

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

Khyber Pakhtunkhwa
Service Tribunal

Service Appeal... 13575/2020

Case No. 3942
Dated 28/2/2023

Arabistan..... Appellant.

Versus

The Director E&SE Department Khyber Pakhtunkhwa and others..... Respondents.

Comments on behalf of Respondents No. 1 to 3

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Dated _____/_____/2022

C12.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Appeal No.....13575/2020.

Arabistan..... (Appellant).

Versus

The Director E&SE Department Khyber Pakhtunkhwa and others..... (Respondents).

Comments on behalf of Respondents No. 1 to 3

Respectfully Sheweth;

Preliminary objections

- That the appellant has got no cause of action, Locus Standi to file the instant appeal.
- That the appellant has not come to this tribunal with clean hands.
- That the appellant has concealed material facts from the tribunal.
- That the appellant is barred by law and limitation.
- That the appellant is bad for mis-joinder & non-joinder of necessary parties.
- **ON FACTS**
 1. Pertain to record.
 2. Pertain to record.
 3. Incorrect, hence denied. The appellant (having score 115.68) was appointed (**Anx-A**) erroneously and after inquiry (**Anx-B & C**) his appointment order is amended (**Anx-D**) and a candidate name Mr. Zarman Ullah S/O Maniq Shah having high score (116.70) then the appellant is appointed. One of the term and conditions at S. No. 4 In the appointment order is "If anyone wrong position holder candidate having low score was appointed erroneously his appointment should be considered cancelled at any time (**Photocopy of the appointment order attached as Anx- A**).
 4. As stated in para-3 above.
 5. Incorrect, hence denied. As elucidated in above para 3 in facts.
 6. Incorrect, hence denied. Two inquiries were conducted and none were in the favor of the appellant (**Anx-B & C**).


On Grounds

- A.** Incorrect, hence denied. The respondent being bound by law/rules acts in accordance with law/rules and while doing so no provision any law/rules has been violated. Petitioner appointment order dated 28-07-2020 was withdrawn on the recommendation of inquiry committee, due to low score.

- B.** Incorrect, hence denied. The respondent being bound by law acts in accordance with law and while doing so no provision of the constitution/law has been violated. Respondent No.4 applied through open merit and he was appointed on open merit.
- C.** Incorrect, hence denied. As elucidated in above para-B in grounds.
- D.** Incorrect, hence denied. All the documents of the appellant were checked by the inquiry committee and committee did not fell to associate the appellant with the inquiry proceeding.
- E.** Incorrect, hence denied. Two inquiries were conducted and none were in the favor of the appellant (**Anx-B & C**).
- F.** Incorrect, hence denied. at GPS Chora Jamrud Mr. Shams Ul Haq having score 124.40 and at GHS Lowera Maina Jamrud Mallagori Jamrud Mr. Muhammad Rehman having score 120.51 were appointed (**Anx-E & F**).
- G.** Incorrect, hence denied.
- H.** Incorrect, hence denied.
- I.** Incorrect, hence denied.
- J.** That with the kind permission of the Honorable Court, the respondent will take other grounds at the time of arguments of the instant petition.

In light of the above stated facts and legal position, it is humbly requested that the case of the petitioners may kindly be dismissed.


Respondent No. 1


Secretary, E & SE
Khyber Pakhtunkhwa

Respondent No. 2

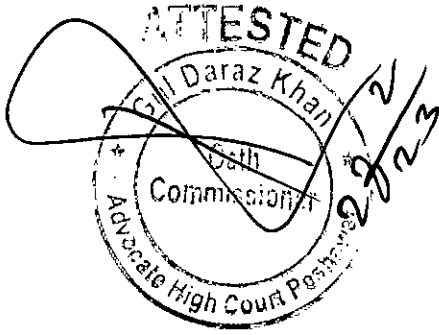

Director E & SE
Khyber Pakhtunkhwa


Respondent No. 3


District Education Officer
District Khyber

Affidavit

I the respondent, do hereby solemnly affirm and declare that the contents of the accompanying para wise comments submitted by the respondent No.3 is correct to the best of their knowledge and belief and nothing has been concealed from this honorable court.




