

3.6.2014

Appellant with counsel and Mr.Sultan Mehmood, DEO(M),E&SE, Buner (respondent No.2) in person alongwith Said Zada, ASDEO Circle (respondent No.3), Aman-ul-Mulk, ADO Establishment (respondent No.4) and Mr.Muhammad Zubair, Sr.GP for the respondents present. Respondents produced office order dated 2.6.2014 whereby order of deduction made from the pay/salary of the appellant has been withdrawn.

With the order of withdrawal of the deduction amount from the salary/pay of the appellant, grievance of the appellant against the order of deduction amount from his salary has been redressed, and the appeal is disposed of accordingly, with no order as to costs.

ANNOUNCED


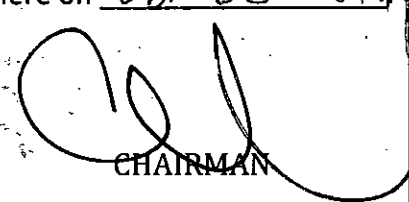
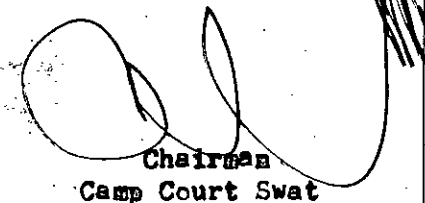
3.6.2014

  
Chairman  
Camp Court Swat

Form- A  
FORM OF ORDER SHEET

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

Case No. 433/2014

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	26/03/2014	<p>The appeal of Mr. Wakeel Khan presented today by Mr. Rahim Khan Advocate may be entered in the Institution register and put up to the Worthy Chairman for preliminary hearing.</p> <p style="text-align: right;"> REGISTRAR -</p>
2	12-4-14	<p>This case is entrusted to Touring Bench Swat for preliminary hearing to be put up there on <u>02-06-2014</u></p> <p style="text-align: right;"> CHAIRMAN</p>
3.	2.6.2014	<p>Appellant with counsel present and heard. In the light of submissions of the learned counsel for the appellant, the DEO(M) Buner be summoned alongwith record for further proceedings on 3.6.2014.</p> <p style="text-align: right;"> Chairman Camp Court Swat</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal. NO 433 / of 2014

Wakeel Khan, SPST.....Appellant  
Govt. Primary School, Sur Kamar,  
District Buner.

Versus

Himayat Shah, SDEO (M),.....Respondent # 1  
Buner at Daggar

Sultan Mahmood Mian, DEO (M), .....Respondent #.2  
Buner at Daggar

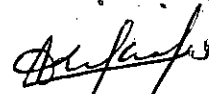
SAID ZADA, Ex-SDEO (M), Buner,.....Respondent # 3  
Now Head Master Govt. High School Elai, Buner.

Aman e Mulk Shah, ADEO Estt: Pry,.....Respondent # 4  
Buner at Daggar.

Mian Sher Hussain, Pry: School Head Teacher (PSHT), .....Respondent # 5  
GPS Sur Kamar, Buner,

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(Wakeel Khan)

Appellant,

Through  
Rahim Khan, Advocate,  
District Courts, Daggar, Buner.

Dated: 26/03/2014

## BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

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Aman e Mulk Shah, ADEO Estt: Pry, .....Respondent # 4

Buner at Daggar.

Mian Sher Hussain, Pry: School Head Teacher (PSHT), .....Respondent # 5

GPS Sur Kamar, Buner,

Service appeal under Section 4 of the KHYBER PAKHTUNKHWA SERVICE TRIBUNAL-Act 1974 against the order of the respondent No. 3 for making deduction of 04 days from my monthly salary of January 2014.

**Prayer in the Appeal:**

By accepting the appeal the impugned deduction of pay of four days from the salary of January 2014 made by SDEO (M) Buner, respondent No. 3 may be set aside with direction for due action against the respondents for their unlawful and illegal act and making mockery of service rules/laws, and wasting precious time of the tribunal by unnecessary litigation.

