

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

Service Appeal No. 941/2015

Date of Institution... 20.08.2015

Date of decision... 14.03.2018

Amanullah son of Jan Muhammad R/O Muryali D.I.Khan PST GPS Sikandar  
Janubi No. 1 Tehsil Parova District D.I.Khan. ... (Appellant)

Versus

1. Secretary, E& SE, Khyber Pakhtunkhwa, Peshawar and 4 others.  
... (Respondents)

Mr. Muhammad Asif Naveed, ... For appellant.  
Advocate

Mr. Kabirullah Khattak, ... For respondents.  
Addl. Advocate General

MR. NIAZ MUHAMMAD KHAN, ... CHAIRMAN  
MR. AHMAD HASSAN, ... MEMBER

JUDGMENT

NIAZ MUHAMMAD KHAN, CHAIRMAN: - Arguments of the learned  
counsel for the parties heard and record perused.

FACTS

2. The appellant was charged for two criminal cases in which he was acquitted on 02.7.2013 and 7.11.2013. He was suspended due to pendency of criminal cases and after acquittal he was reinstated on 19.07.2014. In the said order, it was written that the appellant remained absent for four years and his that period was treated as extraordinary leave without pay. Against this order, he filed a departmental appeal on 25.4.2015 which was not responded to and thereafter, he filed the present service appeal on 20.08.2015.

### ARGUMENTS

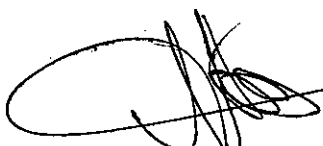
3. The learned counsel for the appellant argued that the appellant was entitled for, at least, suspension allowance during the period of suspension and he could not be denied the said allowance.

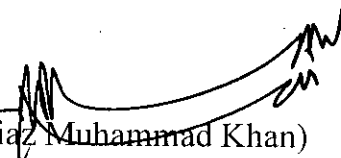
4. On the other hand the learned AAG argued that suspension allowance could be granted only when the concerned employee did not absent or did not abscond. That as per the record and judgment of the court of law it was clear that the appellant remained absconder. That no pay/allowance could be paid for the said period. He next contended that the departmental appeal was time barred, therefore, the present service appeal was also time barred.

### CONCLUSION

5. This Tribunal is first to decide the question of limitation. Since the matter involved in the present appeal is financial benefits, no limitation would run in such appeal. Coming to the merit of the appeal, the learned counsel for the appellant has not been able to show any law or ruling where under an absconder could be granted pay/allowance. Fugitive from law loses many of his due rights as is a settled principle of law.

6. Consequently, the present appeal is dismissed. Parties are left to bear their own costs. File be consigned to the record room.

  
(Ahmad Hassan)  
Member

  
(Niaz Muhammad Khan)  
Chairman  
Camp Court, D.I.Khan

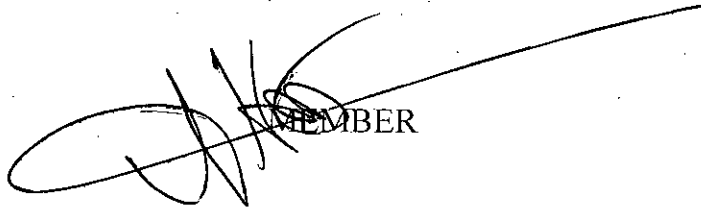
ANNOUNCED

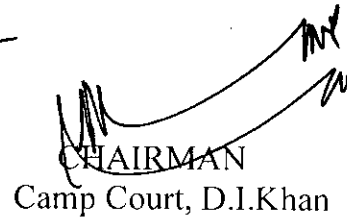
14.03.2018

14.03.2018

Counsel for the appellant and Mr. Kabirullah Khattak, Addl. AG alongwith Attaullah, DEO for the respondents present. Arguments heard and record perused.

Vide our detailed judgment of today, this appeal is dismissed. Parties are left to bear their own costs. File be ~~be~~ consigned to the record room. ~~be~~

  
MEMBER

  
CHAIRMAN  
Camp Court, D.I.Khan


ANNOUNCED

14.03.2018

Service Appeal No. 941/2015


29.12.2017


Appellant in person present. Mr. Farhaj Sikandar, District Attorney alongwith Mr. Muhammad Kamran, ADO (Litigation) for the respondents also present. Written reply on behalf of respondents submitted. Adjourned. To come up for rejoinder and arguments on 19.02.2018 before D.B at Camp Court D.I.Khan.

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

19.02.2018

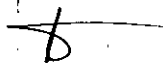
Appellant in person present. Mr. Usman Ghani, District Attorney alongwith Mr. Muhammad Kamran, ADO for the respondents also present. Rejoinder not submitted. Appellant requested for adjournment on the ground that his counsel is not available today. Adjourned. To come up for rejoinder and arguments on 13.03.2018 before D.B at Camp Court D.I.Khan.


  
(Ahmad Hassan)  
Member  
Camp Court D.I.Khan

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

13.03.2018

Appellant alongwith counsel and Addl. AG alongwith Muhammad Kamran, ADO for the respondents present. Arguments partly heard. To come up for further arguments tomorrow i.e. on 14.3.2018 before this D.B at camp court. D.I.Khan.

  
Member

  
Chairman  
Camp court, D.I.Khan

23.08.2017

Mr. Muhammad Waseem Ullah Awan, Advocate on behalf of the appellant present and submitted fresh Wakalatnama. Mr. Muhammad Kamran, ADO (litigation) alongwith Mr. Farhaj Sikandar, District Attorney for the respondents also present. Written reply on behalf of respondents not submitted. Representative of respondent-department requested for further adjournment for submission of written reply. Last chance granted to the respondents for submission of written reply. Adjourned. To come up for written reply/comments on 27.09.2017 before S.B at Camp Court D.I.Khan.



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

27.09.2017

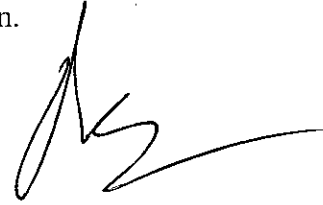
Mr. Muhammad Asif Advocate appeared on behalf of appellant and submitted fresh wakalat nama which is placed on file. None present on behalf of appellant as well as respondents. Notice be issued to the appellant and respondents for attendance. To come up for written reply/comments on 29.12.2017 before S.B at Camp Court D.I.Khan.



Member  
(Judicial)  
Camp Court D.I.Khan

24.05.2016

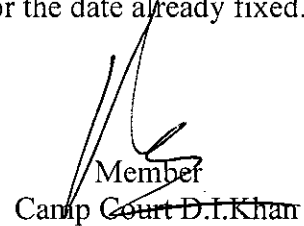
Counsel for the appellant and Mr. Farkhaj Sikandar, GP for respondents present. Written reply not submitted. Notices be issued to the respondents. To come up for written reply on 25.10.2016 at camp court D.I. Khan.



Member  
Camp Court D.I.Khan

25.10.2016

None present for appellant. Mr. Muhammad Kamran, ADO alongwith Mr. Farhaj Sikandar, Government Pleader for the respondents present. Written reply by respondents not submitted and requested for further time for filing of written reply. Request accepted. To come up for written reply/comments on 28.03.2017 before S.B at Camp Court D.I.Khan. Notice be also issued to the appellant for the date already fixed.



Member  
Camp Court D.I.Khan

28.03.2017

Since tour is hereby cancelled, therefore, the case is adjourned for the same on 23.08.2017.



Reader

23.11.2015

Counsel for the appellant present. He submitted that the appellant was involved in a false criminal case, was honourably acquitted, therefrom as a result whereof his suspension was withdrawn and he was reinstated into service vide order dated 16.1.2014. The learned counsel for the appellant further stated that vide impugned order dated 19.04.2014, the competent authority has wrongly and illegally directed that the absence period of the appellant may be treated as leave without pay whereas in fact, the appellant was under suspension, he was not removed from service, therefore, he was entitled for the pay of the period under discussion. He submitted that the appellant is a poor PST Teacher who has wrongly been deprived of his lawful amalaments.

Points raised need consideration. The appeal is admitted for full hearing. 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/comments at camp court, D.I.Khan on 26-1-2016.

  
MEMBER  
Camp Court, D.I.Khan

26.01.2016

Counsel for the appellant present. Security and process fee have not been deposited. Appellant is once again directed to deposit security and process fee within 7 days. Thereafter, notices be issued to the respondents for filing of written reply on 24.5.16 at camp court, D.I.Khan.

