Form- A FORM OF ORDER SHEET

Court of_	
Case No	35/2015

	Case No	<u> </u>
S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
.1	21.04.2015	The appeal of Mr. Latf-ur-Rehman presented today book Mr. Noor Muhammad Khattak Advocate, may be entered in the
	,	
		Institution register and put up to the Worthy Chairman for proper order.
		REGISTRAR
2	27-4-15	This case is entrusted to S. Bench for preliminal
	-7-4:-0	
	,	hearing to be put up thereon $\frac{29-4-1}{}$
		*
		CHARMAN
	·	
,		

3 29.04.2015

Counsel for the appellant present. Seeks adjournment. Adjourned for preliminary hearing to 12.5.2015 before S.B.

Charman

4 12.05.2015

Counsel for the appellant present. Seeks adjournment. Adjourned to 25.5.2015 for preliminary hearing before S.B.

Chairman

5 25.05.2015

Agent of counsel for the appellant present. Learned counsel for the appellant is not in attendance due to strike of the bar Adjourned for preliminary hearing to 8.6.2015 before S.B.

Charrman

6 08.06.2015

Counsel for the appellant present. Seeks adjournment. Adjourned to 23.6.2015 for preliminary hearing before S.B.

Charmar

7 23.06.2015

Agent of counsel for the appellant present. Requested for adjournment. Last opportunity granted. To come up for preliminary hearing on 27.7.2015 before S.B.

Chailman

27.07.2015

Agent of counsel for the appellant present. Counsel for the appellant is stated indisposed. Adjourned to 10.8.2015 for preliminary hearing before S.B.

Charman

10.08.2015

Junior counsel for the appellant present. Seeks adjournment as senior counsel for the appellant is stated indisposed. To come up for preliminary hearing on 24.8.2015 before S.B.

Charman

10 24.08.2015

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant is serving as PST (BPS-9) when applied for leave which was sanctioned with effect from 30.7.2005 up to 30.7.2007 and again sanctioned up to 30.7.2009 where-after appellant submitted arrival report on 31.7.2009 and despite repeated efforts he was not adjusted constraining the appellant to prefer departmental appeal on 5.1.2015 followed by service appeal on 21.4.2015.

That the appellant is entitled to receive service benefits and obliged to serve.

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 2.11.2015 before S.B at Camp Court Swat as the matter pertains to the territorial limits of Malakand Division.

Chairman

Appellant Deposited
Security & Process Fee

02.11.2015

None present for appellant. F. mshir Ahmad,

Headmaster alongwith or Muhammad Zubair, Sr.G.P for respondents present. Requested for adjournment. To come up for written reply/comments on 14.61.2016 before S.B at Camp Court Swat.

ensarman Camp Court Swat

14.01.2016

None present for appellant. Mr. Bashir Ahmed, Headmaster alongwith Mr. Muhammad Zubair, Sr. GP for respondents present. Para-wise comments submitted. The appeal is assigned to D.B for rejoinder and final hearing for 12.7.2016 at Camp Court Swat.

Chairman Camp Court Swat

12.7.2016

Agent of counsel for the appellant and Mr. Gull multiplication alongwith Mr. Muhammad Zubair, Sr.GP for the respondents present. Counsel for the appellant sent an application for adjournment. Adjourned for rejoinder and final hearing on 09.11.2016 before D.B at camp court, Swat.

Member

Charman Camp Court, Swat 09.11.2016

None present for appellant. Mr. Muhammad Zubair, Sr.GP for respondents present. Learned counsel for the appellant has not turned-up from Peshawar. Adjourned for rejoinder and final hearing to 07.03.2017 before D.B at Camp Court Swat.

Member

Chairman Camp court, Swat

07.03.2017

Counsel for the appellant and Mr. Said Rahman, Principal alongwith Mr. Muhammad Zubair, Senior Government Pleader for the respondents present. Learned counsel for the appellant seeks adjournment to prepare rejoinder. To come up for rejoinder and final hearing on 04.07.2017 before the D.B at camp court, Swat.

Member

Chairman Camp court, Swat

04.07.2017

Counsel for the appellant has sent an application for adjournment. Mr. Muhammad Zubair, District Attorney for the respondents present. Adjourned. To come up for rejoinder and final hearing on 07.11.2017 before D.B at camp court, Swat.

////// Member

Camp Court, Swat

08.11.2017

None present for the appellant. Mr. Kabir Ullah Khattak, Additional AG alongwith Bashir Ahmad, Headmaster for the respondents present. Counsel for the appellant seeks adjournment. To come up for arguments on 29.01.2018 at Camp Court Swat.

Member

Chairman Camp Court, Swat

29.01.2018

Clerk of the counsel for appellant present and Addl: AG alongwith Mr. Bashir Ahmad, Headmaster for the respondents present. Clerk of the counsel for appellant seeks adjournment as his senior counsel is not attendance today. Granted. To come up for rejoinder, if any, and arguments on 02.04.2018 before D.B at Camp Court, Swat.

Member

Chairman Camp Court, Swat

02.04.2018

Appellant in person and Mr. Usman Ghani, District Attorney alongwith Bashir Ahmad, Headmaster for the respondents present. Due to strike of bar, counsel for the appellant is not in attendance. Adjourned. To come up for rejoinder and arguments on 04.06.2018 before D.B at camp court, Swat.

Member

chairman amp court, Swat 04.06.2018

Neither the appellant nor his counsel present. Mr. Bashir Ahmad, Headmaster alongwith Mr. Usman Ghani, District Attorney for the respondents present. Adjourned. To come up for further proceedings/arguments before the D.B tomorrow i.e. on 05.06.2018 at camp court, Swat.

Member 1

Chairman Camp Court, Swat

05.06.2018

Neither the appellant nor his counsel present. Mr. Bashir Ahmad, Headmaster alongwith Usman Ghani, District Attorney for the respondents present.

Since 8.00 A.M, the case was called time and again but none appeared on behalf of the appellant.

It will be relevant to mention here that on previous date too, neither the appellant nor his counsel was present and the case was adjourned for today with the hope that someone may put attendance on behalf of the appellant but the situation remained the same. This conduct of the appellant clearly manifests his no interest in pursuing his case. Now it is about 2:00 P.M, and the court time is about to over. As such, this Tribunal is left with no option but to dismiss the appeal in hand in default. Parties are left to bear their own costs. File be consigned to the record room.

Mellamman Amin Member

Chairman 5
Camp Court, Swat

ANNOUNCED 05.06,2018

Form-A FORM OF ORDER SHEET

Court of		
Appeal's Restoration Application No.	190/2018	•

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge
1	2	3
1	12.06.2018	The application for restoration of appeal no. 351/2015
1		submitted by Mr. Noor Muhammad Khattak Advocate, may be
		entered in the relevant register and put up to the Court for
٠		proper order please.
	1 m 1	ner de la companyante
	e na	REGISTRAR
. 2		This restoration application is entrusted to S. Bench to be
· · · · .	,,	put up there on $9/7/18$
		CHAIRMAN.
-		
н		
	·	
09.0	07.2018	Mr. Mahaz Madni, Advocate put appearance on behalf
		the learned counsel for the applicant and requested f
	;	adjournment as the learned senior counsel for the applicant is but
		in the Hon'ble High Court. Since the case pertains to the territori
		limits of Camp Court, Swat and in the interest of the parties, l
		fixed at camp court Swat. Applicant is directed to attend the
		Tribunal personally on the next date. To come up for person
		appearance of the applicant and further proceedings on 09.08.201
		before S.B at camp court, Swat.
,		
		Chairman

09.08.2018

None for the petitioner. Due to summer vacations, the case is adjourned. To come ur for the same on 04.10.2018 at camp court Swat.

