

INDEX

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

EXECUTION NO _____

APPEAL NO	INSTITUTION	ORIGINAL INSTITUTION	DECISION	PAGES
364/23		24.02.2023	16.05.24	30

Saleem Khan vs *Education Department*

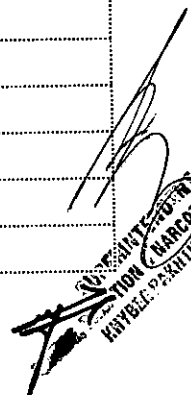
Sr.No.	No of Pages	Documents	Page No
Part-A			
1	01-01	Order	01
2	02-06	Order Sheets	05
3	07-20	Memo of Appeal	14
4	21-21	Waiver of name	01
5	22-22	Challan	01
6	23-25	Notices	03
7	26-30	Reply	05
8	-		
9	-		
10	-		
11	-		
12	-		
Part-B			
1	-		
2	-		
3	-		

Total Pages in Part-A	030
Total Pages in Part-B	0

Cy A. 16/6/24
Muharir Compilation

[Signature]
26/6/24
Incharge Judicial Branch

S #	NAME OF OFFICIAL	HOME DISTRICT	DATE OF BIRTH	DATE OF JOINING GOVT. SERVICE.	DATE OF APPOINTMENT/ PROMOTION AS ASI IN E&T DEPTT:	REMARKS
62	Muhammad Shadab Khan	Lakki Marwat	05.10.1990	23.08.2012	23.08.2012	Direct Appointee
63	Syed Junaid Shah Bacha	Peshawar	16.08.1991	23.08.2012	23.08.2012	Direct Appointee
64	Muhammad Adnan Shahid	Nowshera	11.03.1993	23.08.2012	23.08.2012	Direct Appointee
65	Mr. Sher Shah	Mardan	03.03.1994	23.08.2012	23.08.2012	Direct Appointee
66	Mr. Hamza Shahroom Khan	Peshawar	23.01.1991	24.08.2012	24.08.2012	Direct Appointee
67	Mr. Mukhtar Ali Wazir	Bannu	19.08.1977	27.08.2012	27.08.2012	Direct Appointee
68	Mr. Qasim Ali	Peshawar	10.01.1980	27.08.2012	27.08.2012	Direct Appointee
69	Mr. Waheedullah	Peshawar	16.03.1983	27.08.2012	27.08.2012	Direct Appointee
70	Mr. Adnan Ijaz	Peshawar	10.07.1984	27.08.2012	27.08.2012	Direct Appointee
71	Sahibzada Saadullah	Charsadda	20.06.1990	27.08.2012	27.08.2012	Direct Appointee
72	Mr. Sajjad Ahmad	Peshawar	07.10.1990	27.08.2012	27.08.2012	Direct Appointee
73	Muhammad Ali	Buner	01.02.1983	30.08.2012	30.08.2012	Direct Appointee
74	Muhammad Daud	Peshawar	15.05.1970	24.09.2013	24.09.2013	Direct Appointee (sacked employee)
75	Mr. Hamza Sultan	Bannu	01.03.1997	10.06.2016	10.06.2016	Deceased Son Quota
76	Mr. Najmusaqib	Malakand Agency	05.08.1994	11.08.2016	11.08.2016	Deceased Son Quota
77	Mr. Amin Khan Durrani	Peshawar	19.10.1971	17.07.1991	09.02.2017	Promotee
78	Muhammad Shakeel	Mardan	05.05.1973	31.08.1991	09.02.2017	Promotee
79	Mr. Lal Gul	Nowshera	10.08.1971	23.10.1996	09.02.2017	Promotee
80	Mr. Mazhar Ali	Peshawar	01.01.1970	22.10.2001	09.02.2017	Promotee
81	Mr. Khan Zeb	Peshawar	02.10.1972	22.10.2001	09.02.2017	Promotee
82	Mr. Zarshad	Peshawar	01.01.1973	22.10.2001	09.02.2017	Promotee
83	Mr. Mushtaq Ahmad	Charsadda	08.09.1975	22.10.2001	09.02.2017	Promotee


 SUPERVISOR
 SECTION (MARDAN) CONTROL
 KARACHI - 2

①

Service Appeal No.364/2023 titled "Saleem Khan Vs. Police Department"

ORDER

16th May, 2024 **Kalim Arshad Khan, Chairman:** Appellant, along with his counsel present. Mr. Umair Azam, Additional Advocate General for the respondents present.

2. At the very outset learned AAG referred to the order annexed with the comments, dated 17.05.2023 which is an order of adjustment of the appellant against original post of Lab Attendant at GHS Musa Kor, Tehsil Ambar. Learned counsel for the appellant says that, although, he was adjusted on his proper post but the owner of the land of the said school was not allowing him to perform duty.

3. While disposing of this appeal, we direct the respondents to take notice of this fact and shall not proceed against the appellant, in case his allegation leveled above is true and he is not allowed as above to perform duty.

4. Instant service appeal is disposed of in the above terms.
Consign.

5. *Pronounced in open Court at Peshawar given under my hand and seal of the Tribunal on this 16th day of May, 2024.*



(Rashida Bano)
Member (J)

Mutazem Shah



(Kalim Arshad Khan)
Chairman

27th Sept. 2023

Learned counsel for the appellant present. Mr. Fazal Shah Mohmand, Additional Advocate General alongwith Noor Badshah, ADEO for the respondents.

Written reply/comments on behalf of respondents submitted, which is placed on file copy of the same is handed over to learned counsel for the appellant. To come up for arguments on 22.01.2024 before D.B. P.P given to the parties.

