

INDEX

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

EXECUTION NO _____

APPEAL NO	INSTITUTION	ORIGINAL INSTITUTION	DECISION	PAGES
1672/23		26-6-2024	10-8-2023	23

Kifayatullah VS *Education*

Sr.No.	No of Pages	Documents	Page No
Part-A			
1	01-01	Order	01
2	02-03	Order sheet	02
3	04-22	memo of Appeal	19
4	23-23	wakalat name	01
5	-		
6	-		
7	-		
8	-		
9	-		
10	-		
11	-		
12	-		
Part-B			
1	-		
2	-		
3	-		
Total Pages in Part-A		0	23
Total Pages in Part-B		0	

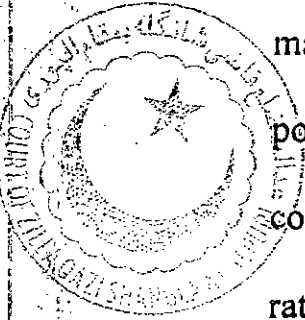
Muhariq
Muhariq Compilation
10/07/24

[Signature]
Incharge Judicial Branch
10/7/24

Issue No.2.

20. It is well settled since long that while determining the market value of the acquired land, not only the existing potentiality and market value of the acquired land is to be considered but its future potentiality and tendency of inflated rate in future is also to be considered. It is also necessary to keep in mind that this transaction of acquired land is not between a willing purchaser and willing seller rather it is a transaction which was forced upon the land owners and is against their consent. With such background of transaction, a land owner has every right that he/they may be compensated on the basis of celebrated phenomena of '*gold for gold and not copper for gold*'. Furthermore, while determining the market value of the acquired land, multiple factors including its location, existing potentiality, proximity to road or any commercial building and over and above its future prospects have to be considered.

21. It is imperative to note that the notification under section 4 of the Land Acquisition Act, 1894 was issued on 21-03-2008, while Award was made in the year 2011, the inflation in prices during intervening period between issuance of notification under section 4 of the Land Acquisition Act, 1894 and the Award was ignored while determining fair and reasonable rate of compensation. Moreover, people do enter in the mutation less



Farzina
10/12/22
Farzina Shaid
District Judge/Zilla Qazi
Snangla.

S.A #.1672/2023 titled "Kifayat Ullah Vs. Education Department"

26th June. 2024 **Fareeha Paul, Member (Executive):** Appellant in person present.

Counsel present via video link from Peshawar.

2. He requested for withdrawal of the instant service appeal. In this regard, statement of the appellant was recorded on the margin of order sheet and his signature was obtained thereon.

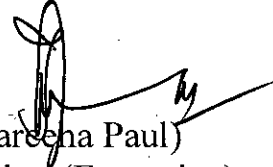
Dismissed as withdrawn. Consign.

3. *Pronounced in open Court at Abbottabad and given under my hand and seal of the Tribunal on this 26th day of June,*

2024.

SCANNED
BEST
Peshawar

Mutazem Shah



(Fareeha Paul)
Member (Executive)
Camp Court, Abbottabad

سین اپیل و اس کی سنا جیٹا ہو
26-6-24

12.12.2023

Learned counsel for the appellant present and requested that he is not in possession of the complete record, therefore, an adjournment may be granted. Adjoined. To come up for preliminary hearing on 25.01.2024 before the S.B at Camp Court, Abbottabad. Parcha Peshi given to learned counsel for the appellant.

SCANNED
KPST
Peshawar

(Salah-Ud-Din)
Member (J)
Camp Court Abbottabad

Naeem Amin

25.01.2024

Appellant in person present and requested for adjournment on the ground that his counsel is busy before Hon'ble Peshawar High Court, Peshawar. Last opportunity is granted. To come up for preliminary hearing on 27.03.2024 before S.B. P.P given to the appellant.

SCANNED
KPST
Peshawar

(Muhammad Akbar Khan)
Member (E)
Camp Court Abbottabad

Kamranullah



Due to cancellation of tour case is adjourned to 26/6/2024.

