


FORM OF ORDER SHEET

Court of _____

Appeal No. 1058/2024

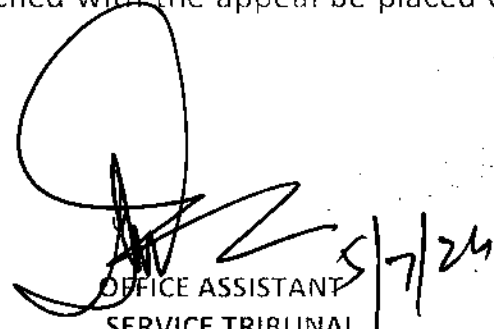
| S.No. | Date of order proceedings | Order or other proceedings with signature of judge |
|-------|---------------------------|---|
| 1- | 29/07/2024 | <p>The appeal of Mr. Kifayat Ullah resubmitted today by Mr. Muhammad Arif Jan Advocate. It is fixed for preliminary hearing before touring Single Bench at A.Abad on 23.09.2024. Parcha Peshi given to counsel for the appellant.</p> <p>By the order of Chairman  REGISTRAR</p> |

The appeal of Mr. Kifayat Ullah received today i.e on 04.07.2024 is incomplete on the following score which is returned to the appellat for completion and resubmission within 15 days.

1- Copy of enquiry report mentioned in the memo of appeal in respect of appellat is not attached with the appeal be placed on it.

No. 306 /Inst./2024/KPST,

Dt. 5/7 /2024.


OFFICE ASSISTANT
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Muhammad Arif Jan Adv.
High Court Peshawar.

Respected Sir,

*Resubmitted after removal
of objections, here may kindly
be place before the worthy Bench.*

M.A.J.
29/7/24

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

PESHAWAR

Appeal No. 1058 / 2024

Kifayatullah T.TAppellant

VERSUS

District Education Officer and anotherRespondents

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Appellant

Through


Muhammad Arif Jan

Date: 01.07.2024

Advocate, Peshawar

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

Cell: 0333-2212213

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

PESHAWAR

Service Appeal No.....1058...../2024

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 13961

Dated 04-07-2024

Kifayatullah T.T

Government Middle School Galgan
Pattan Kohisatan Lower

.....Appellant

VERSUS

1. District Education Officer (M) Kohistan Lower.
2. Director Elementary and Secondary Education Khyber Pakhtunkhwa G.T Road Peshawar.

.....Respondents.

Filed to-day
Registrar
4/7/24

APPEAL UNDER SECTION-4 OF KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED OFFICE LETTER NO-3009-13/DEO/(M)/KH-LOWER DATED 02.02.2024 OF RESPONDENT NO-1 FOR THE SERVICE BENEFITS OF THE INTERVENING PERIOD EFFECTING FROM FEB, 2016 TILL OCT, 2019 WHICH IS WRONGLY CALCULATED AS LEAVE WITHOUT PAY W.E.F 17.02.2016 TO 22.11.2018 AGAINST WHICH DEPARTMENTAL APPEAL VIDE DAIRY NO-1112 DATED 05.03.2024 HAS BEEN PREFERRED BUT THE SAME HAS NOT BEEN DECIDED WITHIN THE STIPULATED PERIOD OF TIME, HENCE THE INSTANT APPEAL IS WITHIN TIME.

Respectfully Sheweth:

Presented to-day
Registrar

Registrar

4/7/24

1. That the appellant while serving was initially removed from service on 17-02-2016 against which service appeal No- 620/2016 was filed before this Hon'ble Tribunal which was allowed vide order/judgment dated 22-03-2019.

(Copy of Judgment in appeal No-620/2016 is attached as ANNEX-A)

2. That in compliance to the order/judgment of this Hon'ble Tribunal, the appellant was re-instated conditionally and has been paid the monthly salary of Nov, 2019.

(Copy of re-instatement order is attached as ANNEX-B).

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-C).

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/perks and privileges/allowances/arrears with all back benefits and service emoluments but nothing have been paid.

