

BEFORE KHYBER PAKHTUNKHA SERVICE TRIBUNAL PESHAWAR
CAMP OFFICE DERA ISMAIL KHAN

Service Appeal No. 5726/2021

Sheren Jan

VERSUS

Govt of Khyber Pakhtunkhwa & others



REJOINDER TO THE COMMENTS RESPONDENTS

REJOINDER TO THE PRELIMINARY OBJECTOR

1. That alleged final Seniority list dated 13/11/2020 has neither been displayed by respondents nor conveyed to the Appellant. However when Appellant came to know on about alleged final seniority list, Copy of which was received on 09-12-2020 from respondents No. 3 after filing application on 02-12-2020 before him under right to information Act 2013. He then immediately filed departmental appeal on 30/12/2020 against alleged final seniority list 13/11/2020. It is pertinent to mention that no any opportunity for filing of objections on ibid alleged final Seniority list was provided to the Appellant. Apart from that it is the verdict of Apex Court that wrong seniority list issued is continuing wrong and limitation/laches do not come in the way, even seniority can be challenged any time even after retirement from service. Hence objection No. 1 raised by Appellant has no worth being wrong and void. Therefore not admitted. Copy of application given to right information office as **Annexure A**.
2. That objection No. 2 is incorrect and not admitted. Appellant has got cause of action/ Locus standi, against wrong and incorrect alleged final seniority list dated 13/11/2020 for filing of instant appeal as his seniority has been effected by respondents.
3. That objection No 3 is incorrect hence not admitted.
4. That objection No 4 is incorrect hence not admitted.
5. That objection No 5 is incorrect hence not admitted.
6. That objection No 6 is incorrect hence not admitted. Wrong seniority list can be challenged any time even after retirement from service.
7. That objection No 7 is incorrect hence not admitted.
8. That objection No 8 is incorrect hence not admitted.
9. That objection No 9 is incorrect hence not admitted.
10. That objection No 10 is incorrect hence not admitted. Proper reply has already been submitted by Appellant in reply of supra objection No. 1.

PARA WISE REPLY ON THE COMMENTS OF RESPONDENTS.

1. That Para 1 of the comments is incorrect, wrong and void. In this regard it is submitted that appellant had filed writ petition No. 222/05 which was clubbed with writ petition No. 138/2005 and thereafter consolidated judgment was passed

on 16/12/2005 by Peshawar High Court D.I.Khan Bench vide which respondents have committed at the bar that whole list of the then petitioners, respondents and all other candidates who has applied in time, shall be appointed on merit and in accordance with formula as detailed above. It was further contended that junior most on the list according to the above formula shall not be appointed. Copy of judgment dated 16/12/2005 is available on judicial file. As respondents 4 to 18 were juniors from appellant, therefore their appointments were declared to be null and void, thus in the aforesaid circumstances appellant has great concern with ibid writ petition. Hence Para 1 of the comments is not admitted.

2. In regard to Para 2 of the comments it is submitted that appellant is at par with Respondents 4 to 18 and was eligible for promotion along with them even one Muhammad Daud was promoted on the post of SDM even he had neither applied for promotion nor party of writ petition No 138/2005 therefore he is entitled for promotion on the post of SDM. As comments submitted by respondents have been twisted thus not in accordance with the verdict of judgment dated 16-12-2005. Hence not admitted.
3. That respondents have not attached the report of scrutiny committee with the comments, thus as such alleged final Seniority dated 13/11/2020 seems to void malafide and malpractice is being smelt from action of respondents while adopting pick and choose policy just to accommodate their favourits it thus reveals that respondents have concealed the facts from this Honorable Tribunal. As respondents have mentioned wrong date of appointments in the seniority list attached with the plaint and thereafter respondents 4 to 13 were promoted on post of SDM BPS-18 but respondents were dropped having the same date of appointment dated 01/08/2006 meaning thereby that the decision dated 16/12/2005 has not properly followed according to rules and regulations and not acted upon formula. Hence Para 3 of comments is not admitted. Copies of appointment letter of respondents 4 to 18 as well as appellant are enclosed and marked as **Annexure B**.
4. That Para 4 of comments is correct. Hence denied. Appellant reiterates on Para 4 of the appeal.
5. That contents of Para 5 of comments are incorrect. In this regard it is submitted that in light of report of securitization committee constituted on the order of Peshawar high court bench for rechecking and reexamination of the appointments made after NOV 2003. Fresh appointment letter No. 20976-78 dated 01/08/2006 of respondents 4 to 18 as well as appellant was issued by respondents and there after in the alleged seniority list appellant's appointment date was shown to be 01/08/2006 where as date of appointments of respondents to 4 to 18 were shown to be 31-01-2004, 01-02-2004, 06-02-2004, 01-04-2005, 01-03-2004, 02-09-2004, 16-10-2004, 14-02-2005, 01-04-2005, 04-04-2005, 04-04-2005, 21-04-2005, 09-05-2005, 21-10-2005 and 10-05-2006 respectively which is absolutely wrong void and incorrect in the light of decision of Peshawar High Court. Hence not admitted.
6. That in regard to Para 6 of the comments it is submitted that respondents have wrongly promoted respondents 4 to 13 as their dates of appointments have wrongly been mentioned which is not in accordance writ judgment dated



