

25.05.2022

Mr. Noor Muhammad Khan, Advocate for the appellant present. Mr. Noor Zaman Khattak, District Attorney alongwith Mr. Hussain Ali, Litigation Officer for the respondents present.

02. Learned counsel for the appellant submitted an application for withdrawal of the instant service appeal on the ground that during pendency of the instant service appeal, respondent department issued termination order of the appellant. Learned counsel for the appellant therefore requested for withdrawal of the instant service appeal on the ground that the present service appeal has become infructuous. Application is allowed and the present service appeal stands dismissed as withdrawn. Consign.

03. Pronounced in open court in Peshawar and given under my hand and seal of the Tribunal this 25<sup>th</sup> day of May, 2022.



(Mian Muhammad)  
Member (E)

16.11.2021

Counsel for the appellant present. Mr. Kabirullah Khattak, Addl: AG alongwith Mr. Fazal Rehman, Principal for respondents present. Preliminary arguments have been heard.

In pursuance of order sheet dated 22.12.2020 reply/parawise comments alongwith connected documents received from official respondent No.1 to 3 which are placed on file.

The appeal is admitted to regular hearing subject to all just legal objections including limitation. The appellant is directed to deposit security and process fee within 10 days. To come up for arguments on 07.03.2022 before D.B.

Appellant Deposited  
Security & Process Fee

24/1/22

(Mian Muhammad)  
Member(E)

7-3-2022

Due to retirement of the Hon. Chairman the case is adjourned to come up for the same as before on 23-5-2022

R.  
Reader

24.06.2021

Junior to counsel for the appellant present and requests for adjournment due to non-availability of learned senior counsel for the appellant. Request is accorded but as last chance. To come up for preliminary hearing on 23.09.2021 before S.B.

  
Chairman

23.09.2021

Counsel for the appellant present. Mr. Kabirullah Khattak, Additional Advocate General alongwith Mr. Hussain Ali, Litigation Assistant for respondents present.

Representative of the respondents submitted written reply which is placed on file. A copy of the same is also handed over to the learned counsel for the appellant. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for preliminary hearing before the S.B on 16.11.2021.

  
(MIAN MUHAMMAD)  
MEMBER (E)

28.07.2020

Mr. Asfandyar Wazir, Advocate junior to senior counsel Mr. Noor Muhammad Khattak, Advocate is present. Formal request for adjournment. Adjourned to 20.10.2020. File to come up for preliminary hearing before S.B.

(MUHAMMAD JAMAL KHAN)  
MEMBER

20.10.2020

The legal fraternity is observing strike today, therefore, the case is adjourned to 22.12.2020 on which to come up for preliminary hearing before S.B.

(Muhammad Jamal Khan)  
Member (Judicial)

22.12.2020

Appellant present through counsel.

Let pre-admission notice be issued to respondents for reply. To come up for reply and preliminary hearing on 17.03.2021 before S.B.

(Rozina Rehman)  
Member (J)

17.03.2021

Due to tour of Camp Court Abbottabad and shortage of Members at Principal Bench Peshawar, the case is adjourned to 24.06.2021 before S.B.

Reader

07.01.2020

Mr. Kamran Khan, Advocate for appellant present.

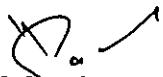
Learned counsel requests for adjournment as learned senior counsel for the appellant is engaged before the Honourable High Court today in various cases.

Adjourned to 18.02.2020 before S.B.

  
Chairman


18.02.2020

Junior to counsel for the appellant present and seeks adjournment as senior learned counsel is not in attendance. Adjourn. To come up for preliminary hearing on 17.03.2020 before S.B.

  
Member

17.03.2020

Nemo for the appellant. Lawyer community is on strike on the call of Peshawar Bar Association. Adjourn. To come up for preliminary hearing on 22.04 .2020 before S.B.

  
Member

22.04.2020

Due to public holiday on account of COVID-19, the case to come up for the same on 28.07.2020 before S.B.

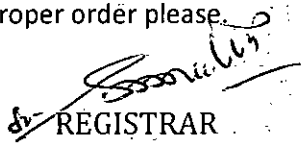
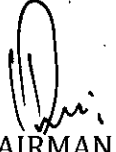

  
Reader

Form- A

FORM OF ORDER SHEET

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

Case No.- 1228/2019


S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	07/10/2019	<p>The appeal of Mr. Sabir Khan resubmitted 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> REGISTRAR</p>
2-	14/10/19.	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>28/11/19.</u></p> <p> CHAIRMAN</p>
28.11.2019		<p>Nemo for appellant.</p> <p>Notice be issued to appellant/counsel for preliminary hearing before S.B on 07.01.2020.</p> <p> Chairman</p>

This is an appeal filed by Mr. Sabir Khan today on 18/09/2019 against not acceptance of arrival report against which he preferred/made departmental appeal/ representation on 21.06.2019 the period of ninety days is not yet lapsed as per section 4 of the Khyber Pakhtunkhwa Service Tribunal Act 1974, which is premature as laid down in an authority reported as 2005-SCMR-890.

As such the instant appeal is returned in original to the appellant/Counsel. The appellant would be at liberty to resubmit fresh appeal after maturity of cause of action.

No. 1623 /ST,

Dt. 19-9-2019


  
REGISTRAR  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

Mr. Noor Muhammad Khattak Adv.

