

4. 17.2.2015 Counsel for the appellant present.

Learned counsel for the appellant, during the course of preliminary hearing, requested for withdrawal of the present appeal as he intends to avail further remedy available under the law.

The instant appeal is, therefore, dismissed as withdrawn. File be consigned to the record.

ANNOUNCED

17.2.2015





CHAIRMAN
Camp Court A/Abad

17.02.15

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 1413/2014

| S.No. | Date of order Proceedings | Order or other proceedings with signature of judge or Magistrate |
|-------|---------------------------|---|
| 1 | 2 | 3 |
| 1 | 18/12/2014 | <p>The appeal of Mr. Muhammad Fahad Saeed presented today by Mr. Hamayum Khan Advocate may be entered in the Institution register and put up to the Worthy Chairman, for preliminary hearing.</p> <p style="text-align: right;"> REGISTRAR</p> |
| 2 | 16-1-15 | <p>This case is entrusted to Touring Bench A.Abad for preliminary hearing to be put up there on <u>22-1-2015</u></p> <p style="text-align: right;"> CHAIRMAN</p> |
| 3. | 22.01.2015 | <p>None present. Notice to appellant and his counsel be issued for preliminary hearing for 17.2.2015 at camp court A/Abad.</p> <p style="text-align: right;"> Chairman Camp Court A/Abad</p> |

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

Service Appeal No. 1413 /2014

Muhammad Fahad Saeed (Ex. Elementary Teacher BPS-14) son of Malik Saeed Akhtar, Link Road, Aram Bagh, House No. KL-452, Abbottabad.

...APPELLANT

VERSUS

Secretary Workers Welfares Board, Khyber Pakhtunkhwa, Peshawar & others.

...RESPONDENTS

SERVICE APPEAL

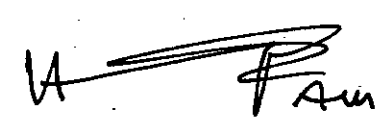
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| 9. | Wakalatnama | | |


...APPELLANT

Dated: 17/12 /2014

Through


(HAMAYUN KHAN)
Advocate High Court, Abbottabad

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

Service Appeal No. 1413 /2014

1449
18-12-2014

Muhammad Fahad Saeed (Ex. Elementary Teacher BPS-14) son of Malik Saeed Akhtar, Link Road, Aram Bagh, House No. KL-452, Abbottabad.

...APPELLANT

VERSUS

1. Secretary Workers Welfares Board, Khyber Pakhtunkhwa, Peshawar.
2. Director Education Khyber Pakhtunkhwa Works Welfare Board, Peshawar.
3. Principal Working Folks Grammar School-I (Male), Haripur.

...RESPONDENTS

APPEAL UNDER SECTION 4 OF THE KPK SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED NOTIFICATION NO. WWB/CDE/G-21/PK/15 DATED 03/01/2014 THROUGH WHICH RESPONDENT NO.1 WITHDRAWN /CANCELLED APPOINTMENT ORDER OF APPELLANT WHICH IS ILLEGAL, AGAINST THE LAW, FACTS, AB-INITIO VOID, AGAINST THE PRINCIPLE OF NATURAL JUSTICE, UNLAWFUL AND LIABLE TO BE SET-ASIDE.

1449
18/12/14

PRAYER:- ON ACCEPTANCE OF INSTANT APPEAL, NOTIFICATION DATED 03/01/2014 BE DECLARED SET-ASIDE AND APPELLANT BE RE-INSTATED ALOGNWITH ALL BACK BENEFITS.

=====

Respectfully Sheweth:-

1. That appellant was appointed on 01/10/2012 as Elementary Teacher (BPS-14) in working Folks Grammar School (Male -I) Haripur. (Copy of appointment order is annexed as Annexure "A").
2. That the petitioner submitted medical and arrival report in the office of respondent No.3 and took the charge of above mentioned post.
3. That from 01/10/2012 appellant continuously performed his duties with full devotion and liabilities and there had no complaint against the appellant in respect of performance.
4. That after more than two years on 03/01/2014 respondent No.1 vide Notification No. WWB/CDE/G-21/PF/15 withdrew the appointment order without

lawful act. (Copy of withdrawal order/ notification is annexed as Annexure "B").

