

08.10.2021

Appellant alongwith his counsel present. Mr. Riaz Khan Paindkaheil, Assistant Advocate General alongwith Mr. Sultan Nabi Litigation Officer for official respondents No. 1 to 3 present. Private respondent No.4 in person present.

Private respondent No. 4 is directed to submit reply/comments within 15 days in office. Adjourned. To come up for arguments on 05.11.2021 before D.B at Camp Court, Swat.

(Atiq-Ur-Rehman Wazir)
Member (E)
Camp Court, Swat

(Rozina Rehman)
Member (J)
Camp Court, Swat

04.01.2021

Due to Covid-19, the case is adjourned to 03.03.2021 for the same as before.

Reader

03.03.2021

Appellant alongwith his counsel present.

Muhammad Riaz Khan Painsdakhel, Assistant Advocate General alongwith Mr. Sultan Nabi, Litigation Officer for respondents present.

Perusal of record would reveal that in view of submission made by the learned counsel for the appellant one Haroon Rashid was found necessary party of the present service appeal, therefore, he was ordered to ~~be~~ included in the calendar of respondents as respondent No.4. Office was directed to make necessary entry in the memo of appeal as well. These orders were not complied with and Haroon Rashid was not properly mentioned in the calendar of respondents. Office is once again directed to comply ^{to} orders of Tribunal and make entry with red ink, where-after notice be issued to Haroon Rashid (respondent No.4) for __/__/2021 for written reply and arguments, before D.B at camp court Swat.

(Mian Muhammad)
Member(E)

(Rozina Rehman)
Member(J)
Camp Court Swat

05.10.2020

Appellant is present in person. Mr. Usman Ghani, District Attorney for the respondents is also present. Appellant submitted an application for adjournment on the ground that his counsel has proceeded to Peshawar for his personal work. Application is placed on record. Adjourned to 04.11.2020 on which to come up for arguments before D.B at Camp Court, Swat.

(Mian Muhammad)
Member (Executive)
Camp Court Swat

(Muhammad Jamal Khan)
Member (Judicial)
Camp Court Swat

04.11.2020

Appellant in person present.

Muhammad Jan learned Deputy District Attorney alongwith Sultan Nabi Litigation Officer for respondents present.

Lawyers are on general strike, therefore, case is adjourned to 06.01.2021 for arguments, before D.B at Camp Court Swat.

(Atiq ur Rehman Wazir)
Member (E)
Camp Court, Swat

(Rozina Rehman)
Member (J)
Camp Court, Swat

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTON KHWA PESHAWAR

APPEAL NO 557 /2019

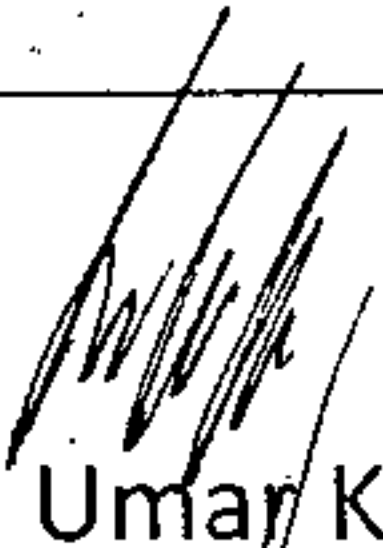
Adnan Bacha S/O Muhammad Khitab Class IV/ Chowkidar at Government Girls Primary School Amankot Swat.

VERSUS.

1. Secretary Elementary and Secondary Education Government KP Peshawar Secretariat & others..... Respondents.

INDEX

S.No	Description of Documents	Annexure	Pages
1	Memo of Appeal		1-4
2	Affidavit		5
3	Memo of Addresses		6
4	Appointment order of applicant as Class IV	A	7
5	Application for appointment as J/C to respondent No, 03	B	8
6	Application to respondent No, 03 for copy of impugned order / rejection order.	C	9
7	Reply of letter to appellant from respondent No, 03	D	10
8	Appointment order of Mst: Farhana as Sweeper on Decease Quota.	E	11
9	Appointment order as J/C of Brother of Mst: Farhana	F	12
10	Departmental Appeal.	G	13
11	Wakalat Nama		14


Umar Khitab
Advocate
District Courts Gulkada
Saidu Sharif Swat
Cell No. 0345-9524854

BEFORE THE SERVICE TRIBUNAL KHYBER PUKHTON KHAWA PESHAWAR.

APPEAL NO _____/2019.

Adnan Bacha S/O Muhammad Khitab Class IV /Chowkidar at Government Primary School Amankot Swat.

VESSUES.

1. Director Elementary and Secondary Education KP Peshawar.
2. Secretary Elementary and Secondary Education Government KP.
3. District Education Officer ~~Male~~ Swat.

Female

APPEAL UNDER SECTION 4 OF SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDER ON THE APPLICATION SUBMITTED BY APPELLANT DATED 20/11/2018 DAIRY NO 14451, THE RESPONDENT NO 3 EVEN REFUED TP PROVIDE THE COPY OF REJECION ORDER / IMPUGNED ORDER UNDER THE LAW OF RIGHT TO INFORMATION ACT 2013 , WHEREBY THE APPELLANT WAS NOT APPOITED ON DECEASED SON QUOTA AS A JUNIOR CLERK..

Prayer.

ON ACCEPTANCE OF INSTANT APPEAL THE IMPUGNED ORDER / REJECTION ORDER ON THE APPLICATION IN SUBMITTED BY APPELLANT DATED 20/11/2018 DIARY NO 14451 TO THE RESPONDENT NO 3, THE COPY OF WHICH HAS BEEN REFUSED UNDER RIGHT TO INFORMATION ACT 2013 , MAY KINDLY BE SET ASIDE AND THE APPELLEANT MAY KINDLY BE APPOINTED AS JUNIOR CLERK ON DECEASE SON QUOTA.

RESPECTFULLY SHEWETH .

1. That the appellant was initially was appointed as class IV / chowkider in Elementary and Secondary Education District Swat by the Respondent No.3 vide order No, 6493-97 dated 29/07/2015.It is pertinent to be noted that the appellant was appointed on deceased son quota. (Copy of the appointment order is Annex: A)

- 2
2. That the appellant submitted an application to the Respondent No 3 for appointment as junior clerk through diary No, 14451 dated 22/11/2018. That the Respondent No 3 have turn deep ear to the application of the appellant and reject the application. But it is pertinent to be noted that the impugned order/rejection order has not been given to the appellant, even the appellant applied for the impugned / rejection order under Right to Information Act, 2013, even than the refused to provide the impugned / rejection order to the appellant. (Application is Annex: "B" Right to Information Act, application Annex: C " & Order on Right to Information Act Annex: D)

 3. That the Respondent No 3 has appointed a female namely Mst Farhana on the post of sweeper. The sweeper post was filled by the Respondent No 3 on the basis on deceased son quota. The Mst Farhana was appointe through order No 3118-22 dated 16-01-2016. Later on the Mst Farhana resign from the sweeper post and join the primary teacher post. The brother of Mst Farhana applied for the post of junior clerk on the basis of deceased son quota, and the Respondent No 3 appoint the brother of Mst Farhana vide No 6186-90 dated 07-02-2017. That the appellant submitted an application, to Respondent No 3 for the appointment as junior clerk on the basis of deceased son quota, however it needs to mention here that the application of appellant was conditionally i.e. the appellant will resign from the class-IV/Chowkidar post if the Respondent No 3 issue his appointment order as junior clerk on the basis of deceased son quota. (Appointment order of Mst: Farhana as sweeper and appointment order the brother of Mst: Farhana are Annex: E & F)

 4. That the Respondent No 3 reject the application of the appellant on the ground of that the appellant once avail the chance of deceased son quota. The rejection order has not yet been given to the appellant) in this respect the detail mention in para No.2.

