

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No. 4971/2021

BEFORE: SALAH-UD-DIN --- MEMBER(J)
MIAN MUHAMMAD --- MEMBER(E)

Muhammad Minhaj, PST (BPS-12), GPS, Bara Banda District Tor Ghar..... (Appellant)

VERSUS

1. The Secretary (Elementary & Secondary Education) Khyber Pakhtunkhwa, Peshawar.
2. The Director (Elementary & Secondary Education) Khyber Pakhtunkhwa, Peshawar.
3. The District Education Officer (Male) Tor Ghar.
4. The Secretary Finance, Khyber Pakhtunkhwa, Peshawar.
5. The District Accounts Officer, District Tor Ghar at Mansehra.
.....(Respondents)

Present:

MR. TAIMUR ALI KHAN,
Advocate, --- For Appellant.

MR. MUHAMMAD RIAZ KHAN PAINDAKHEL
Assistant Advocate General --- For respondents.

Date of Institution ... 26.04.2021
Date of hearing ... 03.06.2022
Date of Decision ... 03.06.2022

JUDGEMENT.

MIAN MUHAMMAD, MEMBER(E):- The service appeal has been instituted under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the impugned Notification of respondent No. 3 dated 15.12.2016 whereby appointment Notification of the appellant as PST dated 13.04.2016 was withdrawn and another impugned Notification of respondent No. 3 dated 22.05.2018 when he was reinstated in service under the directions of honourable Peshawar High Court, Abbottabad Bench dated 22.02.2018 and subsequently denovo enquiry also held for verification of his

domicile but back benefits (salary/arrears) for the period from 15.12.2016 to 22.05.2018 were not paid to the appellant.

02. Brief facts leading to submission of the instant service appeal are that the appellant was appointed as PST (BS-12) GPS Bara Banda vide Notification dated 13.04.2016 in pursuance of which the appellant started performing his duty. However, his credentials i.e. certificate/documents and domicile were subject to verification from the concerned authorities under Clause 5 of the terms and conditions of appointment. On non verification of his domicile certificate, appointment notification of the appellant dated 13.04.2016 was withdrawn vide impugned Notification dated 15.12.2016. Feeling aggrieved, the appellant filed Writ Petition No. 209-A/2017 before the honourable Peshawar High Court, Abbottabad Bench which vide judgement dated 22.02.2018 accepted the Writ Petition, declared the impugned Notification dated 15.12.2016 as illegal, unlawful, of no legal effect and reinstated the appellant in service leaving the respondents at liberty to proceed against him if they so wished but in accordance with law and rules on the subject. In compliance with the directions of honourable Peshawar High Court, Abbottabad Bench, the appellant was reinstated in service vide notification dated 22.05.2018 and his pay & allowances were left to be decided on the outcome of denovo enquiry. In the denovo enquiry, his domicile certificate was found to have been validly issued to the appellant being bonafide resident of district Torghar. The appellant went in COC No. 137-A-2019 before the honourable Peshawar High Court, Abbottabad Bench against the respondents for disobeying order of the court dated 22.02.2018 and denial of back benefits for the period between 15.12.2016 to 22.05.2018. Petition for COC proceedings against the respondents was however dismissed vide order dated 13.01.2021 on the

ground that the respondents complied with orders of the court and reinstated the appellant in service whereas there was no direction regarding payment of back benefits to the petitioner in the court judgement and the respondents did mention in Notification of his reinstatement in service dated 22.05.2018 that arrears of pay & allowances will be decided on the outcome of denovo enquiry. The appellant thereafter submitted departmental appeal to respondent No. 2 on 22.01.2021 which was not decided within the statutory period hence the instant service appeal was filed on 26.04.2021.

03. On admission of the appeal, the respondents were put on notice to submit reply/parawise comments on the contents and assertions of appeal. They submitted reply/parawise comments repudiating assertions of the appellant. Stance taken by the respondents in their reply/parawise comments was defended by learned AAG on their behalf. We have heard arguments of learned counsel for the appellant as well as learned AAG and gone through the record with their assistance.

04. Learned counsel for the appellant vehemently contended that the appellant though reinstated in service on 22.05.2018 under the judgement of court dated 22.02.2018 but he was denied the back benefits accrued during the period between 15.12.2016 to 22.05.2018 despite the fact that it was clearly mentioned in the reinstatement notification dated 22.05.2018 that arrears of pay and allowances will be decided on the outcome of denovo enquiry. In the denovo enquiry, domicile certificate of the appellant was found and verified as valid being bonafide resident of district Torghar but even then arrears for the said period were not paid to the appellant. It was further argued that the appellant remained out of service w.e.f. 15.12.2016 to 22.05.2018 for no fault attributable on his part therefore he is entitled to pay and allowances for the said period. Moreover, the appellant was granted

annual increments for the year 2016, 2017 and 2018 he is also entitled for the salaries w.e.f 15.12.2016 to 22.05.2018 because the appellant did not remain in a gainful employment during the period and an affidavit to this effect has already been furnished. In support of his arguments, he relied on judgement of this Tribunal dated 29.03.2022 delivered in service appeal No. 4975/2021 titled Abdul Jalil CT (BS-15) GMS Seri Kohani, District Torghar Versus Secretary (Elementary & Secondary Education) Khyber Pakhtunkhwa and four (04) others

05. Learned AAG conversely argued that in compliance with the judgement of honourable Peshawar High Court, Abbottabad Bench dated 22.02.2018, the appellant was reinstated in service subject to the outcome of denovo enquiry regarding verification of his domicile certificate. The denovo enquiry was conducted and the concerned authorities recommended that he is resident of district Torghar and domicile certificate has rightly been issued to him. The appellant has been released pay and arrears for the period of performance of his duty, have also been paid to him. The appellant has been treated in accordance with law and no discrimination has been caused to him, the appeal may therefore be dismissed with costs, he concluded.

06. Perusal of the record reveals that the appellant was appointed as PST (BS-12) vide Notification dated 13.04.2016, however vide Notification dated 15.12.2016, the appointment order of the appellant was withdrawn for the reason that his domicile certificate was not verified as valid from the concerned quarters. The Writ Petition filed by the appellant before the august Peshawar High Court, Abbottabad Bench was accepted and he was reinstated in service vide Notification dated 22.05.2018 wherein it is categorically mentioned that the issue of arrears of pay and allowances will

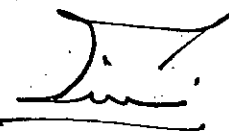
be decided on the outcome of denovo enquiry. It is an admitted fact that domicile certificate of the appellant was found valid during the course of denovo enquiry, therefore, the period during which the appellant remained out of service cannot be considered as a fault on part of the appellant. August Supreme Court of Pakistan in its judgement reported as 2013 SCMR 752 has laid down the principle which is worth mentioning here as follows;


"Once an employee is reinstated in service after his exoneration of the charges leveled against him, the period during which he remained either suspended or dismissed cannot be attributed as a fault on his part. His absence during this period was not voluntary on his part but it was due to order of the appellant that he was restrained not to attend his job/duty because on the basis of charge sheet, he was suspended and later on dismissed. At the moment, his exoneration from the charges would mean that he shall stand restored in service, as if he was never out of service of the appellant. If the absence of the respondent or non-attending the work was not volunteer act on the part of the respondent and was due to steps taken by the appellant, in no manner the service record of the respondent can be adversely affected nor he can be denied any benefit to which he was entitled, if he had not been suspended or dismissed.

07. It is an established fact that the appellant remained out of service w.e.f. 15.12.2016 to 22.05.2018 not by choice but due to the acts of respondents which makes him entitled for pay and allowances particularly when he has furnished an affidavit alongwith service appeal to the effect that he did not remain gainfully employed in any service during the said period of his absence. The affidavit so submitted by the appellant, has neither been denied nor contested by the respondents.

08. As a sequel to the preceding Paras, we are of the considered view to allow the instant service appeal on its merit and the appellant is held entitled to the payment of salary w.e.f. 15.12.2016 to 22.05.2018. Parties are left to bear their own costs. File be consigned to the record room.

09. *Pronounced in open court at Peshawar and given under our hands and seal of the Tribunal this 3rd of June, 2022.*


(SALAH-UD-DIN)
MEMBER (J)


(MIAN MUHAMMAD)
MEMBER(E)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

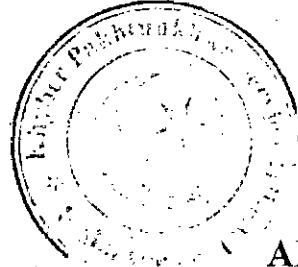
SERVICE APPEAL NO. 4975 /2021

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 5035

Dated 26/4/2021

Abdul Jail, CT (BPS-15),
GMS Seri Kohani, District Tor Ghar.



APPELLANT

VERSUS

1. The Secretary (Elementary & Secondary Education) Khyber Pakhtunkhwa, Peshawar.
2. The Director (Elementary & Secondary Education) Khyber Pakhtunkhwa, Peshawar.
3. The District Education Officer (Male) Tor Ghar.
4. The Secretary Finance, Khyber Pakhtunkhwa, Peshawar.
5. The District Account Officer, District Tor Ghar at Mansehra.

(RESPONDENTS)

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNALS ACT, 1974 FOR DIRECTING THE RESPONDENT TO GRANT BACK BENEFITS TO THE APPELLANT IN SHAPE OF SALARIES FOR THE PERIOD WITH EFFECT FROM 07.09.2016 TO 03.07.2018 AND AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS.

Filed to-day

Registrar
26/4/2021

PRAYER:

THAT ON THE ACCEPTANCE OF THIS APPEAL, THE RESPONDENTS MAY BE DIRECTED TO GRANT BACK BENEFITS TO THE APPELLANT IN SHAPE OF SALARIES FOR THE PERIOD WITH EFFECT FROM 07.09.2016 TO 03.07.2018 AS ON DOMICILE ON WHICH HIS APPOINTMENT ORDER WAS WITHDRAWN HAS BEEN VERIFIED AND FOUND CORRECT DURING THE DE-NOVO INQUIRY PROCEEDING. ANY OTHER REMEDY, WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT, MAY ALSO BE AWARDED IN FAVOUR OF APPELLANT.

REQUESTED

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL PESHAWAR.

Service Appeal No. 4975/2021

Date of Institution ... 26.04.2021

Date of Decision ... 29.03.2022



Abdul Jalil, CT (BPS-15), GMS Seri Kohani, District Tor Ghar.

... (Appellant)

VERSUS

The secretary (Elementary & Secondary Education) Khyber Pakhtunkhwa, Peshawar and four others.

... (Respondents)

MR. TAIMUR ALI KHAN,
Advocate

--- For appellant.

MR. KABIRULLAH KHATTAK,
Additional Advocate General

--- For respondents.

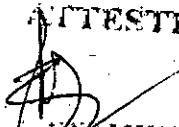
MR. SALAH-UD-DIN
MS. ROZINA REHMAN

--- MEMBER (JUDICIAL)
--- MEMBER (JUDICIAL)

JUDGMENT:

SALAH-UD-DIN, MEMBER:- Brief facts leading to filing of the instant Service Appeal are that the appellant was appointed as C.T (BPS-15), vide Notification dated 09.04.2016. The appellant performed his duties till 06.09.2016, however vide Notification dated 07.09.2016 issued from the office of District Education Officer (Male) Torghar, his appointment order was withdrawn on the ground that his domicile certificate was declared unverified by the quarter concerned. The appellant challenged the order dated 07.09.2016 through filing of Writ Petition No. 1082-A/2016 before the august Peshawar High Court, Abbottabad Bench, which was allowed by setting-aside the Notification dated 07.09.2016, however the respondents were left

ATTESTED



EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

at liberty to proceed against the appellant in accordance with law and rules, if they so desire. The appellant was reinstated vide Notification dated 03.07.2018 in light of judgment of august Peshawar High Court, Abbottabad Bench, however the issue of arrears of his pay and allowances was ordered to be decided on the outcome of de-novo inquiry. During the inquiry, the domicile certificate of the appellant was found genuine and Notification dated 29.05.2019 was also issued regarding regularization of his service with effect from the date of his appointment but the arrears of pay and allowances with effect from 07.09.2016 to 03.07.2018 were not granted to the appellant. The appellant agitated the matter before august Peshawar High Court, Abbottabad Bench through filing of COC No. 136-A/2019, which was though dismissed vide judgment dated 13.01.2021, however it was observed that the appellant would be at liberty to approach the appropriate forum provided under the law for redressal of his grievance, if any, in accordance with law qua the issue of back benefits. The appellant then filed departmental appeal, which was not responded within the statutory period, hence the instant service appeal.

