

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No. 1358/2018

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

Mr. Muhammad Saeed, Secretary Village Council (BPS-7),
O/O the Assistant Director, LG&RDD Hangu.

.... (Appellant)

Versus

1. The Secretary Local Government and Rural Development Department, Khyber Pakhtunkhwa, Peshawar.
2. The Director General, Local Government and Rural Development Department, Khyber Pakhtunkhwa, Peshawar.
3. The Assistant Director, Local Government and Rural Development Department, Khyber Pakhtunkhwa, District Hangu.

... (Respondents)

Mr. Noor Muhammad Khattak
Advocate

...

For appellant

Mr. Muhammad Jan
District Attorney

...

For respondents

Date of Institution.....31.10.2018
Date of Hearing.....26.09.2022
Date of Decision.....26.09.2022

JUDGEMENT

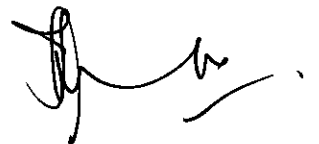
FAREEHA PAUL, MEMBER (E): The service appeal in hand has been instituted under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974, against the order dated 19.01.2018 whereby the appellant has been appointed on the post of Village Secretary (BPS-7) with immediate effect rather than with retrospective effect i.e w.e.f 23.12.2015 and against not taking action on his departmental appeal within the statutory period of ninety days, with the prayer that



the impugned order may be modified/rectified to the extent that he may be allowed/granted back benefits including seniority w.e.f 23.12.2015 instead of 19.01.2018.

2. Brief facts of the case, as given in the memorandum of appeal, are that Respondent No. 2 (The Director General, Local Government and Rural Development, Khyber Pakhtunkhwa, Peshawar.) through advertisements dated 11.04.2015 and 27.06.2015 invited applications from suitable candidates for the post of Village Secretary/Neighborhood Secretary in the Local Government and Rural Development Department. Appellant, possessing the required qualification and experience, and being local resident of village council Darband appellant applied for the said post. He participated in the written test and interview and was declared successful and placed at serial no. 14 of the merit list. Despite being on merit, he was not appointed and another candidate, Mr. Asad Habib S/o Said Habib, was appointed Village Secretary (BPS-7) Darband. According to the appellant, Mr. Asad Habib belonged to Orakzai Agency and was not entitled to appointment. He filed a representation before the Deputy Commissioner Hangu but no heed was paid to it. Feeling aggrieved, he filed a writ petition No. 2174/2016 before the Hon'able Peshawar High Court, which was accepted in his favour vide judgment dated 11.10.2017. The respondent department implemented the judgment of Hon'ble Peshawar High Court and appointed the appellant against the post of Village Secretary vide order dated 19.01.2018 with immediate effect. The appellant, feeling aggrieved from that order filed a departmental appeal but it was not replied; hence this service appeal.

3. Respondents were put on notice who submitted written replies/ comments on the appeal. We have heard the learned counsel for the appellant as well as the

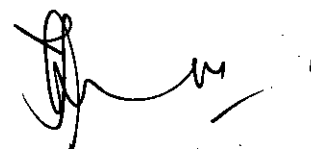


learned District Attorney and perused the case file with connected documents in detail.

4. Learned counsel for the appellant presented the case in detail and argued that the impugned order was against the norms of natural justice and that in the light of merit list and having the requisite qualification, the appellant was entitled for appointment against the post of Village Secretary (BPS-7) Darband w.e.f 23.12.2015 instead of 19.01.2018.

5. The learned District Attorney on the other hand argued that as per final merit list Mr. Asad Habib was on top of merit list for the post of Village Secretary (BPS-7) Darband and was hence appointed. While implementing the judgment dated 11.10.2017 of Hon'ble Peshawar High Court, the appointment order of the Mr. Asad Habib was cancelled vide order dated 19.01.2018 and the appellant Mr. Muhammad Saeed was appointed on the same date with immediate effect. He invited the attention to Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules 1989, under which all appointment orders were to be issued with immediate effect.

6. From the arguments of both the learned counsel for appellant and the learned District Attorney and the record presented before us it is clear that the appellant applied for the post of Village Secretary (BPS-7) Darband and secured 62 marks and was placed at serial no. 2 for village council Darband. Another candidate, Mr. Asad Habib, with 66.5 marks was placed at no. 1 for village council Darband and was appointed on the post of Village Secretary (BPS-7) Darband vide order dated 23.12.2015. The appellant filed a writ petition in Hon'ble Peshawar High Court challenging the appointment of Mr. Asad Habib. Operating part of the judgment dated 11.10.2017 stated, "Resultantly, we accept this writ petition, set aside order




dated 23.12.2015 to extent of appointment of respondent No. 5 and direct the respondents to appoint the petitioner against the post of Village Secretary (BPS-7).”

7. In the light of above discussion we are sure that the respondents have acted in accordance with the judgment of Hon'ble Peshawar High Court dated 11.10.2017 and cancelled the appointment order of Mr. Asad Habib on 19.01.2018. As the appellant was appointed after cancelling the earlier order of the department on 19.01.2018, his appointment would be given effect from that date in the light of Khyber Pakhtunkhwa Civil Servants (APT) Rules 1989, as they do not provide for appointment from a retrospective effect. Moreover, his seniority would also be fixed from the date of his appointment.

8. In view of the above, the appeal in hand is dismissed. Parties are left to bear their own costs. Consign.

9. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 26th day of September, 2022.*


(ROZINA REHMAN)
Member (J)



(FAREEHA PAUL)
Member (E)

Service Appeal No. 1358/2018

1. Mr. Noor Muhammad Khattak, Advocate for the appellant present.
Mr. Muhammad Jan, District Attorney for respondents present. Arguments heard and record perused.

2. Vide our detailed judgement containing 04 pages, we arrived at the conclusion that the respondents have acted in accordance with the judgment of Hon'ble Peshawar High Court dated 11.10.2017 and cancelled the appointment order of Mr. Asad Habib on 19.01.2018. As the appellant was appointed after cancelling the earlier order of the department on 19.01.2018, his appointment would be given effect from that date in the light of Khyber Pakhtunkhwa Civil Servants' (APT) Rules 1989, as they do not provide for appointment from a retrospective effect. Moreover, his seniority would also be fixed from the date of his appointment. In view of the above, the appeal in hand is dismissed. Parties are left to bear their own costs. Consign.

3. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 26th day of September, 2022.*


(ROZINA REHMAN)
Member (J)


(FAREEHA PAUL)
Member (E)

19.05.2022

Learned counsel for the appellant present. Mr. Ghaffar Ali, Accountant alongwith Mr. Noor Zaman Khattak, District Attorney for the respondents present.

Learned Member (Judicial) Ms. Rozina Rehman is on leave, therefore, arguments could not be heard. Adjourned. To come up for arguments on 20.07.2022 before the D.B.



(Salah-ud-Din)
Member (Judicial)

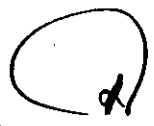
20.07.2022

Appellant present in person.

Mr. Muhammad Riaz Khan Paindakhel, learned Assistant Advocate General alongwith Ghaffar Ali, Accountant for respondents present.

Appellant requested for adjournment as his counsel is busy before Hon'able Peshawar High Court. Adjourned. To come up for arguments on 26.09.2022 before D.B.


(Fareeha Paul)
Member (E)


(Rozina Rehman)
Member (J)

18.06.2021

Junior to counsel for appellant present.

Muhammad Adeel Butt learned A.A.G for respondents present.

Former made a request for adjournment as senior counsel is not available. Adjourned. To come up on 21.10.2021 for hearing before D.B.



(Rozina Rehman)
Member(J)

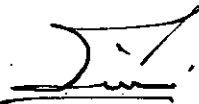


Chairman

21.10.2021

Junior to counsel for the appellant and Mr. Muhammad Adeel Butt, Addl. AG for the respondents present.

Former requests for adjournment due engagement of learned senior counsel for the appellant before the Hon'ble High Court. Request is accorded. To come up for arguments on 22.02.2022 before the D.B.



(Salah-ud-Din)
Member(J)



Chairman

22.02.2022

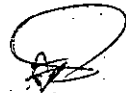
Due to retirement of the Worthy Chairman, the Tribunal is defunct, therefore, case is adjourned to 19.05.2022 for the same as before.



Reader

20.08.2020

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


Reader

22.10.2020

Junior to counsel for the appellant and Addl. AG alongwith Ghaffar Ali, Accountant for the respondents present.

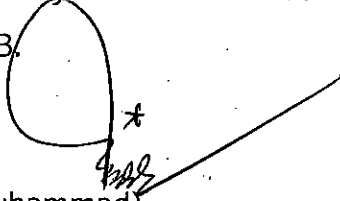
The Bar is observing general strike today, therefore, the matter is adjourned to 17.12.2020 for hearing before the D.B.

17.12.2020


(Mian Muhammad)
Member
Counsel for the appellant and Asstt. AG for the respondents present.


Chairman

Former requests for adjournment as he is under heavy workload before the Honourable Peshawar High Court today. Adjourned to 12.03.2021 for hearing before the D.B.


(Mian Muhammad)
Member(E)


Chairman

12.03.2021

Junior to counsel for appellant present.

Asif Masood learned Deputy District Attorney for respondents present.

Former made a request for adjournment as senior counsel is indisposed. Adjourned. To come up for arguments on 18/06/2021 before D.B.


(Mian Muhammad)
Member (E)


(Rozina Rehman)
Member (J)

28.01.2020

None for the appellant present. Addl:AG alongwith Mr. Ghafar Ali, Accountant for respondents present. Due to General Strike of the bar on the call of Khyber Pakhtunkhwa Bar Council, the instant case is adjourned. To come up for further proceedings/arguments on 24.03.2020 before D.B. Appellant be put on notice for the date fixed.



Member



Member

25.03.2020

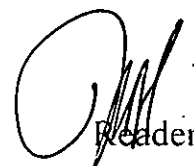
Due to public holidays on account of Covid-19, the case is adjourned. To come up for the same on 09.06.2020 before D.B.



Reader

09.06.2020

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



Reader

05.08.2019

Junior to counsel for the appellant present. Mr. Zia Ullah learned Deputy District Attorney alongwith Ghafar Ali Accountant present. Junior to counsel for the appellant seeks adjournment as senior counsel for the appellant is not in attendance. Adjourn. To come up for arguments on 27.09.2019 before D.B.


Member


Member

27.09.2019

Counsel for the appellant present. Mr. Ziaullah, DDA alongwith Mr. Ghafar Ali, Accountant for respondents present. Learned counsel for the appellant submitted rejoinder which is placed on file. To come up for arguments on 25.11.2019 before D.B.


Member


Member

25.11.2019

Due to general strike of the KP Bar Council, the case is adjourned. To come up on 28.01.2020 before D.B.


Member


Member

05.03.2019


Clerk of counsel for the appellant present. Mr. Kabirullah Khattak, Additional AG for the respondents present Written reply on behalf of respondents not submitted. Learned Additional AG requested for further adjournment. Adjourned to 10.04.2019 for written reply/comments before S.B.


(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

10.04.2019

Counsel for the appellant and Mr. Kabir Ullah Khattak learned Additional Advocate General alongwith Ghaffar Ali Accountant for the respondents present.

Written reply submitted which is placed on record. To come up for arguments on 12.06.2019 before D.B. The appellant may submit rejoinder within a fortnight, if so advised.


Chairman


12.06.2019

Counsel for the appellant and Mr. Muhammad Jan, DDA alongwith Ghaffar Ali, Accountant for the respondents present.

Learned counsel for the appellant requests for time to submit rejoinder. May do so within a fortnight.

Adjourned to 05.08.2019 for arguments before the D.B.


Member


Chairman

29.11.2018

Learned counsel for the appellant present. Preliminary arguments heard.

The appellant (Secretary Village Council) has filed the present service appeal against his appointment order dated 19.01.2018, which was issued upon the decision of the Hon'ble Peshawar High Court Peshawar in Writ Petition 2174-P/2016. Prayer of the appellant is that he be allowed back benefits w.e.f 23.12.2015.

Points raised need consideration. The appeal is admitted for regular hearing subject to all legal objections. The appellant is directed to deposit security and process fee within 10 days, thereafter notices be issued to the respondents for written reply/comments. ~~To come up~~ for written reply comments on 21.01.2019 before S.B.

