

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No. 7951/2021

Abdur Rauf, Ex-PST (BPS12), District Khyber.....Appellant.

VERSUS

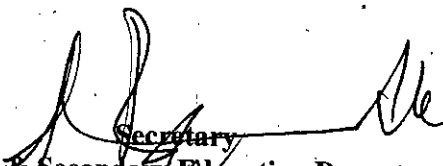
Secretary E&SE, Govt: of Khyber Pakhtunkhwa & others..... Respondents.

APPLICATION FOR RELEASE OF SALARY

Respectfully Sheweth,

1. That on the date of hearing 17-01-2024 salary of the Secretary Elementary & Secondary Education has been attached for non-submission of Inquiry Report in light of Service Tribunal Order sheet dated 22.09.2023 passed by this Honorable Service Tribunal.
2. That the petitioner is Ex-PST and comes under the competency of District Education Officer. The inquiry in question was not only held at the level of District Education Office but also custodian of the inquiry/record.
3. The Secretary, E&SED/Respondent No.1 is neither competent authority nor appellate authority in the instant case but proforma respondent.
4. That District Education Officer Male Khyber has already submitted the requisite Inquiry Report before the Service Tribunal (copy enclosed).

In view of the above, it is requested to accept the application and the salary of Respondent No. 01 may kindly be released, please.


Secretary
Elementary & Secondary Education Department
(Respondent No.1)

17.01.2024

Learned counsel for the appellant present, Mr. Asad Ali Khan, Assistant Advocate General for the respondents present.

Vide previous order dated 22.09.2023, it was ordered in presence of Munawar Khan, ADEO that respondents shall produce complete inquiry record, however neither the inquiry record produced today nor any representative on behalf of the respondents is present before the Court. In such a scenario, salaries of the respondents are attached in the manner prescribed in Section 260(1)(i) of the Code of Civil Procedure, 1908, till further order. Registrar of this Tribunal shall send copy of this order to Accountant General Khyber Pakhtunkhwa, Peshawar as well as District Accounts Officer Khyber for compliance. Learned Assistant Advocate General shall intimate the respondents to positively produce the entire inquiry record on the next date and to come up for arguments on 13.05.2024 before the D.B. Parcha Peshi given to the parties.



(Muhammad Akbar Khan)
Member (E)



(Salah-ud-Din)
Member (J)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Abdur Yauq
Appeal no- 79511/21

vs DEO Khyber etc

Application for released of salary attached vide
order dated: 17.01.2024`

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 10660

Dated 19-1-2024

Respectfully Sheweth:


That the above captioned service appeal is pending adjudication before this Honorable Tribunal and vide order dated 22.09.2023, the representative of the respondents was directed to positively produce the record and the appeal was adjourned to 17.01.2024. **(Copy attached)**

That the representative of respondents reached to the Honorable Tribunal after the case/appeal was called by the tribunal however late arrival of the representative was not deliberate but due to Severe Fog and consequently the salaries of respondents were attached. Vide order, dated 17.01.2024 **(Copy of attached)**

That the requisite record has been submitted by the representative/applicant vide receipt No. 10614- dated 17.01.2024.

It is requested that the salaries of respondents may very kindly be released, please.

Your Obediently


Muhammad Uzair Ali
DEO Khyber

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR**



APPEAL NO. 7951 /2021

Mr. Abdur Rauf, EX-PST,
GPS Chapri, District Khyber.

..... APPELLANT

VERSUS

- 1- The Secretary, Elementary and Secondary Education Department, Peshawar, Khyber Pakhtunkhwa.
- 2- The Director, Elementary and Secondary Education Department, Peshawar, Khyber Pakhtunkhwa.
- 3- The District Education Officer (M), District Khyber.

..... RESPONDENTS

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED NOTIFICATION DATED 06.09.2021 WHEREBY THE APPELLANT HAS BEEN DISMISSED FROM SERVICE AND WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT HAS BEEN REGRETTEED ON NO GOOD GROUNDS

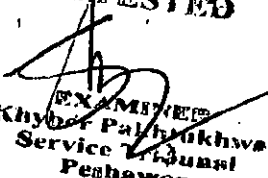
PRAYER:

That on acceptance of this appeal the impugned Notification dated 06.09.2021 may very kindly be set aside and the appellant may kindly be re-instated into service with all consequential back benefits. Any other remedy which this August Tribunal deems fit that may also be awarded in favor of the appellant.