Note:

Sir,

That appeal in hand was returned to Counsel of the appellant with the observation that the instant appeal has been submitted prematurely. Now the instant service ~~is~~ became mature, hence re-submitted today dated 07/10/2019.

  
07/10/2019

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

APPEAL NO. 1228 /2019

**SABIR KHAN**

**V/S**

**EDUCATION DEPTT:**

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2	Appointment order	<b>A</b>	4.
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4.	Departmental appeal	<b>C</b>	11.
5.	Vakalat nama	.....	12.

**APPELLANT**

**THROUGH:**

  
**NOOR MOHAMMAD KHATTAK**  
**ADVOCATE**



**BEFORE THE KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL PESHAWAR**

Khyber Pakhtunkhwa  
Service Tribunal

**APPEAL NO. 1228 /2018**

Diary No. 1273

Mr. Sabir Khan, PST (BPS-7 now BPS-12),  
GMPS Mandan, District Swat.....

Dated 18/9/2019

**APPELLANT**

**VERSUS**

- 1- The Government of Khyber Pakhtunkhwa through Secretary (E&SE) Department, Khyber Pakhtunkhwa, Peshawar.
- 2- The Director (E&SE) Department, Khyber Pakhtunkhwa, Peshawar.
- 3- The District Education Officer (M), at Gulkada Swat.

..... **RESPONDENTS**

**APPEAL UNDER SECTION- 4 OF THE KHYBER  
PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974  
AGAINST THE INACTION OF THE RESPONDENTS  
BY NOT ALLOWING THE APPELLANT TO SUBMIT  
HIS ARRIVAL REPORT AS PRIMARY SCHOOL  
TEACHER AND AGAINST NO ACTION TAKEN ON  
THE DEPARTMENTAL APPEAL OF THE APPELLANT  
WITH IN THE STATUTORY PERIOD OF NINETY  
DAYS**

**PRAYER:**

That on acceptance of this appeal the respondents may very kindly be directed to allow the appellant to submit his charge report as P.S.T (BPS-12) OR the respondents may be directed to communicate the adverse order if issued against the appellant by the respondents. Any other remedy which this august Tribunal deems fit may also be awarded in favor of the appellant.

**R/SHEWETH:  
ON FACTS:**

1. That appellant is the bonafide resident of District Swat and belongs to a respectable family.
2. That the appellant was appointed as primary school Teacher (BPS-07) now BPS-12 on the recommendation of proper Departmental selection committee in the respondent Department vide order dated 06.12.1990. That in response the appellant submitted his charge report at GMPS Mandan District Swat and started performing his duty quite efficiently and to the entire satisfaction of his superiors. Copies of the

**Filed to-day**

**Registrar**

Re-submitted to-day  
and filed.

**Registrar**

appointment order & service book are attached as annexure  
..... **A & B.**

3. That during service due to some unavoidable circumstances applied for leave for the period from 03.03.2001 to 02.03.2002 which was granted to the appellant.
4. That after expiry of the said leave the appellant submitted his arrival report and started performing his duty on the concerned station quite efficiently. That due to the law and order situation in District Swat and life threat the appellant was not able to continue his duty, therefore, the appellant requested the respondent No.3 for further leave which was sanctioned and the appellant along with his family was shifted to Karachi to secure his life.
5. That after taking over Pak Army in the area the appellant came back and approach the concerned office to submit his arrival report but the respondent No. 3 orally stated about the termination of the appellant but till date no any order has been issued to the appellant regarding his termination.
6. That feeling aggrieved the appellant filed Departmental appeal before the appellate authority for acceptance of arrival report/adjustment against the vacant post of PST anywhere in District Swat or issue any adverse order regarding termination of the appellant but of no avail. Copy of the Departmental appeal is attached as annexure.....**C.**
7. That appellant feeling aggrieved and having no other remedy but to file the instant service appeal on the following grounds amongst the others.

**GROUND:**

- A- That neither adjusting the appellant on the post of Primary School Teacher nor issuing any adverse order by the respondents is against the law, facts and norms of natural justice.
- B- That the appellant has not been treated by the concerned authorities in accordance with law and rules on the subject noted above and as such the concerned authorities violated article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.
- C- That the concerned Department acted in arbitrary and malafide manner by not allowing the appellant to submit his arrival report on the post of Primary School Teacher.
- D- That no adverse order has been passed/ issued by the respondents against the appellant, therefore under the law

the appellant is entitled to be adjusted against the post of PST.

- E- That after arrival the respondents even not bothered to conduct inquiry in the matter of appellant and thus the appellant was kept in hanging position till date.
- F- That till date the respondents kept the appellant in hanging position and as such the respondent No.3 is not willing to adjust the appellant on the post of PST.
- G- That valuable rights of the appellant have been accrued, therefore under the prevailing rules the appellant is entitled to be adjusted on the Post of Primary School Teacher with all back benefits.
- H- That appellant has school going children and have no other source of income to support his family, therefore the principle of natural justice demands that the appellant be allowed to resume his duty as P.S.T.
- I- That the appellant seeks permission to advance other grounds and proofs at the time of hearing.

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

Dated: 11.09.2019

**APPELLANT**

  
**SABIR KHAN**

**THROUGH:**

  
**NOOR MOHAMMAD KHATTAK**

**SHAHZULLAH YOUSAFZAI**

**&**

  
**MIR ZAMAN SAFI**  
**ADVOCATES**

AC

DISTT: EDUCATION OFFICER (MALE) SWAT AT GUL KADAH.

