

BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR.

Service appeal No. 1550 of 2023

Ali Mar Khan ----- (Appellant)

VERSUS :

Secretary (E&SE) Department KP & Others. (Respondents)

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Dated: 14/11/2023

Musawir
District Education Officer (M)
Karak

Respondent No. 3
District Education Officer
(Male), Karak

19-03-2024
Peshawar

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Service appeal No. 1150 of 2023

Ali Mar Khan ----- (Appellant)

VERSUS

The Secretary (E & SE) Department KP & Others. (Respondents).

Joint Parawise Written Comments of Respondents No. 1 to 4

Respectfully Sheweth

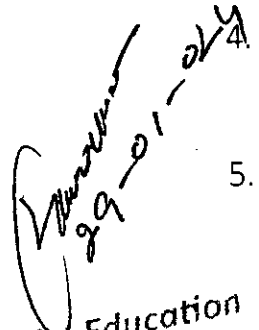
Joint Written comments on behalf of Respondents No. 1 to 4
Preliminary Objections.

1. That appellant has got no cause of action to file the instant service appeal.
2. That the above titled service appeal is wrong, incorrect and against the law & facts.
3. That the appellant is estopped to file the instant service appeal by his own conduct.
4. That the instant service appeal is not maintainable & enter-tainable in its present form.
5. That the appellant has not come to this honourable court with clean hands and concealed the true facts from this Hon'able Tribunal.
6. That the instant service appeal is liable to be dismissed due to mis-joinder & non-joinder of the party.

7. That the claims TA/DA of appellant are time barred.

Factual Objections

1. Para No. 1 is correct.
2. Para No. 2 pertains to record.
3. Para No. 3 pertains to record.
4. Reply of Para No. 4 is that the appellant / Ali Mar Khan Ex-Driver filed Civil Suit No. 292/1 of 2020 dated 09/12/2020 in the court of Civil Judge-II, Karak for claiming his D.A bills Rs. 217513/ and Rs. 27807/- . In response of the above mentioned civil suit, the present respondents No. 3 & 4 have submitted written statement stated therein that none payment of the D.A Bills as claims by the appellant is more than 03 years old hence required sanction of investigation of


 District Education
 Officer (M) Karak.

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 11646

Dated 6/3/24

arrears and as per KPK Delegation of Financial Powers Rules, 2018 the respondent No. 3/ DEO (Male), Karak has no competency to proceed the D.A bills which are more than 03 years old, therefore, his D.A bills/claims were sent by the respondent No. 3/DEO (M), Karak letter vide letter No. 1252-53 dated 24/03/2021. *(Photocopy of letter No. 1252-53 dated 24/03/2021 is annexed as Annexure "A")*.

That in response of letter No. 4121 dated 14/10/2021 of respondent No. 3/DEO (M), Karak the respondent No. 2/Director Elementary & Secondary Education Department KP, Peshawar, the Directorate of Elementary & Secondary Education of KP, Peshawar proceeded letter vide No. 3310/DD(F & A) Investigation of Karak dated 22/10/2021 to respondent No. 3/DEO(M), Karak with the directions to submit (i) original TA bills duly signed by you, (ii) Investigation of arrear claim Proforma duly signed by the applicant as well by you (iii), reason of delay (iv). Budget for the year 2020-21. ----- *(Photocopy of letter 3310/DD(F & A) Investigation of Karak dated 22/10/2021 is annexed as Annexed "B")*.

The case D.A bills of appellant was under process before the Director Elementary Education Department KP, Peshawar and during the pendency of the above titled suit the then District Education Officer (Male), Karak Mr. Sheraz Ahmad was summoned by the court of learned Civil Judge-II, Karak and verbally directed to solve the matter in dispute. (Photocopy of civil suit, written statement is available on page No. 95 to 99 of the above titled appeal).

The then District Education Officer (Male), Karak Mr. Sheraz Ahmad constituted inquiry committee consist of Faridullah Shah Principal BPS-19 HSS Jandari Karak and Abdul Haleem Principal BPS-19 GHSS Jehangiri Karak to probe into the matter of pending D.A bill in respect of appellant, vide office order bearing Endst: No. 923-24 dated 22/02/2022. ----- *(Photocopy of office order No. 923-24 dated 22/02/2022 is annexed as Annexure "C")*.

