

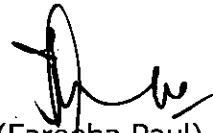
16.06.2022

Petitioner present in person. Mr. Muhammad Adeel Butt, Additional Advocate General alongwith Dr. Hayat Khan, Assistant Director and Mr. Shakeel Ahmad, ADO Litigation for respondents present.

Representative of the respondent department submitted implementation report corrigendum notification No. 125-29/4-26/ST/ATD/2013/Lit:HR dated 07.06.2022 which is placed on file and stated at the bar that the department had implemented the judgement of this Tribunal.

In view of the above, the instant petition stands disposed off. No order as to costs. File be consigned to the record room.

Announced.  
16.06.2022

  
(Fareeha Paul)  
Member (E)  
Camp Court A/Abad

D

16.06.2022

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Fareeha Paul  
Member (E)  
Camp Court A/Abad

D

EP 71-22

3<sup>rd</sup> June, 2022

Junior to counsel for the petitioner present. Mr. Muhammad Riaz Khan Paindakhel, Asstt. AG for the respondents present.

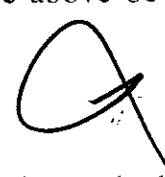
Respondents have not submitted implementation report. Salaries and Accounts of DEO Haripur and Director E&SE, Khyber Pakhtunkhwa Peshawar be attached till further orders. The District Accounts Officer, Haripur and the Accountant General Khyber Pakhtunkhwa be directed not to release their salaries till further orders by the Tribunal. Warrant of arrest be also issued against them for their production before S.B at Camp Court Abbottabad on 16.06.2022.

  
Chairman

**Late Diary**

3<sup>rd</sup> June, 2022

After passage of the above order, Dr. Hayat Khan, Assistant Director, Directorate of Elementary and Secondary Education, Peshawar submitted in writing an application on behalf of the respondents undertaking that the respondents would submit compliance report on or before the next date of hearing. On the commitment of the respondents, let the operation of the above be suspended till the date fixed.

  
(Kalim Arshad Khan)  
Chairman



**OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE)**  
**HARIPUR**



Ph. No. 0995-920150, 920151, 920152  
Email: [deomalehrp@yahoo.com](mailto:deomalehrp@yahoo.com)

**CORRIGENDUM:**

Whereas, Mr. Bahadar Sher Ex-CT was reinstated into service w.e.f 22-11-2017 on the basis of Service Tribunal Judgment dated 22-11-2017 on the basis of Service Tribunal judgment dated 22-11-2017 conditionally under this office endst: No. 120-24/F.No. 4-26/ST/Lit:HR dated 05-01-2018.

Whereas, he has been adjusted at GCMHS No.1 KTS Haripur against the vacant post of CT BPS-15.

Whereas, his intervening period was to be decided in the light of De-novo inquiry from 07-01-2012 to 21-11-2017.

Whereas, this office has constituted inquiry committee comprising of the senior Principals of BPS-19 to look into the matter and submit their report. The committee conducted the inquiry and recommended that his termination period from 07-01-2012 to 21-11-2017 may be considered as leave without pay under the rules/policy.

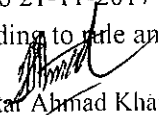
Whereas, in exercise of powers conferred upon the then District Education Officer (M) Haripur (Competent Authority) under E&SE Rules 2011 and keeping in view evidence on record as well revised rules 1981 the then DEO (M) Haripur the intervening period was sanction as under.

1. Suspension period w.e.f 07-01-2012 to 06-04-2012 (03 months)
2. Absconding period w.e.f 07-04-2012 to 02-04-2013 (361 days read as EOL)
3. Jail period w.e.f 03-04-2013 to 10-07-2013 (03 months and 09 days read as suspension period)
4. Trial period w.e.f 11-07-2013 to 12-05-2017 (03 years 06 months and 01 days) read as EOL as admissible.

Whereas, services of Mr. Bahadar Sher CT GHSS No.1 Haripur was regularized and EOL w.e.f 07-04-2012 to 02-04-2013 and 11-07-2013 to 21-11-2017 was granted in his favour by the then DEO (M) Haripur.

Whereas, the Honorable Khyber Pakhtunkhwa Service Tribunal Peshawar in Service Appeal No. 1599/2019 respondent No. 2 (DEO (M) Haripur) is directed to issue corrigendum of notification dated 23-07-2018 bearing No. 8132-35/4-26/ST/ATD/2013/Lit:HR of even date and the period w.e.f 11-07-2013 to 21-11-2017 treating as Extra Ordinary Leave be substituted with the period of duty for the purpose of arrears of the pay having become admissible in favour of petitioner in consequence of his reinstatement in pursuance to the judgment of the Honorable Tribunal.

Now therefore, in the light of above discussion the competent authority DEO (M) Haripur is pleased to issue the corrigendum of the notification dated 23-07-2018 bearing No. 8132-35/4-26/ST/ATD/2013/Lit:HR of even date and the period w.e.f 11-07-2013 to 21-11-2017 is treated as duty period for the purpose of arrears of pay having become admissible according to rule and policy.


  
Mukhtar Ahmad Khan  
District Education officer (Male)  
Haripur.

Dated Haripur the: 07/06/2022

No. 125-29 /4-26/ST/ATD/2013/Lit:HR

**Copy to:**

1. The Registrar Khyber Pakhtunkhwa Service Tribunal Peshawar.
2. The Director E&SE Khyber Pakhtunkhwa, Peshawar.
3. The District Accounts Officer Haripur.
4. The Principal GHS KTS No.4 Haripur being DDO concerned.
5. Mr. Bahadar Sher SST (M/P) GHS No. 4 KTS, Haripur.
6. Office record file.

  
District Education Officer (Male)  
Haripur

28.02.2022

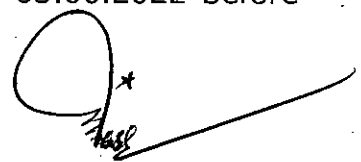
Due to retirement of the Worthy Chairman, the Tribunal is defunct, therefore, case is adjourned to 17.05.2022 for the same as before.

  
Reader

17.05.2022

Learned counsel for the petitioner present. Mr. Muhammad Adeel Butt, Addl. AG alongwith Hafiz Shakeel Ahmad, ADO (Litigation) for the respondents present.

Learned AAG requested for adjournment on the ground that he is in contact with the respondent department for submission of implementation report. Request is acceded to. To come up for implementation report on 03.06.2022 before S.B.

  
(MIAN MUHAMMAD)  
MEMBER (E)

EP 7/2022

31.01.2022

Counsel for the petitioner and Mr. Muhammad Adeel Butt, Addl. AG alongwith Muhammad Saleh Mushtaq, ADEO for the respondents present.

Representative of respondent No. 2 has produced copy of letter dated 29.01.2022, addressed to the Director E&SE. Accordingly guidance has been sought on the facts as narrated in the said letter. Copy of the said letter is placed on file. Respondent No. 2 is required to depute a well conversant official and apprise the Tribunal on the next date. Case to come up for implementation report on 02.02.2022 before S.B.

  
Chairman

02.02.2022

Counsel for the petitioner and Mr. Muhammad Adeel Butt, Addl. AG alongwith Haseenullah, Asstt. and Saleh Mushtaq, ADEO for the respondents present.

The representative of respondent No. 1 states that letter dated 29.01.2022 as discussed in previous order sheet dated 31.01.2022 has not been received in their office. As and when the said letter is received, the respondent No. 1 shall ensure the implementation of the order dated 24.01.2022. To come up for implementation report on 28.02.2022 before S.B.

  
Chairman

EP 71/22

~~23~~.01.2022

Lawyers are on strike. Mr. Muhammad Adeel Butt, Addl. AG alongwith Muhammad Saleh Mushtaq, ADEO (Litigation) for the respondents present.

The factual position and scope of the previous judgment dated 22.11.2017 passed in Service Appeal No. 1551/2013 has already been expounded in the last order dated 24.01.2022, whereby the service appeal No. 1599/2019 was converted into Execution Petition at hand. Therefore, in order to avoid the repetition, the said order dated 24.01.2022 be read as part and parcel of today's order. The period of absence in between 07.04.2012 to 02.04.2013 (361 days) was rightly treated as extraordinary leave without pay as the petitioner was absconding during the said period due to his involvement in a criminal case. However, the period w.e.f 11.07.2013 to 12.05.2017 (03 years 06 months and 01 day) was wrongly treated as EOL. The petitioner during this period remained under trial before the court of law, after his release on bail. Second proviso to Section 17 of the Khyber Pakhtunkhwa Civil Servants Act, 1973 provides that where a civil servant has, under an order which is later on set aside, being dismissed or removed from service or reduced in rank, he shall, on setting aside such order, be entitled to such arrears of pay as the authority setting aside such order may determine. The petitioner was reinstated into service under direction of this Tribunal given in the judgment dated 22.11.2017 which was not challenged by the department before the august

Supreme Court of Pakistan. The said judgment does not contain any direction to authorize the respondent department to treat the absence period of the petitioner as leave without pay. However, the department in its own discretion broke the absence period of the petitioner into four periods. Two periods were treated as suspension period and one period of 361 days, as discussed above, was treated as absconding period. The fourth period was treated as trial period. As already observed that the trial period was wrongly treated as EOL without pay. Therefore, the respondent No. 2 is directed to issue corrigendum of the notification dated 23.07.2018 bearing No. 8132-35/4-26/ST/ATD/2013/Lit:/HR of even date and the period w.e.f. 11.07.2013 to 21.11.2017 treating as EOL be substituted with the period of duty for the purpose of arrears of pay having become admissible in favour of the petitioner in consequence of his reinstatement in pursuance to the judgment of this Tribunal. The copy of this order has been handed over to representative in attendance with the direction that necessary corrigendum be produced before the Tribunal on 31.01.2022 before S.B.

  
Chairman

25.01.2022 The appellant is present in person. In pursuance of an application submitted by the appellant today, this appeal has been listed for hearing on direction. Mr. Muhammad Adeel Butt learned AGG present.

2. Arguments heard and record has been perused.

3. According to the prayer in memorandum of appeal, it has been prayed for modification/rectification of the impugned order dated 23.07.2018 to the extent of all back benefits. According to the submissions made in factual part of the memorandum of appeal, the appellant on having been charged in criminal case was removed from service vide order dated 17/11/2012. He filed departmental appeal before the appellate authority for his reinstatement which was rejected and was followed by Service Appeal No. 1551 of 2013 before this tribunal. During the pendency of service appeal, he was acquitted by the trial Court from the charges levelled against him and this tribunal has also allowed his appeal vide judgment dated 22/11/2017. The copy of the judgment as annexed with the memo of appeal is available on file. According to operative part of the judgment dated 22/11/2017 passed in appeal No. 1551 of 2013, his appeal was accepted and the appellant was reinstated in service with liberty to the department to conduct denovo proceedings in accordance with law. Obviously, the impugned order dated 23/07/2018 followed the said judgment. According to the opening para of the impugned order, Mr. Bahadar Sher (appellant) was reinstated in service with effect from 22/11/2017 in pursuance to the judgment of this tribunal conditionally vide office endorsement No. 120-24/F.No.4-26/ST/LIT:/HR dated 05/01/2018. It is further noted in the impugned order that his intervening period from 07/01/2012 to 21/11/2017 was to be decided in light of denovo proceedings/inquiry. Therefore, the said period was treated as under in the impugned order in aftermath of denovo inquiry.





1. Suspension period w.e.f. 7-1-12 to 6-4-12 (3 months)
2. Absconding period w.e.f. 7-4-12 to 2-4-13 (361 days) read as EOL
3. Jail period w.e.f. 3-4-13 to 10-7-13 (3-months & 9-days) read as suspension period
4. Trial period w.e.f. 11-7-13 to 12-5-17 (3-years, 6 months & 1 day) read as EOL as admissible under the law.

Out of above noted period, the absconding period from 07-4-12 to 2-4-13 and trial period w.e.f. 11-7-13 to 21-11-17 were treated as Extra Ordinary Leave (without pay) and his services were regularized accordingly.