5. That respondent No.1 issued the impugned Notification but respondent No. 3 did not delivered the said impugned notification within time and took services from the appellant for more than 02 months after the issuance of notification.
6. That respondent No.3 delivered the copy of said impugned notification after 02 months.
7. That appellant preferred departmental appeal against the impugned order/ notification before respondent No.1. (Copy of appeal is annexed as Annexure "C").
8. That appellant also filed another appeal before the Chief Secretary Khyber Pakhtunkhwa Peshawar. (Copy of appeal is annexed as Annexure "D").
9. That during last six months appellant became seriously ill and suffered from Hepatitis "B" & "C" and till date health of appellant not recovered and also under treatment. Copy of prescription is annexed as Annexure "E".

10. That till date respondent No.1 and Chief Secretary Khyber Pakhtunkhwa not passed any order/ judgment upon the departmental appeal of appellant and did not gave any response hence, the present appeal.

GROUND S; -

- a. That order dated 03/01/2014 is illegal, unlawful, against any lawful authority, hence, liable to be set-aside.
- b. That often appointment order and joining duty legal right of the appellant accrued and the service of a appellant also protected principle of locus potentia.
- c. That respondent passed order without touching merits of case hence, liable to be set-aside.
- d. That respondent passed order/ notification without fulfilling legal formalities of show cause notice, inquiry etc. mentioned in efficiency and Disciplinary Rules 2011.
- e. That respondent dismissed /cancelled service of appellant without inquiry and other legal requirement required as per principles of natural justice.

- f. That respondent No.1 issued impugned notification without any solid/ legal reason. Hence, liable to be set-aside.
- g. That respondent No.1 did not provided any opportunity to the appellant in respect of impugned notification and ⁱⁿ the absence of appellant passed impugned Notification.
- h. That the other points would be ⁴ argued with the kind permission of this Honourable Tribunal.

It is therefore, humbly prayed on acceptance of instant appeal, Notification dated 03/01/2014 be declared set-aside and appellant be re-instated along with all back benefits.



...APPELLANT

Dated: _____/2014

Through



(HAMAYUN KHAN)

Advocate High Court, Abbottabad

VERIFICATION: -

Verified on oath that the contents of forgoing service appeal are true and correct to the best of my knowledge and belief and nothing has been concealed therein from this Honourable Court



APPELLANT

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

Service Appeal No. _____/2014

Muhammad Fahad Saeed (Ex. Elementary Teacher BPS-14) son of Malik Saeed Akhtar, Link Road, Aram Bagh, House No. KL-452, Abbottabad.

...APPELLANT

VERSUS

Secretary Workers Welfares Board, Khyber Pakhtunkhwa, Peshawar & others.

...RESPONDENTS

SERVICE APPEAL

Respectfully Sheweth;-

Addresses of the parties is as under;-

Muhammad Fahad Saeed (Ex. Elementary Teacher BPS-14) son of Malik Saeed Akhtar, Link Road, Aram Bagh, House No. KL-452, Abbottabad.

...APPELLANT

VERSUS

1. Secretary Workers Welfares Board, Khyber Pakhtunkhwa, Peshawar.
2. Director Education Khyber Pakhtunkhwa Works Welfare Board, Peshawar.
3. Principal Working Folks Grammar School-I (Male), Haripur.

...RESPONDENTS



...APPELLANT

Dated: 17/12 /2014

Through


(HAMAYUN KHAN)

Advocate High Court, Abbottabad

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

Service Appeal No. _____/2014

Muhammad Fahad Saeed (Ex. Elementary Teacher BPS-14) son of Malik Saeed Akhtar, Link Road, Aram Bagh, House No. KL-452, Abbottabad.