02. Notices were issued to the respondents, who submitted their comments, wherein they refuted the assertions made by the appellant in his appeal.

03. Mr. Taimur Ali Khan, Advocate representing the appellant has contended that it was categorically mentioned in the reinstatement order dated 03.07.2018 that the issue of arrears of pay and allowances will be decided upon the outcome of de-novo inquiry, however the arrears were not granted to the appellant despite the fact that his domicile certificate was found genuine during the de-novo inquiry. He next contended that as the appellant remained out of service with effect from 07.09.2016 till 02.07.2018 for no fault on his part, therefore, he is entitled to pay and allowances for the said period. He further argued that that appellant has though been granted annual increments pertaining to the years 2016, 2017 & 2018, therefore, he is entitled to be paid the salaries for the period during which he

ATTESTED


 EXAMINER
 Service Tribunal
 Peshawar

remained out of service due to fault of the respondents. Reliance was placed on 2013 SCMR 752, 2015 PLC (C.S) 215, PLD 1991 Supreme Court 226 and 2018 SCMR 64.

04. On the other hand, learned Additional Advocate General for the respondents has contended that in view of principle of no work no pay, the appellant cannot claim salaries for the period during which he remained out of service. He further argued that the appeal in hand being barred by time is liable to be dismissed on this score alone. He next contended that the appellant has been dealt in accordance with law and no discrimination has been caused to him, therefore, the appeal in hand may be dismissed with costs.

05. We have heard the arguments of learned counsel for the appellant as well as learned Additional Advocate General for the respondents and have perused the record.

06. A perusal of the record would show that the appellant was appointed as C.T (BPS-15) vide Notification dated 09.04.2016, however vide Notification dated 07.09.2016, the appointment order of the appellant was withdrawn for the reason that his domicile certificate was not verified as valid from the concerned quarter. The Writ Petition filed by the appellant before the august Peshawar High Court, Abbottabad Bench was however allowed and he was reinstated in service vide Notification dated 03.07.2018, wherein it is categorically mentioned that the issue of arrears of pay and allowances would be decided upon the outcome of de-novo inquiry. It is an admitted fact that the domicile certificate of the appellant was found valid during the de-novo inquiry, therefore, the period during which the appellant remained out of service could not be considered as a fault on the part of the appellant. August Supreme Court of Pakistan in its judgment reported as 2013 SCMR 752 has graciously observed as below:-

"Once an employee is reinstated in service after his exoneration of the charges leveled against him, the period during which he remained either suspended or dismissed cannot be attributed as a fault on his part. His

ATTESTED

[Signature]
EXAMINER
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 Service Tribunal
 Peshawar

absence during this period was not voluntary on his part but it was due to order of the appellant that he was restrained not to attend his job/duty because on the basis of charge sheet, he was suspended and later on dismissed. AT the moment, his exoneration from the charges would mean that he shall stand restored in service, as if he was never out of service of the appellant. If the absence of the respondent or non-attending the work was not volunteer act on the part of the respondent and was due to steps taken by the appellant, in no manner the service record of the respondent can be adversely affected nor he can be denied any benefit to which he was entitled, if he had not been suspended or dismissed."

07. While deriving wisdom from the above mentioned judgment of august Supreme Court of Pakistan, we are of the view that the appellant was entitled to pay and allowances for the period during which he remained out of service, particularly when he has submitted an affidavit alongwith his appeal that he did not remain gainfully employed in any service during the period of his absence. The affidavit so submitted by the appellant has not been denied by the respondents through filing of any counter affidavit. So far as the question of limitation is concerned, the issue being one of financial benefits, therefore, the appeal is not hit by law of limitation.

08. The result of the above discussion is that the appeal in hand is allowed and the appellant is held entitled to payment of salaries with effect from 07.09.2016 to 02.07.2018. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
29.03.2022

(ROZINA REHMAN)
MEMBER (JUDICIAL)

(SALAH-UD-DIN)
MEMBER (JUDICIAL)

Certified to be true copy

Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Date of Presentation of Application 02/6/22
Number of Word 2000
Copying Fee 22/-
Urgent 4/-
Total 26/-
Name of _____
Date of _____ **Date of Copy** 02/6/22
Date of Delivery of Copy 02/6/22



KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

All communications should be addressed to the Registrar KPK Service Tribunal and not any official by name.

Ph:- 091-9212281
Fax:- 091-9213262

No. _____/ST Dated ____/____/2022


To:

The District Education Officer (Male), Torghar.

SUBJECT:- JUDGMENT IN SERVICE APPEAL NO. 4971/2021, MUHAMMAD MINHAJ VERSUS THE SECRETARY ELEMENTARY AND SECONDARY EDUCATION, KHYBER PAKHTUNKHWA, PESHAWAR ETC.

I am directed to forward herewith a certified copy of order dated 03.06.2022, passed by this Tribunal in the above mentioned *service appeal* for compliance.

Encl. As above.


(WASEEM AKHTAR),
REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL,
PESHAWAR.



KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

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Ph:- 091-9212281
Fax:- 091-9213262

No. _____/ST Dated ____/____/2022


To:

The District Education Officer (Male), Torghar.

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I am directed to forward herewith a certified copy of order dated 03.06.2022, passed by this Tribunal in the above mentioned *Service appeal* for compliance.

Encl. As above.


(WASEEM AKHTAR)
REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL,
PESHAWAR.

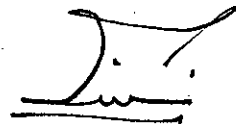
ORDER

03.06.2022

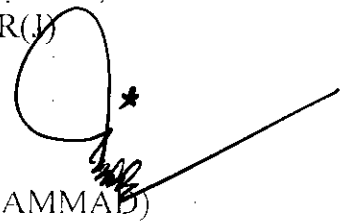
Learned counsel for the appellant present. Mr. Muhammad Riaz Khan Paindakhel, Assistant Advocate General for the respondents present.

02. Vide our detailed judgement of today separately placed on file containing (06) pages, we are of the considered view to allow the instant service appeal on its merit and the appellant is held entitled to the payment of salary w.e.f. 15.12.2016 to 22.05.2018. Parties are left to bear their own costs. File be consigned to the record room.

03. *Pronounced in open court at Peshawar and given under our hands and seal of the Tribunal this 3rd of June, 2022.*



(SALAH-UD-DIN)
MEMBER(I)

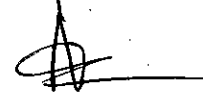


(MIAN MUHAMMAD)
MEMBER(E)

Stipulated period passed reply not submitted.

29.07.2021

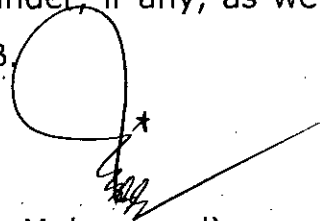
Learned Addl, A.G be reminded about the omission and for submission of reply/comments within extended time of 10 days.




Chairman

8.10.2021

Learned counsel for the appellant present. Mr. Fakhar Nawaz, ADO (Litigation) alongwith Mr. Kabirullah Khattak, Additional Advocate General for the respondents present and submitted comments, copy of which handed over to learned counsel for the appellant. Adjourned. To come up for submission of rejoinder, if any, as well as arguments on 28.02.2022 before the D.B.



(Mian Muhammad)
Member (E)



(Salah-Ud-Din)
Member (J)

28.02.2022

Due to retirement of the Worthy Chairman, the Tribunal is defunct, therefore, case is adjourned to 03.06.2022 for the same as before.



Reader

18.06.2021

Counsel for the appellant present. Preliminary arguments heard.

Points raised need consideration. The appeal is admitted to regular hearing, subject to all just and legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments in office within 10 days of the receipt of notices positively. If the written reply/comments are not submitted within the stipulated time, the office is directed to submit the file with a report of non-compliance. File to come up for arguments on 28.10.2021 before the D.B.

Appellant Deposited
Security & Process Fee
24/6/21

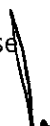


Chairman

Form- A

FORM OF ORDER SHEET

Court of _____

Case No. - 1971 /2021

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	26/04/2021 27/05/21	<p>The appeal of Mr. Muhammad Minhaj presented today by Mr. Taimur Ali Khan Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please</p> <p style="text-align: right;"> REGISTRAR</p> <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>18/06/21</u></p> <p style="text-align: right;"> CHAIRMAN</p>
2-		

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. _____/2021

Muhammad Minhaj

VS

Education Deptt:

INDEX

S.NO.	DOCUMENTS	ANNEXURE	P. NO
1.	Memo of Appeal	-----	01-05
2.	Copies of appointment order dated 13.04.2016 and withdrawal order dated 15.12.2016	A&B	06-08
3.	Copy of judgment dated 22.02.2018	C	09-14
4.	Copy of notification dated 22.05.2018	D	15
5.	Copies of inquiry report and notification dated 23.10.2019	E&F	16-19
6.	Copy of C.O.C order dated 13.01.2021	G	20-23
7.	Copy of departmental appeal	H	24
8.	Copy of affidavit	I	25
9.	Vakalat Nama	-----	26


APPELLANT

THROUGH:


(TAIMUR ALI KHAN)
ADVOCATE HIGH COURT,
&

(ASAD MAHMOOD)
ADVOCATE HIGH COURT.

Room No. FR 8, 4th Flour,
Bilour plaza, Peshawar cantt:
Cell# 0333-9390916

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.**

SERVICE APPEAL NO. 4971 /2021

**Khyber Pakhtunkhwa
Service Tribunal**

Diary No. 5036

Dated 26/4/2021

Muhammad Minhaj, PST (BPS-12),
GPS, Bara Banda District Tor Ghar.

APPELLANT

VERSUS

1. The Secretary (Elementary & Secondary Education) Khyber Pakhtunkhwa, Peshawar.
2. The Director (Elementary & Secondary Education) Khyber Pakhtunkhwa, Peshawar.
3. The District Education Officer (Male) Tor Ghar.
4. The Secretary Finance, Khyber Pakhtunkhwa, Peshawar.
5. The District Account Officer, District Tor Ghar at Mansehra.

(RESPONDENTS)

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNALS ACT, 1974 FOR DIRECTING THE RESPONDENT TO GRANT BACK BENEFITS TO THE APPELLANT IN SHAPE OF SALARIES FOR THE PERIOD WITH EFFECT FROM 15.12.2016 TO 22.05.2018 AND AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS.

Filed to-day

Registrar

26/04/2021

PRAYER:

THAT ON THE ACCEPTANCE OF THIS APPEAL, THE RESPONDENTS MAY BE DIRECTED TO GRANT BACK BENEFITS TO THE APPELLANT IN SHAPE OF SALARIES FOR THE PERIOD WITH EFFECT FROM 15.12.2016 TO 22.05.2018 AS ON DOMICILE ON WHICH HIS APPOINTMENT ORDER WAS WITHDRAWN HAS BEEN VERIFIED AND FOUND CORRECT DURING THE DE-NOVO INQUIRY PROCEEDING. ANY OTHER REMEDY, WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT, MAY ALSO BE AWARDED IN FAVOUR OF APPELLANT.

