


FORM OF ORDER SHEET

Court of _____

Appeal No. 1046/2024


S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	25/07/2024	<p>The appeal of Mr. Wasal Khan resubmitted today by Mr. Mir Zaman Safi Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on 29.07.2024. Parcha Peshi given to counsel for the appellant.</p> <p>By the order of Chairman</p> <p> REGISTRAR</p>

The appeal of Mr. Wasal Khan received today i.e on 23.07.2024 is incomplete on the following score which is returned to the counsel for the appellatant for completion and resubmission within 15 days.

- 1- Copy of reinstatement order mentioned in the heading of appeal is not attached with the appeal be placed on it.

No. 459 /Inst./2024/KPST,

Dt. 24/7 /2024.


OFFICE ASSISTANT
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Mir Zaman Safi Adv.
High Court Peshawar.

Sir,

Copy of Appointment order is not available, while date of appointment clarified from Service book which has been attached with the memo of appeal, hence the appeal in hand may kindly be put up before the bench.



25.07.2024

That copy of the re-instatement is attached as annexure - G at page - 24.



25.07.2024.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

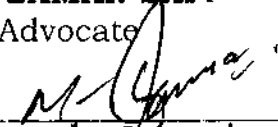
CHECK LIST

Case Title: Wasal Khan Vs Education Deptt.

S#	CONTENTS	YES	NO
1.	This appeal has been presented by: MIR ZAMAN SAFI	✓ Yes	No
2.	Whether Counsel/Appellant Respondent/Deponent have signed the requisite documents.	✓ Yes	No
3.	Whether appeal is time barred?	Yes	✓ No
4.	Whether the enactment under which the appeal is filed mentioned?	✓ Yes	No
5.	Whether the enactment under which the appeal is filed is correct?	✓ Yes	No
6.	Whether affidavit is appended?	✓ Yes	No
7.	Whether affidavit is duly attested by competent Oath Commissioner?	✓ Yes	No
8.	Whether appeal/annexures are properly paged?	✓ Yes	No
9.	Whether certificate regarding filing any earlier appeal on the subject, furnished?	✓ Yes	No
10.	Whether annexures are legible?	✓ Yes	No
11.	Whether annexures are attested?	✓ Yes	No
12.	Whether copies of annexures are readable/clear?	✓ Yes	No
13.	Whether copy of appeal is delivered to AG/DAG?	✓ Yes	No
14.	Whether Power of Attorney of the Counsel engaged is attested and signed by petitioner/appellant/respondent?	✓ Yes	No
15.	Whether numbers of referred cases given are correct?	✓ Yes	No
16.	Whether appeal contains cutting/overwriting?	Yes	✓ No
17.	Whether list of books has been provided at the end of the appeal?	✓ Yes	No
18.	Whether case relate to this Court?	✓ Yes	No
19.	Whether requisite number of spare copies attached?	✓ Yes	No
20.	Whether complete spare copy is filed in separate file cover?	✓ Yes	No
21.	Whether addresses of parties given are complete?	Yes	No
22.	Whether index filed?	✓ Yes	No
23.	Whether index is correct?	Yes	No
24.	Whether Security and Process fee deposited? On	Yes	No
25.	Whether in view of Khyber Pakhtunkhwa Service Tribunal Rules 1974 Rule 11, notice alongwith copy of appeal and annexures has been sent to respondents? On	Yes	No
26.	Whether copies of comments/reply/rejoinder submitted? On	Yes	No
27.	Whether copies of comments/reply/rejoinder provided to opposite party? On	Yes	No

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

Name:- **MIR ZAMAN SAFI**
Advocate

Signature:- 
Dated: 19/07/2024

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR


APPEAL NO. 1046 /2024

WASAL KHAN

VS

EDUCATION DEPTT:

INDEX

S.NO.	DOCUMENTS	ANNEXURE	PAGE
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12.	Departmental appeal	I	28- 29.
13.	Vakalat nama		30.

APPELLANT

THROUGH: 

MIR ZAMAN SAFI,
ADVOCATE

Room No. 6-E, 5th Floor,
Rahim Medical Centre,
Hashtnagri, Peshawar
0333-9991564

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,

PESHAWAR

Khyber Pakhtunkhwa
Service Tribunal

APPEAL NO. 1046 /2024

Case No. 14435

Dated 23-07-2024

Mr. Wasal Khan, Chowkidar,
GGHS Dalazak, District Peshawar.....APPELLANT

VERSUS

- 1- The Director E&SE Department, Khyber Pakhtunkhwa, Peshawar.
- 2- The District Education Officer (F), District Peshawar.

.....RESPONDENTS

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 14.03.2017 WHEREBY THE APPELLANT HAS BEEN RE-INSTATED INTO SERVICE WITH IMMEDIATE EFFECT RATHER THAN RETROSPECTIVE EFFECT I.E. 29.04.2006 AND FOR THE GRANT OF BACK BENEFITS AS PER RECOMMENDATIONS MENTIONED IN THE INQUIRY REPORT 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 impugned order dated 14.03.2017 may very kindly be modified/rectified and the appellant be re-instated into service w.e.f 29.04.2006 and may also grant back benefits as per recommendations of the inquiry officer mentioned in the inquiry report i.e. w.e.f 27.11.2012. Any other relief which this august Tribunal deems fit that may also be awarded in favor of the appellant.

R/SHEWETH:

ON FACTS:

Brief facts of the present appeal are as under:-

1- That the appellant was initially appointed as Chowkidar vide order dated 01.06.1993. That after appointment the appellant took over charge against his respective post and started performing his duty quite efficiently and upto the entire satisfaction of his superiors. Copy of the service book is attached as annexure.....A.

