

S.Appeal No.:1451/2023

Elahi Baksh

Versus

Secretary E&SE Department & Others

INDEX

| 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 |

Petitioner

Through

**District Education Officer
Peshawar.**

Dated: 11/09/2023

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.

Khyber Pakhtunkhwa
Service Tribunal
Diary No. 7419
Dated 11/09/23

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
(Male) Peshawar

Director

Elementary & Secondary Education
Khyber Pakhtunkhwa, Peshawar

Secretary

Elementary & Secondary Education
Khyber Pakhtunkhwa, Peshawar

۱۱۱
 (Answer) بیان

من مسمی صادق شاہ (سابقہ پیر ٹیچرس) گورنمنٹ پرائمری
 سکول بنالہ ٹرھی قہرین لہنت سکرٹل شاہ و خوری طور
 پر بیان دیا ہوا ہے مسمی ایسی تحقیق نامی شخص
 گورنمنٹ پرائمری سکول بنالہ ٹرھی قہرین میں ابھی بھی لہنت
 ایس ہوا اور نہ رجبہ حاضر میں اسکا ریکارڈ
 موجود ہے

Ex- HEAD MASTER
 G.P.S No.1
 Garh Camp Dir Peshawar

Signature

Signature
 Q. A. Ahmad
 No. 1

Signature

| | | | | | |
|-----|--------|--------|-------|--------|-----|
| نام | الموسى | مستحان | امانت | مستحان | PTC |
| عدد | PTC | PTC | PTC | PTC | PTC |

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28
- 29
- 30
- 31

| تاریخ | آمد | دستخط | رواگی | دستخط | آمد | دستخط | رواگی | دستخط | آمد | دستخط | رواگی | دستخط |
|-------|------|-------|---------|-------|-------|---------|-------|-------|------|-------|---------|-------|
| 1 | 7/30 | 12/30 | C/leave | 7/30 | 12/30 | C/leave | 7/30 | 12/30 | 7/30 | 12/30 | C/leave | 7/30 |
| 2 | 7/30 | 12/30 | C/leave | 7/30 | 12/30 | C/leave | 7/30 | 12/30 | 7/30 | 12/30 | C/leave | 7/30 |
| 3 | 7/30 | 12/30 | C/leave | 7/30 | 12/30 | C/leave | 7/30 | 12/30 | 7/30 | 12/30 | C/leave | 7/30 |
| 4 | 7/30 | 12/30 | C/leave | 7/30 | 12/30 | C/leave | 7/30 | 12/30 | 7/30 | 12/30 | C/leave | 7/30 |
| 5 | 7/30 | 12/30 | C/leave | 7/30 | 12/30 | C/leave | 7/30 | 12/30 | 7/30 | 12/30 | C/leave | 7/30 |
| 6 | 7/30 | 12/30 | C/leave | 7/30 | 12/30 | C/leave | 7/30 | 12/30 | 7/30 | 12/30 | C/leave | 7/30 |
| 7 | 7/30 | 12/30 | C/leave | 7/30 | 12/30 | C/leave | 7/30 | 12/30 | 7/30 | 12/30 | C/leave | 7/30 |
| 8 | 7/30 | 12/30 | C/leave | 7/30 | 12/30 | C/leave | 7/30 | 12/30 | 7/30 | 12/30 | C/leave | 7/30 |
| 9 | 7/30 | 12/30 | C/leave | 7/30 | 12/30 | C/leave | 7/30 | 12/30 | 7/30 | 12/30 | C/leave | 7/30 |
