

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

Appeal ~~Case~~ NO. 1761/2022
In

SERVICE APPEAL NO.1761/2022

IBRAHIM (EX-Chowkidar)

S/O kachi Malik R/O Zora P/O & Tehsil Kabal Swat.

.....(APPELLANT)

VERSUS


1. Executive District Officer(E&S) Education District Swat.
2. Secretary Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar.
3. Director Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar.
4. District Education Officer (Female) Swat.

.....(RESPONDENTS)

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DISTRICT EDUCATION OFFICER(F)
SWAT
(Respondent No.4)

04-03-24

*D.B
Swat.*

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

Appel **C.M.NO. 1761/2022**
In

SERVICE APPEAL NO.1761/2022

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 11475

Dated 29-02-2024

IBRAHIM (EX-Chowkidar)

S/O kachi Malik R/O Zora P/O & Tehsil Kabal Swat.

.....(APPELLANT)

VERSUS

Executive District Officer(E&S) Education District Swat & Others

.....(RESPONDENTS)

REPLY ON BEHALF OF RESPONDENT NO.2 TO 4

**APPLICATION FOR CONDONATION OF DELAY IN CONNECTION OF FILING
DEPARTMENTAL APPEAL AND APPEAL TO THIS HONORABLE TRIBUNAL.**

Respectfully Shewth;

The Respondents submits as under;

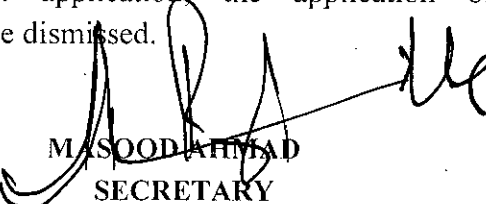
Preliminary Objections.

1. **That** appellant has no cause of action.
2. **That** the appellant has not explained each day of his absence from duty, therefore, the application may kindly be dismissed.
3. **That** the appellant belongs to the proscribed organization, therefore, the security forces arrest and legal action were taken against the appellant.
4. **That** ignorance of law is no excuse, the appellant has not applied within time.

ON FACTS.

1. **That** Para No.1 Correct.
2. **That** this Para-2 is correct to the extent that appellant was absent from dated 1.3.2009 and has been removed from service on dated 29.8.2010 while from the rest of Para due to lack of knowledge is incorrect, hence denied.
3. **That** Para No.3 is incorrect, hence denied because ignorance to law is no excuse.
4. **That** Para-No.4 is incorrect, hence denied.
5. **That** Para-No.5 is incorrect because the appellant has not explained each day, therefore, condonation may kindly be dismissed, hence denied.
6. **That** Para-No.6 is incorrect, hence denied.


On acceptance of the instant application the application of appellant in respect of condonation of delay may kindly be dismissed.


MASOOD AHMAD
SECRETARY

ELEMETARY & SECONDRY EDUCATION
KP PESHAWAR (RESPONDENT NO.2)


SAMINA ALTAF
DIRECTOR

ELEMETARY & SECONDRY EDUCATION
KP PESHAWAR (RESPONDENT NO.3)


DR.SHAMIM AKHTAR
DISTRICT EDUCATION OFFICER(F)
SWAT (RESPONDENT NO.4)

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

C.M.NO. 176/2022
In

SERVICE APPEAL NO.1761/2022

IBRAHIM (EX-Chowkidar)

S/O kachi Malik R/O Zora P/O & Tehsil Kabal Swat.

.....(APPELLANT)

VERSUS

1. Executive District Officer(E&S) Education District Swat.
2. Secretary Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar.
3. Director Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar.
4. District Education Officer (Female) Swat.