RESPECTFULLY SHEWTH:

FACTS:

1. That the appellant was appointed as PST on 13.04.2016 along with other officials after fulfilling all the codal formalities and has performed his duty till 14.12.2016 and then his appointment order was withdrawn from the date appointment vide order dated 15.12.2016 on the basis that his domicile has declared unverified by the quarter concerned. **(Copies of appointment order dated 13.04.2016 and withdrawal order dated 15.12.2016 are attached as Annexure-A&B)**
2. That the appellant challenged the order dated 15.12.2016 in the Honourable Peshawar High Court Abbottabad Bench in Writ Petition No.209-A/2017. The said Writ petition was decided on 22.02.2018. The Honourable court accepted the writ petition and declared the impugned notification dated 15.12.2016 as illegal, unlawful and has no legal effect, the petitioner was reinstated into service leaving the respondents at liberty to proceed against the appellant if they wish. **(Copy of judgment dated 22.02.2018 is attached as Annexure-C)**
3. That in compliance of the judgment of Honourable Peshawar High Court Abbottabad Bench dated 22.02.2018 in Writ Petition No.209-A/2017, the service of the appellant is reinstated into service from the date of his Withdrawn order vide notification dated 22.05.2018 and also mentioned in that notification that his arrears of pay and allowance will be decided on the outcome of de-novo inquiry. **(Copy of notification dated 22.05.2018 is attached as Annexure-D)**
4. That inquiry was conducted about the domicile of the appellant by the Assistant Commissioner Judba, Torghar in which he gave his finding/recommendation that from the statements of the local representatives and examination of documents, it seems that Mr. Muhammad Minhaj (appellant) is resident of District Torghar and domicile certificate has rightly been issued to him and the service of the appellant was also regularized along with other officials from the date of his appointment vide notification dated 23.10.2019. **(Copies of inquiry report and notification dated 23.10.2019 are attached as Annexure-E&F)**
5. That in reinstatement notification dated 22.05.2018 of the appellant, it was clearly mentioned by the competent authority that arrears of pay and allowance of the appellant will be decided on the outcome of de-novo inquiry and the de-novo inquiry also came in the favour of the appellant as on the basis of non verification of domicile of the appellant his appointment was withdrawn, but his domicile was verified and found correct by the quarter concerned during de-novo inquiry, but despite that the arrears of pay and allowance has not granted to the appellant, therefore he filed C.O.C No.137-A/2019 in the Honourable Peshawar Court Abbottabad Bench with the prayer that contempt proceedings be initiated against the respondents for

disobeying the order of the court and exemplary punishment be awarded, respondents may graciously be directed to pay salaries/benefits for the period between 15.12.2016 to 22.05.2018 along with increments of 2016, 2017 and 2018. The Honourable Court decided the C.O.C on 13.01.2021 in which the Honourable Court hold that as the respondent implement the judgment dated 22.02.2018 by the reinstating the appellant into service and since there was no direction qua payment of back benefits in the said judgment, therefore no contempt of court proceeding can not be initiated against the respondents, hence the COC of the appellant was dismissed. However the appellant was placed at liberty to approach the appropriate forum provide under the law for redressal of his grievance, if any, in accordance with law qua the issue of back benefits. **(Copy of C.O.C order dated 13.01.2021 is attached as Annexure-G)**

6. That the appellant then filed departmental appeal on 22.01.2021 for grant of back benefits, which was not responded within the statutory period of ninety days. **(Copy of departmental appeal is attached as Annexure-H)**
7. That the appellant has no other remedy except to file the instant service appeal in this Honourable Tribunal for redressal of grievance on the following grounds amongst others.

GROUND:

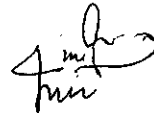
- A) That not taking action on the departmental appeal of the appellant within the statutory period of ninety days and not granting back benefits to the appellant in shape of salaries for the period with effect from 15.12.2016 to 22.05.2018 are against the law, facts, material on record, norms of justice, notification dated 22.05.2018 and de-novo inquiry report, therefore, not tenable and the appellant is entitle for back benefits in shape of salaries for the period with effect from 15.12.2016 to 22.05.2018.
- B) That the appointment order of the appellant has withdrawn on the basis that the domicile of the appellant was unverified, but denovo inquiry was conducted on the verification of the domicile in the which inquiry officer gave its finding/recommendation that from the statements of the local representatives and examination of documents provided by the candidate (appellant), it seems that Mr. Muhammad Minhaj (appellant) is resident of District Torghar and domicile certificate has rightly been issued to him, but before withdrawing the appointment of appellant it was necessary that proper inquiry should be conducted to dig out the realty of the Domicile of the appellant, but no such has been taken by the department and his appointment order withdraw in slip shod manner and this stance has also taken by the Honourable High in its judgment dated 22.02.2018 and after the denovo inquiry his

domicile was verified and found correct which means that due to the fault of the department the appellant has restrained to perform his duty with effect from 15.12.2016 till 22.05.2018. Therefore, the appellant is entitled for back benefits in shape of salaries for that period.

- C) That in the reinstatement notification dated 22.05.2018 of the appellant, it was mentioned that the arrears of pay and allowance of the appellant will be decide on the out come of the de-novo inquiry and in de-novo inquiry the domicile of the appellant was verified and found correct, but despite that the appellant was deprived from the arrears of pay as per order notification 22.05.2018, which is against the norms of justice and fair play.
- D) That the reason on which the appointment order of the appellant was withdrawn was that, that the domicile of the appellant had declared unverified by the quarter concerned on which denovo was conducted which was verified and found correct, therefore, there remain no ground to deprive the appellant from his back benefits in shape of salaries with effect from 15.12.2016 till 22.05.2018.
- E) That the appellant was regularized from the date of appointment and also granted annual increments of year 2016, 2017 and 2018 to the appellant and as such he is also entitle for the salaries with effect from 15.12.2016 till 22.05.2018.
- F) That the appellant has did not willfully remained absent from his duty, but the respondent department restrained him from performing his duty due to withdrawal of his appointment order on wrong presumption of his unverified domicile which was later on verified in the denovo inquiry and as such the appellant cannot be deprived from his salaries with effect from 15.12.2016 till 22.05.2018 due to the fault of the respondent department.
- G) That as per Superior Court judgment that once an official was reinstated in service after exoneration of charges leveled against him, the period during which he remained either suspended or dismissed/removed could not be attributed as a fault on his part. Absence of official during period of dismissal/removal was not voluntary on his part but it was due to the order of the authority which restrained from attending his job/duty. Therefore, his service record could neither be adversely affected nor could he be denied any benefit to which he would have been entitled had he not been removed/dismissed and as such the appellant is also entitle for the salaries with effect from 15.12.2016 till 22.05.2018 on the basis Apex Court judgment.

- H) That the appellant remained unpaid employee (not remained gainfully employed) for period from removal from service till reinstatement into service which is evident from the affidavit made by the appellant in this respect and per superior courts judgment, he is entitle for back benefits in the shape of salaries for the period with effect from 15.12.2016 till 22.05.2018. **(Copy of affidavit is attached as Annexure-I)**
- I) That the appellant seeks permission to advance others grounds and proofs at the time of hearing.

It is, therefore most humbly prayed that the appeal of the appellant may be accepted as prayed for.



APPELLANT
Muhammad Minhaj

THROUGH:



(TAIMUR ALI KHAN)
ADVOCATE HIGH COURT,

&

(ASAD MAHMOOD)
ADVOCATE HIGH COURT.



OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) DISTRICT TOR GHAR

NOTIFICATION

Consequent upon the recommendations of the Departmental Selection Committee, appointment of the following candidates are hereby ordered against the vacant posts of Primary School Teacher (PST) on School based in BPS-12 (Rs.9055-650-28555) @ Rs.9055/- fixed plus usual allowances as admissible under the rules on adhoc basis and school basis initially for a period of one year under the existing policy of the Provincial Government, in Teaching Cadre on the terms and conditions given below with effect from the date of their taking over charge :-

S NO	NAME OF CANDIDATE	FATHER'S NAME	SCORE	WARD/ UNION COUNCIL	NAME OF SCHOOL WHERE APPOINTED	REMARKS
1 ✓	Muhammad Minhaj	Behram Gohar	99.87	Bartooni	GPS Bara Banda	Against V/P
2	Muhammad Adil	Niaz Muhammad	100.87	Bartooni	GPS Bartooni	--do--
3	Naeem Ullah	Sahib Ullah	91.62	Bartooni	GPS Faqir Abad	--do--
4	Khial Muhammad	Moza Khan	80.46	Bartooni	GPS Kobai Bartooni	--do--
5	Abdul Waheed	Sarfaz Khan	79.91	Bartooni	GPS Paiza Bartooni	--do--
6	Muhammad Naseeb	Gul Parast Khan	66.85	Shingaldar	GPS Cham Qalagay	--do--
7	Zar Muhammad	Abdul Majeed	49.72	Shingaldar	GPS Markhani B/K	--do--
8	Muhammad Fayaz	Hukam Zar	76.92	Bartooni	GPS Shingaldar	--do--
9	Muhammad Amjad Ali	Fazal Rabi	75.08	Bartooni	GPS Shingaldar	--do--
10	Abdus Saleem	Abdus Salam	67.89	Shingaldar	GPS Shingaldar	--do--
11	Gul Khetab Syed	Umar Malook Syed	61.56	Dour Mera	GPS Shingaldar	--do--
12	Maqbool Shah	Sakhi Shah	68.62	Manjakot	GMPS Abo Shanai	--do--

TERMS & CONDITIONS:

1. NO TA/DA is allowed.
2. Charge reports should be submitted to all concerned in duplicate.
3. Appointment is purely on temporary & adhoc basis initially for a period of one year.
4. They should not be handed over charge if their age is above 35 years or below 18 years.
5. Their Appointments are subject to the condition that their **CERTIFICATE/DOCUMENTS AND DOMICILES** be verified from the concerned authorities by the District Education Officer before release of their salaries. Anyone who found producing fake documents will be dismissed from service and the case will further be reported to the law enforcing agencies for action under the relevant law.
6. Their services are liable to termination on one month's notice from either side. In case of resignation without notice his one-month pay/allowances shall be forfeited to the Government treasury.
7. Their Pay will not be activated until and unless pay release order is not issued by the competent authority after verification of their documents by the District Education Officer.
8. They should join their post within 10 days of the issuance of this notification. In case of failure to join the post within 10 days of the issuance of this notification, their appointment will expire automatically and no subsequent appeal etc shall be entertained.
9. They should produce Health and Age Certificate from the Medical Superintendent concerned before taking over charge.
10. They will be governed by such rules and regulations as may be issued from time to time by the Government.
11. Their services shall be terminated at any time, in case their performance is found unsatisfactory during their contract period. In case of misconduct, they shall be preceded under the rules framed from time to time.

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12. Their appointment is made on School based, they will have to serve at the place of posting, and their services are not transferable to any other station.
13. The competent Authority reserve the right to rectify the errors and omissions, if any noted/observed at any stage in the instant order issued erroneously.
14. Before handing over charge once again their document may be checked by the SDEO (M) Tor Ghar if they don't have the prescribed qualifications prescribed for the post they should not be handed over the charge.

7

--SD--
Abdullah
District Education Officer (M)
E&SE Tor Ghar

Endst: No. 1046-56 /Dated Tor Ghar the 13th April 2016

Copy forwarded for information and necessary action to the: -

1. Secretary to Government of Khyber Pakhtunkhwa E&S Education Department Peshawar.
2. Director E&SE Khyber Pakhtunkhwa, Peshawar.
3. PS to Minister E&SE Department, Khyber Pakhtunkhwa Peshawar.
4. Deputy Commissioner District Tor Ghar.
5. District Accounts Officer Tor Ghar at Mansehra.
6. Sub Divisional Education Officer (M) Tor Ghar.
7. District Monitoring Officer (IMU) Tor Ghar.
8. District Education Management Information System (DEMIS) Local Office.
9. Head Teacher GPS Concerned.
10. Official Concerned.
11. Office File.


District Education Officer (M)
E&SE Tor Ghar


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ALLESIED



OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) TOR GHAR

Ph. 0345-6660087 Fax. Nil
Email. torgharemis@gmail.com

No. _____
Dated: ____ / ____ / 2016

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NOTIFICATION

Reference to the Deputy Commissioner Tor Ghar letters No. 1223/DC (2016)/TG Dated 09/05/2016, No. 1394/DC (2016) TG Dated 19/05/2016 and Assistant Commissioner Letter No. AC(2016)/TG 2792-93 dated 18/08/2016, No. 2829-30/AC(J)/2016/TG Dated 11/11/2016, in connection with the terms and conditions No. 5 of the Appointment order issued vide this office Notification No. 1046-56 Dated 13/04/2016, the competent authority E&SE Tor Ghar is pleased to withdraw/denotify the appointment in respect of Muhammad Minhaj S/O Behram Gohar PST GPS Bara Banda w.e.f the date of his appointment.

--SD--

District Education Officer (M)
E&SE Tor Ghar

Endst: No. 4282-90 / Dated 15/12 / 2016.

Copy for Information to the.

1. Director E&SE Khyber Pakhtunkhwa Peshawar.
2. Deputy Commissioner Tor Ghar with the remarks that denotification and legal action has been initiated against the teachers as directed.
3. District Police Officer Tor Ghar with request to Lodge FIR as per rules against above mentioned candidate.
4. District Nazim Tor Ghar.
5. District Account Officer Tor Ghar at Mansehra.
6. Sub Divisional Education Officer (M) Tehsil Judba.
7. District Monitoring Officer (IMU) Tor Ghar.
8. District Education Management Information System (DEMIS) Local office.
9. Office File.

Dy. District Education Officer (M)
E&SE Tor Ghar

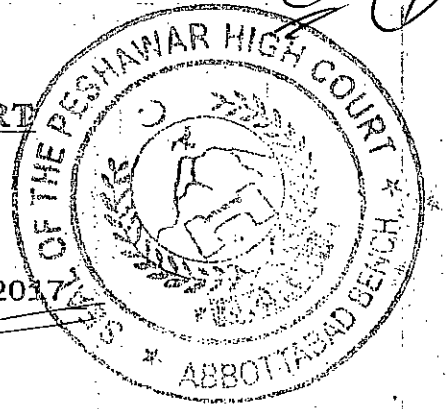

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Note. All employees education department & other interested ones, please Type "Follow torghardeo" in your mobile message & send it to "40404" to get free tweets of DEO Education Torghar on your mobile.