Reader

09.08.2018

Petitioner in person present. Due to summer vacations, the case is adjourned. To come ur for the same on 04.10.2018 at camp court Swat.

04.10.2018

Petitioner with counsel present. Mr. Usman Ghani, District Attorney for the respondents present. Arguments on restoration application heard and case file perused.

The appeal was dismissed in default due to non-prosecution on 05.06.2018. The petitioner filed application for restoration on 12.06.2018 which is well within time and the reason given in the application are genuine, hence, the instant appeal is restored on its previous number. To come up for arguments on main appeal on 06.12.2018 before the D.B at camp court, Swat.

Announced: 04.10.2018

ノ Member Camp Court Swat 06.12.2018

Appellant absent. Learned counsel for the appellant absent. Mr. Usman Ghani learned District Attorney for the respondents present. Case called for several times but no one appeared on behalf of the appellant. Consequently the present service appeal is dismissed in default. No order as to costs. File be consigned to the record room.

Member

Member Camp Court Swat

<u>ANNOUNCED</u> 06.12.2018

FORM OF ORDER SHEET

Court of		•	
	٠.		
Misc. Application No.	· · · · · ·	470/2018	

.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	20/12/2018%	The application for restoration of appeal No. 351/2019 submitted by Mr. Lutf Ur Rahman through Mr. Noor Muhammad Khattal Advocate may be entered in the relevant Register and put up to the Court
2		for proper order please.
2-	15-1-19	This Misc. application be put up before DB-Swat. Bench
٠		Jung.
	£	CHAIRMAN
•		
		- Landing

07.03.2019

Counsel for the petitioner present. Mian Amer Qadir, District Attorney for respondents present. Notices be issued to the respondents for submission of written reply on application for restoration of appeal on 02.04.2019 before D.B at camp court Swat.

Member
Camp Court, Swat

02.04.2019

Shazullah Yousafzai Advocate appeared on behalf of petitioner. Mr. Mian Amir Qadir learned District Attorney present and seeks adjournment to furnish reply. Adjourn. To come up for reply and arguments on the instant application on 10.06.2019 before D.B at Camp Court Swat.

(M.Amin Kundi) Member

Camp Court, Swat

(M. Hamid Mughal) Member

Camp Court, Swat

10.06.2019

Mr. Mir Zaman Safi, learned counsel for the appellant present. Mian Ameer Qadir learned District Attorney alongwith Mr. Bashir Ahmed, Headmaster for the respondents present and seeks adjournment to furnish reply. Adjourn. To come up for reply and arguments on the instant application on 02.07.2019 before S.B at Camp Court Swat.

(M. Amin Khan Kundi) Member

Camp Court Swat

(M. Hamid Mughal) Member

Camp Court Swat

02.07.2019

Mr. Mian Amir Qadir learned Deputy District Attorney alongwith Bashir Ahmad Headmaster present and submitted reply. Adjourn. To come up for arguments on 03.09.2019 before D.B at Camp Court Swat.

Member Camp Court, Swat Member Camp Court, Swat.

03.09.2019

Learned counsel for the petitioner present. Mr. Mian Amir Qadir learned Deputy District Attorney present.

Arguments heard. file perused.

The present application for restoration of service appeal No. 351/2015 was filed well within time, hence in the interest of justice and for the reasons mentioned in the instant application, the same is allowed. Consequently Service Appeal No. 2010 is hereby restored. Adjourn. To come up for further proceedings on 08.10.2019 before D.B at Camp Court, Swat. No order as to costs. File of instant application be consigned to the record room.

Member

Member Camp Court, Swat. 08.10.2019

06.11.2019

Counsel for the appellant and Mian Amir Qadir, Deputy District Attorney for the respondents present. Learned counsel for the appellant requested for adjournment. Adjourned to 06.11.2019 for arguments before D.B at Camp Court Swat.

Member Camp Court Swat (Muhammad Amin Khan Kundi) Member Camp Court Swat

Appellant alongwith his counsel and Mr. Riaz Ahmad Paindakheil, Assistant Advocate General for the respondents present. Arguments heard and record perused.

Vide our detailed judgment of today consisting of four pages placed on file, we deem it appropriate to direct the departmental authority to decide the departmental appeal dated 5th January 2015 of the appellant through speaking order after providing him opportunity of personal hearing within a period of 60 days from the date of copy of receipt of this judgment and the departmental authority order be communicated to the appellant and thereafter, if the appellant was aggrieved from the order of departmental authority he will be at liberty to file 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.

ANNOUNCED 06.11.2019

CAMP COURT SWAT

(HUSSAIN SHAH) **MEMBER** CAMP COURT SWAT

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR AT CAMP COURT SWAT

SERVICE APPEAL NO. 351/2015

Date of institution ... 21.04.2015 Date of judgment ... 06.11.2019

Latf-ur-Rehman, Ex: PST (BPS-09),

P/o Pir Abad, P/O Sakbakat, Tabail Dancai, District Malaka

R/o Pir Abad, P/O Sakhakot, Tehsil Daragi, District Malakand.

(Appellant)

VERSUS

- 1. Government of Khyber Pakhtunkhwa through Secretary (E&SE) Department, Khyber Pakhtunkhwa, Peshawar.
- 2. Director of Education (E&SE), Khyber Pakhtunkhwa, Peshawar.
- 3. The District Education Officer (M), District Malakand.

(Respondents)

SERVICE APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 AGAINST THE INACTION OF THE RESPONDENT NO. 3 BY NOT ALLOWING THE APPELLANT TO SUBMIT HIS ARRIVAL REPORT AS PRIMARY SCHOOL TEACHER AND AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS.

Mr. Mir Zaman Safi, Advocate.

For appellant.

Mr. Riaz Ahmad Paindakheil, Assistant Advocate General

For respondents.

Mr. MUHAMMAD AMIN KHAN KUNDI MR. HUSSAIN SHAH MEMBER (JUDICIAL)

MEMBER (EXECUTIVE) .

JUDGMENT

<u>MUHAMMAD AMIN KHAN KUNDI, MEMBER: -</u> Appellant alongwith his counsel and Mr. Riaz Ahmad Paindakheil, Assistant Advocate General for the respondents present. Arguments heard and record perused.

2. Brief facts of the case as per present service appeal are that the appellant was appointed as Primary School Teacher by the competent authority on the recommendation of Departmental Selection Committee alongwith 69 others vide order dated 06.11.2004. After medical fitness certificate, the appellant



assumed the charge and was performing his duty. The appellant submitted application for leave for a period of two years with effect from 1st September 2005 on 27.07.2005 but the order of the respondent-department on the said application is not available on the record. The appellant again submitted another application for leave for two years on 30.07.2007 but the sanctioned order on the said application is also not available on the record. On 31.07.2009, the appellant submitted application to the competent authority to allow him to join duty but he was not allowed therefore, the appellant filed departmental appeal on 05.01.2015 for adjustment on the said post of Primary School Teacher with all back benefits but the departmental appeal was also not responded, hence, the present service appeal.

