

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
CAMP COURT D.I.KHAN.

SERVICE APPEAL NO. 140/2016

Date of institution ... 09.02.2016
Date of judgment ... 28.12.2017

Jameel Ahmad S/O Ahmad Khan,
Ex-P.S.T Village Sangeen, District Tank
(Presently Baghdad Colony D.I.Khan)

... (Appellant)

VERSUS

1. Govt. of Khyber Pakhtunkhwa through Secretary, Elementary and Secondary Education Peshawar.
2. The Director Elementary and Secondary Education K.P.K Peshawar.
3. The District Officer, Elementary and Secondary Education (Male) Tank.
4. District Accounts Officer Tank.

... (Respondents)

SERVICE APPEAL UNDER SECTION-4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974.

Mr. Salah-ud-Din Gandapur, Advocate.
Mr. Farhaj Sikandar, District Attorney

.. For appellant.
.. For respondents.

MR. MUHAMMAD AMIN KHAN KUNDI
MR. MUHAMMAD HAMID MUGHAL

.. MEMBER (JUDICIAL)
.. MEMBER (JUDICIAL)

JUDGMENT

MUHAMMAD AMIN KHAN KUNDI, MEMBER: Counsel for the appellant and Mr. Farhaj Sikandar, District Attorney alongwith Mr. Mehmood Azam, ADO for the respondents present. Arguments heard and record perused.

2. Brief facts of the present service appeal are that the appellant was serving in Education Department as Primary School Teacher and during service he was

M. Amin
28.12.2017

terminated by the competent authority vide order dated 18.01.2010 on the allegations that he was a Member of Qari Hayatullah, involved in Anti State Activities being absconding from the law & forces Agencies as well as absence from his duty. The appellant also filed departmental appeal on 30.10.2015 but the same was not responded hence, the present service appeal on 09.02.2016.

3. Learned counsel for the appellant contended that the appellant was serving in Education department. It was further contended that during service he was terminated from service by the competent authority on the allegation that the appellant was a Member of Qari Hayatullah Theology Teacher involved in Anti State Activities and also involved in case FIR No. 90 dated 28.03.2007 under sections 302/324/353/436/427/148/149 PPC read with Sections 3/4 explosive Substance Act & 7 ATA, Police Station Shaheed Murad Abbas, District Tank. It was further contended that the appellant was honorably acquitted/discharged by the competent court vide order dated 12.10.2015. It was further contended that the co-accused Qari Hayatullah has already been reinstated alongwith all back benefits vide office order dated 03.10.2013 after his acquittal by the honorable court and the case of the appellant is also identical with case of Qari Hayatullah Theology Teacher therefore, under the rules of consistency the present appellant also deserve for reinstatement in service with all back benefits. It was further contended that neither charge sheet was framed nor proper inquiry was conducted nor final show-cause notice was served upon the appellant therefore, the impugned order is illegal and liable to be set-aside.

4. On the other hand, learned District Attorney for the respondents opposed the contention of learned counsel for the appellant and contended that the appellant was involved in Anti-State activities as well as in the aforesaid criminal case therefore, the appellant was absent from his duty. It was further contended that the appellant

M. Amin
28.12.2017

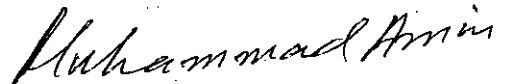
was terminated by the competent authority on 18.01.2010 and the appellant has filed departmental appeal on 30.10.2015 after a delay of five years therefore, the departmental appeal of the appellant is badly time barred and prayed for dismissal of service appeal.

5. Perusal of the record reveals that the appellant was serving in Education Department as Primary School Teacher and during service he was terminated by the competent authority vide order dated 18.01.2010 on the allegation of his involvement in Anti-State activities as well as absence from duty. The record further reveals that the appellant has filed departmental appeal on 30.10.2015 after a delay of more than five years, meaning thereby that the departmental appeal of the appellant is badly time barred. Though the appellant has filed application for condonation of delay but the appellant has not explained any plausible reason in the said application therefore, the appeal of the appellant is badly time barred. As such without touching the merit of the case the present service appeal is dismissed being time barred. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
28.12.2017



(MUHAMMAD HAMID MUGHAL)
MEMBER
CAMP COURT D.I.KHAN

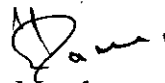


(MUHAMMAD AMIN KHAN KUNDI)
MEMBER
CAMP COURT D.I.KHAN

25.09.2017

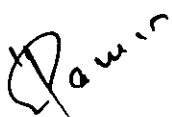
Appellant in person and Mr. Farhaj Sikandar, District Attorney for the respondents present. Appellant seeks adjournments as his counsel is not available. Last opportunity granted. To come up for arguments on 26/12/2017 before DB at Camp Court D.I.Khan.


Member
(Executive)


Member
(Judicial)
Camp Court D.I.Khan

26.12.2017

Bench is incomplete. To come up for arguments on 28.12.2017.


(Muhammad Hamid Mughal)
Member
Camp Court D.I.Khan

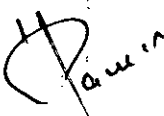
28.12.2017


Counsel for the appellant present. Mr. Farhaj Sikandar, District Attorney alongwith Mr. Mehmood Azam, ADO for the respondents also present. Arguments heard and record perused.

Vide our detailed judgment of today consisting of three pages placed on file, the service appeal is dismissed being time barred. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED


28.12.2017


(MUHAMMAD HAMID MUGHAL)
MEMBER
CAMP COURT D.I.KHAN


(MUHAMMAD AMIN KHAN KUNDI)
MEMBER
CAMP COURT D.I.KHAN

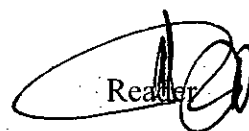
22.02.2017

Clerk counsel for appellant and Mr. Mahmood Alam, ADO (litigation) Tank alongwith Mr. Farhaj Sikandar, Government Pleader for respondents present. Clerk counsel for appellant submitted rejoinder which is placed on file. To come up for arguments on 24.04.2017 before D.B at Camp Court D.I.Khan.


(ASHFAQUE TAJ)
MEMBER
Camp Court D.I.Khan

24.04.2017


Since tour is hereby cancelled, therefore, the case is adjourned for the same on 25.07.2017.


Reader

25.07.2017

Appellant alongwith his counsel ~~Mr. Salah-ud-Din Khan Gandapoor~~, Advocate present and submitted fresh Wakalatnama. Mr. Mehmood Azam, ADO alongwith Mr. Farhaj Sikandar, District Attorney for the respondents also present. Learned counsel for the appellant also requested for adjournment. Adjourned. To come up for arguments on 25.09.2017 before D.B at Camp Court D.I.Khan.


(Gul Zeb Khan)
Member


(Muhammad Amin Khan Kundi)
Member
Camp Court D.I. Khan

26.04.2016

Counsel for the appellant and Farhaj Sikandar, GP for respondents present. Written reply not submitted. Requested for time to submitted written reply. To come up for written reply/comments on 27.09.2016 at camp court D.I. Khan.


Member
Camp Court D.I. Khan

27.09.2016

Counsel for the appellant and Mr. Farhaj Sikander, Government Pleader present. Representative of the respondent-department is not in attendance, therefore, fresh notice be issued to the respondents for written reply/comments for 27.12.2016 before S.B at Camp Court D.I.Khan.


