

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL
PESHAWAR**

S.A No...../2022

**BIBI ASMA D/O Meher Muhammad R/O Madina Colony Nawo Dch Post
Office Toro, Tehsil & District Mardan.**

Versus

**1. Govt of Khyber Pakhtunkhwa, through Chief Secretary Khyber
Pakhtunkhwa Peshawar etc.**

Respondents

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**Senior Auditor-IV
Anti-Corruption Establishment
Peshawar.**

1

**BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL**

S.A No. 1216./2022

1827
01/11/2022

**BIBI ASMA D/O Meher Muhammad R/O Madina Colony
Nawo Deh Post Office Toro, Tehsil & District Mardan.**

Versus

1. Govt of Khyber Pakhtunkhwa, through Chief Secretary Khyber Pakhtunkhwa Peshawar.
2. Secretary, Commerce education & Management Science Khyber Pakhtunkhwa Peshawar.
3. Director General Commerce education & Management Science Khyber Pakhtunkhwa Peshawar.
4. Principal Govt College of Commerce for Women Mardan.
5. Manager District Employment Exchange Mardan.
6. Senior Auditor Anti-Corruption Khyber Pakhtunkhwa Peshawar.

Respondents

Comments on behalf of Respondent No.06.

Brief Facts:

A complaint submitted by Mst. Rukhsana begum containing allegations of corruption, illegal appointment as a cook and misuse of official powers. In order to ascertain allegations leveled in the complaint permission for preliminary/open enquiry was sought and the same was accorded. During Open enquiry Audit inspection was carried out and loss of Rs.507173/- was noticed

(Complaint, Letter for open enquiry, Permission of open enquiry and Audit report are attached as Annexure "A", "B" "C" "D).

Preliminary Objections:

1. That the Petitioner has got no locus standi/cause of action to file the instant Petition against respondent no. 06.

2. That no discrimination or injustice has been done to petitioner or anyone by respondent no. 06.
3. That the Petition is fraught with factual controversies, as well as filed with malafide intention, therefore not maintainable against respondent no. 06.
4. That the Writ Petition is bad for mis/non joinder of necessary parties.
5. That the petitioner by filing this petition trying to put the answering respondent no. 06 into unnecessary, unjustified and unlawful litigation, which is liable to be reprimanded; therefore, the present petition is liable to be dismissed against respondent no. 06.
6. That the proceedings carried out by respondent No.06 is purely criminal proceeding which could not be agitated before this forum.

On Facts:

1. Does not relate to respondent 6 no comments
2. Does not relate to respondent 6 no comments
3. Does not relate to respondent 6 no comments
4. Does not on relate to respondent 6 no comments
5. Correct to the extent that if appointed as cock BPS 03 however the criteria available in the field was not followed
6. Does not on relate to respondent 6 no comments
7. Does not on relate to respondent 6 no comments
8. Does not on relate to respondent 6 no comments
9. Does not on relate to respondent 6 no comments
10. Does not on relate to respondent 6 no comments
11. Does not on relate to respondent 6 no comments
12. Does not on relate to respondent 6 no comments
13. Does not on relate to respondent 6 no comments
14. Does not on relate to respondent 6 no comments
15. Does not on relate to respondent 6 no comments
16. To the extent of this Para it is submitted that the respondent number 6 conducted audit in open enquiry 05/2022 which was initiated on the basis a complaint submitted by Mst Rukhsana and then sanctioned has been accorded by the worthy Director ACE, respondent number 6 after going through the record provided by the concerned department observed that the list provided by the

Employment Exchange Mardan did not bear the name of appellant.

The list of Employment is annexed.

3

17. Does not relate to respondent number 6 no comments
18. Does not relate to respondent number 6 no comments
19. Does not relate to respondent number 6 no comments
20. Does not relate to respondent number 6 no comments
21. Does not relate to respondent number 6 no comments
22. Does not relate to respondent number 6 no comments

That the Petitioner has been treated in accordance with law by respondent no. 06 and no right of the Petitioner has been infringed. The Petitioner is not aggrieved person against respondent no.06 of in any sense from the initiation of proceedings by ACE, he therefore cannot, invoke the jurisdiction of this Hon'ble Tribunal against petitioner 06.

