

**BEFORE THE KHYBER PAKTUNKHWA SERVICE TRIBUNAL PESHAWAR**

Service Appeal No. 2055/2023

Muhammad Ayub Khan PST, Government Primary School Balogram, District

Swat.

.....Appellant

**Versus**

Government of Khyber Pakhtunkhwa through Secretary Elementary and Secondary  
Education Peshawar. .... Respondents

**INDEX**

S.No	Description of Documents	Annexures	Pages
1	Para-wise-comments	-	1-3
2	Affidavit	-	4
3	Authority Letter	-	5
4	Letter of SSP	"A"	6
5	SDEO Letters	"B"	7-10
6	Enquiry Report along with annexures	"C"	11-35
7	Guidance letter dated 11.10.2023	D	36-37
8	Law Department Letter dated 31.10.2023	E	38
9	Guidance letter dated 30.12.2023	F	39-40

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*S.B. Swat.*

**DISTRICT EDUCATION OFFICER (M)  
SWAT AT GULKADA**

**BEFORE THE KHYBER PAKTUNKHWA SERVICE TRIBUNAL PESHAWAR**

Service Appeal No. 2055/2023

Muhammad Ayub Khan PST, Government Primary School Balogram, District Swat.

.....Appellant

**Versus**

Government of Khyber Pakhtunkhwa through Secretary Elementary and Secondary Education Peshawar.

..... Respondents

Khyber Pakhtunkhwa  
Service Tribunal

**Parawise Joint Comments on Behalf of the Respondents 1-3**

Diary No. 11469

**Respectfully Shewith**

Dated 29-07-2024

**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 Tribunal 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/mis 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 of the Appellant is 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 is estopped by his own conduct by not resuming/performing his duties in spite of the fact that he was on bail w.e.f 31.10.2018 to 18.05.2022 and 18.06.2022 till the Honorable Peshawar High Court Mingora Bench/Darul Qaza Swat Judgment dated 31.05.2023**
11. That the Appellant has concealed the material facts from this honorable Tribunal.

**FACTS**

1. That this Para pertains to record, hence, no comments.
2. That this Para pertains to record, hence, no comments.
3. That this Para pertains to record, hence, no comments.
4. Correct. It is pertinent to mention here that Senior Superintendent of Police, investigation Swat reported vide letter No. 1103 dated 25.02.2016 to the respondent No. 3. Hence, in the light of said letter, the respondent No. 3 issued suspension order dated 05.03.2016. **(Letter of SSP annexed as annexure A)**

5. It is worth to mention here that the Appellant neither resumed his duty as he was on bail from 31.10.2018 (**Bail order attached with the enquiry report as annexure G**) till his conviction order vide Honorable Additional Session Judge II Swat dated 18.05.2022 (**1295 days**) nor did he or other relevant department intimate the said judgment to the respondents for departmental proceedings under E&D rules, 2011.
6. The Appellant was acquitted from charges level against him on compromise basis by the Honorable Peshawar High Court Mingora Bench/Darul Qaza Swat. It is pertinent to mention here that the Appellant submitted application dated 20.06.2023 (**attached on page 62-63 of the instant Service Appeal**) after a lapse of 19 days from the Honorable Peshawar High Court Mingora Bench/Darul Qaza Swat Judgment dated 31.05.2023 wherein the Appellant prayed for back benefits and did not prayed for resuming his duty.
7. Correct to the extent of application dated 22.10.2021, the rest of the para is denied. As mentioned earlier in para No. 05 above, the Appellant was on bail w.e.f 31.10.2018 to 18.05.2022 (**1295 days**) and 18.06.2022 (**Superintendent Jail letter attached with the enquiry as annexure H**) till the Honorable Peshawar High Court Mingora Bench/Darul Qaza Swat Judgment dated 31.05.2023 (**227 days**) but he did not resume his duty during his bail period which is much clear from the SDEO concerned letter dated 10.11.2021, 11.02.2022, 19.04.2022 and 21.08.2023. Furthermore, respondent No. 03 constituted enquiry committee to probe into the matter under specific TORs. The enquiry committee submitted report dated 23.09.2023 wherein they submitted facts and conclusion and recommended to forward the case to Law Department for further opinion before to take any decision in favor or against the accused teacher. (**SDEO concerned letters, Enquiry report along with annexures attached as Annexure B & C**)
8. Correct. But as mentioned in para No. 07 above that the enquiry committee recommended to forward the case to Law Department for guidance. The respondent department forwarded the case to Law Department for guidance vide letter No. 9557 dated 11.10.2023 which was returned by law department dated 31.10.2023 with the request to provide legal question for soliciting. The respondent department forwarded the case again to Law Department for guidance vide letter No. 4268 dated 30.12.2023 which is still pending before the Law Department. (**Guidance Letter dated 11.10.2023, Law department Letter dated 31.10.2023, Guidance Letter dated 30.12.2023 attached as annexure D, E & F**)
9. Correct. Detail reply has already been given in the foregoing paras.
10. Repetition.

The instant Service Appeal of the Appellant is bereft of any merit, hence, liable to be dismissed inter-alia following grounds.

**GROUND**

1. Incorrect and denied. The respondent department has acted in accordance with law, rules and policy and cannot even think of violating any law or fundamental rights.
2. Incorrect and denied. The Appellant himself did not resume his duty in spite that he was on bail and bulldozed the law of the country.
3. Incorrect and denied. The respondent department has acted in accordance with law, rules and policy and cannot even think of violating any law.
4. Incorrect and denied. No discrimination whatsoever has been made to the Appellant. The Appellant has been treated in accordance with law, rules and policy which are in coherence with the constitution.
5. Repetition.
6. Incorrect and denied. Proper enquiry has been conducted and under the procedure of the E&D rules, 2011.

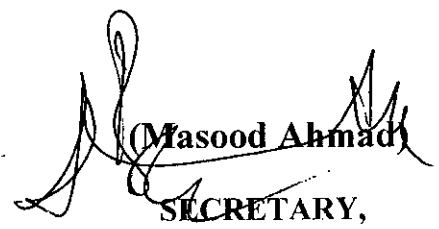
It is therefore very humbly prayed that the instant Service Appeal of the Appellant being meritless, may be dismissed with cost in favor of the respondents.

  
(Muhammad Riaz)

DISTRICT EDUCATION OFFICER (M)  
SWAT AT GULKADA  
(Respondent No. 1)

  
(Samina Altaf)

DIRECTOR,  
ELEMENTARY AND SECONDARY  
EDUCATION KHYBER PAKHTUNKHWA  
(Respondent No. 2)

  
(Masood Ahmad)

SECRETARY,  
ELEMENTARY AND SECONDARY  
EDUCATION DEPTT PESHAWAR  
(Respondent No. 3)

(4)

**BEFORE THE KHYBER PAKTUNKHWA SERVICE TRIBUNAL PESHAWAR**

Service Appeal No. 2055/2023

Muhammad Ayub Khan PST, Government Primary School Balogram, District

Swat.

.....Appellant

**Versus**

Government of Khyber Pakhtunkhwa through Secretary Elementary and Secondary


Education Peshawar.

..... Respondents

**AFFIDAVIT**

I, Muhammad Riaz, District Education Officer (M) Swat, 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 Tribunal. It is further stated on oath that in this appeal the answering respondents have neither been placed ex-parte nor their defense has been struck off.

**DISTRICT EDUCATION OFFICER (M)  
SWAT AT GULKADA**

  
Muhammad Ilyas  
ADVOCATE  
OATH COMMISSIONER  
District Courts Swat.  
No. 188-28-24

(5)



OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE)  
DISTRICT SWAT

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

Phone No. 09469240228

**AUTHORITY LETTER**

It is certified that Hussain Ali, Legal Representative Office of District Education Officer (Male) Swat, Elementary & Secondary Education Department is hereby authorized to submit para-wise comments and attend the Service Tribunal Peshawar on behalf of Respondents in Service Appeal No. 2055/2023 Title Muhammad Ayub Khan Vs Government of Khyber Pakhtunkhwa & Others on the eve of each hearing till the disposal of the instant case..

DISTRICT EDUCATION OFFICER (M)  
SWAT AT GULKADA

M. Riaz

**From:** The Senior Superintendent of Police,  
Investigation, Swat.

**To:** The District Education Officer (Male), Swat.

No. 1103 /GB, dated Saidu Sharif the 25/02 /2016.

**Subject:** DEPARTMENTAL ACTION VIDE IN CASE FIR NO. 108  
DATED 18-02-2016 U/S 302/148/149 PPC P.S RAHIMABAD  
DISTRICT SWAT.

Memo:

It is submitted that accused Muhammad Ayub Khan s/o Shalyar r/o Mohallah Muthkhail Balogram Tehsil Babozai District Swat is involved/arrested in the subject case. During the course of investigation its come to know that the above named accused serving under your kind Control in Government Primary School Balogram as PST Teacher .