- 3. Respondents were summoned who contested the appeal by filing of written reply/comments.
- 4. Learned counsel for the appellant contended that the appellant was appointed as Primary School Teacher vide order dated 06.11.2004. It was further contended that the appellant was performing his duty regularly after assuming the charge. It was further contended that the appellant submitted application for leave for two years with effect from 1st September 2005 on 27.05.2005which was sanctioned (however, the sanctioned order is not available on the record). It was further contended that after the aforesaid leave, the appellant again submitted application for leave for a period of further two years on 30.07.2007 but the same was also not responded by the respondent-department. It was further contended that after expiry of the said leave, the appellant reported to join duty on 31.07.2009 but the appellant was not allowed to join duty. It was further contended that neither any absence notice was issued to the appellant nor the appellant was terminated or removed from service

1 January 1001.

therefore, the respondent-department was bound to allow the appellant to join the duty and prayed for acceptance of appeal.

- 5. On the other hand, learned Assistant Advocate General for the respondents opposed the contention of learned counsel for the appellant and contended that the appellant was appointed as Primary School Teacher vide order dated 06.11.2044. It was further contended that the appellant took the charge on 08.11.2004 and was performing his duty, however, the appellant remained absent from 01.09.2005, therefore, the respondent-department has rightly not allowed the appellant to join duty due to his long absence and prayed for dismissal of appeal.
- Perusal of the record reveals that the appellant was appointed as Primary School Teacher vide order dated 06.11.2004. The appellant was performing his duty but he remained absent from duty. The record further reveals that neither any absence notice has been issued to the appellant nor any departmental proceeding has been initiated against the appellant nor any adverse order i.e removal or termination has been passed against the appellant and when the appellant submitted application on 31.07.2009 to allow him to join duty, he was not allowed to join duty. It is also proved from the record that the appellant has also submitted departmental appeal on 5th January 2015 but the same has also not been responded by the departmental authority, therefore, in the circumstances when neither any absence notice was issued to the appellant nor any departmental proceeding was initiated against the appellant nor any termination or removal order has been passed against the appellant by the competent authority, we deem it appropriate to direct the departmental authority to decide the departmental appeal dated 5th January 2015 of the appellant through speaking order after providing him opportunity of personal hearing within a period of 60 days from the date of copy of receipt of this judgment and

18 America 19

the departmental authority order be communicated to the appellant and thereafter, if the appellant was aggrieved from the order of departmental authority he will be at liberty to file 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.

ANNOUNCED 06.11.2019

(MUHAMMAD AMIN KHAN KUNDI)

MEMBER

CAMP COURT SWAT

(HUSSAIN SHAH) MEMBER CAMP COURT SWAT

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

	75	
APPEAL NO.	シント	/2015

LATF UR REHMAN

VS

Govt: of KPK

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9.	Arrival report	G	14.
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APPELLANT

THROUGH:

NOOR MOHAMMAD KHATTAK ADVOCATE

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

\$ 1. × 4

APPEAL NO. 35 /2015

Mr. Latf -ur- Rehman, Ex: PST (BPS-09), R/O Pir Abad, P/O Sakhakot, Tehsil Dargai, District Malakand.

..... Appellant

Diary No 371

VERSUS

1- The Government of Khyber Pakhtunkhwa through Secretary (E&SE) Department, Khyber Pakhtunkhwa, Peshawar.

2- The Director of Education (E&SE), Khyber Pakhtunkhwa, Peshawar.

3- The District Education Officer (M), District Malakand.

..... Respondents

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 AGAINST THE INACTION OF THE RESPONDENT NO.3 BY NOT ALLOWING THE APPELLANT TO SUBMIT HIS ARRIVAL REPORT AS PRIMARY SCHOOL TEACHER AND AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITH IN THE STATUTORY PERIOD OF NINETY DAYS

PRAYER:

That on acceptance of this appeal the respondents may very kindly be directed to allow the appellant to submit his charge report as P.S.T (BPS-9). Any other remedy which this august Tribunal deems fit may also be awarded in favor of the appellant.

R/SHEWETH:
ON FACTS:

area bears

- 2. That the appellant was appointed as primary school Teacher (BPS-07) on the recommendation of proper Departmental selection committee in the respondent Department vide order dated 6.11.2004. That in response the appellant submitted his charge report at GPS Barkat shah Koroona District Malakand on the very next day and started performing his duty quite

- 3. That in the year 2005 the appellant submitted an application for extra ordinary leave with out pay which was accepted by the concerned authority. Copy of the leave application is attached as annexure E.
- 4. That after expiry of the said leave the appellant submitted another application for extension of his leave but no response was received form the concerned quarter. Copy of the leave application is attached as annexure F.
- 5. That on expiry of the said leave the appellant submitted his arrival report to the District Education Officer District Malakand but in response the concerned authority refused the same on the reason best known to the said authority. That then after the appellant time and again requested the concerned authority for his adjustment as primary school teacher but no heed was paid to the request of the appellant. Copy of Arrival report is attached as americane.
- 6. That it is very pertinent to mention that during the said period no adverse order has been issued by the concerned authority against the appellant nor the appellant was informed by the concerned authority that his application for extension of his leave has been rejected.
- 7. That feeling aggrieved the appellant filed Departmental appeal before respondent No.3 but no reply has been received so for. Hence the present appeal on the following grounds amongst the others. Copy of the Departmental appeal is attached as annexure

GROUNDS:

- A- That not adjusting the appellant on the post of Primary school teacher with all back benefits by the concerned authority is against the law, facts and norms of natural justice.
- B- That the appellant has not been treated by the concerned authorities in accordance with law and rules on the subject noted above and as such the concerned authorities violated article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.
- C- That the concerned Department acted in arbitrary and malafide manner by not allowing the appellant to submit his arrival report on the post of primary school teacher.

- D- That no adverse order has been passed/ issued by the respondents against the appellant, therefore under the law the appellant is entitled to be adjusted against the post of PST.
- E- That after arrival the respondents even not bothered to conduct inquiry in the matter of appellant and thus the appellant was kept in hanging position till date.
- F- That till date the respondents kept the appellant in hanging position and as such the respondent No.3 is not willing to adjust the appellant on the post of PST.
- G- That valuable rights of the appellant have been accrued, therefore under the prevailing rules the appellant is entitled to be adjusted on the post of primary school teacher with all back benefits.
- H- That appellant has school going children and have no other side business to support his family, therefore the principle of natural justice demands that the appellant be allowed to resume his duty as P.S.T.
- I- That the appellant seeks permission to advance other grounds and proofs at the time of hearing.