...APPELLANT

VERSUS

Secretary Workers Welfares Board, Khyber Pakhtunkhwa, Peshawar & others.

...RESPONDENTS

SERVICE APPEAL

**APPLICATION UNDER SECTION 5 OF LIMITATION ACT 1908
FOR CONDONATION OF DELAY IF ANY**

Respectfully Sheweth; -

1. That application may be treated as integral part of instant appeal.
2. That appellant was seriously ill due to suffering from Hepatitis and Malaria.

3. That due to illness, appellant did not perused his departmental appeal as well as not filed instant appeal before this tribunal.

4. That valuable rights of appellant are involved.

It is therefore, humbly prayed that on acceptance of instant application delay if any may kindly be condoned.



...APPELLANT

Dated: 17/12/2014

Through

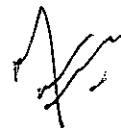


(HAMAYUN KHAN)

Advocate High Court, Abbottabad

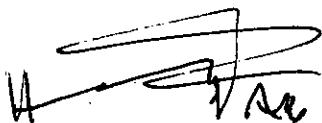
AFFIDAVIT;

I, Muhammad Fahad Saeed (Ex. Elementary Teacher BPS-14) son of Malik Saeed Akhtar, Link Road, Aram Bagh, House No. KL-452, Abbottabad, do hereby solemnly affirm and declare that the contents of forgoing service application are true and correct to the best of my knowledge and belief and nothing has been concealed therein from this Honourable Court.



DEPONENT

Identified By:-



(HAMAYUN KHAN)
Advocate High Court, Abbottabad

ATTESTED



Mr. Muhammad Fahad Saeed

S/o Malik Saeed Akhtar

Ref : WWB/DE/9-2/PF/924

Dated: 01-10-2012

Subject:- Appointment

Annexure "A" 10

On the recommendations of the Selection Committee of Khyber Pakhtunkhwa Workers Welfare Board, the undersigned is pleased to appoint you on the post of Teacher for Working Folks Grammar School Haripur-I, functioning under the Directorate of Education, Khyber Pakhtunkhwa Workers Welfare Board. The terms and conditions of the appointment will be as under:-

1. Nature of appointment: -

Contract basis for a period of 03 years extendable on performance & mutual consent.

Probation period will be for a period of one Year.

2. Pay & Allowance: -

- Grade & Pay Scale
- House Rent Allowance
- Other Allowances
- Medical Facilities
- For self and family
- Gratuity
- C.P.Fund

(BPS-14) Rs.8000-610-26300

As admissible

As admissible

Cash allowance @ 30% of the basic pay. Full medical reimbursement will be allowed for medical treatment in the Government Hospital.

Gratuity will be admissible as per rules.

C.P.Fund will be deducted as per rules.

3. Place of duty:

You will be employed for Working Folks Grammar School Haripur-I, and you will not have any claim to employment in any other institution/office of the Board.

4. Notice of termination of appointment:

During the probation period your services can be terminated without any notice or assigning any reason. After successful completion of the probationary period your services can be terminated on one month notice or pay in lieu thereof on either side, provided that such termination is not due to misconduct for which you will be terminated without any notice.

5. Nature of Duties.

You may be required to stay back in the institution after the routine working hours for duties, whenever asked by the Principal/Vice Principal. You will attend the school/Institution during summer and other vacations/holidays for necessary academic / administrative duties if asked by the school authorities.

6. Medical fitness:

You shall have to produce a medical fitness certificates from the Board's Medical Officer or Medical Superintendent of district hospital concerned within one month of joining of service.

7. Offer open upto:

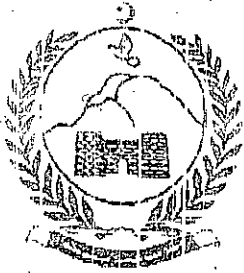
If the above terms and conditions are acceptable to you, then you are requested to sign the duplicate copy of this letter as a token of your acceptance within 10 days positively.

