

(47)

**BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA**  
**SERVICETRIBUNAL PESHAWAR**

**Service Appeal No. 1656/2023**

Muhammad Ayaz Khan .....Appellant

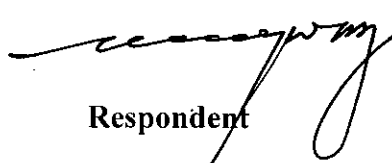
**VERSUS**

Govt. of Khyber Pakhtunkhwa through Secretary E&SE and  
others.....Respondents

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/



Respondent

(48)

(1)

**BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA**  
**SERVICETRIBUNAL PESHAWAR**

**Service Appeal No. 1656/2023**

**Muhammad Ayaz Khan .....Appellant**

**VERSUS**

**Govt. of Khyber Pakhtunkhwa through Secretary E&SE and  
others.....Respondents**

**Para-wise comments /Reply on behalf of  
Respondents NO. 1 to 3**

**Respectfully Sheweth:**

**Preliminary Objections**

1. That the appellant has no cause of action/locus standi to file the present appeal.
2. That the appellant has concealed the material facts from this Honorable Court.
3. That the appellant has not come to this Honorable Court with clean hands.
4. That the appellant has filed the instant appeal on malafide grounds just to put pressure on respondent department.
5. That the appellant's Appeal is against the prevailing rules and law and terms and conditions of his appointment.
6. That the appellant is estopped by his own conduct to file the instant appeal.
7. That the instant appeal is not maintainable in its present form and also in the present circumstances of the issue and also badly barred by time.
8. That the appellant remained absent willfully for a period of three years from his duties without getting sanctioned leave from the competent authority, hence the instant appeal is liable to be dismissed/ without any further proceeding.

9. That the appeal is time barred, hence liable to be dismissed without any further proceeding.

**ON FACTS**

1. Para No. 1 of the appeal needs no comments pertaining to the appointment of the appellant.
2. In reply to Para No.2 the appellant was duty bound to perform his duties as he was getting salary for it from the government treasury.
3. Para No.3 of the appeal of the appellant is correct to the extent that the appellant applied for leave from 15-11-2011 to 30-09-2012 which was also sanctioned, however on expiration of his sanctioned leave the appellant did not join his duty.
4. Para No.4 of the appeal is incorrect and denied, the appellant did not joint duty nor submitted any application for his re-adjustment to the competent authority, the applications annexed by the appellant with his appeal, as annexure "C, D & E", are having no dairy dispatch Number and not matching with office record, hence these application have no legal sanctity in the eyes of law.
5. In reply to Para No.5 the appellant has been removed from service upon his willful absence from his duty from 01-10-2012 till the removal from service. Respondents served show cause notices to the appellant and a fare chance of personal hearing was provided to him. The appellant failed to reply the show cause notices and failed before the competent authority. Show

cause notice issued vide No. 1420 dated 19-09-2014 while personal hearing vide No 1756-66 dated 04-12-2014 Moreover the competent authority had finally issued show cause notice published in the Daily AAJ Abbottabad dated 07-12-2014. But the appellant failed to appear before the competent authority within stipulated period of time and also not submitted his reply appellant was removed from his service bearing Notification No. 1310-16 dated 26.03.2015. (Copies of Show Cause Notices, Show Cause published in news paper and final order are annexed as *Annexure "A, B, C & D"*).

- 6. Para No.6 of the appeal is in-correct hence denied. The appellant did not submit any application/ department appeal on 18-06-2015. However the appellant submitted an application / departmental appeal on dated 28-02-2022 vide dairy No.461 to the DEO (Male) Battagram which was rejected after proper inquiry of the case. (Copies of application dated 28-02-2022, Inquiry report and copy of rejection are annexed as *Annexure "E, F & G"*).
- 7. Appellant has no cause of action/locus standi to file instant appeal.

