

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR,
AT CAMP COURT SWAT.

Service Appeal No. 557/2019

BEFORE: **MRS. ROZINA REHMAN,** ... **MEMBER (J)**
 MISS. FAREEHA PAUL, ... **MEMBER(E)**

**Adnan Badshah S/o Muhammad Khitab, Class IV/Chowkidar at
Government Girls Primary School Amankot Swat.**

....(Appellant)

Versus

1. **Secretary Elementary & Secondary Education Government of
Khyber Pakhtunkhwa, Peshawar.**
2. **Director Elementary & Secondary Education Khyber
Pakhtunkhwa, Peshawar.**
3. **District Education Officer (Female), Swat.**
4. **Haroon Ur Rasheed, Junior Clerk, GGHS, Jambil Swat.**

....(Respondents)

Mr. Muhammad Zareed Qureshi,
Advocate

...

For appellant

Mr. Muhammad Adeel Butt,
Addl. Advocate General

...

For official respondents

Mr. Adeel Shah
Advocate

...

For private respondent

Date of Institution.....30.04.2019
Date of Hearing.....05.07.2022
Date of Decision.....05.07.2022

JUDGEMENT

FAREEHA PAUL MEMBER (E): The service appeal in hand has been instituted under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the impugned order/rejection order on the application submitted by appellant dated 20.11.2018 with the request that the order may be set aside and he may be appointed as junior clerk on deceased son quota.



2. Brief facts, as per memorandum of appeal, are that the appellant was initially appointed as Chowkidar/Class-IV in Elementary & Secondary Education Department, District Swat vide order dated 29.07.2015 on deceased son quota. He submitted an application to respondent No. 3 for appointment as Junior Clerk dated 22.11.2018 which was rejected. Respondent No. 3 appointed a female namely Mst. Farhana on the post of Sweeper on the basis of deceased son quota on 16.01.2016. Later on she resigned from the post of sweeper and joined the post of Primary School Teacher. The brother of Mst. Farhana applied for the post of Junior Clerk on deceased son quota and respondent No. 3 appointed him on 07.02.2017. Appellant submitted an application to respondent No. 3 for appointment of Junior Clerk on deceased son quota with the condition that if he is appointed as Junior Clerk he will resign from class-IV/Chowkidar post. Respondent No. 3 rejected application of appellant with the direction that the appellant had availed the chance of appointment on deceased son quota. Aggrieved from that order he submitted departmental appeal to respondent No. 2 on 25.01.2019 which is still pending. Record revealed that Mr. Haroon Ur Rasheed brother of Mst. Farhana who was appointed as Junior Clerk on deceased son quota was a necessary party and hence was included as respondent No. 4: Feeling aggrieved the appellant filed the service appeal.

3. Respondents were put on notice who submitted their written replies/comments on contents of the appeal.

4. Learned counsel for the appellant contented that the appellant qualified for appointment on the post of Junior Clerk and he



should have been given chance as was given in case of Mr. Haroon Ur Rasheed, brother of Mst. Farhana for appointment on the post of Junior Clerk. He further contended that Mst. Farhana also availed chance of appointment on deceased son quota as she had drawn salary against that position of sweeper.

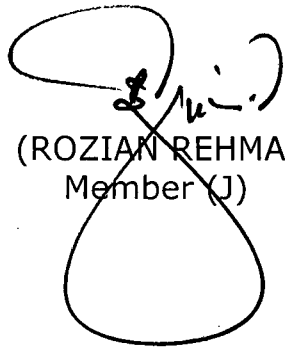
5. The learned District Attorney contended that the appeal/application of the appellant for the post of Junior Clerk was rejected on the ground that he had availed the chance of appointment on deceased son quota. He further stated that although Mst. Farhana was appointed sweeper on deceased son quota but she neither received her salary nor any benefits and resigned from that post. She received only one month salary which was returned back to Government Treasury through challan dated 09.04.2016, copy of which was shown and provided to the Tribunal and in her place her brother was appointed as Junior Clerk after completing all codal formalities.

6. After going through all the facts, it is evident that the appellant was appointed Chowkidar/Class-IV on deceased son quota after the death of his father and he started drawing the salaries from the date of his appointment on 29.07.2015. His appeal dated 20.11.2018 for appointment as Junior Clerk on deceased son quota did not hold ground as he had already availed his opportunity of appointment on the said quota when he was appointed Chowkidar after the death of his father. There seem no ground when he challenges the appointment of Mr. Haroon Ur Rasheed where he was appointed as Junior Clerk on deceased son quota on a seat that was offered to her




sister who without availing benefit resigned from that post and was appointed on some other post. The appeal in hand, therefore, being devoid of merits is dismissed. Parties are left to bear their own costs. Consign.

7. *Pronounced in open court in Swat and given under our hands and seal of the Tribunal on this 5th day of July, 2022.*



(ROZIAN REHMAN)
Member (J)



(FAREEHA PAUL)
Member (E)

Service Appeal No. 557/2019

Mr. Muhammad Zareed Qureshi, Advocate for the appellant present. Mr. Muhammad Adeel Butt, Additional Advocate General for official respondents and Mr. Adeel Shah for private respondent present. Arguments heard and record perused.

2. Vide our detailed judgement containing 04 pages, we have arrived at the conclusion that the appellant was appointed as Chowkidar/Class-IV on deceased son quota after the death of his father and he started drawing the salaries from the date of his appointment on 29.07.2015. His appeal dated 20.11.2018 for appointment as Junior Clerk on deceased son quota did not hold ground as he had already availed his opportunity of appointment on the said quota when he was appointed Chowkidar after the death of his father. There seem no ground when he challenges the appointment of Mr. Haroon Ur Rasheed where he was appointed as Junior Clerk on deceased son quota on a seat that was offered to her sister who without availing benefit resigned from that post and was appointed on some other post. The appeal in hand, therefore, being devoid of merits is dismissed. Parties are left to bear their own costs. Consign.

3. *Pronounced in open court in Swat and given under our hands and seal of the Tribunal on this 5th day of July, 2022.*


(ROZIAN REHMAN)
Member (J)


(FAREEHA PAUL)
Member (E)

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR CAMP COURT AT SWAT**

Service appeal No .557 of 2019

Adnan Bacha

VERSES

Director Elementary & Secondary education KP, Peshawar etc

INDEX

S.No	Description	Pages
1.	<i>Reply/comments</i>	1-4
2.	<i>Resignation application of Mst. Farhana along with affidavit,</i>	A, B
3.	<i>Copy of appointment letter is annexure C and receipt challan is annexure D</i>	C, D
4.	<i>Copy of releaving chit</i>	E
5.	<i>Copy of statement appointment letter of Mst. Farhana as PTC teacher</i>	F


ADIL SHAH ADVOCATE
District Courts Swat.

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR CAMP COURT AT SWAT**

Service appeal No .557 of 2019

*Adnan Bacha S/o Muhammad Khitab, Chowkidař at Government Girls
Primary school Amankot No.1 Swatappellant.*

VERSES

- 1) *Director Elementary & Secondary education KP, Peshawar.*
- 2) *Secretary Elementary & Secondary Education Govt of KP Peshawar.*
- 3) *The District Education Officer (female) Swat.*
- 4) *Haroon Rashid son of Farooq Khan Government Girls High School
Jambil,Swat.*

**PARAWISE REPLY/COMMENTS -ON BEHALF OF
RESPONDENT NO.4/HAROON RASHID JUNIOR CLERK
AT GOVT GIRLS HIGH SCHOOL JAMBIL SWAT.**

Respectfully Sheweth;

The respondent No.4 submits as under.

Preliminary Objections.

- 1) *That the appellant has no cause of action against the answering respondent to file the instant appeal as no illegality whatsoever has been committed by the answering respondent therefore, the titled appeal is not maintainable and is liable to be dismissed.*
- 2) *That the appellant has not approached to this Honorable Tribunal with clean hands rather they mislead & twisted the true facts, thus on this score alone the instant appeal is liable to be dismissed.*
- 3) *That the appellant has no locus standi to file the instant appeal as he has willfully not revealed the full truth and has deliberately failed to state the facts, hence, the same is not entertainable.*



- 4) That the appeal is not maintainable due to some legal hence
the appeal in the present form is not maintainable and is liable to be dismissed.
- 5) That the instant appeal in the present form does not reveal any cause of action.
- 6) That the instant appeal is not in accordance with service laws and rules.
- 7) That the instant appeal is time barred.
- 8) That respondent No.4 is not a necessary to this instant appeal as the appeal does not revealed any kind of relief against me and liable to be dismissed.
- 9) That the real controversy exists between the appellant and respondents No .1 to 3, hence the instant appeal is not maintainable against me and liable to be dismissed.
- 10) That this Honorable Court does not have jurisdiction to entertain such like appeal as per service laws.
- 11) That the instant appeal is against the sprit of Service Tribunal Act, hence does not fall within the ambit of Section 4 of Service Tribunal Act, 1974.
- 12) That this Honorable Tribunal has got no jurisdiction to entertain the matter of promotions.
- 13) That the appeal is liable to be dismissed on the basis of non joinder and misjoinder of necessary parties.
- 14) That the instant appeal is based upon malafide intention and ulterior motives, hence is liable to be dismissed.

Para wise reply/ comments:

1. That para No. 1 needs no reply as it is related to respondents No .1 to 3 and is also matter of record.
2. That para No .2 of the titled appeal needs no reply as it is related to respondents No . 1 to 3, however it is worth to mention here that the required rejection order is annexed with the titled appeal. Therefore, the claim of the appellant in this para No.2 is baseless and must be easily ignored.

3. That para No .3 is correct to the extent that my sister Mst. Farhana has appointed by respondent No.3 as a sweeper on the basis of deceased son quota through order No . 3118-22 dated 16/01/2016 while the remaining part of the para No .3 is not correct on the basis of concealment of facts. Mst. Farhana resigned from the said post by not taking any benefits from Government treasury. When she was resigning, she has taken only one month salary which she had returned after her resignation application was duly accepted by respondent No .3 and directed Mst. Farhana to forfeit one month pay through challan and also submitted affidavit. Moreover, Mst Farhana resigned from the said post when she got appointed as PTC teacher on the basis of his own qualification and ability. She did not avail two chances while the appellatant is trying to avail two chances on deceased son quota and has also got benefits from government treasury. The brother of Mst. Farhana respondent No .4 Haroon Rashid got appointed on deceased son quota because respondent No .4 was unemployed. The appellatant had no right to mention me in the titled appeal as his situation is quite different from my case. Resignation application of Mst. Farhana along with affidavit is annexure A & B, appointment letter is annexure C and receipt challan, relieving chit is annexure D and E and appointment letter of Mst. Farhana is annexure F.

4. That reply to para No.4 has already been commented on in para No. 3

5. That para No .5 is not related to me, hence needs no comments.

Objections on grounds of appeal.

1) That this para is not admitted as it is based upon concealment of fact.

2) That this para is not correct as Mst. Farhana had availed only one chance and had resigned from the post she acquired through deceased son quota without getting any benefits from Government treasury and got the second appointment on the basis of her own ability as Primary Teacher. Moreover, I respondent No . 4 got appointment on the deceased son quota because I was unemployed while the appellatant is employee.

(4)

- 3) That this para needs no reply as it is related to respondents. No .1 to 3 and is also a matter of record.
- 4) That this para is not admitted. Detailed reasons have been given in the above paras.
- 5) That this para needs no comments.
- 6) That this para needs no comments.

Prayer:

In the light of the above facts and circumstances it is therefore, respectfully prayed that the instant titled appeal may kindly be dismissed as it does not have any legal footing.

Respondent No.4

Haroon Rashid son of Farooq Khan

Government Girls High School

Jambil Swat

Through



Adil Shah Advocate

District Courts Swat.

Certificate

Certified that all of the above comments to the appeal are true to the best of my knowledge and nothing has been kept/ concealed.



Adil Shah Advocate

District Courts Swat.

Annexure = A

کرتھ قہ - ڈسٹرکٹ ایجوکیشن آفیسر راجستری

مفتوحہ اسکول

(7)
(H)

انرجی

پاور
کالکٹ

قہ - سالانہ

مفتوحہ اسکول سے متعلقہ ڈیپارٹمنٹ کے ذریعے

سکیننگ سٹیشن کے ذریعے پاور فراہم کرنے کے

مختص ڈیپارٹمنٹ کے ذریعے پاور فراہم کرنے کے

مختص ڈیپارٹمنٹ کے ذریعے پاور فراہم کرنے کے

مختص ڈیپارٹمنٹ کے ذریعے پاور فراہم کرنے کے

مختص ڈیپارٹمنٹ کے ذریعے پاور فراہم کرنے کے

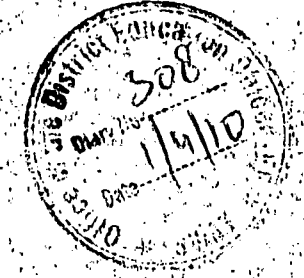
مختص ڈیپارٹمنٹ کے ذریعے پاور فراہم کرنے کے

Power

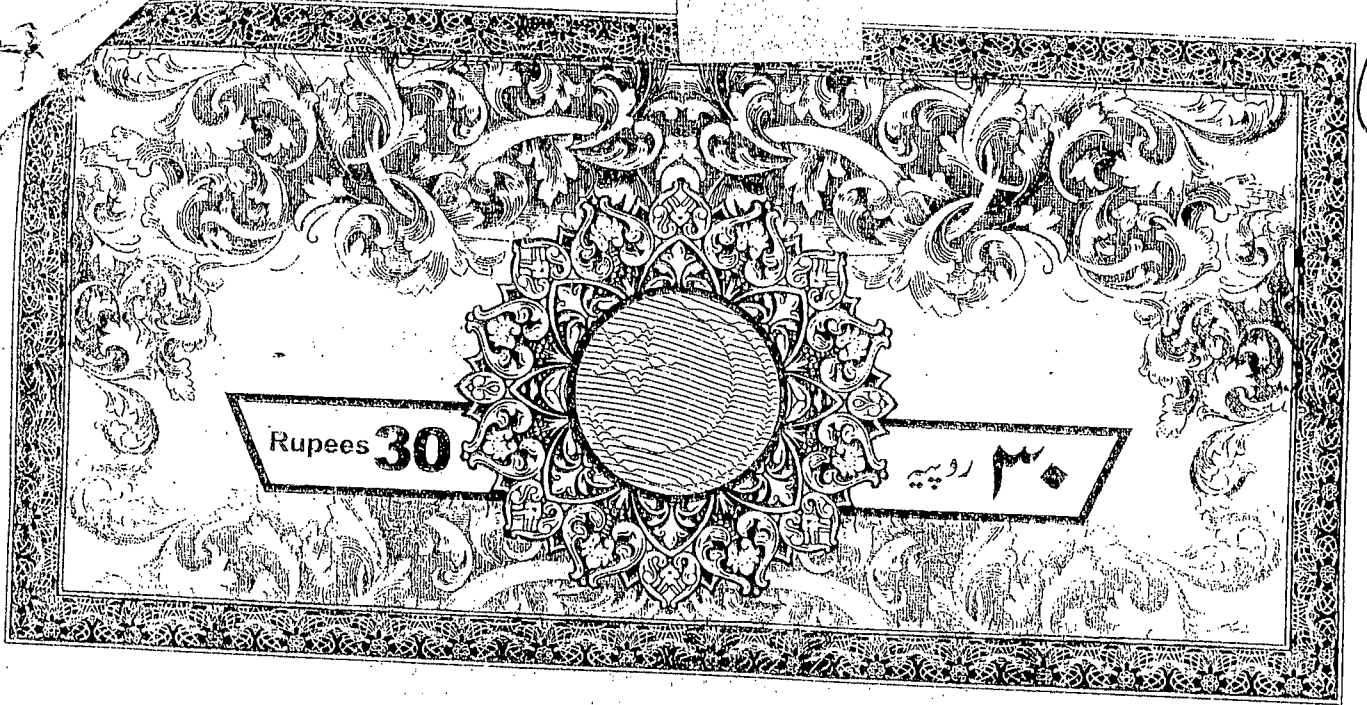
مختص ڈیپارٹمنٹ کے ذریعے پاور فراہم کرنے کے

