

Sr. No	Date of order/proceedings	Order or other proceedings with signature of Judge or Magistrate
1	2	3
	17.12.2018	<p align="center"><b><u>BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL</u></b> Appeal No. 1303/2015</p> <p>Date of Institution ... 23.11.2015 Date of Decision ... 17.12.2018</p> <p>Elahi Bakhsh S/o Karim Bakhsh R/o House No-1 Street No.4, Qaidabad Colony No-2, Peshawar.</p> <p align="right">-----Appellant</p> <ol style="list-style-type: none"> <li>1. Director Elementary &amp; Secondary Education Khyber Pakhtunkhwa Peshawar.</li> <li>2. District Education Officer Elementary &amp; Secondary Education (Male) Peshawar.</li> <li>3. District Education Officer Elementary &amp; Secondary Education (Female) Peshawar.</li> <li>4. The Accountant General Khyber Pakhtunkhwa at Peshawar.</li> <li>5. District Account Officer.</li> <li>6. Govt. of Khyber Pakhtunkhwa through Secretary Education (Elementary &amp; Secondary Education) Peshawar.</li> </ol> <p align="right">-----Respondents</p> <p><b>Mr. Muhammad Amin Khan Kundi.....Member</b> <b>Mr. Hussain Shah.....Member</b></p> <p align="center"><b><u>JUDGMENT</u></b> <b><u>HUSSAIN SHAH, MEMBER:-</u></b> Learned counsel for the appellant and Mr. Riaz Paindkhel learned Assistant Advocate General on behalf of the respondents present.</p> <p>2. The appellant was appointed on 06.01.1991 as Daftari in BPS-2 in the District Education Officer (Female) Peshawar. During the service in that capacity he was promoted to BPS-4. Due to Surplus Policy of 2001 he was declared as surplus and assigned to Surplus Pool on 01.11.2001. He was adjusted as Data Entry Operator in the office of EDO Peshawar. Later on he was adjusted.</p>

against the vacant post of Elementary Teacher in BPS-5 in GPS Garhi Qamar Din Peshawar on 25.06.2003. Meanwhile respondents No.4 stopped his salary. The appellant preferred the appeal to director Elementary and Secondary Education wherein all the relevant facts were explained but no action was taken in pursuance of his appeal hence the appellant preferred the instant service appeal to this tribunal.

3. The learned counsel for the appellant argued that the appellant was suffered due to the illegal omission and commissions of the respondents. He further argued that it was the responsibility of the respondents to adjust the appellant against a suitable post in the department but they failed to do so. Hence on the acceptance of the instant appeal the respondents may be directed to release the salary along with other immunities of the appellant since June, 2003 and the appellant maybe adjusted in any of the Government Department.

4. In the Para wise comments of the respondents department the facts regarding the adjustment of the appellant against the post of Data Entry Operator in office of EDO and his subsequent adjustment against the post of Elementary Teacher in BPS-5 in GPS Gahri Qamar Din has been admitted. It has also been stated that his departmental appeal was submitted on 05.08.2015 after the lapse of about twelve (12) years.

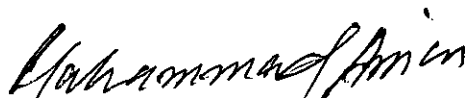
5. The learned Assistant Advocate General argued the case on behalf of respondents raised the point that since 2003 the appellant

remained silent and did not raised the issue till 05.08.2015, and preferred departmental appeal after lapse of about twelve (12) years. He further argued that for twelve (12) years period he remained absent from duty which indicates his malafide hence having no cause of action to approach this tribunal the appeal may be dismissed with costs.

6. The perusal of record reveals that the appellant was adjusted on in post of Elementary Teacher in BPS-05 in Government Primary School, Ghari Qamar Din, vide order dated 25.06.2003 The respondents department has not paid salary since his adjustment order dated 25.06.2003 but the appellant has filed departmental appeal for releasing his salary on 05.08.2015 though departmental appeal has been filed after sufficient delay but there is plethora of judgment of the superior court that limitation does not run in the appeal relating to financial matter. Since the appellant has sought relief for salary. Therefore in our view the limitation does not run in the present appeal being pertain to the financial matter. More over the respondents department has mainly pleaded in the comments that the ~~respondents department~~ *appellant* has not performed duty therefore, he was not entitled to the salary it is also proved from the record that the appellant has filed departmental appeal but the same was not decided. Therefore in order to arrive correct conclusion we deem it appropriate to direct the departmental authority i.e. Director Elementary & Secondary Education Khyber Pakhtunkhwa to examine the relevant record as to whether the appellant has

*Attor*

performed his duty regularly or he remained absent since 2003 and thereafter decide the departmental appeal with in a period of Ninety (90) days from receipt the copy of this judgment though speaking order. The same order also be positively communicated to the appellant and <sup>hereafter</sup> therefore if the appellant was aggrieved. He is at liberty to file fresh service appeal subject to all legal objection. The appeal is disposed off in the above terms. Parties are left to bear their own costs. File be consigned to the record room.



