


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

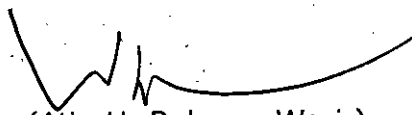

(AHMAD SULTAN TAREEN)
CHAIRMAN


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

06.01.2022

Clerk to counsel for the appellant present. Mr. Kabirullah Khattak, Additional Advocate General for respondents present.


Clerk to counsel for the appellant requested for adjournment on the ground that counsel for the appellant is not available today, due to general strike of the bar. Adjourned. To come up for arguments before the D.B on 14.01.2022.


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


Chairman

14.01.2022

Learned counsel for the appellant present. Mr. Riaz Khan Paindakheil, Assistant AG for respondents present. Junior to counsel for private respondent No. 4 present and requested for adjournment as senior counsel for private respondent No. 4 is not available today. Adjourned. To come up for arguments before the D.B on 27.01.2022.


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


Chairman

28/12 2020


Due to summer vacation, case is adjourned to
1-2 .2021 for the same as before.

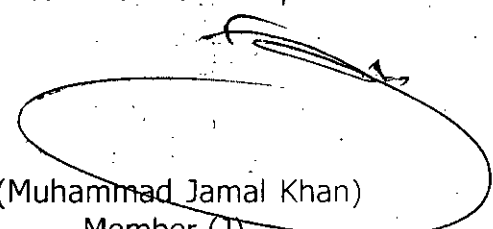

Reader

01.02.2021

Learned counsel for the appellant present. Mr. Kabirullah Khattak learned Additional Advocate General for official respondents No. 1 to 3 and private respondent No.4 in person present.

Private respondent No.4 requested for adjournment that his counsel is not available today. Adjourned. To come up for arguments on 30.03.2021 before D.B.


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


(Muhammad Jamal Khan)
Member (J)

30.03.2021

Due to non availability of the concerned D.B, the case is
adjourned to 30.06.2021 for the same.


Reader

03.11.2020

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

The Bar is observing general strike, therefore, the matter is adjourned to 28.12.2020 for hearing before the D.B.

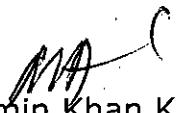

(Mian Muhammad)
Member


Chairman

05.03.2020

Counsel for the appellant present. Mr. Kabirullah Khattak, Additional AG for official respondents No. 1 to 3 and private respondent No. 4 in person present. Private respondent No. 4 requested for adjournment on the ground that his counsel is not available today. Private respondent No. 4 is strictly directed to produce his counsel on the next date positively. Adjourned to 02.04.2020 for arguments before D.B.


(Mian Mohammad)
Member


(M. Amin Khan Kundi)
Member

2. 4. 2020

Due to public holiday on account of (COVID-19) the case is adjourned. To come up for same on 29.6.2020.



29.06.2020

Due to COVID-19, the case is adjourned to 24.08.2020 for the same.


Reader

24.08.2020

Due to summer vacation case to come up for the same on 03.11.2020 before D.B.


Reader

12.09.2019 Junior counsel for the appellant and Mr. Kabirullah Khattak, Additional AG for the respondents present. Junior counsel for the appellant requested submitted rejoinder, which is placed on record. Junior counsel for the appellant also requested for adjournment on the ground that learned senior counsel for the appellant is not available today. Adjourned to 18.11.2019 for arguments before D.B.


(Ahmad Hassan)
Member


(M. Amin Khan Kundi)
Member

18.11.2019 Counsel for the appellant present. Mr. Kabirullah Khattak, Additional AG for official respondents No. 1 to 3 and private respondent No. 4 in person present. Private respondent No. 4 requested for adjournment on the ground that his counsel is not available today. Adjourned to 16.01.2020 for arguments before D.B.


(Hussain Shah)
Member


(M. Amin Khan Kundi)
Member

16.01.2020 Due to general strike on the call of Khyber Pakhtunkhwa Bar Council, learned counsel for the appellant is not available today. Mr. Kabirullah Khattak, Additional AG for official respondents present. Adjourned to 05.03.2020 for arguments before D.B.


(Ahmad Hassan)
Member


(M. Amin Khan Kundi)
Member

25.04.2019

Appellant in person present. Addl: AG alongwith Mr. Yousaf Jan, Secretary Village Council for official respondents and private respondent no.4 in person present. Written reply on behalf private respondent no.4 not submitted. Requested for adjournment. Adjourned. Case to come up for written reply of respondent no.4 on 19.06.2019 before S.B.


(Ahmad Hassan)
Member

19.06.2019

Counsel for the appellant and Mr. Kabirullah Khattak, Additional AG for official respondents No. 1 to 3 preset. Joint para-wise comments on behalf of official respondents No. 1 to 3 has already been submitted. Neither private respondent No. 4 present nor written reply on his behalf submitted therefore, notice be issued to him to submit written reply on the next date by way of last chance. Case to come up for written/comments on behalf of private respondent No. 4 on 12.07.2019 before S.B.


(Muhammad Amin Khan Kundi)
Member

12.07.2019

Counsel for the appellant and Addl. AG for official respondents No. 1 to 3 who already submitted written reply. Respondent No. 4 in person present and submitted written reply. To come up for arguments on 12.09.2019 before the D.B. The appellant may submit rejoinder within a fortnight, if so advised.


Member

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 1084/2018

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	03/09/2018	<p>The appeal of Mr. Dil Jan presented today by Mr. Saadullah Khan Marwat Advocate may be entered in the Institution Register and put up to the Learned Member for proper order please.</p> <p style="text-align: right;"><i>for Saadullah</i> REGISTRAR</p>
2-	4-9-18	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>24-10-18</u>.</p> <p style="text-align: right;"><i>MA</i> MEMBER</p>
	24.10.2018	<p>Due to retirement of Hon'ble Chairman, the Tribunal is defunct. Therefore, the case is adjourned. To come up on 11.12.2018.</p> <p style="text-align: right;"><i>[Signature]</i> Reader</p>

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BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

S.A No. 1085 /2018

Dil Jan

versus

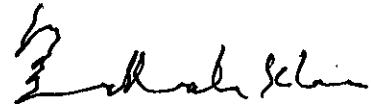
Assistant Director & Others

INDEX

S. No	Documents	Annex	P. No.
1.	Memo of Appeal		1-4
2.	Advertisement dated 04-07-2015	"A"	5
3.	Appointment order dated 15-03-2016 / Arrival report	"B"	6-7
4.	W.P / Judgment dated 28-02-2018	"C"	8-13
5.	Show Cause Notice	"D"	14
6.	Reply to Show Cause Notice, 12-04-2018	"E"	15
7.	Termination order dated 18-04-2018	"F"	16
8.	Appointment of R. No. 04, 19-04-2018	"G"	17
9.	Representation dated 11-05-2018	"H"	18-21

Appellant

Through



Dated: 29.08.2018

Saadullah Khan Marwat
Advocate.
21-A Nasir Mansion,
Shoba Bazaar, Peshawar.
Ph: 0300-5872676
0311-9266609

BEFORE KPK, SERVICE TRIBUNAL, PESHAWAR

S.A No. 1085 /2018

Dil Jan S/O Abdullah Jan,
R/O Baghban, Lakki Marwat,
Ex-Naib Qaisd, Village Council
Lakki City-II, Lakki Marwat.

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 1380

Date: 03/9/2018

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. Naqib Ullah S/O Hameed Ullah Jan,
Naib Qasid, Village Council Sammar Khel,
Michen Khel, Lakki Marwat Respondents

⇔<=>⇔<=>⇔<=>⇔<=>⇔

APPEAL U/S 4 OF SERVICE TRIBUNAL ACT, 1974
AGAINST OFFICE ORDER NO. 5287-90, 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:

Filed to Registrar
[Signature]
03/9/18

⇔<=>⇔<=>⇔<=>⇔<=>⇔

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 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.

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 up to class 9th.
- 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 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 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.



Appellant

Through



Saadullah Khan Marwat

Dated.29.08.2018



Amjad Nawaz
Advocates

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

اشتہار برائے بھرتی کلاس-IV (BPS-01)

محکمہ ہذا کی طرف سے درج ذیل خالی آسامیوں کو پُر کرنے کے لئے صوبہ خیبر پختونخواہ کے ڈومیسائل کے حامل اہل امیدواروں سے درخواستیں مطلوب ہیں جو کہ اس اشتہار کے اشاعت کے پندرہ یوم کے اندر اندر ضلع کے اسٹنٹ ڈائریکٹر محکمہ بلدیات و دیہی ترقی کے دفاتر میں دفتری اوقات کار کے دوران بمقام تصدیق شدہ دستاویزات پیش 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	مختلفہ	کلاس-IV	01	1. متعلقہ ضلع اور پنج ایچ ایم ڈی کونسل کا مستقل باشندہ ہو۔	18-40

2- متعلقہ ضلع کے باشندے کو ترجیح دی جائے گی۔

1- گورنمنٹ ملازم کو ترجیح دی جائے گی۔

مطلوبہ قابلیت اور دیگر شرائط پر پورا اترنے والے امیدواروں سے درخواست اس اشتہار کی اشاعت کے پندرہ (15) یوم کے اندر اندر اپنے دستاویزات اپنے ڈومیسائل کے حامل ضلع کے اسٹنٹ ڈائریکٹر محکمہ بلدیات و دیہی ترقی کے دفاتر میں جمع کرائے۔

ڈائریکٹر جنرل
محکمہ بلدیات و دیہی ترقی، خیبر پختونخواہ

صوبہ خیبر پختونخواہ
54107/2015

B G

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

Dated. 15 / 3 / 2016

OFFICE ORDER.

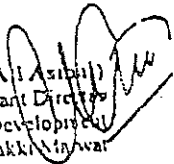
No. 4158-70 / On the recommendations of Selection and Recruitment Committee, appointment of the following Nalb Qasid, Village / Neighborhood Council is hereby ordered in BPS-01 Rs. (6210-195-12060) plus usual allowances as admissible under the rules existing policy of the Provincial government on the terms and conditions given below w.e.f the date of taking over their charge in the interest of public service, they will report or duty in the office of Village / Neighborhood Council Nazim mentioned against each:-

S.No	Name with Address	Village/ Neighborhood Council	Remarks
	Dil Jan's/o Abdullah Jan	Lakki Neighborhood IV	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 TADA for his first arrival/joining duty but 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.
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 reserves 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 DHO 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.