Appellant Deposited
Security & Process Fee

21/01/19


Member


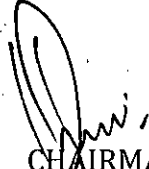
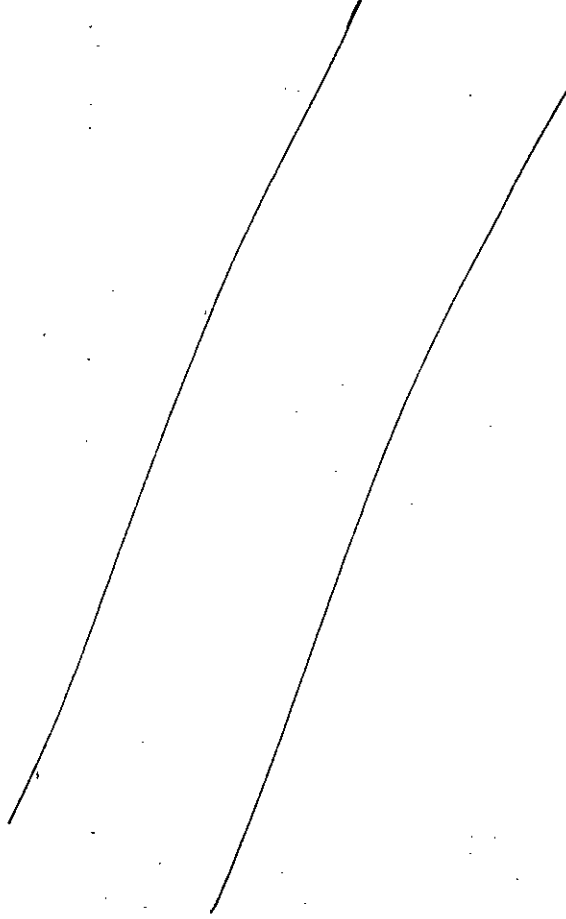
21.01.2019 None present on behalf of appellant. Ghafoor Ali Accountant representative of the respondents present. Written reply not submitted. Representative of the respondents seeks time to furnish written reply/comments. Granted. To come up for written reply/comments on 05.03.2019 before S.B.


Member

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 1358/2018

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	31/10/2018	<p>The appeal of Mr. Muhammad Saeed presented today by Mr. Noor Muhammad Khattak 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 31/10/18.</p>
2-	17-11-2018	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>29-11-18</u>.</p> <p style="text-align: right;"> CHAIRMAN</p> <p style="text-align: center;"></p>

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR**

APPEAL NO. 1358 /2018

MUHAMMAD SAEED

VS

LOCAL GOVT:

INDEX

S.NO.	DOCUMENTS	ANNEXURE	PAGE
1	Memo of appeal	1- 3.
2	Condonation application	4.
3	Advertisement	A	5- 6.
4	Educational testimonials	B	7- 11.
5	Merit list	C	12.
6	Domicile	D	13.
7	Appointment order	E	14.
8	Representation	F	15.
9	Memo of writ petition	G	16- 21.
10	Judgment	H	22- 25.
11	Impugned order	I	26.
12.	Departmental appeal	J	27.
13.	Vakalat nama	28.

APPELLANT

THROUGH:

**NOOR MOHAMMAD KHATTAK,
ADVOCATE**

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR**

Khyber Pakhtunkhwa
Service Tribunal

APPEAL NO. 1358 /2018

Diary No. 1589

Mr. Muhammad Saeed, Secretary Village Council (BPS-07),
O/O the Assistant Director, LG&RDD Hangu.....

Dated 31-10-2018

APPELLANT

VERSUS

- 1- The Secretary Local Government and Rural Development Department, Khyber Pakhtunkhwa, Peshawar.
- 2- The Director General, Local Government and Rural Development Department, Khyber Pakhtunkhwa, Peshawar.
- 3- The Assistant Director, Local Government and Rural Development Department, District Hangu.

.....**RESPONDENTS**

APPEAL UNDER SECTION 4 OF THE SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 19.1.2018 WHEREBY THE APPELLANT HAS BEEN APPOINTED ON THE POST OF VILLAGE SECRETARY (BPS-07) WITH IMMEDIATE EFFECT RATHER THAN WITH RETROSPECTIVE EFFECT I.E. W.E.F. 23.12.2015 AND AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS

PRAYER:

That on acceptance of this appeal the impugned order dated 19.01.2018 may very kindly be modify/rectify to the extent that the appellant may be allowed/granted back benefits including seniority w.e.f. 23.12.2015 instead of 19.01.2018. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant.

R/SHEWETH:

ON FACTS:

- 1- That the respondent No.2 through advertisements dated 27.06.2015 and 11.4.2015 invited applications from the suitable candidates for the posts of Village Secretary/Neighborhood Secretary in the Local Government and Rural Development Department. Copies of the advertisements are attached as annexure.....**A.**
- 2- That appellant being local resident of village Council Darband applied for the said post having the requisite qualifications and experience. Copies of the educational testimonials are attached as annexure...**B.**
- 3- That appellant after participated in the written test and interview was declared successful and he was subsequently placed at serial No.14

Filed to-day
Registrar
31/10/18

of the merit list. Copies of the merit list and domicile are attached as annexure.....**C & D.**

4- That inspite of having better merit position and having higher qualification the appellant was ignored from the appointment against the above mentioned post and appointed their eyed person namely Mr Asad Habib S/O Said Habib, village Secretary Darband who was not entitled for the said post on the reason that he was belonging to Orakzai Agency. Copy of the appointment order of Mr. Asad Habib is attached as annexure.....**E.**

5- That appellant feeling from the impugned appointment order of the above mentioned person filed representation before the respondent No. 4 but no heed was paid by to the said request of the appellant. That appellant feeling aggrieved filed writ petition No. 2174/2016 before the Honorable Peshawar High Court Peshawar which was accepted in favor of the appellant vide judgment dated 11.10.2017. Copies of the representation, Memo of writ petition and judgment are attached as annexure.....**F, G & H.**

6- That the respondent Department implemented the judgment dated 11.10.2017 passed by the Honorable Peshawar High Court Peshawar and appointed the appellant against the post of Village Secretary vide order dated 19.01.2018 with immediate effect while the appellant is entitle for appointment on the said post with retrospective effect i.e. 23.12.2015. Copy of the appointment order is attached as annexure.....**I.**

7- That appellant feeling aggrieved from the impugned order dated 19.01.2018 filed Departmental appeal but no reply has been received so for. Hence the present appeal on the following grounds amongst the others. Copy of the Departmental appeal is attached as annexure **J.**

GROUND:

A- That the impugned order dated 19.01.2018 is against the law, facts, norms of natural justice and materials on the record hence not tenable and liable to be modified/rectified.

B- That appellant has not been treated in accordance with law and rules by the respondent Department on the subject noted above and as such the respondents violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.

C- That in light of the merit list and having the requisite qualification the appellant is fully entitled for appointment against the post of Village Secretary w.e.f. 23.12.2015 instead of 19.1.2018.

- D- That respondents acted in arbitrary and malafide manner appointed the appellant against the post of village Secretary with immediate effect instead of retrospective effect i.e. 23.12.2015, therefore the same is not tenable in the eye of law and is liable to be modified/rectified.
- E- That the appellant has been discriminated by the respondent Department while issuing the appointment order dated 19.01/2018 with immediate effect instead of w.e.f. 23.12.2015.
- F- That the respondent Department violated the Civil Servants appointment, promotion & transfer Rules 1989 by issuing the impugned order dated 19.01.2018 with immediate effect.
- G- That appellant seeks permission to advance other grounds and proofs at the time of hearing.

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

APPELLANT



MUHAMMAD SAEED

THROUGH:



NOOR MOHAMMAD KHATTAK

&



**MUHAMMAD MAAZ MADNI
ADVOCATES**

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. _____ 2018

MUHAMMAD SAEED

VS

LOCAL GOVT:

APPLICATION FOR CONDONATION OF
DELAY IN FILING THE ABOVE NOTED
APPEAL

R.SHEWETH:

- 1- That the appellant has filed an appeal along with this application in which no date has been fixed so far.
- 2- That the appellant prays for the condonation of delay in filing the above noted appeal inter alia on the following grounds:

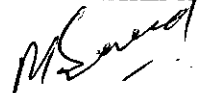
GROUND OF APPLICATION:

A- That valuable rights of the appellant are involved in the case hence the appeal deserve to decide on merit.

B- That it has been the consistent view of the Superior Courts that cases should be decided on merit rather on technicalities including the limitation. The same is reported in 2004 PLC (CS) 1014 and 2003 PLC (CS) 76.

It is therefore prayed that on acceptance of this application the delay in filing the above noted appeal may please be condoned.

APPELLANT



MUHAMMAD SAEED

THROUGH:


NOOR MOHAMMAD KHATTAK
ADVOCATE

دفتر ڈائریکٹر جنرل محکمہ بلدیات و دیہی ترقی صوبہ خیبر پختونخوا پشاور



A-5

اشتہار برائے بھرتی ویلج سیکرٹری برائے

ویلج / نیبر ہڈ کونسل (BPS-07)

بحوالہ اشتہار نمبر INF(P)2000 ڈائریکٹریٹ جنرل محکمہ بلدیات و دیہی ترقی صوبہ خیبر پختونخوا مورخہ 11-04-2015 کو مندرجہ بالا بھرتی کے لیے اشتہار دیا گیا تھا۔ امیدواروں کے تحریری ٹیسٹ کے لیے نیشنل ٹیسٹنگ سروس کو مندرجہ ذیل معلومات درکار ہیں۔

نمبر شمار	ضلع	نام آسای	بنیادی سکیل	مطلوبہ قابلیت	عمر کی حد
1	متعلقہ	ویلج سیکرٹری برائے ویلج / نیبر ہڈ کونسل	07	(i) تصدیق شدہ بورڈ سے ایف اے / ایف ایس سی یا اس کے مساوی امتحان پاس کیا ہو۔ (ii) تصدیق شده ادارے سے کمپیوٹر سافٹ ویئر 6 ماہ کا کورس پاس کیا ہو۔ MS-Word, Excel, and MS-Word, Excel, Internet/Email Inpage (Urdu) (iii) - ان پیج (Inpage) اور انٹرنیٹ پر عبور حاصل ہو۔	18-30

بنیادی شرائط:

- (1) - متعلقہ ویلج / نیبر ہڈ کونسل کے باشندے کو ترجیح دی جائے گی۔
- (2) - مذکورہ بالا بھرتی متعلقہ ضلع کے سرپلس پول میں موجود عملہ (Surplus Staff) کے مکمل تعیناتی (Adjustment) کے بعد عمل میں لائی جائے گی۔

مندرجہ بالا معلومات جمع کرنے کا طریقہ کار:

- فارم اور آن لائن ڈیپازٹ سلیپ نیشنل ٹیسٹنگ سروس کی ویب سائٹ www.nts.org.pk پر موجود ہیں اور 06-07-2015 تک این ٹی ایس ہیڈ کوارٹرز (1-E, Street No.46, I-8/2, Islamabad) کو موصول ہونی چاہئیں۔
- بذریعہ ڈاک تاخیر سے موصول ہونے کی صورت میں این ٹی ایس ذمہ دار نہ ہوگا۔
- براہ کرم اپنی مجوزہ ڈیپازٹ سلیپ کے ذریعے ٹیسٹ فیس مبلغ / Rs.400 روپے، HBL, ABL, UBL, MCB کی کسی بھی آن لائن برانچ میں جمع کرائیں۔
- امتحانی مراکز میں موبائل فون لانے کی اجازت نہیں۔
- جمع شدہ رقم ناقابل واپسی اور ناقابل منتقلی ہے۔

ATTESTED



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National Testing Service-Pakistan

Headquarters: 1-E, Street No.46, I-8/2, Islamabad

ATTESTED
v/council
Dera Ismail
District
Hangu.