2- That during service the appellant was falsely charged in criminal case Under Section 302/34 PPC, dated 29.04.2006, FIR No.199, Police Station

Filed to-day
Registrar
23/7/24

Re-submitted to-day
and filed.
Registrar
25/7/24

Chamkani. That after chalking the above mentioned FIR the appellant was informed the authority concerned regarding the incident while the appellant was absented from duty due to life threats. Copy of the FIR is attached as annexure.....**B.**

3- That vide dated 13.07.2011 the appellant was released on bail by the Court of Additional District & Session Judge, Peshawar on the basis of compromise. That after released on bail in the above mentioned criminal case the appellant submitted several applications and as such made verbal requests for his adjustment against his post of Chowkidar which were properly forwarded by the District Education Officer (Female), Peshawar. Copies of the bail order, application and covering letter are attached as annexure.....**C, D & E.**

4- That it is pertinent to mention that during the absence period there was no adverse order had been issued against the appellant while the authority concerned conducted fact finding inquiry in the matter and it was held by the inquiry officer in the findings of inquiry report that the appellant submitted an application on 13.07.2011 for his re-instatement/adjustment after release on bail in the criminal case. That the inquiry committee recommended the appellant for re-instatement on his original post with full benefits in light of Fundamental Rule-54 after submission of his application for re-instatement and the absence period w.e.f 29.04.2006 till submission of application may be converted into leave without pay. Copy of the inquiry report is attached as annexure.....**F.**

5- That the competent authority issued office order even endst: No.5711-15 dated 14.03.2017 whereby the appellant has been re-instated into service but with immediate effect rather than retrospective effect i.e. 29.04.2006. That it is further added that from the findings of inquiry report it was clear that there was no termination/removal order is available on the record while the appellant submitted application after release on bail for his adjustment/re-instatement on 13.07.2011, therefore, the appellant is fully entitle for his re-instatement w.e.f from 29.04.2006 and also entitle for the grant of all back benefits w.e.f 13.07.2011 in light of findings of the inquiry report. Copies of the impugned order dated 14.03.2017 and other relevant record are attached as annexure.....**G & H.**

6- That the appellant feeling aggrieved from the impugned order dated 14.03.2017 preferred departmental appeal before the appellate authority but no reply has been received so far. Hence the present appeal on the following grounds amongst the others. Copy of the departmental appeal is attached as annexure.....**I.**

GROUNDS:-

-3-

- A- That the impugned order dated 14.03.2017 is against the law, facts, norms of natural justice and materials on the record, hence not tenable and liable to be modified/rectified to the extent of re-instatement/adjustment w.e.f 29.04.2006 and back benefits w.e.f 27.11.2012.
- B- That the appellant has not been treated by the respondent department 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 department acted in arbitrary and malafide manner while issued the impugned order dated 14.03.2017 with immediate effect rather than retrospective effect i.e. 29.04.2006 and also denied back benefits w.e.f 27.11.2012 as per recommendations of the inquiry officer mentioned in the inquiry report.
- D- That as per Fundamental Rule-54 the appellant is fully entitle for the grant of back benefits w.e.f 27.11.2012 as per recommendations mentioned in the inquiry report but the respondent department denied the same which not tenable in the eyes of law.
- E- That re-instatement order of the appellant dated 14.03.2017 issued by the District Education Officer (Female), Peshawar is not tenable in the eye of law and liable to be modified/rectified to the extent of re-instatement w.e.f from 29.04.2006 and back benefits as per recommendations of the inquiry officer.
- F- That the impugned order dated 14.03.2017 has been issued by the competent authority in violation of the Principle of natural justice and as such in violation of the Judgments of the Apex Court, hence the same is liable to be modified/rectified.
- G- That there is no adverse order against the appellant is available on the record, therefore, as per law and rules the appellant is fully entitle to be re-instated into service w.e.f 29.06.2006 and also entitle for grant of back benefits as per FR-54 w.e.f 27.11.2012.
- H- That the appellant feeling aggrieved from the impugned order dated 14.03.2017 preferred the instant departmental appeal before your good self.


4-

It is, therefore, most humbly prayed that the appeal of appellant may be accepted as prayed for. Any other relief which your good self deems appropriate may also be granted in favor of the appellant.

Dated: 18.07.2024.

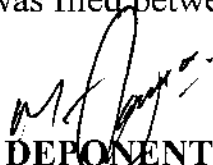
APPELLANT


WASAL KHAN

THROUGH: 
MIR ZAMAN SAFI
ADVOCATE

CERTIFICATE:

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


DEPONENT

LIST OF BOOKS:

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

-5-

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. _____/2024

WASAL 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



-6-

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

SERVICE APPEAL No. _____/2024

WASAL KHAN

VS

EDUCATION DEPTT:

APPLICATION FOR CONDONATION OF
DELAY IN FILING THE ABOVE NOTED
APPEAL

R.SHEWETH:


- 1- That the appellant has filed an appeal along with this application in which no date has been fixed so far.
- 2- That the appellant prays for the condonation of delay in filing the above noted appeal inter alia on the following grounds:

GROUND OF APPLICATION:

- A- That valuable rights of the appellant are involved in the case hence the appeal deserve to decide on merit.
- B- That it has been the consistent view of the Superior Courts that cases should be decided on merit rather on technicalities including the limitation. The same is reported in 2002 PLC C.S 1388, 2004 PLC (CS) 1014 and 2003 PLC (CS) 76.

It is therefore prayed that on acceptance of this application the delay in filing the above noted appeal may please be condoned.

APPELLANT

THROUGH: 
MIR ZAMAN SAFI
ADVOCATE

Note: The entries on this page should be renewed or re-attested as least every five years in the signature to lines 11 and 12 should be dated

