

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 4963/2021

BEFORE: MRS. RASHIDA BANO ... MEMBER (J)  
MR. MUHAMMAD AKBAR KHAN ... MEMBER(E)

Umar Hayat Son of Purdil Khan, PST-GPS Ghandan Miana, Education  
Department, Khyber Pakhtunkhwa.

.... (Appellant)

VERSUS

1. Government of Khyber Pakhtunkhwa through Chief Secretary/Chief Minister, Khyber Pakhtunkhwa, Peshawar.
2. Secretary to Government of Khyber Pakhtunkhwa, Directorate of Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar
3. Director, Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
4. Assistant Director Establishment (Male), Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
5. District Education Officer (Male), Peshawar.
6. Inquiry Officer, Principal Government Higher Secondary School, Nodeh Payan, Peshawar.

.... (Respondents)

Mr. Abid Ayub  
Advocate

... For appellant

Mr. Muhammad Jan  
District Attorney

... For respondents

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Date of Institution.....12.04.2021  
Date of Hearing.....13.12.2023  
Date of Decision.....13.12.2023

JUDGMENT

RASHIDA BANO, MEMBER (J): The instant service appeal has been instituted under section 4 of the Khyber Pakhtunkhwa Service Tribunal, Act 1974 with the prayer copied as below:

**“To set aside the impugned orders dated 16/11/2020  
& 16/03/2021 and grant the arrears & salaries to the**



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Peshawar

**appellant w.e.f 12/09/2011 to 29/03/2017 and to pass orders for granting the back benefits to the appellant.”**

2. Brief facts of the instant case are that appellant was serving in the Education Department at GPS Kagawala, Peshawar up to 31.05.2004. In the meanwhile, due to enmity, he absented himself from duty. That when the circumstances favored the appellant, he appeared before the respondents and submitted application for arrival and arrears on 12.09.2011. That an inquiry was conducted and the inquiry officer favored the appellant as there was no FIR etc. against him, therefore, he was not removed nor any show cause notice was served upon him. That the Inquiry Officer recommended that the period w.e.f 31.05.2004 to 12.09.2011 might be treated as leave without pay. The said report was submitted by the Inquiry Officer on 20.09.2012 but no remarks were given on the said report and the matter was kept mum for five years. That on 29.03.2017, appellant was adjusted at GPS Kagawala Peshawar and fresh inquiry was ordered to be conducted in the appellant's case regarding the intervening period w.e.f 01.06.2004 to 16.03.2017. That inquiry was conducted and the inquiry officer recommended the period w.e.f 01.06.2004 to 11.09.2011 as leave without pay while the period w.e.f 12.09.2011 to 29.03.2017 as on duty. Upon the said recommendations the office order was notified. That the appellant moved an application for the period which was considered as on duty, but the same application was filed. Feeling aggrieved, he filed departmental appeal which was rejected, hence, the instant service appeal.

3. Respondents were put on notice who submitted written replies/comments on the appeal. We have heard the learned counsel for the appellant, learned counsel for private respondents as well as the learned

District Attorney and perused the case file with connected documents in detail.

4. Learned counsel for the appellant argued that the impugned order issued by the respondents is against the settled rules and also against the principal of natural justice because no opportunity of personal hearing was provided to the appellant, thus, the impugned order is not maintainable. He further contended that appellant clarified his absence through documentary evidence to enquiry officer who recommended that the impugned period shall be considered as on duty but this aspect was not taken into consideration by the respondent at the time of passing impugned order, which is not tenable in the eyes of law.

5. Conversely, learned District Attorney contended that appellant has been treated in accordance with law and rules. He further contended that appellant was willfully absent from his duty and he did not perform his duty till the reinstatement so he did not entitled for the salaries of that period. He further contended that appellant itself admitted that he was absent and it is maxim that no work no pay, therefore, the competent authority rejected the appeal of the appellant.

6. Perusal of record reveals that appellant was appointed as E.T in respondent department on 07.10.1989 who was regularly performing his duties till 31.05.2004. When on 01.06.2004 blood feud enmity of his family started in which some of his family members murdered and he alongwith his other family member charged in criminal case. Appellant submitted leave application to respondent due to threat to his life for long leave but no proper order was passed upon said application. Appellant after settlement of his family enmity submitted application for joining his duties on 12.09.2011. Respondent order and initiate inquiry upon arrival of the appellant vide order

dated 28/03/2012 as during intervening period neither leave application was sanctioned nor any disciplinary action initiated against appellant. Respondent No.6 inquiry officer vide his report dated 20.09.2012 held that appellant was not involved in a criminal case and due to brutal murder of his family member he was falsely charged by their enemies and appellant is still on service as he was not removed from service. He recommended intervening period i.e. 31.05.2004 to 12.09.2011 to be treated as leave with pay. Appellant was adjusted by respondent No.5 against the vacant post of PST GPS Kagawala Peshawar with immediate effect vide order dated 29.03.2017 with further order of fresh inquiry to decide the factum of intervening period 01.06.2004 to 16.03.2017 by appointing respondent No.2 as inquiry officer who submitted his report and recommended absence period of the appellant from 01.06.2004 to 01/09/2011 be treated as extra ordinary leave without pay under Rule 12(3) of Revised Leave Rules, 2011 and period from 12/09/2011 till adjustment of appellant i.e. 16.03.2017 be treated on duty. Respondent No.5 in consequence to above recommendation issued order accordingly on 26.07.2017. However claim of appellant for arrears was filed on 16.11.2020. Appellant filed appeal by challenging order dated 16.11.2020 & requested for grant of arrears of period which was on duty i.e. 12.09.2011 to 29.03.2017 which too was rejected vide order dated 09.03.2021 on the ground that appellant had not performed duties physically.

7. It is pertinent to mention here that when appellant reported for arrival and it was established on record from very first inquiry report dated 20/09/2012 that appellant is on duty and was not removed or dismissed from service then it was incumbents upon the authority to adjust appellant but they kept pending matter till 29/03/2017 for the reason best known to them. Moreover when authority vide order dated 28/03/2012 initiated inquiry





proceeding by appointing respondent No.6 as inquiry officer he must order of adjusting/posting of the appellant for the purpose of inquiry but he did not do so. When appellant was not removed or dismissed from service and he submitted application for arrival, he physically presented himself for performance of his duties but by not adjusting to post him to a specific school is the act on at the part of authority for which appellant cannot be penalized. It is the authority domain to transfer, post or adjust a civil servant which is out of control of the civil servant. Therefore, to penalized civil servant for simple reason that he physically not performed duties and is not entitled for the service benefits in shape of arrears is unjustified and against the settled rules. Therefore, in our humble view impugned order dated 16/03/2021 is not in accordance with law, hence set-aside.

8. For what has been discussed above, we are unison to accept the appeal by setting aside the orders dated 16.11.2020 and 16.03.2021 and appellant is held entitled for arrears of period on duty i.e. 12/09/2011 to 29/03/2017. Cost shall follow the event. Consign.

9. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 13<sup>th</sup> day of December, 2023.*

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Peshawar

  
(MUHAMMAD AKBAR KHAN)  
Member (E)


  
(RASHIDA BANO)  
Member (J)

**ORDER**  
13.12.2023

1. Appellant alongwith his counsel present. Mr. Muhammad Jan, learned District Attorney for the respondents present.
2. vide our detailed judgment of today placed on file, we are unison to accept the appeal by setting aside the orders dated 16.11.2020 and 16.03.2021 and appellant is held entitled for arrears of period on duty i.e. 12/09/2011 to 29/03/2017. Cost shall follow the event. Consign.
3. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 13<sup>th</sup> day of December, 2023.*

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Peshawar

(Muhammad Akbar Khan)  
Member (E)

  
(Rashida Bano)  
Member (J)


04.09.2023

Clerk of learned counsel for the petitioner present. Mr. Asad Ali-Khan, Assistant Advocate General for the respondents present.

Due to incomplete bench, the case is adjourned to 13.12.2023 before the D.B. Parcha Peshi given to the parties.

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\*Nacem Amin\*


  
(Salah-ud-Din)  
Member (Judicial)


30<sup>th</sup> May, 2023

1. Learned counsel for appellant present. Mr. Muhammad Jan,  
District Attorney for respondents present.

2. Being not prepared, learned counsel for the appellant  
requested for adjournment. Adjourned. To come up for arguments on  
04.09.2023 before D.B. P.P given to the parties.

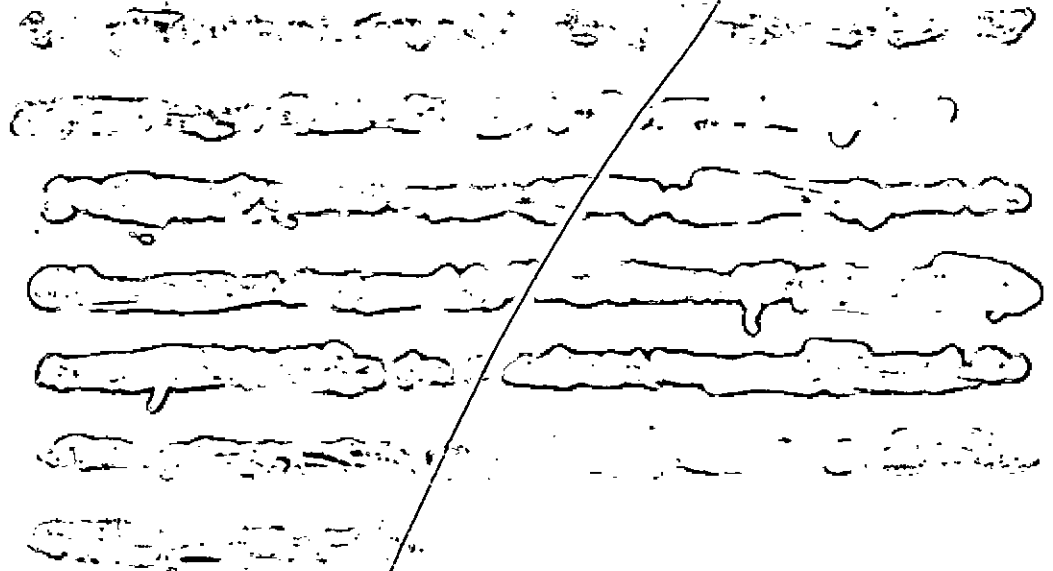
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**Peshawar**

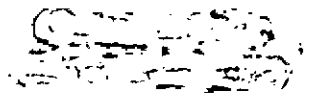
  
(Muhammad Akbar Khan)  
Member (E)

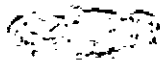
  
(Kalim Arshad Khan)  
Chairman

\*Mutazem Shah \*

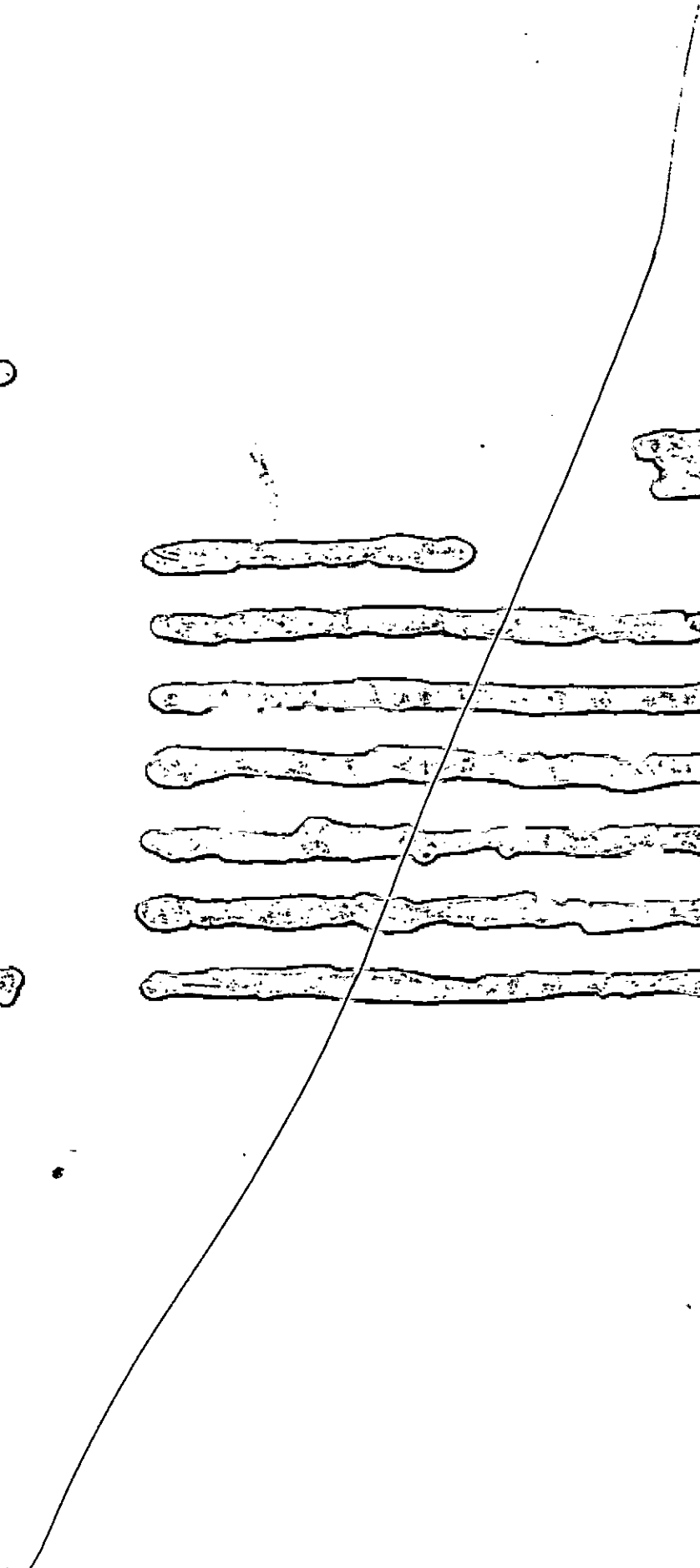
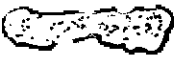
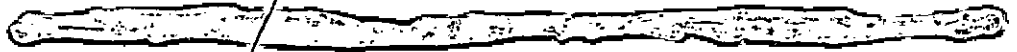
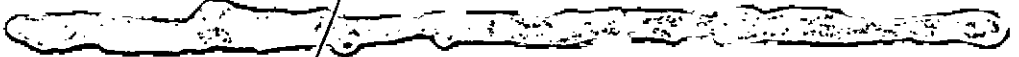
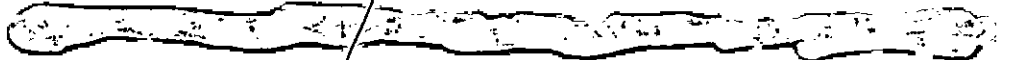
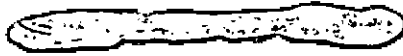
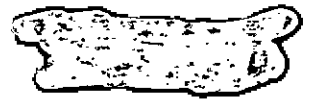
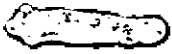












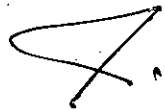
11/11/11  
10:00  
11/11/11


14.03.2023

Learned counsel for the appellant present. Mr. Syed Asif Ali Shah, Deputy District Attorney for respondents present.

