

03.10.2018

Appellant Khan Bahadar in person present. Mr. Shah Alam, TSHT alongwith Mr. Usman Ghani District Attorney for the respondents present. Appellant requested for adjournment. Granted. To come up for arguments before the D.B on 05.12.2018 before the D.B at camp court, Swat.

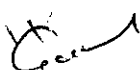

Member


Chairman
Camp Court Swat

05.12.2018

Appellant absent. Mr. Usman Ghani learned District Attorney alongwith Mr. Aziz Ullah PST present. Case called but none appeared on behalf of appellant. Adjourn. To come up for arguments on tomorrow i.e. on 06.12.2018 before D.B at camp court Swat.


Member


Member
Camp Court, Swat

06.12.2018

Appellant absent. Learned counsel for the appellant absent. Mr. Usman Ghani learned District Attorney for the respondents present. Case called for several times but no one appeared on behalf of the appellant. Consequently the present service appeal is dismissed in default. No order as to costs. File be consigned to the record room.


Member


Member
Camp Court Swat

ANNOUNCED

06.12.2018


04.06.2018

Neither the appellant nor his counsel is present. Mr. Usman Ghani, District Attorney for respondents present. Written reply could not be submitted as learned District Attorney informed this Tribunal that none of the respondents has approached him. As such fresh notice be issued to the respondents. To come up for written reply on 02.07.2018 before S.B at camp court, Swat.


Chairman
Camp Court, Swat


02.07.2018

Neither appellant nor his counsel present. Mr. Azizullah, PST on behalf of the respondents alongwith Mr. Ghani, District Attorney present. Written reply submitted. To come up for arguments on 03.09,2018 before the D.B at camp court, Swat.


Chairman
Camp court, Swat

03.09.2018

None for the appellant present. Mr. Aziz Ullah, PST alongwith Mr. Usman Ghani, District Attorney for respondents present. Arguments could not be heard due to incomplete bench. Case to come up for arguments on 03.10.2018 before D.B at camp court Swat.


(AHMAD HASSAN)
MEMBER
Camp Court Swat

06.04.2018

Counsel for the appellant present. Preliminary arguments heard. The appellant was serving as Naib Qasid in the Education Department since 1988. He was involved in murder of his wife on 22.08.2006. Later on, he was sentenced by the court of law on 28.7.2007. The punishment was then reduced by the appellate court on 28.4.2009. He was however, released from the jail in March, 2014 after serving his punishment. When he was in the jail he was removed from service on 15.03.2010 during his absence. After the release, the appellant filed writ petition before the Worthy Peshawar High Court, which was finally withdrawn on 25.10.2016 with the request to file departmental appeal/representation. It is not known ~~that~~ whether the appellant filed departmental appeal before the decision of the writ petition or after that. However, a letter dated 12.10.2017 in between the departmental officers shows that there was some departmental appeal. Finally, the appellant filed the present appeal on 26.12.2016. The present appeal appears to be time barred, however, the learned counsel for the appellant brought to the notice of this Tribunal that an application for condonation of delay has been filed alongwith the memorandum of appeal.

The points raised need consideration. The present appeal is admitted to regular hearing subject to the determination of the issue of condonation etc. 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 07.05.2018 before the S.B at camp court, Swat.

Appellant Deposited
Security & Process Fee

Chairman
Camp court Swat.


09.05.2018

Due to retirement of the Worthy Chairman, the Tribunal become non-functional. To come up for the same on 04.06.2018 before the S.B at camp court, Swat.

Reader


05.01.2018

Appellant in person present and seeks adjournment as his counsel is not available. Adjourned. To come up for preliminary hearing on 02.02.2018 before S.B at camp court Swat.


(Muhammad Hamid Mughal)
Member
Camp Court, Swat

02.02.2018

Mr. Rashid Ali Khan, Advocate present and submitted fresh wakalat nama on behalf of appellant and requested for adjournment. Adjourned. To come up for preliminary hearing on 09.03.2018 before S.B at Camp Court, Swat.


(Gul Zeb Khan)
Member
Camp Court, Swat

09.03.2018


Appellant present in person. Counsel for the appellant is not in attendance. Seeks adjournment. To come up for preliminary hearing on 06.04.2018 before S.B at camp court, Swat.


Chairman
Camp Court, Swat

1257/16


08.06.2017

Since the tour programme for the month of June, 2017 to camp court Swat has been cancelled by the Worthy Chairman, therefore, to come up for the same on ~~10.08~~ 2017 at camp court, Swat. Notices be issued to the appellant and his counsel for the date fixed accordingly.


Registrar

10.08.2017

- None present for the appellant. Notices be issued to appellant and his counsel. To come up for preliminary hearing on 06.10.2017 before S.B at camp court, Swat.


Chairman
Camp court, Swat.

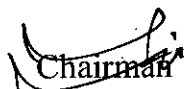
06.10.2017

Counsel for the appellant present. He seeks adjournment. Granted. To come up for preliminary hearing on 08.12.2017 before S.B at camp court, Swat.


Chairman
Camp Court, Swat.

08.12.2017

Appellant in person present. He seeks adjournment as counsel for the appellant is not in attendance. To come up for preliminary hearing on 05.01.2018 before S.B at camp court, Swat.


Chairman
Camp court, Swat

09.02.2017

Counsel for the appellant present. Seeks adjournment. To come up for preliminary hearing on 09.03.2017 before S.B at camp court, Swat.


Chairman
Camp Court, Swat.

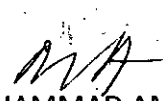
09.03.2017

Clerk of counsel for the appellant present and requested for adjournment. Adjourned for preliminary hearing to 06.04.2017 before S.B at camp court, Swat.


Chairman
Camp Court, Swat


06.04.2017

Appellant in person present and requested for adjournment on the ground that his counsel is not available today. Adjourned. To come up for preliminary hearing on 04.05.2017 before S.B at Camp Court Swat.


(MUHAMMAD AMIN KHAN KUNDI)
MEMBER
Camp Court Swat

04.05.2017

Appellant in person present and requested for adjournment as his counsel is not available. Adjourned for preliminary hearing for 08.06.2017 before S.B at Camp Court Swat.





