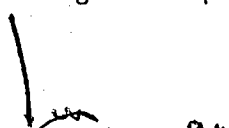

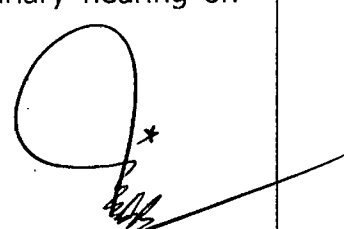


Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- _____ 74/2022 _____

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	21/01/2022	<p>The appeal of Mr. Hazrat Ali presented today by Mr. Khair-ul-Wahab Yousafzai Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-		<p>This case is entrusted to S. Bench at Peshawar for preliminary hearing to be put there on <u>30-03-2022</u></p> <p style="text-align: right;"> CHAIRMAN</p>
	30.03.2022	<p>None for the appellant present.</p> <p>Notices be issued to the appellant and his counsel for appearance. Adjourned. To come up for preliminary hearing on 22.06.2022 before S.B.</p> <p style="text-align: right;"> (MIAN MUHAMMAD) MEMBER(E)</p>

22nd June, 2022 Learned counsel for the appellant present and requested for adjournment. To come up for preliminary hearing on 11.08.2022 before S.B.



(Kalim Arshad Khan)
Chairman

BEFORE THE HON'BLE SERVICE TRIBUNAL, KHYBER

PAKHTUNKHWA, PESHAWAR

Service Appeal No. 74 / 2022

Hazrat Ali S/O Haq Dad Khan R/O Lahor, District Swabi, Ex-
Chowkidar GPS Wisal Abad Jehangira District Swabi

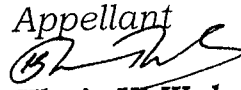
.....**Appellant**

Versus

Secretary Elementary and Secondary Education, Khyber
Pakhtunkhwa, Peshawar & Others.....**Respondents**

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Through  Appellant
Khair-UI Wahab Yousafzai
Advocate, High Court
Peshawar
Cell#0300-5952824

Dated: 21.01.2022

/

BEFORE THE HON'BLE SERVICE TRIBUNAL, KHYBER
PAKHTUNKHWA, PESHAWAR

Service Appeal No. 74 / 2022

Hazrat Ali S/O Haq Dad Khan R/O Lahor, District Swabi, Ex-Chowkidar at GPS Wisal Abad Jehangira District Swabi

.....**Appellant**

Versus

1. Secretary Elementary and Secondary Education, Khyber Pakhtunkhwa, Peshawar.
2. Director Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar.
3. District Education Officer, (M) Swabi.

.....**Respondents**

APPEAL U/S 4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL
ACT, 1974.

Prayer in Appeal:-

On acceptance of this Appeal, the order dated 18.10.2019 of Respondent No.03 may kindly be set aside and the appellant may please be reinstated in service with all back benefits while considering recommendations of inquiry officer dated: 15.04.2021.

Respectfully Sheweth:

Brief Facts:-

1. That the appellant belongs to a poor family of Village Lahor, District Swabi who applied for the post of Chowkidar and was appointed as Chowkidar at Govt Primary School Wisal Abad Jehangira Tehsil Lahor, District Swabi vide Endst No.13575-81 dated 14.10.2019. **(Copy of Employment Registration Card is attached as Annexure "A", Appointment order dated 14.10.2019 is attached as Annexure "B" and Copy of Medical Certificate is attached as Annexure "C").**
2. That the appellant after fulfilling all the codal formalities took charge on 15.10.2019. **(Copy of Charge Report & Service Book are attached as Annexure "D" & "E").**
3. That the appellant performed his duties with effect from 15.10.2019 to 18.10.2019.
4. That on 21.10.2019 the appellant was shocked to know that his appointment order dated 14.10.2019 was unlawfully and illegally cancelled by Respondent No.3 (DEO Swabi) with a single stroke of pen without assigning any reason vide order dated 18.10.2019. **(Copy of the order dated 18.10.2019 is attached as Annexure "F").**
5. That in this regard the appellant approached Peshawar High Court, Peshawar through a Writ

petition No.6068-P/2019 case titled as Hazrat Ali Vs Government of Khyber Pakhtunkhwa & Others which was disposed off vide order dated:03.12.2019 and accordingly the appellant filed representation before the competent Authority i.e Director Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar. (**Attested Copy of the writ petition & Order dated 03.12.2019 are annexed as Annexure "G" and representation dated 23.12.2019 are annexed as Annexure "H"**).

6. That in this regard the principal of Government High School Zorab Gul Kalay Charsadda was nominated as inquiry officer but despite a long wait the inquiry officer did not conduct the said inquiry. Therefore, the appellant once again filed an application for conducting his inquiry therefore, the principal of Government High School Nanak Pura Peshawar City was assigned the task of inquiry which he conducted and submitted his inquiry report with recommendations to withdraw the cancellation order dated 18.10.2019. (**Copies of Covering Letter dated 15.04.2021 with copy of inquiry report are annexed as Annexure "I"**).
7. That the said inquiry report was forwarded by respondent No.02 (Director) for implementation of the recommendation of the inquiry officer through a Letter No.8957/F.No./A-20/C-VI/Appeal Hazrat

Ali Chowkidar on 18.05.2021. **(Copy of Letter No.8957/F.No./A-20/C-VI/Appeal Hazrat Ali Chowkidar on 18.05.2021 is annexed as Annexure "J")**.

8. That respondent No.03 again wrote a letter to respondent No.02 for clarification of the intervening period of the appellant involved and status of the cancellation order of the petitioner. **(Copy of letter dated 23.06.2021 is annexed as Annexure "K")**.
9. That respondent No.02 directed the respondent No.03 to implement the recommendation of the inquiry officer and intervening period may be treated as leave without pay. **(Copy of letter dated 05.07.2021 is annexed as Annexure "L")**.
10. That the respondent No.03 once again sent letter No.6566/appointment File/C-IV/dated 07.08.2021 to Respondent No.02 stating that "The undersigned is facing some difficulties in his adjustment as the order was issued by the then DEO and then withdrawn by himself. Now it is requested that your kind self may restore the order of withdrawn of the Class-IV concerned being competent authority." **(Copy of the letter No.6566/appointment File/C-IV/dated 07.08.2021 is annexed as Annexure "M")**.
11. That the respondents delayed the implementations of recommendations of inquiry officer therefore

once again the appellant approached Peshawar High Court Peshawar through Writ petition No.4053-P/21 which was dismissed on 20.10.2021 with recommendations to respondents to pass final order on inquiry report submitted by the inquiry officer. **(Copies of Writ petition No.4053-P/21 and order dated:20.10.2021 is attached as Annexure "N")**.

12. That the appellant submitted a representation dated 25.10.2021 with copy of PHCP decision dated:20.10.2021 to Director KPK Peshawar but respondents have turned deaf ears to implement the recommendations of inquiry officer. **(Copy of representation dated 25.10.2021 is annexed as annexure "O")**.
13. That the appellant is having no efficacious remedy, aggrieved of the illegal act of the respondents, hence, filed this Appeal on the following grounds inter alia.

GROUND S:

- A. That the illegal, unlawful act of the respondents is against law, natural justice, void ab initio and violation of fundamental rights of the appellant enshrined in Constitution of Islamic Republic of Pakistan 1973.
- B. That the act of the respondents of cancellation the appellant's appointment order of the appellant is illegal, unlawful, without lawful authority and thus of

no legal effect, hence needs interference of this Hon'ble Court.

