

Original Letter 13/12/11
of Secretary Education

Time Barred

Wang ^{John}
PLD 2016/872

Appointed 9 19-12-2011

order withdrawn - 22-04-2012 ✓
Writ 11-06-12

Writ converted into
representation 24-10-12 ✓

conveyed 2-11-12 ✓

Report Appeal 5-11-12 ✓

Rejected 13-02-13

Service appeal 28-01-13

03339000553

- mp order 22/4/12

w. petition = 11/6/12

order = 24/10/12 ——— v.amp
one mon/14

⊙ Registrar sent = 2/11/12

Time
banded

DIA = 5/11/12

my foot 28/1/13

BEFORE THE K.P.K SERVICE TRIBUNAL PESHAWAR.

Appeal no. 505/13

Minhajuddin V/ Govt of K.P.K. etc.

Index.

S.No.	Particulars of documents.	Annexure	Pages.
1.	memo and grounds of Service Tribunal		
2.	Condonation Application.		
3.	stay Application.		
4.	Copy of order dated.19.12.2011.	A	
5.	Copy of Charge Report and medical fitness certificate	B & C	
6.	Copy of order dated.22.11.2012 and order dated.29.5.2012	D & E	
7.	Copy of Writ Petition and order dated.20.10.2012 and letter dated. 2.11.2012	F G & H	
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9.	Wakalatnama.		

24-10-12

24-12-12

Yours Humble Appellant.

Minhajuddin

through Counsel.

(Muhammad Iqbal Kundi)
Advocate High Court.

Dated.28.1.2013.

- 1 - No sufficient cause of delay.
- 2 - deprec appeal is time based
- 3 - review appeal is also time based.

- 1 - Impugned order: 22-4-2012
- 2 - Filed writ petition: 11-6-2012
- 3 - writ petition decided by: 24.10.2012
- 4 - we treat writ petition as representation and send it to Resptl-5/Eds for decision within a month
- 5 - Resptl sent on: 2-11-12
- 6 - Deprec appeal: 5-11-12
- 7 - Review appeal: 28-1-2013

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No. _____ 2013

Minhajuddin S/O Ghiasuddin,
Caste Awan R/O Kot Attal Sharif,
Tehsil and Distt:D.I.Khan.

Appellant.

v/s

1. Govt of Khyber Pakhtunkhwa
Through Secretary Education (Ele&Secon)
K.P.K. Peshawar.
2. Director Education (Ele :& Secon:)
K.P.K. Peshawar.
3. Executive Distt:Officer Education
School and Literacy
D.I.Khan.
4. Muhammad Ramzan S/O Qasim
Caste Mohana R/O Kot Attal Sharif
Tehsil and Distt:D.I.Kham.

2-11
2-12
2-11
2-12
2-12
2-11

2-12 = 1
2-1 = 1

عراق کنگرہ پور
انڈیا

Respondents.

Service Appeal under Section 4 of Service Tribunal Act for setting aside office order No.4982-86 dated 20.4.2012 and restoration of office Mo.17203-06 dated.19.12.2011 and re-instatement in service with all back benefits.

Respected Sir,

The Appellant respectfully submits as under :-

1. That Appellant was appointed on the Post of Laboratory Attendent in BPS -1 at Govt High School

Attal Sharif by Respondent No.3 vide order bearing No.1703-06 dated.19.12.2011 after obtaining approval of Respondent No.1 vide his approval order bearing No. SOG(E & SED) 51/2011 dated.13.12.2011 .

Copy of the order dated.19.12.2011 is enclosed as Annexure A.

2. That appellant reported for duty and resumed it on 23.12.2011 after completing all the code formalities such as medical fitness from Medical Superintendent .Distt: Quarter Hospital D.I.Khan on 22.12.2012.

Charge report does not credit of rights

Copies of the charge report and medical fitness are enclosed as Annexure B & C

3. That Appellant was performing his duties smoothly to the entire satisfaction of his superiors when all of sudden he received an order bearing endorsement No.4982-86 dated 22.4.2012 issued by Respondent No.3 whereby appellant's appointment dated.19.12.2011 was withdrawn /annulled on the false and fabricated pretext that his name was not included in the approval accorded by Respondent No.1 vide order dated.13.12.2011. Soon after the issuance of impugned order dated.22.4.2012

Respondent No.3 appointed Mr.Muhammad Ramzan (Respondent No.4) vide order bearing No.7746-49 dated.20.5.2012

*order = 22/4/12
when = 29/5/12
af*

Copy of the order dated.22.4.2012 and order dated.29.5.2012 for appointment of Muhammad Ramzan are enclosed and marked as Annexure D & E

4. That after withdrawal of Appellant's appointment letter by Respondent No.3 he approached to the Hon'ble Peshawar High Court through writ Petition No.259-D/2012 for redressal of his grievances .The Hon'ble Peshawar

High Court was pleased to convert the aforesaid Writ Petition into representation vide order dated.24.10.2012 and was sent to the Respondent No.3 by Additional Registrar vide letter No.1556/Jud1/AR dated.2.11.2011.

Copies of writ Petition, order dated.24.10.2012 and Adul.Registrar letter dated.2.11.2012 are enclosed and marked as Annexure F G & H.

5. That after converting the Writ Petition into Representation appellant also filed departmental appeal to Respondent No.1 on 5.11.2012 for redressal of his grievances but uptill now representation as well as departmental appeal has been kept unattended by Respondents.

Copy of the departmental appeal is enclosed and marked as Annexure -I

6. That after expiry of stipulated period of 90 days Appellant is now filing instant service appeal before this Hon'ble Tribunal inter alia on the following grounds.

Grounds.

28-1-2013
1. That impugned order dated.22.4.2012 is void , against law , without lawfull authority even same is not effective upon the rights of Appellant thus the same is liable to beset aside .

2. That neither show cause notice has been issued to the Appellant nor any enquiry was conducted by Respondent No.3 while withdrawing appointment order dated.19.12.2011 of Appellant.

3. That it stands established from the contents of the earlier appointment order bearing Endorsement No. 17203-06 dated.19.12.2011 issued by the Executive District Officer (E&S) Education D.I.Khan that the appointment of of the Appellant as Laboratory Attendant in GHS Attal Sharif was made in pursuance of the approval of the Secretary (E & SED) Peshawar vide his letter No.SOG (S&SED) Peshawar vide his letter No.SOG(E&SED) 31/2011 dated.13.12.2011. As such the appointment of the Appellant *in accordance with law/rules and policy* was strictly of the Govt and was not made arbitrarily.

4. That the perusal of the record would reveal that the Appellant just after receipt of his appointment order dated.19.12.2011 had appeared before the Medical Supdt: District HQ Hospital D.I.Khan and has obtained a Medical Fitness Certificate required for the purpose on 22.12.2011.

5. That the perusal of the record would show that the Appellant on 23.12.2011 had takenover the charge of the post of Laboratory Attendant in GHS Kot Attal Sharif duly ^{ad} handover to him by the Headmaster of the said School. and since then the Petitioner is contineously serving as such to theentire satisfaction of his superiors.

6. That the mala fide on the part of the EDO (E&SED) D.I.Khan can safely be adjudged from the fact that after issuance of the earlier appointment order dated.19.12.2011 he remained quite mum for a considerable long period of more than four months and never bothered to notice that it was issued ~~over~~ ^{without} the proper approval of the concerned authority. The stance taken by him in his impugned order dated. 22.4.2012 is very much ridiculous, fanciful and unbelievable.

5

7. That just after issuance of the impugned order dated.22.4.2012, the E.D.O (E&SED) D.I.Khan as per information of the Petitioner has appointed one Muhammad Ramzan Respondent No.6 as Laboratory attendant in place of the Petitioner on 29.5.2012, which in the attending circumstances was not possible, and it was bit difficult for him to obtain the approval of the Secretary (E&SED) so quickly. It otherwise speaks volumes.

In wake of the above submissions it is respectfully prayed that on acceptance of this Appeal the impugned order dated.22.4.2012, issued by the EDO (E & SED) D.I.Khan regarding the termination of the Petitioner from his service as Laboratory attendant BPS-1 in GHS Kot Attal Sharif D.I.Khan may graciously be set aside and the earlier order dated.19.12.2011, issued by the EDO (S&SED) D.I.Khan for appointment of the Appellant as such may please be restored and the order dated.29.5.2012, issued by the EDO (E&SED) D.I.Khan regarding the appointment order of Muhammad Ramzan Respondent No.6 in place of the Appellant may please be cancelled and the EDO(E&SED) D.I.Khan be directed to pay all back benefits to the Appellant to meet the ends of justice.

Yours Humble Appellant.

Minhajuddin

through Counsel.

(Muhammad Iqbal Kundi)
Advocate High Court.

Dated.28.1.2013.

BEFORE THE K.P.K. SERVICE TRIBUNAL PESHAWAR.

Minhajuddin V/s Govt of K.P.K etc.

Affidavit.

I, Minhajuddin S/O Ghaisuddin R/O Kot Attal Sharif D.I.Khan do hereby solemnly affirm and declare on oath that the contents of the appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.

Deponent.

BEFORE THE K.P.K.R SERVICE TRIBUNAL Peshawar.

C.M. No. _____ 2013

in Service Appeal No.

Minhajuddin V/S Govt of K.P.K.

Application for Condonation of Delay in Submission of Appeal.

Respectfully Sheweth,

That the above titled Service appeal is being submitted alongwith the Condonation Application which may be treated as part of the main appeal.

That the Appellant had filed a Writ Petition against his termination order 4982-86 dated.20.4.2012. before the Hon'ble Peshawar High Court Bench D.I.Khan and this Hon'ble Court was pleased to convert the same into representation. The learned Additional Registrar vide order dated. 2.11.2012 sent the representation to the EDO D.I.Khan.

That the Appellant had also filed a Departmental appeal but no response has so far been recieved after expiry of 90 days. Thus the Appeal is within time. However this Hon'ble Tribunal has got vast power to condone the delay in submission of Appeal occured due to above mentioned situation.

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In wake of submissions made above it is humbly prayed that the delay if occurred may kindly be condoned.

Yours Humble Appellant.

Minhajuddin

Through Counsel.

Muhammad Iqbal Kundi
Advocate High Court.

Dated. 28.1.2013.

Affidavit.

I, Minhajuddin S/O Ghiasuddin R/O D.I. Khan do hereby solemnly affirm and declare on oath that the contents of the Appeal are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Hon'ble Court.

Deponent.

Minhajuddin

(9)

BEFORE THE SERVICE TRIBUNAL K.P.K. PESHAWAR.

C.M. No. _____ 2013

Mihajuddin V/S Govt of K.P.K etc .

Application for Suspension of further proceedings
on the impugned Office order No.4982-86 dated.
20.4.2012 till final disposal of the instant
Service Appeal.

Respectfully Sheweth,

That the above titled C.M. is being submitted
alongwith the Service Appeal which may be treated as part
parcel of each other.

That the Appellant have challenged the
termination order before your honour and the Appellant
is hopeful that his appeal will be decided in his
favour as all the ingredient required for stay ~~are~~
tilts in favour of the Appellant.

That the Appellant has got good prems facia
case , balance of convenience lies in favour of the
Appellant.