A-7

1. Name Wasal Khan

2. NIC No. 17301-9846064-09

3. Race Muslim 4. District of Domicile Peshawar

5. Residence Mahalle Kohistan P/O Chumbani Tehsil Dist: Peshawar

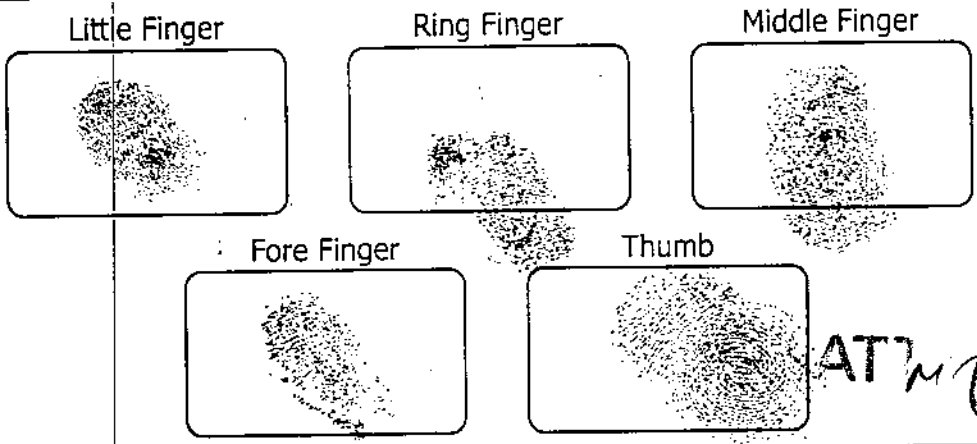
6. Father name and residence Mir Akbar

7. Date of Birth by Christian era as nearly as can be ascertained: 1-7-1964 9th July 1964

8. Exact height by measurement:

9. Personal Marks for Identification:


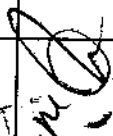
10. Left Hand Thumb and Finger Impression of (Non Gazetted Officer)



ATTN

11. Signature of Government Servant: [Signature]

12. Signature & Designation of the Head of the Office, or other attesting officer.
[Signature]
HEAD MISTRESS
G.G.H.S DALAZAK
PESHAWAR

1	2	3	4	5	6	7	8
Name of Post	Substantive Whether Substantive or officiating and whether permanent or temporary	If officiating state (i) substantive appointment, or (ii) whether service counts for pension under art 371 C.S.R.	Pay in substantive post	Additional pay for officiating	Other emolument falling under the term 'Pay'	Date of Appointment	Signature of Government Servant
Chauhan	GGPS Chambani		1500			16/193	
- d			1800			12/2001	
- d			2400			7/2002	
- d			2700			9/2003	
- d			3000			7/2004	
- d			3500			7/2005	
- d			4000			12/2006	
 ATTACHED							

9	10	11	12	13		14	15	
Signature and Designation of the Head of the Office or other attesting Officer in attestation of Column 1-8	Date of Termination or Appointment	Reason of Termination (such as promotion, Transfer, Dismissal etc)	Signature of the head of the office or other attesting officer	Leave		Signature of the Head of the Office or other attesting officer	Reference to any recorded punishment or censure or reward or praise of the government servant	
				Nature & Duration of Leave taken	Allocation of period of leave on average pay up to four months for which leave salary is debit able to another government			
					Period			Government to which debit able
<p><i>Humaira Bano</i> HEAD MISTRESS G.G.H.S DALAZAK PESHAWAR</p>			<p><i>Humaira Bano</i> HEAD MISTRESS G.G.H.S DALAZAK PESHAWAR</p>				<p>9 Reference to any recorded punishment or censure or reward or praise of the government servant</p>	
<p><i>Humaira Bano</i> HEAD MISTRESS G.G.H.S DALAZAK PESHAWAR</p>			<p><i>Humaira Bano</i> HEAD MISTRESS G.G.H.S DALAZAK PESHAWAR</p>				<p>Appointed as charister post at G.G.H.S Chamsheer No: 2 Wide S.D.E.O (Pent) per her order Bndt No: 999-1007 P.S. 25-5-1993 <i>Humaira Bano</i></p>	
<p><i>Humaira Bano</i> HEAD MISTRESS G.G.H.S DALAZAK PESHAWAR</p>			<p><i>Humaira Bano</i> HEAD MISTRESS G.G.H.S DALAZAK PESHAWAR</p>				<p>containing service verification</p>	
<p><i>Humaira Bano</i> HEAD MISTRESS G.G.H.S DALAZAK PESHAWAR</p>			<p><i>Humaira Bano</i> HEAD MISTRESS G.G.H.S DALAZAK PESHAWAR</p>				<p>Wife of 1-6-1992 to 29-4-2001 from secy: Hall and other</p>	
<p><i>Humaira Bano</i> HEAD MISTRESS G.G.H.S DALAZAK PESHAWAR</p>			<p><i>Humaira Bano</i> HEAD MISTRESS G.G.H.S DALAZAK PESHAWAR</p>				<p>Recd of this office</p>	
<p><i>Humaira Bano</i> HEAD MISTRESS G.G.H.S DALAZAK PESHAWAR</p>			<p><i>Humaira Bano</i> HEAD MISTRESS G.G.H.S DALAZAK PESHAWAR</p>				<p><i>Humaira Bano</i> H.M.</p>	
<p><i>Humaira Bano</i> HEAD MISTRESS G.G.H.S DALAZAK PESHAWAR</p>			<p><i>Humaira Bano</i> HEAD MISTRESS G.G.H.S DALAZAK PESHAWAR</p>					
<p><i>Humaira Bano</i> HEAD MISTRESS G.G.H.S DALAZAK PESHAWAR</p>			<p><i>Humaira Bano</i> HEAD MISTRESS G.G.H.S DALAZAK PESHAWAR</p>					
<p><i>Humaira Bano</i> HEAD MISTRESS G.G.H.S DALAZAK PESHAWAR</p>			<p><i>Humaira Bano</i> HEAD MISTRESS G.G.H.S DALAZAK PESHAWAR</p>					
<p><i>Humaira Bano</i> HEAD MISTRESS G.G.H.S DALAZAK PESHAWAR</p>			<p><i>Humaira Bano</i> HEAD MISTRESS G.G.H.S DALAZAK PESHAWAR</p>			<p>ATTACHED</p>		
<p><i>Humaira Bano</i> HEAD MISTRESS G.G.H.S DALAZAK PESHAWAR</p>			<p><i>Humaira Bano</i> HEAD MISTRESS G.G.H.S DALAZAK PESHAWAR</p>					
<p><i>Humaira Bano</i> HEAD MISTRESS G.G.H.S DALAZAK PESHAWAR</p>			<p><i>Humaira Bano</i> HEAD MISTRESS G.G.H.S DALAZAK PESHAWAR</p>					
<p><i>Humaira Bano</i> HEAD MISTRESS G.G.H.S DALAZAK PESHAWAR</p>			<p><i>Humaira Bano</i> HEAD MISTRESS G.G.H.S DALAZAK PESHAWAR</p>					

