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KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

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Abdur Rashid vs Govt of KPK

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Muharir Compilation

Incharge Judicial Branch

Sr	RollNo	Name	NIC	Name of School	SSC			HSSC			Bachelor			Master			MS/M.Phil/PhD			B.Ed			M.Ed(5%)/M.A.Ed(10%)			Academic Marks (out of 100)	NTS Marks (Out of 100)	Total Marks (Out of 200)	Address	Date Of Birth	Father Name	Candidate UC	Village Council	Remarks
					Obt	Total	20% (A)	Obt	Total	20% (B)	Obt	Total	20% (C)	Obt	Total	20% (D)	Obt	Total	10% (E)	Obt	Total	5% (F)	Obt	Total	%age (G)									
10	1518001724	SHAMEEN	21402-7709101-0	GGPS Sadiq Abad Majooki	665.0	900.0	15.22	729.0	1100.0	13.25	405.0	550.0	14.73	1800.0	2100.0	17.14	0.0	0.0	0.0	608.0	900.0	3.38	0.0	0.0	0.0	63.72	65.0	128.72	MOHALLAH ISLAMABAD STEET NO 3 HOUSE NO 4 NOWSHERA ROAD TEHSIL AND DIST CHARDADDA	11/08/1992	WAZIR MUHAMMAD	MC 4	VC 9	Clear
10	1518001724	SHAMEEN	21402-7709101-0	GGPS Station Koroona	665.0	900.0	15.22	729.0	1100.0	13.25	405.0	550.0	14.73	1800.0	2100.0	17.14	0.0	0.0	0.0	608.0	900.0	3.38	0.0	0.0	0.0	63.72	65.0	128.72	MOHALLAH ISLAMABAD STEET NO 3 HOUSE NO 4 NOWSHERA ROAD TEHSIL AND DIST CHARDADDA	11/08/1992	WAZIR MUHAMMAD	MC 4	VC 9	Clear
11	1517000869	FARISHTA	17101-7533079-2	GGPS Sadiq Abad Majooki	934.0	1050.0	17.79	945.0	1100.0	17.18	415.0	550.0	15.09	456.0	600.0	15.2	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	65.26	63.0	128.26	MOHALLAH KANAN KHEL VILLAGE RAJJAZ TEHSIL AND DISTRICT CHARSADDA	24/09/1995	MOHAMMAD ZARSHAN	RAJJAR	RAJJAR	Out Union Council
11	1517000869	FARISHTA	17101-7533079-2	GGPS Station Koroona	934.0	1050.0	17.79	945.0	1100.0	17.18	415.0	550.0	15.09	456.0	600.0	15.2	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	65.26	63.0	128.26	MOHALLAH KANAN KHEL VILLAGE RAJJAZ TEHSIL AND DISTRICT CHARSADDA	24/09/1995	MOHAMMAD ZARSHAN	RAJJAR	RAJJAR	Out Union Council
12	2918000831	SHAH HARAM	17101-0823707-4	GGPS Sadiq Abad Majooki	877.0	1050.0	16.7	834.0	1100.0	15.16	369.0	550.0	13.42	879.0	1200.0	14.65	0.0	0.0	0.0	827.0	1100.0	3.76	0.0	0.0	0.0	63.69	64.0	127.69	UTILITY STORES MARDAN ROAD CHARSADDA	09/09/1994	MUHAMMAD ULLAH	MC 1	MIRZAGAN	Out Union Council
13	1517001600	AFSHEEN AKBAR	17101-1570021-6	GGPS Sadiq Abad Majooki	698.0	900.0	15.51	675.0	1100.0	12.27	315.0	550.0	11.45	3.36	4.0	16.8	3.6	4.0	9.0	1074.0	1300.0	4.13	0.0	0.0	0.0	69.16	57.0	126.16	CARE OF KHALID MEDICOSE TANGI ROAD CHARSADDA	15/02/1992	AKBAR KHAN	UC 11 MC 4 CHARSADDA	UMER ABAD AND MERA PRANG	Clear
12	1517001600	AFSHEEN AKBAR	17101-1570021-6	GGPS Station Koroona	698.0	900.0	15.51	675.0	1100.0	12.27	315.0	550.0	11.45	3.36	4.0	16.8	3.6	4.0	9.0	1074.0	1300.0	4.13	0.0	0.0	0.0	69.16	57.0	126.16	CARE OF KHALID MEDICOSE TANGI ROAD CHARSADDA	15/02/1992	AKBAR KHAN	UC 11 MC 4 CHARSADDA	UMER ABAD AND MERA PRANG	Clear
14	1517001201	JALWA NASIR	17101-5913940-6	GGPS Sadiq Abad Majooki	760.0	1050.0	14.48	780.0	1100.0	14.18	378.0	550.0	13.75	845.0	1200.0	14.08	737.0	900.0	8.19	581.0	1100.0	3.1	0.0	0.0	0.0	67.78	58.0	125.78	NOUBAHAR COLONY NOWSEHRA ROAD CHARSADDA	01/01/1989	NASIR KHAN	MC 4	UMAR ABAD	Clear but Required Mphil Degree & Union Concl Secretary Certificate?
13	1517001201	JALWA NASIR	17101-5913940-6	GGPS Station Koroona	760.0	1050.0	14.48	780.0	1100.0	14.18	378.0	550.0	13.75	845.0	1200.0	14.08	737.0	900.0	8.19	581.0	1100.0	3.1	0.0	0.0	0.0	67.78	58.0	125.78	NOUBAHAR COLONY NOWSEHRA ROAD CHARSADDA	01/01/1989	NASIR KHAN	MC 4	UMAR ABAD	Clear but Required Mphil Degree & Union Concl Secretary Certificate?
14	2919000353	NEELUM ALI	17301-9819215-2	GGPS Station Koroona	712.0	900.0	15.82	865.0	1100.0	15.73	358.0	500.0	14.32	653.0	1100.0	11.87	0.0	0.0	0.0	621.0	900.0	3.45	0.0	0.0	0.0	61.19	64.0	125.19	HOUSE NO T-170 ASHRAFIA COLONY EID GAH ROAD PESHAWAR	10/03/1991	SHOUKAT ALI	MC IV MERAPARANG	NAJEEM ABAD	Absent

(1)

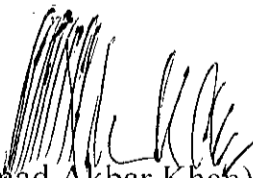
Service Appeal No.509/2023 titled "Abdur Rasheed Vs. Education Department"

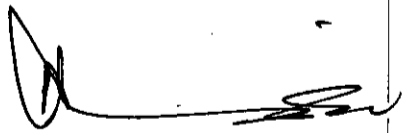
14th May, 2024 **Kalim Arshad Khan, Chairman:** Appellant alongwith his counsel present. Mr. Umair Azam, Additional Advocate General alongwith Mr. Muhammad Riaz, SCT for the respondents present.

2. Learned counsel for the appellant has very fairly submitted that after the impugned order passed on 20.01.2022, the appellant was further transferred during the pendency of this appeal, on 04.10.2022, which, though, he had complied with, but wants to challenge the same rendering this appeal fruitless.

3. The appeal in hand has become fruitless, however, the appellant is at liberty to challenge the subsequent order of 04.10.2022, which if challenged, has to be decided on its own merits. Consign.

4. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 14th day of May, 2024*


(Muhammad Akbar Khan)
Member (E)


(Kalim Arshad Khan)
Chairman

(2)


26th April, 2024

Mr. Waleed Iqbal, Advocate, as proxy for learned counsel for the appellant present. Mr. Muhammad Jan, District Attorney for the respondents present.

Mr. Waleed Iqbal, Advocate stated that learned counsel for the appellant informed him that due to marriage of his brother, he would be unable to attend this Tribunal today and requested for adjournment. Granted. File to come up for preliminary hearing on 02.05.2024 before the S.B. Parcha Peshi given to learned counsel for the parties.

02.05.2024 1. Mr. Umar Farooq Mohmand, Advocate for the respondents (Rashida Bano) present. Mr. Arshad Azam learned Assistant Advocate General along with Muhammad Riaz, SCT for the respondents present.

