

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1312/2014

Date of Institution ... 02.10.2014

Date of Decision ... 14.10.2021

Mir Azam Khan-Ex-EDO (BS-19), (E&SE) Lakki Marwat.

... (Appellant)

VERSUS

Government of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa Peshawar and three others. ... (Respondents)

MR. ARBAB SAIF UL KAMAL & SYED NOMAN ALI BUKHARI
Advocate

... For Appellant

MR. JAVED ULLAH,
Assistant Advocate General

... For Respondents

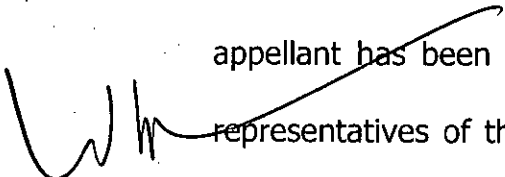
ROZINA REHMAN ...
ATIQU-UR-REHMAN WAZIR ...

MEMBER (JUDICIAL)
MEMBER (EXECUTIVE)

JUDGMENT

ATIQU-UR-REHMAN WAZIR MEMBER (E):- Brief facts of the case are that the appellant joined education department on 28-04-1988. During the course of his last posting as Executive District Officer (EDO), education, the appellant was proceeded against on the issue of alleged illegal recruitment of certain staff and was ultimately removed from service vide order dated 18-06-2014. Feeling aggrieved, the appellant filed departmental appeal dated 14-07-2014, which was not responded to hence the instant service appeal with prayers that the impugned order dated 18-06-2014 may be set aside and the appellant may be re-instated in service with all back benefits with further prayers for awarding any other remedy

not specifically prayed for, as this August Tribunal deems fit in favor of the appellant.

02. Learned counsel for the appellant has contended that the appellant has not been treated in accordance with law and was kept ignorant of the proceedings conducted against him, which is against law and norms of natural justice; that no proper inquiry was conducted against the appellant, hence the appellant was deprived of an opportunity to cross-examine witnesses, as none of the statements of witnesses were recorded in presence of the appellant nor any record was examined in his presence and the proceedings, if any, were conducted at the back of the appellant, hence the appellant was kept ignorant of such proceedings; that personal hearing was required to be conducted by the competent authority, but in utter violation of Rule-14 of the E&D Rules, 2011, the appellant was personally heard by secretary establishment, who was not his competent authority; that the appellant has been discriminated as other members of the selection committee,  representatives of the administrative departments and other concerned were left free despite the fact that they had also participated in the alleged illegal appointment and they also signed and attended the meeting of selection committee and finalized the recruitment process, whereas the appellant was awarded with major punishment of removal from service; that it is a well settled legal proposition that regular inquiry is must before imposition of major penalty of removal from service, which however was not done in case of the appellant; that the appellant has done nothing illegal and observed all the codal formalities and made appointment on merit basis without accepting political pressure exerted by political figures of the constituency, who had desired to select candidates of their choice, but the appellant did not develop cracks under pressure and continued the process of selection purely on merit, for which he bore the brunt in shape of disciplinary proceedings and ultimate removal from service; that even the impugned order has not been signed by the competent authority and issued by

04. We have heard learned counsel for the parties and have perused the record.

05. Record reveals that the appellant was posted as EDO Education vide order dated 26-12-2011, but before assumption of his charge against such post, his predecessor, namely Abdul Malik had advertised certain posts published on 06-10-2011, upon which applications had been received, which were scrutinized and final merit list was prepared, the process of recruitment was almost finalized by his predecessor but in the meanwhile, he was transferred elsewhere and the appellant assumed the charge, but the whole record pertaining to such recruitment remained in custody of one Mir Ajab Khan Office Assistant and it took a bit longer resuming the process of recruitment and ultimately it was upon immense pressure exerted by candidates already shortlisted by his predecessor, the process of recruitment was again resumed and as per law, departmental selection committee with approval of the administrative department under the chairmanship of the appellant was constituted. The committee so constituted selected 11 candidates out of the candidates already shortlisted by his predecessor against the available 11 sanctioned posts. The appellant was not alone in the process of selection of candidates, but accompanied by three other members representing administrative department, office of DCO and District Education Officer of the concerned district under the direct supervision of administrative department. Upon completion of such recruitment, disciplinary proceedings were initiated against the appellant only, putting little burden on other members of the selection committee or predecessor of the appellant, who had advertised such posts and finalized the recruitment process. Even the alleged illegal appointees were also not touched, which was discriminatory on part of the respondents targeting only the appellant. Placed on record is a charge sheet/statement of allegations dated 29-07-2013 served upon the appellant, where an inquiry committee have been shown to be constituted for the purpose, but record would suggest that such inquiry was

dispensed with, without recording any reason, thus the respondents skipped a mandatory step in the disciplinary proceedings, therefore action of authority in awarding major penalty of removal from service, in circumstances, was in sheer violation of principles of natural justice. Reliance is placed on 2011 PLC (CS) 387. The allegations so leveled against the appellant were factual in discourse, which could not be proved without regular inquiry; hence, the action so taken by respondents against the appellant seems to be outcome of malafide on part of the respondents. The respondents were directed repeatedly by this Tribunal to produce inquiry report conducted to this effect, but they failed to provide such report, as no such report was available with them. It otherwise is a well settled legal proposition that regular inquiry is must before imposition of major penalty of removal from service, which however was not done in case of the appellant and the appellant was condemned unheard. Reliance is placed on 2009 PLC (CS) 650.



U W The Supreme Court of Pakistan in another judgment reported as 2008 SCMR 1369 have held that in case of imposing major penalty, the principles of natural justice required that a regular inquiry was to be conducted in the matter and opportunity of defense and personal hearing was to be provided to the civil servant proceeded against, otherwise civil servant would be condemned unheard and major penalty of dismissal from service would be imposed upon him without adopting the required mandatory procedure, resulting in manifest justice. Record shows that the appellant responded to the charge sheet and vehemently denied allegations of illegal appointment, reiterating the stance that such appointments were made in accordance with law and after observing all the codal formalities. Record also confirms such stance of the appellant, as all the legal formalities like proper advertisement, selection process, test/interview and final selection by the selection committee constituted as per law has been observed and we did not notice any illegality in the process of selection, but such stance of the appellant was not taken into consideration by the respondents. Show cause notice was served upon the appellant with delay of almost 8 months on 07-03-2014, the appellant responded

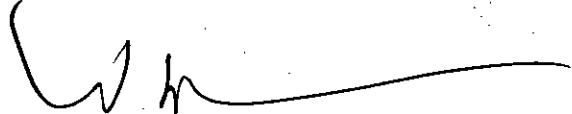
ORDER
14.10.2021

Mr. Arbab Saiful Kamal and Syed Noman Ali Bukhari, Advocate for the appellant present. Mr. Javed Ullah, Assistant Advocate General for respondents present. Arguments heard and record perused.

Vide our detailed judgment of today, separately placed on file, the instant appeal is accepted. The impugned order dated 18-06-2014 is set aside and the appellant is held entitled as re-instated into service. Since the appellant died on 11-01-2017 during the course of litigation, hence he stands entitled as normally retired from service on the date of his superannuation i.e. 24-05-2015 with all consequential benefits arising out of his retirement with effect from 24-05-2015, including monthly pension, admissible to him till his death on 11-01-2017 and afterwards to his legal heirs. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED
14.10.2021


(ROZINA REHMAN)
MEMBER (J)


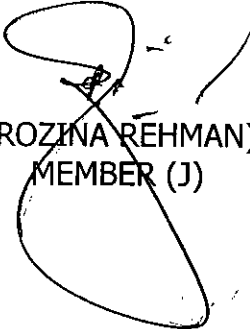

(ATIQ UR REHMAN WAZIR)
MEMBER (E)

to the show cause notice asking the respondents to provide copy of the inquiry report as well as other material to enable him to properly respond to the allegations, but since no inquiry was conducted nor any other supporting material were provided to the appellant, nor stance of the appellant was taken into consideration, rather the respondents were bent upon removing the appellant from service at any cost, hence the impugned order was issued on 18-06-2014. We are of the considered opinion that disciplinary proceedings against the appellant were conducted in a haphazard manner, which are replete with deficiencies. The appellant was not treated in accordance with law and the action taken against the appellant was discriminatory, unlawful and based on malafide, which is not tenable in the eye of law, hence is liable to be set at naught.


06. In view of the foregoing discussion, the instant appeal is accepted. The impugned order dated 18-06-2014 is set aside and the appellant is held entitled as re-instated into service. Since the appellant died on 11-01-2017 during the course of litigation, hence he stands entitled as normally retired from service on the date of his superannuation i.e. 24-05-2015 with all consequential benefits arising out of his retirement with effect from 24-05-2015, including monthly pension, admissible to him till his death on 11-01-2017 and afterwards to his legal heirs. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED

14.10.2021



(ROZINA REHMAN)
MEMBER (J)



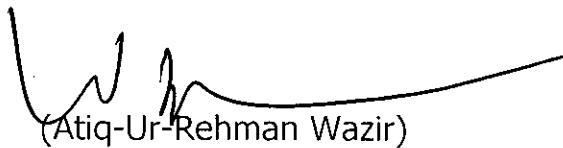
(ATIQ UR REHMAN WAZIR)
MEMBER (E)

04.08.2021

Arbab Saiful Kamal Advocate present and submitted Wakalat Nama in favor of appellat.

Kabir Ullah Khattak learned Additional Advocate General for respondents present.

Being freshly engaged, learned counsel for appellat requested for adjournment in order to prepare the brief. Adjourned. To come up for arguments on 13.09.2021 before D.B.



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

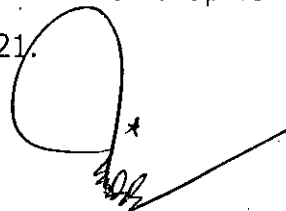


(Rozina Rehman)
Member (J)

13.09.2021

Mr. Muhammad Jamil son of deceased appellat present. Mr. Kabirullah Khattak, Additional Advocate General for the respondents present.

Son of deceased appellat requested for adjournment on the ground that learned counsel for deceased appellat is busy before Hon'ble Peshawar High Court, Peshawar. Adjourned. To come up for arguments before the D.B on 14.10.2021.



(MIAN MUHAMMAD)
MEMBER (EXECUTIVE)



(ATIQU-UR-REHMAN WAZIR)
MEMBER (EXECUTIVE)

22.03.2021

Counsel for appellant present.

Muhammad Rasheed learned Deputy District Attorney
for respondents present.

A request was made by the learned counsel for
appellant that Appeal No.888/19 titled Aurangzeb
Ashraf Awan has already been fixed for hearing on
20.05.2021, therefore, the instant appeal may be
clubbed with the above mentioned appeal being similar
in nature, therefore, request is acceded to and the case
is adjourned to 20.05.2021 for arguments before D.B
alongwith above mentioned connected service appeal.


(Mian Muhammad)
Member (E)


(Rozina Rehman)
Member (J)

20.5.21

*due to COVID 19, the case is adjourned
to 4.8.2021 for the same.*



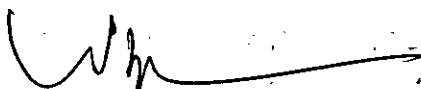
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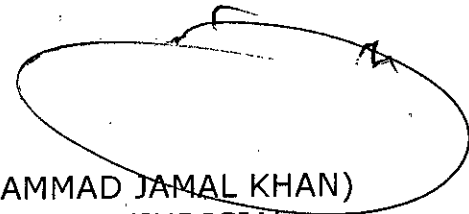
Due to summer vacation, case is adjourned to
03-2-2021 for the same as before.


Reader

03.02.2021 Mr. Muhammad Jamil, son of appellant, on behalf of appellant is present. Mr. Kabirullah Khattak, Additional Advocate General, for the respondents is also present.

According to the son of appellant learned counsel for appellant is busy before the Hon'ble Supreme Court of Pakistan due to which he cannot attend the Tribunal today and requested for adjournment. Adjourned to 22.03.2021 on which date file to come up for arguments before D.B.


(ATIQ-UR-REHMAN WAZIR)
MEMBER (EXECUTIVE)


(MUHAMMAD JAMAL KHAN)
MEMBER (JUDICIAL)

30.10.2020

Due to public holiday, the matter is adjourned
1.1.2021 for arguments before the D.B.



Reader

08-5 .2020

Due to COVID19, the case is adjourned to

28/7/2020 for the same as before.

Reader

28.07.2020

Junior to counsel for the appellant and Mr. Ziaullah, DDA for the respondents present.

Former seeks adjournment due to indisposition of learned senior counsel for the appellant. Adjourned to 02.09.2020 for hearing before the D.B.

(Muhammad Jamal Khan)
Member

Chairman

02.09.2020

Mr. Muhammad Jamil, Son of the appellant on behalf of the appellant present. Mr. Muhammad Riaz Khan Paindakhel, Assistant Advocate General for respondents present.

Son of the appellant seeks adjournment as learned counsel for the appellant was busy before the august Supreme Court of Pakistan.

Adjourned to 30.10.2020 before D.B.

(Mian Muhammad)
Member(E)

(Muhammad Jamal)
Member(J)

15.01.2020

Due to general strike on the call of Khyber Pakhtunkhwa Bar Council, instant appeal is adjourned to 14.02.2020 for further proceedings/arguments before D.B.


Member


Member

14.02.2020

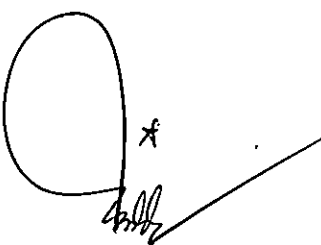
Learned counsel for the appellant present. Mr. Riaz Paindakhel learned Assistant AG for the respondents present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for further proceedings/arguments on 17.03.2020 before D.B.


(Hussain Shah)
Member


(M. Amin Khan Kundi)
Member

17.03.2020

Son of the appellant on behalf of the appellant present. Mr. Ziaullah, DDA for respondents present. Due to general strike on the call of Peshawar Bar Council, the instant case is adjourned. To come up for arguments on 08.05.2020 before D.B.


(MAIN MUHAMMAD)
MEMBER


(M. AMIN KHAN KUNDI)
MEMBER

14.11.2019

Counsel for the appellant and Mr. Usman Ghani, District Attorney for the respondents present.

Learned District Attorney at the outset pointed out that although instant appeal has been fixed for hearing before the Larger/Full Bench but there is no formulation of legal/factual proposition to be considered by the Bench.

During the discussion it revealed that this Tribunal has already handed down atleast two judgments regarding the abatement of appeal of a civil servant upon his demise. Apart from that some judgments by the August Supreme Court as well as learned Federal Service Tribunal have also been referred to which essentially touch the proposition.

We, therefore, consider it appropriate to remove instant appeal from the list of Larger/Full Bench and assign it to a Division Bench for decision in accordance with law after hearing learned counsel for the parties.

Adjourned to 15.01.2020 before a Division Bench.



(M. Hamid Mughal)
Member



Chairman



(Ahmad Hassan)
Member




(M. Amin Khan Kundi)
Member




(Hussain Shah)
Member

11.07.2019

Learned counsel for the appellant and Mr. Kabir Ullah Khattak learned Additional Advocate General present. Due to engagement of Member of this Tribunal (Mr. Muhammad Amin Khan Kundi and Mr. Hussain Shah) at Camp Court Abbottabad, the instant matter is adjourned to 29.08.2019 before Larger Bench.


(Muhammad Hamid Mughal)
Member



Chairman



(Ahmad Hassan)
Member

29.08.2019

Learned counsel for the appellant and Mr. Zia Ullah learned Deputy District Attorney for the respondents present. Mr. Muhammad Amin Khan Kundi Member of this Tribunal is on tour to Camp Court D.I Khan, therefore, the instant matter is adjourned to 14.11.2019 for arguments before Larger Bench.


(Muhammad Hamid Mughal)
Member


Chairman


(Hussain Shah)
Member


(Ahmed Hassan)
Member

1312/14

14.03.2019

Mr. Taimur Ali Khan, Advocate for learned counsel for the appellant and Mr. Muhammad Jan, DDA for the respondents present.

Learned Member of Tribunal (Mr. Hussain Shah) is still indisposed, therefore, this appeal is adjourned to 02.05.2019 for arguments before the Larger Bench.



(M. Hamid Mughal)
Member



Chairman



(M. Amin Khan Kundi)
Member



(Ahmad Hassan)
Member

02.05.2019

Counsel for the appellant and Addl: AG for respondents present.

Due to leave of one of learned Member (Mr. Ahmad Hassan), the instant matter is adjourned to 11.07.2019 for arguments before Larger Bench.



(Mr. Hamid Mughal)
Member



Chairman



(Hussain Shah)
Member



(M. Amin Khan Kundi)
Member


31.10.2018

Due to retirement of Hon'ble Chairman, the Tribunal is defunct. Therefore, the case is adjourned. To come up on 18.12.2018.


READER

18.12.2018

Legal heir of the appellant present. Mr. Ziaullah, Deputy District Attorney for the respondents present. Learned Deputy District Attorney informed the Tribunal that similar nature appeal has been fixed on 29.01.2019 before Larger Bench to decide the question whether on the death of the civil servant, the service appeal of the civil servant become infructuous or otherwise. Hence, to come up before Larger Bench on 29.01.2019.


(Hussam Shah)
Member

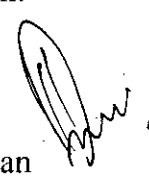

(Muhammad Amin Khan Kundi)
Member


29.1.2019

Mr. Noman Khan Advocate for the appellant and Mr. Ziaullah, DDA for the respondents present.

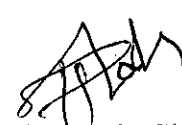
In the instant matter five sets of brief have not yet been provided. The needful be done within a fortnight. Adjourned to 14.03.2019 for arguments before the Larger Bench.


(M. Hamid Mughal)
Member


Chairman


(M. Amin Khan Kundi)
Member


(Ahmad Hassan)
Member


(Hussain Shah)
Member

27.06.2018

Son of deceased appellant and Mr. Muhammad Jan, Deputy District Attorney for the respondents present. Son of the deceased appeal seeks adjournment. Adjourned. To come up for arguments on 10.07.2018 before D.B.



(Muhammad Amin Kundi)
Member


(Muhammad Hamid Mughal)
Member

10.07.2018


Counsel for the appellant present: Mr. Usman Ghani, District Attorney for respondents present. Counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 20.07.2018 before D.B.


(Ahmad Hassan)
Member


(Muhammad Hamid Mughal)
Member

20.07.2018


Due to engagement of the undersigned in judicial proceeding before S.B further proceeding in the case in hand could not be conducted. To come on 10.09.2018 ^{before} D.B


Member (J)

10.09.2018

Learned counsel for the appellant and Mr. Usman Ghani learned District Attorney present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 31.10.2018 before D.B

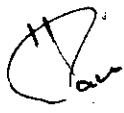

(Hussain Shah)
Member


(Muhammad Hamid Mughal)
Member

23.04.2018

Learned District Attorney present. Learned counsel on behalf of the appellant not available. Adjourn. To come up for arguments on 11.05.2018 before proper D.B.


(Ahmed Hassan)
Member


(Muhammad Hamid Mughal)
Member

11.05.2018


Due to retirement of the worthy Chairman, the Tribunal is incomplete, therefore the case is adjourned. To come up for the same on 30.05.2018.


Reader

30.05.2018

Learned counsel for the appellant and Mr. Kabir Ullah Khattak, learned Additional Advocate General present. Learned AAG seeks adjournment for arguments. Adjourned. To come up for arguments 27.06.2018 before D.B


(Ahmad Hassan)
Member



(Muhammad Hamid Mughal)
Member

Service Appeal No. 1312/2014

19.03.2018


Appellant in person and Mr. Ziaullah, Deputy District Attorney for the respondents present. Adjourned. To come up for order on 27.03.2018.



(Muhammad Amin Khan Kundi)
Member


(Muhammad Hamid Mughal)
Member


27.03.2018

Son of the late appellant present. Mr. Ziaullah, Deputy District Attorney for the respondents present. Some points need consideration. Learned counsel for the deceased appellant is not available today. Adjourned. To come up for arguments on 05.04.2018 before D.B.

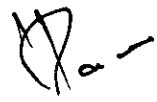

(Muhammad Amin Khan Kundi)
Member


(Muhammad Hamid Mughal)
Member

05.04.2018


Junior to counsel for the appellant and Mr. Zia Ullah, learned Deputy District Attorney present. As the case was fixed for today for  but due to none availability of proper D.B the case is adjourned. To come up for order on 23.04.2018 before proper D.B



(Ahmad Hassan)
Member


(Muhammad Hamid Mughal)
Member

07.12.2017


Junior counsel for the appellant present. Mr. Ziaullah, Deputy District Attorney for the respondents also present. Junior counsel for the appellant requested for adjournment on the ground that learned senior counsel for the appellant is not available today. Adjourned. To come up for arguments on 04.01.2018 before D.B.



(Ahmad Hassan)
Member (E)


(Muhammad Amin Khan Kundi)
Member (J)

04.01.2018


Counsel for the appellant present. Mr. Riaz Ahmed Payanda Khel, Assistant AG for the respondents also present. Learned counsel for the appellant requested for adjournment. Adjourned. To come up for arguments on 06.03.2018 before D.B.


(Ahmad Hassan)
Member(E)


(M.Amin Khan Kundi)
Member (J)

06.03.2018


Learned counsel for the appellant and Mr. Zia Ullah, Learned Deputy District Attorney for the respondents present. Arguments heard. To come for order on 19.03.2018


(Muhammad Amin Kundi)
Member


(Muhammad Hamid Mughal)
Member

29.06.2017

Counsel for legal heirs of deceased appellant. Mr. Muhammad Jan, Deputy District Attorney for the respondents also present. Learned counsel for legal heirs of deceased appellant requested for adjournment. Adjourned. To come up for arguments on 25.08.2017 before D.B.



(Gul Zeb Khan)
Member


(Muhammad Amin Khan Kundi)
Member

25.08.2017

Counsel for the appellant and Mr. Ziaullah, DDA for respondents present. Counsel for the appellant seeks adjournment. On the next date of hearing the case would be argued on the point of impleadment of legal heirs and maintainability of the present appeal. Adjourned. To come up for arguments on 26.10.2017 before D.B.


(Gul Zeb Khan)
Member


(Ahmad Hassan)
Member

26.10.2017

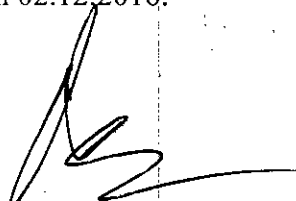
Counsel for the appellant and Addl. AG for the respondents present. Learned counsel for the appellant seeks adjournment. Granted. To come up for arguments on 07.12.2017 before the D.B.


Member


Chairman

06.09.2016

Clerk to counsel for the appellant and Mr. Usman Ghani, Sr. GP for respondents present. Clerk to counsel for the appellant requested for adjournment. Adjournment granted. To come up for arguments on 02.12.2016.



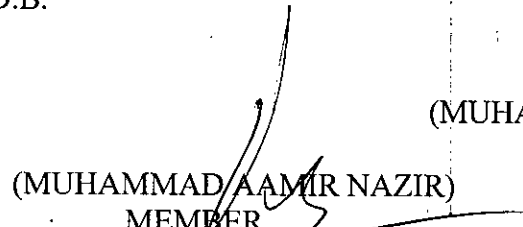
Member



Member

02.12.2016

Counsel for the appellant and Additional AG for respondents present. Learned counsel for the appellant seeks adjournment. Adjournment granted. To come up for arguments on 10.04.2017 before D.B.



