

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR**

Service Appeal No.862/2024

**Bakht Bahadar S/O Khaperai Behsti
Government Girls High School Kalakaly Kabal Swat.**

(APPELLANT)


VERSUS

1. The Director Elementary and Secondary Education KPK Peshawar.
2. District Education Officer (Female) Swat.

(RESPONDENTS)

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**DISTRICT EDUCATION OFFICER(F)
SWAT**
(RESPONDENT NO.2)

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PESHAWAR**

Service Appeal No.862/2024

Bakht Bahadar S/O Khaperai Behsti
Government Girls High School Kalakaly Kabal Swat.

(APPELLANT)
Khyber Pakhtunkhwa
Service Tribunal

VERSUS

Diary No 16308

1. The Director Elementary and Secondary Education KPK Peshawar.
2. District Education Officer (Female) Swat.

Dated 04/10/24

(RESPONDENTS)

PARAWISE COMMENTS ON BEHALF OF REPENDENST NO.1 & 2

Respectfully Shewth;

Respondents submit as under;

PRELIMINARY OBJECTIONS

1. That the appellant has no cause of action and locus standi to file the instant appeal against the respondents.
2. That the Present appeal is not maintainable in the present form and manner and is liable to be dismissed.
3. That the appellant has not come to this Hon; Tribunal with Clean hands.
4. That appeal is badly barred by time.
5. That the appellant has concealed the material facts from this Hon; Tribunal and therefore the instant appeal needs to be struck down.
6. That due to legal lacunas, the instant appeal is not maintainable in the eye of law.
7. That the instant appeal is against the Prevailing Rules and laws and hence is liable to be dismissed.
8. The case of the appellant falls within the domain of Policy matters due to which this Hon; Service Tribunal has no Jurisdiction to entertain such like policy matter cases, hence appeal is liable to be dismissed.
9. That the appeal is bad for mis-joinder and non-joinder of the necessary parties.

ON FACTS.

1. That this Para pertains to the Personal information of the appellant ,hence needs no comments.
2. That this para is related to record which reflects that the appellant was appointed as behshti and posted at GGHS Kalakaly vide order under Endstt;No.9533-35 dated 7.9.1993 and

record further reveals that the appellant was absent from duty wef 14.2.2011 To 23.8.2013 (2 years & 6 Months) and did not perform duty which has been admitted by the appellant in his applications (**Annexures A&B**) but the then DEO(F) Mst.Dilshad Begum vide order under Endstt;No.7692-94 dated 11.2.2014 (**Annexure-C**) released salary of the appellant wef 28.4.2013 without any action for the intervening period wef 14.2.2011 To 23.8.2013 with the directions to the appellant that the previous salaries will be drawn on the production of the clearance certificate from Pak Army but till date clearance certificate from Pak Army has not been provided by the appellant. It is very much astonishing that the appellant produced Police Clearance Certificate on 27.9.2013 (**Annexure-D**) which was issued before the ibid instruction dated 11.2.2014 (Already appended as Annexure-D) which was valid upto Six Months and similarly the same found expired when order issued for release of salary as well as for production of Clearance Certificate from Pak-Army but this fact has been concealed by the appellant. At that time in the year 2014 ,the matter left remained silent and after laps₂ of 10 Years ,the appellant demanded salary of the period where he did not perform duty and remained absent.

It is pertinent to mention here that the appellant concealed the facts of his absenteeism for the Period 14.2.2011 To 23.8.2013 and therefore, he is not entitle for salaries of the period in which he was absent and did not perform duty. Hence the instant appeal is liable to be dismissed.

3. That this Para is very much clear that the appellant was absent from duty and confirmed that the appellant did not perform duty ,therefore, keeping in view this statement of the appellant ,the appeal in hands is liable to be dismissed.
4. That this Para has already been commented in the above Para-2 & 3 and needs no further comments.
5. That this Para has already been commented in the above Para-2 & 3 and needs no further comments.
6. That this Para has already been commented in the above Para-2 & 3 and needs no further comments.
7. That in this Para, appellant admitted his absenteeism and, in this regard, appeal in hands needs to be struck down. However, detail has already been incorporated in the above Paras 2 7 3 and needs no further comments.
8. That this Para is irrelevant and needs no comments.
9. That this para as compared to the clearance certificate, is very much clear because the ibid certificate was issued on 27.9.2013 prior to the order issued on 11.2.2014 (Already appended as Annexure-D) and was valid up to Six Months which has already been expired and at this juncture, after laps of 10 Years, the same became infructuous, therefore, the instant appeal is not maintainable in the present form and is liable to be dismissed.
10. That this Para is irrelevant and need no comments. However detail has been incorporated in the above Paras 2 & 3 which reflects that the appellant is not deserving for the salaries where he remained absent from duty.

- (3)
11. That this Para has already been commented in the above Paras-2 & 3 and needs no further comments.
 12. That this Para is self-explanatory and the conditions laid down in the office order dated 11.2.2014 (Already appended as Annexure-D) has not yet been followed by the appellant and therefore, this appeal is devoid of merit and needs to be dismissed.
 13. That this Para is irrelevant and needs no comments.
 14. That this Para is not admitted and denied because the appellant has already been informed but he concealed the facts from this Hon; Service Tribunal, therefore, appeal is liable to be dismissed.
 15. That this Para is a proof that the appellant was absent wef 14.2.2011 To 23.8.2013 and was away from from school without prior permission of the competent authority. Hence the stance of the appellant for release of his salaries became infructuous and the instant appeal is liable to be dismissed.
 16. That this Para irrelevant and needs no comments.
 17. That nature of the case of the appellant is different from the referred Judgment, hence needs to be dismissed.
 18. That departmental appeal after laps of 10 Years is badly barred by time and not maintainable.