2. Being newly engage, learned counsel for the appellant requested for adjournment in order to prepare the brief. Adjourned. To come up for preliminary hearing on 14.05.2024 before S.B. P.P given to parties.


(Rashida Bano)
Member (J)

SCANNED
KPST
Peshawar

SCANNED
KPST
Peshawar


28.02.2024

1. Learned counsel for the petitioner present. Mr. Habib Anwar, Additional Advocate General for the respondents present.

2. The Service Appeal bearing No. 509/2023 was dismissed in default vide order dated 03.01.2024. The petitioner submitted application for attested copy on 10.01.2024 which was delivered to him on 10.01.2024, hence preferred the instant restoration application on 19.01.2024. The application is within time and learned AAG has got no objection on restoration of appeal. The application for restoration of service appeal is supported by duly sworn affidavit. Law also favours adjudication on merit by avoiding technicalities.

3. The application in hand is, therefore, accepted and the appeal is restored to its original number. Copy of this order sheet be placed on main service appeal No. 509/2023. To come up for preliminary hearing on 26.04.2024 before S.B. P.P given to the parties.

4. *Pronounced in open court at Peshawar and given under my hand and seal of the Tribunal on this 28th day of February, 2024.*


(Muhammad Akbar Khan)
Member (E)

Kamranullah

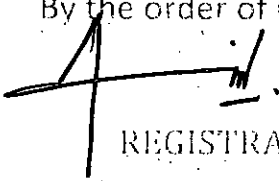
SCANNED
KFST
Peshawar

Form-A

FORM OF ORDER SHEET

Court of _____

Restoration Application No. 90/2024

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge
1	2	3
	19.01.2024	<p>The application for restoration of Service Appeal no. 509/2023 submitted today by Mr. Kamran Khan Advocate. It is fixed for hearing before Single Bench at Peshawar on <u>28-02-24</u>. Original file be requisitioned. Parcha Peshi is given to counsel for the applicant.</p> <p>By the order of Chairman  REGISTRAR</p>


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Peshawar

27th Nov.2023

01. Nemo for the appellant. Mr. Anwar Habib, Addl. Advocate General alongwith Muhammad Riaz, SCT for the respondents present.

02. Last opportunity is given for preliminary hearing on 03.01.2024 before the S.B. Parcha Peshi given to the learned AAG.

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KPST
Peshawar


(Fareeha Paul)
 Member(E)

Fazle Subhan, P.S


03.01.2024

1. Nemo for appellant. Mr. Asif Masood Ali Shahi, Deputy District Attorney alongwith Mr. Riaz, SCT for the respondents present.

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Peshawar

2. The appeal in hand was called on for hearing after various intervals, however, neither the appellant nor anyone else appeared on his behalf till the closing time, therefore, the appeal in hand stands dismissed in default.

3. *Pronounced in open at Peshawar and given under our hand and seal of the Tribunal on this 03rd day of January, 2024.*


 (Muhammad Akbar Khan)
 Member (E)

Kamranullah

05.09.2023

Clerk to counsel for the appellant present. Mr. Asad Ali Khan learned Assistant Advocate General for the respondent present.

Clerk of counsel for the appellant requested for adjournment on the ground that senior counsel for the appellant is indisposed today. Adjourned. To come up for preliminary hearing on 18.10.2023 before S.B. P.P given to clerk of counsel for the appellant.

(Rashida Bano)
Member (J)

08th Oct 2023

1. Appellant alongwith his counsel present. Mr. Asif Masood Ali Shah, Deputy District Attorney alongwith Mr. Muhammad Riaz, SCT for the respondents present.

2. Learned counsel for the appellant requested for adjournment in order to prepare the brief. Adjourned. To come up for preliminary hearing on 27.11.2023 before S.B. P.P given to the parties.

(Muhammad Akbar Khan)
Member (I)

SCANNED
KPST
Peshawar

Kaleem Ullah

SCANNED
KPST
Peshawar

15.06.2023 Appellant in person present. Mr. Asad Ali Khan, Assistant Advocate General alongwith Mr. Muhammad Naveed, Superintendent on behalf of respondents present.

Appellant requested for adjournment on the ground that his counsel is not available today due to strike of lawyers. Adjourned. To come up for preliminary hearing on 21.07.2023 before S.B. Parcha Peshi given to the parties.

(Muhammad Akbar Khan)
Member (E)

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Peshawar

Kamranullah

21.07.2023 Clerk of learned counsel for the appellant present. Mr. Asad Ali Khan, Assistant Advocate General for the respondents present.

Clerk of learned counsel for the appellant requested for adjournment on the ground that learned counsel for the appellant is busy in the august Peshawar High Court, Peshawar. Adjourned. To come up for preliminary hearing on 05.09.2023 before S.B. P.P given to the parties.

(Muhammad Akbar Khan)
Member (E)

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Peshawar

Kamranullah

02.05.2023

Learned counsel for the appellant present. Mr. Asif Masood Ali Shah, Deputy District Attorney alongwith Mr. Behramand, A.D and Mr. Faheem, Assistant for the respondents present.

Reply/comments on behalf of respondents not submitted. Representative of the respondents requested for time to submit reply/comments. Adjourned. To come up for reply/comments as well as preliminary hearing on 23.05.2023 before S.B. Parcha Peshi given to the parties.

(Muhammad Akbar Khan)
Member (E)

Kamranullah

23rd May, 2023

01. Clerk of counsel for the appellant present. Mr. Fazal Shah Mohmand, Addl. AG alongwith Muhammad Naveed Khan, Superintendent for the respondents present.

02. Written reply/comments on behalf of the respondents submitted which is placed on file and a copy whereof handed over to clerk of learned counsel for the appellant. To come up for preliminary hearing on 15.06.2023 before the S.B. Parcha Peshi given to the parties.

(FAREEHA PAUL)
Member (E)

Fazle Subhan, P.S

SCANNED
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Peshawar

SCANNED
K-3T
Peshawar

(9)

2nd Mar, 2023

Learned counsel for the appellant present and heard.

Arguments on office objection heard, therefore, objection is thus removed. Let a pre-admission notice be issued to the respondents for submission of written reply/comments. To come up for reply/preliminary hearing on 15.03.2023

SCANNED
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Peshawar



(Kalim Arshad Khan)
Chairman

15th March, 2023
Counsel for the appellant present. Mr. Asad Ali Khan, Assistant Advocate General for the respondents No. 1 & 2 present. Nemo for respondent No. 3.

SCANNED
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Peshawar

Notice to respondent No. 3 has not been issued. Notice be issued to him through TCS, the expenses of which shall be deposited by the appellant within 10 days. To come up for reply/preliminary hearing on 02.05.2023 before the S.B. Parcha Peshi given to the parties.



(Farcella Paul)
Member(E)

Reply/Comments on behalf of respondents not to be
learned Deputy District Attorney shall be contact the
respondent on the address of the respondent's residence
for the purpose of the hearing and the hearing shall
be held at the residence of the respondent unless the
respondent shall file a written request for a hearing
at a different location and the request shall be
granted if the request is made at least ten days
before the hearing date.

Respondent shall be notified of the hearing date
at least ten days before the hearing date.

Page 1 of 1

Page 1 of 1

Page 1 of 1

6

12.12.2022

Miss Uzma Syed, Advocate present and submitted Wakalatnama in favor of appellant, which is placed on file. Being freshly engaged, learned counsel for the appellant requested for adjournment. Adjourned. To come up for preliminary hearing on 27.01.2023 before S.B.

(Mian Muhammad)
Member (E)

27.01.2023

Learned counsel for the appellant present and requested for adjournment being not feeling well today. Adjourned. To come up for preliminary hearing on 20.02.2023 before the S.B.

(Salah-Ud-Din)
Member (J)

20-2-23

The Worthy Chairman is on Tour
Therefore case is adjourned to 1-3-23
for the same.

01.03.2023

Being very old office objection, it
be fixed for 02-03-2023

16th Sept, 2022 Appellant in person present.

Appellant seeks adjournment on the ground that his counsel is not available today. To come up for preliminary hearing on 11.10.2022 before S.B.



(Kalim Arshad Khan)
Chairman

11.10.2022 Syed Noman Ali Bukhari, Advocate present and submitted Wakalatnama on behalf of appellant which is placed on file.