Learned counsel for the appellant requested for adjournment on the ground that he has not prepare the brief. Adjourned. To come up for arguments on 30.05.2023 before D.B. P.P given to the parties.

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(Salah-Ud-Din)  
Member (J)

  
(Kalim Arshad Khan)  
Chairman

- 30<sup>th</sup> May, 2023
1. Learned counsel for petitioner present. Mr. Muhammad Jan, District Attorney for respondents present.
  2. Being not prepared, learned counsel for the petitioner requested for adjournment. Adjourned. To come up for arguments on 04.09.2023 before D.B. P.P given to the parties.

(Muhammad Akbar Khan)  
Member (E)

(Kalim Arshad Khan)  
Chairman

\*Mutazem Shah\*

28.10.2022

Appellant in person present. Mr. Naseer-ud-Din Shah,  
Assistant Advocate General for the respondents present.

Appellant requested for adjournment on the ground that his  
counsel is out of station today. Adjourned. To come up for  
arguments before the D.B on 07.12.2022.

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Peshawar

(Mian Muhammad)  
Member (E)

(Salah-ud-Din)  
Member (J)

07<sup>th</sup> Dec. 2022 Junior to counsel for the appellant present. Mr. Muhammad  
Adeel Butt, Addl. Advocate General for the respondents  
present.

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Peshawar

Former seeks adjournment due to illness of the learned  
senior counsel for the appellant. Last opportunity is granted to  
the appellant to make sure attendance of learned counsel on the  
next date, failing which the appeal will be decided on the basis  
of available record without the arguments. Case to come up for  
arguments on 14.03.2023 before the D.B.

(Fareeha Paut)  
Member (E)

(Kalim Arshad Khan)  
Chairman

22.08.2022

Learned counsel for the appellánt present. Mr. Naseer Ud Din Shah, Assistant Advocate General for the respondents present.

Learned counsel for the appellant requested for adjournment on the ground that he has not prepared the brief. Adjourned. To come up for arguments on 12.09.2022 before the D.B.



(Rozina Rehman)  
Member(J)



(Salah-Ud-Din)  
Member(J)

12.09.2022

Appellant in person present. Mr. Muhammad Jan, District Attorney alongwith Mr. Arshad Khan, ADO for the respondents present.

Mr. Mian Muhammad, learned Member (Executive) is on leave, therefore, arguments could not be heard. Adjourned. To come up for arguments before the D.B on 28.10.2022

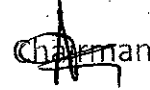


(Salah-Ud-Din)  
Member (J)

Stipulated period passed reply not submitted.

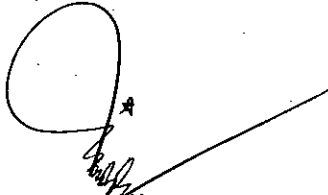
29.07.2021

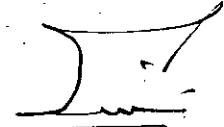
Learned Addl, A.G be reminded about the omission and for submission of reply/comments within extended time of 10 days.

  
Chairman

07.10.2021

Learned counsel for the appellant present. Mr. Muhammad Saleem, Section Officer and Mr. Muhammad Arshed, ADO (Litigation) alongwith Mr. Kabirullah Khattak, Additional Advocate General for the respondents present and submitted comments. Copy of which handed over to learned counsel for the appellant, who sought time for submission of rejoinder. Adjourned. To come up for submission of rejoinder, if any, as well as arguments on 28.02.2022 before the D.B.

  
(Mian Muhammad)  
Member (E)

  
(Salah-Ud-Din)  
Member (J)

28.02.2022

Due to retirement of the Worthy Chairman, the Tribunal is defunct, therefore, case is adjourned to 03.06.2022 for the same as before.

  
Reader

03.06.2022

Bench is incomplete, therefore, case is adjourned to 22.08.2022 for the same as before.

  
Reader.

18.06.2021

Counsel for the appellant present. Preliminary arguments heard.

Points raised need consideration. The appeal is admitted to regular hearing. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments in office within 10 days of the receipt of notices positively. If the written reply/comments are not submitted within the stipulated time, the office is directed to submit the file with a report of non-compliance. File to come up for arguments on 27.10.2021 before the D.B.

Appellant Deposited  
Security & Process Fee

21/6/21




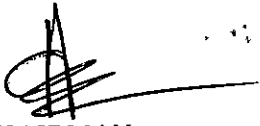
Chairman

Form- A

FORM OF ORDER SHEET

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

Case No.- 4963 /2021


S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	23/04/2021	<p>The appeal of Umar Hayat resubmitted today by Mr. Abid Ayub, 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-	27/05/21	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>18/06/21</u></p> <p style="text-align: right;"> CHAIRMAN</p>

The appeal of Mr. Umar Hayat PST GPS Ghandan Miana Education department Peshawar received today i.e. on 12/04/2021 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Copy of appointment order mentioned in para-1 of the memo of appeal (Annexure-A) is not attached with the appeal which may be placed on it.
- 2- Annexures-H and H/I of the appeal are illegible which may be replaced by legible/better one.

No. 721 /S.T,

Dt. 15/04 /2021

  
REGISTRAR  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

Mr. Abid Ayub Adv. Pesh.

23-4-21

Re submitted after  
necessary completions





BEFORE THE SERVICE TRIBUNAL  
Khyber Pakhtunkhwa, Peshawar

Service Appeal# \_\_\_\_\_ of 2021

Umar Hayat

...VS...

Govt of Khyber Pakhtunkhwa *etc*

SCANNED  
KPST  
Peshawar

INDEX

S#	DESCRIPTION OF DOCUMENTS	ANNEXURE	PAGE #
1.	Grounds of Appeal		1 - 7
2.	Affidavit		8
3.	Address of the parties		9
4.	Copy of the appointment order dated 07/10/1989	"A"	10
3.	Copy of first inquiry report	"B"	11-12
4.	Copy of order dated 29/03/2017	"C"	13
5.	Copy of second inquiry report	"D"	14-19
6.	Copy of the order dated 26/07/2017	"E"	20
7.	Copy of the order dated 16/11/2020	"F"	21
8.	Copy of the departmental appeal	"G"	22-23
9.	Copy of the order dated 16/03/2021 <i>etc</i>	"H-HI"	24-25
10.	Wakalat nama		27


Dated: - 10<sup>th</sup> April, 2021

  
Umar Hayat  
(Appellant)

Through



Abid Ayub  
Advocate, High Court,  
Peshawar

  
Saad Ul Mabood Khattak  
Advocate, High Court,  
Peshawar

①

**BEFORE THE SERVICE TRIBUNAL**  
**Khyber Pakhtunkhwa, Peshawar**

Service Appeal# 4963 of 2021

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 4839

Date: 12/4/2021

**Umar Hayat Son of Purdil Khan**  
PST-GPS Ghandan Miana, Education Department,  
Khyber Pakhtunkhwa, Peshawar

**Appellant**

**VERSUS**

*Deleted -*

1. **Govt of Khyber Pakhtunkhwa through**  
Chief Executive / Chief Minister, KPK, Peshawar
2. **Secretary to Govt of Khyber Pakhtunkhwa,**  
Directorate of Elementary & Secondary Education Khyber  
Pakhtunkhwa, Peshawar.
3. **Director, Elementary & Secondary Education Khyber** ✓  
Pakhtunkhwa, Peshawar
4. **Assistant Director Establishment (Male),**  
Elementary & Secondary Education Khyber Pakhtunkhwa,  
Peshawar
5. **District Education Officer (Male),** Peshawar
6. **Inquiry Officer, Principal Govt High School, Dehbadar,**  
Peshawar
7. **Inquiry Officer, Principal Govt Higher Secondary School,**  
Nodeh Payan, Peshawar.

**Filed to-day**

*[Signature]*  
**Registrar**

12/4/2021

**Respondents**

**Service Appeal u/s 4** of the Khyber  
Pakhtunkhwa Service Tribunal Act, 1974  
against the order of Respondent no.4 dated  
16/03/2021 whereby the departmental  
appeal/representation for granting of  
arrears/salaries from the period of  
12/09/2011 to 29/03/2017 has been  
wrongly rejected.

**Re-submitted to -day**  
and filed.

*[Signature]*  
**Registrar**

23/4/2021

**PRAYER:-**

To set-aside the impugned orders dated 16/11/2020 & 16/03/2021 and grant the arrears & salaries to the appellant w.e.f 12/09/2011 to 29/03/2017 and to pass orders for granting the back benefits to the appellant.

**Facts of the case**

- 1) That the appellant was appointed vide A.E.O Endst No. 5388-89 dated 07/10/1989 as E.T in F.R, Peshawar in Education Department of Govt of Khyber Pakhtunkhwa. *(Copy of the appointment order dated 07/10/1989 is Annexure-A)*
- 2) That the appellant was transferred to GPS Kagawala, Peshawar vide order D.P.E No. 20235, dated 31/05/1995.
- 3) That the appellant was performing his duty regularly at GPS Kagawala, Peshawar up to 31/05/2004.
- 4) That after 31/05/2004 an enmity started between the family of appellant and rival group due to which the appellant could not continue his duty and for the same reason the appellant moved an application before the concern authority for leave but that application was not stream line by the respondents and no order was passed. ()
- 5) That after application the appellant absented from the duty due to reason mentioned above and when the circumstance favoured the appellant, he appeared before the respondents and moved an application for his arrival and arrears on 12/09/2011.
- 6) That in the correspondence the department/respondents vide Endst No. 8153-54 dated 28/03/2012 ordered for conducting inquiry for which the respondent no. 6 appointed as an Inquiry Officer who conducted inquiry and recorded the

statement of appellant and perused all the documents of the present appellant wherein the appellant provided copies of F.I.R etc in which the relatives of the appellant were murdered brutally and the Inquiry Officer reached to the conclusion that the appellant is innocent, has never been indulged in any criminal activities and absconded due to life threats to the appellant and his family and further concluded that the appellant has not be removed from service nor any departmental inquiry has been initiated nor any show cause is given by the respondents to the appellant.

- 7) That the respondent no. 6 while concluding the inquiry, the inquiry officer took affidavit from the appellant who stated that he has not taken salary of the period w.e.f 31/05/2004 to 12/09/2011 and inquiry officer recommended that the said period of basentia will be treated as leave without pay.

*(Copy of first Inquiry report is Annexure- B)*

- 8) That after the said inquiry conducted by the respondent no. 6 and submitted the inquiry report on dated 20/09/2012 for further necessary action but the respondents kept mum more than 5 years.

- 9) That the respondent no. 5 vide Endst no. 12983-89 dated 29/03/2017 adjusted the appellant against the vacant post PST, GPS Kagawala, Peshawar at GPS, Gari Chandan Miana Peshawar with immediate effect. *(Copy of the Order dated 29/03/2017 is Annexure-C)*

- 10) That in the said order of respondent no. 5 vide Endst no. 12983-89 dated 29/03/2017 also directed a fresh inquiry to decide the intervening period w.e.f 01/06/2004 to 16/03/2017 of the appellant and in this respect respondent no. 7 (Principal, GHSS, Nodeh Payan, Peshawar) was appoint as inquiry officer who after investigation, personally examine the appellant and go through his personal file, recommended that the appellant absented period from 1/06/2004 to 11/09/2011 may be treated as

*leave without pay* and the other intervening period from 12/09/2011 to 29/03/2017 be treated *on duty* and the same inquiry report was submitted to respondent no.5. (Copy of the second inquiry report is Annexure- D)

- 11) That the respondent no.5 vide Endst No. 8791-94 dated 26/07/2017 through office order notified/endorsed the intervening period of the appellant w.e.f 01/06/2004 to 11/09/2011 may be treated as *leave without pay* and the other intervening period from 12/09/2011 to 29/03/2017 be treated *on duty*. (Copy of the order dated 26/07/2017 is Annexure- E )
- 12) That when the said orders were passed by the respondents the appellant moved application for the salary and arrears (from 12/09/2011 to 29/03/2017 on duty) to the respondent no. 5 through proper channel and the same was marked to the SDEO (Male) Town-IV, Peshawar under the subject financial investigation of arrears claim without any good justification/reason. (Copy of the order dated 16/11/2020 is Annexure- F)
- 13) That feeling aggrieved from the order dated 16/11/2020 of the respondent no. 5, the appellant preferred a departmental appeal/representation before the respondent no.3 on 11/12/2020 whereby the application of appellant has been mala fide basis and wrongly refused. (Copy of Departmental Appeal is Annexure- G)
- 14) That the departmental appeal was rejected by respondent no. 4 in a summary manner vide impugned order dated 16/03/2021. (Copy of the order dated 16/03/2021 is Annexure- H - H-1)
- 15) That still not satisfied and aggrieved from the impugned order dated 16/03/2021, the appellant having no other alternative but is constrained to file the instant appeal for his arrears and salary w.e.f 12/09/2011 to 29/03/2017 and his redress for granting back benefits, the present appeal is filed, *inter alia*, on the following amongst other grounds:-

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GROUNDS:-

- a) That the impugned order of respondents is summary in nature, against the settled rules and also against the principle of natural justice because no opportunity of being heard has been provided to the appellant and thus, the impugned order is not maintainable.
- b) That while deciding the departmental appeal/ representation, respondent no. 4 has failed to give reasons for rejection of the well reasoned appeal and similarly, the legal points involved in the departmental appeal have also not been attended to, therefore, the impugned order is violative of the settled rules and natural justice, is liable to be struck down.
- c) That the appellant has specifically explained his absented period to the authorities and the authorities also conducted inquiry but inspite of that the department has intentionally obtained the illegal way for refusing the grant of salary and arrears which has greatly prejudiced the appellant
- d) That the appellant clarified his absence through documentary evidence to the inquiry officer who after toughly supervise the personal file of the appellant and recommended that the impugned period shell be considered as on duty but this

6

aspect is not taken into consideration by the respondents and passed the impugned order without assigning a valid reason which is not tenable in the eye of law.