(MUHAMMAD AMIR NAZIR)
MEMBER




(MUHAMMAD AZIM KHAN AFRIDI)
CHAIRMAN

10.04.2017

Counsel for the appellant present. Mr. Muhammad Jan, Government Pleader for respondents also present. Learned counsel for the appellant stated at the bar that the appellant has been died and submitted list of legal heirs of the deceased. The same is placed on file. Muharrar is directed to mention the name of the legal heirs of the deceased in the panel of the appellant in the appeal. To come up for further proceedings/arguments on 29.06.2017 before D.B.



(Ahmad Hassan)
Member



(Muhammad Amin Khan Kundi)
Member

07.05.2015

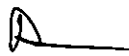
Appellant in person and Mr. Khurhid Khan, SO alongwith Addl: A.G for respondents present. Written reply submitted. The appeal is assigned to D.B for rejoinder and final hearing for 16.11.2015.



MEMBER

16.11.2015

Appellant with counsel and Mr. Hameed-ur-Rehman, AD (lit.) alongwith Mr. Muhammad Jan, GP for respondents present. Rejoinder submitted, copy whereof supplied to learned GP. To come up for arguments on 3-5-2016 before D.B.



MEMBER



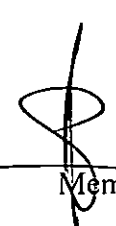
MEMBER

03.05.2016

Counsel for the appellant and Mr. Ziaullah, GP for respondents present. Counsel for the appellant requested for adjournment. Adjournment granted. To come up for arguments of on 06.09.2016.



Member



Member

3. 16.01.2015

Counsel for the appellant present and heard. Contends that the appellant was serving as District Education Officer (BPS-19) who was removed from service on the charge of illegal appointment of Junior Clerk which were made on merits. That the impugned order of removal from service of the appellant was passed on 18.6.2014 against which the departmental appeal was preferred on 14.7.2014 which was not responded and hence the instant appeal was preferred after the lapse of statutory ^{2. period} and within the prescribed time limitation on 2.10.2014.

order

Appellant Deposited
Process Fee
350/- Bank
Receipts Attached with File.



DESPATCHER
Office of the
KPK Service Tribunal
Peshawar
DESPATCHER

That even otherwise the appellant was not associated with the inquiry proceedings which was not even conducted in the prescribed manners. That opportunity of personal hearing was not extended to the appellant by the competent authority and that a person other than the competent authority was assigned the task of personal hearing. That the impugned order is not even signed by the competent authority and hence the present appeal.



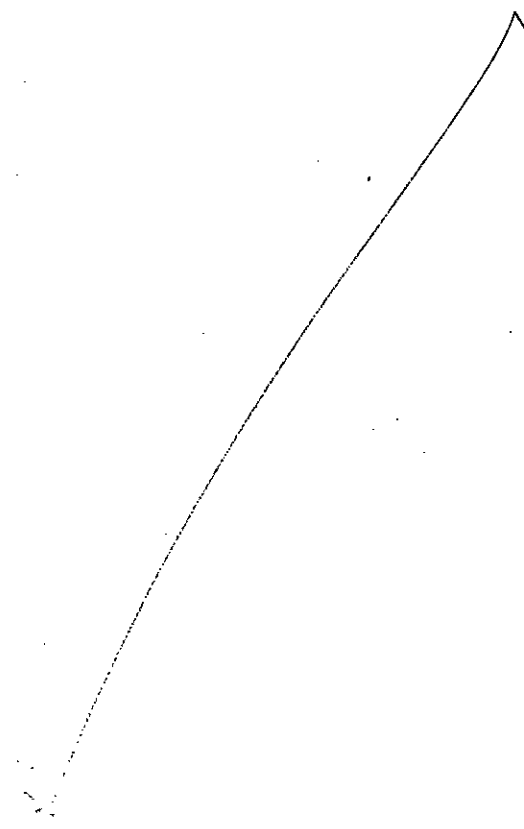
Points urged need consideration. Admit. Subject to deposit of security and process fee, notice be issued to respondents, for 7.5.2015.


Chairman.

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 1312/2014


S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	07.11.2014	<p>The appeal of Mr. Mir Aman Khan resubmitted today by Mr. Muhammad Asif Yousafzai Advocate may be entered in the Institution register and put up to the Worthy Chairman for proper order.</p> <p style="text-align: right;"> REGISTRAR</p>
2		<p>This case is entrusted to Bench <u>I</u> for preliminary hearing to be put up there on <u>16-01-2015</u></p> <p style="text-align: right;"> CHAIRMAN</p> <p style="text-align: right;">SECRETARY OFFICE OF THE JUDGE IN CHARGE COURT OF SESSIONS MIRANSHAH</p> 

The appeal of Mr. Mir Azam Khan Ex-EDO Lakki Marwat received today i.e. on 02.10.2014 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- In the memo of appeal many places have been left blank which may be filled in.
- 2- Copy of show cause notice mentioned in para-7 of the memo of appeal (Annexure-J) is not attached with the appeal which may be placed on it.

No. 1461 /S.T,

Dt. 3-10 /2014.


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. M. Asif Yousafzai Adv. Peshawar.

- ① In the memo of appeal left blank has filled
- ② Copy of Show cause notice mentioned in para-7 of the memo of appeal is attached as Annexure J on page 09



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

APPEAL No.1312/2014

Mr. Mir Azam Khan.

Vs

Education Department

APPLICATION FOR IMPLEADMENT OF LEGAL HEIR.

RESPECTFULLY SHEWETH:

1. That the above noted appeal is pending before this august Tribunal.
2. That the appellant has been died during the pendency of appeal on 11.01.2017
3. That the appellant left behind a widow and one daughter (Unmarried).
4. That valuable rights of pensionary benefits involved in the appeal, therefore, it would be just to implead the widow.

Razia Begum

W/o

Mir Azam Khan

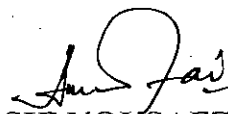
R/o village Wali Khan Maidad Khel, Tehsil Sarai Naurang,
District Marwat.

It is, therefore, most humbly prayed that the applicant may be impleaded as appellant being legal heir of appellant.


Applicant

Razia Begum

Through


(M. ASIF YOUSAFZAI)
ADVOCATE SUPREME COURT,
PESHAWAR.



حکومت خیبر پختونخوا پاکستان



P06025450

THE GOVT OF KHYBER PAKHTUNKHWA PAKISTAN

وفات سرٹیفکیٹ

DEATH CERTIFICATE

CRMS No: D112029-17-0006

NATURE OF DEATH : NORMAL

FORM No: P006025450

درخواست دہندہ کا نام: محمد جمیل خان

درخواست دہندہ کا شناختی کارڈ نمبر: 1120103326589 متوفی کا رشتہ: والد

پتہ: گاؤں ولی خان میداد خیل، تحصیل سرائے نورنگ، ضلع لکی مروت

میت عیادت	وید موت	تاریخ دفن	جائے وفات/تاریخ	مذہب	جنس	تاریخ پیدائش	والد کا نام/شناختی کارڈ نمبر	متوفی کا نام/شناختی کارڈ نمبر
	طبعی	12-1-2017	لکی ہسپتال 11-1-2017	اسلام	مرد	25-5-1955	نہی شاہ	سیرا محمد 1120103326595

APPLICANT NAME: MUHAMMAD JAMIL KHAN

APPLICANT CNIC: 1120103326589 RELATION WITH DECEASED: Father

ADDRESS: VILLAGE: WALI KHAN MAIDAD KHEL,

TEHSIL: SERAI NAURANG, DISTRICT: LAKKI MARWAT

DECEASED NAME/ CNIC	FATHER NAME/ CNIC	DATE OF BIRTH	SEX	RELIGION	PLACE/DATE OF DEATH	DATE OF BURIAL	REASON OF DEATH	SICKNESS PERIOD
MIR AZAM 1120103326595	NABI SHAH	25-5-1955	MALE	ISLAM	DHQ HOSPITAL LAKKI 11-1-2017	12-1-2017	NATURAL	

BLOOD RELATION PERSON CAUSING DISPOSAL OF BODY

NAME: MUHAMMAD JAMIL KHAN

CNIC: 1120103326589

GRAVEYARD NAME: WALI KHAN MAIDAD KHEL

ENTRY DATE: 13-2-2017

ISSUE DATE: 13-2-2017

ADDITIONAL INFORMATION: MADERD

گورہی رشتہ دار خد نہیں کنندہ

نام: محمد جمیل خان

شناختی کارڈ نمبر: 1120103326589

قبرستان کا نام: ولی خان میداد خیل

تاریخ اندراج: 13-2-2017

تاریخ اجراء: 13-2-2017

اضافی معلومات: گولی لگنے سے

SECRETARY
VICTIM COMPENSATION BOARD

نار ابو سندھو بیگو خیل (29) ضلع لکی مروت

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Appeal No. 1319 /2014

Mr. Mir Azam Khan

V/S

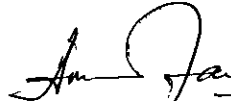
Government of KPK


INDEX

S.No	Documents	Annexure	Page No.
1.	Memo of Appeal	-----	01-04
2.	Copy of Order dated 26.12.2011	- A -	05
3.	Copy of Notification dated 14.12.2011	- B -	06
4.	Copy of Advertisement	- C -	07
5.	Copy of letter	- D -	08
6.	Copy of meeting minutes	- E -	09-12
7.	Copy of appointment order	- F -	13-14
8.	Copy of charge sheet	-G-	15
9.	Copy of statement of allegation	- H -	16-17
10.	Copy of reply to charge sheet	-I-	18
11.	Copy of show cause	J	19-19-A
12.	Copy of reply to show cause	K	20-21
13.	Copy of letter dated 12.5.2014	L	22
14.	Copy of the removal order dated 18.6.2014	M	23
15.	Copy of review application	N	24-28
16.	Vakalat nama	----	29

APPELLANT

THROUGH:


(M. ASIF YOUSAFZAI)
ADVOCATE, PESHAWAR.


(TAIMUR ALI KHAN)
ADVOCATE, PESHAWAR

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

APPEAL NO. 13/2 /2014

Mir Azam Khan-Ex EDO (BS-19),
(E&SE) Lakki Marwat

1245
02-10-2014

(Appellant)

VERSUS

1. Government of KPK through Chief Secretary, KPK Peshawar.
2. Chief Secretary of KPK, Peshawar.
3. Secretary Education (E&SE), Peshawar.
4. Director Education (E&SE), Peshawar.

(Respondents)

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 READ WITH RULE 19 OF E&D RULES 2011 AGAINST THE ORDER DATED 18.6.2014, WHERE BY THE APPELLANT WAS REMOVED FROM THE SERVICE AND AGAINST NOT TAKING ACTION ON DEPARTMENTAL APPEAL WITH IN STATUTORY PERIOD OF 60 DAYS.

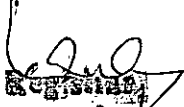
PRAYER:

ON THE ACCEPTANCE OF THIS APPEAL, THE ORDER DATED 18.6.2014 MAY BE SET ASIDE AND THE APPELLANT MAY BE REINSTATED WITH ALL BACK AND CONSEQUENTIAL BENEFITS WITH FURTHER PRAYER FOR AWARDDING ANY OTHER REMEDY NOT SPECIFICALLY PRAYED FOR AND THIS AUGUST TRIBUNAL DEEMS FIT AND IN FAVOUR OF APPELLANT.


2/10/14
R. SHEWTH:

1. That the appellant joined the Education Department in the year 28-4-1988 and lastly the appellant was as EDO Lakki Marwat vide order dated 26.12.2011. The predecessor of the appellant namely Abdul Malik was transferred from the post of EDO E&SE Lakki Marwat to GHSS, Khairabad, Mardan as Principal vide order dated 14.12.2011 and the appellant was posted at his place as EDO Lakki Marwat. (Copy of orders is attached as Annexure-A and B)

re-submitted to day
and filed.


2/10/14

2. That the predecessor of the appellant while he was having the post of EDO Lakki Marwat had advertised some posts including the post of Junior Clerks in the daily Newspaper Mashriq dated 16.10.2011. On the basis of that advertisement many people applied for the post as advertised in that advertisement and after that selection process was carried out by the Predecessor of the appellant but due to his transfer that process was stopped and the record was entrusted to Office Assistant Mir Ajab Khan. (Copy of Advertisement is attached as Annexure-C)
3. That on assuming the charge of EDO the appellant came to know about the advertisement and the process of selection held in abeyance due to transfer of his predecessor and also the hue and cry of the people who applied for the advertised posts, therefore the appellant forthwith informed the Director (E&SE) with proper constitution of the departmental selection committee by showing all the member of the committee and also requested to depute representative of the department of the schedule meeting. The selection committee meeting was held on 1.10.2012 and the chairmen and the members of the committee were present at time of interview and also signed merit list. After the conclusion of codal formalities, the appellant issued the appointment order of Junior Clerks, who are still in service and regularly performing his duties and getting salaries. Copies of letter and Minutes of the Selection Committee and appointment order are attached as Annexure-D, E and F.
5. That due to unknown reason and especially for not considering the political appointments , pressurized by the MPA and Local Minister. The appellant was given false charge sheet for making illegal appointment of the junior clerks in the year 2011 without observing all codal formalities. The appellant however submitted his reply to the charge sheet and denied all allegations. (Copies of Charge sheet, Statement of allegations and Reply to charge-sheet are attached as Annexure-G, H and I).
6. That then the enquiry was conducted at the back of the appellant wherein the appellant was not allowed to cross examine the witnesses and impeach the credibility of witnesses and record. As the appellant was not provided the findings of enquiry, therefore, the appellant unable to annex the same with the appeal.
7. That on the basis of so-called enquiry, show cause was issued to the appellant on 7.3.2014 which was duly replied by the appellant and

the appellant again rebutted all the allegations with proof. (Copies of Show cause and Reply are attached as Annexure-J and K)

8. That the appellant was informed vide order dated 12.5.2014 to appear before the Secretary Establishment Department for personal hearing scheduled on 16.5.2014 and as such violated Rules 14 of E&D Rules, 2011. The appellant was heard by the Secretary Establishment who was stranger to the proceeding and was not competent authority. (Copy of letter is attached as Annexure-L)
9. That on 18.6.2014 the appellant was removed from service against which the appellant filed review application on 14.7.2014 and waited for statutory period as specified in the E&D Rules, 2011 but no reply has been received by the appellant, therefore, the appellant is constrained to file the Service Appeal on the following grounds amongst the others:(copy of the removal order and review application are attached as Annexure-M&N)

GROUND:

- A) That the impugned order dated 18.06.2014 and not taking action on the departmental appeal of the appellant are against the law, facts, norms of justice and material on record, therefore not tenable and liable to be set aside.
- B) That the appellant has been condemned unheard and has not been treated according to law and rules.
- C) That the enquiry report is based on the statement of Mir Ajab Khan Office Assistant with whom the record was lying and got appointment of his son namely Sabghatullah but the said Mir Ajab Khan has been left unpunished which proved the partiality of respondents.
- D) That none of the statement recorded in the presence of appellant nor any record examined in his presence. Even the appellant was not allowed to cross exam the witness and record relied upon by the respondents against him which caused great miscarriage of injustice to the appellant. Thus, the impugned order is liable to be set aside.
- E) That the appellant has been discriminated because the other members of the committee, the representatives of the Admn: Department are either left free or penalized with minor penalty despite the fact that they signed and attended the meeting of the selection committee and finalized the merit list.

- F) That the appellant has done nothing illegal and observed all codal formalities and made appointment on merit basis without accepting the pressure of the political figure and outsiders .
- G) That the Rules-14 of the E&D Rules, 2011 is violated because in the Rules the personal hearing is to be done by the competent authority and not by other officials but in the case of appellant, the appellant was not heard by the competent authority rather by the Secretary Establishment Department who was stranger to the proceedings.
- H) That even the impugned order has not been signed by the competent authority and issued by respondent No.3 who was not competent for such action under the rules.
- I) That the appellant has not been treated according to law and rules.
- J) That the appellant seeks permission to advance others grounds and proofs at the time of hearing.

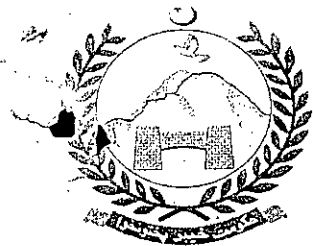
It is, therefore most humbly prayed that the appeal of appellant may be accepted as prayed for.

APPELLANT
MIR AZAM KHAN

THROUGH:

(M. ASIF YOUSAFZAI)
ADVOCATE, PESHAWAR

&
(TAIMUR ALI KHAN)
ADVOCATE, PESHAWAR



5

A 4

(5)

**GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT**

NOTIFICATION

Dated Peshawar the December 26, 2011

NO.SO(S/M) E&SED/4-16/2011/EDOs/ Principals: The Competent Authority is pleased to order the posting/ transfer of the following officers on the posts/ stations mentioned against their names in the interest of public service and relaxation of ban with immediate effect:-

S. #	Name & Designation with present place of posting	Transfer To	Remarks
1	Mr. Mir Azam Khan, Principal (BS-19) GHSS Shahbaz Garhi, Mardan.	EDO (BS-19) E&SE Lakki Marwat.	Against Vacant Post
2.	Mr. Imtiaz-ul-Haq, Principal (BS-19) GCMHS No. 1 Kohat.	EDO (BS-19) E&SE Kohat.	Vice S. No.3
3.	Mr. Nazir Ahmed, EDO (BS-19) E&SE Kohat.	Services placed at the disposal of Directorate E&SE Peshawar for further posting/ adjustment.	----
4.	Mr. Jaffar Mansoor Abbasi, Principal (BS-19) GHSS Lora Abbottabad.	Principal (BS-19) GHSS No. 1 Abbottabad.	Vice S. No.5
5.	Mr. Ziauddin, Principal (BS-19) GHSS No. 1 Abbottabad.	Principal (BS-19) GHSS Lora Abbottabad.	Vice S. No.4
6.	Mr. Abdul Khaliq, DO (BS-18) E&SE Kohat.	Principal (BS-19) GCMHS No. 1 Kohat.	Vice S. No.2 in his own pay & scale as a stop gap arrangement till further orders
7.	Mr. Iftikhar, Principal (BS-18) GHS Dhoda Kohat.	DO (BS-18) E&SE Kohat.	Vice S. No.6

2. No TA/DA is allowed.

SECRETARY

Endst: of even No. & Date

Copy forwarded to the:

1. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
2. Accountant General, Khyber Pakhtunkhwa Peshawar.
3. Director, E&SE Khyber Pakhtunkhwa, Peshawar.
4. District Accounts Officers concerned.
5. Executive District Officer concerned.
6. PS to Minister E&SE, Khyber Pakhtunkhwa.
7. Incharge EMISE E&SE Department.
8. PS to Secretary E&SE Department, Khyber Pakhtunkhwa.
9. Officers concerned.
10. Office order file.

ATTESTED


(MUJEEB-UR-REHMAN)
SECTION OFFICER (SCHOOLS/MALE)



GOVERNMENT OF KHYBER PAKHTUNKHWA
 ELEMENTARY & SECONDARY EDUCATION
 DEPARTMENT

Dated Peshawar the December 14, 2011

NOTIFICATION

NO.SQ(S/M)/E&SED/4-16/2011/EDOs/Principals (BS-19): The Competent Authority is pleased to order the posting/ transfer of the following officers (BS-19) on the posts/ stations mentioned against their names in the interest of public service and in relaxation of ban with immediate effect:-

S.#	Name With Present Posting	Transfer To	Remarks
1.	Mr. Raj Muhammad, Principal (BS-19) GHSS No. 1 Peshawar City.	EDO (BS-19) E&SE Buner.	Vice S. No. 2 (He will take charge 01-01-2012)
2.	Mr. Shamas Khan, EDO (BS-19) E&SE Buner.	Additional Director (BS-19) P&D Directorate of E&SE.	Against Vacant Post (He will take charge on 01-01-2012)
3.	Mr. Abdul Malik, EDO (BS-19) E&SE Larki Marwal.	Principal (BS-19) GHSS Khair Abad Mardan.	Against Vacant Post
4.	Mr. Jaffar Mansoor Abbasi, EDO (BS-19) Management Cadre (awaiting posting).	Principal (BS-19) GHSS Lera Abbottabad.	-do-
5.	Mr. Muhammad Riaz, FDO (BS-19) E&SE Haripur Management Cadre.	EDO (BS-19) E&SE Abbottabad.	Vice S. No. 6
6.	Syed Hamid Mahmood, EDO (BS-19) E&SE Abbottabad MC.	EDO (BS-19) E&SE District Torghar.	Vice S. No. 12
7.	Mr. Abdul Qudoos, Principal (BS-19) GHSS Kalabat Haripur	EDO (BS-19) E&SE Haripur.	Vice S. No. 10
8.	Mr. Zia-ud-Din, EDO (BS-19) MC (awaiting posting)	Principal (BS-19) GHSS No. 1 Abbottabad.	Against Vacant Post
9.	Mr. Abdur-Rashid, EDO (BS-19) E&SE Bannu.	EDO (BS-19) E&SE Dir Upper.	-do-
10.	Mr. Saraf Ali Shah, Principal (BS-19) GHS Serai Niamat Khan Haripur.	EDO (BS-19) E&SE Bannu.	Vice S. No. 9
11.	Mr. Gohar Ali, EDO (BS-19) MC (awaiting posting).	Principal (BS-19) GCMHS No. 3 Mardan.	Against Vacant Post
12.	Mr. Bahader Khan, EDO (BS-19) E&SE Torghar.	EDO (BS-19) E&SE Mardan.	-do-
13.	Mr. Hassanat Gul, Principal (BS-19) GHSS Pabbi Distt. Nowshera.	EDO (BS-19) E&SE Nowshera.	-do-
14.	Mr. Hakimullah, Principal (BS-19) GHSS Umarzal Charsadda.	EDO (BS-19) E&SE Peshawar.	Already holding temporary charge

ATTESTED

Secretary to Govt. of Khyber Pakhtunkhwa
 Elementary & Secondary Education
 Department

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

Dated. 20-09-2012.

No. 7439/LM/DPC

To

The Director
Elementary & Secondary Education
Khyber Pakhtunkhwa, Peshawar.

Subject:-

MEETING OF THE DEPARTMENTAL SELECTION/PROMOTION COMMITTEE FOR
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT LAKKI MARWAT.

Memo:-

Reference Secretary to Govt. of Khyber Pakhtunkhwa Elementary & Secondary Education
Department Office order No. SOG/E&SED/1-31/2011 dated: 08-09-2011 on the subject recruitment plan.
Departmental selection promotion committee at District level for post in BPS-01 to BPS-10.

1. EDO concerned

Chairman

2. One member to be nominated by DCO

Member

3. One member to be nominated by ADMN: Deptt:

Member

4. District Officer concerned

Member

A meeting of departmental selection/promotion committee is scheduled to held in the
personal office of the undersigned on 1st October 2012 at 10:00 (AM).

You are requested to please depute your representative to attend the meeting on the due
date, venue and time.

(Copy of working paper is attached)

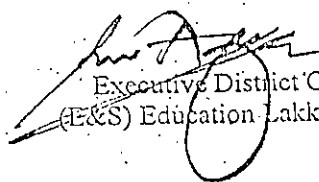
Sent by DCO
to the ADMN Deptt

Executive District Officer
(E&S) Education Lakki Marwat

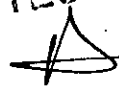
Endst: No. 7440-41/LM/DPC Dated. 20-09-2012

Copy to the:-

1. District Coordination Officer Lakki Marwat for information with the request to depute your representative to attend the meeting on the above date and time please.
2. District officer Local Office for information with the request to attend the meeting on the above date and time please.