- C. That the appellant has never been served upon any charge sheet/statement of allegation, Show Cause Notice. No inquiry officer has ever been notified and no opportunity of personal hearing and reply has been given to the appellant.
- D. That it is worth to mention here that the order of others appointees in appointment order dated 14.10.2019 have not been cancelled which clearly shows the malafide on the part of respondents.
- E. That it has come to the notice of appellant that some political affiliated persons is being adjusted in place of appellant therefore, the only cancellation of appellant's appointment order is illegally, unlawful and based on discrimination.
- F. That the bread and butter of the appellant and his family is depended upon the job.
- G. That the cancellation order of respondent dated 18.10.2019 on the basis of political pressure for adjusting political affiliated person instead of already working appellant, is against law and violation of principles and judgment of Superior Courts.
- H. That non action of respondents by not implementing the clear cut recommendations and findings of the inquiry report is against the service rules, illegal, void ab initio, against the natural justice and judgment of Superior Courts.

- I. That this Hon'ble Court has got ample jurisdiction to entertain and disposed of the instant appeal according to the facts and circumstances of the case in hand.
- J. That any other ground will be raised at the time of argument with the prior permission of this Hon'ble Court.

It is, therefore, most humbly prayed that **On acceptance of this Appeal, the order dated 18.10.2019 of Respondent No.03 may kindly be set aside and the appellant may please be re-instated in service with all back benefits while considering recommendations of inquiry officer dated: 15.04.2021.**

Any other relief which may not specifically asked for may also be granted in favour of the appellant

INTERIM RELIEF:-

By way of interim relief, the respondents may kindly be restrained not to appoint any other person instead of appellant, on his vacant post till the final decision of the instant appeal.

Appellant

Through



Khair Ul Wahab Yousafzai
Advocate, High Court
Peshawar
Cell#0300-5952824

Dated: 20.01.2022

VERIFICATION:-

It is to certify that no appeal has been submitted on the subject earlier to the instant appeal.

Hazrat Ali
DEPONENT

8

BEFORE THE HON'BLE SERVICE TRIBUNAL, KHYBER
PAKHTUNKHWA, PESHAWAR

Service Appeal No. _____/2022

Hazrat Ali S/O Haq Dad Khan R/O Lahor, District Swabi, Ex-Chowkidar at GPS Wisal Abad Jehangira District Swabi

.....**Appellant**

Versus

Secretary Elementary and Secondary Education, Khyber Pakhtunkhwa, Peshawar & Others

.....**Respondents**

AFFIDAVIT

I, Hazrat Ali S/O Haq Dad Khan R/O Lahor, District Swabi, do hereby solemnly affirm and declare on oath that the contents of the accompanying **Service Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.

Identified by

Hazrat Ali

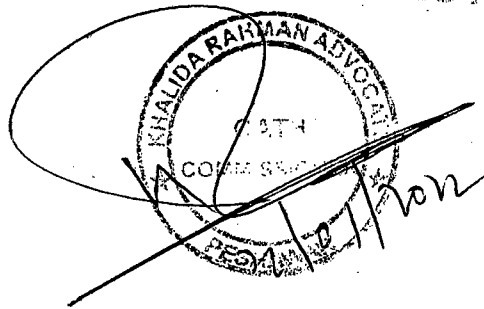
DEPONENT

CNIC#:16201-9683370-9

Cell#0315-8666115



Khair Ul Wahab Yousafzai
Advocate, High Court
Peshawar



**BEFORE THE HON'BLE SERVICE TRIBUNAL, KHYBER
PAKHTUNKHWA, PESHAWAR**

C.M No. _____/2022

In

Service Appeal No. _____/2022

Hazrat Ali S/O Haq Dad Khan R/O Lahor, District Swabi, Ex-Chowkidar GPS Wisal Abad Jehangira District Swabi

.....**Appellant**

Versus

Secretary Elementary and Secondary Education, Khyber Pakhtunkhwa, Peshawar & Others.....**Respondents**

APPLICATION FOR CONDONATION OF DELAY

Respectfully Sheweth:-


1. That the above titled Service Appeal is pending before this Hon'ble Tribunal which is not fixed yet.
2. That the appellant initially approached through a Writ petition No.6068-P/2019 in good faith but appellant did not file any representation before the respondents, therefore, the said writ petition was disposed off with direction to file representation before the competent authority which he complied.
3. That after the representation of appellant the respondents conducted an inquiry in the case of appellant which was submitted on 15.04.2021 for implementation but respondents once again started a continuous chain of letters for implementation of the inquiry report till 07.08.2021 and the appellant was constrained to again approach the Hon'ble

Peshawar High Court, Peshawar through a Writ petition No.4053-P/21 and which was dismissed in limini on dated:20.10.2021 and appellant submitted representation to Director Education for implementation of inquiry report dated:25.10.2021 which is not decided yet.

4. That delay in filing the titled appeal is neither willful nor deliberate but due to reason mentioned above.
5. That the valuable rights of appellants are involved in the matter and the law also favours the decision on merits rather on technicalities.

It is, therefore, most humbly prayed that by accepting this application, the delay if any in filing the above titled Appeal may kindly be condoned in the best interest of justice.

Dated: 21.01.2022

Through *Appellant*

Khair Ul Wahab Yousafzai
Advocate, High Court
Peshawar
Cell#0300-5952824

//

**BEFORE THE HON'BLE SERVICE TRIBUNAL, KHYBER
PAKHTUNKHWA, PESHAWAR**

Service Appeal No. _____/2022

Hazrat Ali S/O Haq Dad Khan R/O Lahor, District
Swabi, Ex-Chowkidar at GPS Wisal Abad Jehangira
District Swabi

.....**Appellant**

Versus

Secretary Elementary and Secondary Education, Khyber
Pakhtunkhwa, Peshawar & Others

.....**Respondents**

ADDRESSES OF PARTIES

APPELLANT:


Hazrat Ali S/O Haq Dad Khan R/O Lahor, District
Swabi, Ex-Chowkidar at GPS Wisal Abad Jehangira
District Swabi

RESPONDENTS:

1. Secretary Elementary and Secondary Education,
Khyber Pakhtunkhwa, Peshawar.
2. Director Elementary & Secondary Education
Khyber Pakhtunkhwa, Peshawar.
3. District Education Officer, (M) Swabi.

Appellant

Through


Khair Ul Wahab Yousafzai
Advocate, High Court
Peshawar
Cell#0300-5952824

Dated: 20.01.2022

(12)

(12)

Annexure "A"

ایس۔ ایو۔ (12) (12)

ایمپلائمنٹ رجسٹریشن کارڈ



جن انسٹیٹوٹوں کے پاس شہری کارڈ (X-3) موجود ہیں۔
ان کو دفتر روزگار کا کارڈ تیار کر کے پیش کرنا چاہیے۔

19 نومبر 2019ء کو 149 ایس۔ ایو۔ (12) (12) کے پاس

149 نومبر 2019ء کو 149 ایس۔ ایو۔ (12) (12) کے پاس

149 نومبر 2019ء کو 149 ایس۔ ایو۔ (12) (12) کے پاس

149 نومبر 2019ء کو 149 ایس۔ ایو۔ (12) (12) کے پاس

149 نومبر 2019ء کو 149 ایس۔ ایو۔ (12) (12) کے پاس

149 نومبر 2019ء کو 149 ایس۔ ایو۔ (12) (12) کے پاس

149 نومبر 2019ء کو 149 ایس۔ ایو۔ (12) (12) کے پاس

MANAGER

ضروری اطلاع برائے امیر نواز

Employment Officer

Distt. Sialkot

جسٹس کو اطلاع مل جائے تو ذرا خشک جوابی کارڈ پر دفتر روزگار
کو اطلاع کریں۔ اس کارڈ پر ایک کاپی لگانے کی ضرورت نہیں۔

(12)

P-12

Attested to be true copy.