Sheweth

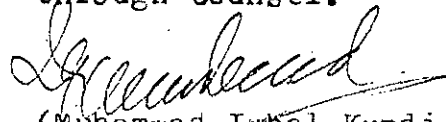
If the Stay/status quo has not been maintained
and the Appellant have kept removed from services the
very puposes of the Appeal of the Appellant will become
infructuous and the Appellant will suffer irreparable
loss.

In wake of submissions made above it is humbly prayed that stay order may kindly be granted to Appellant prohibiting the Respondent (from not interferingⁱⁿ the Services of the Appellant till final disposal of the main Appeal.

Yours Humble Appellant.

M. I. Khan
Minhajuddin

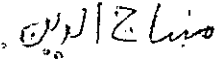
through Counsel.


(Muhammad Iqbal Kundi)
Advocate High Court.

Dated.28.1.2013.

Affidavit.

I, Minhajuddin S/O Ghiasuddin R/O Kot Attal Snarif D.I.Khan do hereby solemnly affirm and declare on oath that the contents of the stay application are true and correct to the best of my knowledge and belief and that nothing has been concealed.

Deponent. 

11 ANN-A
E-13

5

OFFICE OF THE EXECUTIVE DISTRICT OFFICER (E&SE) D.I.KHAN

APPOINTMENT ORDER. Consequent upon the approval of Secy E&SED, Fesh: vide letter No. SOG (E&SED) 31/2011 dt: 13/12/2011. Mr: Minhaj Ud Din S/O Ghayas Ud Din resident of Kot Attal Shraif, Tehsil Kulaehi is hereby appointed Newly Created Post of Class IV Servant (as Lab Attendant) at GIS, Kot Attal Shraif in BPS-1 (2970-90-5670) plus usual allowances in the interest of public service with immediate effect on the following terms & conditions.

TERMS & CONDITIONS.

1. His service will be considered as regular but without pension/ gratuity in the terms of section 19 of the Khyber Paktoankhawa civil servants act 1973 amended in 2005.
2. He will contribute to CPF & Rs.10% of the minimum of pay and 10% contribution will be made by the Govt.
3. He will be Governed by such rules and regulations as may be prescribed by the Govt from time to time for the category to which he belongs.
4. His appointment made purely temporary & liable to termination at any time without assigning any reason.
5. One month pay will be forfeited to Govt in case of resignation with out prior notice. The period of giving Notice in one month before the date of resignation.
6. His original certificates/ digress will be got verified by this office. All expenses will be born by the candidate.
7. He is required to join the post with in 15 days failing which the appointment order will stand cancel automatically.
8. The appointment is made subject to the condition that the candidate is permanent Domiciled of District D.I.Khan.
9. He is required to produce health & age certificate from the medical superintendent D.I.Khan.
10. Charge report should be submitted to all concerned.
11. No TA/DA etc is allowed.

Sd/-
EXECUTIVE DISTRICT OFFICER
E&S EDUCATION D.I.KHAN

Endost No. 17203-06

Dated DIKhan the 19/12/2011

Copy of the above is forwarded to the:-

1. District Coordination officer D.I.Khan
2. Principal / Headmaster / Headmistress / Dy: DO (M&F) Concerned.
3. District Accounts Officer D.I.Khan.
4. Official Concerned.

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[Signature]
EXECUTIVE DISTRICT OFFICER
E&S EDUCATION D.I.KHAN
17/12/11

F-36 ANN-14

OFFICE OF THE EXECUTIVE DISTRICT OFFICER ELEMENTARY & SECONDARY EDUCATION D.I.KHAN

ORDER:-

Reference to appointment order No.17203-6 Dated 19/12/2011 regarding Appointment Mr. Minhaj Ud Din S/O Ghayas Ud Din, Lab Attendant GHS Kot Attal Sharif, the name of the above cited person/official was not included in the approval accorded by the Secretary to Government Khyber Pakhtunkhwa Elementary & Secondary Department vide his NO. SOG(E&SED) 31/2011 Dated : 13/12/11:

But due to clerical mistake the appointment was made. Therefore appointment Order in r/o above name Lab attendant is hereby with drawn / cancelled with immediate effect.

sd/-
Executive District Officer
(E&SE) D.I.KHAN.

Endst NO. 4352-86 Dated D.I.Khan the : 22 / 4 / 2012.

Copy to the :-

1. Secretary Elementary & Secondary K.P.K Peshawar.
2. D.C.O, D.I.Khan.
3. Principal /H/M Concerned.
4. Account Officer D.I.Khan.
5. Official Concerned.

[Signature]
Executive District Officer
(E&SE) D.I.KHAN.

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چارج رپورٹ

15

Newly created Post
Class: W. servant. Lab Attendant

میں نے نئی مہیا ج الائن 5/5 چارج اوریسی کے تحت
(BFS-1)

11-03-2011 سے جو کہ آج مورخہ 17-12-2011 تک انہوں نے اپنے سرپرستوں کے حکم مندری

11-03-2011 سے جو کہ آج مورخہ 17-12-2011 تک انہوں نے اپنے سرپرستوں کے حکم مندری

تبدیل ہوا ہے۔ اس کے لئے (BFS-1) اسٹاک کا چارج سنبھال لیا ہے۔

مقام: کولہ ہائی سیرین۔ گورنمنٹ پبلک ہائی سکول، کولہ ہائی سیرین

مورخہ: 17-12-2011

چارج گیر ہندہ
منہاج الدان

انہوں نے
چارج دہندہ
%

MEDICAL CERTIFICATE

ANN (C)
13
14
D.

Name of Official..... Mr. Minhaj-ud-Din
Coast..... Awan
Father's Name..... Ghayas-ud-Din
Resident..... Kot Atal, Tehsil Kulachi
District Dera Ismaeel Khan
Date of Birth..... 24/11/1989 (12702-0632837-7)
Exact height by measurement..... (5'-6")
Mark of Identification..... Scar mark on the cheek
Signature of Official..... [Signature]
Signature of Head of Official.....

Seal of Office.....

I do hereby certify that I have examined Mr. Minhaj-ud-Din a candidate for employment in the office of the Education and cannot discover that he had any disease communicable or other constitutional efficient or bodily infirmity except..... I do not consider this as disqualification for employment in the office of the Education his age according to his own statement 22 01/12 years and by appearance about 22 4/12 years.

LEFT HAND THUMB AND FINGER IMPRESSIONS 22/12/2011

[Signature]
Medical Superintendent
D.M.C. Hospital Dikhan
15

ANN-F
W
16
IN THE PESHAWAR HIGH COURT, BENCH, D.I. KHAN.

Writ Petition No. 259-D / of 2012.

Minhaj-ud-Din son of Ghiyas-ud-Din
Caste Awan Resident of Kot Attal Sharif
Tehsil Kulachi District D.I. Khan.
... Petitioner.

Versus

1. Government of Khyber Pakhtunkhawa
through Secretary Education, Government
of Khyber Pakhtunkhawa, Peshawar.

2. Secretary to Government of Khyber
Pakhtunkhawa, Education, Department,
Peshawar. (Elementary & Secondary).

3. Director Education,
Khyber Pakhtunkhawa, Peshawar.

4. District Coordination Officer,
D.I. Khan.

5. Executive District Officer,
Elementary and Secondary Education,
Dera Ismail Khan.

6. Muhammad Ramzan son of Qasim
caste Mohana Resident of Kot Attal Sharif
Tehsil Kulachi District D.I. Khan.
... Respondents.

Writ Petition under Article 199
of the Constitution of Islamic Republic
of Pakistan, 1973.

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Respectfully Sheweth:-

1. That the addresses of the parties as given above are correct and sufficient for the purposes of service.

2. That the Petitioner is permanent resident of village Kot Attal Sharif Tehsil Kulachi District Dera Ismail Khan and is educated upto Middle standard. The copies of the domicile certificate and the School leaving certificate are enclosed as

Annexure-A&B

Annexures-A&B respectively.

3. That in pursuance of the approval of the Secretary, E&SED, Peshawar vide his letter No.SOG (E&SED)31/2011, dated 13/12/2011, the Petitioner was appointed Class-IV Servant (as Laboratory Attendant) against the newly created post at GHS, Kot Attal Sharif, Tehsil Kulachi District D.I.Khan in BPS-1 (2970-90-5670) plus usual allowance, by the Executive District Officer E&S Education, D.I.Khan vide his office order No.17203-06, dated 19/12/2011. The copy of the order is enclosed as Annexure-C.

Annexure-C.

4. That the Petitioner appeared before the Medical Superintendent, District Headquarters Hospital, D.I.Khan on 22/12/2011 and obtained Medical Fitness Certificate. The copy of which is enclosed as Annexure-D.

Annexure-D.

5. That after obtaining the Medical Fitness Certificate from the Medical Superintendent District Headquarters Hospital, D.I.Khan, the Petitioner took over the charge

18 (B)

of the post of Laboratory Attendant in the Government High School, Kot Attal Sharif Tehsil Kulachi District D.I.Khan, on 23/12/2011, forenoon as per charge report issued to him under the signatures of the Head-Master, Government High School, Kot Attal Sharif Tehsil Kulachi District D.I.Khan. The copy

Annexure-E.

of the charge report is enclosed as Annexure-E. 6. That the Petitioner was serving very smoothly to the entire satisfaction of his superiors when he all of a sudden received an order bearing endorsement No.4982-86 dated 22/4/2012; issued by the Executive District Officer (E&SE) D.I.Khan whereby the earlier order regarding the appointment of the Petitioner as Laboratory Attendant BPS-1, in the Government High School, Kot Attal Sharif Tehsil Kulachi District D.I.Khan bearing No.17203-6 dated 19/12/2011, issued by him was withdrawn/cancelled on the false and fabricated pretext that his name was not included in the approval accorded by the Secretary to Government Khyber Pakhtunkhwa Elementary & Secondary Department vide his No.SOG(E&SED)31/2011, dated 13/12/2011. The copy of which is enclosed as Annexure-F.

7. That just after issuance of the aforesaid order No.4982-86, dated 22/4/2012, the Executive District Officer (E&SE) D.I.Khan through his another office order dated 24/5/2012, has appointed Muhammad Ramzan s/o Qasim a co-villager of the Petitioner in place of the Petitioner as Laboratory Attendant Government High School, Kot Attal

(19) (7)

Sharif Tehsil Kulachi District D.I.Khan as per information of the Petitioner but its copy has not so far been delivered to the Petitioner nor it has been procured by the Petitioner through his hectic efforts. Therefore the same has not been annexed with the instant writ petition.

8. That the Petitioner is left with no other adequate remedy but to invoke the extra ordinary constitutional jurisdiction of this Honourable Court by way of present writ petition to declare the impugned order No.4982-86 dated 22/4/2012, issued by the Executive District Officer (E&SE) D.I.Khan as illegal, void ab-initio, arbitrary, perverse, unwarranted and against the rights of the Petitioner and after setting the same aside to restore the service of the Petitioner as Laboratory Attendant BPS-1, in Government High School, Kot Attal Sharif Tehsil Kulachi District D.I.Khan and to remove Muhammad Ramzan, Respondent No.6 from his service by cancelling his so-called appointment orders as Laboratory Attendant, GHS Kot Attal Sharif Tehsil Kulachi District DIKhan allegedly issued by the EDO (E&SE) D.I.Khan and to pay all back benefits to the Petitioner, on inter alia, the following grounds:-

(20) (15) (15) (9)

GROUND S.

i. That the impugned order No.4982-86, dated 22/4/2012, issued by the Executive District Officer (E&SE) D.I.Khan, is against law, facts and the material available on record and is therefore liable to be set aside.