Handwritten signature

Handwritten signature

Director Education
Khyber Pakhtunkhwa Workers Welfare Board,
Peshawar.

Annexure "B"



No. WWB/DE/9-2/PF/15

GOVERNMENT OF KHYBER PAKHTUNKHWA
WORKERS WELFARE BOARD, PESHAWAR

Dated Peshawar the 3 - 1 - 2014

NOTIFICATION

All appointment-orders signed by anyone other than Director Education/Secretary, Khyber Pakhtunkhwa, Workers Welfare Board w.e.f. 01-01-2011 till date, are hereby cancelled/withdrawn with immediate effect, as they were not authorized for the same under the rules.

All institutions are directed to provide such detail to the office of Deputy Director Education, Khyber Pakhtunkhwa, Workers Welfare Board on immediate basis.

SECRETARY
Khyber Pakhtunkhwa
Workers Welfare Board, Peshawar

cc:

1. PS to Chairman, Khyber Pakhtunkhwa, Workers Welfare Board.
2. Director Finance, Khyber Pakhtunkhwa, Workers Welfare Board.
3. Deputy Director (Education), Khyber Pakhtunkhwa, Workers Welfare Board.
4. Deputy Director (F&A (Edu)), Khyber Pakhtunkhwa, Workers Welfare Board.
5. All Institutions (Schools, Vocational Institutes, Polytechnic/Mono-tech Institutes)
6. Project Officer concerned.

SECRETARY
Khyber Pakhtunkhwa
Workers Welfare Board, Peshawar

Attested

Annexure 'D'

13

To.

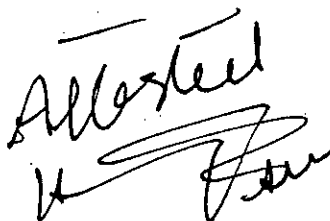
The Secretary Workers Welfare Board,
Khyber Pakhtunkhwa,
Peshawar.

Subject: - DEPARTMENTAL APPEAL/ REPRESENTATION/ GRIEVANCE PETITION

I have the honour to refer notification No.DE/9-21PF/15 dated 03.01.2014 (copy attached for ready reference) and submit the following for your kind consideration.

1. That the appellant got employment on 01.10.2012 as ET (Elementary teacher) in working folks, Grammar school, Haripur-I, run by the workers Welfare board, Khyber Pakhtunkhwa, Peshawar. Copy of the appointment order is attached.
2. That the then competent authority i.e. Director Education, appointed the appellant on the recommendation of Selection committee as per service law and procedure in vogue.
3. That the appellant completed his probation period and served in the school to the entire satisfaction of his superiors.
4. That the appellant has accrued the right of service/ service protection.
5. That the principal of the school verbally told the appellant that his services had been terminated in pursuance of impugned notification mentioned in Para-1 above
6. That the appellant was appointed according to the prescribed procedure, as such, the termination of services of the appellant is illegal, perverse, void on the rights of the appellant, discriminatory and liable to be set aside.
7. That as per law, the services of the appellant cannot be terminated unless proper opportunity of hearing is afforded to him,
8. Hence, the termination of services of the appellant is without lawful justification.

It is, therefore, prayed the impugned notification regarding termination of the services of the appellant may be set aside and salary of the appellant w.e.f December 2013 onward, may also be released.



