

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
CAMP COURT D.I.KHAN

SERVICE APPEAL NO. 1041/2014

Date of institution ... 13.08.2014
Date of judgment ... 24.07.2017

Muhammad Asif S/O Hasthi Khan.
R/O Wanda Jamal Tehsil and District D.I.Khan.
(Ex-Sweeper G.H.S Wanda Jamal) D.I.Khan.

... (Appellant)

VERSUS

1. Government of Khyber Pakhtunkhwa through Director Education (Elementary & Secondary) Peshawar.
2. District Executive Officer (Elementary & Secondary) Education D.I.Khan.
3. District Accounts Officer D.I.Khan.
4. Headmaster G.H.S Wanda Jamal D.I.Khan.

... (Respondents)

SERVICE APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE ORDER BEARING NO. 706 DATED 27.11.2013 VIDE WHICH THE APPELLANT APPOINTMENT ORDER WAS KEPT IN ABEYANCE AND ALSO QUA DEPARTMENTAL APPEAL DATED 15.04.2014 WAS NOT DECIDED BY THE APPELLATE AUTHORITY.

Mr. Shaikh Iftikhar-ul-Haq, Advocate.
Mr. Farhaj Sikandar, District Attorney

.. For appellant.
.. For respondents.

Mr. MUHAMMAD AMIN KHAN KUNDI
MR. GUL ZEB KHAN

.. MEMBER (JUDICIAL)
.. MEMBER (EXECUTIVE)

JUDGMENT

MUHAMMAD AMIN KHAN KUNDI, MEMBER: - This appeal has been filed against the order dated 27.11.2013 vide which the appointment order of the appellant was held in abeyance. The appellant also challenged the same through departmental appeal on 15.04.2014 but the same was not responded.

2. Facts of the case are that the appellant was appointed as Sweeper (BPS-1) in Government High School Wanda Jamal D.I.Khan and was performing his duty. However, during service his appointment order dated 02.11.2013 passed by Headmaster

M. Amin
24.7.2017

Government High School Wanda Jamal D.I.Khan was held in abeyance by the said Headmaster Government High School Wanda Jamal D.I.Khan on 27.11.2013. The appellant also challenged the same through departmental appeal on 15.04.2014 but the same was not responded, hence, the present service appeal on 13.08.2014.

3. Learned counsel for the appellant argued that the appellant was appointed as Sweeper (BPS-1) by the Headmaster Government High School Wanda Jamal D.I.Khan vide order dated 02.11.2013 but during service his appointment order was held in abeyance by the said Headmaster vide order dated 27.11.2013. It was further contended that the Headmaster is the head of the school, therefore, he was the competent authority, and the appointment order of the appellant was rightly passed by him and contended that the impugned order dated 27.11.2013 is illegal and liable to be set-aside and the appellant is entitled for reinstatement.

4. On the other hand learned District Attorney for the respondents opposed the contention of learned counsel for the appellant and contended that the Headmaster was not competent authority to pass the appointment order of the appellant rather respondent No. 2 i.e District Executive Officer Education was the competent authority for appointment of Sweeper, therefore, vide order dated 27.11.2013 the appointment order of the appellant has been rightly held in abeyance. It was further contended that the impugned order was passed on 27.11.2013 and the appellant was required to file departmental appeal within one month but the appellant has filed the departmental appeal on 15.04.2014 after more than four months, therefore, the departmental appeal of the appellant is also badly time barred and the present appeal is not maintainable and liable to be dismissed.

5. We have heard the arguments on both the sides and gone through the record available on file.

6. Perusal of the record reveals that the appointment order of the appellant was passed by the Headmaster Government High School Wanda Jamal D.I.Khan vide order dated 02.11.2013 and the said Headmaster passed the impugned order dated 27.11.2013 whereby the appointment order was held in abeyance. The record further reveals the appellant was

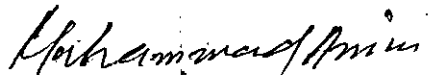
M. Amin
24.7.2017

required to challenge the impugned order dated 27.11.2013 within one month before the departmental authority but he has filed the departmental appeal on 15.04.2014 after a delay of more than four months. Moreover it is also proved from the written statement of the respondents including respondent No. 2 i.e District Executive Officer Education that the competent authority for appointment of Class-IV employee was not Headmaster but the appointment authority of clause-IV employee was District Education Officer, therefore, the appointment order of the appellant was passed by the incompetent authority. As such the impugned order vide which the appointment order was held in abeyance was rightly passed by the respondent, hence, the appeal has no force which is hereby dismissed. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
24.07.2017




(GUL ZEB KHAN)
MEMBER
CAMP COURT D.I.KHAN


(MUHAMMAD AMIN KHAN KUNDI)
MEMBER
CAMP COURT D.I.KHAN

27.03.2017

Since tour is hereby cancelled, therefore, the case is adjourned for the same on 24.07.2017.



Reader


24.07.2017

Appellant alongwith his counsel present. Mr. Farhaj Sikandar, District Attorney for the respondents also present. Arguments heard and record perused.

Vide our detailed judgment of today consisting of three pages placed on file, the appeal has no force which is hereby dismissed. Parties are left to bear their own costs. File be consigned to the record room.


ANNOUNCED
24.07.2017


(GUL ZEB KHAN)
MEMBER
CAMP COURT D.I.KHAN


(MUHAMMAD AMIN KHAN KUNDI)
MEMBER
CAMP COURT D.I.KHAN

26.04.2016


Counsel for the appellant Mr. Farhaj Sikandar, GP for respondents. Rejoinder submitted on behalf of the appellant, copy of which is placed on file. To come up for arguments on 26.09.2016 at camp court D.I. Khan.


Member
Camp Court D.I. Khan

26.09.2016

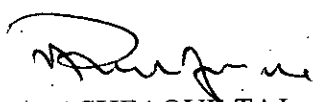
Counsel for the appellant and Mr. Farhaj Sikandar, Government Pleader alongwith Mr. Muhammad Kamran, ADO for the respondents, present. During the course of arguments it reveals that record regarding to the appointment of Class-IV employees of Education Department is not available. The learned Government Pleader is directed to assist the court in respect of appointing authority of Class-IV employees of the Education Department by next date. To come up for arguments on 26.12.2016 before D.B at Camp Court D.I.Khan.


Member


Member
Camp Court D.I.Khan

26.12.2016

Counsel for appellant and Mr. Muhammad Kamran, ADO alongwith Mr. Farhaj Sikandar, Government Pleader for the respondents present. Record vide order sheet dated 26.09.2016 not produced by the respondents. Representative of the respondent-department is once again directed to produce the record regarding to the appointment of Class-IV employees of Education Department. The learned Government Pleader is also directed to assist the court in respect of appointing authority of Class-IV employees of the Education Department. To come up for record and arguments on 27.03.2017 before D.B at Camp Court D.I.Khan.


ASHFAQUE TAJ
MEMBER
Camp Court D.I.Khan

2

**Directorate of Elementary and Secondary Education
Khyber Pakhtunkhwa Peshawar**



PH No. 091-9210389, 9210938,
9210437, 9210957, 9210468
Fax 091-9210936 080933857
E-mail rafiq_kk851@yahoo.com
No. 3391-3441/Estab
Dated Peshawar the 24/02/2014.

To:

All the District Education Officers.
(Male & Female) in Khyber Pakhtunkhwa.

Subject: Appointment of Class-IV Servants.

I am directed to refer to the subject cited above and it to inform you that the powers regarding appointment of Class-IV earlier delegated to the Principals/Headmasters/Headmistress/SDEOs across the province vide this office Memo No. A-23/MS/Dist DPC Meeting/2013/DD F&A/ No.2027-77 dated 12.12.2013 are hereby withdrawn forthwith.