The inquiry committee submitted his inquiry report to then District Education Officer (Male), Karak/ Sheraz Ahmad which is self explanatory and as per recommendations, the appellant is reluctant to submit affidavit to the effect that the claims has not already been drawn, however, in light of the recommendations of inquiry committee, the DA bills were sent to Ex- District Education Officer (Male), Karak Mr. Taus Khan and Mr. Abdus Salam now retired for the concerned period for counter-signature vide letter No. 155 dated 09/04/2022 and letter No. 156 dated 09/04/2022. *(Photocopy of inquiry report and letters for counter-signatures are attached as Annexure "D & E" respectively)*.

The Ex-District Education Officer (Male), Karak now Principal Paharpur re-send the revised tour programs of his concerned period in respect of appellant vide letter No. 215 dated 17/05/2022 but the retired DEO

Muhammad Sheraz Ahmad
29/07/24
District Education
Officer (M) Karak

[Signature]

(Male), Karak Mr. Abdus Salam is remained silent and did not send revised tour programs in respect of appellant. ----- (Photocopy of letter No. 215 dated 17/05/2022 is annexed as Annexure "F").

6. Para No. 6 pertains to record.
7. Para No. 7 do not relate with the answering respondents.
8. Para No. 8 pertains to record.
9. Para No. 9 is correct.
10. Para No. 10 is correct.
11. Para No. 11 is incorrect. The appellant has got no cause of action.

Objection on Grounds.

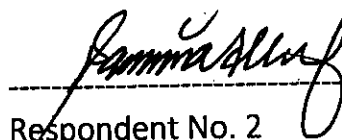
- a. Para-A is incorrect. The D.A bills of appellants' old /time barred as the D.A bills of appellant was more than 03 years old.
- b. Para -B is incorrect. The appellant has been treated in accordance with law. In this respect the detailed reply mentioned above is sufficient.
- c. Para-C is totally incorrect. Explained as above
- d. Para-D is incorrect. Explained as above.
- e. Para-E is incorrect. Explained as above
- f. The respondents seeks permission to raise additional grounds at the time of argument.

Prayer

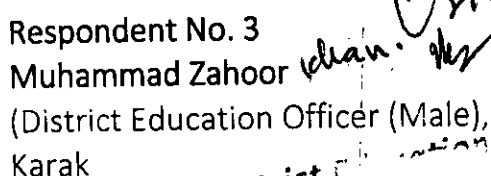
It is, therefore, most humbly and respectfully prayed that keeping in view the above mentioned joint para wise written comments this Hon'able KFK Service Tribunal may very kindly be pleased to dismiss the service appeal of appellant in favour of respondent department.



Respondent No. 1
Masood Ahmad
Secretary Elementary & Secondary
Department KP Peshawar.

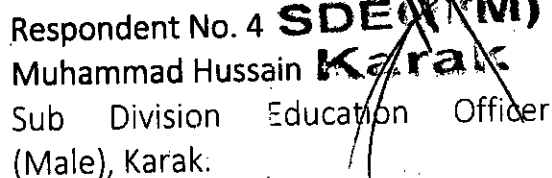


Respondent No. 2
Samina Altaf
Director Elementary & Secondary
Education Department KP, Peshawar.



Respondent No. 3
Muhammad Zahoor
(District Education Officer (Male),
Karak

District
Officer (M) Karak



Respondent No. 4 SDE (M)
Muhammad Hussain Karak
Sub Division Education Officer
(Male), Karak:

BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR.

Service appeal No. 1150 of 2023

Ali Mar Khan ----- (Appellant)

VERSUS

The Secretary (E & SE) Department KP & Others. (Respondents).