✓ ii. That it stands established from the contents of the earlier appointment order bearing Endorsement No.17203-06 dated 19/12/2011, issued by the Executive District Officer, (E&SE) Education, D.I.Khan that the appointment of the Petitioner as Laboratory Attendant in GHS, Kot Attal Sharif Tehsil Kulachi District D.I.Khan was made in pursuance of the approval of the Secretary (E&SER) Peshawar vide his letter No. SOG(E&SER)31/2011 dated 13/12/2011. As such the appointment of the Petitioner was strictly in accordance with the law/rules and the policy of the Government and was not made arbitrarily.

✓ iii. That the perusal of the record would reveal that the Petitioner just after receipt of his appointment order dated 19/12/2011 had appeared before the Medical Superintendent District HQrs Hospital, D.I.Khan and has obtained a Medical Fitness Certificate required for the purpose, on 22/12/2011.

✓ iv. That the perusal of the record would show that the Petitioner on 23/12/2011 had takenover the charge of the post of Laboratory Attendant in GHS Kot Attal Sharif Tehsil Kulachi District D.I.Khan duly handedover to him by the Headmaster of the said School, and since then the Petitioner is continuously serving as such to the entire satisfaction of his superiors.

(21) (B) (8)

v. That the malafide on the part of the EDO (E&SED) DIKhan can safely be adjudged from the fact that after issuance of the earlier appointment order dated 19/12/2011, he remained quite mum for a considerable long period of more than 4 months and never bothered to notice that it was issued without the prior approval of the Secretary (E&SED) Peshawar (though it was issued after the proper approval of the concerned authority). The stance taken by him in his impugned order dated 22/4/2012, is very much ridiculous, fanciful and unbelievable.

vi. That just after issuance of the impugned order dated 22/4/2012, the EDO (E&SED) DIKhan as per information of the Petitioner has appointed one Muhammad Ramzan Respondent No.6 as Laboratory Attendant in place of the Petitioner on 24/5/2012, which in the attending circumstances was not possible, and it was bit difficult for him to obtain the approval of the Secretary (E&SED) Peshawar so quickly. It otherwise speaks volumes.

In wake of the above submissions, it is respectfully prayed that on acceptance of this writ petition, the impugned order dated 22/4/2012, issued by the EDO (E&SED) DIKhan regarding the termination of the Petitioner from his service as Laboratory Attendant BPS-1, in GHS Kot Attal Sharif Tehsil Kulachi District DIKhan may graciously be set aside and the earlier order dated 19/12/2011, issued by the EDO (E&SED) DIKhan for appointment of the Petitioner as such

22 B C

may please be restored and the order dated 20/5/2012, issued by the EIO(E&SED) Dikhan regarding the appointment of Muhammad Hamzan Respondent No.6, in place of the Petitioner may please be cancelled and the EIO(E&SED) Dikhan be directed to pay all back benefits to the Petitioner to meet the ends of Justice.

Your humble Petitioner

M. J. L.
(Minhaj-ud-Din)
Petitioner

Through Counsel.

(Muhammad Saleem Khan Marwat)
Advocate, High Court, Dikhan

D/-11.6.2012.

CERTIFICATE

Certified that no other writ petition on the subject has earlier been filed by the Petitioner in this Honourable Court.

D/-14.6.2012.

M. J. L.
Petitioner

BOOKS

1. Constitution of Islamic Republic of Pakistan, 1973.

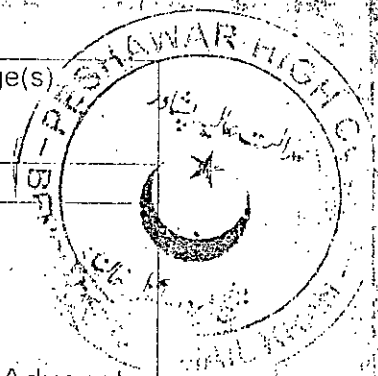
ANN-6
 23
 (C) (D) (E)

PESHAWAR HIGH COURT

KHAN-BENCH

FORM OF ORDER SHEET

Date of order or proceedings (1)	Order or other proceedings with signature of Judge(s) (2)
24.10.2012.	<p><u>W.P.No.259-D/2012 with C.M.No.23-D/2012.</u></p> <p><u>Present:</u> Muhammad Salim Marwat, Advocate for the petitioner. ***</p> <p><u>QAISER RASHID KHAN, J.-</u> After arguing the petition at certain length, when it was pointed to the learned counsel for the petitioner that in view of the bar contained under Article 212 of the Constitution of Islamic Republic of Pakistan, 1973, this Court has no jurisdiction to entertain the matter, he requested that the same may be treated as representation.</p> <p>2. In view of the above request, the instant petition is treated as representation and sent to respondent No.5 for decision within a month as per law, rules and government policy, whereafter the petitioner may seek his remedy before the proper forum, if so advised.</p> <p><u>Announced.</u> <u>DI.24.10.2012.</u> ✓</p>



ATTESTED

EXAMINER

Peshawar High Court
 Khan Bench

15/11/13

[Handwritten Signature]

JUDGE

[Handwritten Signature]
 JUDGE

[Handwritten Signature]
 25/10

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ANN - (H)

PESHAWAR HIGH COURT, D.I.KHAN BENCH

From: The Additional Registrar,
Peshawar High Court,
D.I.Khan Bench.

To: The Executive District Officer, Elementary
& Secondary Education, D.I.Khan.

No. 1558 /Judl/AR

Dated D.I.Khan the 02-11 /2011

Subject: W.P.NO.259-D/2012 Minhajud Din Vs KPK

Memo:

I am directed to forward herewith a copy of order dated 24.10.2012 in subject writ petition passed by Hon'ble Division Bench of this Court alongwith original writ petition and its annexures for compliance within month positively as the same has ^{been} treated as representation.

9/11
ADDITIONAL REGISTRAR
3/11/11

To:

The Secretary,
Elementary & Secondary Education
Govt of Khyber Pakhtunkhwa
Peshawar.

11 ANN-1 J 25
Dated. 5.11.2012

Subject: DEPARTMENTAL APPEAL AGAINST THE ORDER NO.4982-86
DATED.22.4.2012 VIDE WHICH APPOINTMENT OF APPELLANT
WAS WITHDRAWN .

Respected Sir,

The Appellant respectfully submits his Departmental Appeal against impugned/alleged order No.4982-86 dated.22.4.2012 of Ex-Distt Officer (E&SE) D.I.Khan vide which his appointment on the post of Laboratory Attendant was withdrawn, on the following facts and grounds while while converting the Writ Petition No.259-D/2012 of Appellant into Departmental Appeal by Hon'ble High Court vide order dated.24.10.2012 :-

The Appellant was appointed as Class IV Civil Servant on the post of Laboratory Attendant vide E.D.O (E&S) Education, D.I.Khan order No.17203-06 dated.19.12.2011 after obtaining approval from your honour office letter No.SOG(E&SED)31/2011 dated.13.12.2011 .

That after completing all the Codal formalities Appellant took the charge on 23.12.2011 at Govt High School Kot Attal Sharif Tehsil Kulachi Distt;D.I.Khan .

The Appellant had been serving on the post of laboratory Attendant to the entire satisfaction of his superiors when all of sudden he received order No.4982-86 dated.20.4.2012 from the office of E.D.O (E&SE) D.I.Khan vide which his appointment order dated.19.12.2011 was withdrawn on the alleged pretext that his name was not included in approval accorded by your good office i.e. SOG(E&SED) 31/2011

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dated.13.12.2011 and just after issuance of order dated.20.4.2012 one Muhammad Kamran was appointed in his place vide order No.7746-49 dated .29.5.2012 by E.D.O (E&SED) /Edu D.I.Khan.

That Appellant filed writ Petition No.259-D/2012 against the alleged order 20.4.2012 in Peshawar High Court Bench at D.I.Khan which was converted into Departmental Appeal by the Hon'ble High Court vide order dated.25.10.2012 which was sent to you by the Addl:Registrar Peshawar High Court Bench D.I.Khan vide his letter No.1556/Judge/AR dated 2.11.2012 to treat it into Representation.

Copy of the writ order dated.25.10.2012 and letter dated.2.11.2012 of Additional Registrar are enclosed as Annexure A,B & C

That Appellant is also filing this departmental appeal on the following grounds. :

1. That alleged order dated.20.4.2012 is illegal void, without lawful authority and ineffective upon the rights of Appellant.
2. That Appellant was serving the Education Department to the entire satisfaction of his superiors whereas on very flimsy , frivolous and fabricated pretext his services were withdrawn by Executive District Officer (E&SED) Education D.I.Khan.
3. That neither any show cause notice has been given to appellant while issuing order dated.20.4.2012 about withdrawal of his appointment order dated. 19.12.2011 by E.D.O (E & SED) Edu D.I.Khan.

4. That no chance of personal hearing was afforded to the Appellant withdrawing his appointment.
5. That no any plausible ground has been given in the alleged order dated.20.4.2012 while withdrawing his appointment letter.
6. That there is no any complaint against the Appellant and during performance of his duties his services remained clean and unblemished.
7. That the Appellant being poor person is having no any source of income and he is jobless since withdrawal of his service /appointment.
8. That alleged order dated 20.4.2012 is not tenable under the law and is liable to be recalled and cancelled.

In view of the submissions made above it is humbly prayed that impugned order dated.20.4.2012 about withdrawal of his appointment letter may be recalled/cancelled and earlier order dated.19.12.2011 of his appointment be kept intact and he may be re-instated/posted on the existing post of Laboratory Attendant at Govt High School Attal Sharif Tehsil Kulachi Distt:D.I.Khan with all back benefits.

Remain sir.

Yours Humble Appellant.

منہاج الدین

Minhajuddin S/O Ghiasuddin Awan
R/O Kot Attal Sherif Tehsil Kulachi
Distt D.I.Khan

Dated.5.11.2012.

