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

02.11.2021 Counsel for the appellant, Mr. Muhammad Adeel Butt, Addl. AG for the official respondents and counsel for respondent No. 4 present.

The learned Member (Judicial) is on leave, therefore, case is adjourned. To come up for arguments on 07.02.2022 before the D.B.

Chairman

06.12.2021 Learned counsel for the appellant present. Mr. Mohsan Khan Kundi, Assistant Director alongwith Mr. Kabirullah Khattak, Additional Advocate General for official respondents No. 1 to 3 and junior of learned counsel for private respondent No. 4 present.

Junior of learned counsel for private respondent No. 4 sought adjournment on the ground that learned senior counsel is busy before the august Supreme Court of Pakistan. Adjourned. Case to come up for arguments on 06.01.2022 before the D.B.

(Salah-ud-Din)
Member (J)

Chairman

30.06.2021 Mr. Arbab Saif-ul-Kamal, Advocate, for the appellant present. Muhammad Adeel Butt, Additional Advocate General for official respondents No. 1 to 3 present. Mr. Taimur Ali Khan, Advocate, on behalf of private respondent No. 4 present and submitted Memo of appearance with request that he will submit Wakalatnama on behalf of private respondent No. 4 on the next date. The Memo of appearance is placed on file. Adjourned. To come up for arguments before the D.B on 15.07.2021.

(ATIQ UR REHMAN WAZIR)
MEMBER (EXECUTIVE)

(SALAH-UD-DIN)
MEMBER (JUDICIAL)

15.07.2021 Mr. Arbab Saif-ul-Kamal, Advocate, for the appellant present. Mr. Muhammad Adeel Butt, Additional Advocate General for official respondents No. 1 to 3 present. Mr. Tariq Qurashi, Advocate, on behalf of private respondent No. 4 present and requested for adjournment on the ground that he has not gone through the record. Adjourned. To come up for arguments before the D.B. on 16.08.2021.

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

(SALAH-UD-DIN)
MEMBER (JUDICIAL)

16.08.2021 Since 16.08.2021 has been declared as Public holiday on account of Moharram, therefore, case is adjourned to 29.11.2021 for the same as before.

Reader

28-12-2020 Due to summer vacation, case is adjourned to 01-02-2021 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

Before KP Service Tribunal, Peshawar

Appeal No. 1080/2018 (Farooq Khan VIS Local Govt. (R#4))
" 1079/2018 "
" 1087/2018 "
" 1081/2018 "
" 1089/2018 "
" 1090/2018 "
" 1083/2018 "
" 1085/2018 "
" 1147/2018 "
" 1225/2019 "
" 1084/2018 "

Subject:- Memo of appearance on behalf of Respondent No.4 in the above mentioned appeals.

Respectfully Sheweth:

1. That the above mentioned appeals are pending before this Honorable Tribunal and fixed for today in arguments.

2. That respondent No.4 in the above mentioned appeals wants to engage counsel and will submit Wakalat on next date or before the date fix in the above mentioned appeals.

It is therefore most humbly prayed that above mentioned appeals may kindly be adjourned for today and respondent NO. 4 ~~was~~ in the above mentioned appeals may be allowed to submit Wakalat Nama on the next date ~~or~~ or before the date for

Respondent NO. 4

Through

Tanvir Ali Khan
(Adv.)

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 Appellant alongwith his counsel, Mr. Kabirullah Khattak, Additional AG for official respondents No. 1 to 3 and private respondent No. 4 in person preset. Joint para-wise comments on behalf of official respondents No. 1 to 3 has already been submitted. Written reply on behalf of private respondent No. 4 not submitted and he requested for further time to submit written reply. Last chance is granted to private respondent No. 4 to submit written reply. 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

04.2.2019 Counsel for the appellant and Addl. AG alongwith Yousaf Khan, AD for the official respondents present. Mr. Muhammad Tariq Qureshi, Advocate has submitted Wakalatnama on behalf of respondent No. 4 which is placed on file.

Representative of the official respondents states that the requisite reply is in the process of preparation and will positively be submitted on the next date of hearing. Adjourned to 27.03.2019 before S.B. The private respondent No. 4 may also furnish reply to the appeal on the next date, if so advised.

Chairman

27.03.2019 Learned counsel for the appellant present. Mr. Kabir Ullah Khattak learned Additional Advocate General alongwith Yousaf Khan AD for official respondents present. Learned counsel for private respondent No.4 also present. Written reply submitted on behalf of official respondents. Learned counsel for private respondent No.4 seeks time to furnish written reply/comments. Granted. To come up for written reply/comments on behalf of private respondent No.4 on 25.04.2019 before S.B

Member

11.12.2018

Counsel for the appellant M. Farooq Khan present. Preliminary arguments heard. It was contended by learned counsel for the appellant that the appellant was appointed as Naib Qasid in Local Government Department by the competent authority vide order dated 15.03.2016 on the recommendation of Selection and Recruitment Committee. It was further contended that someone was aggrieved from the appointment order of the appellant therefore, he filed Writ Petition against the appellant in the Worthy Peshawar High Court Peshawar and the Worthy Peshawar High Court Peshawar disposed of the Writ Petition vide order dated 28.02.2018 and directed the competent authority to re-examine the appointment of the private respondents, merit position of the appellant and pass an appropriate order keeping in mind the rules, policy and the terms and conditions incorporated in the advertisement for appointment of Class-IV employees, after providing the parties an opportunity of hearing and thereafter the competent authority vide order dated 18.04.2018 terminated the appellant from service. It was further contended that the appellant filed departmental appeal on 11.05.2018 but the same was not responded hence, the present service appeal. It was further contended that neither the appellant was issued any show-cause notice nor the appellant was provided opportunity of personal hearing but the competent authority has passed the impugned termination order illegally therefore, the impugned order is liable to be set-aside.

The contentions raised by learned counsel for the appellant need consideration. The appeal is admitted for regular hearing subject to all legal objections. The appellant is directed to deposit of security and process fee, thereafter notice be issued to the respondents for written reply/comments for 04.02.2019 before S.B.

Appellant Deposited
Security & Process Fee

(Muhammad Amin Khan Kundi)
Member

Form- A

FORM OF ORDER SHEET

Court of _____

Case No. 1080 **/2018**

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	03/09/2018	The appeal of Mr. Farooq Khan 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. REGISTRAR
	4-9-18	
2-		This case is entrusted to S. Bench for preliminary hearing to be put up there on 24-10-18. MEMBER
	24.10.2018	Due to retirement of Hon'ble Chairman, the Tribunal is defunct. Therefore, the case is adjourned. To come up on 11.12.2018. Reader

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

S.A No. 1080/2018

M. Farooq Khan versus Assistant Director & Others

INDEX

S. No	Documents	Annex	P. No.
1.	Memo of Appeal		1-4
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3.	Appointment order dated 15-03-2016 / Arrival report	"B"	6-7
4.	W.P / Judgment dated 28-02-2018	"C"	8-12
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6.	Reply to Show Cause Notice, 11-04-2018	"E"	14
7.	Termination order dated 18-04-2018	"F"	15
8.	Appointment of R. No. 04, 19-04-2018	"G"	16
9.	Representation dated 11-05-2018	"H"	17-20