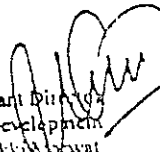
If the above terms and conditions are accepted, he should immediately communicate to this office, and report for duty to the undersigned within (15) days, failing which this appointment order may be treated as cancel in respect of the candidate

(A. I. Asim) 
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

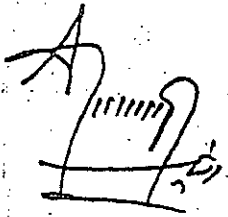
7

ARRIVAL REPORT

بحوالہ آفس ارڈر نمبر 70-4158 مورخہ: 15 مارچ 2016ء
میں سکی دل جان ولد عبد اللہ جان نے بحیثیت نائب قاصد نامہ بھر ہوڈ کونسل کی نمبر 4 میں مورخہ: 18 مارچ 2016 کو ڈیوٹی پر جا
ئی۔ رپورٹ مندرجہ ذیل ہے۔


دل جان ولد عبد اللہ جان نائب قاصد نامہ بھر ہوڈ کونسل کی نمبر 4

Seen



SECRETARY
N/C-4 U/C Lakki City-2
Lakki Marwat

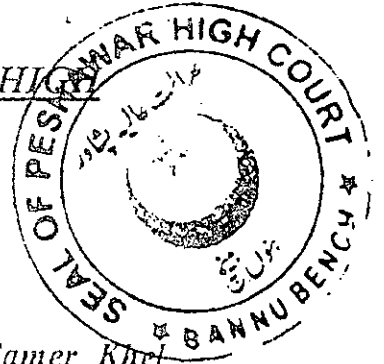
Seen



Assistant Director
Local Govt. & Rural Dev.
Department Lakki Marwat

18/3/16

C 8
BEFORE THE HONORABLE PESHAWAR HIGH COURT
COURT BANNU BENCH.



WRIT PETITION NO. 297-B /OF 2016.

Naqibullah S/O, Hamidullah Jan R/O Mohallah Samer Khel
Michen Lakki City, Neighborhood Council No.IV, Union Council
Lakki City-II, Lakki City Tehsil & District, Lakki
Marwat.....(PETITIONER).

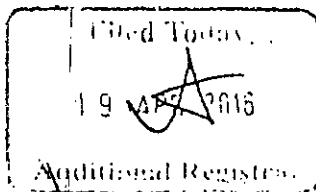
VERSUS

1. Government of Khyber Pakhtunkhwa, through Director
General local Government and Rural Development, Khyber
Pakhtunkhwa, Peshawar.
2. The Deputy Commissioner, Lakki Marwat.
3. Assistant Director, Local Government and Rural
Development, District, Lakki Marwat.
4. Chief Co-Ordination Officer, District, Lakki Marwat.
5. District Accounts Officer, Lakki Marwat.
6. The Manager, National Bank, Lakki Marwat.
7. Dil Jan S/O Abdullah Jan, R/O Mohallah Baghban Lakki
City, Neighborhood Council No.3, Union Council Lakki City-
II, Lakki City, District, Lakki Marwat.....(RESPONDENTS).

WRIT PETITION UNDER ARTICLE 199 OF THE
CONSTITUTION OF THE ISLAMIC REPUBLIC OF
PAKISTAN, 1973.

PRAYER:

On acceptance of the instant Writ Petition, the
impugned appointment order dated 15/03/2016, for the
post of Class-IV, in favour of the respondents No.07,
issued by the respondent No.03/ Assistant Director
Local Government and Rural Development, District,
Lakki Marwat, may kindly be declared null and void
because the impugned appointment order has been
passed by ignoring the petitioner being eligible for the
above said post as he belongs to Neighborhood Council



ATTESTED

EXAMINER
Peshawar High Court
Bannu Bench

2

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



W.P.No.297-B/2016

Naqibullah

Versus

Govt. of K.P.K through Secretary Local Govt. and
Rural Development and others

JUDGMENT

Date of hearing: 28.02.2018

Appellant-petitioner By Muhammad Tams Qureshi Adv.
and Kazim Raza Adv.

Respondent By Shahid Hamid Qureshi Adv.

By Muhammad Aleem Adil G. and Yousef Ichan Progressia Lotki
Adv. Nos. 7 By Shahid Saleem Mir Khal G. Adv.

SHAKEEL AHMAD, J.- Same judgment as in
W.P.No.199-B/2016 (Najibullah Vs. Director General
Local Govt. and Rural Development and others).

Announced.
Dt: 28.02.2018.

Sd/- Mr. Justice Abdul Shakoor-J

Sd/- Mr. Justice Shakeel Ahmad J

CERTIFIED TO BE TRUE COPY

Examiner
Peshawar High Court Bannu Bench
Authorized Under Article 87 of
the Qanun-e-Shahadat Order 1988

SCANNED

175
18

Shahid
03/3/18

10

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 Farooq Alam Nazki Adv;

Respondent By Shahid Hamid Qureshi ADAS

Abdul Hanifa ADLG Bannu, Muhammad Aleem
ADLG Larki and Yousaf Khan Progress Officer Larki.

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).

Inwrt

(D B) Mr Justice Abdul Shukor and Mr Justice Shakeel Ahmad, JJ

ATTESTED

EXAMINED
Peshawar High Court,
Bannu Bench



- 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
(Najibullah 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).

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

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

ATTESTED
EXAMINER
Rawalpindi High Court
Rawalpindi

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

ATTESTED
EXAMINER
Kashwar High Court
Hannu Board

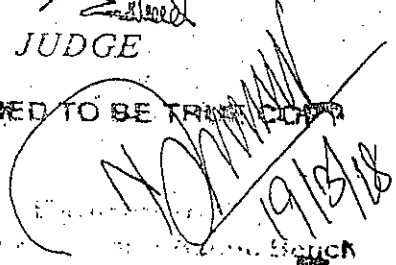
months positively. With these observations the writ petitions
are disposed of accordingly.

Announced.
Dt: 28.02.2018.



JUDGE


JUDGE

CERTIFIED TO BE TRUE COPY


19/3/18

Responsible Officer, Public Seal
Authenticated by the Secretary of
The Government of Punjab, Lahore


28/2/18



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14

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

No. 5068-70

Dated March 30, 2018.

To

Mr. Dil Jan
Naib Qasid Neighborhood Council
Lakki-IV, District Lakki Marwat.

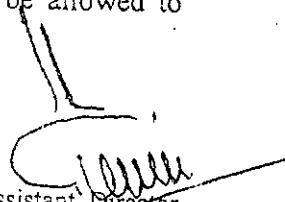
SUBJECT:- SHOW CAUSE NOTICE.

Memo.

In the light of worthy Peshawar High Court, Bannu Bench, judgment dated 28.02.2018 in **WP No.297-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 Shahbaz Khel Tehsil and District Lakki Marwat vide **Order No.4158-70, 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.4158-70-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 Neoghborhood Council Lakki-III, but have been appointed against the post for Neighborhood Council Lakki-III. 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-party 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.


Assistant Director

Local Govt. & Rural Development
Department, Lakki Marwat.

E 15

From

Dil Jan S/O Abdullah Jan
Naib Qasid Lakki City-4
Lakki Marwat

To

The Assistant Director
Local Govt: & Rural Dev: Deptt:
Lakki Marwat

SUBJECT: REPLY TO SHOW CASE NOTICE DATED : 30. 03. 2018
RECEIVED BY POST ON 10.04. 2018

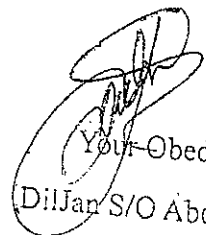
Respected Sir

Reference to your letter No. 5068-70 Dated: 30.03.2018 on the subject mentioned above I have been appointed as Naib Qasid at NC Lakki City 4 according to the laid down principals & criteria and since my appointment, I am serving the department with the best of my ability. According to the advertisement, there was no specific restriction rather preferential treatment to the applicants of nearby villages was mentioned. After due scrutiny by competent authority, I had been appointed as Naib Qasid and since then no minor or major offence as envisaged in Efficiency and Discipline rules 1973 has been committed by me so the serving of above mentioned show cause notice is illegal. I belong to the same District and Same Union Council so I deserved to received.


Furthermore the Provincial Govt. had also made further clarification about the eligibility and qualification of candidates by issuance of notification No SO(LG)2-188/89, Dated: 03/12/2015 copy attached for ready reference in this regard.

In view of the above situation, it is humbly prayed that the above cited show Cause Notice my please be filed without further proceeding.

Dated: 12/04/2018


Yours-Obediently
Dil Jan S/O Abdullah Jan
N/Q Lakki City-4

Received



12/4/2018



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

Dated April 18, 2018

OFFICE ORDER


No. 5192-97 / The Peshawar High Court Bannu Bench was pleased to announce the following judgment in Writ Petition No.297-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 Respondent	Parent Village Council.	Village Council where appointed.
1	Mr. Diljan S/O Abdullah Jan.	NC Lakki-III	NC Lakki-IV

Both the Petitioner and Respondent were heard and examined in detail and record perused. The petitioner Mr. Naqibullah S/O Hamidullah 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 Neighborhood Council Lakki-III but he was appointed at Neighborhood Council Lakki-IV 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 Neighborhood Council Lakki-IV issued vide No.Order No.4158-70, dated 15.03.2016 against the Rules and Policy and the conditions incorporated in the advertisement for Class-IV. Consequently the the said order becomes invalid and services of the respondent stand terminated with immediate effect.


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.


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



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

OFFICE ORDER

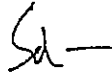
Dated April ___ U ___ /2018

No. 5287-90 / In pursuance to the judgment dated 28.02.2018 of Peshawar High Court Bannu Bench in Writ Petition No.297-B/2016, Mr. Naqibullah S/O Hamidullah R/O Mohallah Samar Khel, Michan Khel Lakki City, 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 NC Lakki-IV, 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.

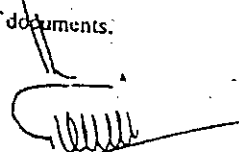
If the above terms and conditions are accepted, he should immediately communicate his willingness and report for duty to the undersigned within 15 days, failing which this appointment order may be treated as cancelled in respect of the candidate.


(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.


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

H 18

D. No. 8733
Dated 11/5/18
SECRET

0.40 ds

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 on 15.03.2016 and posted at **village Council NC Lakki - IV** 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 NC Lakki - III** but he has been appointed as Class-IV in **village Council NC Lakki - IV**. 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 Judgment of Peshawar High Court Bannu Bench Dated: 28.02.2018, in which the only objection raised was that appellant belongs to **village Council NC Lakki - III** but he has been appointed as Class-IV in **village Council NC Lakki - IV** 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 LGRRD 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 NC Lakki - III** but he has been appointed as Class-IV in **village Council NC Lakki - IV** 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 NC Lakki - IV** District Lakki Marwat as per terms and conditions of the afore-said advertisement dated 04.07.2018. But Assistant Director LGRRD Lakki Marwat has wrongly and illegally terminated the appellant from service in order to adjust his blue eyed persons. The Assistant Director LGRRD 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 LGRRD 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 same 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 NC Lakki - III and has been appointed in Village Council NC Lakki - IV 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 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 appointed 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**.

