





Form- A

FORM OF ORDER SHEET

Court of \_\_\_\_\_

Case No.- \_\_\_\_\_ 621/2022 \_\_\_\_\_

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	26/04/2022	<p>The appeal of Mst. Bakhat Pari resubmitted today by Mr. Muhammad Usman Khan Turlandi Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-		<p>This case is entrusted to Single Bench at Peshawar for preliminary hearing to be put there on <u>06.05.22</u>. Notices be issued to appellant and his counsel for the date fixed.</p> <p style="text-align: right;"> CHAIRMAN</p> <p style="text-align: center;"><i>On account of public holiday to come up for the same as before on 8/6/22</i></p> <p style="text-align: right;"></p>
	08.06.2022	<p>Junior to counsel for the appellant present.</p> <p>Lawyers are on general strike, therefore, case is adjourned. To come up for preliminary hearing on 29.07.2022 before S.B.</p> <p style="text-align: right;"> (Rozina Rehman) Member (J)</p>

*Noted*

The appeal of Mst. Bakht Pari W/O Qari Ihsan Ullah, SST (BPS-16), GHS Daskor Bala, Dir Upper, Malakand received today i.e. on 14.03.2022 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Appeal has not been flagged/marked with annexures marks.
- 2- Memorandum of appeal may be got signed by the appellant.
- 3- Copy of first original order is not attached with the appeal which may be placed on it.

No. 679 /S.T,

Dt. 15-3- /2022

  
REGISTRAR  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

Mr. M. Usman Khan Turlandi Adv.

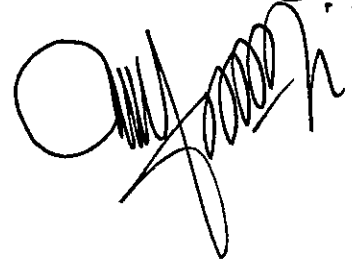
26-04-2022

Khyber Pakhtunkhwa  
Service Tribunal

Entry No. 616

Dated 26/4/2022

R/sir. The Case file returned and received back dated 15-4-22 and thereafter the highlighted objections were removed and resubmitted with a request to place for onward proceedings before the honourable bench pl.



**Before The Khyber Pakhtunkhwa Service Tribunal Peshawar.**

In Ref; to S. Appeal No. 621 of 2022.

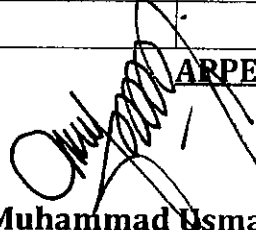

**Mst: Bakht Pari SST.....VERSUS.....Director E & S Education & others.**

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Dated; 14/03/2022. (Monday).

Through;

  
Muhammad Usman Khan  
Turlandi  
Advocate Supreme Court.  
&   
Dawood Khan  
Advocate Peshawar.

**OFFICE: Flat # C-1 Haji Murad Plaza, Dalazak Road, Peshawar City,  
Cell# 0333915-3699 03005895841.**

**Before The Khyber Pakhtunkhwa Service Tribunal Peshawar.**

In ref: to Service Appeal No. \_\_\_\_/2022.

Mst: Bakht Pari W/O Qari Ihsan Ullah R/O Daskor-Bala, Tehsil Wari, Upper Dir, (Malakand Division), presently working as Secondary School Teacher (SST) (General) BPS-16 and posted at Government High School Daskor bala Dir Upper, Malakand

.....**APPELLANT**

**VERSUS**

- 1) The honorable Director, Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
- 2) The Accountant General, Khyber Pakhtunkhwa, Peshawar.
- 3) The District Education Officer (F) Dir Upper.
- 4) District Accounts Officer, Dir Upper.....**RESPONDENTS.**

**Service Appeal U/S 4 of the Khyber Pakhtunkhwa Service Tribunal Act, against the final impugned order bearing No.H-24/DAO/Dir Upper/134 dated 08-02-2022, passed by the respondent no. 2, communicated to the appellant dated 18-02-2022 whereby promotion and arrear of pay, sanctioned by the respondent No. 3 was withdrawn and application for grant of arrear of pay to be fixed for BPS-14 instead of BPS-09 w.e.f 15-12-1999 (first appointment order as AT) till promotion to the post of SST (BPS-16) and actualization of pay as such dated 28-11-2016 was refused.**

**PRAYERS:-**

On acceptance of this service appeal, the final impugned order dated 08-02-2022, communicated to the appellant dated 18-02-2022, passed by the respondent No. 2 may be set-aside and by restoring the previous sanction of the parent department (Respondent No. 3) for revised pay scale/basic pay Scale Scheme (Annexure-"I") and in light of the Notification dated 07-08-1991, passed by the Finance Department, the respondents be directed to accord proper sanction/correction of pay scale for BPS-14 instead of BPS-09 and as such, the arrears of pay be paid w.e.f 15-12-1999 {the first appointment order as AT, (BPS-9)} till the promotion of the appellant to the post/rank of SST (BPS-16) and actualization of pay as such dated 28-11-2016 and equal treatment be extended in order to avoid discrimination and to meet the ends of justice.

**Respectfully Sheweth:**

- 1) That the Appellant while having been equipped with the pre requisite qualification of SSC in the year 1996 and had also acquired the Degree of "Sanad-ul-Firagh, Shahadat-ul-Alamia" from Darul Uloom Islamia, Anwar-ul-Uloom Nali par Dang Baba Mardan and as such proper degree was granted by the Ittehad ul Madaris Par Hoti Mardan in the year 1998. (Copy of the Metric Certificate, the "Sanad-ul-Firagh, Shahadat-ul-Alamia" and the degree from Ittehad-Ul-Madaris Par Hoti Mardan is annexure "A", "B" and "C" respectively).
- 2) That the degree from "Sanad-ul-Firagh, Shahadat-ul-Alamia" from Darul Uloom Islamia, Anwar-ul-Uloom Nali par Dang Baba Mardan was already recognized in the year 1987 by the Government of the then NWFP, Education Department and properly affiliated vide Affiliation No. 3 with Pakistan Madrassa Education Board Islamabad dated 23-12-2003. (Copy of the official letter of recognition and affiliation with Pakistan Madrassa Education Board Islamabad is annexure "D" & "E" respectively).
- 3) That the Madrassa Islamia Anwar-ul-Uloom Nali par, Dang Baba Mardan has also been registered under registration No. 9/159 dated 09-12-1967 under the Society Act and similarly Darul Uloom Ittehad ul Madaris Par Hoti Mardan has also been stand registered under the Society Act vide registration No. 78/5/41 dated 30-09-2005. (Copy of the registration No. 9/159 dated 09-12-1967 and No. 78/5/41 dated 30-09-2005 are annexure "F" & "G" respectively).
- 4) That in response to an advertisement duly floated in the daily newspapers, the appellant while having been equipped with the pre-requisite qualification of SSC coupled with the "Sanad-ul-Firagh, Shahadat-ul-Alamia" from Darul Uloom Islamia, Anwar-ul-Uloom Nali par, Dang Baba Mardan, after observance of all codal formalities in accordance with law and on the recommendation of the departmental selection Committee was duly appointed as Arabic Teacher BPS-9 at GMS Akhagram (Upper Dir) vide order passed by the respondent No. 3 dated 14-12-1999. (Copy of the appointment order dated 14-12-1999 is annexure "H").
- 5) That under the provision of Para-9 of the basic pay scale Scheme, duly promulgated by the government of the then NWFP, proper sanction was accorded to the grant of basic pay scale No. 14 vide office order passed by the respondent No. 3 dated 08-04-2009. (Copy of the office order dated 08-04-2009 is annexure "I").

- 6) That in order to actualize the revised pay scale No. 14, arrears of pay was properly calculated and after proper entries made in the Service Book, Bill for Rs. 151072/- was sent by the respondent No. 3 for payment to respondent No. 4. (Copy of the relevant page of Service Book and Bill for Rs. 151072/- is annexure "J" & "K" respectively).
- 7) That the Bill (supra) for Rs. 151072/- on account of arrears of pay when produced for payment, was straight away refused by the respondent No. 4 on the flimsy excuse that no equivalency has been accorded by the HEC to the Degree possessed by the appellant obtained by the Darul Uloom Ittehad-ul-Madaris Par Hoti Mardan. (Copy of the original impugned order is annexure K/I).
- 8) That in the meanwhile, some three other persons so aggrieved similarly against one and the same treatment, had approached this august Tribunal vide Service Appeal No. 490, 491, 492/2005 whereas the Degree obtained by the Darul Uloom Ittehad-ul-Madaris Par Hoti Mardan was considered competent and authentic document and hence all the appeal were allowed vide order dated 17-06-2006. (Copy of the consolidated judgment dated 17-06-2006 is annexure "L").
- 9) That the judgment dated 17-06-2006 supra was further upheld by the apex Supreme Court vide order dated 06-02-2009, passed in Civil Petition No. 660-P, 661-P and 662-P of 2006. (Copy of the consolidated order dated 06-02-2009 passed by the apex Supreme Court is annexure "M").
- 10) That the appellant while aggrieved of the flimsy excuse on part of respondent No. 4 that no equivalency of the Degree from Darul Uloom Ittehad-ul-Madaris Par Hoti Mardan with MA Arabia/ Islamiyat has been accorded by the HEC, the appellant approached the Peshawar High Court/Darul Qaza Mingora Bench vide WP No. 2819/2009 but could not get the desired result. (Copy of the order dated 05-04-2012, passed by the High Court is annexure "N").
- 11) That in the given scenario, the appellant approached ultimately the apex Supreme Court by filing CP No. 258 of 2012 decided on 24-05-2013 and was succeeded to get the desirous aim in the following terms:
- In case the petitioner is successful in acquiring such a certificate of recognition, the impugned judgment shall not stand in her way. Order accordingly".
- (Copy of the order/judgment dated 24-05-2013 passed by the Apex Supreme Court is annexure "O").

