


FORM OF ORDER SHEET

Court of _____

Appeal No. _____ **1687/2024**

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	01/10/2024	<p>The appeal of Mr. Hussain Ali resubmitted today by Mr. Afrasiab Khan Wazir Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on 04.10.2024. Parcha Peshi given to counsel for the appellant.</p> <p>By order of the Chairman</p> <p> REGISTRAR</p>

To

Chairman,

Khyber Pakhtunkhwa Services Tribunal,

Peshawar.

Subject: Case be put up ^{for hearing} at Peshawar.

R/Sis,

With due respect it is stated that case titled "Hussain Ali V Education department" is filed before your competent authority. Since the Petitioner belongs to Buner so there is reasonable apprehension that the same might be transferred to district Swat. The hectic workload is unmanageable which makes it difficult for counsel to go to other stations therefore, it is humbly requested that this case be kindly fixed for hearing at Peshawar.

Thanks.



Afzal Khan Wazir

BC 17-7299

Advocate HC

0312 9888752

Dated: 01/10/2024.

The appeal of Mr. Hussain Ali received today i.e on 25.09.2024 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- ① Copy of departmental appeal mentioned in the memo of appeal is not attached with the appeal be placed on it.

No. B35 /Inst./2024/KPST,

Dt. 29/9 /2024.

Amirullah
ADDITIONAL REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Afrasiab Khan Wazir Adv.
High Court at Peshawar.

R/sir,

The Appellant doesn't have copy of departmental appeal but the ^{rejection} reply of the departmental appeal is available as Annexure E on page # 20.

Hence re-submitted and requested to be placed before the tribunal.

1/10/2024

[Signature]

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL
PESHAWAR

Appeal No. 1687 /2024

HUSSAIN ALI

.....VERSUS.....

EDUCATION DEPTT

INDEX

S. NO.	DOCUMENTS	ANNEXURE	PAGE
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APPELLANT

Through:

AFRASIYAB KHAN WAZIR
ADVOCATE HIGH COURT

Office:

ROOM NO. B-16, GOVT COLLEGE CHOWK,

NIMRA PLAZA, PESHAWAR.

CELL: 0312-9888752

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL, PESHAWAR

APPEAL NO. 1687/2024

Mr, Hussain Ali, PST BPS 12, GPS Dukadu, District Buner .

.....APPELLANT.

VERSUS

- 1- Director Elementary & Secondary Education Department Khyber Pakhtunkhwa, Peshawar.
- 2- Assistant Director (ESTAB-1) Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.
- 3- The District Education Officer, District Buner.

.....RESPONDENTS.

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL ACT, 1974 READ WITH ALL ENABLING PROVISIONS OF LAW GOVERNING THE SUBJECT, AGAINST, IMPUGNED ORDER DATED 22/04/2024 WHEREBY DEPARTMENTAL APPEAL IS REJECTED ON NO GOOD GROUNDS.

RESPECTFULLY SHEWETH:

ON FACTS:

- 1- That the Appellant, appointed as PST in 1999 in the Education Department has diligently performed his duties with zeal and zest till 2009. **(Copy of the Service Book is attached.....A)**
- 2- That in 2009, the Appellant was taken into custody by security agencies for no cogent reason and was further handed over to CTD in 2021. The CTD authorities handed the custody of Appellant to Central Jail Buner and was charged under section 4 of Explosive substance Act where after going through proper trial the Appellant was acquitted. **Copy of the Judgment is attached.....B)**
- 3- That the Appellant moved an Application for reinstatement of service from Central Jail Buner to the Respondents. The Respondents acted so and re instated the Appellant vide order dated 24/11/2023. **(Copy of the Application and Reinstatement Order is attached.....C & D)**
- 4- That though Appellant was reinstated upon Application but no back benefits due from 2009 to 2021 were awarded to him.

5- That the Appellant feeling aggrieved from impugned inaction of not granting of back benefits wef 2009 to 2021, moved representation to the pertinent Department which was rejected on no good grounds but the application is not available with the appellant as he forgot to take copy of the same. **(Copy of Impugned Appellate Order attached.....E)**

6- That the Appellant further feeling aggrieved and left with no other alternate and efficacious remedy but to file this instant appeal on the following grounds inter alia.

