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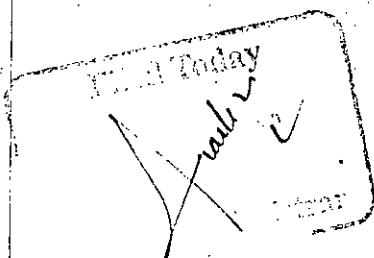
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dated 24/05/2017 of the learned Civil Judge, Lakki Marwat and directed the Petitioners to appoint the Respondent No.1/Plaintiff on the post in question vide its impugned consolidated Judgment, Decree & Order dated 18/01/2018. (Copies of grounds of Appeal No.64/13 and Judgment dated 18/01/2018 are annexed as "E&F")

6. That now feeling aggrieved and dissatisfied with the impugned Consolidated Judgment, Decree & Order dated 18/01/2018 passed by the learned Additional District Judge, Lakki Marwat in Appeal No.64/13, the Petitioners are filing the instant Civil Revision on the following grounds amongst others:-

GROUND:-

- A. That the impugned Consolidated Judgment, Decree & Order dated 18/01/2018 passed by the learned Additional District Judge, Lakki Marwat in Appeal No.64/13 is against law, facts and record available on case file, hence, untenable.
- B. That the impugned Consolidated Judgment, Decree & Order dated 18/01/2018 passed by the learned Additional District Judge, Lakki Marwat in Appeal No.64/13 is based on surmises, conjectures and wrong assumption of law, therefore, is liable to be set aside.
- C. That the learned Appellate Court below has exercised jurisdiction not vested upon it by law and has exceeded its jurisdiction.
- D. That the leaned Appellate Court below did not consider the authentic record/evidence produced by the Petitioners and unnecessarily relied upon the unauthentic and uncorroborated record/evidence produced by the Respondent No.1/Plaintiff.
- E. That the learned Appellate Court below set aside the Judgment, Decree & Order dated 24/05/2017 of the leaned trial court without any solid reason or ground.




ATTESTED

EXAMINER
Peshawar High Court
Bannu Bench

- F. That the learned Appellate Court below ignored it while accepting appeal No.64/13 that the Respondent No.1/Plaintiff was not entitled to be appointed to the post because all the eight posts reserved for initial recruitment were filled according to merit.
- G. That condition No.15 of the advertisement states that the Department shall have authority to fill all or less than all the vacancies which could not be challenged in a Court but the learned Appellate Court below also overlooked. It.
- H. That according to the recruitment policy a waiting list of eligible candidate shall be maintained for a period of six months.
- I. That the impugned consolidated Judgment, decree & Order of the leaned Appellate Court below passed in appeal No.64/13 is based upon assumption and presumption and is the result of misreading and non-reading of evidence, therefore, is not sustainable in the eyes of law and is liable to be set aside.
- J. That apart from the above mentioned submissions the counsel for the Petitioners may kindly be allowed to raise additional grounds at the time of arguments.

It is, therefore, humbly prayed that 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


03.04.2018
 Advocate General,
 Khyber Pakhtunkhwa,
 Peshawar.

ATTESTED

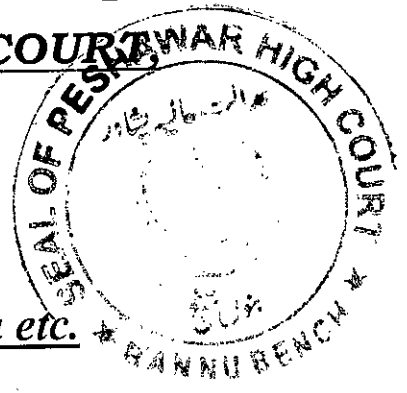
EXAMINER
 Peshawar High Court
 Bannu Bench

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**JUDGMENT SHEET
IN THE PESHAWAR HIGH COURT**

BANNU BENCH.
(Judicial Department)

CR No.95-B of 2018.



Govt. of Khyber Pakhtunkhwa etc.

Vs

Gul Aslam and others.

JUDGMENT

Date of hearing 28.01.2018

Appellant-Petitioner by Mr. Oudrat
Umar Khan Gambapur etc.

Respondent by Mr. Muhammad W. Haf
S. A. M. Qureshi etc.

MUHAMMAD NASIR MAHFOOZ, J.--- For

the reasons recorded in common judgment of the even date, placed on connected C.R No.60 -B of 2018, titled "Kamal Hussain Vs Oudratullah and others" this instant revision petition is partially allowed..

Announced.
28.01.2019

By Justice Muhammad Nasir Mahfooz

CERTIFIED TO BE TRUE COPY

(Signature)
Examiner

Peshawar High Court Bannu Bench
Authorised Under Article 87
of the Qanun-e-Shahadat Order 1988

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30/07/18

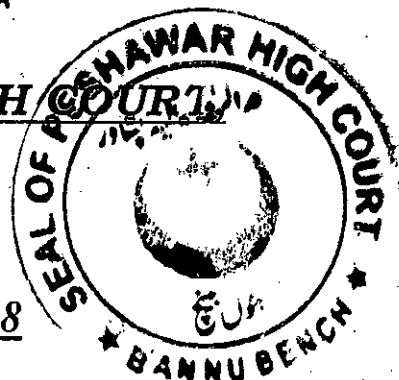
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JUDGMENT SHEET

IN THE PESHAWAR HIGH COURT
BANNU BENCH.

(Judicial Department)

C. R No. 60-B of 2018



Kamal Hussain

Vs

Oudratullah and others.

JUDGMENT

Date of hearing 28.01.2019

Appellant-Petitioner by Mr. Farman Ali Shah

Hasrat

Respondent by Mr. H. M. Jamshed

Shah

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 Shah and by learned Civil

ATTESTED

EXAMINER
Peshawar High Court
Bannu Bench

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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

S. Khan

Azam Khan/P.S.

ATTESTED

(S.P.) Mr. Justice Muhammad Nasir Mahfooz

EXAMINER
Peshawar High Court
Banna Bench

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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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ATTACHED

Azam Khan/P.S.

(S.B) Mr. Justice Nadeem Ul Haq
Peshawar High Court
Bannu Bench

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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.

Azam Khan/P.S

ATTESTED

(S.B) Mr. Justice Muhammad Nasir Mahfooz

EXAMINER

**Peshawar High Court
Bench**

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7. Since there are two civil suits filed by three persons, namely Quadratullah, 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 Quadratullah and Farman Ali Shah, but learned appellate Court has further modified order by issuing order of appointment of Gul Aslam and Quadratullah 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 Quadratullah 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

ATTESTED

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Peshawar High Court
Danda Bench

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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.

S. Juf

ATTESTED

EXAMINER
Peshawar High Court
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9. Without going into detail ascertainment of entitlement of respective plaintiffs, vis-a-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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Azam Khan/P.S.

(S.B) Mr. Justice Muhammad Nasir Mahfooz
Peshawar High Court
Bannu Bench

ATTESTED
EXAMINER

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

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

Sd/- Justice Muhammad Nasir Mahjooz

CERTIFIED TO BE TRUE COPY

[Handwritten Signature]
6/2/19

Examiner,
Peshawar High Court Sargodha Bench
Authorised under Article 87 of
The Qanun-e-Shahadat Order 1988

[Handwritten Signature]



Ammer L

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

(107)

NOTIFICATION

1. WHERE AS, Executive District Education officer Lakki Marwat Now District Education Officer (Male) Lakki Marwat had advertised various posts of Drawing Master (DM) in daily Mashriq dated. 6-10-2011 & screening test was conducted through ETEA & final merit list was prepared on 15-11-2011 where in top eight (08) eligible & meritorious candidates were appointed against the vacant posts of Drawing Master.

2. AND WHERE AS, The instant merit list, prepared on 15-11-2011 against the post of Drawing Master, doesn't show Mr. Kamal Hussain (appointed as Drawing Master in GHS Khan Khel Mandoozai M). In fact, he has neither applied against the post of Drawing Master (DM) nor qualified the screening test conducted through ETEA for the post of Drawing Master as per available record in the office of District Education Officer (Male) Lakki Marwat.

3. AND WHERE AS, Later on Mr. Kamal Husain filed a civil Suit dated 26-11-2011 for appointment against the post of PST on the basis of Retired Teacher's Son Quota in lower court wherein it remain under trail up to 7-6-2013 & in the mean while the then DEO (M) Lakki Marwat appointed the plaintiff against the post of Drawing Master vide office order No. 494-97 dated 21-01-2013, by quoting the direction of learned Civil Judge No.V Lakki Marwat vide his order sheet dated. 05-1-2013, for the reason best known to him. In fact the direction of learned Civil Judge No V Lakki Marwat had noting for the appointment of Plaintiff against the post Drawing Master.

4. AND WHERE AS, The learned Civil Judge No. V Lakki Marwat served show Cause notice to the then DEO (M) Lakki Marwat on 04-01-2013, for issuing appointment order of Kamal Hussain dated. 21-01-2013 in which he intentionally referred the order of the court dated. 5-01-2013 wrongly.

5. AND WHERE AS, The candidates against the post of Drawing Master occurring at Sr.No. 9 Gul Aslam and at Sr.No 10 Qudrat Ullah in final Merit list have filed a civil suit No 188/1-R Dated 6-04-213 in the court of Learned CIVIL UDGE-VI against the appointment order No. 494-97 dated 21-01-2013 which was decided on 24-05-2017 with the directions

"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"

6. AND WHERE AS, feeling aggrieved from the judgment dated 24-5-2017 issued by the court Learned CIVIL UDGE-VI Lakki Marwat the plaintiffs, Mr. Gul Aslam And Qudrat Ullah filed appeal bearing No. 64/13 and 65/13 in The Court of Learned ADDITIONAL DISTRICT JUDGE NO. III Lakki Marwat which was decided on 18-01-2018 with the directions,

"Resultantly, from the reasons recorded above, I am inclined to accept both the appeals No 64/13 filed by Gul Aslam VS Govt etc and appeal 65/13 filed by Qurat ullah VS Govt etc and the judgment and order of the lower trail court is set aside and respondents are directed to appoint the appellant/ plaintiffs on the post in question"

7. AND WHERE AS, Mr. Kamal Hussain filed a CR bearing No. 60-B/2018 in Peshawar High Court Bannu Bench, Bannu against Mr. Gul Aslam & Qudrat ullah which was decided on 28-1-2019 with the direction,

" Without going into detail, ascertainment of entitlement of respective plaintiffs, vis-a-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 to constitute Departmental Selection Committee who shall evaluate respective qualification /entitlement of the three plaintiff as well present petitioner and thereby fill the post of who stands higher on merit, according to the merit list prepared on 15-11-2011".