- 12) That the Certificate of equivalency Itehad-Ul-Madaris Al-Arabia Pakistan was granted by the Government of Pakistan, Ministry of Federal Education & Professional Training, Higher Education Commission Islamabad vide letter 8-16/HEC/SAD/2021/1994 dated 03-02-2021. (Copy of the Certificate of equivalency is annexure "P").
- 13) That the appellant while aggrieved of the discrimination in service and depriving of her legal right, filed departmental appeal against the impugned order for the redressal of her grievances and tabled before the respondent No. 2 dated 08-03-2021 which was lastly breathed into the final impugned order dated 08-02-2022, communicated to the appellant dated 18-02-2022. (Copy of the departmental appeal coupled with the final impugned order dated 08-02-2022 communicated to the appellant dated 18-02-2022 is annexure "Q" & "R" respectively).
- 14) That in the given circumstances the appellant prefers this service appeal for the redressal of her grievances in shape of withholding and refusing her legitimate right to life, equal treatment and overall basic fundamental rights inter-alia on the following grounds.

**Grounds.**

- a) **Because** the Appellant has a proper recurring cause of action and is suffering from continuous legal injury and her grievances was legally redressed by parent department (Respondent No. 3) vide office order dated 18-04-2009 (Annexure "I") and accordingly it should further have been redressed/endorsed by the Appellate Authority and respondent No. 2 respectively and by not doing so, the impugned order is illegal, unlawful, without lawful authority, without jurisdiction, against the law on the subject and against the norms of natural justice and liable to be declared as such.
- b) **Because** the impugned action/inaction by refusing the legal status of the appellant being appointed as Trained Arabic Teacher and withholding of her basic pay scheme of BPS-14 as promulgated by the Government of the then NWFP, Finance Department vide Notification dated 07-08-1991 (Annexure "I") is fraught with impalpable infirmities of factual as well as legal score is deplorable, highly condemnable being illegal, unlawful, without lawful authority,

un-Constitutional, Un-Islamic, against the law of the land and against the natural justice and is liable to be declared as such.

- c) **Because** the act of the respondents, depriving the appellant of her basic pay scheme of BPS-14 by the respondent No. 2 who being qualified as per her pre-requisite qualification and being legally appointed against BPS-14 in accordance with law and against the sanctioned posts, clearly smacks with nepotism and malafide.
- d) **Because** the appellant has never been treated in accordance with law and highly discriminated by not extending equal treatment while such benefits have already been allowed given to other colleagues like appellants in Service Appeal No. 490, 491, 492/2005, decided/allowed by this august Tribunal vide consolidated order/judgment (Annexure "L") dated 17-06-2006.
- e) **Because** the Judgment (Annexure "L") passed by this august Tribunal was further upheld and endorsed by the Apex Supreme Court of Pakistan vide order dated 06-02-2009, passed in Civil Petition No. 660-P, 661-P and 662-P of 2006.
- f) **Because** the order/Judgment in the case of the appellant (Annexure-"O"), passed by the Supreme Court dated 24-05-2013, has wrongly been interpreted by the respondents while giving it prospective rather it clearly speaks of retrospective effect.
- g) **Because** the respondents by neglecting and refusing the legitimate right of payment of monthly salary for basic pay scheme of BPS-14 to the appellant is also against the Divine Ordain of Allah Almighty under the principle of natural justice and fundamental human rights and as such the respondents have usurped the right of human being and have thus, bypassed the Divine rule to give due right to everyone.
- h) **Because** the impugned act of the respondents is highly unjust, against the principle of natural justice, highly condemnable, highly deplorable and if allowed to remain in field, then it would perpetuate

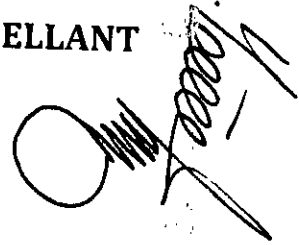


more injustice and certainly in complete collapse of the Government exchequer and also deprivation of the command of the constitution.

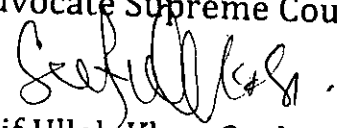
- i) **Because** the action and inaction on part of the respondents proclaims its own malafide which is contrary to Article 4, 25 and 27 of the Constitution.
- j) That further submission with the prior permission of this honorable court would be advanced at the time of hearing the appellant at the bar.

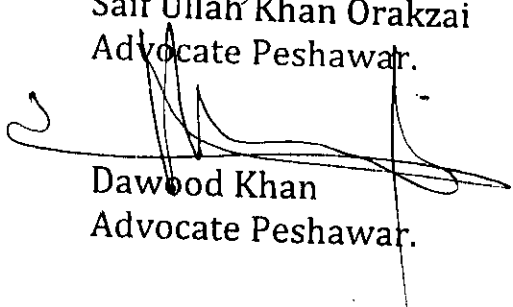
It is, therefore, most respectfully prayed that on acceptance of this service appeal, the final impugned order dated 08-02-2022, communicated to the appellant dated 18-02-2022, passed by the respondent No. 2 may be set-aside and by restoring the previous sanction of the parent department (Respondent No. 3) for revised pay scale/basic pay Scale Scheme (Annexure-"I") based in light of the Notification dated 07-08-1991, passed by the Finance Department, the respondents be directed to act in accordance with law and accord proper sanction/correction of pay scale for BPS-14 instead of BPS-09 and as such, the arrears of pay be released/paid accordingly w.e.f 15-12-1999 {the first appointment order as AT, (BPS-9)} till the promotion of the appellant to the post/rank of SST (BPS-16) and actualization of pay as such dated 28-11-2016 and equal treatment be extended in order to avoid discrimination and to meet the ends of justice.

**APPELLANT**



Muhammad Usman Khan  
Turlandi  
Advocate Supreme Court.

  
Saif Ullah Khan Orakzai  
Advocate Peshawar.

  
Dawood Khan  
Advocate Peshawar.

Through;

Dated; 14-03-2022.

**Before The Khyber Pakhtunkhwa Service Tribunal Peshawar.**

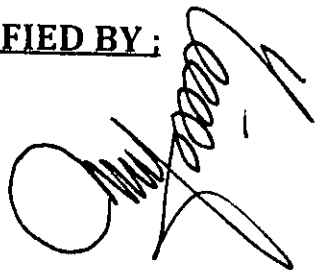
In Ref; to S. Appeal No. \_\_\_\_\_ of 2022.

Mst: Bakht Pari SST.....**VERSUS**..... Director E & S Education & others.

**AFFIDAVIT.**

I, Mst: Bakht Pari W/O Qari Ihsan Ullah R/O Daskor-Bala, Tehsil Wari, Upper Dir, (Malakand Division), presently working as Secondary School Teacher (SST) (General) BPS-16 and posted at Government High School Daskor bala Dir Upper, Malakand, do hereby solemnly affirm and declare on oath that the contents of accompanying Service Appeal are true and correct to the best of my knowledge and belief and that nothing has been kept secret or concealed therein from this august Tribunal.

**IDENTIFIED BY:**

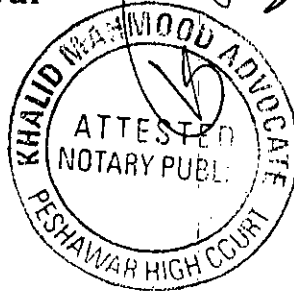


**Muhammad Usman Khan  
Turlandi  
Advocate Peshawar**

**DEPONENT**



**Mst: Bakht Pari SST (Appellant)**



14-3-22

(9)

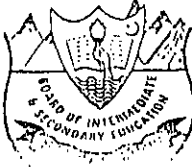
ANNEXURE A

sw No. ssc (S) 2621



Roll No. 615

**BOARD OF INTERMEDIATE AND SECONDARY EDUCATION**



Saidu Sht

Secondary School Ce...

**SESSION SUPPLEMENTARY 1996**

THIS IS TO CERTIFY THAT BAKHT PARI BIBI

Son/Daughter of GUL SHAHZADA

and a Student of DISTT: DIR

has passed the Secondary School Certificate Examination of the Board of Intermediate and Secondary Education; Saidu Sharif, Swat held in October 1996 as a *Private/Regular* candidate. He/She obtained 368 Marks out of 850 and has been placed in Grade D Representing FAIR The Candidate passed in the following subjects.