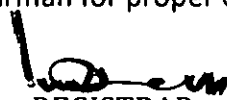


  
MEMBER  
Camp Court, D.I.Khan

Appellant Deposited  
Security & Process Fee

Form- A  
FORM OF ORDER SHEET

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

Case No. 941/2015

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	20.08.2015	<p>The appeal of Mr. Amanullah presented today by Syed Shahid Sherazi Advocate may be entered in the Institution register and put up to the Worthy Chairman for proper order.</p> <p style="text-align: right;"> REGISTRAR</p>
2	24-08-2015	<p>This case is entrusted to Touring Bench D.I.Khan for preliminary hearing to be put up thereon <u>26-10-2015</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
	26.10.2015	<p>Clerk of counsel for the appellant and Mr. Farhaj Sikandar, GP for the respondents present. Counsel for the appellant is not available, therefore, case to come up for preliminary hearing at camp court, D.I.Khan on <u>24-11-15</u>.</p> <p style="text-align: right;"> MEMBER Camp Court, D.I.Khan</p>



**BEFORE THE HONORABLE SERVICE TRIBUNAL(Camp) At DERA ISMAIL KHAN.**

**Service Appeal No. 941/2015.**

Amanullah S/O Jan Muhammad R/O Muryali, D.I.Khan, PST, GPS Sikandar Janubi No. 1, Tehsil Parova,  
Dera Ismail Khan.

**(Appellant)**

**Versus**

1. Secretary E&SE, Khyber Pakhtunkhwa, Peshawar.
2. Director, E&SE, Khyber Pakhtunkhwa, Peshawar.
3. District Education Officer, D.I.Khan.
4. Deputy Director, Education, D.I.Khan.
5. District Account Officer, Dera Ismail Khan.

**(Respondents)**

**Para Wise Comments/Replies on behalf of Respondent No.5.**

**RESPECTFULLY SHEWETH:**

**Preliminary Objections:-**

1. That the Appellant has got no cause of action against Respondent No.5.
2. That the Appellant has got no Locus Standi.


**Objections on Facts.**

1. Needs no Comments by Respondent No.5.
2. Needs no Comments by Respondent No.5.
3. Does not Pertain to Respondent No 5.
4. Does not Pertain to Respondent No 5.
5. Does not Pertain to Respondent No 5.
6. Does not Pertain to Respondent No 5.
7. Does not Pertain to Respondent No 5.
8. Does not Pertain to Respondent No 5.
9. Needs no Comments by Respondent No.5.

**Objections on Grounds.**

- A. Pertains to Respondent No.3 &4.
- B. Pertains to Respondent No.3 &4.
- C. Point of law.
- D. Pertains to Respondent No.3 &4.
- E. Point of law.
- F.

In view of foregoing Replies/Comments, it is, very much clear that bone of Contentions/Grievances of Appellant is among Respondents No.1, 2, 3& 4, and Respondent No. 5 has no concern with this dispute. It is, therefore, humbly prayed that the name of this office may kindly be excluded from the panel Respondents upon an enclosed Application under 1 Rule-10 (2) of CPC-1908.

  
District Accounts Officer  
Dera Ismail Khan  
(Respondent No.5)

**BEFORE THE K.P SERVICE TRIBUNAL PESHAWAR.**

Service Appeal No. 941 /2015

Amanullah .....Appellant

**VERSUS**

Secretary E&SE K.P.K Peshawar etc..... Respondents

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6	Stamp Court Fee-Rs. Application for status Quo.	500/-	11
7	Wakalatnama		

Dated: 19<sup>th</sup>, Aug. 2015

*Amanullah*  
Appellant  
through,

*S. Shahid Sherazi*  
S. Shahid Sherazi  
Advocate High Court  
District Bar D.I.Khan.  
Cell# 0333-9962514

①

**BEFORE THE K.P SERVICE TRIBUNAL PESHAWAR.**

Service Appeal No. 941 /2015

Amanullah S/O Jan Muhammad R/O Muryali DIK PST GPS  
Sikandar Janubi No.1 Tehsil Parova District Dera Ismail  
Khan.....Appellant

**VERSUS**

**P.W.F. Province**  
**Service Tribunal**

Diary No. 979

Dated 20/8/2015

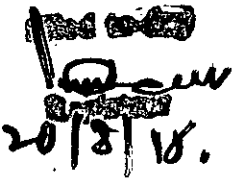
1. Secretary E&SE K.P.K Peshawar.
2. Director E&SE K.P Peshawar.
3. District Educational Officer DIKhan.
4. Deputy <sup>Distt.</sup> Director Education <sup>officer</sup> D.I.Khan.
5. District Account Officer DIKhan..... Respondents

**APPEAL U/S 4 SERVICE TRIBUNAL ACT**  
**1974 AGAINST THE IMPUGNED ORDER**  
**DATED 19-7-2014 OF RESPONDENT NO.3 IN**  
**WHICH HE REFUSED TO PAY OF THE**  
**SALARY ARREAR OF APPELLANT AND**  
**AGAINST THE RESPONDENT NO.2, WHO DID**  
**NOT RESPONDENT THE DEPARTMENT**  
**APPEAL OF APPELLANT.**

**Respectfully Sheweth:-**

**Note:-** The addresses of respondents given above are sufficient for service of notice.

1. That the appellant is primary School Teacher at G.P.S Sikandar Janubi Tehsil Parova DIKhan.

  
20/8/15.

(2)

2. That the appellant has performed his duties with the entire satisfaction of his high ups.
3. That the appellant has been falsely implicated in two (2) criminal cases i.e. FIR No. 111 dated 30-07-2007 District D.G Khan and FIR No. 124 dated 22-06-2009 u/s 365-A PPC Ps Sara e Mahajar District Bhakkar and later on the Honourable Courts have acquitted the appellant from the charge leveled against him on dated 07-11-2013 and 02-07-2013 respectively.
4. That due to the above said FIRs, the appellant has been suspended vide order No.8740-43, dated 18-05-2010 from the services.
5. That the appellant has been re-instated into service with effect from his suspension i.e. 18-05-2010, vide order No.750-53, dated 16-01-2014. Copy of order dated 16-01-2014 is attached as annexure "A".
6. That the respondent no.3 issued the impugned order No.10078, dated: 19-07-2014 in which he ordered not to pay the arrears of appellant and treated his absent period as extra ordinary leave without pay, without mentioning any cogent reason. Copy of impugned order dated 19-07-2014 is attached as annexure "B".
7. That the appellant time and again approached the respondent No.3 & 4 to redress the grievance of appellant who verbally ensured the appellant that the matter is under process, but all in vain. **ANX-"C"**
8. That the appellant finally approached the respondent No.2 by filing departmental appeal but the respondent No.2 puts deaf ears towards the request of appellant. Copy of departmental appeal is attached as annexure "D".
9. That the appellant being aggrieved preferred this service appeal for the following amongst other grounds.

*Handwritten signature*

**GROUNDS**

- A.** That the refusal to pay the arrears has no legal footing the stand upon.
- B.** That the appellant has never remained absent willfully but just because of false criminal cases, hence the impugned order is illegal without lawful authority and the appellant is entitled to receive the arrears of salary.
- C.** That it is settle principal of superior courts that no limitation runs in the financial matter hence the instant appeal is well with in time.
- D.** That the respondent no.3 & 4 used the delaying tactics, not to redress the grievances of appellant. Due to this practice of respondent no.3 & 4, the precious time of appellant has been vested.
- E.** That it is just, fair as well as in the interest of justice to accept the instant appeal.

**It is therefore, prayed that by accepting this appeal the impugned order dated 19-7-2014 may please be set-aside and consequently the arrears of salary may also be ordered to pay the appellant.**

**Dated: 19<sup>th</sup>, Aug. 2015**

*Amirullah*  
Appellant  
through,

*S. Shahid Sherazi*  
S. Shahid Sherazi  
Advocate High Court

**BEFORE THE K.P SERVICE TRIBUNAL PESHAWAR.**

Service Appeal No. \_\_\_\_\_/2015

Amanullah ..... **Appellant**

**VERSUS**

Secretary E&SE K.P.K Peshawar etc..... **Respondents**

**AFFIDAVIT**

I, Amanullah S/O Jan Muhammad R/O Muryali D.I.Khan, declare on oath that all the contents of above instant Service Appeal petition are true & correct to the best of my knowledge, that nothing has been cancelled from this Honourable Court.

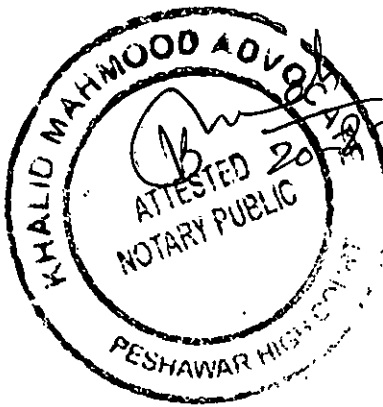
**Deponent**

Dated:- 19-08-2015

*Amanullah*

Identified by:-

**S. Shahid Sherazi  
Advocate High Court**



*Amanullah*

*Please do the necessary work in his service books*  
*S/O*  
*21/07/14*  
*21/07/14*  
*21/07/14*

1. xlvii

(2)

1. xlviii

(3)

7



OFFICE OF THE SUB DIVISIONAL EDUCATION OFFICER  
(MALE) PAROA .DERA ISMAIL KHAN

NO. \_\_\_\_\_

Dated. \_\_\_\_\_ / \_\_\_\_\_ 2014

To

The District Education Officer  
Male, D I Khan.