**ON GROUNDS:**

- A. Ground "A" of the appeal is incorrect. Hence denied. The impugned order dated 26-03-2015 and 05-07-2022 has been passed after fulfilling codal formalities. Details reply is given in the preceding para.

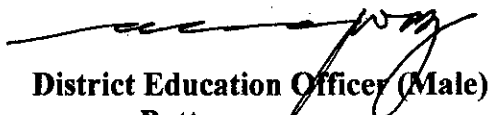
- B. Ground "C" of the appeal is incorrect, hence denied. Detail reply has been given in the preceding paras.
- F. Ground "F" of the appeal is incorrect. hence denied. Detail reply is given in the preceding paras.
- G. Ground "G" of the appeal is incorrect, hence denied. As replied in the above paras.
- H. Ground "H" of the appeal is incorrect, hence denied. Appellant case was dealt in accordance with rules/laws of the department as replied in the above paras.
- I. Ground "I: of the appeal is incorrect. hence denied. The proper inquiry has been conducted against the appellant and faire opportunity of the defense has been provided to the appellant, which he failed to defend himself.
- J. The Appellant has no cause of action. The respondents also seek gracious permission of this honorable court to raise other legal and factual grounds during the course of arguments

It is therefore humbly prayed that on acceptance of above Para-wise comments, the appeal of the appellant may graciously be dismissed with cost and direction to the appellant to deposit the amount into Govt. treasury received by him as salaries unlawfully.

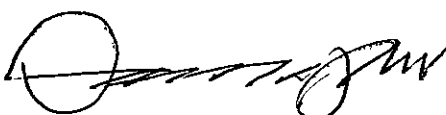
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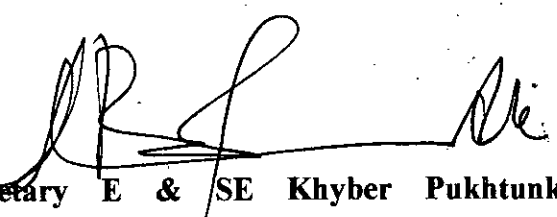
**RESPONDENT NO. 2**

  
**District Education Officer (Male)**  
**Battagram**

**RESPONDENT NO. 3**

  
**Director E& SE Khyber Pukhtunkhwa**  
**Peshawar**

**RESPONDENT NO. 1**

  
**Secretary E & SE Khyber Pukhtunkhwa**  
**Peshawar**

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**BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA**

**SERVICETRIBUNAL PESHAWAR**

**Service Appeal No. 1656/2023**

**Muhammad Ayaz Khan .....Appellant**

**VERSUS**

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others.....Respondents**

**AFFIDAVIT**

I Hafiz Muhammad Nawaz Abbasi District Education officer (Male) Battagram do hereby affirm and declare that contents of accompanying **Para-wise comments** on behalf of respondent NO. 1 to 3 are true and correct to the best of my knowledge and belief that nothing has been concealed from this Honorable Court.



30/3/23

DEPENDENT  
CNIC: 61101883953

(54)

Annex A  
2

OFFICE OF THE P# 07  
SUB: DIVISIONAL EDUCATION,  
OFFICER (MALE) BATTAGRAM.  
NO. 1420 DATED 19-9-2014

To,

1. Mr. Miraj Khalid, PST:GPS:Kalota.
2. Mr. Muhammad Saleem, PST:GPS:Nerai.
3. Mr. Muhammad Imlaq, Chowk:GPS:Peshora.
4. Mr. Muhammad Ayyaz, PST:GPS:Gantar.
5. Mr. Sudheer Muhammad, PST:GPS:Barmai.
6. Mr. Ghulam Yousef, PST:GPS:Dhoodpati.
7. Mr. Muhammad Irshad PST:GPS:Suba Dhery.
8. Mr. Parvez Khan, PST:GPS:Beran Gantar.