- |            |                     |           |                 |
|------------|---------------------|-----------|-----------------|
| 1. English | 3. Islamiyat        | 5. MATHS  | 7. GEN: SCIENCE |
| 2. Urdu    | 4. Pakistan Studies | 6. PASHTO | 8. ISL: STUDIES |

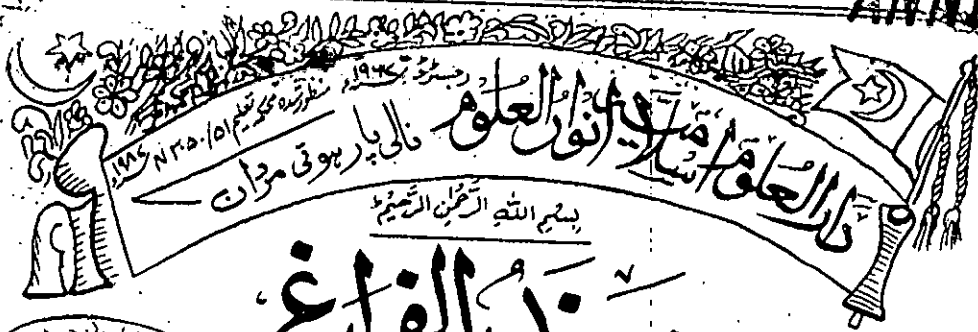
Date of birth according to admission form is FIRST MARCH  
one thousand nine hundred and EIGHTY ONE (01-03-1981)

*[Signature]*  
Asst. Secretary

This certificate is issued without alteration or erasure.

*[Signature]*  
Secretary

ATTESTED TO BE  
TRUE COPY  
*[Signature]*



# سند الفرائغ

Darul Uloom Islamia Anwarul Uloom  
Approved by Director of Edu. Office  
Schools N.W.F.P. Peshawar Board  
9388-93 Date. 17-5-1987.

شہاد عالمیہ ایم اے اسلامیات

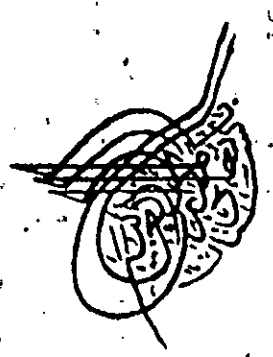
الحمد لله الذي هدانا لهذا الذي كنا لنهتدي لولا ان هدانا الله. وشيد لنا اعلام الدين الحنفي بكتابه المبين واحكم اصول احكامه بحكمة بيضاء موجبة للمتقين. والصلوة والسلام على نبيه المبعوث بكافة العلمين الذي بعثه في الامم رسولا منهم يتلوا عليهم آياته ويزكيهم ويعلمهم الكتاب والحكمة وان كانوا من قبل لفي ضلال مبين وعلى اله واصحابه الذين سعدوا في مناهج الصدق بالتصديق وصعدوا في معارج الحق بالتحقيق. اما بعد فان الاخ الصالح البارئ بخت پيرى بى بنى بن گل شہزادہ۔ قد امتحن في نصاب دارالعلوم ففاز باحسن وجه و هو عندنا سليم الطبع وله من مناسبة بالعلوم العربية ويقدر بعون الله تعالى ولما طلب منا الاجازة اجزناه وكتبنا له هذه الورقة لتكون سندا وتذكرة عند المس الحاجة وبالله التوفيق ان يتق الله سزاوعلنا ويتبع الحسنة السنة التي عليها القرون المشهور من الصحابة والتابعين والائمة المجتهدين رضوان الله عليهم اجمعين و آخر دعوانا ان الحمد لله رب العالمين

تصدیق کی جاتی ہے کہ اسٹی بخت پیرى بى بنى بنى ولد گل شہزادہ۔  
ضلع دیر بالا تحصیل ڈاڑی قریب۔۔۔۔۔ نے دارالعلوم میں باقاعدہ امتحان دیا ہے اور کامیاب ہونے کی صورت میں دارالعلوم کی جانب سے سند کا اجراء باقاعدہ مہر دارالعلوم دستخطوں کے ساتھ

کیا جاتا ہے۔ تاریخ داخلہ ۱۷/۲/۱۹۹۸ تاریخ اجراء ۱۸/۱۲/۱۹۹۸  
دستخط مہتمم دستخط ناظم اعلیٰ فضل علی

ATTESTED TO  
TRUE COPY

ATTACHED TO  
TRUE COPY



# شهادة العالمية في العلوم العربية والاسلامية

بموجب



رقم الشهادة ٢٤٢٦

المرجع الرئيسي للدراسة في العلوم العربية والاسلامية

فان رئاسة لجامعة طهران العربية بباكستان بنسبة العربية  
من \_\_\_\_\_ جيمس \_\_\_\_\_  
المولود في لود في كندا

في مركز جامعة فيض الاسلام في مركز جامعة فيض الاسلام  
اتحاد المدارس العربية في شهر رمضان المبارك / ١٤٠٠ هـ  
ورئيس الاتحاد اذ يمنحه / بمنحها هذه الشهادة العالمية  
مسئول الجامعة العالمية والاسلامية في كندا والمعلمين

رقم السجل ٩٩٥  
رقم الجواز ٢٨٥  
الدرجات ٥٠٠ / ٦  
تاريخ الاجراء ١٢ / ١٩٩٨

توقيع  
رئيس الاتحاد  
١٢ / ١٩٩٨

توقيع  
ابن العام  
١٢ / ١٩٩٨

توقيع  
مدير الجامعة  
١٢ / ١٩٩٨

توقيع  
مردان باكستان  
١٢ / ١٩٩٨

(14)

**ANNEXURE D**

The Director of Education  
( Schools ) NWFP Peshawar.

No. 9388-93/S-12/Reg D/uloom.

Dated Peshawar the 17/5-1987.

To,

1. The District Education Officer.  
( Male ) Mingora Swat.
2. The District Education Officer.  
( Male ) Mardan

Subject:- PERMANENT RECOGNITION OF DEENI MADARIS.

Memo:

Reference Divisional Director of Education ( Schools ) Malakand Memo No.9197/PD-17/Recog: dated: 05.04.1987 and District Education officer ( Male ) Mardan Memo No.26091 dated: 19.11.1986.

The Secretary to Government of N.W.F.P Education Department Peshawar has been pleased to accord permanent recognition of the following Darul Uloom with immediate effect.

1. Darul Uloom Madrassa Taleemul Quran Cloth Market Mingora Swat.
2. Darul Uloom Islamia, Anwar ul Uloom Nali Par Dang Baba Mardan.

*S. A. J.*  
Deputy Director ( Schools )  
For/Director of Education  
( Schools ) N.W.F.P Peshawar.

Endst No. 9388-93/; Dated Peshawar the 17/5-1987.

Copy of the above is forwarded to the:-

- 1-2 Divisional Director Education (M. Malakand Division Saidu Sharif Swat, and Peshawar Division Peshawar.
- ✓ 3-4 Muhtamims Darul Uloom, Concerned.
- 5 Section Officer agre: Tech: Government of N.W.F.P Education Department Peshawar. w/r to his Memo No. Agre:Tech: 3-21/87-Deeni Eadu dated 11.05.1987.
6. P.A to Director of Education ( Schools ) N.W.F.P Peshawar.

*M. A. J.*  
Deputy Director ( Schools )  
For/Director of Education  
( Schools ) N.W.F.P Peshawar.

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*M. A. J.*

## ANNEXURE E



پاکستان مدرسہ ایجوکیشن بورڈ

## اسلام آباد

حکومت پاکستان کے آرڈی نمنس نمبر XL  
بجریہ ۱۸ اگست ۲۰۰۱ء کے تحت قائم شدہ

تاریخ: ۲۳ دسمبر ۲۰۰۳ء

حوالہ نمبر: ۷ (۱) ۲۰۰۲ بی ایم ای بی

مہتمم، دارالعلوم اسلامیہ انوار العلوم  
نالی پار ہوتی، مردان

عنوان: الحاق ہمراہ پاکستان مدرسہ ایجوکیشن بورڈ۔ (الحاق نمبر: ۳)

بحوالہ آپ کی درخواست برائے الحاق آپ کو مطلع کیا جاتا ہے کہ پاکستان مدرسہ ایجوکیشن بورڈ نے الحاق کمیٹی کی سفارش پر "دارالعلوم اسلامیہ انوار العلوم"، نالی پار ہوتی، مردان کی پاکستان مدرسہ ایجوکیشن بورڈ کے ساتھ الحاق کی منظوری عطا کر دی ہے۔

(ذاکٹر محمد میاں صدیقی)  
کوآرڈینیٹر/سیکرٹری الحاق کمیٹی

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مستند حقیقی

نالی پار ہوتی مردان

(16)

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دارالدارم  
بازار اسلام  
مردان 9/159

ANNEXURE B F

CERTIFICATE OF REGISTRATION OF SOCIETIES.

ACT XXI OF 1860.

No. 9/159 of 19 1967

I hereby certify that Madrasa Islamia Mardan-  
Uloom, Mardan,

has this day been registered under the Societies  
Registration Act, XXI of 1860.

Given under my hand at Peshawar

this 9th day of December

One thousand nine hundred and Sixty Seven.

Shamsher Ali 9/12/67  
Asstt. Registrar of Joint Stock Companies,  
Peshawar Region, Peshawar.

J. S. C. 56.

P. P. W. Karachi--19.10.57--1,361

no 8041 dated 9-12-67

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*[Signature]*





46

ANNEXURE 9

CERTIFICATE OF REGISTRATION OF SOCIETIES.

ACT XXI OF 1860.

No. 78/15/196. Date 30/1/1905.

I hereby certify that DARUL ULOOM TITTEHOU MADANI AL-ISLAMIA, PAR HOPI DISTRICT NAUDAN.

has this day been registered under the Societies' Registration Act XXI of 1860.

Given under my hand at PESHAWAR.

this 30<sup>th</sup> day of JANUARY 1905.



Registrar of Joint Stock Companies & Societies, N.W.F.P., Peshawar.