Reader
Rab
#

3 FORM OF ORDER SHEET

Court of _____

Appeal No. 1672/2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	17/08/2023	<p>The appeal of Mr. Kifayatullah is re-submitted today by Mr. Muhammad Arif Jan Advocate. It is fixed for preliminary hearing before Single Bench at camp court Abbottabad on</p> <p>By the order of Chairman</p> <p> REGISTRAR</p>
	26.09.2023	<p>Nemo for the appellant.</p> <p>Notice for prosecution of the appeal be issued to the appellant as well as his counsel and to come up for preliminary hearing on 12.12.2023 before the S.B at Camp Court Abbottabad.</p> <p> (Salah-Ud-Din) Member (J) Camp Court Abbottabad</p>

SCANNED
KPST
Peshawar

SCANNED
KPST
Peshawar

Naeem Amin

The appeal of Mr. Kifayatullah son of Molve Abdul Khaliq FT GMS Jag Dubair Kohistan Lower received today i.e on 10.08.2023 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

Copy of reinstatement order is not attached with the appeal be placed on it.

No. 3032 /S.T.

Dt. 11/08 /2023.


11/8/23

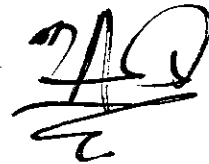
REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Muhammad Arif Jan Adv.
High Court Peshawar.

Respected Sir,

Resubmitted after removal
of objection, he may kindly
be placed before the Honble Bench.

11/8/2023



(5)

KHYBER PAKHTUNKHWA SERVICES TRIBUNAL, PESHAWAR

CHECK LIST

Kifayatullah

Versus

Districkt Edu OFFICES

..... Appellant

..... Respondents

S NO	CONTENTS	YES	NO
1.	This petition has been presented by: <u>Advocate</u> <u>Court</u>	√	
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 AG/DAG?	√	
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?	x	
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:- M. Adil Jan Advr Hk

Signature:- [Signature]

Dated:- 10/8/2023

8

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

PESHAWAR

Appeal no # 1672/2023

SCANNED
KPST
Peshawar

Kifayatullah.....Appellant

VERSUS

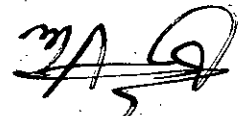
District Education Officer and othersRespondents

INDEX

S.No.	Description of Documents	Annex	Pages
1.	Memo of Petition		1-4
2.	Affidavit		5
3.	Copy of order/judgment	A	6-9
4.	Copy of Inquiry Report	B	10-12
5.	Copies of letter dated 9-9-2021	C	13-14
6.	Copy of departmental appeal	D	15-16
7.	Wakalat Nama		17

Appellant

Through



Muhammad Arif Jan
Advocate, Peshawar

Date: 10-08-2023

Office: Office No.212 New Qatar Hotel
G.T. Road Sikandar Town
Peshawar.

Cell: 0333-2212213

(7)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

PESHAWAR

Service Appeal No. 1672 /2023

Khyber Pakhtunkhwa
Service Tribunal
Diac. No. 6959
Dated 10/08/23


Kifayatullah S/o Molve Abdul Raziq

TT GMS Jag Dubair Kohistan Lower.....Appellant

VERSUS

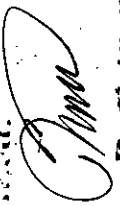
1. District Education Officer (M) Kohistan Lower.
2. Director Elementary and Secondary Education Khyber Pakhtunkhwa G.T Road Peshawar.
3. District Accounts Officer District Kohistan Lower.
4. Govt, of Khyber Pakhtunkhwa through Secretary Education E&S Secretariats Peshawar.....Respondents.

Filed by day


10/8/23

APPEAL UNDER SECTION 4 OF KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE WITHHOLDING OF MONTHLY SALARIES ALONG WITH OTHER SERVICE BACK BENEFITS FOR THE INTERVENING PERIOD EFFECTING FROM FEB, 2016 TILL OCT, 2019 AGAINST WHICH DEPARTMENTAL APPEAL HAS BEEN PREFERRED BEFORE RESPONDENT NO-2 BUT THE SAME HAS NOT BEEN DECIDED WITHIN STIPULATED PERIOD OF TIME.