①

BEFORE THE PESHAWAR HIGH COURT
BENCH ABBOTTABAD

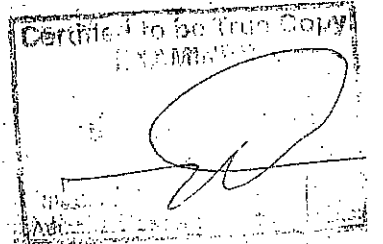
WRIT PETITION NO. 208 OF 2017



Muhammad Minhaj son of Beham Gohar,
Caste Swati, resident of Cheechan Dheri,
Tehsil Judbah, District Torghar,
presently Maira Khankhail Kuza Banda,
Tehsil and District
Battagram.....Petitioner

Versus

- ✓
- 1) Government of Khyber Pakhtunkhwa through Secretary Elementary and Secondary Education Department, Peshawar.
 - 2) District Education Officer (Male) Elementary & Secondary Education Department, Torghar.
 - 3) Deputy District Education Officer (Male) Elementary & Secondary Education Department, Torghar.
 - 4) Deputy Commissioner, Torghar
 - 5) ✓ Assistant Commissioner, Judbah District Torghar.
 - 6) ✓ Revenue Officer/Tehsildar Tehsil Judbah
 - 7) Haji Fazal Khan, Member District Council Bartoni Torghar
 - 8) Khawas Khan, Nazim, Village Council Mangri Kamesar, Tehsil Judbah District Torghar.
 - 9) Zareen Gul Khan, MPA, Torghar.....Respondents



9
ATTACHED

WRIT PETITION UNDER ARTICLE 199
OF THE CONSTITUTION OF ISLAMIC
REPUBLIC OF PAKISTAN, 1973.

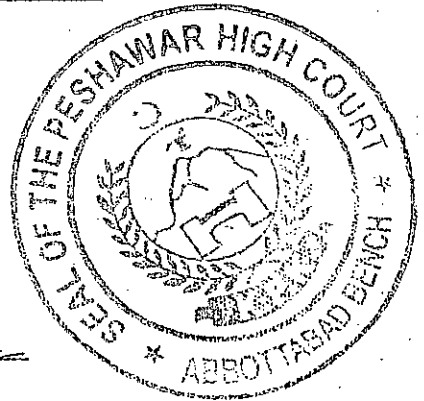
16

PESHAWAR HIGH COURT ABBOTTABAD
BENCH

JUDICIAL DEPARTMENT

JUDGMENT SHEET

WP No. 209-A/2017.



Date of hearing: 22.02.2018

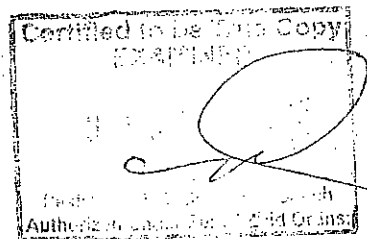
*Petitioner/s (Muhammad Minhaj) by
Mr. Shad Muhammad Khan, Advocate.*

*Respondent/s (Government of Khyber
Pakhtunkhwa through Secretary,
Elementary & Secondary Education
Department, Peshawar and others) by
Mr. Yasir Zahoor Abbasi, Assist: AG.*

LAL JAN KHATTAK, J. Petitioner

through the instant petition under Article
199 of the Constitution of Islamic
Republic of Pakistan, 1973 has prayed
this Court for issuance of a writ declaring
the inquiry proceedings conducted against
him by the respondents as illegal and
unlawful. He has also prayed that
pursuant to the ibid inquiry the
notification issued on 15.12.2016,
whereunder his appointment order dated
13.04.2016 has been withdrawn, be also
declared as illegal, unlawful and of no
legal effect.

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the petitioner had
merit and after passing
an interview had been

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2. Brief facts of the case are that pursuant to the advertisement published in newspaper, petitioner had applied for his appointment against the post of PST. After going through the selection process, he was appointed as PST vide order dated 13.04.2016, whereafter he took over charge and started his teaching career, however, vide notification dated 15.12.2016, his appointment order was withdrawn by the respondent No.2 on the ground that the concerned quarters had declared his domicile as unverified. Being aggrieved from the withdrawal of his appointment order, petitioner has filed the instant writ petition.

CAUTION
Petitioner's Signature
Authorised Officer
2, 1st Floor

again

HAYAR HIGH COURT LAB
3. This Court on 14.03.2017 had directed the respondents No. 2 to 4 to file their parwise comments, which have been so filed, wherein issuance of the desired writ has been opposed.



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4. Arguments heard and record gone through.

5. Perusal of the case record would show that upon the recommendations of

(12)

departmental selection committee, the petitioner was appointed on 13th April 2016 as PST, whereafter he had joined the education department. After taking over charge, Deputy Commissioner Torghar initiated an inquiry qua verification of the petitioner's domicile wherein his domicile was found unverified. On the basis of ibid inquiry, the appointing authority withdrew the petitioner's appointment order through notification dated 15.12.2016.

Certified to be True & Correct
03-18
Patwari Halqa
District of Jhelum

6. True that the petitioner's appointment order has been withdrawn by the appointing authority in light of the inquiry report whereunder his domicile was found unverified but pronounced aspect of the case is that the petitioner was not associated in the inquiry process so as to get his point of view qua the allegation. No doubt the Patwari Halqa did record statements of some persons of the locality out of whom only one Khawas Khan stated that the petitioner did not hail from his village council. Be

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that as it may but as the petitioner was not associated at all in the inquiry process and the impugned order has been passed on his back despite the fact that he was available in his village and place of posting, therefore, the impugned letters and the notification issued are of no legal effect as it is a cardinal principle of law that no one shall be condemned unheard.

7. Record shows that the petitioner was appointed on 13.04.2016 upon the recommendations of a duly constituted departmental selection committee, whereafter he had performed his duties till 15.12.2016 and as such he could not have been shunted out from his service the way he has been. It is well settled that whenever a drastic action is desired to be taken against a person then he has to be given a chance to explain his position and the courts of law have always deprecated the unilateral actions culminated in penalties.

Certified to be True Copy
EXAMINER
03
Personnel Officer
Authorized Signatory

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8. For what has been discussed above, we accept this petition, declare the through notification

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impugned notification dated 15.12.2016 as illegal, unlawful and of no legal effect. Consequently the petitioner is re-instated in his service leaving the respondents at liberty to proceed against him if they so wish but such proceedings must be in accordance with law and rules on the subject.

Announced.
22.02.2018.
Tahir, PS

Self Judge,
Self Judge,

Hon'ble Justice Lal Jan Khattak &
Hon'ble Justice Syed Arshid Ali.

Certified to be True Copy
EXAMINER
01 MAR 2018
Peshawar High Court App. Bench
Authorized Under Sec 75 of Ord.

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may be as the petitioner
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signed order has been r
k, despite the fact, the
e in his village and
therefore, the impugne
notification issued are
e it is a cardinal principl
one shall be condemned
record shows that the
dated 15.12.2016

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**OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE)
DISTRICT TOR GHAR**

Email: torgharemis@gmail.com



NOTIFICATION

In compliance with the Judgment of Honorable Peshawar High Court Bench Abbottabad, dated 22/02/2018, in Writ Petition No. 209-A/2017, the services of Mr. Muhammad Minhaj Ex-PST is reinstated in his service as PST at GPS Bara Banda from the date of his withdrawn order.

His arrears of pay and allowances will be decided on the outcome of the de-novo inquiry.

SD

**District Education Officer (M)
District Tor Ghar**

Endst: No. 4534-40 / Dated 22-10-2018.

Copy for information to the.

1. Director E&SE Khyber Pakhtunkhwa Peshawar.
2. Deputy Commissioner Tor Ghar.
3. District Monitoring Officer IMU Tor Ghar
4. District Accounts Officer Tor Ghar
5. Sub Divisional Education Officer Male Judba.
6. Teacher Concerned.
7. Office File.

**District Education Officer (M)
District Tor Ghar**

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ATTESTED

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**Office of the Deputy Commissioner
District Torghar**

No. Dom/DC(2018)/TG/ 2040-41
Dated Torghar the 25/10/2018

Fax# 0997-580188
dctorghar@gmail.com

To
✓ The District Education Officer (M)
Torghar.

Subject: **INQUIRY PROCEEDING FOR VERIFICATION OF DOMICILE IN THE
LIGHT OF JUDGEMENTS OF HONORABLE HIGH COURT PESHAWAR
BENCH ABBOTTABAD, RENDERED IN WP NO. 209 A/2017 AND WP
NO. 910A/2016 UNDER TITLED MUHAMMAD MINHAJ & SHABIR
AHMAD VS GOVT:**

Reference to your office letter No. 4530-33 Dated: 22-05-2018 on the
Subject cited above;

Enclosed Please find herewith an Inquiry report in respect of Muhammad
Minhaj S/o Behram Gohar submitted by Assistant Commissioner Judba for further
necessary action.

ADEO (E/P)
DIARY
Executive District Officer
District Torghar
No. 1371/2018
Date: 27/10/18

Deputy Commissioner
Torghar

Copy to:-
1. Assistant Commissioner Judba, Torghar

Deputy Commissioner
Torghar

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Office of the Assistant Commissioner, Judba
District Torghar

No. Reader/AC(2018)/TG/ 2010
Dated Torghar the 16/10/2018

Fax# 0997-580188
dctorghar@gmail.com

To
The Deputy Commissioner
Torghar

Subject: **INQUIRY**

In pursuance of the Deputy Commissioner Office Diary No. 1961 dt: 25-06-2018, wherein, the undersigned was asked to conduct inquiry regarding the domicile verification of Mr. Muhammad Minhaj

BACKGROUND:-

Mr. Muhammad Minhaj S/o Behram Gohar was appointed as PST by the Education Department Torghar on 13-04-2016. His domicile was sent to Deputy Commissioner Office torghar for verification by the Education Department Torghar which was not verified. Consequent upon non- verification of his domicile certificate, the appointment order of the above mentioned teacher was withdrawn by the Education Department on 15-12-2016 vide notification No. 4282-90. The teacher sought relief from the Peshawar High Court through filing a writ petition No.209-A/2017 (**Annex A**). Peshawar High Court Abbottabad Bench re-instated the above mentioned teacher vide judgment dt: 22-02-2018 (**Annex B**) leaving the respondents at liberty to proceed against him in accordance with law and rules if they so desire.

Education Department Torghar requested Deputy Commissioner to conduct inquiry as per judgment of the Peshawar High Court Abbottabad Bench, as the case is not fit for CPLA in the August Supreme Court of Pakistan.

PROCEEDINGS:-

The Undersigned proceeded with the matter and issued notice to the teacher to appear before the undersigned, alongwith his supporting documents. He was also directed to bring with him village secretary, village Nazim, Tehsil Member, District Member and District Nazim for recording evidence for or against him, as the case may be. Mr. Muhammad Minhaj, alongwith village secretary, village Nazim, Tehsil Member, District Member and District Nazim appeared before the undersigned and recorded their statements (**Annex C**) verifying the residential status of Mr. Muhammad Minhaj. The undersigned have gone through the documents(Domicile Certificate, CNIC, Father CNIC, Brother and Sisters Domicile certificates) provided by Shabbir Ahmad.

FINDINGS/ RECOMMENDATIONS

From the above proceedings, statements of the local representatives and examination of the documents it seems that Mr. Muhammad Minhaj is resident of District Torghar and the domicile certificate has rightly been issued to him.

Report is submitted

[Signature]
ATTESTED

[Signature]
Assistant Commissioner
Judba, Torghar

NOTIFICATION

In pursuance of the Section -3 of the Khyber Pakhtunkhwa employees of Elementary & Secondary Education Department (Appointment and Regularization of Service Act: 2017 read with Section -1 Sub-section (2) of the act ibid and Elementary and Secondary Education Department Khyber Pakhtunkhwa Notification No. SO(S/F) E&SED/3-2/2018/SITT/Contract, Dated 16.02.2018, Service of the following Teachers PST (BPS-12) appointed on Adhoc basis on Contract, are hereby regularized in BPS-12 on the Same post in Teaching Cadre on the terms and condition given below with effect from the date of their appointment on the PST post.