مختص ڈیپارٹمنٹ کے ذریعے پاور فراہم کرنے کے

29/03/16



CIC
[Signature]
7-2-22



بیان حلفی

مسماة فرحانہ زوجہ احسان اللہ شاہ ساکن محلہ سرمنڈان سرسردارے منگلور تحصیل بابوزئی ضلع سوات کی ہوں۔ حلفاً بیان کر کے لکھ رہی ہوں کہ من محلہ محکمہ تعلیم میں گورنمنٹ گرلز ہڈل سکول اکبر آباد بارامہ ٹنگورہ میں بطور سوپرو پوسٹ پر تعینات تھی۔ چونکہ اب من محلہ محکمہ تعلیم میں PTC پوسٹ پر ترقی ہو چکی ہے۔ اسلئے من محلہ اپنے سوپرو پوسٹ سے بخوشی بہ رضامندی استعفیٰ دیتی ہوں اور آئندہ کے لئے مذکورہ پوسٹ لینے کسی قسم کی دعویداری یا محکمہ تعلیم کے خلاف عدالت سے رجوع نہیں کرونگی۔ لہذا امن محلہ کے استعفیٰ منظور کی جائے۔

یہی میرا بیان ہے۔ جو کہ حقیقت پر مبنی ہے۔ اور بیان بالا میں کوئی امر مخفی یا پوشیدہ نہیں رکھا گیا ہے۔ اگر بیان بالا میں

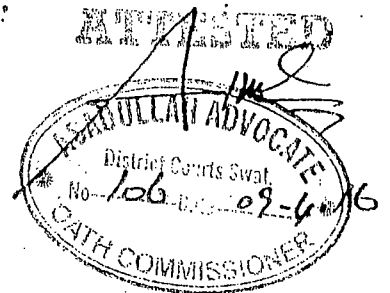
کوئی غلط بیانی ثابت ہو جائے۔ تو اس کا من محلہ خود مدہ دار ہوگی۔ المرقوم: 09/04/2016

Farah

مسماة فرحانہ زوجہ احسان اللہ شاہ

ساکن محلہ سرمنڈان سرسردارے منگلور تحصیل بابوزئی ضلع سوات

شناختی کارڈ نمبر: 6-15602-0367292



etc
Amir
7-2-22

In pursuance of the provision contained in Notification No. 508 IV (E&AD) 1/2011/MOI III dated 13-12-1981 and the Government of Khyber Pakhtunkhwa Public Service Commission held on 01-01-2016 and in Exercise of the power vested in me as competent authority to fill the vacant posts from the son/daughter of the deceased employees died during service and to fill the reserved quota in RPS-01 (6535-260-1/335) plus special allowances as per the rules with effect from the date of taking over charge subject to the terms and condition given below:-

Sl. No. of Candidate	Date of Birth	Post & School Where Posted	Remarks
1. Mr. [Name] (P/T) Late [Address]	13-12-1981	Swceptor GGMS Akbarabad Barana	Against the quota reserved for deceased Son quota 100%
2. Mr. [Name] (P/T) [Address]	01/11/1996	Chowkidar, GGPS Daryapur, Swat	do

The appointee shall be on probation for a period of one year extendable for another one year. The probation may be terminated at any time in case the performance is found unsatisfactory during probation. The appointee shall be terminated on one month prior notice from either side. In case of resignation without notice, the appointee shall be liable to pay and allowances, if any, shall be forfeited to Government through challan. The appointee shall submit the original documents, domicile and other necessary documents to the Medical Superintendent should be provided before taking over charge. The appointee shall be subject to all the rules and regulations of the Government of Khyber Pakhtunkhwa Public Service Commission. The appointee shall be liable to pay and allowances, if any, shall be forfeited to Government through challan. The appointee shall submit the original documents, domicile and other necessary documents to the Medical Superintendent should be provided before taking over charge.

(Signature of the Director)
Director, Education
Government of Khyber Pakhtunkhwa
Peshawar

CFC
[Signature]
7-2-22



Receipt Challan

Preprinted Receipt
Challan No. _____

Date: 09.04.2016

Cash Deposited at:

- Post Office
- National Bank of Pakistan
- State Bank of Pakistan

National Bank

28

at Branch : Saidu Sharif Swat

To be filled in by the payer					Signature & Date of Receiving Officer
Serial Number	Name & Address of Payer / Department	Full Particulars / Description of Receipt	Detailed receipt Object Code	Amount Rs.	
1	Ms. Farhana (Sweeper) GGMS Akbar Abad Barama, Swat P.#: 758675	ROP Pay & All: (1 Month)	C02814	14447/-	

Total : - Rs. 14447/-

(In Words) Rupees: (Fourteen thousand, four hundred & forty-seven Or

To be filled by DAO / AG / DGPR-SO

Received at (Location) _____

Profit Center Code _____

Date: _____

Verified by: _____

(Against Scroll)

ORIGINAL

[Handwritten Signature]

Signature of Depositor

National Bank of Pakistan
Saidu Sharif Swat

19 APR 2016

Verified by: _____

Stamp, Date & Initial of Manager o Branch / Post Master
General / Branch & Code / Post Office & Area Code

Post Office / Bank Branch Code

CTC

[Handwritten Signature]

2016-04-09

Annexure = D

Ends

Annexure - E

RELEAVING CHIT

(1)

Certified that Ms. Farhana Sweeper
G.G.M.S. (Barama) ^{Akbarabad} was promoted to PST post
at G.G.P.S. Sour Bani vide DEO (Swat
order / promotion Endst No 4950-4955
Sweeper to PST dated 28/03/16
is relieved from her duty w.e.f 29/03/16
and directed to report for her
new station immediately

CTC
Chaudhary
7-2-22

R. B. B.
Head Mistress
G.G.M.S. Akbarabad
Barama, Mingora Swat.



OFFICE OF THE
DISTRICT EDUCATION OFFICER (Female) SWAT
CONTACT #: (0946) 700686 Fax #: (0946) 700686
Email: deofswat@gmail.com www.sed.edu.pk

APPOINTMENT

Consequent upon recommendation of the Departmental Selection Committee appointment of the following candidates are hereby ordered against the PST post on one year adhoc School based policy in BPS-12 (9055-650-28555) @ Rs. 9055/- fixed plus usual allowances as admissible under the rules and existing policy of the provincial Government in Teaching Cadre on the terms and condition given below with effect from the date of their taking over charge.

PST UC (AMB Khel)

S.#	Name/Parentage	D/O Birth	Domicile	Union Council	Score	Place of posting
1	ULFAT NAZ D/O FAZAL RAHEEM	20.03.1982	Swat	AMB Khel	108.67	GGPS Bela karin
2	MEHREEN D/O IQBAL ALI SHAH	15.04.1985	Swat	AMB Khel	96.70	GGPS Kahoo
3	NUSRAT D/O FAZAL RAHIM	01.09.1990	Swat	AMB Khel	90.62	GGPS Kas Khas
4	SAMINA BIBI D/O ZABARDAST KHAN	17.03.1990	Swat	AMB khel	82.87	GGPS Jabar Gat
5	RUBINA D/O MOHAMMAD WAHAB	10.02.1984	Swat	AMB Khel	77.63	GGPS Gat Bela
6	SARA D/O AMIR NAWAB	01.06.1991	Swat	AMB Khel	73.01	GGPS Zaray
7	ANILA RAHIM D/O FAZAL RAHIM	01.08.1997	Swat	AMB Khel	71.48	GGPS Manz Gat
8	REHANA YASMIN D/O ALI BAHADAR	05.01.1986	Swat	AMB Khel	71.29	GGPS Araq
9	RAHMAT BEGUM D/O MOHAMMAD UMAR	16.04.1985	Swat	AMB Khel	70.04	GGPS Jabar Gat
10	NAJMA D/O PERWESH	04.03.1989	Swat	AMB Khel	69.20	GGPS Koz Chinawat
11	SAHERA D/O MOHAMMAD AYOUB KHAN	10.01.1993	Swat	AMB Khel	68.58	GGPS Yakhtangay
12	NORIN TAHIR D/O MOHAMMAD TAHIR KHAN	25.04.1990	Swat	AMB Khel	68.42	GGPS Bar Chinawat
13	IRUM D/O SULTANAT KHAN	13.03.1992	Swat	AMB Khel	66.20	GGPS Warana Goratai

OTC
Amir
7-2-22

14	BUSHRA RAHMAN D/O ABDUR RAHMAN	07.03.1981	Swat	AMB Khel	65.58	GGPS Barjot
15	AFSHAH D/O SAID KHURSHID ALI	14.03.1986	Swat	AMB Khel	65.29	GGPS Bar Qala
16	SAHIBA D/O MIAN GUL BAHAR	03.08.1995	Swat	AMB Khel	63.61	GGPS Manz Gat
17	FAZILAT D/O AMIR NAWAB	03.12.1983	Swat	AMB Khel	63.17	GGPS Sardaray
18	MUSSARAT D/O MOHAMMAD QURISH	02.03.1981	Swat	AMB Khel	63.09	GGPS Sagar Gat
19	FARHANA BIBI D/O FAROOQ KHAN	07.12.1981	Swat	AMB Khel	62.63	GGPS Soor Banr
20	SAIMA D/O MIAN GUL BAHAR	02.04.1993	Swat	AMB Khel	61.74	GGPS Sagar Gat
21	FARZANA BIBI D/O SHER BAHADAR	11.01.1980	Swat	AMB Khel	60.76	GGPS Bar Chinawat
22	SUMEERA BIBI D/O MIAN SYED AHMAD	02.09.1991	Swat	AMB Khel	59.66	GGPS Bela karin
23	NAILA D/O AMIR ZEB	10.02.1989	Swat	AMB Khel	59.38	GGPS Kad Zary
24	RABIA D/O GUL CHAMAN	04.09.1992	Swat	AMB Khel	57.89	GGPS Gat Bela
25	ULFAT BIBI D/O BAKHT KARAM	15.03.1986	Swat	AMB Khel	57.68	GGPS Koz Chinawat
26	MEHNAZ D/O* MUHAMMAD RAHMAN	03.04.1988	Swat	AMB Khel	56.92	GGPS Jawaz
27	SHAD BEGUM D/O SAID HILAL	30.03.1980	Swat	AMB Khel	55.16	GGPS Zel Karin
28	TAJ BEGUM D/O SAHIB ZADA	11.10.1988	Swat	AMB Khel	47.64	GGPS Zel Karin

TERMS & CONDITION.

1. No TA/DA is allowed.
2. Charge reports should be submitted to all concerned in duplicate.
3. Appointment is purely on temporary & contract/adhoc basis initially for one year with effect from 22-03-16 to 21-03-17.
4. She should not be handed over charge if their age exceeds 38 years and below 18 year.
5. Appointment is subject to the condition that the certificate / documents must be verified from the concerned authorities, anyone found producing bogus certificate will be reported to the law enforcing agencies for further action.
6. Her services are liable to termination on one month's notice from either side. In case of resignation without notice her one-month pay/allowances shall be forfeited to the Government.
7. Her Pay will not be drawn until and unless a certificate to the effect is issued by this office that her certificate are verified.
8. Health and Age certificate should be produced from the Medical Superintendent concerned before taking over charge.
9. She will be governed by such rules and regulation as may be issued from time to time by the Govt.

From Respondant
4

2015 S C M R 1006

[Supreme Court of Pakistan]

Present: Nasir-ul-Mulk, C.J., Gulzar Ahmed and Mushir Alam, JJ

عزفون بگا بنام رعو۔ ریس ڈیپارٹمنٹ

CIVIL PETITION NO.41 OF 2015

(On appeal from the order/judgment of the Islamabad High Court, Islamabad dated 4-12-2014 passed in I.C.A. No.523 of 2013)

AND

CIVIL PETITION NO. 66 OF 2015

(On appeal from the order of the Lahore High Court, Lahore dated 9-1-2015 passed in W.P. No. 85 of 2015)

**SECRETARY ESTABLISHMENT DIVISION,
GOVERNMENT OF PAKISTAN, ISLAMABAD---Petitioner**

versus

AFTAB AHMED MANIKA and others---Respondents

Civil Petitions Nos.41 and 66 of 2015, decided on 22nd April, 2015.

(a) Constitution of Pakistan---

---Arts. 212(2) & 199---Civil service---Promotion---Fitness of civil servant---Determination--- Constitutional jurisdiction of High Court---Scope---Determination of fitness of civil servant for promotion has been excluded from jurisdiction of Service Tribunal---Ouster clause (2) of Art.212 of the Constitution does not extend to such matters---Constitutional jurisdiction of High Court is not ousted in matters pertaining to appointment of civil servant to a particular post or to be promoted to a higher grade.

Orya Maqbool Abbasi v. Federation of Pakistan through Secretary Establishment 2014 SCMR 817 rel.

(b) Civil Servants Act (LXXI of 1973)---

---S. 9(1)---Civil Servants (Appointment, Promotion and Transfer) Rules, 1973, Rr. 2(a) & 6---ESTACODE, 2007 Edition, Vol. I, Sr.192(2)(b)--- Promotion--- Determination of fitness--- Recommendations of Central Selection Board--- Intelligence reports--- Despite specific recommendations by Central Selection Board, Prime Minister returned cases of civil servants for reconsideration as there were intelligence reports against them---High Court in exercise of constitutional jurisdiction declared that appointing authority could not return the cases of civil servants as there were specific recommendations of Central Selection Board in their favour--- Validity---Appointing authority had to make promotions in Basic Pay Scale 20 and 21 only upon recommendations of the Board; it did not provide in either of the provisions that recommendations of the Board were binding and consequently be returned by appointing authority only when

procedure followed by the Board suffered from any factual or legal flaw---Supreme Court set aside the judgments passed by High Court and constitutional petitions filed by civil servants were dismissed---Supreme Court directed Central Selection Board to re-examine cases of civil servants on the basis of criteria already set for determining fitness or otherwise of civil servants for promotion without being influenced by observations made in the summary for the return of recommendations to the Board---Appeal was allowed.

Safaraz Saleem v. The Federation of Pakistan PLD 2014 SC 232; Concise Oxford English Dictionary 11th Edition, Revised; Black's Law Dictionary 6th Edition; Words and Phrases 2nd Edition, 2008; Islamic Republic of Pakistan v. Israrul Haq PLD 1981 SC 531; Bahadur Shah, Divisional Engineer Development II, I.T.R. Islamabad and others v. Pakistan through Secretary, Ministry of Communication and others 1988 SCMR 1769; Faris Rahman Khan v. Federation of Pakistan through Secretary Establishment Division 1995 SCMR 579; Lakhwinder Singh v. Union of India and others (2008) 7 Supreme Court Cases 648; Mian Abdul Malik v. Dr. Sabir Zameer Siddiqui and others 1991 SCMR 1129; Muhammad Anis v. Abdul Haseeb and others PLD 1994 SC 539; Muhammad Zahir Raja v. Federation of Pakistan 2012 SCMR 971; Fazali Rehmani v. Chief Minister N.-W.F.P. PLD 2008 SC 769; Zafar Iqbal v. Director, Secondary Education, Multan Division 2006 SCMR 1427; Government of Pakistan through Establishment Division v. Hameed Akhtar Niazi PLD 2003 SC 110; Saleem Ullah Khan v. Shahid Hamid 2011 SCMR 788; Muhammad Azam v. Muhammad Tufail 2011 SCMR 1871; Habibullah Energy Limited v. WAPDA through Chairman and others PLD 2014 SC 47; Syed Mahmood Akhtar Naqvi v. Federation of Pakistan PLD 2013 SC 195 Abu Bakar Siddique v. Collector of Customs, Lahore 2006 SCMR 705; Federation of Pakistan through Secretary M/o Law v. Sindh High Court Bar Association PLD 2012 SC 1067; Government of the Punjab v. S. Tassaduq Hussain Bokhari PLD 1986 SC 162; R.S. Mittal v. Union of India 1995 Supp (2) SCC 230; I.A. Sharwani and others v. Government of Pakistan 1991 SCMR 1041 and Dr. Habibur Rahman v. The West Pakistan Public Service Commission, Lahore and 4 others PLD 1973 SC 144 ref.

Salman Aslam Butt, AGP, Waqar Rana, Additional AGP, Qari Abdul Rasheed, Advocate-on-Record. Mumtaz Ali Khan, JS Est. Div. and Shahbaz Kirmani, S.O. for Petitioner.

Ms. Asma Jahangir, Advocate Supreme Court assisted by Haris Azmat, Advocate for Respondents Nos. 1, 4-6, 8, 9 and 11 (in C.P. 41 of 2015).

Ms. Asma Jahangir, Advocate Supreme Court assisted by Haris Azmat, Advocate for Respondents Nos. 1 - 3 (in C.P. 66 of 2015).

Dates of hearing: 30th January and 9th February, 2015.