.....(RESPONDENTS)

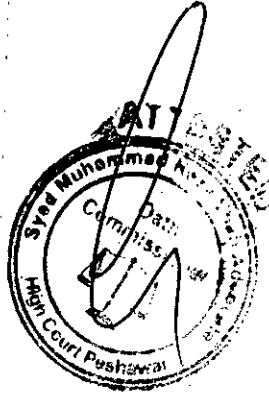
AFFIDAVIT

I, Dr. Shamim Akhtar DEO(F) Swat do hereby solemnly affirm and declare that contents of the accompanying reply of the Applications are true and correct to the best of my knowledge and information and nothing has been concealed from this Hon; Service Tribunal. The answering respondents have neither place exparte nor then defense struck off/cost.



DEPONENT

Dr. Shamim Akhtar



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

CM.NO. 1761/2022

In

SERVICE APPEAL NO.1761/2022

IBRAHIM (EX-Chowkidar)

S/O kachi Malik R/O Zora P/O & Tehsil Kabal Swat.

.....(APPELLANT)

VERSUS

1. Executive District Officer(E&S) Education District Swat.
2. Secretary Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar.
3. Director Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar.
4. District Education Officer (Female) Swat.

.....(RESPONDENTS)

AUTHORITY LETTER

Mr.Sultan Nabi Litigation Officer O/O DEO(F) Swat is hereby authorized to attend the Hon; Khyber Pakhtunkhwa Service Tribunal Peshawar in connection with S.No.1761/2022 Under Title Mr.Ibrahim (Ex-Chowkidar).....VS.....DEO(F) Swat & others. on behalf of the Respondent till the finalization of the case.


DR.SHAMIM AKHTAR
DISTRICT EDUCATION OFFICER(F)
SWAT

(4)

BEFORE THE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA AT PESHAWAR

CM. No. _____ 2023

In

Service appeal No. 1761 of 2022

Ex Chukidar Ibrahim Vs Executive District Officer (E&S) education etc

Application for condonation of delay in connection of filing departmental appeal and appeal to this Honorable Tribunal.

Respectfully Sheweth:

- 1) That the above titled appeal is pending adjudication before this Honorable Tribunal, which is fixed for dated 06/02/2023.
- 2) That the appellant has been considered absent from dated 01/08/2009 and has removed from service on dated 29/08/2010, in fact, the appellant was already in the undeclared of custody of Pak Army before dated 01/08/2009 and then declared custody of Pak Army since 29/06/2011 up to 05/03/2022, in this time the appellant was unable to perform his duty which is beyond the control of appellant.
- 3) That the appellant is illiterate person, therefore, he could not apply for restoration of his service in time to the concerned authority.
- 4) That the EDO(female) swat also not fulfilled her responsibility to forward appeal of the appellant with her comments to the Director.(which has been provided by Under Rule 4(2) the KP Civil Servants (appeal) Rules 1986 and passed another order dated 23/08/2022 of which she was not competent to pass. Also under 4(3) of

(252)

[Handwritten signature]
District Education Officer (E)
Swat.

(5)

the said rule, limitation is liable to be condoned due to approach to wrong forum.

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5) That under Rule 6(5) of KP Service Tribunal Rules 1974, the Tribunal is also empower to condone the delay in lodging the appeal is also the tribunal having under Rule 27 of the said Rules additional powers for providing substances justice.

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6) In the above senior it is humbly prayed that delay may kindly be condoned, otherwise appellant will suffer irreparable loss.

It is therefore, most humbly prayed that on acceptance of this CM, the delay may kindly be condoned for the reasons in connection of filing departmental appeal and appeal to this Honorable Tribunal.

Appellant

Ibrahim

Affidavit

I, Ibrahim s/o Khachai Malak r/o Zora Tehsil Kabal District Swat do affirm and declare on oath the contents of the instant CM are true and correct to the best of my knowledge and nothing has been kept/ concealed.