(MUHAMMAD AMIN KHAN KUNDI)
MEMBER
Camp Court Swat

Form- A

FORM OF ORDER SHEET

Court of _____

Case No. 1257/2016

S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	26/12/2016	<p>The appeal of Mr. Khan Bahadar presented today by Mr. Syed Abdul Haq Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please</p> <p style="text-align: right;"> REGISTRAR</p>
2-	27-12-2016	<p>This case is entrusted to Touring S. Bench at Swat for preliminary hearing to be put up there on <u>05-01-2017</u></p> <p style="text-align: right;"> CHAIRMAN</p>
	05.01.2017	<p>None present for appellant. Notices be issued to appellant and his counsel. To come up for preliminary hearing on 09.02.2017 before S.B at camp court, Swat.</p> <p style="text-align: right;"> Chairman Camp court Swat.</p>

BEFORE THE SERVICE TRIBUNAL KHYBER

PAKHTUNKHWA AT PESHAWAR

Appeal No. 1257/2016

Khan Bahadar Appellant

VERSUS

District Education Officer and others.....Respondents

I N D E X

S.No	Description of Documents	Annex	Pages
1.	Service Appeal		1-7
2.	Application for condonation of delay with affidavit		8-9
3.	Copy of appointment order dated 15.03.2010 along with revenue record	A	10-15
4.	Copy of Departmental Appeal	B	16
5.	Copy of Writ Petition	C	17-20
6.	Copy of Comments	D	21
7.	Copy of Order dated 25.10.2016	E	22-23
8.	Wakalat Nama		24

Appellant

Through



SYED ABDUL HAQ

Advocate, Mingora

Bench / Darul Qaza

BEFORE THE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA AT PESHAWAR

Appeal No. 1257 of 2016

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 1314

Dated 26-12-2016

Khan Bahadar S/o Habib Khan

Resident of Ramora, Tehsil Adinzai, District

Dir Lower.

.....Appellant

VERSUS

1. District Education Officer (Male) Dir Lower at Timergara.
2. Director Elementary & Secondary Education Khyber Pakhtunkhwa at Peshawar.
3. Secretary Elementary & Secondary Education Khyber Pakhtunkhwa at Peshawar.

.....Respondents

SERVICE APPEAL UNDER SECTION 4, OF
THE KPK SERVICE TRIBUNAL ACT, 1974,
AGAINST THE ORDER DATED 15-03-2010,
WHEREBY THE APPELLANT WAS
REMOVED FROM SERVICE.

Filed to-day

Registrar

26/12/16.

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PRAYER IN APPEAL

On acceptance of this appeal the order passed by Respondent No. 1 be declared as illegal, against law, void ab-initio by setting aside the same and the appellant may be reinstated on service with all back benefits.

Any other relief which are proper in the instant circumstances of the may also be granted.

Respectfully Sheweth,

- 1) That the appellant was working on the post of Peon in Government High School Ramora since 01-08-1998.
- 2) That the appellant was charged for the murder of his wife vide F.I.R No. 1240 dated 22-08-2006 Police Station Oach under section 302 PPC.
- 3) That the appellant was convicted and sentenced by the Additional Sessions Judge Timergara under section (B) PPC and the appellant filed an appeal before Peshawar High Court Peshawar where his appeal was partially

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Allowed vide judgment dated 28.04.2009.

- 4) That the Appellant was removed from service by the concerned Department vide removal order dated 15.03.2010. (Copy of all relevant record is attached as annexure A)
- 5) That after release the Appellant approached to the concerned departmental appeal for his adjustment / reinstatement but the department on one pretext or other cannot respond positively. (Copy of departmental Appeal is attached as annexure B)
- 6) That after the Appellant filed a writ petition No. 383-M of 2015 before this Hon'ble High Court Peshawar Mingora Bench/Darul Qaza Swat regarding their removal order.
- 7) That after the respondents filed comments in writ petition above No. 383-M of 2015. (Copies of writ petition & comments are attached as annexure C & D)
- 8) That after Hon'ble Court Peshawar Mingora Bench/ Darul Qaza passed an order dated 25.10.2016, whereby the writ petition stand dismissed, however Appellant

(u)

would be at liberty to seek his remedy from the proper forum but in accordance with law. (Copy of order dated 25-10-2016 is attached) *as annexed E)*

- 9) That extremely aggrieved from the order, the appellant have no other remedy except to file instant appeal before this Honorable Tribunal on the following grounds.

GROUNDS:-

- a. That the order of respondent No. 2 as well as respondent No. 1 are illegal, against the rules & regulation and exercised their power not vested to them.

- b. That in case of imposing major penalty principle of natural justice requires that a regular inquiry was to be conducted in the matter and opportunity of defense of personal hearing was to be provided to the civil servant proceeded against him otherwise the procedure against him without following the rules would be amount to condemned unheard. So, on this

S

ground to the impugned orders regarding dismissal is liable to be set aside.

- c. That issuance of show cause notice and holding of inquiry was necessary under section 3 removal from service ordinance 2000 but Respondents fails to issue show cause notice nor any inquiry was hold and major penalty of dismissal was imposed upon him without adopting mandatory procedure resulting in manifest injustice so, the impugned orders are liable to be set at naught.
- d. That the penalty of dismissal from service imposed upon appellant for absence from service is illegal being violative of section 7 (a).
- e. That the Respondents while passing the impugned orders regarding dismissal appellant whose absentee was treated as leave without pay so, such absentee cannot be treated as absent from duty, furthermore it is settle law when absence is treated is leave without pay then civil servant cannot be treated as absent and

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at least he would not be awarded major penalty of dismissal from service.