حکمہ بلدیات و دیہی ترقی حکومت خیبر پختونخوا ایشاور
دفتر ڈائریکٹر جنرل حکمہ بلدیات و دیہی ترقی صوبہ خیبر پختونخوا ایشاور

(6) ✓

اشتہار برائے بھرتی و بیج / انہر ہڈ کونسل سیکرٹری (BPS-07)

حکمہ ہذا کی طرف سے درج ذیل خالی آسامیوں کو پُر کرنے کیلئے صوبہ خیبر پختونخوا کے ڈومیسائل کے حامل اہل امیدواروں سے درخواستیں مطلوب ہیں۔ جو کہ اس اشتہار کی اشاعت کے پندرہ (15) یوم کے اندر اندر اپنے متعلقہ ضلع کے اسٹنٹ ڈائریکٹر حکمہ بلدیات و دیہی ترقی کے دفتر میں دفتری اوقات کار کے دوران بمعہ تصدیق شدہ دستاویزات جمع کرائی جاسکتی ہیں۔ تفصیل آسامیاں و مطلوبہ قابلیت اور درکار عمر کی حد نیچے درج ہیں۔

نمبر شمار	ضلع	نام آسامی	بنیادی سکیل	مطلوبہ قابلیت	عمر کی حد
1	متعلقہ	بیج / انہر ہڈ کونسل سیکرٹری	07	i..... تصدیق شدہ بورڈ سے ایف اے / ایف ایسی سی یا اس کے مساوی امتحان پاس کیا ہو۔ (ii) تصدیق شدہ ادارے سے کمپیوٹر سافٹ ویئر 6 ماہ کا کورس پاس کیا ہو۔ MS-Word, Excel, Inpage (Urdu) and Internet/ Email (iii)۔ ان بیج (Inpage) اور انٹرنیٹ پر عبور حاصل ہو۔	18-30

ATTESTED

ATTESTED

4/4/2015

(1)۔ متعلقہ بیج / انہر ہڈ کونسل کے باشندے کو ترجیح دی جائے گی۔ (2)۔ مذکورہ بالا بھرتی متعلقہ ضلع کے سرپلس پول میں موجود عملہ (Surplus Staff) کے کھل تعیناتی (Adjustment) کے بعد عمل میں لائی جائیگی۔ مطلوبہ تعلیمی قابلیت اور دیگر شرائط پر پورا اترنے والے امیدواروں سے درخواست ہے کہ وہ اس اشتہار کی اشاعت کے پندرہ (15) یوم کے اندر اندر اپنے تصدیق شدہ دستاویزات اپنے ڈومیسائل کے حامل ضلع کے اسٹنٹ ڈائریکٹر حکمہ بلدیات و دیہی ترقی کے دفتر میں جمع کرائیں۔

اشتہار: ڈائریکٹر حکمہ بلدیات و دیہی ترقی، خیبر پختونخوا

B-7 100

S.No.KB 32336

Roll No. 82897

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

BOARD OF INTERMEDIATE & SECONDARY EDUCATION



MARKS IMPROVED

KOHAT

(N.W.F.P. Pakistan)

Secondary School Certificate Examination

SESSION 2004 (ANNUAL)

THIS IS TO CERTIFY THAT MUHAMMAD SAEED

Son/Daughter of KHIAL HAKIM and a student of DISTRICT HANGU

has passed the *Secondary School Certificate Examination* of the Board of Intermediate and Secondary Education, Kohat held in MARCH, 2004 as a PRIVATE candidate. He/She obtained 440 Marks out of 850 and has been placed in Grade C Representing GOOD

The Candidate passed in the following subjects:

- | | | | |
|----------------|-------------------|---------------------|-------------------|
| 1. English | 2. Urdu | 3. Islamiyat | 4. Pak. Studies |
| 5. Mathematics | 6. <u>PHYSICS</u> | 7. <u>CHEMISTRY</u> | 8. <u>BIOLOGY</u> |

Date of birth according to admission form is 25-MAY, 1984

ATTESTED ATTESTED

Asstt. Secretary
Asstt. Secretary

Secretary
Secretary

This certificate is issued without alteration or erasure.
*Issued in lieu of Roll No. 13605 SSC SUPPLY Exam 2003.

802

S.No. KB 28389

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

Roll No. 29623

BOARD OF INTERMEDIATE & SECONDARY EDUCATION



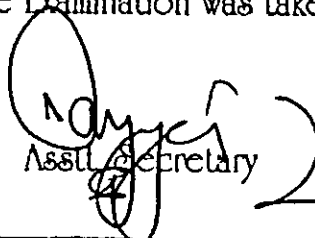
KOHAT (N.W.F.P. Pakistan) INTERMEDIATE EXAMINATION

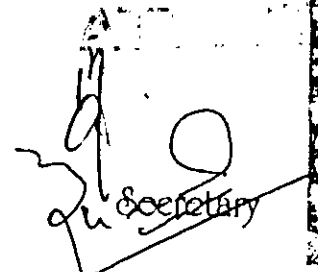
PRE-ENGINEERING GROUP Session 2008 (ANNUAL)

This is to Certify that Muhammad Saeed
Son/Daughter of Khilal Hakim
and a student of Gandhara Inter College Kohat
Registered No 75-BK/GICK-2006 has passed the Intermediate Examination
of the Board of Intermediate & Secondary Education, Kohat held in May, 2008
as a Regular candidate. He/She obtained 558 marks out of 1100 and has
been placed in C Grade Representing Good.

The Examination was taken as a whole / in parts.

ATTESTED


Asst. Secretary


Secretary

This certificate is issued without alteration or erasure.

Serial No. 001663

Roll No. 47164

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

Registration No. 2008-PC-23

Kohat University of Science & Technology, Kohat (Pakistan)

Session 2009-2010

DRABDIL SHEED SON of HAAL F. IN and a student
of GOVT DEGREE COLLEGE NANOU having passed the prescribed
examination held in JUNE 2010, is this day admitted by

The Kohat University of Science & Technology, Kohat
to the Degree of

Bachelor of Science

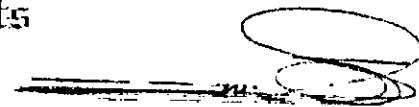
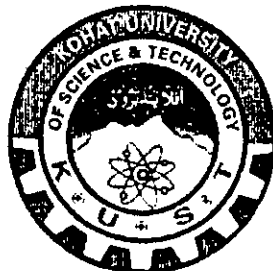
in the SECOND Division

The Examination was taken as a whole / in parts

ATTESTED



Result declared on SEPTEMBER 25 2010



Controller of Examinations

ATTESTED

Countersigned




Vice Chancellor

Reg # SDC SINTEC IT-2207016
Date: From 10-05-2008 to 10-11-2008

SKILL DEVELOPMENT COUNCIL



Competency Based

Diploma

THIS IS TO ACKNOWLEDGE THAT

Mr. MUHAMMAD SAEED S/O Mr. KHIAL HAKIM

has successfully completed the prescribed
course of study in

DIPLOMA IN INFORMATION TECHNOLOGY

[Module-I]

SiNTEC College of Technology

[Wah Cantt]



ATTESTED

ATTESTED

Controller Exams
CONTROLLER (EXAMS)

Reg # SDC SINTEC IT-2207016
Date: From 11-11-2008 to 11-05-2009

11

SKILL DEVELOPMENT COUNCIL



Competency Based

Diploma

THIS IS TO ACKNOWLEDGE THAT

Mr. MUHAMMAD SAEED S/O Mr. KHIAL HAKIM

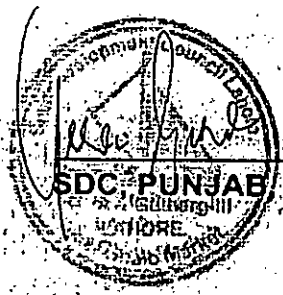
has successfully completed the prescribed
course of study in

DIPLOMA IN INFORMATION TECHNOLOGY

[Module-II]

SiNTEC College of Technology

[Wah Cantt]



ATTESTED

ATTESTED

Controller Exam
CONTROLLER (EXAMS)

C-12

Sl. No.	Roll No.	Name	Father Name	ENR	Obt. Mar	SSC Total Mar	SSC Total Mar	SSC Perce	Merit Score (A)	HSSC Obt. Mar	HSSC Total Mar	HSSC Perce	Merit Score (B)	Bach 14 Obt. Mar	Bach 14 Total Mar	Bach 14 Perce	Merit Score (C)	Master Obt. Mar	Master Total Mar	Master Perce	Merit Score (D)	MS/MPHS/OC	MS/MPHS/OC	MS/MPHS/OC	MS/MPHS/OC	Merit Score (E)	Total ESTA	CCR
1	6006148	AHMED SHARIF	HOOR SHARIF	14101-2756488-3	HANGU	HANGU	BALYAMINA	639	850	75.176	35	691	1100	62.818	35			3.89000011	4	87.25	8					78		
2	6002452	ABID REHMAN	SAHIB KHAN	14101-2001435-3	HANGU	HANGU	BALYAMINA	631	1050	60.095	35	732	1100	66.545	35												70	
3	6000409	MOKSH KHAN	MOHAMMAD O RAFIQ	14101-7218247-1	HANGU	HANGU	BALYAMINA	707	1050	67.333	35	661	1100	60.091	35												70	
4	6006373	BASHIR AHMAD	HOOR ULLAH JAN	14101-4954409-3	HANGU	HANGU	BALYAMINA	618	1050	58.857	28	1008	1400	72	35	830	1400	59.285	731	1400	52.214	8				69		
5	6005871	HAFAEZ UR REHMAN	MOMEEN REHMAN	14101-0215344-9	HANGU	HANGU	BALYAMINA	446	850	52.471	26	507	1100	46.091	27			3.03999996	4	78	8					61		
6	6010529	IRFAN ULLAH	REHAM DARAJ	14101-0787222-3	HANGU	HANGU	BALYAMINA	614	1050	58.476	26	565	1100	51.364	27	242	550	47.636	6							59		
7	6000365	SIFAT ULLAH	WAKILDARA 2	14101-5757495-1	HANGU	HANGU	BALYAMINA	530	900	58.889	28	514	1100	46.727	27	130	285	45.614	6							59		
8	6009582	IRFAN ZIA	NOWROZ KHAN	14102-0372068-8	HANGU	THALL	DALLAN	595	900	66.111	35	2472	3350	73.791	35												70	
9	6007550	MUSARAT	MAVIZ GUL	14102-0357836-9	HANGU	THALL	DALLAN	485	900	53.889	28	681	1100	61.909	35			7.64000011	4	64	8					69		
10	6001508	MUHAMMAD RASHID	RASHID GUL	14102-0352550-3	HANGU	THALL	DALLAN	440	900	48.889	28	508	1100	46.182	27	675	1100	61.364	6							59		
11	6004743	MUHAMMAD O ILLAH	KHAN SAYED	14102-0377694-3	HANGU	THALL	DALLAN	531	1050	50.571	26	509	1100	46.273	27												53	
12	6005783	BILAL UR RASHID	RASHID GUL	14102-0382625-9	HANGU	THALL	DALLAN	610	1050	58.095	26	510	1100	46.364	27												53	
13	6006541	MUWAHID HOOR	HABIB HOOR	14102-0383027-1	HANGU	THALL	DALLAN	467	900	51.889	26	643	1100	58.455	27	309	550	56.182	0								53	
14	6009074	MUHAMMAD SAFFED	KHALI HAJOM	14101-3137347-1	HANGU	HANGU	DARBAND	440	850	51.765	28	558	1100	50.727	27	319	550	58	6								59	
15	6004597	ZIA UR REHMAN	HABIB UR REHMAN	14101-5435785-5	HANGU	HANGU	DARBAND	530	1050	50.476	26	538	1100	48.727	27												53	
16	6006404	MUHAMMAD ZIAULHAQ	GUL REHMAN	14101-3568676-9	HANGU	HANGU	DARBAND	547	1050	52.095	26	514	1100	46.727	27												53	
17	6009850	AKHTAR NAEM	EIDA GUL	14101-7977816-5	HANGU	HANGU	DARBAND	503	900	55.889	26	544	1100	49.455	27												53	
18	6001802	ADNAN AHMAD KHAN	SADIQ KHAN	14101-8930688-8	HANGU	HANGU	DARBAND	581	1050	55.333	26	527	1100	47.909	27												53	
19	6000806	ABDULLAH KHAN	HANID GUL	14101-3418908-1	HANGU	HANGU	DARBAND	560	1050	53.333	26	534	1100	48.545	27												53	
20	6009532	ASAD HABIB	SAID HABIB	14101-7837134-5	HANGU	HANGU	DARBAND	693	1050	66	35	552	1100	50.182	27												53	
21	6001705	NADEEM KHAN	ZARMAN SHAH	14101-6110684-1	HANGU	HANGU	DARBAND	499	1050	47.524	26	553	1100	50.273	27	288	500	57.6	6								59	
22	6001125	MUHAMMAD ZAKARIA	SUNAM SHAH	14101-9326043-3	HANGU	HANGU	DARBAND	426	900	47.333	26	429	1100	39	21												47	
23	6005273	MUHAMMAD BAST KHAN	WAKEEL KHAN	14101-3178938-7	HANGU	THALL	DARSAMAN D	810	900	67.778	35	2350	3550	66.197	35	279	550	50.727									76	
24	6008671	FIDA MUHAMMAD	YASIN BASHAH	14101-4837938-8	HANGU	THALL	DARSAMAN D	551	1050	52.476	26	648	1100	58.909	27												53	
25	6002983	MUHAMMAD ASIM	RIAZ UD DIN	14102-0358071-3	HANGU	THALL	DARSAMAN D	488	900	54.222	26	586	1100	53.273	27												53	
26	6007015	FADAL KHAN	AWAL KHAN	14101-7837203-5	HANGU	THALL	DARSAMAN D					578	1100	52.545	27												27	
27	6006090	AKBAR SAHID	TAJ UR REHMAN	14101-0657930-9	HANGU	THALL	DOABA (TC URBAN)	833	1050	79.333	35	869	1100	79	35			1820	2800	65	8					78		
28	6004664	SHAHID UMAR	UMAR SIDDIQUE	14101-6075043-9	HANGU	THALL	DOABA (TC URBAN)	566	850	66.588	35	671	1100	61	35	1488	2000	74.3	1652	2200	75.091	8				78		
29	6006852	ABID AZAM	WAZIR AZAM	14101-4868155-5	HANGU	THALL	DOABA (TC URBAN)	675	850	79.412	35	812	1100	73.818	35			3.28999996	4	82.25	8					78		
30	6008543	SHAIKAT ULLAH	INAYAT ULLAH KHAN	14102-0367646-3	HANGU	THALL	DOABA (TC URBAN)	554	900	61.556	35	778	1100	66.182	35			3.29999995	4	82.5	8							

ATTESTED

ATTESTED

for village Council Daraband.