District Education Officer
District Khyber

Authority Letter

Mr. Munawar Khan, ADEO (Litigation) District Education Officer Khyber is hereby authorized to submit parawise comments in court on behalf of respondent.



District Education Officer

District Khyber

P = 5
Amex = A

APPOINTMENT ORDER

Consequent upon the recommendation of Departmental Selection Committee (DSC) during its meeting held on 29/04/2020, the following 41 No.s Primary School Teacher are hereby appointed, in accordance with the Govt. Khyber Pakhtunkhwa Elementary and Secondary Education Department's school based Tehsil wise existing policy in BPS 12 (13320-960-42120) P.M Fixed plus usual allowances as admissible under the rules against the post/ schools mentioned against their names from the date of their taking over charge in the interest of public of service with the following terms & conditions:-

1. PST Male Tehsil Bara (Total 13)

S. No	Roll No	Name of candidates	Father Name	Score	Station/School	CNIC Number
1	47031	M MUNIR KHAN	NEK MARJAN	137.53	GPS Sandana Upper Bara	21201-6628107-1
2	47309	AMAD MUSSAIN	BANARAS KHAN	133.38	GPS Said Rehman Bara	21201-1994583-1
3	46984	MUHAMMAD AMIR AFRIDI	IBRAHIM SHAH	131.34	GPS Zangai Tirah Bara	21201-5626004-3
4	45624	MUHAMMAD RAFIQ	GUL ZAR KHAN	127.77	GPS Zafar Killa Tirah	21201-7526898-9
5	46924	MUJAHID KHAN	HAMEED GUL	127.76	GPS Khurmatang Bara	21201-3608575-3
6	48885	AMJAD KHAN	ZARIF KHAN	126.85	GPS Sher Bahadar Bara	21201-8461281-5
7	46876	SIRAJ UDDIN	SAIFUR REHMAN	125.89	GPS Sandana Upper Bara	21201-1217948-5
8	47228	SYAH FAYSAH	MIRAL GUL	125.50	GPS Jamni Garhi Upper Bara	21201-3530732-7
9	48262	ADNAN HAIDER	ZAR HAIDER	124.40	GPS Haji Dhand Bara	21201-2134037-5
10	45994	SHAHID KHAN	FAQEER REHMAN	123.80	GPS Amrozai Tirah Bara	21201-1528444-1
11	48209	ZARK ISRAFEEL	FAZAL KARIM	123.12	GPS Masri Khan Karmar Khel Bara	21201-9106017-5
12	46229	MUHAMMAD ASIF	MUHAMMAD TARIQ	121.43	GPS Hukam Khan Upper Bara	21201-4063197-7
13	45835	KHAN SHER	GULAB SHER	121.40	GPS Khwajali Tirah Bara	21201-0935759-1

2. PST Male Tehsil Jamrud (Total 09)

S. No	Roll No	Name of candidates	Father Name	Score	Station/School	CNIC Number
1	46235	MUHAMMAD YAR	BABAR KHAN	128.21	GPS Farid Killa Jamrud	21202-3318270-3
2	46606	ABDUL WAMAD	KHAN MUHAMMAD	127.48	GPS Chora Jamrud	21202-5262314-5
3	46148	MAQBOOL SHAH	SAID BADSHAH	126.22	GPS Lora Maina Jamrud	21202-3580643-5
4	47605	SABIREEN	NOOR GUL	125.82	GPS Chora Jamrud	21201-8576825-5
5	47271	MANZAR KHAN	KHAN SHAH	125.27	GPS Warmando Nela Jamrud	21202-9826060-3
6	47386	NAUMAN KHAN AFRIDI	MOHIB ULLAH	124.14	GPS Lashori Jamrud	21202-1529866-1
7	46952	ABDULLAH	GHANI UR REHMAN	123.56	GPS Kata Kushta Jamrud	21202-1564389-3
8	46985	MUJEEB ULLAH	BAHADAR KHAN	121.04	GPS Shaheed Maina Jamrud	21204-5786496-3
9	47588	Zalman apba ARABISTAN	JALAT KHAN	117.08	GPS Tango Zabti Khan Jamrud	21202-1495435-7