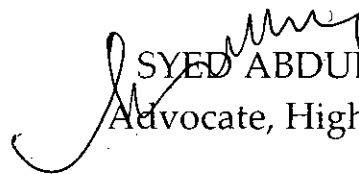
- f. That the appellant was illegally treated & dismissal from service is too harsh so, the impugned orders are not maintainable in the eye of law.
- g. That in service law concept of penalty was to make an attempt to reform the individual wrong doer (if any) but such penalty deprived the appellant from the right of earning, which defeat the reformatory concept of punishment in administration of justice so, the orders passed by the Respondents No. 1 & 2 are not sustainable on this ground too.
- h. That further grounds, with leave of this Honorable Court, would be raised at the time of arguments before this Honorable Court.

Therefore in view of the above submissions, it is most humbly prayed that on acceptance of this appeal the order passed by Respondent No. 1 be declared as illegal,

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against law, void ab-initio by setting aside the same and the appellant may be reinstated on service with all back benefits. Any other relief which are proper in the instant circumstances of the may also be granted.

Appellant
Through Counsel


SYED ABDUL HAQ
Advocate, High Court

CERTIFICATE:

(As per directions of my client) No such like Appeal earlier has been filed by the appellants on the subject matter before this Honorable Court.


ADVOCATE

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BEFORE THE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA AT PESHAWAR

Appeal No _____-M of 2016

Khan Bahadar (Appellant)

VERSUS

District Education Officer and others..... (Respondents)

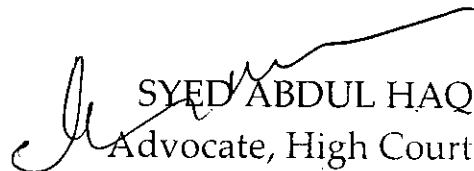
Application for Condonation of delay (if any) in submission of the above
captioned appeal

Respectfully Sheweth!

1. *That the captioned appeal has filed today.*
2. *That the delay (if any) occurred in filing the captioned appeal was due to unavoidable circumstances which were beyond the appellant control.*

It is, therefore, humbly prayed that by the acceptance of, instance Application the delay (if any) in filing the captioned appeal may kindly be condoned.

Appellant
Through Counsel


SYED ABDUL HAQ
Advocate, High Court

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BEFORE THE SERVICE TRIBUNAL KHYBER
PAKHTUNKHWA AT PESHAWAR

Appeal No _____ -M of 2016

Khan Bahadar (Appellant)

VERSUS

District Education Officer and others..... (Respondents)

AFFIDAVIT

I, Khan Bahadar S/o Habib Khan Resident of Ramora,
Tehsil Adinzai, District Dir Lower, do hereby solemnly
affirm and declare on oath that the contents of the above
titled ~~Appeal~~ ^{Application} is true and correct to the best of my knowledge
and belief.



[Handwritten Signature]
DEPONENT

(10)

Annex 11/BE

16

OFFICE OF THE EXECUTIVE DISTRICT OFFICER ELEMENTARY & SECONDARY EDUCATION DISTRICT DIR (L).

Notification:-

Where as one Mr.Khan Bahadar Naib Qasad GHS.Ramora Adenzai District Dir lower , remained absent willfully from duties w.e.from 22-8-2006 to date .

And where as show cause notice was issued / served upon him through registered cover and then through a notice published in "daily mashriq" dated 25-1-2010 but no convincible reply has been received so far.

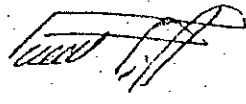
Where as a committee was constituted under the chairmanship of District Officer (M)local office , to scrutinize / finalize the cases of absent teachers/officials .


On the recommendation of the committee, and after consultation with District Coordination Officer Dir lower, the undersigned ,being the competent authority do hereby ordered the removal from service of Mr. Khan Bahadar Naib Qasad GHS.Ramora Adenzai Dir lower under the E&D rules 1973 from the date of her absence.

(SAEED KHAN)
EXECUTIVE DISTT:OFFICER
(E&SE)DISTRICT DIR LOWER

Endst: No. 3735-38 / Dated Timergara the 15 /03/2010.
Copy to:-

- 1.The District coordination officer Dir lower.
- 2.The District Accounts Officer Dir lower.
- 3.The District Officer ~~m~~ local office.
- 4.The Headmaster GHS.Ramora.
- 5.The accused concerned.


EXECUTIVE DISTT:OFFICER
(E&SE)DISTRICT DIR LOWER

C.T.C




Note—The entries in this page should be renewed or re-tested at least every five years and the Signatory to lines 9 and 10 should be dated.

1. Name *M3, KHAN BAHADAR*

(Signature)
(Signature)
(11)

2. Race *AFGHAN*

3. Residence *village Ramora Desu P.O. Chakakera Tehsil Adingzai Distt PIR*

4. Father's name and residence *MHABIB KHAN*

AS Above

5. Date of birth by Christian era as nearly as can be ascertained *13.10.1977*

(Thirteen, October N.H.S. Seventy Seven)

6. Exact height by measurement *5-5"*

Date

7. Personal marks for identification *Amputation wound Scar on left Fore Arm*

8. Left hand thumb and Finger impression of (non-gazette) officer

Identification mark
Mole on right side of the face

Little Finger

Ring Finger

Middle Finger

Fore Finger

Thumb. ✓

Head Master,
Govt High School
Ramora Distt: Dir.

9. Signature of Government servant

Rec'd

10. Signature and designation of the Head of the Office, or other Attesting Officer.

Head Master,
Govt High School
Ramora Distt: Dir.