یعدالت جناب سرسٹریٹ ٹریبونل سوہا سہہ پشاور

مجناب ایڈوائس

دعویٰ بنام محمد علی و عسکر

دعویٰ اپیل

باعضرت سرسٹریٹ ٹریبونل

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مقدمہ مذکورہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ ان مقام پشاور
کیسٹ سید احمد خان سرور سے ایڈووکیٹ 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 رضی نامہ و تقرر ثالث و فیصلہ بر عطف
دینے جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ اور رضی دعویٰ اور درخواست
ہر قسم کی تعلیم اور اس پر دستخط کر کے کا اختیار ہوگا نیز بصورت عدم پیروی یا ڈگری بیکطرفہ یا اپیل کی برآمدگی
اور سسٹنٹ ججز یا ججز کرنے اپیل نگران و نظر ثانی و پیروی کرنے کا اختیار ہوگا اور بصورت ضرورت مقدمہ مندر
کے کل یا ججز کی کاروائی کے واسطے اور وکیل یا منڈا قانونی کو اپنے ہمراہ یا اپنی بجائے تقرر کا اختیار ہوگا
اور اس میں مقرر شدہ کو بھی وہی جملہ مذکورہ بالا اختیارات حاصل ہوں گے اور اس کا ساختہ پرواختہ منظر
قبول ہوگا و دوران مقدمہ میں جو خرچہ و ہرجانہ التوا مقدمہ کے سبب سے ہوگا اس کے مستحق وکیل صاحب
موصوف ہوں گے نیز بقایا و خرچہ کی وصولی کرنے کا بھی اختیار ہوگا اگر کوئی تاریخ پیشی مقام درجہ
پڑ ہو یا عدت باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکور کریں۔
لہذا وکالت نامہ رکھ دیا کہ سند ہے۔

المزوم 29/8/81

التعبید التعبید التعبید

سید محمد

ارباب سید اکمال
ایڈووکیٹ

سیدہ الشہ خان مرثیت
ایڈووکیٹ

دل ۵۵
Dal Pan


عن روایت تار
ایڈووکیٹ

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 place of appellant is namely Naqib Ullah S/O Hamid Ullah. Copy of appointment order dated: 19.04.2018 of Naqib Ullah 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 Naqib Ullah 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 Naqib Ullah 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 Naqib Ullah 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.

Dated:

10/15/2018


APPLICANT / APPELLANT

Diljan S/O Abdullah Jan
Naib Qasid

Village Council NC Lakki - IV
District Lakki Marwat

یعدالت جناب سرسٹریٹریٹ ٹریبونل صوبہ سرحد پشاور

منجانب ایڈوائس

دعویٰ بنام محمد علی عسکری

دعویٰ اپیل

باعتبار شکریہ ایٹکے

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مستردہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ آن مقام پشاور
کیسٹم سٹیٹ ایڈوائس خان سرورتنے ایڈووکیٹ ہائی کورٹ کو وکیل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب
موصوف کو مقدمہ کی کل کاروائی کا کابل اختیار ہو گا نیز وکیل صاحب کو کرنے راضی نامہ و تقریر ثالث و فیصلہ بر عطف
بیشے جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ اور رضی دعویٰ اور درخواست
ہر قسم کی تعلیق اور اس پر دستخط کر کے اختیار ہو گا نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی
اور بصورت اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہو گا اور بصورت ضرورت مقدمہ نہ دیکر
کے کل یا اجزائی کاروائی کے واسطے اور وکیل یا نثار قانونی کو اپنے ہمراہ یا اپنی بجائے تقریر کا اختیار ہو گا
اور صاحب مقرر شاہ کو بھی وہی جملہ مذکورہ بالا اختیارات حاصل ہوں گے اور اس کا ساختہ پورا اختہ منطوق
قبول ہو گا و دوران مقدمہ میں جو خرچہ و ہر جانہ التوا مقدمہ کے سبب سے ہو گا اس کے مستحق وکیل صاحب
موصوف ہوں گے نیز بقایا و خرچہ کی وصولی کرنے کا بھی اختیار ہو گا اگر کوئی تاریخ پیشی مقام درجہ
پڑ ہو یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکور کریں۔
لہذا وکالت نامہ رکھ دیا کہ سند ہے۔

۱۹۸۴

العبد _____

سید گل خان

محمد الشیر خان مرشد
ایڈووکیٹ

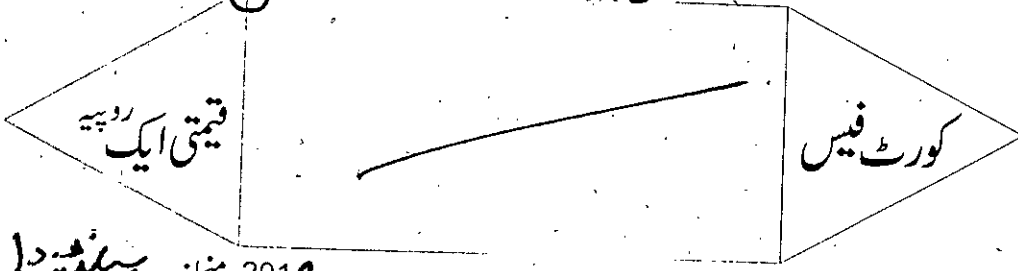
ارباب ایٹکے
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عن روایت نامہ
ایڈووکیٹ

وکالت نامہ

بعدالت چیمبر میں صاحب روٹ کیس نمونہ ۱۸۱۸/۱۰۱۸



2019ء منجانب **محمد طارق قریشی** (تقیب اللہ)
بنام اسٹڈنٹ ڈاکٹر منیر دین

4 مزدوری
دل جان
S.A No. 1085/1018
باعث تحریر آنکہ

موری
مقدمہ
دعوی
جرم

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ آن
مقام **پشاور** کے لئے **محمد طارق قریشی ایڈووکیٹ**
مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا نیز
وکیل صاحب کو رضی نامہ و تقرر ثالث و فیصلہ پر حلف دینے جواب دہی اور اقبال دعویٰ اور بصورت
ڈگری کرانے اجراء اور وصولی چیک روپیہ اور عرضی دعویٰ اور درخواست ہر قسم کی تصدیق زر
اس پر دستخط کرنے کا اختیار ہوگا نیز بصورت عدم پیروی یا ڈگری یک طرفہ یا اپیل کی برآمدگی او منسوخ
دان کرانے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ اور بصورت ضرورت مقدمہ مذکور کے کل یا جزوی
کاروائی کے واسطے اور وکیل یا مختیار قانونی کو ہمراہ یا اپنی بجائے تقرر کا اختیار ہوگا اور صاحب
مقرر شدہ کو بھی وہی جملہ مذکورہ بالا اختیارات حاصل ہونگے۔ اور اس کا ساختہ پر ساختہ منظور قبول
ہوگا اور دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا۔ اس کے مستحق وکیل صاحب
موصوف ہونگے۔ نیز بقایا و خرچہ کی وصولی کرنیکا بھی اختیار ہوگا۔ اگر کوئی تاریخ پیشی مقام دورہ پر ہو
یا جگہ سے باہر ہو تو وکیل صاحب پابند ہونگے کے پیروی مقدمہ مذکور کریں لہذا وکالت
لکھد یا تاکہ سندر ہے

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Accepted
Signature
Advo

4 ماہ مزدوری 2019ء

العبد گواہ نشد العبد

بمقام **پشاور** کے لئے منظور ہے



محمد طارق قریشی ایڈووکیٹ

سپریم کورٹ آف پاکستان

موبائل: 0300-5768804

یا سرمروت پرنٹنگ پریس پشاور موبائل: 0333-9123075

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR.

Appeal No 1085/2018

Dil Jan

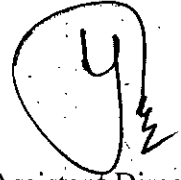
Versus

Govt. of KPK & others.

INDEX.

#	Description of Documents	Annexure	Pages
1.	Comments.	-	1-3
2.	Affidavit.	-	4
3.	Copy of judgment dated 11.12.2018 of PHC Bannu Bench.	A	5-9

Deponent



Assistant Director
Local Govt. & Rural Development
Department, Lakki Marwat.
(Respondent No.1).

Assistant Director
Local Govt. & Rural Dev:
Deptt: Lakki Marwat.

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR.

Appeal No 1085/2018

Dil Jan S/O Abdullah Jan
R/O Baghbanan, Lakki Marwat
Ex-Naib Qasid, Neighborhood Council
Lakki City-IV, Lakki Marwat..... Appellant

VERSUS

1. Assistant Director, Local Govt. & Rural Development
Department, Lakki Marwat.
2. Director General, Local Govt & Rural Dev. Department
Khyber Pakhtunkhwa, Peshawar.
3. Secretary, Govt. of Khyber Pakhtunkhwa Local Govt. Elec.
and Rural Development Department, Peshawar.
4. Naqibullah S/O Hameed Ullah Jan
Naib Qasid, Neighborhood Council Lakki City-III
Lakki Marwat.
..... Respondents

PARA-WISE COMMENTS IN RESPECT OF RESPONDENT NO.1, 2 & 3.

Respectfully Sheweth.

PRILIMINARY OBJECTIONS.

1. That the appellant has no cause of action & locus standi.
2. That the appellant has been es-topped by his own conduct to file the appeal.
3. That the instant appeal is time barred.
4. That the appeal is bad for misjoinder and nonjoinder of necessary parties.
5. That the Honorable Court has no jurisdiction to adjudicate the appeal.

ON FACTS.

1. Para No.1 is correct to the extent that the posts of class- IV were advertised by the Director General, LGRDD, KPK, Peshawar on 04/07/2015.
2. Para No.2 is incorrect. The appellant was appointed as Naib Qasid on temporary basis.
3. This is correct to the effect that the writ petition filed by the Respondent No.4 was disposed of by the honorable Peshawar High Court Bannu Bench on 28/02/2018 along with other writ petitions.

4. Correct to the effect that appellant submitted his reply to the Show Cause Notice issued to him by the Assistant Director, LGRDD, Lakki Marwat being respondent No.1 in the present appeal and was found unsatisfactory.
5. That Para No.5 is correct to the extent that the services of appellant were terminated on 18/04/2018 on the grounds that the appellant was not bonafide resident of the Council to which he was appointed in 2016. The advertisement floated in the Daily Newspapers in 2015 bore a condition that the candidate should be inhabitant of the council concerned.
6. That Para No.6 is correct to the extent that the Assistant Director, Local Govt. and Rural Development Department Lakki Marwat (R.No.1) appointed R.No.04 being bonafide resident of the said Council against the post so vacated by the appellant which also was in pursuance of the said judgment dated 28/02/2018 as well as the CMA of the appellant dismissed by the Peshawar High Court Bannu Bench vide its judgment dated 11.12.2018. Copy of the judgment is as Annex-A.
7. In response to Para no.7 it is stated that the appeal of the appellant was considered and filed having no merit.

ON GROUNDS.

- a. That it is upon the appellant to prove his qualifications.
- b. That the Para No. b is incorrect. The appointment of the appellant to another council was violation of the prescribed service rules as well as the advertisement. The Peshawar High Court Bannu Bench in its judgment 28/02/2018 ordered for reconsideration of appointment of the appellant and issuance of proper order keeping in mind the condition so incorporated in the advertisement, which was done accordingly.
- c. Incorrect. The post of Naib Qasid in the Union Council was not vacant as bonafide resident of the said Council was earlier appointed there.
- d. Incorrect. Since the matter was in the court pending decision and that rectification of the mistake was not possible therefore show cause notice was issued to the appellant and was removed from service to implement the said judgment. Moreover, the post of Naib Qasid was also not vacant.
- e. Incorrect. The appointment of the appellant was contrary to the condition so incorporated in the advertisement as well as the prescribed Service Rules.
- f. Incorrect. The appellant could not be appointed out of his Village/Neighborhood Council.