SCANNED
KPST
Peshawar


(FAREEHA PAUL)
Member (E)


Ziaulhaq


22nd Jan. 2024

1. Appellant alongwith his counsel present. Mr. Muhammad Jan, District Attorney for the respondents present.
2. Former made a request for adjournment in order to prepare the brief. Adjourned. To come up for arguments on 16.05.2024 before D.B.

P.P given to the parties.

SCANNED
KPST
Peshawar


(Salah Ud Din)
Member (J)

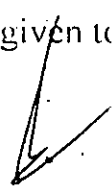

(Kalim Arshad Khan)
Chairman

Mutazem Shah

3

04.08.2023

Appellant in person present. Mr. Fazal Shah Mohmand, Additional Advocate General alongwith Mr. Noor Badshah, ADO (Litigation) for the respondents present and requested for time to submit reply/comments. Adjourned. To come up for reply/comments on 05.09.2023 before S.B. P.P given to the parties.



(Muhammad Akbar Khan)
Member (I)

Kamranullah

05.09.2023

1. Learned counsel for the petitioner present. Mr. Asad Ali Khan, Assistant Advocate General alongwith Noor Badshah, ADO for the respondents present.

2. Written reply not submitted. Representative of the respondent seeks further time for submission of written reply. Last chance is given. Adjourned. To come up for written reply/comments on 27.09.2023 before S.B. P.P given to parties.


(Rashida Bano)
Member (J)

Kaleem Ullah

SCANNED
BY KUST
Peshawar

(4)

05.06.2023

Learned counsel for the appellant present. Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present and requested for time for submission of reply/comments. Adjourned. To come up for reply/comments on 11.07.2023 before the S.B. Parcha Peshi given to the parties.

(Salah-Ud-Din)
Member (J)

Naeem Amin

11th July, 2023

1. Clerk of counsel for the appellant present. Mr. Asif Masood Ali Shah learned Deputy District Attorney for respondents.

2. Written reply not submitted. Learned Deputy District Attorney seeks time for submission of written reply. Record shows that respondent No. 3 was not put on notice, therefore, appellant is directed to deposit TCS expenses within 3 days. Adjourned. To come up for written reply/comments on 04.08.2023 before S.B. P.P given to the parties.

(Rashida Bano)
Member(J)

*Kaleem Illah

SCANNED
KPST
Peshawar

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KPST
Peshawar

Expense for TCS
not submitted
Prof. Moharri

5

10.04.2023

Appellant alongwith his counsel present. Learned counsel for the appellant requested for adjournment on the ground that he has not made preparation for preliminary arguments. Adjourned. To come up for preliminary arguments on 09.05.2023 before the S.B. Parcha Peshi given to the parties.

(Salah-Ud-Din)
Member (J)

09.05.2023

Appellant alongwith his counsel present.

Preliminary arguments heard. Record perused.

Points raised need consideration. Instant appeal is admitted for regular hearing subject to all legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to respondents for reply/comments. To come up reply/comments on 05.06.2023 before S.B. Parcha Peshi given to the appellant.

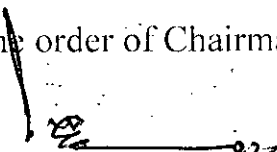


(Rozina Rehman)
Member (J)

(6)

FORM OF ORDER SHEET

Court of _____

Case No.- _____ 364/2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	24/02/2023	<p>The appeal of Mr. Saleem Khan presented today by Mr. Mir Zaman Safi Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on <u>28-2-23</u>. Parcha Peshi is given to appellant/counsel for the date fixed.</p> <p>By the order of Chairman</p> <p> REGISTRAR</p> <p>28.02.2023</p> <p>Nemo for the appellant. Notice be issued to the appellant and his counsel to attend the court on the next date. Adjourned. To come up for preliminary hearing on 10.04.2023 before S.B.</p> <p> (Muhammad Akbar Khan) Member (E)</p>

SCANNED
KPST
Peshawar

SCANNED
KPST
Peshawar

7

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

CHECK LIST

Case Title: Saleem Khan vs Education Deptt.

S#	Contents	Yes	No
1.	This appeal is present by Mir Zaman Safi Advocate	✓	
2.	Whether Counsel/Appellant/Respondent/Deponent have signed the requisite documents?	✓	
3.	Whether appeal is within time?	✓	
4.	Whether the enactment under which the appeal is filed mentioned?	✓	
5.	Whether the enactment under which the appeal is filed is correct?	✓	
6.	Whether affidavit is appended?	✓	
7.	Whether affidavit is duly attested by competent oath Commissioner?	✓	
8.	Whether appeal/annexures are properly paged?	✓	
9.	Whether certificate regarding filing any earlier appeal on the subject, furnished?	✓	
10.	Whether annexures are legible?	✓	
11.	Whether annexures are attested?	✓	
12.	Whether copies of annexures are readable/clear?	✓	
13.	Whether copy of appeal is delivered to A.G/D.A.G?	✓	
14.	Whether Power of Attorney of the Counsel engaged is attested and signed by petitioner/appellant/respondents?	✓	
15.	Whether numbers of referred cases given are correct?	✓	
16.	Whether appeal contains cutting/overwriting?		✓
17.	Whether list of books has been provided at the end of the appeal?	✓	
18.	Whether case relate to this Court?	✓	
19.	Whether requisite number of spare copies attached?	✓	
20.	Whether complete spare copy is filed in separate file cover?	✓	
21.	Whether addresses of parties given are complete?	✓	
22.	Whether index filed?	✓	
23.	Whether index is correct?	✓	
24.	Whether security and process fee deposited? on		
25.	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		
26.	Whether copies of comments/reply/rejoinder submitted? on		
27.	Whether copies of comments/reply/rejoinder provided to opposite party? on		

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

Name:- **MIR ZAMAN SAFI**
Advocate

Signature: 
Dated: _____

8

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR**

SCANNED
KPST
Peshawar

APPEAL NO. 364/2023

SALEEM KHAN

VS

EDUCATION DEPTT:

INDEX

S.NO.	DOCUMENTS	ANNEXURE	PAGE
1	Memo of appeal	.....	1- 3.
2	Affidavit	.....	4.
3	Order dated 26.01.2021	A	5.
4	Adjustment order dt: 26.10.2021	B	6.
5	Charge report	C	7.
6	Adjustment order dt: 13.06.2022	D	8.
7	Application	E	9.
8	Forwarding letters	F & G	10- 11.
9	Departmental appeal	H	12.
10	Wakalat nama	.....	13.