(Muhammad Amin Khan Kundi)  
MEMBER

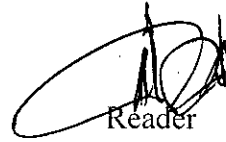


(HUSSAIN SHAH)  
MEMBER

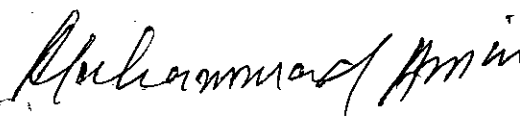
ANNOUNCED  
17.12.2018

01.11.2018

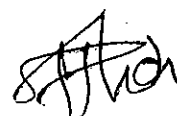
Due to retirement of Hon'able Chairman, the Tribunal is defunct. Therefore, the case is adjourned for the same on 17.12.2018 before D.B.

  
Reader

17.12.2018 Learned counsel for the appellant and Mr. Riaz Paindaklel learned Assistant Advocate General for the respondents present. Vide separate judgment of today of this tribunal placed on file in order to arrive correct conclusion we deem it appropriate to direct the departmental authority i.e. Director Elementary & Secondary Education Khyber Pakhtunkhwa to examine the relevant record as to whether the appellant has performed his duty regularly or he remained absent since 2003 and thereafter decide the departmental appeal within a period of Ninety (90) days from receipt the copy of this judgment through speaking order. The same order also be positively communicated to the appellant and therefore <sup>after</sup> if the appellant was aggrieved. He is at liberty to file fresh service appeal subject to all legal objections. The appeal is disposed off in the above terms. Parties are left to bear their own costs. File be consigned to the record room.



(Muhammad Amin Khan Kundi)  
Member




(Hussain Shah)  
Member

08.03.2018

Clerk to counsel for the appellant and Mr. Muhammad Jan, learned DDA alongwith Mr. Zaki Ullah Senior Auditor for the respondents present. Clerk to counsel for the appellant seeks adjournment as learned counsel for the appellant is not available. Adjourned. To come up for arguments on 08.05.2018 before D.B

  
(M.Amin Khan Kundi)  
Member

  
(Muhammad Hamid Mughal)  
Member

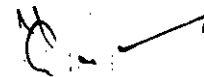
08.05.2018

Due to retirement of the worthy Chairman, the Tribunal is incomplete, therefore the case is adjourned. To come up for same on 23.07.2018.

  
Reader

23.07.2018

Appellant absent. Learned counsel for the appellant is also absent. However, clerk of counsel for appellant present and requested for adjournment. Mr. Ziaullah, Deputy District Attorney for the respondents also present. Adjourned. To come up for arguments on 17.09.2018 before D.B.



Member

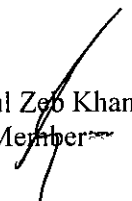
17.09.2018

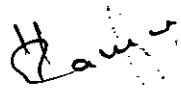
Clerk to counsel for the appellant and Mr. Kabirullah Khattak Learned Additional AG alongwith Mr. Arshad Ali ADO for the respondent present. Due to General Strike of the Bar, arguments could not be heard. To come up for arguments on 01.11.2018 before D.B.

  
(Hussain Shah)  
Member

  
(Muhammad Amin Kundi)  
Member

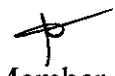
13. 06.07.2017 Counsel for the appellant and Mr. Kabir Ullah Khattak, Assistant AG for the respondents present. Counsel for the appellant submitted rejoinder which is placed on file. To come up for arguments on 01.11.2017 before D.B.


  
(Gul Zeb Khan)  
Member

  
(Muhammad Hamid Mughal)  
Member

01.11.2017

Clerk to counsel for the appellant and Addl:AG alongwith Mr. Arshad Ali, ADO(Lit) for respondents present. Arguments could not be heard due to general strike of the Bar. To come up for arguments on 09.01.2018 before D.B.

  
Member  
Executive

  
Member  
Judicial

09.01.2018


Counsel for the appellant present and Mr. Muhammad Jan, DDA for the respondents present. Counsel for the appellant seeks adjournment. Granted. To come up for arguments on 08.03.2018 before D.B.

  
Member

  
Chairman

15.12.2016

Appellant in person Mr. Hameedur Rahman, AD and Zakiullah, Senior Auditor alongwith Addl. AG for the respondents present. Written reply by respondent No. 4 submitted. Cost of Rs. 1000/- paid and receipt thereof obtained from the appellant. The appeal is assigned to D.B for rejoinder and final hearing for 15.03.2017.

  
Chairman

15.03.2017

Appellant in person and Addl:AG for respondents present. Rejoinder not submitted. Requested for time to file rejoinder. To come up for rejoinder and arguments on 06.07.2017 before D.B.

  
(ASHFAQUE TAJ)  
MEMBER

  
(MUHAMMAD AAMIR NAZIR)  
MEMBER



1303/15

09.05.2016

None for the appellant present. M/S Khursheed Khan, SO, Hameedur Rahman, A.D and Anwar Ahmad, AAO alongwith Asstt. AG for the respondents present. Written reply by respondents No. 1, 2, 3 and 6 submitted while requested for adjournment on behalf of respondents No. 4 & 5. To come up for written reply/comments of respondents No. 4 & 5 on 18.08.2016.