| 10 | 7/30 | 12/30 | C/leave | 7/30 | 12/30 | C/leave | 7/30 | 12/30 | 7/30 | 12/30 | C/leave | 7/30 |
| 11 | 7/30 | 12/30 | C/leave | 7/30 | 12/30 | C/leave | 7/30 | 12/30 | 7/30 | 12/30 | C/leave | 7/30 |
| 12 | 7/30 | 12/30 | C/leave | 7/30 | 12/30 | C/leave | 7/30 | 12/30 | 7/30 | 12/30 | C/leave | 7/30 |
| 13 | 7/30 | 12/30 | C/leave | 7/30 | 12/30 | C/leave | 7/30 | 12/30 | 7/30 | 12/30 | C/leave | 7/30 |
| 14 | 7/30 | 12/30 | C/leave | 7/30 | 12/30 | C/leave | 7/30 | 12/30 | 7/30 | 12/30 | C/leave | 7/30 |
| 15 | 7/30 | 12/30 | C/leave | 7/30 | 12/30 | C/leave | 7/30 | 12/30 | 7/30 | 12/30 | C/leave | 7/30 |
| 16 | 7/30 | 12/30 | C/leave | 7/30 | 12/30 | C/leave | 7/30 | 12/30 | 7/30 | 12/30 | C/leave | 7/30 |
| 17 | 7/30 | 12/30 | C/leave | 7/30 | 12/30 | C/leave | 7/30 | 12/30 | 7/30 | 12/30 | C/leave | 7/30 |
| 18 | 7/30 | 12/30 | C/leave | 7/30 | 12/30 | C/leave | 7/30 | 12/30 | 7/30 | 12/30 | C/leave | 7/30 |
| 19 | 7/30 | 12/30 | C/leave | 7/30 | 12/30 | C/leave | 7/30 | 12/30 | 7/30 | 12/30 | C/leave | 7/30 |
| 20 | 7/30 | 12/30 | C/leave | 7/30 | 12/30 | C/leave | 7/30 | 12/30 | 7/30 | 12/30 | C/leave | 7/30 |
| 21 | 7/30 | 12/30 | C/leave | 7/30 | 12/30 | C/leave | 7/30 | 12/30 | 7/30 | 12/30 | C/leave | 7/30 |
| 22 | 7/30 | 12/30 | C/leave | 7/30 | 12/30 | C/leave | 7/30 | 12/30 | 7/30 | 12/30 | C/leave | 7/30 |
| 23 | 7/25 | 12/30 | C/leave | 7/30 | 12/30 | C/leave | 7/30 | 12/30 | 7/30 | 12/30 | C/leave | 7/30 |
| 24 | 7/30 | 12/30 | C/leave | 7/30 | 12/30 | C/leave | 7/30 | 12/30 | 7/30 | 12/30 | C/leave | 7/30 |
| 25 | 7/30 | 12/30 | C/leave | 7/30 | 12/30 | C/leave | 7/30 | 12/30 | 7/30 | 12/30 | C/leave | 7/30 |
| 26 | 7/30 | 12/30 | C/leave | 7/30 | 12/30 | C/leave | 7/30 | 12/30 | 7/30 | 12/30 | C/leave | 7/30 |
| 27 | 7/30 | 12/30 | C/leave | 7/30 | 12/30 | C/leave | 7/30 | 12/30 | 7/30 | 12/30 | C/leave | 7/30 |
| 28 | 7/30 | 12/30 | C/leave | 7/30 | 12/30 | C/leave | 7/30 | 12/30 | 7/30 | 12/30 | C/leave | 7/30 |
| 29 | 7/30 | 12/30 | C/leave | 7/30 | 12/30 | C/leave | 7/30 | 12/30 | 7/30 | 12/30 | C/leave | 7/30 |
| 30 | 7/30 | 12/30 | C/leave | 7/30 | 12/30 | C/leave | 7/30 | 12/30 | 7/30 | 12/30 | C/leave | 7/30 |
| 31 | 7/30 | 12/30 | C/leave | 7/30 | 12/30 | C/leave | 7/30 | 12/30 | 7/30 | 12/30 | C/leave | 7/30 |