ON GROUNDS

A- That the issuance of impugned appellate order dated 24.04.2024 by Respondents is against law and norms of natural justice hence liable to be set aside.

B- That the action of the Respondent is violative of the Article 4 and 25 of the Constitution, 1973.

C- That the Respondent did not pursue any sort of inquiry in between 2009 to 2021 and this action of the Respondents by not granting back benefits wef from 2009 to 2021 is sheer arbitrary in nature.

D- That the Appellant found at no fault and acquitted in 2022 from the charges after serving prolong detention/jail since 2009 deserves back benefits as matter of right to which the Department doesn't comply.

E- That the parent Department didn't pursue any inquiry/ action against the Appellant during the time when he was involuntarily detained/ jailed and it is clear crystal that his absence during the aforementioned period was not considered with severity.

F- That the Respondents have hesitated to give back benefits to Appellant from 2009 to 2021 upon no cogent and legal grounds despite the fact that he was acquitted and found not guilty.

G- That the Appellant further seeks permission to advance any other grounds at the time of regular hearing.

PRAYER


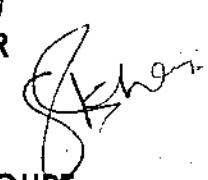
That on acceptance of this appeal the impugned appellate order dated 22.04.2024 may please be set aside and the respondents be directed to allow/grant all back benefits w.e.f 2009 to 2021 when he was illegally detained. Any other remedy which this honorable tribunal deems fit that may also be awarded in favor of Appellant.

Dated:

APPELLANT


Hussain Ali

Through:


AFRASIAB KHAN WAZIR
&

SALMAN KHAN WAZIR
ADVOCATE(s) HIGH COURT

Certificate:

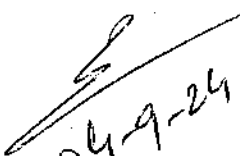
It is certified that no other appeal is filed between the parties on the same issue.


DEPONENT

AFFIDAVITE:

I, Mr, Hussain Ali, PST BPS 12, GPS Dukadu, District Buner, do hereby solemnly affirm and declare that the contents of this appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable tribunal so far.


DEPONENT


24-9-24

ATTACHED

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10. Signature and designation of the Head of the Office, or other Authorizing Officer.

9. Signature of Government Officer

8. Name of the Government Officer

7. Date of issue by Government Officer

6. Date of issue by Government Officer

5. Date of issue by Government Officer

4. Date of issue by Government Officer

3. Date of issue by Government Officer

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1. Date of issue by Government Officer

1. Name of the Government Officer

2. Name of the Government Officer

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7. Name of the Government Officer

(A) - (4)

ATTSTED

M. B. Law to be done under the qualification process

Qualification	Date	Qualifications	Date
English		First Arts	
Public		B. L. or B. A.	
Order		Pledership examination	
Photo-drawing		Training School Final examination	
First part		Other qualifications -	
Oral Interview			
Court duties			
Reserve duties			

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Passes & M. B. Law process
 27/07/2006
 10.5.2006
 20/07/2006
 21/25-9-2006
 P. O. (A1)

Verification Roll No. [blank] dated [blank] received back

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P. J. C.	20/11	A/c	1000	[Signature]	[Signature]	Appointed Receiver of the estate of P. J. C.
S. B. D. C.	27/11	A/c	1000	[Signature]	[Signature]	Appointed Receiver of the estate of S. B. D. C.
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S. B. D. C.	20/11	A/c	1000	[Signature]	[Signature]	Appointed Receiver of the estate of S. B. D. C.

Extraordinary leave of absence granted
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 1st of 8-6-20 to 31-7-20 (55 days) [Signature]

[Signature] Officer (Ed)
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[Signature] [Signature]