Attested
Asst. District Education Officer
Khyber Tribal District At Jamrud

12
ATTESTED

3. PST Male Tehsil LandiKotal (Total 19)

P = 6
Amex = A

S.No	Roll No.	Name of candidates	Father Name	Score	Station/School	CNIC Number
1	46552	WAZIR HUSSAIN	ZAKIR HUSSAIN	126.95	GPS Dargah Kor Landi Kotal	21203-0713916-5
2	47212	AKHTAR AFZAL	KHAN AFZAL	125.00	GPS Gulab Kalli LandiKotal	21203-7070299-1
3	47589	IRSHAD ALI	KHAN MUHAMMAD	123.33	GPS Asif Killi LandiKotal	21203-5929298-3
4	46479	MUHAMMAD ISHAQ	JAFAR KHAN	123.28	GPS AmanUllah LandiKotal	21203-1676779-7
5	46894	SWATCHID SHAH	BAUTIA KHAN	122.65	GPS Nazim Shah LandiKotal	21203-8074211-7
6	47384	ABDUL BASIT	GHULAM AKBAR	122.63	GPS Loi Shalman LandiKotal	21203-6158611-9
7	46377	ABDUL AZEEM	ZARAB KHAN	122.58	GPS Sind Ghara LandiKotal	21203-7575373-5
8	46958	NASEER UR RAHMAN	UMAR KHAN	120.91	GPS Arif Killi LandiKotal	21203-7946570-3
9	47209	SADDAM HUSSAIN	MUHAMMAD SALEEM	120.77	GPS Nazim Killi LandiKotal	21203-7033193-5
10	45988	SADDAM HUSSAIN	HAJI MIRWAIS KHAN	120.34	GPS Tood Kamar LandiKotal	21203-4685506-5
11	47630	AMIR KHAN	ARIF KHAN	120.33	GPS Sarobi Shalman LandiKotal	21203-7784201-1
12	45937	KOWSAR ALAM	NISSAR AHMAD	119.77	GPS Sharcen BZK LandiKotal	21203-5754087-3
13	45570	IRFAN ULLAH	MANAN	119.56	GPS Bar Shinoi Landi Kotal	21203-9883964-3
14	46465	YASEEN KHAN	TULAWAT SHAH	119.34	GPS Bar Shinoi Landi Kotal	21203-9486051-7
15	48021	WASEED ULLAH	RASHEED KHAN	118.95	GPS Arif Killi LandiKotal	21203-4876210-5
16	48457	NAZ MUHAMMAD	SULTAN MIAN	118.86	GPS Nazir Killi LandiKotal	21203-3138565-7
17	46587	NAJEEB ULLAH	INAYAT KHAN	118.28	GPS Bafin Shah Landi Kotal	21203-0705935-5
18	46198	KARAM SHAH	GUL SHAH	118.09	GPS Bara Kass LandiKotal	21203-3268200-7
19	46485	MATEEB ULLAH	SIAL JAN	117.41	GPS Ugdh Dara Shalman Landi Kotal	21203-5159105-9

TERMS CONDITIONS

1. They should join their post within 15 days of the issuance of the appointment order in case of future their appointment will expire atomically and no subsequent appeal should be entertained.
2. Appointment is purely made on adhoc /contract basis initially for one year , extendable to another year.
3. They should not be hunded over charge if they exceeds 35 years or below 19 years of age, a relaxation case may be submitted to competent authority if required.
4. If anyone wrong position holder candidate having low score was appointed erroneously his appointment should be considered cancelled at any time.

[Signature]
Asst. District Education Officer
Khuzdar District Education Office

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P = (7)
Annex = A

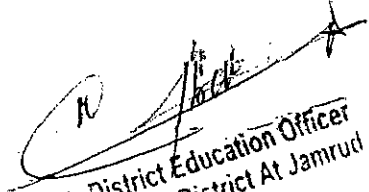
5. District Accounts Officer DAO Khyber should release their salaries on the production of duty certificate duly signed by the Principal/Head Master/ DDO concerned and C/Signed by the Undersigned.
6. They will receive nine (09) months in-service mandatory professional training at FITE/ GCET/PITE
7. if the candidate wishes to resign his post he will give one month prior notice or his pay for one month will be forfeited in lieu thereof or will be terminated at any time without any notice.
8. Their Salaries will be released conditionally and the appointees will produce a Judicial Stamp Paper, that if their documents/credentials were found bogus/fake then he will refund the entire emoluments to the Govt. Treasury and their service will be terminated from the date of appointment and action will initiated under the rules.
9. They should produce their Health and Age certificate from the DHO/MS concerned.
10. If any technical legal flaw is pointed out, the appointment will stand cancelled.
11. Errors and omissions will be accepted within specified period.

