

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL PESHAWAR.

Service Appeal No. 507/2016

Date of Institution ... 13.05.2016

Date of Decision ... 25.07.2022

Akhtar Habib Khan Operator-Cum-Chowkidar, S/O Habib Khan,
R/O Wanda Hafiz Abad, P/O Lakki Marwat.

... (Appellant)

VERSUS

The Secretary Public Health Engineering, Civil Secretariat,
Peshawar and four others.

... (Respondents)

SYED NOMAN ALI BUKHARI,
Advocate

--- For appellant.

MR. KABIRULLAH KHATTAK,
Additional Advocate General

--- For respondents.

MR. KALIM ARSHAD KHAN
MR. SALAH-UD-DIN

--- CHAIRMAN
--- MEMBER (JUDICIAL)

JUDGMENT:

SALAH-UD-DIN, MEMBER:- Through the instant service appeal, the appellant has invoked jurisdiction of this Tribunal with the prayer copied as below:-

"on acceptance of this appeal, the impugned order dated 28.06.2013 may be set-aside and the pay of the appellant may be released with all back and consequential benefits. Any other remedy, which this august Tribunal deems fit and proper may also be awarded in favour of the appellant.

2. Precisely stated the facts giving rise to filing of the instant service appeal are that the appellant was appointed as Operator-cum-Chowkidar on the basis of employee son's quota in Public Health Engineering Circle Bannu vide order dated

28.12.2012. The appointment order of the appellant was later on found suspicious, therefore vide impugned order dated 28.06.2013, the same was declared as null and void and it was also ordered that the pay of the appellant may be stopped and recovery may be made from him. The departmental appeal of the appellant was not responded, hence the appellant filed the instant service appeal.

3. Respondents contested the appeal by way of submitting para-wise comments, wherein they refuted the assertions raised by the appellant in his appeal.

4. Learned counsel for the appellant has argued that the appellant was appointed as Operator-cum-Chowkidar on employee son's quota upon recommendations of Departmental/ District Selection Committee after fulfilling of all legal and codal formalities; that in case of any illegality or irregularity in the appointment order of the appellant, the competent Authority would be held liable and the appellant cannot be penalized for the same; that no show-cause notice was issued to the appellant and the impugned order was passed by conducting a fact finding inquiry; that the pay of the appellant was stopped, however he has not been terminated from service, therefore, the appellant is still in service; that the appellant has not been treated in accordance with law and rights of the appellant under Articles 4 & 25 of the Constitution were badly violated. Reliance was placed on 2005 SCMR 85, 2006 SCMR 285, 2013 PLC (C.S) 200, 2006 SCMR 678, 2014 PLC (C.S) 479 and 2013 PLC (C.S) 289.

5. On the other hand, learned Additional Advocate General for the respondents has argued that the alleged appointment order of the appellant is bearing No. 1841/E-5 dated 28.12.2012, whereas the appointment number entered in his service book is 1846/E-5 dated 28.02.2012, which clearly shows that the appointment order of the appellant was fake; that the Executive Engineer PHE Division Bannu conducted a thorough inquiry in the matter and it surfaced that as per the minutes of the concerned DPC meeting held on 06.12.2012, the appellant

was not at all appointed as Operator-cum-Chowkidar and the dispatch No. 1841 dated 28.12.2012 as mentioned in the appointment order of the appellant, was actually the dispatch Number allotted to appointment order of one Farman Ullah S/O Rais Khan; that the appellant was associated in the inquiry proceedings by giving him fair opportunity of defending himself; that according to the inquiry report, the appointment order of the appellant was found fake, therefore, the same was rightly declared null and void by the competent Authority; that the impugned order was passed by the competent Authority on 28.06.2013, against which the appellant has not availed any departmental remedy, hence the appeal in hand is not maintainable.

6. We have heard arguments of learned counsel for the parties and have perused the record.

7. A perusal of the record would show that the appointment order of the appellant was declared null and void ab-initio vide the impugned order dated 28.06.2013 and it was also directed that his pay be stopped immediately. The appellant being aggrieved of the same, filed civil suit in the court of learned Senior Civil Judge Lakki, which was rejected vide order dated 11.11.2015. The same was challenged by the appellant through filing of appeal before learned District Judge Lakki Marwat, however vide order dated 15.04.2016, the said appeal was also dismissed being not pressed. The appellant had allegedly filed departmental appeal on 20.01.2016 but the respondents have mentioned in their reply that the appellant had not filed any departmental appeal. The copy of departmental appeal is available on record, which does not bear any diary number or endorsement of concerned official of the department, which could show that the same was submitted by the appellant. Even, if the assertion of the appellant regarding filing of departmental appeal on 20.01.2016 is admitted as correct, the same was badly time barred for the reason that the impugned order was passed way back on 28.06.2013. It is settled proposition of law that when an appeal of the employee was time




barred before the appellate Authority, then the appeal before the Tribunal was also not competent. Reliance in this respect is placed on PLD 1990 S.C 951, 2006 SCMR 453 and 2007 SCMR 513. August Supreme Court of Pakistan in its judgment reported as 1987 SCMR 92 has held that when an appeal is required to be dismissed on limitation, its merits need not to be discussed.

8. Consequently, it is held that as the departmental appeal of the appellant was badly time barred, therefore, the appeal in hand being not competent is hereby, dismissed. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
25.07.2022


(KALIM ARSHAD KHAN)
CHAIRMAN


(SALAH-UD-DIN)
MEMBER (JUDICIAL)

ORDER
25.07.2022

Appellant alongwith his counsel present. Mr. Mumtaz, SDO alongwith Mr. Kabirullah Khattak, Additional Advocate General for the respondents present. Arguments heard and record perused.

Vide our detailed judgment of today, separately placed on file, it is held that as the departmental appeal of the appellant was badly time barred, therefore, the appeal in hand being not competent is hereby, dismissed. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
25.07.2022



(KALIM ARSHAD KHAN)
CHAIRMAN



(SALAH-UD-DIN)
MEMBER (JUDICIAL)

DFA

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Peshawar and four others.

... (Respondents)

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Advocate

--- For appellant.

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Additional Advocate General

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MR. SALAH-UD-DIN

--- CHAIRMAN
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JUDGMENT:

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"on acceptance of this appeal, the impugned order dated 28.06.2013 may be set-aside and the pay of the appellant may be released with all back and consequential benefits. Any other remedy, which this august Tribunal deems fit and proper may also be awarded in favour of the appellant.

2. Precisely stated the facts giving rise to filing of the instant service appeal are that the appellant was appointed as Operator-cum-Chowkidar on the basis of employee son's quota in Public Health Engineering Circle Bannu vide order dated 28.12.2012.

**BEFORE THE HONORABLE KHYBER PAKHTUNKHWA, SERVICE
TRIBUNAL PESHAWAR CAMP COURT ABBOTTABAD**

SERVICE APPEAL No. 13292/2020

Amjad Khan S/O Aurangzeb (Ex-Head Constable No. 552 of District Police Abbottabad) R/O Mohallah Dana Churia Kari Nawanshehr, Tehsil & District Abbottabad.

.....Appellant.

VERSUS

1. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. Regional Police Officer, Hazara Region, Abbottabad.
3. District Police Officer, Abbottabad.

.....Respondents.

Para-wise comments by respondents.

Respectfully Sheweth

PRELIMINARY OBJECTIONS:-

1. That the instant Service Appeal is not maintainable in the present form.
2. That the appellant is estopped by his own conduct to file the instant appeal.
3. That the appellant has not come to the Hon'ble Tribunal with clean hands.
4. That the appellant has suppressed material facts from the Hon'ble Tribunal.
5. That the instant Service Appeal is not maintainable for non-joinder/miss-joinder of necessary and proper parties.
6. That the instant Service Appeal is barred by law and limitation.

ON FACTS:-

1. Incorrect, the appellant while posted at Police Station Cantt, involved himself in criminal case vide FIR No. 179 dated 14.12.2019 u/s 9-C/ 14/15 CNSA, 1997 PS Anti-Narcotics Force, Peshawar. The action of the appellant is a gross misconduct, badly lowered the image of Police in the public eyes. Therefore, he was proceeded against departmentally and during course of inquiry, all the allegations leveled against the appellant have been proved and thereafter competent authority, awarded major punishment of dismissal from service, as per Police Rules-1975, to the appellant. During course of departmental inquiry the statement upto independent witnesses were also recorded (Statement of Abdul Qadar S/O Abdul Ghafoor cost Awan R/O Rawalpindi and Muhammad Saeed S/O Shamraiz R/O Banda Batang, Manager Daewoo Bus Abbottabad). (Copy of FIR, charge sheet alongwith statement of allegation, departmental inquiry and statement of witnesses and order of dismissal are attached as Annexure "A, A-1 to A-8")
2. The contents of FIR are very much clear hence, needs no further comments.

was later on

The appointment order of the appellant[↑] found suspicious, therefore vide impugned order dated 28.06.2013, the same was declared as null and void and it was also ordered that the pay of the appellant may be stopped and recovery may be made from him. The departmental appeal of the appellant was not responded, hence the appellant filed the instant service appeal.

2. Respondents contested the appeal by way of submitting para-wise comments, wherein they refuted the assertions raised by the appellant in his appeal.

3. Learned counsel for the appellant has argued that the appellant was appointed as Operator-cum-Chowkidar on employee son's quota upon recommendations of Departmental/District Selection Committee after fulfilling of all legal and codal formalities; that in case of any illegality or irregularity in the appointment order of the appellant, the competent Authority would be held liable and the appellant cannot be penalized for the same; that no show-cause notice was issued to the appellant and the impugned order was passed by conducting a fact finding inquiry; that the pay of the appellant was stopped, however he has not been terminated from service, therefore, the appellant is still in service; that the appellant has not been treated in accordance with law and rights of the appellant under Articles 4 & 25 of the Constitution were badly violated. Reliance was placed on 2005 SCMR 85, 2006 SCMR 285, 2013 PLC (C.S) 200, 2006 SCMR 678, 2014 PLC (C.S) 479 and 2013 PLC (C.S) 289.

5. On the other hand, learned Additional Advocate General for the respondents has argued that the alleged appointment order of the appellant ~~would show the same~~ is bearing No. 1841/E-5 dated 28.12.2012, whereas the appointment number entered in his service book is 1846/E-5 dated 28.02.2012, which clearly show^o that the appointment order of the appellant was fake; that the Executive Engineer PHE Division Bannu conducted a thorough inquiry in the matter and it surfaced that as per the minutes of the concerned meeting

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DPC

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**BEFORE THE HONORABLE KHYBER PAKHTUNKHWA, SERVICE
TRIBUNAL PESHAWAR CAMP COURT, ABBOTTABAD.**

SERVICE APPEAL N. 13292/2020

Amjad Khan S/O Aurangzeb (Ex-Head Constable No. 552 of District Police, Abbottabad) R/O Mohallah Dana Chuna Kari Nawanshehr, Tehsil & District Abbottabad.

.....Appellant.

VERSUS

1. Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar.
2. Regional Police Officer, Hazara Region, Abbottabad.
3. District Police Officer, Abbottabad.

.....Respondents.

Para wise comments on behalf of Respondents.

INDEX

S.No.	Detail of Documents	Annexure	Page No.
1	Reply	-	1 to 3
2	Affidavit	-	4
3	FIR, charge sheet, statement of allegation, inquiry report, statement of witnesses and dismissal order	"A, A-1 to A-8"	5 to 13
4	Letter No. 41/PA dated 03.01.2020 and letter No. 623 / WE/ASH, dated 14-01-2020	"B & B-1"	14 & 15
5	Final showcause notice	"C"	16
6	Detail of bad entries	"D"	17
7	Salary slip	"E"	18
TOTAL			18 Pages


DSP Legal, Abbottabad.

at all

held on 06.12.2012, the appellant was not appointed as Operator-cum-Chowkidar and the dispatch No. 1841 dated 28.12.2012 as mentioned in the appointment order of the appellant, was actually the dispatch Number allotted to appointment order of one Farman Ullah S/O Rais Khan; that the appellant was associated in the inquiry proceedings by giving him fair opportunity of defending himself; that according to the inquiry report, the appointment order of the appellant was found fake, therefore, the same was rightly declared as null and void by the competent Authority; that the impugned order was passed by the competent Authority on 28.06.2013, against which the appellant has not availed any departmental remedy, hence the appeal in hand is not maintainable.

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x. but the respondents have mentioned in their reply that the appellant had not filed any departmental appeal.

The Deputy Superintendent of Police,
Mirpur Abbottabad.

The District Police, Officer
Abbottabad.

No. 702

/Dated Abbottabad the 13 / 07 /2020.

Subject: -

FACTS FINDINGS REPORT IN DEPARTMENTAL ENQUIRY AGAINST HC AMJAD KHAN NO. 552 PS CANTT.

Memo:

BACKGROUND:-

Enquiry under hand was entrusted to me being member of Enquiry officer along with Raza Mohammad DSP Legal, 2nd member who transferred during the proceedings and as replacement, Mr. Rashid Ahmad DSP legal appointed the assist to Enquiry officer, vide Worthy District Police Officer, Endst: No. 870/PA dated 11-03-2020.

ENQUIRY PROCEEDINGS:-

The Enquiry Committee initiated the enquiry about charges leveled against the alleged accused official HC Amjad No. 552 while posted at PS Cantt for the allegations as per charge sheet that he while posted at PS Cantt involved himself in case FIR No. 179 dated 14-12-2019-u/s 9C (14,15) CNSA 1997 PS ANF Peshawar and his this criminal act earned bad name for the department in the eyes of general public which goes to gross misconduct in response of charge sheet the alleged accused official submitted his written statement which is Annex at F/A in which the alleged accused official totally denied of the allegations leveled against him and stated that he neither involved directly nor indirectly in the same FIR which have lodged at PS ANF Peshawar. He further stated that someone planted to involve him in the such like allegations but in the same statement he also admitted that one Qasim is the best friend of him who is proprietor of Medicine at wholesale who sent parcel of medicine in the name of alleged accused official through Daewoo once before.

I further probed into the allegations and Summoned / Signal to Inspector Amjad SHO PS ANF IO of the case to record his statement on 10-07-2020 but he failed to appear before the undersigned.

Tribunal was also not competent. Reliance in this respect is placed on PLD 1990 S.C 951, 2006 SCMR 453 and 2007 SCMR 513. August Supreme Court of Pakistan in its judgment reported as 1987 SCMR 92 has held that when an appeal is required to be dismissed on limitation, its merits need not to be discussed.