Member
Camp Court D.I.Khan

27.12.2016

Counsel for appellant and Mr. Mehmood Azam, ADO (litigation) alongwith Mr. Farhaj Sikandar, Government Pleader for the respondents present. Written reply on behalf of respondents submitted copy whereof handed over to learned counsel for appellant. To come up for rejoinder on 27.02.2017 before S.B at Camp Court D.I.Khan.


ASHFAQUE TAJ
MEMBER
Camp Court D.I.Khan

23.2.2016

Counsel for the appellant present. He submitted that the appellant was serving as PST, has been removed from service vide impugned order dated 18.01.2010 without any charge sheet or show cause notice on the allegations that he belongs to Qari Hayatullah group. It was further stated that the appellant was in the custody of the law enforcing Agency till he was discharged from service on 12.10.2015 by order of Anti-Terrorism Court, D.I.Khan. He filed departmental appeal on 30.10.2015, which has not been responded so far. It was further submitted that the appellant has been removed from service illegally and further that even Qari Hayatullah has been restored.

Points raised need consideration. The appeal is admitted for regular hearing subject to all legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents. Case to come up for written reply at camp court, D.I.Khan on

26.4.16


MEMBER
Camp court, D.I.Khan

Appellant Deposited
Security & Process Fee

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 140/2016

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	09.02.2016	<p>The appeal of Mr. Jameel Ahmad presented today by Sheikh Iftikhar-ul-Haq Advocate may be entered in the Institution register and put up to the Worthy Chairman for proper order.</p> <p style="text-align: right;"><i>[Signature]</i> REGISTRAR - 9/2/2016</p>
2	10-2-16	<p>This case is entrusted to S. B Touring Bench at D.I.Khan for preliminary hearing to be put up thereon <u>23-2-16</u></p> <p style="text-align: right;"><i>[Signature]</i> CHAIRMAN</p>

BEFORE THE HON'BLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR.

S.T.A No. 140 2016

Jameel Ahmad V/S Govt of Khyber Pakhtunkhwa etc.

Index.

S.No.	Particulars of documents.	Annexure	Pages.
1.	Memo and grounds of the Service Appeal.		1-4
2.	Copy of Appointment order and Service Book	A	5-11
3.	Copy of Termination order and copy of the F.I.R	B & C	12-14
4.	Copy of Acquittal Order.	D	15-18
4.	Copy of Departmental Appeal alongwith Postal Receipt	E	19-22
5.	Copy of re-instatement order of the Co-Accused (Principal Accused) in Service	F	0-23
6.	Wakalatnama.		24

Your Humble Appellant.


Jameel Ahmad

through Counsel.

Dated. 2. 2. 2016.


Sd/- 

(1)

BEFORE THE HON'BLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA
PESHAWAR.

Service Appeal No. 140 2016

G.W.F. Province
Service Tribunal

Diary No. 94

Dated 9-2-2016

Jamesl Ahmad S/O Ahmad Khan ,
Ex-P.S.T Village Sangeem ,
Distt: Tank
(Presently Baghdad Colony
D. I. Khan)

Appellant.

v/s

1. Govt of Khyber Pakhtunkhwa through
Secretary ,Elementary and Secondary Education.
Peshawar.
2. The Director Elementary and Secondary Education
K.P.K. Peshawar.
3. The District Officer ,Elementary and Secondary Education
(Male) Tank. v.
4. District Accounts Officer Tank.


Respondents.

Service Appeal Under Section -4 of Khyber Pakhtunkhwa
Service Tribunal Act , 1974.

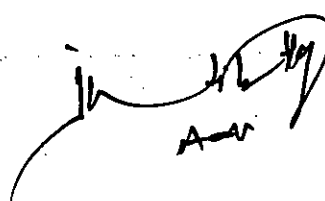
Prayer.

On acceptance of the instant Service Appeal, the impugned
Termination Order of the Appellant bearing No. 69-74 dated.
18.1.2010 passed by the Respondent No. 3 may kindly be
set aside and the Services of the Appellant may please
be re-instated with all back benefits.

Respectfully Sheweth,

1. That the Appellant was appointed as P.S.T vide

~~Filed to do~~
~~Case~~
~~Register~~
9/2/16



D.E.O (Male) Tank order No.2376-79 dated.31.3.1993 and performed duties labouriously , honestly and upto the full satisfaction of his Superiors. Copy of the Appointment order is enclosed as Annexure -A

2. That the Appellant was terminated on 18.1.2010 without any Justification , merely on the allegation that the Petitioner was a member of the Qari Hayatullah Tehology Teacher, nototious for involment in subversive activities for Talabanization and the Appellant was enrped in the F.I.R No.90 dated.28.3.2007 under Section 302-324-353-436-148-149 PPC r/w 3/4 Exp: Substance Act and 7 ATA by Police Station Shaheed Mureed Abbas Tank only on the presumption /speculation basis . Copy of the Termination order of the Appellant as well as Copy of the F.I.R is enclosed as Annexure B & C

3. That after proper investigation the Hon'ble Court discharged the Appellant from the alleged charges of allegation levelled against him dated.12.10.2015. Copy of the acquittal/ discharged order dated.12.10.2015 is enclosed as Annexure D.

4. That on acquittal from the charges the Appellant submitted a departmental Appeal /Representation on 30 ¹⁰/₁₅ before the Respondent No.2 (Director Ele & Second: Peshawar) , but as no response received from the Respondent in the stipulated period of Appeal .Hence the instant Appeal inter alia on the following grounds. Copy of the Departmental Appeal alongwith Postal receipt is enclosed as Annexure E.

G R O U N D S .

1. That the Principal Co-Accused Qari Hayatullah has already been re-instated alongwith all back benefits vide Office order bearing No.DE (S&SE) No.692-97 dated.3.10.2013

after acquittal by Hon'ble A.T.C on 27.5.2014 and the Appellant case is 100% identical to Qari Hayatullah Theology Teacher. Therefore under the rules of consistency, the Appellant is deserving for re-instatement in the Services with all back benefits. Copy enclosed as Annexure E.

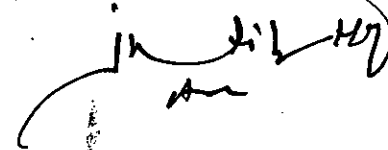
2. That the impugned termination order is against the law facts and circumstances of the case.
3. That no Codel formalities have adopted while terminating the services of the Appellant, thus impugned order bearing No. 69-74 dated.18.1.2010 is liable to be set aside.
4. That no any charge sheet, show cause notice, Enquiry ^{been} have conducted against the Appellant and he has been terminated without personal hearing, which is illegal and without lawfull authority.
5. That the Counsel of the Appellant may also be allowed to raise additional grounds during course of hearing.

Inwake of submissions made above it is, therefore Prayed that the Impugned Termination order dated.18.1.2010 of the Appellant may kindly be set aside and the Appellant be re-instated in his Services with all back benefits..



Your Humble Appellant.

through Counsel



Dated. 1.2.2016.

Sh: Jaffer Hussain
Adv

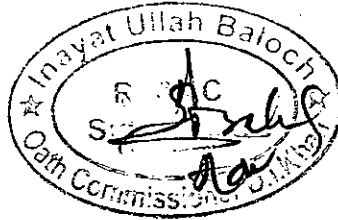
BEFORE THE HONIBLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR.

S.T. Appeal No. _____ 2016.

Jameel Ahmad v/S Govt of Khyber Pakhtunkhwa etc

Affidavit.