4. It is evident from the above discussion that the fact directly in issue in the previous service appeal No. 1551 of 2013 was the order bearing No. 12214-18 dated 17/11/2012 whereby service of the appellant was terminated w.e.f. 07/01/2012. The said order lost the field due to reinstatement of the appellant in the pursuance of the judgment dated 22/11/2017 of this tribunal in the said appeal. The dispute brought to the tribunal present service appeal seems to have link with the aforementioned judgment of this tribunal as far as treatment of absence period from 07/01/2012 to 21/11/2017 is concerned. The judgment dated 22/11/2017 is silent about treatment of the absence period in pursuance to the reinstatement of the appellant. The department has given a particular treatment to the said period in its own discretion after denovo inquiry. When the appellant was reinstated into service, the question of back benefits was a question relating to execution of the judgment already passed in favour of the appellant. The respondent department has treated the two period out of the absence period as suspension period one w.e.f. 07/1/12 to 6/4/12 and the other w.e.f. 3/4/13 to 10/7/13. Similarly, two periods one from 7/1/12 to 6/4/12 and the other w.e.f. 3/4/13 to

*Amended*

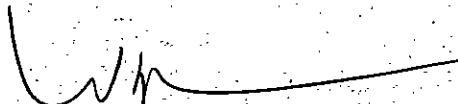
10/7/13 as extra ordinary leave without pay. The question for determination is whether the department was given any liberty for treatment of absence period in its own discretion under the judgment dated 22/11/2017. This tribunal within meaning of sub-section (2) of Section -7 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 is deemed as Civil Court with applicability of powers vested in such Court under CPC including the powers of as an Executing Court. Section -47 CPC provides that all questions arising between the parties to the suit in which the decree was passed, or their representatives and relating to the execution, discharge or the satisfaction the decree shall be determined by the Court for executing the decree and not by the separate suit. Sub Section (2) of Section 47 CPC empowers the Court to treat the proceedings under this section as a suit or suit or proceedings as the case may be, if necessary. The present appeal in fact relates to the matter which was directly and substantially an issue in the previous service appeal No. 1551 of 2013 and has already been finally decided by this tribunal vide judgment dated 22/11/2017. Therefore, the present appeal is not competent within the meaning of Rule 23 of Khyber Pakhtunkhwa Service Tribunal Rules, 1974. This tribunal has got inherent powers under Rule 27 of ibid Rules and accordingly, nothing in the Rules shall be deemed to limit or otherwise affect the powers of the Tribunal to make such orders as may be necessary for the end of justice or to prevent abuse the process of the Tribunal. Therefore, it is viable to convert this appeal into an objection petition u/s 47 of CPC r/w Rule 27 ibid for determination of the question as formulated hereinbefore.

*Handwritten signature*

5. In view of the foregoing discussion, this appeal is converted into an execution petition for determination of the formulated questions with reference to implementation of the judgment dated 22/11/2017 in Service appeal No. 1551 of 2013. Be deleted from

register of appeals and entered in register of execution petitions.

To come up before S.B on 25/01/2022 for further proceedings.

  
(ATIQ-UR-REHMAN WAZIR)  
Member (E)

  
CHAIRMAN

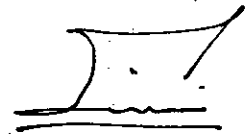
13.07.2021

Clerk of counsel for the appellant present. Mr. Usman Ghani, District Attorney for the respondents present.

Clerk of counsel for the appellant stated that learned counsel for the appellant is unable to attend the Tribunal today due to strike of Lawyers. Adjourned To come up for arguments before the D.B. on 22.10.2021



(ATIQ-UR-REHMAN WAZIR)  
MEMBER (EXECUTIVE)



(SALAH-UD-DIN)  
MEMBER (JUDICIAL)

22.10.2021

Junior of learned counsel for the appellant present.

Mr. Asif Masood Ali Shah, Deputy District Attorney for respondents present.

Junior of learned counsel for the appellant requested for adjournment as senior counsel for the appellant is busy before Hon'ble Peshawar High Court, Peshawar. Adjourned. To come up for arguments on 24.12.2021 before D.B.



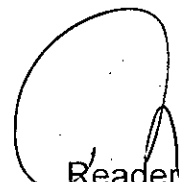
(ATIQ UR REHMAN WAZIR)  
MEMBER (E)



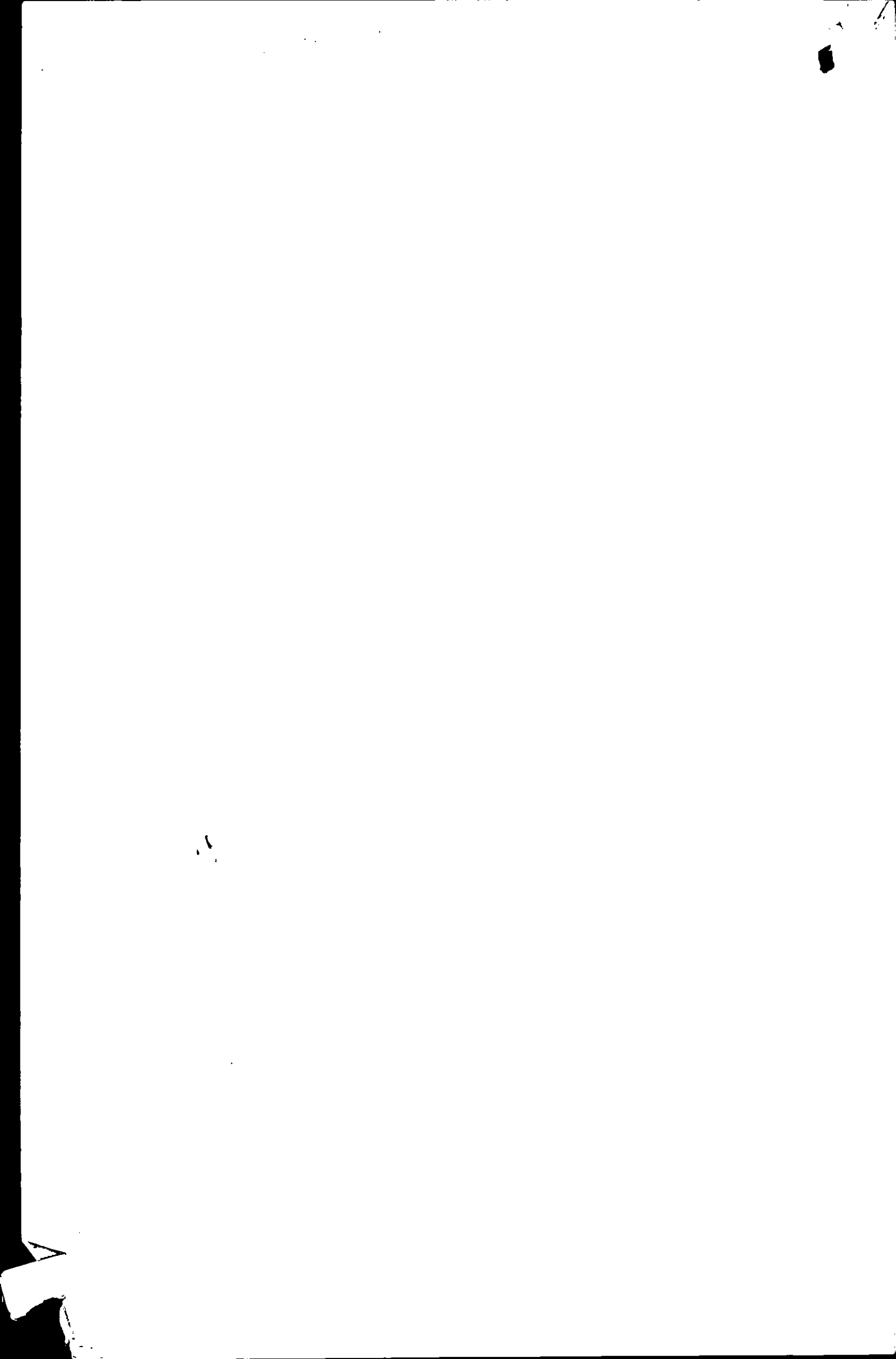
(ROZINA REHMAN)  
MEMBER (J)

24.12.2021

Due to winter vacations, case is adjourned to 31.03.2022 for the same as before.



Reader



29.09.2020

Junior to counsel for the appellant and Addl. AG Muhammad Saleh Mushtaq, ADEO for respondents No. 1 & 3 present and furnished joint parawise comments. Placed on record. Nemo on behalf of Respondent No. 3 nor his reply/comments received despite last opportunity. .

The matter is assigned to D.B for arguments on 29.12.2020. The appellant may furnish rejoinder, within one month, if so advised.

  
Chairman

29.12.2020

Due to summer vacation, case is adjourned to 31.03.2021 for the same as before.


  
Reader

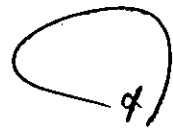
31.03.2021

Junior to counsel for appellant present.

Kabir Ullah Khattak learned Additional Advocate General for respondents present.


Due to general strike on the call of Khyber Pakhtunkhwa Bar Council, instant case is adjourned to 13/7/2021 for arguments before D.B.

  
(Atiq ur Rehman Wazir)  
Member (E)

  
(Rozina Rehman)  
Member (J)

22.06.2020

Due to public holidays on account of Covid-19, the case is adjourned for the same on 22.06.2020 before S.B

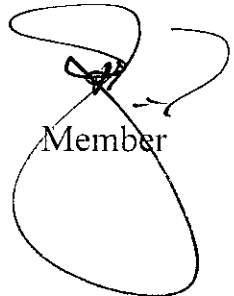
  
Member Reader

22.06.2020

Nemo for the appellant. *Notice be issued.*

Mr. Kabir Ullah Khattak learned Additional Advocate General for the respondents present and requested for adjournment in order to submit written reply/comments on the next date. Opportunity is granted. To come up for attendance and submission of written reply/comments on 05.08.2020 before S.B

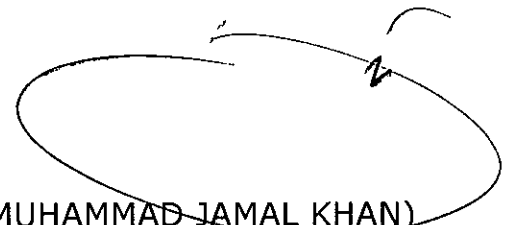
*Noted by  
Kamran Khan  
K*

  
Member

05.08.2020

Junior counsel for the appellant is present. Mr. Kabirullah Khattak, Additional AG is also present.

Neither written reply on behalf of respondents submitted nor anyone on their behalf is present, therefore, notices be issued to them for submission of written reply/comments by way of last chance. File to come up for written reply/comments on 29.09.2020 before S.B.

  
(MUHAMMAD JAMAL KHAN)  
MEMBER

01.01.2020

Counsel for the appellant present.

While referring to F.R 53 & 54, learned counsel contended that the period spent by appellant in Jail and before that in the trial of his criminal case, was to be counted as "on service" upon his acquittal. On the contrary the said period has been treated as extraordinary leave by the respondents through impugned order dated 23.07.2018 which is against the law. Explaining the delay in submission of departmental appeal, it was contended that non-payment of salary to the appellant was a continuous cause of action, therefore the delay, if any, was to be disregarded.

Subject to all just exceptions, instant appeal is admitted to regular hearing. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents. To come up for written reply/comments on 11.02.2020 before S.B.

Appellant Deposited  
Security & Process Fee  
01/01/20

  
Chairman

11.02.2020

Junior counsel for the appellant and Mr. Kabirullah Khattak, Additional AG for the respondents present. Written reply on behalf of respondents not submitted. Learned Additional AG requested for time to file written reply/comments. Case to come up for written reply/comments on 30.03.2020 before S.B.

  
(MUHAMMAD AMIN KHAN KUNDI)  
MEMBER

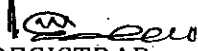



Form- A

# FORM OF ORDER SHEET

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

Case No.- 1599/2019

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	27/11/2019	<p>The appeal of Mr. Bahadar Sher presented today by Mr. Noor Muhammad Khattak Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p> REGISTRAR 27/11/19</p>
2-	28/11/19	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>01/01/20</u></p> <p> CHAIRMAN</p>

P-21  
delay

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

APPEAL NO. 1599 /2019

Execution petition no. 71/2022

**BAHADAR SHER**

**VS**

**EDUCATION DEPTT:**

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5.	Departmental appeal	<b>D</b>	8- 9.
6.	Rejection	<b>E</b>	10.
7.	Service appeal	<b>F</b>	11- 15.
8.	Trial court judgment	<b>G</b>	16- 17.
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**APPELANT**

**THROUGH:**

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

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

Khyber Pakhtunkhwa  
Service Tribunal

SERVICE APPEAL NO. 1599 /2019

Diary No. 1685

Execution Petition no. 71/2022  
Mr. Bahadar Sher Khan, Ex-CT,  
GMS Kala Katha Haripur R/O House# 66, sector# 1, Khalabat Towership  
Haripur.....**APPELLANT**

Dated 27/11/19

*Appeal is converted into E.P  
vide order dt. 25/1/22* VERSUS

- 1- The Director E&SE Department, Khyber Pakhtunkhwa, Peshawar.
- 2- The District Education Officer ( Male), District Haripur.
- 3- The District Account Officer, District Haripur.

.....**RESPONDENT**

**APPEAL SERVICE APPEAL UNDER SECTION-4 OF THE**  
**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974,**  
**AGAINST THE IMPUGNED ORDER DATED 23.07.2018**  
**WHEREBY THE INTERVENING PERIOD HAS BEEN**  
**CONVERTED INTO EXTRA ORDINARY LEAVE AND AGAINST**  
**NO ACTION TAKEN ON THE DEPARTMENTAL APPEAL OF**  
**THE APPELLANT WITHIN THE STATUTORY PERIOD OF**  
**NINETY DAYS**

**PRAYER**

That on acceptance of this appeal the impugned order dated 23.07.2018 may very kindly be modified/rectified to the extent of all back benefits. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant.