Sub: SHOWCAUSE NOTICE:

Men:

The above named Officials were on Earned leave/Leave with out pay but no extention has accorded uptilnow without any reason. You are hereby called Showcause Notice to attend the office of the undersigned with in 7 days of the receipt of this letter, failing which stricktly action will be taken against non compliance officials under the E&D, rules. Your reply along with your own CNIC must be reached before the ending of current month otherwise all the responsibilities will be on your shoulders.

*(Signature)*  
(AKHITAR MAHJAB)  
SUB: DIVISIONAL EDUCATION  
OFFICER (MALE) BATTAGRAM.

Endst: No. 1421-~~2~~

Copy to:-

1. District Education Officer (M) E&SE, Battagram.
2. SDEO (Male) Allai.
3. District Accounts Officer Battagram.
- 4-8 ASDEO Concerned with the remarks to informed the above named absent officials & physically visit the School for verification & factual position & complete detail report may be furnished to the undersigned with in the stipulated period positively.

*(Signature)*  
SUB: DIVISIONAL EDUCATION  
OFFICER (MALE) BATTAGRAM.







روشنی کی منات آج کا نصب العین

# ج

روزنامہ

ایڈیٹر  
عبدالواحد یوسفی

لیٹ آف  
پاکستان

صفحہ 32

جلد 19 اتوار 07 دسمبر 2014ء صفر المظفر 1436ھ قیمت 12 روپے شماره نمبر 46

07-04

### آخری نوٹس اظہار وجوہ

آپ درج ذیل ملازمین محمد یوسف علی، ایجوکیشن ضلع بگرام کو اس آخری نوٹس اظہار وجوہ کے ذریعے مطلع کیا جاتا ہے کہ آپ نے طویل رخصت استحقاق حاصل کی تھی جس کی معیار درج ذیل تاریخوں کے مطابق پہلے ہی ختم ہو چکی ہے اس معاملے سے آپ کو اس سے قبل دو نوٹس پہلے ہی جاری کیے جا چکے ہیں چنانچہ جواب آپ نے دانستہ طور پر یا نادانستہ نہیں دیا آپ کو اس نوٹس کے ذریعے اطلاع دی جاتی ہے کہ اگر چند روزہ ایجنسی ڈیوٹی پر حاضر ہو کر اپنی غیر حاضری کی مستعمل وجہ تائیں بصورت دیگر آپ کے خلاف کیٹرز کارروائی کی جائے گی جس میں آپ کو ملازمت سے برخواستگی کیا جاسکتا ہے

نمبر شمار	نام ملازم	عہدہ	سکول کا پتہ	رخصت ختم ہونے کی تاریخ
1	میراج خالد	پی ایس ٹی	جی پی ایس لالہ پٹیلہ	31.3.2014
2	محمد آریز	پی ایس ٹی	جی پی ایس بیرون گٹو	30.9.2012
3	نظام یوسف	پی ایس ٹی	جی پی ایس دودھ پٹے	عمدہ دراز سے غیر حاضر ہیں
4	محمد سلیم	پی ایس ٹی	جی پی ایس بیڑے	31.7.2013
5	سید رحیم	پی ایس ٹی	جی پی ایس ایٹلے شاروم	31.7.2013
6	محمد ارشد	پی ایس ٹی	جی ایم پی ایس صوبہ میری	عمدہ دراز سے غیر حاضر ہیں
7	پرویز خان	پی ایس ٹی	جی پی ایس بیرون گٹو	عمدہ دراز سے غیر حاضر ہیں
8	عبدالملک	پی ایس ٹی	جی ایم پی ایس قبولہ	عمدہ دراز سے غیر حاضر ہیں
9	الفاق	چوکیدار	جی پی ایس پشتوڑہ	31.12.2013

اسٹیشنر ڈسٹرکٹ ایجوکیشن آفیسر (مردان) بگرام ضلع بگرام

Enclst: No 1792 Dated 9-12-2014  
 Forwarded to The DEO (Male) EYSE, Battagram  
 with the remarks that N/Action / Guide line or  
 approval for further process may kindly be  
 accorded. Please.