R/SHWETH:

ON FACTS:

1. That appellant was appointed as PST at GPS Chapri District Khyber in the year 2007 and has served the respondent department up-to the entire satisfaction of his superiors.
2. That the appellant while performing his duty as PST was removed from service vide order dated 24-08-2017 then the appellant filed Service appeal No.931/2018 before Services Tribunal which was accepted by the Hon'ble Tribunal and the Tribunal vide Judgment dated 09-06-2021 re-instated the appellant back into service and gave direction to the respondents for De-Novo Inquiry. Copies of memo of appeal alongwith annexures and judgment dated 09-06-2021 are

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar


22.09.2023

A. No. 7951/2021
Abdur Rouf vs Govt

Learned counsel for the appellant present. Mr. Munawar Khan, ADEO alongwith Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present.

During the course of arguments, it transpired that complete inquiry record has not been submitted by the either party, therefore, representative of the respondents is directed to positively produce the same and to come up for arguments on 17.01.2024 before the D.B. Parcha Peshi given to the parties.


(Fareeha Paul)
Member (E)


(Salah-ud-Din)
Member (J)

Naemat Amin

Certified to be true copy


Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

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Date of Delivery	18/1/24

**BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR**

Service Appeal No: 7951/2024

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 10754
Dated 17/1/24

ABDUR RAUF

******* VERSUS *******

EDUCATION DEPARTMENT

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Dated: 17/01/2024

Ch 2.
17-1-24

BRIEF SUMMARY

P-I
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Mr. Abdul Rauf joined Education department as PST in 2007. Disciplinary proceeding was initiated against him on the ground double benefits that he was receiving pension as Chowkidar as well as salary being posted as PST in GMS Chappri Jamrud Khyber. On conclusion of inquiry the competent authority removed him from service vide notification bearing Endst No.829-40 dated 27-08-2017, which was challenge through filing of departmental appeal but the same was also dismissed vide order dated 12-07-2018. Then he filed service appeal No.931/2018 which was allowed by setting- aside the penalty imposed on him and reinstated him and respondent are directed to conduct de-novo inquiry into the matter, strictly in accordance with law within a period of ninety days of receipt of copy of the judgment. In case the respondent failed to conduct de-novo inquiry within the time as given by this tribunal, He will be entitled to all back benefits.

DEO, Khyber conducted an inquiry against him & inquiry committee recommended to retained the previous removal order & to recovered service benefits drawn against the post of chowkidar.



District Education Officer

Khyber at Jamrud.

Amey
CR

To

The District Education Officer
Tribal District Khyber.

~~P-2~~
P-2
Am-B
A ~~B~~

**Subject: Inquiry in respect of Mr. Abdur Rauf Ex-PST of
GMS/GPS Chapari**

Memo,

Reference to the Endst: 5934-41 Dated. 30/07/2021 the case of the above employee named **Abdur Rauf PST of GMS/GPS Chapari** Jamrud was given to the undersigned inquiry committee Muhammad Abid (Chairman) Principal GHS Jaffar Khan Bara & Wajid Khan (Member) SST-IT GHSS Spin Dhand Bara) to probe the matter through personal hearing and to dig out the real situation in respect of the mentioned employee.

Background information

Mr. Abdur Rauf Ex-PST GMS/GPS Chapari appointed in Education Department Khyber under Endstt: No. 3748-53 Dated 30-5-2007 and placed at GMS Chapari (**Flag-A**). Later on he was reported Agency Accounts Officer Khyber at Jamrud vide Endstt.No: Pension/AAO/KHY/2016-17/359 Dated 27/04/2017(**Flag-B**) and declared double beneficiary of receiving pension and Salary under same CNIC No: 21201-8217546-3 while conversion of manual system to DCS(Direct Credit System). Then Agency Education Officer Khyber Constituted an inquiry under Endst No: 1766 dated 24/03/2017 and nominated Saleem Khan Wazir Principal GHS Sur Kamar Jamrud to dig out the actual facts. AEO Khyber charge sheeted Mr. Abdur Rauf Ex-PST and nominated another inquiry committee consisting of Mr. Gohar Khan (Chairman) Principal GHS No.2 Jamrud and Saleem Khan Wazir (Member) Principal GHS Sur Kamar under Endst.No: 3028-34 dated 13/06/2017 to dig out the actual facts in the light of Charge sheet. (**Flag-C-i**).Then AEO Khyber imposed major penalty i.e Removal from services vide Endst No. 829-40 Dated 24/08/2017(**Flag-C-ii**).