I am further directed to inform you that in a capacity of the Head of the attached Department, the Director Elementary and Secondary Education Khyber Pakhtunkhwa, Peshawar is pleased to declare District Education Officer as "Appointing Authority" also for the Employer in BPS 1-4 in the respective District. The Class-IV Servants may be appointed by District Education Officer Concerned in the Primary Middle, High and Higher Secondary Schools after observing all social formalities. The appointments will not be made by the SDEOs/Head of the institutions as the following reserved Quota are badly affecting by decentralization of appointment at school /sub division level.

1. 25% quota reserved for Retired Employees Sons.
2. 3% quota reserved for Minorities.
3. 2% quota reserved for Disable.
4. Deceased Sons/Daughters/Wives

I am, therefore, directed to ask you to inform all heads of institutions /SDEOs in this regards and direct them further to observe all the quotas reserved for Deceased Sons/Daughters/Wives, 25% quota reserved for Retired Employees Sons, 3% quota reserved for Minorities, 2% quota reserved for Disable persons. All the appointments shall be made on the recommendation of the Departmental Selection Committee.

Dy: Director, (F&A) 24/2/14

Directorate of Elementary and Secondary
Education Khyber Pakhtunkhwa Peshawar.

2/1/13

12/12/13

35

him his endorsement on the subject inquest report is

Ex. PW3/9.

PW-04 Majid Khan son of Bashir Khan r/o Dheri Kati Khel District Nowshera.

According to PW-4, on 2/6/2011 he had identified the dead body of the deceased Raj Muhammad son of Irshad Khan who had expired at about 1030/1045 hours at LRH, Peshawar and who had been taken to KMC for his postmortem examination. PW-4 has admitted his signature over the inquest report.

PW-05 Bakhshed Gul s/o Nawaz Gul R/o Dheri Kati Khel District Nowshera.

According to PW-05, on the day of occurrence, he had identified the dead body of the deceased Rashid before the police as well as before the doctor. PW-05 has admitted his signature on the inquest report.

PW-06 Muhammad Riaz s/o Khawas Khan aged about 51/52 years r/o Hakim Abad Dheri Kati Khel District Nowshera.

According to PW-06, Muhammad Riaz, he had identified the dead body of deceased Irshad Khan before the doctor and police. PW-06 has admitted his signature upon the inquest report. PW-06 has further stated that he is a taxi driver and on the day of occurrence he was going to Akora Khattak in his taxi car alongwith his passengers. According

Handwritten notes:
13/6/013

SEARCHED
INDEXED
SERIALIZED
FILED
JUL 13 2011
PESHAWAR
DISTRICT NOWSHERA

Muhammad
Asif

DEA

26.09.2016

Counsel for the appellant and Mr. Farhaj Sikandar, Government Pleader alongwith Mr. Muhammad Kamran, ADO for the respondents present. During the course of arguments it reveals that record regarding to the appointment of Class-IV employees of Education Department is not available. The learned Government Pleader is directed to assist the court in respect of appointing authority of Class-IV employees of the Education Department by next date. To come up for arguments on 26.12.2016 before D.B at Camp Court D.I.Khan.

Member

✓
Member
Camp Court D.I.Khan

1041/14

28.09.2015

Counsel for the appellant and Mr. Farhaj Sikandar, GP with Khalid Saeed Akbar, ADO for the respondents No. 1, 2 and 4 present and requested for adjournment. Fresh notice be issued to the respondent No. 3. Case to come up for written reply on 23-11-15 at camp court, D.I.Khan.



MEMBER
Camp court, D.I.Khan

23.11.2015

Counsel for the appellant and Mr. Farhaj Sikandar, GP with Muhammad Kamran, Litigation Officer for the respondents present and reply filed. Copy handed over to counsel for the appellant. To come up for rejoinder on 30-12-15 at camp court, D.I.Khan.



MEMBER
Camp Court, D.I.Khan

30.12.2015

Since tour to D.I.Khan for the month of December, 2015 has been cancelled, therefore, case is adjourned to 29-3-16 for the same.



~~Camp Court, D.I.Khan~~

29.3.2016

Counsel for the appellant and Mr. Farhaj Sikandar, GP for the respondents present. The learned counsel for the appellant requested for adjournment. To come up for rejoinder on 26-4-16 at Camp Court, D.I.Khan.



MEMBER
Camp court, D.I.Khan

1041/14

27.4.2015

Appellant with counsel and Mr. Farhaj Sikandar, GP present. Mr. Bashir Ahmad, Headmaster also present on behalf of the respondents who supported appointment order of the appellant.

Counsel for the appellant submitted that the appellant was appointed by the appointing authority under the Khyber Pakhtunkhwa (Appointment, Promotion and Transfer) Rules, 1989 vide order dated 02.11.2013 as Sweeper, whereafter, he rendered government service for some time. However, his appointment order was held in abeyance vide impugned order dated 27.11.2013 and that his departmental appeal was also not responded within the statutory period. The learned counsel submitted that the impugned order is contrary to law and in violation of the Khyber Pakhtunkhwa Government Servants (E&D) Rules, 2011 and that the impugned order is liable to be set aside.

The appeal was resisted by the learned Government Pleader on the ground that a Headmaster was not competent to pass an appointment order and that the order is void ab-initio.

Points raised need consideration. The appeal is admitted for full hearing, subject to all legal exceptions. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for respondents. Case to come up for written reply on 28-09-2015 at camp court, D.I.Khan.


MEMBER
Camp court, D.I.Khan

Appellant Deposited
Security & Process Fee



25.11.2014


Since the Tribunal is incomplete therefore, this case is adjourned to
24.02.2015 for preliminary hearing at camp court D.I. Khan.

24-2-15


Registrar

Camp Court, D.I. Khan


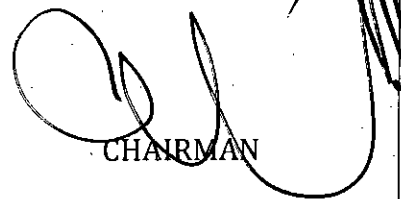
Counsel for the appellant present and heard
partly. Pre-admission notices be issued to G.P. as well
as respondents for further preliminary hearing on 27-4-15
at Camp Court, D.I. Khan.


Member
Camp Court, D.I. Khan

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 1041/2014

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	13/08/2014	<p>The appeal of Mr. Muhammad Asif presented today by Mr. Shaikh Iftikhar-ul-Haq Advocate may be entered in the Institution register and put up to the Worthy Chairman for preliminary hearing.</p> <p style="text-align: right;"> REGISTRAR</p>
2	3-11-2014	<p>This case is entrusted to Touring Bench D.I.Khan for preliminary hearing to be put up there on <u>25-11-2014</u></p> <p style="text-align: right;"> CHAIRMAN</p>

BEFORE THE PESHAWAR HIGH COURT BENCH D.I.KHAN.

S.T.A No. 1041 2014

Muhammad Asif V/S Govt of K.P.K etc.

Index.

S.No.	Particulars of documents	Annexure	Pages.
1.	Memo and grounds of Appeal.	-	1-4
2.	Copy of Appointment order	A	-5-
3.	Copy of the Joining Report	B	-6-
4.	Copy of the Attendance Register	C	-7-
5.	Copy of the Impugned order	D	-8-
6.	Copy of the Departmental Appeal <i>alongwith Portal Receipt.</i>	E	-9-
7.	Wakalatnama.	-	-10-

Your Humble Appellant.