On Grounds:

- A. Does not relate to respondent number 6 no comments
- B. Incorrect thus denied
- C. Respondent number 06 has acted legally transparently and according to merit, furthermore, the proceeding conducted by ACE could not be agitated before this forum because the Resp 06 has neither dismissed the appellant nor conducted the enquiry under civil servant act, rather under ACE rules 1999 which is purely deals with criminal proceeding. To the extent of this Para it is submitted though already mentioned above the enquiry conducted by ACE is purely criminal proceeding but opportunity of defense has been provided to the appellant.
(Statement annexed as E)
- D. Does not relate to respondent number 6 no comments
- E. Does not relate to respondent number 6 no comments
- F. Does not relate to respondent number 6 no comments
- G. Does not relate to respondent number 6 no comments
- H. Does not relate to respondent number 6 no comments
- I. Does not relate to respondent number 6 no comments
- J. Does not relate to respondent number 6 no comments
- K. Does not relate to respondent number 6 no comments
- L. Does not relate to respondent number 6 no comments
- M. Does not relate to respondent number 6 no comments

N. Does not relate to respondent number 6 no comments

4

Prayer:

Considering the above submission, it is humbly prayed that this Petition, being devoid of any merit against respondent No.06, may please be dismissed with cost.



Senior Auditor-IV
Anti-Corruption Establishment
Khyber Pakhtunkhwa
Peshawar



DIRECTORATE OF
ANTI-CORRUPTION ESTABLISHMENT
KHYBER PAKHTUNKHWA
PESHAWAR

No.

11264

/DACE/Peshawar, Dated:

11/11/2021

17

To,

The Assistant Director Crimes,
Anti-Corruption Establishment,
Mardan.

Subject: -

**COMPLAINT AGAINST THE CONCERNED STAFF OF GOVT.
COMMERCE COLLEGE FOR WOMEN DISTRICT MARDAN AND
OTHERS.**

A complaint submitted by Rukhsana Begum S/o Naemullah R/o Dang Baba post office Hoti District Mardan containing allegations of Corruption, illegal appointment and mis-use of official powers by the subject staff etc.

Permission for conducting preliminary enquiry against the subject staff etc is hereby accorded, which should be finalized within 15 days positively as directed by Worthy Director, Anti-Corruption Establishment, Khyber Pakhtunkhwa Peshawar

Assistant Director (Complaints)

ENDST OF EVEN NO. & DATE

Copy forwarded to Rukhsana Begum S/o Naemullah R/o Dang Baba post office Hoti District Mardan for information.

CO, Mardan

For Enquiry and report
at the earliest

Assistant Director (Complaints)

Attested

AA
CHIEF CLERK
ANTI-CORRUPTION
ESTABLISHMENT
ACE Mardan

-11/2021

AD Crimes Mardan.
23/11/2021

No 332-ADL Mardan
date 24-11-2021

No 185 - ACE

بخدمت جناب ڈائریکٹر صاحب انٹی کرپشن خیبر پختونخوا ایشاور

درخواست براد شروع کرنے انگوائری باہت
غیر قانونی بھرتی مسماة بی بی اسماء دختر مہر محمد ساکنہ
مدینہ کالونی، ڈاکخانہ طور و تحصیل و ضلع مردان
حال Cook-BPS-03 گورنمنٹ کامرس
کالج برائے خواتین ضلع مردان

جناب عالی: سائلہ حسب ذیل عرض رساں ہے۔

1- یہ کہ سائلہ ضلع مردان کی مستقل باشندہ ہے۔

2- یہ کہ سائلہ نے ایف اے تک تعلیم حاصل کی ہے بدیں وجہ دفتر روزگار Employment

Exchange ضلع مردان میں روزگار کیلئے رجسٹرڈ کروایا ہے۔ (نقل لف درخواست ہذا
 ہے۔)

