

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

Service Appeal No. 228/2016

BEFORE: KALIM ARSHAD KHAN --- CHAIRMAN
MIAN MUHAMMAD --- MEMBER(E)

Mr. Khan Akbar, PST (BPS-12), GPS Sra Gharhi, Bara Khyber Agency.

.....(**Appellant**)

VERSUS

1. **The Director of Education erstwhile FATA, FATA Secretariat, Warsak Road, Peshawar.**
2. **The Agency Education Officer, erstwhile Khyber Agency.**

..... (**Respondents**)

Present:

NOOR MUHAMMAD KHATTAK,
Advocate

--- For Appellant.

MUHAMMAD RIAZ KHAN PAINDAKHEL,
Assistant Advocate General

--- For respondents.

Date of Institution.....11.03.2016

Date of Hearing.....30.05.2022

Date of Decision03.06.2022

JUDGEMENT.

MIAN MUHAMMAD, MEMBER(E):- Jurisdiction of the Service

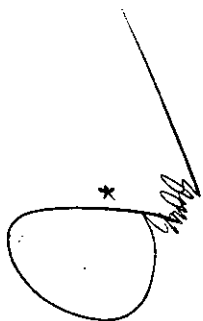
Tribunal has been invoked under Section-4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the impugned order of respondent No.2 dated 18.12.2014 whereby the major penalty of removal from service was imposed on the appellant which has been assailed in the instant service appeal. The connected service appeal No. 229/2016 titled Badshah Khan Versus Director Education erstwhile FATA and Agency Education Officer Khyber Agency, having the same facts, circumstances and question of law shall also stand decided with this single judgement.

02. Brief facts, as per memorandum of appeal, are that the appellant appointed as PTC (now PST) and posted at GPS Sra Garhi, Bara former Khyber Agency was proceeded against for willful absence. The proceedings culminated in imposition of the major penalty of removal from service vide impugned order dated 18.12.014 which is purported to have been communicated to the appellant on 05.11.2015. He challenged the impugned order through departmental appeal on 13.11.2015 but his departmental appeal was not decided within the statutory period whereafter he filed the instant service appeal in Service Tribunal on 11.03.2016.

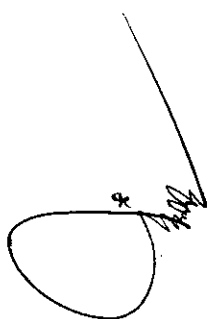
03. On admission of the service appeal in preliminary hearing on 22.03.2016, the respondents were put on notice to submit reply/parawise comments. After submission of the reply/parawise comments by the respondents, the case was contested through learned AAG. We have heard arguments of both the parties and perused the available record minutely and in detailed.

04. Learned counsel for the appellant while addressing his arguments, contended that there was critical law and order situation in the former Khyber Agency as well as Bara Sub Division. The Education institutions of male/female including GPS Sra Garhi where the appellant was posted, were closed down and remained unfunctional from 2012 till 31.12.2014 but even during the said period the appellant was regularly visiting office of respondent No. 2. On reopening and functioning of all education institutions in the area w.e.f. 01.01.2015, the appellant visited the office for his arrival but he was verbally informed that he had been removed from service on account of willful absence w.e.f. 17.07.2007. The appellant after

personal efforts could get copy of the impugned order dated 18.12.2014 on a belated stage on 05.11.2015 whereafter he submitted departmental appeal on 13.11.015. However, his departmental appeal was not decided till submission of the service appeal before the Service Tribunal on 11.03.2016. It was further argued that Para 4 of the impugned order specifically mentioned "the intervening period w.e.f 17.07.2007 till date is hereby notified as leave without pay" meaning thereby that the impugned order of penalty of removal from service became a void order. It was vehemently contested that proceedings for willful absence under Rule-9 of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 are initiated against the government servants whose where about are not known whereas in the case of appellant he was well in touch with and reporting for duty to the respondents therefore proceedings of regular enquiry under Rule 5 of the Rules ibid should have been initiated against the appellant. The appellant has neither been served with charge sheet/statement of allegations nor Show Cause Notice. He has not been provided an opportunity of personal hearing for self defense which is a glaring and blatant violation of Article 4 and 25 of the Constitution. To strengthen his arguments, learned counsel for the appellant relied on PLD 2008 Supreme Court 451, 2012 PLC (C.S) 787 and 2009 SCMR 339. The impugned order being illegal, passed in a whimsical manner and with malafide intention against the legal rights of appellant, is not tenable and liable to be set aside with reinstatement of the appellant into service with all back benefits, he concluded.

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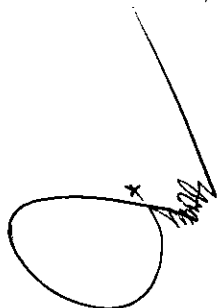
05. On the other hand, learned Assistant Advocate General negated assertions of the learned counsel for appellant and argued that the appellant was absent from duty since July, 2007 and the respondent department had properly initiated disciplinary proceedings against him in the prescribed manner under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 for willful absence. The appellant himself admitted in his statement annexed to service appeal at page 22 that he came to know about the impugned order on 29.01.2015 so therefore the assertion that it was communicated to the appellant on 05.11.2015 is self contradictory. Moreover, the departmental appeal appended to the service appeal at page 23 does not bear the official diary No and seal of office to establish the claim that it had been officially submitted to respondent No. 1 on a specific date. Similarly, the receipt date of departmental appeal i.e. 13.11.2015 and signature of the official concerned thereon is fake and bogus because the departmental appeal had never been submitted to or received in the respondent department and is totally disowned. The appeal is therefore not maintainable on the ground that when the departmental appeal is time barred the subsequent service appeal shall also stand time barred. He relied on 2013 PLC (C.S) 1365. In addition to the question of maintainability of the service appeal, travelling history from 2007 to 2014 in respect of the appellant is undeniable fact and enough evidence to establish that the appellant was abroad and drawing monthly salary from the public exchequer in absentia illegally. So far the question of intervening period having been treated as leave without pay vide impugned order, with assertion to have regularized service of the appellant and rendering

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the impugned order as void and ineffective, is concerned, he argued that even this does not go in favour of the appellant to make the impugned order not sustainable. He relied on the Larger Bench's Judgement of this Service Tribunal delivered in service appeal No. 332/2017 titled Sikandar Zeb Ex-Constable No. 160 Elite Force Peshawar on 23.04.2018 whereby it was held that mere illegality of a particular order would not enlarge the period of limitation unless order is held to be void. The department proceedings had been concluded in the prescribed manner and the major penalty of removal from service was imposed after fulfillment of all codal formalities. The service appeal being not maintainable and devoid of merits may therefore be dismissed, he concluded.

06. Perusal of the record reveals that the appellant was appointed as PTC (now PST) and while posted at GPS Sra Garhi Bara, he was proceeded against departmentally for willful absence under Rule 9 of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules 2011. The respondent department approached vide letter No. 6689 dated 21.08.2014 and got it ascertained/confirmed from FIA Immigration Airport Peshawar through travel history of the appellant that he had been abroad w.e.f. 17.07.2007. Proceedings against the appellant were, therefore, initiated on account of willful absence from duty. Initially, he was issued notice through registered post on home address vide 8346-52 dated 28.10.014 followed by letter No. 01-05 dated 17.12.2014 to ensure his attendance within a period of 10 days. The appellant did neither respond nor ensured attendance in compliance with the directions of respondents. Notices of absence were published in Daily

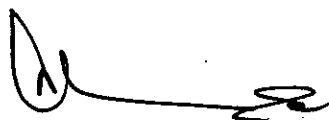
"Mashriq" and Daily "Aaj" on 26.11.014 with the directions to explain his absence period but he failed to respond and did not turn up. After completion of the codal formalities as laid down under Rule 9 of the rules ibid, the impugned order was issued on 18.12.2014. Minute perusal of another Notification bearing No. 10294-303 dated 18.12.2014 also reveals at Para 2 thereof that the staff members of the closed education institutions were directed to resume duty at their original place of postings on 01.01.2015 but even then the appellant did not resume duty. His claim that he was regularly visiting office of respondent No. 2 is not only without proof but also self contradictory and self-defeated on the ground that had this been the situation and he was present in the country he would have resumed duty. Learned counsel for the appellant, when confronted with the question of travel history of the appellant, was unable to rebut it. Similarly, the monthly Pay roll for December 2013 appended at page 17 (C) with service appeal reveals the name of Khan Akbar "Chowkidar" and not Khan Akbar PTC (now PST) which creates doubt as to how various elements played hand in gloves to help the appellant draw his monthly salary in a fraudulent way from the public exchequer. It is also observed with great concern that the appellant was absent from duty since July, 2007 but the respondents woke up from deep slumber after 07 years in 2014 which reflects on the overall performance and level of efficiency of the respondent department. Therefore, we deem it appropriate to send copy of this judgement to the Chief Secretary and Secretary Elementary & Secondary Education for information and taking legal action against the delinquents.



07. As to the connected appeal of Badshah Khan, we find that he had also went abroad as is evident from his un-rebutted travel history placed on file. He did not obtain leave, prior permission or NOC etc from his authorities nor did he report for duty despite being summoned through various means. Therefore, he also failed to make out a case in his favour.

08. As a sequel to the preceding Paras, we find no infirmity or ground to interfere with the impugned order of respondent No. 2 dated 18.12.2014. The service appeal in hand as well as service appeal No. 229/2016 of Badshah Khan Versus Director Education erstwhile FATA and Agency Education Officer Khyber Agency being devoid of merit, are dismissed. Costs shall follow the event. Consign.

09. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal this 03rd day of June, 2022.*



(KALIM ARSHAD KHAN)
CHAIRMAN



(MIAN MUHAMMAD)
MEMBER(E)

ORDER

03.06.2022

Mr. Noor Muhammad Khattak, Advocate for the appellant present. Mr. Muhammad Riaz Khan Painsakhel, Assistant Advocate General for the respondents present.

02. Vide our detailed judgement of today separately placed on file containing (07) pages, the service appeal in hand as well as service appeal No. 229/2016 of Badshah Khan Versus Director Education erstwhile FATA and Agency Education Officer Khyber Agency being devoid of merit, are dismissed. Costs shall follow the event. Consign.

03. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal this 03^d day of June, 2022.*



(KALIM ARSHAD KHAN)
CHAIRMAN

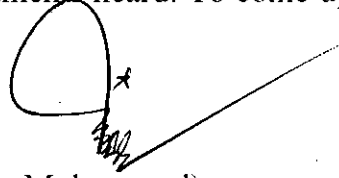


(MIAN MUHAMMAD)
MEMBER(E)

30th May, 2022

Counsel for the appellant present. Muhammad Riaz Khan Paindākhel, Asst: AG alongwith Mr. Munwar Khan, ADEO for respondents present.

Arguments heard. To come up for order on 03.06.2022 before D.B.