It is therefore, requested that departmental action may kindly be taken against the above named accused under intimation to this office for further investigation in the case please.

Encls: (02)

  
Senior Superintendent of Police,  
Investigation, Swat.

No.        /GB,

Copy to Incharge Investigation Officer Rahimabad for information with the reference of his application dated 09-02-2016.

  
Senior Superintendent of Police,  
Investigation, Swat.

**ATTESTED**

  
District Education Officer (M)  
Swat.

Annexure "B"  
Mr. Liaqat Ali Sh (7)  
10/11/2021

**OFFICE OF THE SUB-DIVISIONAL EDUCATION OFFICER  
(MALE) BABUZAI SWAT AT SAIDU SHARIF**

PHONE 714406. E-mail: sdeomaleswatpry@gmail.com

No. 1093 /General.File/A-12/Estt:/SDEO(M)Babuzai

Date: 10/11 /2021

To

District Education Officer (Male) ✓  
District Swat at Gul Kada

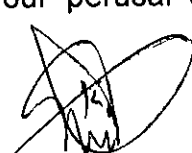
**SUBJECT:- APPLICATION FOR RELEASE OF PAY IN R/O MUHAMMAD AYUB  
SPST GPS BALOGRAM**

Memo

Reference to your office memo no. 12245/P.F.85/M.Ayub/SPST dated 29/10/2021 of the subject noted above. I have the honor to enclose herewith suspension order in respect of the official concerned. Moreover, according to the ASDEO(M) Circle Babuzai, in the light of school record, the official concerned has not joined his duty at his school till date, in spite of the fact that he has been released on bail as he has admitted himself in his appeal.

In the light of above facts, his salary is stopped due to not taking over charge in the school. The report is hereby submitted for your perusal and further necessary action, please.

(Enclosed 2 Nos)

  
Sub-Divisional Education  
Officer (Male) Babuzai, Swat

Endst No \_\_\_\_\_ /

dated: / / 2021


Copy of the above is forwarded to:-

1. A.S.D.E.O.(M) Babozai Sub Division Saidu Sharif Swat for information.

  
Sub-Divisional Education  
Officer (Male) Babuzai, Swat

ATTESTED

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10/11/2021

  
District Education Officer (M)  
Swat



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**OFFICE OF THE SUB-DIVISIONAL EDUCATION OFFICER  
(MALE) BABUZAI SWAT AT SAIDU SHARIF**

K P E S E O

PHONE 714406. E-mail: sdeomaleswatpry@gmail.com

No. 1367 /Pay.Release.File/SDEO(M)Babuzai

Date: 11-02-2022

To

Mr. Iftikhar Ahmad ✓  
ASDEO(M) Circle Babuzai.

**SUBJECT:- APPLICATION FOR RELEASE OF PAY IN R/O MUHAMMAD AYUB  
SPST GPS BALOGRAM.**

Memo

Reference of the letter no. 3586/P.F/85/M.Ayub/SPST/DEO/Swat dated 07/02/2022 on the subject noted above received to this office.

In this connection you are directed to visit the school in person and find whereabouts of the teacher concerned and submit a detailed report regarding performance of duty/attendance with dates in respect of the teacher concerned for prompt action in the instant case.

**Sub-Divisional Education  
Officer (Male) Babuzai, Swat**

Endst No \_\_\_\_\_ /

dated: / / 2022

Copy of the above is forwarded to:-

1. District Education Officer (M) Swat with reference no. and date mentioned above.

823  
11/02/2022

*sd-*  
**Sub-Divisional Education  
Officer (Male) Babuzai, Swa**

Stamp: SUB-DIVISIONAL EDUCATION OFFICER (M) BABUZAI SWAT

**District Education Officer (M)  
Swat.**

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**OFFICE OF THE SUB-DIVISIONAL EDUCATION OFFICER  
(MALE) BABUZAI SWAT AT SAIDU SHARIF**

PHONE 714406. E-mail: sdeomaleswatpry@gmail.com

No. 1541 /Pay.Release.File/SDEO(M)Babuzai

Date: 19/04/2022

To

The District Education Officer (Male) ✓  
District Swat at Gul Kada.

*Handwritten signature*  
23/9/22

SUBJECT:- APPLICATION FOR RELEASE OF PAY IN R/O MUHAMMAD AYUB  
SPST GPS BALOGRAM.

Memo

Reference to your office letter no. 3586/P.F/85/M.Ayub/SPST/DEO/Swat dated 07/02/2022 on the subject noted.

In this connection report of the head teacher GPS Balogram received through ASDEO(M) Babuzai-2 stated that the concerned official was suspended since 22-02-2016. Now the official concerned is on bail as he also accepted in his statement sent by your office but failed to attend his duty as per govt rules.

The report alongwith daily attendance register is hereby submitted for further necessary action please.

*Handwritten signature*  
Sub-Divisional Education  
Officer (Male) Babuzai, Swat

Endst No \_\_\_\_\_ /

dated: / / 2022

Copy of the above is forwarded to:-

1. A.S.D.E.O.(M) Babozai Sub Division Saidu Sharif Swat for information.
2. Head Teacher GPS Balogram.

*Handwritten signature*  
Sub-Divisional Education  
Officer (Male) Babuzai, Swat

ATTESTED

*Handwritten signature*  
District Education Officer (Male)  
Swat

1473  
28/9/22



(10)

~~(10)~~

**OFFICE OF THE  
ASSTT; SUB-DIVISIONAL EDUCATION OFFICER (M)  
TEHSIL BABOZAI MINGORA SWAT**

No. 2441/P.F

Dated: 21-08-2023

TO

District Education officer (M)  
Gul Kada, Swat

**SUBJECT: REPORT FOR RELEASE OF PAY IN R/O MUHAMMAD AYUB SPST GPS  
BALOGRAM.**

Memo:

Reference to your office Memo no: 6379 dated 10/08/2023 of the subject noted above. Mr Ayub Khan SPST Gps Balogram was suspended vide DEO (M) order no 60770\_73 date 05/03/2016 due to involvement in FIR No; U/S 302/148/149PPC P.S Rahim abad (copy of suspension order attached).

Due to involvement in this case, he remains in police custody (imprisonment) w.e.f 18/02/2016. During this period he took his salary regularly Up To Sept 2021 which is clear from the pay slip of the office record of SDEO(M) Babozai (copy of pay slip attached).

As per Head teacher report the applicant was release on bail and he remain outside the jail. His exact date outside the jail is not confirm as the official concern is unwilling to provide copies of details judgements.

Moreover, according to the Head teacher report and in the light of school record, the official concerned has not joined his duty at his school till date, inspite of the fact that he has been released on bail as he has admitted himself in his application.

Hence the report is submitted for your perusal and further necessary action please.

(Enclosed 10 Nos)

ASDEO (M) BABOZAI-I  
*Asstt. Sub Divnl. Edu. Officer (M)  
Tehsil Babozai Swat.*  
22/08/23

SDEO(M) BABOZAI

ASDEO(M) BABOZAI-II  
*Paridar Ali*  
M.Sc. M.Ed.  
Asstt. Sub Divnl. Edu. Officer (M)  
Tehsil Babozai Mingora

22/08/2023

District Education Officer (M)  
Swat.

To,

The District Education Officer (Male) at Gulkada Saidu Sharif Swat

Subject: Enquiry Report in R/O Mr. Muhammad Ayub Khan Ex-SPST GPS Balogram Swat.

Date of Submission of Enquiry Report: 23-09-2023

Name of Enquiry officers:

- 1) Riaz Ahmad Head Master GHS Barkalay Saidu Sharif Swat
- 2) Farid Gul Head Master GHS Guligram Swat.

The enquiry officers nominated by DEO(M) Swat vide office order Endst: No:7281-86/P.File/PST Ayub Khan Dated: 28-08-2023 with the directives to conduct a detail enquiry against Mr. Ayub Khan Ex-SPST GPS Balogram Swat and submit a detail report according to the TORs mentioned in the letter. (See Annex-A).

History of the Case: The concerned teacher was reported by SSP Investigation Swat vide his office letter No. 1103/GB, Dated: 25-02-2016 that he is involved in case FIR No. 108 Dated: 18-02-2016 at Police Station Rahimabad Swat with the request to take Departmental Action against him. (See Annex-B)

In the light of this letter, the accused teacher was suspended by DEO(M) Swat vide office order Endst: No. 10770-73 dated:05-03-2016 (See Annex-C). The concerned teacher was convicted by the Honorable Court of ADJ-II Swat U/S 419 PPC for three years and a fine of Rs: 100000 (One Lac) vide judgement dated 18-05-2022 (See Annex- D, Pages 01 of 04).

The accused teacher submitted an application for his pay release to the department with the request that he has been acquitted from the charges levelled against him on the basis of compromise vide the judgement of Honourable Peshawar High Court Mingora Bench / Darul Qaza Swat Dated: 31-05-2023. (See Annex-E, Pages 01 of 06).