[Signature]

مذمت جناب شیخ صاحب

دفتر روزگار

SERVICE UNPAID

O.P.S.S.

Attested to be true copy.

[Signature]

Attested to be true copy.

[Signature]

13

Amer = "B"



DISTRICT EDUCATION OFFICE (MALE) SWABI

(Office phone & Fax No 0938280239, emis_swabi@yahoo.com)

APPOINTMENT OF CLASS-IV SERVANTS

Consequent upon the recommendation of the Departmental selection Committee as contained in its minutes of the meeting, held on 08-07-2019, the undersigned is pleased to appoint the following candidates against the posts of Class-IV in BPS. 3@ Rs. (9610-390-21310) plus usual allowances as admissible under the rules and posted against the vacant post of Class-IV as mentioned against their names. They will be governed under the civil servants Act 1973 amended Khyber Pakhtunkhwa Act 2005, further amended vide Govt. of Khyber Pakhtunkhwa Act 2013 with pension & gratuity in the best interest of public service on the terms and conditions given below from the date of their taking over charge.

S/No	Name/Father Name	CNIC No	D.O.Birth	Address	Name of station were adjusted	Name of Post	Under Quota
1	Bashir Ahmad S/O Muhammad Shoaib	16202-4059840-3	23-2-1988	VPO Mangal Chai (G)	GHSS Topi	Sweeper	Disable as well as 25%.
2	Kishwar Khan S/O Muzaffar Khan	16202-3598670-7	25-2-1977	VPO Ulla (G)	GMS Topi	Sweeper	25% quota
3	Mr. Hazrat Ali S/O Haqdad Khan	16201-9683370-9	01-1-1989	VPO Lahor	GPS Wisal Abad Jehangira	Chowkidar	General Quota
4	Fazli Raziq S/O Mahmood Khan	16202-6586505-7	5-2-1976	VPO Panj Pir Swabi	GPS.3 Thand Koi Swabi	Chowkidar	25% Quota.
5	Mr. Zakir Ullah S/O Shoukat Ali	16202-4754921-7	18-4-1994	VPO Chontra Banda	GHS Dodher	Lab. Attendant	General Quota

TERMS & CONDITIONS.

1. TA/DA is not allowed.
2. Charge reports should be submitted to all concerned in duplicate.
3. This appointment is purely on temporary basis & liable to termination without assigning any reason and without any prior notice.
4. They should not be handed over charge if exceed 40 years or below 18 years of age.
5. They should join their post within 15 days of the issuance of this notification. In case of failure to join their post in 15 days of issuance of this notification, appointment will expire automatically and no subsequent appeal etc shall be reported to the law enforcing agencies for further action.
6. Health and age certificate should be produced from the Medical superintendent concerned before taking over charge.
7. They will be governed by such rules and regulations as may be issued from time to time by the Government.

(NISAR MUHAMMAD)
DISTRICT EDUCATION OFFICER
MALE SWABI

Endst No 1357-8 / Dated Swabi the:- 14/10/2019

Copy forwarded for information and necessary action to the:-

1. Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.
2. District Accounts Officer Swabi.
3. District Monitoring Officer Swabi.
4. Head Master GHS Dodher Swabi.
5. SDEO Male Lahor Swabi.
6. EMIS Local Office.
7. Officials concerned.

DISTRICT EDUCATION OFFICE
MALE SWABI

14/10/19

Attested to be true copy.

[Signature]

[Handwritten notes and signatures]

14

Annex - "C"

MEDICAL CERTIFICATE

Official's Name : Mr. Hazrat Ali

Father's Name : Haji Dad Khan

Religion : Muslim

Residence : N.P.O Jhori Teh Jhori
DIST Swabi -

Date of Birth : 01-01-1989

Exact height : 5,6

Mark of Identification : Scar Lt. side face

Official Signature : Hazrat Ali

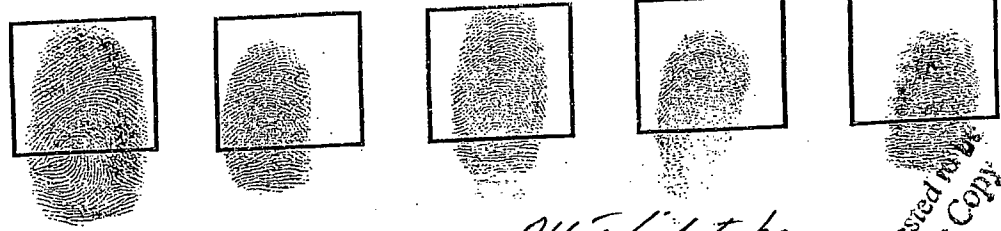
Signature of Deptt: Incharge: _____

Seal of Deptt: Incharge: _____

I do hereby certify that I have examined Mr. Hazrat Ali a candidate for employment in the office of the D, E, O (male) Class IV and cannot discover that he had any disease communicable or other constitutional infection or bodily infirmity except nil

I do not consider this as disqualification for employment in the office of the As Above Class IV His/Her age according to his/her own statement is 30 years and by appearance about Thirty only years.

Left/Right hand thumb and fingers impression:



[Signature]
 Medical Superintendent
 DHQ Teaching Hospital
 Swabi
 15/10/11
 Medical Superintendent
 DHQ Teaching Hospital
 Swabi

Attested to be true copy.

[Signature]

Attested to be True Copy
[Signature]

جارج رپورٹ

گورنمنٹ پرائمری سکول، وصال آباد، جھانگیرہ
ضلع لاہور، ضلع ہوابی آ ج رپورٹ
2019-10-15 کو میں (حضرت علی ولد حق دلا خان)
جو کہ سیدار نے بعد از دوپہر اپنے عہدے کا جارج
بروئے آرڈر نمبر 13575-81 / رپورٹ 4-10-2019
آمدہ از دفتر ڈسٹرکٹ انچارج (ہوابی)
گورنمنٹ پرائمری سکول، وصال آباد، جھانگیرہ میں لے لیا۔

دستخط جارج رپورٹ
Harat Ali

دستخط جارج رپورٹ

(سید علی)
Head Teacher
Govt. Primary School
Wasal Abad
Jhangira (Swabi)

Attested to be true copy

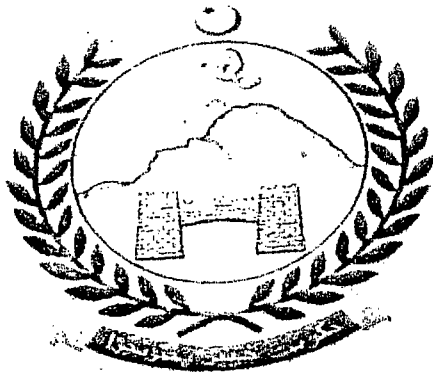
(Signature)

Attested to be true copy
(Signature)

76

Annexure = "E"

سہ 6131 SERVICE BOOK



Attested to be
true copy.