Executive District Officer
(E&S) Education Lakki Marwat

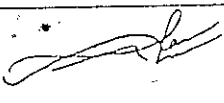
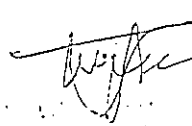
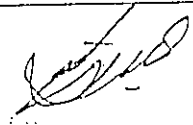
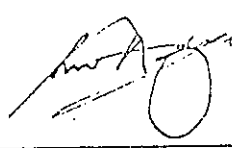
ATTESTED



9 E 13

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

ATTENDANCE ROLL FOR DEPARTMENTAL PROMOTION / SELECTION COMMITTEE
MEETING TO BE HELD ON 01-10-2012 AT 10:00 (AM) IN THE OFFICE OF THE EXECUTIVE
DISTRICT OFFICER (E&S) EDUCATION LAKKI MARWAT.

S.No	Name of Officer	Designation	Signature	Remarks
1.	Noor Khan Khan AZIZ	SO (Budget) B&R Dept.		DPC of Junior Clerk
2.	Siafullah	PS R/o DCO Lark		- do -
3.	Muhammad Ayub	DO ESSE		- do -
4.	Mir Azam	EDO (ESSE) Lark		- do -

ATTESTED


MERIT LIST FOR THE APPOINTMENT OF JUNIOR CLERK

S.No	Name	Father,s Name	Village	SSC		Typing Marks	
				obtaid	Total	Obtaind	Total
✓ 1	Sibghat Ullah	Mir Ajab Khan	Larri Adda Lakki Marwat	623	1050	22.3	30
2	Aftab Ullah	Behram Khan	Kotka Behram Khan Saba Khel Naser Khel	374	850	22.2	30
3	Naveed Ullah	Nasr Ullah Khan	Mama Khel	514	1050	21.8	30
4	Sulaiman Khan	Badiu Zaman	Nar Hakim Khan	493	1050	21.5	30
5	Hikmat Ullah	Rahmat Ullah Khan	Kotka Najesb	516	1050	21.4	30
✓ 6	Mohammad Imran	Mohammad Aycub	Hakim Topa	583	1050	21.2	30
7	Sifat Ullah Khan	Amir Nawaz Khan	Ahmad Khel	633	900	21	30
8	Mohammad Aftab Khan	Mohammad Aycub	Zaifir Saeed Khel	534	850	20	30
9	Rafiullah Khan	Arif Ullah Khan	Nar Azad Chandu Khel	364	850	19.8	30
10	Noor Zaman	Bahadur Zaman	Abba Khel	496	850	19.4	30
11	Waqas Gul	Khushdil Khan	Nar Sahib Dad Maidad Khel	487	1050	17	30
12	Obaid Ullah Khan	Habib Ullah Khan	Naser Khel	569	900	16.9	30
13	Lalif U Rahman	Maz Ullah Khan	Tajazai	363	850	12.2	30
14	Rahmat Ullah	Khan Mir	Tajori	355	850	11	30
15	Sohail Abas	Syed Tofail Hussain Shah	Moh: Syedan lakki	384	900	10.5	30
16	Mohammad Khaili	Mehrban Khan	Gul wali Abad	360	850	10	30

DA

1 MEMBER

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

2 MEMBER

Mir Azam Khan
EDD (E&SE)
Chairman

Signature List Officer
E&SE Deptt: Lakki Marwat

ATTESTED

10

MINUTES OF THE MEETING OF DEPARTMENTAL PROMOTION/SELECTION COMMITTEE

HELD ON 1st October AT 10.00 AM AT LAKKI MARWAT

A meeting of departmental promotion/selection committee was held on 01/10/2012 at 10.00 am in the office of the Executive District Officer (E&SE) Education Lakki Marwat.

The following attended the meeting.

- | | | |
|---|--|----------|
| 1 | Mr. Mir Azam Khan EDO (E&S) Education Lakki Marwat | Chairman |
| 2 | Mr. Noor Alam Khan Wazir, SO (Budget) Admn: Deptt: (E&SE) | Member |
| 3 | Representative of District Coordination Officer Lakki Marwat | Member |
| 4 | Mr. Mohammad Ayub Khan DO (E&SE) Education Lakki Marwat | Member |

[Signature]
Chairman
[Signature]
Member
01/10/2012
[Signature]
Member

The meeting was started with the recitation of Holy Quran. The Chairman welcomed to all the participants and stated that some posts of Junior Clerks are lying vacant in (E&SE) Lakki Marwat on which the candidates on merit in attached merit list may be appointed as Junior Clerk in BPS-07 on the vacant 12 vacancies as per laid down policy with immediate effect.

A) Nature of Appointment:-

Initial recruitment appointed Junior Clerk BPS-07

B) Sanction Strength

86 posts of junior clerk have been sanctioned in Elementary and Secondary Education Department Lakki Marwat.

C) Current Position:-

Out of 86, 11 eleven posts of Junior Clerk are lying vacant since long due to Promotion, newly created and retired in the following High/Higher (M/F) Schools, the detail is as under:-

S.NO	Name of School	Junior Clerk	Remarks
1	GHS Bachakan Ahmad Zai	01	Retired
2	GHS Nar Mohammad Khan Ghazni Khel	01	Due to promotion
3	GHS Shakh Quli Khan	01	-do-
4	GHSS Masha Mansoor	01	-do-
5	GGHS Nar Azad Chandu Khel	01	Newly Created Post
6	GGHS Bachakan Ahmad Zai	01	-do-
7	GHS Aghzar Khel	01	-do-
8	GHS Wanda Samandi	01	-do-
9	GHSS Abba Khel	01	-do-
10	GHS Kheru Khel Pacca	01	Terminated (due to long absence)
11	GHS Mohammad Amir Walai	01	V.Post

[Signature]

ATTESTED
[Signature]

As per undisputed/Final Merit list of Junior Clerks in Elementary & Secondary Education Lakki Marwat, (Merit List Copy attached) the panel of eleven (11) candidates on merit list of Junior Clerk are placed before the departmental promotion/selection committee for perusal and appointment against the existing available vacancies as indicated above.

The detail of the candidates according to the merit list are as under.

S.No	Name and father, name of candidate
1	Sibghatullah S/O Mir Ajab
2	Aftab Ullah S/O Behram Khan
3	Naveed ullah S/O Nasar Ullah
4	Sulaiman Khan S/O Badiu Zaman
5	Hikmat Ullah S/O Rehmat Ullah Khan
6	Mohammad Imran S/O Mohammad Ayub
7	Sifat Ullah Khan S/O Amir Nawaz
8	Mohammad Aftab Khan S/O Ayub Khan
9	Rafi Ullah Khan S/O Arif Ullah Khan
10	Noor Zaman S/O Akbar Zaman
11	Waqas Gul S/O Khushdal Khan

Waiting list

S. No	Name and Father Name
12	Obid Ullah Khan, S/O Habib Ullah Khan
13	Latif ur Rehman, S/O Maaz Ullah Khan
14	Rehmat Ullah, S/O Khan Mir
15	Sohail Abbas, S/O Syed Tofail Hussain Shah
16	Muhammad Khalil, S/O Mehraban Khan

[Signature]
 Nour Alam Khan Wazir,
 SO (Budge)
 (E&SE) Edu: Deptt:
 Khyber Pakhtun Khwa
 Member

[Signature]
 Representative of DCO
 Lakki Marwat
 Member
 Mohammad Ayub
 District Officer (M)
 (E&S) Education Lakki

[Signature]
 Mr. Mir Azam Khan
 Executive District Officer,
 (E&SE) Edu: LAKki Marwat
 chairman

ATTESTED
[Signature]

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 are hereby appointed as Junior Clerk BPS-07, Rs: (5800-320-15400) plus usual allowances as admissible under the rules on regular basis, under the provision of Establishment & Administration Department circular bearing No. SOR-6 (E.&AD) 13-1/2005 date: 10-08-2005 on the term and condition given below in the interest of public service from the date of taking over charge.

S. No	Name	Father Name and Address	To be posted at	Remark
1	Sibghat Ullah	Mir Ajab Khan, R/O Lakki, (Haqdad Abad)	GHS, Baehkan Ahmad Zai	A.V.Post
2	Aftab Ullah	Behram Khan, R/O Kotka Behram Khan Saba Khel Nasar Khel	GHS, Nar Mohammad Khan Ghazni Khel	-do-
3	Naveed Ullah	Nasar Ullah, R/O Mama Khel	GGHS, Baehkan Ahmad Zai	Newly created post
4	Sulaiman Khan	Badi-u-Zaman, R/O Nar Hakim Khan	GHS, Shakh Quli Khan	A.V.Post
5	Hikmat Ullah	Rehmat Ullah Khan, R/O Kotka Najeeb	GHSS, Masha Mansoor	A.V.Post
6	Mohammad Imran	Mohammad Ayub, R/O Hakim Topa	GHSS, Abba Khel	-do-
7	Sifat Ullah Khan	Amir Nawaz, R/O Ahmad Khel	GHS, Azghar Khel	Newly created post
8	Mohammad Aftab Khan	Ayub Khan, Lakki Saedd Khel	GHS, Kheru Khel Pacca	A.V.Post
9	Rafiq Ullah Khan	Arif Ullah Khan, R/O Nar Azad Chandu Khel	GGHS, Nar Azad Chandu Khel	Newly created post
10	Noor Zaman	Akbar Zaman, R/O Abba Khel	GHS, Wanda Samandi	-do-
11	Waqas Gul	Khushdil Khan, R/O Nar Sahibdad Maidad Khel	GHS, Mohammad Amir Wali	A.V.Post

TERMS & CONDITIONS:-

- Their appointment will be considered regular without pension and gratuity in terms of section 19 of NWFP, Civil servant, 1973, as amended vide NWFP, Civil Servant (Amendment) act 2005. They will however be entitled to contributory provident fund in such a manner and at such a rate as may be prescribed by the Govt.
- Their services will be liable to termination on one month notice from either side. In case of resignation without notice one month pay/allowances will be refunded to the Govt.
- Their services will be governed by such rules and the Govt. may issue regulations as from time to time.
- Their 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 disciplin) rules 2011 and the rules framed from time to time.
- Charge reports should be submitted to all concerned.
- No TA/DA is allowed.
- The undersigned will check and verify the certificates/ Degrees of the above named candidates from the concerned Board/ University before the drawl of pay.
- The appointment is liable to termination if the appointees failed to take over charge within fifteen days of the commencement date.
- The undersigned reserves the rights of amendment in the appointment order in case of a mistake.
- They are required to produce their Health and age certificates from the Medical Superintendent DHO, Hospital (Tajazai) Lakki Marwat.

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

Endst. No. 7675-89 Dated 01/10/2012.

- Copy to the:-
- Director (E.&S) Education Khyber Pakhtunkhwa, Peshawar.
 - District Coordination Officer, Lakki Marwat.
 - District Accounts Officer, Lakki Marwat.
 - Principal/Head Master/Head Mistress concerned schools, Lakki Marwat.
 - Supdt: Establishment Local office.

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

ATTENDED

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105

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

CORRIGENDUM:-

Please read the father name of Mr. Noor Zaman, "Bahadar Zaman" instead of Akbar Zaman R/O Abba Khel, regarding his appointment as a Junior Clerk issued vide this office order Endst.No.7675-89 Dated 01-10-2012 (at S.No.10).

Executive District Officer
(E&S) Education Lakki Marwat

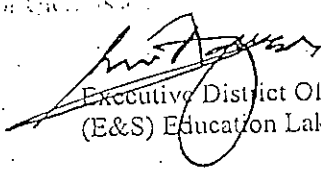
Endst.No. 7761-64

Dated 02-10-2012

Copy to the:-

1. District Accounts Officer, Lakki Marwat.
2. Medical Superintendent DHQ, Lakki Marwat.
3. Head Master GHS, Samandi, Lakki Marwat.
4. Candidate concerned.

regarding his appointment as a Junior Clerk


Executive District Officer
(E&S) Education Lakki Marwat

ATTESTED
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CHARGE SHEET

I, Pervez Khattak, Chief Minister, Khyber Pakhtunkhwa as Competent Authority, hereby charge you, Mr. Mir Azam, Ex-District Education Officer (BS-19) (Male) Lakki Marwat (Now services placed at the disposal of FATA Education) as follows:-

That you, while posted as District Education Officer (BS-19) (Male) Lakki Marwat committed the following irregularity:

"Made illegal appointments of Junior Clerks (BS-7) in E&SE District Lakki Marwat in the year 2011 without observance of all codal formalities by adopting favoritism".

2- By reason of the above, you appear to be guilty of misconduct under Rule-3 of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011 and have rendered yourself liable to all or any of the penalties specified in Rule-4 of the Rules: ibid.

3- You are, therefore, required to submit your written defence within seven days of the receipt of this Charge Sheet to the inquiry officer/ inquiry committee, as the case may be.

4- Your written defence, if any, should reach the inquiry officer/ inquiry committee within specified period, failing which it shall be presumed that you have no defence to put in and in that case ex-parte action shall be taken against you.

5- Intimate whether you desire to be heard in person.

6- A Statement of Allegations is enclosed.

Pervez Khattak
(PERVEZ KHATTAK)
CHIEF MINISTER KHYBER PAKHTUNKHWA
COMPETENT AUTHORITY
25.7.2012.

Mr. Mir Azam,
Ex-District Education Officer (BS-19) (Male) Lakki Marwat,
(Now services placed at the disposal of FATA Education).

ATTESTED
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(16) H

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DISCIPLINARY ACTION

I, Pervez Khattak, Chief Minister, Khyber Pakhtunkhwa as Competent Authority, am of the opinion that, Mr. Mir Azam, Ex-District Education Officer (BS-19) (Male) Lakki Marwat (Now services placed at the disposal of FATA Education), has rendered himself liable to be proceeded against, as he committed the following acts/omissions, within the meaning of Rule-3 of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011.

STATEMENT OF ALLEGATIONS

"Made illegal appointments of Junior Clerks (BS-7) in E&SE District Lakki Marwat in the year 2011 without observance of all codal formalities by adopting favoritism".

2- For the purpose of inquiry against the said accused with reference to the above allegations, an inquiry officer/ inquiry committee, consisting of the following, is constituted under Rule 10(1)(a) of the ibid Rules:

- i. Mr. Abdul Ghajoor Baig Spl. Secretary (BS-20) Peshawar
- ii. Mr. Attaullah Khan Principal (BS-20) Peshawar
- iii.

3- The inquiry officer/ inquiry committee shall, in accordance with the provisions of the ibid Rules, provide reasonable opportunity of hearing to the accused, record its findings and make within thirty days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused.

4- The accused and a well conversant representative of the department shall join the proceedings on the date, time and place fixed by the inquiry officer/ inquiry committee.

Pervez Khattak
(PERVEZ KHATTAK)
CHIEF MINISTER KHYBER PAKHTUNKHWA
COMPETENT AUTHORITY
29.7.2013

Mr. Mir Azam,
Ex-District Education Officer (BS-19) (Male) Lakki Marwat,
(Now services placed at the disposal of FATA Education).

ATTENDED
A



GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT

NOTIFICATION

Dated Peshawar the August 01, 2013

NO.SO(S/M)E&SED/4-17/2013/Mir Azam Ex-DEO Lakki Marwat: The Competent Authority is pleased to constitute enquiry committee comprising of the following officers to conduct formal enquiry against Mr. Mir Azam, Ex-District Education Officer (BS-19) (Male) Lakki Marwat (Now Principal BS-19 GHS Kotka Habibullah FR Bannu) for the charges mentioned in the Charge Sheet and Statement of Allegations with immediate effect:-

- i. Mr. Abdul Ghafoor Baig, Special Secretary (BS-20), Higher Education Archives & Libraries Department, Khyber Pakhtunkhwa, Peshawar.
- ii. Mr. Attaullah Khan, Principal (BS-20), Regional Institute for Teachers Education (Male) Peshawar.

2. The enquiry committee shall submit recommendations/ report to the Competent Authority within thirty (30) days positively. (Copies of Charge Sheet & Statement of Allegations are enclosed).

SECRETARY

Endst. of even No. & Date

Copy forwarded to the:

1. Director E&SE, Khyber Pakhtunkhwa, Peshawar.
2. Mr. Abdul Ghafoor Baig, Special Secretary (BS-20), Higher Education Archives & Libraries Department, Khyber Pakhtunkhwa, Peshawar (Copies of charge sheet & statement of allegations are enclosed).
3. Mr. Attaullah Khan, Principal (BS-20), Regional Institute for Teachers Education (Male) Peshawar (Copies of charge sheet & statement of allegations are enclosed).
4. Mr. Mir Azam, Ex-DEO (Male) Lakki Marwat (Now Principal GHS Kotka Habibullah FR Bannu) (Copies of charge sheet & statement of allegations are enclosed).
5. PSO to Chief Minister Khyber Pakhtunkhwa, Peshawar.
6. PS to Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
7. PS to Secretary, E&SE Department, Khyber Pakhtunkhwa, Peshawar.
8. PS to Special Secretary, E&SE Department, Khyber Pakhtunkhwa, Peshawar.
9. PS to Additional Secretary, E&SE Department, Khyber Pakhtunkhwa, Peshawar.
10. Office order file.

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SECTION OFFICER (SCHOOLS/MALE)

ATTESTED
Handwritten signature

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To The Chief Minister,
Khyber Pakhtunkhwa, Peshawar.

Through: Proper Channel

Subject: Charge Sheet/Reply to charge sheet

Respected Sir,

Reference Secretary to Govt. of Khyber Pakhtunkhwa (E&SE) Deptt. Peshawar Notification No SO(S/M)E&SED/4-17/2013/Mir Azam Ex-DEO Lakki Marwat dated 01/8/2013, on the subject cited above:-

1. In order to submit to the charge sheet, it would be pertinent to give some short details of allegations made against me in charge sheet/Statement of allegations.
2. My predecessor the then EDO (E&SE) Lakki Marwat flouted advertisement in the daily NEWS Papers on 6/10/2011, for recruitment of Junior Clerks Posts (BPS-07), copy as Annexure-A
3. That the Test and Interview was conducted as per policy by the committee for advertised posts.
4. That in the meanwhile the then EDO was transferred and I was posted as such and as the process of recruitment was already finalized by the Committee.
5. That after going through prescribed procedure, Merit List for appointment was finalized in the light of proceeding carried out by the Committee. Thus after observing all the codal formalities the final D.S.B meeting was held which was attended and signed by all members and the chairman of committee. After completing this legal process the appointment order was issued on 01-10-2012 according to the merit list. (Copy as Annexure B, C and D)
6. That now as per the aforesaid submissions, I advert to the charges leveled against me in the charge sheet/ statement of allegations. No illegal appointment of Junior Clerks were made in (E&SE) Department Lakki Marwat in the year 2012, and codal formalities under advertisement in the daily NEWS Papers enunciated and rules were strictly observed and no favoritism was shown, what so ever, to any one.

Sir,

I never, by keeping in view the aforesaid submissions appear to be guilty of misconduct which suggest any penalty in rules ibid.

Sir,

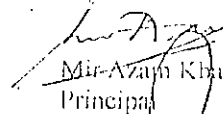
Written defence as directed is submitted in the stipulated period for kind perusal of your honor.

I shall be heard in person too.

It is therefore humbly requested that by keeping in view the aforesaid submissions, I shall be exonerated from the charges level against me. I shell pray for your honor life.

Dated

Yours obediently


Mir Azam Khan
Principal

GHS Kaka Habibullah FR Bannu
Ex- EDO (E&SE) Lakki Marwat

ATTESTED



REGISTERED



GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT

(19) J (18)

No.SO (S/M) E&SE/D/4-17/2013/Mir Azam Ex-DEO Lakki
Dated Peshawar the March 07, 2014

To

Mr. Mir Azam,
Ex- District Education Officer (BS-19) Male Lakki Marwat,
(Now Agency Education Officer BS-19 North Waziristan Agency Miran Shah).

Subject: - SHOW CAUSE NOTICE

I am directed to refer to the subject noted above and to enclose herewith a copy of the Show Cause Notice wherein the Competent Authority (Chief Minister Khyber Pakhtunkhwa) has tentatively decided to impose upon you the Major Penalty of "Removal from Service" under Rule-4 of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 in connection with the charges leveled against you.

2. You are therefore directed to furnish your reply to the Show Cause Notice as to why the aforesaid penalty should not be imposed upon you and also intimate whether you desire to be heard in person.

3. Your reply should reach to this Department within Seven (07) days of the delivery of this letter otherwise ex-parte action shall be taken against you.

4. Copy of the inquiry report is enclosed herewith.

Encl: As Above:

(MUJEEB-UR-REHMAN)
SECTION OFFICER (SCHOOLS/MALE)

Endst: Even No. & Date:

Copy of the above is forwarded to the:-

- i. Secretary Social Sector Department, FATA Secretariat Warsak Road Peshawar.
- ii. Director E&SE Khyber Pakhtunkhwa Peshawar.
- iii. Director FATA Education FATA Secretariat Warsak Road Peshawar.
- iv. PS to Secretary E&SE Department Khyber Pakhtunkhwa.
- v. PS to Special Secretary E&SE Department Khyber Pakhtunkhwa.

SECTION OFFICER (SCHOOLS/MALE)

ATTESTED
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SHOW CAUSE NOTICE

19-A

I, Pervez Khattak, Chief Minister Khyber Pakhtunkhwa, as competent authority, under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, do hereby serve you, Mr. Mir Azam, Ex-District Education Officer BS-19 (Male) Lakki Marwat (now Principal BS-19 GHS Kotka Habibullah FR Bannu) as follows:

- i. That consequent upon the completion of inquiry conducted against you by the inquiry committee for which you were given opportunity of hearing; and
- ii. On going through the findings and recommendations of the inquiry committee, the material on record and other connected papers including your defence before the inquiry committee.

I am satisfied that you have committed the following acts/omissions specified in rule-3 of the said rules:

(i) Misconduct

2. As a result thereof, I, as competent authority, have tentatively decided to impose upon you the penalty of Removal from service under rule 4 of the said rules.

3. You are, thereof, required to show cause as to why the aforesaid penalty should not be imposed upon you and also intimate whether you desire to be heard in person.

4. If no reply to this notice is received within seven days or not more than fifteen days of its delivery, it shall be presumed that you have no defence to put in and in that case an ex-parte action shall be taken against you.

5. A copy of the findings of the inquiry officer/ inquiry committee is enclosed.

Pervez Khattak
(PERVEZ KHATTAK)
CHIEF MINISTER KHYBER PAKHTUNKHWA
COMPETENT AUTHORITY
28.02.2014.

Mr. Mir Azam, Ex-District Education Officer BS-19 (Male)
Lakki Marwat (now Principal BS-19 GHS Kotka Habibullah FR Bannu)

To

The Chief Minister,
Khyber Pakhtunkhwa, Peshawar.

(20) K

Through: Proper Channel.

Subject: Show Cause Notice / Reply to the Show Cause Notice.