Allegations/ Charges: According to the history of the case, the DEO(M) Swat levelled the following allegations against the accused teacher.

- 1) It was the responsibility of the accused teacher to report at his Duty Station/Department to join his duty when he was released on bail but he failed to do so.
- 2) When he was convicted by the Honourable Court then he should have informed the Department about his period in Jail and out of Jail but he did not to do so.

**ATTESTED**

District Education Officer (M)  
Swat

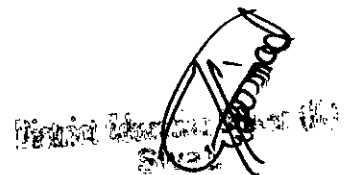
Procedure/ Findings: Keeping in view the TORs of the enquiry mentioned in Annex-A, we the undersigned visited the following offices to find out facts and probe into the matter.

- 1) District Police Officer Swat
  - 2) Police Station Rahimabad Swat
  - 3) District Public Prosecutor Office Swat
  - 4) Additional Session Judge –II/ Izafi Zilla Qazi Swat
  - 5) District Jail Swat
  - 6) Muhafiz Khana Swat (To Collect the Record).
- a) According to the record of the above mentioned offices, the accused teacher Mr. Muhammad Ayub Khan SPST GPS Balogram Swat was found involved in a case FIR No: 108 Dated 19-02-2016 at Police Station Rahimabad Swat (See Annex- F).
  - b) The accused teacher remained in Judicial Lock up since February 2016 and since for more than two years. (See Annex- G, Parra No: 04 Pages 01 of 05)
  - c) The accused teacher released on bail Dated: 31-10-2018 vide Judgement of the Honourable Court of Additional Session Judge-II/ Izafi Zilla Qazi Swat (See Annex- G, Parra No. 05, Pages 01 of 05).
  - d) From pursual of the judgement, the accused teacher has been acquitted of the charge under Section 302 PPC but he was found guilty of cheating by personation U/S 419 PPC and convicted for a period of three years and a fine of Rs: 100000 (One Lac) by the Honourable Court of ADJ-II Swat Vide Judgement Dated: 18-05-2022. In the light of this Judgement the bail bounds of accused teacher has been cancelled and he has sent to District Jail Swat. (See Annex- D, Pages 01 of 04)
  - e) According to Superintendent Jail District Swat Vide his office letter No. 885, Dated: 05-09-2023 that Mr. Muhammad Ayub Khan Ex- SPST GPS Balogram Swat was committed to this Jail on 18-05-2022 in a case FIR No. 108, Dated: 18-02-2016 and released from Jail on 18-06-2022 by the order of Honourable Additional Session Judge-VI Swat (See Annex- H)
  - f) According to the Judgement by the Honourable Peshawar High Court Mingora Bench/ Darul Qaza Swat, the accused teacher has been acquitted from the charges levelled against him on the basis of compromise Vide Judgement Dated: 31-05-2023. (See Annex- E, Pages 01 of 06)

Conclusion: In the light of above facts and findings and thoroughly observed the case, we the undersigned reached the conclusion that,

- 1) Mr. Muhammad Ayub Khan Ex- SPST GPS Balogram Swat could not join his duty after released on bail Period with effect from 31-10-2018 to 17-05-2022 and 18-06-2022 onward may be due to life threat because the case was not terminated and the trial was preceding in the Court. (See Annex- G & H)
- 2) As the accused teacher has been found guilty and convicted for a period of three years with a fine of Rs: 100000 (One Lac) by a Judgement of Honourable Court of Additional Session Judge-II District Swat Dated: 18-05-

ATTESTED


  
 District Jail Swat

2022 but later on he has been acquitted of the charge in the case of FIR No. 108, Dated: 18-02-2016 at Police Station Rahimabad Swat through compromise by the Judgement of Honourable High Court Mingora/ Darul Qaza Swat Dated: 31-05-2023. (See Annex- D & E)

Fundamental Rules Related to this Case:

To sum of the matter, we the undersigned would like to bring some of the following Fundamental Rules in your kind notice which are related in regard of the case of Mr. Muhammad Ayub Khan Ex- SPST GPS Balogram Swat

- 1) A Government Servant committed to prison on a criminal charge should be considered as under suspension from a date of his arrest and until the termination of the proceedings against him without the formal approval of Authority. In case such a Civil Servant is not arrested or is released on bail, the Authority may suspend him by specific order.
- 2) An Employee has been detained in prison, the action should be taken to placed him under suspension, the period of a Employee's detension (Should be treated as period spent under) committal to prison within the meaning of Article- 194 C.S.R and the pay and allowances during suspension should be regulated under Fundamental Rules – 53.
- 3) In case a Civil Servant is absent from official duty during proceedings, such period shall be treated as Extra Ordinary Leave witout pay.
- 4) If the Employee is subsequently acquitted honourably, he should be reinstated forthwith. He will be entitled to receive full salary for the entire period of his absence from duty under Fundamental Rules- 54 (a).
- 5) If the Employee is not acquitted honourably, then the provision of Fundamental Rules- 54 (b) will apply.
- 6) If the Employee is convicted, he may be removed / dismissed from service, if his retension in service is not desirable, he will be entitled to nothing more than the subsistence allowance upto the date of his removal / dismissal from which date the pay and allowances will cease under Fundamental Rules-52

Request from the undersigned:

Sir, with great excuse that we the undersigned are not Lawyers and have no experience in Litigation side, while some officials have been performing their duty at your office in Litigation side and having a vast experience in this field as well as some of them have the Degree of LLB.

Sir, you are requested to discuss the case of accused teacher with the Litigation officials of your office in the light of the above-mentioned Fundamental Rules as well as to discuss the said case through your office Litigation officials with a senior Lawyer for an opinion who deals the cases of service matters in service tribunal as well as you may forward

**ATTESTED**

*(Signature)*  
District Education Officer (M)  
Swat.

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District Education Officer (M)  
Swat

ATTESTED

Note: The Enquiry Report having four (04) pages.

2) Farid Gul (Headmaster)  
GHS Guligram Saidu Sharif  
District Swat

1) Riaz Ahmad (Headmaster)  
GHS Barkalay Saidu Sharif  
District Swat

the case to Law Department for further opinion before to take any decision in favour or against of the accused teacher Mr. Muhammad Ayub Khan EX-SPST GPS Balogram Swat.

(14)





Annex - A  
Page = 01 of 02

**OFFICE OF THE  
DISTRICT EDUCATION OFFICER (MALE)  
Swat (Cell # 0946 9240209-228)**

**OFFICE ORDER**

The undersigned is pleased to constitute an inquiry committee comprises of the following officers to conduct a detail enquiry against Mr. Muhammad Ayub khan Ex-PST GPS Balogram Swat and to submit clear cut recommendations to the office of the undersigned within 15 days of the receipt of this order in accordance with the TORs given at the end of this letter.

S.No	Name of Officer	Designation	Place of duty	Remarks
1	Mr. Riaz Ahmad	Headmaster BS-17	GHS Barkalay Saidu sharif Swat	Chairman
2	Mr. Farid Gul	Headmaster BS-17	GHS Guligram Swat.	Member

The short history of the case is as under.

The accused teacher was reported by the SSP investigation Swat vide his office letter No,1103/GB, dated 25/02/2016, that he is involved in case FIR No.108 dated 18.2.2016 P.S Rahimabad Swat with the request to take departmental action against him. Accordingly he was suspended by this office vide office order Endst No.10770-73 dated 5/3/2016. Till September, 2021 he received his salaries. The accused teacher submitted an application for his pay release along with Judgment of the Honourable Peshawar High Court Mingora Bench/ Darul Qaza Swat wherein he has been acquitted of the Charges leveled against him on the bases of compromise vide judgment dated 31.05.2023. However it was observed that this judgment was passed in a Criminal appeal against the judgment dated 18.5.2022 of the ADJ-II Swat. Therefore, the accused teacher was directed to submit the attested copy of judgment dated 18.5.2022 of ADJ-II Swat. He submitted attested copy of the judgment. From perusal of the judgment, It was observed that he was convicted by the Honourable Court of ADJ-II Swat U/S 419 PPC for three years and a fine of Rs.100,000/- (one lac) vide judgment dated 18.5.2022. But neither he nor any other law enforcing agency i.e police/ prosecution etc informed this office or office of SDEO (M) Babuzai Swat about his conviction. Therefore he could not have been proceeded as per E&D rules, 2011. It is also worth mentioning that during all these long years, he did not perform any duty and it is also not clear that he remained in jail for how many years or how much time and how much time he was on bail during this period. Recently this office directed SDEO (M) Babuzai Swat to provide details of the accused teacher out of jail period and the period he remained in jail, but as per reply of the SDEO, the accused teacher is unwilling to provide detail of his in and out period from jail.

**TORs for enquiry**

Keeping in view the above detail, the enquiry committee shall submit its report as per the following TORs.