Counsel for the appellant seeks adjournment in order to prepare the brief. To come up for preliminary hearing on 15.11.2022 before S.B.



(Fareeha Paul)
Member (E)

15.11.2022 Clerk of learned counsel for the appellant present and requested for adjournment on the ground that learned counsel for the appellant is busy before Hon'ble Peshawar High Court, Peshawar. Last opportunity is granted. To come up for preliminary hearing before the S.B on 12.12.2022.



(Mian Muhammad)
Member (E)

22.04.2022

Learned counsel for the appellant present.

Learned counsel for the appellant requested for adjournment on the ground to make proper preparation so as to assist the court on the next date. Adjourned. To come up for preliminary hearing on 13.06.2022 before S.B.

(MIAN MUHAMMAD)
MEMBER(E)

13th June, 2022

Appellant present in person.

Counsel are on strike. To come up for preliminary hearing on 29.06.2022 before S.B.

29.06.2022

None for the appellant present. **(Kalim Arshad Khan)**
Chairman

Notice be issued to the appellant and his counsel. Adjourned. To come up for preliminary arguments on 15.07.2022 before S.B.

(Fareeha Paul)
Member (E)

15.07.2022

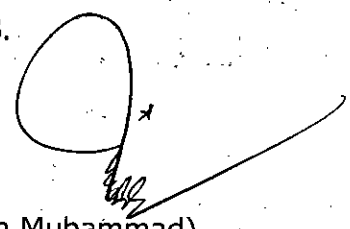
Junior of learned counsel for the appellant present and requested for adjournment on the ground that learned counsel for the appellant is not available today. Adjourned. To come up for preliminary hearing on 17.08.2022 before S.B.

(MIAN MUHAMMAD)
MEMBER(E)

SCANNED
KPST
Peshawar

17.08.2022

Appellant in person present and requested for adjournment as his counsel is not available today. Adjourned. To come up for preliminary hearing on 16.09.2022 before S.B.



(Mian Muhammad)
Member (E)

The present appeal was submitted on 15.03.2022 against the transfer order dated 20.01.2022 against which he preferred/made departmental appeal/ representation on 21.01.2022, the period of ninety days is not yet lapsed as per section 4 of the Khyber Pakhtunkhwa Service Tribunal Act 1974, which is premature.

As such the instant appeal is returned again in original to the appellant/Counsel. The appellant would be at liberty to resubmit fresh appeal after maturity of cause of action and also removing the objections 4, 5 & 6.

No. 768 /ST,

Dt. 28-3 /2022


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Syed Saud Shah Adv.
High Court Peshawar.

R/S; Re-submitted after removal of objection as the period of 90 days has been lapsed as it was preferred on 21-1-2022.

Q.A.H.


16

The appeal of Mr. Abdur Rasheed PST, GPS Agra Malakand received today i.e. on 10.03.2022 is incomplete on the following score which is returned to the counsel for the appellants for completion and resubmission within 15 days.

- 1- Certificate be given to the effect that appellants has not filed any service appeal earlier on the subject matter before this Tribunal.
- 2- Annexures of the appeal may be attested.
- 3- Appeal has not been flagged/marked with annexures marks.
- 4- Copies of removal order/notification and enquiry report mentioned in para-2 of the memo of appeal are not attached with the appeal which may be placed on it.
- 5- Copies of departmental appeal and order passed on it mentioned in para-3 of the memo of appeal are not attached with the appeal which may be placed on it.
- 6- Copies of application, appeal, and direction of Secretary E&SE mentioned in para-4 of the memo of appeal are not attached with the appeal which may be placed on it.
- 7- Annexures of the appeal are not in sequence which may be annexed serial wise as mentioned in the memo of appeal.
- 8- One more copy/set of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No. 670 /S.T.

Dt. 15-3- /2022


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Syed Saud Shah Adv. Pesh.

R/S; Resubmitted after removal of objections as mentioned in Para-1, 2, 3, 7 & 8, as far as Para-4, 5 and 6 is concerned is not relevant/applicable.

Thank you
Syed Saud Shah
Advocate

The present appeal was submitted on 15.03.2022 which was returned to the counsel for the appellant for completion. Today i.e on 25.03.2022 the counsel for the appellant resubmitted the same without removing the objections No. 4, 5 & 6. Therefore the same is returned again to the counsel for the appellant for removing the deficiencies and resubmit the same within 15 days.

No. 703 /2022

dt. 25-3-2022

SEAL OF THE JUDGE
KHYBER PAKHTUNKHWA
PESHAWAR

Syed Saud Shah Adv. Pesh.

15-3-2022

Handwritten notes in Urdu script, possibly detailing the appeal process or the judge's observations. The text is largely illegible due to blurring and handwriting style.

HYBER PAKHTUNKHWA SERVICES TRIBUNAL, PESHAWAR**CHECK LIST**

Abdur Rashid **Versus** Secretary E.S.E. K.P.K
 Appellant Respondents

	<u>CONTENTS</u>	<u>YES</u>	<u>NO</u>
0	This petition has been presented by: <u>Advocate</u> <u>Court</u>	√	
	Whether Counsel/Appellant/Respondent/Deponent have signed the requisite documents?	√	
	Whether appeal is within time?	√	
	Whether the enactment under which the appeal is filed mentioned?	√	
	Whether the enactment under which the appeal is filed is correct?	√	
	Whether affidavit is appended?	√	
	Whether affidavit is duly attested by competent Oath Commissioner?	√	
	Whether appeal/annexures are properly paged?	√	
	Whether certificate regarding filing any earlier appeal on the subject, furnished?	√	
0.	Whether annexures are legible?	√	
1.	Whether annexures are attested?		
2.	Whether copies of annexures are readable/clear?	√	
3.	Whether copy of appeal is delivered to AG/DAG?	√	
4.	Whether Power of Attorney of the Counsel engaged is attested and signed by petitioner/appellant/respondents?	√	
5.	Whether numbers of referred cases given are correct?	√	
6.	Whether appeal contains cutting/overwriting?	x	
7.	Whether list of books has been provided at the end of the appeal?	√	
8.	Whether case relate to this court?	√	
9.	Whether requisite number of spare copies attached?	√	
0.	Whether complete spare copy is filed in separate file cover?	√	
1.	Whether addresses of parties given are complete?	√	
2.	Whether index filed?	√	
3.	Whether index is correct?	√	
4.	Whether Security and Process Fee deposited? On _____		
5.	Whether in view of Khyber Pakhtunkhwa Service Tribunal Rules 1974 Rule 11, notice along with copy of appeal and annexures has been sent to respondents? On _____	√	
6.	Whether copies of comments/reply/rejoinder submitted? On _____		
7.	Whether copies of comments/reply/rejoinder provided to opposite party? On _____		

is certified that formalities/documentation as required in the above table have been fulfilled.

Name:- Syed Saad Shah

Signature:- [Signature]

Dated:- 23-2-2022

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNALPESHAWAR.Service Appeal No. 509 /2023**SCANNED**
KPST
Peshawar

Abdur Rasheed, PSHTAppellant

Versus

Govt of K.P. through Secretary E&SE and others Respondents

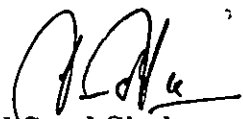
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6.	Copy of transfer order	6 & 6A
7.	Copy of representation	7 & 7A
8.	Wakalatnama.	10 & 11



Appellant

Through


Syed Saud Shah
 Advocate High Court



BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL

PESHAWAR.

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 397

Dated 10/03/2022

Service Appeal No. 509 /2023

Abdur Rasheed, PSHT, GPS Agra, Malakand.....Appellant

Versus

- 1) Govt. of Khyber Pakhtunkhwa, through Secretary Elementary and Secondary Education, Civil Secretariat, Peshawar.
- 2) Director Elementary and Secondary Education, near GHSS No.1, G. T Road, Peshawar
- 3) District Education Officer (M), Malakand..... Respondents

**SERVICE APPEAL U/S 4 OF THE
KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL ACT, 1974.**

PRAYER:

On acceptance of this appeal, impugned order of transfer may also be declared null and void and be set aside.