5. That the appellant being aggrieved from the Respondent No 3 un provided order , submitted the Departmental appeal to Respondent No, 2 on 25-01-2019. The Respondent No 1, which has not yet been decided the Departmental appeal within the stipulated period, Hence this appeal filed before honorable Service Tribunal KP Peshawar (Copy of the Departmental) Appeal AnnxeG)

GROUND OF APPEAL


1. That the un provided/impugned order of Respondent No 3 against service laws and the laws of land.
2. That Respondent No 3 has violated the fundamental laws of state, that every person shall be treated equally, but the Respondent No 3 has not treated the appellant on the same principal because the Mst Farhana has availed once the chance of deceased son quota according to the law, but the Respondent No 3 once again has given a chance to the brother of Mst Farhana and again the brother of Mst Farhana was appointed as junior clerk on deceased quota.
3. The Respondent No 3 has rejected the appellant application for the post of junior clerk on single ground that appellant has already availed the deceased son quota post.
4. That the Respondent No 3 has not treated the appellant as well as the brother of Mst Farhana equally according to the law. The rejection order of Respondent No 3 in Respect of appellant for the post of junior clerk based on her whims.

- 4
5. That some other grounds may be argued at the time of arguments of the instant appeal with the prior permission of this Honorable court.
 6. That any other remedy which is just and appropriate may also be awarded though not specifically.

On acceptance of instant appeal be appellant may kindly be treated equally, and the direction be given to he Respondent No 2 to appoint the appellant as junior clerk in deceased quota.

APPELLANT

ADNAN BACHA S/ O MUHAMMAD KHITAB.

 THROUGH
UMAR KHITAB
ADVOCATE

DISTRICT COURTS GULKADA SAIDU SHARIF SWAT.

CERTIFICATE.

It is certified that no such like appeal has earlier been filed by the appellant nor is pending or decided this Honorable Tribunal.

 UMAR KHITAB
ADVOCATE

DISTRICT COURTS GULKADA SAIDU SHARIF SWAT.

BEFORE THE SERVICE TRIBUNAL KHYBER PUKHTOONKHAWA PESHAWAR.

SERVICE APPEAL NO _____/2019.

Adnan Bacha S/ O Muhammad Khitab Class –IV Government Girls Primary school
Amankot Swat.....Appellant.

VERSUS.

1. Secretary Elementary and Secondary Education KP Peshawar.
& OTHERSRESPONDENTS.

MEMO OF ADRESS.


Address of appellant.

Adnan Bacha S/O Muhammad Khitab Class - IV Government Primary School
Amankot Swat.

CNIC. 15607-0371266-3 .Cell No. 0342- 9228501

ADRESSES OF RESPONDENTS.

- 1.DIRECTOR OF ELEMENTARY AND SECONDARY EDUCATION KP PESHAWAR.
- 2.SECRETARY ELEMEMENTARY AND SECONDARY EDUCATION KP PESHWAR SECRETRAIATE.
- 3.DISTRICT EDUCATION OFFICER FEMALE SWAT AT SAIDU SHARIF SWAT.

APPELLANT T
 THROUGH

 UMAR KHITAB
 ADVOCATE DISTRICT COURTS GULKADA
 SAIDU SHARIF SWAT.



7

**OFFICE OF THE DISTRICT EDUCATION OFFICER
(FEMALE) SWAT AT SAIDU SHARIF**

Amma, A

NOTIFICATION

In pursuance of the provision contained in Notification No. SOR-IV (E&AD) 1-3/2011/Vol-VIII dated 31st August 2011 of the Establishment Department Government of Khyber Pakhtunkhwa Peshawar and Meeting of the Departmental Selection Committee held on 23-06-2014 and in Exercise of the power vested in me as competent authority, The following candidates being the son/daughter of the deceased employees, died during service are appointed against vacant post under deceased quota in BPS-01 (4800-150-9300) plus usual allowances as admissible under the rules with effect from the date of taking over charge subject the terms and conditions given below in the best interest of public service

Constituency 80

S. No	Name/Parentage and Residence	Date of Birth	Post & School Where Posted	Remarks
1.	Adnan Bacha S/O Late Mohammad Khitab R/O Miangan Cham Amankot	16-04-1995	Chawkdar GGPS Amankot No 1	Against the quota reserved for deceased Son quota 100%

TERMS AND CONDITIONS:-

1. He would be on probation for a period of one year extend-able for another one year.
2. He will be governed by such rules and regularizations as may be issued from time to time by the Government.
3. His service can be terminated at any time in case his performance is found unsatisfactory during probation Period. In case of misconduct, he shall be proceeded under the rules framed from time to time.
4. His service is liable to be terminated on one month prior notice from either side. In case of resignation without prior notice one month pay and allowances, if any, shall be forfeited in favor of Government through challan.
5. He should join his post within 15 days of the issuance of this order positively otherwise the appointment shall stand cancelled.
6. The Headmistress/SDEO/ASDEO/PSHT concerned should personally check his original documents, domicile and CNIC before handing over charge.
7. Health and age certificate from the Medical Superintendent should be provided before taking over charge.
8. Charge report should be submitted to all concerned.
9. No TA/DA etc., shall be allowed to the appointee for joining their duties.
10. He will not be handed over charged if his age less than 18 years and above 43 years.
11. If any son/daughter of died employee is appointed earlier, his service will be terminated.

(Shamim Akhtar)
District Education Officer (F)
Swat at Saidu Sharif

Endst: No. 6493/97 /Apptt:/Class-IV Servants.

Dated 29/7/ /2015.

Copy forwarded for information to:-

1. The Director E&SE Khyber Pakhtunkhwa, Peshawar.
2. The District Accounts Officer Swat at Saidu Sharif
3. SDEO (Female) Swat.
4. Headmistress concerned.
5. The Official Concerned.