Respected Sir,

Reference Secretary, Govt. of Khyber Pakhtunkhwa, (E&SE)
Deptt: Peshawar Letter No. SO(S/M)E&SED/4-17/2013/Mir Azam Ex-DEO
Lakki Marwat, dated 07.03.2014, issued by Section Officer (Schools/Male) of
the department on the subject noted above:-

1. The undersigned submitted reply to the charge sheet / Statement of allegations served upon him prior to the show cause notice in hand. The reply of the charge sheet be treated as integral part of reply to the notice for extension of benefit to the undersigned.
 - i. Not correct. The undersigned was not dealt with as per the mandate of law because no statement of any witness (s) was ever recorded in presence of the undersigned nor he was given opportunity of cross examination, being mandatory. Facts of the case are that the predecessor of the undersigned along with other staff had advertised numerous posts of Junior Clerks B-07 in daily News Papers on 06.10.2011. Test and interview was conducted by the Committee formed by the then EDO, E&SE now DEO, E&SE. The process was almost finalized by the then predecessor / Committee when in the mean while, the then EDO was transferred and the undersigned was assigned charge of the post. Only merit list was signed by the members of the Committee as well as by the undersigned at the time when such process was finalized. Appointment took place when the process was already completed. Neither any one was favoured nor illegally appointed.
 - ii. Not correct. Before service of final show cause notice on the servant, the authority is legally required to attached / supply all the inquiry proceedings to the servant to enable him to submit proper / comprehensive reply thereto. No such material on record what to speak of other connected papers exists to implicate the undersigned with the commission of any illegality / irregularity and the Inquiry Committee proceeded one sided.

Copy Number

2472

Date of Copy

03/07/14

Secretary Elementary & Secondary
Education Peshawar

ATTESTED

No misconduct was ever committed under any law or rules, provided proper attention is given to the aforesaid submission of the undersigned.

- 2. I request your Honour to carefully go through the aforesaid submissions and if due attention is paid to the same, then no penalty, what so ever, ever requires what to speak of penalty of removal from service.
- 3. Sir, I am never guilty of any misconduct because I have rendered four decade services with devotion and now I am at the verge of retirement and shall be retired less than a year. Therefore, keeping in view my meritorious services, I may graciously be acquitted/exonerated of charges leveled against me.
- 4. Sir, reply to the notice is submitted within the stipulated period of time as the undersigned is posted as Agency Education Officer at Miran Shah, NWA and the said notice was received by one of the Superintendent of the Department which was handed over to the undersigned on 25-03-2014.
- 5. ~~Not correct. No findings of the inquiry were ever enclosed with the show cause notice except the notice and covering letter.~~

It is, therefore, most humbly requested that keeping in view the aforesaid submissions, the undersigned be exonerated with the charges and may be provided opportunity of Personal Hearing. I shall pray for your honor life.

Dated: 31.03.2014.

Yours Obediently,

Mir Azam Khan 31/3/14
 Mir Azam Khan,
 Agency Education Officer,
 NWA, Miran Shah
 Ex-EDO (E&SE), Lakki Marwat

ATTESTED
D

IMMEDIATE/THROUGH FAX

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21



GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT

No.SO(S/M)E&SED/4-17/2013/Mir Azam, DEO Lakki.
Dated Peshawar the May 12, 2014

To

Mr. Mir Azam,
Ex- District Education Officer (ES-19) Male Lakki Marwat,
(Now Agency Education Officer BS-19 North Waziristan Agency Miran Shah).

Subject: - PERSONAL HEARING.

I am directed to refer to the subject noted above and to state that it has been intimated by the Establishment Department, Khyber Pakhtunkhwa Peshawar vide letter No. SOR-I (E&AD)8-44/2013 dated 09-05-2014 and to state that the Chief Minister Khyber Pakhtunkhwa has authorized Secretary Establishment Department for your personal hearing before him on 16-05-2014 at 1000 hours in his office.

2. You are hereby directed to ensure your presence during the personal hearing with the Secretary Establishment Department Khyber Pakhtunkhwa Peshawar on the above mentioned date, time and venue.

(MUJEEB-UR-REHMAN)
SECTION OFFICER (SCHOOLS/MALE)

Endst: Even No. & Date:

Copy of the above is forwarded to the:-

- i. Section Officer (R-I), Establishment & Administration Department, Khyber Pakhtunkhwa, Peshawar w/r to his letter referred to above.
- ii. PS to Secretary Establishment & Administration Department Khyber Pakhtunkhwa.
- iii. PS to Secretary, E&SE Department, Khyber Pakhtunkhwa, Peshawar.
- iv. PS to Special Secretary, E&SE Department, Khyber Pakhtunkhwa, Peshawar.

SECTION OFFICER (SCHOOLS/MALE)

ATTESTED
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GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT

Dated Peshawar the June 18, 2014

NOTIFICATION

NO.SO(S/M)E&SED/4-17/2013/Mir Azam Ex-DEO: WHEREAS Mr. Mir Azam, Ex-District Education Officer Male (BS-19), Lakki Marwat (now Agency Education Officer N.W.A, Miran Shah) was proceeded against under the Khyber Pakhtunkhwa Govt: Servants (Efficiency & Discipline) Rules, 2011 for the charges mentioned in the charge sheet and statement of allegations.

2. AND WHEREAS inquiry committee was constituted comprising the following officers to conduct formal Inquiry against the accused officer, for the charges leveled against him in accordance with the rules.

- i. Mr. Abdul Ghafoor Baig, Special Secretary BS-20, Higher Education, Archives & Libraries Department Khyber Pakhtunkhwa.
- ii. Mr. Atta Ullah Khan, Principal BS-20, RITE Male Peshawar.

3. AND WHEREAS the Inquiry committee after having examined the charges, evidence on record and explanation of the accused officer has submitted the report.

4. AND WHEREAS a show cause notice was served upon Mr. Mir Azam, Ex-District Education Officer Male (BS-19), Lakki Marwat (now Agency Education Officer N.W.A, Miran Shah) dated 28-02-2014 circulated to him on 07-03-2014.

5. AND WHEREAS the Competent Authority (Chief Minister, Khyber Pakhtunkhwa) after having considered the charges and evidence on record, inquiry report, explanation of the accused officer in response to the Show Cause Notice and personal hearing granted to him by Secretary Establishment Khyber Pakhtunkhwa on behalf of Chief Minister Khyber Pakhtunkhwa on 16-05-2014 at 1030 hours, is of the view that the charges against the accused officer have been proved.

6. NOW, THEREFORE, in exercise of the powers conferred under section 14 of Khyber Pakhtunkhwa Govt: Servants (Efficiency & Discipline) Rules, 2011, the Competent Authority (Chief Minister, Khyber Pakhtunkhwa) is pleased to impose major penalty of "Removal from service" upon Mr. Mir Azam, Ex-District Education Officer Male (BS-19), Lakki Marwat (now Agency Education Officer N.W.A, Miran Shah) with immediate effect.

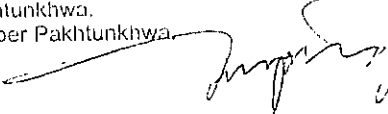
SECRETARY

Endst: of Even No. & Date:

Copy forwarded to the: -

- 1- Accountant General, Khyber Pakhtunkhwa, Peshawar.
- 2- PSO to Chief Minister Khyber Pakhtunkhwa Peshawar.
- 3- Director, Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
- 4- Director Education FATA, FATA Secretariat Warsak Road Peshawar.
- 5- District Education Officer (Male), Lakki Marwat.
- 6- Mr. Mir Azam, Ex-District Education Officer Male (BS-19), Lakki Marwat (now Agency Education Officer N.W.A, Miran Shah)
- 7- District Accounts Officer Lakki Marwat.
- 8- Agency Accounts Officer, North Waziristan Agency Miran Shah.
- 9- PS to Chief Secretary Khyber Pakhtunkhwa Peshawar.
- 10- PS to Additional Chief Secretary (FATA), FATA Secretariat Warsak Road Peshawar.
- 11- PS to Secretary, E&SE Department, Khyber Pakhtunkhwa.
- 12- PS to Special Secretary, E&SE Department, Khyber Pakhtunkhwa.
- 13- Office order file.

ATTESTED
R


(MUJEEB-UR-REHMAN)
SECTION OFFICER (SCHOOLS/MALE)

24 N

Dated _____ / _____ /2014

To *[Signature]*

The Honorable Chief Minister,
Govt: of Khyber Pakhtunkhwa,
Peshawar.

Office of the PSCM
D. No: 1576
Date: 14/7/14

Received on
14/7/14

Sub: - Review Application/Representation/Departmental Appeal against Notification No. SO(S/1VI)E&SED/4-17/2013/Mir Azam Ex-DEO, dated 18/06/2014, whereby major penalty of removal from service was imposed upon applicant/appellant

Respectable Sir(s),

This is with reference to the above-mentioned subject. In this regard the appellant/applicant would like to draw your kind attention to the following:

I Facts

1. That the appellant was posted as EDO (E & S) Lakki Marwat in Feb 2012. **Before his posting his predecessor** in Office Mr. Abdul Malik on 06/10/2011 had advertised different jobs/positions in the daily Mashriq (Copy enclosed at Page 5). The dates for interview and tests were also mentioned in the advertisement which ranged from 14/11/2011 to 20/11/2011. These tests were conducted on the dates mentioned therein.
2. That when the appellant joined his posting one day he was met by some persons who claimed to be candidates to the above-mentioned posts/jobs and they complained about delay in appointments. The appellant on their complaint inquired into the matter and he was told by Mr. Mir Ajab Khan- who was the assistant dealing with those posts- that tests for the posts were conducted on the days mentioned in the advertisement. The record is finalized and in his possession but since the EDO was transferred out therefore no further progress was possible in the matter.
3. That the appellant immediately ordered the dealing assistant to sort out the record and prepare a merit list on the basis of that record. In order to comply with Office Order No.

ATTESTED

[Signature]

[Handwritten mark]

To,

Dated: - ___ / ___ /2014

The Honorable Chief Minister,
Govt: of Khyber Pakhtunkhwa,
Peshawar.

Sub: - Review Application/Representation/Departmental Appeal against Notification No. SO(S/M)E&SED/4-17/2013/Mir Azam Ex-DEO, dated 18/06/2014, whereby major penalty of removal from service was imposed upon applicant/appellant

Respectable Sir(s),

This is with reference to the above-mentioned subject. In this regard the appellant/applicant would like to draw your kind attention to the following:

I. Facts

1. That the appellant was posted as EDO (F & S) Lakki Marwat in Feb 2012. **Before his posting his predecessor** in Office Mr. Abdul Malik on 06/10/2011 had advertised different jobs/positions in the daily Mashriq (Copy enclosed at Page 5). The dates for interview and tests were also mentioned in the advertisement which ranged from 14/11/2011 to 20/11/2011. These tests were conducted on the dates mentioned therein.
2. That when the appellant joined his posting one day he was met by some persons who claimed to be candidates to the above-mentioned posts/jobs and they complained about delay in appointments. The appellant on their complaint inquired into the matter and he was told by Mr. Mir Ajab Khan- who was the assistant dealing with those posts- that tests for the posts were conducted on the days mentioned in the advertisement but the interviews to the posts were pending. The record is finalized and in his possession but since the EDO was transferred out therefore no further progress was possible in the matter.
3. That the appellant immediately ordered the dealing assistant to sort out the record and prepare a merit list on the basis of that record. In order to comply with Office Order No. SOG/E&SED/1-31/2011 dated 08/09/2011 regarding the

ATTESTED
/s/

ATTESTED

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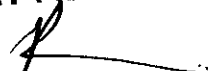
- Departmental Selection Committee (DSC) the appellant wrote letters dated 20/09/2012 & 28/09/2012 to the Director Elementary & Secondary KPK at Peshawar & Secretary Elementary & Secondary Education Department with C.C to DCO and District Officer Education Lakki Marwat (copies enclosed at Page 6 & 7) ; Resultantly a meeting was arranged on 01/10/2012 of DSC. It was attended by all the members (copy of attendance sheet is at Page 8). A merit list (Copy enclosed at page 9) prepared on the basis of record was discussed and approved in the meeting of the DSC; wherein 11 persons were recommended to be appointed (Copy of the minutes of DSC meeting is on Page 10 & 11). Therefore as per approval of the DSC appointment orders (copy enclosed at Page 12 & 13) of the recommended persons were issued and they joined their duties within the stipulated time.
4. That after some time the appellant received a charge sheet dated 29/07/2013 (Copy enclosed at Page 14) wherein the appointments to the posts of Junior Clerks (BS-07) were alleged to be illegal for being (allegedly) done without observance of codal formalities and being based on favoritism. The said charge sheet was also accompanied by Statement of Allegations (copy at page 15) and notification dated 01/08/2013 regarding appointment of enquiry committee (copy enclosed at page 16). As required a written defense was submitted (copy enclosed at page 17). Thereafter a formal enquiry was held but neither the statements of the witnesses were recorded before the appellant nor he was allowed to cross examine the witnesses.
5. That after some time the appellant was astonished to receive an other show cause notice dated 07/03/2014 (copy at page 18) wherein major penalty of removal from services was proposed to be imposed upon him u/r 4 of E & D Rules 2011. He was also asked to submit written reply and convey desire to be heard in person or not. The written reply was submitted (copy enclosed at page 19-20) and personal hearing was sought. Later on appellant received another letter dated 12/05/2014 (copy enclosed at page 21) wherein personal hearing was arranged on 16/05/2014.
6. That letter on the appellant received Notification dated 18/06/2014 (copy enclosed at Page 22) wherein he was removed from services in utter disregard to the facts, laws and rulings on the subject matter. Hence this departmental appeal, inter alia, on the following amongst other:

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II. Grounds

- A. That the appellant has neither been treated in accordance with law nor equal protection of law has been extended to him.
- B. *Without any prejudice to the above and in addition thereto,* the appointments were legal as all the codal formalities were complied with in true letter and spirit. There is not even an iota of favoritism in the whole process. None of the person appointed is any relative or associates of the appellant. The whole process was completed before the appellant took charge. The appellant just followed the record provided to him and that too under the guidance of duly constituted Departmental Selection Committee.
- C. *Without any prejudice to the above and in addition thereto,* the major penalty imposed upon him is discriminatory, against the facts, rules and laws on the subject matter as well as against the principles of natural justice; hence illegal, unlawful and an infringement upon the rights of appellant.
- D. *Without any prejudice to the above and in addition thereto,* the authorities cannot blow hot and cold together for firstly procedure as envisaged in Rule 5 of E & D Rules were adopted than abruptly the inquiry was dispensed with and procedure u/r 7 was adopted. It is also a clear manifestation of *malafide* on the part of authorities.
- E. *Without any prejudice to the above and in addition thereto,* it is submitted that copy of the findings of the inquiry report and other material on which the authorities had based their case were not supplied despite demand. Hence the proceedings are *void ab initio*.
- F. *Without any prejudice to the above and in addition thereto,* statements of the witnesses was not recorded in his presence. To add insult to injury he was not given the mandatory opportunity to cross examine the witnesses. Hence the whole proceeding(s) is untenable in eyes of the law on this score alone.
- G. *Without any prejudice to the above and in addition thereto,* no consideration was given to the defense forwarded by the appellant. Hence the order of removal is illegal on this point alone as well.

ATTESTED




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- H. *Without any prejudice to the above and in addition thereto,* the appellant has served the department, country and its people for more than three decades selflessly and with honor. His contributions to the cause of the country and department demands that he cannot be treated in such a shameful manner.
- I. Any other ground not specifically mentioned herein but favorable and applicable to the case of the appellant-for the administration of justice-may also be taken into account while deciding the appeal.

It is evident from the above that the allegations against the appellant are baseless, discriminatory, illegal and unlawful. Therefore it is humbly prayed that the order dated 18/06/2014 may be reviewed/ set-aside and the appellant may be reinstated in service with all back benefits with such other relief as may be deemed proper and just in circumstances of the case. Moreover it is further prayed that the official concerned may be directed to provide to the appellant all the record including findings of the committee and statements of the witnesses.

Sincerely,


Mir Azam Khan S/O Nabi Shah
R/O Wali Khan Maidad Khel
P.O Serai Naurang,
Lakki Marwat
Ex-DEO (Male) Lakki Marwat

ATTESTED

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Note: - Total enclosure numbers 22

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Service Appeal # 1312/2014.

Mir Azam Khan Ex-E.D.O (BS-19) Lakki.....**Appellant**
VERSUS

Govt: of Khyber Pakhtunkhwa & others..... **Respondents**

Parawise reply and comments for & on behalf of Respondents.

**Respectfully Sheweth,
Preliminary Objections:-**

1. The appellant has no cause of action/ locus standi.
2. The instant appeal is badly time barred.
3. The appellant has concealed the material facts from this Hon 'able Tribunal, hence liable to be dismissed.
4. The appellant has not come to this Hon 'able court with clean hands.
5. The appellant has filed the instant appeal just to pressurize the Respondents.
6. The present appeal is liable to be dismissed for non joinder of necessary parties and misjoinder of un-necessary parties.
7. The appellant has filed the instant appeal on malafide motives.
8. The instant appeal is against the prevailing law and rules.
9. The appellant is estopped by his own conduct to file the instant appeal.
10. The instant appeal is not maintainable in the present form and also in the present circumstances of the issue.

FACTS.

1. This para of the appeal is related to the Service record of the appellant hence needs no comments.
2. Correct to the extent of advertisement which was published by the predecessor of the appellant, while the appellant has been proved guilty of gross violation of law, rules on the subject in preparation of merit list, selection and subsequent appointment of Junior Clerk BS-7. The minutes of the meeting of District Selection Committee reveals that the appellant placed the wrong and doubtful merit list of the candidates for appointment of J/Clerk Bs-7 (Annex-E of the appeal)
3. Denied. The appellant has concealed the facts and the statement in this para is misleading one. In fact the appellant (the accused officer) completely ignored the merit, Estacode and the Recruitment Policy in vogue by giving preference to several 3rd division holder candidates for appointment by ignoring eligible candidates.
5. Incorrect; the appellant was given charge sheet in the light of law, rules on the subject and the appellant was proved guilty through impartial inquiry held by the competent authorities. The statement of the appellant is not a satisfactory one. Moreover, the appellant confessed illegal appointments in this para.

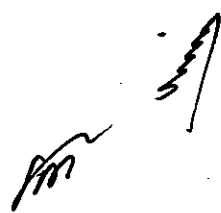
6. Incorrect; the enquiry was conducted according to the law, rules on the subject, by competent authorities. The appellant has never denied the allegation as contained in the charge sheet and confessed that the appellant has issued the illegal appointment orders and also held responsible the District Selection Committee and his subordinates for the alleged and proved illegal appointments of J/Clerk BS-7. The appellant was provided all chances of defence during the inquiry proceedings.
7. Incorrect. The said inquiry was lawful and conducted by Competent Authority while the reply of the appellant to the show cause notice did not satisfy the competent authority and failed to prove himself innocent on the basis of law, rules on the subject. Hence the whole para is denied.
8. Incorrect and denied: The Secretary Establishment was fully competent and well conversant of the case of the appellant and provided the appellant a chance for personal hearing and an opportunity of defence if any.
9. Incorrect. The appellant was removed from Service after having considered the charges and evidence on record, inquiry report, explanations of appellant (the accused officer) in response to the show cause notice and personal hearing granted to him by Secretary (Establishment) on behalf of Chief Minister, Khyber Pakhtunkhwa by the competent authority (the Chief Minister Khyber Pakhtunkhwa). And the competent authority was of the view that the charges against the accused have been proved hence the notification dated 18-6-2014 is legal, lawful and by the competent authority.

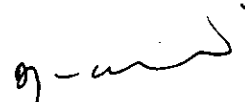
ON GROUNDS.

- A. Incorrect: The Removal from Service order dated 18-6-2014, is in accordance with law, facts, norms of justice and material on record hence tenable in the eye of law.
- B. Incorrect. The appellant was personally heard and provided an opportunity of defence.
- C. Incorrect. The inquiry is based on record, statements of the appellant and his subordinate and concerned bodies. Hence the whole para is denied being misleading one.
- D. Incorrect. The statement of the appellant in this para is baseless, against the fact and material on record.
- E. Incorrect, the appellant has not been discriminated and rightly punished according to the law, rules on the subject, hence denied.
- F. Incorrect and not admitted. The appellant has issued the illegal appointments orders of J/Clerk with out considering the candidates having high academic qualification and with out observance of codal formalities by adopting favoritism.

- G. Incorrect and not admitted. The enquiry against the appellant is conducted in accordance with E&D Rules 2011.
- H. Incorrect. The respondent No.3 is competent authority to issue such orders.
- I. Incorrect. The appellant has been treated according to law and rules.
- J. The respondent seek the permission of this Hon;able court to adduce more proof and grounds at the time of hearing.

In view of the above made submissions, it is, therefore, most humbly requested that this Honourable Court may very graciously be pleased to dismiss the appeal in hand with cost in favour of the Respondents.


Director
Elementary & Secondary Education,
Peshawar


Secretary,
Elementary & Secondary Education,
Department.

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

Service Appeal No. 1312/2014

Mir Azam Khan

VS

Education Deptt:

.....

REJOINDER ON BEHALF OF APPELLANT

.....

RESPECTFULLY SHEWETH:

Preliminary Objections:

(1-10) All objections raised by the respondents are incorrect and baseless. Rather the respondents are estopped to raise any objection due to their own conduct.

FACTS:

- 1 Admitted correct by the respondents as the service record of the appellant is in the custody of the concerned Deptt:
- 2 First portion of the para 2 is admitted correct, hence comments. The rest of the para is incorrect as the appellant on assuming charge of EDO came to know about the advertisement and the process of selection held in abeyance due to the transfer of his predecessor informed the Director (E&SE) with proper consultation of the departmental selection committee members and also requested to depute representative of the department of the schedule meeting. the selection committee meeting was held on 1.10.2012 and the chairman and the members of the committee were present at the time of interview and signed the merit list. After the conclusion of the codal formalities, the appellant issued the appointment order of the junior clerk, which means that the appellant has not done any guilty of law, rules on the subject in the

preparation of merit list, selection and subsequent appointment of the junior clerk.

- 3 Incorrect. the appellant did not concealed the facts as the appellant did all the appointments of junior clerk according to merit list, Esta Code and recruitment Policy and did not do any irregularities in appointment of junior clerk.
- 4 Incorrect. the appellant did not do any irregularities in the appointment of the junior clerk in the year 2011, but due to unknown reason and specially for not considering the political appointments, pressurized by the MPA and local Minister, the appellant was given false charge sheet for making illegal appointment of the junior clerk in the year 2011 without observing codal formalities. However the appellant submitted his reply to the charge sheet and denied all allegations.
- 5 Incorrect. The inquiry was not conducted according to law and rules as the enquiry was conducted at the back of the appellant wherein the appellant was not allowed to cross examine the witnesses and impeach the credibility of the witnesses and record. Moreover the appellant has denied all the allegation as contained in the charge sheet and never confused that he has issued the illegal appointment orders.
- 6 Incorrect. The said inquiry was not lawful as it was not conducted according to the prescribed procedure and reply to the show cause notice the appellant again denied all the allegations with proof.
- 7 Incorrect. While para 7 of the appeal is correct.
- 8 Incorrect. The appellant was removed from the service vide order dated 18.6.2014 without adopting legal procedure under E&D Rules 2011. Therefore the appellant filed review application which was not responded in statutory period of time.


GROUND:

- A. Incorrect. The impugned order dated 18.6.2014 and not taking action on review application of the appellant are against the law, facts norms of justice and material on record, therefore not tenable and liable to be set aside.
- B. Incorrect. The appellant has been condemned unheard and not provided an opportunity of defence. Thus the appellant has not been treated according to law and rules.
- C. Not replied according to para C of the appeal. Moreover para C of the appeal is correct.
- D. Incorrect. The statement of the appellant is according to facts and material on record as the none of the statement recorded in the presence of the appellant nor any record examined in his presence.
- E. Incorrect. While para E of the appeal is correct.
- F. Incorrect. The appellant did not do any irregularities in the appointment of the junior clerk in the year 2011 and did all the appointments of junior clerk according to prescribed procedure.
- G. Incorrect. While para G of the appeal is correct.
- H. Incorrect. The respondent No.3 is not competent authority for the appellant to issue the impugned order.
- I. Incorrect. The appellant has not been treated according to law and rules.
- J. Legal.

