


FORM OF ORDER SHEET

Court of _____

Appeal No. 1893/2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	19/09/2023	<p>The appeal of Mr. Muhammad Fiazan presented today by Mr. Yasir Saleem Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on 20.09.2023. Parcha Peshi is given to counsel for the appellant.</p> <p>By the order of Chairman</p> <p> REGISTRAR</p>

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR**

APPEAL NO. 1893 /2023

M. Faizan Chowkidar

VS

EDUCATION DEPTT:

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APPELLANT

THROUGH:

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Yasir Saleem
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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No. 1893 /2023

Mr. M. Faizan Chowkidar , in district education Officer District North Waziristan**APPELLANT.**

Versus

1. Director education merged district, Khyber Pakhtunkhwa Peshawar.
2. District education officer, District North Waziristan.
3. District Account Officer, District North Waziristan.
4. The secretary E&SE department, Khyber Pakhtunkhwa, Peshawar.

.....**RESPONDENTS**

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 AGAINST INACTION OF THE RESPONDENT BY NOT RELEASING SALARIES W.E.F 01.07.2019 OF THE APPELLANT AND AGAINST INACTION ON DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STIPULATED PERIOD.

Prayer:

That on acceptance of this instant service appeal of the appellant the inaction of the respondents by not releasing salaries of the appellant w.e.f 01.07.2019 till dated may very kindly be declared illegal and without lawful authority of law, and the respondents may further please be directed to release salaries of the appellant w.e.f 01.07.2019 till dated, with all back benefits. Any other remedy which august tribunal deems fit that may also be decided in favor of the appellant.

R/SHEWETH:

ON FACTS:

Brief facts of the appeal are as under;

1. That the appellant is working as (BPS-3) in the respondent department. (copy of Appointment letter is attached).....**A.**
2. That the appellant after that assumed his duty and started performing his duty regularly efficiently and passionately. Copy of assumption order and performance certificate is attached as annexure.....**B**
3. That on 24.01.2023 the respondent No.3 made an observation over the impugned bills which was removed by the respondent No.2 and resubmitted to respondent No.3. Copy of letter dated

24.01.2023 is attached as annexure C

- 4. That on dated 24.01.2023 respondent No.2 removed the observation and resubmitted to the respondent No.3 but no action has been taken on the said bills. Copy of reply letter is attached as annexure.....D
- 5. That against the inaction of the respondents with regard to the outstanding salaries of the appellant, he also filed departmental appeal to the concerned authority which is still pending. Copy of the departmental appeal is attached as annexure.....E.
- 6. That appellant further feeling aggrieved and having no other remedy but to file this appeal on the following grounds inter alia.

ON GROUNDS:

- A. That the inaction of the respondents by not releasing salaries of the appellant w.e.f.01.07.2019 is against law, rules and norms of natural justice.
- B. That the appellant have not be treated in accordance with law and rules and as such respondents violated Article 4 and 24 of the constitution of Islamic republic of Pakistan 1973.
- C. That the action of the respondent No.3 amounts to sheer arbitrary and autocratic in nature hence against the norms of natural justice.
- D. That the conduct of respondent No.3 is not only ignoring the competent authority orders but conduct and attitude of the respondents No.3 from such inaction show something unfair means hence also violating the mandatory provision of the constitution that all Govt. departments are duty bound to strictly act in accordance with law.
- E. That its apex court decisions that salary is not bounty that can be stopped at the wishes of high ups.
- F. That the inaction of the respondents by not releasing salaries of the appellant is against Article 38(e) of the Constitution of Islamic republic of Pakistan, 1973.
- G. That the respondents are using colorful exercise of power regarding not releasing the salaries outstanding against the respondents hence this action of the respondents is

- H. That the appellant seeking indulgence of this honorable Tribunal for intervening in the matter to release immediately the outstanding salaries and clear the bill pending before the respondent No.3 without any cogent reason and the respondent No.3 has no locus standi to stop the bills being clear cut orders of the high ups and competent authority.
- I. That the remaining points if any arise during the course of hearing may also be allowed.

It is therefore humbly prayed that the appeal of the appellant may very kindly be accepted as prayed for.

Ues
APPELLANT

THROUGH:

Y
Yasir Salem
&
Amir Zaman

Advocates high Court

Certificate:

That no earlier appeal is preferred before this august tribunal.

Y
Deponent

Affidavit:

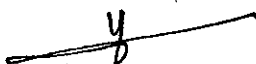
I Jaffarullah resident of district north waziristan, solemnly affirm and declare that the contents of this Appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this August Tribunal.

Deponent *Ues*

- H. That the appellant seeking indulgence of this honorable Tribunal for intervening in the matter to release immediately the outstanding salaries and clear the bill pending before the respondent No.3 without any cogent reason and the respondent No.3 has no locus standi to stop the bills being clear cut orders of the high ups and competent authority.
- I. That the remaining points if any arise during the course of hearing may also be allowed.