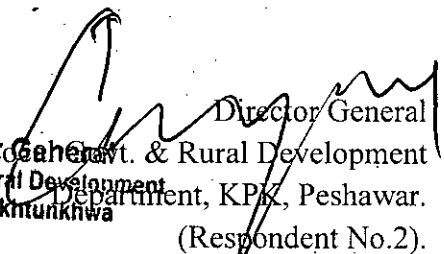
- g. Incorrect. The post of Naib Qasid in the concerned Village/Neighborhood Council was advertised as per Service Rules.
- h. Incorrect. The Respondent No.4 was found eligible for the post of Naib Qasid by the competent authority and was appointed in pursuance of the decision of the court, as noted in the preceding paras.
- i. As replied in Para-h above.
- j. Incorrect. The word "Termination" prevails in the constitutional provisions regarding terms and conditions of service of civil servants therefore this word is not alien at all.
- k. As replied in Para-b above.
- l. Incorrect. The respondent filed writ petition in Peshawar High Court Bannu Bench which was decided on 28/02/2018. The competent authority implemented the court decision within the time given by the court, therefore, the appellant was not given any vested right.
- m. Incorrect. As replied in Para-b above.

It is therefore requested that this Honorable Tribunal may graciously dismiss appeal of the appellant with cost.

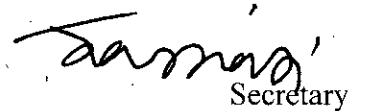


Assistant Director
Local Govt. & Rural Dev:
Deptt: Lakki Marwat.

Assistant Director
Local Govt. & Rural Development
Department, Lakki Marwat.
(Respondent No.1).



Director General
Local Govt. & Rural Development
Department, KPK, Peshawar.
Khyber Pakhtunkhwa
(Respondent No.2).



Secretary
Local Govt. & Rural Development
(SECRETARY) Department, KPK, Peshawar.
Govt. of Khyber Pakhtunkhwa
Local Govt. & Rural Dev: (Respondent No.3).
Department

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR.

Appeal No 1085/2018

Dil Jan

Versus

Govt. of KPK & others.

Affidavit

I, Mr. Yousaf Khan, Assistant Director, Local Govt. & Rural Development Department, Lakki Marwat solemnly affirm that the contents of comments are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Tribunal.

Deponent



Assistant Director
Local Govt. & Rural Development
Department, Lakki Marwat.
(Respondent No.1).

Assistant Director
Local Govt. & Rural Dev:
Deptt: Lakki Marwat.

JUDGMENT SHEET

**IN THE PESHAWAR HIGH COURT,
BANNU BENCH.**

(Judicial Department)

CM NO.330-B of 2018 in

Writ petition No.279-B of 2016

Hamid Usman

Vs.

**Govt. of Khyber Pakhtoonkhwa
and others**

JUDGMENT

Date of hearing 11-12-2018

Present: Petitioner By Rudam Khan Kundli A-02

and Shabid Saleem Mirza Bhal A-02

Opp. By Shabid Haroon Bhal A-02

Also by Muhammad Anwar Khan Maideed Khat A-02

SHAKEEL AHMAD, J--- Through this common

judgment we propose to decide the instant application as


well as the following connected applications as common

question of law and facts are involved therein:-

1- CM NO.332-B/2018 in WP NO.438-B/2016
(Titled Haroon Khan Vs Govt. of KPK etc)

2- CM No.333-B/2018 in WP NO.260-B/2016
(Titled Yousaf Jamal Vs Govt. of KPK etc)

ATTESTED
EXAMINER
Peshawar High Court
Bannu Bench


Assistant Director
Local Govt. & Rural Dev:
Deptt: Lakki Marwat.

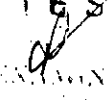
- 3- CM No.334-B/2018 in WP NO.278-B/2016
(Titled Alta fur Rahman Vs Govt. of KPK
etc)
- 4- CM No.335-B/2018 in WP NO.305-B/2016
(Titled Farhatullah Vs Govt. of KPK etc)
- 5- CM No.336-B/2018 in WP NO.535-B/2016
(Titled Farooq Khan Vs Govt. of KPK etc)
- 6- CM No.337-B/2018 in WP NO.343-B/2016
(Titled Imtiaz Ahmad Vs Govt. of KPK etc)
- 7- CM No.338-B/2018 in WP NO.529-B/2016
(Titled Muhammad Ismail Vs Govt. of KPK
etc)
- 8- CM No.339-B/2018 in WP NO.22-
B/2016(Titled Siraj-Ud-Din Vs Govt. of
KPK etc)
- 9- CM No.340-B/2018 in WP NO.350-B/2016
(Titled Subzali Khan Vs Govt. of KPK etc)
- 10- CM No.341-B/2018 in WP NO.316-
B/2016(Titled Farmanullah Vs Govt. of
KPK etc)
- 11- CM No.342-B/2018 in WP NO.386-B/2016
(Titled Mumtaz Khan Vs Govt. of KPK etc)
- 12- CM No.343-B/2018 in WP NO.297-B/2016
(Titled Dil Jan Vs Govt. of KPK etc)
- 13- CM No.345-B/2018 in WP NO.285-B/2016
(Titled Tahir Khan Vs Govt. of KPK etc)
- 14- CM No.346-B/2018 in WP NO.261-B/2016
(Titled Irfanullah Vs Govt. of KPK etc)



Assistant Director

Local Govt: & Rural Devt, Mat Awan
Deptt: Lakki Marwat.

ATTESTED


EXAMINER
Peshawar High Court
Khyber Pakhtunkhwa

(DB) Mr. Justice Muhammad Nasir Mahfooz & Mr. Justice Shakeel Ahmed

2- Through all these petitions filed under section 47 read with Section 151 CPC, the applicants have called in question the validity of orders passed by the Assistant Director LG and RDD of their respective districts whereby their services were terminated.

3- According to the learned counsel for the applicants, the respondents have misconceived and misinterpreted the judgment dated 28/02/2018 passed by this Court in Writ Petition No.279-B/2016, and wrongly terminated the services of the applicants through separate office orders, therefore, the same are liable to be set aside.

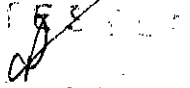
4- On the other hand, learned counsel appearing on behalf of the private respondents contended that in pursuance of order of this court, the appointment orders of the applications were re-examined and it was found that their appointments were made against the rules, policy and terms and conditions, incorporated in the advertisement, therefore, their services were rightly terminated.

5- Learned Additional AG appearing on behalf of the official respondents, assisted by the Assistant Director L.G & RDD added that the present applications are not competent, and contended that if the applicants feel themselves to be aggrieved from their termination

Azmat Awan (DB) Mr. Justice Muhammad Nasir Mahfooz & Mr. Justice Shakeel Ahmed



Assistant Director
Local Govt. & Rural Dev:
Deptt: Land & Survey



orders, they can challenge the validity of the same through a Constitutional petition.

6- We have heard arguments of learned counsel for the parties and have gone through the record with their able assistance.

7- This court by its judgment dated 28.02.2018 rendered in Constitutional Petition No.279-B/2016, directed the Assistant Director LG and RDD/competent authority of their respective districts to re-examine the appointment orders of the applicants/private respondents, their merit position and pass an appropriate order keeping in mind the rules, policy and terms and conditions incorporated in the advertisement for appointment as Class-IV employee, and after providing the parties an opportunity of hearing and submit compliance report to the Registrar of this court. In pursuance thereof, the Assistant Director Local Government and Rural Development department, examined the cases of the applicants individually in their respective district and held that their appointments were made against the rules, policy and terms and conditions incorporated in the advertisement for Class-IV employees, consequently terminated the applicants from services. Prior to termination order all the applicants were given right of audience. The applicants are not aggrieved from the

Azmat Awan (DB) Mr. Justice Muhammad Nasir Mahfooz & Mr. Justice Shakeel Ahmed

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Assistant Director
Local Govt. Rural Dev:
Deptt: Lakhwarwat.

ATTESTED

EXAMINER
Peshawar High Court
Danno 15-02-18

judgment of this court. They have urged before us that their termination order is illegal. Admittedly this court is not acting as an Executing court, therefore, in our view the petitions filed by the applicants U/S 47 read with section 151 Cr.P.C is not competent. It is not open for the applicants to raise the question of validity of the order of their termination through these petitions. The question of validity of the impugned order can be raised by a separate lis. There is nothing in these applications which warrants the proposition that this court can adjudge the validity of the termination order of the applicants.

8- For this reason, we dismiss this petition as well as connected petitions with no order as to costs, however, the petitioners shall be at liberty to seek their relief through separate lis before the appropriate forum, if so desired.

Announced.
11-12-2018

Sd/- Mr. Justice Muhammad Nasir Mahfooz

Sd/- Mr. Justice Shakeel Ahmad

RECEIVED TO BE TRUE COPY

17/12/18

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17/12/18

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Assistant Director
Local Govt. Rural Devt.
Deptt: Lakki Marwat.

BEFORE THE KPK, SERVICE TRIBUNAL, PESHAWAR

S. A. No. 1085 /2018

Dil Jan

versus

Director & Others

REPLICATION**Respectfully Sheweth,****Preliminary Objections:**

All the preliminary objections of the respondents are illegal and incorrect. No reason in support of the same is ever given as to why appellant has no cause of action / locus standi, estoppel, time barred, bad for mis-joinder and non-joinder of necessary parties and has no jurisdiction in the matter. He has not come to the hon'ble Tribunal with clean hands and has concealed material facts and malafide.

ON FACTS

1. Admitted correct by the respondents regarding advertisement. In the advertisement, candidates throughout the Province were directed to apply for the post and the selection will be made on merit, however, preference would be given to the local candidate. The advertisement was not specifically meant for concerned Village Council as is evident from the same.
2. Not correct. The para of the appeal is correct regarding appointment of appellant as Naib Qasid. Rest of the para of reply of respondents is without proof regarding advertisement for the concerned Village Council. Appellant performed his duties at the said post and also enjoyed monthly salaries.

3. Admitted correct by the respondents regarding implementation of the judgment of the High Court. The order of appointment of appellant was made by the respondents after observing the due codel formalities, by keeping in view the advertisement which was for the whole of KPK and not specifically for concerned Village Council.
4. Admitted correct by the respondents regarding Show Cause Notice and its reply. Here it is pertinent to point out that the authority mis-used her power as the candidates were appointed in different Village Council instead of his own one, as the advertisement says so.
5. Not correct. Appellant services were illegally terminated as no full-fledged enquiry was conducted as per the mandate of law and more so, in this para of the appeal, the position has been explained by appointing candidates in other Village Councils instead of in their own Village Council as per advertisement. They are still in service. No surplus employee was ever appointed at the post but should have been adjusted and not appointed.
6. Not correct. When in the Village Council of the appellant another candidate was appointed then it was not the fault of appellant but of the authority. Whole record submitted to the authority was quite clear but it was the authority who despite the complete documents appointed him in other Village Council and even if he was appointed in other Village Council, the same was also not illegal as per the spirit of advertisement. The hon'ble High court did not directed the respondents to terminate services of appellant.
7. Not correct. The para of the appeal is correct regarding submission of appeal before the authority. The newly appointed candidate, R. No. 04 was never gone through the process of selection for the post.