JUDGMENT

NASIR-UL-MULK, C.J.---These two petitions for leave to appeal filed by the Secretary Establishment Division, Government of Pakistan, arise from two judgments. One was rendered by the Islamabad High Court, Islamabad on 4-12-2014 in Intra Court Appeal No.523 of 2013, whereby the judgment of the Judge-in-Chambers in Writ Petition No.2026 of 2014 in favour of the respondents, was maintained. The other was handed down by the Lahore High Court, Lahore on 9-1-2015 in Writ Petition No. 85 of 2015, for implementation of the earlier judgment dated 22-12-2014 passed in Writ Petition No.11192 of 2014. The facts and questions of law in both the matters are similar.

2. The contesting respondents in the two Petitions, who had filed Writ Petitions before the Islamabad High Court and the Lahore High Court, are civil servants, serving in BPS-20 in the Pakistan Administrative Service, the Police Service of Pakistan and the Foreign Service of Pakistan.

They were recommended for promotion to BPS-21 along with their colleagues by the Central Selection Board (hereinafter referred to as the Board'). The Board recommended 45 officers of the Pakistan Administrative Services, 11 of the Police Service of Pakistan and 12 of the Foreign Service of Pakistan on different dates for promotion and separate summaries were prepared for consideration of the Prime Minister. The recommendations of the Board, to the extent of contesting respondents, were returned by the competent Authority for reconsideration.

3. Before the Islamabad High Court the Federal Government, apart from contesting the Writ Petition on merits on the ground that the appointing Authority was competent to return the recommendations to the Board, also questioned maintainability of the Writ Petition on the ground that the matter related to the terms and conditions of civil servants and thus the jurisdiction of the High Court was barred under Article 212 of the Constitution. The High Court rejected the argument, holding that since the Federal Service Tribunal was not functional at the time, it could assume jurisdiction in view of the judgment of this Court in *Safaraz Saleem v. The Federation of Pakistan* (PLD 2014 SC 232). On merits the Court held that promotion to BPS 21 is governed by section 9 of the Civil Servants Act, 1973 read with Rule 7 of the Civil Servants (Appointment, Promotion and Transfer) Rules, 1973; that the word "shall" as used in both the provisions of law grants a mandatory character to the recommendations of the Board; that under the scheme of law, the Prime Minister even though retains the authority to scrutinize the recommendations, it cannot return the same except in exceptional cases where procedural or compositional flaws are apparent; that the same has been the scheme of the law as legislature intended to replace the concentration of power in one person which might lead to arbitrary decisions with the collective wisdom of the Board. Further, the Court observed that the petitioners before it had been discriminated in violation of Constitutional protection under Article 25 as the cases of other candidates had been approved through the same process in which the cases of the petitioners were returned.

4. The petitioners who moved the Lahore High Court were also serving in BPS-20 and their cases for promotion too were recommended by the Board which were returned by the Prime Minister on 3-4-2014. Here also the Federation had raised the issue of jurisdiction of the High Court which was rejected on the ground that the matter related to the fitness of the respondents for promotion and was thus beyond the jurisdiction of the Service Tribunal. On merits the Court held there was no information available to the competent Authority to come to a conclusion that the Board had not applied its mind in some cases; that the competent Authority had not given any reason for returning the recommendations of the Board thereby violating the principles of transparency, fairness and good governance; that this amounted to discrimination against the candidates whose names were returned as the Board had nominated them upon the same criterion as applied to those whose recommendations were accepted by the competent Authority for promotion. The Court further observed that the Board had evaluated the subjective assessment of integrity, general reputation and perception and awarded marks for it; that the return of some of the nominations by the competent Authority suggested that it was working on personal information or opinion, thereby violating the collective wisdom of the Board and the requirements of Due Process; that return of the recommendations by the competent Authority is also against the dicta as laid down in the case of *Orya Maqbool Abbasi v. Federation of Pakistan through Secretary Establishment* (2014 SCMR 817) as the Board had already assessed the recommendations upon the criterion as laid down in the said case and there was no justification in requiring the Board to deliberate upon the same again.

5. The Board had held its meetings from 11th to 13th February, 2014 to consider the promotions of civil servants of different Groups from BPS-20 to BPS-21. Out of the recommended lists, 18 officers from the Pakistan Administrative Services, 6 from the Police Service of Pakistan and 4 from the Foreign Service of Pakistan were returned to the Board by the appointing Authority. The relevant part of the Summary, approved by the Prime Minister, for reconsideration of the respondents' promotion, as given in Paragraph Nos. 9, 10 and 11 of the Summary dated 3-4-2014 is

reproduced below:

"(9) Further, whilst examining the instant recommendations of the Central Selection Board, the Prime Minister is pleased to observe that the Board has failed to apply its mind and exercise its discretion in an objective manner in evaluating officers on the attribute of 'integrity/general reputation/perception'. The CSB was required to be mindful that this attribute was inserted in the "Objective Assessment Form" in order for the CSB to evaluate officers not only on the basis of integrity as reported in the ACRs/PERs but also to form a collective opinion as to general reputation and perception of the officers under consideration in a reasonable, fair and equitable manner; and then to award marks out of maximum five. A mechanical exercise, without application of mind, to award marks for the attribute 'integrity/ general reputation/ perception' on the basis of formally written reports is, by no means, in consonance with the spirit of the Hon'ble Supreme Court's judgment in C.P. No.22 of 2013 and the essence of the Objective Evaluation Form to be used by the CSB. The Prime Minister is pleased to observe that given the seniority, eminence and stature of the Individual members of the CSB, including its chairman, it would not have been problematic for the CSB to assess the general reputation/perception regarding officers under consideration, particularly after these officers had had a service experience of around twenty five years in full public view.

(10) Therefore, in view of above observation, the Prime Minister does not deem it prudent and justified to approve the CSB's recommendations forthwith in respect of officers, as to whom sufficient reasons exist for them to be considered as holding reputation of being corrupt or known to be dishonest or perceived to be so and desires that only officers with impeccable repute should be promoted in public interest.

(11) The Prime Minister, therefore, whilst approved the CSB's recommendations regarding officers named in Para-8 above who clearly and unquestionably hold a public reputation and perception of being honest and not corrupt, is pleased to direct that, in respect of the following officers, the CSB may reconsider their cases in its next meeting and assess and evaluate them as to the attribute 'integrity/ general reputation/perception' in a comprehensive and objective manner."

It was added that "the post against which these officers were recommended by the CSB to be promoted to BPS-21 shall remain vacant until the matter is reconsidered by the CSB in its next meeting".

6. The learned Attorney-General for Pakistan referred to section 9(3) of the Civil Servants Act, 1973 to point out that the Central Selection Board is only a recommendatory body, whose recommendations are not binding upon the appointing Authority. He added that the Prime Minister had only referred the cases of the respondents to the Board for reconsideration with the direction that in case they are promoted, their seniority shall remain undisturbed. Referring to Sr. 192 of the Esta Code (Edition 2007 Vol.-I) the learned Attorney General submitted that the Prime Minister is by convention empowered to return the cases of promotion to the Board for further consideration in case he disagree with its recommendations. Referring to ordinary meaning of the word 'recommendation' from Concise Oxford English Dictionary (11th Edition, Revised), Black's Law Dictionary (6th Edition) and Supreme Court on Words and Phrases (2nd Edition 2008) he submitted that the 'recommendations' are merely suggestions or proposals, which may or may not be accepted. In this context, reliance was placed upon Islamic Republic of Pakistan v. Israrul Haq (PLD 1981 SC 531), Bahadur Shah, Divisional Engineer Development II, I.T.R. Islamabad and others v. Pakistan through Secretary, Ministry of Communication and others (1988 SCMR 1769), Faris Rahman Khan v. Federation of Pakistan through Secretary Establishment Division (1995 SCMR 579) and Lakhwinder Singh v. Union of India and others (2008) 7 Supreme Court Cases 648.

7. In response to our previous query regarding material on the basis of which the Prime Minister did not approve the recommendations of the Board, the learned Attorney General placed

before us some reports from the Inter Services Intelligence (ISI) and the Investigation Bureau (IB), which statedly were taken into account by the Prime Minister in deciding to return the cases to the Board. He informed that such reports were not available to the Board while considering the cases of promotions of the respondents.

8. The learned Attorney-General questioned the very maintainability of the Writ Petitions by the respondents before the High Court on the ground that the jurisdiction of the High Court was ousted by Article 212 of the Constitution in matters relating to the terms and conditions of services of the civil servants. Referring to section 3(2) of the Service Tribunal Act, 1973 he contended that the matters relating to the terms and conditions of service of the civil servants fall within the exclusive jurisdiction of the Service Tribunal and that the exclusion from the jurisdiction of the Tribunal under the said provision matters relating to fitness or otherwise of a civil servant to be promoted or appointed to a particular post means that this question cannot be agitated ever before the Tribunal. That this exclusion does not confer jurisdiction on the High Courts to examine the question of fitness of a civil servant for the present purpose. He therefore contended that the question of fitness is not justiciable before any Court or Tribunal. To strengthen his arguments, the learned Attorney General relied upon *Mian Abdul Malik v. Dr. Sabir Zameer Siddiqui and others* (1991 SCMR 1129), *Muhammad Anis v. Abdul Haseeb and others* (PLD 1994 SC 539), *Muhammad Zahir Raja v. Federation of Pakistan* (2012 SCMR 971) and *Fazali Rehmani v. Chief Minister N.-W.F.P.* (PLD 2008 SC 769).

9. The learned Attorney-General next submitted that promotion to a particular post is not a right and a civil servant can only be considered for promotion. Reliance was placed on *Zafar Iqbal v. Director, Secondary Education, Multan Division* (2006 SCMR 1427), *Government of Pakistan through Establishment Division v. Hameed Akhtar Niazi* (PLD 2003 SC 110), *Saleem Ullah Khan v. Shahid Hamid* (2011 SCMR 788) and *Muhammad Azam v. Muhammad Tufail* (2011 SCMR 1871).

10. Responding to the above contentions, Ms. Asma Jahangir, Advocate Supreme Court representing the respondents, submitted that the Board was chaired by the Chairman Federal Public Service Commission and comprised of fourteen members, including Chief Secretaries of the Provinces, Federal Secretaries and in case of promotion in the Police Force, the concerned Inspector General of the Province; that the opinion or the recommendations of such an esteemed body are entitled to respect and though the appointing Authority may disagree with the opinion but the discretion of returning the names for reconsideration can be exercised only in exceptional circumstances and in a just, fair and reasonable manner. To substantiate her argument, the learned counsel relied on *Habibullah Energy Limited v. WAPDA through Chairman and others* (PLD 2014 SC 47), *Syed Mahmood Akhtar Naqvi v. Federation of Pakistan* (PLD 2013 SC 195) and *Abu Bakar Siddique v. Collector of Customs, Lahore* (2006 SCMR 705).

11. The learned counsel contended that the Board assigns marks in accordance with the proforma prepared for evaluation of the performance of the candidates, which includes five marks for general reputation and integrity. It was pointed out that the Prime Minister, while returning the cases of the respondents to the Board, expressed a definite opinion on the integrity and reputation of the candidates and that too without making reference to any material on the basis of which such opinion was formed. The learned counsel next contended that the reports of the ISI and IB about the respondents were an afterthought and were perhaps never placed before the Prime Minister. To substantiate her arguments, the learned counsel made reference to the impugned judgment of the Lahore High Court in which it was mentioned that despite the Court's query the learned Deputy Attorney-General was unable to produce before the Court any material forming the basis for the Prime Minister's opinion. The learned counsel then pointed out that the reports of the Intelligence Agencies were not even adverse about some of the respondents. With reference to the case-law, it was argued that the reports of the Intelligence Agencies are not relevant and are to be excluded from consideration while forming opinion about the performance or integrity of a civil servant for the

purpose of his appointment or promotion. Reference was made to Federation of Pakistan through Secretary M/o Law v. Sindh High Court Bar Association (PLD 2012 SC 1067), Government of the Punjab v. S. Tassadaq Hussain Bokhari (PLD 1986 SC 162) and R.S. Mittal v. Union of India 1995 Supp (2) SCC 230.

12. The learned counsel further submitted that the powers of the appointing Authority to disagree with the recommendations of the Board are not unfettered and are to be exercised in exceptional circumstance upon credible information and only then the recommendations of the members of the Board can be over turned. It was also pointed out that a number of respondents had earlier been recommended by the Board for promotion and were promoted by the then Prime Minister but their promotions were set aside by this Court in the case of Orya Maqbool Abbasi (supra) as a result their cases were reconsidered by the Board for the second time.

13. We first attend to the preliminary objections raised on behalf of learned Attorney-General to the maintainability of the Writ Petitions filed before the High Court on the touchstone of Article 212 of the Constitution. Article 212(1)(a) is an enabling provisions empowering the legislature to establish Tribunals exercising exclusive jurisdiction in matters relating to the terms and conditions of service of persons who are or have been in the Service of Pakistan. It is in view of this Constitutional provision that the Federal Service Tribunal Act, 1973 was enacted. Clause (2) of Article 212 of the Constitution excludes the jurisdiction of all Courts in matters falling within the exclusive jurisdiction of Tribunal set up under Clause (1) of Article 212 of the Constitution. It reads:

"(2) Notwithstanding anything hereinbefore contained where any Administrative Court or Tribunal is established under clause (1), no other court shall grant an injunction, make any order or entertain any proceedings in respect of any matter to which the jurisdiction of such Administrative Court or Tribunal extends and all proceedings in respect of any such matter which may be pending before such other court immediately before the establishment of the Administrative Court or Tribunal; other than an appeal pending before the Supreme Court, shall abate on such establishment." [Emphasis is ours]

Section 4 of the Federal Service Tribunal Act, 1973 provides for appeals to the Tribunal by a civil servant aggrieved of any order regarding terms and conditions of his service. Clause (b) of subsection (1) of section 4 of the Federal Service Tribunal Act expressly bars the Tribunal from entertaining appeal against the decision of a departmental Authority determining the fitness or other wise of a person to be promoted to a higher grade. The Tribunal has thus no jurisdiction to examine whether or not a civil servant is fit for promotion to a higher grade. Under Clause (2) of Article 212 of the Constitution the jurisdiction of the Court is ousted only over matters falling within the exclusive jurisdiction of the Tribunal established under Clause (1) of Article 212. As the determination of fitness of a civil servant for promotion has been excluded from jurisdiction of the Tribunal, the ouster Clause (2) of Article 212 therefore does not extend to such matters. It has been consistently held by this Court that the Constitutional Jurisdiction of the High Court is not ousted in matters pertaining to appointment of a civil servant to a particular post or to be promoted to a higher grade. Reference may be made to Orya Maqbool Abbasi's case (ibid) by which earlier promotions of some of the respondents to BPS-21 by the competent Authority were set aside and the matter was sent to the Board for re-consideration. In that case reliance was placed on Article 212 of the Constitution to object to assumption of jurisdiction by this Court under Article 184(3) of the Constitution. It was overruled in Para 30 of the judgment, which reads:

"30. Second objection, which has been raised by Mr. Rashid A. Rizvi, learned counsel is that in view of bar of Article 212 of the Constitution, instant petition is not competent. In this behalf reference may be made to Section 4 of the Federal Service Tribunal Act, 1973 [FSTA, 1973], which has no application on the fitness of a person to hold a particular post. As CSB in view of promotion policy has deferred to a good number of BPS-20 officers of PAS/APUG, allegedly for subjective

reasons, therefore, in view of law laid down in I. A. Sherwani's case (ibid), it is held that objection has no substance."

The same question was raised in I. A. Sharwani and others v. Government of Pakistan (1991 SCMR 1041) to the exercise of jurisdiction under Article 184(3) of the Constitution and it was held:

"9. From the above-quoted Article 212 of the Constitution and section 4 of the Act, it is evident that the jurisdiction of the Courts is excluded only in respect of the cases in which the Service Tribunal under subsection (1) of section 4 has the jurisdiction. It must, therefore, follow that if the Service Tribunal does not have jurisdiction to adjudicate upon a particular type of grievance, the jurisdiction of the Court remains intact."

14. The learned Attorney-General had referred to the case of Mian Abdul Malik v. Dr. Sabir Zameer Siddiqui and others (supra) to contend that fitness of a civil servant is not open for determination by either the Service Tribunal or the Court. The said judgment is a brief one where a distinction had been drawn between matter relating to eligibility and fitness and it was held that it is the latter and not the former, which has been taken out from the scope of jurisdiction of the Service Tribunal. While holding so, it was further held:

"Fitness introduces an element of subjective evaluation on the basis of objective criteria where substitution for an opinion of the competent authority is not possible by that of a Tribunal or a Court. It is in this background that the question of fitness or suitability for promotion has always been considered to be exclusively within the jurisdiction of the competent authority not shared by the Court or Tribunal exercising supervisory jurisdiction in respect of eligibility and qualification."

