

**BEFORE THE HONORABLE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR**

SERVICE APPEAL No.1024/2024

**Mr. Rasool Bayan, PST (BPS-12) Government Primary Noor
Khan Kot, Tribal District North Waziristan.**

.....Appellant


Versus

**The Director Elementary & Secondary Education Khyber Pakhtunkhwa
Peshawar & others**

...Respondents

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Dated: 31 / 10 / 2024.


DILAWAR KHAN
District Education Officer,
(Male) North Waziristan
(Respondent No:2)

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...Respondents

**JOINT PARAWISE COMMENTS ON BEHALF OF RESPONDENTS No: 1,
& 2.**

Respectfully Sheweth:-

The Respondents submit as under:-

Khyber Pakhtunkhwa
Service Tribunal

No. 17480

Dated 01-11-24

Preliminary Objections.

1. That the Appellant has got no cause of action/locus standi.
2. That the instant Service Appeal is badly time barred.
3. That the Appellant has concealed material facts from this Honorable Tribunal in the instant service appeal.
4. That the instant Service Appeal is based on mala-fide intentions.
5. That the Appellant has not come to this Honorable Tribunal with clean hands.
6. That the Appellant is not entitled for the relief he has sought from this Honorable Tribunal.
7. That the instant Service Appeal is against the prevailing law & rules.
8. That the instant Appeal is based on mala fide intentions just to put extra pressure on the Respondents for gaining illegal service benefits.
9. That the instant Service Appeal is not maintainable in its present form.
10. That the Appellant has logged the instant Appeal to waste the precious time of the respondents.
11. That the case of the Appellant is devoid of merit and having no legal force hence liable to set-aside.

ON FACTS:

1. **Incorrect and denied**, on the grounds that no record exists in the office of the competent authority indicating that the appellant was appointed under No. 11708-14, dated 23-04-2012, as a Primary School Teacher (PST). Therefore, the alleged appointment order dated 23-04-2012, as claimed by the appellant, is false, fraudulent, and baseless, resulting in factual controversy. No such order has been issued, and the appellant has never performed duties as a PST in any school within the district.
2. **Incorrect and misleading**. The appellant was never an employee of the District Education office North Waziristan, at any point of time. Therefore, the claim of termination and subsequent Reinstatement, as stated in the Para is entirely baseless and false. Furthermore, the alleged reinstatement order dated 18-01-2021 is fabricated, fake, and bogus. No such order was ever issued by the competent authority and appellant's assertion/contention for claiming said order as genuine is just to mislead the Honorable Tribunal.
3. **Incorrect and strongly denied**. The appellant never appointed by the District Edition Office North Waziristan. Consequently, claim of the appellant for the so called appointment as PST and subsequent based on mockery and misguided the Honorable Tribunal. it is apprised that the appellant has not produced/annexed the following record/documents with the Service appeal for which the burden of proof lies upon the shoulders of the Appellant under the mandatory provision of Article-117 of the Qanoon-e-Shahadat Act, 1984, which reflects the mala fide intentions on the part of the so-called official concerned:
 - I. Re- instatement order/Notification of the Directorate E&SE KP Peshawar.
 - II. Copy of the charge/arrival report in response to the fake & bogus Reinstatement order dated 14-2-2019 under the signature of the authority concerned.
 - III. Verified attendance report in the attendance register concerned.
 - IV. Duty certificate from the Head Teacher, ASDEO circle or SDEO concerned.
 - V. Copy of the Service Book concerned.

- VI. Copy of Pay Rolls where under the Respondent has drawn his monthly salary against the said post from the District Accounts Officer North Waziristan.
4. **Incorrect and denied.** As stated in the preceding paras that this department has never appointed the appellant and he has never performed his duties anywhere at any school as reported by the concerned SDEO and is evident from the attendance register of the school. (**Annexure A** ~~872~~)
 5. **Incorrect and denied,** the appellant has never filed a departmental appeal as per law, rules and policy and as per section-4 of the Services Tribunal Act 1974 which is mandatory before filing an appeal in this Honorable Tribunal.
 6. That the appellant is not an aggrieved person within the meaning of Section-4 of Khyber Pakhtunkhwa Service Tribunal Act 1974, has filed the titled appeal on mala fide intentions to legitimize/legalized a fake, forged & bogus appointment order & subsequent drawl of salaries, hence, hence the appeal of the appellant is liable to be dismissed on the following grounds inter alia: -

GROUND.

