# SEFORE THE KHYBER PAKTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 762/2024

Khalid Nawaz S/O Amir Aman Ullah Drawing Master Government High School Chancherai Madyan, District Swat .....Appellant

#### Versus

- 1. Director Elementary and secondary education Khyber Pakhtunkhwa at Peshawar.
- 2. District Education officer (Male) Swat.

..... Respondents.

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**DISTRICT EDUCATION OFFICER (M)** SWAT AT GULKADA (Respondent No. 2)

## SEFORE THE KHYBER PAKTUNKHWA SERVICE TRIBUNAL PESHAWAR Service Appeal No. 762/2024

Khalid Nawaz S/O Amir Aman Ullah Drawing Master Government High School Chancherai Madyan, District Swat ......Appellant

#### Versus

- 1. Director Elementary and secondary education Khyber Pakhtunkhwa at Peshawar.
- 2. District Education officer (Male) Swat.

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...... Respondents.

Khyber Pakhtukhwa Service Tribural Parawise Comments on Behalf of the Respondents 1 & 2: <u>Respectfully shewith</u> Diary No. 16901 Preliminary objections Davia 17-10-24

- 1. That the Appellant is not an aggrieved person within the meaning of Section 4 of the service tribunal Act, 1974.
- 2. That the Appellant has no cause of action / locus standi.
- 3. That the Appellant has not come to this honorable court with clean hands.
- 4. That the Appellant has filed this instant Service Appeal just to pressurize the respondents.
- 5. The present Service Appeal is liable to be dismissed for nonjoinder/mis joinder of necessary parties.
- 6. That the instant Service Appeal is against the prevailing law and rules.
- 7. That the Appellant has filed this instant Service Appeal on malafide motives.
- 8. That the instant Appeal is barred by law.
- 9. That the instant Service Appeal is not maintainable in the present form, and above in the present circumstances of the issue.
- 10. That the Appellant has estopped by his own conduct by not joining his duty back after expiry of earned leave.
- 11. That the Appellant has concealed the material facts from this Honorable

Tribunal.

#### **<u>FACTS</u>**

- 1. Pertains to personal record.
- 2. Pertains to record.
- 3. Pertains to record.
- 4. Correct to the extent of Submission application about the missing of service book, however it is worth to note the applicant is trying to divert

the attention of this Honorable Tribunal to an irrelevant issue which has no concern with the prayer of the instant Service Appeal. The Appellant has not been removed from Service on the basis of missing Service Book. He has been removed from service on the basis of absenteeism. Another very important point is that the Appellant stated that he has submitted application dated 18-12-2023 but on the other hand as per Travel History, the Appellant was not even in the country and was abroad in United Kingdom on that very date.

- 5. Correct.
- 6. Incorrect and denied. As stated in the foregoing Paras, the Appellant has not been removed from service on the basis of Service Book missing. He has been removed on the basis absenteeism as clear from the removal order annexed by the Appellant with the instant Service Appeal.
- 7. Incorrect and denied. The Appellant has not been removed on the basis of three days absenteeism. The Appellant has concealed material facts from this Honorable Tribunal. In fact, the Appellant was on earned leave w.e.f. 20-9-2023 to 18-12-2023 (90 days). After the expiry of leave, he should have reported back to him duty on 19-12-2023 but, he failed to do so. The Headmaster of the school submitted non arrival certificate dated 27-12-2023 wherein he stated that the Appellant has not joined his duty till date. These after a call notice dated 30-12-2023 was issued to him on his home address wherein he was directed to resume his duty within 15 days otherwise he will be dealt as per E&D rules 2011. But the Appellant did not resume his duty. Thus, a final notice mandatory under E&D rules, 2011 was published in two new papers i.e "the Dialy Mashriq" and "Daily Chand" dated: 31-01-2024 wherein he was directed to resume his duty within 15 days but he still did not resume his duty. Thus he was removed from service vide order dated 15-02-2024. (Headmaster report, call notice, Publications annexed as annexure A, B & C)
- 8. Incorrect and denied. The Appellant is not punctual teacher. Travel History shows that he has gone abroad time and again. The present removal from service is also on the basis of absenteeism as stated in the foregoing paras.
- 9. Incorrect and denied. His application has not been converted from the mentioned dates (I,e 01-09-2023 to 31-08-2025) (730 days) to (20-09-2023 to 18-12-2023) (90 days). In fact, the Appellant submitted an application dated 21-09-2023 along with affidavit dated 07-09-2023 for three months leave for the purpose of construction of his house. He even submitted a sworn affidavit to the effect that he will not leave the country and will not go abroad. (Application & Affidavit annexed as annexure D & E)
- 10.Incorrect denied. The Appellant has received his service book himself and has properly signed in the relevant register dated 08.10.2022. (Pages of relevant register annexed as annexure F)