The above principle, however, is not attracted to the present case. Neither of the Courts had embarked upon determining whether respondents were fit for promotion to the higher grade. The Courts had examined the exercise of the power of the competent Authority in disagreeing with the recommendations of the Board and returning the same for reconsideration and to that extent the order of the Prime Minister was justiciable and thus the Writ Petitions filed by the respondents were maintainable.

15. The next question relates to the extent of the powers of the Prime Minister in disagreeing with the Board. Section 9(1) of the Civil Servants Act, 1973 read with Rule 2(a) and with Rule 6 of the Civil Servants (Appointments, Promotions and Seniority) Rules, 1973 provide that appointment to the post in BPS-20 and above shall be made by the Prime Minister. Subsection (3) of section 9 of the Civil Servants Act provides:

"(3) Promotion to posts in basic pay scales 20 and 21 and equivalent shall be made on the recommendations of a Selection Board which shall be headed by the Chairman, Federal Public Service Commission."

Neither the Civil Servants Act nor the Civil Servants (Appointments, Promotions and Seniority) Rules provide that the recommendations of the Board shall be binding. However, guidance in the shape of conventions is provided at Sr.192(2)(b) of the Esta Code (Edition 2007 Vol.I), which reads:

"(b) Government have decided that there should be a convention whereby the advice of the Selection Board should be accepted quickly save in exceptional cases; and that if the Prime Minister or the Minister concerned disagrees with the view of the Selection Board, the case should be returned to the Board for further consideration, and a decision taken by the Prime Minister only after the further views of the Board have been placed before him.

The above instructions are neither a law nor a rule and are subservient in the provisions of

the Civil Servants Act, 1973 specially with reference to powers of the 'competent authority' for giving final approval regarding appointment by promotion. These powers are unfettered and the competent authority may accept, reject or refer back the matter to be Central Selection Board for reconsideration. All these options are available to the competent authority whose powers are unfettered to choose any one of the options."

16. The powers of the Prime Minister to return recommendations to the Board for reconsideration have not been disputed by the learned counsel for the respondents. This has also been held by this Court in a number of judgments. Reference in this context may be made to the case of Islamic Republic of Pakistan v. Israrul Haq (supra) where Shafi-ur-Rehman, J. writing for the Court held:

"26. The objection of the respondent to the functioning of the Selection Board, and his own exclusion from subsequent selections, also does not take into account the rules, the instructions and the practice in the matter. Selection Boards and the Departmental Promotion Committees are the substitutes for and an alternative to Public Service Commission. Their recommendations are entitled to greatest respect and utmost consideration. Government orders with regard to the sanctity of such recommendations are to be found on page 126 of (Estab. Code) in the following words..."

Similar observations have been made in the case of Bahadur Shah, Divisional Engineer Development II, I.T.R. Islamabad and others v. Pakistan through Secretary, Ministry of Communication and others (supra) and Dr. Habibur Rahman v. The West Pakistan Public Service Commission, Lahore and 4 others (PLD 1973 SC 144) that the recommendations of the Public Service Commission to appointing Authority are only advisory in nature.

In the case of Bahadur Shah, Divisional Engineer Development II, I.T.R. Islamabad and others v. Pakistan through Secretary, Ministry of Communication and others (supra) the Federal Public Service Commission (hereinafter to be referred to as "FPSC") had recommended a certain date for the regularization of the services of the respondents and the fixation of seniority from that date; that the President returned the recommendations of the FPSC as he was of the opinion that they were not justified on the grounds of equity and justice. The said order of the President was challenged before the Court. This Court held that the President being the appointing Authority was not bound by the recommendations of the FPSC:

"The functions of the Federal Public Service Commission are of an advisory nature since it has to advise the President on matters which may be referred to the Commission by him (vide section 7(b) of the Federal Public Service Commission's Ordinance 1977). Furthermore, the advice tendered by the Commission is not binding on him as is clear from the terms of section 8 which provides that "where the President does not accept the advice of the Commission, he shall inform the Commission accordingly".' (Emphasis is ours)

In the case of Dr. Habibur Rahman v. The West Pakistan Public Service Commission, Lahore and 4 others (ibid) the appellant had challenged before the High Court the recommendations sent by West Pakistan Public Service Commission to the Provincial Government in which the name of the appellant was not included. Expressing its opinion upon the matter the Court held that:

"Yet another aspect of the matter may also be noticed, viz. that the recommendations of the Public Service Commission being only advisory in nature and it being open to the appointing authority under Article 188 of the Constitution not to accept its advice, it is difficult to see how a petition of this nature can be maintained. The grievance of the candidate would arise only when the Government has made an appointment in contravention of the rules; until that time the advice tendered by the Commission remains confidential and inchoate and cannot give rise to a grievance or a cause of action within the meaning of Article 98 of the former Constitution." (Emphasis is ours)

17. It is the case of the Federation that the Prime Minister had before him the reports from the Intelligence Agencies regarding the reputation of the respondents, which persuaded him to refer their cases back to the Board. This has been seriously disputed by the learned counsel representing the respondents. However, being a question of fact, it will not be possible for us to probe into the question as to whether the material was in fact placed before the Prime Minister while considering the said recommendations. The reports from the Intelligence Agencies were produced before us after we had directed the Attorney General to show the material which was placed before the Prime Minister when the recommendations of the Board came for his consideration. We would not like to make any comment upon the material even tentatively lest it in any way influences the decision of the Board during re-examination of the cases of the respondents.

18. The learned counsel representing the respondents had submitted with reference to case-law, mentioned above, to contend that the reports of the Intelligence Agencies are not material for consideration by the Authority making selection for the purposes of promotion or appointment of a person to a particular post or for making assessment of the performance or integrity of a civil servant. We were informed that the said reports of the Intelligence Agencies were not placed before the Board during the consideration of the respondents' cases. The factors or information to be taken into account while considering cases of promotion fall within the exclusive domain of the Board. Whether the reports of the Intelligence Agencies would be material and, if so, the weight that they deserve are matters within the power of the Board. Similarly, the competent Authority also in its discretion may take into consideration any information while considering the recommendations of the Board. This power, however, is to be exercised sparingly and as mentioned in the Esta Code in exceptional circumstances. The Prime Minister had not turned down the recommendations but had only returned them to the Board for further scrutiny with direction that the slots for promotion shall remain vacant till finalization of the cases of the respondents by the Board and that if promoted, they shall retain their original seniority. Having said that we are not unmindful of the Prime Minister's observations regarding the reputation of the respondents, which we must say have been expressed in strong and definite terms. The Board while reconsidering the cases of the respondents shall remain uninfluenced by such observations and shall make its own independent assessment.

19. We are not persuaded by the reasoning given by the High Courts in allowing the Writ Petitions of the respondents. The exercise of powers by the Prime Minister was neither arbitrary nor discriminatory. Some material was before him which dissuaded him from appointing the respondents awaiting further probe by the Board. The Islamabad High Court has interpreted the word "shall" as used in Section 9 of the Civil Servants Act, 1973 and Rule 7 of the Civil Servants (Appointment, Promotion and Transfer) Rules, 1973 to grant a mandatory prescription to the recommendations made by the Board to the appointing Authority which can only be returned in cases of glaring mistakes. From a plain reading of both the provisions of the law, it becomes clear that the appointing Authority has to make promotions in basic pay scales 20 and 21 only upon the recommendations of the Board. It does not provide in either of the provision that the recommendations of the Board are binding and consequently be returned by the appointing Authority only when the procedure followed by the Board suffers from any factual or legal flaw.

20. For the foregoing reasons, both the petitions are converted into appeal and allowed. The impugned judgments of the High Courts are set aside and the Writ Petitions filed by the respondents are dismissed. The Board shall re-examine the cases of the respondents on the basis of the criteria already set for determining the fitness or otherwise of the civil servants for promotion without, in any way, being influenced by the observations made in the Summary for the return of the recommendations to the Board. Since the promotion of the respondents have been pending for the last so many years, let the Board make its recommendations within a period of 30 days and the competent Authority shall finalize their cases within 15 days of the submissions of the recommendations.

2019 P L C (C.S.) 134

[Islamabad High Court]

Before Aamer Farooq, J AMNA IMRAN

Versus

FEDERATION OF PAKISTAN and others

W.Ps. Nos. 834, 2426, 959, 881, 954 and 1272 of 2017, decided on 30th November, 2017.

(a) Civil Servants Act (LXXI of 1973)---

---S. 9---Civil Servants (Appointment, Promotion and Transfer) Rules, 1973, Rr.7 & 8---Service Tribunals Act (LXX of 1973), S.4(1)(b)---Promotion---Fitness, determination of---Criteria---Assessment by the Central Selection Board on the basis of knowledge of its Members---Placement in categories to the employees to be promoted---Scope---Discretion, exercise of---Requirements---Promotion of employees was denied on the basis of integrity and performance known to the Members of Central Selection Board and they were placed in category "C" despite meeting the minimum threshold marks---Validity--- Dispute with regard to terms and conditions of service had been excluded from the jurisdiction of all the Courts except Service Tribunals constituted for the said purpose---Question of fitness of a civil servant to be promoted had been ousted from the jurisdiction of Service Tribunal---No appeal had been provided on the question of fitness of a civil servant---Present constitutional petition was maintainable as same was with regard to fitness of a person to be appointed or to hold particular post---Petitioners had achieved minimum threshold marks but they had been deferred or superseded on account of personal knowledge of Members of Central Selection Board---Five marks had been awarded to the petitioners on the basis of personal knowledge of Members of Selection Board---No adverse material was available on record on the basis of which it could be said that petitioners/civil servants did not enjoy good reputation or they did not deserve to be promoted---Central Selection Board had exercised discretion in an arbitrary and whimsical manner---Decision to defer the petitioners/civil servants or superseding them was not tenable which was set aside---Petitioners should be considered afresh based on new criteria devised by the Establishment Division pursuant to directions of Supreme Court---Constitutional petition was allowed in circumstances.]

2000 PSC 599; 1993 PLC (C.S.) 576; Muhammad Zafeer Abbasi v. Government of Pakistan 2003 PLC (C.S.) 503; Managing Director (POWER) WAPDA v. Muhammad Luqman PLD 2003 SC 175; Dr. Feroz Memon v. Secretary Health, Government of Sindh 2001 PLC (C.S.) 878; Orya Maqbool Abbasi v. Federation of Pakistan 2014 SCMR 817 and Iram Adnan v. Federation of Pakistan 2012 PLC (CS) 1355 ref.

Secretary Establishment Division v. Aftab Ahmed Manika 2015 SCMR 1006; Ms. Zubaida Khatoon v. Tehmina Sajid Sheikh 2011 SCMR 265 = 2011 PLC (C.S.) 596; Federation of Pakistan v. Dr. Muhammad Arif 2017 SCMR 969; Tariq Aziz-ud-Din v. Federation 2010 SCMR 1301 and Liaqat Ali Chughtai v. Federation of Pakistan PLD 2013 Lah. 413.rel.

(b) Service Tribunals Act (LXX of 1973)---

---S. 4(1)(b)---Promotion---Determination of eligibility and fitness--- Dispute with regard to terms and conditions of service had been excluded from the jurisdiction of all the Courts except Service Tribunals constituted for the said purpose---Question of fitness of a civil servant to be promoted had been ousted from the jurisdiction of Service Tribunal---No appeal had been provided on the question of fitness of a civil servant---Constitutional petition was maintainable with regard to fitness of a person to be appointed or to hold a particular post.

From Respondent

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Farooq H. Naik, Abdur Rehman Siddiqui, Ch. Asghar Ali, Abdur Rahim Bhatti, Masroor Shah and Haseeb Shakoor Paracha for Petitioner.

Afnan Karim Kundi, Addl. Attorney General, Mrs. Misbah Gulnar Sharif, Muhammad Ayub, Senior Joint Secretary, Omer Bin Zia, Joint Secretary and Muhammad Afzal Chaudhry Deputy Secretary (Lit.), Establishment Division for Respondents.

Date of hearing: 3rd November, 2017.

JUDGMENT

AAMER FAROOQ, J.--- This judgment shall decide the instant petition as well as Writ Petitions Nos. 2426/2017, 959/2017, 1272/2017, 881/2017 and 954/2017 as common questions of law and facts are involved.

2. The petitioners in all the petitions are civil servants in BS-19 and 20 seeking promotion in the next scale. The petitioners were considered by the Central Selection Board ("CSB") for promotion but were either deferred or superseded for various reasons.

3. The petitioner in the instant petition is in BS-20 and was considered for promotion to BS-21 in the meeting of CSB held on 13 to 16 December, 2016. As mentioned in minutes of meeting of CSB in view of updated record, position, integrity, performance of the officer known to the members of Board, opinion of Departmental representatives as well as pen picture of the officer concerned in Performance Evaluation Reports (PERs) and Training Evaluation Reports (TERs), the Board recommended the petitioner for a period of one year to watch her performance in all aspects. The recommendation made by the Board was approved by the Government Authority.

4. The petitioner in Writ Petition No.2426, was also considered for promotion by the CSB in its meeting held on 13 to 16 December, 2016 and performance of the officer was discussed and debated and despite the fact that she met the required minimum threshold of 75 marks after passing the officer against the Prescribed Objective Assessment criteria as well as PERs/TERs etc. she was placed in category-C, hence recommended for supersession.

5. The petitioner in Writ Petition No.1272/17, was also considered in the meeting of CSB held on 13 to 16 December, 2016 and was placed in category-C on the basis that despite meeting the minimum threshold of 75 marks, the officer did not qualify on the Prescribed Objective Assessment criteria as well as keeping in view PERs/TERs and knowledge of the members of the Board.

6. The petitioner in Writ Petition 959/17 is in Inland Revenue Services in BS-19 and was considered for promotion by the CSB but was recommended for supersession.

7. The petitioner in Writ Petition No.881/2017 is in Pakistan Police Service and is in BS-19. He was considered for promotion in the meeting of CSB held on 13 to 16 December, 2016 however, the Competent Authority has referred back case of the petitioner to assess and evaluate performance of the petitioner in the forthcoming meeting.

8. The petitioner in Writ Petition 954/17 is in BS-19 in Inland Revenue Services. He was considered for promotion in the CSB meeting held on 13 to 16 December, 2016 and was recommended for supersession.

9. At the very outset, learned Additional Attorney General raised objection regarding maintainability of the petitions in light of the bar provided under Article 212 of the Constitution. In this behalf, it was contended that the relief sought in the instant petitions pertain to terms and conditions of services of the petitioners hence, bar provided under Article 212 of the Constitution is applicable.

10. Learned counsel for the petitioners, inter alia, contended that instant petitions are

maintainable in light of the fact that the grievance raised in the instant petitions pertains to fitness of civil servants for promotion. In this behalf, it was contended that question regarding fitness is excluded from the domain of Service Tribunal in light of section 4 of the Service Tribunals Act, 1973. Reliance was placed on cases reported as (2000 PSC 599), (1993 PLC (C.S.) 576), Muhammad Zafeer Abbasi v. Government of Pakistan (2003 PLC (C.S.) 503), "Managing Director (POWER) WAPDA v. Muhammad Luqman" (PLD 2003 SC 175), "Dr. Feroz Memon v. Secretary Health, Government of Sindh" (2001 PLC (C.S.) 878) as well as "Secretary Establishment Division v. Aftab Ahmed Manika" (2015 SCMR 1006) and "Ms. Zubaida Khatoun v. Tehmina Sajid Sheikh" 2011 SCMR 265 = 2011 PLC (C.S.) 596.

11. Learned counsel for the petitioners, inter alia, contended that the petitioners have been deferred or superseded basically on personal knowledge of the members of CSB and for the criteria of Prescribed Objective Assessment despite the act that they obtained minimum threshold of 70% or 75% marks, required for promotion from BS-19 to BS-20 or BS-20 to BS-21 respectively. It was further contended that after the decision of the Hon'ble Supreme Court of Pakistan in case of Orya Maqbool Abbasi v. Federation of Pakistan (2014 SCMR 817), the Establishment Division amended the promotion policy and revised the objective criteria by giving it overriding effect which was challenged in a number of cases before this Court and was struck in the Writ Petitions as well as in Intra Court Appeals. It was further contended that during pendency of the matter before the august apex Court, the judgment of this court in ICAs was suspended however, the Federation expressed desire to hold meeting of CSB which was allowed by the apex Court on the statement that O.M. of 2014 giving overriding effect to the general objective criteria shall not be used however, the same has been effected. It was further contended that the criteria used by the Federation is in violation of the law laid down by this Court as well as august apex Court from time to time. In this behalf it was contended that decision of this Court in I.C.A. No.368/2015 and others, has been upheld by the Hon'ble Supreme Court of Pakistan in case reported as "Federation of Pakistan v. Dr. Muhammad Arif" (2017 SCMR 969). It was further contended that the criteria used for evaluation of the petitioners to determine the fitness is in violation of cases reported as "Iram Adnan v. Federation of Pakistan" (2012 PLC (CS) 1355), "Orya Maqbool Abbasi v. Federation of Pakistan (2014 SCMR 817), "Tariq Aziz-ud-Din v. Federation" (2010 SCMR 1301), as well as "Liaquat Ali Chughtai v. Federation of Pakistan" (PLD 2013 Lahore 413).

