

BEFORE THE KHYBER PAKHTUNKHWA

SERVICE TRIBUNAL PESHAWAR

CM. No 1240/2024

in

Service Appeal No. 548/2024

1. Director E&SE Dept. Peshawar
2. DEO (M) Swabi

.....(Applicants)

VERSUS

Shaukat Hayat CT BPS-15,
GHS Bazargai, District Swabi


..... (Respondent)

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Date: 16-10-24

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District Education Officer
Male Swabi

BEFORE THE KHYBER PAKHTUNKHWA

SERVICE TRIBUNAL PESHAWAR

CM. No 1240/2024

in

Service Appeal No.548/2024

Khyber Pakhtunkhwa
Service Tribunal

Entry No. 16919

Dated 17-10-24

1. Director E&SE Dept. Peshawar
2. DEO (M) Swabi

..... (Applicants)

VERSUS

Shaukat Hayat CT BPS-15,
GHS Bazargai, District Swabi

..... (Respondent)

**APPLICATION FOR SETTING ASIDE PROCEEDING AGAINST THE ABOVE MENTIONED
APPLICANT VIDE ORDER DATED 07.06.2024**

Respectfully Sheweth:

1. That the above titled appeal was fixed before the Honourable Tribunal on 07.06.2024 for submission of Written reply/ Para-wise comments.
2. That the Honourable Tribunal ordered against the above mentioned applicant as ex-parte on the right of applicant on filling the para-wise comments.
3. That feeling aggrieved the applicants seek right for setting aside ex-parte proceeding to file para-wise comments on the following grounds:

GROUNDS:

- A. That the valuable right of the department/ applicants is involved with the instant service appeal.

- B. That the application is within time and there is nothing dis-obedience on part of the applicants.
- C. That on the very same day on which the applicants were proceeded ex-parte, the para-wise comments were ready to file. The delay was caused due to proper submission of attested copies of the said comments.
- D. That there is no legal bar in acceptance of the application in hand.
- E. That according to the rules of natural justice no one can be condemned unheard.
- F. That the filing of para-wise comments is very necessary for the just and proper disposal of the above Service Appeal.


It is, therefore, most respectfully prayed that on acceptance of this application the ex-parte proceedings against the applicants may be set aside and right to file para-wise comments may kindly be restored please.

Dated: 17.10.2024


(MIDRAR ULLAH)
DEO (M) SWABI
E&SE DEPARTMENT KP.

Affidavit

I, Midrar Ullah, DEO (M) Swabi do hereby solemnly affirm and declare on oath that the contents of the application submitted by the respondents are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Honourable Tribunal.


District Education Officer
Male Swabi



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

PESHAWAR

SHB
APPEAL No. 548 /2024



Mr. Shoukat Hayat, CT BPS-15,
GHS Bazargai, District Swabi

.....APPELLANT

VERSUS

1. The Director Elementary and Secondary Education Department, Khyber Pakhtunkhwa, Peshawar.
2. The District Education Officer, District Swabi

.....RESPONDENT

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE INACTION OF THE RESPONDENT BY NOT GRANTING/ALLOWING PAY PROTECTION/FIXATION TO THE APPELLANT W.E.F. 21/03/2015 I.E. FROM THE DATE OF INITIAL/FIRST APPOINTMENT AND AGAINST THE INACTION OF THE RESPONDED BY NOT DECIDING THE DEPARTMENTAL APPEAL OF THE APPELLANT WITH IN THE STATUTORY PERIOD OF NINETY DAYS.

PRAYER:

That on acceptance of this appeal the appellant may kindly be allowed/granted pay fixation w.e.f. 21/03/2015 i.e. from the date of initial/first appointment with all back benefits. Any other remedy which this august Service Tribunal deems fit that may also be awarded in favor of the appellant.

R/SHEWETH:

ON FACTS:-

Brief facts giving rise to the present appeal are as under:

- 1- That the appellant was initially appointed as CT (BPS-16) vide order dated 21/03/2015 after fulfilling all the codal formalities, and since appointment the appellant performing his duty quiet efficiently and to the entire satisfaction of their high ups. Copy of appointment order is attached as Annexure..... A
- 2- That it is important to mention here that during service of the appellant on the post of CT (BPS-15), the respondent again advertised the post of CT (BPS-15), whereby the appellant

ATTESTED
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar
11-9-24

A. No: 548/2024
Shoukat Hayat

(9)



16.05.2024

1. Learned counsel for the appellant present.
2. Notice has not been issued to the respondent due to non-depositing of TCS expenses, therefore appellant is directed to deposit TCS expenses within three days. Thereafter notice be issued to the respondent for submission of reply/comments. Adjourned. To come up for reply/comments on 07.06.2024 before S.B. P.P given to the ~~names~~ learned counsel.

(Muhammad Akbar Khan)
Member (E)

kouram

7th June. 2024

1. Junior to counsel for the appellant and Mr. Arshad Azam, Assistant Advocate General present.
2. Despite service, nobody is present on behalf of the respondents nor reply has been submitted. Therefore, respondents are placed ex-parte. To come up for arguments on 11.09.2024 before D.B. P.P given to the appellant's junior counsel.

Mutazem, Shah

ATTESTED
11-9-24
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

(Kalim Arshad Khan)
Chairman

Date of Presentation of Application 11-9-24
Number of Words Page 22
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Urgent 5/-
Total 15/-
Name of Copyist Shahid
Date of Completion of Copy 11-9-24
Date of Delivery of Copy 11-9-24



11.09.2024 01. Learned counsel for the appellant present. Mr. Asif Masood Ali Shah, Deputy District Attorney alongwith Syed Alamzaib Shah, ADEO for the respondents present.

02. Learned counsel for the appellant requested for adjournment in order to prepare the brief. Granted. To come up for arguments on 18.10.2024 before the D.B. Parcha Peshi given to the parties.

ATTESTED
 EXAMINER
 Khyber Pakhtunkhwa
 Service Tribunal
 Peshawar
 02-10-2024

(Fareeha Paul)
 Member (E)

(Aurangzeb Khattak)
 Member (J)

Fazle Suthan, P.S

Date of Presentation of Application	<u>11-09-2024</u>
Number of Words	<u>1-P</u>
Copying Fee	<u>5/-</u>
Urgent	<u>5/-</u>
Total	<u>5/-</u>
Name of Counsel	<u>[Signature]</u>
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Date of Delivery of Brief	<u>02-10-2024</u>