Submitted to day


Registrar
17/8/23

() (2)

Respectfully Sheweth:

1. That the appellant was removed from service on 17-02-2016 against which service appeal No- 620/2016 was filed before this Hon'ble Tribunal.
2. That this Hon'ble Tribunal was pleased and allowed the appeal of the appellant vide order/judgment dated 22-03-2019. It is to be added that the appellant has been re-instated conditionally and has been paid the monthly salary of Nov, 2019. **(Copy of order/judgment is attached as ANNEX-A).**
3. That the issue of back benefits pertains to the appellant was subjected to the outcome of the de-novo inquiry and thus respondents were directed to conduct de-novo inquiry within period of 90 days after the date of receipt of the judgment *ibid*.
4. That upon the direction of this Hon'ble Tribunal, inquiry was conducted and the worthy inquiry officer strongly recommended the back benefits of the appellant effecting from 17-02-2016 till 22-03-2019. **(Copy of inquiry report is attached as ANNEX-B).**
5. That prior to the present the appellant approached to respondents concerned for the release of back benefits but of no avail. It is to be added that the appellant was strongly assured by respondents in respect of release of all outstanding salaries with all back benefits but nothing and just delayed the matter. **(Copy of letter dated 09-09-2021 is attached as ANNEX-C).**
6. That the appellant then filed departmental appeal before respondent No-2 on the subject matter but the same has not been decided within stipulated period of time. **(Copy of departmental appeal is attached as ANNEX-D).**

(4)

(3)

7. That the appellant being aggrieved and having recurring cause of action left with no other option except to file the instant appeal on the following amongst other grounds.

GROUND:

- A.** That the act, commission and omission of the respondents by way of withholding the monthly salaries along with other service benefits effecting from Feb, 2016 till Oct, 2019 for the intervening period and further the non-disposal of departmental appeal of appellant by respondent No-2 respectively (**hereinafter impugned**) are patently illegal, unlawful, without lawful authority, of no legal effect having no value in the eyes of law thus the respondents be directed to release and pay the outstanding monthly salaries for the intervening period without any further delay, reason and justification with all back benefits.
- B.** That the judgment of this Hon'ble Tribunal also attended finality and the appeal of respondents has been dismissed by the august Supreme Court of Pakistan being time barred.
- C.** That once the worthy inquiry officer recommended the stoppages and non-payment of monthly salaries for the intervening period then the respondents concerned are/were duty bound to release and pay the same without fear and delay.
- D.** That it is worth mentioned here that no nay further inquiry has been conducted into the matter moreover the respondents were asked time and again by the appellant but of no avail.

10 4

E. That the appellant is suffering every month hence having recurring cause of action due the act of respondents thus the respondents are required to abide by law and to pay all the outstanding salaries of the appellant without any further delay along with back benefits.

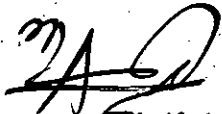
F. That any other ground which has not been specifically asked for and is fit in the circumstance may also be permitted to raise at the time of hearing.

It is, therefore, most humbly prayed that on acceptance of the instant appeal

- I. **Declare the act, commission and omission of respondents by way of withholding the monthly salaries of appellant for the intervening period since Feb, 2016 till Oct, 2019 as illegal and unlawful.**
- II. **Respondents may also directed to release and pay all the outstanding monthly salaries for the intervening period since Feb, 2016 till Oct, 2019 with all back benefits.**
- III. **Any other relief which deems fit and not specifically asked for may also be allowed in favor of appellant against respondents.**

کفایت الہ
Appellant

Through


Muhammad Arif Jan
Advocate, Peshawar.

11 8

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Kifayatullah.....Appellant

VERSUS

District Education Officer and others.....Respondents

AFFIDAVIT

I, Kifayatullah S/o Molve Abdul Raziq TT GMS Jag Dubair Kohistan Lower do hereby solemnly affirm and declare on oath that the contents of the **appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.



[Handwritten Signature]
DÉPONENT

12
B
6

Annex 'A'

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

PESHAWAR

Service Appeal No. 620 /2016

Khyber Pakhtunkhwa Service Tribunal

Diary No. 604

Dated 9-6-2016

Kifayatullah S/o Molve Abdul Raziq

TT GHS Pattan Kohistan



Appellant

VERSUS

1. District Education Officer (M) Kohistan.
2. Director Elementary and Secondary Education Khyber Pakhtunkhwa G.T Road Peshawar.
3. District Accounts Officer District Kohistan.
4. Govt, of Khyber Pakhtunkhwa through Secretary Education E&S Secretariats Peshawar..... Respondents.

vide order 8/1/16 S. Deputy Commissioner, Kohistan.