U.S.A.P.D. N.W.F.P. 1871/12 of the 1/10/1905. (1-81-0)

Handwritten signature and date: 30/1/1905

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OFFICE OF THE DISTRICT EDUCATION OFFICER (F) DISTRICT DIR UPPER  
OFFICE ORDER

Consequent upon their selection by the Departmental Selection Committee the District Education Officer (F) Secy:Dir Upper has been placed the following A.T. trained candidates at the schools noted against their name in EPS No. 9 Rs. 1805-97-8060 plus usual allowances as admissible to them under the rules subject to the following terms and conditions:-

S.No.	M/L No.	Name	Father's Name	Residence	School where appointed.
1.	1.4	Saria Bano	Mohd Ali Khan	Dir	GCMS Gandiga
2.	1.	Miryun Bibi	Gren Bacha	Khall	" Seer Tormas
3.	2.2	Zulikha	Abdul Wahafar	Jaber	" Samkoot
4.	3.	Bakht Pari	Gul Shihzada	Daskor	" Akhagram
5.	5.	Gul Zar Begum	Zamin Sher	Khall	" Shalpalam
6.	6.	Shihnas Begum	Abdur Rehman	Khall	" Babiour.

TERMS AND CONDITIONS

1. Charge report should be submitted to all concerned.
2. No. TA/DA is allowed.
3. They will be Governed as such rules and regulation as they may be prescribed by the Govt: time to time for the categories Govt: servants to which they belong.
4. Their service will be liable to termination any notice without any notice. In the case of resignation without notice one month pay will be forfeited in to Govt: Trys.
5. Their original Certificate should be checked and verified from concerned Board.
6. They are required to produced an affidavit to state fact date they will be personally be held responsibility in case of bogus documents and they will be punished according to Govt: relevant rules.
7. They are required to produced her Health and Age Certificate from Medical Authority concerned.
8. Efforts for transfer before completion of a 3 year tenure disqualify from the service.
9. During the checking of Their service documents if found bogus her service will be terminated for the date of 1st: appointment.

(MEHFOOZ SULTAN)  
District Education Officer,  
(F) Dir Upper.

Dated: NO. 1663-231

Dated Dir, the 14/12/1999

- Copy to:-
1. The Director Secy: Education NWFP Peshawar.
  2. The District Accounts Officer Dir Upper.
  3. The The Head Mistresses concerned.
  4. The Candidates concerned.
  5. The Accountant local office.  
For information.

*Mehfooz Sultan*  
District Education Officer,  
(F) Dir Upper.

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*S*  
District Education Officer,  
(F) Dir Upper.  
14/12

B

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## ANNEXURE 9

OFFICE OF THE EXECUTIVE DISTRICT OFFICER ELEMENTARY & SECONDARY EDUCATION DIR UPPER.OFFICE ORDER.

Under the Provision of Para-9 of the Basic Pay Scales Schemes vide Government of NWFP Finance Department Notification No. FD (PRC) 1-01-89 dated 07/8/1991, sanction is hereby accorded to the grant of Basic Pay Scale No.14 with Rs.2065-161-4480 in respect of the following Arabic Teacher due to possessing higher required qualification ("Alamia") from the date mentioned against each.

S.No.	Name & Designation.	Name of School.	Examination passed.	Date of award.
1.	Bakht Pari Bibi, A..T	GGMS,, Badalai	"Alamia"	15/12/1999


Necessary entry to this effect should be made in her service book accordingly.

(Azizur Rahman)  
Executive District Officer,  
Elementary & Secondary Education,  
Dir Upper.

Dist.No. 1841-44 /F.No.52/EDO E&SE Dir(U)/Secy:Estt;Branch Dated Dir (U) the 18/4 /2009

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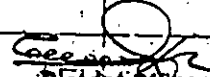

- The District Accounts Officer, Dir Upper.
- The Headmistress, Government Girls Middle School, Badalai.
- The Accountant, Middle Schools (Female).local office.
- The mistress concerned.

  
Executive District Officer,  
Elementary & Secondary Education,  
Dir Upper. 18/4/09

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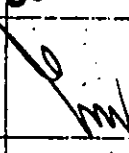


Name of Post	Whether substantive or officiating and whether permanent or temporary	If (1) in India or state (2) Substantive appointment, in (3) whether service counts for pension (under Art. 371)	Pay in substantive post	Additional Pay for officiating	Other emoluments falling under the term "Pay"	Date of Appointment	Signature of Government Serv.
Rs. 2065-161-4480 CB-14		Revised structure of pay scales in 15-12-99	Pay on 15-12-99	Rs. 1605	Rs. 2065-00	15-12-99	
		Pay on 01-12-2000	Rs. 2276-00				
Rs. 3100-240-10300 CB-14		Pay on 01-12-2001	Rs. 2387-00		Rs. 3580	Scale of pay ser.	
		Pay on 01-12-2002	Rs. 3820-00				
		Pay on 01-12-2003	Rs. 4060-00				
		Pay on 01-12-2004	Rs. 4300-00				
Rs. 3565-275-11815 CB-14		Pay on 01-7-2005	Rs. 4940-00				
		Pay on 01-12-05	Rs. 5215-00				
		Pay on 01-12-06	Rs. 5490-00				
Rs. 4100-315-13550 CB-14		Pay on 01-7-07	Rs. 6305-00				
		Pay on 01-12-07	Rs. 6620-00				
Rs. 4920-380-16320 CB-14		Pay on 01-7-08	Rs. 7960-00				
		Pay on 01-12-08	Rs. 8340-00				

  
 District Officer (P),  
 Elementary & Secondary,  
 Education Dir. Upper,  


Rs. 4920-380-16320 CB-14

A.T. Post of G.A.M.S. Temp. Temp. 8340/- 12/28  
 Bodalai

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ANNEXURE K

PAYROLL SYSTEM  
AMENDMENT FORM  
FOR SINGLE EMPLOYEE

DISTRICT ACCOUNTS OFFICER DIR UPPER  
FORM PAY 2  
DATE \_\_\_/\_\_\_/2009



OFFICE OF THE	DO FEMALE DIR UPPER ✓		
FOR THE MONTH OF	15/12/99 to 30/6/2009		
DDO CODE/COST CENTRE	6013 ✓		
Personal No	00278759	EMPLOYEE NAME	Bakht Puri
GRADE (PAY SCALE/GROUP)		NIC NO	107-80-372416
		Salary status start/stop	through Bank

FOR GENERAL CHANGES			FOR PAYMENTS/DEDUCTION CHANGES		EFFECTIVE DATE	REMARKS
INFOTYPE	FIELD ID	CONTENTS	Wage type	Amount		
		0001 pay		134066/-	pay @ Rs. 8340/-	1/7/09
		1000 HR		17006/-	HR Rs. 1476/-	

Employees Signature

*[Signature]*  
Prepared by

Audit/Checked by

Entered by

BY RESOURCE PERSON (HR) OF DIR PROPER (DP)

Amin Kohistani

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*[Signature]*

21

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ANNEXURE K/I

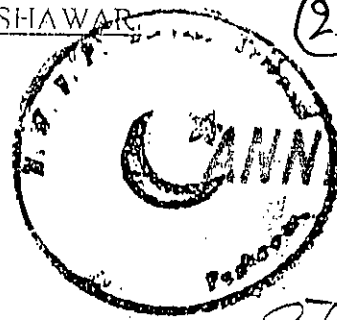
1	2	3	4	5	6	7	
Name of Post	Whether substantive or officiating and whether permanent or temporary	If Officiating, State in Substantive appointment or in whether service counts for pension under Art. 24 C.S.R.	Pay in substantive Post	Additional Pay for officiating	Other emolument falling under the term Pay	Date of Appointment	Signature of Government Servant
AT GIMS Badali	Temp.	Temp.	3760/-			12/05	(Sd) R. Ubbay
do	do	do	3925/-			12/06	
<del>Impugned Order</del>							
<del>Prescribed qualification for AT Post is Honour in Arabic or Wifaqul Madaris or Tanzeemul Madaris</del>							
<del>AD</del>							
<del>Prescribed qualification for AT Post is Honour in Arabic as ATOC from Islamabad or Wifaqul Madaris Multan or Tanzeemul Madaris Lahore</del>							
<del>sd/AD</del>							
GIMS Badali	Temp.	Temp.	Temp.	Rs: 4515/-		12/07	
do	do	do	do	Rs: 4705/-		12/07	
(3820-230-10720 B-9)							
do	do	do	do	5660/-		11/7/08	
do	do	do	do	5890/-		12/08	

Director General (P) & Secretary Dir Upper

(National Pay Scale revised by Govt 1-7-07 3185-190-8585)

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Muhammad Usman Khan Turfandi Advocate Supreme Court Pakistan No: 5045



ANNEXURE 4

Appeal No. 490/2005

Date of institution - 06.06.2005

Date of decision - 17.06.2006

93

Rozi Khan Ex-Arabic Teacher, presently working as Qari at GMS, Odigram, Dir Lower.....(Appellant)

VERSUS

- 1. District Coordination Officer, Lower Dir.
- 2. Executive District Officer (S&L) Deptt; District Lower Dir.
- 3. Director Schools & Literacy Department, NWFP Peshawar.
- 4. Secretary Schools & Literacy Department, NWFP Peshawar.....(Respondents)

Mr. Khushdil Khan Momand, Advocate.....For appellants.  
Mr. Zaffar Abbas Mirza, Acting Govt. Pleader.....For respondents.

MR. ABDUL KARIM QASURIA.....MEMBER.  
MR. FAIZULLAH KHAN KHATTAK.....MEMBER.

JUDGMENT.