وکالت نامہ

کوٹ فیس		قیمتی ایک روپیہ
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بجالت صاحب سروسز ٹریڈنگ کمپنی (پرائیویٹ) لمیٹڈ

مخاطب صباح الدین نا K.P.K

Service Appeal

باعث تحریر آنکہ

مقدمہ مذکورہ بالا عنوان میں اپنی طرف سے دائر کی جاتی ہے اور بر وقت پلائے جانے والے مقدمہ وکیل صاحب کو حسب ذیل شرائط پر وکیل مقرر کیا ہے کہ میں پیشی پر خود یا اپنا فریڈ رو برو عدالت حاضر ہوتا ہوں گا اور ہر وقت پلائے جانے والے مقدمہ وکیل صاحب ہوسوف کو اطلاع دے کر حاضر عدالت کروں گا اگر پیشی پر منظر حاضر نہ ہو اور مقدمہ میری غیر حاضری کی وجہ سے کسی طور میرے خلاف ہو گیا تو صاحب ہوسوف اس کے کسی طرح ذمہ دار نہ ہوں گے نیز وکیل صاحب ہوسوف صدر مقام چکھری کے علاوہ یا چکھری کے اوقات سے پہلے یا بیچے یا بروز تعطیل چھوڑی کرنے کے ذمہ دار نہ ہوں گے اور مقدمہ صدر مقام چکھری کے علاوہ اور جگہ ساعت ہونے یا بروز تعطیل یا چکھری کے اوقات کے آگے یا بیچے پیش ہونے پر منظر کوئی نقصان پہنچے تو اس کے ذمہ دار نہ ہوں گے اور مقدمہ صدر مقام چکھری کے علاوہ اور جگہ ساعت ہونے یا بروز تعطیل یا چکھری کے اوقات کے آگے یا بیچے پیش ہونے پر منظر کوئی نقصان پہنچے تو اس کے ذمہ دار نہ ہوں گے۔

کو حسب ذیل شرائط پر وکیل مقرر کیا ہے کہ میں پیشی پر خود یا اپنا فریڈ رو برو عدالت حاضر ہوتا ہوں گا اور ہر وقت پلائے جانے والے مقدمہ وکیل صاحب ہوسوف کو اطلاع دے کر حاضر عدالت کروں گا اگر پیشی پر منظر حاضر نہ ہو اور مقدمہ میری غیر حاضری کی وجہ سے کسی طور میرے خلاف ہو گیا تو صاحب ہوسوف اس کے کسی طرح ذمہ دار نہ ہوں گے نیز وکیل صاحب ہوسوف صدر مقام چکھری کے علاوہ یا چکھری کے اوقات سے پہلے یا بیچے یا بروز تعطیل چھوڑی کرنے کے ذمہ دار نہ ہوں گے اور مقدمہ صدر مقام چکھری کے علاوہ اور جگہ ساعت ہونے یا بروز تعطیل یا چکھری کے اوقات کے آگے یا بیچے پیش ہونے پر منظر کوئی نقصان پہنچے تو اس کے ذمہ دار نہ ہوں گے اور مقدمہ صدر مقام چکھری کے علاوہ اور جگہ ساعت ہونے یا بروز تعطیل یا چکھری کے اوقات کے آگے یا بیچے پیش ہونے پر منظر کوئی نقصان پہنچے تو اس کے ذمہ دار نہ ہوں گے۔

لہذا وکالت نامہ لکھ دیا ہے تاکہ سند سے
28/1/2013

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

Accepted
Muhammad Iqbal
Advocate
28/1/2013

صبح الدین

(1)

**Government of Khyber Pakhtunkhwa
Elementary & Secondary Education Department**

No. SOG/E&SE/1-22/2013
Dated Peshawar the 29/01/2013

To

✓
The District Education Officer (Male),
D.I. Khan.

Subject: - **DEPARTMENTAL APPEAL AGAINST THE ORDER NO. 4982-86
DATED 22.04.2012 VIDE WHICH APPOINTMENT OF
APPELLANT WAS WITHDRAWN.**

I am directed to refer to the subject noted above and to enclose herewith a copy of an application submitted by Mr. Minhajuddin S/O Ghiasuddin Awan R/O Kot Attal Sharif Tehsil Kulachi District D.I. Khan, which is self-explanatory, for further necessary action under the rules/policy.

Encl: As above.


Section Officer (General)

Endst: No. & date even.

Copy forwarded to:

1. P.S to Secretary, E&SE Department.
2. P.A to Additional Secretary, E&SE Department.

Section Officer (General)

Dy. D⁵⁰ (M)
ADO (MIS)

DB (M)
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9-2-11

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To:

The Secretary,
Elementary & Secondary Education
Govt of Khyber Pakhtunkhwa
Peshawar.

Dated. 5.11.2012

Subject: DEPARTMENTAL APPEAL AGAINST THE ORDER NO.4982-86

DATED.22.4.2012 VIDE WHICH APPOINTMENT OF APPELLANT
WAS WITHDRAWN .

Respected Sir,

SOG (E&S)
The Appellant respectfully submits his Departmental Appeal against impugned/alleged order No.4982-86 dated.22.4.2012 of Ex-Distt Officer (E&SE) D.I.Khan vide which his appointment on the post of Laboratory Attendant was withdrawn, on the following facts and grounds while while converting the Writ Petition No.259-D/2012 of Appellant into Departmental Appeal by Hon'ble High Court vide order dated.24.10.2012 :-

A
The Appellant was appointed as Class IV Civil Servant on the post of Laboratory Attendant vide E.D.O (E&S) Education D.I.Khan order No.17203-06 dated.19.12.2011 after obtaining approval from your honour office letter No.SOG(E&SED)31/2011 dated.13.12.2011 .

That after completing all the Codal formalities Appellant took the charge on 23.12.2011 at Govt High School Kot Attal Sharif Tehsil Kulachi Distt;D.I.Khan .

The Appellant had been serving on the post of laboratory Attendant to the entire satisfaction of his superiors when all of sudden he received order No.4982-86 dated.20.4.2012 from the office of E.D.O (E&SE) D.I.Khan vide which his appointment order dated.19.12.2011 was withdrawn on the alleged pretext that his name was not included in approval accorded by your good office i.e. SOG(E&SED) 31/2011

A. S. E. & S. E.
D. No. 1958
Dated 28.11.12

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D. No. 1992
Dated 28.11.12

dated.13.12.2011 and just after issuance of order dated.20.4.2012 one Muhammad Kanzan was appointed in his place vide order No.7746-49 dated .29.5.2012 by E.D.O (E&SED) /Edu D.I.Khan.

That Appellant filed writ Petition No.259-D/2012 against the alleged order 20.4.2012 in Peshawar High Court Bench at D.I.Khan which was converted into Departmental Appeal by the Hon'ble High Court vide order dated.25.10.2012 which was sent to you by the Addl:Registrar Peshawar High Court Bench D.I.Khan vide his letter No.1556/Judge/AR dated 2.11.2012 to treat it into Representation.

Copy of the writ order dated.25.10.2012 and letter dated.2.11.2012 of Additional Registrar are enclosed as Annexure A, B & C

That Appellant is also filing this departmental appeal on the following grounds. :

1. That alleged order dated.20.4.2012 is illegal void, without lawful authority and ineffective upon the rights of Appellant.
2. That Appellant was serving the Education Department to the entire satisfaction of his superiors whereas on very flimsy , frivolous and fabricated pretext his services were withdrawn by Executive District Officer (E&SED) Education D.I.Khan.
3. That neither any show cause notice has been given to appellant while issuing order dated.20.4.2012 about withdrawl of his appointment order dated. 19.12.2011 by E.D.O (E &SED) Edu D.I.Khan.

1958

4. That no chance of personal hearing was afforded to the Appellant withdrawing his appointment.
5. That no any plausible ground has been given in the alleged order dated.20.4.2012 while withdrawing his appointment letter.
6. That there is no any complaint against the Appellant and during performance of his duties his services remained clean and unblemished.
7. That the Appellant being poor person is having no any source of income and he is jobless since withdrawal of his service /appointment.
8. That alleged order dated 20.4.2012 is not tenable under the law and is liable to be recalled and cancelled.

In view of the submissions made above it is humbly prayed that impugned order dated.20.4.2012 about withdrawal of his appointment letter may be recalled/cancelled and earlier order dated.19.12.2011 of his appointment be kept intact and he may be re-instated/posted on the existing post of Laboratory Attendant at Govt High School Attal Sharif Tehsil Kulachi Distt:D.I.Khan with all back benefits

Remain sir.

Yours Humble Appellant.

منہاج الدین

Minhajuddin S/O Ghiasuddin Awan
R/O Kot Attal Sharif Tehsil Kulachi
Distt D.I.Khan

Dated.5.11.2012.

OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE)
E&SE D.I.Khan

No. 1029 /

Dated 13/02 /2013


To

The Director
Elementary & Secondary Education
Khyber Pakhtunkhwa, Peshawar

Subject: DEPARTMENTAL APPEAL OF MINHAJ UD DIN Ex-LAB
ATTENDANT GHS KOT ATTAL SHARIF FOR
REINSTATEMENT OF HIS SERVICE

Above noted departmental appeal received from section officer (General) Govt. of Khyber Pakhtunkhwa, (E&SE) department under his no. SOG/E&SE/1-22/2013, dated Peshawar the 29-01-2013, the appeal is forwarded hereby with the remarks that the appointment order of the appellant was cancelled on 22-04-2012 by the EDO (E&SE) D.I.Khan. The appellant has preferred the instant appeal on 05-11-2012.

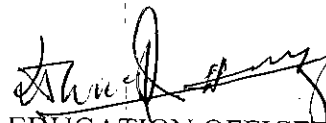
The appeal is time barred. Therefore, it is requested that the same may graciously be dismissed.


DISTRICT EDUCATION OFFICER
(MALE) E&SE D.I.Khan

Ends No. 1030-32 /

Copy to the:

1. PS to Secretary, E&SE Department Peshawar.
2. PA to Additional Secretary, E&SE Department Peshawar.
3. Section Officer (General) E&SE Department with reference to his no. and date cited above.


DISTRICT EDUCATION OFFICER
(MALE) E&SE D.I.Khan

PESHAWAR HIGH COURT, D.I.KHAN BENCH

From: The Additional Registrar,
Peshawar High Court,
D.I.Khan Bench.

To: The Executive District Officer, Elementary
& Secondary Education, D.I.Khan.

No. 1556 /Judl/AR

Dated D.I.Khan the 02-11 /2012

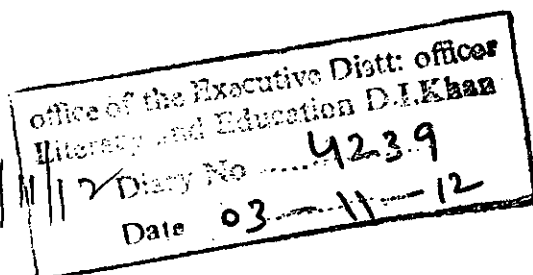
Subject: **W.P.NO.259-D/2012 Minhajud Din Vs KPK**

Memo:

I am directed to forward herewith a copy of order dated 24.10.2012 in subject writ petition passed by Hon'ble Division Bench of this Court alongwith original writ petition and its annexures for compliance within month positively as the same has ^{been} treated as representation.

DO/ADO (MIS)

7h
ADDITIONAL REGISTRAR



IN THE PESHAWAR HIGH COURT, BENCH, D.I. KHAN.

In Re. W.P. No. 269 / of 2012.

Minhaj-ud-Din Versus Government of Khyber
Petitioner Respondents
Pakhtunkhwa etc.

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2083
14/6/12

Petitioner
Through Counsel.

[Signature]

D/-14.6.2012.

Advocate, High Court, DI Khan.

IN THE PESHAWAR HIGH COURT, BENCH, D.I. KHAN.

Writ Petition No. 259-D / of 2012.

Minhaj-ud-Din son of Ghiyas-ud-Din
Caste Awan Resident of Kot Attal Sharif
Tehsil Kulachi District D.I. Khan.
... Petitioner.

Versus

1. Government of Khyber Pakhtunkhawa
through Secretary Education, Government
of Khyber Pakhtunkhawa, Peshawar.

2. Secretary to Government of Khyber
Pakhtunkhawa, Education, Department,
Peshawar. (Elementary & Secondary).

3. Director Education,
Khyber Pakhtunkhawa, Peshawar.

4. District Coordination Officer,
D.I. Khan.

5. Executive District Officer,
Elementary and Secondary Education,
Dera Ismail Khan.

6. Muhammad Ramzan son of Qasim
caste Mohana Resident of Kot Attal Sharif
Tehsil Kulachi District D.I. Khan.

... Respondents.