Filed to-day

Registrar

9/6/16 APPEAL UNDER SECTION 4 OF KHYBER PAKHTUNKHWA SERVICE

TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 17-

05-2016 PASSED BY RESPONDENT NO-2 WHEREBY HE REJECTED

THE APPEAL OF THE APPELLANT AND MAINTAINED THE OFFICE

ORDER BEARING NO-12589-92 DATED 17-02-2016 OF RESPONDENT

NO-1 IN RESPECT OF REMOVAL FROM SERVICE OF THE

APPELLANT

ATTESTED

Handwritten signature

Handwritten signature and stamp of the Registrar

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Appeal No. 620/2016

Date of Institution ... 09.06.2016

Date of Decision ... 22.03.2019



Kifayatullah S/o Maulvi Abdul Raziq, T.T GHS Pattan Kohistan.

(Appellant)

VERSUS

District Education Officer (M) Kohistan and four others.

(Respondents)

MR. MUHAMMAD ARIF JAN,
Advocate

--- For appellant.

MR. KABIRULLAH KHATTAK
Additional Advocate General

--- For respondents.

MR. AHMAD HASSAN,
MR. HAMID FAROOQ DURRANI

--- MEMBER (Executive)
--- CHAIRMAN

JUDGMENT

AHMAD HASSAN, MEMBER.-

This judgment shall dispose of the instant service appeal as well as connected service appeal no. 621/2016 titled Abdul Saboor and appeal no. 700/2016 titled Muhammad Nazir as similar question of law and facts are involved therein.

2. Arguments of the learned counsel for the parties heard and record perused.

ARGUMENTS

3. Learned counsel for the appellant argued that initially he joined the Education Department as Arabic Teacher on 26.04.2008. That he was declared surplus and thereafter adjusted through order dated 02.03.2009 and posted at GMS, Dag Pattan, Kohistan. Subsequently, on the allegations of being appointed


~~ATTESTED~~

in violation of prescribed procedure, a show cause notice was served on him vide endorsement dated 14.12.2015 to which he replied. Allegedly, his appointment was declared fake and major penalty of removal from service was imposed on him vide impugned order dated 17.02.2016. To safeguard his service interests, a departmental appeal dated 27.02.2016 was filed and rejected vide order dated 18.05.2016.

4. He further argued that his appointment was made in the prescribed manner. Major penalty was awarded without holding proper inquiry and opportunity of defense/hearing also denied, which goes against the principles of natural justice.

5. Learned Additional Advocate General argued that appointment of the appellant as Arabic Teacher in the respondent-department was fake/bogus. Posting order of the appellant bearing no. 2529-34 dated 26.08.2008 at GHS, Harigah, Kohistan, was bogus as post of Arabic Teacher was not vacant, hence, the appellant could not assume the charge. The DCO, Kohistan denied unequivocally about issuance of any such order from his office. After a gap eight months, he was readjusted through fake appointment order by the EDO, Kohistan through order dated 20.03.2009, at GHS Bada Kot thereafter at GMS, Dag Pattan. His appointment was made without proper advertisement and other codal formalities. Recruitment process was not carried out in 2007, by the Education Department in Kohistan.

ACCEPTED


 ADDITIONAL ADVOCATE GENERAL
 Service Tribunal,
 Faisalabad

~~REJECTED~~

~~(8) B~~

(15) 3

9

CONCLUSION

6. The appointment of the appellant was declared fake and bogus. Departmental proceedings were conducted by issuing show cause notice dated 14.12.2015 and thereafter he was removed from service vide impugned order dated 17.02.2016. According to the E&D Rules 2011 the respondents were bound to record reasons for dispensing with regular enquiry, however, no such justification is available on the case file. Major penalty without holding regular enquiry has been repeatedly held illegal and unlawful by the superior courts in its numerous judgments. Respondents failed to abide by the respondents procedure and resultantly the impugned order lost backing of law. Order being a void/illegal is nothing more than a mere piece of paper.