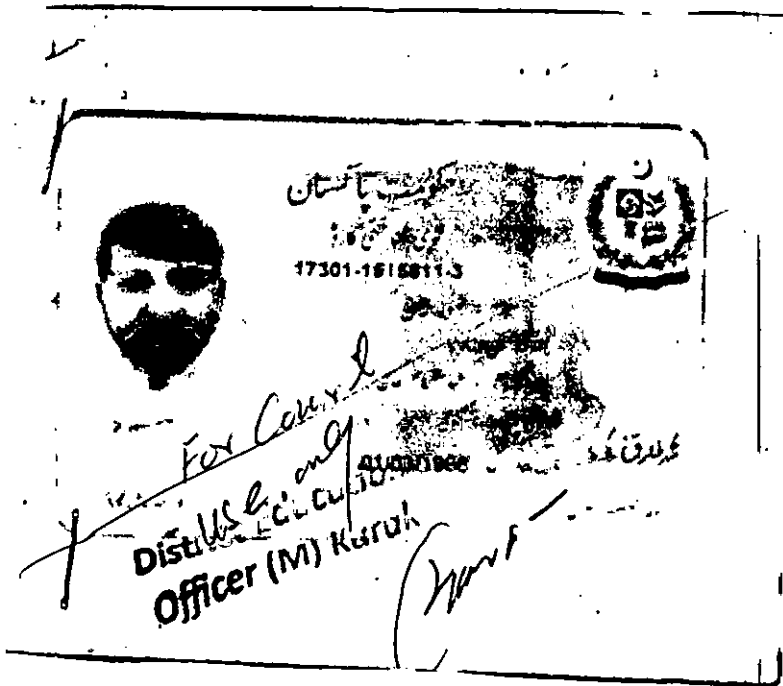
AFFIDAVIT

I, Muhammad Zahoor District Education Officer (Male), Karak do hereby solemnly affirm and declare on oath that all the contents of accompanying joint parawise comments are true and correct to the best of my knowledge and belief, nothing is lie and nothing has been concealed from this Hon'able Service Tribunal

Dated ----/11/2023

leham.
29/11/23
District Education Officer (M) Karak
Deponent

Muhammad Zahoor



29/11/23




**OFFICE OF THE
DISTRICT EDUCATION OFFICER MALE KARAK
ADDRESS: KDA KARAK**

No. 8029

Dated 13-11-23

AUTHORITY LETTER

Mr. Abdullah Khan Assistant Sub Divisional Officer (Male) Takht-e-Nasrati Karak do hereby authorized to field written comments in Service Appeal No. 1150 of 2023 titled "Ali Mar Khan V.S Secretary Elementary & Secondary Education Officer Khyber Pakhtunkahwa & others in Khyber Pakhtunkahwa Service Tribunal, Peshawar on behalf of official respondents and also submit affidavit in support of written comments and any other supportive documents in support of written comments.


13/11/23
District Education Officer
(Male), Karak

OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) KARAK		(5)
Budget section		

(Annex A)

No. _____ /Additional demand file. Dated Karak the _____ /03/2021

To

The Director,
Elementary & Secondary Education
Govt: Khyber Pakhtun Khwa Peshawar.

Subject: - Arrear of investigation of TA/DA w.e.f 08/2015 to 12/2016,
Amounting to Rs.217, 523/-

Memo:-

I have the honour to invite your attention towards the claim of TA/DA bills in respect of Mr. Ali Mar Khan ex-Driver office of TA DEO (M) Karak w.e. from 08/2015 to 12/2016 amounting to Rs. 217,513/-.

It is further added that he has subjudice the case in the court of civil judge Karak. So, the format for arrear of investigation is also attached.

Enclosure:-

- All TA bills along with approved tour programme are attached here with.
- An early action from your end will highly be appreciated.

ta (Taw) District Education Officer (Male)
Karak

Endst No. 1252-53 /Additional Demand file, Dated Karak the 24 /02/2021.
Copy to the:-

1. Mr. Ali Mir Khan Ex- Driver for information.
2. Office record.

District Education
Officer (M) Karak

24/3/21
District Education Officer (Male)
Karak

OFFICE OF THE DISTRICT EDUCATION OFFICER MALE KARAK
INVESTIGATION PROFORMA

Statement showing arrear of Pay/TA and Allowances to

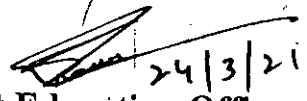
Mr. Ali Mar Khan Designation Ex-Driver

With out of after investigation by the audit under the rules 2018.

1. Name of the applicant/Designation. Ali Mar Khan Ex-Driver
2. Office/Department Elementary & Secondary Education D.E.O. (M) KARAK
3. Nature & amount of claim with period. TA/DA
4. Detail statement of the arrear claim there in rules under which. 08/2015 to 12/2016
(2018)
5. When did the claimant 1st apply for the payment of his claim arrear (s) and what subsequent steps were taken by him for having the payment of his claim expended. Now apply
6. Cause of delay, in performing claim(s). Due to oversight
7. Official responsible for the delay referred in col.6
8. What action has been taken by the Deptt: against the official at fault. Now the case is submitted for necessary investigation sanction please.
9. Non-payment certificate in prescribed form (Specimen for reference). As given below.
10. Reason satisfying a special treatment incorporated under the rules to the matter non entertainment/payment of time barred arrears. Satisfactory

Non-payment certificate.

