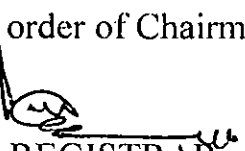


FORM OF ORDER SHEET

Court of _____

Case No. - 1774/2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	09/12/2022	<p>The appeal of Mr. Irfan Ullah presented today by Mr. Saadullah Khan Marwat Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on _____. Notices be issued to appellant and his counsel for the date fixed.</p> <p>By the order of Chairman</p> <p> REGISTRAR.</p>

BEFORE THE KPK SERVICE TRIBUNAL PESHAWARS.A. No. 1774 /2022

Irfan Ullah

versus

Assistant Director & Others

I N D E X

S.#	Description of Documents	Annex	Page
1.	Memo of Appeal		1-5
2.	Advertisement dated 04-07-2015	"A"	6
3.	Appointment as Naib Qasid 18-03-2016	"B"	7-11
4.	Judgment dated 28-02-18	"C"	12-15
5.	Show Cause Notice dated 30-03-2018	"D"	16
6.	Reply to Show Cause Notice dated 10-04-2018	"E"	17
7.	Termination order dated 18-04-2018	"F"	18
8.	Appointment order of R. No. 04, 19-04-2018	"G"	19
9.	Representation dated 11-05-2018	"H"	20-23
10.	Colleagues Service Appeals	"I"	24-27
11.	Judgment dated 27-01-2022	"J"	28-36
12.	Reinstatement of colleagues dated 03-10-22	"k"	37-41
13.	Reminder / representation dated 02-11-22	"L"	42-43

Applicant

Through

(Saadullah Khan Marwat)

Advocate

21-A Nasir Mension,

Shoba Bazar, Peshawar.

Ph: 0300-5872676

Dated: 06-10-2022

BEFORE KPK SERVICE TRIBUNAL PESHAWAR

S.A No 1774 /2022

Irfan Ullah S/O Mir Adam Khan,
R/O Behram Khel, Lakki Marwat
Ex-Naib Qasid Village Council,
Adam Zai Lakki Marwat Appellant

Versus

1. Assistant Director, Local Government
& Rural Development Department,
Lakki Marwat.
2. Director General, Local Government
& Rural Development Department,
Peshawar.
3. Secretary, Government. of KP,
Local Government & Rural
Development Department, KP,
Peshawar.
4. Sher Alam Khan S/O Shah Jehan,
R/O Village Adam Zai,
Naib Qasid Adam Zai,
Lakki Marwat. Respondents

**APPEAL UNDER SECTION 4 OF THE SERVICE
TRIBUNAL ACT 1974 AGAINST OFFICE ORDER
NO. 5174-79 DATED 18-04-2018 OF R. NO. 01
WHEREBY SERVICES OF APPELLANT WAS
TERMINATED AND R. NO. 04 WAS APPOINTED AS
NAIB QASID FOR NO LEGAL REASON.**

Respectfully Sheweth:

1. That on 04-07-2015, R. No. 01 floated advertisement in daily Newspapers for appointment of Class-IV servants in their respective Village Council. (Copy as annex "A")
2. That after going through the prescribed procedure of selection, appellant was appointed as Naib Qasid on regular basis on the recommendations of Selection and Recruitment Committee of the said assignment on 18-03-2016. (Copies as annex "B")
3. That R. No. 04 filed Writ Petition before the Peshawar High Court, Circuit Bench Bannu to declare the order of appointment of appellant as illegal and he be appointed as such, which petition came up for hearing on 28-02-2018 along with other connected Writ Petitions on the same point and then the hon'ble court was pleased to hold that:-

All the cases are remitted back to R. No. 01 to re-examine the appointments of the private respondents and passed an appropriate order in light of Rules and Policy after providing the parties an opportunity of hearing. The entire process shall be completed within two (02) months positively. The Writ petition were disposed off accordingly. (Copy as annex "C")

4. That after remitting of the said judgment to R. No. 01 for compliance, Show Cause Notice was issued on 30-03-2018 to appellant to explain his position which was replied on 10-04-2018. (Copies as annex "D" & "E")
5. That on 18-04-2018, R. No. 01 terminated services of appellant with immediate effect on the score that he was not the appointee of his own Village Council. (Copy as annex "F")

Here It would be not out of place to mention that R. No. 01 appointed numerous other candidates not in their own Village Council but in other i.e. Umair Ahmad Village Council Khero Khel Pakka appointed at Serai Naurang-III, Faheem Ullah VC Khero Khel Pakka appointed at VC Gerzai, Washeullah VC Wanda Aurangzeb appointed at VC Attashi Machan Khel, Ezat Khan VC Wanda Saeed Khel appointed at VC Kalin, Sher Nawaz VC Issik

Khel appointed at VC Wanda Baru, Siffat Ullah VC Khokldad Khel Lakki City appointed at VC Jung Khel, Momin Khan VC Lakki City appointed at VC Abdul Khel, etc their services are still retained till date, so appellant was not treated alike and discriminated.

6. That on 19-04-2018, R. No. 04 was appointed as such by R. No. 01 on the post of appellant. In the judgment, the hon'ble court never directed the authority to appoint R. No. 04 as Naib Qasid and to terminate services of appellant. (Copy as annex "G")
7. That on 11-05-2018, appellant submitted representation before R. No. 02 for reinstatement in service which met dead response till date. (Copy as annex "H")
8. That colleagues of appellant filed appeals before the hon'ble Service Tribunal Peshawar for reinstatement in service which came up for hearing on 27-01-2022 and then the hon'ble Tribunal was pleased to:-

"That the appellants have not been treated in accordance with law and they were illegally removed from service. In view of the foregoing discussion, the instant appeal as well as all other connected appeals are accepted, the impugned order of their termination from service are set aside and they are reinstated into service against their respective position with all back benefits with further direction that private respondents also shall not suffer for lapses of the respondents, hence they also be accommodated". (Copies as annex "I" & "J")
9. That on 03-10-2022, colleagues of appellant were reinstated into their services. (Copy as annex "K")
10. That on 02-11-2022 appellant filed reminder / representation before R. No. 02 for reinstatement in service from the date of removal but of no avail

Hence this appeal, inter alia, on the following grounds.

GROUND S:

- a. That appellant has in his credit the educational qualification of BA.

- b. That appellant applied to the said post of his own Village Council and it was incumbent upon the department to appoint him as such in his own Village Council and not in any other. He could not be held responsible for the lapses of the respondents, if any.
- c. That when the matter taken to the court, the department was legally bound to transfer appellant even other incumbents to their own Village Council to save their skins.
- d. That as and when Show Cause Notice was issued to appellant regarding appointment in other Village Council, then he should rectify the mistake, if any, because the lapses were on the part of the authority and not of the appellant and in such situation, he could not be made responsible for the same.
- e. That appellant was appointed as per prescribed manner after observing the due codal formalities.
- f. That as per law and rules, appellant is liable to serve anywhere in District, outside District / Province even outside Country, then he can be appointed anywhere for the purpose, being citizen of the country.
- g. That it is to be ascertained as to whether R No. 04 has applied to the said post or otherwise. In such a situation the department was legally bound to advertise the said post.
- h. That R. No. 04 was never gone through the process of selection, so at such a belated stage when his name was not recommended by the Departmental Selection / Recruitment Committee, he could not be appointed straight away as such.
- i. That in the aforesaid circumstances, order of appointment of R. No. 04 was not only illegal but was ab-initio void. The same was based on favoritism.
- j. That service law is alien to the word "Termination", so on his score alone, order of termination of appellant is / was illegal.
- k. That order of appointment of appellant was acted upon, affected and got finality, the same was made by the competent authority and cannot be rescinded in the manner taken.

- l. That appellant was paid Monthly Salaries for about 02 years and 02 Months which gave vested right to him.
- m. That as per the judgment of the apex court, 2009 SCMR 1, similarly and equally placed persons be treated similarly and equally to avoid discrimination those persons too who have even not litigated for.
- n. That order of termination of appellant from service is based on malafide.

It is, therefore, most humbly prayed that on acceptance of the appeal, order dated 18-04-2018 of R. No. 01, and appointing R. No. 04 as Naib Qasid Village Council be set aside and appellant be reinstated in service with all consequential benefits, with such other relief as may be deemed proper and just in circumstances of the case.

عرفان اللہ

Appellant

Through

Saadullah Khan Marwat

Saadullah Khan Marwat

Arbab Saif-ul-Kamal

Amjad Nawaz

Advocates

Dated: 06-12-2022

CERTIFICATE:

As per instructions of my client, no such like Service Appeal has been earlier filed by the appellant before this hon'ble Tribunal.

Saadullah Khan Marwat
Advocate

AFFIDAVIT

I, Irfan Ullah S/O Mir Adam Khan, R/O Behram Khel, Lakki Marwat Ex-Naib Qasid Village Council, Adam Zai Lakki Marwat (appellant), do hereby solemnly affirm and declare that contents of **Service Appeal** are true and correct to the best of my knowledge and belief.

عرفان اللہ

DEPONENT

دفتر ڈائریکٹر جنرل - گلبرگ ایس 7

دیہی ترقی و سرپرستی و نوجوانوں کا ادارہ

اشتہار برائے بھرتی کلاس - IV (BPS-011)

مقررہ آئی اے آر ایف سے درخواست کرنے والے تمام امیدواروں کو اس کے لئے ضروری دستاویزات جمع کرنا ہوں گے۔
اس کے ساتھ ساتھ طلبہ کو اس اشتہار کے تحت بھرتی کرنے کے لئے درخواستیں جمع کروانے کے لئے اس اشتہار کے تحت بھرتی کرنے والے تمام امیدواروں کو اس کے لئے ضروری دستاویزات جمع کرنا ہوں گے۔

نمبر	طلبہ	بھرتی کلاس	نمبر	طلبہ	نمبر
1	طلبہ	کلاس - IV	01	طلبہ	18-40

1۔ کمرزیت نواز کمرزیت جنرل ہونے کی۔

2۔ حضانہ طلبہ کے پاس سے درخواستیں جمع کروانے کی۔

اندر درجہ اولیٰ سے چھٹے درجہ تک کے طلبہ کو اس اشتہار کے تحت بھرتی کرنے کے لئے درخواستیں جمع کروانے کے لئے اس اشتہار کے تحت بھرتی کرنے والے تمام امیدواروں کو اس کے لئے ضروری دستاویزات جمع کرنا ہوں گے۔

ڈائریکٹر جنرل
اساتذہ

گلبرگ ایس 7، گلبرگ نیا

18/7/2015

B

Z

Annex-B

MINUTES OF THE MEETING OF SELECTION AND RECRUITMENT COMMITTEE
FOR SELECTION OF NAIB QASIDS OF VILLAGE/NEIGHBOURHOOD COUNCILS
IN DISTRICT LAKKI MARWAT.