6. That instead of to pay all outstanding salaries/perks and privileges/allowances/arrears with all back benefits and service

emoluments to the appellant, respondent No-1 with dishonestly issued the impugned office letter dated 02.02.2024 by way of wrongly calculated the interim period of appellant was only considered as leave without pay w.e.f 17.02.2016 to 22.11.2018 illegally and unlawfully.

(Copy of letter dated 02.02.2024 is attached as ANNEX-D)

7. That the appellant being aggrieved then filed departmental appeal before respondent No-2 on the subject matter with dairy no 1112 dated 05.03.2024 but the same has not been decided within stipulated period of time.

(Copy of departmental appeal is attached as ANNEX-E).

8. 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.

GROUNDS:

- A. That all the act, commission and omission of the respondents by way of withholding the monthly salaries, all outstanding pay/perks and privileges/allowances/arrears with all back benefits and service emoluments along with other service benefits effecting from Feb, 2016 till Oct, 2019 for the intervening period and then by way of wrongly calculated the same vide impugned order dated 02.02.2024 passed by respondent No-1 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 all outstanding salaries/perks and

(4)

privileges/allowances/arrearwith all back benefits and service emoluments for the intervening period may graciously be consider as leave with full pay without any further delay, reason and justification with all other service 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 the impugned order is outcome of hasty given. A condition precedent and procedural safeguard provided under the law insure rule of law having been thrown to wolves, as no any has been mentioned by the respondent No-1 while disagreeing with the finding of the inquiry officer, hence the impugned order, acts, commission and omission are not sustainable in the eyes of law, thus liable to be set aside.
- D.** That as per the superior Court of law on equality and other procedural safeguard, the impugned order has overlooked and ignored some important wisdom spewing guidelines/points in the reported judgment/guidelines circulated to all authorities concerned time to time but the authority concerned in this case badly failed to follow the same.
- E.** 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.
- F.** That it is worth mentioned here that no any further inquiry has been conducted into the matter moreover the respondents were

asked time and again in respect of payment by the appellant but of no avail.

G. 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/emoluments of the appellant without any further delay along with back benefits.

H. 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 all the outstanding salaries/perks and privileges/allowances/arrears with all back benefits and service emoluments of appellant for the intervening period since Feb, 2016 till Mar, 2019 as illegal and unlawful.**
- II. Declare the impugned order dated 02.02.2024 passed by the respondent No-1 against the appellant may graciously be set aside and the interim period of appellant w.e.f 17.02.2016 to 22.03.2019 may kindly be consider and pay as leave "with full pay" in the best interest of justice.**
- III. Respondents may also directed to release and pay all outstanding salaries/perks and privileges/allowances/arrears**

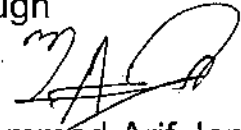
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with all back benefits and service emoluments for the intervening period with all other back benefits.

IV. Any other relief which deems fit and not specifically asked for may also be allowed in favor of appellant against respondents.


Appellant

Through


Muhammad Arif Jan
Advocate, Peshawar.

7

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

PESHAWAR

Kifayatullah T.TAppellant

VERSUS

District Education Officer and anotherRespondents

AFFIDAVIT

I, **Kifayatullah T.T** Government Middle School Galgan Pattan Kohistan, Lowe 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)
DEPONENT



Annex: A (8)

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 8/1/17. 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

ATTESTED

Signature of 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

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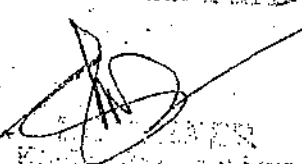
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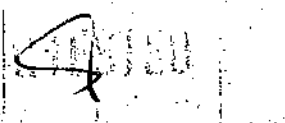
in violation of prescribed procedure, a show cause notice was served on him vide endorsement dated 14.12.2015 to which he replied. Allegedly, his appointment was declared fake and major penalty of removal from service was imposed on him vide impugned order dated 17.02.2016. To safeguard his service interests,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


Member, Education
Kohistan


ACCEPTED



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.

