

Before the KP Service Tribunal, Postwar

Appeal No. _____ 12023

Menhaz vs Education Deptt.

Application for disposal of the
above mentioned appeal being unfractious

R/Shereth:

1. That the above mentioned appeal is pending adjudication before this august Tribunal which is fixed for hearing today on 27/09/2023.
2. That the appeal filed the above mentioned appeal for release of his salaries.
3. That the respondent deptt issued order dated 11/08/2023 whereby the grievance of the appellant has been redressed, therefore, the appeal in hand became unfractious.

It is, therefore, most humbly prayed that on acceptance of this application the appeal in hand may very kindly be disposed of being unfractious.

Dated: 27/09/2023.

Appellant
Through: M J
ndiv Zaman Safi
Advocate

ELEMENTARY & SECONDARY EDUCATION DEPARTMENT, GOVERNMENT OF KHYBER PAKHTUNKHWA



OFFICE OF THE DISTRICT EDUCATION OFFICER
District North Waziristan, Miran Shah

Phone: 0928-313040

Email: deonorthwaziristan@gmail.com



OFFICE ORDER

In pursuance of Order passed by the Director Education Merged District order No.1220 Dated 09-01-2019 and No.2149-51 Dated 07-02-2019 and SECY E&SED Order No SO/PEVE&SEDS-1/Gen-Misc and reminder Dated 29-03-2023 and the recommendation of the committee. The outstanding salaries of the following teachers are hereby released from the date of stoppage on the basis of not terminated and regular, Genuine employees of this office and performing their duties regularly to the entire satisfaction of their superiors.

It is further stated that the source-I and source II may kindly be processed and as well as their salaries may be transferred to their bank-accounts to avoid further litigation

- | | |
|------------------------|------------------------|
| (1) Barkat Ullah PTC | (10) Nasim Ullah PTC |
| (2) Sarfaraz PTC | (11) Mati Ullah PTC |
| (3) Anwar Ullah | (12) Hidayat Ullah PTC |
| (4) Sher Abbas PTC | (13) Kalsoom PTC |
| (5) Sher Zada PTC | (14) Uzina Hassan |
| (6) Muhammad Abbas PTC | |
| (7) Inam Ullah PTC | |
| (8) Minhaz PTC | |
| (9) Zubaida PTC | |


DISTRICT EDUCATION OFFICER
NORTH WAZIRISTAN DISTRICT

Endsft No: 41787-90 / Dated Miran Shah the 11/8 / 2023

Copy Forwarded Information to the:

- PS to additional secretary (Gen) E&SED KP.
- PS to Addition Secretary (Lit) E&SED KP.
- Director/Education E&SE Department Khyber Pakhtunkhwa Peshawar
- District Account officer NWTD With the request to pass the bills being low paid Govt: servant to avoid further litigation


DISTRICT EDUCATION OFFICER
NORTH WAZIRISTAN DISTRICT

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

APPEAL NO. 1944 /2023

Nasim Ullah PTC

VS

EDUCATION DEPTT:

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APPELLANT

THROUGH:


Yasir Saleem
&
A

(1)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No. 1944/2023

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 7857

Mr. Nasim Ullah PTC , in district education Officer District
North Waziristan **APPELLANT.**

Dated 25/09/23

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

[Handwritten signature]
25/09/23

24.01.2023 is attached as annexureC.

- 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 unwarranted under the law.

- 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.

[Signature]
 APPELLANT

THROUGH: *[Signature]*
 Yasir Salem
 &
 Amir Zaman
 Advocates high Court

Certificate:

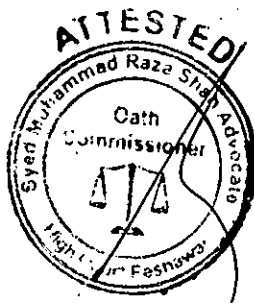
That no earlier appeal is preferred before this august tribunal.

[Signature]
 Deponent

Affidavit:

I Nasim Ullah 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 *[Signature]*



7.9-SEP 2023

Annex A

(4)

**OFFICE OF THE AGENCY EDUCATION OFFICER,
NORTH WAZIRISTAN MIRANSHAH.**

APPOINTMENT ORDER.

