

BEFORE THE HONORABLE SERVICE TRIBUNAL PESHAWAR.

Appeal No.1895/2023

Karam Shah..... Appellant.

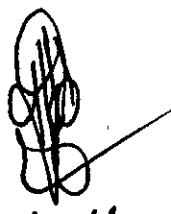
Versus

District education officer (M) district khyber & Others... Respondents.

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Dated 4 / 12 /2023


 Muhammad Uzair Ali
 DEO (R)
 Khyber

BEFORE THE HONORABLE SERVICE TRIBUNAL PESHAWAR.

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Karam Shah..... Appellant.

Versus

District education officer (M) district Khyber & Others... Respondents.

Comments on behalf of Respondents No.1, 2 & 3.

10485
10-1-2024

Preliminary objections.

- That the appellant has got no cause of action locus standi to file the instant appeal.
- That the appellant has not come to this honorable tribunal with clean hands.
- That appellant concealed material facts from this honorable tribunal.
- That the appellant is estopped by his own to bring the present appeal.
- That the appeal is bad due to mis-joinder and non-joinder of necessary parties
- That the appeal is barred by law.

Respectfully submitted as;

ON FACTS.

01. The appellant was appointed on June 19, 2020 as PST at GPS Bara Kas Landi Kotal District, Khyber. Meanwhile, the appellant was booked by EMA for proxy or impersonate teacher Mr. Arman Ali since 01/12/2020 and reported accordingly, which ultimately resulted in the termination of his contract being contract employee by then DEO Mr. Nisar Muhammad as competent authority vide DEO Office Khyber Endst. No. 2702-08 dated March 28, 2022. **ANX-A**
02. Incorrect, hence denied. The than DEO Khyber as a competent authority cancelled/withdrew the termination order and restored his services with certain conditions in interest of public service. **ANX-B**
03. Incorrect. Hence denied. Being contract employee he was bound to serve in accordance with the terms and condition of his appointment as contract employee. Every contract employee is also legally bound to follow laws, rules, regulations, and policies related to government servants, therefore, office concerned called from the appellant an undertaken/affidavit to perform his duty regularly and avoid using proxy or impersonation. Proxy or impersonation in all conditions is illegal. The conditions are mentioned in withdrawal order. **Annexure-B.**
04. Incorrect denied. The respondent 01 had only required report regarding the issue. **ANX-C**
05. Incorrect denied. The appellant continued with flouting the law and rules and persistently used Mr. Arman Ali CNIC No.21203-31182131-1 as proxy in his place at GPS Bara Kass BZK Landi Kotal.

06. Departmental inquiry was initiated vide order Endorsement NO. 1216-22 dated 05/09/2022 against the appellant Ex-PST GPS Bara Kas Landi Kotal wherein he was proved for using proxy teacher in the garb of Mr. Arman Ali CNIC No.21203-31182131-1. **ANX- D**

Ground:

- A. Incorrect. Hence denied. The respondent department has treated the appellant in accordance with laws and rules. The appellant was involved in corrupt practices and used a proxy or impersonate teacher (Arman Ali) instead of himself. The impersonating teacher (Arman Ali) was presented with an affidavit detailing his involvement in corrupt practices, revealing that he received a sum of Rs.15000/- each month from march 2021 till to date from Karam Shah (the appellant) for his services as proxy teacher in his stead. **(ANX-E)** The appellant himself never performed his duty personally.
- B. Incorrect, hence denied. The respondent department withdrew the termination order in the best interest of public but the appellant continued with his illegal conduct, refused to perform duty personally by sticking to deceitful practices.
- C. Incorrect, hence denied. As elucidated in para 6 above facts.
- D. Incorrect, hence denied. Proper opportunity was given to the appellant, but he failed to mend his illegal behavior.
- E. Incorrect, hence denied. As elucidated above, the appellant could not mend his conduct and continued with fraudulent engagement of impersonated teacher in his place, and thus ultimately proved for guilty of misconduct and violation of rules.
- F. The appellant was deceiving the education department by keeping the proxy attendance through impersonate teacher, and wasted precious time of the students. The identity card, signature, and picture of the impersonated teacher are attached as ANX-F
- G. Incorrect, hence denied. As elucidated in para D in above ground.
- H. No comments.
- I. The respondent department also seeks permission of this Honorable Tribunal to advance other grounds at the time of hearing the instance case.