[Handwritten signature]

(HAMID FAROOQ DURRANI)
CHAIRMAN

[Handwritten signature]
(AHMAD HASSAN)
MEMBER

ANNOUNCED
22.03.2019

Certified to be true copy

[Handwritten signature]
K. S. ...
Secretary General,
Government of Punjab

ATTACHED

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| Date of ... | 03-04-19 |
| Date of ... | 02-04-19 |



OFFICE OF THE DISTRICT EDUCATION OFFICER (M)
KOHISTAN LOWER



Email: deokohistan@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 appellunt 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 re-statement of the appellunt 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 denovo 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*

Ends: No. 1774-81/DEO (M) KH-L Dated Pattan the 12/10 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*



OFFICE OF THE SUB-DIVISIONAL EDUCATION OFFICER
PATTAN

NO. 1020/2010 DEPT. M/CAT/10

INQUIRY: Kifayattullah TT BPS 15 GMS Jaj Dabbar

INTRODUCTION:-

De novo Inquiry, in respect of Mr. Kifayattullah TT G.M. 15

In compliance with the direction of honorable, F.P.S. service appeal No. 1020/2010 Judgment dated 22-07-2010. Mr. M. SDEO (M) Pattan, Sultan Room SST, GHS Jaj were been appointed Committee vide DEO (M) Kohistan lower, Order No, 1809 Dabbar into the allegations levelled against the teacher as under and to 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. Kifayattullah TT was appointed in BPS - 07 vide DCO Kohistan lower dated 19-04-2008.
2. At the time of appointment, he possessed the qualification of (Shanaddat Alim) from a Dera Madrassa, (Registered) Gul Koda Swat.
3. The teacher passed SSC Exam from BISE Abbottabad.
4. Having passing of SSC Certificate under the provision of Notification No. 507/2006 AT/CT/S&L dated 27-05-2006, the then Executive District Officer, vide his Office Order No. 8491-95 dated 24-11-2010, awarded him BPS-14.
5. On 17-02-2016, under Endst:NO. 12589-92, dated 17-02-2016, the DEO Mr. Kohistan issued the order of removal from service with the allegations as, "It has been reported through some sources that your appointment is fake & bogus. Whereas your service book was properly checked by the DY:DEO (M) and submitted information that you have been appointed as Theology Teacher (TT) by appointment Order issued from DCO Kohistan under Endst: No. 2206-9 dated 19-04-2008 at GHSS Pattan with the title of Order as (Appointment on Deceased Quota) while your father is still alive. (The removal Order is attached).
6. Being aggrieved by the order 12589-92 dated 17-02-2016, the teacher filed a departmental appeal before the Appellant Authority but no relief was granted to him

ATTSTED

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7 The teacher instituted a service appeal before the Honorable KPK Service Tribunal Peshawar, under Civil Appeal No 620/2016, which was decided on 22-03-2019, with the Judgment as "AS a sequel to above, the appeal is accepted, impugned order dated 02-2016 and 17-05-2016 are sit aside and the appellant is reinstated into service. The respondents are directed to conduct a 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"

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,

- i. He is qualified, having passed Shahadatul Alamia from Darululoom Taleemul Qura'an Gul Kada Saidu Sharif Swat (A Government recognized & registered Madrassa), with SSC passed from BISE Abbottabad.
- ii. 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 acquaints roll and through bank account (Back Statement is attached)
- iii. He replied that he had been removed from service, mere on unknown complaints, without seeking / asking record from the Office of Appointing Authority.
- iv. 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, Kohistan Upper the 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 questionnaire, regarding the allegations levelled against the teacher. Whereof he stated / alleged as:-

- i. The appointment Order bearing Endst: No. 2206-9 dated 19-04-2008 is fake/bogus.
- ii. Alleged, that his appointment was made in violation of the then Recruitment Policy, as the DCO had not the recruitment Authority of RPS 07 reply of the office report is annexed.
- iii. He alleged that at the time of appointment, the teacher had not possessed the SSC, which was the basic requisite qualification for the post of TT.

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. 2206-9 dated 19-04-2008 is tampered" while astonishing part is that the Deputy Commissioner Kohistan Upper clipped the photocopy of the Dispatch Register of the Office of the DCO Kohistan, dated 19-04-2008, wherein the entries of the Appointment Order of the teacher is existing in proper sequence. (The letter from DC at 1st documents are attached).