7. Consequently, it is held that as the departmental appeal of the appellant was badly time barred, therefore, the appeal in hand being not competent is hereby, dismissed. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED

25.07.2022

(SALAH-UD-DIN)
MEMBER (JUDICIAL)

(KALIM ARSHAD KHAN)
CHAIRMAN

**Government of Khyber Pakhtunkhwa
District Accounts Office Abbottabad
Monthly Salary Statement (June-2020)**



Personal Information of Mr AMJAD KHAN d/w/s of AURANG ZEB KHAN

Personnel Number: 00012007 CNIC: 1310195028629 NTN: 0
Date of Birth: 24.02.1975 Entry into Govt. Service: 27.06.1996 Length of Service: 24 Years 00 Months 005 Days

Employment Category: Active Temporary

Designation: HEAD CONSTABLE 80000264-GOVERNMENT OF KHYBER PAKH
DDO Code: AD4022-Distt. Police Officer Abbottabad.
Payroll Section: 002 GPF Section: 001 Cash Center: 0
GPF A/C No: POL/ 002594 Interest Applied: Yes **GPF Balance:** 212,799.00
Vendor Number: -
Pay and Allowances: Pay scale: BPS For - 2017 Pay Scale Type: Civil BPS: 09 Pay Stage: 16

Wage type		Amount	Wage type		Amount
0001	Basic Pay	23,450.00	1000	House Rent Allowance	1,719.00
1210	Convey Allowance 2005	1,932.00	1300	Medical Allowance	1,500.00
1547	Ration Allowance	681.00	1567	Washing Allowance	150.00
1646	Constabulary R Allowance	300.00	1901	Risk Allowance (Police)	3,820.00
1902	Special Incentive Allowance	775.00	2148	15% Adhoc Relief All-2013	543.00
2168	Fixed Daily Allowance	2,730.00	2199	Adhoc Relief Allow @10%	343.00
2211	Adhoc Relief All 2016 10%	1,738.00	2224	Adhoc Relief All 2017 10%	2,345.00
2247	Adhoc Relief All 2018 10%	2,345.00	2264	Adhoc Relief All 2019 10%	2,345.00

Deductions - General

Wage type		Amount	Wage type		Amount
3009	GPF Subscription	-1,140.00	3530	Police welfare BS-1 to 18	-469.00
4004	R. Benefits & Death Comp:	-690.00	4200	Professional Tax	-1,000.00

Deductions - Loans and Advances

Loan	Description	Principal amount	Deduction	Balance

Deductions - Income Tax

Payable: 0.00 Recovered till June-2020: 0.00 Exempted: 0.00 Recoverable: 0.00

Gross Pay (Rs.): 46,716.00 Deductions (Rs.): 3,299.00 Net Pay (Rs.): 43,417.00

Payee Name: AMJAD KHAN
Account Number: 0010036203740014
Bank Details: ALLIED BANK LIMITED, 250707 THE MALL ABBOTTABAD THE MALL ABBOTTABAD, ABBOTTABAD

Leaves: Opening Balance: Availed: Earned: Balance:

Permanent Address:

City: ATD Domicile: NW - Khyber Pakhtunkhwa Housing Status: No Official
Temp. Address:
City: Email:

(14169/09.07.2020/12:59:33) 2) All amounts are in Pak Rupees 3) Errors & omissions excepted

16.03.2022

Due to retirement of the Worthy Chairman, the Tribunal is defunct, therefore, case is adjourned to 30.5.2022. for the same as before.


Reader.


30.05.2022


Nemo for appellant.

Kabir Ullah Khattak learned Additional Advocate General alongwith Hamayun Khan Superintendent for respondents present.

Preceding date was adjourned on a Reader's Note, therefore, notice be issued to appellant and his counsel for 25.07.2022 for hearing before the D.B.

7/20
7/20
note
4/7/22


(Fareeha Paul)
Member(E)


(Rozina Rehman)
Member (J)

[Faint handwritten notes at the bottom of the page, possibly in Urdu or another script, which are mostly illegible.]

25.05.2021

Appellant with counsel present.

Asif Masood Ali Shah learned Deputy District Attorney alongwith Mikaeel S.D.O for respondents present.

Former made a request for adjournment; granted. To come up for arguments on 13/9/2021 before D.B.



(Atiq ur Rehman Wazir)
Member (E)



(Rozina Rehman)
Member (J)

13.09.2021

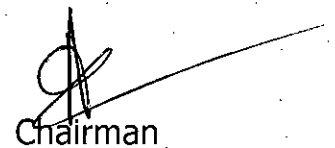
Appellant present through counsel.

Asif Masood Ali Shah learned Deputy District Attorney for the respondents present.

Former made a request for adjournment. Request is accorded. To come up for arguments on 29.12.2021 before D.B.



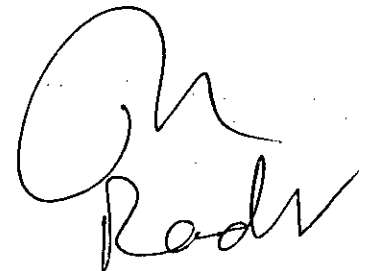
(Rozina Rehman)
Member (J)



Chairman

29/12/2021.

Due to winter vacations the case is adjourned to 16/3/2022 for the same as before.



10.02.2021

Appellant in person and Mr. Kabirullah Khattak learned Additional Advocate General alongwith Mikaeel, SDO for the respondents present.

Former requests for adjournment as his learned counsel is busy before the Hon'ble Peshawar High Court today.

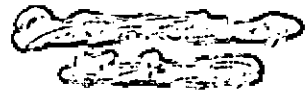
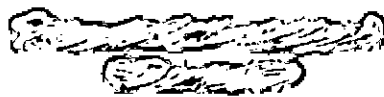
Adjourned to 25.05.2021 for arguments before D.B.



(Atiq-ur-Rehman Wazir)
Member (E)




Chairman



20.08.2020

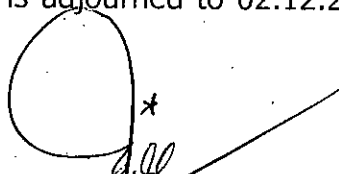
Due to summer vacation, the case is adjourned to 22.10.2020 before D.B.


Reader

22.10.2020

Appellant in person and Addl. AG alongwith Mikaeel, SDO and Irfan Anjum, Asstt. for the respondents present.

The Bar is observing general strike today, therefore, the matter is adjourned to 02.12.2020 for hearing before the D.B.


(Mian Muhammad)
Member



Chairman

02.12.2020

Counsel for the appellant and Addl. AG alongwith Irfan Anjum, Asstt. for the respondents present.

Learned counsel requests for adjournment as he is not in possession of brief today due to mis-noting of the date.

Adjourned to 10.02.2021 for hearing before the D.B.


(Mian Muhammad)
Member(E)


Chairman

Appel No. 507/2016
AKhtar Habib vs PHE Deptt.

27.11.2019

Counsel for the appellant present. Addl; AG for respondents present. Learned counsel for the appellant seeks adjournment. Adjourn. To come up for arguments on 30.01.2020 before D.B.


Member


Member

30.01.2020

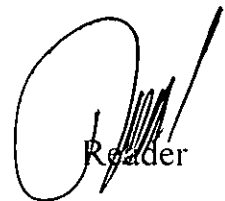
Appellant in person present. Mr. Ziaullah, DDA for respondents present. Due to General Strike of the bar on the call of Khyber Pakhtunkhwa Bar Council, the instant case is adjourned. To come up for further proceedings/arguments on 25.03.2020 before D.B.


Member


Member


25.03.2020

Due to public holidays on account of Covid-19, the case is adjourned. To come up for the same on 09.06.2020 before D.B.


Reader

09.06.2020

Bench is incomplete as one learned Member (J) is on leave. Therefore, the case is adjourned. To come up for the same on 20.08.2020 before D.B.


Reader

24.06.2019

Learned counsel for the appellant and Mr. Kabir Ullah Khattak learned Additional Advocate General present. Learned counsel for the appellant seeks adjournment. Adjourn. To come up for arguments on 09.08.2019 before D.B.


Member


Member

09.08.2019

Clerk to counsel for the appellant and Mr. Muhammad Jan learned Deputy District Attorney present. Clerk to counsel for the appellant seeks adjournment on the ground that learned counsel for the appellant is not available. Adjourn. To come for arguments on 01.10.2019 before D.B.


Member


Member

01.10.2019

Learned counsel for the appellant and Mr. Kabir Ullah Khattak learned Additional Advocate General present. Learned counsel for the appellant seeks adjournment. Adjourned by way of last chance. To come up for arguments on 27.11.2019 before D.B.


Member


Member

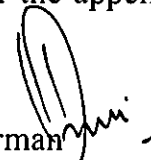
04.1.2019

Mr. Taimur Ali Shah, Advocate for Mr. Muhammad Asif Yousafzai, Advocate and Mr. Usman Ghani, District Attorney alongwith Muhammad Arif, Superintendent for the respondents present.

Learned counsel for the appellant states that learned senior counsel for the appellant is appearing before the Apex Court, Islamabad today, therefore, requests for adjournment. Adjourned to 13.3.2019 for arguments before the D.B.

Learned District Attorney has submitted copy of record pertaining to a case No. 1273/2015 decided on 11.11.2015 by the learned Civil Judge-II, Lakki Marwat which ~~are~~^{is} placed on file. Learned counsel for the appellant take notice of the said record.


Member


Chairman

13.03.2019

Junior to counsel and Addl. AG for the respondents present.

Request for adjournment is made due to engagement of learned senior counsel for the appellant before the Apex Court, Islamabad today.

Adjourned to 16.05.2019 before the D.B.


Member


Chairman

16.05.2019

Counsel for the appellant and Addl. AG for the respondents present.

Due to demise of his father, learned Member of the Bench (Mr. Hussain Shah) is on leave. Adjourned to 24.06.2019 for arguments before the D.B.


Chairman

Service Appeal No. 507/2016

05.09.2018

Appellant absent. Learned counsel for the appellant is also absent. However, junior counsel for the appellant present and requested for adjournment on the ground that learned senior counsel for the appellant is busy before the august Supreme Court of Pakistan. Mr. Kabirullah Khattak, Additional AG for the respondents present. Adjourned. To come up for arguments on 05.10.2018 before D.B.

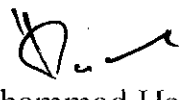

(M. Amin Khan Kundi)
Member


(M. Hamid Mughal)
Member

05.10.2018

Learned counsel for the appellant and Mr. Muhammad Jan learned Deputy District Attorney present. Learned counsel for appellant seeks adjournment. Adjourned. To come up for arguments on 15.11.2018 before D.B.


(Hussain Shah)
Member


(Muhammad Hamid Mughal)
Member


15.11.2018

Due to retirement of Hon'ble Chairman, the Tribunal is defunct. Therefore, the case is adjourned. To come up on 04.01.2019.


READER

30.03.2018


Counsel for the appellant and Usman Ghani, District Attorney for respondents present. After hearing the arguments at some length the Tribunal directed the appellant to produce the copy of plaint filed before the Civil Court. To come up for arguments on 02.05.2018 before the D.B.


Member


Chairman

02.05.2018

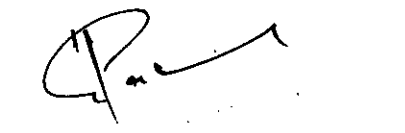
Junior to counsel for the appellant and Mr. Muhammad Jan, Learned Deputy District Attorney present. The Tribunal is defunct due to retirement of Hon'ble Chairman. Therefore the case is adjourned. To come up for the same on 16.07.2018


READER

16.07.2018

Appellant in person present. Mr. Muhammad Jan, DDA for respondents present. Arguments could not be heard due to general strike of the Bar. Adjourned. To come up for arguments on 05.09.2018 before D.B.


(Ahamd Hassan)
Member


(Muhammad Hamid Mughal)
Member

14. 05.07.2017

Counsel for the appellant and Mr. Muhammad Adeel Butt, Additional AG for the respondent present. Counsel for the appellant submitted rejoinder which is placed on file.. To come up for arguments on 03.11.2017 before D.B.

(Gul Zeb Khan)
Member

(Muhammad Hamid Mughal)
Member

03.11.2017

Junior to counsel for the appellant and Addl: AG alongwith Mr. Khurshid, Social Organizer for respondents present. Junior to counsel seeks adjournment. Adjourned. To come up for arguments on 05.12.2017 before D.B.

(Ahmad Hassan)
Member

(Muhammad Amin Khan Kundi)
Member

05.12.2017

Junior counsel for the appellant present. Mr. Muhammad Jan, Deputy District Attorney alongwith Mr. Arif Saleem, ASI for the respondents also present. Junior counsel for the appellant requested for adjournment on the ground that learned senior counsel for the appellant is not available today. Adjourned. To come up for arguments on 02.02.2018 before D.B.

(Ahmad Hassan)
Member (E)

(Muhammad Amin Khan Kundi)
Member (J)

02.02.2018

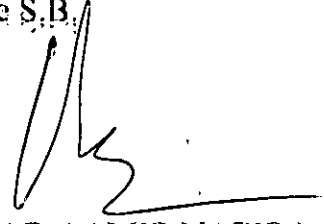
Learned counsel for the appellant and Mr. Usman Ghani, Learned District Attorney alongwith Khurshid ASO for the respondents present. Representative of the respondents submitted copy of inquiry report and minutes of meeting of DSC, copy of which also given to the learned counsel for the appellant. Adjourned To come up for arguments on 30.03.2018 before D.B

(Muhammad Amin Kundi)
MEMBER

(Muhammad Hamid Mughal)
MEMBER

07.03.2017

Counsel for the appellant and Addl. AG for the respondents present. Written reply not submitted despite last opportunity. Last opportunity is further extended subject to payment of cost of Rs. 500/- which shall be borne by the respondents from their own pockets. To come up for written reply/comments on 05.04.2017 before S.B.



(MUHAMMAD AAMIR NAZIR)
MEMBER

05.04.2017



Counsel for the appellant and Mr. Khurshid Shah, Social Organizer alongwith Addl. AG for the respondents present. Written reply submitted on behalf of respondent No. 4 and cost of Rs. 500/- paid and receipt thereof obtained. Addl. AG rely on the same on behalf of respondents No. 1 and 2. Another last opportunity is granted to respondents No. 3 and 5 subject to payment of cost of Rs. 1000/-. To come up for written reply/comments and cost on 10.05.2017 before S.B.



Chairman

10.05.2017

Counsel for the appellant, Mr. Asghar Ali, Supdt, and Mr. Khurshid Shah, Social Organizer alongwith Addl. AG for the respondents present. Representative of respondents No. 3 and 5 rely on the written reply of respondent No. 1 and 2 already submitted. Cost of Rs.1000/- paid and receipt thereof obtained from the counsel of the appellant. The appeal is assigned to D.B for rejoinder and final hearing for 05.07.2017 before D.B.



Chairman

01.11.2016


Clerk to counsel for the appellant and Mr. Asif Farooq alongwith Mr. Ziaullah, GP for respondents present. Written reply not submitted. Requested for adjournment. Request accepted. To come up for written reply/comments on 29.12.2016 before S.B.



MEMBER

29.12.2016

Appellant in person and Addl. AG for the respondents present. Addl. AG requested for adjournment. To come up for written reply on 01.2.2017 before S.B.



Chairman

01.02.2017

Counsel for the appellant and Khursheed Khan, Social Organizer alongwith Addl. AG for the respondents present. Written reply not submitted. Requested for further adjournment. Last opportunity granted. To come up for written reply/comments on 07.03.2017 before S.B.



Chairman

15.06.2016

Counsel for the appellant present. Seeks adjourned.
Adjourned for preliminary hearing to 12.07.2016 before S.B.

Chairman

12.07.2016

Counsel for the appellant present. Learned counsel for the appellant submitted that the appellant was appointed in PHE Department District Bannu as Class-IV employee vide order dated 28.12.2012 where-after he took charge of the post and started his duty. That his service book was also prepared. That the respondent-department unlawfully and illegally issued letter dated 28.06.2013 vide which a direction was issued XEN to declare appointment of the appellant as null and void and also to initiate for recovery of salary. That the appellant also moved departmental appeal which has not yet been responded by the respondents. Learned counsel submitted that salary of the appellant has been stopped and without indulgence of this Tribunal the respondents are not doing justice with the appellant. He also submitted that the appeal is within time.

Points urged at the bar need further consideration. Admit. Subject to deposit of security and process fee within 10 days, where-after notices be issued to the respondents for written reply/comments for 26.09.2016 before S.B.

MEMBER

Appellant Deposited
Security & Process Fee

26.09.2016





Clerk to counsel for the appellant and Mr. Asif Farooq, SDO alongwith Addl. AG for respondents present. Written reply not submitted. Requested for adjournment. To come up for written reply/comments on 01.11.2016 before S.B.