Attested

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8. AND WHERE AS, the meeting of the Departmental Appellate Committee was held in the office of Director E&SE on 26-08-2020 under the chair of Director E&SE & it's minutes were circulated vide No 613-17/DD (Legal) E&SED Dated 16-09-2020 where by the District Education Officer (Male) Lakki Marwat was directed to constitute the Departmental Selection Committee & comply with the court order in letter & spirit at the earliest under the rules & polly.

9. AND WHERE AS, the meeting of District Selection Committee held on 06-10-2020 wherein the appoint order issued by the office of the then District Education Officer (Male Lakki Marwat in R/O Mr. Kamal Hussain S/O Noor Kamal against the post of Drawing Master bearing No 494-97 dated 21-01-2013 was evaluated & found it as, illegal, against law, rules, policy & merit, as he has neither applied against the post of Drawing Master, appeared /qualified the screening test conducted through ETEA against the cited post nor shown in final merit list among eligible/qualified & meritorious candidates against the cited post.

10. AND NOW THEREFORE, Keeping in view the above detail, facts available on record & to comply with Honorable Peshawar High Court Bannu Bench, Bannu judgment dated 28-01-2019 in CR bearing No. 60-B/2018, Titled as Kamal Hussain VS Qudratullah & Others the competent authority i-e District Education Officer (Male) Lakki Marwat in light of the recommendation of Departmental Selection Committee in its meeting held on 06-10-2020 has decided to withdraw the appointment order issued by the Office of District Education Officer (Male) Lakki Marwat bearing No 494-97 dated 21-01-2013 in r/o Kamal Husain Drawing Master GHS Khan Khel Mandozai with immediate effect .

(MIDRAR ULLAH)
DISTRICT EDUCATION OFFICER (MALE)
LAKKI MARWAT

Ends No 5594-99

Dated 03-11-2020

1. Director Elementary & Secondary Education Peshawar with reference to his above cited letter/directions
2. Additional Registrar Peshawar High Court Bannu Bench, Bannu with reference to judgment in CR No 60-B/2019 dated 28-01-2019.
3. Deputy Commissioner Lakki Marwat.
4. District Account Officer Lakki Marwat
5. Head Master GHS Khan Khel Mandozai for further n/action.
6. Mr. Kamal Hussain S/O Noor Kamal EX- Drawing Master Village Dallo khel Tehsil & District Lakki Marwat.

Received

[Signature]
03/11/2020
DISTRICT EDUCATION OFFICER (MALE)
LAKKI MARWAT.

[Faint stamp and signature]
23/11/2020

[Signature]
Attested

Amed-M

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109

To:- The Director,
Elementary & Secondary Education,
Khyber Pakhtunkhwa, Peshawar.

Subject: DEPARTMENTAL APPEAL/REPRESENTATION UNDER RULE 4 OF
THE SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED
ORDER NO. 5594-99 DATED 03.11.2020 WHEREIN THE
SERVICES OF THE APPELLANT TERMINATED ILLEGALLY,
UNLAWFULLY AND IN VIOLATION OF RULES AND POLICY.

Respected Sir.

It is submitted that the appellant aggrieved from the departmental order No. 5594-99 dated 03.11.2020 passed by District Education Officer, (Male) Lakki Marwat in violation of rules, hereby submit departmental appeal/representation as under:-

FACTS

1. That the appellant is the bonafide resident of Village Dallo Khel, Tehsil and District Lakki Marwat vide copy of domicile certificate attached as annexure A.
2. That the appellant has passed MA in 2003 B.Ed in 1999-2000 from Gomal University D I Khan (Photocopy of Degrees attached as Annexure B).
3. That the appellant has passed DM Course in 1999-2000 from PITE Peshawar/GEC Ghoriwala District Bannu (photocopy of DM passed certificate is attached as Annexure C).
4. That after passed DM course and high education qualification waited for a long period and after regular applying to the authorities concerned, appointed as a Drawing Master against the vacant post in GHS Tari Khel vide District Education Officer (Male) Lakki Marwat appointment order No. 494-97 dated 21.01.2013 (Photocopy of Appointment Order is enclosed as Annexure D).
5. That the appellant has submitted his arrival report to the Headmaster GHS Tari Khel on 18.02.2013 (Photocopy of arrival report is attached as Annexure E) and rendered meritorious services as Drawing Master in various schools for the period from 18.02.2013 to 03.11.2020.
6. That the appellant has regularly drawn pay and allowances for the above period and the services of the appellant has been verified for the above period. (Photocopy of Services Book showing verification of services is attached as Annexure F/1-10).
7. That the appellant is presently serving as a Drawing Master in GHS Khan Khel Mandazai to the entire satisfaction of my superior officers while the services of the appellant was requisitioned by the Headmaster concerned having good reputation and teaching expertise.
7. That suddenly the appointment order of the appellant has been with drawn by the District Education Officer (Male) Lakki Marwat without conducting any enquiry, show cause notice vide impugned order cited above. hence the instant appeal on the following grounds:-

Attested

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GROUNDS

- A. That the appellant having high education qualification and DM course and was fully qualified for the post of Drawing Master at the time of appointment in 2013.
- B. That the appellant has served for the period from 18.02.2013 to 03.11.2020 over seven (7) years and nine (9) months with clean conduct and expertise upto the marks as evident from the certificate issued by Headmaster concerned.
- C. That the appellant has regularly drawn pay and allowances and services verified by the authority concerned.
- D. That no complaint has been received against the appellant from any quarter and the services of the appellant is satisfactory.
- E. That as per provision of the judgement of the Supreme Court of Pakistan reported and cited as 1996 SCMR 1350 clearly indicating that the department is not allowed to terminate the services of the employee recruited irregularly in violation of rules, however, disciplinary proceedings may be initiated against the officers involved/responsible for making irregular appointment in violation of rules (Photocopy of Supreme Court judgement endorsed by Provincial Government circulated vide S&GAD letter No. SOR.II (S&GAD) 1 (10)/93 dated 13.11.2000 (Photocopy attached as Annexure G).
- F. That as provided in rules on the subject, neither enquiry conducted, charge sheet, statement of allegations framed, show cause noticed issued as required vide Rule 7 of Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011.

It is therefore, humbly prayed that on acceptance of this departmental appeal/representation, the impugned order cited above passed by District Education Officer (Male) Lakki Marwat may kindly be set aside and the appellant may kindly be re-instated into government services with all back benefits and oblige.

Thanking You Sir,

Yours Humble Appellant

Dated: 10-11-2020

Attested

kh
Kamal Hussain DM BPS-15
GHS Khan Khel Mandazai
R/O Village Dallo Khel
District Lakki Marwat.
CNIC No. 11201-0339130-1
Contact No. 0312-1914684

**BEFORE KHYBER PAKHTUN KHWA SERVICE TRIBUNAL,
PESHAWAR**

Service Appeal No.3872/2021

Kamal Hussain

Versus

Govt of KPK through Secretary (E&S) Education and others

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3.	Copy of Final Merit List	B	8
4.	Copy of appointment letters	C1 to C3	9-11
5.	Copy of plaint, written statement, order dated: 05-01-2013 and appointment orders dated 21-01-2013	D1 to D4	12-18
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Dated: ___-9-2021

**DISTRICT
EDUCATION OFFICER(M)
LAKKI MARWAT.**
Respondent No. 3

1

**BEFORE KHYBER PAKHTUN KHWA SERVICE TRIBUNAL,
PESHAWAR**

Service Appeal No.3872/2021

Kamal Hussain

Versus

Govt of KPK through Secretary (E&S) Education and others

Written Reply on behalf of Respondent No.1,2&3

Respectfully Sheweth:

Preliminary Objections:

- A. The appeal is wholly incompetent and untenable.
- B. The appellant has not come to the Hon'ble tribunal with clean hands.
- C. The appeal is filed by the petitioner with mala-fide intention.
- D. The appeal suffers from exaggeration and mis-statement.
- E. The appellant has no locus standi and cause of action.
- F. That the appellant's is barred from preferring instant appeal, because he is guilty of fraud, fabrication and even guilty of perjury by presenting bogus order of court for his appointment.
- G. The main facts of the case are that the department had advertised various posts of Drawing Master dated:06-10-2011, after conducting test and interview merit list was prepared 15-11-2011 in which appellant was nowhere because the appellant has neither given test nor were interviewed. **(Copy of advertisement and Final merit list is Annexure-A &B)**
- H. That as per recommendations of DSC 08 top meritorious candidates were selected and two persons were promoted to DM post on 24-04-2012, therefore all the advertised posts were filled. **(Copy of appointment orders are Annexure-C1 to C3)**

- I. That the appellant filed a suit on 26-11-2011 in which the learned civil judge- v Lakki Marwat dismissed the application of department for rejection of suit but the appellant somehow managed to fabricate the order and with the connivance of the then District Education Officer Male Mr. Mir Azam succeeded in getting the appointment order in his favor. **(Copy of plaint, written statement, order dated: 05-01-2013 and appointment letter are Annexure-D1 to D4)**
- J. That the candidates on serial No.9 and 10 filed suit against appointment of appellant and claimed their right on the post but the learned civil judge and appellate court declared the appointment of appellant as null & void which was upheld by the Hon'ble Peshawar High Court Bannu Bench in appellant's Revision Petition No.60-B/2018 and Hon'ble High Court had directed to constitute Departmental Selection Committee to evaluate entitlement of plaintiffs and present appellant. Therefore, not preferring any appeal against the revisional court / High Court, the appellant accepted the decision / judgment & decree of Hon'ble High Court. DSC after proper enquiry recommended the withdrawal of appellants appointment and declared that no post was vacant therefore the candidates at serial No.9 and 10 have no right of appointment and on the recommendation of DSC the appointment orders are withdrawn. **(Copies of plaints, written statements, appeals, Civil Revisions and judgment & decrees are already annexed with appeal while the recommendation/ minutes of DSC and withdrawal of appointment order are Annexure- E1 to E2)**
- K. That candidate on serial No.9 and 10 filed contempt petition but the Hon'ble Peshawar High Court Bannu Bench dismissed the same. **(Copy of Contempt Petition and order dated: 12-04-2021 are Annexure-F1 and F2)**
- L. The appellant has not come to the Hon'ble Tribunal with clean hands. The appeal also suffers from miss-statement and concealment of facts and as such the appellant is not entitled to any relief.

REPLY ON FACTS:

1. That Para-1 pertains to record.
2. Para No. 2 is correct to the extent that the father of the appellant was a teacher but there is no policy for retired teacher's son's quota for

appointment. The appellant concealed this important fact from the court. Moreover, he did not applied for the post of Drawing Master.