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. 1080 /2018

Khyber Pakhtukhwa Service Tribunal
Diary No. 1386
Dated 03/9/2018

M. Farooq Khan S/O Abdul Ghaffar Khan
R/O Kotka Sher Khan, Lakki Marwat,
Ex-Naib Qaisd, Village Council
Gandi Khan Khel-I, Lakki Marwart . . . . 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. Fasi Ullah S/O Aman Ullah,
Naib Qasid, Village Council Nar Sahib Dad
Midad Khel, Lakki Marwat . . . . .Respondents

⇔<=>⇔<=>⇔<=>⇔<=>⇔

APPEAL U/S 4 OF SERVICE TRIBUNAL ACT, 1974 AGAINST OFFICE ORDER NO. 5269-74, 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-day
Registrar
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 28-03-2016. (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 11-04-2018. (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, Washeeullah 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:-

GROUNDS:

a. That appellant has in his credit the educational qualification of M.A (Islamiyat).

b. That appellant applied to the said post of his own Village Council to appoint him as such and it was incumbent upon the department to appoint him in his own Village Council and not in any other. He could not be held responsible for the lapses of the respondents which illegality was committed by the authority.

c. That when the matter taken to the court, the department was legally bound to transfer appellant even other incumbents to their own Village Council to save their skins.

d. That as and when Show Cause Notice was issued to appellant regarding appointment in other Village Council, then he should rectify the mistake, if any, because the lapses were on the part of the authority and not of the appellant and in such situation, he could not be made responsible for the same.

e. That appellant was appointed as per prescribed manner after observing the due codal formalities.

f. That as per law and rules, appellant is liable to serve anywhere in District, outside District / Province even outside Country, then he can be appointed anywhere for the purpose, being citizen of the country.

g. That it is to be ascertained as to whether R. No. 04 has applied to the said post or otherwise. In such a situation the department was legally bound to advertise the said post.

h. That R. No. 04 was never gone through the process of selection, so at such a belated stage when his name was not recommended by the Departmental Selection / Recruitment Committee, he could not be appointed straight away as such.

i. That in the aforesaid circumstances, order of appointment of R. No. 04 was not only illegal but was ab-initio void. The same was based on favoritism.

j. That service law is alien to the word "Termination", so on 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. On the same score, the services of the incumbents mentioned above were retained, thus discriminated.

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

Amjad Nawaz
Advocates.

Dated.29.08.2018

"A" 5

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 پر کرنے کے لئے صوبہ خیبر پختونخواہ کے ڈومیسائل کے حامل اہل امیدوارں سے درخواستیں مطلوب ہیں جو کہ اس اشتہار کے اشاعت کے پندرہ یوم کے اندر اندر متعلقہ ضلع کے اسسٹنٹ ڈائریکٹر محکمہ بلدیات و دیہی ترقی کے دفاتر میں دفتری اوقات کار کے دوران بمعہ تصدیق شدہ دستاویزات جمع کرائی جاسکتی ہیں۔

تفصیل آسامیاں و مطلوبہ قابلیت اور درکار عمر کی حد نیچے درج ہیں۔

نمبر شمار	ضلع	نام آسامی	بنیادی سکیل	مطلوبہ قابلیت	عمر کی حد
1	متعلقہ	کلاس-IV	01	i. متعلقہ ضلع اور ولیج / نیبر ہڈ کونسل کا مستقل باشندہ ہو۔	18-40

1۔ گورنمنٹ ملازم کو ترجیح دی جائے گی۔
2۔ متعلقہ ولیج کے باشندے 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 اسسٹنٹ ڈائریکٹر محکمہ بلدیات و دیہی ترقی کے دفتر میں جمع کرائے۔

المشتہر
ڈائریکٹر جنرل
محکمہ بلدیات و دیہی ترقی، خیبر پختونخواہ

مورخہ: 04/07/2015

Attested

B 6

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

Dated. 15 / 3 / 2016

OFFICE ORDER.

No. 4429-41 / On the recommendations of Selection and Recruitment Committee, appointment of the following Naib Qasid, Village / Neighborhood Council is hereby ordered in BPS-01 Rs. (6210-195-12060), plus usual allowances as admissible under the rules existing policy of the Provincial government on the terms and conditions given below w.e.f the date of taking over their charge in the interest of public service, they will report for duty in the office of Village / Neighborhood Council Nazim mentioned against each:-

S.No	Name with Address	Village/ Neighborhod Council	Remarks
1	M.Farooq Khan s/o Abdul Ghafar	Nar Sahibdad Medad Khel	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 preceded against the Removal from Service (Special Power) Ordinance, 2000 and the rules made from time to time.
5. He should report his arrival to all concerned. He will also not be entitled to any TA/DA for his first arrival/joining duty but in case he is not willing to join the duty, he should furnish his 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 deserves the rights to amend or add any condition to his appointment order.
8. He is required to produce Health and Age Certificate from the Medical Superintendent DHQ Hospital, Lakki Marwat within 15days.
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.

(Ali Asmat)
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.

Attested

To,

The Asstt: Director,
LG&RDD Lakki Marwat

Subject:- Arrival Report

In compliance with the Asstt: Director LG&RDD Lakki Marwat office order No. 4429-41/ADRD dated 15/3/2016.

I submit my Arrival Report for duty as N/Q as'd today on 28/3/2016 FN

M Farooq Khan
S/O Abdul Ghafoor
VC Nar Sahibdad ~~Mela~~
Medad Khel

Seen

ADRD

[redacted]

C 8

BEFORE THE PESHAWAR HIGH COURT BENCH BANNU

Writ Petition No. 535-B /2016

Fasi Ullah son of Aman Ullah resident of Nar Asparley Kela, village council Nar Sahibdad Meaidad Khel, Tehsil and District Lakki Marwat.

....(Petitioner)

Vs

1. Govt: of Kyber Pakhunkhwa through Secretary Local Govt: and Rural Development Department, Peshawar.
2. Director General, Kyber PakhunKhwa, Local Govt: and Rural Development Department Peshawar.
3. Assistant Director, Local Govt: and Rural Development Department Lakki Marwat.
4. Deputy Commissioner, Lakki Marwat.
5. District Accounts Officer, Lakki Marwat.
6. Farooq Khan S/O Abdul Ghafar resident of Kotka Sher Khan, UC Gandi Khan Khel, Village Council Gandi Khan Khel-I, Tehsil and District Lakki Marwat.

(Respondents)

WRIT PETITION UNDER ARTICLE 199 OF THE CONSTITUTION OF ISLAMIC REPUBLIC OF PAKISTAN

RESPECTFULLY SHEWETH:

1. That, the petitioner is permanent resident of village Nar Asparley Kela, village council Nar Sahibdad Meaidadm UC Nar Abu Samand Begu Khel and have educational qualification of FA.

2. That, the respondent No. 2 advertised the post of Peons/Class-IV, one each in every village Council of District Lakki Marwat.

3. That, the advertisement has having condition that for each UC, the candidate who is the permanent resident of same village council will be appointed.

4. That, the Petitioner being eligible cum fit the post applied and stood most deserved due to qualification and in his village/village council.