Asif
Muhammad Asif

through Counsel

Sh. Iftikharul Haq
(Shaikh Iftikharul Haq)
Advocate High Court.

Dated. 9.8.2014.

1

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR.

S.T.A. No. 1041 2014

Muhammad Asif S/O Hashim Khan
R/O Wanda Jamal Tehsil and Distt
D.I.Khan.
(Ex-Sweeper G.H.S. Wanda Jamal)
D.I.Khan.

1076
13-8-2014

Appellant.

V/S

1. Govt of Khyber Pakhtunkhwa through
Director Education (Elementary & Secondary)
Peshawar.
2. District Executive Officer (Elementary & Secondary)
Education D.I.Khan.
3. Distt:Accounts Officer D.I.Khan
4. Headmaster G.H.S.Wanda Jamal D.I.Khan

Respondents.

Service Appeal under Section 4 of the K.P.K. Service Tribunal Act 1974 against the order bearing No.706 dated.27.11.2013 vide which the Appellant Appointment order was kept in abeyance and also que Departmental Appeal dated.15.4.2014 was not decided by the Appellate authority.

13/8/14
Prayer.

On acceptance of the instant Appeal the impugned order bearing No.706 dated.27.11.2013 may kindly be set aside and the Services of the Appellant may kindly be re-instated on his original post with all back benefits.

Respectfully Sheweth,

1. That the Appellant was appointed as Sweeper in B.P.S -1 in Govt High School Wanda Jamal D.I.Khan.

It is pertinent to mention that Appellant (father retired) was also employee in the said School. Copy of the appointment order of the Appellant is enclosed as Annexure A.

2. That Appellant after obtaining M.C. joined his duty in the School as Sweeper. Copy of the Joining Report is enclosed as Annexure B.

3. That the Appellant served the Department with full satisfaction of his superiors. In this respect Copy of attendance Register is enclosed as Annexure C.

4. That the Respondent authorities without any reason and justification, appointment order of Appellant was kept in abeyance vide endorsement No.706 dated. 27.11.2013. Copy of the Abeyance order is enclosed as Annexure D.

5. That the Appellant received the above order on the 10th April 2014 through his personal efforts and thus submitted a departmental appeal which was not disposed off/decided in the stipulated period. Hence the instant Service appeal inter alia on the following grounds. Copy of the Departmental appeal is enclosed as Annexure E. alongwith postal receipt.

It is to be noted
KEN

GROUNDS.


1. That the impugned order of abeyance is against law, facts and circumstances and is against the principal of natural justice.
2. That no show cause notice, charge sheet of allegation have been issued while keeping the appointment order in abeyance of the Appellant. In short no enquiry whatsoever have been conducted against the Appellant.
3. That the impugned abeyance order is not in commence of esta code of services and thus the impugned order is not sustainable in the eyes of law
4. That the Counsel of the Appellant may kindly be allowed to raise additional grounds during course of hearing.

In wake of submissions made above it is humbly prayed that the impugned order No.706 dated.27.11.2013 may kindly be set aside and the services of the Appellant be re-instated/restored with all back benefit.

Your Humble Appellant

M.Asif 

through Counsel.


(Shaikh Iftikharul Haq)
Advocate High Court.

Dated.4.8.2014

(4)

BEFORE THE PESHAWAR HIGH COURT BENCH D.I. KHAN.

S.T.A No. _____ 2014

Muhammad Asif V/S Govt of K.P.K etc.

Affidavit.

I, Muhammad Asif Son of Hasthi Khan R/O Wanda Jamal D.I. Khan do hereby solemnly affirm and declare on oath that the contents of the Appeal is true and correct to the best of my knowledge and belief nothing has been concealed from this Hon'ble Court.

Deponent.

Asif

Verification.

It is verified that the instant appeal is lone appeal on the subject matter .There is no any other petition/ application in any court of law.

Deponent.

Asif



1181/13

5

OFFICE OF THE HEADMASTER, GHS WANDA JAMAL (DISTT: D.I.KHAN)

Appointment Order:-

Ann-A

Under delegation of Powers conferred on me vide the Govt. of Khyber Pakhtunkhwa Notification No. SORI (S&GAD)/4-15/78 dt: 12-06-1979.

Mr. Muhammad Asif S/O Hashti Khan resident of Wanda Jamal Tehsil Paharpur, Distt: D.I.Khan is hereby appointed as Sweeper in BPS-I (Rs-4800-150-9300) plus usual allowances as admissible under the rule in the interest of public service with effect from the date of taking over charge, on the following terms & conditions

Terms & Conditions:-

- 1) His appointment is made purely on temporary basis and is liable to termination at any time without assigning any notice/reason.
- 2) His service will be considered as regular without pension/ gratuity in the terms of section-09 of the civil servants Act 1973, amended in 2005.
- 3) He will be governed by such rules & regulations as framed by the Govt. from time to time.
- 4) He will have to give a one month prior notice in case of resignation. Otherwise one month's pay will be forfeited.
- 5) He will have to produce a Medical / Fitness certificate from the Medical Superintendent D.H.Q Hospital, D.I.Khan.
- 6) The appointment order would automatically be treated as cancelled, if he failed to take over charge within 15 days of the issue of this order.
- 7) Charge report should be sent to all concerned.

[Signature]
 Head Master,
 Govt. High School Wanda Jamal,
 Distt: D.I.Khan

Endst: No. 699-702 Dated 02-11-2013

Copy to the:-

- 1) District Education Officer (Male) (E&SE) Deptt: D.I.Khan Distt: D.I.Khan
- 2) District Accounts Officer D.I.Khan Distt: D.I.Khan
- 3) Candidate concerned
- 4) Local Office

Attested to be true copy
[Signature]

[Signature]
 Head Master,
 Govt. High School Wanda Jamal,
 Distt: D.I.Khan

6

Ann-B

CERTIFICATE OF TRANSFER OF CHARGE

(1) Certified that we have, on the fore / ~~afternoon~~ of 1st day respectively, made over and received Charged of the Post of Sweeper appointed vide the head Master GHS Wanda Jamal D.IK
Enrolst. No.: 699-702 Dated 02-11-2013

(2) Particulars cash and important secret and confidential documents handed over are noted on the reverse

Signature of relieved
Government Servant Vacant post

Designation Sweeper
Station GHS Wanda Jamal D.I Khan

Signature of relieving Asif
Government Servant Muhammad Asif

Enrol No: 703-705
Date 02-11-2013
Designation Sweeper

- Forwarded to the
- 1) D.D.E.O (Male) (E & Sc) Deptt. Distt. D.I Khan.
 - 2) Distt. Accounts Officer Distt. D.I Khan
 - 3) Local office.

Attested to be true copy
Asif
Head Master
GHS High School
Wanda (D.I. Khan)

رجسٹر حاضرین مدرسین گورنمنٹ پبلسک اسکول وائٹ فیلڈ کراچی

بابت ماہ نومبر 2013

نام		رہائش		تدریس		علم عمل		مدرسہ	
عہدہ		N.A		L/T/AB		CHOWKIDAR		Sweepers	
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التفہیم									
استحقاقی									
بیماری									
میزان									

Attested to be true copy
 [Signature]

(8)

Ann - D

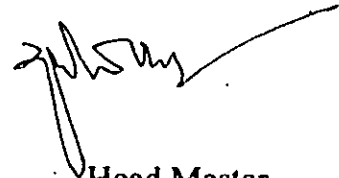
OFFICE OF THE HEADMASTER, GHS WANDA JAMAL (DISTT: D.I.KH/0)

No. 706

Dated Wanda Jamal the 27-11-2013

ORDER:-

The appointment order of Mr. Muhammad Asif (Sweeper) S/O Hasthi Khan issued vide this office Endst: No. 699-702 dated 02-11-2013, is hereby held in abeyance/



Head Master,
Govt: High School Wanda Jamal,
Distt: D.I.Khan.