Certified that I have personally satisfied myself by reference to the acquaintance roll, pay bill and other record relating to the claim of the official and found that the amount of Rs. 2,12,513 on account of pay & allowances has not been paid to him for the period from 08/2015 to 12/2016

 24/3/21

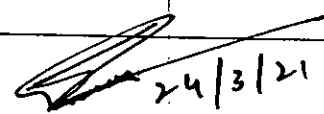
District Education Officer
(Male) Karak

Endst No. 1254 / 1

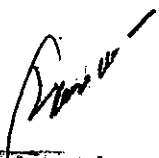
Dated Karak the 24/3 /2021.

Copy of the submitted:-

1. Director EOSE Govt. of JKP Dehra
2. Ali Mar Khan Ex-Driver.

 24/3/21

District Education Officer
(Male) Karak


District Education Officer (M) Karak

(Annex-B) (7) sherya
PL: put up and
inform SDE (M)

DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION OF KHYBER
PAKHTUNKHWA PESHAWAR

No 3310 DD(F&A) INVESTIGATION OF Karak DATED 22/10 2021

To
The District Education Officer (Male)
Karak.

3976
28/10
27/10/21
B&AO

Subject: - INVESTIGATION OF ARREAR OF TA/DA CLAIM IN R/O MR. ALI MARJAN
EX-DRIVER OF DEO MALE KARAK.

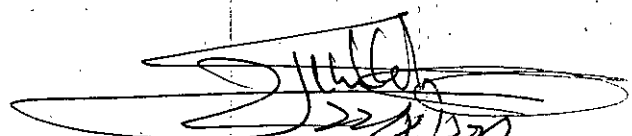
Memo:-

I am directed to refer to your letter No. 4121 dated 14/10/2021 on the subject noted above and to state that your letter under endorsement No. 1252-53/Additional demand dated 24-03-2021 has not been received this office.

You are therefore requested to submit the following:-

1. Original TA bills duly signed by you.
2. Investigation of arrear claim Proforma duly signed by the applicant as well as by you.
3. Reason of delay.
4. Budget for the year 2020-21

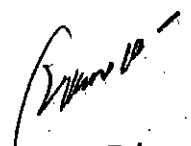
Encls: As Above



Assistant Director (Audit)
Elementary & Secondary Education
Khyber Pakhtunkhwa, Peshawar

Endst: No. _____ 2021

Copy of the:-

1. P.A. to Director E&SE KPK Peshawar.
2. Master File.


District Education
Officer (M) Karak


Assistant Director (Audit)
Elementary & Secondary Education
Khyber Pakhtunkhwa, Peshawar

District Education Officer
1250

(Anned - C)
Secy

(8)

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

Email deokarakmale@gmail.com

Office Order:

The following committee is hereby constituted to probe into the matter of pending TA/DA bills in respect of Mr. Ali Mar Khan Ex-Driver DDEO/SDEO Karak and submit its report within 7 days to the undersigned.

S.No	Name	Designation	Remarks
01	Farid Ullah Shah	Principal BPS-19	Chairman
02	Abdul Haleem	Principal BPS-19	Member

Endst No. 923-24

Copy forwarded for information to the:-

1. Principal GHSS Jandri.
2. Principal GHSS jhangiri.

[Handwritten signature]
22/02/2022

District Education Officer
Male Karak
Dated 22/02/2022

[Handwritten signature]
District Education Officer
Male Karak

[Handwritten signature]
District Education
Officer (M) Karak

District Education Officer (M)
Date: 22-03-22

(Annex-D)
A/DEO Secy

For u/a please.
16/3/22

(9)

Names of Enquiry Officers:-

1. Mr. Farid Ullah Principal (BS- 19) GHSS Jandri Karak.
2. Mr. Abdul Haleem Principal (BS- 19) GHSS Jehangiri Karak.

Authority of enquiry: -

District Education Officer (M) Karak, vide office order No.923-24,dated 22-02-2022.

Title of Enquiry: -

Enquiry regarding pending T.A/ DA bills in r/o Mr. Ali Mar Khan Ex-driver DEO(Male) Office Karak.

Place of Enquiry: - DEO (M) Office Karak.

Date of Enquiry: - 02/03/2022.

Brief History:-

Mr. Ali Mar Khan remained regular employee of E & SE Department Karak as a driver (BS-8) and was retired from service on 03/03/2018(A.N).However his T.A/DA bills for various periods are pending .In this regard he has filed a suit in the Honorable Court of Senior Civil Judge Karak.(Annex: A)

Procedure of enquiry: -

We, the enquiry committee members visited the office of DEO(M) Karak on 02/03/2022.Mr.Ali Mar Khan ,the ^{complainant} complaint was also informed to attend the office on due to date & time. All the available record was checked.