Appointment of the following person, s is/are hereby ordered on the post of PTC on temporary and adhoc basis at Rs: 750/- P.M. with usual allowances as admissible under the rules in OPS-7(Rupees 1370/-) on or his/their own pay and grade whichever is beneficial to him/ her in the office or institution noted against each name:

S.No.	Name & Qualification/Address.	Posted at	Remarks
1.	Sabir Khan S/O Amir Nawab Gul Kadah	GWS Mandan.	(V.V.)

CONDITION OF APPOINTMENT. (Only one)

1. His/their appointment is /re subject to the approval of Jtts: selection committee.
2. He/they will not claim any seniority or regular appointment ~~except~~ the post which is filled on merit basis from the candidates of relevant grade.
3. His/their services is/are liable to termination/reversion at any time without any reason being assigned.
4. In case of resignation he/they will have to submit one Month's prior notice to the Deptt: or forfeit one Month's pay in lieu thereof to the Govt: if he/they is/are required to produce health and Age Certificate from the Medical Supdt: concerned before taking over charge.
5. No TA/DA etc is allowed.
6. Charge report should be submitted to all concerned in duplicate.
7. In service teachers are not required to produce Health & Age cert:
8. He/they should not be allowed to take over charge if his/their age than 28 years or above 28 years.
9. His/their apptt: is/are subject to further condition that he/they are domicile of Distt: Swat his educational Cert:/Degree character and antecedents form should be obtained duly verified by the local authorities and submit to this office gather with appl: with apptt: on prescribed form undertaking declaration of moveable and immoveable property and Security bond where necessary for record in this office.
10. This apptt: does not confer on him any right to claim seniority over his counter parts or those who have higher marks and have not been apptinted so fare, for one or other reason.
11. If he fail to make over charge of the post within a week after the issue of this order s the offer of the Apptt: shall stand cancelled.
12. If he has not passed all the subject in metric he may not be handed over charge.

(M) ZARAR JALIL  
Distt: Education Officer  
Swat Saidu Shrif.

Endt: No: 3758-58 /A-51/PTC

Dated 6-12-1980

Copy of the above is forwarded for information and necessary action to the:-

1. The SDEO(M) Swat at Gul Kadah.
2. H/Teacher concerned.
3. Teacher concerned.

(M) ZARAR JALIL  
Distt: Education Officer (M)  
Swat Saidu Shrif.

*[Handwritten signature]*

(For use in Police Department only).

B-5

Heirs,

- 1.
- 2.
- 3.

Verification Roll No.                      dated                      received back

Left thumb-impression.

Exam.	R. No	Marks	Divi	Year
SSC	39270	402	(D)	11 <sup>8</sup>
F.A	15758	417	(E)	1986

Qualification	English
Pashtu	
Urdu	
Plan-drawing	
Finger print	
Drill instructing	
Court duties	
Reserve duties	

Passed PTC Exam under  
 Qualifications: 148 m 1995 Date  
 mark obtained 919  
 P/Dec on 25/5/96  
 First Arts

B. I. or Sub Divnl: Edu: Officer  
Saidu Shریف, Swat

Plendship examination  
 Training School Final examination  
 Other qualifications--

*[Handwritten mark]*

N.B.—Line to be drawn under the qualification part only.



Note:—The entries in this page should be renewed or re-attested at least every five years and the Signature to Lines 9 and 10 should be dated.

(6)

1. Name Sobir Khan

2. Race  Afghan

3. Residence  village . Hazara P.o Hazara Tehsil Kabal Distt, Swat


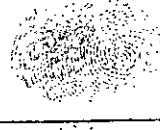
4. Father's name and residence  Amir Nawab

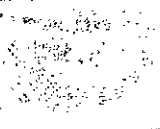

5. Date of birth by Christian era as nearly as can be ascertained  1st february N.HQ Sixty three (1-2-1963)

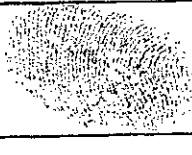
6. Exact height by measurement  five feet six inches (5-6)

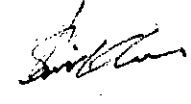
7. Personal marks for identification  Nil

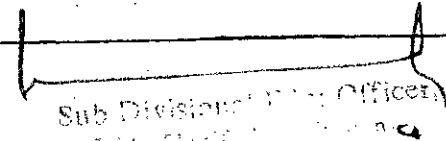
8. Left hand thumb and Finger impression of (non-gazetted) officer

Little Finger.  Ring Finger 

Middle Finger.  Fore Finger 

Thumb.  

9. Signature of Government servant 

10. Signature and designation of the Head of the Office, or other Attesting Officer.   
Sub Divisional Officer  
Swat District