I, Jameel Ahmad S/O Ahmad Khan R/O Baghdad Colony D.I. Khan do hereby solemnly affirm and declare on oath that the contents of the Appeal is true and correct to the best of my knowledge and belief and that nothing has been kept secret.



[Handwritten Signature]
Deponent.

Identified by
[Handwritten Signature]
SH: J H Khan
2016

see page to date of appointment is mentioned in Service Book. Annexure (A) 5

Consequent upon the approval of selection of P.T.O. (Trained) on merit by the District Selection Committee, in the light of merit policy of the Govt. of Punjab, General Administration Deptt. Lahore, and the Govt. of Punjab, Education Deptt. No. 10(1.3)G-1-21 dated 17/07/1992 and No. 10(1.3)G-1-21 dated 2/2/1992, the following appointments of P.T.O. are hereby ordered in 1-7 plus usual allowances in the interest of public service with immediate effect.

Attached to be verified
CP/1
[Signature]

Name/Father Name with addresses.	Arks. No. and merit	Name of school where appointed.	
Mr. Habib Khan working against vacancy at GHS, Civil Hospital, Tank.		GHS, Kot Rehmat	against post.
Mr. Mohd. Akbar Khan working against vacancy at GHS, Tank No. 2.		GHS, Janakia	against post.
Mr. Shaukatullah s/o Mohd. Nawaz W/O Muzal. 73.3 (13) 1A-57		GHS, Attakhel	-do-
Mr. Inayatullah s/o Habibullah Moh: Khudrionwala, Tank. 72.5 (14) -do-		GHS, Buzai	-do-
Mr. Said Mahmud s/o Abdurrahman s/o Mohd. Ali. 72.5 (15) -do-		GHS, Abrohel	-do-
Mr. Abbas Khan s/o Mohd. Nawaz s/o Gulshan 72.5 (16) -do-		GHS, Kiri Jatti	-do-
Mr. Habibullah s/o Mohd. Akbar s/o Sajori. 71.5 (17) -do-		GHS, Chagani	-do-
Mr. Mohd. Nazim s/o Haji Ali Khan s/o Kot Nawaz 71.3 (18) -do-		GHS, Kiri Anwanda	-do-
Mr. Jamil Ahmad s/o Bont Ali s/o Mulla Ali. 70.5 (19) -do-		GHS, Ajab Khan	-do-
Mr. Jamil Ahmad s/o Ahmad Khan Moh: Gulam Hider, TANK city. 70.3 (20) -do-		GHS, Kot Said Ahmad (Adn Umar)	N/O Post
1. Mr. Anisullah s/o Ghaidullah s/o Tal. 69.7 (21) -do-		GHS, Labar Bala hel	Vacant
2. Mr. Said Nawaz s/o Mohd. Nawaz s/o Saidan wala, Tank. 69.7 (22) -do-		GHS, Mohd Yusuf (Ghina, Ghina)	N/O Post
3. Mr. Abdul Hamid s/o Biaz Khan s/o Sher Ali. 69.0 (23) -do-		GHS, Kot Hakim	Vacant
4. Mr. Mohd. Ishaq s/o Firdaus s/o Mulla Ali. 68.5 (24) -do-		GHS, Kani Khan	-do-
5. Mr. Habibullah s/o Umar s/o Talor, Tank. 68.3 (25) -do-		GHS, Ghazal	-do-
6. Mr. Attaullah s/o Said Amin s/o Mulla Ali. 65.7 (26) -do-		GHS, Shah Baz	N/O Post
7. Mr. Anwarullah s/o Gul. Rong s/o Razat Colony, Tank. 65.7 (27) -do-		GHS, Toran	Vacant

CONDITIONS:-

- 1) Charge reports should be submitted to all concerned.
- 2) No TA/DA etc is allowed on eve of their int. appointments.
- 3) The appointment is made purely on temporary basis and are liable to termination at any time without any notice/reason.
- 4) They should produce their Health & Age Certificates/Employment Exchange Card from Medical Superintendent District Hospital concerned/employment exchange, D.T. Khan.

Attached to be verified

(Page No. -2-)

Affected to
re true copy
Jan

Annexure (A) (6)

- 5). Their original documents should be checked by the ASDEO Concern before taking over charge.
- 6). All the candidates should report for their duties to their respective ASDEO before taking over charge.
- 7). They should not be handed over charge if their age are less more than 18/25 years.

(MILU KOLUJAD B. BAR)
DISTRICT EDUCATION OFFICER
(M.A. LE) PRIMARY, TANK.

Order No. 2376-79

Dated Tank the 31 / 03 /

Copy forwarded for information & necessary action

- 1. Sub-Divisional Education Officer (Male) Tank.
- 2. District Account Officer, Tank.
- 3. Head Teacher Concerned.
- 4. Candidate Concerned.
- 5. P.A. to Director Primary Education DEEP, Bangalore.

(MILU KOLUJAD B. BAR)
DISTRICT EDUCATION OFFICER
(M.A. LE) PRIMARY, TANK.

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(For Use in Police Department only)

① Passed the SSC Examination from the BISE Peshawar during the session 1989(A) under Roll No. 50422 securing 553/850 marks in 1st grade. The result was declared on 15.8.1989.

7
Attested to be True Copy
[Signature]

Heirs.

1. ② Passed the FA Examination from the BISE Peshawar during the session 1991(A) under Roll No. 64938 (in the 1st grade securing 594/1100 marks. Provi. certificate issued by the G.C. Tank on 18/9/92.

Sub: Divl: Education Officer (Male) Tank Distt: D. I. KHAN

Verification Roll No.

Dated

Sub: Divl: Education Officer (Male) Tank Distt: D. I. KHAN

③ Passed the PTC Examination from the Govt. College of Education for Elementary Teachers (L) D.I. Khan during the session 1991-92 under Roll No. 823 securing 674/1100 marks in the 2nd division. The result was declared on 21.11.1992.

Qualifications	Dated	Qualifications	Dated
----------------	-------	----------------	-------

④ Passed B.A Examination under Roll No. 9827 session 1998(A) from Gomal University D.I. Khan. He secured 258/550 and placed in 2nd division. The result declared on 16/7/99.

Plan-drawing

Finger print

Drill instructing

⑤ B.ed = Passed the B.ed. Exam: under Roll No. 0643750 from A.I.O.U. Islamabad. He obtained 554/900 marks and placed in Grade B. Result declared on 26-7-2005.

Reserve duties

Asstt: Sub Divl Edu Officer (M) Tank

Edu Officer (M) Tank

Other qualifications—

Sub Divl: Edu Officer (M) Tank

Deputy: Distt: Officer (M) Tank

N.B. A line to be drawn under the qualification possessed.

Note: The entries in this page should be renewed or re-attested at least every five years, and the Signature in lines 9 and 10 should be dated

(8)

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in B'gr
9.
Education
(Male) Tank
I. KHAN
in BISE
A) main
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by the
ation
Tank
I. KHAN
- the Govt.
- Teacher's
- 92 more
was in
s declared

Attestor
to be attested
Jam

1. Name - JAMEEL AHMAD KHAN

2. Race ... Gandapur

3. Residence ... Mohalla, Ghulam Haider Khan
TANK city (Distt: TANK)

4. Father's name and residence ... AHMAD KHAN
as above.

5. Date of birth by Christian era as nearly as
can be ascertained 15-1-1973 (15th January
HH and seven by Hizees)

6. Exact height by measurement ... 5-6

7. Personal marks for identification ... Wound Scar on Rt Hand

8. Left hand thumb and finger impression ...
of (non-gazetted) officer.

Little Finger.