- e) That both the inquiries conducted by the direction of the respondent is also in favour of the appellant and once it is admitted by the competent authorities that the appellant be treated on duty of the intervening period and the recommendation of the inquiry officers also favours the appellant even than this aspect is slept from the eyes of respondents and passed the impugned order which is not maintainable and calls for interference by this Hon'ble Tribunal.
  
- f) That the impugned order will definitely prejudice the fundamental rights of the appellant and also badly effect the ACR of the appellant in future furthermore, the appellant will sustain irreparable loss in shape of money but these submissions have not been taken in to consideration by the respondents and summarily dismissed the departmental appeal of the appellant.
  
- g) That the respondents plea is not appealable to a prudent mind that the appellant was not serving an any school which was bounden duty of the respondent to locate any school to the appellant who was ready to serve, furthermore, it was fault of the respondents which cannot be put on the shoulders of the

appellant, hence, the impugned order is not accordance with law and totally against the nature of justice and on this score alone, impugned order is not maintainable.


- h) That due to the ill-will of the DEO (Male) towards the appellant, he has been deprived from his legitimate right of salary and arrears which is against the law, hence, the impugned order is not maintainable.
- i) That at any rate, the impugned order is against the law, facts and rules and hence, calls for interference by this Hon'ble Tribunal.


It is, therefore, humbly & respectfully prayed that on acceptance of this appeal, the impugned orders may kindly be set-aside and the salary & arrears w.e.f 12/09/2011 to 29/03/2017 may kindly be granted and the appellant may also be granted the back benefits.

Dated: - 10<sup>th</sup> April, 2021

Through

  
Umar Hayat  
(Appellant)

  
Abid Ayub  
Advocate, High Court,  
Peshawar

  
Saad Ul Mabood Khattak  
Advocate, High Court,  
Peshawar



8

**BEFORE THE SERVICE TRIBUNAL**  
**Khyber Pakhtunkhwa, Peshawar**

---

Service Appeal# \_\_\_\_\_ of 2021

**Umar Hayat**

...VS...

**Govt of Khyber Pakhtunkhwa etc**

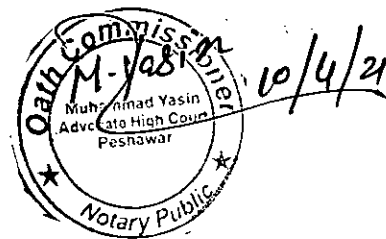
**AFFIDAVIT**

I, **Umar Hayat**, PST-GPS Ghandan Miana, Education Department, Khyber Pakhtunkhwa, Peshawar (**Appellant**), do hereby solemnly affirm and declare on Oath that the contents of appeal are true and correct to the best of my knowledge & belief and nothing has been kept secret from this Hon'ble Court.

Dated: 10<sup>th</sup> April, 2021

  
**DEPONENT**

**ATTESTED**



(9) 10

**BEFORE THE SERVICE TRIBUNAL**  
**Khyber Pakhtunkhwa, Peshawar**  
**Service Appeal# \_\_\_\_\_ of 2021**

**Umar Hayat**

...VS...

**Govt of Khyber Pakhtunkhwa etc**

**ADDRESSES OF THE PARTIES**

**ADDRESS OF THE APPELLANT**

**Umar Hayat** S/o Purdil Khan R/o Near Kohat Road G.P.O Bادهbar,  
Peshawar ( PST-GPS Ghandan Miana, Education Department, KPK,  
Peshawar)

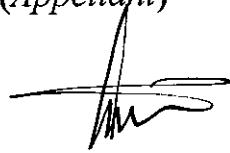
**ADDRESSES OF THE RESPONDENTS**

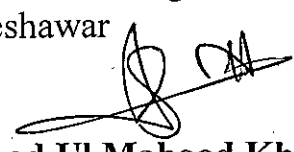
1. **Govt of Khyber Pakhtunkhwa through**  
Chief Executive / Chief Minister, KPK, Peshawar.
2. **Secretary to Govt of Khyber Pakhtunkhwa,**  
Directorate of Elementary & Secondary Education Khyber  
Pakhtunkhwa, Peshawar.
3. **Director,** Elementary & Secondary Education Khyber  
Pakhtunkhwa, Peshawar
4. **Assistant Director Establishment (Male),**  
Elementary & Secondary Education Khyber Pakhtunkhwa,  
Peshawar
5. **District Education Officer (Male),** Peshawar
6. **Inquiry Officer,** Principal Govt High School, Dehbadhar,  
Peshawar
7. **Inquiry Officer,** Principal Govt Higher Secondary School, Nodeh  
Payan, Peshawar.

Dated: - 10<sup>th</sup> April, 2021

  
Umar Hayat  
(Appellant)

Through

  
**Abid Ayub**  
Advocate, High Court,  
Peshawar

  
**Saad Ul Mabood Khattak**  
Advocate, High Court,  
Peshawar

Director General of Police

Office of the Director General of Police  
Government of Karnataka  
Bangalore

The undersigned is pleased to inform you that the...

...for the purpose of...

It is requested that you should be submitted to this...

Office in duplicate.  
Yours faithfully,  
[Signature]

Director General of Police  
Karnataka Agency at Bangalore

AK

Attched bc true  
to copy

16/04/2015  
17/04/2015

BETTER COPY OF THE PAGE NO. (10)

No. 5388-89/

Dated Peshawar the 07/10/1989

Office of the  
Agency Education Officer,  
Khyber Agency at Peshawar

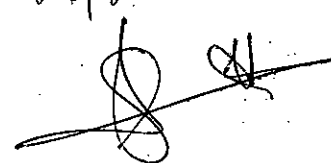
Office order

Under Hayat is hereby appointed against the S.T post at GHS Kabi Hassan Khel FR Peshawar where Faheem Gul who is agitated at GHS Bara Fort FR Peshawar against vacant Lab assistant at the rate of 750/- PM Plus usual allowances.

- Note:
1. Charge report should be submitted to this office in duplicate
  2. No TA/ DA as allowed.

Agency Education Officer,  
Khyber Agency at Peshawar

R.Uddin/  
07/10/89

Checked to be  
true copy  


The E.D.O (Elementary & Secondary)  
Education Peshawar.

Subject: ENQUIRY REPORT IN R/O MR.UMAR HAYAT PST G.P.S KAGA WALA PESHAWAR

Memo:

Kindly refer to your Endst: No.8153-54 dated 28 / 03/2012 on the subject cited above. The report of the enquiry is hereby furnished as under for further process please:

**HISTORY OF THE CASE.**

1. One Mr. Umar Hayat PST has made an appeal for his restoration in his services after being absconded/absent from duty since 31/05/2004.
2. He has been appointed as E.T in F.R Peshawar vide A.E.O Endst. No.5388-89 dated 07/10/1989.
3. He had been transferred to GPS Kaga Wala Peshawar vide D.P.E No.20235 dated 31/05/1995.
4. Since then he had been performing his routine duties at G.P.S Kaga Wala Peshawar up to 31/05/2004.
5. He had been granted earned leave for 120 days w.e.f 01/02/2004 to 31/05/2004.
6. He had been unable to continue his duty further more and absconded due to enmity since 01/06/2004.

**MECHANISM OF THE ENQUIRY.**

In compliance with The E.D.O (Elementary & Secondary) Education Peshawar Endst No.8153-54 dated 28 / 03/2012, the undersigned visited the school concerned and office of the A.D.O of the circle concerned on different occasions. Written reply to the statement/explanation and other necessary documents were obtained therefrom, regarding the continuous absence from duty of Mr. Umar Hayat PST w.e.f 01/06/2004 till now.

**FINDINGS OF THE ENQUIRY.**

1. No F.I.R has been lodged against Mr. Umar Hayat PST but his brothers and cousins have been involved in murder case and hence the circumstances compel him to stay away of the station of his duty.
2. He admits that he remained absconded/absent from his duties w.e.f 01/06/2004 till now.
3. The A.D.O of the circle concerned has requested the authority concerned to stop his pay and initiate necessary action against him.
4. The available record depicts that the department concerned has taken no action against him except stoppage of his pay w.e.f 01/02,2004, whatsoever thereby providing a room to the said teacher to claim all the benefits.
5. The undersigned obtained an under taking from the said PST declaring that;
  - (i) He is not involved in any criminal case but absconded due to fear of possible loss in enmity.
  - (ii) He has not drawn his pay during the period of his absence if proved otherwise he will be held responsible himself.
  - (iii) If his services are restored by adjusting him somewhere else at other station, he will perform his routine duty.
  - (iv) He will not claim any monetary benefits for the period he remained absent from

ATTESTED

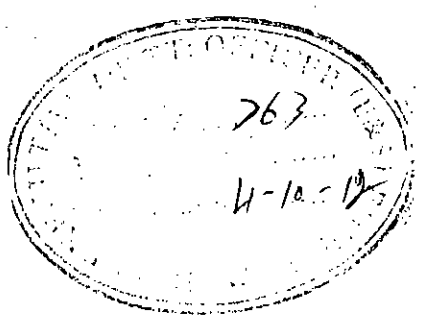
CONCLUSIONS.

Conclusions based on findings recorded above are as under:

1. Though Mr. Umar Hayat PST had made an appeal for restoration in services but he has neither been suspended nor dismissed as was required in the case for his willful absence. So there is no question of restoration in service in the said case. This was the foremost duty of the authority concerned to take action against him in either case for which it failed, thereby committing patent error.
2. He admits that he remained absconded/absent from his duties w.e.f. 01/06/2004 till now, is his piety and nobility otherwise the law puts total responsibility of his absence and the consequential loss to Govt exchequer in case of payment to him for absent period on the authority concerned, for not taking any action.
3. The A.D.O of the circle concerned had requested the E.D.O concerned to stop his pay and initiate necessary action against him but later neither the A.D.O nor the E.D.O concerned took any action thereby manifesting negligence tantamounting to inefficiency and indiscipline.
4. The available record shows that the department has taken no action against him except stoppage of his pay w.e.f 01/02/2004, thereby providing a room to the said teacher to claim all the back benefits on one hand and encouraging other civil servants to resort to this habit on the other hand. It should be kept in mind that stoppage of pay of any civil servant with out the initiation of disciplinary proceeding is a serious type of inefficiency on the part of the authority concerned. The authority in this case, was required to perform the Govt functions rationally and responsibly, not arbitrarily and swayed with feel of power. It was required to show a sense of responsibility for which it failed.
5. The under taking collected from the said PST is declaring that;
  - (i) He is not involved in any criminal case but absconded due to fear of possible loss in enmity.
  - (ii) He has not drawn his pay during the period of his absence if proved otherwise he will be held responsible himself.
  - (iii) If his services are restored by adjusting him somewhere else at other station, he will perform his routine duty.
  - (iv) He will not claim any monetary benefits for the period he remained absent from duty

RECOMMENDATIONS.

1. He may be adjusted at a station desired by him, in the public interest as soon as possible and the period of his absence may be converted into earned leave subject to the condition that he has earned sufficient leave other wise the absence period may be converted to leave with out pay (Extra ordinary leave).
2. The above 4 certificates recorded in Para 5 above should be collected from the PST on Stamp Paper.



*[Handwritten Signature]*

Principal

PRINCIPAL  
G.H.S. Deh Bahadar,  
Peshawar.

**ATTESTED**  
*[Handwritten Signature]*

(13)

Annexure 'C' 43

Charge 30-03-2017 Order No. 12983-89 Be 1461

OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) PESHAWAR.

30-03-2017

NOTIFICATION

In response to this office letter No.6232, dated 11/02/2017 and in pursuance of the advice contained in Secretary Govt: of Khyber Pakhtunkhwa (E&SE) Department E&SED/4-3/PST/2013, dated 24/02/2017, The competent authority has been pleased to adjust Mr. Umar Hayat PST, GPS Kagawala Peshawar at GPS Garhi Chandan Miana Peshawar against vacant post of PST with immediate effect.

HEAD MASTER  
G.P.S Garhi Chandan  
Miana Peshawar  
Letter No. SO(PE)

Note:-

1. Charge report should be submitted to all concerned.
2. No TA/DA etc are allowed.
3. The intervening period w.e.f 01/06/2004 to 16/03/2017 will be decided later on after finding /recommendations of fresh inquiry.