| میزان | سابقه | حال | میزان | سابقه | حال | میزان | سابقه | حال | میزان | سابقه | حال |
|-------|-------|-----|-------|-------|-----|-------|-------|-----|-------|-------|-----|
| 11 | 9 | 2 | 11 | 9 | 2 | 10 | 8 | 2 | 10 | 8 | 2 |
| - | - | - | - | - | - | - | - | - | - | - | - |
| - | - | - | - | - | - | - | - | - | - | - | - |
| 11 | 9 | 2 | 11 | 9 | 2 | 10 | 8 | 2 | 10 | 8 | 2 |

دستخط ایندیش...

(Handwritten signature)

| کتاب | آمد | دستخط | رواگی | دستخط | آمد | دستخط | رواگی | دستخط | آمد | دستخط | رواگی | دستخط | آمد | دستخط | رواگی | دستخط |
|------|------|-------|-------|-------|------|-------|-------|-------|------|-------|-------|-------|------|-------|-------|-------|
| 1 | 7/15 | ... | ... | ... | 7/15 | ... | ... | ... | 7/15 | ... | ... | ... | 7/15 | ... | ... | ... |
| 2 | 7/25 | ... | ... | ... | 7/15 | ... | ... | ... | 7/15 | ... | ... | ... | 7/15 | ... | ... | ... |
| 3 | 7/25 | ... | ... | ... | 7/15 | ... | ... | ... | 7/15 | ... | ... | ... | 7/15 | ... | ... | ... |
| 4 | 7/30 | ... | ... | ... | 7/15 | ... | ... | ... | 7/15 | ... | ... | ... | 7/15 | ... | ... | ... |
| 5 | 7/30 | ... | ... | ... | 7/15 | ... | ... | ... | 7/15 | ... | ... | ... | 7/15 | ... | ... | ... |
| 6 | 7/35 | ... | ... | ... | 7/15 | ... | ... | ... | 7/15 | ... | ... | ... | 7/15 | ... | ... | ... |
| 7 | | | | | | | | | | | | | | | | |
| 8 | 7/25 | ... | ... | ... | 7/15 | ... | ... | ... | 7/15 | ... | ... | ... | 7/15 | ... | ... | ... |
| 9 | 7/25 | ... | ... | ... | 7/15 | ... | ... | ... | 7/15 | ... | ... | ... | 7/15 | ... | ... | ... |
| 10 | 7/15 | ... | ... | ... | 7/15 | ... | ... | ... | 7/15 | ... | ... | ... | 7/15 | ... | ... | ... |
| 11 | 7/30 | ... | ... | ... | 7/15 | ... | ... | ... | 7/15 | ... | ... | ... | 7/15 | ... | ... | ... |
| 12 | 7/30 | ... | ... | ... | 7/15 | ... | ... | ... | 7/15 | ... | ... | ... | 7/15 | ... | ... | ... |
| 13 | 7/30 | ... | ... | ... | 7/15 | ... | ... | ... | 7/15 | ... | ... | ... | 7/15 | ... | ... | ... |
| 14 | | | | | | | | | | | | | | | | |
| 15 | 7/15 | ... | ... | ... | 7/15 | ... | ... | ... | 7/15 | ... | ... | ... | 7/15 | ... | ... | ... |
| 16 | 7/15 | ... | ... | ... | 7/15 | ... | ... | ... | 7/15 | ... | ... | ... | 7/15 | ... | ... | ... |
| 17 | 7/15 | ... | ... | ... | 7/15 | ... | ... | ... | 7/15 | ... | ... | ... | 7/15 | ... | ... | ... |
| 18 | 7/15 | ... | ... | ... | 7/15 | ... | ... | ... | 7/15 | ... | ... | ... | 7/15 | ... | ... | ... |
| 19 | 7/30 | ... | ... | ... | 7/15 | ... | ... | ... | 7/15 | ... | ... | ... | 7/15 | ... | ... | ... |
| 20 | 7/30 | ... | ... | ... | 7/15 | ... | ... | ... | 7/15 | ... | ... | ... | 7/15 | ... | ... | ... |
| 21 | | | | | | | | | | | | | | | | |
| 22 | 7/15 | ... | ... | ... | 7/15 | ... | ... | ... | 7/15 | ... | ... | ... | 7/15 | ... | ... | ... |
| 23 | 7/20 | ... | ... | ... | 7/15 | ... | ... | ... | 7/15 | ... | ... | ... | 7/15 | ... | ... | ... |
| 24 | 7/20 | ... | ... | ... | 7/15 | ... | ... | ... | 7/15 | ... | ... | ... | 7/15 | ... | ... | ... |
| 25 | 7/15 | ... | ... | ... | 7/15 | ... | ... | ... | 7/15 | ... | ... | ... | 7/15 | ... | ... | ... |
| 26 | 7/30 | ... | ... | ... | 7/15 | ... | ... | ... | 7/15 | ... | ... | ... | 7/15 | ... | ... | ... |
| 27 | 7/15 | ... | ... | ... | 7/15 | ... | ... | ... | 7/15 | ... | ... | ... | 7/15 | ... | ... | ... |
| 28 | | | | | | | | | | | | | | | | |
| 29 | 7/20 | ... | ... | ... | 7/15 | ... | ... | ... | 7/15 | ... | ... | ... | 7/15 | ... | ... | ... |
| 30 | 7/30 | ... | ... | ... | 7/15 | ... | ... | ... | 7/15 | ... | ... | ... | 7/15 | ... | ... | ... |
| 31 | | | | | | | | | | | | | | | | |

| میزان | سابقه | حال | میزان | سابقه | حال | میزان | سابقه | حال | میزان | سابقه | حال |
|-------|-------|-----|-------|-------|-----|-------|-------|-----|-------|-------|-----|
| 14 | 8 | 3 | 18 | 16 | 2 | 8 | 8 | 8 | 14 | 8 | 6 |
| — | — | — | — | — | — | — | — | — | — | — | — |
| — | — | — | — | — | — | — | — | — | — | — | — |
| 14 | 8 | 6 | 18 | 16 | 2 | 8 | 8 | 8 | 14 | 8 | 6 |