12. Conversely, learned Addl. Attorney General, inter alia, contended that Office Memorandum of 2014 having overriding effect with respect to the objective criteria has not been used. It was contended that the petitioners have been considered on the basis of their reports and other documents as well as knowledge of the members of the Board and then were either deferred or superseded. It was further contended that the petitioners who have been deferred shall not be prejudiced as they shall be considered in the forthcoming meeting of CSB and if they are promoted, they shall be at par with their batch fellows. Further, it was contended that those who have been superseded, shall be considered after one year, but were superseded because they failed to obtain grade-A in light of the criteria provided in the O.M of 2012.

13. The facts leading to filing of the instant petitions have been mentioned hereinabove, therefore, need not be recapitulated. The respondents have raised preliminary objection regarding maintainability of the instant petitions in light of bar provided under Article 212 of the Constitution of the Islamic Republic of Pakistan, 1973. The promotion of civil servants is provided in section 9 of the Civil Servants Act, 1973. In this behalf, the referred provision provides that a civil servant possessing such minimum qualifications as may be prescribed shall be eligible for promotion to a higher post for the time being reserved under the rules for departmental promotion in the service or cadre to which he belongs. Similarly, under Rules 7 and 7-A of the Civil Servants (Appointment, Promotion and Transfer) Rules, 1973; promotion of a civil servant is to be made by the Competent Authority, for civil servants in scale 19 and above promotion is made on the recommendations of Central Selection Board. In this behalf, under

Rule 8 *ibid*, only such persons who possess qualification and meet the conditions laid down for the purpose of promotion shall be considered by Central Selection Board or Departmental Promotion Committee as the case may be. The dispute regarding terms and conditions of service have been excluded from the jurisdiction of all the courts except the Tribunals constituted for the said purpose however, with respect to question regarding fitness of a civil servant to be promoted, the same has been ousted from the jurisdiction of the Service Tribunal. In this behalf, under section 4(1)(b) of the Service Tribunals Act, 1973, no appeal is provided on the question regarding fitness of a civil servant. The objection by the learned Addl. Attorney General that the instant petitions are not maintainable is not sustainable inasmuch as the issue raised in the instant petitions is regarding fitness of a person to be appointed or to hold particular post. The Hon'ble Supreme Court of Pakistan in case reported as *Ms. Zubaida Khatoon v. Mrs. Tehmina Sajid Sheikh*, 2011 SCMR 265 = 2011 PLC (C.S.) 596 held that exercise of jurisdiction by the High Court to determine the question of fitness for promotion of a civil servant would not be in violation of Article 199 read with Article 212 (2) of the Constitution as determination of question of fitness for promotion of civil servants falls outside the jurisdictional domain of Service Tribunal in view of bar under section 4(1)(b) of Service Tribunals Act, 1973. Similar view was expressed in case reported as *Secretary Establishment Division v. Aftab Ahmed Manika* (2015 SCMR 1006) wherein, the august apex Court observed as follows-

"13. We first attend to the preliminary objections raised on behalf of learned Attorney-General to the maintainability of the Writ Petitions filed before the High Court on the touchstone of Article 212 of the Constitution. Article 212(1)(a) is an enabling provisions empowering the legislature to establish Tribunals exercising exclusive jurisdiction in matters relating to the terms and conditions of service of persons who are or have been in the Service of Pakistan. It is in view of this Constitutional provision that the Federal Service Tribunal Act, 1973 was enacted. Clause (2) of Article 212 of the Constitution excludes the jurisdiction of all Courts in matters falling within the exclusive jurisdiction of Tribunal set up under Clause (1) of Article 212 of the Constitution. It reads:

"(2) Notwithstanding anything hereinbefore contained where any Administrative Court or Tribunal is established under clause (1), no other court shall grant an injunction, make any order or entertain any proceedings in respect of any matter to which the jurisdiction of such Administrative Court or Tribunal extends and all proceedings in respect of any such matter which may be pending before such other court immediately before the establishment of the Administrative Court or Tribunal; other than an appeal pending before the Supreme Court, shall abate on such establishment, "[Emphasis is ours]

Section 4 of the Federal Service Tribunal Act, 1973 provides for appeals to the Tribunal by a civil servant aggrieved of any order regarding terms and conditions of his service. Clause (b) of subsection (1) of section 4 of the Federal Service Tribunal Act expressly bars the Tribunal from entertaining appeal against the decision of a departmental Authority determining the fitness or other wise of a person to be promoted to a higher grade. The Tribunal has thus no jurisdiction to examine whether or not a civil servant is fit for promotion to a higher grade. Under Clause (2) of Article 212 of the Constitution the jurisdiction of the Court is ousted only over matters falling within the exclusive jurisdiction of the Tribunal established under Clause (1) of Article 212. As the determination of fitness of a civil servant for promotion has been excluded from jurisdiction of the Tribunal, the ouster Clause (2) of Article 212 therefore does not extend to such matters. It has been consistently held by this Court that the Constitutional Jurisdiction of the High Court is not ousted in matters pertaining to appointment of a civil servant to a particular post or to be promoted to a higher grade. Reference may be made to *Orya Maqbool Abbasi's* case (*ibid*) by which earlier promotions of some of the respondents to BPS-21 by the competent Authority were set aside and the matter was

sent to the Board for re-consideration. In that case reliance was placed on Article 212 of the Constitution object to assumption of jurisdiction by this Court under Article 184(3) of the Constitution. It was overruled in Para 30 of the judgment, which reads:

"30. Second objection, which has been raised by Mr. Rashid A. Rizvi, learned counsel is that in view of bar of Article 212 of the Constitution, instant petition is not competent. In this behalf reference may be made to Section 4 of the Federal Service Tribunal Act, 1973 [FSTA, 1973], which has no application on the fitness of a person to hold a particular post. As CSB in view of promotion policy has deferred to a good number of BPS-20 officers of PAS/APUG, allegedly for subjective reasons, therefore, in view of law laid down in I.A. Sherwani's case (ibid), it is held that objection has no substance."

The same question was raised in I.A. Sharwani and others v. Government of Pakistan (1991 SCMR 1041) to the exercise of jurisdiction under Article 184(3) of the Constitution and it was held:

"9. From the above-quoted Article 212 of the Constitution and section 4 of the Act, it is evident that the jurisdiction of the Courts is excluded only in respect of the cases in which the Service Tribunal under subsection (1) of section 4 has the jurisdiction. It must, therefore, follow that if the Service Tribunal does not have jurisdiction to adjudicate upon a particular type of grievance, the jurisdiction of the Court remains intact."

14. The learned Attorney-General had referred to the case of Mian Abdul Malik v. Dr. Sabir Zameer Siddiqui and others (supra) to contend that fitness of a civil servant is not open for determination by either the Service Tribunal or the Court. The said judgment is a brief one where a distinction had been drawn between matter relating to eligibility and fitness and it was held that it is the latter and not the former, which has been taken out from the scope of jurisdiction of the Service Tribunal. While holding so, it was further held:

"Fitness introduces an element of subjective evaluation on the basis of objective criteria where substitution for an opinion of the competent authority is not possible by that of a Tribunal or a Court. It is in this background that the question of fitness or suitability for promotion has always been considered to be exclusively within the jurisdiction of the competent authority not shared by the Court or Tribunal exercising supervisory jurisdiction in respect of eligibility and qualification."

The above principle, however, is not attracted to the present case. Neither of the Courts had embarked upon determining whether respondents were fit for promotion to the higher grade. The Courts had examined the exercise of the power of the competent Authority in disagreeing with the recommendations of the Board and returning the same for reconsideration and to that extent the order of the Prime Minister was justiciable and thus the Writ Petitions filed by the respondents were maintainable."

Likewise, in Liaqat Ali Chughtai v. Federation of Pakistan (PLD 2013 Lahore 413), the Hon'ble Lahore High Court held that where there is question of fitness bar provided under Article 212 of the Constitution is not applicable. In view of the above position of law, the instant petitions are maintainable and not hit by bar provided in Article 212 of the Constitution.

14. As mentioned hereinabove, the petitioners are aggrieved of their deferment or supersession by CSB. The main grievance of the petitioners is that the CSB, while considering the cases for promotion, has used the overriding effect of the objective criteria as provided in O.M. dated 10.02.2014 which fact has been categorically denied by the respondents. In view of the situation, the statement was sought from the Secretary Establishment Division regarding criteria used by the CSB in meetings held on 13th to 16th December, 2016 considering the petitioners and others for promotion and following statement was placed on record:-

"As directed vide order dated 03.05.2017, the following statement is submitted for the assistance of this honourable Court:

1. Meetings of Central Selection Board (CSB) were held in December, 2016, attended by the undersigned as one of the Members of CSB.
2. The criteria used for consideration of officers in the CSB was as per the Revised Promotion Policy, 2007 as amended to date, which included amendments made vide Establishment Division's O.M. No. F.1/1/2012-CP-2 dated 12.10.2012 (Annex-I) (hereinafter "OM of 2012") and O.M. of even number dated 10.02.2014 (Annex-II) (hereinafter "OM of 2014").
3. The OM of 2012 introduced a new Objective Assessment Form annexed to the said OM for assessment by CSB and award of 15 marks allocated to it. The CSB would assess/ evaluate an officer, assign appropriate marks and place the officer in any of the following categories:

S. No.	Category		Range of Marks
1.	Category-A	=	11 to 15
2.	Category-B	=	06 to 10
3.	Category-C	=	00 to 05

4. Sub-Para (b) of Para-4 of Revised Promotion Policy, 2007 provided that the officers securing requisite percentage of marks viz: 70 and 75 will be promoted to BS-20 and 21 respectively. The said para was, however, modified by the OM of 2012 and it inter alia provided that "An officer meeting the aggregate threshold shall also be superseded if CSB places him in Category-C" [underlined is for emphasis].
5. The OM of 2014 only revised the Objective Assessment form introduced by the OM of 2012. The revised form was annexed to the OM of 2014, which inter alia allocated five marks to the attribute of "Integrity/ General Reputation/Perception" in S. No. 8 of the said form. It was further provided that "[a]n officer under consideration, getting less than 3 out of five under this parameter may be deferred or superseded by the CSB at their discretion but with reasons to be recorded in writing" [underlined is for emphasis]. In Sr. No.10, officers were continued to be placed into an overall Category-A, B or C as per their aggregate marks out of the total fifteen marks to be assigned by CSB.
6. In line with the OM of 2012, all officers who were assessed and assigned five or less than five marks by CSB out of fifteen were accordingly placed in Category-C. Resultantly, they were recommended for supersession because of the mandatory provision of Sub-Para (b) of Para-4 of Revised Promotion Policy, 2007 as amended by the OM of 2012, which was regardless of whether or not they met the aggregate threshold of marks viz: 70 and 75 for BPS-20 and 21 respectively.
7. All officers who were recommended for supersession by the CSB held in December, 2016 was on account of them having been placed in Category-C and the resultant mandatory supersession provided in Sub-Para (b) of Para-4 of Revised Promotion Policy, 2007 as amended by the OM of 2012.
8. Since mandatory supersession under the OM of 2012 was given effect in all cases of supersession, no occasion arose for exercising discretion under OM of 2014 to supersede any officer assigned less than three marks under the attribute of "Integrity/ General Reputation/Perception" or to record any reasons therefore specific to the said attribute as required by the OM of 2014.
9. Some of the officers deferred by the CSB were found wanting in requisite attributes including, among other, integrity. However, none of the officers were deferred on

account of overriding effect of five marks for "Integrity/General Reputation/ Perception". In fact, deferment implied postponing the determination of their fitness for promotion. Accordingly, they were neither assigned any marks under the Objective Assessment Form nor subjected to any overriding effect.

Respectfully submitted by:
Syed Tahir Shahbaz
Secretary, Establishment Division"

The bare perusal of the statement shows that the criteria used for consideration of officers in the CSB was as per Revised Promotion Policy, 2007 as amended vide Establishment Division Office O.M. dated 12.10.2012 and O.M. dated 10.02.2014. It was further clarified the categorization provided in O.M. dated 12.10.2012, was used and where the civil servant obtained less than 5 marks on the issue of objective assessment, he was placed in category-C and hence, was recommended for supersession. It was further submitted that no occasion arose for using criteria of awarding marks and giving them overriding effect as provided in O.M. of 2014.

15. The promotion criteria for DPC and CSB was initially issued in 1982 on 31.12.1982. Revised Promotion Policy was enunciated on 30.04.1984 which was further revised through Revised Promotion Policy, 2007 on 24.10.2007 which was further amended in 2012 through O.M. dated 12.10.2012 and then again on 10.02.2014. In order to understand the back drop of the last two amendments, two cases are pertinent i.e. Iram Adnan v. Federation of Pakistan (2012 PLC (C.S.) 1355) and Liaqat Ali Chughtai v. Federation of Pakistan (PLD 2013 Lahore 413). In both the petitions, the petitioners were aggrieved of either deferment or supersession and challenged the decision by the CSB. The Hon'ble Lahore High Court in PLD 2013 Lahore 413 supra, after discussing the then prevailing policy, directed the CSB to formulate a well thought out objective criteria in accordance with Revised Promotion Policy and consider the cases of the petitioners and private respondents afresh. Similar directions were made by this Court in Iram Adnan v. Federation of Pakistan (2012 PLC (C.S.) 1355) in the following terms:

"In this view of the matter instant writ petitions are allowed, formula of award of 15 marks on the discretion of CSB is declared as illegal, superficial, unconstitutional, against the dictums of court of apex, non-transparent, result of adamant approach, whimsical, sham, unprecedented, infringement to constitutional guarantees and principles of natural justice, therefore, same is set aside. The respondent Establishment Division is directed to implement the judgment of Hon'ble Supreme Court, delivered in Civil Petitions Nos.1083, 58 to 60, 443 and 444 of 2010, in its letter and spirit and restructure the formula of award of 15 marks, in accordance with guidelines provided therein."

Pursuant to directions in the above cases, the Promotion Policy of 2007 was revised through O.M. dated 12.10.2012 in the following terms:

- "2. With approval of the Competent Authority, the following changes are hereby made in the said policies/guidelines:-
 - a. The existing parameters/attributes namely (1) Quality and Output of Work; (2) Variety and Relevance of Experience; (3) Top Management Potential contained in the Guidelines for CSB attached with Promotion Policy, 1982 read with Revised Promotion Policy, 2007 shall continue to apply for consideration of civil servants for promotion, deferment and supersession.
 - b. New parameters/ attributes namely (1) Integrity/ General Reputation/ Perception; (2) Personality Profile; and (3) Conduct, discipline and Behaviour are added in the said Guidelines attached with 1982 Policy.
 - c. "Quality and Output of Work" and "Integrity" contained in the Guidelines attached with 1982 Policy as well as relevant boxes in the PER Forms, deleted in 2003, are revised.

Changes in the PER Forms being issued separately.