1 Name of post	2 Whether substantive or officiating and whether permanent or temporary	3 If officiating, state (i) substantive appointment, or (ii) whether service counts for pension under Art. 371 C. S. R.	4 Pay in substantive post	5 Additional Pay for officiating	6 Other emolument falling under the term "Pay"	7 Date of appointment	8 Signature of Government servant
G.M.P.S	BPS NO. 7	(750-31-1310)					[Signature]
Mandau P.T.E	Per sub		Rs. 750 fixed.			1/90	[Signature]
G.M.P.S Danda - do -			Rs. 750 fixed.			13 12/90	[Signature]
G.P.S. Hazara		RPS No 7 = 1995-60-1995					[Signature]
- do -	- do -	fixed 1095	Rs. (1215) fixed.			1 6/91	[Signature]
- do -	- do -	RPS No 7 (1480-81-2695)	Rs 1480/			1 6/94	[Signature]
In following employment work may be recorded.			<p>Office of the Accountant General                  H. W. P. P. Pachayal.                  Pay Band in the Revised Pay Scale 1991                  of Rs. 1095/- M. W. E. P. 1-6-1991                  with effect from 1-12-1990</p>				
3.120/- per month 1/91 to 6/30/91			<p>Account Officer                  H. W. P. P. Pachayal.</p>				
Total Rs 720/-			[Signature]				
A. P. S. Officer			<p>Rs 1480 fixed                  1480-81-2695</p>				
1430/-			<p>1 12/94                  25 5/96                  [Signature]</p>				









1	2	3	4	5	6	7	8
Name of post	Whether substantive or officiating and whether permanent or temporary	if officiating, state (i) substantive appointment, or (ii) whether service counts for pension under Art. 371 C. S. R.	Pay in substantive post	Additional Pay for officiating	Other emolument falling under the term "pay"	Date of appointment	Signature of Government servant
W.P. Hazara	per scale		Rs 1966	/		12/1999	[Signature]
do	do		Rs 2047	/		12/2000	[Signature]
W.P. Hazara	DO		Rs 1885	/		12/1998	[Signature]
			Rs 1966	(with Annual increment)		12/1999	[Signature]
Adjusted at W.P. Shah Dherm			Rs 1966	/		10/2000	[Signature]
			Rs 2047	/		12/2000	[Signature]
	R BPS 2220-120-5820						
	Rs		3060/-			12/2001	[Signature]
			Rs (3180) - 120				
			Rs 3300/2			12/2002	[Signature]

Note: The following over payment may be recovered

12/1/31/8  
2001

Service Verified by me on 1-1-2002 to 31-12-02 from acq: Roll & other Record of this office.

@ 120/yr x 21 = 2520/-

Total 2520/-

(2001)  
Office of the Accountant General  
M. W. T. P. Peshawar  
Pay Fixed in the revised basic pay scale 2001 of Rs. 2220-120-5820 (7) @ Rs. 3060/- P.B. 1-12-2001 with next effect from 1-12-2001

Accounts Office





The Director  
Elementary & Secondary Education  
Khyber Pakhtun khwa Peshawar

C- (11)

Subject: - **Adjustment.**

Respected sir,

I have the honor to lay down the following few lines for your sympathetic consideration with the hope that these will receive your benevolent hands and immediate response.

1: - That I was appointed as PTC vide District Education Officer (M) Primary Swat vide his Office Endst No: 37158-59 dated 6/12/1989 and I took over charge at Govt: Primary School Mandan on 1/1/90.

2: - That latter on I was transferred to GPS Danda and then GPOS Hazara.

3: - That due to some unavoidable domestic circumstances I applied for leave for the period from 3/3/2001 to 2/3/2002 which was granted vide District medication Officer Male Primary No.864-65 dated 27/2/2001.

4: - That on the expiry of leave I reported to my Department and I was adjusted at GPS Shah Dehari vide Deputy District Education Officer (M) order dated 9/5/2002 and I took over charge of my post on 110/09/2002 vide charge report copy attached as annexure A.

5: - That due to tense situation in the area due to life threat I was unable to continue my work as the militants of the area were now and then threatening me and family of dire consequences and therefore to save mine and family life I sought shelter in Karachi and applied for extra ordinary leave for the period from 1/8/2002 to 31/7/2003.

6: - That the Officer in charge of the time promised to sanction leave and directed me to go and avail the leave.

7: - That when the situation become normal due to Army take over I came to office and requested the Executive District Officer E & S Swat to adjust me on any vacant post I was told that my service has been terminated and I was no more employee of the education Department.

8: - That let me explain that neither call notice was sent to me on my home address nor any notice was published in any news paper and above all I was **not provided any termination order.**

In view of above it is earnestly desired that my case may be looked into and my termination order if available may be done away with being illegal and I may be adjusted anywhere in District Swat against vacant post.

In case my adjustment is n to possible I may be sent on compulsory retirement as I have already completed more than 10 years service

Your gracious action will enable me to earn lively hood for my family and obliged.

Obediently yours

  
Sabir Khan Village and Post Office  
Hazara Tehsil Kabal Swat.

**VAKALATNAMA**

Before the KP Service Tribunal, Peshawar.

OF 2019

Sabir Khan

(APPELLANT)  
(PLAINTIFF)  
(PETITIONER)

**VERSUS**

Education Deptt:

(RESPONDENT)  
(DEFENDANT)

I/We Sabir Khan

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. 16 / 09 / 2019

Sabir Khan  
CLIENT

ACCEPTED

**NOOR MOHAMMAD KHATTAK**

**SHAHZULLAH YOUSAFZAI**

**KAMRAN KHAN**

**&**

**MIR ZAMAN SAFI**  
**ADVOCATES**

OFFICE:

Flat No.3, Upper Floor,  
Islamia Club Building, Khyber Bazar,  
Peshawar City.

Mobile No.0345-9383141



**BEFORE THE KHYBER PAKTUNKHWA SERVICE TRIBUNAL**  
**PESHAWAR.**

Service Appeal No. 1228/2019

Sabir Khan PST (BPS-7 now BPS-12) GMPS Mandan, District Swat.

