

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL PESHAWAR.

Service Appeal No. 3872/2021

Date of Institution ... 10.03.2021

Date of Decision ... 29.03.2022

Kamal Hussain Ex-DM (BPS-15) Government High School, Khan
Khel Mandazai District Lakki Marwat.

... (Appellant)

VERSUS

Government of Khyber Pakhtunkhwa through Secretary
Elementary and Secondary Education, Peshawar and two others.

... (Respondents)

MR. YASIR SALEEM,
Advocate

--- For appellant.

MR. NOOR ZAMAN KHATTAK,
District Attorney

--- For respondents.

MR. SALAH-UD-DIN
MS. ROZINA REHMAN

--- MEMBER (JUDICIAL)
--- MEMBER (JUDICIAL)

JUDGMENT:

SALAH-UD-DIN, MEMBER:-

Brief facts forming the background of the instant service appeal are that the Education Department advertised various posts in newspaper Daily "Aaj" dated 05.10.2011; that the appellant applied for the post of D.M and also filed a Civil Suit for his appointment under retired teacher's son quota; that during the pendency of the Civil Suit, the appellant was appointed on the post of D.M vide office order bearing endorsement No. 494-97 dated 21.03.2013 and he assumed the charge of his post; that the appointment of the appellant was challenged by Qudrat Ullah Khan and Farman Ali Shah through filing of Civil Suit, which was dismissed by the learned Civil Judge Lakki Marwat vide judgment dated 24.05.2017, however the appointment of the appellant was also declared as null and void through the said judgment; that



the appointment of the appellant was also challenged by one Gul Aslam Khan through filing of another Civil Suit, which too was dismissed by Civil Judge-VI Lakki Marwat vide judgment dated 24.05.2017 but the appointment of the appellant was also declared as null and void; that the aforementioned judgments were challenged by the appellant as well as by the plaintiffs through filing of Civil Appeals before the learned District Judge Lakki Marwat, which were disposed of by learned Additional District Judge-III Lakki Marwat vide consolidated judgment dated 18.01.2018, whereby the appeals filed by the plaintiffs Qudrat Ullah Khan and Gul Aslam Khan were allowed, while the appeals filed by the appellant were dismissed; that the consolidated judgment dated 18.01.2018 was challenged by the appellant as well as Provincial Government through filing of separate Civil Revisions before august Peshawar High Court, Bannu Bench, which were partially allowed vide judgment dated 28.01.2019 with the directions to Director Education Peshawar to constitute Departmental Selection Committee, who shall evaluate respective qualifications/entitlement of three plaintiffs as well as the appellant and thereby fill the post who stands higher on merit, according to the merit list prepared on 15.11.2011; that the appointment order of the appellant was withdrawn vide office order dated 03.11.2020, which was challenged by the appellant through filing of departmental appeal, which was not responded within the statutory period, hence the instant service appeal.

2. Notices were issued to the respondents, who submitted their comments, wherein they refuted the assertions made by the appellant in his appeal.

3. Learned counsel for the appellant has contended that no regular inquiry was conducted in the matter and the appellant was condemned unheard; that no opportunity of personal hearing was provided to the appellant before issuing of the impugned order; that the appellant was duly appointed by the competent Authority after observing of all legal and codal formalities, therefore, the competent Authority was not justified in passing of the impugned order regarding the withdrawal of the appointment order of the appellant; that the appellant has performed his duty

for almost 07 years, therefore, valuable rights had been accrued in his favour on the basis of principle of *locus poenitentiae*; that if at all there was any illegality or irregularity in the process of appointment of the appellant, the same can neither be attributed to the appellant nor the appellant could be punished for the fault or lapses committed by the competent Authority. In the last he requested that the impugned order being wrong and illegal is liable to be set-aside and the appellant is entitled to be reinstated in service with all back benefits.

4. On the other hand, learned District Attorney for the respondents has contended that the appellant had filed a Civil Suit for his appointment as PST on retired teacher's son quota and vide order dated 05.01.2013, the application filed by the department for rejection of the Suit under Order 7 Rule 11 CPC was dismissed by learned Civil Judge-VI Lakki Marwat, however the said order was fabricated by the appellant and procured his illegal appointment as Drawing Master being in league with the then District Education Officer (Male) Lakki Marwat; that the appellant was well aware of the fact that no order for his appointment as Drawing Master was passed by any court but even then he assumed the charge of his post, therefore, he cannot claim protection of principle of *locus poenitentiae*; that the appellant had not at all applied for the post of Drawing Master, therefore, his appointment on the post of Drawing Master was wrong and illegal; that a Departmental Selection Committee was constituted in compliance of the directions of the august Peshawar High Court, Bannu Bench, which found the appointment order of the appellant as wrong and illegal, therefore, the same was rightly withdrawn. In the last he requested that the impugned order may be kept intact and the appeal in hand may be dismissed with costs.

5. We have heard the arguments of learned counsel for the appellant as well as learned District Attorney for the respondents and have perused the record.

6. A perusal of the record would show that the appellant was appointed as Drawing Master (BPS-15) vide appointment order bearing endorsement No. 494-97 dated 21.01.2013 and the

contents of his appointment order would show that the same was made in compliance of decision dated 05.01.2013 passed by court. The appointment of the appellant was challenged by Qudrat Ullah Khan and Farman Ali Shah through filing of Civil Suit on 06.04.2013 as well as one Gul Aslam Khan also filed a separate Civil Suit challenging the appointment of the appellant. The matter went up to august Peshawar High Court, Bannu Bench, which decided Civil Revisions filed by the appellant as well as by the Government of Khyber Pakhtunkhwa through a common judgment dated 28.01.2019. Para-09 of the aforementioned judgment is reproduced as below:-

"Without going into detail ascertainment of entitlement of respective plaintiffs, vis-à-vis present petitioner, it seems to me more appropriate to allow instant Revision Petition and set-aside appointment orders of the respondents/plaintiffs Gul Aslam and Qudratullah, and direct the higher authority of Education Department, the Director Education Peshawar to constitute Departmental Selection Committee, who shall evaluate respective qualification/entitlement of the three plaintiffs as well as present petitioner and thereby fill the posts who stands higher on merit, according to merit list prepared on dated 15.11.2011 (emphasis provided), as it was pointed out that the District Education Officer namely Mir Azam who issued appointment orders was removed from service on 18.04.2014 under Efficiency & Discipline Rules, therefore, no further detail inquiry for fixation of liability upon any other officer is required. The process of appointment shall be positively completed within a period of one month and a copy of whole proceedings be submitted to the learned Additional Registrar of this court. The Suit of any of the plaintiff who fails to secure appointment before Departmental Selection Committee shall accordingly stands dismissed. The post shall remain vacant.

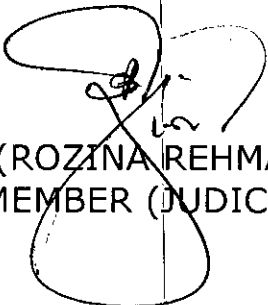
07. In compliance of above mentioned judgment of august Peshawar High Court, Bannu Bench, Departmental Selection Committee was constituted, which held its meeting on 06.10.2020. The minutes of the Departmental Selection Committee would show that the appointment order of the appellant was found illegal and against merit. The appointment order of the appellant was thus withdrawn by the competent Authority vide impugned order dated 03.11.2020. While scanning


the record, it has been observed that the respondents have categorically mentioned in their comments that the appellant had not at all applied for the post of Drawing Master advertised through newspaper. The aforementioned contention of the respondents has not been contradicted by the appellant through filing of any rejoinder or producing any documentary proof, which could show that the appellant had actually applied for the advertised posts of Drawing Master.

08. The appellant had actually instituted a Civil Suit for his appointment as PST on retired teacher's son quota. During the pendency of the said Suit, the department submitted an application under Order 07 Rule 11 CPC for rejection of the plaint, however the application was dismissed vide order dated 05.01.2013, copy of which is available on the record. It is, however astonishing that on the basis of said order, the then District Education Officer (Male) Lakki Marwat appointed the appellant as Drawing Master (BPS-15) vide appointment order 21.01.2013. The then Civil Judge Lakki Marwat, who had passed order dated 05.01.2013, had even issued a show-cause notice to the then DEO (Male) Lakki Marwat regarding mentioning of the order dated 05.01.2013 in the appointment order of the appellant. The appellant had somehow, managed to procure his appointment as Drawing Master, despite the fact that he was well aware that no order was passed by any court for appointing him on the post of Drawing Master. In such circumstances, extending benefit of principle of *locus poenitentiae* to the appellant would be granting him premium of his own misdeed.

09. In light of the above discussion, we do not find any merit in the instant appeal, therefore, the same stands dismissed. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
29.03.2022


(ROZINA REHMAN)
MEMBER (JUDICIAL)


(SALAH-UD-DIN)
MEMBER (JUDICIAL)

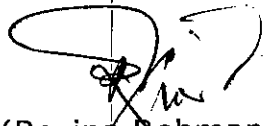
Service Appeal No. 3872/2021

ORDER
29.03.2022

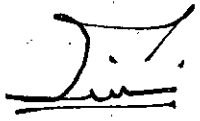
Learned counsel for the appellant present. Mr. Noor Zaman Khattak, District Attorney for the respondents present. Arguments heard and record perused.

Vide our detailed judgment of today, separately placed on file, we do not find any merit in the instant appeal, therefore, the same stands dismissed. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
29.03.2022



(Rozina Rehman)
Member (Judicial)

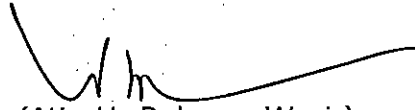


(Salah-Ud-Din)
Member (Judicial)

01.02.2022

Counsel for the appellant present. Mr. Noor Zaman, District Attorney for the respondents present.

Due to paucity of time arguments could not be heard. To come up for arguments on 23.02.2022 before the D.B.


(Atiq-Ur-Rehman Wazir)
Member (E)


Chairman


23.02.2022

Due to retirement of the Worthy Chairman, the Tribunal is defunct, therefore, case is adjourned to ~~23.02.2022~~ 29.03.2022 for the same as before.


Reader

12.07.2021

Learned Addl, A.G be reminded about the omission and for submission of reply/comments within extended time of 10 days.


Chairman

Stipulated period passed reply not submitted.

14.09.2021

Appellant present through counsel.

Muhammad Adeel Butt learned Additional A.G for the respondents present.

Reply on behalf of respondents is still awaited. Learned A.A.G made a request for time to furnish reply/comments. Request is accorded with direction to furnish the same in office within 10 days, positively. To come up for arguments on 22.11.2021 before D.B.


(Rozina Rehman)
Member (J)


Chairman

22.11.2021

Appellant in person and Mr. Kabirullah Khattak, Addl: AG alongwith Mr. Kashif Munir, Litigation Officer for respondents present.

Representative of the respondents has submitted written reply/comments which is placed on file. A copy of the same is also handed over to the appellant. Adjourned. To come up for arguments on 01.02.2022 before D.B.


(MIAN MUHAMMAD)
MEMBER (E)

27.05.2021

Counsel for the appellant present. Preliminary arguments heard.

Points raised need consideration. The appeal is admitted to regular hearing subject to all legal objections available to the respondents. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments in office within 10 days of the receipt of notices positively. If the written reply/comments are not submitted within the stipulated time, the office is required to submit the file with a report of non-compliance. File to come up for arguments on 14.09.2021 before the D.B.

**Appellant Deposited
Security & Process Fee**

31/6/21




Chairman

Form- A

FORM OF ORDER SHEET

Court of _____

Case No. - 3872 /2021

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	16/03/2021	<p>The appeal of Mr. Kamal Hussain resubmitted today by Mr. Yasir Saleem Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR 16/3/2021</p>
2-	01/4/21	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>27/05/21</u></p> <p style="text-align: right;"> (for completion) CHAIRMAN (ex post facto)</p>

The appeal of Mr. Kamal Hussain Ex-DM GHS Khan Khel Mandazai Lakki Marwat received today i.e. on 10/03/2021 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days..

- 1- Annexures of the appeal may be attested.
- 2- Appeal has not been flagged/marked annexures' marks.
- 3- Affidavit may be got attested by the Oath Commissioner.
- 4- Approved file cover is not used.
- 5- Annexures of the appeal are not in sequence which may be annexed serial wise as mentioned in the memo of appeal.
- 6- Five more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No. 512 /S.T,

Dt: 10/03 /2021

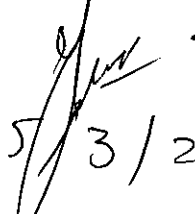

REGISTRAR,
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Yasir Saleem Adv. Pesh.

Sir,

Resubmitted

with clear objection.


15/3/2021

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

Appeal No. _____/2021

Kamal HussainAppellant

VERSUS


Government of Khyber Pakhtunkhwa through Secretary & others
.....Respondents

INDEX

S. No	Particulars	Annexure	Page No
1	Memo of Writ petition		1-4
2	Affidavit		5
3	Particulars	X	6-9
4	Copy of educational testimonials	A	6-9
	Copies of advertisement of Daily AAJ Dated 05.10.2011 & plaint	B&C	10-12
5	Copy of office order dated 21.03.2013	D	13
6	Copies of Medical Certificate, certificate of transfer of charge, service book, commendation certificate & confidential report,	E	14-38
7	Copies of plaint, written statement and order and judgment dated 24.05.2017	F,G&H	39-52
8.	Copy of consolidated order and judgment dated 18.01.2018	I	53-64
9.	Copy of Civil Revision No. 7-B & 95-B of 2018 and order dated 28.01.2019	J&K	65-106
10	(Copy of office order dated 03.11.2020	L	107-108
11.	Copy of departmental appeal dated 10.11.2020 with postal receipt	M	109-111
	Vakalatnama		112

Through


Appellant


YASIR SALEEM
Advocate, High Court
Peshawar

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

3872
Appeal No. _____/2021

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 3476
Dated 10/3/2021

Kamal Hussain Ex-DM (BPS-15) Government High School, Khan Khel
Mandazai District Lakki Marwat.

.....Appellant

VERSUS

1. Government of Khyber Pakhtunkhwa through Secretary Elementary and Secondary Education, Peshawar.
2. Director Elementary and Secondary Education, Khyber Pakhtunkhwa Peshawar.
3. District Education Officer, Lakki Marwat.

.....Respondents

**APPEAL UNDER SECTION 4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974,
AGAINST THE ORDER DATED 03.11.2020,
WHEREBY THE APPOINTMENT ORDER BEARING
NO. 494-97 DATED 21.03.2013 HAS BEEN
WITHDRAWN WITH IMMEDIATE EFFECT,
AGAINST WHICH HIS DEPARTMENTAL APPEAL
DATED 10.11.2020 HAS NOT BEEN RESPONDED
WITHIN STATUTORY PERIOD OF 90 DAYS.**

Prayer in Appeal: -

Filed to-day
[Signature]
Registrar
10/3/2021

On acceptance of this appeal the impugned orders dated
03.11.2020 may kindly be set aside and the appellant
may be re-instated into service with all back and

**Re-submitted to -day consequential benefits.
and filed.**

[Signature]
Registrar
16/3/2021

Respectfully sheweth,

The Appellant humbly submit as under

1. That the appellant has at his credit qualification M.A, B.Ed and also got certificate of D.M. **(Copy of educational testimonials are attached as annexure A).**
2. That father of the appellant was employee of Education Department who was retired in the year of 2003. The appellant requested the department to appoint him under the quota so many times.
3. That the department also advertised various posts in news papers Daily AAJ dated 05.10.2011, the appellant also applied to the post of D.M and also filed civil suit for his appointment under the quota. **(Copies of advertisement of Daily AAJ Dated 05.10.2011 & plaint are attached as annexure B & C).**
4. That during the pendency of suit the appellant was appointed vide office order No. 494-97 dated 21.03.2013 as D.M. **(Copy of office order dated 21.03.2013 is attached as annexure D).**
5. That the appellant was medically examined when found fit he took charge of his post and started performing his duties during his service his services book was also prepared for the purpose of pay and pension. It is pertinent to mention here that, the service of the appellant throughout his service career remained commendable. **(Copies of Medical Certificate, certificate of transfer of charge, service book, recommendation certificate & confidential report, are attached as annexure E).**
6. That feeling aggrieved from his appointment one Qudrat Ullah Khan & Farman Ali Shah filed Civil Suit against the appellant before the Civil Judge, Lakki Marwat which were, although, dismissed vide order and judgment dated 24.05.2017, however, appointment of the appellant was also held to be improper and declared as null and void. **(Copies of plaint, written statement and order and judgment dated 24.05.2017 are attached as annexure F,G&H).**
7. That the appellant besides one another suit was filed by Gul Asna which was also dismissed vide order and judgment dated 24.05.2017. Both the plaintiffs as well as the present appellant filed

their respective appeals before the District Judge, however, the appeals of the plaintiffs / appellant (in those appeals) were accepted while the appeal of the present appellant were dismissed vide consolidated judgment dated 18.01.2018. **(Copy of consolidated order and judgment dated 18.01.2018 is attached as annexure I).**

8. That feeling aggrieved from the order and judgment dated 18.01.2018, the appellant as well as the Provincial Government filed their respective Civil Revisions before the Peshawar High Court Bannu Bench which were partially allowed with direction to constitute departmental selection committee and to complete the process within one month vide order dated 28.01.2019. **(Copy of Civil Revision No. 60-B & 95-B of 2018 and order dated 28.01.2019 are attached as annexure J&K).**
9. That thereafter without issuing any charge sheet, show cause notice or without conducting regular inquiry in the matter or without giving the appellant any chance of personal hearing, quite illegally his appointment order has been withdrawn vide office order dated 03.11.2020. **(Copy of office order dated 03.11.2020 is attached as annexure L).**
10. That feeling aggrieved from the withdrawal order dated 03.11.2020 the appellant preferred his departmental appeal on 10.11.2020, however, the same has not been responded within the statutory period of 90 days. **(Copy of departmental appeal dated 10.11.2020 with postal receipt is attached as annexure M).**
11. That the impugned order is illegal unlawful, without lawful authority and against the law and facts hence liable to be set aside inter alia on the following grounds.

GROUND OF SERVICE APPEAL:

- A. That the Appellant has not been treated in accordance with law, and his rights secured and guaranteed under the Law and Constitution have been violated.
- B. That no proper procedure has been followed before the withdrawal of appointment, no charge sheet or show cause notice has been served upon the Appellant nor any inquiry has been conducted or if so conducted he has never been associated with

the proceedings, thus the impugned order is liable to be set aside on this score alone.