  
Chairman

18.08.2016

Counsel for the appellant and Mr. Zaqiullah, Senior Auditor alongwith Addl. AG for respondent present. Written reply not submitted. Requested for adjournment. Last opportunity granted. To come up for written reply/comments on 26.10.2016 before S.B.

  
Member

26.10.2016

Appellant in person and Mr. Hameed ur Rehman, AD (Litigation) Addl. AG for respondents present. Written reply not submitted despite last opportunities. Requested for further adjournment. Last opportunity is further extended subject to payment of cost of Rs. 1000/- which shall be borne by respondents from their own pockets. To come up for written reply/comments on 15.12.2016 before S.B.

  
Chairman

11.02.2016

Junior to counsel for the appellant present. Seeks adjournment as senior counsel for the appellant is not in attendance. Adjourned to 22.2.2016 for preliminary hearing before S.B.

  
Chairman

22.02.2016

Junior to counsel for the appellant present. Senior counsel for the appellant is not in attendance. Seeks adjournment. Adjourned to 1.3.2016 for preliminary hearing before S.B.

  
Chairman

01.03.2016

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant was initially appointed as Daftari (BPS-2) and with the passage of time promoted to BPS-4 and it was in the year 2001 when he was placed in surplus pool where-after adjusted as Data Entry Operator in the office of EDO (Male) Peshawar and later on as Elementary Teacher in BPS-5.

That the appellant was performing his duty as Elementary Teacher (BPS-5) but his salary was stopped on the allegations that the said adjustment order was not in accordance with law. That despite efforts and departmental appeal dated 5.8.2015 appellant is not given any service benefits including salary etc and hence the instant service appeal on 23.11.2015.

That the appellant is entitled to service benefits and that the appellant is willing to accept any post to which the respondents consider him entitled.

Points urged need consideration. Admit. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply/comments for 9.5.2016 before S.B.

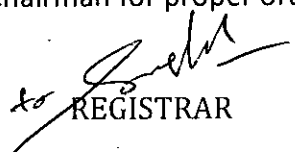



  
Chairman

Appellant Deposited  
Security & Process Fee

Form- A  
FORM OF ORDER SHEET

Court of \_\_\_\_\_

Case No. 1303/2015

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	23.11.2015	<p>The appeal of Mr. Elahi Bakhsh presented today by Mr. Muhammad Arif Jan Advocate may be entered in the Institution register and put up to the Worthy Chairman for proper order.</p> <p style="text-align: right;"> REGISTRAR</p> <p>This case is entrusted to S. Bench for preliminary hearing to be put up thereon <u>28-11-15</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
	26.11.2015	<p>None present for appellant. The appeal be relisted for preliminary hearing for 25.1.2016 before S.B.</p> <p style="text-align: right;"> Chairman</p>
	25.01.2016	<p>Counsel for the appellant present. Requested for adjournment. To come up for preliminary hearing on 11.2.2016 before S.B.</p> <p style="text-align: right;"> Chairman</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
PESHAWAR

Appeal no. 1303/2015

Elahi Bakhsh.....Appellant

VERSUS

Director

ESSE

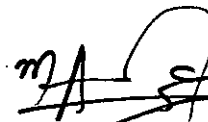
District Education Officer Peshawar and others .....Respondents

I N D E X

S.No.	Description of Documents	Annex	Pages
1.	Memo of Petition		1-6
2.	Affidavit		7
3.	Addresses of Parties		8-9
4.	Copy of appointment order	A	10
5.	Copy of surplus pool order	B	11
6.	Copy of order dated 25-6-2003	C & D	12-13
7.	Wakalat Nama <i>copy of appeal</i>		14

Appellant

Through



**Muhammad Arif Jan**

Advocate, Peshawar

Office: Office No.210 Al-Mumtaz Hotel  
G.T. Road Peshawar.

Cell: 0333-2212213

Date: 23/11/2015

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

PESHAWAR

Service Appeal No.....1303...../2015

K.W.P. Province  
Service Tribunal  
Diary No 1369  
Dated 23-11-2015

Elahi Bakhsh S/o Karim Bakhsh R/o House No-1 Street No-4,  
Quaidabad Colony No-2, Peshawar.....Appellant

VERSUS

1. Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.
2. District Education Officer Elementary and Secondary Education (Male) Peshawar.
3. District Education Officer Elementary and Secondary Education (Female) Peshawar.
4. The Accountant General Khyber Pakhtunkhwa at Peshawar.
5. District Account Officer, Peshawar.
6. Govt of Khyber Pakhtunkhwa through Secretary Education (Elementary and Secondary Education) Peshawar.....Respondents.

2015/11/23  
Registrar

APPEAL UNDER SECTION 4 OF KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE ACTS, COMMISSIONS AND OMISSIONS OF THE RESPONDENTS BY DEPRIVING THE APPELLANT FROM HIS BASIC RIGHT OF SALARY AND OTHER SERVICE, IMMUNITIES FOR WHICH HE FILED AN APPEAL BEFORE RESPONDENT NO-1 ON 5-8-2015 WHICH IS TILL DATE PENDING FOR DISPOSAL.