In order to select candidates for the newly created posts of Naib Qasids for the newly created Village/Neighborhood Councils under LGA 2013 in light of the letter No.SO(LG-I)2-343/Rect/2014 dated 30th July 2015 and No.SO(LG-I)2-243/Rect/2015 dated 3rd September, 2015, a meeting of the Selection and Recruitment Committee was held on 10th March 2016. The meeting was chaired by the Deputy Commissioner Lakki Marwat and was attended by the following:-

1. Deputy Commissioner Lakki Marwat..... (Chairman)
2. Assistant Director LG&RDD Lakki Marwat (Member)
3. Tehsil Municipal Officer Lakki Marwat..... (Member)

2. The lists of available candidates were examined in light of the service rules notified vide LG&RDD KPK Notification No.SO(LG-I)2-188/9 dated 03.12.2015 which provides the following criteria for recruitment of Naib Qasids:-

Naib Qasid/Chowkidar (BPS-01):-

1. Physically fit, Preferably Literate.
2. 18 - 40 Years (age).
3. By Initial Recruitment.

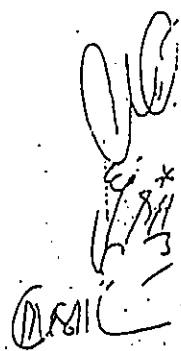
3. In light of the above rules, the committee recommended the following candidates for appointment as Naib Qasid in Village and Neighborhood Councils. It was also decided that appointment of candidates, whose documents are proved fake during verification at a later stage, will be liable to cancellation/termination.

Sr.	Name	Father Name	VC/NC
1.	Fahimullah	Bismillah Jan	Garzal
2.	Ihsanullah	Fareedullah	Tor-Lawang Khel
3.	Dil Jan	Abdullah Jan	Lakki Neighborhood IV
4.	Israr Ali	Muhammad Azeem	Dalo Khel - II
5.	Tariq Nawaz	Sher Nawaz	Wanda Aurangzeb
6.	Wazir Shah	Nabi Shah	Ratanzal
7.	Khalid Rahman	Ghani Rehman	Landiwah - II
8.	Izal Khan	Abdullah Jan	Kalan
9.	Nekam Khan	Badshah Khan	Paharkhel Thall- I
10.	Farmanullah	Sakhtameer	Kherokhel Pacca
11.	Imtiaz Ahmed	Rais Khan	Daraka Sulqmn Khel
12.	Ihsanullah	Faizullah	Abakhel - IV
13.	Tariq Ayub	Muhammad Ayub	Badni Khel
14.	Jehangir	Ghulam Dastagir	Behram Khel
15.	Farhatullah	Akhtar Zaman	Walai
16.	Yousaf Jamal	Taib Shah	Bachkan Ahmedzai
17.	Wasiullah	Shahidullah	Atashi Michenkhet



[Handwritten signatures and initials]

19.	Faleh Ullah	Shabroz Khan	Abakhel Khel -II
20.	Kifayat	Alamgir	Naurang-I
21.	Bakhtullah	Badshah Gul	Bragai
22.	Fareedullah	Faizullah	Dalo Khel-I
23.	Hamidullah	Abdur Rahim	Landiwah-I
24.	Yousaf Jan	Rais Khan	Ahmed Khel
25.	Ibrahim	Muhammad Din	Naurang-II
26.	Noor Ali Shah	AbduSattar	Passani-II
27.	Irfanullah	Mir Adam Khan	Adamzai
28.	Tanvir Khan	Salam Mir	Mash Masti Khani
29.	Waheedullah	Lashameer	Tajori-I
30.	Sher Amanullah	Sahib Nur	Pasani-I
31.	Sabz Ali Khan	Allus Khan	Shahbaz Khel
32.	Abdul Jalil	Usman Ghani	Bega Tajazai
33.	Akber Zaman	Pir Ghulam	Daratang-II
34.	Imranullah	Hasti Khan	Abakhel-I
35.	Imran Ali	Hazrat Ali	Tari Khel
36.	Dilnawaz	Sardaraz	Chandu Khel
37.	Kabir Khan	Shah Jehan	Belani Pai Kasht
38.	Tahir Khan	Mirzali Khan	Alamshah Khel
39.	Sifatullah	Aziz Khan	Jang Khel
40.	Aitaf Rehman	Habibullah	Pezu-I
41.	Hamid Usman	Muhammad Nur	Ghazi Khel
42.	Sher Nawaz	Ghulam Saeed	Wanda Baro
43.	Muhammad Ismail	Ghulam Daud	Daralang-I
44.	Ahmed Khan	Jalat Khan	Wanda Kuttana
45.	Sirajuddin	Shamsul Qamr	Dadiwalla
46.	Faridullah	Nasibullah Khan	Nar Sahibzada Khost
47.	Rizwanullah	Asmatullah	Shakh Quli Khan
48.	Abdushuhab	Sherin Jan	Lakki Neighborhood-II
49.	Faridullah	Aurangzeb	Nar Abusamand Begukhel
50.	Ziaul Haq	Abdul Haq	Matora
51.	Umair Ahmed	Mohammad Basir	Naurang-III
52.	Imtiaz Ahmed	Sher Alam	Hayat Khel
53.	Kamran Khan	Amanullah	Sumandi



9

54.	Amir Khan	Hafeezullah	Takhi Khel
55.	Haroon Khan	Habibullah	Tajori-II
56.	Farooq Ghafar	Abdul Ghafar	Narsahbada Medad Khel
57.	Faridullah	Habibullah	Chuhar Khel
58.	Momin Khan	Muhammad Amin	Abdul Khel
59.	Mohammad Ismael	Ghulam Rabbani	Gandi Khan Khel-I
60.	Muhammad Naeem	Fazal Rehman	Tabi Murad
61.	Mumtaz Khan	Nadir Khan	Gandi Sahib Khan
62.	Shamsher	Saifullah Jan	Wanda Shahab Khel

4. Moreover, the committee was informed that two seats are reserved for Employ. Son Quota. In this regard the following two candidates were selected:

EMPLOY SON QUOTA			
63.	Khurshid Alam	Jehangir Khan.	Gandi Khan Khel -II
64.	Muhammad Zubair	Abdul Karim	Aghzar Khel

5. Additionally, one seat was reserved for disabled person. The following candidate was selected.

DISABLED QUOTA			
65.	Mosam Khan	Sher Alam	Kol Kashmir

Assistant Director
LGRDD Lakki Marwat.
(Member)

Tehsil Municipal Officer
TMA, Lakki Marwat.
(Member)

Deputy Commissioner Lakki Marwat
(Chairman)

Assistant Director
Local Government Dev.
Department Lakki Marwat

10

OFFICE OF THE ASSISTANT DIRECTOR
LOCAL GOVT. & RURAL DEVELOPMENT
DEPARTMENT, LAKKI MARWAT

Dated, 15/3/2016



OFFICE ORDER.

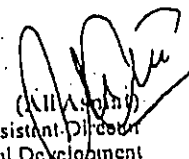
No. 4377-89 / On the recommendations of Selection and Recruitment Committee, appointment of the following Naib Qasid, Village / Neighborhood Council is hereby ordered in BPS-01 Rs. (6210-195-12060) plus usual allowances as admissible under the rules existing policy of the Provincial government on the terms and conditions given below w.e.f the date of taking over their charge in the interest of public service, they will report for duty in the office of Village / Neighborhood Council Nazim mentioned against each:-

S.No	Name with Address	Village/Neighborhood Council	Remarks
1.	Arfaullah s/o Mir Adam Khan	Admzni	Against vacant Post

Terms and Conditions.

1. His services will be liable to termination on one month notice in advance from either side, but in case of resignation without notice, one month pay shall be refunded towards Government.
2. He will be on probation for a period of one year extendable for a further period of 12 months and during this probationary period he will not be entitled to apply for any long leave etc.
3. His services will be governed by such rules and regulations as are in vogue and as may be issued by the Government from time to time.
4. His services can be terminated at any time in case his performance is found unsatisfactory during probationary period and in case of misconduct, he will be proceeded against the Removal from Service (Special Power) Ordinance, 2000 and the rules made from time to time.
5. He should report his arrival to all concerned. He will also not be entitled to any TA/DA for his first arrival/joining duty but in case he is not willing to join the duty, he should furnish his unwillingness on a stamp paper to the office of the undersigned.
6. His services are also liable to be terminated if any of his documents is found fake or altered, at any later stage and that he will not entitle to undergo any litigation.
7. The undersigned deserves the rights to amend or add any condition to his appointment order.
8. He is required to produce Health and Age Certificate from the Medical Superintendent DHQ Hospital, Lakki Marwat within 15 days.
9. The appointment is made subject to the conditions that the candidate has a permanent domicile of District Lakki Marwat.

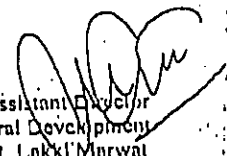
If the above terms and conditions are accepted, he should immediately communicate to this office, and report for duty to the undersigned within (15) days, failing which this appointment order may be treated as cancel in respect of the candidate.


 (M. Asghar)
 Assistant Director
 Local Govt. & Rural Development
 Department, Lakki Marwat

Even No. & Date.

Copy forwarded to:-

1. The Director General, Local Govt. & Rural Development Deptt: KP, Peshawar.
2. The District Nazim, District Government Lakki Marwat.
3. The Deputy Commissioner/ Chairman Selection Committee, Lakki Marwat.
4. PS to Senior Minister LG&RDD, Khyber Pakhtunkhwa Peshawar.
5. PS to Secretary LG&RDD Khyber Pakhtunkhwa, Peshawar.
6. The Section Officer (Estab), Khyber Pakhtunkhwa, Peshawar.
7. Tehsil Municipal Officer / Member Selection Committee, Lakki Marwat.
8. The District Accounts Officer, Lakki Marwat.
9. The Nazim NC/VC concerned District Lakki Marwat.
10. All Supervisors LG&RDD, Lakki Marwat
11. Official concerned.
12. Office Order File.


 Assistant Director
 Local Govt. & Rural Development
 Department, Lakki Marwat

210-11950004 = 4/2/16

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11

Annex-C

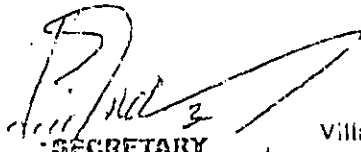
To

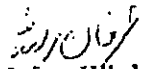
The Assistant Director,
LG&RDD Lakki Marwat.