Attested

CIRCLE OFFICER
 Anti Corruption
 ACE Mirjan

15/6/2022

3- یہ کہ اس وقت گورنمنٹ کامرس کالج برائے خواتین مردان میں کلاس فور (Class-IV) کی

آسامیاں خالی تھیں تو اس وقت کی پرنسپل مذکورہ بالا کالج نے نیچر دفتر روزگار Employment

Exchange مردان سے اہل امیدواروں کی فہرست طلب کی جس میں سائلہ کا نام سیریل

نمبر 02 پر درج تھا اور بعد ازاں سائلہ کو باقاعدہ انٹرویو کیلئے بلایا گیا بعد ازاں انٹرویو سائلہ کو کہا گیا کہ

اسکی سلیکشن ہوگئی ہے تاہم Appointment Order نہیں دیا گیا۔

Send to D.F.

11/6/2022

4- یہ کہ سائلہ نے اس وقت کی پرنسپل مذکورہ بالا کالج کو بھی کئی درخواستیں دی لیکن سائلہ کو کوئی جواب نہیں دیا اور سائلہ انتظار کرتی رہی۔

5- یہ کہ کچھ دن قبل موجودہ پرنسپل صاحبہ مذکورہ بالا کالج نے سائلہ کو طلب کیا اور کہا کہ آپ کی بھرتی مذکورہ بالا پوسٹ پر کیوں نہیں کی گئی ہے تو سائلہ نے سارا قصہ سنایا اور مزید کہا کہ میں نے تو اس سلسلے میں کئی درخواستیں دے رکھیں ہیں، لیکن سائلہ کو کوئی جواب نہیں ملا ہے تو اس پر موجودہ پرنسپل صاحبہ نے مسماۃ اسماء بی بی دختر مہر محمد ساکنہ مدینہ کالونی ڈاکخانہ طور و تحصیل و ضلع مردان کاتیناتی آرڈر دکھایا۔

6- یہ کہ جب سائلہ نے مذکورہ مسماۃ بی بی اسماء کے تعیناتی آرڈر کا بغور مطالعہ کیا اور یادداشت پر زور دیا تو سائلہ کے ذہن میں آیا کہ مذکورہ بالا خاتون تو شارٹ لسٹ امیدواروں میں نہیں تھی تو پرنسپل صاحبہ کو بتایا کہ کس طرح بی بی اسماء کو بھرتی کیا گیا ہے۔

7- یہ کہ اب سائلہ کو معلوم ہوا ہے کہ مسماۃ بی بی اسماء کو غلط اور غیر قانونی طور پر بھرتی کیا گیا تھا جبکہ سائلہ کو اس وقت بتایا بھی گیا تھا کہ اسکی سلیکشن کی گئی ہے کیونکہ اس وقت سائلہ شارٹ لسٹ امیدواروں میں زیادہ تعلیم یافتہ اور موزوں امیدوار تھیں لیکن اس کو تعیناتی حکم نہیں دیا گیا اور سائلہ کو انتظار کا کہتے رہے اور اب معلوم ہوا کہ بی بی اسماء کاتیناتی حکم چھپایا گیا تھا جس میں اس وقت کی پرنسپل صاحبہ کی بدینتی شامل تھی۔

8- یہ کہ مذکورہ عملہ حالات و واقعات کی روشنی میں بی بی اسماء مذکورہ بالا کی بھرتی کی تحقیقات کی جائے اور بمطابق قانون انکوائری کر کے حقائق سامنے لائے جائے تاکہ من سائلہ کو اس کا حق مل جائے

اور ملوث افراد کی نشاندہی کر کے ان کی خلاف محکمانہ کارروائی کی جائے۔

لہذا استدعا کی جاتی ہے کہ مذکورہ بالا حقائق اور واقعات کے تناظر میں برطابق قانون مذکورہ بالا بھرتی کی انکوائری کی جائے اور سائل کو اس کا حق دیا جائے۔