- 11.Correct to the extent of enquiry reports, the rest of the Para is incorrect and denied. It is further clarified that though the present issue has no concern with missing of Service Book, however the enquiry officer declared that the Appellant is still absent from duty and that he has received his Service Book from office of respondent No. 02.
- 12.Correct to the extent of submission of departmental appeal, however, it is worth to mention here that the office of respondent No.2 was asked by respondent No.1 for submission of detailed report. Before submission of report, the respondent No.2 sought Travel History in respect of the Appellant from director FIA Islamabad. According to the Travel History, the Appellant was in United Kingdom w.e.f 27-09-2023 to 01-03-2024 and even went again abroad on 14-03-2024. The Appellant on one hand submitted application for three months leave and also submitted sworn affidavit that he will not leave the country and on the other hand, he went abroad without taking any sanctioned leave Ex-Pakistan. The Appellant should have taken leave Ex-Pakistan when he was going abroad. It means that the Appellant has concealed his actual status from the respondent department as well as this Honorable Tribunal. His earned leave was sanctioned up to 18-12-2023 but he returned to Pakistan on 01-03-2024. It is also worth to note that even the Appellant went abroad in different intervals earlier without taking any leave Ex-Pakistan. Thus the appeal of the Appellant being devoid of any merit was not accepted. (Travel History annexed as annexure **G**)

Thus, the instant Service Appeal is bereft of any merit, hence, liable to be dismissed inter-alia following grounds.

## **GROUNDS**

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- 1. Incorrect and denied. The Appellant has rightly been removed from service.
- 2. Incorrect and denied. The Appellant is estopped by his own conduct by not joining his duty back.
- 3. Incorrect and denied. The detail reply has already been given in the foregoing paras.
- 4. Incorrect and denied. The removal from service order is in accordance with E&D rules, 2011.
- 5. The Appellant did not respond to the call notices and publications, therefore, as per rule (9) of E&D rules, 2011, major penalty of removal from service was imposed upon him, which is correct and in accordance with the rules.
- 6. Incorrect and denied. The detail reply has already been given in the foregoing paras.
- 7. Incorrect and denied. Respondent N0. 02 being the competent authority has issued the removal order.



- 8. Repetition of the above paras, hence no comments.
- 9. Repetition of the above paras, hence no comments.
- 10.Irrelevant, hence no comments.

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- 11.Incorrect and denied. Procedure in case of willful absence is crystal clear as per rule (9) of E&D rules, 2011.
- 12.Repetition of the above paras, hence no comments.
- 13.Irrelevant, hence no comments.
- 14. That the respondents also seek permission to raise further ground be at the time of the arguments.

It is, therefore, very humbly prayed that the instant Service Appeal of the Appellant may be dismissed with cost in favor of the respondents.

> SAMINA ALTAF DIRECTOR

(MUHAMMAD DISTRICT EDUCATION OFFICER MALE SWAT. (RESPONDENT NO.2)

AÙTHÓRIZED OFFICÉR (ABDU**C** SAMAD) DEPUTY DIRECTOR (LEGAL) ELEMENTARY & SECONDARY EDUCATION KHYBER PAKHTUNKHWA (RESPONDENT NO.1)



## BEFORE THE KHYBER PAKTUNKHWA SERVICE TRIBUNAL PESHAWAR Service Appeal No. 762/2024

#### Versus

- 1. Director Elementary and secondary education Khyber Pakhtunkhwa at Peshawar.
- 2. District Education officer (Male) Swat.

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..... Respondents.