(Mian Muhammad)
Member(E)



(Kalim Arshad Khan)
Chairman

31.08.2021

Mr. Noor Muhammad Khattak, Advocate, for the appellant present. Mr. Munawar Khan, ADO (litigation) alongwith Mr. Muhammad Rasheed, Deputy District Attorney for the respondents present and requested for adjournment on the ground that the brief of the instant appeal was assigned to Mr. Usman Ghani, District Attorney and however he was not feeling well and is on leave. Adjourned. To come up for arguments before the D.B on 03.11.2021.



(ATIQU UR REHMAN WAZIR)
MEMBER (EXECUTIVE)




(SALAH-UD-DIN)
MEMBER (JUDICIAL)

03.11.2021

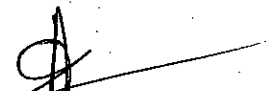
Junior to counsel for appellant present.

Muhammad Rasheed learned Deputy District Attorney alongwith Munawar Khan ADEO for respondents present.

Former made a request for adjournment as senior counsel is busy before Hon'ble Peshawar High Court, Peshawar. Request is accorded. To come up for arguments on 08.02.2022 before D.B.



(Rozina Rehman)
Member (J)



Chairman

8-2-2022

Due to retirement of the hon'ble chairman the case is adjourned to come up for the same as before on 30/5/2022



Reader

28.12.2020

Due to summer vacation, case is adjourned to 15.3.2021 for the same as before.


Reader

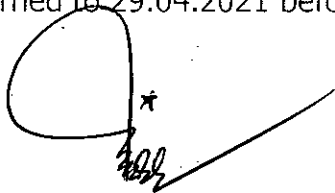
15.03.2021

Counsel for the appellant and Addl: AG for the respondents present.

On 06.07.2020 the respondents were required to produce copies of show cause notice dated 20.10.2014 and the notices published in Daily Mashriq and Ajj on 26.11.2014. Thereafter, on three occasions the hearing was adjourned on the strength of Reader's Note.

Fresh notices be issued to respondents as no representative on their behalf is in attendance today.

Adjourned to 29.04.2021 before D.B.



(Mian Muhammad)
Member(E)


Chairman

29.4.2021

Due to COVID-19 the case is adjourned to 31-8-2021 for the second.


Reader

27.10.2020

Proper D.B is on Tour, therefore, the case is
adjourned for the same on 28.12.2020 before D.B.


Reader

8-4-2020

Due to COVID19, the case is adjourned to
6/7/2020 for the same as before.

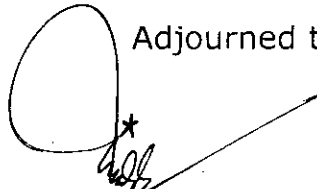

Reader


06.07.2020

Learned counsel for the appellant and Mr. Kabirullah Khattak learned Addl. AG alongwith Mr. Munawar Khan SST for the respondents present.

After hearing learned counsel for the appellant and learned Addl. AG on behalf of respondent, we consider it appropriate to require the respondents to produce on next date the copies of Show Notice dated 28.10.2014 and the notices published in daily Mashriq & AAJ on 26.11.2014.

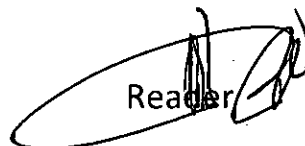
Adjourned to 28.08.2020 before D.B.


Member


Chairman

28.08.2020

Due to summer vacation, the case is adjourned to
27.10.2020 for the same as before.


Reader

12.09.2019

Counsel for the appellant and Mr. Kabirullah Khattak, Additional AG alongwith Mr. Waheed Gul, ADEO for the respondents present. Learned counsel for the appellant requested for adjournment. Adjourned to 14.11.2019 for arguments before D.B.



(Ahmad Hassan)
Member


(M. Amin Khan Kundi)
Member

14.11.2019

Counsel for the appellant present. Asst: AG for respondents present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 14.01.2020 before D.B.



Member


Member

14.01.2020

Appellant in person and Mr. Kabirullah Khattak, Additional AG for the respondents present. Appellant requested for adjournment on the ground that his counsel is not available today due to general strike on the call of Khyber Pakhtunkhwa Bar Council. Adjourned to 28.02.2020 for arguments before D.B.


(Ahmad Hassan)
Member


(M. Amin Khan Kundi)
Member

28-2-20

The learned members is on tour therefore case is adjourned to 8-4-2020


Rehman

11.04.2019

Clerk of counsel for the appellant and Mr. Kabirullah Khattak, Additional AG for the respondents present. Due to strike^{on the day} of Pakistan Bar Council, learned counsel for the appellant is not available today. Adjourned. To come up for arguments on 20.05.2019 before D.B.


(AHMAD HASSAN)
MEMBER


(M. AMIN KHAN KUNDI)
MEMBER

20.05.2019

Junior to counsel for the appellant and Mr. Kabirullah Khattak learned Addl: AG for the respondents present.

Learned senior counsel for the appellant is stated to indisposed therefore request for adjournment is made.

Adjourned to 15.07.2019 for argument before D.B.


Member


Chairman

15.07.2019

Junior counsel for the appellant and Mr. Muhammad Jan, Deputy District Attorney for the respondents present. Junior counsel for the appellant requested for adjournment on the ground that learned senior counsel for the appellant is not available today. Adjourned to 12.09.2019 for arguments before D.B.


(HUSSAIN SHAH)
MEMBER


(M. AMIN KHAN KUNDI)
MEMBER

08.11.2018


Due to retirement of Hon'ble Chairman, the Tribunal is defunct. Therefore, the case is adjourned. To come up on 31.12.2018.


READER

31.12.2018

Learned counsel for the appellant and Mr. Muhammad Jan learned Deputy District Attorney present. Adjournment requested. Adjourn. To come up for arguments on 18.01.2019 before D.B.

18.01.2019

 Member
Counsel for the appellant present. Mr. Kabirullah Khattak, Addl: AG for respondents present. Counsel for the appellant seeks adjournment. Adjourned. Case to come up for arguments on 13.03.2019 before D.B.


(Ahmad Hassan)
Member


(M. Amin Khan Kundi)
Member

13.03.2019

Learned counsel for the appellant and Mr. Kabir Ullah Khattak learned Additional Advocate General alongwith DAud Jan Superintendent present. Learned counsel for the appellant seeks adjournment. Adjourn. To come up for arguments on 11.04.2019 before D.B.


Member


Member

26.02.2018

Learned counsel for the appellant and Mr. Usman Ghani, Learned District Attorney for the respondents present. At the very outset learned District Attorney raised objection that the appellant was removed from service on the ground of absence from duty being abroad and he is still not available/present before this Tribunal. Learned counsel for the appellant stated that the appellant is not abroad and seeks adjournment to produce the appellant before the Tribunal. Adjourned. To come up for arguments on 27.04.2018 before D.B


(Gul Zeb Khan)
Member



(Muhammad Hamid Mughal)
Member


27.04.2018 Junior counsel for the appellant and Mr. Kabir Ullah Khattak, Additional AG for the respondents present. The Tribunal is non functional due to retirement of the Honorable Chairman. Therefore, the case is adjourned. To come up for the same on 13.07.2018 before D.B.


Reader

13.07.2018


Junior to counsel for the appellant and Mr. Sardar Shaukat Hayat learned Additional Advocate General present. Junior to counsel for the appellant seeks adjournment on the ground that senior counsel is not in attendance. Adjourned. To come up for arguments on 10.09.2018 before D.B.

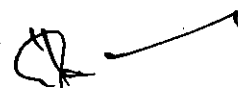

(Ahmad Hassan)
Member


(Muhammad Hamid Mughal)
Member

10.09.2018


Learned counsel for the appellant and Mr. Riaz Khan Paindakheil learned Assistant Advocate General present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 08.11.2018 before D.B


(Hussain Shah)
Member


(Muhammad Hamid Mughal)
Member

01.06.2017


Clerk of the counsel for appellant present. Mr. Muhammad Adeel Butt, Additional AG for the respondents also present. Clerk of the counsel for appellant requested for adjournment. Adjourned. To come up for arguments on 26.09.2017 before D.B.


(GUL ZAFAR KHAN)
MEMBER


(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

26.09.2017

Junior to counsel for the appellant and Mr. Muhammad Jan, DDA for respondents present. Appellant seeks adjournment as senior counsel was busy before the Daar-ul-Qaza, Swat. Adjourned. To come up for arguments on 27.12.2017 before D.B.


Member


Chairman

27.12.2017

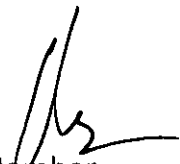
Counsel for the appellant present. Mr. Kabir Ullah Khattak, Additional Advocate General for the respondents present. Counsel for the appellant seeks adjournment. Adjourned. To come for arguments on 27.02.2018 before the D.B.


Member


Chairman

18.08.2016

Clerk to counsel for the appellant and Mr. Murtaza Khan, Stenographer alongwith Addl. AG for respondents present. Written reply not submitted. Requested for adjournment. Request accepted. To come up for written reply/comments on 27.10.2016 before S.B.


Member

27.10.2016

Counsel for the appellant and Mr. Daud Jan, Supdt. alongwith Addl. AG for respondents present. Written reply submitted. The appeal is assigned to D.B for rejoinder and final hearing on 10.01.2017.


Member

10.01.2017

Counsel for the appellant and Assistant AG for respondents present. Rejoinder submitted which is placed on file. To come up for arguments on 01.06.2017.


(AHMAD HASSAN)
MEMBER


(MUHAMMAD AAMIR NAZIR)
MEMBER

22.03.2016

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant was serving as PST (BPS-12) when subjected to inquiry on the allegations of wilful absence and removed from service vide impugned order dated 18.12.2014 communicated to the appellant on 5.11.2015 where-against he preferred departmental appeal on 13.11.2015 which was not responded and hence the instant service appeal on 11.3.2016.

Appellant Deposited
Security & Process Fee

That the impugned order is violative of facts and law as the school was closed and was to be reopened on 1.1.2015. That apart from the above, the prescribed procedure of publication in the daily leading newspapers was not adopted.

Points urged need consideration. Admit. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply/comments for 9.5.2016 before S.B.


Chairman

09.05.2016



Agent of counsel for the appellant and Mr. Daud Jan, Supdt. alongwith Asstt. AG for the respondents present. Requested for adjournment. To come up for written reply/comments on 18.08.2016 before S.B.


Chairman

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 228/2016

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	11.03.2016	<p>The appeal of Mr. Khan Akbar presented today by Mr. Noor Muhammad Khattak Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2	21-03-2016	<p>This case is entrusted to S. Bench for preliminary hearing to be put up thereon <u>22-3-16</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR**

APPEAL NO. 228 /2016

KHAN AKBAR

VS

EDUCATION DEPTT:

INDEX

S. NO.	DOCUMENTS	ANNEXURE	PAGE
1.	Memo of appeal	1- 3.
2.	Record of non-functional schools	A	4- 15.
3.	Notification	B	16.
4.	Pay roll	C	17.
5.	Documents	D & E	18- 22.
6.	Departmental appeal	F	23.
7.	Vakalat nama	24.

APPELLANT

THROUGH:

**NOOR MOHAMMAD KHATTAK
ADVOCATE**

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. 228 /2016.