CTC

Umar Khitab
ADVOCATE

District Education Officer (F)
Swat at Saidu Sharif

عنوان :- اپیل برائے جوینر ملک تقرری

جناب عالیہ -

خوارشہ -

1. کہ میرا والد گورنمنٹ گھنٹریا کی سکول ایونٹس میں جوینر ملک کے حیثیت سے ڈیوٹی سرانجام دے رہا تھا۔
2. میرا والد ملازمت کے دوران 26 جولائی تا 2 کو وفات پورا تھا۔

3. میرے تقرری کے تحت نائب قاصد deceased کو کم کے تحت جاری ہوا۔ اور ابھی تک ڈیوٹی کر رہا ہوں۔
4. میں نے ابھی سٹریٹ میکنگ ڈویژن میں پاس کیا ہے اور کمپوسٹر پر بھی عبور حاصل ہے۔

5. میں نائب قاصد کے اسامی سے استعفی دے دوں گا کہ اگر میرے جوینر ملک کے تقرری کے احکامات جاری ہو جائے۔
6. مجھے معلوم ہوا ہے کہ آپ حبیان کے ماتحت سکولوں میں جوینر ملک کے اسامیاں خالی ہے۔

لہذا اس درخواست ہے کہ deceased کو کم میں میرا جگہ جوینر ملک کے تقرری کے احکامات جاری کرے۔ جوینر ملک کے تقرری کے بعد یا تقرری کے احکامات ملتے ہیں میں نائب قاصد کے اسامی سے استعفی دے دوں گا۔

مجھے امید ہے کہ آپ حبیان میرے اپیل پر بہدر رفتہ غور فرمائیں گے

شکر ہے

عدنان باچا ولد محمد خطاب رحم
نائب قاصد ایس ڈی۔ ای۔ او
زنانه بابلوزی سپروائزر سورت

20/11/2017

Umar Khitab
ADVOCATE



مقام ڈسٹرکٹ ایجوکیشن آفس رزنانہ ایسٹری / سکینڈری ایجوکیشن سروس

درخواست سب سے اردو ٹیسٹ نقولات

جناب عالیہ!

درخواست حسب ذیل 2۔

1۔ یہ کہ میں نے ایک درخواست تقرری جو سینئر ملکہ علامہ Deceased Sons

کے تحت بحوالہ ایسٹری بغ 14451 تاریخ 11/22 تقرری نفی۔

2۔ یہ کہ اب مجھے اردو ٹیسٹ (نوٹ ٹیسٹ) کے تعریف شدہ غلو کا پی

کے غروت 2۔

اپنے استدعا ہے کہ خیرہ خستون جوان رائٹ لو

انفارمیشن ایکٹ 2013 شیڈل کے تحت اردو ٹیسٹ

کے تعریف شدہ غلو عیا کریں۔ تو یہ بانی ہوئی۔



نالہدر

Handwritten signature of the District Education Officer.

Signature of Umar Khitab, Advocate, with the initials CTC above it.

عبدان باچا جویدر
گورنمنٹ گریجویٹری سکول امان کوٹ
03/04/2019



OFFICE OF THE
DISTRICT EDUCATION OFFICER (F) SWAT
(PLANNING & DEVELOPMENT)

10
Annex "D"

+92-946-9240-214



deofswat@gmail.com

No. 2296 / P. File Mr. Adnan Bach, Chow: / DEO(F) Swat.

Dated 12/4/2019

To

Mr. Adnan Bacha, Chowkidar,
GGPS Amankot No.1, Swat.

Subject: - APPLICATION.

Memo:

Reference your application dated 03-04-2019 regarding photo copies of order sheet mentioned with reference to the application under Dairy No. 14451 dated 22-11-2018 for appointment of Junior Clerk under deceased sons quota. Contents of the application examined in the light of Khyber Pakhtunkhwa Right To Information Act, 2013.

A) Application for order sheet dated 03-04-2018.

- 1). As far as copies of order sheet is concerned, Section-20 & Section-16 (e) of Khyber Pakhtunkhwa Right to Information Act 2013 is very much clear regarding disclosure of information. For ease of reference the same is re-produced as below.

Section 20-legal privilege.

A public body may refuse a request for information which is privileged from production in legal proceedings unless the person entitled to the privilege has waived it.

Section 16. Disclosure harmful to law enforcement.

A public body may refuse or request for information the disclosure of which would be likely to.

(e) harm the security of any property or system, including a building, a vehicle, a computer system or a communication system.

Keeping in-view the above provision of the said act, this office is not in position to disclose Official secret in the shape of photo copies, therefore, your request is hereby refused in the present circumstance.

B) Application for appointment as Junior Clerk in deceased sons quota. dated 20-11-2018

- 1). As far as under reference application dated 22-11-2018 is concerned, record reveals that you have already availed opportunity of deceased sons quota and there is no provision for 2nd times opportunity in deceased sons quota according to the existing laws & rules.
- 2). Rule-10 (4) of the Government of Khyber Pakhtunkhwa Civil Servants (appointment, Promotion & Transfer) rules 1989 is crystal clear and the word "Appointment" has been used in the said rules and there is nothing about 2nd time appointment in the deceased sons quota. In this connection Judgment of the Hon'able Peshawar High Court in the case under title Anwar Ali ..V/S.. Government of Khyber Pakhtunkhwa through Chief Secretary (2018 PLC (CS) 381) and Judgment of Hon'able Lahore High Court in the case under title Kalsoom Bibi..V/S.... Secretary Education are very much clear about appointment in deceased sons quota and nothing has been incorporated regarding 2nd time opportunity for the appointment in the said quota. Now advertent to the point of modus operandi regarding appointment of Junior Clerk in deceased sons quota, you are not entitled for 2nd time appointment because you have already availed the opportunity, therefore, your application could not be considered and hence rejected.
- 3). Moreover this office also commented on your appeal submitted by you to the Director, E&SE Khyber Pakhtunkhwa dated 25-01-2019 for appointment of Junior Clerk in deceased sons quota where Director E&SE Khyber Pakhtunkhwa/ appellant authority sent the same to this office for necessary action as per rules/Policy and detail report in the light of prevailing rules have been submitted to the Director, E&SE Khyber Pakhtunkhwa vide No.915 dated 27-2-2019 with the opinion that application is not maintainable due to legal lacunas and needs to be dismissed.


DISTRICT EDUCATION OFFICER (F)
SWAT.


Umar Khitaw
ADVOCATE

Annexure E



EDUCATION OFFICER (FEMALE) SWAT
SAIDU SHARIF

133

APPOINTMENT

In pursuance of the provision contained in Notification No. SOR-IV (E&AD) 13/2011/Vol-II dated 13/03/2011 issued by the Government of Khyber Pakhtunkhwa, Peshawar and meeting of the Board of Education held on 01-03-2016 and in Exercise of the power vested in me as competent authority, I hereby appoint Ms. Saadia Begum the son/daughter of the deceased employees died during service in the post of PSF RO under the quota in UPS-03 (6535-260-14335) plus usual allowances as per rules with effect from the date of taking over charge subject the terms and condition given below:-

No	Name (as in original Residence)	Date of Birth	Post & School Where Posted	Remarks
01	Ms. Saadia Begum (D/O) Mr. Saad Begum PSF RO (Original Post) Barama	18-12-1981	Sweeper IGMS Akbar Abad Barama	Against the quota reserved for deceased Son quota 100%
02	Mr. Saad Begum (D/O) Ms. Saadia Begum PSF RO (Original Post) Barama	01/11/1996	Chowkidar, IGPS Dangran, Swat.	DO

TERMS AND CONDITIONS

- The appointment is on probation for a period of one year extendable for another one year.
- The appointee shall be governed by the rules and regulations as may be issued from time to time by the Government.
- The appointment may be terminated at any time in case this performance is found unsatisfactory during probation period in case of resignation it shall be proceeded under the rules framed from time to time.
- The appointee shall be terminated on one month prior notice from either side. In case of resignation without prior notice one month prior notice allowance, if any, shall be forfeited in favor of Government through challan.
- The appointee shall report to the post within 15 days of the issuance of this order positively otherwise the appointment shall be deemed to be cancelled.
- The appointee shall produce original documents, domicile and other documents to the concerned authority.
- The appointee shall be provided medical superannuation should be provided before taking over charge.
- The appointee shall be provided with the necessary facilities for the purpose of the post.
- The appointee shall be provided with the necessary facilities for the purpose of the post.
- The appointee shall be provided with the necessary facilities for the purpose of the post.