① - ②
D - ⑬

DOMICIL CERTIFICATE

I declare that I was born of parents who are permanently domiciled in N.W.F.P. having belonged to it by birth settled in it.

I belong by birth to Village / Mohailan DARBAND
Tehsil HANGU District HANGU

Signature of the applicant

Date 12 / 12 / 2001

Pursuance to the declaration dated 12 / 12 / 2001 ^{MR} signed by MUHAMMAD SAEED Son / daughter of KHAIL HAKIM domiciled in the N.W.F.P. It is hereby certified that the said MUHAMMAD SAEED is born of parents who are permanent residents of the N.W.F.P. having belonged to it by birth settled in it.

I have satisfied myself from personal / my knowledge verification that the above declaration is true and certify

This 14th day of Jan 2002

COUNTERSIGNED OFFICER

DEPUTY DISTRICT REVENUE OFFICER

Asst. District Revenue Officer
DESTRUCT REVENUE OFFICER

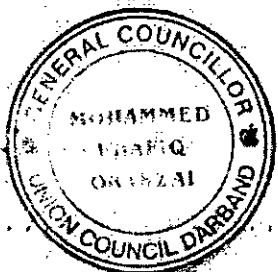
ATTESTED

No. 10611 / 1000 / HANGU
Dist. 12/12 / 2001

مہتمم لہندہ لیکچر کے ہیں کہ محمد سعید ولد خیال حکیم ^{گماؤں} درہندہ کا پیدائشی
 باشندہ ہے۔ اسکے آبا و اجداد بھی درہندہ کے پیدائشی باشندے تھے
 نام - ولایت - سکونت درست ہے۔ نیک چلن ہے۔
 پاکستانی شہری ہے۔

ESSA GUL
 Peasant Worker
 Union Council Darband

144-62-105030



[Handwritten signature]

144-75-250067

[Handwritten signature]

144-70-131580

FAZAL QADIR
 General Councillor
 Union Council Darband.

صدا - ۱۵۴
 صدیقہ افضل نامہ درہندہ و صدیقہ کونڈہ درہندہ شہین صدیقہ کونڈہ و صدیقہ گل کسان درہندہ

کہ سہی کہ سعید ولد فضل فتح سکر درہندہ لہندہ صدیقہ صاحبہ شہین

مہتمم لہندہ کا آبا و اجداد لہندہ شہین باشندے ہیں

سہیل کا دار کا شناسا فتح مارڈ عند ۱۶۶-۳۴-۵۳۶۶۵۹ ع ۱۶۶-۳۴-۵۳۶۶۵۹ ع

۲۲/۱۲/۲۱

[Handwritten signature]
 22/12/2021

OFFICE OF THE ASSISTANT DIRECTOR LG & RDD, HANGU

Dated 23/12/2015

No. 124 -AD/LG & RDD (H)

E-14

ORDER

Consequent upon the decisions of the Department Selection Committee meeting held on 18th, 19th, 21st and 22nd September 2015 and 5th -7th December 2015 under the chairmanship of Deputy Commissioner Hangu, the following candidates are hereby selected and appointed as Village/Neighborhood Council Secretary (BPS-07) against the vacant post of Secretary in each Village/Neighborhood Council in the District, noted against, with immediate effect.

#	Name	Father Name	Ward	V/N Council
1	Umer Farooq	Zalib Jan	Raisani	Babar Mela
2	Rasool Khan	Fazal Jawan	Kach	Kach
3	Ajmal Khan	Ashraf Khan	Kach	Mardu Khel
4	Atif Ghani	Muhammad Ghani	Kach	Spin Khawry
5	Muhammad Iqbal Khan	Khial Jamal	Kach	Wach Bazaar
6	Badar Hilal Khan	Muhammad Hilal Khan	Khan Bari	Gul Bagh
7	Bangash	Irfan Ullah	Khan Bari	Muslim Abad
8	Danish Sheharyar Khan	Abdul Manan	Ganjano Kali	Ganjano Kali
9	Muhammad Saleem	Javed Akber	Kotki	Bagato
10	Zeesha Akber	Alif Jahan Badshah	Kotki	Chamba Gul
11	Muhammad Najeeb Ur Rehman	Mir Alam Shah	Kotki	Lakhti Banda
12	Alamzeb Khan	Muhammad Khaliq	Kotki	Warasta
13	Raza Ullah	Said Habib	Darband	Darband
14	Asad Habib	Hamid Gul	Darband	Samaha
15	Abdullah Khan	Mohammad Rafiq	Balyamina	Alwara Mela
16	Mohsin Khan	Sahib Khan	Balyamina	Bilyamina
17	Abid Rehman	Sahib Khan	Toghserai	Togh Sarai
18	Musharaf Ud Din	Lais Zadin	Toghserai	Anar China
19	Yaseen Faraz	Eal Faraz	Muhammad Khawja	Khattak Banda
20	Muhammad Irshad	Seyal Muhammad	Muhammad Khawja	Muhammad Khawja
21	Abid Ur Rahman	Abdul Hussain	Muhammad Khawja	Muhammad Khawja
22	Muhammad Rafique	Muhammad Rafique	Muhammad Khawja	Muhammad Khawja
23	Atta Ur Rehman	Zahir Rehman	Kahi	Machin Banda
24	Zakir Rehman	Meena Gul	Kahi	Lucky Banda
25	Farman Ullah	Wakeel Ur Rehman	Kahi	Daroni Banda
26	Zakir Ullah	Gul Wai Khan	Doaba (Tc Urban)	Kahi
27	Darvaish Ahmad	Umar Siddique	Doaba (Tc Urban)	Doaba-I
28	Shahid Umar	Taj ur Rehman	Doaba (Tc Urban)	Sarozai
29	Akbar Sadiq	Muhammad Tariq	Doaba (Tc Urban)	Doaba-II
30	Zahid Ullah	Maaseed Gul	Naryab-I	Naryab
31	Rafi Ullah	Kamin Gul	Naryab-I	Sangirh Rehmat Abad
32	Waqar Ahmad	Mughal Badshah	Naryab-II	Shanawari Naryab
33	Altaf Ahmad	Fazal Manan	Naryab-II	Zargeri
34	Abdul Wahab	Noor Ajab	Naryab-II	Chappri
35	Umer Khan	Khooza Bagh	Karbogha	Bar Kalay
36	Inayat Ullah	Janat Mir	Karbogha	Karbogha Sharif
37	Said Gul	Wali Jan	Karbogha	Mazrin Kaly
38	Farman Ullah		Karbogha	Darshi Matu Khel

ATTESTED

ATTESTED

جناب ڈپٹی کمشنر صاحب ڈسٹرکٹ ہنگو

(15)

عنوان :- ویلج کونسل سیکرٹری تقرری میں شفاف میرٹ بارے تحقیقات کرنے کی استدعا

F- (15)

جناب عالی!

گزرش کی جاتی ہے کہ درخواست گزار نے ویلج کونسل سیکرٹری کے پوسٹ کے لئے کاغذات جمع کئے تھے جس میں درخواست گزار میرٹ لسٹ میں N.T.S کی بنیاد پر سرفہرست تھا۔ N.T.S ٹیسٹ 15 جولائی 2015 اور پریکٹیکل ٹیسٹ 19 ستمبر 2015 کو ہوا جبکہ انٹرویو 6 دسمبر 2015 کو ہوئی۔

جناب والا۔

انٹرویو کے لئے امیدواران کو Letter بھیج دیئے گئے تھے۔ جس میں یہ واضح طور پر ہدایت دی گئی تھی کہ انٹرویو کے دن اپنے ساتھ مکمل original documents اور ایک کاپی جناب D.C صاحب کیساتھ جمع کریں۔ جس میں اسد حبیب والد سید حبیب نامی امیدوار ویلج کونسل (در بند) کے پاس کاغذات مکمل ہونا تو درکنار۔۔۔ بلکہ اس وقت تک اسکا ڈسٹرکٹ ڈومیسائل بنا بھی نہیں تھا۔ ڈومیسائل نہ ہونے کی وجہ سے مذکورہ امیدوار کو انٹرویو سے نکالا گیا تھا جبکہ مذکورہ امیدوار کو انٹرویو سے نکال کر اسے کس بنیاد پر تقرر کیا گیا ہے۔

لہذا التجا کی جاتی ہے کہ درخواست گزار کیساتھ انصاف اور مذکورہ امیدوار کی تقرری پر نظر ثانی کی جائے۔

سائل تادم حیات دُعا گو رہیگا۔

عین نوازش ہوگی۔

العارض

تاریخ: 31/12/2015

آپ کا تابع فرمان مسی محمد سعید ولد خیال حکیم ساکن در بند ہنگو۔

0333-5011402

Dairy No 2279

Date 31-12-015

کاپی برائے اطلاع:-

جناب صوبائی سیکرٹری KPK

کمپلیٹ سیل KPK

ڈسٹرکٹ ناظم ہنگو۔

ڈسٹرکٹ نائب ناظم ہنگو۔

ATTESTED

ATTESTED

BEFORE THE PESHAWAR HIGH COURT PESHAWAR

G-16

WRIT PETITION NO. 2174 P/2016



Mr. Mohammad Saeed S/O Khayal Hakeem,
R/O Village Darband, P/O Hangu,
Tehsil and District Hangu

Petitioner

VERSUS

- 1- The Government of Khyber Pakhtunkhwa through Secretary Local Government and Rural Development Department, Khyber Pakhtunkhwa, Peshawar.
- 2- The Director General, Local Government and Rural Development Department, Khyber Pakhtunkhwa, Peshawar.
- 3- The Assistant Director, Local Government and Rural Development Department, District Hangu.
- 4- The Deputy Commissioner Hangu, District Hangu.
- 5- Mr. Asad Habib S/O Said Habib, Village Secretary Darband, C/O Assistant Director LG&RD Department, District Hangu.

..... Respondents

WRIT PETITION UNDER ARTICLE 199 OF THE CONSTITUTION OF ISLAMIC REPUBLIC OF PAKISTAN 1973 AS AMENDED UPTO DATE

R/SHEWETH:
ON FACTS:

Brief facts giving rise to the present Writ petition are as follows:

- 1- That petitioner is the bonafide resident village Darband, Tehsil & District Hangu and belongs to respectable family. Copies of the CNIC and Domicile are attached as annexure

A & B.

- 2- That respondent No.2 through advertisements dated 27.6.2015 and 11.4.2015 invited applications from the suitable candidates for the posts of Village Secretary/ Neighborhood Secretary in the Local Government and Rural Development Department. Copies of the advertisements are attached as Annexure

C & D.

That petitioner being local resident of village Council Darband applied for the said post having the requisite qualifications and experience. Copies of the educational testimonials are attached as annexure

E.

ATTESTED

FILED TODAY

Deputy Registrar

04 JUN 2016

ATTESTED

EXAMINER
Peshawar High Court

11 DEC 2017

WP2174P2016CF

**JUDGMENT SHEET
IN THE PESHAWAR HIGH COURT,
MINGORA BENCH (DAR-UL-QAZA), SWAT
(Judicial Department)**

**W.P No. 228-M/2014
With Interim Relief**

*Mst. Husna Razzaq d/o Abdur Razzaq, r/o Village Morani Payeen,
Tehsil Balabat, District Dir Lower.*

(Petitioner)

Versus

*Government of Khyber Pakhtunkhwa through Secretary (E & SE)
Department, Khyber Pakhtunkhwa, Peshawar and 17 others*

(Respondents)

Present: *Nemo for petitioner.*

*Mr. Rafiq Ahmad, Assistant A.G. alongwith
Muhammad Shoaib, A.D.O, Dir Lower for official
respondents.*

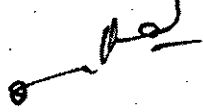
Date of hearing: **16.10.2017**

JUDGMENT

IJAZ ANWAR, J.- Vide our detailed judgment in the connected W.P No. 227-M/ 2014, we allow this petition with direction to the official respondents to allow appointment of the petitioner against the post of P.E.T by considering her professional qualification of S.D.P.E and M.Sc in Health and Physical Education into her accumulative score. Needless to observe that the petitioner shall be appointed w.e.f the date her other colleagues were appointed pursuant to the same advertisement. The petitioner shall be entitled to seniority but not to arrears of salaries. Moreover, the candidates/private

respondents, if any, already appointed shall not be disturbed.