APPELLANT

THROUGH:


MIR ZAMAN SAFI
ADVOCATE

9

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

APPEAL NO. 364 /2023

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 3796

Dated 24/2/2023

Mr. Saleem Khan, Lab Attendant (BPS-04),
GHSS Ghalanai now in O/O the District Education Officer (M), Distt: Mohmand.

.....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 Mohmand.

.....RESPONDENTS

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE INACTION OF THE RESPONDENT NO.3 BY NOT ADJUSTING THE APPELLANT AGAINST HIS ORIGINAL POST I.E. LAB ATTENDANT (BPS-04) AND AGAINST NO ACTION TAKEN ON THE DEPARTMENTAL APPEAL OF APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS.

PRAYER:

That on acceptance of this appeal the respondents may very kindly be directed to adjust the appellant against his original post i.e. Lab Attendant (BPS-04) with all back benefits. Any other relief which your good self deems fit that may also be awarded in favor of the appellant.

R/SHEWETH:

ON FACTS:

- 1- That appellant is the employee of respondent Department and was serving as Lab: Attendant (BPS-04) at GHSS Ghalanai, District Mohmand quite efficiently and upto the entire satisfaction of his superiors.
- 2- That during service the appellant was removed from service and during such period the respondent No.3 appointed one his blue eyed Mr. Nawaz Khan, Lab Attendant (BPS-04) against the post of appellant vide order dated 26.01.2021 which shows clear malafide on his part. Copy of the order dated 26.01.2021 is attached as annexure.....A.
- 3- That the appellant filed departmental appeal against his removal order which was allowed and the appellant is hereby re-instated in service and subsequently posted against the wrong post of Chowkidar (BPS-03) vide

Filed to-day
Registrar
24/2/2023

order dated 26.10.2021 and posted at Office of the Sub Divisional Education Officer, Upper Mohmand. Copies of the order and charge report are attached as annexure.....**B & C.**

4- That the appellant in pursuance of the order dated 26.10.2021 submitted his charge report and started performing his duty with all zeal and zest while the respondent No.3 transferred the appellant from Office of the SDEO, Upper Mohmand to GHS Ghazi Baig No.01 vide order dated 13.06.2022 against the post of Lab: Attendant (BPS-04) but due to pressure of the owner of School land the Principal concerned did not accept charge report of the appellant. Copy of the order dated 13.06.2022 is attached as annexure.....**D.**

5- That it is also pertinent to mention here that the appellant approached the respondent No.3 regarding the above mentioned situation but the respondent No.3 instead of actualize his order dated 13.06.2022 by issuing directions to the Principal concerned verbally adjusted the appellant in his office against the wrong post of caller.

6- That appellant time and again requested the authorities for his adjustment through verbal and written requests and as such the higher authorities ordered the respondent No.3 through their forwarding letters dated 05.09.2022 and 30.09.2022 for adjustment of the appellant against his original post but the respondent No.3 also refused the same. Copies of the application and forwarding letters are attached as annexure.....**E, F & G.**

7- That the appellant feeling aggrieved from the inaction of the respondent No.3 preferred departmental appeal before the respondent No.2 but no reply has been received so far. Copy of the departmental appeal is attached as annexure.....**H.**

8- That appellant feeling aggrieved and having no other remedy but to file the instant appeal on the following grounds amongst the others.

GROUND:

A- That inaction of the respondents No.3 by not adjusting the appellant against the post of Lab Attendant (BPS-04) is against the law, facts, norms of natural justice and materials on the record, hence not tenable and liable to be set aside.

B- That the appellant has not been treated in accordance with law and rules on the subject noted above and as such the respondents violated Article-4 and 25 of the Constitution of Islamic Republic of Pakistan, 1973.

C- That the respondent No.3 acted in arbitrary and malafide while filling the post of appellant i.e. Lab: Attendant (BPS-04) at GHSS Ghalanai and adjusted the appellant against the wrong post of caller, which is against the law and rules, therefore, the same is not tenable in the eye of law.

D- That the action and inaction of the respondent No.3 by adjusting the appellant against the wrong post of caller and filling the original post of the appellant is against the legal rights of the appellant.

E- That the action and inaction of the respondent No.3 is violative of the principle of natural justice, hence not tenable in the eye of law.

F- That instead of clear directions from the higher authorities the respondent No.3 is not willing to adjust the appellant against his original post.

G- That the action and inaction of the respondent No.3 is discriminatory in nature, therefore, not tenable in the eye of law and liable to be justified.

H- That the appellant seeks permission to advance any other ground at the time of hearing.

It is, therefore, most humbly prayed that the appeal of appellant may be accepted as prayed for.

Dated: 20.02.2022.

APPELLANT
[Signature]
SALEEM KHAN

THROUGH: *[Signature]*
MIR ZAMAN SAFI,
ADVOCATE

CERTIFICATE:

It is, certified that no other earlier appeal was filed between the parties.