DISTRICT EDUCATION OFFICER,  
(MALE) PESHAWAR.

Endst: No. 12983-89

Dated: Peshawar the 29 / 3 / 2017.

Copy forwarded to the:-

1. P.S to Secretary Elementary & Secondary Education Department KPK Peshawar.
2. Accountant General Khyber Pakhtunkhwa Peshawar.
3. Director Elementary & Secondary Education Department KPK Peshawar.
4. SDEO (M) Town-II & IV Peshawar.
5. ASDEO (M) circle concerned.
6. Head Master Concerned.
7. Official Concerned.

Dy: DISTRICT EDUCATION OFFICER,  
(MALE) PESHAWAR.

ATTESTED

4  
CONFIDENTIAL

ENQUIRY REPORT

(14) Annexure "D"

Subject: ENQUIRY AGAINST MR. UMAR HAYAT PST REGARDING HIS ABSENCE

BACKGROUND:

The undersigned was appointed as Enquiry Officer by the competent authority (District Education Officer (Male) Peshawar) vide Notification No.13498-501 dated 04/04/17 to conduct inquiry and to decide the doubtful period of duty w.e.f. (01.02.2004 to 11.09.2011) in respect of Mr. Umar Hayat PST when posted at GPS Alizai, Kagawala Peshawar vide DPE Peshawar Endst. No. 20235-41/F.No.151/DPE/PTC/M/Pesh dated 31/05/1995 (Annex-I).

FACTS OF THE CASE:

Mr. Umar Hayat was appointed in Education Department as Teacher on 07.10.1989 in FR Peshawar (FATA) and on 31.5.1995 transferred and posted in GPS Alizai, Kagawala, where he served up to 31.01.2004. to 01.02.2004, he submitted an application for four months leave on the basis of his blood feud. Mr. Umar Hayat left the station/duty without waiting for sanctioning of his leave and remained absconded till 11.9.2011. However, the department neither considered his application nor informed him to join his duty. The department has stopped his monthly salary without initiating any disciplinary proceeding against him.

Mr. Umar Hayat submitted his arrival/application on 12.09.2011 (Annex-A) to the DEO Peshawar stating therein that due to blood enmity he was unable to attend his duty and now the situation become a little better therefore, his pay may be released and he may be re-instated into service.

The department initiated an inquiry against the official and a Principal of Government High School, Dohbahadur Peshawar was appointed as inquiry officer. The inquiry officer conducted inquiry and submitted its report (Annex-B). The department did not implement the enquiry report and after two year issued a show cause notice to the

ATTESTED

*[Handwritten signature]*

*[Handwritten signature]*

... benefits for the period he remained absent from



accused official with a tentative penalty of "removal from service" (Annex-C).

The accused responded to the notice (Annex-D) and the department afforded an opportunity of personal hearing to him (Annex-E).

During personal hearing the accused teacher produced certain precedents of the provincial government and Education Department wherein some officials/officers were re-instated into service despite absenting themselves for more than five years

(Annex F).

The DEO approached once again for guidance to the office of Director E&SE to tender advice/guidance in the matter, however the Directorate responded in an ambiguous manner and the matter remained under correspondence between the office of DEO and Directorate for 3 years(Annex-G).

In September, 2014 the office of DEO once again approached to Elementary & Secondary Education Department (Secretariat) for guidance/advice but the department returned the letter/reference of DEO with the observation to follow the procedure given in the Khyber Pakhtunkhwa Rules of Business 1985(Annex-H).

At last the accused teacher submitted an appeal to the Secretary E&SE Department for adjustment and release of his salary after the acceptance of appeal the Secretary asked for report from the office of DEO Peshawar. in this regard The DEO Peshawar submitted a detailed report to the Secretariat (Annex-I).

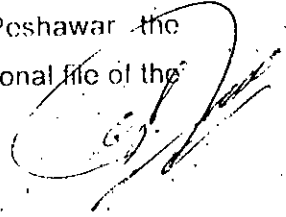
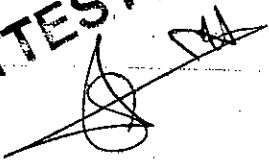
The department conveyed to the office of DEO Peshawar to implement the recommendations of the enquiry officer or otherwise. Moreover, under leave rules the absence period of the accused teacher can be converted in to extra ordinary leave without pay (Annex-J)

The District Education Officer (M) Peshawar adjusted the accused teacher with immediate effect and initiated the instant enquiry to probe about the intervening period(Annex-K).

Hence the instant proceeding initiated.

**ENQUIRY PROCEEDINGS:**

On receipt of letter for enquiry from DEO Officer Peshawar the undersigned visited the office of DEO (M) Peshawar and perused the personal file of the

  
**ATTESTED**  


...entitlement benefits for the period he remained absent from

accused teacher and other record. Simultaneously I also asked the accused teacher to submit his detail statement.

Accordingly the accused submitted his detail statement (Annex-L) stating therein that he was appointed as ET Teacher on 07.10.1989 at GHS Kohi Hasan Khel FR Peshawar and transferred/adjusted in GPS Kagawala on 31.05.1995 Since then he was performing his duty honestly, devotedly and to the satisfaction of his superior. No complaint was lodged against him. He was always appreciated by his superiors for his excellent performance and awarded very good annual reports (PERs).

According to the statement of the teacher(official) In 2004 a blood feud was started with a party known for terrorist activities who have killed their old age relatives (Annex-M) as well as their children (Annex-N), females(Annex-O), cattle(Annex-P). They also demolished their houses(Annex-Q), burned their crops(Annex-R), destroyed their house hold articles (Annex-S)and even insulted the dead bodies/graves of their relatives(Annex-T). They also killed their far relatives only on the basis of relations with them (Annex-U)and injured with bullets one Shishtigul for doing labour work in construction of their house(Annex-V). Further argued in his statement the Quran and Ahadeeth are giving room those one who are compelled (to utter a word of disbelief) under duress while his heart is at peace with Faith. He further stated that his duty place and the houses of opponents were at a distance of 200 meters and in the performance of duty his life was at stake therefore, he migrated the village and saved his own life as well as the life of his family. In the meanwhile the department has stopped his monthly salary and did not inform about leave sanctioning or performing of duty. When the situations become a little better and the matter was also pitched up with some of the relatives of the opponents, I submitted my arrival/application for adjustment/posting on 12.9.2011. However, the department initiated inquiry against him and appointed Principal Government High School, DehBahadur Peshawar as an inquiry officer.

The inquiry officer conducted inquiry and submitted his report to the department on 20.9.2012 recommending that the accused himself admitting his absence due to blood feud which shows his honesty and piety otherwise the department had not initiated any proceeding against him provided a room to the accused to claim his all back benefits. Therefore, an affidavit may be taken from the accused that he is not involved in any criminal case and he has not received any pay/salary for the absence

*[Handwritten Signature]*  
**ATTESTED**  
*[Handwritten Signature]*

...for the period he remained absent from

period. Moreover, he will perform his duty upon his adjustment and will never claim any salary/pay for the absence period. The official may be adjusted at a station desired by him in the public interest as soon as possible and the period of his absence may be converted into earned leave subject to the condition that he has sufficient earned leave otherwise the absence period may be covered into leave without pay (FOL).

The department issued a show cause notice on 21.05.2014 to the official which he responded and the department afforded an opportunity of personal hearing wherein he explained his position and submitted some precedents of the provincial government. The department again kept silent while the competent authority was required to pass orders within fifteen days. The official again asked about his posting but in vain. At last the accused teacher knocked the door of Secretary (E&SE) Department who asked about the report of DLO Peshawar and upon receipt of report he ordered to implement the recommendations of the inquiry officer and his absence can be converted into leave without pay as per Revised Leave Rules, 1981. The department has posted the applicant/teacher and ordered fresh inquiry into the intervening period. Hence the instant inquiry initiated. He further stated that due to the facts narrated above he was saving his life and was not absented himself without any reasons and despite that fact given affidavit before the inquiry officer that I will never claim back benefits for the absence period and the inquiry officer declared him innocent. The accused therefore, requested that he is innocent and still he is ready to give affidavit that he will not claim any back benefits of the absence period however is entitled for the salary/pay after his arrival as non posting was out of his control and it was the responsibility of the department to give him posting/adjustment.

Therefore, he may not be punished for the fault of others otherwise it will cause irreparable financial as well as service loss to the petitioner. he prayed that his period w.e.f. 01.6.2004 to 11.9.2011 may be considered FOL while after 12.9.2011 he may be considered on duty and may be paid salaries/pay for the said period and have a mercy on his siblings and avoid him further approaching any other forum.

#### FINDINGS

From perusal of the personal file of the accused and his detail statement before the undersigned the following findings have been discovered:

  
**ATTESTED**  


(18)

1. The accused teacher left his duty station without waiting for his sanctioning of his leave which shows negligence on his part, as per rules he was required to wait for the decision of the competent authority.
2. The department from top to bottom and from Principal to TDO/DFO have committed gross negligence as neither they have informed the accused about his leave sanctioning/rejection nor initiated any disciplinary proceedings against him but only stopped his salary/pay which was not covered under any rules/law. The department was required to issue notices to the teacher on his home addresses and issue a show cause in newspapers as per Rule 9 of the Khyber Pakhtunkhwa Civil Servants (Efficiency & Discipline) Rules, 2011.
3. The accused himself submitted arrival/application stating therein that he was absented himself from duty due to life threats. This act of the accused shows his honesty on his part and also pointed out in the earlier enquiry report.
4. The department kept the report of first enquiry for about two years and no action was taken in the meanwhile. After issuing show cause notice and personal hearing the case was again remained undecided for three years due to correspondence between Directorate of E&SE and the office of DEO Peshawar.
5. After reply to the show cause notice, the competent authority/DFO was required to pass final orders within fifteen days under E&D Rules 2011 but again nothing was done for three years.
6. Absence of the accused teacher has been proved w.e.f. 01.2.2004 to 11.9.2011.
7. The documents provided by the accused teacher shows that the enmity was very severe and even killed his more than 75/70 years old uncles, 12/14 years nephews of the accused, their females, cattle's, demolished their houses and graves and burnt their crops. The opponents even killed their relatives and friends. Therefore, it was humanly impossible for the accused to perform his duty at his village.
8. After submission of arrival on 12.9.2011, it was the responsibility of the department to decide his case as soon as possible however the department remained silent and even turned deaf ear to the recommendations of inquiry officer. At last on the direction of the Secretary Education they adjusted the accused teacher on 30.03.2017 at GPS Gahri Chandan Peshawar.
9. Therefore, for the period w.e.f. 12.9.2011 to 28/02/2017, The department is responsible and the accused is entitled to be treated on duty for the said period.
10. Recommendations of the earlier enquiry officer regarding conversion of his absence into earned leave is not covered under rules as only EOL without pay.

**ATTESTED**

19

can be granted retrospectively and under Rule 12(3) of the Revised Leave Rules 1981 "FOI may be granted retrospectively in lieu of absence without leave".

11. Rest of the recommendations of the earlier enquiry officer was based on fact and were according to rules hence were required to be implemented.

**CONCLUSION/RECOMMENDATIONS:**

- i. As per recommendations of the earlier enquiry officer an affidavit on stamp paper may be obtained from the accused officer declaring that he is not involved in any criminal case and he has not received any pay/salary for the absence period. Moreover, he has performed his routine duty upon his adjustment and will never claim any salary/pay for the absence period.
- ii. A warning may be issued to the accused teacher to be careful in future.
- iii. In future, absence of any official may be immediately treated in accordance with Rule-9 of Khyber Pakhtunkhwa Civil Servants (Efficiency & Discipline) Rules, 2011.
- iv. Absence of the accused teacher w.e.f. 01.2.2004 to 11.9.2011 may be treated as "Extra Ordinary Leave without pay under Rule 12(3) of the Revised Leave Rules 1981".
- v. The period of accused teacher w.e.f. 12.9.2011 till his adjustment may be treated as "on duty".

(PRINCIPAL)

Government Higher Secondary School  
Nodeh Payan, Peshawar

**C-E-R-T-I-F-I-C-A-T-E**

Certified that the instant enquiry report consists of six (06) pages and each page has been signed by the undersigned.

(PRINCIPAL)

Government Higher Secondary School  
Nodeh Payan, Peshawar

**ATTESTED**

person remained absent from

OFFICE OF THE DISTRICT EDUCATION OFFICER(MALE) PESHAWAR

OFFICE ORDER

In continuation of this office order issued vide No.12983-89,dated 29/03/2017 and in pursuance of the recommendation of inquiry report the period in r/o Mr.Umar Hayat PST,GPS Garhi Chandan Miana Peshawar w.e.f 01/06/2004 to 16/03/2017 may be treated as under.

1. From: 01/06/2004 to 11/09/2011 leave without pay.
- ✓ 2. From 12/09/2011 to 29/03/2017 on duty.

Not:

1. Necessary entry to this effect should be made in his S/Book.

District Education Officer  
(Male) Peshawar

Endst No: 8781-96

Dated 26/7/2017

Copy of the above is forwarded to the:

1. Accountant General Khyber Pakhtunkhwa.
2. SDEO(M) Town-IV Peshawar with the remarks that.
  - i. 'As per recommendation of the earlier inquiry officer an affidavit on stamp paper duly signed by two witnesses may be obtained from the accused official declaring that he is not involved in any criminal case and he has not recovered any pay/ salary for the absence period as mentioned. Moreover he is performing his routine duty upon his adjustment and will never claim any salary / pay for the absence period'. The stamp papers may be submitted to this office in-original for record please.
  - ii. In future absence of any official may immediately be treated in accordance with Rule-9 of Khyber Pakhtunkhwa civil servant (Efficiency & Disciplinary) Rules 2011.
3. ASDEO(M) Circle Concerned.
4. Mr.Umar Hayat PST,GPS Garhi Chandan Miana Peshawar is hereby warned to be care full in future otherwise strict disciplinary action under E&D Ruls2011 will be taken against him.