16/12/2005 of Peshawar High Court Bench Dera Ismail Khan. Hence not admitted.

7. That comments on Para 7 of the appeal are incorrect hence not admitted. Appellant reiterates on the Para 7 of the appeal.
8. That comments of Para 8 of appeal need no comments.

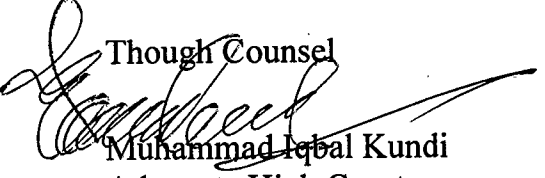
REJOINDER ON THE GROUND

1. That comments on ground 1 of the appeal are incorrect hence denied and not admitted. Appellant reiterates on the ground 1 of the appeal.
2. That comments on ground 2 of the appeal are incorrect hence denied and not admitted. Appellant reiterates on the ground 1 of the appeal.
3. That comments on ground 3 of the appeal are incorrect ambiguous and not proper. hence not admitted. Appellant reiterates on the ground 3 of the appeal.
4. That comments on ground 4 of the appeal are incorrect hence not admitted therefore denied.
5. That comments on ground 5 of the appeal is legal. Hence need no comments.

In view of the submissions made above it is humbly prayed that title appeal of appellant may accepted as prayed for in the heading of the appeal in the interest of justice.

Appellant

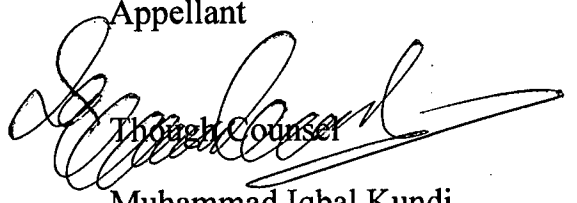
2/9/2022

Though Counsel

Muhammad Iqbal Kundi
Advocate High Court
D.I.Khan

VERIFICATION:

Verified that contents of rejoinder are correct and nothing has been concealed from this court.

2/9/2022

Appellant

Though Counsel
Muhammad Iqbal Kundi
Advocate High Court
D.I.Khan

خدمت صحت ڈی-ای، صاحب (فرزاد) ایلمنٹری ایئرڈ سیکولری اسکول، سہیلہ D

- 1- کاشف علی کی (B/C) آبی کی پوسٹ رتنائی آرڈر و Reward آرڈر کی کاپی
- 2- حافظ لقیان شاہ کی S.D.M سے D.M کی پوسٹ رتنائی Reward آرڈر کی کاپی
- 3- D.M کی سنیارٹی لسٹ 2019 اور فائنل سنیارٹی لسٹ 2020

جناب عالی

جوڈمانہ گزارش ہے کہ سٹیج کو درجہ بالا اساتذہ کے آرڈرز اور

سنیاری لسٹیں گورنمنٹ کے R.T.I ایکٹ کے تحت

درکار ہیں کہ یہ سنیارٹی کو یہ دستاویزات مہیا کیے جائیں

سے آپ کا شکور و ممنون ہوگا

مورخہ 02/12/2020

شیرین خان D.M گورنمنٹ ہائی سکول، دائرہ صحت سے صلح دہریہ تحصیل من

Recd

02-12-2020

D. NO 18120
dt. 02-12-2020

Received Seniority list
DM on 09/12/2020

سی ایم (مردانہ)

ANN-B

OFFICE OF THE EXECUTIVE DISTRICT OFFICER (SCHOOLS & LITERACY)

D.I.Khan

ORDER:

In the light of decision made by the legal committee constituted by Honorable High Court dated 07-07-2006, the following DM (M) are hereby appointed against the vacancies noted against each in the interest of public service with effect from 01-08-2006.

