

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No.06/2019

Date of Institution ... 03.01.2019
Date of Decision ... 17.06.2020

Muhammad Inam S/O Muhammad Latif R/O Maira Banda Gaddar Hamza
Khan Tehsil & District Mardan.

... (Appellant)

VERSUS

The Government of Khyber Pakhtunkhwa through Secretary (E&SE)
Department Khyber Pakhtunkhwa Peshawar & 03 others.

... (Respondents)

Mr. Daulat Khan,
Advocate

... For appellant.

Mr. Muhammad Jan
Deputy District Attorney

... For respondents.

MR. HAMID FAROOQ DURRANI
MRS. ROZINA REHMAN

... CHAIRMAN
... MEMBER (J)

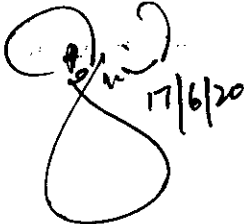
JUDGMENT

ROZINA REHMAN, MEMBER :- Muhammad Inam son of Muhammad

Latif hereinafter referred to as the appellant has filed the instant service appeal
U/S 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the
order dated 13.01.2017 whereby he was appointed as Chowkidar instead of
Lab. Attendant.

2. Facts, in brief, are that the appellant was appointed as Lab. Attendant at GGHS Qazi Abad Gaddar District Mardan vide order No.285/G dated 09.01.2017 on disabled 2% quota. He, therefore, obtained medical certificate from DHQ Mardan and started his duty to perform. The respondent No.3 issued another appointment order and that too in respect of the post of Chowkidar vide impugned order No.508/G dated 13.01.2017. Appellant being aggrieved filed departmental appeal but to no avail, hence the present appeal.

3. Learned counsel for the appellant argued that the appellant was appointed in BPS-03 on 2% quota reserved for disabled on the post of Lab. Attendant which is evident from notification of the District Education Officer (Female) Mardan dated 09.01.2017. He submitted that after obtaining medical certificate, he joined his duty and it was on 13.01.2017, when another notification was issued by the concerned DEO (F) Mardan in respect of appointment of the appellant on disabled 2 % quota but on the post of Chowkidar; that neither the original order was cancelled/withdrawn nor any corrigendum was issued. He further argued that the condition of the appellant for the post of Chowkidar was also not taken into consideration which act of the department is against law and facts.

 4. Learned Deputy District Attorney raised an objection regarding the departmental appeal which was filed on 01.10.2018 against the order of DEO (F) Mardan dated 13.01.2017. It was contended that departmental appeal was badly time barred and that the appeal before Service Tribunal is, therefore, not competent. He further submitted that initial order/notification was issued on 09.01.2017 and the appellant got himself medically examined on 13.01.2017

and on the same date, another notification was issued in respect of his posting as Chowkidar but the appellant kept mum since 13.01.2017.

5. From the above, it is evident that the appellant was appointed as Lab. Attendant and that too on disabled quota vide order NO.285/G dated 09.01.2017. Another notification was issued in respect of his posting as Chowkidar on 13.01.2017. He continued his service and in the meanwhile, he submitted an application seeking transfer from GGHS Qazi Abad Mardan to GHS Hamza which application was accepted on 30.08.2018, which means that he was not aggrieved from the order dated 13.01.2017. It was on 01.10.2018 when departmental appeal was filed after about twenty (20) months of passing of the impugned order which is badly time barred. As per Rule-3 of Khyber Pakhtunkhwa Civil Servants (Appeal) Rules, 1986, a civil servant aggrieved by an order passed or penalty imposed by the competent authority relating to the terms & conditions of his service may, within 30 days from the date of communication of the order to him, prefer an appeal to the appellate authority. It is well-entrenched legal proposition that wherein appeal before departmental authority is time barred, the appeal before Service Tribunal would be incompetent. In this regard reference can be made to cases titled Anwarul Haq v. Federation of Pakistan 1995 SCMR 1505, Chairman, PIAC v. Nasim Malik PLD 1990 SC 951 and State Bank of Pakistan v. Khyber Zaman & others 2004 SCMR 1426.

6. In the facts and circumstances noted above, the instant appeal stands dismissed being incompetent.

7. It is pertinent to mention here that violation of the right to work can lead to violations of the enjoyment of other human rights by person with disabilities. Unfortunately, people on various levels of the handicap spectrum face a mountain of problems, therefore the concerned department is suggested to consider the request of the appellant on compassionate grounds so that he may feel a sigh relief to some extent. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED.

17.06.2020



(HAMID FAROOQ DURRANI)
CHAIRMAN



(ROZINA REHMAN)
MEMBER (J)

17.06.2020

Learned counsel for the appellant present. Mr. Muhammad Jan learned Deputy District Attorney for the respondents present.

Vide our detailed judgment of today of this Tribunal placed on file, the instant appeal stands dismissed being incompetent.

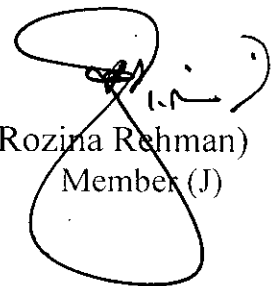
It is pertinent to mention here that violation of the right to work can lead to violations of the enjoyment of other human rights by person with disabilities. Unfortunately, people on various levels of the handicap spectrum face a mountain of problems, therefore the concerned department is suggested to consider the request of the appellant on compassionate grounds so that he may feel a sigh relief to some extent. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED.