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He submitted departmental appeal to The Director Education FATA and in the light of available record his application in respect of reinstatement was regretted vide Endst No. 8360-63 dated 05/06/2018(Flag-D).

Mr. Abdur Rauf Ex-PST GMS Chapari filed appeal to Khyber Pakhtunkhwa Services Tribunal Peshawar under Appeal No. 931 /2018 dated 20/07/2018. The honorable Khyber Pakhtunkhwa Services tribunal Peshawar decided the case on 09.06.2021 with the directions that the appeal in hand is allowed by setting-aside the penalty imposed upon the appellant. The appellant is reinstated in services and respondents are directed to conduct de-novo inquiry into the matter, strictly in accordance with law within a period of 90 days of receipt of copy of this judgment (Flag-E).

Procedure adopted

Mr. Abdur Rauf Ex-PST GPS Chapari Jamrud was called upon for personal hearing to ADEO office Bara Male on 12/08/2021. He attended the office accordingly and submitted a list of questioners in the response of questions to the inquiry committee (Flag-F) furthermore he also provided all the relevant documents.

- 1. Medical Certificate (Flag-G i)
- 2. CNIC (Flag-G ii)

Findings

After personal hearing and available records the inquiry committee concluded the overall inquiry process in the lines below.

- 1. Mr. Abdur Rauf Ex-PST GMS/GPS Chapari Jamrud bearing personal No. 411943 and having CNIC No. 21202-8217546-3 has received his monthly pension through PPO.No:P/KHY/1660-N by National Bank Of Pakistan Jamrud Branch w.e.f 01/07/2001 upto 30.06.2016 and later on stopped through DCS and at the same time he has drawn his monthly salaries against the post of PST w.e.f 01.06.2007 upto 30.06.2016. Furthermore he had been recruited against the post of Chowkidar at GGPS Gulabad Jamrud on 03/12/1975 before his birth

Mustaf
CN

(DOB as per CNIC is 08/07/1977) while he had received double financial benefits w.e.f 01.06.2007 upto 30.06.2016 as per record provided by District accounts office Khyber at Jamrud **(Flag-H)**.

P-4
Amex = B

2. Moreover the Bank Account at NBP Jamrud through which pension is received belongs to Abdur Rauf s/o Abdul Qudus CNIC No. 21202-8217546-3**(Flag-I)**. The CNIC No. 21202-8217546-3, File Picture and other relevant documents are also present in pension file submitted for pension at District Accounts Office Khyber also belongs to Mr. Abdur Rauf s/o Abdul Qudus. **(Flag-J)**
3. The accused misled the offices of DEO Khyber , DAO Khyber and NBP Jamrud by concealment of facts that the accused had double CNICs. Two NIC were present in DAO Khyber showing different Date of Birth in respect of Mr. Abdur Rauf s/o Abdul Qudus , One NIC No is 140-47-184573 and DOB is 06.12.1947**(Flag-K)** and another CNIC No is 21202-8217546-3 and DOB is 08.07.1977**(Flag-L)**

Recommendations.

After thoroughly investigation and documental proof the following recommendations are hereby submitted:

1. Removal order issued vide Endst. No 829-40 Dated 24/08/2017 in r/o Mr. Abdur Rauf Ex-PST by the AEO Khyber be maintained.
2. Service benefits in the shape of salaries , commutation and monthly pension drawn from national exchequer against the post of Chowkidar be recovered from the said accused i.e Mr. Abur Rauf Ex.PST.

Inquiry Committee

1. Muhammad Abid (Chairman)
GHS Jaffar Khan Bara

2. Wajid Khan (Member)
SST-IT
GHSS Spina Dhand Bara

Muhammad Abid
Wajid Khan

P-5
Amen = C

OFFICE OF THE DISTRICT EDUCATION OFFICER DISTRICT KHYBER.

NOTIFICATION.