K.P.S.T. Tribunal
Service Tribunal
Diary No. 207
Dated 11-03-2016

Mr. Khan Akbar, PST (BPS-12),
GPS Sra Gharhi, Bara Khyber Agency.....**APPELLANT**

VERSUS

- 1- The Director of Education FATA, FATA Secretariat, warsak road, Peshawar.
 - 2- The Agency Education Officer Khyber Agency.
-**RESPONDENTS**

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 AGAINST THE IMPUGNED ORDER DATED 18.12.2014 COMMUNICATED TO THE APPELLANT ON 5.11.2015 WHEREBY MAJOR PENALTY OF REMOVAL FROM SERVICE WAS IMPOSED ON THE APPELLANT WITHOUT CONDUCTING REGULAR INQUIRY IN THE MATTER AND AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS.

PRAYER:

That on acceptance of this appeal the impugned order dated 18.12.2014 communicated to the appellant on 5.11.2015 may kindly be set aside and the appellant may be re-instated into service with all back benefits. Any other remedy which this august tribunal deems fit that may also be awarded in favor of the appellant.

R/SHEWETH:

ON FACTS:

Brief facts giving rise to the present appeal are as under:

- 1- That appellant is the employee of the respondent Department and has served the respondent Department as PST (BPS-12) for quite considerable time efficiently and up to the entire satisfaction of his superiors.
- 2- That due critical law and order situation in Khyber agency all the functional schools of the respondent Department were closed/non-functional by the respondent No.2 on the directions of higher authorities. That in the said schools the school where the appellant was posted has also been closed/non-functional on the direction of respondent No.2

[Handwritten notes and signatures]
11/3/16

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. 228 /2016.

G.W.P. Province
Service Tribunal

Diary No. 207

Dated 11-03-2016

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R/SHEWETH:

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- 2- That due critical law and order situation in Khyber agency all the functional schools of the respondent Department were closed/non-functional by the respondent No.2 on the directions of higher authorities. That in the said schools the school where the appellant was posted has also been closed/non-functional on the direction of respondent No.2.

Filed to
Registrar
11/3/16

- * Copy of the list of non-functional schools is attached as annexure.....**A.**
- 3-** That it is pertinent mention that during the said period the appellant has regularly visited the office of respondent No.2. That the respondent No.2 issued Notification dated 18.12.2014 whereby all the educational institutions male and female of plain area of Tehsil Bara Khyber Agency has been opened with effect from 1st of January 2015. Copy of the Notification is attached as annexure.....**B.**
- 4-** That in compliance the appellant visited the concerned quarter for arrival but he was verbally told that he has been removed from service on account of willful absence w.e.f. 17.7.2007 till date. That appellant requested for issuance of his removal order but the same has not been communicated to appellant on malafide reason. That it is pertinent to mention that appellant has received salaries during the said period. Copy of the pay roll is attached as annexure.....**C.**
- 5-** That after several efforts the impugned order dated 18.12.2014 was communicated to the appellant on 5.11.2015 whereby the appellant was removed from service on account of willful absence. Copies of the impugned order and other supported documents are attached as annexure.....**D & E.**
- 6-** That appellant feeling aggrieved from the impugned order dated 18.12.2014 communicated to the appellant on 5.11.2015 filed Departmental appeal on 13.11.2015 but no reply has been received so far. Hence the present appeal on the following grounds amongst the others. Copy of the Departmental appeal is attached as annexure.....**F.**

GROUND:

- A- That the impugned order dated 18.12.2014 communicated to the appellant on 5.11.2015 is against the law, facts, norms of natural justice and materials on the record hence not tenable and liable to be set aside.
- B- That appellant has not been treated by the respondent Department in accordance with law and rules on the subject noted above and as such the respondents violated Article 4 and 25 of the constitution of Islamic Republic of Pakistan 1973.

- C- That no charge sheet and statement of allegation has been served on the appellant before issuing the impugned order dated 18.12.2014.
- D- That no show cause notice has been served on the appellant while issuing the impugned order dated 18.12.2014.
- E- That no chance of personal hearing personal defense has been given to the appellant before issuing impugned order dated 18.12.2014.
- F- That during the said period the appellant has regularly visited the office of the respondent No.2 but the respondent No.2 inspite of know in critical law and order situation in the area malafidly issued the impugned order dated 18.12.2014 against the appellant which is not tenable and liable to be set aside, being not based on facts and circumstance.
- G- That no regular inquiry has been conducted in the matter which is as per Supreme court judgments is necessary in such like matters.
- H- That the respondents acted in arbitrary and malafide manner while issuing the impugned order dated 18.12.2014.
- I- That appellant seeks permission to advance other grounds and proofs at the time of hearing.

It is therefore, most humbly prayed that the appeal of the appellant may be accepted as prayed for.

Dated: 09.03.2016

APPELLANT



KHAN AKBAR

THROUGH:



**NOOR MOHAMMAD KHATTAK
ADVOCATE**

List of Closed and Non Functional High/Middle/Primary Schools in Tehsil Bara

1	GHS Alam Gudar Bara Khyber Agency	46	GPS Shin Akbar
2	Government High Schoo Hisara	47	GPS Spin Qabar No. 2
3	GHS Akhun Talab Bara Khyber Agency	48	GPS Talib Jan
4	GHS Mawaz Killi Bara	49	GPS Muhammad Akbar
5	GHS Madghali Attari Bara Khyber Agency	50	GPS Sama Ghari
6	GHS Kohi Sher Haider	51	GPS Aman Talab
7	GHS Gul Zamir Killi Bara Khyber Agency	52	GPS Shin Drand
8	GHS Janas Khan Killi Bara Khyber Agency	53	GPS Sanzal Khel
9	GHS Sama Ghari Bara Khyber Agency	54	GPS Jani Ghari
10	GMS Azeem Killi	55	GPS Khawangi
11	GMS Karna Khel	56	GPS Mesri. Khel Mela
12	GMS Shalobar No.1	57	GPS Jamash Kili
13	GMS Spin Qabar	58	GPS Hindustan Killi
14	GMS Mastak Tirah	59	GPS Mashkano Mela
15	GMS Gul Miran	60	GPS Ala Dand
16	GMS Haji Dhand	61	GPS Lal Muhammad Killi
17	GMS Akram Killi	62	GPS Meri Khel
18	GMS Yara Jan	63	GPS Yarzamad
19	GMS Zawa	64	GPS Ghulam Sher
20	GMS Shin Kamar	65	GPS Zarmat Jan
21	GPS Ali Jan Killi	66	GPS Sultan Khel
22	GPS Shahi Baig	67	GPS Khurma Tang
23	GPS Tarkho Kas	68	GPS Almas Stori Khel
24	GPS Sandana Tirah	69	GPS Abdul Qadar
25	GPS Ismail Killi	70	GPS Lali Jan
26	GPS Hukam Khan	71	GPS Minadar
27	GPS Hissara NO 2	72	GPS Khanamir
28	GPS Sur Kas Noz Ajjal: Nade.	73	GMPS Shamshad
29	GPS Waris Killi	74	GMPS Khanzada
30	GPS Karigar Gharhi	75	GMPS Gul Jalal
31	GPS Sandali Killi	76	GMPS Spinkay Tiga
32	GPS Abdar Killi	77	GMPS Munawar
33	GPS Chargai Dagari	78	GMPS Saleem Shah
34	GPS Jabbar Mela Tirah	79	GPS Dina Jan
35	GPS Mathray Dada Neeka	80	GPS Sur Kas No. 2
36	GPS Hussain Gul	81	GMPS Zubair Killi
37	GPS Shalobar No. 3	82	GMPS Pisho Khwar
38	GPS Tandj Bughdad Khel	83	GMPS Rehman Khan
39	GPS Dara Maira	84	GPS Jan Badshah
40	GPS Susvaki	85	GPS Barami Alamsher
41	GPS Khuna Ziala	86	GPS Raza Khan
42	GPS Khan Wali	87	GPS Yardin
43	GPS Juma Baz	88	GPS Kaga Ghara
44	GPS Gulab Khel	89	GPS Sher Bahadar
45	GPS Mandai Kas	90	EMS Candaw.

→ 11

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[Signature]

[Signature]
 Agency Education Officer, Khyber
 Agency at Jamrud

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List of closed and Non Functional High/Middle/Primary Schools and teaching staff of Bara Tehsil

1 GHS Alam Gudar Bara Khyber Agency

S No	Name	Designation
1	Abdul Jabbar	SST
2	Abdul Sattar	SST
3	Sajid Ali	SST
4	Azam Jan	SST
5	Khyber Khan	CT
6	Ghula Hassan	CT
7	Najeebullah	CT
8	Muhammad Younas	CT
9	Muhammad Shoaib	CT
10	Muhammad Sadeeq	CT
11	Shah Muhammad	CT
12	Abdul Rehman	DM
13	Abdul Ahad	Qari
14	Muhammad Ashraf	T.T
15	Ajmal Khan	P.Imam
16	Munawar Khan	CT
17	Shehzad Gul	CT
18	Jehan Zeb	PST
19	Inayatullah	PST
20	Jan Akbar	PST
21	Usman Ali	PST
22	Muhammad Shafiq	PST

2 Government High School Hisara

1	Fazal Gul	HM
2	Said Bahadar	SST
3	Mir Nawaz	SST
4	Muhammad Jamil	CT
5	Ihsanullah	CT
6	Naseer Shah	CT
7	Sardar Khan	AT
8	Noor Haleem	DM
9	Murad-u-din	T.T
10	Aurang Zeb	PST
11	Ahmad Shah	PST
12	Ibrahim	L/Asstt
13	Muhammad Younas	PET
14	Shams-ul-Islam	Qari

3 GHS Akhun Talab Bara Khyber Agency

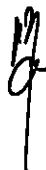
1	Muhammad Abbas	HM
2	Muslim Shah	SST
3	Muhammad Islam	SST
4	Gohar Ali	CT
5	Hasham Khan	CT
6	Ihsanullah	CT
7	Muhammad Aziz	AT
8	Khair Muhammad	DM

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6

9	Muhammad Ikramullah	PST
10	Abdul Aziz	PST
11	Sajjad Ali	Qari
12	Muhammad Ayaz	L/Asstt
4 GHS Mawaz Killi Bara		
1	Abdul Qadeer	HM
2	Fazal Haleem	SST
3	Saleh Muhammad	SST
4	Abdul Rehman	CT
5	Yaseen Gul	CT
6	Muhammad Ali	CT
7	Said Jamal	AT
8	Hamid Khan	DM
9	Noor Haleem	PET
10	Faizullah	Qari
11	Saeedullah	L/Asstt
12	Shakeel Ahmad	PST
13	Shafiq-ur-Rehman	PST
14	Murtaza	T.T
5 GHS Madghali Attari Bara Khyber Agency		
1	Shah Jehan	HM
2	Muhammad Jamal	SST
3	Amir Zeb	SST
4	Zafraan Shah	CT
5	Said Afzal	CT
6	Saeed Rehman	CT
7	Jamal Din	AT
8	Said Nawaz	DM
9	Abdul Sattar	PET
10	Shah Khalid	PST
11	Mohabat Khan	PST
12	Abdul Malik	T.T
13	Saif-ur-Rehman	Qari
14	Muhammad Ibrahim	T.T
15	Raes Jan	L/Asstt
6 GHS Kohi Sher Haider		
1	Musharraf Khan	SST
2	Sher Zaman	SST
3	Abdul Ghafoor	CT
4	Rana Gul	CT
5	Nisar Khan	CT
6	Akbar Gul	CT
7	Alif Gul	CT
8	Alamgir	CT
9	Fazle Rabi	PET
10	Wahid Gul	DM
11	Khalid Khan	AT
12	Sohbat Khan	P.Imam
13	Wajid Ali	L/Asstt
14	Rashid Khan	PST