#### AFFIDAVIT

I, Muhammad Riaz, District Education Officer (M) Swat, do hereby solemnly affirm and declare on oath on the directions and on the behalf of the Respondents that the contents of the comments are true and correct to the best of my knowledge and belief and nothing has been kept secret from this Honorable Tribunal. It is further stated on oath that in this appeal the answering respondent have neither been placed exparte nor their defense has been struck off/cost.

(MUHAMA

DISTRICT EDUCATION OFFICER (M) SWAT AT GULKADA (Respondent No. 2)

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OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) DISTRICT SWAT

Email: emisswat@gmail.com,

Phone No. 09469240228

## **AUTHORITY LETTER**

It is certified that Hussain Ali, Assistant District Education Officer (P&D) Male Swat, Elementary & Secondary Education Department is hereby authorized to submit para-wise comments and attend the Service Tribunal Peshawar on behalf of the respondents in Service Appeal No. 762/2024 Title Khalid Nawaz Vs Secretary E&SE Peshawar and DEO Male Swat on the eve of each hearing till the disposal of the instant case.

(MUHAM)

DISTRICT EDUCATION OFFICER (M) SWAT AT GULKADA (Respondent No. 2)

Annequive "A" UĠ ゆ ξ, OFFICE OF THE HEAD MASTER G.H.S CHANCHARAY DISTRICT SWAT 6-12-202 7.12.2023 NO Dated. 4

#### NON ARRIVAL CERTIFICATE SUBJECT.

#### MEMO:

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Reference subject noted above it is stated that Mr, Khalid Nawaz get earned leave with full pay from 20-09-2023 to 18-12-2023 three months. His leave completed up-to 17-12-2023 But he still remained absent from his duties and not joined his duty up-to date.



STER. ARAY CHANC Head Master, Govi: High School, Chanchary, Swal.



	OFFICE OF THE DISTRICT EDUCATION DISTRICT SWAT #: (0946) 9240228 Email: deomswat@gmail.com		6) 9240228	к В"	Ø
No	ムンしし_/P.File No.33 Khalld	Nawaz DM	Dated. 350 11.7	/202	3.
To,	,				

Mr.Khalid Nawaz S/O Amir Amanullah, DM Resident of Village Langar P.O Khwazakhela Tehsil Khwazakhela Swat Contact No 03439615696

Subject <u>CALL NOTICE.</u>

Memo;.

Reference letter from the Head Master GHS Chanchary vide his No. 195 dated

27-12-2023 that you are absent from duty w.e.f 19-12-023 without any prior permission

from the competent authority which is against the rules.

Therefore, you are directed to resume your duty within 15 days and attend this Office for personal hearing to elaborate the reasons of your willful absence, otherwise you will be dealt as per E&D rules 2011.

> (Muhammad Riaz) DISTRICT EDUCATION OFFICER (M) SWAT

Endst: No. 426)