3. Para No.3 is in-correct. The appellant has falsely alleged that he applied for the post of DM as per final merit list appellant did not applied for the post. }
4. Para No.4 is replied as the appellant with the connivance of the then DEO Male LakkiMarwat obtained the appointment letter, referring the court order dated: 05-01-2013 for which a notice was sent to the then DEO. (appointment order already annexed with appeal while notice of court is **Annexure- G**)
5. Para No.5 is replied as that the appointment of appellant challenged on 04-04-2013 was decided on 24-05-2017, wherein the appointment of appellant was declared null and void.
6. Para No.6 is correct to the extent of challenging the appointment of appellant by the candidates at serial No.9 and 10 and judgment and decree of civil court declaring the appointment of appellant as null and void.
7. Para No.7 is correct to the extent that appellant appeal was dismissed and the appellate court also declared the appointment of appellant as null and void.
8. In Para No.8 the appellant again tried to mislead this Hon'ble Tribunal. The Hon'ble Peshawar High Court also declare the appointment of appellant as null and void and directed the department to constitute DSC and to appoint the eligible candidate from the appellant and three other candidates (petitioners in that civil revision). The DSC was constituted and declared that there was no post available at the time of illegal appointment of appellant, therefore DSC recommended the withdrawal of appellant's appointment order in light of Hon'ble civil, appellate and revisional courts.
9. Para No.9 is replied as that after declaring the appointment of appellant as null and void by trial court, appellate court and Peshawar High Court as revisional court in their judgments and decrees, there was no need of enquiry and personal appearance as the Honorable Courts already declare appellant appointment order null and void.

10. Para No.10. That on departmental appeal of appellant a proper report of respondent No.3 was sent to competent authority on letter for report. **(Copy of letter for report and report are Annexur-H1 and H2)**
11. Para No.11. The withdrawal of appointment order is in accordance with law and in light of orders, judgments and decrees of competent courts as mentioned above. The instant appeal is illegal and filed to pressurize department, therefore is liable to be dismissed.

REPLY ON GROUNDS:

- a) Para A is incorrect. The appellant is treated in accordance with law and in light of judgments and decrees of competent courts. The learned civil court / trial court has given proper opportunity to defend his appointment and complete trial the appellant's appointment was declared null and void by the civil court, which was upheld by the Hon'ble Peshawar High Court.
- b) Para No. B is replied as that after judgment and decree of Hon'ble Peshawar High Court, Bannu Bench declaring the appointment of appellant as null and void no further inquiry or procedure was needed for the removal of appellant.
- c) Para No. C is replied as there was no need or legal requirement for show-cause and personal hearing after the judgment and decree of revisional court i.e Hon'ble Peshawar High court, wherein the appointment of appellant was declared null and void.
- d) Para No. D is replied in above para.
- e) Para NO.E is incorrect. The appellant was not appointed by the authority because the appellant in connivance of the then D.E.O obtained the appointment order on fabrication of civil court order.
- f) The Para F is incorrect. The appointment of appellant is declared null and void by competent courts, not by the department and the judgment and decree of Hon'ble High Court could not be challenged in this Hon'ble Court.
- g) Para No. G is incorrect. The order was issued in accordance with the judgments and decrees of competent courts, which concurrently declare the appointment of appellant as null and void.

- h) Para No.H. The appellant was involved in the wrongful appointment, for fabrication of record. Moreover, the appointment of appellant was declared null and void by the competent courts of law and appellant has no right to challenge the withdrawal orders.
- i) Para No.I is replied. That the appointment of appellant was declared null and void by the competent courts of law.
- j) Para No.J. The mentioned 7 years were elapsed / passed in trial and proceedings before courts of law, therefore the appellant could not claim the benefit of that very period. Moreover the appointment once declare null and void by the competent courts could not be maintained, thus the department was bound to withdraw to comply with the orders of competent courts.
- k) Para No.Kreply has already been discussed in the above paras.
- l) Para No.L. needs no reply
- m) Para.M has no concerned with respondents, hence, need no reply.
- n) The counsel of the respondents may please be allowed to raise further points at the time of arguments.

It is, therefore, most respectfully prayed that the appeal of the appellant may kindly be dismissed with special compensatory costs coupled with expenses of litigation.

Dated: ____ -09-2021

District Education Officer(M)
Lakki Marwat

Director
Elementary & Secondary Education
Khyber Pakhtunkhwa

Secretary
Elementary & Secondary Education
Khyber Pakhtunkhwa

AFFIDAVIT

I, Kashif Munir Litigation Officer Office of DEO (M) Lakki Marwat, do hereby solemnly affirm and declare upon oath that the contents of the accompanied written reply are true and correct to the best of my knowledge and belief and nothing has been intentionally concealed from this Hon'ble Tribunal.


Deponent

OFFICE OF THE EXECUTIVE DISTRICT OFFICER (E&S) LAKKI MARWAT

FINAL MERIT LIST OF DM(M) INTERVIEW HELD ON 15-11-2011

Sl. No.	R. NO	NAME	F/NAME	DOB	ADDRESS	SSC			FA/FSC			BA/BSC			MA/MSC			ETEA Marks	Score	T.Score	Remarks
						Obt.	Total	Score	Obt.	Total	Score	Obt.	Total	Score	Obt.	Total	Score				
1	476	Abdur Rehman ✓	Ghani ur Rehman	15/9/1974	Nawar Khel	521	850	6.129	529	1100	7.214	272	550	9.891	539	1100	3.43	184	24.5333	51.19729	PST
2	1098	Mohd Hussain Khan ✓	Abdul Khanan	12/02/1983	Naurang	550	850	6.941	602	1100	8.209	271	550	9.855	595	1100	3.7864	149	19.7333	48.52451	
3	43	Momen Khan ✓	Naiz Mohd	12/04/1980	N M Ghazni Khel	605	850	7.118	599	1100	6.032	250	550	9.091	641	1100	4.0791	144	19.2	47.51947	PST
4	679	Mohd Ali Jan ✓	Yousaf Khan	02/02/1976	W. Baru	519	850	6.106	570	1100	7.773	310	550	11.27	566	1100	3.6018	140	18.6667	47.41982	PST
5	470	Inayatullah Khan ✓	Saleh Khan	19/01/1978	Abba Khel	459	850	5.4	642	1100	8.755	674	1100	12.25	406	900	3.1578	132	17.6	47.16627	
6	435	Amin ur Rashid Sani ✓	Haroon ur Rashid	10/10/1979	Naurang	493	850	5.8	591	1100	7.923	427	700	12.2	362	800	3.2425	132	17.6	46.85523	Qari
7	1021	Hazrat Usman ✓	Feroz Khan	15/03/1979	Lakki City	497	850	5.847	550	1100	7.5	295	550	10.73	686	1100	4.3655	136	18.1333	46.57312	
8	919	Saif ullah Khan ✓	Karim Khan	08/04/1984	Lakki City	498	850	5.859	580	1100	7.909	285	550	10.36	559	1100	3.6209	136	18.1333	45.88579	
9	901	Gul Aslam Khan	Miram Shah	08/09/1979	Daulat khel	487	850	5.729	503	1100	6.859	501	900	11.13	538	1100	3.4236	135	18.1333	45.27881	
10	754	Qudrat ullah Khan	Abdur Rahim	02/10/1978	Mansoor	450	850	5.294	541	1100	7.377	275	550	10	547	1100	3.4609	140	18.6667	44.81697	
11	696	Farman Ali Shah	Khan Bad Shah	15/8/1981	Tajori	513	850	6.035	570	1100	7.773	257	550	9.345	616	1100	3.92	128	17.0667	44.14014	
12	1646	Munir Khan	Abdullah Jan	24/03/1987	Lakki City	403	850	4.741	511	1100	8.332	297	550	10.6				152	20.2667	44.13966	
13	58	Mohd Ayaz Khan	Mumtaz Khan	14/8/1976	Lakki City	458	850	5.388	534	1100	7.282	280	550	10.18	568	1100	3.6145	132	17.6	44.06642	1 Service
14	82	Farman ullah	Rahim Gul	07/10/1978	Naurang	409	850	4.812	570	1100	7.773	251	550	9.127	604	1100	3.8436	132	17.6	43.1554	
15	18	Shauqat ullah	Mir Abbas Khan	20/11/1983	G. Saeed Khel	521	850	6.129	547	1100	7.459	302	650	10.98				136	18.1333	42.70365	
16	847	Naimat ullah	Matey Khan	10/04/1984	Lakki City	453	850	5.329	541	1100	7.377	258	550	9.382	591	1100	3.7609	124	16.5333	42.38275	
17	1717	Mohd Shanid	Mohd Mujahid	02/04/1987	Shahbaz Khel	555	850	6.559	519	1100	8.441	285	550	10.4				120	16	41.49973	
18	1300	Ahmad Saeed	Din Mohd	02/05/1989	Abdul Khel	622	1050	5.924	750	1400	8.036	247	550	8.382				124	16.5333	39.47438	
19	1715	Mohd Aweis	Alam Shah	09/03/1988	Shahbaz Khel	427	850	5.024	529	1100	7.214	253	550	9.2				132	17.6	39.03717	
20	497	Ehsanullah	Sardar Ali	20/09/1985	Mela Mandra Khel	415	850	5.118	557	1100	7.595	273	550	9.927				120	16	38.64037	

07 Open merit

Sno. 8. Disable Quota

Open merit = 07
Disable = 01
By Promotion = 01

Executive District Officer
(E&S) Edu, Lakki Marwat

Assistant District Officer
(E&S) Edu, Lakki Marwat

ASSISTANT

6/11/11

OFFICE OF THE EXECUTIVE DISTRICT OFFICER (E&S) EDUCATION LAKKI MARWAT

APPOINTMENT ORDER:-

Consequent upon the recommendations of District Selection Committee the appointment of below name candidates are hereby ordered as Drawing Master (Male) BPS-09, Rs: (6200-380-17600) plus special allowances as admissible under the rules on regular basis, under provision of Establishment & Administration Department circular bearing No. SOR-6 (E&AD) 13-01-2005 date: 10-08-2005 on the term and condition given below in the interest of public service from the date of taking over charge.