Deponent

Ibrahim

[Handwritten signature]
District Education Officer (P)

[Handwritten signature]
Muhammad Ilyas
ADVOCATE
OATH COMMISSIONER
District Court Swat
Date 06-02

12 6

Amir ul

OFFICE OF THE EXECUTIVE DISTRICT OFFICER ELEMENTARY & SECONDARY EDUCATION SWAT

Whereas Mr, Ibrahim Choudidar GGS Swat remained willfully absent from his duty since 01.08.2009. Whereas he was directed by the DDO(F)Pry:Swat No.372 dated 11.9.09. Whereas he was directed by the DDO(F)Pry:Swat No.372 dated 11.9.09 No.441 dated 30.9.09 & No. 590 dated 21.10.2009 and also published in the Daily News paper on 29.7.2010 to resume duty but he failed to report for duty. Whereas an enquiry committee was constituted to conduct enquiry against him. Whereas the enquiry committee has recommended him for removal from service vide No. -191 dated 6/2010. In view of the above facts the EDO(E&S)Swat being competent authority in exercise of powers conferred upon him under ordinance, 2000 Mr, Ibrahim Choudidar GGS Swat is hereby removed from service with effect from 01.08.2009.

RAJ MUHAMMAD LIHAN
EXECUTIVE DISTRICT OFFICER
ELEMENTARY & SEC: EDU: SWAT.

E.No. 17325-28 / Dated the 30/8/2010.

Copy to:-

- 1. The Director E&S:Edn:NWFP, Peshawar E.P.K. Peshi.
- 2. The District Coordination officer, Swat.
- 3. The District Accounts officer, Swat.
- 4. The DDO(F)Pry:Swat for information w/r to her No.441 dt:30.9.09.

Mr. Abdul Wahab
Keese Secretary's
SI Book.

[Signature]
EXECUTIVE DISTRICT OFFICER ELEMENTARY
AND SECONDARY EDUCATION SWAT.

[Signature]
District Education Officer (F)
Swat

OFFICE OF THE D.D.O. (F)
Duty No. 541
Date: 31/8/10
Swat, Saidu Sharif

[Signature]



OFFICE OF THE
SUB-DIVISIONAL EDUCATION OFFICER
(Female) KABAL, SWAT

Ms. Shabina Shah

26/4/2022

No. 1203

Dated 21/04/2022

To,

The District Education Officer (Female)
Swat.

Subject: - APPEAL FOR RE-INSTATEMENT.

Memo: -

Enclosed please find herewith original appeal/application in respect of Ibrahim S/O Khachai Ex-Chowkidar of Zawra, Swat resident of Zawra Tehsil Kabal, District, Swat, the contents of which are self-explanatory for your kind perusal and necessary action, please.

It is further submitted that: -

1. The appellant had appointed as Chowkidar at GGPS, Zawra vide SDEO (F) Swat Office order Endst: No.961 dated 1/7/1988 and took over charge on 1/7/1988 (Photo copy of appointment order and S/Book attached).
2. As per written report of the PSHT of GGPS, Zawra, the appellant had recorded attendance in the attendance register up to 27/6/2008. (Copy attached).
3. The appellant had removed from service vide Executive District Education Officer Elementary & Secondary Education, Swat Office order Endst: No.17325-28 dated 30/8/2010 w.e.f.1/8/2009 (Copy attached)
4. The Chowkidar post of GGPS, Zawra has already been occupied by One Mr. Muhammad Israr S/O Shah Bali Jan vide Executive District Education Officer Elementary & Secondary Education, Swat Office order Endst: No.10369-79 dated 9/7/2011 through appointment.
5. The Pak Army has issued DREP Certificate to the appellant that he had apprehended to Pakistan Army on 30 June 2011 and has been released on 5/3/2022 after completion of DREP class. (Photo copy) attached).

District Education Officer (F)
Kabal Swat

829
26/4/2022
District Education Officer (F)
Swat.



OFFICE OF THE
DISTRICT EDUCATION OFFICER (FEMALE)
DISTRICT SWAT



#: (0946) 9240214

Email: deofswat@gmail.com



#: (0946) 9240214

Web: www.female.sed.edu.pk

No: 7846 / File / Appeal / C-IV- 2022 / DEO (F) Swat. Dated: 23/8 2022

To

The Sub Divisional Education Officer,
(Female) Kabal. Swat.

Subject: APPEAL FOR RE-INSTATEMENT.