- C. That the Appellant has not been given opportunity of personal hearing before the issuance of the impugned order hence he has been condemned unheard.
- D. That no charge sheet or show cause notice has been served upon the Appellant before the withdrawal of his appointment, thus the impugned order is passed in violation of the principles of natural justice.
- E. That the Appellant has been duly appointed by the competent authority during the pendency of civil suit and after appointment, he duly took over charge of his post and started performing duties, his pay roll was also prepared and he got his salaries for about 07 years, thus the order of appointment had been acted upon and valuable rights had been created in favour of the Appellant. As principle of *LOCUS PONATENTIE* strongly lied in their favor so the services could not be snatched away illegally with one stroke of pen.
- F. That the Appellant was appointed by the competent authority after observing all codal formalities, no illegality or irregularity has been committed in the process of appointment. It is pertinent here that no malafide or fraud has ever been proved on the basis of which it could be said that the appellant got appointment through illegal means.
- G. That the impugned order is also violative of Provisions of General Clauses Act as it is not speaking order and is liable to be set-aside on this ground alone.
- H. That if all there were any irregularity or illegality committed in the process of appointment, the same can neither be attributed to appellant nor can he be punished for the faults or lapses committed by others.
- I. That the Appellant has never committed any act or omission which could be termed as misconduct, albeit his appointment has been withdrawn.
- J. That the Appellant has at his credit an unblemished and spotless service career of about 07 years, however without considering it,

his appointment has been cancelled. It is also important to mention that after serving the department for about 07 years, the withdrawal of his appointment would result in great hardship and financial loss as well as the fact that he would be over age to apply to any Government Post from now onwards.

- K. That ever otherwise, the appellant was quite fit and eligible to be appointed as D.M and during his service career, he performed his duties upto the entire satisfactions of his superiors and the commendation certificate and confidential certificates are the proof of the same which has already been annexed above.
- L. That the Appellant is young and energetic and wants to service for his department albeit his appointment have been illegally withdrawn.
- M. That the Appellant is jobless since withdrawal of his appointment order.
- N. That the Appellant seeks leave of this Honorable Court to take additional grounds at the time of arguments.

It is therefore, prayed that on acceptance of this appeal, on acceptance of this appeal the impugned orders dated 03.11.2020 may kindly be set aside and the appellant may be re-instated into service with all back and consequential benefits.

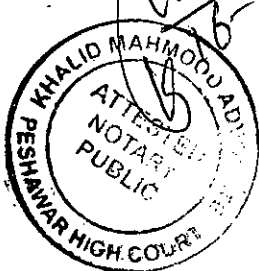
Appellant

Through

YASIR SALEEM
Advocate, Peshawar

AFFIDAVIT

It is solemnly affirm and declare on oath that the contents of the above appeal is true and correct to the best of my knowledge and belief and that nothing has been kept back or concealed from this Honorable Tribunal.



Deponent

SCHOOLS & LITERACY DEPARTMENT, NWFP, PESHAWAR

Serial No. 2130

Session 1999

Roll No. 95

Marks Obtained 601 / 1000

Division Ist

Certified that Mr./Mrs./Miss. Kamal Hussain

Son/Daughter of Noor Kalam Khan is a student of

GEC Choriwala Bannu

having passed the D.M. Examination held in 1999 is

qualified to teach in Middle/High School of Schools & Literacy Department.

Prepared by

Checked by

Date of declaration Result 29/5/2000

Date of Issue 7/3/2013

Amirul Myoos
HEAD MASTER
G.H.S Zangri
Distt. Lakki
Deputy Director (Examination)
Schools & Literacy Department,
N.W.F.P., Peshawar.

DAILY

D

M

CERTIFICATE

Annex-A

6

GOMAL UNIVERSITY

DERA ISMAIL KHAN

(N.W.F.P) PAKISTAN

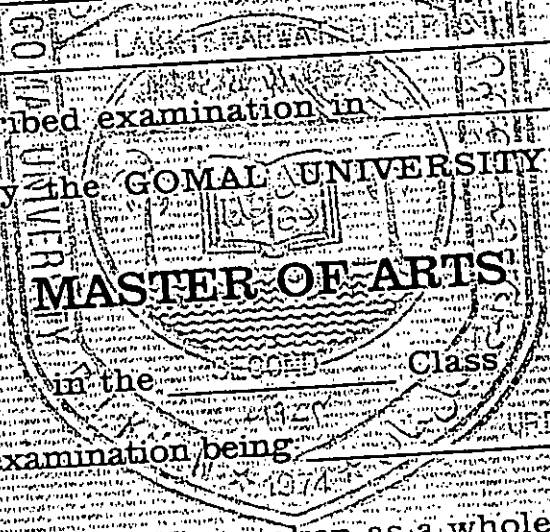


(Session 2002) ANNUAL

KAMAL HUSSAIN SON of HOOR QALAM KHAN and

a student of APRILS 2003

having passed the prescribed examination in is this day admitted by the GOMAL UNIVERSITY to the DEGREE of



in the **MASTER OF ARTS** Class The subject of examination being

The Examination was taken as a whole/in parts:

Registered No. 2306-1-94

Roll No. 3875

Attested
Miyaz
HEAD MASTER
G.H.S. Zang Khan
Distt. Laki

Countersigned
M. Qureshi
Vice-Chancellor

Controller of Examinations

Attested

RESULT DECL. ON: NOVEMBER 7, 2003

Trial No. GU 00885
2

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

8

GOMAL UNIVERSITY

DERA ISMAIL KHAN

(N.W.F.P)

PAKISTAN



(Session 1999-2000)

KAMAL HUSSAIN.

SON

of NOOR QALAM KHAN.

LUCKY COLLEGE OF EDUCATION & RESEARCH, LAKKI (PVT)

and a student of the Institute of Education and Research,
Gomal University having passed the prescribed examination
in FEBRUARY, 2001 19.

is this day admitted by the Gomal University to the DEGREE of

BACHELOR OF EDUCATION

in the SECOND Division in part I (Theory)

in the FIRST Division in part II (Skill in Teaching) and

in the SECOND Division in Aggregate.

The Examination was taken as a whole/in parts.

Registered No. 2306-L-94

Roll No. 1944

MAY 31, 2001

Attested
Myra

Countersigned

HEAD MASTER
G.H.S Zangi Khel
Distt: Lakki

M. Hris.

Vice-Chancellor

Controller of Examinations

Attested

[Signature]

DOMICILE CERTIFICATE

9

I, Kamal Hussain Son/Daughter of Noor Galam hereby declare that I was born of parents who are permanently domiciled in North West Frontier Province having been born / settled in this Province. I was born at village Dallo (Lal Mohallah Qalander Khel Tehsil Lakki District Lakki Marwat

Kamal - Hussain
Signature of Applicant

Date 13/7/92

Pursuance to the above declaration dated 13/7/92 filed / filled by Mr/Miss Kamal Hussain son/Daughter of Noor Galam domiciled in North West Frontier Province, it is hereby certified that the said Kamal Hussain is born of parents who are permanent residents of the North West Frontier Province having been born / settled within it.

I have satisfied myself after verification by the Revenue Staff, that the above declaration is true and the same is certified accordingly, this 14th day of July 1992



Fahim Hashim
MAGISTRATE 1ST CLASS (Hau)

(Dr. Fahim Hashim)

No 375/Hc
dt 15-7-92

COUNTERSIGNED

Som Kani
14/7/92
Attest

Myer

HEAD MASTER
G.H.S Zangi Khel
Distt: Lakki Marwat

Attested



[Signature]
DISTRICT MAGISTRATE
LAKKI MARWAT

15-7-92

9-A

لغوی بیانیہ۔ کہ جس مال میں وہ فوراً قلم کی رقم سمجھا دے گا وہ اس کا مستقل رعایتی ہے۔ جس کے والدین بھی دسہ بڑے کا مستقل رعایتی ہے۔

شیر علی خان ولد آغا ز فقیر خان لڈر دسہ
کابھی۔ (علی) (میر) (میر)

منبعی: حسب لغوی شیر علی خان فقیر خان لڈر دسہ کہ جس مال میں وہ فوراً قلم کی رقم سمجھا دے گا وہ اس کا مستقل رعایتی ہے۔ جس کے والدین بھی دسہ بڑے کا مستقل رعایتی ہے۔

مندر سید
13/7/92

تصدیق
11/10/92
13/7/92

Allexis
myer

HEAD MASTER
G.H.S Zangi Khel
Distt: L

Verified as reported by
Revenue staff
14/7/92
NAT/2

Annex = C

(11)

عدالت صواب سندھوں کے ساتھ پکڑوت

۱۵
مدعی

مال صین ولد نور قلم خان ستر دواضیل صلح پکڑوت

GHULAM ABBAS
Senior Civil Judge/Mag.
Sec:30 Crpc Lakkhi Marwat
پشاور
28/11/11

نام
حکومت صوبہ خیبر پختونخواہ ہندسہ سیکریٹری تعلیم سکولز اینڈ ٹیچنگ
ایگزیکٹو ڈسٹرکٹ انسپکٹر ایگمنٹری اینڈ سٹینڈری ریگولیشن پکڑوت
ڈسٹرکٹ ریگولیشن اینڈ ایگمنٹری اینڈ سٹینڈری ریگولیشن پکڑوت
ڈسٹرکٹ گورنمنٹ انسپکٹر D.C.O صلح علی پکڑوت

دعویٰ ملنے ڈگری استوار ہے بحق مدعی بر خلاف مدعیہ میں مہوں کہ مدعیہ
ماستہ کردہ اسباب 2008ء 2009/10ء و حالہ 2011/10ء کے لئے پکڑوت
سول ٹیپی PST مدعی ٹیپی Son ہونے کے ، مطابق پالیسی و فیصلہ عدالت
عالیہ پکڑوت پشاور رٹ ٹیٹن 296 کے 25 سفد کوٹہ برائے ملازمین
Son میں Top پر ہونے کو ایفائنڈ ایم اے اور ایگمنٹری ریگولیشن (PST) پکڑوت
کے لئے PST تینتائی کا مقدار ہے . مدعیہ مدعی کو لئے PST تینت
تہ کے قانوناً پکڑوت ہے . مدعیہ کی جانب سے مدعی کو لئے PST تینت
تہ کرنا غلط . عدالت قانون و عدالت واقعات ہونے کی بنا پر مدعی کے حقوق پر
تالعدم اور غیر جوڑ ہے . مدعیہ مدعی کو لئے PST تینت کریں . یہ
صوبہ مقدمہ و دیگر دادرسی جو تہ ترین اولت ہے .

دعویٰ ملنے ڈگری حکم استانی دواچی تاکیدی حکم میں مہوں کہ مدعیہ حکم دیا جا
کہ مدعی کو لئے PST تینت کریں . اور تالغہ مقدمہ عدالت جسٹس کوٹہ برائے
ملازمین Reserve - Son رکھیں . اور اس سلسلہ میں ڈیٹی ایڈورکیٹ جنرل
کے جاری کردہ لیٹریف 117 صفحہ 2009ء 10.2 Deo علی کے لیٹریف 31-3118 صفحہ
17-2-2011ء کے مطابق تہ مدعی کی تینتائی کا حکم کا صادر فرمایا جائے . یہ فرم
مقدمہ و دیگر دادرسی جو تہ ترین اولت ہے .

17-2-2011
Examined
10/11/11

GHAZI ABAS
Senior Judge/Magistrate
Lakki Marwat

جواب عالی ا حسب ذیل عرض ہے۔

(۱) یہ کہ مدعی ماوں دوسری ضلع یوٹ کا مستقل باشندہ ہے۔ اسٹریٹری کے والدین نے ۶
اپنے پروف کالج سے PST سرٹیفکیٹ بھی حاصل کیا ہے۔ جبکہ والد اکمل نے تعلیم سے
رٹائرڈ ہو چکا ہے۔ سرٹیفکیٹ میٹرک۔ ایف اے۔ MA-BA اور پروف کالج سے
والد اکمل نوٹس کا پنشن لیکھا بھی لے لے۔

(۲) یہ کہ مدعی نے سال 2008۔ سال 2009 میں 2011 PST اس میں سے
اختیار اضلاع شایع کردہ کے شیٹ و سرٹیفکیٹ لے لیے۔ مدعی نے مراد انڈسٹری
سٹیٹ Son کوٹ میں شہرہ 25 میں سے Apply کیا۔ مبین مدعی کو بددستی سے
کو الیٹاٹ سونے کے باوجود تین سال سے عدالت قانون کو حکم رکھا گیا۔ حالانکہ مدعی نے
Son سے 25 میں سے کوٹ میں شہرہ سے۔ اس سلسلہ میں ڈپٹی ایگزیکٹو جنرل کے
جماری کردہ لیسٹر 117 صفحہ 2009-2-10 اور Deo یوٹ کے لیسٹر 31-3118 صفحہ
17-2-2009 واقع ہدایات دی گئی ہے۔ جو لے لے۔ اور اس پر عملدرآمد کروانا
قانوناً ضروری ہے۔

(۳) یہ کہ مدعی نے سے عدالت لیا گیا۔ کہ مدعی پر حکم سے کو الیٹاٹ سونے اور سٹیٹ Son کوٹ
میں Top پر سونے اور مطابق پالیسی و قانون حقدار سونے کے مدعی کو پورے PST
کریں۔ سے مال قبول کے لئے عدالت سے لے لے۔

(۴) یہ کہ مدعی کو خزانے دعویٰ از شہری اس میں PST دبانے حاجت از زائر مدعی کو
سے اندر حدود تمام ملکوت پیدا ہوا۔ پس دعویٰ از اندر ضلع و قابل سماعت عدالت کے ہے۔
۵۰۰۰ بابت نائن ٹوٹس ٹوٹس میں واقع ہدایت 200 + 200 سے لے لے۔ جس اثر میں لے لے۔

لے لے استدعا ہے۔ کہ ڈگری مسترد بھی مدعی پر خلاف مدعی نے
ضرر مقدم و دیگر داد کی جو قریب اللہ ہو۔ ماں ذراں جاویں

تعددی عبارت تمام علی مدعی
بآر در تمام جا لے لے۔ کہ عدالت سے
عدالت سے لے لے۔
جو وقت لے لے۔
اللہ
مال حسین مدعی

فقہہ 26/11

جمال حسین مدعی

ATTACHED

(Signature)

Senior Magistrate
& Sessions Judge
Lakki Marwat

kh

Amir Faryal

Annex = D

13

OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) LAKKI MARWAT**APPOINTMENT ORDER**

In compliance of decision of Honourable Court, dated 05/01/2013 the below named candidate is hereby ordered as DM (M) in BPS-15. Rs: (8500-700-29500) plus usual allowances as admissible under the rules on regular basis, under the provision of Establishment & Administration Department circular bearing No. SOR-6(E&AD)13-01/2005 dated 10-08-2005 on the terms & conditions given below in the interest of public service from the date of taking over charge.

S.No	Name	Father name & address	To be posted at	Remarks
1	Kamal Hussain	Noor Qalam Khan R/O Dallo Khel	GHS Tari Khel	A.V. posi

TERMS & CONDITIONS:

1. His appointment will be considered without pension and gratuity in terms of section 19 of NWFP Civil Servant Act 1973, as amended vide NWFP Civil Servant (Amendment) Act, 2005 but the candidates already working as permanent Govt. Servants, will under take whether they want to continue the benefits of old service or new. he will however be entitled to contributory provident fund in such a manner and such a rate as may be prescribed by Govt.
2. In case of resignation without notice two months pay/allowance will be refunded to Govt.
3. His services will be governed by such rules and regulations as may be issued by Govt time to time.
4. His services will be terminated at any time in case their performance is found unsatisfactory during probationary period. In case of misconduct they will be proceeded against the Khyber Pakhtunkhwa Govt. Servants (efficiencies and discipline) rules 2011 and the rules framed from time to time.
5. Charge reports should be submitted to all concerned
6. No TA/DA is allowed.
7. The undersigned will check and verify the certificates/degrees of above candidates from concerned Boards/Universities before the drawl of their pay.
8. The appointment is liable to termination if the appointee failed to take over charge within thirty days of the commencement date.
9. The undersigned reserve the rights of amendment in case of any mistake.
10. He is required to produce health and age certificate from medical superintendent DHQ hospital Lakki Marwat

(Mir Azam Khan)
District Education Officer
(Male) Lakki Marwat

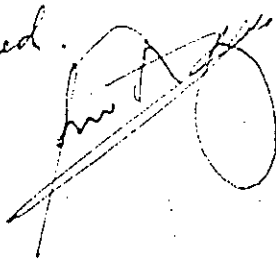
Endst No. 4941-07

Dated 21/11/13

Copy to the

1. Director Ele: & Sec: Education Deptt Khyber Pukhtunkhwa, Peshawar
2. District Accounts officer Lakki Marwat
3. Head Master School Concerned.
4. Teacher concerned.

Mir Azam Khan



(Mir Azam Khan)
District Education Officer
(Male) Lakki Marwat

Attested

Annex-B

E

14

GS&PD. NWFP.—610 FS. 1000 P. of 100—15-12-98—(41)

CERTIFICATE OF TRANSFER OF CHARGE. 18-02/2013 AN

1. Certified that we have on the fore/afternoon of this day/respectively made over and received charge of this office of the Drawing Master Appointed vide DEO. (E/SE) LAKKI Order No: 494-97 dated: 21-01/2013 at GHS, Tari Khe
2. Particulars of cash and important secret and confidential documents handed over are noted on the reverse:—

CNIC NO=11201-0339130-1

Signature of relieved Government servant Drawing Master,

Designation vacant Post

Station GHS, TARI, KHEZ, LAKKI

Signature of relieving Government servant KAMAL HUSSAIN

Endse NO=17-21/GHS, Tari Khe, LAKKI
Designation D/Master

Dated 19-02-2013

Forwarded to the (1) DEO (E/SE) LAKKI (2) D.C. LAKKI (3) D/ESSE: K.P.K. Poda

N.W.F.P. Acct: Try. No. 42 (4) D/ISA: A.P.S. Office, LAKKI
Office Copy

M. S. O.
HEAD MASTER
Govt. High School
Tari Khe (Lakki)

A. Hussain

15

208

MEDICAL FITNESS CERTIFICATE.

Name of Official Kamal Hussain

Religion Islam Muslim

Father/Husband Name Noor Gulam Khan

Residence village Dalo Khel Moho Gulander Khel Teh: & Distt- Lakki Marwat.

Dated of Birth 1-11-1976 (NIC No. 11241-0339130-1)

Exact Height by measurement 5' 8"

Personal Mark of Identification A scar on the right side of face

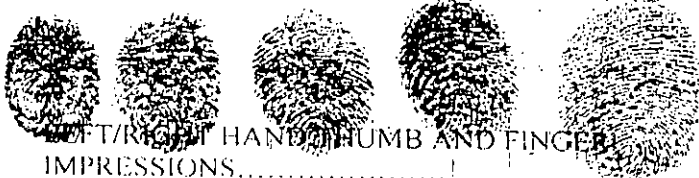
Signature of Official [Signature]

Signature of Head of Office

Seal of Office

I do hereby certify I have examined Kamal Hussain a candidate for employment in the office of the District Educational Officer (Male) Lakki Marwat and can not discover that he/she had any diseases communicable or other constitutional affection or bodily infirmity except None.

