

08.11.2019

Counsel for the appellant present.

The case of the appellant is that after his appointment on 07.12.2018, he assumed the charge against the post of Pesh Imam at GHS Muhammad Khel, Tehsil Datta Khel, District North Waziristan on 08.08.2018. He had been performing duty as such but has not been paid any salary towards performance of his duty.

Instant appeal is, therefore, admitted to regular hearing. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments on 19.12.2019 before the S.B.


Chairman

19.12.2019

Nemo for appellant.

It is already past 2.35 PM and despite repeated calls no one is in attendance to represent the appellant.

Dismissed for non-prosecution. File be consigned to the record room.


Chairman

Announced:
19.12.2019

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. 1002 /2019

AFSAR ULLAH

VS

EDUCATION DEPTT:

INDEX

S.NO.	DOCUMENTS	ANNEXURE	PAGE
1.	Memo of appeal	1- 3.
2.	Domicile	A	4.
4.	Educational testimonials	B	5- 8.
5.	Appointment order	C	9.
6.	Medical certificate	D	10.
7.	Charge report	E	11.
8.	Departmental appeal	F	12.
9.	Vakalat nama	13.

APPELLANT

THROUGH:


NOOR MOHAMMAD KHATTAK
ADVOCATE

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. 1002 /2019

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 1110

Dated 31/7/2019

Mr. Afsar Ullah, Pesh Imam (BPS-09),
GHS Muhammad Khel, Tehsil Datta Khel, District North Waziristan.

.....**APPELLANT**

VERSUS

- 1- The Director (E&SE) Department, Khyber Pakhtunkhwa, Peshawar.
- 2- The Director Education (Merged Area) Districts, Merged Area Secretariat, Warsak Road, Peshawar.
- 3- The District Education Officer, District North Waziristan.
- 4- The District Account Officer, District North Waziristan.

.....**RESPONDENTS**

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974, AGAINST THE INACTION OF THE RESPONDENTS BY NOT RELEASING MONTHLY SALARIES OF THE APPELLANT W.E.F. 07.12.2018 TILL DATE 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 respondents may very kindly be directed to release the monthly salaries of the appellant w.e.f. 07.12.2018 till date. 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 law abiding citizen of Pakistan and bonafide resident of Land Syed Abad, Tehsil Datta Khel, Miran Shah, District North Waziristan. Copy of the Domicile is attached as annexure.....**A.**
- 2- That appellant having the requisite qualification and eligibility was appointed as Pesh-e-Imam (BPS-09) on the proper recommendations

Filed to-day
Registrar
31/7/19

Re-submitted to-day
and filed.
Registrar

of Departmental Selection Committee vide order dated 07.12.2018. Copies of the educational testimonials & appointment order are attached as annexure.....**B & C.**

3- That after appointment the appellant submitted his charge report against the above mentioned post and started performing his duty efficiently. Copies of the medical certificate & charge report are attached as annexure.....**D & E.**

4- That it is pertinent to mention that the salaries of the appellant has not been released by the respondent Department from the date of his first appointment i.e. 07.12.2018 till date inspite of the fact that the appellant is regularly performing his duty at the concerned station.

5- That appellant time and again requested the respondent No. 2 for releasing of his salaries but the respondents are not willing to do so. That finally the appellant filed Departmental appeal before the respondent No.2 but the same is un-responded. Copy of the Departmental appeal is attached as annexure.....**F.**

6- That appellant feeling aggrieved and having no other remedy filed the instant service appeal before this august Tribunal on the following grounds amongst the others.

GROUND:

A- That the inaction of the respondents by not releasing the monthly salaries of the appellant is against the law, facts, norms of natural justice and materials on the record hence not tenable.

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 respondent violated Article-4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.

C- That the inaction of the respondent Department by not releasing the monthly salaries of the appellant is based on arbitrary and malafide intention.

D- That not releasing the monthly salaries of the appellant is the clear violation of Article 11 of the Constitution of Islamic Republic of Pakistan, 1973.

E- That not releasing the monthly salaries of the appellant is also the violation of Principle **"WORK DONE MUST BE PAID"**.

F- That the inaction of the respondent Department by not releasing the monthly salaries of the appellant is the clear violation of the principle of natural justice.

