

BEFORE THE HONORABLE SERVICE TRIBUNAL KHYBER

PAKHTUNKHWA PESHAWAR

CM 929/24

Khyber Pakhtukhwa
Service Tribunal

Service Appeal No # 541/2024

Diary No. 15/11

Dated 22/8/24
Respondents

Secretary E&SE Department & Other

Versus

Mr. Mir Wali Appellant

**APPLICATION FOR SETTING ASIDE EX-PARTY PROCEEDING DATED 23-07-2024
AND RESTORING RIGHT OF FILING PARA-WISE COMMENTS.**

Respectfully Sheweth,

- 1 That the above titled appeal was fixed before this Honorable Tribunal on 23-07-2024 for submission of written reply and the Honorable Tribunal has ordered against the respondents as-ex-parte alongwith struck off the Right of respondents for non-filing of para-wise comments.
- 2 That feeling aggrieved the respondents seeks restoration of the right of filing para-wise comments on the following grounds inter alia.

Grounds:

- 1 That the valuable rights of the department/respondents are involved with the instant Service Appeal.
- 2 That the application is within time and there is nothing dis-obedience on the part of respondents.
- 3 That on the very same day on which the respondents were proceeded ex-party. The para-wise comment were ready to file but the delay was caused due to proper submission of attested copies and vetting of the said comment.
- 4 That there is no legal bar in acceptance of the application in hand.
- 5 That the delay was not intentional but due to the above reason respondents will show punctuality in future.
- 6 That according to the rule of natural justice no one can be condemned un-heard.
- 7 That the filing of para-wise comments is very necessary for the just and proper disposal of the above service appeal.

It is therefore, most humbly requested that an acceptance of this application the ex-party proceedings against the respondents may kindly be set aside & the para-wise comments may kindly be accepted, please.

(Faiz Alam)

Additional Secretary (Estab)
E&SE Department
on behalf of
SECRETARY E&SED
(Respondent No. 01&02)

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

SERVICE APPEAL No 541 / 2024

Mir Wali Khan, Head Master (BPS-17) (Retired),
CMS Chitral City (Boys), District Lower Chitral.

.....Appellant

V E R S U S

1. Chief Secretary, Government of Khyber Pakhtunkhwa at Civil Secretariat KPK, Peshawar.
2. Secretary Elementary and Secondary Education Department at Civil Secretariat, Peshawar
3. The Director Elementary and Secondary Education Department, Peshawar.

.....Respondents

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 AGAINST THE IMPUGNED INACTION OF THE RESPONDENTS BY NOT PROMOTING THE APPELLANT TO BPS-18, DESPITE THE FACT THAT OTHER COLLEAGUES AND JUNIOR COLLEAGUES OF THE APPELLANT HAVE BEEN PROMOTED TO BPS-18 W.E.F. 16/04/2015 AND AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS.

Prayer

On acceptance of this service appeal, the appellant may kindly be considered for proforma promotion to BPS-18 w.e.f. 16/04/2015 with all back benefits, when colleagues and junior colleagues of the appellant were promoted. Any other relief, which may be deemed proper in the circumstances of the case may also be granted.

Respectfully Sheweth:

1. That the appellant as a Senior English Teacher (SET), BS-16 was promoted to the rank of Head Master BS-17 on regular basis vide Notification Endorsement No. SO(S)1-5/2005/ Promotion BS-16 to BS-17 H/M on regular basis dated 06/03/2006. Copy of notification dated 06/03/2006 is attached as annexure.....A
2. That the aforesaid promotion to BS-17 was based on seniority list of 2005, whereby the appellant stood on his merit in

20th May. 2024

1. Learned counsel for the appellant present. Mr. Umair Azam, Additional Advocate General present.

2. File to come up alongwith connected Service Appeal No.539/2024 titled "Ahmad Ghazi Vs. Government of Khyber Pakhtunkhwa" on 27.06.2024 before S.B. P.P given to the appellant's counsel.

