

BEFORE THE KHYBER PAKHTUNKHWA SERVICE

TRIBUNAL PESHAWAR

Khyber Pakhtunkhwa
Service Tribunal

Service Appeal No. 583/2024

Case No. 13188

1. The Secretary of (E & SE) Education, Kyber Pakhtunkhwa, Dated 05-06-2024
2. The Director of (E & SE) Education Khyber Pakhtunkhwa.
3. The District Education Officer (Male) Mardan.

(Petitioners)

Versus

Mr. Waheed Ullah Jan, Senior Qari (BPS-16) GHS Sari Behlol, Mardan.


(Respondent)

APPLICATION FOR SETTING ASIDE EX PARTE

Respectfully Sheweth,

1. That the appeal as cited in the title above is pending in the Honorable Service Tribunal Peshawar.
2. That the respondents was proceeded ex parte vide order dated 24/05/2024 which was first hearing in the reply.
(Copy of Order is as Annexure A)
3. That the non-submitted reply on behalf of the respondents before the Service Tribunal was not intentional but due to huge pendency of suits and the instant reply has already vetted and also puts off for signature of high ups. The Service Tribunal has not given an opportunity to the respondent department and passed ex parte order dated 24/5/2024.
4. That the valuable rights of the respondents are involved in the present service appeal.
5. That law favors adjudication on merit and on mere technicalities.
6. That if the ex parte order dated 24/5/2024 is not set aside the respondent would suffer irreparable loss and injury.
7. That it is the interest of justice that a lis be disposed of on merits after hearing both the parties.


It is therefore, respectfully prayed that the Honorable Tribunal may be pleased to set aside the ex parte order date 24/05/2024. Any other relief which this honorable Tribunal may deem fit is further prayed. It is further prayed that the operation of ex parte order may be put in abeyance till the disposal of the present application.


ZAHID MUHAMMAD
District Education officer
(Male) Mardan
(Respondent No: 3)

AFFIDAVIT

I, Mr. Zahid Muhammad DEO (Male) Mardan do hereby solemnly affirm and declare that the contents of application submitted on behalf of respondents are true to the best of my knowledge and belief and nothing has been concealed from this Honorable Court. It is further stated on oath that the application of the answering respondents have not been struck off.

Deponent


Zahid Muhammad
DEO (Male) Mardan



Amr "A"

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

SERVICE APPEAL NO 583 / 2024



Mr. Waheed Ullah Jan, Senior Qari (BPS-16),
GHS Sari Behlol, Mardan.

..... APPELLANT

VERSUS

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

..... RESPONDENTS

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED APPELLATE ORDER DATED 19/10/2018, WHEREBY THE APPELLANT HAS BEEN RE-INSTATED INTO SERVICE WITH IMMEDIATE EFFECT AND THE INTERVENING PERIOD W.E.F. 15.11.2017 TO 18.10.2018 HAS BEEN TREATED AS LEAVE WITHOUT PAY AND AGAINST NO ACTION TAKEN ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS

PRAYER:

That on acceptance of this appeal the impugned appellate order dated 19/10/2018 may very kindly be rectified/modified to the extent of intervening period by treating the intervening period w.e.f. 15.11.2017 to 18.10.2018 as period spent of duty. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant.

ATTESTED

R/SHWETH:

ON FACTS:

RECEIVED
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

- 1. That appellant is an employee of the respondent Department and performing his duty with full zeal & zest and up to the entire satisfaction of his high ups.
- 2. That the appellant while performing his duty, a departmental proceeding has been initiated against the appellant and after conclusion of the same, the respondent awarded major

A. No. 583/2024
Wahedullah vs Govt

(2)

24th May, 2024

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



2. Reply was directed to be submitted but they have not submitted reply nor anybody is present on behalf of respondents. Therefore, respondents are placed ex-parte. The appeal is admitted to regular hearing subject to all just and legal objections. Appellant is directed to deposit security fee, within 10 days. To come up for arguments on 26.07.2024 before D.B. P.P given to the appellant's junior counsel.

(Kalim Arshad Khan)
Chairman

Mutazem Shah

ATTESTED

27.5.24
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

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