APPELLANT

Muhammad Fahad Saeed
s/o Malik Saeed Akhtar
R/o Aram Bagh, Link Road,
Abbottabad

Anneaux C E 2

14

35

Book No

Value
Rs/5



64

OUT PATIENT DEPARTMENT

Issued by : Male/Female Filter Clinic

Yearly No 90800

Date 29-5-11

Name M. Fehel

Disease

Paracetamol

Amh 17c voh
7/11

Cap Primar 3

10 1 1

ALT 1.5x

CLD

Tes Ribazole

10 1 1



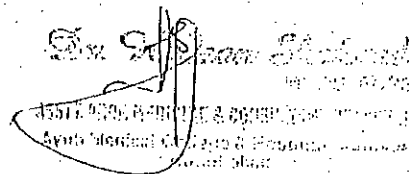
Tes Silver

10 1 1

Results
awaiting

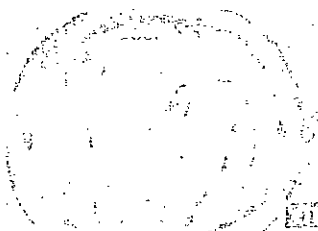
4-5 con 3
Ad Bed rest x 02. 3MIU
s/c. M. K. H. band

E



Attested
[Signature]

15



TEACHING HOSPITAL

Value
Rs. 5/-

Issued by: Male/Female Filter Clinic
 Yearly No. 172 Date 11/6/2014
 Name M. Fahd Saeed
 Disease _____

Tamboo

Apparenty Infr
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 1/1

eg 4-5gm
 Q-P

Ad. Bel usi x 91. Hade

Attested

Book No

16
36
AYUB TEACHING HOSPITAL

Value
45 Rs/5



OUTPATIENT DEPARTMENT

Issued by: Male/Female Filler Clinic

Yearly No 170100

Date 25-6-2014

Name _____

Disease _____

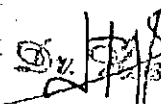
CLD
20
HCV

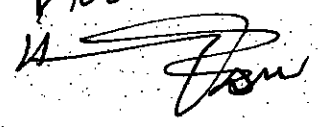
Inj Uniferm
w3 or 20 5/c

Cap Ribazole
w3 or 8-10

Inj Vit K
w3 - 1/m

At Bed rest x 2 2 Mth bed &


Dr. Saad Shafiq
MBBS, FCPS
ASST. PROF. MEDICINE & CONSULTANT PHYSICIAN
Ayub Medical College & Hospital Complex
Abbottabad.

Attested


Book No



Value Rs/5

82

OUTPATIENT DEPARTMENT
Issued by : Male/Female Filter Clinic

Yearly No 60305

Date 18-09-2014

Name _____

Disease _____

Fever
Rigors
H₂O₂
ALP = 2A



Inj Vit K
4000 - 1/2
Hepamuz Inj
4000 - 1/2
Tab Ciprox
400 - 1, 1

Tab Silver
400 - 1

Ad Betnovat x 03 months band
will renew

Dr. Irfan Shahid
MBBS, FCPS
ASST. PROFESSOR & CONSULTANT PHYSICIAN
Ayub Medical College & Hospital Complex
Abbottabad

Accepted
H. J. Khan

U



Value
Rs. 5/-

Issued by: Male Female Fitter Clinic
Yearly No. 6121 Date 3/10/2014
Name M. Fahd
Disease _____

CLD
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HCV
ALT
2m

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23 27
Inj. Vit K
" " "
Tas. Soliven
" " "
Tas. Riboflavin
" " "

Ad. Bed rest x 02 weeks

Signature

Attest
Signature



Value
Rs/6

ISSUED BY: MALE/FEMALE FILTER CLINIC

No 70 800

Date 27-10-16

Muhammad Fahid Saeed,

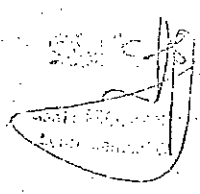
Cap 1 piece

Tes 1 piece

Tes 1 piece

inj Uniform 3

Ad Bed rest X 02 Manta bandage



Attested
[Signature]

Book No



Value
Rs/5

67

ISSUED BY: MALE/FEMALE FILLER CLINIC

Yearly No 33714

Date 21-10-2014

Name: [Signature]