1. It was the responsibility of the accused teacher to report to his duty station/department or office for duty when he was released on bail. But he failed to do so.

Pages = 01 of 02  
**ATTESTED**

**District Education Officer (M)  
Swat**



(16)

Annex - A  
Page = 01 of 02

2. When he was convicted by the Honourable competent court, then he should have informed the department but he did not do so. Therefore he could have not been proceeded as per E&D rules, 2011 within time.
3. Detail of his period/periods in jail and out of Jail.
4. Detail of all the relevant appeal and judgments of all the courts.
5. Recommendations.

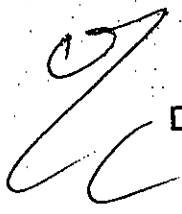
Note: (The DA PTC cadre is nominated as departmental representative to provide all available record/file to the committee and to facilitate the committee whenever needed).

(MUHAMMAD RIAZ)  
DISTRICT EDUCATION OFFICER  
(MALE) SWAT

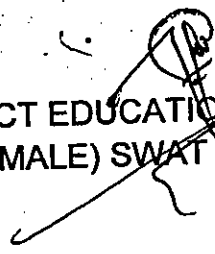
Endst: No 781-06 /P.File/PST Ayub khan Dated 28/8/ /2023

Copy forwarded to:-

1. The District Police officer Swat with the request to provide detail history of the accused teacher and to facilitate the enquiry committee if needed.
2. The SSP investigation Swat, with the request for similar necessary action as above with reference to his office letter No.1103/GB dated 25/02/2016.
3. The District Public prosecutor Swat with the request to provide case history with documentary proofs.
4. The Superintendent Jail Swat with the request to provide the In and Out dates to the inquiry committee, of the above mentioned accused involved in FIR No.108 dated 18.02.2016 u/s 302/148/149 PPC P.S Rahimabad Swat
5. The Headmaster GHS Barkalay Saidu Sharif Swat.
6. The Head master GHS Guligram Swat.
7. PA to District Education Officer (M) Swat local office.



DISTRICT EDUCATION OFFICER  
(MALE) SWAT



ATTESTED

District Education Officer (M)  
Swat

Pages = 01 of 02

17

Annex B

**From:** The Senior Superintendent of Police,  
Investigation, Swat.

**To:** The District Education Officer (Male), Swat,

No. 1103 /GB, dated Saidu Sharif the 25/02 /2016.

(93)

**Subject:** DEPARTMENTAL ACTION VIDE IN CASE FIR NO. 108  
DATED 18-02-2016 U/S 302/148/149 PPC P.S RAHIMABAD  
DISTRICT SWAT.

Memo:

It is submitted that accused Muhammad Ayub Khan s/o Shalyar r/o Mohallah Muthkhail Balogram Tehsil Babozai District Swat is involved/arrested in the subject case. During the course of investigation its come to know that the above named accused serving under your kind Control in Government Primary School Balogram as PST Teacher .

It is therefore, requested that departmental action may kindly be taken against the above named accused under intimation to this office for further investigation in the case please.

Encls: (02)

**Senior Superintendent of Police,**  
**Investigation, Swat.**

No. \_\_\_\_\_ /GB,

Copy to Incharge Investigation Officer Rahimabad for information with the reference of his application dated 09-02-2016.

**Senior Superintendent of Police,**  
**Investigation, Swat.**

932  
26/2/16

Pages 201 of 01

18

Annex - c



**OFFICE OF THE DISTRICT EDUCATION  
OFFICER (M) SWAT  
(9240228-9240209)**

**OFFICE ORDER.**

Consequent upon FIR No.108 Dated 18.02.2016 U/S 302/148/149-PPC P.S Rahim Abad, Muhammad Ayub, s/o Shalyar SPST, Government Primary School Rahim Abad involved in the above cited case is hereby suspended with effect from 18.02.2016 till the decision of the case.

Necessary entries to this effect should be made in his S/Book and leave account from.

(Hafiz Mohammad Ibrahim)  
DISTRICT EDUCATION OFFICER (M)  
SWAT

Endst:No: 10770-73 /PF/M.Ayub/SPST/DEO/M.

Dated 5/3/2016.

**Copy forwarded to:**

- 1- The Director Elementary & Secondary Education KPK Peshawar.
- 2- The District comptrollers of Account Swat at Saidu Sharif.
- 3- The Senior Superintendent of Police Investigation, Swat.
- 4- The Dy District Education Officer (M) Swat.
- 5- The Sub Divisional Education Officer (M) Primary Swat.
- 6- P.A to District Education Officer (M) Swat the local office.
- 7- The teacher concerned.

DISTRICT EDUCATION OFFICER (M)  
SWAT

**OFFICE OF THE SUB DIVISIONAL EDUCATION OFFICER MALE SWAT**

No 836-39/1

Dated: 9/03/2016.

**Copy forwarded to:-**

1. The District Education officer Male Swat. w/r to his No.10770-73 dated 05/03/2016.
2. The ASDEO Circle Mingora Swat with the remarks that the service book of the teacher concern may be submitted immediately this office that suspension order may be entered in service book.
3. The Head Master GPS Balogram Swat.
4. The teacher concern C/O GPS Balogram Swat.

10/17  
10/3/16

Pages = 01 of 01

Sub Divnl: Edu: Officer (M)

**ATTESTED**

District Education Officer (M)  
Swat.

انڈیکس

بعدالت جناب ضیاء الحق ایڈیشنل سیشن جج دوم / اضافی ضلع قاضی سوات

مقدمہ نمبر	اصل رجوعہ	نقل رجوعہ	نوعیت مقدمہ	تاریخ فیصلہ	فائل	تقطعات	بہی نمبر	ریکارڈ نمبر
17	16.7.16	28.1.22	ڈرائیو	18.5.22	01	721	10	-

حکم خلاصہ: مگرمان سبزا مشد

عنوان مقدمہ: سبزا نام محمد ایوب خان و عزیزہ

علت نمبر: 108 مورخہ: 16.2.18م: 201, 420, 149, 148, 302 تھانہ: رحیم آباد

نمبر شمار	نوعیت کاغذات	تعداد
11	اورڈریشن، آرڈر شیف و حکم، خروجی اور بیان و درجہ	132
		48
		83
	بیانات، سفیر شدہ دستاویزات	254
		254
	فیصلہ عدالت محکمہ و دستاویزات و کاغذات	62
		62
	نوٹس و نقل حکم	05
		05
	اصل اور کاپی عدالت اور ڈرائیو	453
		268
		721
	تعداد	268

الدریہ سلطان

سرٹیفکیٹ:

تصدیق کی جاتی ہے کہ مندرجہ موروثی قانون کے مطابق اس ہذا کو بعد از ترتیب و بحال اور مکمل سیکنگ کر کے مرتب کی ہے۔

فائل 01 عدد اور پارٹ A 721 اور پارٹ B Nil تقطعات پر مشتمل ہے۔

دستخط محرم:

نام محرم: عبارتہ

ایڈیشنل سیشن جج دوم / اضافی ضلع قاضی سوات

20

Annex 1  
Page 2

**IN THE COURT OF ZIA-UL-HAQ**  
**ADDL: SESSIONS JUDGE/ IZAFI ZILLA QAZI-II, AT GULKADA**  
**SWAT**

Sessions Case # 1/7 of 2016  
Date of Institution: 16.07.2016  
Date of Transfer In: 28.01.2022  
Date of Decision: 18.05.2022

The State through Dawa Khan S/O Shaiber Khan R/O Mohallah Mutkhel, Balogram, Tehsil Babuzai, District Swat

M

(Complainant)



*Versus*

- 1) Muhammad Ayub Khan S/O Shalyar
- 2) Mushtaq Ahmad S/O Sheher Yar
- 3) Waqas Ahmad S/O Javed, residents of Mutkhel, Balogram, District Swat.

ملنگ مشتاق احمد

(Accused facing trial)

- 4) Ibrar son of Sheher Yar
- 5) Imtiaz son of Muhammad Ayub Khan residents of Mutkhel, Balogram, District Swat.

ایڈیشنل ڈسٹرکٹ جج  
اضالی ضلع قاضی دوہ سوات

(Absconding accused)

ملنگ محمد ایوب خان

**CHARGED UNDER SECTIONS 302/ 148/ 149/ 417/ 419/ 420 /201**  
**PPC, VIDE FIR NO. 108 DATED 18-02-2016 POLICE STATION**  
**RAHIMABAD, SWAT**

Or-----17  
18.05.2022

Accused Muhammad Ayub Khan, Mushtaq Ahmad and Waqas Ahmad on bail present. Complainant alongwith his wife alos present. Both the parties stated that there is no chance of compromise. The learned APP for the State also present.

Arguments already been heard and record perused.