07. As a sequel to above, the appeal is accepted, impugned order dated 17.02.2016 and 17.05.2016 are set aside and the appellant is reinstated in service. The respondents are directed to conduct de-novo enquiry within a period of ninety days after the date of receipt of this judgment. The issue of back benefits shall be subject to the outcome of the de-novo enquiry. The appeal is disposed off accordingly. Parties are left to bear their own costs. File be consigned to the record room.

[Signature]

(HAMID FAROOQ DURRANI)
CHAIRMAN

[Signature]

(AHMAD HASSAN)
MEMBER

ANNOUNCED
22.03.2019

Certified to be true copy

[Signature]
K. S. ...
Secretary
Peshawar

Date of ...	03-4-19
Number of ...	1600
Copying ...	10-00
Urgent ...	2-00
Total ...	12-00
Name of ...	<i>[Signature]</i>
Date of ...	03-04-19
Date of ...	03-04-19



OFFICE OF THE SUB-DIVISIONAL EDUCATION OFFICER (M)

PATTAN



Email: deokohistan@gmail.com

Face Book: DEO Male Kohistan Lower

No: 2871 /SDEO (M) PATTAN

Dated: 8/2 /2020

INQUIRY: Abdul Saboor Khan AT BPS 15 GMS Kotia Pattan

INTRODUCTION:- DE novo Inquiry, in respect of Mr. Abdul Saboor Khan AT GMS Kotia Pattan BPS 15.

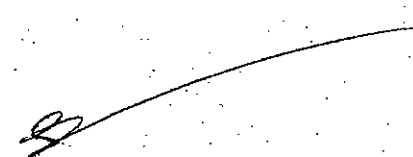
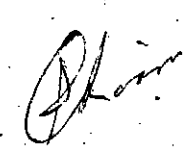
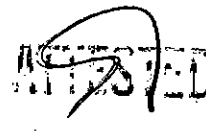
In compliance with the direction of honorable, KPK Service tribunal, in service appeal No. 621/2016 Judgment dated 22-03-2019. We, Muhammad Nawab SDEO (M) Pattan, Sultan Room SST, GHS Jijal were been appointed as inquiry Committee vide DEO (M) Kohistan lower, Order No, 1803 Dated 12-10-2019, to probe into the allegations leveled against the teacher as under and to submit report and recommendations.

Charge Sheet / Allegations:-

- I. Guilty of misconduct.
- II. Guilty of Corruption.
- III. Concealing of Facts.
- IV. Fraudulently Activities.

Brief History of the Employee.

1. Mr. Abdul saboor Khan AT was appointed in BPS 14 vide DCO Kohistan ENDST No 2529-34 dated 26-04-2008.
2. At the time of appointment, he possessed the qualification, (Shadatul Alia) from Waqa ul Madaris, Pakistan Multan.
3. The teacher had been promoted to BPS-15 on 30-11-2011.
4. The teacher passed his degree of Shadatul Alamia on 12-08-2010 from Wafaqul Madaris Pakistan Multan.
5. Being SSC Pass and having passing of Shadatul Alamia the teacher had been awarded BPS 15.
6. On 17-02-2016, under Endst: No. 12585-88, dated 17-02-2016, the DEO (M) Kohistan issued the order of his removal from Service with the allegation of Bogus and Fake appointment order.
7. Being aggrieved by the order 12585-88 dated 17-02-2016, the teacher filed a Departmental Appeal before the Appellant Authority.
8. The teacher instituted a Service Appeal before the Honorable KPK Service Tribunal Peshawar, under Civil Appeal No 621/2016, which was decided on 22-03-2019, with the Judgment as "As a sequel to above, the appeal is accepted, impugned order dated 17-02-2016&17-05-2016 are set aside and the Appellant is reinstated in Service. The respondents are directed to conduct De-novo enquiry within a period of ninety days age the date of receipt of this judgment. The issue of back benefits shall be subject to the outcomes of the De-novo enquiry. The appeal is disposed off accordingly."