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7

15	Jamshed Khan	PST
16	Khalid Khan	T.T
7 GHS Gul Zamir Killi Bara Khyber Agency		
1	Janas Khan	HM
2	Muhammad Ali	SST
3	Amanullah	CT
4	Muhammad Karim	CT
5	Sakhi Jan	CT
6	Muhammad Jamil	PET
7	Muhammad Hilal	AT
8	Haroon	L/Asstt
9	Rehmatullah	Qari
10	Aurang Zeb	PST
11	Shah Wali	PST
12	Arif Khan	T.T
8 GHS Janas Khan Killi Bara Khyber Agency		
1	Millat Khan	AT
2	Muhammad Younas	T.T
3	Ihsanullah	CT
4	Utman Khel	CT
5	Gul Aman	CT
6	Khan Afzal	CT
7	Noor Khan	PET
8	Faridullah	DM
9	Gulzar	SET
10	Murad Khan	L/Asstt
9 GHS Sama Ghari Bara Khyber Agency		
1	Hikmat Khan	SST
2	Hidayatullah	SST
3	Sardar Khan	SST
4	Abdul Shahid	CT
5	Muhammad Anwar	CT
6	Noor Habib	CT
7	Azeem Khan	CT
8	Said Jamal	CT
9	Fazal Rehman	AT
10	Hanif Khan	DM
11	Hazrat Shah	T.T
12	Humayun Khan	PET
13	Wakeel Jan	L/Asstt
10 GMS Azeem Killi		
S No.	Name	
1	Noor Islam	SST
2	Abid Ali	CT
3	Taj Muhammad	CT
4	Abdul Raziq	DM
5	Nawaz Khan	PET
6	Said Rasool	AT
7	Wajid Ali	PST
8	Sherin Khan	PST

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9	Farooq Jan	TT
11 GMS Karna Khel		
1	Muhammadullah	PST
2	Qadar Jan	PST
3	Abdul Samad	PET
4	Muhammad Ghani	TT
12 GMS Shalobar No. 1		
1	Muhammad Sadiq	SET
2	Zafar Khan	CT
3	Shah Muhammad	CT
4	Ajmali Shah	PET
5	Abdul Aziz	AT
6	Fazal Karim	DM
7	Hawwas Khan	PST
8	Muhammad Dand	PST
13 GMS SPIN Qabar		
1	Ahmad Shah	SST
2	Aqal Khan	CT
3	Bostan	CT
4	Pir Muhammad	DM
5	Wajid Ali	PET
6	Abdullah	AT
7	Gul Muhamad	PST
8	Imranullah	PST
9	Muhammad Nawaz	TT
14 GMS Mastak Tirah		
1	Haji Gul	CT
2	Said Hussain	PET
3	Zahidullah	DM
4	Khan Akbar	PST
5	Badshah Khan	PST
15 GMS Gul Miran		
1	Sabir Muhmmad	SST
2	Wahid Gul	CT
3	Banat Khan	CT
4	Ramzan	DM
5	Abdul Aziz	AT
6	Shah Khalid	PET
7	Munawar Khan	PST
8	Muhammad Farooq	PST
16 GMS Haji Dhand		
1	Abdul Rashid	SST
2	Gul Anwar	CT
3	Rafatullah	CT
4	Noorudin	DM
5	Ajmal Ali	PET
6	Naveed	AT
7	Ameen Gul	PST
8	Daulat Khan	PST
9	Iftekhharullah	TT
17 GMS Akram Killi		

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1	Farooq Shah	SST
2	Habib Rehman	CT
3	Aqal Khan	CT
4	Husnul Ma'ab	AT
5	Mehboob Rehman	TT
6	Shahidullah	PST
7	Irshad Ali	PET
8	Mahmood	PST
9	Shahid Ali	DM
18 GMS Yara Jan		
1	Adam Gul	CT
2	Muhammad Israr	PET
3	Ihsanulhameed	TT
4	Said Nawaz	DM
5	Muhammad Nisar	PST
6	Ibrahim	CT
7	Hidayatullah	AT
19 GMS Zawa		
1	Irshad Ali	SST
2	Muhammad Rasool	CT
3	Masta Jan	CT
4	Akbar Gul	CT
5	Said Ali Shah	CT
6	Shaheen Gul	PET
7	Zarwali	DM
8	Momeen Khan	PST
9	Saeed Khan	PST
10	Abdul Zamir	TT
20 GMS Shin Kamar		
1	Sabir Shah	SST
2	Sher Rehman	PST
21 GPS Ali Jan Killi		
S No	Name	Designation
1	Gul Faraz	PST
2	Muhammad Anwar Shah	PST
22 GPS Shahi Baig		
1	Khalid Khan	PST
2	Said Karim	PST
23 GPS Tarkho Kas		
1	Naeem Jan	PST
2	Numan Afridi	PST
24 GPS Sandana Tirah		
1	Malak Shah	PST
2	Usman Gul	PST
25 GPS Ismail Killi		
1	Qadeem Khan	PST
2	Abdul Wahab	PST
26 GPS Hukam Khan		
1	Jalal Din	PST
2	Zia-u-Rehman	PST

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27 GPS Hissara NO 2		
1	Said Rehman	PST
2	Haji Muhammad	PST
3	Amir Nawab	T.T
28 GPS Sur Kas Arjali Nade.		
1	Gul Sher	PST
2	Ikhtiar Alam	PST
3	Shams-ul-Haq	T.T
29 GPS Waris Killi		
1	Murad Khan	PST
2	Jalat Mir	PST
3	Ghulamullah	T.T
30 GPS Karigar Gharhi		
1	Akhtar Muneer	PST
2	Muhammad Iqbal	PST
3	Muhammad Saleh	T.T
31 GPS Sandali Killi		
1	Muhammad Haneef	PST
2	Inamullah	PST
3	Muhammad Ajmal	T.T
32 GPS Abdar Killi		
1	Turab Ali	PST
2	Shehzad Khan	PST
3	Sarteef Khan	T.T
33 GPS Chargai Dagari		
1	Naseeb Khan	PST
2	Gul Wali	PST
3	Munir Khan	T.T
34 GPS Yar Muhammad Killi		
1	Masood	PST
2	Hazrat Bilal	PST
35 GPS Jabbar Mela Tirah		
1	Abdul Shakoor	PST
2	Hazrat Shah	PST
36 GPS Mathray Dada Neeka		
1	Misal Khan	PST
37 GPS Hussain Gul		
1	Wedan Gul	PST
2	Lal Faqeer	PST
3	Muhammad Yaqoob	TT
38 GPS Shalobar No. 3		
1	Sanobar	PST
2	Nasar Khan	PST
3	Kiramat Shah	TT
39 GPS Tandi Bughdad Khel		
1	Saifoor Khan	PST
2	Khan Sher	PST
3	Ghulam Nabi	TT
40 GPS Dara Maira		

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11

1	Janab Gul	PST
2	Khial Azam	PST
3	Abdul Rahim	TT
41 GPS Susvaki		
1	Ahmed Gul	PST
2	Zarbab Khan	PST
3	Amir Khan	TT
42 GPS Khuna Ziarat		
1	Nasar Khan	PST
2	Waras Khan	PST
43 GPS Khan Wali		
1	Muhammad Ali	PST
2	Mufti Muzmmil	TT
3	Abdul Jalil	PST
44 GPS Juma Baz		
1	Abdul Qadar	PST
2	Gul Alam	PST
3	Muhammad Yaseen	TT
45 GPS Gulab Khel		
1	Sahib Shah	PST
2	Javed Khan	PST
46 GPS Mandai Kas		
1	Muhammad Hussaid	PST
2	Ishfaq	PST
3	Abdul Aziz	TT
47 GPS Shin Akbar		
1	Samar Khan	PST
2	Muhammad Akbar	PST
48 GPS Spin Qabar No. 2		
1	Khan Zeb	PST
2	Fazal Karim	PST
3	Sabz Ali	TT
49 GPS Talib Jan		
1	Janas Khan	PST
2	Afzal Khan	PST
3	Abdul Rauf	TT
50 GPS Muhammad Akbar		
1	Ghulam Muhammad	PST
2	Ikramullah	PST
51 GPS Sama Ghari		
1	Noor Muhammad	PST
2	Muhammad Karim	PST
3	Lala Jan	PST
52 GPS Aman Talab		
1	Kashmir Khan	PST
2	Muhammad Ayub	PST
53 GPS Shin Drand		
1	Wali Muhammad	PST
2	Muhammad Khan	PST
3	Said Abdul Wahab	TT

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54 GPS Sanzal Khel		
1	Shahzaman	PST
2	Muhammad Humayun	PST
3	Najeeb Ahmed	TT
55 GPS Jani Ghari		
1	Mir Rehman	PST
2	Farhad Khan	PST
3	Imdad Khan	TT
56 GPS Khawangi		
1	Passa Khan	TT
2	Ibrahim	PST
57 GPS Mesri Khel Mela		
1	Gheran Shah	PST
2	Yar Jan	PST
3	Naseeb Khan	TT
58 GPS Tamash Kili		
1	Shah Jehan	PST
2	Muhammad KHan	PST
59 GPS Hindustan Killi		
1	Muhammad Ibrahim	PST
2	Yar Bahadar	PST
60 GPS Mashkano Mela		
1	Gul Amir	PST
2	Raza Khan	PST
61 GPS Ala Dand		
1	Naseeb Khan	PST
2	Hafeezulah Amir PST	PST
3	Shamsul Islam	TT
62 GPS Lal Muhammad Killi		
1	Zar Gul	PST
2	Ghulam Rasool	PST
3	Muhammad Haroon	TT
63 GPS Meri Khel		
1	Waseeullah	PST
2	Mustafa Kamal	PST
3	Hameed Shah	PST
64 GPS Yarzamad		
1	Shah Hussain	PST
2	Habiburrehman	PST
65 GPS Ghulam Sher		
1	Khitab Gul	PST
2	Muhammad Ajmal	PST
66 GPS Zarmat Jan		
1	Gul Ayaz	PST
2	Muhammad Haroon	PST
3	Amanat Khan	TT
67 GPS Sultan Khel		
1	Bakhtar Jan	TT
2	Ijaz Ahmad	PST
3	Mir Baz Khan	PST