I do not consider this as disqualification for employment in the office of the District Educational Officer (Male) Lakki Marwat His/Her age according to his own Statement Thirty Six years and by appearance about 36 years (... years).



LEFT/RIGHT HAND THUMB AND FINGER IMPRESSIONS

Attested

[Signature]

Medical Superintendent
DHQ Hospital Lakki Marwat.
Medical Superintendent
D.H.Q Hospital Lakki Marwat

21-6-2013

Dist. Govt. KP-Provincial
District Accounts Office Lakki
Monthly Salary Statement (October-2020)

16



Personal Information of Mr KAMAL HUSSAIN d/w/s of NOOR QALAM KHAN

Personnel Number: 00697655 CNIC: 1120103391301 NTN:
 Date of Birth: 01.11.1976 Entry into Govt. Service: 18.02.2013 Length of Service: 07 Years 08 Months 015 Days

Employment Category: Active Permanent

Designation: DRAWING MASTER 80003072-DISTRICT GOVERNMENT KHYBE

DDO Code: LK6049-FLM GHS KHAN KHEL MANDOZAI

Payroll Section: 001 GPF Section: 001 Cash Center:

GPF A/C No: Interest Applied: Yes **GPF Balance: 254,975.00**

Vendor Number: -

Pay and Allowances: Pay scale: BPS For - 2017 Pay Scale Type: Civil BPS: 15 Pay Stage: 7

Wage type		Amount	Wage type		Amount
0001	Basic Pay	25,430.00	1000	House Rent Allowance	2,349.00
1210	Convey Allowance 2005	2,856.00	1300	Medical Allowance	1,500.00
2148	15% Adhoc Relief All-2013	495.00	2199	Adhoc Relief Allow @10%	343.00
2211	Adhoc Relief All 2016 10%	1,799.00	2224	Adhoc Relief All 2017 10%	2,543.00
2247	Adhoc Relief All 2018 10%	2,543.00	2264	Adhoc Relief All 2019 10%	2,543.00

Deductions - General

Wage type		Amount	Wage type		Amount
3015	GPF Subscription	-2,890.00	3501	Benevolent Fund	-600.00
3990	Emp.Edu. Fund KPK	-125.00	4004	R. Benefits & Death Comp.	-600.00

Deductions - Loans and Advances

Loan	Description	Principal amount	Deduction	Balance
------	-------------	------------------	-----------	---------

Deductions - Income Tax

Payable: 0.00 Recovered till OCT-2020: 0.00 Exempted: 0.00 Recoverable: 0.00

Gross Pay (Rs.): 42,401.00 Deductions: (Rs.): -4,215.00 Net Pay: (Rs.): 38,186.00

Payee Name: KAMAL HUSSAIN

Account Number: 26240

Bank Details: ALLIED BANK LIMITED, 250617 ABL LAKKI MARWAT, LAKKI MARWAT

Leaves: Opening Balance: Availed: Earned: Balance:

Permanent Address:

City: LK

Domicile: NW - Khyber Pakhtunkhwa

Housing Status: No Official

Temp. Address:

City:

Email: kamalhussainmarwat@gmail.com

Attested

System generated document in accordance with APPM 4.6.12.9(SERVICES/02.11.2020/18:39:27/v2.0)

** All amounts are in Pak Rupees*

** Errors & omissions excepted*

Certificate with DMC, CT/DM/JDEP/B.Ed Degree with DMC as the case may be.


REQUISITION

17

Certified that due to non performance duty by Mr Gul Faraz DM, the teaching of the Drawing classes has badly been effect, therefore the services of Mr Kamal Hussain Drawing Master presently serving in GHS Tari Khel is hereby requisitioned in the interest of public/school to GHS Khan Khel Mandazai.

Therefore, DEO (Male) is requested to transfer Mr Gul Faraz DM to some other school and Mr Kamal Hussain DM presently working as DM in GHS Tari Khel having long outstanding teaching expertise may be transferred as his substitute in the interest of students.

Dated: 6 / - / 05 / 2013


Muhammad Yaqub
Headmaster
Govt: High School Khan Khel Mandazai

HEAD MASTER
G.H.S Khan Khel Mandazai
Distt: Lakki Marwat


Attested

COMMENDATION CERTIFICATE

18

It is certified that Mr Kamal Hussain Drawing Master BPS-15 who is serving in GHS Khan Khel Mandazai always found hard worker, punctual and expert in his field of teaching and always bring good result in his cadre of teaching.

Keeping in view his meritorious services rendered in GHS Khan Khel Mandazai, commendation certificate is awarded/granted to the above named teacher on his best performance. The teacher is highly qualified having MA, B.Ed and is master in his field of Drawing Master.

Dated: 25/ / 11/2015

Muhammad

Muhammad Yaqub
Headmaster

Govt: High School Khan Khel Mandazai

HEAD MASTER

G.H.S Khan Khel Mandazai
Distt. Baluchistan

Attested

19

OFFICE OF THE SUB DIVISIONAL EDUCATION OFFICER (MALE)

LAKKI MARWAT

SENIORITY LIST NO: 54

SYNOPSIS OF CHARACTER ROLE IN R/O

Mr: KAMAL HUSSAIN S/O NOOR DALAM KHAN

DATE OF BIRTH: 01-11-1976

DATE OF 1st APPTT: 21-01-2013

DATE OF JOINING PRESENT POST: 21-01-2013

S.N	Year	Character Report	General Remarks	Adverse Report	Whether Converted or Not	Whether Expunged or Not
1.	2013	Good	Good, Hardworking	Nil	Nil	Nil
2.	2014	Good	Very Good. Sincere	Nil	Nil	Nil
3.	2015	Good	Hardworking, very good	Nil	Nil	Nil
4.						
5.						

M. J. Khan
HEAD MASTER

G.H.S Khan Khel Mandozar
Distt: Lakki Marwat

SDEO MALE LAKKI MARWAT

ASDEO CIRCLE

Attested

Note: Attach attested copies of recent photograph, CNIC, 1st Apptt Order, SSC Certificate, FA/F.Sc Certificate with DMC, CT/DM/JDEP/B.Ed Degree with DMC as the case may be.

(20)

BIO DATA

Seniority List No: 54

- NAME KAMAL HUSSAIN
- FATHER'S NAME: NOOR QALAM KHAN
- POST: D.M SCHOOL GHS Khan Khel Mandoz
- ACADEMIC QUALIFICATION:
 FA/F.Sc: Marks: 532 Total Marks: 1100 Division: 2nd
 In Case of B.Sc (Subjects): NIL
 Division in BA/B.Sc 2nd

Paste
 Front Attested
 Photograph
 here

- PROFESSIONAL QUALIFICATION: (Training Received)

S.N	Description	Institute	Period	
			from	to
1.	/	/		
2.				
3.				
4.				

- Date of Birth: 01-11-1976 (1st November, Nineteen H/Seventy Six)
- Date of First Joining the Service: 21-01-2013
 and the post in which joined: D.M

- RECORD OF APPOINTMENT:

S.N	Post Held	BPS	Whether on Regular /Adhoc basis	Period	
				from	to
1.	<u>D.M</u>	<u>15</u>	<u>Regular</u>	<u>21-01-2013</u>	<u>31/12/2015</u>
2.					
3.					

- Total Service: 22 Years 11 Months 10 Days
- Total Service on Present Post: 7 Years 9 Months 17 Days
- Detail of Non-qualifying service, if any: NIL
- In Case of Transfer from other district, Date of Arrival: NIL
 Transferred from District/Agency: NIL

ASDEO (C)

Attested

Myor

HEAD MASTER
 G.H.S.Khan Khel Mandozar
 Distt: Lakkri Mandozar
 Countersigned By SDEO

Jeh
 Signature of Teacher

Note: Attach attested copies of, Recent Photograph, CNIC, 1st Apptl Order, SSC Certificate, FA/F.Sc Certificate with DMC, CT/DM/JDEP/B.Ed Degree with DMC as the case may be.


21

SERVICE CERTIFICATE

Certified that Mr/Miss/Mrs. KAMAL HUSSAIN
Son/Daughter/Wife NOOR QALAM KHAN

_____ is serving in
D.M (ESED) G.H.S. Khan Khel Mandajani District Lakki Marwat
since 21-01-2013 Till yet:-


Attested


HEAD MASTER
G.H.S. Khan Khel Mandajani
Distt. Lakki Marwat
SIGNATURE

NON-INVOLVEMENT CERTIFICATE

22

Certified that Mr. KAMAL HUSSAIN

S/O NOOR DALAM KHAN of GPS/GMPS GHS KHAN KHEC MANDOZI

Circle NI is a permanent Government Servant, working as

D-M. As per available circle record, he is not involved in any departmental/ corruption and judicial case.

ASDO (C)

Myor
HEAD MASTER
G.H.S Khan Khel Mandozai
Distt: Lakki Marwat

HEADTEACHER

COUNTERSIGNED by SDEO

[Signature]
Attested

23

Seniority List No: 54

(CONFIDENTIAL REPORT)
TEACHING STAFF

CONFIDENTIAL REPORT OF THE PERIOD 21-01-2013 TO 31-12-2013

1. Name: KAMAL HUSSAIN
2. Name of Service: DRAWING MASTER
3. Qualification: (Academic) MA (Professional) B.Ed
4. Total Service on 31st December: 2013 - (11 Months, 10 Days)
5. Scale of Pay and Present Scale: BPS - 15
6. Various Posts held during the year with period: Nil
7. Period of Report: 21-01-2013 To 31-12-2013

Signature: _____

Particular Remarks on:-

- i. Judgment and sense of Proportion: Very Good.
- ii. Initiative and drive: Good
- iii. Professional Knowledge and application: Satisfactory.
- iv. Supervision and Control over Students: Good
- v. Integrity: Very Good
- vi. Co-operation with staff: kind and Friendly.
- vii. Relation with Public: Supporting
- viii. Suitability for Promotion: Yes, Suitable
- ix. Knowledge of Language: Urdu, Pashto.

General Remarks:

Suitable for promotion. MUHAMMAD YACOUB
HEAD MASTER

Name (in Block Letters) and
Designation of the Reporting Officer
(with seal)

Attested

General Remarks by Higher Officer

M. Yacoob
HEAD MASTER
G.H.S Khan Khel Mandozar
Dist: Lakki Marwat

24

Seniority List No: 54

(CONFIDENTIAL REPORT)

TEACHING STAFF

CONFIDENTIAL REPORT OF THE PERIOD 1-1-2015 TO 31-12-2015

- 1. Name: KAMAL HUSSAIN
- 2. Name of Service: DRAWING MASTER
- 3. Qualification: (Academic) MA (Professional) Bed
- 4. Total Service on 31st December: 31 YEARS
- 5. Scale of Pay and Present Scale: BPS-15
- 6. Various Posts held during the year with period: NIL
- 7. Period of Report: 1-1-2015 - To - 31-12-2015

Signature: _____

Particular Remarks on:-

- i. Judgment and sense of Proportion: very Good
- ii. Initiative and drive: Good
- iii. Professional Knowledge and application: very Satisfactory
- iv. Supervision and Control over Students: Good
- v. Integrity: Good
- vi. Co-operation with staff: Kind
- vii. Relation with Public: supporting
- viii. Suitability for Promotion: very Suitable
- ix. Knowledge of Language: Urdu, Pashto

General Remarks: very honest, obedient MUHAMMAD YAS

HEAD MASTER

Name (in Block Letters) and Designation of the Reporting Officer (with seal)

Attested

General Remarks by Higher Officer

HEAD MASTER

G.H.S Khan Khel Mandera District

25

Seniority List No: 54

(CONFIDENTIAL REPORT)

TEACHING STAFF

CONFIDENTIAL REPORT OF THE PERIOD 1-1-2015 TO 31-12-2015

- 1. Name: KAMAL HUSSAIN
- 2. Name of Service: DRAWING MASTER
- 3. Qualification: (Academic) MA (Professional) Bed
- 4. Total Service on 31st December: 31 YEARS
- 5. Scale of Pay and Present Scale: BPS-15
- 6. Various Posts held during the year with period: NIL
- 7. Period of Report: 1-1-2015 - To - 31-12-2015

Signature: _____

Particular Remarks on:-

- i. Judgment and sense of Proportion: very Good
- ii. Initiative and drive: Good
- iii. Professional Knowledge and application: very Satisfactory
- iv. Supervision and Control over Students: Good
- v. Integrity: Good
- vi. Co-operation with staff: Kind
- vii. Relation with Public: supporting
- viii. Suitability for Promotion: very Suitable
- ix. Knowledge of Language: Urdu, Pashto

General Remarks: very honest, obedient MUHAMMAD YAS

HEAD MASTER

Name (in Block Letters) and Designation of the Reporting Officer (with seal)

Attested

General Remarks by Higher Officer

HEAD MASTER

G.H.S Khan Khel Mandla District

GOVERNMENT OF NWFP,
SERVICES & GENERAL ADMN. DEPARTMENT.

(REGULATION WING)

NO.SOR.II(S&GAD)1(10)/93

Dated Peshawar, the 13.11.2000

143
26

To

The Secretary to
Government of NWFP,
Health Department.

2-18/10

SUBJECT:- REQUEST FOR RELAXATION OF CONDONATION OF ADVERTISEMENT
OF POSTS.

Sir,

I am directed to refer to your letter No.SOH.III/
8-107/99, dated 16.5.2000 on the subject noted above and to
state that the case has been examined in consultation with
Law Department. The Law Department has forwarded a copy of the
judgement of the Supreme Court of Pakistan reported and cited
as 1996 SCMR 1350 according to which the department was not
allowed to terminate the services of employees recruited irregularly
in violation of Rule-10(2) of Appointment, Promotion and Transfers
Rules, 1989. (Copy of the Judgment is enclosed).

2. The Department is therefore advised to approach the
Audit Department for release of pay and allowances of the employees
concerned explaining the above position of the case and also
initiate disciplinary proceedings against the officers involved/
responsible for making irregular appointments in violation of the
rules.

Yours obediently,

Shakir
(SHAKIR ULLAH)
SECTION OFFICER(REG.II)

Attested

2-5
19/11

(27)

SERVICE BOOK

سروس بک



Attested
My
HEAD MASTER
G.H.S Zangi Khel
Distt: Lakki Marwat

Name: Kamal Hussain

Father's Name: Neer Qalam Khan

Qualifications: MA, B.Ed.

Designation: DM

Department: Education Dept.

Address: Vill: & PO Dalo Khel Distt: Lakki

Attested

1. Name (نام) Kamal Hussain
2. Nationality and Religion (قومیت اور مذہب) Pakistani Islam
3. Residence (رہائش) vill. & PO Dalo Khel
4. Father's Name and Residence (والد کا نام اور رہائش) Noor Qalam Khan
5. Date of birth Christian era as nearly as can be ascertained (تاریخ پیدائش مطابق مسیحی عیسوی) 1st Nov. 1976
(01.11.1976)
6. Exact height by measurement (اندازت) 5-7
7. Personal mark of identification (نشان شناخت) Sign of wound on right foot

Left hand/right hand thumb and finger impressions of (Non-gazetted officer)
(مرد کی صورت میں بائیں اور عورت کی صورت میں دائیں ہاتھ کی انگلیوں کے نشانات)

Index Finger (چھنگلیا) Ring Finger (چھنگلیا کے ساتھ کی انگلی) Middle Finger (انگشت بیانیہ)
Fore Finger (انگشت شہادت) Thumb (انگٹھا)

Attested
Muzaffar
HEADMASTER
G.H.S. Zangi Khel
Dist. Lakki Marwat

Signature of Govt. Servant (سرکاری ملازم کے دستخط)

Signature and designation of the Head of the Officer or other Attesting Officer

(تصدیق کنندہ دفتر کے دستخط اور عمر)

Attested
HEAD MASTER
Govt. High School
Dalo Khel (Lakki)

The entries in this page should be renewed or re-aggested at least every five years. The signatures in lines 9 and 10 should be dated. Finger prints need not be taken after 5 years under this rule.