[Signature]
DEPONENT

LIST OF BOOKS:

- 1- CONSTITUTION OF PAKISTAN, 1973
- 2- SERVICES LAWS BOOKS
- 3- ANY OTHER CASE LAW AS PER NEED

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. _____/2023

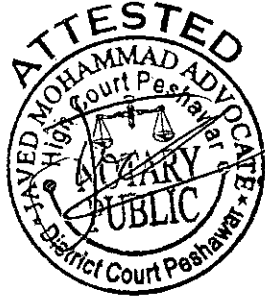
SALEEM KHAN

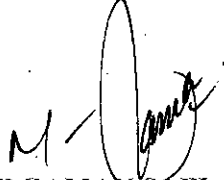
VS

EDUCATION DEPTT:

AFFIDAVIT

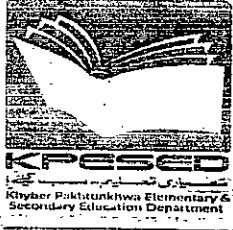
I **Mir Zaman Safi**, Advocate High Court, Peshawar on the instructions and on behalf of my client do hereby solemnly affirm and declare that the contents of this **service appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Court.



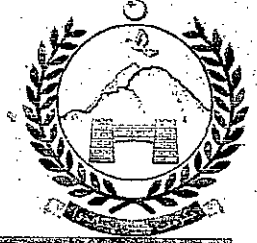

MIR ZAMAN SAFI
Advocate
High Court, Peshawar

13

A-5



OFFICE OF THE DISTRICT EDUCATION OFFICER
MOHMAND TRIBAL DISTRICT
Ph. No. : 0924-290180
FAX : 924290180
Email : -deomohmand@gmail.com



APPOINTMENT ORDER

Consequent upon the approval of the District Selection Committee in its meeting held on 22-01-2021, the competent authority has been pleased to appoint the following candidates as Class IVs against vacant posts on regular basis in BPS-03 of the basic pay scale @ Rs. (9610-390-21310) plus usual allowances as admissible under the rules in the school mentioned against each their names on the terms and conditions given below with effect from their date of taking over charge.

S.#	Name	Father's Name	Appointed as.	Place of posting.	Remarks
1	Shahzar Khan	Tahir Khan	Chowkidar	DEO Office Mohmand	A.V.P
2	Nawaz Khan	Khan Badshah	Lab Attendant	GHSS Ghallanai	A.V.P

TERMS & CONDITIONS

1. NO TA/DA etc is allowed.
2. Charge reports should be submitted to all concerned in duplicate.
3. They will be governed by such rules and regulations as prescribed by the Govt: from time to time for the category of government servants to which they belong.
4. In case of resignation, one-month prior notice should be given by the official concerned otherwise one month pay will be forfeited in lieu thereof.
5. Appointment is subject to the condition that certificates / degrees/ Domicile etc must be verified from the concerned authorities by Principals / Head Masters Concerned if any documents found bogus/fake/forged, he will be terminated and his case will be reported to the law enforcing Department / agencies for further action.
6. They should take charge of their post within 30 days after the issuance of this order.
7. They will produce health fitness and age certificate from the concerned civil surgeon.
8. Their pay shall be released after proper verification of documents & testimonials from the concerned agencies by Principals / Head Masters Concerned.

(Note):

Appointment order shall be verified by the concerned Drawing and Disbursing officers personally from the office of the undersigned before handing over charge to the official.

(NOOR HASSAN KHAN)
District Education Officer
Mohmand Tribal District

Endst: No. 976-831 / Appointments File /DSC- 22-01-2021 / Dated: 26/01/2021

Copy to the: -

1. Director of Education Elementary & Secondary Khyber Pakhtunkhwa Peshawar.
2. Director of Education NMD Secretariat Peshawar.
3. Deputy Commissioner Mohmand Tribal District.
4. District Account Officer Mohmand Tribal District.
5. ADEOs concerned.
6. Candidates Concerned.
7. EMIS Section Local Office.
8. Office record.

(Signature)
District Education Officer
Mohmand Tribal District

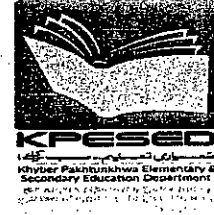
ATTACHED



14

B-6

OFFICE OF THE DISTRICT EDUCATION OFFICER
MOHMAND TRIBAL DISTRICT
Ph. No. : 0924-290180
FAX : 0924290180
Email :- deomohmand@gmail.com



ADJUSTMENT ORDER

In compliance of the Sectary (E&SED) Govt:Khyber Pakhtunkhwa No.SO/(PE)5-1/Gen-Misc/2021 dated 11-10-2021, Additional Director (NMAs) Khyber Pakhtunkhwa Peshawar No.13968 dated 11-10-2021 and re-instead as Lab: Attendant in (BS-4) vide District Education Office (Male) Endst:No. 3467-72 dated 20-10-2021the competent authority is pleased to order the adjustment of Mr.Saleem Khan Lab: Attendant (BS-4) and against the newly created Chowkidar post (BS-3) in Sub Divisional Education Office (Male) Upper Mohmand Tribal District in his own pay & scale for the pay purpose in the best interest of public with effect from 18-11-2020.

Note.

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

(NOOR HASSAN KHAN)
District Education Officer
Mohmand Tribal District

Endst.No. 3597-3602
Copy forwarded to the:-

Dated: 26 / 10 / 2021.

- 1:-PS to Secretary, Education (E&SED) Khyber Pakhtunkhwa Peshawar.
- 2:-PA to Director (E&SED) Khyber Pakhtunkhwa Peshawar.
- 3:-PA to Additional Director Education (NMD) Khyber Pakhtunkhwa Peshawar
- 4:-District Accounts Officer Mohmand.
- 5:-SDEO (Upper) Mohmand Tribal District
- 6:-Official Concerned.

