

**BEFORE THE HONORABLE KHYBER PAKHATUNKHWA SERVICE  
TRIBUNAL PESHAWAR AT CAMP COURT ABBOTTABAD.**

**Service Appeal No: 2434/2023**

**Hamid ullah TT BPS-15.....Appellant**

**VERSUS**

**Govt: of Khyber Pakhtunkhwa & others.....Respondents**


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17-05-2024

S: B

Peshawar

  
SHEREEN ZADA  
District Education Officer  
(Male) Bajour.

**BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**

**PESHAWAR**

**Service Appeal No. 2434/2023**

**Hamid Ullah TT (BPS-15), GPS Mozamin Khan Killi, District  
Bajour..... Appellant**

Versus

**The Director E&SE, Khyber Pakhtunkhwa and others ..... Respondents**

**Comments on behalf of Respondents No. 1 and 2.**

**Respectfully Sheweth,**

The Respondent No. 1 to 2 submit as under: -

**Preliminary objections:**

1. That the appellant has no cause of action/locus standi to file the instant appeal.
2. That the appellant has concealed material facts from the ambit of this Honorable Tribunal.
3. That the appellant is estopped by his own conduct to file the instant appeal before this Honorable Tribunal.
4. That the appellant is not an aggrieved person with the meaning of Article 212 of the Constitution of Islamic Republic of Pakistan 1973 read with Section-4 of Khyber Pakhtunkhwa Service Tribunal Peshawar Act, 1974, hence liable to be dismissed in favor of the Respondents.

**On Facts**

1. That Para-1 pertains to the record, hence needs no comments.
2. That Para-2 of the facts is correct; to the extent that the appellant was dismissed from service vide office order dated 19-10-2015 on the grounds of submission of fake documents.
3. That Para-3 is correct as the Honble Service Tribunal decide the Appeal No. 261/2016 in favour of the appellant. **Attached as Annex-A.**
4. That Para-4 is correct while the second part is incorrect hence denied. The respondents in compliance of the judgment of the Honble Service Tribunal reinstated the appellant and it was held under para-6 of the judgment which is reproduced as below: " *the intervening period may be treated as leave of the kind due*". So the claims of the appellant that the Honble Service Tribunal reinstated the appellant with all back benefits is incorrect and hence denied.
5. That Para-5 is incorrect, hence denied. That as per the judgment of the Honble Service Tribunal, the appellant was reinstated on service and

there was no mentioned of the back benefits in the judgment but mistakenly the appellant was granted all the back benefits which were later on the respondents rectified by deducting the paid benefits from the appellant.

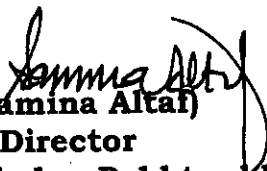
6. That Para-6 is incorrect hence, denied. The appellant has never preferred any appeal regarding his deduction to the respondents.
7. That the appellant is not an aggrieved person within the meaning of article 212 of the Constitution of Islamic Republic as he didn't not exhaust the adequate remedy for redressal of his grievance, hence, the appeal in hand is liable to be dismissed on the following grounds: -


**ON GROUNDS**

- A.** Incorrect hence denied. The answering respondents being bound by law are always sternly adherent to follow the law and policy of the government and while dealing so, the appellant was treated in accordance with law.
- B.** Incorrect, hence denied. The answering respondents have treated the petitioner in accordance with law and while doing so no rights or any provision of the constitution of Pakistan 1973, been violated.
- C.** Para-C of the grounds is incorrect, hence denied. The detailed reply has already been submitted in the above Para's.
- D.** Para-D is incorrect, hence denied. The detailed reply has already been submitted in the above Para's.
- E.** Para-E is incorrect, hence denied. The detailed reply has already been submitted in the above Para's.
- F.** That the respondents seek permission of the Hon'ble Court for additional grounds during arguments.

**PRAYER:**

**Keeping in view the above stated facts and legal position, it is therefore, humbly prayed that on acceptance of the above submission, the instant appeal may very graciously be dismissed in favor of the answering respondents with cost.**

  
(Samina Altai)  
Director  
E&SE Khyber Pakhtunkhwa  
(Respondent No.1)

  
(Shireen Zada)  
District Education Officer (M)  
District Bajaur  
(Respondent No.2)

**BRFORE THE HONORABLE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA**

**PESHAWAR**

**Service Appeal No. 2434/2023**

**Hamid Ullah TT (BPS-15) ..... Appellant**

Versus

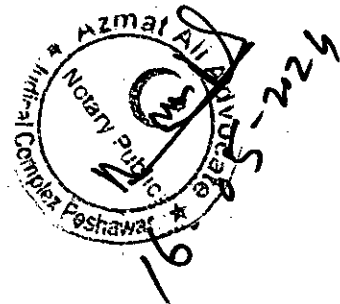
**Director E&SE, Khyber Pakhtunkhwa and others ..... Respondents**

**AFFIDAVIT**

I Shireen Zada District Education Officer (Male) District Bajaur do hereby solemnly affirm and declare that the contents of the instant Joint Parawise Comments are true & correct to the best of my knowledge & belief.

District Education Officer (M)  
District Bajaur

**ATTESTED**



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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Appeal No. 261/2016

Date of Institution ... 04.03.2017

Date of Decision ... 05.07.2018



Hamid Ullah Khan S/o Habibullah Khan,  
R/o Khaar P/o Khas Khaar, Tehsil Khar, Bajaur Agency.