Memo:

Reference your office Memo No: 1203 Dated: 21-04-2022 along with appeal of Mr. Ibrahim S/O Khaichai R/O Zawra Tehsil Kabal Distt: Swat.

It is with great concern that despite the admitted facts that Mr. Ibrahim S/O Khaichai R/O Zawra Tehsil Kabal Distt: Swat Ex-Chowkidar GGPS Zawra has been removed from service Vide the then Executive District Officer Elementary & Secondary Education Swat No: 17325-28 Dated the 30-08-2010 & after laps of 12 years who was absent from service and you submitted appeal which is against the Rule-3 of Govt of KP (Appeal Rules) which tantamount to gross negligence and wastage of precious time of this office & the same could not be considered due to the following reasons.

1. Application of Mr. Ibrahim S/O Khaichai is badly barred by time and not maintainable in the eye of law because this is settle principle of law that long absence from duty without intimation which entailed dismissal from service, therefore, the instant appeal falls within the meaning of misconduct and could not be considered.
2. It is also very much clear from the Verdict of the judgement of Supreme Court (A&JK) reported in PLJ 2019 at (77) that:

"The Supreme Court of Pakistan and Azad Jammu Kashmir have time & again held that as Govt servant having remained absent from duty for more than 05 year ceased the status of Govt Servant".

On the basis of this analogy, the appellant remained absent more than 05 years and ceased his status as civil servant.

Keeping in view the above is hereby **REJECTED** and you are directed to be careful in future and follow rules regulations and services laws being Sub Divisional Controlling Authority.

You are further directed to inform the appellant above the decision of his appeal / application under intimation to this office.

[Handwritten Signature]
District Education Officer (F)
Swat.

[Handwritten Signature]
Dr. SHAMSHAN KHAN
DISTRICT EDUCATION OFFICER (F)
SWAT



DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION
KHYBER PAKHTUNKHWA PESHAWAR.

No. 6199 /F.No. 451/A-20/C-IV/Swat Vol-13

Dated Peshawar the 16/08 /2022

Phone: 091-9225344

Email: ddadm.cse@gmail.com

To

The District Education Officer
(Female) Swat

Mr. Shahri Shah

29/8/22

Subject: **APPEAL**

Memo:

I am directed to refer to the subject noted above and to enclose herewith a copy of appeal lodged by Mr. Ibrahim S/O Khachai Ex-Chowkidar GGPS Zora District Swat and to ask you to submit detailed report/comments at an early date.

16/8/22
Assistant Director (Admn)

Directorate E& Secondary Education
Khyber Pakhtunkhwa, Peshawar

15/8/22

Endst; No. _____

Copy forwarded to the: -

1. Mr. Ibrahim S/O Khachai Malik Ex-Chowkidar GGPS Zawra District Swat.
2. PA to Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.
3. Master File

Assistant Director (Admn)

Directorate E& Secondary Education
Khyber Pakhtunkhwa, Peshawar

1754
29/8/22
District Education Officer (F)
Swat

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لاکھنؤ 30/3/2022

محترم سربراہ گورنمنٹ ہائی اسکول لاہور

عنوان :- ایس اے ری ایسٹمنٹ

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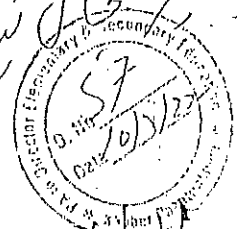
میرٹھ میں طرقت جوہر گورنمنٹ ہائی اسکول لاہور سے

تین سو اسی میں دسٹ گورنمنٹ ہائی اسکول لاہور سے

یوں 3 جون 2022 کو

اب چونکہ ایس اے ری ایسٹمنٹ ہائی اسکول لاہور سے

تین سو اسی میں دسٹ گورنمنٹ ہائی اسکول لاہور سے



ADDED

AD (Actd) 3/28/22

Handwritten signature and date 16/3/22

Director Education Officer (F) Swat

آپ کا سربراہ - ایس اے ری ایسٹمنٹ ہائی اسکول لاہور

03449005601



OFFICE OF THE
DISTRICT EDUCATION OFFICER (FEMALE)
DISTRICT SWAT,

#: (0946) 9240214
Email: deofswat@gmail.com

#: (0946) 9240214
Web: www.female.scd.edu.pk

No: 11189 / File / Appeal / C-IV / 2022 / DEO (F) Swat.