More so, on the same and similar subject matter, the hon'ble Peshawar High Court, Bannu Bench was pleased to dismiss the W.P No. 430-B/18, Jamil Khan vs Govt. of KP & Others on 24-06-2019 by not acceding with his request on the same issue.
(Copy Attached)


GROUND:

All the grounds of the appeal are legal and correct, while that of the comments are illegal and incorrect. The same are once again relied upon. In the advertisement, applications were invited from the candidates of the KP and not of the Village Council concerned, so the appointment of appellant was quite per its mandate. Giving preference to the candidate of concerned Village Council, does not mean that other candidate could not compete for the said post.

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

Appellant

Through


(Saadullah Khan Marwat)
Advocate,

Dated: 11-09-2019

AFFIDAVIT

I, Dil Jan, appellant do hereby solemnly affirm and declare that contents of the **Appeal & replication** are true and correct to the best of my knowledge and belief while that of reply of respondents are illegal and incorrect.

I reaffirm the same on oath once again to be true and correct as per the available record.




DEPONENT

4

JUDGMENT SHEET
IN THE PESHAWAR HIGH COURT
BANNU BENCH.

(Judicial Department)

W.P No. 430-B of 2018



Jameel Khan Vs. Govt: of KP etc:

JUDGMENT

Date of hearing 24/6/2019

Appellant-Petitioner By Masood Adnan Advi and

Masood Iqbal Khattak Advi

Respondent(s) By Shahid Hamid Qureshi Advi, A.G.

Other No.4 By Muhammed Tariq Qureshi A.G.

SHAKEEL AHMAD, J.--- By means of this

Constitutional petition filed U/A-199 of the Islamic Republic of

Pakistan, 1973, petitioner sought the following relief:-

"It is, therefore most humbly
prayed that:-

- I. the impugned appointment order of the respondent No.4 may very kindly be set aside/ cancelled by declaring it to be, illegal, improper, un-just, discriminatory and of no legal effect.

ATTESTED
EXAMINER
Peshawar High Court
Bannu Bench

Imranullah (D.B) Justice Muhammad Nasir Mahfooz and Justice Shakeel Ahmad

SCANNED

II. *The respondents may kindly be directed to appoint the petitioner as class-IV BPS "I" for the village council Aba Khel (I), according to law, rules and policy.*

III. *Any other appropriate remedy according to law as this honorable court deems fit. "*

2. Facts of the case, in brief, are that by means of an advertisement dated 07.7.2015, the respondent No.2 invited applications for appointment against the post of Class-IV employees (BPS-1) on the terms and conditions mentioned therein. In pursuance thereof petitioner applied for the same, competed with others, however, on merit he could not be selected rather one Imranullah/respondent No.4 was appointed as such, hence, this petition.

3. In pursuance of order of this court, respondents No.3 & 4, submitted their para-wise comments raising therein many legal and factual objections.

4. It was mainly argued by the learned counsel for the petitioner that respondent No.4, Imranullah, had neither applied against the impugned post nor belongs to village council/Neighbourhood council, Aba Khel-(1), therefore, his appointment is illegal, without lawful authority and the same is liable to be struck down and in his place, petitioner is entitled for appointment.

5. As against that, learned counsel appearing on behalf of respondent No.4 and learned Addl: A.G appearing on behalf of official respondents jointly argued that respondent No.4 belongs to village council/Neighbourhood council, Aba Khel-(1) District Lakki Marwat as is reflected from Annexure-H at Page-15 and minutes of meeting of selection and recruitment committee enclosed as Annexure-A at Page-6 of the comments, and prayed for dismissal of the writ petition.

6. Arguments heard and record perused.

7. It is evident from the record that through a public notice dated 07.7.2015, applications were invited for appointment against Class-IV employees BPS-01 on the terms

Imranullah (D.B) Justice Muhammad Nasir Mahfooz and Justice Shakeel Ahmad

ATTESTED

EXAMINER
Peshawar Court
Bannu Bench

and conditions mentioned therein, pursuant thereto the contesting parties applied for the same, competed with others, however, respondent No.4 was appointed as such, on merit. It was specifically mentioned in the advertisement that posts were to be filed from the District concerned/ village council/Neighbourhood council, and preference will be given to the resident of village council concerned. Perusal of the minutes of the meeting of selection and recruitment committee enclosed as Annexure-A at Page-6 reflects that name of the petitioner appears at S.No.34 and in the column of village council/Neighbourhood council, it was recorded as Abba Khel (1) and the post in question was filled through open competition, also belongs to village council/Neighbourhood council. The question whether the petitioner applied for appointment against the impugned post or not and whether the petitioner belongs to village council, Aba Khel-(1) are purely factual in nature which can only be answered after recording pro and contra evidence and this exercise cannot be done in writ jurisdiction.

ATTESTED
 EXAMINER
 Peshawar High Court
 Samudra

8. For what has been discussed above, this writ petition is dismissed being not maintainable, however, the petitioner shall be at liberty to seek her relief before the court of competent jurisdiction, if so desired.

Announced.
24.6.2019.

Sd/-Mr. Justice Muhammad Nasir Mahfooz

Sd/-Mr. Justice Shakeel Ahmad

CERTIFIED TO BE TRUE COPY

28/6/19

Examiner

Peshawar High Court Bannu Bench
Authorised Under Article 87 of
The Qanun-e-Shahadat Order 1988

Handwritten signature and date: 26/6/19

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1085 / 2018.

Diljan

Appellant

VERSUS

Assistant Director, Local Government & others

Respondents

INDEX

S.No.	Description of Documents	Annexure	Page
1.	Para-wise comments / reply with Affidavit	----	1-5
2.	Copy of appointment order of replying respondent	A	6
3.	Copy of arrival report of replying respondent	B	7
4.	Copy of verification reports	C	8
5.	Copy of judgment of the High Court, <i>Merit list</i>	D, E	9-28

Dated: 24.03.2019

Replying Respondent No. 04
Through Counsel

Muhammad Tariq Qureshi
Muhammad Tariq Qureshi
Advocate Supreme Court of Pakistan

(1)

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1085 / 2018.

Diljan

Appellant

VERSUS

Assistant Director, Local Government & others

Respondents

PARA-WISE COMMENTS / REPLY ON BEHALF OF PRIVATE

RESPONDENT NO. 4

Preliminary Objections

- i. This Hon'ble Court has got no jurisdiction to entertain instant appeal.
- ii. Appellant has no locus standi.
- iii. Appellant is not come to this Hon'ble Court with clean hand.
- iv. The instant appeal is time barred.
- v. The appellant has concealed material facts from this Hon'ble Court.
- vi. The appellant is stopped by his own conduct to sue.
- vii. That, there is malafide on the part of the appellant.

COMMENTS ABOUT FACTS:

1. That, the para No.1 is correct and pertains to the record.
2. That, the para No.2 is incorrect. The appellant was not appointed through the said prescribed procedure. The recommendations of the selection and recruitment committee were in clash and contradictory to the terms and conditions lay down in the advertisement and relevant policy. The appellant was not even belonging to the ²Village Council for which the post was allocated. The post in question was to be filled on the basis of village council, but in the case in hand, even the person appointed i.e. appellant hails from another ^eVillage Council. Interesting is the fact that appellant has not joined the service formally / as per law through charge report and he cannot claim a single day in a duty for discharge of his duties. He has not

(2)

performed duty a single day rather has been enjoyed salaries while sitting at home.

3. That, the para No.3 is correct. The part of the judgment reproduced is fabricated and not the real excerpt from the judgment. The judgment also refers to keep the terms and conditions and merit position of the appellant and replying respondent. The respondents therein were supposed to make order according to the merit, policy and regulation, which the respondent have made accordingly.

4. That, the para No. 4 is correct and pertains to record.

5. That, the appellant was rightly terminated after observance of all the codal formalities and requirements. The appellant badly failed to explain and prove his merit, position and rights. The appellant was not only lagging behind in score but also not permanent resident of the same village council for which the post in question was allotted.

The second paragraph is refuted. No such discrimination persons are there. The stated persons are either on surplus basis or the inquiries into the validity of their appointments are pending against them.

6. That, the replying respondent No. 4 was appointed according to law and to the soul of the said judgment because the replying respondent No.4 was party to the petition whereon the judgment in question was passed. Since, the replying respondent was far better than the appellant, hence he was appointed. In identical cases / matters the High Court has directed the respondents for removal of persons who had been appointed from the outside ~~Union~~ ^{village} Council / Village Council.

7. That, the para No.7 is incorrect. The appellant has no locus standi / cause of action. The instant appeal is premature. Hence, liable to be dismissed forthwith.

COMMENTS / REPLY ABOUT GROUNDS:

- A. Since, the appellant does not meet the basic eligibility, hence his qualification is of no value.
- B. The appellant was not deserving for appointment at his own Village Council that is why he was ignored. The question arises that why did the appellant kept mum on the said illegality?
- C. That, the para "C" is not sustainable. The appellant could not be transferred to his own Village Council due to the policy / rules.
- D. The lapses were not curable. The appellant has been removed in the light of the judgment of the Peshawar High Court, Bench Bannu.
- E. The para replied earlier.
- F. The para is not logical. There are some terms and condition prescribed for the post.
- G. The respondent No. 4 / replying respondent had duly applied for the post. The post was required to be advertised again.
- H. In wake of exclusion of the appellant, the next available and deserved candidate is the replying respondent. The Local Government Bodies, for recruitment of class-IV, need not to constitute committees for appointment.
- I. Incorrect, the para is already explained being baseless.
- J. The word "termination" is equivalent word for the word "removal". The ground is mere technicality being not logical.
- K. The para has already been refuted categorically. The appointment was challenged immediately and was subject to the litigation ab-initio which was hit by the judgment in question.

L. The salaries may be recovered from the appellant, which were given to him on his own risk and cost.

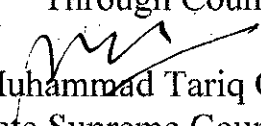
M. That, no melafide could be pointed out by the appellant on the part of official respondents, rather the termination was in compliance with the judgment of Peshawar High Court Bench Bannu.

N. That, the following are the documents on which replying respondent No.04 places his reliance:

- (i) Copies of appointment order of replying respondent, arrival report of replying respondent are annexed herewith as Annexure "A,B".
- (ii) Copies of verification reports, judgment of the High Court are annexed herewith as Annexure "C,D".

In wake of the above humble submissions and facts, the appeal in hand may kindly be dismissed.