Writ Petition under Article 199
of the Constitution of Islamic Republic
of Pakistan, 1973.

2083
14/6/12

Respectfully Sheweth:-

1. That the addresses of the parties as given above are correct and sufficient for the purposes of service.

2. That the Petitioner is permanent resident of village Kot Attal Sharif Tehsil Kulachi District Dera Ismail Khan and is educated upto Middle standard. The copies of the domicile certificate and the School leaving certificate are enclosed as

Annexure-A&B

Annexures-A&B respectively.

3. That in pursuance of the approval of the Secretary, E&SED, Peshawar vide his letter No.SOG (E&SED)31/2011, dated 13/12/2011, the Petitioner was appointed Class-IV Servant (as Laboratory Attendant) against the newly created post at GHS, Kot Attal Sharif, Tehsil Kulachi District D.I.Khan in BPS-1 (2970-90-5670) plus usual allowance, by the Executive District Officer E&S Education, D.I.Khan vide his office order No.17203-06 dated 19/12/2011. The copy of the order is enclosed as Annexure-C.

Annexure-C.

4. That the Petitioner appeared before the Medical Superintendent, District Headquarters Hospital, D.I.Khan on 22/12/2011 and obtained Medical Fitness Certificate. The copy of which is enclosed as Annexure-D.

Annexure-D.

5. That after obtaining the Medical Fitness Certificate from the Medical Superintendent District Headquarters Hospital D.I.Khan, the Petitioner took over the ch

of the post of Laboratory Attendant in the Government High School, Kot Attal Sharif Tehsil Kulachi District D.I.Khan on 23/12/2011, forenoon as per charge report issued to him under the signatures of the Head Master, Government High School, Kot Attal Sharif Tehsil Kulachi District D.I.Khan. The copy of the charge report is enclosed as Annexure-E.

Annexure-E.

6. That the Petitioner was serving very smoothly to the entire satisfaction of his superiors when he all of a sudden received an order bearing endorsement No.4982-86 dated 22/4/2012, issued by the Executive District Officer (E&SE) D.I.Khan whereby the earlier order regarding the appointment of the Petitioner as Laboratory Attendant BPS-1, in the Government High School, Kot Attal Sharif Tehsil Kulachi District DIKhan bearing No.17203-6 dated 19/12/2011, issued by him was withdrawn/cancelled on the false and fabricated pretext that his name was not included in the approval accorded by the Secretary to Government Khyber Pakhtunkhwa Elementary & Secondary Department vide his No.SOG(E&SED)31/2011, dated 13/12/2011. The copy of which is enclosed as Annexure-F.

7. That just after issuance of the aforesaid order No.4982-86, dated 22/4/2012, the Executive District Officer (E&SE) D.I.Khan through his another office order dated 28/5/2012, has appointed Muhammad Ramzan s/o Qasim a co-villager of the Petitioner in place of the Petitioner as Laboratory Attendant Government High School, Kot

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14/6/11

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Sharif Tehsil Kulachi District D.I.Khan as per information of the Petitioner but its copy has not so far been delivered to the Petitioner nor it has been procured by the Petitioner through his hectic efforts. Therefore the same has not been annexed with the instant writ petition.

8. That the Petitioner is left with no other adequate remedy but to invoke the extra ordinary constitutional jurisdiction of this Honourable Court by way of present writ petition to declare the impugned order No.4982-86 dated 22/4/2012, issued by the Executive District Officer (E&SE) D.I.Khan as illegal, void ab-initio, arbitrary, perverse, unwarranted and against the rights of the Petitioner and after setting the same aside to restore the service of the Petitioner as Laboratory Attendant BPS-1, in Government High School, Kot Attal Sharif Tehsil Kulachi District D.I.Khan and remove Muhammad Ramzan, Respondent No. 1 from his service by cancelling his so-called appointment orders as Laboratory Attendant, GHS Kot Attal Sharif Tehsil Kulachi District DIKhan allegedly issued by the EDO (E&SE) D.I.Khan and to pay all back benefits to the Petitioner, on inter alia, the following grounds:-

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14/6/12

GROUNDS.

i. That the impugned order No.4982-86, dated 22/4/2012, issued by the Executive District Officer (E&SE) DIKhan, is against law, facts and the material available on record and is therefore liable to be set aside.

ii. That it stands established from the contents of the earlier appointment order bearing Endorsement No.17203-06 dated 19/12/2011, issued by the Executive District Officer,(E&S) Education,D.I.Khan that the appointment of the Petitioner as Laboratory Attendant in GHS, Kot Attal Sharif Tehsil Kulachi District DIKhan was made in pursuance of the approval of the Secretary (E&SED) Peshawar vide his letter No.SOG(E&SED)31/2011 dated 13/12/2011.As such the appointment of the Petitioner was strict in accordance with the law/rules and the of the Government and was not made arbitra

iii. That the perusal of the recor

would reveal that the Petitioner just a receipt of his appointment orde

had appeared before the Medical

District HQrs Hospital, D.I.Kh

obtained a Medical Fitness Cer

For the purpose, on 22/12/20

iv. That the perusal

would show that the Petitioner

had takeover the charge

Laboratory Attendant in

Tehsil Kulachi Distr

to him by the Hea

and since the

servng as

his super

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14/01/12

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v. That the malafide on the part of the EDO (E&SED) DIKhan can safely be adjudged from the fact that after issuance of the earlier appointment order dated 19/12/2011, he remained quite mum for a considerable long period of more than 4 months and never bothered to notice that it was issued without the prior approval of the Secretary (E&SED) Peshawar (though it was issued after the proper approval of the concerned authority). The stance taken by him in his impugned order dated 22/4/2012, is very much ridiculous, fanciful and unbelievable.

vi. That just after issuance of the impugned order dated 22/4/2012, the EDO (E&SED) DIKhan as per information of the Petitioner has appointed one Muhammad Ramzan Responder No.6 as Laboratory Attendant in place of Petitioner on 22/5/2012, which in the attending circumstances was not possible as it was bit difficult for him to obtain the approval of the Secretary (E&SED) so quickly. It otherwise is

In wake of the above it is respectfully prayed that if the order of this writ petition, the impugned order dated 22/4/2012, issued by the EDO (E&SED) DIKhan regarding the appointment of the Petitioner from his post of Laboratory Attendant BPS-1, in G-10, Tehsil Kulachi District is cancelled and be set aside and the appointment order dated 19/12/2011, for appointment of the Petitioner

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14/6/12

W

may please be restored and the order dated 20/5/2012, issued by the EDO(E&SED) DIKhan regarding the appointment of Muhammad Ramzan Respondent No.6, in place of the Petitioner may please be cancelled and the EDO(E&SED) DIKhan be directed to pay all back benefits to the Petitioner to meet the ends of justice.

Your humble Petitioner

M. Minhaj-ud-Din
(Minhaj-ud-Din)
Petitioner

Through Counsel.

Muhammad Saleem Khan Marwat
(Muhammad Saleem Khan Marwat)
Advocate, High Court, DIKhan

D/-11.6.2012.

CERTIFICATE

Certified that no other writ petition on the subject has earlier been filed by the Petitioner in this Honourable Court.

D/-14.6.2012.

M. Minhaj-ud-Din
Petitioner

BOOKS

1. Constitution of Islamic Republic of Pakistan, 1973.

9

IN THE PESHAWAR HIGH COURT, BENCH, D.I. KHAN.

C.M.No. 23-D /of 2012.

In Re.W.P.No. _____ /of 2012.

Minhaj-ud-Din Versus Government of Khyber
Petitioner Respondents
Pakhtunkhawa etc.

Application for an urgent
interim relief.

Respectfully Sheweth:-

2084

1. That the Petitioner has filed the above titled writ petition in this Honourable Court to-day.
2. That prima facie the Petitioner has a very good case in his favour and the Petitioner is quite sanguine for the success of his writ petition which is based on very solid legal and factual grounds whereas the balance of convenience is also in favour of the Petitioner.
3. That all the grounds taken in the main writ petition may please be considered as part of this application.
4. That the Respondent No.5 is pressurizing the Petitioner to handover the charge of his duties to the Respondent No.6 and in case the charge is taken by the Petitioner forcibly the Petitioner will suffer irreparable loss and his writ petition will become fruitless. It is therefore desirable that an urgent interim relief is extended to the Petitioner to avoid irreparable loss to him.

In wake of the submissions made above, it is respectfully prayed that on acceptance of this application, the operation of the impugned order may graciously be suspended and the status-quo be granted by directing the Respondents No.5 and 6 not to take charge of his duties from the Petitioner till the final decision of the above titled writ petition.

Your humble Petitioner

(Signature)
(Minhaj-ud-Din)
Petitioner

Through Counsel.

(Signature)
(Muhammad Saleem Khan Marwat)
Advocate, High Court, D.I.Khan.

D/-11.6.2012.

2084
(Signature)

Affidavit

I, Minhaj-ud-Din son of Ghiyas-ud-Din caste Awan r/o Kot Attal Sharif Tehsil Kulachi District DIKhan Petitioner do hereby solemnly affirm and declare on oath that the contents of the instant application are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Honourable Court.

Minhajuddin
Ghiyasuddin
Kot Attal Sharif
M. Saleem Khan Marwat
14.6.2012

Identified by

(Signature)
Deponent.

(Signature)
(Muhammad Saleem Khan Marwat)
Advocate, High Court, D.I.Khan.

D/-14.6.2012.

(Signature)

DOMICILE CERTIFICATE

I, مہاج الدین Son/Daughter of عیادت الدین

Here by declare that I was born of parents who are Permanently Domiciled in Khyber Pakhtoonkhawa Province having been born/Settled in this Province.

I was born at Village/Mohallah کوہٹہ اٹل شریف

Tehsil کلاسی District Dera Ismail Khan.

مہاج الدین
Signature / Thumb Impression
Of Applicant

Date. 26-12-2011

Pursuance of the declaration dated 26-12-2011 filed by

Mr./Miss مہاج الدین Son / Daughter of عیادت الدین

Domiciled in Khyber Pakhtoonkhawa Province, It is hereby certified that the said

Mr./Miss مہاج الدین is born of Parents who are permanent residents of the Khyber Pakhtoonkhawa Province having been born / settled within it.

I have satisfied myself from personal knowledge/verification by Jehil Das vuhali that the above declarations true and certify accordingly.

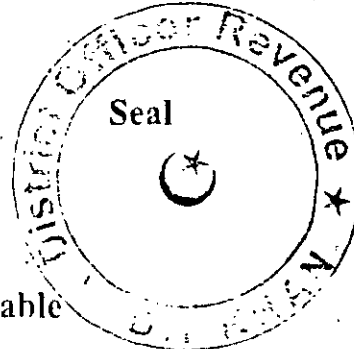
This 28/12 Day of Dec 2011

Deputy District Officer Revenue
(Revenue).

MIC

COUNTERSIGNED

DISTRICT OFFICER REVENUE
DERA ISMAIL KHAN.



Strike out which ever is not applicable

No: 11823

D.O.R.