It is, therefore, most humbly prayed that the appeal of appellant may kindly be accepted as prayed for.

APPELLANT
Mir Azam Khan

Through:


(M. ASIF YOUSAFZAI)
&

(TAIMUR ALI KHAN)
ADVOCATES PESHAWAR.

AFFIDAVIT

It is affirmed and declared that the contents of rejoinder & appeal are true and correct to the best of my knowledge and belief.




DEPONENT

1

JUDGMENT SHEET
IN THE PESHAWAR HIGH COURT, PESHAWAR
JUDICIAL DEPARTMENT

Writ Petition No.537-P/2018

JUDGMENT

Date of hearing: : 1st March, 2018

Petitioner(Mst.Bibi Saeeda) By: Mr. Shah Faisal Ilyas,
Advocate.

Respondents(Govt. Of KPK Thr. Secretary Educ. etc) By: Mr. Waqar Ahmad,
AAG.

QAISER RASHID KHAN, J:- Through the petition in hand, the petitioner has prayed as under :-

“It is therefore, most humbly prayed, that on acceptance of the instant writ petition, the respondents may kindly be directed to issue pension, gratuity and other benefits etc. to the petitioner.”

2. As per the averments made in the petition, the husband of the petitioner was appointed as a Chowkidar on contract basis way back in the year 1995 till his services were regularized in the year 2009 through the Regularization of

Services Act, 2009 with effect from 31.10.1995 and assumed the charge as a regular employee in BPS-1 with effect from 1.7.2008 and thereafter he received the salaries of a regular employee till he finally retired from service on 30.11.2011 and that he then moved many applications to the high-ups of the Education Department for his pension and gratuity but to no avail and finally passed away on 17.1.2014. The petitioner, being his widow, then made similar requests to the respondents in the light of the judgment of the august Apex Court and of this court but with no fruitful results, hence the petition in hand.

3. The learned counsel for the petitioner contended that the matter be decided in the light of the judgment of the august Apex Court reported as PLD 2016 Supreme Court - 534 (Chairman, Pakistan Railway, Government of Pakistan, Islamabad and others Vs Shah Jehan Shah) and also of this court delivered in W.P.No.2246-P/2016 titled Rizwanullah Vs Government of KPK etc.

4. The learned AAG, present in the court in other cases, on being put on notice, expressed his no objection over the request so made by the learned counsel for the petitioner.

5. Arguments heard and the available record perused.

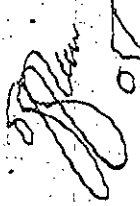
6. We are conscious of the fact that the late husband of the petitioner was a civil servant and that the matter in dispute pertains to his pensionary benefits which, being one of the terms and conditions of service, falls within the domain of the KPK Service Tribunal and the jurisdiction of this court is barred under Article 212 of the Constitution of the Islamic Republic of Pakistan, 1973 but keeping in view the woes of the petitioner being a widow and taking guidance from the judgment of the august Apex Court (supra) as well as of this Court referred to above, we treat the instant petition as a departmental appeal and send the same to the Secretary Education (E&SE), KPK, Peshawar to decide the same in accordance with the Civil Servants Pension Rules,

1963 and the guidelines rendered in W.P.No.3394-P/2016
titled Amir Zeb Vs District Account Officer Nowshera etc”
decided on 22.6.2017.

Announced on
1st March, 2018


CHIEF JUSTICE

JUDGE


05/03/18

M.Ishaq Shah, SCS.

Justice Yahya Afridi, H CJ & Justice Qaiser Rashid Khan

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

APPEAL No.1312/2014

Mr. Mir Azam Khan.

Vs

Education Department

APPLICATION FOR IMPLEADMENT OF LEGAL HEIR.

RESPECTFULLY SHEWETH:

1. That the above noted appeal is pending before this august Tribunal.
2. That the appellant has been died during the pendency of appeal on 11.01.2017
3. That the appellant left behind a widow and one daughter (Unmarried).
4. That valuable rights of pensionary benefits involved in the appeal, therefore, it would be just to implead the widow.

Razia Begum

W/o

Mir Azam Khan

R/o village Wali Khan Maidad Khel, Tehsil Sarai Naurang,
District Marwat.

It is, therefore, most humbly prayed that the applicant may be impleaded as appellant being legal heir of appellant.

Applicant

Razia Begum

Through



(M. ASIF YOUSAFZAI)
ADVOCATE SUPREME COURT,
PESHAWAR.



حکومت خیبر پختونخوا پاکستان



P06025450

THE GOVT OF KHYBER PAKHTUNKHWA PAKISTAN

وفات سرٹیفکیٹ

DEATH CERTIFICATE

CRMS No: D112029-17-0006
NATURE OF DEATH: NORMAL

FORM No: P006025450

درخواست دہندہ کا نام: محمد جمیل خان
درخواست دہندہ کا شناختی کارڈ نمبر: 1120103326589
پتہ: گاؤں ولی خان میداد خیل، تحصیل سرائے نورنگ، ضلع لکی مروت

موت کی حالت	وجہ موت	تاریخ وفات	جائے وفات	مذہب	جنس	تاریخ پیدائش	والد کا نام / شناختی کارڈ نمبر	موتی کا نام / شناختی کارڈ نمبر
	طبعی	12-1-2017	لکی ہسپتال	اسلام	مرد	25-5-1955	نہی شاہ	سیرا محمد 1120103326595

APPLICANT NAME: MUHAMMAD JAMIL KHAN

APPLICANT CNIC: 1120103326589 RELATION WITH DECEASED: Father

ADDRESS: VILLAGE: WALI KHAN MAIDAD KHEL

TEHSIL: SERAI NAURANG, DISTRICT: LAKKI MARWAT

DECEASED NAME/ CNIC	FATHER NAME/ CNIC	DATE OF BIRTH	SEX	RELIGION	PLACE/DATE OF DEATH	DATE OF BURIAL	REASON OF DEATH	SICKNESS PERIOD
MIR AZAM 1120103326595	NABI SHAH	25-5-1955	MALE	ISLAM	DHQ HOSPITAL LAKKI 11-1-2017	12-1-2017	NATURAL	

BLOOD RELATION PERSON CAUSING DISPOSAL OF BODY

NAME: MUHAMMAD JAMIL KHAN

CNIC: 1120103326589

GRAVEYARD NAME: WALI KHAN MAIDAD KHEL

ENTRY DATE: 13-2-2017

ISSUE DATE: 13-2-2017

ADDITIONAL INFORMATION: MADERD

لکی مروت سے تہذیب کنڈہ

نام: محمد جمیل خان

1120103326589 شناختی کارڈ نمبر:

قبرستان کا نام: ولی خان میداد خیل

تاریخ اندراج: 13-2-2017

تاریخ اجراء: 13-2-2017

اصنافی معلومات: گولی لگنے سے

SECRETARY
VIC
Dist. Laki Marwat

نار ابو سندیکو خیل (29) ضلع لکی مروت

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

Service Appeal No. 1312/2014

Mir Azam Khan

VS

Education Deptt:

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REJOINDER ON BEHALF OF APPELLANT

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RESPECTFULLY SHEWETH:

Preliminary Objections:

(1-10) All objections raised by the respondents are incorrect and baseless. Rather the respondents are estopped to raise any objection due to their own conduct.

FACTS:

- 1 Admitted correct by the respondents as the service record of the appellant is in the custody of the concerned Deptt:
- 2 First portion of the para 2 is admitted correct, hence comments. The rest of the para is incorrect as the appellant on assuming charge of EDO came to know about the advertisement and the process of selection held in abeyance due to the transfer of his predecessor informed the Director (E&SE) with proper consultation of the departmental selection committee members and also requested to depute representative of the department of the schedule meeting. the selection committee meeting was held on 1.10.2012 and the chairman and the members of the committee were present at the time of interview and signed the merit list. After the conclusion of the codal formalities, the appellant issued the appointment order of the junior clerk, which means that the appellant has not done any guilty of law, rules on the subject in the

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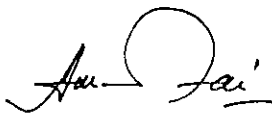
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It is, therefore, most humbly prayed that the appeal of appellant may kindly be accepted as prayed for.

APPELLANT
Mir Azam Khan

Through:


(M. ASIF YOUSAFZAI)
&

(TAIMUR ALI KHAN)
ADVOCATES PESHAWAR.

AFFIDAVIT

It is affirmed and declared that the contents of rejoinder & appeal are true and correct to the best of my knowledge and belief.


DEPONENT

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

Service Appeal No. 1312/2014

Mir Azam Khan

VS

Education Deptt:

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REJOINDER ON BEHALF OF APPELLANT

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FACTS:

- 1 Admitted correct by the respondents as the service record of the appellant is in the custody of the concerned Deptt:

- 2 First portion of the para 2 is admitted correct, hence comments. The rest of the para is incorrect as the appellant on assuming charge of EDO came to know about the advertisement and the process of selection held in abeyance due to the transfer of his predecessor informed the Director (E&SE) with proper consultation of the departmental selection committee members and also requested to depute representative of the department of the schedule meeting. the selection committee meeting was held on 1.10.2012 and the chairman and the members of the committee were present at the time of interview and signed the merit list. After the conclusion of the codal formalities, the appellant issued the appointment order of the junior clerk, which means that the appellant has not done any guilty of law, rules on the subject in the

preparation of merit list, selection and subsequent appointment of the junior clerk.

- 3 Incorrect. the appellant did not concealed the facts as the appellant did all the appointments of junior clerk according to merit list, Esta Code and recruitment Policy and did not do any irregularities in appointment of junior clerk.
- 4 Incorrect. the appellant did not do any irregularities in the appointment of the junior clerk in the year 2011, but due to unknown reason and specially for not considering the political appointments, pressurized by the MPA and local Minister, the appellant was given false charge sheet for making illegal appointment of the junior clerk in the year 2011 without observing codal formalities. However the appellant submitted his reply to the charge sheet and denied all allegations.
- 5 Incorrect. The inquiry was not conducted according to law and rules as the enquiry was conducted at the back of the appellant wherein the appellant was not allowed to cross examine the witnesses and impeach the credibility of the witnesses and record. Moreover the appellant has denied all the allegation as contained in the charge sheet and never confused that he has issued the illegal appointment orders.
- 6 Incorrect. The said inquiry was not lawful as it was not conducted according to the prescribed procedure and reply to the show cause notice the appellant again denied all the allegations with proof.
- 7 Incorrect. While para 7 of the appeal is correct.
- 8 Incorrect. The appellant was removed from the service vide order dated 18.6.2014 without adopting legal procedure under E&D Rules 2011. Therefore the appellant field review application which was not responded in statutory period of time.

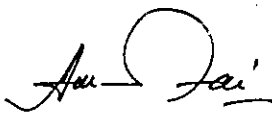
GROUND:

- A. Incorrect. The impugned order dated 18.6.2014 and not taking action on review application of the appellant are against the law, facts norms of justice and material on record, therefore not tenable and liable to be set aside.
- B. Incorrect. The appellant has been condemned unheard and not provided an opportunity of defence. Thus the appellant has not been treated according to law and rules.
- C. Not replied according to para C of the appeal. Moreover para C of the appeal is correct.
- D. Incorrect. The statement of the appellant is according to facts and material on record as the none of the statement recorded in the presence of the appellant nor any record examined in his presence.
- E. Incorrect. While para E of the appeal is correct.
- F. Incorrect. The appellant did not do any irregularities in the appointment of the junior clerk in the year 2011 and did all the appointments of junior clerk according to prescribed procedure.
- G. Incorrect. While para G of the appeal is correct.
- H. Incorrect. The respondent No.3 is not competent authority for the appellant to issue the impugned order.
- I. Incorrect. The appellant has not been treated according to law and rules.
- J. Legal.

It is, therefore, most humbly prayed that the appeal of appellant may kindly be accepted as prayed for.

APPELLANT
Mir Azam Khan.

Through:


(M. ASIF YOUSAFZAI)
&

(TAIMUR ALI KHAN)
ADVOCATES PESHAWAR.

AFFIDAVIT

It is affirmed and declared that the contents of rejoinder & appeal are true and correct to the best of my knowledge and belief.


DEPONENT

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

Service Appeal No. 1312/2014

Mir Azam Khan

VS

Education Deptt:

.....

REJOINDER ON BEHALF OF APPELLANT

.....

RESPECTFULLY SHEWETH:

Preliminary Objections:

(1-10) All objections raised by the respondents are incorrect and baseless. Rather the respondents are estopped to raise any objection due to their own conduct.

FACTS:

- 1 Admitted correct by the respondents as the service record of the appellant is in the custody of the concerned Deptt:

- 2 First portion of the para 2 is admitted correct, hence comments. The rest of the para is incorrect as the appellant on assuming charge of EDO came to know about the advertisement and the process of selection held in abeyance due to the transfer of his predecessor informed the Director (E&SE) with proper consultation of the departmental selection committee members and also requested to depute representative of the department of the schedule meeting. the selection committee meeting was held on 1.10.2012 and the chairman and the members of the committee were present at the time of interview and signed the merit list. After the conclusion of the codal formalities, the appellant issued the appointment order of the junior clerk, which means that the appellant has not done any guilty of law, rules on the subject in the

preparation of merit list, selection and subsequent appointment of the junior clerk.

- 3 Incorrect. the appellant did not concealed the facts as the appellant did all the appointments of junior clerk according to merit list, Esta Code and recruitment Policy and did not do any irregularities in appointment of junior clerk.
- 4 Incorrect. the appellant did not do any irregularities in the appointment of the junior clerk in the year 2011, but due to unknown reason and specially for not considering the political appointments, pressurized by the MPA and local Minister, the appellant was given false charge sheet for making illegal appointment of the junior clerk in the year 2011 without observing codal formalities. However the appellant submitted his reply to the charge sheet and denied all allegations.
- 5 Incorrect. The inquiry was not conducted according to law and rules as the enquiry was conducted at the back of the appellant wherein the appellant was not allowed to cross examine the witnesses and impeach the credibility of the witnesses and record. Moreover the appellant has denied all the allegation as contained in the charge sheet and never confused that he has issued the illegal appointment orders.
- 6 Incorrect. The said inquiry was not lawful as it was not conducted according to the prescribed procedure and reply to the show cause notice the appellant again denied all the allegations with proof.
- 7 Incorrect. While para 7 of the appeal is correct.
- 8 Incorrect. The appellant was removed from the service vide order dated 18.6.2014 without adopting legal procedure under E&D Rules 2011. Therefore the appellant field review application which was not responded in statutory period of time.

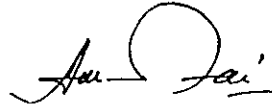
GROUND:

- A. Incorrect. The impugned order dated 18.6.2014 and not taking action on review application of the appellant are against the law, facts norms of justice and material on record, therefore not tenable and liable to be set aside.
- B. Incorrect. The appellant has been condemned unheard and not provided an opportunity of defence. Thus the appellant has not been treated according to law and rules.
- C. Not replied according to para C of the appeal. Moreover para C of the appeal is correct.
- D. Incorrect. The statement of the appellant is according to facts and material on record as the none of the statement recorded in the presence of the appellant nor any record examined in his presence.
- E. Incorrect. While para E of the appeal is correct.
- F. Incorrect. The appellant did not do any irregularities in the appointment of the junior clerk in the year 2011 and did all the appointments of junior clerk according to prescribed procedure.
- G. Incorrect. While para G of the appeal is correct.
- H. Incorrect. The respondent No.3 is not competent authority for the appellant to issue the impugned order.
- I. Incorrect. The appellant has not been treated according to law and rules.
- J. Legal.

It is, therefore, most humbly prayed that the appeal of appellant may kindly be accepted as prayed for.

APPELLANT
Mir Azam Khan

Through:



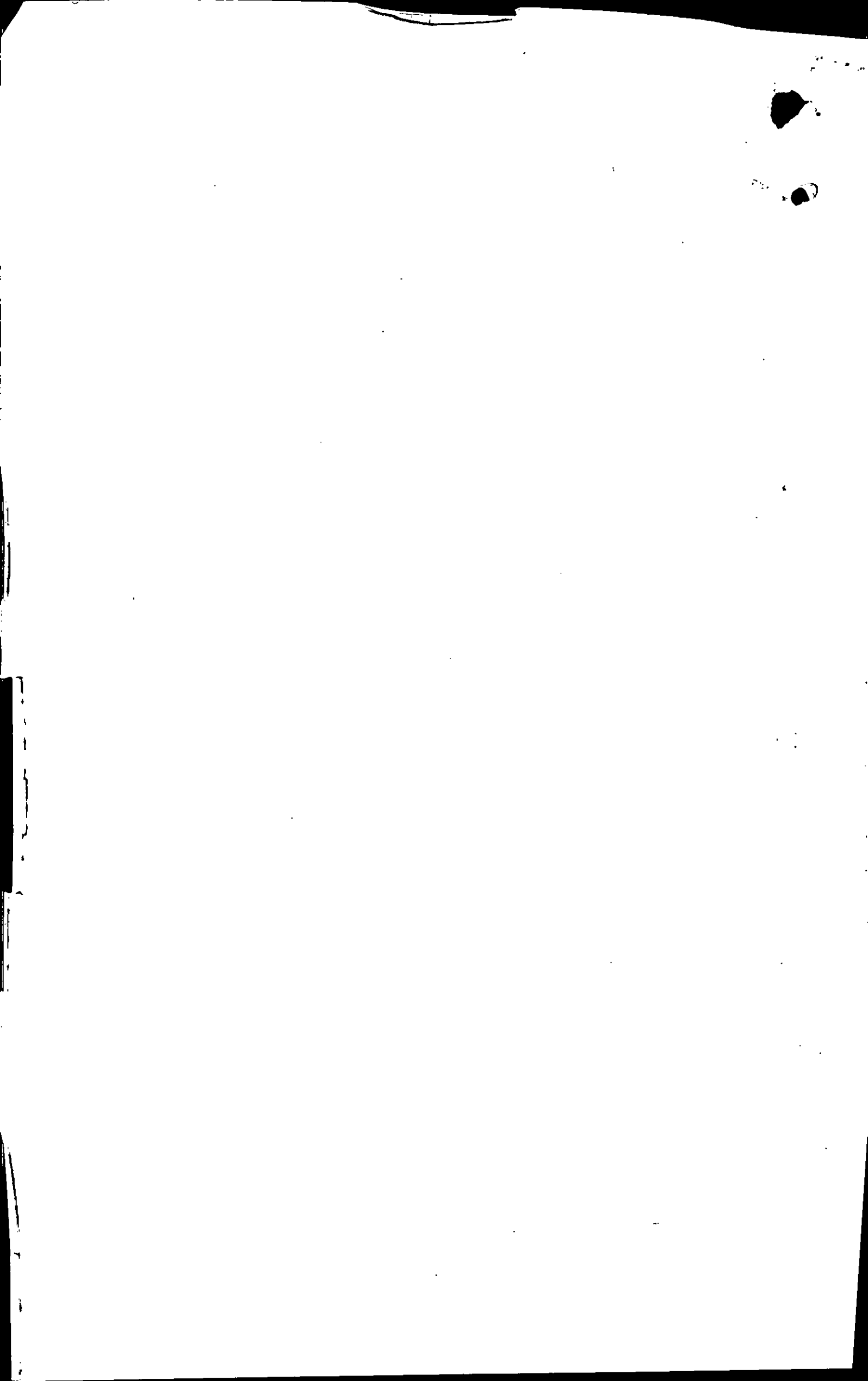
(M. ASIF YOUSAFZAI)
&

(TAIMUR ALI KHAN)
ADVOCATES PESHAWAR.

AFFIDAVIT

It is affirmed and declared that the contents of rejoinder & appeal are true and correct to the best of my knowledge and belief.


DEPONENT



یوکرین چھاپ سروسز کے لئے درخواستیں قبول کرنے کے لئے

معاونت ایڈوائس

بنا نام

دعویٰ اپیل

باعتبار شہرہ ایٹیکہ

مقررہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ آن مقام اپنا اور
کیسٹم سٹیم اگلس، خان سروڈنٹے ایڈووکیٹ، ہائی کورٹ کو وکیل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب
موصوف کو مقدمہ کی کل کاروائی کا کابل اختیار ہوگا نیز وکیل صاحب کو کرنے والی نامہ و آفیز نالٹہ و تیسرا نہایت
جواب دہی اور اقبال دعویٰ اور لہجہ تیز ڈگری کرنے اور دہلی چیک و ریپیہ اور مرضی دعویٰ اور درخواست
تسم کا تقدیر ان پر نظر کرانے کا اختیار ہوگا نیز بصورت عدم پیروی یا ڈگری کی طرف یا اپیل کی برآمدگی
اور تسم بھی دائر کرنے اپیل ٹکرائی و نظر ثانی و پیروی کرنے کا اختیار ہوگا اور بصورت ضرورت مقدمہ
کے کل یا جزوی کاروائی کے واسطے اور وکیل یا نثار قانونی کو اپنے ہمراہ یا اپنی بجائے تقریر کا اختیار ہوگا
اور صاحب مقرر شدہ کو بھی وہی جملہ مندرجہ بالا اختیارات حاصل ہوں گے اور اس کا ساتھ پیرواختہ منقولہ
قبول ہوگا اور دوران مقدمہ میں جو شرحیہ و ہر جانہ التوا مقدمہ کے سبب سے ہوگا اس کے مستحق وکیل صاحب
موصوف ہوں گے نیز بقایا و فرعیہ کی وصولی کرنے کا بھی اختیار ہوگا اگر کوئی تاریخ پیشی مقام روضہ
پر ہو یا فدیہ سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مندرجہ کریں۔
لہذا دالمت نامہ رکھ دیا کہ سند ہے۔

الرقوم

العبد العبد العبد

ارباب نیفاہ کمال
ایڈووکیٹ

مسٹر عبدالغنی خان صاحب
ایڈووکیٹ

مسٹر
عبد

امجد نواز
ایڈووکیٹ

Shah
Bakht



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**KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR**

No. 2143 /ST

Dated: 26/10 /2021

All communications should be addressed to the Registrar KPK Service Tribunal and not any official by name.

Ph:- 091-9212281
Fax:- 091-9213262


To

The Secretary E&SEb,
Government of Khyber Pakhtunkhwa
Peshawar.

Subject: JUDGMENT IN APPEAL NO. 1213/2014 MR. MIR AZAM KHAN.

I am directed to forward herewith a certified copy of Judgement dated 14.10.2021 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

APPEAL No.1312/2014

Mr. Mir Azam Khan.

Vs

Education Department

APPLICATION FOR IMPLEADMENT OF LEGAL HEIR.

RESPECTFULLY SHEWETH:

1. That the above noted appeal is pending before this august Tribunal.
2. That the appellant has been died during the pendency of appeal on 11.01.2017
3. That the appellant left behind a widow and one daughter (Unmarried).
4. That valuable rights of pensionary benefits involved in the appeal, therefore, it would be just to implead the widow.

Razia Begum

W/o

Mir Azam Khan

R/o village Wali Khan Maidad Khel, Tehsil Sarai Naurang,
District Marwat.

It is, therefore, most humbly prayed that the applicant may be impleaded as appellant being legal heir of appellant

Applicant

Razia Begum

Through


(M. ASIF YOUSAFZAI)

ADVOCATE SUPREME COURT,
PESHAWAR.