Subject

GUIDANCE

Memo -

Kindly refer to your office letter NO 750-53 dated 1601-2014 (copy attached)

Enclosed please find herewith an application in respect of Amanullah PST GPS Sikender Janubi Proa, with the remarks that:

- i. According to office record the teacher concerned was suspended from service by the then EDO (E&SE) DIKhan order NO.8740-43 dated 18-05-2010 due to absence from duty (copy attached).
- ii. Suspension allowance w.e.f 01-05-2010 to 31-08-2012 has been paid to the teacher concerned (copy attached).
- iii. That the teacher concerned has been re-instated into service w.e.f 18-05-2010 in accordance with the decision of court of special Judge Anti-Terrorism court Sargodha and D.G.Khan under order NO 750-53 dated 1601-2014
- iv. That then teacher is performing his duties and his salary is activated since 01-03-2014
- v. Now he has claimed for salary for the remaining period of absence from duties

In view of stated facts the following points need consideration

- i. The teacher concerned was suspended from the service on account of absence from the duty w.e.f 01-05-2010 and reinstated into service under order dated 16-01-2014 on the ground that he has been acquitted from the charges leveled against him by the court of special judge Anti Terrorism. The ground of re instatement is other than the ground he was suspended from the duty. Further there is no mention of back benefits in the re instatement order.
- ii. Whether the applicant is entitled for the salaries for the period he remained absent from duty and claimed now. It is worth mention here that he remained absent about four years.

Hence it is requested that necessary guidance may kindly be furnished please to proceed further in the matter

  
SUB DIVISIONAL EDUCATION OFFICER  
MALE PAROA DIKHAN

  
ATTESTED





کدیت جناب ڈسٹرکٹ ایجوکیشن آفیسر (میل) ڈیرہ اسماعیل خان

جای عالی

مورد باہر عرض ہے کہ سائل جناب کے زیر سابقہ حکم تعلیم میں  
 برائے مری سکول ٹیچر ہے اور چھوٹے مقدمات کی وجہ سے  
 مورخہ 18/05/2010 کو ملازمت سے *Suspension* کر دیا گیا۔ کدیرہ  
 عدالت نور اللہ نے من سائل کو چھوٹے مقدمات سے  
 مری فرمایا اور جناب کے حکم مورخہ 16/01/2014 کو ملازمت  
 پر از تاریخ *Suspension* کا سوا مسٹر مذکورہ  
 حکم میں نہ کو *Suspension period* کو شروع ہوا  
 چھٹی سگریٹ لگا اور نہ ہی کوئی دیگر آرڈر کا ذکر کیا گیا۔  
 مسٹر جناب کے حالیہ آرڈر نمبر 10078 مورخہ 19/07/2014  
 من سائل کے ساتھ سراسر زیادتی ہے۔ اور من سائل  
 کو لعدہ منہ حکم جاری کیا گیا۔ جناب سے تشریح ہے  
 کہ مذکورہ آرڈر مورخہ 19/07/2014 کو مسترد کر کے  
 منسکور فرمائیں

عین کوائزس ہوگی  
 موصلاً: 15/10/2014

A  
 main Allah

الذ  
 امان اللہ PST گورنمنٹ پرائمری سکول سکندر صوبی  
 تحصیل پروا ڈیرہ اسماعیل خان

ATTESTED

Attest

خدمت جناب ڈائریکٹر ایگزیکیوٹو ایڈمنسٹریشن اینڈ سکیورٹی ایجوکیشن چیف ایگزیکٹو آفیسر، لہور

عنوان: اپیل برخلاف حکم نمبر 10078 مورخہ 19/07/2014

جناب عالی! سائل ذیل عرض رساں ہے۔

1. یہ کہ من سائل محکمہ تعلیم میں بطور PST فرائض سرانجام دے رہا ہے مگر سائل 2007 اور 2009 میں سیاسی بنیاد پر من سائل کے برخلاف 02 فوجداری مقدمات قائم کیے گئے جن سے من سائل باعزت بری ہوئے۔

2. یہ کہ مورخہ 18/05/2010 کو بوجہ مقدمات من سائل Suspend کیا گیا مگر بعد ازاں فیصلہ جناب DEO صاحب ڈیرے من سائل کو مورخہ 18/05/2010 سے ہی جاری کا حکم صادر فرمایا۔

3. یہ کہ من سائل کے برخلاف ایک اور حکم مورخہ 19/07/2014 کو جاری ہوا جو کہ خلاف واقعات اور من سائل کو نصیحت سے جاری کیا گیا۔ بدین نسبت من سائل نے بار بار درخواست کی کہ مذکورہ حکم کو منسوخ فرمایا جائے۔ جس پر من سائل کو متذکرہ بار طلب کیا گیا مگر جناب DEO (M) ڈیرہ صاحب نے کوئی خاطر خواہ کارروائی دیکھنے میں نہ آئی۔ لیکن مذکورہ حکم پر عملدرآمد رکھا ہوا ہے۔

4. یہ کہ مذکورہ بار حکم سر اسرار الصافی اور من سائل کے حقوق پر قطع غیر موثر ہے لہذا مذکورہ حکم کو منسوخ کرنے کا حکم صادر فرمائیں قرین انصاف ہوگا۔

عین نوازش ہوگی

تقدیر: 25-04-2015

الحاجہ  
Maryamullah

امان اللہ ولد جان محمد (PST) گورنمنٹ پرائمری سکول  
سکندر جنوبی تحصیل پروا، ڈیرہ اسماعیل خان

ATTESTED

Handwritten signature

**BEFORE THE K.P SERVICE TRIBUNAL PESHAWAR.**

Service Appeal No. \_\_\_\_\_/2015

Amanullah ..... **Appellant**

**VERSUS**

Secretary E&SE K.P.K Peshawar etc..... **Respondents**

**Application for suspension of the  
Operation of impugned order.**

**Respectfully Sheweth:**

1. That the titled service appeal is yet to be fixed for adjudication.
2. That the operation of impugned order will cause irreparable loss to appellant and damage the purpose of instant appeal, hence it need to be suspended till the decision of instant appeal.
3. That the titled appeal may be treated as part & Parcel of this application.

It is therefore prayed that by accepting this application the operation of impugned order may please be suspended till the decision of case.

Dated:19-08-2015

  
Appellant

Through,

  
**S. Shahid Sherazi**  
Advocate High Court

**KHYBER PAKHTUNKHWA  
BAR COUNCIL**

**ADVOCATE HIGH COURT**



**SYED SHAHID  
IRFAN SHEERAZI**  
Adv. (KBC-11-2497)



Secretary's  
Signature

A handwritten signature in black ink, appearing to be 'S. Irfan'.

# وکالت نامہ

ایک روپیہ قیمت		کورت فیس
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بعدالت جناب سر مکمل ٹریبیونل کیمبر ڈیپارٹمنٹ کراچی