Dated D.I.Khan the 28/12 2011

RURAL AREA

URBAN AREA

تعدادت کی جان ہے کہ کسی نہایت اہلی و بہیمانہ اور ناقص اور ان سلسلہ کوٹ ایسی مشینیں بنانا
خلع ڈیرہ اسماعیل خان ہونے ضروری ہے کہ ان کو اعداد سے مشین بنانی ضروری ہے
بنانا ضروری ہے

1. Patwari

1. Patwari

محمد رمضان
26/12/2011

2. Girdawar

2. Girdawar

3. Tehsildar

3. Theisildar

Handwritten signature and date: 26/12/2011

مدرسہ چھوڑنے کا سرٹیفیکیٹ

نمبر ۲۴

نام طلبہ صباح الدین درجہ فیس نمبر ۱۱۱

تاریخ پیدائش ۱۹۸۹-۱۱-۲۴ جو نورس مدرسہ نورس

پتہ ۷۵ مدرسہ نورس ولد عزت الدین نے جو اس مدرسے میں

مستحق کیا جاتا ہے کہ صباح الدین صاحب نے جس کے ذمہ واجب الادا تھیں اور اگر وہی ہیں اور اسے تاریخ مندرجہ بالا پر

تاریخ ۱۹۸۹-۱۱-۲۴ تک پڑھتا رہا بعد سے کسی کل رہیں جو اس کے ذمہ واجب الادا تھیں اور اگر وہی ہیں اور اسے تاریخ مندرجہ بالا پر

اس نام خارج کر کے اجازت دی گئی ہے صباح الدین صاحب نے جس کے ذمہ واجب الادا تھیں اور اگر وہی ہیں اور اسے تاریخ مندرجہ بالا پر

مدرسہ کے کسی حصہ کی مقررہ ۷۵ لیا گیا تھا جس میں ۷۵ میں ۷۵ درجہ کے مطابق

پڑھائی کے اختتام پر چھوڑیں

مضامین جس میں طالب علم فیمل ہوا

ان طلباء کی صورت میں جو مدرسہ کے

کسی حصہ کی مقررہ پڑھائی کے اختتام

پر نہ چھوڑیں

اس کا امتحان ترقی دینے کے لئے ۱۱۱ میں لیا گیا تھا۔

جولائے دی گئی

جس کا دورہ لیا گیا

تصدیق کیا جاتا ہے کہ مندرجہ ذیل اندراج اس مدرسہ کے رجسٹروں اور ان سارے سرٹیفیکیٹوں کے مطابق صحیح ہیں جو اس نے ان مدرسوں سے حاصل

کئے ہیں۔ جہاں اس تعلیمی سال میں اس سے پہلے تعلیم پائی ہے۔

نمبر	مدرسہ	داخل ہونے کی تاریخ		خارج ہونے کی تاریخ	سال مدرسہ میں حاضر ہونے کی مدت		حاضر ہونے کی تاریخ	حاضر ہونے کی تاریخ	رخصت جو سال مدرسہ میں لگتی
		سکول میں	درجہ میں		از	تتا			
۱	مدرسہ								
۲	مدرسہ								
۳	مدرسہ								
۴	مدرسہ								

تاریخ اجراء ۱۵.۰۶.۰۴

قسم سکالر شپ

کس سال عطا ہوا

کون دیتا ہے

سکالر شپ کی مقدار

کس تاریخ تک دیا گیا

رخصت جو ہر ایک مدرسہ میں لے چکا ہے

۱۔ فوٹو و عام طور پر مدرسہ چھوڑنے کے سرٹیفیکیٹ کے لئے درجہ سے علیحدہ ہونے کے ایک ماہ کے اندر ہونی چاہیے بصورت

ان طلباء کے جنہوں نے ڈل سکول کا امتحان دیا جو ایک ماہ پہلے مکمل کی تاریخ سے گنتا چاہئے۔

بعد گزرنے ایک ماہ کے مدرسہ چھوڑنے کے سرٹیفیکیٹ کے لئے موازی آٹھ آنے سے فیس چارج ہونی۔

اگر مدرسہ چھوڑنے کا سرٹیفیکیٹ کم ہو جائے اور نئے سرٹیفیکیٹ کے لئے درخواست دی جائے تو نئے سرٹیفیکیٹ کیلئے موازی آٹھ آنے سے فیس چارج ہونی۔

تصدیق کیا جاتا ہے

ولد صباح الدین طالب علم ۷۵ جماعت ۳

مدرسہ نورس ضلع نورس سکول نورس

مدرسہ نورس ضلع نورس سکول نورس

مدرسہ نورس ضلع نورس سکول نورس

اسکی تاریخ پیدائش ۱۹۸۹-۱۱-۲۴ سکول نورس ضلع نورس جماعت میں داخل ہو گیا ہے

13

OFFICE OF THE EXECUTIVE DISTRICT OFFICER (E&SE) D.I.KHAN

APPOINTMENT ORDER. Consequent upon the approval of Secy: E&SED, Fesh: vide letter No. SOG(E&SED)31/2011 dt: 13/12/2011.

Mr: Minhaj Ud Din S/O: Ghayas Ud Din resident of Kot Attal Shraif, Tehsil Kulachi is hereby appointed Newly Created Post of Class IV Servant (as Lab: Attendent) at CHS, Kot Attal Sharif in BPS-1 (2970-90-5670) plus usual allowances in the interest of public service with immediate effect on the following terms & conditions.

TERMS & CONDITIONS.

1. His service will be considered as regular but without pension/ gratuity in the terms of section 19 of the Khyber Paktoonkhawa civil servants act 1973 amended in 2005.
2. He will contribute to CPF & Rs.10% of the minimum of pay and 10% contribution will be made by the Govt:
3. He will be Governed by such rules and regulations as may be prescribed by the Govt; from time to time for the category to which he belongs.
4. His appointment made purely temporary & liable to termination at any time without assigning any reason.
5. One month pay will be forfeited to Govt; in case of resignation with out prior notice. The period of giving Notice in one month before the date of resignation.
6. His original certificates/ digress will be got verified by this office. All expenses will be born by the candidate.
7. He is required to join the post with in 15 days failing which the appointment order will stand cancel automatically.
8. The appointment is made subject to the condition that the candidate is permanent Domiciled of District D.I.khan.
9. He is required to produce health & age certificate from the medical superintendent D.I.Khan.
10. Charge report should be submitted to all concerned.
11. No TA/DA etc is allowed.

Sd/-
EXECUTIVE DISTRICT OFFICER
E&S EDUCATION D.I.KHAN

Endost No. 17203-56

Dated DIKhan the 19/12 /2011

Copy of the above is forwarded to the:-

1. District Coordination officer D.I.Khan.
2. Principal /Headmaster/Headmistress/Dy: DO (M&F) Concerned.
3. District Accounts Officer D.I.Khan.
4. Official Concerned.

[Handwritten Signature]
EXECUTIVE DISTRICT OFFICER
E&S EDUCATION D.I.KHAN
17/12/11

MEDICAL CERTIFICATE

(14)

Name of Official..... Mr. Minhaj-ud-Din

Coast..... Awan

Father's Name..... Ghayas-ud-Din

Resident..... Kot. Attal, Tehsil Kulachi

..... District Dera Ismael Khan

Date of Birth..... 24/11/1989 (12:02-0632837-7)

Exact height by measurement..... (5'-6")

Mark of Identification..... Scar mark on left cheek

Signature of Official..... *[Signature]*

Signature of Head of Official.....

Seal of Office.....

I do hereby certify that I have examined Mr. Minhaj-ud-Din a candidate for employment in the office of the Education and cannot discover that he had any disease communicable or other constitutional efficient or bodily infirmity except *None*. I do not consider this as disqualification for employment in the office of the Education his age according to his own statement 22⁰¹/₁₂ years and by appearance about 22 yrs. years.

[Fingerprints]
LEFT HAND THUMB AND FINGER IMPRESSIONS 22/12/2011

[Signature]
Medical Superintendent
Civil Hospital Dikhan
Hospital

چارچ رپورٹ

E(15)

Newly created Post...
class W servant Lab Attendant
(BFS-1)

سے جو آج مورخہ 23-12-2011 قبل لیکچر از دیپارٹمنٹ برائے کیمسٹری ... 06-03-11

Dated. 19-12-2011. آمدہ از دفتر ...

تعمیل ہوا ہے ... (BFS-1) ...

مقام ...

مورخہ ...

چارچ گیر منہ
منہاج الدین

منہاج الدین
چارچ دہندہ
G.M. ...
Teh. Kubachi

تفصیل اشیاء بقایا (بذبحہ چارج و ہینڈ)

شمارہ	نام اشیاء	تعداد اشیاء	مکمل قیمت	بوسیدہ	گمشدہ	کیفیت

نظام گورنمنٹ مہاراجہ پرائمری سکول کوٹہ گل تھری ...
 چارج گیر ہینڈ ضلع جالندھر
 نمبر 138-135
 چارج ریورٹ نمبر 4/1 کو پرت بخدمت عالیہ برائے ضلع جالندھر
 ارسال ہیں۔
 موزع ... 11-12-13

ہیڈ ماسٹر گورنمنٹ مہاراجہ پرائمری سکول کوٹہ گل تھری
 11/12
 1/11

ریڈیو کے نام سے کیا گیا، بیویچ، ریڈیو کی خریداری کا شکریہ ادا (5/11/13)

F-16

OFFICE OF THE EXECUTIVE DISTRICT OFFICER ELEMENTARY & SECONDARY EDUCATION D.I.KHAN

ORDER:-

Reference to appointment order No.17203-6 Dated 19/12/2011 regarding Appointment Mr. Minhaj Ud Din S/O Ghiyas Ud Din, Lab Attendant GHS Kot Attal Sharif the name of the above cited person/official was not included in the approval accorded by the Secretary to Government Khyber Pakhtunkhwa Elementary & Secondary Department vide his NO. SOG(E&SED) 31/2011 Dated : 13/12/11.

But due to clerical mistake the appointment was made. Therefore appointment Order in r/o above name Lab attendant is hereby with drawn / cancelled with immediate effect.


-sd/-

Executive District Officer
(E&SE) D.I.KHAN.

Endst NO. 4982-86 Dated D.I.Khan the : 22 / 4 /2012.

Copy to the :-

1. Secretary Elementary & Secondary K.P.K Peshawar.
2. D.C.O,D.I.Khan.
3. Principal /H/M Concerned.
4. Account Officer D.I.Khan.
5. Official Concerned.


Executive District Officer
(E&SE) D.I.KHAN.

CERTIFICATE

Certified that Mr محمد علی خان s/o محمد علی خان

R/o محمد علی خان V/s محمد علی خان

has been depart Rs: 5007 under has Bo2374 on 11/6/2012

The court fee under he issued on receipt from the controller of stamps Karachi.