17.06.2020



(Hamid Farooq Durrani)
Chairman

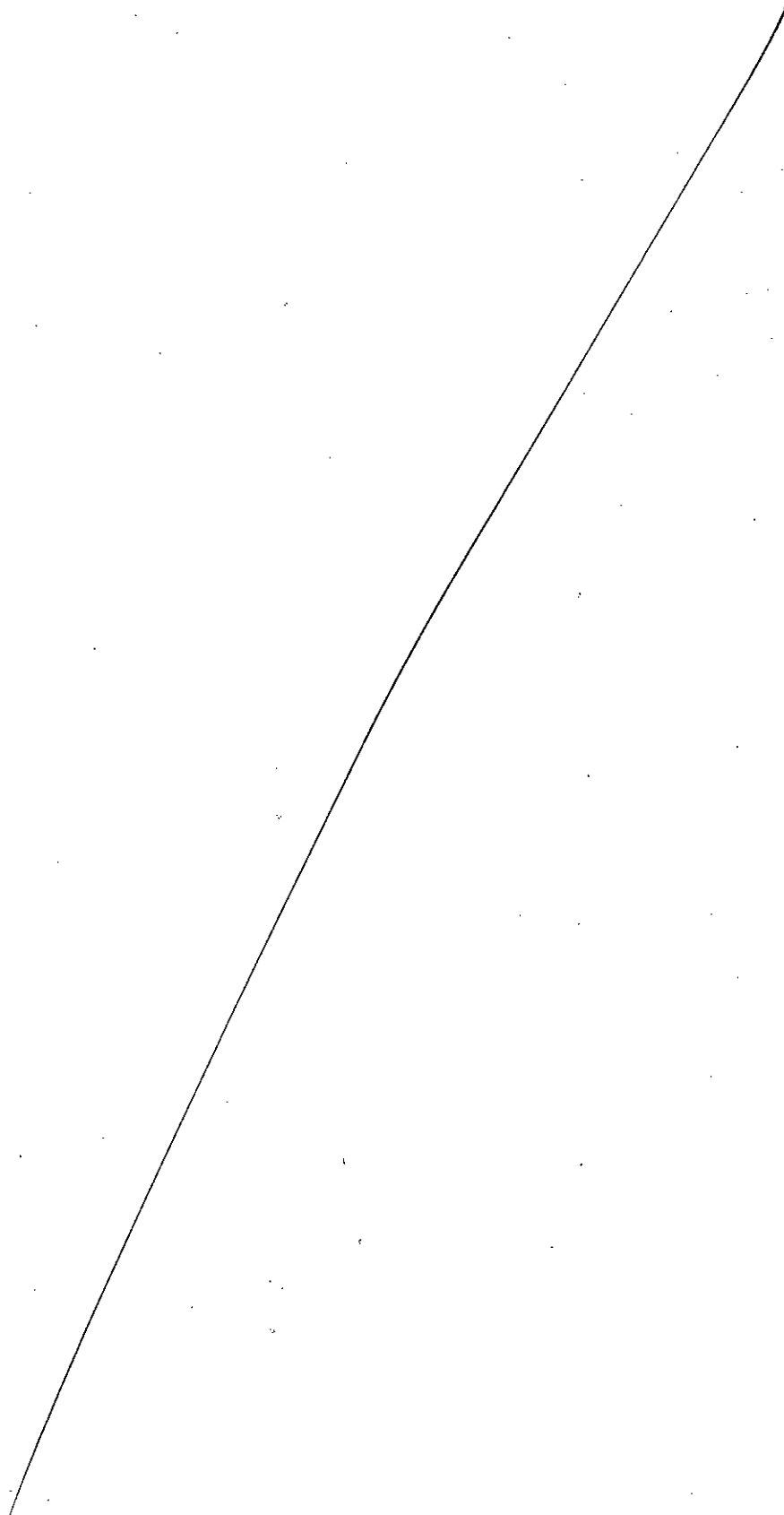


(Rozina Rehman)
Member (J)

27.03.2020

Due to public holidays on account of Covid-19, the case is adjourned. To come up for the same on 17.06.2020 before D.B.


Reader



09.01.2020

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

An application for impleadment of District Education Officer (Male) Mardan as one of the respondents has been submitted on the ground that the appellant is transferred to GHSS Hamza Khan under the authority/supervision of DEO(M)Mardan.

The desired impleadment appears to be justified, therefore, the application is allowed. Office shall endorse District Education Officer (Male) Mardan as a respondent in the memo. of appeal. Mr. Sajid ADEO accepts notice on behalf of DEO(Male) Mardan. To come up for written reply/comments of newly impleaded respondent on 04.02.2020 before S.B.

Chairman



04.02.2020

Appellant in person present. Addl: AG alongwith Mr. Sajid, ADEO for respondents present. Written reply submitted which is placed on file. To come up for rejoinder and arguments on 27.03.2020 before D.B-I.

Member



25.09.2019

Counsel for the petitioner and Addl. AG for the respondents present.

Learned AAG requests for adjournment. To come up for written reply/comments on 22.10.2019 before S.B.

Chairman 

22.10.2019

Counsel for appellant and Mr. Kabirullah Khattak, Additional AG alongwith Mr. Sajid, ADEO for the respondents present.

Representative of respondents requests for time to file requisite reply/comments. Adjourned to 27.11.2019 on which date requisite reply/comments shall positively be submitted.


CHAIRMAN

27.11.2019

Counsel for the appellant and Addl. AG alongwith Sajid ADEO for the respondents present.

Representative of respondents seeks further time to furnish reply/comments. Last opportunity is granted to the respondents for submission of requisite reply/comments on 09.01.2020 before S.B.

Chairman 

05.07.2019

Appellant present. Learned counsel for the appellant present. Preliminary arguments heard.

The appellant has filed the present service appeal against the order dated 30.01.2017 of his appointment as NCP Chowkidar , on the ground that vide order dated 09.01.2017 he was already appointed as NCP Lab Attendant.

Points urged need consideration. The appeal is admitted for regular hearing subject to all legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter notices be issued to the respondents for reply/comments. To come up for written reply/comments on 28.08.2019 before S.B



Member

28.08.2019

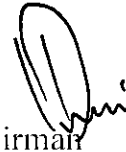
Counsel for the appellant present.

Learned counsel submitted an application for extension of time to deposit security and process fee which was not deposited inadvertently by the appellant.

Application is allowed and the appellant is required to deposit the requisite fee within three working days from today. After the deposit notices be issued to the respondents for submission of written reply on 25.09.2019.

Appellant Deposited
Security & Process Fee


28/8/19



Chairman

08.03.2019

None present on behalf of the appellant. Adjourned to 12.04.2019 for preliminary hearing before S.B.


(Muhammad Amin Khan Kundi)
Member

12.04.2019

Nemo for appellant.

Notice be issued to appellant/learned counsel for 21.05.2019. To come up for preliminary hearing on the date fixed.