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

Dated: 10.4.2015

APPELLANT

LUTF UR REHMAN

THROUGH:

NOOR MOHAMMAD KHATTAK

ADVOCATE

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

APPEAL NO.	/2015

LATF UR REHMAN

VS

Govt: of KPK

APPLICATION FOR CONDONATION OF DELAY IN FILING THE ABOVE NOTED APPEAL

R.SHEWETH:

- 1- That the appellant has filed an appeal along with this application in which no date has been fixed so for.
- 2- That the appellant prays for the condonation of delay in filing the above noted appeal inter alia on the following grounds:

GROUNDS OF APPLICATION:

- A- That valuable rights of the appellant are involved in the case hence the appeal deserve to decide on merit.
- B- That it has been the consistent view of the Superior Courts that cases should be decided on merit rather on technicalities including the limitation. The same is reported in 2004 PLC (CS) 1014 and 2003 PLC (CS) 76.

It is therefore prayed that on acceptance of this application the delay in filing the above noted appeal may please be condoned.

APPELLANT

LATF UR REHMAN

THROUGH: ()

NOOR MOHAMMAD KHATTAK

ADVOCATE

DOMICILE CERTIFICATE

No. 1770	Dated Dargai the 24/8 1993:
Certified that Mr/Miss	att-ur-Rehmon
Son/Daughtor Khahlle	r Ruberson of bulongs to a
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OFFICE OF THE DISTRICT COORDINATION OFFICER MALAKAND.



Consequent upon the recommendations of the District Selection Board, Malakand in its meeting held on 66.11.2004, the competent authority is pleased to approve and appoint the following candidates (Mala) District Malakand on three years contract basis in BPS-No:7(Rs.2220-120-5826) Rs.2220/-PM plus usual existing vacant FST posts at the Schools noted against the affect from the date of their/charge in the interest of public Schools MERTE.

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	61.	Liag Sheh S/O, Mozeen Shah.	Wartir.	Wartir.	44.11	GPS, Nakar-Dara
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TERMS & CONDITIONS.

- Their appoint is post & School: spedific and not transferable.
- 2.

The appointments are made purely temporary and is liable to termination at any time with out giving any reason. They are required to produce health and age Certificate from the Medical Superintendent Civil Hostital Batkhela(Mkd:). They should not hend-over charge if their age exceed 35 years or less than 18 years.

- Their original testimonial should be checked and verify from the concerned Board/University after taking-over charge & beffore payment of salary.
- Charge report should be submitted to all concerned in duplicate.
- In case they failed to resume duty within 15 days of issue of order the order should be stand automatically cancelled.
- They are required to sign an agreement form with the Deptt:/Govt: before taking-over charge.
- - The recruitment of S.No:66 to 70made as a stop-gap arrangement at U/council Wartir provided that their contract shall not, be extended after a qualified candidates in the U/council concerned become available.

DISTY: COORDINATION OFFICER.

Endst:No:8868--9049 /F.No:/Estab:Recout:PST(M)/EDO(S&L)Mkd: Dt:6.11.04 Copy forwarded for information & n/a to:-

P.S to Minister for Edu: N.W.F.T, Teshawar.

The Director S&F, N.W.F.P, Peshawar. (3) Distt: Nezim Malakand.
The Distt: Coordination officer Malakand. (5) 1. A.O, Malakand.
D.O. S&L, Malakand. (6) - (7) D.D.O(M) Batkhela & Pargat. U-81.H. Teacher concerned. 52-175. All candidates concerned.

Executive Dieter Pillean School & Literacy Malakand at Butifinia.

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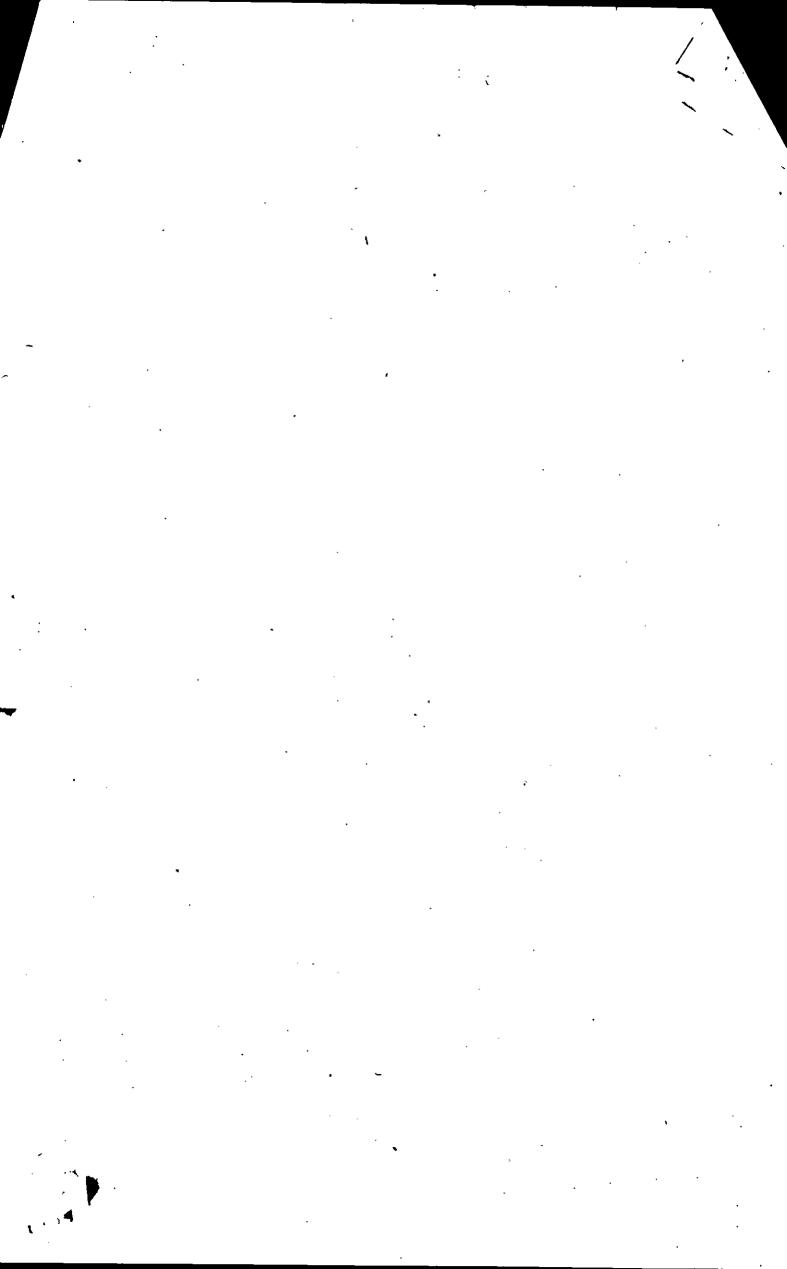
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BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTOONKHWA PESHAWAR

Segvice Appeal No 351/2015

Mr.Latif-ur-Rehman Ex-PST (BPS-09) R/O Pir Abad P/O Sakhakot Tehsil Dargai District Malakand. (Appellant)

VERSUS

- 1. The Secretary to Govt of Khyber Pakhtoonkhwa Elementary and secondary Education Peshawar
- 2. The Director Elementary & Secondary Education, Khyber Pakhtoonkhwa, Peshawar.
- 3. The District Education Officer (Male) Malakand at Batkhela.

(Respondents)

Para wise comments on behalf of respondents no 1-3

Respectfully Sheweth Preliminary Objections.