Dy:District Education Officer  
(Male) Peshawar

**ATTESTED**

(21)

District Education Officer  
(Male) Peshawar  
No. \_\_\_\_\_  
Dated \_\_\_\_\_/2020

*Annexure 'F'*

To,  
The SDEO (Male)  
Town-IV Peshawar.

Subject: FANANCIAL INVESTIGATION OF ARREAR CLAIM.

Memo:

I am directed to refer to your letter No.592, dated 23/10/2020 on the subject cited above.

It is to inform you that the competent authority has examine arrear claim in r/o Mr.Umar Hayat, SPST GPS Chorakh Garhi Chandan Peshawar and filed.

Endst.No.

*16858*

Dated *16-11-2020*

*sd/-*  
Dy:District Education Officer  
(Male) Peshawar

Copy forwarded to the:-

- 1. Official Concerned.

*[Signature]*  
Dy:District Education Officer  
(Male) Peshawar

**ATTESTED**

*[Signature]*

(25)

Amleuke "Hi"



DIRECTORATE OF ELEMENTARY & SECONDARY  
EDUCATION KHYBER PAKHTUNKHWA,  
PESHAWAR

No. 1613 / F.No. Umar Hayat PST Peshawar  
Dated: 16/9/2021

To

The District Education Officer  
(Male) Peshawar

Subject: - APPEAL

I am directed to refer to your letter No. 1757 D ted 02/03/2021, on the subject cited above and to ask you that appeal in respect of Mr. Umar Hayat PST GPS G. + Chandan Miya District Peshawar, has been rejected.

I am further directed to ask you to inform the appellant concerned accordingly under intimation to this office.

Assistant Director Extra (Male)  
Elementary & Secondary Education  
Khyber Pakhtunkhwa Peshawar

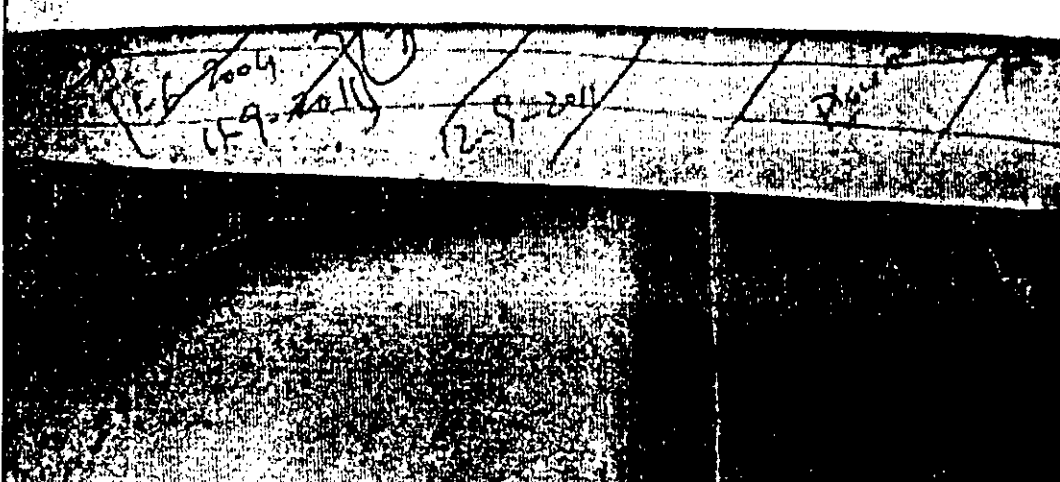
1613  
16/9/2021

Indst No. 1613  
Copy of the above is forwarded to:-

1. Mr. Umar Hayat PST GPS Garhi Chandan Miya District Peshawar
2. PA to Director E&SE local Office
3. Master File

Assistant Director Extra (Male)  
Elementary & Secondary Education  
Khyber Pakhtunkhwa Peshawar

1613  
16/9/2021



Handwritten signature and scribbles on the right margin.



T.4  
The worthy Director,

(22)

Annexure 'G'

F&SI Department Khyber Pakhtunkhwa,

Peshawar.

**Subject:** DEPARTMENTAL APPEAL UNDER SECTION 22 (B) OF CIVIL SERVANTS ACT 1973 AGAINST THE ORDER NO. 16858 DATED 16-11-2020 OF THE DEO (M) PESHAWAR WHEREBY SALARIES & ARREARS W.E.F. 12-09-2011 TO 29-03-2017 IN VIEW OF HIS OFFICE ORDER NO. 8791-94 DATED 26-07-2017 OF THE DISTRICT EDUCATION OFFICER (MALE) PESHAWAR IN FAVOR OF THE APPELLANT NAMEDLY UMAR HAYAT SPST B-14 GPS GHARI CHANDAN CIRCLE URMAR DISTRICT PESHAWAR HAS BEEN REFUSED ILLEGALLY.

**Prayer:**

ON THE ACCEPTANCE OF THIS DEPARTMENTAL APPEAL UNDER SECTION 22(B) OF CIVIL SERVANTS ACT 1973 AGAINST THE ORDER NO. 16858 DATED 16-11-2020 OF THE DEO (M) PESHAWAR WHEREBY SALARIES & ARREARS W.E.F. 12-09-2011 TO 29-03-2017 IN VIEW OF HIS OFFICE ORDER NO. 8791-94 DATED 26-07-2017, THE DISTRICT OFFICER (MALE) PESHAWAR IN FAVOR OF THE APPELLANT NAMEDLY UMAR HAYAT SPST B-14 GPS GHARI CHANDAN CIRCLE URMAR DISTRICT PESHAWAR IN THE INTEREST OF JUSTICE.

Respected Sir,

1. That vide notification No. 12983-89 dated 29-03-2017, the District education Officer (M) Peshawar has been pleased to re-instate the appellant against the PST post B-12 & was adjusted at GPS Garhi Chandan Maina District Peshawar with the condition vide Para-3 of the said order that the intervening period w.e.f. 01-06-2004 to 11-09-2011 was treated as on leave without pay & period w.e.f. 12-09-2011 to 29-03-2017 was treated as on duty vide & other Notification No. 8791-94 dated 26-07-2017 in view of the recommendations of the inquiry conducted vide Notification No. 13498-501 dated 04-04-2017 through the Principal GHSS Nodah Payan Peshawar. (Copies of the order dated 29-03-2017, 26-07-2017 & inquiry report are attached as Ann-A, B, & C)
2. That in compliance of the order dated 26-07-2017, the appellant has submitted an application along with other service documents to the Learned District Education Officer (M) Peshawar on through proper channel basis for the grant of salaries & arrears w.e.f. 12-09-2011 to 29-03-2017 to the appellant but wide order dated 16-11-2020 under the subject of financial investigation of arrears claim my application was seen & filed for no good reason & justification.

(22)  
11.12.20

23

Therefore, it is humbly requested that order dated 16-11-2020 of the District Education Officer (M) Peshawar may kindly be set aside in favor of the appellant with the directions to him to grant me the salaries & arrears w.e.f. 12-09-2011 to 29-03-2017 in compliance of his own office order dated 26-07-2017 in the interest of justice please.

Dated: 11/12/2020

Appellant,  
*Umar Hayat*

Umar Hayat SPST B-14,  
GPS Ghari Chandan Maina,  
Circle Umar Payan  
District Peshawar  
Mobile. 0335-5973847

ATTESTED

*[Signature]*

(24)

Appendix "H"

Page 18

DISTRICT EDUCATION OFFICER,  
(MALE) PESHAWAR  
No. 151  
Dated 07/03/2021

To  
The Director,  
(E&SE) Khyber Pakhtunkhwa Peshawar.

Subject  
Memo  
APPEAL.

Please refer to your office letter No.1297/F.No.Umar Hayat PST dated 22-02-2021 and I am directed to submit para-wise reply in r/o Mr.Umar Hayat PST, GPS Garhi Chandan Mirza Peshawar as under:-

It is submitted that Mr.Umar Hayat E/Teacher, GPS Garhi Chorakh Peshawar was appointed as an E/Teacher on 11-10-1989 and he absented himself from duty w.e.f 01-06-2004 to 29-03-2017 and submitted his arrival for duty on 12-09-2011(copy attached) upon which an inquiry was conducted through Principal GNS Doh Bahadar Peshawar. The inquiry officer concluded that the teacher is still in service & he may be adjusted subject to provision of affidavit that he is not involved in any criminal case and he will not claim his arrears for absent period (copy attached)

Eventually on the advice of the Secretary (E&SE) Department KPK Peshawar (copy attached) the official was adjusted and another inquiry was conducted through Principal GHSS Nodah Payan Peshawar to decide about his absence period. The inquiry officer treated his absence period w.e.f 01-06-2004 to 11-09-2011 as leave without pay and 12-09-2011 to 29-03-2017 on duty (Copy attached).

However, when his salary bill was submitted to Accountant General Office they observed that without pay leave is beyond five years may be sanctioned from Finance Department.

His case for sanction of leave was send to Finance Department through proper channel vide this office No.8947,dated 22-12-2018 and Finance Department has accord sanction w.e.f 01-06-2009 for a period of 07 year 03 months & 10-days vide No.SQ/PE/E&SED/4-3/2013 dated 26-07-2019(Copy attached)

Now the teacher concerned has requested through SDO (M) Town-IV Peshawar to submit his case for investigation of arrears claim to Finance Department for necessary approval/sanction.

In view of the above it is stated that the official concerned has not physically perform his duty w.e.f 12-09-2011 to 29-03-2017

Hence report is submitted please.

*Handwritten notes:*  
11/03/2021  
07/03/2021

*Signature and Stamp:*  
By District Education Officer  
(Male) Peshawar

**"BETTER COPY"**

Page | 8

District Education Officer,  
(MALE) PESHAWAR,  
No. 3757/  
Dated 02/03/2021

To,

The Director,  
(E&SE) Khyber Pakhtunkhwa Peshawar.

Subject: **APPEAL**  
Memo,

Please refer to your letter No. 1297/F.No. Umar Hayat PST dated 22-02-2021 and I am directed to submit para-wise reply in r/o Mr. Umar Hayat PST, GPS Garhi Chandan Miana Peshawar as Under:-

It is submitted that Mr. Umar Hayat E/Teacher, GPS Garhi Chorakh Peshawar was appointed as a E/Teacher on 11-10-1989 and he absented himself from duty w.e.f 01/06/2004 to 29-03-2017 and submitted his arrival for duty on 12-09-2011 (Copy attached) upon which an inquiry was conducted through Principal GHS Deh Bahadar, Peshawar. The inquiry officer conducted that the teacher is still in service & he may be adjusted subject to provision of affidavit that he is not involved in any criminal case and he will not claim his arrear for absent period (copy attached).

Eventually on the advice of the Secretary (E&SE) Department KPK Peshawar (copy attached) the official was adjusted and another inquiry was conducted through Principal GHSS Nodeh Payan, Peshawar to decide about his absence period. The inquiry officer treated his absence period w.e.f 01-06-2004 to 11-09-2011 as leave without pay and 12-09-2011 to 29-03-2017 on duty (copy attached).

However, when his salary bill was submitted to Accountant General Office they observed that without pay leave is beyond live years may be sanctioned from Finance Department.

His case for sanction of leave was send to Finance Department through proper channel vide this office No. 6547, dated 22-12-2018 and Finance Department has accord sanction w.e.f 01-06-2009 for a period of 02 years 03 months & 10-days vide No. SO(PE)/E&SED/4-3/2013 dated 26-07-2019. (Copy attached).

Now the teacher concerned has requested through SDEO (M) Town0IV Peshawar to submit his case for investigation of arrears claim to Finance Department for necessary approval / sanction.

In view of the above it is stated that the official concerned has not physically perform his duty w.e.f 12-09-2011 to 29-03-2017.

Hence report is submitted please.

SD/-  
Dy, District Education Officer,  
(Male) Peshawar

**"BETTER COPY"**

**DIRECTORATE OF ELEMENTARY & SECONDARY  
EDUCATION KHYBER PAKHTUNKHWA,  
PESHAWAR**

No. 7412/F.No. Umar Hayat PST Peshawar.  
Dated 16/03/2021.

To,

The District Education Officer,  
(Male) Peshawar.

Subject: **APPEAL**

I am directed to refer to your letter No. 3757 dated 02.03.2021, on the subject cited above and to ask you that appeal in respect of Mr. Umar Hayat PST GPS Garhi Chandan Miana District Peshawar, has been rejected.

I am further directed to ask you to inform the appellant concerned accordingly under intimation to this office.

SD/-

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

Endst No. 7413/.

Dated: 16/03/2021

Copy of the above is forwarded to:-

1. Mr. Umar Hayat PST GPS Garhi Chandan Miana District Peshawar.
2. PA to Director E&SE local Office.
3. Master File

SD/-

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

Dated: 16/03/2021



**GOVERNMENT OF KHYBER PAKHTUNKHWA  
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT**

**NOTIFICATION**

Dated Peshawar the 26.07.2019

**No. SO(PE)/E&SED/4-3/2013:** Sanction of the Govt. of Khyber Pakhtunkhwa Finance Department is hereby granted to Extra Ordinary Leave without pay for a period of 02 years, 03 months and 10 days w.e.f. 01-06-2009 in favour of Mr. Umar Hayat, PST Govt. Primary School, Ghari Chorakh, Town-IV, Peshawar under rule 12(4) of the revised leave rules 1981 being a hardship case in order to regularize the services of the concerned teacher.

**SECRETARY TO GOVT. OF KHYBER PAKHTUNKHWA  
ELEMENTARY & SECONDARY EDU: DEPTT:**

**Endst: No. SO(FR)FD/5-13/2019/27406/E&SE**

**Dated Pesh: 26/07/2019**

Copy of the above is forwarded to Accountant General Khyber Pakhtunkhwa / concerned District Account Officers, for necessary action.