Dated: 24.03.2019

Replying Respondent No. 04 *Naqil*
 Through Counsel

 Muhammad Tariq Qureshi
 Advocate Supreme Court of Pakistan

5

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1085/2018.

Diljan

Appellant

VERSUS

Assistant Director, Local Government & others

Respondents

AFFIDAVIT

I, Naqibullah s/o Hamidullah r/o Michen Khel Lakki city, Tehsil & District Lakki Marwat hereby solemnly affirm and declare that the contents of instant comments / reply are true and correct to the best of my knowledge and belief.

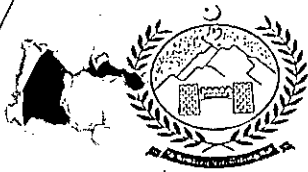
Deponent

Naqibullah

Naqibullah

Identified by

Muhammad Tariq Qureshi
Muhammad Tariq Qureshi Advocate



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

Dated April 19 /2018

OFFICE ORDER.

No. 5287-90 / In pursuance to the judgment dated 28.02.2018 of Peshawar High Court Bannu Bench in Writ Petition No.297-B/2016, Mr. Naqibullah S/O Hamidullah R/O Mohallah Samar Khel, Michan Khel Lakki City, 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 NC Lakki-IV, 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 preceded 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.

(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.

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

②

B B

ARRIVAL REPORT

To


The Nazim
Village Council – IV
Michen Khel Lakki Marwat.

Respected Sir,

In compliance with the Assistant Director LG & RDD Lakki Marwat Office Order No. 5287-90 Dated: 19-04-2018. I Mr. Naqib Ullah hereby submit my Arrival Report as "Naib Qasid" BPS-03 V/C Lakki – IV today on 20-04-2018.

Yours obedient
Naib Qasid: Naqib Ullah
Village Council: Lakki – IV

Nazim
Village Council – IV
Michen Khel Lakki Marwat


NAZIM KHAN
NAZIM
N/C- Lakki City-4

سرٹیفکیٹ ⑧

C

کے صدر کی جانب سے کہ قومی لقیب الٹا علی محمد اللہ خان
موضوع و ویلج کونسل LAKKI - IV ڈسٹرکٹ کی سرورٹ
کا مسئلہ باشندہ - پیدائشی و رہائشی ہے۔

ناظم
ویلج کونسل کی سرورٹ
کھیل و ضلع کی سرورٹ
ناظم لکھی خان

YASIN KHAN
NAZIM
NIC - Lakki City-4

سیکرٹری - ویلج کونسل
پیدائشی کی IV - تحصیل و ضلع
کئی سرورٹ

11201-8902378-1

SECRETARY
Neighborhood Council
Lakki Marwat

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D

BEFORE THE HONORABLE PESHAWAR HIGH COURT BANNU BENCH.



WRIT PETITION NO. 297-B /OF 2016.

Naqibullah S/O, Hamidullah Jan R/O Mohallah Samer Khel Michen Lakki City, Neighborhood Council No.IV, Union Council Lakki City-II, Lakki City Tehsil & District, Lakki Marwat.....(PETITIONER).

VERSUS

1. Government of Khyber Pakhtunkhwa, through Director General Local Government and Rural Development, Khyber Pakhtunkhwa, Peshawar.
2. The Deputy Commissioner, Lakki Marwat.
3. Assistant Director, Local Government and Rural Development, District, Lakki Marwat.
4. Chief Co-Ordination Officer, District, Lakki Marwat.
5. District Accounts Officer, Lakki Marwat.
6. The Manager, National Bank, Lakki Marwat.
7. Dil Jan S/O Abdullah Jan, R/O Mohallah Baghban Lakki City, Neighborhood Council No.3, Union Council Lakki City-II, Lakki City, District, Lakki Marwat.....(RESPONDENTS).

12

WRIT PETITION UNDER ARTICLE 199 OF THE CONSTITUTION OF THE ISLAMIC REPUBLIC OF PAKISTAN, 1973.

PRAYER.

On acceptance of the instant Writ Petition, the impugned appointment order dated 15/03/2016, for the post of Class-IV, in favour of the respondents No.07, issued by the respondent No.03/ Assistant Director Local Government and Rural Development, District, Lakki Marwat, may kindly be declared null and void

ATTACHED

EXAMINER
PESHAWAR HIGH COURT
BANNU BENCH

Filed Today
15/03/2016
Additional Registrar

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No.IV, Lakki City while the respondent No.06 belongs to Neighborhood Council No.III, Lakki City, which is the violation of the policy of Government of Khyber Pakhtunkhwa.

RESPECTFULLY SHEWETH:

FACTS.

1. That the petitioner belongs to Mohallah Samer Khel Michen Khel Lakki City Neighborhood Council Lakki City IV Tehsil and District, Lakki Marwat. Copy of the CNIC and Domicile Certificate are annexed herewith as ANNEXURE-"A" & "B", respectively.
2. That the petitioner has passed the S.S.C. Examination, H.S.S.C (F.A), Bachelor of Arts) from Gomel University Dera Ismail Khan (K.P.K), M.A.Islamyat , from University of Science & Technology, Bannu and B.Ed from Gomel University, D.I. Khan, respectively. .Copies of the above said educational documents are annexed as ANNEXURE-"C", "D", "E", "F" & "G", respectively.
3. That the respondent No.03/ Assistant Director, Local Government and Rural Development, Lakki Marwat, published an advertisement in newspaper dated 04/7/2015 called applications for the post of Class-IV till 19th July 2015. Copy of the said advertisement is annexed as ANNEXURE-"H".
4. That the petitioner besides others also applied for the said post (BPS-01) and attended /passed the test.
5. That the respondent No.03 / Assistant Director, Local

Filed To

19 APR 2016

Additional Registrar

ATTESTED
EXAMINER
Lakki Marwat High Comm
District Board

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15/3/2016, on the basis of Village/ Neighborhood Council wherein the petitioner has been ignored / neglected due to unknown reason, in spite of the fact that the petitioner is most eligible for the above said post.

6. That the petitioner received the information about the above said illegal appointment order through reliable sources because nor the impugned order has been published nor the same was pasted on the Notice Board of the office of the respondent No.03; rather the impugned order was kept secret by him till 31/03/2016.
7. That after having knowledge, the petitioner applied for the attested copy of the impugned order to the respondent No.03 but he refused to supply the same and stated that the same cannot be given to the petitioner but he could not explain any cogent reason for the same. Copy of the said application is annexed as ANNEXURE-"I".
8. That the petitioner also submitted an application for the supply of the above said impugned appointment order to the District Accounts Officer, Lakki Marwat who directed the petitioner to submit an application in this respect to the Deputy Commissioner, Lakki Marwat. Copy of the said application is annexed as ANNEXURE-"J".
9. That thereafter, the petitioner submitted an application to the Deputy Commissioner, Lakki Marwat/ respondent No.02 who marked the said application to the respondent No.03, for necessary action but even then the copy of impugned appointment order has not been provided to the petitioner, therefore he could not...

[Handwritten signature]

ATTACHED
REGISTRAR
LAKKI MARWAT

Filed Today
19 APR 2016
Additional Registrar

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H/B

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10. That feeling aggrieved and having no other affective and speedy remedy available, the petitioner seeks the indulgence of this august Court in its constitutional jurisdiction, interalia, on the following amongst other grounds:

GROUND:

- a) That the petitioner has not been treated according to law nor been treated equally before the law.
- b) That more than 36 vacancies of Class-IV posts were available for the concerned Neighborhood Councils but the respondent No.03 appointed the respondent No.07 for Neighborhood Council No.04 in spite of the fact that he belongs to Neighborhood Council No.3 and ignored the petitioner who belongs to Neighborhood Council No.04 and thereby ignored/ neglected the petitioner without any justification which is illegal, unlawful and without lawful authority.
- c) That the fundamental rights of the petitioner as enshrined in the Constitution of Islamic Republic of Pakistan, 1973 have been infringed by the respondent No.03 including rights reserved in Article 4 and Article 25 of the Constitution.
- d) That the respondents No.03 has appointed the respondent No.06 under political influence and being blue eyed of respondent No.03 as such the same may be declared as null and void.
- e) That the impugned appointment order is also against the Government Policy of the Government of Khyber Pakhtunkhwa, wherein it has clearly been mentioned that the candidate would be a bonafide resident of the

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ATTESTED
2016 APR 19
Magistrate High Court
Peshawar

Filed Today
19 APR 2016

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the same also endorsed to the all concerned Assistant Director LG & RDD etc vide No. Distt:/ (LG)3-Establishment 2013 dated 04th August, 2015; copy of which is also annexed as ANNEXURE-"L".

- f) That the impugned appointment order is also against the conditions mentioned in the above said advertisement; copy of which is already annexed as ANNEXURE-"H" wherein it is clearly mentioned that the concerned Village/ Neighborhood person will be preferred for the above said post.
- g) That the act of the respondent No.03 is unreasonable and is also based on malafide.
- h) That due to the above said facts and grounds, the impugned appointment order of the respondent No.07 is liable to be declared null and void.
- i) That due to the above said valid and cogent reasons the instant matter requires interference of this august Court.
- j) That Counsel for the petitioner may kindly be allowed to submit further grounds during hearing of the instant Writ Petition.

2

It is, therefore, most humbly prayed that on acceptance of the instant Writ Petition, the impugned appointment order of the respondent No.07, may kindly be declared null and void; and the respondent No.01 to 03 may kindly be directed to appoint the petitioner against the post of Class-IV (BPS-01). Any other relief for which the petitioner is entitled may also be given to the petitioner.

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19 APR 2015
District Registrar
District Court
Dhule

Filed Today
19 APR 2015
Additional Registrar

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INTERIM RELIEF.

To suspend the impugned appointment order and to direct the respondents No.03 and 05 i.e. District Accounts Officer, Lakki Marwat, Managers National Bank of Pakistan, Lakki Marwat; not to pay the monthly salary and other allowances etc to the respondents No.03, till the disposal of the above subject Writ Petition. The respondents No.01 to 03 may kindly be further directed to appoint the petitioner against the above said post of Class-IV, reserved for Neighborhood Council No.04, Lakki City, till the disposal of the above subject Writ Petition.

Dated: _____/04/2016.

Your humble petitioner,

Najib

(Najeebullah Khan)

Through Counsel,

Haji Mirza Ali Khan Marwat

(Haji Mirza Ali Khan Marwat)

Advocate High Court,

Lakki Marwat.

LIST OF BOOKS.

1. Constitution of the Islamic Republic of Pakistan, 1973.
2. Civil Service Laws.
3. Case Laws, if any.

ATTESTED
EXAMINED
BY
CLERK
HON'BLE COURT
LAKKI MARWAT

CERTIFICATE.

Certified that the petitioner has not filed any Writ Petition before this august Court, prior to the instant Writ Petition, in the same subject matter. instant Petition belongs falls in the jurisdiction HDB

Haji Mirza Ali Khan Marwat

(Haji Mirza Ali Khan Marwat)

(15) 718

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

W.P.No.297-B/2016

Naqibullah

Versus

Govt. of K.P.K through Secretary Local Govt. and
Rural Development and others

JUDGMENT

Date of hearing: 28.02.2018

Appellant-petitioner By Muhammad Tariq Qureshi Adv.
and Kazim Raza Adv.