Chairman

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. _____ 507/2016

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	13/05/2016	<p>The appeal of Mr. Akhtar Habib presented today by Mr. Muhammad Asif Yousafzai 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>
2	23-5-2016	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>24-5-16</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
24/05.2016		<p>Counsel for the appellant present. Seeks adjournment. Adjourned for preliminary hearing on 02.06.2016 before S.B.</p> <p style="text-align: right;"> Chairman</p>
	02.06.2016	<p>None for the appellant present. Adjourned for preliminary hearing to 16.06.2016 before S.B.</p> <p style="text-align: right;"> Chairman</p>

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

Appeal No. 507 /2016

Akhtar Habib

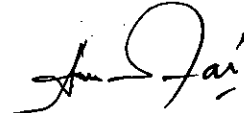
V/S
I N D E X

PHE Deptt:

S.No	Documents	Annexure	Page No.
1.	Memo of Appeal	-----	1-5
2.	copy of appointment order	- A -	6
3.	Copies of service book	B	7-9
4.	Copy of pay slip	- C -	10
5.	Copy of impugned order	-D-	11
6.	Copy of departmental appeal	- E-	12
7.	Copy of court order	- F -	13-15
8.	Vakalat Nama	-----	16

APPELLANT

Through:


(M. ASIF YOUSAFZAI)
ADVOCATE, PESHAWAR.

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

APPEAL NO 507 /2016

**K.W.F. Province
Service Tribunal**
Diary No 478
Dated 13-5-2016

Mr. Akhtar Habib Khan Operator-Cum-Chowkidar
S/O Habib Khan r/o Wanda Hafiz Abad, P/O lakki Marwat

.....**APPELLANT**

VERSUS

1. The Secretary Public Health Engineering, Civil Secretariat, Peshawar.
2. The Chief Engineer Public Health Engineering Department, KPK Peshawar.
3. The Superintendent Engineer, Public Health Engineering Department, Circle Bannu.
4. The Executive Engineer, Public Health Engineering Department, Lakki Division Lakki Marwat.
5. The Secretary Finance Department, Khyber Pakhtunkhwa, Peshawar.

.....**RESPONDENTS**

.....

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 28.6.2013 IN WHICH THE APPOINTMENT OF THE APPELLANT DECLARED SUSPICIOUS AND STOP A PAY OF APPELLANT AND AGAINST NOT TAKING ANY ACTION ON THE DEPARTMENTAL APPELLANT OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF 90 DAYS.

Filed to the
13/5/16

PRAYER:

THAT ON ACCEPTANCE OF THIS APPEAL, THE IMPUGNED ORDER DATED 28.6.2013 MAY BE SET ASIDE AND THE PAY OF THE APPELLANT MAY BE RELEASED WITH ALL BACK AND CONSEQUENTIAL BENEFITS. ANY OTHER REMEDY, WHICH THIS AUGUST

**TRIBUNAL DEEMS FIT AND PROPER THAT MAY ALSO
BE AWARDED IN FAVOUR OF APPELLANT.**

RESPECTFULLY SHEWETH:

FACTS:

1. That the appellant's father was joined the Public Health Engineering Department as Operator-Cum-Chowkidar and retired from service on attaining the age of superannuation.
2. That, as per procedure, the appellant applied for the post and the appellant was appointed on the post of Operator-Cum-Chowkidar on the basis of Employee Son's Quota by the competent authority. **(Copy of appointment order is attached as Annexure-A).**
3. That it is also worth to mention here that the proper Service Book of the appellant was also maintained by the respondent department in which all relevant entries are record. **(copy of the service book is attached as annexure –B).**
4. That the appellant performed his duties very honestly, regularly and fairly since the time of his appointment in above mentioned Department and also received her salaries. **(Copy of pay slip is attached as annexure-C).**
5. That the appellant was continuously performing his duties without any break for the period for which the salaries were received and has never been found guilty of any kind of absenteeism, truancy, misconduct, misfeasance , malfeasance or nonfeasance, nor been found guilty of dereliction of duty without taking these thing into consideration , the respondent No.3 issued order in which the appointment of the appellant declared suspicious and stopped the pay of appellant. **(Copy of impugned order is attached as Annexure-D).**
6. That the no show cause notice and statement of allegation served upon to the appellant before issuing impugned order.
7. That the appellant filed a civil suit against the order dated 28.6.2013 in the court Civil Judge and then in the court of District Judge Lakki Marwat but as during pendency of appeal before District Judge the appellant had already filed

departmental, therefore, on completion of 90- days of departmental appeal, appellant withdrew the case from the court of District Judge Lakki Marwat on dated 15.4.2106 for filling the appeal before proper forum. **(Copy of departmental appeal and order dated 15.4.2016 are attached as annexure-E & F).**

8. That as the statutory period on the departmental appeal of the appellant has also completed in the meanwhile, therefore, the appellant comes to this august Honorable Tribunal on the following amongst the others.

GROUND:

- A) That the impugned order dated 28.6.2013 and not granting the service benefits and pay to appellant and not taking any action on the appeal of appellant is against norms of justice, material on record, therefore not tenable.
- B) That the pay of the appellant was stopped on the fact that the appellant appointment was suspicious without any enquiry Which is against the law. Even more about two months inquiry proceeding against the appellant was started but even after lapse of 6 months the enquiry is not finalize neither the appellant has been removed from service and service book is also maintained of the appellant and appellant is still on strength of department but despite that service benefits and pay are not given to the appellant by the respondents Deptt;.
- C) That the appellant is still working on the post Operator-Cum-Chowkidar and on the strength of the department but despite the fact that the appellant salary was stopped in illegal manner and Non-payment of salaries on the part of the respondents is illegal and not according to law.
- D) . The appellant is still on the strength of the department as he has not terminated from the service therefore he is legally entitled for salaries.
- E) That in the light of authoritative decision / views of the superior judiciary including the Supreme Court of Pakistan , the

impugned order could not have been issued because where the authority is guilty of irregularities, illegalities and procedural violations, the service of an employee cannot be effected.

- F) That the appellant has not been allowed fair opportunity of personal hearing, thus the appellant has been condemned unheard.
- G) That no proper procedure has been followed before passing the impugned order and even, there is no show cause notice and statement of allegation was issued, thus the proceedings so conducted are defective in the eye of law.
- H) That even the respondents not bothered to decide the appeal of appellant which is against the principles laid down by the August Supreme Court of Pakistan in a case reported as 2011 SCMR-01.
- I) That the appellant is legally entitled for his pay under section 17 of the Civil Servant Act 1973 of Khyber Pakhtunkhwa Peshawar.
- J) That the appellant seeks permission to advance other 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

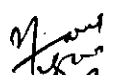
Akhtar Habib Khan

Through:


(M. ASIF YOUSAFZAI)
Advocate, PESHAWAR

& 
Taimur Ali Khan

Advocate

& 
Syed Noman Ali Bulehachi

AFFIDAVIT

It is affirmed and declared that the contents of appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from Hon'ble Tribunal.

for

Deponent

A

(6)

(6)

OFFICE OF THE SUPERINTENDING ENGINEER,
PUBLIC HEALTH ENGINEERING CIRCLE BANNU

NO. 1841 / E-5
Dated Bannu the, 28 /12/2012.

OFFICE ORDER

On the recommendation of Departmental/ District Selection Committee as per its minutes of meeting held on 06-12-2012 Mr. Akhtar Habib S/o Habib Khan r/o Wanda Hafiz Abad, post office Lakki Marwat District Lakki Marwat is hereby appointed as Operator-Cum-Chowkidar on Water supply Scheme Surband District Lakki Marwat @ Rs 4800/P.M plus usual allowances in BPS-01(9488-150-9300) in the office of Executive Engineer PHE Division Lakki Marwat on the following terms & conditions:-

1. He will get the minimum of BPS-01 (4800-150-9300) including usual allowances as admissible under the rules. He will be entitled annual increment as per existing policy.
2. He shall be governed by the Khyber Pakhtunkhwa Civil Servant Act 1973 and all the laws applicable to the Civil Servants and rules made there under.
3. He will for all intents and purposes, be Civil Servant except for purpose of pension or gratuity, he shall be entitled to receive such amount contributed by him toward contributory provident fund (C.P.F) along with the contribution made by Government to his account in the said fund, in the prescribed manner.
4. His employment in the PHE Department is purely temporary and his services are liable to be terminated without assigning any reason at fourteen days notice or on the payment of fourteen days salary in lieu of the notice. In case he wished to resign at any time, 14 days pay notice will be necessary or in lieu thereof 14 days pay will be forfeited.
5. He shall, initially be on probation for the period two years extendible up to 3 years.
6. He will produce a medical certificate of fitness from medical superintendent, District Headquarter Hospital Lakki Marwat before reporting himself for duty to the Executive Engineer PHE Division Bannu as required under the rules.
7. He has to join duty at his own expenses.
8. If he accepts the post under the conditions mentioned, he should report for duty to the Executive Engineer PHE Division Lakki Marwat within 14 days of the receipt of this offer and produce original certificates in connection with his qualification domicile and age.

SUPERINTENDENT ENGINEER

Copy forwarded to the:-

1. District Co-ordination Officer Lakki Marwat.
2. Executive Engineer, PHE Division Lakki Marwat.
3. District Accounts Officer Lakki Marwat.
4. Manager Employer Exchange Lakki Marwat.
5. Mr. Akhtar Habib S/o Habib Khan resident of Wanda Kutana, post office Lakki Marwat District Lakki Marwat.

SUPERINTENDENT ENGINEER

28/12/2012

ATTESTED

▶

- B** **(7)**
- 1- Name (نام) Abdullah Habib Khan
 - 2- Nationality and Religion Pakistan (Muslim)
(قومیت اور مذہب)
 - 3- Residence Wali Mominia Habib Road
(مستقل رہائش) District Rawalpindi
 - 4- Father's name and residence Habib Khan
(والد کا نام اور پتہ)
 - 5- Date of birth by christian era as nearly as can be ascertained 19/10/1983
(تاریخ پیدائش مطابق سن عیسوی)
 - 6- Exact height by measurement 5 - 4
(قد و قامت)
 - 7- Personal mark of identification _____
(نشان شناخت)

8. Left hand/right hand thumb and finger-impressions of (Non-gazetted officer)
(مرد کی صورت میں بائیں اور عورت کی صورت میں دائیں ہاتھ کی انگلیوں کے نشانات)

Little Finger
(پونگلیا)

Ring Finger
(پونگلیا کے ساتھ کی انگلی)

Middle Finger
(انگشت میاں)

Fore Finger
(انگشت شہادت)

Thumb
(انگوٹھا)

9. Signature of Govt. Servant
(سرکاری ملازم کے دستخط)

10. Signature and designation of the Head of the Office or other Attesting officer
(تصدیق کنندہ افسر کے دستخط اور منبر)

EXECUTIVE ENGINEER
Public Health Engg. Divn:
Lahore

Note: The entries in this page should be renewed or re-attested at least every five years and the signatures in lines 9 and 10 should be dated. Finger prints need no be taken after every 5 years under this rule.

اس صفحہ کے مندرجہ کم از کم پانچ سال بعد تصدیق ہونا ضروری ہیں اور نمبر 9 اور 10 میں دستخطوں کے نیچے تاریخ لکھنی چاہئے۔
انگلیوں کے نشانات کے لئے ہر پانچ سال کے بعد تصدیق کی ضرورت نہیں۔

ATTESTED

9	10	11	12	13			
Signature and designation of the Head of the office or other attesting officer in attestation of column 1 to 8	Date of termination or appointment	Reason of termination (such as promotion, transfer, dismissal)	Signature of the head of the office or other Attesting officer	Nature and duration of leave taken	Allocation of period of leave of average pay up to four months (or earned leave not exceeding 120 days) to which leave salary is debitab to another Government	Signature of the Head of the office or other attesting Officer	Reference to any recorded punishment or censure, reward or praised of the Government servants
دستخط افسر مجاز	تاریخ انقطاع ملازمت	درجہ ہات انقطاع ملازمت ترقی تبادلہ یا برطری	دستخط افسر مجاز	رخصت کی نوعیت ومعیار	پارہ ایک کی رخصت کے لئے اوسط تنخواہ کا تین Government to which debitab گورنمنٹ سے رقم ادا ہوگی	دستخط افسر مجاز	سزایا غیر مناسب کارکردگی کا ریکارڈ
<p>Appointed as a ch... on was promoted as Superintending Engineer P.H.E.D. Bahawalpur office order dated 28/11/2012 Reported dated 01/01/2013</p>							
<p>EXECUTIVE ENGINEER Public Health Engg. Divn. Lakki Marwat</p>							
<p>135 642 dated 22/02/2013 2/11/13</p>							
<p>2013 2/11/13</p>							

ATTESTED





Amn...
OFFICE OF THE SUPERINTENDING ENGINEER
PUBLIC HEALTH ENGINEERING
CIRCLE BANNU.

NO. 1-3 1B-5 / S.E./PHE

Dated Bannu the, 28 / 06 / 2013.

To,

The Executive Engineer,
Public Health Engineering Division,
Lakki Marwat.

Subject:

FRESH APPOINTMENT ORDER OF MR. AKHTAR HABIB S/O HABIB KHAN R/O
WANDA HAFIZ ABAD DISTRICT LAKKI MARWAT SARBAND DISTRICT LAKKI MARWAT.

During preparation of waiting list of retired employee's Sons of PHE Division Lakki Marwat a suspicious appointment of Mr. Akhtar Habib Operator Cum Chowkidar Water Supply Scheme Sarband was found out. Upon scrutiny, it was revealed that the official number on the appointment order and the one recorded in the service book both are different and fake.

Moreover, the minutes of interview also do not reveal presence of the candidate. It was also astonishing that as procedure in vogue SDO make entries in the service book. While in the case under consideration, the Executive Engineer Mr. Qadir Ullah has made entries in the service book.

In view of the above, the appointment order is declared null and void ab initio. AS such, you are directed to immediately stop pay and initiate recovery please.

[Signature]
SUPERINTENDING ENGINEER

Copy of the above is forwarded to the :

1. Chief Engineer (South) for information and request of inquiry to reveal the person(s) involved, please.
2. Executive Engineer Public Health Engineering Division Bannu. He is appointed as enquiry officer for facts finding. He is directed to submit enquiry report within twenty (20) days.