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68 GPS Khurma Tang		
1	Abdul Hameed	TT
2	Farman Ali	PST
3	Muhammad Akbar	PST
69 GPS Almas Stori Khel		
1	Rehman Gul	PST
2	Rahim Shah	PST
70 GPS Abdul Qadar		
1	Fazal Karim	PST
2	Muhammad Anwar	PST
71 GPS Lali Jan		
1	Din Malal	PST
2	Ghulam Murtaza	PST
72 GPS Minadar		
1	Khaliq Noor	PST
2	Abdul Wakeel	PST
73 GPS Khanamir		
1	Hazrat Hamza	PST
2	Abdul Qadar	PST
74 GMPS Shamshad		
1	Muhammad Farooq	PST
75 GMPS Khanzada		
1	Waras	PST
76 GMPS Gul Jalal		
1	Gulab Khan	PST
77 GMPS Spinkay Tiga		
1	Alam Zeb	PST
78 GMPS Munawar		
1	Fazal Raheem	PST
79 GMPS Saleem Shah		
1	Muhammad Tariq	PST
80 GPS Dina Jan		
1	Imran	PST
2	Arbab Khan	PST
81 GPS Sur Kas No. 2		
1	Kamal Khan	PST
2	Hunar Gul	PST
3	Muhammad Mustafa	TT
82 GMPS Zubair Killi		
1	Muhammad Zubair	
83 GMPS Pisho Khwar		
1	Abdul Qayum	
84 GMPS Rehman Khan		
1	Sadar Jan	PST
85 GPS Jan Badshah		
1	Khan Jalil	PST
2	Khewa Jan	PST
3	Jamruz Khan	TT
86 GPS Barami Alamsher		
1	Minar Khan	PST

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14

2	Ghulam Din	TT
87 GPS Raza Khan		
1	Abdul Jalil	PST
2	Dost Muhammad	PST
3	Naseerudin	TT
88 GPS Yardin		
1	Khan Gul	PST
2	Saifullah	PST
3	Atiqu Rehman	TT
89 GPS Kaga Ghara		
1	Shahid	PST
2	Muhammad Farooq	PST
3	Gul Nawaz	TT
90 GPS Sher Bahadar		
1	Said Muhammad	PST
2	Ikramullah	PST

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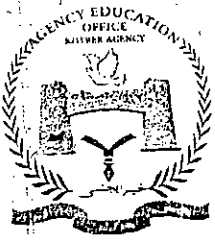
[Handwritten signature]
Agency Education Officer
Khyber Agency at Jamrud
[Handwritten signature]

Detail Report of GHSS/GHS/GGHS/GMS/GGMS/GPS/GMPS/GGPS Bar Kambar Khel Bara khyber Agency				
S.No	Name of Schools	Functional	Non Functional	Remarks
1	GHSS Spin Dhand	Functional	1st,2nd year Non Function	Occupied by Security Forces
2	GHS Jan Khan Kali	Functional		Occupied by Security Forces
3	GGHS Hanif Jan	Functional		
4	GMS Tooth Dhand	Functional		
5	GMS Shinki		Non Functional	Occupied by Security Forces
6	GGMS Wali Khel	Functional		High portion Still in use by IDPs
7	GGMS Abdullah Jan		Non Functional	Under Costruction
8	GPS Sur Kass No.2		Non Functional	Situated Shalober bouder
9	GPS Sur kass No.1	Functional		
10	GPS Sur Kass No.4	Functional		
11	GPS Sher Badshah killi	Functional		
12	GPS Sama Baba	Functional		
13	GPS Shera Khan killi	Functional		
14	GPS Paka Tarra	Functional		
15	GPS Sarki Kamar		Non Functional	Occupied by Security Forces
16	GPS Mamal Mela	Functional		
17	GPS Sra Ghari	Functional		
18	GPS Syed Rehman Killi		Non Functional	Still in use by IDPs
19	GPS Ghairat Shah	Functional		
20	GPS Habib Gul Killi	Functional		
21	GPS Sadullah Jan	Functional		
22	GMPS Taria	Functional		
23	GGPS Amir Khan Paka Tarra	Functional		
24	GGPS HabibUllah Killi	Functional		
25	GGPS Said Rahman Killi	Functional		
26	GGPS Gul Marjan Killi	Functional		
27	GGPS Sher Bahdar Killi	Functional		
28	GGPS Noor Hader		Non Functional	Situated near MDK Border
29	GGPS Muhammad Ayub Killi	Functional		
30	GGPS Said Kareem Killi	Functional		
31	GGPS M.Abdul Khaliq Killi	Functional		
32	GGPS Qandhar Killi	Functional		
33	GGPS Sarki Kamar	Functional		
34	GGPS Yar Gul Killi	Functional		
35	GGPS Luqman Killi	Functional		
36	GGPS Su Badshah		Non Functional	Occupied by Security Forces
37	GGPS Hindu Dhand	Functional		
38	GGPS Shiekhmaal Khel Killi		Non Functional	Fullly Lamage
39	GGPS Anwar Shah	Functional		
40	GGPS Sajid Khan Killi	Functional		
41	GGPS Shah Gulab Killi		Non Functional	Still in use by IDPs/Situated near MDK border
42	GGPS Zarif Khan		Non Functional	Still in Use by IDPs
43	GGPS Astara Khan		Non Functional	Still in use by IDPs

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 Agency Education Officer
 Khyber Agency Bar Kambar
 03/12/2015



Agency Education Office
Khyber Agency at Jamrud
PHONE. 091-5820584 FAX 091-5820023

B - (16)

NOTIFICATION

Consequent upon the direction of Political Agent Khyber, issued in a meeting held at Khyber House Peshawar Dated 15-12-2014, all educational institutions (M&F) of plain area of Tehsil Bara Khyber Agency will stand opened with effect from 1st January, 2015.

All the staff members of the said institutions are hereby informed to resume their duties in their original place of posting and treat their redeployment already made, to various other schools, on various dates, is hereby cancelled.

It is further added that Political Administration, Educational Administration and other law enforcement agencies will carry out monitoring of these public educational institutions, so you are hereby directed, in your own interest, to ensure your presence in your respective institutions in order to serve public interest.

Agency Education Officer,
Khyber Agency at Jamrud.

Endst: No. 10294-303

Dated: 18-12-2014

Copy to:

1. Additional Chief Secretary FATA Secretariat Peshawar.
2. Principal Secretary to Governor.
3. Secretary Social Sector Department FATA.
4. Secretary Law and Order FATA Secretariat Peshawar.
5. Director Education FATA.
6. Political Agent Khyber with reference to his direction.
7. Deputy Director Monitoring and evaluation FATA Secretariat Peshawar.
8. Assistant Agency Education Officers (M&F) Bara.
9. All Principals, Head Master/Mistress, Head Teachers of Tehsil Bara.

ATTESTED

Agency Education Officer
Khyber Agency at Jamrud.

NOTIFICATION-

- D-18
1. WHEREAS an email was received by AEO Khyber on July 10, 2014 from an agent/agency describing Mr Khan Akbar PTC GPS Sra Garhi Bara Khyber Agency, besides others, as abroad and getting his salaries regularly from this office.
 2. AND WHEREAS the AEO Khyber sent his names vide No.6689 dt 21/08/2014 to DD FIA immigration air port Peshawar where from the travel history showed him as abroad wef 17-jul-07 till date, vide No.508 dt 01/09/2014
 3. AND WHEREAS a committee was appointed consisting of Mr Lal Zada Principal GHSS Jamrud and Mr Salim Wazir HM GHS Hashim Abad Jamrud to dig out the cases of those who were willfully absent. Detailed report and documentary proof to proceed further into the matter in accordance with the rules vide notification No.10084-85 dated 10/12/14.
 4. AND WHEREAS the committee after having examined the record has submitted its report after conducting a deep and detailed scrutiny of papers from all the relevant aspects and reported that Mr Khan Akbar PTC GPS Sra Garhi Bara Khyber Agency was absent willfully from duty wef 17-jul-07 and is still abroad.
 5. AND WHEREAS Mr Khan Akbar PTC GPS Sra Garhi Bara Khyber Agency was proceeded against under Khyber Pakhtunkhwa Govt: Servant (Efficiency & Discipline) Rules 2011, for the charge of "willful absence from duty, with effect from wef 17-jul-07 and is still abroad, as mentioned in the show cause notice served upon him under registered post at his home address vide 8346-52 dt 28/10/2014.
 6. AND WHEREAS the accused official did not submit his reply to the show cause notice.
 7. AND WHEREAS absentee notices were served upon Mr Khan Akbar PTC GPS Sra Garhi Bara Khyber Agency through print media in daily newspapers "MASHRIQ" and "Aaj" on 26/11/2014 to explain his absence period but he did not turn up in response to the above mentioned notices.
 8. AND WHEREAS the competent authority, the Agency Education officer Khyber, after having considered the charges, evidence on record, enquiry report, and facts of the case, is of the view that the charge of willful and unauthorized absence wef 17-jul-07 against the accused official, Mr Khan Akbar PTC GPS Sra Garhi Bara Khyber Agency, has been proved.
 9. NOW THEREFORE, In exercise of the Powers conferred under Rules-4 (b) iii of Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules 2011, the competent Authority, Agency Education officer Khyber, is pleased to impose major penalty of "Removal from Service" upon Mr Khan Akbar PTC GPS Sra Garhi Bara Khyber Agency with immediate effect, on account of his willful absence wef 17-jul-07; the intervening period wef 17-jul-07 till date is hereby notified as leave without pay.

(Atiq-ur-Rahman)
Agency Education Officer,
Khyber Agency at Jamrud

Endst: No.10267-75 Dated Jamrud the 18/12/2014

Copy forwarded to the:-

1. Additional Chief Secretary FATA Secretariat Peshawar.
2. Principal Secretary to Governor, Governor House Peshawar
3. Secretary SSD FATA Secretariat.
4. Director Education FATA
5. Political Agent Khyber.
6. Deputy Director (M&E) Directorate of Education FATA
7. Agency Account officer Khyber Agency at Jamrud.
8. AAEO Bara Superintendent/ Accountant for entry to that effect in his service book
9. Official Concerned.

ATTESTED

Communication Date to Khan Akbar

05/11/2015

05/11/2015

Agency Education Officer,
Khyber Agency at Jamrud.



KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

All communications should be addressed to the Registrar KPK Service Tribunal and not any official by name.

Ph:- 091-9212281
Fax:- 091-9213262

No. _____/ST Dated ____/____/2022


To:

The Agency Education Officer, Erstwhile Khyber Agency.

SUBJECT:- JUDGMENT IN SERVICE APPEAL NO. 228/2016, KHAN AKBAR
VERSUS DIRECTOR EDUCATION erstwhile FATA, FATA
SECRETARIAT KHYBER PAKHTUNKHWA, PESHAWAR ETC.

I am directed to forward herewith a certified copy of order dated 03.06.2022, passed by this Tribunal in the above mentioned *service appeal* for compliance.

Encl. As above.


(WASEEM AKHTAR),
REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL,
PESHAWAR.



KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

All communications should be addressed to the Registrar KPK Service Tribunal and not any official by name.