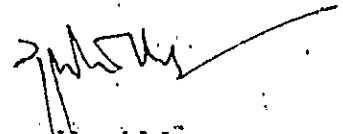
Endst: No. 707-709

Dated Wanda Jamal the 27-11-2013

Copy to the:-

- 1) District Education Officer (Male) (E&SE) Deptt: D.I.Khan Distt: D.I.Khan
- 2) District Accounts Officer D.I.Khan Distt: D.I.Khan
- 3) Candidate concerned

Attended to true copy
Asif



Head Master,
Govt: High School Wanda Jamal,
Distt: D.I.Khan

9

BEFORE THE DIRECTOR (SECONDARY & ELEMENTARY)
EDUCATION K.P.K. PESHAWAR.

Am-^rE

Departmental Appeal /Representation No. /2014

Departmental Appeal/Representation
against the order dated.27.11.2013
Passed by the Head Master G.H.School
Wanda Jamal.

Respected Sir,

That the Applicant was appointed as
Sweeper in MPS-1 in the Govt High School
Wanda Jamal D.I.Khan vide order 699-702 dated
2.11.2013 (copy attached) for ready reference.

That later on without any reason and
justification my appointment order has been
kept in abeyance .(Copy of the order is enclosed)
for your reference and consideration.

That no any show cause notice, charge sheet
have been issued and there is no any dent and stigma
on the performance of the Appellant.

my appointment order kept in abeyance is
illegal and unlawfull and is without lawfull authority

It is therefore humoly prayed that I may kindly
re-instated /restored on the post as Sweeper in the
G.H.S Wanda Jamal.

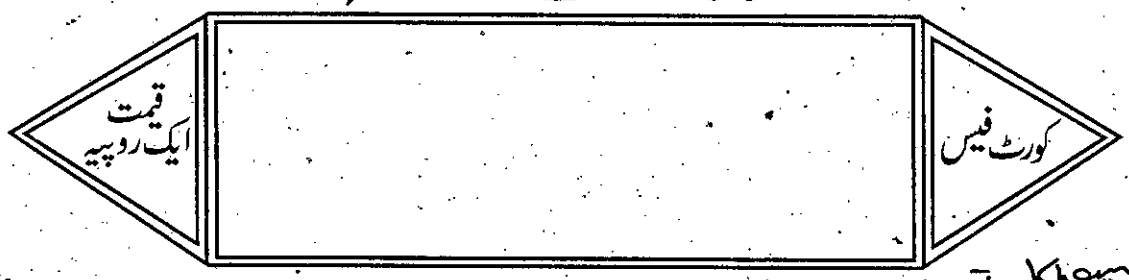
Asif
Your most Obedient.

Muhammad Asif (Sweeper S/O
Hathikhan Village Wanda Jamal
Distt: D.I.Khan.

Dated.15.4.2014.

Attached to be
from copy
Asif

وکالت نامہ



Before the Permanent High Court Bench D. I. Klem بعدالت جناب

Appellant Muhammad Asif منجانب

Muhammad Asif vs Govt of K.P. & et c

Service Appeal دعویٰ بلترجم

vs 4 of K.P. Service Tribunal Act تفصیل دعویٰ یا بلترجم

باعث تحریر آنکہ

مقدمہ مندرجہ بالا عنوان میں اپنی طرف واسطے پیروی وجوابدہی برائے پیشی یا تصفیہ مقدمہ بمقام D. I. Klem کیلئے

Sheikh Aftikhar ul-Haq Darooh High Court

کو حسب ذیل شرائط بروکل مقرر کیا ہے، کہ میں ہر پیشی پر خود یا بذریعہ مختیار خاص رو برو عدالت حاضر ہوتا رہوں گا۔ اور ہر وقت پکارے جانے مقدمہ وکیل صاحب موصوف کو اطلاع دیکر حاضر عدالت کروں گا، اگر پیشی پر مظہر حاضر نہ ہوں اور مقدمہ میری غیر حاضری کی وجہ سے کسی طور پر میرے برخلاف ہو گیا تو صاحب موصوف اسکے کسی طرح ذمہ دار نہ ہوں گے، نیز وکیل صاحب موصوف صدر مقام پچہری کے علاوہ کسی جگہ یا پچہری کے اوقات سے پہلے یا پیچھے یا بروز تعطیل بیروی کرنے کے ذمہ دار نہ ہوں گے۔ نیز وکیل صاحب موصوف صدر مقام پچہری کے علاوہ کسی جگہ یا پچہری کے اوقات سے پہلے یا پیچھے یا بروز تعطیل بیروی کرنے کے ذمہ دار نہ ہوں گے۔ اور مقدمہ صدر پچہری کے علاوہ اور جگہ سماعت ہونے یا بروز تعطیل یا پچہری کے اوقات کے آگے پیچھے پیش ہونے پر مظہر کو کوئی نقصان پہنچے تو اس کے ذمہ دار یا اس کے واسطے کسی معاوضہ کے ادا کرنے یا محتاج نہ واپس کرنے کے بھی موصوف ذمہ دار نہ ہوں گے۔ مجھ کو کل ساختہ پر داخست صاحب موصوف مشل کردہ ذات خود منظور قبول ہوگا۔ اور صاحب موصوف کو عرضی دعویٰ یا جواب دعویٰ یا درخواست اجراءے ڈگری نظر ثانی اپیل گرائی و جرم درخواست پر دستخط و تصدیق کرنے کا بھی اختیار ہوگا۔ اور کسی حکم یا ڈگری کرانے اور ہر قسم کارروائی وصول کرنے اور رسید دینے اور داخل کرنے اور جرم کے بیان دینے اور اس پر تاشی یا راضی نامہ و فیصلہ بر حلف کرنے، اقبال دعویٰ کا بھی اختیار ہوگا۔ اور بصورت مقرر ہونے تاریخ پیشی مقدمہ مذکورہ بیرون از پچہری صدر بیروی مقدمہ مذکورہ نظر ثانی اپیل و گرائی و آمدگی مقدمہ یا سنوٹی ڈگری یکطرفہ یا درخواست حکم امتناعی یا ترقی یا گرفتاری قبل از فیصلہ اجراءے ڈگری بھی صاحب موصوف کو بشرط ادائیگی علیحدہ ضمانت بیروی کا اختیار ہوگا اور تمام ساختہ پر داخست صاحب موصوف مشل کردہ ذات خود منظور قبول ہوگا۔ اور بصورت ضرورت صاحب موصوف کو یہ بھی اختیار ہوگا کہ مقدمہ مذکورہ یا اسکے کسی جزو کی کارروائی یا بصورت درخواست نظر ثانی اپیل یا گرائی یا دیگر معاملہ مقدمہ مذکورہ کسی دوسرے وکیل یا بیر مشرکوائے بجائے یا اپنے ہمراہ مقرر کریں۔ اور ایسے مشیر قانون کو بھی ہر امر میں وہی اور ویسے اختیارات حاصل ہوں گے، جیسے صاحب موصوف کو حاصل ہیں، اور دوران مقدمہ میں جو کچھ ہر جانہ التواء پڑے گا، وہ صاحب موصوف کا حق ہوگا۔ مگر صاحب موصوف کو پوری فیس تاریخ پیشی سے پہلے ادا نہ کروں گا۔ تو صاحب موصوف کو پورا اختیار ہوگا کہ وہ مقدمہ کی بیروی نہ کریں اور ایسی صورت میں میرا کوئی مطالبہ کسی قسم کا صاحب موصوف کے برخلاف نہیں ہوگا۔