District Education Officer
Mohmand Tribal District

ATTACHED

15

GOVERNMENT OF KHYBER PAKHTUNKHWA PESHAWAR
CERTIFICATE OF TRANSFER OF CHARGE

C-7

Certified that I Saleem Iqbal 2/11/21

Have this day F.N/A.N taken over charge of the office of DEO Mohmand

with reference to the order of the K.P.K Government DEO Mohmand

No. 3597-3602 Dated 26/10/2021

Transfer Mr/Miss/Mst: vacant to —

2. Particular of cash and important/secret/confidential documents handed over/taken over are noted on the reverse.

Signature of relieved
Government servant vacant
Designation

Station Ghakkhar

Signature of Government
servant receiving charge.....
Designation Asst. Commissioner

Dated 26/10/21

Endst:No..... Dated..... 2021.

[Signature]
District Education Officer
Mohmand Tribal District

ATTACHED



No _____

Dated /06/2022

16

D-8

ADJUSTMENT ORDER

As per directions of the Section Officer Elementary and Secondary Education, Officer Khyber Pakhtunkhwa Peshawar vide his letter No. SO(PE)/E&SED/2-1/Gen-Posting-Transfer/2021-22 Dated 25-01-2022, the Competent Authority, is pleased to adjust Mr. Saleem Khan, , at GHS Ghazi Baig No. 01, against vacant post Lab Attendant (BS-04) in his own pay and scale in the best interest of public service with immediate effect.

Note:

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

(Noor Hassan Khan)
District Education Officer
Mohmand Tribal District

Endst; No. 2789-3004 dated: 13 /06/2022

Copy to the:

1. PA to Director Elementary and Secondary Education Khyber Pakhtunkhwa Peshawar.
2. District Monitoring Officer EMA Mohmand Tribal District.
3. Head Masters concerned.
4. Official concerned.
5. Office record.

District Education Officer
Mohmand Tribal District

ATTACHED

(17)

بخدمت جناب سیکرٹری انسٹری اینڈ سیکنڈری ایجوکیشن پشاور

درخواست برائے اپنی جگہ پر ایڈجسٹ کرنے کا حکم صادر فرمائے۔

E-9

جناب عالی!

مودبانہ گزارش ہے۔ کہ سائل ایک غریب خاندان سے تعلق رکھتا ہے

یہ کہ سائل ضلع مہمند غلٹی میں گورنمنٹ ہائر سیکنڈری سکول میں بطور لیب آئڈنٹ سال 2005-2-25 میں تعینات ہو چکا ہے۔

یہ کہ سائل کے ساتھ محکمہ بہت زادتیات کر رہے ہے بلکہ سائل کو اپنے سکول غلٹی سے اٹھا کر اور DEO آفس میں کارل POST پر ایڈجسٹ کیا گیا بلکہ یہ post کارل حالہ کیلئے ہوتی اور سائل کا اپنا اصل پوسٹ گورنمنٹ ہائر سیکنڈری سکول غلٹی میں ہے۔ کہ سائل نے 24-05-2022 پر ایک درخواست سیکرٹری صاحب کو لکھا تھا اس پر remarks جاری کیا اور اس کے ساتھ ایک لیٹر بھی D.E.O مہمند کو کیا گیا جب یہ لیٹر وہاں پہنچ گیا تو D.E.O نے سائل کو آفس سے اٹھا کر 25 کلو میٹر دور ٹرانسفر کیا یہ مالک مکان کا سکول ہے اور سائل اپنی جگہ کیلئے آپ کو درخواست گزار ہے کہ سائل کا جس سکول کو آرڈر ہوا ہے وہ مالک مکان کا سکول ہے اور سائل نہیں چھوڑتے برائے مہربانی یہ آرڈر غازی بیگ GHS کا آرڈر کینسل کیا جائے اور سائل کو GHSS غلٹی میں ایڈجسٹ کرنے کا احکامات جاری کیا جائے۔

یہ کہ سائل اسی سکول میں تعیناتی 2005 میں اسی سکول میں ہو چکا ہے اور سائل کو DEO آفس میں غلط پوسٹ پر ایڈجسٹ کیا گیا ہے جو کہ غیر قانونی ہے۔

یہ کہ یہ بھی سائل کے ساتھ زادتیات ہے اسلئے آپ صاحبان کو درخواست کی جاتی ہے کہ سائل کو اپنا Permanent Post گورنمنٹ ہائر سکول غلٹی میں ایڈجسٹ کرنے کا احکامات صادر فرمایا جاوے

Secretary to Govt. of
Khyber Pakhtunkhwa
E&SE Department
پشاور

المرقوم: 25-06-2022

سلیم خان لیب آئڈنٹ گورنمنٹ ہائر سیکنڈری سکول غلٹی ضلع مہمند

ATTACHED



(18)

GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT
Block "A" Opposite M PA's Hostel, Civil Secretariat Peshawar
Phone No. 091-9223587

F-19

No. SO(PE)/E&SED/2-1/transfer/2022
Dated Peshawar the September 5th, 2022

To

The Director,
Elementary & Secondary Education,
Khyber Pakhtunkhwa

Subject: - **APPLICATION FOR ADJUSTMENT HOME DISTRICT**

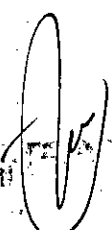
I am directed to refer to the subject noted above and to enclose herewith a copy of application which is self-explanatory submitted by Mr. Saleem Khan Lab attendant GHSS ghalannai District Mohammand for necessary action please.

Encl. As above.


(MUHAMMAD ISHAQ)
SECTION OFFICER (PE)

Copy forwarded to the PS to Secretary, E&SE Department Khyber Pakhtunkhwa.