ABDUL KARIM QASURIA, MEMBER :- This appeal has been filed by the appellant namely Rozi Khan Qari, against the order

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Peshawar  
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*Handwritten notes: "copy of judgment of ST. 17/6/06"*

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... 31.01.2005 whereby his appointment order dated 30.7.2004 was  
... with the prayer that the impugned order may be set aside  
and respondent No. 1 be directed to restore his appointment order as  
Arabic Teacher dated 30.7.2004 with all back benefits.

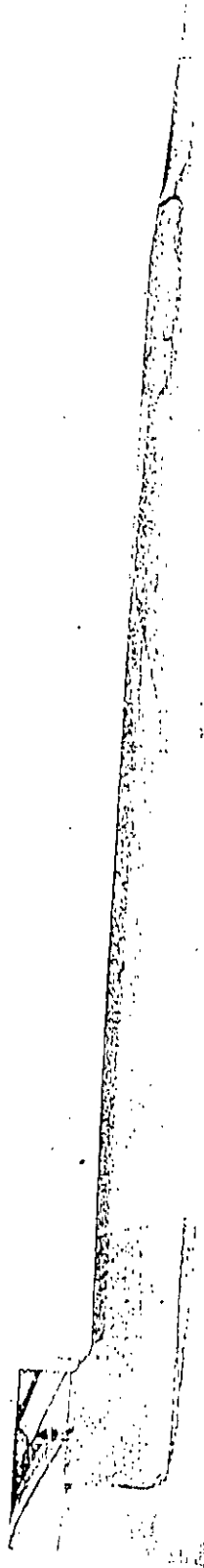
2. Brief facts of the case are that the appellant was initially  
appointed as Qari in the respondent department on regular basis vide  
order dated 29.4.1999. He qualified Matric in the year 1995, F.A. in  
the year 2001 while the Sānad of Snahadat-ul-Alamia also obtained  
from the recognized institution in the year 1999. The appellant being  
qualified in the terms of advertisement, applied for the post of Arabic  
Teacher and after test and interview he obtained high merits but  
appointment orders could not be issued for unknown reasons and the  
posts were re-advertised on 25.05.2004 and similarly re-interviewed  
on 1.6.2004 and a common order dated 30.7.2004 was issued by  
respondent No. 1 thereby appellant and others were appointed in  
pursuance of which the appellant assumed the charge of the post of  
Arabic Teacher at Government Middle School, Odigram on 31.7.2004  
and since then he has been performing his duties as such efficiently  
and regularly for which he was also paid salaries as is evident from  
the pay rolls. All of a sudden, on 31.1.2005 an order was issued by  
respondent No. 1 thereby the appointment order of appellant and

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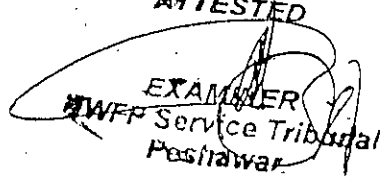


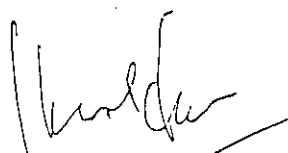
others was withdrawn without any cogent reason-against which the appellant preferred a departmental appeal on 28.2.2005 to respondent No. 3 but the said has not been disposed of within the statutory period of 90 days. Hence the instant appeal.

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3. The appellant has assailed the impugned order on the grounds that the appellant was fully qualified for the post of Arabic Teacher and his appointment was made by the competent authority after observing all the codal formalities therefore, subsequent withdrawal of the same in arbitrary manner is unjustified and not sustainable under the law and rules. After assuming the charge of the post of Arabic Teacher, the appellant continuously worked for sufficient time which accrued vested rights in his favour which could not be taken back from him under the principle of locus poenitentiae. The impugned order has been passed without notice and assigning any reason. The impugned order has been passed at the back of appellant and he has been condemned unheard and no fair opportunity was given to him to defend his case.

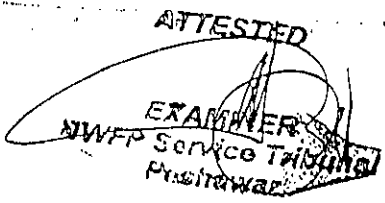
4. The respondents have filed their written reply in which the claim of the appellant as contained in the memo of appeal has been opposed. The appellant has also filed his replication rebutting the objections raised by the respondents.

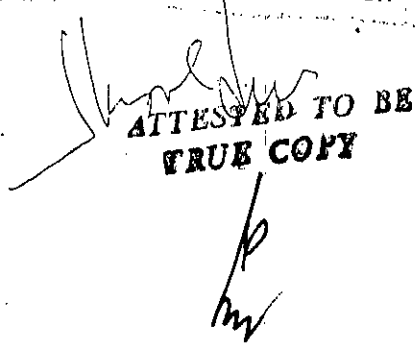

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Arguments heard and record perused.

The learned Counsel for the appellant argued that the appellant was initially appointed as Qari (BS-7) vide order dated 29.4.1999 after proper selection. Later on as a result of advertisement published in the newspaper the appellant applied for the post of A.T and he was properly appointed vide order dated 30.7.2004 as Arabic Teacher BS-9 after the approval of the recruitment committee. It was also argued that the appellant took the charge of the post of Arabic Teacher on 31.7.2004 and received the salary. The counsel also argued that vide order dated 31.1.2005 the appointment order issued on 30.7.2004 was withdrawn. The counsel argued that the appellant is qualified and his appointment was made by the competent authority after observing all the codal formalities. No proper enquiry such as issuing of charge sheet/statement of allegations, show cause notice has been issued to the appellant. The learned counsel also rebutted the objection of the respondents that the Sanad issued by the "Ittchadul-Madaris Mardan is not a recognized/registered by the Higher Education Commission or erst-while University Grants Commission. He also denied the objection raised by the respondents that the institution has not been affiliated with Pakistan Madrasal Education (Establishment and affiliated of Model Deeni Madaris Board. In this connection the

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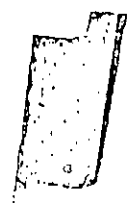
  
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counsel for the appellant showed the certificate of Registration wherein the Madrasa islamia Anwarul Uloom Hoti Mardan has been registered under registration No. 9/159 dated 9.12.1967 under the Society Act. The counsel also showed another registration No. 78/5/41 dated 30.9.2005 wherein Darul-Ulloom-Ittehadul Madaris Al-Islamia Par Hoti Mardan stands registered under the Societies Act. It was argued by the counsel for the appellant that Sanad of Ittehad-ul-Madaris is competent and authentic document for the appointment of Arabic Teacher and it was never mentioned in the rules nor in the advertisement given in the newspaper for the post that the Sanad would be valid/entertained only when the institutions from which it stands issued is recognized and registered by Higher Education Commission/UGC. It was added in the arguments that the letter of Higher Education Commission dated 7.4.2004 only shows the Sanads from Wafaq/Tanzeem-ul-Madaris, Rabit-ul-Madaris and certain individual Madaris which is meant for higher studies and not related with teaching Arabic at School level. He also pointed out a list of Teachers with having the same Sanad who have been appointed against the post of Arabic Teaching Theology Teachers in various Schools. The learned counsel also pointed out that Ordinance No. XL of 2001 was recently promulgated which should not have

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 Service Tribunal  
 PESHAWAR

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retrospective effect while the Sanad of the appellant obtained is in the year 1999. Hence the appellant has been deprived of his due rights against the law and the competent authority has also not positively responded to mitigate his grievances.

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7. The learned AGP relied upon the sole letter date 7.4.2004 from the Higher Education Commission, stating that the Sanad of the appellant issued by the Deni-Madrasa is not valid as the Madrasa has been mentioned as registered/recognized by the Higher Education Commission/UGC. Moreover, the Institution/Madrasa which issued the Sanad is not affiliated to Model Dini Madaris Board as required under the Federal Government Promulgated Ordinance No. XL of 2001. The AGP contended that the impugned order has rightly been issued and the appellant has no case for the indulgence of the Tribunal.

8. After listening to the arguments of the parties and perusal of record the Tribunal tends to agree with the contention of the counsel for the appellant as neither in the advertisement for the post, validity of the Madrasa or its affiliation to Model Dini Madaris Board was mentioned nor during giving offer of appointment to the appellant this fact/condition was mentioned. The record also shows that "Itchadul Madaris-ul-Arabia Par Hoti Mardan is duly registered under the

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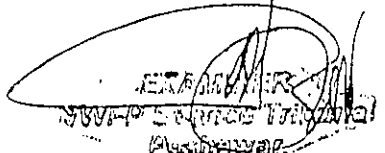
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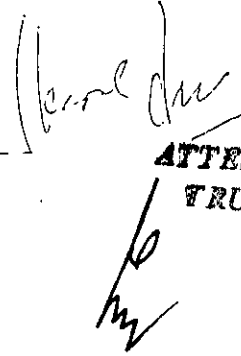
Act and a number of students with Sanads of that have already been working as Arabic/Theology Teachers in various Schools of the Province as per list shown/attached with replication of the appellant. The appellant was to teach Arabic in the School and neither he was to get higher study nor he was to teach in the College or University as referred to in the letter dated 7.4.2004 from the Higher Education Commission. The appellant had been receiving pay for the last more than three months as evident from the photo-stat copies of the pay rolls while it was clearly mentioned in the terms and conditions at S.No. 11 of the order of appointment dated 31.7.2004 that the DDO was not to pay the salary to the new appointee until and unless his certificate/sanad is verified from the concerned Board/institution. After the payment of the salary to the appellant the Tribunal draws the conclusion that the respondents have accepted that his sanads are valid and there was no flaw in the appointment. It is also another fact that the services of the appellant were terminated and the appointment order was withdrawn without following the legal procedure as no show cause notice was given and, no enquiry was conducted while no chance for the defence was given to the appellant which is a mandatory provision of law. The appointment order issued by the respondent department is also silent to indicate the special clause that

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without giving him any notice his services are to be terminated because of invalidity of sanad. It is also a fact that for C.T. Teachers the qualification is FA/F.Sc while for SET which carries BS-16 the basic qualification is BA/B.Sc/B.Ed which for Arabic Teacher in the School with Scale of BS-9 the qualification/sanad of Decmi Madaris should be equivalent to M.A. is against the common sense. The respondents have failed to mention in the advertisement to specify the condition and proper appointment order was issued and the appellant was regularly paid for more than three months.