\_\_\_\_/P.F-33/DM Copy forwarded to:-

/2023. Dated

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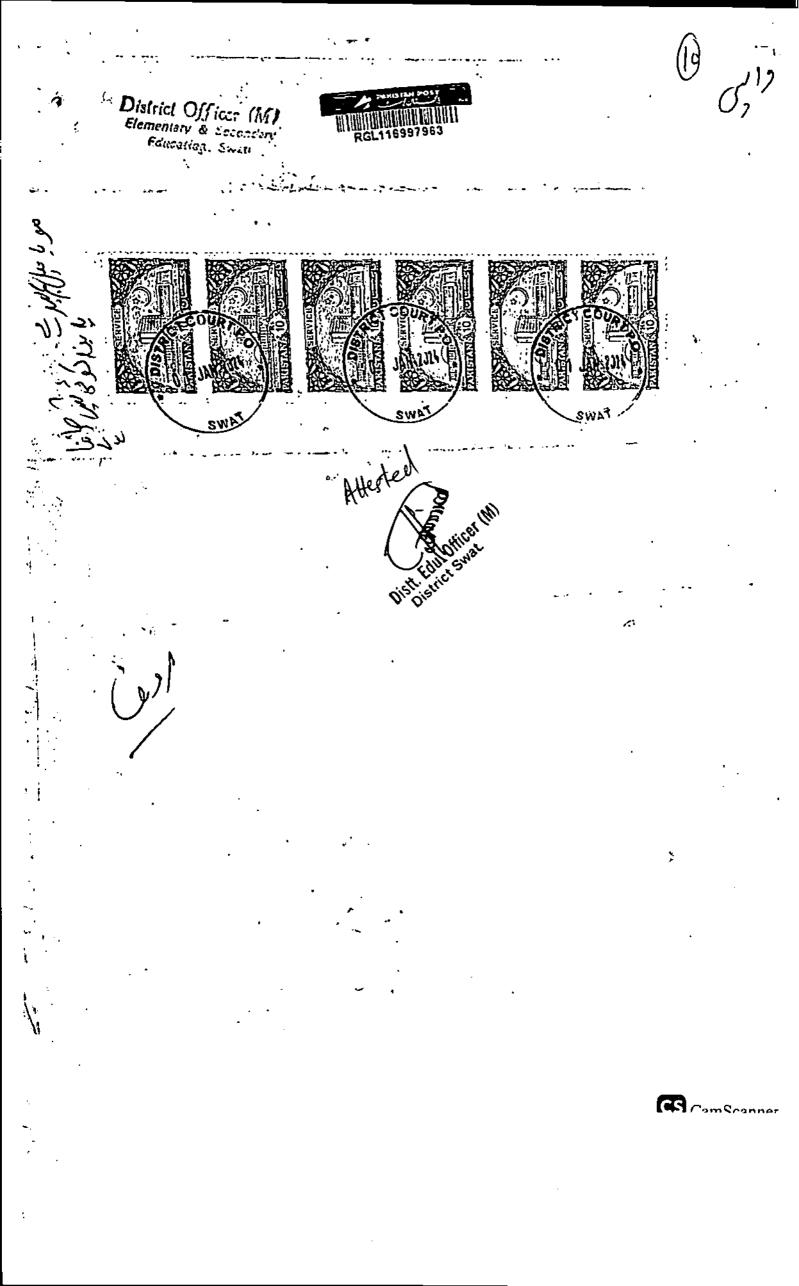
- 1- The Director of Elementary and Secondary Education Khyber Pukhtunkhwa, Peshawar.
- 2- The Head Master GHS Chanchary Swat w/r to his No.195 dated 27-12-2023 to serve the call notice, submit the call notice on his home address and sign from the concerned teacher and inform this office.
- 3- P.A to DEO(M) Swat local office.



DISTRICT EDUCATION OF ICER (M) SWAT

Re genterno OFFICE OF THE **DISTRICT EDUCATION OFFICER (MALE)** DISTRICT SWAT (0946) 9240228 #: (0946) 9240228 Web: www.sed.edu.pk Email: deomswat@gmail.com 260 /2023. Dated. 36 File No.33 Khalid Nawaz DM No Τe, Amir Amanullah, G. P. Tehsil Khwazakhela Swat *8*696 CALL NOTICE. Subject Reference letter from the Head Master GHS Chanchary vide his No. 195 dated Memo;. 27-12-2023 that you are absent from duty w.e.f 19-12-023 without any prior permission from the competent authority which is against the rules. Therefore, you are directed to resume your duty within 15 days and attend this Office for personal hearing to elaborate the reasons of your willful absence, otherwise you will be dealt as per E&D rules 2011. (Muhammad Riaz) DISTRICT EDUCATION OFFICER (M) SWAT /2023. Dated /P.F-33/DM Endst: No. Copy forwarded to:-1- The Director of Elementary and Secondary Education Khyber Pukhtunkhwa, Peshawar. 2- The Head Master GHS Chanchary Swat w/r to his No.195 dated 27-12-2023 to serve the call notice, submit the call notice on his home address and sign from the concerned teacher and Ĉ, Inform this office. 3- P.A to DEO(M) Swat local office. FICER (M) Attest DISTRICT EDUC 16:100 63 1 13 NY MING AND A .... CamScanner