Announced
Dt: 16.10.2017


Mohammad Ibrahim Khan
JUDGE


Ijaz Anwar
JUDGE

Office
19/10

**JUDGMENT SHEET
IN THE PESHAWAR HIGH COURT,
MINGORA BENCH (DAR-UL-QAZA), SWAT
(Judicial Department)**

W.P No. 227-M/2014
With Interim Relief

*Mst. Saima Gul w/o Fayaz Ali Shah r/o Bambolai Payeen, Tehsil
Adenzai, District Dir Lower.*

(Petitioner)

Versus

*Government of Khyber Pakhtunkhwa through Secretary
Elementary and Secondary Education, Civil Secretariat Peshawar
and 04 others.*

(Respondents)

Present:

Abdul Qayum, Advocate for petitioner.

*Mr. Rafiq Ahmad, Assistant A.G. alongwith
Muhammad Shoaib, A.D.O, Dir Lower for official
respondents.*

W.P No. 228-M/2014
With Interim Relief

*Mst. Husna Razzaq d/o Abdur Razzaq, r/o Village Morani Payeen,
Tehsil Balabat, District Dir Lower.*

(Petitioner)

Versus

*Government of Khyber Pakhtunkhwa through Secretary (E & SE)
Department, Khyber Pakhtunkhwa, Peshawar and 17 others*

(Respondents)

Present:

Nemo for petitioner.

*Mr. Rafiq Ahmad, Assistant A.G. alongwith
Muhammad Shoaib, A.D.O, Dir Lower for official
respondents.*

W.P No. 251-M/2014
With Interim Relief

*Rabia Gul d/o Gul Sharif Khan r/o Mayar, Tehsil Samar Bagh,
District Dir Lower.*

(Petitioner)

Versus

*Government of Khyber Pakhtunkhwa through Secretary
Elementary and Secondary Education, Civil Secretariat Peshawar
and 04 others*

(Respondents)

Present:

Mr. Abdul Qayum, Advocate for petitioner.

*Mr. Rafiq Ahmad, Assistant A.G. alongwith
Muhammad Shoaib, A.D.O, Dir Lower for official
respondents.*

W.P No. 263-M/2014
With Interim Relief

*Mst. Aneela Sarwat w/o Waleed Zaman r/o Mohallah
Akhunzaddgan, Mayar, Tehsil Samar Bagh, District Dir Lower.*
(Petitioner)

Versus

*Government of Khyber Pakhtunkhwa through Secretary
Elementary and Secondary Education, Civil Secretariat Peshawar
and 04 others*

(Respondents)

Present:

Mr. Abdul Qayum, Advocate for petitioner.

*Mr. Rafiq Ahmad, Assistant A.G. alongwith
Muhammad Shoaib, A.D.O, Dir Lower for official
respondents.*

Date of hearing: **16.10.2017**

JUDGMENT

IJAZ ANWAR, J.- Through this single judgment we intend to dispose of this petition i.e W.P No. 227-M/2014 as well as the connected petitions bearing W.P No. 228-M/2014, W.P No. 251-M/2014 and W.P No. 263-M/2014, as common questions of law and facts are involved in all these petitions.

2. As per assertions of petitioner in the instant writ petition, the respondent department advertised various posts including the post of Physical Education Teacher (P.E.T BPS-15) in G.G.M.S Bambolai, Dir Lower through advertisement on 5th January, 2014 published in daily "Aaj". Petitioner, being an active player of different games in her educational career and also an

athlete besides, having the requisite qualification of M.Sc and Senior Diploma in Physical Education (S.D.P.E) alongwith experience applied for the said post. She secured 51/100 marks in NTS and obtained accumulative score of 104.34 and was optimistic for her appointment but astonishingly private respondent No.5 Mst. Lubnaz Begum was appointed as P.E.T in the mentioned school and the petitioner was ignored.

3. Petitioner Mst. Husna Razzaq in W.P No. 228-M/2014 has averred that she applied for the post of P.E.T having the requisite qualification and experience in the advertisement published on 05.01.2014 in daily "Aaj". She scored 107.24 marks in the NTS and stood 2nd amongst the candidates for the said post but private respondents No.4 to 18 were appointed and the petitioner was ignored despite she was higher in qualification than the candidates appointed vide order dated 03.05.2014.

4. Mst. Rabia Gul, who has filed W.P No. 251-M/2014, has asserted that she applied for the post of P.E.T in five different schools as per policy. After passing the N.T.S, the petitioner scored

first position in G.G.M.S Shontala with accumulative score of 97.4 marks. She also signed an offer letter dated 29.04.2014 issued by Respondent No.3 for her appointment in G.G.H.S Badin but private respondents No. 4 and 5 were appointed as P.E.Ts in the mentioned schools and the petitioner was not considered for her appointment.


5. Similarly, petitioner Mst. Aneela Sarwat in W.P No. 263-M/2014 has averred that the respondent department advertised the posts of P.E.T. (female) vide advertisement dated 04.01.2014 published in Daily Express. Petitioner having Senior Diploma in Physical Education and Master degree in Health and Physical Education, applied for five schools through N.T.S. and remained successful in the said test. Thereafter she was called for interview. Grievance of the petitioner is that she obtained accumulative score of 81.34, however, her Senior Diploma in Physical Education was not considered, hence, private respondents No. 4 & 5 were selected and the petitioner was ignored despite she was higher in qualification.

6. Arguments heard. Record perused.

7. The common issue involved in all the cases is that petitioners are holders of the qualification of Senior Diploma in Physical Education (S.D.P.E) while the pre-requisite qualification for the post of P.E.T (BPS-15) has been mentioned in the advertisement as B.A/B.Sc from a recognized university with one year Junior Diploma in Physical Education (JDPE) or equivalent certificate from Army or other equivalent qualification. Admittedly, the petitioners have found their place in the appointment zone through their merit, however, they were denied appointment for not holding the qualification of Junior Diploma in Physical Education.

8. The learned counsel for the petitioners has referred to different judgments of this Court whereby the same issue has repeatedly been decided in a number of cases and many a time it was maintained by the apex Court and it was held therein that Senior Diploma in Physical Education (S.D.P.E) is a higher diploma and the candidates possessing higher qualification cannot be deprived of their

appointment against the posts of P.E.T. We have noticed that despite the decisions of this Court which have been maintained upto the apex Court, the respondents are continuously not adhering to the judgments of this Court that is why the candidates are approaching this Court again and again for this issue. The august Supreme Court of Pakistan in a celebrated judgment rendered in the case titled "Hameed Akhtar Niazi V/s. The Secretary, Establishment Division, Government of Pakistan and others" (1996 SCMR 1185) held that:-



"We may observe that if the Tribunal or this Court decides a point of law relating to the terms of service of a civil servant which covers not only the case of the civil servant who litigated, but also of other civil servants, who may have not taken any legal proceedings, in such a case, the dictates of justice and rule of good governance demand that the benefit of the above judgment be extended to other civil servants, who may not be parties to the above litigation instead of compelling them to approach the Tribunal or any other legal forum".

The same view was followed by the apex Court in another judgment in the case titled "Government of Punjab, through Secretary Education, Civil Secretariat, Lahore and others V/s.

Sameena Parveen and others" (2009
SCMR 1).

8. We have also noticed from perusal of the record that petitioners in all these writ petitions were not allowed the marks by respondents for holding the degree of Master of Health and Physical Education and they have also not considered their Senior Diploma in Physical Education. We, thus, are left with no other choice but to allow all these petitions with direction to the official respondents to allow appointment of petitioners against the posts of P.E.T by considering their respective professional qualification of S.D.P.E and M.Sc in Health and Physical Education into their accumulative scores. Needless to observe that the petitioners shall be appointed w.e.f the date their other colleagues were appointed pursuant to the same advertisement. They shall be entitled to seniority but not to arrears of salaries. Moreover, the candidates/private respondents, if any, already appointed shall not be disturbed.

9. Before parting with this judgment we may observe that this Court in judgment dated

16.05.2013 rendered in the case titled "*Naqib Sultan V/s. Govt. of Khyber Pakhtunkhwa*" (W.P No. 264-M/2011), judgment dated 31.03.2004 in the case titled "*Jan Muhammad and others V/s. Govt. of NWFP and others*" (W.P No.1472/2003), judgment dated 28.06.2016 in the case titled "*Ijaz-ul-Haq V/s. Govt. of Khyber Pakhtunkhwa and others*" (W.P No. 644-P/2016), judgment dated 24.02.2009 in case titled "*Taj Pari V/s. Govt. and others*" (W.P No. 864/2007), judgment dated 28.05.2004 in case titled "*Masood Khan V/s. Govt. of NWFP and others*" (W.P No. 1484/2003) and judgment dated 02.05.2000 in case titled "*Muhammad Azam and others V/s. Govt. of NWFP and others*" (W.P No. 652-M/1999) discarded the objections of respondent department regarding non considering the qualification of S.D.P.E for the post of P.E.T and those judgments were either maintained by the apex Court or no appeal has been filed thereagainst and attained finality. For ready reference one judgment is referred which was delivered on 27.06.2006 by the apex Court in the case titled i.e "*Umair Wahid V/s. Govt of NWFP*" (C.P No. 193-P/2006) but

despite this the department is repeating this objection. We, therefore, direct the Director of Elementary and Secondary Education to circulate this judgment to all the District Officers of Education Department of the Province with strict directions to consider the holders of higher qualification of S.D.P.E and M.Sc in Physical Education for the posts of P.E.T and not to force the candidates for approaching the Courts again and again for the decided issue.

Announced
Dt: 16.10.2017

Mohammad Ibrahim Khan
JUDGE

Ijaz Anwar
JUDGE

Ahmed
19/10

- 4- That petitioner after participated in the written Test and interview was declared successful and he was subsequently placed at serial No.14 of the merit list and as such the private respondent having below in merit was placed at serial No.20 of the said merit list. That it is pertinent to mention that at the time of advertisement, test and interview the private respondent was the domicile holder of Aurakzai Agency and not the domicile holder of District Hangu. Copies of the merit list and domicile verification letter are attached as annexure **F & G.**
- 5- That private respondent No.4 quite illegally managed to get the Domicile of District Hangu vide dated 15.12.2015 before the issuance appointment order though at the time of advertisement and selection process the petitioner have no domicile of District Hangu but the respondents allow the petitioner to participate in the selection process. Copy of the Domicile is attached as annexure **H.**
- 6- That inspite of having better merit position and having higher qualifications than that of private respondent No.4, the respondent No.3 inspite of knowing the fact that the private respondent is having dual domicile holder appoint the private respondent vide order dated 23.12.2015. Copy of the appointment order is attached as annexure **I.**
- 7- That petitioner feeling aggrieved filed representation before the respondent No.4 against the impugned appointment of the private respondent but no heed was paid by the respondent No.3 to the said request of the petitioner though the respondent No.4 also seeks guidance from the respondent No.2 but still the respondents are not willing to appoint the petitioner. Copies of the representation and letter are attached as annexure **J & K.**
- 8- That petitioner feeling aggrieved and having no other remedy filed the present writ petition on the following grounds amongst the others.

ATTESTED

GROUNDS:

- A- That the impugned appointment dated 23.12.2015 of private respondent No.5 issued by the respondent No.3 are against the law, facts, norms of natural justice and materials on the record, hence not tenable and liable to be set aside.
- B- That petitioner has not been treated by the respondent Department in accordance with law and Rules on the subject noted above and as such the respondents

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ATTESTED
EXAMINER
Peshawar High Court
17 DEC 2017

WP2174P2018CF

violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973. (18)

- C- That the respondent No.3 inspite of knowing the fact that the private respondent No.5 have below in merit as well as dual domicile holder has appointed the private respondent in utter disregard of law and prevailing rules.
- D- That the said impugned appointment are based on political whims and wishes, therefore the same are not tenable in eyes of law and liable to be set aside.
- E- That the respondents discriminated the petitioner on the subject noted above and as such the respondents violated the principle of natural justice.
- F- That not appointing the petitioner on the post of Village Secretary inspite of having better merit position than that of private respondent, the respondent No.3 totally violated the selection criteria and appointment, promotion and transfer Rules 1989.
- G- That the respondent Department acted in arbitrary and malafide manner by ignoring the petitioner from appointment on the post of village Secretary.
- H- That petitioner seeks permission to advance other grounds and proofs at the time of hearing.

It is therefore most humbly prayed that on acceptance of this writ petition the appointment order dated 23.12.2015 of the private respondent No.5 may very kindly be set aside and the respondents may please be directed to appoint the petitioner on the post of Village Secretary (BPS-07) with all back benefits. Any other remedy which this august Court deems fit that may also be awarded in favor of the petitioners.

INTERIM RELIEF:

That the operation of the appointment order dated 23.12.2015 of the private respondent No.5 may very kindly be suspended till the disposal of this writ petition.

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ATTESTED
EXAMINER
Deputy High Court
11 DEC 2017

PETITIONER



19

MOHAMMAD SAEED

THROUGH:



NOOR MOHAMMAD KHATTAK
ADVOCATE HIGH COURT
(0345-9383141)

VERIFICATION:

It is verified that no other earlier writ petition, was filed between the parties.