17

2 A

11

Procedure:-

- A. We called the teacher by issuing him a letter to attend the Office of the DEO (M) Kohistan lower for personal hearing and to defend himself.
We served a questionnaire upon him whereof he replied as,
1. He is qualified, having passed Shahadatul Alamia from Wafaqul Madaris Pakistan Maitan with SSC passed from BISE Abbottabad.
 2. His appointment had been made by DCO Kohistan after fulfillment of all the code formalities, and he had been paid regularly, w.e.f the date of appointment till the removal from his service through acquints roll and through bank account. (Back Statement is attached)
 3. He replied that he had been removed from service, mere on unknown complaints, without seeking / asking record from the Office of Appointing Authority.
 4. The teacher provided us the photocopy of the Dispatch Register of the office of the DCO Kohistan page of date of 26-04-2008, which has been attested by the on-Chaired DC. Teacher got this document from Deputy Commissioner Kohistan, under the vested right to citizens of Pakistan, by the RTI ACT, 2013.
- B. To probe into the Fact Findings we approached, the Nominated representative of the office of the DEO (M) Kohistan, Mr. Abdul Haq Budget & Accounts Officer of the Office of the DEO (M) Kohistan Lower, on 14-12-2019, we served him, a Questionair, regarding the allegations levelled against the teacher. Whereof he stated / alleged as:-
- I. The appointment Order bearing Endst: No. 2529-34 dated 26-04-2008 is fake/bogus.
 - II. Alleged, that his appointment were made in violation of the then Recruitment Policy, as at that time the appointment the teacher had not possessed the Shahadatul Alamia, which was the Basic Requisite Qualification for the post of AT.
- C. To probe into the appointment Order of the teacher, issued from the office of the DCO Kohistan, we visited the office of the DCO Kohistan, (Now DC Upper Kohistan) on 09-12-2019. We requested the DC Kohistan and submitted in his highness the Appointment Order of the teacher and Endst: No of the Appointment Order to verify and report us. On 24-12-2019 the Deputy Commissioner Kohistan Upper vide his Endst: No. 15166, in response to our letter/request provide us an ambiguous statement stating as "The Dispatch entry bearing No. 2529-34 dated 26-04-2008 is tampered" while astonishing point is that the Deputy Commissioner Kohistan Upper clopped the photocopy of the Distpatch Register of the Office of the DCO Kohistan, dated 26-04-2008, wherein the entries of the Appointment Order of the teacher is existing in proper sequence. (The letter from DC and the documents are attached).
- To thrash out the clear factual position, on 06-01-2019, again we served a letter before the Honor of DC Kohistan Upper, with the request of clarification of the controversy, caused by the official document/Dispatch Register of the Office of DCO Kohistan and the statement of the DC Upper Kohistan. (Letter is attached).
- Since long time passed, no clear Unambiguous Documentary Record from the Office DC Kohistan received us, relaying upon which the Appointments could be declared as Fake & Bogus.

ATTACHED

(18)

(3) A


(12)


Conclusion/Findings

- 1) The Department declared the Appointment Order bearing No. 2529-34 dated 26-04-2008, as Fake & Bogus, but this Endst No. is existing in the record of the Office of the DCO Kohistan, the entry of the Endst: No is in proper sequence in the Dispatch Register.
- 2) It is admitted fact that the teacher had been paid regularly up till his removal from service.
- 3) It is admitted fact that the teacher is well qualified (Shahadatul Alamia) from Wafaqul Madaris Pakistan Multan. And SSC from BISE Abbottabad. However the Department Representative questioned about his qualification and stated that at the time of appointment, the requisite qualification was Shahadatul Alamia, but the Department in its reply comments before the Honorable Court did not controverted/questioned about Qualification.
- 4) It is also admitted fact that the Service Book entries of the teacher are signed by the then DDO, are original (Verification of the then DDO Mr. Mukhtiar Khan is attached).
- 5) We have gone through the Duty Performance Record of the teacher, the Principal GHS Pattan provided a certificate that Mr. Abdul Saboor Khan AT performed his duty regularly w.e.f 19-04-2008 to 17-02-2016.
- 6) The Department alleged that at the time of Appointment, the teacher had not possessed the Requisite Qualification of having degree of Shahadatul Alamia from Wafaqul Madaris Pakistan Multan, so this question relates to policy of this appointment could not treated as Fake & Bogus rather it can be consider as irregular appointment. After serving so long time, irregular appointment can be ratified.