(Signature)
Saadia Begum (D/O) Mr. Saad Begum
13/03/2016

11-07-16
Khatib
SAIDU SHARIF

Education Officer (Female)
Swat, Saidu Sharif



OFFICE OF THE
DISTRICT EDUCATION OFFICER (Female) SWAT

NO. _____ / Estab /
Email: deofswat@gmail.com



#: (0946) 700686

Dated _____ / 2017

web: www.female.sed.edu.pk

Amma "F"

12

NOTIFICATION

Consequent upon the recommendation of the Departmental Selection Committee, the following candidates in deceased employee son's quota are hereby appointed as Junior Clerk against vacant posts in BPS-11 (Rs.10510-740-32710) plus usual allowances as admissible under the existing rules and recruitment policy on regular basis subject to the terms and conditions given below in the interest of public service from the date of their taken over charge.

S.No	Name Parentage	Residence	Date of Birth	Post	Post where Vacant	Remarks
1	Shah Zeb M/O Late Razia Bibi Ex-PST.GGPS No.1 Saidu.	Saidu Sharif District Swat	25/12/1996	J/Clerk	GGHS Afsar Abad Saidu Sharif Swat	
2	Haroon-ur-Rashid M/O Late Shehnaz Ex-PST GGPS Look Maira	Jambil District Swat	6/01/1998	J/Clerk	GGHS Jambil Swat.	

TERMS & CONDITIONS

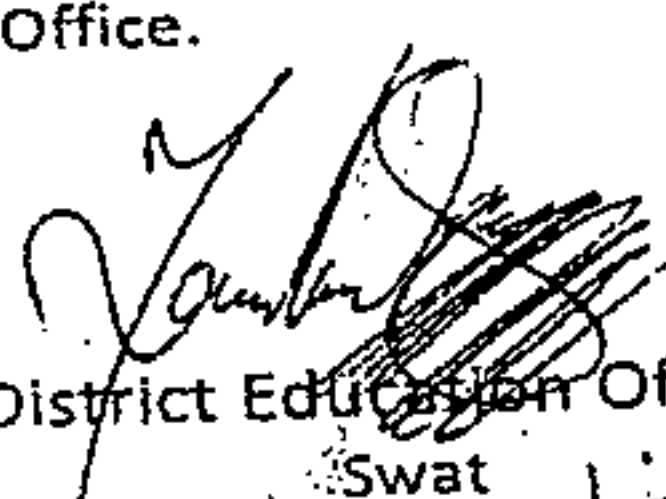
1. They will be governed by such rules and regulations as may be issued from time to time by the Government.
2. Their services can be terminated at any time in case their performance is found unsatisfactory during Probation period. In case of misconduct, he shall be proceeded under the rules framed from time to time.
3. Their service is liable to be terminated on one month's prior notice from either side. In case of resignation without prior notice one month pay and allowances, if any, shall be forfeited in favor of Government through challan.
4. They should join their posts within 15 days of the issuance of this order positively otherwise the appointment shall stand cancelled.
5. The Principal/Head Master concerned should personally check their original documents before handing over charge.
6. Health and age certificate from the Medical Superintendent should be provided before taking over charge.
7. Charge report should be submitted to all concerned.
8. No TA/DA etc. shall be allowed to the appointees for joining their duties.


(Zaib-Un-Nisa)
District Education Officer (F)
Swat

Endst: No. 6186-90 / Junior Clerk Appointment Dated 7/21 / 2017

Copy forwarded for information and necessary action to the: -

1. District Comptrollers of Account Swat at Saidu Sharif.
2. Director Elementary and Secondary Education Khyber Pakhtunkhwa Peshawar.
3. B & AO District Education Officer Local Office.
4. Principal/Head Mistress concerned.
5. Candidates concerned.


District Education Officer (F)
Swat


Umar Khitab
ADVOCATE

خدمت جناب ڈائریکٹر ایڈمنسٹریشن اینڈ سیکرٹری ایجوکیشن کے پی ایچ ڈی کیلئے

Amma = 6

عنوان: حکمانہ اپیل برائے جوئینر کلرک لٹنٹ ڈی Deceased son کوٹ

جناب عالی! اپیلانٹ حسب ذیل عرصہ گزار چکا۔

1۔ یہ کہ من اپیلانٹ بحیثیت جو کیدار ایڈمنسٹریشن اینڈ سیکرٹری ایجوکیشن سوات / (F) D.O. میں بحوالہ ایڈمنسٹریشن نمبر 6493-97 محرمہ 29 جو لائی گئی کو Deceased son کوٹ کے تحت بھرتی ہوا تھا۔

2۔ یہ کہ من اپیلانٹ نے 20 نو پمبر 2018 کو (F) D.O. سوات کو درخواست برائے جوئینر کلرک بحوالہ ڈائری نمبر 14451 محرمہ 22¹¹/₂₀₁₈ کو دی۔ لیکن (F) D.O. صاحب سوات نے من اپیلانٹ کی درخواست پر غور نہیں کیا۔

3۔ یہ کہ (F) D.O. سوات نے بحوالہ آرڈر نمبر 3118²²/₂₀₁₅ محرمہ 16 کو حکمانہ فرحانہ کو بحیثیت سوشل سروس ڈیپارٹمنٹ میں بھرتی کیا تھا۔ اور بعد میں مذکورہ حکمانہ فرحانہ نے سوشل سروس کے پوسٹ سے استعفیٰ دے کر P.S.T پوسٹ میں تقرری ہوئی۔ لیکن یہ اس قابل ذکر ہے۔ حکمانہ فرحانہ کے بھائی نے جوئینر کلرک کے اسامی کیلئے Deceased son کوٹ میں درخواست دی۔ جس کو برائے آرڈر نمبر 6186-90 محرمہ 17.2.2017 کو (F) D.O. تقرری کی۔

4۔ یہ کہ من اپیلانٹ نے بھی (F) D.O. صاحب سوات کو درخواست دی ہے۔ کہ من اپیلانٹ بھی جو کیدار کے پوسٹ سے استعفیٰ لوٹگا۔ اگر من اپیلانٹ کی آرڈر (تقرری) جوئینر کلرک Deceased son کوٹ کے تحت جاری ہو جائے۔

لیکن (F) D.O. صاحب سوات نے من اپیلانٹ کی درخواست اس اعتراض کے ساتھ مسترد کیا ہے۔ کہ من اپیلانٹ ایڈمنسٹریشن کوٹ میں لٹنٹ ڈی Deceased son کوٹ سے Choice کیا ہے۔