منجانب مخبر

نام سلطان ایجوکیشن ٹرسٹ

اعان اللہ

دعویٰ یا جرم

تفصیل دعویٰ یا جرم سر اسٹریٹ

## باعث تحریر آنکہ

مقدمہ مندرجہ بالا عنوان میں اپنی طرف واسطے پیروی و جوابدہی برائے پیشی یا تصفیہ مقدمہ کے مقام محمد عظیم الرحمن کو حسب ذیل شرائط پر وکیل مقرر کیا ہے، کہ میں برقی پیشی پر مظهر حاضر نہ ہوں گا، اگر پیشی پر مظهر حاضر نہ ہوں گا، اور مقدمہ میری غیر حاضری کی وجہ سے کسی طور پر میرے برخلاف ہو گیا۔ تو صاحب موصوف اس کے کسی طرح ذمہ دار نہ ہوں گے، نیز وکیل صاحب موصوف صدر مقام کچہری کے علاوہ کسی جگہ یا کچہری کے اوقات سے پہلے یا پیچھے یا بروز تعطیل پیروی کرنے کے ذمہ دار نہ ہوں گے۔ نیز وکیل صاحب موصوف صدر مقام کچہری کے علاوہ کسی جگہ یا کچہری کے اوقات سے پہلے یا پیچھے یا بروز تعطیل پیروی کرنے کے ذمہ دار نہ ہوں گے۔ اور مقدمہ صدر کچہری کے علاوہ اور جگہ سماعت ہونے یا بروز تعطیل یا کچہری کے اوقات کے آگے پیچھے پیش ہونے پر مظهر کو کوئی نقصان پہنچے تو اس کے ذمہ دار یا اس کے واسطے کسی معاوضہ کے ادا کرنے یا عتقانہ واپس کرنے کے بھی موصوف ذمہ دار نہ ہوں گے۔ مجھ کو کل ساختہ پروا خط صاحب موصوف مثل کردہ ذات خود منظور و قبول ہوگا۔ اور صاحب موصوف کو عرضی دعویٰ، یا جواب دعویٰ یا درخواست اجراءے ڈگری و نظر ثانی اپیل و ہرجم درخواست پر دستخط و تصدیق کرنے کا بھی اختیار ہوگا۔ اور کسی حکم یا ڈگری کرانے اور ہرجم کاروبار وصول کرنے اور رسید دینے اور واپس کرنے اور ہرجم کے میان دینے اور اس پر پٹائی یا راضی نامہ و فیصلہ بر حلف کرنے، اقبال دعویٰ کا بھی اختیار ہوگا۔ اور بصورت مقرر ہونے تاریخ پیشی مقدمہ مذکورہ بیرون از کچہری صدر پیروی مقدمہ مذکورہ نظر ثانی و اپیل و ہرجم کی مقدمہ یا منسوخی ڈگری یکطرفہ یا درخواست حکم امتناعی یا قرقنی یا گرفتاری قبل از فیصلہ اجراءے ڈگری بھی صاحب موصوف کو بشرط ادائیگی علیحدہ ضمانت پیروی کا اختیار ہوگا اور تمام ساختہ پروا خط صاحب موصوف مثل کردہ ذات خود منظور و قبول ہوگا۔ اور بصورت ضرورت صاحب موصوف کو یہ بھی اختیار ہوگا کہ مقدمہ مذکورہ یا اسکے کسی نزو کی کارروائی یا بصورت درخواست نظر ثانی اپیل یا گرفتاری یا دیگر معاملہ مقدمہ مذکورہ کسی دوسرے وکیل یا ایئر شروک اپنے بجائے یا اپنے ہمراہ مقرر کریں۔ اور ایسے مشیر قانون کو بھی ہر امر میں وہی اور ویسے اختیارات حاصل ہوں گے، جیسے صاحب موصوف کو حاصل ہیں، اور دوران مقدمہ میں جو کچھ ہر جانہ التواء پڑے گا، وہ صاحب موصوف کا حق ہوگا۔ مگر صاحب موصوف کو پوری فین تاریخ پیشی سے پہلے ادا نہ کروں گا۔ تو صاحب موصوف کو پورا اختیار ہوگا کہ وہ مقدمہ کی پیروی 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

مورخہ 23 ماہ اگست 2017ء

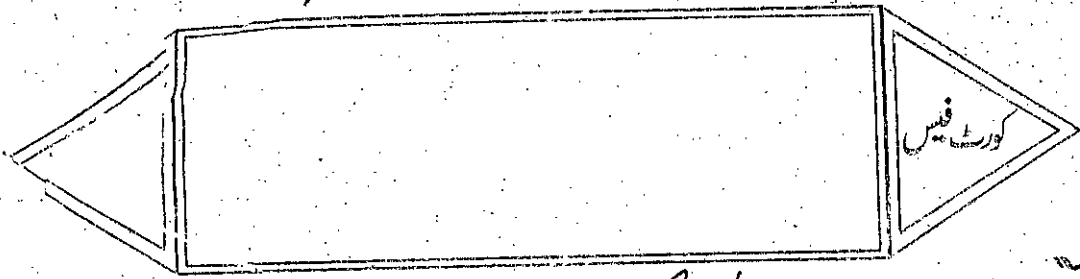
مضمون وکالت نامہ من لیا ہے۔ اور اچھی طرح سمجھ لیا ہے اور منظور ہے۔

العبد العبد العبد

اعان اللہ

*(Signature)*

# وکالت نامہ



بعدالت جناب سرسبز پیردلی اور خواجہ ابی براسے پیشی یا تصفیہ مقدمہ مقام

مخانب سرسبز

امان اللہ پیٹام KPK

دعویٰ یا جرم

تفصیل دعویٰ یا جرم

## باعث اثر پرائنگ

مقدمہ پندرہ سالہ جوان میں اپنی طرف واسطے پیردلی اور خواجہ ابی براسے پیشی یا تصفیہ مقدمہ مقام

KPK کیلئے

کوسب ذیل کے اندر وکیل متروک کیا ہے، کہ میں ہر پیشی پر خود بذریعہ اختیار تمام روز بروز عدالت حاضر ہوتا رہوں گا۔ اور ہر وقت پکارے جانے مقدمہ وکیل صاحب موصوف کو اطلاع دیکر باہر عدالت کروں گا، اگر پیشی پر مظہر حاضر نہ ہوں اور مقدمہ میری غیر حاضری کی وجہ سے کسی طور پر میرے برخلاف ہو گیا۔ تو صاحب موصوف اسکے کسی طرح ذمہ دار نہ ہوں گے، نیز وکیل صاحب موصوف صدر مقام پیکر کی کے علاوہ کسی جگہ یا پیکری کے اوقات سے پہلے یا چھپے ماروہ قسطاً نہ ہوں گے۔ ذمہ دار نہ ہوں گے۔ نیز وکیل صاحب موصوف صدر مقام پیکر کی کے علاوہ کسی جگہ یا پیکری کے اوقات سے پہلے یا چھپے ماروہ قسطاً نہ ہوں گے۔ اور مقدمہ صدر پیکر کی کے علاوہ اور جگہ ساعت ہونے یا بروز قسطاً یا پیکری کے اوقات کے آگے چھپے پیش ہونے پر مظہر کو کوئی نقصان پہنچے تو اس کے ذمہ دار یا اس کے واسطے کسی معاوضے کے ادا کرنے یا نفعانہ واپس کرنے کے بھی موصوف ذمہ دار نہ ہوں گے۔ مجھ کو کل ساختہ پروا خط صاحب موصوف مثل کردہ ذات خود منظور قبول ہوگا۔ اور صاحب موصوف کو عرضی دعویٰ یا جواب دعویٰ یا درخواست اراضی ڈگری و نظریاتی اپیل گرانہ اور ہر قسم درخواست پر دستخط تصدیق کرنے کا بھی اختیار ہوگا۔ اور کہ تم یا ڈگری کرانے اور ہر قسم کاروبار وصول کرنے اور سمیٹ دینے اور واپس کرنے اور ہر قسم کے بیان دینے اور اس پر غاشی یا راضی نامہ و فیصلہ بر حلف کرنے، اقبال دیا کا بھی اختیار ہوگا۔ اور یہ صورت مقرر ہوئے تاریخ پیشی مقدمہ نہ کوہ پیردلی اور خواجہ ابی براسے مقدمہ مذکورہ نظر ثانی و اپیل و گرانہ و برآمدگی مقدمہ یا منسفی ڈگری یا طرف یا درخواست حکم انتہائی یا قریبی یا گرفتاری جس از فیصلہ اجراء سے ڈگری بھی صاحب موصوف کو بشرط ادائیگی علیحدہ عین پیردلی کا اختیار ہوگا اور تمام ساختہ پروا خط صاحب موصوف مثل کردہ ذات خود منظور قبول ہوگا۔ اور یہ صورت ضرورت صاحب موصوف کو یہ بھی اختیار ہوگا کہ مقدمہ مذکورہ یا اسکے کسی جزو کی کارروائی یا بہ وقت درخواست نظر ثانی اپیل یا گرانہ یا دیگر معاملہ مقدمہ مذکورہ کسی دوسرے وکیل یا میر منتر کو اپنے بجائے یا اپنے ہمراہ مقرر کریں۔ اور ایسے شیر قانون کو بھی ہر امر میں دی اور یہ ایسے اختیار ذات حاصل ہو گئے۔ جیسے صاحب موصوف کو حاصل ہیں، اور وہ راز مقدمہ میں جو کچھ ہر جائد التواہ پر لگا، وہ صاحب کا حق ہوگا۔ مگر صاحب موصوف کو پوری نہیں اس پیشی سے پہلے ادا نہ کروں گا۔ تو صاحب موصوف کو پورا اختیار ہوگا کہ وہ مقدمہ کی پیروی نہ کریں اور ایسی ہیرا کوئی مطالبہ کسی قسم کا صاحب موصوف کے برخلاف نہیں ہوگا۔