DEPONENT

LIST OF BOOKS:

1. CONSTITUTION OF PAKISTAN.
2. SERVICES LAWS BOOK.
3. ANY OTHER CASE LAW AS PER NEED.

ATTESTED



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04 JUN 2016

ATTESTED



EXAMINER
Deputy Registrar High Court
11 DEC 2017

WP2174P2016CF

BEFORE THE PESHAWAR HIGH COURT PESHAWAR

20

WRIT PETITION No. 2174 P/2016

MUHAMMAD SAEED

VS

GOVT: OF KPK

AFFIDAVIT

I Muhammad Saeed S/O Khial Hakim R/O Village Darband District Hangu do hereby solemnly affirm that the contents of this implementation petition are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Court.



MUHAMMAD SAEED
NIC: 14101-2137347-1

No.....	<u>240</u>
Certified that the above was verified on solemnly affirmation before me in office, this..... <u>3rd</u>	
day of.....	<u>Jun</u> <u>16</u> <u>Mahid Gul</u>
at.....	<u>Khan</u> <u>Haveli</u>
who was in.....	<u>EC</u>
Who is personally.....	<u>3/6/2016</u>
Commissioner	
Peshawar, Peshawar.	

ATTESTED



FILED TODAY
Deputy Registrar
04 JUN 2016

ATTESTED
PESHAWAR HIGH COURT
11 DEC 2016

BEFORE THE PESHAWAR HIGH COURT PESHAWAR

21

WRIT PETITION NO. 2174 P/2016

Mohammad Saeed

VS

Govt: of KPK

ADDRESSES OF PARTIES

Mr. Mohammad Saeed S/O Khayal Hakeem,
R/O Village Darband, P/O Hangu,
Tehsil and District Hangu **Petitioner**

VERSUS

- 1- The Government of Khyber Pakhtunkhwa through Secretary Local Government and Rural Development Department, Khyber Pakhtunkhwa, Peshawar.
- 2- The Director General, Local Government and Rural Development Department, Khyber Pakhtunkhwa, Peshawar.
- 3- The Assistant Director, Local Government and Rural Development Department, District Hangu.
- 4- The Deputy Commissioner Hangu, District Hangu.
- 5- Mr. Asad Habib S/O Said Habib,
Village Secretary Darband, C/O Assistant Director LG&RD Department, District Hangu.

..... **Respondents**

ATTESTED



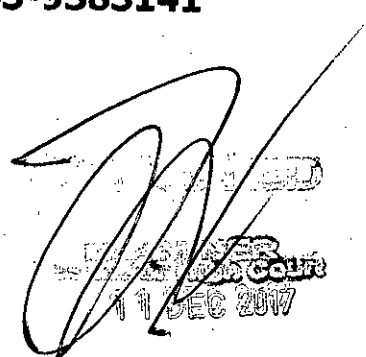
FILED TODAY
Deputy Registrar
04 JUN 2016

PETITIONER

THROUGH:
NOOR MOHAMMAD KHATTAK
ADVOCATE
MOBILE NO.0345-9383141



WP2174P2016CF



PESHAWAR HIGH COURT
11 DEC 2017

H (22)

JUDGMENT SHEET
IN THE PESHAWAR HIGH COURT, PESHAWAR
JUDICIAL DEPARTMENT

JUDGMENT

W.P.NO. 2174-P/2016 with I.R.

Date of hearing: 11-10-2017

Petitioner (Muhammad Saeed) By Mr. Noor Muhammad ~~Khan~~
Advocate.

Respondents (Government of KP) By Mr. Moeen-ud-Din
Hamayun, A.A.G.



MUHAMMAD GHAZANFAR KHAN, J.- Through instant petition under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973, Muhammad Saeed, petitioner herein, has sought the following relief:-

“It is therefore most humbly prayed that on acceptance of this writ petition the appointment order dated 23.12.2015 of the private respondent No.5 may very kindly be set aside and the respondents may please be directed to appoint the petitioner on the post of Village Secretary (BPS-07) with all back benefits. Any other remedy which this august Court deems fit that may also be awarded in favor of the petitioners”.

2. Brief facts of the case, as narrated in the petition, are that Director General, Local Government and Rural Development Department, Khyber Pakhtunkhwa, Peshawar (Respondent No.2) advertised certain posts of Village Secretary/Neighborhood Secretary through NTS; that the petitioner being eligible applied for the said post; that after test and interview, merit list was prepared wherein petitioner was placed at Sr. 14

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ATTESTED

EXAMINER
Peshawar High Court
11 DEC 2017

23

whereas respondent No.5 was placed at Sr. No.20. It has been alleged that at the time of advertisement, test and interview, respondent No.5 was domicile holder of Aurakzai Agency and not that of District Hangu, which he illegally managed to get just before issuance of appointment order. That in spite of having better merit position and having higher qualifications, instead of the petitioner, respondent No.5, who admittedly is dual domicile holder, has been appointed vide order dated 23.12.2015. Feeling aggrieved, the petitioner submitted a representation to respondent No.4 but his request was not heeded to. Now the petitioner has filed instant petition for redressal of his grievance.

Comments were asked for from the respondents which have been filed.

3. We have heard arguments of Mr. Noor Muhammad Khattak, Advocate, for the petitioner and Mr. Moeen-ud-Din Hamayun, A.A.G., for the official respondents.

4. The post of village secretary was advertised and it was specifically mentioned in the advertisement that the candidate belonging to concerned village/ neighborhood council would be preferred. The petitioner surely is resident of Darband, Tehsil and District Hangu as is evident from his CNIC and domicile issued to him by the competent authority on

ATTESTED

[Signature]

ATTESTED

EXAMINER
Peshawar High Court

17 DEC 2017.

22.1.2002. His educational certificates do support his contention.

24

5. On the other hand, respondent No.5 though was employed on the basis of a domicile which was issued to him on 15.12.2015 about eight days prior to issuance of appointment order dated 23.12.2015. Another fact which is apparent on the record is that prior to the above said domicile of respondent No.5, he had obtained domicile of Aurakzai Agency from Political Agent on 14.4.2010. This fact was confirmed by Political Agent Aurakzai Agency through his letter No. 1012-PA/AN/Domicile:verf/09 dated 2.3.2016. No doubt, a person can relinquish his permanent abode but according to rules, he shall have to first cancel his previous domicile and then can get a new one on the basis of cancelled domicile. In the instant case, respondent No.5 has never cancelled his previous domicile certificate and got the new domicile of Hangu District some eight days prior to his appointment which shows that the second domicile has only been managed through illegal means just to get job by depriving the rightful person. There is a report available on the file dated 27.4.2017 wherein Zahid Shah, Nazim Village Council Darband, Tehsil and District Hangu, vide letter No. 30/2017, has reported that respondent No.5 is not attending the office without any information.

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25

6. The documentary evidence available on the record depicts that petitioner is the rightful claimant and is resident of district Hangu and respondent No.5 is not permanent resident of Darband, District Hangu. So for appointment against the post of village council secretary, the respondent No.5 has fraudulently shown himself to be the resident of District Hangu.

7. Resultantly, we accept this writ petition, set aside order dated 23.12.2015 to extent of appointment of respondent No.5 and direct the respondents to appoint the petitioner against the post of village secretary BPS-7.

SOH-Roshid ul Arsy
SR Muhammad Saifullah

Announced:
11-10-2017

[Signature]
JUDGE

JUDGE



(D-1)
Muzim-ul-Haq, Justice (Retired) (Senior Judge)
Muzim-ul-Haq, Justice (Retired) (Senior Judge)

ATTESTED

[Signature]

Office
06/12/2017

No. 10620

Date of Presentation of Application 06/12/17

No of Pages 107

Copying Exp. 40-00

Urgent Fee 112/17

Total 112/17

Date of Presentation of Copy 11/12/17

Date of Delivery of Copy 11/12/17

Received By [Signature]

CERTIFIED TO BE TRUE COPY

Examiner
Peshawar High Court, Peshawar
Authorized Under Article 87 of
the Qanun-e-Shahadat Order 1984
11 DEC 2017



OFFICE OF THE ASSISTANT DIRECTOR
LG & RDD HANGU

No. 62 /AD LG&RDD(H)

Date 19 - 01 /2018

I - (26)

ORDER

Consequent upon the decision of Peshawar High Court Peshawar announced dated 11/10/2017 in the writ petition No. 2174P/2016, the undersigned is pleased to appoint Mr. Mohammad Saeed S/O Khayal Hakeem r/o Village Darband, Tehsil & District Hangu as Secretary, Village Council (BPS -07) with immediate effect.

Terms & Conditions:

1. The appointee will be governed by such rules & regulations issued by the Government or may be issued hereinafter for category of post to which he belongs.
2. Before assumption of charge, the appointee will provide Medical Fitness Certificate from the Medical Superintendent, Shaheed Farid Khan Hospital Hangu to the office of the Assistant Director, LG&RDD, Hangu.
3. The appointee will remain on probation period for one year.
4. In case the appointee wishes to resign from service at any time, one month prior notice should be necessary or in lieu thereof one month pay shall be forfeited.
5. The documents / particulars reflected /submitted will be abided upon me, if found wrong or bogus.


ASSISTANT DIRECTOR
LG&RDD HANGU

No. 62 /AD LG&RDD(H)

Date 19 - 01 /2018

Copy forwarded to:-

1. The Director General, LG & RDD, Khyber Pakhtunkhwa, Peshawar.
2. The Registrar, Peshawar High Court Peshawar.
3. The District Nazim, Hangu.
4. The Deputy Commissioner, Hangu.
5. The District Accounts Officer, Hangu.
6. The Supervisor, LG&RDD, Hangu.
- ✓ 7. Mr. Mohammad Saeed S/O Khayal Hakeem r/o Village Darband, Tehsil & District Hangu

ATTESTED




ASSISTANT DIRECTOR
LG&RDD HANGU

To,

J- (27)

The Director General,
Local Government & Rural Development Department,
Khyber Pakhtunkhwa, Peshawar.

Subject:

DEPARTMENTAL APPEAL AGAINST THE IMPUGNED ORDER DATED 19.1.2018 WHEREBY THE APPELLANT HAS BEEN APPOINTED ON THE POST OF VILLAGE SECRETARY (BPS-07) WITH IMMEDIATE EFFECT RATHER THAN WITH RETROSPECTIVE EFFECT I.E. W.E.F. 23.12.2015.

Respected Sir,

It is most respectfully stated that your good self through advertisements dated 27.06.2015 and 11.4.2015 invited applications from the suitable candidates for the posts of Village Secretary/Neighborhood Secretary in the Local Government and Rural Development Department. I was being local resident of village Council Darband applied for the above mentioned post having the requisite qualifications and experience and after participation in the written test and interview was declared successful and he was subsequently placed at serial No.14 of the merit list but inspite of having better merit position and having higher qualification I was ignored from the appointment against the above mentioned post and appointed another person namely Mr Asad Habib S/O Said Habib, village Secretary Darband who was not entitled for the said post on the reason that he was belonging to Orakzai Agency. I was feeling from the appointment order of the above mentioned person filed writ petition No. 2174/2016 before the Honorable Peshawar High Court Peshawar which was accepted in favor of the me vide judgment dated 11.10.2017 and in pursuance of the above mentioned judgment I was appointed against the post of Village Secretary vide order dated 19.01.2018 with immediate effect while the appellant is entitle for appointment on the said post with retrospective effect i.e. 23.12.2015. I am further feeling aggrieved from the above mentioned appointment order i.e. 19.01.2018 filed this Departmental appeal before your good self

It therefore, most humbly prayed that on acceptance of this Departmental appeal the impugned order dated 19.01.2018 may kindly be modify/rectify to the extent of the appellant may be allowed/granted back benefits including seniority w.e.f. 23.12.2015 instead of 19.01.2018. Any other remedy which your good self deems fit that may also be awarded in favor of me.

Dated: 16.02.2018.

Your Obediently


MUHAMMAD SAEED

Secretary Village Council (BPS-07),
O/O the Assistant Director, LG&RD Hangu

VAKALATNAMA

Before the KP Service Tribunal, Peshawar

OF 2018

Muhammad Saeed

(APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

Local Govt. Deptt.

(RESPONDENT)
(DEFENDANT)

I/We Muhammad Saeed

Do hereby appoint and constitute **NOOR MOHAMMAD KHATTAK, Advocate, Peshawar** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate Counsel on my/our cost. I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter.

Dated. ____/____/2018



CLIENT


ACCEPTED

NOOR MOHAMMAD KHATTAK


MUHAMMAD MAAZ MADNI
ADVOCATES

OFFICE:

Flat No.3, Upper Floor,
Islamia Club Building, Khyber Bazar,
Peshawar City.
Phone: 091-2211391
Mobile No. **0345-9383141**



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

SERVICE APPEAL NO.1358/2018.