**Respectfully Sheweth:**

1. That I am serving as senior primary school Teacher (SPST) in BPS-14 in Govt. Primary school, Sur Kamar Buner.
2. That I am performing my duty with my best zeal, dedication, punctuality and efficiency with no chance of complaint to the high ups and the general public.
3. That through a letter No. 82 dated 08/11/2013 the SDEO (M) was directed to keep all the staff of the GPS. Sur Kamar under the supervision of the ASDO (M), Ambela Circle to check its punctuality on daily basis for a month (Copy attached at Page No. 5 )
4. That in this letter the DEO (M) directed the SDEO (M) Buner in violation of the service rules that four (04) days deduction of pay may be made from my salary without no fault of mine and without showing any reason.
5. That the SDEO (M) without following the service rules blindly obeyed the order of the DEO (M) and deducted four (04) days salary from my monthly pay of January 2014 (Copy attached at Page No. # 6)

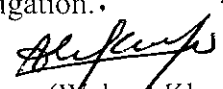
*[Handwritten signature and date]*  
 28/3/14.

6. That then on 27/11/2013 I appealed to the DEO (M) Buner against the act of deduction of SDEO (M) Buner (Copy Attached at Page # 7).
7. That the DEO (M) has not responded so far despite the lapse of ninety (90) days statutory period of departmental appeal, hence this appeal with the following

**REASONS/GROUNDS**

1. That I have been performing my duty at GPS Sur Kamar, Buner with punctuality, zeal and efficiency and nothing adverse has ever been proved against me.
2. The deduction of pay has not provided in the service rules and it is not provided in the list of penalties of E&D rules 1973 and 2011.
3. That I have not been heard before deduction and nothing in this regard has been communicated to me. I got a photo copy of the source 02 with great pain on my personnel efforts on which the deduction has been made.
4. That the Supreme Court has declared in the famous Anita Turab Case of 2012 that civil servants are servants of the state and not of the government and they are not bound to obey the unlawful orders of their superiors.

It is therefore, prayed that on acceptance of this appeal the deduction made by respondent No. 3 may be set aside with directions for due action against the respondents for their making mockery of the rules/laws and wasting the precious time of this tribunal by unnecessary litigation.

  
(Wakeel Khan)  
Appellant,

Through  
Rahim Khan, Advocate,  
District Courts, Daggar, Buner.

Dated: 26/03/2014

Annexure 01

**Affidavit/Certificate of Facts**

Service Appeal. NO \_\_\_\_\_ / of 2014

Wakeel Khan, SPST, .....Appellant  
 Govt. Primary School, Sur Kamar,  
 District Buner.

**Versus**

Himayat Shah, SDEO (M), .....Respondent # 1

Buner at Daggar

Sultan Mahmood Mian, DEO (M), .....Respondent # 2

Buner at Daggar

SAID ZADA, Ex-SDEO (M), Buner, .....Respondent # 3

Now Head Master Govt. High School Elai, Buner.

Aman e Mulk Shah, ADEO Estt: Pry, .....Respondent # 4

Buner at Daggar.

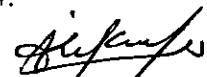
Mian Sher Hussain, Pry: School Head Teacher (PSHT), .....Respondent # 5

GPS Sur Kamar, Buner,

I, Wakeel Khan do hereby affirm and declare as under:-

1. That the averments of the facts contained in the appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this tribunal.
2. That the facts have been obtained from the record of the case.
3. No such appeal is pending before this tribunal.

Sworn at Peshawar this day, dated  
 26/03/2014.



(Wakeel Khan)

Appellant,

Through

Rahim Khan, Advocate,  
 District Courts, Daggar, Buner

Dated: 26/03/2014

## Annexure 02

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

Service Appeal. NO \_\_\_\_\_ / of 2014

Wakeel Khan, SPST, .....Appellant  
 Govt. Primary School, Sur Kamar,  
 District Buner.

**Versus**

Himayat Shah, SDEO (M), .....Respondent # 1  
 Buner at Daggar

Sultan Mahmood Mian, DEO (M), .....Respondent #.2  
 Buner at Daggar

SAID ZADA, Ex-SDEO (M), Buner, .....Respondent # 3  
 Now Head Master Govt. High School Elai, Buner.

