

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR.

SERVICES APPEAL NO 2295/2023

Muhammad Ismail Khan (Ex- PST) GPS Mayran Kakki

Bannu.....Appellant

V/s

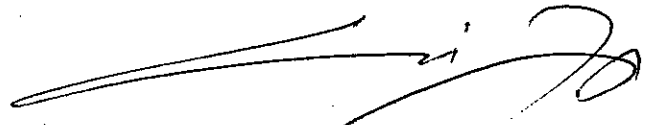
Government of Khyber Pakhtunkhwa through Secretary (E&SE)
Education Department others Respondents.

INDEX

S. No	Description of documents	Annexure	Page No.
1.	Para wise Comments		01-04
2.	Authority Letter		05
3.	Affidavit		06
4.	Absentee Report by ASD EO	A	
5.	BMS Notification - (About Absentee)	B	
6.	Termination Letter -	C	
7.	Departmental Appeal of the Appellant	D	
8.			

01-03-24

S.B



SAIF ULLAH WAZIR
DEO (MALE) BANNU

01

BEFORE THE KHYBER PAKHTUNKHWA SERVICE

TRIBUNAL PESHAWAR.

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 11509

SERVICES APPEAL NO 2295/2023

Dated 8-03-2024

Muhammad Ismail Khan (Ex- PST) GPS Mayran Kakki

Bannu.....Appellant

VS

Government of Khyber Pakhtunkhwa through Secretary (E&SE)

Education Department and other

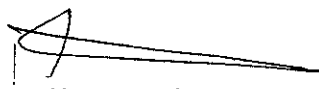
others.....Respondents

PARA WISE COMMENTS ON BEHALF OF RESPONDENTS

RESPECTFULLY SHEWETH

PRELIMINARY OBJECTIONS:

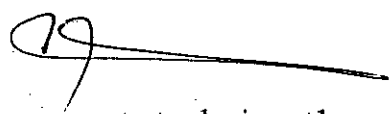
1. That the present appellant was appointed as PST and then he was nominated in FIR under section 302 PPC dated 19/06/2011 since then he remained absent from the department unauthorized and then was terminated from the service on 28-2-2013 after fulfillment all the codel formalities. All of a sudden in the year 2023 he submitted an appeal for reinstatement in to service and proper process was carried out and after that his request was turned downed as per law rules and policy hence the appellant having no cause of action this instant appeal is liable to be dismissed.
2. That the present Appeal of the Appellant is not maintainable in its present form.
3. That the Appellant has logged the instant Appeal to waste the precious time of this Honorable Services Tribunal.
4. That the case of the Appellant is devoid of merit and having no legal force hence liable to set-aside.



ON FACTS:

1. That the Para 1 is related to the service record of the appellant and his personal assertion about his duty.
2. That Para No 2 pertains to the personal assertion of the appellant about his duty.
3. That Para No 3 is incorrect to the extent of FIR for rest of the Para the concerned department is in better position to explain the same moreover the case is still pending in the court of law where the innocence of the appellant is yet to be determined by the court.
4. That Para No 4 is related to the appellant personal assumption, presumption and his mental approach. Any how he remained absent from his duty unauthorized for a long period without informing the department which is not only illegal but its tantamount to willful absence but also to disobedience.(Annex-A and B).
5. That Para No 5 is related to the judiciary record.
6. That Para No 6 is related to the official record.
7. That Para 7 is related to the appellant and his counsel.

GROUNDS



- a. That Para A is incorrect and denied as stated in the preceding paras the appellant was dealt under the relevant law rules and policy.(Annex-C).
- b. That Para B is incorrect and denied as proper procedure was adopted for dealing the case of the appellant for rest of the Para regarding article 194 CSR and E&D rules are related to the personal legal approach of the appellant and his counsel any how the appellant was terminated from his servies in the year 2013 and then he made an appeal in the year 2023 which is the lapse of almost 10 years which is barred by time and such appeals which are not with in 90 days can not be entertained as this honourable Tribunal

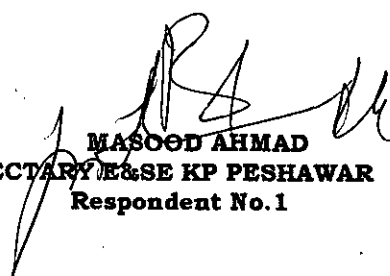
has graciously dismissed such appeals which are barred by time . (Annexure D)