5. That, being atop of merit, the petitioner was waiting for appointment finger-crossed but astonishingly, the petitioner was taken a back when he came to

ATTESTED
EXAMINER
Peshawar High Court
Bannu Bench

Additional Registrar
2016

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

W.P.No.535-B/2016

Fasiullah

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 Mr. Muhammad Sadiq Qureshi & Kazim Raza Marwat Advs,

Respondent by Mr. Abdur Rashid Khan Marwat, & Govt; by Mr. Shahid Hameed Qureshi AAG,

ABDUL SHAKOOR, J.- Same judgment as in W.P.No.254-B/2016 (Sharifullah Vs. Govt. of K.P.K through Secretary Local Govt. and Rural Development and others).

Announced.
Dt:28.02.2018.

Sd/- Mr. Justice Abdul Shakoor-J
Sd/-Mr. Justice Shakeel Ahmad,J

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

W.P.No.254-B/2016

Sharifullah

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 Mr. M. Tariq Qureshi Advocate

Respondent Govt. by Mr. Shahid Hameed Qureshi AAG.

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

1. *W.P.No.254-B/2016.*
   (Sharifullah Vs. Govt. of K.P.K through Secretary Local Govt. and Rural Development and others).

2. *W.P.No:260-B/2016.*
   (Naveedullah Vs. Govt. of K.P.K through Secretary Local Govt. and Rural Development and others).

3. *W.P.No.274-B/2016.*
   (Muhammad Sabir Vs. Govt. of K.P.K through Secretary Local Govt. and Rural Development and others).

4. *W.P.No.285-B/2016*

ATTESTED
EXAMINER
Peshawar High Court
Bannu Bench

(Shakeel Khan Vs. Govt. of K.P.K through Secretary Local Govt. and Rural Development and others).

5. *W.P.No.292-B/2016.*
(Zafarullah Khan Vs. Govt. of K.P.K through Secretary Local Govt. and Rural Development and others).

6. *W.P.No.343-B/2016*
(Shafiullah Vs. Govt. of K.P.K through Secretary Local Govt. and Rural Development and others).

7. *W.P.No.386-B/2016*
(Gul Tayaz Khan Vs. Govt. of K.P.K through Secretary Local Govt. and Rural Development and others).

8. *W.P.No.467-B/2016*
(Zainullah Khan Vs. Director General Local Govt. & Rural Development and others).

9. *W.P.No.529-B/2016.*
(Parvaiz Kamal Khan Vs. Govt. of K.P.K through Secretary Local Govt. and Rural Development and others).

10. *W.P.No.535-B/2016*
(Fasiullah 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 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 months positively. With these observations the writ petitions are disposed of accordingly.

Announced.
Dt:28.02.2018.

Sd/- Mr. Justice Abdul Shakoor-J

Sd/-Mr. Justice Shakeel Ahmad,J

CERTIFIED TO BE TRUE COPY

Attested

Imran

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

"D" 13

OFFICE OF THE ASSISTANT DIRECTOR
LOCAL GOVT. & RURAL DEVELOPMENT
DEPARTMENT, LAKKI MARWAT.
No. 5074-76
Dated March 30, 2018.

To

Mr. Muhammad Farooq
Naib Qasid Village Council
Nar Shibdad Maidad Khel, 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.535-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 V/ Council Nar Sahibdad Maidad Khel, Tehsil Serai Naurang District Lakki Marwat vide **Order No.4429-41**, 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.535-B/2016 which was disposed of by the worthy High Court in the following terms:-

"In view of the above, we send back all these cases to the Assistant Director, Local Govt. & Rural Dev./Competent Authority of their respective District to re-examine the appointment of the private respondents, merit position of the petitioners and pass an appropriate order keeping in mind the Rules, Policy and the terms and conditions incorporated in the advertisement for appointment as Class-IV employees after providing the parties an opportunity of hearing."

(3). That in the light of, above mentioned judgment of PHC Bannu Bench, we have re-examined your appointment and merit position, in the light of Rules, Policy and Terms and Conditions, incorporated in the advertisement, for the above mentioned posts of Class-IV and found that you, belongs to Village Council Gandi Khan Khel, but have been appointed against the post for **Village Council Nar Sahibdad Maidad Khel.** 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" 14

بخدمت جناب اسسٹنٹ ڈائریکٹر صاحب لوکل گورنمنٹ ضلع لکی مروت

عنوان : جواب شوکاز نوٹس موصول شدہ مورخہ 11/04/2018 ہذا دفتر AD لوکل گورنمنٹ لکی مروت

جناب عالی!

گزارش ہے سائل کو بحوالہ آڈر نمبر 41-4429 مورخہ 15/03/2016 بطور نائب قاصد ویلج کونسل نارصاحبداد میدادخیل کو باقاعدہ میرٹ پالیسی اور حکومتی پالیسی کے مطابق انٹرویو کے بعد بھرتی کیا تھا۔ من سائل ضلع لکی مروت کا سکونتی، رہائشی، پیدائشی ہو۔ ابتک اپنی ڈیوٹی سرانجام دے رہا ہوں۔ میرا کیا قصور ہے۔

برائے کرم مجھے بغیر کسی جرم کی سزا نہ دی جائے اور شوکاز نوٹس ختم کیا جائے اور میرے تعیناتی میں محکمے والوں نے کوئی غلطی کی ہے تو اس میں میرا کوئی قصور نہ ہے۔

لہذا التجاء ہے کہ جاری کردہ شوکاز نوٹس کو ختم کیا جائے اور سائل کو بدستور اپنی ڈیوٹی پر کام کرنے کا موقع دیا جائے۔ اگر سائل کو ملازمت سے سبکدوش کیا گیا تو سائل اپنا قانونی حق محفوظ رکھتا ہے۔

لہذا رپورٹ برائے مناسب حکم پیش ہے۔

مورخہ 11/04/2018

العارض

سائل محمد فاروق خان نائب قاصد ویلج کونسل نارصاحبداد میدادخیل

i

Attested

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

"F" 15

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

Dated April 18, 2018

OFFICE ORDER

No. 5269-74 / The Peshawar High Court Bannu Bench was pleased to announce the following judgment in Writ Petition No.535-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. Mohammad Farooq Khan S/O Abdul Ghaffar.	Gandi Khan Khel	Nar Sahibdad Maidad Khel.

Both the Petitioner and Respondent were heard and examined in detail and record perused. The petitioner Mr. Fasihullah S/O Amanullah stated that he applied for the post of Class-IV lying vacant in his parent Village Council but was ignored. The respondent informed that he applied for the post of Naib Qasid in his parent Council. He admitted the fact that he belongs to Village Council Gandi Khan Khel but he was appointed at Village Council Nar Sahibdad Maidad Khel which is not his parent Village Council at all.

Keeping in view the above, the competent authority considers appointment order of the respondent as Naib Qasid at Village Council Nar Sahibdad Maidad Khel issued vide No.Order No.4429-41 , 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.

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

Even No. & Date.

Copy forwarded to:-

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

For information & necessary action.

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

Attested

"G" 16

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

OFFICE ORDER.

Dated April 19 /2018

No. 5339-42 / In pursuance to the judgment dated 28.02.2018 of Peshawar High Court Bannu Bench in Writ Petition No.535-B/2016, Mr. Fasihullah S/O Amanullah R/O Nar Asparli Killi, Tehsil Serai Naurang, District Lakki Marwat is hereby appointed as Naib Qasid in BPS-3 (9610-390-21310) plus usual allowances as admissible under the Rules, on regular basis, against the vacant post at VC Nar Sahibdad Maidad Khel, 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.

