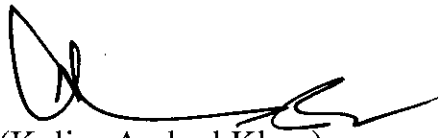
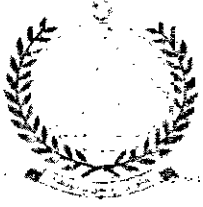


Service Appeal No. 102/2022

- 21st July 2022
1. Learned counsel for the appellant present. Mr. Kabirullah Khattak, Addl: AG and Mr. Noor Zaman Khattak, District Attorney alongwith Mr. Sabeel Ur Rehman, Litigation Officer for respondents present.
 2. Learned counsel for the appellant after going through the record of the respondent-department very fairly submitted that let the appellant pursue his cause with the respondents in accordance with the relief granted by the Hon'ble Peshawar High Court in writ petition to him as and when the department makes recruitments in the prescribed manner. As regards this appeal, the learned counsel does not press it. Disposed of accordingly. Consign.
 3. *Pronounced in open court in Camp Court Abbottabad and given under our hands and seal of the Tribunal on this 21st day of July, 2022.*


(Safah Ud Din)
Member(Judicial)

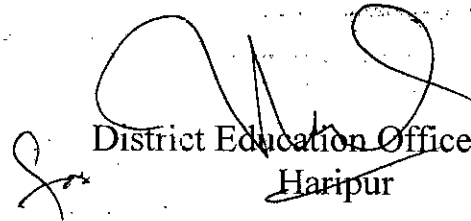

(Kalim Arshad Khan)
Chairman
Camp Court Abbottabad



Office of the District Education Officer (M) Haripur

AUTHORITY LETTER

Mr. Sabeel ur Rehman Litigation Officer is hereby authorized to attend the Honorable Khyber Pakhtunkhwa Service Tribunal Peshawar Camp Court Abbottabad on 21-07-2022 in connection with case titled Muhammad Usman & 01 other VS DEO (M) on behalf of the undersigned.


District Education Officer (M)
Haripur

20/07/2022

17.05.2022

Learned counsel for the appellant present. Mr. Muhamad Riaz Khan Painsdakhel, Assistant Advocate General for the respondents present.

Counsel for the appellant submitted rejoinder which is placed on file. A copy of the same is handed to the Learned AAG. Learned counsel for the appellant requested for adjournment. Adjourned but as a last chance. To come up for arguments before D.B on 15.06.2022 at camp court Abbottabad.



(Fareeha Paul)
Member (E)



(Kalim Arshad Khan)
Chairman
Camp Court Abbottabad

15.06.2022

Appellant present through counsel.

Muhammad Adeel Butt, learned Additional Advocate General alongwith Shakeel Ahmad ADEO for respondents present.

Learned counsel for appellant was ready for arguments but for the just decision of case, personal appearance of the appellant is essential, therefore, she is directed to make sure the personal appearance of appellant on the next date positively. Adjourned. To come up for arguments on 21.07.2022 before D.B at Camp Court, Abbottabad.



(Fareeha Paul)
Member (E)
Camp Court, A/Abad




(Rozina Rehman)
Member (J)
Camp Court, A/Abad

20.04.2022

Appellant alongwith counsel present. Mr. Shakeel Ahmed, ADO alongwith Mr. Muhammad Adeel Butt, Additional Advocate General for the respondents present.


Learned Additional Advocate General stated that written reply/comments will be submitted tomorrow and requested for short adjournment. Learned Additional Advocate General is directed to submit written reply/comments tomorrow positively, failing which right of respondents for submission of written reply/comments shall be deemed as struck off. To come up for submission of written reply/comments on 21.04.2022 before the S.B at Camp Court Abbottabad.


(Salah-Ud-Din)
Member (J)
Camp Court Abbottabad

21.04.2022

Appellant in person present. Hafiz Shakeel Ahmed, ADEO (Litigation) alongwith Mr. Kabirullah Khattak, Additional Advocate General for the respondents present.

Written reply on behalf of respondents submitted, which is placed on file and copy of the same handed over to the appellant. Adjourned. To come up for rejoinder, if any, as well as arguments on 17.05.2022 before the D.B at Camp Court Abbottabad.


(Salah-Ud-Din)
Member (J)
Camp Court Abbottabad

25.01.2022

Counsel for the appellant present. Preliminary arguments heard have been perused.

Points raised need consideration. The appeal is admitted for hearing, subject to all just and legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments 18.02.2022 before the S.B at camp court, Abbottabad.

Appellate Deposited
Security & Process Fee

25/01/22

Chairman

18-2-22

Due to Retirement of the Hon'ble
Chairman the case is adjourned to
come up for the Bench before on
20-4-22



Registrar
Kandahar

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 102/2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	25/01/2022	<p>The appeal of Mr. Usman Khan resubmitted today by Raheela Mughal Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p> <p>This case is entrusted to S. Bench at Peshawar for preliminary hearing to be put there on <u>25/01/22</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
2-		

The appeal of Mr. Usman Khan son of Munsif Dad Khan resident of post office Khalabat Town Ship Haripur received today i.e. on 20.01.2022 is incomplete on the following score which is returned to the counsel for the appellat for completion and resubmission within 15 days.

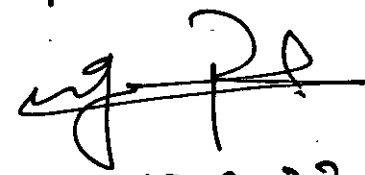
- 1- Copy of Check list is not attached with the appeal.
- 2- Memorandum of appeal may be got signed by the appellat.
- 3- Annexures of the appeal may be attested.
- 4- Appeal has not been flagged/marked with annexures marks.
- 5- Page no.59 of the appeal is illegible which may be replaced by legible/better one.
- 6- Four more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No. 132 /S.T,

Dt. 20/01 /2022


REGISTRAR,
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Raheela Mughal Adv.
High Court A.Abad.

25-1-2022. After removal of objections
instant Appeal is filing.

25-1-2022

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR
CHECK LIST

Case Title: Usman Khan vs Govt of F&P

S#	CONTENTS	YES	NO
1	This Appeal has been presented by: <u>Usman Khan</u>		
2	Whether Counsel/Appellant/Respondent/Deponent have signed the requisite documents?	✓	
3	Whether appeal is within time?	✓	
4	Whether the enactment under which the appeal is filed mentioned?	✓	
5	Whether the enactment under which the appeal is filed is correct?	✓	
6	Whether affidavit is appended?	✓	
7	Whether affidavit is duly attested by competent Oath Commissioner?	✓	
8	Whether appeal/annexures are properly paged?	✓	
9	Whether certificate regarding filing any earlier appeal on the subject, furnished?	✓	
10	Whether annexures are legible?	✓	
11	Whether annexures are attested?	✓	
12	Whether copies of annexures are readable/clear?	✓	
13	Whether copy of appeal is delivered to AG/DAG?	✓	
14	Whether Power of Attorney of the Counsel engaged is attested and signed by petitioner/appellant/respondents?	✓	
15	Whether numbers of referred cases given are correct?	✓	
16	Whether appeal contains cutting/overwriting?	✓	
17	Whether list of books has been provided at the end of the appeal?	✓	
18	Whether case relate to this court?	✓	
19	Whether requisite number of spare copies attached?	✓	
20	Whether complete spare copy is filed in separate file cover?	✓	
21	Whether addresses of parties given are complete?	✓	
22	Whether index filed?	✓	
23	Whether index is correct?	✓	
24	Whether Security and Process Fee deposited? On _____	✓	
25	Whether in view of Khyber Pakhtunkhwa Service Tribunal Rules 1974 Rule 11, notice along with copy of appeal and annexures has been sent to respondents? On _____		
26	Whether copies of comments/reply/rejoinder submitted? On _____		
27	Whether copies of comments/reply/rejoinder provided to opposite party? On _____		

It is certified that formalities/documentation as required in the above table have been fulfilled.

Name: Rahool Malik
Signature: [Signature]
Dated: 20-1-2022

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

Service Appeal No. 102 /2022

Usman Khan son of Munsif Dad, resident of Post Office Khalabat Town
ship, Jutti Pind, Tehsil and District Haripur.

....APPELLANT

VERSUS

Government of KPK through Secretary Elementary and Secondary
Education Khyber Pakhtunkhwa Peshawar & others.

...RESPONDENTS

SERVICE APPEAL

INDEX

S.#	Description	Page No.	Annexure
1.	Appeal alongwith affidavit	1 to 13	
2.	Application for condonation of delay	14 to 15	
3.	Application for suspension	16 to 17	
4.	Addresses of the parties	18	
5.	Attested copy of writ petition and order dated 19.02.2020 alongwith testimonial and disable certificate	19 - 25 26 - 27 28 - 35	"A" & "B"
6.	Copy of application	36	"C"
7.	Attested copy of implantation application	37 39	"D"
8.	Attested copy of order dated 29.09.2020	40 - 41	"E"
9.	Copy of appointment order dated 04.02.2021	42, 43	"F"
10.	Copy of medical/ health certificate and age certificate	44	"G"
11.	Copy of cancellation order dated 20/02/2021	45	"H"
12.	Copy of order dated 24/11/2021	46 - 60	"I"
13.	Wakalatnama	62	

Usman Khan
....APPELLANT

Dated: 20/01 /2022

Through


(RAHEELA MUGHAL)

Advocate Supreme Court of Pakistan
Abbottabad

(1)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL KPK, PESHAWAR

Service Appeal No. 102 /2022

Usman Khan son of Munsif Dad, resident of Post Office Khalabat Township, Jutti Pind, Tehsil and District Haripur.

....**APPELLANT**
Khyber Pakhtunkhwa Service Tribunal

VERSUS

Diary No. 70

Dated 20/01/2022

1. Government of KPK through Secretary Elementary and Secondary Education Khyber Pakhtunkhwa Peshawar.
2. Director Elementary and Secondary Education Khyber Pakhtunkhwa Peshawar.
3. District Education Officer (Male), District Haripur.
4. District Education Officer (Female), District Haripur.
5. Assistant District Education Officer, Haripur.

....**RESPONDENTS**

SERVICE APPEAL UNDER SECTION 4 OF KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 FOR DECLARATION TO THE EFFECT THAT THE APPELLANT WAS APPOINTED AND POSTED AS JUNIOR CLERK UNDER BPS-11 AT GHSS NO. 2 DISTRICT HARIPUR AGAINST VACANT POST OF ~~LAB~~ ^{Junior clerk} ASSISTANT VIDE APPOINTMENT ORDER ENDORSEMENT NO. 1118-24/F/NO.35/HC/ATD.LIT, DATED 04.02.2021 ON THE BASIS OF 2% DISABLE QUOTA SEAT, BUT

Filed to-day
 Registrar ^{ew}
 20/01/2022

Re-submitted to-day
 and filed.
 Registrar ^{ew}
 25/1/2022

2

RESPONDENT NO. 3 CANCELLED THE APPOINTMENT ORDER OF APPELLANT VIDE ENDORSEMENT NO. 1583-89/F.NO.35/HC/ATD.LIG. DATED 20/02/2021 WHICH IS AGAINST THE LAW, WITHOUT LAWFUL AUTHORITY, WITHOUT JURISDICTION, CORUM NON JUDICE, ARBITRARY, MALAFIDE, CAPRICIOUS, PERVERSE, AGAINST THE VIRES, AGAINST THE NATURAL JUSTICE AND VOID AUDI-ALTERM-PARTRUM AND CONTEMPTUOUS AND ON THE BASIS OF POLITICAL WIMSAND WISHED.

PRAYER: ON ACCEPTANCE OF THE INSTANT APPEAL, ACT OF RESPONDENTS FOR THE CANCELLATION OF APPOINTMENT ORDER OF APPELLANT MAY KINDLY BE DECLARED ILLEGAL, PERVERSE, AGAINST THE LAW, WITHOUT LAWFUL AUTHORITY, WITHOUT JURISDICTION, CORUM NON JUDICE, ARBITRARY, MALAFIDE, CAPRICIOUS, PERVERSE, AGAINST THE VIRES, AGAINST THE NATURAL JUSTICE VOID AB-INITIO AND AUDI ALTERM PARTERM MAY KINDLY BE SET ASIDE THE CANCELLATION VIDE ENDORSEMENT NO. 1583-89/F.NO.35/HC/ATD.LIG. DATED 20/02/2021

3

AND IT MAY KINDLY BE RESTORED THE APPOINTMENT ORDER OF APPELLANT AS JUNIOR CLERK LAB ASSISTANT (BPS-11) VIDE ORDER ENDORSEMENT NO. 1118-24/F/NO.35/HC/ATD.LIT, DATED 04.02.2021 POSTED AT GHSS NO. 2 DISTRICT HARIPUR, AGAINST THE VACANT SEAT UNDER 2% DISABLE QUOTA SEAT AND RESPONDENTS MAY KINDLY BE DIRECTED THAT APPELLANT IS ENTITLED TO BE CONTINUED HIS JOB AS JUNIOR CLERK UNDER BPS-11 AT GHSS NO.2 DISTRICT HARIPUR ON THE BASIS OF 2% DISABLE QUOTA. ANY OTHER RELIEF WHICH THIS HONOURABLE COURT DEEMS FIT AND PROPER UNDER THE CIRCUMSTANCES OF THE CASE MAY KINDLY BE GRANTED.

Respectfully Sheweth:-

The facts forming the background of the instant writ petition are arrayed as under;-

1. That appellant filed writ petition No. 318-A/2020 before this Honourable Court for the appointment of the appellant on the basis of 2% disable quota

(4)

seat, which was disposed of on 19.02.2020.

Attested copy of writ petition and order dated 19.02.2020 alongwith testimonial & disable certificate are attached as Annexure "A" & "B".

2. That after passing the order from the Honourable Court, appellant moved an application to respondent No. 3 for the appointment on the available vacant seat, but respondent was refused to appoint him on the available vacant post. Copy of application is attached as Annexure "C".
3. That appellant moved the application for implementation before the Honourable Court. Attested copy of implantation application is attached as Annexure "D".
4. That on 29.09.2020 respondent No. 3 gave the assurance before the Honourable Court the appellant would be appointed on the available vacant post 2% disable quota seat and Honourable Court passed the directions to respondents that respondents shall appoint the appellant on the basis of 2% disable seats in the next coming post on his

number/merit. Attested copy of order dated 29.09.2020 is attached as Annexure "E".

5. That after fulfilling all the codal formalities, appellant was appointed as Lab Assistant (BPS-11), 2% disable quota, against the vacant post at GHSS No. 2 District Haripur vide appointment order No. 1118-24/F.No.35/HC/ATD/Lit. dated 04.01.2021. Copy of appointment order dated 04.01.2021 is attached as Annexure "F".
6. That after the issuance of appointment order dated 04.02.2021, Medical certificate was issued on 04.02.2021. Copy of medical/ health certificate and age certificate is attached as Annexure "G".
7. That appellant received/ took-over the charge in the office of Principal GHSS No. 2 District Haripur in the respect certificate was issued by the principal of GHSS No. 2 Haripur.
8. That appellant took over the charge of Lab Assistant at GHSS No. District Haripur and regularly performed his duty with his grave struggle.

9. That on 20/02/2021 respondent No. 3 cancelled the appointment order on the flimsy pretext vide endorsement No. 1583-89/F.No.35/HC/ATD/Lig. dated 20/02/2021. Copy of cancellation order dated 20/02/2021 is attached as Annexure "H".
10. That appellant raised the objection upon this unnatural and injustice Act of respondent No. 3, but respondent No. 3 refused to continued his job.
11. That appellant filed a writ petition No. 310-A/2021 before Peshawar High Court Abbottabad Bench against cancellation order of the appointment of appellant vide endorsement No. 1583-89/F.No. 35/HC/ATD.Lig dated 20/02/2021. On 24/11/2021 the Honourable Peshawar High Court Abbottabad Bench passed an order which is reproduced as under;-

"In view of the above, the instant writ petition is treated as departmental representation and sent to the respondent No. 2 for adjudication in accordance with law within a period of one month from the date of receipt of this order"

Copy of order dated 24/11/2021 is annexed as Annexure "I".