[Signature]
SUPERINTENDING ENGINEER

ATTESTED

بخدمت جناب چیف انجینئر پبلک ہیلتھ ڈیپارٹمنٹ پشاور

،، اپیل درباہ واہگداری بند تنخواہ ،،

عنوان

جناب عالی

گزارش ہے کہ 24/12/2012 کو سائل کے والد (حبیب خان) واٹر سپلائی سکیم سوربندگی مروت میں چوکیداری کی پوسٹ سے 60 سال پورے کرنے پر ریٹائرمنٹ ہو گیا۔ حبیب خان کے ریٹائرمنٹ ہونے پر اس کے بیٹے کو درج ذیل حقوق کی بنیاد پر بھرتی ہوا۔

۱۔ یہ کہ سائل کا والد LAND OWNER تھے۔

۲۔ یہ کہ سائل Employee Son پر بھرتی ہوا تھا۔ یہ کہ سائل میٹرک پاس تھا۔

۳۔ یہ کہ بحیثیت چوکیدار اپریٹ کے تجربے کے حامل تھا۔ یہ کہ سائل سکیم سے مستفید علاقے اگاؤں کارہاشی تھا۔

۴۔ یہ کہ اس وقت کی پالیسی کے مطابق حلقہ M.P.A نے recommend کر دیا تھا۔

۵۔ یہ کہ سائل نے بعد از تقرری میڈیکل کروا کے باقاعدہ سروس بک بنوایا، جو اس وقت کے XEN نے خود بنوایا اور دستخط کیا۔

۶۔ یہ کہ سائل نے اس پوسٹ پر پانچ ماہ مسلسل تنخواہ وصول کیں۔ لیکن اسکے باوجود

بغیر انکوائری کے سائل کی تنخواہ بند کی گئی، جبکہ سائل کو اطلاع تک نہیں دی گئی اور نہ کوئی وجہ بیان کی گئی۔ دو ماہ کے بعد انکوائری آئی میز مقرر کیا اور انکوائری رپورٹ بنا کر فائل میں رکھی ہے۔ یہ چھٹا مہینہ پورا ہو رہا ہے کہ سائل مسلسل ٹیوب ویل پر ڈیوٹی سرانجام دے رہا ہے اور ڈیپارٹمنٹ کے strength پر ہے۔ لیکن سائل کو تنخواہ نہیں دی جا رہی ہے۔ سائل ایک غریب بندہ ہے، سائل تقرری کے لیے تمام مطلوبہ معیار پر پورا اترتا ہے، اور یہ کہ سائل کے آرڈر کو مشکوک قرار دینا قانون کے خلاف ہے۔

لہذا التجا کی جاتی ہے، کہ سائل کے بیٹے کے حقوق و تعلیم و تجربے کو پیش نظر رکھتے ہوئے اس کی بند تنخواہوں کی واہگداری کے احکامات صادر فرمائیں۔

اور سائل کو most deserving امیدوار کی حیثیت سے دیکھتے ہوئے اس کی تقرری کو جاری و ساری رکھا جائے۔

مشکور و ممنون رہوں گا۔

نوٹ۔ صدقہ دستاویزات لف ہے۔

عرضے اختر حبیب

سائل اختر حبیب خان ولد حبیب خان

20/1/2013

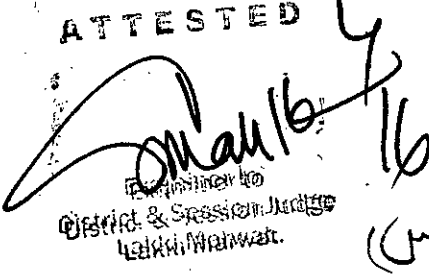
ATTESTED

بعدالت جناب ڈسٹرکٹ جج صاحب پکروت

احقر جیب خان ولد جیب خان سکنہ وائڈہ کوٹمانہ حافظ آباد پکروت (اپیلنٹ) نما

- 1) حکومت خیبر پختونخواہ بذریعہ سپرنٹنڈنٹ پبلک ہیلتھ ایجنٹ لیٹوار۔
- 2) سپرنٹنڈنٹ ایجنٹ پبلک ہیلتھ ایجنٹ سرکل بنوں بنوں۔
- 3) ایگزیکیوٹو ایجنٹ پبلک ہیلتھ ایجنٹ ڈویژن پکروت۔
- 4) ڈسٹرکٹ اکاؤنٹ آفیسر پکروت۔
- 5) ڈپٹی کمشنر صاحب پکروت۔

ATTESTED


District & Sessions Judge
Lakki Marwat.

(ریسائڈنٹس)

اپیل بہ ناراضگی و حکم کومینٹلہ و ڈگری وعدرہ عدالت سول جج صاحب عدالت پکروت
اجلاس میٹر آصف کمال مقدمہ نمبر 15 سال 2014/2015 فیصلہ 11-11-2015 جسکی
رہنہ دعویٰ من فرعی / اپیلنٹ زیر آرڈر 7 رول 11 ضابطہ دیوانی Reject کیا گیا۔

استدعا ہے اپیل :- بہ منظورگی اپیل دفعا۔ منسوخ فرمائے جانے حکم و ڈگری عدالت قاضی
وریمانہ فرمائے جانے مقدمہ برائے فزیہ کاروائی۔ و دلائل جانے فرجہ
مقدمہ ہر دو عدالت جانے۔

Reader to
Distt & Sessions Judge
Lakki Marwat

نوٹ جانے :- ایپل دفعا اندر عیاد ہے۔

1) مقدمہ نقول عرفی دعوی، جواب - دعوی، درخواست زیر آرڈر 7 رول 11
ضابطہ دیوانی۔ جواب درخواست۔ حکم آفیسر اور پزیر ڈگری پیرا لف ہیں۔

وجوہات ہیں :-

1) یہ کہ حکم و ڈگری عدالت قاضی خلاف قانون۔ واقعات و روئید اذ قتل ہے۔

یہ کہ من فرعی / اپیلنٹ کو بعد از بھرتی ہونے حکم پبلک ہیلتھ ایجنٹ لیٹوارہ من رہی تھی کہ
اور باقاعدہ طور پر من فرعی / اپیلنٹ کی سروس بک و دیگر سروس لیکچرڈ بھی دفعہ جج

14

14

یہ درخواست کے پاس موجود ہے کہ ریساڈنٹس نے بغیر کسی وقفے کے مندرجہ ذیل اپیلوں کی درخواست
 بند کر دی تھیں بعد مندرجہ ذیل اپیلوں کی درخواست کی بابت حکم دیا گیا لیکن کوئی شنوائی نہیں
 ملی بلکہ وہ جو درخواستیں دائر ہوئی ہیں وہ بھی دائر کیا جس کے جواب میں دروغیہ کی جانب
 سے لٹریچر 1-3/45 اور 28/513 کے ذریعے مندرجہ ذیل نوٹری حکم لکھا گیا ہے
 جس کو بڑی توجہ سے لیا گیا ہے اور مندرجہ ذیل نوٹری حکم کے درمیان
 Contradictory ہے جس پر بعد از فلڈی شہادت سے فیصلہ کیا جا سکتا ہے نہ کہ اس
 stage پر۔ کیونکہ اگر مندرجہ ذیل نوٹری حکم کو لیا جائے تو اس بابت کوئی نوٹس وغیرہ
 مندرجہ ذیل کو جاری کرنا نہیں تمام قانونی تقاضا سے بلا تعلق لکھ کر صرف درخواست کے تقاضا سے
 سے بچنے کیلئے ایک فری و نوڈ سائنڈ لٹریچر جاری کیا گیا ہے۔

یہ کہ عدالت ماقامت نے اپنے فیصلہ میں مندرجہ ذیل نوٹری حکم سے ثابت کرنا قانوناً
 ضروری ہے اور ڈیڑھ روپے لاٹریچر کی صورت میں سے کسی ایک کا بھی مقدمہ دھوا
 کے واقعات سے کوئی تعلق نہیں بنایا۔ کیونکہ دروغیہ کی جانب سے دائر کردہ درخواست میں
 افراد؟ مقدمہ اور اختیار سماعت نہ ہونے کیونکہ مندرجہ ذیل اپیلوں کی درخواستیں تھیں
 درخواستیں مندرجہ ذیل وغیرہ دائر کیا ہے جو کہ تمام کے ذریعے سے آئے ہیں۔ جبکہ عدالت

کا فیصلہ خلاف قانون و واقعات سے۔ نیز مندرجہ ذیل نوٹری حکم کے تحت
 14-9-2015 سے جاری ہے۔ مندرجہ ذیل نوٹری حکم کے تحت
 کے بعد انگریزی میں تاحال ڈیڑھ روپے لاٹریچر سے مندرجہ ذیل نوٹری حکم کے تحت
 کے بعد انگریزی میں تاحال ڈیڑھ روپے لاٹریچر سے مندرجہ ذیل نوٹری حکم کے تحت
 کے بعد انگریزی میں تاحال ڈیڑھ روپے لاٹریچر سے مندرجہ ذیل نوٹری حکم کے تحت
 کے بعد انگریزی میں تاحال ڈیڑھ روپے لاٹریچر سے مندرجہ ذیل نوٹری حکم کے تحت
 کے بعد انگریزی میں تاحال ڈیڑھ روپے لاٹریچر سے مندرجہ ذیل نوٹری حکم کے تحت

ARRESTED

Examiner to
 District & Sessions Judge
 Lakki Malwa

یہ کہ عدالت ماقامت نے اپنے فیصلہ میں مندرجہ ذیل نوٹری حکم سے ثابت کرنا قانوناً
 ضروری ہے اور ڈیڑھ روپے لاٹریچر کی صورت میں سے کسی ایک کا بھی مقدمہ دھوا
 کے واقعات سے کوئی تعلق نہیں بنایا۔ کیونکہ دروغیہ کی جانب سے دائر کردہ درخواست میں
 افراد؟ مقدمہ اور اختیار سماعت نہ ہونے کیونکہ مندرجہ ذیل اپیلوں کی درخواستیں تھیں
 درخواستیں مندرجہ ذیل وغیرہ دائر کیا ہے جو کہ تمام کے ذریعے سے آئے ہیں۔ جبکہ عدالت

حضرت صاحب خان (ریسڈنٹ) سکنہ وانڈہ کوٹانہ حافظ آباد ملتان
 حضرت صاحب خان لکھنؤ
 حضرت صاحب خان لکھنؤ
 حضرت صاحب خان لکھنؤ

3
مذکورہ کیس پر فیصلہ دینا چاہیے؟
14.3.2016
15.4.2016

Or.....06
15.04.2016.

Learned Counsel for the appellant present and he stated at the bar that he does not want to further proceed with the case being not pressed.

In view of the contention of counsel for the complainant, the instant appeal stands dismissed being not pressed.

File be consigned to record room after its completion and compilation.

Announced.
15.4.2016.

Application No. 1981
Filed on 15.4.16
16/4/16
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1
16/4/16
16/4/16
Signature of Examiner
Maey

Ziaur Rahman
(Zia-ur-Rahman)
Add: District Judge-IV
Lakki Marwat.
Zia-ur-Rahman
Add: District & Session Judge-jy
Lakki Marwat

ATTESTED
16/4/16
District & Session Judge
Lakki Marwat

(C)

(10)

1
 et #: 03677231
 ar: ARPTOR F GI KIAN
 sc: (H3LR3DAF
 NIO No. 11207557 93
 GPF Interest Applie
 (1 Artic Pl.narent
 DAYS AND ALLOWAN S:
 0901-Basic Pay
 1900-House Rent Allowance
 1210-Coverage Allowance 2015
 1300-Medical Allowance
 1971-Advs Allowance 2011F 15%
 1973-Advs Allowance 2011F 50%
 2118-Advs Relie Allow (2011)
 2149-157 Adhoc F liel All-2013

P Sec:001 Month: July 2013
 LK6079 -DY: DIR WATER SUPPLY & SAN
 Min. Works & Services
 NTN:
 GPF #:
 Old #:

LK6079 -

(Gross Pay and Allowance)	12,001.00
DEDUCTIONS:	
GPF Balance	060.00
3501-Development fund	
3511-Advs Group Insurance	
3604-Group Insurance	
Subrc:	212.00
	120.00
	3.00
	58.00

ATTESTED

Total Deductions 393.00
 11,608.00

P. J. D. LFP-Ruoca: 4
 19 13.1783 Payment through ODB.
 10 Years 07 Months 011 Days

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

Appeal No. 507 of 2016

Akhtar Habib Khan Operator-cum-Chowkidar S/O Habib Khan

R/O Wanda Hafiz Abad P/O Lakki Marwat.....**APPELLANT**

VERSUS

1. The Secretary Public Health Engg: Civil Secretariat, Peshawar

& others.

.....**RESPONDENTS**

Written reply on behalf of respondent No.4 is as under:-

Respectfully sheweth:

PRELIMINARY OBJECTIONS:-

1. That the appellant appeal is wrong, illegal and is liable to be dismissed being not based on facts.
2. That the appeal of appellant is not maintainable in its present form.
3. That the appellant has got no cause of action being not come to the court with clean hands.
4. That the appellant has got no prima facie case being concealed the important facts from the Honorable Court / Tribunal.
5. That the civil suit of the Appellant has been dismissed on 11-11-2015 by the order of Civil Judge No.2 Lakki Marwat and Appeal has also been withdrawn on 15-04-2016 from the Court of Additional District Judge No.4 Lakki Marwat by the Appellant himself and thus has waived his Rights.
6. That the Appellant has made no Departmental Appeal with the Department concerned.
7. That the Appeal of the Appellant is badly time barred which is liable to be dismissed.
8. The Appellant is not a Govt. Servant and his appeal is liable to be dismissed being not maintainable.

FACTS:-

1. Para No.1 pertains to record.
2. Para No.2 is not admitted as correct because the Appellant was not present at the time of interview as per minutes. In addition to this official No. on the appointment order is different and fake as far as his service book is concerned and for the same very reasons his appointment order was declared null and void by the Superintending Engineer PHE Circle Bannu. Respondent No.3 being the appointing authority vide his order No. 1-3/G-5/S.E/PHE dated 28-06-2013 and accordingly recovery of his pay already drawn by the Appellant.
3. Para No.3 is admitted as correct because detailed reply has been given against Para No.2 above.

4. The Appellant has wrongly been drawn his salaries for which recovery order has been made by the competent authority.
5. It is incorrect. The Appellant is not a Govt. Servant and his appeal is liable to be dismissed being not maintainable.
6. No need to reply being not a Govt. Servant.
7. Detailed reply has been given before Para No.2 above. In addition to this no Departmental Appeal has been instituted by Appellant with the Department.
8. The appellant has got no cause of action to file instant appeal.

GROUNDS:-

- A) It is incorrect. All the action taken by the Department (competent authority) is in accordance with Law, Rules & Regulations & Constitution.
- B) It is incorrect. The appointment order of the Appellant was declared Null & Void by the competent authority Respondent No. 3 (S.E PHE Bannu).
- C) It is incorrect and Appellant is no more Operator-cum-Chowkidar since his termination from service.
- D) It is incorrect. The Appellant is not on the strength of Operational Staff of this Department.
- E) Each and every case is decided in the light of its own facts.
- F) No need for personal hearing.
- G) It is incorrect. All the codal formalities were observed by the competent authority.
- H) As replied in Para 7 above.
- I) It is incorrect. The Appellant is not entitled for his monthly pay but recovery of the pay already drawn will be recovered from him.
- J) The respondents also seek permission to raise additional grounds at the time of arguments.

It is, therefore, most humbly prayed that the appeal of the Appellant may kindly be dismissed with cost.

Dated: 10-10-2016.



Executive Engineer
Public Health Engineering Division
Lakki Marwat
(Respondent No.4)

BEFORE THE KPK, SERVICE TRIBUNAL PESHAWAR.

Service Appeal No. 507/2016

Akhter Habib

VS

PHE Deptt:

.....

REJOINDER ON BEHALF OF APPELLANT

.....

RESPECTFULLY SHEWETH:

Preliminary Objections:

- (1-8) All objections raised by the respondents are incorrect and baseless. Rather the respondents are estopped to raise any objection due to their own conduct.

FACTS:

- 1 Admitted correct by the respondents as the service record is laying in the custody of the respondents.
- 2 Incorrect. While para-2 of the appeal is correct as mentioned in the main appeal of the appellant. Moreover, once the order is passed cannot be with draw in fanciful manner by violating the legal right of the appellant, it is also violation of locus poenitentiae.
- 3 Para-3 of the appeal is admitted correct by the respondent as mentioned in the main appeal of the appellant. Moreover, the contention of respondents in the para-2 of reply is baseless and incorrect.
- 4 Incorrect. While para-4 of the appeal is correct as mentioned in the main appeal of the appellant.

- 5 Incorrect and misconceived. While para-5 of the appeal is correct as mentioned in the main appeal of the appellant.
- 6 Incorrect. While para-6 of the appeal is correct as mentioned in the main appeal of the appellant. Moreover impugned order is not passed according to law and rules and passed in violation of E&D Rules 2011. Being appellant is civil servant.
- 7 Incorrect. While para-7 of the appeal is correct as mentioned in the main appeal of the appellant
- 8 Incorrect. The appellant has good cause of action to file the instant appeal which is liable to be accepted on the following grounds.