Attested

H 17 8734 11/5/18

To

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

SUBJECT :-DEPARTMENTAL APPEAL

Respected Sir,

With due respect the appellant submits as under.

1. That your good Office advertised vacancies of Class-IV throughout Khyber Pakhtunkhwa vide advertisement dated 04.07.2015 in which the condition for appointment of Class-IV was that the candidate must be the resident of relevant District where he resides. As per afore-said advertisement, the appellant being permanent resident of District Lakki Marwat, applied for the vacancy of Class-IV, appeared in Test / interview and secured top position on merit list. Copy of advertisement dated 04.07.2015 is attached as **Annexure-A.**

2. That accordingly the Departmental Selection Committee duly approved and recommended the name of appellant for appointment as Class-IV. Where after the Assistant Director LGRDD Lakki Marwat issued appointment order of appellant as Naib Qasid on 15.03.2016 and posted at **Village Council Nar Sahibdad Maidad Khel** 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 Gandi Khan Khel** but he has been appointed as Class-IV in village **Council Nar Sahibdad Maidad Khel.** 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-IVemployees after

Attested

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-II**.

10. That appellant belongs to village **Council Gandi Khan Khel** and has been appointed in **Village Council Nar Sahibdad Maidad Khel** 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 Meehan 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 Meehan Khel. But no show cause notice has been issued to the afore-said Wasi Ullah nor has he been terminated from service.Similarly no show cause notice has been issued to 42 other Class-IV employees who are similarly placed as of appellant. Therefore , the termination order dated 18.04.2018 is discriminatory with the appellant.On one hand, Assistant Director LGRRD Lakki Marwat is admitting the appointment orders of similarly placed persons as correct whereas on the other hand he has issued termination order of the appellant. As such the conduct of the Assistant Director LGRRD Lakki Marwat is contradictory in itself. Copy of appointment order of Wasiullah and affidavit dated: 06.08.2016 of Secretary Village Council Attashi Machan Khel are attached as **Annexure-I**.

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

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

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

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

6. That as such the Assistant Director LGRDD Lakki Marwat issued show cause notice to the appellant on the basis of afore-side Judgment of Peshawar High Court Bannu Bench dated: 28.02.2018, in which the only objection raised was that appellant belongs to **village Council Gandi Khan Khel** but he has been appointed as Class-IV in **village Council Nar Sahibdad Maidad Khel** 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 Gandi Khan Khel** but he has been appointed as Class-IV in **village Council Nar Sahibdad Maidad Khel** 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 Nar Sahibdad Maidad Khel** 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

appointed according to rules, regulations and policy. Copy of Comments filed by your good Office in Connected Writ Petition 529-B/2016 is attached as Annexure-J.

14. That even Peshawar High Court Bannu Bench didn't find any irregularity or illegality in the appointment order of appellant and as such Peshawar High Court Bannu Bench allowed the appellant to work as it is.

15. That most of the candidates who have been appointed as Class - IV on 19-04-2018 in place of appellant have not filed even applications in response to the advertisement dated 04.07.2015 nor they were on top position on merit list nor the merit position of those candidates are brought to light by the Assistant Director LGRRD Lakki Marwat even than they have been appointed as Class-IV on the next date i.e 19.04.2018 in place of the appellant. The person who has been appointed in the place of appellant is Fasih Ullah S/O Aman Ullah Copy of appointment order dated: 19.04.2018 of Fasih 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 Fasih 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 Fasih 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 Fasih 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.

APPLICANT / APPELLANT

Muhammad Farooq Khan S/O Abdul Ghaffar
Naib Qasid
Village Council Nar Sahibdad Maidad Khel
District Lakki Marwat

Dated:

بعدالت جناب سروس ٹریبونل صوبہ سرحد پشاور

منجانب اپیلانٹ

مار مری خان بنام محکمہ جات دیگراں

دعویٰ اپیل

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی و کل کاروائی متعلقہ آں بمقام پشاور کے لئے سعد اللہ خان مروت ایڈووکیٹ ہائی کورٹ کو وکیل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا نیز وکیل صاحب کو کرنے راضی نامہ و تقرر ثالث و فیصلہ بر حلف دینے جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ اور عرضی دعویٰ اور درخواست ہر قسم کی تصدیق اور اس پر دستخط کرنے کا اختیار ہوگا نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی نیز دائر کرنے اپیل نگرانی و نظرثانی و پیروی کرنے کا اختیار ہوگا اور بصورت ضرورت مقدمہ مذکور کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنی بجائے تقرر کا اختیار ہوگا اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ بالا اختیارات حاصل ہوں گے اور اس کا ساختہ پرداختہ منظور قبول ہوگا دوران مقدمہ میں جو خرچہ و ہرجانہ التوائے مقدمہ کے سبب سے ہوگا اس کے مستحق وکیل صاحب موصوف ہوں گے نیز بقایا خرچہ کی وصولی کرنے کا بھی اختیار ہوگا اگر کوئی تاریخ پیشی بمقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکور کریں۔

لہٰذا وکالت نامہ لکھ دیا کہ سند رہے۔

المرقوم 29/8/18

العبد العبد العبد

سعد اللہ خان مروت
ایڈووکیٹ

ارباب سیف الکمال
ایڈووکیٹ

M Fan

مس [illegible]
ایڈووکیٹ

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR.

Appeal No 1080/2018

Muhammad Farooq Khan Versus Govt. of KPK & others.

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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 1080/2018

M. Farooq Khan S/O Abdul Ghaffar Khan
R/O Kotka Sher Khan, VC Gandi Khan Khel, Lakki Marwat
Ex-Naib Qasid, Village Council Nar Sahib Dad Maidad Khel
District 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. Fasihullah S/O Amanullah
Naib Qasid, Village Council Nar Sahib Dad Maidad Khel,
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
Khyber Pakhtunkhwa

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

(SECRETARY)
Govt: of Khyber Pakhtunkhwa
Local Govt: Elections & Rural Dev: Department

Secretary
Local Govt. & Rural Development
Department, KPK, Peshawar.
(Respondent No.3).

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR.

Appeal No 1080/2018

Muhammad Farooq Khan. 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 Rustam Khan Kundi Advocate and Shahid Saleem Mina Khel Advocate
Resp. By Shahid Hamid Qureshi Addl: A.G.
Resp. By Muhammad Anwar Khan Maidad Khel Advocate

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 Dev:
Deptt: Lakki Marwat.

ATTESTED

EXAMINER
Peshawar High Court
Bench

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

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

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

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

ATTESTED
EXAMINER
Peshawar High Court
Bannu Bench

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

TRANSMITTED TO SUPREME COURT

17/12/18

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

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1084/ 2018.

Muhammad Farooq

Appellant

VERSUS

Assistant Director, Local Government & others

Respondents

INDEX

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Dated: 24.03.2019

Replying Respondent No. 04
(Fasiullah s/o Amanullah)
Through Counsel

Muhammad Tariq Qureshi
Advocate Supreme Court of Pakistan

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1080/ 2018.

Muhammad Farooq

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 / REPLY 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 Village 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 Village 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 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 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
(Fasiullah s/o Amanullah),
Through Counsel

Muhammad Tariq Qureshi
Advocate Supreme Court of Pakistan

5

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1084 /2018.