[Signature]

OF

حق داد خان

⊗ *[Signature]*

⊗ DESIGNATION *[Signature]*

⊗ DEPARTMENT Education

[Signature]

Price : Rs. 140

Attested to be
True Copy

[Signature]

Note: The entries on this page should be reviewed or corrected at least every five years and the signature in lines 9 and 10 should be dated

1. Name: HAZARAT

2. Race: Muslim

3. Residence: W.P.O. Police Teh. Lahore Dist. Punjab

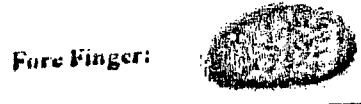
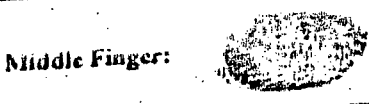
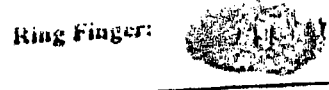
4. Father's Name and residence: HAQ DAD KHAN

5. Date of birth by Christian era as nearly as can be ascertained: (01-01-1959) 1st January 1959

6. Exact height by measurement: 5-6

7. Personal marks for identification: Scar on right face

8. Left hand thumb and finger impression of (Non-Gazetted) officer:

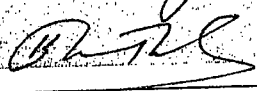


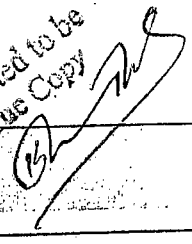
9. Signature of Government Servant: Hazarat

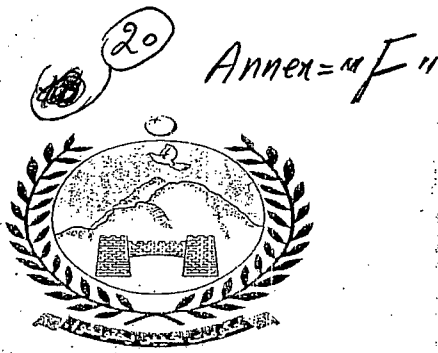
10. Signature and designation of the Head of the officer, or other Attesting Officer: S.D.E.O (M) Lahore

True copy.

Attested to be True Copy







OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) SWABI

Email address: emis_swabi@yahoo.com Ph.No 0938-280239

OFFICE ORDER

The appointment order of Mr. Hazrat Ali chowkidar GPS, Wisal Abad Jehangira Lahor (Swabi) issued vide this office E/No. 13575-81/Dated Swabi the: 14-10-2019 is hereby cancelled in the best interest of public service till further orders.

(NISAR MUHAMMAD)
DISTRICT EDUCATION OFFICER
(MALE) SWABI

No 13731-G Dated 18-10- /2019

Copy of the above is forwarded to the:

- 1) Director E&SE Khyber Pakhtunkhwa Peshawar.
- 2) District Accounts Officer Swabi.
- 3) District Monitoring Officer Swabi.
- 4) SDEO Male Lahor Swabi.
- 5) Official concerned.

DISTRICT EDUCATION OFFICER
(MALE) SWABI

[Signature]
18/10/19

Attested to be
True Copy
[Signature]

Attested to be
True Copy
[Signature]

(19)

IN THE PESHAWAR HIGH COURT, PESHAWARW.P No. 6068-P/2019

Hazrat Ali S/O Haq Dad Khan R/O Lahor, District
Swabi

.....Petitioner

V E R S U S

1. Govt of Khyber Pakhtunkhwa, through Chief Secretary, Civil Secretariat, Peshawar.
2. Secretary Elementary and Secondary Education, Khyber Pakhtunkhwa, Peshawar.
3. Director Education Khyber Pakhtunkhwa, Peshawar.
4. District Education Officer, (M) Swabi.

.....Respondents


**WRIT PETITION UNDER ARTICLE 199
OF THE CONSTITUTION OF ISLAMIC
REPUBLIC OF PAKISTAN, 1973**

PRAYER:-

On acceptance of this writ petition, the order Endst No.13731-G dated 18.10.2019 of the District Education Swabi may kindly be set aside.

Respectfully Sheweth:

1. That the petitioner belongs to a poor family of Village Lahor, District Swabi who applied for the post of Chowkidar and was appointed as Chowkidar at Govt Primary School Wisal Abad

Attested to be true copy.


May
ATTESTED
EXAMINER
Peshawar High Court

Jehangira Tehsil Lahor, District Swabi vide Endst No.13575-81 dated 14.10.2019. (Copy of Employment Registration Card is attached as Annexure "A", Appointment order dated 14.10.2019 is attached as Annexure "B" and Copy of Medical Certificate is attached as Annexure "C").

2. *That the petitioner after fulfilling all the codal formalities took charge on 15.10.2019.(Copy of Charge Report & Service Book are attached as Annexure "D" & "E"))).*
3. *That the petitioner performed his duties with effect from 15.10.2019 to 18.10.2019.*
4. *That on 21.10.2019 the petitioner was shocked to know that his appointment order dated 14.10.2019 was unlawfully and illegally cancelled by Respondent No.4 (DEO Swabi) with a single stroke of pen without assigning any reason vide order dated 18.10.2019. (Copy of the order dated 18.10.2019 is attached as Annexure "F").*
5. *That in this regard the petitioner has requested the respondent No.4 to set aside the cancellation order dated 18.10.2019 but respondents blatantly refused to cancel the above impugned order dated 18.10.2019.*

6. *That the petitioner is having no efficacious remedy, aggrieved of the illegal act of the respondents, hence, filed this writ petition under article 199 of Constitution of Pakistan 1973 on the following grounds inter alia.*

GROUND:-

- A. *That the illegal, unlawful act of the respondents is against law, natural justice, void ab initio and violation of fundamental rights of the petitioner enshrined in Constitution of Islamic Republic of Pakistan 1973.*
- B. *That the act of the respondents of cancellation the petitioner's appointment order of the petitioner is illegal, unlawful, without lawful authority and thus of no legal effect, hence needs interference of this Hon'ble Court.*
- C. *That the petitioner has never been served upon any charge sheet/statement of allegation, Show Cause Notice. No inquiry officer has ever been notified and no opportunity of personal hearing and reply has been given to the petitioner.*
- D. *That it is worth to mention here that the order of others appointees in appointment order dated 14.10.2019 have not been cancelled which clearly shows the malafide on the part of respondents.*

- E. That it has come to the notice of petitioner that some political affiliated persons is being adjusted in place of petitioner through the pressure of local MPA, therefore, the only cancellation of petitioner's appointment order is illegally, unlawful and based on discrimination.
- F. That the bread and butter of the petitioner and his family is depended upon the job.
- G. That the cancellation order of respondent dated 18.10.2019 on the basis of political pressure for adjusting political affiliated person instead of already working petitioner, is against law and violation of principles and judgment of Superior Courts.
- H. That this Hon'ble Court has got ample jurisdiction to entertain and disposed of the instant writ petition according to the facts and circumstances of the case in hand.
- I. That any other ground will be raised at the time of argument with the prior permission of this Hon'ble Court.

It is, therefore most humbly prayed that on acceptance of this Writ Petition, the respondents may kindly be directed to re-instate the petitioner

with all back benefits and to declare the order dated 18.10.2019 as unlawful void and ab initio.

Any other remedy deems fit and appropriate in the circumstance of the case may also be granted in favour of the petitioner.

INTERIM RELIEF

By way of interim relief, the respondents may kindly be directed no to appoint any person instead of petitioner till the final decision of the instant writ petition.

Petitioner

Through

Khair Ul Wahab Yousafzai
&
Akhunzada Syed Pervez
Advocates, High Court
Cell#0300-5952824

Dated 11/11/2019

CERTIFICATE:-

Certified on instructions of my client that petitioner has not previously moved this Hon'ble Court under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973 regarding the instant matter, thus the tilted Writ Petition may kindly be fixed before the Worthy D.B of this Hon'ble Court.