موجودہ ماہ 201

مضمون وکالت نامہ سن لیا ہے۔ اور اسی طرح سمجھ لیا ہے اور منظور ہے۔

الذی  
Ampuleq

الذی  
Ampuleq

پیردلی اور خواجہ ابی براسے

**BEFORE THE HONOURABLE SERVICE TRIBUNAL KPK PESHAWAR**

**S. A. No. 941-15**

**Aman Ullah**

**VS**

**Government of KPK**

**JOINT COMMENTS ON THE BEHALF OF RESPONDENTS**

**Preliminary Objections**

1. That the appellant has got no cause of action / locus standi.
2. That the appeal is bad on account of mis-joinder / non-joinder of necessary parties.
3. That the instant Service Appeal is against the prevailing laws and rules.
4. That the appellant is estopped by his own conduct to file this appeal.
5. That the appellant has concealed the material facts from the Honourable Service Tribunal.
6. That the instant Appeal is based on malafide intentions just to put extra pressure on the respondents for the gaining illegal service benefits.
7. That the instant Service Appeal is badly time barred.
8. That the Appellant is not entitled for any kind of relief which he has sought from this Honourable Service Tribunal.
9. That this Honourable Service Tribunal has got no jurisdiction to adjudicate upon the present service appeal.
10. That the Appellant is not an aggrieved person, and remained absconder for four years from service w.e.f 01-05-2010 to 16-01-2014 in case FIR No. 111/07 dated 30-07-2007 & FIR No. 124 dated 22-06-2009.
11. That the appeal is not maintainable in its present form and incompetent in the eye of law.
12. That the appellant has not come to the Honourable Service Tribunal with clean hands.

**Objections on Facts**

1. This Para is pertained to the service record of the appellant, hence no comments.
2. This para is incorrect/not admitted, and strongly denied.
3. This para is incorrect / not admitted. hence vehemently denied. The appellant was involved in FIR No.111/07 dated 30-07-2007 & FIR No. 124 dated 22-06-2009 and remained absent from duty for four years. After the registration of these criminal cases the appellant remained absent from his school duties. The appellant has neither informed his Elementary & Secondary Education Department and nor surrendered before the court of law. So according to **E & D Rule 2011** the salary of appellant was inactive by the respondent No.3. The District Police Officer Bhakkar has informed the District Education Officer (Male) DIKhan vide his office letter No 16774 dated 18-05-2010 that Mr Aman Ullah is a proclaimed offender and you are requested to initiate departmental action under the rule against the said teacher. (letter is enclosed as annexure A)
4. Incorrect / not admitted. The appellant was suspended from the service w.e.f 01-05-2010 to 31-08-2012 and also it is added that appellant has received the suspension allowance for above mentioned period.
5. Refuted. Vehemently denied. As after the reinstatement in the services the appellant has not joined his duty and remained absent from 01-09-2012 to 16-01-2014. The report of the then Deputy District officer (M) Primary Parova DIKhan is annexed as annexure B.



6. This para is incorrect hence over ride and over rule. The SDEO (Male) Parova has issued a letter No 1288 dated 11-07-2014 with subject **GUIDANCE** regarding about the absence from duty of appellant. In the reply respondent No 3 issued a order No 10078 dated 19-07-2014 that not to pay the arrears, to the appellant and treated the absent period as an extra ordinary leave without pay. (annexure C)
7. Incorrect / not admitted. Respondent No 3 has rightly refused the appellant to pay any kind of monthly salary for his willful absence from duty.
8. Strongly denied. The appeal of appellant was rejected due to his ridiculous cause.
9. Rebutted. The appeal of appellant is only an exercise in futility.

### **Objections on Grounds**

- A. This para is refuted. The act of respondent No 3 was according to law and based upon the legal footings.
- B. Incorrect / not admitted. The appellant was willfully absent from his duty place he was proclaimed offender as declared by DPO Bhakkar vide his office letter No 16774 dated 18-05-2010 and the then DDEO (M) Primary Parova DIKhan office letter No 638 dated 30-11-2012.
- C. This para is incorrect. strongly denied. The instant service appeal is time barred.
- D. Incorrect, forcefully denied. The respondents acted according to law and rules.
- E. Incorrect / not admitted, vehemently denied. The appeal of appellant is void and without legal footings.

In view of above submission it is humbly prayed that service appeal of appellant may kindly be dismissed with cost.

**Secretary**  
**Elementary & Secondary Education Department**  
**Khyber Pakhtunkhwa Peshawar**

**Director**  
**Elementary & Secondary Education Department**  
**Khyber Pakhtunkhwa Peshawar**

**District Education Officer**  
**(Male) Dera Ismail Khan**

30/07/2017  
**Director**  
**Elementary & Secondary Education**  
**Khyber Pakhtunkhwa Peshawar**

**Sub Divisional Education Officer**  
**(M) Parova DIKhan**

**Sub Divisional Education**  
**Officer (M) Parova D.I.Khan**

27/1/017

**BEFORE THE HONOURABLE SERVICE TRIBUNAL DIKHAN BENCH**

S. A. No. 941-15

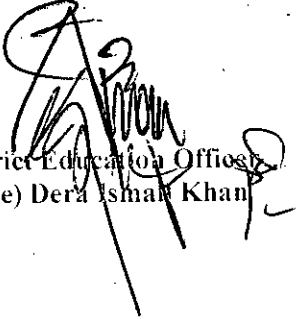
Aman Ullah

VS

Government of KPK

**Authority**

I District Education Officer (M) do hereby authorized Mr Muhammad Kamran Khan Legal representative of District Education Office (Male) Dera Ismail Khan to attend the Honourable Service Tribunal Dera Ismail Khan Bench on our behalf in connection with submission of para wise comments till the decision of the service appeal.

  
District Education Officer  
(Male) Dera Ismail Khan

**BEFORE THE HONOURABLE SERVICE TRIBUNAL DIKHAN BENCH**

S. A. No. 941-15

Aman Ullah

VS

Government of KPK

**Affidavit**

I Mr Muhammad Kamran Khan Legal Representative of District Education Officer (M) Dera Ismail Khan do hereby solemnly affirm and declared on oath that content and written reply of the of the above mentioned service appeal are correct to the best of my knowledge and nothing has been concealed from this Honourable Court.

M Kamran  
Deponent

**BEFORE THE HONOURABLE SERVICE TRIBUNAL KPK PESHAWAR**

**S. A. No. 941-15**

**Aman Ullah**

**VS**

**Government of KPK**

**JOINT COMMENTS ON THE BEHALF OF RESPONDENTS**

**Preliminary Objections**

1. That the appellant has got no cause of action / locus standi.
2. That the appeal is bad on account of mis-joinder / non-joinder of necessary parties.
3. That the instant Service Appeal is against the prevailing laws and rules.
4. That the appellant is estopped by his own conduct to file this appeal.
5. That the appellant has concealed the material facts from the Honourable Service Tribunal.
6. That the instant Appeal is based on malafide intentions just to put extra pressure on the respondents for the gaining illegal service benefits.
7. That the instant Service Appeal is badly time barred.
8. That the Appellant is not entitled for any kind of relief which he has sought from this Honourable Service Tribunal.
9. That this Honourable Service Tribunal has got no jurisdiction to adjudicate upon the present service appeal.
10. That the Appellant is not an aggrieved person. and remained absconder for four years from service w.e.f 01-05-2010 to 16-01-2014 in case FIR No. 111/07 dated 30-07-2007 & FIR No. 124 dated 22-06-2009.
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4. Incorrect / not admitted. The appellant was suspended from the service w.e.f 01-05-2010 to 31-08-2012 and also it is added that appellant has received the suspension allowance for above mentioned period.
5. Refuted. Vehemently denied. As after the reinstatement in the services the appellant has not joined his duty and remained absent from 01-09-2012 to 16-01-2014. The report of the then Deputy District officer (M) Primary Parova DIKhan is annexed as annexure B.

6. This para is incorrect hence over ride and over rule. The SDEO (Male) Parova has issued a letter No 1288 dated 11-07-2014 with subject **GUIDANCE** regarding about the absence from duty of appellant. In the reply respondent No 3 issued a order No 10078 dated 19-07-2014 that not to pay the arrears, to the appellant and treated the absent period as an extra ordinary leave without pay. (annexure C)
7. Incorrect / not admitted. Respondent No 3 has rightly refused the appellant to pay any kind of monthly salary for his willful absence from duty.
8. Strongly denied. The appeal of appellant was rejected due to his ridiculous cause.
9. Rebutted. The appeal of appellant is only an exercise in futility.

### Objections on Grounds

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- B. Incorrect / not admitted. The appellant was willfully absent from his duty place he was proclaimed offender as declared by DPO Bhakkar vide his office letter No 16774 dated 18-05-2010 and the then DDEO (M) Primary Parova DIKhan office letter No 638 dated 30-11-2012.
- C. This para is incorrect. strongly denied. The instant service appeal is time barred.
- D. Incorrect, forcefully denied. The respondents acted according to law and rules.
- E. Incorrect / not admitted, vehemently denied. The appeal of appellant is void and without legal footings.