Muhammad Farooq

Appellant

VERSUS

Assistant Director, Local Government & others

Respondents

AFFIDAVIT

I, Fasiullah s/o Amanullah r/o

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

Fasiullah

Identified by

Muhammad Tariq Qureshi Advocate

6 A

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

OFFICE ORDER.

Dated April 19 /2018

No: 5339-42 / In pursuance to the judgment dated 28.02.2018 of Peshawar High Court Bannu Bench in Writ Petition No.535-B/2016, Mr. Fasihullah S/O Amanullah R/O Nar Asparli Killi, Tehsil Serai Naurang, District Lakki Marwat is hereby appointed as Naib Qasid in BPS-3 (9610-390-21310) plus usual allowances as admissible under the Rules, on regular basis, against the vacant post at VC Nar Sahibdad Maidad Khel, 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.

7 B

To

The Nazim
Village Council Nar Sahibdad Maidad Khel
Serai Naurang, District Lakki Marwat.

SUBJECT:- REPORT OF ARRIAL.

Sir,

In compliance with orders of the Assistant Director, Local Govt. & Rural Development Deptt. Lakki Marwat contained in Office Order No. 5339-42, dated 19.04.2018, I the undersigned hereby report my arrival for duty on 20.04.2018 (forenoon).

(FASIHULLAH)
S/O Amanullah R/O Nar Asparli Killi
VC Nar Sahibdad Maidad Khel
Tehsil Naurang, District Lakki Marwat.

OFFICE OF THE NAZIM, VILLAGE COUNCIL NAR SAHIBDAD MAIDAD KHEL

No. 15 /

Dated 20 /4/2018.

Copy forwarded to:-

1. The Assistant Director, LGRDD, Lakki Marwat.
2. The District Accounts Officer, Lakki Marwat.

For information & necessary action please.

Secretary, VC
20/4/2018

Nazim VC 20/4/18

بیان حلفی

من کہ مسمی فصیح اللہ ولد امان اللہ سکنہ گاؤں تاجا سپرائی خیل تحصیل سرائے نورنگ ضلع لکی مروت حلفاً بیان کرتا ہوں کہ میں ویلیج کونسل تاجا محمد داد میداد خیل سے تعلق رکھتا ہوں۔ اور میں ویلیج کونسل کا مستقل پیدائشی اور رہائشی ہوں۔

حلفاً تحریر ہے۔ کہ میرا بیان حلفی حقیقت پر مبنی ہے کوئی امر پوشیدہ نہیں رکھا گیا ہے۔

Safi ullah فصیح اللہ

11201-0104024-3

مورخہ - 27 3/2018

تصدیق ... ناظم ... تاجا محمد داد ... ضلع لکی مروت

C 9

BEFORE THE PESHAWAR HIGH COURT BENCH BANNU

Writ Petition No. 285 /2016

Shakeel Khan son of Mushk Alam resident of Wanda Rehmana, Village Council Alam Shah Khel, Tehsil and District Lakki Marwat.

....(Petitioner)

Vs

1. Govt: of Kyber Pakhunkhwa through Secretary Local Govt: and Rural Development Department, Peshawar.
2. Director General, Kyber PakhunKhwa, Local Govt: and Rural Development Department Peshawar.
3. Assistant Director, Local Govt: and Rural Development Department Lakki Marwat.
4. Deputy Commissioner, Lakki Marwat.
5. District Accounts Officer, Lakki Marwat.
6. Tahir Khan son of Mirza Ali Khan resident of Begu Khel, Village Council Begu Khel, Tehsil and District Lakki Marwat.

(Respondents)

WRIT PETITION UNDER ARTICLE 199 OF THE CONSTITUTION OF ISLAMIC REPUBLIC OF PAKISTAN

RESPECTFULLY SHEWETH:

1. That, the petitioner is permanent resident of village Wanda Rehmana and VC also Alam Shah Khel and have educational qualification of SSC.
2. That, the respondent No. 2 advertised the post of Peons/Class-IV, one each in every village Council of District Lakki Marwat.
3. That, the advertisement has having condition that for each UC, the candidates who is the permanent resident of same village will be appointed.
4. That, the Petitioner being eligible cum fit the post applied and stood most deserved due to qualification and in his village/village council.

15 APR 2016 Additional Registrar

ATTESTED
EXAMINER
Peshawar High Court

90

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

W.P.No.285-B/2016

Shakeel Khan

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 Mr. Inamullah Khan Mandoza Khel.

Respondent Govt. by Mr. Shahid Hameed Qureshi AAG.

ABDUL SHAKOOR, J.- Same judgment as in W.P.No.254-B/2016 (Sharifullah Vs. Govt. of K.P.K through Secretary 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
Authorised Under Article 87 of
The Qanun-e-Shahadat Order 1984

SCANNED

02/3/2018

Imran PS *(DB of Mr. Justice Abdul Shakoor and Mr. Justice Shakeel Ahmad, JJ)*

JUDGMENT SHEET

IN THE PESHAWAR HIGH COURT
BANNU BENCH

(Judicial Department)

W.P.No.254-B/2016

Sharifullah

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 Mr. M. Tariq Qureshi Advocate

Respondent Govt. by Mr. Shahzad Hameed Qureshi AAG

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

1. *W.P.No.254-B/2016.*
   (Sharifullah Vs. Govt. of K.P.K through Secretary Local Govt. and Rural Development and others).
2. *W.P.No.260-B/2016.*
   (Naveedullah Vs. Govt. of K.P.K through Secretary Local Govt. and Rural Development and others).
3. *W.P.No.274-B/2016.*
   (Muhammad Sabir Vs. Govt. of K.P.K through Secretary Local Govt. and Rural Development and others).
4. *W.P.No.285-B/2016*

ATTESTED
EXAMINER
Peshawar High Court,
Bannu Bench

SCANNED

(Shakeel Khan Vs. Govt. of K.P.K through Secretary Local Govt. and Rural Development and others).

5. *W.P.No.292-B/2016.*
(Zafarullah Khan Vs. Govt. of K.P.K through Secretary Local Govt. and Rural Development and others).

6. *W.P.No.343-B/2016*
(Shafiullah Vs. Govt. of K.P.K through Secretary Local Govt. and Rural Development and others).

7. *W.P.No.386-B/2016*
(Gul Tayaz Khan Vs. Govt. of K.P.K through Secretary Local Govt. and Rural Development and others).

8. *W.P.No.467-B/2016*
(Zainullah Khan Vs. Director General Local Govt. & Rural Development and others).

9. *W.P.No.529-B/2016.*
(Parvaiz Kamal Khan Vs. Govt. of K.P.K through Secretary Local Govt. and Rural Development and others).

10. *W.P.No.535-B/2016*
(Fasiullah 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 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

ATTESTED
EXAMINER
Peshawar High Court
Bench Peshawar

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

Announced.
Dt:28.02.2018.