**R/SHEWETH:**  
**ON FACTS:**

*Brief facts giving rise to the present appeal are as under:-*

- 1- That appellant is the employee of respondent Department and is serving as CT at GHSS No.1, Haripur quite efficiently and upto the entire satisfaction of his superiors.
- 2- That during the appellant was charged in criminal case FIR No. 17 under section 324-109/148/149/7ATA, dated 07/01/2012 in Police Station City, Haripur. That due to involvement in criminal case the appellant was removed from service vide order dated 17.11.2012.

**Filed to-day**  
**Registrar**

*27/11/19*

Copies of the FIR and removal order is attached as annexure.....**A & B.**

3- That after releasing on bail vide judgment dated 10.07.2013 the appellant filed Departmental appeal before the appellate authority for his re-instatement but the same was rejected by the appellate authority vide its order dated 20.09.2013. Copies of the judgment, departmental appeal and rejection order are attached as annexure.....**C, D & E.**

4- That feeling aggrieved the appellant filed service appeal No. 1551/2013 before this august Tribunal. That during the pendency of the aforementioned service appeal the appellant was acquitted by the trial Court from the charges leveled against him and this august Tribunal also allowed the appeal of appellant vide its judgment dated 22.11.2017. Copies of the service appeal, trial court judgment and service tribunal judgment are attached as annexure.....**F, G & H.**

5- That after obtaining attested copy of the judgment dated 22.11.2017 the appellant submitted the same before the competent authority and the competent conducted de-novo inquiry in the matter and the appellant was exonerated in the said inquiry. That after completion of the aforementioned inquiry the respondent No.2 issued the impugned order dated 23.07.2018 whereby some portions of the intervening period is treated as Extra Ordinary Leave. Copy of the impugned order is attached as annexure.....**I.**

6- That feeling aggrieved from the impugned order dated 23.07.2018 the appellant filed Departmental appeal but no reply has been received so far from the quarter concerned. Hence the present appeal on the following grounds amongst the others. Copy of the Departmental appeal is attached as annexure.....**J.**

**GROUND:**

A- That the impugned order dated 23.07.2018 is against the law, facts, norms of natural justice and materials on the record hence not tenable and liable to be modified.

B- That the appellant has not been treated by the respondents in accordance with law and rules on the subject noted above and as such the respondents violated Article-4 and 25 of the Constitution of Islamic Republic of Pakistan, 1973.

C- That the respondent Department acted in arbitrary and malafide manner while issuing the impugned order dated 23.07.2018 which is not tenable and liable to be modified.

D- That appellant is fully entitled for the grant of back benefits during his intervening period in light of the Rules and regulations in vogue.

E- That the appellant had been acquitted from the charges leveled against him vide judgment dated 13.05.2017 during the pendency of previous service appeal, therefore the appellant is fully entitle for the grant of back benefits in light of the Fundamental Rule-53 and FR-54.

F- That the impugned order dated 23.07.2018 is violative of the principle of natural justice, therefore not tenable and liable to be modified/rectified.

G- That appellant seeks permission to advance other grounds and proofs at the time of hearing.

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

Dated: 25.11.2019

**APPELLANT**



**BAHADAR SHER**

**THROUGH:**

**NOOR MOHAMMAD KHATTAK**

**&**



**MIR ZAMAN SAFI**

**ADVOCATES**





Rege

Annexure B,  
**Office of the Executive District Officer**  
**Elementary & Secondary Education Haripur**  
PH No. 0995-610178, 610268

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**Termination Order**

Mr. Bahdar Sher CT, GMS Kala Katha Haripur, who is involved in case FIR No.17 dated 07.01.2012 U/S 324/109/148/149 7ATA PS City District Haripur and absconder/absent from duty w.e.f 07.01.2012, absent notice was sent on his home address for resumption of duties vide this office Endst: No.7224 dated 21.07.2012, and final show cause notice for resumption of duties published in Daily Sarhad News and Daily Pine Abbottabad dated 15-09-2012, but he failed to resume his duties under Article A-8 E&D rules 1973, he is hereby removed from his service w.e.f 07-01-2012 in the interest of public service.

Note: - He is not entitled for any benefit by the Department.

*sol*  
Executive District Officer  
Elementary & Secondary Education  
Haripur  
Dated: 17/11/2012

Endst: No. 12214-18

Cc:

- 1- The Director Elementary & Secondary Education Khyber Pakhtunkhawa Peshawar.
- 2- The District Coordination Officer Haripur.
- 3- The Senior District Accounts Officer Haripur.
- 4- The Headmaster GMS Kala Katha Haripur.
- 5- Mr. Bahdar Sher Ex-CT, GMS Kala Katha House No.66 Sector No.1 Village & P.O KTS Haripur.
- 6- Office record file.

*[Signature]*  
Executive District Officer  
Elementary & Secondary Education  
Haripur

**ATTESTED**

*[Signature]*

بجواب درخواست ضمانت دائرہ دار آڈیٹر آئی ای ڈی ہریپور  
مقررہ تاریخ 194  
10/7/13

1  
No. of Order  
Proceeding  
1

O.R.D.E.R  
10.7.2013

سرکار رزاک ذولفقار احمد دی

This order will also result the disposal of connected bail before arrest application (B.B.A No. 216/4 of 2013) titled "Faizan Khan ... VS ... The State", as both these petitions are the outcome of same case registered vide F.I.R No. 17 dated 07.1.2012 under sections 324/148/149/109 .P.P.C at Police Station (P.S) City, Haripur.

Mr. Maqbool Hussain Advocate for i. Zulfikar Ahmed, ii. Sher Afghan & iii. Bahader Sher, accused-petitioners of the instant bail application while iv. Faizan Khan, accused-petitioner of the connected bail before arrest application with his counsel Mr. Khalid Sultan Advocate present. S.P.P for the State present while learned counsel for the complainant has already made submissions in this case.

The prosecution case in brief, is that complainant Gohar Nawaz, on 07.1.2012, made report on arrival of the police to the spot stating therein that on the same date, he along with his official gunmen Sajid Amin, Yousuf & driver Babar Khan Tareen was on his way back in his bullet proof vehicle No. PER-4845 followed by his escort vehicle No. BEA-1 boarded by his private gunmen by the names of Arshad, Muhammad Yousuf, Abdul Waheed and Constable Tahir Ejaz after offering fateha (فاتحہ) of father-in-law of Provincial Minister Qazi Muhammad Asad but when reached at K.T.S road near Dohra Shah Baba Shrine at 06:15p.m, he saw accused i.

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Attested by  
26.07.13

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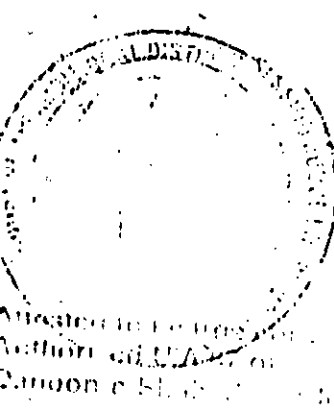


Usman Azam, ii. Sher Afghan with rocket launchers, iii. Faizan Azam, iv. Sher Bahader along with five unknown persons were standing there with Kalashnikov rifles who on seeing the vehicles of complainant, took positions, started firing at the vehicles indiscriminately but the complainant and his companions escaped unhurt while the firing made with Kalashnikov rifles hit the vehicles. The complainant also stated in his report that accused v. Zulfikar and vi. Asad Javed abetted the offence committed by the aforesaid accused, which also caused terror amongst the people. Apart from complainant, his companions were stated to have witnessed the occurrence. The complainant charged the aforesaid accused for the offence and present case was thus registered against them.

I have heard the arguments and gone through the on hand record.

It is obvious from record on file that the complainant, who was the main alleged target along with his companions had appeared before the Court and got their joint statement recorded wherein they have already pardoned accused-petitioner Faizan Khan in the name of God Almighty by waiving off their rights of Qisas & Diyat. They in unequivocal terms stated before the court that they would have got no objection, if the pre-arrest bail to the accused-petitioner Faizan Azam was <sup>confirmed</sup> while already presented joint affidavit to this effect. It is also important to note that the family of the accused-petitioner Faizan Khan also effected

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10.7.2013



Date: 6.07.13

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O.R.D.E.R  
Continued.

compromise with complainant Gohar Nawaz in a case registered against him under sections 302/324/148/149/109 P.P.C vide F.I.R No. 41 dated 01.2.2009 at P.S K.T.S, Haripur wherein the father of accused-petitioner Faizan Khan was murdered while his mother and sisters got injuries in the said case. The complainant party of this case has already resolved the matter with the accused-petitioner Faizan Khan and are not interested to prosecute him in the present case because of the compromise, which is in the best interest of the parties especially when the murder case against the complainant of the present case resulted his acquittal on the basis of statements of compromise. The sending of the accused-petitioner behind the bars would serve no useful purpose.

As regards, accused-petitioners Bahader Sher and Sher Afghan, the complainant charged them for ineffective firing in the present case while prosecution has not collected so far any evidence of abetting the present offence by accused-petitioner Zulfiqar Ahmed. There is no recovery of crime weapons from the possession or on pointation of any of the accused-petitioners. Most of the co-accused in this case have been acquitted and their acquittal has not been challenged in appeal till date. The accused-petitioners namely Zulfiqar Ahmed, Bahader Sher and Sher Afghan are behind the bars since the

**ATTESTED**



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date of their arrest i.e 03.4.2013 and are no more required for further investigation in this case. Mere abscondance of the accused petitioners should not be hurdle in the way of bail as they are, otherwise entitled to the concession of post-arrest bail. There are no reasonable grounds for believing that the accused-petitioners are connected with the commission of the present crime but their case requires further probe within the contemplation of section 497 Cr.P.C.

Keeping in view the above, the instant application of the accused-petitioners i. Zulfiqar Ahmed Khan, ii. Sher Afghan & iii. Bahader Sher is accepted and they are admitted to bail, provided they furnish bail bonds in sum of Rs. 100,000/- (one hundred thousand rupees) each with two sureties in the like amount to the satisfaction of Area/Duty Magistrate 1<sup>st</sup> Class, Haripur. The sureties must be solvent, local and reliable. While connected bail application of the accused-petitioner Faizan Azam is also accepted and the anticipatory bail already granted to him is confirmed on existing bail bonds. File to record room.

26-07-13

*[Handwritten signature]*

Announced:  
10.7.2013

*[Handwritten signature]*

(Nasrullah Khan Gandapur)  
Additional Sessions Judge-I,  
Haripur.

2177? 26-7-13

6 copies

Received  
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26-07-13  
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26-07-13

26-7-13  
*[Handwritten signature]*

اپیل برائے Reinstatement of Suspension

Annexure 1D,

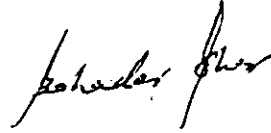
(8)

جناب عالی

گزارش ہے کہ سائل ایلمینٹری اینڈ سیکنڈری ایجوکیشن ضلع ہری پور میں ریگولر ملازم ہے۔ اور (15) BPS کی پوسٹ پر گورنمنٹ ٹیل سکول کالا کٹھہ ہری پور میں اپنے فرائض منصبی سرانجام دے رہا تھا کہ 07/01/2012 کو بے بنیاد اور چھوٹے مقدمہ میں ملوث کر دیا گیا اچانک کی اس صورتحال میں جان بچانے کے لیے سائل کو ڈیوٹی سے غیر حاضر رہنا پڑا۔ 07/01/2012 تا 02/04/2013 تک Abscondar رہا۔ اس دوران محکمانہ کردائی کرتے ہوئے مجھے نوکری سے فارغ کر دیا گیا۔

حالات میں کچھ بہتری آنے پر 03/04/2013 کو گرفتاری پیش کردی اور جیل چلا گیا اور 10/07/2013 کو ایڈیشنل سیشن جج نمبر 1 ہری پور نے ضمانت منظور کرتے ہوئے رہا کر دیا۔ سائل عرصہ 22 سال سے ریگولر نمبر کی حیثیت سے فرائض انجام دیتا رہا ہے۔ اب جب کہ باقاعدہ گرفتاری دینے کے بعد ضمانت ہو چکی ہے آپ جناب سے اپیل ہے کہ فوری کی ملازمت کو بحال کرتے ہوئے مکمل عدالتی فیصلے تک Suspension کو بحال کیا جائے۔ ضروری اخراجات درخواست کے ساتھ منسلک ہیں۔

اپیل کنندہ



بہادر شیر خان CT گورنمنٹ ٹیل سکول کالا کٹھہ ہری پور

مکان نمبر 66 سیکٹر نمبر 1 کھلابٹ ٹاؤن سب ہری پور

فون نمبر: 0311 - 9582176

15-08-2013

ATTESTED





Annexure (5), - (9)

(5)

Directorate of Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.