Pray:

In light of the above stated facts, it is submitted that the case of the appellant may be ordered as dismissed with cost.

Respondent No. 1

(Dr. Iqbal Khan)
Director of E&SE
Khyber Pakhtunkhwa

Respondent No.2

(Mr. Uzair Ali)
District Education Officer (M)
Khyber at Jamrud

BEFORE THE HONORABLE SERVICE TRIBUNAL PESHAWAR.

Appeal No.1895/2023


Karam Shah..... Appellant.


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Affidavit .

I, Muhammad Uzair Ali District Education Officer Khyber do hereby solemnly affirm and declare that the contents of the accompanying para-wise comments submitted by the respondents is correct to the best of my knowledge and belief and nothing has been concealed from this honorable tribunal.


Muhammad Uzair Ali
District education Officer (M)
Khyber at Jamrud


9/1/24

BEFORE THE HONORABLE SERVICE TRIBUNAL PESHAWAR.

Appeal No.1895/2023

Karam Shah..... Appellant.

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Comments on behalf of Respondents No.1, 2 & 3.

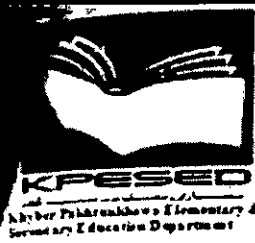
Authority Letter

Mr.Munawar Khan /focal Person of (Litigation) District education Officer Khyber is hereby authorized to submit para-wise comments in the court on the behalf of respondent.



Muhammad Uzair Ali
District education Officer (M)

Khyber at Jamrud



KHYBER AT JAMRUD
NO. _____ / EDU DATED _____ 2022
Email: DEOKHYBER7777@gmail.com

Termination Order

WHEREAS you Mr. Karam Shah PST GPS Bara Kas BZK Landi Kotal District Khyber has been using proxy teacher Mr. Arman Ali since 1/12/2020 till date as reported by EMA

NOWTHERERFORE, I Mr. Nisar Muhammad District Education Officer Khyber as competent authority under E& D Rules, 2011 is pleased to impose major penalty "Termination" upon you Mr. Karam Khan PST Bara Kas BZK Landi Kotal District Khyber with effect from 1/12/2020 in the interest of public service.

Sd-
DISTRICT EDUCATION OFFICER (M)
KHYBER AT JAMRUD

dated: 28/03 /2022

Endst: No. 2752 - 08

01. Director E&SED Khyber Pakhtunkhwa at Peshawar.
02. Deputy Commissioner Khyber at Peshawar.
03. DMO EMA District Khyber.
04. District Accounts Officer District Khyber.
05. SDEO Landi Kotal District Khyber.
06. Accountant local Office for stoppage of his pay.
07. Individual concerned.

Sd
DISTRICT EDUCATION OFFICER (M)
KHYBER AT JAMRUD

Arman Ali
C12

CANCELLATION/WITHDRAWAL

The termination order in r/o Mr. Karam Shah PST GPS Bara Kas BZK Landi Kotal District Khyber, issued vide this office letter No.2702-08 dated 28/03/2022 is hereby cancelled/ withdrawn on the following conditions in the interest of public service.

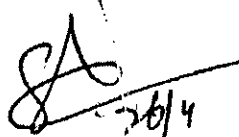

01. The period w.e.f 1/12/2020 to 28/03/2022 (482-days) is hereby converted into leave without pay and will be recovered on source-II.
02. An undertaking will be taken from him to the effect that he will perform his duty and will never be absent in future, if found absent or using proxy, he will be removed from Govt: service and he will have no right to appeal.
03. This order is effective from 29/03/2022.
04. His salary will be released after provision of undertaking on stamp paper as per para No.2.

(Said Hussain)
District Education Officer (M)

Endst No. ~~33~~ 3418-24

Dated: 26/04/2022

01. Director E & SE Khyber Pakhtunkhwa at Peshawar.
02. Deputy Commissioner District Khyber.
03. DMO EMA District Khyber.
04. District Accounts Officer District Khyber.
05. SDEO Landi Kotal.
06. Individual concerned.
07. Office Copy.


26/4
District Education Officer (M)
Khyber at Jamrud


Mushtaq
C2



Directorate of Elementary and Secondary Education

Khyber Pakhtunkhwa Peshawar

PH No. 091-9330242 Fax 091-9210936

No 18656-58 /EM/II M/Khyber Vol .I Dated 06/4/2023



To

P= 8

Annex = C

✓ The District Education Officer (Male)
Khyber at Jamrud.