S.No	Roll No	Name	Address	Total Marks (out of 200)	School	Appointment order No. & Dated
1	942100041	Hashim Ali	Utlair Basi Khail Tor Ghar	87.15	GPS Soray Asharay	No.908-18 Dated 09.04.2016
2	342400026	Noor Zada	Shatal Basi Khail Tor Ghar	65.28	GPS Shatal	No.908-18 Dated 09.04.2016
3	942200007	Muhammad Ikram	Fazal Basi Khail Tor Ghar	55.86	GPS Shagai	No.908-18 Dated 09.04.2016
4	942500031	Said Fareed	Cheer Basi Khail Tor Ghar	31.40	GPS Shagai	No.1060-70 Dated 13.04.2016
5	342200072	Jamal Khan	Kalasar Basi Khail Tor Ghar	67.76	GMPS Barar Shatal	No.1060-70 Dated 13.04.2016
6	812400167	Muhammad Minhaj	Cheechan Dehri Basi Khail Tor Ghar	99.87	GPS Bara Banda	No. 1046-56 Dated 13.04.2016
7	812500119	Muhammad Amjad Ali	Lonia Basi Khail Tor Ghar	75.08	GPS Shingaldar	No. 1046-56 Dated 13.04.2016

TERMS & CONDITIONS.

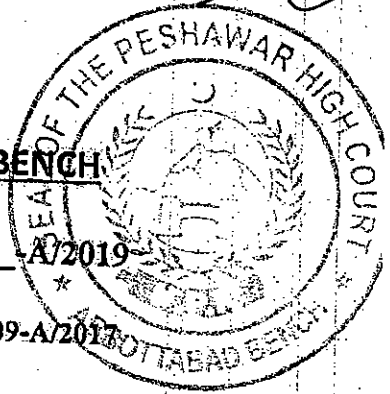
1. Their service shall be governed by the Khyber Pakhtunkhwa Civil Servant Act: 1973 Khyber Pakhtunkhwa (Appointment, Deputation, Posting and Transfer of Teacher, Lecturers, Instructors and Doctors) Regularity Act: 2011 & such rules & regulations as may be issued from time to time by government.
2. Their pay shall be released subject to verification of academic documents/testimonials from the concerned Boards/ University by the District Education Officer Male Tor Ghar, anyone with fake documents will be dismissed from service and the case will further be reported to the law enforcing agencies for action under the relevant law.
3. Their services shall be considered regular and they shall be eligible for pension/deduction of GP Fund as applicable in the Khyber Pakhtunkhwa Civil Service Act; 1973 as amended in 2013.
4. Their services are liable to termination on one month notice from either side. In case of resignation without notice, their one month pay/allowances shall be fortified to the government treasury.
5. Their regularization is subject to fulfilment of qualification and experience required for a regular post.
6. They shall have not resigned from the services or terminated from services on account of misconduct, inefficacy or any other ground before the commencement of the Act: of 1973.
7. Their regularization shall not affect the promotion qucta of existing holders of posts in the cadre of PST.
8. They shall rank junior to all other employees belonging to the cadre who are in service on regular basis on the commencement of this act: and shall also rank junior to such other persons if any. who in

[Signature]
ATTESTED

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BEFORE THE PESHAWAR HIGH COURT ABBOTTABAD BENCH



COC _____ A/2019

In

WP no.: 209-A/2017

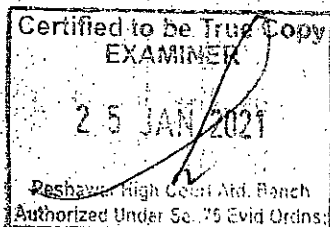
Muhammad Minhaj S/o Behram Ghor R/o G.P.S Barabanda District
Torghar.

... Petitioner

VERSUS

1. Hafiz Muhammad Ibrahim, Director, Elementary & Secondary Education, Khyber Pakhtunkhawa, Peshawar.
2. Jaffar Mansoor Abbasi, District Education Officer (Male),
Torghar, Judbah.
3. Amanullah, Accounts Officer Torghar, at Mansehra.

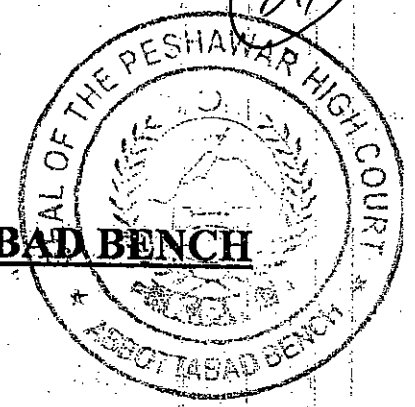
... Respondents/Contemnors



PETITION FOR INITIATING CONTEMPT OF COURT PROCEEDINGS
AGAINST RESPONDENTS FOR DISOBEYING THE ORDERS OF THIS
AUGUST COURT DATED 22-02-2018 IN WP NO 209-A/17 WHEREBY
RESPONDENTS REFUSED TO PAY BACK BENEFITS I.E.
SALARIES/BENEFITS FOR THE PERIOD BETWEEN 15-12-2016 TO 22-
05-2018 ALONG WITH INCREMENT 2016,2017 &2018 ETC.

ATTESTED

91



PESHAWAR HIGH COURT, ABBOTTABAD BENCH

ORDER SHEET

Date of Order of Proceedings	Order or other Proceedings with Signature of Judge(s).
1	2
13.01.2021	<p>C.O.C No.137-A-2019</p> <p>Present: Mr. Nazakat Ali Tanoli, Advocate, for the petitioner.</p> <p>Sardar Muhammad Asif, Assistant Advocate General, for the respondents</p> <p>****</p> <p>SHAKEEL AHMAD, J: By means of this contempt petition, the petitioner has sought the following relief:</p> <p><i>"It is therefore, most humbly prayed that the contempt proceedings be initiated against the respondents for disobeying the order of this Court and exemplary punishment be awarded, respondents may graciously be directed to pay salaries/ benefits for the period between 15.12.2016 to 22.05.2018 alongwith increment of 2016, 2017 and 2018."</i></p> <p>2. In essence, the grievance of the petitioner is that though he has been reinstated in service by the respondents in view of the order dated 22.02.2018 of this Court, passed in WP No.209-A/2017, however, they have denied payment of back benefits to the petitioner.</p> <p>3. Arguments heard. Record perused.</p> <p>4. Perusal of record reveals that while allowing</p>

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EXAMINED
25 JAN 2021
Peshawar High Court, Abbottabad Bench
Authorized Under Sec 75 of the Ordns.

ATTESTED

the aforesaid writ petition filed by the petitioner, this Court directed the respondents, as under:

"For what has been discussed above, we accept this petition, declare the impugned notification dated 15.12.2016 as illegal, unlawful and of no legal effect. Consequently, the petitioner is re-instated in his service leaving the respondents at liberty to proceed against him if they so wish but such proceedings must be in accordance with law rules on the subject."

The record reflects that the respondents, in compliance with the above referred direction of this Court passed in WP No.209-A/2017, re-instated the petitioner in service vide Notification bearing Endst.No.4534-40 dated 22.05.2018, thus, the judgment of this Court has been implemented by the respondents. Since, there was no direction qua payment of back benefits to the petitioner in the judgment of this Court, the respondents were not under obligation to grant such benefits. Needless to refer that the respondents have already mentioned in the said notification that the arrears of pay and allowances will be decided on the outcome of the denovo inquiry. As such, contempt of Court proceedings cannot be initiated against the respondents, when they have already complied with the order of this Court dated 22.02.2018.

5. In view of above, this petition is dismissed.

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EXAMINER
25 JAN 2021
Peshawar High Court
Authorized Under Sec 202 of Ordinance

W
ATTESTED
w

However, the petitioner shall be at liberty to approach the appropriate forum provided under the law for redressal of his grievance, if any, in accordance with law qua the issue of back benefits.

Announced.
Dt.13.01.2021.

[Signature]
/
[Signature]
JUDGE
JUDGE

[Signature]
ATTESTED

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EXAMINER
25 JAN 2021
[Signature]
Peshawar High Court (Civil Branch)
Authorized Under Sec. 7, Evd. Ordns.

22-05-2018

ATTESTED

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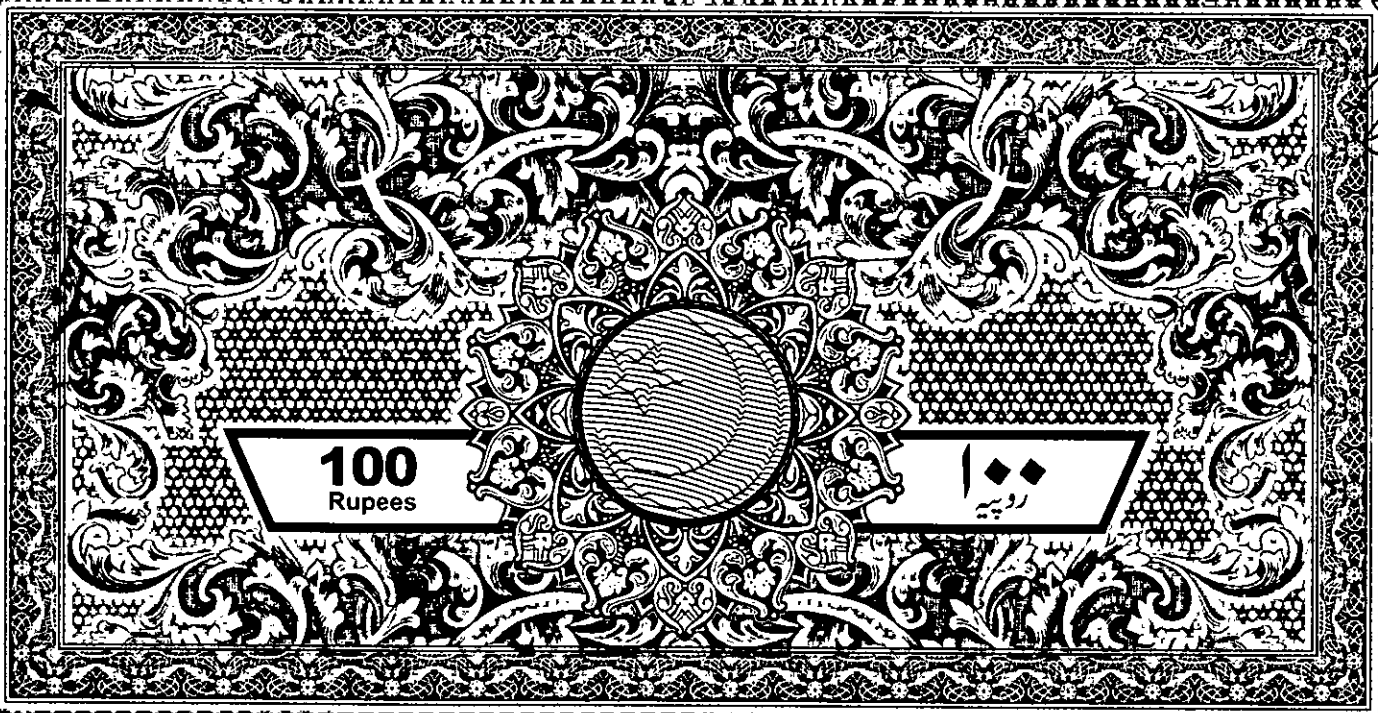
22-05-2018 to 15-12-2018

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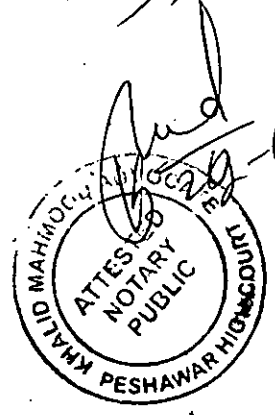
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روپے

سید محمد منیر جملہ حلقہ بیابان بڑا سیوال
 2018-12-15 سے لیکر 2018-5-22 تک میں نے
 کیسی پریجی سمکلا اور غیر سرکاری ملازمت میں کی اور
 سر میں اس دوران کوٹ اور گار بیابان



4/21

227

Mr. Lewis

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16 APR 1951
(Treasury Building) Post-Office

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RECEIVED
16 APR 1951
(Treasury Building) Post-Office

VAKALAT NAMA

NO. _____/2021

IN THE COURT OF KP Service Tribunal, Peshawar

Muhammad Minhaj

(Appellant)
(Petitioner)
(Plaintiff)

VERSUS

Education Deptt: etc

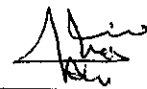
(Respondent)
(Defendant)

I/We, Muhammad Minhaj

Do hereby appoint and constitute **Taimur Ali Khan, Advocate High Court Peshawar**, to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate/Counsel on my/our costs.


I/We authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter. The Advocate/Counsel is also at liberty to leave my/our case at any stage of the proceedings, if his any fee left unpaid or is outstanding against me/us.