اس صفحے کے بندوبست کم از کم پانچ سال بعد تہہ تہہ تہہ ہونا ضروری ہیں اور نمبر 9 اور 10 میں دستخطوں کے نیچے تاریخ لکھنی چاہئے۔ انگلیوں کے نشانات کے لئے پانچ سال کے بعد تصدیق کی ضرورت نہیں۔

9	10	11	12	13	14	15	
Signature and designation of the Head of the office or other attesting officer in attestation of column 1 to 3	Date of termination or appointment	Reason of termination (such as promotion, transfer, dismissal etc.)	Signature of the head of the officer or other Attesting Officer	Nature and duration of leave taken	Allocation of period of leave of average pay up to four months (or earned leave not exceeding 120 days) to which leave salary is debitable to another Government <small>Period Government to which debitable</small>	Signature of the Head of the office other attesting officer	Reference to any recorded punishment of censure, or reward, or praised to the Government servants
دستخط افسر مجاز	تاریخ انتظام ملازمت	ذرات انتظام ملازمت ترقی تدارک یا برطرفی	دستخط افسر مجاز	رضعت کی نوعیت و معیار	<p>چار ماہ تک کی رضعت کے لئے اوسط تنخواہ کا تین</p> <p>Period Government to which debitable</p>	دستخط افسر مجاز	سزا یا جزا یا غیر مناسب کارکردگی کا ریکارڈ
<p>5/3</p> <p>9/4/2013</p>			<p>HEAD MASTER</p> <p>Govt. High School Tari Khel (Lakki)</p>		<p>Appointed as DM in BPS-15 vide Distt: Edu: Officer (M) Sec: Lanki Marwat office Edst: No: 494-97 dt: 21-01-2013</p>		
<p>6/4</p> <p>10/6/14</p> <p>20887 - as a</p>			<p>HEAD MASTER</p> <p>G.H.S. Lanki Khel Distt: Lakki Marwat</p>		<p>Passed SSC exam: 1992 (A) From BISE Bannu under Roll NO: 6831, securing 400/850 marks in Grade "D".</p>		
<p>Service verified with effect From 18-02-2013 to 23/05/2013 from the Pay-roll and office record</p>			<p>HEAD MASTER</p> <p>Govt. High School Tari Khel (Lakki)</p>		<p>Passed FA exam: 1994 (A) From BISE Bannu under Roll No: 20892, securing 532/1100 marks in Grade "D".</p>		
<p>Attested</p>			<p>HEAD MASTER</p> <p>Govt. High School Tari Khel (Lakki)</p>		<p>Attested</p>		

9	10	11	12	13	14	15	
Signature and designation of the Head of the office or other attesting officer in column 1 to 8	Date of termination or appointment	Reason of termination (such as promotion, transfer, dismissal etc.)	Signature of the head of the office or other Attesting Officer	Nature and duration of leave taken	Allocation of period of leave of average pay up to four months (or earned leave not exceeding 120 days) to which leave salary is debitable to another Government	Signature of the Head of the office other attesting officer	Reference to any recorded punishment of censure, or reward, or praised to the Government / servants
<p>دستخط افسر مجاز</p>	<p>تاریخ انقطاع ملازمت</p>	<p>بجابت انتقال ملازمت ترقی جوار یا برطرفی</p>	<p>دستخط افسر مجاز</p>	<p>رخصت کی نوعیت ومعیار</p>	<p>چار ماہ تک کی رخصت کے لئے اوسط تنخواہ کا تین Government to which debtiable کوریسٹ</p>	<p>دستخط افسر مجاز</p>	<p>سزایا جزایا غیر مناسب کارکردگی کا ریکارڈ</p>
<p>HEAD MASTER G.H.S Khan Khel Mandozai Distt. Larkana Marwat</p>			<p>HEAD MASTER G.H.S Khan Khel Mandozai Distt. Larkana Marwat</p>			<p>Passed BA exam: 1997 (A) From Gomal University DKhan under Roll No. 11311, securing 273 marks out of 550 marks in Ind Division</p>	
			<p>Service verified w.c. 24/10/03 To 30/11/03 Account Roll Other Record of this Office</p>			<p>HEAD MASTER G.H.S Khan Khel Mandozai Distt. Larkana Marwat</p>	
			<p>HEAD MASTER G.H.S Khan Khel Mandozai Distt. Larkana Marwat</p>			<p>Passed MA exam: 2002 From GU DKhan under Roll No. 3815 in Ind Division The result declared on 07.11.2003</p>	
			<p>Attested HEAD MASTER G.H.S Zangi Khel Distt. Larkana Marwat</p>			<p>HEAD MASTER G.H.S Zangi Khel Distt. Larkana Marwat</p>	
<p>REQUESTED</p>						<p>Passed DM Course Exam: From Govt. College of Edu. for Elem. teachers (Male) Ghorinwala Bannu under Roll No. 95, securing 60 marks. The result was declared on 25/4/2000</p>	

1 Name of Post	2 Whether Substantive of officiating any whether permanent or temporary	3 If officiating state (1) substantive appointment of (ii) whether counts for pension under rule 3-20 C.S.R: (Pb) Volume ii رول کے مطابق پیشکش کا مستحق ہے؟	4 Pay in substantive position	5 Additional pay for officiating	6 Other emoluments falling under the term pay ماسوائے تنخواہ دیگر ٹائولس	7 Date of appointment تاریخ تقرری	8 Signature
DM post at GHS Khan Khel Mandozal	عارضی مستقل قائم مقام		تنخواہ بطور عارضی ملازمت	زائد تنخواہ بطور قائم مقام			ملازم
			<p>Revised Entries due to award of one premature increment on up gradation vide Govt: of K.P.K Finance Deptt. (Regulation wing) Notification NO: ED(SO-SR)-1/123/2014 dated: 30-05-2014.</p> <p>1- Pay on -5-2014 of Rs. 9200/-</p> <p>2- Pay on - -2014 of Rs. 9900/- on premature increment</p>				
<p>Attested My own HEAD MASTER G.H.S Zangi Khel Distt: Lakki Marwat</p>	<p>Cutting attested.</p> <p>Attested My own HEAD MASTER G.H.S Khan Khel Mandozal Distt: Lakki Marwat</p>						
- Do -	per/tem:	BPS	Rs: 9900/-/pm			12/2014	k h
<p>Revised Entries</p> <p>Govt: of K-P-K Finance Department (Regulation wing) Notification NO: ED(PRC) 1/1/2015 Dated Peshawar the 27th July 2015.</p> <p>Pay on 30-06-2015 Rs: 9900/-pm BPS-15</p> <p>Revised: Pay on 1-07-2015 Rs: 12795/-pm BPS-15</p>							

9 Signature and designation of the Head of the office or other attesting officer in column 1 to 8	10 Date of termination or appointment	11 Reason of termination (such as promotion, transfer, dismissal etc.)	12 Signature of the head of the office or other Attesting Officer	13 Nature and duration of leave taken	14 Allocation of period of leave of average pay up to four months (or earned leave not exceeding 120 days) to which leave salary is debitable to another Government	15 Signature of the Head of the office other attesting officer	16 Reference to any recorded punishment of censure, or reward, or praised or the Government servants
دستخط افسر مجاز	تاریخ انقطاع ملازمت	بیماری انتقال ملازمت ترقی یا تبادلہ یا برطرفی	دستخط افسر مجاز	رخصت کی نوعیت ومعیار	چار ماہ تک کی رخصت کے لئے اوسط تنخواہ کا تین Period Government to which debitable کون سے	دستخط افسر مجاز	سزایا جزایا غیر مناسب کارکردگی کا ریکارڈ

Under Taking

I, Mr Kamal Hussain here by under take that if any over payment made to me due to wrong fixation of pay it will be recovered out of my pay.

Penशन/By Grant: Repst:
Kamal Hussain - Kh
Attested
Cutting Attested

HEAD MASTER
G.H.S Khan Khel Mandozza
Distt: Larkki Marwat

Age-Relaxation
Granted upper age relaxation of 01 year, 03 month, vide D.E.L (male) Larkki Lette
NO: 1679-82 dated 22/03/

HEAD MASTER
Govt. High School
Karl Khel (Larkki)

Allowed one premature increment for the purpose of up-gradation vide Grant of KPK Finance Deptt. (regulation wing) Notification no.

FD(SD-SR)-1/2-123/2014 dated 30-5-

cutting Attested

Myoz
HEAD MASTER
G.H.S Khan Khel Mandozza
Distt: Larkki Marwat

Myoz
HEAD MASTER
G.H.S Khan Khel Mandozza
Distt: Larkki Marwat

Myoz
HEAD MASTER
G.H.S Khan Khel Mandozza
Distt: Larkki Marwat

Attested
Myoz
HEAD MASTER
G.H.S Zangi Khel
Distt: Larkki Marwat

Attested

Service verified w.e.f 24⁵/₂₀₁₃ to 30¹¹/₂₀₁₃ to 30¹¹/₂₀₁₄ Acquittance rolland other record of this office.

Myoz
HEAD MASTER
G.H.S Khan Khel Mandozza
Distt: Larkki Marwat

1 Name of Post:	2 Whether Substantive of officiating any whether permanent or temporary	3 it officiating state. (1) subatative appointment of (ii) whether service counts for pension under rule 3-20 C.S.R. (Pb) Volume ii	4 Pay in substantive position		5 Additional pay for officiating		6 Other emoluments falling under the term pay	7 Date of appoin. Ment	8 Sig. gov. se
			Rs.	Ps.	Rs.	Ps.			
درجہ ملازمت	عارضی مستقل تمام مقام	اگر عارضی ہے تو رول کے مطابق پیشین کا مستقل ہے؟	تنخواہ بطور عارضی ملازمت		زائد تنخواہ بطور قائم مقام		ماسوائے تنخواہ دیگر لاؤنس	تاریخ تقریر	سی ی ملازم
DM post at GHS Khaini Khel Mandazai BPS-15	Revised Entries		Govt. of KPK Finance Department (Regulation wing) Notification No: No FD/50(SR-1)-4/2017 dated 17 th July 2017. (16120-1330-56020) BPS-15 Pay on 30-06-2017 Rs. 17990/- PM Pay on 01-07-2017 Rs. 21640/- PM						
— Do —	— Do —		Rs. 21640/- PM					01/2017	kh
			HEAD MASTER G.H.S. Khaini Distt. Lakki Marwat						
			HEAD MASTER G.H.S. Khaini Distt. Lakki Marwat						
— Do —	— Do —		Rs. 22770/- PM					12/01/2017	kh
			Attested						
— Do —	— Do —		Rs. 24100/- PM					12/01/2018	kh

9	10	11	12	13	14	15		
	Signature and designation of the Head of the office or other attesting officer دستخط افسر مجاز	Date of termination or appointment تاریخ انقطاع ملازمت	reason of termination (such as promotion, transfer, dismissal etc.) جرات انتقال نازت ترقی تبادلہ یا برطرفی	Signature of the head of the officer or other Attesting Officer دستخط افسر مجاز	Nature and duration of leave taken رخصت کی نوعیت ومعیار	Allocation of period of leave of average pay up to four months (or earned leave not exceeding 120 days) to which leave salary is debit to another Government چار ماہ تک کی رخصت کے لئے اوسط تنخواہ کا تعین Period عرصہ Government to which debit to be made گورنمنٹ جسے	Signature of the Head of the office or other attesting officer دستخط افسر مجاز	Reference to any recorded punishment of censure, or reward, or praised of the Government servants سزا یا جزا غیر مناسب کارکردگی کا ریکارڈ
	2017							
	Office of the Accountant General Khyber Pakhtunkhwa Peshawar					Service Verified w.e.f -1-12-2016 to 30-11-2017		
	Pay Fixed in the Revised Basic Pay Scales R.B.P.S @ 985-905-38135 B (S)					HEAD MASTER GHS, Khan Khel Mandazai Distt. Lakki Marwat		
	Pay Fixed @ Rs. 12799/- w.e.f 01-07-2015 1350-1120-4710 B (S)							
	Pay Fixed @ Rs. 16870/- w.e.f 01-07-2016 R.B.P.S 16120-1330-56970 B (S)							
	Pay Fixed @ Rs. 21440/- w.e.f 01-07-2017							
	Date of Next Increment on 01-12-2017							
	Account Officer Pay Fixation Party Peshawar					Attested Myse		
	HEAD MASTER GHS, Khan Khel Mandazai Distt. Lakki Marwat					HEAD MASTER GHS Zangi Khel Distt. Lakki Marwat		
	HEAD MASTER GHS, Khan Khel Mandazai Distt. Lakki Marwat							
						Service Verified w.e.f -1-12-2017 to 30-11-2018		
						Acc. Roll & other Record of this Office.		
	HEAD MASTER GHS, Khan Khel Mandazai Distt. Lakki Marwat					HEAD MASTER GHS, Khan Khel Mandazai Distt. Lakki Marwat	HEAD MASTER GHS, Khan Khel Mandazai Distt. Lakki Marwat	
	HEAD MASTER GHS, Khan Khel Mandazai Distt. Lakki Marwat					Attested		

بدالت فیما بین رسول فتح و بی مرت

کے 636315031209

① قدرت اللہ خان ولد عبد الرحیم خان سکڑ مشہدہ منور تحصیل و ضلع کی مرت

ی۔ فرمان علی شاہ ولیہ خان بادشاہ سکنے و فونڈان فانیل منڈا ذئی مجوری تحصیل و ضلع کی مرت

1148884-5 - 11207

Senior Civil Judge/Mag:
Sec:30 crpc Takki Marwat

- نام
- حکومت خیبر پختونخواہ ہذا رقم سکڑری رپویشٹی لٹاور
 - ڈاکٹر محمد علیہ اللہی اللہی سکڑری رپویشٹی و بیارمنٹ لٹاور
 - ڈاکٹر محمد علیہ اللہی اللہی رپویشٹی (میل) ضلع کی مرت
 - ڈاکٹر محمد علیہ اللہی اللہی رپویشٹی (میل) ضلع کی مرت
 - ڈاکٹر محمد علیہ اللہی اللہی رپویشٹی (میل) ضلع کی مرت
 - ڈاکٹر محمد علیہ اللہی اللہی رپویشٹی (میل) ضلع کی مرت
 - ڈاکٹر محمد علیہ اللہی اللہی رپویشٹی (میل) ضلع کی مرت

دعویٰ و الف

دعویٰ فی ذلک استناد پر حق مدعیان ہر طرف مدعیان بدین طور کہ مدعیان کی جانب سے
 مشہدہ 25 اسما حیاں ڈاکٹر محمد علیہ اللہی اللہی بوالہ و شہاد رضا شرقی نورض 0610 فی 2978 INFL
 بہر بل نیت استناد مندرجہ من مدعیان کو بر فانیل سیرٹ لسٹ بہر بل نیت 11، 10، 11 بالترتیب لکھا گیا
 اور فانیل سیرٹ لسٹ کے سیرٹ نیت لکھ سیرٹ، سیرٹ نیت، سیرٹ نیت، سیرٹ نیت اور خود پیر شہادی
 کو ڈیکلاریشن پر پیش کیا گیا اور سیرٹ لٹاور ڈاکٹر محمد علیہ اللہی اللہی کے سیرٹ نیت لکھا گیا۔ سیرٹ نیت لکھا گیا
 نے پیش کیا۔ بلا جواز، رضیالات، معائنات، سیرٹ نیت لکھا گیا۔ سیرٹ نیت لکھا گیا۔ سیرٹ نیت لکھا گیا۔
 مجوسی۔ ہذا رقم دیا نہ زیندہ رہا۔ سیرٹ نیت لکھا گیا۔ سیرٹ نیت لکھا گیا۔ سیرٹ نیت لکھا گیا۔
 لٹاور ڈاکٹر محمد علیہ اللہی اللہی لفتیات لکھا گیا۔ سیرٹ نیت لکھا گیا۔ سیرٹ نیت لکھا گیا۔
 جو منک ہے۔ اور یہی منک لفتیاتی مدعیان لکھا گیا۔ سیرٹ نیت لکھا گیا۔ سیرٹ نیت لکھا گیا۔
 کو مدعیان نے یا دیگر ذاتی رسائی پر بطور وراثت سیرٹ نیت لکھا گیا۔ سیرٹ نیت لکھا گیا۔
 لکھا گیا۔ چونکہ سیرٹ نیت لکھا گیا۔ سیرٹ نیت لکھا گیا۔ سیرٹ نیت لکھا گیا۔

ضمیمہ "دعویٰ فی ذلک" کے مندرجہ ذیل مندرجہ ذیل مدعیان کو بطور سیرٹ لسٹ
 21 مئی 1994ء کو مندرجہ ذیل مندرجہ ذیل مدعیان کو بطور سیرٹ لسٹ
 11-10-11 بالترتیب لکھا گیا۔ سیرٹ نیت لکھا گیا۔ سیرٹ نیت لکھا گیا۔
 P. 2 /

Office of the District & Sessions Judge, Takki

میں جو قسم لکھیں بابت آئی ایم ایف کے صحت بنام حکومت گلگت بلتستان کے سول جج کے پاس
نہی من و پر سلامت یہ۔ نئی پیرا لکھنے کے۔ گھر کے ساتھ ساتھ
اب اس سے وہ دن سے اٹھا ہے۔ ہمیں وہ فوراً دعوے کے لئے آئی ہے۔

GHULAM ABBAS
Senior Civil Judge/Mag.
Sec:30 crpc Lakkhi Marwat
06/04/13

6۔ جج نے دعوے کے متعلق حکم دیا ہے اور اس کے ساتھ ساتھ وہ دعوے کے لئے آئی ہے اور اس کے لئے
ضلع کی سرپرست میں آئی ہے اور اس کے لئے وہ دعوے کے لئے آئی ہے اور اس کے لئے

7۔ جس کے مالک نے پورے کورٹ میں ارضیاری کے لئے 4000 روپے کورٹ میں

نہی من و پر سلامت یہ۔ نئی پیرا لکھنے کے۔ گھر کے ساتھ ساتھ
مدت کا نام صادر فرمائیں۔ فوراً
4/2013

دعویٰ
کے

وہاں علی ت 5
Faillu

قدرت اشرفین
[Signature]

محمد کرم خان

Mohammad Farooq Khan
ADVOCATE HIGH COURT

محمد کرم خان
4/2013
بازار داروہ

Philipp
Attended to do Trust
[Signature]
Magistrate
Officer of the District & Sessions
Judge, Muz

قدرت اشرفین
[Signature]
Faillu

Annex-6

(42)

لبرالت ضاب سول: صاحب غفہ . لکی مرو

قدرت اللہ بنام حکومت

دعوی استغراقیہ / حکم تائیدی

جواب دعوی جانب مدعا علیہ غفہ ذیل ہے

اصحاب عالی :-

OS-6
17.9.2016

ABDUL MAJID
Civil Judge, Juncal Magistrate-VI
Lakki Marwat

غذرات محمدی :-

- 1. مدعیان کو کوئی بنا نہ دعوی حاصل نہیں ہے
- 2. دعوی مدعیان اندر مبیاد نہ ہے
- 3. دعوی مدعیان موجودہ شعل میں قابل رفت نہ ہے
- 4. عدالت اصحاب کو جموں قسم کے مقدمہ میں اختیار سماعت حاصل نہ ہے
- 5. مدعیان دعوی حیدر دائر کرنے سے 15/04/2016 عین
- 6. دعوی مدعیان زیر آرڈر 7 رول 11 ضابطہ دیوانی قابل اجرا ہے
- 7. کہہ مدعیان کو دعوی حیدر دائر کرنے کی بابت کوئی locus standi حاصل نہیں ہے
- 8. مدعیان کو Over Age ہونے کی بنا پر دعوی دائر کرنے کا کوئی حق قابل نہ ہے
- 9. ضروری استخام کو فریق مقدمہ نہیں بنایا گیا ہے
- 10. مقدمہ 2 فرمان علی شاہ پرائمری سکول ٹیچر (PSI) فہرستی ہو چکا ہے
- بدین وجہ دعوی مزید قابل رفت نہ ہے

غذرات واقعاتی :-

- 1. فقرہ بنا کا تعلق دیگر دائر ہے
- 2. فقرہ حیدر میں عبط بیانی سے حکا بنایا گیا ہے البتہ جب مدعیان میرٹ پور پورا نہ ہونے کی بنا پر انعام نام میرٹ لسٹ میں بھی شامل نہیں تھا تو اس میں دعوی حیدر دائر کرنے کا کوئی حق حاصل نہ ہے
- 3. باقی فقرہ بھی عبط ہے
- 4. فقرہ حیدر میں برودع ہے

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(۶) فقرہ خبراً عنط ہے۔ قریبان نے اصل معائنہ مخفی رکھے ہیں اور قریبان کو پیرٹ پر لووا نہ آنے،
overage ہونے کی بنا پر اور من مدنی جو کہ ریٹائرڈ ٹیچر ہیں ہوں جس نے ساتھ قریبان کو کوئی
غرض واسطہ نہیں ہے اور نہ ہی من مدنی کی تعیناتی جو مطابق قانون ہے صحیح لیا گیا ہے۔ دعویٰ خبراً
کی بابت کوئی Loug stand حاصل نہیں ہے۔ بدین وہر دعویٰ خبراً قابل اقرار ہے۔ باقی فقرہ بھی عنط ہے

(۷) فقرہ خبراً عنط ہے۔ اور اس میں عنط بیانی سے حکم لیا گیا ہے۔ نیز ججوں قسم کے مقدمہ میں عدالت آجبات
کو اختیار سماعت بھی حاصل نہ ہے۔

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(۸) عنط ہے۔ قریبان کو مطالبہ کرنے کا کوئی حق حاصل نہ ہے۔

(۹) عنط ہے۔ قریبان کو کوئی بنا پر دعویٰ حاصل نہیں ہے۔

(۱۰) قانونی و نامی ہے۔ البتہ کورٹ میں جہاں نہیں لیا گیا ہے جو کہ ضروری ہے۔

لہذا استدعا ہے کہ دعویٰ قریبان مجھ ضرر مقدمہ خارج فرما کے اصلاً

صادر فرما دیا جائے۔

موند ۱۷/۹/۱۶

کمال حسین ولد نور قلم خان سکنہ دھوکہ فیصل نزد قلعہ واپس فور

۱۷/۹/۱۶

لصندوق مبادرت بمقام اعلیٰ کورٹ موند ۱۷/۹/۱۶

بار آور صالح بیان کیا کہ سچوں جواب دعویٰ میرے
علم و یقین سے درست و صحیح تسلیم ہے۔

کمال حسین قریبان

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Examiner,
Office of the District & Sessions
Judicial Officer

Annex-11

44

78

IN THE COURT OF ABDUL MAJID CIVIL JUDGE-VI
LAKKI MARWAT.

