledge and nothing has been concealed from this Hon, ble court. Fully shaded on oath the little place of fluid and the shaded of the little place of fluid place of fluid and the court fluid place of fluid place o

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AUTHORITY LETTER

Mr. Arshad Ali, ADEO (Litigation) office of the District Education Officer (Male) Peshawar is hereby authorized to submit this Para Wise Comments in service appeal No.1451/2023 titled Elahi Baksh VS Govt: of KPK & others on behalf of the Education Department (E &SE) KP Peshawar.

District Education Officer
(Male) Peshawar