Treasurer/ AA/Treasure

D.I. Khan
SAEED BALOCH
A.A. Try
D.I. Khan

وکالت نامہ

۱۵

قیبتی ایک روپیہ		کورٹ فیس
--------------------	--	-------------

۲۵۸

۱۵/۱۱/۱۹۸۲

بعد ازاں عدالت میں درخواست کی اور عدالت نے فیصلہ دیا کہ درخواست کو منظور کیا جائے اور عدالت نے حکم دیا کہ صاحب موصوف کو اطلاع دے کر حاضر عدالت کروں گا اگر پیشی پر منظر حاضر نہ ہو اور مقدمہ میری غیر حاضری کی وجہ سے کسی طور میرے خلاف ہو گیا تو صاحب موصوف اس کے کسی طرح ذمہ دار نہ ہوں گے نیز وکیل صاحب موصوف صدر مقام پکھری کے علاوہ یا پکھری کے اوقات سے پہلے یا پیچھے یا بروز تعطیل ہجرتی کرنے کے ذمہ دار نہ ہوں گے اور مقدمہ صدر مقام پکھری کے علاوہ اور جگہ سماعت ہونے یا بروز تعطیل یا پکھری کے اوقات کے آگے یا پیچھے پیش ہونے پر منظر کوئی نقصان پہنچے تو اس کے ذمہ دار یا اسکے واسطے کسی معاوضہ کے ادا کرنے یا معیت نہ دہن کرنے کے بھی صاحب موصوف ذمہ دار نہ ہوں گے مجھ کو کل ساختہ پر داخستہ صاحب موصوف شل کردہ ذات خود منظور قبول ہوگا اور صاحب موصوف کو عرض دہی یا جواب دہی یا درخواست اجراء اسلئے ڈگری نظر ثانی اہل گمرانی دہرتم درخواست ہر قسم کے بیان دینے اور پر حاشی یا راجش نامہ دیکھنے بر حلف کرنے اقبال دہی کا بھی اختیار ہوگا اور بصورت مقرر ہونے تاریخ پیش مقدمہ مزکور ہجرتی از پکھری صدر ہجرتی مقدمہ مزکور نظر ثانی اہل گمرانی دہرآمدگی مقدمہ یا منسوی ڈگری یک طرفہ یا درخواست حکم انتہائی یا ترقی یا گرفتاری قبل از فیصلہ اجراء ڈگری بھی صاحب موصوف کو بشرط ادائیگی علیحدہ ضمانت ہجرتی کا اختیار ہوگا اور تمام ساختہ پر داخستہ صاحب موصوف شل کردہ از خود منظور قبول ہوگا اور بصورت ضرورت صاحب موصوف کو یہ بھی اختیار ہوگا کہ مقدمہ مزکورہ یا اس کے کسی جز کی کارروائی یا بصورت درخواست نظر ثانی اہل گمرانی یا دیگر معاملہ و مقدمہ مذکورہ کسی دوسرے وکیل یا ہجرتی کو اپنے بجائے یا اپنے ہمراہ مقرر کریں اور ایسے شیر 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 جہان التواء پڑے گا وہ صاحب موصوف کا حق ہوگا مگر صاحب موصوف کو ہجرتی فیس تاریخ پیشی سے پہلے ادا نہ کروں گا تو صاحب موصوف کو پورا اختیار ہوگا کہ مقدمہ کی ہجرتی نہ کریں اور ایسی صورت میں میرا کوئی مطالبہ کسی قسم کا صاحب موصوف کے برخلاف نہیں ہوگا

محمد سلیم خان سردار

باعث تحریر آنکہ
مقدمہ مندرجہ بالا عنوان میں اپنی طرف واسطے ہجرتی و جواب دہی برائے پیشی یا تصفیہ مقدمہ بناؤ

کو حسب ذیل شرائط پر وکیل مقرر کیا ہے کہ میں پیشی پر خود یا ذرا بذریعہ دو ہمد عدالت حاضر ہوتا رہوں گا اور ہر وقت پکارے جانے مقدمہ وکیل صاحب موصوف کو اطلاع دے کر حاضر عدالت کروں گا اگر پیشی پر منظر حاضر نہ ہو اور مقدمہ میری غیر حاضری کی وجہ سے کسی طور میرے خلاف ہو گیا تو صاحب موصوف اس کے کسی طرح ذمہ دار نہ ہوں گے نیز وکیل صاحب موصوف صدر مقام پکھری کے علاوہ یا پکھری کے اوقات سے پہلے یا پیچھے یا بروز تعطیل ہجرتی کرنے کے ذمہ دار نہ ہوں گے اور مقدمہ صدر مقام پکھری کے علاوہ اور جگہ سماعت ہونے یا بروز تعطیل یا پکھری کے اوقات کے آگے یا پیچھے پیش ہونے پر منظر کوئی نقصان پہنچے تو اس کے ذمہ دار یا اسکے واسطے کسی معاوضہ کے ادا کرنے یا معیت نہ دہن کرنے کے بھی صاحب موصوف ذمہ دار نہ ہوں گے مجھ کو کل ساختہ پر داخستہ صاحب موصوف شل کردہ ذات خود منظور قبول ہوگا اور صاحب موصوف کو عرض دہی یا جواب دہی یا درخواست اجراء اسلئے ڈگری نظر ثانی اہل گمرانی دہرتم درخواست ہر قسم کے بیان دینے اور پر حاشی یا راجش نامہ دیکھنے بر حلف کرنے اقبال دہی کا بھی اختیار ہوگا اور بصورت مقرر ہونے تاریخ پیش مقدمہ مزکور ہجرتی از پکھری صدر ہجرتی مقدمہ مزکور نظر ثانی اہل گمرانی دہرآمدگی مقدمہ یا منسوی ڈگری یک طرفہ یا درخواست حکم انتہائی یا ترقی یا گرفتاری قبل از فیصلہ اجراء ڈگری بھی صاحب موصوف کو بشرط ادائیگی علیحدہ ضمانت ہجرتی کا اختیار ہوگا اور تمام ساختہ پر داخستہ صاحب موصوف شل کردہ از خود منظور قبول ہوگا اور بصورت ضرورت صاحب موصوف کو یہ بھی اختیار ہوگا کہ مقدمہ مزکورہ یا اس کے کسی جز کی کارروائی یا بصورت درخواست نظر ثانی اہل گمرانی یا دیگر معاملہ و مقدمہ مذکورہ کسی دوسرے وکیل یا ہجرتی کو اپنے بجائے یا اپنے ہمراہ مقرر کریں اور ایسے شیر 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 جہان التواء پڑے گا وہ صاحب موصوف کا حق ہوگا مگر صاحب موصوف کو ہجرتی فیس تاریخ پیشی سے پہلے ادا نہ کروں گا تو صاحب موصوف کو پورا اختیار ہوگا کہ مقدمہ کی ہجرتی 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 رہے
مورخہ ۱۱/۱۱/۸۲

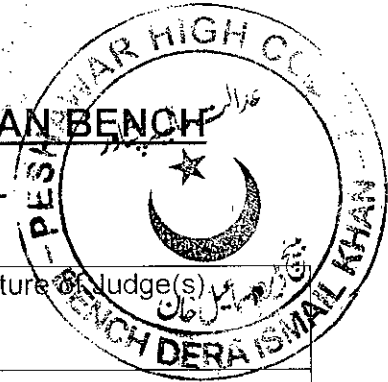
مضمون وکالت نامہ سن لیا ہے اور اچھی طرح سمجھ لیا ہے اور منظور ہے

Acceptance
محمد سلیم خان

محمد سلیم خان

PESHAWAR HIGH COURT, D.I.KHAN BENCH

FORM OF ORDER SHEET



Date of order or proceedings	Order or other proceedings with signature of Judge(s)
(1)	(2)
24.10.2012.	<p><u>W.P.No.259-D/2012 with C.M.No.23-D/2012.</u></p> <p><u>Present:</u> Muhammad Salim Marwat, Advocate for the petitioner. ***</p> <p><u>QAISER RASHID KHAN, J.-</u> After arguing the petition at certain length, when it was pointed to the learned counsel for the petitioner that in view of the bar contained under Article 212 of the Constitution of Islamic Republic of Pakistan, 1973, this Court has no jurisdiction to entertain the matter, he requested that the same may be treated as representation.</p> <p>2. In view of the above request, the instant petition is treated as representation and sent to respondent No.5 for decision within a month as per law, rules and government policy, whereafter the petitioner may seek his remedy before the proper forum, if so advised.</p> <p align="center"><u>Announced.</u> <u>Dt:24.10.2012.</u></p>

[Handwritten signature]

JUDGE

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JUDGE

ATTESTED
EXAMINOR
Peshawar High Court
D.I. Khan Bench
[Handwritten signature]

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3/10

(49)
333

BEFORE THE HONOURABLE SERVICE TRIBUNAL KPK PESHAWAR

S. A. No. 505-13

Minhaj Ud Din

VS

Government of KPK

JOINT COMMENTS ON BEHALF OF RESPONDENTS NO 1,2,3

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 estopped by his own conduct to file this appeal.
- 3 That the appellant has got no cause of action / locus standi to file the instant appeal.
- 4 That the appellant has not come to the Honourable Tribunal with clean hands and has suppressed all relevant facts.
- 5 That the appeal is bad on account of misjoinder / non joinder of necessary parties.
- 6 That the appellant has concealed material facts from the Honourable Tribunal.
- 7 That the Honourable Service Tribunal has no jurisdiction to entertain the instant appeal in present form.

Objection on Facts

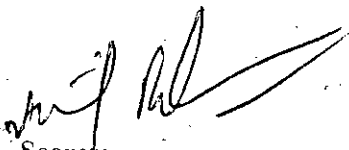
1. Correct to the extent that appellant was appointed Laboratory Attendant. But this appointment was not made through District Employment Exchange in accordance with the law.
2. Incorrect and not admitted. Codal formalities for appointment were not completed. As there was surplus pool in DIKhan District. Therefore District Coordination Officer did not issue No Objection Certificate for the appellant. The appointment of the appellant was made in violation of rules / law. Salary of the appellant was not released.
3. Incorrect and not admitted. Appointment order of the appellant was withdrawn for the reason that NOC for appointment of the appellant. The respondent No 4 was appointed against the vacant post in accordance with law.
4. Pertains to the record of Honourable High Court. Hence no comments.
5. Incorrect and not admitted. Appellant is aggrieved of order dated 22/04/2012 of the respondent No 3 but he filed writ petition in the High Court on 14/06/2012. The Honourable High Court treated the writ petition as presentation and sent to EDO for the decision within a month as per rules, law and policy of the Government. Where after the petitioner may seek remedy before proper forum if so advised vide order dated 24/10/12. Representation was time barred therefore it was failed. The appellant did not prefer departmental appeal to appellate authority.
6. Incorrect and not admitted. Representation / departmental appeal was time barred. Therefore instant service appeal is also time barred and liable to be dismissed.

Objection on Ground

1. Incorrect and not admitted. Appointment order has been withdrawn in accordance with rules and law.
2. Incorrect and not admitted. Appointment of the appellant was not legal. Therefore there was no need of show cause notice and enquiry.
3. Incorrect and not admitted. Appellant was appointed without observing requisite codal formalities of appointment.
4. Incorrect and not admitted. Codal formalities and No Objection Certificate from the DCO was necessary for appointment instead of medical certificate.
5. Incorrect and not admitted. Charge report does not confer any rights if appointment is illegal. Appellant did not perform duty. Therefore he did not produce any documentary proof in this regard.
6. Incorrect and not admitted. Respondent No 3 was competent to withdraw his orders. No rights can be claimed on the basis of illegal and void orders.
7. Incorrect and not admitted. Respondent No 4 is appointed in the interest of the public service in accordance with the law.