Chairman

21.05.2019

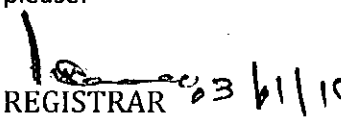

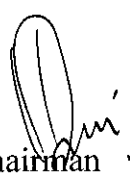
Appellant absent. Learned counsel for the appellant absent. On the previous date the appellant as well as his counsel was put to notice however no copy of such notices is available on file. Muharrar, to offer explanation. Adjourn. Fresh notice be issued to the appellant and his counsel. To come up for preliminary hearing on 05.07.2019 before S.B


Member

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. _____ 6/2019 _____

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	03/1/2019	<p>The appeal of Mr. Muhammad Inam presented today by Mr. Daulat Khan Advocate, may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR 03/1/19</p> <p>2-</p> <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>6-2-19</u>.</p> <p style="text-align: right;"> CHAIRMAN</p> <p>06.2.2019</p> <p>Nemo for appellant.</p> <p>The local Bar is on general strike called by Khyber Pakhtunkhwa Bar Council. Adjourned to 08.03.2019 before S.B.</p> <p style="text-align: right;"> Chairman</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. 06 /2019

Muhammad Inam..... VERSUS..... The Secretary (E & SE) & Others


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4	Copy of appointment	"A"	05	
5	Copy of CNIC	"B"	06	
6	Copy of Medical Certificate	"C"	7	
7	Copy of Employment Exchange Card	D'	8	
8	Copy of Impugned Order	E	9	
9	Copy of departmental appeal	F	10	12
10	Waqalat Naama	G	13	

Date : 03/01/2019

Adv: Daulat khan

District & Peshawar High Court



Daulat Khan Mohmand.
Advocate High Court
Distt: Courts at Mardan

0311-9134656 صوبہ پشاور

(1)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. _____

06

2019

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 07

Dated 03-01-2019

Muhammad Inam S/O Muhammad Latif R/O Maira banda Gaddar

Hamza khan Tehsil & District Mardan.....APPELLANT

VERSUS

1- The Government of Khyber Pakhtunkhwa through Secretary (E&SE)

Department KPK. Peshawar.

2- The Director (E&SE) Department KPK. Peshawar.

3- The District Education Officer (Female) Mardan.

4. District Education officer (Male) Mardan

.....Respondents.

APPEAL UNDER SECTION 4 OF THE SERVICE TRIBUNAL

ACT 1974 AGAINST THE IMPUGNED ORDER VIDE NO 508/G

DATED 13/01/2017. WHEREBY THE APPELLANT HAS BEEN

APPOINTED AS CHOKIDAR INSTEAD ON HIS ORIGINAL

POST LAB ATTENDANT. AND AGAINST NOT TAKING ACTION

ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN

THE STATUTORY PERIOD OF NINETY DAYS.

Filed to-day
Registrar
03/01/19

PRAYER :

That on acceptance of this appeal the impugned order vide No 508/G dated 13-01-2017 may kindly be modified to the extent of adjustment of the appellant on his original/previous post of Lab-attendant. Any other remedy which this august Tribunal deems fit that may also be awarded in favour of the appellant.

R/SHEWETH:

ON FACTS

- 1- That the appellant was appointed as Lab attendant at GGHS Qazi Abad Gadar District Mardan (Disable Quota) vide order No 285/G dated 09-01-2017. That after appointment of the appellant started performing his duty quite efficiently and up to the entire satisfaction of his superiors.
(Copy of appointment.CNIC, are as Annexure A-B)
- 2- That the appellant was appointed 2% Disable Quota and obtained Medical Certificate from The DHQ Mardan and being a disable person the job description of Chowkidar is difficult as compared to Lab attendant.
(Copy of Medical, & Employment Exchange Card are as Annexure C-D)
- 3- That the respondent Department issued another fresh appointment order and that is too on a wrong post of Chowkidar vide impugned order No 508/G dated 13/01/17. That the respondents is duty bound to adjust the appellant on his original /previous post of Lab attendant w.e.f.09/01/2017, but the concerned authority acted in malafide manner by issuing the impugned order No508/G dated 13-01-2017 with immediate effect and that is too on wrong post.
(copy of the impugned order is attached as annexure E)
- 4- That the appellant feeling aggrieved filed Departmental appeal but no reply has been received so far.
(Copy of Departmental appeal as Annexure F)
- 5- That having no other remedy appellant comes to this august Tribunal on the following grounds amongst the others.

GROUNDS:

- A- That the impugned order No 508/G dated 13-01-.2017 is against the law, facts, norms of natural Justice and materials on the record hence not tenable and liable to be modified.
- B- That the appellant has not been treated by the respondent Department in accordance with law and rules on the subject noted above and as such the respondents violated article 4 and 25 of the constitution of Islamic Republic of Pakistan 1973.
- C- That the impugned order order No 508/G dated 13-01-.2017 has been issued in violation of law and facts.
- D- That the respondent Department acted in arbitrary and malafide manner by issuing the Impugned order No 508/G dated 13-01-.2017 whereby the appellant was appointed afresh and that is too on the wrong post of Chowkidar .That the appellant is fully entitled to be adjusted on his original/ previous post of Lab attendant with all back benefits.
- E- That the act of the respondent NO.3 is not in accordance with law and rules and as Such the impugned order No 508/G dated 13-01-.2017 is not tenable and liable to be set aside.
- F- That appellant seeks permission to advance other grounds and proofs at the time of hearing

It is therefore humbly prayed, that the appeal of the appellant may very kindly be accepted as prayed far.

APPELLANT

Muhammmad Inam

THROUGH



ADV: DAULAT KHAN
DISTRICT & HIGH COURT



Daulat Khan Mohmand
Advocate High Court
Distt: Courts at Mardan

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. _____/2019

Muhammad Inam..... VERSUS..... The Secretary (E & SE) & Others

AFFIDAVIT

I, Muhammad Inam s/o Muhammad Latif R/o O Maira banda Gaddar Hamza khan Tehsil & District Mardan. The appellant do hereby state on solemn Affirmation that the contents of this appeal are true and correct to the best of my Knowledge and belief.

Deponent



Muhammad Inam

16101-9372980-5

Oath Commissioner
Fazal Ghaffoor,
Advocate
Distt. Courts Mardan

03/01
19

OFFICE OF THE DISTRICT EDUCATION OFFICER (FEMALE) MARDAN

Notification

Consequent upon the approval given by the Departmental selection committee, in the meeting held on 22.12.2016 the following candidate is hereby appointed in BPS-03 (RS-8040-325-17790) plus usual allowances in the schools noted against each Vacant C-IV posts with the terms and conditions given below with immediate effect in the interest of public service.