To thrash out the clear factual position, on 05-01-2019, again we served a letter before the Honor of DC Kohistan Upper, with the request of clarification of the

~~CONFIDENTIAL~~

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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.

Conclusion/Findings

- 1) The Department declared the Appointment Order bearing No. 2206-9 dated 19-04-2008, 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) The Department, while in the order of his removal from service order No.12589-98 dated 17-05-2016, alleged that his appointment was made on the basis of (deceased quota), while his father is alive. But in his service book record and his appointment order, no deceased quota entry exist at all.
- 3) The Department alleged that the recruitment/appointment of BPS-07 was not in the authority domain of DCO, so this question/allegation relates to policy, if so, this appointment, can be declared as irregular appointment, rather cannot be declared as Fake & Bogus Appointment.
- 4) It is admitted fact that the teacher had been paid up till his removal from service regularly.
- 5) It is admitted fact that the teacher is well qualified (Shahadatul Alamia) from a Government Registered institution having requisite qualification for the post.
- 6) 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).
- 7) The promotion order No. 8491-95 dated 24-11-2010 of the teacher (BPS-07 to 14) has been got verified from the then EDO Mukhtiar Khan.
- 8) We have gone through the Duty Performance Record of the teacher, the Principal GHS Pattan provided a certificate that Mr. Kifayatullah TT performed his duty regularly w.e.f 19-04-2008 to 17-02-2016.

ATTSTED

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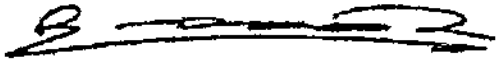
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Recommendation:-

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- 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 pursuing 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


Sultan Room
SST GHS Jijal
Inquiry officer

ATTESTED



Annex 'D'
(16)

ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT GOVT: OF KHYBER PAKHTUNKHWA



OFFICE OF THE DISTRICT EDUCATION OFFICER (M)
KOHISTAN LOWER
(P&D Branch)



Email: deokohistan1@gmail.com

Facebook: DEO Main Kohistan Lower

Phone # 0998-405071

OFFICE ORDER

Whereas you Mr. Kifayatullah T.T Govt: High School Pattan and presently working as T.T Govt: Middle School Galgan have been removed from service vide 12585-88 Dated 17-02-2016.

And whereas you have been filed a Service Appeal No. 620/2016 before the Honorable Khyber Pakhtunkhwa Service Tribunal Peshawar.

And whereas, that Service Appeal allowed vide order/Judgement No. 620/2016 dated 22-03-2019.

And whereas, you have been filed implementation petition No. 264/2019, wherein you have been re-instated for de-novo inquiry vide No. 1774-81 /DEO (M) KH-L Dated Pattan 12-10-2019.

And whereas this office constituted a committee for de-novo inquiry No. 1803 Dated 12-10-2019.

And whereas, the committee vide No. 2869/SDEO (M) Pattan Dated 08/02/2020, reported with the recommendations/ finding that he is entitled for back benefits for the interim period from 17-02-2016 to 22-03-2019, (03 years 01 month and 05 days).

And whereas, vide this office letter No. 1565/F.No.65, Establishment: Secondary KH-L Dated 06-10-2023, and on accepting your appeal Dated 15-11-2023, the competent authority is pleased to treat the interim period as leave without pay w.e.f (17-02-2016 to 22-11-2018 (1009 Days) and w.e.f 23-11-2018 to 22-03-2019 (120 days) "with full pay".

DISTRICT EDUCATION OFFICER (M)
KOHISTAN LOWER

Endst: No. 3009-13 DEO/(M)/KH-Lower. Dated 02/02/2024.

Copy of the above is forwarded to:

01. Deputy District Education Officer (Male) Kohistan Lower.
02. District Accounts Officer Kohistan Lower.
03. Deputy District Education Officer (Male) Kohistan Lower.
04. Kifayatullah TT GMS Galgan Pattan Kohistan Lower.
05. Office file.