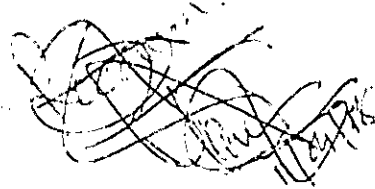
Subject: ARRIVAL REPORT

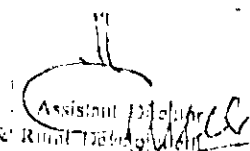
R/Sir,

In compliance of your order No. 4377-89 dated 15/03/2016,
Irfan Ullah S/O Mir Adam Khan submit my arrival report as Naib Qasid
(BPS-01) village Council Adamzai District Lakki Marwat today, on
18/03/2016 at 10:00 P.M.


SECRETARY
V/C Adamzai
District Lakki Marwat
18/03/16


Irfan Ullah
Naib Qasid
Village Council Adamzai
Lakki Marwat




Assistant Director
Local Govt. & Rural Development
Department, Lakki Marwat.

12 C

JUDGMENT SHEET
IN THE PESHAWAR HIGH COURT,
BANNU BENCH
(Judicial Department)

W.P.No.199-B/2016

Najibullah

Versus

Director General Local Govt. and Rural Development
and others

JUDGMENT

Date of hearing: 28.02.2018.

Appellant-petitioner By Feroz Alam Nazki Adv.

Respondent By Shahid Hamid Qureshi Adv.

ADL Abdul Hamid ADL Q. Bannu Muhammad Aleem
ADL Q. Lakki. and Yousaf Khan Progress Officer Lakki.

SHAKEEL AHMAD, J.- By this single judgment we
propose to decide the following petitions having identical
questions of law and facts:-

1. W.P.No.199-B/2016.
(Najibullah Vs. Director General Local Govt.
and Rural Development and others).
2. W.P.No.206-B/2016.
(Addul Wadood and others Vs. Govt. of
K.P.K through Secretary Local Govt. and
Rural Development and others).
3. W.P.No.261-B/2016.
(Sher Alam Khan Vs. Govt. of K.P.K through
Secretary Local Govt. and Rural
Development and others).
4. W.P.No.271-B/2016
(Umar Jan Vs. Govt. of K.P.K through
Secretary Local Govt. and Rural
Development and others).

ATTACHED
EXAMINER
PESHAWAR HIGH COURT
Bannu Bench

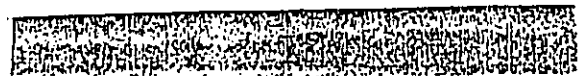
by order of JD B. Mr. Justice Abdul Shukur and Mr. Justice Shakeel Ahmad, JJ

5. W.P.No.278-B/2016.
(Irshadullah Vs. Govt. of K.P.K through Secretary Local Govt. and Rural Development and others).
6. W.P.No.279-B/2016
(Abdul Haseeb Vs. Govt. of K.P.K through Secretary Local Govt. and Rural Development and others).
7. W.P.No.297-B/2016
(Naqibullah Vs. Govt. of K.P.K through Secretary Local Govt. and Rural Development and others).
8. W.P.No.305-B/2016
(Akhtar Zaman Vs. Govt. of K.P.K through Secretary Local Govt. and Rural Development and others).
9. W.P.No.316-B/2016.
(Kamranullah Vs. Govt. of K.P.K through Secretary Local Govt. and Rural Development and others).
10. W.P.No.350-B/2016
(Momin Khan and another Vs. Govt. of K.P.K through Secretary Local Govt. and Rural Development and others).
11. W.P.No.438-B/2016.
(Hassan Khan Vs. Govt. of K.P.K through Secretary Local Govt. and Rural Development and others).
12. W.P.No.577-B/2016.
(Noor Aslam Khan Vs. Govt. of K.P.K through Secretary Local Govt. and Rural Development and others).
13. W.P.No.10-B/2018.
(Fazal Rahim and another Vs. Govt. of K.P.K through Secretary Local Govt. and Rural Development and others).

ATTESTED
 CLERK
 District High Court
 Rawalpindi

2. The common facts of all these writ petitions are that the petitioners are the residents of their respective Union Councils. In response to the advertisement made in the newspaper the petitioners applied for their appointments as

Done at _____ (1) By Mr. Justice Abdul Shakoor and Mr. Justice Shakeel Ahmad, JJ



Class-IV employees, but they were denied appointments and the people from other Union Councils were appointed; hence, these constitutional petitions.

3. After arguing the case at great length, the learned counsels for the petitioners stated at the bar that let all these cases be sent to the competent authority to re-examine the cases of appointment of the private respondents and to find out whether they have been appointed in accordance with law, policy and the terms and conditions incorporated in the advertisement or not. The learned counsel representing the private respondents in all the writ petitions and the learned A.A.G appearing on behalf of official respondents assisted by representatives of the department agreed with the contention of the learned counsels for the petitioners.

4. In view of above, we send back all these cases to the Assistant Director Local Government and Rural Development/competent authority of their respective districts to re-examine the appointments of the private respondents, merit position of the petitioners and pass an appropriate order keeping in mind the rules, policy and the terms and conditions incorporated in the advertisement for appointment as Class-IV employees, after providing the parties an opportunity of hearing and submit compliance report to Additional Registrar of this Court. The entire process shall be completed within 02

TESTED

EXAMINER
Kashmir High Court
Muzaffargarh

Duan *

(D.D) Mr. Justice Abdul Shakoor and Mr. Justice Shakeel Ahmad JJ

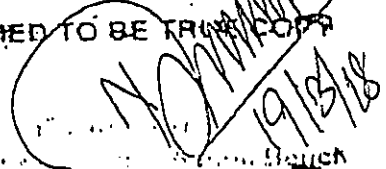
months positively. With these observations the writ petitions are disposed of accordingly.

Announced.
Di: 28.02.2018.


JUDGE


JUDGE

CERTIFIED TO BE TRUE COPY


19/3/18

Respectfully Submitted,
Authentically,
The Qaumi Shariat Order 1984



03/3/18



D 16

TO BE SUBSTITUTED BY EVEN NO. & DATE

OFFICE OF THE ASSISTANT DIRECTOR
LOCAL GOVT. & RURAL DEVELOPMENT
DEPARTMENT, LAKKI MARWAT.

No. 5056-58

Dated March 30, 2018.

To

Mr. Irfanullah Khan
Naib Qasid Village Council
Adamzai, District Lakki Marwat.

SUBJECT:- SHOW CAUSE NOTICE

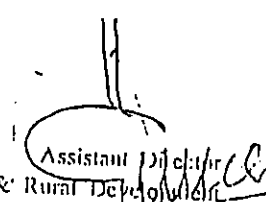
Memo.

In the light of worthy Peshwar High Court, Bannu Bench, judgment dated 28.02.2018 in WP No.261-B/2016, the undersigned is going to serve you with the following Show Cause Notice:-

- (1). That you have been appointed a Class-IV in BPS-3 in the Village Council Adamzai Tehsil and District Lakki Marwat vide Order No.4377-89, dated 15.03.2016.
- (2). That your this appointment order was challenged by the petitioners/other candidates before the worthy PHC Bannu Bench through Writ Petition No.261-B/2016 which was disposed of by the worthy High Court in the following terms:-
"In view of the above, we send back all these cases to the Assistant Director, Local Govt. & Rural Dev./Competent Authority of their respective District to re-examine the appointment of the private respondents, merit position of the petitioners and pass an appropriate order keeping in mind the Rules, Policy and the terms and conditions incorporated in the advertisement for appointment as Class-IV employees after providing the parties an opportunity of hearing."
- (3). That in the light of, above mentioned judgment of PHC, Bannu Bench, we have re-examined your appointment and merit position, in the light of Rules, Policy and Terms and Conditions, incorporated in the advertisement, for the above mentioned posts of Class-IV and found that you, belongs to Village Council Behram Khel, but have been appointed against the post for Village Council Adamzai. So in this way your appointment against the above mentioned post is against the Rules, Policy and against the terms and conditions incorporated in the advertisement for the above post.
- (4). That through this Show Cause Notice you are hereby directed to file your reply, if any, to the office of undersigned within seven (7) days from the receipt of this Show Cause Notice, as why you should not be removed from your service, otherwise ex-parte action will be taken against you.
- (5). That if you want personal hiring, in this respect you can approach to the office of the undersigned within 7 days from receipt of this notice in office hours.

Note:- After lapse of 7 days from receipt of this notice, you will not be allowed to question any action taken against you in the light of this Notice.

Received
17/04/18


Assistant Director
Local Govt. & Rural Development
Department, Lakki Marwat.

بخدمت جناب اسٹنٹ ڈائریکٹر صاحب لوکل گورنمنٹ ضلع لکی مروت
عنوان:- جواب شوکا زونٹس موصول شدہ مورخہ 09-04-2018 ازاں رجسٹرڈ کور

جناب عالی!

گزارش ہے کہ سائل کو بحوالہ آرڈر نمبر 89-4377 مورخہ 15-03-2016 بطور نائب قاصد وینچ کونسل آدم زئی بھرتی
کیا گیا تھا۔ گزارش ہے کہ من سائل کو باقاعدہ میرٹ پالیسی اور چھوٹی پالیسی کے مطابق انٹرویو کے بعد بھرتی کیا گیا تھا۔
من سائل ضلع لکی مروت کاسکوئی رہائشی اور پیدائشی ہوں۔ اب تک اپنی ڈیوٹی خوش اسلوبی سے سرانجام دے رہا ہوں۔
میرا کیا تصور ہے۔

براہ کرم مجھے بغیر کسی جرم و سزا نہ دیا جائے۔ اور شوکا زونٹس ختم کیا جائے۔ اگر میری تعیناتی میں محکمہ والوں نے کوئی غلطی کی
ہے تو اس میں میرا کوئی تصور نہیں ہے۔

لہذا استدعا ہے۔ کہ جاری کردہ شوکا زونٹس کو کینسل کیا جائے۔ اور سائل کو بدستور اپنی ڈیوٹی پر کام کرنے کا موقع دیا جائے۔
اگر سائل کو ملازمت سے سبکدوش کیا گیا تو سائل اپنا قانونی حق محفوظ رکھتا ہے۔
لہذا رپورٹ برائے مناسب حکم پیش ہے۔

بہت بہت شکریہ۔

مورخہ:- 10-04-2018

العارض

سائل عرفان اللہ نائب قاصد وینچ کونسل آدم زئی ضلع لکی مروت



OFFICE OF THE ASSISTANT DIRECTOR
LOCAL GOVT. & RURAL DEVELOPMENT
DEPARTMENT, LAKKI MARWAT.