- 1. That the appeal is badly barred by time and under the rules is not maintainable.
- 2. That the appellant had concealed material facts from the Honorable service Tribunal.
- 3. That the appellant had got no cause of action to file the instant appeal.
- 4. That the appellant has got no locus standi to ask for claim.
- 5. That the appellant is estopped by his own conduct to file the present appeal.
- 6. That the appeal is not maintainable in its present form and is not competent.
- 7. That the tribunal has no jurisdiction to entertain the appeal as there is no final order.

FACTS.

- 1-No Comments pertaining to record.
- 2. Incorrect, the appellant was appointed as Primary School Teacher (BPS-07) vide order No 5868-9049 dated 06.11.2004 but he took over charge on 08.11.2004 at GPS Barakat Shah koroona District Malakand. However applicant remaind absent from 01.09.2005.

(Copy of Attendance Register attached as annexure A)

- 3. Incorrect, No application has been submitted for extra ordinary leave with out pay. nor any sanction of Extra ordinary leave awarded by Respondents to the appellant.
- 4. Incorrect, according to the school record the appellant performed his duty w.e.from 08.11.2004 to 31.05.2005 whereas remained willful absent w.e.from 01.09.2005 till date.

- 5. Incorrect, the appellant was persistently remained absent from his duties since 01.09.2005 he never bothered to have a cursory glance over the school rather to submit his arrival report.
- 6 Incorrect, according to the appellant appointment order's terms and condition No2 After such a long absence, no need for the issuance of any adverse order.
- 7 Incorrect, the appellant has not been submitted any appeal before his service appeal His Departmental appeal and service appeal drafted at the same time before the honorable Service Tribunal.

GROUND.

- A. Incorrect, his 10 years willful absence has no justification to adjust him as a Primary School teacher with all back benefits.
- B. Incorrect, the appellant has been treated in accordance with law by the respondent Department and no violation has been made of the constitution of Islamic Republic of Pakistan 1973.
- *C. Incorrect, as the appellant was 10 years persistently remained absent from his duties since 01.09.2005 it was his own faults hence no arbitrary and malafide manner was adopted by the department with the appellant.
- D. Incorrect, after 10 years persistently remained absence no need for issuance any adverse order. The appellant is not entitled for the same.
- E. Incorrect, the appointment of the appellant was made purely temporary and after only 04 months he was persistently remained absent from his duties without any leave sanction. Hence no need to conduct any inquiry as appellant never denied his absence
- F. As replied in Para above.
- G. Incorrect, his 10 years willful absence has no justification to adjust him as a Primary School teacher with all back benefits.
- H. Needs no comments.
- I. The respondents seek permission to raise additional grounds at the time of arguments.

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It is therefore most humbly prayed that in the light of the above facts the instant appeal may be dismissed with cost.

SECRETARY,

E&SE DEPARTMENT,

GOVT.OF KHYBER PAKHTUNKHWA

AT PESHAWAR (RESPONDENT NOI)

DISTRICT EDUCATION OFFICER

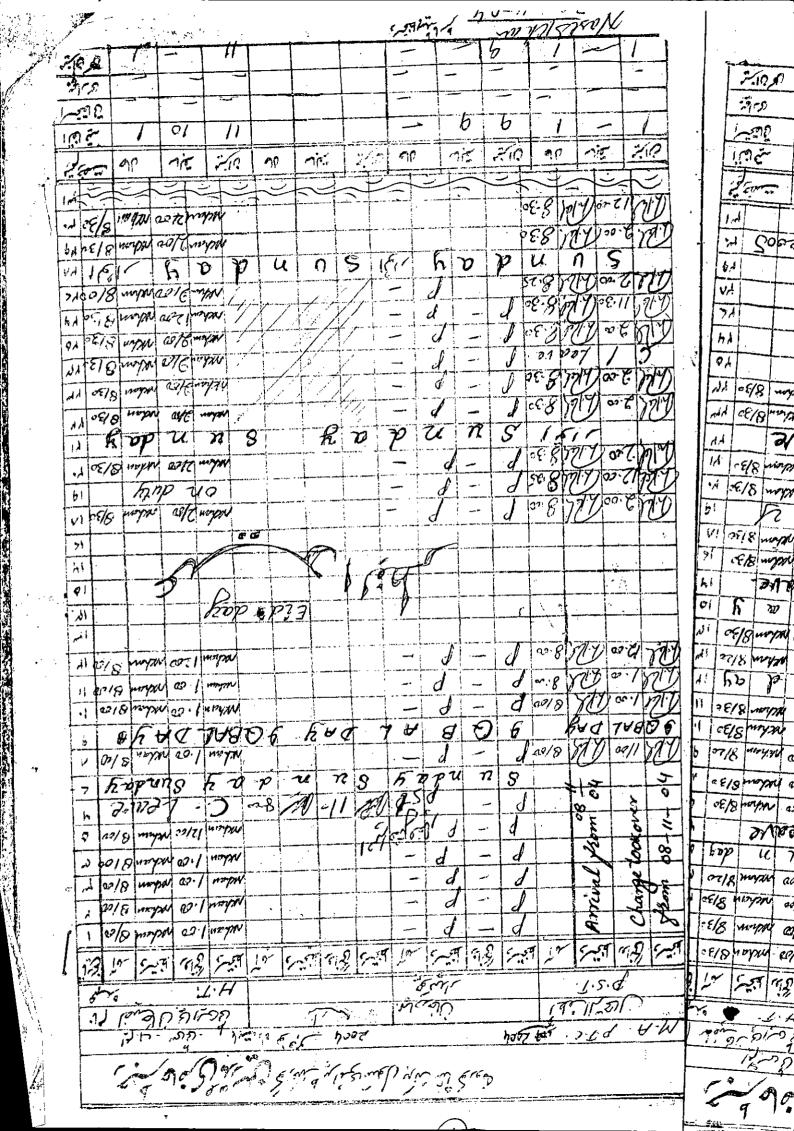
(M) MALAKAND AT BATKHELA.