12. That the appellant filed instant appeal before this Honourable Tribunal against the illegal act of respondents, inter-alia on the following amongst many other:-

GROUND S; -

- a) That act of respondents for canceling the appointment order under 2% disable quota is on the basis of malafide, arbitrary, capricious without lawful authority, without jurisdiction against the law and cancellation order of appellant is liable to be set aside.
- b) That once Honourable Court passed the directions in writ petition No. 318-A/2020 dated 19.02.2020 for the consideration of appellant on the basis of 2% quota seat and secondly in the implementation No. 207-A/2020 on 24/04/2020, against the Honourable Court passed the directions to respondents, for the consideration of 2%

3

disable quota seat, so, respondent No. 3, in order to give the impression for the implementation order of Honourable Court, appointed the appellant, but later on withdrawn/cancelled the appointment order of the appellant which is clear contempt of court and malafide on the part of respondent No. 3 and he played the Mockery with law so, under these circumstances order dated 20/02/2021 is liable to be cancelled.

- c). That appointment order was cancelled on the flimsy grounds by the respondent No. 3, that DPC was not called in this matter, DPC means Departmental Promotion Committee. Departmental at Promotion committee has no concern with the appointment of appellant as appellant is a fresh appointee. Respondent No. 3 being the competent authority has appointed the appellant. So, act of respondent for commending this appointment is against the natural justice and law.

(9)

- d) That according to law once a competent authority has issued appointment order and appellant took the charge and had been act upon its, So, same authority could not withdraw cancel the appointment order of appellant according to the law. So, act of respondents is against the vires and not sustainable in the eyes of law.
- e) That act of respondents by canceling the appointment order of the appellant, is against the dictum laid down by the superior courts that where the order has taken legal effect and, its pursuance thereof certain rights have been created in favour of any individual, such an order cannot be withdraw or rescinded to the detriment rights. So, appointment order dated 04.02.2021 has created a legal/right in favour of appellant. So, Act of respondent for canceling the appointment order of appellant is against the law and liable to be set aside.
- f) That act of respondents for canceling the appointment is sheer violation of Law and

Rule, if authority empowered to pass an order can withdraw pursuance of that order has not been taken, but locus poententiae is not available to authority, if, such order has been acted upon and vested rights have occurred in pursuance of that order authority has no power to withdraw/ cancel such order.

- g) That appointment order of appellant was cancelled by the respondent No. 3 without any notice. So, nobody could be deprived without given the opportunity of hearing. So, cancellation order is based on Audi Alterm Partrum and is not sustainable in the eye of law.
- h) That respondent No. 3 cancelled that appointment order dated 04.02.2021 on the whims and wishes of local political personality and deprived the appellant from his lawful right.
- i) That without any justification and notice, cancelled the appointment order of appellant

by the respondents is the discrimination towards the appellants which is liable to be set aside.

j) That the addresses of the parties are correctly mentioned in heading of appeal.

k) That the other grounds shall be urged at the time of arguments with the leave of this Honourable Court.

It is, therefore, humbly prayed that on acceptance of the instant appeal, act of respondents for the cancellation of appointment order of appellant may kindly be declared illegal, perverse, against the law, without lawful authority, without jurisdiction, corum-non-judice, arbitrary, malafide, capricious, perverse, against the vires, against the natural justice void ab-initio and audi-alterm-parterm may kindly be set aside the cancellation vide endorsement No. 1583-89/F.NO.35/HC/ATD.Lig. dated 20/02/2021 and it may kindly be restored the appointment order of appellant as junior clerk lab assistant (BPS-11) vide order endorsement no. 1118-24/F/NO.35/HC/ATD.Lit, dated 04.02.2021 posted at GHSS No. 2 District Haripur,

against the vacant seat under 2% disable quota seat and respondents may kindly be directed that appellant is entitled to be continued his job as junior clerk under BPS-11 at GHSS No.2 District Haripur on the basis of 2% disable quota. Any other relief which this Honourable Court deems fit and proper under the circumstances of the case may kindly be granted.

...APPELLANT

Through

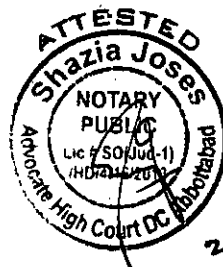
Dated: 20/01 /2022

(RAHEELA MUGHAL)

Advocate Supreme Court of Pakistan
Abbottabad

VERIFICATION:-

Verified on oath that the contents of foregoing appeal are true and correct to the best of our knowledge and belief and nothing has been concealed therein from this Honourable Court.



...APPELLANT

20/1/2022

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

Service Appeal No. _____/2022

Usman Khan son of Munsif Dad, resident of Post Office Khalabat Town
ship, Jutti Pind, Tehsil and District Haripur.

....APPELLANT

VERSUS

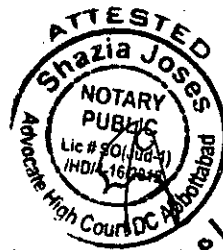
Government of KPK through Secretary Elementary and Secondary
Education Khyber Pakhtunkhwa Peshawar & others.

...RESPONDENTS

SERVICE APPEAL

AFFIDAVIT

I, *Usman Khan son of Munsif Dad, resident of Post Office Khalabat Town
ship, Jutti Pind, Tehsil and District Haripur*, do hereby affirm and declare
that the contents of foregoing service appeal are true and correct and nothing
has been concealed therein from this Honourable Court.



Usman
DEPONENT

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

Service Appeal No. _____/2022

Usman Khan son of Munsif Dad, resident of Post Office Khalabat Town
ship, Jutti Pind, Tehsil and District Haripur.

....APPELLANT

VERSUS

Government of KPK through Secretary Elementary and Secondary
Education Khyber Pakhtunkhwa Peshawar & others.

...RESPONDENTS

SERVICE APPEAL

**APPLICATION FOR CONDONATION OF
DELAY IF ANY, IN FILING OF TITLED
APPEAL.**

Respectfully Sheweth; -

1. That the titled appeal is being filed before this Honourable Tribunal.
2. That the appellant has brought a good prima facie arguable case and balance of convenience also tilts in their favour.


3. That prior to this the appellant has filed writ petition before the Honourable Peshawar High Court Abbottabad Bench, in which the counsel for appellant requested that the writ petition be converted into appeal and referred to the respondent/department for decision in accordance with law. The request was accepted and the writ petition of the appellant converted to appeal and referred to the respondent/department.

4. That the valuable rights of the appellant are involved.

It is therefore, humbly prayed that on acceptance of instant application delay if any in filing of titled appeal may graciously be condoned in the interest of justice.

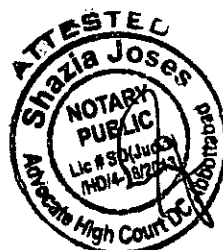
Dated: 20/01 /2022

Through

Usman
 ...APPELLANT

 (RAHEELA MUGHAL)
 Advocate Supreme Court of Pakistan
 Abbottabad

AFFIDAVIT

I, *Usman Khan son of Munsif Dad, resident of Post Office Khalabat Township, Jutti Pind, Tehsil and District Haripur*, do hereby solemnly affirm and declare that the contents of foregoing application are true and correct to the best of my knowledge and belief and nothing has been concealed therein from this Honourable Court.



Usman
 ...DEPONENT

20/1/22

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

Service Appeal No. _____/2022

Usman Khan son of Munsif Dad, resident of Post Office Khalabat Town
ship, Jutti Pind, Tehsil and District Haripur.

....APPELLANT

VERSUS

Government of KPK through Secretary Elementary and Secondary
Education Khyber Pakhtunkhwa Peshawar & others.

...RESPONDENTS

SERVICE APPEAL

**APPLICATION FOR SUSPENSION OF OPERATION
OF IMPUGNED APPOINTMENT ORDER
ENDORSEMENT NO. 1118-24/F/NO.35/HC/ATD.LIT,
DATED 04.02.2021 TILL FINAL THE DECISION OF
APPEAL**

Respectfully Sheweth:-

1. That the above titled appeal is pending adjudication before this Honourable court.
2. That appellant has brought a good prima facie case and balance of convenience also lies in his favour.

3. That if the operation of impugned appointment order endorsement No. 1118-24/F/NO.35/HC/ATD.LIT, dated 04.02.2021 is not suspended, the appellant would suffer irreparable loss and purpose of filing of titled appeal would become defeated.

It is, therefore, humbly prayed that on acceptance of the instant appeal, operation of impugned appointment order endorsement No. 1118-24/F/NO.35/HC/ATD.LIT, dated 04.02.2021 may graciously be suspended/ stayed till final disposal of titled appeal.

Usman

...APPELLANT

Through

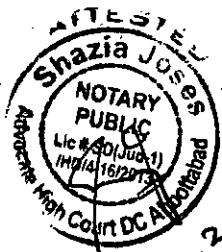
Dated: 20/01 /2022

(RAHEELA MUGHAL)

Advocate Supreme Court of Pakistan
Abbottabad

AFFIDAVIT:

I, *Usman Khan son of Munsif Dad, resident of Post Office Khalabat Township, Jutti Pind, Tehsil and District Haripur*, do hereby solemnly affirm and declare that the contents of forgoing application are true and correct to the best of my knowledge and belief and nothing has been concealed therein from this Honourable Court.



20/1/22

Usman

DEPONENT

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

Service Appeal No. _____/2022

Usman Khan son of Munsif Dad, resident of Post Office Khalabat Town
ship, Jutti Pind, Tehsil and District Haripur.

....APPELLANT

VERSUS

Government of KPK through Secretary Elementary and Secondary
Education Khyber Pakhtunkhwa Peshawar & others.

...RESPONDENTS

SERVICE APPEAL

ADDRESSES OF THE PARTIES

Respectfully Sheweth:-

Addresses of the parties are as under:-

Usman Khan son of Munsif Dad, resident of Post Office Khalabat Town
ship, Jutti Pind, Tehsil and District Haripur.

....APPELLANT

VERSUS

1. Government of KPK through Secretary Elementary and Secondary
Education Khyber Pakhtunkhwa Peshawar.
2. Director Elementary and Secondary Education Khyber Pakhtunkhwa
Peshawar.
3. District Education Officer (Male), District Haripur.
4. District Education Officer (Female), District Haripur.
5. Assistant District Education Officer, Haripur.

...RESPONDENTS

Dated: 20/01 /2022

Through

Usman

(RAHEELA MUGHAL)

Advocate Supreme Court of Pakistan
Abbottabad.

(18)

(19)

A m ed u s e s
cc A 22

BEFORE THE PESHAWAR HIGH COURT,
ABBOTTABAD BENCH

Writ Petition No. 318 -A/20



Usman Khan son of Haji Munsif Dad, resident of P.O Khalabat Township
Jatti Pind Tehsil and District Haripur.

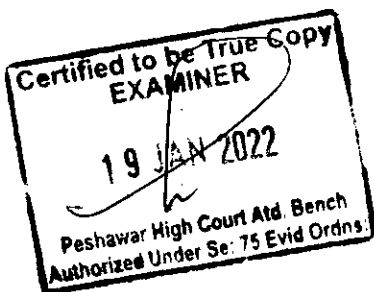
...PETITIONER

VERSUS

1. Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar.
2. Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.
3. District Education Officer, Haripur.
4. Sub-Divisional Education Officer (Male), Haripur.

...RESPONDENTS

WRIT PETITION UNDER ARTICLE 199 OF THE
CONSTITUTION OF ISLAMIC REPUBLIC OF
PAKISTAN, 1973, DECLARATION TO THE
EFFECT THAT THE PETITIONER IS ENTITLED
FOR APPOINTMENT ON THE POST OF BPS-11
UNDER THE CONTROL OF RESPONDENT NO. 3
AGAINST THE 2% DISABLE QUOTA SEATS AS
PER SECTION 10 KHYBER PAKHTUNKHWA
CIVIL SERVANTS (APPOINTMENT PROMOTION
AND TRANSFER RULES, 1989), BUT
RESPONDENTS ARE NOT APPOINTING THE
PETITIONER WHICH IS AGAINST THE LAW,





20

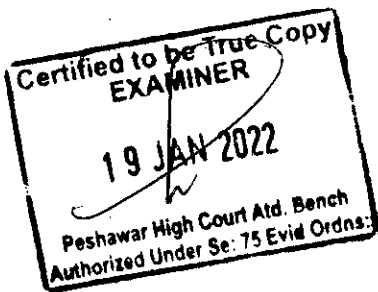
WITHOUT LAWFUL AUTHORITY, VOID AB-
INITIO, CAPRICIOUS, MALAFIDE, ILLEGAL,
DISCRIMINATORY AND UNTENABLE IN THE
EYES OF LAW.

PRAYER:- ON ACCEPTANCE OF THE
INSTANT WRIT PETITION, ACT OF THE
RESPONDENTS FOR NOT APPOINTING THE
PETITIONER AGAINST 2% DISABLE QUOTA
VACANT SEATS MAY KINDLY BE
DECLARED AGAINST THE LAW,
ARBITRARY, MALAFIDE, ILLEGAL AND
DISCRIMINATORY AND RESPONDENTS
MAY KINDLY BE DIRECTED TO APPOINT
THE PETITIONER ON THE POST OF BPS-11
AGAINST VACANT SEAT 2% DISABLE
QUOTA AS PER SECTION 10(5) KPK CIVIL
SERVANT APPOINTMENT, PROMOTION
AND TRANSFER RULES 1989.

Respectfully Sheweth:-

Facts germane to the instant petition are as under:-

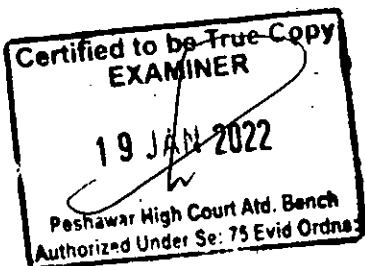
1. That petitioner is permanently disable person
due to his right hand. Copy of disability
certificate is annexed as Annexure "A".





21

2. That petitioner passed his F.A examination in year 2018. Attested copy of testimonials and Domicile Certificate is attached as Annexure "B".
3. That there are posts under 2% disable quota lying vacant under the control of the respondent No. 3. Copy of vacant seats are attached as Annexure "C".
4. That there are seats vacant in the Education Department Haripur on the basis of 2% disable quota seats under the control of respondent No. 3 and for gaining undue advantage from the political personality uptill now he has appointed disable persons on these vacant seats on the basis of the political pressure. So petitioner also requested for appointment on the basis of the 2% disable quota seat but was refused.
5. That respondents are supposed to appoint the petitioner on the basis of 2% disable quota seats under Section 10(5) KPK (appointment





promotion and transfer) rules 1989. Copy of relevant rules is annexed as Annexure "D".

6. That petitioner has not been appointed uptill now, as under 2% disable quota reserve seats are lying vacant under the control of respondent No. 3.

7. That petitioner seeks indulgence of the act of respondents, approach this Honourable Court with the instant writ petition in hand, inter-alia on the following grounds:-

GROUNDS:-

a) That act of respondents not showing the disable vacant seats and not appointing the petitioner on the basis of 2% disable quota seats which are lying vacant is arbitrary, malafide, illegal and against the law.

b) That act of respondents is discriminatory towards the petitioner which is against the vires of constitution of Islamic Republic of

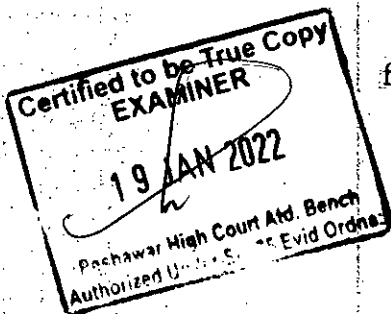
Certified to be True Copy
EXAMINER
19 JAN 2022
Peshawar High Court Attd. Bench
Authorized Under Se: 75 Evid Ordna

§

23

Pakistan 1973, malafide and arbitrary and discriminatory.

- c) That act of respondents is against the law, in the violation of law as there are so many dictums laid down by the Apex Court. In this respect that order passed by Honourable Court in the writ petition No. 148-A/2017 directed the respondents to appoint the petitioner in writ petition No. 140-A/2017 on against 2% disable person quota seats. Attested copy of writ petition order dated 05/04/2019 is annexed as Annexure "B".
- d) That petitioner belongs to a poor family and is entitled for appointment in BPS-11, on the basis of 2% disable quota reserved seats.
- e) That petitioner having no other remedy except to invoke the jurisdiction of this Honourable Court and constitution of Islamic Republic of Pakistan 1973.
- f) That court fee stamp paper worth Rs. 500/- is attached with the petition.



(6)

24

g) That the other points shall be urged at the time of arguments.