Subject: APPLICATION

I am directed to refer to the subject cited above and to state that after perusal of the case in the light of your letter No.1961 dated 21/02/2023, the Appellate Authority is pleased to reject the appeal of Mr. Karam Shah Ex-PST at GPS Bara Kas Landi Kotal District Khyber.

I am further directed to ask you to inform the concerned accordingly, please.

MD
5/4/2023
Assistant Director (Estab:)
Elementary and Secondary Education
Khyber Pakhtunkhwa Peshawar

Endst. of even No. & Date:

Copy forwarded for information to the;

1. Mr. Karam Shah Ex-PST at GPS Bara Kas Landi Kotal District Khyber.
2. PA to Additional Director E&DE Khyber Pakhtunkhwa Peshawar.

Assistant Director (Estab:)
Elementary and Secondary Education
Khyber Pakhtunkhwa Peshawar

D/A Pmp
Concerned Ex-PST
copy.

19/4/23
D.No. 418

Recd
19/4/23

Attested
C-2



**OFFICE OF THE ASSISTANT.SUB-DIVISIONAL
EDUCATION OFFICER (MALE) BARA DISTRICT
KHYBER**

P = 9
Arman = D

To

District Education Officer,
District Khyber.

Subject: **INQUIRY REPORT**

MEMO:

Reference your office letter Endost: No. 1216-22 Dated: 05-09-2022 regarding inquiry against Mr. Karam Shah PST GPS Ayub Shah Killi Bara Kas BZK Landi Kotal for using proxy teacher instead of himself.

BACKGROUND HISTORY

GPS Ayub Shah Killi Bara Kas is located in Bazar Zakha Khel Landi Kotal. The mentioned official is only working teacher there. Total enrollment is 125 as per attendance registers. According to EMA report the said teacher was reported absent from his duties time and again, and that he is using another proxy teacher named Mr. Arman Ali (CNIC# 21203-3118213-1).

The said teacher was terminated by District Education office as a major penalty reported as using proxy teacher by EMA, termination order Endost: No. 2702-08 Dated. 28-03-2022, which was cancelled by the Office order Endost: No. 3418-24 Dated. 26-04-2022. (copies of both orders are attach for ready reference).

PROCEDURE ADOPTED

The inquiry officer visited the said school on 07-10-2022 during school timings. It found that Mr. Karam Shah PST was absent from his duty and another person named Arman Ali was performing teaching process in the school. He was also signing for Mr. Karam Shah PST in the attendance register. During inquiry process the proxy admitted that he is performing duties since March 2021 for Rs.15000/- per month (written statement attached).

Furthermore, the inquiry officer tried to contact with Mr. Karam Shah PST through his cell number and send him messages but got no feedback/response.

FINDING


From inquiry process and termination order it very is clear that proxy is being used at GPS Ayub Shah Killi Bara Kass BZK from the day first.

RECOMENDATIONS

The following recommendations are submitted for further necessary action.

1. Reinstatement order of the mentioned PST may be cancelled.
2. The period (March, 2021 till October, 2022) in which he has used proxy teacher salary of this duration may be recovered from him.
3. Another regular teacher or PTC hired teacher must be provided to the school as soon as possible to avoid the closure of school.

Arman Ali
Ar2


13/10/22
ASSISTANT.SUB-DIVISIONAL EDUCATION OFFICER (M)
BARA DISTRICT KHYBER

تقدیر ڈیوٹی

P=10

Area = E

میں مسی ارمان علی ولد اقبال جان 21203-3118213-1

استاد کرم شاہ چی پی ایس ٹی سی ای جگہ خارج مدرسہ سے گورنمنٹ

پرائمری سکول باڈہ بس بازار ذخہ ضلع کنڈی تحصیل ڈیوٹی انجام

دے رہا ہوں جسکا کرم شاہ محمد مبلغ 50000/- (ارے سینار دیتا

ہے۔

C. B. Arman
7/10/2002

مسٹر (11)