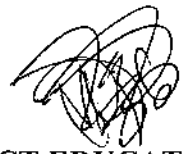
GROUND.

1. That this Para of the appellant is against the facts because due to the ibid order dated 11.2.2014, appellant salaries were released which has been accepted by the appellant but now deviation from the contents of the ibid order is against the norms of justice and law and facts. hence the instant appeal is liable to be dismissed
2. That this Para is not admitted and denied. The appellant has been treated in accordance with law and service rules.
3. That this Para is not admitted and denied
4. That this Para is not admitted and denied. Appellant is not entitle for salaries and arrears for the period mentioned in the above paras.
5. That this Para is not admitted and denied. Act of the respondent is legal, justified and lawful.
6. That this Para is irrelevant and needs no comments.
7. That this Para is legal and needs no comments.

It is, therefore, humbly Prayed that appeal in hands being devoid of merit, may graciously be dismissed.



DIRECTOR *Abdul Samad*
ELEMENTARY & SECONDARY EDUCATION
KHYBER PAKHTUNKHWA, PESHAWAR
(Respondent No.1)



Hafsa Gul
DISTRICT EDUCATION OFFICER(F)
SWAT
(Respondent No.2)

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**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
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Government Girls High School Kalakaly Kabal Swat.**

(APPELLANT)

VERSUS

1. The Director Elementary and Secondary Education KPK Peshawar.
2. District Education Officer (Female) Swat.

(RESPONDENTS)

AFFIDAVIT

I, Ms.Hafsa Gul DEO (F) Swat do hereby solemnly affirm and declare that contents of the accompanying Para wise Comment in Service appeal No.862 of 2022 are true and correct to the best of my knowledge and information and nothing has been concealed from this Hon: Service Tribunal. It is further stated that the answering respondent neither being Ex-Party nor their defense struct up / cost.


DEPONENT



11/2 2014 27/6/22 - 94 - 94
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37/09 2013
3
4 - 4

23-2013-08
3

14/2 2011
2

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9/1953
1

2013 2011 3
2013 5
2013 3

27/3/2014

Ms. Shabbir Shah

Ms. Shabbir Shah (Ms. Shah)

Amma

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Umar Khitab
Advocate High Court

07/03/2013 حوالہ

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حکمیت کی درخواست

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OFFICE OF THE
DISTRICT EDUCATION OFFICER (Female)
ELEMENTARY & SECONDARY EDUCATION SWAT
CONTACT NO. (0946) 9240440 - Fax # (0946) 9240440

OFFICE ORDER.

As per report of the Headmistress Government Girls High School Kalakalay, Mr: Bakht Bahadar Beheshti has been released by Pak Army on 23.8.2013, & now perform his duty in the school, his salary w.e.f 24.8.2013 is hereby released. However his previous salaries will be drawn on the production of clearance certificate from Pak Army.

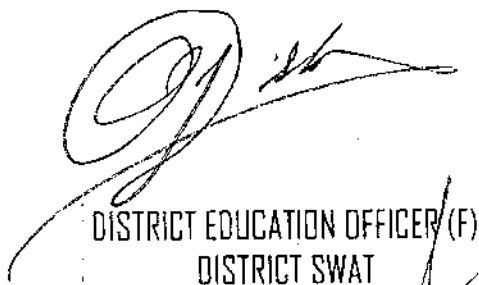
(DILSHAD BEGUM)
DISTRICT EDUCATION OFFICER (F)
DISTRICT SWAT

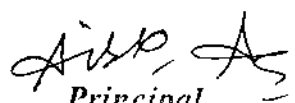
Endst: No. 7697-94 /P.F/Bakht Bahadar/Beshti

Dated 11/2 /2014.

Copy of the above is forwarded to:-

1. The DAO Swat.
2. The Headmistress GGHS Kalakalay Swat.
3. The official concerned.


DISTRICT EDUCATION OFFICER (F)
DISTRICT SWAT

ATTESTED

Principal,
Govt: Girls Higher Secondary School,
Kalakalay, District Swat

Annex:

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**OFFICE OF THE DISTRICT POLICE OFFICER,
SWAT**

No: 2018 /VRC,

Dated 27/09 / 2013.

POLICE CLEARANCE CERTIFICATE

Certified that Mr. **BAKHT BAHADAR** bearing NIC, **15602-0391954-9**

S/O Mr. **KHAPERAY** is the Resident of **MOH: MIRA KHEL QAMBAR TEH:
BABOZAI DISTRICT SWAT.** Police Station **RAHIM ABAD** District **SWAT.** His
brothers are Involved in Cases FIR,s No, 36 dated 27-06-2009 u/s
353/302/324/364/7ATA Police Station Rahim Abad and the other brother is
involved in case FIR No.247 dated 30-12-2008 u/s 436/7ATA/140 APC/512 CrPC,
Police Station Rahim Abad. He is a Pakistani National.

This certificate is valid for **SIX MONTHS**



DATE OF BIRTH: 01/05/1972

[Signature]
Advocate High Court

[Signature]
District Police Officer, Swat

(10)

E

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2. District Education Officer (Female) Swat.

(RESPONDENTS)

AUTHORITY LETTER

Mr. Sultan Nabi office of DEO (F) Swat is hereby authorized to attend the Hon; Service Tribunal Khyber Pakhtunkhwa Peshawar in Service Appeal No. 862 of 2024 on behalf of the Respondent No.1 till the finalization and decision of the instant appeal in hands.

**DIRECTOR
ELEMENTARY & SECONDARY EDUCATION
KHYBER PAKHTUNKHWA, PESHAWAR
(Respondent No.1)**


**DISTRICT EDUCATION OFFICER(F)
SWAT
(Respondent No.2)**