G- 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: 26.07.2019

APPELLANT



AFSAR ULLAH

THROUGH:



NOOR MOHAMMAD KHATTAK

KAMRAN KHAN

&



**MIR ZAMAN SAFI
ADVOCATES**

A-4

S.No: 1853

F/B Mob:

Date: 20/11/17

TRIBAL DOMICILE CERTIFICATE

Waziristan

North

Agency



Sub Division:

Miranshah / Mirali / Razmak

Certified That Mr / Miss. **AFSAR ULLAH**

Son / daughter Of **SHER DARAZ**

Triber **Dawar** Sub Tribe **Land Syed Abad**

Village **Land Syed Abad** Tehsil **Data Khel**

Sub-division **Miran Shah** Is Bonafide Resident Of

North Waziristan Agency. Father/Guardians Nic No: 21501-3-2378-3

1. Malik

Handwritten signature in Urdu

2. Malik

Handwritten signature in Urdu

N.I.C No

21501-9734526-1

N.I.C No

C:21501-2651233-3

ATTESTED

ATTESTED



Handwritten notes and signatures
NO-202
20-11-2017
Attested

Political (N) Tehsildar

Teh:

Name:

COUNTERSIGNED

COUNTERSIGNED

Assistant Political Agent/ADM

ASSISTANT POLITICAL OFFICER/ADM

MIRANSHAH SUB-DIVISION



Political Agent/DM

North Waziristan Agency

Miranshah

No.

Dated

G/10/10

20

بیان مکان

ہم تصدیق کرتے ہیں کہ سہی افسر اللہ ولد سہم دراز
سکنہ لائڈ سید آباد تحصیل دسہ ضلع

شمالی وزیرستان ایجنسی کا مستقل باشندہ ہے قوم کے ساتھ نفع نقصان میں برابر کا شریک ہے نیک چلن ہے
حکومت کا وفادار ہے نہ یہ تخریب کار ہے نہ مفرور ہے غلط ثابت ہونے پر مبلغ (2) لاکھ روپے جرمانہ ادا کریں گے

مورخہ 20/1/2017

العبد
Shehad
ملک (2) ملک جان ادوہیل جان
لاڈ (سیرا) *
21501-9734528

العبد احمد زمان
ملک (1) ملک اختر علی
307
21501-9734528

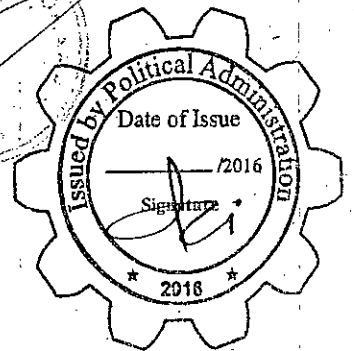
ATTESTED

Political (N) Tehsildar
Tehsil

رہنما فوٹو اسٹیشن

20 JAN 2017

پشوالا بلاڈ لائڈ ترقیاتی کمیٹی

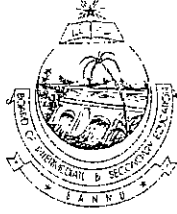


BU: S.No. 032635

بِسْمِ اللّٰهِ الرَّحْمٰنِ الرَّحِیْمِ

B
Roll No. 20251

Board of Intermediate & Secondary Education BANNU (N-W.F.P.), PAKISTAN.



SECONDARY SCHOOL CERTIFICATE EXAMINATION

SESSION 2007 ANNUAL

This is to Certify that Afsar Ul Allah

Son of

Sher Daraz

Student of

North Waziristan Agency

has passed the Secondary School Certificate Examination of the Board of Intermediate & Secondary Education, Bannu held in April, 2007 as a Private candidate.

He obtained 737 marks out of 1050 and has been placed in Grade

A

Representing Excellent. The candidate passed in the following subjects:

1. English	2. Urdu	3. Islamiyat	4. Pakistan Studies
5. General Science	6. Arts And Model Drawing	7. Islamic Studies	8. Mathematics

Date of birth: (07-11-1983). in words: 07 November, Nineteen Eighty-Three.