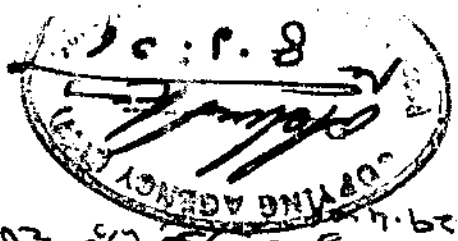
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1	2	3	4	5	6	7	8
Name of Post	Substantive Whether Substantive or officiating and whether permanent or temporary	If officiating state (i) substantive appointment, or (ii) whether service counts for pension under art 371 C.S.R.	Pay in substantive post	Additional pay for officiating	Other emolument falling under the term 'Pay'	Date of Appointment	Signature of Government Servant
			B: 920 - 26 - 1310			1-6-1993	
Chaukidar			920			1-6-1993	
GBS Dalazh			946			1-12-1993	
Peekhan			B: 1245 - 85 - 1275				
			1280			1-7-1994	
			1315			1-12-1994	
			1350			1-12-1995	
			1385			1-12-1996	
			1420			1-12-1997	
			1455			1-12-1998	
			1490			1-12-1998	
			1525			1-12-2000	
			B: 1870 - 35 - 3520			1-12-2001	
			2310			1-12-2001	
			2365			1-12-2002	
			2420			1-12-2003	
			2475			1-12-2004	
			B: 2150 - 65 - 4100				
			2865			1-7-2005	
			2930			1-12-2005	
			2950	2930	29-4-2006		suspension absent from
			2950	2930	12/2006		work but decided letter on upto
			B: 2475 - 75 - 4725				Resistant i.e. 11.7.2017
			3375	2107			
			3325	12107			
			B: 2530 - 85 - 5080				
			4035	3380	1-7-2008		
			3380		12/2008		
			3380		12/2009		
			3280		12/2010		
			B: 2530 - 85 - 5080				
			3380		1-7-2007		
			3380		1-12-2007		
			B: 3035 - 100 - 6035				
			4035		1-7-2008		
			4035		1-12-2008		
			4035		1-12-2009		
			4035		1-12-2010		
			B: 2530 - 85 - 5080				
			6600		1-7-2011		
			6600		7-6/015		
			B: 2530 - 85 - 5080				
			B: 2530 - 85 - 5080				

ATTENTION

Signature of Government Servant
HEAD
G.O. II

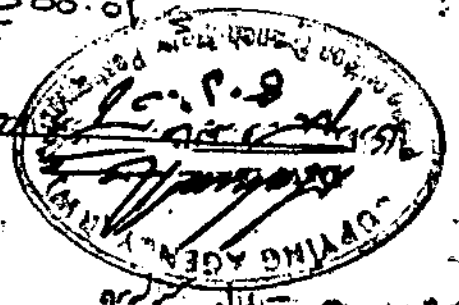
M. J.



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২. ১৯৬৬	১৯৬৬
৩. ১৯৬৬	১৯৬৬
৪. ১৯৬৬	১৯৬৬
৫. ১৯৬৬	১৯৬৬
৬. ১৯৬৬	১৯৬৬
৭. ১৯৬৬	১৯৬৬
৮. ১৯৬৬	১৯৬৬
৯. ১৯৬৬	১৯৬৬
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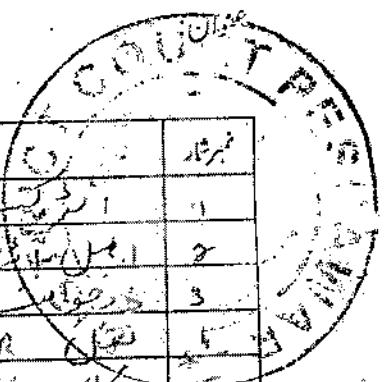
بجالت جناب حافظ نسیم اکبر ایڈیشنل ڈسٹرکٹ و سیشن جج - IX پشاور

(انڈیکس مقدمات نو بداری)

نمبر 160/PRA/11 رجم 05/7/11 فیصلہ 13/07/11 اذیت درخواست عیاشی مقدمات (3)

نمبر 199 رجم 06/04/09 ج 308/34 قلم 1

عنوان _____ نام _____



نمبر	تفصیل	شمار صفحات	زبان	Value	ریمارکس
1	انڈیکس	1	اردو		
2	اپیل سٹیشن	9	انگلیشی		
3	درخواست عیاشی	3	"		
4	FIR	1	اردو		
5	وکالت نامہ	1	"		
6	تقولات سٹیشن	3	"		
7	اپیل عیاشی نامہ	1	"		
8	نقل مل	2	"		
9	تقولات سٹیشن	3	"		
10	اپیل عیاشی نامہ	1	"		
11	نقل مل	2	"		
12	تقولات سٹیشن	4	"		
13	سٹیشن اپیل نامہ	8	انگلیشی		
14	سٹیشن اپیل نامہ	11	اردو		
15	ہنٹر کم تھیٹران	1	انگلیشی		
16	ریفرنس DFc	11	اردو		
17	سٹیشن	4	"		
18	سٹیشن	1	"		
		31	انگلیشی		کل

ATTENDED
 6/5/11

(Examiner)
 District Court Peshawar

Certified that papers, as detailed above have properly been indexed.