حکومت خیبر پختونخوا پاکستان

THE GOVT OF KHYBER PAKHTUNKHWA PAKISTAN

دولت سرٹیفکیٹ

DEATH CERTIFICATE

CRMS No: D112029-17-0006

FORM No: P06025450

NATURE OF DEATH: NORMAL

درخواست دہندہ کا نام: محمد جمیل خان

درخواست دہندہ کا شناختی کارڈ نمبر: 1120103326589

پتہ: گاؤں ولی خان میداد خیل، تحصیل سرانے نورنگ، ضلع لکی مروت

مدت عمارت	وہ موت	تاریخ دفن	جائے وفات	مذہب	جنس	تاریخ پیدائش	والد کا نام / شناختی کارڈ نمبر	مستوفی کا نام / شناختی کارڈ نمبر
	طبعی	12-1-2017	لکی ہسپتال	اسلام	مرد	25-5-1955	نہی شاہ	سیرا عم 1120103326595

APPLICANT NAME: MUHAMMAD JAMIL KHAN

APPLICANT CNIC: 1120103326589 RELATION WITH DECEASED: Father

ADDRESS: VILLAGE: WALI KHAN MAIDAD KHEL,

TEHSIL: SERAJ NAURANG, DISTRICT: LAKKI MARWAT

DECEASED NAME/ CNIC	FATHER NAME/ CNIC	DATE OF BIRTH	SEX	RELIGION	PLACE/DATE OF DEATH	DATE OF BURIAL	REASON OF DEATH	SICKNESS PERIOD
MIR AZAM 1120103326595	NABI SHAH	25-5-1955	MALE	ISLAM	DHQ HOSPITAL LAKKI 11-1-2017	12-1-2017	NATURAL	

BLOOD RELATION PERSON CAUSING DISPOSAL OF BODY

لکھی رشتہ دار نہ نہیں کنندہ

NAME: MUHAMMAD JAMIL KHAN

CNIC: 1120103326589

GRAVEYARD NAME: WALI KHAN MAIDAD KHEL

1120103326589

نام: محمد جمیل خان
شناختی کارڈ نمبر:

کمبرستان کا نام: ولی خان میداد خیل

تاریخ اندراج: 13-2-2017

تاریخ اجراء: 13-2-2017

اسانی معلومات: گولی لگنے سے

ENTRY DATE: 13-2-2017

ISSUE DATE: 13-2-2017

ADDITIONAL INFORMATION: MADERD

SECRETARY
VIC
Dist. Lakki Marwat

نار ابو سندیکو خیل (29) ضلع لکی مروت

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Appeal No. 1312 /2014

Mr. Mir Azam Khan

V/S

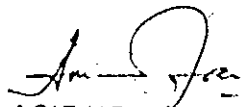
Government of KPK


I N D E X

S.No	Documents -	Annexure	Page No.
1.	Memo of Appeal	-----	01-04
2.	Copy of Order dated 26.12.2011	- A -	05
3.	Copy of Notification dated 14.12.2011	- B -	06
4.	Copy of Advertisement	- C -	07
5.	Copy of letter	- D -	08
6.	Copy of meeting minutes	- E -	09-12
7.	Copy of appointment order	- F -	13-14
8.	Copy of charge sheet	- G -	15
9.	Copy of statement of allegation	- H -	16-17
10.	Copy of reply to charge sheet	- I -	18
11.	Copy of show cause	J	19-19-A
12.	Copy of reply to show cause	K	20-21
13.	Copy of letter dated 12.5.2014	L	22
14.	Copy of the removal order dated 18.6.2014	M	23
15.	Copy of review application	N	24-28
16.	Vakalat nama	-----	29

APPELLANT

THROUGH:


(M. ASIF YOUSAFZAI)
ADVOCATE, PESHAWAR.


(TAIMUR ALI KHAN)
ADVOCATE, PESHAWAR

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

APPEAL NO. _____/2014

Mir Azam Khan-Ex EDO (BS-19),
(E&SE) Lakki Marwat

(Appellant)

VERSUS

1. Government of KPK through Chief Secretary, KPK Peshawar.
2. Chief Secretary of KPK, Peshawar.
3. Secretary Education (E&SE), Peshawar.
4. Director Education (E&SE), Peshawar.

(Respondents)

APPEAL UNDER SECTION 4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 READ
WITH RULE 19 OF E&D RULES 2011 AGAINST THE ORDER
DATED 18.6.2014, WHERE BY THE APPELLANT WAS
~~REMOVED FROM THE SERVICE AND AGAINST NOT
TAKING ACTION ON DEPARTMENTAL APPEAL WITH IN
STATUTORY PERIOD OF 60 DAYS.~~

PRAYER:

ON THE ACCEPTANCE OF THIS APPEAL, THE ORDER
DATED 18.6.2014 MAY BE SET ASIDE AND THE
APPELLANT MAY BE REINSTATED WITH ALL BACK AND
CONSEQUENTIAL BENEFITS WITH FURTHER PRAYER
FOR AWARING ANY OTHER REMEDY NOT
SPECIFICALLY PRAYED FOR AND THIS AUGUST
TRIBUNAL DEEMS FIT AND IN FAVOUR OF APPELLANT.

R. SHEWTH:

1. That the appellant joined the Education Department in the year 28-4-1988 and lastly the appellant was as EDO Lakki Marwat vide order dated 26.12.2011. The predecessor of the appellant namely Abdul Malik was transferred from the post of EDO E&SE Lakki Marwat to GHSS, Khairabad, Mardan as Principal vide order dated 14.12.2011 and the appellant was posted at his place as EDO Lakki Marwat. (Copy of orders is attached as Annexure-A and B)

2. That the predecessor of the appellant while he was having the post of EDO Lakki Marwat had advertised some posts including the post *of Junior Clerks in the daily Newspaper Mashriq* dated 16.10.2011. On the basis of that advertisement many people applied for the post as advertised in that advertisement and after that selection process was carried out by the Predecessor of the appellant but due to his transfer that process was stopped and the record was entrusted to Office Assistant Mir Ajab Khan. (Copy of Advertisement is attached as Annexure-C)
3. That on assuming the charge of EDO the appellant came to know about the advertisement and the process of selection held in abeyance due to transfer of his predecessor and also the hue and cry of the people who applied for the advertised posts, therefore the appellant forthwith informed the Director (E&SE) with proper constitution of the departmental selection committee by showing all the member of the committee and also requested to depute representative of the department of the schedule meeting. The selection committee meeting was held on 1.10.2012 and the chairmen and the members of the committee were present at time of interview and also signed merit list. After the conclusion of codal formalities, the appellant issued the appointment order of Junior Clerks, who are still in service and regularly performing his duties and getting salaries. Copies of letter and Minutes of the Selection Committee and appointment order are attached as Annexure-D, E and F.
5. That due to unknown reason and especially for not considering the political appointments , pressurized by the MPA and Local Minister. The appellant was given false charge sheet for making illegal appointment of the junior clerks in the year 2011 without observing all codal formalities. The appellant however submitted his reply to the charge sheet and denied all allegations. (Copies of Charge sheet, Statement of allegations and Reply to charge-sheet are attached as Annexure-G, H and I).
6. That then the enquiry was conducted at the back of the appellant wherein the appellant was not allowed to cross examine the witnesses and impeach the credibility of witnesses and record. As the appellant was not provided the findings of enquiry, therefore, the appellant unable to annex the same with the appeal.
7. That on the basis of so-called enquiry, show cause was issued to the appellant on 7.3.2014 which was duly replied by the appellant and

the appellant again rebutted all the allegations with proof. (Copies of Show cause and Reply are attached as Annexure-J and K)

8. That the appellant was informed vide order dated 12.5.2014 to appear before the Secretary Establishment Department for personal hearing scheduled on 16.5.2014 and as such violated Rules 14 of E&D Rules, 2011. The appellant was heard by the Secretary Establishment who was stranger to the proceeding and was not competent authority. (Copy of letter is attached as Annexure-L)
9. That on 18.6.2014 the appellant was removed from service against which the appellant filed review application on 14.7.2014 and waited for statutory period as specified in the E&D Rules, 2011 but no reply has been received by the appellant, therefore, the appellant is constrained to file the Service Appeal on the following grounds amongst the others:(copy of the removal order and review application are attached as Annexure-M&N)

GROUND:

- A) That the impugned order dated 18.06.2014 and not taking action on the departmental appeal of the appellant are against the law, facts, norms of justice and material on record, therefore not tenable and liable to be set aside.
- B) That the appellant has been condemned unheard and has not been treated according to law and rules.
- C) That the enquiry report is based on the statement of Mir Ajab Khan Office Assistant with whom the record was lying and got appointment of his son namely Sabghatullah but the said Mir Ajab Khan has been left unpunished which proved the partiality of respondents.
- D) That none of the statement recorded in the presence of appellant nor any record examined in his presence. Even the appellant was not allowed to cross exam the witness and record relied upon by the respondents against him which caused great miscarriage of injustice to the appellant. Thus, the impugned order is liable to be set aside.
- E) That the appellant has been discriminated because the other members of the committee, the representatives of the Admn: Department are either left free or penalized with minor penalty despite the fact that they signed and attended the meeting of the selection committee and finalized the merit list.

- F) That the appellant has done nothing illegal and observed all codal formalities and made appointment on merit basis without accepting the pressure of the political figure and outsiders .
- G) That the Rules-14 of the E&D Rules, 2011 is violated because in the Rules the personal hearing is to be done by the competent authority and not by other officials but in the case of appellant, the appellant was not heard by the competent authority rather by the Secretary Establishment Department who was stranger to the proceedings.
- H) That even the impugned order has not been signed by the competent authority and issued by respondent No.3 who was not competent for such action under the rules.
- I) That the appellant has not been treated according to law and rules.
- J) That the appellant seeks permission to advance others grounds and proofs at the time of hearing.

It is, therefore most humbly prayed that the appeal of appellant may be accepted as prayed for.

APPELLANT
MIR AZAM KHAN

THROUGH:

(M. ASIF YOUSAFZAI)
ADVOCATE, PESHAWAR

&
(TAIMUR ALI KHAN)
ADVOCATE, PESHAWAR



GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT

A
5

NOTIFICATION

Dated Peshawar the December 26, 2011

NO.SO(S/M) E&SED/4-16/2011/EDOs/ Principals: The Competent Authority is pleased to order the posting/ transfer of the following officers on the posts/ stations mentioned against their names in the interest of public service and relaxation of ban with immediate effect:-

S. #	Name & Designation with present place of posting	Transfer To	Remarks
1	Mr. Mir Azam Khan, Principal (BS-19) GHSS Shahbaz Garhi Mardan.	EDO (BS-19) E&SE Lakki Marwat.	Against Vacant Post
2.	Mr. Imtiaz-ul-Haq, Principal (BS-19) GCMHS No. 1 Kohat.	EDO (BS-19) E&SE Kohat.	Vice S. No.3
3.	Mr. Nazir Ahmed, EDO (BS-19) E&SE Kohat.	Services placed at the disposal of Directorate E&SE Peshawar for further posting/ adjustment.	----
4.	Mr. Jaffar Mansoor Abbasi, Principal (BS-19) GHSS Lora Abbottabad.	Principal (BS-19) GHSS No. 1 Abbottabad.	Vice S. No.5
5.	Mr. Ziauddin, Principal (BS-19) GHSS No. 1 Abbottabad.	Principal (BS-19) GHSS Lora Abbottabad.	Vice S. No.4
6.	Mr. Abdul Khaliq, DO (BS-18) E&SE Kohat.	Principal (BS-19) GCMHS No. 1 Kohat.	Vice S. No.2 in his own pay & scale as a stop gap arrangement till further orders
7.	Mr. Iftikhar, Principal (BS-18) GHS Dhoda Kohat.	DO (BS-18) E&SE Kohat.	Vice S. No.6

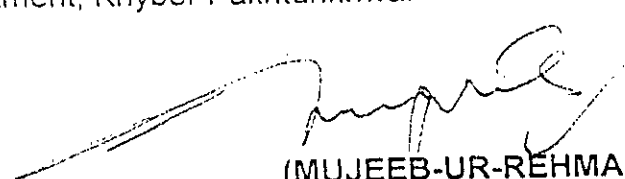
2. No TA/DA is allowed.

SECRETARY

Endst: of even No. & Date

Copy forwarded to the:

1. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
2. Accountant General, Khyber Pakhtunkhwa Peshawar.
3. Director, E&SE Khyber Pakhtunkhwa, Peshawar.
4. District Accounts Officers concerned.
5. Executive District Officer concerned.
6. PS to Minister E&SE, Khyber Pakhtunkhwa.
7. Incharge EMISE E&SE Department.
8. PS to Secretary E&SE Department, Khyber Pakhtunkhwa.
9. Officers concerned.
10. Office order file.


(MUJEEB-UR-REHMAN)
SECTION OFFICER (SCHOOLS/MALE)

34
6
B
6
14 Dec. 2011 09:57:11 PM



GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT

Dated Peshawar the December 14, 2011

NOTIFICATION

NO.SO(S/M)/E&SED/4-16/2011/EDOs/Principals (BS-19): The Competent Authority is pleased to order the posting/ transfer of the following officers (BS-19) on the posts/ stations mentioned against their names in the interest of public service and in relaxation of ban with immediate effect:-

S.#	Name With Present Posting	Transfer To	Remarks
1.	Mr. Raj Muhammad, Principal (BS-19) GHSS No. 1 Peshawar City.	EDO (BS-19) E&SE Buner.	Vice S. No. 2 (He will take charge 01-01-2012)
2.	Mr. Shamas Khan, EDO (BS-19) E&SE Buner.	Additional Director (BS-19) P&D Directorate of E&SE.	Against Vacant Post (He will take charge on 01-01-2012)
3.	Mr. Abdul Malik, EDO (BS-19) E&SE Lakki Marwat.	Principal (BS-19) GHSS Khair Abad Mardan.	Against Vacant Post
4.	Mr. Jaffar Mansoor Abbasi, EDO (BS-19) Management Cadre (awaiting posting).	Principal (BS-19) GHSS Lera Abbottabad.	-do-
5.	Mr. Muhammad Riaz, FDO (BS-19) E&SE Haripur Management Cadre.	EDO (BS-19) E&SE Abbottabad.	Vice S. No. 6
6.	Syed Hamid Melarood, EDO (BS-19) E&SE Abbottabad MC.	EDO (BS-19) E&SE District Torghar.	Vice S. No. 12
7.	Mr. Abdul Qudus, Principal (BS-19) GHSS Kalabat Haripur	EDO (BS-19) E&SE Haripur.	Vice S. No. 10
8.	Mr. Zia-ud-Din, EDO (BS-19) MC (awaiting posting)	Principal (BS-19) GHSS No. 1 Abbottabad.	Against Vacant Post
9.	Mr. Abour-Rashid, EDO (BS-19) E&SE Bannu.	EDO (BS-19) E&SE Dir Upper.	-do-
10.	Mr. Saraf Ali Shah, Principal (BS-19) GHS Serai Niamat Khan Haripur.	EDO (BS-19) E&SE Bannu.	Vice S. No. 9
11.	Mr. Gohar Ali, EDO (BS-19) MC (awaiting posting).	Principal (BS-19) GCMHS No. 3 Mardan.	Against Vacant Post
12.	Mr. Bahader Khan, EDO (BS-19) E&SE Torghar.	EDO (BS-19) E&SE Mardan.	-do-
13.	Mr. Hassanat Gul, Principal (BS-19) GHSS Pabbi Distt: Nowshera.	EDO (BS-19) E&SE Nowshera.	-do-
14.	Mr. Hakimullah, Principal (BS-19) GHSS Umarzai Charsadda.	EDO (BS-19) E&SE Peshawar.	Already holding temporary charge

Secretary to Govt. of Khyber Pakhtunkhwa
Elementary & Secondary Education
Department

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

No. 7439/LM/DPC

Dated. 20-09-2012.

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

Subject:- MEETING OF THE DEPARTMENTAL SELECTION/PROMOTION COMMITTEE FOR
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT LAKKI MARWAT.

Memo:- Reference Secretary to Govt. of Khyber Pakhtunkhwa Elementary & Secondary Education
Department Office order No. SOG/E&SED/1-31/2011 dated: 08-09-2011 on the subject recruitment plan.
Departmental selection promotion committee at District level for post in BPS-01 to BPS-10.

- | | |
|---|----------|
| 1. EDO concerned | Chairman |
| 2. One member to be nominated by DCO | Member |
| 3. One member to be nominated by ADMN: Deptt: | Member |
| 4. District Officer concerned | Member |

A meeting of departmental selection/promotion committee is scheduled to held in the
personal office of the undersigned on 1st October 2012 at 10:00 (AM).

You are requested to please depute your representative to attend the meeting on the due
date, venue and time.

(Copy of working paper is attached)

Approved by DCO
[Signature]

Executive District Officer
(E&S) Education Lakki Marwat

Endst: No. 7440-41/LM/DPC Dated. 20-09-2012

- Copy to the:-
1. District Coordination Officer Lakki Marwat for information with the request to depute your representative to attend the meeting on the above date and time please.
 2. District officer Local Office for information with the request to attend the meeting on the above date and time please.

[Signature]
Executive District Officer
(E&S) Education Lakki Marwat

Dated. 20-09-2012

Reference Secretary to Govt. of Khyber Pakhtunkhwa Elementary & Secondary Education
Department Office order No. SOG/E&SED/1-31/2011 dated: 08-09-2011 on the subject recruitment plan.
Departmental selection promotion committee at District level for post in BPS-01 to BPS-10.

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

ATTENDANCE ROLL FOR DEPARTMENTAL PROMOTION / SELECTION COMMITTEE
MEETING TO BE HELD ON 01-10-2012 AT 10:00 (AM) IN THE OFFICE OF THE EXECUTIVE
DISTRICT OFFICER (E&S) EDUCATION LAKKI MARWAT.

S.No	Name of Officer	Designation	Signature	Remarks
1	Noor Khan Azam	SO (Budget) E&S Dept.		DPC of Junior Clerk
2	Sia Fuleh	PS R/O DCO Laki		- do -
3	Muhammad Ayub	DO ESSE		- do -
4	Mir Azam	EDO (ESSE) Laki		- do -

MERIT LIST FOR THE APPOINTMENT OF JUNIOR CLERK

S.No	Name	Father's Name	Village	SSC		Typing Marks	
				obtained	Total	Obtained	Total
				623	1050	22.3	30
1	Sibghat Ullah	Mir Ajab Khan	Lari Adda Lakki Marwat	374	850	22.2	30
2	Aftab Ullah	Behram Khan	Kotka Behram Khan Saba Khel Naser Khel	514	1050	21.8	30
3	Naveed Ullah	Nasr Ullah Khan	Mama Khel	493	1050	21.5	30
4	Sulaiman Khan	Badiu Zaman	Nar Hakim Khan	516	1050	21.4	30
5	Mikmat Ullah	Rahmat Ullah Khan	Kotka Najeeb	583	1050	21.2	30
6	Mohammad Imran	Mohammad Aycub	Hakim Topa	633	900	21	30
7	Sifat Ullah Khan	Amir Nawaz Khan	Ahmad Khel	534	850	20	30
8	Mohammad Aftab Khan	Mohammad Aycub	Zafar Saeed Khel	364	850	19.8	30
9	Rafiqullah Khan	Arif Ullah Khan	Nar Azad Chandu Khel	496	850	19.4	30
10	Noor Zaman	Bahadur Zaman	Abba Khel	487	850	17	30
11	Waqas Gul	Khushdil Khan	Nar Sahib Dad Mailed Khel	559	900	16.9	30
12	Ozaid Ullah Khan	Habib Ullah Khan	Naser Khel	363	850	12.2	30
13	Latif U Rahman	Maz Ullah Khan	Tajazai	355	850	11	30
14	Rahmat Ullah	Khan Mir	Tajori	384	900	10.5	30
15	Sohail Abbas	Syed Tofail Hussain Shah	Moh: Syedan Lakki	360	850	10	30
16	Mohammad Khalil	Mehrban Khan	Gul wali Abad				

DA

1 MEMBER

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

2 MEMBER

Chairman
E&SE Deptt: Lakki Marwat

10


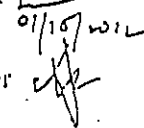

MINUTES OF THE MEETING OF DEPARTMENTAL PROMOTION/SELECTION COMMITTEE

HELD ON 1st October AT 10.00 AM AT LAKKI MARWAT

A meeting of departmental promotion/selection committee was held on 01/10/2012 at 10.00 am in the office of the Executive District Officer (E&SE) Education Lakki Marwat.

The following attended the meeting.

- 1 Mr. Mir Azam Khan EDO (E&S) Education Lakki Marwat
- 2 Mr. Noor Alam Khan Wazir, SO (Budget) Admn: Deptt: (E&SE)
- 3 Representative of District Coordination Officer Lakki Marwat
- 4 Mr. Mohammad Ayub Khan DO (E&SE) Education Lakki Marwat

Chairman 
 Member 01/10/2012 
 Member 
 Member

The meeting was started with the recitation of Holy Quran. The Chairman welcomed to all the participants and stated that some posts of Junior Clerks are lying vacant in (E&SE) Lakki Marwat on which the candidates on merit in attached merit list may be appointed as Junior Clerk in BPS-07 on the available vacancies as per laid down policy with immediate effect.

A) Nature of Appointment:-

Initial recruitment appointed Junior Clerk BPS-07

B) Sanction Strength

86 posts of junior clerk have been sanctioned in Elementary and Secondary Education Department Lakki Marwat.

C) Current Position:-

Out of 86, 11 eleven posts of Junior Clerk are lying vacant since long due to Promotion, newly created and retired in the following High/Higher (M/F) Schools, the detail is as under:-

S.NO	Name of School	Junior Clerk	Remarks
1	GHS Bachakan Ahmad Zai	01	Retired
2	GHS Nar Mohammad Khan Ghazni Khel	01	Due to promotion
3	GHS Shakh Quli Khan	01	-do-
4	GHS Masha Mansoor	01	-do-
5	GHS Nar Azad Chandu Khel	01	Newly Created Post
6	GHS Bachakan Ahmad Zai	01	-do-
7	GHS Aghzar Khel	01	-do-
8	GHS Wanda Samandi	01	-do-
9	GHS Abba Khel	01	-do-
10	GHS Kheru Khel Pacca	01	Terminated (due to long absence)
11	GHS Mohammad Amir Walai	01	V.Post



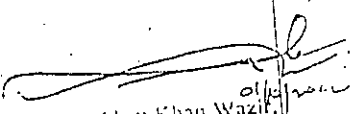
position explained above, the total number of vacant posts of Junior Clerks (DPS-07) lying available to
 selection on merit amongst eligible, candidates of the merit list of Junior Clerk are eleven (11) to be
 the existing rules. As per undisputed/Final Merit list of Junior Clerks in Elementary & Secondary
 Lakki Marwat (Merit List Copy attached), the panel of eleven (11) candidates on merit list of Junior
 placed before the departmental promotion/selection committee for perusal and appointment against the
 available vacancies as indicated above.

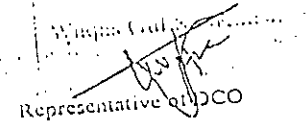
The detail of the candidates according to the merit list are as under.