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No. of post	Area or measure of the land or site of the building	If all existing land or buildings are situated on the same site as the present building, the area of the site	Area of sub-surface	Additional cost for additional	Cost of material falling under the item 12	Area of approximation	Area of site
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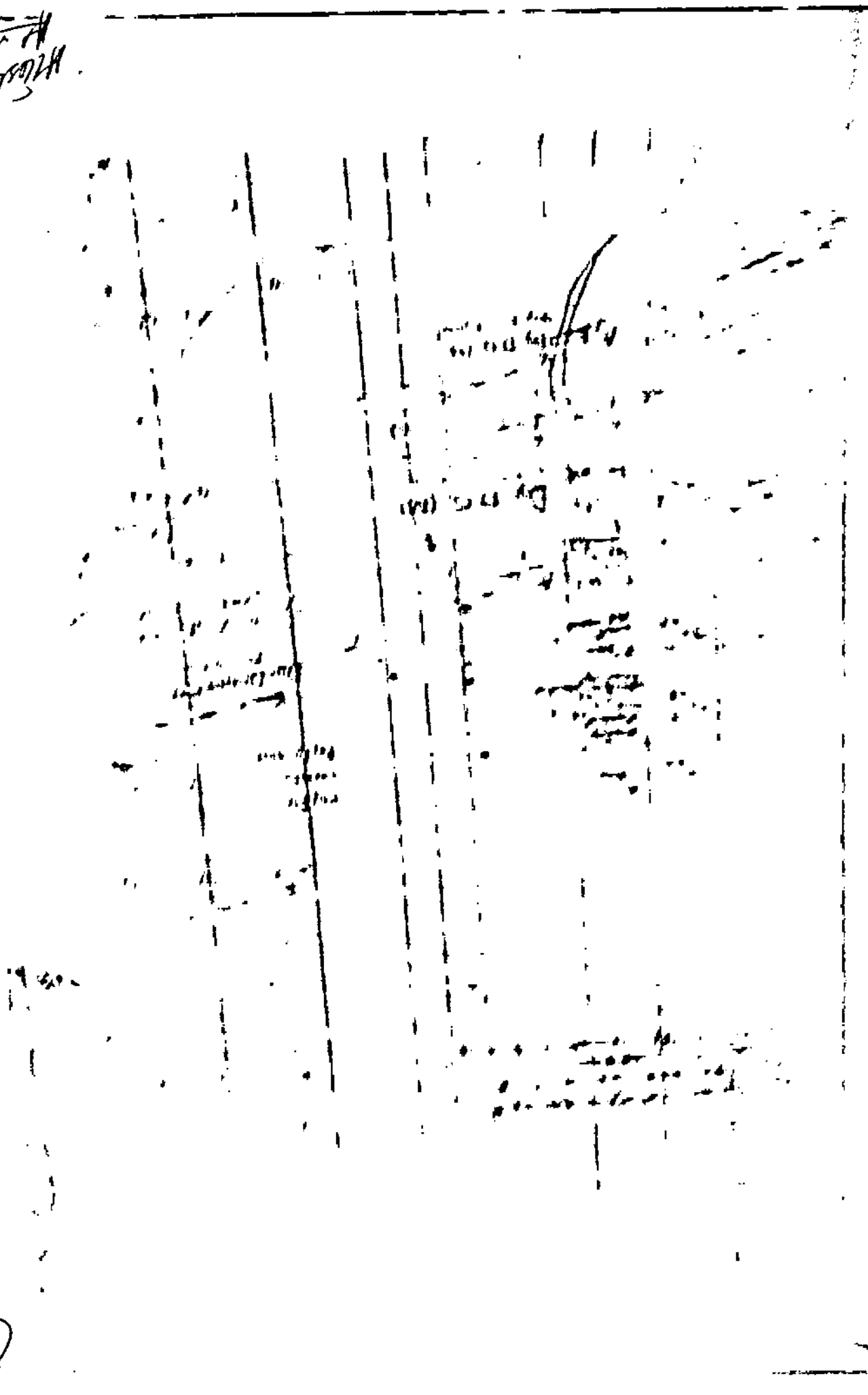
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Signature

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Suspension Order

Suspended ...

...

Dated 10/09/2011.

Sub Divisional

Edu Officer (M) ...

Re-instated ...

...

Dated 04/11/2013.

Sub Divisional

Edu Officer (M) ...