Dated: 17/10 / 2022

To

The Director,
Elementary & Secondary Education,
KPK, Peshawar.

REGISTERED

Subject: APPEAL.

Memo:

Reference your good office Memo No: 6199 / F.No.451 / A-20 / C-IV / Swat Vol-13,
Dated Peshawar the 16-08-2022, received to this office on 28-08-2022 under diary No: 1754.

Under reference appeal of Mr. Ibrahim S/O Khachai Ex-Chowkidar GGPS Zora Distt:
Swat has already been **REJECTED** on the basis grounds mentioned in this office Memo No: 7846
/ File / Appeal / C-IV - 2022 / DEO (F) Swat Dated: 23-08-2022 (Copy enclosed)

Keeping in view the prevailing Services laws and verdict of the Superior Courts, the
appellant is not entitle for reinstatement.

Hence submitted for further action according to appeal Rules, please.

(DR. SHAMIM AKHTAR)
DISTRICT EDUCATION OFFICER (F)
SWAT

[Handwritten Signature]
District Education Officer (F)
Swat.



DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION
KHYBER PAKHTUNKHWA PESHAWAR.

No. 62-89 /F.No.451/A-20/C-IV/Swat/Vol-13

Dated Peshawar the 10-1- /2023

Phone: 091-9225344

Email: ddadmn.ese@gmail.com

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To

The District Education Officer
(Female) Swat.

Mrs. Shahin Shah

Subject: APPEAL FOR RE-INSTATEMENT.

[Signature]
28/11/2023

Memo:

I am directed to refer to the subject noted above and to enclose herewith a copy of an appeal submitted by. Mr. Ibrahim Ex- Chowkidar GGPS Zora Kabal District Swat.

You are therefore directed to submit detail report/comments at an early date.

ask

[Signature]
10/11/23

Assistant Director (Admn)

Directorate E& Secondary Education
Khyber Pakhtunkhwa, Peshawar

[Signature]
10/11/23

Endst; No. _____/

Copy forwarded to the: -

1. Mr. Ibrahim Ex- Chowkidar GGPS Zora Kabal District Swat.
2. PA to Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.
3. Master File.

[Signature]

Assistant Director (Admn)

Directorate E& Secondary Education
Khyber Pakhtunkhwa, Peshawar

[Signature]
[Signature]
[Signature]
DIRECTOR (F)

111
28/11/2023

[Signature]
30/11/2023

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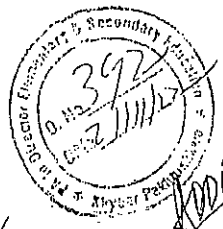
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(67) مکتبہ اعلیٰ ڈاکٹر علیہ ریاضی اہل سنت و اہل بیت پاکستان

عنوان :- درخواست اپیل (نامزد) 7989
3-10 ضیاء عالی! لکھنؤ
مکتبہ اعلیٰ ڈاکٹر علیہ ریاضی اہل سنت و اہل بیت پاکستان

مکتبہ اعلیٰ ڈاکٹر علیہ ریاضی اہل سنت و اہل بیت پاکستان
کے لیے 1988ء سے سہ ماہی - کتب و دستاویزوں کی خریداری کے لیے
بائڈ آرڈر کی درخواستیں 2010ء اور کافی قدرے بعد 3 مارچ 2022ء کو
اپنی درخواستیں سہ ماہی - کتب و دستاویزوں کی خریداری کے لیے
تعمیرت و فنڈنگ کے لیے - اس کے بعد میں 5/8/22 کو اپنے دفتر اپیل پر
مکتبہ اعلیٰ ڈاکٹر علیہ ریاضی اہل سنت و اہل بیت پاکستان کے لیے
اپنی درخواستیں سہ ماہی - کتب و دستاویزوں کی خریداری کے لیے
سروس کے لیے اپیل کی درخواستیں - کتب و دستاویزوں کی خریداری کے لیے
اپنی درخواستیں سہ ماہی - کتب و دستاویزوں کی خریداری کے لیے



770 (A/Am)
4788
22/11/22

Handwritten signature of the District Education Officer, Swat.