.....Appellant

**Versus**

Provincial Govt. of Khyber Pakhtunkhwa & others

..... Respondents

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DISTRICT EDUCATION OFFICER (M)  
SWAT AT GULKADA

**BEFORE THE KHYBER PAKTUNKHWA SERVICE TRIBUNAL  
PESHAWAR.**

Service Appeal No. 1228/2019

Sabir Khan PST (BPS-7 now BPS-12) GMPS Mandan, District Swat.

.....Appellant

**Versus**

1. Government of Khyber Pakhtunkhwa through Secretary Elementary and Secondary Education Peshawar.
2. Director Elementary and secondary education Khyber Pakhtunkhwa at Peshawar.
3. District Education officer (Male) Swat and others..... Respondents

**Parawise Comments on Behalf of the Respondent 1 to 3:**

**Respectfully Shewith**

**Preliminary objections**

1. That the Appellant is not an aggrieved person within the meaning of Section 4 of the service Tribunal Act, 1974.
2. That the Appellant has no cause of action / locus standi.
3. That the Appellant has not come to this Honorable Court with clean hands.
4. That the Appellant has filed this instant service appeal just to pressurize the respondents.
5. The present service appeal is liable to be dismissed for non-joinder/miss joinder of necessary parties.
6. That the instant service appeal is against the prevailing law and rules.
7. That the Appellant has filed this instant Service Appeal on malafide motives.
8. **That the instant appeal is badly time barred.**
9. That the instant service appeal is not maintainable in the present form, and above in the present circumstances of the issue.
10. That the Appellant has estopped by his own conduct.
11. That the Appellant has concealed the material facts from this Honorable Tribunal.

**FACTS:**

1. That the Para No.1 pertains to personal record of the Appellant. Hence no comments.
2. That the Para No.2 is correct. Hence no comments.
3. That the Para No.3 is correct to the extent of leave. However, it is worth to mention here that the Appellant has availed another long leave w.e.f 04-03-1999 to 30-09-2000 clearly reported by the Enquiry Officer in his enquiry report. **(Copy of Enquiry Report annexed as Annexure A)**
4. That the Para No. 4 is incorrect and denied. The Appellant did not submit his arrival report and did not perform his duty. The Deputy District Officer Male Primary Swat had issued absenteeism notices to the Appellant for joining his duty via Endst No. 5546 dated 26-03-2002 and Endst No. 5936 dated 20-04-2002 positively and subsequent office letter No. 9782 dated 18-11-2002, but the Appellant did not resume his duty. Furthermore, the Appellant did not apply for further leave and if the Appellant claim further sanctioned leave, he must produce proofs in front of this Honorable Tribunal. **(Copies of Absenteeism Notices & Letter annexed as Annexure B, C & D)**
5. That the Para No. 5 is irrelevant to the extent of taking over charge by Pak Army in the area, the rest of the para is incorrect and denied. As mentioned in the foregoing para, the Appellant remained absent from his duty in spite of notices and letters issued to the Appellant for joining his duty. Moreover, the Appellant was also directed to resume duty through daily Aaj dated 29-11-2007 but he also failed to resume duty. Further, the Appellant was reported by Deputy District Officer Male Primary Swat to the respondent No. 3 once again via Endst No. 4489 dated 02-02-2008. As the Appellant failed to resume duty, he was terminated from the service vide Office Order/termination No. 4110-14 dated 05-03-2008 after following all codal formalities. **{Copies of Letter for Publication, Publication, Absent from duty/Enquiry, (Enquiry report already annexed as Annexure A) & Termination Order annexed as Annexure E, F, G & H}**
6. That the Para No. 6 is incorrect and denied. The Appellant was terminated from the service dated 05-03-2008 while he has annexed Adjustment/Departmental Appeal dated 21-06-2019 with the instant Service Appeal which is badly time barred. Moreover, it is worth to mention here that the said document has no official receiving diary number and also not traceable in the office of the respondents.
7. That the instant service appeal of the Appellant is bereft of any merit, hence, liable to be dismissed inter alia following grounds.

GROUNDS

- A. That the Para No. A is incorrect and denied. The respondent department issued termination order in accordance with law, facts and norms of natural justice
- B. That the Para No. B is incorrect and not admitted. The respondent department cannot even think of the violation any Article of the Constitution.
- C. That the detail reply of this Para has already been given in Paras No. 4 & 5 of the facts above.
- D. That the Para No. D is repetition of the foregoing paras.
- E. That the Para No. E is incorrect and not admitted. The Appellant was terminated after proper enquiry by the respondent department as mentioned in para No. 7 of the facts above.
- F. That the Para No. F is incorrect and denied. The Appellant has been terminated from service after observing all codal formalities back in 2008.
- G. That the Para No. G is incorrect and not admitted. The Appellant is not entitled to be adjusted on the post of PST after almost 13 years of his termination.
- H. That the Para No. H is irrelevant.
- I. That the Para No. I is irrelevant, however the respondents also seek permission of this Honorable Tribunal to advance further grounds at the time of arguments.

It is, therefore, very humbly prayed that the instant service appeal of the Appellant may be dismissed with cost in favor of the respondents.