C.T.C.
(Signature)

(Signature)

12

1	2	3	4	5	6	7	8	9	10
Name of Post	Whether substantive or officiating and whether permanent or temporary	If Officiating, state (i) Substantive appointment, or (ii) whether service counts for pension under Art. 371 C.S.R.	Pay in substantive Post.	Additional Pay for officiating	Other emolument falling under the term "Pay"	Date of Appointment	Signature of Government	Signature of Officer in charge of Post	Date of termination of appointment
N. Dasid. C.H.S. Ramora Dist # 0112	Temp	Rs	1245/pm			8/1998	Resid	Lead Master Govt: High School Ramora Dist: D.D.	
-do-	Temp	Rs	1245/pm			12/1998	Resid	HEAD MASTER GOVT. HIGH SCHOOL RAMORA DIST: D.D.	
-do-	-do-	Rs	1280/pm			12/1999	Resid	HEAD MASTER GOVT. HIGH SCHOOL RAMORA DIST: D.D.	
-do-	-do-	Rs	1315/pm			12/2000	Resid	HEAD MASTER GOVT. HIGH SCHOOL RAMORA DIST: D.D.	
do	do	Rs	1350/pm			12/2001	Resid	HEAD MASTER GOVT. HIGH SCHOOL RAMORA DIST: D.D.	
<p>Revised pay fixed in BPI-I (1870-55-3590) on-1-1-2001 vide Govt. Finance Dept. N.W.F.P. Peshawar No-FD-(P.R.)-1-2001 dated Peshawar, the October 27th 2001</p>									
do-	pay on-	Rs	1350/pm						
do-	Temp. pay on:	Rs	2035/pm						
do-	do @	Rs	2035/pm			12/2001	Resid	Lead Master Govt: High School Ramora Dist: D.D.	
do-	do @	Rs	2090/pm			12/2002	Resid	HEAD MASTER GOVT. HIGH SCHOOL RAMORA DIST: D.D.	

(20M)
Office of the Accountant General
N.W.F.P. Peshawar
Pay fixed in the present basic pay scale 2001
of Rs. 1870-55-3590 (B.C.I.)
in Rs. 2035 P.M. W.E.F. 1/1/2001
with effect from 1/1/2002
Account Officer
Pay Fixation Party N.W.F.P. Peshawar

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Handwritten signature.

Signature and name of the head of the office or other officer in charge of Nos 1 to 8	Date of termination of appointment	Reason of termination (such as promotion, transfer, dismissal, etc.)	Signature of the head of the office or other attesting Officer	Nature and duration of leave taken	Allocation of period of leave on average pay upto four months for which leave salary is payable to the Government	Signature of the head of the office or other attesting officer	Reference to a recorded punishment or censure, or praise of Government
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Signature of Government Servant

APPOINTMENT
D.S. H. Dir. Ramora
Dated 1-8-1998

Head Master,
Govt: High School,
Ramora Distt: Dir.
Service Verified w.e. from
to 30-11-1998 according
school record.

Head Master,
Govt: High School,
Ramora Distt: Dir.
30/11/95

HEAD MASTER,
GOVT: HIGH SCHOOL,
RAMORA DISTT: DIR.

13

HEAD MASTER,
GOVT: HIGH SCHOOL,
RAMORA DISTT: DIR.
30/11/96

HEAD MASTER,
GOVT: HIGH SCHOOL,
RAMORA DISTT: DIR.

HEAD MASTER,
GOVT: HIGH SCHOOL,
RAMORA DISTT: DIR.
Service Verified w.e. from
to 30-11-1999 according
school record.

HEAD MASTER,
GOVT: HIGH SCHOOL,
RAMORA DISTT: DIR.
30/11/2000

HEAD MASTER,
GOVT: HIGH SCHOOL,
RAMORA DISTT: DIR.

HEAD MASTER,
GOVT: HIGH SCHOOL,
RAMORA DISTT: DIR.

HEAD MASTER,
GOVT: HIGH SCHOOL,
RAMORA DISTT: DIR.
30/11/2001

HEAD MASTER,
GOVT: HIGH SCHOOL,
RAMORA DISTT: DIR.

Service Verified w.e. from
to 30-11-2001 according
school record.

HEAD MASTER,
GOVT: HIGH SCHOOL,
RAMORA DISTT: DIR.
pay Revised
1-12-2001

HEAD MASTER,
GOVT: HIGH SCHOOL,
RAMORA DISTT: DIR.

520)
Peshawar
October 27,
2001

option
The National Pay Scale 2001
introduced by the Govt. of N.W.F.P Peshawar
wide; notified on 10.11.2001
Pay Rev 2001-02/1804 dated Peshawar
He is September 2001 - fully understood
that the option once exercised is final;

Head Master,
Govt: High School,
Ramora Distt: Dir.
30/11/2002 (A)
Inc: 55%

HEAD MASTER,
GOVT: HIGH SCHOOL,
RAMORA DISTT: DIR.

Service Verified w.e. from
to 30-11-2002 according
school record.

HEAD MASTER,
GOVT: HIGH SCHOOL,
RAMORA DISTT: DIR.
30/11/2003 (A)
Inc: 55%

HEAD MASTER,
GOVT: HIGH SCHOOL,
RAMORA DISTT: DIR.

Service Verified w.e. from
to 30-11-2003 according
school record.

Handwritten notes and signatures in the left margin.

Handwritten signature at the bottom right.

1	2	3	4	5	6	7	8	9	10
Name of Post	Whether substantive or officiating and whether permanent or temporary	If Officiating, state (i) Substantive appointment, or (ii) whether service counts for pension under Art. 371	Pay in substantive Post	Additional Pay for officiating	Other emolument falling under the term "Pay"	Date of Appointment	Signature of officer in charge of station of Government	Signature of officer in charge of station of Government	Date of termination of appointment
N. Based Revised pay fixed in BPS-I - 1870-55-3520									
G.H.S. Ramora Dist. Dir. R.	Temp.	Temp. @ Rs.	2145/pm			12/2003			Head Master Govt. High School Ramora Dist. Dir.
Do.	Temp.	Temp. @ Rs.	2200/pm			12/2004			Head Master Govt. High School Ramora Dist. Dir.
		Revised pay fixed in BPS-I - 2150-65-4100 on-1-7-2007							
do	Temp	Temp. @ Rs.	2540/pm			12/2005			Head Master Govt. High School Ramora Dist. Dir.
do	Temp.	Temp. @ Rs.	2605/pm			12/2005			Head Master Govt. High School Ramora Dist. Dir.
do	Temp.	Temp. @ Rs.	2670/pm			12/06			Head Master Govt. High School Ramora Dist. Dir.
		<p>2540/11</p> <p>2005</p> <p>OFFICE OF THE ACCOUNTANT GENERAL, MUMBAI PESHAWAR</p> <p>PAY FIXED IN THE REVISED BASIC PAY SCALES OF</p> <p>OF RS. 2150 - 65 - 4100</p> <p>AT RS. 2540/-</p> <p>with Next Increment on</p> <p>M. [Signature]</p> <p>Accounts Officer</p> <p>Pay Fixation Party N.W.F.P. Peshawar</p>							