Attached

[Signature]

**THE COURT OF
HITESHAM UL JHAQ DANISHIMANI KHAN
JUDGE SPECIAL COURT/ADDITIONAL SESSIONS
JUDGE-1/12Q, BUNER**

Sessions Case No. 1/2 of 2021

Date of institution: 04.10.2021

Date of decision: 12.12.2022

THE STATE

VERSUS

**Hussain Ali S/o Habeeb ur Rehman, R/o Beshonai District Buner.
...(Accused Facing Trial)**

Case FIR No.42 Dated 24.01.2010 U/s 4 of Explosive Substance
Act, Police Station Pir Baba, District Buner.

JUDGMENT

1. Brief facts of the prosecution case as disclosed in Murasila and FIR are that on 24.01.2010 at 11:00 hours, the complainant Roshan Zada Khan SHO got information that unknown accused had installed/planted a bomb adjacent of *Spir Junaid Haido Khan* which can explode any time. Consequently, the complainant accompanied by Bomb Disposal Squad and other police officials, came to the spot whereby the Bomb Disposal squad, defuse the same and upon weighment, it came out to be of 10 Kilogram. The report of the complainant was incorporated in shape of Murasila and sent to police station for the registration of the case; where after instant case was registered against the unknown accused.

2. Accused was arrested after a lapse of about almost 11 years on 17.08.2021 and after formal interrogation, complete challan was

TRUE COPY

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JUDGE

CS CamScanner

[Signature]

ATTORNEY

CS CamScanner

The State vs. Hussain Ali

submitted against the accused. The accused was summoned and after observing legal formalities, copies were supplied to the

accused under Section 265-C Cr.P.C. On 02.02.2022, accused

was charged sheeted to which he pleaded not guilty and claimed

trial and prosecution was permitted to produce evidence.

Prosecution has examined only one witness till now, however

there is no chance of conviction of accused in the case as no

recovery has been effected from the direct possession of

accused. The alleged marginal witness of the recovery, constable

Hakht Nadeem Shah appeared before the court and recorded his

statement as PW-1. During cross examination, he shown

ignorance about the information received to complainant about

the presence of bomb fixed with the wall of Spin Sumar. He

further admitted that recovery has not been made from the

possession of accused nor on his possession and also that there is

no eye witness of the case, who might have seen the accused

planting the bombs.

It is crystal clear from the statement of PW-1 that when they

provided the post, accused was not present there and alleged

recovery has been shown in his absence. No confessional

statement has been made by the accused nor any further

recovery or discovery has been made by him during

investigation. Similarly, despite prior information, no private

persons have been associated with the alleged recovery

proceedings.

13.12.22

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CS CamScanner



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TRUCCOR
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AND NUMBER 1234

The State vs. Hussain Ali

When recovery has been made in the absence of accused and

police officials could not arrest the accused for a long sufficient

time, meaning thereby that prospect of recovery being planted

one, could not be ruled out. In such circumstances, prosecution

has not been able to prove its case. Moreover, application under

section 494 Cr.P.C has also been moved by prosecution for

withdrawal from prosecution of the case. Therefore, this court

cannot burden itself with useless dates and ultimately punishing

accused for appearance without any decision of the case in sight

in near future.

Respectably, by applying the provision of section 265-K Cr.P.C.

accused (accused) Hussain Ali, is acquitted of the charges

levied against him (s) 4 of Explosive Substances Act. He is on

bail, his bail stands cancelled and sureties are discharged from

the liabilities of bail bonds.

Case property (if any) be dealt with in accordance with law after

expiry of period provided for appeal/revision. File be consigned

to record room after its completion and completion.

Announced
12.12.2022

Hussain Ali Hussain and Khan
Judge Special Court (Additional Sessions Judge) (2022)
Hussain Ali Hussain

RETRIEVED

Further that the judgment consists of three (03) pages and each
page has been signed by me after reading and correction.

Hussain Ali Hussain and Khan
Judge Special Court (Additional Sessions Judge) (2022)
Hussain Ali Hussain

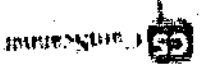
12/12/2022
Hussain Ali Hussain

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Hussain Ali Hussain

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Intervenor
 Judge Special Court AS-10273
 12-12-2023

completion.
 The be assigned to record room after its completion and
 with law after expiry of period provided for appeal/revision.
 bail bonds. Case property (if any) be dealt with in accordance
 cancelled and same are discharged from the liabilities of
 Repositive Substance Act. He is on bail, his bail stands
 required of the changes leveled against him i.e. a of
 section 205 R Cr.P.C. accused being that the said All, is
 (iii) paper, placed on the by applying the provision of
 vide my detailed judgment of today, consisting of four
 the State present Arguments heard and record perused.