المرقوم 11/11/2021

رض

ساکنہ:۔
Rana

رخسانہ بیگم زوجہ نعیم اللہ

ساکن۔ ڈانگ بابا ڈاکخانہ ہوتی مردان

شناختی کارڈ نمبر 0-3237983-16101

رابطہ نمبر 0313-5757929

Attested

A A

15/6/2022

کاپی برائے ضروری کارروائی و اطلاع:-

- 1- ڈائریکٹر جنرل کامرس ایجوکیشن اینڈ مینجمنٹ سائنس پشاور
- 2- ڈپٹی کمشنر صاحب مردان
- 3- میجر ای میل انمنٹ ایچ بی سی پشاور
- 4- ڈی جی نیب خیبر پختونخوا پشاور حیات آباد پشاور
- 5- ڈائریکٹر ہومین رائٹس پشاور ہائی کورٹ پشاور
- 6- پرنسپل گورنمنٹ کامرس کالج برائے خواتین مردان

ایڈیشن

درخواست مجرہ اجازت

اوپن انٹرنیٹ

صفحہ نمبر

Directorate of Education
Inv No: 397
Ref: 7/01/2022
File No: 11864

مخوالہ ملکیت فر
11864

17/11/2022

مذکورہ درخواست پر سائنس ڈیپارٹمنٹ نے فیڈ بک دیا ہے جس میں اس کے مطابق اس کے ساتھ ساتھ ای کی دفتر میں بھی ایک نوٹ لکھا گیا ہے جس میں اس کے مطابق اس کے ساتھ ساتھ ای کی دفتر میں بھی ایک نوٹ لکھا گیا ہے جس میں اس کے مطابق اس کے ساتھ ساتھ ای کی دفتر میں بھی ایک نوٹ لکھا گیا ہے

OENo: 05/2022 - Edu
dt: 02-02-2022

مذکورہ درخواست ملکیت بلا سے مستقیم عملہ تسلیم سے ریٹائرڈ
حاصل کرنے کے لئے درخواست کی اور اس کے ساتھ ساتھ ای کی دفتر میں بھی ایک نوٹ لکھا گیا ہے جس میں اس کے مطابق اس کے ساتھ ساتھ ای کی دفتر میں بھی ایک نوٹ لکھا گیا ہے

لینے کے لئے درخواست کی اور اس کے ساتھ ساتھ ای کی دفتر میں بھی ایک نوٹ لکھا گیا ہے جس میں اس کے مطابق اس کے ساتھ ساتھ ای کی دفتر میں بھی ایک نوٹ لکھا گیا ہے

CO: Aca. melan
19/01/2022

Attested
AA

of allowed.

Sir,
Forwarded for O.E
Permission, Please,

[Signature]

msodan



DIRECTORATE OF
ANTI-CORRUPTION ESTABLISHMENT,
KHYBER PAKHTUNKHWA, 10
PESHAWAR

No. 667 /ACE,
Dated Peshawar the 01.02.2022.

To

✓
The Assistant Director Crimes,
Anti-Corruption Establishment,
Mardan.

Subject:- OPEN ENQUIRY NO.05/2022-EDU: AGAINST THE CONCERNED STAFF OF GOVT: COMMERCE COLLEGE FOR WOMEN DIST: MARDAN, (C NO.11264, DT.17.11.2021).

Reference your report of dated.24.01.2022, allied documents are returned herewith in original.

Permission for conducting open enquiry against the subject staff etc is hereby accorded, which should be finalized within one month positively as directed by worthy Director, Anti-Corruption Establishment, Khyber Pakhtunkhwa.


ASSISTANT DIRECTOR (COMPLAINTS)

Co, Mardan

For enquiry at the
earliest.