PRAYER IN APPEAL:

On acceptance of the instant appeal the respondents may kindly be directed to release the salaries along with other immunities of the appellant since June 2003 and the appellant may also be re-instate/adjust in any Government Department of Khyber Pakhtunkhwa, with his all back benefits.

**Respectfully Sheweth:**

1. That the appellant was appointed as Daftri in BPS 2 vide order No-3006-10 dated 6-1-1991, and was posted in the office District Education Officer(Female) Peshawar.(Copy of appointment order is attached as Annex-A).

2. That the appellant served the department for his full devotion and determination and resultantly was promoted to BPS-4.
3. That due to Surplus Policy of 2001, the appellant was surplus on 1-11-2001 and was send to surplus Pool (Copy of surplus Pool order is attached as Annex-B).
4. That instead of to follow the Government Policies, the appellant was wrongly adjusted in the office of EDO (male) as Data Entry Operator.
5. That then the appellant was adjusted by respondent No-2 against the vacant post of Elementary Teacher in BPS-5 in Government Primary School, Ghali Qamqr Din, vide order dated 25-6-2003( Copy of order dated 25-6-2003 is attached as Annex-C).
6. That the appellant joined his duties with full devotion and to the entire satisfaction of his superiors till date but respondent No-4 hold the salary of the appellant by raising two objections which are as under;

**1- The Official was previously working in BPS- 4 where the post is BPS-5 which needs clarification.**

**2- The adjustment of duty against the Elementary is also not in order.**

7. That the appellant approached time and again to the respondents concerned but every time they assured him only with the delay tactics.
8. That the appellant being aggrieved preferred a departmental appeal before respondent No-1 on 508-2015 against the grievances mentioned therein but no action whatsoever been taken till date hence the instant appeal on the following amongst other grounds; *copy of memo of appeal is attached as Annex-'D'*
9. That now the appellant approached to this Hon'ble Court on the following amongst other grounds;

**GROUND:**

- A. That the Acts , Omission and Commissions of the respondents are patently illegal, unlawful, without lawful authority, of no legal effect hence be directed to act in accordance with law, release the salaries of the appellant and he may kindly reinstated/adjust in service with all back benefits according the policies of the Government.



- B. That the respondents are badly failed to follow the existing rules and regulations regarding the surplus policies of the government.
- C. That the appellant is highly qualified and have done Master in Urdu as well as CT in general but the respondents ignored him without any legal justification.
- D. That the respondents also ignored the volume of service of the appellant while declaring him surplus and also deprived him from the salaries, service packages and other immunities which is against law and principle of natural justice.
- E. That there is no livelihood of the appellant and he is the only bread winner of his whole family and now he has became over aged and is not in a position to apply for any other posts due to the acts of respondents.
- F. That the respondents were/ is duty bound to properly adjust the appellant in any Government Department but their failures is amounts to abuse of law.
- G. That any other grounds which have not been mention may also be permitted to raise at the time of arguments.

8

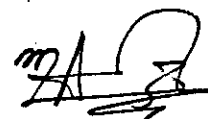
It is, therefore, most humbly prayed that on acceptance of the instant appeal the respondents may kindly be directed to release the salaries along with other immunities of the appellant since June 2003 and the appellant may also be re- instate/adjust in any Government Department of Khyber Pakhtunkhwa, with his all back benefits

That any other relief which has not been specifically asked for and is fit in the circumstances may also be allowed in favour of appellant against respondents.

  
Appellant

Through

Dated: 23 / 11 / 2015

  
**Muhammad Arif Jan**  
Advocate, Peshawar.

7

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
PESHAWAR

Elahi Bakhsh.....Appellant

VERSUS

*Director of SE Sewateri*  
~~Director of SE Sewateri~~ and others .....Respondents

**AFFIDAVIT**

Elahi Bakhsh S/o Karim Bakhsh R/o House No-1 Street No-4,  
Quaidabad Colony No-2, Peshawar do hereby solemnly affirm and  
declare that the contents of the **appeal** are true and correct to the  
best of my knowledge and belief and nothing has been concealed  
from this Hon'ble Court.



*[Handwritten Signature]*  
DEPONENT

CNIC No- 17301-533772-3

8

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**

**PESHAWAR**

Elahi Bakhsh.....Appellant

**VERSUS**

*Director*  
~~District~~ Education Officer Peshawar and others ..... Respondents  
*ESSE*

**ADDRESSES OF PARTIES**

**APPELLANT:**

Elahi Bakhsh S/o Karim Bakhsh R/o House No-1 Street No-4,  
Quaidabad Colony No-2, Peshawar.

**RESPONDENTS**

1. Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.
2. District Education Officer Elementary and Secondary Education (Male) Peshawar.
3. District Education Officer Elementary and Secondary Education (Female) Peshawar.
4. The Accountant General Khyber Pakhtunkhwa at Peshawar.
5. District Account Officer, Peshawar.