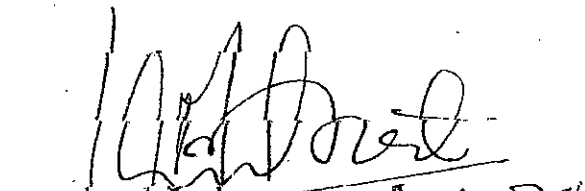
(MUHAMMAD SHAIJKAT)
DISTRICT EDUCATION OFFICER
DISTRICT KHYBER AT JAMRUD

Endst:No. 18931-39 / 41 No.s Male PST/Khyber

Dated 19/06/2020

- Copy of the above is forwarded to the:
1. Director E & S E Khyber Pakhtunkhwa at Peshawar.
 2. Deputy Commissioner Khyber Tribal District at Peshawar.
 3. District Health Officer District Khyber at Landi Kotal.
 4. Principal/Head Master Concerned.
 5. District Accounts Officer Khyber at Jamrud.
 6. Superintendent local office.
 7. EMIS Local office.
 8. ADEO Local Office/Pay Clerk concerned.
 9. Official Concerned.


Asst. District Education Officer
Khyber Tribal District At Jamrud


19/6/2020
DISTRICT EDUCATION OFFICER
DISTRICT KHYBER AT JAMRUD

C12
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To

The District Education Officer

District Khyber at Jamrud

Subject: Enquiry in to PSTs Appointments

Reference District Education officer Khyber Endocr: No. 19029-35 dated 01/07/2020

Enclosed find herewith the enquiry on the above cited subject as follows for necessary action please:

Enquiry report

History /Background

The District Education Officer, District: Khyber vide Endocr: No.18931-39/41 PST/Khyber dated 19/06/2020 appointed PSTs in District Khyber. Complaints/appeals were submitted by few candidates in this regard. District Education officer Khyber vide Endocr: No. 19029-35 dated 01/07/2020 constituted an enquiry committee comprising of 1. Shahjehan Afridi Principal GSAAAHS Jamrud and 2. Muhammad Usman, Vp. Inspat, DHT Pakidi Lalma Mulagori, to probe in to the appointments and submit a report regarding the complaints/appeals and any violation of merit in the appointments and also to fix the responsibility if there is any violation in postings. Annexure A

Procedure

All the relevant record was obtained from District Education office & was carefully investigated.

Facts & Findings

1. PST Appointments in Bara were checked per criteria and merit for PST posts set by the Education Department/District Education Office Khyber.
2. PST Appointments in Landi Kotal were also against the checked as per set criteria and merit for PST posts by the education department/DEO Office Khyber.
3. The appointments in Jamrud are also according to the policy/set criteria and merit for PST posts by the education department/DEO Office Khyber, however the appointment of one Mr. Arabistan S/O Jalat Khan is against the merit, his score is 115.65 while Mr. Zermanullah S/O Maniq Shah has a higher score 116.70 than Mr. Arabistan S/O Jalat Khan. Annexure B
4. Two similar complaints received about call letters for PST interview of Mr. Shams ul Haq S/O Hasan Khan & Mr. Muhammad Rebrun S/O Malik Khan who has not attended the interview, the notices for PST posts of District Education Office clearly states that no call letters will be issued. Annexure C

No. 1212
17/7/20
C12
ATTESTED

P = 9
Merit = B

5. The record of Mr Abdulah S/O Ghani ur Rahman reveals that his MBA (One and a half year) which is equivalent to MS/MPhil (18 year education) result was declared on Nov.17, 2017. **Annexure D**
6. Mr Muhammad Haroon shah S/O Muhammad Ibrahim requested for appointment against PST post on disable quota as per policy, securing various scores for various posts. **Annexure e**