- A. **Incorrect & not admitted.** As stated in the preceding Para's that the claim of the appellant is false, freulace and baseless which is making his case a case of factual controversies as no such order has been issued and he never performed his duty as PST in any school anywhere in the district for further clarification Para 4 on facts is referred as ready reference.
- B. **Incorrect & not admitted.** As this department has never violated any article of the Constitution of 1973 but in fact it is to follow law, rules and policy.
- C. **Incorrect & not admitted.** See Para 4 on facts.
- D. **Incorrect & not admitted.** This department cannot even think to violate any article of the Constitution of 1973.
- E. **Incorrect & not admitted.** As stated in the preceding paras that this department never issued such orders, then no question of performance of duty can arise in respect of the appellant and hence he did not perform his duty where the principle is "no work no pay".
- F. **Incorrect & not admitted.** The appellant has never performed any duty as he was not appointed by this office and his claim is totally baseless concerning his appointment and his self-maintained attendance register which is again the matter of factual controversy.

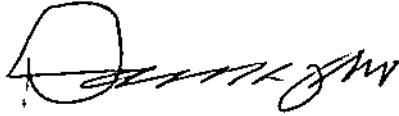
G. Incorrect & not admitted. See para 4 on facts.

H. Related to the appellant and his counsel. However, the Respondents also seek leave of this Honorable Tribunal to submit additional grounds, record & case law at the time of arguments on the date of hearing.

PRAYER:

It is most humbly prayed that the Appeal of the Appellant may very graciously be dismissed as it is baseless and is out of any legal footing on the ground of fake, bogus and the so called appointment order.

**SAMINA ALTAF
DIRECTOR**



**AUTHORIZED OFFICER
ABDUS SAMAD
DEPUTY DIRECTOR
E&SE Khyber
Pakhtunkhwa, Peshawar.
(Respondent No: 1)**



**DILAWAR KHAN
District Education Officer,
(Male) North Waziristan
(Respondent No:2)**


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**OFFICE OF THE DISTRICT EDUCATION OFFICER
MALE NORTH WAZIRISTAN**

AUTHORITY

Certified that Basees Ullah Khan
SDO/Litigation of this office is hereby authorized to submit
Para wise comments in the KP Service Tribunal Peshawar
in S.A No: 1024/2024 in connection with case title Rasool
Bayan VS Government of KPK on behalf of the
undersigned.'


DILAWAR KHAN
District Education Officer,
(Male) North Waziristan
(Respondent No:2)

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.....Appellant

Versus

**The Director Elementary & Secondary Education Khyber
Pakhtunkhwa Peshawar & others**

...Respondents

AFFIDAVIT

I Mr. Dilawar Khan District Education Officer (M) North
Waziristan do here by Certify that all the contents of these Para
wise comments are true & correct to the best of my knowledge and
nothing has been concealed from this Honourable Court. *It is further
stated on oath the owing department have neither stated
have been ex-parte nor their defence has been struck off
also no cost is imposed.*



[Signature]
DILAWAR KHAN
District Education Officer,
(Male) North Waziristan
(Respondent No:2)

OFFICE OF THE SUB DIVISION EDUCATION OFFICER (MALE)
MIRANSHAH TRIBAL DISTRICT NORTH WAZIRISTAN

Endor No. 478.

Dated:- 31 / 10 / 2024

DUTY CERTIFICATE

It is certified that Mr. Rasool Bayan S/O Shahpol Khan has never performed his duty as PST or what so ever at Government Primary Noor Khan Kot, Tribal District North Waziristan. Moreover, no such appointment order concerning of the above mentioned person is available in the record of this office as well as the school concerned.



SDEO

MIRAN SHAH NWTD
Sub-Divisional Officer
Miran Shah (Male) NWTD

OFFICE OF THE SUB DIVISION EDUCATION OFFICER (MALE)
MIRANSHAH TRIBAL DISTRICT NORTH WAZIRISTAN

Handwritten signature and stamp at the bottom of the page.

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