- c. That Para C is related to the appellant and his counsel personal explanation of the FR 54. Any how as the appellant remained absent for a long period is not entitled for reinstatement in service only on the basis of BBA as BBA does not ensure any legal right and is not a certificate of the innocence of the present appellant and it also does not create any right legal or otherwise.
- d. This Para D is related to the personal legal approach of the appellant and his counsel. But in the present case appellant has not been equited but on the base of compromised BBA has been confirmed by the concerned court of law.
- e. That Para E is incorrect and denied as stated in the preceding Paras the appellant willfully absent from his duty and such willful absence is considered as dis obedience.
- f. That Para F is related to the appellant personal information but this office presumed that he may have gainful employment inside the country and outside the country as he remained absent from his duty for two more years.
- g. That Para G is incorrect and denied as unauthorized absence from duty is a willful absenteeism and such willful absenteeism falls in the preview of dis obedience.
- h. That Para H is incorrect and denied as ignorance of law is no excuse and the major penalty was imposed as per law rules and policy and also such appeal is barred by time under limitation act.
- i. That Para I is incorrect and denied.
- j. That Para J is related to the personal physical condition of the appellant.
- k. That Para K is related to the personal problems of the appellant.
- l. That Para L is related to the petitioner and his counsel any how permission for addition defense at the time of hearing to the respondents may be granted.

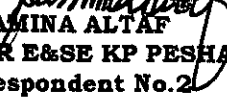
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PRAYER:

In view of the above made submissions it is requested that this Honorable Services Tribunal may very graciously be pleased to dismiss the instant appeal with heavy cost.


MASOOD AHMAD
SECRETARY E&SE KP PESHAWAR
Respondent No.1


SAIF ULLAH WAZIR
DISTRICT EDUCATION OFFICER
(MALE) BANNU
Respondent No.3


SAMINA ALTAF
DIRECTOR E&SE KP PESHAWAR
Respondent No.2

05

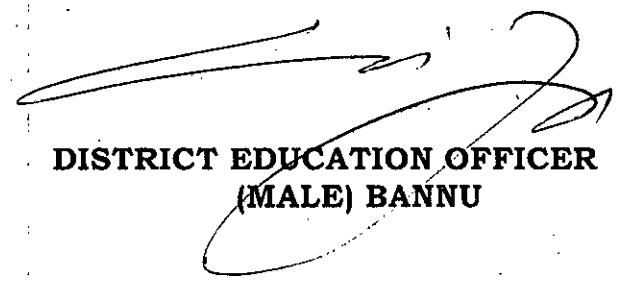


OFFICE OF THE DISTRICT EDUCATION OFFICER

MALE BANNU

AUTHORITY

Certified that Mr. Bakhmal Jan ADEO Litigation of this Office is hereby authorized to submit this Para wise comments on behalf of under signed in connection with the Case titled as Mr. Muhammad Ismail Khan Vs Govt; in services appeal No 2295/2023.



**DISTRICT EDUCATION OFFICER
(MALE) BANNU**

06

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR.

SERVICES APPEAL NO 2295/2023

Muhammad Ismail Khan (Ex- PST) GPS Mayran Kakki
Bannu.....Appellant

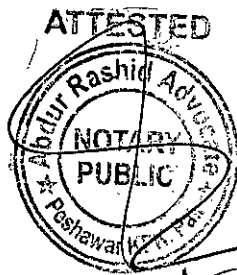
V/s

Government of Khyber Pakhtunkhwa through Secretary (E&SE)
Education Department and
others.....Respondents.

AFFIDAVIT

I Mr. Saif ullah khan Wazir do here by Certify that all the contents of these Para wise comments are true & correct to the best of my knowledge and nothing has been concealed from this Honorable Services Tribunal. It is further stated on oath that in this appeal, the answering respondents have neither been placed ex-perte nor their defense has been struck off.


SAIF ULLAH WAZIR
DEO (MALE) BANNU
CNIC: 11101-1482418-5



06-3-24



OFFICE OF THE SUB DIVISIONAL EDUCATION
OFFICER(MALE) KAKKI BANNU



No. 195 KAKKI

Dated: 7/6/2023

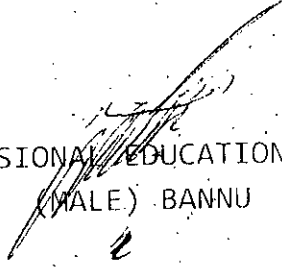
To The District Education Officer,
(Male) Bannu.

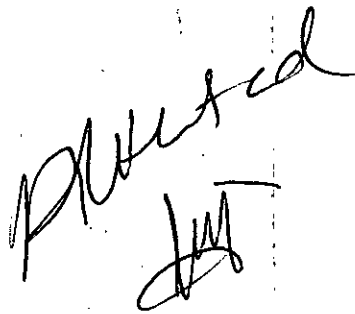
Subject: RE-INSTATEMENT IN SERVICE

Memo:

Enclosed please find here with an application along with Court Decision. Removal from service order copy and Original Service Book in respect of Mr. Muhammad Ismaeel Khan PST of GPS: Mayaran Kakki Bannu who was removed from service vide DEO (M) No 410-13 Dated 28/2/2013 under the rule 2011 for Re-Instatement in service from the date of removal from Service i.e. 28/12/2013.