OPEN MERIT

S. No	Name	Father Name and Address	To be posted at	Remark
1	Mr. Abdur Rahman	Ghani ur Rehman, R/o Nawar Khel	GMS, Nar Surana	A.V.Post
2	Mr. Muhammad Hussain Khan	Abdul Khanan, R/o Ghulam Ali Samti	GHS, Mangala	A.V.Post
3	Mr. Momin Khan	Naiz Muhammad, R/o N.M.Ghazni Khel	GMS, Mash Masti Khani	A.V.Post
4	Mr. Muhammad Ali Jan	Yousaf Khan, R/o Wanda Baru	GHS, Tap Takhti Khel	A.V.Post
5	Mr. Hazrat Usman	Feroz Khan, R/o Isak Khel	GHS, Wanda Baru	A.V.Post
6	Mr. Inayat Ullah Khan	Salah Khan, R/o Abba Khel	GHS, Adam Zai	A.V.Post
7	Mr. Amin ur Rashid <i>Sami</i>	Haroon ur Rashid, R/o Naurang	GHSS, Landiwah	A.V.Post
DISABLE				
1	Mr. Saif Ullah Khan	Karim Khan, R/o Lakki City	GMS, Wanda Daultai	A.V.Post

TERMS & CONDITION:-

- 1- Their appointments will be considered regular without pension and gratuity in terms of section 19 of NWFP, Civil servant 1973, as amended vide NWFP, Servant (Amendment) act 2005. They will however be entitled to contributory provident fund in such manner and at such a rate as may be prescribed by the Govt.
- 2 Their services will be liable to termination on one month notice from either side. In case of resignation without notice two months pay/allowances will be refunded to the Govt.
- 3 Their services will be governed by such rules as the Govt: may issue regulations as from time to time.
- 4 Their services will be terminated at any time in case his performance is found un-satisfactory during probationary period, in case of misconduct preceded against the NWFP removal from service (special power) ordinance. 2000 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 the above named candidates from the concerned Board/ University before the drawl of pay.
- 8 The appointment is liable to termination if the appointee failed to take over charge within fifteen days of the commencement date.
- 9 The undersigned reserves the right of amendment in the appointment order in case of a mistake.
- 10 They are required to produce their Health and age certificates from the Medical Superintendent DHQ, Hospital Lakki Marwat.

(Mir Azam Khan)
Executive District Officer,
(E&S) Education Lakki Marwat.

Endst: No. 2830-39 Dated 24/4/2012

Copy to the:-

1. Director (E&S) Education Khyber Pakhtunkhwa, Peshawar.
2. District Coordination Officer, Lakki Marwat.
3. District Accounts Officer, Lakki Marwat.
4. District Officer (M) Local Office.
- 5-9. Principal/Head Masters concerned schools.
10. Supdt: Establishment Local office.

Executive District Officer,
(E&S) Education Lakki Marwat.

C2 (10) 42

27

OFFICE OF THE EXECUTIVE DISTRICT OFFICER (E&S) EDUCATION LAKKI MARWAT

APPOINTMENT ORDER:-

Consequent upon the recommendations of District Selection Committee the appointment of below name candidate is hereby ordered as **Drawing Master (Male)BPS-09, Rs: (6200-380-17600)** plus usual allowances as admissible under the rules on regular basis, under provision of Establishment & Administration Department circular bearing No. SOR-6 (E&AD) 13-01-2005 date: 10-08-2005 on the term and condition given below in the interest of public service from the date of taking over charge.

BY PROMOTION/SENIORITY-CUM FITNESS

S. No	Name	Father Name and Address	To be posted at	Remark
1	Mr. Abdul Qayum	Sarwar Khan, R/o Kheru Khel Pacca	GHSS, Taja Zai	A.V. Post

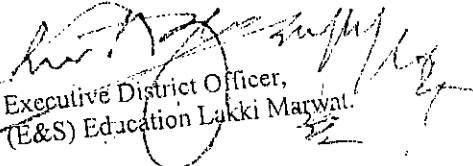
TERMS & CONDITION:-

1. His appointments will be considered regular without pension and gratuity in terms of section 19 of NWFP, Civil servant 1973, as amended vide NWFP, Servant (Amendment) act 2005. He will however be entitled to contributory provident fund in such a manner and at such a rate as may be prescribed by the Govt.
2. His services will be liable to termination on one month notice from either side. In case of resignation without notice two months pay/allowances will be refunded to the Govt.
3. His services will be governed by such rules as the Govt. may issue regulations as from time to time.
4. His services will be terminated at any time in case his performance is found un-satisfactory during probationary period, in case of misconduct proceeded against the NWFP removal from service (special power) ordinance. 2000 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 the above named candidates from the concerned Board/ University before the drawl of pay.
8. The appointment is liable to termination if the appointee failed to take over charge within fifteen days of the commencement date.
9. The undersigned reserves the right of amendment in the appointment order in case of a mistake.
10. He is required to produce their Health and age certificates from the Medical Superintendent DHQ, Hospital Lakki Marwat.

(Mir Azam Khan)
Executive District Officer,
(E&S) Education Lakki Marwat.

Endst: No. 2961-66 Dated 24/4/2012.

- Copy to the:-
1. Director (E&S) Education Khyber Pakhtunkhwa, Peshawar.
 2. District Coordination Officer, Lakki Marwat.
 3. District Accounts Officer, Lakki Marwat.
 4. District Officer (M) Local Office.
 5. Principal GHSS, Taja Zai, Lakki Marwat.
 6. Supdt: Establishment Local office.


 Executive District Officer,
 (E&S) Education Lakki Marwat.

C3 (11) [Signature]

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OFFICE OF THE EXECUTIVE DISTRICT OFFICER (E&S) EDUCATION LAKKI MARWAT

APPOINTMENT ORDER:-

Consequent upon the recommendations of District Selection Committee the appointment of below name candidate is hereby ordered as **Drawing Master (Male) BPS-09, Rs: (5200-380-17600)** plus usual allowances as admissible under the rules on regular basis, under provision of Establishment & Administration Department circular bearing No. SOR-6 (E&AD) 13-01-2005 date: 10-08-2005 on the term and condition given below in the interest of public service from the date of taking over charge.

20% BY PROMOTION/SENIORITY-CUM FITNESS

S. No	Name	Father Name and Address	To be posted at	Remark
1	Mr. Miraj ud Din, PST, GMPS, Hafiz Abad, Kot Kashmir	Mr. Habib Khan, R/o village Kot Kashmir	GMS, Sultan Abad, Dakhli Kot Kashmir	A.V. Post

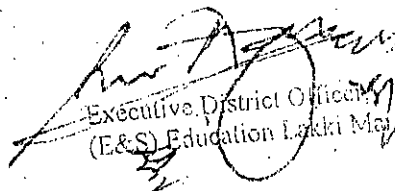
TERMS & CONDITION:-

1. His appointments will be considered regular without pension and gratuity in terms of section 19 of NWFP, Civil servant 1973, as amended vide NWFP, Servant (Amendment) act 2005. He will however be entitled to contributory provident fund in such a manner and at such a rate as may be prescribed by the Govt.
2. His services will be liable to termination on one month notice from either side. In case of resignation without notice two months pay/allowances will be refunded to the Govt.
3. His services will be governed by such rules as the Govt. may issue regulations as from time to time.
4. His services will be terminated at any time in case his performance is found un-satisfactory during probationary period, in case of misconduct proceeded against the NWFP removal from service (special power) ordinance. 2000 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 the above named candidate from the concerned Board/ University before the drawl of pay.
8. The appointment is liable to termination if the appointee failed to take over charge within fifteen days of the commencement date.
9. The undersigned reserves the right of amendment in the appointment order in case of a mistake.
10. He is required to produce their Health and age certificates from the Medical Superintendent DHQ, Hospital Lakki Marwat.

(Mir Azam, Khan)
Executive District Officer,
(E&S) Education Lakki Marwat.

Endst: No. 4215-20 Dated 28/5/2012.

- Copy to the:-
1. Director (E&S) Education Khyber Pakhtunkhwa, Peshawar.
 2. District Coordination Officer, Lakki Marwat.
 3. District Accounts Officer, Lakki Marwat.
 4. District Officer (M) Local Office.
 5. Head Master GMS, Sultan Abad.
 6. Supdt: Establishment Local office.


Executive District Officer,
(E&S) Education Lakki Marwat.

(D)

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جمال حسین

م

صلوحت

hPr قیہ

۱۶

دعویٰ استعدا بہ اثباتی

درخواست دربارہ جاری فرمان حکم اثباتی ماری تا لقمہ عدہ ۴ ملزمین Son کے
محکم شدہ کوٹ مطابق پالیسی عدلہ کوٹ کے محل پروائش۔ اور مدعی کی تینائی
لکھور PST پروائش۔

Civil Judge
Lakki Mairwa

جان عالی! حسب ذیل عرض ہے۔

یہ مدعی نے ایک دعویٰ دیوانی درج کیا ہے۔ درخواست بڑا کو دعویٰ کا حصہ لکھور
کیا جا رہا ہے پڑھا جائے۔ تو مدعی کا پیروا پیروا ایسا کیس بنا ہے۔
یہ توازن کا پلکا مدعی کے حق میں ہے۔

یہ مطابق پالیسی میں لکھور و ضلعہ ایڈولٹ جنرل و Deo کی مدعی کو
25 میں محکم کوٹ براء ملزمین Son کے لکھور PST تینائی نے
مدعی استدار ہے۔

Examiner to
District & Session Judge
Lakki Mairwa

حکم اثباتی جاری نہ ہونے کی صورت میں مدعی کو قابل تینائی بنا
ATTESTED
حسبہ از اہل عد میں ممکن نہیں ہوگا۔

Examiner to
District & Session Judge
Lakki Mairwa.

سب سے استدعا ہے۔ کہ متذکرہ بالا اہل عد سے حکم اثباتی جاری
تائیفہ عدہ جاری زمانہ جاویں۔

۱۱/۱۱/۲۰۱۱

جمال حسین مدعی

Umar Farooq

۲۰/۱۱/۲۰۱۱
R.O.
Lakki Mairwa
۲۰/۱۱/۲۰۱۱

(13)

39

عدالت صواب سید مولیٰ ج صاحب لاہور

مدعی 10

مال صین ولد نور علی خان سہیل درویش ضلع لاہور

GHULAM ABBAS
Senior Civil Judge/Mag.
Sec:30 c/cp Lakki Marwat
پشاور
28/11/11

نام

حکومت صوبہ خیبر پختونخواہ ہندسہ سیکرٹری تعلیم سکولز اینڈ ٹیچنگ
ایگزیکٹو ڈسٹرکٹ انجینئر ایگزیکیوٹو اینڈ سیکرٹری ایجوکیشن لاہور
ڈسٹرکٹ ایجوکیشن انجینئر ایگزیکیوٹو اینڈ سیکرٹری ایجوکیشن لاہور
ڈسٹرکٹ ٹاور ڈسٹریکشن انجینئر D.C.O ضلع لاہور

مدعیانہ

دعویٰ ملنے ڈگری استوار ہے بحق مدعی برصغیر ہند میں معقول و مدعا مسلم
کا مشترکہ راجہ 2008ء 2009/10ء و حالیہ 2011ء 6/10ء کے برائے پرانے
سکول ٹیچر PST مدعی بچہ Son ہونے کے ، پھر باقی پالیسی و فیصلہ عدالت
عالمہ ٹیچر لاکھی پشاور ڈسٹرکٹ 296/25 کے ہند کوٹ برائے ملازمین
Son میں Top پر ہونے کو ایفائنڈ ایم اے اور ایگزیکیوٹو ڈسٹرکٹ (PST) پولڈر کو
کے بطور PST تینائی کا حقدار ہے . مدعا مسلم مدعی کو بطور PST تینائی
کرنے کے قانوناً مایند ہے . مدعا مسلم کی جانب سے مدعی کو بطور PST تینائی
نہ کرنا غلط . عدالت قانون و عدالت واقعات ہونے کی بنا پر مدعی کے حقوق پر
کا اہم اور غیر موثر ہے . مدعا مسلم مدعی کو بطور PST تینائی نہیں دینا
صرف مقدمہ و دیگر دائری جو تینائی و تینائی ہے .