*[Signature]*  
 Sub. Div. Edn Officer  
 Male, Battagram

*[Signature]*  
 DIVISIONAL EDUCATION,  
 OFFICER (M/LE) BATTAGRAM



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Annex-D  
P#10



# OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE)

Email: [emisbattagram@yahoo.com](mailto:emisbattagram@yahoo.com) **BATTAGRAM**

Phone # 0997311430 & 0997310

## REMOVAL FROM SERVICE:-

1. Whereas this office served two show cause notices at your home address directing you to submitted reply of the absence vide this office endst: No 1420 dated 19.09.2014 and 1757-66 dated 04.12.2014 respectively.
2. Whereas you were finally issued show cause notice published in the Daily AAJ Abbottabad dated 7<sup>th</sup> Dec: 2014 with direction to appear before the competent authority for submission of reply of your absence from duty within 15 days positively otherwise disciplinary action will be initiated under the relevant section E&D Rules 2011.
3. Whereas you failed to appear before the competent authority within stipulated period and nor submit your reply.
4. Whereas I as competent authority under rule-4(b) Khyber pakhtonkwa Govt: servants (Efficiency & discipline) Rules, 2011, has been pleased to impose upon you major penalty of "REMOVAL FROM SERVICE" with effect from the date mention against each.

S.#	Name of teacher	Name of School	Absent from
1.	Mehraj Khalid PST ✓	GPS. Mala Bateela	01.04.2014
2.	Muhammad Ayyaz PST ✓	GPS. Beran Ganther	01.10.2012 ✓
3.	Muhammad Saleem PST ✓	GPS. Nerai	01.08.2013
4.	Sudeer Muhammad PST ✓	GPS. Ajlay Sharoom	01.08.2013
5.	Muhammad Irshad PST ✓	GPS. Soba Dheri	01.07.2014
6.	Pervez Khan PST ✓	GPS. Beran	Since Long.
7.	Abdul Malik PST ✓	GPS. Qaboola	20 <sup>th</sup> Nov 2014

MUHAMMAD SHAIKAT,  
DISTRICT EDUCATION OFFICER(MALE)  
BATTAGRAM.

Endst: No 1310-16 /Dated 26/3 /2015

Copy forwarded to the:-

1. Director E&SE Khyber Pakhtunkhwa Peshawar.
2. Deputy Commissioner Battagram.
3. District Monitoring Officer IMU Battagram
4. P/S to Secretary to Govt: of Khyber Pakhtunkhwa E&SE Deptt: Peshawar
5. Sub Divisional Education Officer Battagram.
6. District Accounts Officer Battagram.
7. Officials concerned.

