

Original

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

Service Appeal No: 1154 of 2024.

Eid Muhammad Ex-PET GMS Wali Khan Bakka Khe SDW Bannu.. Appellant

Versus

Director E&SE Department & others Respondents

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Dated: 18/11/2024

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**Eid Muhammad Ex-PET GMS Wali Khan Bakka Khe SDW Bannu
Appellant**

Versus

Director E&SE Department & othersRespondents

JOINT PARA WISE COMMENTS ON BEHALF OF RESPONDENTS NO. 1 and 2

PRELIMINARY OBJECTIONS.

Khyber Pakhtunkhwa
Service Tribunal

17995

-18-11-24

- 1 **That** the appellant has got no cause of action/locus standi.
- 2 **That** the appellant is not an aggrieved person within the meaning of Section-4 of Khyber Pakhtunkhwa Service Tribunal Act-1974 read with Article 212 of the constitution of Islamic Republic of Pakistan, 1973
- 3 **That** the instant Service Appeal is badly time barred under the relevant provision of Law of limitation Act, 1908
- 4 **That** the appellant has concealed material facts from this Honorable Tribunal, hence liable to be dismissed on this score.
- 5 **That** the appellant has filed the instant appeal on mala-fide motive.
- 6 **That** the appellant has not come to this Honorable Tribunal with clean hands.
- 7 **That** the appellant is not entitled for his reinstatement in service against the PET post at GMS Wali Khan Bakka Khe SDW Bannu in view of his mis-conduct, inefficiency & willful absence from duty against the noted post in the Respondent Department.
- 8 **That** the instant Service Appeal is against the prevailing law, policy & rules in vogue as the impugned order of removal from service of the appellant from the said post vide order dated 27-12-2022 is legal.
- 9 **That** the instant appeal is based on mala-fide intentions just to put extra pressure on the Respondents for gaining illegal service benefits of reinstatement in service as PET in violation of the Rules & Policy in vogue.

- 10 **That** the appellant has been found guilty of willful absence from duty in the said School by the Respondent No. 2 upon his surprise visit by EMA.
- 11 **That** the appeal is not maintainable in its present form & circumstances of the case as no Departmental Appeal against the order dated 27-12-2022 has been filed by the appellant, hence, got finality.
- 12 **That** the impugned order dated 27-12-2022 is the result of due process of law made by the Respondent Department against the appellant.

ON FACTS

- 1- **That** Para-1 pertains to the service record of the appellant against the PET post inducted in the year 2015 but no copy of the order has been attached by the appellant in support of his plea, hence, the Burden of proving the same lies on the appellant.
- 2- **That** Para-2 is incorrect, the appellant has been a habitual duty absconder against the said post as evident from the order dated 27-12-2022 Vide Notification No:17497-503 of the respondent No. 2 who has received reports from EMA again in again during academic year 2021-22, **attached as Annex-A**.
- 3- **That** Para-3 is incorrect, however, the factual position is that during the visits of EMA (Independent Monitoring Unit) Bannu, the appellant was absent from duty again in again, As a result, the applicant was deemed a habitual absentee and was subsequently removed from service, along with other candidates, due to their consistent failure to attend the duty.
- 4- **That** Para-4 is incorrect that "The applicant did not avail him selves of the opportunity to submit an appeal against the removal order, thereby resulting in the termination of his service becoming final and binding.
- 5- **That** Para-5 is incorrect the matter concerns a personal issue of the applicant, who did not submit his appeal in the requisite format and within the designated timeframe, consequently resulting in his appeal being deemed non-compliant and ineligible for further consideration.

Handwritten signature/initials on the left margin.

6- That Para-6 is incorrect as the appellant has no cause of action to file the titled appeal before this Honorable Tribunal, which is liable to be dismissed on the following grounds inter alia: -

ON GROUNDS

- A. **Incorrect & not admitted**, The removal of the appellant is legal due to prolonged absence from duty as reported by EMA.
- B. **Incorrect & not admitted**, A formal show cause notice has been issued to the applicant, thereby providing him with adequate notice and an opportunity to furnish a written explanation, clarify his position, and respond to the allegations made against the appellant.
- C. **Incorrect & not admitted**, A proper committee was constituted to provide the applicant with an opportunity for a personal hearing, but the applicant failed to justify his absences despite being given the chance to present his case
- D. **Incorrect & not admitted**, The act of the Department with regard to the cited order is legal & liable to be maintained.
- E. **Incorrect & not admitted**, A formal notice (show cause notice) was issued to the appellant, The appellant failed to provide a satisfactory response or explanation. As a result, the appellant was found guilty of the charges or allegations made against him.
- F. **Incorrect & not admitted**, the appellant has been treated as per law & rules by the competent authority. Therefore, the stance of the appellant is baseless & liable to be rejected.
- G. **Incorrect & not admitted**, A duly constituted committee afforded the applicant a personal hearing to address the allegations, but the applicant was unable to provide a satisfactory justification for his absences.
- H. **Incorrect & not admitted** The appellant was served with a formal show cause notice and subsequently found guilty.
- I. **Incorrect & not admitted** The appellant has been treated as per Law & Rules by the Department.
- J. **Incorrect & not admitted** In the show cause notice, the proper dates were mentioned regarding his absences.
- K. **Incorrect & not admitted** however, the Respondents also seek leave of this Honorable Tribunal to submit additional grounds, case law & record at the time of arguments on the date fixed before this Honorable Tribunal.