ADVOCATE

LIST OF BOOKS

1. Constitution of Islamic Republic of Pakistan, 1973.
2. Any other law book as per need.

ADVOCATE

26

IN THE PESHAWAR HIGH COURT, PESHAWAR

W.P No. _____/2019

Hazrat Ali S/O Haq Dad Khan R/O Lahor, District Swabi

.....**Petitioner**

VERSUS

Govt of Khyber Pakhtunkhwa, through Chief Secretary, Civil Secretariat, Peshawar & Others

.....**Respondents**

AFFIDAVIT

I, Hazrat Ali S/O Haq Dad Khan R/O Lahor, District Swabi, do hereby solemnly affirm and declare on oath that the contents of the accompanying **Writ petition** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.

Identified by

Hazrat Ali

DEPONENT

CNIC#: 16201-9683370-9

Cell#0315-8666115

Khair Ul Wahab Yousafzai

Khair Ul Wahab Yousafzai
Advocate, High Court
Peshawar

Date	13/01/19
Examined at	Swabi
Examined on	8
Day	Nov 19
Time	12:00
Place	Swabi
Who was present	Hazrat Ali
Who is present	Khair ul Wahab

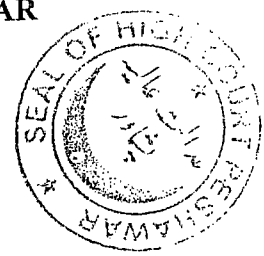
68/1/19

JUDGMENT SHEET

PESHAWAR HIGH COURT, PESHAWAR
(Judicial Department)

W.P No. 6068-P/2019

JUDGMENT



Date of hearing: **03.12.2019**

Petitioner: (Hazrat Ali) by Mr. Khair-ul-Wahab, Advocate.

Respondents (Government of Khyber Pakhtunkhwa through Chief Secretary & Others) by Mr. Rab Nawaz Khan, AAG.

MOHAMMAD IBRAHIM KHAN, J.-

The petitioner is the permanent resident of Lahor District Swabi, who belongs to a poor family. After having applied to the post of Chowkidar, he was appointed in Government Primary School Wisal Abad Jehangira. He took charge on 15.10.2019 and performed his duties till 21.10.2019. On 21.10.2019 his appointment order was cancelled by respondent No. 4 vide order

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Attested to be true copy.

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ATTESTED
EXAMINER
Peshawar High Court

dated 18.10.2019. Later for his reinstatement to continue his duty as Watchmen he filed an application to respondent No.4. His prayer was turned down vide order dated 18.10.2019 hence, having no other efficacious remedy, implore the constitutional jurisdiction of this Court under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973 with the perspective prayers:-

"It is, therefore, most humbly prayed that on acceptance of this writ petition, the respondents may kindly be directed to re-instate the petitioner with all back benefits and to declare the order dated 18.10.2019 as unlawful void and ab-initio.

Any other remedy deems fit and appropriate in the circumstance of the case may also be granted in favor of the petitioner."

M. J.
ATTESTED
EXAMINER
Peshawar High Court

2. After hearing at considerable length, we have noticed that the petitioner has not availed the remedy before the Competent Authority to have preferred a representation or approached the Services Tribunal for the redressal of his grievances therefore, the petitioner may, at first instance if so desire, avail the remedy available to him by making a representation to the Competent Authority or may approach the Services Tribunal for redressal of his grievances.

3. In view of the above, this petition is disposed of accordingly.

Announced.
Dt: 03.12.2019

JUDGE

JUDGE

7582
 Date of Presentation of Application 22/9/21
 No. of Pages
 Copying fee
 Total 16 -
 Date of Preparation 22/9/21
 Date of Delivery of 22/9/21
 Received By
 (M. Fiaz)

D.B. Hon'ble Mr. Justice Mohammad Ibrahim Khan, J
 Hon'ble Mr. Justice Muhammad Nasir Mehfooz, J

[Signature]
 22 SEP 2021

حکومت جناب عالی ڈائریکٹر ایجوکیشن صاحب، چیمبر کونوٹو اور ایجوکیشن

درخواست برائے داخلہ ایپل پروف فیلڈ نمبر 10/19 DEO 18، صوابی

جناب عالی سائل صاحب ذیل عرض رساں ہے،

(1) یہ کہ سائل کا تعلق چھوٹا لالا پور تحصیل ایجوکیشن صوابی کے ایک عزیز اور شریف خاندان سے ہے۔

(2) یہ کہ سائل لکھا پڑھا نوجوان ہے اور بڑے صبر اور مشکل سے سائل کو مورخہ 10/2019 اور ڈسٹرکٹ ایجوکیشن آفیسر (فیلڈ) صوابی نے بطور چوکیدار GPS وصال آباد جیٹا پور، منہ بھری تپا (لقمان حکم ف ہذا ہے) (3) یہ کہ سائل نے مورخہ 10/19 کو بطور چوکیدار چارج سمجھا لیا۔

(4) یہ کہ سائل نے مورخہ 10/19 سے 15/19 تک باقاعدگی اور (چارج رپورٹ اور میٹریکل رپورٹ لف ہیں) Attested to be true copy.

(5) یہ کہ مورخہ 10/19 کو سائل کو کسی ذریعے سے بہتے چلا کر سائل کے لقمانی آرڈر کو معطل کیا گیا ہے (مخطوطی آرڈر 10/19 الف ہے)

(6) یہ کہ سائل نے EDO صوابی سے منت کماقتی نہ سائل کو دوبارہ بحال کریں، لیکن شہوانی نہ بیوز نہ سائل نے شادھائی ٹورٹ کا دروازہ کھولا تھا۔ شادھائی ٹورٹ نے سائل کو حکم ف ہذا سے حکماً نہ ایپل کرنے کی بابت حکم نامہ جاری کیا۔ (حکم صدر 03/2019 لف ہے) No 1461 23-12-19

(7) یہ کہ سائل ایک عزیز بیڑہ ہے اور نوکری حذا کے عدوہ سائل کے خاندان کے کھانت کھیلے دوسرا کوئی چارہ نہ ہے۔

بیڑہ استعدا ہے کہ سائل کو درخواست پر بعد دانہ غور فرمائے اور سائل کو دوبارہ نوکری پر بحال فرمائے ہو۔ حکم 10/19 DEO 18 صوابی معطل خیرا لکھتے۔

مورخہ 12/19 23

Hazrat Ali

(31)

Annexure = "I"

OFFICE OF THE PRINCIPAL GHS NANAK PURA PESHAWAR CITY.

No :603 dated 15/4/2021.

(34)

P=27/F

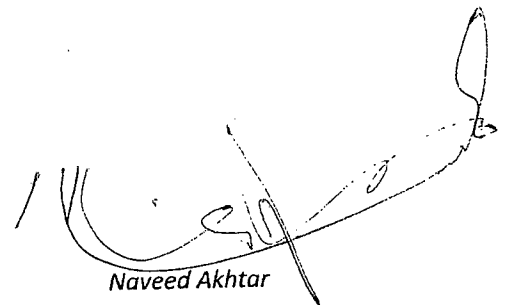
To,
The Director
Elementary & secondary education
department kp Peshawar .

Subject INQUIRY Appeal OF Mr. HAZRAT ALI S/O HAQDAD KHAN CHOWKIDAR GPS WISAL ABAD JEHANGIRA District SWABI.

I am to refer to the subject noted above and to submit inquiry report along with necessary flag documents, in respect of Mr Hazrat Ali ex chowkidar GPS jehangira, wisal Abad District swabi, Received vide ENDST: NO 16--20 F.NO:/A-20/C-iv/Appeal/swabi Dated peshawar the 29/3/2021.

BEST REGARDS

Note (All necessary documents annexed)

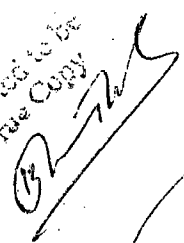


Naveed Akhtar
PRINCIPAL / inquiry officer

PRINCIPAL GHS NANAK PURA PESHAWAR CITY

Attested to be
true copy.