- d. A new Objective Assessment Form (Annexure-A) for assessment of each officer on the panel by CSB against the attributes namely (1) Quality and Output of Work; (2) Integrity/General Reputation/Perception; (3) Variety and Relevance of Experience; (4) Top Management Potential; (5) Personality Profile; and (6) Conduct, discipline and Behaviour is hereby introduced.
- e. The said Objective Assessment Form shall be placed before the CSB along with panel proforma of every officer for his/her objective evaluation by the CSB. The Board shall assess each officer on the panel on the basis of said parameters/ attributes. After assessment/ evaluation, the CSB shall place the officer in any of the following categories and assign appropriate marks accordingly:

Sl. No.	Category		Range of Marks
1.	Category-A	=	11 to 15
2.	Category-B	=	06 to 10
3.	Category-C	=	00 to 05

- f. Sub-Para (b) of Para-4 of Revised Promotion Policy, 2007 provides that the officers securing requisite percentage of marks viz. 70 and 75 will be promoted to BS-20 and 21 respectively. The said para, is modified as under:
- "(b) The Selection Board shall recommend the officers on the panel securing requisite % and above in the efficiency index for promotion unless deferred (in order of seniority, depending upon the number of vacancies). An officer meeting the aggregate threshold shall also be superseded if CSB places him in Category-C the senior officers, if not recommended for promotion on account of low threshold, shall be superseded whereas the junior officers if not recommended for promotion for want of vacancies shall be deemed not to have been considered."
- g. The aforementioned criteria for award of 15 marks by the CSB shall henceforth be treated as part of the Guidelines for Selection Board attached with Promotion Policy, 1982.
3. The Promotion Policy, 1982 read with Revised Promotion Policy, 2007 as well as the Guidelines for Departmental Promotion Committees/Central Selection Boards attached with the 1982 Policy shall be deemed to have been modified to the above extent.
4. Instructions contained in the Promotion Policy, 1982 read with revised Promotion Policy, 2007, as amended from time to time, and Guidelines for Departmental Promotion Committees/ Central Selection Boards attached with the 1982 Policy in so far as not inconsistent with the provisions of this OM shall remain in force.
5. Subject to the provisions of Civil Servants (Appointment, Promotion and Transfer) Rules, 1973 and such other rules made under the Civil Servant Act, 1973, the Civil servants shall be considered for promotion to higher post in accordance with the Promotion Policy issued by the Federal Government for the time being in force. The amendment in the Civil Servants (Appointment, Promotion and Transfer) Rules, 1973 shall be notified separately."

Likewise, the Objective Assessment Form was revised which is as follows:

"OBJECTIVE ASSESSMENT BY CSB

Officer's name: _____ Seniority No. _____ Group/Service
/Cadre: _____ Present Scale _____

S.No.	Parameters/Attributes	Categories		
		Cat-A [11-5]	Cat-B [06-10]	Cat-C 00-05]
1	Quality and Output of Work			
2.	Integrity/General Reputation/Perception [last 05-yrs of Synopsis OR as known to the Board Members]			
3.	Variety and Relevance of Experience Nature of duties, duration and location of positions held in previous two grades or 15 Yrs whichever is longer relevant to the function of posts in BS-21. BS-18 (if applicable) = yrs BS-19 = yrs BS-20 = yrs Total = yrs			
4.	Top Management Potential [observation by RO/CO if any OR as known to the Board Members]			
5.	Personality Profile [As known to the Board Members:]			
6.	Conduct, Discipline and Behaviour [Observation by RO/CO during last five years OR as known to the Board Members]			
7.	Total			
8.	Average			
9.	Marks by CSB			

[Secretary, CSB]

Dated _____

[Chairman (CSB)]

Dated:- _____"

Through the said Revised Promotion Policy of 2007 was never assailed directly but was considered and deliberated in the case of 2014 SCMR 817 supra. The Hon'ble Supreme Court of Pakistan in the said judgment made the following directions:

- (i) The petition under Article 184(3) of the Constitution has been held to be maintainable and is allowed.
- (ii) The promotion from BS-20 to 21 against available vacancies has to be made in accordance with reserved quota for the promotion of different groups i.e. PAS, Secretariat etc., as a result whereof instead of cancelling the promotion of the officers from Sr. Nos. 57 to 80 all cases of promotion against 88 vacancies of BS-21 is hereby cancelled being void and unlawful and fresh exercise has to be undertaken along with the cases of the civil servants which have been remanded by the Lahore High Court in Laiqat Ali Chughtai's case (PLD 2013 Lahore 413) and the cases decided Islamabad High Court

in W.P. No. 3483 of 2011. Consequently, notification of promotion of all the officers issued in pursuance of the recommendations of CSB held on 11th-14th February and 27th February, 2013 is hereby set aside with direction to the competent authority to undertake the process of the promotion to all of them as observed hereinabove strictly in accordance with law on merits under section 9 of the Civil Servants Act, 1973, read with rules 7, 7A and 8 of the Civil Servants (Appointments Promotions and Transfers) Rules, 1973 as well as Promotion Policy as amended up to date, vide O.M. dated 13.01.2013.

- (iii) The Government shall also undertake exercise to outline the objective criteria for promotion to make the civil servant an honest officer and free from political pressure as has been noted hereinabove."

In pursuance of the directions of the august apex Court, the Promotion Policy of 2007 was further revised on 10.02.2014 and objective assessment by the CSB was amended in the following terms:

"OBJECTIVE ASSESSMENT BY CENTRAL

SELECTION BOARD

Officer's Name _____

Seniority No. _____

Group/Service/Cadres _____

Present Scale _____

S.No.	Parameters/Attributes	Total Marks	Marks Assigned
1.	Output of Work and Quality of Work	10	
2.	Variety and Relevance of Experience Secretariat/Field Postings; Federal/ Provincial Government Postings; Leadership/ routine Postings Deputation/ Foreign Postings.		
3.	Professional Expertise.		
4.	Personality Profile (As known to the Board Members)		
5.	Conduct, Discipline and Behaviour [Observation by RO/CO during last 05 years OR as known to the Board Members]		
6.	Functional Ability and Leadership		
7.	Estimated potential for Middle/ Higher Management Based on PERs and Training Evaluation Reports: Management Skills, Ability to take decisions, Strategic Thinking, Leadership Qualities, Drive for Results and Accomplishments in BPS-19 and 20 in policy formulation and implementation.		
8.	Integrity/ General Reputation/ Protection On the basis of PERs/TERs/ Opinion of the Board	5	
9.	Total Marks by CSB	15	
10.	Overall Category Cat-A Cat-B Cat-C (11-15) (06-10) (0-05)		

- * An officer under consideration, getting less than 3 out of five under this parameter may be deferred or superseded by the CSB at their discretion but with reasons to be recorded in writing"

The said amendment came under challenge before this Court and the O.M dated 10.02.2014 was struck down. The matter was challenged before the Hon'ble Supreme Court and in case reported as Federation of Pakistan v. Dr. Muhammad Arif (2017 SCMR 969), the judgments of this court in ICAs were upheld. The august apex Court concluded as follows:

25. It was for the foregoing reasons that we through a short order dated 13.3.2017, dismissed the titled appeals/petition, and would hereby direct the Establishment Division to place all of those cases which were laid before the board through the impugned exercise/process, afresh, after withdrawing the overriding effect of five (5) marks assigned for integrity/ reputation etc. and removing the deviation of the focus of the board from the service dossier to the personal knowledge of its members. The above exercise be initiated within four weeks, and be concluded within ten weeks from 13.4.2017. In the meanwhile, those who may have been promoted on the basis of impugned recommendations shall maintain their such elevated position/status. However, in the event the officers whose cases for promotion have been recommended to be deferred or superseded, are through the proposed process recommended for promotion, they shall maintain their seniority vis-a-vis those who were recommended for promotion through the impugned process, and may again be so recommended, so that the seniority of the presently left out officers, and so also their entitlement to the consequential benefits, including prospects of their future promotion is not adversely affected.

16. It is during the pendency of the matter before the Hon'ble Supreme Court in the abovementioned cases that exercise of consideration of petitioners for promotion was undertaken by the CSB. Almost in all the cases, the petitioners have achieved threshold of 70 or 75 marks as the case may be, however, either they have been deferred or superseded on account of the reasons mentioned above. Since the statement by the Secretary Establishment Division clearly shows that O.M of 2012 has been used which though was not struck down but was found to be unsatisfactory in 2014 SCMR 817 supra and direction was made to devise a further criteria for promotion. The policy so devised in 2014 was also found to be unsatisfactory in case reported as 2017 SCMR 969. The bare perusal of the minutes of the meeting and replies filed by the Establishment Division shows that less than 5 marks have been awarded to the petitioners primarily on the basis of personal knowledge of the members of the Board or of the departmental representative. In none of the case, the Establishment Division could show any thing adverse against the petitioners or any matter on the basis of which it could be said that the civil servant did not enjoy good reputation or does not deserve to be promoted due to his integrity, honesty etc. In this behalf, the conclusion reached is not tenable inasmuch as the CSB exercised discretion in an arbitrary and whimsical manner which does not meet the criteria laid down by the august apex Court in case reported as Re: Tariq Aziz ud Din (2010 SCMR 1301). In the said judgment the august apex court observed as follows:--

"It is the duty and obligation of the competent authority to consider the merit of all the eligible candidates while putting them in juxtaposition to find out the meritorious amongst them otherwise is one of the organs of the State i.e. Executive could not survive as an independent organ which is the command of the Constitution. Expression 'merit' includes limitations prescribed under the law. Discretion is to be exercised according to rational reasons which means that; (a) there be finding of primary facts based on good evidence; and (b) decisions about facts be made, for reasons which serve the purposes of statute in an intelligible and reasonable manner. Actions which do not meet these threshold requirements are considered arbitrary and misuse of power [Director Food, N.-W.F.P. v. Messrs Madina Flour and General Mills (Pvt.) Ltd. [PLD 2001 SC 1]. Equally, discretionary power conferred on Government should be exercised reasonably subject to

existence of essential conditions, required for exercise of such power within the scope of law. All judicial, quasi judicial and administrative authorities must exercise power in reasonable manner and also must ensure justice as per spirit of law and seven instruments which have already been referred to above regarding exercise of discretion. The obligation to act fairly on the part of the administrative authority has been evolved to ensure the rule of law and to prevent failure of justice [Mansukhlal Vithaldas Chauhan v. State of Gujrat {1997 (7) SCC 622}]."

17. In view of the above decisions to defer the petitioners or supersede them as the case may be, are not tenable. For the above mentioned reasons, recommendations by the CSB vis-a-vis the petitioners and in case where the Competent Authority has not followed the recommendations, the same are set-aside with direction that the petitioners shall be considered afresh based on the new criteria devised by the Establishment Division pursuant to directions of the Hon'ble Supreme Court in case reported as 2017 SCMR 969. The respondents are directed to place the cases of petitioners in the forthcoming meeting of CSB.

ZC/124/1sl.

Petition allowed.



3

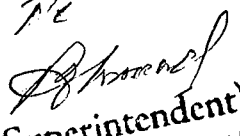
CE ORDER:

Consequent upon the recommendation of the Departmental Selection Committee, the following candidate in deceased employee son's quota are hereby appointed as Junior Clerk against vacant posts in S-11 (Rs.12570-880-38970) plus usual allowances as admissible under the existing rules and recruitment policy on regular basis subject to the terms and conditions given below in the interest of public service from the date of their taken over charge.

S.No	Name Parentage	Residence	Date of Birth	Post	Post where Vacant	Remarks
1.	Adnan Shah S/O Late Naheed Akhter PST GGPS Sakhra.	Sakhra Swat	01-01-1999	Junior Clerk	GGHS Sakhra Swat.	Against Vacant Post
2.	Shakeel Ahmad S/O Late Jehan Ara PST GGPS Mingora NO.1	Landay Kas Mingora.	7.3.1985	Junior Clerk	GGHS Panr Swat.	Against Vacant Post
3.	Mohammad Ali S/O Late <u>Mohammad Karam Chowkidar</u> GGPS Haji Baba.	Landay Kas Mingora.	20.05.1998	Junior Clerk	GGHS Shadara Mingora.	Against Vacant Post

TERMS & CONDITIONS

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

PC

 (Superintendent)
 District Education Officer (F)
 Swat.

(SHAMIM AKHTAR)
 District Education Officer (F)
 Swat

Endst: No. 027074 / Junior Clerk Appointment

Dated 29/7 /2019.

Copy forwarded for information and necessary action to the:-

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



OFFICE OF THE DISTRICT EDUCATION OFFICER (Female) SWAT

CONTACT NO. (0946) 9240214 - Fax # (0946) 9240214

OFFICE ORDER

Consequent upon the recommendation of the Departmental Selection Committee, the following candidates in deceased employees son's quota are hereby appointed as Junior Clerks against vacant in BPS-11(Rs.12570-880-38970) plus usual allowances as admissible under the existing rules and recruitment policy on regular basis subject to the terms and conditions given below in the interest of public service from the date of their taking over charge.

S. No	Name Parentage	Residence.	Date of Birth	Post	Place where posted	Remarks
1	Muhammad Saeed S/O Muhammad Azim	Gat Manglor Swat	04-04-1999	Junior Clerk	GGHSS Odigram	Against Vacant post
2	Saad Anwar S/O Hussain Anwar	Morpandai Madyan Swat	01-07-2001	Junior Clerk	GGHS Bahrain	Against Vacant Post

TERMS AND CONDITIONS

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

(Dilshad Begum)
District Education Officer (F)
District Swat

Endst: No. 299-03

Dated: 14/1/2020

Copy forwarded for information and necessary action to the:

1. District Comptroller of Accounts Swat at Saidu Sharif
2. Director, Elementary & Secondary education KP Peshawar
3. B & AO Local Office
4. Principal/ Headmistress Concerned.
5. Officials Concerned

Re
B. B. B. B. B.

District Education Officer (F)
District Swat



OFFICE OF THE
DISTRICT EDUCATION OFFICER (Female) SWAT

#: (0946) 9240214



#: (0946) 9240214

Email: deofswat@gmail.com

web: www.female.sed.edu.pk

OFFICE ORDER

Consequent upon the recommendation of the Departmental Selection Committee, the following candidate in deceased employee son's quota are hereby appointed as Junior Clerk against vacant posts in BPS-11 (Rs.12570-880-38970) plus usual allowances as admissible under the existing rules and recruitment policy on regular basis subject to the terms and conditions given below in the interest of public service from the date of their taken over charge.

S.No	Name Parentage	Residence	Date of Birth	Post	Post where Vacant	Remarks
1.	Abdullah S/O Late Said Gujjar Behishti GGHSS No. 1 Saidu Sharif	Faizabad Saidu Sharif	15-07-1998	Junior Clerk	GGHS Sapal Bandai Swat.	Vacant Post
2.	Sangeen Khan S/O Late Fatima Bibi SST GGHSS Charbagh Khan	Kot Charbagh	02-06-1999	Junior Clerk	GGHS Kokarai	Vacant Post
3.	Ishaq S/O Late Yasmeen PST GGPS Naporai Manglawar	Manglawar	21-12-1995	Junior Clerk	GGHS Shalpin	Vacant Post

TERMS & CONDITIONS

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

(SAMINA GHANI)
District Education Officer (F)
Swat

Endst: No. 670710 / Junior Clerk Appointment Dated 2/01 /2018

Copy forwarded for information and necessary action to the :-

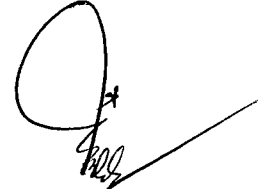
1. District Comptrollers of Account Swat at Saidu Sharif.
2. Director Elementary and Secondary Education Khyber Pakhtunkhwa Peshawar.
3. B & AO District Education Officer Local Office.
4. Principal/Head Mistress concerned.
5. Candidates concerned.

District Education Officer (F)
Swat

(Superintendent)
District Education Officer (F)
Swat.

08.06.2022 Appellant in person present. Mr. Kabirullah Khattak, Additional Advocate General for alongwith Mr. Sultan Nabi ADEO for official respondents No. 1 to 3 present. Private respondent No. 4 in person present.

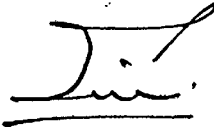
Written reply/comments on behalf of official respondents No. 1 to 3 and private respondents No. 4 have already been submitted which is placed on file. To come up for rejoinder if any, and arguments on 05.07.2022 before the D.B at camp court Swat.



(Mian Muhammad)
Member (E)
Camp Court Swat

04.04.2022

Appellant in person present. Mr. Sultan Nabi, Litigation Officer alongwith Mr. Riaz Ahmed Paindakhel, Assistant Advocate General for official respondents No. 1 to 3 present and sought further time for submission of written reply/comments. None present on behalf of private respondent No. 4. Previous date was changed on Reader Note, therefore, private respondents No. 4 be summoned through registered post to submit written reply/comments on the next date. Adjourned. To come up for submission of written reply/comments on 09.05.2022 before the S.B at Camp Court Swat.



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

09.05.2022

Due to non-availability of the Bench, the case is adjourned to 10.05.2022 for the same as before.

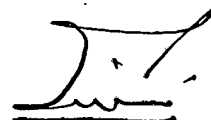


Reader

10.05.2022

Learned counsel for the appellant present. Mr. Kabirullah Khattak, Additional Advocate General for official respondents No. 1 to 3 present. Mr. Adil Shah, Advocate on behalf of private respondent No. 4 present and submitted para-wise reply/comments, which is placed on file and copy of the same is handed over to learned counsel for the appellant.