... Ring Finger



Middle Finger.



... Fore Finger



Thumb



9. Signature and Government servant

Jamil Ahmad Khan

10. Signature and designation of the Head
of the Office, or other Attesting Officer.

Sub: Divt: Education
Officer (Male) Tank
Distt: D. I. KHAN

Div: Edu
(M) Tank
Roll.
m Abed
Ks.
sult
Officer

APPLICATION FOR ADMISSION TO THE GENERAL PROVIDENT FUND
(TO BE SUBMITTED IN DUPLICATE)

9
Attested
Jam

1. Account No. to be allotted by the Audit Officer IV-Edu/TK/27/CS
2. Name of Subscriber JAMEEL AHMAD KHAN
3. Father's Name AHMAD KHAN
4. Whether European Anglo/Pakistan or Pakistan National Pakistani
5. Official Designation PTE
6. Office to which attached SDEO (M) TANK
7. Whether post is permanent or Temporary or whether applicant is on Probation to a permanent post Temporary
8. If Temporary whether it will lost at least, for 3 years? yes.
9. Rate of Salary P.M. (Per month) Rs. 1185/- PM
10. Rate of Subscription per month (Rule 7) G.P.F. Rules R. 90/- PM
11. Whether compulsory or optional subscriber Compulsory
12. Date of Birth 15-1-1973
13. If subscriber fund tacname of such fund GP Fund
14. Date of 1st Appointment 01-4-1993 X

Station, D. I. Khan. Jameel Ahmad. Sign: of Applicant
Signature of the Head of Office
Designation S.M.
Sub: Divl: Education
Officer (Male) Tank
Dist: D. I. KHAN

Office of the _____
No. 770 Dated 17/5/93

Returned with Account No. allotted. This No. should be quoted in all correspondence connected. A form of declaration is sent herewith which should be returned duly filled in, as soon as possible.

Signature [Signature]
District [Signature]
Designation [Signature]

Executive District Officer,
Elem: & Secy: Edu: Tank

Handwritten notes and stamps at the bottom of the page.

1	2	3	4	5	6	7
Name of post	Whether substantive or officiating and whether permanent or temporary	If officiating - state - (1) substantive appointment or (2) whether service counts for pension under rule 320 of C.S.R. (pb.) volume II	pay in substantive post	Additional pay for officiating	Other emoluments falling under the term "pay"	Date of appointment
درجہ ملازمت	عارضی مستقل یا قائم مقام	اگر عارضی ہے تو کیا وہ سروس کاٹتا ہے	ستخواہ بطور عارضی	زائد ستخواہ بطور	ما سوائے ستخواہ	تاریخ تقرری

تقرری کی توجیہ میں ہے کہ اس عارضی ملازمت کو مستقل بنا دیا جائے گا۔
 عارضی ملازمت کے دوران ملازم کو تمام حقوق عارضی ملازمت کے طور پر حاصل ہونگے۔
 عارضی ملازمت کے دوران ملازم کو تمام حقوق عارضی ملازمت کے طور پر حاصل ہونگے۔
 عارضی ملازمت کے دوران ملازم کو تمام حقوق عارضی ملازمت کے طور پر حاصل ہونگے۔

261
 20-5-07

12-10-15

دستخط
 عہدہ
 تاریخ
 مقام

اطلاع کے لیے اطلاع دہندہ کا دستخط ہوگا۔ یا اس کی مہر نشان لگایا جائے گا۔ اور اس پر تحریر کنندہ اپنی اطلاع کا دستخط بطور تصدیق ہوگا۔ حروف الف با
 سرکار کی توجیہ بالقابل نام پر ایک لازم یا مشترک علی الترتیب دہنیے باشندگان علاقہ غیر یا وسط ایشیا افغانستان جہاں سوز دن ہوں۔ لکھا جائے



OFFICE OF THE EXECUTIVE DISTRICT OFFICER
ELEMENTARY & SECONDARY
EDUCATION, TANK

Ph#0963-510356, 510380, 510381

Annexure (B)

12
Attested
J
Jam

Office Order :-

Whereas, it has been reported that Mr. Jamil Khan son of Amad Khan Khan Cost Gandapur Moh: Heider Khan Wakeel Tank, City, PST GPS Kot Sangeen, Distt: Tank, is a Member of Qari Hayatullah, being absconding from the Law & Forces Agencies.

Whereas, the Teacher is absconder and absent from his duties and as the Provincial Govt: has decided to terminate the services of those Govt: servants who are involved in Anti State Activities in a meeting of the Competent Authorities.

Now in pursuance of Dy: Secy: Law & Order, Home & Tribal Affairs, Deptt: Peshawar's No. 1/7-SO(L & O)/HD-2009 Dated: 15/12/2009, received with the Section Officer, Prg: Edu: E&SED, Govt. of NWFP, Peshawar No. SO(PE)5-1/Misc: 2009 Dated: 23/12/2009, the services of Mr. Jamil Ahmad PST GPS Kot Sangin Distt. Tank, are hereby terminated with immediate effect under section 3 (1) (d) of the North-West Frontier Province Removal from Services (Special Powers) Ordinance No-V of 2000 read with section 3 (2) (b) (i) and section 5 (4) of the said ordinance.

Executive District Officer,
Elem: & Secy: Edu: Tank.

Endst No: 69-74 / Dated

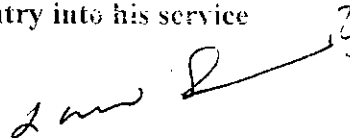
Tank

the 18/01/2009 2010

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

1. The Dy. Secretary Law and Order, Home & Tribal affairs Deptt. Peshawar.
2. The Section Officer, Prg: Edu: E&SD Govt of NWFP Peshawar
3. The Commissioner, DIKhan Divn: DIKhan.
4. The District Coordination Officer, Tank
5. The District Accounts Officer, Tank.
6. The Dy: District Officer, (M) Prg: Tank for necessary entry into his service book accordingly.

w/r to the
correspondence cited
above


Executive District Officer,
Elem: & Secy: Edu: Tank

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ایران اطلاعاتی

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Handwritten number '22' in a circle.

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Handwritten text below the top header, possibly a date or reference number.

Vertical handwritten text along the right margin of the page.

12-10-15

Handwritten signature and date: 20-2-07

Main body of handwritten text in Urdu, consisting of several lines of script.

IN THE COURT OF
INAM ULLAH KHAN
JUDGE, ANTI-TERRORISM COURT D.I.KHAN

Annexure (D)

Criminal Case No. 55^{NIM} of 2015

The State.....Versus.....Jamil Ahmad

Order---01
12.10.2015.

1. Mr. Altaf Hussain, learned APP for the State alongwith Maroof Khan Inspector Police Station C.T.D, D.I.Khan present and submitted case file FIR No.90 dated 28.3.2007 U/Ss.302/324 /353/436/427/148/149 PPC r/w Ss.3/4 Explosive Substance Act & 7 ATA, Police Station Shaheed Mureed Abbas (SMA), District Tank for discharge of accused Jameel Ahmad alias Master s/o Ahmad Khan, Caste Gandapur, presently residing at Baghdad Colony, D.I.Khan. Be checked and registered.