RESERVE 2% QUOTA

Name/Father Name	Address	School where appointed	PR	Remarks
MUHAMMAD INAM / MUHAMMAD LATIF	GADDAR	EGHS GAZI ABAD	PK 30	NO CLARIFICATION

Terms & Conditions

1. His Services will be considered regular but without pension & Gratuity in terms of Section 19 of the
2. He/she should join his posts within 15 days of the issuance of this Notification. In case of failure to join the post within 15 days of the issuance of this notification, his appointment will expire automatically and no subsequent appeal etc shall be entertained.
3. He will be governed by such rules and regulations as may be issued from time to time by the Govt.
4. A report should be submitted to all concerned.
5. The concerned would furnish a certificate to the effect that the candidate has joined the post or not.
6. The age limit for the above posts is 18-40 years.
7. He will produce Health and Age Certificate from the M/S of D.H.O Mardan.
8. His pay will be released after the verification of his documents by the concerned DDO.
9. His services can be terminated at any time in case of his performance is found unsatisfactory. In case of
10. His services are liable to termination on one month prior notice from either side. In case of resignation without notice, one month pay/allowances shall be forfeited to Government.
11. No TA/DA will be allowed to the appointee for joining his duty.

(SAMINA GHANI)
DISTRICT EDUCATION OFFICER
(FEMALE) MARDAN

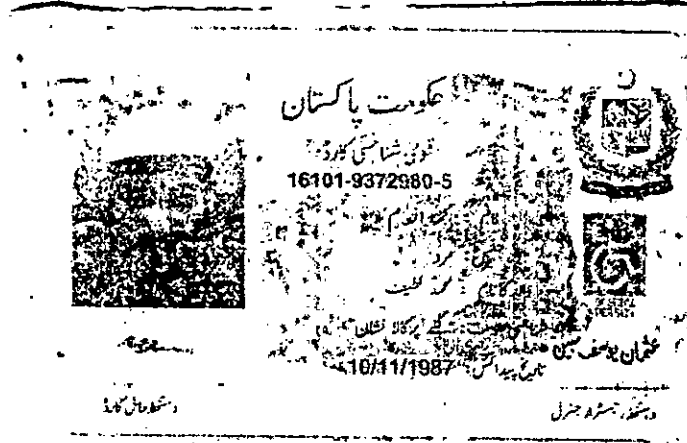
Dist. No. 285/G

Dated. 09-01-2017

- Copy forwarded to:
1. Sd/- Minister Education Khyber Pakhtoonkhwa, Peshawar
 2. Sd/- Secretary I & S Education Khyber Pakhtoonkhwa, Peshawar
 3. Director I & S Education Khyber Pakhtoonkhwa, Peshawar.
 4. District Account Office Mardan Mardan
 5. SDO (I) Mardan/Takht Bhai
 6. Candidates concerned

Attested
Advocate
Morads

S. Ghani
DISTRICT EDUCATION OFFICER
(FEMALE) MARDAN



Attestat
[Signature]
Advocate
Morad



VI:21M3J 16101-9372980-5

تاریخ: 27/08/2016
گواہ: کارڈ سے برقریبی ایگزیکٹو میں ڈال دیں



OFFICE OF THE DISTRICT EDUCATION OFFICER (FEMALE) MARDAN

Notification

Consequent upon the approval given by the Departmental selection committee, in the meeting held on 22.12.2016 the following candidate is hereby appointed in **BPS-03 ((Rs=8040-325-17790)** per month plus usual allowances in the schools noted against each Vacant C-IV posts with the terms and conditions given below with immediate effect in the interest of public service.

DISABLE 2 % QUOTA

S No	Name/Father Name	Address	School where appointed	PK	Remarks
1	MUHAMMAD INAM / MUHAMMAD LATIF	GADDAR	GGHS QAZI ABAD	PK-30	NCP Chowkidar

Terms & Conditions

- 1 His Services will be considered regular but without pension & Gratuity in terms of Section-19 of the Khyber
- 2 He/she should join his posts within 15 days of the issuance of this Notification. In case of failure to join the post within 15 days of the issuance of this notification, his appointment will expire automatically and no subsequent appeal etc shall be entertained.
- 3 He will be governed by such rules and regulations as may be issued from time to time by the Govt.
- 4 Charge report should be submitted to all concerned.
- 5 DDO concerned would furnish a certificate to the effect that the candidate has joined the post or otherwise
- 6 The age limit for the above posts is 18-40 years.
- 7 He will produce Health and Age Certificate from the M/S of D.H.Q Mardan.
- 8 His pay will be released after the verification of his documents by the concerned DDO.
- 9 His services can be terminated at any time in case of his performance is found unsatisfactory. In case of
- 10 His services are liable to termination on one month prior notice from either side. In case of resignation without notice, one month pay/allowances shall be forfeited to Government
- 11 No TA/DA will be allowed to the appointee for joining his duty.

(SAMINA GHANI)
DISTRICT EDUCATION OFFICER
(FEMALE) MARDAN

Endst: No. 508/9

Dated 13/1 .2017

Copy forwarded to:

- 1 PS to Minister Education Khyber Pakhtoonkhwa, Peshawar
- 2 PS to Secretary E & S Education Khyber Pakhtoonkhwa, Peshawar
- 3 Director E & S Education Khyber Pakhtoonkhwa, Peshawar.
- 5 District Account Office Mardan Mardan
- 6 SDEO(F)Mardan/Takht Bhai
7. Candidates concerned

Attested
Adveccun
Mar. 01

Shaw
DISTRICT EDUCATION OFFICER
(FEMALE) MARDAN

To,

The Director
Elementary and Secondary Education Deptt
KPK Peshawar.

Subject: Departmental Appeal against
the order of DEO Female Mardan
vide order 508/G dated 13/1/2017
vide which the Appellant post was
converted from Lab attendant to
the post of Chowkidar at GGHS

Qazi abad Gaddar Mardan is illegal
against the law and fact and policy
invogue hence not maintainable in
the eye of law.