In view of above submission it is humbly prayed that service appeal of appellant may kindly be dismissed with cost.

Secretary  
Elementary & Secondary Education Department  
Khyber Pakhtunkhwa Peshawar

Director  
Elementary & Secondary Education Department  
Khyber Pakhtunkhwa Peshawar

District Education Officer  
(Male) Dera Ismail Khan

Vetted  
District Attorney  
D.I.Khan

Sub Divisional Education Officer  
(M) Parova DIKhan

24/9/17

BEFORE THE HONOURABLE SERVICE TRIBUNAL KPK PESHAWAR

S. A. No. 941-15

Aman Ullah

VS

Government of KPK

JOINT COMMENTS ON THE BEHALF OF RESPONDENTS

Primary Objections

- That the appellant has got no cause of action / locus standi.
- That the appeal is bad on account of mis-joinder / non-joinder of necessary parties.
- That the instant Service Appeal is against the prevailing laws and rules.
- That the appellant is estopped by his own conduct to file this appeal.
- That the appellant has concealed the material facts from the Honourable Service Tribunal.
- That the instant Appeal is based on mala fide intentions just to put extra pressure on the respondents for the gaining illegal service benefits.
- That the instant Service Appeal is badly time barred.
- That the Appellant is not entitled for any kind of relief which he has sought from this Honourable Service Tribunal.
- That this Honourable Service Tribunal has got no jurisdiction to adjudicate upon the present service appeal.
- That the Appellant is not an aggrieved person, and remained absconder for four years from service w.e.f 01-09-2010 to 16-01-2014 in case FIR No. 111/07 dated 30-07-2007 & FIR No. 124 dated 22-06-2009.
- That the appeal is not maintainable in its present form and incompetent in the eye of law.
- That the appellant has not come to the Honourable Service Tribunal with clean hands.

Objections on Facts

- This Para is pertained to the service record of the appellant, hence no comments.
- This para is incorrect/not admitted, and strongly denied.
- This para is incorrect / not admitted, hence vehemently denied. The appellant was involved in FIR No.111-07 dated 30-07-2007 & FIR No. 124 dated 22-06-2009 and remained absent from duty for four years. After the registration of these criminal cases the appellant remained absent from his school duties. The appellant has neither informed his Elementary & Secondary Education Department and nor surrendered before the court of law. So according to E & D Rule 2011 the salary of appellant was inactive by the respondent No.3. The District Police Officer Bhakkar has informed the District Education Officer (Male) DIKhan vide his office letter No 16774 dated 18-05-2010 that Mr Aman Ullah is a proclaimed offender and you are requested to initiate departmental action under the rule against the said teacher. (letter is enclosed as annexure A)
- incorrect / not admitted. The appellant was suspended from the service w.e.f 01-09-2010 to 31-08-2012 and also it is added that appellant has received the suspension allowance for above mentioned period.
- incorrect. Vehemently denied. As after the reinstatement in the services the appellant has resumed his duty and remained absent from 01-09-2012 to 16-01-2014. The report of teacher Deputy District Officer (M) Primary Parova DIKhan is annexed as annexure B.

... is incorrect hence over ride and over rule. The SDEO (Male) Parova has issued order No 1288 dated 11-07-2014 with subject **GUIDANCE** regarding about the ... from duty of appellant. In the reply respondent No 3 issued a order No 10078 dated 19-07-2014 that not to pay the arrears, to the appellant and treated the absent period as an extraordinary leave without pay. (annexure C)

... is incorrect / not admitted. Respondent No 3 has rightly refused the appellant to pay any amount of monthly salary for his willful absence from duty.

... is strongly denied. The appeal of appellant was rejected due to his ridiculous cause.

... is rebutted. The appeal of appellant is only an exercise in futility.

### Objections on Grounds

... is incorrect. This part is refuted. The act of respondent No 3 was according to law and based upon the legal footings.

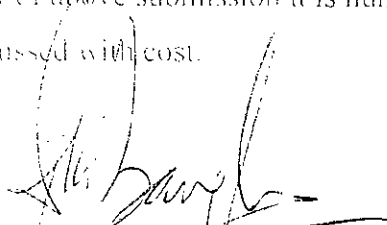
... is incorrect / not admitted. The appellant was willfully absent from his duty place he was proclaimed offender as declared by DPO Bhakkar vide his office letter No 16774 dated 18-08-2010 and the then DDEO (M) Primary Parova DIKhan office letter No 638 dated 11-07-2012

... is incorrect. This part is incorrect, strongly denied. The instant service appeal is time barred.

... is incorrect, forcefully denied. The respondents acted according to law and rules.

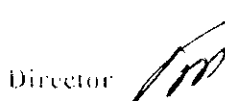
... is incorrect / not admitted, vehemently denied. The appeal of appellant is void and without legal footings.

In view of above submission it is humbly prayed that service appeal of appellant may be dismissed with cost.



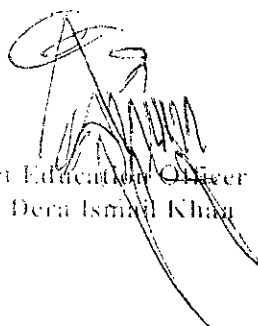
Secretary

Primary & Secondary Education Department  
Khyber Pakhtunkhwa Peshawar

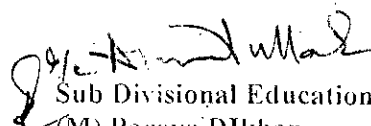


Director

Primary & Secondary Education Department  
Khyber Pakhtunkhwa Peshawar



District Education Officer  
(Male) Dera Ismail Khan



Sub Divisional Education Officer  
(M) Parova DIKhan  
Sub Divisional Education  
Officer: (M) Parova D.I Khan

A

3

From The District Police Officer,  
Bhakkar.

To The Executive District Officer,  
(Education), Dera Ismail Khan.

No. 16774 Dated/ 18-5-10

**SUBJECT: DEPARTMENTAL ACTION AGAINST AMAN  
ULLAH ALIAS AWAMI**

Memorandum:

It is intimated that Aman Ullah alias Awami s/o  
Jan Muhammad, caste Balouch r/o Murali Dera Ismail Khan is  
working as PST. at Govt. Primary School Murali, who is  
required/wanted in case FIR No. 124 dated 22.6.09 u/s 365-A PS  
Serai Mohajir and declared as Proclaimed Offender.

You are requested to initiate departmental  
action under rules against the above said teacher under  
intimation to this office.

got  
27/5/10  
DDA (AM) Prov  
DDA (AM) Prov  
22-5-10

see  
District Police Officer,  
Bhakkar

No: 1975 (B)  
22-5-10



6

ANX-B

Office of the District Education Officer (Male) D.I.Khan.  
No. 10078 / AE-9 PEST (14)  
Dated DIKhan the 19/7 / 2014

To


The Sub Divl. Education Officer (Male) Feroza.

Subject: GUIDANCE.  
Memo:

Ref: your No. 1205 dated 11-07-2014.

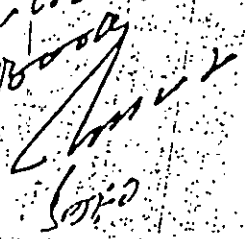
According to your information provided under referred above that the teacher remained absent for four years.


Hence his absent period of four year may be treated as Extra. Ordinary leave without pay as per rules.

  
District Education Officer  
(Male) D.I.Khan.  
19/7/14

Distt No.                       
COPY TO THE:-  
1- The District Accounts Officer, D.I.Khan.  
2- The Director Ele/Secondary Education Khyber Pakhtunkhwa, Peshawar.

District Education Officer  
(Male) DIKhan

ASD/EO/Accountant  
Please do the need full  
and necessary entries be made  
in his service book  


  
ASD/EO (M) P  
21/07/14

**OFFICE OF THE DEPUTY DISTRICT OFFICER (M) PRY:PAROA DIKHAN.**

Endst No: 628 Dated DDO(M)Pry:Paroa the: 30 / 11 /2012:

To

The Executive District Officer  
Elementary & Secondary Education  
Dera Ismail Khan.

Subject: **REPORT ABOUT Mr.AMANULLAH PST.**

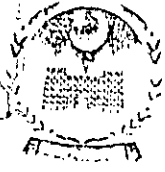
Memo:

I have the honour to inform you that Mr,Amanullah PST has been transferred to GPS Sikandar Janubi vide Endst No:7947-50 dated:05 /05 /2010. The said teacher has been suspended by the competent authority due to absence from duty w.e.from:01/05/2010 vide Endst No:8740-43 dated:18/05/2010 .Suspension allowance w. E. From :01 / 05 / 2010 to 31 / 8 / 12 has been paid through his Bank account.His suspension allowance has been stoped w.e.from: 01 / 9 / 2012 .The said teacher Amanullah PST is still absent.Nothing is known about his where about and position of the cases if any.