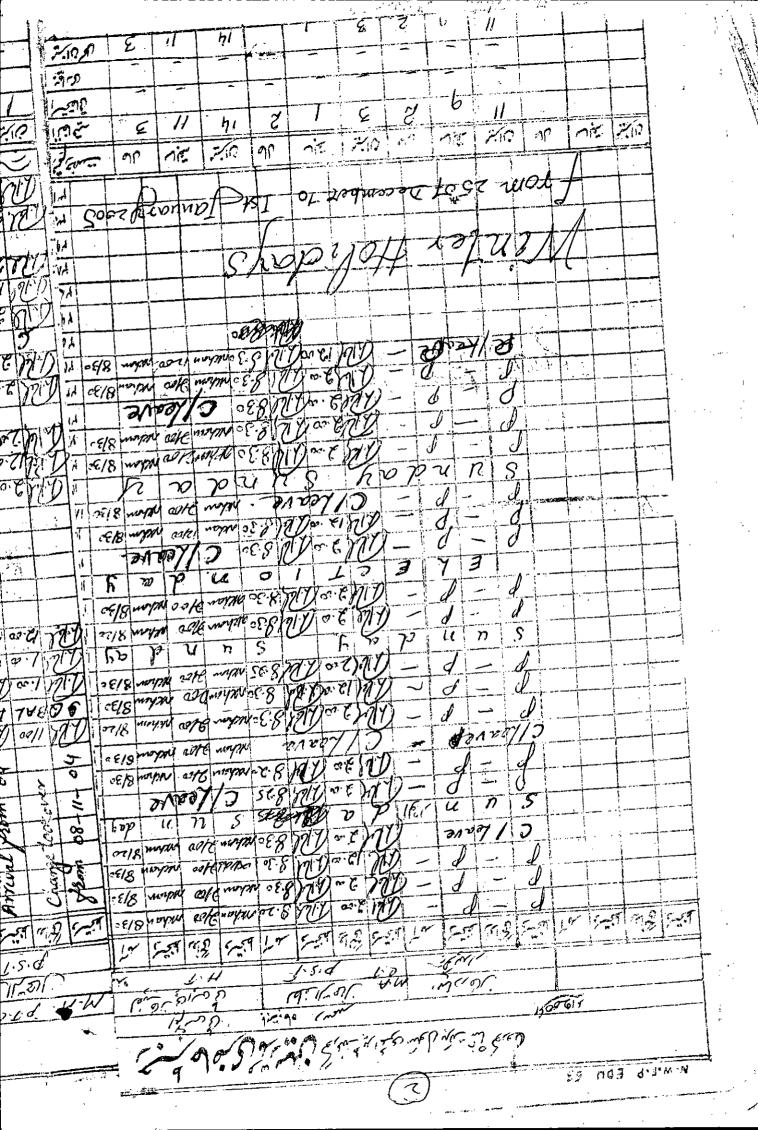
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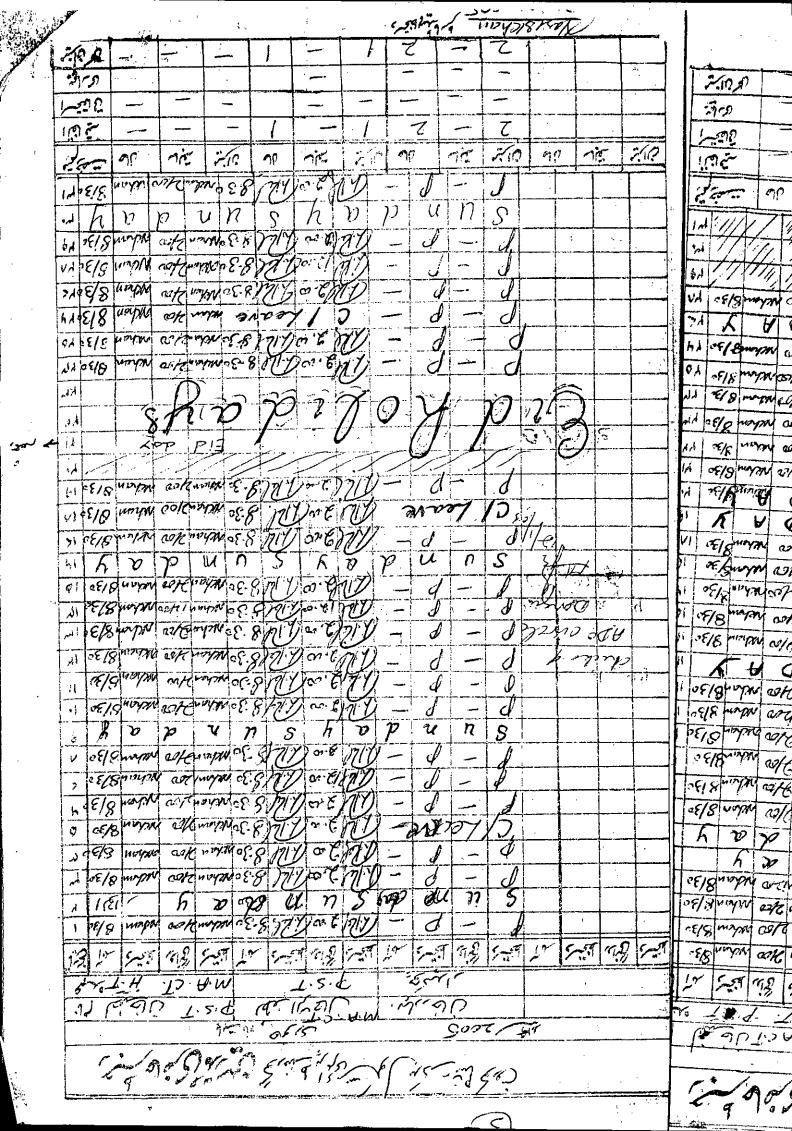
<u>AFFIDAVIT</u>

I, do hereby solemnly affirm and declare on oath that all the contents of the accompanying parawise comments are true and correct to the best of my knowledge and belief and all the coddle formalities were fulfilled.

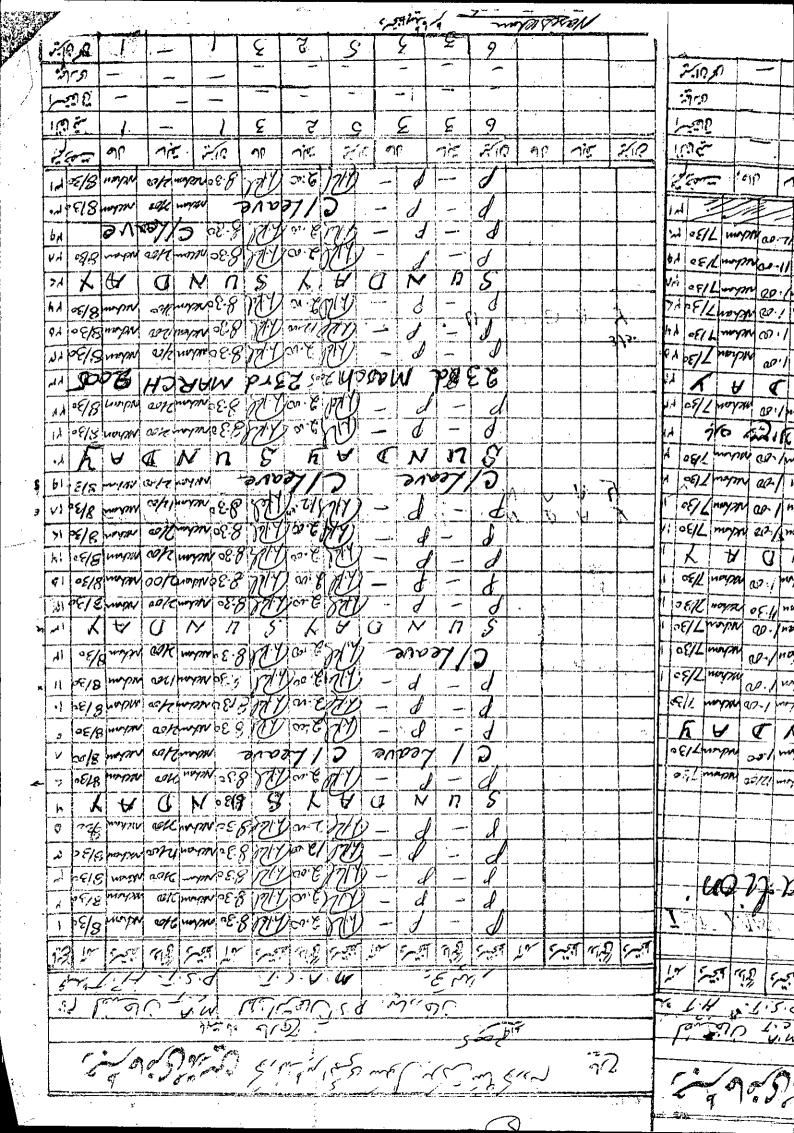
District Education Officer (M) Malakand at Batkhela.