Previous date was changed on Reader Note, therefore, notices be issued to official respondents No. 1 to 3 and to come up for submission of written reply/comments on 08.06.2022 before the S.B at Camp Court Swat.



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

06.01.2022

Appellant in person present. Mr. Muhammad Adeel Butt, Additional Advocate General alongwith Mr. Sultant Nabi, Litigation Assistant for official respondents No. 1 to 3 and private respondent No.4 in person present.

Written reply not submitted. Representative of the respondents sought time for submission of written reply/comments. Last opportunity granted. To come up for written reply/comments on 07.02.2022 before S.B at camp court Swat.



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

07.02.2022

Tour is hereby canceled .Therefore, the case is adjourned to 04.04.2022 for the same as before at Camp Court Swat.


Reader

05.11.2021

Learned counsel for the appellant present. Mr. Sultan Nabi, Litigation Officer alongwith Mr. Asif Masood Ali Shah, Deputy District Attorney for official respondents No. 1 to 3 present. Mr. Iftikhar Ahmed, Advocate, for private respondent No. 4 present and submitted Wakalat Nama in favour of the said respondent, which is placed on file.

Learned counsel for private respondent No. 4 also requested for adjournment on the ground that he has not gone through the record. Learned counsel for the appellant is having no objection on the adjournment. Adjourned. To come up for reply/comments on behalf of private respondent No. 4 as well as arguments before the D.B on 06.01.2022 at Camp Court Swat.



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



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

06.10.2021

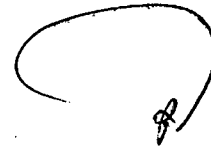
Appellant present through counsel.

Muhammad Riaz Khan Paindakheil, learned Assistant Advocate General present. Nemo for respondent No.4.

Preceding date was adjourned on a Reader's note, therefore, newly impleaded respondent No.4 (Haroon ur Rasheed) has not been put on notice. Office is directed to issue notice to the aforementioned respondent No.4 for 08.10.2021 for reply and arguments before D.B at Camp Court, Swat.



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



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

08.10.2021

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

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



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



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

04.01.2021 Due to Covid-19, the case is adjourned to 03.03.2021 for the same as before.

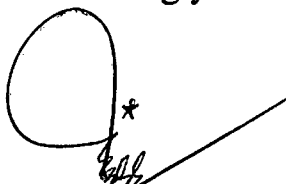

Reader

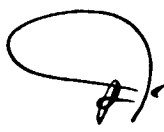
03.03.2021 Appellant alongwith his counsel present.

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

Perusal of record would reveal that in view of submissions made by the learned counsel for the appellant one Haroon-ur-Rashid was found necessary party to the present service appeal, therefore, he was ordered to be included in the calendar of respondents as respondent No.4. Office was directed to make necessary entry in the memo of appeal as well. These orders were not complied with and Haroon Rashid was not properly mentioned in the calendar of respondents. Office is once again directed to comply ^{with} the orders of Tribunal and make entry with red ink, where-after notice be issued to Haroon-ur-Rashid (respondent No.4) for 5/5/2021 for written reply and arguments, before D.B at camp court Swat.

Adjourned accordingly.


(Mian Muhammad)
Member(E)

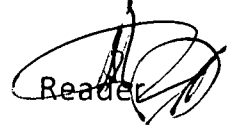

(Rozina Rehman)
Member(J)
Camp Court Swat

Due to covid-19, the case is
adjourned to 6/10/21


Reader

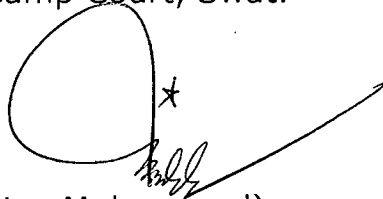
_____ .2020

Due to COVID19, the case is adjourned to
05/10/2020 for the same as before.

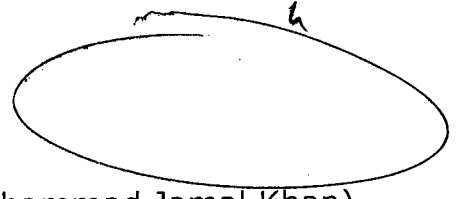

Reader

05.10.2020

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



(Mian Muhammad)
Member (Executive)
Camp Court Swat



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

04.11.2020

Appellant in person present.

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

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



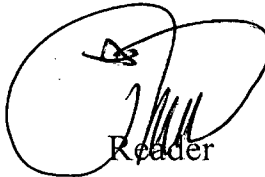
(Atiq ur Rehman Wazir)
Member (E)
Camp Court, Swat



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

01.06.2020


Due to Covid-19, the case is adjourned. To come up for the same on 05.08.2020, at camp court Swat.



Reader


06.01.2020

Counsel for the appellant and Mr. Riaz Ahmad Paindakheil, Assistant AG alongwith Mr. Sultan Nabi, Clerk for the respondents present. Written reply on behalf of respondents not submitted. Representative of the department requested for further adjournment. Last chance is granted to the respondents for filing of written reply/comments. Case to come up for written reply/comments on 03.02.2020 before S.B at Camp Court Swat.


(Muhammad Amin Khan Kundi)
Member
Camp Court Swat

03.02.2020

Appellant in person present. Mr. Riaz Paindakheil learned Assistant Advocate General alongwith Sultan Nabi J.C present and submitted written reply/comments. Adjourn. To come up for rejoinder if any and arguments on 06.04.2020 before D.B at Camp Court, Swat.



Member
Camp Court, Swat

Due to corona virus
tour to camp court swat has
been cancelled. To come up for
the same on 01-06-2020


Razvi

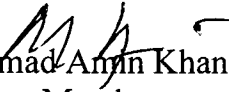
08.10.2019

Appellant in person and Mian Ameer Qadir, Deputy District Attorney alongwith Mr. Sultan Naveed, Junior Clerk for the respondents present. Written reply on behalf of respondents not submitted. Representative of the respondents requested for adjournment. Adjourned to 06.11.2019 for written reply/comments before S.B at Camp Court Swat.


(Muhammad Amin Khan Kundi)
Member
Camp Court Swat


06.11.2019

Counsel for the appellant and Mr. Riaz Ahmad Paindakheil, Assistant AG alongwith Mr. Sultan Nabi, Junior Clerk for the respondents present. Written reply on behalf of respondents not submitted. Representative of respondents seeks further adjournment. Case to come up for written reply/comments on 02.12.2019 before S.B at Camp Court Swat.


(Muhammad Amin Khan Kundi)
Member
Camp Court Swat

02.12.2019

Learned counsel for the appellant present. Written reply not submitted. Rasool Jan Assistant and Amjid Ali Assistant representatives of the respondents present and requested for time to furnish written reply. Granted by way of last chance. To come up for written reply/comments on 06.01.2020 before S.B at Camp Court, Swat.


Member
Camp Court, Swat

12.06.2019

Learned counsel for the appellant present. Preliminary arguments heard.

Learned counsel for the appellant argued inter-alia that the appellant was initially appointed as Class-IV/Chowkidar on deceased son quota; that Mst. Farhana was also appointed as Sweeper on deceased son quota however she resigned and joined service as Primary School Teacher; that later on the respondent department appointed Mr. Haroon ur Rasheed brother of the Mst. Farhana as Junior Clerk on deceased son quota while ignoring the appellant; that the appointment of Mr. Haroon ur Rasheed as Junior Clerk is arbitrary.

Points raised need consideration. The appeal is admitted for regular hearing subject to all legal objections. In view of the submissions made by the learned counsel for the appellant Mr. Haroon ur Rasheed mentioned above is found necessary party to the present service appeal, hence his name be also included in the calendar of respondents as respondent No.4. Necessary entry be made in the memo of appeal to this effect. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for reply/comments. To come up for written reply/comments on 03.09.2019 before S.B at Camp Court, Swat.

Appellant Deposited
Security & Process Fee

17/6/19



Member
Camp Court, Swat.

03.09.2019

Learned counsel for the appellant present. Written reply not submitted. Rasool Jan Assistant representative of respondent department present and seeks adjournment to furnish written reply/comments. Granted. To come up for written reply/comments on 08.10.2019 before S.B at Camp Court, Swat.





Member
Camp Court, Swat.

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 557/2019

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	30/04/2019	<p>The appeal of Mr. Adnan Bacha presented today by Mr. Umar Khitab 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 30/4/19</p>
2-	10-5-19	<p>This case is entrusted to touring S. Bench at Swat for preliminary hearing to be put up there on <u>12-06-19</u></p> <p style="text-align: right;"> CHAIRMAN</p>

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTON KHWA PESHAWAR

APPEAL NO 557 /2019


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

VERSUS.

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

INDEX

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


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

①

BEFORE THE SERVICE TRIBUNAL KHYBER PUKHTON KHAWA PESHAWAR.

APPEAL NO 557 /2019.

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

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 677

Dated 30/4/2019

VESSUES.

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

4 - ~~Haroon ur Rashid~~ ^{Female} ~~Junior Clerk~~, G.G.H.S, Jamshid, Swat

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

Prayer.

Filed to-day

Q. A. W.
Registrar
30/4/19

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

RESPECTFULLY SHEWETH .

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

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

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

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

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

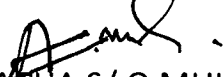
GROUND OF APPEAL

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

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

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

APPELLANT



ADNAN BACHA S/ O MUHAMMAD KHITAB.

THROUGH



UMAR KHITAB
ADVOCATE

DISTRICT COURTS GULKADA SAIDU SHARIF SWAT.

CERTIFICATE.

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



UMAR KHITAB
ADVOCATE

DISTRICT COURTS GULKADA SAIDU SHARIF SWAT.

BEFORE THE SERVICE TRIBUNAL KHYBER PUKHTOONKHAWA PESHAWAR.

SERVICE APPEAL NO _____/2019.

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

VERSUS.

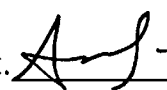
1. Secretary Elementary and Secondary Education KP Peshawar.
2. Director of Elementary and secondary Education KP Peshawar.
3. DISTRICT EDUCATION OFFICER FEMALE SWAT.....RESPONDENTS.

AFFIDAVIT.

It is stated on oath that all the contents of this service Appeal are true and correct to the best of knowledge and belief. Moreover, no such like service appeal is pending before this Honorable Tribunal.

Deponent

Adnan Bacha Appellant.



BEFORE THE SERVICE TRIBUNAL KHYBER PUKHTOONKHAWA PESHAWAR.

SERVICE APPEAL NO _____/2019.

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

VERSUS.

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

MEMO OF ADRESS.

Address of appellant.

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

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

ADDRESSES OF RESPONDENTS.

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

APPELLANT T

THROUGH

UMAR KHITAB

ADVOCATE DISTRICT COURTS GULKADA

SAIDU SHARIF SWAT.

7 ACC



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

Annex A

NOTIFICATION

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

Constituency 80

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

TERMS AND CONDITIONS:-

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

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

Dated 29/7/ /2015.

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

Copy forwarded for information to:-

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

Umar Khitab
ADVOCATE

Umar Khitab
ADVOCATE

District Education Officer (F)
Swat at Saidu Sharif

عنوان :- اپیل برائے جوینر ملز کی تقرری

جناب عالیہ -

گزارش ہے -

1. کہ میرا والد گورنمنٹ گھنٹا کی سکول ایویا سورت میں جوینر ملز کے کھیت سے ڈپوٹی سرائیام دے رہا تھا۔
2. میرا والد ملازمت کے دوران 26 جولائی تا 2 کو وفات پورا تھا۔

3. میرے تقرری کی کھیت نائیب قاصد deceased کوئی کے تحت جاری ہوا۔ اور ابھی تک ڈپوٹی کرنا ہیں۔
4. میں نے ابھی میری میکنڈ ڈوٹرن میں پاس کیا ہے اور گپو سٹریپر بھی عبور حاصل ہے۔

5. میں نائیب قاصد کے اسامی سے استغفی دے دوں گا کہ اگر میرے جوینر ملز کے تقرری کے احکامات جاری ہو جائے۔
6. مجھے معلوم ہوا ہے کہ آپ صبان کے ماتحت سکولوں میں جوینر ملز کے اسامیاں خالی ہے۔

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

مجھے امید ہے کہ آپ صبان میرے اپیل پر

CTC

بمدرانہ غور فرمائیں

شکر ہے

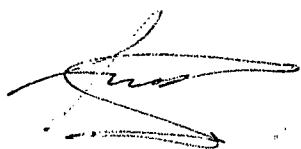
عمران یاچا ولد محمد خٹاب رحیم

نائیب قاصد ایس ڈی۔ای۔او
زنانه بابلوزی سپروٹرن سورت


Umar Khitab
ADVOCATE

20/11/2017





۹ حقہ ڈسٹرکٹ ایجوکیشن آفسر زمانہ ایسٹری/سکینڈری ایجوکیشن سروس

درخواست سمراد اردو ٹیسٹ نقولات

پر جناب عالیہ!

درخواست حسب ذیل ۲۔

۱۔ یہ کہ میں نے ایک درخواست تقرری جو سینئر ٹیک عالمہ Deceased Sons

کے تحت بحوالہ ایڈریسری بن ۱۹۵۱ تاریخ ۱۱/۲۲ ۲۰۱۸ تقرری تھی۔

۲۔ یہ کہ اب مجھے اردو ٹیسٹ (نوٹ ٹیسٹ) کے بعد لیا شدہ فولو اپ

کے صورت ۲۔

اپنے اسٹیڈی۔ مہر خیدر الحسن خون رائٹ لو

انفارمیشن دیکٹ ۲۰۱۳ شیٹ کے تحت اردو ٹیسٹ

کے بعد لیا شدہ فولو اپ کیا کروں۔ تو یہ بانی ہوئی۔

۱۸۵۱۵

۶/۶/۱۹

نا بعد

(Signature)

عدنان باچا جویندر
گورنمنٹ گریجویٹری سکول امان کوٹ

03/04/2019

LTC
(Signature)
Umar Khitab
ADVOCATE



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

Annex "D"

+92-946-9240-214



deofswat@gmail.com

No. 2246 / P. File Mr. Adnan Bach, Chow: / DEO(F) Swat.
To

Dated 12/4/2019

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

Subject: - APPLICATION.

Memo:

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

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

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

Section 20-legal privilege.

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

Section 16. Disclosure harmful to law enforcement.

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

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

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

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

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

DISTRICT EDUCATION OFFICER (F)
SWAT.

CTC

ADVOCATE

CTC

Umar Khattak
ADVOCATE

Amended

DISTRICT EDUCATION OFFICER (FEMALE) SWAT
 SAIDU SHARIF

(10)

In pursuance of the provision contained in Notification No. SOR-IV (F&AD) 1-3/2011/Vol-III dated 20/01/2011, the first table here in for part of Government of Khyber Pakhtunkhwa Peshawar and merging of following candidates being the son/daughter of the deceased employees died during service are appointed under deceased quota in BP-01 (6535-260-14335) plus usual allowances as per rules with effect from the date of taking over charge subject the terms and condition given below:-

Sl. No.	Name, Family and Residence	Date of Birth	Post & School Where Posted	Remarks
1	Mrs. Farzana (W/O) Late M. Ghulam, P.O. P/O Tazrat M. Ghulam, Swat	15/12/1981	Sweeper GGMS Akbar Abad Barama	Against the quota reserved for deceased Son quota 100%
2	Mrs. Yasmin (W/O) Late M. Ghulam, P.O. P/O M. Ghulam, Swat	01/11/1996	Chowkidar, GGPS Dangram, Swat	do

TERMS AND CONDITIONS:-

1. The appointment is for a period of one year extendable for another one year.
2. The appointment is subject to the rules and regulations as may be issued from time to time by the Government.
3. The performance of the appointee during probation is found unsatisfactory during probation.
4. In case of resignation without one month prior notice from either side, the performance is found unsatisfactory during probation, the appointee shall be proceeded under the rules framed from time to time.
5. In case of resignation without one month prior notice from either side, the performance is found unsatisfactory during probation, the appointee shall be proceeded under the rules framed from time to time.
6. In case of resignation without one month prior notice from either side, the performance is found unsatisfactory during probation, the appointee shall be proceeded under the rules framed from time to time.
7. In case of resignation without one month prior notice from either side, the performance is found unsatisfactory during probation, the appointee shall be proceeded under the rules framed from time to time.
8. In case of resignation without one month prior notice from either side, the performance is found unsatisfactory during probation, the appointee shall be proceeded under the rules framed from time to time.
9. In case of resignation without one month prior notice from either side, the performance is found unsatisfactory during probation, the appointee shall be proceeded under the rules framed from time to time.
10. In case of resignation without one month prior notice from either side, the performance is found unsatisfactory during probation, the appointee shall be proceeded under the rules framed from time to time.