Application dated 06.10.2015 of learned District Public Prosecutor, Tank is available on file wherein it is requested that the accused Jameel Ahmad be discharged due to the following reasons:-

- I. That there is no direct/circumstantial evidence against the accused to connect him with the commission of offence.
- II. That the occurrence has taken place in the dark hours whereas the accused have neither been nominated in the FIR nor identified.

ATTESTED TO BE TRUE COPY

(Signature)
12/10/15
District Public Prosecutor
District Tank

(Signature)
12.10.2015
JUDGE
Anti Terrorism Court
D.I.Khan

III. That the co-accused in the instant case has already been acquitted by the learned Court whereby the prosecution evidence was disbelieved and since similar role has been attributed to the accused and acquitted co-accused, therefore, production of the same set of witnesses would serve no fruitful result.

IV. That nothing incriminating has been recovered from the possession of accused to connect him with the commission of offence.

V. That there is no admission or confession on the part of accused.

VI. If the trial of the accused conducted; it would be a futile exercise as there is no probability of the conviction of the accused in the long run.

In Proforma-B at Serial No.14 it is stated that there is no solid evidence against the accused and requested for discharge of the accused. Proforma-B is duly signed by District Public Prosecutor, PP ATC, D.I.Khan, Superintendent of Police C.T.D, D.I.Khan and the Investigating Officer concerned.

4. According to the FIR, on 28.3.2007 at 0600 hours, Madad Moharrir of P.S. Tank received a written 'murasila' from Umar Hayat Khan ASHO through Constable Abdur Rauf No.1204 to the effect that on 28.3.2007 at 0015 hours, suddenly from 'jehaz' ground, Wazir Abad, Pir Kacha and eastern side a large number of miscreants Taliban started firing with automatic firearms and threw rocket launchers on P.S. Tank, Police Quarters, FC Line, official offices and bungalows. The police, F.C and the personnel of Khyber Rifles also made firing with official weapons in their self defence. The miscreants also threw rocket launchers on

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12.10.2015
JUDGE
Anti Terrorism Court
D.I.Khan

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12/10/2015
D.I.Khan
Anti Terrorism Court
D.I.Khan

National Bank of Pakistan Main Branch for pillaging and caused damage to its building. Police guards deputed there also made firing in retaliation due to which the miscreants ran away. The firing remained started till 05.30 hours. After when the firing ended, on checking Abdul Latif Sepahi of Khyber Rifles, was found dead in FC Line, one Niaz Ali s/o Faizor Khan was found dead in bazaar Tank while one Ghulam Saeed got injured due to the firing of miscreants. The miscreants also threw rocket launchers on Muslim Commercial Bank, National Saving Centre, Allied Bank, National Bank, The Bank of Khyber and Habib Bank due to which the luggage present there caught fire and caused a lot of loss. Postmortem documents and injury sheets were prepared and the dead bodies and the injured were shifted to Civil Hospital Tank. Hence, the instant FIR got registered:

[Handwritten Signature]
 JUDGE
 Anti Terrorism Court
 10.2.2015

Perusal of record reveals that co-accused Muhammad Bashir s/o Bashir Khan, Liaqat Ali s/o Janat Khan, Zulfiqar s/o Abdul Ghaffar, Haqnawaz s/o Barkatullah, Taj Ali s/o Tehsil Khan, Jamshed s/o Sakhi Marjan, Hayatullah s/o Muhammad Nawaz, Hidayatullah s/o Muhammad Nawaz, Ahmad Shah s/o Muhammad Nawaz, Hayatullah s/o Bhangar Khan involved in this case have already been acquitted U/S 265-K Cr.PC by my learned predecessor in office vide order dated 20.12.2008. Accused Muhammad Farooq s/o Abdul Aziz has been acquitted U/S 265-K Cr.PC on 28.4.2011. Accused Muhammad Ayub s/o Muhammad Ibrahim has been acquitted U/S 265-K Cr.PC on 04.6.2011. Accused Rahmatullah s/o Marwat Khan has been

NOTED TO BE TRUE COPY
[Handwritten Signature]
 Examiner
 Anti Terrorism Court
 13/1/2015
 Khan

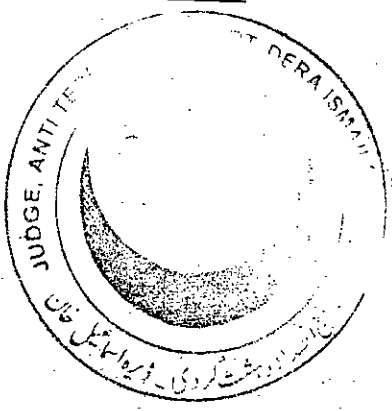
acquitted U/S 265-K Cr.PC on 04.7.2011. While accused Qari Hayatullah s/o Habibullah and Rasheed Khan s/o Mashkullah have been acquitted after conclusion of trial by my learned predecessor in office vide judgment dated 27.5.2014. Accused Baloch Khan Hameed Ullah have been discharged on the request of the prosecution vide order dated 19.11.2014. Similarly, accused Sher Ali and Muta Din have also been discharged on the requested of the prosecution vide order dated 24.4.2015. The case of the present accused falls on equal footings too and further trial is neither justifiable, nor resultful rather the trial of the accused will amount to wastage of time. Though perpetual warrant of arrest was issued against the present accused by this court, but the absconsion cannot be made a sole ground for conviction of an accused if the other evidence against the accused is not available or weak. Therefore, on the request of the prosecution the accused Jameel Ahmad alias Master is discharged. He is on bail, his bail bonds stand cancelled and his sureties are absolved from their liabilities under the bail bonds.

6. File be transmitted to Peshawar High Court, D.I.Khan Registry as required U/S 25(2) of Anti-Terrorism Act, 1997.

Announced.
D.I.Khan.
Dt.12.10.2015.

(Signature)
 (Mam) Ullah Khan
 Judge,

Anti-Terrorism Court, D.I.Khan 46/2015



JUDGE
 Anti Terrorism Court
 D.I.Khan

Sigal No	13.X.015
Application Received On	5/10/15
Copying Fee Deposited	13.X.015
Judgment received by Court	4 Par
No. Of Judo	
Copy Fee	
Seal Fee	
Urgent Fee	
Name of copis	afan ushah
Copy received on	13.X.015
Copy delivered on	13.X.015
Date Of Issuance	13.X.015

13/10/15

ATTESTED TO BE TRUE COPY
 (Signature)
 Anti Terrorism Court
 D.I.Khan

To:

The Director,
Elementary & Secondary Education,
K.P.K
Peshawar.

Subject: Departmental Appeal Representation against the
Order bearing No.69-74 dated.18.1.2010.

Respected Sir,

With due respect I beg to submit few lines for
seeking justice and sympathetic consideration :-

1. That I was appointed as P.S.T vide D.E.C (Male)
Tank order No.2376-79 dated.31.3.1993 and performed
duties till 17.1.2010 labouriously, honestly and
upto the full satisfaction of Superiors.
2. That the Appellant was terminated on 18.1.2010
without any justification, merely on the ballad
allegation that the Petitioner was a member of
the Qari Hayatullah Theology Teacher, notorious
for involvment in subversive activities of
Talabanization. Subsequently the Appellant was
enropeed in the F.I.R No.90 dated.28.3.2007 under
Section 302-324-353-436-437 -148-149 PPC r/w 3/4
Exp: Substance Act and 7 ATA by Police Station
Shaheed Mureed Abbas Tank .
3. That after proper investigation the Hon'ble
Court discharged the Appellant from the
alleged charges of allegation levelled against
him above, on dated.12.10.2015 (Copy attached) .
4. That the Principal Co-Accused Qari Hayatullah
was reinstated alongwith all back benefits
vide your honour vide order No.BE (E&SE) No.
692-97 dated.3-10-2013 after Acquittal by
Hon'ble ATC on dated.27.5.2014 .