Enclosed : 03

**DEPUTY DISTRICT OFFICER  
(M)PRY:PAROA DIKHAN.**

7



OFFICE OF THE SUB DIVISIONAL EDUCATION OFFICER  
(MALE) PAROA, DERA ISMAIL KHAN

NO. \_\_\_\_\_

Dated \_\_\_\_\_ / \_\_\_\_\_ 2014

To

The District Education Officer  
Male, D I Khan

Subject

GUIDANCE

Memo

Kindly refer to your office letter NO 750-53 dated 1601-2014 (copy attached)

Enclosed please find herewith an application in respect of Amanullah PST GPS Sikender Janubi Proa, with the remarks that:

- i According to office record the teacher concerned was suspended from service by the then EDO (E&SE) DIKhan order NO.8740-43 dated 18-05-2010 due to absence from duty (copy attached)
- ii Suspension allowance w e f 01-05-2010 to 31-08-2012 has been paid to the teacher concerned (copy attached)
- iii That the teacher concerned has been re-instated into service w.e.f 18-05-2010 in accordance with the decision of court of special Judge Anti-Terrorism court Sargodha and D G Khan under order NO 750-53 dated 1601-2014
- iv That the teacher is performing his duties and his salary is activated since 01 02 2014
- v Now he has claimed for salary for the remaining period of absence from duties

In view of stated facts the following points need consideration

- i The teacher concerned was suspended from the service on account of absence from the duty w.e.f 01-05-2010 and reinstated into service under order dated 16-01-2014 on the ground that he has been acquitted from the charges leveled against him by the court of special judge Anti Terrorism. The ground of re instatement is other than the ground he was suspended from the duty. Further there is no mention of back benefits in the re instatement order.
- ii Whether the applicant is entitled for the salaries for the period he remained absent from duty and claimed now. It is worth mention here that he remained absent about four years.

Hence it is requested that necessary guidance may kindly be furnished please to proceed further in the matter

SUB DIVISIONAL EDUCATION OFFICER  
MALE PAROA DIKHAN

**BEFORE THE HONORABLE SERVICE TRIBUNAL(Camp) At DERA ISMAIL KHAN.**

**Service Appeal No. 941/2015.**

Amanullah S/O Jan Muhammad R/O Muryali, D.I.Khan, PST, GPS Sikandar Janubi No. 1, Tehsil Parova,  
Dera Ismail Khan.

**(Appellant)**

**Versus**

1. Secretary E&SE, Khyber Pakhtunkhwa, Peshawar.
2. Director, E&SE, Khyber Pakhtunkhwa, Peshawar.
3. District Education Officer, D.I.Khan.
4. Deputy Director, Education, D.I.Khan.
5. District Account Officer, Dera Ismail Khan.

**(Respondents)**

**Para Wise Comments/Replies on behalf of Respondent No.5.**

**RESPECTFULLY SHEWETH:**

**Preliminary Objections:-**

1. That the Appellant has got no cause of action against Respondent No.5.
2. That the Appellant has got no Locus Standi.

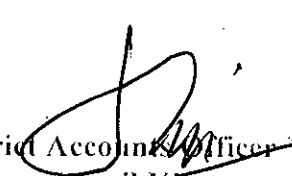
**Objections on Facts.**

1. Needs no Comments by Respondent No.5.
2. Needs no Comments by Respondent No.5.
3. Does not Pertain to Respondent No 5.
4. Does not Pertain to Respondent No 5.
5. Does not Pertain to Respondent No 5.
6. Does not Pertain to Respondent No 5.
7. Does not Pertain to Respondent No 5.
8. Does not Pertain to Respondent No 5.
9. Needs no Comments by Respondent No.5.

**Objections on Grounds.**

- A. Pertains to Respondent No.3 &4.
- B. Pertains to Respondent No.3 &4.
- C. Point of law.
- D. Pertains to Respondent No.3 &4.
- E. Point of law.
- F.

In view of foregoing Replies/Comments, it is, very much clear that bone of Contentions/Grievances of Appellant is among Respondents No.1, 2, 3& 4, and Respondent No. 5 has no concern with this dispute. It is, therefore, humbly prayed that the name of this office may kindly be excluded from the panel Respondents upon an enclosed Application under 1 Rule-10 (2) of CPC-1908.

  
District Account Officer  
Dera Ismail Khan  
(Respondent No.5)

**BEFORE THE HONORABLE SERVICE TRIBUNAL(Camp) At DERA ISMAIL KHAN.**

**Service Appeal No. 941/2015.**

Amanullah S/O Jan Muhammad R/O Murtyali, D.I.Khan, PST, GPS Sikandar Janubi No. 1, Tehsil Parova, Dera Ismail Khan.

**(Appellant)**

**Versus**

1. Secretary E&SE, Khyber Pakhtunkhwa, Peshawar.
2. Director, E&SE, Khyber Pakhtunkhwa, Peshawar.
3. District Education Officer, D.I.Khan.
4. Deputy Director, Education, D.I.Khan.
5. District Account Officer, Dera Ismail Khan.

**(Respondents)**

**Para Wise Comments/Replies on behalf of Respondent No.5.**

**RESPECTFULLY SHEWETH:**

**Preliminary Objections:-**

1. That the Appellant has got no cause of action against Respondent No.5.
2. That the Appellant has got no Locus Standi.


**Objections on Facts.**

1. Needs no Comments by Respondent No.5.
2. Needs no Comments by Respondent No.5.
3. Does not Pertain to Respondent No 5.
4. Does not Pertain to Respondent No 5.
5. Does not Pertain to Respondent No 5.
6. Does not Pertain to Respondent No 5.
7. Does not Pertain to Respondent No 5.
8. Does not Pertain to Respondent No 5.
9. Needs no Comments by Respondent No.5.

**Objections on Grounds.**

- A. Pertains to Respondent No.3 &4.
- B. Pertains to Respondent No.3 &4.
- C. Point of law.
- D. Pertains to Respondent No.3 &4.
- E. Point of law.
- F.

In view of foregoing Replies/Comments, it is, very much clear that bone of Contentions/Grievances of Appellant is among Respondents No.1, 2, 3& 4, and Respondent No. 5 has no concern with this dispute. It is, therefore, humbly prayed that the name of this office may kindly be excluded from the panel Respondents upon an enclosed Application under 1 Rule-10 (2) of CPC-1908.

  
District Accounts Officer  
Dera Ismail Khan  
(Respondent No.5)

**BEFORE THE HONOURABLE SERVICE TRIBUNAL KPK PESHAWAR**

**S. A. No. 941-15**

**Aman Ullah**

**VS**

**Government of KPK**

**JOINT COMMENTS ON THE BEHALF OF RESPONDENTS**

**Preliminary Objections**

1. That the appellant has got no cause of action / locus standi.
2. That the appeal is bad on account of mis-joinder / non-joinder of necessary parties.
3. That the instant Service Appeal is against the prevailing laws and rules.
4. That the appellant is estopped by his own conduct to file this appeal.
5. That the appellant has concealed the material facts from the Honourable Service Tribunal.
6. That the instant Appeal is based on malafide intentions just to put extra pressure on the respondents for the gaining illegal service benefits.
7. That the instant Service Appeal is badly time barred.
8. That the Appellant is not entitled for any kind of relief which he has sought from this Honourable Service Tribunal.
9. That this Honourable Service Tribunal has got no jurisdiction to adjudicate upon the present service appeal.
10. That the Appellant is not an aggrieved person, and remained absconder for four years from service w.e.f 01-05-2010 to 16-01-2014 in case FIR No. 111/07 dated 30-07-2007 & FIR No. 124 dated 22-06-2009.
11. That the appeal is not maintainable in its present form and incompetent in the eye of law.
12. That the appellant has not come to the Honourable Service Tribunal with clean hands.

**Objections on Facts**

1. This Para is pertained to the service record of the appellant, hence no comments.
2. This para is incorrect/not admitted, and strongly denied.
3. This para is incorrect / not admitted. hence vehemently denied. The appellant was involved in FIR No.111/07 dated 30-07-2007 & FIR No. 124 dated 22-06-2009 and remained absent from duty for four years. After the registration of these criminal cases the appellant remained absent from his school duties. The appellant has neither informed his Elementary & Secondary Education Department and nor surrendered before the court of law. So according to **E & D Rule 2011** the salary of appellant was inactive by the respondent No.3. The District Police Officer Bhakkar has informed the District Education Officer (Male) DIKhan vide his office letter No 16774 dated 18-05-2010 that Mr Aman Ullah is a proclaimed offender and you are requested to initiate departmental action under the rule against the said teacher. (letter is enclosed as annexure A)
4. Incorrect / not admitted. The appellant was suspended from the service w.e.f 01-05-2010 to 31-08-2012 and also it is added that appellant has received the suspension allowance for above mentioned period.
5. Refuted. Vehemently denied. As after the reinstatement in the services the appellant has not joined his duty and remained absent from 01-09-2012 to 16-01-2014. The report of the then Deputy District officer (M) Primary Parova DIKhan is annexed as annexure B.