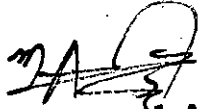
9

6. Govt of Khyber Pakhtunkhwa through Secretary  
Education (Elementary and Secondary Education)  
Peshawar

Appellant

Through

Date: 23/11/2015

  
**Muhammad Arif Jan**  
Advocate, Peshawar.

OFFICE OF THE DIRECTOR  
PRIMARY EDUCATION N.W.F.P.  
SECTOR B-I/25, PHASE-V  
HAYATABAD PESHAWAR.

Annex-A  
10

APPOINTMENT ORDER.

OFFICE ORDER NO. 3026-10  
DATED PESH: THE 6.1.1991.

Mr. Elahi Bakhsh S/O Firoz Bakhsh S/No. 2425,  
Dhand Sairizkian Peshawar  
is offered a post of temporary Waftri in RPS 02 of Rs. 625-16-945 on Rs. 625/- P.M. with usual allowances as admissible under the Rules.

2. The post which is being offered to him has been sanctioned by Government upto 31.05.91 but is likely to be extended further. His employment in this department is purely temporary and his services may be terminated at one month's notice without any reasons being assigned at any time irrespective of the fact that he is holding a post other than one to which he was originally recruited or on the payment of one month's salary in lieu of the notice.
3. He has to join duty at his own expense.
4. The offer is subject to the conditions that he is domiciled in N.W.F.P.
5. In case he wishes to resign at any time, a month's notice will be necessary or in lieu thereof a month's pay may be forfeited.
6. He will have to produce health and age certificate from the civil surgeon concerned within seven days of reporting arrival for duty as required under the rules.
7. He should not be handed over charge if his age exceeds 35 years or is below 18 years.
8. He will be governed by such rules and orders relating to leave, travelling allowances, medical attendance, pay etc; as may be issued by the Government from time to time for the category of Government Servants to which he belong.
9. If he accepts the post on these conditions, he should report himself for duty to o/e the D.O. (P.E.) as possible and produce original certificates in accordance with his qualifications, domicile and age.
10. The offer will be cancelled if no reply is received by 15.01.91 or if he fails to report for duty upto the above date.
11. Charge reports (in duplicate) should be submitted.

(SHAH JAHAN KHAN)  
DIRECTOR.

3006-10  
Endst No. F- /Admn: P.E. of Elahi Bakhsh Dated Pesh the 6/1/91.  
Waftri D.P.E./A-I,

Copy of the above is forwarded to the :-

- 1; Accountant General, N.W.F.P., Peshawar.
- 2; District Edu: Officer (P) Peshawar (Primary).
- 3; P.A. to Director, Local Office.
- 4; Mr. Elahi Bakhsh.
- 5; General File.

Fida S. Khan  
DEPUTY DIRECTOR  
FOR/DIRECTOR PRY: EDUCATION  
N.W.F.P.  
A

IQBAL

*Attested*  
*[Signature]*

OFFICE OF THE DIRECTOR PRIMARY EDUCATION & LITERACY NWFP PESHAWAR

ORDER

Am-B  
11

Consequent upon abolition of posts of Daftaris (B-2) in the Offices of Executive District Officers (Education) Primary Sector in N.W.F.P. under Revised District Set up w.e.f 1-11-2001, the following Daftaris are hereby placed in surplus pool in their respective District where they have declared as surplus with effect from 1-11-2001.

S.No	Name & Designation	Domicile	Office where posted	Remarks
1	Mr. Elahi Baksh	Peshawar	EDO(EDU:) Peshawar	Declared surplus
2	Mr. Ashraf Ali	-do-	-do-	-do-
3	Mr. Akbar Ali	Charsadda	EDO(EDU:) Charsadda	-do-
4	Mr. Gul Muhammad	-do-	-do-	-do-
5	Mr. Shehzad Khan	Nowshera	EDO(EDU:) Nowshera	-do-
6	MiMiraj Uddin	-do-	-do-	-do-
7	Mr. Mohammad Sher	Mardan	EDO(EDU:) Mardan	-do-
8	Mr. Rashid Khan	-do-	-do-	-do-
9	Mr. Qayyum Khan	Swabi	EDO(EDU:) Swabi	-do-
10	Mr. Siraj Khan	-do-	-do-	-do-
11	Mr. Zain Ullah Jan	Bannu	EDO(EDU:) Bannu	-do-
12	Mr. Muhammad Ayub	Lakkimawat	-do-	-do-
13	Mr. Muhammad Nadeem	Manshera	EDO(EDU:) Manshera	-do-
14	Mr. Ajmal Sultan	Abbottabad	EDO(EDU:) Abbottabad	-do-
15	Mr. Jamil Ahmad	-do-	-do-	-do-
16	Mr. Jamil Akhtar	Haripur	EDO(EDU:) Haripur	-do-
17	Mr. Abid Khan	-do-	-do-	-do-
18	Mr. Muhammad Iqbal	Swat	EDO(EDU:) Swat	-do-
19	Mr. Iram Ullah	-do-	-do-	-do-
20	Mr. Fazali Mauda	Dir (Lower)	EDO(EDU:) Dir ( Lower)	-do-
21	Mr. Rahim Shah	-do-	-do-	-do-
22	Mr. Muhammad Nazem	D.I.Khan	EDO(EDU:) D.I.Khan	-do-
23	Mr. Farooq Ahmad	-do-	-do-	-do-
24	Mr. Tanvir Ahmad	Kohat	EDO(EDU:) Kohat	-do-
25	Mr. Anwar Zaman	Karak	EDO(EDU:)Karak	-do-
26	Mr. Inam Muhammad	Lakkimawat	EDO(EDU:) Lakkimawat	-do-
27	Mr. Irfan Ullah	Tank	EDO(EDU:) Tank	-do-
28	Mr. Abdul Hassan	Buner	EDO(EDU:) Buner	-do-
29	Mr. Inam Ullah	Chitral	EDO(EDU:) Chitral	-do-
30	Mr. Abdul Sattar	Peshawar	EDO(EDU:) Dir Upper	-do-