Dated April 18, 2018

OFFICE ORDER

No. 5174-79 / The Peshawar High Court Bannu Bench was pleased to announce the following judgment in Writ Petition No.261-B/2016 on 28.02.2018:-
"In view of the above, we send back all these cases to the Assistant Director, Local Govt. & Rural Dev./Competent Authority of their respective District to re-examine the appointment of the private respondents, merit position of the petitioners and pass an appropriate order keeping in mind the Rules, Policy and the terms and conditions incorporated in the advertisement for appointment as Class-IV employees after providing the parties an opportunity of hearing."

In pursuance of the above judgment the appointment of the following respondent was re-examined:-

#	Name & father's name of the Respondent	Parent Village Council.	Village Council where appointed.
1	Mr. Irfanullah S/O Adam Khan.	Behram Khel.	Adamzai.

Both the Petitioner and Respondent were heard and examined in detail and record perused. The petitioner Mr. Sher Alam stated that he applied for the post of Class-IV lying vacant in his parent Village Council but was ignored. The respondent informed that he applied for the post of Naib Qasid in his parent Council. He admitted the fact that he belongs to Village Council Behram Khel but he was appointed at Village Council Adamzai which is not his parent Village Council at all.

Keeping in view the above, the competent authority considers appointment order of the Respondent as Naib Qasid at Village Council Adamzai issued vide No.4377-89, dated 15.03.2016 against the Rules and Policy and the conditions incorporated in the advertisement for Class-IV. Consequently the said order becomes invalid and services of the respondent stand terminated with immediate effect.

Sd/

Assistant Director
Local Govt. & Rural Development
Department, Lakki Marwat.

Even No. & Date.

Copy forwarded to:-

1. The Director General, Local Govt. & Rural Dev. Deptt. KPK, Peshawar.
 2. The Addl: Registrar, Peshawar High Court Bannu Bench.
 3. The Addl: Advocate General, Peshawar High Court, Bannu Bench.
 4. The District Accounts Officer, Lakki Marwat.
 5. The official concerned.
 6. Office Order File.
- For information & necessary action.

Sd/

Assistant Director
Local Govt. & Rural Development
Department, Lakki Marwat.



OFFICE OF THE ASSISTANT DIRECTOR
LOCAL GOVT. & RURAL DEVELOPMENT
DEPARTMENT, LAKKI MARWAT.

Dated April 19 /2018

OFFICE ORDER.

No. 5275-78 / In pursuance to the judgment dated 28.02.2018 of Peshawar High Court Bannu Bench in Writ Petition No.261-B/2016, Mr. Sher Alam Khan S/O Shah Jehan R/O village Adamzai, Tehsil and District Lakki Marwat is hereby appointed as Naib Qasid in BPS-3 (9610-390-21310) plus usual allowances as admissible under the Rules, on regular basis, against the vacant post at VC Adamzai, District Lakki Marwat with the following terms and conditions:-

Terms and Conditions.

1. His services will be governed by the rules and regulations as are in vogue and as may be issued by the Government from time to time.
2. His services will be liable to termination on one month notice in advance from either side, but in case of resignation, without notice, two months pay shall be refunded towards Government.
3. He will be on probation for a period of one year extendable for a further period of one year and during this period he will not be entitled to apply for any long leave etc.
4. His services can be terminated at any time in case his performance is found unsatisfactory during probationary period and in case of misconduct he will be proceeded against the Removal from Service (Special Power) Ordinance, 2000 and the rules made from time to time.
5. His services are liable to be terminated if any of his documents is found fake or altered at any later stage and he will not entitle to undergo any litigation.
6. He will report his arrival to all concerned. He will also not entitle to any TA/DA for his first arrival. In case he is not willing to join the duty, he should furnish his un-willingness on a stamp paper to the office of the undersigned.
7. Before submission of pay bill to the District Accounts Officer for pay purpose, all his Certificates and Degrees will be checked and verified from the concerned Board or University as the case may be.
8. The undersigned deserves the rights to amend or add any condition to his appointment order.
9. He is required to produce Health and Age Certificate from the Medical Superintendent DHQ Hospital, Lakki Marwat.

If the above terms and conditions are accepted, he should immediately communicate his willingness and report for duty to the undersigned within 15 days, failing which this appointment order may be treated as cancelled in respect of the candidate.

Sd-
(Muhammad Aleem)
Assistant Director
Local Govt. & Rural Development
Department, Lakki Marwat.

Even No. & Date.

Copy forwarded to:-

1. The Director General, Local Govt. & Rural Development Deptt: KP, Peshawar.
2. The District Accounts Officer, Lakki Marwat.
3. The Progress Officer, LGRDD, Lakki Marwat to arrange for verification of documents.
4. Candidate concerned.

[Signature]
Assistant Director
Local Govt. & Rural Development
Department, Lakki Marwat.

34
D. No. 8732
DATED 11/5/18
GO LOCAL GOVERNMENT

210

To

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

SUBJECT: -DEPARTMENTAL APPEAL

Respected Sir,

With due respect the appellant submits as under.

1. That your good Office advertised vacancies of Class-IV throughout Khyber Pakhtunkhwa vide advertisement dated 04.07.2015 in which the condition for appointment of Class-IV was that the candidate must be the resident of relevant District where he resides. As per afore-said advertisement, the appellant being permanent resident of District Lakki Marwat, applied for the vacancy of Class-IV, appeared in Test / interview and secured top position on merit list. Copy of advertisement dated 04.07.2015 is attached as Annexure-A.
2. That accordingly the Departmental Selection Committee duly approved and recommended the name of appellant for appointment as Class-IV. Where after the Assistant Director LGRDD Lakki Marwat issued appointment order of appellant as Naib Qasid on 15.03.2016 and posted at Village Council Adamzai District Lakki Marwat as Class-IV. Copies of Minutes of Meeting of Departmental Selection Committee and appointment Order dated 15.03.2016 of appellant are attached as Annexure-B.
3. That after appointment, the appellant submitted his arrival report and rendered duties for about more than 02 years. The service book and Master file of appellant was also prepared by the Department. Copies of arrival report and service book of appellant are attached as Annexure-C.
4. That it is pertinent to mention here that in response to the advertisement dated 04.07.2015, total 65 Class-IV have been appointed by the Assistant Director LGRDD Lakki Marwat who are also permanent residents of District Lakki Marwat and appointed in different village Councils like appellant.
5. That out of 65 Class-IV employees, 23 appointment orders of Class-IV were Challenged (including the appellant) before Peshawar High Court, Bannu Bench in different writ petitions solely on the ground that appellant belongs to village Council Behram Khel but he has been appointed as Class-IV in village Council Adamzai. The Peshawar High Court Bannu Bench without going into the merit of the case, decided all the 23 Writ Petitions through single Judgment dated 28.02.2018 in the following terms:- "In view of the above, we send back all these cases to the Assistant Director, Local Government and Rural Dev; / Competent Authority of their respective District to re-examine the appointment of the private respondents, merit position of the petitioners and pass an appropriate order keeping in mind the rules, Policy and the terms and conditions incorporated in the advertisement for appointment as Class-IV employees after providing the

parties an opportunity of hearing": Copy of Judgment dated: 28.02.2018 of Peshawar High Court Bannu Bench is attached as Annexure - D.

6. That as such the Assistant Director LGRDD Lakki Marwat issued show cause notice to the appellant on the basis of afore-said Judgment of Peshawar High Court Bannu Bench dated: 28.02.2018, in which the only objection raised was that appellant belongs to village Council Behram Khel but he has been appointed as Class-IV in village Council Adamzai District Lakki Marwat. There was no objection as to the merit position of the appellant in the afore-said Show Cause Notice. The appellant timely replied to the afore-said Show Cause Notice after receipt of the same. Copies of Show Cause Notice and reply of the appellant are attached as Annexure-E.
7. That thereafter the Assistant Director LGRDD Lakki Marwat all of sudden issued termination order dated 18.04.2018 of appellant in which the same reason is given that appellant belongs to village Council Behram Khel but he has been appointed as Class-IV in village Council Adamzai District Lakki Marwat. Copy of termination order of appellant dated 18.04.2018 is attached as Annexure-F.
8. That as per advertisement dated 04.07.2018, the candidate must be the permanent resident of relevant District. As such appellant is fully eligible to apply to the vacancy of Class-IV because applicant is the permanent resident of District Lakki Marwat and has rightly been appointed as Class-IV in Village Council Adamzai District Lakki Marwat as per terms and conditions of the afore-said advertisement dated 04.07.2018. But Assistant Director LGRDD Lakki Marwat has wrongly and illegally terminated the appellant from service in order to adjust his blue eyed persons. The Assistant Director LGRDD Lakki Marwat has misconceived and mis-interpreted the Judgment of Peshawar High Court, Bannu Bench dated 28.02.2018 as the merit position of the appellant has not been called in question by the Assistant Director LGRDD Lakki Marwat. At the same time, it is written in the advertisement dated: 04.07.2015, that in case of two candidates having equal marks in test/interview then as per advertisement dated 04.07.2015, preference shall be given to the candidate of concerned village / neighborhood council. But Assistant Director LGRDD Lakki Marwat has misconceived this condition while terminating the appointment order of appellant. As per merit, appellant is the top position holder therefore, appellant being resident of District Lakki Marwat has rightly been appointed. Copies of I.D Card and Domicile of the appellant are attached as Annexure-G.
9. That Local Government and Rural Development Department Khyber Pakhtunkhwa Peshawar issued Notification dated: 03-12-2015 vide which an amendment has been made for the selection of appointment of Naib Qasid / Chowkidar in which criteria laid down for their appointment is that he must be physically sound, preferably literate, about 18 to 40 years aged. There is no such condition / criteria for the appointment of Class-IV that he must be permanent resident of some village council. Again the stance of the appellant has been confirmed by the rules framed by the Department itself where no such condition has been placed that the candidate must be the resident of the same village council where he has been appointed. The only condition as mentioned in the advertisement is that he must be the resident of same District where he applies. As such the reason given for termination of the appellant in the termination order dated 18.04.2018 is against the service rules dated 03.12.2015 of the Department. And ultimately the afore-said termination order is also against the very spirit of the Judgment dated 28.02.2018 of the Peshawar High Court, Bannu Bench. Copy of Service Rules / Notification dated: 03-12-2015 is attached as Annexure-H.

