

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE

TRIBUNAL, PESHAWAR.

(1)

CM. No. _____/2023

IN

Service Appeal No: 1602/22

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 9632

Dated 30-11-2023

Dilawar Hussain (PET – 15) S/o Sattar Ali R/o PO Pura Chinar, Luqman
Khel, Tehsil Upper Kurram, District Kurram.

VERSUS

1. The Director, Elementary & Secondary Education, Khyber
Pakhtunkhwa, Peshawar.
2. The Deputy Director, Elementary & Secondary Education,
Khyber Pakhtunkhwa, Peshawar.
3. The Deputy Director (Estab), Merged Areas, Directorate of
Elementary & Secondary Education, Khyber Pakhtunkhwa,
Peshawar.
4. The Deputy District Education Officer (Male), Lowe & Central
Kurram Sadda, District Kurram.
5. The District Education Officer, District Kurram.
6. The District Monitoring Officer (DMO), Kurram, (EMA).
7. Assistant Director Education (Estab), Directorate of Elementary
& Secondary Education, Khyber Pakhtunkhwa, Peshawar.

.....RESPONDENTS

.....
**SUBJECT: APPLICATION FOR AMENDMENT IN THE ABOVE
MENTIONED APPEAL DUE TO APPELLATE ORDER
DATED 15/08/2023, WHEREBY THE APPELLANT
WAS REINSTATED INTO SERVICE BUT WITHOUT**

**BACK BENEFITS / WANTS PERMISSION TO FILE
FRESH APPEAL DUE TO ORDER DATED 15/08/2023
FOR BACK BENEFITS.**

RESPECTED SHEWETH:

- 1) That the appellant filed service appeal No. 1602/22 for instatement in service with all back benefits.
- 2) That the departmental appeal of the appellant was pending before the departmental authority which was decided on 15/08/2023 during the pendency of service appeal.
- 3) That on the basis of appellant order dated 15/08/2023, the appellant was reinstated into service but intervening period was treated as extra ordinary leave without pay. *(Copy of the order is attached as Annexure "A")*.
- 4) That now the appellant want to amend the service appeal due to appellate order for the reason that to the extent of reinstatement, prayer of the appellant was became infectious, so there is remain only the issue of back benefits.
- 5) That the appellant requested that the appellate order may be included in this service appeal or permit the appellant to amend appeal to the extent of back benefits/ the appellant may be allowed to file a fresh one with permission of this court for back benefits.

It is, therefore, most humbly prayed that, on acceptance of this application, the appellant may be allowed to amend this service appeal to the extent of appellate order or the appellant may be allowed to file a fresh one with permission of this court for back benefits.

(3)

Any other remedy which tribunal thinks Deem fit and appropriate may also be awarded in favour of the appellant.

Dated: 16/11/2023

D. Hussain
Appellant

Dilawar Hussain

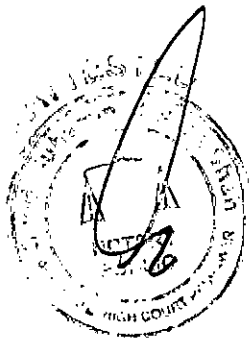
Through

SYED
SYED NOMAN ALI BUKHARI
Advocate, High Court,
Peshawar

AFFIDAVIT:

I, *Dilawar Hussain (PET - 15) S/o Sattar Ali R/o PO Pura Chinar, Luqman Khel, Tehsil Upper Kurram, District Kurram.*, do hereby solemnly affirm and declare on Oath that all the contents of this Service Appeal are true and correct to the best of my knowledge and belief and nothing has been concealed or mis-stated.

D. Hussain
Deponent
CNIC No: _____





A (4)

NOTIFICATION:

1. Whereas Mr. Dilawar Hussain, S/O Satar Ali, was appointed as PET by DFO (Male) Kurram vide No. 8466-80 dated 12/10/2009, and he made his entry into the Government Service on 12.10.2009.
2. Whereas Mr. Dilawar Hussain, Ex-PET was reported as absent on 25.9.2019, 12.12.2020, 16.3.2021, 3.3.2021, and 26.5.2021 from duty at CHS Baza Central Kurram by EMA.
3. Whereas DFO (Male) Kurram served upon him the "Show Cause Notices" bearing No.7642 dated 21.6.2021 and No.7433-40 dated 4.9.2021, but no replies were received.
4. Whereas, DEO (Male) Kurram removed him from the Government Service vide Notification bearing No.8203-11 dated 2.11.2021.
5. Whereas, Mr. Dilawar Hussain, Ex-PET, submitted his appeal to this Directorate bearing Diary No.3512 dated 22.11.2021, which was sent to DEO (Male) Kurram for comments, bearing Endst: No.16549 dated 15.12.2021.
6. Whereas, the DEO (Male) Kurram submitted his comments requesting for his Re-Instatement into the Service on the plea that the Ex-PET had submitted his declaration on Stamp Paper that he would not remain absent in future and if found may be dismissed from service forever vide DEO (Male) Kurram's letter No.13034 dated 29.12.2021.
7. Whereas, this Directorate asked DEO (Male) Kurram for report upon as whether all the codal formalities had been observed before Mr. Dilawar Hussain, Ex-PET's removal from service or otherwise, vide this Directorate letter No.1247 dated 28.1.2022.
8. Whereupon, DEO (Male) Kurram submitted his reply, basing DDEO's statement with the remarks that the then DEO Male Kurram had not followed all the codal formalities before the removal from service of Mr. Dilawar Hussain, Ex-PET, bearing letter No.41 dated 28.4.2022.
9. Whereas, this office after going through the entire record / evidences / Show Cause Notices / EMA Reports, rejected the appeal of Mr. Dilawar Hussain, Ex-PET, for re-instatement into service vide under Endst No. 8717 dated 22/09/2022.
10. Whereas, Mr. Dilawar Hussain, Ex-PET, was called for personal hearing on 18/05/2023, vide No. SO(Primary-M)/E&SED/5-19/Reinstatement/Dilawar Hussain/Ex-PET/2023 Dated Peshawar the May 12th, 2023, under the Chairmanship of Additional Secretary Establishment, Additional Director Establishment NMD, Deputy DEO Male Kurram and Section Officer (Primary), E&SED KP.
11. Whereas, the above Committee for the personal hearing of Mr. Dilawar Hussain, Ex-PET intimated the Director E&SE Khyber Pakhtunkhwa Peshawar, that, "it was recommended that the appeal of the appellant is accepted", vide No. SO(Primary-M)/E&SED/5-19/Reinstatement/Dilawar Hussain/Ex-PET/2023 Dated Peshawar the July 24th, 2023.

Now Therefore, the Competent Authority, in exercise of the power conferred upon by the Director E&SE Khyber Pakhtunkhwa, Peshawar, being Appellate Authority, after having examined the recommendations/meeting-minutes of the Committee under the Chairmanship of Additional Secretary Establishment, Additional Director Establishment NMD, Deputy DEO Male Kurram and Section Officer (Primary), dated 18/05/2023, E&SED, is pleased to accept the appeal of Mr. Dilawar Hussain, Ex-PET, District Kurram, for reinstatement into service, under Rules (17)(2)(b) of E&D 2011, and set aside the DEO (Male) Kurram's order issued vide No. 8203-11 dated 2.11.2021, and the intervening period is treated as Extra Ordinary Leave (Leave Without Pay) under the revised Leave Rules, 1981 to fill the gap towards his previous service.

DIRECTOR

Elementary and Secondary Education
Khyber Pakhtunkhwa Peshawar

Endst. No. 23091-95 Dated 15/08/2023

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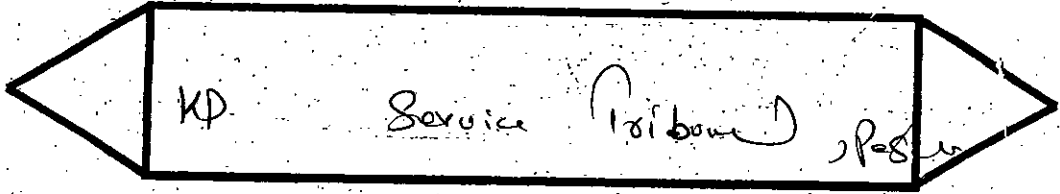
1. District Education Officer(Male) Kurram
2. Deputy Commissioner Kurram.
3. District Accounts Officer Kurram.
4. Teacher concerned.
5. PA to Director E&SE KP Peshawar

Kali

ASSISTANT DIRECTOR (ESTAB)

Elementary and Secondary Education
Khyber Pakhtunkhwa Peshawar

بعدالت



2ء منجانب
بنام

Dilawar Hussain

vs

Police Deptt

مورخہ

مقدمہ

دعویٰ

جرم

باعث تحریر آنکہ

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

کیلئے سپر نمان علی خاں

آن مقام پسناور

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز وکیل صاحب کو راضی نامہ کرنے ق تقرر ثالث و فیصلہ پر حلف دیئے جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق و رائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا محتاج ہوگا۔ از بصورت ضرورت مقدمہ مذکور کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکور با اختیارات حاصل ہوں گے اور اس کا ساختہ پر داختم منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ ہوں گے سب سے وہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سندر ہے۔

20ء

ماہ

المرقوم

العبد د گ و اہ العبد