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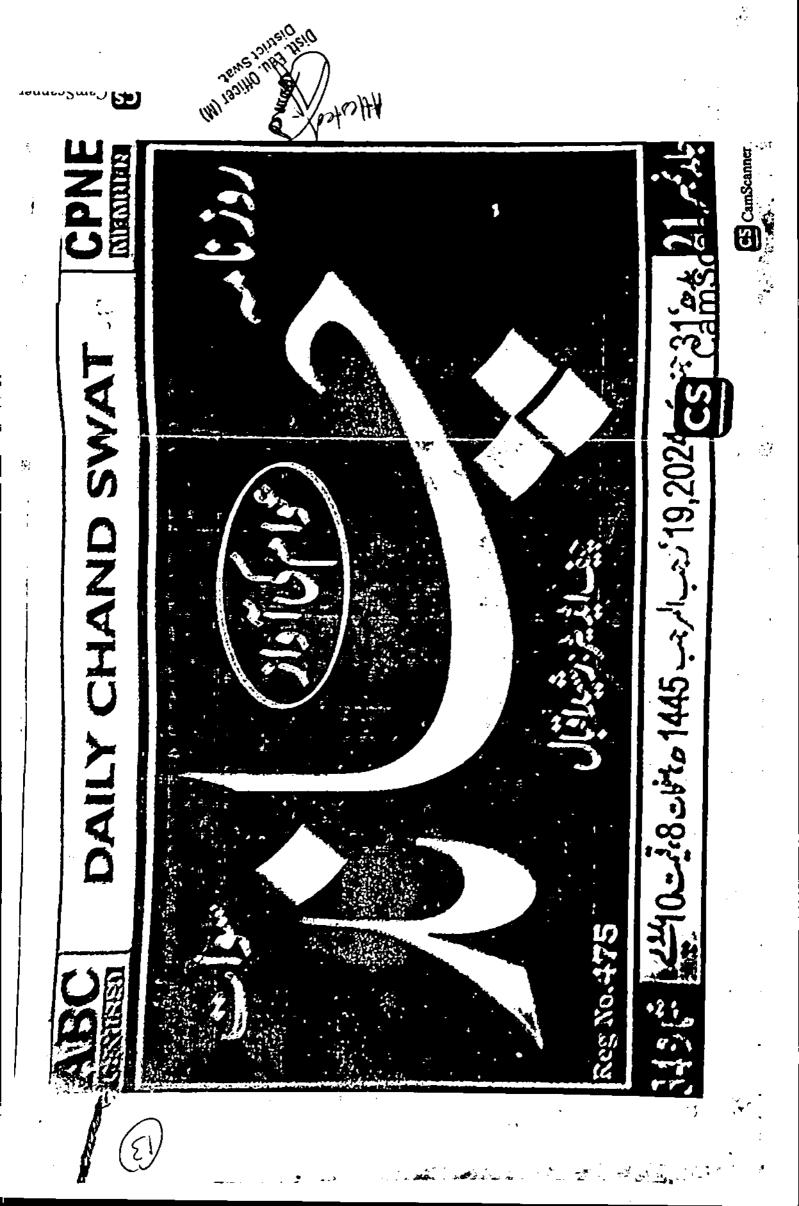
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برگاد آب مندرد ذیل اسما خده کرام ، جویر ظرک از بین تک ایلیمتر کادیکوشن طل سوات یو دیت محد قدار یخ بی مسل سرکاری دی قرب بغیر کی اطلاع بر فی مسل مرکاری دی قرب بغیر کی اطلاع بر فی مسل مرکاری دی قرب بغیر کی اطلاع بر فی مسل مرکاری دی قرب بغیر کی اطلاع بر فی مسل مرکاری دی قرب بغیر کی اطلاع بر فی مسل مرکاری دی قرب بغیر کی اطلاع بر فی مسل مرکاری دی قرب بغیر کی اطلاع بر فی مسل مرکاری دی قرب بغیر کی اطلاع بر فی مسل مرکاری دی تعمیر ما خبری کی بعد می ما تر می از مرکان مرکاری دی قرب بغیر کی اختر کی بعد ما خبری بخیر ما خبری کی اختر می مرکان مرکان می می تعمیر می می تو می که می مسل مرکاری دی قرب محد ما خبری کی معد می ما تر می ما ترک محد بغیر ما ترک کی مسل مرکاری دی قرب می می تو می من می مسل مرکاری اسل من محل مال آب این محد اندرا بی دیون مرکان مرکار می می که جرب مرک می داند اید در دیده شتباد معذا تو بی منطح کا می با تا اسم که می تولس کی اشا محت که بندور (15)، دن که اعدار می دور با می ادر زیر و تنظی که دو بوش بوکرای فی فیر ما شری ک دیگر آب کنالاف مو به خبیر پختونتوا ما زمت بر خاصان ای درار (2012) سکتن (4) (4) (5) کر تو تین بوکرای فی فیر ما سری کی در و بات کی دهار محد کری مرکاری ما زمان مات که بندور (15)، در می آن ایند دی دول می ماند (2012) سکتن (4) (5) کر تو تین بوکرای فیر ما سری کی در و با می در می تو تیم بخس آب کو دیگر آب کنالاف مو به خبیر پختونتوا ما زمت بر خاصی ای در از (2012) سکتن (4) (5) (5) کر تو تیکم در دان محل می اول جاس که در می تونی می می در در می تو تو تو می آب که در می در می تو بیش از می این می در می تو مرکاری ما زمت سری خاص می در می تول خول می که جاری می می در در در می در در در می می در در می می در در می می در اس