Now the case is hereby forwarded for further process please according to the rules and policy.


SUB DIVISIONAL EDUCATION OFFICER
(MALE) BANNU



OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) BANNU.

OFFICE ORDER/TERMINATION.

After fulfilment of all codal formalities i.e absentee notice in News paper, being the competent authority, Muhammad Ismail PST GPS Maayaras Kakki is hereby removed for service with immediate effect under the S.P. rules 2011.

Sd/-

DISTRICT EDUCATION OFFICER
(MALE) BANNU.

Date - 28/12/2013

Dist: No 410-13 / Absentee/NDM(M)

- Copy to the :-
- 1- Deputy Commissioner Bannu w/r to his No. 37/AM/M dated 8-1-2013 for information please.
 - 2- District Accounts Officer Bannu.
 - 3- Sub Divisional Education Officer (M) Bannu.
 - 4- Teacher concerned.

Muhammad Ismail
Accession entry
made by
Mr. Iqbal Zaman
28/12/2013

DISTRICT EDUCATION OFFICER
(MALE) BANNU

[Signature]
28/12/2013

DOCC)
 do the needful according
 the direction of SDBO(M) Bannu.

[Signature]
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OFFICE OF THE DISTRICT EDUCATION OFFICER
(MALE) BANNU

Phone No: 0928-660005 Fax No: 0928-660346
Email Id: bannuedo@yahoo.com



No. 11936 /Appeal
To:

Dated; 21-09 /2023.

The Director
Elementary & Secondary Education
Khyber Pakhtunkhwa.

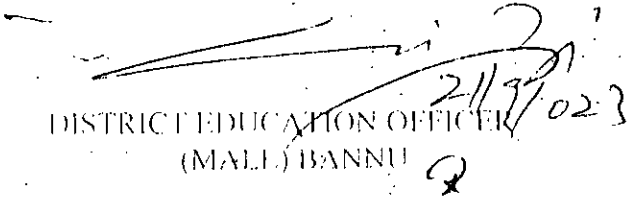
SUBJECT: APPEAL FOR REINSTATEMENT IN SERVICE

Memo:

Reference SDEO (M) Kakki Bannu letter No.195 dated; 07-06-2023 on the subject cited above.

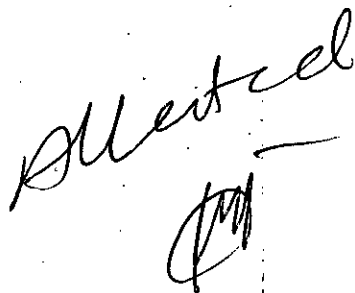
The self-explanatory appeal for reinstatement in service in respect of Muhammad Ismail Khan Ex-PST GPS Mayran Kakki Bannu along with other necessary documents and Court decision of the Additional Session Judge IV Bannu dated; 30-05-2023 for your kind consideration and further necessary action being appellate authority please.

Enclosed: as above.


DISTRICT EDUCATION OFFICER
(MALE) BANNU

Copy for information to the:-
SDEO(M) Kakki Bannu with reference to his letter No & Date cited above.


DISTRICT EDUCATION OFFICER
(MALE) BANNU



مدت جا۔ DEO صاحب مردانہ صلاح ہوں

درخواست برائے بحال کرنے سائل بطور PST موجود ہے ذیل۔

Forwarded to SDEO (M)
ICAK for Further
Process please.

→ X ←

صاحب عالی

گذریش ہے

اس کے من سائل معیاروں تک اس وقت تک کہ اسے بائینڈ ہوں

یہ کہ من سائل بطور آئی پی عبوری ہوا تھا اور فیڈبک فوٹوشاپنگ سے
ڈیوٹی سرخام سے رہا تھا۔

یہ کہ من سائل کے خلاف مجاورد ایف۔ ای۔ آر۔ 60 مورخہ 19/6/11 جرم 302
تھانہ تک رہا من گرفت اور بے بنیاد دعوہ دی ہو سکتی تھی اور اس دوران من سائل
کو حتمہ ہوانے پر ضمانت کر دیا۔

یہ کہ من سائل نے عدالت سیشن جج صاحب ہونے سے مورخہ 30/5/23 کو طمانت قبل از
گرفتاری کی درخواست دائر کی اور عدالت نے من سائل کی درخواست کو قبول
اور منظور کیا۔ یہ کہ من سائل نے عدالت سے درخواست کی کہ اسے
لکڑا بڈر لیکر درخواست استعدائی جاری ہے۔

یہ کہ من سائل کو نوٹری سرخامی کے احکامات سے مطلع کیا گیا

P 3/6/23

الکراں

محمد اسماعیل خان دیپ طور علی خان سید معیاروں تک پہنچا ہوا