It is therefore humbly prayed that the appeal of the appellant may very kindly be accepted as prayed for.


APPELLANT

THROUGH: 
Yasir Salem
&
Amir Zaman
Advocates High Court

Certificate:

That no earlier appeal is preferred before this august tribunal.


Deponent

Affidavit:

I M. Faizan resident of district north waziristan, solemnly affirm and declare that the contents of this Appeal are true and correct to the best of my knowledge and belief and nothing has been conceded from this August Tribunal.

Deponent *lies*



Amr A 4

OFFICE OF THE AGENCY EDUCATION OFFICER NORTH WAZIRISTAN AGENCY

APPOINTMENT ORDER:

In the light of Director Education FATA order dated 08-11-2013 and the recommendation of departmental selection committee the following candidates are here by appointed against the vacant post of Class-IV on contract basis in BPS-3 on the following terms and conditions with effect from the date of taking over charge.

- (1) GUL Rauf Chowkidar
- (2) Noor janat gul N/Qasid
- (3) Mohibullah Sweeper
- (4) Bibi Noora Sweeper
- (5) Shahfi ud din N/Qasid
- (6) Jaffarullah Sweeper
- (7) Sefatullah N/Qasid
- (8) Adil Chowkidar
- (9) M.Faizan Chowkidar
- (10)Shahab ud din N/Qasid
- (11)Hazrat Qader N/Qasid
- (12)Toshiba Sweeper
- (13)Basnora Sweeper

Terms And Conditions

1. Their appointments are made on contract basis and liable to be terminated any time and without any notice.
2. They should bring their medical certificates from Medical Supdt AHQ-Hospital Miran Shah if they fail to submit their charge report within 15 days, their order will be treated as a cancel.
3. Their originals CNIC's should be produced in the accountant local office.
4. Their services will be terminated if they found absent 15 days continuously from the date of taking over charge.

AGENCY EDUCATION OFFICER
North Waziristan Agency

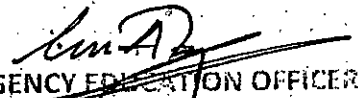
Ends/ 388-85

Dated 15/3 -2014

Copy to the:-

1. Director Education FATA, Peshawar
2. Agency Account Officer NWA
3. The Accountant Local Office
4. Candidate Concerned

ATTESTED


AGENCY EDUCATION OFFICER
North Waziristan Agency

Anex B (5)

To

The District Education Officer
North Waziristan District.

Subject: CHARGE / ARRIVAL REPORT

I Mr/ MST M. Raizan took our charge in education department on date 02-07-2021 as

Class-IV and started my duty regularly to the entire satisfaction of my superior. Charge reported

submitted for your perusal and record please.

Yours Obediently.

Mr. Raizan

Designation: Accountant

Accountant

keep on record

[Signature]

[Signature]


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OFFICE OF THE DISTRICT EDUCATION OFFICER NORTH WAZIRISTAN DISTRICT

SUBJECT: DUTY PERFORMANCE CERTIFICATE

Certified that Mr/ MST M. Rajan is performing his/her duty regularly to the entire satisfaction of his superior since long in education department. He/She has good moral character.


**DISTRICT EDUCATION OFFICER
NORTH WAZIRISTAN DISTRICT.**

ATTESTED


Annex C (7)

OFFICE OF THE DISTRICT ACCOUNTS OFFICER

NORTH WAZIRISTAN MIRAN SHAH

PHONE NO. 0928-300541

NO.DAO/MRN/NFP/2022-23/2301-04

Dated 24/01/2023

To

The District Education Officer (M)
NW Miran Shah.

Subject: CONFIRMATION OF SOURCE FORMS & SALARIES OF THE CLASS-IV.

Memo,

Kindly refer to the subject cited above.

The Authorized Representative namely Mr. Abdur Ur Rahim Junior clerk of your office were submitted Source-I Forms and other connected documents for releasing of their salaries at the pre-Audit counter section of this office.


The detail of Class-IV are as under:-

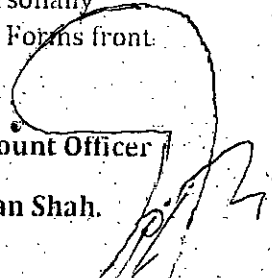
- (1) GUL Rauf Chowkidar
- (2) Noor janat gul N/Qasid
- (3) Mohibullah Sweeper
- (4) Bibi Noora Sweeper.
- (5) Shahfi ud din N/Qasid
- (6) Jaffarullah Sweeper.
- (7) Sefatullah N/Qasid
- (8) Adil Chowkidar
- (9) M.Faizan Chowkidar
- (10) Shahab ud din N/Qasid
- (11) Hazrat Qader N/Qasid
- (12) Toshiba Sweeper
- (13) Basnora Sweeper

It is therefore, requested that the above named Class-IV may kindly be confirmed / verified and genuine employes of the Education Department before payroll processing for the month of 01/2023 or otherwise please.