It is humbly prayed that on acceptance of the instant writ petition, act of the respondents for not appointing the petitioner against 2% disable quota vacant seats may kindly be declared against the law, arbitrary, malafide, illegal and discriminatory and respondents may kindly be directed to appoint the petitioner on the post of BPS-11 against vacant seat 2% disable quota as per section 10(5) KPK Civil Servant appointment, promotion and transfer rules 1989.

[Signature]
...PETITIONER

Through

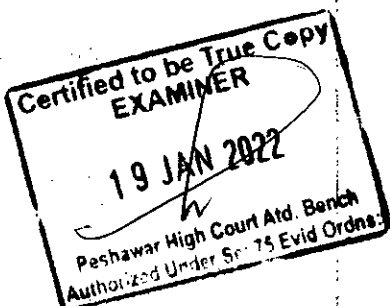
Dated: _____/2019

[Signature]
(RAHEEMA MUGHAL)
Advocate High Court, Abbottabad

VERIFICATION:-

Verified on oath that the contents of forgoing writ petition are true and correct to the best of our knowledge and belief and nothing has been concealed therein from this Honourable Court.

[Signature]
...PETITIONER



(7)

(25)

BEFORE THE PESHAWAR HIGH COURT,
ABBOTTABAD BENCH

Writ Petition No. _____ -A/2019

Usman Khan son of Haji Munsif Dad, resident of P.O Khalabat Township
Jatti Pind Tehsil and District Haripur.

...PETITIONER

VERSUS

Government of Khyber Pakhtunkhwa through Secretary Elementary &
Secondary Education Khyber Pakhtunkhwa, Peshawar & others.

...RESPONDENTS

WRIT PETITION

AFFIDAVIT

I, Usman Khan son of Haji Munsif Dad, resident of P.O Khalabat Township
Jatti Pind Tehsil and District Haripur, do hereby solemnly affirm and declare
that the contents of forgoing writ petition are true and correct to the best of
my knowledge and belief and nothing has been concealed therein from this
Honourable Court.

CNIC-13302-6628219-9

AFFIDAVIT

Usman Khan
DEPONENT

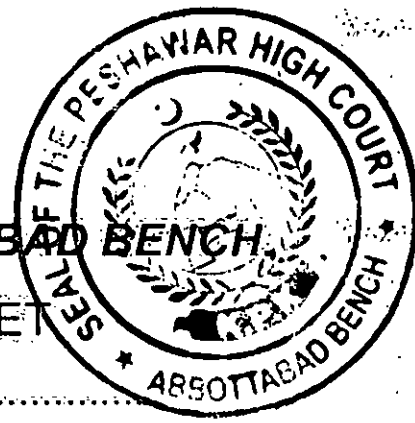
S No: 15927/910 Receipt No: 910

Certified that the above was verified on solemn
affirmation Abdul Jabbar before me on this
28 day of December 2019, by
Usman Khan S/o Haji Munsif Dad
P.O. Khalabat who was verified by Jatti Pind
Tehsil District Haripur, personally know is me

Abdul Jabbar
Oath Commissioner
(Additional Registrar)
Peshawar High Court Abbottabad Bench

28/12/2019

Certified to be True Copy
EXAMINER
19 JAN 2022
Peshawar High Court Att. Bench
Authorized Under Sec. 75 Evid Ordnc



PESHAWAR HIGH COURT, ABBOTTABAD BENCH

FORM OF ORDER SHEET

Court of.....

Case No..... of.....

Date of Order of Proceedings	Order or other Proceedings with Signature of Judge (s)
1	2
19.02.2020	<p><u>WP No. 318-A/2020</u></p> <p>Present: Ms. Raheela Mughal, Advocate for the petitioner.</p> <p>Sardar Muhammad Asif, Assistant AG for the respondents.</p> <p>***</p> <p><u>SHAKEEL AHMAD, J.-</u> Through this constitutional petition under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973, petitioner has sought the following relief:</p> <p>"It is humbly prayed that on acceptance of the instant writ petition, act of the respondents for not appointing the petitioner against 2% disable quota vacant seats may kindly be declared against the law, arbitrary, mala fide, illegal and discriminatory, and respondents may kindly be directed to appoint the petitioner on the post of BPS-11 against vacant seat 2% disable quota as per section 10(5) KPK Civil Servant appointment, promotion and transfer rules 1989."</p> <p>2. Arguments heard and record perused.</p> <p>3. After arguing the case at some length, learned counsel for the petitioner submitted at the bar that the petitioner would not press this petition anymore, if</p>

Certified to be True Copy
EXAMINER
 19 JAN 2022
 Peshawar High Court Atd. Bench
 Authorized Under Se. 75 Evid Ordns

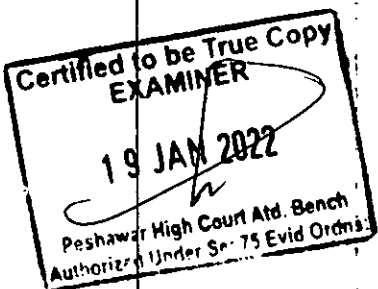
aw

direction is issued to the respondents to consider him in future for his appointment against the 2% disabled persons quota, to which the learned Assistant Advocate General readily agreed.

4. In view of the above, we dispose of this petition by directing the respondents to consider the petitioner for his appointment against the disabled person quota whenever in future the posts of any cadre become available for recruitment in accordance with law.


JUDGE

JUDGE



28

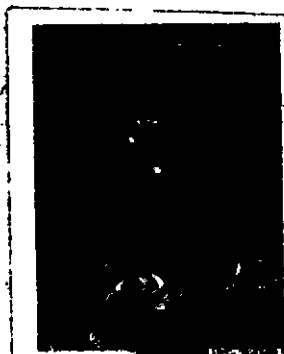
Annexures
ce B, 2

Must be signed
by the
Assistant
Commissioner
Revenue, Haripur

OFFICE OF THE DEPUTY COMMISSIONER HARIPUR



DOMICILE CERTIFICATE DISTRICT HARIPUR



I declared that I was born by parents who are / were permanently domiciled of Haripur District of Khyber Pakhtunkhwa Province having been born / settled in it.

I was born at Village / Mohallah JATTIPIND, P.O. K.T.S.

Tehsil HARIPUR District HARIPUR

Date 13/07/2016

Signature of Applicant

Pursuance to the Declaration date 13/07/2016

Filled by Mr./Mis./Mrs. USMAN KHAN

Son./Daughter./Wife./Widow of EXX HAJI MUNSIF DAD

Domiciled in Haripur District of Khyber Pakhtunkhwa Province, It is here by certified that the said USMAN KHAN is born of parents who are permanent residents of Haripur District of Khyber Pakhtunkhwa Province having been born / settled in it.

I have satisfied myself from overleaf verification of the Revenue Staff that the above declaration is true and certify accordingly on This

Day of 13 2016

No. 7253 /DC(H)

Dated. 1 / 1 / 2016

Deputy Commissioner
Haripur

No. 7253
Dated 27-07-2016

Add Assitt: Commissioner
Assistant Commissioner
Revenue, Haripur

SCHOOL CERTIFICATE

Certified that Mr. / Miss. / Mrs. Usman Khan
 Son / Daughter / Wife of Haji Munsif Dad
 completed his / her primary education from this school under Admission No. 107
 His / Her date of birth according to the school record is 10-09-1997
 His / Her school leaving certificate is attached.

PRINCIPAL
 New Shama Public School
 Head Master / Principal
 Signature & Stamp

Contact No. _____
 (Candidate / Parent / Guardian)

CNIC No. _____
 (Candidate / Parent / Guardian)

تصدیق کئے جانے والی ہے

ضمانی

تصدیق کی جاتی ہے کہ محمد عثمان خان ولد حاجی مصنف داد صاحبی صاحبان نے

اس اسکول میں اپنی پوری تعلیم مکمل کی ہے۔

اس کا کھانہ اور اس کے اخراجات سب سے ادا ہوئے ہیں۔

اس کا کوئی بیلنس یا دوسرا کوئی کام نہیں ہے۔

اس کے ساتھ ساتھ اس کے پاس پاس بک اور دیگر اس کے

تمام اساتذہ کرام سے اس کا حساب درست ہے۔

اس کے پاس پاس بک اور دیگر اس کے

تمام اساتذہ کرام سے اس کا حساب درست ہے۔

اس کے پاس پاس بک اور دیگر اس کے

تمام اساتذہ کرام سے اس کا حساب درست ہے۔

اس کے پاس پاس بک اور دیگر اس کے

تمام اساتذہ کرام سے اس کا حساب درست ہے۔

اس کے پاس پاس بک اور دیگر اس کے

تمام اساتذہ کرام سے اس کا حساب درست ہے۔

Muhammad Frasat,
 Patwari Halqa
 Date: 26/7/06

ASGAR DAD KHAN
 Nazim
 VIC JATI PAIND

VERIFIED THE DETAIL'S
 OF REVENUE STAFF
 OF TENSAL HAMPUR
 26/7/06
 TENSOLDAR HAMPUR

ضروری ہدایات

1. پاسپورٹ سائز تصویر مرد و خواتین کے لیے ضروری ہے۔ 2. اپنا والدین یا سرپرست کا رابطہ نمبر اور شناختی کارڈ دینا ضروری ہے۔
 3. بیان طلبی، اسٹامپ پیپر مبلغ 30/- روپے مالیت پاکستان کے کسی دوسرے ضلع سے ڈومیسائل سرٹیفکیٹ حاصل نہ کرنے اور بابت ناخواہ ہونے، دینا لازمی ہوگا۔
 4. فارم کے ساتھ پرائمری سکول سرٹیفکیٹ لگانا لازمی ہوگا۔

(29)

Attested by me
Principal
Govt. Higher Secondary School
Jatt Pind, Haripur

(35)

S: #

098

Regd: No.....

Govt. Higher Secondary School



Jatt Pind, Haripur

Provisional / Character

Revised Certificate

Adm: No. 121

Session 2018

Roll No. 84451

Certified that Mr. USMAN KHAN

S/o MUNSIF DAD

Has passed the S.S./H.S./S.C.

(Annual) Examination 2018 From the Board of Intermediate and Secondary

Education Abbottabad. Held in April 2018 as a Regular Student of this institution

He Secured 476 Marks out of 1100 and was placed in grade D

His date of birth according to the record of this institution

In Figure 10-09-1997

In Words 10th September Ninety Seven

His Conduct during his stay at school was Satisfactory

SUBJECTS PASSED

1. English 2. Urdu 3. Islamiyat (Comp) 4. P. Studies 5. CIVICS

6. H.P.E. 7. Islamic Studies

Prepared by Jahir Mahmood

PRINCIPAL

Date of Issue 15-11-2018

Govt. Higher Secondary School

Jatt Pind, Haripur

30

17 At-eston
10/10/2016

Reg. No. 1431290037

Admission No: 176

S.No:

115

GOVT: HIGH SCHOOL JATTI PIND HARIPUR



Provisional Certificate

S.S.C Examination 20 16 (A)

File No: II

Roll No. 122521

Certified that Mr. Usman Khan

Son of Haji Munsif Dad

Distt. Haripur has appeared in S.S.C Annual Exam 20 16 held in the month of Mar/Apr.

And according to the Gazette Notification of Board of Intermediate & Secondary Education Abbottabad.

He has passed the examination securing 516/1100 Marks in 'D' Grade.

His date of Birth is 10-09-1997 (In word) Ten Sep. N.H. Ninety-
Seven.

SUBJECTS PASSED

- | | | | |
|---------------|----------|-----------------|-----------------|
| 1 English | 2 Urdu | 3 Mathematics | 4 Islamiyat (C) |
| 5 Pak:Studies | 6 G. Sci | 7 Islamic Elec. | 8 A & M.D. |

Conduct: Good.

Co-curricular activities: -

Prepared by: [Signature]

Checked by: [Signature]

Date of Issue: 24-06-2016

[Signature]
Head Master
Govt: High School
Jatti Pind Haripur

RAHEELA MUNSHI
Abbottabad
1277-54251

S. No. 0411309

Roll No. 84451



Board of Intermediate and Secondary Education Abbottabad

Khyber Pakhtunkhwa - Pakistan
HIGHER SECONDARY SCHOOL CERTIFICATE EXAMINATION
Annual - 2018

This is to certify that USMAN KHAN

Son of HAJI MUNSIF DAD

A candidate from GHSS JATTI PIND HARIPUR

Humanities Group, Registration Number : 16130785060 has passed the Higher Secondary School Certificate Examination held in April/May, 2018 as a Regular Candidate . He has obtained 476 marks out of 1100 and has been placed in Grade D representing FAIR The candidate passed in the following Subjects :

ENGLISH

URDU

CIVICS

ISLAMYAT ELECTIVE

ISLAMIYAT COMPULSORY - PAKISTAN STUDIES

HEALTH & PHYSICAL EDUCATION

Asstt. Secretary

This certificate is issued without alteration or erasure.

Secretary

(31)

(28)

Handwritten notes: "Dhokest 9" and "KARLETA WUJWA" with a signature.

Handwritten number: 32

Handwritten signature: (Signature)

S. No. 0675855

Roll No. 122521



Board of Intermediate and Secondary Education Abbottabad

Khyber Pakhtunkhwa - Pakistan
SECONDARY SCHOOL CERTIFICATE EXAMINATION

SSC (ANNUAL) - 2016

This is to certify that USMAN KHAN
Son/Daughter of Haji Munsif Dad
A candidate from GHS Jatti Pind Haripur
has passed the Secondary School Certificate Examination of the Board of Intermediate and Secondary Education, Abbottabad
held in March/April, 2016 as a Regular candidate. He/She has obtained 516 marks out of 1100 and has been placed in
Grade D Representing FAIR. Date of Birth according to admission form is: 10 SEPTEMBER, 1997

The candidate passed in the following subjects:

- 1. ENGLISH
- 2. URDU
- 3. ISL. EDUCATION
- 4. PAK STUDIES
- 5. MATHS
- 6. GENERAL SCIENCE
- 7. ISLAMIC ELECTIVE
- 8. ART & MODEL DRAWING

(Signature)
Asstt. Secretary

This certificate is issued without alteration or erasure.

(Signature)
Secretary



30 (33)

Attested
by
384451183

**BOARD OF INTERMEDIATE AND SECONDARY EDUCATION
ABBOTTABAD
Khyber Pakhtunkhwa (Pakistan)**
Higher Secondary School Certificate Examination

Part - II

Session: 2018 (Annual)

PROVISIONAL & DETAILED MARKS CERTIFICATE

Roll No: 84451
Group: HUMANITIES

Name: USMAN KHAN
Father Name: HAJI MUNSIF DAD
Reg No: 16130785060
Institution/
District: GHSS JATTI PIND HARIPUR



has secured the marks shown against each subject in the Higher Secondary School Certificate Examination Part-II held in the month of April/May as a Regular Candidate.

Subjects	Marks	Marks Obtained						
		Part-I		Part-II		Total	Marks in Words	
		Theory	Pract	Theory	Pract			
English	200	36	--	31	--	67	Sixty-Seven	
Urdu (Comp)	200	40	--	46	--	86	Eighty-Six	
Islamyat Compulsory	50	27	--	--	--	27	Twenty-Seven	
Pakistan Studies	50	--	--	35	--	35	Thirty-Five	
Civics	200	33	--	43	--	76	Seventy-Six	
Islamyat Elective	200	47	--	23	--	70	Seventy Only	
Health & Physical Edu	200	40	12	51	12	115	One Hundred Fifteen	
Total : 1100							476-D	Four Hundred Seventy-Six Only

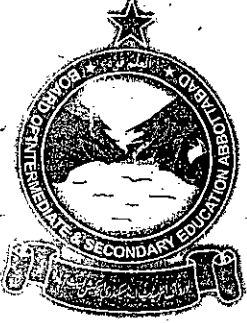
Date: 04 August, 2018

Remarks :

Checked By : [Signature]

[Signature]
Controller of Examinations

Note: Errors / Omissions excepted. Any error in Name, Father Name etc must be intimated within 30 days after declaration of result (04-08-2018). Visit us: www.biseatd.edu.pk
150 GHSS JATTI PIND HARIPUR



BOARD OF INTERMEDIATE AND SECONDARY EDUCATION

ABBOTTABAD

AB 2122521163

Khyber Pakhtunkhwa (Pakistan)

Secondary School Certificate Examination PROVISIONAL & DETAILED MARKS CERTIFICATE

Roll No: 122521

Group: HUMANITIES

(CLASS X)

Session: 2016 (Annual)



Name: USMAN KHAN
Father's Name: HAJI MUNSIF DAD
Date of Birth: 10-09-1997
Reg: No: 1431290037
Institution / District: GHS JATTI PIND HARIPUR

has secured the marks shown against each subject in the Secondary School Certificate Examination (Class 10th) held in the month of March/April as a Regular Candidate.

