


FORM OF ORDER SHEET

Court of _____

Appeal No. 1982/2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	02/10/2023	<p>The appeal of Mr. Naik Muhammad Qari presented today by Mr. Yasir Salim Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on _____ Parcha Peshai is given to the counsel for the appellant.</p> <p>By the order of Chairman  REGISTRAR</p>

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

APPEAL NO. 1982 /2023

Naik Muhammad Qari

VS

EDUCATION DEPTT. .

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301
APPELLANT

THROUGH:

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Yasir Saleem
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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No. 1982/2023

Mr. Naik Muhammad Qari, 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 01.07.2014 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 01.07.2014 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 01.07.2014 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-12) 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.


APPELLANT

THROUGH:


Yasir Salem

&

Amir Zaman

Advocates high Court

Certificate:

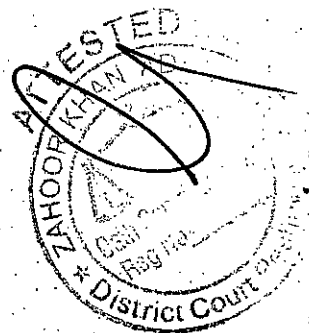
That no earlier appeal is preferred before this august tribunal.


Deponent

Affidavit:

I Abdul Wahid 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 



Annex A
(4)

**OFFICE OF THE AGENCY EDUCATION OFFICER NORTH
WAZIRISTAN AGENCY**

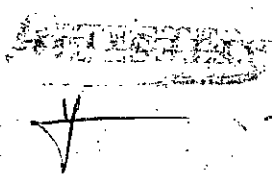
APPOINTMENT ORDER:


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 PTC/Qari/LAB Assist on contract basis in BPS-7/15 schools mention against each on the following terms and conditions with effect from the date of taking over charge.

- Naik. Muahammad Qari GHS Darpakhail
- Ghulam Rasool LAB Assist GHS Remal kot
- Islah Ud Din PTC GPS Lwarga
- Abdul Wahid PTC GPS Kharsin
- M. Tahir Nawaz PTC GPS Civil Colony

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 cancelled.
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





AGENCY EDUCATION OFFICER
North Waziristan Agency

Ends/ 377-80

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


AGENCY EDUCATION OFFICER
North Waziristan Agency

To,

Headmaster GHS Darpa Khel
North Waziristan Agency.

SUBJECT: CHARGE REPORT/AH'RRIVAL REPORT.

I Mr/MST Naveed Mohamad took my charge as Qari Pst at

GHS Darpar Khel NWTD on dated 16/3/2014 He/She has a

good moral character.

Naveed
(Naveed Mohamad)
Pst Qari Bps 12.

ATTESTED

J

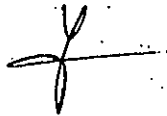
OFFICE OF THE HEADMASTER GHS DARPAKHAIL NORTH WAZIRISTAN DISTRICT.

SUBJECT: DUTY PERFORMANCE CERTIFICATE

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


**HEADMASTER GHS DARPAKHAIL
NORTH WAZIRISTAN DISTRICT.**

ATTESTED



Anex 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: 29/01/2023

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 teachers are as under:-

Naik Muahammad Qari GHS Darpakhail


Ghulam Rasool LAB Assist GHS Remal kot

Islah Ud Din PTC GPS Lwarga

Abdul Wahid PTC GPS Kharsin

M: Tahir Nawaz PTC GPS Civil Colony

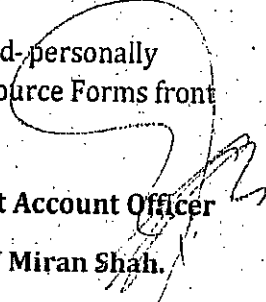



District Accounts Officer
NW Miran Shah

It is therefore, requested that the above named Class-IV may kindly be confirmed / verified and genuine employees 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 from the DEO NW Miran Shah.


District Account Officer
NW Miran Shah.

Amir 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 TEACHERS.**

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.