(Moharrir)

Countersigned by:

(Hafiz Naseem Akbar)
 Additional District & Sessions Judge
 Peshawar.
 HAFIZ NASEEM AKBAR
 Addl. District & Sessions Judge - IX
 Peshawar

IN THE COURT OF HAFIZ NASEEM AKBAR
 ADDL. DISTRICT & SESSIONS JUDGE-IX
 PESHAWAR

1. Wasal S/O Mir Akbar
 2. Muntir alias Manay S/o Wasal both residents of Chamkani Basar Chari Peshawar... (Petitioners)
- Versus
- The State

BBA No.160/IV of 2011
 Date of institution.....05.07.2011
 Date of receipt 05.07.2011
 Date of decision.....13.07.2011

OR.....05
 13.07.2011

Petitioners Muhammad Wasal and Muntir alias Manay are present on interim bail and looking for its confirmation till conclusion of trial in connection with FIR No. 199 dated 29.04.2006 registered U/S 302-34 PPC at PS Chamkani. List of legal heirs of the deceased Asif Khan duly attested by SHO received. According to it Liaqat Ali is the only surviving son of complainant Imam Ali who has been murdered vide FIR No. 199 dated 29.01.2011 registered at the same police station.

Case was earlier process U/S 512 Cr.PC before the Honourable District & Sessions Judge in court file No. 28/SC of 2006. Petitioners were declared proclaimed offenders and perpetual warrants of arrest issued against them vide order dated 18.04.2007.

In the underlying case complainant Imam Ali charged the present petitioners for the murder of his son Asif Khan. Complainant himself was done to death, by the present petitioners allegedly, vide FIR No. 93 dated 29.01.2011 registered at PS Chamkani. His son Liaqat Ali has survived him and also the deceased brother Asif Khan. He appeared on 11.07.2011 to submit an affidavit (Ex.PA) alongwith proforma (Ex.PA/1) regarding

- 1.
- 2.
- 3.

HAFIZ NASEEM AKBAR
 Addl. District & Sessions Judge-IX
 Peshawar

EXHIBIT-1
 District Court Peshawar

25 NOV 2011




5

-14-

No.	54282
Date	24/11/21
Name	
Age	P=18
Sex	
Signature	<i>[Signature]</i>
Date	25/11/21
Place	

Copy of ... District Court
 Peshawar.
 11/12/21
 CERTIFIED TO BE TRUE COPY

HAFIZ NASEEM AKBAR
 AD&SJ-IX, PESHAWAR
 Addl. Dist. J. Peshawar

[Signature]

Announced
 13.07.2011

6. File be consigned to record room after completion.
 5. Application in hand stands allowed and interim relief granted to the petitioners vide order dated 05.07.2011 is hereby confirmed on the existing bonds.
 4. The compromise and waiver appear to be genuine and in the interest of the parties. The same is therefore, accepted.
- compromise with the petitioners. His statement was recorded in confirmation. He has pardoned the petitioners for sake of Almighty Allah and got no objection if they are released on bail or subsequently acquitted. It may be noted that he has also effected compromise with the petitioners regarding murder of his father vide FIR No. 93.

[Signature]

-15-

"E" (E)
-17-

DISTRICT EDUCATION OFFICER
(Female) E&S EDUCATION PESHAWAR.
NO. 525
DATED 11/01/13

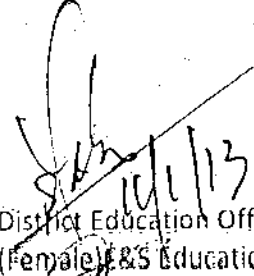
To

The Sub Divisional Education officer
(Female) Peshawar.

Subject:- RE-INSTANTMENT.
Memo;

It is submitted that the complete record about Mr. Wasal Khan Ex-Chowkidar GGPS No.3 Chamkani Peshawar may be provided from the DDO (F)/ADO (F) concerned before considering his re-instatement request.

1. Record about the exact date of his absence from duty.
2. Period of duty he performed.
3. His duty certificate from the H/T/ADO (F) circle concerned.
4. What about his pay drawn.


10/1/13
District Education Officer
(Female) E&S Education Peshawar.

ATTACHED


109 "F"
-18-
Arshad
Tayy
(22)

OFFICE OF THE PRINCIPAL GHS PAKHA GHULAM PESHAWAR

No-1 dt=31-1-2016

To

The District Education Officer
(F) Peshawar

Subject: Enquiry report against Mr. Wisal Khan S/O Mir Akbar
Chowkidar Government Girls Primary School Chamkani No-3
Pesahawar.

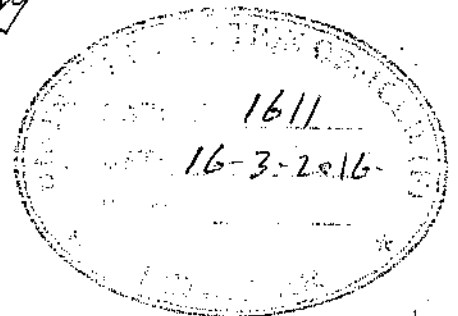
I Mr Ali Badshah Principal GHS Pakha Ghulam Peshawar is
hereby submitting the enquiry report against Mr. Wisal Khan s/o Mir Akbar
Chowkidar Government Girls Primary School Chamkani No-3 Peshawar
reference The District Education Officer Fe-Male (E&SE) Peshawar
vide notification Endst: # 1499/P.F Wisal Khan/Chowkidar Dated
Peshawar 27-11-2015 for further n/a please

Thanks.

31-1-2016

Ali Badshah
(Ali Badshah)
Principal
GHS Pakha Ghulam
Peshawar.

*Certified that this enquiry
contains 29 pages*



ATTACHED
[Signature]

108

-19-

#6

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23

OFFICE OF THE PRINCIPAL GHS PAKHA GHULAM PESHAWAR

Enquiry Officer.

The undersigned was appointed as enquiry officer by the District Education Officer (F) (E&SE) Peshawar vide notification Endst: # Endst: # 1499/P.F Wisal Khan / Chowkidar Dated Peshawar 27-11-2015 Peshawar.

Authority:

The District Education Officer (F) (E&SE) Peshawar vide notification Endst: # 1499/P.F Wisal Khan/Chowkidar Dated Peshawar 27-11-2015

Nature of the enquiry:

To conduct enquiry against Mr. Wisal Khan s/o Mir Akbar Chowkidar Government Girls Primary School Chamkani No-3. (Annex-A) Page 29

Place of enquiry:

ASDEO (F) Primary circle office Chughalpura Peshawar, Head teacher Government Girls Primary School Chamkani No-3, & Mr Wisal Khan s/o Mir Akbar Chowkidar Government Girls Primary School Chamkani No-3 Peshawar.