**SECTION OFFICER (FR)  
FINANCE DEPARTMENT**

**Endst. Of even Number & Date:**

Copy of the above is forwarded to:

1. The Secretary to Government of Khyber Pakhtunkhwa Finance Department with reference to letter No. SO(FR)FD/5-13/2019/27406/E&SE dated 29.5.2019.
2. The Director E&SE Khyber Pakhtunkhwa.
3. The District Education Officer (M), District Peshawar.
4. The Section Officer (FR), Government of Khyber Pakhtunkhwa Finance Department.
5. The Section Officer (Budget & Account), Government of Khyber Pakhtunkhwa, E&SE Department.
6. PS to Secretary E&SE Department.
7. PA to Additional Secretary (Establishment / Budget), E&SE Department.
8. Teacher concerned
9. Master file.

**SECTION OFFICER (PRIMARY)**

**ATTESTED**

# بعدالت سندس ٹریبونل KP سٹیٹو



SCANNED  
KPST  
Peshawar

مورثہ ایبل 10 سیدیل 2021 منجانب ایبل ٹک  
مقدمہ  
دعویٰ  
جرم

## باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ  
آن مقام سٹیٹو اور سیدیل عابد اللہ صاحب، سید الجبور صاحب لڈو لیس  
مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز  
وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ پر حلف 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 مختار ہوگا۔ از بصورت ضرورت  
مقدمہ مذکور کے کل یا جزوی کاروائی 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 باختیارات حاصل ہوں گے  
اور اس کا ساختہ پر داختم منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے  
سبب سے وہوگا۔ 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 لکھد یا کہ سندر ہے۔

المرقوم 10 ماہ سیدیل 2021

العبد العبد العبد

کے لئے منظور ہے۔

سٹیٹو

Accepted  
&  
Accepted

مقام

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Umar Hayat.....Petitioner

Vs

Govt: of KPK & others.....Respondents

SCANNED  
KPST  
Peshawar

PARA WISE COMMENTS ON BEHALF OF RESPONDENT No.1-7

Respectively Sheweth:

The Respondent submits below:

PRELIMINARY OBJECTIONS:

1. That the Appellant has got no cause of action /locus standi.
2. That the Appellant has concealed material facts from this Hon,ble Tribunal.
3. That the Appellant has been estopped by his own conduct to file the instant appeal before this Hon'ble Tribunal.
4. That the instant Appeal is badly time barred.
5. That the instant Appeal is not maintainable in its present form.
6. That the instant Appeal is bed for mis- joinder and non- joinder of the necessary parties.
7. That the Appellant has not come with clean hands to this Hon'ble Tribunal.
8. That the instant Appeal is barred by law.

ON FACTS.

1. That Para No.1 pertains to record.
2. That Para No.2 also pertains to record.
3. That Para No.3 also pertains to record.
4. That Para No.4 is personal therefore no comments. Furthermore there is no application of appellant available on respondent's record so the appellant did not submit any such application.
5. That Para No.5 pertains to record. Moreover, the appellant was willful absent from his duty till the re- instatement order dated 26-7-2017. (Annex as Annexure A).
6. That in reply to Para No.6, it is submitted that the appellant was willful absent from his duty and admitted his willful absentee at the time of inquiry and

inquiry officer also mentioned at in inquiry finding Para No. 2 ( Inquiry as Annex as Annexure B .

- 7. That Para No.7 pertains to record, moreover the recommendation of inquiry officer are not binding of the competent authority.
- 8. That in reply to Para No.8, it is submitted that the appellant was willful absent and he did not perform his duty so he did not performed his duty there for he is not entitled for the salary of his willful absent period.
- 9. That in reply to Para No.9, it is submitted that the appellant was adjusted according to law and rules.
- 10. That Para No. 10 has already discussed in the above Para.
- 11. That in reply of Para No.11, it is submitted that the appellant did not work and he was absent from his duty therefore, he is not entitled for the salaries of the period 12-9-2011 to 29-3-2017.
- 12. That Para No.12 pertains to record.
- 13. That in reply to Para No.13, it is submitted that the appellant was willful absent from his duty and it is maxim that no work no pay. Therefore, the competent authority rejected the appeal of the appellant. (Rejection of appeal annex as annexure C)
- 14. That reply of Para No.14 has already being discussed in the above Para.
- 15. That the appellant has no cause of action to file the instant appeal in this Hon'ble Service Tribunal.

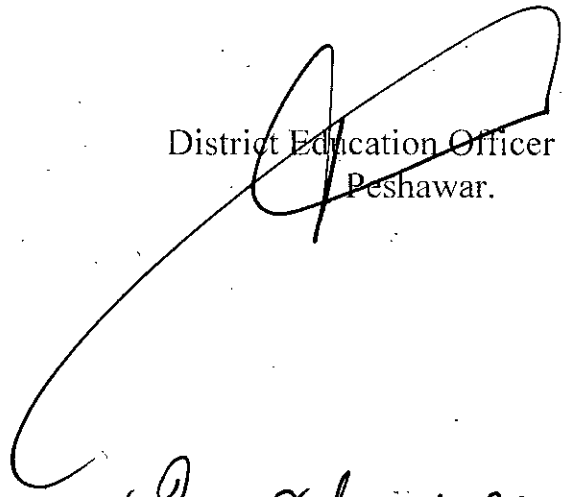
**GROUND**

- A. That Ground-A is incorrect, misleading and against the facts. The said order is according to law and rules.
- B. That Ground-B is also incorrect, misleading and against the facts. The appellant was willful absent from his duty and he did not perform his duty till the re-instatement so he did not entitled for the salaries of that period.
- C. That Ground-C is incorrect and misleading the appellant itself admitted that he was absent from his duty therefore, he is not entitled for the salaries of that period.
- D. That Ground-D is incorrect and misleading. The detail reply has been given in the above Para.
- E. That Ground-E is incorrect and misleading. The appellant was willful absent from his duty therefore; he is not entitled for the salaries of that period.


- G. That Ground-G is incorrect, misleading. the detail reply has been given in the above Para.
- H. That Ground-H is also incorrect and misleading. According to law and rules the appellant is not entitled for the salaries of the said period because no work on pay.
- I. That Ground-I is incorrect, misleading and against the facts. The appellant have no cause of action moreover, the respondent seeks permission of this Hon'ble Tribunal to advance on additional grounds at the time of arguments.

It is therefore, very humbly prayed that on acceptance of this reply, the instant appeal may very kindly be dismissed with cost.

District Education Officer (Male),  
Peshawar.



I rely upon comments respondent  
No-5.

 27/x/21  
So(lit-II) ESSE

(2) *Appendix A*

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

**OFFICE ORDER**

In continuation of this office order issued vide No.12983-89,dated 29/03/2017 and in pursuance of the recommendation of inquiry report the period in r/o Mr.Umar Hayat PST,GPS Garhi Chandan Miana Peshawar w.e.f 01/06/2004 to 16/03/2017 may be treated as under.

1. From: 01/06/2004 to 11/09/2011 leave without pay.
- ✓ 2. From 12/09/2011 to 29/03/2017 on duty.

Not:

1. Necessary entry to this effect should be made in his S/Book.

District Education Officer  
(Male) Peshawar

Endst No: 8741-94

Dated 26/7 /2017

Copy of the above is forwarded to the:

1. Accountant General Khyber Pakhtunkhwa.
2. SDEO(M) Town-IV Peshawar with the remarks that.
  - i. 'As per recommendation of the earlier inquiry officer an affidavit on stamp paper duly signed by two witnesses may be obtained from the accused official declaring that he is not involved in any criminal case and he has not recovered any pay/ salary for the absence period as mentioned. Moreover he is performing his routine duty upon his adjustment and will never claim any salary / pay for the absence period'. The stamp papers may be submitted to this office in-original for record please.
  - ii. In future absence of any official may immediately be treated in accordance with Rule-9 of Khyber Pakhtunkhwa civil servant (Efficiency & Disciplinary) Rules 2011.
3. ASDEO(M) Circle Concerned.
4. Mr.Umar Hayat PST,GPS Garhi Chandan Miana Peshawar is hereby warned to be care full in future otherwise strict disciplinary action under E&D Ruls2011 will be taken against him.

Dy:District Education Officer  
(Male) Peshawar

*ATTACHED*

To

The E.D.O (Elementary & Secondary)  
Education Peshawar.

Subject: ENQUIRY REPORT IN R/O MR.UMAR HAYAT PST G.P.S KAGA WALA PESHAWAR  
Memo:

Kindly refer to your Endst: No.8153-54 dated 28 / 03/2012 on the subject cited above. The report of the enquiry is hereby furnished as under for further process please:

#### HISTORY OF THE CASE.

1. One Mr. Umar Hayat PST has made an appeal for his restoration in his services after being absconded/absent from duty since 31/05/2004.
2. He has been appointed as E.T in F.R Peshawar vide A.E.O Endst: No.5388-89 dated 07/10/1998 (1989)
3. He had been transferred to GPS Kaga Wala Peshawar vide D.P.E No.20235 dated 31/05/1995.
4. Since then he had been performing his routine duties at G.P.S Kaga Wala Peshawar up to 31/05/2004.
5. He had been granted earned leave for 120 days w.e.f 01/02/2004 to 31/05/2004.
6. He had been unable to continue his duty further more and absconded due to enmity since 01/06/2004.

#### MECHANISM OF THE ENQUIRY.

In compliance with The E.D.O (Elementary & Secondary) Education Peshawar Endst: No.8153-54 dated 28 / 03/2012, the undersigned visited the school concerned and office of the A.D.O of the circle concerned on different occasions. Written reply to the statement/explanation and other necessary documents were obtained therefrom, regarding the continuous absence from duty of Mr. Umar Hayat PST w.e.f 01/06/2004 till now.

#### FINDINGS OF THE ENQUIRY.

1. No F.I.R has been lodged against Mr. Umar Hayat PST but his brothers and cousins have been involved in murder case and hence the circumstances compel him to stay away of the station of his duty.
2. He admits that he remained absconded/absent from his duties w.e.f 01/06/2004 till now.
3. The A.D.O of the circle concerned has requested the authority concerned to stop his pay and initiate necessary action against him.
4. The available record depicts that the department concerned has taken no action against him except stoppage of his pay w.e.f 01/02/2004, whatsoever thereby providing a room to the said teacher to claim all the benefits.
5. The undersigned obtained an under taking from the said PST declaring that;
  - (i) He is not involved in any criminal case but absconded due to fear of possible loss in enmity.
  - (ii) He has not drawn his pay during the period of his absence if proved otherwise he will be held responsible himself.
  - (iii) If his services are restored by adjusting him somewhere else at other station, he will perform his routine duty.
  - (iv) He will not claim any monetary benefits for the period he remained absent from

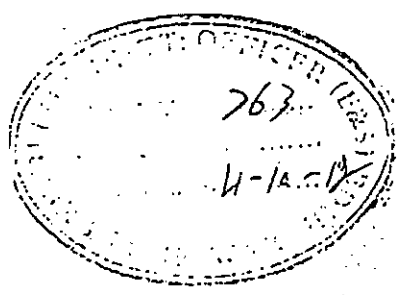
**CONCLUSIONS.**


Conclusions based on findings recorded above are as under:

1. Though Mr. Umar Hayat PST had made an appeal for restoration in services but he has neither been suspended nor dismissed as was required in the case for his willful absence. So there is no question of restoration in service in the said case. This was the foremost duty of the authority concerned to take action against him in either case for which it failed, thereby committing patent error.
2. He admits that he remained absconded/absent from his duties w.e.f 01/06/2004 till now, is his piety and nobility otherwise the law puts total responsibility of his absence and the consequential loss to Govt exchequer in case of payment to him for absent period on the authority concerned, for not taking any action.
3. The A.D.O of the circle concerned had requested the E.D.O concerned to stop his pay and initiate necessary action against him but later neither the A.D.O nor the E.D.O concerned took any action thereby manifesting negligence tantamounting to inefficiency and indiscipline.
4. The available record shows that the department has taken no action against him except stoppage of his pay w.e.f 01/02/2004, thereby providing a room to the said teacher to claim all the back benefits on one hand and encouraging other civil servants to resort to this habit on the other hand. It should be kept in mind that stoppage of pay of any civil servant with out the initiation of disciplinary proceeding is a serious type of inefficiency on the part of the authority concerned. The authority in this case, was required to perform the Govt functions rationally and responsibly, not arbitrarily and swayed with feel of power. It was required to show a sense of responsibility for which it failed.
5. The under taking collected from the said PST is declaring that;
  - (i) He is not involved in any criminal case but absconded due to fear of possible loss in emnity.
  - (ii) He has not drawn his pay during the period of his absence if proved otherwise he will be held responsible himself.
  - (iii) If his services are restored by adjusting him somewhere else at other station, he will perform his routine duty.
  - (iv) He will not claim any monitory benefits for the period he remained absent from duty

**RECOMMENDATIONS.**

1. He may be adjusted, at a station desired by him, in the public interest as soon as possible and the period of his absence may be converted into earned leave subject to the condition that he has earned sufficient leave other wise the absence period may be converted to leave with out pay (Extra ordinary leave).
2. The above 4 certificates recorded in Para 5 above should be collected from the PST on Stamp Paper.