Civil suit #.....188/1-R
Date of Institution.....06-04-2013/27-05-2016
Date of Decision.....24-05-2017

1. Qudrat Ullah Khan S/o Abdul Rahim Khan R/o Masha Mansoor Tehsil & District Lakki Marwat; and
2. Farman Ali Shah S/o Khan Badshah R/o Akhund Khan Khel Mandazai Tajori Tehsil & District Lakki Marwat..... (Plaintiffs)

.....Versus.....

1. Government Of Khyber Pakhtunkhwa through Secretary Education Peshawar;
2. Director Education Department Elementary & Secondary Education Department Peshawar;
3. Executive District Education Officer (male) District Lakki Marwat;
4. District Officer Education (Male) District Lakki Marwat;
5. Assistant District Education Officer District Lakki Marwat;
6. D.C District Lakki Marwat; and
7. Kamal Hussain S/o Noor Qalam Khan R/o Dalo Khel Tehsil & District Lakki Marwat.....Defendants

SUIT FOR DECLARATION & PERPETUAL MANDATORY INJUNCTION

JUDGMENT:
24-05-2017

Plaintiffs seek declaration to the effect that they are entitled to be appointed as Drawing Masters in response to publication for the posts dated 06-10-2011. They being at merit No. 10 & 11 respectively have the right to be appointed. Defendant No. 7 was appointed without merit and against the Rules and Regulations had no right of appointment. His appointment order is against the facts, law and ineffective upon the rights of the plaintiff.

They also seek permanent perpetual injunction directing defendants Nos. 1 to 5 to cancel the appointment of defendant No. 7 and appoint the plaintiff instead.

As per plaint, the defendants Nos. 1 to 6 issued publication to fill the seat of Drawing Masters. Plaintiffs participated in test and interview and after preparation of Final List, eight persons were appointed. Two persons were appointed through

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Examiner,
Office of the District & Sessions
Judge, Lakki

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24-5-17
Civil Judge, District
Lakki Marwat

departmental promotions and one person on the seat of Disable Person's Quota. Defendants Nos. 1 to 6 also appointed defendant No. 7 through violation of the merit list which is against the facts, law collusive and ineffective upon the rights of the plaintiff. The defendant denied the appointment in favour of the plaintiff so the suit in hand.

Defendants appeared and submitted an application for rejection of plaint on the point of jurisdiction. On 04-05-2015 the plaint was rejected. The appellate court on appeal remanded the case back on 13-05-2016. Defendants Nos. 1 to 6 submitted their written statement. Defendant No. 7 contested the suit separately. The following issues were framed from divergent pleadings.

ISSUES:

1. Whether the plaintiff has got a cause of action?
2. Whether the suit of the plaintiff is in time?
3. Whether the plaintiffs are entitled to be appointed as Drawing Master in response to publication dated 06-10-2011?
4. Whether the merit list was violated and defendant No. 7 was appointed without test and interview?
5. Whether the plaintiffs have right to decree?
Relief.

After formulating issues both the parties adduced evidence in support of their assertions. In this regard counsel for the plaintiff produced and examined Sighat Ullah Record Keeper District Education Office as PW-1, Saif-ul-Rehman Record Keeper Account office as PW-2, Farman Ali Shah (plaintiff No. 2) as PW-3, Qudrat Ullah (plaintiff No. 1) as PW-4 and thereafter closed the evidence.

In rebuttal, defendants produced and examined Sibghat Ullah Record Keeper DEO Office as DW-1, Akram Khan head Clerk Education Office as DW-2, Kamal Hussain as DW-3 and thereafter closed the evidence.

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Examiner,

Office of the District
Judge

Arguments heard and case file perused.

My Issue wise findings are as under:-

ISSUE No. 2:

- *Whether the suit of the plaintiff is in time?*

As per Article 120 of Limitation Act the limitation is six years for declaration. The cause of action as per plaint is taken from the denial of the defendants. The initial suit was instituted on 06-04-2013. Therefore the suit is well within time. Issue is decided in positive.

ISSUE NO. 3:

- *Whether the plaintiffs are entitled to be appointed as Drawing Master in response to publication dated 06-10-2011?*

Sibghat Ullah Record Keeper of Education Department as PW-1 presented Final Merit List Ex.PW 1/1. As per list plaintiffs are shown at serial Nos. 10 & 11 respectively. He submitted that Serial No. 1 to 8 were appointed. He further submitted that 20 persons were finalized as per Merit List and out of them 8 persons were appointed on the available seats. He stated that defendant No. 7 has no name in the merit list. He also consented and attested to the copies of publication dated 06-10-2011 on file. He presented no order of appointment with respect to defendant No. 7. He also could not state any record of the appointment, merit or applications with respect to defendant No. 7.

He presented Ex.PW 1/-D-2, according to which the policy of maintaining Merit List was done away with. Record Keeper Account office however as PW-2 produced the Pay Record of defendant No. 7 as Ex.PW 2/1.

Plaintiff himself appeared as PW-4. He stated that defendants have concealed the vacant posts of Drawing Masters. Defendant No. 7 was appointed taking benefit of the order of the court dated 05-01-2013 in his suit. The defendants have violated the merits and appointed defendant No. 7. The plaintiff also claimed the appointment. In cross examination he stated that he has objection on the

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Judge

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21

47

appointment of defendant No. 7. His appointment is made in the year 2013. He was not entitled.

To support the plaintiff the other plaintiff Farman Ali Shah as PW-5 restated the above narration of PW-4.

From defense side the record keeper again appeared as DW-1. DW-2 and DW-1 could not provide any appointment order of defendant No. 7. DW-1 however provided the staff statement of the Education Department with respect to Government High School Khan Khel Mandozai as Ex.DW 1/1. There defendant No. 7 is shown as Drawing Master. It was accepted that plaintiffs were at serial No. 10 and 11 of the merit list.

From the above statement and analysis it is clear that the plaintiff themselves accept that out of 20 finalized candidates eight were appointed on available seats. They are at serial Nos. 10 & 11. The defendant department did not provide the list of any vacant post other than the eight posts appointed.

Therefore when the seats are not available then how the plaintiff could be appointed. So for the appointment of defendant No. 7 is concerned it has no record either of participation in the test interview or application for appointment.

Summing up the above discussion it is now clear that the plaintiffs were at merits Nos. 10 & 11. First eight persons were appointed. Defendant No. 7 was appointed other than the required merits and seats. It is also clear that prima facie there were only eight seats for appointment. Thus when the eight persons were appointed, the plaintiff cannot claim the appointment beyond merit list. The court cannot grant the relief which is inequitable. Therefore the plaintiffs have no right. The issue is decided in negative.

ISSUE NO. 4:

- *Whether the merit list was violated and defendant No. 7 was appointed without test and interview?*

From the whole evidence of PWs and DWs it is very clear that defendant No. 6 neither had participated in the Test and Interviews, nor applied for the post of

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Lakki Marwat

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Office of the District
Judge

22

Drawing Master. The evidence on file suggests that he actually instituted suit titled "Kamal Hussain Vs Government". The defendant No. 7 sought appointment on the Quota of Teacher's sons through that suit. The suit was contested by the defendants. An application under Order 7 Rule 11 of CPC was preferred by the defendants i.e. Education Department. The application was dismissed by the court. The Education Department took this order of interim nature for dismissal of application under Order 7 Rule 11 in favour of defendant No. 7 and he was appointed taking the benefit of the order. The appointment order was collusive on part of the Education Department.

Defendant as DW-3 appeared and stated that the suit of the plaintiffs is baseless and malafide. He produced his Educational Documents and stated that he was appointed on his application for appointment on Teacher's son quota vide office order No. 494-97 dated 21-01-2013 on the seat of Drawing Master. He stated that plaintiffs are overage and cannot be appointed. They have not challenged his appointment. He could not provide any plausible explanation as to how he got appointed.

On the other hand the witnesses of department PW-1 and DW-1 could not provide his appointment orders, his application to the department for appointment, any merit list or Test interview in his favour. His appointment order also has no basis and no record in the defendant department. He also had not applied any response to the publication issued by the department. The publication on the other hand does not have any quota for the teacher's son.

Summing up the appointment of defendant No. 7 has no record. He neither had been appointed nor has any record. His appointment was made collusively in the garb of Court order. The court order was not favouring the defendant. Therefore his appointment has not been made as per Rules and Regulations and not as per merits.

Therefore the issue is decided in positive and against defendant No. 7.

Amal
ABDUL KALAM
24/5/17

Attorney
Office of the District & Judge, Bahraich

83

49

ISSUES Nos: 1 & 5:

- Whether the plaintiff has got a cause of action?
- Whether the plaintiff has right to decree?

Summing up the discussion on main issues Nos. 3 & 4 and on other issue, it is concluded that plaintiffs cannot claim the appointments on the seats filled on merit. Similarly the appointment of defendant No. 7 was on the pretext of an order of the court which was misinterpreted. With the collusion of the then EDO Education he got appointed. The appointment of defendant No. 7 is illegal, against the law and facts and without merit. Similarly the plaintiffs could not establish their right of appointment. They have neither got cause of action nor they are entitled to the decree.

Issues are decided in negative.

RELIEF:

Consequent upon my findings on various issues, the suit of the plaintiffs is dismissed. The appointment of defendant No. 7 also declared as null and void. Parties are left to bear their own costs.

File be consigned to record room after its necessary completion and compilation.

Announced:
24-05-2017

Abdul Majid
24.5.17

(Abdul Majid)
Civil Judge-VI, Lakki Marwat.

CERTIFICATE

Certified that this judgment consists of 06 pages, each page has been checked, corrected and signed.

Abdul Majid
24.5.17

(Abdul Majid)
Civil Judge-VI, Lakki Marwat.

Civil Judge (Magistrate-VI)
Lakki Marwat

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Examiner,
Office of the District
Judge

24 IN THE COURT OF ABDUL MAJID, CIVIL JUDGE-VI
LAKKI MARWAT.

Decree Sheet

50

Civil suit #.....188/1-R
Date of Institution.....06-04-2013/27-05-2016
Date of Decision.....24-05-2017

1. Qudrat Ullah Khan S/o Abdul Rahim Khan R/o Masha Mansoor Tehsil & District Lakki Marwat; and
2. Farman Ali Shah S/o Khan Badshah R/o Akhund Khan Khel Mandazai Tajori Tehsil & District Lakki Marwat..... (Plaintiffs)
.....Versus.....
1. Government Of Khyber Pakhtunkhwa through Secretary Education Peshawar;
2. Director Education Department Elementary & Secondary Education Department Peshawar;
3. Executive District Education Officer (male) District Lakki Marwat;
4. District Officer Education (Male) District Lakki Marwat;
5. Assistant District Education Officer District Lakki Marwat;
6. D.C District Lakki Marwat; and
7. Kamal Hussain S/o Noor Qalam Khan R/o Dalo Khel Tehsil & District Lakki Marwat.....Defendants

CLAIM:

- A. Decree for declaration to the effect that they are entitled to be appointed as Drawing Masters in response to publication for the posts dated 06-10-2011. They being at merit No. 10 & 11 respectively have the right to be appointed. Defendant No. 7 was appointed without merit and against the Rules and Regulations had no right of appointment. His appointment order is against the facts, law and ineffective upon the rights of the plaintiff.
- B. Decree for permanent perpetual injunction directing defendants Nos. 1 to 5 to cancel the appointment of defendant No. 7 and appoint the plaintiff instead.

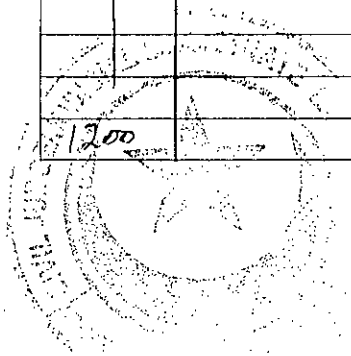
This suit coming on this day for final disposal before the court of Civil Judge-VI Lakki Marwat in the presence of counsels for the parties. It is ordered that the suit of the plaintiffs is dismissed. The appointment of defendant No. 7 also declared as null and void. Parties are left to bear their own costs.

Given under my hand and the seal of the court on 24th May, 2017.

Mumtaz 24/5/17

Abdul Majid
Civil Judge-VI
Lakki Marwat

نمبر شمار	مدعی اور مدعیان	خرچہ نمائش	مدعیہ اور مدعیہ	قیمت
	خرچہ گواہان	900/-	خرچہ گواہان	1200/-
	اسٹامپ کورٹ فیس	}	اسٹامپ کورٹ فیس	}
	اسٹامپ مختیار نامہ		اسٹامپ مختیار نامہ	
	فیس اہل کمیشن		فیس اہل کمیشن	
	تفرق		تفرق	
	ٹری	900/-	ٹری	1200



Office of the District Judge, Lakki Marwat
Abdul Majid
Civil Judge-VI
Lakki Marwat

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Name of Examiner [Signature]

51

ISSUE NO: 1 & 5:

- Whether the plaintiff has got a cause of action?
- Whether the plaintiff has right to decree?

The discussion on main issues Nos. 3 & 4 and on other issue, concluded that plaintiff cannot claim the appointment on the seats filled on merit. Similarly the appointment of defendant No. 6 was on the pretext of an order of the court which was misinterpreted. With the collusion of the then EDO Education he got appointed. The appointment of defendant No. 6 is illegal against the law and facts and without merit. Plaintiff also failed to establish his right to appointment. Hence the plaintiff has no cause of action and right to decree.

Issues are decided in negative.

RELIEF:

Consequent upon my findings on various issues, the suit of the plaintiff is dismissed. The appointment of defendant No. 6 also declared as null and void. Parties are left to bear their own costs.

File be consigned to record room after its necessary completion and compilation.

Announced:
24-05-2017

M. M. Majid
24.5.17

(Abdul Majid)
Civil Judge-VI, Lakki Marwat.
LAKKI MARWAT
Civil Judge (Magistrate-VI)
Lakki Marwat

CERTIFICATE

Certified that this judgment consists of 07 pages, each page has been checked, corrected and signed.

M. M. Majid
24.5.17

(Abdul Majid)
Civil Judge-VI, Lakki Marwat.
LAKKI MARWAT
Civil Judge (Magistrate-VI)
Lakki Marwat

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EXAMINER, 3/5/17
Office of the District & Sessions Judge, Lakki Marwat

[Signature]
Attested

**IN THE COURT OF ABDUL MAJID, CIVIL JUDGE-VI
LAKKI MARWAT.**

Decree Sheet

52

Civil suit #.....12/1
Date of Institution.....23-05-2012/27-02-2016
Date of Decision.....24-05-2017

Gul Aslam Khan S/o Haji Miram Shah R/o Daulat Khel Tehsil & District Lakki Marwat..... (Plaintiff)

.....Versus.....

1. Government Of Khyber Pakhtunkhwa through Secretary Education Peshawar;
2. District Information Officer District Lakki Marwat;
3. Executive District Officer Education Department District Lakki Marwat;
4. District Officer Education (Male) District Lakki Marwat;
5. Selection Committee Education Department District Lakki Marwat; and
6. Kamal Hussain S/o Noor Qalam Khan R/o Dalo Khel District Lakki Marwat.....Defendants

CLAIM:

- A. Decree for declaration to the effect that he is entitled to be appointed as Drawing Master being at merit No. 9 of the merit list. The appointment order of defendant No. 6 dated 21-01-2013 issued from defendant No. 3 is wrong, against the facts, illegal, vexatious, collusive and ineffective upon the rights of the plaintiff. Defendant No. 6 neither applied nor participated in Test and Interview therefore his illegal appointment is against the Rules, Law, notifications and against the merits.
- A. Decree for permanent perpetual injunction restraining the defendants from illegal appointments.

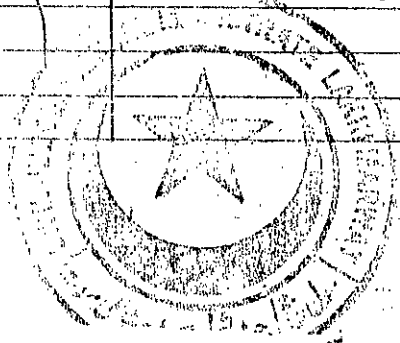
This suit coming on this day for final disposal before the court of Civil Judge-VI Lakki Marwat in the presence of counsels for the parties. It is ordered that the suit of the plaintiff is dismissed. The appointment of defendant No. 6 also declared as null and void. Parties are left to bear their own costs.

Given under my hand and the seal of the court on 24th May, 2017.