Process of the enquiry:

ASDEO (F) Primary circle office Chughalpura Peshawar, Head teacher Government Girls Primary School Chamkani No-3, & Mr Wisal Khan s/o Mir Akbar Chowkidar Government Girls Primary School Chamkani No-3 Peshawar were informed telephonically to be present in the school / office on dated 30-12-2015. The undersigned will visit the school / office on 30-12-2015 regarding the enquiry.

Statement of allegation of the Enquiry.

To conduct enquiry against Mr. Wisal Khan s/o Mir Akbar Chowkidar Government Girls Primary School Chamkani No-3 Peshawar as he was absent from the duty due to the involvement in murder as reported by Head teacher & FIR (Annexure - B 1,2.C1)

ATTACHED
M. [Signature]

[Signature]
Principal
GHS PAKHA GHULAM PESHAWAR

107

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(7)

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247

Proceedings of the enquiry.

Written/ verbal Questioners were served upon the following officer/ officials.

- 1) The ASDEO (F) Primary circle Chulpura Peshawar. (Annexure - D)
- 2) Head teacher Government Girls Primary School Chamkani No-3 (Annexure - E)
- 3) Mr. Wisal Khan s/o Mir Akbar Chowkidar Government Girls Primary School Chamkani No-3 Peshawar. (Annexure - F)

Analysis of the statements.

Reply of the questioners submitted by

The ASDEO (F) Primary circle Chughalpura Peshawar. (Annexure - G)

1. The Chowkidar, Wasil Khan had ~~been~~ received his salary till April 2006 and his salary had been stopped since May 2006 as reported by the Centre Incharge as mentioned in the report of ASDEO(Primary). ^{Para 2}
2. She had no record of his pay stoppage but it is available with centre incharge Karim Pura Peshawar. P-3
3. Mr Muhammad Qaisar had been working as Chowkidar since his date of appointment i-e (14-04-2010). P-4
4. There is no vacant post of chowkidar in her circle except a post of deceased quota at GGPS Urmar Bala Peshawar. P-8

Reply of the questioners submitted by.

Head teacher Government Girls Primary School Chamkani No-3 Peshawar. (Annexure - H)

1. Mr. Wasil Khan Chowkidar Government Girls Primary School No-3 Chamkani was absent from duty since 29/4/2006 as per attendance register (Annexure - B1)
2. The Chowkidar, Wasil Khan had been received his salary till April 2006 and his salary had been stopped since May 2006 as reported by the Centre In-charge as mentioned in the report / enquiry of ASDEO(Primary) (Annexure - I, J-1,2)
3. Report of his absence was sent to the competent authority in time and enquiries had been concluded in this case. (Annexure - K)

AT M *(Signature)* ED

(Signature)
Pakha Gaudan Peshawar
3

4. The Chowkidar Mr Wasil Khan had been directly charged in FIR No: 199 registered on 29-04-2006 under section 302/34 of the Pakistan Penal Code. (Annexure - C).
5. One Mr. Qaisar Khan was appointed as Chowkidar in Government Girls Primary School Chamkani No-3 by EDO (E&S) Education Peshawar vide order No: 3145-51 Dated 14-04-2010 after nearly 4-years continuous absence of Mr. Wasal Khan from duties. (Annexure - L)
6. Chowkidar Wasil Khan was not suspended, no show cause was issued or he was not terminated.
7. One show cause was issued after the decision of the case i-e 5/9/2011. (Annexure - M)
8. Now Mr Muhammad Qaisar had been working as Chowkidar since his date of appointment i-e (14-04-2010). (Annexure - L).
9. Mr. Muhammad Qaisar received his salary since his appointment as reported by the Head Teacher Government Girls Primary School Chamkani No-3 Peshawar. (Stated by the H/T).
10. Mr Wasil Khan had not join the duty till now.
11. Miss Shaheen Gul was the Head teacher at that time i-e (29-4-2006).
12. She had informed the high up in time about the absentees of Mr Wasil Khan. (Annexure - K)

Reply of the questioners submitted by

Mr. Wasil Khan Chowkidar Government Girls Primary School No-3 Chamkani Peshawar. (Annexure - N)

1. He joined the service in 1993 & served up to 28-4-2006. Para-3,5
2. The Chowkidar Mr Wasil Khan was not declared absconder.
3. He had submitted application for re-instatement. 27-11-2011, Para-12

Findings:

Having gone through the record described above and carrying investigations in the matter the under signed reached to the conclusions that

- Mr. Wasil Khan Chowkidar Government Girls Primary School No-3 Chamkani was absent from duty since 29/4/2006.
- Report of his absence was sent to the competent authority in time.
- The Chowkidar Mr Wasil Khan submitted an application for joining the duty at EDO Office after the confirmation of his bail on dated (13-7-2011). His case was decided on dated 13-7-2011. (Annexure - O)

AI MB

11. B. D. Khan

- The show cause notice was issued after his bail conformation on dated 5-9-2011. (Annexure - M)
- The reply of the show cause was submitted on dated 27-11-2011. He also requested for re-instatement in the same reply (Annexure - P)
- No proper action was taken by the department on time.
- The Chowkidar Mr Wasil Khan had been directly charged in FIR No: 199 registered on 29-04-2006 under section 302/34 of the Pakistan Penal Code.
- Mr Muhammad Qaisar had been working as Chowkidar since his date of appointment i-e (14-04-2010).
- Mr Wasil Khan had not join the duty till now.
- Miss Shaheen Gul the Head teacher had informed the high up in time about the absentees of Mr Wasil Khan.
- The Chowkidar, Wasil Khan had been received his salary till April 2006 and his salary had been stopped since May 2006.
- There is no vacant post of chowkidar in her circle except a post of deceased quota at GGPS Urmar Bala Peshawar.

Recommendations.