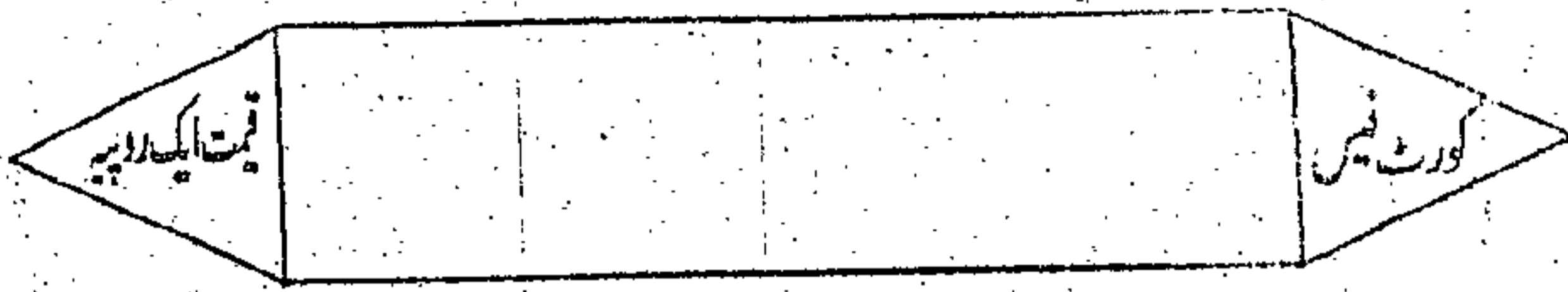
کھذا اس کے معاہدے - کہ بٹلوری درخواست بعد الیوجھا
 یا لا من اسپلانٹ کے ساتھ قانون کے مطابق *equally treated*
 کیا جائے - اور من اسپلانٹ کی تقرری بحیثیت جوئر کلرک
 در *Deceased son* کوٹہ میں احکامات
 صادر فرمایا جائے۔

کر لے
 عفتان جو کبدر

گورنمنٹ گورنمنٹ و جرائڈری سکول
 سیٹھ سیدو شریف سہوت
 25/01/2019

Umar Khitab
 ADVOCATE

یعدالت چیمبریں سرورس ٹریبیونل پشاور / کیسپ کورٹ سرورس



مورخہ 30 اپریل 2019ء منجانب
 مقدمہ عدنان باچا بنام حکومت ہند ریفرنڈم سیکرٹری / سینڈری
 دعویٰ الجوشن کے پی وغیرہ

باعث تحریر آنکے

مقدمہ متدرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کارروائی متعلقہ آن مقام محل کمرہ سید و شریف ایسے عر خطاب اور کیس مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا۔ نیز وکیل صاحب کو راضی نامہ و تقرر ثابت و فیصلہ پر حلف دینے جواب دی اور اقبال دعویٰ اور درخواست ہر قسم کی تصدیق زنا اور اس پر دستخط کرنے کا اختیار ہوگا۔ نیز بصورت عدم پیروی یا ڈگری ایک طرف یا اپیل کی برآمد ہوگی اور منسوخ مذکور کے نسل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنی ہمراہ یا اپنی بجائے تقرر کا اختیار ہوگا۔ اور صاحب مقررہ شدہ کو بھی جملہ مذکورہ بالا اختیارات حاصل ہونگے اور اس کا ساختہ برواختہ منظور و قبول ہوگا۔ اور دوران مقدمہ میں جو خرچہ دہر جانہ التوا یہ مقدمہ کے سبب سے ہوگا اسکے مستحق وکیل صاحب ہونگے۔ نیز بقایا و خرچہ کی وصولی کرتے وقت کا بھی اختیار ہوگا اگر کوئی تاریخ پیشی مقام دورہ ہر ہو یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہونگے کی پیروی مقدمہ مذکور لہذا وکالت نامہ لکھ دیا کہ سند ہے

عدنان باچا و ولد عمر خطاب
 افان کورٹ سید و شریف سرورس

Accepted
alleged

کے لئے منظور ہے
 Umar Khitab
 ADVOCATE

District Court Saidu Sharif
 Swat.
 Cell No. 0345-9524654

بمقام

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR**

SERVICE APPEAL NO. ^{557, 2019}

Adnan Bacha S/O MuhammadKhitab,
Chowkidar Government Girls Primary School Amankot No.1 Swat
.....APPELLANT

V E R S U S

1. Director Elementary & Secondary Education KPK Peshawar..
2. Secretary Elementary & Secondary Education Government of KPK Peshawar.
3. The District Education Officer (Female) Swat.

..... Respondents

I N D E X

S#	DESCRIPTION	ANNEXURES	PAGES
1	Para Wise Comments	i-ii
2	Appeal of the appellant addressed to Director	A	1
3	Application of the Appellant	B	2
4	Appointment order of the appellant	C	3

DISTRICT EDUCATION OFFICER (Female)
District Swat.
(Respondent No.3 & for Respondent No.1 & 2)

District Education Officer
District Swat

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR**

SERVICE APPEAL NO. ⁵⁵⁷ / ²⁰¹⁹ / 2001

Adnan Bacha S/O MuhammadKhitab,
Chowkidar Government Girls Primary School Amankot No.1 Swat
.....APPELLANT

V E R S U S

1. Director Elementary & Secondary Education KPK Peshawar..
2. Secretary Elementary & Secondary Education Government of KPK Peshawar.
3. The District Education Officer (Female) Swat.

..... Respondents

PARAWISE COMMENTS ON BEHALF OF RESPONDENTS NO.1,2&3

Respectfully Shewth;

The Respondents submits as under;

Preliminary Objections.

1. That that appellant has no cause of action and locus standi .
2. That the instant appeal is badly barred by time.
3. That the appellant has concealed the material facts from this Tribunal, Hence liable to be dismissed.
4. That the appellant has not come to this Hon;Tribunal with clean hands.
5. That the appellant has filed the instant appeal just to pressurize the Respondents.
6. That the Present appeal is liable to be dismissed for non-joinder and miss-joinder of necessary parties.
7. That the appellant filed the instant petition on malafide motives.
8. That the Instant appeal is against the prevailing laws and rules.
9. That the appellant is estopped by his own conduct to file the instant appeal.
10. That the instant appeal is not maintainable in the present form and also in the present circumstances of the issue.
11. That the appellant suppressed real facts from this Hon;Tribunal and filed the instant appeal to harass and blackmail the respondents.
12. That due to legal lacunas, the appeal in the present form and manner, is not maintainable, hence liable to set aside.
13. That the instant appeal does not fall within the ambit /Purview of the Section 4 of the Service Tribunal Act.1974

ON FACTS .