Accused on bail present. Mr. Mazhar All Jaz: PP for

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گذشتہ صبح دستبردتہ ایچ ٹی این اسرپر انٹری صلح لوز
کیونہا طنے صاب سپر نینڈ نرے صبا صا دستبردتہ جیل ڈاکٹر

مندیں دروہا ست نبرد کالی ملازمت آڈیٹ پروٹ

خاار نالو

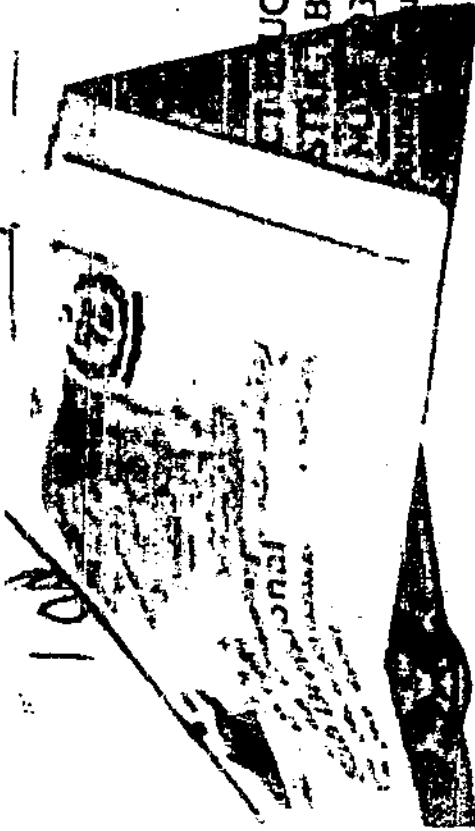
مندیں خدمت ہوں کہ من سائل آٹو لوڈ چارج ہوتے ما معلوم شدہ
اگست سال 2009 میں بااں آڈیٹ کرنا کرے زعمی ما معلوم شام
رہا۔ اور حال ہی میں سی سی ڈی پولیس کے عدال کرے۔ مختلف لوجسٹک
مقدامات میں آگاہ چارج کرے دستبردتہ جیل ڈاکٹر ہر میں سے
کیا ہے، ہو کہ تا حال مدافعت آڈیٹ لوسر میں ایڈووکیٹ صاحب ہر
سائل گورنمنٹ ہر ٹری سٹور ڈوڈہ میں تختیت آڈیٹر نجیب صاحب
مندیں سپر انویسٹمنٹ سارڈا جی ایم ایڈووکیٹ صاحب ہر
مندانہ مفید تھا ایچ جے جگت سے کسی قسم کا خط و کتابت یا رابطہ
ایچ جے سائل کے ذریعے سے پارو مدد گزار ہر کرے سٹور ہر چھپے ہیں۔ ملازمت
مندیں فاد احمد در لیا معاش و کفالت تھا۔ مندیں مدد سے پیش ہر وہ ہم
لیہ اندر لیا ڈیوٹی اسٹور ساندھیا ڈاکٹر آپ صاحبان کے ہر ماگ شرماتر سائل
ملازمت آڈیٹ پروٹ ہر دوبارہ تعیناتی کے اجبادات صادر فرما رہی
سائل تاہیات دعا کر رہے تھا۔

آپنا تابع ذریعہ صبر علی ولد صیب الدین ساکن ٹھونڈی جیرا ہر
حال دستبردتہ جیل ڈاکٹر ہر

مورخہ 17.09.2017

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→ No work for applicant
through complaint

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EDUCATION OFFICER
BUNER
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RE-INSTATEMENT ORDER.

In pursuance to the judgement delivered by the Honourable Judge special court/Additional Sessions Judge/MZQ, Buner in case FIR No.42, dated 24/01/2010 U/S 42NA Act PS Pir Baba and case FIR No.299, dated 17/2013U/S 324/353/148/149 PPC TATA PS Pir Baba, Mr. Hussain Ali PST GPS Beshonwi is hereby re-instated in service w.e.f the date of suspension in the best interest of public service.