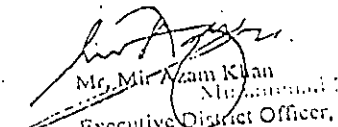
S.No	Name and father, name of candidate
1	Sibghatullah S/O Mir Ajab
2	Aftab Ullah S/O Behram Khan
3	Naveed ullah S/O Nasar Ullah
4	Sulaiman Khan S/O Badiu Zaman
5	Hikmat Ullah S/O Rehmat Ullah Khan
6	Mohammad Imran S/O Mohammad Ayub
7	Sifat Ullah Khan S/O Amir Nawaz
8	Mohammad Aftab Khan S/O Ayub Khan
9	Rafi Ullah Khan S/O Arif Ullah Khan
10	Noor Zaman S/O Akbar Zaman
11	Waqas Gul S/O Khushdil Khan

Waiting list

S. No	Name and Father Name
12	Obid Ullah Khan, S/O Habib Ullah Khan
13	Latif ur Rehman, S/O Maaz Ullah Khan
14	Rehmat Ullah, S/O Khan Mir
15	Sohail Abbas, S/O Syed Tofail Hussain Shah
16	Muhammad Khalid, S/O Mehraban Khan


 Noor Alam Khan Wazir,
 SO (Budge)
 (E&SE) Edu: Deptt:
 Ehyber Pakhtun Khwa
 Member


 Mohanvaid Ayub
 District Officer (M)
 (E&S) Education Lakki


 Mr. Mir Azam Khan
 Executive District Officer,
 (E&SE) Edu: LAKki Marwat
 chairman

EXECUTIVE DISTRICT OFFICER (E&S) EDUCATION LAKKI MARWAT

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APPOINTMENT ORDER:-
Consequent upon the recommendations of District Selection Committee the appointment below name candidate are hereby appointed as Junior Clerk BPS-07, Rs: (5800-320-15400) plus usual allowances as admissible under the rules on regular basis, under the provision of Establishment & Administration Department circular bearing No. SOR-6 (E&AD) 13-1/2005 date: 10-08-2005 on the term and condition given below in the interest of public service from the date of taking over charge.

S. No	Name	Father Name and Address	To be posted at	Remark
1	Sibghat Ullah	Mir Ajab Khan, R/O Lakki, (Hajjad Abad)	GHS, Baehkan Ahmad Zai	A.V.Post
2	Aftab Ullah	Behram Khan, R/O Kotka Behram Khan Saba Khel	GHS, Nar Mohammad Khan Ghazni Khel	-do-
3	Naveed Ullah	Nasar Ullah, R/O Mama Khel	GGHS, Baehkan Ahmad Zai	Newly created post
4	Sulaiman Khan	Badi-u-Zaman, R/O Nar Hakim Khan	GHS, Shakh Quli Khan	A.V.Post
5	Hikmat Ullah	Rehmat Ullah Khan, R/O Kotka Najeeb	GHSS, Masha Mansoor	A.V.Post
6	Mohammad Imran	Mohammad Ayub, R/O Hakim Topa	GHSS, Abba Khel	-do-
7	Sifat Ullah Khan	Amir Nawaz, R/O Ahmad Khel	GHS, Azghar Khel	Newly created post
8	Mohammad Aftab Khan	Ayub Khan, Lakki Saeed Khel	GHS, Kheru Khel Pacea	A.V.Post
9	Rafi Ullah Khan	Arif Ullah Khan, R/O Nar Azad Chandu Khel	GGHS, Nar Azad Chandu Khel	Newly created post
10	Noor Zaman	Akbar Zaman, R/O Abba Khel	GHS, Wanda Samandi	-do-
11	Waqas Gul	Khushdil Khan, R/O Nar Sahibdad Maidad Khel	GHS, Mohammad Amir Wali	A.V.Post

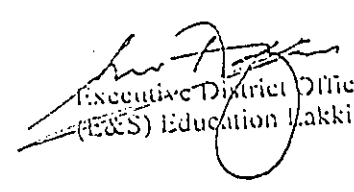
TERMS & CONDITIONS:-

- Their appointment will be considered regular without pension and gratuity in terms of section 19 of NWFP, Civil servant 1973, as amended vide NWFP, Civil Servant (Amendment) act 2005. They will however be entitled to contributory provident fund in such a manner and at such a rate as may be prescribed by the Govt.
- Their services will be liable to termination on one month notice from either side. In case of resignation without notice one month pay/allowances will be refunded to the Govt.
- Their services will be governed by such rules and the Govt. may issue regulations as from time to time.
- Their services will be terminated at any time in case their performance is found un-satisfactory 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.
- Charge reports should be submitted to all concerned.
- No TADA is allowed.
- The undersigned will check and verify the certificates/ Degrees of the above named candidates from the concerned Board/ University before the drawl of pay.
- The appointment is liable to termination if the appointees failed to take over charge within fifteen days of the commencement date.
- The undersigned reserves the rights of amendment in the appointment order in case of a mistake.
- They are required to produce their Health and age certificates from the Medical Superintendent (DHO), Hospital (Tajazai) Lakki Marwat.

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

Endst: No. 7675-89 Dated 01/10/2012.

- Copy to the:-
- Director (E&S) Education Khyber Pakhtunkhwa, Peshawar.
 - District Coordination Officer, Lakki Marwat.
 - District Accounts Officer, Lakki Marwat.
 - Principal/Lead Master/Lead Mistress concerned schools, Lakki Marwat.
 - Supdt: Establishment Local office.


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

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

CORRIGENDUM:-

Please read the father name of Mr. Noor Zaman, "Bahadar Zaman" instead of Akbar Zaman R/O Abba Khel, regarding his appointment as a Junior Clerk issued vide this office order Endst.No.7675-89 Dated 01-10-2012 (at S.No.10).

Executive District Officer
(E&S) Education Lakki Marwat

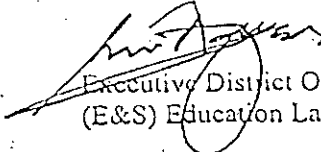
Endst.No. 7761-64

Dated 02-10-2012

Copy to the:-

1. District Accounts Officer, Lakki Marwat.
2. Medical Superintendent DHQ, Lakki Marwat.
3. Head Master GHS, Samandi, Lakki Marwat.
4. Candidate concerned.

regarding his appointment as a Junior Clerk


 Executive District Officer
 (E&S) Education Lakki Marwat

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CHARGE SHEET

I, Pervez Khattak, Chief Minister, Khyber Pakhtunkhwa as Competent Authority, hereby charge you, Mr. Mir Azam, Ex-District Education Officer (BS-19) (Male) Lakki Marwat (Now services placed at the disposal of FATA Education) as follows:-

That you, while posted as District Education Officer (BS-19) (Male) Lakki Marwat committed the following irregularity:

"Made illegal appointments of Junior Clerks (BS-7) in E&SE District Lakki Marwat in the year 2011 without observance of all codal formalities by adopting favoritism".

2- By reason of the above, you appear to be guilty of misconduct under Rule-3 of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011 and have rendered yourself liable to all or any of the penalties specified in Rule-4 of the Rules ibid.

3- You are, therefore, required to submit your written defence within seven days of the receipt of this Charge Sheet to the inquiry officer/ inquiry committee, as the case may be.

4- Your written defence, if any, should reach the inquiry officer/ inquiry committee within specified period, failing which it shall be presumed that you have no defence to put in and in that case ex-parte action shall be taken against you.

5- Intimate whether you desire to be heard in person.

6- A Statement of Allegations is enclosed.

Pervez Khattak
(PERVEZ KHATTAK)
CHIEF MINISTER KHYBER PAKHTUNKHWA
COMPETENT AUTHORITY
28.7.2012.

Mr. Mir Azam,
Ex-District Education Officer (BS-19) (Male) Lakki Marwat,
(Now services placed at the disposal of FATA Education).

(16) H

(13)

DISCIPLINARY ACTION

I, Pervez Khattak, Chief Minister, Khyber Pakhtunkhwa as Competent Authority, am of the opinion that, Mr. Mir Azam, Ex-District Education Officer (BS-19) (Male) Lakki Marwat (Now services placed at the disposal of FATA Education), has rendered himself liable to be proceeded against, as he committed the following acts/omissions, within the meaning of Rule-3 of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011.

STATEMENT OF ALLEGATIONS

"Made illegal appointments of Junior Clerks (BS-7) in E&SE District Lakki Marwat in the year 2011 without observance of all codal formalities by adopting favoritism".

2- For the purpose of inquiry against the said accused with reference to the above allegations, an inquiry officer/ inquiry committee, consisting of the following, is constituted under Rule 10(1)(a) of the ibid Rules:

- i. Mr. Abdul Ghafoor Baig Spt. Secretary (BS-20)
- ii. Mr. Attaullah Khan Principal (BS-20) Rte (M) Peshawar
- iii. _____

3- The inquiry officer/ inquiry committee shall, in accordance with the provisions of the ibid Rules, provide reasonable opportunity of hearing to the accused, record its findings and make within thirty days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused.

4- The accused and a well conversant representative of the department shall join the proceedings on the date, time and place fixed by the inquiry officer/ inquiry committee.

Pervez Khattak
(PERVEZ KHATTAK)
CHIEF MINISTER KHYBER PAKHTUNKHWA
COMPETENT AUTHORITY
29-7-2013

Mr. Mir Azam,
Ex-District Education Officer (BS-19) (Male) Lakki Marwat,
(Now services placed at the disposal of FATA Education).

17 RB



GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT

NOTIFICATION

Dated Peshawar the August 01, 2013

NO.SO(S/M)E&SED/4-17/2013/Mir Azam Ex-DEO Lakki Marwat: The Competent Authority is pleased to constitute enquiry committee comprising of the following officers to conduct formal enquiry against Mr. Mir Azam, Ex-District Education Officer (BS-19) (Male) Lakki Marwat (Now Principal BS-19 GHS Kotka Habibullah FR Bannu) for the charges mentioned in the Charge Sheet and Statement of Allegations with immediate effect:-

- i. Mr. Abdul Ghafoor Baig, Special Secretary (BS-20), Higher Education Archives & Libraries Department, Khyber Pakhtunkhwa, Peshawar.
- ii. Mr. Attaullah Khan, Principal (BS-20), Regional Institute for Teachers Education (Male) Peshawar.

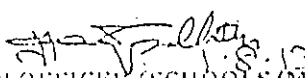
2. The enquiry committee shall submit recommendations/ report to the Competent Authority within thirty (30) days positively. (Copies of Charge Sheet & Statement of Allegations are enclosed).

SECRETARY

Encls: of even No. & Date.

Copy forwarded to the:

1. Director E&SE, Khyber Pakhtunkhwa, Peshawar.
2. Mr. Abdul Ghafoor Baig, Special Secretary (BS-20), Higher Education Archives & Libraries Department, Khyber Pakhtunkhwa, Peshawar (Copies of charge sheet & statement of allegations are enclosed).
3. Mr. Attaullah Khan, Principal (BS-20), Regional Institute for Teachers Education (Male) Peshawar (Copies of charge sheet & statement of allegations are enclosed).
4. Mr. Mir Azam, Ex-DEO (Male) Lakki Marwat (Now Principal GHS Kotka Habibullah FR Bannu) (Copies of charge sheet & statement of allegations are enclosed).
5. PSO to Chief Minister Khyber Pakhtunkhwa, Peshawar.
6. PS to Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
7. PS to Secretary, E&SE Department, Khyber Pakhtunkhwa, Peshawar.
8. PS to Special Secretary, E&SE Department, Khyber Pakhtunkhwa, Peshawar.
9. PS to Additional Secretary, E&SE Department, Khyber Pakhtunkhwa, Peshawar.
10. Office order file.


SECTION OFFICER (SCHOOLS/MALE)

18

I

ED

To

The Chief Minister,
Khyber Pakhtunkhwa, Peshawar.

Through: Proper Channel

Subject: Charge Sheet/Reply to charge sheet

Respected Sir,

Reference Secretary to Govt. of Khyber Pakhtunkhwa (E&SE) Deptt:
Peshawar Notification No SO(S/M)E&SE/D/4-17/2013/Mir Azam Ex-DEO Lakki Marwat
dated 01/8/2013, on the subject cited above:-

1. In order to submit to the charge sheet, it would be pertinent to give some short details of allegations made against me in charge sheet/Statement of allegations.
2. My predecessor the then EDO (E&SE) Lakki Marwat floated advertisement in the daily NEWS Papers on 6/10/2011, for recruitment of Junior Clerks Posts (BPS-07), copy as Annexure-A
3. That the Test and Interview was conducted as per policy by the committee for advertised posts.
4. That in the meanwhile the then EDO was transferred and I was posted as such and as the process of recruitment was already finalized by the Committee.
5. That after going through prescribed procedure, Merit List for appointment was finalized in the light of proceeding carried out by the Committee. Thus after observing all the codal formalities the final D.S.B meeting was held which was attended and signed by all members and the chairman of committee. After completing this legal process the appointment order was issued on 01-10-2012 according to the merit list. (Copy as Annexure B, C and D)
6. That now as per the aforesaid submissions, I advert to the charges leveled against me in the charge sheet/ statement of allegations: No illegal appointment of Junior Clerks were made in (E&SE) Department Lakki Marwat in the year 2012, and codal formalities under advertisement in the daily NEWS Papers enunciated and rules were strictly observed and no favoritism was shown, what so ever, to any one.

Sir,

I never, by keeping in view the aforesaid submissions appear to be guilty of misconduct which suggest any penalty in rules ibid.

Sir,

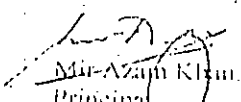
Written defence as directed is submitted in the stipulated period for kind perusal of your honor.

I shall be heard in person too.

It is therefore humbly requested that by keeping in view the aforesaid submissions, I shall be exonerated from the charges level against me. I shall pray for your honor life.

Dated

Yours obediently



Mir Azam Khan
Principal
GHIS Kotla Habibullah FR Bannu
Ex- EDO (E&SE) Lakki Marwat

REGISTERED

GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT

No.SO (S/M) E&SE/D/4-17/2013/Mir Azam Ex-DEO Lakki
Dated Peshawar the March 07, 2014

To

Mr. Mir Azam,
Ex- District Education Officer (BS-19) Male Lakki Marwat,
(Now Agency Education Officer BS-19 North Waziristan Agency Miran Shah).

Subject: - SHOW CAUSE NOTICE

I am directed to refer to the subject noted above and to enclose herewith a copy of the Show Cause Notice wherein the Competent Authority (Chief Minister Khyber Pakhtunkhwa) has tentatively decided to impose upon you the Major Penalty of "Removal from Service" under Rule-4 of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 in connection with the charges leveled against you.

2. You are therefore directed to furnish your reply to the Show Cause Notice as to why the aforesaid penalty should not be imposed upon you and also intimate whether you desire to be heard in person.

3. Your reply should reach to this Department within Seven (07) days of the delivery of this letter otherwise ex-parte action shall be taken against you.

4. Copy of the inquiry report is enclosed herewith.

Encl: As Above:

(MUJEEB-UR-REHMAN)
SECTION OFFICER (SCHOOLS/MALE)

Endst: Even No. & Date:

Copy of the above is forwarded to the:-

- i. Secretary Social Sector Department, FATA Secretariat Warsak Road Peshawar.
- ii. Director E&SE Khyber Pakhtunkhwa Peshawar.
- iii. Director FATA Education, FATA Secretariat Warsak Road Peshawar.
- iv. PS to Secretary E&SE Department Khyber Pakhtunkhwa.
- v. PS to Special Secretary E&SE Department Khyber Pakhtunkhwa.

SECTION OFFICER (SCHOOLS/MALE)

(19-28)

SHOW CAUSE NOTICE

I, Pervez Khattak, Chief Minister Khyber Pakhtunkhwa, as competent authority, under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, do hereby serve you, Mr. Mir Azam, Ex-District Education Officer BS-19 (Male) Lakki Marwat (now Principal BS-19 GHS Kotka Habibullah FR Bannu) as follows:

- i. That consequent upon the completion of inquiry conducted against you by the inquiry committee for which you were given opportunity of hearing; and
- ii. On going through the findings and recommendations of the inquiry committee, the material on record and other connected papers including your defence before the inquiry committee.

I am satisfied that you have committed the following acts/omissions specified in rule-3 of the said rules:

(i) Misconduct

2. As a result thereof, I, as competent authority, have tentatively decided to impose upon you the penalty of Removal from service under rule 4. of the said rules

3. You are, thereof, required to show cause as to why the aforesaid penalty should not be imposed upon you and also intimate whether you desire to be heard in person.

4. If no reply to this notice is received within seven days or not more than fifteen days of its delivery, it shall be presumed that you have no defence to put in and in that case an ex-parte action shall be taken against you.

5. A copy of the findings of the inquiry officer/ inquiry committee is enclosed.

Pervez Khattak
(PERVEZ KHATTAK)
CHIEF MINISTER KHYBER PAKHTUNKHWA
- COMPETENT AUTHORITY

28.02.2014

Mr. Mir Azam, Ex-District Education Officer BS-19 (Male)

Lakki Marwat (now Principal BS-19 GHS Kotka Habibullah FR Bannu)

To

The Chief Minister,
Khyber Pakhtunkhwa, Peshawar.

Through: Proper Channel.

Subject: Show Cause Notice / Reply to the Show Cause Notice.

Respected Sir,

Reference Secretary, Govt. of Khyber Pakhtunkhwa, (E&SE)
Deptt: Peshawar Letter No. SO(S/M)E&SED/4-17/2013/Mir Azam Ex-DEO
Lakki Marwat, dated 07.03.2014, issued by Section Officer (Schools/Male) of
the department on the subject noted above:-

1. The undersigned submitted reply to the charge sheet / Statement of allegations served upon him prior to the show cause notice in hand. The reply of the charge sheet be treated as integral part of reply to the notice for extension of benefit to the undersigned.
 - i. Not correct. The undersigned was not dealt with as per the mandate of law because no statement of any witness (s) was ever recorded in presence of the undersigned nor he was given opportunity of cross examination, being mandatory. Facts of the case are that the predecessor of the undersigned along with other staff had advertised numerous posts of Junior Clerks B-07 in daily News Papers on 06.10.2011. Test and interview was conducted by the Committee formed by the then EDO, E&SE now DEO, E&SE. The process was almost finalized by the then predecessor / Committee when in the mean while, the then EDO was transferred and the undersigned was assigned charge of the post. Only merit list was signed by the members of the Committee as well as by the undersigned at the time when such process was finalized. Appointment took place when the process was already completed. Neither any one was favoured nor illegally appointed.
 - ii. Not correct. Before service of final show cause notice on the servant, the authority is legally required to attached / supply all the inquiry proceedings to the servant to enable him to submit proper / comprehensive reply thereto. No such material on record what to speak of other connected papers exists to implicate the undersigned with the commission of any illegality / irregularity and the Inquiry Committee proceeded one sided.

Copy Number

2472

Date of Copy

03/04/14

Secretary Elementary & Secondary
Education Peshawar

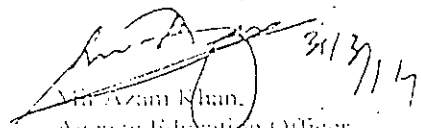
No misconduct was ever committed under any law or rules, provided proper attention is given to the aforesaid submission of the undersigned.

2. I request your Honour to carefully go through the aforesaid submissions and if due attention is paid to the same, then no penalty, what so ever, ever requires what to speak of penalty of removal from service.
3. Sir, I am never guilty of any misconduct because I have rendered four decade services with devotion and now I am at the verge of retirement and shall be retired less than a year. Therefore, keeping in view my meritorious services, I may graciously be acquitted/exonerated of charges leveled against me.
4. Sir, reply to the notice is submitted within the stipulated period of time as the undersigned is posted as Agency Education Officer at Miran Shah, NWA and the said notice was received by one of the Superintendents of the Department which was handed over to the undersigned on 25-03-2014.
5. Not correct. No findings of the inquiry were ever enclosed with the show cause notice except the notice and covering letter.

It is, therefore, most humbly requested that keeping in view the aforesaid submissions, the undersigned be exonerated with the charges and may be provided opportunity of Personal Hearing, I shall pray for your honor life.

Dated: 31.03.2014.

Yours Obediently,


 Mir Azam Khan,
 Agency Education Officer,
 NWA, Miran Shah
 Ex-FDO (E&SE), Lakki Marwat

IMMEDIATE/THROUGH FAX



GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT

No. SO(S/M)E&SED/4-17/2013/Mir Azam, DEO Lakki.
Dated Peshawar the May 12, 2014


To

Mr. Mir Azam,
Ex- District Education Officer (ES-19) Male Lakki Marwat,
(Now Agency Education Officer BS-19 North Waziristan Agency Miran Shah).

Subject: - PERSONAL HEARING.

I am directed to refer to the subject noted above and to state that it has been intimated by the Establishment Department, Khyber Pakhtunkhwa Peshawar vide letter No. SOR-I (E&AD)8-44/2013 dated 09-05-2014 and to state that the Chief Minister Khyber Pakhtunkhwa has authorized Secretary Establishment Department for your personal hearing before him on 16-05-2014 at 1000 hours in his office.

2. You are hereby directed to ensure your presence during the personal hearing with the Secretary Establishment Department Khyber Pakhtunkhwa Peshawar on the above mentioned date, time and venue.


(MUJEEB-UR-REHMAN)
SECTION OFFICER (SCHOOLS/MALE)

Endst: Even No. & Date:

Copy of the above is forwarded to the:-

- i. Section Officer (R-I), Establishment & Administration Department, Khyber Pakhtunkhwa, Peshawar w/r to his letter referred to above.
- ii. PS to Secretary Establishment & Administration Department Khyber Pakhtunkhwa, Peshawar.
- iii. PS to Secretary, E&SE Department, Khyber Pakhtunkhwa, Peshawar.
- iv. PS to Special Secretary, E&SE Department, Khyber Pakhtunkhwa, Peshawar.

SECTION OFFICER (SCHOOLS/MALE)



(23) M

GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT

Dated Peshawar the June 18, 2014

NOTIFICATION

NO.SO(S/M)E&SED/4-17/2013/Mir Azam Ex-DEO: WHEREAS Mr. Mir Azam, Ex-District Education Officer Male (BS-19), Lakki Marwat (now Agency Education Officer N.W.A, Miran Shah) was proceeded against under the Khyber Pakhtunkhwa Govt: Servants (Efficiency & Discipline) Rules, 2011 for the charges mentioned in the charge sheet and statement of allegations.

2. AND WHEREAS inquiry committee was constituted comprising the following officers to conduct formal Inquiry against the accused officer, for the charges leveled against him in accordance with the rules.

- i. Mr. Abdul Ghafoor Haq, Special Secretary BS-20, Higher Education, Archives & Libraries Department Khyber Pakhtunkhwa.
- ii. Mr. Atta Ullah Khan, Principal BS-20, RITE Male Peshawar

3. AND WHEREAS the Inquiry committee after having examined the charges, evidence on record and explanation of the accused officer has submitted the report.

4. AND WHEREAS a show cause notice was served upon Mr. Mir Azam, Ex-District Education Officer Male (BS-19), Lakki Marwat (now Agency Education Officer N.W.A, Miran Shah) dated 28-02-2014 circulated to him on 07-03-2014.

5. AND WHEREAS the Competent Authority (Chief Minister, Khyber Pakhtunkhwa) after having considered the charges and evidence on record, inquiry report, explanation of the accused officer in response to the Show Cause Notice and personal hearing granted to him by Secretary Establishment Khyber Pakhtunkhwa on behalf of Chief Minister Khyber Pakhtunkhwa on 16-05-2014 at 1030 hours, is of the view that the charges against the accused officer have been proved.


6. NOW, THEREFORE, in exercise of the powers conferred under section 14 of Khyber Pakhtunkhwa Govt: Servants (Efficiency & Discipline) Rules, 2011, the Competent Authority (Chief Minister, Khyber Pakhtunkhwa) is pleased to impose major penalty of "Removal from service" upon Mr. Mir Azam, Ex-District Education Officer Male (BS-19), Lakki Marwat (now Agency Education Officer N.W.A, Miran Shah) with immediate effect.