**ATTESTED**

pages 20 of 24

District Education Officer (M)  
Swat

21

Annex - D  
Page 3

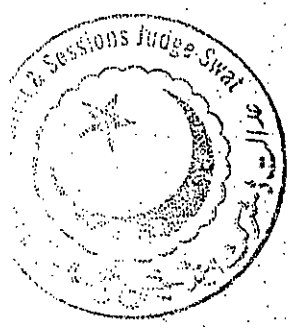
17  
18.05.2022

Vide my detailed judgment of today consisting upon (Forty Seven) 47 pages, The prosecution has proved its case against accused facing trial Mushtaq Ahmad beyond any doubt and thus, I have found him guilty of the offence of committing Qatl-e-Amd of the deceased Ayaz, Shaukat, Fayaz and Mst. Shakila therefore, he is convicted and sentenced to undergo imprisonment for life in four counts under section 302 (b) of the Pakistan Penal Code r/w Section 149 PPC as Taazir. The accused is further directed to pay Rs. 500,000/- (five lacs) each to the legal heirs of above named deceased as compensation under section 544-A Cr.PC. In default of payment thereof, he shall further undergo six months simple imprisonment for each default.

*(Handwritten marks)*

Accused Mushtaq Ahmad is also convicted for concealing evidence u/s 201 PPC for simple imprisonment for a period of Two years with fine of Rs. 50,000/- (fifty thousands) to be recoverable as arrears of land revenue. In default of payment thereof, he shall further undergo three months simple imprisonment.

*ایڈیشنل ڈسٹرکٹ جج  
ضلع ناضی دوہ سوات*



The accused facing trial Muhammad Ayub Khan and Waqas are Acquitted of the charge under Section 302 PPC.

Accused Muhammad Ayub has been found guilty of cheating by personation U/S 419 PPC and is convicted for a period of three years. He is also imposed with a fine of Rs. 100,000/- (one lac) to be recoverable as arrears of land revenue. In default of payment thereof, he shall further undergo six months simple imprisonment.

Benefit of section 382-B Cr.PC is extended to the convicted accused. The sentences of accused Mushtaq Ahmad u/s 302 PPC shall run consecutively while that u/s 201 PPC shall run concurrently. Convict

ATTESTED  
57  
6/5/22

District Education Officer (M)  
Swat.

Pages = 01 of 04



Or-----17  
18.05.2022

named above are on bail, they are taken into custody. They be sent to District Jail, alongwith conviction warrants to undergo the aforesaid sentences as per law. Certified copy of this judgment is handed over to the convicts named above free of cost. A copy of this judgment be also sent to the Incharge of District Prosecution.

Accused are on bail, their bail bonds stand cancelled and sureties are absolved from the liability thereunder.

As far as absconding accused Ibrar and Imtiaz are concerned there are sufficient materials against them, as such they are declared proclaimed offenders. Perpetual non-bailable warrants of arrest be issued against them with the direction to SHO to enter their names in the relevant register. Case property be kept intact till arrest and trial of the PO. File be consigned to record room after its necessary completion and compilation.

Announced  
18.05.2022

Zia ul Haq  
Additional Sessions Judge/  
Izafi Zilla Qazi-II, Swat  
ایڈیشنل ڈسٹرکٹ جج  
اضافی ضلع قاضی دوم سوات

7986  
22-7-23  
24-7-23  
03-P  
Rahmat ali  
File  
24-7-23

Page = 01 of 04

ATTESTED

District Education Officer (M)  
Swat.

23

Annex 16  
Pages = 01 of 06

**JUDGMENT SHEET  
IN THE PESHAWAR HIGH COURT,  
MINGORA BENCH (DAR-UL-QAZA), SWAT  
(Judicial Department)**

*[Handwritten signature]*

Cr. A No. 144-M/2022

(Mushtaq Ahmad and 01 other versus The State and another)

**Present:**

Mr. Razaullah Advocate for the appellants/convicts.

Ms. Mehnaz, Assistant Advocate General for State.

Mr. Ajmal Zia Khan, Advocate along with Dawa Khan and Mst. Mahi Parwara (parents of the deceased) and Mst. Husna, widow of deceased Shaukat Khan in person.

Date of hearing: 31.05.2023

**JUDGMENT**

**MUHAMMAD NAEEM ANWAR, J.**- Through this single judgment, we intend to decide instant appeal filed by convicts Mushtaq Ahmad and Muhammad Ayub Khan, as well as the connected Cr.A No. 175-M/2022, and Cr.R No. 32-M/2022 as all these cases are emanating from the same judgment dated 18.05.2022 rendered by learned Additional Sessions Judge/Izafi Zilla Qazi-III, Swat in case FIR No. 108 dated 18.02.2016 u/s 302/148/149/417/419/420/201 PPC of P.S *Rahim Abad*, District Swat whereby the present appellants were convicted and sentenced as under:

**Appellant Mushtaq Ahmad**

i) u/s 302(b) PPC

Imprisonment for life as *Ta'zir* on four counts for committing murders of deceased Ayaz, Shaukat, Fayaz and Mst. Shakila with payment of compensation of Rs.500,000/- to legal heirs of each deceased under section 544-A, Cr.P.C. In case of each default in payment of the

**ATTESTED**

*[Handwritten signature]*  
District Education Officer (M)  
Swat.

Tajamu/CS\*

DD: Hon'ble Mr. Justice Muhammad Naeem Anwar  
Hon'ble Mr. Justice Shahid Khan

**ATTESTED**  
Examiner  
Peshawar High Court Bench  
*[Handwritten signature]*



24

Annex - E  
pages = 01 of 06

compensation, he was directed to undergo further six months S.I.

ii) u/s 201 PPC

Simple imprisonment for two years with fine of Rs.50,000/- or in case of default thereof to undergo further 03 months S.I.

gb

Appellant Muhammad Ayub

u/s 419 PPC

Imprisonment for three years with fine of Rs.100,000/- or to undergo further six months S.I in case of default thereof.

The sentences of appellant Mushtaq Ahmad were ordered to run concurrently. Benefit of section 382-B, Cr.P.C was extended to both the appellants.

Appellant Muhammad Ayub Khan and convict Waqas Ahmad (appellant in connected Cr.A No. 143-M/2022 Arms case), were acquitted of the charge u/s 302 PPC which has been challenged by complainant through connected Cr.A No. 175-M/2022 besides he has also filed the connected Cr.R No. 32-M/2023 for enhancement of the sentences awarded to appellants Mushtaq Ahmad and Muhammad Ayub Khan.

2. Facts of the case need no reiteration as learned counsel for the appellants had apprised this Court on 19.04.2023 regarding compromise between the parties, therefore, the case was sent to the learned trial Court on his request for confirmation of the compromise by way of recording statements of legal heirs of the deceased and elders of the locality with further directions that rights of the

ATTESTED

District Education Officer (M)  
Swat.

Tajamu/CS-

OB: Hon'ble Mr. Justice Muhammad Naeem Anwar  
Hon'ble Mr. Justice Shehida Khan

ATTESTED  
Examiner  
Peshawar High Court Bench  
Mingora District Court, Swat.

25

Annex - F  
Pages = 01/06/06

minor legal heirs, if any, shall be protected in accordance with law.

85

3. The record shows that four persons namely Shaukat Khan, Muhammad Ayaz, Muhammad Fayaz and Mst. Shakila, who were brothers and sister inter se, have lost their lives in the occurrence reported in the referred to above FIR. Report of the learned trial Court along with the relevant documents have been received which reflect that the above named deceased persons were children of Dawa Khan and Mst. Mahi Barwar (Parwara) who are alive. Apart from the above common legal heirs, deceased Shaukat Khan has also left behind him his widow Mst. Husna and minor son Shah Fahd (Arman) whereas the remaining deceased have been reported as unmarried. It is noteworthy that name of minor Arman has been mentioned in Form "B" as Shah Fahd, copy of which is annexed with report as Ex.PI. The report/order of the learned trial Court reflects that major legal heirs of the deceased persons have affected a genuine compromise with the present appellants/convicts as well as their absconding co-accused. In this regard, the compromise on the prescribed proformas are Ex.PA and Ex.PE, the affidavits on behalf of legal heirs of the deceased are Ex.PB and Ex.PF whereas CNICs of the parents of the deceased are Ex.PC and Ex.PE. Copy of CNIC of Mst. Husna Bibi, widow of deceased

Handwritten initials

ATTESTED

District Education Officer (M)  
Swat

Tajamu/CS\*

OB: Hon'ble Mr. Justice Muhammad Naeem Anwar  
Hon'ble Mr. Justice Shahid Khan

ATTESTED  
Examiner  
Peshawar High Court Bench  
Mingora District Swat

Shaukat Khan, is annexed with the report as Ex.PG besides she was also identified before the learned trial Court by her brother Zeeshan Ahmad, whose CNIC is Ex.PH. Rights of the sole minor namely Shah Fahd (Arman) have duly been protected through transfer of cash amount of Rs.23,40,000/- as his share in *Diyat* amount and National Saving Certificates have been purchased in his name on directions of the learned trial Court with further directions of re-investment thereof till attaining the age of majority. To this effect report of Naib Nazir of the Court of learned Senior Civil Judge (Admn.), Swat along with copies of the Saving Certificates are available with the report/order of the learned trial Court. Joint statements of legal heirs of the deceased have been recorded in support of the compromise besides the compromise has also been verified by elders of the locality namely Amjad Ali, Chairman Village Council *Balogram*, Faisal Khan and Zeeshan Ahmad. Their joint statement along with an affidavit (Ex.PJ) on their behalf as well as their CNICs (Ex.PK & Ex.PL) have also been annexed with the report. The report of the learned trial Court and the documents annexed therewith would reveal that major legal heirs of the deceased have affected a genuine compromise with the appellants without any pressure. They have pardoned them in the name of Almighty Allah by

*(Signature)*

**ATTESTED**

*(Signature)*  
 District Education Officer (M)  
 Swat.