PRAYER:

In view of the above made submissions, it is humbly prayed that this Honorable Tribunal may very graciously be pleased to dismiss the instant appeal with cost in favor of the Respondent Department by maintaining the order dated 27-12-2022 in the interest of justice.

Dated ___/___/2024

SAMINA ALTAH
DIRECTOR


AUTHORIZED OFFICER
ABDUS SAMAD
DEPUTY-DIRECTOR (ESSED)
Khyber Pakhtunkhwa Peshawar
Respondent No 1


Nisar Ahmad
District Education Office
(Male) Bannu
Respondent No 2

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

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AFFIDAVIT

I, Mr. Nisar Ahmad District Education Officer Male Bannu , do hereby solemnly affirms and declare on oath that accompanying written reply are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Services Tribunal. *It is further*

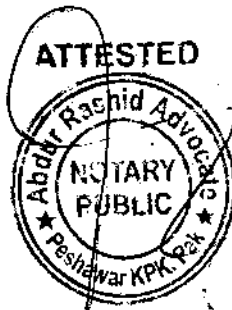
stated on oath that the accompanying respondents have not been seen these reply nor their defence sworn Oath / Court.

Dated: / /2024

Nisar Ahmad

DEPONENT

Nisar Ahmad



NOV 2024



Office of the

District EDUCATION OFFICER, SUB DIVISION WAZIR BANNU

Near Bannu Township Bezen Khei road, Bannu
Ph: 0928-633255, Fax: 0928-633255

No. / /

Dated: / / 2024

Authority Letter

It is stated that Mr ^{LU} *Faisal Jamal* SIO *Noorjahan* RIO Bannu, C.N.I.C No *71101-69134163* has been authorized to submit comments in Honourable Khyber Pakhtunkhwa Service Tribunal in Services **1154 of 2024** Titled **Eid Muhammad EX-PET Vs Dairector Education E&SE KPK Peshawar etc** on behalf of District Education Officer Sub Division Wazir Bannu.


District Education Officer
Sub Division Wazir Bannu.

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**DISTRICT EDUCATION OFFICER
(MALE) BANNU**



No. 17497-503 Dated 27/12/2022

Notification for Major Penalty of Removal from Service

1. Whereas, Mr. Eid Muhammad PET GMS Wali Khan Bakka Khat Bannu was proceeded according to the Directorate of Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar Notification Endost No: 3970-8031 F.No./867/DAMS/2016-17/dated/08/07/2021 for the charges of wilful absence from government duty.
2. And whereas, a show cause notice was served upon him vide No.12164 dated 16/0 /2022 for guilty of habitual absenteeism himself from government duty without prior approval of leave from competent authority.
3. And whereas the competent authority after having considered the charges, evidence on record and the personal hearing granted to him on dated 05.06 & 07/12/2022 of the view that the charged mentioned in the show cause notice have been proved against the above named government servant/ official concerned.
4. And whereas, meeting was held on 27/12/2022 under the chairmanship of Deputy Commissioner Bannu where District Monitoring Officer (EMA) Bannu was also present. In the light of which the undersigned being a competent authority is satisfied that the above mentioned charges have been proved upon you.
5. Now therefore, the competent authority is pleased to impose major penalty of removal from service upon the above named teacher with immediate effect.

District Education Officer,
(Male) Bannu

Encl: Even No. & Date

Copy forwarded to the:-

- 1- Director Education (EBSE) KP Peshawar.
- 2- Deputy Commissioner Bannu.
- 3- District Monitoring Officer (EMA) Bannu.
- 4- Assistant Commissioner SDW Bannu.
- 5- District Accounts Officer Bannu.
- 6- Principal/AM/DDO concerned for necessary action & with the remarks to make necessary entry in his Service Book accordingly under intimation to this Office.
- 7- Master File.

District Education Officer,
(Male) Bannu