Attested to be
True Copy


PRINCIPAL
G.H.S Nanak Pura
Peshawar City

AJ.MW

756
22-4-2021

DB

Inquiry report

Subject of the inquiry: appeal of Mr. Hazrat Ali s/o Haqdad khan Ex chokidar District swabi.

Inquiry marked by ; Elementary & secondary directorate KP vide notification bearing Endst no 16---20 FNo /A---20/C---iv/Appeal/swabi Dated peshawar the 29/3/2021.

. Proceedings of the inquiry ; office of. the DEO(M)Swabi was informed officially vide this office letter No 601 dated 6/4/2021, for preparing proper record of the case.

• Record examined for inquiry purpose.

- 1 DSC minutes for class iv appointment dated 8/7/2019 of the concerned district.
- 2 Appointment order of class iv, issued by office of the DEO(M) Swabi.
- 3 Medical report of the official, Mr Hazrat Ali ex chowkidar.
- 4 charge report of the concerned official.
- 5 Attendance register of the concern school.
- 6 Office Order cancellation copy issued by DEO (M)Swabi in respect of, Mr Hazrat Ali dated 8/7/2019.

. Findings from the official record.

The following findings have been made from the official record in the case.

- 1 That the DSC meeting for appointment of class iv was held on 8/7/2019 at O/O the DEO(M) swabi. **FLAG A**
- 2 That the DSC has recommended Mr Hazrat Ali s/o Haqdad khan as class iv against the general quota and the said class iv is at sr no 50 out of 52 candidates. **FLAG B**
- 3 That the said candidate has registered himself with employment exchange. **FLAG C**
- 4 That the said candidate was appointed on 14/10/2019 as class iv. **FLAG C**
- 5 That the said candidate was medically examined and declared medically fit. **FLAG D**
- 6 That the said candidate has marked his attendance in the attendance register. **FLAG E**
- 7 That the post of class iv is still vacant. **FLAG E**
- 8 That the appointment order of class iv dated 14/10/2019 was cancelled on 8/7/2019 vide office order no 13731-G, in respect of Mr Hazrat Ali by DEO (M)Swabi without any lawful justification. **FLAG C**

Recommendations.

Office order No 13731-G dated 18/10/2019, issued by office of the DEO(M) Swabi in respect of Mr Hazrat Ali may be withdrawn, in the interest of justice & public as it is also not covered by service rules.

Naveed Akhtar
Naveed Akhtar

Inquiry officer/principal

GHS Nanak pura peshawar city

Attested to be True copy.
[Signature]

Attested to be True Copy
[Signature]

38



33

Annexure="J"

DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION
KHYBER PAKHTUNKHWA PESHAWAR.

No. 2057 /F.No. /A-20/C-IV/appeal Hazrat Ali Chowkidar
Dated Peshawar the 18-5- 2021 610
Phone: 091-9225344 Email: ddadm.ese@gmail.com

To

The District Education Officer
(Male) Swabi

Subject: **ENQUIRY REPORT**

Memo:

I am directed to refer to the subject noted above and to enclose herewith a copy of Enquiry report in r/o Mr Hazrat Ali Ex-Naib Qasid GPS Wisal Abad Jehangira District Swabi received from Inquiry Officer Mr Naveed Akhtar Principal GHS Nanak Pura Peshawar vide letter No 603 dated 15-4-2021 and to ask you to implement the enquiry recommendations of the enquiry officer.

11
Assistant Director (Admn)
Directorate E& Secondary Education
Khyber Pakhtunkhwa, Peshawar

Endst; No. 2057

Copy forwarded to the: -

1. Mr Naveed Akhtar Principal GHS Nanak Pura Peshawar Karak w/r to his letter No cited above.
2. PA to Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.

11
Assistant Director (Admn)
Directorate E& Secondary Education
Khyber Pakhtunkhwa, Peshawar

*Attested to be
true copy*

[Signature]

*Attested to be
true copy*
[Signature]



(34) Annexure "K" 41

DISTRICT EDUCATION OFFICE (MALE) SWABI



(Office Phone & Fax No 0938280239, emis_swabi@yahoo.com)

No. 4441 Dated: 23/06/2021

To

The Director
E&SE Khyber Pakhtunkhwa Peshawar.

Subject: ENQUIRY REPORT

Memo:

Reference your good Office letter No. 8957/F.No./A-20/C-IV/appeal

Hazrat Ali Chowkidar/ Dated Peshawar the 18-05-2021 for implementation of Enquiry report recommendations. Keeping in view nature of the case, the enquiry Officer may please be asked regarding decision of the intervening period involved.

Moreover, status of the cancellation order of Mr. Hazrat Ali may also be cleared please.

DISTRICT EDUCATION OFFICER
(MALE) SWABI

Attn

Attested to be true copy

[Signature]

Attested to be True Copy

[Signature]

1541

25.6.2021



(35)

Annexure = "L" u2

DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION
KHYBER PAKHTUNKHWA PESHAWAR.
No 6792 /F.No. /A-20/C-IV/Appeal/Swabi
Dated Peshawar the 5/07 /2021
Phone: 091-9225344 Email: ddadm.n.ese@gmail.com

To

The District Education Officer
(Male) Swabi

Subject: **ENQUIRY REPORT**

Memo:

I am directed to refer your letter No 4441 dated 23/06/2021 on the subject cited above and to ask you to implement the recommendation of the enquiry officer and the intervening period may be treated as leave without pay.

44
Deputy Director (F&A)
Directorate of E&SE K.P, Peshawar

Endst; No. 6793 /

Copy forwarded to the: -

1. PA to Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.
2. Master File.

44
Deputy Director (F&A)
Directorate of E&SE K.P, Peshawar

*Attested to be
true copy*
[Signature]

*Attested to be
True Copy*
[Signature]

36

Personnel 910

Annexure = "M"

Salut
Secy Swabi



Office of the District Education Officer (Male) Swabi

(Office Phone & Fax No. 0938280239, emis Swabi@yahp.com)

No. 6566 /Appointment File/C-IV /Dated 07/08 /2021

To,

✓ The Director,
Elementary & Secondary Education Khyber Pakhtunkhwa
Peshawar

SUBJECT: - ENQUIRY REPORT

Memo:

Please refer to your letter No. 6792/F.No A-20/C-IV/Appeal/Swabi Date Peshawar the 05-07-2021 and vide this office letter No. 4441 dated. 23-06-2021 on the subject noted above.

It is stated that the undersigned is facing some difficulties in his adjustment as the order was issued by the then DEO and then withdrawn by himself.

Now it is requested that your kind self may restore the order of withdrawn of the Class-IV concerned being competent authority.

District Education Officer
Male Swabi

470
AD (A.S.M.)
13/8
[Handwritten notes and signatures]

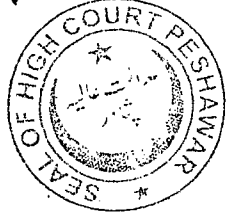
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Attested to be true copy.

(37)

Annexure "N"

(1)



IN THE PESHAWAR HIGH COURT, PESHAWAR

W.P No. 4053 P /2021

Mehallah Meola Baba, village Lahor

Hazrat Ali S/O Haq Dad Khan R/O Lahor, District Swabi
.....**Petitioner**

VERSUS

1. Govt of Khyber Pakhtunkhwa, through Chief Secretary, Civil Secretariat, Peshawar.
2. Secretary Elementary and Secondary Education, Khyber Pakhtunkhwa, Peshawar.
3. Director Education Khyber Pakhtunkhwa, Peshawar.
4. District Education Officer, (M) Swabi.