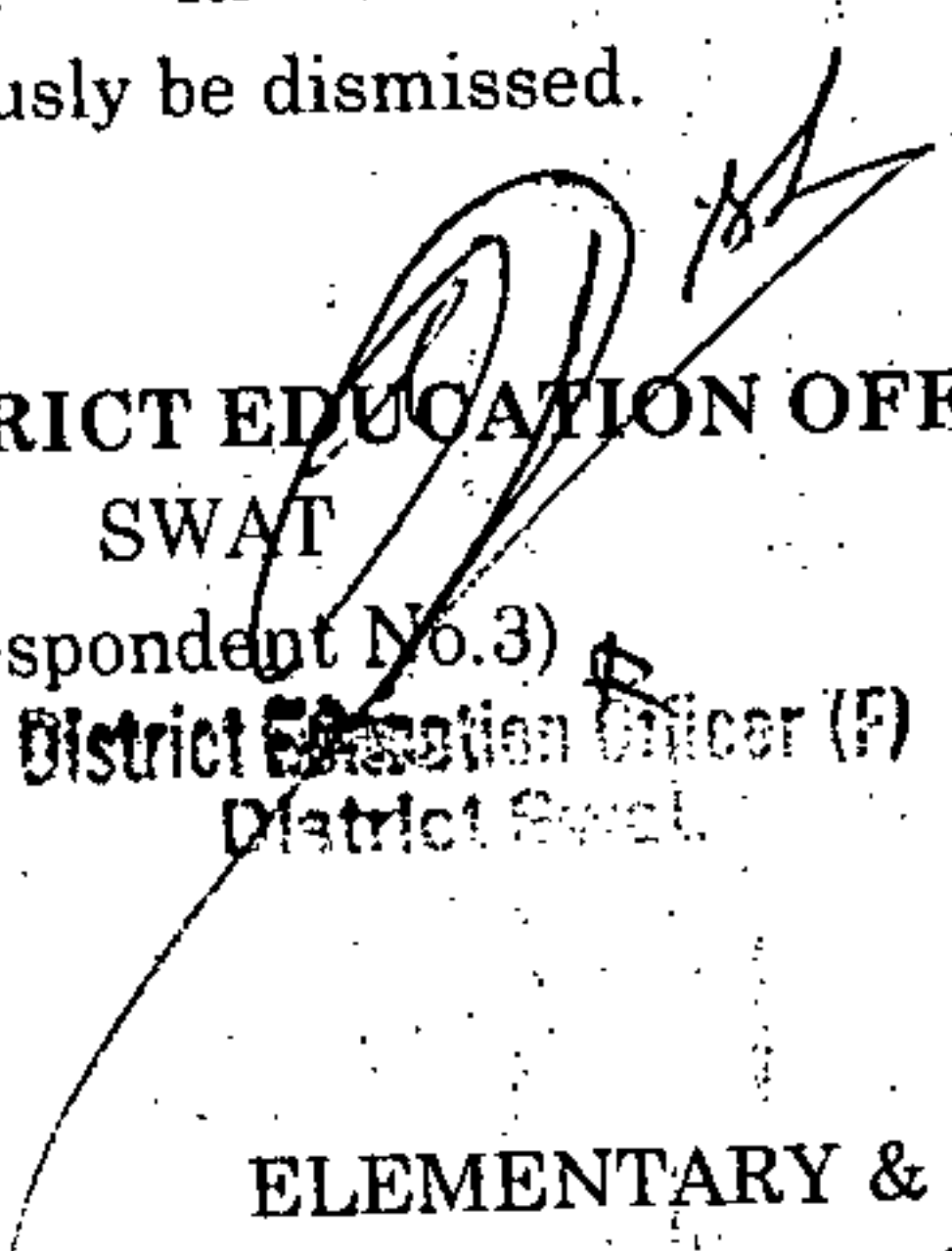
1. That this Para is correct and needs no comments.
2. That Para-2 is correct to the extent that application for Junior clerk has been rejected because he has already ben availed opportunity of deceased son quoted which he has been admitted in the Para-1 of the appeal. Moreover over as far as the rejection copy is concerned the appellant intentionally concealed the facts because he received his copy which is evident from the annexure -D of the appeal as well as from the Para-4 of the appeal addressed to Director E&SE KPK Peshawar (Annexure-A). The appellant is not deserving for 2nd time appointment in deceased son quota and the same has been incorporated to the appellant in Para-2 of the reply (Annexure-B) in connection with his application but the appellant concealed the facts from this Hon;Tribunal, therefore, appeal is liable to be dismissed.
3. That this Para-3 as drafted is not admitted because the appellant concealed the facts .Although the female,namely Farhana,mentioned by the appellant ,has been appointed in deceased Son quota vide No.3118-22 dated 16/1/2016 (Annexure-C) but it is worth mentioning here that she neither received her salary nor any benefits from the Government treasury and resigned from the Post while her unemployed brother applied for Junior Clerk Post and has been appointed accordingly which is different from the

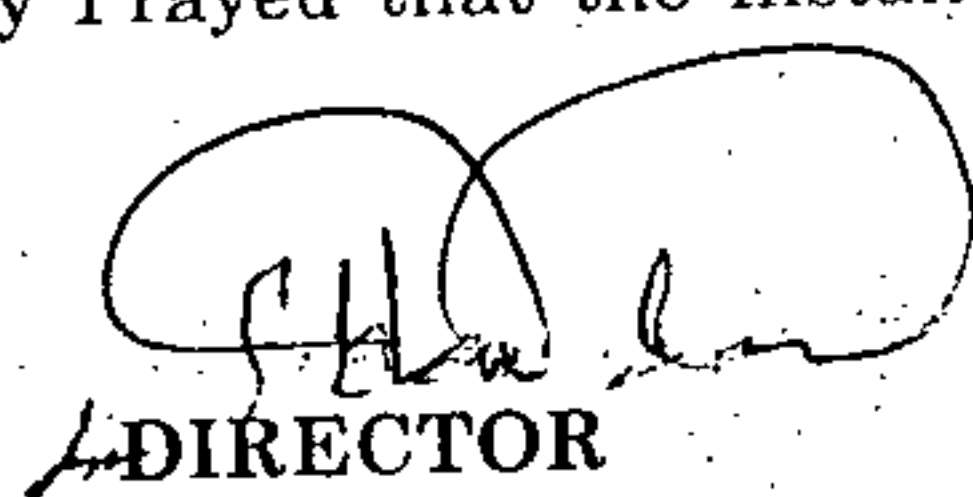
- case of the appellant because the appellant already availed the benefits and presently Government servant does not fall within the meaning of "Unemployed", therefore, the appellant is not deserving for the appointment of Junior Clerk in deceased Son quota.
4. That this Para-4 is correct to the extent that the application of the appellant rejected on the ground that once he availed the opportunity of deceased son quota while the remaining para is not admitted because already commented in the above paras.
 5. That this Para -5 as drafted is not admitted.

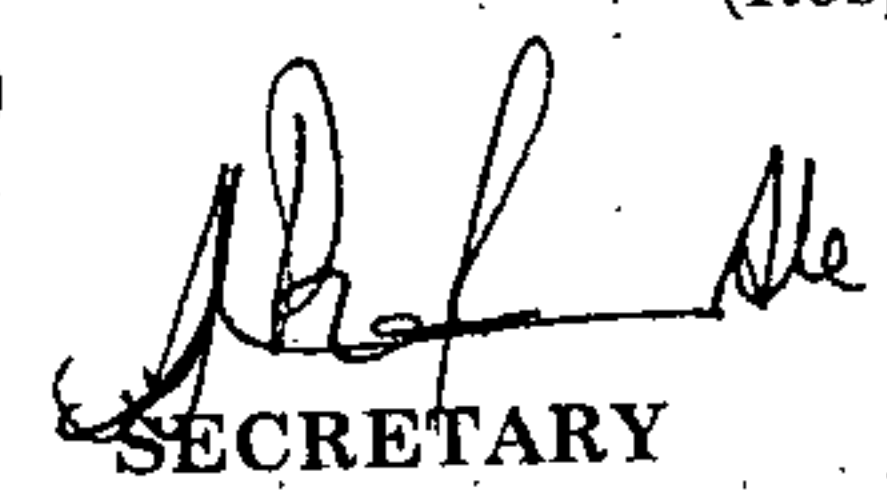
GROUND

1. That this Para is not admitted because the appellant concealed facts from this Hon; Service Tribunal, Hence appeal liable to be dismissed.
2. That this Para is not admitted due to legal lacunas.
3. That this Para-3 admitted because the appellant also admitted that application has been rejected due to the reason that the appellant availed opportunity of deceased son quota.
4. That this para-4 is not admitted due to the reason as mentioned above.
5. That this Para is legal and needs no comments.
6. That this Para is legal and needs no comments.