Handwritten: 3/17
Examiner,
Secy of the District & Sessions
Tudan Lakki

Handwritten: 24.5.17
Abdul Majid
Civil Judge-VI
Lakki Marwat

نمبر	رقم الامتحان	تیت	رقم الامتحان	تیت
	فرچہ کوہاں	600/-	فرچہ کوہاں	
	اسٹاپ کورٹ ٹیس	500/-	اسٹاپ کورٹ ٹیس	
	اسٹاپ پختیار نامہ		اسٹاپ پختیار نامہ	
	ٹیس ایل کیشن		ٹیس ایل کیشن	
	مترقب		مترقب	
	ڈس	1100/-	ڈس	



Attested

Handwritten: 24.5.17
Abdul Majid
Civil Judge-VI
Lakki Marwat

**IN THE COURT OF NASIR KAMAL YOUSAFZAI,
ADDITIONAL DISTRICT JUDGE-III, LAKKI MARWAT.**

Regular Civil Appeal No. 64/13
Date of institution of Appeal: 21.06.2017/20.11.2017
Date of Decision 18.01.2018

Gul Aslam son of Haji Miram shah resident of Daulat Khel, Tehsil &
Distt: Lakki Marwat (Appellant/plaintiff)

VERSUS

1. Government of KPK through Secretary Education Peshawar.
2. District Information Officer/DC District Lakki Marwat.
3. Executive District Officer Education Department District Lakki Marwat.
4. District officer Education (Male) district Lakki Marwat.
5. Selection committee Education Department District Lakki Marwat.
6. Kamal Hussain son of Nor Qalam Khan resident of Dallo Khel District Lakki Marwat. (Respondents/defendants)

Regular Civil Appeal No. 65/13
Date of institution of Appeal: 21.06.2017/20.11.2017
Date of Decision 18.01.2018

Qudratullah son of Abdur Rahim resident of Masha Mansoor Tehsil
& District Lakki Marwat — (Appellant/Plaintiff)

VERSUS

1. Government of KPK through Secretary Education Peshawar.
2. Director Education Elementary and secondary Education Department Peshawar.
3. Executive District Education Officer (Male) District Lakki Marwat.
4. District officer Education (Male) District Lakki Marwat.
5. Assistant District Education Officer Lakki Marwat.
6. DC District Lakki Marwat.

Kamal Hussain son of Nor Qalam Khan resident of Dallo Khel
District Lakki Marwat. — (Respondents/defendants)

Regular Civil Appeal No:

66/13

Attested
ATTESTED

Examiner to
District & Session Judge
Lakki Marwat

Nasir Kamal
Distt: & Session Judge
Lakki Marwat

Date of institution of Appeal: 12.06.2017/20.11.2017
Date of Decision 18.01.2018

54

Kamal Hussain son of Nor Qalam Khan resident of Dallo Khel
 District Lakki Marwat — (Appellant/defendant)

VERSUS

1. Gul Aslam son of Haji Miram Shah Resident of Daulat Khel.
 (plaintiff/real respondent)
2. Government of KPK through Secretary Education Peshawar.
3. District Information Officer/DC District Lakki Marwat.
4. District officer Education (Male) district Lakki Marwat.
5. Selection committee Education Department District Lakki
 Marwat (real Respondents)

Regular Civil Appeal No. 67/13
Date of institution of Appeal: 12.06.2017/20.11.2017
Date of Decision 18.01.2018

Kamal Hussain son of Nor Qalam Khan resident of Dallo Khel
 District Lakki Marwat — (Appellant/defendant)

VERSUS

1. Qudratullah son of Abdur Rahim Khan resident of Masha
 Mansoor.
2. Farman Ali Shah son of Khan Badshah resident of
 Akhwandan Khankhel Madozia Tajori.
 (plaintiff/real respondents)
3. Government of KPK through Secretary Education Peshawar.
4. Director Education Elementary and secondary Education
 Department Peshawar.
5. District officer Education (Male) District Lakki Marwat.
6. Assistant District Education Officer Lakki Marwat.
7. DC District Lakki Marwat. (real Respondents)

Attested**CONSOLIDATED JUDGMENT:**

Through this judgment, I intend to dispose of instant consolidated RCA titled above, which assails the judgment & decree in suit No. 12/1 of 2012 and suit No.

ATTESTED

Examined by
 District & Session Judge
 Lakki Marwat

188/1-R of 2013 decided on 24.05.2017 passed by Court learned Civil Judge-VI Lakki Marwat, vide which, the suit of both the plaintiffs were dismissed with no orders as to costs.

2. That both the plaintiffs filed suit for declaration and permanent perpetual mandatory injunction against the defendants fully detailed in the head note of the plaint.
3. Brief facts of the case are that defendants issued publication in daily mashriq on 06.10.2011 to fill up the seat of Drawing Masters and both the plaintiffs applied for the said post and after test and interview; they finally secured merit i.e Gul Aslam Khan at Merit No. 9 and Quadratullah Khan at merit No. 10. The defendants issued the appointment order of defendant Kamal Hussain on the said post. The defendant kamal Hussain neither applied nor participated in test and interview, therefore his illegal appointment is against the rules, law, notifications and against the merits.
4. The respondents were summoned who contested the suits of the appellants and submitted their written statement.
5. From the divergent pleadings the trial court framed the

following issues;

In Suit No. 12/1 of 2012

ISSUES

Attested
 Addl. Distt. & Session Judge-III
 Lakki Marwat

ATTESTED

Examiner to
 District & Session Judge
 Lakki Marwat

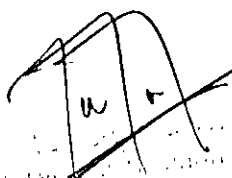
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1. Whether the plaintiff has got a cause of action?
2. Whether the suit of the plaintiff is in time?
3. Whether the plaintiff is entitled to be appointed as Drawing Master in response to publication dated 06.10.2011?
4. Whether the merit list was violated and defendant No. 6 was appointed without test and interview during the pendency of the suit?
5. Whether the plaintiff has right to decree?
6. Relief.

In Suit No. 188/1-R of 2013

ISSUES

1. Whether the plaintiff has got a cause of action?
2. Whether the suit of the plaintiff is in time?
3. Whether the plaintiff is entitled to be appointed as Drawing Master in response to publication dated 06.10.2011?
4. Whether the merit list was violated and defendant No. 7 was appointed without test and interview during the pendency of the suit?
5. Whether the plaintiffs have right to decree?
6. Relief.


 Addl. Dy. Commr. (L) ...
 Lucknow

Attested

ATTESTED
 Examiner to
 District & Session Judge
 Lucknow

6. That after framed issues in both the suit separately, both the parties produced their pro & contra evidence. After

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26

hearing the arguments, the Trial Court/Civil Judge-VI, Lakki Marwat dismissed both the suits of the appellant vide judgment and decree dated 24.05.2017, which is assailed by the appellant through the instant appeal.

7. Learned counsel for the appellant submitted; (in both appeals i.e in appeal No. 64/13 and 65/13)

a. that the Trial Court has not appreciated the evidence in true perspective, and

b. That the trial court has failed to consider the documentary record produced by both the appellants, and

c. that the issues discussed in the judgment were against the facts available on record; and


d. that both the plaintiffs are on merit at serial No. 9 and 10 and also entitled for their appointment; and

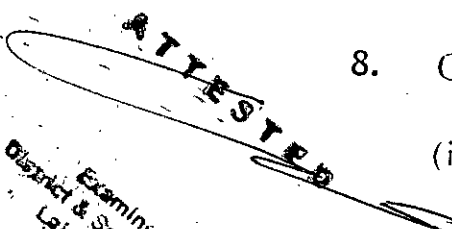
e. that the defendant namely Kamal Hussain nor applied for the said post and neither he applied for test and interview, and the said appointment is against the law and facts; and

f. That at last the learned counsel for both the appellant requested for the acceptance of the appeal and directing to the respondents to appoint both the appellants on the said post.

8. On the other hand learned counsel for the respondents (in both appeals i.e appeal No. 66/13 and 67/13)

Attested


Masir Kamal
Addl. Distt. & Session Judge-III
Lakki Marwat

ATTESTED

Examiner to
District & Session Judge
Lakki Marwat

supported the impugned judgment and argued at length that the Trial Court appreciated the evidence in true perspective; that both the appellant has failed to prove his case through overwhelming documentary and oral evidence and thus requested for the acceptance of the appeal and dismissed the suit of both the plaintiffs.

Arguments heard and record perused.

- 9. The foremost question before the court is that during the course of arguments the learned counsel for the parties were asked to explain that whether the civil court had got jurisdiction to adjudicate upon the matter in hand? In this regard the learned counsel for the parties drew the attention of this court to the judgment rendered by the Mr. Zia ur Rahman ADJ-IV Lakki Marwat, dated 13/05/2016, where in the present appellant namely Qudrat Ulalh etc had preferred an appeal against the decree of the civil judge where by the plaintiff of the plaintiff/appellant was rejected under order 07 rule 11 of the C.P.C, but against the same the appeal was preferred before the learned ADJ-IV Lakki Marwart , the said appeal of the present appellant was accepted and the case was remanded back to the trial court for the decision afresh on merits. Pertinent to note is that the respondents had no-where challenged the

Zia ur Rahman
Adl. Dist. & Sess. Judge
Lakki Marwat

Attested

ATTESTED
Witness to
Marked & Session Judge
Lakki Marwat


59

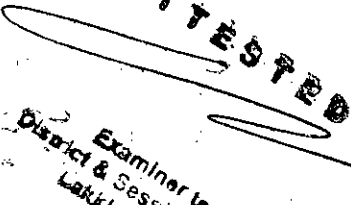
said judgment before the august Peshawar High court, Peshawar, thus the judgment has attained the finality and thus it is hereby held that the learned civil judge was having ample powers to have adjudicated upon the matter.

10. Perusal of record reveals that both the plaintiffs have applied for the said post and both being on merit No. 9 and 10, respectively. According to EXPW1/4, defendants appointed candidates serial No. 1 to 7 on open merit while a person lying at serial No. 08 was appointed on disable quota. The merit list (EXPW 1/3) clearly shows that plaintiff Gul Aslam is lying at serial No. 09 while as per merit list ExpW1/1, shows that plaintiff Qudratullah is lying at serial No.10.

11. Another important matter to be dealt by this court is the appeal filed by Kamal hussain where in he has stated that the findings of the trial court are not in accordance with law and facts of the case, the learned counsel for the said appellant stated that the said kamal Husain was appointed as per law and as per the merit and thus he stated the trial court has ignored all these aspects of the case due to non reading and mis-reading of the evidence available on the record. Record of the case with respect to Kamal Husaain transpires that neither he applied for the stated post nor his interview

Attested


Nazir Kamal
Addl: Distt. & Session Judge-III
Lakki Marwat

ATTESTED

Examiner to
District & Session Judge
Lakki Marwat

60

was conducted in the instant case, thus without adhering to the legal requirements his appointment to the stated post cannot be termed as legal or as per the law, thus it is hereby held that the trial court has rightly held that the appointment of Kamal Hussain is null and void and is of no legal effect. As held in a case reported in 2012 SCMR 673 where in it was held that;

'Appointment made without advertisement of the vacancies, inviting of the applications and completion of the codal formalities ---termination of service of such employees without providing them an opportunity of hearing---validity---'he who seek equity must do equity' and 'approach court with clean hands'---ill gotten gains could not be protected'---such employees had got their appointment through back doors, thus, could not agitate any grievance on the pretext of denial due opportunity of hearing to them ---such employees could not challenge principle of good governance adopted at highest level mandating each and every appointment in government service to be

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Examiner to District & Session Judge-III
Lahore

Attested

ATTESTED
Examiner to District & Session Judge
Lahore

(61)

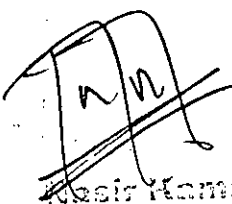
made on merit as per relevant rules and completion of codal formalities'.

Wisdom is also derived from 2000 PLC(C.S)1145.

12. Record further transpires that the appellant (Kamal Hussain) has committed a fraud upon the respondents (education department) where in as per EX PW 3/1 he was appointed as per the court order. The same act on the part of the appellant (Kamal Husaain) shows his mala fide and ill will. In fact the court order was also wrongly interpreted by the respondents (education department), the said order EX PW 4/1 dated 05/01/2013 is not with respect to the appointment orders of the appellant (Kamal Hussain) made by the learned civil judge, Lakki Marwat, but that was otherwise, thus it is hereby held that the appointment of the appellant (kamal Hussain) is null and void.

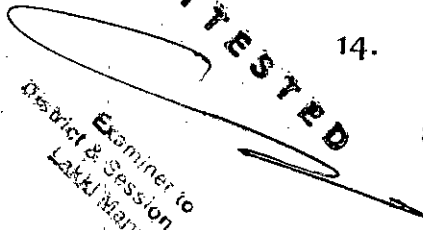
13. Another important factor in the case is that EX PW1/5 clearly cut reveals that in GHS Daraka AZIZ Khan has 01 vacant post of drawing master which was not filled and as per the record available with the education department, the post is still vacant so it is hereby held that at Quadratullah who stands at serial number 10 is hereby appointed on the said vacant post.

14. The trial court by not passing decree in favor of the appellant (Gul Aslam and Quadrat Ullah) has committed


Kamal Hussain
Addl. Distt. & Session Judge-III
Lakki Marwat

ATTESTED

14.


Examiner to
District & Session Judge
Lakki Marwat

Attested

62

a gross illegality and the same is as a result of non-reading and mis-reading of the evidence available on the record, which needs interference of this court.

15. As far as the case of the appellant (Gul Aslam) is concerned, so as stated earlier the appointment of Kamal Husaain is hereby declared as null and void thus Gul Aslam khan who has a legal right to be appointed but was not appointed by the respondents (education department) for reasons bests known to them. Thus, it is hereby held that the respondents (education department) shall issue notification with respect to the appointment of Gul Aslam Khan (appellant) as well as with respect to the appointment of appellant (Qudrat Ullah).

16. Resultantly, from the reasons recorded above, I am inclined to accept both the appeal No. 64/13 filed by Gul Aslam vs Govt etc and appeal 65/13 filed by Qudratullah vs govt etc and judgment and order of the trial court is hereby set aside and respondents are directed to appointed the appellants/plaintiffs on the posts in question. While the appeals No. 66/13 and 67/13 has no legal footing in the eye of law and thus the same is hereby dismissed with no orders as to costs.

17. Copy of this judgment by placed on connected cross appeal.

Handwritten signature/initials

Attested

ATTESTED

Examiner to District & Session Judge
Lakki Markan

63

32

18. This file be consigned to the record room after its necessary completion and compilation and the copy of this judgment shall be send to the trial court concerned.

Announced:
18.01.2018

(Nasir Kamal Yousafzai)
Addl: District Judge-III
Lakki Marwat.

CERTIFICATE:

Certified that this judgment consists of 11 (eleven) pages. Each page has been read, checked and signed by me after making necessary corrections therein.

No. 1360
 Application received on 12.2.21
 Copy filed on 12.2.21
 Judgment for copying 12.2.21
 No. 8 P
 No. 12.2.21
 Copy 12.2.21
 Copy 12.2.21
 Name of Examiner:

(Nasir Kamal Yousafzai)
Addl: District Judge-III
Lakki Marwat.
Nasir Kamal
Addl: Distt. & Session Judge-III
Lakki Marwat

ATTESTED

Examiner to
District & Session Judge
Lakki Marwat

Attested

3

64

DECREE SHEET

IN THE COURT OF NASIR KAMAL YOUSAFZAI,
ADDL: DISTRICT JUDGE-III, LAKKI MARWAT.

Regular Civil Appeal No. 64/13
Date of institution of Appeal: 21.06.2017/20.11.2017
Date of Decision 18.01.2018

Gul Aslam (Appellant)
VERSUS
Govt and othes (respondents)

The appellant filed the instant regular civil appeal against the impugned the judgment / decree dated 24.05.2017 passed by learned Civil Judge-VI/trial court vide which the trail court dismissed the suit of the plaintiff.

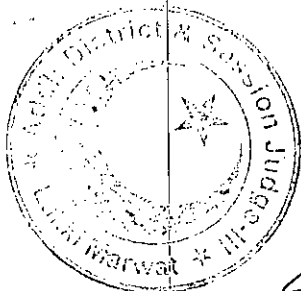
Vide my detailed consolidated judgment of today consist of 11 pages, separately written and placed on file, therefore, the instant appeal is hereby accepted and the judgment and decree of trail court is set aside and respondents are directed to appointed the plaintiff/appellant on the post in question. No order as to costs.

Appellant		respondents	
Rs.	Ps.	Rs.	Ps.
500			
500/-		Nil	nil

Costs of suit
Stamp of suit
Stamp of power
Pleader Fee
Court fees
Miscellaneous

Give under my hand and seal of Court today on 18.01.2018.

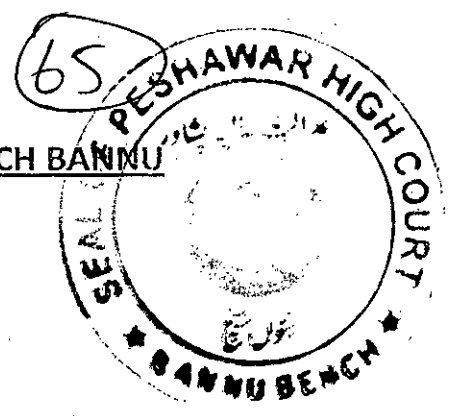
Attested



ATTESTED
(Nasir Kamal Yousafzai)
Addl: District Judge-III
Lakki Marwat.

Examiner to
District & Session Judge
Lakki Marwat

Amer J



BEFORE THE PESHAWAR HIGH COURT BANNU BENCH BANNU

Civil Revision No. 60-B/2018

Kamal Hussain

VS

Qudrat Ullah & Others

INDEX

S.No	Description of Documents	Annexure	Pages
1	Grounds of C.R, certificate, C.M, affidavit and Memo of Addresses		1-7A
2	Copies of advertisement, testimonials and appointment order	A to A-2	8-33
3	Copies of plaints and written statements	B to C-1	34-51
4	Copies of issues, evidence and Judgments, Orders and Decrees	D to F-1	52-204
5	Copies of appeals and impugned Judgment, Order and Decree	G to H	205-234
6	Wakalatnama		235

PETITIONER/DEFENDANT

THROUGH COUNSEL

ANWAR UL HAQ
17/3/18

ANWAR UL HAQ
ADVOCATE SUPREME COURT

Dated: 17/03/2018

ATTESTED

EXAMINER
Peshawar High Court
Bannu Bench

SCANNED
26-3-18

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17/3/18
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Re-Filed Today
20/3/18
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Additional Registrar

BEFORE THE PESHAWAR HIGH COURT, BANNU BENCH BANNUCivil Revision No. 60-B /2018

(66)

Kamal Hussain Son of Noor Kalam Khan Resident of Dalo Khel Tehsil &
District Lakki Marwat (Petitioner/Defendant)

VERSUS

- 1) Qudrat Ullah Khan Son of Abdur Rahim Khan Resident of Masha Mansoor Tehsil & District Lakki Marwat.
- 2) Farman Ali Shah Son of Khan Badshah Resident of Akhund Khan Khel Tajori Tehsil & District Lakki Marwat.
- 3) Gul Aslam Khan Son of Miram Shah Resident of Daulat Khel Tehsil & District Lakki Marwat.