AD Crims/Mardan
08/02/2022

No 136-ADC-Mardan

08 8-2-2022

Attestee



15/6/2022

No 01-ACE
08/02/2022

AUDIT REPORT OF OPEN ENQUIRY NO.05/2022-EDU: AGAINST THE CONCERNED STAFF OF GOVT. COMMERCE COLLEGE FOR WOMEN DISTT: MARDAN (C NO.11264 DATED 17.11.2021).

ACCUSATIONS:

A complaint submitted by Mst. Ruksana Begum containing allegations of Corruption, illegal appointment and mis-use of official power by the subject officers/officials etc (Annex-A).

PREAMBLE:

On the direction of the worthy Director, Anti-Corruption Establishment, Khyber Pakhtunkhwa, Peshawar an audit was conducted by the undersigned in presence of Investigation Officer and concerned staff of the office of Principal Govt: College of Commerce for Women Mardan. The concerned staff produced the relevant record which was audited in their presence.

AUDIT EXTRACT:

During the course of an audit it was revealed that the office of Principal Govt: College of Commerce for Women Mardan vide letter No.GCC/WOMEN/PF(MRD)/578 dated 22.11.2018 addressed to the Manager Employment Exchange, Mardan for provision list of suitable unemployed registered class-IV candidates (Annex-B). The office of Manager Employment Exchange Mardan vide No.EE/Mdn/Recr/1-13/210(1-2) dated 27.11.2018 depicted that a list of suitable unemployed registered class-IV candidates sent to the office of Principal Govt: College of Commerce for Women Mardan (Annex-C). The Office of Principal Govt: College of Commerce for Women Mardan constituted a Departmental Selection Committee vide No.GCC/W/(MRD)/2018/612 dated 01.12.2018 (Annex-D).

On probing the matter, it was revealed that Mst Bibi Asma D/O Meher Muhammad was appointed as Cook in BPS-03 but her name was not included in the list provided by the office of Manager Employment Exchange Mardan vide No.EE/Mdn/Recr/1-13/210(1-2) dated 27.11.2018 which is violation of "The Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989". (Annex-E). For appointment of Class-IV employees, in the Province under the Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 have provided two modes. The reading of the Rule-10 relevant for the purpose would be imperative in the given circumstances which read as under:-

CO, Mardan
For n/a
under law

Rule-10. Appointment by initial recruitment. (1) Initial appointment to posts in various pay scales shall be made-
(a) If the posts falls within the purview of the Commission, on the basis of Examination or test to be conducted by the Commission; or
(b) If the post does not fall within the purview of the commission, in the manner determined by Government. Initial recruitment to the post which does not fall within the purview of the Commission, shall be as may be made on the recommendation of the Departmental Selection Committee vacancies have been advertised in newspapers; Provided that nothing contained in this sub-rule shall apply to the household staff of the Chief Minister's House Peshawar, Frontier House Islamabad, Frontier Rest House Bannu, Swat and Abbottabad, Frontier House Nathiagali and Shahi Mehman Khana, Peshawar and any other House to be established by the Government. Provided further

Asst. Insp.
Mdn.
25/03/2022

Attested
A A

that the appointment in Basic Pay Scale 3 to 5 shall be made on the recommendations of the Departmental Selection Committee through the District Employment Exchange concerned, or, where in a district the office of the Employment Exchange does not exist after advertising the post in leading newspapers.

The above, rule clearly reflects that firstly, if the post falls within the purview of the commission, is to be filled in through the commission i.e. Public Service Commission and secondly if the post does not fall within the purview of the commission in the manner as may be determined by Government. According to the second provision of the above rules, the initial appointment in the pay scales 3 to 5 (amended vide notification No SO (R-VI) E&AD / 1-3 / 2015 dated 19.4.2016) previously it was BPS 1 to 4, was to be made on the recommendations of the Departmental Selection Committee through the District Employment Exchange concerned, or when in a district the office of the Employment Exchange does not exist, after advertising the post in the leading newspaper.