لہذا وکالت نامہ لکھ دیا ہے۔ تاکہ سند ہے مورخہ ۰۶۔ ۰۵۔ ۲۰۱۴

مضمون وکالت نامہ سن لیا ہے۔ اور اچھی طرح سمجھ لیا ہے اور منظور ہے۔

العبد العبد العبد

Attested

Accepted

Sh: Aftikhar ul-Haq

Signature of
 Appellant

بلوچ فونڈیشن بیروس احاطہ پچہری ڈسٹرکٹ بارڈیرہ

BEFORE THE HONOURABLE SERVICE TRIBUNAL KPK PESHAWAR

Service Appeal No 1041/2014

Muhammad Asif

VS

Government of KPK

JOINT COMMENTS ON BEHALF OF RESPONDENTS NO 1,2,4

Preliminary Objections

- 1 That the appeal is not maintainable and incompetent in the eyes of law in its present form.
- 2 That the appellant is stopped by his own conduct to file this appeal.
- 3 That the appellant has got no cause of action.
- 4 That the appellant has got no locus standi.
- 5 The appellant has not come to the Honourable Tribunal with clean hands and has suppressed all relevant facts.
- 6 That the appeal is barred by law of limitations.
- 7 That the appeal is bad on account of misjoinder/ non joinder of necessary parties.
- 8 That the appeal is bad in eyes of law.
- 9 That the appellant has concealed the material facts from Tribunal.
- 10 The Honourable Service Tribunal has no jurisdiction to entertain the instant appeal.

Objection on Facts

- 1 This Para is correct to the extent that the appellant was appointed by Head Master of GHS Wanda Jamal DIKhan. He was not competent authority for the appointment of Class IV. Moreover the codel formalities were also not completed for appointment. The notification is attached the notification NO SO(E-1) E&AD/ 4-49/2012 dated 27-12-2012
- 2 This Para pertains to the record hence no comments.
- 3 This para is also pertains to the record hence no comments.
- 4 Muhammad Asif S/O Hasti Khan was appointed as a sweeper by the Head Master GHS Wanda Jamal DIKhan vide order No 699-702 on dated 2-11-2103. Infact the District Education Officer is a competent authority to issue appointment orders of Class IV. Therefore, his orders were held in abeyance which was withdrawn vide order Endst No 707-709 dated 27-11-2013.
- 5 As the appointment of the appellant was ab-initio void, illegal, unlawful and without of jurisdiction. So there is no need of further departmental inquiry.

Objection on Ground

- 1 Incorrect / not admitted. The impugned order of held in abeyance is according to law, facts, rules and policy of the Government as discussed in para 1of facts.
- 2 Incorrect hence denied. As the appointment of appellant is totally against the principles of natural justice and void ab-initio. So there is no need of any show cause notice and charge sheet of allegation.

- 3 Incorrect/ not admitted. The order No 706 vide dated 27-11-2013 is maintainable and justified in the eyes of law. As the Head Master of Government High School Wanda Jamal has no jurisdiction to appoint any Class IV.
- 4 That the Counsel of respondents may kindly be allowed to raise additional grounds during the course of hearing.

In view of above submission, it is humbly prayed that service appeal of appellants may kindly be dismissed with cost.

Respondent No 1


Director


Elementary & Secondary Education Department
Khyber Pakhtunkhwa Peshawar

Respondent No 2


District Education Officer (Male)
Dera Ismail Khan

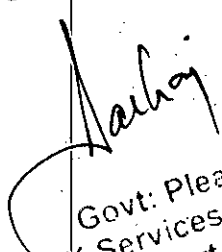
8/29

Respondent No 4


HEAD MASTER
G.H.S Wanda Jamal
Dera Ismail Khan

Head Master
GHS Wanda Jamal DIKhan

Vetted


Govt. Pleader
KPK Services Tribunal
Camp Court D.I.Khan

BEFORE THE HONOURABLE SERVICE TRIBUNAL KPK PESHAWAR

Service Appeal No 1041/2014

Muhammad Asif

VS

Government of KPK

Affidavit

I Mr Khalid Saeed Akbar Assistant District Education Officer (M) DIKhan solemnly affirm and declare on oath that contents of the written reply of the above mentioned service appeal are correct to the best of my knowledge and nothing has been concealed from this Honorable Tribunal.



Deponent

12101-0893674-5

Identified by:

Government Pleader
KPK Service Tribunal
Camp Court DIKhan

BEFORE THE HONOURABLE SERVICE TRIBUNAL KPK PESHAWAR

Service Appeal No 1041/2014

Muhammad Asif

VS

Government of KPK

Authority

We, the respondents do hereby authorized Mr Khalid Saeed Akbar Assistant District Education Officer (M) DIKhan to attend Honourable Service Tribunal.KPK Peshawar DIKhan Bench on our behalf in connection with para wise comments and till the decision of the service appeal.

Respondent No 1


Director

Elementary & Secondary Education Department
Khyber Pakhtunkhwa Peshawar

Respondent No 2


District Education Officer (Male)
Dera Ismail Khan

Respondent No 4


HEAD MASTER
G.H.S Wanda Jamal
Dera Ismail Khan
Head Master
GHS Wanda Jamal DIKhan

Abstract of Director Elementary & Secondary Education letter No. 1495-1546 dated 13-02-2013 addressed to District Education Officer (Male) Swat and copy thereof endorsed to all the District Education Officers in Khyber Pakhtunkhwa regarding authorization of powers.

Subject: NOTIFICATION

In pursuance of Khyber Pakhtunkhwa Local Govt. Act 2012 and Establishment & Administration Deptt. Notification No. SO(E-I)E&AD/4-49/2012, dated 27-12-2012 the District set up of Elementary & Secondary Education Deptt. stood segregated from the Local Govt. instructions established under the Act of Khyber Pakhtunkhwa Local Govt. Act 2001 and refined with the Elementary & Secondary Education Deptt. At Provincial level the DEOs (Male & Female) are authorized to exercise the powers of the Post notified vide Govt. of Khyber Pakhtunkhwa Notification No. SOR-1(S&GAD)1-15/73 dated 12-06-1979 and No. SOR-1(S&GAD)1-201/98, dated 07-09-1998. (Both the copies are attached).

Encl: As above:

Sd/

Deputy Director Establishment
E&SE, Khyber Pakhtunkhwa, Peshawar

OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) D.I.KHAN

Endst No. 747/51

Dated D.I.Khan the 02/10/2013

Copy of the above is forwarded to the:-

1. Director Elementary & Secondary Education Khyber Pakhtunkhwa.
2. District Accounts Officer D.I.Khan.
3. Budget and Accounts Officer Local Office.
4. All Principals/Headmasters/Head Teachers of GHSS, GHS, GMS and GPS for implementation in letter and spirit.

747/51
District Education Officer
(Male) D.I.Khan

3/10/13

BEFORE THE HONOURABLE SERVICE TRIBUNAL KPK PESHAWAR

Service Appeal No 1041/2014

Muhammad Asif

VS

Government of KPK

JOINT COMMENTS ON BEHALF OF RESPONDENTS NO 1,2,4

Preliminary Objections

- 1 That the appeal is not maintainable and incompetent in the eyes of law in its present form.
- 2 That the appellant is stopped by his own conduct to file this appeal.
- 3 That the appellant has got no cause of action.
- 4 That the appellant has got no locus standi.
- 5 The appellant has not come to the Honourable Tribunal with clean hands and has suppressed all relevant facts.
- 6 That the appeal is barred by law of limitations.
- 7 That the appeal is bad on account of misjoinder/ non joinder of necessary parties.
- 8 That the appeal is bad in eyes of law.
- 9 That the appellant has concealed the material facts from Tribunal.
- 10 The Honourable Service Tribunal has no jurisdiction to entertain the instant appeal.