Examiner 187
District & Session Judge
Lakki Marwat

دعویٰ ملنے ڈگری حکم امتناعی دوائی تا لیدی حکیمہ بدین معقول و مدعا مسلم و حکم صادر
کہ مدعی کو بطور PST تینائی کریں . اور تا تینائی مقدمہ عدالت جسٹس کوٹ برائے
ملازمین Son - Reserve رکھیں . اور اس حکم میں ڈیٹی ایڈریکٹ جنرل
کے جاری کردہ لیٹر 117 معتم 2009ء 10-2-10ء Deo کی کے لیٹر 31-3118 معتم
17-2-2009ء / عملوانہ کرتے مدعی کی تینائی کا حکم کا صادر فرمایا جائے . یہ فرم
مقدمہ و دیگر دائری جو تینائی و تینائی ہے .

GHANIM ABBAS
Senior Civil Judge/Magistrate
Lahore

(14)

عالیٰ صاحب ذیل عرض ہے۔

یہ کہ مدعی ماوراء دوسری ضلع پکڑتے کا مستقل باشندہ ہے۔ ماسٹر ڈگری کے پاس
ایڈیشنل مایجسٹریٹ سے PST سرٹیفکیٹ بھی حاصل کیا ہے۔ جبکہ والد کو ملحقہ تعلیم سے
رٹائرڈ ہو چکا ہے۔ سرٹیفکیٹ نمبر: ایف اے۔ MA-BA اور ایڈیشنل مایجسٹریٹ
والد کو تعلیم کا پختہ دلچسپی ہے۔

۱۶) یہ کہ مدعی نے سال 2008، سال 2009، سال 2011 میں PST امتحان میں
مستحق امتحان اعداد ضلع سرحد کے ٹیٹ وائٹ ہوئے۔ مدعی نے برابر اندر امتحان
بمقام Son کوٹ میں شرکت کی۔ 25 مئی 2011 Apply کیا۔ مبین مدعی کو بدینتی سے
کو ایف ایڈ ہونے کے باوجود تین سال سے صلحت قانون کو حکم رکھا گیا۔ حالانکہ ملزمین
Son میں 25 مئی کوٹ میں شرکت ہے۔ اس سلسلہ میں ڈپٹی ایگزیکٹو جنرل کے
جناب کی کردہ لیٹر نمبر 117 صفحہ 2009-2010 اور DCO پکڑتے کے لیٹر نمبر 31-3118 صفحہ
2009-2-17 واقع ہدایات دی گئی ہے۔ جوہ لفظ ہے۔ اور اس پر عملدرآمد کروانا
قانوناً ضروری ہے۔

۱۷

۱۸) یہ کہ مدعی نے ملزمین سے صلحت کیا گیا۔ کہ مدعی پر حکام سے کو ایف ایڈ ہونے کے
میں Top ہونے اور مطابقت پالی و قانون صلحت ہونے کے مدعی کو ملزم PST
کریں۔ یہ حال شول کے بعد عمر سے ایک مہینہ سے انکار ہو گیا۔

۱۹) یہ کہ مدعی کو بنائے دعویٰ از پشتی امتحان PST دہانے حاجت از زائر مدعیان ملزمین
سے اندر حدود تمام حکومت پیدا ہوا۔ پس دعویٰ ام اندر امتحان و قابل سماعت عدالت کے ہے۔
۲۰) یہ کہ حالت حالت لوش ٹوٹ میں واقع ہدایت سماعت 200 + 200 ہے۔ جس پر لوش میں ملزم

مدعی صاحب تمام علی شہ
زادہ نام کیا گیا ہے۔ یہ عدالت
بمقام ملزمین سے صلحت
قانوناً ہے۔
۲۱) یہ کہ مدعی نے ملزمین سے صلحت کیا گیا۔ کہ مدعی پر حکام سے کو ایف ایڈ ہونے کے
میں Top ہونے اور مطابقت پالی و قانون صلحت ہونے کے مدعی کو ملزم PST
کریں۔ یہ حال شول کے بعد عمر سے ایک مہینہ سے انکار ہو گیا۔
۲۲) یہ کہ مدعی کو بنائے دعویٰ از پشتی امتحان PST دہانے حاجت از زائر مدعیان ملزمین
سے اندر حدود تمام حکومت پیدا ہوا۔ پس دعویٰ ام اندر امتحان و قابل سماعت عدالت کے ہے۔
۲۳) یہ کہ حالت حالت لوش ٹوٹ میں واقع ہدایت سماعت 200 + 200 ہے۔ جس پر لوش میں ملزم

محمد حسین مدعی
۲۶/۱۱/۱۱

Session Judge
Lakki Maud.

ابدالت ضاب - سولے فرج صاحب کی موت

کمال حسین نام حکومت K.P.K. ضمرہ

دعویٰ استوار ہے

ضاب عالی :- جو دعویٰ محتاب سماعیم ذیل ہے :-

1. یہ کہ دعویٰ مدعی انہر وصی وار ہے۔
2. یہ کہ مدعی کو کوئی تباہ دینی حاصل نہیں۔
3. یہ کہ ضروری اشخاص کو فریق مقدم نہیں بنائے گئے۔
4. یہ کہ Teacher son حکم کی پاس دالیسی نہیں ہے۔
5. یہ کہ ابدالت ضاب کو اختیار سماعت حاصل نہیں۔
6. دعویٰ مدعی کوئی اور فریڈل ہے۔
7. یہ کہ مدعی ایسے دفعہ A-35 C.P.C. محتاب ہے۔

Mrs. Tania Blackswai
Civil Judge / Lakna Marwat

ATTESTED

Signature
Examined to
District & Session Judge
Lakna Marwat

عذر داتہ در وقتاتی :-

- 1 - یہ کہ فرقہ ذرا کا تعلق ریکارڈ سے ہے۔
- 2 - یہ کہ فرقہ لے علی ہے۔ مدعی نے اگر کا عذرات ہے کہے ہیں لیکن Teacher son کوٹہ کے متعلق حکم کے پاس کوئی دالیسی نہیں ہے۔ اور نہ ہی ایسا کوئی قانون ہے۔
- 3 - یہ کہ فرقہ لے علی ہے۔ مدعی کو کوئی مطالبہ کا حق حاصل ہے۔

ATTESTED

Examined to
District & Session Judge
Lakna Marwat

4- فقرہ 4 علیحدہ ہے۔ مدعی کو کوئی نیا سے دعوں حاصل نہیں ہے۔ اور نہ ہی لہذا لیت جتا۔ کو اختیار سمیت حاصل ہے۔

5- فقرہ 5 کا کوئی و تکمیلی ہے۔

لکھنا اس کے بارے میں کہ دعوں مدعی خارج فرمایا جاوے بغیر رقم قلم

Mrs. Tania Hachmi
Civil Deptt: Lakki Marwat

District Coordination Officer
Lakki Marwat

ذی حوالہ

District Officer (M)
E&SE Deptt: Lakki Marwat

Executive Distt: Officer
E&SE Deptt: Lakki Marwat

تصدیق عبادت بنام علی وارث

با اثر اصلاح بیان کیا

علم فقہ جہا = میرے

علم و لقیس سے دوہرہ نام ہے۔

Executive Distt: Officer
E&SE Deptt: Lakki Marwat

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فریضہ مارف
لیوم زیادہ کا
نہیں ہوا کہ وہ درجہ
سے 1/13

(37) ~~Handwritten signature~~

Mrs. Tania Hashmi
Civil Judge - V Lakki Marwat

Os.....24
05.01.2013.


Parties present.

My this order is going to decide an application brought by plaintiff on 10/12/2012. Defendants by filing replication contested the application in hand.

Defendant submitted an application under order 7 rule 11 for dismissal of instant suit on the ground of having no cause of action. While defendant objection the application.

Brief facts of the case are that plaintiff had filed instant suit for declaration of his right for appointment as PST on retired sons quota of Govt officers or official while defendant althogather denied policy of appointment of sons of retired officers/officials.

Arguments heard and perusal of the record shows that plaintiff had placed on file a letter form deputy advocate general N.W.F.P D.I Khan to DCO Lakki Marwat for appointment of one Allah Nawaz as being off spring of retired Govt officer and also photocopy of write petition No 296/2007. As these documents create an arguable case but needs pro and contra evidence to be verified. So without touching the merits of the case court holds its view that application of defendants is not maintainable and it will be decided in the final order when all the relate facts came before court that plaintiff whether has got cause of action or not. Hence application got no force it stands dismissed. To come up on 16-1-13 for framing of issues.


(TANIA HASHMI)
Civil Judge, Lakki Marwat

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

In compliance of decision of Honourable Court, dated 28-1-2009 the below named candidate is hereby ordered as DM (M) in-BPS-15, Rs: (8500-700-29500) plus usual allowances 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. post

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 undertake 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

Dated 21/1/13
 Lakki Marwat, Peshawar

Endst No. 494-97

Copy to the

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

3/13 (S.T.O)
 Ex. Dw
ABDUL MAJID
 Civil Judge/Judicial Magistrate-VI
 Lakki Marwat

(Signature)
 District Education Officer
 (Male) Lakki Marwat

(Signature)
 Civil Judge
 Lakki Marwat
 21/1/13

EXHIBIT TO
 DISTRICT JUDGE
 LAKKI MARWAT

Date of Birth: _____
 Date of App: _____
 Qualification: _____
 File No: _____
 P. Address: _____
 Mob: _____

(19) (E) (24)
F. N. M. A. - L. 1-A

**DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION
KHYBER PAKHTUNKHWA PESHAWAR**

MINUTES OF THE MEETING

Minutes of the meeting held on 26-08-2020 regarding the progress in the CR No. 60-B/2018, titled as Kamal Hussain versus Gul Aslam & others in the light of Hon'ble Peshawar High Court direction / decision decided on 28-01-2019.