Subjects	Total	Part-I		Part-II		Total	Marks in Words
		Marks Obtained		Marks Obtained			
		Th	Pract	Th	Pract		
English	150	25	--	29	--	54	Fifty-Four
Urdu	150	26	--	48	--	74	Seventy-Four
General Science	150	26	--	32	--	58	Fifty-Eight
Mathematics	150	31	--	49	--	80	Eighty Only
Islamic Elective	150	37	--	38	--	75	Seventy-Five
Art & Model Drawing	150	25	12	20	14	71	Seventy-One
Islamiat Comp	100	19	--	23	--	42	Forty-Two
Pakistan Studies	100	28	--	34	--	62	Sixty-Two

Total: **1100**

516-D Five Hundred Sixteen Only

Remarks :

Dated: 17 June, 2016

Checked by:

Controller of Examination

Note:- Errors/Omissions excepted. Any mistake in the Name, Father's Name & DOB etc must be intimated within 30 days of the issuance date of this certificate. Visit us: www.biseatd.edu.pk
273 GOVT. HIGH SCHOOL KAG

Handwritten notes in the top left corner, including "Approved" and "16/09/2016".



GOVERNMENT OF KHYBER PUKHTUNKHWA
DIRECTORATE OF SOCIAL WELFARE AND WOMEN DEVELOPMENT
PROVINCIAL COUNCIL FOR THE REHABILITATION OF DISABLED PERSONS (PCRDP)
[Project on the Promotion of Social Participation of Persons with Disabilities]

Dated: 29-09-2016

Reg. No. HB 2066

PCRDP Khyber Pakhtunkhwa

(Not Valid For Court)

DISABILITY CERTIFICATE

ASSESSMENT BOARD FOR THE DISABLED PERSON

- 1 Name Uzma Khan
- 3 Married/unmarried Un-married
- 5 Date of Birth 10-09-1997
- 7 Qualification S.S.C
- 9 Present Address Village, Jattipind, P.O. Khalabat township, T-9, Distt Haripur
- 10 Permanent Address - As above -
- 11 Recommended by the Board as Disabled Person

Father's Name M. Insiya Sad
 Spouse 05
 N.I.C No. 13302-66-2-12-19

Nature of Disability PHYSICAL INTELLECTUAL RIGIDITY

District Officer,
 Social Welfare & Community Development
 Haripur
 District Officer,
 Social Welfare, Haripur

(35)

(Signature)

(36)

(36)

(36)

Amroha,

جناب ڈسٹرکٹ ایجوکیشن آفیسر (مردانہ) ایلیمنٹری اینڈ سیکنڈری ایجوکیشن ہری پور

Amroha,
District
Abbotabad

اپیل برائے بحالی

درخواست بعنوان:

جناب عالی!

گزارش ہے کہ ہے معزز عدالت پشاور ہائی کورٹ ایبٹ آبادیج کے حکم کے مطابق آپ جناب نے سائل کو معذور افراد کے 2% کوٹہ کے تحت جونیئر کلرک (BPS-11) کی سیٹ پر بھرتی کیا تھا۔ لیکن آپ 22 فروری 2021 کو آپ جناب نے اس آڈر کو ڈسمس کرتے ہوئے یہ اعتراض لگایا تھا کہ اس بھرتی کی DPC نہیں ہوئی۔

یہاں یہ بات قابل غور ہے کہ گورنمنٹ رولز کے مطابق یہاں DPC کے بجائے DSC ہونی چاہیے تھی کیونکہ جس بھی درخواست گزار کا آڈر معزز عدالت نے دیا ہو اس درخواست گزار کے لیے DSC نہیں ہو سکتی ہے۔ مجھے انتہائی افسوس کے ساتھ کہنا پڑ رہا ہے کہ آپ جناب نے اپنے اختیارات کا غلط استعمال کیا ہے۔

اس لیے سائل آپ سے گزارش کرتا ہے کہ برائے مہربانی سائل کو 2% معذور افراد کے کوٹہ کے تحت جونیئر کلرک (BPS11) کی آسامی پر بحال کیا جائے۔

سائل امید کرتا ہے کہ آپ جناب اپنے ادارہ کے غیر آئینی اور غیر قانونی فیصلوں پر نظر ثانی کرتے ہوئے سائل کو 2% معذور افراد کے کوٹہ کے تحت جونیئر کلرک (BPS11) کی آسامی پر بحال کریں گے۔

سائل جناب کی درازی عمر و صحت کے لیے دعا گو رہے گا۔

شکریہ

الحارث
محمد ان خان
عثمان خان ولد منصف داد

سکنہ جٹی پنڈ تحصیل ضلع ہری پور

فون نمبر: 0342-9563288

صلی ایجوکیشن

1134

27-2-2021

26-18-2021

1-3-2021

سیکرٹری ایجوکیشن خیبر پختون خواہ

ڈائریکٹر ایجوکیشن خیبر پختون خواہ

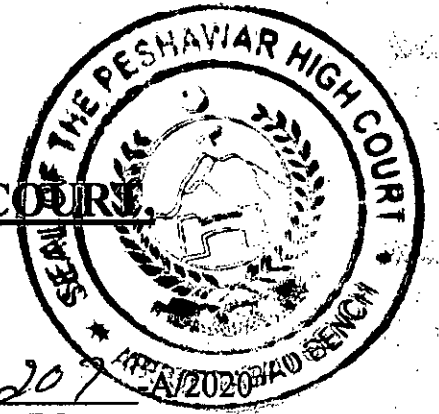
کاپی برائے اطلاع:

83. دائریہ

1-3-2021

Annexures
cc D₃₂ (37)
(4)

BEFORE THE PESHAWAR HIGH COURT
ABBOTTABAD BENCH



CM No. 207
IN
Writ Petition No.318-A/2020

Usman Khan son of Haji Munsif Dad, resident of Jatti Pind, Khalabat Township,
Tehsil & District, Haripur.

...PETITIONER

VERSUS

1. Govt. of Khyber Pakhtunkhwa, through Secretary Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
2. Director, Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
3. District Education Officer, Haripur.
4. Sub-Divisional Education Officer (Male), Haripur.

...RESPONDENTS

WRIT PETITION

APPLICATION FOR IMPLEMENTATION OF
ORDER DATED 19.02.2020 PASSED BY THIS
HONOURABLE COURT IN THE TITLED WRIT
PETITION.

Respectfully Sheweth;-

1. That the petitioner filed writ petition No.318-A/2020 before this Honourable Court for the appointment on the basis of 2% disable quota seat, which was disposed of on 19.02.2020. Attested copies of writ petition and order dated 19.02.2020 are attached as Annexure "A" & "B".

No. 2536
30/4/2020

FILED W/318-A
ADDITIONAL CLERK
PESHAWAR HIGH COURT
ABBOTTABAD BENCH
20/4


Certified to be True Copy
EXAMINER
19 JAN 2022
Peshawar High Court Atd. Bench
Authorized Under Sec: 75 Evid Ordnc

2. That after passing an order from this Honourable Court, petitioner moved an application to respondent No.3 for the appointment on the available vacant seat, but respondent No.3 has refused to appoint the petitioner on the available vacant seat. Copy of application is attached as Annexure "C".
3. That list of available vacant seats on the basis of 2% quota was already annexed with said writ petition, which clearly reveals that vacant seats on the basis of 2% quota are lying vacant under the control of respondents No.3 and 4, so, non-implementation of the order passed by this Honourable Court is clear contempt of court and respondents No.3 & 4 are bound to obey the order of this Honourable Court.
4. That it is pertinent to mention here that respondent No.3 already appointed disabled persons on the basis of 2% disable quota seats.

It is, therefore, on acceptance of the instant application, the respondents may kindly be directed to implement the order dated 19.02.2020 passed by this Honourable Court in writ petition No.318-A/2020 and respondents may also be directed to appoint the petitioner on the available vacant seats on the basis of 2% disabled quota seats.

Dated: 24.04.2020

Through


...PETITIONER

(RAHEELA MUGHAL)
Advocate High Court, Abbottabad

FILED TODAY
ADDITIONAL REGISTRAR
PESHAWAR HIGH COURT
ABBOTTABAD BENCH
23/4

Certified to be True Copy
EXAMINER
19 JAN 2022
Peshawar High Court Atd. Bench
Authorized Under Sec: 75 Evid Ordns

3

39

BEFORE THE PESHAWAR HIGH COURT,
ABBOTTABAD BENCH

CM No. 207 -A/2020
IN
Writ Petition No.318-A/2020

Usman Khan son of Haji Munsif Dad, resident of Jatti Pind, Khalabat Township,
Tehsil & District, Haripur.

...PETITIONER

VERSUS

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

...RESPONDENTS

IMPLEMENTATION APPLICATION

AFFIDAVIT

I, Usman Khan son of Haji Munsif Dad, resident of Jatti Pind, Khalabat Township,
Tehsil & District, Haripur, do hereby affirm and declare on oath that the contents of
foregoing application are true and correct to the best of my knowledge and belief
and nothing has been concealed from this Honourable Court.

19302-6628218-9

AFFIDAVIT

S.No: 3221/207 Receipt No: 207

Certified that the above was verified on Solemn
affirmation AT before me on this
29 day of APR 2020 by

Usman Khan S/o Haji Munsif Dad
R/o Jatti Pind Tehsil Haripur District Haripur
Who is personally known to me

[Signature]
Oath Commissioner
Peshawar High Court, Abbottabad Bench

[Signature]

DEPONENT

Certified to be True Copy
EXAMINER
19 JAN 2022
Peshawar High Court Atd. Bench
Authorized Under Sec: 75 Evid Ordns.

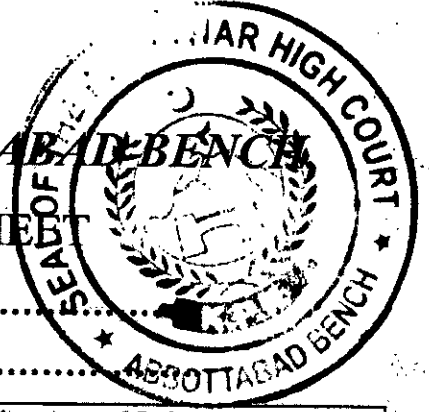
25/20

ABOTTABAD BENCH
PESHAWAR HIGH COURT

Annearves
E.S. (40)

PESHAWAR HIGH COURT, ABBOTTABAD BENCH

FORM OF ORDER SHEET



Court of.....

Case No.....of.....

Date of Order of Proceedings	Order or other Proceedings with Signature of Judge (s)
1	2
29.09.2020	<p>CM No. 207-A/2020 (Impleadment) in WP No. 318-A/2020.</p> <p>Present: Mrs. Raheela Mughal, Advocate for petitioner. Raja Muhammad Zubair, AAG for respondents.</p> <p>***</p> <p>MOHAMMAD IBRAHIM KHAN, J. Through this application, petitioner seeks implementation of order dated: 19.02.2020 passed by this Court in WP No. 318-A/2020, whereby the writ petition was disposed of with directions to the respondents/department <i>to consider the petitioner for his appointment against the disabled person quota, whenever, in future the posts of any cadre become available for recruitment in accordance with law.</i></p> <p>2. In consequence of this implementation petition, the respondents/department submitted reply wherein, they did not deny the stance of petitioner but submitted that petitioner <u>would be considered with the other similar placed persons and would be decided on merit at the time of next coming appointment/recruitment process.</u></p> <p>3. In view of the contents of application coupled with the reply of respondents/department, we dispose of this CM in the</p>

Certified to be True Copy
EXAMINER
19 JAN 2022
Peshawar High Court Atd. Bench
Authorized Under Sec. 75 Evid Ordns.

Handwritten signature/initials.

terms that the respondents/department shall observe 2% quota reserved for disabled persons and if the petitioner falls within the said quota, he shall be appointed at his own number/merit in accordance with law, whenever in future post/s occurs.

[Signature]
JUDGE

[Signature]
JUDGE

PESHAWAR HIGH COURT PESHAWAR

Certified to be True Copy
EXAMINER
19 JAN 2022
Peshawar High Court Atd. Bench
Authorized Under Sec. 75 Evld Ordns.



(38)

Office of the District Education Officer (Male)
HARIPUR

PH No. 0995-920150, 920151, 920152

APPOINTMENT.

In pursuance of honorable Peshawar high court Abbattabad bench judgment in CM No 208/20 and writ petition No 319/2020 dated 29/09/2020, and approval of competent authority, the appointment of the following Candidate is hereby ordered as Junior Clerk BPS 11 Rs: (12570-880-38970) @ Rs./ 12570-P.M plus usual allowances as admissible under the rules on regular basis on 2% Quota reserved for Disable Persons, under the existing policy of the Provincial Government, against the vacant posts noted against each on the terms and Conditions given below with effect from date of taking over charge in the best interest of public service.

S. N	Name of Candidates	Father's Name	CNIC	Date Of Birth	Address	Place of posting
1.	Usman Khan	Haji Munsif Dad	13302-6628219-9	10/09/1997	Village Jatii Pind Haripur	GHSS No II Haripur vacant post of J/C

1. No TA/DA etc is allowed.
2. Charge report should be submitted to all concerned
3. He should not be handed over charge if they exceed 35 years or below 18 years of age. Age relaxation case may be submitted to competent authority.
4. If the candidate is over age less than 02 years, their upper age limit less than 02 years is hereby relaxed.
5. Appointment is subject to the condition that the certificate/documents must be verified from the concerned authorities by the DEO (concerned), if anyone found producing bogus Certificate will be reported to the law enforcing agencies for further action.
6. His services are liable to termination on one month's notice from either side. In case of resignation without certificates are verified.
7. Pay will not be drawn until and unless a certificate to the effect by DEO (concerned) is issued that his certificates are verified.
8. He would join his post within 15 days of the issuance of this order. In case of failure to join the post within 15 days of the issuance of this order, his appointment will expire automatically and no subsequent appeal etc shall be entertained.
9. The candidate concerned should produce Health & Age certificate duly signed by Medical Superintendent concerned before taking over charge.
10. He will be governed by the rules and regulations in the field and as may be issued from time to time by the Govt.
11. His service will be discontinued at any time, in case his performance is found unsatisfactory.
12. Before handing over charge once again his documents may be checked if he has not the required /relevant qualifications as per rules, he may not be handed over charge of the post.

.....sd.....

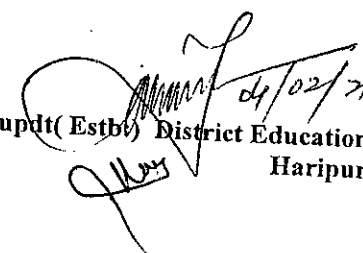
District Education Officer (M)
Haripur

Date: 04/02/2021

Endst No. 1118-24 /F.No 35/HC/ATD/Lit:

Copy of the above is forwarded to the:-

1. Registrar Peshawar High court Abbattabad bench for information pl.
2. Deputy Commissioner Haripur.
3. District Monitoring Officer Haripur.
4. District Account Officer Haripur.
5. Principal GHSS No II Haripur
6. The candidate Concerned.
7. Teacher Concerned.


Supdt (Estbt) District Education Officer (M)
Haripur



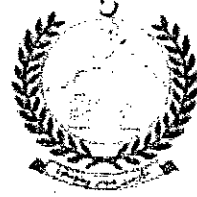
(43)

OFFICE OF THE DISTRICT EDUCATION OFFICER (M)

HARIPUR

Ph. No. 0995-920150, 920151, 920152

Email: deomalehrp@yahoo.com



Adjustment Order:

As approved by the competent authority, Mr. Jamshid Khan J/C GHS No 2 Haripur is hereby adjusted at GHS No II Haripur against vacant post of Senior Clerk on his own pay and grade, due to vacation of post of J/C for court case of disable person appointment as J/C

Note:

1. Charge Report should be submitted to all concerned.
2. No TA/DA & TG is allowed.

sd/....
District Education Officer (M)
Haripur

Endst No. 1113-17 /F.No5-7/GB Dated Haripur the 04/02/2021

Cc

1. The District Account Officer Haripur.
2. The District Monitoring Officer Haripur.
3. The Principal GHS No II Haripur
4. The clerk concerned.
5. Office Record File.