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	فيرما نثرب		13/12/2023	كور تمت ذل سكول كجوز مدسوات	
	آب 19 دم بر 2023 ب مسلس يغير مي أخلام	19-12-2023	لوش تبر 4266	2 - خالدنوازة ى امم	
TH	<i>کے قیر</i> ما نتر ب		30/12/2023	كوركمنت بالكاسكول فيتجر معدين سوات	ļ
Attest	آب 2021 مسلس بغير كمى الملار م	21-12-2023	تول <i>ى تبر</i> 1155	ن دارش لي الحرق	
, The	<u>ک فیرما نم ب</u>	•	ميرند 28/12/2023	مور نمنت باترى كول فاحل بالمردسة سوات	
District Officer (M)	آب 2023 بم 2023 ب مسلس بغركى المشارع	21-12-2023	ادلس تبر 1221	4_مرئان ئان لي الجري في	
Strict Offic	<u> </u>	•	عدنت 29-12-2023	مور فرمن برازر فی سکول اونی قمل مد سوات	
Swat Cer (MI	آبدالوبر 2023 مسلس بتمرك بلتارا	15-11-2023	لوش فيبر 893	ا ی مغرغان قاری	
~	<u> کے قبر مامر ب</u>	•	مريد 23-11-2023 مريد	السمور فينت بالي سكول ، ل كلي دوات	
	آ بِ 106 م 2023 ب ملسل بغر ک بنتائ	06-12-2023	لولس تبر 1635-	5.5 ch 200	
			9-1-2024 505	المرجعت بلي سَمَال كل بال سوات	
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ڈیوٹی سے غیر حاضری 30.11.2023		بىرىتارادرنام -شىشىرىلى لپارى نە كورنىن لەل
19.12.2023	مورخه 13.12.2023 نونس مبر 4266	کول بکوژمته موات - خالد نواز ڈی ایم کو رخمنٹ ہا کی براحیہ
21.12.2023	مورخه 13.12.2023 نونس نمبر 4155	کول چیخرے مدین سوات ۔ابرارعلی پی الیس ٹی گورنمنٹ پر
· · 21.12.2023	مورنته 28.12.2023 نوش نمبر 4221	ىرى سكول فاقتل بانڈ دمايسوات يحرفان حان بي ايس في گورنمنٹ
15.11.2023	مورخه29.12.2023 نوس نبر893	انمری سکول اونی کمل مد سوات السفر خان قاری کو رنمنٹ ہائی
06.12.2023	مورند, 23.11.2023 نونس نبر 4635	ول ٹال کمل موات محرشفیق جو نیز کلرک کور نمنٹ ہائی رک کل بار من موات
	ز بوئی <i>نے غیر</i> حاضری 30.11.2023 19.12.2023 21.12.2023 21.12.2023 15.11.2023	ندش نمبر 1770 13.12.2023 13.12.2023 19.12.2023 13.12.2023 13.12.2023 13.12.2023 13.12.2023 13.12.2023 13.12.2023 13.12.2023 15.11.2023 15.11.2023 15.11.2023 15.11.2023 15.11.2023 15.11.2023 15.11.2023

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To: -

The District Education Officer (M),

Saidu Sharif Swat.