(Handwritten initials)

A letter of Ms Nayab Gul addressed to the enquiry committee revealed that *they conducted interviews of female applicants only, they were provided a computerized attendance sheet on which Names of 7 females candidates were typed. They interviewed 6 of them and one was absent. At the end of the interview, the committee agreed upon Ms Rukhsana Begum to be appointed as cook. She also declared that her signature on attendance sheet is fake (Annex-F).* A letter of Ms Hejab Rahman addressed to the Principal GCMS (W) Mardan shows that *the committee decided to hire Mst. Rukshana Begum. Later on by the instruction of the then Director Administration Mr. Tayyab appointment letter of the Mst. Asma Bibi was signed. Oral objection was raised by her to the then Director Administration as Mst. Bibi Asma was neither interviewed in her presence nor any call letter was sent to her, even her name was not mentioned in the list of employment exchange Mardan. She was told by the then Director Administration that she has been selected and her details would be provided shortly by the directorate. Despite her calls no detail was provided to her. Moreover, the complete hiring file of all the class IV was not provided just to show their hegemony. Furthermore, the females' attendance list shows the name of Mst Bibi Asma entered manually afterward and without her knowledge. The list include her signature and Ms Nayab Gul signature only and those are fake (Annex-G).*

Moreover, in order to authenticate the appointment & recommendation of Departmental Selection Committee, duly signed minutes of meeting of the selection committee, was not provided and missing from the office record. A Departmental enquiry is also conducted in which the enquiry committee concluded that the appointment was made illegal and void ab initio as the candidate Mst Bibi Asma was not from the amongst the list of registered candidate provided by the manager employment exchange (Annex-H).

CONCLUSION:

Keeping in view the above scenario and scope of an audit, the signatory arrived to the conclusion that Mst Bibi Asma was appointed as Cook in BPS-03 but her name was not included in the list provided by the office of Manager Employment Exchange Mardan. The available records indicate nepotism, favoritism, negligence, violation of rules & regulation and non-observance of merit in selection process.

Attested
1

LOSS TO GOV'T EXCHEQUER:

The available record reveals that Rs. 507,173 /- financial loss occurred to Government Treasury at this stage.

RESPONSIBLE:

1. Mst Bibi Asma being direct beneficiary
2. The Concerned Officer/Officials involved in illegal appointment and stealing duly signed minutes of meeting of the selection committee
3. Other persons if found involved later on during the course of investigation.

RECOMMENDATION:

1. Circle Officer/Investigation Officer initiate legal proceedings against the responsible under the rules.
2. Just may be providing to the complainant under the relevant law/rules.

Report is submitted please.

Senior Auditor (IV)
Anti-Corruption, Establishment,
Khyber Pakhtunkhwa,
Peshawar.

No. 278-82 /ACE/Dated 24/03/2022.

Copy forwarded to the:-

1. Director Anti-Corruption Establishment, Khyber Pakhtunkhwa Peshawar.
- ✓ 2. Assistant Director Crimes, Mardan.
3. Circle Officer District, Mardan. (Original Enquiry File & all relevant record enclosed)
4. Statistical Assistant, ACE, Peshawar.
5. Audit Section, ACE, Peshawar.

Attest
A A
CIRCLE OFFICER
AND INVESTIGATION
ACE, MARDAN
15/6/2022

بیان

اتنی بی بی آسماء نورالامینہ زریبہ نورالامینہ کی نوکری کے لیے مدینہ کالونی
میری باقاعدہ انٹرویو ہوئی تھی۔

2018 میں میری بھرتی ہوئی تھی۔

باقاعدہ اضران نے میری بھرتی کرائی تھی۔

میں Cook کے پوسٹ پر بھرتی ہوئی تھی۔

اور میرے نوکری کے چار سال ہوئے ہیں۔

BiBi Asma

مسماہ بی بی آسماء زریبہ نورالامینہ
مدینہ کالونی نوکری کے لیے
طورو مدونا

8-0490466-16101 Niz

03119649506