Dated _____/2021



(CLIENT)

ACCEPTED


TAIMUR ALI KHAN
Advocate High Court
BC-10-4240
CNIC: 17101-7395544-5
Cell No. 0333-9390916

OFFICE:

Room # FR-8, 4th Floor,
Bilour Plaza, Peshawar,
Cantt: Peshawar

BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA SERVICE

TRIBUNAL PESHAWAR

Appeal No.4971/2021

Muhammad MinhajAppellant

VERSUS

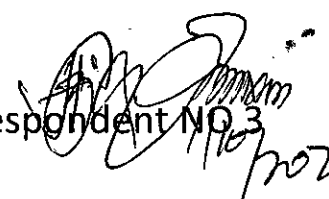
Govt. Khyber Pakhtunkhwa through Secretary Elementary & Secondary
Education, & Others..... Respondents

PARA WISE COMMENTS ON BEHALF OF RESPONDENTS ARE AS

UNDER:

INDEX

S.No	Particular of Documents	Annexure	Pages
1	Parawise comments along with affidavit		1-6
2	Copy of Appointment order	"A"	7-8
3	Domicile certificate & Copies of Letters regarding verification of Domicile	"B-C-D & E"	19-13
4	Copy of withdrawn order	"F"	14
5	Copies of Judgment of High Court Abbottabad Bench & Reinstatement order	"G-H"	15-20
6	Copies of letters for inquiry regarding domicile certificate	"I-J & K"	21-23
7	Copy of High Court Order passed in COC No.137-A/2019	"L"	24-26


Respondent NO 3
11/10/2021

BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA SERVICE

TRIBUNAL PESHAWAR

Appeal No.4971 /2021

Muhammad MinhajAppellant

VERSUS

Govt. Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education, & Other..... Respondents

PARA WISE COMMENTS ON BEHALF OF RESPONDENTS NO.1-5

RESPECTFULLY SHEWETH:

The respondent submit as under: —

PRELIMINARY OBJECTIONS: —

1. That the Appellant has got no cause of actions/locus standi.
2. That the instant appeal is filed by suppressing the material facts from this honorable Tribunal, hence not maintainable.
3. That the appellant was reinstated in the light of Judgment of Peshawar High Court Bench Abbottabad subject to outcome of denovo enquiry regarding verification of his Domicile Certificate and after conducting the denovo enquiry by Deputy Commissioner Tor Ghar, his pay has been released and arrears for the period of performance of duty have also been paid to him.
4. That the instant appeal is against the prevailing law & rules.
5. That the instant appeal has been filed just to pressurize the respondents.
6. That this honorable tribunal lacks jurisdiction in the instant matter in issue.
7. That the instant appeal is hopelessly time barred.
8. That the appeal is bad for mis-joinder and non-joinder of the necessary and proper parties.
9. That the appellant is estopped to sue through his own conduct.





REPLY ON FACTS:-

1. That Para No-1 is incorrect, his appointment order was withdrawn due to non-verification of his domicile certificate.
2. In reply to Para No. 2 it is stated that, while deciding the case, the High Court held in the judgment that impugned order have been passed on the back of the appellant and he was not associated at all in the enquiry proceeding where under, his domicile was found un-verified/fake.
3. In reply to Para No.3, it is stated that in compliance of the judgment of Honorable Peshawar High Court Abbottabad bench dated 22.02.2018 in writ petition No.209-A/2017 the service of appellant was reinstated subject to outcome of denovo enquiry regarding verification of his domicile certificate.
4. In reply to para No.4, it is stated that the Deputy Commissioner Tor Ghar conducted denovo enquiry by participating him in enquiry proceeding and submitted his recommendations that he is resident of District Tor Ghar and his domicile certificate has rightly been issued to him.
5. In reply to para No. 5, it is submitted that appellant and 12 other candidates were appointed on adhoc basis vide order Endst: No.1046-56/dated Tor Ghar 13th April 2016 (Annexure -A) As per Para No.5 of the terms & conditions of appointment order (Annexure-A) the domicile of appellant (Annexure -B) was forwarded to authority/Deputy Commissioner Tor Ghar for verification vide No.1593 dated 31.05.2016 (Annexure-C). The Deputy Commissioner Tor Ghar issued letter No. 1223/DC/TG dated 09.05.2016 (Annexure-D). And Assistant Commissioner letter No. 2829-30/AC(J)2016/TG dated 11.11.2016 (Annexure-E), the District Education Officer (M) E&SE Tor Ghar withdrawn/denotify the appointment in


12/11/2016



respect of Muhammad Minhaj PST GPS Bara Banda vide Endst: No. 4282-90 dated 15.12.2016 (Annexure-F). The appellant filed writ petition No. 209-A/2017 before the Honorable High Court Peshawar which was decided on 22.02.2018 (Annexure -G) with the following directions:-

“... with directions to the respondent to re-instate the petitioner in their service, however the respondent would be at liberty to proceed against them if they so wish but in accordance with law & rules on the subject”

As per ibid judgment of Honorable High Court, the department issued notification No. 4534-40 Dated 22.05.2018 (Annexure-H) regarding re-instatement. Therefore the DEO (Male) Tor Ghar issued letter No. 4530-33 Dated 22.05.2018 (Annexure-I) to Deputy Commissioner Tor Ghar for conducting of enquiry regarding verification of domicile. The Deputy Commissioner Tor Ghar vide letter No. Dom/DC/(2018)/TG/2040-41 dated 25.10.2018 (Annexure-J) submitted the inquiry report of Additional Deputy Commissioner Tor Ghar dated 16.10.2018 (Annexure K) to the DEO (Male) Tor Ghar. In view of the inquiry report (Annexure J&K), his pay have been released in the light of the judgment of High Court and arrears for the period of performance of duty have also been paid, No such order regarding payment of back benefits was made by the Honorable High Court for period, he remained out of service. Appellant has also filed COC No.137-A/2019 in the Peshawar High Court Abbottabad Bench for initiating of contempt proceeding against the respondents, wherein the Honorable Court hold that as the respondents implemented the judgment dated 09.05.2018 by reinstating the appellant and since there was no directions qua payment of back benefits hence the COC of the appellant was dismissed on 13.01.2021 (Annexure-L).

22.02.2018
22.05.2018

1/10/2021

6. In reply to para No. 6, it is submitted that no order for grant of back benefits was passed by the Honorable Court for the period he remained out of service.
7. The Appellant has no cause of action/ locus standi.

REPLY ON GROUNDS:-

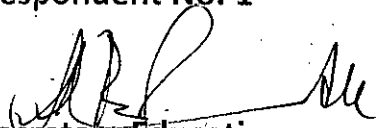
- A) Incorrect, hence denied. His reinstatement order was made subject to outcome of denovo enquiry regarding the genuineness of his domicile certificate for the purpose of payment of salary for the period of his duty performance.
- B) Incorrect, Complete and comprehensive reply has already been given in preceding paras alongwith entire relevant record.
- C) That para No. C, of the grounds as composed is incorrect. After conducting denovo enquiry regarding his domicile certificate, his pay was released and arrear for the period of performance of duty was paid to him.
- D) Incorrect, hence denied. Detail reply has already been given in supra Para No.5.
- E) Incorrect hence denied. Detail reply already given in supra para No.5.
- F) Incorrect, against the record, without any proof, hence denied.
- G) As stated in para ibid.
- H) Incorrect, against the record, without any proof, hence denied
- I) That the Respondents seek permission to argue further points at the time of arguments.


11/07/2021



In the light of above stated facts & circumstances, it is most humbly prayed that the instant appeal may kindly be dismissed with cost.

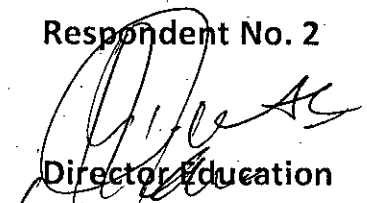
Respondent No. 1



Secretary Education
(E&SE) Peshawar

SECRETARY
Elementary and Secondary Education
Govt. of Khyber Pakhtunkhwa

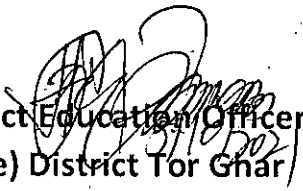
Respondent No. 2



Director Education
(E&SE) Peshawar

Director
Elementary & Secondary Education
Khyber Pakhtunkhwa Peshawar

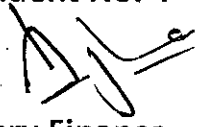
Respondent No. 3



District Education Officer
(Male) District Tor Ghar

District Education Officer
(Male) Tor ghar.

Respondent No. 4



Secretary Finance
KPK Peshawar

SECRETARY
Govt. of Khyber Pakhtunkhwa
Finance Deptt.

Respondent No. 5

District Account Officer

Tor Ghar

District Account Officer
Torghar

BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA SERVICE

TRIBUNAL PESHAWAR

Appeal No. 4971/2021

Muhammad Minhaj.....Appellant

VERSUS

Govt: of KPK through Secretary E&SE and other.....Respondents

PARA WISE COMMENTS ON BEHALF OF RESPONDENTS ARE AS

UNDER:

AFFIDAVIT

I, Mr. Haziq-Ur-Rehman DEO (M) District Torghar, do hereby solemnly affirm on oath, that the contents of Parawise comments are True & Correct in the best of my knowledge & belief and nothing has been concealed or suppressed from this honorable tribunal.


DEPONENT 11/10/2021


OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) DISTRICT TOR GHAR
NOTIFICATION

Consequent upon the recommendations of the Departmental Selection Committee, appointment of the following candidates are hereby ordered against the vacant posts of Primary School Teacher (PST) on School based in BPS-12 (Rs.9055-650-28555) @ Rs.9055/- fixed plus usual allowances as admissible under the rules on adhoc basis and school basis initially for a period of one year under the existing policy of the Provincial Government, in Teaching Cadre on the terms and conditions given below with effect from the date of their taking over charge :-

S NO	NAME OF CANDIDATE	FATHER'S NAME	SCORE	WARD/ UNION COUNCIL	NAME OF SCHOOL WHERE APPOINTED	REMARKS
1	Muhammad Minhaj	Behram Gohar	99.87	Bartooni	GPS Bara Banda	Against V/P
2	Muhammad Adil	Niaz Muhammad	100.87	Bartooni	GPS Bartooni	--do--
3	Naeem Ullah	Sahib Ullah	91.62	Bartooni	GPS Faqir Abad	--do--
4	Khial Muhammad	Moza Khan	80.46	Bartooni	GPS Kobai Bartooni	--do--
5	Abdul Waheed	Sarfaz Khan	79.91	Bartooni	GPS Paiza Bartooni	--do--
6	Muhammad Naseeb	Gul Parast Khan	66.85	Shingaldar	GPS Cham Qalagay	--do--
7	Zar Muhammad	Abdul Majeed	49.72	Shingaldar	GPS Markhani B/K	--do--
8	Muhammad Fayaz	Hukam Zar	76.92	Bartooni	GPS Shingaldar	--do--
9	Muhammad Amjad Ali	Fazal Rabi	75.08	Bartooni	GPS Shingaldar	--do--
10	Abdus Saleem	Abdus Salam	67.89	Shingaldar	GPS Shingaldar	--do--
11	Gul Khetab Syed	Umar Malook Syed	61.56	Dour Mera	GPS Shingaldar	--do--
12	Maqbool Shah	Sakhi Shah	68.62	Manjakot	GMPS Abo Shahai	--do--

TERMS & CONDITIONS:

1. NO TA/DA is allowed.
2. Charge reports should be submitted to all concerned in duplicate.
3. Appointment is purely on temporary & adhoc basis initially for a period of one year.
4. They should not be handed over charge if their age is above 35 years or below 18 years.
5. Their Appointments are subject to the condition that their **CERTIFICATE/DOCUMENTS AND DOMICILES** be verified from the concerned authorities by the District Education Officer before release of their salaries. Anyone who found producing fake documents will be dismissed from service and the case will further be reported to the law enforcing agencies for action under the relevant law.
6. Their services are liable to termination on one month's notice from either side. In case of resignation without notice his one-month pay/allowances shall be forfeited to the Government treasury.
7. Their Pay will not be activated until and unless pay release order is not issued by the competent authority after verification of their documents by the District Education Officer.
8. They should join their post within 10 days of the issuance of this notification. In case of failure to join the post within 10 days of the issuance of this notification, their appointment will expire automatically and no subsequent appeal etc shall be entertained.
9. They should produce Health and Age Certificate from the Medical Superintendent concerned before taking over charge.
10. They will be governed by such rules and regulations as may be issued from time to time by the Government.
11. Their services shall be terminated at any time, in case their performance is found unsatisfactory during their contract period. In case of misconduct, they shall be preceded under the rules framed from time to time.