10. That appellant belongs to village Council Behram Khel and has been appointed in Village Council Adamzai District Lakki Marwat. Whereas 64 other Class-IV employees who have been appointed in response to the same advertisement dated 04.07.2015 are similarly placed persons who belong to one Village Council but they have been appointed in other village Council (Like Appellant) but no Show Cause Notice nor any termination order has been issued to them. As for example, in village council Attashi Mechan Khel a candidate namely Wasiullah S/O Shafiullah has been appointed as Class-IV on 15-03-2016 despite the fact that the afore-said candidate namely Wasiullah S/O Shafiullah is the permanent resident of Village Council Wanda Aurangzeb and stranger to the village council Attashi Mechan Khel. But no show cause notice has been issued to the afore-said Wasi Ullah nor has he been terminated from service. Similarly no show cause notice has been issued to 42 other Class-IV employees who are similarly placed as of appellant. Therefore, the termination order dated 18.04.2018 is discriminatory with the appellant. On one hand, Assistant Director LGRRD Lakki Marwat is admitting the appointment orders of similarly placed persons as correct whereas on the other hand he has issued termination order of the appellant. As such the conduct of the Assistant Director LGRRD Lakki Marwat is contradictory in itself. Copy of appointment order of Wasiullah and affidavit dated: 06.08.2016 of Secretary Village Council Attashi Machan Khel are attached as Annexure-I.

11. That appellant has been appointed as Naib Qasid according to rules, regulations and policy by the Departmental Selection Committee after due process of law. The Departmental Selection Committee was consisted by Hon able members of your good Office including the representative from LGRDD Peshawar as well. The Departmental Selection Committee has discussed the case of each appointee and after thorough scrutiny of documents the appellant has been appointed as Class - IV along with 64 others. As such vested right has been accrued to the appellant for appointment and as such termination order dated: 18.04.2018 of appellant is illegal, unlawful and without lawful authority.

12. That after appointment on 15.03.2016, the appellant was rendered medically fit for service, the appellant assumed charge of his office and rendered services for about more than 02 years. The Master file and service book of appellant are also prepared. At all these stages, Assistant Director LGRRD Lakki Marwat didn't raise any objection regarding the appointment order of appellant. Now after more than 02 years service of appellant, Assistant Director LGRRD Lakki Marwat cannot raise any such objection because he is estopped by his own conduct. Furthermore, after 02 years service of appellant, vested right has been accrued to the applicant for appointment. Therefore, if any irregularity whatsoever, has been committed by the Department in the procedure / process of appointment (which is not available on record), then for such irregularity the appellant should not be punished (In this respect guidance can be sought from Judgment of Supreme Court reported as 2009 SCMR page 663).

13. That LGRDD Department also filed Comments in all the Writ Petitions in Peshawar High Court Bannu Bench in which your good Office admitted the plea of the appellant that appellant has been appointed as Class-IV according to rules, regulations and policy. And there is nothing unlawful in these appointment orders. Now how come Assistant Director LGRRD Lakki Marwat is saying that appellant is not appointed according to rules, regulations and policy. Copy of Comments filed by your good Office in Connected Writ Petition 529-B/2016 is attached as Annexure-J.

14. That even Peshawar High Court Bannu Bench didn't find any irregularity or illegality in the appointment order of appellant and as such Peshawar High Court Bannu Bench allowed the appellant to work as it is.
15. That most of the candidates who have been appointed as Class - IV on 19-04-2018 in place of appellant have not filed even applications in response to the advertisement dated 04.07.2015 nor they were on top position on merit list nor the merit position of those candidates are brought to light by the Assistant Director LGRRD Lakki Marwat even than they have been appointed as Class-IV on the next date i.e 19.04.2018 in place of the appellant. The person who has been appointed in the place of appellant is Sher Alam Khan S/O Shah Jehan Copy of appointment order dated: 19.04.2018 of Sher Alam Khan who has been appointed in place of appellant is attached as Annexure - K.
16. That appellant has been terminated from service only upon Show Cause Notice and no regular inquiry has been conducted by the Assistant Director LGRRD Lakki Marwat before issuing termination order dated 18.04.2018 of appellant. Which is against the law, rules and regulations.
17. That no summary of allegation has been given to the appellant nor opportunity of hearing has been given to the appellant before issuing termination order of the appellant. Which act of Assistant Director LGRRD Lakki Marwat is also against the very spirit of the Judgment dated 28.02.2018 of the Peshawar High Court Bannu Bench in which it is clearly held that Opportunity of hearing must be given to the appellant.
18. That compliance report submitted by the Assistant Director LGRDD Lakki Marwat is also against the spirit of the Judgment dated: 28.02.2018 of Peshawar High Court Bannu Bench and also against the law, rules, regulations and principles of Natural Justices. Copy of compliance report of Assistant Director LGRDD Lakki Marwat is attached as Annexure - L.
19. That at time of appointment of Sher Alam Khan on 19/04/2018, there was complete ban imposed by the Election Commission of Pakistan on new appointments in all Departments Provincial as well as Federal. As such the appointment order of Sher Alam Khan is also against the law and Ban Order.

It is therefore, most humbly requested that on acceptance of my Departmental Appeal, the appointment order dated 19.04.2018 of Sher Alam Khan may be cancelled and as such the termination order dated 18.04.2018 of appellant may very graciously be set aside being illegal, unlawful and without lawful authority and appellant may kindly be re-instated in service as Class-IV with all back benefits

شرفان اعلیٰ
APPLICANT / APPELLANT

Irfan Ullah S/O Mir Adam Khan
Naib Qasid
Village Council Adamzai
District Lakki Marwat

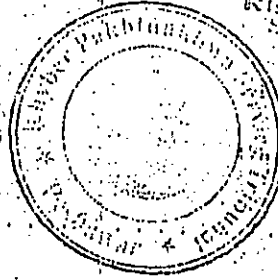
Dated: 11-5-18

1 24

BEFORE KPK, SERVICE TRIBUNAL, PESHAWAR

S.A No. 1078 / 2018

Ihsan Ullah S/O Faiz Ullah Khan,
R/O Mela Shahab Khel, Lakki Marwat,
Ex-Naib Qaisd, Village Council,
Abba Khel-IV, Lakki Marwat.



Peshawar Service Tribunal

1388

23/9/2018

Appellant

VERSUS

1. Assistant Director, Local Government & Rural Development Department, Lakki Marwat.
2. Director General, Local Government & Rural Development Department, Peshawar.
3. Secretary, Govt. of KP, Local Government & Rural Development Department, Peshawar.
4. Fazal Rahim S/O Abdul Qasid, Naib Qasid, Village Council Abba Khel-IV, Lakki Marwat.

Respondents

Boodhis
23/9/18
Magister

⊕ <=> ⊕ <=> ⊕ <=> ⊕ <=> ⊕

APPEAL U/S 4 OF SERVICE TRIBUNAL ACT, 1974
AGAINST OFFICE ORDER NO. 5216-21, DATED
18-04-2018 OF RESPONDENT NO. 1 WHEREBY
SERVICES OF APPELLANT WERE TERMINATED
AND R. NO. 04 WAS APPOINTED AS NAIB QASID
FOR NO LEGAL REASON:

⊕ <=> ⊕ <=> ⊕ <=> ⊕ <=> ⊕

Respectfully Shewath:

1. That on 04-07-2015, R. No. 01 floated advertisement in daily Newspapers for appointment of Class-IV servants in their respective Village Council. (Copy as annex "A")

ATTESTED

[Signature]
Magister
Peshawar Service Tribunal

2. That after going through the prescribed procedure of selection, appellant was appointed as Naib Qasid on regular basis on the recommendations of Selection and Recruitment Committee vide order dated 15-03-2016 and assumed the charge of the said assignment on 18-03-2016. (Copies as annex "B")
3. That on 31-05-2016, R. No. 04 filed W. P. before the Peshawar High Court, Circuit Bench Bannu to declare the order of appointment of appellant as illegal and he be appointed as such, which petition came up for hearing on 28-02-2018 along with other connected Writ Petitions on the same point and then the hon'ble court was pleased to hold that:-

All the cases are remitted back to R. No. 01 to re-examine the appointments of the private respondents and passed an appropriate order in light of Rules and Policy after providing the parties an opportunity of hearing. The entire process shall be completed within two (02) months positively. The Writ Petitions were disposed off accordingly. (Copy as annex "C")

4. That after remitting of the said judgment to R. No. 01 for compliance, Show Cause Notice was issued on 30-03-2018 to appellant to explain his position which was replied on 12-04-2018. (Copies as annex "D" & "E")
5. That on 18-04-2018, R. No. 01 terminated services of appellant with immediate effect on the score that he was not the appointee of his own Village Council. (Copy as annex "F")

Here it would be not out of place to mention that R. No. 01 appointed numerous other candidates not in their own Village Council but in others i.e. Umair Ahmad Village Council Khero Khel Pakka appointed at Serai Naurang-III, Faheem Ullah VC Khero Khel Pakka appointed at VC Gerzai, Washeullah VC Wanda Aurangzeb appointed at VC Attashi Mechan Khel, Ezat Khan VC Wanda Saeed Khel appointed at VC Kalin, Sher Nawaz VC Issik Khel appointed at VC Wanda Baru, Siffat Ullah VC Khokidad Khel Lakki City appointed at VC Jung Khel, Momin Khan VC Lakki City appointed at VC Abdul Khel, etc their services are still retained till date, so appellant was not treated alike and discriminated.

ATTESTED

Service Tribunal

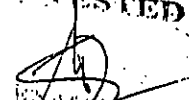
6. That on 19-04-2018, R. No. 04 was appointed as such by R. No. 01 on the post of appellant. In the judgment, the hon'ble court never directed the authority to appoint R. No. 04 as Naib Qasid and to terminate services of appellant. (Copy as annex "G")
7. That on 11-05-2018, appellant submitted representation before R. No. 02 for reinstatement in service which met dead response till date. (Copy as annex "H")

Hence this appeal, inter alia, on the following grounds:-

GROUND S:

- a. That appellant has in his credit the educational qualification of Matric.
- b. That appellant applied to the said post of his own Village Council and it was incumbent upon the department to appoint him as such in his own Village Council and not in any other. He could not be held responsible for the lapses of the respondents, if any.
- c. That when the matter taken to the court, the department was legally bound to transfer appellant even other incumbents to their own Village Council to save their skins.
- d. That as and when Show Cause Notice was issued to appellant regarding appointment in other Village Council, then he should rectify the mistake, if any, because the lapses were on the part of the authority and not of the appellant and in such situation, he could not be made responsible for the same.
- e. That appellant was appointed as per prescribed manner after observing the due codal formalities.
- f. That as per law and rules, appellant is liable to serve anywhere in District, outside District / Province even outside Country, then he can be appointed anywhere for the purpose, being citizen of the country.