دستخط میزبان ...
 130903
 50

۲۷

رجسٹر حاضر و مدرسین

نام مدرسین
PTC

نام مدرسین
محمد زبیر
PTC

| تاریخ | آمد | دستخط | رواگی | آمد | دستخط | رواگی | آمد | دستخط | رواگی | آمد | دستخط | رواگی | آمد | دستخط | رواگی | آمد | دستخط | رواگی |
|-------|-----|-------|-------|-----|-------|-------|-----|-------|-------|-----|-------|-------|-----|-------|-------|-----|-------|-------|
| 1 | | | | | | | | | | | | | | | | | | |
| 2 | | | | | | | | | | | | | | | | | | |
| 3 | | | | | | | | | | | | | | | | | | |
| 4 | | | | | | | | | | | | | | | | | | |
| 5 | | | | | | | | | | | | | | | | | | |
| 6 | | | | | | | | | | | | | | | | | | |
| 7 | | | | | | | | | | | | | | | | | | |
| 8 | | | | | | | | | | | | | | | | | | |
| 9 | | | | | | | | | | | | | | | | | | |
| 10 | | | | | | | | | | | | | | | | | | |
| 11 | | | | | | | | | | | | | | | | | | |
| 12 | | | | | | | | | | | | | | | | | | |
| 13 | | | | | | | | | | | | | | | | | | |
| 14 | | | | | | | | | | | | | | | | | | |
| 15 | | | | | | | | | | | | | | | | | | |
| 16 | | | | | | | | | | | | | | | | | | |
| 17 | | | | | | | | | | | | | | | | | | |
| 18 | | | | | | | | | | | | | | | | | | |
| 19 | | | | | | | | | | | | | | | | | | |
| 20 | | | | | | | | | | | | | | | | | | |
| 21 | | | | | | | | | | | | | | | | | | |
| 22 | | | | | | | | | | | | | | | | | | |
| 23 | | | | | | | | | | | | | | | | | | |
| 24 | | | | | | | | | | | | | | | | | | |
| 25 | | | | | | | | | | | | | | | | | | |
| 26 | | | | | | | | | | | | | | | | | | |
| 27 | | | | | | | | | | | | | | | | | | |
| 28 | | | | | | | | | | | | | | | | | | |
| 29 | | | | | | | | | | | | | | | | | | |
| 30 | | | | | | | | | | | | | | | | | | |
| 31 | | | | | | | | | | | | | | | | | | |

| میزان | سابقہ | حالیہ | میزان | سابقہ | حالیہ | میزان | سابقہ | حالیہ | میزان | سابقہ | حالیہ | میزان | سابقہ | حالیہ |
|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|
| | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | |



Arrears - C

NOTIFICATION

1. WHEREAS, Mr. Elahi Bakhsh 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 appeal within 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 (Appellate Authority) conducted enquiry by appointing Mr. Misri Khan Ex-SDEO (M) Town-I Peshawar vide office order No 4676-78 dated 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 i.e 09/05/2019, as there is no record of his attendance in the concerned school.
5. AND WHEREAS, Mr. Elahi Bakhsh Ex-Daftari DEO (F) Peshawar subsequently adjusted as key punch operator/Elementary Teacher BPS-05 at GMPS Ghari Qamar Din Peshawar was proceeded under EOD-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 Bakhsh, Ex-Daftari/Elementary Teacher.
7. NOW, THEREFORE, the Appellate authority the Director E&SE KP under the provision of Rules-17 2(a) of E&D Rules-2011 has decided to uphold the major penalty of removal from service in r/o Mr. Elahi Bakhsh Ex-Daftari/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

Endst: No. 7616-19 /F.No: /A-23/MS/ElahiBakhsh Dated Peshawar the 16/3/2020
Copy of the above is forwarded for information and n/action to the:-

1. District Education Officer (Male) Peshawar
2. District Account Officer Peshawar.
3. Appellant concerned.
- PA to the Director E&SE Khyber Pakhtunkhwa Peshawar.

Amir 13/3/20
Assistant Director (Admn)
Directorate E& Secondary Education
Khyber Pakhtunkhwa, Peshawar

BEFORE THE HON'BLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR

Service Appeal No.1451/2023

Titled Elahi Baksh Vs Secretary E&SE Department & others

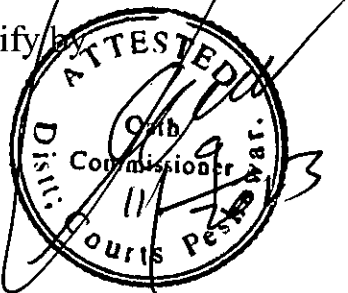
Affidavit

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.

Further stated on oath that in this appeal the opposing Respondent neither placed party nor their defence strike off/peg.

DEPONENT

Identify by



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