Objection on Facts

- 1 This Para is correct to the extent that the appellant was appointed by Head Master of GHS Wanda Jamal DIKhan. He was not competent authority for the appointment of Class IV. Moreover the codel formalities were also not completed for appointment. The notification is attached the notification NO SO(E-1) E&AD/ 4-49/2012 dated 27-12-2012
- 2 This Para pertains to the record hence no comments.
- 3 This para is also pertains to the record hence no comments.
- 4 Muhammad Asif S/O Hasti Khan was appointed as a sweeper by the Head Master GHS Wanda Jamal DIKhan vide order No 699-702 on dated 2-11-2103. Infact the District Education Officer is a competent authority to issue appointment orders of Class IV. Therefore, his orders were held in abeyance which was withdrawn vide order Endst No 707-709 dated 27-11-2013.
- 5 As the appointment of the appellant was ab-initio void, illegal, unlawful and without of jurisdiction. So there is no need of further departmental inquiry.

Objection on Ground

- 1 Incorrect / not admitted. The impugned order of held in abeyance is according to law, facts, rules and policy of the Government as discussed in para 1 of facts.
- 2 Incorrect hence denied. As the appointment of appellant is totally against the principles of natural justice and void ab-initio. So there is no need of any show cause notice and charge sheet of allegation.

3. Incorrect/ not admitted. The order No 706 vide dated 27-11-2013 is maintainable and justified in the eyes of law. As the Head Master of Government High School Wanda Jamal has no jurisdiction to appoint any Class IV.
4. That the Counsel of respondents may kindly be allowed to raise additional grounds during the course of hearing.

In view of above submission, it is humbly prayed that service appeal of appellant may kindly be dismissed with cost.

Respondent No 1



Director

Elementary & Secondary Education Department
Khyber Pakhtunkhwa Peshawar

Respondent No 2


District Education Officer (Male)
Dera Ismail Khan

8/29

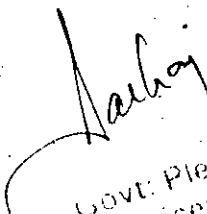

Respondent No 4

HEAD MASTER
GHS Wanda Jamal
Dera Ismail Khan

Head Master

GHS Wanda Jamal DIKhan

Vetted



Govt. Pleader
GPK Services Tribunal
Camp Court D.I.Khan

BEFORE THE HONOURABLE SERVICE TRIBUNAL KPK PESHAWAR

Service Appeal No 1041/2014

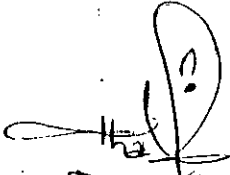
Muhammad Asif

VS

Government of KPK

Affidavit

I Mr Khalid Saeed Akbar Assistant District Education Officer (M) DIKhan solemnly affirm and declare on oath that contents of the written reply of the above mentioned service appeal are correct to the best of my knowledge and nothing has been concealed from this Honorable Tribunal.


Deponent
12101-0899674-5

Identified by:

Government Pleader
KPK Service Tribunal
Camp Court DIKhan

BEFORE THE HONOURABLE SERVICE TRIBUNAL KPK PESHAWAR

Service Appeal No 1041/2014

Muhammad Asif

VS

Government of KPK

Authority

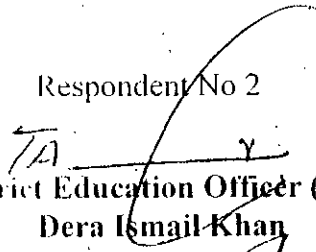
We, the respondents do hereby authorized Mr Khalid Saeed Akbar Assistant District Education Officer (M) DIKhan to attend Honourable Service Tribunal KPK Peshawar DIKhan Bench on our behalf in connection with para wise comments and till the decision of the service appeal.

Respondent No 1

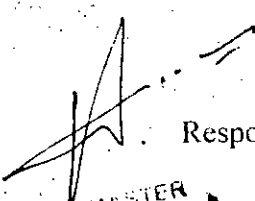

Director

Elementary & Secondary Education Department
Khyber Pakhtunkhwa Peshawar

Respondent No 2


District Education Officer (Male)
Dera Ismail Khan

Respondent No 4


HEAD MASTER
G.H.S Wanda Jamal
Dera Ismail Khan

Head Master
GHS Wanda Jamal DIKhan

8/09

Abstract of Director Elementary & Secondary Education letter No. 1495-1546 dated 13-03-2013 addressed to District Education Officer (Male) Swat and copy thereof endorsed to all the District Education Officers in Khyber Pakhtunkhwa regarding authorization of powers.

Subject: NOTIFICATION

In pursuance of Khyber Pakhtunkhwa Local Govt. Act 2012 and Establishment & Administration Deptt. Notification No. SO(E-I)E&AD/4-49/2012, dated 27-12-2012 the District set up of Elementary & Secondary Education Deptt. stood segregated from the Local Govt. instructions established under the Act of Khyber Pakhtunkhwa Local Govt. Act 2001 and aligned with the Elementary & Secondary Education Deptt. At Provincial level the DEOs (Male & Female) are authorized to exercise the powers of the Post notified vide Govt. of Khyber Pakhtunkhwa Notification No. SOR1(S&GAD)1-15/78 dated 12-06-1979 and No. SOR-1(S&GAD)1-201/98, dated 07-09-1998. (Both the copies are attached).

Encl: As above.

Sd/
Deputy Director Public Instruction
LGSL, Khyber Pakhtunkhwa Postmaster

OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) D.I.KHAN

Endst No. 1114/151

Dated D.I.Khan the 13/03/2013

Copy of the above is forwarded to the:-

1. Director Elementary & Secondary Education Khyber Pakhtunkhwa.
2. District Accounts Officer D.I.Khan.
3. Budget and Accounts Officer Local Office.
4. All Principals/Headmasters/Head Teachers of GHS, GHS, G.P.S and G.P.S for implementation in letter and spirit.

03/10/13

District Education Officer
(Male) D.I.Khan

3/10/13

BEFORE THE HONOURABLE SERVICE TRIBUNAL KPK PESHAWAR

Service Appeal No 1041/2014

Muhammad Asif

VS

Government of KPK

JOINT COMMENTS ON BEHALF OF RESPONDENTS NO 1,2,4

Preliminary Objections

1. That the appeal is not maintainable and incompetent in the eyes of law in its present form.
2. That the appellant is stopped by his own conduct to file this appeal.
3. That the appellant has got no cause of action.
4. That the appellant has got no locus standi.
5. The appellant has not come to the Honourable Tribunal with clean hands and has suppressed all relevant facts.
6. That the appeal is barred by law of limitations.
7. That the appeal is bad on account of misjoinder/ non joinder of necessary parties.
8. That the appeal is bad in eyes of law.
9. That the appellant has concealed the material facts from Tribunal.
10. The Honourable Service Tribunal has no jurisdiction to entertain the instant appeal.