ATTESTED

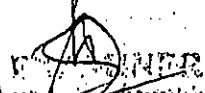

SECRETARY
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

- g. That it is to be ascertained as to whether R. No. 04 has applied to the said post or otherwise. In such a situation the department was legally bound to advertise the said post.
- h. That R. No. 04 was never gone through the process of selection, so at such a belated stage when his name was not recommended by the Departmental Selection / Recruitment Committee, he could not be appointed straight away as such.
- i. That in the aforesaid circumstances, order of appointment of R. No. 04 was not only illegal but was ab-initio void. The same was based on favoritism.
- j. That service law is alien to the word "Termination", so on this score alone, order of termination of appellant is / was illegal.
- k. That order of appointment of appellant was acted upon, effected and got finality, the same was made by the competent authority and cannot be rescinded in the manner taken.
- l. That appellant was paid Monthly Salaries for about 02 Years and 02 Months which gave vested right to him.
- m. That order of termination of appellant from service is based on malafide.

It is, therefore, most humbly prayed that on acceptance of the appeal, order dated 18-04-2018 of R. No. 01, and appointing R. No. 04 as Village Council be set aside and appellant be reinstated in service with all consequential benefits, with such other relief as may be deemed proper and just in circumstances of the case.

Dated. 29.08.2018

Certified to be true copy


 Officer
 Khyber Pakhtunkhwa
 Service Tribunal
 Peshawar

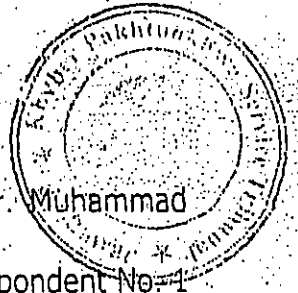
Through


 Appellant


 Saadullah Khan Marwat


 Amjad Nawaz
 Advocates:

J 28

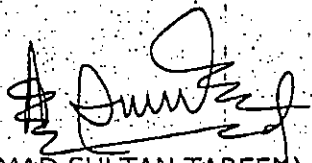



ORDER
27.01.2022

Learned counsel for the appellant present. Mr. Muhammad Adeel Butt; Additional Advocate General for official respondent No. 1 to 3 present. Counsel for private respondent No. 4 present. Arguments heard and record perused.

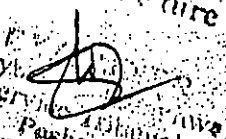
Vide our detailed judgment of today, passed in service appeal bearing No. 1225/2019 "titled Momin Khan Versus Assistant Director, Local Government & Rural Development, Lakki Marwat and three others" is accepted, the impugned order of his termination from service is set aside and appellant is reinstated into service against his respective position with all back benefits with further direction that private respondent also shall not suffer for lapses of the respondents, hence he also be accommodated. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED
27.01.2022


(AHMAD SULTAN TAREEN)
CHAIRMAN


(ATIQ-UR-REHMAN WAZIR)
MEMBER (E)

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Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Date of Presentation of Application 30/3/22
Number of Words 800
Copying Fee 10/-
Urgent 4/-
Total 14/-
Date of Submission of Copy 30/3/22
Date of Delivery of Copy 30/3/22

29

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1225/2019

Date of Institution ... 19.09.2019

Date of Decision ... 27.01.2022



Momin Khan S/O Muhammad Amin, R/O Mohallah Mena Khel, Lakki Marwat Ex-Naib Qasid Village Council Abdul Khel, Lakki Marwat.

... (Appellant)

VERSUS

Assistant Director, Local Government & Rural Development, Lakki Marwat and three others. ... (Respondents)

Arbab Saiful Kamal,
Advocate

... For Appellant

Muhammad Adeel Butt,
Additional Advocate General

... For official respondents.

Mr. Taimur Ali Khan,
Advocate

... For private respondent No. 4.

AHMAD SULTAN TAREEN ...
ATIQU-UR-REHMAN WAZIR ...


CHAIRMAN
MEMBER (EXECUTIVE)

JUDGMENT

ATIQU-UR-REHMAN WAZIR MEMBER (E):- This judgment shall dispose of the instant service appeal as well as the following connected service appeals as common question of law and facts are involved therein:-

1. 1078/2018 titled Ihsan Ullah
2. 1079/2018 titled Tahir Khan
3. 1080/2018 titled Farooq Khan
4. 1081/2018 titled Mumtaz Khan
5. 1082/2018 titled Imtiaz Ahmad

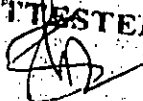
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CHAIRMAN
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

- 30
6. 1083/2018 titled Haroon Khan
 7. 1084/2018 titled Sabz Ali Khan
 8. 1085/2018 titled Dil Jan
 9. 1086/2018 titled Altaf-ur-Rehman
 10. 1087/2018 titled Yousaf Jamal Shah
 11. 1088/2018 titled Tanveer Khan
 12. 1089/2018 titled Hamid Usman
 13. 1090/2018 titled Muhammad Ismail
 14. 1147/2018 titled Farman Ullah

02. Brief facts of the case are that on 04-07-2015, respondents advertised some posts of Class-IV servants for Village Councils. After going through the prescribed procedure of selection and upon recommendation of Selection & Recruitment Committee, the appellant was appointed as Naib Qasid on regular basis vide order dated 15-03-2016. The appellant assumed charge of the post and started performing duty against the said post. Private respondent No. 4 filed Writ Petition before the Hon'ble High Court, Bannu Bench to declare the order of appointment of the appellant as illegal and prayed for his appointment against the said post. The said Petition alongwith other connected Writ Petitions on the same point came up for hearing which were disposed of on 28.02.2018 and the case was remanded to respondent No. 1 to re-examine the issue. After receipt of the judgment, respondent No. 1, summoned the appellant on 07.11.2018 alongwith documents and the appellant duly attended his office, but respondent No. 1 vide impugned order dated 16.01.2019, terminated services of the appellant with immediate effect and respondent No. 4 was appointed in his place vide order dated 19.04.2018. Feeling aggrieved, the appellant submitted representation before respondent No. 02, which elicited no response within the stipulated time, hence the present appeal with

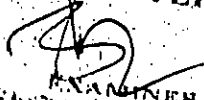
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SECRETARY
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prayers that the impugned orders may be set aside and the appellant may be reinstated in service with all consequential benefits.

03. Learned counsel for the appellant has contended that the appellant had applied for the post of Naib Qasid against his own Village Council and it was incumbent upon the competent authority to appoint him in his own Village Council, but the appellant was posted against another Village Council, which was not illegal, as the appellant was selected against his own village council on merit; that the respondents selected the appellant after due process of advertisement, recommendation of Selection Committee headed by deputy commissioner Lakki Marwat; that upon recommendation of the committee, the appellant was appointed vide order dated 15.03.2016; that the appellant had gone through the process of medical fitness, proper arrival and construction of his service book and served against the post for almost three years and valuable rights have been accrued to him, which cannot be taken back from him. In support of his arguments learned counsel relied upon judgment reported as 2013-PLC (C.S) 712; that the appellant having no nexus with the mode of selection process and he could not be blamed or punished for the laxities on part of the respondents; that numerous other candidates having been appointed in similar situation have been left untouched while the appellant has been discriminated; that the appellant was terminated from service and the word "termination" nowhere exists in the service laws.

04. On the other hand, learned counsel appearing on behalf of private respondent No. 4 argued that the post in question was lying vacant in Village Council Abba Khel-IV while the appellant belongs to Village Council Mela Shahab Khel Lakki Marwat; that respondent No. 4 was rightly appointed in place of the appellant as respondent No. 4 was resident of that particular Village Council and not the appellant; that respondent No. 4

ATTESTED

 ATTESTER
 Assistant Commissioner
 Lakki Marwat


was appointed according to law and spirit of the judgment of Hon'ble Peshawar High Court, Bannu Bench referred to above; that private respondents has also developed vested rights over their respective post, which cannot be taken back as per verdict of the apex court.

05. Learned Addl. Advocate General mainly relied on the arguments of learned counsel for private respondent No. 4 with addition that no malafide could be pointed out by the appellant on part of official respondents rather the termination was in compliance with the Judgment of Hon'ble Peshawar High Court, Bannu Bench.

06. We have heard learned counsel for the parties and have perused the record.

07. Record reveals that the Local Government Department had advertised certain Class-IV vacancies vide advertisement dated 04-07-2015. Such Class-IV vacancies were meant for village/neighborhood councils. It had been specifically mentioned in the advertisement that preference will be given to the candidates belonging to the same Village Council, which means that candidates from adjoining villages can also be considered but preference will be given to candidate of the same Village Council. The appellant was also one of the candidates, who had applied for his own Village Council. After due process of selection, the appellant was appointed as Naib Qasid vide order dated 15-03-2016, but was posted against another Village Council. In a similar manner, rest of the appellants in the connected cases were also selected but were appointed against Village Councils other than their own. One of the un-successful candidates filed a writ petition No. 432-B/2018 with the contention that candidate of other Village Council had been appointed against his Village Council. The Honorable Peshawar High Court, Bannu Bench remanded the case to respondent No. 1 vide judgment dated 18-09-2018. Operative part of the judgment is reproduced as under:

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REGISTRAR,
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar.

".....this case is send back to the Assistant Director, Local Government and Rural Development Lakki Marwat to re-examine the appointments of the private respondents (present appellants), merit position of the petitioners (present respondents) and pass an appropriate order keeping in mind the rules, policy and the terms and conditions incorporated in the advertisement for appointment as Class-IV employees, after providing the parties an opportunity of hearing....."