Conclusion

From the above facts /record it is concluded that;

1. Appoint of all PSTs are done in transparent manner in the three areas respectively as per merit except a placement error / single mistake by District Education Office whereby appointment letter is issued to Mr. Arabistan S/O jalat Khan instead of zarmanullah S/o Maniq shah who has a high score than the former.
2. The case of Mr Abdullah s/o Ghani ur Rahman is clear. His MS/MPhil (18 year education) result was declared on Nov.17, 2017 well before the closing date of the advertisement concerned.
3. The candidate who failed to attend the interview in District Education Office was not issued appointment letters as per policy of D.E.O Khyber.
4. For the posting on Disable seat, quota need to be calculated and appointment letter to be issued on merit as Mr Muhammad Haroon shah has requested.
5. These are routine complaints must be dealt by District Education Officer himself being the competent authority.

Recommendations

1. The complaint against Mr Abdullah may be discarded.
2. Mr, Zarmanullah may be appointed as PST, as per merit.
3. The two complaints of 1. Mr Shams ul Haq S/O Hasan Khan & 2. Mr Muhammad Rehman S/O Malik Khan may be dealt as per attendance policy for the PST posts.
4. Disable seat, quota need to be calculated and appointment on merit is recommended.
5. The District Education Office Khyber Endostt No. 19029-35 dated 01/07/2020 may be withdrawn in the interest of public service after necessary corrigendum.
6. The District Education Office is responsible in the instant case for error/mistakes in placement /appointments of PSTs.

1. Shah Jehan Afridi Principal (Chairman)
GSAAHSS Jamrud
2. Muhammad Usman V/Principal
GHSS Pindilalma, Mulagori Jamrud

signed: _____
dated: 16/7/2020

signed: _____
dated: 20/07/2020

C12
ATTESTED

P = 10

Amex = C

To: District Education Officer
District Khyber at Jamrud

Subject: Inquiry Report

Memo

In response to your office letter Endst No 21/38-42 dated 15-10-2020, an inquiry report is hereby submitted for further consideration and necessary action.

Back ground history

An inquiry committee was constituted by the DEO Khyber to probe the appeals submitted by the appellants against the appointees and otherwise in various cadres.

Procedure Adopted

For getting the real picture, the Enquiry committee checked thoroughly the whole record of the newly appointees from different cadres through ETEA along with the complaints.

Questioners were also served to the appellants to record their grievances.

The enquiry committee abstract the following facts from the available record provided by the DEO office

Facts and Findings

1. Appeal of Mr. Muhammad Zar Jan S/O Shah Toot Khan is to be accepted (PET)

As Ismail Khan s/o Khaista Jan at S.no 8 of the appointment order having 130.31 score on the PET cadre did not join the post therefore, Mr. Muhammad Zar Jan S/O Shah Toot Khan at S.no 7 of GMS SherAzam having 128.11 score is eligible for appointment. It is also pertinent to note that the other cadres i.e. no 2, 5, 6 are already appointed on S.no 1 and 2 on PET Cadres. (Annex A)

2. Appeal of Swahid Shah S/O Bacha Khan is to be accepted (CT)

As Nabeel Khan S/O Sardar Azam at S.No 8 of appointment order having 130.30 score was appointed as CT Teacher at GMS Karn Shalman but he did not join the post. So Swahid Shah S/O Bacha Khan at S.No 8 of GMS Karn Shalman having 129.15 score on the merit list is eligible for appointment. Because S.no 1 to 6 are already appointed on CT posts while S.no 7 was absent and he did not submit any report (Annex B)

3. Appeal of Mr. Sabireen S/o Noor Gul is to be accepted. (CT)

As Waqar Ahmad S/O Muhammad Arshad at S.No 8 of GMS Toot Dand having score 127.11 did not join the post. So, Mr. Sabireen s/o Noor Gul at S.No.9 of GMS Toot Dand having 125.87 score is eligible for appointment. (Annex C)

4. Appeal of Muhammad Rehman is to be accepted.

Order issued vide Endst: No.20414-21 dated 28-07-2020 may be amended as Mr. Muhammad Rehman having score 120.51 will replace Mr. Zerman Gul having score 116.70.