GROUND:

- A) Incorrect. The impugned order 28.6.2013 of the respondents was against the law, rules and norms of justice therefore not tenable and liable to be set aside.
- B) Incorrect. While para-B of the ground of appeal is correct as mentioned in the main appeal of the appellant.
- C) Incorrect. While para-C of the ground of appeal is correct as mentioned in the main appeal of the appellant.
- D) Incorrect. While para-D of the ground of appeal is correct as mentioned in the main appeal of the appellant.
- E) Incorrect. While para-E of the ground of appeal is correct as mentioned in the main appeal of the appellant.
- F) Incorrect. While para-F of the ground of appeal is correct as mentioned in the main appeal of the appellant.


- G) Incorrect. While para-G of the ground of appeal is correct as mentioned in the main appeal of the appellant.
- H) Incorrect. While para-H of the ground of appeal is correct as mentioned in the main appeal of the appellant
- I) Incorrect. While para-I of the ground of appeal is correct as mentioned in the main appeal of the appellant.
- J) Legal.

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

APPELLANT

Akhter Habib

Through:


(M. ASIF YOUSAFZAI)
ADVOCATE, PESHAWAR.

AFFIDAVIT

It is affirmed and declared that the contents of rejoinder are true and correct to the best of my knowledge and belief.


DEPONENT

ATTESTED
Oath Commissioner
Zahoor Khan Advocate
Distt: Court Peshawar

Attention AD (South)



OFFICE OF THE SUPERINTENDING ENGINEER
PUBLIC HEALTH ENGINEERING CIRCLE BANNU

Email Address: se.phccirclebanu@yahoo.com | Tel: 0928-633051 | Fax: 0928-633051 (D:Arjiv/07-2016/C-2)

No. 13-14 IC-2/S.E/PHE(Bu)
Dated Bannu the, 27/7/2016

To:

The Section Officer(LIT),
Public Health Engineering Department,
Khyber Pakhtunkhwa Peshawar.

Subject:

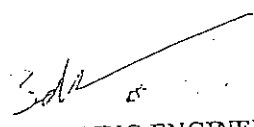
SERVICE APPEAL NO. 507/ OF 2016 MR. AKHTAR HABIB VS
GOVERNMENT OF KHYBER PAKHTUNKHWA THROUGH
SECRETARY PHED.

Reference:

Your office letter No. SO(LIT)/PHE/3-65/2016/Akhtar Habib dated 20-6-2016.

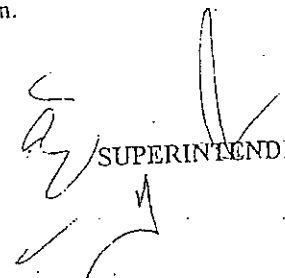
Please, refer to your above quoted letter, a copy of enquiry report conducted by the
Executive Engineer PHE Division Bannu is submitted herewith as desired.

DA/As above


SUPERINTENDING ENGINEER

Copy with a copy of enquiry report is forwarded to XEN PHE Division Lakki
Marwat for information and necessary action.

DA/As above


SUPERINTENDING ENGINEER

PUBLIC HEALTH ENGINEERING DIVISION
HAYAT ABAD PESHAWAR

1. 11/11/2013 - 12/11/2013

(P/1/3)

No: 26/E-5-A
To,

Dated Peshawar the 12/11/2013.

The Superintending Engineer,
Public Health Engineering Circle
Bannu.

Subject:-

FAKE APPOINTMENT ORDER OF AKHTAR HABIB KHAN S/O
HABIB KHAN R/O WANDA HAFIZ ABAD DISTRICT
LAKKI MARWAT (WSS SAR BAND).

INTRODUCTION:- In the above cited case I Engr: Mir Adam Khan was appointed as an inquiry officer vide you office No: 1-3/E-5/SE/PHE dated: 28/06/2013.

PROCEEDINGS:- In order to find out fact findings the following information/record was collected from the office of Executive Engineer PHE Division Lakki Marwat as well as from your office.

- Copy of minutes of the DSC meeting held on 06/12/2012 in the office of the Executive Engineer PHE Division Lakki Marwat regarding selection of various categories of Operational Staff on various Water Supply Schemes.
- Copy of the appointment order of Mr. Akhtar Habib Khan S/O Habib Khan along with service book.
- Photo Copy of dispatch register of your office bearing dated: 28/12/2012.
- The official was called for inquiry and he attended the office of the undersigned on 02/09/2013. Questionier was provided to him for written reply.
- Mr. Qadeerullah the then Executive Engineer PHE Division Lakki Marwat was also called on to attend the inquiry officer on 12/09/2012 vide No: 150-51/E-16 dated: 05/09/2013.

FINDINGS:-

- From perusal of the minutes of the meeting held on 06/12/2012, it reveals that the official was not selected for appointment as Operator-Cum-Chowkidar. Thus his appointment order seems fake.
- From perusal of the order as well as service book, it reveals that the dispatch No. as per order and recorded in the service book does not tally with each other as such the dispatch No. on order is 1841 while the No. recorded in the service book is 1846. Thus the order seems factitious/bogus.

1. Name - V
1. Name - V
(243)
- c. From perusal of the dispatch register of your office, it is further revealed that dispatch No: 1841 dated: 28/12/2012 has been allotted to Mr. Farmanullah S/O Rais Khan appointed as Operator Cum Chowkidar on WSS Daulat Tajazai (Rais Khan). Thus appointment order of Akhter Habib Khan S/O Habib Khan is fake.
- d. From reply to the questioner, the official has shown himself as ignorance whether on 06/12/2012 he was present or not in the office of the Executive Engineer Lakki Marwat for interview purposes. Thus the order seems bogus.
- e. The then Executive Engineer Mr. Qadeerullah PHE Division Lakki Marwat not attended the office of the undersigned on due date.


RECOMMENDATION:-

Keeping in view the above, the order of Mr. Akhter Habib Khan S/O Habib Khan is absolutely bogus/illegal and recommended for termination.

From all the above it is gathered that remarks of your good honour contained the last Para of letter No: 01-03/E-5/5.E/PHE Dated: 28/06/2013 are correct and the loss given to Government EX-Chequer in shape of arrear of pay & allowances (Rs: 22562/-) and monthly pay drawn upto date may be recovered from concerned person.

Incase the Department desire may be re-appointed Mr. Akhter Habib Khan S/O Habib Khan against son quota according to Provincial Government standing policy.

DA/Photo Copy of questioner.


ENGR. MIR ADAM KHAN
INQUIRY OFFICER.

پبلک ہیلتھ انجینئرنگ ڈویژن بنوں

(375)

سوال و جواب یابت انکوائری جعلی آرڈر بنام اختر حبیب والد حبیب خان آف دائرہ حافظ آباد ضلع کی مروت تھیٹریل آپریٹر کم چونکیدار و اسپرٹلانی سیکم سورہندہ ضلع کی مروت۔

سوال	جواب
1. مورخہ 06/12/2012 (18) دائرہ اسپرٹلانی سیکم کی مروت کیلئے سینگ ہوا تھا کیا آپ اس میں شامل ہوئے تھے۔	جواب
2. کیا دائرہ اسپرٹلانی سیکم سورہندہ اس سینگ میں شامل تھا۔	میں شامل تھا
3. جو اس آرڈر ہوا ہے۔ کیا اس پر آفیسریز کا دستخط درست ہے۔	جی ہاں آفیسریز کا دستخط درست ہے۔
4. آفس آرڈر پر جو نوٹ لکھا گیا ہے۔ کیا یہ آفس کے ڈیپٹی کے مطابق ہے۔ جس کی تصدیق پیپر سے ہو سکے۔	آفس آرڈر پر جو نوٹ لکھا گیا ہے۔ اس کی تصدیق پیپر سے ہو سکتی ہے۔
5. کیا آپ کی آفس کے NOC ایچے ہوا ہے۔	جی ہاں
6. کیا یہ پلاٹ نمٹا کر لیا گیا ہے۔	جی ہاں
7. آفس آرڈر "1846" No. اور آرڈر "1841" No. ہے۔	جی ہاں

اختر حبیب خان
2-9-2013

انکوائری آفیسر ایگزیکٹو انجینئر
پبلک ہیلتھ انجینئرنگ ڈویژن بنوں

EXECUTIVE ENGINEER PUBLIC HEALTH ENGINEERING DIVISION LAKKI MARWAT

(P/132)

A meeting of new appointments of Class-IV was held on 06.12.2012 in the office of the Executive Engineer Public Health Engineering Division Lakki Marwat under the Chairmanship of Superintending Engineer PHE Circle to discuss appointments of suitable/deserving persons on the following post declared vacant for the reason mentioned against each.

S.No	Name of post & Scale	Name of Scheme	Name of vacant on account of
1	Operator-cum-Chowkldar BPS-01	WSS Kotka- Zafar Khan Sargara Muhammad Khan	Creation of new vacancy
2	Operator-cum-Chowkldar BPS-01	WSS Mohallah Takedar Ihsan Ullah Zahid Abad Dakhli Seral Naurang	Creation of new vacancy
3	Operator-cum-Chowkldar BPS-01	WSS Tajazal (DERA) Farhan Tube Well No. 2	Creation of new vacancy
4	Operator-cum-Chowkldar BPS-01	WSS Daulat Tajazal (Rals Khan)	Creation of new vacancy
5	Operator-cum-Chowkldar BPS-01	WSS Bakhmal Ahmad Zai (NERP)	Creation of new vacancy
6	Operator-cum-Chowkldar BPS-01	WSS Walal	Creation of new vacancy
7	Operator-cum-Chowkldar BPS-01	WSS Daulat Khel	Creation of new vacancy
8	Operator BPS - 04	WSS Nawar Khel	Vacant Post
9	Valve Man BPS - 01	WSS Dallo Khel	Vacant Post
10	Chowkldar BPS-01	WSS Nar Sahibdad Maidad Khel	Vacant Post
11	Chowkldar BPS-01	WSS Afghan Refugees Tajazal	Vacant Post
12	Chowkldar BPS-01	WSS Tabi Murrad	Vacant Post
13	Operator-cum-Chowkldar BPS-01	WSS Nar Khuda Bakhsh Tanedar Wala	Creation of new vacancy
14	Operator-cum-Chowkldar BPS-01	WSS Begu Khel	Creation of new vacancy
15	Operator-cum-Chowkldar BPS-01	WSS Hatf Khan Langer Khel	Creation of new vacancy
16	Operator-cum-Chowkldar BPS-01	WSS Shah Hassan Khel	Creation of new vacancy
17	Operator-cum-Chowkldar BPS-01	WSS Ghazi Khel (T-KP)	Creation of new vacancy
18	Operator-cum-Chowkldar BPS-01	WSS Begu Khel (T-KP)	Creation of new vacancy

All the cases were place for discussion. The NOC for all the new vacancies provided by DCO Lakki Marwat. After detail discussion of all the cases, the following persons noted against each scheme were approved for the concerned post in the office of the Executive Engineer PHED Lakki Marwat.

S.No	Name of Post	Name of Scheme	Candidates who appeared for Interview	Name with full address of person approved for the post against new post individual WSS	Remarks/Justification
1	Operator-cum-Chowkldar BPS-01	WSS Kotka Zafar Khan Sargara Muhammad Khan	Mst. Rukhsana Ali W/O Taj Ali Kotka Zafar Khan Lakki Marwat	Mst. Rukhsana Ali W/O Taj Ali Kotka Zafar Khan Lakki Marwat 11201-66464340-6	Land owner of Tube Well and Employment Exchange District Lakki Marwat Card No. 392-LM-2012
2	Operator-cum-Chowkldar BPS-01	WSS Mohallah Takedar Ihsan Ullah Zahid Abad Dakhli Seral Naurang	Mr. Wahid Ullah S/O Muslim Shah Moh: Takedar Ihsan Ullah Zahid Abad Dakhli Naurang	Mr. Wahid Ullah S/O Muslim Shah Moh: Takedar Ihsan Ullah Zahid Abad Dakhli Naurang 11201-1203189-1	Land owner of Tube Well and Employment Exchange District Lakki Marwat Card No. 439-LM-2012
3	Operator-cum-Chowkldar BPS-01	WSS Tajazal (DERA) Farhan Tube Well No. 2	Haji Arif Ullah Khan S/O Haji Zangi Khan Village Tajazal Lakki	Haji Arif Ullah Khan S/O Haji Zangi Khan Village Tajazal Lakki 11201-7646085-5	Land owner of Tube Well and Employment Exchange District Lakki Marwat Card No. 398-LM-2012
4	Operator-cum-Chowkldar BPS-01	WSS Daulat Tajazal (Rals Khan)	Mr. Farman Ullah S/O Rals Khan Village Tajazal Lakki	Mr. Farman Ullah S/O Rals Khan Village Tajazal Lakki 11201-3801108-3	Land owner of Tube Well and Employment Exchange District Lakki Marwat Card No. 399-LM-2012
5	Operator-cum-Chowkldar BPS-01	WSS Bakhmal Ahmad Zai (NERP)	Mr. Haroon Rashid S/O Zarghun Shah Vill: Bakhmal Ahmad Zai	Mr. Haroon Rashid S/O Zarghun Shah Vill: Bakhmal Ahmad Zai 11201-5024107-7	Land owner of Tube Well and Employment Exchange District Lakki Marwat Card No. 453-LM-2012
6	Operator-cum-Chowkldar BPS-01	WSS Walal	Mr. Khushal Khan S/O Malik Nazir Khan Vill: Walal Lakki	Mr. Khushal Khan S/O Malik Nazir Khan Vill: Walal Lakki 11201-6527251-5	Land owner of Tube Well and Employment Exchange District Lakki Marwat Card No. 442-LM-2012
7	Operator-cum-Chowkldar BPS-01	WSS Daulat Khel	Mr. Arif Ullah Khan S/O Muhammad Sharif Vill: Daulat Khel Lakki	Mr. Arif Ullah Khan S/O Muhammad Sharif Vill: Daulat Khel Lakki = 11201-5903258-9	Land owner of Tube Well and Employment Exchange District Lakki Marwat Card No. 159-LM-2012
8	Operator BPS - 04	WSS Nawar Khel	Mr. Israr Ahmad S/O Sher Bahadar Khan Vill: Nawar Khel Lakki	Mr. Israr Ahmad S/O Sher Bahadar Khan Vill: Nawar Khel Lakki = 11201-4387978-5	Son Quota and Employment Exchange District Lakki Marwat Card No. 415-LM-2012

(1/2-2/2)