Aman e Mulk Shah, ADEO Estt: Pry, .....Respondent # 4  
 Buner at Daggar.

Mian Sher Hussain, Pry: School Head Teacher (PSHT), .....Respondent # 5  
 GPS Sur Kamar, Buner,

Subject: REQUEST FOR HEARING AT CAMP COURT SWAT

Sir,

I beg to state that I belong to district Buner, Malakand Division. All of the respondents of this service appeal belong to District Buner. The Peshawar High Court has also established Mingora Bench/Darul Qaza Swat for hearing cases of the petitioners belonging to this region.

It is therefore, requested that my this service appeal may kindly be heard and decided in camp court of the tribunal at Saidu Sharif Swat.

  
 (Wakeel Khan)

Appellant,

Through  
 Rahim Khan, Advocate,  
 District Courts, Daggar, Buner

Dated: 26/03/2014

OFFICE OF THE DISTRICT EDUCATION OFFICER MALE-DISTRICT BUNER

NO. 82

Dated 8/11/2013

TO

The Sub; Divisional Education Officer  
Male Primary Buner.

Subject: ENQUIRY AGAINST THE STAFF OF GPS SORKAMAR KALPANI BUNER.

Memo:

Reference your letter No. 1334 Dated 11/7/2013, on the subject cited above.

You are hereby directed to keep all the staff of GPS Sorkamar Kaipani Buner under observation of the ASDEO Male Circle Ambela to check their punctuality on daily basis for a month.

Further you are hereby directed to deduct four days pay from Mr. Wakeel Khan SPST and Mr. Akbareen Khan PST as they are habitual late comer and submit photo copy of challan to this office positively.

DISTRICT EDUCATION OFFICER  
MALE BUNER

Encls. No. / Dated / 2013

Copy forwarded to the:

1. Mr. Nasrullah Section Officer Complaint cell Govt. of Khyber Pakhtun khwa (E&SE) Deptt Peshawar w/r to his office Encls. No. SO (complaint) E&SED/KPK/1-15/2013/GPS Sorkamar Kalpani Buner Dated Peshawar the September 27/2013.
2. Director E&SE Khyber Pakhtun khwa Peshawar.
3. Deputy Commissioner Buner at Daggar.
4. Dy. D.E.O local office
5. District Accounts Officer Buner
6. PSHT GPS Sorkamar Kaipani Buner.

DISTRICT EDUCATION OFFICER  
MALE BUNER.

no. 1334 dated 11/11/2013  
 compliance card, submit a challan  
 to this office upto November 20, 2013. Otherwise  
 it will be cancelled from December 2013.

Accepted

*[Signature]*





To,

The D.E.O (Male)

Distt: Buner.



**Subject: Appeal against the letter of ADO ( Estb) Male Buner.**

Sir,

Reference your letter No 82 dated 08/11/2013 issued under the sign of ADO (Estb) whereby the SDEO has been directed to make me deposit pay for four days for no fault of mine.

From the aforesaid letter it is evident that grave violation of service rules/authority has been committed.

1. The ADO (Estb) is not authorized to sign such type of letter without approval of the DEO which does not seem to have been done in the instant case.
2. There is no provision either of deduction of pay or deposition of pay through challan. Even there is no provision of stoppage of pay and even it is allowed during suspension in murder case of Sec 302 (CRPC).
3. Civil servants are servants of the state and not of the government; they are not bound to obey the unlawful orders of their superiors as narrated by the Supreme Court in the famous Anita Turab case of 2012. I will not obey the unlawful directions carried by the letter mentioned above, and will rather obey the Supreme Court judgment cited above. It is therefore requested that the letter carrying the unlawful directions may be cancelled/ with drawn with strict action against those who violated the supreme court judgment and the service rules. I intend to knock at the door of the court after expiry of the statutory period if no remedy was given to me.