9. Keeping in view the above facts, this appeal is accepted and the order dated 30.7.2004 is restored and the impugned order dated 31.1.2005 is set aside to the extent of the present appellant as well as other appellants in connected appeals bearing No. 491/2005 titled Saeedullah and 492/2005 Muhammad Idrees Versus DCO District Lower Dir etc, in which common questions of law and facts are involved. The pay of appellants is to be fixed from the date of partial modification in the impugned order with no arrear to be paid. No order as to costs. File be consigned to the record after completion.

ANNOUNCED.  
17.06.2006.

(ABDUL KARIM QASURIA)  
MEMBER.  
(FAIZULLAH KHAN KHATTAK)  
MEMBER.

9-7-10

Number of documents	
Number of pages	3200
Serials for	18
Pages	
Total	18
Date of completion of copy	12-7-10
Date of delivery of copy	13-7-10

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IN THE SUPREME COURT OF PAKISTAN  
(Appellate Jurisdiction)

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**ANNEXURE M**

**PRESENT:**

MR. JUSTICE IJAZ-UL-HASSAN  
MR. JUSTICE MOHAMMAD QAIM JAN KHAN

**CIVIL PETITION Nos 660-P, 661-P AND 662-P OF 2006 .**

(On appeal from the judgment dated 17.6.2006 of the NWFP Service Tribunal, Peshawar passed in Appeal Nos.490, 491 and 492 of 2005)

District Coordination Officer, District Dir Lower  
and others ... **Petitioners**

Versus

Rozi Khan  
Saeedullah  
Muhammad Idrees ... **Respondents**

For the petitioners Mr. Tasleem Hussain, ASC


For the respondents Mr. Ijaz Anwar, ASC

Date of hearing: 06.2.2009

**JUDGMENT**

IJAZ-UL-HASSAN, J.— These petitions for leave to appeal, proceed against common judgment dated 17.6.2006 passed by the NWFP Service Tribunal, Peshawar, whereby Appeal Nos. 490, 491 and 492 of 2005 filed by respondents Rozi Khan, Saeedullah and Muhammad Idrees, Arabic Teachers

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Officer in Charge  
Supreme Court of Pakistan  
Peshawar

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were accepted, order dated 30.7.2004 was restored and the impugned order dated 31.1.2005 of termination/withdrawal of respondents, was set-aside.

2. Facts of the case need not be reiterated as the same have been mentioned in detail in the impugned judgment as well as in the memo of petitions.

3. We have heard at length Mr. Tasleem Hussain, Advocate, appearing on behalf of petitioners-department and Mr. Ijaz Anwar, Advocate representing the respondents. We have also perused the material on record as well as the impugned judgment minutely.

4. Learned counsel for the petitioner-department mainly contended that appointment of the respondents was withdrawn for valid reasons as 'sanads' of the respondents issued by the "Dini-Madrasa" were not found valid as the 'Madrasa' has not been registered/recognized by the Higher Education Commission. He also added that the Institution/Madrasa which issued the 'Sanad' is not affiliated to Model Dini Madaris Board as required

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Officer in Charge  
Supreme Court of Pakistan

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under the Federal Government Promulgated Ordinance No. XL of 2001.

5. On the other side, learned counsel for the respondents vehemently controverted the above contentions and argued that respondents were appointed as regular employees after completion of legal formalities and approval of the competent authority and that respondents assumed the charge and received three months salaries and as such petitioner-department had no justifiable reasons to withdraw their order of appointment. To substantiate the contentions, reliance was placed on Ghulam Rasool and others versus Government of Balochistan and others, (2002 PLC (CS) 47), Federation of Pakistan through Secretary, Establishment Division, Islamabad and another versus Gohar Riaz, (2004 SCMR 1662) and Abdul Salim versus Government of NWFP through Secretary, Department of Education Secondary, NWFP, (2007 PLC (CS) 179).

6. Record reveals that respondents were initially appointed as 'Qaris' (BS-7) vide order dated 29.4.1999 after proper selection. Subsequently, as a result of advertisement appearing in the newspaper.

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Office in Charge  
Supreme Court of Pakistan  
Peshawar

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the respondents applied for the post of Arabic Teacher (BS-9) and they were appointed as such vide order dated 30.7.2004. The respondents took the charge on 31.7.2004 and received the salary. Vide order dated 31.1.2005, the appointment order issued on 30.7.2004, was withdrawn. The respondents preferred departmental appeals which remained unresponded. Feeling aggrieved, the respondents, approached the NWFP Service Tribunal, Peshawar, by way of filing of appeals, which were accepted as stated and mentioned above.

- ✓ 7. The respondents were qualified and their appointments were made by the competent authority after observance of due process of law. No proper inquiry such as issuing of charge sheet/statement of allegations, show cause notice has been issued to the respondents. The impugned judgment is based on valid and sound reasons and is entirely in consonance with the law laid down by this Court. Neither there is misreading or non-reading of material evidence, nor misconstruction of facts and law. Needless to emphasize <sup>that</sup> for any irregularity whatsoever, if committed by the department itself, the appointee cannot be harmed, damaged or

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Supreme Court of Pakistar  
Peshawar

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condemned subsequently when it occurs to the department that it had itself committed some irregularities qua any appointment. This Court has held in Collector of Customs and Central Excise, Peshawar and 2others versus Abdul Waheed and 7 others, (2004 SCMR 303) that for the irregularities committed by the department itself qua appointment of a candidate, the appointees cannot be condemned subsequently. It was observed:-

*"Obviously the appointments so made, were made by the Competent Authority and in case prescribed procedure was not followed by concerned authority, the appointees/respondents could be blamed for what was to be performed and done by the Competent Authority before having verified the qualification and suitability and observance of the due process before issuing the appointment orders."*

8. Having considered the matter from all angles in the light of material on file, we find that learned Tribunal in the impugned judgment has discussed all aspects of the matter in a proper manner and has assigned cogent and sound reasoning in the impugned judgment before arriving at the conclusion. Neither any misreading or non-

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Supreme Court of Pakistan  
Peshawar

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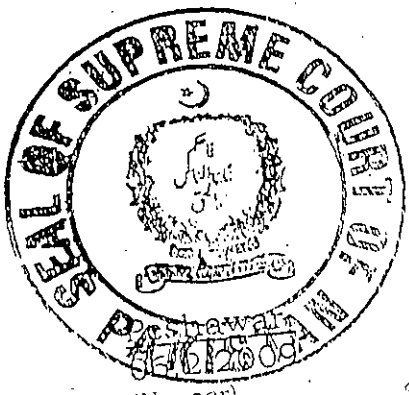
(99)

reading of the evidence on record could be pointed out in the impugned judgment, justifying interference by this Court. Even otherwise no substantial question of law of public importance is involved.

9. Pursuant to above, finding no substance in these petitions, we dismiss the same and decline to grant leave.

*Sd/- Ijaz-ul-Hassan, J*

*Sd/- Mohammad Qaim Jan Khan*



(Nascer)

*13/7/2010*

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Office Secretary  
Supreme Court of Pakistan  
Islamabad

*J-H*  
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*P*  
*MW*

G.R. No.	1445-P/2010
Date of presentation	9-7-2010
Application No.	1800
No. of Pages	18
Requisition	5.00
Copying Fee	11.16
Court Fee	16.16
Date of completion	10/7/2010
Date of receipt	12/7/10
Compared	<i>Signature</i>
Received	<i>Signature</i>
Total Amount	
Advance	
Balance	

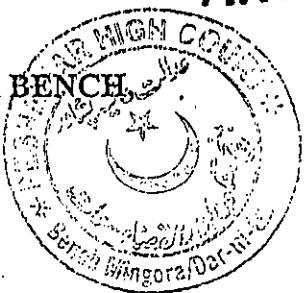
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ANNEXURE N

Judgment Sheet

PESHAWAR HIGH COURT, MINGORA BENCH  
(DAR-UL-QAZA), SWAT  
JUDICIAL DEPART

Writ Petition No.2819 of 2009.



JUDGMENT

Date of hearing... 05/04/2012  
Petitioner... (Mst Bakht Pari) by M. Sadiq Haidee Aureshi Advocate  
Respondents... (Accountant General & Others) by DAG

\*\*\*\*\*

WAOAR AHMAD SETH, J.- Petitioner, Mst: Bakht Pari has asked for issuance of appropriate writ directing the respondent No.1 to release the monthly salary of the petitioner in BPS-14 alongwith all back benefit since 15.12.1999 and onwards on acquiring/ possessing the higher qualification/Deeni Sanad from a Deeni Madaris.