To: Jamui/CS\*

OB:

Hon'ble Mr. Justice Muhammad Naeem Anwar  
 Hon'ble Mr. Justice Shahid Khan

**ATTESTED**  
 Examiner  
 Peshawar High Court Bench  
 Minnora Darul Uloom Swat.

waiving their right of *Qisas* and *Diyat* against the appellants.

The parties have buried their hatchets by patching up the matter at the intervention of the local elders, thus, the compromise is in the best interests of both the parties whereas rights of the minor have been protected in accordance with law.

4. Learned Assistant Advocate General, appearing on behalf of State, contended that appellant Muhammad Ayub Khan has been convicted and sentenced under section 419, PPC, which cannot be compounded. Just like the offence of *qatl-i-amd* punishable u/s 302 PPC, the offence of cheating by personation, which is punishable u/s 419 PPC, is also included in the table of offences under section 345(2), Cr.P.C which can be compounded with permission of the Court. Since, compromise between the parties has been affected with permission of the Court, therefore, same is effective in respect of section 419 PPC as well, for which the learned trial Court has convicted him. Thus, above submission of the learned Assistant A.G. cannot be accepted.

5. In light of the foregoing discussion, the compromise is accepted and this appeal is allowed on the basis of compromise. Resultantly, the impugned judgment dated 18.05.2022 rendered by learned Additional Sessions

ATTESTED

District Education Officer (M)  
Swat.

Tajamu/CS\*

DB: Hon'ble Mr. Justice Muhammad Naeem Anwar  
Hon'ble Mr. Justice Shahid Khan

ATTESTED  
Examiner  
Peshawar High Court Bench  
Mingora Dar-ul-Uloom Swat.

28

Annex ~~E~~  
Pages 201/01/06

Judge/Izafi Zilla Qazi-III, Swat is set aside and appellants  
 Mushtaq Ahmad son of Sheher Yar and Muhammad Ayub  
 Khan son of Shalyar are acquitted of the charge in case FIR  
 No. 108 dated 18.02.2016 u/s 302/148/149/417/419/420/  
 201 PPC of P.S *Rahim Abad*, District *Swat*. Appellant  
 Mushtaq Ahmad is in jail, therefore, he be released  
 forthwith if not required in any other case whereas sureties  
 of appellant Muhammad Ayub Khan, being on bail, are  
 absolved from the liability of the bail bonds already  
 furnished by him on the directions of this Court. The  
 connected Cr.A No. 175-M/2022 and Cr.R No. 32-M/2022  
 are dismissed being not pressed.

Q

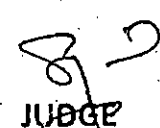
6. Above are the reasons of our short order of the  
 even date.

Announced  
Dt: 31.05.2023

  
 JUDGE

Certified to be true copy

  
 EXAMINER  
 Peshawar High Court, Mingora/Dar-ul-Qaza, Swat  
 Authorized Under Article 47 of Qanoon-e-Shahadat Oder, 1984  
 13/6/23

  
 JUDGE

**ATTESTED**

  
 District Education Officer (M)  
 Swat.

Office  
 6/6/2023  
 WK

Tajamu/CS-

OB: Hon'ble Mr. Justice Muhammad Naeem Anwar  
 Hon'ble Mr. Justice Shahid Ali



2018-03-16

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Director (M)  
Swat  
Khan

ATTESTED

Inspector of Police  
Investigation Swat  
Pir Said Khan  
885-16 (gazetted)  
03-02-2016

Handwritten signature and date: 18.02.16

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IN THE COURT OF RAHAT ULLAH,  
ADDITIONAL SESSIONS JUDGE-II/IZAFI ZILLA QAZI, SWAT

Muhammad Ayub vs The State

ORDER-06  
11-10-2018

Mr. Razaullah Khan and Inran Khan Counsel for the  
accused/petitioner and Mukhtyar APP for the State present.

- The accused/petitioner Muhammad Ayub s/o Shaalyar r/o Balogram, Tehsil Babozai, District Swat is seeking post-arrest bail on statutory grounds in case FIR No. 108 dated 08.02.2016 under sections 302,148,149,201, 15AA, PPC, of Police Station Rahim Abad District Swat.

The story as described in the FIR is reproduced verbatim as hereunder.



اضافی ضلع قاضی ذراغ سوات  
ایڈیشنل ڈسٹرکٹ جج

"اس وقت ایک تحریری مراسلہ بطور سٹیٹل رپورٹ بدست کنسٹیبل محمد اقبال نمبر 1025 موصول ہو کر ذیل ہے۔ بخدمت آفیسر انچارج قائد رحیم آباد امر دزدہ بذریعہ سوبائل گٹ حسب اطلاع جائے وقوعہ بالا اگر سٹیٹ جائے وقوعہ پر موجود پاکر جو ٹائٹل ہے ہو کر رپورٹ کرتا ہے کہ آج نماز مغرب کے بعد میں اپنے بیٹی سہا سہانی بی بی کے گھر واقع نزد جائے وقوعہ بالا بوقت وقوعہ موجود تھا کہ دخترام مسماہ سہانی بی بی اور انکی گھم کی دیگر مستورات نے شور مچایا کہ باہر فائرنگ ہو رہی ہے۔ میں فوراً گھر سے باہر آیا۔ اس دوران میرے بھتیجی بچکان نمبر 1۔ ندیم نمبر 2۔ نعیم پسران کسور ساکاناں دیہہ ام بھی موقع پر پہنچ آئے۔ میں نے دیکھا کہ پسران ام نمبر 2۔ شوکت نمبر 3۔ آیز نمبر 3۔ فیاض اور نمبر 4۔ دخترام مسماہ سہانی بی بی جائے وقوعہ بالا پر خون میں نت پت تڑپ رہے تھے۔ اور مسیان نمبر 1۔ ابرار نمبر 2۔ مشتاق پسران شیار نمبر 3۔ محمد ایوب ولد شالیار نمبر 4۔ وقاص ولد جاوید نمبر 5۔ امتیاز ولد محمد ایوب ساکاناں دیہہ بلوگرام سلسلہ براسلو آتشیں موقع پر موجود تھے اور لہنی لہنی اسلحہ سے میرے متذکرہ بیٹوں اور بیٹی پر بہ ارادہ قتل فائرنگ کر رہے تھے جو ملزمان کے فائرنگ سے لگ کر موقع پر جان بحق ہوئے۔ جو نئی ملزمان نمبر 1۔ ابرار نمبر 2۔ مشتاق پسران شیار نمبر 3۔ محمد ایوب ولد شالیار نمبر 4۔ وقاص ولد جاوید نمبر 5۔ امتیاز ولد محمد ایوب ساکاناں دیہہ ام نے مجھے اور میرے بھتیجی بچکان کو موقع کے قریب آکر دیکھے تو ملزمان نے راہ فرار اختیار کی۔ بوجہ خالی ہاتھ میں و بھتیجی بچکان ملزمان کے تعقب نہ کر سکیں۔ وقوعہ ہنایا میرے اور بھتیجی بچکان نمبر 1۔ نعیم نمبر 2۔ ندیم پسران کسور بالا کے علاوہ دیگر کافی کسان کا چشم دید ہیں۔ وجہ عنادیہ ہے کہ وقوعہ ہنایا سے قبل کچھ دیر پسران ام ایاز اور ملزم

ATTESTED

District Education Officer (M)  
Swat.