Yours Obediently,

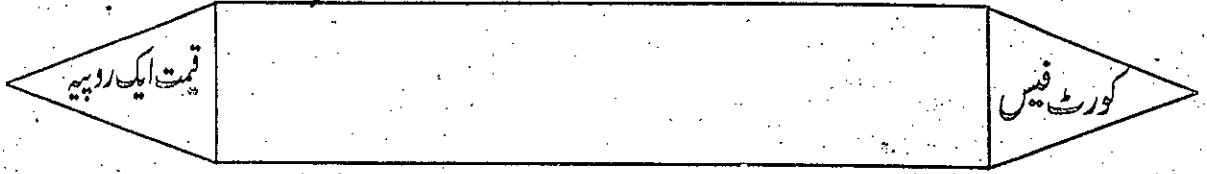
*Wakil Khan*  
Wakil Khan

SPST, GPS Surkamar, Buner.

Dated: 26/11/2013

*Accepted*

بعد الت سروس ٹریبیونل صوبہ خلیفہ کوئی اولیٰ ساعر



SPST وکیل خان  
بنام

۲۰ منجانب  
بنام

مورخہ

مقدمہ

دعویٰ

جرم

حایت سٹاہ SDEO مردانہ پرائمری  
بوسٹر  
و عزیز

## باعث تحریر آنکے

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

مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز وکیل صاحب کو راضی نامہ و تقرر ثالث و فیصلہ پر حلف دینے جواب دی اور اقبال دعویٰ اور درخواست ہر قسم کی تصدیق زرا اور اس پر دستخط کرنے کا اختیار ہوگا۔ نیز بصورت عدم پیروی یا ڈگری ایک طرف یا اپیل کی برآمد ہوگی اور منسوخ مذکور کے نسل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنی ہمراہ یا اپنی بجائے تقرر کا اختیار ہوگا۔ اور صاحب مقررہ شدہ کو بھی جملہ مذکورہ بالا اختیارات حاصل ہونگے اور اس کا ساختہ برواختہ منظور و قبول ہوگا۔ اور دوران مقدمہ میں جو خرچہ و ہرجانہ التوا بے مقدمہ کے سبب سے ہوگا اسکے مستحق وکیل صاحب ہونگے۔ نیز بقایا و خرچہ کی وصولی کرتے وقت کا بھی اختیار ہوگا اگر کوئی تاریخ پیشی مقام دورہ ہر ہو یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہونگے کی پیروی مقدمہ مذکور لہذا وکالت نامہ لکھ و پاک سند رہے

۲۰۱۶

۲۰ مارچ

20

المرقوم

المجدا گ واہ شدہ العبد

بمقام سروس ٹریبیونل صوبہ خلیفہ کوئی اولیٰ ساعر کے لئے منظور ہے

Accepted  
Rajniya Rajwani  
Advocate  
Distt. Court Daggan Bunc

SPST  
TSDS  
وکیل خان

OFFICE OF THE DISTRICT EDUCATION OFFICER E&SE (MALE) DISTRICT BUNER AT DAGGAR.

OFFICE ORDER.


*In compliance with the directions of the Honorable Chairman of Service Tribunal Khyber Pakhtunkhwa Peshawar camp court at Mingora Swat on 2-6-2014 regarding service appeal in R/O Mr Wakil Khan SPST and Mr Akbarin Khan PST GPS Surkamar Maira Pay deduction order issued by this office Memo No 82 dated 8/11/2013 is here by withdrawn with immediate effect in interest of public service.*

DISTRICT EDUCATION OFFICER  
(M) DISTRICT BUNER.

Endst: No 1728-34 Dated 2/6 /2014.

Copy forwarded for information to the:

1. Director (E&SE) Govt: of Khyber Pakhtunkhwa, Peshawar.
2. Deputy Commissioner Buner at Daggar.
3. District Accounts Officer Buner at Daggar with the remarks to redraw the amount Deducted from the appellants.
4. Deputy District Education Officer (M) Buner.
5. Sub-Divisional Education Officer (M) Primary Buner at Daggar.
6. PSHT Surkamar Maira Kalpanai Buner.
7. Officials concerned.

  
DISTRICT EDUCATION OFFICER  
(M) DISTRICT BUNER.