- 1 Whereas, the appellant namely Abdur Rauf was appointed against the PST post vide order bearing Endst: No. 3748-53 dated 30-05-2007 at GPS Chapari District Khyber issued by the then Agency Education officer Khyber and he was removed from service vide Endst No. 829-40 dated 24-08-2017 issued by the then Agency Education Officer Khyber on account of double beneficiary for receiving pension against the Chowkidar post as well as salary against the PST post for having dual CNICs.
- 2 And whereas, aggrieved from the order dated 24-08-2017, the appellant has filed a Departmental Appeal to the then Director Education (FATA) which was regraded vide Endst No. 8360-63 dated 05-06-2018. He then the service appeal No.931/2018 dated 20-07-2018 before the Honorable Khyber Pakhtunkhwa Service Tribunal.
- 3 And whereas, the service appeal of the appellant was decided vide Judgment dated 09-06-2021 by Honorable Khyber Pakhtunkhwa Service Tribunal. The operative part of the Judgment is re-produced as under:-

"The appeal in hand is allowed by setting aside the penalty imposed upon the appellant. The appellant is reinstated in service and respondent are directed to conduct de-novo inquiry into the matter, strictly in accordance with law within a period of ninety days of receipt of copy of this judgment. In case the respondents failed to conduct inquiry within the time as given by this tribunal, the appellant will be entitled to all back benefits."

- 4 And whereas, in compliance of the Judgment dated 09-06-2021, the appellant has been re-instated against the PST post vide order dated 16-07-2021 for the purpose of DE-NOVO inquiry for which the inquiry committee was constituted by the Respondent No.7/District Education Officer Khyber, to probe into the matter & the inquiry committee has submitted inquiry report to the Respondent Department wherein it was recommended that the "removal order issued vide Endst No. 829-40 dated 24-08-2017 in R/O Mr. Abdur Rauf Ex-PST by the then Agency Education Officer Khyber be maintained".

Now therefore, in compliance of the Judgment dated 09-06-2021 of the Honorable Service Tribunal & having gone through the whole case record along with consulting the relevant provision of E & D Rules 2011 & in Exercise of the Powers conferred upon the undersigned under U/S-21 of General Clauses Act 1897 as amended in 1956 & in a capacity of an competent authority in the instant case, the Order issued vide Endst No.5737-44 dated 16-07-2021 is hereby withdrawn & the impugned removal order issued vide Endst No. 829-40 dated 24-08-2017 by the then Agency Education Officer Khyber is hereby maintained in the interest of public service.

[Signature]
District Education Officer
District Khyber.

Endst: No. 829-40 /DEO Khyber Mr. Abdur Rauf Ex-PST Dated Peshawar the 11 / 7 /2021

Copy forwarded for information & n/action to the:-

- 1 Registrar Khyber Pakhtunkhwa, Service Tribunal, Peshawar.
- 2 Additional Advocate General Khyber Pakhtunkhwa, Service Tribunal, Peshawar.
- 3 Director E&SE Department Khyber Pakhtunkhwa Peshawar.
- 4 Deputy Director (Legal) E&SE Department Khyber Pakhtunkhwa Peshawar.
- 5 Official concerned.
- 6 Master file.

[Signature]
District Education Officer
District Khyber.

سوال نمبر 1: آپ اور آپ کے والدین کا نام بیان کریں؟
خواجہ: عبدالرؤف دلاور عبدالقدوس۔

سوال نمبر 2: آپ کی پہلی پوسٹنگ کب اور کہاں ہوئی؟ (مکمل طور پر)

جواب نمبر 2: 1976 میں شامیہ میں پوزیشن سوا لگا اور وہاں سے مدینہ منورہ لگا کر

سوال نمبر 3: اس وقت آپ کی عمر کتنی تھی؟

جواب نمبر 3: میں اس وقت 22 سال کی تھی۔

سوال نمبر 4: آپ کی دوسری پوسٹنگ جی ٹی سی پر کب ہوئی؟ اس وقت آپ کی عمر کتنی تھی؟

جواب نمبر 4: 30/5/2007 - (30 سال)

سوال نمبر 5: جس وقت آپ جی ٹی سی پوسٹنگ لے کر درخوست دے رہے تھے آپ کو

سنووس ڈولنر کا پتہ نہیں تھا، جو کہ ضابطہ قانون کی خلاف ورزی ہے۔

سوال نمبر 6: لکھنا چھ مہینے تک اس وقت کے لئے فوری کا پتہ نہیں تھا۔ تو قلم لے کر فوری طور پر اس سے مدد لی اور اس کے بعد اس کا پتہ پانچ مہینوں کے بعد مل گیا۔