Ph:- 091-9212281
Fax:- 091-9213262

No. _____ /ST Dated ____ / ____ /2022


To:

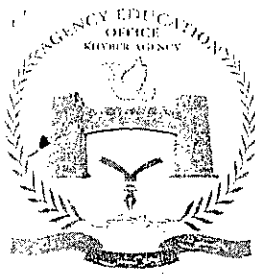
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Encl. As above.


(WASEEM AKHTAR)
REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL,
PESHAWAR.



Agency Education Office
Khyber Agency at Jamrud
PHONE. 091-5820265 FAX 091-5820265

Ref: 14
Dated 02/01/2015

19

To

- 1 Mr;Lal Zada Principal GHSS Jamrud Khyber Agency Chairman of enquiry committee.
- 2 Mr :Saleem Khan Head Master GHS Hashim Abad Jamrud member of enquiry committee.

Subject: ATTENDANCE TO THE NOMINATED MEMBER OF THE CONSTITUTED COMMITTEE

Memo:

Reference your letter No. Nil Dated 12/12/2014 on the above noted subject.

In light of yours letter, cited above I have wittingly informed all the teachers Male who belong to tehsil Bara to contact and meet you in connection of their quires. But when they and me contacted you through mobile phones, yours stance was that to attend us after the winter vocations. Moreover the mentioned teachers have personally attended office of the Political Tehsildar Bara at Shah kass Khyber Agency for physical verification which was conducted in the June and July, 2014. They have been verified in the verification on the following S.No.

S.No	Names /Schools	Verification list No.	Verified by
01	Mr;Saifullah PST GPS Toor Tooth Amrozai Tirah Bara	No.62	Political Administration
02	Mr:Said Karim PST GPS Yar Muhammad Killi Bara	No.271	Political Administration
03	Mr;Badshah Khan PST GMPS Spina Tega Bara	No.739	Political Administration
04	Mr;Khan Akbar PST GPS Sara Ghari Bara	No.294	Political Administration
05	Mr: Hikmat Khan PST GPS Sama Ghari Tango Bara	No.449	Political Administration

But in spite of all the above facts and without the finding of yours enquiry the following 04 teachers services have been terminated with effect from 18.12.2014 orders photo copies attached while as sentence the annual increment of one teacher namely Said Karim PST has stopped, although the 05 teachers of tehsil Bara are always attend and meet you.

ATTESTED

19

Asstt: AGENCY EDUCATION OFFICER
Bara (Male) KHYBER AGENCY AT JAMRUD.



Agency Education Office
Khyber Agency at Jamrud
PHONE. 091-5820584 FAX 091-5820584

No: 01-05

Date: 17 / 12 / 2014

20


To

1. Mr. Saifullah PST GPS Toor Toth Amrozai Tirah Bara
2. Mr. Said Karim PST GPS Yar Mohammad Kili Bara
3. Mr. Badshah Khan PST GMPS Spina Tiga Bara
- ✓ 4. Mr. Khan Akbar PST GPS Sra Ghari Bara
5. Mr. Hikmat Khan PST GPS Sama GhariTango Bara

Subject, ATTENDANCE TO THE NOMINATED MEMBER OF THE CONSTITUTED COMMITTEE.

Memo,

As per the letter of the nominated member of the constituted Committee to whom the job has been assigned to Probe the case of your absence, you are all the above mentioned teachers/official are hereby informed and directed to personally contact and meet the nominated members i.e one Mr. Lal Zada Principal GHSS Jamrud Chairman and the 2nd one is Mr. Salim Khan Head Master GHS Hashim Abad Jamrud within 10 days otherwise strict disciplinary/ex-party action will be taken against you under E&D rules.


ASSTT, AGENCY EDUCATION OFFICER
BARA KHYBER AGENCY AT JAMRUD.

Endst, No 06-10 Dated, 17 / 12 / 2014.

Copy for information to the,

1. Director of Education FATA at Peshawar.
2. Political Agent Khyber Agency at Peshawar.
3. Agency Education Officer Khyber Agency at Jamrud.
4. Lal Zada Pricipal G H S S Jamrud Khyber Agency with your reference No nil Dated 12.12.2014.
5. Salim Khan Head Master G H S Hasham Abad Jamrud Khyber Agency Agency with your reference No nil Dated 12.12.2014.

ATTESTED

ASSTT, AGENCY EDUCATION OFFICER
BARA KHYBER AGENCY AT JAMRUD.



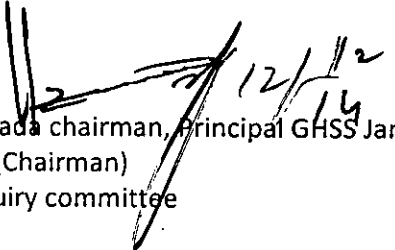
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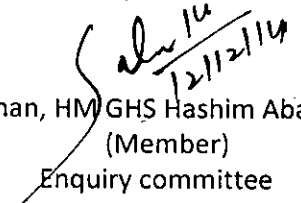
To

1. Mr Nawab Gul AAEO Bara office of the Agency Education officer Khyber Agency
2. Mr Shindi Gul AAEO Jamrud office of the Agency Education officer Khyber Agency

You, are requested to kindly submit the information and detailed report about the following officials lying in your respective Tehsils, today, who are abroad for the period mentioned against their name as soon as possible so that the enquiry in this connection assigned to us could be disposed off.

	Name	F/Name	Absent wef	CNIC#
1	Mr Saifullah PST GPS Toor Tooth Amirozi Maidan Tirah Bara Khyber Agency	Pir Mohd	30-Sept-07	Personal #4231929
2	Mr Said Karim PST GPS Yar Mohd Killi Bara	Faqir Gul	10-sep-11	Personal #407176
3	Bad Shah Khan PTC GMPS Spina Tiga Bara	Hazrat khan	-- to 18-jul-14	P#407199 & CNIC21201-2260669-5
4	Mr Khan Akbar PTC GPS Sra Garhai Bara	Shezad khan	17-jul-07	P#407092 & CNIC21201-7775543-1
5	Mr Hikmat khan PST GPS Sama Garhi Tango Bara	Khan Mohd	11-jul-07	P#00451802 & 17301-4508866-3
6	Mr Shaatullah PST	Rehamatullah	29-aug-09	
7	Mr Faheemullah CIVGHS Ghundi Jamrud	Ali khan	13-dec-10	
8	Mr Sameen Jan Sweeper GMS Gudar Jamrud		1 st of June-14	


Lal Zada chairman, Principal GHSS Jamrud
(Chairman)
Enquiry committee


Salim Khan, HM GHS Hashim Abad Jamrud
(Member)
Enquiry committee

ATTESTED



تحریری بیان

بخدمت جناب لعل زادہ صاحب برائیس PHS محترمہ اور سلیم خان صاحب وزیر
بیورو ماسٹر PHS ہاشم آباد محترمہ
جناب عالی

گزارشیں سے کہ بحولہ آرڈر 5596-1513 مورخہ 14.9.98 کو PPS ہندوستان کے بارے
میں لکھنے پر پی ٹی سی نے 1998ء سے کئی 2009ء تک میں نے عدلیہ ذیل سکولوں پر
فرائض انجام دیے۔ PPS ہندوستان کے PMS شمشاد کے PPS کلمہ تارہ
PPS سرہ کراچی، PPS نیاز محمد کے، یکم ستمبر 2009ء سے افن و آفان احمد فوجی
تک ہندوستان سے تحصیل بارہ کے تمام تعلیمی ادارے ہندوستان کے جو کہ 13 دسمبر 2014ء
تک ہیڈ ریسرچ، اسد سے تمام عہدہ میں میرے سمیت تحصیل بارہ کے سکولوں پر اساتذہ
کے ہیڈ تھیں وہیں وصول کرتے رہے۔ اس دوران جون جولائی 2014ء میں
میونے والے فرائض درج ذیل فیلڈنگ کے عمل کے دوران بھی میری ذمہ داری تھی
جو کہ فیلڈنگ اسٹیشنوں کے ساتھ ساتھ میرے 294 ہیڈ تھے۔

18 دسمبر 2014ء کو بحوالہ آرڈر 102-94 تحصیل بارہ کے تمام تعلیمی اداروں کو
یکم جنوری 2015ء کو کھولنے کا حکم جاری ہوا۔ میں تحصیل بارہ کے سکولوں کو کھولنے
پر بخوشی ڈیوٹی دینے کا تیار کر رہا تھا۔ کہ مجھے AAEO بارہ نے آرڈر 10-06
مورخہ 17-12-2014 کو جاری شدہ ایک لٹر ملے جس میں مجھے ایب صاحبان یکم شمشاد
انکو کیری کیم کے ساتھ پیش کرنے کا حکم ملے تھا۔ جس میں ایب صاحبان کے ساتھ

29-1-2015 کو پیش ہوا۔ تو مجھے معلوم ہوا کہ AAEO کیم نے انکو کیری کیم کے فیصلے
اور مندرجہ فوق معلوم کیے بغیر مورخہ 18-12-14 بحوالہ آرڈر 10267-75 کو ٹرانسفر کرنے
کا حکم ملے۔ میں اب کہ حکم کے مطابق 2-2-20 کو دوبارہ ایب کی خدمت میں حاضر
ہوا تب ایب صاحبان موجود نہیں تھے۔ ایب صاحبان کو قبول کرنے کے مجھے بحال کرنے اور لوہے
سے ایب صاحبان محرم بائی کر کے میری وضاحت کو قبول کرنے کے مجھے بحال کرنے اور لوہے
2014 سے ہندوستان میں جاری کرنے سفارش کرنے تمام کاغذات کی کاپی بطور ثبوت منسلک ہیں

ATTESTED
میرا سرسبب AEO عتی الرحمن کے ساتھ ساتھ
خان امیر والد شہزادہ
A.O. anis
DTC

جناب صاحب ڈائریکٹر آف ایجوکیشن فاٹما پشاور

F-23

اپنی :- برائے بحالی مددیت

جناب عالی!

مودبانہ گزارش ہے کہ بحوالہ آرڈر نمبر 5596-5615 مورخ

19-9-1998 PS سے منروستان کے بارہوی کی کٹنگ PS آجری ہو

تقریباً سولہ سال سے ایجوکیشن ڈیپارٹمنٹ میں خدمات انجام دے رہی ہوں

ستمبر 2009ء سے حیدرآباد اور خصوصاً تحصیل بارہوی کے تمام تعلیمی

ادارے فراہم حالات کی رقم سے منروستان کے بحوالہ آرڈر نمبر 3034-0294

مورخ 18/12/2014 کے مطابق یکم جنوری 2015 کو تمام تعلیمی ادارے عشرہ چھ سالہ کے بعد کھولے گئے۔

جناب عالی! ایجوکیشن آفسیئر نے بحوالہ آرڈر نمبر 75-10267

مورخ 18/12/2014 کو رقم کے بحالی کے لیے منسلک کر کے مجھے

مددیت سے برطرف کر دیا اور سابقہ برطرفی آرڈر مجھے 05/11/2015 کو مثبت لیٹ بحوالہ کیا۔

لہذا اب لہجان سے درخواست ہے کہ میرے اپیل پر مہمردانہ

تعمیر کر کے انصاف کے تقاضوں کو پورا کرنے مجھے نوکری پر بحال

کیا جائے کیونکہ سنٹر میں آساتے ہیں ضراب حالات کی وجہ سے

میرے جیسے وقت گزار رہے ہیں۔

13/11/2015

Atk

13/11/2015

ایکاتا نو
ان آفیسر PS و لہجہ

VAKALATNAMA

IN THE COURT OF KPK Service Tribunal Peshawar

OF 2016

Khan Akbar

(APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

Education Department

(RESPONDENT)
(DEFENDANT)

I/We Khan Akbar

Do hereby appoint and constitute **NOOR MOHAMMAD KHATTAK, Advocate, Peshawar** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate Counsel on my/our cost. I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter.