31

Annex - 9  
pages 201 of 05

مشق کے مابین عمر اور اہل حقہ مستحقین کو اہلیان ویرہ اور شدت اور قتل نے تعلق کوئی اور ملی ہو سکتے کے  
نہ۔ میں برکن اور خرم ۱۹۹۶ء میں قتل کا ریکارڈ کرتے قتل کرنے کا بر خلاف شہین مندرجہ ہے  
دو مہینے۔"

2. Tentative perusal of the record reveals that accused /  
petitioner along with other co-accused already released on  
bail by the worthy Peshawar High Court/Darul Qaza  
Mingora Bench Swat was charged for the murder of four  
persons. That earlier an application of accused / petitioner  
for bail has been dismissed by the Court of Additional  
District Judge-III, Swat vide order dated 20.04.2016,  
relevant para of which is hereby reproduced as under:

"Keeping in view the above discussion, mere possibility of  
further inquiry which exists almost in every criminal case  
is no ground for treating the matter is one under section  
497 (2) Cr.PC and it is not possible to release the accused  
/ petitioner notwithstanding the fact that they were  
involved in heinous criminal case where eye-witnesses had  
duly implicated him with the commission of offence. Plea  
that case was one of further inquiry due to cross version  
FIR would not be considered every cross case to be a fit  
case for further inquiry and to grant bail to accused /  
petitioners. Prosecution has collected has sufficient  
material available on file, which prima facie connect the  
accused / petitioner with the commission of offence falling  
under the prohibitory clause of Section 497 Cr.PC. Beside  
this, complete challan has been submitted in the instant  
case and further discussion on merit would prejudice the  
case of either party. Therefore, accused / petitioners are  
not entitled to the grant of bail at this stage. The case is at  
initial stage of investigation and there is likelihood of  
tempering the prosecution evidence if the accused /  
petitioners to bail hence, the instant two bail petitions are  
rejected."



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District Education Officer (M)  
Swat.

3. Feeling aggrieved from the impugned order petitioner, approached the Honourable Peshawar High Court, Mingora Bench, Dar-ul-Qaza, Swat, where his bail application vide order dated 25.05.2016 was dismissed.

Relevant para of which is hereby reproduced as under:

"Perusal of the case record would show that all the petitioners have directly and specifically been charged for causing the qatl-i-amd of four persons. The occurrence has been reported by father of the deceased within a short span of twenty minutes wherein specific role has been assigned to the petitioners. The prosecution version gets ample corroboration from medical examination of the victims and from site plan of the case as well. Furthermore, in the Fir Nadeem and Naeem have been mentioned as eyewitnesses of the occurrence who too have supported the prosecution version.

Learned counsel for the petitioners contended with vehemence that there is a cross version of the case in the shape of FIR No. 109 dated 18.02.2016, therefore, petitioners are entitled to their release on bail on this count too. Ibid contention of the learned counsel is of no held to the petitioners as mere cross version or cross case has never been considered as a ground for releasing an accused on bail unless he brings his case within the ambit of further inquiry in terms of subsection (2) of section 497 which is not the case here as tentative assessment of the available record; reasonably connects the petitioners with commission of an offence which falls within the restrictive clause of section 497 Cr.P.C and as such, in the considered opinion of this court, they are not entitled to the concession of bail.

In view of the above, both the petitions for bail, being bereft of any merit, are hereby dismissed."

Arguments heard and record perused

4. That now accused / petitioner Muhammad Ayub  
moved instant application for bail on statutory grounds that

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District Education Officer (H)  
Swat.



accused / petitioner remained in judicial lock up since  
February 2016 and since for more than two years he  
remained in the judicial lock up. Further it was also  
submitted on behalf of the accused / petitioner that rule of  
consistency also applies to the present bail petition. In as  
much as co-accused Waqas Ahmad, Mushtaq Ahmad has  
already been released on bail vide order dated 25.06.2018  
in Cr.M (B.A) 252-M/2018 and vide order dated 04-10-  
2018 in Cr. M (B.A) 413 passed by the August Peshawar  
High Court, Mingora Bench (Dar-ul-Qaza), Swat, on  
statutory grounds.

So, keeping in view the above striking grounds this court  
has no other option but to release the accused/petitioner  
Muhammad Ayub on bail only on the ground of statutory  
ground as enshrined in clause (b) of the 3<sup>rd</sup> proviso to sub-  
section (1) of section, 497, Cr.PC.

9. For what has been discussed above, this bail petition is  
allowed. The petitioner be released on bail subject to  
furnishing bail bonds in the sum of Rs.500,000/- (rupees  
five hundred thousand) with two sureties such in like  
amount to the satisfaction of Illaqa Qazi/Judicial  
Magistrate who shall ensure that the sureties are local,  
reliable and men of means.

AMIR KHAN  
JUDGE

AMIR KHAN  
JUDGE  
Swat.

(34)

Annex-9  
Pages 201 of 25

(Signature)

Page 5 of 5

Note: The instant order is based on tentative assessment of record and would not affect trial of the case.

Copy of this order be placed on police/judicial file.  
Instant file be consigned to the Record Room after its completion and compilation.

ANNOUNCED:  
31.10.2018

(Rahat Ullah)  
Additional Sessions Judge-II/  
Izafi Zilla Qazi, Swat

**ATTESTED**



~~Police Officer~~  
District Education Officer (M)  
Swat



35 Annex - H  
Pages = 01 of 01

OFFICE OF THE  
SUPERINTENDENT  
DISTRICT JAIL SWAT

Phone/Fax: 0946-9240400 Email:swatjail@gmail.com

No. 885 Dated: 05-09-2023

To,

The District Education Officer (Male),  
Swat.

Subject: DETENTION PERIOD OF ACCUSED MUHAMMAD AYUB EX-  
PST  
GPS BALOGRAM-SWAT.

Dear Sir,

Reference your office letter Endst; No.7281-86 dated 28-08-2023 on the subject above.

It is submitted that Muhammad Ayub Ex-PST was committed to this jail on 18-05-2022 in case FIR No.108 dated 18-02-2016 U/S 302-148-149-417-419-420-201 of PS Rahimabad and was released on 18-06-2022 by <sup>From Jail</sup> the order of Honourable Additional Session Judge -VI Swat please:

  
SUPERINTENDENT  
DISTRICT JAIL SWAT

ATTESTED

  
District Education Officer (M)  
Swat.

Annexure 'D'

36



OFFICE OF THE  
DISTRICT EDUCATION OFFICER (MALE)  
Swat (Cell # 0946 9240209-228)

No. 9557 Dated. 11/10/23

To

The Director,  
Elementary and Secondary Education  
Khyber Pakhtun khwa, Peshawar.

Subject:- **WORKING PAPER FOR LEGAL OPINION FROM LAW DEPARTMENT REGARDING APPLICATION FOR RELEASE OF PAY IN RESPECT OF MR. MUHAMMAD AYUB EX-PST GPS BALOGRAM SWAT.**

Memo:

**Introduction of the case**

1. The Applicant Mr. Muhammad Ayub Khan was working as SPST at GPS Balogram Swat. He was reported by SSP investigation Swat vide his office letter No. 1103/GB dated 25.2.2016 that he is involved in Case FIR No.108 dated 18.2.2016 u/s 302/148/149 PPC Police station Rahimabad Swat with the request to take departmental action against him. **(Letter attached as Annexure A).**
2. Accordingly he was suspended vide this office order Endst No.10770-73 dated 05.3.2016. **(Office order attached as Annexure B).**
3. On 20.6.2023, the accused teacher submitted an application with the request that he has been acquitted from the charges leveled against him by the Honourable Peshawar High Court Mingora Bench/ Darul Qaza Swat. Along with his application, he also submitted Peshawar High Court Mingora Bench/ Darul Qaza Swat judgment dated 31.5.2023 in Cr.A No.144-M/2022 wherein he has been acquitted from the charges leveled against him on the basis of compromise. **(Application and PHC Judgment dated 31.5.2023 attached as Annexure C & D).**
4. However it was observed in the above judgment that this judgment was passed by the Honourable Court in appeal against the judgment dated 18.05.2022 rendered by ADJ-III Swat. Therefore the accused teacher was directed to provide the attested copy of the judgment dated 18.5.2022 of ADJ-III Swat. Accordingly he produced the requisite copy in Judgment dated 18.5.2022 of ADJ-III Swat It was observed that the accused teacher was convicted U/S 419 PPC for a period of three years and a fine of Rs.100000/- (One lac) was also imposed upon him. **(Judgment dated 18.5.2022 of ADJ-III Swat attached as annexure E).**
5. It is worth mentioning that the accused teacher concealed all these facts i.e his out of jail period, judgment of ADJ-III Swat wherein he was convicted etc. As per KP Conduct rules 1987, rule 20, he should have informed the office about all these factual points but he failed to do so. Therefore the office of undersigned could not proceed against him under E&D rules, 2011.
6. Keeping in view the sensitivity of the case, this office constituted an inquiry committee to conduct facts finding inquiry with certain TORs vide this office letter No. 7281-86 dated 28.8.2023.