2. Precise facts of the writ petition and the arguments of learned counsel for the petitioner are that petitioner was appointed in the education department, Government of KPK and was subsequently accorded BPS-14 due to possessing higher education/qualification of Shadat-ul-Allamia Fill Ullomul Islamia and Arabic from Etihadul Madaris Par Hoti Mardan. It is also contended that the said qualification obtained from Etihadul Madarisa, Par Hoti Mardan is recognized by Services Tribunal KPK and upheld by the apex Court of the Country and as such

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Examiner  
Peshawar High Court Bench  
Mingora/Dar-ul-Qaza Swat

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petitioner is being discriminated by not allowing the said BPS-

14.

3. As against this, learned counsel for the respondents submitted that petitioner is not entitled to BPS-14 as the competent authority i.e. Higher Education Commission has not yet approved Deeni Madarisa i.e. Etihadul Madaris Al-Arrabia Pakistan Par Hoti, Mardan and as such the decree as obtained from the said Madarisa is not recognized one.

4. Arguments heard and record perused.

5. Vide order dated 20.04.2010 Higher Education Commission was impleaded as respondent No.12 and subsequently they filed their comment/objection which are on file and according to which Etihadul ul Madarasa Al-Arrabia, Par Hoti Mardan is not an approved Deeni Madarasa, therefore, Deeni Sanad held by petitioner from the said Madarasa is not recognized by the competent authority i.e. Higher Education Commission. In view of the above comments of the competent authority, this Court cannot direct the concerned authorities i.e. respondent No.1 to treat the said Deeni Sanad equivalent to M.A. and to grant/award BPS-14, as the same is not recognized by the competent authority.

6. As regarding the discrimination claimed on the basis of already delivered judgments of the Service Tribunal KPK, upheld by the apex Court, regarding the same Deeni Sanad, on the principle enshrined in the reported judgments 2009 SCMR-01

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Examiner

Peshawar High Court Bench  
Mingora/Dar-ul-Qaza Swat

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and 1996 SCMR-1185. In this respect, we have gone through the said judgments and are of the view that firstly, in those judgments the Higher Education Commission was not a party and secondly, in those judgments the question of equivalency was dealt with but the court/tribunal has not gone to the basic fact that whether the said Sanad is recognized one or not. In view of the comments filed by respondent No.12 this Court cannot shut its eyes on the fact that the very Deeni Sanad issued by an institution is not recognized one. These are the reasons for not treating the petitioner at par with the judgment in Appeal No.490/2005 decided on 17.06.2006.

7. In view of the above, this writ petition is dismissed with no order as to costs.

*sd/- Mazhar A Sami Khan Min W. H. C. 5*  
*sd/-*

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JUDGE

EXAMINER  
Peshawar High Court, Bench Mingora/Dar-ul-Qaza, Swat  
Authorized Under Article 87 of the Constitution of Pakistan, 1973

*sd/-*  
JUDGE

Announced.

Dated 05/04/2012.

office  
16/4

S.No. 1708  
Name of Applicant. Mazhar Sami Khan  
Date of Presentation of Application 09-04-12  
Date of Completion of Copies. 21-04-12  
No. of Copies. 40  
Fee Charged. 80  
Date of Delivery of Copies. 21-04-12

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*sd/-*

**ANNEXURE 0**

**PRESENT:**

MR. JUSTICE NASIR-UL-MULK  
MR. JUSTICE MIAN SAQIB NISAR  
MR. JUSTICE IQBAL HAMEEDUR RAHMAN

**CIVIL PETITION NO. 258-P OF 2012**

(on appeal from the judgment of the Peshawar High Court, Mingora Bench (Dar-ul-Qaza) Swat dated 05.04.2012 passed in W.P. No. 2819 of 2009)

Mst. Bakht Pari ...Petitioner.

**VERSUS**

Accountant General KPK and others ...Respondent.

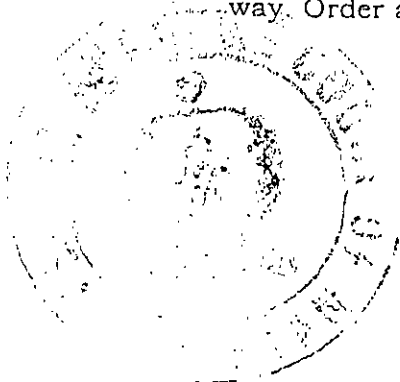
For the Petitioner: Mr. M. Siddique Haider Qureshi, ASC.

For the Respondents: N.R.

Date of Hearing: 24.05.2013

**ORDER**

**NASIR-UL-MULK, J.**— After arguing the case at some length, the learned counsel decided not to press this petition in order to approach the Higher Education Commission of Pakistan for the purpose of obtaining recognition certificate of the Etihadul Madris Al-Arrabia Par Hoti Mardan. In case the petitioner is successful in acquiring such a certificate of recognition, the impugned judgment shall not stand in her way. Order accordingly.



Sd/- Nasir-ul-Mulk, J.  
Sd/- Mian Saqib Nisar, J.  
Sd/- Iqbal Hameedur Rahman, J.

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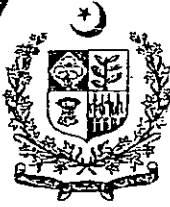
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*Munir*  
03.06.2013  
Deputy Registrar,  
Supreme Court of Pakistan,  
Peshawar.

PESHAWAR.  
24<sup>th</sup> May, 2013.

Mudassar *[Signature]* 27/5

"Not approved for reporting."





GOVERNMENT OF PAKISTAN  
Ministry of Federal Education & Professional Training



**CERTIFICATE OF EQUIVALENCE**  
**ITEHAD-UL-MADARIS AL-ARABIA PAKISTAN**

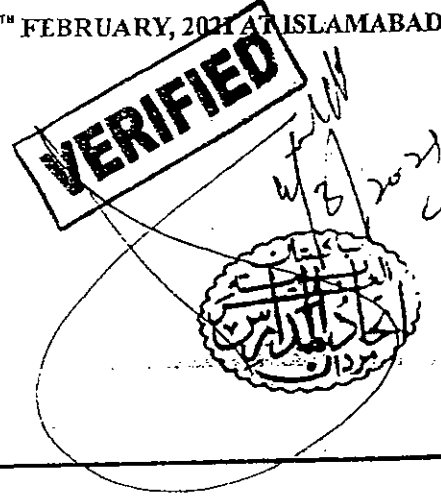
is awarded Equivalence of its *Asnad* by Higher Education Commission (HEC) vide letter No.8-16/HEC/SAD/2021/994 dated 3<sup>rd</sup> February, 2021 and notified by Ministry of Federal Education & Professional Training vide notification No.1-46/2014-NCC/RE dated 4<sup>th</sup> February, 2021.

The certificate of equivalence is presented by

**HONORABLE SHAFQAT MAHMOOD**  
(FEDERAL MINISTER FOR EDUCATION & PROFESSIONAL TRAINING)

ON 10<sup>th</sup> FEBRUARY, 2021 AT ISLAMABAD

*S. Khalid*  
EXECUTIVE DIRECTOR  
Higher Education Commission  
Islamabad



ATTENDED TO  
TRAINING

*M. Khalid*  
SECRETARY  
M/o Federal Education  
& Professional Training

(41) ANNEXURE P

(F)

(42)

ANNEXURE Q

- To
- i) The Secretary Education  
Pakhtunwa Peshawar
  - ii) The Director Education  
Khyber Pakhtunkhwa Peshawar
  - ii) The Accountant General  
Khyber Pakhtunkhwa Peshawar

Subject: Application for grant of arrear of pay to be fixed for BPS-14 instead of bps-09 w.e.f 15.12.1999 (First appointment as AT) till 28.03.2013 (Date of promotion as senior AT (BPS-16) and onward to be fixed as such till actualization of pay in BPS-16.

Respected Sir,

With due respect and courteously the applicant humbly submits the following few lines for your kind and sympathetic consideration please.

1. That the applicant being equipped with the requisite qualification and was further qualified as Metric and Alamia from Etihad-ul-Madaris Al-Arrabia Pakistan, Par Hoti Mardan and consequent upon recommendation of the DP&SC, was duly appointed as trained Arabic Teacher BPS-09 in accordance law vide fist appoint order dated 14.12.1999 and assumed her duty as such (Copy of the appoint order is annexure "A")

2. That in the light of Basic Pay Scale Schemes vide Government the then NWFP Finance Department Notification No.FD(PRC) 1-01-9 dated 07.8.1991, the then EDO (E&SE) Upper Dir was pleased to accord sanction in favor of the applicant for grant of Basic Pay Scale No.14 due to possessing higher required qualification (Alamia) w.e.f 15-12-1999. (Copy of the grant of sanction dated 18-04-2009 for BPS-14 w.e.f 15-12-1999 is annexure "B").

3. That the sanction so accorded supra (Annexure-"B") was not considered/approved as the Certificate of the esteemed institution, "Etihad-ul-Madaris Al-Arrabia Pakistan, par Hoti Mardan" was not given its proper/due weight and was not considered Certificate of Equivalence by the concerned Accounts Office and as such her Basic Pay Scale was not enhanced from BPS-09 to BPS-14.