Annexure (E) (19)
Attested to be
true copy.
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Alleged
Name

5. That the Appellant case is 100% identical to
Qari Hayatullah Theology Teacher .

Therefore under the rules of consistency the
Appelleant may prays to set aside the
impugned termination order on the grounds
mentioned below.

G R O U N D S .

- i) The impugned termination order is against the
law and circumstances .
- ii) That other Co-accused in the said case has
already been re-instated on his duties with
all back benefits .Thus the Appellant is
deserving for re-instatement of his services.
- iii) That no Code of formalities have been adopted
while terminating his services and thus
impugned order bearing No.69-74 dated.18.01.2010
is liable to be set aside.
- iv) That the Appeal for reinstatement is within
time w.e.f. the decision of the Hon'ble A.T.C
Court on 12.10.2015.

Keeping in view the above facts and
circumstances the Appellant may kindly be
re-instated in his services with all back

benefits w.e.f. 18.01.2010 .

The Appellant will pray for your long life and prosperity.

(21)
Attested
Jam

Your Humble Appellant.

Jameel Ahmad

S/O

Ahmad Khan

Ex P.S.T. G.P.S Sangeen Distt
Tank.

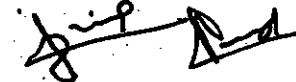
Present Address.

Baghdad Colony
Dera Ismail Khan.

Copy forwarded to.

1. P.S to Secretary Govt of K.P.K. Elementary and Secondary Peshawar.
2. P.S to Director Ele: & Secen K.P.K Peshawar.
3. District Education Officer (Male) Tank.
4. Distt: Accounts Officer Tank.

Applicant / Appellant



Jameel Ahmad.

Dated. 30.10.2015.

Annexure (F)

Directorate of Elementary & Secondary
Education Khyber Pakhtunkhwa, Peshawar.

23

Notification.

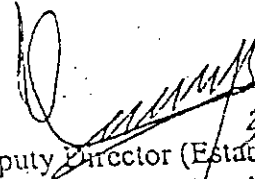
1. WEREAS. Mr. Hayat Ullah was working as Ex-TT GHS, No.2 Tank .
2. AND WHEREAS, he was charged that he was involved in Anti state activities and was under custody of the Security Agencies.
3. AND WHEREAS his services terminated by the DCO Tank vide his order No.4691/PS, dated 10.12.2013 on the direction of Govt: of Khyber Pakhtunkhwa Home & Tribal Affairs Deptt: letter No.1/7-SO(L&O)IHD/09, dated 15.12.2009.
4. AND WHEREAS he was released by the Security Agencies and Pak Army has issued him clearance Certificate by Abdul Shakoor Major Acting Commanding Officer 27 Azad Kashmir Regiment (MOHAFIZ-E-KAZINAG) dated 01 November 2012.
5. WHEREAS, he lodge an appeal for his re-instatement in service to set aside his termination order.
6. WHEREAS, being an appellant authority I sought the evidence on the record. Now in the capacity of the appellant authority his termination order issued by the DCO Tank vide No. 4691/PS, dated 10.12.2013 is hereby set aside and he is restore in service with all back benefits.

DIRECTOR
ELEMENTARY & SECONDARY EDUCATION
KHYBER PAKHTUNKHWA, PESHAWAR.

Endst:No. 692-97 /665/A/A15/Involvement-
In Anti state Activities. Dated Peshawar the 3/10/ 2013.

Copy forwarded to the:-

1. District Education Officer (Male) Tank.
2. District Accounts Officer Tank.
3. Headmaster, GHS, No.2 Tank.
4. Teacher Concerned.
5. PA to the Director Elementary and Secondary Education Khyber Pakhtunkhwa.
6. M/File.


Deputy Director (Establishment)
E&SE, Khyber Pakhtunkhwa, Peshawar.
3/10/2013



وکالت نامہ

In the event of joining or carrying on any other profession, service or business, the holder will not be entitled to use this Card and shall forthwith surrender it to the KP Bar Council.

Father's Name: **Mohammad Alam Khan**
Address: **Kothi Nawab, Fort Road, Tehsil & Distt: Dera Ismail Khan**
Cell No: **0300-8090146**
Office Tel:
Enrolment Date L.C: **01-10-2012**
Enrolment Date H.C: **19-03-2016**
Place of Practice: **Dera Ismail Khan**
Date of Birth: **01-04-1971**
Blood Group: **B+ve**

C.N.I.C No: **12201-1884394-5**
KHYBER PAKHTUNKHWA BAR COUNCIL
No. 1000 G-Block, Khyber Road, Peshawar. Ph: 001-8211172, 8212415, Fax: 001-8213914
E-mail: support@kpbarcouncil.com, www.kpbarcouncil.com

24

Before the Khyber Pakhtunkhwa Service Tribunal

Appellant: **Jamil Ahmad vs Govt of K.P.K**

Service Appeal

u/s 4. K. P. S. Tribunal Act 1974

باعث تحریر آنکہ

D. I. Khan

Shahid Afkhar ully Advocate High Court D. I. Khan

مقدمہ مندرجہ بالا عنوان میں اپنی طرف دانتے ہر وہی وجوہات دیکھی یا تصدیق مقدمہ تمام
کو حسب ذیل شرائط پر وکیل مقرر کیا ہے کہ میں پیشی پر خود یا ہذا بذریعہ دو برو عدالت حاضر ہوتا رہوں گا اور ہر وقت نکالت جائے مقدمہ وکیل صاحب
موصوف کو اطلاع دے کر حاضر عدالت کروں گا اگر پیشی پر منظر حاضر نہ ہو اور مقدمہ جری غیر معاشری کی وجہ سے کسی طور پر نہ نکالت ہو گی تو صاحب
موصوف اس کے کسی طرح ذمہ دار نہ ہوں گے نیز وکیل صاحب موصوف صدر کچہری کے علاوہ یا کچہری کے اوقات سے پہلے یا پیچھے یا ہر روز تھیں
جہزی کرنے کے ذمہ دار نہ ہوں گے اور مقدمہ صدر کچہری کے علاوہ اور جگہ ساعت ہونے یا ہر روز تھیں یا کچہری کے اوقات سے آگے یا پیچھے پیش ہونے
پر منظر کوئی نقصان پہنچے تو اس کے ذمہ دار یا اسکے واسطے کسی معاذرہ کے ادا کرنے یا سخت نہ واپس کرنے کے بھی صاحب موصوف ذمہ دار نہ ہوں گے نیز
کوکل سائنس پر وادعت صاحب موصوف پیش کردہ ذات خود منظور قبول ہو گا اور صاحب موصوف کو عرض دہنی یا جواب دہنی یا درخواست اجراء اسے دائری
نظر ثانی اپیل نگرانی و ہر قسم درخواست ہر قسم کے بیان دینے اور پر پاشی یا راضی نامہ و فیصلہ برطرف کرنے اقبال دہنی کا بھی اختیار ہوگا اور بصورت ضرورت ہونے
تاریخ پیش مقدمہ مزکور بیرون از کچہری صدر بیرون مقدمہ مزکور نظر ثانی اپیل و نگرانی و برآمدگی مقدمہ یا منسوخ دائری ایک حوالہ یا درخواست عدم امتناع یا فرنی
تکرتی تھیں اور فیصلہ اجراء و دائری بھی صاحب موصوف کو پیشرو اور شہری شہری کا اختیار ہوگا اور تمام منظر پر وادعت صاحب موصوف پیش کردہ
از خود منظور و قبول ہو گا اور بصورت ضرورت صاحب موصوف کو یہ بھی اختیار ہوگا کہ مقدمہ مزکورہ یا اس سے کسی جزوی کاروائی یا بصورت درخواست نظر ثانی
اپیل نگرانی یا دیگر معاملہ و قدمہ مذکورہ کسی دوسرے وکیل یا ہیر سز کو اپنے بجائے یا اپنے ہمراہ مقرر کریں اور ایسے مشیر قانون کو بھی ہر امر میں دہنی اور دینے
انتخابات حاصل ہوں گے جیسے صاحب موصوف کو حاصل ہیں اور دوران مقدمہ میں جو کچھ ہر جانہ اتواء طلب ہو گا صاحب موصوف کا حق ہوگا کہ
صاحب موصوف کو پوری فیس تاریخ پیشی سے پہلے ادا نہ کروں گا تو صاحب موصوف کو پورا اختیار ہوگا کہ مقدمہ کی پوری نہ کریں اور ایسی صورت
میں میرا کوئی مطالبہ کسی قسم کا صاحب موصوف کے برخلاف نہیں ہوگا