On the recommendation of departmental selection committee and Director Education FATA directions, the following male / female local candidates are hereby appointed against the vacant post of PTC in BPS-07 on contract basis school mentioned against each on the following terms and conditions with the effect from the date of taking over charge:

S.#	Name & Designation	Place of posting	Against the vacant post.
01.	Mr, Barkat Ullah PTC	GPS Darpakhel	-do-
02.	Mr, Sarfaraz PTC	GPS Datta Khel	-do-
03.	Mr, Anwar Ullah PTC	GPS Maliz Kot	-do-
04.	Mr, Sher Abbas PTC	GPS Aslam Kot	-do-
05.	Mr, Sher Zada PTC	GPS Lowerga	-do-
06.	Mr, Muhammad Abbas PTC	GPS Dowager	-do-
07.	Mr, Inam Ullah PTC	GPS Jalat Khan kot	-do-
08.	Mst, Mehnaz PTC	GGPS Akhtar Nawaz Kot	-do-
09.	Mst, Zubaida PTC	GGPS Awal Khan kot	-do-
10.	Mr, Nasim Ullah PTC	GPS Datta Khel	-do-
11.	Mr, Mati Ullah Shah PTC	GPS Miranshah village	-do-
12.	Mr, Hidayat Ullah PTC	GPS Banda	-do-

TERMS AND CONDITION.

01. Their Appointments are made on contract basis and liable to be terminated any time and notice.
02. They should bring their medical fitness from Medical Superintendent AHQ Hospital Miranshah. If they failed to assume their charges within 15 days, their orders will be treated as cancelled.
03. Their original CNICs should produced to the accountant local office.
04. Their services will be terminated if they found absent for 15 days continuously from the date of taking over charge.


Agency Education Officer,
North Waziristan Agency.

No 397-100 / dated Miranshah the 7 / 15 / 2014.

Copy forwarded to:-

01. The Director Education FATA with reference to his order dated, quoted above.
02. The Agency Accounts Officer North Waziristan Miranshah.
03. The Accountant Local Office.
04. The official concerned.


Agency Education Officer,
North Waziristan Agency.

ATTESTED


Annex B

(5)

To

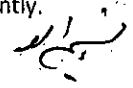
The District Education Officer
North Waziristan District.

Subject: **CHARGE / ARRIVAL REPORT**

I Mr/ MST NASIR MULLA took our charge in education department on date ¹⁶⁻⁵⁻²⁰¹⁴ ~~02-07-2014~~ as

Class-IV and started my duty regularly to the entire satisfaction of my superior. Charge reported submitted for your perusal and record please.

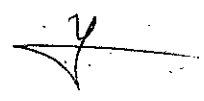
Yours Obediently,



Name: NASIR MULLA

Designation: PSI

ATTESTED



6

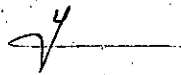
OFFICE OF THE DISTRICT EDUCATION OFFICER NORTH WAZIRISTAN DISTRICT.

SUBJECT: DUTY PERFORMANCE CERTIFICATE

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


**DISTRICT EDUCATION OFFICER
NORTH WAZIRISTAN DISTRICT.**

ATTESTED



Amr C

(7)

OFFICE OF THE DISTRICT ACCOUNT OFFICER NORTH
WAZIRISTAN MIRAN SHAH

No. DAO/MRN/NW/2023-24/1301-4

Dated: 24 / 1 / 2023

To

The District Education Officer,
NW Miran Shah.

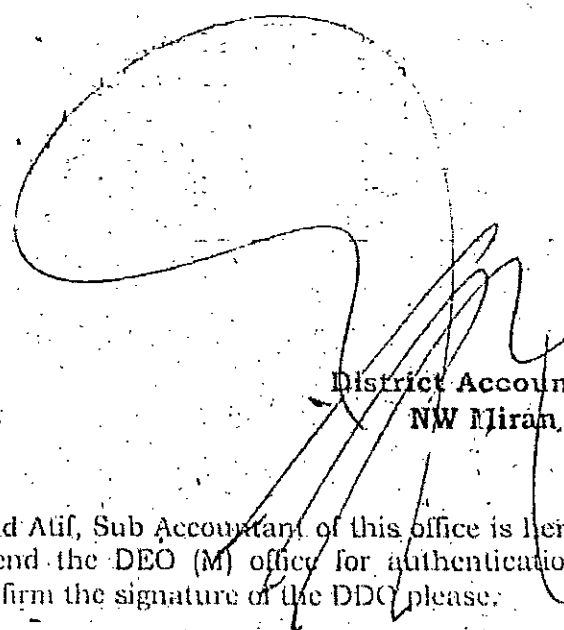
SUBJECT: PROVISION OF RECORD OF VARIOUS TEACHERS
REGARDING LAST PAYMENT CERTIFICATE.