9	Valve Man BPS-01	WSS Dallo Khel	<p>Khel</p> <p>2. Mir Ahmad Khan S/O Niamat Khan Vill; Manjwala Lakkli</p> <p>3. Mr. Muhammad Ijaz S/O Din Bad Shah Vill; Dallo Khel.</p> <p>4. Mr. Khan Muhammad S/O Aurangzeb Khan Vill; Nar Lal Amir Ahmad Shah Naurang.</p> <p>5. Mr. Ihsan Ullah S/O Manzre Vill; Gul Baz Dehkan.</p> <p>6. Mr. Afzar. Khan S/O Ghulam Saeed Vill; Tarl Khel</p>	Mr. Khan Muhammad S/O Aurangzeb Khan Vill; Nar Lal Amir Ahmad Shah Naurang. 11201-6350499-5	Employment Exchange District Lakkli Marwat Card No. 217-LM-2012
10	Chowkidar BPS-01	WSS Nar Sahibdad Mالداد Khel	Mr. Muhammad Wasim S/O Nasim Khan Vill; Nar Sahibdad Mالداد Khel.	Mr. Muhammad Wasim S/O Nasim Khan Vill; Nar Sahibdad Mالداد Khel: 11202-0344334-3	Son Quota
11	Chowkidar BPS-01	WSS Afghan Refugees Tajazal	<p>1. Mr. Numan Khan S/O Abdul Qayum Khan Vill; Tajazal.</p> <p>2. Mr. Shaukat Ullah S/O Juma Khan Vill; Tajazal Lakkli.</p>	Mr. Numan Khan S/O Abdul Qayum Khan Vill; Tajazal. 11201-7067415-1	Land owner of Tube Well and Employment Exchange District Lakkli Marwat Card No. 179-LM-2012
12	Chowkidar BPS-01	WSS Tabl Murrad	Mr. Jalal Ud Din S/O Sadud Din Vill; Tabl Murrad Lakkli	Mr. Jalal Ud Din S/O Sadud Din Vill; Tabl Murrad Lakkli 11201-3099828-7	Son Quota
13	Operator-cum-Chowkidar BPS-01	WSS Nar Khuda Bakhsh Tanedar Wala	Mr. Asmat Ullah S/O Mir Kalam Khan; Kotka Ghulam Qadar Nar Khuda Bakhsh	Mr. Asmat Ullah S/O Mir Kalam Khan; Kotka Ghulam Qadar Nar Khuda Bakhsh 11201-2062305-3	Land owner of Tube Well and Employment Exchange District Lakkli Marwat Card No. 513-LM-2012
14	Operator-cum-Chowkidar BPS-01	WSS Begu Khel	Mr. Sajad Khan S/O Abdul Jamil Vill; Begu Khel Lakkli.	Mr. Sajad Khan S/O Abdul Jamil Vill; Begu Khel Lakkli 11201-4024104-3	Land owner of Tube Well and Employment Exchange District Lakkli Marwat Card No. 518-LM-2012
15	Operator-cum-Chowkidar BPS-01	WSS Hatl Khan Langer Khel	Mr. Farman Sharif Ullah S/O Sharif Khan Vill; Hatl Khan Langer Khel	Mr. Farman Sharif Ullah S/O Sharif Khan Vill; Hatl Khan Langer Khel 11201-9130715-3	Land owner of Tube Well and Employment Exchange District Lakkli Marwat Card No. 527-LM-2012
16	Operator-cum-Chowkidar BPS-01	WSS Shah Hassan Khel	Mr. Gulbad Shah S/O Abdul Halim Vill; Shah Hassan Khel	Mr. Gulbad Shah S/O Abdul Halim Vill; Shah Hassan Khel 11201-1278598-5	Land owner of Tube Well.
17	Operator-cum-Chowkidar BPS-01	WSS Ghazi Khel (T-KP)	Mr. Muhammad Zaul Haq S/O Muhammad Aslam Vill; Ghazi Khel Lakkli Marwat	Mr. Muhammad Zaul Haq S/O Muhammad Aslam Vill; Ghazi Khel Lakkli Marwat 11201-6974230-5	Land owner of Tube Well.
18	Operator-cum-Chowkidar BPS-01	WSS Begu Khel (T-KP)	Mr. Sifat Ullah Khan S/O Mir Abas Khan Vill; Alam Shah Khel Begu Khel Lakkli	Mr. Sifat Ullah Khan S/O Mir Abas Khan Vill; Alam Shah Khel Begu Khel Lakkli 11201-048385-5	Land owner of Tube Well.

Member

(MR. QADIRULLAH KHAN)
Executive Engineer
PHED Lakkli Marwat

Member
District Coordination Officer
Lakkli Marwat

CHAIRMAN

Superintending Engineer
PHED Circle Bannu

1273

S No

خدمت جناب افسرانچارج محکمہ نقول

تفصیل نقول مطلوبہ	نام مدعی	ذمہ علیہ	نوع و کئی ایڈیز	جائے وقوعہ	تحصیل ضلع	تاریخ فیصلہ	نام عدالت	سربراہ ایڈووکیٹ جنرل	تاریخ فیصلہ	نام عدالت	سربراہ ایڈووکیٹ جنرل
11/11/2011 11/11/2011 11/11/2011	محمد رفیق	محمد رفیق	محمد رفیق	محمد رفیق	محمد رفیق	محمد رفیق	محمد رفیق	محمد رفیق	محمد رفیق	محمد رفیق	محمد رفیق

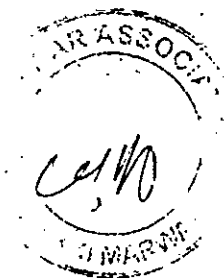
نام و پتہ سائل

نام	ولدیت	قومیت	پیشہ	سکونت
محمد رفیق	محمد رفیق	محمد رفیق	محمد رفیق	محمد رفیق

حکومت اللہ

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Application received on
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 Copy delivered on



۱۲
لیدر جناب سول جج صاحب کی دوت

استر حبیب خان ولد حبیب خان سکینہ ڈانڈہ کوٹمانہ عاقل آباد کی (دوسری دوت)

Os-24

نام

Amjad Hasnani Tanoli
Civil Judge - II
Lakki Marwat
15-01-15

۱. حکومت ضلع خٹون خواہ بندوبست سکریٹری پیپلز سلیکشن اینڈ ایگزیکشن ڈپارٹمنٹ
 ۲. سپرنٹنڈنٹ اینڈ پیپلز سلیکشن اینڈ ایگزیکشن سروسز ہون بمقام ہون
 ۳. ایگزیکٹو اینڈ پیپلز سلیکشن اینڈ ایگزیکشن ڈپارٹمنٹ کی ڈویژن کی دوت
 ۴. ڈسٹرکٹ ایگزیکیوٹو آفیسر ضلع کی دوت
 ۵. DC صاحب ضلع کی دوت
- صالح علی

تعمیراتی درخواست

جناب

دعویٰ علی ڈگری اسٹریٹ اریہ جی جی پروف مدعا علیہ بدین صفحوں کہ من مدعی کو فرس $12 \frac{1}{2}$ کو دیپارٹمنٹ، ڈسٹرکٹ سلیکشن کمیٹی کی فٹنگ میں برائے برقی ٹرانسمیشن / چوکیدار کی سفارش کی گئی اور من مدعی کو فرس $28 \frac{1}{2}$ کو برائے 1841/ES

باتاملہ ٹورپر برقی ٹرانسمیشن، بمقام سولر بند کمیشن کیا اور بندوبست اور بندوبست PO No 00697231

مابینہ تنخواہ ملتی رہی۔ اور سروس بند بھی تیار کی گئی اور ڈیوٹی کرتا رہا ہوں۔ کہیں دعا علی نے سفارش نہ، ملی گھلت، بدینتی، اختیارات مانا جائز استعمال کرے بغیر نوٹس

کے من فرس کو سروسہ ماہ جن 2013 سے کوئی تنخواہ ادا نہیں کی۔ جو کہ مدعا علیہ

کامیہ فعل غیر قانونی ہے اور یہ غیر قانونی فعل حقوق من مدعی پر غیر حوث اور
 کلکتہ سے۔ لیکچرار من مدعی کو از ماہ جون 2013 سے مالک مونس سالتہ لکھا تنخواہ
 ڈیوٹی پر بحالی اور آئندہ لکھی جائے تنخواہ دینا قرین الصدا اور مصالحت ہے۔ نیز
 لٹرن 1-3 155 فورم 28/4/2013 کو منسوخ فرمایا جاو جو کہ من مدعی کے حقوق پر 24-05
 منسوخ اور کلکتہ سے۔ بہ فرج مقدم

Ainjad Hassan Tanoli
 Civil Judge - II
 Laloki Mirawat

فرب۔ دعویٰ من ڈگری حکم (مقتضی دوائی تاکیدی بدین صفوں کے مدعا علیکم و صلح فرمایا 15-01-15)

جاو کہ وہ من مدعی کی سابقہ تنخواہ یا بحال کرے اور اپنی کریں۔ جائے تنخواہ اور کریں

جائے تنخواہ میں رکھاوٹ پیدا نہ کرے غیر قانونی طریقہ کار جس سے من مدعی کی تنخواہ بند کی گئی ہے
 منسوخ فرمایا جاو۔ اور مالک غیر قانونی افعال جو من مدعی کی تنخواہ پر اثر انداز ہو یا رکھاوٹ
 پیدا کریں جاری نہ کیے جائیں بلکہ فرج مقدم

کورٹ فیمنس
 منشا ہے

مالیت لغرض اختیار سماعت
 400/-

مالیت لغرض کورٹ فیمنس
 400/-

منشا بحالی

صوبہ ذیل طرف سے ہے۔

وہ یہ کہ من مدعی کو جو وہ لکھیے مذکورہ عنوان طرفی دعویٰ جز الف بطور امر برکت حکم
 جو کہ لکھیے کرے بمقام دائر سپرد کی سکیم سونپنے ضلع لکھی صورت لکھیے کہ میں من
 مدعی کی باقاعدہ سروس بند تیار کی گئی اور باقاعدہ ہزریہ 00697231 00697231 00697231
 تنخواہ منی رہی۔ کہیں مدعا علیکم سزا شدہ نہ ہو کہ علی لکھی برکتی اختیارات کا ماننا جائز

استعمال کر کے من مدعی کو سرحد ماہ جون ۲۰۱۳ء میں کوئی تنخواہ وغیرہ ادا نہیں کی اور مدعا علیہ کا یہ فعل خلاف قانون اور حقوق من مدعی پر غیر موثر اور مفید ہے - 24-25

لہذا تنخواہ مع سابقہ اور آئندہ بھی تنخواہ من مدعی کی ادائیگی پر قرین الصحت (یعنی حکم - سرحد بدستور ہے) - 15-2015

۲۔ یہ کہ بار بار مدعا علیہ سے وکیل بدستور کیا۔ کہ من مدعی کی سابقہ تنخواہ یا بحال کرے اور ادائیگی کریں، تاہم نہ تنخواہ جاری کریں اور باقاعدگی سے ادا کریں اور تنخواہ میں اجاوت پیدا نہ کریں غیر قانونی افعال، احکامات جو من مدعی کی تنخواہ پر اثر انداز ہوں جاری نہ کریں۔ مگر مدعا علیہ سابقہ ٹائپ اب سرحد ایک ہیفتہ سے جاری ہیں۔ بدین وجہ ضرورت دعوئی عجز الاعمی ہے۔

۳۔ یہ کہ بنائے دعوئی، بنائے فراغت از انکار مدعا علیہ سرحد ایک ہیفتہ سے اندر سرحد پہنچے مگر صورت پیدا ہوا ہے دعوئی اندھیاد اور قابل سماعت عدالت الہند ہے۔ ۴۔ یہ کہ مالیت بفرض ٹورٹ فیس، اخذیاد سماعت مبلغ ۱۰۰۰ روپیہ ہے۔ جو مفید ہے۔

لہذا اس کے مطابق یہ کہ ڈگری سند غیب بحق مدعی پر خلاف مدعا علیہ صدارت فرمائی جائے

تاریخ 15/1

تقدیر لکھنا ہے
افتہ صیب مدعی
بذریعہ وکیل خود
تقدیر لکھنا ہے کہ عرفی دعوئی ہے
تمام واقعات صحت حکم دلی لکھنا ہے
تسلیم
افتہ صیب مدعی بذریعہ وکیل خود

1

IN THE COURT OF MR. ASIF KAMAL CIVIL JUDGE
LAKKI MARWAT.

Akhtar Habib Vs Govt; etc

OR.....37

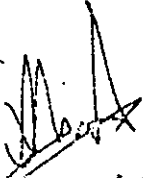
11.11.2015

Parties present.

I shall dispose of instant application under Order-7 Rule-11/10 CPC filed by the petitioners / defendants. Reply submitted by the respondent / plaintiff. Arguments heard and record perused.

Learned counsel for the petitioner argued that plaintiff has filed the instant suit for the recovery of salary while salary comes within the definition of the terms & conditions of the civil service. Therefore, this court has got no jurisdiction to entertain the present suit. There from accepting the application in hand plaint of the plaintiff may be returned to him.

Learned counsel for the respondent / plaintiff rebutted the arguments of the learned counsel for the petitioners / defendants and argued that he was selected by the departmental selection committee on 06/12/2012 for the post of "Chowkidar" vide letter No. 1841-ES dated 28/12/2012. Plaintiff used to receive salary vide PO No. 00697231 nonpayment of the salary to the plaintiff on behalf of the defendants is inoperative and ineffective upon the rights of the plaintiff. The application in hand may be dismissed. As this court has got jurisdiction to entertain a declaration suit wherein beside salary letter No. 1-3 IE5 dated 28/06/2013 has already been challenged.


11/11/15
Civil Judge-II
Lakki Marwat

6

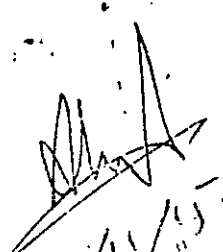
In wake of the arguments and perusal of the record it is held that initially plaintiff brought a suit for release of the salary, however, later on he submitted an application for amendment of his plaint which was accepted and he challenged the letter No. 1-3 IE5 dated 28/06/2013 through amended plaint.

Perusal of this letter shows that appointment order of plaintiff Akhtar Habib s/o Habib Khan was fake. It is mentioned by the Superintendent Engineer in this letter that during the preparation of waiting list of retired employee's sons of PHE, Division Lakki Marwat a suspicious appointment of Mr. Akhtar Habib Operator Cum Chowkidar Water Supply Scheme Sarband was found out. Upon scrutiny, it was revealed that the official number on the appointment order and the one recorded in the service book both were different and fake.

Moreover, the minutes of the interview also do not reveal presence of the candidate. It was also astonishing that as procedure in vogue SDO make entry in the service book. While in the case under consideration, the Executive engineer Mr. Qadirullah has made entries in the service book.

In view of this the appointment order of plaintiff was declared null and void ab initio.

Therefore, it is held that since the department has declared initial appointment of the plaintiff fake null & void, therefore, it is held that the plaint of the plaintiff does not disclose any cause of action and he is not competent to institute the instant suit. Therefore, by accepting


11/11/13
Civil Engineer
Lakki Marwat

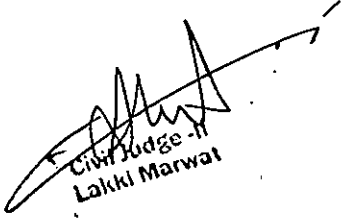
the application under Order-7 Rule-11 CPC the
plaint of the plaintiff is hereby rejected. No order
as to cost.

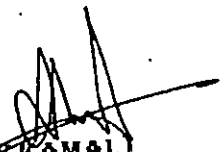
File be consigned to record room after
its necessary completion & compilation.

ANNOUNCED.