That the Learned Counsel for the respondents may kindly be allowed to raise some additional grounds at the time of hearing.

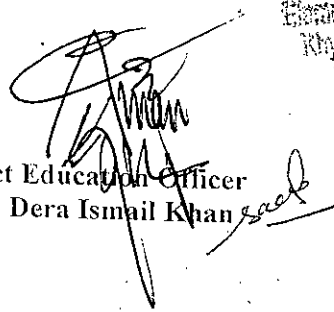
In view of above submission it is humbly prayed that service appeal of appellant may kindly be dismissed with cost.

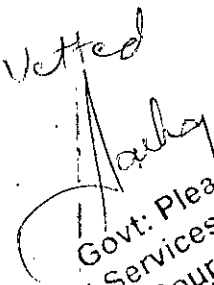

Secretary

Elementary & Secondary Education Department
Khyber Pakhtunkhwa Peshawar


Director

Elementary & Secondary Education Department
Khyber Pakhtunkhwa Peshawar


District Education Officer
(Male) Dera Ismail Khan


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

BEFORE THE HONOURABLE SERVICE TRIBUNAL DIKHAN BENCH

Service Appeal No 505-D/2013

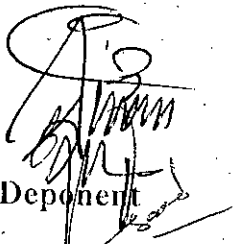
Minhaj ud din

VS

Government of KPK and others

Affidavit

I District Education Officer (M) Dera Ismail Khan do hereby solemnly affirm and declare on oath that content and written reply of the of the above mentioned service appeal are correct to the best of my knowledge and nothing has been concealed from this Honourable Court.


Deponent

BEFORE THE HONOURABLE SERVICE TRIBUNAL DIKHAN BENCH

Service Appeal No 505-D/2013

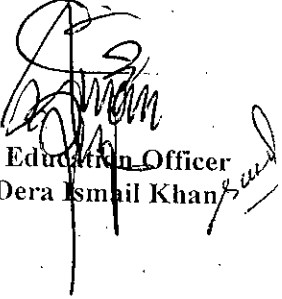
Minhaj ud din

VS

Government of KPK and others

Authority

I District Education Officer (M) do hereby authorized Mr Khalid Saeed Akbar ADEO(M) Dera Ismail Khan to attend the Honourable Service Tribunal Dera Ismail Khan Bench on our behalf in connection with submission of para wise comments till the decision of the service appeal.


District Education Officer
(Male) Dera Ismail Khan

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No. 505 /2013

Minhaj ud Din Vs. Govt of K.P.K. etc

WRITTEN REPLY ON BEHALF OF RESPONDENT NO.4

PRILIMINARY OBJECTIONS:-

1. That the appellant has got no cause of action.
2. That the appeal is not maintainable in its present form.
3. That appeal is badly time barred.
4. That the appeal is against facts, law and circumstances.
5. That appellant has not come to the court with clean hands.

OBJECTIONS ON FACTS:-

1. It is not related to respondent no.4.
2. It is not related to respondent no.4
3. That it is not related to respondent no.4, while the competent authority appoint the respondent no.4 according to law, and policy invogue.
4. That it is not related to respondent no.4.
5. That it is not related to respondent no.4.

6. That it is incorrect and not admitted . the departmental appeal was time barred therefore the instant service appeal is also time barred and liable to be dismissed.

OBJECTIONS ON GROUNDS:-

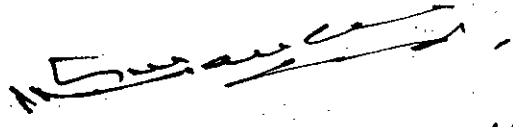
- 1) Incorrect and not admitted.
- 2) Incorrect and not admitted, Appointment of the appellant was not legal. Therefore there was no need of show cause notice and inquiry.
- 3) Incorrect and not admitted. Appellant was appointed without observing requisite codal formalities of appointment.
- 4) Incorrect and not admitted.
- 5) Incorrect and not admitted , detail reply has given by the department and rest of the answer is pertains to record.
- 6) Incorrect and not admitted. Respondent no.3 was competent to withdraw his orders. No rights can be claimed on the basis of illegal and void orders.
- 7) Incorrect and not admitted. The competent authority appoints the respondent no.4 in accordance with law and in the interest of public service.

8) That counsel for respondent no.4 seeks permission of this honourable court to raise additional grounds during the course of hearing.

Yours Humble Respondent no.4


(Muhammad Ramzan)
THROUGH COUNSEL


Dt. 26/04/2016


Muhammad Imran Khan Gandapur
Advocate High Court, D.I.Khan.

CERTIFICATE:

I, Muhammad Ramzan respondent no.4, certified that, all the contents of this written reply are true and correct to the best of my knowledge and belief, and nothing has been concealed from this honourable court.

Deponent


Muhammad Ramzan

**BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR CAMP OFFICE, D.I. KHAN.**

S.A No. 505/2013

Minhaj Ud Din

VERSUS

Govt; of K.P.K & Others

**REJOINDER TO THE COMMENTS
OF RESPONDENTS NO. 1, 2 & 3.**

Respectfully Sheweth:-

REPLY TO THE PRELIMINARY OBJECTIONS.

Objection No. 1 is incorrect service appeal of appellant is maintainable and competent in the eyes of prevailing service laws in the province.

- 1-** Objection No. 2 is incorrect.
- 2-** Objection No. 3 is incorrect. Appellant has got cause of action / locus standi when his appointment letter dated 19/12/2011 was withdrawn by respondents on 22/04/2012.
- 3-** Objection No. 4 is incorrect and baseless.
- 4-** Objection No. 5 is incorrect.
- 5-** Objection No. 6 is incorrect. Nothing has been concealed by appellant while filing title appeal.
- 6-** Objection No. 7 is incorrect this Honourable Tribunal has the jurisdiction to entertain title service appeal of appellant.

REJOINDER TO THE OBJECTIONS OF FACTS.

- A.** Objection No. 1 on fact No. 1 is incorrect. Hence denied.
- B.** Objection No. 2 on fact No. 2 is incorrect. All the codal formalities were completed N.O.C from District Coordination Officer D.I.Khan was not necessary as he was not appointing authority. Hence, vehemently denied. It is pertinent to mention that approval was obtained from respondent No. 1 by respondent No. 3 before issuing appointment letter dated 19/12/2011 of

the appellant. Hence objection No. 2 of respondents are denied.

- C. Incorrect, in the terms and condition of service mentioned in the appointment letter, there was no such condition in respect of obtaining N.O.C from the D.C.O D.I.Khan. It is pertinent to mention that in the impugned letter dated 22/04/2012 it was mentioned by respondent No. 3 that appellant appointment letter dated 19/12/2011 was withdrawn on the ground that appellant name is not included in the approval accorded by the respondent No. 1 and not on the ground of N.O.C from D.C.O Dera Ismail Khan. Apart from that respondents have not attached the approval of respondent No. 1 with their comments. Hence, objection No. 3 on the fact No. 3 is baseless void and frivolous, therefore vehemently denied. It is further submitted that respondent No. 4 was not appointed on the vacant post whereas he was appointed on the same post of laboratory attendant on which appellant was earlier appointed and then his appointment was withdrawn. The objection No. 3 is vehemently categorically denied.
- D. That fact No. 4 has not been objected by respondents therefore needs no reply.
- E. That objection No. 5 is incorrect. As the writ petition of the appellant was converted into representation, therefore respondents were required either to approve or reject the same. Whereas it was not responded by respondents. While not obtaining any reply from respondents departmental appeal was filed by appellant. Even then respondents did not respond the same. Therefore, thereafter instant appeal was filed within stipulated period. Thus neither departmental appeal nor service appeal of appellant is time barred. Hence objection on fact No. 5 is not admitted therefore denied.
- F. Objection No. 6 is incorrect. Departmental appeal as well as instant service appeal of the appellant is not time barred. In the light of the judgment dated 24/10/2012 passed by the Honourable High Court while converting his Writ Petition into representation and directing the respondents to decide the same within one month as per rule and in accordance with Government Policy. After expiry of one month appellant was also allowed to seek remedy from proper forum i.e this

Honourable Tribunal. Apart from that appellant has also filed application for condonation of delay. Hence objection on Para No. 6 is denied and not admitted.

REJOINDER TO THE OBJECTIONS ON GROUNDS:

- 1.** Objection on ground No. 1 is incorrect. Appointment letter of appellant has been withdrawn without lawful authority by respondent No. 3. Appellant retreats on the contents of ground No. 1 of the appeal. Hence objection is not admitted hence denied.
- 2.** Objection on ground No. 2 is incorrect, baseless and void. Appointment of the appellant was proper and legal in the light of approval granted by respondent No. 1. Appellant retreats on the contents of ground No. 2 of the appeal. Hence objection of respondents is not admitted hence denied.
- 3.** Objection on ground No. 3 is incorrect. Appellant was appointed by respondent No. 3 after approval accorded by respondent No. 1 meaning thereby that requisite codal formalities for appointment were observed before appointing the appellant by respondent No. 3. Hence objection of respondent is not admitted. Therefore appellant retreats on the contents of the ground No. 4 of the appeal.
- 4.** Objection on ground No. 4 is incorrect and baseless. Thus not admitted. All the codal formalities mentioned in the terms and condition of appointment letter dated 19/12/2011 were completed by appellant. As long as N.O.C from D.C.O is concerned it was not needed because D.C.O D.I.Khan was neither appointing authority nor obtaining of N.O.C from D.C.O was mentioned in the terms and conditions of appointment letter dated 19/12/2011. Appellant retreats on the contents of ground No. 4 of the appeal.
- 5.** Objection on the ground No. 5 is incorrect and baseless therefore not admitted. According to prevailing laws of service in the province no one can be shunted from service without issuing charge sheet and show cause notice after submitting arrival / charge report. Appellant was performing his duties regularly. If respondents would have any complaint in respect of non performance of duty then he was to be charge sheeted or were required to annex the complaint with the comments, if any. Appellant therefore

retreats on the contents of ground No. 5 of the appeal.

6. Objection on the ground No. 6 is incorrect hence not admitted. Respondent No. 3 is not competent to withdraw the appointment of appellant without cogent reasons. As long as appointment letter dated 19/12/2011 is concerned it is neither illegal nor void. It was issued by respondent No. 3 being the competent authority after approval accorded by respondent No. 1. Appellant therefore retreats other contents of ground No. 6 of the appeal.

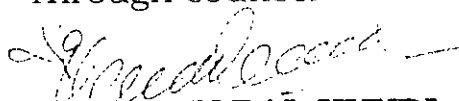
7. Objection on ground No. 7 is incorrect. Thus denied. Respondent No. 4 was appointed without lawful authority due to political pressure. Appellant retreats on the contents of grounds No. 7 of the appeal.

In view of the submissions made above, it is humbly prayed that service appeal of the appellant may be accepted and appellant may be reinstated in service with all back benefits in the interest of justice and appointment letter dated 29/05/2012 of respondent No. 4 may be cancelled.

Your Humble Appellant

Dated: 23 /01/2017

Through counsel


MOHAMMAD IQBAL KUNDI

Advocate High Court,
D.I.Khan.

VERIFICATION:-

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


Deponent