S/d- Mr. Justice Abdul Shakoor J

S/d- Mr. Justice Shakeel Ahmad J

CERTIFIED TO BE TRUE COPY

Bench

Article 87 of

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

Imran

02/3/2018

وکالت نامہ

بعدالت ~~چیئرمین سروس ٹریبونل~~ ICDR پشاور

کورٹ فیس		قیمتی ایک روپیہ

مورخہ 24 اپریل 2019ء منجانب رسپانڈنٹ نمبر 1 نعیم الحق

مقدمہ بنام

دعویٰ محمد فاروق خان سپرنٹنڈنٹ وغیرہ

جرم SA — 10/2019

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب وہی وکل کاروائی متعلقہ آں مقام پشاور کے لئے **محمد طارق قریشی ایڈوکیٹ** مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا نیز وکیل صاحب کو راضی نامہ بتقرر 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 اور منسوخ دائر کرنے 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 پرداختہ منظور قبول ہوگا اور دوران مقدمہ میں جو خرچہ و ہرجانہ التوائے مقدمہ کے سبب سے ہوگا۔ اس کے مستحق وکیل صاحب موصوف ہونگے۔ نیز بقایا خرچہ کی وصولی کرنے کا بھی اختیار ہوگا۔ اگر کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہونگے کے پیروی مقدمہ مذکور کریں لہٰذا وکالت نامہ لکھدیا تا کہ سند رہے

Accepted

المرقوم 24 ماہ اپریل 2019ء

العبد گواہ شد العبد

بمقام کے لئے منظور ہے

محمد طارق قریشی ایڈوکیٹ

سپریم کورٹ آف پاکستان

موبائل: 0300-5768804

یاسر مروت پرنٹنگ پریس پشاور موبائل: 0333-9123075

GS&PD.KP.SS-1777/2-RST-20,000 Forms-09.05.18/PHC Jobs/Form A&B Ser. Tribunal/P2

"B"

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

JUDICIAL COMPLEX (OLD), KHYBER ROAD, PESHAWAR. D.B.I

No.

Appeal No. 1080 *of 20* 18

M. Farooq Khan .....*Appellant/Petitioner*

Versus

Asststaw Director Local Govt. etc., ...*Respondent*

Respondent No. 4

Notice to: — Fasi ullah s/o Aman ullah Naib Qasid, villa Council Nar Sahib Dad Midad Khel, Lakki Marwat

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal *on 6/12/2021 **at** 8.00 A.M. **If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by an Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing** 4 copies **of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.**

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

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

Given under my hand and the seal of this Court, at Peshawar this 18th **Day of** Nov **20** 21.

Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
2. Always quote Case No. While making any correspondence.

BEFORE THE KPK, SERVICE TRIBUNAL, PESHAWAR

S. A. No. 1080 /2018

M. Farooq Khan 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.

GROUNDS:

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, M. Faraq Khan, 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 Aman Adv. and Masood Iqbal Khattak Adv.

Respondent(s) By Shahid Hamid Qureshi Addl: AG. Official No.4 By Muhammad Tariq Qureshi 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
EXAMINER
Peshawar High Court
Bannu Bench

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

and conditions mentioned therein, pursuant thereto the contesting parties appalied 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.

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.

Hon'ble Mr. Justice Muhammad Nasir Mahfooz J

Hon'ble Mr. 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 1984

BEFORE THE KHYBER PAKHTUNKHWA, SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No. 1080 /2008

Farooq Khan.....(Appellant)

V E R S U S

Assistant Director and others.....(Respondents)

I N D E X

S.No	Description of Documents	Annex	Pages
1.	Application		1
2.	Copies of receipt for receiving application,	A	2
3.	Copy of voter list of the appellant,	B	3-4
4.	Copy of voter list of the respondent	C	5-6
5.	Copy of letter dated 04/08/2015	D	7

Applicant/Respondent No. 4

Through

Dated: 14/01/2022

Muhammad Tariq Qureshi
Advocate Supreme Court
Of Pakistan.
Cell: 0300-5768804

I

BEFORE THE KHYBER PAKHTUNKHWA, SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No. 1080 /2008

Farooq Khan.....(Appellant)

V E R S U S

Assistant Director and others.....(Respondents)

APPLICATION FOR PLACING ON FILE SOME NECESSARY DOCUMENTS FOR THE JUST DISPOSAL OF THE MAIN SERVICE APPEAL.

Respectfully Sheweth:

The petitioners very humbly submit as under:

1. That the above titled Service Appeal is pending for adjudication on merits before this Hon'ble Court, which is fixed for today i.e. 14/01/2022.

2. That the documents are necessary to be included in the record and be placed before the Hon'ble Tribunal in the above titled Service Appeal as per direction of this Hon'ble Tribunal. (Copies of receipt for receiving application, voter list of the appellant, voter list of the respondent and letter dated 04/08/2015 are attached as annexure "A", "B", "C" & "D").

It is, therefore, very humbly prayed that on the acceptance of this application, the accompanied documents may kindly be allowed to be placed on file in the main Service Appeal and may be considered as part and parcel of the instant Service Appeal.

Applicant/Respondent No. 4

Through

Dated: 14/01/2022

Muhammad Tariq Qureshi
Advocate Supreme Court
Of Pakistan.