Muhammad Saeed, Secretary Village Council (BPS-07)
Office the Assistant Director,
LG&RDD, District Hangu.....**APPELLANT.**

VERSUS

1. Secretary LG, E&RDD.
2. Director General, LG, E&RDD.
3. Assistant Director, LG&RD Hangu.....**RESPONDENTS**

REPLY OF THE RESPONDENTS.

Respectfully Sheweth: -

PRELIMINARY OBJECTIONS

1. That the appellant has got no cause of action to file instant appeal.
2. That the appellant has got no locus standi.
3. That the instant appeal is not maintainable.
4. The appellant has not exhausted departmental remedy.
5. That the instant appeal is time barred.

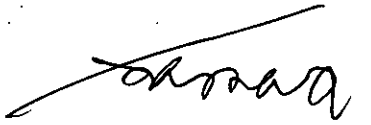
ON FACTS.

1. Correct.
2. Correct.
3. Incorrect. The list mentioned by the appellant in which he is at serial No.14 is not the merit list as it is the result of written test conducted by NTS before the interview.
4. Incorrect. As per available record, Mr. Asad Habib was on top of the merit list, recommended by the Selection & Recruitment Committee and appointed as Secretary Village Council Darband. (**Annexure A**)
5. Incorrect. No such departmental appeal of the appellant is available on office record.
6. In implementation of the Judgement dated 11-10-2017 of Peshawar High Court, (**Annexure-B**) announced in Writ Petition of the appellant, the appointment Order of Mr. Asad Habib S/O Said Habib was cancelled **vide** (**Annexure-C**) and instead Mr. Muhammad Saeed S/O Khyal Hakeem R/O Village Darband Tehsil & District Hangu was appointed as Secretary Village Council (BPS-07) Vide Order No. 62/AD LG&RDD(H) dated 19-01-2018 with immediate effect (**Annexure D**) which is ⁱⁿ consonance of the Judgement of the Peshawar High Court, Peshawar.
7. Incorrect. As already clarified in Para 5 above.

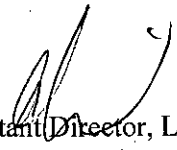
ON GROUNDS.

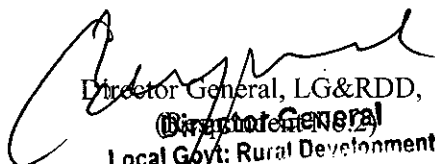
- A. Incorrect. The appointment order is a lawful document issued in light of the prevailing laws and rules i-e Civil Servants Appointment, Promotion and Transfer rules 1989 as well as judgment of the Peshawar High Court, Peshawar.
- B. Incorrect. The case of the appellant has been processed according to the rules and policy of the Provincial government in vogue.
- C. Incorrect. The appellant was appointed as Secretary Village Council (BPS-07) Vide Order No. 62/AD LG&RDD (H) dated 19-01-2018 with immediate effect as per law regulating services of the appellant.
- D. Incorrect. According to the Provincial Government Recruitment Policy, appointment and promotion always made with immediate effect.
- E. Incorrect. As replied at Para -D.
- F. The Judgment of Honorable Peshawar High Court, Peshawar dated 11-10-2017, was implemented in letter and spirit. The Government of Khyber Pakhtunkhwa has promulgated the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotions & Transfer) Rules 1989 which is liable to be implemented by all the departments in the Province. Under the said rules, it has clearly been provided that all appointments orders be issued with immediate effect. Therefore, this order was issued according to rules & regulations as well as policy of the Provincial Government in vogue.
- G. The additional grounds, if produced by the appellant will be replied at the time of arguments.

It is requested that this Honorable Service Tribunal may graciously dismiss the instant appeal with cost.


Secretary LG&RDD,
(Respondent No.1)

(SECRETARY)
Govt. of Khyber Pakhtunkhwa
Local Gov. Section Rural Dev:
Department


Assistant Director, LG&RDD, Hangu.
(Respondent No.3)
Assistant Director
LG & RDD Hangu


Director General, LG&RDD,
~~Director General~~
Local Govt: Rural Development
Khyber Pakhtunkhwa

H (22)

JUDGMENT SHEET
IN THE PESHAWAR HIGH COURT, PESHAWAR
JUDICIAL DEPARTMENT

JUDGMENT

W.P.NO. 2174-P/2016 with I.R.

Date of hearing: 11-10-2017

Petitioner (Muhammad Saeed) By Mr. Noor Muhammad Advocate.

Respondents (Government of KP) By Mr. Moeen-ud-Din Hamayun, A.A.G.



MUHAMMAD GHAZANFAR KHAN, J.- Through instant petition under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973, Muhammad Saeed, petitioner herein, has sought the following relief:-

"It is therefore most humbly prayed that on acceptance of this writ petition the appointment order dated 23.12.2015 of the private respondent No.5 may very kindly be set aside and the respondents may please be directed to appoint the petitioner on the post of Village Secretary (BPS-07) with all back benefits. Any other remedy which this august Court deems fit that may also be awarded in favor of the petitioners".

2. Brief facts of the case, as narrated in the petition, are that Director General, Local Government and Rural Development Department, Khyber Pakhtunkhwa, Peshawar (Respondent No.2) advertised certain posts of Village Secretary/Neighborhood Secretary through NTS; that the petitioner being eligible applied for the said post; that after test and interview, merit list was prepared wherein petitioner was placed at Sr. 14

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ATTESTED

EXAMINER
Peshawar High Court

11 DEC 2017

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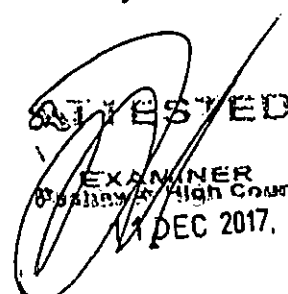
whereas respondent No.5 was placed at Sr. No.20. It has been alleged that at the time of advertisement, test and interview, respondent No.5 was domicile holder of Aurakzai Agency and not that of District Hangu, which he illegally managed to get just before issuance of appointment order. That in spite of having better merit position and having higher qualifications, instead of the petitioner, respondent No.5, who admittedly is dual domicile holder, has been appointed vide order dated 23.12.2015. Feeling aggrieved, the petitioner submitted a representation to respondent No.4 but his request was not heeded to. Now the petitioner has filed instant petition for redressal of his grievance.

Comments were asked for from the respondents which have been filed.

3. We have heard arguments of Mr. Noor Muhammad Khattak, Advocate, for the petitioner and Mr. Moeen-ud-Din Hamayun, A.A.G., for the official respondents.

4. The post of village secretary was advertised and it was specifically mentioned in the advertisement that the candidate belonging to concerned village/ neighborhood council would be preferred. The petitioner surely is resident of Darband, Tehsil and District Hangu as is evident from his CNIC and domicile issued to him by the competent authority on

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ATTESTED
 EXAMINER
 Peshawar High Court
 11 DEC 2017.


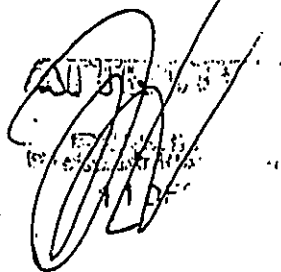
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22.1.2002. His educational certificates do support his contention.

5. On the other hand, respondent No.5 though was employed on the basis of a domicile which was issued to him on 15.12.2015 about eight days prior to issuance of appointment order dated 23.12.2015. Another fact which is apparent on the record is that prior to the above said domicile of respondent No.5, he had obtained domicile of Aurakzai Agency from Political Agent on 14.4.2010. This fact was confirmed by Political Agent Aurakzai Agency through his letter No. 1012-PA/AN/Domicile:verf/09 dated 2.3.2016. No doubt, a person can relinquish his permanent abode but according to rules, he shall have to first cancel his previous domicile and then can get a new one on the basis of cancelled domicile. In the instant case, respondent No.5 has never cancelled his previous domicile certificate and got the new domicile of Hangu District some eight days prior to his appointment which shows that the second domicile has only been managed through illegal means just to get job by depriving the rightful person. There is a report available on the file dated 27.4.2017 wherein Zahid Shah, Nazim Village Council Darband, Tehsil and District Hangu, vide letter No. 30/2017, has reported that respondent No.5 is not attending the office without any information.

ATTESTED

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6. The documentary evidence available on the record depicts that petitioner is the rightful claimant and is resident of district Hangu and respondent No.5 is not permanent resident of Darband, District Hangu. So for appointment against the post of village council secretary, the respondent No.5 has fraudulently shown himself to be the resident of District Hangu.

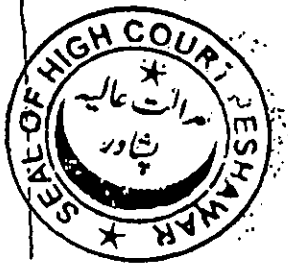
7. Resultantly, we accept this writ petition, set aside order dated 23.12.2015 to extent of appointment of respondent No.5 and direct the respondents to appoint the petitioner against the post of village secretary BPS-7.

Sd/- Abdul Arif
Sd/- Muhammad

Announced:
11-10-2017

Judge
JUDGE

JUDICIAL
VIA



ATTESTED

[Signature]

Office
06/12/2017

No. 10420

Date of Presentation of Application 20/12/17

No of Pages 10

Copying Fee 60-00

Urgent Yes

Total 112/17

Date of Receipt 11/12/17

Received by [Signature]

CERTIFIED TO BE TRUE COPY

Peshawar High Court, Peshawar
Authorized Under Article 87 of
The Constitution of Pakistan 1973

11 DEC 2017

[Signature]



OFFICE OF THE ASSISTANT DIRECTOR
LG & RDD HANGU

No. 61 /AD.LG&RDD(H)
Date 19-01 /2018

ORDER:

Consequent upon the decision of Peshawar High Court Peshawar announced dated 11/10/2017 in the writ petition No. 2174P/2016, the undersigned is pleased to cancel the appointment order No. 124/AD/LG&RDD(H) dated 23/12/2015, Serial No. 13 in respect of Mr. Asad Habib S/O Said Habib resident of Darband as Secretary, Village Council Darband with immediate effect.



ASSISTANT DIRECTOR
LG&RDD HANGU

No. 61 /AD LG&RDD(H)

Date 19-01 /2018

Copy forwarded to:-

1. The Director General, LG & RDD, Khyber Pakhtunkhwa, Peshawar.
2. The Registrar, Peshawar High Court Peshawar.
3. The District Nazim, Hangu.
4. The Deputy Commissioner, Hangu.
5. The District Accounts Officer, Hangu.
6. The Supervisor, LG&RDD, Hangu.
7. Mr. Asad Habib S/O Said Habib r/o Darband.


ASSISTANT DIRECTOR
LG&RDD HANGU



OFFICE OF THE ASSISTANT DIRECTOR
LG & RDD HANGU

No. 62 /AD LG&RDD(H)

Date 19 - 01 /2018

I-(26)

ORDER

Consequent upon the decision of Peshawar High Court Peshawar announced dated 11/10/2017 in the writ petition No. 2174P/2016, the undersigned is pleased to appoint Mr. Mohammad Saeed S/O Khayal Hakeem r/o Village Darband, Tehsil & District Hangu as Secretary, Village Council (BPS -07) with Immediate effect.

Terms & Conditions:

1. The appointee will be governed by such rules & regulations issued by the Government or may be issued hereinafter for category of post to which he belongs.
2. Before assumption of charge, the appointee will provide Medical Fitness Certificate from the Medical Superintendent, Shaheed Farid Khan Hospital Hangu to the office of the Assistant Director, LG&RDD, Hangu.
3. The appointee will remain on probation period for one year.
4. In case the appointee wishes to resign from service at any time, one month prior notice should be necessary or in lieu thereof one month pay shall be forfeited.
5. The documents / particulars reflected /submitted will be abided upon me, if found wrong or bogus.



ASSISTANT DIRECTOR
LG&RDD HANGU

No. 62 /AD LG&RDD(H)

Date 19 - 01 /2018

Copy forwarded to:-

1. The Director General, LG & RDD, Khyber Pakhtunkhwa, Peshawar.
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3. The District Nazim, Hangu.
4. The Deputy Commissioner, Hangu.
5. The District Accounts Officer, Hangu.
6. The Supervisor, LG&RDD, Hangu.
- ✓ 7. Mr. Mohammad Saeed S/O Khayal Hakeem r/o Village Darband, Tehsil & District Hangu

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ASSISTANT DIRECTOR
LG&RDD HANGU

**JUDGMENT SHEET
IN THE PESHAWAR HIGH COURT,
MINGORA BENCH (DAR-UL-QAZA), SWAT
(Judicial Department)**

W.P No. 228-M/2014
With Interim Relief

*Mst. Husna Razzaq d/o Abdur Razzaq, r/o Village Morani Payeen,
Tehsil Balabat, District Dir Lower.*

(Petitioner)

Versus

*Government of Khyber Pakhtunkhwa through Secretary (E & SE)
Department, Khyber Pakhtunkhwa, Peshawar and 17 others*

(Respondents)

Present: *Nemo for petitioner.*

*Mr. Rafiq Ahmad, Assistant A.G. alongwith
Muhammad Shoaib, A.D.O, Dir Lower for official
respondents.*

Date of hearing: **16.10.2017**

JUDGMENT

IJAZ ANWAR, J.- Vide our detailed judgment in the connected W.P No. 227-M/ 2014, we allow this petition with direction to the official respondents to allow appointment of the petitioner against the post of P.E.T by considering her professional qualification of S.D.P.E and M.Sc in Health and Physical Education into her accumulative score. Needless to observe that the petitioner shall be appointed w.e.f the date her other colleagues were appointed pursuant to the same advertisement. The petitioner shall be entitled to seniority but not to arrears of salaries. Moreover, the candidates/private

respondents, if any, already appointed shall not be disturbed.