Departmental Appellate Committee meeting was held under the Chairmanship of Director Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar dated 26-08-2020 in the committee room. The following Officers / Officials attended the meeting:

1	Hafiz Dr. Muhammad Ibrahim	Director E&SE Peshawar
2	Abdus Samad Jan	Deputy Director (Legal)
3	Muhammad Ilyas	DEO (M) Lakki Marwat
4	Mr. Hamid Rasool.	Asstt. Director (Litigation-I)
5	Muhammad Ibrahim	ADEO (Estt. Secondary) DEO (M) Office Lakki Marwat
6	Mr. Kashif Munir	ADEO (Litigation) DEO (M) Office Lakki Marwat
7	Mr. Mukhtyar Alam	Litigation Representative for E&SED Peshawar

AGENDA:

CR No. 60-B/2018 Mr. Kamal Hussain Vs Qudrat Ullah & Gul Aslam

The above said agenda was discussed in detail and complete record (file) of Petitioner Mr. Kamal Hussain Vs Gul Aslam & others was thoroughly checked by the committee in light of the direction of the Hon'ble Peshawar High Court's decision announced on 28-01-2019.

CONCLUSION:

The committee unanimously decided in the light of court directions in CR. No. 60-B/2018 titled as Kamal Hussain S/O Noor Kalam Vs Qudrat Ullah S/O Abdur Rehman and Farman Ali Shah S/O Miram Shah converted into Departmental representation 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 15-11-2011"

The order of the Hon'ble Peshawar High Court is reproduced for ready reference.

Subsequently, the District Education Officer (Male) Lakki Marwat is directed to constitute Departmental Selection Committee and comply with the court order in letter and spirit at the earliest under rules and policy.

Assistant Director (Litigation-I)
Elementary & Secondary Education
Khyber Pakhtunkhwa, Peshawar

Dated Peshawar the 17/8/2020

Endstt. No. 613-17 /DD(Legal)/E&SED

Copy forwarded for information to the:

1. District Education Officer (Male) Lakki Marwat.
2. Additional Registrar, Hon'able Peshawar High Court Bannu Bench.
3. PA to Director Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar

Assistant Director (Litigation-I)
Elementary & Secondary Education
Khyber Pakhtunkhwa, Peshawar



(20) (E)

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OFFICE OF THE DISTRICT EDUCATION OFFICER
(MALE) LAKKI MARWAT

(S)

MINUTES OF THE DEPARTMENTAL SELECTION COMMITTEE REGARDING THE EVALUATION OF APPOINTMENT ORDER IN R/O MR. KAMAL HUSSAIN S/O NOOR KAMAL AGAINST THE POST OF DRAWING MASTER ISSUED VIDE DEO(M) LAKKI MARWAT OFFICE No. 494-97 dated 21-01-2013, IN LIGHT OF PESHAWAR HIGH COURT BANNU BENCH DECISION DATED 28-01-2019 - IN CR NO 60-B/2018 TITLED AS KAMAL HUSSIAN VS GUL ASLAM & OTHERS & DIRECTOR E&SE LETTER BEARING NO 613-17 /DD(Legal) E&SED Dated 16-09-2020

Meeting of Departmental Selection Committee constituted by DEO (M) Lakki Marwat in light Govt of Khyber Pakhtunkhwa Establishment Department No. SO(policy/E&SED/1-3/2018 dated 18-01-2019 received through notification issue by Govt of Khyber Pakhtunkhwa Elementary and Secondary Education Department No. SO (SF/E&SED/4-16/DSC dated 22-02-2019, was held on 07-10-2020 at 10:00 AM under the chairmanship of District Education Officer (M) Lakki Marwat.

The following attended the meeting:

1. Midrar Ullah D.E.O (M) Lakki Marwat (Chairman)
(Appointing Authority)
2. Sabira Parveen D.E.O (F) Lakki Marwat (Member)
(Representative of Administrative Department)
3. Muhammad Ilyas Dy: D.E.O (M) Lakki Marwat (Member/Secretary)
(Nominee by Appointing Authority)

Apart from the above Mr. Kashif Munner (Legal representative for the office of DEO (M) Lakki Marwat attended the meeting & facilitated the process.

The meeting was started with recitation from the Holy Quran. The Chairman welcomed all the participants and stated that the meeting was called in light of Director E&SE instruction circulated vide no No.613 - 17 dated: 16-09-2020 where by DEO(M) Lakki Marwat was directed to comply with Honorable Peshawar High Court Bannu Bench decisions in light of CR NO 60-B/2018 decided on 28-01-2019. The Honourable High Court directed that "Without going into detail ascertainment of entitlement of respective plaintiffs, vis-a-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 Quadratullah, and direct the higher authority of education department to constitute Departmental Selection Committee who shall evaluate respective qualification

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entitlement of the three plaintiff as well present petitioner and thereby fill the post of who stands higher on merit, according to the merit list prepared on 15-11-2011

The chairman further explained the background of the case which is as under:

1. The background of the case is that the office of the then Executive District Education officer Lakki Marwat advertised various posts of Drawing Master (DM) in daily Mashriq dated. 6-10-2011. **(Copy of Advertisement annexed as A)**. Written test was conducted through ETEA & final merit list was prepared **(Copy attached as B)**.
2. As per final merit list the eligible top Eight (8) candidates were appointed against the vacant posts of DM while Two (02) candidates were promoted to the post of DM **(copy of appointment order annexed as C)**. The cited Merit List didn't show Mr. Kamal Hussain (DM) as he had neither applied against the post of Drawing Master (DM) nor qualified the screening test conducted through ETEA for the said post as per available record. Later on Mr. Kamal Husain filed a civil Suit dated 26-11-2011 for appointment against the post of PST on the basis of Retired Teacher's Son Quota. The case was being under trailed up to 7-6-2013, but in the means while the then EDO Lakki Marwat appointed the plaintiff against the post of DM vide office order No. 494-97 dated 21-01-2013, by quoting the order-sheet of the learned Civil Judge No. 5 Lakki Marwat, for the reason best known to him, vide his order sheet dated. 05-1-2013 **(Copy of Civil Suit dated: 26-11-2011 and order sheet dated. 05-01-2013 is annexed as D & E)**. In fact the direction of learned Civil Judge No V Lakki Marwat vide his order sheet dated 05-01-2013 had nothing to do for the appointment of Plaintiff.
3. The learned Civil Judge No. V Lakki Marwat served Show Cause notice to the then EDO Lakki Marwat on 04-01-2013, for issuing appointment order of Kamal Hussain dated. 21-01-2013 in which he wrongly referred the order of the court dated. 5-01-2013 y **(Copy of appointment orders and show cause notice annexed as F & G)**.
4. The perusals of available record pertaining to the appointment of Kamal Hussain issued vide this office No. 494-97 dated. 21-1-2013, on the basis of Court Judgment dated. 5-1 2013, the following facts came to surface:
 - a. The plaintiff (Kamal Hussain) lodged suite for appointment as PST on the basis of retired son quota, but the then appointing authority appointed the plaintiff against the post of DM without observing the codal formalities and adopting wrong interpretation of the Court order.
 - b. The candidates against the post of DM occurring at S.No. 9 and 10 (Gul Aslam And Qudrat Ullah) in final Merit list have also filed a civil suit No 188/1-R Dated 6-04-213 in the court of Learned CIVIL JUDGE-VI against the appointment

which was decided on 24-05-2017 (Judgment dated 24-5-2017 Annexed as H) with the directions

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“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”

c. Feeling aggrieved from the judgment dated 24-5-2017 the plaintiffs Mr. Gul Aslam and Qudrat Ullah filed appeal bearing No. 64/13 and 65/13 in the learned court of ADDITIONAL DISTRICT JUDGE NO. III Lakki Marwat which was decided on 18-01-2018 with the directions

“Resultantly, from the reasons recorded above, I am inclined to accept both the appeals No 64/13 filed by Gul Aslam VS Govt etc and appeal 65/13 filed by Qurat ullah VS Govt etc and the judgment and order of the lower trail court is set aside and respondents are directed to appoint the appellant/ plaintiffs on the post in question.” copy of Judgment is attached as (Annexed as I).

d. Mr. Kamal Hussain filed a CR bearing No. 60-B/2018 against Mr. Qudrat Ullah & Gul Aslam which was decided on 28-1-2019 with the direction to the Respondents.

“ Without going into detail ascertainment of entitlement of respective plaintiffs; vis-a-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 to constitute Departmental Selection Committee who shall evaluate respective qualification /entitlement of the three plaintiff as well present petitioner and thereby fill the post of who stands higher on merit, according to the merit list prepared on 15-11-2011 (A copy of judgment annexed J)”.

Consequent upon the above, a meeting of the Departmental Appellate Committee which was held in the office of Director E&SE on 26-08-2020 under the chair of Director E&SE & it's minutes were circulated vide No 613-17 /DD (Legal) E&SED Dated 16-09-2020 where by the District Education Officer (Male) Lakki Marwat was directed to constitute the Departmental Selection Committee & comply with the court order in letter & spirit at the earliest under the rules & policy (Copy annexed as K) .

Keeping in view of the above detail it is quite clear that:

“The appointment order issued by the office of DEO (Male) Lakki Marwat in R/O Mr. Kamal Hussain S/O Noor Kamal against the post of Drawing Master (DM) bearing No 494-97 dated 21-01-2013 is illegal as he has neither applied against the post of Drawing

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Master (DM) nor appeared /qualified the screening test conducted through ETEA against the cited post"

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The Committee unanimously approved the working paper & decided that

"As per Peshawar High Court Binnu Bench direction DATED 28-01-2019 IN CR NO 60-B/2018 TITLED AS KAMAL HUSSIAN VS GUL ASLAM & OTHERS the appointment order issued in r/o Mr. Kamal Hussain S/O Noor Kamal vide DEO (M) Lakki Marwat office No. 494-97 dated 21-01-2013 was evaluated & found it being illegal, against the merit & shall be withdrawn with immediate effect & no other candidate has the right to be appointed as there was no further vacant post of DM & all the eight (08) advertised posts for initial recruitment, as per the then record, were filled by appointing meritorious candidates".

The meeting was ended with vote of thanks.

Muhamamd Ilyas Khan
Dy: DEO Male Lakki Marwat
(Nominee of Appointing Authority)

Sabira Parveen
DEO Female Lakki Marwat
(Nominee of Administrative Department)

Midrar Ullah
District Education Officer
(M) Lakki Marwat Chairman

Facilitators:

Nawaf Ali Khan
Dealing Assistant

Kashif Muneer
Legal -Representative
DEO (M) Lakki Marwat



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←

OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE)
LAKKI MARWAT

NOTIFICATION

1. WHERE AS, Executive District Education officer Lakki Marwat Now District Education Officer (Male) Lakki Marwat had advertised various posts of Drawing Master (DM) in daily Mashriq dated. 6-10-2011 & screening test was conducted through ETEA & final merit list was prepared on 15-11-2011 where in top eight (08) eligible & meritorious candidates were appointed against the vacant posts of Drawing Master.