C. [Signature]

[Signature]

Name of the head or other Officer in charge of the school	Date of termination of appointment	Reason of (such as promotion, transfer, dismissal, etc.)	Signature of the head of the office or other attesting Officer	Nature and duration of leave taken	Allocation of period of leave on average pay upto four months for which leave salary is debit to another Government		Signature of the head of the office or other attesting officer	Reference to be recorded punishment or censure, or praise of the Government Service
					Period	Government to which debit to		
Head Master Govt. High School Ramora Distt: Dir		(K) 9m @ 55/100	Head Master Govt. High School Ramora Distt: Dir				Service Verified to 30-11-2003 according to the school record.	w.e. from 1-12-02 according to the school record.
Head Master Govt. High School Ramora Distt: Dir		Revised pay 105	Head Master Govt. High School Ramora Distt: Dir				Service Verified to 30-11-2004 according to the school record.	w.e. from 1-12-03 according to the school record.
Head Master Govt. High School Ramora Distt: Dir		30-11-05	Head Master Govt. High School Ramora Distt: Dir				Service Verified to 30-11-2005 according to the school record.	w.e. from 1-12-04 according to the school record.
Head Master Govt. High School Ramora Distt: Dir		30-11-05 (K) 9m. Rs 65/-	Head Master Govt. High School Ramora Distt: Dir				Service Verified to 30-11-2005 according to the school record.	w.e. from 1-12-05 according to the school record.
Head Master Govt. High School Ramora Distt: Dir		30-11-06 (K) 9m. Rs 65	Head Master Govt. High School Ramora Distt: Dir				Service Verified to 30-11-2006 according to the school record.	w.e. from 1-12-05 according to the school record.

[Handwritten signature]

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Suspended order of Mr. Khan Bahadur (N. Qasid) G.H.S. Ramora from service due to his absence w.e. from 29-8-2006. duty and in judicial look up till further order vide the Executive Distt Officer (S.S.) Dir at Jigara order, Sandoht No 14612-14 Dated Timergad the 20-12-06

[Handwritten signature]
 HEAD MASTER
 G.H.S. RAMORA
 DISTT: DIR

[Handwritten signature]

[Handwritten signature]

مستند - 1000 (مقامی سرکاری)

B

16

الفرسٹ کلاس Adjust کر کے جانے لگتے
سے جو مقدار کا کام ہو رہا ہے اس کا
لاہور کے ایجنٹ کے پاس جانے لگتا ہے

دیکھو کہ اس کے ذریعے کیا

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BEFORE THE PESHAWAR HIGH COURT MINGORA BENCH /
DARULQAZA SWAT

W.P. 383 -M/2015

Khan Bahadar Son of Haibb Khan Resident of Ramora Tehsil Adin
Zai District Dir Lower Petitioner

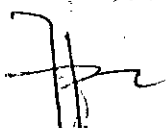
VERSUS

- 
1. District Education Officer (Male) Dir Lower at Timergara.
 2. Director Elementary and Secondary Education Khyber Pakhtoonkhwa at Peshawar.
 3. Secretary Elementary and Secondary Education Khyber Pakhtoonkhwa at Peshawar..... Respondents

WRIT PETITIONER UNDER ARTICLE 199 OF THE
CONSTITUTION OF ISLAMIC REPUBLIC OF PAKISTAN 1973

Respectfully Sheweth;

The facts of the instant are as under.

1. That the petitioner was working on the post of Peon in Government Primary School Ramora since 1.08.1998.
 2. That the petitioner was charged for the murder of his wife vide F.I.R No 1240 dated 22.8.2006 Police station Oach Under Section 302 PPC.
- ✓ 

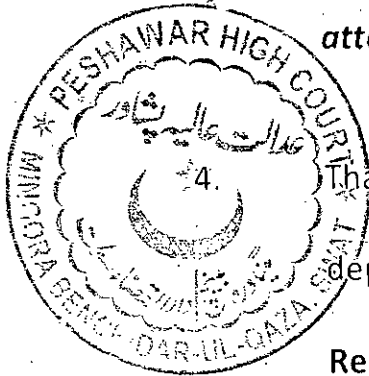
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3. That the petitioner was convicted and sentenced by the trail Court Additional Sessions Judge Timergara, under section (B) PPC and the petitioner filed an appeal before Peshawar High Court Peshawar where his appeal was partially allowed vide judgment dated 28.4.2009. *(Copy of order/ Judgment is*

attached as annexure-A)



That the petitioner was removed from service by the concerned department vide removal order dated 15.3.2010. *(Copy of all*

Relevant is attached as annexure-B)

ATTESTED

5
Examiner

Peshawar High Court Bench
Dar-ul-Qaza, Swat.

That after release the petitioner approached to the concerned department for his adjustment/reinstatement but the department on one pretext or the other cannot respond positively.

6. That the petitioner have long service record and was involved in above alleged case so the petitioner after refusal of the concerned department have no other adequate remedy except to file the instant write petition on the following grounds.

✓

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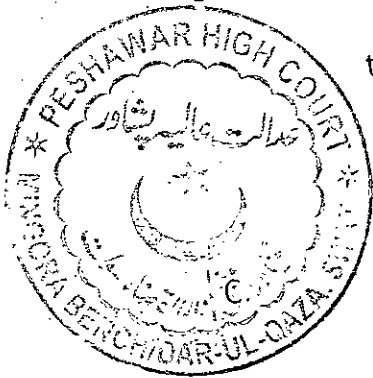
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GROUND'S

A. That the act of respondent in shape of refusal regarding adjusting of petitioner in his own post is illegal, unlawful, void ab-initio liable to be set aside.

B. That the petitioner having unblemished and clean service track record throughout, therefore, the petitioner is entitled to be adjusted/reinstated on his own post.