Announced
Dt: 16.10.2017


Mohammad Ibrahim Khan
JUDGE


Ijaz Anwar
JUDGE

Office
19/10

91 -

**JUDGMENT SHEET
IN THE PESHAWAR HIGH COURT,
MINGORA BENCH (DAR-UL-QAZA), SWAT
(Judicial Department)**

**W.P No. 227-M/2014
With Interim Relief**

*Mst. Saima Gul w/o Fayaz Ali Shah r/o Bambolai Payeen, Tehsil
Adenzai, District Dir Lower.*

(Petitioner)

Versus

*Government of Khyber Pakhtunkhwa through Secretary
Elementary and Secondary Education, Civil Secretariat Peshawar
and 04 others.*

(Respondents)

Present: *Abdul Qayum, Advocate for petitioner.*

*Mr. Rafiq Ahmad, Assistant A.G. alongwith
Muhammad Shoaib, A.D.O, Dir Lower for official
respondents.*

**W.P No. 228-M/2014
With Interim Relief**

*Mst. Husna Razzaq d/o Abdur Razzaq, r/o Village Morani Payeen,
Tehsil Balabat, District Dir Lower.*

(Petitioner)

Versus

*Government of Khyber Pakhtunkhwa through Secretary (E & SE)
Department, Khyber Pakhtunkhwa, Peshawar and 17 others*

(Respondents)

Present: *Nemo for petitioner.*

*Mr. Rafiq Ahmad, Assistant A.G. alongwith
Muhammad Shoaib, A.D.O, Dir Lower for official
respondents.*

**W.P No. 251-M/2014
With Interim Relief**

*Rabia Gul d/o Gul Sharif Khan r/o Mayar, Tehsil Samar Bagh,
District Dir Lower.*

(Petitioner)

Versus

*Government of Khyber Pakhtunkhwa through Secretary
Elementary and Secondary Education, Civil Secretariat Peshawar
and 04 others*

(Respondents)

Present: *Mr. Abdul Qayum, Advocate for petitioner.*

*Mr. Rafiq Ahmad, Assistant A.G. alongwith
Muhammad Shoaib, A.D.O, Dir Lower for official
respondents.*

W.P No. 263-M/2014
With Interim Relief

*Mst. Aneela Sarwat w/o Waleed Zaman r/o Mohallah
Akhunzaddgan, Mayar, Tehsil Samar Bagh, District Dir Lower.*
(Petitioner)

Versus

*Government of Khyber Pakhtunkhwa through Secretary
Elementary and Secondary Education, Civil Secretariat Peshawar
and 04 others.*
(Respondents)

Present: *Mr. Abdul Quayum, Advocate for petitioner.*

*Mr. Rafiq Ahmad, Assistant A.G. alongwith
Muhammad Shoaib, A.D.O, Dir Lower for official
respondents.*

Date of hearing: **16.10.2017**

JUDGMENT

IJAZ ANWAR, J.- Through this single judgment we intend to dispose of this petition i.e W.P No. 227-M/2014 as well as the connected petitions bearing W.P No. 228-M/2014, W.P No. 251-M/2014 and W.P No. 263-M/2014, as common questions of law and facts are involved in all these petitions.

2. As per assertions of petitioner in the instant writ petition, the respondent department advertised various posts including the post of Physical Education Teacher (P.E.T BPS-15) in G.G.M.S Bambolai, Dir Lower through advertisement on 5th January, 2014 published in daily "Aaj". Petitioner, being an active player of different games in her educational career and also an

athlete besides, having the requisite qualification of M.Sc and Senior Diploma in Physical Education (S.D.P.E) alongwith experience applied for the said post. She secured 51/100 marks in NTS and obtained accumulative score of 104.34 and was optimistic for her appointment but astonishingly private respondent No.5 Mst. Lubnaz Begum was appointed as P.E.T in the mentioned school and the petitioner was ignored.

3. Petitioner Mst. Husna Razzaq in W.P No. 228-M/2014 has averred that she applied for the post of P.E.T having the requisite qualification and experience in the advertisement published on 05.01.2014 in daily "Aaj". She scored 107.24 marks in the NTS and stood 2nd amongst the candidates for the said post but private respondents No.4 to 18 were appointed and the petitioner was ignored despite she was higher in qualification than the candidates appointed vide order dated 03.05.2014.

4. Mst. Rabia Gul, who has filed W.P No. 251-M/2014, has asserted that she applied for the post of P.E.T in five different schools as per policy. After passing the N.T.S, the petitioner scored

first position in G.G.M.S Shontala with accumulative score of 97.4 marks. She also signed an offer letter dated 29.04.2014 issued by Respondent No.3 for her appointment in G.G.H.S Badin but private respondents No. 4 and 5 were appointed as P.E.Ts in the mentioned schools and the petitioner was not considered for her appointment.

5. Similarly, petitioner Mst. Aneela Sarwat in W.P No. 263-M/2014 has averred that the respondent department advertised the posts of P.E.T (female) vide advertisement dated 04.01.2014 published in Daily Express. Petitioner having Senior Diploma in Physical Education and Master degree in Health and Physical Education, applied for five schools through N.T.S. and remained successful in the said test. Thereafter she was called for interview. Grievance of the petitioner is that she obtained accumulative score of 81.34, however, her Senior Diploma in Physical Education was not considered, hence, private respondents No. 4 & 5 were selected and the petitioner was ignored despite she was higher in qualification.

6. Arguments heard. Record perused.

7. The common issue involved in all the cases is that petitioners are holders of the qualification of Senior Diploma in Physical Education (S.D.P.E) while the pre-requisite qualification for the post of P.E.T (BPS-15) has been mentioned in the advertisement as B.A/B.Sc from a recognized university with one year Junior Diploma in Physical Education (JDPE) or equivalent certificate from Army or other equivalent qualification. Admittedly, the petitioners have found their place in the appointment zone through their merit, however, they were denied appointment for not holding the qualification of Junior Diploma in Physical Education.

8. The learned counsel for the petitioners has referred to different judgments of this Court whereby the same issue has repeatedly been decided in a number of cases and many a time it was maintained by the apex Court and it was held therein that Senior Diploma in Physical Education (S.D.P.E) is a higher diploma and the candidates possessing higher qualification cannot be deprived of their

appointment against the posts of P.E.T. We have noticed that despite the decisions of this Court which have been maintained upto the apex Court, the respondents are continuously not adhering to the judgments of this Court that is why the candidates are approaching this Court again and again for this issue. The august Supreme Court of Pakistan in a celebrated judgment rendered in the case titled "Hameed Akhtar Niazi V/s. The Secretary, Establishment Division, Government of Pakistan and others" (1996 SCMR 1185) held that:-

"We may observe that if the Tribunal or this Court decides a point of law relating to the terms of service of a civil servant which covers not only the case of the civil servant who litigated, but also of other civil servants, who may have not taken any legal proceedings, in such a case, the dictates of justice and rule of good governance demand that the benefit of the above judgment be extended to other civil servants, who may not be parties to the above litigation instead of compelling them to approach the Tribunal or any other legal forum".

The same view was followed by the apex Court in another judgment in the case titled "Government of Punjab, through Secretary Education, Civil Secretariat, Lahore and others V/s.

Sameena Parveen and others" (2009

SCMR I).

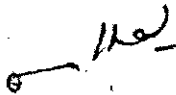
8. We have also noticed from perusal of the record that petitioners in all these writ petitions were not allowed the marks by respondents for holding the degree of Master of Health and Physical Education and they have also not considered their Senior Diploma in Physical Education. We, thus, are left with no other choice but to allow all these petitions with direction to the official respondents to allow appointment of petitioners against the posts of P.E.T by considering their respective professional qualification of S.D.P.E and M.Sc in Health and Physical Education into their accumulative scores. Needless to observe that the petitioners shall be appointed w.e.f the date their other colleagues were appointed pursuant to the same advertisement. They shall be entitled to seniority but not to arrears of salaries. Moreover, the candidates/private respondents, if any, already appointed shall not be disturbed.

9. Before parting with this judgment we may observe that this Court in judgment dated

16.05.2013 rendered in the case titled "*Naqib Sultan V/s. Govt. of Khyber Pakhtunkhwa*" (W.P No. 264-M/2011), judgment dated 31.03.2004 in the case titled "*Jan Muhammad and others V/s. Govt. of NWFP and others*" (W.P No.1472/2003), judgment dated 28.06.2016 in the case titled "*Ijaz-ul-Haq V/s. Govt. of Khyber Pakhtunkhwa and others*" (W.P No. 644-P/2016), judgment dated 24.02.2009 in case titled "*Taj Pari V/s. Govt. and others*" (W.P No. 864/2007), judgment dated 28.05.2004 in case titled "*Masood Khan V/s. Govt. of NWFP and others*" (W.P No. 1484/2003) and judgment dated 02.05.2000 in case titled "*Muhammad Azam and others V/s. Govt. of NWFP and others*" (W.P No. 652-M/1999) discarded the objections of respondent department regarding non considering the qualification of S.D.P.E for the post of P.E.T and those judgments were either maintained by the apex Court or no appeal has been filed thereagainst and attained finality. For ready reference one judgment is referred which was delivered on 27.06.2006 by the apex Court in the case titled i.e "*Umair Wahid V/s. Govt of NWFP*" (C.P No. 193-P/2006) but

despite this the department is repeating this objection. We, therefore, direct the Director of Elementary and Secondary Education to circulate this judgment to all the District Officers of Education Department of the Province with strict directions to consider the holders of higher qualification of S.D.P.E and M.Sc in Physical Education for the posts of P.E.T and not to force the candidates for approaching the Courts again and again for the decided issue.

Announced
Dt: 16.10.2017


Mohammad Ibrahim Khan
JUDGE


Ijaz Anwar
JUDGE

Office
19/10

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL No.1358/2018

MUHAMMAD SAEED VS LOCAL GOVT: DEPTT:

REJOINDER ON BEHALF OF APPELLANT IN RESPONSE
TO THE REPLY SUBMITTED BY THE RESPONDENTS

R/SHEWETH:

All the preliminary objections raised by the respondents are incorrect, baseless and not in accordance with law and rules rather the respondents are stopped due to their own conduct to raise any objection at this stage of the appeal.

ON FACTS:

- 1- Admitted correct hence need no comments.
- 2- Admitted correct hence need no comments.
- 3- Incorrect and not replied accordingly. That appellant participated in the written test and interview was declared successful and he was subsequently placed at serial No.14 of the merit list.
- 4- Incorrect and not replied accordingly. That inspite of having better merit position and having higher qualification the appellant was ignored from the appointment against the above mentioned post and appointed their eyed person namely Mr. Asad Habib S/O Said Habib, village Secretary Darband who was belonging to Orakzai Agency.
- 5- Incorrect and not replied accordingly. That appellant filed representation before the appellate authority which was properly entered in diary at serial No. 2279 vide dated 31.12.2015.
- 6- Admitted correct. That the respondent Department implemented the judgment of Honorable Peshawar High Court, Peshawar and appointed the appellant vide order dated 19.01.2018 but immediate effect, rather than retrospective effect i.e. 23.12.2015 for which the appellant is fully entitle.
- 7- Incorrect and not replied accordingly hence denied.

GROUND:
(A to G):

All the grounds of main appeal are correct and in accordance with law and prevailing rules and that of the respondent are incorrect, baseless and not in accordance with law and Rules hence denied. That in light of the merit list and having the requisite qualification the appellant is fully entitled for appointment against the post of Village Secretary w.e.f. 23.12.2015 instead of 19.01.2019. That the appellant has been discriminated by the respondent Department while issuing the appointment order dated 19.01.2018 with immediate effect instead of w.e.f 23.12.2015. That the respondent Department violated the Civil Servants appointment, promotion & transfer Rules-1989 by issuing the impugned order dated 19.01.2018.

It is therefore most humbly prayed that on acceptance of this rejoinder the appeal of the appellant may be accepted in favor of the appellant.

APPELLANT

THROUGH:


NOOR MOHAMMAD KHATTAK
ADVOCATE