R/Sir,

The Appellant humbly submit as under,

- (1) That the Appellant belong to village gaddar
DISBH/Tehsil Mardan.

(copy of are is attached)

Attested


Bahawal
Mardan

- ② That the Appealant is disable person and which fact is evident from the attached civic.
- ③ that the Appealant obtained the employment Exchange card dated 9/5/2011.
(copy is attached.)
- ④ that the Appealant was appointed in two percent Disable Quota vide orderd 285/6 dated 9/1/2017 by DEO Female Mardan, consequent upon the recommendation of departmental selection committee.
(copy of the said dated 9/1/2017 is attached.)
- ⑤ that the Appealant obtained his medical certificate from the office of Medical superintendent DHQ Mardan on 13/1/2017.
(copy of medical certificate is attached.)
- ⑥ that it was to the utter shock is dismay when the Appealant received another orderd no 508/6 Dated 13/1/2017 in two percent disable Quota regarding the post of Chowkidar. It is pertaining to mention that the said orderd is illegal, because the competent authority has not issued any corrigendum orderd nor withdrawl the previous orderd of lab attendant

After two
Days
police
Mardan

Dated 9/1/2017 vide no 285/G copy of which is attached to the instant appeal

⑦ That being a disable person the job discription of Chowkidar is difficult as compared to Lab attendant.

It is therefore humbly prayed that keeping in view the caption facts and circumstance the impugned order dated 13/1/2017 vide no 508/G may kindly be modified and the Appealant may kindly be adjusted against the post of Lab attendant in GGHS Qaziabad Gaddar Mardan or as think fit.

Dated 01-10-2018

⑧

your obedently

Muhammad inam S/o Muhammad Latif
R/o Maira Banda P/o Gaddar (Hamzakhan)

T/D Mardan.

Mobil No 03160992235

⑨

Attested
Munir Ali

بعدالت جناب سے ضمیر چکنو کوٹاوسر دس سٹریٹیجیوں پر مشتمل

مورخہ 03/01/2019ء 2019ء منجانب منیر محمد انصاری (ایڈووکیٹ) نام مقدمہ بعنوان محمد انصاری راجہ سید محمد انصاری کوٹاوسر دس سٹریٹیجیوں پر مشتمل رجوعہ کیا گیا کیونکہ نوعیت مقدمہ (ایڈووکیٹ) مقدمہ علت نمبر مورخہ جرم تھانہ



باعث تحریر آنکہ



مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ

آن مقام ایسٹو کیلئے دولت خان سہیل وکیل کو وکیل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا، نیز وکیل مقررہ کو راضی نامہ کرنے و تقرر ی ثالث و فیصلہ برحلف دینے عرضی دعویٰ، جواب دعویٰ، اقبال دعویٰ، جواب الجواب، عذر داری، درخواست زبردفعہ (2) 12 ض د، درخواست برآمد برآمدگی و سرسبزی مقدمہ، درخواست برآمد منسوخی کاروائی و ڈگری یکطرفہ دائر کرنے جواب، جواب الجواب وغیرہ درخواست کاروائی اجراء دائر کرنے و وصولی چیک و رقم اور درخواست از ہر قسم کی تصدیق زراس پر دستخط وغیرہ کرنے کا اختیار ہوگا۔ اپیل دراپیل، نگرانی، نظر ثانی، رٹ و عذر داری وغیرہ دائر کرنے کا بھی اختیار ہوگا۔ اور بصورت ضرورت مذکورہ کے عمل یا جزوی کاروائی کے واسطے وکیل یا مختار قانونی کو اپنی ہمراہ یا اپنی بجائے تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی جملہ مذکورہ بالا اختیارات حاصل ہونگے اور اس کا ساختہ برداختہ منظور و قبول ہوگا اور دوران مقدمہ میں جو خرچہ دہر جانہ التوائے مقدمہ کے سبب سے ہوگا اسکے مستحق وکیل صاحب ہونگے۔ نیز بقایا و خرچہ کی وصولی کا بھی اختیار ہوگا۔ اگر کوئی تاریخ پیشی پر وکیل موصوف مقام دورہ پر ہو یا حد سے باہر ہو یا بیمار ہو یا کوئی ضروری کام ہو۔ تو وکیل صاحب پابند نہ ہونگے کہ پیروی مقدمہ مذکورہ کریں لہذا وکالت نامہ لکھ دیا تاکہ سندر ہے۔

المرقوم: 03/01/2019ء
مقام: شام کے لئے منظور ہے۔

نوٹ: اس وکالت نامہ کو فوٹو کاپی یا قائل قبول ہوگی۔

Advocate I.D:

Bar Council

BC-10-6146

Bar Association

184

Contact #:

0311-9134656

Attested
&
Accepted

Daulat

Daulat Khan Mahmand
Advocate High Court
Distt: Courts at Mardan

محمد انصاری ملکہ محمد لطیف کی کن بیوہ بائوہ سہیل خان

Before the Khyber Pakhtunkhwa Service Tribunal KPK
Peshawar

Mohammad Inam vs Govt of KPK etc

Appeal u/s 4 STA 1974 KPK

subject: Application for extension of time for the
deposit of security and service fees

Respectfully sheweth,

- 1- That the instant appeal is pending before this
honorable forum and is fixed for today.
- 2- That at the time of institution of the
instant case the deposit of security was
inadvertently because of the mistake of
clerk.
3. That through the instant application the
appellant prays for extension of time for
the deposit of security.

It is therefore most humbly prayed that the application
may kindly be accepted and orders may kindly be given
accordingly for the deposit of security.