Dated. ___/___/2016

Dr
CLIENT

NM
ACCEPTED

**NOOR MOHAMMAD KHATTAK
(ADVOCATE)**

OFFICE:

Room No.1, Upper Floor,
Islamia Club Building, Khyber Bazar,
Peshawar City.

Phone: 091-2211391

Mobile No.0345-9383141

BEFORE THE KHYBER PUKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Appeal No. 228/2016.

Khan AkbarAppellant.

VERSUS

1. The Director Education FATA Warsak Road Peshawar.
2. Agency Education Officer, Khyber Agency at Jamrud.

Para-wise comments on behalf of respondent No: 1 & 2.

Respectively Sheweth:

Preliminary Objection

1. That the appellant has got no cause of action to file the instant appeal.
2. That the appellant has not come to this Honorable Tribunal with clean hands.
3. That the appellant has concealed material facts from this Honorable Tribunal.
4. That the appellant is estopped by his own conduct to bring the present appeal.
5. That the appeal is bad due to mis-joinder and non-joinder of necessary parties.
6. That the appeal is barred by time.
7. That the instant appeal is not maintainable and devoid of merits.
8. That no departmental appeal filed by appellant.

On Facts:

1. Incorrect. The appellant has not annexed any proof of his employment. Therefore, this para is void.
2. Incorrect. The appellant remained abroad without obtaining any Ex-Pakistan Leave. His salaries were drawn against the post of Chowkidar as evident from Annexure-C with the appeal.
3. Incorrect. The appellant never visited the office of Respondent No.2, as he was abroad and even remained absent despite directions of the authorities dated 18.12.2014, publication were made in leading newspaper which also proved that the appellant was not available in Pakistan and drawn salaries in an illegal manner.
4. Incorrect, Misleading. The written statement Annexure-E states some thing else and is in contradiction to para-4 of this appeal.
5. Incorrect. In Annexure-E the appellant himself admitted that on 29.1.2015 he came to know about his termination. Moreover, the communication dated shown by appellant on Annexure-D is a fake and bogus one.
6. Incorrect. The appellant never filed or submitted any departmental appeal nor the said one is available in office record. Therefore the instant appeal is not maintainable and entertainable at all.

Ground.

- A. Incorrect and misleading in light of above submitted factual position.
- B. Incorrect. The appellant is not clean handed and also causes damage to Govt: Treasury as evident from Annexure-C with the appeal.
- C. Incorrect. As the appellant was aboard, Therefore, under the rules, show cause notice was sent to his home, publications also made in leading newspaper, but he never turned up.

Exchequer

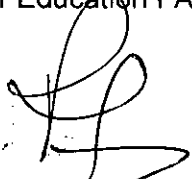
- D. Incorrect. As explained in para-C above.
- E. Incorrect. As explained in paras of facts and ground-C above.
- F. Incorrect. And misleading. The communication date on order dated 18.12.2014 is a fake and bogus one. Moreover, Annexure-E with the appeal is also worth perusal.
- G. Incorrect. As explained above and in para-C of this reply.
- H. Incorrect hence denied. The respondents have fulfilled their legal duty without any malice.
- I. The same is also requested for respondents.

In the light of above facts, it is most humbly prayed that the appeal may be dismissed in favour of the respondents with cost.

Respondent No. 1.


Director Education FATA.

Respondent No.2.


Agency Education Officer
Khyber Agency. 17-08-2016

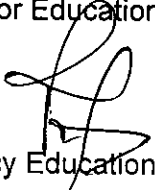
AFFIDAVIT

We the above respondents do hereby declare and affirm that the above comments are true and correct to the best of our Knowledge and belief that nothing has been concealed from this Honorable Tribunal.

Respondent No. 1.


Director Education FATA.

Respondent No.2.


Agency Education Officer
Khyber Agency. 17-08-2016



Agency Education Office
Khyber Agency at Jamrud
PHONE. 091-5820584 FAX 091-5820584

No: 01-05

Date: 17 / 12 / 2014

To

1. Mr. Saifullah PST GPS Toor Toth Amrozai Tirah Bara
2. Mr. Said Karim PST GPS Yar Mohammad Kili Bara
3. Mr. Badshah Khan PST GMPS Spina Tiga Bara
4. Mr. Khan Akbar PST GPS Sra Ghari Bara
5. Mr. Hikmat Khan PST GPS Sama GhariTango Bara

Subject, ATTENDANCE TO THE NOMINATED MEMBER OF THE CONSTITUTED COMMITTEE.

Memo,

As per the letter of the nominated member of the constituted Committee to whom the job has been assigned to Probe the case of your absence, you are all the above mentioned teachers/official are hereby informed and directed to personally contact and meet the nominated members i.e one Mr. Lal Zada Principal GHSS Jamrud Chairman and the 2nd one is Mr. Salim Khan Head Master GHS Hashim Abad Jamrud within 10 days otherwise strict disciplinary/ex-party action will be taken against you under E&D rules.

Ok
Phend
ASSTT, AGENCY EDUCATION OFFICER
BARA KHYBER AGENCY AT JAMRUD.

Endst, No 06-10

Dated, 17 / 12 / 2014.

Copy for information to the,

1. Director of Education FATA at Peshawar.
2. Political Agent Khyber Agency at Peshawar.
3. Agency Education Officer Khyber Agency at Jamrud.
4. Lal Zada Pricipal G H S S Jamrud Khyber Agency with your reference No nil Dated 12.12.2014.
5. Salim Khan Head Master G H S Hasham Abad Jamrud Khyber Agency Agency with your reference No nil Dated 12.12.2014.

Ok
ASSTT, AGENCY EDUCATION OFFICER
BARA KHYBER AGENCY AT JAMRUD.

2.2



Agency Education Office
Khyber Agency at Jamrud
PHONE: 091-5820265 FAX 091-5820265

Ref: 14

Dated 02/01/2015

To

- 1 Mr:Lal Zada Principal GHS Jamrud Khyber Agency Chairman of enquiry committee.
- 2 Mr :Saleem Khan Head Master GHS Hashim Abad Jamrud member of enquiry committee.

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02	Mr: Hikmat Khan PST GPS Sama Ghari Tango Bara	No.449	Political Administration
03	Mr;Badshah Khan PST GMPS Spina Tega Bara	No.739	Political Administration
04	Mr:Khan Akbar PST GPS Sara Ghari Bara	No.294	Political Administration
05	Mr:Said Karim PST GPS Yar Muhammad Killi Bara	No.271	Political Administration

But in spite of all the above facts and without the finding of yours enquiry the above 04 teachers i.e from S.No 1 to 4 services have been terminated with effect from 18.12.2014 orders photo copies attached while as sentence the annual increment of one teacher namely Said Karim PST has been stopped, although that all the 05 teachers of tehsil Bara were/ are always ready to attend and meet you in this regard.

Asst: AGENCY EDUCATION OFFICER
Bara (Male) KHYBER AGENCY AT JAMRUD.

NOTIFICATION-

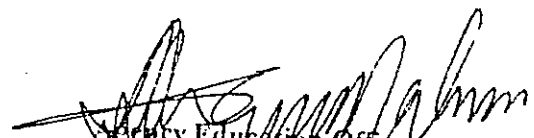
1. WHEREAS an email was received by AEO Khyber on July 10, 2014 from an agent/agency describing Mr Badshah Khan PST GMPS Spina Tega Bara Khyber Agency, besides others, as abroad and getting his salaries regularly from this office.
2. AND WHEREAS the AEO Khyber sent his name vide No.6689 dt 21/08/2014 to DD FIA immigration airport Peshawar where from the travel history was received that showed him as abroad wef 10/09/2011 to 18-jul-14 vide No.508 dt 01/09/2014
3. AND WHEREAS a committee was appointed consisting of Mr Lal Zada Principal GHSS Jamrud and Mr Salim Wazir HM GHS Hashim Abad Jamrud to dig out the cases of those who were willfully absent. Detailed report and documentary proof to proceed further into the matter in accordance with the rules vide notification No.10084-85 dated 10/12/14.
4. AND WHEREAS the committee after having examined the record has submitted its report after conducting a deep and detailed scrutiny of papers from all the relevant aspects and reported that Mr Badshah Khan PST GMPS Spina Tega Bara Khyber Agency was absent willfully from duty wef 10/09/2011 to 18-jul-14.
5. AND WHEREAS Mr Badshah Khan PST GMPS Spina Tega Bara Khyber Agency was proceeded against under Khyber Pakhtunkhwa Govt: Servant (Efficiency & Discipline) Rules 2011, for the charge of "willful absence from duty, with effect from 10/09/2011 as mentioned in the show cause notice served upon him under registered post at his home address vide 8346-52 dt 28/10/2014.
6. AND WHEREAS the accused official did not submit his reply to the show cause notice.
7. AND WHEREAS absentee notices were served upon Mr Badshah Khan PST GMPS Spina Tega Bara Khyber Agency through print media in daily newspapers "MASHRIQ" and "Aaj" on 26/11/2014 to explain his absence period but he did not turn up in response to the above mentioned notices.
8. AND WHEREAS the competent authority, the Agency Education officer Khyber, after having considered the charges, evidence on record, enquiry report, and facts of the case in the light of FIA report, is of the view that the charge of willful and unauthorized absence wef 10/09/2011 till 18-jul-14 against the accused official, Mr Badshah Khan PST GMPS Spina Tega Bara Khyber Agency, has been proved.
9. NOW THEREFORE, In exercise of the Powers conferred under Rules-4 (b) iii of Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules 2011, the competent Authority, Agency Education officer Khyber, is pleased to impose major penalty of "Removal from Service" upon Mr Badshah Khan PST GMPS Spina Tega Bara Khyber Agency with immediate effect on account of his willful absence wef 10/09/2011 to 18-jul-14. The intervening period wef 10/09/2011 to 18-jul-14 is hereby notified as leave without pay.

(Atiq-ur-Rahman)
Agency Education Officer,
Khyber Agency at Jamrud

Endst: No. 10258-66 Dated Khyber the 18/12/2014

Copy forwarded to the:-

1. Additional Chief Secretary FATA Secretariat Peshawar.
2. Secretary SSD FATA Secretariat.
3. Director Education FATA
4. Political Agent Khyber.
5. Deputy Director (M&E) Directorate of Education FATA
6. Agency Account Officer Khyber Agency at Jamrud.
7. AAEO Bara
8. Superintendent Accountant for entry to that effect in his service book
9. Official Concerned.