DISTRICT EDUCATION OFFICER (M)  
SWAT AT GULKADA

DIRECTOR,  
ELEMENTARY AND SECONDARY  
EDUCATION KHYBER PAKHTUNKHWA

SECRETARY,  
ELEMENTARY AND SECONDARY  
EDUCATION PESHAWAR

3A

**BEFORE THE KHYBER PAKTUNKHWA SERVICE TRIBUNAL**  
**PESHAWAR.**

Service Appeal No. 1228/2019

Sabir Khan PST (BPS-7 now BPS-12) GMPS Mandan, District Swat.

.....Appellant

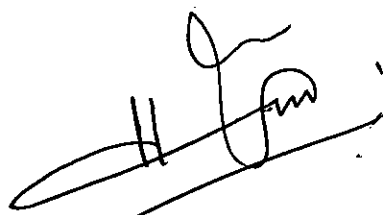
**Versus**

Provincial Govt. of Khyber Pakhtunkhwa & others

..... Respondents

**AFFIDAVIT**

I, Hussain Ali Litigation Officer, do hereby solemnly affirm and declare on oath on the directions and on the behalf of the Respondents that the contents of the comments are true and correct to the best of my knowledge and belief and nothing has been kept secret from this Honorable Court.



**HUSSAIN AL-LITIGATION OFFICER**  
**O/O DEO (M) SWAT**

38



OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE)  
DISTRICT SWAT

Email: [emisswat@gmail.com](mailto:emisswat@gmail.com),

Phone No. 09469240228

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**AUTHORITY LETTER**

Mr. Hussain Ali Litigation Officer, office of the undersigned is hereby authorized to submit comments in *Service Appeal No. 1228/2019* case titled *Sabir Khan Vs Govt of KPK and others* and attend Khyber Pakhtunkhwa Service Tribunal Peshawar on behalf of respondents.

DISTRICT EDUCATION OFFICER (M)  
SWAT AT GULKADA

28/12/08  
C/Sgt

17/12/2007  
Asstt. Distt. Officer  
Primary, Sigchi

As the teacher remained in-able to resume his duty without any information. Final notice has been issued in the newspaper on 29-11-2007. Wherefore the competent authorities are requested to terminate / remove him from service under reference no.

Recommendation:-

But any response did not receive by this office from him and his where about are not known.

S.No	Reg. No	Dated	Office No	Dated
1	1051	24-3-08	5546	26-3-2007
2	93	24-4-08	5936	22-4-2007
3	386	21-11-02	9782	18-11-2002

him for resuming his duty as teacher.

His duty. Three notices of his absenteeism have been issued / sent to him. His leave has been expired w.e.f 3-3-2002. He is still absent from his duty. In the 2nd time he has granted leave w.e.f 3-3-2001 to 2-3-2002 (355 days) twice. Once w.e.f 4-3-1999 to 30-9-2000 (571 days) and similarly and change was taken by him on 1-1-1990. He has availed long leave he was reported as PTC vide DEOM No: 37152-54 dt: 6-11-07 enquiry in re Mr. Sabir Khan PTC. According to the school record Engage officer:- Fazal Khaliq ADO Circle Kabal

Subject:- Final Enquiry in re Mr. Sabir Khan PTC GPs Shad Dera

The DDO(M)  
Primary, Sigchi

To,

Annexure "A"

(Handwritten marks and signatures)





78  
78  
6

بجانب: انسٹرکشن (مردانہ) برائے سوائٹ لائٹ  
بجانب: عیالہ خیرین ولڈ 1، پراویہ گھاٹی، لیٹر لوہ پل - سواری  
عنوان: ڈیوٹی سے غیر حاضری

یادداشت:- آپ کو بذریعہ خط ہذا مطلع کیا جاتا ہے کہ آپ مورخہ 26-3-2022 سے تاحال اپنی ڈیوٹی سے غیر حاضر ہیں۔ لہذا آپ کو پدایت کیجانی ہے کہ آپ جلد از جلد (15 دن کے اندر) اپنے ڈیوٹی پر حاضری پر جائیں اور اپنی غیر حاضری کی وجہ بتائیں۔ بصورت دیگر آپ کے خلاف محکمہ کاروائی عمل میں لائی جائیگی۔ نوٹ:- اس سے پہلے آپ کو بذریعہ دفتری نمبر 5546

مورخہ 26-3-2022 نمبر X مورخہ X  
خط ارسال کے لئے ہے

By Dist. Officer (M)  
20.6.2022

Attested  
Fazal Khaliq  
ANO Prim. Edu. Swat

Annexure 'D' ~~Annexure~~

2/3/07  
7

OFFICE OF THE DEPUTY DISTRICT OFFICER,  
(MALE) PRIMARY SWAT AT GULKADA.

No. 8789

Dated 18/11/2002 /2002.

To

TKM

Mr. Sebir Khan S/O  
Amir Nawab R/O Hazara, Kabal  
Swat.


3

Subject:- ADJUSTMENT/EXTENSION OF LEAVE/ATTENDANCE.

Memo:-


Reference this office memo: No. 7937 dated 29-8-2002  
and subsequent No. 9308 dated 8-10-2002, on the subject cited above.

You are directed to attend this office within Seven  
days. Otherwise disciplinary action will be taken against you  
under special delegation of power 2000.

  
DEPUTY DISTRICT OFFICER (MALE),  
PRIMARY SWAT.


Endst. No. 8789

Copy forwarded for information to the D.O. (Lit: & Edu:)  
Primary Swat at Gulkada.

  
DEPUTY DISTRICT OFFICER (MALE),  
PRIMARY SWAT.