Dated: 28-08-2018

Mohammad Inam

Through counsel 

22

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No: 06/2019

Muhammad Inam S/O Muhammad latif R/O Maira Banda Gaddar Mardan.
(Appellant)

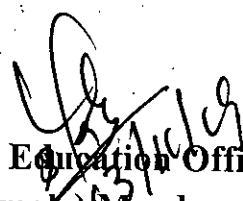
Versus

The Secretary of (Elementary & Secondary) Education KPK Peshawar & Others
(Respondents)

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Respondents


District Education Officer
(Female) Mardan

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

Service Appeal No: 06/2019

PESHAWAR

Muhammad Inam S/O Muhammad latif R/O Maira Banda Gaddar Mardan.
(Appellant)

Versus

The Secretary of (Elementary & Secondary) Education KPK Peshawar & Others
(Respondents)

Para Wise Comments on Behalf of Respondents No 1 to 3

Respectfully Sheweth,

PRELIMINARY OBJECTIONS:

1. That the appellant has got no cause of action as well as locus standi to file the instant appeal.
2. That the instant appeal is incompetent in its present form, hence liable to be dismissed.
3. That the instant appeal is badly time barred.
4. That the instant appeal is **not maintainable**, hence the appeal is liable to be dismissed.
5. That the appellant has not come to this Honorable Tribunal with clean hands.
6. That the appellant is estopped by his own conduct.
7. That the appellant has submitted an application to DEO (Male) Mardan, regarding **transfer** from GGHS Qazi Abad Mardan to GHS Hamza khan
(Copy of application is as Annexure A)

That the respondent No 3 accepted the application of the appellant and the respondent issued transfer order of the appellant vide No 7646-50 dated 03-09-2018. (Copy of transfer Order is as Annexure B)

FACTS:

1. Para No 1 pertains to record, hence needs no comments.
2. Para No 2 pertains to record, however the job description of the Chowkidar is out the Girls School which is suitable for the appellant while the job description of the Lab Attendant is in the Laboratory of the Girls School

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which is not suitable for the appellant, because a lot of female students come to Laboratory for experiment, hence needs no comments.

3. Para No 3 is incorrect, baseless, against facts as the job description of the Chowkidar is out the Girls School which is suitable for the appellant while the job description of the Lab Attendant is in the Laboratory of the Girls School which is not suitable for the appellant, because a lot of female students come to Laboratory for experiment, therefore the respondent issued another fresh appointment order in the best interest of public service, Furthermore, the appellant has submitted an application to DEO (Male) Mardan, regarding **transfer** from GGHS Qazi Abad Mardan to GHS Hamza khan and the respondent No 3 accepted the application of the appellant and the respondent issued transfer order of the appellant vide No 7646-50 dated 03-09-2018, hence denied.

(Copy of transfer Order is as Annexure B)

4. Para No 4 pertains to record, hence needs no comments.
5. That the respondent seeks permission to raise additional grounds at the time of arguments.

GROUND:

- A- Para No A is incorrect, baseless, against facts as the respondent being a Govt officer acted according to law and issued appointment order in the best interest of public service, hence denied.
- B- Para B is incorrect, baseless, against fact & law, as the answering respondents are responsible government officer and dealt the appellant according to law, rules and policies and the respondent has not violated article 4 and 25 of the Continuation of Islamic Republic of Pakistan 1973, hence denied.
- C- Para C is incorrect, baseless, against fact & law, as the respondent issued appointment order in the best interest of public service, hence denied.
- D- Para No D is incorrect, baseless, against facts as the job description of the Chowkidar is out the Girls School which is suitable for the appellant while the job description of the Lab Attendant is in the Laboratory of the Girls School which is not suitable for the appellant, because a lot of female students come to Laboratory for experiment, therefore the respondent issued another fresh appointment order in the best interest of public service, Furthermore, the appellant has submitted an application to DEO (Male) Mardan, regarding transfer from GGHS Qazi Abad Mardan to GHS Hamza khan and the respondent No 3 accepted the application of the appellant and the respondent

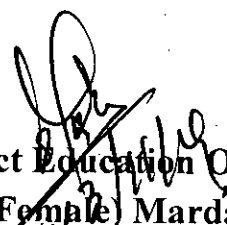
19
issued transfer order of the appellant vide No 7646-50 dated 03-09-2018, hence denied.

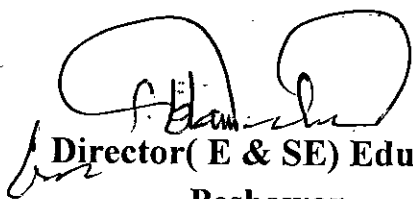
(Copy of transfer Order is as Annexure B)


- E- Para No E is incorrect, baseless, against facts as the respondent being a Govt officer acted according to law and issued appointment order in the best interest of public service, and the appointment order is not liable to be set aside, hence denied.
- F- That the respondents seek permission to another grounds at the time of arguments.

It is therefore humbly prayed that in the light of above facts, the service appeal may please be dismissed with cost.

Respondents


District Education Officer
(Female) Mardan


Director (E & SE) Education
Peshawar


Secretary to Govt of
KPK (E & SE) Education Department
Peshawar

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR**

Service Appeal No: 06/2019

Muhammad Inam S/O Muhammad latif R/O Maira Banda Gaddar Mardan.

(Appellant)

Versus

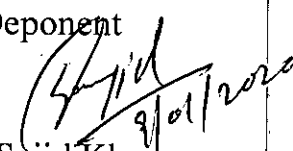
The Secretary of (Elementary & Secondary) Education KPK Peshawar & Others

(Respondents)

AFFIDAVIT

I, **Mr. Sajid Khan** Litigation Officer Education Department Mardan do hereby solemnly affirm and declare that the contents of Para Wise Comments submitted on behalf of respondents are true to the best of my knowledge and belief and nothing has been concealed from this Honorable Court.

Deponent


Sajid Khan

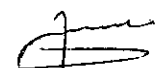
16101-6005318-5

Annex A - 5


OFFICE OF THE DISTRICT EDUCATION OFFICER
(MALE) MARDAN

APPLICATION FOR TRANSFER


- Name: MOHAMMAD GNAM
- Designation: PRON
- Contact No of Applicant: 03005722108
- Cadre in case of SST(G), (M/P), (B/C): —
- Date of appointment/Promotion at the present post: 13-01-2017
- Date of taking over charge in the present station against the present post: 13-01-2017
- Total tenure in the present station against the present post up to 31/07/2018 in (years/months/days): 7 year 7 08 months
- Appointment made through NTS school based/regular based: —
- Name of school where to be transferred against vacant post: GH S QAZI ABAD
HAMZIA KHAN
- Total enrollment in present school: —
- Teaching staff in present school: —
- Vacant posts in present school as per S.No 4: —
- Total enrollment in the desired school: —
- Teaching staff in the desired school: —
- Vacant posts in the desired school as per S.No 4: —
- Distance of present school from teacher's residence (km): 18 (km)
- Distance of desired school from teacher's residence (km): 03 (km)
- Reason of transfer: problem in reaching school on time
- Remarks of the present Principal/HM: TRANSFER WOULD BE BETTER.
- Remarks of the desired school Principal/HM: —


HEAD MISTRESS
G.G.H S Qazi Abad
Mardan

Signature and seal of Principal/HM
of the present school

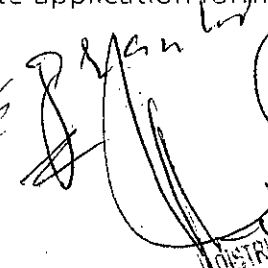

Signature of the Applicant
Date: _____

I have no objection.