2

Anx A

مسمی فصیح اللہ ولد امان اللہ سکنہ ناد اسہراری کا سکونتی باشندہ ہے

سکنہ ویلیج کونسل ناظم صاحب دارد مراد خیل نے

ویلرس فور سیٹ کیلئے PTK ضروری کاغذات

جمع کئے۔

Date 17-7-2015

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

Annex B

شماریاتی بلاک کوڈ

0	5	5	0	1	0	9	1	0

حتمی انتخابی فہرست

انتخابی علاقے کا نام گنڈی خانخیل

موضع / دیہہ / شہر گنڈی خانخیل پٹوار حلقہ / تپے دار سرکل کا نام گنڈی خانخیل

تحصیل / تعلقہ نورنگ ضلع لکی مروت یونین کونسل گنڈی خانخیل I

ووٹروں کی تفصیل	
مرد	942
خواتین	670
کل ووٹر	1612

0 5 5 0 1 0 9 1 0

کتاب نمبر: 419/478

حلقہ انتخاب: NA-36/PK-93

پرنٹنگ کی تاریخ: 22 ستمبر 2020

دستخط رجسٹریشن آفیسر

پتہ	عمر	قومی شناختی کارڈ نمبر	والد کا نام	نام	گھرانہ نمبر	سلسلہ نمبر
ڈاک خانہ سرائے گمبیلا، لکی تیر خان، تحصیل لکی مروت، ضلع لکی مروت	51	11201-4470056-9	غلام حبیب	غلام جلیل	110	585
لکی تیر خان، ڈاک خانہ سرائے گمبیلا، گنڈی ڈ نیل، تحصیل ضلع لکی مروت	30	11201-4224655-7	غلام جلیل خان	محمد کفیل خان	110	586
لکی تیر خان، ڈاک خانہ سرائے گمبیلا، بانت خیل، تحصیل سرائے نورنگ ضلع لکی مروت	22	11202-0363655-1	غلام جلیل	عبدالوکیل	110	587
لکی امیر کی، ڈاک خانہ سرائے گمبیلا، گنڈی ڈ نیل، تحصیل سرائے نورنگ ضلع لکی مروت	61	11201-3418931-5	محمد خان مرحوم	مومن خان	111	588
لکی امیر کی، ڈاک خانہ سرائے گمبیلا، گنڈی ڈ نیل، تحصیل سرائے نورنگ ضلع لکی مروت	30	11201-3406214-9	مومن خان	رحمت الله	111	589
لکی امیر کی والی گنڈی خان خیل ڈاکخانہ سرائے گمبیلا، سرائے نورنگ، ضلع لکی مروت	25	11201-4807247-9	مومن خان	احسان الله	111	590
ڈاک خانہ گنڈی ڈ نیل، لکی گل بوس، تحصیل لکی مروت، ضلع لکی مروت	54	11201-0349497-3	محب الله	فرید الله خان	112	591
لکی گل بوس، گنڈی ڈ نیل، تحصیل سرائے نورنگ، ضلع لکی مروت	23	11201-3432593-9	فرید الله خان	شاہ زیب خان	112	592
لکی گل بوس، ڈاک خانہ گنڈی خان خیل، گنڈی ڈ نیل، تحصیل سرائے نورنگ ضلع لکی مروت	21	11201-5854458-5	فرید الله خان	زوہیب خان	112	593
ڈاک خانہ گنڈی خان خیل، لکی محمد امین، تحصیل لکی مروت، ضلع لکی مروت	73	11201-7748963-5	محمد زر خان	رسول خان	113	594
لکی محمد امین، ڈاک خانہ گنڈی خان خیل، گنڈی ڈ نیل، تحصیل سرائے نورنگ ضلع لکی مروت	46	11201-0358293-5	رسول خان	مشال خان	113	595
لکی محمد امین، گنڈی ڈ نیل، تحصیل سرائے نورنگ، ضلع لکی مروت	45	11202-0357055-5	رسول خان	ارباب خان	113	596
ڈاک خانہ گنڈی خان خیل، لکی محمد امین، تحصیل لکی مروت، ضلع لکی مروت	42	11201-1357180-9	رسول خان	زرامیر خان	113	597
لکی محمد امین ڈاکخانہ گنڈی خان خیل، سرائے نورنگ، ضلع لکی مروت	39	11201-1412641-3	رسول خان	ہاشم خان	113	598
ڈاک خانہ گنڈی ڈ نیل، لکی محمد امین، تحصیل لکی مروت، ضلع لکی مروت	33	11201-6600810-1	رسول خان	شاہ عالم خان	113	599
لکی محمد امین، گنڈی ڈ نیل، تحصیل ضلع لکی مروت	30	11201-8758576-7	رسول خان	خان بہادر	113	600
ڈاک خانہ لکی گیدڑ، مسکین آباد، تحصیل لکی مروت، ضلع لکی مروت	39	11201-3660298-9	عبدالغفار خان	بخت جمال خان	114	601
ڈاک خانہ لکی گیدڑ، لکی مسکین آباد، تحصیل لکی مروت، ضلع لکی مروت	36	11201-3512489-3	عبدالغفار خان	وحید الله	114	602
ڈاک خانہ گنڈی ڈ نیل، لکی محمد امین، تحصیل لکی مروت، ضلع لکی مروت	62	11201-8698460-5	محمد زر خان	عطاء الله خان	115	603
ڈاک خانہ گنڈی ڈ نیل، لکی محمد امین، تحصیل لکی مروت، ضلع لکی مروت	37	11201-2964268-5	عطاء الله خان	گل مرجان	115	604
لکی محمد امین، گنڈی ڈ نیل، تحصیل ضلع لکی مروت	30	11201-2190233-9	عطاء الله خان	رشید خان	115	605
ڈاک خانہ سرائے گمبیلا، مبارکی، تحصیل لکی مروت، ضلع لکی مروت	56	11201-0339203-3	نیاز محمد مرحوم	اکبر علی خان	116	606
مبارکی، ڈاکخانہ سرائے گمبیلا، لکی مروت	21	11201-4270596-3	اکبر علی خان	عزت خان	116	607
ڈاک خانہ سرائے گمبیلا، لکی تیر خان، تحصیل لکی مروت، ضلع لکی مروت	58	11201-9467845-7	کمزور خان	نور زاد خان	117	608
لکی تیر خان، ڈاک خانہ سرائے گمبیلا گنڈی ڈ نیل، تحصیل ضلع لکی مروت	28	11201-0412131-1	نور زاد خان	ثاقب نواز خان	117	609
ڈاک خانہ سرائے گمبیلا، لکی تیر خان، تحصیل لکی مروت، ضلع لکی مروت	77	11201-9055725-5	نور محمد مرحوم	خان افسر	118	610
ڈاک خانہ سرائے گمبیلا، لکی تیر خان، تحصیل لکی مروت، ضلع لکی مروت	57	11201-1126750-3	زرظفر	عبدالغفار	118	611
لکی تیر خان ڈاکخانہ سرائے گمبیلا، لکی مروت	30	11201-6305133-5	عبدالغفار	محمد فاروق خان	118	612

5 Anx C

شماریاتی بلاک کوڈ

0	5	5	0	1	1	2	0	5

حتمی انتخابی فہرست

انتخابی علاقے کا نام نار کشمیر موٹی خیل

موضع / دیہہ / شہر نار کشمیر موٹی خیل پٹوار حلقہ / تپے دار سرکل کا نام نار سلطان محمود