(Kalim Arshad Khan)
Chairman

*Mutazem Shah *

27.06.2024

Clerk of counsel for the appellant present. Mr. Umair Azam learned Assistant Advocate General for the respondents present.

Written reply not submitted. Learned AAG sought time to contact the respondents for submission of written reply. Granted.

To come up for written reply/comments on 23.07.2024 before S.B.

P.P given to the parties.

(Rashida Bano)
Member (J)

kaleem

23rd July, 2024

1. Learned counsel for the appellant and Mr. Umair Azam, Additional Advocate General present.

2. On the previous date, learned AAG had requested for time to submit reply/comments. Today, neither reply has been submitted nor anybody is present on behalf of the respondents. Therefore, they are placed ex-parte. To come up for ex-parte arguments on 29.10.2024 before D.B. P.P given to the appellant's counsel.

(Kalim Arshad Khan)
Chairman

*Mutazem Shah *

BEFORE THE HON'BLE SERVICE TRIBUNAL PESHAWAR

Service Appeal # 541/2024

Secretary E&SE Govt. of Khyber Pakhtunkhwa & others..... Respondents

VERSUS

Mr. Mir Wali Appellant

AFFIDAVIT

I, **Fiaz Alam**, Additional Secretary (Estab), Elementary & Secondary Education, Department do hereby solemnly affirm and declare that the contents of the accompanying application regarding restoration of right of defense/submission of parawise comments, submitted by the respondents, are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Court.

It is further, stated on oath that in this appeal the answering

Respondents have not been find/cost imposed by this Honorable.



(Handwritten Signature)
(Fiaz Alam)
Additional Secretary (Estab)
E&SE Department
on behalf of
SECRETARY E&SED
(Respondent No. 01&02)



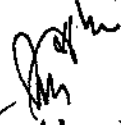
**GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT**

Block "A" Civil Secretariat, Peshawar

Phone No. 091-9211128

AUTHORITY LETTER

It is certified that **Mr. Sajid Ullah, Section Officer (Litigation-II)** Elementary & Secondary Education Department, Government of Khyber Pakhtunkhwa, Peshawar is hereby authorized to submit application on behalf of Secretary Elementary & Secondary Education Department Peshawar in **Service Appeal # 540/2024 Case Titled Mr. Kamazar Khan vs Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Department Khyber Pakhtunkhwa, Peshawar & Others.**


(Fiaz Alam)

**Additional Secretary (Estab)
E&SE Department
on behalf of
✓ SECRETARY E&SED
(Respondent No. 01&02)**



GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT

Block "A" Civil Secretariat, Peshawar

Phone No. 091-9211128

Dated Peshawar, the 24-07-2024

NOTIFICATION

NO.SO(Lit-II)/E&SED/1-5/2021. The undersigned (Masood Ahmad, Secretary Elementary & Secondary Education Department) is pleased to authorize Mr. Faiz Alam, Additional Secretary (Establishment), Elementary & Secondary Education Department to sign parawise comments, replies, implementation reports, objection petitions, civil miscellaneous applications etc on my behalf for submission before various courts of law/tribunals in the best public interest.

(MASOOD AHMAD)

SECRETARY

**Elementary & Secondary Education
Department, Khyber Pakhtunkhwa**

Endst: No.

Dated

Copy forwarded to the:-

1. Chief Secretary Khyber Pakhtunkhwa.
2. Advocate General Khyber Pakhtunkhwa.
3. Secretary Law Department.
4. Registrar Peshawar High Court Peshawar (with one each spare copy for the Honorable Judges).
5. Registrar Service Tribunal Peshawar (with one each spare copy for the Honorable Chairman/Members)
6. All Section Officers (Litigation) E&SE Department.
7. PS to Secretary E&SE Department.
8. PA to Additional Secretary (General) E&SE Department.
9. PAs to Deputy Secretary (Legal-I&II) E&SE Department.


SECTION OFFICER (Lit-II)