In wake of the above, It is, therefore, humbly Prayed that the instant appeal may graciously be dismissed.

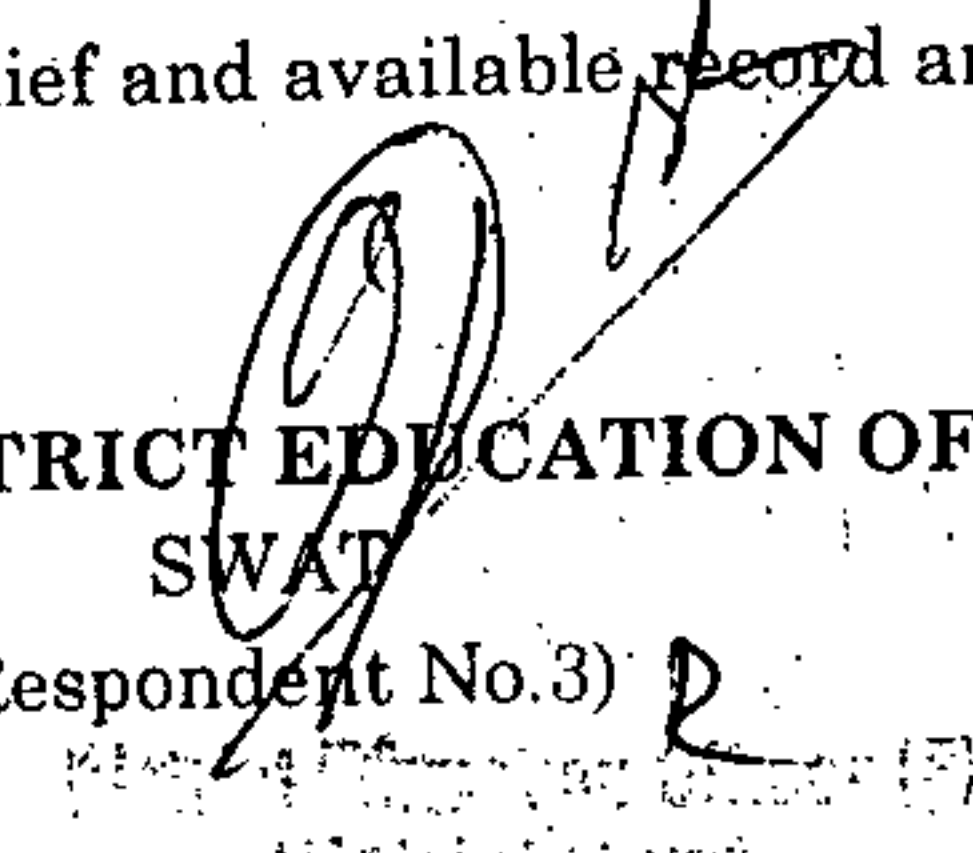

DISTRICT EDUCATION OFFICER(F)
 SWAT
 (Respondent No.3)
 District Education Officer (F)
 District SWAT.

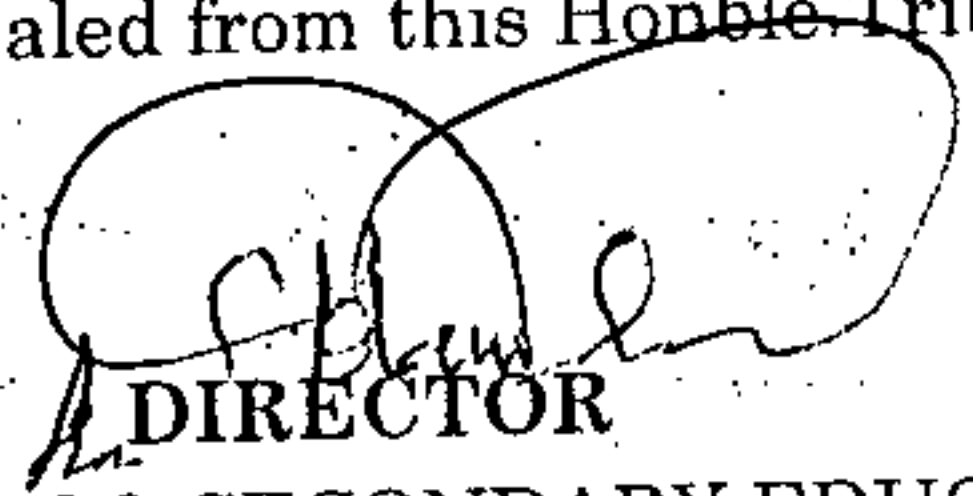

DIRECTOR
 ELEMENTARY & SECONDARY EDUCATION KPK
 (Respondent No.2)

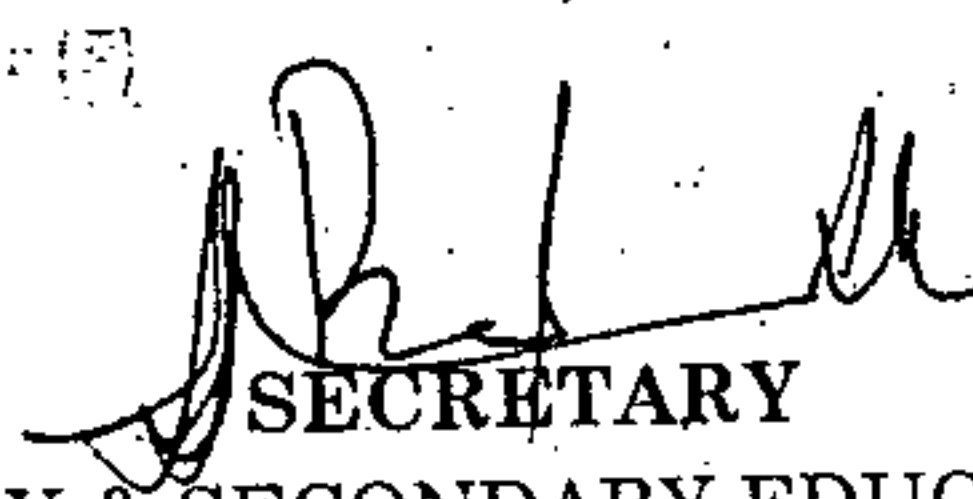

SECRETARY
 ELEMENTARY & SECONDARY EDUCATION DEPARTMENT
 KPK PESHAWAR
 (Respondent No.1)

CERTIFICATE

Certified that the above contents of the above comments, are true to the best of our Knowledge & belief and available record and nothing has been concealed from this Honble Tribunal.


DISTRICT EDUCATION OFFICER(F)
 SWAT
 (Respondent No.3)
 District Education Officer (F)
 District SWAT.