.....**Respondents**

**WRIT PETITION UNDER ARTICLE 199
OF THE CONSTITUTION OF ISLAMIC
REPUBLIC OF PAKISTAN, 1973**

RE-FILED TODAY

Deputy Registrar

27 SEP 2021

PRAYER:-

On acceptance of this Writ Petition, the respondents may kindly be directed to implement the recommendations of inquiry officer in its true spirit and re-instate the petitioner with all back benefits.

Respectfully Sheweth:

1. That the petitioner belongs to a poor family of Village Lahor, District Swabi who applied for the post of

FILED TODAY

Deputy Registrar

24 SEP 2021

ATTESTED
EXAMINER
Peshawar High Court

(38)

2

Chowkidar and was appointed as Chowkidar at Govt Primary School Wisal Abad Jehangira Tehsil Lahor, District Swabi vide Endst No.13575-81 dated 14.10.2019. (Copy of Employment Registration Card is attached as Annexure "A", Appointment order dated 14.10.2019 is attached as Annexure "B" and Copy of Medical Certificate is attached as Annexure "C").

2. That the petitioner after fulfilling all the codal formalities took charge on 15.10.2019. (Copy of Charge Report & Service Book are attached as Annexure "D" & "E").
3. That the petitioner performed his duties with effect from 15.10.2019 to 18.10.2019.
4. That on 21.10.2019 the petitioner was shocked to know that his appointment order dated 14.10.2019 was unlawfully and illegally cancelled by Respondent No.4 (DEO Swabi) with a single stroke of pen without assigning any reason vide order dated 18.10.2019. (Copy of the order dated 18.10.2019 is attached as Annexure "F").
5. That in this regard the petitioner approached Peshawar High Court, Peshawar through a Writ petition No.6068-P/2019 case titled as Hazrat Ali Vs Government of Khyber Pakhtunkhwa & Others which was disposed off vide order dated:03.12.2019 and accordingly the petitioner filed representation before

FILED TODAY
Deputy Registrar
24 SEP 2021

ATTESTED
EX. W. N. R.
Peshawar High Court

(39)

3

the competent Authority i.e Director Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar. (**Attested Copy of the writ petition & Order dated 03.12.2019 are annexed as Annexure "G" and representation dated 23.12.2019 are annexed as Annexure "H"**).

6. That in this regard the principal of Government High School Zorab Gul Kalay Charsadda was nominated as inquiry officer but despite a long wait the inquiry officer did not conduct the said inquiry. Therefore, the petitioner once again filed an application for conducting his inquiry therefore, the principal of Government High School Nanak Pura Peshawar City was assigned the task of inquiry which he conducted and submitted his inquiry report with recommendations to withdraw the cancellation order dated 18.10.2019. (**Copies of Covering Letter dated 15.04.2021 with copy of inquiry report are annexed as Annexure "I"**).
7. That inquiry report of the petitioner was forwarded by respondent No.03 for implementation of the recommendation of the inquiry officer through a Letter No.8957/F.No./A-20/C-VI/Appeal Hazrat Ali Chowkidar on 18.05.2021. (**Copy of Letter No.8957/F.No./A-20/C-VI/Appeal Hazrat Ali Chowkidar on 18.05.2021 is annexed as Annexure "J"**).

FILED TODAY
Deputy Registrar
24 SEP 2021

ATTESTED
EXAMINER
Peshawar High Court

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8. That respondent No.04 again wrote a letter to respondent No.03 for clarification of the intervening period of the petitioner involved and status of the cancellation order of the petitioner. **(Copy of letter dated 23.06.2021 is annexed as Annexure "K")**.
9. That respondent No.03 directed the respondent No.04 to implement the recommendation of the inquiry officer and intervening period may be treated as leave without pay. **(Copy of letter dated 05.07.2021 is annexed as Annexure "L")**.
10. That the respondent No.04 once again sent letter No.6566/appointment File/C-IV/dated 07.08.2021 to Respondent No.03 stating that "The undersigned is facing some difficulties in his adjustment as the order was issued by the then DEO and then withdrawn by himself. Now it is requested that your kind self may restored the order of withdrawn of the Class-IV concern being competent authority." **(Copy of the letter No.6566/appointment File/C-IV/dated 07.08.2021 is annexed as Annexure "M")**.
11. That the respondents are delaying the re-instatement (implementation of recommendations of inquiry officer) on one pretext or other and have turned their deaf ears.
12. That the petitioner is having no efficacious remedy, aggrieved of the illegal act of the respondents, hence,

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Deputy Registrar
24 SEP 2021

ATTESTED
EXAMINER
Peshawar High Court

(41)

5

filed this writ petition under article 199 of Constitution of Pakistan 1973 on the following grounds inter alia.

GROUNDS:-

- A. That the illegal, unlawful act of the respondents is against law, natural justice, void ab initio and violation of fundamental rights of the petitioner enshrined in Constitution of Islamic Republic of Pakistan 1973.
- B. That the act of the respondents of cancellation the petitioner's appointment order of the petitioner is illegal, unlawful, without lawful authority and thus of no legal effect, hence needs interference of this Hon'ble Court.
- C. That the petitioner has never been served upon any charge sheet/statement of allegation, Show Cause Notice. No inquiry officer has ever been notified and no opportunity of personal hearing and reply has been given to the petitioner.
- D. That it is worth to mention here that the order of others appointees in appointment order dated 14.10.2019 have not been cancelled which clearly shows the malafide on the part of respondents.
- E. That it has come to the notice of petitioner that some political affiliated persons is being adjusted in place of

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Deputy Registrar
24 SEP 2021

ATTESTED
EXAMINER
Peshawar High Court

(42)

6

petitioner therefore, the only cancellation of petitioner's appointment order is illegally, unlawful and based on discrimination.

- F. That the bread and butter of the petitioner and his family is depended upon the job.
- G. That the cancellation order of respondent dated 18.10.2019 on the basis of political pressure for adjusting political affiliated person instead of already working petitioner, is against law and violation of principles and judgment of Superior Courts.
- H. That non action of respondents by not implementing the clear cut recommendations and findings of the inquiry report is against the service rules, illegal, void ab initio, against the natural justice and judgment of Superior Courts.
- I. That this Hon'ble Court has got ample jurisdiction to entertain and disposed of the instant writ petition according to the facts and circumstances of the case in hand.
- J. That any other ground will be raised at the time of argument with the prior permission of this Hon'ble Court.

It is, therefore most humbly prayed that on acceptance of this Writ Petition, the respondents may kindly be directed to implement the recommendations

FILED TODAY
Deputy Registrar
24 SEP 2021

ATTESTED
EXAMINER
Peshawar High Court

(43)

7

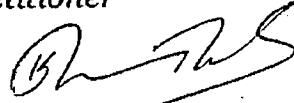
of inquiry officer in its true spirit and re-instate the petitioner with all back benefits.

Any other remedy deems fit and appropriate in the circumstance of the case may also be granted in favour of the petitioner.

INTERIM RELIEF

By way of interim relief, the respondents may kindly be directed not to appoint any person instead of petitioner's vacant post till the final decision of the instant writ petition.

Through Petitioner



Khair Ul Wahab Yousafzai
Advocate, High Court
Cell#0300-5952824

Dated 23/09/2021

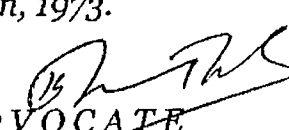
CERTIFICATE:-

Certified on instructions of my client that petitioner has not previously moved this Hon'ble Court under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973 regarding the instant matter, thus the tilted Writ Petition may kindly be fixed before the Worthy D.B of this Hon'ble Court.