Recommendation:-

- I. In the light of the forgoing facts/findings, it is clear that the allegations levelled against the teacher are baseless not justifiable, he may be re-instated into his service.
- II. As the teacher was regular in his duties in past, he had been refrained from duties w.e.f 17-02-2016, by removing him from service, the period w.e.f 17-02-2016 till the judgment that 22-03-2019, he has been engaged in persuing his trial at different forums, he is entitle of back benefits of this period. If there will be not any other legal hindrance in the way of back benefit.


Muhammad Nawab Khan
SDEO (M) Pattan
Inquiry officer


Sultani Room
SST GHS Jijal
inquiry officer





19
13
Annex-'C'

**OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE)
KOHISTAN LOWER**

Phone No. 0998-405071. Email. deokohistanl@gmail.com



No 8779 DEO (M) KHL Dated 09/09 2021
To

The Director,
Elementary & Secondary Education
Khyber Pakhtunkhwa Peshawar.

Subject, Departmental Appeal against the stoppage and non payment of
Monthly salaries for the intervening period since August 2015 till
October 2019 along with other service benefits

Memo,

Kindly refer to your letter No 6803/F.No-Appeal for release of salary dated Peshawar the 09-02-2021, received in this office on 30-03-2021, subject mentioned in the above letter "As Retirement on Medical Board" along with appeal in R/O Abdul Saboor AT GMS Tokia appeal subject above.

It is stated for your kind information that the following three officials were removed from service in the year 2016 by the DEO (M) Kohistan Upper before the trifurcation of District vide No and dated mentioned against each.

S.No	Name of Teacher Removed from service by DEO (M) Kohistan Upper.	DEO (M) Kohistan Endorment No	Dated
1	Kifayatullah TT	12539-92	17-02-2016
2	Abdul Saboor AT	12585-88	17-02-2016
3	Muhammad Nazeer AT	12573-95	17-02-2016

Whereas the above mention officials submitted their service appeal before the Honorable Service Tribunal vide service appeal No. (620/2016, 621/2016 and 700/2016).

Whereas the Honorable service tribunal accepted their appeal and impunged order of the department passed on 17-02-2016 and 17-05-2016 was set aside and the appellants were re-instated into service with conducting of de-novo (copy attached).

Whereas this office conducted the de-novo inquiry and case proses filing of CPLA in the Supreme Court of Pakistan vide working paper No.153 dated 07-04-2019. (Copy attached)

Whereas the scrutiny Committee of law department fit the case in it's held on 29-5-2019 for filing of CPLA in august of Supreme Court of Pakistan and minutes, sent to this office vide No. 14084-85/AG dated Peshawar the 13-06-2019.

Whereas this office re-instated the above officials conditionally for conducting of de-novo inquiry and up to the decision of Honorable Supreme Court of Pakistan (Re-instated Copy Attached).

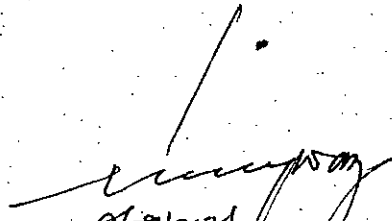
Whereas a letter received from Section Officer Mr. Fazal Wadood Safi Section officer (Lit: II) with the direction that the above case was dismissed as time-bared case (Copy Attached) No decision from August Supreme Court of Pakistan has been received in this office up till now.

2

20 14

Whereas the individual request to provide them their Service Book for Pay Fixation. The pay fixation party returned their service books with the remarks that the intervening period may be decided i.e. As leave without pay or otherwise.

In view of the above facts, it is therefore you are requested that please inform this office as the case was dismissed by August Supreme Court. If the case dismissed the copy of decision of Supreme Court may please be provided to this office for further decision of their intervening period w.e.f august 2015 to October 2019 and to provide the same to pay fixation party please.


08/09/2021
District Education Officer (M)
Kohistan Lower

ATTESTED

15

21

Annex - D

Before the Director E&SE Khyber Pakhtunkhwa Peshawar

Departmental Appeal against the stoppage and non- payment of monthly salaries for the intervening period since February 2016 till October 2019 along with all other service benefits.

Respected Sir!