S.No	Name	Father's Name	Posted At	Remarks
1	Naimat Ullah	Kamal Nawaz	GHS Chaudhwan	Vacant Post
2	Qamer Gul	Mumtaz Khan	GMS Athog	Vacant Post
3	Kaleem Ullah	Abdul Ahsan	GHS Bagwani Siimali	Vacant Post
4	Arshad Abbas	Mushtaq Ahmed	GMS Lachra	Vacant Post
5	Jahanzaib	Jamal Ud Din	GMS Mirbazi	Vacant Post
6	Muhammad Ayoub	Aman Ullah	GMS Ganju	Vacant Post
7	Muhammad Saleem	Abdul Hakim	GMS Daraban Kalan	Vacant Post
8	Asif Saeed	Muhammad Saeed	GMS Sardara	Vacant Post
9	Sami Ullah	Abdullah Jan	GMS Band Kurai No.1	Vacant Post
10	Rafaqat Ullah	Muhammad Sher	GMS Babar Pacca	Vacant Post
11	Saif ud Din	Mocen ud Din	GMS Khanqah Yasin Zai	Vacant Post
12	Sana Ullah	Sher Muhammad	GMS Jhoke Mohana (Kulachi)	Vacant Post
13	Dawood Khan	Muhammad Nawaz	GMS Looni	Vacant Post
14	Muhammad Akhter	Haji Nawaz	GHS Ramak	Vacant Post
15	Muhammad Yaqoob	Muhammad Hashim	GHS Parova	Vacant Post
16	Muhammad Azhar	Muhammad Anwar	GMS Nawab	Vacant Post
17	Sibghat Ullah	Mulazim Hussain	GMS Thatha Balochan	Vacant Post
18	Abdul Ghafoor	Inam Ul Haq	GMS Jhoke Machi	Vacant Post
19	Muhammad Amin	Gul Khan	GHS Chaudhwan	Vacant Post
20	Fida Hussain	Ghulam Sadiq	GHS Rori	Vacant Post
21	Mehrban	Muhammad Ramzan	GHS Kachi Paind Khan	Vacant Post
22	Muhammad Javaid	Hamaish Gul	GHS Bijot Sharif	Vacant Post
23	Muhammad Shareen Jan	Adam Khan	GMS Wanda Khani	Vacant Post
24	Hameed Ullah	Alam Khan	GMS Jatch Ali	Vacant Post
25	Mahmood Nawaz	Khalid Dad	GMS Wanda Dhawa	Vacant Post

Note: -

1. Charge report should be submitted to all concerned within 15 days after the issuing of appointment order failing, which the appointment should stand automatically, cancelled.
2. The services of the above named candidates are made purely on temporary basis and liable to terminate at any time without assigning any reason/notice.
3. They will produce health and age certificate from the MS concerned.
4. The original documents may be checked/ verified by the concerned Board/University through DDO before handing over charge.
5. All the candidates are directed to report in the office of the District Officers (Male) Schools & Literacy D.I.Khan for further posting/adjustment.
6. No TA/DA fs allowed.
7. District Officers (Male) Schools & Literacy D.I.Khan concerned is directed not to hand over charge to any overage candidate.

- Sd/-

ABDUL RAHIM KHAN
EXECUTIVE DISTRICT OFFICER
SCHOOLS & LITERACY D.I.Khan

Ends No. 20976-79

Dated D.I.Khan the 01/8/ 2006.

Copy to the:

1. Director Schools & Literacy NWFP Peshawar.
2. Deputy Advocate General Peshawar High Court D.I.Khan Bench.
3. District Coordination Officer D.I.Khan
4. District Officer (Male) Schools & Literacy D.I.Khan
5. District Accounts Officer D.I.Khan.
6. Candidate Concerned.

Ma...
EXECUTIVE DISTRICT OFFICER
SCHOOLS & LITERACY D.I.Khan