Objection on Facts

- ✓ 1. This Para is correct to the extent that the appellant was appointed by Head Master of GHS Wanda Jamal DIKhan. He was not competent authority for the appointment of Class IV. Moreover the codel formalities were also not completed for appointment. The notification is attached the notification NO SO(E-1) E&AD/ 4-49/2012 dated 27-12-2012
2. This Para pertains to the record hence no comments.
3. This para is also pertains to the record hence no comments.
- ✓ 4. Muhammad Asif S/O Hasti Khan was appointed as a sweeper by the Head Master GHS Wanda Jamal DIKhan vide order No 699-702 on dated 2-11-2103. Infact the District Education Officer is a competent authority to issue appointment orders of Class IV. Therefore, his orders were held in abeyance which was withdrawn vide order Endst No 707-709 dated 27-11-2013.
5. As the appointment of the appellant was ab-initio void, illegal, unlawful and without of jurisdiction. So there is no need of further departmental inquiry.

Objection on Ground

1. Incorrect / not admitted. The impugned order of held in abeyance is according to law, facts, rules and policy of the Government as discussed in para 1 of facts.
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- 4 That the Counsel of respondents may kindly be allowed to raise additional grounds during the course of hearing.

In view of above submission, it is humbly prayed that service appeal of appellant may kindly be dismissed with cost.

Respondent No 1



Director

Elementary & Secondary Education Department
Khyber Pakhtunkhwa Peshawar

Respondent No 2

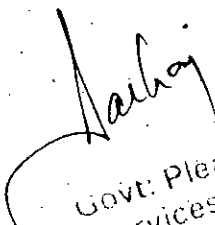

District Education Officer (Male)
Dera Ismail Khan

8/29


Respondent No 4
HEAD MASTER
G.H.S Wanda Jamal
Dera Ismail Khan

Head Master
GHS Wanda Jamal DIKhan

Vetted



Govt Pleader
PK Services Tribuna
Camp Court D.I.Khan

BEFORE THE HONOURABLE SERVICE TRIBUNAL KPK PESHAWAR

Service Appeal No 1041/2014

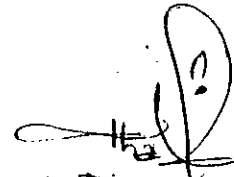
Muhammad Asif

VS

Government of KPK

Affidavit

I Mr Khalid Saeed Akbar Assistant District Education Officer (M) DIKhan solemnly affirm and declare on oath that contents of the written reply of the above mentioned service appeal are correct to the best of my knowledge and nothing has been concealed from this Honorable Tribunal.


Deponent
12101-0899,674-5

Identified by:

Government Pleader
KPK Service Tribunal
Camp Court DIKhan

BEFORE THE HONOURABLE SERVICE TRIBUNAL KPK PESHAWAR

Service Appeal No 1041/2014

Muhammad Asif

VS

Government of KPK

Authority

We, the respondents do hereby authorized Mr Khalid Saeed Akbar Assistant District Education Officer (M) DIKhan to attend Honourable Service Tribunal KPK Peshawar DIKhan Bench on our behalf in connection with para wise comments and till the decision of the service appeal.

Respondent No 1

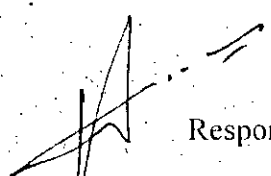

Director

Elementary & Secondary Education Department
Khyber Pakhtunkhwa Peshawar

Respondent No 2


District Education Officer (Male)
Dera Ismail Khan

Respondent No 4


HEAD MASTER
GHS Wanda Jamal
Dera Ismail Khan

Head Master
GHS Wanda Jamal DIKhan

Abstract of Director Elementary & Secondary Education letter No. 1495-1546 dated 13-03-2013 addressed to District Education Officer (Male) Swat and copy thereof endorsed to all the District Education Officers in Khyber Pakhtunkhwa regarding authorization of powers.

Subject: NOTIFICATION

In pursuance of Khyber Pakhtunkhwa Local Govt. Act 2012 and Establishment & Administration Deptt Notification No. SO(E-1)E&AD/4-10/2012, dated 27-12-2012 the District set up of Elementary & Secondary Education Deptt. stood segregated from the Local Govt. instructions established under the Act of Khyber Pakhtunkhwa Local Govt. Act 2001 and aligned with the Elementary & Secondary Education Deptt. At Provincial level the DEOs (Male & Female) are authorized to exercise the powers of the Post notified vide Govt. of Khyber Pakhtunkhwa Notification No. SOR1(S&GAD)14-15/78 dated 12-06-1979 and No. SOR-1(S&GAD)1-201/98, dated 07-09-1998 (Both the copies are attached).

Encl: As above.

Sd/
Deputy Director, F. Public Instruction
EDSE, Khyber Pakhtunkhwa Peshawar

OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) D.I.KHAN

Endst No. 2/114/51 /

Dated D.I.Khan the 13/03/2013

Copy of the above is forwarded to the:-

1. Director Elementary & Secondary Education Khyber Pakhtunkhwa.
2. District Accounts Officer D.I.Khan.
3. Budget and Accounts Officer Local Office.
4. All Principals/Headmasters/Head Teachers of GHS, GHS, GHS and GPS for implementation in letter and spirit.

7/1
District Education Officer
(Male) D.I.Khan

30/3

BEFORE THE HONOURABLE SERVICE TRIBUNAL KPK PESHAWAR

Service Appeal No 1041/2014.

Muhammad Asif

VS

Government of KPK

JOINT COMMENTS ON BEHALF OF RESPONDENTS NO 1,2,4

Preliminary Objections

- 1 That the appeal is not maintainable and incompetent in the eyes of law in its present form.
- 2 That the appellant is stopped by his own conduct to file this appeal.
- 3 That the appellant has got no cause of action.
- 4 That the appellant has got no locus standi.
- 5 The appellant has not come to the Honourable Tribunal with clean hands and has suppressed all relevant facts.
- 6 That the appeal is barred by law of limitations.
- 7 That the appeal is bad on account of misjoinder/ non joinder of necessary parties.
- 8 That the appeal is bad in eyes of law.
- 9 That the appellant has concealed the material facts from Tribunal.
- 10 The Honourable Service Tribunal has no jurisdiction to entertain the instant appeal.

Objection on Facts

- 1 This Para is correct to the extent that the appellant was appointed by Head Master of GHS Wanda Jamal DIKhan. He was not competent authority for the appointment of Class IV. Moreover the codel formalities were also not completed for appointment. The notification is attached the notification NO SO(E-1) E&AD/ 4-49/2012 dated 27-12-2012
- 2 This Para pertains to the record hence no comments.
- 3 This para is also pertains to the record hence no comments.
- 4 Muhammad Asif S/O Hasti Khan was appointed as a sweeper by the Head Master GHS Wanda Jamal DIKhan vide order No 699-702 on dated 2-11-2103. Infact the District Education Officer is a competent authority to issue appointment orders of Class IV. Therefore, his orders were held in abeyance which was withdrawn vide order Endst No 707-709 dated 27-11-2013.
- 5 As the appointment of the appellant was ab-initio void, illegal, unlawful and without of jurisdiction. So there is no need of further departmental inquiry.

Objection on Ground

- 1 Incorrect / not admitted. The impugned order of held in abeyance is according to law, facts, rules and policy of the Government as discussed in para 1 of facts.
- 2 Incorrect hence denied. As the appointment of appellant is totally against the principles of natural justice and void ab-initio. So there is no need of any show cause notice and charge sheet of allegation.

- 3 Incorrect/ not admitted. The order No 706 vide dated 27-11-2013 is maintainable and justified in the eyes of law. As the Head Master of Government High School Wanda Jamal has no jurisdiction to appoint any Class IV.
- 4 That the Counsel of respondents may kindly be allowed to raise additional grounds during the course of hearing.