لہذا وکالت نامہ لکھ دیا ہے تاکہ سند رہے
موزی 8 مارچ

مضمون وکالت نامہ سن لیا ہے اور اچھی طرح سمجھ لیا ہے اور منظور ہے

Accepted
Accepted
Accepted
Accepted

79
BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR
D.I.KHAN BENCH

S.A. No. 140/2016

Jamil Ahmad

(Appellant)

Versus

Govt: Of Khyber Pakhtunkhwa through Secy:
E&SE Pakhtunkhwa Peshawar & etc

(Respondents)

**PARAWISE REPLY ON BEHALF OF
RESPONDENTS NO. 1,2 & 3**

RESPECTFULLY SHEWTH

Respondents humbly submit as under:-

PRELIMINARY OBJECTIONS

1. That the appeal is badly time barred, as the appellant was terminated on 18-01-2010 while he submitted departmental appeal on 30-10-2015.
2. That the appeal is not maintainable and incompetent
3. That the appellant estopped due his own conduct.
4. That the appellant has got no cause of action and locus standi.
5. That the appellant has not come to the Tribunal with clean hands.
6. That the appeal is bad for misjoinder / non-joinder of necessary parties.
7. That the appellant has concealed the material facts from Honourable Tribunal.
8. That the Honorable Service Tribunal has no jurisdiction to entertain the instant appeal.

BRIEF FACTS

1. This para is correct to the extent that the appellant was a Govt. servant. The rest of para is incorrect.
2. Incorrect, the appellant was terminated on the basis of allegations i.e. remained absconder and absent from duties.

3. Incorrect, Hence not admitted, the Honourable anti-terrorism court D.I.Khan announced judgment on 12-10-2015, in which clear mentioned that **“Though perpetual warrant of arrest was issued against the present accused by this court but the abconcion cannot be made a sole ground for conviction of an accused if the other evidence against the accused is not available or weak. Therefore, on the request of the prosecution the accused Jameel Ahmad allies Master is discharged. He is on bail, his bail bounds stands cancelled and his sureties are absolved from their liabilities under the bail bounds. File be transmitted to Peshawar High Court, D.I.Khan Bench Registry as required U/S 25(2) of Anti-terrorism Act, 1997”**
4. Correct, to the extent that the appellant submitted appeal after the lapse of more than 05 years before the Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar i.e. respondent No. 2. The respondent No. 2 seen & filed the said appeal being badly time barred.

GROUND:

1. Incorrect, the service appeal of the appellant has not identical to one Mr. Qari Hayat Ullah. Hence the appellant cannot be benefited by dint of role of consistency. The department only pay to those employees, who regular serving in Education Department and follows the rules & regulations. **“No services, no payment / benefit”**
2. Incorrect, Not admitted, the appellant was absconder and absent from his duties. The competent authority pursuance of Dy. Secretary Law & Order Home & Tribal affairs department Peshawar No. 1/7-SO(L&O)/HD-2009 received with the section officer primary education E&SED Govt. of NWFP Peshawar No. SO(PE)5-1/Misc: 2009 Dated: 23-12-2009 under section 3(1)(d) of the North West Frontier Province removed from services (special powers) ordinance No. V of 2000 read with section 3(2)(b)(i) and section 5 (4) of the said ordinance removed the appellant from services.
3. Incorrect, not admitted. All the codel formalities were full filled according to the rules and existing policies and service laws.
4. Incorrect, not admitted. The detail of said Para is already given in the above paras.

5. That the Counsel of the respondent No. 1,2 & 3 may also be allowed to raise additional grounds during course of hearing.

Hence it is humbly prayed that on acceptance of this parawise reply the instant appeal of the appellants may graciously be dismissed with cost.

Secretary
E&SE Deptt:
Khyber Pakhtunkhwa Peshawar
Respondent No. 1

21/4/2016.

Director
E&SE Deptt:
Khyber Pakhtunkhwa Peshawar
Respondent No. 2

M. M. Khan
District Education Officer
(Male) Tank
Respondent No. 3


**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
D.IKHAN BENCH.**

Service Appeal No. 140/2016

Jamil Ahmad VS Government of Khyber Pakhtunkhwa and others

AFFIDAVIT


I Mr. Abdus Saleem Khan Headmaster BPS-17 Incharge Litigation o/o District Education Officer (Male) Tank do hereby solemnly affirm and declared on the oath that the Para wise comments are true and correct to the best of my knowledge and belief that nothing has been concealed from this Honourable Court.


DEPONENT
12201-1878437-9

IDENTIFIED BY:

AUTHORITY LETTER

Mr. Abdus Saleem Khan Headmaster BPS-17 Incharge Litigation o/o District Education Officer (Male) is hereby authorized to attend the Honorable Khyber Pakhtunkhwa Service Tribunal Peshawar Bench D.I.Khan in connection with S.A. No. 140/2016 titled as Jamil Ahmad Vs Govt. of Khyber Pakhtunkhwa & others" on behalf of the undersigned.


District Education Officer
(Male) Tank

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

S.T.A No. 140/2016

Jamil Ahmad(Appellant)

VERSUS

Govt. of K.P.K through Secretary E&S Pakhtukhwa,
Peshawar etc(Respondents).

**REJOINDER ON BEHALF OF APPELLANT
AGAINST THE REPLY OF RESPONDENTS
NO. 1 TO 3.**

Respected Sir,

The appellant humbly submits the following
rejoinder:

On Preliminary Objections:-

A. The Para No. 1 is vehemently and squarely
denied. Actually falsely implicated in the case
FIR No. 90 dated 28/03/2007 Under Sections
302, 324, 353 / 436, 427, 148, 149, ¼ Exp
Act, 7ATA which was not in the knowledge of
the appellant. Moreover, the appellant had been
lifted by the laws enforcement agencies on
suspicion in year 2009 and later on handed
over to C.T.D Police Dera Ismail Khan with the
observation that he / appellant never involved
in any terrorist. Therefore the Honourable Anti
Terrorism Court, Dera Ismail Khan discharged
the appellant vide order dated 12/10/2015.
The after releasing from jail, the appellant came

ju
Adv:

into knowledge from the impugned order 15/10/2015 and submitted appeal on 30/10/2015. Hence, the appeal is within time in attendant circumstances. Although the appellant also submitted a petition for condonation of delay in this regard. Thus para is misconceived.