Filed to-day

by
Registrar

10/3/2022

Respectfully Sheweth;

- 1) That the appellant is serving as P.S.H.T (BPS-15) and posted at GPS, Agra, Malakand.

②

- 2) That it so happened that departmental inquiry was initiated against him due to certain alleged purchases made by the appellant for official purposes for the school. It is also relevant to mention here that on the directions of competent authority i.e. EDO the same was also deposited in the official head, accordingly. However he was awarded major penalty on 28.07.2017. [REDACTED]
- 3) That feeling aggrieved of the same, the petitioner preferred an appeal to the appellate authority i.e. Director as a result of it, the major penalty of removal from service was converted into one post reduction of time scale from BPS-15 to BPS-14, and intervening period was considered as leave without pay. (Copy of appeal and order are annexed).
- 4) That it is noteworthy that during inquiry the petitioner was kept under suspension and was also deprived of the salary due for such period of time. Moreover, the petitioner was constrained to approach the quarter concerned for the release of his outstanding dues in lieu of salary, however no heed was paid on it, despite the directions of the higher authority in this respect. [REDACTED]
[REDACTED]
- 5) That instead of making any effort towards the materialization of the claim of the petitioner, it appears that the same has led to some kind of annoyance and displeasure in the mind of the competent authority, the respondent No.2. The same also led to the further aggravating of the miseries of the petitioner as he was suddenly transferred to a far flung area GPS Banjo. (Copy of transfer order is annexed). Moreover the appellant has also made representation against it but of no avail, therefore, the appellant is obliged to knock at the doors of this hon'ble Tribunal, inter alia on the following grounds:

GROUNDS:

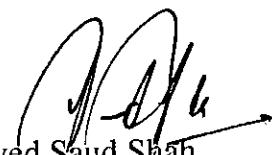
- A) That the actions and inaction on the part of the respondents are harsh and smack malafide to the great detrimental of the rights and terms and conditions of the service, hence liable to be cured through the instant service appeal.
- B) That the appellant is old, sick and at the verge of retirement, therefore, the sudden transfer of the petitioner to a far flung area on the basis of likes and dislikes, pick and choose and discriminatory in nature deserves to be set aside and annulled through the instant service appeal.
- C) That it is quite clear from the record that the respondents have not exercised power and authority aptly, justly and in accordance with law in light of the spirit of clause 24-A of General Clauses Act.

It is, therefore, prayed that on the acceptance of the instant service appeal, impugned order of transfer may also be declared null and void and set aside.



Appellant

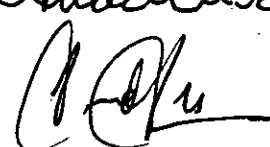
Through



Syed Saud Shah
Advocate High Court

certificate: No earlier appeal has been filed on the subject matter before this Tribunal.

*Syed Saud Shah
Advocate*



(4)

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNALPESHAWAR.

Service Appeal No. _____/2022

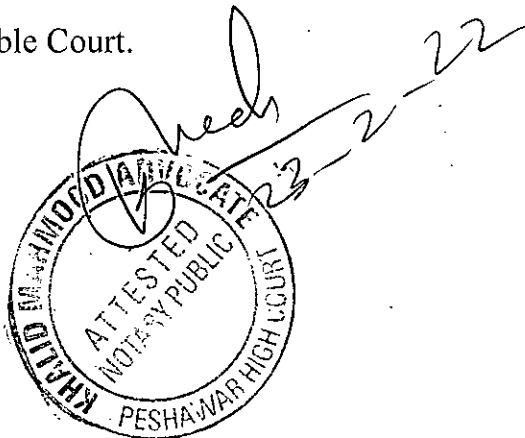
Abdur Rasheed, PSHTAppellant

Versus

Govt of K.P. through Secretary E&SE and others Respondents

AFFIDAVIT

I, Abdur Rasheed son of Umar Wahid R/o Agra, District Malakand, PSHT, GPS Agra, Malakand (appellant) do hereby affirm and declare on oath that the contents of the **Application** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.



Deponent
CNIC No.15402-3551584-3

5

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL,PESHAWAR.

Service Appeal No. _____/2022

Abdur Rasheed, PSHTAppellant

Versus

Govt of K.P. through Secretary E&SE and others Respondents

ADDRESSES OF THE PARTIESAPPELLANT:

Abdur Rasheed, PSHT, GPS Agra, Malakand

RESPONDENTS:

- 1) Govt. of Khyber Pakhtunkhwa, through Secretary Elementary and Secondary Education, Civil Secretariat, Peshawar.
- 2) Director Elementary and Secondary Education, near GHSS No.1, G. T Road, Peshawar
- 3) District Education Officer (M), Malakand

Appellant

Through

Syed Saud Shah
Advocate High Court



OFFICE OF THE DISTRICT
EDUCATION OFFICER (M)
MALAKAND AT BATHHELA

Telephone No.0932-410251
Fax No.0932-410010
Rm:11
Dist: Malakand@gmail.com

OFFICE ORDER

The Competent Authority is pleased to transfer the following PSHT/Head Teachers to the ... posted against each on their own pay and scale in the interest of public service with immediate effect.

Sl. No.	Name of Teacher & Designation	Present School	Transferred to	Remarks
01	MR MUHAMMAD AYAZ GPS BENJO	BENJO	GPS AGRA	vide S.No.02
02	MR ABUR RASHID PSHT BPS-15	GPS AGRA	GPS BENJO	vide S.No.01 (on Administrative Grounds)

- No. TA/DA is allowed.
- Charge report should be submitted to all concerned.

(Mikrar Usah)
DISTRICT EDUCATION OFFICER
(MALE) MALAKAND.

Dated 30/10/2022

Endst: No. _____ IF. No. Transfers _____
Copy forwarded for information and necessary action to the:-

Director E & SE K.P Peshwar for information please.

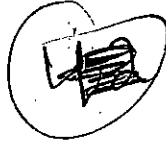
1. Deputy Commissioner Malakand.
2. O.M.O. EYA Malakand.
3. SDEOs (M) Bathhela
4. District Accounts Officer, Malakand.
5. EMIS Cell
6. Master Fee.

DISTRICT EDUCATION OFFICER
(MALE) MALAKAND



(Handwritten initials/signature)

BETTER COPY


OFFICE OF THE DISTRICT
EDUCATION OFFICER (M)
MALAKAND AT BATKHELA

6A

OFFICE ORDER.

The competent authority is pleased to transfer the following PSHT/Head teachers to the station noted against each on their own pay and scale in the interest of public service with immediate effect;

S.No	Name of teacher & Designation	Present School	Transferred to	Remarks
1.	Mr. Muhammad Ayaz PSHT BPS-15	GPS BENJO Banda	GPS AGRA	Vice S No. 02
2.	Mr. Abdur Rashid PSHT BPS-15	GPS AGRA	GPS BENJO BANDA	Vide S. No. 01

1. No TA?DA is allowed.
2. Charge report should be submitted to all concerned.

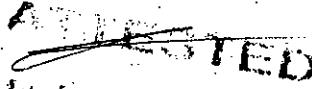
(Midrar Ullah)
District Education Officer
(Male) Malakand

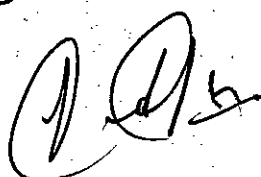
Endost No. 16526-32/F.No./Transfer

Copy forwarded for information and necessary action to the:

1. Director E&SE KP Peshawar for infoimration please,
2. Deputy Commissioner Malakand
3. DMO EMA Malakand
4. SDEOs (m) Batkhela
5. District Accounts Officer Malkanad
6. EMIS Cell
7. Master file.

District Education Officer
(Male) Malakand


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ADMISSIONS

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SCANNED
KPST
Peshawar**BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTOONKHWA
PESHAWAR**Khyber Pakhtunkhwa
Service TribunalDiary No. 5527Dated 23/5/2023**Appeal No.509/2023**

Abdur Rasheed, PSHT, GPS Agra, Malakand.

.....Appellant

VERSUS

- 1). The Secretary (E&SE) Department, Khyber Pakhtunkhwa, Peshawar.
- 2). The Director (E&SE) Department, Khyber Pakhtunkhwa, Peshawar.
- 3). The District Education Officer (M), District Malakand at Batkhela.

.....Respondents

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S.No#	Description of Documents	Annex:	Pages
1	Parawise Comments.	1 to 3
2	Affidavit.	4
3	Addresses of Parties.	5
4	Authority.	6
5	Judgement of Anti-corruption.	A	7 to 11
6	Complaint report	B	12
7	Recent Transfer orders	C & D	13 to 14

Deponent

CNI # 15402-4483399-5

Muhammad Naveed
Superintendent
Office of the DEO (M) Malakand.
Mobile No,03499362725

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTOONKHWA
PESHAWAR

Appeal No.509/2023

Abdur Rasheed, PSHT, GPS Agra, Malakand.

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 5527

Dated 23/12/23

.....Appellant

VERSUS

- 1). The Secretary (E&SE) Department, Khyber Pakhtunkhwa, Peshawar.
- 2). The Director (E&SE) Department, Khyber Pakhtunkhwa, Peshawar.
- 3). The District Education Officer (M), District Malakand at Batkhela.

.....Respondents

PARA WISE COMMENTS ON BEHALF OF RESPONDENTS 1 to 3.

PRELIMINARY OBJECTIONS:

- 1 That the appellant has no locus standi.
- 2 That the appellant has no cause of action to file the instant appeal against the respondents.
- 3 That the appellant has concealed the material facts from this Honorable Service Tribunal, hence liable to be dismissed.
- 4 That the appellant has filed the instant appeal on malafide motives.
- 5 That the appellant has estopped by his own conduct.
- 6 That the appeal of the appellant is pre-mature.

RESPECTFULLY SHEWETH

OBJECTIONS ON FACTS

- 1). Pertains to record.
- 2). Agreed up to some extent, but actually he was caught in embezzlement of PTC and conditional Grant funds of GPS Agra. Due to such acts he was compulsory retired from his service and the case was filed in the court of Anti-corruption against him, which was then decided with direction to both the parties for compromise conditionally. (Copy of judgement is attached as annexure.....(A).
- 3). Correct.

Continued.....

- 4). Incorrect and not admitted because the appellant was immediately removed from service after following the codel formalities as he admitted in preceeding para No.3, because all the evidences were against him and no suspension orders were issued by the respondent No.3 on his behalf. Therefore, he is not entitled for any backbenifits on account of salaries. Besides, for such period he tried his level best by cutting, tampering and over writting in attendence register.
- 5). As stated above he was compulsory retired due to embezzlement of PTC and Conditional Grant funds and it was the mercy of competent authority i.e., Director E&SE, Peshawar to converted his major penalty of compusary retirement in to one post reduction of time scale from BPS-15 to BPS-14, and intervening period was considered as leave without pay as admitted by appellant himself in para-3. Incorrect, he was not immediately transferred to GPS Banjo without any reason or pick and choose, although he was reinstated with above conditions in the same school vide Endstt: No. 2769-71 dated Peshawar the 16-02-2018 and remained un disturbed up to 20-01-2022 in the same school. Hence, latter on he was again reported through complaint lodged by the inhabitant and parents of students against him. The local inhabitants warned the district administration that if the appellant Mr. Abdur Rashid was not transferred then will decided the fate of appellant themseleves. Although before such law & order situation he was twiced & thrice reported and investigated in various issues likewise; abseentism, mis-use of powers, misbehave with DMO and for threating calls to Enguiry officers. Consequently, on administrative ground he was transeferred to GMS Banjo Banda . (Copies of complaint.....B).

Meanwhile, the matter was further aggravated when once again the locals of Banjo Banda demanded for the transfer of appellant with the reasons that the teacher concern is mostly absent from duty, use abusive language, corporal punishment, miss-management and embezelement of PTC funds. Now, the situation was as worsenic that the respondent department was no option rather than his transfer. Thats why keeping in veiw the age and other conditions of appellant he was transeferred to his own home station Agra. (Copies of transfer orders are attached as annexures.....C&D).

OBJECTIONS ON GROUNDS

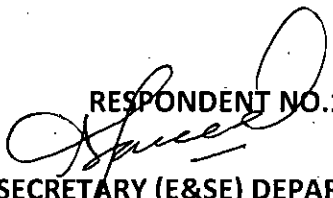
- A). Incorrect and not admitted because the respondent department has always kept soft cornor for his employees an accordance with rules. That's why keeping in veiw the age factor of appellant he was recently transeferred to his own home station inspite of above mentioned allegation levelled against him.

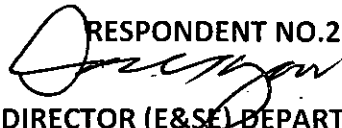
Continued.....


- B). Incorrect and not admitted , as discussed in preceeding paras that no personal like and dislikes, pick and choose behaviours were done by respondent department but all were happened due to violation of Rules 3(a)(b)c (d)& € of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules,2011. i.e., inefficiency, misconduct, corruption, guilty of willful absenteeism etc.,. Although inspite of all these blunders he was safely transferred to his own home sation Agra and this service Appeal is no more maintainable to be heard on the grounds which he is presenting before this honorable Service Tribunal.
- C). Incorrect, because all the relevant record kept by respondent department is crystal clear and in accordance with law and service rules.

Prayer

It is humbly prayed that the instant Service Appeal is not maintainable because he has been transferred to his own home station and may be dismissed with cost.


RESPONDENT NO.1
SECRETARY (E&SE) DEPARTMENT
KHYBER PAKHTUNKHWA PESHAWAR.


RESPONDENT NO.2
DIRECTOR (E&SE) DEPARTMENT
KHYBER PAKHTUNKHWA PESHAWAR.

RESPONDENT NO.3

DISTRICT EDUCATION OFFICER
(M) MALAKAND

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTOONKHWA PESHAWAR**Appeal No.509/2023**

Abdur Rasheed, PSHT, GPS Agra, Malakand.

.....(Appellant)

VERSUS

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

.....(Respondents)

AFFIDAVIT

I Muhammad Naveed Superintendent on the instructions of D.E.O. (Male) Malakand do hereby solemnly affirm and declare on oath that the contents of the accompanying para wise comments submitted by Respondent s as true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Service Tribunal.



Identified by

Assistant Advocate General
Khyber Pakhtun Khwa,
At Tribunal, Peshawar.

Deponent

CNI # 15402-4483399-5

Muhammad Naveed
Superintendent
Office of the DEO(M) Malakand.

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTOONKHWA
PESHAWAR

APPEAL NO.509/2023

ADDRESSES OF PARTIES

Abdur Rasheed, PSHT, GPS Agra, Malakand.

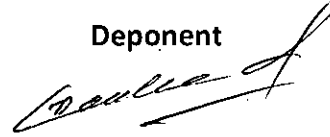
.....(Appellant)

VERSUS

- 1 Secretary Elementary and Secondary Education Khyber Pakhtunkhwa
Peshawar.
- 2 Director, Elementary and Secondary Education Khyber Pakhtunkhwa
Peshawar.
- 3 District Education Officer (Male) Malakand.

.....(Respondents)

Deponent



CNI# 15402-4483399-5

Muhammad Naveed
Superintendent

Office of the DEO (M) Malakand.
Mobile No,03499362725

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTOONKHW
PESHAWAR

APPEAL NO.509/2023

Abdur Rasheed, PSHT, GPS Agra, Malakand.

.....(Appellant)

VERSUS

- 1 Secretary Elementary and Secondary Education Khyber Pakhtunkhwa Peshawar.
- 2 Director, Elementary and Secondary Education Khyber Pakhtunkhwa Peshawar.
- 3 District Education Officer (Male) Malakand.

.....(Respondents)

AUTHORITY

Mr. Muhammad Naveed Superintendent office of the DEO (M) Malakand is hereby authorized to attend the Tribunal, submit reply and pursue the above titled Service Appeal on behalf of the undersigned till the decision of the case and progress made be intimated to this office as well as to all others concerned.

Respondent No.3



District Education Officer,
(M) Malakand

Mr. Azhar Ali

- 1) Akber Rehman S/o ...
R/o Village ... Malakand, P.S. ...
- 2) Fazal Sabhan S/o ...
R/o Barkhel, District Malakand, Education, Department Malakand
- 3) Hayi Said S/o Myan Said,
R/o Stanadar Kal, District Malakand, Education Department Malakand

Handwritten signature and date: 5/9/2024

CASE FIR NO.03 DATED 19-09-2018 U/S 409 PPC READ WITH SECTION 5(2) PC ACT OF P.S. ACE, MALAKAND.

Mr. Azhar Ali, Senior Public Prosecutor for state.

Mr. Umar Ali Akhuzada, advocate, counsel for accused Fazal Sabhan & Hayi

Said.

Mr. Abdul Nasir, advocate, counsel for accused Abdur Rashid

JUDGMENT

It is the case of prosecution that in the year 2017 Rahat Ali, Ex Chairman, PTC GPS Agra, Malakand submitted an application against Abdur Rashid, Head Teacher on the allegations that he had embezzled the fund allocated for the development work i.e. installation of Solar System and Electrification etc. in GPS Agra, Malakand. On this complainant a source report was submitted to the Director ACE with request of open inquiry. After permission inquiry was conducted. The relevant record was taken into possession and in the audit report the losses of Rs.5,44,000/- were dig out. After completion of inquiry, a report with request of permission for registration of FIR was submitted. Thereafter, instant case was registered against the accused. The accused facing trial have obtained

02.12.2020
SPECIAL JUDGE

Anti Corruption
Khyber Pakhtunkhwa Peshawar

Handwritten signature: *Muhammad Azeed*
Stamp: MUHAMMAD AZEED
Superintendent
O/o D.O.
Malakand
at barkhela

(Page No. 41 of 2019)

Date of Institution: 03-07-2018

Date of Decision: 02-11-2020

State Versus

- 1) Abdur Rashid S/o Umar Wahid,
R/o village and P.O Agra Tehsil Batkhela District
Malakand, PST Teacher, GPS Agra.
- 2) Fazal Subhan S/o Haji Fazal Hanan,
R/o Ezikhel, Dheri Ala Jhand, Tehsil Batkhela,
District Malakand, ADEO P&D
Education, Department Malakand.
- 3) Haya Said S/o Mian Said,
R/o Stanadar Kot, Tehsil Batkhela District
Malakand, SDEO Circle Batkhela,
Education Department Malakand.

(Accused facing trial.)

CASE FIR NO.03 DATED 19-09-2018 U/S 409 PPC READ WITH SECTION 5(2) PC
ACT OF P.S. ACE, MALAKAND.

Mr. Azhar Ali, Senior Public Prosecutor for state.Mr. Umar Ali Akhunzada, advocate, counsel for accused Fazal Subhan & Haya Said.Mr. Abdul Nasir, advocate, counsel for accused Abdur Rashid.JUDGMENT

It is the case of prosecution that in the year 2017 Rahat Ali, Ex-Chairman PTC GPS Agra, Malakand submitted an application against Abdur Rashid, Head Teacher on the allegations that he had embezzled the fund allocated for the development work i.e. installation of Solar System and Electrification etc. in GPS Agra, Malakand. On this complainant a source report was submitted to the Director ACE with request of open inquiry. After permission inquiry was conducted. The relevant record was taken into possession and in the audit report the losses of Rs.5,44,000/ were dig out. After completion of inquiry, a report with request of permission for registration of FIR was submitted. Thereafter, instant case was registered against the accused. The accused facing trial have obtained

02.12.2020
SPECIAL JUDGE
Anti Corruption
Khyber Pakhtunkhwa Peshawar

Attested
Enclosed
MUHAMMAD NAVEED
Superintendent (BPS-17)
O/o DEO (Male) Malakand
at Batkhela

BBA during which the work for which the fund was allocated was completed and the BBA of accused was confirmed.

2. After completion of investigation challan was submitted before this court. The accused were summoned and after observing legal formalities they were charge sheeted to which they pleaded not guilty and claimed trial.

3. The prosecution in support of its case has produced as many as Six (06) PWs and following is the gist of their statements:-

- i) Shah Jehan, Senior Auditor (PW-1) conducted audit and vide his report Ex.PW1/1 deducted the losses of Rs.5,44,000.
- ii) Qabil Shah, Head Teacher GPS Agra (PW-2) stated the in the period from 2014 to 2017 the government had allocated Rs.175,000/ for installation of Solar System, Rs.1,10,00 for electrification, Rs.2,00,000/ for water supply and Rs.60,000/ for PTC in the said school. The said fund was withdrawn by Ex-Head Master Abdur Rasheed but no work was done but when the ACE official visited the school the subject was done at that time.
- iii) Tariq Habib, SPST,GPS Agra (PW-3) deposed that the fund was allocated for subject work. Accused Abdur Rashid had withdrawn the fund but without work and embezzled the same. However, during the inquiry all the work was completed.
- iv) Noor Amin, ACO (PW-4) during investigation had taken photograph of various section of the school which are Ex.P-1 TO Ex.P-10. Head Teacher, Qabil Shah submitted his written statement according to which no work was done by accused Abdur Rasheed. He also summoned SDEO, Malakand who produced the notification of the Director and statement of account Ex-PW4/1 consisting of 9 pages. He also recorded the statement of Hameedullah. PW-4 also submitted his detail report Ex-PW/2 about completion of work.
- v) Niaz Muhammad, S.I (PW-5) deposed that in the year 2017 he was posted as C.O ASE, Malakand. Complainant Rahat Ali, Ex-Chairman PTC, GPS Agra submitted an application against accused Abdur Rashid on the allegation of embezzlement of fund allocated for development work in the said school. On the basis of complaint a source report Ex.PW5/1 was submitted before Director ACE. Permission for open inquiry was granted vide letter Ex.PW5/2. During inquiry the relevant record of the work was taken into possession vide letter Ex.PW5/3. Vide letter Ex.PW5/4 a request for nomination of Auditor was made and Shah Jehan, Senior Auditor had conducted the audit vide report Ex.PW1/1

02.12.2020
SPECIAL JUDGE

At Batkhela
Muzfar Pablikhaila Pader

TESTED

51/01/21
At Batkhela
MUHAMMAD NAVEED
Superintendent (BPS-17)
O/o DEO (Male) Malakand
at Batkhela

according to which the losses of Rs.5,44,000/ were caused to the government. The information regarding ASDEO was obtained vide letter Ex.PW5/5. PW-5 issued questionnaires to accused Abdur Rashid and DDEO who submitted their respective replies. The DDEO provided the record vide Ex.PW5/6. After recording the statement of complainant, PWs Qabil Shah and Tariq Habib in support of the allegations, final report Ex.PW5/7 with the request for registration of FIR was made. However, ADL-1 returned the report with the remarks that ADEO and SDEO were also responsible and they should have also be made as accused. So, PW-5 issued questioners to accused Haya Said and Fazal Subhan. Thereafter final report Ex.PW5/8 was submitted and ADL-1 vide his opinion dated 18.09.2018 recommended the registration of FIR and arrest of accused. So, the competent authority vide letter Ex.PW5/9 granted permission and case FIR Ex.PA was registered. During BBA of accused, ACO visited the school and submitted his report Ex.PW4/2 about the completion of the work where after PW-5 submitted complete challan ExPW5/10 against the accused. Rahat Ali (PW-6) deposed that he was chairman of PTC of GPS Agra. A total amount of Rs.6,00,000/ was allocated for electrification, installation of solar system and water supply including well and other development work. The fund was enchased by accused Abdur Rasheed in fraudulent manner but without work. So he submitted his application ExPW6/1 and the copy of the bank statement Ex.PW6/2.

4. After close of prosecution evidence all the three accused have been examined w/s 342 Cr.PC wherein they denied the allegations and claimed their innocence but none of them have opted to produce any defence evidence nor to give statement on oath w/s 340 (2) Cr.PC. Therefore arguments heard and file perused.

5. Learned Sr. PP Azhar Ali argued that the fund in question to the tune of Rs.5,44,000/ was allocated for the development work i.e. electrification, installation of solar system, supply of water including digging of well and other works in GPS Agra. This fund was to be utilized for the said work by PTC but accused Abdur Rashid had withdrawn it without doing any work and embezzled the same. Accused Haya Said and Fazal Subhan being SDEO and ADEO had failed to keep close watch and did not perform their duties thus their active failure and omission on their part also make them responsible. The work was only done

Accepted

Accepted

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Accepted

Accepted

Accepted

when the ACE official initiated the inquiry in this case. Thus the accused may kindly be convicted and sentenced.

6. On the contrary, the learned defense counsel argued that there is no evidence that the accused had embezzled the amount in question or they had used the amount for their personal benefit. They might have withdrawn the amount in irregular manner but later on they had completed all the work as evident from the report Ex.PW4/2. In these circumstances no offence of misappropriation as define in section 5 (2) PC ACT, 1947 or in section 409 PPC can be established. Therefore, all the accused may kindly be acquitted.

7. After considering the above submissions and perusal of record, it is proved that the provincial government had allocated fund of Rs.544,000/- for electrification, installation of solar system, supply of water, digging of well and other development in GPS Agra school. The fund was to be utilized by PTC. Complainant Rahat Ali (PW-6) was the chairman of PTC while accused Abdur Rashid was the Head Master of GPS, Agra and accused Fazal Subhan and Haya Said were posted as ADEO P&D and SDEO respectively. Complainant (PW-6) submitted his application Ex.PW6/1 and ACE initiated the inquiry. Allegedly, the work was not done but the amount was withdrawn. The audit report Ex.PW1/1 tells that the entire amount was withdrawn but some of the receipts of the work carried by accused Abdur Rashid are available which are prior in time and according to these receipts more than two lacs were paid to Hameed Solar System and Five Star Electric Store. Thus the payments to the said stores/it owners negate the allegations of misappropriation of the entire amount as mentioned in the audit report Ex.PW1/1. During the inquiry the police had recorded the statement of one Hameedullah which is available on the file. His statement clearly shows that he had received Rs.3,59,000/- from accused Abdur Rashid for installation of solar system, for provision of electricity articles and well which further also negates the audit report Ex.PW1/1. Interestingly, neither the name of this witness was mentioned in the calendar of witnesses nor was produced by the prosecution during the trial. Had this witness been produced his statement would have substantially damaged the prosecution case. There is no evidence that the accused Abdur Rashid had converted the remaining amount to his personal use which is a necessary ingredient for the proof of offences under section 5 (2) PC Act, 1947 and section 409 PPC.

8. During departmental proceedings the recovery of remaining amount had already been ordered from accused Abdur Rashid at the rate of Rs.10,000/- per month from his salary as evident from Ex.PW4/1. During pendency of BBA of accused the ACE official visited the school in question and vide report Ex.PW4/2 it was confirmed that all the work had been completed and there was no loss to the exchequer. PW-2 to PW-6 in their cross examination have also admitted that

MUHAMMAD NAVEED
Superintendent
O/o DEO (Mal.) at Batkhela

90

Rs. 424,000

09/12/2020

5/10/2021

Accused

58
23

all the work had been done and the allocated fund had been utilized for the subject purpose. These PWs also admitted that the accused had not used the amount for personal benefit.

9. The way in which the amount was withdrawn by accused Abdur Rashid might be a violation of rules but in absence of any trustworthy evidence about conversion of the amount for personal use it cannot be held that he had committed criminal misconduct. Similarly, the other two accused might have failed to keep check on the utilization of the fund but there is no evidence that they had received any share in the allocated amount. It is also pertinent to mention that accused Abdur Rashid is a school teacher and the entrustment of huge amount for development work by the government itself brings serious question. He being teacher was not be expected to know the procedure of payment and for this purpose there are other agencies.

10. Accused Abdur Rashid constantly took the plea that he had paid Rs.1,80,000/ before registration of case and also completed the entire work, therefore, he is entitled for the recovery of excess amount. However, this court during instant proceeding can order for return of the excess payment recovered from. It is for the education department to look into this plea of accused as per law.

11. As a result of the above discussion, I am of considered opinion that the prosecution case is not free from doubt, therefore I while extending benefit of doubt in favour of accused Abdur Rashid, Fazal Subhan and Haya Saïd, acquit them from the charges leveled against them. They are on bail. They and their sureties are discharged from the liabilities of bail bonds.

12. File be consigned to the record room after completion and compilation.

Announced.
Swat.
02-12-2020.

(Ikhtiar Khan)
Special Judge,
Anti-Corruption (Provincial),
(Camp Court Swat.)

Certificate.

Certified that this Judgment consists of five (5) pages, each of which has been signed by me.

Attested
Handwritten Signature
MUHAMMAD NAVEED
Superintendent (BPS-17)
O/o DEO (Male) Malakand
at Batkhela

ATTESTED

Special Judge,
Anti-Corruption (Provincial),
(Camp Court Swat.)

Handwritten Signature
Date: 1-11-2021



OFFICE OF THE DISTRICT
EDUCATION OFFICER (M)
MALAKAND AT BATKHELA

Telephone No.0932-410281
Fax No.0932-410010
Email.
emismalemalakand@gmail.com

OFFICE ORDER.

The Competent Authority is pleased to transfer the following PSHT/Head Teachers to the stations noted against each on their own pay and scale in the interest of public service with immediate effect.

S.No	Name of Teacher & Designation	Present School	Transferred to	Remarks
01.	MR MUHAMMAD AYAZ PSHT BPS-15	GPS BENJO BANDA	GPS AGRA	Vide S.No.02
02.	MR> ABDUR RASHID PSHT BPS-15	GPS AGRA	GPS BENJO BANDA	Vide S.No.01 (on Administrative Grounds)

1. No. TA/DA is allowed.
2. Charge report should be submitted to all concerned.


(Midrar Ullah)
DISTRICT EDUCATION OFFICER
(MALE) MALAKAND.

Endst: No. 16526-32 /F. No. /Transfers

Dated 20 /01/2022.

Copy forwarded for information and necessary action to the:-

1. Director E & SE K.P Peshawar for information please.
2. Deputy Commissioner Malakand.
3. D.M.O EMÁ Malakand.
4. SDEOs (M) Batkhela
5. District Accounts Officer, Malakand.
6. EMIS Cell.
7. Master File.


DISTRICT EDUCATION OFFICER
(MALE) MALAKAND

19 of R-3

42

14

78



**OFFICE OF THE DISTRICT EDUCATION
OFFICER (M) MALAKAND AT
BATKHELA**

Telephone No.0932-410281
Fax No.0932-410010
Email, emismalemalakand@gmail.com

OFFICE ORDER.

The Undersigned being the competent authority is pleased to transfer Mr. ABDUR RASHEED PSHT GPS Banjo Banda to GPS TAND AGRA Tehsil Batkhela District Malakand on Administrative Grounds against vacant PSHT post on their own pay and scale in the interest of public service with immediate effect.


1. No. TA/DA is allowed.
2. Charge report should be submitted to all concerned.

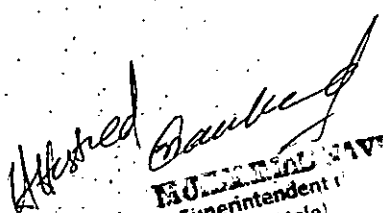
(Midrar Ullah)
DISTRICT EDUCATION OFFICER
(MALE) MALAKAND.

Endst: No. 6155-61 /F. No. /Transfers
Copy forwarded for information and necessary action to the:-

Dated 04 /10 /2022.

1. Director E & SE K.P Peshawar for information please.
2. Deputy Commissioner Malakand.
3. D.M.O EMA Malakand.
4. SDEOs (M) Batkhela.
5. District Accounts Officer, Malakand.
6. EMIS Cell.
7. Master File.


DISTRICT EDUCATION OFFICER
(MALE) MALAKAND


ABDUR RASHEED
Superintendent
O/o DEO (Male)

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

Service Appeal No 509/2023

Abdur Rasheed
*****VERSUS*****

Education Department

**APPLICATION FOR FIXING THE ABOVE APPEAL BEFORE
THE PRINCIPAL BENCH PESHAWAR.**

Respectfully Sheweth:


1. That the titled appeal has been filed however no date has been fixed.
2. That the case is pertaining to transfer/adjustment of the applicant and belongs to district Malakand jurisdiction of camp Court Swat.
3. That the counsel is practicing in District Peshawar.
4. That keeping in view the above facts and circumstances appeal/case may kindly be fixed before the principal bench at District Peshawar and the appeal may also be retained before the principal seat in the best interest of justice.
5. That there is no legal bar on acceptance of this application rather it is in the best interest of justice.

It is therefore, most humbly prayed that on acceptance of this application the above title case may kindly be fixed before the principal bench as earlier as possible in the best interest of justice.

Dated 18/01/2024

Applicant/Appellant

Through


KAMRAN KHAN
Advocates High Court
Peshawar

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

PESHAWAR
R.A. no. 90/2024
CM. NO. _____/2024

IN
APPEAL No. 509/2023

ABDUR RASHID
V/S
Govt. of Khyber Pakhtunkhwa & Other

SCANNED
K-8T
Peshawar

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3.	order sheet	A	3-4
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APPLICANT/ APPELLANT

THROUGH:


KAMRAN KHAN
ADVOCATE

HIGH COURT, PESHAWAR
Office No. 3, 3rd Floor, Islamia
Club Building, Khyber Bazaar,
Peshawar
0344-9118844

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**PESHAWAR**R.A - NO. 90/24
CM. NO. _____/2024

IN

APPEAL No. 509/2023

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 10674

Dated 19-1-2024

ABDUR RASHID, PSHT (BPS-15),
GPS Agra, Malakand.

V/S

- 1) Govt. of Khyber Pakhtunkhwa through Secretary Education Department Peshawar.
- 2) The Director E&S E, Khyber Pakhtunkhwa, Peshawar.
- 3) The District Education Officer, District Malakand.

**APPLICATION FOR RESTORATION OF THE ABOVE
MENTIONED APPEAL No.509/ 2023****R/SHEWETH:**

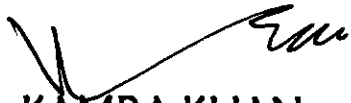
- 1- That the above title Appeal was pending adjudication before this august Tribunal which was dismissed in default vide order dated 03.01.2024. Copy of the order sheet is attached as annexureA.
- 2- That in the council of the appellant/ petitioner was out of station and was busy in court proceedings in other cases. That the appellant was ill therefore was unable to attend the court proceedings.
- 3- That there is no legal bar in restoring the mention appeal.
- 4- That the instant application is within time.

It is therefore, most humbly prayed that on acceptance of this application the above mentioned appeal may very kindly be restored.

Dated: 18.01.2024

APPELLANT /APPLICANT

Through:


KAMRA KHAN
 Advocate, Peshawar

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

CM. NO. _____/2024

IN

APPEAL No. 509/2023

ABDUR RASHID

V/S

Govt. of Khyber Pakhtunkhwa & Other

AFFIDAVIT

I do hereby solemnly affirm that the contents of the instant restoration application are true and correct to the best of my knowledge and believe and nothing has been concealed from this Honourable Tribunal.

ARashid

DEPONENT

ATTESTED



19-01-2024

Restor
Applic

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Anna "A"

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1

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL

PESHAWAR

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 397

Dated 10/03/2022



Service Appeal No. 509 /2023

Abdur Rasheed, PSHT, GPS Agra, Malakand.....Appellant

Versus

- 1) Govt. of Khyber Pakhtunkhwa, through Secretary Elementary and Secondary Education, Civil Secretariat, Peshawar.
- 2) Director Elementary and Secondary Education, near GHSS No.1, G. T Road, Peshawar
- 3) District Education Officer (M), Malakand..... Respondents

SERVICE APPEAL U/S 4 OF THE
KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL ACT, 1974.

PRAYER:

On acceptance of this appeal, impugned order of transfer may also be declared null and void and be set aside.

Medto-day
140
Registrar

10/3/2022 Respectfully Sheweth;

- 1) That the appellant is serving as P.S.H.T (BPS-15) and posted at GPS, Agra, Malakand.

ATTSTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

47

Appeal No. 509/2023
Abdur Rasheed vs Govt (9)

27th Nov.2023

01. Nemo for the appellant. Mr. Anwar Habib, Addl. Advocate General alongwith Muhammad Riaz, SCT for the respondents present.

02. Last opportunity is given for preliminary hearing on 03.01.2024 before the S.B. Parcha Peshi given to the learned AAG.

SCANNED
KEST
Peshawar

(Fareeha Paul)
Member(E)

Fazle Subhan, P.S



03.01.2024

1. Nemo for appellant. Mr. Asif Masood Ali Shah, Deputy District Attorney alongwith Mr. Riaz, SCT for the respondents present.

2. The appeal in hand was called on for hearing after various intervals, however, neither the appellant nor anyone else appeared on his behalf till the closing time, therefore, the appeal in hand stands dismissed in default.

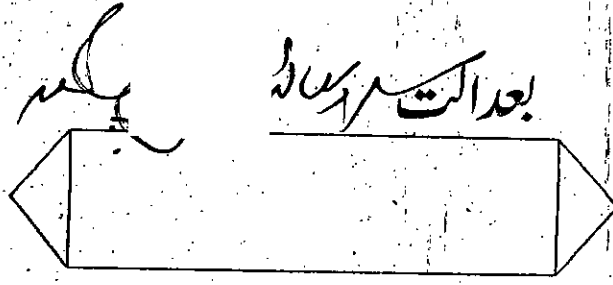
3. Pronounced in open at Peshawar and given under our hand and seal of the Tribunal on this 03rd day of January, 2024.

(Muhammad Akbar Khan)
Member (E)

Certified to be true copy

KAMRANULLAH
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

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5

Appellate 2

عبدالرشید بنام موصوف

589/2019

موزخہ
مقدمہ
دعوی
جرم

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کارروائی متعلقہ آن مقام کیلئے کما حقان حکم و سند درجہ سبب سے مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا۔ نیز وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث 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 کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ پر داختم منظور قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سند ہے۔

الرقوم 18 ماہ چھتری 20

العہد گاہ العہد

کے لئے منظور ہے۔

مقام

Atal Aarti

Atal Aarti

صوبہ صہبہ خواہ سپروسیس ٹریبونل ایسٹ

Appellant

صہبہ صہبہ خواہ
2ء منجانب

بنام ایسٹ

Appellate No 509/23

مورخہ

مقدمہ

دعویٰ

جرم

باعث تحریر آنکہ

O R
24/12/23

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ
آن مقام صہبہ خواہ سپروسیس ٹریبونل سے کیلئے عرصہ فارغی 31/12/23

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 کے تقرر ثالث و فیصلہ پر حلف دیئے جواب دہی اور اقبال دعویٰ اور
بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ از عرضی دعویٰ اور درخواست ہر قسم کی تصدیق
زرائی 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 محتاج 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 مذکور باختیارات حاصل ہوں گے
اور اس کا ساختہ پر داختمنظور قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ ہوں گے
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 لکھدیا کہ سندر ہے۔

20ء

ماہ

المرقوم

العبد د گ د واہ العبد د

Appellant
صہبہ خواہ

مقام

قیمت 50 روپے	44340	 	
ایڈویکیٹ: خطی سید			
بار کونسل / ایسوسی ایشن نمبر:		<p>پشاور بار ایسوسی ایشن، خیبر پختونخواہ</p>	
رابطہ نمبر:			

بعدالت جناب: KP Service Tribunal Peshawar

منجانب:	دعویٰ:
Appellant	
عبد اللہ شفیق	علت نمبر:
بنام	مورخہ:
مکرمہ	جرم:
	تھانہ:

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب وہی کارروائی متعلقہ

آن مقام پشاور کیلئے عدیدہ نقصان علی بنام کے لئے کو وکیل مقرر خطی سید کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ بر حلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت 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 اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب مقرر شدہ کو وہی جملہ مذکورہ با اختیارات حاصل ہوں گے اور اس کا بناختہ پر داخستہ منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ یا جہ سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سندر ہے

ALLEGEDLY
PESHAWAR BAR ASSOCIATION
KHYBER PAKHTUNKHWA

المقام: Peshawar کے لیے منظور ہے۔