Respondent By Shalid Hamud Qureshi Adv. AG.

AW Muhammad Azeem ADJ.G and Yusuf Ichan Progress Officer Larkki
By Shalid Saleem Mirza Adv.

SHAKEEL AHMAD, J.- Same judgment as in

W.P.No.199-B/2016 (Najibullah Vs. Director General

Local Govt. and Rural Development and others).

Announced.
Dt: 28.02.2018.


JUDGE


JUDGE

03/3/18

ATTESTED
EXAMINED
PESHAWAR HIGH COURT
JUDICIAL DEPARTMENT

(16) 217

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 Fawaz Alam Nazki
Adv;

Respondent By Shahid Hameed Qureshi ADAG
Adl Abdul Hameed ADLG Bannu Muhammad Aleem
ADLG Lakki and Yousaf Khan Prothon offro 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

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JUDGE
PESHAWAR HIGH COURT
BANNU BENCH

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/2015
(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).

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

NOTED
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SECRETARY
LOCAL GOVT.
RURAL DEVELOPMENT
AND RURAL
CONNECTIONS

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

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20/11/2018
ADDITIONAL REGISTRAR
COURT OF PUNJAB
LUDHIANA

Merit List of Applicants who Applied for the Post of Class-IV in LGRDD, Lakki Marwat.

Union Council Lakki,1

#	Name of applicant.	Father Name.	CNIC No.	Name of Village Council.	Date of Birth.	Contact No.	Qualification (if any).	Experience (if any).
1	2	3	4	5	6	7	8	9
140	Munir khan	Abdullah jan	11201-0599687-7	NC-1	24/3/1987	03219650020	M.A/BED/DM	
141	Raheem gul	Umer gul	11201-9751218-1	NC-1	2/9/1989	03023160506	B.A/DIT	
142	Noor Muhammad Deen	Muhammad ghulam	11201-1927099-3	NC-1	4/4/1994	03439346096	B.A/DIT	
143	Mehran Khan	Bahadar Nawaz Khan.	11201-3545796-7	Lakki-1	21.06.1985	0311-0968791	B.A.	
144	Aurangzeb	Gul Daud	11201-3958285-1	Lakkii-1	01.04.1988	0313-9335650	B.A	
145	Aziz ur rehman	Habib ur rehman	11201-6439796-7	NC-1	20/5/19963	Nill	Fsc	
146	Muhammad abid	Muhammad ashraf	11201-3369640-3	NC-1	15/10/1984	03339738778	F.A	
147	Ayaz khan	Muhammad ayaz	11201-0338849-9	NC-1	4/2/1980	0349854457	F.A	
148	Khalid usman	Muhammad ayaz	11201-9782645-7	NC-1	11/4/1985	03158070511	F.A	
149	Kamran khan	Abdul rehman	1120185037229	NC-1	15/3/1992	03459855399	F.A	
150	Ihsanullah	Muhammad ayub khan	11201-2508420-5	NC-1	15/9/1987	03459853662	F.A	
151	Muhammad farooq	Nasrullah khan	11201-0993737-1	Nc-1	30/9/1989	03005765300	F.A/DAE	
152	Sadiqullah	Ubaidullah Jan	11201-6851265-3	Lakki No.1	15.04.1990	0311-8172360	Matric	
153	Zainud din	Muhammad Din	11201-9322333-3	Lakki-I	02.10.1990	0320-5025717	Matric	
154	Imtiaz khan	Gul tiaz khan	11201-5056220-9	NC-1	20/3/1996	03149293515	Matric	
155	Shair zada	Gul ahmad	11201-7572738-7	NC-1	5/3/1993	03448985859	Matric	
156	Hediatul Hassan	Sheikh Hassan	1120-9346990-1	NC-1	13/11/1984	03448985936	Matric	
157	Muhammad tariq	Muhammad rafiq	11201-6224182-7	NC-1	15/4/1987	03469510486	Matric	
158	Muhammad Khalid	Mehrban	11201-7990110	Nc-1	3/10/1984	03114870973	Matric	
159	Niar zaman	Muhammad zaman	11201-0367901-7	NC-1	6/1/1980	03439335832	Matric	
160	Jahanzeb khan	Muhammad iqbal	11201-6945387-1	NC-1	23/3/1987	Nill	Middle	
161	Zia ur rehman	Muhammad iqbal	11201-2437214-9	NC-1	15/4/1996	Nill	Middle	
162	Sanullah	Muhammad ameer	11201-2028354-1	NC-1	7/8/1991	03457667282	Middle	
163	Tanveer	Mirz ali khan	11201-4042610-1	NC-1	1/5/1994	03439331101	Middle	
164	Abdul rasheed	Hameedullah khan	11201-6771394-1	NC-1	1/7/1986	03119354673	Middle	
165	Ismail khan	Habib ur rehman	11201-9236363-5	NC-1	6/9/1995	Nill	Middle	
166	Muhammad adnan saleem	Muhammad saleem	11201-44819483	NC-1	1/5/1994	03139061186	nill	

(21)

B/P

167	Saidullah khan	Muhammad akhtar khan	11201-0491367-5	NC-1	1/1/1973	Nil	Nil	
168	Hafiz Hussain Ahmed.	Mau. Subedar	11201-0388117-3	Lakki-1	10.11.1982	0345-8647663	-	
169	Farman Khan	Mehr Dil	11201-5507074-3	Lakki No.1	12.04.1992	0310-9531575	-	
170	Ikramullah	Hayatullah	11201-1816348-5	NC-11	8/2/1991	03239050094	B.A	
171	Ezat khan	Noor ali shah	Nil	NC-11	2/11/1976	03119266617	B.A	
172	Wajid Hamid	Abdul Hamid	11201-9449508-3	Lakki No.2	23.03.1993	-	FA	
173	Muhammad khan asim	Amir aslam	11201-5342512-9	Nc-11	3/4/1996	03018070739	F.A	
174	Najeebullah khan	Gul muhammad	11201-6727344-9	NC-11	2/9/1987	03138911698	F.A	
175	Taimur ali	Haji muhammad khan	11201-5934515-5	NC-11	9-4-1992	03119266616	F.A	
176	Samiullah	Muhammad gul khan	11201-8980101-5	NC-11	1/1/1990	03456277829	F.A	
177	Yaseen khan	Gul imam	11201-0868788-1	NC-11	15/1/1995	03449865636	F.A	
178	Sohail mushtaq	Abdul rehman	11201-50689121	NC-11	1/4/1987	03469517823	F.A	
179	Fazal rahim	Taj ali khan	11201-5226274-5	NC-11	16/4/1990	-	F.A	
180	Mehmood faraz	Gul faraz	11201-0315385-9	NC-11	5/9/1982	0344-9865686	F.A	
181	Asif Nawaz.	Sardar Nawaz.	11201-7660001-5	NC-2	24.04.1992	-	F.A.	
182	Wajid Hamid	Abdul Hamid	11201-9449508-3	Lakki No.2	23.03.1993	-	FA	
183	Arshad javed	Abdul rehman	11201-0384182-3	NC-11	16/10/1976	03469517823	Matric	X
184	Farmani ali shah	Noor ali shah	11201-7754932-3	NC-11	4/3/1981	03329739148	Matric	
185	Naveed gul	Muhammad gul	11201-1576639-3	NC-11	9/3/1989	03159852914	Matric	
186	Asadullah	Khalid usman	11201-1547400-9	NC-11	10/3/1992	03005764311	Matric	
187	Farhadullah	Muhammad ayub	11201-2155581-9	NC-11	2/10/1992	03139802011	Matric	
188	Rehmatullah	Bahadur shair	11201-5357298-1	NC-11	24/3/1984	Nil	Matric	
189	Rehmatullah	M. Iqbal	11201-7411784-5	Lakki-2	14.03.1978	-	Matric	
190	Ikramullah	Ghani ur Rehman	11201-0317641-5	NC-11	14/8/1982	-	Matric	
191	Younas khan	Muhammad ayub khan	11201-0406764-3	Nc-11	21/4/1983	03005766990	Middle	
192	Mamoon ur rasheed	Muhammad rasheed	11201-0159722-1	NC-11	4/2/1984	03459852335	middle	
193	Ihsanullah.	Ahmed Nawaz	11201-1656788-9	NC-2	1990	-	Middle.	
194	Mehboob	Gul Muhamad.	11201-4226540-9	NC-2	09.04.1985	-	Middle.	
195	Hameedullah jan	Saadullah jan	11201-2666802-3	NC-2	1/4/1988	-	middle	
196	Bifatullah	Umer Khan	11201-5107186-1	Lakki No.2	1989	0344-9873484	-	

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Merit List of Applicants who Applied for the Post of Class-IV in LGRDD, Lakki Marwat.

III + IV

Union Council Lakki, 2

#	Name of applicant.	Father Name.	CNIC No.	Name of Village Council.	Date of Birth.	Contact No.	Qualification (if any).	Experience (if any).
1	2	3	4	5	6	7	8	9
255	Naqeebullah	Hameedullah jan	11201-4053220-1	NC-iv	24/3/1984	03429353700	M.A	
256	Muhāmmad rizwan	Ghulam makani	11201-2189129-1	NC-iv	16/3/1991	03445069867	B.A/DIT/PTC/BED	
257	Latifullah khan	Nawab khan	11201-6973379-3	NC-iv	19/4/1987	03139347997	B,A/DIT	
258	Naveed ahmad	Abdul rehman shah	11201-5015574-3	NC-iv	1/2/1995	Nill	F.A	
259	Abdul muneer khan	Muhammad abas khan	11201-7122515-9	Lakki-1v	4/7/1977	03159852771	F.A	
260	Alam geer khan	Abas khan	11201-1046135-5	Lakki-1v	12/3/1990	03365492474	Matric	
261	Jahanzaeb iqbal	Bahadur khan	11201-3629082-1	Lakki-1v	8/9/1986	03119266271	Matric	
262	Noror aslam	Muhammad Hassan	11201-3213149-1	NC-iv	5/3/1988	03157177617	Matric	
263	Muhammad ismail	Ghulam habib	11201-5191947-1	NC-iv	9/3/1998	03449357589	Matric	
264	Asmatullah	Allah deen	11201-3205313-3	NC-iv	2/12/19984	03078070450	Matric	
265	Momin khan	Muhammad amen khn	11201-5840822-7	Lakki-1v	1978	Nill	Nill	
266	Sameen jan	Amen jan	11201-0365651-9	NC-111	10/4/1979	03429331124	F.A	
267	Abdul waheed	Faiz rasool khan	11201-3337039-3	NC-111	2/2/1987	Nill	F.A	
268	Sajid mehmoood	Muawar hussain	11201-2620257-3	NC-iii	20/3/1998	03109976457	F.A	
269	Saleem khan	Ali muhammad	11201-5971117-5	NC-iii	1/7/1984	03133965353	F.A	
270	Sanauallah khan	Qismat ali khan	Nill	NC-111	28/4/1985	03129846640	F.A	
271	Nomanullah khan	Asmatullha khan	11201-5575837-3	NC-iii	22/4/1994	Nill	Matruc	
272	Farmunillah	Ghulam faqeer	112011013206-9	NC-111	10/4/1988	03111913527	Matric	
273	Abdul Wahab	Rehim Gul	11201-1127459-1	Lakki-3	03.12.1986	0313-9040699	Matric	
274	M. Khalil Khan.	Abdul Jalil Khan.	11201-494479-9	Lakki-3	30.10.1987	0345-9852558	Matric	
275	Muhammad zuhaib khan	Muhammad ayub khan	11201-3867231-3	NC-111	15/2/1992	03110766169	Middle	
276	Khanzada Khan.	Benawaz Khan.	11201-3023938-3	Lakki-3	16.05.1985	-	Middle	

Handwritten notes in Urdu:

 ← NC-II → VCIV

 VC-3

 VC-IV

 VC-III

BEFORE THE KPK, SERVICE TRIBUNAL, PESHAWAR

S. A. No. 1085 /2018

Dil Jan

versus

Director & Others

REPLICATION**Respectfully Sheweth,****Preliminary Objections:**

All the preliminary objections of the respondents are illegal and incorrect. No reason in support of the same is ever given as to why appellant has no cause of action / locus standi, estoppel, time barred, bad for mis-joinder and non-joinder of necessary parties and has no jurisdiction in the matter. He has not come to the hon'ble Tribunal with clean hands and has concealed material facts and malafide.