18/11/2002

Attested

  
Fazal Khaliq  
JRO Prim. Fdu. Swat.

Annexure "E"

OFFICE OF THE EXECUTIVE DISTRICT OFFICER SCHOOLS & LITERACY SWAT.

NO. /Absenteesum/PTC/M.

Dated 19/11/08

TO 2101

The Asstt:Director Information  
Swat.

Subj:- PUBLICATION OF SHOW CAUSE/CALL NOTICE.

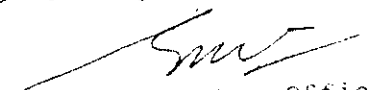
Memo:-

The attached six copies of call notice being served the following PTC teachers is sent herewith for publication in leading News papers, please.

It is further requested that the copies of the News papers in which the notice is published may very kindly be furnished to this office for record, please.

S.NO.	NAME OF TEACHER	SCHOOL	ABSENT FROM DUTY
1.	Shawkat Hayat	PTC GPS Shinkoo	9.2.07
2.	<del>Gawar</del> Gohar	PTC GPS Tindog	15.4.07
3.	Sabir Khan	PTC GPS Shah Dherai	3.3.2002
4.	Rafiullah	PTC GPS Nilagram	24.12.06
5.	Ahmed Malook	PTC GPS Deep	13-8-08

(ichwaga khela)

  
Executive District Officer  
Schools & Literacy Swat.

## نوٹس اظہار وجوہ Annexure F

(1) یہ کہ آپ سے جواب طلبی بوجہ ڈیوٹی سے غیر حاضری برائے ایام درجہ ذیل ہے۔ (2) یہ کہ آپ کی پھٹی (جو کہ مندرجہ ذیل تاریخ تک تھی) کے ختم ہوتے ہی آپ اپنی ڈیوٹی پر حاضر نہ ہونے اور تاحال غیر حاضر ہیں۔ (3) یہ کہ آپ کی غیر حاضری سیکشن 2(6) اور 3(1)(b) خصوصی اختیارات آرڈیننس 2000 کے (Miscond finis space uct) کے زمرے میں آتا ہے جو کہ مندرجہ بالا آرڈیننس کی رو سے قابل انضباط ہے۔ جس کے روشنی میں باقاعدہ انکوائری و تفتیش کی مزید ضرورت نہیں ہے۔ (4) اب تم درجہ ذیل PTC معلم سیکشن 3(2)-a(b) برطانی از ملازمت خصوصی اختیارات آرڈیننس 2000 کے اس نوٹس کے اجراء کے ساتھ 7 یوم کے اندر اندر ڈیوٹی پر حاضر ہوں بصورت دیگر آپ کے خلاف بڑی سزا جو کہ ملازمت سے برطرفی تک بھی ہو سکتی ہے کیوں نہ لگائی جائے۔ (5) اس سلسلے میں آپ بذات خود زبردستی (انفر مجاز) کے رو برو اپنی صفائی پیش کر سکتے ہیں۔ (6) اگر وقت مقررہ کے اندر دلائل تحریر پیش نہ کر سکے تو آپ کے خلاف یکطرفہ قانونی کارروائی حکومت کے بیخ کن کر دو دائرہ کار کے اندر کی جائے گی۔

نمبر شار	نام اور پوسٹ	سکول	چھٹی ختم ہونے کی تاریخ	ڈیوٹی سے غیر حاضری کی تاریخ
1	شوکت حیات P.T.C	گورنمنٹ پرائمری سکول شکو	----	9-2-07
2	گوہر علی پی ٹی سی	گورنمنٹ پرائمری سکول تندو ڈاگ	----	15-4-07
3	صابر خان۔ پی ٹی سی	گورنمنٹ پرائمری سکول شاہ ڈھیری	2-3-02	3-3-02
4	رفیع اللہ۔ پی ٹی سی	جی پی ایس نیلگرام	----	24-12-06
5	احمد بلوک۔ پی ٹی سی	جی پی ایس ڈوب خوازہ خیلہ	----	13-8-06

ایگزیکٹو ڈسٹرکٹ آفیسر (سکولز اینڈ لٹریسی) سوات

INF(SW)237

روزنامہ صبح 29-11-2007

# روزنامہ آج

پشاور — پرنسپل پبلشر ایڈیٹر عبدالواحد یوسفی نے ٹر  
اسلام آباد — ایڈیٹر پبلشر عبدالواحد یوسفی نے ٹرپل اے

جمعرات 29 نومبر 2007ء 17 ربیع الثانی 1428ھ 15 مگھ 2064 ب

## سویلیں صدر کی حلف برداری

آج 29 نومبر کو صدر جنرل پرویز مشرف اپنی دوسری مدت کیلئے سویلیں صدر کی حیثیت سے حلف اٹھا رہے ہیں۔ اس دن کو پاکستان کی تاریخ میں کئی لحاظ سے یاد رکھا جائے گا کیونکہ آج کے بعد حکومت اقتدار اور سیاست میں پاک فوج کا کردار کم ہو جائے گا۔ آج کے بعد ملکی سیاست میں احتجاج کا ایک سلگتا ہوا موضوع جو صدر کی وردی کے حوالے سے مسلسل زیر بحث چلا آ رہا تھا ٹھنڈا پڑ جائے گا، آج کے بعد سویلیں معاملات میں پاک فوج کی مداخلت کے الزامات بھی دم توڑ جائیں گے اور اقتدار کا سرچشمہ آری ہاؤس یا جی ایچ کیو ہونے کا طعنہ بھی اٹھائے گا۔ آج کے بعد پاکستان اے ٹی