Head Master
Signature and seal of Principal/HM
of the desired school

Note: Both heads of the institutions are required to check complete record of the applicant before signing the Transfer Application Form. It must be ensured that the said post has not been advertised through NTS 2017-18. Incomplete application form, in any regard will not be entertained.

By order of District Education Officer (Male) Mardan.

NO Objection

DISTRICT EDUCATION OFFICER
(MALE) MARDAN
23/07/18

Annex 6



OFFICE OF THE DISTRICT EDUCATION OFFICER (FEMALE) MARDAN.
PHONE/FAX NO.09379230150

Email Address:-EMISMARDAN_DEOFEMALE@YAHOO.COM

OFFICE ORDER

Mr: Muhammad Inam Chowkidar GGHS Qazi Abad hereby transferred to GHS Hamza Khan Gaddar against vacant post on their own pay and Grade in the best interest of public service.

Note: No TA/DA is allowed.
Charge report should be submit to all concerned.


(SHABNAM SHERIN)
DISTRICT EDUCATION OFFICER.
(FEMALE) MARDAN.

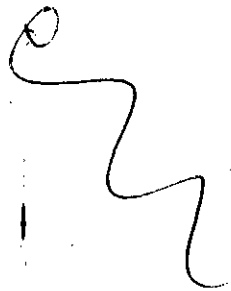
Endst;No 7646-50 /Transfer file

Dated Mardan the 3/9 /2018

Copy forwarded to the:-

1. The District Comptroller of Accounts Mardan.
2. District Education Officer (Male) Mardan.
3. Head Mistress GGHS Qazi Abad Mardan.
4. Accountant local Office.
5. Official concerned.


DISTRICT EDUCATION OFFICER.
(FEMALE) MARDAN.



KHYBER PAKHTUNKWA SERVICE TRIBUNAL, PESHAWAR

No. 1395/ST

Dated 07/07/2020

To

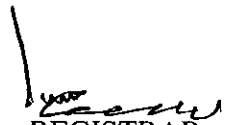
The District Education Officer, Female,
Government of Khyber Pakhtunkhwa,
Mardan.

Subject: -

JUDGMENT IN APPEAL NO. 06/2019, MR. MUHAMMAD INAM.

I am directed to forward herewith a certified copy of Judgement dated 17.06.2020 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

Service Appeal No: 06/2019

PESHAWAR

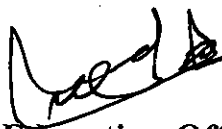
Muhammad Inam S/O Muhammad latif R/O Maira Banda Gaddar Mardan.
(Appellant)

Versus

The Secretary of (Elementary & Secondary) Education KPK Peshawar & Others
(Respondents)

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District Education Officer
(Male) Mardan

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR**

Service Appeal No: 06/2019

Muhammad Inam S/O Muhammad latif R/O Maira Banda Gaddar Mardan.
(Appellant)

Versus

The Secretary of (Elementary & Secondary) Education KPK Peshawar & Others
(Respondents)

Respectfully Sheweth:

Facts:

1. That the above captioned appeal is pending before this Honorable Tribunal for hearing.
2. That the appellant has submitted an application for ^{impleadment} ~~impediment~~ of DEO Male Mardan as respondent No. 4. which is accepted by the Honorable Tribunal.
3. That the appellant initially appointed as a class IV by the respondent No.3.
4. That the appellant has submitted an application to respondent No.4, regarding transfer from GGHS. Qazi Abad Mardan to GHS. Hamza Khan Mardan.
5. That the respondent No.4, has given NOC, for the post of Peon/Class IV.

(Copy of application is as annex A)

It is therefore humbly prayed that in the light of above facts, the appeal may be dismissed.


District Education Officer

Male Mardan

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

Service Appeal No: 06/2019

PESHAWAR

Muhammad Inam S/O Muhammad latif R/O Maira Banda Gaddar Mardan.
(Appellant)

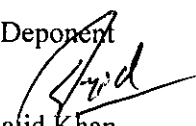
Versus

The Secretary of (Elementary & Secondary) Education KPK Peshawar & Others
(Respondents)

AFFIDAVIT

I, **Sajid Khan** Litigation officer DEO Male and Female Mardan, do hereby solemnly affirm and declare that the contents of Para Wise comments are true to the best of my knowledge and belief and nothing has been concealed from this Honorable Tribunal.

Deponent


Sajid Khan.

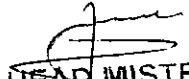
16101-6005318-5




OFFICE OF THE DISTRICT EDUCATION OFFICER
(MALE) MARDAN

APPLICATION FOR TRANSFER

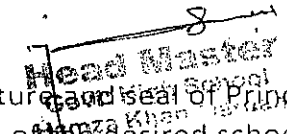
1. Name: MOHAMMAD INAM
2. Designation: PRON
3. Contact No of Applicant: 03005722108
4. Cadre in case of SST(G), (M/P), (B/C): —
5. Date of appointment/Promotion at the present post: 13-01-2017
6. Date of taking over charge in the present station against the present post: 13-01-2017
7. Total tenure in the present station against the present post up to 31/07/2018 in (years/months/days): 1 year 07 08 MONTHS
8. Appointment made through NTS school based/regular based: —
9. Name of school where to be transferred against vacant post: HAMZIA KHAN
10. Total enrollment in present school: —
11. Teaching staff in present school: —
12. Vacant posts in present school as per S.No 4: —
13. Total enrollment in the desired school: —
14. Teaching staff in the desired school: —
15. Vacant posts in the desired school as per S.No 4: —
16. Distance of present school from teacher's residence (km): 18 (km)
17. Distance of desired school from teacher's residence (km): 03 (km)
18. Reason of transfer: Probleom in reaching school on time.
19. Remarks of the present Principal/HM: TRANSFER will be better.
20. Remarks of the desired school Principal/HM: —


HEAD MISTRESS
G.G.H S Qaz: Abad
Mardan


Signature of the Applicant
Date: _____

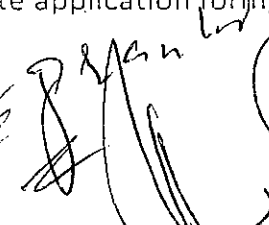
I have no objection.