ADVOCATE


LIST OF BOOKS

1. Constitution of Islamic Republic of Pakistan, 1973.
2. Any other law book as per need.


ADVOCATE

FILED TODAY
Deputy Registrar
24 SEP 2021


25 OCT 2021

44



PESHAWAR HIGH COURT PESHAWAR
FORM "A"
FORM OF ORDER SHEET

Date of Order or Proceedings	Order or other Proceedings with Signature of Judge or that of parties or counsel where necessary
2	3
20.10.2021	<p><u>Writ Petition No. 4053-P/2021.</u></p> <p>Present:</p> <p style="padding-left: 40px;">Mr. Khair Ul Wahab Yousafzai, Advocate for petitioner.</p> <p style="text-align: center;">*****</p> <p><u>ROOH-UL-AMIN KHAN, J.-</u> According to the contents of writ petition, the petitioner was appointed as Chowkidar in the respondents' department vide order dated 14.10.2019 and performed his duties from ^{14.10.19} 15.10.2019 to 18.10.2019. On 21.10.2019 the appointment order of petitioner was withdrawn. Feeling grieved from the same, the petitioner filed WP No. 6068-P/2019 before this Court which was disposed off vide order dated 3.12.2019, as such the petitioner filed departmental representation before the Authority. Inquiry was conducted wherein it was recommended that the cancellation order dated 18.10.2020 may be withdrawn. However, till date the said recommendation have not been complied with</p>

Rooh-ul-Amin Khan

M. J.
ATTORNEY
EXAMINER
Peshawar High Court

and the reinstatement of petitioner is being delaying on one or other pretext.

2. In essence, the grievance of the petitioner is that being appointed as Class-IV in the respondents department, his appointment order was withdrawn, however during inquiry recommendation for his reinstatement was made, but till date neither the recommendations of the inquiry officer was considered by the competent authority nor the petitioner has been re-instated.

3. Having heard the arguments of learned counsel for petitioner, perusal of record reveals that admittedly the petitioner is a civil servant, who seeks the implementation of recommendations of the inquiry officer in the matter of withdrawal of his appointment order, which is not only an incident of service, but also falls in terms and condition enumerated in Chapter-II of the Civil Servants Act, 1973, wherein jurisdiction of this Court is expressly barred under Article 212 of the Constitution of Islamic Republic of Pakistan, 1973.

4. Resultantly, the instant petition being not maintainable stands dismissed in limine.

Asad Ali

Mg
ATTESTED
EXAMINER
Peshawar High Court

However, it is expected that the Director Education Khyber Pakhtunkhwa performing his legal authority shall pass final order on the inquiry report submitted by the Inquiry Officer.

Announced on;
20th of October, 2021

SENIOR PUISNE JUDGE

JUDGE

Arshad Ali
22 OCT 2021

10943
21/10/21
10-
40
22/10/21
22/10/21
21/10/21

خدمت جناب عالی ڈائریکٹر صاحب حکم تعلیم خصوصی ایف ڈی ایچو کیشن کراچی

Attested to be true copy

درخواست بھرا دی گئی

[Handwritten signature]

جناب عالی مسائل حسب ذیل عرض رسان ہے!

- (1) یہ کہ مسائل مورخہ 14¹⁰/₂₀₁₉ کو حکم تعلیم میں کیفیت جو کچھ گورنمنٹ پرائمری سکول وصال آباد جہانگیرہ میں بھرتی ہوا۔
- (2) یہ کہ مسائل کو مورخہ 18¹⁰/₂₀₁₉ کو بذریعہ آرڈر نمبر 13731-9 ڈپٹی ایجوکیشن آفیسر (محل) صوابی نے تعیناتی حکم کو واپس لیٹر نوکری سے برخاست کیا۔
- یہ کہ مذکورہ بالا آرڈر کے خلاف آپ صاحبان نے مسائل کے درخواست پر حکیمانہ کارروائی کرتے ہوئے مسائل کے کیس میں انکوائری کا حکم صادر فرمایا اور گورنمنٹ ہائی سکول نانگ پورہ کے پرنسپل صاحب نے بطور انکوائری آفیسر تمام کارروائی مکمل کرتے ہوئے مسائل کو بحال کرنے کی سفارش کی۔
- (4) یہ کہ اس مسئلے میں آپ صاحبان کے دفتر سے بذریعہ چھٹی نمبر 8957 مورخہ 18⁵/₂₁ کو DEO صوابی کو مذکورہ انکوائری کے سفارشات پر عمل درآمد کرنا کے احکامات جاری ہوئے۔
- (5) یہ کہ مذکورہ بالا خط کے جواب میں DEO صوابی نے بذریعہ خط نمبر 4441 مورخہ 23⁶/₂₁ آپ صاحبان سے دوبارہ وضاحت طلب کی جس کے جواب میں آپ صاحبان نے 5⁷/₂₁ کو بذریعہ خط نمبر 6792 وضاحت کی کہ مسائل کے درجہ بندی میں "Leave without pay" شمار کر کے بحالی کی جائے۔
- (6) یہ کہ DEO صوابی نے بذریعہ خط نمبر 6566 مورخہ 7⁸/₂₁ کو آپ صاحبان سے بذات خود بحالی کے متعلق لکھا۔
- (7) یہ کہ مذکورہ خط پر تا حال عمل درآمد نہ ہو سکا اور مسائل کی بحالی بعد از ان بتیاریوں پر درکار تھی جس کے لئے مسائل نے شمارہائی کورٹ بشاور میں بذریعہ رٹ پٹیشن نمبر 40531 انصاف طلب کی اور 25¹⁰/₂₁ کو مذکورہ رٹ پٹیشن میں ہائی کورٹ نے فیصلہ صادر فرمایا ہے جو کہ لف ہڈ ہے۔
- (8) یہ کہ مسائل ایک غریب بندہ ہے اور والدہ اور چھوٹی بیٹی بھائیوں کا حاضر کفیل ہے اور مذکورہ پوسٹ پر بحال ہونے کے علاوہ مسائل کا کوئی چارہ نہ ہے لہذا استدعا ہے کہ مسائل کو بحال کرنے کے احکامات صادر فرمائے تاکہ تاحیات دعا گو رہے گا۔

آپ کا نام بعد از Hazrat Ali ولد حق داد سیکھتہ مولا بابا - لاہور ضلع صوابی حضرت علی ولد حق داد سیکھتہ مولا بابا - لاہور ضلع صوابی

مورخہ 25¹⁰/₂₁

"A"

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.
JUDICIAL COMPLEX (OLD), KHYBER ROAD,
PESHAWAR.

No. Resd

APPEAL No. 74 of 2022. SB

Hazrat Ali

Appellant/Petitioner

Versus

Secy ESSE, KPK, Peshawar

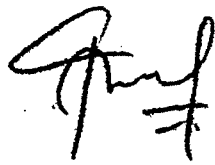
RESPONDENT(S)

✓
Notice to Appellant/Petitioner

Hazrat Ali s/o Haz Dad Khan R/o
Lahor, District Swabi, Ex-Chowkidar at GPS Wisal
Abad Jehangira District Swabi

Take notice that your appeal has been fixed for Preliminary hearing, replication, affidavit/counter affidavit/record/arguments/order before this Tribunal on 22/06/2022 at 9:00

You may, therefore, appear before the Tribunal on the said date and at the said place either personally or through an advocate for presentation of your case, failing which your appeal shall be liable to be dismissed in default.

For

Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.