Registration No: 022-B/GSNMK-1999

Date of declaration of Result: 16-07-2007

Prepared on: 12-05-2009

Asstt. Secretary

SECRETARY

This certificate is issued without alteration or erasure

جامعہ دارالعلوم سبھانیہ

بیک شیرزہ خان سوزانی بنوں

رقم التحیل (داخلہ نمبر) 950
 رقم الجلیوس 25
 اسم طالب احسن الدین
 اسم الوالد شعیب دیر
 المدیریہ (ضلع) میرپور
 تاریخ پیدائش 12-11-1922

الوزجات	الکتب الدرسہ	الدرجات	الکتب الدائتہ
17	تجوید القرآن	16	جمال القرآن
16	خلاصۃ التجوید	17	تیسر التجوید
16	فوائد مکبہ	16	ترتیل القرآن

verified and found correct

مجموعۃ الدرجات 100
 درجہ اولیٰ 48
 درجہ ثانیہ 52
 دستخط مہتمم



مہر جامعہ

Attested
 Attested

التاریخ 2012



C-9

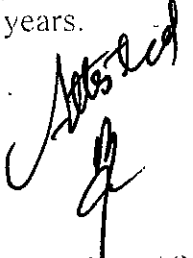
**OFFICE OF THE DISTRICT EDUCATION OFFICER NORTH
WAZIRISTAN TRIBAL DISTRICT AT MIRANSHAH**

APPOINTMENT ORDER

Consequent upon the recommendation of the Departmental Selection committee the competent authority is pleased to appoint **Mr. Afsar Ullah S/O Sher Daraz Khan Ex-TT** Tehsil Datta Khel local male candidate out of (**Deceased Son Quota**) against the vacant **Pesh Imam Post** at **GHS Muhammad Khel** Tehsil Datta Khel in BPS No-09 @ Rs: (11770-730-33670) per month plus usual allowances on regular basis as admissible under the rules.

TERMS & CONDITIONS

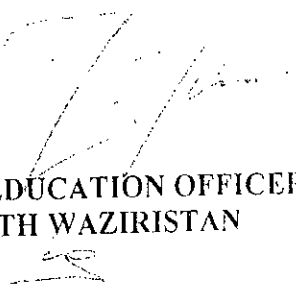
- 1- Appointment of the candidate is made purely on Temporary Basis and is Liable to terminate at any time without any notice.
- 2- If the candidate wishes to resign his post he will be given one month prior notice or his pay for one month will be forfeited in lieu thereof.
- 3- His Documents, CNIC & other testimonial should be checked before handed over charge of the post and attested thereof may be kept on record of the school.
- 4- He should produce his Health & Age Certificate from the Medical Superintendent AHQ Hospital Miran Shah North Waziristan Tribal District.
- 5- He may not be handed over charge if he is below 18-years or above 35-years.
- 6- If he fails to report his arrival with in 15-days of the issue of this appointment order then it will be treated as cancelled.
- 7- No salary will be drawn before the verification of all the Academic/Professional & testimonials from the concerned Board/universities/institutions.
- 8- If any technical legal flaw is pointed out, the appointment will stand as cancelled.
- 9- Charge Report should be submitted to all concerned.
- 10- Age relaxation for the period 01 year 04 months and 03 days is hereby accorded as above from the age 35 years.


DISTRICT EDUCATION OFFICER
NORTH WAZIRISTAN

Endstt: No. _____ /Deceased/P.Imam/ (Male File)/DEO/NWTD/

Dated 7/11/2018

- 1- The Director Education NMD, Warsak Road Khyber Pakhtunkhwa Peshawar.
- 2- The Deputy Commissioner North Waziristan at Miran Shah.
- 3- The Addl: Deputy Commissioner North Waziristan.
- 4- The Distirt Accounts Officer (NWTD) Miran Shah.
- 5- Principals/Head Masters Concerned.
- 6- ADEOs Circle Concerned.
- 7- Candidate Concerned.
- 8- Pay Clerk concerned.


DISTRICT EDUCATION OFFICER
NORTH WAZIRISTAN

D-13

MEDICAL CERTIFICATE

Name of official Mr. Afsarullah
 Caste or race Muslim
 Father's Name Mr. Sher Dava 2 Khan
 Residency of village Land Tehsil Dulla Khel NWFD
 Date of Birth 07-11-1983
 Exact Height by measurement 5'4"
 Personal marks of identification Nil
 Signature of the official [Signature]

[Signature]
 Seal of Office

I do hereby certify that I have examined Mr. Afsarullah a candidate for employment in the office of the Education Dept. (Peshawar) and cannot discover that he/she has an disease communicable or other constitutional effect in or bodily infirmity except Nil

I do not considered this as disqualification for employment in the office of the Education Dept. His/ Her age according to his own statement 35 years and by appearance about 35 years.