Kindly refer to the subject noted above and to state that;

The authorized representative of your good office has been submitted 39 Nos source I & II forms, sanction to investigation and other related documents/original service book regarding arrears of outstanding salaries at the pre audit counter section at this office.

This office process and honor the source I and II forms and paid their salaries through their bank accounts for confirmation in genuine before pay roll processing of salary and also provide last payment certificate of the following teachers please.

- (1) Barkat Ullah PTC
- (2) Sarfaraz PTC
- (3) Anwar Ullah
- (4) Sher Abbas PTC
- (5) Sher Zada PTC
- (6) Muhammad Abbas PTC
- (7) Inam Ullah PTC
- (8) Minhaz PTC
- (9) Zubaida PTC
- (10) Nasim Ullah PTC
- (11) Mati Ullah PTC
- (12) Hidayat Ullah PTC
- (13) Kalsoom PTC
- (14) Ronaq Sweeper


District Accounts Officer
NW Miran Shah

Copy forwarded to:

Mr. Muhammad Atif, Sub Accountant of this office is hereby directed personally attend the DEO (M) office for authentication of Source forms and confirm the signature of the DDO please.

District Accounts Officer
NW Miran Shah

ATTACHED

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Ans D
18

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.**

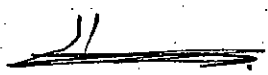
Respected Sir,

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.

It is further mentioned that the following employees have been received last salaries 30-06-2014 on manual pay bill.

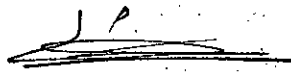
- (1) Barkat Ullah PTC
- (2) Sarfaraz PTC
- (3) Anwar Ullah
- (4) Sher Abbas PTC
- (5) Sher Zada PTC
- (6) Muhammad Abbas PTC
- (7) Inam Ullah PTC
- (8) Minhaz PTC
- (9) Zubaida PTC
- (10) Nasim Ullah PTC
- (11) Mati Ullah PTC
- (12) Hidayat Ullah PTC
- (13) Kalsoom PTC
- (14) Ronaq Sweeper


District Education Officer
North Waziristan District

Endst: No. 41787-90 / Dated 11/8 /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

7

To

The worthy Secy Lt SED
Up pedanaw

And to

Subject: Appeal for release of pay.

(3)

With great respect it is brought to your kind notice that our pays were stopped without any cogent reason by the Ex DRO North. We lodged appeal to the DE merged area. The DE merged area was kind enough and issued release order to the DRO North. The DRO North constituted Committee and the Committee declared innocent. But in the meantime the DRO was transferred and new DRO was posted. We approached to the New DRO. The DRO was kind enough and issued instruction for preparation of bills. Bills were submitted and some observation was raised by the DRO office which were removed and resubmitted to the DRO office which is still pending.

It is therefore, requested in your kind honour that a refund may kindly be issued to DRO North & copy of the same may also kindly be enclosed to DRO office for strict compliance the order in letter of spirit for the larger interest of justice.

Dated 30/4/83.

Yours faithfully

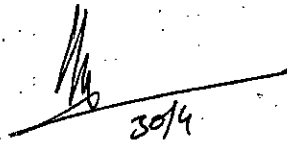
Barakatullah Qureshi

- Copy 3
List of Candidates as below
- ① Sajid Ali Khan PST
 - ② Anwarullah PST
 - ③ Saeed Abbas PST
 - ④ Shaukat Ali PST
 - ⑤ Muzafar Abbas
 - ⑥ Inamullah PST
 - ⑦ Mubashir PST
 - ⑧ Zubair PST
 - ⑨ Nadeem Ali PST
 - ⑩ Mubashir Shah
 - ⑪ Hedayatullah Shah PST

So(P)

ATTACHED

7


30/4

POWER OF ATTORNEY

In the Court of

Service Tribunal sep pesh
Nasimullah

For
Plaintiff
Appellant
Petitioner
Complainant

VERSUS

Govt sep pesh

Defendant
Respondent
Accused

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

Fixed for _____

I/We, the undersigned/ Nasimullah do hereby nominate and appoint **YASIR SALEEM ADVOCATE HIGH COURT**, my true and lawful attorney, for me in my name 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 do 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 counsel or his nominee, and if awarded against shall be payable by me/us.

IN WITNESS whereof I/we have hereto signed at Wazir the _____ day to _____ the year 2023
Accepted subject to the terms regarding fee

Nasimullah
Advocate

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