( MUHAMMAD JAMSEHED KHAN )  
DIRECTOR

F No. 377/A (1) P.E. M & L / 10/1/2002

Dist No. 1336 - 45 /

Dated Peshawar the, 10 / 1 / 2002 .

Copy of the above is forwarded for information and necessary action to the:-

- 1- Secretary Education Schools & Literacy Department Govt. Of NWFP, with request these employees are surplus in various Districts as result of revision/abolition of the posts in the offices of the EDOs.(Education) w.e.f.1-11-2001, and the surplus employees may be brought in the notice of Establishment & Administration Department & Finance Department for further guidance/necessary action
- 2- Accountant General NWFP, Peshawar
- 3- Director Secondary Education NWFP, Peshawar.
- 4- Executive District Officers (Education) Concerned with the direction that these surplus official may be adjusted against any equivalent post in the light of Section "11-A. of the NWFP Civil Servants (Amendment) Ordinance No. VI of 2001, circulated by Govt. Of NWFP, Establishment & Administration Department vide Notification No.SOR-I (S&GAD) 4-13/87 (Vol.) dated, 21-7-2001.
- 5- District Account Officer Concerned.
- 6- Section Officer (Primary) Schools & Literacy Department, Govt. of NWFP,
- 7- Section Officer (Directiv ) Schools & Literacy Department, Govt. of NWFP,
- 8- Section Officer (General) Schools & Literacy Department Govt. of NWFP,
- 9- Officials Concerned.
- 10- PA to Director Primary Education NWFP (Local Office)

Attested  
M.A.C.

10/1/02  
DEPUTY DIRECTOR (ESTAB.)  
PRIMARY EDUCATION N.W.F.P.

OFFICE OF THE EXECUTIVE DISTRICT OFFICER SCHOOLS & LITERACY PESHAWAR

Ampl-C

97

12

TRANSFER/ADJUSTMENT

The following Ministerial Staff are hereby Transfer/adjusted on their own pay and EPS, the school/Office noted against their name in the interest of public service with immediate effect..

S.No:	Name/School	Transfer to
1.	Mr. Akhbar Bakhsh, Ex-Dattari now working against the post of Data Entry Operator in the office of EDO(S&L)Pesh;	Adjusted against the vacant post of Elementary teacher in EPS-05 in GPS Ghari Qamar Din Peshawar GPS
2.	Hakeem Ullah, J/Clerk GHS Dabgari Gate Peshawar.	Vice Sr; No; 1
3.	Jehsa Zeb, J/Clerk GHS Umar Payan Peshawar.	Vice Sr; No: 2
4.	Rashid Amin J/Clerk GGHS Lady Griffith Peshawar (Under Report)	Vice Sr; No: 5
5.	Jamil J/C O/O the Dy; EO(E)Peshawar. (Under Report)	Vice Sr; No; 4

*Allested*

Note:-

1. D.A is not allowed.
2. Charge report should be submitted to all concerned.

Deputy Distt: Officer  
(S1) Primary Peshawar  
\* Atta Ullah \*\*

(AYAZ KHAN)  
(EXECUTIVE DISTRICT OFFICER  
SCHOOLS & LITERACY PESHAWAR)

Enst: No. 16642-55 Peshawar, the 25/06 /2003.

- Copy of the Above is for sent to the:-
1. ✓ Accountant General NWFP Peshawar.
  2. P.S to Chief Minister for Education NWFP.
  3. P.S to Minister for Education NWFP.
  4. Director Schools & Literacy NWFP Peshawar.
  5. District Officer (Female) Peshawar.
  - 6-8 Principals/Headmaster/schools concerned.
  - 9-15. Officials concerned.

*Comdnt Inqurd*

*allw*  
D.D.O (M)  
Peshawar

*Am*  
District Officer (Female)  
Schools & Literacy Peshawar

(\*\*M.N. Alast\*\*)

75966

DISTRICT OFFICER (MALE)  
School & Literacy Peshawar.

*Allested*

26/6



Annex - 'D'

بخدمت جناب ڈائریکٹر صاحب ایلیمنٹری اینڈ سیکنڈری ایجوکیشن صوبہ خیبر پختونخوا پشاور

ایبل برائے انصاف / دادرسی

جناب عالی!