Copy forwarded to:

1. The Accountant General Khyber Pakhtunkhwa, Peshawar.
2. The Director E&SE Khyber Pakhtunkhwa, Peshawar.
3. The Deputy Commissioner NW Miran Shah.
4. Mr. Muhammad Atif Sub Accountant of this office is hereby nominated- personally attend the Education Officer, to verify/confirmed the above named Source Forms front the DEO NW Miran Shah.


District Accounts Officer
NW Miran Shah


District Account Officer
NW Miran Shah.

Annex D(8)

OFFICE OF THE DISTRICT EDUCATION OFFICER
NORTH WAZIRISTAN DISTRICT

No. _____/DEO/NWD
Dated _____/_____/2023

To

The District Accounts Officer,
North Waziristan District.

Subject:

CONFIRMATION OF SOURCE-I & II FORMS OF SALARIES OF VARIOUS
CLASS IV

Respected Sir,

Kindly refer to your letter No.2301-04 dated 24/1/2023 on subject noted above and to state that this office has submitted Source-I & II forms of the following teachers along with related documents duly verified and countersigned by the undersigned.

It is further stated that in your gracious honour that necessary action may kindly be taken in this regard being genuine case and regular employee of this department and they are performing their duties regularly.

- (1) Gul Rauf Chowkidar
- (2) Noor Janat gul N/Qasid
- (3) Mohibullah Sweeper
- (4) Bibi Noora Sweeper
- (5) Shahfi ud din N/Qasid
- (6) Jaffarullah Sweeper
- (7) Sefatullah N/Qasid
- (8) Adil Chowkidar
- (9) M.Faizan Chowkidar
- (10) Shahab ud din N/Qasid
- (11) Hazrat Qader N/Qasid
- (12) Toshiba Sweeper
- (13) Basnora Sweeper

ATTESTED

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District Education Officer
North Waziristan District

Endst: No. 35814 / Dated 25/1/2023.

Copy forwarded to the:-

1. Accountant General Khyber Pakhtunkhwa, Peshawar.
2. Director E&SE Khyber Pakhtunkhwa, Peshawar.
3. Deputy Commissioner North Waziristan District.
4. Candidate Concerned.

District Education Officer
North Waziristan District

To

The Honourable (Seyyid) SED MP
Peshawar

Amir F. (19)

Subj: Appeal for release of pay stopped illegally by DEO North

With great respect it is stated that our pay was stopped without any cogent reason by the Ex. DEO North. We have already lodged appeal to the DE merged area. The DE merged area was kind enough & issued release order to DEO North. The DEO constituted inquiry Committee on the order. The Committee submitted report to DEO. But in the meanwhile the process was under process and the new DEO was posted. We again to the new DEO and the new DEO was kind enough and bill prepared and submitted to the DAO office. The DEO office raised observation and the DEO removed the observation and re-submitted the bills to the DAO office which is still pending in his office. His Highness has kindly recognized in your kind favour that a necessary order may kindly be passed to DEO & DE merged area for passing the bills as soon as possible so that our paid bills may be

Dated 30/4/23

List of teachers are as under

- Yasir ul-Haq
Said
- Zam
- Toshiba Sweeper (2), Zainab Sweeper (3), Yasir ul-Haq N/O
Haris Sweeper (5), Amanullah Mali (6), Mohd Rasool N/O
Sajida Sweeper (8), Sepna Sweeper (9), Shabina Sweeper
AEM anullah DST (10), Gul Raza Chowkidan (12) Now Jaid Gul N/O
Mehiullah Sweeper (14) Nida Noor Sweeper (15) Shehri ul-din N/O
Jaffarullah Sweeper (17) Seifullah N/O (18) Adil Chowkidan
M. Rayan Chowkidan (20) Shahab ul-din N/O
Hajrat Badar N/O (22) Toshiba Sweeper
B. Barnora Sweeper

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VAKALATNAMA

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

_____ OF 2023

Mohd. Rajan

(APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

Smt. Farah & others

(RESPONDENT)
(DEFENDANT)

I/We Mohd Rajan
Do hereby appoint and constitute, **Yasir Saleem & Afrasiab Khan,**
Advocates High Court, Peshawar to appear, plead, act,
compromise, withdraw or refer to arbitration for me/us as my/our
Counsel/Advocate in the above noted matter, without any liability for
his default and with the authority to engage/appoint any other
Advocate Counsel on my/our cost. I/we authorize the said Advocate
to deposit, withdraw and receive on my/our behalf all sums and
amounts payable or deposited on my/our account in the above noted
matter.

Dated. 12/5 /2023

M. Farah
CLIENT(S)

ACCEPTED
YASIR SALEEM