**ATTESTED**

**District Education Officer (M)**  
**Swat.**

Inquiry Committee submitted detail inquiry report. As per facts and findings of the inquiry report, the accused teacher remained in custody since February, 2016 for more than two years and was released on 31.10.2018. He was again sent to jail on 18.5.2022

37

and was released on 18.6.2022. The inquiry report further concluded that the teacher concerned could not join his duty after his release w.e.f 31.10.2018 to 17.05.2022 and after 18.6.2022 when he was on bail. He has also been convicted for three years and a fine of Rs.100000/- (one lac) has also been imposed upon him by ADJ court vide judgment dated 18.5.2022 and was acquitted from the charges by the PHC vide judgment dated 31.5.2023 on the basis of compromise. The inquiry committee also quoted relevant fundamental rules. They further requested to forward the case to law department for legal opinion. (Copy of the inquiry report with Annexure are attached as annexure F)

**PRAYER**

It is, therefore, requested that Khyber Pakhtun khwa law department may please be approached to guide the under signed about the case that:

1. As the accused teacher was convicted by the competent court of ADJ-III Swat on 18.5.2022, but no departmental proceedings were initiated against him due to unawareness of his conviction and later on he was acquitted by PHC of the charges on the basis of compromise on 31.5.2023. Whether he can be terminated with effect from retrospective date i.e 18.5.2022 when he was convicted by ADJ Court?
2. Whether the accused teacher can be re-instated or his pay may be released when he has not performed any duty since February 2016? Especially in periods when he was out of jail/ he was on bail i.e (1.11.2018 to 17.5.2022), (19.6.2022 till date) and did not attend school for a single day?
3. Whether he is entitled for the salaries of jail periods i.e February, 2016 to 31.10.2018, 18.5.2022 to 18.6.2022 and out of jail periods i.e 1.11.2018 to 17.5.2022 and 19.6.2022 till date or otherwise please?

**DISTRICT EDUCATION OFFICER  
(MALE) SWAT**

I, Muhammad Riaz District Education officer (Male) Swat do hereby affirm and declare on oath that the contents of the instant working paper for guidance in the title above case are true and correct to the best of my knowledge.

**INTERESTED**

**DISTRICT EDUCATION OFFICER  
(MALE) SWAT**

**District Education Officer (M)  
Swat.**



GOVERNMENT OF KHYBER PAKHTUNKHWA  
LAW, PARLIAMENTARY AFFAIRS &  
HUMAN RIGHTS DEPARTMENT

\*\*\*\*\*

No. ALO (OP-I)/LD/15-2/2022/KC  
DATED: PESHAWAR 31<sup>ST</sup> OCTOBER, 2023

38

To

The Secretary,  
Government of Khyber Pakhtunkhwa,  
Elementary and Secondary Education Department.

Attention: Section Officer (Lit-III)

Subject: OPINION/GUIDANCE REGARDING APPLICATION FOR  
RELEASE OF PAY IN RESPECT OF MUHAMMAD AYUB EX-  
PRIMARY SCHOOL TEACHER (PST) GOVERNMENT PRIMARY  
SCHOOL BALOGRAM SWAT IN CR A NO. 144-M/2022 TITLED  
MUSHTAQ AHMAD AND 01 OTHERS.

Dear Sir,

I am directed to refer to your Department's letter No. S.O, (Lit-III)-E&SED-  
(10-10)2023/Muhammad Ayub, dated 24.10.2023, on the subject noted above and to state  
that the Administrative Department has not raised legal question for soliciting. Hence, the  
Administrative Department is requested to provide legal question alongwith departmental  
proposition for further process of the case, please.

Yours Faithfully,

*Azem*  
Assistant Law Officer (Opinion-I)

Endst: of even No. & date.

Copy is forwarded to the:-

1. PS to Secretary Law Department.
2. Master File.

Assistant Law Officer (Opinion-I)

ATTESTED

*ASG*  
*31/10*  
*S.O. (Lit-III)*

District Education Officer (M)  
Swat.

Diary Number 3736  
Date of Diary 31/10/23  
Secretary Elementary & Secondary  
Education Peshawar

*(10-10)/23*





OFFICE OF THE

DISTRICT EDUCATION OFFICER (MALE)

Swat (Cell # 0946 9240209-228)

No. 4760 Dated. 30/12/23

39

(Handwritten mark)

To

The Director,  
Elementary and Secondary Education  
Khyber Pakhtun khwa, Peshawar.

Subject:- **OPINION/GUIDANCE REGARDING APPLICATION FOR RELEASE OF PAY IN RESPECT OF MR. MUHAMMAD AYUB EX-PST GPS BALOGRAM SWAT IN CR A NO.144-M/2022 TITLED MUSHTAQ AHMAD AND OTHERS.**

Memo:

Reference to your letter No. 1074/AD (Litigation) Dated Peshawar 30/11/2023 on the subject cited above.

**Introduction of the case**

1. The Applicant Mr. Muhammad Ayub Khan was working as SPST at GPS Balogram Swat. He was reported by SSP investigation Swat vide his office letter No. 1103/GB dated 25.2.2016 that he is involved in Case FIR No.108 dated 18.2.2016 u/s 302/148/149 PPC Police station Rahimabad Swat with the request to take departmental action against him. **(Letter attached as Annexure A).**
2. Accordingly he was suspended vide this office order Endst No.10770-73 dated 05.3.2016. **(Office order attached as Annexure B).**
3. On 20.6.2023, the accused teacher submitted an application with the request that he has been acquitted from the charges leveled against him by the Honourable Peshawar High Court Mingora Bench/ Darul Qaza Swat. Along with his application, he also submitted Peshawar High Court Mingora Bench/ Darul Qaza Swat judgment dated 31.5.2023 in Cr.A No.144-M/2022 wherein he has been acquitted from the charges leveled against him on the basis of compromise. **(Application and PHC Judgment dated 31.5.2023 attached as Annexure C & D).**
4. However it was observed in the above judgment that this judgment was passed by the Honourable Court in appeal against the judgment dated 18.05.2022 rendered by ADJ-III Swat. Therefore the accused teacher was directed to provide the attested copy of the judgment dated 18.5.2022 of ADJ-III Swat. Accordingly he produced the requisite copy in Judgment dated 18.5.2022 of ADJ-III Swat It was observed that the accused teacher was convicted U/S 419 PPC for a period of three years and a fine of Rs.100000/- (One lac) was also imposed upon him. **(Judgment dated 18.5.2022 of ADJ-III Swat attached as annexure E).**
5. It is worth mentioning that the accused teacher concealed all these facts i.e his out of jail period, judgment of ADJ-III Swat wherein he was convicted etc. As per KP Conduct rules 1987, rule 20, he should have informed the office about all these factual points but he failed to do so. Therefore the office of undersigned could not proceed against him under E&D rules, 2011.
6. Keeping in view the sensitivity of the case, this office constituted an inquiry committee to conduct facts finding inquiry with certain TORs vide this office letter No. 7281-86 dated 28.8.2023.

**ATTESTED**

**District Education Officer (M)  
Swat**

40

(40)

7. The inquiry Committee submitted detail inquiry report. As per facts and findings of the inquiry report, the accused teacher remained in custody since February, 2016 for more than two years and was released on 31.10.2018. He was again sent to jail on 18.5.2022 and was released on 18.6.2022. The inquiry report further concluded that the teacher concerned could not join his duty after his release w.e.f 31.10.2018 to 17.05.2022 and after 18.6.2022 when he was on bail. He has also been convicted for three years and a fine of Rs.100000/- (one lac) has also been imposed upon him by ADJ court vide judgment dated 18.5.2022 and was acquitted from the charges by the PHC vide judgment dated 31.5.2023 on the basis of compromise. The inquiry committee also quoted relevant fundamental rules. They further requested to forward the case to law department for legal opinion. (Copy of the inquiry report with Annexure are attached as annexure F)

**PRAYER**

It is, therefore, requested that Khyber Pakhtun khwa law department may please be approached to guide the undersigned about the case that:

1. Whether the accused teacher can be terminated at this stage when he was convicted by the competent court of ADJ-III Swat on 18.5.2022, but no departmental proceedings were initiated against him due to unawareness of his conviction and later on he was acquitted by PHC of the charges on the basis of compromise on 31.5.2023. Whether he can be terminated with effect from retrospective date i.e 18.5.2022 when he was convicted by ADJ Court?
2. Whether the accused teacher can be re-instated or his pay may be released when he has not performed any duty since February 2016? Especially in periods when he was out of jail/ he was on bail i.e (1.11.2018 to 17.5.2022), (19.6.2022 till date) and did not attend school for a single day?
3. Whether he is entitled for the salaries of jail periods i.e February, 2016 to 31.10.2018, 18.5.2022 to 18.6.2022 and out of jail periods i.e 1.11.2018 to 17.5.2022 and 19.6.2022 till date or otherwise please?

no 4208

*[Handwritten signature]*

DISTRICT EDUCATION OFFICER  
(MALE) SWAT

I, Muhammad Riaz District Education officer (Male) Swat do hereby affirm and declare on oath that the contents of the instant working paper for guidance in the title above case are true and correct to the best of my knowledge.

**ATTESTED**

*[Handwritten signature]*

DISTRICT EDUCATION OFFICER  
(MALE) SWAT

District Education Officer (M)  
Swat.