2. AND WHERE AS, The instant merit list, prepared on 15-11-2011 against the post of Drawing Master, doesn't show Mr. Kamal Hussain (appointed as Drawing Master in GHS Khan Khel Mandoozai M). In fact, he has neither applied against the post of Drawing Master (DM) nor qualified the screening test conducted through ETEA for the post of Drawing Master as per available record in the office of District Education Officer (Male) Lakki Marwat.

3. AND WHERE AS, Later on Mr. Kamal Husain filed a civil Suit dated 26-11-2011 for appointment against the post of PST on the basis of Retired Teacher's Son Quota in lower court wherein it remain under trail up to 7-6-2013 & in the mean while the then DEO (M) Lakki Marwat appointed the plaintiff against the post of Drawing Master vide office order No. 494-97 dated 21-01-2013, by quoting the direction of learned Civil Judge No.V Lakki Marwat vide his order sheet dated. 05-1-2013, for the reason best known to him. In fact the direction of learned Civil Judge No V Lakki Marwat had noting for the appointment of Plaintiff against the post Drawing Master.

4. AND WHERE AS, The learned Civil Judge No. V Lakki Marwat served show Cause notice to the then DEO (M) Lakki Marwat on 04-01-2013, for issuing appointment order of Kamal Hussain dated. 21-01-2013 in which he intentionally referred the order of the court dated. 5-01-2013 wrongly.

5. AND WHERE AS, The candidates against the post of Drawing Master occurring at Sr.No. 9 Gul Aslam and at Sr.No 10 Qudrat Ullah in final Merit list have filed a civil suit No 188/1-R Dated 6-04-213 in the court of Learned CIVIL UDGE-VI against the appointment order No. 494-97 dated 21-01-2013 which was decided on 24-05-2017 with the directions

"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"

6. AND WHERE AS, feeling aggrieved from the judgment dated 24-5-2017 issued by the court Learned CIVIL UDGE-VI Lakki Marwat the plaintiffs Mr.Gul Aslam And Qudrat Ullah filed appeal bearing No. 64/13 and 65/13 in The Court of Learned ADDITIONAL DISTRICT JUDGE NO. III Lakki Marwat which was decided on 18-01-2018 with the directions,

"Resultantly, from the reasons recorded above, I am inclined to accept both the appeals No 64/13 filed by Gul Aslam VS Govt etc and appeal 65/13 filed by Qurat ullah VS Govt etc and the judgment and order of the lower trail court is set aside and respondents are directed to appoint the appellant/ plaintiffs on the post in question"

7. AND WHERE AS, Mr. Kamal Hussain filed a CR bearing No. 60-B/2018 in Peshawar High Court Bannu Bench , Bannu against Mr. Gul Aslam & Qudrat ullah which was decided on 28-1-2019 with the direction ,

" Without going into detail ascertainment of entitlement of respective plaintiffs, vis-a-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 to constitute Departmental Selection Committee who shall evaluate respective qualification /entitlement of the three plaintiff as well present petitioner and thereby fill the post of who stands higher on merit, according to the merit list prepared o 15-11-2011".

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8. AND WHERE AS, the meeting of the Departmental Appellate Committee was held in the office of Director E&SE on 26-08-2020 under the chair of Director E&SE & it's minutes were circulated vide No 613-17 /DD (Legal) E&SED Dated 16-09-2020 where by the District Education Officer (Male) Lakki Marwat was directed to constitute the Departmental Selection Committee & comply with the court order in letter & spirit at the earliest under the rules & policy.

9. AND WHERE AS , the meeting of District Selection Committee held on 06-10-2020 wherein the appoint order issued by the office of the then District Education Officer (Male Lakki Marwat in R/O Mr. Kkamal Hussain S/O Noor Kamal against the post of Drawing Master bearing No 494-97 dated 21-01-2013 was evaluated & found it as, illegal, against law ,rules, policy & merit , as he has neither applied against the post of Drawing Master ,appeared /qualified the screening test conducted through ETEA against the cited post nor shown in final merit list among eligible/qualified & meritorious candidates against the cited post.

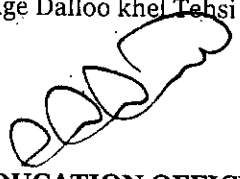
10. AND NOW THEREFORE , Keeping in view the above detail, facts available on record & to comply with Honorable Peshawar High Court Bannu Bench , Bannu judgment dated 28-01-2019 in CR bearing No. 60-B/2018 Titled as Kamal Hussain VS Quadratullah & Others the competent authority i-e District Education Officer (Male) Lakki Marwat in light of the recommendation of Departmental Selection Committee in its meeting held on 06-10-2020 has decided to withdraw the appointment order issued by the Office of District Education Officer (Male) Lakki Marwat bearing No 494-97 dated 21-01-2013 in r/o Kamal Husain Drawing Master GHS Khan Khel Mandoozai with immediate effect .

(MIDRAR ULLAH)
DISTRICT EDUCATION OFFICER (MALE)
LAKKI MARWAT

Ends No 5594-99

Dated 03-11-2020

1. Director Elementary & Secondary Education Peshawar with reference to his above cited letter/directions
2. Additional Registrar Peshawar High Court Bannu Bench, Bannu with reference to judgment in CR No 60-B/2019 dated 28-01-2019.
3. Deputy Commissioner Lakki Marwat.
4. District Account Officer Lakki Marwat
5. Head Master GHS Khan Khel Mandoozai for further n/action.
6. Mr. Kamal Hussain S/O Noor Kamal EX- Drawing Master Village Dalloo khel Tehsi & District Lakki Marwat.


DISTRICT EDUCATION OFFICER (MALE)
LAKKI MARWAT .

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"F"

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BEFORE THE PESHAWAR HIGH COURT, BANNU BENCH.

Contempt Application No. 134-B /2018

In-C.R.NO. 60-B/2018



1. Qudrat Ullah s/o Abdur Rahim Khan r/o Masha Mansoor Tehsil & District Lakki Marwat.
2. Gul Aslam Khan s/o Miram Shah r/o Daulat Khel Tehsil & District Lakki Marwat

.....PETITIONERS

Versus

Director Education Khyber Pakhtunkhwa, Peshawar
Muhammad Ibrar KhanRESPONDENT

APPLICATION UNDER ARTICLE 204 OF THE
CONSTITUTION OF PAKISTAN, 1973 READ WITH
SECTION 3 & 5 OF THE CONTEMPT OF COURT ACT, 1976
FOR INITIATING CONTEMPT OF COURT PROCEEDINGS
AGAINST RESPONDENT FOR DISGARDING THE
ORDERS OF THIS HONOURABLE COURT DATED
28.01.2019 AND ALSO TO PUNISH THEM IN
ACCORDANCE WITH LAW.

RESPECTFULLY SHEWETH:

- 1) That Civil Revision Petition No. 60-B/2018 Titled Kamal Hussain Versus Qudrat Ullah etc was filed against appeals decreed, in favour of present petitioners for the appointment as Drawing Master. (Copy of the Civil Revision No.60-B/2018 is annexed as Annexure "A")

Filed Today
[Signature]
 17/01/2019
 Additional Registrar

ATTESTED
 EXAMINER
 Peshawar High Court
 Bannu Bench

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(47) (21)

2) That the above petition was disposed of by this Honourable Court vide its order dated 28.01.2019 wherein directions were given to present Respondent in the following words:-

“Direct the higher authority of education department the Director Education Peshawar to constitute a Departmental Selection Committee who shall evaluate respective qualification / entitlement of the three plaintiffs as well present petitioner and thereby fill the posts who stand higher on merit, according to the merit list prepared on 15-11-2011.

The process of appointment shall be positively completed within period of one month and a copy of whole proceedings be submitted to the Learned Additional Registrar of this court”

(Copy of Order dated 10-12.2015 is annexed as Annexure “B”)

3) That the Respondent is although in clear knowledge of the above directions of this Honourable Court but have failed to comply with the directions of this Honourable Court within the specified period of one month.

4) That after that the Petitioner submitted applications to the Respondent and requested to comply with the orders dated 28.01.2019 of this Hon'ble Court wherein clear directions were given to the Respondent. But no action has been taken on the said applications. The Respondent have failed to comply with the directions of the Honourable Court and till this date, to constitute a Departmental Selection Committee to evaluate the entitlement of present petitioners and other concerned candidates as per merit list dated 15-11-2011. (Copies of application to respondent are annexed as Annexure “C”)

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5) That due to the misfeasance and nonfeasance on the part of respondent, the petitioners are once again constrained to knock at the door of this Honourable Court inter alia, on the following grounds:

GROUND:

A. That the very act of the respondent is clear cut disobedience of the court order which suggests initiating of the contempt of court

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12 JUL 2019
Additional Registrar

ATTESTED
EXAMINER
Peshawar High Court
Banna Bench

proceedings against him in accordance with law by punishing him for the deliberate disobedience of the court order.

- B. That by non-constitution of Departmental Selection Committee and not to complete the process of appointment within the prescribed period of one month as per directions of this Hon'ble Court vide order dated 28-01-2019, the respondent have violated the above said order of this Hon'ble Court.
- C. That, the respondent is not obeying the directions/judgment and order passed by this Honourable Court. The willful inaction of the respondent exposes him for initiation of contempt of court proceedings.
- D. That the respondent compelled the petitioners to have a rounds of the respondent.
- E. That respondent made the justice a mockery and clearly refused to perform his legal duties and till this date the respondent is not willing to comply with the order of this Hon'ble Court.
- F. That the respondent disgraced the order of this Hon'ble Court by smashing and throwing the judicial order of the Ho'ble court, refused to implement the said order in its stricto sensu, as such neither any Departmental Selection Committee was constituted nor any action was conducted in this regard till date.
- G. That the respondent having reasonable time and all the resources to comply with the directions of Hon'ble Court but he intentionally denied performing his legal duties.
- H. That the conduct of respondent have blatantly disregarded the clear directions of this Hon'ble Court and has in fact flouted the process of law by his naked misuse of power.

Clause

I.

The counsel of the petitioner may please be allowed to submit further grounds during the hearing of the instant Contempt Petition.

Filed Today
 12 JUN 2019
 Additional Registrar

ATTESTED
 EXAMINER
 Peshawar High Court
 Safdar Basha

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It is, therefore, most respectfully prayed that while taking into consideration the present petition,

- I. The Contempt proceedings may be initiated against the respondent.
- II. The Order of punishment/sentence and penalties may be passed against the respondent.
- III. The respondent be directed to comply with the order dated 28-01-2019 within the shortest period be passed.