District Education Officer (F)
Swat.

آپ کا نام ہے ڈاکٹر علیہ ریاضی اہل سنت و اہل بیت
مکتبہ اعلیٰ ڈاکٹر علیہ ریاضی اہل سنت و اہل بیت پاکستان
03441565730
حرفہ 18/11/2022



OFFICE OF THE
DISTRICT EDUCATION OFFICER (FEMALE)
DISTRICT SWAT

#: (0946) 9240214
Email: deofswat@gmail.com

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Web: www.female.sed.edu.pk

I (16)

No: 467 / File / Appeal / C-IV / 2022-23 / DEO (F) Swat.

Dated: 27/12/2023

To

The Director,
Elementary & Secondary Education,
KPK, Peshawar.

REGISTERED

Subject: APPEL FOR RE-INSTATEMENT.

Memo:

Reference your good office Memo No: 6289 / F.No.451 / A-20 / C-IV / Swat Vol-13, Dated Peshawar the 10-01-2023, received to this office on 28-01-2023 regarding the subject cited above along with appeal of Mr. Ibrahim S/O Khachai Ex-Chowkidar GGPS Zora Tehsil Kabal, District, Swat. Detail / para wise comments pertaining to the case are as under.

PRELIMINARY OBJECTIONS.

1. Appeal is badly barred by time and cannot be maintainable in the light of doctrine of Res-judicata and similarly such like cases has already been condemned by the Apex Court of Pakistan in various Judgements. Hence the instant appeal is liable to be dismissed.
2. That the appellant submitted application through proper channel to the undersigned for reinstatement Vide No: 1203 Dated: 21-04-2022 and he was informed in written Vide No: 7846 Dated: 23-08-2022, therefore, his appeal is liable to be dismissed because he is not entitle for reinstatement.
3. That already Mr. Ibrahim S/O Khachai Ex-Chowkiar GGPS Zora Tehsil Kabal Distt: Swat submitted appeal to your good self and detailed report / comments asked from this office Vide No: 6199 Dated: 16-08-2022 which has been replied by this office Vide No: 11189 Dated: 17-10-2022. Hence the instant appeal needs to be dismissed.

COMMENTS:

Although the applicant appointed on 01-07-1988 as Chowkidar at GGPS Zawra Kabal, Swat but due to continuous absenteeism & observing codal formalities Major penalty of Removal from Service imposed upon Mr. Ibrahim and similarly he was removed from Service Vide Executive District Education Officer Elementary & Secondary Education Swat order under Endstt No: 17325-28, Dated: 30-08-2010. The applicant is not entitle for any kind of remedy and neither the appeal / representation is maintainable Inter alia and the appeal is irrelevant due to no foundation, therefore, similarly appeal in hand is liable to be dismissed and order of Removal from Service of appellant is within the due course of laws and Sharia.

In view of the above it is requested that the instant appeal may kindly be dismissed because in the light of the prevailing rules and various judgments of Supreme Court of Pakistan which are bound effect on each and every organ of the state in such like time barred applications under articles 189 and 190 of the Constitution of Islamic Republic of Pakistan 1973, It is therefore, humbly prayed that appeal in hand may graciously be dismissed due to barred by time and not maintainable in the light of appeal rules, please.

Note: Now the applicant also filed Service appeal before the Hon: KP Service Tribunal Peshawar in which 28-03-2023 has been fixed for hearing.

(DR. SHAMIM AKHTAR)
DISTRICT EDUCATION OFFICER (F)

SWAT

Accepted
Sultan Ali
District Education Officer (F)
Swat.