Agency Education Officer,
Khyber Agency at Jamrud

NOTIFICATION-


1. WHEREAS an email was received by AEO Khyber on July 10, 2014 from an agent/agency describing Mr Khan Akbar PTC GPS Sra Garhi Bara Khyber Agency, besides others, as abroad and getting his salaries regularly from this office.
2. AND WHEREAS the AEO Khyber sent his names vide No.6689 dt 21/08/2014 to DD FIA immigration air port Peshawar where from the travel history showed him as abroad wef 17-jul-07 till date, vide No.508 dt 01/09/2014
3. AND WHEREAS a committee was appointed consisting of Mr Lal Zada Principal GHSS Jamrud and Mr Salim Wazir HM GHS Hashim Abad Jamrud to dig out the cases of those who were willfully absent. Detailed report and documentary proof to proceed further into the matter in accordance with the rules vide notification No.10084-85 dated 10/12/14.
4. AND WHEREAS the committee after having examined the record has submitted its report after conducting a deep and detailed scrutiny of papers from all the relevant aspects and reported that Mr Khan Akbar PTC GPS Sra Garhi Bara Khyber Agency was absent willfully from duty wef 17-jul-07 and is still abroad.
5. AND WHEREAS Mr Khan Akbar PTC GPS Sra Garhi Bara Khyber Agency was proceeded against under Khyber Pakhtunkhwa Govt: Servant (Efficiency & Discipline) Rules 2011, for the charge of "willful absence from duty, with effect from wef 17-jul-07 and is still abroad, as mentioned in the show cause notice served upon him under registered post at his home address vide 8346-52 dt 28/10/2014.
6. AND WHEREAS the accused official did not submit his reply to the show cause notice.
7. AND WHEREAS absentee notices were served upon Mr Khan Akbar PTC GPS Sra Garhi Bara Khyber Agency through print media in daily newspapers "MASHRIQ" and "Aaj" on 26/11/2014 to explain his absence period but he did not turn up in response to the above mentioned notices.
8. AND WHEREAS the competent authority, the Agency Education officer Khyber, after having considered the charges, evidence on record, enquiry report, and facts of the case, is of the view that the charge of willful and unauthorized absence wef 17-jul-07 against the accused official, Mr Khan Akbar PTC GPS Sra Garhi Bara Khyber Agency, has been proved.
9. NOW THEREFORE, In exercise of the Powers conferred under Rules-4 (b) iii of Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules 2011, the competent Authority, Agency Education officer Khyber, is pleased to impose major penalty of " Removal from Service " upon Mr Khan Akbar PTC GPS Sra Garhi Bara Khyber Agency with immediate effect, on account of his willful absence wef 17-jul-07, the intervening period wef 17-jul-07 till date is hereby notified as leave without pay.

(Atiq-ur-Rahman)
Agency Education Officer,
Khyber Agency at Jamrud

Endst: No.10267-75 Dated Jamrud the 18/12/2014

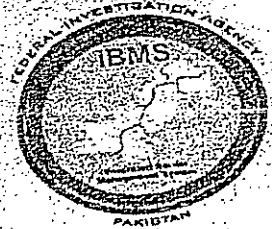
Copy forwarded to the:-

1. Additional Chief Secretary, FATA Secretariat Peshawar.
2. Principal Secretary to Governor, Governor House Peshawar
3. Secretary SSD FATA Secretariat.
4. Director Education FATA
5. Political Agent Khyber.
6. Deputy Director (M.E.D) Directorate of Education FATA
7. Agency Account officer Khyber Agency at Jamrud.
8. AAEO Bara Superintendent/ Accountant for entry to that effect in his service book
9. Official Concerned.


Agency Education Officer,
Khyber Agency at Jamrud.

15

IBMS TRAVEL HISTORY REPORT



Name: BADSHAH KHAN
 Father/Husband Name: HAZRAT KHAN
 Personal Number: 2120122606695
 Birth Date: 20-OCT-72
 Nationality: PK

Document Number	Event Date	Flight No	Entry Status Name	Location Name
WZ4126691	18-JUL-14	EY231	arriving	Benazir Bhutto International Airport Islamabad

FEDERAL INVESTIGATION AGENCY
 IBMS
 PAKISTAN
 FEDERAL BUREAU OF INVESTIGATION
 DEPARTMENT OF JUSTICE
 WASHINGTON, D.C. 20535

16

IBMS TRAVEL HISTORY REPORT



Name KHAN AKBAR SHAHZAD
 Father/Husband Name SHAHZAD KHAN
 Personal Number 2120177755431
 Birth Date 09-SEP-72
 Nationality PK

Document Number	Event Date	Flight No.	Entry Status Name	Location Name
ES5145431	17-JUL-07	PK3283	departing	Peshawar International Airport
ES5145432	09-SEP-10	NL785	arriving	Peshawar International Airport
ES5145432	28-NOV-10	NL786	departing	Peshawar International Airport
ES5145432	02-AUG-12	PK284	arriving	Peshawar International Airport
ES5145432	03-OCT-12	PK283	departing	Peshawar International Airport
ES5145433	28-JUN-14	G9555	arriving	Peshawar International Airport
ES5145433	29-JUL-14	G9556	departing	Peshawar International Airport

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. 228/2016

KHAN AKBAR

VS

A.C.S. FATA

REJOINDER ON BEHALF OF THE APPELLANT IN
RESPONSE TO REPLY SUBMITTED BY THE
RESPONDENTS

PRELIMINARY OBJECTIONS:

1 TO 8:

All the preliminary objections raised by the respondents are incorrect, baseless and not in accordance with law and rules rather the respondents are estopped due to their own conduct to raise any objection at this stage of the appeal.

ON FACTS:

- 1- Incorrect and not replied accordingly. That appellant was the employee of the respondent Department and has been served for the respondent Department as PST (BPS-12) for quite considerable time quite efficiently and upto the entire satisfaction of his superiors.
- 2- Incorrect and misconceived. That appellant was absented due to critical law and order situation in Khyber Agency. That all the functional schools were also closed/non-functional due the said critical law and order situation.
- 3- Incorrect and not replied accordingly. That vide Notification 18.12.2014 all the educational institutions male and female of plain area of Tehsil Bara will again opened w.e.f. 01.01.2015. That in compliance of the said Notification appellant was time and again visited the concerned quarter but the appellant was verbally told that he has been removed from service on account of willful absence w.e.f. 17.7.2007. that appellant requested for issuance of removal order but the same has not been communicated to appellant on malafide reason.
- 4- Incorrect and not replied accordingly hence denied. Appellant stated in above Para No.3.

- 5- Incorrect and not replied accordingly. That after the Notification of the respondent No.2 about opening of the said schools appellant visited for arrival to office of the respondent No.2 but the appellant was verbally informed that he has been terminated vide order dated 18.12.2014 which was communicated to appellant on 6.11.2015.
- 6- Incorrect and not replied accordingly. After receipt of the impugned order appellant filed Departmental appeal before the appellate authority for redressal of his grievances but no reply has been given by the concerned authority on the said Department appeal of the appellant.

GROUND:
(A TO I):

All the grounds of main appeal are correct and in accordance with law and prevailing rules and that of the respondents are incorrect and baseless. That no charge sheet and statement of allegation has been served on the appellant before issuing the impugned order dated 18.12.2014. That no show cause notice has been served on the appellant while issuing the impugned order dated 18.12.2014. That no chance of personal hearing personal defense has been given to the appellant before issuing impugned order dated 18.12.2014. That during the said period the appellant has regularly visited the office of the respondent No.2 but the respondent No.2 in spite of know in critical law and order situation in the area malafidely issued the impugned order dated 18.12.2014 against the appellant which is not tenable and liable to be set aside, being not based on facts and circumstance. That no regular inquiry has been conducted in the matter which is as per Supreme Court judgments is necessary in such like matters. That the respondents acted in arbitrary and malafide manner while issuing the impugned order dated 18.12.2014.

It is therefore most humbly prayed that on acceptance of this rejoinder of the appellant may be accepted as prayed.

APPELLANT



KHAN AKBAR

THROUGH:



NOOR MOHAMMAD KHATTAK
ADVOCATE

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. 228/2016

KHAN AKBAR

VS

A.C.S. FATA

REJOINDER ON BEHALF OF THE APPELLANT IN
RESPONSE TO REPLY SUBMITTED BY THE
RESPONDENTS

PRELIMINARY OBJECTIONS:

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- 1-** Incorrect and not replied accordingly. That appellant was the employee of the respondent Department and has been served for the respondent Department as PST (BPS-12) for quite considerable time quite efficiently and upto the entire satisfaction of his superiors.
- 2-** Incorrect and misconceived. That appellant was absented due to critical law and order situation in Khyber Agency. That all the functional schools were also closed/non-functional due the said critical law and order situation.
- 3-** Incorrect and not replied accordingly. That vide Notification 18.12.2014 all the educational institutions male and female of plain area of Tehsil Bara will again opened w.e.f. 01.01.2015. That in compliance of the said Notification appellant was time and again visited the concerned quarter but the appellant was verbally told that he has been removed from service on account of willful absence w.e.f. 17.7.2007. that appellant requested for issuance of removal order but the same has not been communicated to appellant on malafide reason.

- 5- Incorrect and not replied accordingly. That after the Notification of the respondent No.2 about opening of the said schools appellant visited for arrival to office of the respondent No.2 but the appellant was verbally informed that he has been terminated vide order dated 18.12.2014 which was communicated to appellant on 6.11.2015.
- 6- Incorrect and not replied accordingly. After receipt of the impugned order appellant filed Departmental appeal before the appellate authority for rederessal of his grievances but no reply has been given by the concerned authority on the said Department appeal of the appellant.

GROUND:
(A TO I):

All the grounds of main appeal are correct and in accordance with law and prevailing rules and that of the respondents are incorrect and baseless. That no charge sheet and statement of allegation has been served on the appellant before issuing the impugned order dated 18.12.2014. That no show cause notice has been served on the appellant while issuing the impugned order dated 18.12.2014. That no chance of personal hearing personal defense has been given to the appellant before issuing impugned order dated 18.12.2014. That during the said period the appellant has regularly visited the office of the respondent No.2 but the respondent No.2 inspite of know in critical law and order situation in the area malafidely issued the impugned order dated 18.12.2014 against the appellant which is not tenable and liable to be set aside, being not based on facts and circumstance. That no regular inquiry has been conducted in the matter which is as per Supreme Court judgments is necessary in such like matters. That the respondents acted in arbitrary and malafide manner while issuing the impugned order dated 18.12.2014.

It is therefore most humbly prayed that on acceptance of this rejoinder of the appellant may be accepted as prayed.

APPELLANT



KHAN AKBAR

THROUGH:



NOOR MOHAMMAD KHATTAK
ADVOCATE