تحصیل / تعلقہ نورنگ ضلع لکی مروت یونین کونسل نارالو سمند سگوخیل

V/C محمد صاحب ولد اصل

ووٹروں کی تفصیل	
مرد	602
خواتین	520
کل ووٹر	1122

0 5 5 0 1 1 2 0 5

کتاب نمبر: 447/478

پرنٹنگ کی تاریخ: 22 ستمبر 2020

دستخط رجسٹریشن آفیسر

حلقہ انتخاب: NA-367PK-93

6

شمار نمبر	گھرانہ نمبر	نام	والد/شوہر کا نام	شناختی کارڈ نمبر	عمر	پتہ
100	16	ذاکر خان	سرم خان	11201-3773829-5	28	ہراسپر والی، سرائے نورنگ، تحصیل و ضلع لکی مروت
110	15	زاہد اللہ	سرم خان	11201-3782274-5	25	ہراسپر والی ڈاکخانہ، سرائے نورنگ، ضلع لکی مروت
111	15	شاہد اللہ	سرم خان	11201-3783224-5	23	ہراسپر والی ڈاکخانہ، سرائے نورنگ، ضلع لکی مروت
112	15	شاہد خان	نور زمان	11202-0394955-9	18	ہراسپر والے ڈاکخانہ، سرائے نورنگ، ضلع لکی مروت
113	16	خان زمان	پردل خان	11201-0393065-7	64	ڈاکخانہ نورنگ، ہراسپر والی، تحصیل لکی مروت، ضلع لکی مروت
114	16	عالمگیر خان	خان زمان	11201-6367316-7	32	ڈاکخانہ سرائے نورنگ، ہراسپر والی، تحصیل لکی مروت، ضلع لکی مروت
115	16	اول گیر خان	خان زمان	11201-4692115-9	27	ہراسپر والی، سرائے نورنگ، ضلع لکی مروت
116	16	وسیم خان	خان زمان	11201-4682710-9	21	ہراسپر والے، سرائے نورنگ، ضلع لکی مروت
117	16	سہیل خان	خان زمان	11201-4586760-9	20	ہراسپر والی ڈاکخانہ، سرائے نورنگ، ضلع لکی مروت
118	16	الیاز خان	شاہ آباز خان	11202-0396061-9	19	ہراسپر والے ڈاکخانہ، سرائے نورنگ، ضلع لکی مروت
119	17	امان اللہ	محمد نواز خان	11201-0369241-9	59	ہراسپر والے، تحصیل لکی مروت، ضلع لکی مروت
120	17	وحید اللہ	امان اللہ	11201-0475196-5	34	ڈاکخانہ سرائے نورنگ، ہراسپر والی، تحصیل لکی مروت، ضلع لکی مروت
121	17	فصیح اللہ	امان اللہ	11201-0104024-3	32	ڈاکخانہ سرائے نورنگ، ہراسپر والے، تحصیل لکی مروت، ضلع لکی مروت
122	17	حسین اللہ	امان اللہ	11201-8022644-5	26	ہراسپر والی، سرائے نورنگ، ضلع لکی مروت
123	17	عبداللہ خان	امان اللہ	11201-7417754-7	22	ہراسپر والی، سرائے نورنگ، ضلع لکی مروت
124	17	معین خان	شمیر خان	11202-0379490-5	18	ہراسپر خیل، ڈاکخانہ تاج مظفر خان، سرائے نورنگ، ضلع لکی مروت
125	18	ثناء اللہ خان	[illegible]	11201-2989568-7	48	ڈاکخانہ سرائے نورنگ، بیہ بیہ تاج ہراسپر والے، تحصیل لکی مروت، ضلع لکی مروت
126	18	حاجی شہال خان	عادل بادشاہ	11201-0809006-7	38	ہراسپر والے تاج کشمیر موسیٰ خیل، سرائے نورنگ، ضلع لکی مروت
127	18	زاہد اللہ خان	ثناء اللہ خان	11202-0366057-1	22	بیہ بیہ ہراسپر والے، ڈاکخانہ سرائے نورنگ، تاج کشمیر موسیٰ خیل، تحصیل سرائے نورنگ، ضلع لکی مروت
128	18	انشاء اللہ	ثناء اللہ خان	11201-6737413-9	20	بیہ بیہ ہراسپر والے، سرائے نورنگ، ضلع لکی مروت
129	18	عبید اللہ خان	ثناء اللہ خان	11201-6548590-1	19	ہراسپر والے بیہ بیہ ڈاکخانہ، سرائے نورنگ، ضلع لکی مروت
130	19	ملک عالم	خواجہ احمد	11201-1782806-5	63	ہراسپر والے، ڈاکخانہ سرائے نورنگ، تاج کشمیر موسیٰ خیل، تحصیل و ضلع لکی مروت
131	19	شاہد اللہ خان	ملک عالم	11201-9101207-1	27	ہراسپر والے کشمیر موسیٰ خیل، سرائے نورنگ، تحصیل و ضلع لکی مروت
132	19	حفیظ اللہ	ملک عالم خان	11201-9100257-1	24	ہراسپر والے ڈاکخانہ، سرائے نورنگ، ضلع لکی مروت
133	19	عنایت اللہ	محمد روشان	11202-0369324-5	21	ہراسپر والے، ڈاکخانہ سرائے نورنگ، تاج کشمیر موسیٰ خیل، تحصیل سرائے نورنگ، ضلع لکی مروت
134	19	فرمان اللہ	ملک عالم	11201-6050745-3	20	ہراسپر والے، ڈاکخانہ تاج مظفر خان، تاج کشمیر موسیٰ خیل، تحصیل سرائے نورنگ، ضلع لکی مروت
135	20	غلام محمد	ولی خان	11201-5777357-9	69	ڈاکخانہ سرائے نورنگ، ہراسپر والے بیہ بیہ، تحصیل لکی مروت، ضلع لکی مروت
136	20	سلطان محمد	ولی خان	11201-5572100-7	64	ڈاکخانہ سرائے نورنگ، ہراسپر والے بیہ بیہ، تحصیل لکی مروت، ضلع لکی مروت

ELECTION OFFICER
Lakki Marwat

Annex D-7

OFFICE OF THE DIRECTOR GENERAL
LOCAL GOVERNMENT & RURAL DEVELOPMENT
DEPARTMENT
KHYBER PAKHTUNKHWA
Office No: Dir(LG)-I/establishment/2013
Dated: Tuesday, 4th August, 2015

To

All the Deputy Commissioners,
Khyber Pakhtunkhwa.

Subject: RECRUITMENT OF CLASS - IV IN VILLAGE / NEIGHBOURHOOD COUNCILS

Please refer to Local Government Department Notifications bearing No SO(LG-I)-3-13/Reel/2014 dated 30th July 2015 and Secretary Local Government letter bearing even number, dated 3rd August 2015 on the subject.

In light of the above, you are requested to start recruitment process of Class – IV vacancies of Village / Neighbourhood Councils in your respective districts, subject to fulfilment of all codal formalities as per rules.

Method of Recruitment of Class - IV as per Service Rules, 2015.

a) By initial recruitment.
b) Age limit: 18 - 40 years.
c) Qualification: Physically sound, preferably literate.
d) The candidate would be a bonafide resident of the same Village Neighbourhood Council.

You are requested to initiate the recruitment process against the applications already received in the office of Assistant Director, LG&RD and finalise the recruitment process under intimation to this office by Tuesday, 18th August, 2015, positively, please.

Director General,
LG&RD.

(1) Assistant Director, LG&RD concerned to facilitate the Chairman Recruitment and Selection Committee.
(2) Chief Coordination Officer, District Council concerned as a member of Recruitment and Selection Committee as a representative of Secretary LGE&RDD.
3) PSO to Chief Minister, Khyber Pakhtunkhwa.
4) PSO to Chief Secretary, Khyber Pakhtunkhwa.
5) PSO to Senior Minister, LGE&RDD, Khyber Pakhtunkhwa.
6) PS to Secretary LGE&RDD, Khyber Pakhtunkhwa.
7) PS to Special Secretary LGE&RDD, Khyber Pakhtunkhwa.
8) Office Record.

(No: 091-9211457 Fax 091-5270455 e-mail: dg.lg@kp.gov.pk)

ATTESTED

Attested

BEFORE THE KPK, SERVICE TRIBUNAL, PESHAWAR

S. A. No. 1080 /2018

M. Farooq Khan 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 ful-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)

GROUNDS:

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, M. Farooq Khan, 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.

9-9-19

KHALID MAHMOOD ADVOCATE ATTESTED NOTARY PUBLIC PESHAWAR HIGH COURT

DEPONENT

4

JUDGMENT SHEET
IN THE PESHAWAR HIGH COURT,
BANNU BENCH.

(*Judicial Department*)

W.P No. 430-B of 2018

SEAL PESHAWAR HIGH COURT BANNU BENCH

Jameel Khan Vs. Govt: of KP etc:

JUDGMENT

Date of hearing 24/6/2019.

Appellant-Petitioner By Masood Ahmad Adv. and Masood Iqbal Khattak Adv.

Respondent(s) By Shahid Hamid Qureshi Addl. AG. Official No.4 By Muhammad Tariq Qureshi 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
EXAMINER
Peshawar High Court
Bannu Bench

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
Bannu Bench

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

and conditions mentioned therein, pursuant thereto the contesting parties appalied 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.

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 1984

26/6/19