Attested
[Signature]

LEFT HAND THUMB AND FINGER IMPRESSION 08/12/2018

[Signature]
 Medical Superintendent,
 HQ Hospital Miranshah,
 Peshawar

CHARGE REPORT

E-11

Certified that Mr. Afsar Ullah son of Late Sher Daraz Khan has taken over the charge of Pesh-E-Imam post at GHS Muhammad Khel Tehsil Datta Khel Tribal District North Waziristan fore noon of this day on 08-12-2018 Vide District Education Officer Tribal District North Waziristan Appointment order Endstt: No: 11777-85/Deceased/P.Imam (Male File)/DEO/NWTD dated Miran Shah the 07-12-2018.

افسر اللہ

Afsar Ullah P/Imam B-9
GHS Muhammad Khel

ATTESTED

[Signature]
Principal
Govt. High School Muhammad Khel
Tribal District North Waziristan

PRINCIPAL
GOVT. HIGH SCHOOL MUHAMMAD KHEL
TRIBAL DISTRICT NORTH WAZIRISTAN

Attested
[Signature]

Endstt: No 174 /Charge Report/Prpl/NWA/Dated 08 /12/2018

Copy to the:

- 1- District Education Officer North Wazireistan for information please.
- 2- District Accounts Officer North Waziristan for necessary action please.
- 3- Clerk concerned.

[Signature]
Principal
Govt. High School Muhammad Khel
Tribal District North Waziristan

PRINCIPAL
GOVT. HIGH SCHOOL MUHAMMAD KHEL
TRIBAL DISTRICT NORTH WAZIRISTAN

محرمیت جناب ڈائریکٹر ایجوکیشن صم شدہ قبائلی اضلاع، ورکس روڈ پشاور
F-12

صبا - عالی

فدوی مسودہ بانہ گزارش کرنا ہے۔ کہہ فدوی اخبار 7.12.2018 کو

حکمتہ تعلیم میں بطور پیش امام گورنمنٹ ہائی سکول محمد خیل دتہ خیل میں تعینات
ہوا۔ بعد از تعیناتی اپنے اپنا چارج رپورٹ جمع کیا اور باقاعدہ طور پر اپنی
ڈیوٹی احسن طریقے سے سرانجام دینے لگا۔ اور تاحال میں اسی سکول میں ڈیوٹی
پر مصروف ہوں۔ باوجود اسکے کہ میں اپنی ڈیوٹی پوری اہمیت سے سرانجام
دے رہا ہوں لیکن ابھی تک میری تنخواہ جاری نہیں کی گئی۔ جو کہ میرا قانونی
اور اخلاقی حق ہے۔ چونکہ میرے چھوٹے چھوٹے بچے ہیں اور تنخواہ نہ دینے کے علاوہ کوئی
دوسرا ذریعہ معاش نہیں جس سے میں اپنی زندگی کی ضروریات چوری کر سکوں

لذا آپ صاحبان سے اپیل کرتا ہوں کہ میری تنخواہ حورم 7.12.2018 سے جاری
کرنے کے احکامات صادر فرمائیں اور فرمائے جس کیلئے میں اور میرے گھروالے
تالمر دعاؤں میں

حورم 16.4.2019

محمد علی

العارض
افسر ایف

پیش امام گورنمنٹ ہائی سکول
محمد خیل دتہ خیل نارنگو وزیرستان

VAKALATNAMA

Before the KP Service Tribunal, Peshawar

_____ OF 2019

Afsar Ullah

(APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

Education Deptt.

(RESPONDENT)
(DEFENDANT)

I/We Afsar Ullah

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. ____/____/2019

As

CLIENT

Accepted
ACCEPTED
NOOR MOHAMMAD KHATTAK

Sh. Yousafzai
SHAHZULLAH YOUSAFZAI

Mir Zaman Safi
&
MIR ZAMAN SAFI
ADVOCATES

OFFICE:
Flat No.3, Upper Floor,
Islamia Club Building, Khyber Bazar,
Peshawar City.
Mobile No.0345-9383141