(Appellant)

VERSUS

1. Director of Education FATA, FATA Secretariat, Warsak Road,  
Peshawar and 2 others. (Respondents)

Mr. Gul Rehman Mohmand,  
Advocate

For appellant.

Mr. Sardar Shoukat Hayat,  
Additional Advocate General

For respondents.

MR. AHMAD HASSAN,  
MR. MUHAMMAD AMIN KHAN KUNDI

MEMBER (Executive)  
MEMBER (Judicial)

JUDGMENT

AHMAD HASSAN, MEMBER. Arguments of the learned counsel for the parties heard and record perused.

Attested  
AS-

FACTS

2. The brief facts are that the appellant has been dismissed from service vide impugned order dated 19.10.2015. feeling aggrieved he preferred departmental appeal on 11.11.2015, which was not responded within stipulated period, hence the instant service appeal on 04.03.2016.

*[Signature]*  
Khyber Pakhtunkhwa Service Tribunal  
Peshawar

ARGUMENTS

3. Learned counsel for the appellant argued that after observance of all codal formalities he was appointed as T.T (BPS-14) vide order dated 30.05.2013. After assuming the charge he started performing duty. Twice his documents were verified by the respondents from the quarters concerned. During 2<sup>nd</sup> enquiry his pay was stopped but subsequently released on 20.10.2014. That vide order dated 19.10.2015 he was dismissed from service on submitting fake documents. The impugned dismissal order was passed without following the procedure laid down in the rules and as such the appellant was condemned unheard.

4. On the other hand learned Additional Advocate General argued that he produced fake/hogus B.A Degree. That he was proceeded departmentally after getting his B.A degree verified. It proved fake/hogus. All those involved in producing hogus degree were dismissed including the appellant. The impugned order was passed in accordance with law and rules.

CONCLUSION

5. Perusal of relevant record revealed that the appellant was appointed as T.T on 30.05.2013. He passed an SSC in <sup>M</sup>1997, Shahadat-UI-Alia in 2001 and Shahadaul-Ul-Almia in 2003. He cleared/passed F.A in 2012. All these documents were got verified by the respondents and thereafter salary was released to him. The service book of the appellant available on record does not contain any entry about passing of B.A examination. Departmental representative when confronted on this point was unable to give any satisfactory reply. He was further confronted that when earlier documents of the appellant were twice verified, the issue of production of fake B A degree had not cropped up. However, he was unable to give any convincing response. The respondents dismissed the appellant on the basis of fact finding

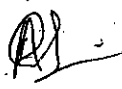
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EXAMINER  
Khyber Pakhtunkhwa  
Service Commission  
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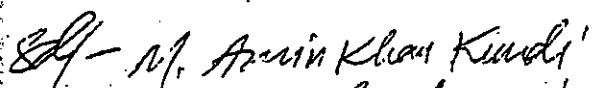
enquiry which is full of omissions. That punishment cannot awarded to a civil servant on the basis of fact finding enquiry. The respondents were further directed to produce original application submitted by the appellant at the time of appointment. Ample opportunities were afforded to the respondents to produce relevant record to substantiate the charge of production of fake degree. A photocopy of the application produced by the respondents appears bogus, as the signatures and other details did not match with the application produced by the appellant. It led us to infer that that the respondents dismissed the appellant on the basis of fabricated charges and were unable to defend their position during the course of hearing.


6. As a sequel to the above, the appeal is accepted and the impugned order dated 19.10.2015 is set aside and the appellant is reinstated in service. The intervening period may be treated as leave of the kind due. Parties are left to bear their own costs. File be consigned to the record room.


Attested  


Announced  
 05.07.2018

  
 Member

  
 Member

Certified to be true copy  
  
 Khyber Pakhtunkhwa  
 Service Tribunal  
 Peshawar


Date of Issuance	12-7-18
Page No.	1600
Charges	10-0
Urg.	2-0
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Date of Issue	12-07-18
Date of Delivery	12-07-18



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

**AUTHORITY LETTER**

I SHERIN ZADA DISTRICT EDUCATION OFFICER (M) Bajour do hereby authorize Mr. Sayyed Akbar Shah, ASDEO Representative for DEO (M) Bajour to attend the Khyber Pakhtunkhwa Service Tribunal in connection with submission of para wise comments in Service Appeal No. 2434/2023 Hamid ullah VS Government of Khyber Pakhtunkhwa & others, hence in authority letter is hereby issued in favor of the above named officers.

  
SHERIN ZADA  
DISTRICT EDUCATION OFFICER  
(M) Bajour.



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Director

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*J*

  
(Shireen Zada)

**District Education Officer (M)  
District Bajaur  
(Respondent No.2)**

*J*

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MR. MUHAMMAD AMIN KHAN KUNDI

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Ahmad Hassan  
Member

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Announced  
05.07.2018

Sh. Ahmad Hassan,  
Member

Sh. M. Amin Khan Kundi,  
Member

Certified to be true copy  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

Date of Presentation	12-7-18
Number of Pages	1600
Copying Fee	10-0
Urgent	2-0
Total	12-0
Name of Officer	<i>[Signature]</i>
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**OFFICE OF THE DISTRICT EDUCATION OFFICER  
(MALE) BAJOUR**

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SHERIN ZADA  
DISTRICT EDUCATION OFFICER  
(M) Bajour.

L.