ATTESTED

Examined by
Peshawar Bench
Mingora/Dar-ul-Adza, Swat.

That the respondent without any reasonable and justifiable causes is not willing to adjust the petitioner so this act of respondent is highly discriminatory, against the natural justice, hence liable to be set at naught.

D. That the matter narrated in the instant petition out of the ambit of terms and conditions so this honourable Court having vested power to entertain the matter under constitutional jurisdiction.

E. That the petitioner repeatedly visited the concerned office for his redressal of their grievances but the concerned department categorically stated that there is no vacant post exist so the act of respondent is based on mala-fidely, ultra vires and not supported by the constitution.

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F. That further ground with leave of this honourable Court may be raise at the time of arguments with the permission of this Hounorable Court.

PRAYER



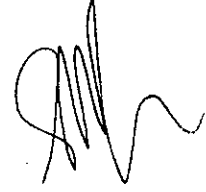
It is, therefore, humbly prayed that on acceptance of this writ petition this honourable Court may issue an appropriate writ to respondents to appoint/adjust/reinstate the petitioner on his respective post.

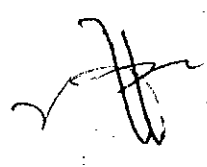
Any other relief which this honorable Court deem fit and proper in the circumstances may also be very kindly granted.

ATTESTED

Examiner
Peshawar High Court Bench
Mingora/Dar-ul-Qaza, Swat.

Petitioner
Through
Counsels


**Syed Abdul Haq and
Muhammad Nabi
Advocates High Court**



Wp No.383-M/2015

Khan Bahadar S/O Habib Khan Resident Of Ramora Tehsil Aden Zai District Dir Lower. (Petitioner)

Versus

1. District Education Officer Dir Lower At Timergara.
2. Director Elementary and Secondary Education Khyber Pakhtoonkhwa at Peshawar.
3. Secretary Elementary and Secondary Education Khyber Pakhtoonkhwa at Peshawar. (Respondents)

PARA WISE COMMENTS/REPLIES

Preliminary Objections:

1. The petitioner has got no cause of action to file the instant petition.
2. The instant writ petition suffers from laches.
3. The petitioner has concealed material facts from the honorable court.
4. The petitioner is estopped due to his own conduct to file the present petition.
5. The petitioner has got no locus standi to file the petition.
6. The petition is not maintainable in the present form.
7. The petition is badly time barred.

On facts

1. Correct.
2. This para relates to the petitioner, hence needs no comments.
3. In addition to para 2 above, the petitioner had been remained absent w.e.f 22.8.2006 till the date of his removal.
4. Correct. He was removed from service after observing all the codel formalities.
5. Incorrect. He failed to approach the department for any relief in due course of time.
6. Incorrect. He only served in the department for 08 years and the remained absent.

Grounds.

- a. Incorrect: he was removed from services after observing all the formalities, hence denied.
- b. Incorrect. After his removal, he remained no Govt servant and has no right to be adjusted.
- c. Para "b" above may be considered as reply to this Para.
- d. Needs no comments.
- e. As stated above in Para "b" he is not a civil servant, hence has no right to be adjusted.
- f. The respondents will argue further at the time of hearing, with the leave of this honorable court.

In the light of the above facts the petition in hand may very graciously be dismissed with cost.

09 DEC 2015

District Education Officer (E&SE)
Dir (L) at Timergara.
Respondent No.1

1

PESHAWAR HIGH COURT, MINGORA BENCH
(DAR-UL-QAZA), SWAT

FORM OF ORDER SHEET

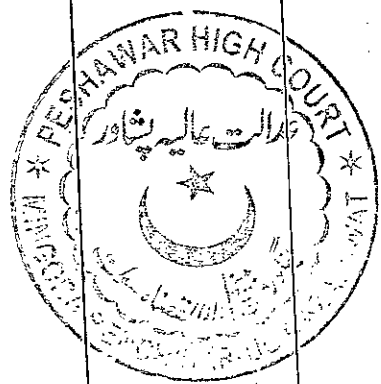
Court of

Case No..... of.....

22

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Serial No. of order or proceeding	Date of Order or Proceedings	Order or other Proceedings with Signature of Judge or Magistrate and that of parties or counsel where necessary.
	25-10-2016	<p style="text-align: center;"><u>WP 383-M/2015</u></p> <p>Present: Syed Abdul Haq Advocate for the petitioner.</p> <p style="text-align: center;">***</p> <p><u>LAL JAN KHATTAK, J.-</u> This writ petition under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973, is directed against the order dated 15-03-2010 passed by the Executive District Officer (E&SE) Dir Lower whereby the petitioner has been removed from his service.</p> <p>2. Facts of the case need no reiteration as after arguing the petition at some length, learned counsel for the petitioner submitted at the bar that he wouldn't press this petition any further, if the petitioner is allowed to file representation/appeal before the proper forum for redressal of his grievance.</p>



ATTESTED
Examiner
Peshawar High Court Bench
Mingora/Dar-ul-Qaza, Swat.

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3. In view of the above, this petition stands dismissed, however petitioner would be at liberty to seek his remedy from the proper forum but in accordance with law.

Sd: Lal Jan Khattak-J

Sd. Muhammad Younis ^{Maheem}
JUDGE

5361
Name of Applicant: *[Signature]*
Date of Presentation of Petition: 31-10-16
Date of Receipt of Petition: 09-11-16
No. of Pages: 13.P
Urgency: *[Signature]*
Fees Paid: 26/-
Date of Delivery of Copies: 09-11-16

JUDGE

Certified to be true copy

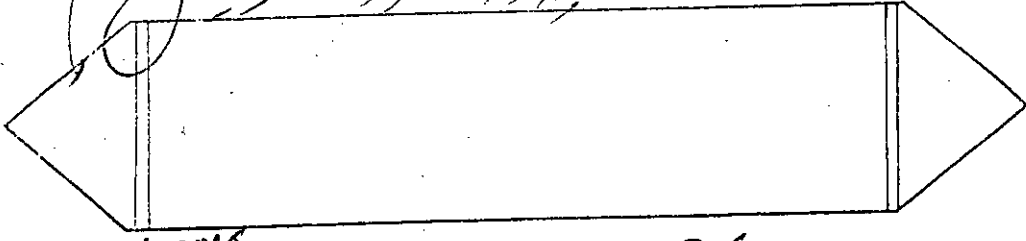
[Signature]

IN WITNESS WHEREOF
I have hereunto set my hand and seal at the
Lawyer's Office, National Law College, Sindh
on this 09th day of November 2016.