Signature and seal of Principal/HM
of the present school


Signature and seal of Principal/HM
of the desired school

Note: Both heads of the institutions are required to check complete record of the applicant before signing the Transfer Application Form. It must be ensured that the said post has not been advertised through NTS 2017-18. Incomplete application form, in any regard will not be entertained.

By order of District Education Officer (Male) Mardan.

NSC

30/8/18
DISTRICT EDUCATION OFFICER
(MALE) MARDAN

BEFC No: 06/2019
THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR


Amad Inam S/O Muhammad latif R/O Maira Banda Gaddar Mardan.
(Appellant)

Versus

The Secretary of (Elementary & Secondary) Education KPK Peshawar & Others
(Respondents)

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District Education Officer
(Male) Mardan

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

Service Appeal No: 06/2019

PESHAWAR

Muhammad Inam S/O Muhammad latif R/O Maira Banda Gaddar Mardan.

(Appellant)

Versus

The Secretary of (Elementary & Secondary) Education KPK Peshawar & Others

(Respondents)

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District Education Officer

(Male) Mardan

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR**

Service Appeal No: 06/2019

Muhammad Inam S/O Muhammad latif R/O Maira Banda Gaddar Mardan.
(Appellant)

Versus

The Secretary of (Elementary & Secondary) Education KPK Peshawar & Others
(Respondents)

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3. That the appellant initially appointed as a class IV by the respondent No.3.
4. That the appellant has submitted an application to respondent No.4, regarding transfer from GGHS. Qazi Abad Mardan to GHS: Hamza Khan Mardan.
5. That the respondent No.4, has given NOC, for the post of Peon/Class IV.

(Copy of application is as annex A)

It is therefore humbly prayed that in the light of above facts, the appeal may be dismissed.


**District Education Officer
Male Mardan**

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No: 06/2019

Muhammad Inam S/O Muhammad latif R/O Maira Banda Gaddar Mardan.
(Appellant)

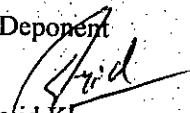
Versus

The Secretary of (Elementary & Secondary) Education KPK Peshawar & Others
(Respondents)

AFFIDAVIT

I, Sajid Khan Litigation officer DEO Male and Female Mardan, do hereby solemnly affirm and declare that the contents of Para Wise comments are true to the best of my knowledge and belief and nothing has been concealed from this Honorable Tribunal.

Deponent


Sajid Khan.

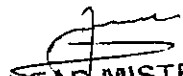
16101-6005318-5



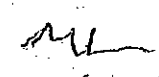
OFFICE OF THE DISTRICT EDUCATION OFFICER
(MALE) MARDAN

APPLICATION FOR TRANSFER

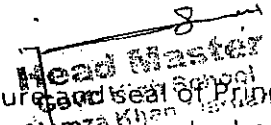
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14. Teaching staff in the desired school: —
15. Vacant posts in the desired school as per S.No 4: —
16. Distance of present school from teacher's residence (km): 18 (km)
17. Distance of desired school from teacher's residence (km): 0.3 (km)
18. Reason of transfer: problem in reaching school on time.
19. Remarks of the present Principal/HM: TRANSFER will be better.
20. Remarks of the desired school Principal/HM: —


HEAD MISTRESS
GGH S Qazi Abad
Mardan

Signature and seal of Principal/HM
of the present school

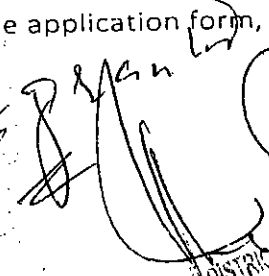

Signature of the Applicant
Date: —

I have no objection.


Signature and seal of Principal/HM
of the desired school

Note: Both heads of the institutions are required to check complete record of the applicant before signing the Transfer Application Form. It must be ensured that the said post has not been advertised through NTS 2017-18. Incomplete application form, in any regard will not be entertained.

By order of District Education Officer (Male) Mardan.


DISTRICT EDUCATION OFFICER
(MALE) MARDAN
30/8/18

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

PESHAWAR

Appeal No. _____ 2019

MUHAMMAD INAM

VS

THE SECRETARY (E & SE) & OTHERS

SUBJECT: WRITTEN ARGUMENTS ON BEHALF OF APPELLANT

Respectfully sheweth;

1- Your honor by way of the instant appeal U/S 4 of the service tribunal Act 1974 the appellant namely MUHAMMAD INAM seeks the cancellation of the impugned order No 508/G dated 13.01.2017 and the restoration of order No 285/G dated 09.01.2017.

2- Your honor the brief facts of the case are that the appellant was appointed in disable quota vide order No 285/G dated 09.01.2017 at G.G.H.S Qazi Abad Gaddar Mardan as "Lab Attendant" but later on after couple of days the respondents on the basis of political victimization and to facilitate blue eyed issued another order No ⁵⁰⁸~~285~~/G dated 13.01.2017 and posted the appellant as "Chowkedar", which act of the respondents is illegal against law and based on malafied intention and not maintainable in the eye of law and against the principle of locus poenitentiae.

3- Your honor as a disable person and the job description of "Chowkedar" is difficult as compared to "Lab attendant" hence the impugned order is not sustainable in the eye of law and liable to modified.

Your honor my humble submission is that by accepting the instant appeal the impugned order 508/G dated 13.01.2017 may kindly be modified to the extent of adjustment of appellant on his original previous post of "Lab attendant". Any other remedy which this honorable tribunal deems appropriate may kindly granted in favor of the appellant to meet the end of justice.

Appellant

Muhammad Inam

Through



DAULAT KHAN MOHMAND

Advocate High Court at

District Court Mardan

Daulat Khan Mohmand
Advocate
District Court Mardan