11.11.2015

پروگرام ڈائری لکھی


Civil Judge-II
Lakki Marwat


(ASH KAMAL)
Civil Judge-II, Lakki Marwat

الحمد للہ صواب آصف کمال سولہ کھلبہ - صلح لکھنؤ

روپیہ ۵۰
۹۵

فیصلہ: ۱۱/ 2015

افسر صیب خان دار صیب خان سزورہ ڈمانہ حافظ آباد لاہور

بنام

۱۔ حکومت خیبر پختونخواہ بذریعہ سکریٹری پبلک سلیٹو ریجنل لکھنؤ

۲۔ سپرنٹنڈنٹ ریجنل پبلک سلیٹو ریجنل سرکل بنوں۔ بنام بنوں

۳۔ ایگزیکٹو ریجنل پبلک سلیٹو ریجنل ریجنل ڈپٹی سروس

۴۔ ڈسٹرکٹ اگرونیٹ انٹرنیٹ سروس

۵۔ جی ڈی سروس سروس۔ ندیم

ADWAJ SHAH
Scho. Dir. Lower/Mid
Sec. 30 CPC Lohi Marwat
18-1-14

خبردار الف نام دعویٰ مینے ڈگری استراریہ نجی سڑکی برآمدہ شدہ نام ہیں نمونہ

۱۲/ 2012 06 ڈیپارٹمنٹل، ڈسٹرکٹ سلیٹنگ کمیشن

کی شکایت میں برائے جعفری کے اہل شہر سے چوکیداری شناسائی کی

۱۲/ 28 جولائی 1841/45 باقاعدہ طور پر جعفری کو لایا، بنام سورند

تعمیرات، بلاتر، بذریعہ 006971231 نام نہ بتورہ یعنی ریسی اور سڑکی کتب بھی تیار کی گئی اور ڈپوٹنٹ

یوں سب سے مدعا میں سازش، مہی گھبت - پرہیزی - اضنیلات نامہ استمال کے لینے

نوشک میں سڑک کو عرصہ ماہ جون 2013 سے ڈیپوٹنٹ سے ڈیپوٹنٹ کے وجود مدعا میں اپنے فعل غیر قانونی ہے

اور یہ غیر قانونی فعل حقوق من سڑکی ہر قسم فرار اور مالکیت کے لئے من سڑکی کو ان

ماہ جون 2013 سے مالکیت لایا گیا ہے، ڈیپوٹنٹ پر پالی اور پٹنہ بھی عالم نہ تھی دنیا میں

انصاف اور حکمت ہے، نتیجہ فرجہ حرم

خبردار د دعویٰ مینے ڈگری حکم استنادی ڈگری نامہ ہی ہیں نمونہ کہ سرکار کو ڈیپوٹنٹ فرما لیا

۵۰۵ من سڑکی مالکیت تین ڈگری میں مال کے ادائیگی کریں۔ مال نہ تھی ان کے

سازمانہ تھی ان سے ڈگری فرجہ حرم ہیں۔ غیر قانونی مال لایا گیا ہے جس سے من سڑکی

تھی ان سے من سڑکی تھی ان سے ڈگری فرجہ حرم اور مال لایا گیا ہے اور مال لایا گیا ہے اور

کی تھی ان سے ڈگری فرجہ حرم ہے پٹنہ ڈگری جاری ہے جس سے ڈگری فرجہ حرم

۵۱۱ ۱۱ ۲۰۱۳ - ۱۲ - ۲۰۱۴
 ۵۱۱ ۱۱ ۲۰۱۳ - ۱۲ - ۲۰۱۴

The Plaintiff and the Plaintiff does not disclose any cause of action and he is not competent to institute the instant suit. Therefore, by accepting the application under Order-7 Rule-11 CPC the plaint of the Plaintiff is hereby rejected as to cost.

(Signature)
 No order
 Judge in
 Land Marwat

۵۱۱ ۱۱ ۲۰۱۳

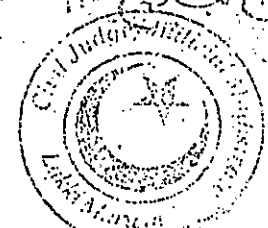
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۵۱۱ ۱۱ ۲۰۱۳ - ۱۲ - ۲۰۱۴



(Signature)
 Judge in
 Land Marwat

twice
R1

VAKALAT NAMA

NO. _____/20

IN THE COURT OF K.P.K Service Trib Deptt

Akhtav Habib Khan

(Plaintiff) instant

VERSUS

PHE Department

(Respondent)
(Defendant)

I/We Akhtav Habib Khan

Do hereby appoint and constitute **M.Asif Yousafzai, Advocate, 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 13-5/2016

(CLIENT)

ACCEPTED

M. ASIF YOUSAFZAI
Advocate

M. ASIF YOUSAFZAI
Advocate High Court,
Peshawar.

OFFICE:

Room No.1, Upper Floor,
Islamia Club Building,
Khyber Bazar Peshawar.
Ph.091-2211391-
0333-9103240

Syed Womani
&

TAIMUR ALI KHAN

Advocate

507/2016

Akhtar Habib

VS

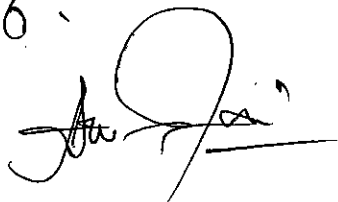
P-H-E-Dept

Attested
10.05.17.

Received Cost of Rs. 1000/- in appeal

NO. 507/16.

10-05-2017



Asif Yousaf Zai
Advocate

Attention A.D (South)

OFFICE OF THE SUPERINTENDING ENGINEER
PUBLIC HEALTH ENGINEERING CIRCLE BANNU

Email Address: se.phccirclebannu@yahoo.com Ph# 0928-633051 Fax# 0928-633051 (13/Vuj/07-2016/C-2)

No. 13-16 IC-2/S.E/PHE(Bu)
Dated Bannu-the, 27/7 /2016



To:

The Section Officer(LIT),
Public Health Engineering Department,
Khyber Pakhtunkhwa Peshawar.

Subject:

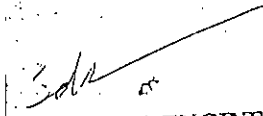
SERVICE APPEAL NO. 507/ OF 2016 MR. AKHTAR HABIB VS
GOVERNMENT OF KHYBER PAKHTUNKIWA THROUGH
SECRETARY PHED.

Reference:

Your office letter No. SO(LIT)/PHE/3-65/2016/Akhtar Habib dated 20-6-2016.

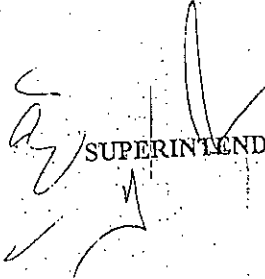
Please, refer to your above quoted letter, a copy of enquiry report conducted by the
Executive Engineer PHE Division Bannu is submitted herewith as desired.

DA/As above


SUPERINTENDING ENGINEER

Copy with a copy of enquiry report is forwarded to XEN PHE Division Lakki
Marwat for information and necessary action.

DA/As above


SUPERINTENDING ENGINEER

PUBLIC HEALTH ENGINEERING DIVISION
HAYAT ABAD PESHAWAR

No. 261E-S-A
To,

Dated Peshawar the 2/11/2013.

The Superintending Engineer,
Public Health Engineering Circle
Bannu.

Subject:-

FAKE APPOINTMENT ORDER OF AKHTAR HABIB KHAN S/O
HABIB KHAN R/O WANDA HAFIZ ABAD DISTRICT
LAKKI MARWAT (WSS SAR BAND).

INTRODUCTION:- In the above cited case I Engr: Mir Adam Khan was appointed as an inquiry officer vide you office No: 1-3/E-5/SE/PHE dated: 28/06/2013.

PROCEEDINGS:- In order to find out fact findings the following information/record was collected from the office of Executive Engineer PHE Division Lakki Marwat as well as from your office.

- Copy of minutes of the DSC meeting held on 06/12/2012 in the office of the Executive Engineer PHE Division Lakki Marwat regarding selection of various categories of Operational Staff on various Water Supply Schemes.
- Copy of the appointment order of Mr. Akhtar Habib Khan S/O Habib Khan along with service book.
- Photo Copy of dispatch register of your office bearing dated: 28/12/2012.
- The official was called for inquiry and he attended the office of the undersigned on 02/09/2013. Questionier was provided to him for written reply.
- Mr. Qadeerullah the then Executive Engineer PHE Division Lakki Marwat was also called on to attend the inquiry officer on 12/09/2012 vide No: 150-51/E-16 dated: 05/09/2013.

FINDINGS:-

- From perusal of the minutes of the meeting held on 06/12/2012, it reveals that the official was not selected for appointment as Operator-Cum-Chowkidar. Thus his appointment order seems fake.
- From perusal of the order as well as service book, it reveals that the dispatch No. as per order and recorded in the service book does not tally with each other as such the dispatch No. on order is 1841 while the No. recorded in the service book is 1846. Thus the order seems factitious/bogus.

- I know s/o = V
Khan s/o = V
(Page 3)
- c. From perusal of the dispatch register of your office, it is further revealed that dispatch No: 1841 dated: 28/12/2012 has been allotted to Mr. Farmanullah S/O Rais Khan appointed as Operator Cum Chowkidar on WSS Daulat Tajazai (Rais Khan). Thus appointment order of Akhter Habib Khan S/O Habib Khan is fake.
- d. From reply to the questioner, the official has shown himself as ignorance whether on 06/12/2012 he was present or not in the office of the Executive Engineer Lakki Marwat for interview purposes. Thus the order seems bogus.
- e. The then Executive Engineer Mr. Qadeerullah PHE Division Lakki Marwat not attended the office of the undersigned on due date.


RECOMMENDATION:-

Keeping in view the above, the order of Mr. Akhter Habib Khan S/O Habib Khan is absolutely bogus/illegal and recommended for termination.

From all the above it is gathered that remarks of your good honour contained the last Para of letter No: 01-03/E-S/S.E/PHE Dated: 28/06/2013 are correct and the loss given to Government EX-Chequer in shape of arrear of pay & allowances (Rs: 22562/-) and monthly pay drawn upto date may be recovered from concerned person.

Incase the Department desire may be re-appointed Mr. Akhter Habib Khan S/O Habib Khan against son quota according to Provincial Government standing policy.

DA/Photo Copy of questioner.


ENGR: MIR ADAM KHAN
INQUIRY OFFICER.

پبلک ہیلتھ انجینئرنگ ڈویژن بنوں

(Page 3)

سوال و جواب یابت انکوائری جعلی آرڈر بنام اختر حبیب والد حبیب خان آف دائرہ حافظ آباد ضلع کی مرمت تینالی آپریٹر کم جو کنڈاروا ٹریسپلائی سیکم سور بند ضلع کی مرمت۔

سوال	جواب
1. مورخہ 06/12/2012 (18) دائرہ پلائی سیکم کی بھرتی کیلئے میٹنگ ہوا تھا۔ کیا آپ اس میں شامل ہوئے تھے۔	میتنگ میں شامل نہیں ہوا۔
2. کیا دائرہ پلائی سیکم سور بند اس میٹنگ میں شامل تھا۔	میں شامل نہیں تھا۔
3. جو آفس آرڈر ہوا ہے۔ کیا اس پر آفیسر مجاز کا دستخط درست ہے۔	آفیسر مجاز نے دستخط کیے ہیں۔
4. آفس آرڈر پر جو نمبر لکھا گیا ہے۔ کیا یہ نمبر آفس کے ڈسپنچر کے مطابق ہے۔ جس کی تصدیق ہینڈ سے ہو سکے۔	آفس آرڈر پر جو نمبر لکھا گیا ہے۔ اس کی تصدیق ہینڈ سے ہو سکتی ہے۔
5. کیا ڈپٹی کمشنر آفس کی سے NOC اشی ہوا ہے۔	میں نے اس کی تصدیق نہیں کی۔
6. کیا پلائی سٹ ایکٹ کیلئے دفتر والوں نے لکھا تھا۔	کارڈ دفتر ڈیوٹیوں کو فراہم کیا گیا۔
7. رولز کا آفس آرڈر "1846" No. اور آرڈر "1841" No. ہے۔	میتنگ میں شامل نہیں ہوا۔

اختر حبیب خان
2-9-2013

انکوائری آفیسر ایگزیکٹو انجینئر
پبلک ہیلتھ انجینئرنگ ڈویژن بنوں

(P/182)

A meeting of new appointments of Class-IV was held on 06.12.2012 in the office of the Executive Engineer Public Health Engineering Division Lakki Marwat under the Chairmanship of Superintending Engineer PHE Circle Jannu to discuss appointments of suitable/deserving persons on the following post declared vacant for the reason mentioned against each.

S.No	Name of post & Scale	Name of Scheme	Name of vacant on account of
1	Operator-cum-Chowkidar BPS-01	WSS Kotka Zafar Khan Sargara Muhammad Khan	Creation of new vacancy
2	Operator-cum-Chowkidar BPS-01	WSS Mohallah Takedar Ihsan Ullah Zahid Abad Dakhill Serai Naurang	Creation of new vacancy
3	Operator-cum-Chowkidar BPS-01	WSS Tajazai (DERA) Farhan Tube Well No. 2	Creation of new vacancy
4	Operator-cum-Chowkidar BPS-01	WSS Daulat Tajazai (Rais Khan)	Creation of new vacancy
5	Operator-cum-Chowkidar BPS-01	WSS Bakhmal Ahmad Zai (NERP)	Creation of new vacancy
6	Operator-cum-Chowkidar BPS-01	WSS Walai	Creation of new vacancy
7	Operator-cum-Chowkidar BPS-01	WSS Daulat Khel	Creation of new vacancy
8	Operator BPS - 04	WSS Nawar Khel	Vacant Post
9	Valve Man BPS - 01	WSS Dallo Khel	Vacant Post
10	Chowkidar BPS-01	WSS Nar Sahibdad Maldad Khel	Vacant Post
11	Chowkidar BPS-01	WSS Afghan Refugees Tajazai	Vacant Post
12	Chowkidar BPS-01	WSS Tabi Murrad	Vacant Post
13	Operator-cum-Chowkidar BPS-01	WSS Nar Khuda Bakhsh Tanedar Wala	Creation of new vacancy
14	Operator-cum-Chowkidar BPS-01	WSS Begu Khel	Creation of new vacancy
15	Operator-cum-Chowkidar BPS-01	WSS Hatl Khan Langer Khel	Creation of new vacancy
16	Operator-cum-Chowkidar BPS-01	WSS Shah Hassan Khel	Creation of new vacancy
17	Operator-cum-Chowkidar BPS-01	WSS Ghazi Khel (T-KP)	Creation of new vacancy
18	Operator-cum-Chowkidar BPS-01	WSS Begu Khel (T-KP)	Creation of new vacancy

All the cases were place for discussion. The NOC for all the new vacancies provided by DCO Lakki Marwat. After detail discussion of all the cases, the following persons noted against each scheme were approved for the concerned post in the office of the Executive Engineer PHED Lakki Marwat.