1. The Chowkidar Mr Wasil Khan submitted an application for joining the duty at EDO Office after the confirmation of his bail on dated (13-7-2011) but the application was not properly channelized. He was not suspended, nor terminated before the submission of application for re-instatement.
2. The said Chowkidar Mr Wasil Khan may be suspended and than may be reinstated on his own post with full benefits in light of rule 54 after the submission of application i-e dated 27-11-2012. (Annexure - Q-1,2,3)
3. A competent authority may give Proper sanction to convert his absent period into leave with out pay.

Ali Badshah
Ali Badshah
Principal GHS Pakha Ghualm Peshawar

GHS Pakha Ghualm
Peshawar.

AT : M B ED



- The show cause notice was issued after his bail conformation on 5-9-2011. (Annexure - M)
- The reply of the show cause was submitted on dated 27-11-2012 also requested for re-instatement in the same reply (Annexure - P)
- No proper action was taken by the department on time.
- The Chowkidar Mr Wasil Khan had been directly charged in F.I No 199 registered on 29-04-2006 under section 302/34 of the Pakistan Penal Code.
- Mr Muhammad Qaisar had been working as Chowkidar since the date of appointment i-e (14-04-2010).
- Mr Wasil Khan had not join the duty till now.
- Miss Shaheen Gul the Head teacher had informed the high up about the absentees of Mr Wasil Khan.
- The Chowkidar, Wasil Khan had been received his salary till May 2006 and his salary had been stopped since May 2006.
- There is no vacant post of chowkidar in her circle except a deceased quota at GGPS Urmar Bala Peshawar.

Recommendations.

1. The Chowkidar Mr Wasil Khan submitted an application for the duty at EDO Office after the confirmation of his bail on date (27-11-2012) but the application was not properly channelized. He was not suspended, nor terminated before the submission of application for reinstatement.
2. The said Chowkidar Mr Wasil Khan may be suspended and then be reinstated on his own post with full benefits in light of rule 54 after the submission of application i-e dated 27-11-2012. (Annexure - Q-1,2,3)
3. A competent authority may give Proper sanction to convert his period into leave with out pay.

Ali Badshah
Ali Badshah
Principal

GHS Pakha Ghual,
Peshawar.

AT M. B. D



- The show cause notice was issued after his bail conformation of 5-9-2011. (Annexure - M)
- The reply of the show cause was submitted on dated 27-11-2011 also requested for re-instatement in the same reply (Annexure - P)
- No proper action was taken by the department on time.
- The Chowkidar Mr Wasil Khan had been directly charged in F.I. No. 199 registered on 29-04-2006 under section 302/34 of the Pakistan Penal Code.
- Mr Muhammad Qaisar had been working as Chowkidar since the date of appointment i-e (14-04-2010).
- Mr Wasil Khan had not join the duty till now.
- Miss Shaheen Gul the Head teacher had informed the high up about the absentees of Mr Wasil Khan.
- The Chowkidar, Wasil Khan had been received his salary till May 2006 and his salary had been stopped since May 2006.
- There is no vacant post of chowkidar in her circle except a deceased quota at GGPS Umar Bala Peshawar.

Recommendations.

1. The Chowkidar Mr Wasil Khan submitted an application for the duty at EDO Office after the confirmation of his bail on date 5-9-2011) but the application was not properly channelized. He was not suspended, nor terminated before the submission of application for reinstatement.
2. The said Chowkidar Mr Wasil Khan may be suspended and then be reinstated on his own post with full benefits in light of rule 54 after the submission of application i-e dated 27-11-2011. (Annexure - Q-1,2,3)
3. A competent authority may give Proper sanction to convert his period into leave with out pay.

Ali Badshah
Ali Badshah
Principal

GHS Pakha Ghual
Peshawar.

AT: M. B. D.

"9" - 24 - 4

OFFICE OF THE DISTRICT EDUCATION OFFICER, (FEMALE) PESHAWAR.

OFFICE ORDER:-

H: (24)

On recommendation by the inquiry officer the competent authority is hereby please to re-instate Mr. Wasal Khan, Chowkidar at GGHS Dalazak Peshawar with immediate effect,

Note:- 1. Charge report should be submitted to all concerned


2. He is directed to take over charge of the post within 15-days positively.

(ULFAT BEGUM)
DISTRICT EDUCATION OFFICER,
(FEMALE) PESHAWAR.

Encls: No. 5711/15 / Wasal Khan, Chowkidar/ dated Peshawar the 14/3/2017

Copy of the above is forwarded to the:-

1. Director of Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.
2. Accountant General, Khyber Pakhtunkhwa Peshawar.
3. Sub Divisional Education Officer (Female) Town-I Peshawar.
4. Sub Divisional Education Officer (Female) Town-II Peshawar with the remarks to contact with the above named official at once for his posting under intimation to this office.
5. Mr. Wasal Khan, Chowkidar GGPS Chamkani No.3 Peshawar.


DISTRICT EDUCATION OFFICER,
(FEMALE) PESHAWAR


A. I. E. D

"H"-25-11

OFFICE OF THE DISTRICT EDUCATION OFFICER (FEMALE)

PESHAWAR.

H (22)

SUSPENSION/

In pursuance on the recommendation of enquiry officer Mr. Wasaf Khan, Chowkidar GGPS Chamkani No.3 Peshawar was involved in Murder case vide F.I.R. No.199 dated 29-4-2006 U/S 302-34 PPC registered in Police Station Chamkani Peshawar is hereby suspended from Govt. Service till further order.

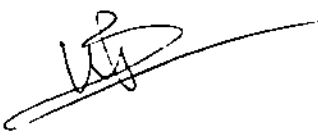
Note: - Necessary entry to this effect should be made in his service book.

(ULFAT BEGUM)
DISTRICT EDUCATION OFFICER
(FEMALE) PESHAWAR.

Endst: No. 3447-52 /Comts:/Inqu:/Susp:/ Dated Peshawar the 4/7 /2017.

Copy of the above is forwarded to the:-

1. Accountant General Khyber Pakhtun Khwa Peshawar.
2. Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.
3. Sub Divisional Education Officer, (Female) Peshawar
4. Head Mistresses concerned.
5. Official concerned.
6. P.A. to DEO (F) local office.