No. / E.No 1020/A-15/ Re-Instatement/All District

Dated Peshawar the 6/9/2013

To:

The District Education Officer  
(Male) Haripur.

Subject:-

RE-INSTATEMENT OF SUSPENSION OF BAHADUR SHER KHAN EX-CT

Memo:

I am directed to enclose herewith a copy of the application alongwith its enclosures in respect of Bahadur Sher Khan Ex-CT, GMS, Kala Kattah District Haripur for further necessary action under the rules.

Encls As above.

Deputy Director (Establishment)  
Elementary & Secondary Education  
Khyber Pakhtunkhwa Peshawar.

Endst No. 1254 /

Copy forwarded for information to the:-

- 1- Bahadur Sher Khan, Ex-CT, GMS, Kala Kattah House No:66, Sector No:1, Kalabat Township District Haripur.

Deputy Director (Establishment)  
Elementary & Secondary Education  
Khyber Pakhtunkhwa Peshawar.

ATTESTED

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Annexure ~~F~~ - ~~10~~



Office of the District Education Officer (Male)  
Haripur

PH No. 0995-610178, 610268

No. 904 /E.B

Dated: 20 /09/2013

E - 10

To

The Director  
Elementary & Secondary Education  
Khyber Pakhtunkhwa Peshawar

Subject: - RE-INSTATEMENT OF SUSPENSION OF BAHADUR  
SHER KHAN EX-CI

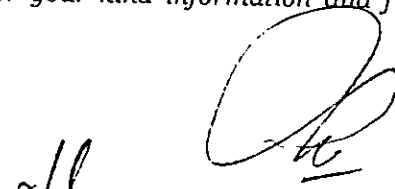
Memo:-

In response to your office letter No. 1253/F.No 1020/A-15/Re-Instatement/All District dated 06-09-2013, on the subject cited above.

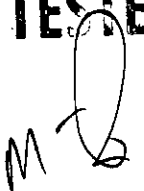
The report is as under please.

1. The teacher concerned was involved in FIR No. 17 dated 07-01-2012 U/S 324/109/148/149 7ATA PS City District Haripur and it was intimated Senior Superintendent Police District Haripur vide his No. 237 dated 16-01-2012 and he was suspended by this office under Endst: No. 734-39 dated 19-01-2012. (Copy attached)
2. It was the first responsibilities of the applicant to surrender before the law being an educated citizen and more than a civil servant and also intimate the Department about the charges leveled against him, but he failed to do so and remained absconder/ absent from his duties without any information.
3. An absent notice was served to applicant for resumption of duties /surrender before the Police vide this office No. 7224 dated 21-07-2012, but he failed to do so. (Copy attached)
4. The Deputy Director information District Abbottabad was asked to publish final show cause notice for resumption of duties vide this office No. 10103 dated 08-09-2012 alongwith enclosures but same was not published by the information Department. (Copy attached)
5. The reminder-1 was sent in continuation the final notice quoted above under letter No. 10834 dated 04-10-2012 and which was published in the News paper 1. The Daily Pine Abbottabad dated 15-09-2012, and the Sarhad News Abbottabad dated 15-09-2012 (copies attached), even the applicant failed to resume his duties /appear before the Department for justification and remained absconder/ absent from his duties as usual. (Copy attached)
6. After completion of whole process required for the termination of Civil servant under the A-8 E&D rules 1973, he was terminated from his services purely on merit in the light of Policy framed by the Provincial Government for civil servants. (Copy attached)
7. Now the appeal submitted by the applicant is baseless /time barred /without any justification.

Hence, the report is submitted for your kind information and further process please.

  
District Education Officer (Male)  
Haripur

ATTESTED



F - (11)

**BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**  
**PESHAWAR**

Service Appeal No: \_\_\_\_\_ of 2013

Bahadar Sher Khan S/o Muhammad Riaz Khan Ex- CT GMS Kala Katha Haripur  
R/o House# 66, Sector# 1, Khalabat Township Haripur.

Appellant

**VERSUS**

1. Director of elementary & Secondary Education Department, Khyber Pakhtunkhwa, Peshawar.
2. District Education Officer (Elementary & Secondary Education), (Male) Haripur.
3. Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Department Peshawar.
4. District Accounts Officer Haripur.

Respondents

**Appeal**

**SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974, AGAINST THE ORDER 12214-18 DATED 17-11-2012 WHEREBY A SERVICE OF THE APPELLANT HAS BEEN TERMINATED WITH EFFECT FROM 07-01-2012. AS WELL AS DEPARTMENT APPEAL DATED 15-08-2013 OF THE APPELLANT HAS NOT BEEN DECIDED YET.**

**PRAYER**

It is respectfully prayed before this Honourable Tribunal That the instant appeal may graciously be accepted, the impugned order No. 12214-18 dated 17-11-2012 may kindly be set aside and the appellant may please be re-instated in service with all back benefits with effect from 07-01-2012

**ATTESTED**

M Q

Respectfully Sheweth,

**FACTS**

- 1) That the appellant was serving as CT teacher in Elementary and Secondary Education Department Haripur, for last 22 years. He was charged in pre-plan F.I.R dated 07/01/2012; the complainant was the local MPA himself (Gohar Nawaz Khan) he was then included and the MPA of KPK Provincial Government. Copy of F.I.R is annexed as **Annexure A.**
- 2) That appellant for save his life and similarly due to influence of Complainant in the Provincial Government and in police station, he could not give his arrest to the police for inquiry, in his absence he was removed from his service on 17/11/2012 with effect from 07/01/2012. Copy of termination order is annexed as **Annexure B.**
- 3) That appellant on completion of KPK Provincial Assembly period and when Assembly dissolved, appellant gave his arrest to the police and the Court of Additional Session Judge-I, Haripur granted bail in the said case on 10/07/2013. Copy of bail granted order is annexed as **Annexure C.**
- 4) That appellant after released from jail, submitted his application to respondent no 1 for his re-instatement in service, whereupon respondent no 1 wrote a letter dated 06/09/2013 to respondent no 2 for further process but respondent no 02 inspite of re-instating the appellant in his service, sent his reply back to the respondent no 01 on 20/09/2013, case is still pending and is delaying it on one or other pretext. Copy of application for re-instatement in service, letter dated 06/09/2013 and reply dated 20/09/2013 is annexed as **Annexure D, E & F.** respectively
- 5) That now at present stage appellant's application dated 15/08/2013 for his re-instatement in service is still pending/undecided and respondents under the undue influence and personal pressure of local MPA, are not being re-instated the appellant in his service inspite of completion of 90 days of his application dated 15/08/2013 and there is no final order

**ATTESTED**





passed by the respondents, thus no other efficacious remedy provided by law to the appellant except to avail option of section 4 (1) (a) KPK service Tribunal Act by filing his instant service appeal before this Honourable Tribunal. Hence this Service appeal, inter-alia on the following grounds.

### Grounds

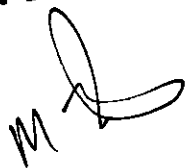
- a) That it is an admitted fact that complainant of FIR is local MPA (Gohar Nawaz Khan) in present provincial assembly of KPK, who was also MPA in previous provincial assembly of KPK and registration of case is under his influence, under this factual position it is the legal duty of respondents, and is required to look into the merits of the case and give a decision, as to why the appellant after having his bail granted by the competent court of law, was not legally to be re-instated in service with all back benefits.
- b) That the impugned action of respondents, not decided the application for re-instatement in service dated 15/08/2013 is arbitrary, unjust, melafide and against all the norms of justice which has deprived the appellant from his legal and constitutional rights.
- c) That under the law respondents were/are bound to consider the bail granting order dated 10/07/2013 passed by competent Court of law which attained its finality.
- d) That respondents illegally ignored the case of appellant for his re-instatement in service and did not fulfill/complete the cardinal principle of natural justice to decide the application for re-instatement in service dated 15/08/2013 within reasonable time, and they have not any power to ignore or kept pending his genuine case under the political pressure of local MPA, which is against law.

**ATTESTED**

M. Q.

- e) That in the process of termination, no impartial and independent inquiry was conducted rather the appellant was victimized for his case with local MPA and all is done under his political /personal pressure as respondents had clearly been informed and factual position was in their knowledge that appellant was facing difficult situation and it is admitted fact that department can not provide life protection/personal security to the appellant when complainant of FIR is local MPA, thus termination and delaying in re-instatement itself proclaims its own malafide.
- f) That respondents impugned action not re-instated the appellant in his service is irrational and unreasonable resulting into grave miscarriage of justice.
- g) That the learned Additional Session Judge-1 Haripur has been pleased to give concession of post-arrest bail after considering (absconder) the facts and circumstances of the criminal case and appellant's re-instatement case is directly and totally depends upon criminal case which is its natural base, and when competent Court has granted bail, how respondents are not issuing the order of re-instatement ? thus this impugned action is beyond their jurisdiction, otherwise they were/are bound to do so.
- h) That appellant has granted bail from in the case, and under the same position the several precedent are available for his re-instatement, some are as under.
  - 1) 2002 SCMR 57
  - 2) 2008 PLC (c.s) 855
  - 3) 2001 SCMR 269
  - 4) 1991 SCMR 209
  - 5) 1985 SCMR 1483
  - 6) 2000 PLC (c.s) 331
  - 7) 1994 SCMR 247.

**ATTESTED**



It is there fore respectfully prayed that appellat's service appeal may kindly be accepted, and respondents be directed to re-instate the appellat in service with all back benefits with effect from 07/01/2012 according to law within reasonable time in the interest of justice.

Any other relief for which the appellat is entitled and same is not asked/prayed specifically may kindly be granted in the favour of the petitioner too.

Dated: 21/11/2013.

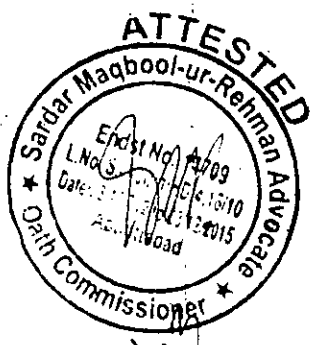
*Bahadar Sher Khan*  
Bahadar Sher Khan  
(appellant inperson)

**Affidavit**

I Bahadar Sher Khan S/O Muhammad Riaz Khan Ex- C.T GMS Kala Katha Haripur R/O House No 66, Sector No 1, Khalabat Township Haripur, appellat do here by affirm on oath that contents of instant appeal is correct and true according to my best knowledge and belief and nothing has been suppressed from this Honourable Tribunal and this instant appeal is first appeal & same nature of any other appeal is not pending before Honourable Tribunal.

Dated: 21/11/2013.

*Bahadar Sher Khan*  
Bahadar Sher Khan  
(appellant inperson)



22/11/13

**ATTESTED**  
*M. I.*

Order...96  
13-05-2017

13/05/2017 06/05/2017  
سرکار بنیاد والاعمال رکان و غیرہ

G-16



1. The prosecution case, in brief, is that on 07/01/2012 complainant Gohar Nawaz Khan, made a report on reaching the police to the spot that on the same date, he along with his official gunmen Sajid Amin, Yousaf, driver Babar Khan Tareen in his bullet proof vehicle No. PRL-4845 followed by his escort vehicle No. BEA-I boarded with his private gunman Arshad, Muhammad Yousaf son of Muhammad Banaras, Abdul Wahid and constable Tahir Ejaz was on his way to the house from house of Provincial Minister Qazi Muhammad Asad after offering Fateha of death of his father in law but when reached K.T.S Road near Dora Shah Baba Shrine at 06:15p.m, accused i. Usman Azam, ii. Sherafghan with rocket launchers, iii. Faizan Azam, iv. Sher Bahadar along with 05 unknown persons with Kalashnikovs were standing there, who on seeing the vehicle of complainant took positions and started firing at the vehicles indiscriminately but complainant and his companions escaped unhurt however firing made by the accused with Kalashnikovs hit the vehicles. The complainant added that aforesaid accused committed the present offence at the abetment of accused v. Zulfiqar Khan. He further added that the act of the accused party caused terror amongst the people. Apart from complainant his companions were stated to have witnessed the occurrence. The complainant charged the above said accused for the offence and present case was then registered against them vide FIR No.17 dated 07/01/2012 under sections 324/148/149/109/34 PPC at P.S City, Haripur.

ایڈیشنل  
13/05/2017

Requested to be a True Copy  
Authorized U/A 87 of  
Qanoon-e-Shahadat order 1984

27 MAY 2017  
EXAMINER  
District & Session Judge  
Haripur

2. On 06-05-2013 challan against accused facing trial Sherafghan, Bahadar Sher and Zulfiqar was submitted and after compliance of section 265-c Cr.PC charge against the accused facing trial was framed on 19-06-2013. Thereafter prosecution was allowed to produce its evidence. The prosecution has so far produced 09 PWs. Arguments over application under section 265-k Cr.PC already pending were heard and available record perused.