ATTACHED

DISTRICT EDUCATION OFFICER (M)
KOHISTAN LOWER

Annex 'E'

(17)

**BEFORE THE HON'BLE DIRECTOR ELEMENTARY AND SECONDARY
EDUCATION KHYBER PAKHTUNKHWA, PESHAWAR.**

**DEPARTMENTAL APPEAL / REPRESENTATION
AGAINST THE IMPUGNED OFFICE LETTER
BEARING NO-3009-13/DEO/(M)/KH-LOWER DATED
02-02-2024 OF DISTRICT EDUCATION OFFICER (M),
KOHISTAN LOWER THROUGH WHICH THE
INTERIM PERIOD OF THE APPELLANT HAVE BEEN
CONSIDERED AS LEAVE WITHOUT PAY W. E. F
17-02-2016 TO 22-11-2018 (1009 DAYS)**

Respected Sir:

1. That initially the appellant was removed from service on 17-02-2016 against which service appeal No- 620/2016 was filed before the KP Service Tribunal.
2. That the Hon'ble KP Service 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 till date.
3. That the issue of back benefits in respect of appellant was subjected to the outcome of the de-novo inquiry and department/authority was 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 the Hon'ble Service 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.
5. That it is pertinent to mentioned here that worthy District Education Officer Kohistan Lower passed the impugned order dated 02-02-2024 wherein the interim period of appellant was considered as leave without pay w.e.f 17-02-2016 to 22-11-2018.

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05/03/24
[Signature]

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6. That the impugned order dated 02-02-2024 (hereinafter impugned) is patently illegal, unlawful, of no legal effect, against the existing law, rules and regulation governing the subject matter, hence liable to be set aside and the interim period may graciously be consider as leave "with full pay".
7. That the impugned order is outcome of hastily given. The condition precedent and procedural safeguard provided under the law insure rule of law having been thrown to the wolves, as no any reason has been mention by the authority concerned while disagreeing with the finding of the inquiry officer, hence the impugned order, acts, commission and omission are not sustainable in the eyes of law, thus liable to be set aside.
8. That as per the Superior Courts of law on equality and other procedural safeguard, the impugned order has overlooked and ignored some important wisdom spewing guidelines/ points in the reported judgments/guidelines circulated to all authorities concerned time to time but the authority concerned in case in hand badly failed to follow the same.

It is, therefore, respectfully submitted that the impugned order dated 02-02-2024 passed against appellant may graciously be set-aside and the interim period of appellant w.e.f 17-02-2016 to 22-03-2019 may kindly be considered and pay as leave with full pay in the best interest of Justice and equity.

Note; All necessary documents are hereby attached.

Dated; 29-02-2024.

Appellant
Kifayatullah TT

Kifayatullah TT
GMS Galgan Pattan Kohistan Lower.
Cell No-03458696018

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WAKALATNAMA

IN THE COURT OF *KP Service Tribunal, Peshawar*

Kopayatullah
VERSUS

Plaintiff(s)
Petitioner(s)
Complainant(s)

Deo Zoller

Defendant(s)
Respondent(s)
Accused(s)

By this, power-of-attorney I/we the said *Appell* in the above case, do hereby constitute and appoint **MUHAMMAD ARIF JAN** Advocate as my attorney for me/us in my/our name and on my/our behalf to appear, plead, give statement, verify, administer oath and do all lawful act and things in connection with the said case on my/our behalf or with the execution of any decree or order passed in the case in my/our favour/ against which I/we shall be entitled or permitted to do myself/ourselves, and, in particular, shall be entitled to withdraw or compromise the case or refer it to arbitration or to agree to abide by the special oath of any person and to withdraw and receive documents and money from the Court or the opposite party and to sign proper receipts and discharges for the same and to engage and appoint any other pleader or pay him as his fee irrespective of my/our success or failure in case, provided that, if the case is heard at anyplace other than the usual place of sitting of the Court the pleader shall not bound to attend except on my agreeing to pay him a special fee to be settled between us.

Signature of Client

[Handwritten Signature]

Accepted.

[Handwritten Signature]

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