(Shamim Akhtar)
 District Education Officer (Female)
 Swat at Saidu Sharif
 Dated 10/01/2016

Approved: [Signature]
 District Education Officer (Female)
 Swat at Saidu Sharif

CTC
 [Signature]

District Education Officer (Female)
 Swat at Saidu Sharif



OFFICE OF THE
DISTRICT EDUCATION OFFICER (Female) SWAT

NO: (0946) 700686

#: (0946) 700686

NO _____ / Etab /

Dated _____ /2017

Email: deofswat@gmail.com

web: www.female.sed.edu.pk

Amma F

12

NOTIFICATION

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

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

TERMS & CONDITIONS

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

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

Endst: No. 6186-90 / Junior Clerk Appointment Dated 7/2/2017

Copy forwarded for information and necessary action to the: -

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

District Education Officer (F)
Swat

Umar Khatib
ADVOCATE

خدمت جناب ڈائریکٹر سٹریٹجی اینڈ سکینڈری ایجوکیشن کے پی ایم کینڈا

Amma: 6

عنوان: حکمانہ اپیل برائے جوئینر کلرک لٹمنٹ (Deceased son) کوٹ

جناب عالی! اپیلانٹ حسب ذیل عمر من گزرا ہے۔

1۔ یہ کہ من اپیلانٹ بحیثیت جو کیدار ایجنٹری اینڈ سکینڈری ایجوکیشن سوات / E.D.O(F) میں بحوالہ امر ڈرنمبر 97-6493 عمرہ 29 جولائی 2015 کو Deceased son کوٹ کے تحت بھرتی ہوا تھا۔

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

3۔ یہ کہ D.E.O(F) سوات نے بحوالہ امر ڈرنمبر 3118 22/11/2015 عمرہ 16 کو عمارت فرحانہ کو بحیثیت سوبیئر Deceased son کوٹ میں بھرتی کیا تھا۔ اور بعد میں مذکورہ عمارت فرحانہ نے سوبیئر کے پوسٹ سے استعفیٰ دے کر P.S.T پوسٹ میں تقرری ہوا۔ لیکن یہ امر قابل ذکر ہے۔ عمارت فرحانہ کے بھائی نے جوئینر کلرک کے اسامی تبدیلہ Deceased son کوٹ میں درخواست دی۔ جس کو برائے امر ڈرنمبر 90-186 عمرہ 17.2.2017 کو Appoint No D.E.O(F) تقرری کی۔

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

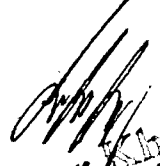
لیکن D.E.O(F) صاحب سوات نے من اپیلانٹ کی درخواست اس اعتراض کے سافہ مسترد کیا ہے۔ کہ من اپیلانٹ اپنی دفعہ Deceased son کوٹ میں Choice اختیار کیا ہے۔

(2)

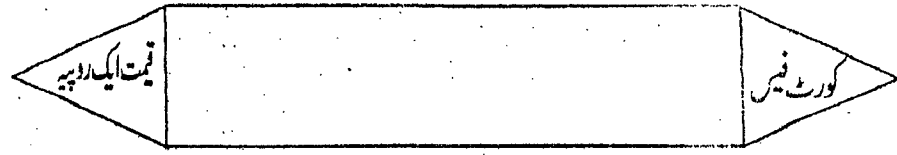
کذا استدعا ہے۔ کہ منظور ہو درخواست بعد ازیں
بالا میں اپیلانٹ کے ساتھ قانون کے مطابق
کیا جائے۔ اور میں اپیلانٹ کی تقرری بحیثیت جوئر کلرک
در Decoased son کوٹہ میں احکامات
صادر فرمایا جائے۔

محمد رفیق
عنوان جوئر کلرک

گورنمنٹ گنرولری ایلری سکول
C7C رمان کوٹ سیدو شریف سہروت
25/01/2019.


Umar Khitab
ADVOCATE

بعد الت جبرین سروس ٹریڈ ہونل پشاور / کمپ کورٹ سروس



مورخہ 30 اپریل 2019ء منجانب
مقدمہ عدنان باچا بنام حکومت ہزارہ سکرٹری دستگیری / سندھ کی
دعویٰ الجوشن 2 بی وغیرہ

باعث تحریر آنکہ

جرم

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

المرقوم

بسم اللہ الرحمن الرحیم

عدنان باچا ولد محمد خطاب
امان کورٹ سپر و مشرف سروس

بسم اللہ الرحمن الرحیم

Accepted
attested

کے لئے منظور ہے
Umar Khitab
ADVOCATE

District Court Saidu Sharif
Swat.

Cell No 0345-9524654

557/2019

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR**

SERVICE APPEAL NO. ~~557/2019~~

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

V E R S U S

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

.....Respondents

I N D E X

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

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

District Education Officer
District Swat.

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR**

SERVICE APPEAL NO. ^{557/2019} CTB/20019

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

V E R S U S

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

..... Respondents

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

Respectfully Shewth;

The Respondents submits as under;

Preliminary Objections.

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

ON FACTS .

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

case of the appellant because the appellant already availed the benefits and presently Government servant does not fall within the meaning of "Unemployed", therefore, the appellant is not deserving for the appointment of Junior Clerk in deceased Son quota.

4. That this Para-4 is correct to the extent that the application of the appellant rejected on the ground that once he availed the opportunity of deceased son quota while the remaining para is not admitted because already commented in the above paras.
5. That this Para -5 as drafted is not admitted.

GROUNDS

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

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


DISTRICT EDUCATION OFFICER(F)
SWAT

(Respondent No.3)

District Education Officer (F)
District Swat.


DIRECTOR

ELEMENTARY & SECONDARY EDUCATION KPK
(Respondent No.2)


SECRETARY

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

CERTIFICATE

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


DISTRICT EDUCATION OFFICER(F)
SWAT

(Respondent No.3)

District Education Officer (F)
District Swat


DIRECTOR

ELEMENTARY & SECONDARY EDUCATION KPK
(Respondent No.2)


SECRETARY

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

B

خدمت جناب ڈائریکٹر ایگزیکٹو اینڈ سیکرٹری ایجوکیشن کے لیے

Amma = G

معاون۔ مکانہ اسپل برائے جوئیئر کلرک لنگھو Deceased son کوٹ

A

1

جناب عالی! اپیلانٹ حسب ذیل عرض گزار ہے۔

1۔ یہ کہ من اپیلانٹ بحیثیت جو کیدار ایگزیکٹو اینڈ سیکرٹری ایجوکیشن سوات / E.D.O(F) میں بحوالہ امر ڈ نمبر 97-6493 عمرہ 29 جولائی 1998 کو Deceased son کوٹ کے تحت بھرتی ہوا تھا۔

2۔ یہ کہ من اپیلانٹ نے 20 جولائی 1998 کو D.E.O(F) سوات کو درخواست برائے جوئیئر کلرک بحوالہ ڈائری نمبر 14451 عمرہ 22 جولائی 1998 کو دی۔ لیکن D.E.O(F) صاحب سوات نے من اپیلانٹ کی درخواست پر غور نہیں کیا۔

3۔ یہ کہ D.E.O(F) سوات نے بحوالہ امر ڈ نمبر 3118 عمرہ 16 جولائی 1998 کو صاحبہ فرحانہ کو بحیثیت سوشل سروس ڈیپارٹمنٹ میں بھرتی کیا تھا۔ اور بعد میں مذکورہ صاحبہ فرحانہ نے سوشل سروس کے پوسٹ سے استعفیٰ دے کر P.S.T پوسٹ میں تقرری ہوئی۔ لیکن یہ امر قابل ذکر ہے۔ صاحبہ فرحانہ کے بھائی نے جوئیئر کلرک کے اسامی کیلئے Deceased son کوٹ میں درخواست دی۔ جس کو برائے امر ڈ نمبر 90-186 عمرہ 17.2.2017 کو D.E.O(F) Appoint No تقرری کی۔

4۔ یہ کہ من اپیلانٹ نے بھی D.E.O(F) صاحب سوات کو درخواست دیں دیا ہے، کہ من اپیلانٹ بھی جو کیدار کے پوسٹ سے استعفیٰ لواتا۔ اور من اپیلانٹ کی آرڈر (تقرری) جوئیئر کلرک Deceased son کوٹ کے تحت جاری ہو جائے۔

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

P.T.O

Annex B

عنوان :- اپیل برائے جوینٹر ملک تفری

جناب عالیہ -

خوارشہ -

- 1- کہ میرا والد گورنمنٹ ٹیچر تھے لیکن سکول الیون سورت میں جوینٹر ملک کے حقیقت سے ڈیوٹی سہرا انجام دے رہا تھا۔
- 2- میرا والد ملازمت کے دوران 26 جولائی 2008 کو وفات پورا تھا۔

- 3- میرے تفری کے بحالہ بحیثیت نائب قاصد deceased کوئی کے تحت جاری ہوا۔ اور ابھی تک ڈیوٹی کر رہے ہیں۔
- 4- میں نے ابھی سٹریٹ میکنڈ ڈوٹرن میں پاس کیا ہے اور گیسٹریٹ پر بھی عبور حاصل ہے۔

- 5- میں نائب قاصد کے اسامی سے استعفی دے دوئے عالم اگر میرے جوینٹر ملک کے تفری کے احکامات جاری ہو جائے۔
- 6- مجھے معلوم ہوا ہے کہ آپ صبا کے ماتحت سکولوں میں جوینٹر ملک کے اسامیاں خالی ہے۔

لیذا اس درخواست ہے کہ deceased کوئے میں میرا بحیثیت جوینٹر ملک کے تفری کے احکامات جاری کرے۔ جوینٹر ملک کے تفری کے بعد یا تفری کے احکامات ملتے ہیں میں نائب قاصد کے اسامی سے استعفی دے دوئے عالم۔

مجھے امید ہے کہ آپ صبا میرے اپیل پر

بمدرتہ غور فرمائیں

شکر ہے

عدنان یاچا ولد محمد خطاب رحیم

نائب قاصد ایس ڈی۔ ای۔ او
زناتہ بابوزی سہر و شریف سورت

20/11/2017

CTC

Umar Shitab
ADVOCATE



(Handwritten signature)



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

7

Ammeeg A

NOTIFICATION

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

C
3

Constituency 80

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

TERMS AND CONDITIONS:-

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

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

Dated 29/7/2015.

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

Copy forwarded for information to:-

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

Umar Khitab
ADVOCATE

District Education Officer (F)
Swat at Saidu Sharif

لجدرالت جناب چیرمین طب سروس لکڑ پیونل لیشاور
کپیٹ کورٹ گل کده سید و شریف سورت

عدنان باچا بنام ڈی۔ اے۔ اے۔ او (رزنامہ) سورت و پندرہ

عنوان :- درخواست بمراد تاریخ تبدیلی

جناب عالی ! درخواست حسب ذیل ۲۔

۱۔ بہرہ آ پیل عنوان بالا اے ج لجدالت
سروس لکڑ پیونل میں زیر کما عت ۲۔

۲۔ بہرہ آ پیل عنوان بالا میں تاریخ پیشی
۲۰۲۰۔

۳۔ بہرہ آ پیل کما وکیل ذاتی کما کے لئے
لیشاور جلا گیا ۲۔

لینہ استہ ما ۲۔ کہ درخواست بمراد

تاریخ پیشی تبدیلی منظور زما ر مگر

زمانہ

اللہ

عدنان باچا آ پیل کما

پورخہ 05/10/2020

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR
JUDICIAL COMPLEX (OLD). KHYBER ROAD PESHAWAR**

No.

Appeal No. 557 2019

Adnan Baeha Appellant/Petitioner

Versus

District Education Officers male Respondents ^{swat}

Respondents NO. 4

Notice to: Hassan ur Rashid Junior clerk G.G.H.S.
Jambil, swat

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal on 8/10/21 at 9:00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorized representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your Address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

~~Copy of appeal is attached.~~ Copy of appeal has already been sent to you vide this office Notice No. _____ dated _____

Given under my hand and the seal of this Court, at Peshawar this 6th Day of October 2021.

At Camp Court Swat.

P.S. Ujjanji

[Signature]
Superintendent

Khyber Pakhtunkhwa Service Tribunal,
Peshawar

1018
6/10/21

الحمد

15/02-66/10-73-
Haroon - vs - Rashid.

جناب عالی!

حسب التکلم عدالت سے معصوم بن جائے ہارون الرشید
کی اخراجی احکامات کی تعمیر۔ تقل سہولت حوالہ الریالیہ

لہذا رپورٹ میں میں میں
7-10-2011

بیان حلفیہ

مندرجہ بالا رپورٹ کے دستاویز میں میں
7-10-2011

Date 7-10-21

جناب عالی!

رپورٹ/بیان حلفیہ

میں

9240070

بار کونسل نمبر: Bc-12-2305	سریل نمبر: 75097
بار ایسوسی ایشن نمبر: 481	
رابطہ نمبر: 03452210548	



ڈسٹرکٹ بار ایسوسی ایشن سوات

بعدالت جناب: سرس سرس مینوئل بقم قلم سوات

منجانب: ریٹائرمنٹ نمبر 4 ہارون دسیب	دعویٰ اور خواست: سرس اسٹیل
مدان باجا بنام سید سید ایبٹ	علت نمبر:
انڈسٹریل ایسوسی ایشن	مورخہ:
	جرم:
	تھانہ:

بابت تحریر آگہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے برائے پیروی مقدمہ

آن مقام گل کھروہ کیلئے افتنی ڈراگہ، عدالت سوات ایڈووکیٹ کو مقرر کر کے اقرار کیا جاتا ہے، کہ صاحب موصوف کو مقدمہ کی کل کارروائی کو کامل اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث کرنے، دعویٰ، جواب دعویٰ، اقبال دعویٰ، اور درخواست برائے سرسبزی مقدمہ، منسوخی ڈگری یکطرفہ، اجراء و پیروی کرنے کا مختار ہوگا۔ نیز دائر کرنے اپیل نگرانی، نظر ثانی و پیروی کرنے کا مختار ہوگا۔ اور مقدمہ مذکورہ کیلئے کل وقتی یا جزوی کارروائی کیلئے کسی دیگر وکیل یا مختار قانون کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب مقرر شدہ کو بھی جملہ مذکورہ اختیارات حاصل ہوں گے، اور اس کا ساختہ و پرداختہ منظور قبول ہوگا، بدوران مقدمہ جو خرچہ و ہر جانہ کسی بھی سبب سے حاصل ہوگا، وہ وکیل موصوف وصول کرنے کا حقدار ہوگا، کوئی تاریخ پیشی مقام مذکورہ بالا سے باہر ہو، تو وکیل صاحب پیروی مقدمہ کرنے کے پابند نہ ہوں گے، مقدمہ کسی عدالت میں بعدم پیروی خارج ہونے یا ڈگری یکطرفہ ہونے کے صورت میں وکیل صاحب ذمہ دار نہیں ہوں گے،

لہذا وکالت نامہ لکھ دیا کہ سندر ہے

مقام قلم سوات کے لئے منظور ہے۔

Accepted & Attested by
ADI'L SHAH
ADU

Admitted ایڈووکیٹ سوات

المرقوم: 5-11-2021

سوات
محکمہ قانون سوات
سوات

Receipt Challan

Date: 09.04.2016

Cash Deposited at:

Post Office

National Bank of Pakistan

State Bank of Pakistan

National Bank

at Branch: Saidu Sharif Swat

To be filled in by the payer

Serial Number	Name & Address of Payer / Department	Full Particulars / Description of Receipt	Detailed receipt Object Code	Amount Rs.	Signature & Date of Receiving Officer
1	Ms. Farhana (Sweeper) GGMS Akbar Abad Barama, Swat P.#: 758675	ROP Pay & All: (1 Month)	C02814	14447/-	

Total : - Rs. 14447/-

(In Words) Rupees: (Fourteen thousand, four hundred & forty-seven On

To be filled by DAO / AG / DGPR-SO

Received at (Location)

Profit Center Code

Date:

Verified by:

(Against Scroll)

Signature of Depositor

Verified by:

Stamp, Date & Title of Manager / Branch / Post Master
General / Branch / Branch & Code / Post Office & Area Code

Post Office / Bank Branch Code

CTC
7-2-22

Ends:

دوای کوکامل اختیار ہو
مبال دعوی اور درخواست برا