ON FACTS

1. Admitted correct by the respondents regarding advertisement. In the advertisement, candidates throughout the Province were directed to apply for the post and the selection will be made on merit, however, preference would be given to the local candidate. The advertisement was not specifically meant for concerned Village Council as is evident from the same.
2. Not correct. The para of the appeal is correct regarding appointment of appellant as Naib Qasid. Rest of the para of reply of respondents is without proof regarding advertisement for the concerned Village Council. Appellant performed his duties at the said post and also enjoyed monthly salaries.

3. Admitted correct by the respondents regarding implementation of the judgment of the High Court. The order of appointment of appellant was made by the respondents after observing the due codel formalities, by keeping in view the advertisement which was for the whole of KPK and not specifically for concerned Village Council.
4. Admitted correct by the respondents regarding Show Cause Notice and its reply. Here it is pertinent to point out that the authority mis-used her power as the candidates were appointed in different Village Council instead of his own one, as the advertisement says so.
5. Not correct. Appellant services were illegally terminated as no fulfilled enquiry was conducted as per the mandate of law and more so, in this para of the appeal, the position has been explained by appointing candidates in other Village Councils instead of in their own Village Council as per advertisement. They are still in service. No surplus employee was ever appointed at the post but should have been adjusted and not appointed.
6. Not correct. When in the Village Council of the appellant another candidate was appointed then it was not the fault of appellant but of the authority. Whole record submitted to the authority was quite clear but it was the authority who despite the complete documents appointed him in other Village Council and even if he was appointed in other Village Council, the same was also not illegal as per the spirit of advertisement. The hon'ble High court did not directed the respondents to terminate services of appellant.
7. Not correct. The para of the appeal is correct regarding submission of appeal before the authority. The newly appointed candidate, R. No. 04 was never gone through the process of selection for the post.

More so, on the same and similar subject matter, the hon'ble Peshawar High Court, Bannu Bench was pleased to dismiss the W.P No. 430-B/18, Jamil Khan vs Govt. of KP & Others on 24-06-2019 by not acceding with his request on the same issue. (Copy Attached)

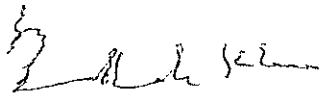
GROUND:

All the grounds of the appeal are legal and correct, while that of the comments are illegal and incorrect. The same are once again relied upon. In the advertisement, applications were invited from the candidates of the KP and not of the Village Council concerned, so the appointment of appellant was quite per its mandate. Giving preference to the candidate of concerned Village Council, does not mean that other candidate could not compete for the said post.

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

Appellant

Through

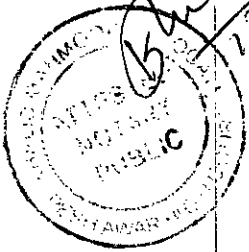

(Saadullah Khan Marwat)
Advocate,

Dated: 11-09-2019

AFFIDAVIT

I, *Dil Jan*, appellant do hereby solemnly affirm and declare that contents of the **Appeal & replication** are true and correct to the best of my knowledge and belief while that of reply of respondents are illegal and incorrect.

I reaffirm the same on oath once again to be true and correct as per the available record.

Baner 12/9/19


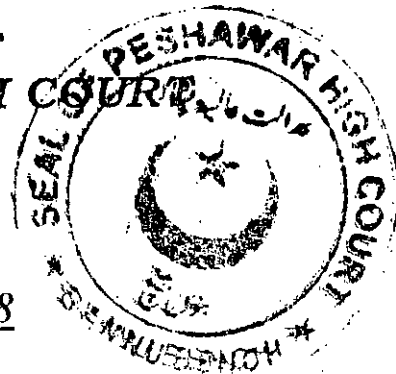

DEPONENT

4

JUDGMENT SHEET
IN THE PESHAWAR HIGH COURT
BANNU BENCH.

(Judicial Department)

W.P No. 430-B of 2018



Jameel Khan Vs. Govt: of KP etc:

JUDGMENT

Date of hearing 24/6/2019

Appellant-Petitioner By Masood Akram Adv. and
Masood Iqbal Chaitrak Adv.

Respondent(s) By Sharid Hameed Buzdar Adv. AG.
Other No. 4 By Muhammed Tahir Buzdar Adv.

SHAKEEL AHMAD, J.--- By means of this

Constitutional petition filed U/A-199 of the Islamic Republic of
Pakistan, 1973, petitioner sought the following relief:-

"It is, therefore most humbly
prayed that:-

I. the impugned appointment order of the
respondent No.4 may very kindly be set
aside/ cancelled by declaring it to be,
illegal, improper, un-just, discriminatory
and of no legal effect.

ATTESTED
[Signature]
EXAMINER
Peshawar High Court
Bannu Bench

Imranullah (D.B) Justice Muhammad Nasir Mahfooz and Justice Shakeel Ahmad

SCANNED

II. *The respondents may kindly be directed to appoint the petitioner as class-IV BPS "I" for the village council Aba Khel (I), according to law, rules and policy.*

III. *Any other appropriate remedy according to law as this honorable court deems fit. "*

2. Facts of the case, in brief, are that by means of an advertisement dated 07.7.2015, the respondent No.2 invited applications for appointment against the post of Class-IV employees (BPS-1) on the terms and conditions mentioned therein. In pursuance thereof petitioner applied for the same, competed with others, however, on merit he could not be selected rather one Imranullah/respondent No.4 was appointed as such, hence, this petition.

3. In pursuance of order of this court, respondents No.3 & 4, submitted their para-wise comments raising therein many legal and factual objections.

ATTESTED
EXAMINER
Peshawar High Court
Baiton Dewch

4. It was mainly argued by the learned counsel for the petitioner that respondent No.4, Imranullah, had neither applied against the impugned post nor belongs to village council/Neighbourhood council, Aba Khel-(1), therefore, his appointment is illegal, without lawful authority and the same is liable to be struck down and in his place, petitioner is entitled for appointment.

5. As against that, learned counsel appearing on behalf of respondent No.4 and learned Addl: A.G appearing on behalf of official respondents jointly argued that respondent No.4 belongs to village council/Neighbourhood council, Aba Khel-(1) District Lakki Marwat as is reflected from Annexure-H at Page-15 and minutes of meeting of selection and recruitment committee enclosed as Annexure-A at Page-6 of the comments, and prayed for dismissal of the writ petition.

6. Arguments heard and record perused.

7. It is evident from the record that through a public notice dated 07.7.2015, applications were invited for appointment against Class-IV employees BPS-01 on the terms

Imranullah (D.B) Justice Muhammad Nasir Mahfooz and Justice Shakeel Ahmad

ATTESTED

SEAL
Peshawar Court
Bannu Bench

and conditions mentioned therein, pursuant thereto the contesting parties applied for the same, competed with others, however, respondent No.4 was appointed as such, on merit. It was specifically mentioned in the advertisement that posts were to be filed from the District concerned/ village council/Neighbourhood council, and preference will be given to the resident of village council concerned. Perusal of the minutes of the meeting of selection and recruitment committee enclosed as Annexure-A at Page-6 reflects that name of the petitioner appears at S.No.34 and in the column of village council/Neighbourhood council, it was recorded as Abba Khel (1) and the post in question was filled through open competition, also belongs to village council/Neighbourhood council. The question whether the petitioner applied for appointment against the impugned post or not and whether the petitioner belongs to village council, Aba Khel-(1) are purely factual in nature which can only be answered after recording pro and contra evidence and this exercise cannot be done in writ jurisdiction.

Imranullah (D.B) Justice Muhammad Nasir Mahfooz and Justice Shakeel Ahmad

ATTESTED
EXAMINER
Peshawar High Court
Samudra

8. For what has been discussed above, this writ petition is dismissed being not maintainable, however, the petitioner shall be at liberty to seek her relief before the court of competent jurisdiction, if so desired.

Announced.
24.6.2019.

SA Justice Muhammad Nasir Mahfooz J

SA Justice Shakeel Ahmad J

CERTIFIED TO BE TRUE COPY

28/6/19

Examiner

Peshawar High Court Bannu Bench
Authorised Under Article 87 of
The Qanun-e-Shahadat Order 1989

Handwritten signature and date: 26/6/19

4

**JUDGMENT SHEET
IN THE PESHAWAR HIGH COURT
BANNU BENCH.**

(Judicial Department)

W.P No. 430-B of 2018



Jameel Khan Vs. Govt: of KP etc:

JUDGMENT

Date of hearing 24/6/2019

Appellant-Petitioner By Masood Adnan Adv. and
Masood Iqbal Chhattak Adv.

Respondent(s) By Shahid Hameed Buzdar Adv. & Ag.
Oppn. No. 4 By Muhammed Tariq Buzdar Adv. & Ag.

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Constitutional petition filed U/A-199 of the Islamic Republic of
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"It is, therefore most humbly
prayed that:-

- I. the impugned appointment order of the respondent No.4 may very kindly be set aside/ cancelled by declaring it to be, illegal, improper, un-just, discriminatory and of no legal effect.

ATTESTED
EXAMINER
Peshawar High Court
Bannu Bench

SCANNED

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Imranullah (D.B) Justice Muhammad Nasir Mahfooz and Justice Shakeel Ahmad

ATTESTED

CLERK
Peshawar Court
Bannu Bench

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Imranullah (D.B) Justice Muhammad Nasir Mahfooz and Justice Shakeel Ahmad

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Peshawar High Court
Bannu Bench

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