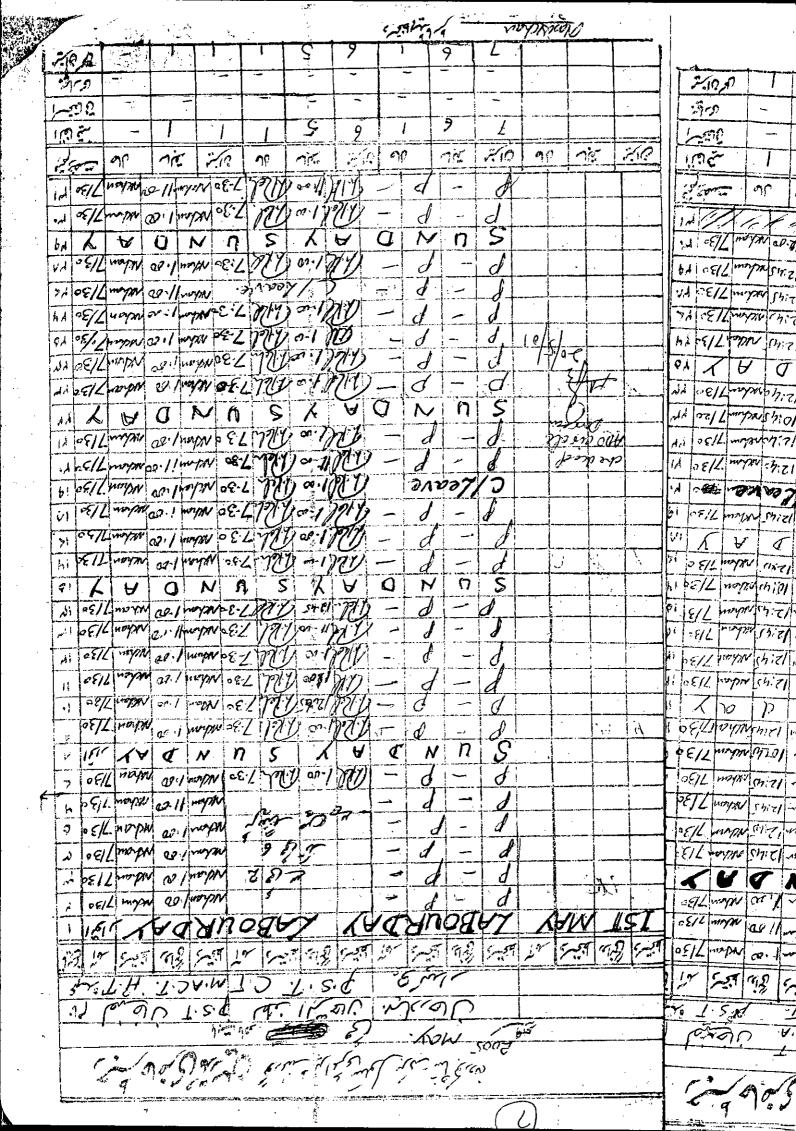


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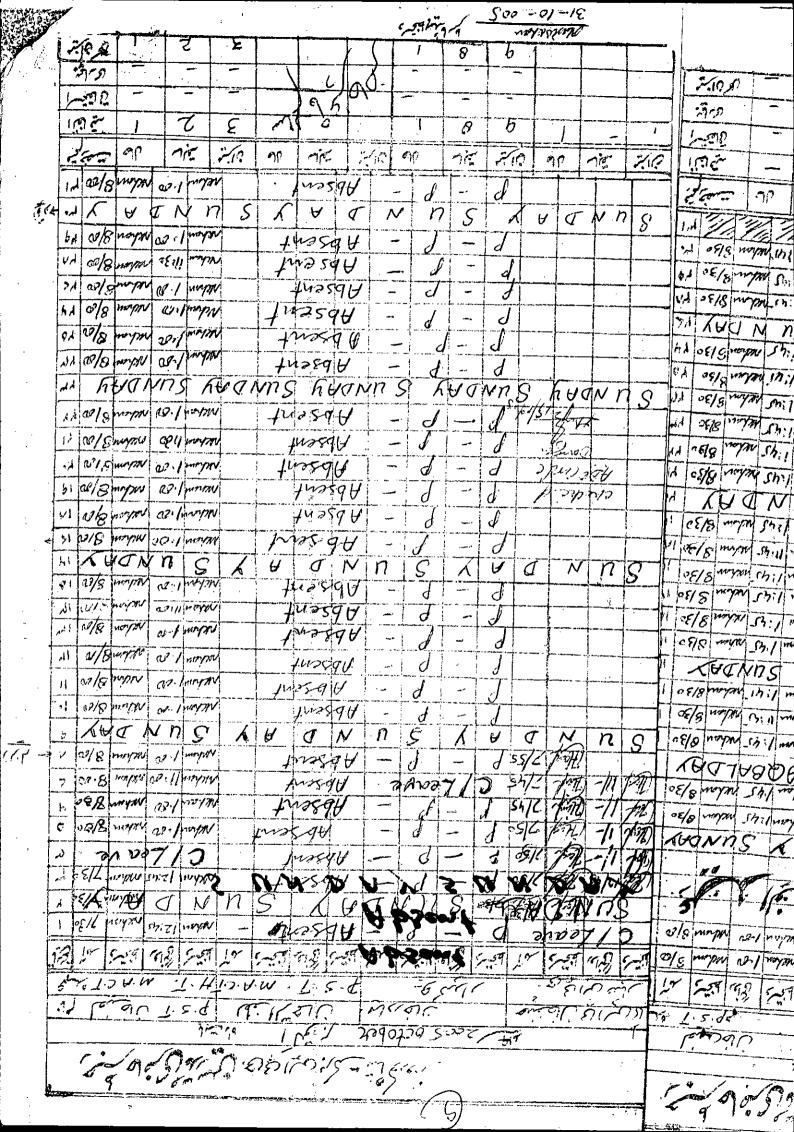