S.No	Name of Post	Name of Scheme	Candidates who appeared for interview	Name with full address of person approved for the post against new post individual WSS	Remarks/Justification
1	Operator-cum-Chowkidar BPS-01	WSS Kotka Zafar Khan Sargara Muhammad Khan	Mst. Rukhsana Ali W/O Taj Ali Kotka Zafar Khan-Lakki Marwat	Mst. Rukhsana Ali W/O Taj Ali Kotka Zafar Khan Lakki Marwat 11201-6664340-6	Land owner of Tube Well and Employment Exchange District Lakki Marwat Card No. 392-LM-2012
2	Operator-cum-Chowkidar BPS-01	WSS Mohallah Takedar Ihsan Ullah Zahid Abad Dakhill Serai Naurang	Mr. Wahid Ullah S/O Muslim Shah Mohr Takedar Ihsan Ullah Zahid Abad Dakhill Naurang	Mr. Wahid Ullah S/O Muslim Shah Mohr Takedar Ihsan Ullah Zahid Abad Dakhill Naurang 11201-1203109-1	Land owner of Tube Well and Employment Exchange District Lakki Marwat Card No. 439-LM-2012
3	Operator-cum-Chowkidar BPS-01	WSS Tajazai (DERA) Farhan Tube Well No. 2	Haji Arif Ullah Khan S/O Haji Zangi Khan Village Tajazai Lakki	Haji Arif Ullah Khan S/O Haji Zangi Khan Village Tajazai Lakki 11201-7646085-5	Land owner of Tube Well and Employment Exchange District Lakki Marwat Card No. 398-LM-2012
4	Operator-cum-Chowkidar BPS-01	WSS Daulat Tajazai (Rais Khan)	Mr. Farman Ullah S/O Rais Khan Village Tajazai Lakki	Mr. Farman Ullah S/O Rais Khan Village Tajazai Lakki 11201-3801108-3	Land owner of Tube Well and Employment Exchange District Lakki Marwat Card No. 399-LM-2012
5	Operator-cum-Chowkidar BPS-01	WSS Bakhmal Ahmad Zai (NERP)	Mr. Haroon Rashid S/O Zarghun Shah Vill: Bakhmal Ahmad Zai	Mr. Haroon Rashid S/O Zarghun Shah Vill: Bakhmal Ahmad Zai 11201-5624107-7	Land owner of Tube Well and Employment Exchange District Lakki Marwat Card No. 453-LM-2012
6	Operator-cum-Chowkidar BPS-01	WSS Walai	Mr. Khushal Khan S/O Malik Nazir Khan Vill: Walai Lakki	Mr. Khushal Khan S/O Malik Nazir Khan Vill: Walai Lakki 11201-6527251-5	Land owner of Tube Well and Employment Exchange District Lakki Marwat Card No. 442-LM-2012
7	Operator-cum-Chowkidar BPS-01	WSS Daulat Khel	Mr. Arif Ullah Khan S/O Muhammad Sharif Vill: Daulat Khel Lakki	Mr. Arif Ullah Khan S/O Muhammad Sharif Vill: Daulat Khel Lakki = 11201-5903258-9	Land owner of Tube Well and Employment Exchange District Lakki Marwat Card No. 150-LM-2012
8	Operator BPS - 04	WSS Nawar Khel	Mr. Israr Ahmad S/O Sher Bahadar Khan Vill: Nawar Khel Lakki	Mr. Israr Ahmad S/O Sher Bahadar Khan Vill: Nawar Khel Lakki = 11201-4387928-5	Son Quota and Employment Exchange District Lakki Marwat Card No. 415-LM-2012

9	Valve Man BPS-01	WSS Dallo Khel	Khel. 2. Mr. Ahmad Khan S/O Niamat Khan Vill: Manjhwala Lakki 3. Mr. Muhammad Ijaz S/O Din Bad Shah Vill: Dallo Khel. 4. Mr. Khan Muhammad S/O Aurangzeb Khau Vill: Nar Lal Amir Ahmad Shah Naurang. 5. Mr. Jhsan Ullah S/O Mamrez Vill: Gul Baz Dehkan. 6. Mr. Afsar Khan S/O Chulam Saeed Vill: Tari Khel	Mr. Khan Muhammad S/O Aurangzeb Khan Vill: Nar Lal Amir Ahmad Shah Naurang. 11201-0350499-5	(11/2-0/2) Employment Exchange District Lakkli Marwat Card No. 217-LM-2012
10	Chowkidar BPS-01	WSS Nar Sahibdad Maldad Khel	Mr. Muhammad Wasim S/O Nasim Khan Vill: Nar Sahibdad Maldad Khel	Mr. Muhammad Wasim S/O Nasim Khan Vill: Nar Sahibdad Maldad Khel: 11202-0344334-3	Son Quota
11	Chowkidar BPS-01	WSS Afghan Refugee Tajazal	1. Mr. Numan Khan S/O Abdul Qayum Khan Vill: Tajazal. 2. Mr. Shaukat Ullah S/O Juma Khan Vill: Tajazal Lakki	Mr. Numan Khan S/O Abdul Qayum Khan Vill: Tajazal. 11201-7067415-1	Land owner of Tube Well and Employment Exchange District Lakkli Marwat Card No. 179-LM-2012
12	Chowkidar BPS-01	WSS Tabi Murrad	Mr. Jalal Ud Din S/O Sadud Din Vill: Tabi Murrad Lakki	Mr. Jalal Ud Din S/O Sadud Din Vill: Tabi Murrad Lakki 11201-3099828-7	Son Quota
13	Operator-cum-Chowkidar BPS-01	WSS Nar Khuda Bakhshtanedar Wala	Mr. Asmat Ullah S/O Mir Kalam Khan Kotka Ghulam Qadar Nar Khuda Bakhshtanedar	Mr. Asmat Ullah S/O Mir Kalam Khan Kotka Ghulam Qadar Nar Khuda Bakhshtanedar 11201-2063305-3	Land owner of Tube Well and Employment Exchange District Lakkli Marwat Card No. 513-LM-2012
14	Operator-cum-Chowkidar BPS-01	WSS Begu Khel	Mr. Sajad Khan S/O Abdul Jamil Vill: Begu Khel Lakki	Mr. Sajad Khan S/O Abdul Jamil Vill: Begu Khel Lakki 11201-4024104-3	Land owner of Tube Well and Employment Exchange District Lakkli Marwat Card No. 518-LM-2012
15	Operator-cum-Chowkidar BPS-01	WSS Halli Khan Langer Khel	Mr. Farman Sharif Ullah S/O Sharif Khan Vill: Halli Khan Langer Khel	Mr. Farman Sharif Ullah S/O Sharif Khan Vill: Halli Khan Langer Khel 11201-9130715-3	Land owner of Tube Well and Employment Exchange District Lakkli Marwat Card No. 527-LM-2012
16	Operator-cum-Chowkidar BPS-01	WSS Shah Hassan Khel	Mr. Gulbad Shah S/O Abdul Halim Vill: Shah Hassan Khel	Mr. Gulbad Shah S/O Abdul Halim Vill: Shah Hassan Khel 11201-1278598-5	Land owner of Tube Well.
17	Operator-cum-Chowkidar BPS-01	WSS Ghazi Khel (T-KP)	Mr. Muhammad Ziaul Haq S/O Muhammad Aslam Vill: Ghazi Khel Lakki Marwat	Mr. Muhammad Ziaul Haq S/O Muhammad Aslam Vill: Ghazi Khel Lakki Marwat 11201-6974230-5	Land owner of Tube Well.
18	Operator-cum-Chowkidar BPS-01	WSS Begu Khel (T-KP)	Mr. Sifat Ullah Khan S/O Mir Abbas Khan Vill: Alam Shah Khel Begu Khel Lakki	Mr. Sifat Ullah Khan S/O Mir Abbas Khan Vill: Alam Shah Khel Begu Khel Lakki 11201-048385-5	Land owner of Tube Well.

Member

Member
District Coordination Officer
Lakkli Marwat

(MR. QADIRULLAH KHAN)
Executive Engineer
PHED Lakkli Marwat

CHAIRMAN

Superintending Engineer
PHED Circle Bannu

عام 112

اسناد و دیوانہ 2016

بخارست بناسب افسران چارج محمد نقول

تفصیل نقول مطابقت	نام مدعی	مدعا علیہ	واقعہ وقوع تخصیص و صلح	تاریخ فیصلہ	نام الت کس برائے کیلئے رکن	تصدیق	تفصیل نقول مطابقت
<p>15-04-2016</p> <p>ان کے لئے رقم عورق دے دی گئی ہے۔</p> <p>2016</p>	افسر صاحب راجپوت	کھدوہ پنڈت راجپوت	پہلے عدالت کے سامنے آئے اور فیصلہ دیا گیا ہے۔	12-04-2016	افسر صاحب راجپوت	فوری	ان کے لئے رقم عورق دے دی گئی ہے۔

نام و پتہ سائل

نام	ولدیت	قومیت	پیشہ	سکونت
صید اللہ	سردار	پنجاب	زراعت	دارتہ کولہاں ضلع گورداس پور

شکریہ اللہ

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 Copy completed on
 Copy delivered on
 Name of Applicant



انڈسٹری

بعد اات جناب صاحبہ کرسٹین ایڈیشنل ڈسٹرکٹ جج صاحبہ نمبر ۱۱ کی مررت


کیس نمبر	رجوعہ	فیصلہ	قطعات	کیفیت
۱۱۹/۱۳	۳۰/۱۵	۱۵/۱۶	۲۸	۶۸/۶

افتر سے نام حکومت

نمبر	تاریخ	تفصیل کاغذات	تعداد	تاریخ
۱	۱۰-۱۱-۱۹۶۰	ان کی طرف سے پیش کی گئی تھیں	۱	۱۰-۱۱-۱۹۶۰
۲	۱۰-۱۱-۱۹۶۰	ان کی طرف سے پیش کی گئی تھیں	۱	۱۰-۱۱-۱۹۶۰

CERTIFICATE:

Certified that the record has been prepared in accordance with the High Court Rules & Order and found in good condition


Mukarrif


Sender


Counter signed

3
لائیٹ نوٹ
14.3-016
15-4-016

Or.....06
15.04.2016.


Learned Counsel for the appellant present and he stated at the bar that he does not want to further proceed with the case being not pressed.

In view of the contention of counsel for the complainant, the instant appeal stands dismissed being not pressed.

File be consigned to record room after its completion and compilation.

Announced.

15.4.2016.


(Zia-ur-Rahman)
Addl: District Judge-IV,
Lakki Marwat.
Zia-ur-Rahman
Addl: Distnt & Session Judge-Iy
Lakki Marwat

بعد التصاب ڈسٹرکٹ جج صاحب پکروت

اختر حبیب خان ولد حبیب خان سمنہ وانڈہ کوٹانہ حافظ آباد پکروت (اپیلانٹ)

نا

- 1) حکومت بہرہ خٹو کوٹاہ بڈریہ سیکرٹری پبلک ہیلتھ ایجنٹ لہنڈا اور -
- 2) سپرنٹنڈنٹ ایجنٹ پبلک ہیلتھ ایجنٹ سرکل بنوں بنوں -
- 3) ایجنٹ ہیلتھ ایجنٹ پبلک ہیلتھ ایجنٹ بنوں ڈویژن پکروت -
- 4) ڈسٹرکٹ اکاؤنٹ آف سپر پکروت
- 5) ڈپٹی کمنشنر صاحب پکروت

(ریپلانڈیشن)

اپیل بنیاداً ضلعی حکم کو مفیلہ و ڈگری قصدرہ عدالت سول جج صاحب غیاث پکروت
 اجلاس میسٹر آصف کمال مقدمہ نمبر 1/2014 سال 2014 مفیلہ 2015-11-11 جسکی
 رو سے دعویٰ من عدلیٰ / اپیلانٹ زیر آرڈر 7 رول 11 ضابطہ دیوانی Reject
 کیا گیا۔

استدعا نے اپیل بہ منظورئی اپیل ہذا منسوخ فرمانے جانے حکم و ڈگری عدالت ماتحت
 و ریٹائر فرمانے جانے مقدمہ برائے فریڈ کاروائی و دلائل جانے فرجہ
 مقدمہ ہر دو عدالت جانے۔

Reader to
 Distt. Jhelum
 Larku Marwal

نوٹ جانے :- اپیل ہذا اندر مفیاد سے

1) قصدرہ لغول عدلیٰ دعویٰ جواب دعویٰ درخواست زیر آرڈر 7 رول 11
 ضابطہ دیوانی - جواب درخواست حکم آفر اور پیر چہ ڈگری ہمراہ لف ہیں

دو جوبات اپیل :-

1) یہ کہ حکم و ڈگری عدالت ماتحت خلاف قانون و واقعات و روئیدار عدلیٰ سے

2) یہ کہ من عدلیٰ / اپیلانٹ کو بعد از کھرتی سونے قلمہ پبلک ہیلتھ کوٹاہ دل رہی تھی کہ
 اور باقاعدہ طور پر من عدلیٰ / اپیلانٹ کی سروس بک و دیگر تروس دیکھا ڈھلی دیکھا ڈھلی

ریفرنڈم کے پاس موجود ہے کہ ریفرنڈم نے بغیر کسی وجہ کے مندرجی / ایپیلٹ کی تجویز
 بند کر دی جسکے بعد مندرجی / ایپیلٹ کی تجویز کی بابت حکم ہذا آیا لیکن کوئی شہروالی سے
 ملی بالآخر عبور ہو کر عدالت ماتحت میں دعویٰ ہذا دائر کیا جسکے جواب میں دراعلم کی جانب
 سے لیٹریز E5 / 3-1 اور 28 06 2013 کے ذریعے مندرجی / ایپیلٹ کی نوکری ختم کرنا کا حکم آیا گیا
 جسکو بذریعہ تحریری عرضی دعویٰ چیلنج کیا گیا جس سے مندرجی / ایپیلٹ اور ریفرنڈم کے درمیان
 Controversy متنازعہ آئی ہے جس پر بعد از فطلدی شہادت ہی فیصلہ کیا جاسکتا ہے نہ کہ اس
 stage پر۔ کیونکہ اگر مندرجی / ایپیلٹ کی نوکری ختم کر دی گئی تھی تو اس بابت کوئی نوٹس وغیرہ
 مندرجی / ایپیلٹ کو جاری کر جانا لیکن عام قانونی تقاضے بلحاظ ریفرنڈم کے تجویز کے تعابیرات
 سے جتنے کیس ایک فرمی و فوڈ سائٹ ریفرنڈم کیا گیا ہے۔

یعنی یہ کہ عدالت ماتحت نے اپنے فیصلہ میں جن اور کا ذکر کیا ہے۔ ان کو شہادت سے ثابت کرنا قانوناً
 ضروری ہے اور آرڈر 7 رول 11 ضابطہ دہلوی کی جلدوں کے قواعد میں سے کسی ایک کا بھی مقدمہ ہذا
 کے واقعات سے کوئی تعلق نہیں ہے۔ کیونکہ دراعلم کی جانب سے دائر کردہ درخواست میں
 "افدا؟ مقدمہ بوجہ اختیار سماعت نہ ہونے کیونکہ مندرجی / ایپیلٹ نے دعویٰ تجویز و تحریری
 دعویٰ میں تجویز وغیرہ دائر کیا ہے جو کہ Section and Provision کے زمرے میں آتے ہیں۔ جبکہ عدالت
 ماتحت نے ثابت ہوگئی کہ آرڈر 7 رول 11 کی بجائے آرڈر 7 رول 11 پر مبنی دعویٰ ہی

میں دائر کیا گیا ہے۔ حالانکہ ریفرنڈم / دراعلم نے الیٹوٹی نقطہ اٹھایا ہے۔ جس میں عدالت ماتحت
 کا فیصلہ اور فقہ قانون و واقعات سے۔ موضوع ہو کہ مندرجی / ایپیلٹ نے سرکاری نوٹس برائے فیصلہ
 کیا ہے کہ دراعلم / ریفرنڈم کے فعل سے مندرجی / ایپیلٹ کے حقوق پامال نہیں کیے جاسکتے۔ کیونکہ
 بعد از بطوری ہونے تاحال ڈیولوپمنٹ کی سہولتوں سے مندرجی / ایپیلٹ کے دراعلم کی فریڈم
 کے بال ہی رہتی ہیں۔ اگر کوئی رد و بدل گئی تو اس سے مندرجی / ایپیلٹ کے دراعلم کی فریڈم پر
 آپریشن کا اثر رہتا ہو کہ ریفرنڈم کو دیا گیا ہے جس میں مندرجی / ایپیلٹ کی ڈیولوپمنٹ کو جاری
 عدالت ماتحت نے اس کو نظر انداز کر دیا ہے۔

5) یہ کہ دوران ہیٹ مندرجی / ایپیلٹ دیگر اہم نقاط ہیٹ طلب پر بھی ہیٹ کرنے کی اجازت
 کا خواستگار ہوں

لہذا اپیل ہے۔ کہ یہ منظور ہی اپیل ہذا۔ حکم و ذمہ داری عدالت ماتحت
 مشورح فرمائے جا کر۔ مقدمہ ہر ایک فریڈ کاروائی عدالت ماتحت کو برپا کر
 فرمایا جائے اور دیگر ادارہ (سی) جو قرین الصاف بھی صادر فرمائی جائے اور
 مندرجی / ایپیلٹ کو فریڈ مقدمہ ہر دو عدالت یا سے بھی دلائل محاسباتے
 ہونے۔ 26/12/2013

حاضر ہے
 مندرجی / ایپیلٹ
 عدالت ماتحت
 فرم کی طرف سے
 مندرجی / ایپیلٹ

احقر حبیب خان (ریفرنڈم) سکنہ واٹھ کوٹا ناہ حافظ آباد تلوٹ

احقر حبیب خان لعلم خود

احقر حبیب خان لعلم خود