12. Their appointment is made on School based, they will have to serve at the place of posting, and their services are not transferable to any other station.
13. The competent Authority reserve the right to rectify the errors and omissions, if any noted/observed at any stage in the instant order issued erroneously.
14. Before handing over charge once again their document may be checked by the SDEO (M) Tor Ghar if they don't have the prescribed qualifications prescribed for the post they should not be handed over the charge.

7

--SD--
Abdullah
District Education Officer (M)
E&SE Tor Ghar,

Endst: No. 1046-56 /Dated Tor Ghar the 13th April 2016.

Copy forwarded for information and necessary action to the: -

1. Secretary to Government of Khyber Pakhtunkhwa E&S Education Department Peshawar.
2. Director E&SE Khyber Pakhtunkhwa, Peshawar.
3. PS to Minister E&SE Department, Khyber Pakhtunkhwa Peshawar.
4. Deputy Commissioner District Tor Ghar.
5. District Accounts Officer Tor Ghar at Mansehra.
6. Sub Divisional Education Officer (M) Tor Ghar.
7. District Monitoring Officer (IMU) Tor Ghar.
8. District Education Management Information System (DEMIS) Local Office.
9. Head Teacher GPS Concerned.
10. Official Concerned.
11. Office File.


District Education Officer (M)
E&SE Tor Ghar



لغند لہا کسی تی صلہ محمد بنیاح ہا کو ہر گھنٹہ پہنچا 30 صبر ہی
صلح ہوئی کہ سکون سے رہا جس کے ساتھ ساتھ اس کے ساتھ
راجی طور پر جا رہا ہے۔

سیکرٹری (سجھان و سہیل) اور
13504-2257327-1

13504-2257327-1
13504-2257327-9



لغند لہا

سہیل احمد

13504-2257327-9

سہیل احمد

SYED AZIZ SHAH
Qabaili Rehnuma C.R
Kala Dhaka

QABAILI REHNUMA
Shor Muhammad Waqar
Distt. Tor Ghar (K.R.K)

سہیل احمد
ممبر قومی اسمبلی خیل نور
M.C. 13304-2232266-5

Attested as Per Verification of
the elders of the above tribe.
Maib Tehsildar
District Tor Ghar

-10-
-14-
Amx "E"
Amx "F"
19

Amx "F"

OFFICE OF THE DISTRICT EDUCATION OFFICER (M&F) TOR GHAR

Ph. 0345-6660087 Fax. Nil
Email. torgharemis@gmail.com

No. 1593
Dated: 31/05/2016

To

The Deputy Commissioner,
District Tor Ghar

**Sub: VERIFICATION OF DOMICILE CERTIFICATES & CANCELLATION/WITHDRWL
OF APPOINTMENT ORDERS UPON VERIFICATION OF DOMICILES.**

Memo,

Reference your letter No.1223/DC (2016)/TG dated 09-05-2016 and letter No. 1062-66 AAC (R)(JUDBA)/TG Dated Torghar the 24-05-2016 received from Additional Assistant Commissioner (Revenue) Torghar (copy attached)-in c/w the subject captioned above.

It is humbly stated that;

1. In para-5 of the appointment Notification Endst: No. 919-28/Dated Torghar April 9, 2016 it has been stated that "The appointments are subject to the condition that their certificates/documents & domiciles be verified from the concerned authorities by the DEO(M), anyone who found producing fake/bogus documents shall be dismissed from service and the case will further be reported to the law enforcing agencies for action under the relevant law & the domiciles then sent to your good self for verification or otherwise.
2. The reply received from your good end vide your letter No.1223/DC (2016)/TG dated 09-05-2016 declaring 27 domiciles as unverified & not as fake/bogus, means the said unverified declared domiciles can be declared verified at some later stages as in case of Mr. Muhammad Adil & Mr. Abdul Waheed who's domiciles once declared unverified & later on declared verified vide your office letter No. Estab.DC(2016)/TG/1468 dated Torghar the 26-05-2016.
3. In view of the above it is requested to kindly communicate the details of all such domiciles as fake/bogus rather than unverified please to peruse the case further as per rule.
4. Also please send the remaining pending domicile verification report for further necessary action please.

dc
District Education Officer (M&F)
Tor Ghar

Endst: No. 1594-95 dated 31/5/2016.

Copies submitted for information & necessary action to;

1. P.A to Director E&SE KP, Peshawar
2. Additional Assistant Commissioner (Revenue) Torghar
3. Office File

District Education Officer (M&F)
Tor Ghar

Twitter. Type "Follow torghardeo" in your mobile message & send it to "40404" to get free updates of DEO Education office Torghar on your mobile.

(6)

17	✓	Abdul Salim ✓ S. No. 10	Noor Zada S/o Ghulam Muhammad
18	✗	Muhammad Naseem	Jamil Khan S/o Hujam Khan
19	✓	Wahiz Ullah S. No. 4	Mohammad Adil S/o Niaz Muhammad
20	✓	Ghani ur Rehman S. No. 15	Abdul Wahid S/o Sarfraz Khan
21	✓	Muhammad Rafiq S. No. 2	Basheer Ahmad S/o Akhtayar Malook
22		Abu Zar	Elaam Ul Haq S/o Saif Ul Malooq
23	✓	Fahy Ullah Pathan S. No. 4	Naseem Ahmad S/o Akhtayar Malook
24	✓	Qadar Muhammad S. No. 44 ✓	Mohammad Mincj S/o Behram Gohar
25	✗	Misbahia Ullah	Nawab Zada S/o Muzornil Khan
26	✗	Waseem Ullah	Gul Rehman S/o Talj Khan
27	✓	Gul Farooq Farooqi S. No. 39 ✓	Muhammad Amjad Ali S/o Fozal Rabi
28		Hoyal Ul Haq	Nural Shah S/o Iqbal Shah
29	✓	Muhammad Islam S. No. 41 ✓	
30	✓	Sana Ullah S. No. 38 ✓	
31	✓	Shakir Ullah S. No. 7 ✓	
32	✗	Khan Mohammad	
33	✗	Ali Badshah	
34	✓	Naseem Ullah ✓	
35	✓	Khyal Mohammad S. No. 4 ✓	
36	✗	Abdur Rehman	
37	✗	Gul Zada	
38	✗	Hakeem Ullah	
39	✓	Muhammad Fayaz S. No. 8 ✓	
40	✗	Ismail Khan	
41	✗	Talil Rehman	
42	✗	Syed Rafiq Shah	
43	✗	Syed Naseem Ul Haq	
44		Syed Hamid Ullan Shah	
45	✓	Umer Habib S. No. 3 ✓	
46	✓	Shabir Ahmad S. No. 3 ✓	
47	✓	Rehman Ullah S. No. 5 ✓	

S. No. 43
Appointed

Appointed S. No. 2

Appointed S. No. 2

Appointed S. No. 5

Appointed S. No. 4

Appointed S. No. I

Appointed S. No. 9

Appointed S. No. 2

Momen
Deputy Commissioner
Torghar
Deputy Commissioner
Torghar



OFFICE OF THE ASSISTANT COMMISSIONER JUDBA
TORGHAR

- 8 -

AMX-12C

(8)

No. 2829-30 /AC(J)/ 2016/TG

Dated Torghar the 11/11/2016.

To,

The District Education Officer (M),
Torghar.

Subject: VERIFICATION OF DOMICILE

In continuation of this office letter No. Domicile/DC/TG 2030-32 dated Torghar the 07-09-2016 regarding subject cited above. The revivification process of the domicile certificate of Mr. Muhammad Minhaj s/o Behram Gohar has been completed and as per the report of Revenue field staff Torghar the said applicant is declared as unverified/bogus.

Report submitted for further course of action please.

[Signature]
Assistant Commissioner
Judba, Torghar

Edstf No & date even

Copy to:

- 1- The Deputy Commissioner Torghar for favor of information please.

AG
[Signature]
22/11/16

[Signature]
Assistant Commissioner
Judba, Torghar

27/17
22/11/16

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OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) TOR GHAR

Ph. 0345-6660087 Fax. Nil
Email. torgharemis@gmail.com

No. _____
Dated: ___/___/2016

NOTIFICATION

Reference to the Deputy Commissioner Tor Ghar letters No. 1223/DC (2016)/TG Dated 09/05/2016, No. 1394/DC (2016) TG Dated 19/05/2016 and Assistant Commissioner Letter No. AC(2016)/TG 2792-93 dated 18/08/2016, No. 2829-30/AC(J)/2016/TG Dated 11/11/2016, in connection with the terms and conditions No. 5 of the Appointment order issued vide this office Notification No. 1046-56 Dated 13/04/2016, the competent authority E&SE Tor Ghar is pleased to withdraw/denotify the appointment in respect of Muhammad Minhaj S/O Behram Gohar PST GPS Bara Bandaw.e.f the date of his appointment.

---SD---

District Education Officer (M)
E&SE Tor Ghar

Endst: No 4282-90 /Dated 15, 12 2016.

Copy for Information to the.

1. Director E&SE Khyber Pakhtunkhwa Peshawar.
2. Deputy Commissioner Tor Ghar with the remarks that denotification and legal action has been initiated against the teachers as directed.
3. District Police Officer Tor Ghar with request to Lodge FIR as per rules against above mentioned candidate.
4. District Nazim Tor Ghar.
5. District Account Officer Tor Ghar at Mansehra.
6. Sub Divisional Education Officer (M) Tehsil Judba.
7. District Monitoring Officer (IMU) Tor Ghar.
8. District Education Management Information System (DEMIS) Local office.
9. Office File.

Dy: District Education Officer (M)
E&SE Tor Ghar

Note. All employees education department & other interested ones, please Type "Follow torghardeo" in your mobile message & send it to "40404" to get free tweets of DEO Education Torghar on your mobile.

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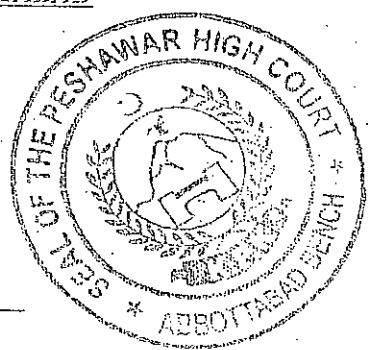
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PESHAWAR HIGH COURT ABBOTTABAD
BENCH

JUDICIAL DEPARTMENT

JUDGMENT SHEET

WP No. 209-A/2017.



Date of hearing: 22.02.2018

Petitioner/s (Muhammad Minhaj) by
Mr. Shad Muhammad Khan, Advocate.

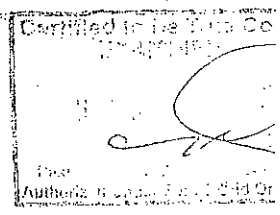
Respondent/s (Government of Khyber
Pakhtunkhwa through Secretary,
Elementary & Secondary Education
Department, Peshawar and others) by
Mr. Yasir Zahoar Abbasi, Assist: AG.

LAL JAN KHATTAK, J. Petitioner

through the instant petition under Article
199 of the Constitution of Islamic
Republic of Pakistan, 1973 has prayed
this Court for issuance of a writ declaring
the inquiry proceedings conducted against
him by the respondents as illegal and
unlawful. He has also prayed that
pursuant to the ibid inquiry the
notification issued on 15.12.2016,
whereunder his appointment order dated
13.04.2016 has been withdrawn, be also
declared as illegal, unlawful and of no
legal effect.

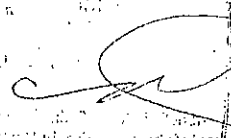
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2. Brief facts of the case are that pursuant to the advertisement published in newspaper, petitioner had applied for his appointment against the post of PST. After going through the selection process, he was appointed as PST vide order dated 13.04.2016, whereafter he took over charge and started his teaching career, however, vide notification dated 15.12.2016, his appointment order was withdrawn by the respondent No.2 on the ground that the concerned quarters had declared his domicile as unverified. Being aggrieved from the withdrawal of his appointment order, petitioner has filed the instant writ petition.

Car...

 Author...
 Author...

gan

3. This Court on 14.03.2017 had directed the respondents No. 2 to 4 to file their parwise comments, which have been so filed, wherein issuance of the desired writ has been opposed.

REC'D
 14/3/17

4. Arguments heard and record gone through.

5. Perusal of the case record would show that upon the recommendations of

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departmental selection committee, the petitioner was appointed on 13th April 2016 as PST, whereafter he had joined the education department. After taking over charge, Deputy Commissioner Torghar initiated an inquiry qua verification of the petitioner's domicile wherein his domicile was found unverified. On the basis of ibid inquiry, the appointing authority withdrew the petitioner's appointment order through notification dated 15.12.2016.