09-11-16

07/10 26/10

بعدالت فدا - شہر سمن، راولپنڈی



موزعہ 2016ء منجانب
مقدمہ 2016ء
دعویٰ
جرم

باعث تحریراً نکتہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی و کل کارروائی متعلقہ
آن مقام کیلئے ~~سید محمد الحق~~ کیلئے ~~سید محمد الحق~~ کیلئے
مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا۔ نیز
وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث ہ فیصلہ برحلف دیئے جواب دہی اور اقبال دعویٰ اور
بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق
زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی
نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور
کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار
ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ با اختیارات حاصل ہوں گے اور اس کا ساتھ
پرداختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جانباً اتوائے مقدمہ کے سبب سے ہوگا۔
کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی
مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سند ہے۔

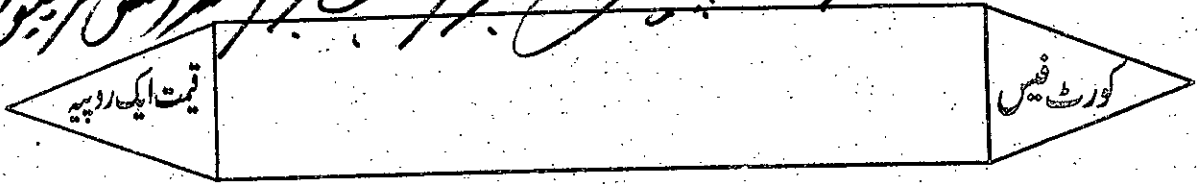
المرقوم 2016ء ماہ دسمبر 2016ء

کے لئے منظور ہے۔
Acting
Sd/-

بمقام

بعدالت

صاحب مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کارروائی



مورخہ 18-2-2-18ء منجانب ریفرنڈ

مقدمہ خان بھار بنام ملکہ سلیمہ ۵۵۵ و امریکہ دعویٰ

باعث تحریر آنکہ

جزم

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کارروائی متعلقہ آن مقام ملکہ سلیمہ علی خان امریکہ مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا۔ نیز وکیل صاحب کو راضی نامہ و تقرر ثالث و فیصلہ پر حلف دینے جواب دی اور اقبال دعویٰ اور درخواست ہر قسم کی تصدیق زرا اور اس پر دستخط کرنے کا اختیار ہوگا۔ نیز بصورت عدم پیروی یا ڈگری ایک طرف یا اپیل کی برآمد ہوگی اور منسوخ مذکور کے نسل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنی ہمراہ یا اپنی بجائے تقرر کا اختیار ہوگا۔ اور صاحب مقررہ شدہ کو بھی جملہ مذکورہ بالا اختیارات حاصل ہونگے اور اس کا ساختہ برواختہ منظور و قبول ہوگا۔ اور دوران مقدمہ میں جو خرچہ و ہرجانہ التوا ایسے مقدمہ کے سبب سے ہوگا اسکے مستحق وکیل صاحب ہونگے۔ نیز بقایا و خرچہ کی وصولی کر پتے وقت کا بھی اختیار ہوگا اگر کوئی تاریخ پیشی مقام دورہ ہر ہو یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہونگے کی پیروی مقدمہ مذکور لہذا وکالت نامہ لکھ دیا کہ سند ہے

المرقوم ۲ ماہ فروری ۱۸۸۰ء

العبد گواہ شدہ العبد

بمقام

ملکہ سلیمہ

خاندان بھار

ملکہ سلیمہ کی طرف سے
 ملکہ سلیمہ کی طرف سے
 ملکہ سلیمہ کی طرف سے
 ملکہ سلیمہ کی طرف سے

SERVICE APPEAL NO. 1257/2016.

Khan Bahadar S/O Habib Khan, R/O Ramora, Tehsil Adenzai, District Dir
lower.....(Appellant).

VERSUS

The Secretary Elementary & Secondary Education Department Khyber
Pakhtunkhwa, Peshawar & OthersRespondents

PARA WISE COMMENTS / REPLY FOR AND ON BEHALF OF THE RESPONDENTS No:
1,2 &3.

Respectfully Sheweth:-

Preliminary objections

1. The appellant has no cause of action/locus standi.
2. The instant appeal is badly time barred.
3. The appellant has concealed the material fact from this Honourable Tribunal hence liable to be dismissed.
4. The appellant has not come to Honourable Tribunal with clean hands.
5. The present appeal is liable to be dismissed for mis-joinder/non-joinder of necessary parties.
6. The appellant has filed the instant appeal on malafide motives.
7. The instant appeal is against the prevailing laws & rules.
8. The appellant is estopped by his own conduct to file the present appeal.
9. The instant appeal is not maintainable in the present form & also in the present circumstances of the issue.

ON FACTS

1. Pertain to record therefore need no comments.
2. This para relates to the appellant, hence need no comments.
3. In addition to para 2 above, the appellant had been remained absent w.e.f 22/08/2006 till the date of his removal.

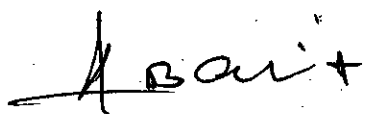
4. After observing all the codel formalities, the appellant was removed from service, due to long absentees, without any application/intimation. (copies of relevant record is attached as Annexure A).
5. Incorrect. The appellant failed to approach the department for any relief in due course of time.
6. Correct.
7. Correct.
8. Correct.
9. That, the appellant has got no cause of action.