DIRECTOR
 ELEMENTARY & SECONDARY EDUCATION KPK
 (Respondent No.2)


SECRETARY
 ELEMENTARY & SECONDARY EDUCATION DEPARTMENT
 KPK PESHAWAR
 (Respondent No.1)

B

خدمت جناب ڈائریکٹر ایڈمنسٹریشن ایڈسٹریٹو ایجوکیشن کے لیے منظور کیا گیا ہے

Amma = 6

A

منوان!۔ منجانب اپیل برائے جوئیئر کلرک ٹینٹ ڈی Deceased sm کوٹ

(1)

جناب عالی! اپیلانٹ حسب ذیل عرض گزار ہے۔

1۔ یہ کہ میں اپیلانٹ بحیثیت جو کیدار ایڈسٹریٹو ایڈمنسٹریشن ایجوکیشن سوات / (F) D.E.O میں بحوالہ امر ڈ نمبر 6493-97 نمبرہ 29 جولائی 2015 کو Deceased sm کوٹ کے تحت بھرتی ہوا تھا۔

2۔ یہ کہ میں اپیلانٹ نے 20 نومبر 2018 کو (F) D.E.O سوات کو درخواست برائے جوئیئر کلرک بحوالہ ڈائری نمبر 14451 نمبرہ 22/11/2018 کو دی۔ لیکن (F) D.E.O صاحب سوات نے میں اپیلانٹ کی درخواست پر غور نہیں کیا۔

3۔ یہ کہ (F) D.E.O سوات نے بحوالہ امر ڈ نمبر 3118 نمبرہ 16/2/2015 کو معاذہ فرحانہ کو بحیثیت سوشل سوائس ڈیپارٹمنٹ میں بھرتی کیا تھا۔ اور بعد میں مذکورہ معاذہ فرحانہ نے سوشل سوائس کے پوسٹ سے استعفیٰ دے کر P.S.T پوسٹ میں تقرری ہوئی۔ لیکن یہ اس قابل ذکر ہے۔ معاذہ فرحانہ کے بھائی نے جوئیئر کلرک کے اسامی تبدیلہ Deceased sm کوٹ میں درخواست دی۔ جس کو برائے امر ڈ نمبر 6186-9 نمبرہ 17.2.2017 کو (F) D.E.O Appoint No تقرری کی۔

4۔ یہ کہ میں اپیلانٹ نے (F) D.E.O صاحب سوات کو درخواست دیں دیا ہے، کہ میں اپیلانٹ بھی جو کیدار کے پوسٹ سے استعفیٰ لوں گا۔ اگر میں اپیلانٹ کی درخواست (تقرری) جوئیئر کلرک Deceased sm کوٹ کے تحت جاری ہو جائے۔ لیکن (F) D.E.O صاحب سوات نے میں اپیلانٹ کی درخواست اس اعتراض کے سائے مسترد کیا ہے۔ کہ میں اپیلانٹ ایڈمنسٹریشن Deceased sm کوٹ میں Choice دیا ہے۔

11-11-18 رقم جناب ڈی۔ ای۔ او۔ زنانه قلع سورت

Annex B

عنوان :- ایپل برے جوینر ملک تقرری

جناب عالیہ -

خبردارش ہے -

- 1۔ کہ میرا والد گورنمنٹ ٹیچر تھائی سکول ابوالسورت سے جوینر ملک کے حیثیت سے ڈپوٹی سرائیام دے رہا تھا۔
- 2۔ میرا والد ملازمت کے دوران 26 جولائی 2017 کو وفات پورا تھا۔

- 3۔ میرے تقرری کے تحت نائیب قاصد deceased کوئی کے تحت جاری ہوا۔ اور ابھی تک ڈپوٹی کرنا ہوں۔
- 4۔ میں نے ابھی سٹیٹ سیکنڈ ڈیپارٹمنٹ میں پاس کیا ہے اور گورنمنٹ پر بھی مجبور حاصل ہے۔

- 5۔ میں نائیب قاصد کے اسامی سے استعفی دے دوں گا مگر میرے جوینر ملک کے تقرری کے احکامات جاری ہو جائے۔
- 6۔ مجھے معلوم ہوا ہے کہ آپ صہبان کے ماتحت سکولوں میں جوینر ملک کے اسامیاں خالی ہے۔

لہذا اس درخواست ہے کہ deceased کوئی میں میرا حیثیت جوینر ملک کے تقرری کے احکامات جاری کرے۔ جوینر ملک کے تقرری کے بعد یا تقرری کے احکامات ملتے ہیں میں نائیب قاصد کے اسامی سے استعفی دے دوں گا۔

مجھے امید ہے کہ آپ صہبان میرے ایپل پر

بہد روزہ غور فرمائیں

شکر ہے

عدنان یاچا ولد محمد جناب وصم

نائیب قاصد ایس ڈی۔ ای۔ او۔ زنانه بابوزی سہرولہ سورت

20/11/2017

CTC

Signature of Advocate



Handwritten signature at the bottom left.



OFFICE OF THE DISTRICT EDUCATION OFFICER
(FEMALE) SWAT AT SAIDU SHARIF

Annex A

NOTIFICATION

In pursuance of the provision contained in Notification No. SOR-IV (E&AD) 1-3/2011/Vol-VIII dated 31st August 2011 of the Establishment Department Government of Khyber Pakhtunkhwa Peshawar and Meeting of the Departmental Selection Committee held on 23-06-2014 and in Exercise of the power vested in me as competent authority, The following candidates being the son/daughter of the deceased employees, died during service are appointed against vacant post under deceased quota in BPS-01 (4800-150-9300) plus usual allowances as admissible under the rules with effect from the date of taking over charge subject the terms and conditions given below in the best interest of public service

Constituency 80

S. No	Name/Parentage and Residence	Date of Birth	Post & School Where Posted	Remarks
1.	Adnan Bacha S/O Late Mohammad Khitab R/O Miangan Cham Amankot	16-04-1995	Chawkdar GGPS Amankot No 1	Against the quota reserved for deceased Son quota 100%

TERMS AND CONDITIONS:-

1. He would be on probation for a period of one year extend-able for another one year.
2. He will be governed by such rules and regularizations as may be issued from time to time by the Government.
3. His service can be terminated at any time in case his performance is found unsatisfactory during probation period. In case of misconduct, he shall be proceeded under the rules framed from time to time.
4. His service is liable to be terminated on one month prior notice from either side. In case of resignation without prior notice one month pay and allowances, if any, shall be forfeited in favor of Government through challan.
5. He should join his post within 15 days of the issuance of this order positively otherwise the appointment shall stand cancelled.
6. The Headmistress/SDEO/ASDEO/PSHT concerned should personally check his original documents, domicile and CNIC before handing over charge.
7. Health and age certificate from the Medical Superintendent should be provided before taking over charge.
8. Charge report should be submitted to all concerned.
9. No TA/DA etc., shall be allowed to the appointee for joining their duties.
10. He will not be handed over charged if his age less than 18 years and above 43 years.
11. If any son/daughter of died employee is appointed earlier, his service will be terminated.

(Shamim Akhtar)
District Education Officer (F)
Swat at Saidu Sharif

Endst: No. 6493/97 /Apptt:/Class-IV Servants.

Dated 29/7/ /2015.

Copy forwarded for information to:-

1. The Director E&SE Khyber Pakhtunkhwa, Peshawar.
2. The District Accounts Officer Swat at Saidu Sharif
3. SDEO (Female) Swat.
4. Headmistress concerned.
5. The Official Concerned.

Umar Khitab
ADVOCATE

District Education Officer (F)
Swat at Saidu Sharif