ANY OTHER REMEDY WHICH DEEMS FIT BY THIS HON'BLE COURT MAY ALSO BE GRANTED IN FAVOUR OF PETITIONERS.

Dated: 11/07/2019

Petitioners

Qudrat Ullah, Gul Aslam

Through Counsel:-

(Muhammad Jamshed)
Advocate High court
Lakki Marwat

Certificate:

It is certified that no other contempt petition was filed on the subject matter.

Advocate.

ATTESTED
EXAMINER
Peshawar High Court
Banna Bench

Filed Today

11/07/2019
Additional Registrar

(30) "F2" 18 (44)

PESHAWAR HIGH COURT
BANNU BENCH.



FORM 'A'
FORM OF ORDER SHEET

Date of order or proceedings (1)	Order or other proceedings with signature of Judge (s). (2)
12.4.2021	<p><u>COC No.134-B/2019.</u></p> <p>Present:</p> <p>Hafiz Muhammad Jamshid Advocate for petitioner.</p> <p>Mr. Shahid Hameed Qureshi, Addl: A.G along with Kashif Munir, Litiation Officer on behalf of respondents.</p> <p>***</p> <p><u>MUHAMMAD NASIR MAHFOOZ, J.---</u> Mr. Kashif Munir, Litigation Officer was put on notice to appear in Court today and explain as to why judgment dated 28.01.2019 of this Court has not been implemented. He submitted copies of the working paper along with merit-list, wherein the names of Gul Aslam Khan and Qudrat Ullah Khan (petitioners) are placed at serial No.9 and 10 while candidates at serial No.7 have been finally appointed pursuant to the decision made in the</p>

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ATTESTED
CLERK
Peshawar High Court
Bannu Bench

hsant.

(S.B) Hon'ble Mr. Justice Muhammad Nasir Mahfooz.

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meeting dated 15.12.2019 of departmental selection committee and 26.8.2020.

2. The instant Contempt of Court petition having served its purpose is dismissed accordingly.

Announced. Sd/ Mr. Justice Muhammad Nasir Mahfooz, J
12.4.2021.

CERTIFIED TO BE TRUE COPY

Examiner

Peshawar High Court Bannu Bench
Authorized Under Article 87 of
The Qanun-e-Shahadat Ordinance 1984

SCANNED

13 APR 2021

Khano Khan

[Handwritten signature]

No-51 dated 4.6.13

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A M A O #

Tania Hashmi Civil Judge No V,
Lakki Marwat.

Mir Azam Khan Ex D.E.O Education Male.
Lakki Marwat.

Subject: - SHOW CAUSE NOTICE.

You have passed an order of appointment of Kamal Hussain dated 21/1/2013 in which you have referred the order dated 5/1/2013 of the court of under signed wrongiy. Photocopies are attached. Your are therefore, directed to appear in person in court on 12/5/2013 and explain your stance through a written replay.

In case of your failure to attend the court on date fixed disciplinary action will be initiated against you

Tania Hashmi Civil Judge
No-V Lakki Marwat.

(33)

"H."

(51)



DIRECTORATE OF ELEMENTARY AND SECONDARY EDUCATION
KHYBER PAKHTUNKHWA PESHAWAR.

(56)

No. 89/67 F. No. Committee local office.
Dated Peshawar the 24/3 /2021.

D.A

To.

8/6/2021

The District Education Officer (M)
Lakki Marwat.

Subject:

REQUEST FOR RE-INSTATMENT AS DM

471°
08/06/2021

Memo:-

I am directed to refer to appeal on the subject cited above and to enclose herewith a copy of appeal in respect of Mr. Kamal Hussain Ex: DM GHS Khankhel Mandozai District Lakki Marwat, and to ask you to submit detail report/comments to this office within a week time.

Assistant Director (Estab)
Elementary & Secondary Edu:
Khyber Pakhtunkhwa Peshawar.

Endst: No. _____

Copy forwarded to the:-

1. P.A to Director Elementary and Secondary Education local office.

Assistant Director (Estab)
Elementary & Secondary Edu:
Khyber Pakhtunkhwa Peshawar.

conducting any enquiry, show cause notice vide impugned order cited above. hence the instant appeal on the following grounds:-

(34) " " "

(2) (50)
(55)

To: The Director,
Elementary & Secondary Education,
Khyber Pakhtunkhwa, Peshawar.

Subject: DEPARTMENTAL APPEAL/REPRESENTATION UNDER RULE 4 OF
THE SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED
ORDER NO. 5594-99 DATED 03.11.2020 WHEREIN THE
SERVICES OF THE APPELLANT TERMINATED ILLEGALLY,
UNLAWFULLY AND IN VIOLATION OF RULES AND POLICY.

Respected Sir:

It is submitted that the appellant aggrieved from the departmental order No. 5594-99 dated 03.11.2020 passed by District Education Officer, (Male) Lakki Marwat in violation of rules, hereby submit departmental appeal/representation as under:-

FACTS

1. That the appellant is the bonafide resident of Village Dallo Khel, Tehsil and District Lakki Marwat vide copy of domicile certificate attached as annexure A.
2. That the appellant has passed MA in 2003 B.Ed in 1999-2000 from Gomal University D I Khan (Photocopy of Degrees attached as Annexure B).
3. That the appellant has passed DM Course in 1999-2000 from PITE Peshawar/GEC Ghoriwala District Bannu (photocopy of DM passed certificate is attached as Annexure C).
4. That after passed DM course and high education qualification waited for a long period and after regular applying to the authorities concerned, appointed as a Drawing Master against the vacant post in GHS Tari Khel vide District Education Officer (Male) Lakki Marwat appointment order No. 494-97 dated 21.01.2013 (Photocopy of Appointment Order is enclosed as Annexure D).
5. That the appellant has submitted his arrival report to the Headmaster GHS Tari Khel on 18.02.2013 (Photocopy of arrival report is attached as Annexure E) and rendered meritorious services as Drawing Master in various schools for the period from 18.02.2013 to 03.11.2020.
6. That the appellant has regularly drawn pay and allowances for the above period and the services of the appellant has been verified for the above period. (Photocopy of Services Book showing verification of services is attached as Annexure F/1-10).
7. That the appellant is presently serving as a Drawing Master in GHS Khan Khel Mandazai to the entire satisfaction of my superior officers while the services of the appellant was requisitioned by the Headmaster concerned having good reputation and teaching expertise.
7. That suddenly the appointment order of the appellant has been withdrawn by the District Education Officer (Male) Lakki Marwat without conducting any enquiry, show cause notice vide impugned order cited above. hence the instant appeal on the following grounds:-

Weight
Value
Enders
Signature
Working

(35)

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(54)

GROUNDS

- A. That the appellant having high education qualification and DM course and was fully qualified for the post of Drawing Master at the time of appointment in 2013.
- B. That the appellant has served for the period from 18.02.2013 to 03.11.2020 over seven (7) years and nine (9) months with clean conduct and expertise upto the marks as evident from the certificate issued by Headmaster concerned.
- C. That the appellant has regularly drawn pay and allowances and services verified by the authority concerned.
- D. That no complaint has been received against the appellant from any quarter and the services of the appellant is satisfactory.
- E. That as per provision of the judgement of the Supreme Court of Pakistan reported and cited as 1996 SCMR 1350 clearly indicating that the department is not allowed to terminate the services of the employee recruited irregularly in violation of rules, however, disciplinary proceedings may be initiated against the officers involved/responsible for making irregular appointment in violation of rules (Photocopy of Supreme Court judgement endorsed by Provincial Government circulated vide S&GAD letter No. SOR.II (S&GAD) 1 (10)/93 dated 13.11.2000 (Photocopy attached as Annexure G).
- F. That as provided in rules on the subject, neither enquiry conducted, charge sheet, statement of allegations framed, show cause noticed issued as required vide Rule 7 of Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011.

It is therefore, humbly prayed that on acceptance of this departmental appeal/representation, the impugned order cited above passed by District Education Officer (Male) Lakki Marwat may kindly be set aside and the appellant may kindly be re-instated into government services with all back benefits and oblige.

Thanking You Sir,

Yours Humble Appellant

Dated: 10-11-2020

kh

Kamal Hussain DM BPS-15
GHS Khan Khel Mandazai
R/O Village Dallo Khel
District Lakki Marwat.
CNIC No. 11201-0339130-1
Contact No. 0312-1914684

of
Off



(38) "H₂"

Office of The District Education Officer
(Male) Lakki Marwat

Ph: (0969)538291, email: emislakki@yahoo.com,
www.facebook.com/deomalelakki, www.twitter.com/deo_m_lakki

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(59)

No: 3755 Dated: 27/07/2021

To

The Director,
Elementary & Secondary Education,
Khyber Pakhtunkhwa, Peshawar.

Subject:

REQUEST FOR RE-INSTATEMENT AS DM

Memo,

Reference to your office letter No. 8963//File No. Committee Local Office dated: 24/03/2021 - received in this office vide Diary No. 4710 dated: 08/06/2021 on the subject cited above and to state that:

1. Needs no comments. Pertains to record.
2. Needs no comments. Pertains to record.
3. Needs no comments. Pertains to record.
4. The instant merit list, prepared on 15/11/2013 against the vacant posts of Drawing Master (DM) doesn't show Mr. Kamal Hussain. In fact, he has neither applied for the post of DM nor qualified the screening test conducted through ETEA for the post of Drawing Master as per available record in office of the undersigned. Annexed as "A"
5. Needs no comments. Pertains to record.
6. Needs no comments. Pertains to record.
7. Needs no comments.
8. The services of Mr. Kamal Hussain Ex-DM has been discontinued in the light of directions of Honourable Peshawar High Court Bannu Bench Bannu in CR-bearing No. 60-B/2018 Titled as "KAMAL HUSSAIN VS GUL ASLAM & OTHERS" dated: 28/01/019. Annexed as "B"
9. Consequent upon the above, a meeting of the Departmental Appellate Committee was held in the office of Director, E&SE Khyber Pakhtunkhwa was held under the Chairmanship of Worthy Director, Elementary & Secondary Education on 26/08/2020 and it's minutes were circulated to all concerned vide No. 613-17/DD (Legal) E&SED dated: 16/09/2020 Annexed as "C"
10. And finally, the Departmental Selection Committee in its meeting held under the Chairmanship of DEO-Male Lakki Marwat on 07/10/2020 unanimously decided to withdraw with immediate effect the appointment orders of Mr. Kamal Hussain being illegal and against the merit. Annexed as "D"

In addition to the above, it is further submitted that the instant case is under trial in Khyber Pakhtunkhwa Service Tribunal, please.

Encl: as above.


DISTRICT EDUCATION OFFICER
(MALE) LAKKI MARWAT

27/7