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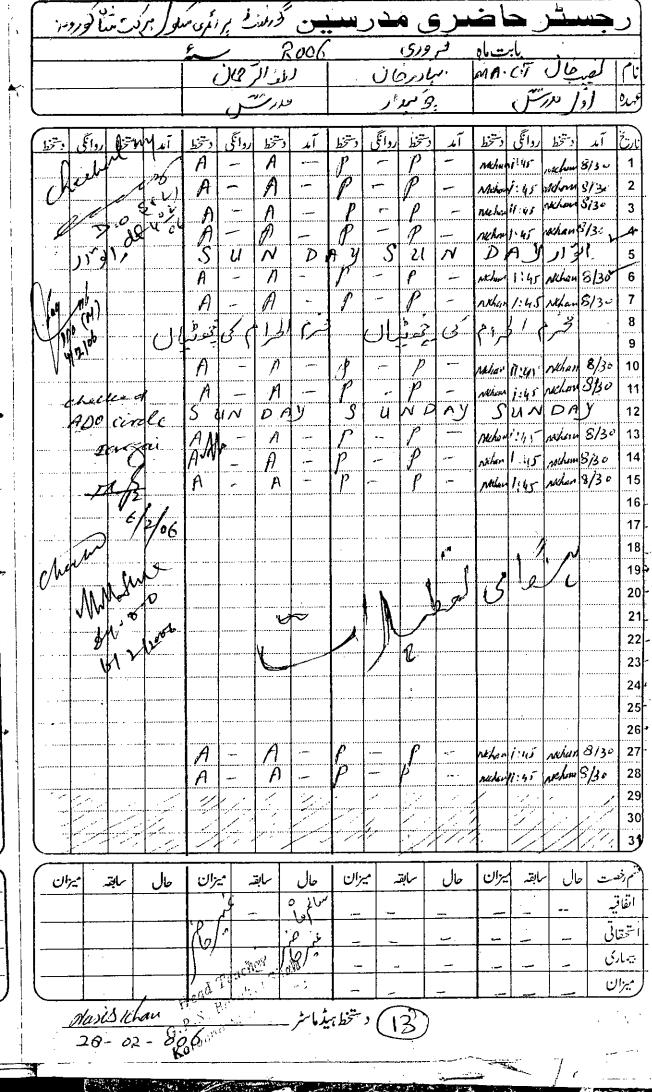


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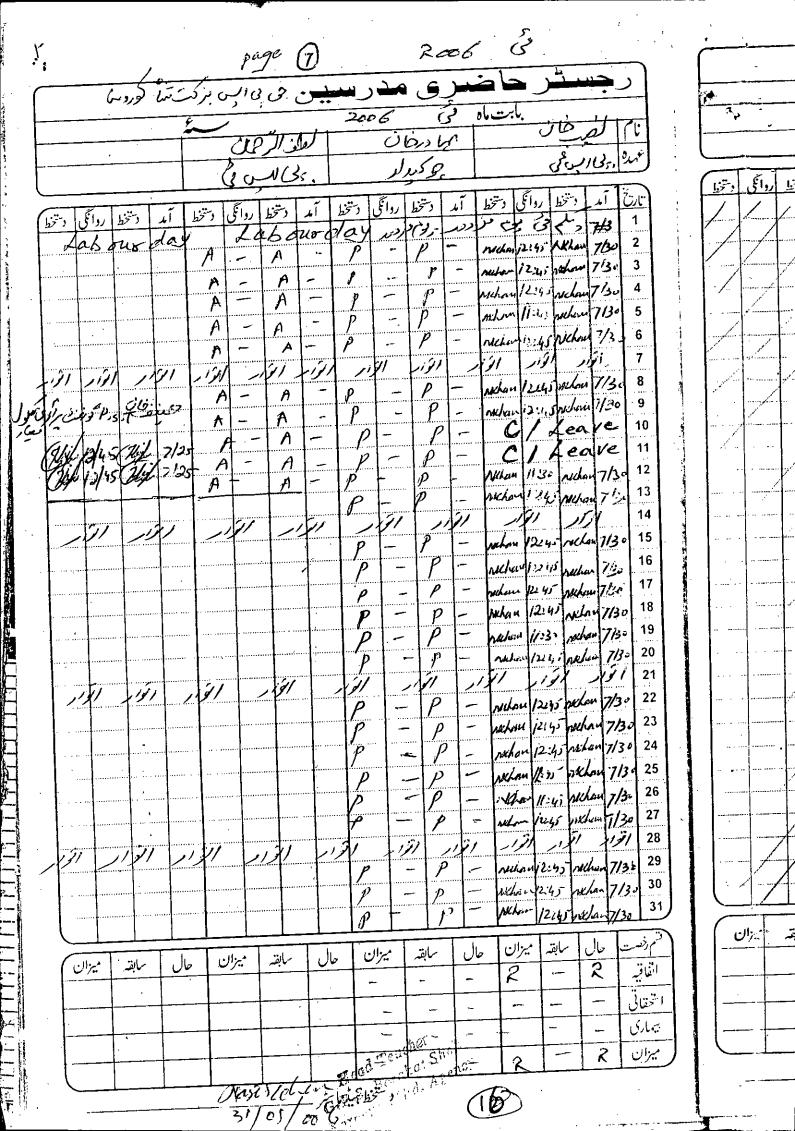
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الفانيه التجتالي بيماري

ميزان

باری ایرال <u>کودی</u> خدری مدر، **(5)** F Ruch بابت ماه Roo6 11! نے بسی تی نالذلات الأعالي عان ليم JONE. بربی ورین نو روائكي وتتخط دستخط روائگی روائكي روانكي Ė, وتتخط ويتخط دستخط وستخط آمد وستخط ويتخط آند آبد 1 2 3 5 6 7 A rehan 12:45 section 7/35 16, 166 آلأز آوَا الواد الوار ijl أزرر ألأر 141 9 119 A nection 12:45 meter 7/30 10 ו עש ענ CISHER IR תאיש ועוק"א سے الاؤ 7430 11 12 A 12:45 res-con 12 7/30 A uchan 12:45 7/30 13 7/30 11:41 14 I) 4:45 7130 15 الوار iji ist اتواد 16 الوار racher 17 A 1130 12145 12:45 rechan 7/30 18 7/30 A redon rehar 12:45 uchan 12.4, - 2ham 7/36 A 20 richas 11:30 ruhan 7/30 21 rehm 12:45 meter 7/30 22 A 191 23 ijΙ A rechant 224 stehan 24 7/3: A rehowil's rehen 7/30 25 26 rechow 7/30 A 12:45 27 selo 28 P 12245 04 29 2:45 30 31 حال ميزان ميزان حال ميزان حال سابقه ميزان ميزان سابقه حال ميالقه سابقه سايته انفاقبه 0 التحقاتي Nausahana Burakar بيماري Benc. 29-04-006 G.P.S. na. Mid. ميزان



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

APPEAL NO	/2015
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LUTF-UR-REHMAN

VS

GOVT: OF KPK

APPLICATION FOR ADJOURNMENT OF THE ABOVE MENTIONED APPEAL

R/SHEWETH:

- 1- That the above mentioned appeal is pending adjudication before this august Tribunal which is fixed for hearing on 04.07.2017.
- 2- That due to unavoidable circumstances Counsel for appellant cannot attend this august Tribunal on the above mentioned date.

It is therefore, most humbly prayed that on acceptance of this application the above mentioned appeal may kindly be adjourned.

Dated: 04.07.2017

7/11/17

APPELLANT

THROUGH:

NOOR MOHAMMAD KHATTAK
ADVOCATE

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

No. 2018 /ST

Dated /9 - 1/ - / 2019

To

The Director E&SE Government of Khyber Pakhtunkhwa, Peshawar.

Subject: -

JUDGMENT IN APPEAL NO. 351/2015, MR. LATF UR REHMAN.

I am directed to forward herewith a certified copy of Judgement dated 06.11.2019 passed by this Tribunal on the above subject for strict compliance.

Encl: As above

REGISTRAR KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.