In pursuance of the judgment, respondents No. 1 terminated all those including the appellant, who were appointed against villages other than their own. The appellant was terminated vide order dated 16-01-2019 under the pretext that he had provided wrong information regarding his Village Council, but in the meantime, the appellant had served against the post for almost three years and developed a vest right over such post. It however was the statutory duty of the appointing authority to check their documents in a specified time period which however was not done by the respondents well in time and to this effect, the Supreme Court of Pakistan in its judgment reported as 1996 SCMR 1350 has held that authority having itself appointed civil servant could not be allowed to take benefit of its lapses in order to terminate service of civil servant merely because it had itself committed an irregularity in violating procedure governing appointment. Appointment of the appellant was made by competent authority by following the prescribed procedure, petitioners were having no nexus with the mode of selection process and they could not be blamed or punished for the laxities on part of the respondents. The order affecting the rights of a person had to be made in accordance with the principle of natural justice; order taking away the rights of a person without complying with the principles of natural justice had been held to be illegal. Government was not vested with the authority to withdraw or rescind an order if the same had taken legal effect and created certain legal rights in

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 Khayal Panchayats
 Service Tribunal
 Peshawar

favor of the appellant. Reliance is place on 2017 PLC (CS) 585. It was also astonishing to note that the same office, which had issued appointment order of the appellant, had declared such order as illegal. It would be beneficial to refer to the judgment reported as 2006 SCMR 678, which have held "that it has been noted in a number of cases that departmental authorities do show haste at the time of making such appointments when directives are issued to them by the persons who are in helm of the affairs without daring to point out to them that the directions are not implementable being contrary to law as well as prevalent rules and regulations. In fact such obedience is demonstrated by the concerned officers of the department to please the authorities governing the country just to earn their time being pleasure but on the change of regime and due to their such illegal acts the employees who were appointed suffer badly without any fault on their part and then even nobody bothers for their further career and in such a scenario, the appointing authority is required to be taken to task and not the civil servant. The instant case is a classical example of the case referred by the apex court in the above mentioned judgment. Not only this, we have noted that the candidates selected in place of the appellants are not 100% residents of their respective Village Councils, but there are cases available on record, which would suggest that the appellants have been discriminated, so much so that son of the then incumbent Assistant Director Local Government (respondent No. 1) was also one of the successful candidate in subsequent appointments, who might be a deserving candidate, but it certainly raises suspicion about the credibility of the subsequent appointments. It was also observed that subsequent appointments were not conducted upon recommendations of recruitment committee, but since we have referred to the judgment of Supreme Court reported as 2017 PLC (CS) 585 and the private respondents have also developed vested rights over their posts, hence it would not be

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[Signature]
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 Member Election Tribunal
 Service Tribunal
 Islamabad

appropriate to open another Pandora box, hence we are constrained not to touch the private respondents

In pursuance of the judgment of the Honorable High Court, the respondent No. 1 accommodated the appellants but did not afford appropriate opportunity to respondents (the present appellants), as by every definition, they were civil servants and they were not supposed to be terminated by a single stroke of pen, as proper procedure is available for dealing with such cases, where the authority was required to conduct a detailed inquiry against respondent No. 1 for the lapses and action if any was required against the appellants, was supposed to be under the disciplinary rules, where proper opportunity was required to be afforded to them, as they are also of the same domicile and having valid reasons to show that their appointments were legal, which however was not done by the respondents. Respondent No. 1 in his comments have clarified that domicile holder of the said Tehsil were eligible for the said vacant posts and all the appellants belong to the same Tehsil, hence there were enough grounds for the appellants to defend their case in their favor.

08. The Tribunal observed that appointment of an employee, if made illegally, could not be withdrawn or rescinded instead action must be taken against the appointing authority for committing a misconduct by making illegal appointments as per his own admission. In the instant case, the appointments so made were not illegal, hence the appellants has made out a good case for indulgence of the Tribunal.

09. We are of the considered opinion that the appellants have not been treated in accordance with law and they were illegally removed from service. In view of the foregoing discussion, the instant appeal as well as all other connected appeals are accepted, the impugned orders of their termination from service are set aside and they are reinstated into service

reinstated

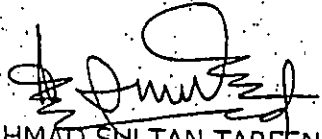
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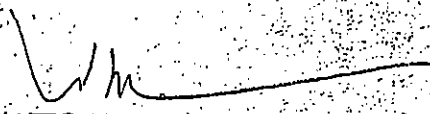
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal

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against their respective positions with all back benefits with further direction that private respondents also shall not suffer for lapses of the respondents, hence they also be accommodated. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED
27.01.2022


(AHMAD SULTAN TAREEN)
CHAIRMAN


(ATIQU-UR-REHMAN WAZIR)
MEMBER (E)

Certified to be true copy


Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Date of Preparation of Certification 30/3/22
Number of Copies 3200
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Amount 38/-
Name of the Applicant
Date of Delivery of Copy 30/3/22
Date of Delivery of Copy 30/3/22



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**OFFICE OF THE ASSISTANT DIRECTOR LOCAL
GOVT: & RURAL DEVELOPMENT DEPARTMENT, DISTRICT
LAKKI MARWAT**

Phone & Fax: (0969)538043,
No: 1246 /AD/LGRDD/LM

Email: adlakkimarwat@gmail.com
Dated: 03/10/2022

NOTIFICATION:

1. **WHEREAS,** in the year 2015 advertised the vacant posts of Class-IV by the worthy Director General, LG&RDD KP Peshawar & later on after observing all codal formalities, the recruitment process of the 65 Naib Qasid was completed & after the DSC recommendations, the Assistant Director Office Lakki Marwat issued the desired appointment orders, in which eighteen (18) candidates appointments were made in other VCs in which Thirteen (13) employee appointment orders dated 15-03-2016 were challenged before the Honorable Peshawar High Court. Bannu Bench in shape of W.P. No. 199-B/2016, W.P. No. 206-B/2016, W.P. No. 261-B/2016, W.P. No. 271-B/2016, W.P. No. 278-B/2016, W.P. No. 279-B/2016, W.P. No. 297-B/2016, W.P. No. 305-B/2016, W.P. No. 316-B/2016, W.P. No. 350-B/2016, W.P. No. 438-B/2016, W.P. No. 577-B/2016 & W.P. No. 10-B/2016, on 28-02-2018 the above-mentioned petitions are decided and the Honourable Court directions are reproduced as under:

"To re-examine the appointments of the private respondents, their merit position & pass an appropriate order keeping in mind the rules, policy & terms & conditions, incorporated in the advertisement for appointment as Class IV employees, and after providing the parties and opportunity of hearing & submit compliance report to the registrar of this court."

2. **AND WHEREAS,** in the light of Honourable Court directions, recruitment process of the said Class-IV was re-examined and the private respondents/selected employees vide dated 15-03-2016 were terminated on 19/04/2018 and the petitioners were appointed as a Naib Qasid being an eligible candidate instead of Private Respondents.

3. **AND WHEREAS,** all the Affected Employees/Respondents submitted Service Appeals before the Honorable Khyber Pakhtunkhwa, Service Tribunal Peshawar in shape of S.A. No. 1225/2019, S.A. No. 1078/2018, S.A. No. 79/2018, S.A. No. 1080/2018, S.A. No. 1081/2018, S.A. No. 1082/2018, S.A. No. 1083/2018, S.A. No. 1084/2018, S.A. No. 1085/2018, S.A. No. 1086/2018, S.A. No. 1087/2018, S.A. No. 1088/2018, S.A. No. 1089/2018, S.A. No. 1090/2018 and S.A. No. 1147/2018, against the impugned order dated 19-04-2018, and the above cited appeals were decided on 27-01-2022 with the directions of the Honourable Khyber Pakhtunkhwa Service Tribunal, Peshawar that:

"The impugned orders of their termination from service are set aside and they are reinstated in to service against their respective positions with all back benefits & with further directions that private respondents also shall not suffer for lapses of the respondents"

4. **AND WHEREAS,** the respondent/department approached to August Supreme Court of Pakistan and submitted in shape of CP No 276 to 290-p/22 against the impugned judgment dated 27-01-2022 of the Honorable Service Tribunal Peshawar, while on the other side

appellants instituted Execution Petition No. 199-209/2022 & EP/169/2022 Titled: "*Momin Khan & Others VS Secretary LG&RDD KPK*" against the Respondent department in the Honorable Service Tribunal Peshawar.

5. **AND WHEREAS**, during the course of the above cited execution petitions proceedings/Operation, the Honorable Service Tribunal, Peshawar strictly directed on 05-07-2022 and gave the last/final opportunity to the respondent department for implementation/compliance report be submitted to this Court before the next date, which has been fixed on 05-10-2022; and thus the respondent/department submitted early hearing application before the August Supreme Court for suspension of Execution Operation of KP STB, Peshawar but the course of hearing on 31-08-2022, the CP No: 276 to 290-p/2022 were dismissed by the August Supreme Court of Pakistan against the respondent/department and passed the directions to the respondent/department to implement the Honorable Service Tribunal Judgment dated 27-01-2022 with later & spirit.

6. **NOW THEREFORE**, in compliance with the Honorable Khyber Pakhtunkhwa Service Tribunal, Peshawar Consolidated judgment announced on 27-01-2022, I, Mr. Muhammad Shaheryar Khan, being the competent authority is pleased to issue the order of Re-instatement of the appellant/affected employees as well as Adjustment of the Private Respondents as mentioned against each:

S.#	Name of Appellant/Affected Employee	Place of Posting/ Respective Positions	Name of Private Respondent	Place of Posting
1	Ihsan Ullah S/o Faiz Ullah Khan	Appellant /Affected Employee reinstated on his respective position in VC Abba Khel-IV, in the light of Honourable Service Tribunal Peshawar directions dated 27.01.2022.	Fazal Rahim S/o Abdul Hamid Khan	In the light of Court directions Mr. Fazal Rahim, Private Respondent without suffer for lapses, is replaced/Adjusted against the vacant post of Naib Qasid in Village Council Mela Shahab Khel Tehsil Lakki Marwat.
2	Tahir Khan S/o Mir Zali Khan	Appellant /Affected Employee reinstated on his respective position in VC Alamshah Khel, in the light of Honourable Service Tribunal Peshawar directions dated 27.01.2022.	Shakil Khan S/o Mushk Alam	In the light of Court directions Mr. Shakil Khan, Private Respondent without suffer for lapses, is replaced/Adjusted against the vacant post of Naib Qasid in Village Council Issak Khel Tehsil Lakki Marwat.
3	Farooq Khan S/o Abdul Ghafar Khan	Appellant /Affected Employee reinstated on his respective position in VC Gandi Khan Khel - II, in the	Fasih Ullah S/o Aman Ullah	In the light of Court directions Mr. Fasih Ullah, Private Respondent without suffer for lapses, is replaced/Adjusted in same