6. This para is incorrect hence over ride and over rule. The SDEO (Male) Parova has issued a letter No 1288 dated 11-07-2014 with subject **GUIDANCE** regarding about the absence from duty of appellant. In the reply respondent No 3 issued a order No 10078 dated 19-07-2014 that not to pay the arrears, to the appellant and treated the absent period as an extra ordinary leave without pay. (annexure C)
7. Incorrect / not admitted. Respondent No 3 has rightly refused the appellant to pay any kind of monthly salary for his willful absence from duty.
8. Strongly denied. The appeal of appellant was rejected due to his ridiculous cause.
9. Rebutted. The appeal of appellant is only an exercise in futility.

### Objections on Grounds

- A. This para is refuted. The act of respondent No 3 was according to law and based upon the legal footings.
- B. Incorrect / not admitted. The appellant was willfully absent from his duty place he was proclaimed offender as declared by DPO Bhakkar vide his office letter No 16774 dated 18-05-2010 and the then DDEO (M) Primary Parova DIKhan office letter No 638 dated 30-11-2012.
- C. This para is incorrect. strongly denied. The instant service appeal is time barred.
- D. Incorrect, forcefully denied. The respondents acted according to law and rules.
- E. Incorrect / not admitted, vehemently denied. The appeal of appellant is void and without legal footings.

In view of above submission it is humbly prayed that service appeal of appellant may kindly be dismissed with cost.

Secretary  
Elementary & Secondary Education Department  
Khyber Pakhtunkhwa Peshawar

Director  
Elementary & Secondary Education Department  
Khyber Pakhtunkhwa Peshawar

30/07/2017  
Director  
Elementary & Secondary Education  
Khyber Pakhtunkhwa Peshawar

District Education Officer  
(Male) Dera Ismail Khan

Sub Divisional Education Officer  
(M) Parova DIKhan

Sub Divisional Education  
Officer (M) Parova D.I.Khan

27/1/017

**BEFORE THE HONOURABLE SERVICE TRIBUNAL DIKHAN BENCH**

S. A. No. 941-15

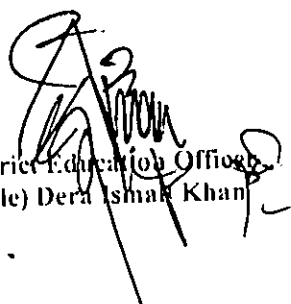
Aman Ullah

VS

Government of KPK

**Authority**

I District Education Officer (M) do hereby authorized Mr Muhammad Kamran Khan Legal representative of District Education Office (Male) Dera Ismail Khan to attend the Honourable Service Tribunal Dera Ismail Khan Bench on our behalf in connection with submission of para wise comments till the decision of the service appeal.

  
District Education Officer  
(Male) Dera Ismail Khan



**BEFORE THE HONOURABLE SERVICE TRIBUNAL DIKHAN BENCH**

S. A. No. 941-15

Aman Ullah

VS

Government of KPK

**Affidavit**

I Mr Muhammad Kamran Khan Legal Representative of District Education Officer (M) Dera Ismail Khan do hereby solemnly affirm and declared on oath that content and written reply of the of the above mentioned service appeal are correct to the best of my knowledge and nothing has been concealed from this Honourable Court.

M Kamran  
Deponent

2

A

3

From: The District Police Officer,  
Bhakkar.

To: The Executive District Officer,  
(Education), Dera Ismail Khan.

No. 16774 Dated/ 18-5-10

**SUBJECT: DEPARTMENTAL ACTION AGAINST AMAN  
ULLAH ALIAS AWAMI**

**Memorandum:**

It is intimated that Aman Ullah alias Awami s/o  
Jan Muhammad, caste Balouch r/o Muriali Dera Ismail Khan is  
working as PST. at Govt. Primary School Muriali, who is  
required/wanted in case FIR No. 124 dated 22.6.09 u/s 365-A PS  
Serai Mohajir and declared as Proclaimed Offender.

You are requested to initiate departmental  
action under rules against the above said teacher under  
intimation to this office.

got  
27/5/10

DDA (an) Prov's  
DDA

No: 16775 (0)  
21-5-10

*[Signature]*  
District Police Officer,  
Bhakkar

6

ANX-B

Office of the District Education Officer (Male) DIKhan.  
No. 10078 / AE-V POST (11)  
Dated DIKhan the 19/7/2014

To

The Sub Divisional Education Officer  
(Male) Peshawar.

Subject: GUIDANCE.  
Memo:

Ref: Your No. 1288 dated 11-07-2014.

According to your information provided under referred above that the teacher remained absent for four years.

Hence his absent period of four year may be treated as Extra Ordinary leave without pay as per rules.

*[Signature]*  
District Education Officer  
(Male) D.I. Khan.

19/7/14

Encl. No.

Copy to the:-

- 1- The District Accounts Officer D.I. Khan.
- 2- The Director Ele/Secondary Education Khyber Pakhtunkhwa Peshawar.

District Education Officer  
(Male) DIKhan

A.S.D.E.O./Accounts Officer

Please do the need full.  
and necessary entries to be made  
in his service book.

*[Signature]*  
Sd/-

*[Signature]*  
21/07/2014  
A.S.D.E.O. (11) Peshawar  
21/07/14

22

**OFFICE OF THE DEPUTY DISTRICT OFFICER (M) PRY:PAROA DIKHAN.**

Endst No: 628 Dated DDO(M)Pry:Paroa the: 30 / 11 /2012.

To

The Executive District Officer  
Elementary & Secondary Education  
Dera Ismail Khan.

Subject:

**REPORT ABOUT Mr.AMANULLAH PST .**

Memo:

I have the honour to inform you that Mr.Amanullah PST has been transferred to GPS Sikandar Janubi vide Endst No:7947-50 dated:05 /05 /2010. The said teacher has been suspended by the competent authority due to absence from duty w.e.from:01/05/2010 vide Endst No:8740-43 dated:18/ 05 /2010 .Suspension allowance w. E. From : 01 / 05 / 2010 to 31 / 8 / 12 has been paid through his Bank account. His suspension allowance has been stoped w.e.from: 01 / 9 / 2012 .The said teacher Amanullah PST is still absent.Nothing is known about his where about and position of the cases if any.

Enclosed : 03

**DEPUTY DISTRICT OFFICER  
(M)PRY:PAROA DIKHAN.**



OFFICE OF THE SUB DIVISIONAL EDUCATION OFFICER  
(MALE) PAROA, DERA ISMAIL KHAN

NO. \_\_\_\_\_

Dated: \_\_\_\_\_ / \_\_\_\_\_ / 2014

To  
The District Education Officer  
Male, D I Khan

Subject: GUIDANCE

Memo:

Kindly refer to your office letter NO 750-53 dated 1601-2014 (copy attached)

Enclosed please find herewith an application in respect of Amanullah PST GPS Sikender Janubi Proa, with the remarks that:

- i According to office record the teacher concerned was suspended from service by the then EDO (ESSE) DIKhan order NO 8740-43 dated 18-05-2010 due to absence from duty (copy attached)
- ii Suspension allowance w.e.f 01-05-2010 to 31-08-2012 has been paid to the teacher concerned (copy attached)
- iii That the teacher concerned has been re-instated into service w.e.f 18-05-2010 in accordance with the decision of court of special Judge Anti-Terrorism court Sargodha and D G Khan under order NO 750-53 dated 1601-2014
- iv That then teacher is performing his duties and his salary is activated since 01-02-2014
- v Now he has claimed for salary for the remaining period of absence from duties

In view of stated facts the following points need consideration

- i The teacher concerned was suspended from the service on account of absence from the duty w.e.f 01-05-2010 and reinstated into service under order dated 16-01-2014 on the ground that he has been acquitted from the charges leveled against him by the court of special judge Anti Terrorism. The ground of re instatement is other than the ground he was suspended from the duty. Further there is no mention of back benefits in the re instatement order.
- ii Whether the applicant is entitled for the salaries for the period he remained absent from duty and claimed now. It is worth mention here that he remained absent about four years.

Hence it is requested that necessary guidance may kindly be furnished please to proceed further in the matter

SUB DIVISIONAL EDUCATION OFFICER  
MALE PAROA DIKHAN