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11.03.18
Authorised Signatory of the Office

6. True that the petitioner's appointment order has been withdrawn by the appointing authority in light of the inquiry report whereunder his domicile was found unverified but pronounced aspect of the case is that the petitioner was not associated in the inquiry process so as to get his point of view qua the allegation. No doubt the *Patwari Halqa* did record statements of some persons of the locality out of whom only one Khawas Khan stated that the petitioner did not hail from his village council. Be

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that as it may but as the petitioner was not associated at all in the inquiry process and the impugned order has been passed on his back despite the fact that he was available in his village and place of posting, therefore, the impugned letters and the notification issued are of no legal effect as it is a cardinal principle of law that no one shall be condemned unheard.

7. Record shows that the petitioner was appointed on 13.04.2016 upon the recommendations of a duly constituted departmental selection committee, whereafter he had performed his duties till 15.12.2016 and as such he could not have been shunted out from his service the way he has been. It is well settled that whenever a drastic action is desired to be taken against a person then he has to be given a chance to explain his position and the courts of law have always deprecated the unilateral actions culminated in penalties.

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 [unclear] [unclear] [unclear]

[Handwritten signature]

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8. For what has been discussed above, we accept this petition, declare the

through [unclear]

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impugned notification dated 15.12.2016 as illegal, unlawful and of no legal effect. Consequently the petitioner is re-instated in his service leaving the respondents at liberty to proceed against him if they so wish but such proceedings must be in accordance with law and rules on the subject.

Announced.
22.02.2018.
Tahir PS

Self Judge,
Self Judge,

Hon'ble Justice Lal Jan Khattak &
Hon'ble Justice Syed Arshid Ali.

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EXAMINER
01 MAR 2018
Peshawar High Court App. Bench
Authorized Under Sec. 75 of Ord.

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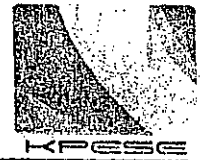
may suits for petitioner
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notification issued on
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and shall be considered
court's orders and the

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**OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE)
DISTRICT TOR GHAR**

Email: torgharemis@gmail.com



NOTIFICATION

In compliance with the Judgment of Honorable Peshawar High Court Bench Abbottabad, dated 22/02/2018, in Writ Petition No. 209-A/2017, the services of Mr. Muhammad Minhaj Ex-PST is reinstated in his service as PST at GPS Bara Banda from the date of his withdrawn order.

His arrears of pay and allowances will be decided on the outcome of the de-novo inquiry.

SD

**District Education Officer (M)
District Tor Ghar**

Endst: No. 4534-40 /Dated 22-10-5 /2018.

Copy for information to the.

1. Director E&SE Khyber Pakhtunkhwa Peshawar.
2. Deputy Commissioner Tor Ghar.
3. District Monitoring Officer IMU Tor Ghar
4. District Accounts Officer Tor Ghar
5. Sub Divisional Education Officer Male Judba.
6. Teacher Concerned.
7. Office File.

[Handwritten signature]
**District Education Officer (M)
District Tor Ghar**

[Handwritten mark]



OFFICE OF THE DISTRICT EDUCATION OFFICER (M) DISTRICT TOR GHAR

No. 4535-33 /Dated 22/05/2018

To,

The Deputy Commissioner
Tor Ghar.

Subject: INQUIRY PROCEEDING FOR VERIFICATION OF DOMICILE IN THE LIGHT OF JUDGEMENTS OF HONORABLE HIGH COURT PESHAWAR BENCH ABBOTTABAD RENDED IN WP NO. 209 A/2017 AND WP NO.910A/2016 UNDER TITLED MUHAMME MINHAJ & SHABIR AHMAD VS GOVT:

Memo:

I am to refer to the subject captioned above and to state,

1. That, this office had made Appointments of following candidates, subject to verification of their testimonials & Domicile certificate as per detail given below.

S.No	Name	Father Name	Village & Tehsil	District
1	Muhammad Minhaj	Behram Gohar	Cheechan Dehri Tehsil Judba	Tor Ghar
2	Shabir Ahmad	Ikhtiar Malook	Dehri Kaka Khail Tehsil Judba	Tor Ghar

2. That, subsequently, their appointment order were withdrawn/denotified w.e.f the date of their appointment, due to non-verification of their Domicile certificate vide this Office Order Endst No.4282-90 dated 15.12.2016.
3. That aggrieved from the withdrawal orders dated of the then DEO Male Tor Ghar, they have filed the writ petition No. 910-A/2016, & 209-A/2017 titled Muhammad Minhaj & Shabir Ahmad Vs Secretary Education etc. before the Honorable Peshawar High Court Bench Abbottabad under article 199 of the constitution of Islamic Republic of Pakistan 1973, with the contention to make declare the enquiry proceedings and letters dated 09.05.2016, 11.11.2016, and 18.08.2016 issued by respondent No.5 (Deputy Commissioner Tor Ghar) and withdrawal Notification in the light of above mentioned letters are illegal and unlawful, against the law and principles of natural justice, null and void and of no effect what so ever and be quashed.
4. That the Honorable Court while deciding the case held in the Judgment that impugned order has been passed on the back of the petitioner and they were not associated at all in the enquiry proceedings, where under their Domicile was found unverified, therefore accepted their writ petition and they were reinstated in their service.
5. That they have been reinstated in their service by this office as per decision of the Honorable Peshawar High Court Bench Abbottabad.

Your good self is therefore requested as desired by Honorable High Court that they may kindly be participated in inquiry proceedings. There after the current status of their Domiciles may please be communicated to this office to proceed further in the instant case in the light of court judgment.

District Education Officer (M)
Tor Ghar

Endst: No _____ Date _____ / _____ 2018

Copy for information to the:

1. Director E&SE Khyber Pakhtunkhwa Peshawar.
2. PS to Secretary E&SED, Khyber Pakhtunkhwa Peshawar.
3. Office File.

District Education Officer (M)
Tor Ghar

AC (J) this is to state
30/5/18

AC (J)

AMX - LJ

(E) (16)

E (16)

Amir Ahmad



Office of the Deputy Commissioner
District Torghar
No. Dom/DC(2018)/TGI/ 2040-41
Dated Torghar the 25/10/2018

Fax# 0997-580188
dctorghar@gmail.com

To
✓ The District Education Officer (M)
Torghar.

Subject: **INQUIRY PROCEEDING FOR VERIFICATION OF DOMICILE IN THE LIGHT OF JUDGEMENTS OF HONORABLE HIGH COURT PESHAWAR BENCH ABBOTTABAD, RENDERED IN WP NO. 209 A/2017 AND WP NO. 910A/2016 UNDER TITLED MUHAMMAD MINHAJ & SHABIR AHMAD VS GOVT:**

Reference to your office letter No. 4530-33 Dated: 22-05-2018 on the Subject cited above;

Enclosed Please find herewith an Inquiry report in respect of Muhammad Minhaj S/o Behram Gohar submitted by Assistant Commissioner Judba for further necessary action.

ADEO (E/P)



13/11/2018

Deputy Commissioner
Torghar

Copy to:-
1. Assistant Commissioner Judba, Torghar

Deputy Commissioner
Torghar

17

10



Office of the Assistant Commissioner, Judba
District Torghar

No. Reader/AC(2018)/TGI/ 2010
Dated Torghar the 16/10/2018

Fax# 0997-580188
dctorghar@gmail.com

To
The Deputy Commissioner
Torghar

Subject: **INQUIRY**

In pursuance of the Deputy Commissioner Office Diary No. 1961 dt: 25-06-2018, wherein, the undersigned was asked to conduct inquiry regarding the domicile verification of Mr. Muhammad Minhaj

BACKGROUND:-

Mr. Muhammad Minhaj S/o Behram Gohar was appointed as PST by the Education Department Torghar on 13-04-2016. His domicile was sent to Deputy Commissioner Office Torghar for verification by the Education Department Torghar which was not verified. Consequent upon non- verification of his domicile certificate, the appointment order of the above mentioned teacher was withdrawn by the Education Department on 15-12-2016 vide notification No. 4282-90. The teacher sought relief from the Peshawar High Court through filing a writ petition No.209-A/2017 (**Annex A**). Peshawar High Court Abbottabad Bench re-instated the above mentioned teacher vide judgment dt: 22-02-2018 (**Annex B**) leaving the respondents at liberty to proceed against him in accordance with law and rules if they so desire.

Education Department Torghar requested Deputy Commissioner to conduct inquiry as per judgment of the Peshawar High Court Abbottabad Bench, as the case is not fit for CPLA in the August Supreme Court of Pakistan.

PROCEEDINGS:-

The Undersigned proceeded with the matter and issued notice to the teacher to appear before the undersigned, alongwith his supporting documents. He was also directed to bring with him village secretary, village Nazim, Tehsil Member, District Member and District Nazim for recording evidence for or against him, as the case may be. Mr. Muhammad Minhaj, alongwith village secretary, village Nazim, Tehsil Member, District Member and District Nazim appeared before the undersigned and recorded their statements (**Annex C**) verifying the residential status of Mr. Muhammad Minhaj. The undersigned have gone through the documents(Domicile Certificate, CNIC, Father CNIC, Brother and Sisters Domicile certificates) provided by Shabbir Ahmad.

FINDINGS/ RECOMMENDATIONS

From the above proceedings, statements of the local representatives and examination of the documents, it seems that Mr. Muhammad Minhaj is resident of District Torghar and the domicile certificate has rightly been issued to him.

Report is submitted

Assistant Commissioner
Judba, Torghar

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PESHAWAR HIGH COURT, ABBOTTABAD BENCH
ORDER SHEET

Date of Order of Proceedings	Order or other Proceedings with Signature of Judge(s).
1	2
13.01.2021	<p>C.O.C No.137-A-2019</p> <p>Present: Mr. Nazakat Ali Tanoli, Advocate, for the petitioner.</p> <p>Sardar Muhammad Asif, Assistant Advocate General, for the respondents</p> <p>****</p> <p>SHAKEEL AHMAD, J: By means of this contempt petition, the petitioner has sought the following relief:</p> <p><i>"It is therefore, most humbly prayed that the contempt proceedings be initiated against the respondents for disobeying the order of this Court and exemplary punishment be awarded, respondents may graciously be directed to pay salaries/ benefits for the period between 15.12.2016 to 22.05.2018 alongwith increment of 2016, 2017 and 2018."</i></p> <p>2. In essence, the grievance of the petitioner is that though he has been reinstated in service by the respondents in view of the order dated 22.02.2018 of this Court, passed in WP No.209-A/2017, however, they have denied payment of back benefits to the petitioner:</p> <p>3. Arguments heard. Record perused.</p> <p>4. Perusal of record reveals that while allowing</p>

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EXAMINED
25 JAN 2021
Peshawar High Court, Abbottabad Bench
Authorized Under Sec. 25 of Ord. 1973

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the aforesaid writ petition filed by the petitioner, this Court directed the respondents, as under:

"For what has been discussed above, we accept this petition, declare the impugned notification dated 15.12.2016 as illegal, unlawful and of no legal effect. Consequently, the petitioner is re-instated in his service leaving the respondents at liberty to proceed against him if they so wish but such proceedings must be in accordance with law rules on the subject."

The record reflects that the respondents, in compliance with the above referred direction of this Court passed in WP No.209-A/2017, re-instated the petitioner in service vide Notification bearing Endst.No.4534-40 dated 22.05.2018, thus, the judgment of this Court has been implemented by the respondents. Since, there was no direction qua payment of back benefits to the petitioner in the judgment of this Court, the respondents were not under obligation to grant such benefits. Needless to refer that the respondents have already mentioned in the said notification that the arrears of pay and allowances will be decided on the outcome of the denovo inquiry. As such, contempt of Court proceedings cannot be initiated against the respondents, when they have already complied with the order of this Court dated 22.02.2018.

5. In view of above, this petition is dismissed.

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EXAMINER
25 JAN 2021
Pushwar Singh, District Judge
Authorized Under Section 29(1) of the Act

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However, the petitioner shall be at liberty to approach the appropriate forum provided under the law for redressal of his grievance, if any, in accordance with law qua the issue of back benefits.

Announced.
Dt. 13.01.2021.



JUDGE

JUDGE



Certified to be True Copy
EXAMINER
25 JAN 2021
Peshawar Bench
Authorized Under Sec 7

M. Saleem / PS*

(DB) Mr. Justice Mohammad Ibrahim Khan and Mr. Justice Shakeel Ahmad