Shahab Sajeed Est Dpy

DEPUTY DISTRICT EDUCATION OFFICER  
(MALE) BATTAGRAM



## جناب جناب ڈسٹرکٹ ایجوکیشن آفیسر صاحب (مردانہ) ضلع بنگرام

### درخواست برائے بحالی سروس از سائل بطور PST

- جناب عالی! درخواست ذیل عرض ہے۔
- 1- یہ کہ سائل محکمہ تعلیم میں سال 1997ء بطور PST تعینات تھے اور اپنی ڈیوٹی با احسن اور ایمانداری سے ادا کرتے چلے آ رہے تھے۔
  - 2- یہ کہ سائل نے مورخہ 15.11.2011 سے مورخہ 30.09.2012 بد قسمتی سے تعمیر مکان کیلئے رخصت لے لی تھی۔ جس پر رخصت طویل برائے مدت ایک سال منظور ہو چکی تھی۔
  - 3- یہ کہ اس کے بعد سائل نے مورخہ 27.09.2012 کو دوبارہ ایڈجسٹمنٹ کیلئے متعلقہ آفس میں کئی درخواستیں دی چکا ہے۔
  - 4- یہ کہ سائل کو دھوکہ دہی اور ٹال مٹول کر کے سائل کو سروس سے معطل کیا گیا جو کہ ظلم اور نا انصافی کا ثبوت ہے۔
  - 5- یہ کہ سائل نے متعدد بار درخواستیں دی اور سائل کو محکمہ ہذا کے آفسران کی جانب سے یقین دہانی کرائی گئی اور سائل کو ذہنی و پریشانی میں مبتلا رکھا گیا اور تاحال سائل کی استدعا پر کوئی عمل درآمد نہیں کی گئی۔
  - 6- یہ کہ سائل چونکہ بیروزگار ہے اور شادی ہونے کی وجہ سے کنبہ بھی رکھتا ہے اور اپنے کنبے کے پیٹ پالنے کیلئے حلال روزی کمانے کا خواہشمند ہے۔
  - 7- یہ کہ متعلقہ آفسران بالا کی غفلت اور لاپرواہی کی بدولت سائل کا تقریباً 18/19 سال سروس بھی ضائع ہو رہے ہیں۔ جس سے سائل کو ناقابل تلافی نقصان ہے۔
  - 8- لہذا بذریعہ درخواست ہذا استدعا ہے کہ سائل کی بچوں کی مستقبل کی خاطر سائل کا سروس بحال کرنے کا حکم صادر فرمایا جاوے۔

سائل تاعمر دعا گورہیگا۔

سابقہ سکول بھیرن گنگرما EPS المرقوم 28102

محمد آیاز خان PST مدرس گورنمنٹ پرائمری سکول بھیرن گنگرما

رابطہ نمبر: 0344-4654826/0300-0876119

نوٹ:- منقول شدہ طویل مدت کی رخصت کا فوٹو کا پی

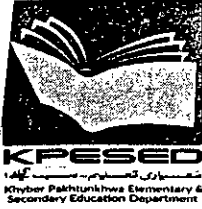
نقل سروس بک لف درخواست



Handwritten signature and date: 01/3/22

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Annex-F  
P# 12



**OFFICE OF THE  
DEPUTY DISTRICT EDUCATION OFFICER (MALE)  
BATTAGRAM**

(Phone # 0997-533540) E-mail: emisbattagram@yahoo.com

To,

DEO (M),  
Battagram.

Subject: **ENQUIRY REPORT IN RESPECT OF MUHAMMAD AYAZ EX-PST GPS BERIN GANTAR**

Memo,

Reference to your respective office letter No. 1503-05, Dated the DEO Male Battagram. 12-3-2022, on the subject cited above. In the light of scrutinizing all relevant record of the case, it is stated that Mr. Muhammad Ayaz Ex-PST GPS Berin Gantar has been removed from service through proper channel under E&D rules 2011. Therefore, his appeal for reinstatement is turned down.

• Uzair Ullah ASDEO (Circle Karg Allai  
Battagram  
(Member Inquiry Committee)

Dy. District Education Officer (M)  
Battagram

Endst: No. 1239 /DDEO (M) Establishment

Dated: 14/05/2022

Copy for information to the;

1. Office copy

Dy. District Education Officer (M)  
Battagram



(60)

Annex-G  
P#13



OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE)  
BATTAGRAM

EMAIL: emisbattagram@gmail.com PHONE NO: 0997543540 & 539



No. 3906 Dated: 5/7/22

To

Mr. Muhammad Ayaz  
Ex-PST GPS Berin Gantar

Subject: APPEAL FOR ADJUSTMENT:

Memo:

Reference to your application regarding subject cited above and to state for your information that your application for re-instatement is time barred and regretted.

  
DISTRICT EDUCATION OFFICER (M)  
BATTAGRAM

Endstt: No. 3907-08 / Dated: 05/7/22

Copy forwarded:

1. Director E&SE Khyber Pakhtunkhwa, Peshawar.
- ✓ 2. Office Copy.

  
DISTRICT EDUCATION OFFICER (M)  
BATTAGRAM