Supdt (Estb) O/O District Education Officer (M)
Haripur

4/2/2021

Ammarum
G. 2, (44)
(44)

OFFICE OF THE MEDICAL SUPERINTENDENT DHQ HOSPITAL HARIPI

(34)



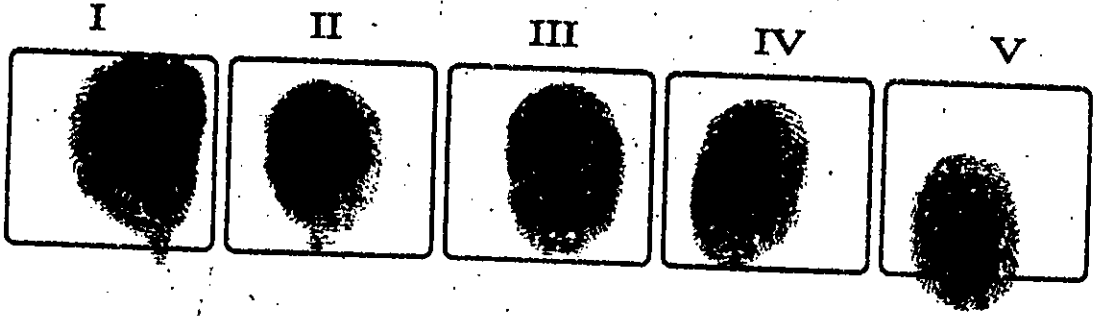
Ammarum
(Signature)

HEALTH AND AGE CERTIFICATE

Name of Official: Usman Khan 13302-6628219-9
 Cast of race: Awam Father's Name: Munsif Dad
 Residence: Talipind Teh & Distt Haripur
 By Birth was born: 10.9.1997 KPK, Pakistan Exact Hight: 5-3"
 Personal mark of Identification: Nil
 Signature of Official: (Signature)
 Signature of Head of Department: _____

I do hereby certify that I have examined Mr./Miss./Mrs. Usman Khan
 A candidate for employment in the office of the: DEO (M) Haripur
 and can't discover that he/she had any disease communicable or other
 constitutional affection or bodily infirmity except: Physically Disable
 I do not consider this as disqualification for employment in the office of the:
DEO (M) Haripur
 His age according to his own statement: 23 Years and by
 appearance about 23 years.

LEFT HAND THUMB AND FINGER IMPRESSIONS



Dated: 4/2/2021

(Signature)
12 Medical Superintendent

MEDICAL SUPERINTENDENT
DHQ HOSPITAL HARIPI



(45) *Annex*
ecH 25

OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE)
HARIPUR

Ph. No. 0995-610178, 610268
Email: deomalehrp@gmail.com

WITHDRAWAL

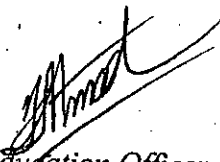
This office letter appointment order issued under Endst: No 1118-24 File No 35/HC/ATD/Lit dated 04.02.2021 in respect of Usman Khan S/O Haji Munsif Dad against 2 % disable quota against the post of Junior Clerk is hereby with drawn with effect from the date of issuing due to the reason that No codal formalities were not fulfilled in this order by the office i.e. DPC etc Was not called in this matter.

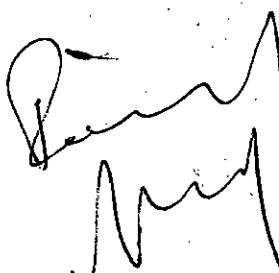
Sd
District Education Officer (M)
Haripur

Endst No: 1583-29 /F.No.35/HC/ATD/Lig:

Dated: 20/02/2021.

1. Register Peshawar High court Abbottabad bench for information.
2. Deputy Commissioner Haripur.
3. District Monitoring Officer Haripur.
4. District Accounts Officer Haripur.
5. Principal GHSS II Haripur.
6. The Candidate Concerned.
7. Teacher Concerned.


District Education Officer (M)
Haripur


22/2/2021

Amended
I 93
46

**BEFORE PESHAWAR HIGH COURT
ABBOTTABAD BENCH**



Writ Petition No. 310 -A/2021

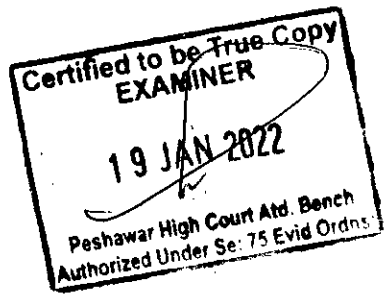
Usman Khan son of Munsif Dad, resident of Post Office Khalabat Town
ship, Jutti Pind, Tehsil and District Haripur.

....PETITIONER

VERSUS

1. Government of KPK through Secretary Elementary and Secondary Education Khyber Pakhtunkhwa Peshawar.
2. Director Elementary and Secondary Education Khyber Pakhtunkhwa Peshawar.
3. District Education Officer (Male), District Haripur.
4. District Education Officer (Female), District Haripur.
5. Assistant District Education Officer, Haripur.

....RESPONDENTS



No. 1600
09-03-21

WRIT PETITION UNDER ARTICLE 199 OF THE
CONSTITUTION OF ISLAMIC REPUBLIC OF
PAKISTAN 1973, DECLARATION TO THE EFFECT
THAT THE PETITIONER WAS APPOINTED AND
POSTED AS JUNIOR CLERK UNDER BPS-11 AT
GHSS NO. 2 DISTRICT HARIPUR AGAINST
VACANT POST OF LAB ASSISTANT VIDE
APPOINTMENT ORDER ENDORSEMENT NO. 1118-
24/F/NO.35/HC/ATD.LIT, DATED 04.02.2021 ON THE
BASIS 2% DISABLE QUOTA SEAT, BUT

FILED TODAY
ADDITIONAL REGISTRAR
PESHAWAR HIGH COURT
ABBOTTABAD BENCH

(2) (47)

RESPONDENT NO. 3 CANCELLED THE APPOINTMENT ORDER OF PETITIONER VIDE ENDORSEMENT NO. 1583-89/F.NO.35/HC/ATD.LIG. DATED 20/02/2021 WHICH IS AGAINST THE LAW, WITHOUT LAWFUL AUTHORITY, WITHOUT JURISDICTION, CORUM NON JUDICE, ARBITRARY, MALAFIDE, CAPRICIOUS, PERVERSE, AGAINST THE VIRES, AGAINST THE NATURAL JUSTICE AND VOID AUDI-ALTERM-PARTRUM AND CONTEMPTUOUS AND ON THE BASIS OF POLITICAL WIMSAND WISHED.

PRAYER: ON ACCEPTANCE OF THE INSTANT WRIT PETITION, ACT OF RESPONDENTS FOR THE CANCELLATION OF APPOINTMENT ORDER OF PETITIONER MAY KINDLY BE DECLARED ILLEGAL, PERVERSE, AGAINST THE LAW, WITHOUT LAWFUL AUTHORITY, WITHOUT JURISDICTION, CORUM NON JUDICE, ARBITRARY, MALAFIDE, CAPRICIOUS, PERVERSE, AGAINST THE VIRES, AGAINST THE NATURAL JUSTICE VOID AB-INITIO AND AUDI ALTERM PARTERM MAY KINDLY BE SET ASIDE THE CANCELLATION VIDE ENDORSEMENT NO. 1583-89/F.NO.35/HC/ATD.LIG. DATED 20/02/2021

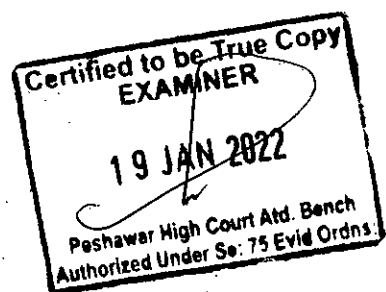
Certified to be True Copy
EXAMINER
19 JAN 2022
Peshawar High Court Atd. Bench
Authorized Under Se: 75 Evid Ordna

FILED TODAY
ADDITIONAL REGISTRAR
PESHAWAR HIGH COURT
ABBOTTABAD BENCH
17/121

(3)

(48)

AND IT MAY KINDLY BE RESTORED THE APPOINTMENT ORDER OF PETITIONER AS JUNIOR CLERK LAB ASSISTANT (BPS-11) VIDE ORDER ENDORSEMENT NO. 1118-24/F/NO.35/HC/ATD.LIT, DATED 04.02.2021 POSTED AT GHSS NO. 2 DISTRICT HARIPUR, AGAINST THE VACANT SEAT UNDER 2% DISABLE QUOTA SEAT AND RESPONDENTS MAY KINDLY BE DIRECTED THAT PETITIONER IS ENTITLED TO BE CONTINUED HIS JOB AS JUNIOR CLERK UNDER BPS-11 AT GHSS NO.2 DISTRICT HARIPUR ON THE BASIS OF 2% DISABLE QUOTA. ANY OTHER RELIEF WHICH THIS HONOURABLE COURT DEEMS FIT AND PROPER UNDER THE CIRCUMSTANCES OF THE CASE MAY KINDLY BE GRANTED.



Respectfully Sheweth:-

The facts forming the background of the instant writ petition are arrayed as under;-

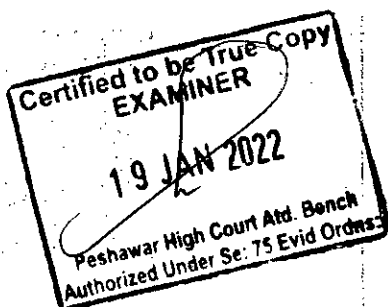
1. That petitioner filed writ petition No. 318-A/2020 before this Honourable Court for the appointment of the petitioner on the basis of 2% disable quota

FILED TODAY
ADDITIONAL REGISTRAR
PESHAWAR HIGH COURT
ADDITIONAL BENCH
PESHAWAR

(4) (49)
seat, which was disposed of on 19.02.2020.

Attested copy of writ petition and order dated 19.02.2020 are attached as Annexure "A" & "B".

2. That after passing the order from the Honourable Court, petitioner moved an application to respondent No. 3 for the appointment on the available vacant seat, but respondent was refused to appoint him on the available vacant post. Copy of application is attached as Annexure "C".
3. That petitioner moved the application for implementation before the Honourable Court. Attested copy of implantation application is attached as Annexure "D".
4. That on 29.09.2020 respondent No. 3 gave the assurance before the Honourable Court the petitioner would be appointed on the available vacant post 2% disable quota seat and Honourable Court passed the directions to respondents that respondents shall appoint the petitioner on the basis of 2% disable seats in the next coming post on his number/merit. Attested copy of order dated 29.09.2020 is attached as Annexure "E".



FILED TODAY
ADDITIONAL REGISTRAR
PESHAWAR HIGH COURT
PESHAWAR

② ③

5. That after fulfilling all the codal formalities, petitioner was appointed as Lab Assistant (BPS-11), 2% disable quota, against the vacant post at GHSS No. 2 District Haripur vide appointment order No. 1118-24/F.No.35/HC/ATD/Lit. dated 04.01.2021. Copy of appointment order dated 04.01.2021 is attached as Annexure "F".
6. That after the issuance of appointment order dated 04.02.2021, Medical certificate was issued on 04.02.2021. Copy of medical/ health certificate and age certificate is attached as Annexure "G".
7. That petitioner received/ took-over the charge in the office of Principal GHSS No. 2 District Haripur in the respect certificate was issued by the principal of GHSS No. 2 Haripur.
8. That petitioner took over the charge of Lab Assistant at GHSS No. District Haripur and regularly performed his duty with his grave struggle. Copy of attendance sheet of GHSS No. 2 Haripur is attached as Annexure "H".

Certified to be True Copy
EXAMINER
19 JAN 2022
Peshawar High Court Atd. Bench
Authorized Under Sec: 75 Evid Ordins

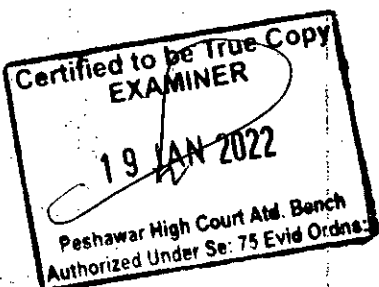
FILED TODAY
ADDITIONAL REGISTRAR
PESHAWAR HIGH COURT

(62) (51)

9. That on 20/02/2021 respondent No. 3 cancelled the appointment order on the flimsy pretext vide endorsement No. 1583-89/F.No.35/HC/ATD/Lig. dated 20/02/2021. Copy of cancellation order dated 20/02/2021 is attached as Annexure "H".
10. That petitioner raised the objection upon this unnatural and injustice Act of respondent No. 3, but respondent No. 3 refused to continued his job.
11. That petitioner is invoking the jurisdiction of this Honourable Court being no other efficacious remedy against the illegal Act of respondent, inter-alia on the following amongst many other:-

GROUND S; -

- a) That act of respondents for canceling the appointment order under 2% disable quota is on the basis of malafide, arbitrary, capricious without lawful authority, without jurisdiction against the law and cancellation order of petitioner is liable to be set aside.
- b) That once Honourable Court passed the directions in writ petition No. 318-A/2020

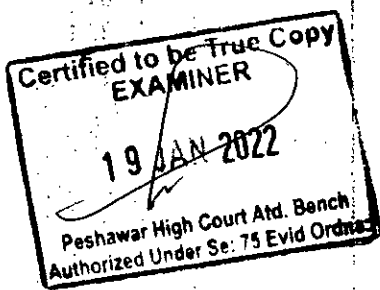


FILED TODAY
ADDITIONAL REGISTRAR
PESHAWAR HIGH COURT
ATTD. BENCH

(7) (S2)

dated 19.02.2020 for the consideration of petitioner on the basis of 2% quota seat and secondly in the implementation No. 207-A/2020 on 24/04/2020, against the Honourable Court passed the directions to respondents, for the consideration of 2% disable quota seat, so, respondent No. 3, in order to give the impression for the implementation order of Honourable Court, appointed the petitioner, but later on withdrawn/cancelled the appointment order of the petitioner which is clear contempt of court and malafide on the part of respondent No. 3 and he played the Mockery with law so, under these circumstances order dated 20/02/2021 is liable to be cancelled.

- c) That appointment order was cancelled on the flimsy grounds by the respondent No. 3, that DPC was not called in this matter, DPC means Departmental Promotion Committee. Departmental at Promotion committee has no concern with the appointment of petitioner as petitioner is a fresh appointee. Respondent No. 3 being the competent



FILED TODAY
ADDITIONAL REGISTRAR
PESHAWAR HIGH COURT
PESHAWAR BENCH

2 (S3)

authority has appointed the petitioner. So, act of respondent for commending this appointment is against the natural justice and law.

- d) That according to law once a competent authority has issued appointment order and petitioner took the charge and had been act upon its, So, same authority could not withdraw cancel the appointment order of petitioner according to the law. So, act of respondents is against the vires and not sustainable in the eyes of law.
- e) That act of respondents by canceling the appointment order of the petitioner, is against the dictum laid down by the superior courts that where the order has taken legal effect and, its pursuance thereof certain rights have been created in favour of any individual, such an order cannot be withdraw or rescinded to the detriment rights. So, appointment order dated 04.02.2021 has created a legal/right in favour of petitioner. So, Act of respondent for

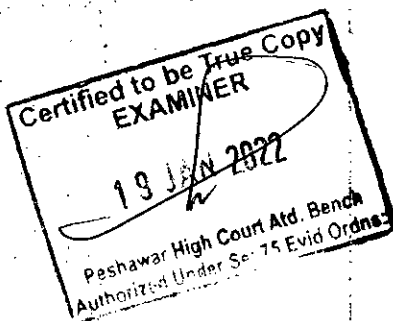
Certified to be True Copy
EXAMINER
19 JAN 2022
Peshawar High Court Attd. Bench
Authorized Under Sec. 75 Evid Ordns.

FILED TODAY
ADDITIONAL REGISTRAR
PESHAWAR HIGH COURT
ABBOTTABAD BENCH

(9) (54)

canceling the appointment order of petitioner is against the law and liable to be set aside.

- f) That act of respondents for canceling the appointment is sheer violation of Law and Rule, if authority empowered to pass an order can withdraw pursuance of that order has not been taken, but locus poentiae is not available to authority, if, such order has been acted upon and vested rights have occurred in pursuance of that order authority has no power to withdraw/ cancel such order.
- g) That appointment order of petitioner was cancelled by the respondent No. 3 without any notice. So, nobody could be deprived without given the opportunity of hearing. So, cancellation order is based on Audi Alterm Partrum and is not sustainable in the eye of law.
- h) That respondent No. 3 cancelled that appointment order dated 04.02.2021 on the

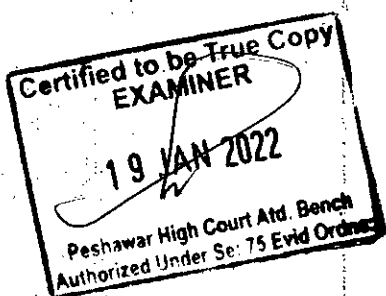


FILED TODAY
ADDITIONAL REGISTRAR
PESHAWAR HIGH COURT
ABBOTTABAD BENCH

(10) (SS)

whims and wishes of local political personality and deprived the petitioner from his lawful right.