SECTION OFFICER (PE)
5/9/22


ATTACHED

23-09-2022

سليم خان لیب آڈیٹنگ گورنمنٹ ہائیڈرو پاور سیکٹور سکول ٹلٹنی ضلع مہمند



19

Directorate of Elementary & Secondary Education
Khyber Pakhtunkhwa Peshawar
Phone# 091-9330240, 9331240

No. 9001 / -

Dated 30/9/2022

G-11

To,

The District Education Officer (M)

District Mohmand

Subject: APPLICATION FOR ADJUSTMENT ON HIS OWN POST.

Memo

I am directed to enclose herewith a photo copy of the letter Section Officer (PE) Govt of Khyber Pakhtunkhwa Elementary & Secondary Education Department alongwith application in r/o Mr. Saleem Khan Lab: Attendant District Mohmand on the subject cited above and to ask you to resolve the issue in light of Section Officer (PE) letter please.

Deputy Director (F/A)

Endst: No. _____ / E-4 Mohmand Dated _____ / 2022

Copy to:

1. Section Officer (PE) Govt of Khyber Pakhtunkhwa Elementary & Secondary Education Department w/r to his letter No. SO(PE)/E&SED/2-1/transfer/2022 dated Peshawar the September 5th, 2022.
2. PA to Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.
3. PA to Addl: Director (Estab:) Local Directorate.

Deputy Director (F/A)

(20)

H-12

To,

The Director, E&SE Department,
Khyber Pakhtunkhwa, Peshawar.

Subject:

DEPARTMENTAL APPEAL FOR ADJUSTMENT AGAINST THE
ORIGINAL POST OF LAB: ATTENDANT (BPS-04) AT GHSS
GHALANAI, DISTRICT MOHMAND

Respected Sir,

With due respect it is stated that I am the employee of your good self department and presently serving against the post of Caller in Office of the District Education Officer (M), District Mohmand.

That I served the department for more than 17 years till date quite efficiently and upto the entire satisfaction of my superiors. That while I was performing my duties at GHSS Ghalanai the Worthy District Education Officer (M), District Mohmand removed my services and subsequently appointed his blue eyed chap person Mr. Nawaz Khan, against my post vide order dated 26.01.2021.

That feeling aggrieved from the removal order I preferred departmental appeal before the Secretary, E&SE Department which was accepted by re-instating me but the District Education Officer, District Mohmand malafidely posted me against the wrong post of Chowkidar at Office of the Sub Divisional Education Officer, Mohmand vide order dated 26.10.2021.

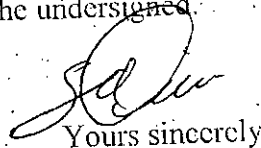
That later on I was transferred and posted at GHIS Ghazi Baig No.1 but due to the pressure of land owner the concerned Principal refused my charge report. That subsequently I approached the District Education Officer (M), District Mohmand but he verbally adjusted me against the post of caller in his office.

That I preferred an application before the Worthy Secretary, E&SE Department for adjustment against my original post and the same has been sent to your good self through forwarding letter dated 05.09.2022 for necessary action. That in continuation of the aforementioned forwarding letter dated 05.09.2021 your good self directed the District Education Officer (M), District Mohmand to adjust the undersigned on his original post of Lab: Attendant (BPS-04) but the authority concerned is not willing to do so.

That it is pertinent to mention that in the present situation I have no any post and I am in hanging position and the authority concerned left the undersigned without any proper posting. That I am feeling aggrieved preferred the instant departmental appeal before your good self.

It is, therefore, most humbly prayed that on acceptance of this departmental appeal the District Education Officer (M), District Mohmand may very kindly be directed to adjust the undersigned against his original post i.e. Lab: Attendant (BPS-04) at GHSS Ghalanai, District Mohmand with all back benefits. Any other relief which your good self deems fit that may also be awarded in favor of the undersigned.

Dated: 16.11.2022.


Yours sincerely

Saleem Khan, Lab Attendant (BPS-04)
GHSS Ghalanai



21

WAKALAT NAMA

SCANNED
KPST
Peshawar

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

_____ OF 2023

Saleem Khan

(APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS


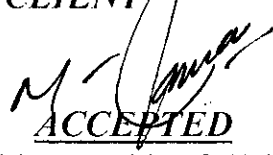
Education Deptt.

(RESPONDENT)
(DEFENDANT)

I/We Saleem Khan

Do hereby appoint and constitute **MIR ZAMAN SAFI,** Advocate, High Court, Peshawar to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate Counsel on my/our cost. I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter.

Dated. _____ / _____ /2023


CLIENT

ACCEPTED
MIR ZAMAN SAFI
ADVOCATE

OFFICE:

Room No.6-E, 5th Floor,
Rahim Medical Centre, G.T Road,
Hashtnagri, Peshawar.
Mobile No.0333-9991564
0317-9743003

26

SCANNED
KPST
Peshawar
26/9/23

BEFORE KHYBER PAKHTUNKHAWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No.364/2023

Mr. Saleem khan lab: Attendant GHS Musa kor Amabar District Mohmand

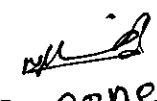
Versus

Secretary Elementary and Secondary Education Khyber Pakhtunkhwa & others.

INDEX

S.No	DESCRIPTION OF DOCUMENTS	ANNEXURE	PAGE
1	Comments	.....	1-2
2	Affidavit	.....	3
3	Copy of the transfer order	.....A...	4
4	Copy of the court order	.....B...	5

27-09-23
Peshawar.


Deponent
Crd. 03419080936

26

1

BEFORE KHYBER PAKHTUNKHAWA SERVICE TRIBUNAL PESHAWAR

SCANNED
KPST
Peshawar
26/9/23

Service Appeal No.364/2023

Mr.Saleem Khan Lab: Attendant PTC GHS Musa Kor Amabar District Mohmand

Versus

Secretary Elementary and secondary Education Khyber Pakhtunkhwa & others.