3. Perusal of the record depicts that in the present case accused facing trial Zulfiqar is charged for abetment/ hatching of conspiracy. However there is nothing on the file which could establish the charge of abetment against  
The State VS Zulfiqar Ahmad etc

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accused facing trial Zulfiqar. Except solitary statement of complainant which too does not drive any support from independent source, there is nothing on the file which could remotely connect accused facing trial Zulfiqar with the commission of offence. Complainant when appeared as PW-3, admitted during his cross examination that he had not produced any documentary or oral evidence regarding hatching of conspiracy of accused facing trial Zulfiqar, though in self statement he referred to telephonic data, but mere phone call data is not enough to establish charge of abetment against accused facing trial Zulfiqar. Furthermore, P.W-6 Muhammad Javed retired DSP/investigating officer has admitted during cross examination that he did not enquire about the Sims from the concerned franchise. Even otherwise in absence of voice print mere, phone call data is of no help to the prosecution for establishing charge of abetment against the accused facing trial Zulfiqar. Reliance is placed on Safdar VS The State PLD 2000 Lahore page 50.

Amr  
13/05/2017

4. There is contradiction regarding the place where report was lodged. Complainant was examined as P.W-03 who deposed that he had reported occurrence to the police in the CNG pump of Fazal-ur-Rehman, situated at a distance of 1 1/2 minutes drive from the spot. Contrary to this, P.W-5 Bashir Ahmed SHO, deposed that he recorded the report of complainant on the spot, which creates doubt in the prosecution story regarding the place and manner in which the report was lodged.

Attested to be a True Copy  
Authorized U/A 87 of  
Ganoun-e-Shahadat order 1964

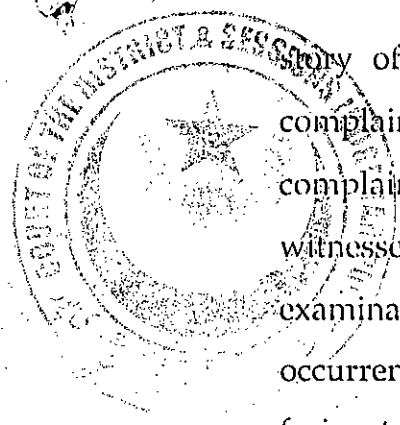
27 MAY 2017  
EXAMINER  
District & Session Judge  
Harpur

6. Complainant further stated that he witnessed accused facing trial in the heat light of vehicle who had fired at them from both sides of the road. Such peace of statement of complainant is not appealable to a prudent mind as how he was able to identify the accused party in darkness who were allegedly present on both sides of the road. During his cross examination complainant kept on changing his version regarding position of accused on the spot at the time of alleged occurrence. At first instance he deposed that rockets were fired from left side, again stated that one was fired from the right side and then stated that both were fired from the left side. Had he seen the occurrence, he would have been consisted in his statement, such a zigzag of ~~complainant~~ statement creates doubt in the

The State VS Zulfiqar Ahmad etc

2007  
ذی قعدة  
17

17



story of the prosecution and effects the veracity of the testimony of complainant. Furthermore, P.W-9 Abdul Wahid, private gunner of complainant though during his examination in chief deposed that he witnesses accused facing trial while firing at them but during his cross examination he stated that he never knew accused facing trial before the occurrence then how he recognized that firing was made by the accused facing trial. No identification parade of the accused facing trial through PW-9 Abdul Wahid has been carried out. This fact is also admitted by PW-9 in his cross-examination. In absence of identification parade, the statement of PW-9 is not worth relying as how he identified the accused who had never been seen by him prior to the occurrence.

7. The most important aspect of the case is the statement of P.W-08 Tahir Ejaz FC 751 who deposed that a large number of people attacked their vehicle, but neither he uttered a single word regarding the description of weapons used by the accused nor he stated anything regarding hitting of bullets to the vehicles. He further deposed during cross-examination that due to darkness he could not identify anyone. The ocular account advanced by PW-08 totally contradicts the statement of (P.W-03) complainant. These glaring contradictions in the statements of the P.Ws create doubt in the prosecution story. Due to which the occurrence

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13/05/2017

Attested to be a True Copy  
Authorized WA ST of  
Qanoon-e-Shahadat under

becomes highly doubtful. Furthermore, accused after their arrest have remained in police custody but neither they made any confession nor anything incriminating has been recovered either form their possession or on their pointation. As per prosecution story indiscriminate firing was made on their vehicles but surprisingly non from the complainant party has received a single injury. When the complainant party was at all at the mercy of accused party then how they escaped unhurt.

27 MAY 2017  
EXAMINER  
District & Sessions Judge

8. In the light of above evaluation of evidence, this court holds that the prosecution story is full of contradictions which create many doubts in mind regarding mode and manner of alleged occurrence. Charge against the accused facing trial was framed on 19/06/2013, since then accused have been facing the agony of trial. Ocular testimony available on the file is not confidence inspiring. Even if the entire evidence is recorded ultimate fate of the instant case would be acquittal of accused facing trial.

**ATTESTED**

The State VS Zulfiqar Ahmad etc

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The object of section 265-k Cr.P.C. is to cut short the trial if from the available evidence there is no hope of conviction of the accused.

9. Keeping in view the above discussion, while exercising power under section 265-k Cr.P.C the accused facing trial namely Sherafghan, Bahadar Sher and Zulfiqar are hereby acquitted from the charges leveled against them in the instant case FIR No. 17 dated 07/01/2012 under sections 324/148/149/109/34 PPC at P.S City, Haripur. They are on bail, their bail bonds are cancelled and sureties are discharged from the liabilities of bail bonds. Case property be dealt in accordance with law. File be consigned to record room after necessary completion and compilation.

**Announced:**  
13-05-2017

*Amjad*  
(Amjad Hussain)  
ADDITIONAL SESSIONS JUDGE-V,  
HARIPUR

Attested to be a True Copy  
Authorized U/A 87 of  
Qanoon-e-Shahadat order 1984

*M* 27 MAY 2017  
EXAMINER  
District & Session judge  
Haripur

No. 2595 = 15-05-17  
Date of presentation of Application  
No of Words ..... 04 *pages*  
Copying Fee .....  
Urgent Fee .....  
TOTAL ..... *my*  
Number of Copies ..... 6  
Date of Preparation of Copy ..... 27-05-17  
Date of Delivery of Copy ..... 27-05-17

H - 18

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

PESHAWAR

Case No. 1593  
Date 28/11/13  
of 2013

Service Appeal No: 1551

Bahadar Sher Khan S/o Muhammad Riaz Khan Ex- CT GMS Kala Katha Haripur  
R/o House# 66, Sector# 1, Khalabat Township Haripur.

Appellant



VERSUS

1. Director of elementary & Secondary Education Department, Khyber Pakhtunkhwa, Peshawar.
2. District Education Officer (Elementary & Secondary Education), (Male) Haripur.
3. Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Department Peshawar.
4. District Accounts Officer Haripur.

Respondents

28/11/13  
Appeal

SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974, AGAINST THE ORDER 12214-18 DATED 17-11-2012 WHEREBY A SERVICE OF THE APPELLANT HAS BEEN TERMINATED WITH EFFECT FROM 07-01-2012. AS WELL AS DEPARTMENT APPEAL DATED 15-08-2013 OF THE APPELLANT HAS NOT BEEN DECIDED YET.

PRAYER

It is respectfully prayed before this Honourable Tribunal That the instant appeal may graciously be accepted, the impugned order No: 12214-18 dated 17-11-2012 may kindly be set aside and the appellant may please be re-instated in service with all back benefits with effect from 07-01-2012

ATTESTED

Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar



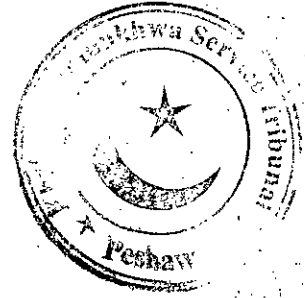
(19)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
CAMP COURT ABBOTTABAD

Service Appeal No. 1551/2013

Date of Institution... 28.11.2013

Date of decision... 22.11.2017



Bahadar Sher Khan S/O Muhammad Riaz Khan Ex-C.T GMS Kala Katha, haripur  
R/O House No. 66, Sector No.1, Khalabat Township, Haripur. ... (Appellant)

Versus

1. Director of Elementary and Secondary Education Department, Khyber  
Pakhtunkhwa, Peshawar and 3 others. .... (Respondents)

MR. NOOR MUHAMMAD KHATTAK,  
Advocate

... For appellant.

MR. KABIR ULLAH KHATTAK  
Additional Advocate General

... For respondents.

MR. NIAZ MUHAMMAD KHAN,  
MR. AHMAD HASSAN,

... CHAIRMAN  
... MEMBER

JUDGMENT

NIAZ MUHAMMAD KHAN, CHAIRMAN: Arguments of the learned counsel  
for the parties heard and record perused.

FACTS

2. The appellant was removed from service on 17.11.2012 against which he filed  
departmental appeal on 15.08.2013 which was not responded to and thereafter filed the present  
service appeal on 21.11.2013. The delay in filing of departmental appeal was due to his  
involvement in criminal case and being behind the Bar.

ARGUMENTS

3. The learned counsel for the appellant argued that the appellant was involved in a  
criminal case vide FIR dated 07.01.2012. That he was suspended by the department in a criminal  
case on 21.07.2012. That despite his being in the prison he was proceeded by the department

**ATTESTED**

NIAZ MUHAMMAD KHAN  
CHAIRMAN  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

under Rule-8-A of the Khyber Pakhtunkhwa Government Servant (Efficiency and Disciplinary) Rules 1973 which could not be done as the appellant was not willfully absent.

4. On the other hand, the learned Addl: AG argued that the appellant remained absent right from the date of lodging of FIR. That he committed misconduct for not informing the department regarding his involvement in a criminal case. That the impugned order was rightly passed.

**CONCLUSION.**

5. The very suspension order of the appellant dated 21.07.2012 is itself the proof that the department was aware about the involvement of the appellant in a criminal case. No proceedings could be initiated under Rule-8-A mentioned above because this rule is meant only for wilful absence of a government servant. Involvement in a criminal case is not a wilful absence. Secondly when a civil servant is involved in a criminal case then the department should have proceeded by adopting the regular procedure of enquiry.

6. As a sequel to above discussion, the whole proceedings are illegal. The appeal is therefore accepted and the appellant is reinstated in service. The department is however, at liberty to conduct de-novo proceedings in accordance with law. Parties are left to bear their own costs. File be consigned to the record room.

*Self Niaz Muhammad Khan,  
Chairman  
Camp Court A/H/Abad*

*Self Ahmad Hassan  
Member*

Certified true copy  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

Date of Presentation of Application	24-1-18
Number of Pages	1200
Copy of	8
Urgency	2
Total	10
Name of	
Date of	24-1-18
Date of Delivery of	24-1-18



Substituted order with same No & date.

OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE)  
HARIPUR

No.0995610178,610268  
deomalehrp@yahoo.com

No. 8132-35\_/4-26/ST/ATD/2013/Lit:/HR

Dated Haripur the 23 /07/2018.

**Notification.** WHEREAS, Mr. Bahadar Sher Ex-CT Govt: Middle School, Kala Katha was re-instated in to service w.e.f. 22-11-2017 on the basis of Service Tribunal judgment dated 22-11-2017 conditionally under this office Endst.No.120-24/F.No.4-26/ST/Lit:/HR/ dated 05-01-2018.

WHEREAS, he has been adjusted at Govt: Centennial Model Higher Secondary School No.1 Haripur against the vacant post of CT BPS-15.

WHEREAS, his intervening period was to be decided in the light of Denevo proceeding / enquiry from 07-01-12 to 21-11-17.

WHEREAS, this office has constituted enquiry committee comprising of the senior Principals of BPS-19 to look into the matter and submit their report. The committee conducted the enquiry & recommended that his termination period from 7-1-12 to 21-11-17 may be considered as leave without pay under the rules/policy.

NOW THEREFORE, in exercise of powers conferred upon the District Education Officer (Male) Haripur (competent authority) under E&SE Rules-2011 & keeping in view the evidence on record as well Revised leave rules-1981, the undersigned being the competent authority, is pleased to accord sanction as under:-

- 1-Suspension period w.e.f. 7-1-12 to 6-4-12 (3-months)
- 2-Absconding period w.e.f. 7-4-12 to 2-4-13 (361-days) read as EOL.
- 3-Jail period w.e.f. 3-4-13 to 10-7-13 (3-months & 09-days) read as suspension period.
- 4-Trial period w.e.f. 11-7-13 to 12-5-17 (3-yers,6-months &1-day) read as EOL as admissible under the law

AND WHEREAS, the services of Mr. Bahadar Sher CT GHSS No.1 Haripur is hereby regularized & EOL wef 7-4-12 to 2-4-13 & 11-7-13 to 21-11-17 is hereby granted in his favour.