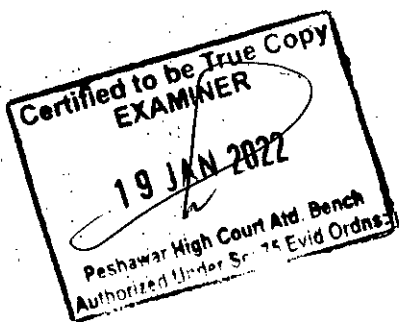
- i) That without any justification and notice, cancelled the appointment order of petitioner by the respondents is the discrimination towards the petitioners which is liable to be set aside.
- j) That there is no other alternate, efficacious and speedy remedy available to the petitioners, except the constitutional jurisdiction of this Honourable Court.
- k) That the necessary notices have been served upon the respondents through registered mail. Copy of notice and receipt are annexed as Annexure "I".
- l) That court fee stamp paper worth Rs. 500/- is affixed.



FILED TODAY
ADDITIONAL REGISTRAR
PESHAWAR HIGH COURT
ABBOTTABAD BENCH
12/1/22

(TV) (86)

It is, therefore, humbly prayed that on acceptance of the instant writ petition, act of respondents for the cancellation of appointment order of petitioner may kindly be declared illegal, perverse, against the law, without lawful authority, without jurisdiction, coram non iudice, arbitrary, malafide, capricious, perverse, against the vires, against the natural justice void ab-initio and audi alteram partem may kindly be set aside the cancellation vide endorsement No. 1583-89/F.NO.35/HC/ATD.Lig. dated 20/02/2021 and it may kindly be restored the appointment order of petitioner as junior clerk lab assistant (BPS-11) vide order endorsement no. 1118-24/F/NO.35/HC/ATD.Lit, dated 04.02.2021 posted at GHSS No. 2 District Haripur, against the vacant seat under 2% disable quota seat and respondents may kindly be directed that petitioner is entitled to be continued his job as junior clerk under BPS-11 at GHSS no.2 District Haripur on the basis of 2% disable quota. Any other relief which this Honourable Court deems fit and proper under the circumstances of the case may kindly be granted.



FILED TODAY
ADDITIONAL REGISTRAR
PESHAWAR HIGH COURT
ASOTTABAD BENCH

(72)

(57)

INTERIM RELIEF:-

Meanwhile it is further prayed that the respondents be directed to re-instate the petitioner on his post and they also be restrained from appointment of any other person against the said post till final disposal of the titled writ petition.

Dated: _____/2021

Through

[Signature]
...PETITIONER

[Signature]
(RAHEELA MUGHAL)
Advocate High Court, Abbottabad

VERIFICATION:-

Verified on oath that the contents of foregoing appeal are true and correct to the best of our knowledge and belief and nothing has been concealed therein from this Honourable Court.

[Signature]
PETITIONER

Certified to be True Copy
EXAMINER
19 JAN 2022
Peshawar High Court Atd. Bench
Authorized Under Sec-75 Evid Ordns

FILED TODAY
ADDITIONAL REGISTRAR
PESHAWAR HIGH COURT
ABBOTTABAD BENCH
[Signature]

(13)

(52)

BEFORE PESHAWAR HIGH COURT,
ABBOTTABAD BENCH

Writ Petition No. ____-A/2021

Usman Khan son of Munsif Dad, resident of Post Office Khalabat Town
ship, Jutti Pind, Tehsil and District Haripur.

....PETITIONER

VERSUS

Government of KPK through Secretary Elementary and Secondary
Education Khyber Pakhtunkhwa Peshawar & Others.

....RESPONDENTS

WRIT PETITION

AFFIDAVIT

I, *Usman Khan son of Munsif Dad, resident of Post Office Khalabat Town
ship, Jutti Pind, Tehsil and District Haripur*, do hereby solemnly affirm
and declare that the contents of foregoing writ petition are true and correct to
the best of my knowledge and belief and nothing has been concealed therein
from this Honourable Court.

Certified to be True Copy
EXAMINER
19 JAN 2022
Peshawar High Court Atd. Bench
Authorized Under Sec 75 Evid. Ordns.

13302-662828-9

Dated: ____/2021

S No. 2406/52

DEPONENT

*Usman Khan son of Munsif Dad
Jutti Pind, Tehsil Haripur
District Haripur*

FILED TODAY
ADDITIONAL REGISTRAR
PESHAWAR HIGH COURT
ABBOTTABAD BENCH

59



THE
PESHAWAR HIGH COURT
ABBOTTABAD BENCH.

PH: 0992-9310058
FAX: 0992-9310055

No: 274

Dated Abbottabad 01/12 /2021

From

The Additional Registrar,
Peshawar High Court,
Abbottabad Bench.

To

The Director,
Elementary & Secondary Education,
Khyber Pakhtunkhwa,
Peshawar.

Subject: WRIT PETITION NO. 310-A of 2021.

Usman Khan S/o Munsaf Dad, R/o P.O Khalabat Township, Jutti Pind,
Tehsil & District, Haripur.

.....Petitioner

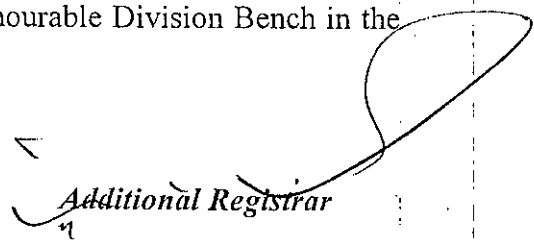
VERSUS

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

.....Respondents

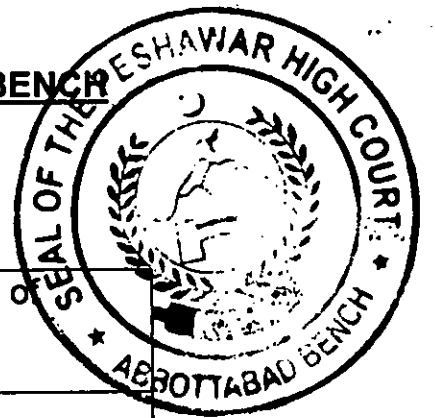
Memo,

I am directed to forward herewith writ petition in original alongwith
copy of judgment dated 24.11.2021, passed by the Honourable Division Bench in the
above noted case for information and compliance.


Additional Registrar

80

PESHAWAR HIGH COURT, ABBOTTABAD BENCH



FORM OF ORDER SHEET

Date of order or proceedings	Order or other proceedings with signature of Judge(s).
(1)	(2)
24.11.2021	<p><u>W.P. No.310-A/2021.</u></p> <p><u>Present:-</u> Ms. Raheela Mughal, Advocate for the petitioner.</p> <p style="text-align: center;">***</p> <p><u>MOHAMMAD IBRAHIM KHAN, J.-</u> Through this constitutional petition, filed under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973, the petitioner Usman Khan son of Munsif Dad has sought the following relief:-</p> <p>"It is, therefore, humbly prayed that on acceptance of instant writ petition, act of respondents for the cancellation of appointment order of petitioner may kindly be declared illegal, perverse, against the law, without lawful authority, without jurisdiction, corum non judice arbitrary, malafide, capricious, perverse, against the vires, against the natural justice void ab-initio and audi alterm partem may kindly be set aside the cancellation vide endorsement No.1583-89/F.No.35/Hc/ATD.Lig dated 20.02.2021 and it may kindly be restored the appointment order of petitioner as junior clerk lab assistant (BPS-11) vide order endorsement No.1118-24/F/No.35/Hc/ATD.lit dated 04.02.2021 poseted at GHSS No.2 District Haripur, against the vacant seat under 2% disable quota seat and respondents may kindly be directed that petitioner is</p>

Certified to be True Copy
EXAMINER
 19 JAN 2022
 Peshawar High Court Attd. Bench
 Authorized Under Sec. 75 Evid Ordns.

[Handwritten signature]

entitled to be continued his job a junior clerk under BPS-11 at GHSS No.2 District Haripur on the basis of 2% disable quota. Any other relief which this Honourable Court deems fit and proper under the circumstances of the case may kindly be granted".

2. At the very outset, learned counsel for the petitioner stated at the bar that she will not press the instant petition provided the same is treated as departmental representation and be sent to the respondent No.2 for adjudication within shortest possible time.

3. In view of the above, the instant petition is treated as departmental representation and sent to the respondent No.2 for adjudication in accordance with law within a period of one month from the date of receipt of this order.

4. The writ petition is disposed of in the above terms.

JUDGE

JUDGE

Certified to be True Copy
EXAMINER
19 JAN 2022
Peshawar High Court Atd. Bench
Authorized Under Se: 75 Evid Ordns.

وکالت نامہ (۱۶) کورٹ فیس

بعدالت صاحب سروس ڈیپنڈنٹ کھریجہ سبکدوشی ہوا جسٹس

عنوان: محکمہ تعلیمات، گورنمنٹ ایف ایف ایف

منجانب: سید

نوعیت مقدمہ: سروس ایپیل
باعث تحریر آنکھ

مقدمہ مندرجہ میں اپنی طرف سے اسے پیروی و جواب دہی کل کارروائی متعلقہ آں مقام

لشاور کیلئے رائے حاصل ایڈووکیٹ سید سید محمد کورٹ آف پاکستان

کو وکیل مقرر کر کے اقرار کرتا ہوں کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کمال اختیار ہوگا نیز وکیل صاحب موصوف کو کرنے راضی نامہ و تقریر ثالث و فیصلہ بر حلف دینے اقبال دعویٰ اور بصورت دیگر ڈگری کرانے اجراء اصولی چیک روپیہ و عرضی دعویٰ کی تصدیق اور اس پر دستخط کرنے کا اختیار ہوگا اور بصورت ضرورت مقدمہ نہ کر کی کل یا کسی جزوی کارروائی کے لئے کسی اور وکیل یا مختار صاحب قانونی کو اپنے ہمراہ اپنی بجائے تقریر کا اختیار بھی ہوگا اور صاحب مقرر شدہ کو بھی وہی اور ویسے ہی اختیارات ہوں گے اور اس کا ساختہ پر داخلہ مجھ کو منظور و قبول ہوگا۔ دوران مقدمہ جو خرچہ و ہر جانہ التوائے مقدمہ کے سبب ہوگا اس کے مستحق وکیل صاحب ہوں گے۔ نیز ہٹا یا رقم وصول کرنے کا بھی اختیار ہوگا۔ اگر کوئی پیشی مقام دورہ ہو یا احد سے باہر ہو تو وکیل صاحب موصوف پابند ہوں گے کہ پیروی مقدمہ نہ لورہ کریں اور اگر مختار مقرر کردہ میں کوئی جزو ہٹا یا ہو تو وکیل صاحب موصوف مقدمہ کی پیروی کے پابند نہ ہوں گے۔ نیز درخواست ہمداد استہارت نالش ہینڈ مفلسی کے دائرہ کرنے اور اس کے پیروی کا بھی صاحب موصوف کا اختیار ہوگا۔

لہذا وکالت نامہ تحریر کر دیا تاکہ سند رہے۔

الرقوم: 20/01/2022

بمقام: لشاور

RAHEELA MUGHAL
SOLICITOR
IN CHARGE

العبید العبد

Accepted
[Signature]

کمیٹی ایڈووکیٹ ولہ صنف ذائد کن عدالت ہائے شہید قاسم علی صوفی پور

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.

Appeal No. 102/2022

Muhammad Usman S/O Munsif Dad R/O Post Office Khalabat Township, Jutti Pind, Tehsil and District Haripur.....

Versus


Govt: of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Peshawar & Others.....

(Respondents)

INDEX

S.No	Description	Page No.	Annexure
1	Accompanying Comments	1-3	—
2	Affidavit	4	—
3	Copies of appointment order and withdrawal order	5-6	A&B
4	Copy of the inquiry report	7-9	C
4	Authority letter	10	—

(Respondent)


16/4/2022
District Education Officer (M)
Haripur

(01)

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.

Appeal No. 102/2022

Muhammad Usman S/O Munsif Dad R/O Post Office Khalabat Township, Jutti Pind, Tehsil and District Haripur.....

(Appellant)

Versus

Govt: of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Peshawar & Others.....

(Respondents)

Respectfully Sheweth:

Para wise reply/Comments for and on behalf of respondent No.2 to 5.

Preliminary Objections:

- 1 That the appellant has got no cause of action to file the instant appeal.
- 2 That the appellant has not come to this Honorable Court with clean hands.
- 3 That the Appellant has got no locus standi to file the instant appeal.
- 4 That the appellant has concealed the material facts from this Honorable Court, hence the appeal in hand is liable to be dismissed.
- 5 That the appellant has filed the instant appeal on malafide motives.
- 6 The appellant has filed the instant appeal just to pressurize the respondents.
- 7 That the appellant is estopped by his own conduct to file the present appeal.
- 8 That the instant appeal is not maintainable due to mis joinder of non joinder of necessary parties because he has joint the respondent No.4 DEO (F) Haripur who has not involved in the matter.
- 9 That the appellant has concealed the material facts from this Honorable Tribunal. Hence the instant appeal is liable to be dismissed.
- 10 That the appointment order of the appellant has not been issued and subsequently withdrawn by the respondent No. 4 DEO (F) Haripur. Hence the matter does not relate to the respondent No.4 DEO (F) Haripur.
- 11 That the impugned appointment order has been issued with the signature of then superintendent establishment branch of the office of respondent No. 3 DEO (M) Haripur without observing codal formalities (formation of DSC and final approval of competent authority) and without lawful authority. Hence the appointment order was illegal, unlawful and against the appointment policy which has been withdrawn legally by the respondent No. 3 DEO (M) Haripur having lawful authority. **(Copies of appointment order and withdrawal order are attached as Annexure A&B)**
- 12 That the letter for appointment has been issued by the then superintendent establishment branch of office of the respondent No. 3 with malafide motive and with the collision of appellant.
- 13 That the inquiry in the matter has been conducted and findings of the inquiry has been forwarded to higher authority for necessary action against the then superintendent establishment branch. **(Copy of the inquiry report is attached as Annexure-C)**
- 14 That the appointment against the post of Junior Clerk BPS-11 only be made after the screening test while the appellant has not appeared in any screening test. Hence he was not eligible for appointment against the said post in accordance with rule, law and policy.



- (2)
- 15 That the terms and conditions of the service have not been involved in the instant appeal of the appellant. Hence the Honorable Tribunal has not jurisdiction over the matter under article 212 of the constitution of Islamic Republic of Pakistan, 1973.

REPLY/COMMENTS ON FACTS ARE AS UNDER:

1. Para 1 pertains to the writ petition No. 318-A/2020. Hence needs no comment.
2. Para 2 is incorrect and misrepresented. The recruitment against the post of Junior Clerk BPS-11 was not in process at the time when the application for appointment has moved by the appellant. Hence the application could not be entertained without recruitment process.
3. Para 3 pertains to application for implementation before the Honorable Peshawar High Court Abbottabad Bench. Hence needs no comment.
4. Para 4 pertains to order of the Honorable Peshawar High Court Abbottabad Bench. Hence needs no comment.
5. Para 5 is incorrect. Impugned appointment order has been issued with the signature of then superintendent establishment branch of the office of respondent No. 3 DEO (M) Haripur without observing codal formalities (formation of DSC and final approval of competent authority) and without lawful authority. Hence the appointment order was illegal, unlawful and against the appointment policy which has been withdrawn legally by the respondent No. 3 DEO (M) Haripur having lawful authority.
6. Para 6 pertains to medical certificate, which needs no comment.
7. Para 7 is incorrect. Assumption of the charge by the appellant in the office of Principal GHSS No.2 district Haripur has no legal value.
8. Para 8 is incorrect. The appellant marked his attendance in GHSS No.2 district Haripur without lawful appointment. Hence it has no legal value.
9. Para 9 is incorrect. The respondent No. 3 has withdrawn the illegal appointment order of the appellant with legal and lawful authority.
10. Para 10 is incorrect. Respondent No. 3 has withdrawn the illegal impugned appointment of the appellant in accordance with law, rule and policy, having lawful authority.
11. Para 11 pertains to writ petition No. 318-A/2020 and the order passed by the Honorable Peshawar High Court Abbottabad Bench which needs no comment.
12. Incorrect, the appeal of the appellant is liable to be dismissed inter alia on the following grounds.