Naik Muahammad Qari GHS Darpakhail

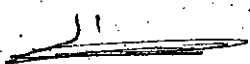
Ghulam Rasool LAB Assist GHS Remal kot

Islah Ud Din PTC GPS Lwarga

Abdul Wahid PTC GPS Kharsin

Muhammad Tahir Nawaz PTC GPS Civil Colony


ATTESTED


District Education Officer
North Waziristan District

Endst: No. 41791-95 / Dated 11/1/23 /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 Honorable Secy DSE up
Peshawar

Annex E (9)

Subject: 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 to issue release order to DEO North - No DEO constituted enquiry committee in the order. The committee constituted in front of DEO. But in the meantime 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 the office. His Highness, kindly request 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 pay can be paid. Yours faithfully

Dated 30/4/2013

List of teachers are as under

Veris checked

- Sabil
- 3/4/13
- H. Memona
PTC
- ① Hazrat Abbas PTC, Sabil - UN Rehman PTC
 - ② Sabet Rehman PTC (4), Syed Ahmad (10) PTC 15, Hazrat Memona PTC
 - ③ Iqbal Ahmad (7) Hazrat Musa (8) Zaidullah
 - ④ Abidullah (10) Naidullah PTC (10) Uzma Hassan (12) Gohar Hassan
 - ⑤ Syed Zaidullah (14) Kalsoom (15) Gulam Rasool (16) HSSA
 - ⑥ New Mohd Bari (17) Ishtiaquddin PTC (18) Abdul Wahed PTC (19) M. Faris Nazki PTC

SO(P)

REGISTERED

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30/4/13

y

POWER OF ATTORNEY

In the Court of Service Tribunal
Peshawar
New Muhammad

For
Plaintiff
Appellant
Petitioner
Complainant

VERSUS

Asst. Secy of Govt
Defendant
Respondent
Accused

Appeal/Revision/Suit/Application/Petition/Case No. _____ of _____
Fixed for _____

I/We, the undersigned/ New Muhammad do hereby nominate and appoint
YASIR SALEEM ADVOCATE HIGH COURT, my true and lawful
attorney, for me in my same and on my behalf to appear at _____ to appear,
plead, act and answer in the above Court or any Court to which the business is transferred
in the above matter and is agreed to sign and file petitions, an appeal, statements,
accounts, exhibits, Compromises or other documents whatsoever, in connection with the
said matter or any matter arising there from and also to apply for and receive all documents
or copies of documents, depositions etc. and to apply for and issue summons and other
writs or sub-poena and to apply for and get issued and arrest, attachment or other
executions, warrants or order and to conduct any proceeding that may arise there out; and
to apply for and receive payment of any or all sums or submit for the above matter to
arbitration, and to employ any other Legal Practitioner authorizing him to exercise the
power and authorizes hereby conferred on the Advocate wherever he may think fit to dis-
so, any other lawyer may be appointed by my said counsel to conduct the case who shall
have the same powers.

AND to all acts legally necessary to manage and conduct the said case in all
respects, whether herein specified or not, as may be proper and expedient.
AND I/we hereby agree to ratify and confirm all lawful acts done on my/our behalf
under or by virtue of this power or of the usual practice in such matter.

PROVIDED always, that I/we undertake at time of calling of the case by the
Court/my authorized agent shall inform the Advocate and make him appear in Court, if the
case may be dismissed in default, if it be proceeded ex-parte the said counsel shall not be
held responsible for the same. All costs awarded in favour shall be the right of the witness
or his nominee, and if awarded against shall be payable by me/us

IN WITNESS whereof I/we have hereto signed at _____ day to _____
the _____ the year _____
Executant/Executants _____
Accepted subject to the terms regarding fee _____

Y
YASIR SALEEM
Advocate High Court
ADVOCATES, LEGAL ADVISORS, SERVICE & LABOUR LAW CONSULTANT
FR-4, Fourth Floor, Bilqur Plaza, Saddar Road, Peshawar Cantt

Mr Zam
Adola