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		light of Honourable Service Tribunal Peshawar directions dated 27.01.2022.		scale against the vacant post of Chowkidar (BPS-03) at Assistant Director Office LG&RDD Tehsil Sarai Naurang.
4	Imtiaz Ahmad S/o Sher Alam	Appellant /Affected Employee reinstated on his respective position in VC Hayat Khel, in the light of Honourable Service Tribunal Peshawar directions dated 27.01.2022.	Shafiullah S/o Shorang	In the light of Court directions Mr. Shafi Ullah, Private Respondent without suffer for lapses, is replaced/Adjusted against the vacant post of Naib Qasid in Village Council Baist Khel Tehsil Sarai Naurang.
5	Haroon Khan S/o Habih Ullah Khan	Appellant /Affected Employee reinstated on his respective position in VC Tajori, in the light of Honourable Service Tribunal Peshawar directions dated 27.01.2022.	Hassan Khan S/o Zabtha Khan	In the light of Court directions Mr. Hassan Khan, Private Respondent without suffer for lapses, is replaced/Adjusted against the vacant post of Naib Qasid in Village Council Passani I Tehsil Sarai Naurang.
6	Sabz Ali Khan S/O Atlas Khan.	Appellant /Affected Employee reinstated on his respective position in VC Shahbaz Khel, in the light of Honourable Service Tribunal Peshawar directions dated 27.01.2022.	Momin Khan S/O Sher dil Khan	In the light of Court directions Mr. Momin Khan, Private Respondent without suffer for lapses, is replaced/Adjusted against the vacant post of Naib Qasid in Village Council Pahar Khel Thall II Teshil Sarai Naurang
7	Dil Jan S/O Abdullah Jan	Appellant /Affected Employee reinstated on his respective position in VC Laldi City - IV, in the light of Honourable Service Tribunal Peshawar directions dated 27.01.2022.	Naqech Ullah S/O Hameed Ullah	In the light of Court directions Mr. Naqeeb Ullah, Private Respondent without suffer for lapses, is replaced/Adjusted against the vacant post of Naib Qasid in Neighborhood Council NC-3 Teshil Lakki Marwat
8	Ataf Ur Rehman S/O Habib Ullah Khan	Appellant /Affected Employee reinstated on his respective position in VC Dara Pezu - I, in the light of	Irshad Ullah S/O Aman Ullah	In the light of Court directions Mr. Irshad Ullah, Private Respondent without suffer for lapses, is replaced/Adjusted against

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		Honourable Service Tribunal Peshawar directions dated 27.01.2022.		the vacant post of Naib Qasid in Village Council Abba Khel-I Tehsil Lakki Marwat.
9	Yousaf Jamal Shah S/O Tayab Shah	Appellant /Affected Employee reinstated on his respective position in VC Bachkan Ahmad Zai in the light of Honourable Service Tribunal Peshawar directions dated 27.01.2022.	Naveed Ullah S/O Khurshid Khan	In the light of Court directions Mr. Naveed Ullah Private Respondent without suffer for lapses, is replaced/Adjusted against the vacant post of Naib Qasid at Assistant Director Office LG&RDD Tehsil Sarai Naurang.
10	Hamid Usman S/O Muhammad Noor	Appellant /Affected Employee reinstated on his respective position in VC Ghazni Khel, in the light of Honourable Service Tribunal Peshawar directions dated 27.01.2022.	Abdul Hasib S/O Akbar Ali Khan	In the light of Court directions Mr. Abdul Hasib Private Respondent without suffer for lapses, is replaced/Adjusted against the vacant post of Naib Qasid in Village Council Jabu Khel Tehsil Ghazni Khel
11	Muhammad Ismail S/O Ghulam Rahbani	Appellant /Affected Employee reinstated on his respective position in VC Gandhi Khan Khel - I, in the light of Honourable Service Tribunal Peshawar directions dated 27.01.2022.	Parvez Kamal S/O Atta Ullah Khan	In the light of Court directions Mr. Parvez Kamal Private Respondent without suffer for lapses, is replaced/Adjusted against the vacant post of Sweeper (BPS-03) at Assistant Director Office LG&RDD Tehsil Sarai Naurang.
12	Farman Ullah S/O Sakht Amir Khan	Appellant /Affected Employee reinstated on his respective position in VC Kheru Khel Pacca, in the light of Honourable Service Tribunal Peshawar directions dated 27.01.2022.	Kamran Ullah S/O Mir Daraz Khan	In the light of Court directions Mr. Kamran Ullah Private Respondent without suffer for lapses, is replaced/Adjusted against the vacant post of Naib Qasid in Village Council Kot Kashmir Teshil Sarai Naurang.
13	Momin Khan S/O Muhammad Amin	Appellant /Affected Employee reinstated on his respective position in VC Abdul Khel, in the light of	Ishfaq Ullah S/O Aman Ullah	In the light of Court directions Mr. Ishfaq Ullah Private Respondent without suffer for lapses, is replaced/Adjusted in same

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	Honourable Service Tribunal Peshawar directions dated: 27.01.2022.	scale against the vacant post of Chowkidar (BPS-03) at Assistant Director Office LG&RDD Teshil Sarai Naurang.
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- i. All the above-mentioned appellants/Affected Employees are reinstated w.e.f 19/04/2018 on their respective positions with all back benefits.
- ii. All the above private respondents shall not suffer for lapses as they are replaced/adjusted in different Village Councils/Neighborhood Councils and Assistant Director LG&RDD Teshil Sarai Naurang in same scale as mentioned above.
- iii. They are allowed to resume their duty from the date of taking over charge.
- iv. Their intervening period of Appellants/Affected Employee i.e. 18.04.2018 & 16.01.2019 to issuance of this order are considered as leave with pay.
- v. Necessary entry to this affect shall be made in their Service Books.
- vi. Charge report should be submitted to all concerned
- vii. No TA/DA is allowed


Assistant Director
LG&RDD Lakki Marwat
t.

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1. PS to Secretary LGE & RDD Khyber Pakhtunkhwa Peshawar.
2. PA to Additional Advocate General Khyber Pakhtunkhwa Service Tribunal Peshawar.
3. Director General LG & RDD Khyber Pakhtunkhwa Peshawar.
4. SO Litigation Secretariat LG & RDD Khyber Pakhtunkhwa Peshawar.
5. Director Admin LG & RDD Khyber Pakhtunkhwa Peshawar.
6. AD Litigation LG & RDD Khyber Pakhtunkhwa Peshawar.
7. Deputy Commissioner, Lakki Marwat.
8. District Accounts Officer, Lakki Marwat.
9. Appellants/Private Respondents concerned.
10. Master file.

Assistant Director
LG&RDD Lakki Marwat

To,

The Director General,
Local Government Rural
Development Department,
Peshawar.

Subject:

**REMINDER / REPRESENTATION FOR
REINSTATEMENT IN SERVICE:**

Respected sir,

1. That after observing the due codal formalities, I was appointed as Class-IV servant and since then performed my duty up to the standard and without any complaint.
2. That some persons filed writ petition before the High Court Bannu Bench and then the Hon'ble Court converted writ petition in to representation and sent the same to department to decide the same in way or the other.
3. That order of the High Court was misinterpreted and I was then removed in service.
4. That numerous colleagues filed appeals before the Hon'ble Service Tribunal Peshawar for reinstatement in services which was accepted on 27-01-2022, directing respondents that the then appellants were not treated in accordance with law, they were illegally removed from services, setting aside order of removal from service with further direction to reinstate them in services against the respective positions with all back benefits. (Copy attached)
5. That thereafter all the removed appellants were reinstated into their services but due to illness of my father, I couldn't litigate the matter, yet as per the judgments of the Supreme Court of Pakistan, 1996 SCMR 1185 (c) and 2009 SCMR 1.
6. That in the said judgments, the hon'ble Supreme Court held that when relief is given to one class the same shall be given to other similarly and equally placed persons even not litigated for. By

keeping in view such judgments, I may be reinstated in services with all service benefits.

It is therefore most humbly requested that in view of the aforesaid submissions, I be reinstated in services with all back benefits by setting aside order of removal from service dated 18-04-2018 and obliged.

عمران اہل

Irfan Ullah
S/O Mir Adam Khan,
R/O Behram Khel, Ex-Nalb
Qasid Village Council Adam
Zai, Lakki Marwat.
Cell No. 0342-4958004

Dated 02-11-2022

NOTE:-

On 11-05-2018, Vide diary No. 8732, I have already submitted departmental appeal to your goodself for reinstatement in service.

BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR

S.A No. _____/2022

Irfan Ullah

versus

Assistant Director & Others

**APPLICATION FOR CONDONATION OF
DELAY, IF ANY.**


Respectfully Sheweth:

1. That the subject appeal is filed in this hon'ble Tribunal.
2. That at the time father of the appellant became seriously ill and was taken to Karachi for treatment and is still lying ill.
3. That the apex Supreme Court held time and again in its judgments that vested rights shall not be killed on the score of limitation and cases be decided on merit.
4. That when colleagues of appellant were reinstated in service after accepting appeals by the hon'ble Tribunal, then by not treating appellant at par would be neither unjustified nor be discriminated

It is, therefore, most humbly requested that delay, if any, be condoned in the best interest of justice.


 Applicant

Through


 Saadullah Khan Marwat

Dated: 06-12-2022

AFFIDAVIT

I, Irfan Ullah (Appellant), do hereby solemnly affirm and declare that contents of the Application are true and correct to the best of my knowledge and belief.


 DEPONENT

یعدالت چٹاپ سرسٹریٹ ٹریڈنگ کمپنی پرائیویٹ لمیٹڈ لاہور

مستجاب
عرفان اللہ
دعویٰ ایل
تمام
کوکل گورنمنٹ

باعث شکریہ ایسکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ آل مقام لاہور
کیسٹ اسٹینڈن اڈلس خان سروسٹن ایلوکیٹ ہائی کورٹ کو وکیل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب
موصوف کو مقدمہ کی کل کاروائی کا کابل اختیار ہوگا نیز وکیل صاحب کو کرنے راضی نامہ و آفیشز ثالث و فیصلہ برعکس
دینے جواب دہی اور اقبال دعویٰ اور لیکچرنگ ڈگری کرنے اجراء اور وصولی چیک و رپید اور مرضی دعویٰ اور درخواست
ہر قسم کی تعلیق از ان پر سخت کر لینے کا اختیار ہوگا نیز لیکچرنگ عدم پیروی یا ڈگری بکلیفہ یا اپیل کی برآمدگی
اور پیروی نیز دادر کرنے اپیل نگران و نظر ثانی و پیروی کرنے کا اختیار ہوگا اور بصورت ضرورت مقدمہ منکر
کے کل یا اجزائی کاروائی کے واسطے اور وکیل یا مندر قانونی کو اپنے ہمراہ یا اپنی بجائے تقرر کا اختیار ہوگا
اور صاحب مقدمہ شاہ کو بھی وہی جملہ مندرکہ بالا اختیارات حاصل ہوں گے اور اس کا سامنے پروا ختم منظور
قبول ہوگا و دوران مقدمہ میں جو خرچہ و ہرجانہ التوا مقدمہ کے سبب ہوگا اس کے مستحق وکیل صاحب
موصوف ہوں گے نیز بقایا و فرجیہ کی وصولی کرنے کا بھی اختیار ہوگا اگر کوئی تاریخ پیشی مقام درجہ
پر ہو یا عدسے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکور کریں۔

لہذا وکالت نامہ دیکھ دیا کہ سند ہے۔

المرقوم 22-12-06

التعبید التعبید التعبید

ارباب نیفا کمال
ایڈووکیٹ

سیدہ الشیخاں مرشد
ایڈووکیٹ

عرفان اللہ

ایڈووکیٹ

محمد کوان
ایڈووکیٹ