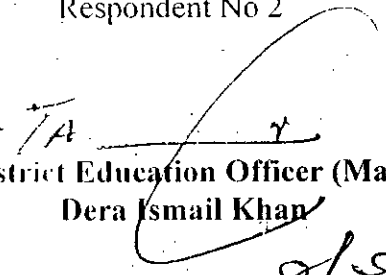
In view of above submission, it is humbly prayed that service appeal of appellant may kindly be dismissed with cost.

Respondent No 1

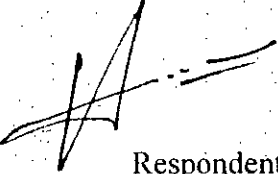

Director

Elementary & Secondary Education Department
Khyber Pakhtunkhwa Peshawar

Respondent No 2


District Education Officer (Male)
Dera Ismail Khan

8/29


Respondent No 4

HEAD MASTER
G.H.S Wanda Jamal
Dera Ismail Khan

Head Master
GHS Wanda Jamal DIKhan

Vetted



Govt Pleader
CPK Services Tribunal
Camp Court D.I.Khan

BEFORE THE HONOURABLE SERVICE TRIBUNAL KPK PESHAWAR

Service Appeal No 1041/2014

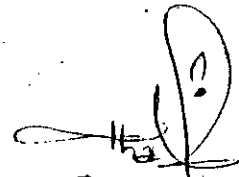
Muhammad Asif

VS

Government of KPK

Affidavit

I Mr Khalid Saeed Akbar Assistant District Education Officer (M) DIKhan solemnly affirm and declare on oath that contents of the written reply of the above mentioned service appeal are correct to the best of my knowledge and nothing has been concealed from this Honorable Tribunal.



Deponent

12101-0899674-5

Identified by:

Government Pleader
KPK Service Tribunal
Camp Court DIKhan

BEFORE THE HONOURABLE SERVICE TRIBUNAL KPK PESHAWAR

Service Appeal No 1041/2014

Muhammiad Asif

VS

Government of KPK

Authority

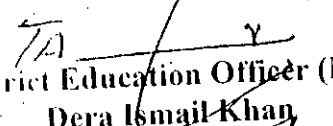
We, the respondents do hereby authorized Mr Khalid Saeed Akbar Assistant District Education Officer (M) DIKhan to attend Honourable Service Tribunal KPK Peshawar DIKhan Bench on our behalf in connection with para wise comments and till the decision of the service appeal.

Respondent No 1


Director

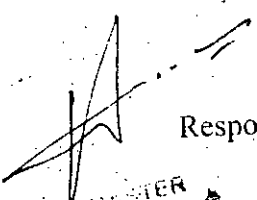
Elementary & Secondary Education Department
Khyber Pakhtunkhwa Peshawar

Respondent No 2


District Education Officer (Male)
Dera Ismail Khan

8/09

Respondent No 4


HEAD MASTER
GHS Wanda Jamal
Dera Ismail Khan

Head Master
GHS Wanda Jamal DIKhan

Abstract of Director Elementary & Secondary Education letter No. 1495-1546 dated 13-03-2013 addressed to District Education Officers (Male) Local and copy thereof endorsed to all the District Education Officers in Khyber Pakhtunkhwa regarding authorization of powers.

Subject: NOTIFICATION

In pursuance of Khyber Pakhtunkhwa Local Govt. Act 2012 and Establishment & Administration Deptt. Notification No. SO(E-I)E&AD/4-49/2012, dated 27-12-2012 the District set up of Elementary & Secondary Education Deptt. stood segregated from the Local Govt. instructions established under the Act of Khyber Pakhtunkhwa Local Govt. Act 2001 and aligned with the Elementary & Secondary Education Deptt. At Provincial level the DEOs (Male & Female) are authorized to exercise the powers of the Post notified vide Govt. of Khyber Pakhtunkhwa Notification No. SOR-1(S&GAD)1-15/78 dated 12-06-1979 and No. SOR-1(S&GAD)1-201/98, dated 07-03-1998 (Both the copies are attached).

Encl: As above.

507

Deputy Director, Establishment
E&S, Khyber Pakhtunkhwa Peshawar

OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) D.I.KHAN

Encl. No. 2111/51

Dated D.I.Khan the 03/10/13

Copy of the above is forwarded to the:-

1. Director Elementary & Secondary Education-Khyber Pakhtunkhwa.
2. District Accounts Officer D.I.Khan.
3. Budget and Accounts Officer Local Office.
4. All Principals/Headmasters/Head Teachers of GHS, GIS, GFS and GPS for implementation in letter and spirit.

District Education Officer
(Male) D.I.Khan

3/10/13

BEFORE THE HON'BLE SERVICE TRIBUNAL K.P.K. PESHAWAR.

in re Service Appeal No. 1041/2014

Muhammad Asif V/S Govt of K.P.K etc.

REJOINDER TO THE COMMENTS OF RESPONDENTS 1,2,4

1. That Para No.1 of Comments is incorrect. The Appeal is maintainable and competent. The Respondent have not explained that on which grounds the same is incompetent. Thus the Para No.1 is denied.
2. That Para No.2 of comment is incorrect.
3. That the Para No.3 of comment is also incorrect. He was appointed legally and his appointment was kept in abeyance having Genuine grievances for filing of Appeal. Thus Para 3 is denied.
4. Para No.4 is also incorrect.
5. Para No.5 is also incorrect. The Appellant ~~has~~ *has come* this Court with Clean hand as because he is Govt: Civil Servant and have legal rights to file an appeal
6. That Para 6 of comments is incorrect. The Appellant has filed his appeal well within time after filing of Departmental Appeal.
7. That Para No.7 is incorrect. The Appellant have arrayed all necessary parties in the Instant Appeal.
8. Para No.8 is incorrect.
9. Para No.9 is incorrect. No any facts have been concealed from the Hon'ble Tribunal
10. That Para No. 10 is also incorrect. This hon'ble Court has competent to entertain the instant Appeal.

Objection on Facts.

1. That the Local Government and Head-Master GHS

is fully competent to issue appointment order of the Appellant. All the codel formalities have been fulfilled by the Head Master G.H.S. Wanda Jamal and the Appellant was found rightful and genuine Candidate for Sweeper.

2. Need no comments/reply
3. Need no comments/reply .
4. That Para no. 4 is not understandable .The word abeyance is not-understable . The appointment order of the appellant have not been cancelled nor withdrawn . No any charge sheet statement of allegation or show cause notice have been issued to the Appellant. The act and omission of the Respondent authorities "keeping in abeyance" is illegal and unlawful Thus the para is denied.
5. The appointment order of the Appellant is legal and is according law and service rules regulation .

Objection on Grounds.

1. Para no. 1 of the grounds of Reply is incorrect. There is no provision in Service laws to held in abeyance, a Proper and competent forum order .
2. Para No.2 of the grounds No.2 is incorrect. The answering Respondent are at fault to deny his own proper order .Moreover under Principal of Natural justice no one be condumed unheard.
3. Para No.3 is incorrect. Under the service rules and policy at time the Head master had jurisdiction to appoint the Class-IV
4. During course of hearing the Appellant's Counsel may be allowed to urge Additional grounds.


Handwritten signature/initials

In wake of submissions made above it is humbly Prayed that the appeal of the Appellant may kindly be accepted as prayed for in the original Appeal.

Your Humble Appellant.


Muhammad Asif

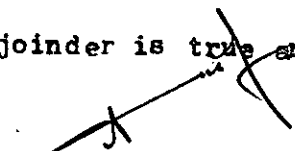
Through Counsel


(Sheikh Iftikharul Haq)
Advocate High Court.

Dated. 26.4.2016.

Affidavit.

It is solemnly affirm and declare on oath that the contents of the rejoinder is true and correct.


Deponent.