مہلت چوکنڈار

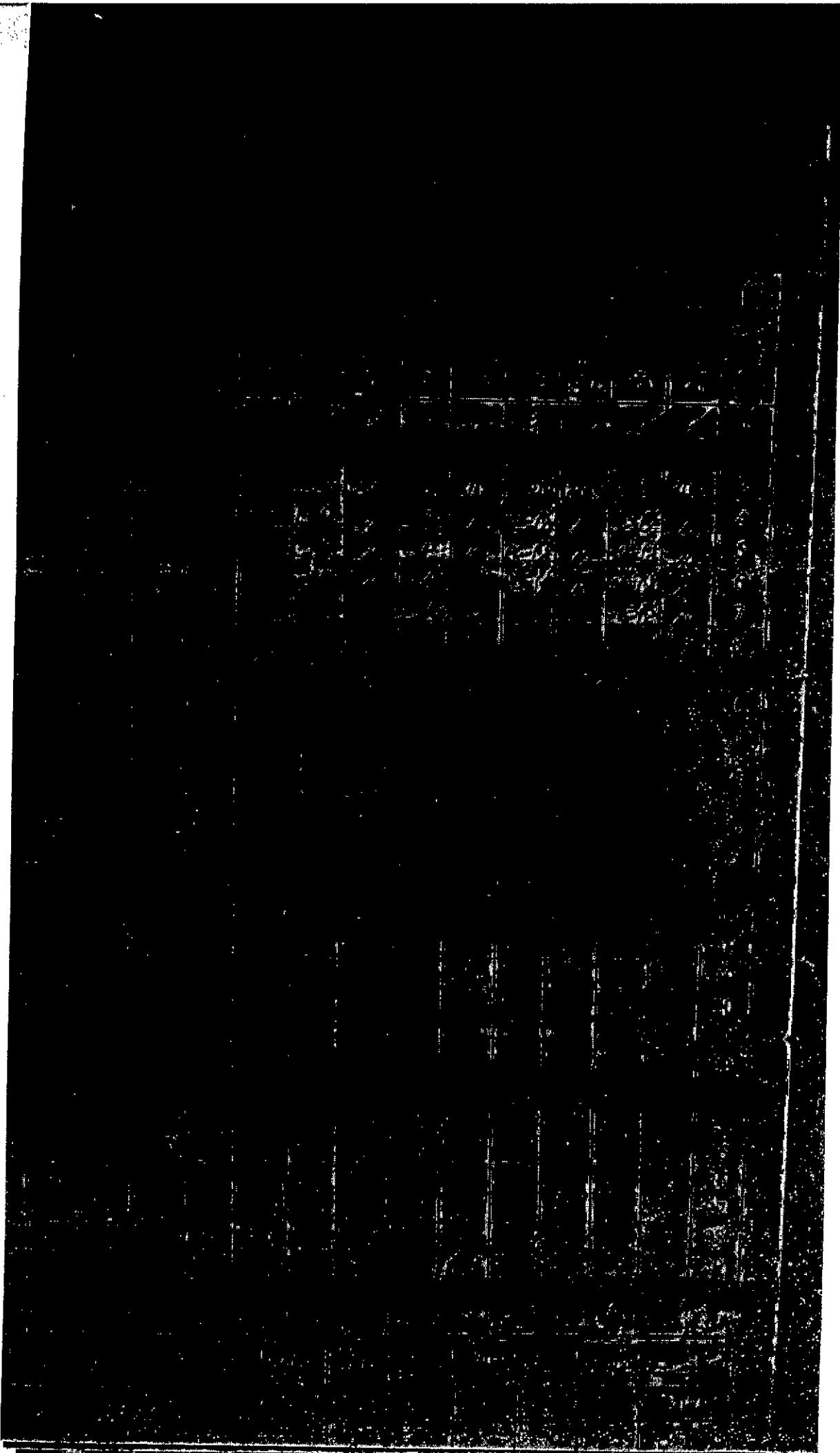
21203-5210309-3

Attestation

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CR2

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P-13
Amex = F



Alberic

Q13

012
Arman Ali



PAKISTAN National Identity Card

ISLAMIC REPUBLIC OF PAKISTAN



Name

Arman Ali



Father Name

Iqbal Jan

ارمان علی

اقبال جان

Gender Country of Stay

M Pakistan

Identity Number

21203-3118213-1

Date of Birth

04.08.1987

Date of Issue

16.08.2022

Date of Expiry

16.08.2032



Holder's Signature

P-14
Arman Ali

Allopathy
Q12

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