..... (Actual Respondents/Plaintiffs)

- 4) Government of Khyber Pakhtunkhwa through Secretary Education Khyber Pakhtunkhwa, Peshawar.
- 5) Director Education, Government of Khyber Pakhtunkhwa, Peshawar.
- 6) District Education Office (Male) Lakki Marwat.

..... (Proforma Respondents)

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EXAMINER
Peshawar High Court
Bannu Bench

CIVIL REVISION PETITION UNDER SECTION 115 C.P.C, 1908, AGAINST THE IMPUGNED JUDGMENTS, ORDERS AND DECREES DATED 24/05/2017, PASSED IN CIVIL SUIT NO. 188/1-R AS WELL AS IN CIVIL SUIT NO. 12/1, PASSED BY LEARNED CIVIL JUDGE-VI LAKKI MARWAT, WHEREIN THE SUITS FILED BY THE RESPONDENTS/PLAINTIFFS WERE DISMISSED, HOWEVER, THE APPOINTMENT ORDER OF THE

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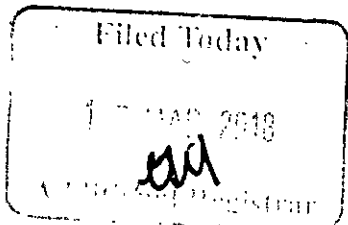
PETITIONER/DEFENDANT WAS DECLARED TO BE NULL AND VOID, WHICH WAS IMPUGNED BY THE PETITIONER AS WELL AS THE RESPONDENTS IN SEPARATE APPEALS BEFORE THE LEARNED DISTRICT JUDGE LAKKI MARWAT, WHICH WERE ENTRUSTED TO LEARNED ADDITIONAL DISTRICT JUDGE-III LAKKI MARWAT FOR FURTHER ADJUDICATION, WHEREIN, THE LEARNED ADDITIONAL DISTRICT JUDGE-III LAKKI MARWAT, VIDE IMPUGNED CONSOLIDATED JUDGMENT, ORDER AND DECREE DATED 18/01/2018, ACCEPTED THE APPEALS OF THE ACTUAL RESPONDENTS NO. 1 AND 3/PLAINTIFFS, HOWEVER, THE APPEALS FILED BY THE PETITIONER/DEFENDANT WERE DISMISSED.

Respectfully Sheweth;

- 1) Brief facts of the case in hand are that, various posts including posts of Drawing Master (DM) were advertised by the Respondent No. 6 in different dailies. The petitioner in response to the advertisement being eligible and qualified applied for the said post. After thorough scrutiny the petitioner was appointed as Drawing Master vide appointment order dated 21/01/2013.

(Copies of advertisement, testimonials and appointment order of the petitioner are hereby annexed as Annexure-A, A-1 & A-2 respectively)

- 2) That, the respondent No. 1 to 3, feeling aggrieved of the aforementioned appointment of the petitioner, challenged the same before the learned Senior Civil Judge Lakki Marwat, in two separate civil suits, which were entrusted for further adjudication to learned Civil Judge-VI, Lakki Marwat. The learned trial Court issued notices to the petitioner in both the civil suits, which were properly contested by the petitioner by filing written statements.



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EXAMINER
Peshawar High Court
Banna Bench

(Copies of plaints and written statements are hereby annexed as Annexure-B, B-1, C & C-1 respectively)

- 3) That, both the suits were separately adjudicated upon wherein, issues were framed, both the parties thereafter adduced the evidence of their choices pro and contra. After conclusion of trials of both the suits, the suits of the plaintiffs/respondents were dismissed, however, the appointment order of the petitioner was declared to be null and void, vide impugned Judgments, orders and decrees dated 24/05/2017, by the learned Civil Judge-VI, Lakki Marwat.

(Copies of issues, evidence and Judgments, Orders and Decrees are hereby annexed as Annexure-D, E, E-1, F & F-1 respectively)

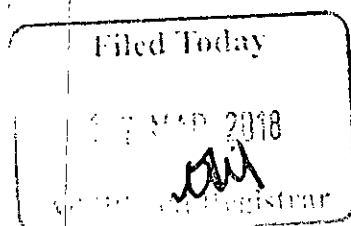
- 4) That, feeling aggrieved of the aforementioned impugned Judgment dated 24/05/2017, the petitioner as well as the actual respondent No.1 and 3 assailed the same through separate appeals before the learned District Judge Lakki Marwat, which was entrusted to learned Additional District Judge-III Lakki Marwat, for onward proceedings. The learned Appellate Court consolidated all the appeals i.e. of the petitioner as well as of the actual respondents No.1 and 3; and decided all the appeals vide impugned consolidated Judgment, Order and decree dated 18/01/2018, wherein, the appeals filed by the petitioner were dismissed, while appeals filed by the actual respondents No. 1 and 3 were accepted.

(Copies of appeals and impugned Judgment, Order and Decree are hereby annexed as Annexure-G, G-1, G-2 & H respectively)

- 5) That, feeling aggrieved of the impugned judgments / orders / decrees of both the Courts below, the petitioner thus seeks the indulgence of this Honourable Court, on the following grounds, inter alia.

GROUND:

- a) That, the impugned Judgments / Orders / Decrees of both the learned Courts below are against law and facts.



ATTESTED
 EXAMINER
 Peshawar High Court
 Bannu Bench

- b) That the impugned Judgments/Orders/Decrees of both the learned Courts below are based on mis-reading and non-reading of evidence, hence, not tenable in the eyes of law.
- c) That, the impugned Judgments / Orders / Decrees of both the learned Courts below are outcome of the conjecture and surmises and the available record has not been appreciated properly and in true perspective.
- d) That, the impugned Judgments/Orders and Decrees of both the learned Courts below are violative of the well established principle of *LOCUS POINTENTIAE*.
- e) That, the petitioner/defendant is highly qualified, having rich practical experience in the relevant field.
- f) That, the appeals of the actual respondents No.1 and 3/plaintiffs were not in proper form and were badly barred by law.
- g) That, respectfully speaking the suits of the learned Courts below were lacking jurisdiction to entertain the suits of the plaintiffs/actual respondents, hence, the impugned Judgments are *Corum Non JUDGE*.
- h) That, the petitioner belongs to a poor family, having large number of dependants upon him.
- i) That, impugned Judgments/Orders and Decrees of both the learned Courts below are not in consonance with the provisions of Civil Procedure Code, 1908.
- j) That, the impugned Judgments/Orders and Decrees of both the learned Courts below are at variance.

ATTESTED
 EXAMINER
 Peshawar High Court
 Bannu Bench

In view of the above stated facts and grounds and others to be stated at the time of arguments, it is, therefore, most humbly prayed that by accepting this revision petition, this Honourable Court may graciously be pleased to set aside the impugned Judgments, Orders and Decrees dated 24/03/2017, passed in civil suit No. 188/1-R and in civil suit No. 12/1, passed by learned Civil Judge-VI Lakki Marwat;

11/3/2017

113

[Signature]

Registrar

to the extent of declaring the appointment order of the petitioner null and void, as well as impugned consolidated Judgment/Order and Decree dated 18/01/2018 of the learned Additional District Judge-III Lakki Marwat, and to uphold the Judgments/Orders and Decrees of the learned Civil Judge-VI Lakki Marwat dated 24/05/2017, to the extent of dismissal of the suits of actual respondents/plaintiffs. This Honourable Court may also further be pleased to grant any other remedy, deem it fit in the circumstances.

PETITIONER/DEFENDANT

THROUGH COUNSEL

*W. ASK
17/3/18*

ANWAR UL HAQ

ADVOCATE SUPREME COURT

Dated: *17/03/2018*

CERTIFICATE

It is certified that no such like petition has been ever moved by the petitioner before any forum and the contents of this petition are true and correct.

PETITIONER/DEFENDANT

THROUGH COUNSEL

*W. ASK
17/3/18*

ANWAR UL HAQ

ADVOCATE SUPREME COURT

Dated: *17/03/2018*

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EXAMINER
Peshawar High Court
Bannu Bench

Filed Today
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BEFORE THE PESHAWAR HIGH COURT BANNU BENCH BANNU

(71)

C.M No. _____/2018 in C.R No. 60-B/2018

Kamal Hussain

VS

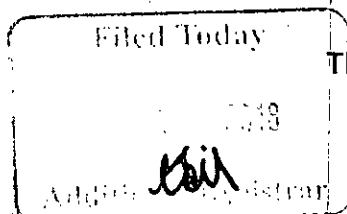
Qudrat Ullah & Others

SUBJECT: CIVIL MISCELLANEOUS APPLICATION FOR SUSPENSION OF OPERATIONS OF IMPUGNED JUDGMENTS OF BOTH THE LEARNED COURTS BELOW DATED 24/05/2017 AND 18/01/2018 TILL THE DISPOSAL OF INSTANT REVISION PETITION.

Respectfully Sheweth:

- 1) That, the petitioner/defendant has filed accompanied Civil Revision before this Honourable Court.
- 2) That, there is likelihood and every possibility that the case of petitioner/defendant got succeeded being having a good prima facie case.
- 3) That, all the three ingredients i.e. balance of convenience, prima facie case and irreparable loss lies / exists in favour of petitioner/defendant.

It is, therefore, most humbly prayed to suspend the operations of the impugned Judgments dated 24/05/2017, of learned Civil Judge-VI Lakki Marwat, as well as impugned Judgment dated 18/01/2018, of learned Additional District Judge-III Lakki Marwat, till the disposal of instant revision petition.



Dated: 17/03/2018

THROUGH COUNSEL

PETITIONER/DEFENDANT

ATTESTED
EXAMINER
Peshawar High Court
Bannu Bench

ANWAR UL HAQ
ADVOCATE SUPREME COURT

7 A

BEFORE THE PESHAWAR HIGH COURT BANNU BENCH BANNU

Civil Revision No. _____/2018

72

Kamal Hussain

VS

Qudrat Ullah & Others

MEMO OF ADDRESSES OF THE PARTIES

ADDRESS OF THE PETITIONER:

Kamal Hussain Son of Noor Kalam Khan Resident of Dalo Khel Tehsil & District Lakki Marwat.

ADDRESSES OF THE RESPONDENTS:

- 1) Qudrat Ullah Khan Son of Abdur Rahim Khan Resident of Masha Mansoor Tehsil & District Lakki Marwat.
- 2) Farman Ali Shah Son of Khan Badshah Resident of Akhund Khan Khel Tajori Tehsil & District Lakki Marwat.
- 3) Gul Aslam Khan Son of Miram Shah Resident of Daulat Khel Tehsil & District Lakki Marwat.
- 4) Government of Khyber Pakhtunkhwa through Secretary Education Khyber Pakhtunkhwa, Peshawar.
- 5) Director Education, Government of Khyber Pakhtunkhwa, Peshawar.
- 6) District Education Office (Male) Lakki Marwat.

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EXAMINER
PETITIONER/DEFENDANT
Peshawar High Court
Bannu Bench

THROUGH COUNSEL

Filed Today
17/03/2018

Dated: 17/03/2018

ANWAR UL HAQ

ADVOCATE SUPREME COURT

BEFORE PESHAWAR HIGH COURT, BENCH
BANNU.

73

C. M. A No. 179-P /2018

In

Civil Revision No. 60-B/2018

Kamal Husain _____ Petitioner

Versus

Qudrat Ullah & others _____ Respondents

CIVIL MISCELINIOUS APPLICATION FOR THE WITHDRAWAL OF ORDER
DATED 03/04/2018 OF THIS HONORABLE COURT THROUGH WHICH THE
JUDGMENTS AND DECREES OF LEARNED COURTS BELOW DATED
24/05/2017 AND DATED 18/01/2018 WAS SUSPENDED.

Respectfully Sheweth,

1. That the captioned civil revision petition is pending for adjudication before this Honorable Court which is prima facie in favor of applicant/ respondent. {Attested Copies of revision petition is attached as Annexure-A}.

2. That upon the application of petitioner Kamal Husain vide order dated 03/04/2018, This Honorable Court suspended the judgment and decree of learned civil judge No.6 Lakki Marwat in civil suit No.188/1-R/2013 and suit No.12/01/2012 and consolidated judgment of Additional District Judge No-iii Lakki Marwat in civil appeals No.67/13,65/13,66/13 and 67/13 of 2017. So the balance of convenience is also in favor of applicant / respondent. {copy of the order sheet dated 03/04/2018 is annexed as annexure -B}.

ATTESTED

EXAMINER
Peshawar High Court
Bannu Bench

[Signature]
03/04/2018
PESHAWAR HIGH COURT

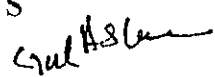
- 3. That according to the assailed/suspended judgments and decrees the appointment of petitioner Kamal Husain has been declared as null and void and appointment of Respondents No.1 & 2 has been directed. Their fore balance of convenience is also tilt in favor of respondents No.1 & 2.
- 4. That according to judgment and decree of the Learned Additional District judge No-iii Lakki Marwat, the appointment of respondents No-1 & 2 was in process but due to suspension order of this Honorable court dated 03/04/2018 it was turn down.
- 5. That the vacant posts are available and the appointment of the respondents No-1 & 2 has been directed by competent Court after proving their case/right, so respondents No-1 & 2 are facing irreparable loss.
- 6. That the counsel of Applicants/respondents No-1 & 2, may also be allowed to raise other grounds during hearing of the instant C.M petition.

IT IS VERY HUMBL Y PRAYED FOR THE SUSPENSION ORDER DATED 03/04/2018, MAY KINDLY BE WITHDRAW.

Dated: 07.11.2018


Qudrat Ullah.

APPLICANTS


Gul Aslam

Through

Hafiz Jamshaid,
Advocate, High Court



ATTESTED
EXAMINER
Peshawar High Court
Banna Bench

PESHAWAR HIGH COURT,

BANNU BENCH

FORM OF ORDER SHEET

75

Date of order or proceeding (1)	Order or other proceedings with signatures of Judge (s). (2)
03.04.2018	<p><u>C.R No.60-B of 2018 with</u> <u>CM No.46-B of 2018</u></p> <p>Present.</p> <p>Anwar-ul-Haq Advocate for petitioner. *****</p> <p>Inter alia, contends that both the Courts below were lacking jurisdiction to entertain the suits of plaintiffs / actual respondents and the impugned judgments are violative of the well settled principle of locus poenitentia. Points raised, need consideration. As short point is involved, let pre-admission notice be issued to the other side.</p> <p><u>CM No. 46-B/2018</u></p> <p>Notice for 19.04.2018, till then impugned judgments shall remain suspended.</p> <p style="text-align: center;">(Signature) JUDGE</p> <p style="text-align: center;">CERTIFIED TO BE TRUE COPY (Signature) Examiner Peshawar High Court Bannu Bench Authorised under Article 87 of The Qanun-e-Shahadat Order 1984</p>

FORM "A"
FORM OF ORDER SHEET

76

Date of order or proceedings 2.	Order or other proceedings with signature of Judge or Magistrate and that of parties or counsel where necessary. 3.
19.4.2018	<p><u>C.R No. 60-B / 2018 with CM No. 46-B/2018.</u></p> <p><u>Present:</u></p> <p>Mr. Sawal Nazir Khan advocate for petitioner.</p> <p>Nemo for respondent.</p> <p>*****</p> <p>Process of respondents not returned either served or un-served, therefore, notice to respondents for 26/4.2018.</p> <p style="text-align: center;">(A) JUDGE</p> <p style="text-align: right;">CERTIFIED TO BE TRUE COPY</p> <p style="text-align: right;">Peshawar High Court Bench Authorized under Article 87 of The Qanun-e-Shahadat Order 1984</p> <p style="text-align: left;"><i>Imranullah</i></p>


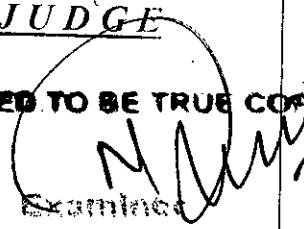
SCANNED

77

PESHAWAR HIGH COURT,
BANNU BENCH.

FORM 'A'

FORM OF ORDER SHEET

Date of order or proceedings	Order or other proceedings with signature of Judge (s).
(1)	(2)
26.4.2018	<p><u>C.R No.60-B of 2018.</u></p> <p>Present:</p> <p>Mr. Sawal Nazir Advocate for the petitioner.</p> <p>Mr. Muhammad Jamshid Advocate for the respondent.</p> <p>***</p> <p>The latter submitted Vakalat Nama on behalf of the respondent and seeks adjournment being freshly engaged. Adjourned to a date in office.</p> <p style="text-align: right;">  JUDGE </p> <p style="text-align: right;"> CERTIFIED TO BE TRUE COPY  Examiner </p> <p style="text-align: right;"> Peshawar High Court Bannu Bench Authorised Under Article 27 of the Qanun-e-Shahadat Order 1984 </p>

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(S.B)

Justice Abdul Shakoor.