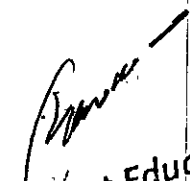
Facts & Findings:-

1. Mr. Ali Mar Khan Ex-driver of the DEO (M) office Karak was retired from service on 03/03/2018(AN).
2. As per his statement, his TA/DA bills for period 08/2015 to 02/2018 are pending in the DEO (M) office Karak.
3. In this regard he has filed a suit in the Honorable Court of Senior Civil Judge Karak.

Conclusion:-

After through observation of the case, we the committee members came to the conclusion that:-

1. His pending TA/DA bills for various periods are not counter signed by the DEO, s of the concerned periods. Proper countersignature by the DEO.s of the concerned periods is required.
2. Routine budget under Head A03805-TA/DA for the current financial year (2021-2022) is not sufficient to meet out his claims.
3. His pending TA/DA bills need investigation sanction from the competent authorities.


District Education
Officer (M) Karak

10

Recommendation:-

1. Pending TA/DA bills in r/o Mr. Ali Mar Khan Ex-driver of the DEO (M) office Karak may be got countersigned from the DEO, s of the concerned periods.
2. An affidavit may be got from the said Ex-employee, to the effect that the claims has not already been drawn.
3. His pending TA/DA bills may be submitted to the competent authorities for investigation sanction.
4. Planning & Finance department Karak may also be requested for grant of additional budget under the Head A03805-TA/DA to meet out his pending TA/DA bills.

F U S
FARID ULLAH SHAH
Principal
GHSS Jandri Karak.

Abdul Haleem
ABDUL HALEEM
Principal
GHSS Jehangiri Karak.
12/3/2022

Report submitted to District Education Officer (Male) Karak, with reference to his office Order NO. 923-24, dated 22-02-2022.

Endst. NO: 653 dated 16⁰³ 2022 *F U S*

FARID ULLAH SHAH
Principal
GHSS Jandri Karak.

16/03/2022

Abdul Haleem
District Education
Officer (M) Karak

(Annex - E /

11

OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) KARAK	
Budget section	

No 155 /Ali Mir Khan Driver Personal file. Dated Karak the 9 /4/2022.

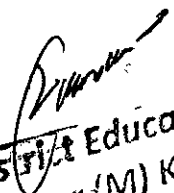
To

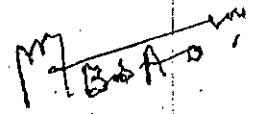
Mr. Abdus Salam
Rdt; DEO (M) Kohat.
Ex- District Education Officer (Male)
Karak.

Subject: - To countersignature TA Bills photo copy.

Memo:-

Enclosed please find herewith photo copy of TA bills in respect of Mr. Ali Mir Khan Ex-Driver DEO (M) Karak Period w.e.from 3/2015 to 9/2016 for countersignature please.


District Education
Officer (M) Karak


District Education Officer
D.E.O
(Male) Karak

Taw

(Ayneft-A)

(12)

OFFICE OF THE DISTRICT EDUCATION OFFICER
(MALE) KARAK

Budget section

No. 153 / Ali Mir Khan Driver Personal file. Dated Karak the 9 /4/2022.

To

Mr. Taus Khan
Principal GHSS D.I.Khan
Ex- District Education Officer (Male)
Karak.

Subject: - To countersignature TA Bills photo copy.

Memo:-

Enclosed please find herewith photo copy of TA bills in respect of Mr. Ali Mir Khan Ex-Driver DEO (M) Karak Period w.e.from 10/2016 to 2/2018 for countersignature please.

[Signature]
District Education
Officer (M) Karak

[Signature]
District Education Officer
Budget & Account Officer
(Male) Karak
Taw (Male) Karak
Male) Karak

(13)

Annex-1 dated Paharpur the 17/05/2022

From:- 215 dated Paharpur the 17/05/2022

B & NO
23/5/22
[Handwritten notes and stamp]

The Principal
GHSS NO.1, Paharpur
DIKhan.

To
The District Education Officer,
(Male) Karak.

Subject:- TO COUNTERSIGN TA BILLS 6 COPIES.

Memo:-
Reference your letter No.156. Ali Mar Khan
Driver, Dated.09-04-2022.

Sir,
I have signed/re-signed the tour/Revised Tour
program .which was put up before me by the Dy,DEO at that time .
2ndly , the signature of of TA Bills related with DDO & not with DEO as
per Job description please.

Further , requested that I have leave the Office
on 14-03-2019..Now, I am completely un-aware from that situation

[Signature]
District Education
Officer (M) Karak

[Signature]

Further , requested that I have leave the Office