SECRETARY

Endst: of Even No. & Date:

Copy forwarded to the: -

- 1- Accountant General, Khyber Pakhtunkhwa, Peshawar.
- 2- PSO to Chief Minister Khyber Pakhtunkhwa Peshawar.
- 3- Director, Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar
- 4- Director Education FATA, FATA Secretariat Warsak Road Peshawar.
- 5- District Education Officer (Male), Lakki Marwat.
- 6- Mr. Mir Azam, Ex-District Education Officer Male (BS-19), Lakki Marwat (now Agency Education Officer N.W.A, Miran Shah)
- 7- District Accounts Officer Lakki Marwat.
- 8- Agency Accounts Officer, North Waziristan Agency Miran Shah.
- 9- PS to Chief Secretary Khyber Pakhtunkhwa Peshawar
- 10- PS to Additional Chief Secretary (FATA), FATA Secretariat Warsak Road Peshawar
- 11- PS to Secretary, E&SE Department, Khyber Pakhtunkhwa.
- 12- PS to Special Secretary, E&SE Department, Khyber Pakhtunkhwa.
- 13- Office order file.


(MUJEEB-UR-REHMAN)
SECTION OFFICER (SCHOOLS/MALE)

24 N

Dated _____ / _____ /2014

To

The Honorable Chief Minister,
Govt: of Khyber Pakhtunkhwa,
Peshawar.

Received on
14/7/14

Office of the PSCM

D. No. 1576

Date: 14/7/14

Sub: -

Review Application/Representation/Departmental
Appeal against Notification No. SO(S/VI)E&SED/4-
17/2013/Mir Azam Ex-DEO, dated 18/06/2014,
whereby major penalty of removal from service was
imposed upon applicant/appellant

Respectable Sir(s),

This is with reference to the above-mentioned subject. In this regard the appellant/applicant would like to draw your kind attention to the following:

I Facts

1. That the appellant was posted as EDO (E & S) Lakki Marwat in Feb 2012. Before his posting his predecessor in Office Mr. Abdul Malik on 06/10/2011 had advertised different jobs/positions in the daily Mashriq (Copy enclosed at Page 5). The dates for interview and tests were also mentioned in the advertisement which ranged from 14/11/2011 to 20/11/2011. These tests were conducted on the dates mentioned therein.
2. That when the appellant joined his posting one day he was met by some persons who claimed to be candidates to the above-mentioned posts/jobs and they complained about delay in appointments. The appellant on their complaint inquired into the matter and he was told by Mr. Mir Ajab Khan- who was the assistant dealing with those posts- that tests for the posts were conducted on the days mentioned in the advertisement. The record is finalized and in his possession but since the EDO was transferred out therefore no further progress was possible in the matter.
3. That the appellant immediately ordered the dealing assistant to sort out the record and prepare a merit list on the basis of that record. In order to comply with Office Order No.

etc

To,

Dated: - / /2014

The Honorable Chief Minister,
Govt. of Khyber Pakhtunkhwa,
Peshawar.

Sub:- Review Application/Representation/Departmental Appeal against Notification No. SO(S/M)E&SED/4-17/2013/Mir Azam Ex-DEO, dated 18/06/2014, whereby major penalty of removal from service was imposed upon applicant/appellant

Respectable Sir(s),

This is with reference to the above-mentioned subject. In this regard the appellant/applicant would like to draw your kind attention to the following:

1. Facts

1. That the appellant was posted as EDO (E & S) Lakki Marwat in Feb 2012. Before his posting his predecessor in Office Mr. Abdul Malik on 06/10/2011 had advertised different jobs/positions in the daily Mashriq (Copy enclosed at Page 5). The dates for interview and tests were also mentioned in the advertisement which ranged from 14/11/2011 to 20/11/2011. These tests were conducted on the dates mentioned therein.
2. That when the appellant joined his posting one day he was met by some persons who claimed to be candidates to the above-mentioned posts/jobs and they complained about delay in appointments. The appellant on their complaint inquired into the matter and he was told by Mr. Mir Ajab Khan- who was the assistant dealing with those posts- that tests for the posts were conducted on the days mentioned in the advertisement but the interviews to the posts were pending. The record is finalized and in his possession but since the EDO was transferred out therefore no further progress was possible in the matter.
3. That the appellant immediately ordered the dealing assistant to sort out the record and prepare a merit list on the basis of that record. In order to comply with Office Order No. SOG/E&SED/1-31/2011 dated 08/09/2011 regarding the

(16)

8

Departmental Selection Committee (DSC) the appellant wrote letters dated 20/09/2012 & 28/09/2012 to the Director Elementary & Secondary KPK at Peshawar & Secretary Elementary & Secondary Education Department with C.C to DCO and District Officer Education Lakki Marwat (copies enclosed at Page 6 & 7) . Resultantly a meeting was arranged on 01/10/2012 of DSC. It was attended by all the members (copy of attendance sheet is at Page 8). A merit list (Copy enclosed at page 9) prepared on the basis of record was discussed and approved in the meeting of the DSC; wherein 11 persons were recommended to be appointed (Copy of the minutes of DSC meeting is on Page 10 & 11). Therefore as per approval of the DSC appointment orders (copy enclosed at Page 12 & 13) of the recommended persons were issued and they joined their duties within the stipulated time.

4. That after some time the appellant received a charge sheet dated 29/07/2013 (Copy enclosed at Page 14) wherein the appointments to the posts of Junior Clerks (BS-07) were alleged to be illegal for being (allegedly) done without observance of codal formalities and being based on favoritism. The said charge sheet was also accompanied by Statement of Allegations (copy at page 15) and notification dated 01/08/2013 regarding appointment of enquiry committee (copy enclosed at page 16). As required a written defense was submitted (copy enclosed at page 17). Thereafter a formal enquiry was held but neither the statements of the witnesses were recorded before the appellant nor he was allowed to cross examine the witnesses.
5. That after some time the appellant was astonished to receive an other show cause notice dated 07/03/2014 (copy at page 18) wherein major penalty of removal from services was proposed to be imposed upon him u/r 4 of E & D Rules 2011. He was also asked to submit written reply and convey desire to be heard in person or not. The written reply was submitted (copy enclosed at page 19-20) and personal hearing was sought. Later on appellant received another letter dated 12/05/2014 (copy enclosed at page 21) wherein personal hearing was arranged on 16/05/2014.
6. That latter on the appellant received Notification dated 18/06/2014 (copy enclosed at Page 22) wherein he was removed from services in utter disregard to the facts, laws and rulings on the subject matter. Hence this departmental appeal, inter alia, on the following amongst other:


II: Grounds

- A. That the appellant has neither been treated in accordance with law nor equal protection of law has been extended to him.
- B. *Without any prejudice to the above and in addition thereto,* the appointments were legal as all the codal formalities were complied with in true letter and spirit. There is not even an iota of favoritism in the whole process. None of the person appointed is any relative or associates of the appellant. The whole process was completed before the appellant took charge. The appellant just followed the record provided to him and that too under the guidance of duly constituted Departmental Selection Committee.
- C. *Without any prejudice to the above and in addition thereto,* the major penalty imposed upon him is discriminatory, against the facts, rules and laws on the subject matter as well as against the principles of natural justice; hence illegal, unlawful and an infringement upon the rights of appellant.
- D. *Without any prejudice to the above and in addition thereto,* the authorities cannot blow hot and cold together for firstly procedure as envisaged in Rule 5 of E & D Rules were adopted than abruptly the inquiry was dispensed with and procedure u/r 7 was adopted. It is also a clear manifestation of *malafide* on the part of authorities.
- E. *Without any prejudice to the above and in addition thereto,* it is submitted that copy of the findings of the inquiry report and other material on which the authorities had based their case were not supplied despite demand. Hence the proceedings are *void ab initio*.
- F. *Without any prejudice to the above and in addition thereto,* statements of the witnesses was not recorded in his presence. To add insult to injury he was not given the mandatory opportunity to cross examine the witnesses. Hence the whole proceeding(s) is untenable in eyes of the law on this score alone.
- G. *Without any prejudice to the above and in addition thereto,* no consideration was given to the defense forwarded by the appellant. Hence the order of removal is illegal on this point alone as well.

- H. *Without any prejudice to the above and in addition thereto, the appellant has served the department, country and its people for more than three decades selflessly and with honor. His contributions to the cause of the country and department demands that he cannot be treated in such a shameful manner.*
- I. Any other ground not specifically mentioned herein but favorable and applicable to the case of the appellant-for the administration of justice-may also be taken into account while deciding the appeal.

It is evident from the above that the allegations against the appellant are baseless, discriminatory, illegal and unlawful. Therefore it is humbly prayed that the order dated 18/06/2014 may be reviewed/ set-aside and the appellant may be reinstated in service with all back benefits with such other relief as may be deemed proper and just in circumstances of the case. Moreover it is further prayed that the official concerned may be directed to provide to the appellant all the record including findings of the committee and statements of the witnesses.

Sincerely,


Mir Azam Khan S/O Nabi Shah
R/O Wali Khan Maidad Khel
P.O Serai Naurang,
Lakki Marwat
Ex-DEO (Male) Lakki Marwat

Note: - Total enclosure numbers 22

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Service Appeal # 1312/2014.

Mir Azam Khan Ex-E.D.O (BS-19) Lakki.....**Appellant**

VERSUS

Govt: of Khyber Pakhtunkhwa & others..... **Respondents**

Parawise reply and comments for & on behalf of Respondents.

**Respectfully Sheweth,
Preliminary Objections:-**

1. The appellant has no cause of action/ locus standi.
2. The instant appeal is badly time barred.
3. The appellant has concealed the material facts from this Hon 'able Tribunal, hence liable to be dismissed.
4. The appellant has not come to this Hon 'able court with clean hands.
5. The appellant has filed the instant appeal just to pressurize the Respondents.
6. The present appeal is liable to be dismissed for non joinder of necessary parties and misjoinder of un-necessary parties.
7. The appellant has filed the instant appeal on malafide motives.
8. The instant appeal is against the prevailing law and rules.
9. The appellant is estopped by his own conduct to file the instant appeal.
10. The instant appeal is not maintainable in the present form and also in the present circumstances of the issue.

FACTS.

1. This para of the appeal is related to the Service record of the appellant hence needs no comments.
2. Correct to the extent of advertisement which was published by the predecessor of the appellant, while the appellant has been proved guilty of gross violation of law, rules on the subject in preparation of merit list, selection and subsequent appointment of Junior Clerk BS-7. The minutes of the meeting of District Selection Committee reveals that the appellant placed the wrong and doubtful merit list of the candidates for appointment of J/Clerk Bs-7 (Annex-E of the appeal)
3. Denied. The appellant has concealed the facts and the statement in this para is misleading one. In fact the appellant (the accused officer) completely ignored the merit, Estacode and the Recruitment Policy in vogue by giving preference to several 3rd division holder candidates for appointment by ignoring eligible candidates.
5. Incorrect; the appellant was given charge sheet in the light of law, rules on the subject and the appellant was proved guilty through impartial inquiry held by the competent authorities. The statement of the appellant is not a satisfactory one. Moreover, the appellant confessed illegal appointments in this para.

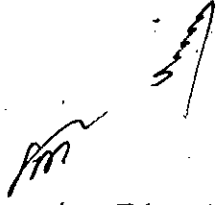
6. Incorrect; the enquiry was conducted according to the law, rules on the subject, by competent authorities. The appellant has never denied the allegation as contained in the charge sheet and confessed that the appellant has issued the illegal appointment orders and also held responsible the District Selection Committee and his subordinates for the alleged and proved illegal appointments of J/Clerk BS-7. The appellant was provided all chances of defence during the inquiry proceedings.
7. Incorrect. The said inquiry was lawful and conducted by Competent Authority while the reply of the appellant to the show cause notice did not satisfy the competent authority and failed to prove himself innocent on the basis of law; rules on the subject. Hence the whole para is denied.
8. Incorrect and denied: The Secretary Establishment was fully competent and well conversant of the case of the appellant and provided the appellant a chance for personal hearing and an opportunity of defence if any.
9. Incorrect. The appellant was removed from Service after having considered the charges and evidence on record, inquiry report, explanations of appellant (the accused officer) in response to the show cause notice and personal hearing granted to him by Secretary (Establishment) on behalf of Chief Minister, Khyber Pakhtunkhwa by the competent authority (the Chief Minister Khyber Pakhtunkhwa). And the competent authority was of the view that the charges against the accused have been proved hence the notification dated 18-6-2014 is legal, lawful and by the competent authority.

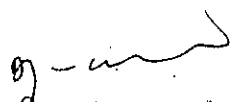
ON GROUNDS.

- A. Incorrect: The Removal from Service order dated 18-6-2014, is in accordance with law, facts, norms of justice and material on record hence tenable in the eye of law.
- B. Incorrect. The appellant was personally heard and provided an opportunity of defence.
- C. Incorrect. The inquiry is based on record, statements of the appellant and his subordinate and concerned bodies. Hence the whole para is denied being misleading one.
- D. Incorrect. The statement of the appellant in this para is baseless, against the fact and material on record.
- E. Incorrect, the appellant has not been discriminated and rightly punished according to the law, rules on the subject, hence denied.
- F. Incorrect and not admitted. The appellant has issued the illegal appointments orders of J/Clerk with out considering the candidates having high academic qualification and with out observance of codal formalities by adopting favoritism.

- G. Incorrect and not admitted. The enquiry against the appellant is conducted in accordance with E&D Rules 2011.
- H. Incorrect. The respondent No.3 is competent authority to issue such orders.
- I. Incorrect. The appellant has been treated according to law and rules.
- J. The respondent seek the permission of this Hon;able court to adduce more proof and grounds at the time of hearing.

In view of the above made submissions, it is, therefore, most humbly requested that this Honourable Court may very graciously be pleased to dismiss the appeal in hand with cost in favour of the Respondents.


Director
Elementary & Secondary Education,
Peshawar


Secretary,
Elementary & Secondary Education,
Department.

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

Service Appeal No. 1312/2014

Mir Azam Khan

VS

Education Deptt:

.....

REJOINDER ON BEHALF OF APPELLANT

.....

RESPECTFULLY SHEWETH:

Preliminary Objections:

(1-10) All objections raised by the respondents are incorrect and baseless. Rather the respondents are estopped to raise any objection due to their own conduct.

FACTS:

- 1 Admitted correct by the respondents as the service record of the appellant is in the custody of the concerned Deptt:
- 2 First portion of the para 2 is admitted correct, hence comments. The rest of the para is incorrect as the appellant on assuming charge of EDO came to know about the advertisement and the process of selection held in abeyance due to the transfer of his predecessor informed the Director (E&SE) with proper consultation of the departmental selection committee members and also requested to depute representative of the department of the schedule meeting. the selection committee meeting was held on 1.10.2012 and the chairman and the members of the committee were present at the time of interview and signed the merit list. After the conclusion of the codal formalities, the appellant issued the appointment order of the junior clerk, which means that the appellant has not done any guilty of law, rules on the subject in the

preparation of merit list, selection and subsequent appointment of the junior clerk.

- 3 Incorrect. the appellant did not concealed the facts as the appellant did all the appointments of junior clerk according to merit list, Esta Code and recruitment Policy and did not do any irregularities in appointment of junior clerk.
- 4 Incorrect. the appellant did not do any irregularities in the appointment of the junior clerk in the year 2011, but due to unknown reason and specially for not considering the political appointments, pressurized by the MPA and local Minister, the appellant was given false charge sheet for making illegal appointment of the junior clerk in the year 2011 without observing codal formalities. However the appellant submitted his reply to the charge sheet and denied all allegations.
- 5 Incorrect. The inquiry was not conducted according to law and rules as the enquiry was conducted at the back of the appellant wherein the appellant was not allowed to cross examine the witnesses and impeach the credibility of the witnesses and record. Moreover the appellant has denied all the allegation as contained in the charge sheet and never confused that he has issued the illegal appointment orders.
- 6 Incorrect. The said inquiry was not lawful as it was not conducted according to the prescribed procedure and reply to the show cause notice the appellant again denied all the allegations with proof.
- 7 Incorrect. While para 7 of the appeal is correct.
- 8 Incorrect. The appellant was removed from the service vide order dated 18.6.2014 without adopting legal procedure under E&D Rules 2011. Therefore the appellant field review application which was not responded in statutory period of time.

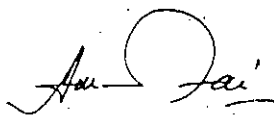
GROUNDS:

- A. Incorrect. The impugned order dated 18.6.2014 and not taking action on review application of the appellant are against the law, facts norms of justice and material on record, therefore not tenable and liable to be set aside.
- B. Incorrect. The appellant has been condemned unheard and not provided an opportunity of defence. Thus the appellant has not been treated according to law and rules.
- C. Not replied according to para C of the appeal. Moreover para C of the appeal is correct.
- D. Incorrect. The statement of the appellant is according to facts and material on record as the none of the statement recorded in the presence of the appellant nor any record examined in his presence.
- E. Incorrect. While para E of the appeal is correct.
- F. Incorrect. The appellant did not do any irregularities in the appointment of the junior clerk in the year 2011 and did all the appointments of junior clerk according to prescribed procedure.
- G. Incorrect. While para G of the appeal is correct.
- H. Incorrect. The respondent No.3 is not competent authority for the appellant to issue the impugned order.
- I. Incorrect. The appellant has not been treated according to law and rules.
- J. Legal.

It is, therefore, most humbly prayed that the appeal of appellant may kindly be accepted as prayed for.

APPELLANT
Mir Azam Khan

Through:


(M. ASIF YOUSAFZAI)
&

(TAIMUR ALI KHAN)
ADVOCATES PESHAWAR.

AFFIDAVIT

It is affirmed and declared that the contents of rejoinder & appeal are true and correct to the best of my knowledge and belief.


DEPONENT

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

Service Appeal No. 1312/2014

Mir Azam Khan

VS

Education Deptt:

REJOINDER ON BEHALF OF APPELLANT

RESPECTFULLY SHEWETH:

Preliminary Objections:

(1-10) All objections raised by the respondents are incorrect and baseless. Rather the respondents are estopped to raise any objection due to their own conduct.

FACTS:

- 1 Admitted correct by the respondents as the service record of the appellant is in the custody of the concerned Deptt:
- 2 First portion of the para 2 is admitted correct, hence comments. The rest of the para is incorrect as the appellant on assuming charge of EDO came to know about the advertisement and the process of selection held in abeyance due to the transfer of his predecessor informed the Director (E&SE) with proper consultation of the departmental selection committee members and also requested to depute representative of the department of the schedule meeting. the selection committee meeting was held on 1.10.2012 and the chairman and the members of the committee were present at the time of interview and signed the merit list. After the conclusion of the codal formalities, the appellant issued the appointment order of the junior clerk, which means that the appellant has not done any guilty of law, rules on the subject in the

preparation of merit list, selection and subsequent appointment of the junior clerk.

- 3 Incorrect. the appellant did not concealed the facts as the appellant did all the appointments of junior clerk according to merit list, Esta Code and recruitment Policy and did not do any irregularities in appointment of junior clerk.
- 4 Incorrect. the appellant did not do any irregularities in the appointment of the junior clerk in the year 2011, but due to unknown reason and specially for not considering the political appointments, pressurized by the MPA and local Minister, the appellant was given false charge sheet for making illegal appointment of the junior clerk in the year 2011 without observing codal formalities. However the appellant submitted his reply to the charge sheet and denied all allegations.
- 5 Incorrect. The inquiry was not conducted according to law and rules as the enquiry was conducted at the back of the appellant wherein the appellant was not allowed to cross examine the witnesses and impeach the credibility of the witnesses and record. Moreover the appellant has denied all the allegation as contained in the charge sheet and never confused that he has issued the illegal appointment orders.
- 6 Incorrect. The said inquiry was not lawful as it was not conducted according to the prescribed procedure and reply to the show cause notice the appellant again denied all the allegations with proof.
- 7 Incorrect. While para 7 of the appeal is correct.
- 8 Incorrect. The appellant was removed from the service vide order dated 18.6.2014 without adopting legal procedure under E&D Rules 2011. Therefore the appellant field review application which was not responded in statutory period of time.

GROUNDS:

- A. *Incorrect.* The impugned order dated 18.6.2014 and not taking action on review application of the appellant are against the law, facts norms of justice and material on record, therefore not tenable and liable to be set aside.
- B. *Incorrect.* The appellant has been condemned unheard and not provided an opportunity of defence. Thus the appellant has not been treated according to law and rules.
- C. Not replied according to para C of the appeal. Moreover para C of the appeal is correct.
- D. *Incorrect.* The statement of the appellant is according to facts and material on record as the none of the statement recorded in the presence of the appellant nor any record examined in his presence.
- E. *Incorrect.* While para E of the appeal is correct.
- F. *Incorrect.* The appellant did not do any irregularities in the appointment of the junior clerk in the year 2011 and did all the appointments of junior clerk according to prescribed procedure.
- G. *Incorrect.* While para G of the appeal is correct.
- H. *Incorrect.* The respondent No.3 is not competent authority for the appellant to issue the impugned order.
- I. *Incorrect.* The appellant has not been treated according to law and rules.
- J. *Legal.*

It is, therefore, most humbly prayed that the appeal of appellant may kindly be accepted as prayed for.

APPELLANT

Mir Azam Khan

Through:



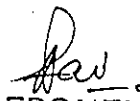
(M. ASIF YOUSAFZAI)

&

(TAIMUR ALI KHAN)
ADVOCATES PESHAWAR.

AFFIDAVIT

It is affirmed and declared that the contents of rejoinder & appeal are true and correct to the best of my knowledge and belief.



DEPONENT

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

Service Appeal No. 1312/2014

Mir Azam Khan

VS

Education Deptt:

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REJOINDER ON BEHALF OF APPELLANT

.....

RESPECTFULLY SHEWETH:

Preliminary Objections:

(1-10) All objections raised by the respondents are incorrect and baseless. Rather the respondents are estopped to raise any objection due to their own conduct.

FACTS:

- 1 Admitted correct by the respondents as the service record of the appellant is in the custody of the concerned Deptt:

- 2 First portion of the para 2 is admitted correct, hence comments. The rest of the para is incorrect as the appellant on assuming charge of EDO came to know about the advertisement and the process of selection held in abeyance due to the transfer of his predecessor informed the Director (E&SE) with proper consultation of the departmental selection committee members and also requested to depute representative of the department of the schedule meeting. the selection committee meeting was held on 1.10.2012 and the chairman and the members of the committee were present at the time of interview and signed the merit list. After the conclusion of the codal formalities, the appellant issued the appointment order of the junior clerk, which means that the appellant has not done any guilty of law, rules on the subject in the

preparation of merit list, selection and subsequent appointment of the junior clerk.

- 3 Incorrect. the appellant did not concealed the facts as the appellant did all the appointments of junior clerk according to merit list, Esta Code and recruitment Policy and did not do any irregularities in appointment of junior clerk.
- 4 Incorrect. the appellant did not do any irregularities in the appointment of the junior clerk in the year 2011, but due to unknown reason and specially for not considering the political appointments, pressurized by the MPA and local Minister, the appellant was given false charge sheet for making illegal appointment of the junior clerk in the year 2011 without observing codal formalities. However the appellant submitted his reply to the charge sheet and denied all allegations.
- 5 Incorrect. The inquiry was not conducted according to law and rules as the enquiry was conducted at the back of the appellant wherein the appellant was not allowed to cross examine the witnesses and impeach the credibility of the witnesses and record. Moreover the appellant has denied all the allegation as contained in the charge sheet and never confused that he has issued the illegal appointment orders.
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GROUND:

- A. Incorrect. The impugned order dated 18.6.2014 and not taking action on review application of the appellant are against the law, facts norms of justice and material on record, therefore not tenable and liable to be set aside.
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- J. Legal.

It is, therefore, most humbly prayed that the appeal of appellant may kindly be accepted as prayed for.