Subject: - APPLICTION FOR EARNED LEAVE w.e.f 20.09.2023 to 19.12.2023 (3 Months)

#### Respectfully,

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With reference to the subject cited above, it is humbly requested that I have been serving as D.M post BPS -15 at Govt High School Chanchary District Swat since 01.6.2016 up to date. I have been performing my duty regularly and diligently. I build a house for myself at Village Langar Khwaza Khela P.O & Tehsil Khwaza Khela District Swat due to old house is congested and large family is residence in the old home, therefore I cannot attend my duty regularly. With utmost respect,

I would be highly obliged if you kindly grant me leave with pay w.e.f 20.09.2023 to 19.12.2023,

(90 days) as with pay (PERIOD OF LEAVE THREE MONTH)

I Shall remain very thankful to you of this act of kindness.

Enclose: (1) Application (2) CNIC (3) Payroll Copy (4) Leave Account Form. (5) 1<sup>et</sup> Appointment Order

Head Master, Govt: High School, Chanchary, Swat.



Yours obediently

(KHALID NAWAZ) 単化 ン D.M BPS -15 GHS CHANCHARY DISTRICT SWAT

A354802 متكم محك خالدنواز ولداميرامان اللدساكن تترجميل خوازه حيله ضلع موات كابول حلفيه بيان ويتابول كمن محلف تحكمه ايجوكيش يس بحيثيت DM بمقام GHS باء جا في من ذيو في مرانجام درد بابول من محلف مکان تعمیر کرنا جا ہتا ہوں۔ جس کیلئے من محلف کوتین میننے کی چھٹی کی ضرورت ہے۔ من محلف چھٹی کے دوران بیرون ملک نہیں جادنگا۔ادراب دطن پاکستان میں رہونگا۔ یہی میر احلفیہ بیان ہے جو کہ بلکل صحح ادر درست بالمبداييان على بداستدا تحرير ب-مورد 17.09.2023 Attested قراه رام المرام حينها ولد فكل مشاه خالدنواز ولدامير الان اللدساكن أنكر يخصيل خوازه خيله كاؤد المكمر يحتيم والكطره NIC # 15602-2276654-7 DM كورتمنت بالم سكول بيلاجا ور SWO تعاه و، إفضل ستاه طرخ با 15601-2596488-3 موباكُل ثمبر03439615696 المرد المرحقل وارهط NIC# 15602-2408172-5 M Head Master. Govt: High School, ate Dath Commission) Chanchary, Swat. C. . Dale. /. 6/6 Med Land Fred **æ** 7

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Annexure Office of the director / ibms Ederal investigation agency headquarters

ISLAMABAD Tel: 051-9107219 Fax: 051-9262376

NU. FIA/IB/IS/Education/Query/ 14J7

Dated: 16 April 2024

#### SUBJECT: PROVISION OF TRAVEL HISTORY.

Please refer to your letter No.9253/P.F#33 Khalid Nawaz DM dated 03-04-2024 and

Dir/Dairy No. 1952 dated 09-04-2024 regarding travel information of following CNIC.

CNIC No: 1560125964883

As per PISCES / IBMS database, travel history against CNIC mentioned above is found

in System. R11 form is attached for ready reference.

This is a system generated information based upon given particulars



ting Assis epo D , Islamabad

District Education Officer Male Swat Ph#0946-9240228

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<b>.</b>	TRAVEL HISTORY FOUND ON:	156012596<883				1052 00 04 24	•
	Repared By. DEO Male Swat Letter Number: 9253/PF#33 Kh	alid Nawaz NM		EDUCATION 03-Apr-2024		1952 09-04-24 16-Apr-2024	
	TRAVELER'S CNIC/NIC		· ···· · ··· · · · · · · · · · · · · ·			یک <del>کارتیا در ایر معرف کار ایر ایر ایر</del> مورد	
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	PERSONAL INFORMATION:				· · · · · · · · · · · · · · · · · · ·		
	NAME	KHALID NAWAZ			BIRTH DATE 01		
	FATHER/HUSBAND NAME	AMIR AMANULLAH			NATIONALITY Pat	dslan	<b>_</b>
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