GROUND:

- a. Incorrect, that the act of the respondents is lawful, legal, according to natural justice, hence liable to be maintained.
- b. Ground "b" is incorrect and misrepresented. Honorable Court in Writ Petition No. 318-A/2020 has passed the direction to the respondent department to consider the petitioner for his appointment against the 2% quota reserved for disabled persons, whenever in future the post is occurs but his own merit number, merit and in accordance with law, rule and policy on the subject. However the recruitment was not in the process and the appointment letter of the appointment of the appellant has been issued by the superintendent establishment branch without lawful authority. Hence the illegal appointment order of the appellant is not liable to be maintained.
- c. Ground "c" is incorrect and misrepresented. The impugned appointment order has been withdrawn by the competent authority DEO (M) in accordance with law, rule and policy.
- d. Ground "d" is incorrect and misrepresented. The impugned appointment order was not issued by the competent authority.
- e. Ground "e" is incorrect and misrepresented. The impugned appointment order is withdrawn in accordance with law, rule and policy.



on the subject. However no lawful right of the petitioner has involved in the matter.

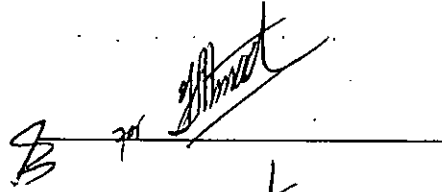
- f. Ground "f" is incorrect. The detail reply has been given paras above.
- g. Ground "g" is incorrect and misrepresented. The impugned appointment order was illegal ab-initio. Hence the order has been withdrawn by the competent authority.
- h. Ground "h" is incorrect. No political influence is involved in the matter.
- i. Ground "i" is incorrect. The detail reply has been given in ground "g" above.
- j. Ground "j" pertains to the addresses of the parties which needs no comment.
- k. Ground "k" is the discretionary power of the Honorable Tribunal which needs no comment.
- l. That the other points shall be agitated at the time of arguments with the leave of this Honorable Tribunal.

PRAYER

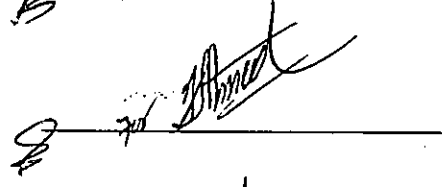
In view of the above made humble submissions, it is most respectfully prayed that on acceptance of foregoing factual position/ Comments, the instant appeal may very graciously be dismissed being meritless.

RESPONDENTS

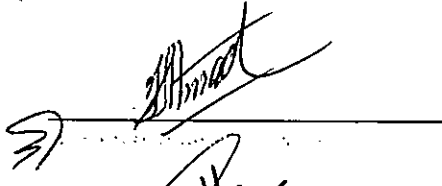
Secretary E&SED Khyber Pakhtunkhwa, Peshawar.



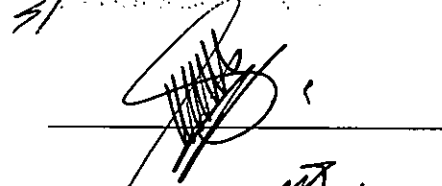
Director E&SE Khyber Pakhtunkhwa, Peshawar.



District Education Officer (M)
Haripur.



District Education Officer (F)
Haripur.



Assistant District Education Officer (M)
Haripur.



64

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

Appeal No. 102/2022

Muhammad Usman S/O Munsif Dad R/O Post Office Khalabat Township, Jutti Pind, Tehsil and District Haripur.....

Versus

Govt: of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Peshawar & Others.....

(Respondents)

AFFIDAVIT

I Mr. Shakeel Ahmad ADEO Litigation o/o DEO (M) Haripur do hereby solemnly affirmed and declare that the contents of accompanying Para wise comments are true and correct to the best of my knowledge and belief and nothing has been suppressed/concealed from this Honorable High Court.



Deponent

Shakeel Ahmad
ADEO Litigation o/o DEO (M)
Haripur.

Annexure — A

(5)

(71)

Office of the District Education Officer (Male)
Haripur

PH No. 0995-920150,920151,920152

APPOINTMENT.

In pursuance of honorable Peshawar high court Abbattabad bench judgment in CM No 208/20 and writ petition No 319/2020 dated 29/09/2020, and approval of competent authority, the appointment of the following Candidate is hereby ordered as Junior Clerk BPS 11 Rs: (12570-880-38970) @ Rs./ 12570-P.M plus usual allowances as admissible under the rules on regular basis on 2% Quota reserved for Disable Persons, under the existing policy of the Provincial Government, against the vacant posts noted against each on the terms and Conditions given below with effect from date of taking over charge in the best interest of public service.

S. N	Name of Candidates	Father's Name	CNIC	Date Of Birth	Address	Place of posting
1.	Usman Khan	Haji Munsif Dad	13302-6628219-9	10/09/1997	Village Jatii Pind Haripur	GHSS No II Haripur vacant post of J/C

1. No TA/DA etc is allowed.
2. Charge report should be submitted to all concerned
3. He should not be handed over charge if they exceed 35 years or below 18 years of age. Age relaxation case may be submitted to competent authority.
4. If the candidate is over age less than 02 years, their upper age limit less than 02 years is hereby relaxed.
5. Appointment is subject to the condition that the certificate/documents must be verified from the concerned authorities by the DEO (concerned), if anyone found producing bogus Certificate will be reported to the law enforcing agencies for further action.
6. His services are liable to termination on one month's notice from either side. In case of resignation without certificates are verified.
7. Pay will not be drawn until and unless a certificate to the effect by DEO (concerned) is issued that his certificates are verified.
8. He would join his post within 15 days of the issuance of this order. In case of failure to join the post within 15 days of the issuance of this order, his appointment will expire automatically and no subsequent appeal etc shall be entertained.
9. The candidate concerned should produce Health & Age certificate duly signed by Medical Superintendent concerned before taking over charge.
10. He will be governed by the rules and regulations in the field and as may be issued from time to time by the Govt.
11. His service will be discontinued at any time, in case his performance is found unsatisfactory.
12. Before handing over charge once again his documents may be checked if he has not the required /relevant qualifications as per rules, he may not be handed over charge of the post.

.....sd.....

District Education Officer (M)
Haripur

Endst No. 1118-24 /F.No 35/HC/ATD/Lit:
Copy of the above is forwarded to the:-

Date: 09/10/2021.

1. Register Peshawar High court Abbattbad bench for information pl
2. Deputy Commissioner Haripur.
3. District Monitoring Officer Haripur.
4. District Account Officer Haripur.
5. Principal GHSS No II Haripur
6. The candidate Concerned.
7. Teacher Concerned.


Supdt (Estb:) District Education Officer (M)
Haripur

73



OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE)

HARIPUR

Ph. No. 0995-610178, 610268
Email: deomalehrp@gmail.com

WITHDRAWAL

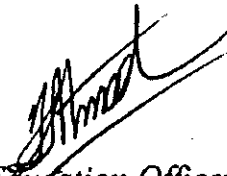
This office letter appointment order issued under Endst:No 1118-24 File No 35/HC/ATD/Lit dated 04.02.2021 in respect of Usman Khan S/O Haji Munsif Dad against 2 % disable quota against the post of Junior Clerk is hereby with drawn with effect from the date of issuing due to the reason that No codal formalities were not fulfilled in this order by the office i.e. DPC etc Was not called in this matter.

Sd
District Education Officer (M)
Haripur

Endst No: 1583-29 /F.No.35/HC/ATD/Lig:

Dated: 20/02/2021.

1. Register Peshawar High court Abbottabad bench for information.
2. Deputy Commissioner Haripur.
3. District Monitoring Officer Haripur.
4. District Accounts Officer Haripur.
5. Principal GHSS II Haripur.
6. The Candidate Concerned.
7. Teacher Concerned.


District Education Officer (M)
Haripur

Dated: 9/06/2021

Subject: Enquiry Report (Regarding Appointment of Muhammad Khanwez S/O Janwez Khan L/Assistant).

Memo:

The District Education Officer (Male) Haripur constituted an enquiry committee vide Notification issued under Endst No. 2488-91/F.No.11-2/Appointment of J/C & L/A/C/Cell Dated: 30/03/2021. The enquiry committee consisted of the following officers.

1. Mr. Saleem Javed Principal GHS Kangra Colony Haripur. (Chairman)
2. Mr. Ghulam Sarwar Principal GHS Central Jail Haripur. (Member)

Purpose of the Enquiry:

To dig out facts and findings regarding appointment order issued vide District Education Officer (Male) Haripur Endst.No.1010-16 F.No.35/HIC/ATD/Lit dated: 01/02/2021 in r/o Muhammad Khanwez S/O Janwez Khan against 02 % disable quota on the post of Lab Assistant which was withdrawn vide Endst. No. 1590-97 dated: 20/02/2021 w.e.f the date of issuance due to the reason that no codal formalities were fulfilled in the said order by the office.

TO:

1. To look into the process of appointment whether this was issued according to merit.
2. To look into the breakup of disable quota of the Lab Assistant.
3. To look into the court judgment issued by Honourable High Court Abbottabad Bench.
4. To find out the irregularities in appointment process (if any) with cogent reason.
5. The recommendation should be clear regarding fixing of responsibility (if any) for further necessary action.

Proceedings:

Proceedings of enquiry were held at Regional Professional Development Centre (RPDC) Haripur on 28/04/2021 at 09:00 AM. Muhammad Khanwez S/O Janwez Khan attended the proceedings and submitted written reply to the questionnaire handed over to him by the enquiry committee. He also replied to the verbal queries of the enquiry committee. (Annex 1-2)

The enquiry committee paid a visit to the office of the District Education Officer (Male) Haripur on 29/04/2021. The committee met Mr. Firdoon Khan, Supdt: Establishment and Mr. Saleh Mushtaq ADEO (Lit). The relevant record was checked. Questionnaires were handed over to both the officers who submitted their replies to the inquiry committee. (Annex 3-13)

The relevant office record file consisting of the judgments of the Honorable Court, documents regarding process of appointment, note sheets were thoroughly examined and copies of the same have been annexed to the enquiry report where required as references.

Perusal of the Record:

- i. Mr. Muhammad Khanwez S/O Janwez Khan resident of village Pharallah Tehsil & District Haripur filed writ petition No.490 A/2020 dated: 03/03/2020 in the Peshawar High Court Abbottabad Bench for appointment on the vacant post of lab: Assistant BPS-07 against 02 % disable quota as per section 10(5) of Khyber Pakhtunkhwa Civil Servants (Appointments, Promotion & Transfer) Rules 1989. (Annex 14-15)
- ii. The Honourable Court disposed of the writ petition on 18/03/2020 with the direction to the respondents to consider the petitioner for his appointment against the 02 % quota reserved for disable persons, whenever in future the post occur but at his own number/merit and in accordance with law/rules and policy on the subject. (Annex 16-17)

- II. The Honourable Court disposed of the writ petition on 19/02/2020 by directing the respondents "to consider the petitioner for his appointment against the disable person quota, whenever in future the posts of any cadre become available for recruitment in accordance with law". (Annex 16-17)
- III. The file of Mr. Usman Khan S/O Munsif Dad was put up to the DEO (Male) Haripur by the Litigation branch on 13/03/2020 for necessary action who directed the Supdt: (Estb) to implement judgments as per rules. The file was received by the Supdt: (Estb) on 17/03/2020 and was kept unprocessed since then. (Annex-18)
- IV. The petitioner filed an application CM No.207-A/2020 dated: 30/04/2020 for implementation of the order dated: 19/02/2020 passed by Honourable Court. (Annex-19)
- V. The District Education Officer (Male) Haripur, in his reply/comments to the court, submitted that "the petitioner shall be considered with other similarly placed persons and shall be decided on merit at the time of next coming appointment/recruitment process whenever advertised". (Annex-20)
- VI. The Honourable Court disposed of the CM on 29/09/2020 "in the terms that the respondents/ Department shall observe 02 % quota reserved for disable persons and if the petitioner falls within the said quota, he shall be appointed at his own number/merit in accordance with law, whenever in future post/s occur". (Annex 21-22)
- VII. Mr. Usman Khan S/O Munsif Dad submitted judgment of the Honourable Court in CM.208/ 2020 dated: 29/09/2020 along with an application to implement the court order on 01/10/2020. (Annex-23)
- VIII. The District Education Officer (Male) Haripur directed the ADEO (Lit) on note sheet dated: 08/12/2020 to coordinate with Supdt: and D/A of concerned branch and process as per rules.
- IX. The Supdt (Estb) provided availability of one post of Junior Clerk against disable quota @ 2 % share against total 101 sanctioned posts of Junior Clerk for approval dated: 01/02/2021. The DEO (Male) Haripur agreed/approved as per rules on the same date. (Annex-24)
- X. Mr. Faridoon Khan Supdt: Establishment (BPS-17) signed and issued appointment order of the petitioner with reference to the judgments of the Honourable Court vide Endst.No.1118-24/F.No.35/HC/ATD/Lit: dated: 04/02/2021. (Annex-25)
- XI. The District Education Officer (Male) Haripur withdrew the concerned order vide his office Endst: No. 1583-89 dated: 20/02/2021 due to the reason that no codal formalities were fulfilled in the said order by the office. (Annex-26)

Facts/Findings:

- 1. The appointment order of Mr. Usman Khan S/O Munsif Dad as Junior Clerk on disable quota is contrary to the directions of Honourable Court which explicitly directed in Petition No. 318-A/2019 and CM No.207-A/2020 to consider the petitioner for appointment against 02 % disable quota at his own number/merit in accordance with law.
- 2. As per Khyber Pakhtunkhwa Civil Servants Appointment, Promotion & Transfer rules 1989, the prescribed procedure for initial recruitment/appointment for posts BPS-03 to BPS-15 is as under.
 - a. Initial recruitment to posts from BPS-03 to BPS-15 shall be made on the recommendations of DSC after vacancies have been advertised in newspapers **Rule-10(2)**.
 - b. Departmental Selection Committee (DSC) shall be constituted to recommend appointments for posts from BPS-03 to BPS-15. The DSC shall consist of at least three members, one of whom shall be appointed as chairman. **(Rule-5)**
 - c. 02 % of all posts in each basic pay scale to be filled in by initial recruitment shall be reserved for disabled candidates. **Rule-10 (5)** (Annex 27-31)

48

9

3. The procedure, mentioned above, has not been adopted in the appointment of Mr. Usman Khan S/O Munsif Dad. Neither the post/s were advertised in newspapers, to provide opportunity to other similar placed persons also, nor was any test conducted. The DSC was also not constituted for the purpose.
4. The Supdt (Estb) was responsible to brief the existing DEO (Male) Haripur (who had assumed charge on 01/12/2020 after the transfer of Mr. Umer Khan Kundi Ex-DEO and Mr. Ishafiq Khan Ex-Dy DEO) about the history of the case.
5. Mr. Faridoon Khan was not authorized to sign and issue the appointment order without the final approval of the competent authority. Mr. Umer Khan Kundi, the Ex-DEO, had already directed the ADEOs and superintendents through a circular not to issue promotion and appointments order. (Annex-32)
6. The reference given by Mr. Faridoon Khan in reply to the explanation called by the competent authority, to justify the appointment order, has no ground as the concerned notification was withdrawn Vide Govt. of KPK Elementary & Secondary Education Department No. SO(PE)/E& SED/7-1/A.R/D.I.Khan/2019 dated: Peshawar, 04/11/2020. (Annex 33-37)
7. It is noticeable that the litigation Branch of the office was not coordinated in the entire process. The ADEO (Lit) was directed to submit his comments regarding the case after the issuances of the order. (Annex-38-39)

Conclusion:

- In the light of the aforementioned facts, the enquiry committee arrives at the conclusion that:
- a. The appointment order of Mr. Usman Khan S/O Munsif Dad was duly withdrawn by the District Education Officer (Male) Haripur as it was not in accordance with the existing law/rules, merit and judgements of the Honourable Court in the instant case.
 - b. The Honourable High Court Abbottabad Bench had explicitly directed the department to consider the petitioner for appointment against 02 % quota reserved for disable persons on his number/merit and in accordance with law/rule and policy.
 - c. The prescribed law /rules were not followed in the process of appointment. In spite of court case, the Litigation Branch of the office was totally bypassed in the entire process.
 - d. Mr. Faridoon Khan has not fulfilled his responsibilities as Supdt: Establishment. Instead of signing and issuing the appointment order, he must have submitted his comments in light of the court judgments and Appointments, Promotion and Transfer Rules 1989 on the subject in coordination with the litigation branch.