PESHAWAR HIGH COURT,

BANNU BENCH


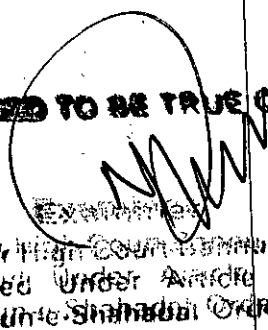
FORM OF ORDER SHEET

78

Date of order or proceeding	Order or other proceedings with signatures of Judge (s).
(1)	(2)
22.10.2018	<p><u>CM No.402 -B of 2018</u> <u>CR No. 46-B of 2018</u> <u>Present.</u></p> <p>Respondents No.1 and 3 in person alongwith hafiz Muhammad Jamshed Advocate for applicants.</p> <p>*****</p> <p><u>MUHAMMAD NASIR MAHFOOZ, J.---</u> This is CM application for early fixation of the case. As subject matter relates to appointment and the applicants are getting over age, therefore, this CM for early hearing is allowed and be fixed on 25.10.2018. Learned AAG present in the court accepts notice on behalf of official respondents, while notice be issued to other parties as well as their respective counsel for the date fixed.</p> <p><u>Announced.</u> 22.10.2018</p> <p><i>[Signature]</i> 22/10</p> <p><i>[Signature]</i> JUDGE</p> <p>CERTIFIED TO BE TRUE COPY</p> <p>Examinor Peshawar High Court Bannu Bench Authorised Under Article 87 The Qanun-e-Shahadat Order 1988</p>

FORM "A"
FORM OF ORDER SHEET

80

Date of order or proceedings	Order or other proceedings with signature of Judge or Magistrate and that of parties or counsel where necessary.
2.	3.
25.10.2018	<p><u>C.R No. 6B-B/2018.</u></p> <p><u>Present:</u></p> <p>Mr. Sawal Nazeer Khan advocate for petitioner.</p> <p>Mr. Muhammad Jamshed advocate for respondents No.2 & 3.</p> <p>Mr. Naseer Ahmad ADEO Lakki.</p> <p>*****</p> <p>Mr. Anwar-ul-Haq, learned counsel for petitioner is on general adjournment. Adjourned to a date in office.</p> <p style="text-align: right;">  JUDGE </p> <p style="text-align: right;"> CRATED TO BE TRUE COPY  <small>Peshawar High Court Bench Authorised Under Article 87 of the Constitution of Pakistan</small> </p>

SCANNED

6/10/2018

PESHAWAR HIGH COURT,

BANNU BENCH

FORM OF ORDER SHEET

81

Date of order or proceeding	Order or other proceedings with signatures of Judge (s).
(1)	(2)
19.11.2018	<p>CM No. 179-B of 2018 CR No.60-B of 2018 Present.</p> <p>Hafiz Jamshaid Advocate for applicant/ respondent.</p> <p>*****</p> <p>Notice of CM be issued to the other side; for a short date in office.</p> <p style="text-align: right;"><i>[Signature]</i> JUDGE.</p> <p style="text-align: right;">DECLARED TO BE TRUE COPY</p> <p style="text-align: right;"><i>[Signature]</i></p> <p style="text-align: right;"><small>Peshawar High Court Bannu Bench Authorised Under Article 187 of the Constitution of Pakistan</small></p>

[Signature]
18/11

**PESHAWAR HIGH COURT,
BANNU BENCH**

82

FORM OF ORDER SHEET

Date of order or proceeding	Order or other proceedings with signatures of Judge (s).
(1)	(2)
20.12.2018	<p>CM No. 179-B of 2018 CR No.60-B of 2018</p> <p>Present.</p> <p>Sawal Nazir Advocate for petitioner.</p> <p>Shahid Hameed, Addl: A.G for official respondents.</p> <p>Hafiz Muhammad Jamshaid Advocate for respondent No.1 and 3.</p> <p>*****</p> <p>Learned counsel for respondent as well as learned A.A.,G representing the official respondents accept notice of CM. this revision petition be clubbed with CR No.94-B/2018 and CR No.95-B/2018. Office is directed to fix the cases in the month of January, 2019.</p> <p style="text-align: right;">JUDGE.</p> <p style="text-align: right;">CERTIFIED TO BE TRUE COPY</p> <p style="text-align: right;">Examiner Peshawar High Court Bannu Bench Authorised Under Article 87 The Qanun-e-Shahadat Order 1984</p>

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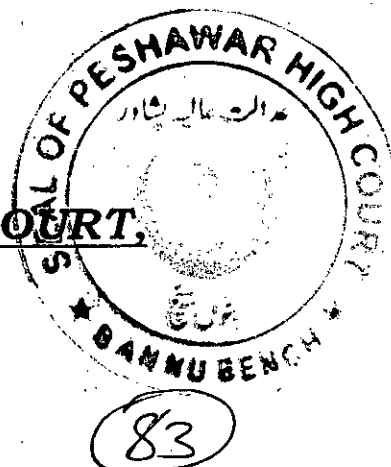
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JUDGMENT SHEET

IN THE PESHAWAR HIGH COURT,
BANNU BENCH.

(Judicial Department)

C. R No. 60-B of 2018



Kamal Hussain
Vs
Qudratullah and others.

JUDGMENT

Date of hearing 28.01.2019

Appellant-Petitioner by Mr. Farman Ali

Respondent by Mr. H. M. Jamshed

MUHAMMAD NASIR MAHFOOZ, J.---

Through this


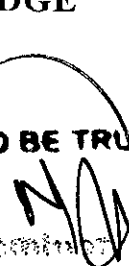
common judgment, I would like to dispose of instant CR No.60-B/2018 filed by Kamal Hussain, CR No. 94-B/2018 and CR95-B/2018 filed by Government of KPK, wherein the petitioners have impugned the judgment and decree of learned Courts below passed on 24.05.2017, in civil suit No. 188/1-R instituted by Qudratullah Khan and Farman Ali Shah and in Civil Suit No.12/1 filed by Gul Aslam, passed by learned Civil

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ATTESTED
EXAMINER
Peshawar High Court
Bannu Bench

FORM "A"
FORM OF ORDER SHEET

79

Date of order or proceedings	Order or other proceedings with signature of Judge or Magistrate and that of parties or counsel where necessary.
2.	3.
25.10.2018	<p><u>CM No. 70-B/2017 & CM No. 160-B/2017(N) in C.R No. 68-B/2014.</u></p> <p><u>Present:</u></p> <p>Mr. Sawal Nazeer Khan advocate for petitioner.</p> <p>Mr. Muhammad Jamshed advocate for respondents No.2 & 3.</p> <p>Mr Naseer Ahmad ADEO Lakki.</p> <p>*****</p> <p>Mr. Anwar-ul-Haq, learned counsel for petitioner is on general adjournment. Adjourned to a date in office.</p> <p style="text-align: right;">  JUDGE </p> <p style="text-align: right;"> CERTIFIED TO BE TRUE COPY  Examiner Peshawar High Court Barnu Bench Authorized Under Article 87 of the Qanun-e-Shahadat Order 1988 </p>

84

Judge-VI, LakkiMarwat, to the extent of declaring appointment order of the petitioner Kamal Hussain as null and void as well as impugned consolidated judgment and decree dated 17.01.2018 of the learned Additional District Judge-III, Lakki Marwat.

2. Brief facts of the case are that Qudratullah Khan and Farman Ali Shah, respondents No.1 and 2 respectively, filed a suit No.188/1-R for declaration alongwith permanent and mandatory injunction to the effect that the present petitioner Kamal Hussain has been wrongly appointed as Drawing Master and the same is not based on merit. It is alleged that certain posts were advertised in newspaper on 06.10.2011 by the respondents/ department and the respondent's /plaintiffs duly applied for the said posts and in the tentative merit list 20 candidates were declared successful.

On 24.04.2012 candidate at S.No. 1 to 7 were appointed on merit, while candidate at S.No.1 was appointed on disable quota, while two candidates were promoted. It is further mentioned in the plaint, that the present petitioner had not even applied for the said post nor he has passed test, nor his name is

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JUDGE
Bannu High Court
Bannu Bench

mentioned in the final merit list, but he was appointed as Drawing Master vide impugned appointment order dated 21.01.2013, and despite repeated requests respondents/ defendants failed to address their grievance. Hence, respondents No.1 and 2/ plaintiffs filed the suit.

3. Respondent defendant contested the suit by filing written statement and denied contention of respondents/ plaintiffs. Both the Parties produced their evidence and learned trial Court though dismissed the suit, but still declared appointment of petitioner/defendant No.7 as null and void.

4. Connected Civil revision No. 95-B/2018 filed by the Government of KPK, alleging therein that respondent Gul Aslam had also filed a suit for declaration as well as permanent mandatory injunction challenging appointment of present petitioner Kamal Hussain (in CR No.60-B of 2018) on the same grounds. This case also proceeded, after filing of written statement and framing of issues and ultimately through judgment dated 24.05.2017 the suit was though dismissed but also appointment of petitioner/ defendant No.6 was declared as null and void.

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5. Feeling aggrieved against the judgment and decree of learned trial Court, Kamal Hussain, Quadratullah and Gul Aslam filed four different appeals challenging impugned judgments and decrees of learned trial Court in both the connected suits. Said appeals bearing No. 64/13, 65/13, 66/13 and 67/13 of 2017 were heard by learned Additional District Judge-III, Lakki Marwat and through consolidated judgment passed an order dated 18.01.2018 by allowing the appeals as under:

"Resultantly, from the reasons recorded above, I am inclined to accept both the appeal No.64/13 filed by Gul Aslam Vs govt. etc and Appeal 65/13 filed by Quadratullah Vs Govt etc and judgment and order of the trial Court is hereby set aside and respondents are directed to appoint the appellants/ plaintiffs on the posts in question. While appeals No.66/13 and 76/13 has no legal footing in the eye of law and thus the same is hereby dismissed with no orders as to costs."

6. I have heard arguments of learned A.A.G and learned counsel for the parties and perused the record.

88

7. Since there are two civil suits filed by three persons, namely Qudratullah, Farman Ali Shah and Gul Aslam and all the three have claimed appointment on the posts of Drawing Master by challenging appointment of one Kamal Hussain petitioner herein. Learned trial Court had declared appointment of petitioner Kamal Hussain null and void, though dismissing suit of Qudratullah and Farman Ali Shah, but learned appellate Court has further modified order by issuing order of appointment of Gul Aslam and Qudratullah appellants by accepting civil appeals No.64/13 and 65/13.

8. As per advertisement dated 06.10.2011, requisite qualification for the posts of Drawing Master were B.A/B.Sc or equivalent qualification from any recognized university including one year Drawing Master certificate. This post was falling in BPS-09 at that time and terms & conditions provided for the advertisement itself. Tentative merit list was prepared on the basis of interview held on 15.11.2011, wherein the name of Gul Aslam appears at S.No.8, while name of Qudratullah and Farman Ali Shah appears at S.No.10 and 11. As per final merit list dated 15.11.2011, which is of the same date, the name of

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ATTESTED
JUDGE
Peshawar High Court
Baluchistan

89

Inayatullah who was placed at S.No.9 in tentative merit list has been mentioned at S.No.5, while the respondents/ plaintiffs Gul Aslam, Qudratullah Khan and Farman Ali Shah are shown at S.No. 9 and 10 and 11, respectively. Lists are marked as Ex:DW 1/3 and DW 1/4. Appointment orders for different posts in different schools were issued on 24.04.2012 and 28.05.2012. Final merit list does not reveal the name of Kamal Hussain petitioner herein, but has been appointed through impugned letter. Apparently exercise of authority by the District Education Officer at that time is palpably against law, without jurisdiction in such state of affairs, still the exercise of jurisdiction by the learned appellate Court by appointing Gul Aslam and Qudratullah cannot be maintained for the reason, firstly, there is no detail as to which person has been appointed in which school, secondly learned appellate Court cannot assume the status of an appointing authority and directly issue appointment order. Though learned trial Court had also exercised jurisdiction not vested by law, and despite dismissal of the suit, appointment of present petitioner Kamal Hussain was declared null and void.

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Peshawar High Court
Bannu Bench

90

9. Without going into detail ascertainment of entitlement of respective plaintiffs, vis-à-vis present petitioner, it seems to me more appropriate to allow instant revision petitions and set aside appointment orders of the respondents/ plaintiffs Gul Aslam and Qudratullah, and direct the higher authority of education department, the Director Education Peshawar to constitute Departmental Selection Committee, who shall evaluate respective qualification / entitlement of the three plaintiffs as well present petitioner and thereby fill the posts who stands higher on merit, according to merit list prepared on dated 15.11.2011, as it was pointed out that the District Education Officer, namely, Mir Azam who issued appointment orders was removed from service on 18.06.2014 under the Efficiency and Discipline Rules; therefore, no further detail inquiry for fixation of liability upon any other officer is required. The process of appointment shall be positively completed within a period of one month and a copy of whole proceedings be submitted to the learned Additional Registrar of this Court. The suit of any of the plaintiff who fails to secure

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EXAMINER
Peshawar High Court
Bannu Bench

appointment before Departmental Selection Committee shall accordingly stands dismissed. The post shall remain vacant. (91)

10. In view of above, instant revision petitions partially allowed to the extent as mentioned above, with no order as to costs.

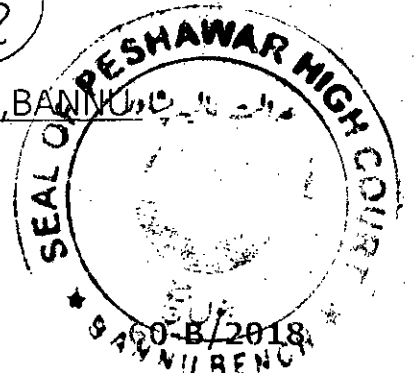
Announced.
28.01.2019

CERTIFIED TO BE TRUE COPY
6/1/19
Peshawar High Court Bannu Bench
Authorised Under Article 87
Qanun-e-Shahadat Order 1947

30/01/19

92

PESHAWAR HIGH COURT, BANNU BENCH, BANNU



DECREE SHEET

CIVIL REVISION NO. :
DATE OF INSTITUTION : 21-13-2018
DATE OF DECISION : 28-01-2019
DECIDED BY : **Mohammad Nasir Mahfooz, J**

1. Kamal Hussain S/o Noor Kalam Khan R/o Dalo Khel Tehsil & District Lakki Marwat.

(PETITIONERS)

Verses

1. Qudrat Ullah Khan S/o Abdur Rahim Khan R/o Masha Mansoor Tehsil & District Lakki Marwat. And 5 others.

(RESPONDENT)

DATE OF PRESENTATION OF PLAINT IN 1ST COURT : 06-04-2013
DATE OF DECISION IN 1ST COURT : 24-05-2017
DATE OF INSTITUTION IN 2ND COURT : 11-06-2017
DATE OF DECISION IN 2ND COURT : 18-01-2018

REVISION PETITION AGAINST THE JUDGMENT AND DECREE IN APPEAL.

Mr. Anwar Ul Haq Advocate for petitioner
Mr. Hafiz Jamshid Advocate for respondents.

ATTESTED

EXAMINER
Peshawar High Court
Bannu Bench

PRAYER

"It is, therefore, most humbly prayed that by accepting this revision petition, this Honorable Court may graciously be pleased to set aside the impugned judgments, orders and decrees dated 24-05-2017, passed in civil suit No.188/1-R and in civil suit No.12/1, passed by learned Civil Judge-VI Lakki Marwat, to the extent of declaring the appointment order of the petitioner null and void, as well as impugned consolidated judgment/Order and decree dated 18-01-2018 of the learned Additional District Judge-III Lakki Marwat, and to uphold the judgments/orders and decrees of the learned Civil Judge-VI Lakki Marwat dated 24-05-2017, to the extent of its disposal of suits of actual respondents/plaintiffs. This Honorable Court may also further be pleased to grant any other remedy, deem fit in the circumstances."

(93)

ORDER:
28-01-2019

"In view of above, instant revision petitions partially allowed to the extent as mentioned above, with no order as to costs."

"By Mr. Mohammad Nasir Mahfooz .J"

MEMO OF COSTS

PETITIONERS		RESPONDENTS
00.00	Stamp for petition	00.00
00.00	Stamp for Power of Attorney	00.00
00.00	Service of Parties	00.00
00.00	Pleader's Fee	00.00
00.00	Misc:	00.00
00.00	Total	00.00

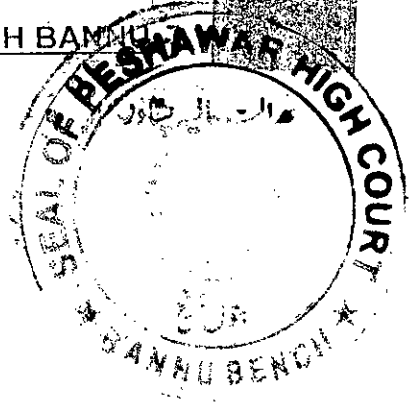

ADDITIONAL REGISTRAR

ATTESTED
EXAMINER
Peshawar High Court
Bannu Bench

2 Annexes

94

IN THE PESHAWAR HIGH COURT, BENCH BANNU



95-B

C.R. No. /2018

1. Govt. of Khyber Pakhtunkhwa through Secretary Education Peshawar.
2. District Coordination Officer, District Lakki Marwat.
3. Executive District Officer Education Department District Lakki Marwat.
4. District Officer Education Department District Lakki Marwat.
5. Selection Committee Education Department District Lakki Marwat through Petitioner No.3

.....Petitioners

Versus

1. Gul Aslam Khan S/O Haji Meeram Shah
R/O Daulat Khel, Tehsil & District Lakki Marwat

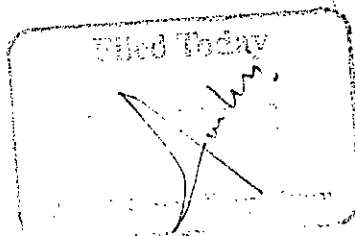
..... Respondent/Plaintiff

2. Kamal Hussain S/O Noor Qalam Khan
R/O Dallo Khel, Tehsil & District Lakki Marwat.

..... Respondent

CIVIL REVISION U/S 115 OF C.P.C AGAINST THE CONSOLIDATED JUDGMENT, DECREE & ORDER DATED 18/01/2018, PASSED BY THE LEARNED ADDITIONAL DISTRICT JUDGE, LAKKI MARWAT WHEREBY APPEAL NO.64/13 FILED BY THE RESPONDENT NO.1/PLAINTIFF HAS BEEN ACCEPTED, THE JUDGMENT, DECREE & ORDER DATED 24/05/2017 PASSED BY THE LEARNED CIVIL JUDGE, LAKKI MARWAT HAS BEEN SET ASIDE AND THE PETITIONERS HAS BEEN DIRECTED TO APPOINT THE RESPONDENT NO.1/PLAINTIFF ON THE POST IN QUESTION.

SCANNED



ATTESTED
EXAMINER
Peshawar High Court
Bannu Bench

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95

PRAYER:-

ON ACCEPTANCE OF THIS CIVIL REVISION THE IMPUGNED CONSOLIDATED JUDGMENT, DECREE & ORDER DATED 18/01/2018 PASSED BY THE LEARNED ADDITIONAL DISTRICT JUDGE, LAKKI MARWAT IN APPEAL 64/13 MAY KINDLY BE SET ASIDE AND THE APPEAL NO.64/13 FILED BY THE RESPONDENT NO.1/PLAINTIFF MAY GRACIOUSLY BE DISMISSED WITH HEAVY COST THROUGHOUT.

RESPECTFULLY SHEWETH:-

1. That Respondent No.1/Plaintiff filed a suit for declaration along with perpetual mandatory injunction the detail of which is fully given in the plaint.(Copy of plaint is annexed as "A")
2. That the Petitioners/Defendants were summoned who appeared before the Court and vehemently denied the claim of Respondent No.1/Plaintiff by submitting written statement wherein several legal and factual objections were raised. (Copy of written statement is annexed as "B")
3. That from the divergent pleadings of the parties the learned trial Court framed issues and both the parties produced evidence in support of their respective stances. (Copy of evidence is annexed as "C")
4. That after hearing arguments the learned trial Court dismissed the suit filed by the Respondent No.1/Plaintiff and also declared the appointment of Respondent No.2 as null and void vide its Judgment & Order dated 24/05/2017 (Copy of Judgment, Decree & Order dated 24/05/2017 is annexed as "D")
5. That feeling aggrieved the Respondent No.1/Plaintiff filed appeal No.64/13 which was accepted by the learned Additional District Judge, Lakki Marwat who set aside the Judgment, Decree & Order

ATTESTED

EXAMINER
Peshawar High Court
Bannu Bench