ON GROUNDS.

- A. Incorrect. The order of respondents NO: 1 & 2 are correct, legal and according to law.
- B. Incorrect, according to law all the codel formalities were fulfilled, by the department/respondents. And the order is lawful.
- C. Incorrect, the respondents issue show cause notice upon the appellant and hold inquiry.
- D. Incorrect, the penalty of dismissal from service imposed upon appellant for absence from service is legal and just.
- E. Incorrect, the respondents never treated his absence as leave without pay. The appellant was absent for long time and the department treated him according to law.
- F. Incorrect, the appellant was treated according to law. And the order of respondents is also according to law.
- G. Incorrect, the order passed by the respondents No:1 and 2 are lawful and sustainable.
- H. The respondents would like to offer some other grounds during the course of arguments.

It is therefore, most humbly prayed that the appeal of appellant may be set aside with cost.


Director E&SE
kpk, Peshawar


Secretary E&SE Education
kpk, Peshawar


District Education Officer Male
E & SE District Dir (Lower)

(4)

OFFICE OF THE EXECUTIVE DISTRICT OFFICER ELEMENTARY & SECY: EDU: DIR(I)

No. 8187 / Dated Timergara the 18 / 11 / 2009

To,

Mr. Khan Bahdar ~~Kx~~ (Naib Qasid)
GHS Ramora S/O Habib Khan Village
Ramora Dehri Tehsil Adenzai Dir(L).

Subject; - ABSENCE REPORT IN RESPECT OF MR. KHAN BAH DAR N. QASID.

Memo; -

As reported by the Headmaster Govt; High School Ramora Dir lower vide letter No. 1746 dated 19/10/2009, about your wilful absence from the duty w.e.f 22/8/2006, without any Application/Int. to the competent authority, and thus remained absent.

In this regard you are directed to explain your position about wilful absence from duty, as to why a disciplinary action should not be taken against you under the NWFP Removal from Service (Special Powers) Ordinance 2000-1.

Your explanation should reach to this office within a week period positively. Other-wise ex-parte decision will be taken against you.

EXECUTIVE DISTRICT OFFICER
ELEMENTARY & SECY: EDU: D

Encl: No. 8188 /

Copy of the above is forwarded to; -

1. The Headmaster GHS Ramora for information.

EXECUTIVE DISTRICT OFFICER
ELEMENTARY & SECY: EDU: D

(5)

unt: No. 1746 /GHS, Ramora Distt; Dir Dated, 19.10.2009

11
نوتیس
Notice may be
to the Cme
Joining

From:-

DY No 622
28/10/09

The Head Master,
GHS, Ramora Distt:Dir (L)

To,

The Executive Distt; Officer,
(E & Se)Distt:Dir (Lower)

Subject;- ABSENTEE REPORT IN RESPECT OF KHAN BAHADAR NAIB QASID

Memo:-

Mr. Khan Bahadar S/O Habib Khan (Naib Qasid)of this School has been remained absentee from school w.e.f.22.08.2006.

He has also informed previously by letter NO 1294 Dated,28.08.2006.

M. Nowshad

M. Nowshad

Head Master,
Govt High School,
Ramora Distt Dir

Head Master,
Govt High School,
Ramora Distt:Dir (L)

From:

(6) Head Master
GHS Chakdara
as an Inquiry Officer.

(6)

(4)

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To,

The Executive Distt:Officer (S&L)
District Dir Lower at Timengara.

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Subject:

INQUIRY.

Memo:

Reference your No. 7630-31 Dated 14.10.2006
regarding to the subject cited above the complete inquiry
report is submitted for further necessary action Please.

NO 1685 *Patwari* 18/10/2006.

Head Master
GHS Chakdara
Distt:Dir

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OFFICE OF THE
EXECUTIVE DISTT:OFFICER
SCHOOLS & LIT:DIR LOWER
No. 11786 / Dated 21/11

To,
Mr. Mohammad Naeem,
Headmaster GHS Chakdara.

Subject:- INQUIRY.

Memo:-
Inquiry report, received under your memo; No, 1685
dated 18/10/2006, conducted against Mr, Khan Bahadar N. Qasid
Ranera Distt; Dir Lower.

In this connection you are directed to discuss
the inquiry report with the undersigned in person on any
working day, to proceed further in to the matter.


EXECUTIVE DISTT:OFFICER
SCHOOLS & LIT:DIR LOWER

(8)

2

OFFICE OF THE
EXECUTIVE DISTT:OFFICER
SCHOOLS & LIT:DIR LOWER
No. 76303 Dated 14/10/11

To,

1. Mr. Muhammad Naem, (Chairman)
Headmaster GHS Chakdara.
2. Mr. Fazal Mabeed SET GHS Chakdara (Member).

Subject; - COMPLAINT/INQUIRY.

Memo; -

Enclosed, find herewith original complaint from t
Headmaster GHS Ramora against Khan Bahdar N. Qasid of the
school for inquiry and report within a week period to prec
further in to the matter.

EXECUTIVE DISTT:OFFICER
SCHOOLS & LIT:DIR LOWER

Mr. Fazal Mabeed

*note and sign for
Complaince pl.*

*Noted Sir
17/10/2006*

17/10/06

(9)

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1

No. 1294

GHS, Ramora Distt; Dir (L) Dated, 28/8/2006.

From:-

The Head Master,
GHS, Ramora Distt; Dir (L)

immediate
pd

To,

The Executive Distt:Officer .
(S&L) Dir at Timergara .

Mil

Subject:- ABSENTEE REPORT IN RESPECT OF KHAN BAHADAR NAIB QASID .

6/10/06

Memo:-

Mr. Khan Bahadar S/O Habib Khan (Naib Qasid) of this school has been remained absent from school w.e.f. 22.08.2006.

There fore the information report for about his absentee is hereby submitted in your honour for further n/a please.

Shiraz
HEAD MASTER
G.H.S. Ramora
Distt: Dir (L)
Head Master,
GHS, Ramora Distt;

[Signature]

[Initials]

26/2/07
Access
2/8/06
6/10