Recommendation:

The case may be submitted to competent authority for further necessary action please.

Enquiry Committee

Principal
GHS Central Jail
Haripur

Principal
GHS Kangra Colony
Haripur
PRINCIPAL
Govt. High School
Kangra Colony (Haripur)



OFFICE OF THE DISTRICT EDUCATION OFFICER (M)
HARIPUR

Ph. No. 0995-920150, 920151
Email: deomalehrp@gmail.com

AUTHORITY LETTER

Mr. Shakeel Ahmad ADEO Litigation office of the undersigned is hereby authorized to submit comments/reply in Honorable High Court Abbottabad Bench in c/w Appeal No 103/2022, titled Khanwaiz VS Government etc for **affidavit** and onward submission to Honorable Court on behalf of all official respondents.

District Education Officer (M)
Haripur.

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR**

Appeal No. 102/2022

Muhammad Usman son of Munsif Dad resident of Post Office Khalabat Township, Jutti Pind, Tehsil & District Haripur.

...APPELLANT

VERSUS

Government of KPK through Secretary Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar & others.

...RESPONDENTS

REJOINDER ON THE BEHALF OF APPELLANT

INDEX

<i>S.#</i>	<i>Description</i>	<i>Page Nos.</i>	<i>Annexure</i>
1.	Rejoinder alongwith affidavit	1 to 9/10	
2.	Copy of note sheet dated 01/02/2021	110 - 112	"A"
3.	Copy of appointment order dated 18/08/2014 and order of filing/ setting aside the finding of inquiry	13 - 14	"B" & "C"

...APPELLANT

Through

Dated: _____/2022



(RAHEELA MUGHAL)

Advocate Supreme Court of Pakistan

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR**

Appeal No. 102/2022

Muhammad Usman son of Munsif Dad resident of Post Office Khalabat Township, Jutti Pind, Tehsil & District Haripur.

...APPELLANT

VERSUS

Government of KPK through Secretary Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar & others.

...RESPONDENTS

APPEAL

REJOINDER ON THE BEHALF OF APPELLANT

Respectfully Sheweth;-

REPLY OF PRELIMINARY OBJECTIONS:

1. That Para No. 1 of the preliminary objection is incorrect, appellant has been illegal and unlawfully removed from the service without issuance of any notice, so, once an order has been issued and acted upon than same order could be withdrawn, because

lawful right had been accrued in favour of appellant and due to infringement of his lawful right, appellant has cause of action to approach the court in order to knock the door of justice.

2. That Para No. 2 incorrect, nothing has been concealed from the court.
3. That Para No. 3 of preliminary objection is incorrect, hence, appellant has fully locus standee to file the instant appeal.
4. That Para No. 4 is incorrect and wrong.
5. That Para No. 5 of the preliminary objection is incorrect and wrong, appellant has approached the court in order to protect his lawful right.
6. That Para No. 6 of preliminary objection is incorrect.
7. That Para No. 7 is incorrect and wrong.
8. That Para No. 8 is wrong and incorrect if any unnecessary party has been impleaded, then it

could be deleted from the case at any time or of any necessary party has not been impleaded, then it could also be arrayed in the case at any time.

9. That Para No. 9 is incorrect and it is reputation by hitting on the bushes.
10. That Para No. 10 needs no reply but, any how detailed answer has been given in the above para.
11. That Para No. 11 is totally incorrect and refused and against the real facts and answer as that, in writ petition No. 318-A/2020 directions for the appointment on the basis of 02% disable quota in favour of appellant has been passed by Honourable Court dated 29/02/2020 02% quota was lying vacant at G.H.S.S No. 2 Haripur and respondent No. 3 considered the case of appellant in the light of directions passed by Honourable Court and respondent No.3 forwarded the case of appellant to the then Superintendent with the direction to write down the comments for approval the said appointment/ vacancy, so superintendent after writing the note put-up the case before respondent No. 3 and respondent No. 3 approved the said case

by writing the comment with his pen; "That he has agreed/ approved as per rule and policy on merit, and also on the basis of judgments passed by Apex Courts, no D.S.C is required for the issuance of appointment order or lets for the sake of arguments, if any lacuna has been left by the respondents it, was not the fault of appellant, and it could be cured at any time, more, so, over, respondent department has been appointed the persons on the basis of judgments of Apex Court without the approval of D.S.C. Copy of note sheet dated 01/02/2021 and appointment order dated 18/08/2014 is attached as Annexure "A" & "B".

12. That Para No. 13 of preliminary objection is incorrect and is amounting to hitting on the bushes as detailed answer has been given in the above para and inquiry has also been set aside and failed by the respondent No. 2.
13. That Para No. 14 is totally wrong and incorrect, as respondent No. 3 since 2015 never issued recruitment process for the appointment in BPS-11, these posts had already been filed by respondents on the basis of deceased son's quota.

14. That para No. 14 of the preliminary objection is incorrect and wrong and detailed answer is that since 2015 uptill now no recruitment process for the appointment for Junior Clerk in BPS-11 has been adopted and all the seats are fulfilled on the basis of deceased son's quota on the basis of political pressure and connivance, so, on the basis of quota system disables are also entitled to be appointed like this way, so, on the basis of 2% disable quota and upon the directions of the Honourable Court appellant was lawfully and rightly appointed. In the eye of law and according to the viries of Constitution of Islamic Republic of Pakistan 1973 every body is equal so, according the law impugned order passed by respondent No. 3 is sheer discrimination towards the appellant, moreover, this objection is after thought as appointment order was withdrawn only on the ground that without observing the formalities of D.P.C. Appellant was appointed, which is not required in case if appointment is made upon the directions of the apex courts.

FACTUAL OBJECTIONS:-

1. Para No. 1 of written comments needs not reply.
2. Para No. 2 of written comments is totally incorrect while of appeal is correct as detail answer is that at that time of one seat of Junior Clerk on the basis of 02% Disable quota was lying vacant and no recruitment processes was adopted since 2015 for the appointment of Junior Clerk in BPS-11 because these seats are always be used to filled on the basis of deceased son's quota, after the directions passed by Honourable High Court, Abbottabad Bench upon thorough consultation among the corresponding officials/ respondent No. 3, appellant was appointed on the basis of 02% disable quota as Junior Clerk Assistant in BPS-11 at G.H.S.S No. 2 Haripur. So, there was no illegality found regarding the appointment, but with political connivance and pressure appointment order was withdrawn without lawful authority only on

the ground that appointment order was without the approval of D.P.C.

3. Needs no reply.
4. That need no reply of Para No. 4, it was admitted by the respondents, that they will appoint the appellant as and when vacancy will available, so, appellant was appointed on the available vacant post.
5. That Para No. 5 is incorrect and wrong as detailed has already been given in the above para and reply of preliminary objection.
6. Needs no reply.
7. That Para No. 7 of written comment is incorrect while of appeal is correct.
8. That Para No. 8 of written comment is incorrect while of appeal is correct and also detailed answer has already been given in the above paras.

9. That Para No. 9 of written comment is incorrect, while of appeal is correct, as, once an order has been issued and has been acted upon, so, lawful rights had been accrued in favour of appellant then that order could not be withdrawn, so, appointment order withdrawn by the respondent No. 3 on the basis of political pressure, without giving him opportunity of hearing, so appellant was quite competent to approach the Honourable Court to knock the door of justice.
10. That Para No. 10 of the written comment is incorrect while of appeal is correct.
11. That Para No. 11 needs no comment as withdrawn is based on Audi-Alterm-Palterm and without issuance any notice to appellant and without given any opportunity of hearing. So, withdraw order is bad in the eyes of law and is not sustainable according to law.
12. That Para No. 12 of written comment is incorrect, while of appeal is correct.

REPLY ON GROUNDS:-

That the Para No. "A" to "J" of written comment of grounds are incorrect, wrong and refused, while of Para No. "A" to "J" of the grounds of appeal are correct, lawful logical and cogent and also detailed answer had already been given in the above paras.

So, on acceptance of the instant appeal, appointment order of applicant may kindly be restored with all back benefits.

**...APPELLANT**

Through

Dated: _____/2022

**(RAHEELA MUGHAL)**

Advocate Supreme Court of Pakistan

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR**

Appeal No. 102/2022

Muhammad Usman son of Munsif Dad resident of Post Office Khalabat Township, Jutti Pind, Tehsil & District Haripur.

...APPELLANT

VERSUS

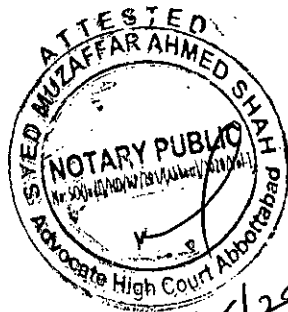
Government of KPK through Secretary Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar & others.

...RESPONDENTS

REJOINDER ON THE BEHALF OF APPELLANT

AFFIDAVIT

I, *Muhammad Usman son of Munsif Dad resident of Post Office Khalabat Township, Jutti Pind, Tehsil & District Haripur*, do hereby solemnly affirm and declare that the contents of foregoing rejoinder are true and correct and the best of my knowledge and belief and nothing has been concealed therein from this Honourable Court.



M. Usman
DEPONENT

Para No.

Description / Particulars

1) An application received from Revenue No. 7002 village Mathala regarding appointment of Lab. Asst. against 2% disable quota alongwith court judgement.

File is put up for your kind perusal & further orders plz.

2) ADPO (Lit)

pl. Get detail from concerned branch

[Signature]
08/12/20

ADEO (det)

3

Subjt. (E) The detail is attached with the judgement one post quota for Lab. Asst. is available. Hence

[Signature] 28/01/21: The case is put up for approval if agree pl. as per rules/policy of

4) DEO

Agreed/approval on merit *[Signature]*
01/02/21

5) Subjt.

As approved Para-4
Sig. Date

[Signature] 11/2/21

Para No.

Description / Particulars

1) An application received from Kharves No. 10 James village, Marhela regarding appointment of Lab. Asst. against 2% disable quota alongwith court judgement.
 File is put up for your kind personal & further orders plz.

2) ADPO (Lit)

DEC pl. Get detail from concerned branch

[Signature]

08/12/20

ADEO (det)

3

the detail is attached with the judgement
 Deptt. (E) one post quota for Lab. Asst. is available. Hence

On 28/01/21: The case is put up for approval if agree pl.
 Agreed/approved as per rules/policy of

4) DEC

on ment of *[Signature]*
 01/02/21

5) Supdt.

As approved Para-4
 Sig. Date

[Signature]
 11/2/21

Appointment Order

In pursuance of the judgment of the Peshawar High Court Abbottabad Bench announced on 25-06-2014 in writ petition No. 935-A/2013, titled Qari Abdul Saboor Khan versus Secretary Elementary & Secondary Education Department & others, Mr. Qari Abdul Saboor Khan S/O Abdul Rauf Khan R/O House No. 399/5, Tip Housing Colony Tehsil & District Haripur is hereby appointed as Qari in BPS-12 alongwith usual allowances as admissible to the Govt Servants at GHS Noorpur against vacant post with effect from the date of taking over charge in the interest of public service, subject to the final decision of Honourable Supreme Court of Pakistan as the Department has submitted the above referred judgment along with relevant documents through the Directorate of Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar to the higher authorities for filing CPLA against the judgment referred herein above.

Terms & Conditions

1. The appointment of the above candidate is on regular basis.
2. He will get Salary in BPS -12 plus usual allowances as due and admissible under the rules.
3. His services can be terminated at any time in case his performance is found un-satisfactory, in case of misconduct he will be proceeded under the rules framed by Govt of Khyber Pakhtunkhwa time to time & E&D Rules 2011.
4. Appointment is subject to the condition that the certificate/documents must be verified from the concerned authorities by the DDO (concerned), anyone found producing bogus Certificates/ Documents will be reported to the law enforcing agencies for further action.
5. Pay will not be drawn until and unless a certificate to the effect by DEO (M) is issued that his certificates are verified.
6. If he wants to resign from the service, he will have to serve one-month prior notice, failing which he will have to deposit one month pay in lieu of such notice, in the Government treasury.
7. He should join his post within 15 days of the issuance of this order. The DDOs concerned should furnish certificates to the effect that the candidate appointed have joined the post or otherwise after 15 days of the issuance of this order.
8. He will be bound to produce Health certificate issued by the Medical Superintendent District Head Quarter Hospital Haripur within 07 days of taking over charge.
9. Charge report should be submitted to all concerned in duplicate.
10. In case of acceptance of appeal which is under process for submission in the Honourable Supreme Court of Pakistan against the above referred Judgment dated 25-06-2014 his appointment shall stand cancelled/ withdrawn automatically from the date of appointment & he will be bound to refund all payments.
11. He will be entitled for annual increment after completion of one year service.
12. No. TA/DA is allowed.


Sd-
(Zaffar Arbab Abbasi)
District Education Officer (Male)
Haripur

Dated: 18/08/2014

Endst: No. 9835-40/

Cc:

1. The Additional Registrar Peshawar High Court Bench Abbottabad w/r to above writ petition.
2. The additional Advocate General Peshawar High Court Bench Abbottabad.
3. The Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.
4. The Senior District Accounts Officer Haripur.
5. The Headmaster concerned.
6. Candidate concerned.
7. Office record file.


District Education Officer (Male)
Haripur



DIRECTORATE OF ELEMENTARY & SECONDARY
EDUCATION

KHYBER PAKHTUNKHWA PESHAWAR.

Phone: 091-9225344

Email: ddadmn.ese@gmail.com

(134) cc

Ammed

Notification.

A committee comprising the following officer/ members is hereby constituted to Conduct enquiry regarding appointment order of Mr. Muhammad Khan Waiz S/O Jan Wais Khan Laboratory Assistant And Usman Khan S/O Munsif Dar on Disable Quota in the light of inquiry report received through DEO (M) Haripur Vide No. 2737 Dated 17/06/2021 and appeal of the concerned Lab: Assistant and Junior Clerk. Copy Attached

1. Mr. Sajjad Hussain Shah BPS-19 Principal GHSS Dengi Haripur
2. Mr. Tariq Mehmood BPS-18 Principal GHS KTS No.3 Haripur

Chairman
Member

T.O.Rs.

The committee is directed to thoroughly examine the process of the appointment of the above mentioned lab Assistant and J/Clerk and submit finding with clear cut recommendations within 10 (ten) days.

DIRECTOR

Elementary & Secondary Education
Khyber Pakhtunkhwa, Peshawar

1274-77
Endst: No. /A-23/MS/Compliant/ Haripur.

Dated Peshawar the 14/07/2021

Copy forwarded to the: -

1. Mr. Sajjad Hussain Shah BPS-19 Principal GHSS Dengi Haripur along with copy of appeal etc: **(Registered)**
2. Mr. Tariq Mehmood BPS-18 Principal GHS KTS No.3 Haripur along with copy of appeal etc: **(Registered)**.
3. ✓ District Education Officer (Male) Haripur with the remarks to assist the inquiry committee and provide all the relevant record.
4. PA to Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.
5. Master File.

PA
3192
30/7/2021

Deputy Director (F&A)
Directorate of Elementary & Secy: Education
Khyber Pakhtunkhwa, Peshawar



PAKISTAN

ISLAMIC REPUBLIC OF PAKISTAN

National Identity Card



Name

Shakeel Ahmad



شکیل احمد

Father Name

Sher Muhammad

شیر محمد



Gender

M

Country of Stay

Pakistan

Identity Number

13302-0379041-3

Date of Birth

14.03.1981

Date of Issue

13.12.2021

Date of Expiry

13.12.2031

Holder's Signature

13302-0379041-3

موجودہ مکان نمبر 758 محلہ در بند سیکٹر
نمبر 4 کھلاہٹ ٹاؤنشپ، کھلاہٹ، تحصیل و ضلع ہری



مستقل مکان نمبر 758 محلہ در بند سیکٹر
نمبر 4 کھلاہٹ ٹاؤنشپ، کھلاہٹ، تحصیل و ضلع ہری

770002788434
122-81-749658

Registrar General of Pakistan

گمشدہ کارڈ ملنے پر قریبی لیٹر بکس میں ڈال دیں