5. Appeal of Mr. Aitaf Khan s/o Muhammad Ibrahim is to be accepted.

ATTESTED

Put up on file immediately

P = 11

Annex G

6. Appeal of Iftikhar Hussain S/O Inam Khan is to be rejected.

The appellant had submitted his MA Islamiyat degree at ETEA. The minister for IT of appellant was finalized according to his MA Islamiyat degree that he had already submitted. (Annex F)

7. Appeal of Tajdar Alam s/o Nisar Khan is to be rejected.

The appellant could not provide his B.A degree till date. (Annex G)

8. Appeal of Mr. Madad Khan s/o Shoaib Khan is to be rejected

The appellant was absent in the interview. There are some other candidates who were also absent during the interview as well and their score were also higher than the appellant. Therefore, the appeal of Madad Khan is to be rejected. (Annex H)

9. Appeal of Mr. Said Muhammad S/O Muhammad Isa Shah is to be rejected

As his score is 101.52 while the score of Mr. Mubarak Shah S/O Shaheen Shah appointed for the post of TT is 102.82 (Annex J)

10. Appeal of Arabistan S/O Jalat Khan is to be rejected.

The score of Muhammad Rehman is 120.51 as compare to Arabistan, score which is 115.68. Therefore the appeal of Arabistan to be rejected (Annex K)

11. The Appeals in r/ o Muhammad Haroon Shah and Zermanullah are to be accepted.

A scrutiny committee is constituted for disables which will consider their cases. (Annex L)

12. The appeal of Mr. Shamsul Haq is to be accepted.

Reference to the para No.3, Mr. Shamsul Haq is to be appointed at GHS Lower Mian Jamrud, replacing Mr. Sabireen. (Annex M)

C12
ATTESTED

1. Haq Mali Khan
Head Master
G.H.S. Lower Miankot
Jamrud, Khayber
(Member)

3/12/2020

2. Khalil ur Rehman
Principal
G.H.S Lower Mian Jamrud
(Member)

3/12/2020

Syed Rifaqat Ali Shah
Principal GHS Alam Gudar Bara
(Chairman Inquiry Committee)



DISTRICT EDUCATION OFFICE
DISTRICT KHYBER AT JAMRUD
PHONE. 091-5820584 FAX 091-5820584
No: _____ DATED: _____ / _____ /2020

P = 12
Amend = D

OFFICE ORDER

In continuation of appointment order already issued by this office Endst.No. 18931-39/41 No.s Male PST/Khyber Dated 19/06/2020 following necessary amendments has been made in the interest of public.

S. No	Roll No	Name	Father Name	Actual Score	School Name	CNIC Number	Remarks
1	47588	ARABISTAN	JALAT KHAN	115.68	GPS Tango Zabir Khan	21202-1495435-7	Appointment Order at S.NO 09 in Tehsil Jamrud is hereby withdrawn from the date of issue due to low score in school based policy on the recommendation of Inquiry Report.
2	47830	ZERMAN ULLAH	MANIQ SHAH	116.70	GPS Tango Zabir Khan	21202-4561484-9	Appointed V. Serial No. 01 with immediate effect.

not appl. for Tange

Note: Terms and conditions will be the same already Endorsed in appointment order of PST Male.

**DISTRICT EDUCATION OFFICER
DISTRICT KHYBER AT JAMRUD**

Endst.No. 20414-21

Dated 28/07/2020

Copy of the above is forwarded to the:

1. Director E & S E Khyber Pakhtunkhwa at Peshawar.
2. Deputy Commissioner Khyber Tribal District at Peshawar.
3. District Health Officer District Khyber at Landi Kotal.
4. District Accounts Officer Khyber at Jamrud.
5. Superintendent local office.
6. EMIS Local office.
7. ADEO Local Office/Pay Clerk concerned.
8. Official Concerned.

[Signature]
28/7
**DISTRICT EDUCATION OFFICER
DISTRICT KHYBER AT JAMRUD**

C12
ATTESTED

[Signature]