  
 Principal  
 G.H.S Deh Bahadar Peshawar

**PRINCIPAL**  
 G.H.S. Deh Bahadar,  
 Peshawar.

CONFIDENTIAL

ENQUIRY REPORT

Subject: ENQUIRY AGAINST MR. UMAR HAYAT PST REGARDING HIS ABSENCE

BACKGROUND:

The undersigned was appointed as Enquiry Officer by the competent authority(District Education Officer (Male) Peshawar) vide Notification No.13498-501 dated 04/04/17 to conduct inquiry and to decide the doubtful period of duty w.e.f. (01.02.2004 to 11.09.2011) in respect of Mr. Umar Hayat PST when posted at GPS Alizai, Kagawala Peshawar vide DPL Peshawar Endsl. No. 20235-41/E.No.151/DPE/PTC/M/Pesh dated 31/05/1995 (Annex-4).

FACTS OF THE CASE:

Mr. Umar Hayat was appointed in Education Department as Teacher on 07.10.1989 in FR Peshawar (FAIA) and on 31.5.1995 transferred and posted in GPS Alizai, Kagawala, where he served up to 31.01.2004. To 01.02.2004, he submitted an application for four months leave on the basis of his blood feud. Mr. Umar Hayat left the station/duty without waiting for sanctioning of his leave and remained absconded till 11.9.2011. However, the department neither considered his application nor informed him to join his duty. The department has stopped his monthly salary without initiating any disciplinary proceeding against him.

Mr. Umar Hayat submitted his arrival/application on 12.09.2011 (Annex-A) to the DEO Peshawar stating therein that due to blood enmity he was unable to attend his duty and now the situation become a little better therefore, his pay may be released and he may be re-instated into service.

The department initiated an inquiry against the official and a Principal of Government High School, Dohbahadur Peshawar was appointed as inquiry officer. The inquiry officer conducted inquiry and submitted its report(Annex-B). The department did not implement the enquiry report and after two year issued a show cause notice to the

(68)

accused official with a tentative penalty of "removal from service" (Annex-C).

The accused responded to the notice (Annex-D) and the department afforded an opportunity of personal hearing to him (Annex-E).

During personal hearing the accused teacher produced certain precedents of the provincial government and Education Department wherein some officials/officers were re-instated into service despite absencing themselves for more than five years (Annex-F).

The DEO approached once again for guidance to the office of Director E&SE to tender advice/guidance in the matter, however the Directorate responded in an ambiguous manner and the matter remained under correspondence between the office of DEO and Directorate for 3 years (Annex-G).

In September, 2014 the office of DEO once again approached to Elementary & Secondary Education Department (Secretariat) for guidance/advice but the department returned the letter/reference of DEO with the observation to follow the procedure given in the Khyber Pakhtunkhwa Rules of Business 1985 (Annex-H).

At last the accused teacher submitted an appeal to the Secretary E&SE Department for adjustment and release of his salary, after the acceptance of appeal the Secretary asked for report from the office of DIO Peshawar, in this regard The DEO Peshawar submitted a detailed report to the Secretariat (Annex-I).

The department conveyed to the office of DEO Peshawar to implement the recommendations of the enquiry officer or otherwise. Moreover, under leave rules the absence period of the accused teacher can be converted in to extra ordinary leave without pay (Annex-J).

The District Education Officer (M) Peshawar adjusted the accused teacher with immediate effect and initiated the instant enquiry to probe about the intervening period (Annex-K).

Hence the instant proceeding initiated

**ENQUIRY PROCEEDINGS**

On receipt of letter for enquiry from DIO Officer Peshawar the undersigned visited the office of DIO (M) Peshawar and perused the personal file of the





accused teacher and other record. Simultaneously I also asked the accused teacher to submit his detail statement.

Accordingly the accused submitted his detail statement (Annex-L) stating therein that he was appointed as I.T Teacher on 07.10.1989 at GHS Kohi Hasan Khel FR Peshawar and transferred/adjusted in GPS Kagawala on 31.05.1995 Since then he was performing his duty honestly, devotedly and to the satisfaction of his superior. No complaint was lodged against him. He was always appreciated by his superiors for his excellent performance and awarded very good annual reports (PERs).

According to the statement of the teacher(official) In 2004 a blood feud was started with a party known for terrorist activities who have killed their old age relatives (Annex-M) as well as their children (Annex-N), females(Annex-O), cattle(Annex-P). They also demolished their houses(Annex-Q), burned their crops(Annex-R), destroyed their house hold articles (Annex-S)and even insulted the dead bodies/graves of their relatives(Annex-T). They also killed their far relatives only on the basis of relations with them (Annex-U)and injured with bullets one Shishtigul for doing labour work in construction of their house(Annex-V). Further argued in his statement the Quran and Ahadeeth are giving room those one who are compelled (to utter a word of disbelief) under duress while his heart is at peace with Faith. He further stated that his duty place and the houses of opponents were at a distance of 200 meters and in the performance of duty his life was at stake therefore, he migrated the village and saved his own life as well as the life of his family. In the meanwhile the department has stopped his monthly salary and did not inform about leave sanctioning or performing of duty. When the situations become a little better and the matter was also pitched up with some of the relatives of the opponents, I submitted my arrival/application for adjustment/posting on 12.9.2011. However, the department initiated inquiry against him and appointed Principal Government High School, DehBahadar Peshawar as an inquiry officer.

The inquiry officer conducted inquiry and submitted his report to the department on 20.9.2012 recommending that the accused himself admitting his absence due to blood feud which shows his honesty and piety otherwise the department had not initiated any proceeding against him provided a room to the accused to claim his all back benefits. Therefore, an affidavit may be taken from the accused that he is not involved in any criminal case and he has not received any pay/salary for the absence

period. Moreover, he will perform his duty upon his adjustment and will never claim any salary/pay for the absence period. The official may be adjusted at a station desired by him in the public interest as soon as possible and the period of his absence may be converted into earned leave subject to the condition that he has sufficient earned leave otherwise the absence period may be covered into leave without pay (LWOP).

The department issued a show cause notice on 21.05.2014 to the official which he responded and the department afforded an opportunity of personal hearing wherein he explained his position and submitted some precedents of the provincial government. The department again kept silent while the competent authority was required to pass orders within fifteen days. The official again asked about his posting but in vain. At last the accused teacher knocked the door of Secretary (E&SE) Department who asked about the report of DLO Peshawar and upon receipt of report he ordered to implement the recommendations of the inquiry officer and his absence can be converted into leave without pay as per Revised Leave Rules, 1981. The department has posted the applicant/teacher and ordered fresh inquiry into the intervening period. Hence the instant inquiry initiated. He further stated that due to the facts narrated above he was saving his life and was not absented himself without any reasons and despite that fact given affidavit before the inquiry officer that I will never claim back benefits for the absence period and the inquiry officer declared him innocent. The accused therefore, requested that he is innocent and still he is ready to give affidavit that he will not claim any back benefits of the absence period however is entitled for the salary/pay after his arrival as non posting was out of his control and it was the responsibility of the department to give him posting/adjustment.

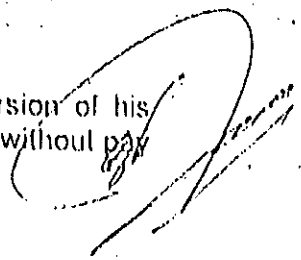
Therefore, he may not be punished for the fault of others otherwise it will cause irreparable financial as well as service loss to the petitioner. he prayed that his period w.e.f. 01.6.2004 to 11.9.2011 may be considered LWOP while after 12.9.2011 he may be considered on duty and may be paid salaries/pay for the said period and have a mercy on his siblings and avoid him further approaching any other forum.

#### FINDINGS

From perusal of the personal file of the accused and his detail statement before the undersigned the following findings have been discovered:

P-11

1. The accused teacher left his duty station without waiting for his sanctioning of his leave which shows negligence on his part, as per rules he was required to wait for the decision of the competent authority
2. The department from top to bottom and from Principal to I D/O/DI O have committed gross negligence as neither they have informed the accused about his leave sanctioning/rejection nor initiated any disciplinary proceedings against him but only stopped his salary/pay which was not covered under any rules/law. The department was required to issue notices to the teacher on his home addresses, and cause a show cause in newspapers, as per Rule 9 of the Khyber Pakhtunkhwa Civil Servants (Efficiency & Discipline) Rules, 2011.
3. The accused himself submitted arrival/application stating therein that he was absented himself from duty due to life threats. This act of the accused shows his honesty on his part and also pointed out in the earlier enquiry report
4. The department kept the report of last enquiry for about two years and no action was taken in the meanwhile. After issuing show cause notice and personal hearing the case was again remained undecided for three years due to correspondence between Directorate of E&SD and the office of DIO Peshawar
5. After reply to the show cause notice, the competent authority/DIO was required to pass final orders within fifteen days under E&SD Rules 2011 but again nothing was done for three years
6. Absence of the accused teacher has been proved w.e.f 01/2/2004 to 11/9/2011.
7. The documents provided by the accused teacher shows that the enmity was very severe and even killed his more than 75/70 years old uncles, 12/14 years nephews of the accused, their females, cattle's, demolished their houses and graves and burnt their crops. The opponents even killed their relatives and friends. Therefore, it was humanly impossible for the accused to perform his duty at his village.
8. After submission of arrival on 12/9/2011, it was the responsibility of the department to decide his case as soon as possible however the department remained slept and even turned deaf ear to the recommendations of inquiry officer. At last on the direction of the Secretary Education they adjusted the accused teacher on 30/03/2017 at GPS Gahr Chandan Peshawar
9. Therefore, for the period w.e.f 12/9/2011 to 28/02/2017, The department is responsible and the accused is entitled to be treated on duty for the said period.
10. Recommendations of the earlier enquiry officer regarding conversion of his absence into earned leave is not covered under rules as only EOL without pay



P-12  
C

can be granted retrospectively and under Rule 12(3) of the Revised Leave Rules 1981 "EOI may be granted retrospectively in lieu of absence without leave"

11. Rest of the recommendations of the earlier enquiry officer was based on fact and were according to rules hence were required to be implemented.

**CONCLUSION/RECOMMENDATIONS:**

- i. As per recommendations of the earlier enquiry officer an affidavit on stamp paper may be obtained from the accused officer declaring that he is not involved in any criminal case and he has not received any pay/salary for the absence period. Moreover, he has performed his routine duty upon his adjustment and will never claim any salary/pay for the absence period.
- ii. A warning may be issued to the accused teacher to be careful in future.
- iii. In future, absence of any official may be immediately treated in accordance with Rule-9 of Khyber Pakhtunkhwa Civil Servants (Efficiency & Discipline) Rules, 2011.
- iv. Absence of the accused teacher w.e.f. 01.2.2004 to 11.9.2011 may be treated as "Extra Ordinary Leave without pay under Rule 12(3) of the Revised Leave Rules 1981".
- v. The period of accused teacher w.e.f. 12.9.2011 till his adjustment may be treated as "on duty".

  
(PRINCIPAL)

Government Higher Secondary School  
Nodeh Payan, Peshawar

**C-E-R-T-I-F-I-C-A-T-E**

Certified that the instant enquiry report consists of six (06) pages and each page has been signed by the undersigned:

  
(PRINCIPAL)

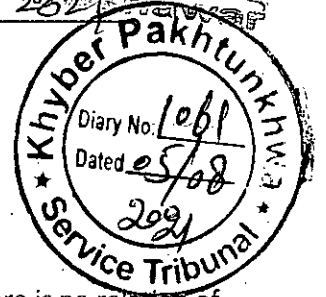
Government Higher Secondary School  
Nodeh Payan, Peshawar

FROM THE OFFICE OF THE PRINCIPAL GOVT. SHAHEED AIMAN KHAN  
HIGHER SECONDARY SCHOOL NAUDEH PAYAN PESHAWAR.

NO: 379

DATED: 2-8-2021

VS Service Tribunal Peshawar KPK



As the concerned person is already inquired by Ex. Principal Mr. Sahabzada Sb. So there is no relation of this enquiry with me.

Put up to the court with relevant appmt.

*[Signature]*  
5/8/2021.

Read

*[Signature]*  
Abdul Salam.

Principal.

**PRINCIPAL**  
Govt: Shaheed Aiman Khan  
Higher Secondary School  
Noudeh Payan Peshawar

**FROM THE OFFICE OF THE PRINCIPAL GOVT. SHAHEED AIMAN KHAN  
HIGHER SECONDARY SCHOOL NAUDEH PAYAN PESHAWAR.**

NO: 379

DATED: 26-7-2021

**TO WHOM IT MY CONCERN**

This is to certify that Mr. Abdul Salam S/O Abdul Wahab Principal Govt. Shaheed Aiman Khan Higher Secondary School Naudeh Payan Peshawar is severely ill and cannot perform any type of inquiry duty. It is kindly requested to exempt him from the inquiry duties.

Doctor Incharge

**Professor Dr. Ata-ur-Rahman**  
Department of Urology & Transplantation  
Former Director Institute of Kidney Diseases  
Hayatabad Medical Complex Peshawar.  
KPK Pakistan

Abdu Salam

**PRINCIPAL**  
Govt: Shaheed Aiman Khan  
Principal Higher Secondary School  
Noudeh Payan Peshawar

پروفیسر ڈاکٹر طاہر اقبال فاروقی سے کروانا ہے  
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① Cap Rifaxa 550mg ✓

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② Tab No clot 75mg ✓  
 باری 1

③ Tab Rovista 10mg ✓

باری 1

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باری 1

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 (باری)

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دائیں لویا اور ٹی سٹ سے پرہیز

اکٹھما اور ٹائٹ - ایدہ کا ملتا ہے



# KHYBER TEACHING HOSPITAL

MEDICAL TEACHING INSTITUTION PESHAWAR

**DISCHARGE SLIP UNIT: MAW**

Name of Patient: ABDUL SALAM Father/Husband Name: \_\_\_\_\_  
 Age: 52 Y Sex: M Bed No: 3 MR No: 3198876

Date of Admission: 28/04/21 Date of Discharge: 30/04/21

Diagnosis: DM / Multi-infarct Dementia / NASH / HE

Case Summary: DM for the last 24 years  
multi-infarct Dementia and HTN e  
previous Hx of Diabetic foot presented

Treatment in Hospital: to w c Lethargy, easily arousable  
and drowsiness e no previous Hx

of fever and cough on examination  
Flap was positive no ascites, spleno-  
megaly and pedal edema. Pt was

Treatment in Home: advised gut purgation. Pt improved

discharged on home treatments  
e follow up.