1. That the appellant is serving as TT in GMS Jag Dubair Kohistan Lower.
2. That the appellant was removed from service which was later on reinstated through the order/Judgment of Honorable KP Service Tribunal in appeal No 620/2016 decided on 22-03-2019.
3. That the appellant have not been paid monthly salaries with all service benefits for the above said period without any reason and justification.
4. That there is/was no any order passed for withholding of the salaries etc. against the appellant.

It is therefore most humbly requested that an order for the release and payment of the monthly salaries effecting from February, 2016 till October, 2019 may kindly be passed in favor of the appellant.

1463
18-04-2023

کفایت اللہ
Appellant
Kifayatullah (TT)
S/O Molvi Abdul Razaq

11

22 (16) 50 ←

2

**OFFICE OF THE DISTRICT EDUCATION OFFICER (M)
KOHISTAN LOWER**



Email: deokohistan1@gmail.com

Face Book: DEO Male Kohistan Lower

OFFICE ORDER.

Where as Mr. Kifayatullah Ex-TT GHS Pattan Tehsil Pattan District Kohistan Lower was proceeded under E&D Rule 2011, due to fake appointment order by the then District Education Officer(M) Kohistan as per show cause notice issued vide No.13378 dated 14-12-2015, and also given a chance for personal hearing but could not defend himself. As a result he was removed from service vide No. 12585-88 dated 17/2/2016.

Whereas the appellant submitted his service appeal No.620/2016 Dated 30-06-2016 before Honorable Service Tribunal Khyber Pakhtunkhwa Peshawar. The Honorable Service Tribunal Peshawar accepted his appeal, and the case was returned to Department for reinstatement of the appellant in to the service and to conduct de-novo proceeding/enquiry in accordance with rules as per judgment announced on 22-03-2019.

Whereas the department submitted the case to Law Department for getting opinion for filing CPLA in August supreme court of Pakistan.

Whereas the meeting of the scrutiny committee was held on 29-05-2019 in the office of Secretary Law Parliamentary Affairs & Human Rights Department. It was decided with consensus by the scrutiny committee that the subject case was a fit case for filing of appeal/ CPLA in the August Supreme Court of Pakistan.

In view of the above facts, Mr. Kifayatullah Ex-TT is hereby Re- Instated in to service conditionally for the purpose of dencovo enquiry at GMS Jag Dubair against vacant post of TT on his own pay and grade in the light of judgment of Honorable Service Tribunal announced on 22-03-2019 with immediate effect.

Note:

1. No TA/DA is Allowed.
2. Charge Report should be submitted to all concerned.

**District Education Officer
(Male) Kohistan Lower**

Endst: No. 1774-81/DEO (M) KH-L Dated Pattan the 12/0 2019

Copy of the above is forwarded to the:-

1. Director E&SE Khyber Pakhtunkhwa Peshawar.
2. Advocate General Khyber Pakhtunkhwa Peshawar.
3. Deputy Commissioner Lower.
4. Deputy District Education Officer (M) Kohistan.
5. District Accounts Officer, Kohistan.
6. ADEO (Litigation) Local Office.
7. PA to DEO (M) Kohistan.
8. Official Concerned

**District Education Officer
(Male) Kohistan Lower**

23 WAKALATNAMA

IN The KP Service Tribunal, Peshawar

Kifayatullah

(Petitioner)
(Plaintiff)
(Applicant)
(Complainant)
(Decree Holder)

SCANNED
KPST
Peshawar

VERSUS

DEO & others

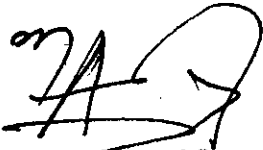
(Respondent)
(Defendant)
(Accused)
(Judgment Debtor)

Case _____

I/We, Kifayatullah do hereby appoint and constitute **Muhammad Arif Jan Advocate** High Court, Peshawar, to appear. Plead, act, compromise, withdraw or refer to arbitration to me/ us as my/ our Counsel in the above noted matter, without any liability for their default and with the authority to engage/ appoint any other Advocate/ Counsel at my/ our matter.

Attested & Accepted

CLIENT/S



Muhammad Arif Jan
Advocate, High Court, Peshawar.
Office No. 6, 1st Floor
Pabbi Medical Centre, G.T. Road
Peshawar.
Mobile: 0333-2212213

کفایت اللہ
(Appellant)