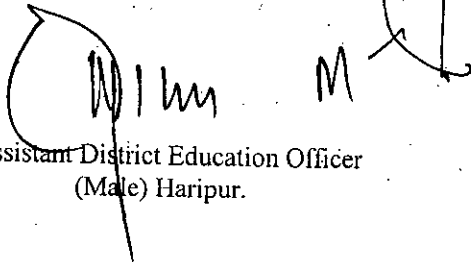
( Umer Khan Kundi )  
District Education Officer  
(Male) Haripur.

**Endst.No of even No & date.**

Copy forwarded to the:-

- 1-The Director E&SE Department KPK Peshawar.
- 2-The Deputy Commissioner Haripur.
- 3-The District Accounts Officer Haripur
- 4-The Principal GCMHSS Haripur.
- 5-Office record.

**ATTESTED**

  
Assistant District Education Officer  
(Male) Haripur.

To,

The Director,  
E&SE Department,  
Khyber Pakhtunkhwa, Peshawar.

J-22


Subject: **DEPARTMENTAL APPEAL FOR MODIFYING/EXTENDING  
THE ORDER DATED 23.07.2018 TO THE EXTENT OF ALL  
BACK BENEFITS**

Respected Sir,

With due respect it is most humbly stated that I am employee of your good self Department and is serving as certified Teacher (BPS-15) at GHSS No.1 Haripur quite efficiently and upto the entire satisfaction of my superiors. During service I was charged in a criminal case and due to involvement in the above said criminal case terminated from service vide order dated 07.01.2012. Feeling aggrieved I was filed Departmental appeal followed by service appeal No. 1551/2013 before the Khyber Pakhtunkhwa Service Tribunal, Peshawar which was allowed in my favor vide judgment dated 12.11.2017. It is pertinent to mention here that during the pendency of the aforementioned service appeal before the Khyber Pakhtunkhwa Service Tribunal, Peshawar I was honorably acquitted in the above criminal case. That the concerned authority was implemented the judgment passed by the august Service Tribunal and re-instated me vide order dated 23.07.2018 but some of portions of the intervening period from the date of removal from service till re-instatement are treated as Extra Ordinary Leave without pay. That according to the law and rules I am fully entitle for the grant of back benefits of the aforementioned period.

It is therefore, most humbly prayed that on acceptance of this Departmental appeal the order dated 23.07.2018 may very kindly be extended/modified to the extent of all back benefits. Any other remedy which your good self deems fit that may also be awarded in my favor.

Dated: 29.07.2019.

  
Your obediently

**BAHADAR SHER (CT)**  
GHSS NO.1, Haripur

VAKALATNAMA

Before the KP Service Tribunal Peshawar

No. \_\_\_\_\_/2019

Bahadar Sher

(APPELLANT)  
(PLAINTIFF)  
(PETITIONER)

VERSUS

Education Deptt.

(RESPONDENT)  
(DEFENDANT)

I/We Bahadar Sher

Do hereby appoint and constitute **NOOR MOHAMMAD KHATTAK, Advocate, Peshawar** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate Counsel on my/our cost. I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter.

Dated. \_\_\_\_/\_\_\_\_/2019

Bahadar

CLIENT

ACCEPTED

NOOR MOHAMMAD KHATTAK

SHAHZULLAH KHAN YOUSAFZAI

&

MIR ZAMAN SAFI  
ADVOCATES

OFFICE:

Room No.1, Upper Floor,  
Islamia Club Building, Khyber Bazar,  
Peshawar City.  
Phone: 091-2211391

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

SERVICE APPEAL NO. 1599/2019

Mr. Bahadar Sher Khan R/O House # 66, Sector # 1, Kalabat Township Haripur... (Appellant)

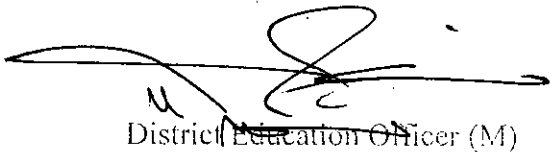
VERSUS

Director E&SE Department, Khyber Pakhtunkhwa, Peshawar & Others.... (Respondents)

INDEX

Sr.No	Description	Page Nos	Annexure
1	Accompanying Para wise Comments & Affidavit.	01 - 04	
2	copy of judgment dated 22-11-2019, copy of order dated 05-01-2018, copy of de-novo inquiry and order dated 23-07-2018	05-10	A, B,C & D
3	Copy of notices, copy of removal order dated 17-11-2012	11-14	E,E-1,E-2 & F
4	Copy of working papers for promotion to SST (G)	15-16	G

(Respondents)

  
District Education Officer (M)  
Haripur

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

SERVICE APPEAL NO. 1599/2019

Mr. Bahadar Sher Khan R/O House # 66, Sector # 1, Kalabat Township Haripur... (Appellant)

VERSUS

Director E&SE Department, Khyber Pakhtunkhwa, Peshawar & Others.... (Respondents)

JOINT PARA WISE COMMENTS ON & FOR BEHALF OF RESPONDENTS NO: 1 & 2.

Respectfully Sheweth :-

The Respondents submit as under:-

PRELIMINARY OBJECTIONS.

- 1 That the appellant has no cause of action/locus standi to file the instant Appeal.
- 2 That the appellant has concealed material facts from Honorable Tribunal.
- 3 That the instant Service Appeal is based on mala-fide intentions.
- 4 That the appellant has not come to this Honorable tribunal with clean hands.
- 5 That the instant Service Appeal is against the prevailing law & rules.
- 6 That the appellant has been treated as per law, rules & policy.
- 7 That the appeal is not maintainable in its present form.
- 8 That the appeal is bad for mis-joinder and non-joinder of the necessary parties.
- 9 That the instant Service Appeal is barred by law.
- 10 That the appellant is not competent to file the instant appeal against the respondents.
- 11 That the grievances of the appellant have already been redressed in shape of suspension allowance, regularization, seniority and furthermore his promotion to SST Post is also in progress, hence the appeal in hand is liable to be dismissed.

REPLY ON FACTS

1. That Para-1 is correct to the extent that appellant is presently serving as CT Teacher at GHSS No. 1, Haripur. He was conditionally re- instated into service in compliance with this Honorable Tribunal Judgment dated 22-11-2017 vide this office order bearing Endst: No. 120-24/ F.No. 4-26/ST Pesh/ Lit:/HR, dated 05-01-2018 which was substituted later on vide order dated 23-07-2018, in the light of recommendations of De-novo inquiry while the remaining Para is subject to PER's of the appellant for the period w.e.f 01-01-2019 to 31-12-2019 & onward. **(copy of judgment dated 22-11-2019, copy of order dated 05-01-2018, copy of de-novo inquiry and order dated 23-07-2018 are attached as annexure- A,B,C & D)**
2. That Para-2 is correct as composed hence needs no comments.
3. That Para-3 is correct. After observing codal formalities the appellant was removed from service and he remained no more employee of Education Department at the time of his release on bail; hence his departmental appeal was rightly rejected by the then appellate authority. **(Copy of notices, copy of removal order dated 17-11-2012 are attached as annexure- E, E-1, E-2 and F)**

4. That Para-4 is correct as composed, the appellant was re-instated into service in compliance of this Honorable Tribunal Judgment dated 22-11-2017, the detail reply is already given in Para-1 above.
5. That the respondent Department implemented the order of this Honorable Tribunal in letter & spirit and after observing all codal formalities, re- instated the appellant w.e.f the date of judgment of this honorable Tribunal i,e 22-11-2017. Furthermore the whole intervening period was treated as per recommendations of inquiry report by regularizing his services and his name was put in the seniority list as per his seniority and now his case for promotion to SST (General), B-16 is also in progress. **Copy of working papers for promotion to SST (G) are attached as annexure-G)**
6. That the appellant does not fall within the definition of an aggrieved person as the grievances of the appellant have already been redressed in shape of suspension allowance, regularization, seniority and furthermore his promotion to SST Post is also in progress, hence the appeal in hand is liable to be dismissed on the following grounds inter alia:-

### GROUND.

- A. Incorrect & not admitted. The impugned order dated 23-07-2018 is the consequence of the de-novo enquiry and was properly passed by the competent authority in accordance with law, rules and policy, which is liable to be maintained.
- B. Incorrect & denied. The appellant has been treated as per law, rules, and criteria and Under settled principles "No work no pay" in the Instant case.
- C. Incorrect & misleading on the grounds that grievance of the appellant has already been redressed as per law, rules which is not liable to be further modified.
- D. Incorrect & denied. The grievances of the appellant have already been redressed in shape of suspension allowance, regularization, seniority and furthermore his promotion to SST (B- 16) is also in progress, hence the appeal in hand is liable to be dismissed. It is pertinent to mention here that the intervening period was decided as per law, rules and policy with further explanation that the absconder period w.e.f 07-04-2012 to 02-04-2013 (361 days) was treated as extra ordinary leave without pay. The jail period 03-04-2013 to 10-07-2013 (39 days) was converted to suspension period, suspension allowance has already been drawn by the appellant however the trial period w.e.f 11-07-2013 to 12-05-2017 and onward till 21-11-2017 was converted and treated as extra ordinary leave without pay for the reasons that the appellant was never remained employee of this Department during mentioned period. Furthermore the appellant was treated as per law, rules, and under the settled principles "no work no pay"
- E. That the petitioner did not convey the acquittal order dated 13-05-2017 to this office in time and preferred to remain out of service however after re-instatement into service and all consequential benefits admissible under rules were extended to him.
- F. Incorrect, impugned order dated 23-07-2018 is the modified / rectified form of his re-instatement order bearing No. 120-24 F.No 4-26/ST Pesh:/Lit/HR dated 05-01-2018 which is not liable to be further modified rectified.
- G. That the answering respondents also seek permission of this Honorable Tribunal to adduce further points and facts at the time of arguments.



PRAYER:

In the light of above made humble submissions it is humbly prayed that on acceptance of foregoing Para wise comments, the appeal of the appellant may very kindly be dismissed being devoid of merit please.

1. Director (E&SE)  
Khyber Pakhtunkhwa, Peshawar.  
(Being respondent No. 1)

2. District Education Officer (M)  
Haripur (Being respondent No.2)

VERIFICATION:

Certified that contents of forgoing comments are correct and true according to the best of my knowledge and belief and nothing has been suppressed from this Honorable Tribunal.

Respondents

District Education Officer (M)  
Haripur

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

SERVICE APPEAL NO. 1599/2019

Mr. Bahadar Sher Khan R/O House # 66, Sector # 1, Kalabat Township Haripur... (Appellant)

VERSUS

Director E&SE Department, Khyber Pakhtunkhwa, Peshawar & Others.... (Respondents)

AFFIDAVIT

I Mr. Said Badshah Assistant District Officer (Litigation) Haripur do hereby solemnly affirmed and declare that the contents of accompanying Para wise comments on behalf of the respondents are true and correct to the best of my knowledge and belief and nothing has been suppressed/concealed from this Honorable High Court.

Deponent



Assistant District Education Officer (Lit:)  
Haripur

Annex - "A1"  
p-05.

(150)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
CAMP COURT ABBOTTABAD

Service Appeal No. 1551/2013

Date of Institution... 28.11.2013

Date of decision... 22.11.2017



Bahadar Sher Khan S/O Muhammad Riaz Khan Ex-C.T GMS Kala Katha, haripur  
R/O House No. 66, Sector No.1, Khalabat Township, Haripur.

... (Appellant)

Versus

1. Director of Elementary and Secondary Education Department, Khyber  
Pakhtunkhwa, Peshawar and 3 others. .... (Respondents)

MR. NOOR MUHAMMAD KHATTAK,  
Advocate ... For appellant.

MR. KABIR ULLAH KHATTAK  
Additional Advocate General ... For respondents.

MR. NIAZ MUHAMMAD KHAN, ... CHAIRMAN  
MR. AHMAD HASSAN, ... MEMBER

JUDGMENT

NIAZ MUHAMMAD KHAN, CHAIRMAN: Arguments of the learned counsel  
for the parties heard and record perused.

FACTS

2. The appellant was removed from service on 17.11.2012 against which he filed  
departmental appeal on 15.08.2013 which was not responded to and thereafter filed the present  
service appeal on 21.11.2013. The delay in filing of departmental appeal was due to his  
involvement in criminal case and being behind the Bar.

ARGUMENTS

The learned counsel for the appellant argued that the appellant was involved in a  
criminal case vide FIR dated 07.01.2012. That he was suspended by the department in a criminal  
case on 21.07.2012. That despite his being in the prison he was proceeded by the department

APPELLANT  
3va  
Peshawar

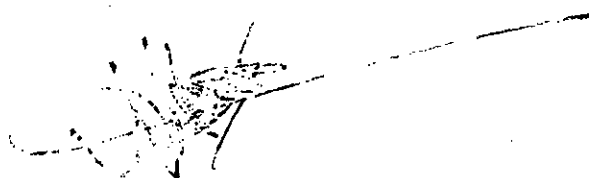
under Rule-8-A of the Khyber Pakhtunkhwa Government Servant (Efficiency and Disciplinary) Rules 1973 which could not be done as the appellant was not willfully absent.

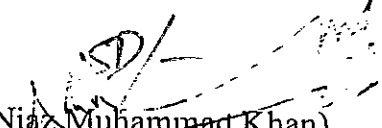
4. On the other hand, the learned Addl: AG argued that the appellant remained absent right from the date of lodging of FIR. That he committed misconduct for not informing the department regarding his involvement in a criminal case. That the impugned order was rightly passed.

### CONCLUSION.

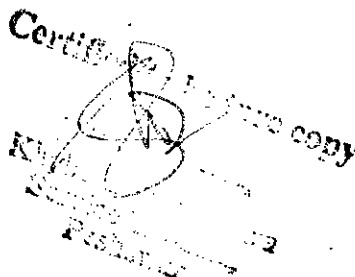
5. The very suspension order of the appellant dated 21.07.2012 is itself the proof that the department was aware about the involvement of the appellant in a criminal case. No proceedings could be initiated under Rule-8-A mentioned above because this rule is meant only for wilful absence of a government servant. Involvement in a criminal case is not a wilful absence. Secondly when a civil servant is involved in a criminal case then the department should have proceeded by adopting the regular procedure of enquiry.

6. As a sequel to above discussion, the whole proceedings are illegal. The appeal is therefore accepted and the appellant is reinstated in service. The department is however, at liberty to conduct de-novo proceedings in accordance with law. Parties are left to bear their own costs. File be consigned to the record room.

  
(Ahmad Hassan)  
Member

  
(Niaz Muhammad Khan)  
Chairman  
Camp Court, A/Abad

ANNOUNCED  
22.11.2017

  
Certified true copy  
Khyber Pakhtunkhwa  
Camp Court, A/Abad

Annex - "B" P-07

OFFICE OF THE  
DISTRICT EDUCATION OFFICER (MALE)  
HARIPUR  
(Office Phone No. 0995-610178 Fax No. 0995-610268)

Notification.

In pursuance of Khyber Pakhtunkhwa Service Tribunal Peshawar Judgment dated 22-11-2017 passed in Service Appeal No- 1551/2013 and subsequently in the light of decision/ opinion of scrutiny committee in its meeting held on 20-12-2017 in the office of Additional Secretary Law department, the competent authority is pleased to conditionally reinstate Mr. Bahadar Sher Khan Ex- CT GMS Kala Katha into service with effect from 22-11-2017 and adjusted against vacant CT post at GCMHSS No-1 Haripur

The De-novo enquiry in to the matter will be conducted in due course.

Note:

1. The intervening period w.e.f 07-01-2012 to 21-11-2017 shall be decided in the light of De-novo proceedings which shall be constituted latter on.
2. Necessary entry to this effect should be made in his service book accordingly.
3. Charge report should be submitted to all concerned.

---sd---

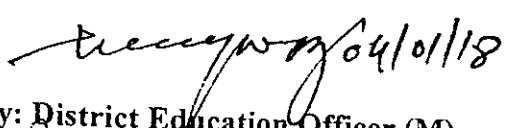
District Education Officer(M)  
Haripur

Dated: 05 /01/2018

Endst: No- 120-24 /F.No 4-26/ST Pesh/Lit/HR/

Copy forwarded to the:-

1. Registrar Pakhtunkhwa Service Tribunal Peshawar with reference to Judgment dated 22-11-2017 passed in Service Appeal No- 1551/2013 for information please.
2. Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar for information please.
3. Senior District Accounts Officer Haripur.
- ✓ 4. Principal / HM Concerned.
5. Teacher Concerned.
6. Office Copy.

  
Dy: District Education Officer (M)  
Haripur

Annex "C"  
P-08

## Enquiry Report

Vide Office of the District Education Officer (M) Haripur No 1362-63 F No. 4-26/ST ATD/2013/Lit/HR dated 26.01.2018, we are appointed as inquiry Officers to probe into the matter in r/o Mr. Bahadar Sher Khan CT GCMHSS No 1 Haripur.

### Brief History of the case:-

Mr Bahader Sher Khan CT was terminated from his service w.e.f 07.01.2012 vide office of EDO Endst No 122114-18 dated 17.11.2012 due to involvement in case FIR No 17 dated 17.01.2012 US 324/109/148 /149 ATA PS city Haripur further, the said teacher reinstated by Khyber pakhtunkhwa service tribunal Peshawar on 22.11.2017 with the direction that the department is however, at liberty to conduct de novo proceedings in according with law.

### Procedure :-

1. To enquire the factual position, the enquiry officer visited the said school on 17<sup>th</sup> Feb 2018 and served written questionnaire to said teacher and directed to respond the questions in written form within given time on Affidavit stamp paper. (Annex (A))
2. The case was also studied and record was checked. The file related to his case lying in the office was also studied carefully.

### Findings:

1. The written response received from teacher concerned showed the factual position about the steps taken against him by the office concerned. (Annex (A))
2. In his written response he clearly stated that he informed properly to the office and authority concerned on due date i. e 8<sup>th</sup> January 2012. The EDO was informed through Telephone and I/C of school was informed by written application. (Annex (B))
3. He also stated in his written response that he applied for reinstatement of his suspension and he was totally unaware of the words that were used in application by me. (Annex (C))
4. The Official record of his attendance register at Middle School Kala Katha Haripur which is properly signed clearly showed his suspension w.e.f 7<sup>th</sup> Jan 2012 office under No 734-39 dated 19.01.2012. (Annex (D))
5. All the Official proceedings against him showed that action was taken in haste against him.

Note ( the Photo copies of relevant record provided by the said teacher is also attached)

AD EDO (Estab)

PE put up

28/3/18  
DOBO

Estab  
A.D.E.O. / Supdt

E.D.O. (M) HR  
Enqy No. 2316  
Date 28/03/18

22/3/18  
1/2

P-09

**Recommendations:**

To link up his service w.e.f his termination i. e 07.01.2012 to his reinstatement 21.11.2017, leave without pay may be granted or litigation wing of department may be consulted for grant of extension of suspension during this period if it is permitted by law.

**Inquiry committee**

1. Amin Dad  
Principal BPS-19  
GHS Kholian Bala Haripur
2. Sanfer Khan  
Principal BPS-19  
GHS Rehana Haripur

A  
PRINCIPAL  
GHS Kholian Bala  
Haripur

F

Annex - "D"  
P-10



Substituted order with same No & date.

OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE)  
HARIPUR

No:0995610178,610268  
deomalehrp@yahoo.com

No. 8132-35\_/4-26/ST/ATD/2013/Lit:/HR

Dated Haripur the. 23\_/07/2018.

**Notification.** WHEREAS, Mr. Bahadar Sher Ex-CT Govt: Middle School, Kala Katha was re-instated in to service w.e.f. 22-11-2017 on the basis of Service Tribunal judgment dated 22-11-2017 conditionally under this office Endst:No.120-24/F.No.4-26/ST/Lit:/HR/ dated 05-01-2018.

WHEREAS, he has been adjusted at Govt: Centennial Model Higher Secondary School No.1 Haripur against the vacant post of CT BPS-15.

WHEREAS, his intervening period was to be decided in the light of Denevo proceeding / enquiry from 07-01-12 to 21-11-17.

WHEREAS, this office has constituted enquiry committee comprising of the senior Principals of BPS-19 to look into the matter and submit their report. The committee conducted the enquiry & recommended that his termination period from 7-1-12 to 21-11-17 may be considered as leave without pay under the rules/policy.

NOW THEREFORE, in exercise of powers conferred upon the District Education Officer (Male) Haripur (competent authority) under E&SE Rules-2011 & keeping in view the evidence on record as well Revised leave rules-1981, the undersigned being the competent authority, is pleased to accord sanction as under:-

- 1-Suspension period w.e.f. 7-1-12 to 6-4-12 (3-months)
- 2-Absconding period w.e.f. 7-4-12 to 2-4-13 (361-days) read as EOL.
- 3-Jail period w.e.f. 3-4-13 to 10-7-13 (3-months & 09-days) read as suspension period.
- 4-Trial period w.e.f. 11-7-13 to 12-5-17 (3-yers,6-months & 1-day) read as EOL as admissible under the law

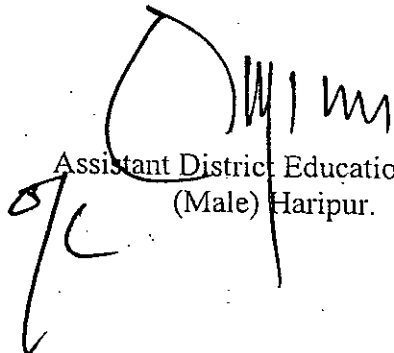
AND WHEREAS, the services of Mr. Bahadar Sher CT GHSS No.1 Haripur is hereby regularized & EOL wef 7-4-12 to 2-4-13 & 11-7-13 to 21-11-17 is hereby granted in his favour.

( Umer Khan Kundi)  
District Education Officer  
(Male) Haripur.

**Endst:No of even No & date.**

Copy forwarded to the:-

- 1-The Director E&SE Department KPK Peshawar.
- 2-The Deputy Commissioner Haripur.
- 3-The District Accounts Officer Haripur
- 4-The Principal GCMHSS Haripur.
- 5-Office record.

  
Assistant District Education Officer  
(Male) Haripur.



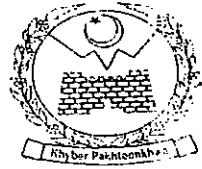
Annexure - E of - 11 (38) 7

# OFFICE OF THE DISTRICT OFFICER

No. 7224

PH No. 0995-610178, 610268

Dated: 21 /07/2012.



To

Mr. Bahadur Sher CT S/O Muhammad Riaz Khan  
House No- 66 sector No-1 Village & P/o KTS.

Subject: - Absent Notice

Memo:

Consequent upon your involvement in case FIR No-17 dated .07.01.2012 U/S 324/109/148/1497ATA PS City District Haripur you were suspended from your services w.e.f 07.01.2012 vide this office Endst: No- 734-39 dated 19.01.2012 . You neither surrendered before the police nor reported in your institution. Yu are directed to report in your institution / in the office of Executive District Officer J&SE Haripur with in 15 days , after receiving this letter .Otherwise you will be considered as absconder and further proceeding will be initiated against you as per rules.

---sd---

Executive District Officer  
Elementary & Secondary Education  
Haripur

Dated: 21 /07/2012.

Endst: No:- 7225-27

Cc:-

1. The District Coordination Officer Haripur .
2. The Sr. Superintendent of Police Investigation Haripur with reference to his No- 237 dated .16.01.2012 for information Please.
3. The Headmaster concerned.
4. Office record File.

District Officer (Male)  
Elementary & Secondary Education  
Haripur

Annex-E-1  
P-12

37

13



~~Annexure B~~

## نوٹس برائے غیر حاضر مری

آپ سٹریٹ ہاؤس نمبر 7274 (CT) گورنمنٹ مڈل سکول کالہا کھنڈ ضلع ہری پور ایف اے  
کسی اطلاع کے سوریہ 07-07-2012 سے اپنی ڈیوٹی سے غیر حاضر  
ہیں آپ کو اس سے پہلے بھی گھر کے پتہ پر سوریہ 21-07-2012 بذریعہ  
نوٹس بحوالہ نمبر 7274 کو مطلع کیا گیا تھا مگر تا حال آپ اپنی ڈیوٹی سے غیر  
حاضر ہیں۔ لہذا آپ کو آخری بار بذریعہ نوٹس اخبار مطلع کیا جاتا ہے کہ اس  
نوٹس کے ملتے ہی 15 دنوں کے اندر اندر فی الفور سکول میں حاضر ہو کر زیر  
دستخطی کو تحریری طور پر غیر حاضری کی وجہ بیان کریں ورنہ آپ کے خلاف قانونی  
کارروائی عمل میں لاتے ہوئے آپ کو نوکری سے طرفہ است کر دیا جائے گا۔

ایگزیکٹو ڈسٹرکٹ آفیسر

ایلیمنٹری اینڈ سکینڈری ایجوکیشن ہری پور (AD) 384



**ABC CERTIFIED**

**Daily PINE Abbottabad**

337360

روزنامہ پائن

قیمت 5 روپے ایبٹ آباد

جفٹ ایڈیٹر  
شعبہ احسن

dailypine@brain.net.pk Pinenewsagency@gmail.com

شمارہ 353 ہفتہ 15 نمبر 2012ء 27 شوال 1433ھ جلد 6

Annexure <sup>"B"</sup>

**نوٹس برائے غیر حاضر**

آپ مسٹر بہادر شیری ٹی (CT) گورنمنٹ مڈل سکول کالا کٹھہ ضلع ہری پور کسی اطلاع کے مورخہ 07-02-2012 سے اپنی ڈیوٹی سے غیر حاضر ہیں آپ کو اس سے پہلے ہی گھر کے پتے پر مورخہ 21-07-2012 بذریعہ نوٹس بحوالہ نمبر 7224 کو مطلع کیا گیا تھا مگر تا حال آپ اپنی ڈیوٹی سے غیر حاضر ہیں لہذا آپ کو آخری بار بذریعہ نوٹس اخبار مطلع کیا جاتا ہے کہ اس نوٹس کے ملتے ہی 15 دنوں کے اندر اندر فی الفور سکول میں حاضر ہو کر زبردستی کٹھری طور پر غیر حاضری کی وجہ بیان کریں ورنہ آپ کے خلاف قانونی کارروائی عمل میں لاتے ہوئے آپ کو نوٹری سے برخاست کر دیا جائے گا۔

ایگزیکٹو ڈسٹریکٹ آفیسر  
ایسٹری ایڈ سیکنڈری ایجوکیشن ہری پور

INF(AD) 384



~~21~~ "F"

**Annexure F**

**Office of the Executive District Officer**  
**Elementary & Secondary Education Haripur**  
PH No. 0995-610178, 610268

"F"  
P-14

**Termination Order**

Mr. Bahdar Sher CT, GMS Kala Katha Haripur, who is involved in case FIR No.17 dated 07.01.2012 U/S 324/109/148/149 7ATA PS City District Haripur and absconder/absent from duty w.e.f 07.01.2012, absent notice was sent on his home address for resumption of duties vide this office Endst: No.7224 dated 21.07.2012, and final show cause notice for resumption of duties published in Daily Sarhad News and Daily Pine Abbottabad dated 15-09-2012, but he failed to resume his duties under Article A-8 E&D rules 1973, he is hereby removed from his service w.e.f 07-01-2012 in the interest of public service.

Note: - He is not entitled for any benefit by the Department.

*[Signature]*  
Executive District Officer  
Elementary & Secondary Education  
Haripur

Dated: 17/11/2012

Endst: No. 12214-18

Cc:

- 1- The Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.
- 2- The District Coordination Officer Haripur.
- 3- The Senior District Accounts Officer Haripur.
- 4- The Headmaster GMS Kala Katha Haripur.
- 5- Mr. Bahdar Sher Ex-CT, GMS Kala Katha House No.66 Sector No.1 Village & P.O KTS Haripur.
- 6- Office record file.

*[Signature]*  
Executive District Officer  
Elementary & Secondary Education  
Haripur



Check List of Sr. CT (Male) to SST (Sc) B-16 for Promotion of District Haripur

S. No	Sen: List No.	Present Place of Posting	Name of Official	Bio Data	ACRs 5 Year	Synopsis	Non Inv: Certificate	Result 5 years	L.P. Slip	Certificats/ Degrees
1	21	GHSS No.1 Haripur	Bahdar Sher Khan	✓	✓	✓	✓	✓	✓	Provided
2	162	GHS Ghazi	Mehboob Shah	✓	✓	✓	✓	✓	✓	✓
3	181	GHS Dartian	Yasir Changaz	✓	✓	✓	✓	✓	✓	✓
4	182	GMS Pindori	Zulfiqar Hussain	✓	✓	✓	✓	✓	✓	✓
5	183	GHS Chooi	Kamran Siddique	✓	✓	✓	✓	✓	✓	✓

1,2,3 & 4 are recommended while service of S.No. 4 is less than five years i.e. few months.

2,3 & 4 recommended for promotion - C.T. to SST rank

11/11

11/11

11/11

11/11

11/11

11/11

2,3 & 4 recommended for promotion - C.T. to SST rank

DEO (F)

6/11/13

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

Service Appeal No. 1599 / 2019

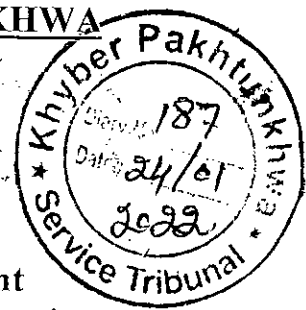
Bahadar Sher Khan

..... Appellant

**VERSUS**

Edu Department

..... Respondent



*Put up to the worthy chair - in with relevant appeal.*

*Ready 24/1/2022.*

*List it for today in DB-I*

*24/1/2022*

**APPLICATION FOR EARLY HEARING FOR THE**  
**FIXING OF THE ABOVE TITLED CASE AT AN EARLY**  
**DATE.**

**Respectfully Sheweth:-**

1. That the above mentioned appeal is pending for the decision of Large Bench before in the Hon' able Service Tribunal and was fixed on 31-03-2022 which was decided on the same day.
2. That the above mentioned appeal is fixed for arguments on 31/03/2022.

It is therefore most humbly prayed that on acceptance of this application the above title Service Appeal may kindly be fixed at an early date for decision.

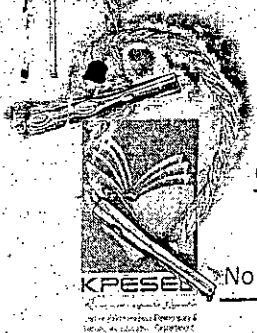
Dated 24/01/2022

Appellant (In Person)

*Bahadar Sher Khan*

Bahadar Sher Khan

Appeal No. 1599 / 2019



**OFFICE OF THE DISTRICT EDUCATION OFFICER (M)  
HARIPUR**



No. 8936-37 ST/Bahadar Sher Khan

Dated 28 / 01/2022

**MOST URGENT BEING COURT MATTER.**

To

The Director  
Elementary & Secondary Education  
Khyber Pakhtunkhwa,  
Peshawar.

Subject: **GUIDANCE IN JUDGEMENT OF HONOURABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR IN SERVICE APPEAL NO. 1599/2019 DATED 25-01-2022 TITLED BAHADAR SHER KHAN VERSUS GOVT: OF KHYBER PAKHTUNKHWA ETC.**

Memo:

Reference to the subject cited above, it is submitted that:


1. Mr. Bahadar Sher Ex-CT GMS Kala Katha was involved in a criminal case vide FIR No. 17 dated 07-01-2012 and suspended from service.
2. He was absconder/absent from his duty w.e.f. 07-01-2012. Absent notice was sent on his home address for resumption of duties vide this office Endst: No. 7224 dated 21-07-2012 and final show cause notice for resumption of duties published in Daily Sarhad and Daily Pine Abbottabad dated 15-09-2012, but he failed to resume his duties.
3. He was removed/terminated from his service w.e.f. 07-01-2012 under Article A-8 E&D rules 1973.
4. He was arrested on 03-04-2013 and released on bail on 10-07-2013.
5. He filed a service appeal No. 1551 before Honorable Khyber Pakhtunkhwa Service Tribunal Peshawar in 2013 for reinstatement into service. The Honorable Tribunal decided his appeal on 22-11-2017 as directions "As a sequel to above discussion, the whole proceedings are illegal. The appeal is therefore accepted and the appellant is reinstated in service. The department is however, at liberty to conduct de-novo proceedings in accordance with law."
6. In the light of the above mentioned Judgment, he was re-instated conditionally w.e.f 22-11-2017 vide order dated 05-01-2018 and de-novo inquiry was conducted against the appellant. According to the recommendations of inquiry report, the followings sanction was granted.
  - a. Suspension period w.e.f 07-01-2012 to 06-04-2012. (3 months)
  - b. Absconding period w.e.f 07-04-2012 to 02-04-2013 (361 days read as EOL)
  - c. Jail period w.e.f 03-04-2013 to 10-07-2013 (3 months & 09 days) read as suspension period.
  - d. Trial period w.e.f 11-07-2013 to 12-05-2017 (03 years, 06 months & 01 day) read as EOL.
7. In 2019 he again filed a Service Appeal No. 1599/2019 and his appeal was converted to EP No. 71/22 on 25-01-2020 and Judgment has been passed as



“ The said judgment does not contain any direction to authorize the respondent department to treat the absence of the petitioner as leave without pay. However, the department in its own discretion broke the absence period of the petitioner into four periods. Two periods were treated as suspension period and one period of 361 days, as discussed above, was treated as absconding period. The fourth period was treated as trial period. As already observed that the trial period was wrongly treated as EOL without pay. Therefore, the respondent No. 2 is directed to issue corrigendum of the notification dated 23-07-2018 bearing No. 8132-35/4-26/ST/ATD/2013/Lit: HR of even date and the period w.e.f 11-07-2013 to 21-11-2017 treating as EOL be substituted with the duty period for the purpose of arrears of pay having become admissible in favour of the petitioner in consequence of the reinstatement in pursuance to the judgment of this Tribunal. The copy of this order has been handed over to representative in attendance with the direction that necessary corrigendum be produced before the Tribunal on 31-01-2022 before S.B.”

In the light of above stated points, you are requested to guide the undersigned in the matter.

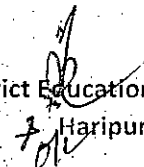
(15)  
Encls: Pages

  
District Education Officer (M)  
Haripur

Even No. & date:

Copy forwarded for information to the:-

1. Registrar Khyber Pakhtunkhwa Service Tribunal Khyber Pakhtunkhwa Peshawar.
2. Office Copy.

  
District Education Officer (M)  
Haripur

1054  
31-01-22 . Lit ii



**OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE)**  
**HARIPUR**



Ph. No. 0995-920150, 920151, 920152  
Email: [deomalhrp@yahoo.com](mailto:deomalhrp@yahoo.com)

**CORRIGENDUM:**

Whereas, Mr. Bahadar Sher Ex-CT was reinstated into service w.e.f 22-11-2017 on the basis of Service Tribunal Judgment dated 22-11-2017 on the basis of Service Tribunal judgment dated 22-11-2017 conditionally under this office endst: No. 120-24/F.No. 4-26/ST/Lit:HR dated 05-01-2018.

Whereas, he has been adjusted at GCMHS No.1 KTS Haripur against the vacant post of CT BPS-15.

Whereas, his intervening period was to be decided in the light of De-novo inquiry from 07-01-2012 to 21-11-2017.

Whereas, this office has constituted inquiry committee comprising of the senior Principals of BPS-19 to look into the matter and submit their report. The committee conducted the inquiry and recommended that his termination period from 07-01-2012 to 21-11-2017 may be considered as leave without pay under the rules/policy.

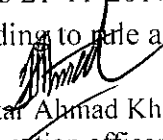
Whereas, in exercise of powers conferred upon the then District Education Officer (M) Haripur (Competent Authority) under E&SE Rules 2011 and keeping in view evidence on record as well revised rules 1981 the then DEO (M) Haripur the intervening-period was sanction as under.

1. Suspension period w.e.f 07-01-2012 to 06-04-2012 (03 months)
2. Absconding period w.e.f 07-04-2012 to 02-04-2013 (361 days read as EOL)
3. Jail period w.e.f 03-04-2013 to 10-07-2013 (03 months and 09 days read as suspension period)
4. Trial period w.e.f 11-07-2013 to 12-05-2017 (03 years 06 months and 01 days) read as EOL as admissible.

Whereas, services of Mr. Bahadar Sher CT GHSS No.1 Haripur was regularized and EOL w.e.f 07-04-2012 to 02-04-2013 and 11-07-2013 to 21-11-2017 was granted in his favour by the then DEO (M) Haripur.

Whereas, the Honorable Khyber Pakhtunkhwa Service Tribunal Peshawar in Service Appeal No. 1599/2019 respondent No. 2 (DEO (M) Haripur) is directed to issue corrigendum of notification dated 23-07-2018 bearing No. 8132-35/4-26/ST/ATD/2013/Lit:HR of even date and the period w.e.f 11-07-2013 to 21-11-2017 treating as Extra Ordinary Leave be substituted with the period of duty for the purpose of arrears of the pay having become admissible in favour of petitioner in consequence of his reinstatement in pursuance to the judgment of the Honorable Tribunal.

Now therefore, in the light of above discussion the competent authority DEO (M) Haripur is pleased to issue the corrigendum of the notification dated 23-07-2018 bearing No. 8132-35/4-26/ST/ATD/2013/Lit:HR of even date and the period w.e.f 11-07-2013 to 21-11-2017 is treated as duty period for the purpose of arrears of pay having become admissible according to rule and policy.


  
Mukhtar Ahmad Khan  
District Education officer (Male)  
Haripur.

Dated Haripur the: 07/06/2022

No: 125-29 /4-26/ST/ATD/2013/Lit:HR

**Copy to:**

1. The Registrar Khyber Pakhtunkhwa Service Tribunal Peshawar.
2. The Director E&SE Khyber Pakhtunkhwa, Peshawar.
3. The District Accounts Officer Haripur.
4. The Principal GHS KTS No.4 Haripur being DDO concerned.
5. Mr. Bahadar Sher SST (M/P) GHS No. 4 KTS, Haripur.
6. Office record file.

  
District Education Officer (Male)  
Haripur