انتہائی عاجزانہ طور پر بندہ چند گزارشات آپ صاحبان کی خدمت میں پیش کرنا چاہتا ہے۔ جو کہ مندرجہ ذیل ہیں۔  
(1) یہ کہ میں محکمہ تعلیم میں از مورخہ 06/01/1991 سے بحیثیت دفتری از دفتر ڈسٹرکٹ ایجوکیشن آفیسر (زنانہ) پرائمری پشاور میں مستقل بنیادوں پر بھرتی ہوا اور انتہائی ایمانداری اور مستعدی سے اپنے فرائض انجام دے رہا تھا۔ اسی دوران محکمہ نے مجھے از مورخہ 26/12/1995 سے سلیکشن گریڈ دے کر گریڈ 4 میں منتقلی دی جو کہ نروس بک کے صفحہ نمبر 13 پر درج ہے (کاپی لف ہے) اس کے بعد چونکہ محکمہ تعلیم میں تحفیف (Develotion) کا عمل شروع ہوا جس کے نتیجے میں 01/11/2001 میں DEO(F) کے دفاتر سے دفتری کی پوسٹیں بیک جمبش قلم ختم کر دی گئیں اور مجھ کو 01/11/2001 سے سرپلس قرار دیا گیا

جناب والا!

چاہئے تو یہ تھا کہ بندہ کو حکومت کی وضع کردہ پالیسی کے مطابق سرپلس پول بھیجا جاتا لیکن اس کے برعکس بندہ کی رانگ پوسٹنگ کر کے EDO(M) پشاور کے دفتر میں ڈیٹا انٹری اپریٹر کی پوسٹ پر تعینات کر دیا گیا جو کہ قانونی طور پر سراسر غلط تھا۔ بعد ازیں بندہ کو بتائے بغیر مورخہ 25/06/2003 کو Elementary Teacher-BPS-5 گورنمنٹ پرائمری سکول گڑھی قمر دین میں تعینات کیا گیا (کاپی لف ہے)۔ میں نے باقاعدہ طور پر اپنی تعیناتی کا چارج لیا اور LPC دفتر DEO(M) پشاور کو مہیا کی (کاپی لف ہے) تاکہ میری تنخواہ جاری ہو سکے۔ لیکن جب تنخواہ کا بل AG Office KPK گیا تو انہوں نے مندرجہ ذیل اعتراضات کے ساتھ بل واپس کر دیا۔

1. The official was previously working in BPS -04 where the the post is BPS-05 which needs clarification.
2. The Adjustment of duty against Elementary Teacher is also not in Order .

بندہ آج تک دردر کی ٹھوکریں کھا رہا ہے اور کوئی شنوائی نہیں ہو رہی ہے اور نہ ہی آج تک تنخواہ ملی ہے۔ جو کہ سراسر زیادتی

ہے۔ بندہ ایم اے اردو کے ساتھ ساتھ CT(G) کا بھی حامل ہے۔

لہذا آپ صاحبان سے التماس ہے کہ بندہ کو اپنی اصل پوسٹ پر تعینات کرنے کے احکامات صادر فرمائیں اور 2003ء سے

اب تک جملہ تنخواہیں بھی ادا کی جائیں۔ بندہ تاحیات دعا گور ہے گا۔

نوٹ:-  
CV اور تمام متعلقہ ضروری دستاویزات منسلک ہیں۔  
Performance certificate  
Last Pay Roll 6/2003.

نوٹ:-  
الحارث

الہی بخش ولد کریم بخش

شناختی کارڈ نمبر 3-17301-533772 -- مکان نمبر 1 گلی نمبر 4 قائد آباد کالونی نمبر 5 پشاور

رابطہ نمبر:- 03339129939 .. 091-251955

Director  
PA Dlaty  
No. 1104  
57815  
dt

Attest  
[Signature]

		19979
	ایزوکیٹ / دستخط بارنول ابار ایسوسی ایشن 1370 رابطہ نمبر: 0333-222213	
پشاور بار ایسوسی ایشن، خیبر پختونخواہ		

بعدالت جناب: محمد کنویں کے سرورس ٹریڈنگ کمپنی

منجانب:	دعویٰ:
	
علیٰ غرض:	علت نمبر:
جرم:	مورث:
تھانہ:	جرم:

**بامشاورت**

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کاروائی متعلقہ

آن مقام کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز وکیل صاحب کو راضی نامہ کرنے و تقرر کثابت و فیصلہ برحق دینے جواب دعویٰ اقبال دعویٰ اور درخواست ازہر قسم کی تصدیق زریں بدستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا تاخیر یا کثرت یا اہل کی برآمدگی اور منسوخی نیز دائر کرنے اہل نگرانی و نظربانی و پیروی کرنے کا اختیار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہو گا اور صاحب مقرر شدہ کو بھی وہی حملہ مذکورہ اختیارات حاصل ہوں گے اور اس کا سامنے ہر ذرا ختم منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے نسبت سے ہوگا وہ وکیل موصوف و متول کے کا اختیار ہوگا کوئی تاریخ پیشی مقام دورہ یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی ایڈووکیٹس، لہذا وکالت نامہ لکھ دیا تاکہ مندر ہے۔