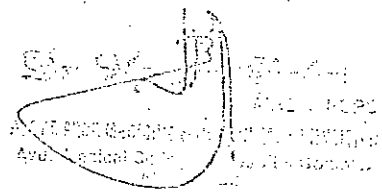
Disease: _____

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2° HCV virus
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1ny Unifera
223 v 2 1/2
Cap R bight
on

105 Silver
-10 - 1

At Bedrest x 02 weeks band 9



Accepted
[Signature]

ALJUB TEACHING HOSPITAL

FOR LABORATORY TESTS

Issued by: Male-Female Filter Clinic

Yearly No: 18,3572 Date: 21-11-14

Name: Fahd

Disease:

CLD
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 by symptoms
 spots

Les. R. eye
 Les. C. eye

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Signature

Accepted
 Signature

23



Value
Rs. 5

ISSUED BY: Males/Female Filter Clinic

Date: 28-11-14
Fahd

my Uniform 340

300 و 200 و 100

Cap 100

100 و 100

Syp 100
P.P

at x 22 marks hand R

Signature
ASST. DIR. GEN. HEALTH SERVICES

Attended
Signature

24

Book

Value
Rs. 5/-



AYUR TEACHING HOSPITAL

Issued by: Male/Female Filter Clinic

Serial No. 163520

Date: 15-12-2014

Name: _____

Disease: _____

LD
Kishor Hegde
LTA
Cap. Pimenta

Wt 100

Temp 100

Pulse 70

Tes Silver

Wt 100

Ad Bed out x 0 1 PM-2014

[Faint, illegible text, possibly a stamp or signature]

Attested
[Signature]

کورٹ فیس قیستی

وکالت نامہ

BEFORE N.P.K SERVICE TRIBUNAL

عنوان: Secretary & others بنام Muhammed Fazel

منجانب: Appellant

نوعیت مقدمہ: Service Appeal

باعث تحریر آئندہ Pelawar / Awabtal

مقدمہ مندرجہ میں اپنی طرف سے واسطے پیروی و جواب دہی کل کاروائی متعلقہ آں مقام

Hameed ul Khan Advocate & Hassan Ali

کو وکیل مقرر کر کے اقرار کرتا ہوں کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا نیز وکیل صاحب

موصوف کو کرنے راضی نامہ و تقرر ثالث و فیصلہ بر حلف و دینے اقبال دعویٰ اور بصورت دیگر ڈگری کرانے اجراء

وصولی چیک روپیہ و عرضی دعویٰ کی تصدیق اور اس پر دستخط کرنے کا اختیار ہوگا اور بصورت ضرورت مقدمہ مذکور

کی کل یا کسی جزوی کاروائی کے لئے کسی اور وکیل یا مختار صاحب قانونی کو اپنے ہمراہ اپنی بجائے تقرر کا اختیار

بھی ہوگا اور صاحب مقرر شدہ کو بھی وہی اور ویسے ہی اختیارات ہوں گے اور اس کا ساختہ پر داختمہ مجھ کو منظور و قبول

ہوگا۔ دوران مقدمہ جو خرچ و ہرجانہ التوائے مقدمہ کے سبب ہوگا اس کے مستحق وکیل صاحب ہوں گے۔

نیز بقایا رقم وصول کرنے کا بھی اختیار ہوگا۔ اگر کوئی پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب موصوف

پابند ہوں گے کہ پیروی مقدمہ مذکورہ کریں اور اگر مختار مقرر کردہ میں کوئی جز بقایا ہو تو وکیل صاحب موصوف

مقدمہ کی پیروی کے پابند نہ ہوں گے۔ نیز درخواست بمراء استجارت نالش بصیغہ مفلسی کے دائر کرنے اور اس کی

پیروی کا بھی صاحب موصوف کو اختیار ہوگا۔

لہذا وکالت نامہ تحریر کر دیا تاکہ سند رہے۔

المرقوم: 15/12/84

بمقام: Awabtal

Accepted by
Fazul

Fazul

محمد سعید
ایڈووکیٹ