Investigations: B/C/HIV by ELISA.

S/Albumin - 3.32.

RBS - 202, ABGs - (N)

S/E, RFTS LFTS RBS (N)

CBC -> Thrombocytopenia.

Medical Rest if indicated: \_\_\_\_\_

Revisit Notice: \_\_\_\_\_

Signature: \_\_\_\_\_



15-4-21/13

عواشانی

AZAM CLINIC

PMDC# 4968-N

DR. HASHIM UDDIN AZAM

M.B.B.S (PAK) M.D(U.S.A) M.R.C.P(U.K) F.R.C.P (EDIN) F.R.C.P (LOND)

PROFESSOR OF MEDICINE  
AND VISITING CONSULTANT  
KHYBER TEACHING HOSPITAL

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Dr. Hashim  
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PMDC No: 4968-N

AZAM CLINIC

DR. HASHIM UDDIN AZAM

M.B.B.S (PAK) M.D (U.S.A) M.R.C.P (U.K) F.R.C.P (EDIN) F.R.C.P (LOND)  
PROFESSOR OF MEDICINE  
AND VISITING CONSULTANT  
KHYBER TEACHING HOSPITAL

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هو الشافي

# AZAM CLINIC

PMDC No:  
4968-N

## DR. HASHIM UDDIN AZAM

M.B.B.S (PAK) M.D (U.S.A) M.R.C.P (U.K) F.R.C.P (EDIN) F.R.C.P (LOND)  
PROFESSOR OF MEDICINE  
AND VISITING CONSULTANT  
KHYBER TEACHING HOSPITAL

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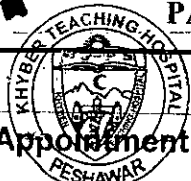
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PARCHI INV ~~OUTPATIENT DEPARTMENT (OPD)~~

MEDICINE - OPD Khyber Teaching Hospital  
Medical Teaching Institution, Peshawar  
Khyber Pakhtunkhwa - Pakistan.

Appointment Time : 10:45:00

M.R. No : K0300003206318

Name : Abdul Salam

Gender : Male

Age : 54 Year(s)

Invoice # : K03211785453

Receipt # : K03211018685

Amount Paid : 10.00

Date : 21-JUN-21

105

History

Complaints:

Clinical Examination

Provisional Diagnosis

Investigations

Investigations:

Rx DM/HTN/Multifarct  
Dementia / NASH

for Follow-up.

① Tab Riflax 550mg.  
qd - (1+1)

② Symp. Duphalac  
qd - qd - (2+2+2)

③ Tab. Flaxyl 400mg  
bid - (1+1+1+1)

④ Tab. Citron 500mg

Diagnosis:

DM 2 type 2

Continue Insulin

Next Visit:

Consultant Name:

Signature:



# PARCHI\_INVOICE OUTPATIENT DEPARTMENT (OPD)

MEDICINE - OPD Khyber Teaching Hospital

Appointment Time : 08:40:00 Medical Teaching Institution, Peshawar  
Khyber Pakhtunkhwa - Pakistan.

M.R. No : K0300003206318

Invoice # : K03212164795

Name : Abdul Salam

Receipt # : K03211229993

Gender : Male

Amount Paid : 10.00

Age : 54 Year(s)

Date : 26-JUL-21

(B)

History

Complaints:

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Clinical Examination

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Provisional Diagnosis

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Investigations

Investigations

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Diagnosis:

Next Visit:

Consultant Name:

Signature:





**KHYBER PAKHTUNKHWA**  
**SERVICE TRIBUNAL, PESHAWAR**

All communications should be addressed to the Registrar KPK Service Tribunal and not any official by name.

Ph:- 091-9212281  
Fax:- 091-9213262

No. \_\_\_\_\_/ST Dated \_\_\_\_/\_\_\_\_/2024

To

The District Education Officer,  
(Male) Peshawar.

Subject

**JUDGMENT IN SERVICE APPEAL NO. 4963/2021 TITLED UMAR HAYAT - VERSUS- THE GOVERNMENT OF KHYBER PAKHTUNKHWA THROUGH CHIEF EXECUTIVE/ CHIEF MINISTER, KHYBER PAKHTUNKHWA, PESHAWAR AND OTHERS**

Dear Sir,

I am directed to forward herewith a certified copy of judgment dated. 13.12.2023, passed by this Tribunal in the above mentioned service appeal for compliance.

*Encl. As above.*

(AAMIR FAROOQ KHATTAK)  
ASSISTANT REGISTRAR  
KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL,  
PESHAWAR.

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 4963/2021

BEFORE: MRS. RASHIDA BANO ... MEMBER (J)  
MR. MUHAMMAD AKBAR KHAN ... MEMBER(E)



Umar Hayat Son of Purdil Khan, PST-GPS Ghandan Miana, Education  
Department, Khyber Pakhtunkhwa.

.... (Appellant)

VERSUS

1. Government of Khyber Pakhtunkhwa through Chief Secretary/Chief Minister, Khyber Pakhtunkhwa, Peshawar.
2. Secretary to Government of Khyber Pakhtunkhwa, Directorate of Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar
3. Director, Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
4. Assistant Director Establishment (Male), Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
5. District Education Officer (Male), Peshawar.
6. Inquiry Officer, Principal Government Higher Secondary School, Nodeh Payan, Peshawar.

.... (Respondents)

Mr. Abid Ayub  
Advocate

... For appellant

Mr. Muhammad Jan  
District Attorney

... For respondents

-----  
Date of Institution.....12.04.2021  
Date of Hearing.....13.12.2023  
Date of Decision.....13.12.2023

JUDGMENT

RASHIDA BANO, MEMBER (J): The instant service appeal has been instituted under section 4 of the Khyber Pakhtunkhwa Service Tribunal, Act 1974 with the prayer copied as below:

“To set aside the impugned orders dated 16/11/2020

& 16/03/2021 and grant the arrears & salaries to the

**ATTESTED**

EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

appellant w.e.f 12/09/2011 to 29/03/2017 and to pass orders for granting the back benefits to the appellant.”

2. Brief facts of the instant case are that appellant was serving in the Education Department at GPS Kagawala, Peshawar up to 31.05.2004. In the meanwhile, due to enmity, he absented himself from duty. That when the circumstances favored the appellant, he appeared before the respondents and submitted application for arrival and arrears on 12.09.2011. That an inquiry was conducted and the inquiry officer favored the appellant as there was no FIR etc. against him, therefore, he was not removed nor any show cause notice was served upon him. That the Inquiry Officer recommended that the period w.e.f 31.05.2004 to 12.09.2011 might be treated as leave without pay. The said report was submitted by the Inquiry Officer on 20.09.2012 but no remarks were given on the said report and the matter was kept mum for five years. That on 29.03.2017, appellant was adjusted at GPS Kagawala Peshawar and fresh inquiry was ordered to be conducted in the appellant's case regarding the intervening period w.e.f 01.06.2004 to 16.03.2017. That inquiry was conducted and the inquiry officer recommended the period w.e.f 01.06.2004 to 11.09.2011 as leave without pay while the period w.e.f 12.09.2011 to 29.03.2017 as on duty. Upon the said recommendations the office order was notified. That the appellant moved an application for the period which was considered as on duty, but the same application was filed. Feeling aggrieved, he filed departmental appeal which was rejected, hence, the instant service appeal.

3. Respondents were put on notice who submitted written replies/comments on the appeal. We have heard the learned counsel for the appellant, learned counsel for private respondents as well as the learned

**ATTESTED**

**EXAMINER**  
**Khyber Pakhtunkhwa**  
**Service Tribunal**  
**Peshawar**

District Attorney and perused the case file with connected documents in detail.

4. Learned counsel for the appellant argued that the impugned order issued by the respondents is against the settled rules and also against the principal of natural justice because no opportunity of personal hearing was provided to the appellant, thus, the impugned order is not maintainable. He further contended that appellant clarified his absence through documentary evidence to enquiry officer who recommended that the impugned period shall be considered as on duty but this aspect was not taken into consideration by the respondent at the time of passing impugned order, which is not tenable in the eyes of law.

5. Conversely, learned District Attorney contended that appellant has been treated in accordance with law and rules. He further contended that appellant was willfully absent from his duty and he did not perform his duty till the reinstatement so he did not entitled for the salaries of that period. He further contended that appellant himself admitted that he was absent and it is maxim that no work no pay, therefore, the competent authority rejected the appeal of the appellant.

6. Perusal of record reveals that appellant was appointed as E.T in respondent department on 07.10.1989 who was regularly performing his duties till 31.05.2004. When on 01.06.2004 blood feud enmity of his family started in which some of his family members murdered and he alongwith his other family member charged in criminal case. Appellant submitted leave application to respondent due to threat to his life for long leave but no proper order was passed upon said application. Appellant after settlement of his family enmity submitted application for joining his duties on 12.09.2011.

Respondent order and initiate inquiry upon arrival of the appellant vide order

**ATTESTED**

EXAMINER  
Parhul Singh  
Service Tribunal  
Peshawar

dated 28/03/2012 as during intervening period neither leave application was sanctioned nor any disciplinary action initiated against appellant. Respondent No.6 inquiry officer vide his report dated 20.09.2012 held that appellant was not involved in a criminal case and due to brutal murder of his family member he was falsely charged by their enemies and appellant is still on service as he was not removed from service. He recommended intervening period i.e. 31.05.2004 to 12.09.2011 to be treated as leave with pay. Appellant was adjusted by respondent No.5 against the vacant post of PST GPS Kagawala Peshawar with immediate effect vide order dated 29.03.2017 with further order of fresh inquiry to decide the factum of intervening period 01.06.2004 to 16.03.2017 by appointing respondent No.2 as inquiry officer who submitted his report and recommended absence period of the appellant from 01.06.2004 to 01/09/2011 be treated as extra ordinary leave without pay under Rule 12(3) of Revised Leave Rules, 2011 and period from 12/09/2011 till adjustment of appellant i.e. 16.03.2017 be treated on duty. Respondent No.5 in consequence to above recommendation issued order accordingly on 26.07.2017. However claim of appellant for arrears was filed on 16.11.2020. Appellant filed appeal by challenging order dated 16.11.2020 & requested for grant of arrears of period which was on duty i.e. 12.09.2011 to 29.03.2017 which too was rejected vide order dated 09.03.2021 on the ground that appellant had not performed duties physically.

7. It is pertinent to mention here that when appellant reported for arrival and it was established on record from very first inquiry report dated 20/09/2012 that appellant is on duty and was not removed or dismissed from service then it was incumbents upon the authority to adjust appellant but they kept pending matter till 29/03/2017 for the reason best known to them. Moreover when authority vide order dated 28/03/2012 initiated inquiry


**ATTESTED**


EXAMINER  
Khyber Pakhtunkhwa  
Service Commission  
Peshawar

proceeding by appointing respondent No.6 as inquiry officer he must order of adjusting/posting of the appellant for the purpose of inquiry but he did not do so. When appellant was not removed or dismissed from service and he submitted application for arrival, he physically presented himself for performance of his duties but by not adjusting to post him to a specific school is the act on at the part of authority for which appellant cannot be penalized. It is the authority domain to transfer, post or adjust a civil servant which is out of control of the civil servant. Therefore, to penalized civil servant for simple reason that he physically not performed duties and is not entitled for the service benefits in shape of arrears is unjustified and against the settled rules. Therefore, in our humble view impugned order dated 16/03/2021 is not in accordance with law, hence set-aside.

8. For what has been discussed above, we are unison to accept the appeal by setting aside the orders dated 16.11.2020 and 16.03.2021 and appellant is held entitled for arrears of period on duty i.e. 12/09/2011 to 29/03/2017. Cost shall follow the event. Consign.

9. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 13<sup>th</sup> day of December, 2023.*


  
(MUHAMMAD AKBAR KHAN)  
Member (E)

  
(RASHIDA BANO)  
Member (J)

*Certified to be true copy*  
EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

1. Appellant alongwith his counsel present. Mr. Muhammad Jan, learned District Attorney for the respondents present.
2. vide our detailed judgment of today placed on file, we are unison to accept the appeal by setting aside the orders dated 16.11.2020 and 16.03.2021 and appellant is held entitled for arrears of period on duty i.e. 12/09/2011 to 29/03/2017. Cost shall follow the event. Consign.
3. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 13<sup>th</sup> day of December, 2023.*

**(Muhammad Akbar Khan)**  
Member (E)

  
**(Rashida Bano)**  
Member (J)



**KHYBER PAKHTUNKHWA**  
**SERVICE TRIBUNAL, PESHAWAR**

All communications should be addressed to the Registrar KPK Service Tribunal and not any official by name.

Ph:- 091-9212281  
Fax:- 091-9213262

No. \_\_\_\_\_/ST Dated \_\_\_\_/\_\_\_\_/2024

To

The District Education Officer,  
(Male) Peshawar.

Subject

**JUDGMENT IN SERVICE APPEAL NO. 4963/2021 TITLED UMAR HAYAT - VERSUS- THE GOVERNMENT OF KHYBER PAKHTUNKHWA THROUGH CHIEF EXECUTIVE/ CHIEF MINISTER, KHYBER PAKHTUNKHWA, PESHAWAR AND OTHERS**

Dear Sir,

I am directed to forward herewith a certified copy of judgment dated. 13.12.2023, passed by this Tribunal in the above mentioned service appeal for compliance.

*Encl. As above.*

(AAMIR FAROOQ KHATTAK)  
ASSISTANT REGISTRAR  
KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL,  
PESHAWAR.