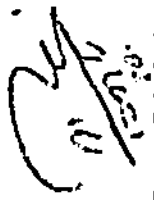
NOTE:


Necessary entry to this effect should be made in his service book accordingly.

(IFTIKHAR UL GHANI)
DISTRICT EDUCATION OFFICER(M)
BUNER

Endst: No. 7751-54/ Dated, 24/11 2023.
Copy forwarded for information to the;

1. District Monitoring Officer EMA Buner
2. District Accounts Officer Buner.
3. S.D.E.O (Male) Sub Div: Gadzeai Buner.
4. Official Concerned.

Mirza

 Sub Divisional
 Educ. Officer (M) Gadzeai
 Date: Buner

Mirza

 DISTRICT EDUCATION OFFICER (M)
 BUNER



E - 20

65

**DIRECTORATE OF ELEMENTARY AND SECONDARY EDUCATION
KHYBER PAKHTUNKHWA PESHAWAR.**

No. 684 /F.No./13/Vol-2/Appeal for Benifit/Estab-1
Dated Peshawar the 22-4 /2024.

To

The District Education Officer
(Male) Buner.

Subject: **GUIDANCE REGARDING BACK BENIFITS W.E.F 02-08-2009 TO
23-08-2023 IN R/O HUSSAIN ALI PST GPS DUKADA**

Memo:

I am directed to refer to your letter No. 787 Dated 11-03-2024 on the subject cited above and to state that the Competent Authority (Director Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar) has regretted the appeal in respect of Mr. Hussain Ali PST GPS Dukada Buner by following SCMR-228 reproduced as "No Work No Pay".

I am further directed to ask you to inform the appellant concerned accordingly please.

Assistant Director (Estab-1)
Elementary & Secondary Education
Khyber Pakhtunkhwa, Peshawar.

Endst; No. 685

Copy forwarded to the: -

1. Mr. Hussain Ali PST GPS Dukada District Buner.
2. P.A to Director Elementary and Secondary Education local office.

Assistant Director (Estab-1)
Elementary & Secondary Education
Khyber Pakhtunkhwa, Peshawar.

POWER OF ATTORNEY/VAKALATNAMA

**BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL,
PESHAWAR**

Hussain ali

VERSUS

Education department

Appeal No. _____-P/2024

On behalf of Petitioner/Appellant No.

I/ we the petitioners/appellant hereby appoint **Mr. Afrasiab Khan Wazir** Advocate in the above-mentioned case, to do all or any of the following acts, deeds things.

1. To appear, act, sign, record Statement and plead for me/us in the above-mentioned case in this court /Tribunal or any other Court /Tribunal in which the same may be tried or heard, and other proceedings arising out of or connected therewith.
2. To sign, verify compromise and file or withdraw all proceedings, petitions, appeals, affidavits, and any other documents, as may be deemed necessary or advisable by them for the conduct, prosecution or defense of the said case at its stages.
3. To receive payments of, and issue receipts for, all money that may be or become due and payable to us during the course or on the conclusion of the proceedings.
4. To do all other acts and things which may be deemed necessary or advisable during the proceedings.


AND HEREBY AGREE:


- a. To ratify whatever the said advocate may do in the proceedings.
- b. Not to hold the Advocate responsible if the said case be proceeded ex-parte or dismissed in default in consequence of absence from the Court/Tribunal when it is called for hearing.
- c. An advocate shall not be responsible for any concealment, fraud, misrepresentation made by the client before any tribunal, court or forum.
- d. That the Advocate shall be entitled to withdraw from the prosecution of the said case if the whole or any part of the agreed fees remains unpaid.

In witness whereof, I/We have signed this power of Attorney/ Vakalatnama hereunder, the contents of which have been read/ explained to me/us and fully understood by me/ us.

Terms Accepted

Signatures

Accepted & Attested

Afrasiab Khan Wazir & Salman Khan Wazir
 Advocates Peshawar High Court, Peshawar.
 Office:
 Room No. B-16, Govt College Chowk,
 Nimra Plaza, Peshawar.
 Cell: 0312-9888752.


Malik Asif Haxoon.
 Advocate lower courts.