سوال نمبر 7: آپ کی پہلی اور دوسری پوزیشن کیا تھیں؟ اور ان میں کتنا فرق ہے؟

جواب نمبر 7: پہلی پوزیشن تاریخ پیدائش 30/5/2007 تھی جبکہ دوسری تاریخ پیدائش 8 جولائی 1976 ہے۔

سوال نمبر 8: آپ نے دو مہینے تک شناختی کارڈز پر ڈبل ڈگری کی ہے، جو کہ قانون

کی رو سے سب سے سنگین جرم ہے۔ آپ کا کیا خیال ہے؟

جواب نمبر 8: قلم اس قانون کا نہیں مدد ہے اور میں خود گناہگار نہیں ہوں۔ اس لئے میں اس سے مدد کرتا ہوں۔

سوال نمبر 9: اس وقت کے دوران میں نے کبھی کوئی علم نہیں اور دوسرا پوزیشن میں کوئی علم نہیں تھا۔

جواب نمبر 9: میرے پاس اس وقت کوئی علم نہیں تھا اور میں اس سے مدد کرتا ہوں۔

سوال نمبر 10: اگر آپ اپنا خود سوا حلہ بیان دینا چاہتے ہیں، تو کلچرہ فاؤنڈیشن

پر کھڑے ہو سکتے ہیں۔

نام: عبدالرؤف ، CNIC # :- 21202-8217546-3

دستخط:

تاریخ: 28/7/2017

محمد عقیل

P-7
Anon - E

ENQUIRY REPOT:

TO,

The Agency Education officer,
Khyber Agency at Jamrud.

Subject: **CHARGE SHEET TO MR-ABDUL RAUF (PST) GMS CHAPPARI JAMRUD:**

Memo;

Reference Letter No:3028-34 Dated: 13-06-2017 AEO office Jamrud, the double benefits of the above named employee as PENSIONER AS Chowkidar and PST Teacher in present time, were awarded to him and by the DCS system of Agency Account office Jamrud Khyber Agency, he was pointed out through Account office Jamrud and referred this case to AEO Khyber for further investigation.

INQUIRY REMARKS:

An Enquiry was carried out by Mr.Saleem Khan Principal GHS Sur Kamar Jamrud and he recommended for the major penalty due to fake & wrong entries of D.O.B and double benefits. The Enquiry repots has given full details about his Ex-service as chowkidar where his D.O.B was 06-12-1947 and was appointed as chowkidar on 03-12-1975 before his real birth (08-07-1977), mentioned by his own statement. [Flag-A]

2ndly,after the retirement of first service on 30-12-2001 (RETIREMENT DATE). The concerned employee got PENSION wef 01-07-2001 up to 30-06-2016. During this period, he got 2nd service (appointment) as PST teacher at GMS Chappari Jamrud on 01-06-2007 mentioned by his written reply to the Questioner [Flag-B]

PERSONAL HEARING:

For his personal hearing, the concerned person visited GHS Jamrud No.2 on 18-07-2017 and presented/offered the above two written statements i-e Flag-A & B. He further confessed that he has done two jobs, an Ex-chowkidar and PST teacher but he informed me that he is totally unaware to the first service and blaming his elders because at the time of 1st appointment he was not born.

RECOMMENDATION:

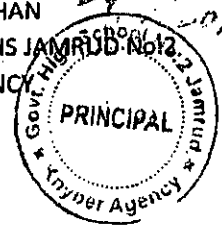
After thoroughly investigation and documental proofs, the basic recommendation of the previous Enquiry Report was totally based on facts with complete documental proofs.

So, the under signed has no any adverse remarks and the previous recommendation should be carried according to the E&D rules-2011.

Moreover, by keeping the Academic & professional record of the person, the competent authority has a power to facilitate the person by his optimistic approach on humanitarian ground.

ENQUIRY OFFICER

Mr.GOHAR KHAN
PRINCIPAL GHS JAMRUD No.12
KHYBER AGENCY



*Agreed with
remarks of the
Salim Khan
Gohar Khan
Went Dismissal
20/7/17*