خوش منظر وادی کرم ایجنسی سابقہ فرقہ وارانہ فسادات کے آٹھ ماہ بعد پھر شیعہ سنی تنازعہ کی لپیٹ میں آگے اور کرنی ایجنسی اور ہنگو کے عمائدین و علماء پر مشتمل ایک سولہ رکنی جرمہ 20 نومبر کو فائر بندی کرانے میں کامیاب رہا لیکن اس وقت تک 120 کے لگ بھگ افراد پانچ روز جاری رہنے والی لڑائی کی بھیمنٹ چڑھ چکے تھے جبکہ 200 سے زائد زخمی ہوئے۔ افغانستان کی سرحد سے متصل کرم ایجنسی میں گزشتہ سال اپریل کے دوران بھی فرقہ وارانہ لڑائی ہوئی جس میں بھاری اور پیچیدہ ہتھیار استعمال کئے گئے تھے ان جھڑپوں میں تقریباً 50 افراد جاں بحق ہوئے۔

Annexure 'G'

(11)

OFFICE OF THE DEPUTY DISTRICT OFFICER (M) SWAT AT MAHANBAGH

No. \_\_\_\_\_  
Dated, \_\_\_\_\_/2008.

*21/11/08*

*21/01*

To

The Executive District Officer S&L Swat.

Subject:- ABSENT FROM DUTY/ENQUIRIES.

Memo:-

The original enquiry reports alongwith other n/documents in r/o the following PTC Teachers are hereby submitted for further n/action as recommended by ADO Circle.

S.No.	Name of Teacher	Remarks.
1.	Shawkat Hayat GPS, Shinkoo	PTC Encl: (4)
2.	Gawhar Ali GPS Tindodag	PTC Encl: (10)
3.	Sabir <del>Shak</del> Khan GPS Shah Dherai	PTC Encl: (1)
4.	Rafiullah GPS Nilagram	PTC Encl: (6)
5.	Ahmad Malook GPS Doop	PTC Under Process 1st Notice again <sup>has been</sup> issued vide No, 4407 dated, 23-1-08 under register cover.
6.	Anwar Ali GPS, Koladag	PTC Final notice <sup>has been</sup> issued <sup>on his</sup> to his home address under register cover vide this office No, 4404 dated, 21-1-08

*220*  
*4/02/08*

DEPUTY DISTRICT OFFICER (M) SWAT AT GULKADA.

*file put up*  
*2*  
*4/2*

Annexure "H" (12)

OFFICE OF EXECUTIVE DISTRICT OFFICER SCHOOLS & LITERACY SWAT

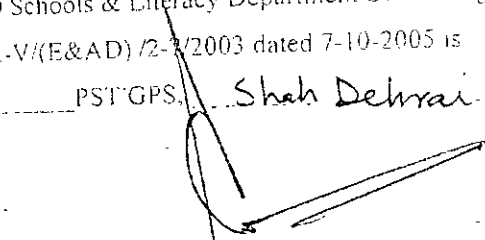
OFFICER ORDER/TERMINATION

Mr. Sabir Khan PTC GPS Shah Dehrai  
who remained absent from duty w.e.f 3-3-2002 was directed by the Deputy  
District Officer (Male) Schools & Literacy Swat to resume his duty vide his office memo:  
No. 5546 dated 26-3-2002, No. 5936 dated 22-4-2002 and  
No. 9782 dated 18-11-2002 but he failed to resume his duty.

He was then directed to resume duty through daily Aaj dated 29-11-2007  
but he also failed to resume duty.

An enquiry was also conducted against him by Mr. Fazal Khaliq  
ADO Circle Kabal who recommended his termination from  
service vide Memo: No 4489 dated 2-2-2008.

In view of the above facts, the EDO Schools & Literacy Department Swat being  
the competent authority as per notification No. SOR-V/(E&AD)/2-3/2003 dated 7-10-2005 is  
pleased to terminate Mr. Sabir Khan PST/GPS. Shah Dehrai  
from service w.e.f 3-3-2002.

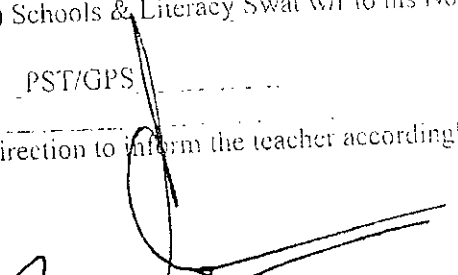
  
SHER AFZAL KHAN  
EXECUTIVE DISTRICT OFFICER  
SCHOOLS & LITERACY SWAT

Endst.No. 4/10-14

Dated 05/03/2008

Copy of the above forwarded to:-

- 1) The Director of Schools & Literacy Department NWFP Peshawar.
- 2) The District Coordination Officer Swat.
- 3) The District Accounts Officer Swat.
- 4) The Deputy District Officer (Male) Schools & Literacy Swat w/r to his No. & dated cited above.
- 5) Mr. \_\_\_\_\_ PST/GPS  
C/O Head Teacher GPS  
Under Registered cover with the direction to inform the teacher accordingly

  
EXECUTIVE DISTRICT OFFICER  
SCHOOLS & LITERACY SWAT