4. That the applicant was greatly shocked of the anomaly carried out in her Basic Pay Scale and when could not succeeded to get the redressal of her grievances at the first instance from the august Peshawar High Court, ultimately approached the Apex Supreme Court of Pakistan by filing CP No.258 of 2012 decided on 24-05-2013 in the following terms;

*"In case the petitioner is successful in acquiring such a certificate of recognition, the impugned judgment shall not stand in her way, order accordingly".(Copy of the order/judgment dated 24-05-2013 passed by the Apex Supreme Court is annexure "C")"*

5. That in the year 2012, the post of Arabic Teacher, occupied by the applicant being senior, was upgraded to BPS-15 an later on, the applicant was promoted to the post of Senior

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Arabic Teacher BPS-16 vide order dated 28-02-2013. ( Copy of the order of promotion to the post of Senior Arabic Teacher BPS-16 dated 28-02-2013 is annexure "D")

6. That it is pertinent to mention here that since sanction accorded to the grant of BPS-14 w.e.f 15-12-1999 vide order dated 18-04-2009 (Annexure-B) till up-gradation of the post occupied by the applicant to BPS-15 in the year 2012, the applicant has not yet granted financial benefits for the enhanced/sanctioned BPS-14 and was continuously drawing her pay against the post of BPS-09 which has caused great anomaly, illegality and discrimination.

7. That therefore, the applicant was promoted to the post of Senior Arabic Teacher (SAT) BPS-16 and was posted/adjusted in GGHS Sundal (Dir Upper) vide order dated 28-02-2013 and was working and performing her respective duty as such till 16-06-2014 (Date of withdrawal of promotion order). The applicant though was working against the post of BPS-16, but surprisingly she was drawing her pay against the post of BPS-15.

8. That vide order dated 28-11-2016, the applicant was promoted/adjusted against the post of SST BPS-16 as the applicant was qualified as BED and MA (Arabic) from University of Malakand and still working as such with great zeal, zest and enthusiasm and regularly receiving her pay and allowances admissible for the post of BPS-16.

9. That eventually the Government of Pakistan, Ministry of Federal Education and Professional Training (Higher Education Commission Islamabad is pleased to grant Certificate of Equivalence "Etihad-ul-Madaris Al-Arabbia Pakistan 10<sup>th</sup> February, 2021 at Islamabad (Copy of the Certificate of Equivalence "Etihad-ul-Madaris Al-Arabbia Pakistan is annexure "E")

10. That the orders/judgment supra, passed by the Supreme Court of Pakistan (Annexure-C) followed by the Certificate of Equivalence "Etihad-ul-Madaris Al-Arabbia Pakistan (Annexure-D), the applicant is legally entitle to financial benefits of BPS-14 instead of BPS-09 since her appointment dated 14-12-1999 (Annexure "A" & "B") till up-gradation of the post to BPS-15 in the year 2013.

In view of the forgoing facts, circumstances and submissions, it is, therefore, humbly requested that in order to avoid illegality, discrimination, to follow and comply with the order of the Apex Supreme Court and to get the skin free from the contempt of the Supreme Court, the prestige Director Education KP and Accountant General, Khyber Pakhtunkhwa are requested to direct the concern pay fixation party to fix the pay and allowances as early as possible, accordingly the grievances of the applicant may be redressed please.

Yours most obediently

  
(Bakht Pari)

SST(General)GGMS Daskor Bala Dir Upper  
Cont # 0306-8529799/0348-9189457

Dated 8 /03/2021

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ANNEXURE R



Office of the  
Accountant General  
Khyber Pakhtunkhwa Peshawar  
Phone: 091 9211250-53

No.H-24/DAO/Dir Upper/1341

Dated: 08.02.2022

To

MST: BAKHT PARI,  
S.S.T (GENERAL) GOVERNMENT GIRLS MIDDLE SCHOOL,  
DASKOR BALA DIR UPPER.

Subject:

APPLICATION FOR GRANT OF ARREAR OF PAY FIXED FOR  
BPS-14 INSTEAD OF BPS-09 W.E.F. 15.12.1999 AND REMOVAL  
OF OBJECTION LEVELED BY THE ACCOUNTS OFFICER PAY  
FIXATION PARTY.

Kindly refer to your application dated 05.01.2022 on the above noted subject and to state that Itihad ul Madaris Al Arabia Pakistan has been recognized by H.E.C. Islamabad w.e.f. 10.02.2021, further more this office has already informed DAO DIR Upper, with a copy endorsed to you vide this office letter No: H-24 (94) DAO Dir Upper/1287-88 dated: 08.11.2021 accordingly.

ACCOUNTS OFFICER (HAD)

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Office of the  
**Accountant General**  
Khyber Pakhtunkhwa Peshawar  
Phone: 091 9211250-53

No. H. 24(9-1)/Dir Upper/ 1287-82

Dated: 08.11.2021

To:

DISTRICT ACCOUNTS OFFICER,  
DIR UPPER.

Subject: APPLICATION FOR GRANT OF ARREAR OF PAY FIXED FOR BPS 14 INSTEAD OF BPS-9 W.E.F 15-12-1999 AND REMOVAL OF OBJECTION LEVELLED BY THE AO PEP.

The undersigned is directed to enclose herewith a copy of DAO S.W.T.D Tank letter No.1275/DAO Tank S.W.T.D/2021-522 dated 29-10-2021 on the subject alongwith its enclosure for information <sup>in future reference.</sup> please.

*if/c*  
ACCOUNTS OFFICER (HAD)

COPY FOR INFORMATION TO MS BAKHT PARI SST (GENERAL), GOVT. GIRLS MIDDLE SCHOOL, BAKKOR BALA DIR UPPER.

*ca*  
ACCOUNTS OFFICER (HAD)

*ca*  
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*Received or -*

(46)

OFFICE OF THE DISTRICT A/Cs OFFICER SOUTH WAZIRISTAN TRIBAL DISTT TANK

No 1275 /DAO Tank /SWTD/2021 22/

Dated 29/10/2021.

To -

The Accountant General  
Khyber Pakhtunkhwa Peshawar

**SUBJECT:- APPLICATION FOR GRANT OF ARREAR OF PAY FIXED FOR BPS-14 INSTEAD OF BPS-09 W.E.F 15/12/1999 AND REMOVAL OF OBJECTION LEVELED BY THE ACCOUNT OFFICER PAY FIXATION PARTY.**

Please refer to your letter No.H-24/DAO/Dir Upper/2151 dated 20/10/2021 on the subject cited above and to state that the undersigned fully endorsed the views / report of the Pay fixation party submitted vide his letter No PFP/RBPS-2017/2020-21 /76 dated 25/6/2021 with the additional note as follow -

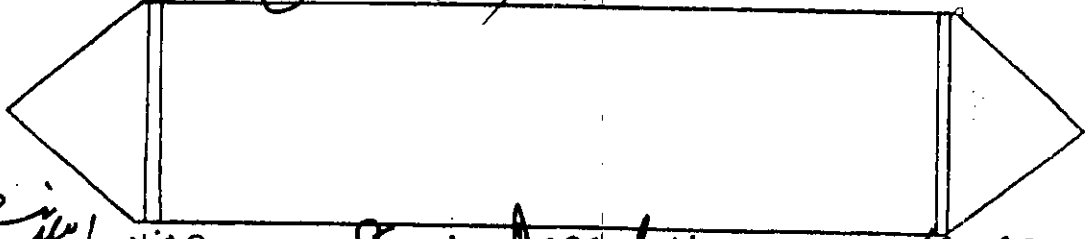
The MADRASSA DARUL ULOOM ISLAMIA ANWAR UL ULOOM NALI PAR HOTY MARDAN is recognized by the Pakistan Madrassa Education Board Islamabad. The degree/certificate obtained from the said MADRASSA is not valid for the post of Arabic Teacher as the Higher Education Commissioner Islamabad has notified the names of Wafaq / Tanzeem and Rabit ul Madaras vide No. 16/HEC/A&A/2004/572 dated 7/4/2004. The said letter categorically mentioned that the Asnad issued by Itihad Madaris Par Hot Mardan is not recognized by the Higher Education.

*[Signature]*  
District Account Officer  
SWTD Tank

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*[Signature]*

بعدالت ختمہ خصوصاً اسروس ٹریبونل کیس اور



Service Appeal No. 2022

نام  
 ڈاکٹر عبدالرحمن  
 ختمہ خصوصاً اسروس ٹریبونل  
 Respondents.

نام  
 مسیحی خدمت بری  
 ذوجہ قاری افضلہ اللہ  
 دکانہ دیہ (SS7)

موزخہ  
 مقدمہ  
 دعویٰ  
 جرم

باعث تحریر آئندہ Appellant

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی دکل کاروائی متعلقہ

انہما داؤد خان، سید اللہ علیہ السلام کیلئے KP-ST محمد عثمان خان ترلانڈی

آئیڈو کیٹ سپریم کورٹ آف پاکستان No: 5045 مل اختیار ہوگا۔ نیز

دیکل صاحب کو راضی نامہ کرنے و تقرر ثبالت فیصلہ بر حلف دیئے جواب دہی اور اقبال دعویٰ اور

بصورت ڈگری کرنے اجراء اور صولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق

زر ایرہ پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی

نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور

کے کل یا جزوی کاروائی کے واسطے اور دیکل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار

ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ

پرواختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ دہر جائد التوائے مقدمہ کے سبب سے وہ ہوگا۔

کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو دیکل صاحب پابند ہوں گے۔ کہ پیروی

مذکور کریں۔ لہذا داکالت نامہ لکھد یا کہ سند ہے۔

ATTESTED  
 &  
 ACCEPTED

محمد عثمان خان ترلانڈی  
 ایڈووکیٹ سپریم کورٹ آف پاکستان  
 No: 5045 مل

المرقوم (Monday)  
 ماہ مارچ

کے لئے منظور ہے۔ KP-ST بمقام

Bench  
 Appellant