المرقوم: 5-11-2015

الع بد ————— واہ شد ————— الع بد

مقام پشاور کے لئے منظور ہے۔

نوٹ: اس رجسٹر میں کوئی نام قابل قبول ہوگی۔

Accepted  
Attested  
[Signature]

**BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR**

**SERVICE APPEAL NO. 1303/2016**

**Ilahi Bahksh                      V/S                      GOVT.**

**Reply on behalf of Respondents No. 1, 2, 3 & 6**

Respectfully Sheweth:-

The Respondents submit below:-

**Preliminary objections:-**

1. That the Appellant has got no cause of action/ locus standi.
2. That the instant appeal is badly time barred.
3. That the instant Appeal is not maintainable in its present form.
4. That the instant Appeal is bad for mis-joinder and non-joinder for necessary parties.
5. That the Appellant has not come with clean hands to this Hon,able Tribunal.
6. That the instant appeal is barred by law.
7. That this Hon, able Tribunal has got no jurisdiction to adjudicate upon the instant Service Appeal.

**On Facts:-**

- 1- Pertains to record, needs no comments.
- 2- That Para-2 is subject to proof, hence denied.
- 3- That Para-3 is correct and that the appellant was declared surplus with effect from 01/11/2001 vide order dated 10/01/2002.
- 4- That in reply to Para-4 it is submitted that the appellant was posted as Data Entry Operator in his own pay and scale in the office of the EDO as the appellant had been declared surplus.
- 5- That in reply to Para-5 it is submitted that the appellant was transferred/adjusted on his own pay and BPS against the vacant post of Elementary teacher in BPs-5 in GPS Gari Qamar Din Peshawar vide order dated 25/06/2003.

etc.(Report of the school headmaster and record of Attendance Register are attached)

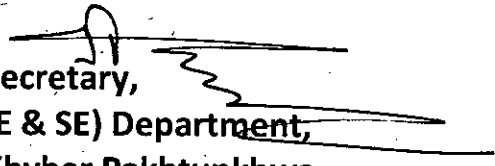
- 7- Para-7 is incorrect and denied. Detail reply has been given in Para above.
- 8- That in reply to Para-8, it is submitted that the appellant himself admits that he presented departmental appeal on dated 05/08/2015 which shows malafide on the part of appellant as he presented departmental appeal after the lapse of about 12 years. It clearly shows the willful absence on part of the appellant.
- 9- That para-9 is incorrect and misleading as the appellant has no cause of action/locus standi to approach this honourable Tribunal.

### **GROUND.**

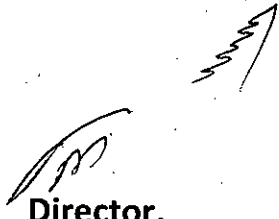
- A. That Ground-A is incorrect and misleading. The Appellant has absented himself since long and never approached to the office of the respondents in time in matters related to his posting. The appellant presented departmental appeal after the lapse of about 12 years which clearly shows willful absence and malafide on part of the appellant. He did not perform his duty and his claim of pay without performing duty is unjustified, without legal effect and is against the public interest.
- B. That Ground-B is incorrect and misleading, hence denied. Detail reply given in Para above.
- C. That in reply to Ground-C it is submitted that the appellant has remained willfully absent and did not perform his duty.
- D. That Ground-D is incorrect and denied. The appellant has been treated under the rules and policy of the government but it is the appellant who did not perform his duty and absented himself.
- E. That in reply to Ground-E it is submitted that it is the appellant who absented himself from duty.
- F. That Ground-F is incorrect and denied. The appellant was adjusted at GPS Gari Qmar Din but he did not perform his duty.

G. That Ground-G is incorrect and denied. The respondents seek leave of this Hon, able Tribunal to present case law and raise additional grounds at the time of arguments.

It is, therefore, most humbly prayed that on the acceptance of this reply, the instant appeal may very graciously be dismissed with cost.



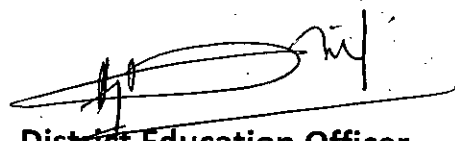
Secretary,  
(E & SE) Department,  
Khyber Pakhtunkhwa



Director,  
(E & SE) Department,  
Peshawar



District Education Officer,  
(Female) Peshawar.



District Education Officer,  
(Male) Peshawar.

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

No. 203 /ST

Dated 01/02/2019

To


The District Education Officer Female,  
Government of Khyber Pakhtunkhwa,  
Peshawar.

Subject: -

**JUDGMENT IN APPEAL NO. 1303/2015, MR. ELAHI BAKHSI.**

I am directed to forward herewith a certified copy of Judgement dated 17.12.2018 passed by this Tribunal on the above subject for strict compliance.

Encl: As above

  
REGISTRAR  
KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL  
PESHAWAR.