Para-wise comments on behalf of respondents No.1,2 & 3.

Khyber Pakhtunkhwa
Service Tribunal

Respectfully Sheweth.

Diary No. 7936

Preliminary Objections.

Dated 26-09-23

- I. That the Appellant has no cause of action, locus standi to file the instant Appeal.
- II. That the instant appeal is not maintainable under **order 11 rule 2 CPC**
- III. That the appellant has not come to this Honorable Tribunal with clean hands.
- IV. That the appellant has concealed material facts from the Honorable Tribunal.
- V. That the appeal is barred by law and limitation.

ON FACT

1. Pertain to record.
2. That the appellant was charged on misconduct and removed from his service by the competent authority after fulfilling the codal formalities. The appellant filed departmental appeal against his removal from service order. The appeal was accepted and the appellant was re-instated and adjust against the vacant post of Class-IV. The appellant took his charge without any agitation. Furthermore, Mr. Nawaz khan was appointed against the vacant post of lab: Attendant in GHSS Ghallanai on the recommendation of DSC.
3. As elaborated above in Para 2.
4. Correct to the extent the appellant was adjusted at GHS Ghai Baig against the vacant post of Lab Attendant vide No. 2999-3104 dated 13.06.2022 but he failed to comply the order and he was receiving salaries against the post of Caller without rendering any kind of duty which is against this court decision of dated 13.06.2021 in appeal No. 1689/2010 i.e., "No work No pay" so his pay was stopped as he was not performing his duties. Then he submitted departmental appeal to wrong forum i.e. the Secretary Elementary and Secondary Education Department and he directed to the District Education Officer to adjust him and in compliance of his office order, he was adjusted against the vacant post of Lab Attendant at GHS Musa Kor vide this office No.7938-44 dated 17.05.2023 (copy of the order **Annexure-A**).
5. Incorrect, hence denied as elaborated at Para 4.
6. Incorrect, hence denied as explained at Para 4.
7. Pertains to record, however, the appeal seems to be fabricated as there is no diary number on the appeal as **Annexed-H** of his appeal and no marking of the Director.
8. That the appellant filed a service Appeal No. 3146/2021 before this Honorable Service Tribunal against the adjustment order vide No.3597-36021 dated 26-1-2021 and the instant appeal No. 3146/2021 was dismissed by this Honorable Service Tribunal on 06.07.2023 (Copy of the order is attached **Annexure- B**). The appellant now filed another Service Appeal No. 364/2023 before this Honorable Service Tribunal in the same cause of action. It's requested to dismiss this Service Appeal under **order 11 rule 2 CPC** of the constructive resjudicata.

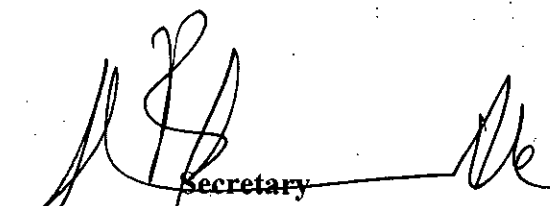
[Handwritten signature]

GROUND.


- A. Incorrect, hence denied. That the appellat is performing his duty against the post of Lab: Attendant at GHS Musa Kor Ambar.
- B. Incorrect, hence denied.
- C. As elaborated above in fact Para 4.
- D. Incorrect, hence denied. That the appellat is performing his duty against the post of Lab: Attendant at GHS Musa Kor Ambar.
- E. Incorrect, hence denied.
- F. As mentioned above fact in Para 4.
- G. Incorrect, hence denied.
- H. That the respondents seek permission to advance any other ground at the time of hearing.

It is therefore, most humbly prayed that the appeal of the appellat may kindly be dismissed with cost.

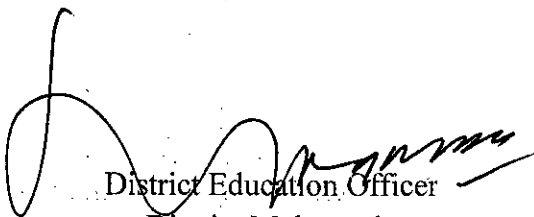
Respondent No.1


Secretary
 Elementary and Secondary Education Department,
 Government of Khyber Pakhtunkhwa

Respondent No.2


Director
 Elementary and secondary Education department
 Government of Khyber Pakhtunkhwa

Respondent No.3


 District Education Officer
 District Mohmand
 R

23

3

SERVICE BEFORE KHYBER PAKHTUNKHAWA TRIBUNAL PESHAWAR

Service Appeal No.364/2023

Mr.Saleem khan lab: Attendant PTC GHS Musa kor Amabar District Mohmand

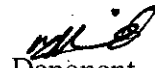
Versus

Secretary Elementary and secondary Education Khyber Pakhtunkhwa & others.

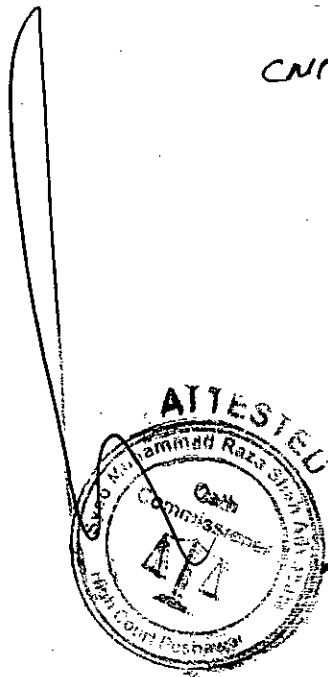
AFFIDAVIT

I am Mr. Noor bad shah ADEO litigation District Education office Mohmand do hereby declare and affirm on oath that above comments are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon, rabble Tribunal.