DISTRICT EDUCATION OFFICER
(FEMALE) PESHAWAR

o/c

ATTACHED

OFFICE OF THE DISTRICT EDUCATION OFFICER (FEMALE) PESHAWAR



NOTIFICATION.

The competent authority is hereby pleased release the pay in respect of Wasal Khan, Chowkidar Govt. Girls High School, Dalazak Peshawar w.e.f date of his reinstatement.

Note:- Necessary entries to this effect should be made in his service book.

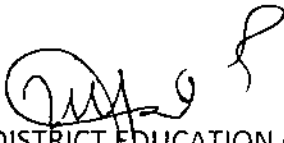
(ULFAT BEGUM)
DISTRICT EDUCATION OFFICER
(FEMALE) PESHAWAR.

Endst: No. 3330-51 /File Board/Leave/

Dated Peshawar the 16/10/2017

Copy of the above is forwarded to the:-

1. Accountant General Khyber Pakhtun Khwa Peshawar.
2. Head Mistress, GGHS Dalazak Peshawar.


DISTRICT EDUCATION OFFICER
(FEMALE) PESHAWAR

ATTACHED

27-

(27)

G.B. 2016

OFFICE OF THE HEAD MISTRESS
GGHS DALAZAK PESHAWAR.

No 70 / date 24-3/2018

24/3

(21)

To.

The District Education Officer
(female) Peshawar

2134
24-3-18

Subject:- EARNED LEAVE

Memo:-

enclosed please find herewith original application along with S/Book & leave account proforma in respect of Mr. Wasal khan chowkidar GGHS Dalazak Peshawar w,e.f,30/04/2006 to 31/12 2007 (620 days) on full pay & 01/01/2008 to 13/07/2011 without pay is forwarded for further n/action please

Humaira Parveen
HEAD MISTRESS
GGHS DALAZAK PESHAWAR

HEAD MISTRESS
G.G.H.S DALAZAK
PESHAWAR

Amir

The Director,
Elementary & Secondary Education Department,
Khyber Pakhtunkhwa, Peshawar.

-28-

I-~~28~~

Subject: **DEPARTMENTAL APPEAL AGAINST THE IMPUGNED ORDER DATED 14.03.2017 WHEREBY THE APPELLANT HAS BEEN RE-INSTATED INTO SERVICE WITH IMMEDIATE EFFECT RATHER THAN RETROSPECTIVE EFFECT I.E. 29.04.2006 AND FOR THE GRANT OF BACK BENEFITS AS RECOMMENDATIONS MENTIONED IN THE INQUIRY REPORT**

Respected Sir,

With great respect it is most humbly stated that the appellant was initially appointed as Chowkidar vide order dated 22.05.1993. That after appointment the appellant took over charge against his respective post and started performing his duty quite efficiently and upto the entire satisfaction of his superiors.

That during service the appellant was falsely charged in criminal case Under Section 302/34 PPC, dated 29.04.2006, FIR No.199, Police Station Chamkani. That after chalking the above mentioned FIR the appellant was informed the authority concerned regarding the incident while the appellant was absented from duty due to life threats.

That vide dated 13.07.2011 the appellant was released on bail by the Court of Additional District & Session Judge, Peshawar on the basis of compromise. That after released on bail in the above mentioned criminal case the appellant submitted several applications and made verbal requests for his adjustment against his post of Chowkidar which were properly forwarded by the District Education Officer (Female), Peshawar.

That it is pertinent to mention that during the absence period there was no adverse order had been issued against the appellant while the authority concerned conducted fact finding inquiry in the matter and it was held by the inquiry officer in the findings of inquiry report that the appellant submitted an application on 13.07.2011 for his re-instatement/adjustment after release on bail in the criminal case. That the inquiry committee recommended the appellant for re-instatement on his original post with full benefits in light of Fundamental Rule-54 after submission of his application for re-instatement and the absence period w.e.f 29.04.2006 till submission of application may

ATTESTED

907
8-4-2024
Adm
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That the competent authority issued office order even endst: No.5711-15 dated 14.03.2017 whereby the appellatant has been re-instated into service but with immediate effect rather than retrospective effect i.e. 29.04.2006. That it is further added that from the findings of inquiry report it was clear that there was no termination/removal order is available on the record while the appellatant submitted application after release on bail for his adjustment/re-instatement on 13.07.2011, therefore, the appellatant is fully entitle for his re-instatement w.e.f from 29.04.2006 and also entitle for the grant of all back benefits w.e.f 13.07.2011 in light of findings of the inquiry report.

That re-instatement order of the appellatant dated 14.03.2017 issued by the District Education Officer (Female), Peshawar is not tenable in the eye of law and liable to be modified/rectified to the extent of re-instatement w.e.f from 29.04.2006 and back benefits as per recommendations of the inquiry officer.

That the impugned order dated 14.03.2017 has been issued by the competent authority in violation of the Principle of natural justice and as such in violation of the Judgments of the Apex Court, hence the same is liable to be modified/rectified.

That the appellatant feeling aggrieved from the impugned order dated 14.03.2017 preferred the instant departmental appeal before your good self.

It is, therefore, most humbly prayed that on acceptance of this departmental appeal the impugned order dated 14.03.2017 may very kindly be modified/rectified to the extent of re-instatement with retrospective effect i.e. 29.04.2006 rather than with immediate effect i.e. 14.03.2017 and also grant/allowed back benefits as per recommendations of the inquiry officer mentioned in the inquiry report. Any other relief which your good self deems appropriate may also be granted in favor of the appellatant.

Dated: 08.04.2024.

AT: M. B. ED

APPELLANT
WASAL KHAN, Chowkidar,
GGHS Dalazak, Peshawar

VAKALATNAMA

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

_____ OF 2024

Wasal Khan

(APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

Education Deptt:

(RESPONDENT)
(DEFENDANT)

I/We Wasal Khan

Do hereby appoint and constitute **MIR ZAMAN SAFI, Advocate, 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. 23 / 07 / 2024



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