B. That Para No. 2 is denied. Moreover, the answering respondents have not explained the position that how the appeal is not maintainable and incompetent.

C. That Para No. 3 is denied. Moreover, the answering respondents has not explained that now the appellant is estopped due to his own conduct.

D. That Para No. 4 is denied. The appellant being aggrieved person and discrimination has been made by respondents authorities with the appellant, hence, the appellant has cause of action and locus standi this para is mis-formulated and copy of ~~restoration~~^{tyrmination} order of co-accused namely Hayat Ullah T. Teacher for redy reference is attached.

E. That Para No. 5 is misconceived. The appellant being aggrieved person and in the attendant circumstances has come to instant Tribunal with clean hands. Moreover, the answering respondents have not explained that how the appellant has not come to Tribunal with clean hands.

F. That Para No. 6 is denied. The answering respondents have not mentioned the parties who have been mis-joined / non-joined.

G. That Para No. 7 is not correct. All the material facts has been given by the appellant.

H. That Para No. 8 is mis-constructed. The appellant being aggrieved civil servant. Hence

the instant have got vast and extensive jurisdiction to entertain the instant appeal.

ON FACTS:

- 1.** That reiterate to Para No. 1 of the facts.
- 2.** That Para No. 2 is mis-conceived. Actually the appellant never remained absconder and absent from duties as per details given in supra para, that the appellant was taken into custody by the Army. After through investigation when the law and enforcement agencies came to the conchesim that the appellant has no stigma and dents in regard to terrorist activities. Then the appellant was then rendered to the CTD police and after adopting proper procedure the appellant was initially released on bail and then discharged by the competent Court from the charges leveled against the appellant. Hence, the Para is denied.
- 3.** That Para No. 3 is misformulated one.
- 4.** That Para No. 4 is denied in such form and pattern. Moreover, appeal has been submitted well within time after gaining knowledge and the lapse of time has been well explained in supra Paras.

ON GROUNDS:-

A. That Para No. 1 of the grounds is misconceived. The case of the appellant is very much indential to one Qari Hayat Ullah on the basis of said allegation the appellant has been made scapegoat. Now the respondents-authorities are treating the appellant with discrimination. Para No. 1 of the grounds is denied.

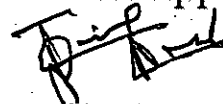
B. That Para No. 2 is denied. The remaining paras has been fully explained in supra paras. Moroever, the impugned order has been passed against the principle of Esta Code and no

proper procedure has been adopted by respondents authority.

- C.** That Para No. 3 is misformulated. The respondent authority have not issued any charge sheet / show cause notice etc to the appellant. Hence instant para is denied.
- D.** That Needs no reply.
- E.** That the appellant will also urge additional grounds during course of hearing.
- F.** The reply of the answering authorities may be brushed aside.

It is, therefore, humbly prayed that the appeal may be accepted.

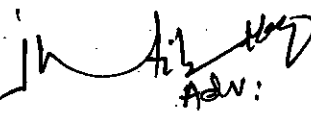
Your Humble Appellant



Jamil Ahmad

Through counsel

Dated: / /


Adv:

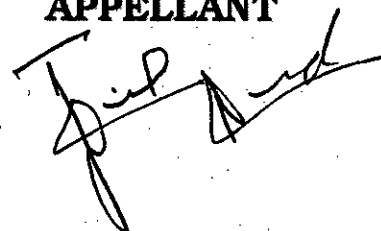
SHEIKH IFTIKHAR UL HAQ

Advocate High Court,
Dera Ismail Khan.

VERIFICATION:-

I verified on _____ oath that all the contents of the rejoinder are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Honourable Court.

APPELLANT



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

S.T.A No. 140/2016

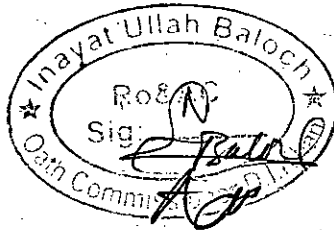
Jamil Ahmad(Appellant)

VERSUS

Govt. of K.P.K through Secretary E&S Pakhtukhwa,
Peshawar etc(Respondents).

AFFIDAVIT

I, **Jamil Ahmad** S/o Ahmad Khan Caste Gandapur R/o Pir Baghdad Colony, Tehsil & District Dera Ismail Khan, the appellant, do hereby solemnly affirm declared on oath that contents of the above **rejoinder** are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Honourable Court.



DEPONENT

Jamil Ahmad

A handwritten signature in black ink, appearing to read "Jamil Ahmad".

OFFICE OF THE DCO, DISTRICT GOVERNMENT TANK

No: 4691/PS Dated: 10-12-2009

OFFICE ORDER

WHEREAS it has been reported that Hayatullah son of Habibullah employed as Theology Teacher in the Elementary and Secondary Education Department, Tank is one of the leading anti-state militant leaders.

AND WHEREAS it has been reported that he is absconding from security agencies and is therefore not performing duties.

AND WHEREAS such reports have been confirmed by District Police Officer Tank, Incharge Intelligence Bureau (IB) Tank and Incharge Inter Services Intelligence (ISI) Tank in the meeting of District Intelligence Coordination Committee, Tank held on 4-11-2009.

AND WHEREAS the Provincial Government has decided to terminate services of government servants involved in anti-state militancy in the meeting of competent authorities.

NOW THEREFORE, the services of Hayatullah s/o Habibullah Theology Teacher, Elementary and Secondary Education Department, Tank are hereby terminated with immediate effect under section 3 (1) (d) of the North-West Frontier Province Removal From Service (Special Powers) Ordinance No V of 2000 read with section 3 (2) (b) (i) and section 5 (4) of the said ordinance.


District Coordination Officer
District Government Tank

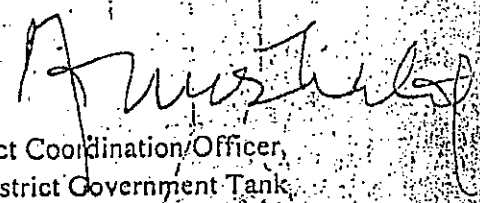
No: 4692-94/PS Dated: 10-12-2009

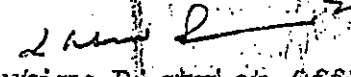
Copy forwarded to:

1. Commissioner D I Khan Division with reference to his telephonic directives to the undersigned on 9-12-2009 regarding decisions taken in the meeting of the committee comprising Secretary Law Department and Secretary Establishment Department NWFP.
2. EDO Elementary and Secondary Education, Tank.
3. District Accounts Officer Tank.

Endst No. 4459-60 / Dated 12/12/09
Copy of the above is forwarded for information & n/action to:-

1. The principal, GHS No. 2 Tank for strict compliance.
2. The Distt: Coordination Officer, Tank w/r to his No. & Dt: cited above please.


District Coordination Officer,
District Government Tank.


Executive District Officer,
Elem: & Secy: Education, Tank.