It is further stated on oath that in this appeal, the answering respondents have neither been placed ex-parte nor their defense is struck off.


Deponent

CNIC. 03419030936



26 SEP 2023



OFFICE OF THE DISTRICT EDUCATION OFFICER
DISTRICT MOHMAND

Email:- deomohmand@gmail.com



4

ADJUSTMENT ORDER

1. Whereas Mr. Saleem Lab Attendant Personal No 00132556 pay was stopped by the DDO concerned as he was getting pay against the post of caller from MG6013 without performing any kind of duty.
2. And whereas in the light of the inquiry recommendation, Noor Hassan Khan, the then DEO (M) Mohmand imposed upon him major penalty of "Dismissal from Service" upon him with immediate effect vide No 5786-93 dated 18/11/2020
3. And whereas an inquiry was constituted vide Directorate of E&SE KP Peshawar Notification No 7163-66 dated 22/12/2020 in the light of Departmental Appeal filed by Mr. Saleem ex-Lab Attendant against the said Notification of the DEO (M) Mohmand. The inquiry officer, Mr Javid Deputy Director P&D Directorate recommended that the impugned Notification of the DEO (M) Mohmand vide No 5786-93 dated 18/11/2020 may be cancelled as the requisite formalities have not been observed as per law and the then DEO (M) Mohmand may be warned for the ignorance of the rules.
4. And whereas a letter was received from the Directorate of E&SE KP Peshawar vide No 6996 dated 1/6/2021 directed the DEO (M) Mohmand to adopt proper procedure in the inquiry and issue charge sheet and statement of allegations against Saleem ex-Lab Attendant and also give him the opportunity of personal hearing if deem necessary and then decide the case accordingly.
5. And whereas a show cause Notice was issued to him vide this office No 1000-04 dated 2/8/2021 and personal hearing opportunity was also given to him vide this office No 780-82 dated 17/07/2021 by the then DEO (M) Mohmand.
6. And whereas a letter was received from the Directorate of E&SE KP Peshawar No 13968 dated 11/10/2021 with the direction to the then DEO (M) Mohmand to implement the recommendation of the inquiry report as mentioned in Para No 2 above.
7. And whereas the then DEO (M) Mohmand reinstated Mr. Saleem ex-Lab Attendant into service vide 3467-72 dated 20/10/2021.
8. And whereas a complaint was received to this office regarding illegal reinstatement of the ex-official which was forwarded with a comprehensive report to the Directorate of E&SE KP Peshawar vide this office No 7038 dated 21/2/2023.
9. And whereas an inquiry was constituted in the instant case vide Directorate of Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar office Notification No 17961-64 dated 17/3/2023 and the official was called for personal hearing by the inquiry officer on 6/5/2023 vide DEO (M) Lakki Marwat office No 3550 dated 4/5/2023 but he failed to appear before the inquiry officer.
10. And whereas at the same time, another inquiry was conducted through Mr. Bilal Khan Section Officer (secret) E&SED vide Govt of Khyber Pakhtunkhwa Notification No. SO (Inq)E&SED/1-1/2023/Mr.Saleem/Lab Attendant/Mohmand dated 15/3/2023.
11. And whereas a comprehensive report was submitted to the inquiry officer vide this office No 7351 dated 28/3/2023.
12. And whereas a letter was received on 12/5/2023 from Govt of Khyber Pakhtunkhwa E&SED vide No. SO (Inquiries) E&SED/1-1/2023/Mr. Saleem Ex-Lab Attendant/Mohmand dated 8/5/2023 stating that the competent authority has approved the recommendation of the inquiry officer and order to implement the recommendations of the inquiry officer under intimation to the department.
13. And whereas another letter was received on 16/5/2023 from Govt. of Khyber Pakhtunkhwa E&SED vide his good office No. SO (PE/M)E&SED/5-1/G.Misc/Mr.Saleem Khan/Mohmand/2023 dated 15/5/2023 along with inquiry report to implement the recommendations of the inquiry report at the earliest and recommendation of the inquiry report reproduced as " The complainant Mr. Saleem already reinstated by the Directorate needs to be adjusted in his original post of Lab Attendant as the guidance which was sought by the DEO(M) District Mohmand from Directorate of E&SE regarding Rules 17(2) of ED Rules,2011 is crystal clear that the services of the complainant was restored by setting aside the orders of then DEO(M), District Mohmand vide Notification No 5786-93 dated 18/11/2020. Such practice is also implied in the field formation of Education Department as is evident from Annex-X. Drawing salary against the wrong post is the mistake of DEO office which needs to be avoided."

In view of the above, Mr. Saleem Lab Attendant is hereby adjusted against his original vacant post of Lab Attendant at GHS Musa Kore Tehsil Ambar with immediate effect & the intervening period w.e.f. 1/2/2023 till date is treated as EOL.

(LIAQAT ALI)
District Education Officer
(Male) Mohmand

Endst No 7938-44 Dated: 17/5/2023
Copy to the:

- 1) Secretary Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar in compliance of his order cited above.
- 2) Director Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar.
- 3) District Accounts Officer Mohmand.
- 4) DMO Education Monitoring Authority Mohmand.
- 5) Principal/HM concerned with the direction to do the needful & to ensure his duty at school.
- 6) Official concerned.
- 7) Office copy.

Dy: District Education Officer
(Male) Mohmand

17/05/2023

6th July, 2023



1. Nobody present on behalf of the appellant. Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present.

2. The case was called time and again but neither appellant nor his counsel put appearance, therefore, the appeal in hand is dismissed in default.

3. Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal this 6th day of July, 2023.

(Rashida Bano)
Member(J)

(Kalim Arshad Khan)
Chairman

Adnan Shah, P.A.

SCANNED
KFS ST
Peshawar

ATTESTED

EX-MEMBER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar