

**BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL PESHAWAR
AT CAMP COURT SWAT.**

Service Appeal No. 1696/2019

Date of Institution ... 05.12.2019

Date of Decision ... 02.11.2021

Fateh Rehman S/O Haji Mahmood, R/O Toughkhel, Kot Batkhela,
Tehsil Batkhela, District Malakand.

... (Appellant)

VERSUS

Government of Khyber Pakhtunkhwa through Secretary
Elementary and Secondary Education at Peshawar and three
others.

... (Respondents)

MR. FALAK NAZ KHAN,
Advocate

--- For appellant.

MR. ASIF MASOOD ALI SHAH,
Deputy District Attorney

--- For respondents.

MR. ATIQ-UR-REHMAN WAZIR
MR. SALAH-UD-DIN

--- MEMBER (EXECUTIVE)
--- MEMBER (JUDICIAL)

JUDGMENT:

SALAH-UD-DIN, MEMBER:-

Precise facts forming the background of the instant service appeal are that the appellant was appointed as Naib Qasid vide appointment order dated 07.05.1997 and he assumed the charge of his post at Government Girls Community Model School Sro Kanro Kot on the said date. On 30.08.2016, the appellant applied for retirement on medical ground, therefore, medical board was constituted for this purpose, which opined that the appellant can continue his duty according to recruitment rules as he was initially appointed on disable quota. District Education Officer



(Female) Malakand wrote letter to MS DHQ Batkhela, wherein it was explained that the appellant was not appointed on disable quota, rather he was appointed on land owner seat/quota. In response of aforementioned letter, MS DHQ Batkhela wrote letter to the District Education Officer (Female) Malakand, wherein it was stated that the petitioner was examined and found disabled due to weakness of his both lower limbs. On receipt of letter dated 28.11.2016 of MS DHQ Hospital Batkhela, District Education Officer (Female) Batkhela issued retirement order of appellant on 28.11.2016. The pension case of the appellant was, however returned back by District Accounts Officer Malakand twice and the same was not finalized. In this back drop, the appellant submitted an application to District Education Officer (Female) Malakand for his adjustment in service, where upon an inquiry committee was constituted, however findings of the committee were not honoured by District Education Officer (Female) Malakand and the appellant is still in hanging position. The appellant feeling aggrieved of the action and inaction of the respondents has now approached this Tribunal through filing of the instant service appeal redressal of his grievance.



2. Arguments heard and record perused.

3. A perusal of the record would show that vide order dated 03.03.2021, respondents were directed by this Tribunal to make sure production of adjustment order of the appellant before this Tribunal. Mr. Sher Azam, Superintendent, representative of the respondents produced office order bearing Endorsement No. 985-89 dated 18.03.2021 today, where by the appellant has been reinstated in service and adjusted on the vacant post of Naib Qasid in Government Girls High School Maina, however the intervening period with effect from 28.11.2016 to 18.03.2021 was converted into leave without pay. Learned counsel for the appellant contended that the appellant was entitled for reinstatement with effect from 28.11.2016 with all back benefits, however the contention so raised does not hold any force for the reason that it was upon the own application of the appellant that the competent Authority issued his retirement order on

28.11.2016. The appellant on one hand submitted an application for retirement, but on the other hand he furnished wrong information to the medical board by stating that he was appointed on disable quota. It was this wrong statement of the appellant before the medical board, which created hindrance in processing of pension case of the appellant. Moreover, the appellant has not performed any duty with effect from 28.11.2016 to 18.03.2021, therefore, the competent Authority has rightly treated the said period as leave without pay.

4. In view of the above, it is held that the competent Authority has issued office order bearing Endorsement No. 985-89 dated 18.03.2021 in accordance with law. In view of the order so issued by the competent Authority, the appellant shall be considered as reinstated in service, while the intervening period with effect from 28.11.2016 to 18.03.2021 shall be treated as leave without pay. The appeal in hand is disposed of accordingly. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED

02.11.2021



(ATIQ-UR-REHMAN WAZIR)
MEMBER (EXECUTIVE)
CAMP COURT SWAT



(SALAH-UD-DIN)
MEMBER (JUDICIAL)
CAMP COURT SWAT

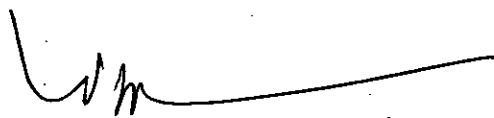
02.11.2021

Appellant alongwith his counsel Mr. Falak Nawaz Khan, Advocate, present. Mr. Asif Masood Ali Shah, Deputy District Attorney alongwith Mr. Sher Azam, Superintendent for the respondents present and submitted office order bearing Endorsement No. 985-89 dated 18.03.2021 issued by the competent Authority, regarding reinstatement of the appellant. Arguments heard and record perused.

Vide our detailed judgment of today, separately placed on file, it is held that the competent Authority has issued office order bearing Endorsement No. 985-89 dated 18.03.2021 in accordance with law. In view of the order so issued by the competent Authority, the appellant shall be considered as reinstated in service, while the intervening period with effect from 28.11.2016 to 18.03.2021 shall be treated as leave without pay. The appeal in hand is disposed of accordingly. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED

02.11.2021



(Atiq-Ur-Rehman Wazir)
Member (E)
Camp Court Swat



(Salah-Ud-Din)
Member (J)
Camp Court Swat



**OFFICE OF THE
DISTRICT EDUCATION OFFICER(F)
MALAKAND AT BATKHELA**

0932-410283  DEOFMalakand  demisdeof.malakand@gmail.com



OFFICE ORDER

Consequent upon the verbal direction of the Honourable Service Tribunal Khyber Pakhtunkhwa Service appeal No. 1696/2019 dated 03/03/2021, Mr. Fateh Rehman Ex-Naib Qasid GGCMS Sro Kanro Kot retired vide this office Endst:No. 6319-23 dated 28/11/2016 is hereby re-instated and further adjusted at the vacant post of Naib Qasid at Govt: Girls High School Maina subject to the decision of the service appeal. The intervening period w.e.f 28/11/2016 to 18/03/2021 is converted into leave without pay under the leave rules 1981.

(SADIA AZIZ)
DISTRICT EDUCATION OFFICER
(FEMALE) MALAKAND

Endst:No. 985-89 / Dated: 18/03/2021

Copy forwarded to:-

1. Director E&SE Khyber Pakhtunkhwa Peshawar.
2. District Accounts Officer Malakand
3. SDEO(F) Batkhela
- ✓ 4. Head Mistress GGHS Maina.
5. Candidate Concerned.

DISTRICT EDUCATION OFFICER
(FEMALE) MALAKAND


2

05/04/2021

Due to COVID-19, the case is adjourned to
07/06/2021 for the same.



READER

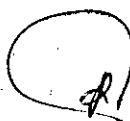
*Due to COVID-19, the case is
adjourned to 7/10/21*


Reader

07.10.2021 Appellant in person present. Mr. Asif Masood Ali Shah, Deputy District Attorney alongwith Mr. Muhammad Iqbal Budget Officer and Sher Azam Superintendent for respondents present

Learned Members of the DBA are observing Sogh over the demise of Qazi Imdadullah Advocate and in this regard request for adjournment was made; allowed. To come up for arguments before the D.B on ~~07~~ 11.2021 at Camp Court, Swat.


(Atiq-Ur-Rehman Wazir)
Member (E)
Camp Court, Swat


(Rozina Rehman)
Member (J)
Camp Court, Swat

06.01.2021

Due to COVID 19, the case is adjourned to
03.03.2021 for the same as before.


Reader

03.03.2021

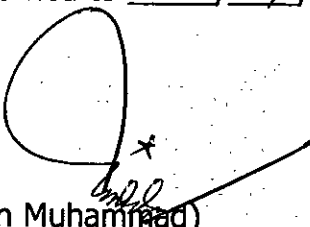
Appellant with counsel present


Riaz Khan Paindakheil learned Assistant Advocate General
alongwith Sher Azam Khan Superintendent for respondents
present.

At the very outset this Bench was informed that proper
adjustment order would be issued in favor of the present
appellant and the same would be produced on the next date
of hearing.

Keeping in view the relevant record coupled with the
statement of Sher Azam Khan Superintendent, respondents
are strictly directed to make sure the production of
adjustment order in favor of appellant on or before the date.

Adjourned to 05/04/2021 before D.B at Camp Court,
Swat.

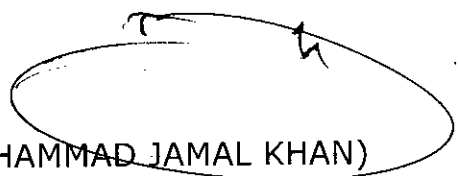

(Mian Muhammad)
Member (E)
Camp Court, Swat


(Rozina Rehman)
Member (J)
Camp Court, Swat

07.10.2020

Appellant is present in person. Mr. Usman Ghani, District Attorney alongwith representative of the department Mr. Nowsherwan, Senior Auditor are also present.

Written reply on behalf of respondents No. 1 to 3 has already been submitted while written reply on behalf of respondent No. 4 is submitted today. File to come up for rejoinder and arguments on 04.11.2020 before D.B at Camp Court, Swat.



(MUHAMMAD JAMAL KHAN)
MEMBER
CAMP COURT SWAT


04.11.2020

Appellant in person.

Riaz Khan Paindakheil learned Assistant Advocate General for respondents present.

Lawyers are on general strike, therefore, case is adjourned to 06.01.2021 for arguments, before D.B at Camp Court Swat.


(Atiq ur Rehman Wazir)
Member (E)
Camp Court, Swat


(Rozina Rehman)
Member (J)
Camp Court, Swat

04.06.2020 Due to Covid-19, the case is adjourned. To come up for the same on 08.07.2020, at camp court Swat.


Reader

07.07.2020 Bench is incomplete. Therefore, the case is adjourned. To come up for the same on 08.09.2020, at camp court Swat.


Reader

08.09.2020 Appellant in person present.

Mr. Riaz Paindakhel learned Assistant Advocate General alongwith Mr. Sher Azam ADEO on behalf of respondent No. 1 to 3 present. None present on behalf of respondent No.4.

Representative of respondent No. 1 to 3 submitted written reply/comments which is placed on file. Notice be issued to respondent No.4 for written reply/comments. To come up for written reply/comments on behalf of respondent No.4 on 07.10.2020 before S.B at Camp Court, Swat.


(Rozina Rehman)
Member
Camp Court, Swat

03.03.2020

Appellant with counsel present. Preliminary arguments heard.

Vide judgment/order dated 19.11.2019 passed in Writ Petition No.970-M/2019, the said Writ Petition was converted into appeal and the file was sent to this Tribunal for disposal in accordance with law.

Learned counsel for the appellant contended inter-alia that the appellant was appointed as Naib Qasid in the year 1997; that the appellant was retired from government service under medical grounds vide order dated 28.11.2016; that the appellant seeks his re-adjustment against the post of Naib Qasid in accordance with the recommendations of the inquiry committee and in the alternative the appellant may be granted the pensionary benefits.

Submissions made by the learned counsel for the appellant, need consideration. The present service appeal is admitted for regular hearing subject to all just legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter notices be issued to the respondents for written reply/comments. To come up for written reply/comments on 04.05.2020 before S.B.

Appellant Deposited
S. Process Fee
09/3/20

Member
Camp Court, Swat.

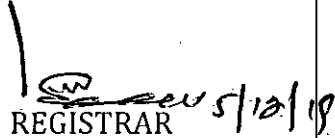


Due to corona virus tour to
Camp Court Swat has been cancelled
To come up for the same on
04-06-2020

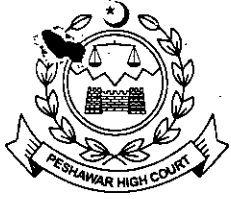
Reader

Form-A
FORM OF ORDER SHEET

Court of _____

Case No. 1696/2019

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge
1	2	3
1	05/12/2019	<p>The present appellant initially went in Writ Petition before the Hon'ble Peshawar High Court Swat Bench and the Hon'ble High Court vide its order dated 19.11.2019 treated the Writ Petition into an appeal and sent the same to this Tribunal for decision in accordance with law. The same may be entered in the Institution Register and put up to the worthy Chairman for further order please.</p> <p style="text-align: right;">  REGISTRAR </p> <p>This case is entrusted to touring S. Bench at Swat for preliminary hearing to be put up there on 04-02-20</p> <p style="text-align: right;">  CHAIRMAN </p> <p>04.02.2020</p> <p>Clerk to counsel for the appellant present. Lawyers are not attending the courts today on the call of Khyber Pakhtunkhwa Bar Council. Adjourn. To come for preliminary hearing on 03.03.2020 before S.B at Camp Court, Swat.</p> <p style="text-align: right;">  Member Camp Court, Swat. </p>



The
PESHAWAR HIGH COURT
Mingora Bench/Dar-ul-Qaza
Swat

All the Communications should be addressed to the Additional Registrar of this Bench.

Office: 0946-885005
Fax: 0946-885004
E-Mail: darulqazaswat2011@gmail.com

No. 3922 / Writ Petition Branch;

Dated: 02-12-19

To

The Chairman Service Tribunal
Khyber Pakhtunkhwa at Peshawar.

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 1266

Dated 5-12-2019

Subject: Writ Petition No. 970 -M/2019

Fateh Rehman

----- Petitioner

Versus

Govt. of KPK & others

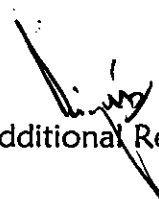
----- Respondents

Memo,

Enclosed please find here with a certified copy of judgment dated 19-11-2019; passed by Division Bench of this Hon'ble Court in the above titled case along with original Writ Petition(45 Pages) for compliance of directions contained therein.

Kindly acknowledge the receipt of this letter along with its enclosures please

Encl. a.a


Additional Registrar

27/11/19

PESHAWAR HIGH COURT, MINGORA BENCH
(DAR-UL-QAZA), SWAT

FORM OF ORDER SHEET

Court of

Case No..... of.....



Serial No. of order or proceeding	Date of Order or Proceedings	Order or other Proceedings with Signature of Judge and that of parties or counsel where necessary.
1	2	3
	19.11.2019	<p><u>W.P 970-M/2019 with Interim Relief</u></p> <p>Present: Mr. Sabir Shah, Advocate for the Petitioner.</p> <p>Mr. Wilayat Ali Khan. A.A.G for the official Respondents.</p> <p align="center">***</p> <p><u>WIOAR AHMAD, J.-</u> Through this constitutional petition, the petitioner seeks the constitutional jurisdiction of this Court with the following prayer.</p> <p>“In view of the above, it is, therefore, very humbly prayed that on acceptance of this writ petition, the official respondents may please be directed to:</p> <ol style="list-style-type: none"> i. Re-adjust the petitioner in accordance with the recommendations of the inquiry committee, with all back benefits. ii. In alternative, the pension case of the petitioner be processed. <p>Any other relief not specifically prayed but this august Court deems proper may also be granted.”</p> <p>2. In view of the prayer set-up in this petition and as the petitioner is/was a Government servant besides the mater also relates to pension, when the learned counsel for the petitioner was asked whether this writ petition, in light of</p>

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clear bar contained in Article 212 of the Constitution of Islamic Republic of Pakistan, is maintainable. His reply was in negative but with a request that this writ petition may be converted into an appeal and may be sent to the Khyber Pakhtunkhwa Service Tribunal.

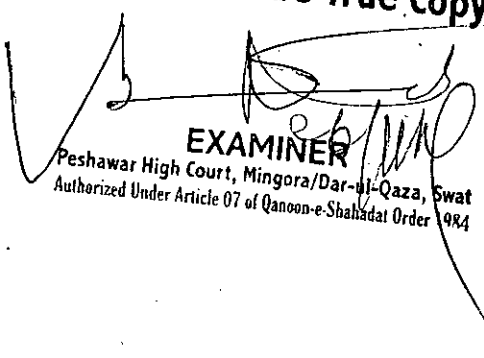
3. Therefore, in view of the law laid down by the august Supreme Court in case of 'Muhammad Akram Vs. DCO Rahim Yar Khan (2017 SCMR 56), this writ petition is converted into appeal. In this regard, the office shall make necessary entries accordingly and thereafter shall send the original file to the Khyber Pakhtunkhwa Service Tribunal for disposal in accordance with law whereas a copy whereof be retained for the record of this Court.

Announced
19.11.2019


JUDGE


JUDGE

Certified to be True Copy


EXAMINER
Peshawar High Court, Mingora/Dar-ul-Qaza, Swat
Authorized Under Article 07 of Qanoon-e-Shahadat Order 1984

1

SCANNED

BEFORE THE PESHAWAR HIGH COURT,
MINGORA BENCH SWAT

Writ Petition No. 970/2019

Fateh Rehman (Petitioner)

Versus

Govt of KPK & Others (Respondents)

Written reply / comments on behalf of Respondent No.04 are as under

Respectfully Sheweth:

Written reply / comments on behalf of respondent no.4 is
Under

Preliminaries objection:

1. That the petitioner has got no cause of action against the respondent no.4.
2. That the petitioner has not come to this Honorable Court with clean hands.
3. That the petition is incompetent in its present form.
4. That the petition is not maintainable due non joinder and misjoinder of necessary parties.
5. That the petition is badly time barred.
6. That the petition of the petitioner is based on mala-fide intention, only to indulge the respondent no.4 in futile

Subject Matter
The relevant documents
for Perusal of the Court.

Additional Advocate General
Khyber Pakhtun Khwa
at Dar-ul-Qaza, Swat
18/11

FILED TODAY

18 NOV 2019

Additional Registrar

2

and baseless litigation and wastage of precious time of this Honorable Court, therefore, the respondent is entitled for special cost under 35-A CPC according to his status.

7. That the petition is totally wrong and baseless. In fact the respondent No. 04 returned the pension case of the petitioner for the reason that the medical board anonymously agreed that the petitioner is can continue his service according to his recruitment rules. Furthermore it is the duty of respondent no.3 to adjust the petitioner on any vacant class iv post as recommended by the inquiry committee constituted by Education Department, in the retirement case of the petitioner.

Facts:

1. No comments
2. No comments
3. Detail reply is given above
4. No comments
5. Detail reply is given above
6. Related to respondent No.3

FILED TODAY

18 NOV 2019

Additional Registrar

7. Incorrect hence denied, in fact respondent No.04 returned the pension case of the petitioner in light of medical board of DHQ Hospital Batkhela.

(Photocopy is attached herewith).

8. No related

9. No comments

10.No comments

Grounds

a. Para No.1 is incorrect, hence denied. Detail reply has been given in preliminary objection above.

b. No comments

c. No comments

d. No comments

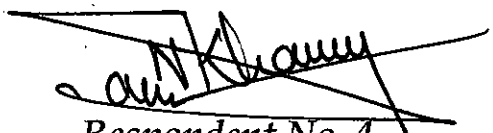
e. No comments

It is therefore most prayed that on acceptance of this preliminary objection / comments / reply the writ petition may very kindly be dismissed with cost.

FILED TODAY

18 NOV 2019

Additional Registrar

~~~~
Respondent No. 4
District Accounts Officer
Malakand.

4

BEFORE THE PESHAWAR HIGH COURT,
MINGORA BENCH SWAT

Writ Petition No. 970/2019

Fateh Rehman (Petitioner)

Versus

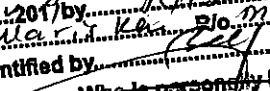
Govt of KPK & Others (Respondents)

AFFIDAVIT

I, Nisar Khan District Accounts Officer Malakand Respondent No.4,
do hereby affirm on oath that the contents of this Comments / Reply
are true and correct to the best of my knowledge.

Deponent

~~~~
Nisar Khan

S.No. 4699
Certified that the above was verified on Solemn
affirmation before me on this 18th day
of Nov 2019 by Nisar Khan
S/o. Waqar Khan P/o. Malakand who
was identified by 
Who is personally known to me.

ADDL. REGISTRAR
Peshawar High Court
Mingora Bench/Oor-ul-Qasa, Swat.

FILED TODAY

18 NOV 2019

Additional Registrar

N

DISTRICT MEDICAL BOARD MALAKAND AT DHQ: HOSPITAL BATKHELA

BOARD CONSISTING OF:

1. Dr. Wakeel Muhammad Medical Superintendent
2. Dr. Munir Khan Medical Specialist
3. Dr. Sardar Hussain Surgical Specialist
4. Dr. Mohammad Riaz Orthopedic Specialist

Mr. Fatch Rahman Nairb Qasid Govt: Girls Community School Sarokandow (Kot) appeared before the standing Medical Board and was examined.

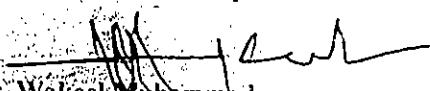
OPINION:

We the members of the medical board examined Mr. Mr. Fatch Rahman Nairb Qasid Govt: Girls Community School Sarokandow (Kot) Education Department Malakand in detail we found him disabled due to weakness of both lower limbs which according to him since childhood when he was age of 3 years and suffered polio. As he has served 19 years on the post and was recruited on disable seats as per own statement.

Therefore he can continue his duties according to his recruitment rules.

Station: -DHQ: Hospital Batkhela
Date: 13/10/2016

D.E.O (F) Mkd
Diary 2257.....
Date: 19-10-2016
At Batkhela


Dr. Wakeel Muhammad
Medical Superintendent,
DHQ: Hospital Batkhela


Dr. Munir Khan
Medical Specialist
DHQ: Hospital Batkhela

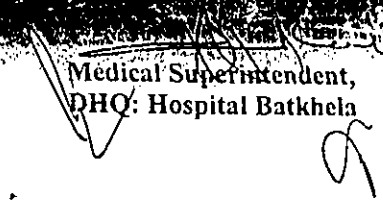

Dr. Mohammad Riaz
Orthopedic Specialist
DHQ: Hospital Batkhela


Dr. Sardar Hussain
Surgical Specialist
DHQ: Hospital Batkhela

OFFICE OF THE MEDICAL SUPERINTENDENT, DHQ: HOSPITAL BATKHELA

Dated: 18-10-2016


NISAR KHAN
Asstt Accounts Officer
D.A.O Malakand


Medical Superintendent,
DHQ: Hospital Batkhela



IN THE PESHAWAR HIGH COURT, MINGORA BENCH
DAR-UL-QAZA, SWAT

No. _____ /Judicial/WP

Dated _____ 2019

From:

The Additional Registrar,
Peshawar High Court, Mingora Bench/
Dar-ul-Qaza, Swat

To,

Respondent 04)

The District Officer
Malakand at Malakand.

Subject:

Writ Petition NO. 970-M of 2019

Fateh Rehman

VERSUS

Govt of KPK & Others

MEMO:

I am directed to forward herewith copy of order dated: 01-10-2019 (Copy Attached), passed by a Division Bench of this Hon'ble Court in the above noted case along with a copy of grounds of Writ Petition for compliance.

I have further been directed to ask you to please forward your comments/reply duly scanned & supported by an attested affidavit within the stipulated time, as ordered by the Hon'ble court.

BY ORDER OF JUDGES

Note:- Please Provide Your Active Official Email Address and Office No for further Correspondence.

Enclosures:

- (1) Order Sheet dated: 01-10-2019
- (2) Copy of grounds of Writ Petition.

(ADDITIONAL REGISTRAR)



IN THE PESHAWAR HIGH COURT, MINGORA BENCH
DAR-UL-QAZA, SWAT

No. 1235 /Judicial/WP

Dated 03-10-2019

From:

The Additional Registrar,
Peshawar High Court, Mingora Bench/
Dar-ul-Qaza, Swat

To,

Respondent 03)

The District Education Officer (Female)
Malakand at Batkhela.

Subject:

Writ Petition NO. 970-M of 2019

Fateh Rehman

VERSUS

Govt of KPK & Others

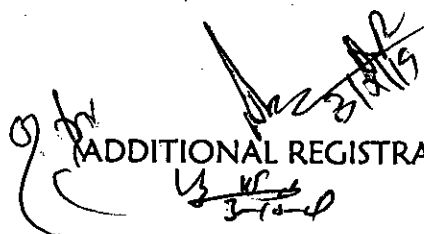
MEMO:

I am directed to forward herewith copy of order dated: 01-10-2019 (Copy Attached), passed by a Division Bench of this Hon'ble Court in the above noted case along with a copy of grounds of Writ Petition for compliance.

I have further been directed to ask you to please forward your comments/reply duly scanned & supported by an attested affidavit-within the stipulated time, as ordered by the Hon'ble court.

BY ORDER OF JUDGES

Note:- Please Provide Your Active Official Email Address and Office No for further Correspondence.


ADDITIONAL REGISTRAR)

Enclosures:

- (1) Order Sheet dated: 01-10-2019
- (2) Copy of grounds of Writ Petition.



IN THE PESHAWAR HIGH COURT, MINGORA BENCH
DAR-UL-QAZA, SWAT

No. 1236 /Judicial/WP

Dated 03-10-2019

From:

The Additional Registrar,
Peshawar High Court, Mingora Bench/
Dar-ul-Qaza, Swat

To,

Respondent 04)

The District Account Officer
Malakand at Malakand.

Subject: Writ Petition NO. 970-M of 2019

Fateh Rehman

VERSUS

Govt of KPK & Others

MEMO:

I am directed to forward herewith copy of order dated: 01-10-2019 (Copy Attached), passed by a Division Bench of this Hon'ble Court in the above noted case along with a copy of grounds of Writ Petition for compliance.

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BY ORDER OF JUDGES

Note:- Please Provide Your
Active Official Email Address
and Office No for further
Correspondence.

(ADDITIONAL REGISTRAR)

Enclosures:

- (1) Order Sheet dated: 01-10-2019
- (2) Copy of grounds of Writ Petition.

IN THE PESHAWAR HIGH COURT , BENCH MINGORA /
DAR-UL-QAZA, SWAT

SCANNED

WRIT PETITION NO. 970/18 OF 2018
Fateh Rahman vs Govt. of WPTC etc

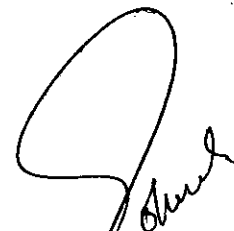
This petition had been presented by M.r. Sabir Shah Advocate

On behalf of the petitioner /petitioners.

The petition is in proper form, copies of all the relevant documents have been attached.

Three (01) spare copies of writ petition have also been attached.

Petition be entered in the relevant register and placed before Hon'able court (D.B) for further orders on 01-10-19 the date fixed.



READER

Dated: 24-09-18

COUNTERSIGNED


Additional Registrar,
Peshawar High Court, Bench
Mingora/Dar-ul-Qaza, Swat.

Dated: 24-09-18

05/10/19
W.P 970/18 FIR adjourned from
01-10-18 and is fixed
before HDB on 19-11-18
Suzaima peritson his Counsel
AAQ. AR

IN THE PESHAWAR HIGH COURT, BENCH MINGORA/
DAR-UL-QAZA, SWAT
OBJECTION SLIP

Fateh Rahman

VERSUS

Govt. of Upper etc

Sabir Shah Advocate

1. This petition has been presented by _____
2. Signature of council/petitioner requires on _____
3. Enactment under which the petition was file is not mentioned correct.
4. Approved file cover is not used.
5. Affidavit is not duly attested/appended.
6. Checklist has not been filed/duly filled in/signed
7. Petition/annexures are not properly paged according to index.
8. Certified copies of annexures/page # _____ have not been filed.
9. Copies of annexure/pages # 10/18 are not legible. of w 2nd copy
10. Certificate be furnished that whether nay petition on the subject matter has earlier been filed in this court.
11. There should be separate application for each prayer/case.
12. Copy of application is not delivered to A.G.
13. The appeal, revision, application is time barred.
14. Value for the purpose of court fee and jurisdiction has not been mentioned in the relevant column of the opening sheet.
15. Opening sheet has not been filled in properly.
16. The P/A of the council engaged is not attested/signed by all petitioners/appellants.
17. Chamber address and phone number of council has not been mentioned on index/wakalatnama.
18. Memo of parties name & address not filed.
19. Petitioner's/Attorney of Petitioners' CNiC #/present address/permanent address/phone #/Cell #/Fax #/E-mail address has not been mentioned in memo of addresses of the parties.
20. No. of referred cases is not given/correct.
21. Petition received by post is not entertain-able except through jail.
22. Petition containing overwriting is not entertain-able. Fair petition be filed.
23. Appeal/Revision is not competent.
24. List of books have not been mentioned at the end of the petition.
25. Case does not relate to _____
26. Petition should be drafted by a person competent to do so.
27. _____ spare copies be filed.
28. In what jail the petitioner is confined.
29. Revision/appeal may be filed on the prescribed form.
30. Copies of annexure _____ are not translated.
31. Court fee stamps are not been affixed.
32. Power of Attorney is not attested by the jail authority.
33. Certified copies of impugned orders/decreed sheets/pleadings/evidence/ground of revision/appeal before District Judge have not been filed.
34. District Judge or any other Judicial Officer cannot be made as respondent on top of the petition.
35. Index has not been filed/signed/duly completed/or it carries overwriting.
36. The Petition has not been flagged/marked with annexures' marks.
37. Power of attorney for petitioner/petitioners has not been filed.
38. Every miscellaneous application should be followed by an affidavit.

READER

Returned with objections at Sr. Nos. 8 for removal to be re-submitted on or before 04-10-19

[Signature]
Additional Registrar
PHC, Bench Mingora/Dar-ul-Qaza, Swat.

CHECK LIST

1.	Case Title: <i>Fateh Rehman Versus Government of KPK & others</i>	Yes	No
2.	Case is duly signed.	/	
3.	The law under which the Petition preferred has been mentioned.	/	
4.	Approved file cover is used.	/	
5.	Affidavit is duly attested and appended.	/	
6.	Case and Annexure are properly paged & number according to index.	/	
7.	Copies of Annexures are legible and attested. (If not, then better copies duly attested have been annexed).	/	
8.	Certified copies of all the requisite documents have been filed.	/	
9.	Certificate specifying that no case on similar grounds was earlier submitted in this court, filed.	/	
10.	Case with in time.	/	
11.	The value for the purpose of Court fee and jurisdiction has been mentioned in the relevant column.	/	
12.	Court fee in shape of Stamp Paper is affixed, (For Writ Rs.500/- For other required).	/	
13.	Power of Attorney is in proper form.		/
14.	Memo of addresses filed.	/	
15.	List of Books mentioned in the Petition.	/	
16.	The requisite number of spare copies attached. (Writ Petition-3, Nos. Civil Appeal (SB-1, SB-2) Civil Revision (SB-1, SD-2).	/	
17.	Case (Revision/Appeal/Petition etc.) is filed on the prescribed form.	/	
18.	Power of Attorney is attached by Jail Attorney (for Jail Prisoners only).		/

It is certified that formalities/documentations required in column 2 to 18 above, have been fulfilled.

Name: **SABIR SHAH**
Advocate High Court

Signature: 

Dated: 23/09/2019

FOR OFFICE USE ONLY

Case No.

Case Received.

Complete in all respect: Yes/No (if No the ground)

.....

.....

.....

Date in Court.

FILED TODAY

23 SEP 2019


Additional Registrar

Signature 
(Reader)

Dated 23-09-19

Countersigned: 
Additional Registrar

BEFORE THE PESHAWAR HIGH COURT, MINGORA BENCH/ DAR-UL-QAZA AT SWAT

W.P. No. 970-M/2019

Fateh Rahman S/O Haji Mahmood R/O Toughkhel, Kot Batkhela, Tehsil Batkhela, District Malakand.
.....Petitioner

VERSUS

1. Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education at Peshawar.
2. Director Elementary & Secondary Education, Government of Khyber Pakhtunkhwa at Peshawar.
3. District Education Officer (Female) Malakand at Batkhela.
4. District Account Officer Malakand at Malakand.

.....Respondents

INDEX

S.No	DOCUMENTS	ANNEXURE	PAGE
1	Para wise comments	---	1-5
2	Appointment Order	A	6
3	Letter to Medical Superintendent	B	7
4	Affidavit on Stamp paper of the petitioner	C	8


DEPONENT

CNIC 15402-1447587-1

Distt: Edu: Officer (F)
Malakand at Batkhela

BEFORE THE PESHAWAR HIGH COURT, MINGORA BENCH/ DAR-UL-QAZA AT SWAT

W.P. No. 970-M/2019

App No 1696/19

Fateh Rahman S /O Haji Mahmood R/O Toughkhel, Kot Batkhela , Tehsil Batkhela, District Malakand.

.....Petitioner

VERSUS

1. Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education at Peshawar.
2. Director Elementary & Secondary Education, Government of Khyber Pakhtunkhwa at Peshawar.
3. District Education Officer (Female) Malakand at Batkhela.
4. District Account Officer Malakand at Malakand.

.....Respondents

Reply on behalf of respondent No. 3

Respectfully sheweth:-

PRELIMINARY OBJECTIONS:

1. That the petitioner has not come to this August Court with clean hands.
2. That the petitioner has got no cause of action and locus standi.
3. That the petitioner is estopped by his own conduct to file instant appeal.
4. That the petitioner conceals material facts from this Hon'ble Court.

Valled.
Subject to annex all the
relevant documents for
Perusal of the Hon'ble
Court.

Additional Advocate General
Khyber Pakhtun Khwa
at Dar-ul-Qaza, Swat
18/19

REPLY ON FACTS:

1. Relates to the petitioner and no comments.
2. Correct and hence no comments.
3. Correct and hence no comments.
4. Incorrect. It is clearly written by the Medical Board that as per own statement of the petitioner he was appointed on disable seats. But it is to clarify that the petitioner was not appointed on disable seats but appointed as landowner. (Copy of the appointment order is attached as Annexure (A). so the respondent No 3 informs the MS Batkhela vide No. 145 Date:05-01-2018 that a wrong verbal statement has been given by the petitioner to Medical Board and request the Medical Board to reconsider the case as he is disable to weakness of both lower limbs and cannot perform his duties.
5. That the standing Medical Board declared the petitioner but by wrong statement of the petitioner Medical Board added a statement that "therefore he can continue his duties according to his recruitment rules." But the petitioner was not able to perform the duties so on the Medical Board the undersigned issue the retirement order of the petitioner.
6. Correct and no comments.

7. But when the pension case was sent to the District Accounts Office Malakand on the basis of medical board that he is disable but, The District Accounts Officer Malakand denied with the plea of the sentence that he is continue his duties due to the wrong statement of the petitioner.
8. The petitioner is disable from the childhood and due to age factor he is unable to perform his duties smoothly.
9. As comments para No. 5, 6, 7 and 8.
10. The respondent No. 3 has processed the pension case of the petitioner but the District Accounts Office Malakand is not honoring the pension case on the sentence in the medical board certificate that he is continue his service according to disable rules, but he was not appointed on disable seats as clear from his appointment order.

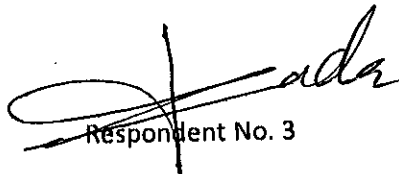
GROUNDS:

- A. Incorrect ; all the actions of respondent No. 3 are legal and are according to Ultra vires, Ultra Sharia and established norms of administration..
- B. Incorrect; the petitioner has been dealt with in accordance with law and no discrimination has been made.
- C. Incorrect; the petitioner has not been deprived of his legal right of service. Actually he applied for retirement on medical ground via application. (annexure) and was treated according to his application.
- D. Incorrect; all his pension papers have been submitted to District Accounts Office for further necessary action.
- E. Correct and admitted.

PRAYER:

In view of the above grounds the petition may very graciously be dismissed with cost.

- i. He was retired on his own request and cannot be reinstated.
- ii. The pension case has already been processed and has been submitted to District Accounts Office Malakand.



Respondent No. 3

DISTRICT EDUCATION OFFICER
FEMALE MALAKAND AT BATKHELA

BEFORE THE PESHAWAR HIGH COURT MINGORA BENCH
DAR-UL-QAZA SWAT

3

Comments

In

W.P No.970-M/2019

Fateh Rahman.....Petitioner

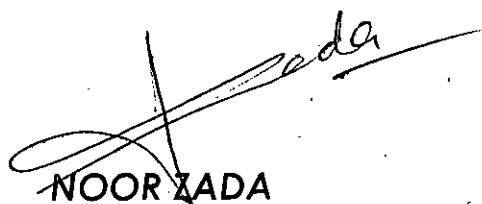
Versus

Govt of KPK & othersRespondents

AFFIDAVIT

I, **Noor Zada, Superintendent DEO (F) Malakand**, do hereby solemnly affirm and declares on oath that, all the contents of the accompanying **comments** are true and correct to the best of my knowledge and belief and nothing has been kept concealed or withheld from this august court.

DEPONENT



NOOR ZADA
Superintendent DEO (F)
Malakand

BEFORE THE PESHAWAR HIGH COURT, MINGORA BENCH/ DAR-UL-QAZA AT SWAT

W.P. No. 970-M/2019

ADDRESSES OF PARTIES:

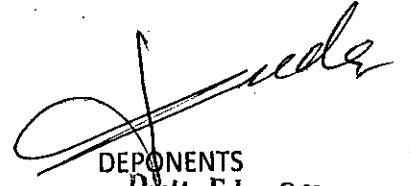
Fateh Rahman S /O Haji Mahmood R/O Toughkhel, Kot Batkhela , Tehsil Batkhela, District Malakand.

.....Petitioner

VERSUS

1. Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education at Peshawar.
2. Director Elementary & Secondary Education, Government of Khyber Pakhtunkhwa at Peshawar.
3. District Education Officer (Female) Malakand at Batkhela.
4. District Account Officer Malakand at Malakand.

.....Respondents



DEPONENTS
Distt: Edu: Officer (F)
Malakand at Batkhela

BEFORE THE PESHAWAR HIGH COURT, MINGORA BENCH/ DAR-UL-QAZA AT SWAT

W.P. No. 970-M/2019

Fateh Rahman S /O Haji Mahmood R/O Toughkhel, Kot Batkhela , Tehsil Batkhela, District Malakand.

.....Petitioner

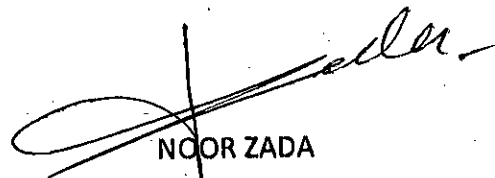
VERSUS

1. Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education at Peshawar.
2. Director Elementary & Secondary Education, Government of Khyber Pakhtunkhwa at Peshawar.
3. District Education Officer (Female) Malakand at Batkhela.
4. District Account Officer Malakand at Malakand.

.....Respondents

AUTHORITY

Mr. Noor Zada Superintendent of this office is hereby authorized to attend the Court, submit reply and pursue the above titled Writ petition on behalf of the under signed till the decision of the case and progress made be intimated, to this office as well as to all others concerned.



NOOR ZADA
SUPERINTENDENT
DISTRICT EDUCATION OFFICE (F)
MALAKAND AT BATKHELA
Contact No. 03415108045

(A-6)

The following C-IV servants are hereby appointed to work as attendants at Govt Girls Community School, Sra Kanro Kot. (Kot) Mtd. Agency against the newly created post on the scales as per order each under the rules in the interest of public service. Dated vide Govt. No. P07/Ed-2-10/96-97/OMs dt. 20.1.97

S.No.	Name of C-IV servants	School	Remarks
1.	Khan Sahman S/O Mehmood V & PO Sra Kanro Kot.	Sra Kanro (Kot) Mtd. Agency	Appointed as S/O Qasid No.1 Rs. 1245-55-1770 usual allowances.
2.	Fazal Mehmood V & PO Sra Kanro Kot.	---do---	Appointed as Collet ad No.1 Rs. 1245-55-1770 usual allowances.
3.	Khan Sahman S/O Khan Qudus V & PO Sra Kanro Kot.	---do---	Appointed as S/O Qasid No.1 Rs. 1200/- usual allowances.

TERMS & CONDITIONS.

- No salary is allowed and charge report should be submitted to all concerned.
- The appointment is purely temporary and subject to termination at any time with out assigning any prior notice.
- The appointment of contract (short term) will continue till completion of 2 years service incumbent will not be eligible of his appointment under the existing rules.
- The candidates are required to produce Health & Age certificate from the Medical Supdt. Bathkela.
- Incumbent, age should not exceed than 45 years and less than 18 years.

Sd/-
Sub. Divl. Edu. Officer
Med. Agency at Bathkela.

Dated 1-5-97
Copy forwarded to Inform you to the
The H. O. (Ed) Govt. Agency at Bathkela.
His address concerned.
and dates concerned.

attested
D. J. Fdr. Officer (F)
at Bathkela

Sd/-
Sub. Divl. Edu. Officer
Med. Agency at Bathkela.

BETTER COPY

P-A-(6)

OFFICE OF THE SUBDIVISIONAL DISTRICT EDUCATION OFFICER FEMALE MALAKAND AGENCY AT BATKHELA

OFFICE ORDER:

The following class- IV servants are hereby appointed as Caller Naib Qasid at Govt: Girls Community Model School Sro Kanro Kot Malakand Agency against the newly created posts on scales as notes against each under the rules in the interest of public service posts sanctioned vide Endst: No. BO7/F-F 2-102/96-97/CMS dated 20-01-1997.

S No.	Name of C-IV Servant	School	Remarks
1	Fateh Rehman S/O Mehmood V& PO Sro Kanro Kot	Sro kanro (Kot) Mkd. Agy	Appointed as Naib Qasid in BPS No. 1 Rs. 1245-35-1770 plus usual allowances
2	Tajbaro W/O Mehmood V& PO Sro Kanro Kot	Sro kanro (Kot) Mkd. Agy	Appointed as Caller in BPS No. 1 Rs. 1245-35-1770 plus usual allowances
3	Khan Rehman S/O Abdul Qadus V& PO Sro Kanro Kot	Sro kanro (Kot) Mkd. Agy	Appointed as a contract Chowkidar @ Rs. 1200/- fixed.

TERMS AND CONDITIONS

1. No TA/DA is allowed and charge report should be submitted to all concerned.
2. The appointment is purely temporary and subject to termination any time without assigning any prior notice.
3. The appointment of contract Chowkidar will continue their service on contract basis from the date of taking over charge and must completion of 2 years' service incumbents will apply for renewal of his appointment under the existing rules.
4. The candidates are required to produce health and age certificate from the Medical Supdt. Batkhela.
5. Incumbent's age should not exceed than 45 years and less than 18 years.

---Sd---

**Sub.Divl. Edu. Officer (F)
Mkd. Agency at Batkhela**

Endst: No. 1014-17 Dated: 7-5-97

Copy forwarded for information to the:

1. The DEO (F) Pry. Mkd Agency at Batkhela.
2. Headmistress concerned.
3. Candidates concerned.

attested

Subdt
Distt. Edu. Officer (F)
Malakand at Batkhela

(MAHJBEEN)

**Sub.Divl. Edu. Officer (F)
Mkd. Agency at Batkhela**

(4) B-7

OFFICE OF THE
DISTRICT EDUCATION OFFICER (F)
MALAKAND AT BATKHELA.

NO 145
Dated 05/01 /2018 (5/1/2)

DFA

To

The Medical Superintendent,
Malakand at Batkhela..

Subject:- MEDICAL BOARD OF MR.FATEH RAHMAN NAIB QASID GGCMS,SRO KANRO KOT.

Memo,

Kindly refer to your office endst.No. 4044 /MB dated 18-102017 on the above cited subject.

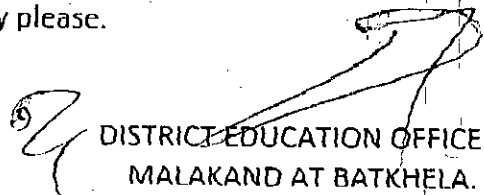
It is submitted for your kind information that Mr. Fateh Rahman Naib Qasid of GGCMS, Sro Kanro kot was appeared before the standing medical Board, Malakand and was examined . The Santing Medical board found him disabled due to weakness of both lower limbs, which according to him as since childhood when he was age of 3 three years and suffered polio. As he served 19 years on the post and was recruited on disable seats as per his own statement. Therefore he can continue his duties according to his recruitment rules.

A wrong verbal statement has been given by the above named Naib Qasid to standing medical board, District Malakand on 13-10-2016 that he was recruited on disable seats/quota. Actually Mr. Fateh Rahman N/Qasid GGCMS, Sro Kanro kot was appointed against newly created Naib Qasid post on land owner seat/quota vide Sub Divisional Education officer (Female) Malakand at Batkhela office order endst. No. 1014-17 dated 07-05-1997 (Copy attached).

Moreover disability certificate issued by the District officer Social welfare and women Development Department District Malakand on 14-11-2009 to Mr. Fateh Rahman N/Qasid (Copy attached), in which he was declared disable after twelve years six months of his appointment, as he was appointed on 14-05-1997.

It is therefore, requested that the medical board case of Mr. Fateh Rahman Naib Qasid GGCMS, Sro kanro kot may be reconsidered, as he is disable due to weakness of both lower limbs, and cannot perform his official duty please.

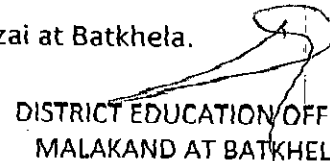
Encl: As above.


DISTRICT EDUCATION OFFICER (F)
MALAKAND AT BATKHELA.

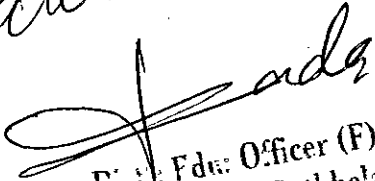
Endst. No. _____

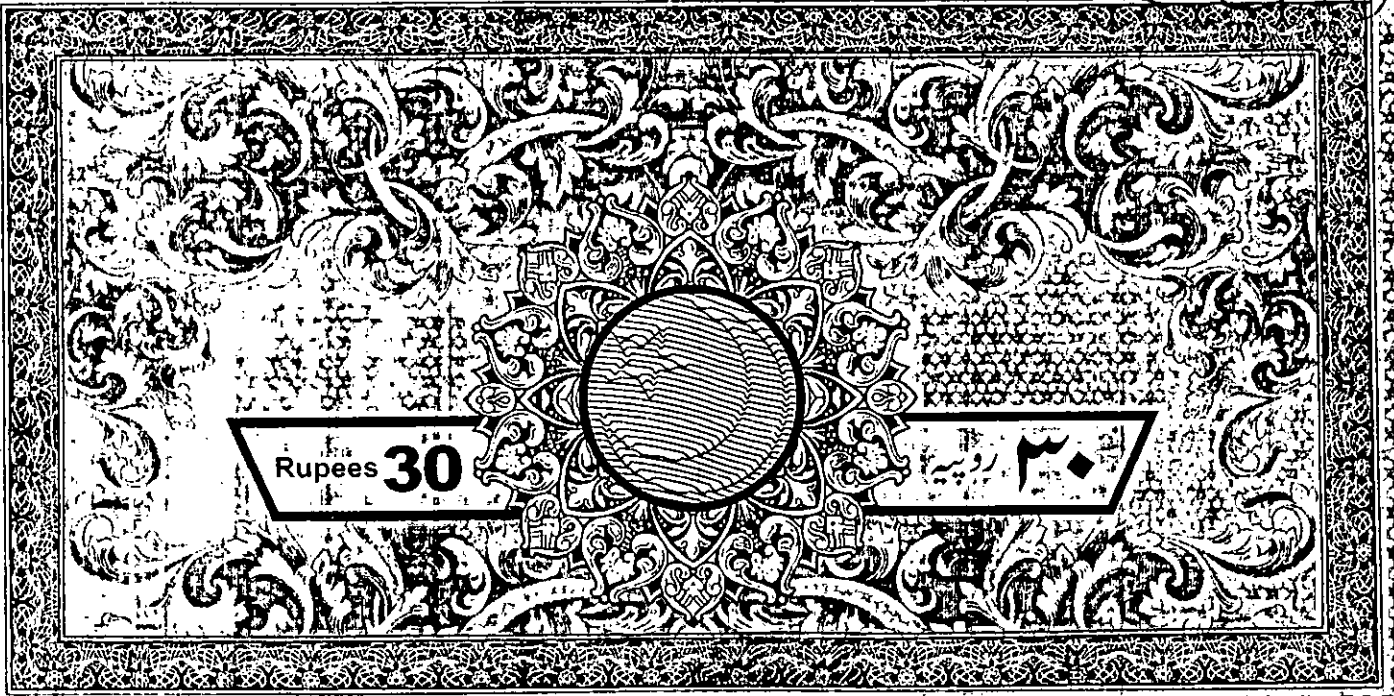
Copy of the above is forwarded for information to:-

1. The District Accounts officer, Malakand.
2. The Sub Divisional Education officer (F) Swat Ranizai at Batkhela.


DISTRICT EDUCATION OFFICER (F)
MALAKAND AT BATKHELA.

attested


District Education Officer (F)
Malakand at Batkhela



بیان حلف

آج سے فاضل رحمن ولد حاجی محمود سانی کو خفیہ کوٹ قیصل
 کے لیے ایک ملازمت پر مقرر کیا گیا ہے۔ اس کے لیے اس نے ایک ہونہار
 سے اپنے ایکویٹی میں بحیثیت نائب مامور پتھان GGCMS سروکاروں
 کوٹ قیصل کے ذریعے منجی سرانجام دے رہا ہے۔ اس حلف نے پندرہ
 روپے کی ایک بونڈ ریٹائرمنٹ کے لیے درخواست دی تھی۔ اس حلف کا پتہ
 پتہ ہے۔ اگر حکم ایکویٹی کے حوالے کو پتہ پتہ ریٹائر
 منٹ چاہیے۔ اس پر جمع کوٹا ملز و اختراعات مرزا
 میں بہ اہتمام صالح مزید یہ باور کرنا ہے کہ اس حلف نے
 علم و آئین کے دست و پا ہے۔ اور اس کے لیے جو بندہ ہے اس کا
 کیا ہے۔ اس کے لیے ہی اس کے لیے تمام نوڈوں کی حوالہ پر عائد

لکھا گیا بیان حلف اسی نسبت مقرر شدہ - المرقوم کا نمبر 23/11/2011

الحکومت
 فاضل رحمن مزور



attested
 J. J. J.
 Distt: El.: Officer (F)
 Malakand at Batkhela

۹-۱۱۰۹۳۷۷-۱۱۰۵۲
 Muhammad Ayar
 Distt. Commissioner

URGENT FORM

IN THE PESHAWAR HIGH COURT MINGORA BENCH DISTRICT SWAT

.....
.....
.....

CASE TITLE

Fateh Rehman

...Petitioner

-- VERSUS --

Govt: of KP and others.

...Respondents

Will you kindly treat the accompanying C.M / Civil Revision / writ petition as urgent and in accordance with the provision of Rules 9 Chapter 3-A, Rules orders of the High Court, Lahore Volume V.

The grounds of Urgency are as under:

That, fundamental rights of the petitioner have been infringed, as the official respondents are neither processing the pension case of the petitioner, nor re-adjusting his services, though he is in hanging position and salary has also been stopped.

Counsel for Petitioner

FILED TODAY

23 SEP 2019



**Sabir Shah
Advocate High Court**

Dated: 23/09/2019



IN THE PESHAWAR HIGH COURT, MINGORA BENCH /
SWAT.
OPENING SHEET FOR WRIT PETITION

Case Type: Writ Petition Nature of :

Category code:

Review / Contempt of Court in respect of

Writ of

Heabus Corpus	Prohibition	Mandamus	Quo Warranto	Certiorari
------------------	-------------	----------	--------------	------------

Forum which passed impugned order	Date	(I)nterlocutory / (F)inal Order	Case Pertains to
		Final	<input type="checkbox"/> SB
		Final	<input checked="" type="checkbox"/> DB

Petitioner Name	Fateh Rehman S/O Haji Mahmood
Mobile No	0317-1997507
Address	Toughkhel, Kot Batkhela, Tehsil Batkhela, District Malakand
CNIC No.	15402-1409377-9
Email Address	

Counsel for Petitioner(s)	Sabir Shah Advocate
Mobile No.	03005746744
Address	S -8, 9 Continental. Plaza Makanbagh, Mingora District Swat
CNIC No.	15601-1044804-3
Email Address	sabirshahadvocate@gmail.com

Respondents	Government of KPK & others.	FILED TODAY
Address		23 SEP 2019

ORIGINAL ORDER/ ACTION / INACTION COMPLAINED OF:

PRAYER:

on acceptance of this writ petition, the official respondents may please be directed to:
 Re-Adjust the petitioner in accordance with the recommendations of inquiry committee with all back benefits.

In alternative, the pension case of the petitioner, be processed.

Law/rules governing the original proceedings / Action / Inaction:

The Constitution of Islamic Republic of Pakistan, 1973 and all other enabling provisions of law.

Signature of petitioner or Counsel: 

Dated: 23/09/2019

BEFORE THE PESHAWAR HIGH COURT MINGORA
BENCH AT SWAT

W.P No. 970 / 2019Appeal no. 1696/2019

Fateh Rehman

...Petitioner

-- VERSUS --

Govt: of KP and others.

...Respondents

INDEX


S #	Description of documents	Annexure	Pages
1.	Writ petition along with interim relief	1-5
2.	Certificate and list of books	6
3.	Affidavit	7
4.	Memo Of Addresses	8
5.	Copy of CNIC	A	9
6.	Copy of the order dated 07-05-1997 and charge report at GGCMS, Kanro Kot	B	10-11
7.	Copies of Medical certificate on 18.10.2016	C	12
8.	Copies of letter dated 28.11.2016	D	13-
9.	Copies of retirement order dated 28.11.2016	E	14-15
10.	Copies of letters dated 30.11.2017 and 14.02.2018	F	16-17
11.	Copies of application and inquiry report	G	18-22
12.	Copies of others documents		23-34
13.	Court fee		35
14.	Notice for information		36
15.	Wakalat Nama		37

Re-Filed Today

24 SEP 2019

PETITIONER
Through Counsel**FILED TODAY**

23 SEP 2019


 Sabir Shah
 Advocate High Court
 Cell No. 0300-5746744



 Off: S-8,9, 2nd Floor, Continental Plaza, Makanbagh, Mingora

BEFORE THE PESHAWAR HIGH COURT
MINGORA BENCH SWAT

W.P No. 9701 2019 *service Appeal No. 1696/2019*

Fateh Rehman S/O Haji Mahmood R/O Toughkhel, Kot
 Batkhela, Tehsil Batkhela, District Malakand.

...Petitioner

--VERSUS--

1. Government of Khyber Pakhtunkhwa through Secretary Elementary and Secondary Education at Peshawar.
2. Director Elementary & Secondary Education, Government of Khyber Pakhtunkhwa at Peshawar.
3. District Education Officer (F) Malakand at Batkhela.
4. District Account Officer, Malakand, at Malakand.

...Respondents

Writ Petition under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973.

Respectfully Sheweth;

- 1- That, petitioner is bonafide resident of Toughkhel, Kot Batkhela, Tehsil Batkhela, District Malakand (**Copy of CNIC is annexed as annexure "A"**).
- 2- That, the petitioner was initially appointed as Naib Qasid and took over charge of the same at Government Girls Community Model School (GGCMS), Sro Kanro Kot vide office order Endst;No.1014-17 dated 07-05-1997. (**Copy of the order dated 07-05-1997 and**

FILED TODAY

23 SEP 2019

[Handwritten signature]
 Additional Magistrate

charge report at GGCMS, Kanro Kot are annexed as annexure "B")

- 3- That, petitioner applied for retirement on medical ground on 30.08.2016, the respondent No. 3 referred his application to Medical Superintendent (M.S) Malakand at DHQ, Batkhela vide her office letter No. 4331 dated 27.09.2016.
- 4- That, the M.S Malakand DHQ, Batkhela constituted medical board vide his office letter No. 3387-89/MB dated 05.10.2016 and conducted Medical Board on 18.10.2016, wherein the medical board opined that the petitioner can continue his duties according to his recruitment rules as he was initially appointed on disabled quota. **(Copies of Medical certificate on 18.10.2016 are annex; as "C")**.
- 5- That, respondent No. 3 again wrote a letter to M.S DHQ Batkhela and explained that petitioner was not appointed on disabled quota, even he was recruited as land owner. The M.S DHQ Batkhela in response to the letter of respondent No. 3 issued another letter dated 28.11.2016, wherein stated that the petitioner examined and found him disabled due to weakness of his both lower limbs, without constituting another medical board. **(Copies of letter dated 28.11.2016 are annex; as "D")**.
- 6- That, on receipt of letter dated 28.11.2016, M.S DHQ Batkhela the respondent No. 3 issued retirement order of petitioner vide order No. 6319-23/date; 28.11.2016 and posted through transfer one Mrs; Parveen Begum

FILED TODAY

23 SEP 2019

Additional Registrar

on the subject post of Naib Qasid from GGHSS Kot, though her original post was that of Laboratory attendant. **(Copies of retirement order dated 28.11.2016 annx; as "E")**.

7- That, respondent No. 3 sent the pension case of the petitioner to respondent No. 4, but the same was returned vide letter dated 30.11.2017, the respondent No. 3 again sent the case of the petitioner for pension, which was again sent back to the office of respondent No. 3 vide letter dated 14.02.2018 for reconsideration. **(Copies of letters dated 30.11.2017 and 14.02.2018 are annx; as "F")**.

8- That, petitioner being a disabled person was twice refused his pensionary benefits, applied to respondent No. 3 for readjustment of his services, whereon, an inquiry committee was constituted, who after thorough inquiry and scrutinizing of the record recommended that, petitioner may be adjusted against his own Naib Qasid post at GGCMS, Sro Kanro Kot being innocent and he **may be adjusted on any vacant class IV post for the period with effect from 28.11.2016 till the date of his adjustment**. **(Copies of application and inquiry report are annx; as "G")**.

9- That, in spite of recommendations of the inquiry Committee for adjustment of the petitioner in service, the respondent No. 3 has neither adjusted the petitioner, nor respondent No. 4 has processed the pension case of the petitioner and the petitioner is in hanging position between the two referred offices being a disabled person.

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23 SEP 2019


Additional Registrar

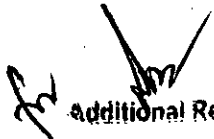
10- That, actions and inactions of respondents No. 3 and 4 by not considering the case of the petitioner are illegal, ultra vires, ultra shariah and against the established norms of administration, therefore, the petitioner having no other adequate, speedy and efficacious remedies, but to approach this august court inter alia on the following grounds:

GROUNDS:

- i. That, actions and inactions of respondents No. 3 and 4 are illegal, ultra vires, ultra shariah and against the established norms of administration, therefore, are not tenable in the eyes of law.
- ii. That, the petitioner has not been dealt with in accordance with law, which is the worst example of discrimination, therefore, is against the fundamental rights of the petitioner, as enshrined in Articles 4, 25 & 27 of the Constitution of Islamic Republic of Pakistan, 1973.
- iii. That, the petitioner has been deprived of his legal right of service, safeguarded by constitution of Islamic republic of Pakistan, 1973.
- iv. That, petitioner is the soul bread earner of his family, keeping him in hanging position by not allowing neither his pension, nor re-adjustment of service, is the worst example of maladministration, which is not tenable in the eye of law.
- v. Any other ground not specifically raised will be argued with the prior permission of this August Court.

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23 SEP 2019


Additional Registrar

In view of the above, it is therefore very humbly prayed that, on acceptance of this writ petition, the official respondents may please be directed to:

- (i) Re-Adjust the petitioner in accordance with the recommendations of inquiry committee with all back benefits.
- (ii) In alternative, the pension case of the petitioner, be processed.

Any other relief not specifically prayed but this august court deems proper may also be granted.

Petitioner
Through Counsel


Sabir Shah
Advocate High Court

Interim Relief:

By way of interim relief, the respondent No. 3 may kindly be directed to allow the petitioner to continue his services at his school, till disposal of the captioned writ petition.

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23 SEP 2019


Additional Registrar

Petitioner
Through Counsel


Sabir Shah
Advocate High Court

BEFORE THE PESHAWAR HIGH COURT
MINGORA BENCH AT SWAT

W.P No. 9901/1 2019

Fateh Rehman

...Petitioner

-- VERSUS --

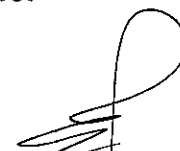
Govt: of KP and others.

...Respondents

Certificate

As per instruction received from my client, it is certified that no such like other writ petition has been earlier filed before this august Court.

Petitioner
Through Counsel



Sabir Shah
Advocate High Court

List of Books:

- Constitution of Islamic Republic of Pakistan 1973.
- Service Laws.
- Case law according to need.

FILED TODAY

23 SEP 2019


Additional Registrar

Petitioner
Through Counsel



Sabir Shah
Advocate High Court

BEFORE THE PESHAWAR HIGH COURT
MINGORA BENCH AT SWAT

W.P No. 970 / 2019

Fateh Rehman

...Petitioner

-- VERSUS --

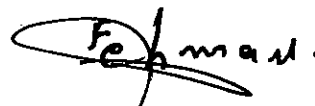
Govt: of KP and others.

...Respondents

Affidavit

I, **Fateh Rehman S/O Haji Mahmood R/O Toughkhel, Kot Batkhela, Tehsil Batkhela, District Malakand**, do hereby solemnly affirm and declares on oath that, all the contents of this **writ petition** are true and correct to the best of my knowledge and belief and nothing has been kept concealed intentionally or withheld from this august court.

Deponent




Fateh Rehman

Identified by:

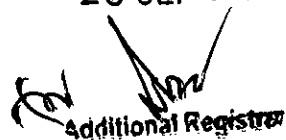

Sabir Shah
Advocate High Court

S.No. 3645
Certified that the above was verified on Solemn affirmation before me on this 23rd day of SEP 2019 by Fateh Rehman S/o Haji Mahmood R/O Malakand who was identified by Sabir Shah Advocate who is personally known to me.


ADDITIONAL REGISTRAR
Peshawar High Court
Mingora Bench/Dar-ul-Qaza, Swat.

FILED TODAY

23 SEP 2019


Additional Registrar

BEFORE THE PESHAWAR HIGH COURT
MINGORA BENCH AT SWAT

W.P No. 970-MI 2019

Fateh Rehman

...Petitioner

-- VERSUS --

Govt: of KP and others.

...Respondents

MEMO OF ADDRESSES OF THE PARTIES

ADDRESS OF PETITIONER:

*Fateh Rehman S/O Haji Mahmood R/O Toughkhel,
Kot Batkhela, Tehsil Batkhela, District Malakand*

CNIC No: 15402-1409377-9

Cell No: 0317-1997507

ADDRESSES OF RESPONDENTS:

1. Government of Khyber Pakhtunkhwa through Secretary Elementary and Secondary Education at Peshawar.
2. Director Elementary & Secondary Education, Government of Khyber Pakhtunkhwa at Peshawar.
3. District Education Officer (F) Malakand at Batkhela.
4. District Account Officer, Malakand, at Malakand.

FILED TODAY

23 SEP 2019


Additional Registrar

Petitioner

Through Counsel


Sabir Shah
Advocate High Court




9

حکومت پاکستان
 قومی شناختی کارڈ
 15402-1409377-9

نام: طارق رحمان
 جنس: مرد
 والد کا نام: حامی احمد
 شناختی علامت: کوئی نہیں
 تاریخ پیدائش: 1966

عثمان یوسف مین
 دستخط: مسٹر جنرل

دستخط: مائل کارڈ








شناختی نمبر: 15402-1409377-9
 خانہ نمبر: VS218L

موجودہ پتہ: توپخیل، کوٹ بٹ، نچلہ ڈاکخانہ کوٹ، تحصیل بٹ خیلا
 منگ لاکھڑ
 سکول پتہ: ایضاً

تاریخ اجراء: 14/01/2016
 تاریخ منسوخ: ناممکن
 کھڑا کارڈ ہے برقی پکچر اس میں ڈال دیں

11786191386
 پتہ: قومی کارڈ

ATC
A

(10)

OFFICE OF THE SDEO (FEMALE) MKD. AGENCY AT B. TKHELA.

APPOINTMENT.

The following C-IV servants are hereby appointed as per the order issued at Govt. Girls Community School Sra Kanro (Kot) Mkd. Agency against the newly created posts on the scales as noted above and each under the rules in the interest of public service. Reference is made vide Encl. No. 107/P-D 2-10/96-9, D.S. dt 20.1.77.

S. No.	Name of C-IV servants	Scale	Remarks
1.	Encl. No. 1 Sra Kanro S/O Mahmood V & PO Sra Kanro Kot.	Sra Kanro (Kot) Mkd Agy.	Appointed as (Qasid) SPS No. 1 Rs. 1245-75-1776 Usual allowances.
2.	Encl. No. 2 Sra Kanro S/O Mahmood V & PO Sra Kanro Kot.	---do---	Appointed as caller in No. 1 Rs. 1245-75-1776 Usual allowances.
3.	Encl. No. 3 Sra Kanro S/O Mahmood V & PO Sra Kanro Kot.	---do---	Appointed as contract clerk @ Rs. 1200/- per month.

TERMS & CONDITIONS.

1. No salary is allowed and Charge report should be submitted to all concerned.
2. The appointment is purely temporary and subject to termination at any time without assigning any prior notice.
3. The appointment of contract Chalkidar will continue on a contract basis from the date of taking over charge and after completion of 2 years service incumbents will apply for reversion of his appointment under the existing rules.
4. The candidates are required to produce Health & Age Certificate from the Medical Supdt. Btkhela.
5. Incumbents age should not exceed than 45 years and less than 18 years.

Sd/-
Sub. Divl. Education
Mkd. Agency at Btkhela.

Encl. No. 1-16-17 Dated 7-5-97

- 1. Copy forwarded for information to the:-
- 2. The S. D. (K) P. Mkd. Agency at Btkhela.
- 3. The mistress concerned.
- 4. The dates concerned.

M. J. J.
Sub. Divl. Education
Mkd. Agency at Btkhela.
S. J. J.
Btkhela

CTK
L

(Better Copy) No 10

OFFICE OF THE SDEO (FEMALE) MKD; AGENCY AT BATKHELA

APPOINTMENT:

The following C-IV servants are hereby appointed as C-IV/Naib Qasid at Govt; Girls Community Model School Sro Kanro (Kot) Mkd; Agency against the newly created posts on the seats as noted against each under the rules in the interest of public serving posts vide Endst; No. 807/F-D 2-102/96-97/CMS dt; 20.01.1997

<u>S.No.</u>	<u>Name of C-IV servants</u>	<u>School</u>	<u>Remarks</u>
1.	Fateh Rahman s/o Mehmood V & PO Sro Kanro Kot.	Sro Kanro (Kot) Mkd; Agency	Appointed as N/Qasid in BPS No. 1 Rs. 1245-35-1770 plus Usual allowances.
2.	Tajbaro w/o Mehmmod V & PO Sro Kanro, Kot.	----do----	Appointed as caller in BPS No. 1 Rs. 1245-35-1770 plus Usual allowances.
3.	Khan Rahman s/o Abdl Quddus V & PO Sro Kanro Kot.	----do----	Appointed as contract candidate @ Rs. 1200/- PM fixed.

TERMS & CONDITIONS.

1. No TA/DA is allowed and charge report should be submitted to all concerned.
2. The appointment is purely temporary and subject to termination at any time without assigning any prior notice.
3. The appointment of contract Chwakidar will continueservice on contract basis from the date of taking over charge and after completion of 2 years service incumbents will apply for arrival of his appointment under the existing rules.
4. The candidates are required to produce Health & Age Certificates from the Medical Superintendent, Batkhela.
5. Incumbent's age should not exceed than 45 years and less than 18 years.

Sub. Divl. Edu. Officer.(F)
Mkd. Agency at Batkhela.

Endst; No. 1014-17 dated 07-05-1997

Copy forwarded for information to the:-

1. The D.E.O (F)Mkd. Agency at Batkhela.
2. Headmistress concerned.
3. Candidates concerned.

Sub. Divl. Edu. Officer (F)
Mkd. Agency at Batkhela.

2

11
پارہ پولیس

Note- The entries in the

1. Name

1014-17

7.5.97

آج میانہ بمطابق تاریخ 1014-17
مقام ایسا ہے اور صاحب زمین نام گورنمنٹ

2. Race

گورنمنٹ ہاؤس سکول سرومائنڈ کوٹ

3. Residence

میانہ گورنمنٹ ہاؤس سکول سرومائنڈ کوٹ
سنگھارا

4. Father's name and residence

پارہ پولیس صاحب زمین
ابراہیم صاحب

5. Date of birth by Christian & nearly as can be ascertained

7.5.97
پارہ پولیس

6. Exact height by measurement

5' 7" (170 cm)
14.5.97

7. Personal marks for identification

گورنمنٹ ہاؤس سکول سرومائنڈ کوٹ

8. Left hand thumb and Finger impression of (non-gazetted) officer

Little Finger



Middle Finger



Fore Finger



Thumb



9. Signature of Government servant

Handwritten signature

10. Signature and designation of the Head of the Office, or other Attesting Officer.

Handwritten signature

Handwritten signature and stamp: S.D.O. (Female) Bakhela

S.D.O. (Female) Bakhela

CTC

Handwritten notes on the left margin: 2/50

12

DISTRICT MEDICAL BOARD MALAKAND AT DHQ: HOSPITAL BATKHELA

BOARD CONSISTING OF: -

- 1. Dr. Wakeel Muhammad Medical Superintendent
- 2. Dr. Munir Khan Medical Specialist
- 3. Dr. Sardar Hussain Surgical Specialist
- 4. Dr. Mohammad Riaz Orthopedic Specialist

PROCEEDINGS:

Mr. Fateh Rahman Naib Qasid Govt: Girls Community School Saro kadow(Kot) appeared before the standing Medical Board and was examined.

OPENION:

We the members of the medical board examined Mr. Mr. Fateh Rahman Naib Qasid Govt: Girls Community School Saro kadow(Kot) Education Department Malakand in detail we found him disabled due to weakness of both lower limbs which according to him since childhood when he ^{was} age of 3 years and suffered polio. As he has served 19 years on the post and was recruited on disable seats as per own statement.

Therefore he can continue his duties according to his recruitment rules.

D.E.O (F) Mkd
Diary ... 2267 ...
Date: ... 19-10-2016 ...
At Batkhela

Station: -DHQ: Hospital Batkhela
Date: 13/10/2016

[Signature]
Dr. Wakeel Muhammad
Medical Superintendent,
DHQ: Hospital Batkhela

[Signature]
Dr. Munir Khan
Medical Specialist
DHQ: Hospital Batkhela

[Signature]
Dr. Mohammad Riaz
Orthopedic Specialist
DHQ: Hospital Batkhela

[Signature]
Dr. Sardar Hussain
Surgical Specialist
DHQ: Hospital Batkhela

OFFICE OF THE MEDICAL SUPERINTENDENT DHQ: HOSPITAL BATKHELA

No. 14044 /M.B
Copy Forwarded to: -

Dated 18/10/2016

The District Education Officer (Female) Malakand at Batkhela w/r to his letter No. 5331 Dated: 27/09/2016 for information

[Signature]
Medical Superintendent,
DHQ: Hospital Batkhela

OK
[Signature]



OFFICE OF THE MEDICAL SUPERINTENDENT DHQ: HOSPITAL BATKHELA

Phone No. (0932) 410242, Fax No. (0932) 410243.

Email: dhqh_btk_mkd@hotmail.com

No. 45861 MB

Dated: 28 / 11 / 2016

To,

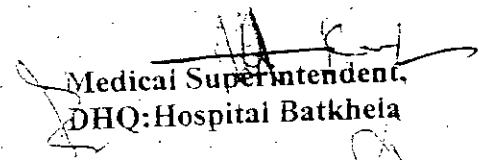
The District Education Officer (Female)
Malakand at Batkhela

Subject:
Memo,

MEDICAL BOARD

Reference your letter No. 6170/class-IV/Medical Board Dated 21/11/2016.

In continuation of this office medical board letter No. 4044/MB Dated 18/10/2016. The opinion of the medical board Doctors is that Mr. Fateh Rahman examined and found him disabled due to weakness of both lower limbs.


Medical Superintendent,
DHQ: Hospital Batkhela





OFFICE OF THE
DISTRICT EDUCATION OFFICER
(F) MALAKAND AT BATKHELA.

Telephone No: 0932-410283

E-mail: emismalakand@yahoo.com

OFFICE ORDER/

On the recommendation of Medical Board Medical Superintendent Malakand at Batkhela Vide NO. 4586 /MB/ dated 28-11-2016 Mr. Fateh Rahman S/O Mahmood N/Qasid Govt. Girls Community Model School Sro Kanaro Kot is hereby retire from Govt. Service under Medical Ground with immediate effect in the interest of Public Service.

(MST: DILSHAD BEGUM)
DISTRICT EDUCATION OFFICER
(FEMALE) MALAKAND AT BATKHELA.

Endst. NO. 6319-23 / Date: 28/11/2016

Copy of the above is forwarded to :-

1. The District Account Officer Malakand.
2. The Medical Superintendent District Head Quarter Hospital Batkhela.
3. The SDEO (Female) Batkhela.
4. The Head Mistress GGCMS Sro Kanaro Kot.
5. Mr. Fateh Rahman S/O Mahmood Village & P/O Kot District Malakand.

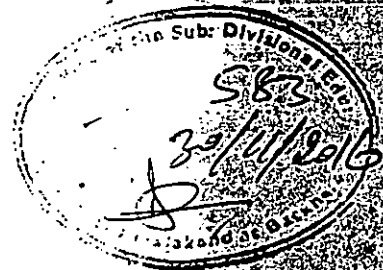
Faridoon Khan/Training.

Attesh
S.D.E.O. (Female)
Batkhela

DISTRICT EDUCATION OFFICER
(FEMALE) MALAKAND AT BATKHELA

*DA-II local member
Process to case follow*

28/11/2016



CC
[Signature]



(15)

OFFICE OF THE
District Education Officer (Female)
MALAKAND

Ph No. 0932-410283 Fax No. 411475 Email demisdof.malakand@gmail.com

RETIREMENT ORDER / LPR ENCASHMENT

On the recommendation of Medical Board Medical Superintendent Malakand at Batkhela Vide No.4586/MB/ dated: 28-11-2016. Mr. Fateh Rahman S/O Mahmood N/Qasid Govt: Girls Community Model School Sro Kanro Kot is hereby retire from Govt: Service under Medical Ground with immediate effect in the interest of Public Service.

Moreover sanction for LPR encashment w.e.f. 27-11-2015, to 28-11-2016, equal to 365 days' pay is also accorded in r/o the said retired employee as due and admissible to him under the revised leave rules 1981, in the light of finance department notification no. SO (FR)/FD.5-92/2005/Vol-V dated 13-12-2012, subject to the availability of leave at his credit.

Note: - Necessary entry to this effect should be made in his original service book & Leave account accordingly.

(DILSHAD BEGUM)
District Education Officer, (F)
Malakand at Batkhela

Endst: No: 6319-23 /Retirement order/Sanction of LPR/Class-IV/ Estt:/ Dated

28/11/2016

Copy of the above is forwarded to:-

1. The District Accounts Officer Malakand.-
2. The SDEO (F) Batkhela along with original service book is returned herewith.
- 3 Official concerned.


District Education Officer, (F)
Malakand at Batkhela

CTC

←
↓

GRATUITY

No:- DAO/MKD/pen Dated

Returned with the remarks that
according to ~~attached~~ ^{Doctor} Medical
Board last paragraph of Medical Board
that the claimant can continue his duties
according to ~~his~~ recruitment rules.

The order/Medical Board may be reconsidered
if it proceeds further in the matter please.

30/11/2017

فان رهن دله حاج محمد سائين کوٹ
کو رولت گورنر کمپنی ماڈل سول
سید کاظم عدا کوٹ ملائذ کبھی

28. 11. 2016

11/11/17

گورنمنٹ ڈسٹرکٹ ایجوکیشن آفیس (زبانہ) ملک گورنمنٹ ڈسٹرکٹ
عنوان :- درخواست نمبر 18

جناب عالی :-

خوبصورت گزارش میں ایک مسئلے کے بارے میں
ایڈجسٹمنٹ کے لئے چار عدد درخواستیں دیے ہیں۔ مسئلے
انہی تک اب ضرورت ہے کہ اس کو ایڈجسٹمنٹ میں لایا جائے
میراثے پر مبنی مسائل پر وقت گزرنے کو اسے پوسٹ لیبارٹری
انسٹریٹ پر دالیں ایڈجسٹمنٹ میں۔ اور مسائل کو اسے
مکمل یعنی سروکاروں لوٹ میں ایڈجسٹمنٹ لیا جائے

در مسائل
DEOE
Applicant's name
Date 18/05/2019

Col: (R) Ibrar Hussain Khan
District Naib Nazim
District Council Malakand

سرکاروں لوٹ
فلاح العزیزان صاحب

بخدمت جناب ڈائریکٹر انٹرنیشنل ہیومن ریسورس صاحب آرکنائزیشن خیبر پختونخواہ پشاور

عنوان درخواست برائے ہمدردانہ اپیل

جناب عالیہ:

گزارش مودبانہ بحضور انوریہ ہے۔ کہ فدوی 14-05-1997 سے گورنمنٹ گرلز کمیونٹی ماڈل

سکول کوٹ سے بحیثیت نائب قاصد اپنی فرائض انجام دے رہا تھا۔

جناب عالیہ: فدوی نے 15-11-2016 کوڈ پبل بورڈ کے ذریعے ریٹائرمنٹ کیلئے درخواست دائر

کیا۔ جسے محکمہ تعلیم نے منظور کیا۔ لیکن محکمہ صحت نے 28-11-2016 کو فدوی کی درخواست پر لکھتے

ہوئے نام منظور کیا۔ کہ فدوی بھرتی کے وقت معذور رکھنے پر بھرتی ہوا تھا۔ لہذا اسکو واپس اسی پوسٹ پر بحال

کیا جائے۔

جناب عالیہ: محکمہ ایجوکیشن نے پروین بی بی راجہ تاج نبی کو پہلے پہل GGHS کوٹ پر لیبارٹری

انڈسٹ کی پوسٹ پر تعینات کیا۔ پھر GGHSS کوٹ تبادلہ کر دیا گیا۔ اور 28-11-2016 کو

گورنمنٹ گرلز کمیونٹی ماڈل سکول سروکانڈوں کو نائب قاصد کی پوسٹ پر تبادلہ کیا گیا۔ جو کہ ہر لحاظ سے

غیر قانونی ہے۔

لہذا آپ صاحبہ کی خدمت اقدس میں بذریعہ درخواست التماس کیجاتی ہے۔ کہ درجہ بالا حقائق کو مد نظر

رکھتے ہوئے فدوی کو واپس نائب قاصد کی پوسٹ پر بحال کیا جائے۔

فدوی تاحیات دعا گور ہے گا۔

المرقوم: 11-7-2019

F. Ahmad

اعراض

پروفیسر مانیر دار فاح رحمان ولد حاجی محمود نائب قاصد GGCMS کوٹ ملاکنڈ ایجنسی

فون: 15402-1409377-9 نمبر: 0317-1997507

ac

4



Handwritten marks: a circle with '43', a circle with '20', and a circle with '7/1'.

OFFICE OF THE MEDICAL SUPERINTENDENT DHQ: HOSPITAL BATKHELA

Phone No. (0932) 410242, Fax No. (0932) 410243,

Email: dhqh_btk_mkd@hotmail.com

No. 291 MB

Dated: 20 / 01 / 2018

To,

The District Education Officer (F)
Malakand.

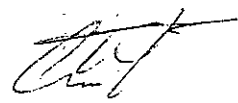
D.E.O (F) Mkd
Diary 121.....
Date: 25-01-2018.....
At Batkhela

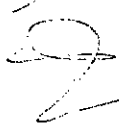
Subject:
Memo,


MEDICAL BOARD OF MR. FATEH RAHMAN NAIB QASID GGCMS. SRO KANRO KOT

Reference your letter No. 145 dated 05.01.2018.

It is for your information that medical board case of Mr. Fateh Rahman Naib Qasid has already been decided by the standing medical board of this Hospital vide this office letter No. 4044/MB dated 18/10/2016.


Medical Superintendent,
DHQ: Hospital Batkhela

supdt

25-1-18

OK


(21)

The District Education officer,
(Female)Malakand at Batkhela.

Subject: - INQUIRY REPORT OF MR.FATEH RAHMAN N/QASID GGCMS, SRO KANRO KOT.

Madam,

Kindly refer to your office letter No. 922-27/Inquiry file Class IV dated 23-03-2018 nominating the undersigned as Chairperson of the inquiry committee to probe and scrutinize the retirement on medical board case of Mr. Fateh Rahman N/Qasid GGCMS, Sro kanro kot, Tehsil Batkhela, District Malakand.

I accompanied with other members visited the school on dated 10-03-2018 and investigated the case and intarogated Mr. Fateh Rahman N/Qasid in the presence of Head teacher of the school.

OUR FINDINGS ARE AS.

1. Mr. Fateh Rahman N/Qasid admitted that he was recruited as Naib Qasid against " Land owner Quota "in GGCMS,Sro kanro kot on dated 07-05-1997.
- 2...He also admitted that after about nineteen years he applied for retirement on medical ground on Dated 30-08-2016 duly signed and affix thumb impression on application.
3. The District Education officer (F)Malakand at Batkhela referred his application to Medical Superintendent Malakand at Batkhela vide her office letter No.6331/Class IV/Medical Board dated 27-09-2016 requesting therein to issue your kind views in this regard.
4. Medical superintendent Malakand at Batkhela constituted medical board vide his office letter No.3387-89/MB dated 05-10-2016.
5. In the meantime S.D.E.O.(F) Batkhela vide her office letter No.2112 dated 23-11-2016 an affidavit received from Mr.Fateh Rahman N/Qasid vide stamp paper No.843 dated 23-11-2016 attested by oath Commissioner duly signed acknowledgement by him.
- 6 The D.E.O. (F)Malakand at Batkhela through her office letter No.6170 /Class IV/Medical board dated 21-11-2016 informed the Medical superintendent, Malakand at Batkhela that Mr. Fateh Rahman Naib Qasid is not appointed as Naib Qasid under disable quota.
7. The medical board vide District Medical board committee letter No.4044/MB dated 18-10-2016 Clearly reported that Mr. Fateh Rahman Naib Qasid is found disable due to weakness of both lower limbs, further added in medical board that he has been recruited on disable quota. Therefore he can continue his duties according to his disable recruitment rules, While in fact Mr. Fateh Rahman N/Qasid has appointed as Naib Qasid under medical Land owner quota, as is clear from his statement recorded before the inquiry committee on dated 10-03-2018 as well his appointment order dated 05-07-1997. While another medical board report addressed to D.E.O.(F)Malakand at Batkhela referring the above mentioned report vide Medical superintendent DHQ Hospital Batkhela office letter No.4586 /MB dated 28-11-2016 reporting medical board opinion that Mr. Fateh Rahman is examined and found him disable due to weakness of both lower limb. This report was reported in response of D.E.O.(F)Malakand letter No.6170/Class IV/Medical board dated 21-11-2016 knowing the facts that Mr. Fateh Rahman has not appointed under disable quota.

Supalt
[Signature]

CTC
[Signature]

These two different medical board reports have created confusion, because Mr. Fateh Rahman has concealed that facts from the medical panel that wants to retire from service on medical ground being appointed under disable quota.

8. A fresh medical report after knowing that fact that the employee is not appointed under disable quota has been issued by Medical Superintendent Malakand at Batkhela vide office letter No.4586/MB dated 28-11-2016 that Mr. Fateh Rahman Naib Qasid was examined and found him disable due to weakness of both lower limbs.

9. The D.E.O. (F) Malakand at Batkhela after receiving this decision /certificate from Medical superintendent Batkhela retired Mr. Fateh Rahman vide D.E.O.(F)Malakand at Batkhela office original medical No.6319-23 dated 28-11-2016.

10. Astonishingly stated that a unique letter (D, F.A) no.145 dated 05-01-2018 One year and one month later Mr.Fateh Rahman retirement from service has been again addressed to Medical superintendent, Malakand at Batkhela requesting there in the Medical superintendent to reconsidered the case of Mr. Fateh Rahman Naib Qasid.

Similarly an application for re-adjustment has been submitted by Mr. Fateh Rahman Naib Qasid addressed to D.E.O.(Female)Malakand at Batkhela dated 05-01-2018.

CONCLUSION.

- I. Mr. Fateh Rahman Naib Qasid was appointed as Naib Qasid under land owner quota.
- II. He has not been recruited under disable quota.
- III. He applied for retirement under medical ground on his own well /request duly signed as well affidavit attested by Oath Commissioner.
- IV. From his signature on application affidavit as well on statement recorded on dated 10-03-2018.It is quite clear that he is educated person.
- V. There is a large gap from retirement date i.e. 28-11-2016 till the date of adjustment. Mr. Fateh Rahman Naib Qasid may be adjusted for the purpose of pay on any vacant Class IV post and his salaries for the above mentioned period may be drawn, as the authority concerned has retired him from service.
- VI. The medical board decided and declared that he can continue his duties according to his recruitment rules, while the authority concerned has retired him from service.
- VII. Mst. Perveen Begum Lab Attendant GGHS, Kot was wrongly transferred/ adjusted against the Naib Qasid post at GGCMS, Sro kanro Kot. She may be adjusted on her own Lab Attendant post at GGHS, Kot.

Mr. Fateh Rahman Naib Qasid (land owner) may be adjusted against his own Naib Qasid post at GGCMS, Sro kanro Kot being innocent and he may be adjusted on any vacant Class IV post for the period with effect from 28-11-2016 till the date of his adjustment. The record is on file of office please.

				
S.D.E.O. (F) BATKHELA. MEMBER	NEMULWAKIL B&AO DEO (F) MKD MEMBER	FARMANULLAH SUPDT. SDEO (F) BATKHELA MEMBER	ZAKIA HASHAM ASDEO (F) BTK MEMBER	PRINCIPAL GGHS, DARGAI CHAIRPERSON

CTC
4

Other

(23)

OFFICE OF THE DISTT; ACCOUNTS OFFICER DISTT;MALAKAND.


PAY STOPPAGE CERTIFICATE.

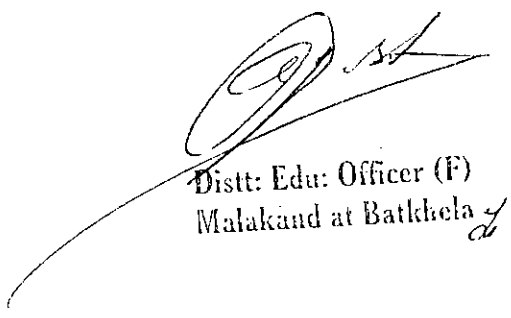
This is certify MR,FATEH REHMAN N/Q B-4 GGCMS SRO KANOKOT
office of the Sub Divisional Education Officer (F) Swat Ranizai at Batkhela
Distt:Malakand has been retired on MEDICAL GROUND basis w.e.f. 28.11.2016

It is further certified that his pay has been stopped from the Date of

Retirement i.e 28.11.2016. Personal Number 00284301 ddo code : MD
6082

CNIC Number: -----


SDEO (FEMALE) BATAKHELA
S.D.E.O. (Female)
Batkhela


Distt: Edu: Officer (F)
Malakand at Batkhela

faridullahjc

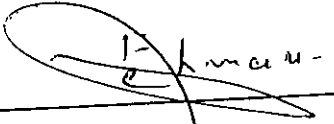
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CERTIFICATE OF NON - RECEIVING ANY OTHER PENSION



24

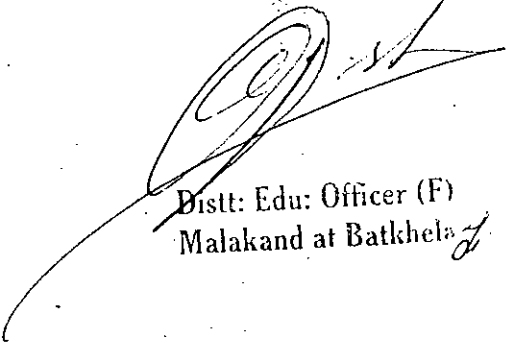

Certified that I am not receiving any other pension till now.

SIGNATURE. 

Mr, FATEH REHMAN N/Q B-4 GGCMS SRO KANOKOT

ATTESTED.


S.D.E.O. (FEMALE) SWAT RANIZAI.
S.D.E.O. (Female)
Batkhela 



Distt: Edu: Officer (F)
Malakand at Batkhela 

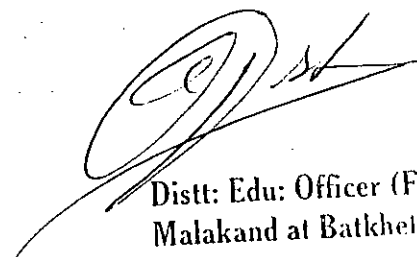
CTS


Pension Service Certificate.

25

1. It is to certify that no departmental enquiry/corruption case/judicial suit is pending against MR, FATEH REHMAN N/Q B-4 GGCMS SRO KANOKOT due to MEDICAL GROUND BASIS certified that he has rendered the entire service under Govt; of Khyber Pakhtun Khwa (E&SE) against pensionable post.
2. Certified that he has not remained on deputation or in Foreign service within Pakistan/Ex-Pakistan in his entire period of service.
3. Certified that the pension/commutation money of the applicant has been calculated and checked by expert in accounts and fund correct.
4. Certified that there is no break/deficiency in entire period of his service.
5. Certified that the validity of his service and details of the case has also been checked properly.


S.D.E.O.(F)BATKHELA.
S.D.E.O. (Female)
Batkhele


Distt: Edu: Officer (F)
Malakand at Batkhela

CTC
4

(26)

LEGAL HEIRS CERTIFICATE


Certified that MR, FATEH REHMAN N/Q B-4 GGCMS SRO KANOKOT village AND POST OFFICE, SRO KANOKOT DISTT; MALAKAND, HE has the following family members/legal heir


S.NO	NAME	RELATION	C.N.I.C.NO.	DATE OF BIRTH	MARITAL STATUS
1	Taj Bano	Mother	15402-298052-2	1953	Married
2	Laila	Daughter	—	2010	Un Married
3	Lishka	"	—	2015	"
4					
5					
6					
7					
8					
9					
10					
11					
12					


SIGNATUR 

MR, FATEH REHMAN N/Q B-4
GGCMS SRO KANO KOT

ATTESTED


Distt. Educ. Officer (F)
Malakand at Batkhela


SUB-DIVISIONAL EDUCATION OFFICER
(F)SWAT RANIZAI AT BATKHELA
S.D.E.O. (Female)
Batkhela

CTZ


27

OFFICE OF THE SUB DIVISIONAL EDUCATION OFFICER (FEMALE) SWAT RANIZAI AT BATKHELA.

LAST PAY CERTIFICATE

1. LAST PAY CERTIFICATE OF:- MR, FATEH REHMAN N/Q B-4 GGCMS SROKANOKOT
OFFICE OF THE SDEO (FEMALE) BATKHELA. PROCEEDING RETIRED ON MEDICAL
GROUND ON 28.11.2016.

HE/SHE BEEN PAY PAID UPTO 31.10.2016

2. P.NO.OO284301 G.P.FUND A/C NO.IV;EDU;MKD;4842/CSS

Basic Pay	1380
H.R Allowance	972
Conceyn. Allow	1785
Med: Allow	1500
Charge Allow	
CA/UAA	1000
Ad Relief 2010 50%	2217
AR-2011	
AR-2012	
AR-2013;	446
AR-2014	
AR.2015	280
AR, 2016	1383
AR,2017 10%	
INTIGRATED ALL	300
Dress Allow	
TOTAL	23713/-
DEDUCTION	
GP Fund	692
Benevolent Fund	120
GP FUND LOAND	2000
Ad: Group Insur:	
Group Insur	
Ret, Ben, Deth Cal	300
EEF fund	50
Income Tax	
TOTAL DEDCUTION	3162
NET AMOUNT	20551/-

- 3. He made over charge of the Office of:- RETIRED ON MEDICAL GROUND ON 28.11.2016. Recoveries to be made from the pay of the Govt: servant as detail on the reverse.
- 4. He has been paid leave salary as detail below. Deduction have been made as noted on the reverse.
From _____ to _____ at Rs _____ a month.
- 5. He is entitled to draw the following. He is also entitled to joining time for _____ days.
- 6. The detail to the income tax recovered from him up to the date from the beginning to the current year is noted on the reverse.
No _____ dated _____

Forwarded along with original service book and LPC to the:

- 1. The DISTRICT ACCOUNTS OFFICER MALAKAND for further n/action please.

SDEO(F)BATKHELA
S.B.E.O. (Female)
Batkhele

Distt: Edu: Officer (F)
Malakand at Batkhela

AC

GOVT; OF KHYBER PAKHTUN KHWA .
CERTIFICATE OF TRANSFER OF CHARGE

28

Certified that I

MR, FATEH RAHMAN N/Q B-04 GGCMS SRO KANOKOT
day before/after noon

have this

Taken over/relinquished charge

N/Q BPS-04

With reference to the order vide

Vid DEO(F)MKD: Order No.6319-23
Dt

28.11.2016

RETIRED ON MEDICAL GROUND FROM SERVICE ON 28.11.2016

Post remained vacant

To, _____

2. Particulars of cash and important/secret/confidential documents handed over/taken over
are noted on the reverse.

HEAD MISTRESS
G.G.C.M.S, Sro Kanokot,

Station- GGCMS SRO KANOK

Signature of ~~relieved~~

Govt;servant. _____

Designation. _____

SPST.14 _____

Dated. 1.8.2017 _____

Signature of Govt:

Servant receiving charge. _____

Designation. _____

OFFICE OF THE S.D.E.O.(FEMALE)SWAT RANIZAI AT BATKHELD DIST;MALAKAND.

Endst.No. _____ dated, _____

Copy of the above is forwarded to the:

- 1. Distt:Edu:Officer(F)Malakand at Batkhela
- 2. Distt: Accounts Officer Malakand.
- 3. Personal File.

[Signature]
SDEO(F)BATKHELA
S.D.E.O. (Female)
Batkhela

CTC
[Signature]

99

NO DEMAND CERTIFICATE.

It is certify that there is nothing outstanding any thing
against, MR, FATEH RAHMAN N/Q B-04 GGCMs SRO KANOKOT

HEAD MISTRESS
GGCM.S, Sro Kanro Kot,
HEAD MISTRESS
GGCMS SRO KANOKOT

ATTESTED

[Signature]
S.D.E.O.(F) BATKHELA.
S.D.E.O. (Female)
Batkhelela

[Signature]
Distt: Edu: Officer (F)
Malakand at Batkhela


CT
[Signature]

31

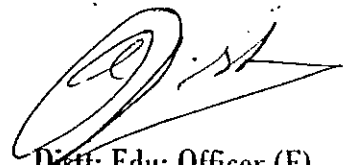
NON INVOLMENT CERTIFICATE

Certified that MR, FATEH RAHMAN N/Q BPS-4 GGCS SRO KANOKOT District Malakand, neither any disciplinary/departmental proceedings/anticorruption/Judicial enquiry is pending against him or any penalty has been imposed on him.

HEAD OFFICE
SRO Kanokot
HEAD OFFICE
GGCS SRO KANOKOT


S.D.E.O. (F)
BATKHELA.

S.D.E.O. (Female)
Batkhela


Distt. Edu. Officer (F)
Malakand at Batkhela

Faint text at the bottom left of the page.

CTC
f

PART - III

(For use in the Accountant-General's Officer)

- I. The calculation contained in the preceding pages have been checked.
- II. Length of qualifying service accepted in Audit.....Years.
- III. Reasons for difference, if any between this and the length of qualifying service worked out by the Department.

IV. Amount of pension/gratuity. Rs.

V. Reasons for discrepancy, if any, between this amount and that calculated by the Department. Rs.

VI. Amount of family pension. Rs.

VII. Reasons for discrepancy, if any, between this Amount and that calculated by the Department. Rs.

VIII. Amount of gratuity in lieu of 1/4th of pension surrendered. Rs.

IX. Amount of commutation for the pension commuted. Rs.

X. Reasons for discrepancy, if any, between this amount and that calculated by the Department. Rs.

XI. Amount of net pension payable. Rs.

XII. The pension will commence from.

XIII. Allocation of the pension and gratuity:

Government of

Government of

Government of

Defense Estimates.....

	Pension	Gratuity
--	---------	----------

Total: -

XIV. Anticipatory pension of Rs (Rupees) per month, granted with effect from vide P.P.O. No under rule to be adjusted in the final P.P.O.

XV. Amount of pension surrendered for gratuity. Rs.

XVI. Amount of original pension commuted. Rs.

XVII. Checked with the L.P.C and "No Demand Certificate"

XVIII. P.P.O. issued vide No dated

Assistant Accountant General
Assistant Accounts Officer.

CTC
f

temporary service where qualifying service is 10 years or more but less than 25 years.

Rs

Please see relevant rules/orders before filling in this section.

Gross Pension /TOTAL PENSION

Rs

Benefit of extra service beyond 30 years.

20 YEAR

Rs

Total Pension

Rs

Less 1/4th (in case of family pension for Death while in service

or

Rs

Less commuted portion of pension.

(35%)

RS.2319.33 Net pension

(65%)

Rs,4307.29

SECTION (5) CALCULATION OF GRATUITY IN LIEU OF SURRENDERED PENSION (IN CASE OF FAMILY PENSION FOR DEATH WHILE IN SERVICE).

Length of total qualifying service.

19 YEARS 06 MONTHS 14 DAY

Amount of pension surrendered.

Rs 2319.33.....

19 YEARS

Rate of gratuity for every rupee surrendered (on age next birth day basis).

Rs. 211.8312.....

Lump-sum gratuity admissible. Rs 491306/-.....

SECTION (6) COMMUTED VALUE OF PENSION

(i) Amount of pension to be commuted.

Rs 491306/-.....

(ii) Age next birth day

(iii) Rate of commuted value for every one rupee (on age next birth day basis).

Rs 211.8312

(iv) Commuted value of pension.

Rs 491306/-.....

SECTION (7) ORDERS OF THE SANCTIONING AUTHORITY

1. The undersigned is satisfied that the service of FATEH REHMAN N/Q B-04 has been satisfactory. The grant of full pension and/or gratuity which the Audit Officer may find to be admissible under the rules is hereby sanctioned.

OR

The undersigned is satisfied that the service of MR FATEH REHMAN N/Q B-04 has not been satisfactory and it has been decided that the full pension and/or gratuity found by the Audit Officer to be admissible under the rules should be reduced by the specific amount or percentage given below: -

Amount or percentage of reduction in pension

Amount or percentage of reduction in gratuity

Sanction is hereby accorded to the grant of pension and/or gratuity as so reduced.

2. The payment of pension and/or gratuity may commence from Before issuing the pension payment order, the Audit Officer may kindly ascertain whether the Last Pay and No Demand Certificate have been received by him. In case the Last Pay Certificate and/or No Demand Certificate has/have not been received with the pension papers, the Audit Officer should issue P.P.O. subject to the production of the last pay certificate and/or an undertaking at the time of first payment of pension/gratuity, by the pensioner, or his family (in case of his death) to the effect that any demand coming to the notice within a period of one year after the issue of P.P.O. would be recovered from him/her.

SIGNATURE

Distt. Edu. Officer (F)
Malakand at Batkhela

*Entries No, 1,2,3,4 and should be made in capital letters.

SECTION (2) CALCULATION OF QUALIFYING SERVICE

Total length of service as per Col. 10 of Section (1) REGULER Y M D
19 06 14
qualifying Service from 14.5.1997 TO 28.11.2016

	Period		
	Y	M	D
(i) Extraordinary leave.....			
(ii) Unauthorized absence.....			
(iii) Spell of service not qualifying for pension			
Total (i), (ii) & (iii): -			

Net qualifying service 26 YEARS 05 MONTHS 12 DAY
Add..... from.

	Period		
	Y	M	D
(i) Periods, if any, Military service or War, Service allowed counting for pension.			
(ii) Benefit of condo nation of deficiency in qualifying service.			
Total (i) & (ii): -			

Total (i) & (ii): -
Total qualifying service, 14 YEARS 06 MONTHS 14 DAY
IE 19-06-14

SECTION (3) (a) CALCULATION OF "AVERAGE EMOLUMENTS"

Statement of emoluments during the last 36/12 month in case the post has not been held on regular basis.

Period		Duration Months and Days		Monthly Rate of Emoluments		Amount Drawn	
From	To	M	D	Rs.	Ps.	Rs.	Ps.

LAS PAY DRAWN, ON, 31.7.2017 RS,35070/-PM Total emoluments for 36/12 months are
Therefore "Average Emoluments" work out to Rs. P.M.

SECTION (3) (b) STATEMENT OF PAY/EMOLUMENTS LAST DRAWN IN CASE THE POST IS HELD ON REGULAR BASIS.

(a)	Pay	31.10.2016	Rs.	13830/-
(b)	Senior post Allowance		Rs.	
(c)			Rs.	
(d)			Rs.	
(e)			Rs.	

Total: - RS 13830/--

SECTION (4) CALCULATION OF PENSION/GRATUITY

Length of total qualifying service. 19 Y 6 M 14 D

Emoluments/Average Emoluments. Rs@RS

Amount of gratuity (in case where qualifying service is 5 years or more but less than 10 years.

TOTAL Rs,

Amount of gratuity on discharges from

S.D.E.O. (Female)
Bathela

(36)

SABIR SHAH
Advocate High Court

Office: S-8,9 Continental Plaza
Makanbagh Mingora Swat
Cell No.03005746744
Email: sabirshahadvocate@gmail.com


Fateh Rehman -- **VERSUS** -- Govt: of KP and others.

To,

1. Government of Khyber Pakhtunkhwa through Secretary Elementary and Secondary Education at Peshawar.
2. Director Elementary & Secondary Education, Government of Khyber Pakhtunkhwa at Peshawar.
3. **District Education Officer (F) Malakand at Batkhela.**
4. District Account Officer, Malakand, at Malakand.

NOTICE

I am filing a writ petition in Peshawar High Court Mingora Bench at Swat on behalf of petitioner, as the official respondents are neither processing the pension case of the petitioner, nor re-adjusting his services, though he is in hanging position and salary has also been stopped.


SABIR SHAH
Advocate High Court

31

BEFORE THE HONORABLE PESHAWAR HIGH COURT
MINGORA BENCH SWAT

WAKALAT NAMA

W.P No. _____ -M/2019

Fateh Rehman Versus Government of KPK & others

I, We, Fateh Rehman S/O Haji Mahmood R/O Toughkhel, Kot Batkhela, Tehsil Batkhela, District Malakand do hereby appoint **Sabir Shah Advocate, High Court (s)**, in the above mentioned case, to do all or any of the following acts, deeds and things:-

- 1) To appear, act and plead for me/us in the above mentioned case in this Court/Tribunal in which the same may be tried or heard, and any other proceedings arising out of or connected therewith.
- 2) To sign and verify and file, petitions, appeals, affidavits and applications as may be deemed necessary or advisable by them for the conduct, prosecution or defense of the said case at all its stages.
- 3) To receive payment of, and issue receipts for, all moneys that may be or become due and payable to us during the course of the proceedings.
- 4) To do any act necessary or ancillary to the above acts, deed and things.
- 5) To appoint any other counsel to do any/all of the acts, deeds and things.
- 6) I/we, shall appear in the court/tribunal on every date of hearing for assistance and if due to my/our non appearance, any adverse judgment/order/decree is passed, they will not be held responsible.

IN WITNESS whereof I/we have signed this Wakalat Nama hereunder, the contents of which have been read/explained to me/us and fully understood by me/us this 23/09/2019

Signature of Executant(s). _____

Fateh Rehman

CNIC No: 15402-1409377-9

Cell No: 0317-1997507

ATTESTED & ACCEPTED BY:

SABIR SHAH,

Advocate, High Court (s)

FILED TODAY

23 SEP 2019

Additional Registrar



1

PESHAWAR HIGH COURT, MINGORA BENCH (DAR-UL-QAZA), SWAT

FORM OF ORDER SHEET

Court of

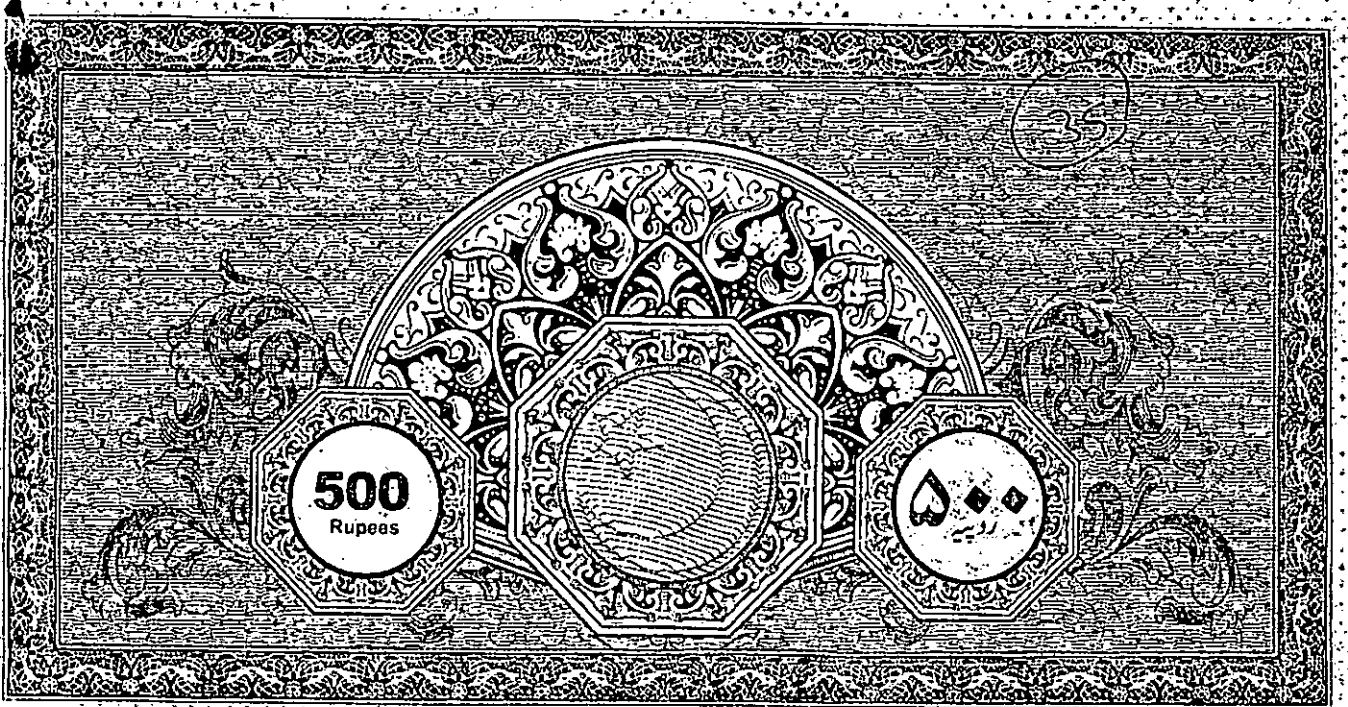
Case No..... of.....

1	Date of Order or Proceedings	Order or other Proceedings with Signature of Judge and that of parties or counsel where necessary.
	01-10-2019	<p><u>W.P No. 970-M/2019 with Interim Relief</u></p> <p>Present: <i>Mr. Sabir Shah, Advocate for the petitioner.</i></p> <p><i>Mr. Wilayat Ali Khan, A.A.G for the respondents.</i></p> <p style="text-align: center;">*****</p> <p>The learned A.A.G present in Court in some other cases accepts notice on behalf of the respondents No. 3 & 4 who shall file their para-wise comments within fortnight. Adjourned to a short date in office.</p> <p style="text-align: right;"> JUDGE</p> <p style="text-align: right;"> JUDGE</p>

SCANNED

Office 2/10

075474




PAKISTAN COURT FEE

CANCELLED

CANCELLED

FILED TODAY

23 SEP 2019


Additional Registrar

BEFORE THE HONORABLE PESHAWAR HIGH COURT
MINGORA BENCH SWAT

WAKALAT NAMA

W.P No. _____ -M/2019

Fateh Rehman Versus Government of KPK & others

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- 2) To sign and verify and file, petitions, appeals, affidavits and applications as may be deemed necessary or advisable by them for the conduct, prosecution or defense of the said case at all its stages.
- 3) To receive payment of, and issue receipts for, all moneys that may be or become due and payable to us during the course of the proceedings.
- 4) To do any act necessary or ancillary to the above acts, deed and things.
- 5) To appoint any other counsel to do any/all of the acts, deeds and things.
- 6) I/we, shall appear in the court/tribunal on every date of hearing for assistance and if due to my/our non appearance, any adverse judgment/order/decreed is passed, they will not be held responsible.

IN WITNESS whereof I/we have signed this Wakalat Nama hereunder, the contents of which have been read/explained to me/us and fully understood by me/us this 23/09/2019

Signature of Executant(s). _____

Fateh Rehman

CNIC No: 15402-1409377-9

Cell No: 0317-1997507

ATTESTED & ACCEPTED BY:

SABIR SHAH,

Advocate, High Court (s)

S - 8.9, Continental Plaza, Makanbagh, Mingora Swat Ph: 0946-723356

PESHAWAR HIGH COURT, MINGORA BENCH (DAR-UL-QAZA), SWATFORM OF ORDER SHEET

Court of

38

Case No..... of.....

1	Date of Order or Proceedings 2	Order or other Proceedings with Signature of Judge and that of parties or counsel where necessary. 3
	01-10-2019	<p><u>W.P No. 970-M/2019 with Interim Relief</u></p> <p>Present: <i>Mr. Sabir Shah, Advocate for the petitioner.</i></p> <p><i>Mr. Wilayat Ali Khan, A.A.G for the respondents.</i></p> <p>*****</p> <p>The learned A.A.G present in Court in some other cases accepts notice on behalf of the respondents No. 3 & 4 who shall file their para-wise comments within fortnight. Adjourned to a short date in office.</p> <p style="text-align: right;"><i>[Signature]</i> JUDGE</p> <p style="text-align: right;"><i>[Signature]</i> JUDGE</p>

BEFORE THE PESHAWAR HIGH COURT
MINGORA BENCH SWAT

W.P.No. 970A 2019

Fateh Rehman S/O Haji Mahmood R/O Toughkhel, Kot
Batkhela, Tehsil Batkhela, District Malakand.

...Petitioner

--VERSUS--

1. Government of Khyber Pakhtunkhwa through Secretary Elementary and Secondary Education at Peshawar.
2. Director Elementary & Secondary Education, Government of Khyber Pakhtunkhwa at Peshawar.
3. District Education Officer (F) Malakand at Batkhela.
4. District Account Officer, Malakand, at Malakand.

...Respondents

Writ Petition under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973.

Respectfully Sheweth;

ATTESTED

Examiner
Peshawar High Court Bench
Mingora Dar-ul-Qaza, Swat.

1- That, petitioner is bonafide resident of Toughkhel, Kot Batkhela, Tehsil Batkhela, District Malakand (**Copy of CNIC is annexed as annexure "A"**).

FILED TODAY

23 SEP 2019

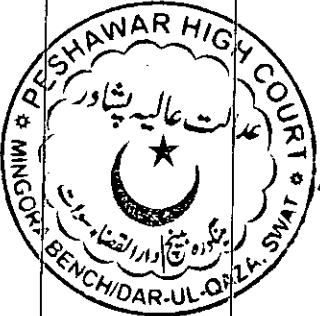
2- That, the petitioner was initially appointed as Naib Qasid and took over charge of the same at Government Girls Community Model School (GGCMS), Sro Kanro Kot vide office order Endst;No.1014-17 dated 07-05-1997.(**Copy of the order dated 07-05-1997 and**

PESHAWAR HIGH COURT, MINGORA BENCH
(DAR-UL-QAZA), SWAT

FORM OF ORDER SHEET

Court of

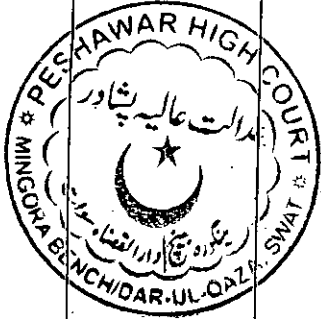
Case No..... of.....

Serial No. of order or proceeding	Date of Order or Proceedings	Order or other Proceedings with Signature of Judge and that of parties or counsel where necessary.
1	2	3
 <p align="center">ATTESTED</p> <p align="center">Examiner Peshawar High Court Bench Mingora Dar-ul-Qaza, Swat.</p>	<p align="center">19.11.2019</p>	<p align="center"><u>W.P 970-M/2019 with Interim Relief</u></p> <p>Present: Mr. Sabir Shah, Advocate for the Petitioner.</p> <p>Mr. Wilayat Ali Khan. A.A.G for the official Respondents.</p> <p align="center">***</p> <p><u>WIOAR AHMAD, J.</u>- Through this constitutional petition, the petitioner seeks the constitutional jurisdiction of this Court with the following prayer.</p> <p align="center">“In view of the above, it is, therefore, very humbly prayed that on acceptance of this writ petition, the official respondents may please be directed to:</p> <ol style="list-style-type: none"> i. Re-adjust the petitioner in accordance with the recommendations of the inquiry committee, with all back benefits. ii. In alternative, the pension case of the petitioner be processed. <p>Any other relief not specifically prayed but this august Court deems proper may also be granted.”</p> <p>2. In view of the prayer set-up in this petition and as the petitioner is/was a Government servant besides the mater also relates to pension, when the learned counsel for the petitioner was asked whether this writ petition, in light of</p>

Sabz Ali/*

(D.B)

HON'BLE MR. JUSTICE SYED ARSHAD ALI
HON'BLE MR. JUSTICE WIOAR AHMAD



clear bar contained in Article 212 of the Constitution of Islamic Republic of Pakistan, is maintainable. His reply was in negative but with a request that this writ petition may be converted into an appeal and may be sent to the Khyber Pakhtunkhwa Service Tribunal.

3. Therefore, in view of the law laid down by the august Supreme Court in case of 'Muhammad Akram Vs. DCO Rahim Yar Khan (2017 SCMR 56), this writ petition is converted into appeal. In this regard, the office shall make necessary entries accordingly and thereafter shall send the original file to the Khyber Pakhtunkhwa Service Tribunal for disposal in accordance with law whereas a copy thereof be retained for the record of this Court.

Announced
19.11.2019


JUDGE

Certified to be true copy


30-11-19
EXAMINER

Peshawar High Court, Mingora/Dar-ul-Qaza, Swat
Authorized Under Article 17 of Qanoon-e-Shahadat Order.


JUDGE

S.No 18
Name of Applicant Abbas A.G. Sherb
Date of Presentation of Applicant 20-11-19
Date of Completion of Copies 30-11-19
No of Copies 03-P
Urgent Fee _____
Fee Charged 06/-
Date of Delivery of Copies 30-11-19

Sabz Ali/*

(D.B)

HON'BLE MR. JUSTICE SYED ARSHAD ALI
HON'BLE MR. JUSTICE WIOAR AHMAD

Office
23/11/2019

BEFORE THE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA, PESHAWAR
MINGORA BENCH SWAT

Mr. Fateh Rehman Appellant

VS

Government of Khyber Pakhtunkhwa through Secretary Higher Education
Department Khyber Pakhtunkhwa Peshawar and Others (Respondents)

Written reply on behalf of Respondent No. 04

Respectfully Sheweth: - Written reply on behalf of Respondent No 04 is as under:

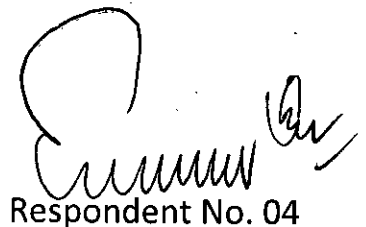
Preliminary Objections:

1. That the petitioner has got no cause of action against the respondent no 4.
2. That the petitioner has not come to this Honourable Court with clean hands.
3. That the petition is incompetent in its present form.
4. That the petition is not maintainable due to non joinder and misjoinder of necessary parties.
5. That the petition is badly time barred.
6. That the petition of the petitioner is based on mala-fide intention, only to indulge the respondent no 4 in futile and baseless litigation and wastage of precious time of this Honourable Court, therefore, the respondent is entitled for special cost under 35-A CPC according to his status.
7. That the petition is totally wrong and baseless. In fact the respondent No 04 returned the pension case of the petitioner for the reason that the medical board anonymously agreed that the petitioner can continue his service according to his recruitment rules. Furthermore it is the duty of respondent no 03 to adjust the petitioner on any vacant class iv post as recommended by the inquiry committee constituted by Education Department, in the retirement case of the petitioner.

Facts:

1. No comments.
2. No comments.
3. Detail reply is given above.
4. No comments.
5. Detail reply is given above.
6. Related to respondent No 3.
7. Incorrect hence denied, infact respondent No 04 returned the pension case of the petitioner in ligh of medical board of DHQ Hospital Batkhela. (photocopy is attached herewith).
8. Not related.
9. No comments.
- 10.No comments.
- a. Para No 1 is incorrect, hence denied. Detail reply has been given in preliminary objection above.
- b. No comments.
- c. No comments.
- d. No comments.
- e. No comments.

It is therefore most humbly prayed that on acceptance of this preliminary objection / comments / reply the writ petition may very kindly be dismissed with cost.



Respondent No. 04

**District Accounts Officer,
Malakand.**

VERIFIED COPY

**BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTOONKHAWAT AT CAMP
COURT MINGORA SWAT.**

Service Appeal No: 1696/2019

**Mr. Fateh Rahman S/O Haji Mahmood R/O Toughkhel , Kot , Tehsil Batkhela District Malakand.
(Appellant)**

VERSUS

- 1. The Secretary Education (E&SE) Khyber Pakhtunkhwa , Peshawar.**
- 2. The Director Elementary (E&SE) Khyber Pakhtunkhwa , Peshawar.**
- 3. The District Education Officer (Female) Malakand at Batkhela**
- 4. The District Account Officer Malakand at Malakand.**

(Respondents)

Para wise comments on behalf of respondents No 1-3

**Respectfully Sheweth
Preliminary Objections.**

1. That the appeal is badly barred by time and under the rules is not maintainable.
2. That the appellant has concealed material facts from the Honorable Service Tribunal.
3. That the appellant has got no cause of action to file the instant appeal.
4. That the appellant has got no locus standi to ask for claim.
5. That the appellant is estopped by his own conduct to file the present appeal.
6. That the appeal is not maintainable in its present form and is not competent.
7. That the Tribunal has no jurisdiction to entertain the appeal.

FACTS.

1. Relates to the appellant hence no comments.
2. Correct, and hence no comments.
3. Correct, and hence no comments.
4. Incorrect, it is clearly written by the Medical Board that as per own statement of the appellant he was appointed on disable seats. But it is to clarify that the appellant was not appointed on disable seat but land owner. (Copy of the appointment order is attached as annexure A) So the respondent No.3 informs the MS Batkhela vide No. 145 dated:05.01.2018 that a wrong verbal statement has been given by the appellant to Medical Board and request the Medical Board to reconsider the case as he is a disable to weakness of both lower limbs and cannot perform his duties.

5. That the standing Medical Board declared the appellant but by wrong statement of the appellant Medical Board added a statement that "therefore he can continue his duties according to his recruitment rules". But the appellant was not able to perform the duties so on the Medical Board the undersigned issue the retirement order of the appellant.
6. Correct, and no comments.
7. But when the pension case was sent to the District Accounts Officer Malakand on the basis of Medical Board that he is disable but, The District Account Officer Malakand denied with the plea of the sentence that he is continue his duties due to the wrong statement of the appellant.
8. The appellant is disable from the childhood and due to age factor he is unable to perform his duties smoothly.
9. As comments para No. 5, 6, 7, and 8.
10. The respondent No.3 has processed the pension case of the appellant but the District Accounts Officer Malakand is not honoring the pension case on the sentence in the medical board certificate that he is continue service according to disable rules, but he was not appointed on disable seats as clear from his appointment order.

GROUND.

- A. Incorrect, all the actions of respondent No.3 are legal and are according to Ultra vires, Ultra Sharia and established norms of administration.
- B. Incorrect, the appellant has been dealt with in accordance with law and no discrimination has been made.
- C. Incorrect, the appellant has been deprived of his legal right of service. Actually he applied for retirement on medical ground via application (annexure) and was treated according to his application.
- D. Incorrect, all his pensions papers have been submitted to District Accounts Office for further necessary action.
- E. Correct, and admitted.

It is therefore, most humbly prayed that in view of the above grounds the appellant may very graciously be dismissed with cost .

- (i) He was retired on his own request and cannot be reinstated.
- (ii) The pension case has already been processed and has been submitted to District Account Office Malakand.

PKAD 1/1/2020

RESPONDENT NO.1

[Signature]
 SECRETARY,
 E&SE DEPARTMENT, GOVT OF KHYBER
 PAKHTUNKHWA AT PESHAWAR

RESPONDENT NO.2

DIRECTOR,
 (E&SE) KHYBER PAKHTUNKHWA
 AT PESHAWAR

*TO / AAGS, Service Tribunal K.P.K Peshawar
 Joint para-wise comments in the
 instant case is submitted for
 vetting please.*

RESPONDENT NO.3

[Signature]
 DISTRICT EDUCATION OFFICER
 (F)MALAKAND AT BARKHELA

*Please vet
 DA*

[Signature]
 Additional Advocate
 Khyber Pakhtunkhwa
 Service Tribunal Peshawar

*Returned Vatted in terms
 already vatted by the
 learned AAG, at Darul-Qaza Swat
 Submitted for approval of learned AAG.*

[Signature]
 6/7/2020
 07/07/20

**BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTOONKHAWAT AT CAMP
COURT MINGORA SWAT.**

Service Appeal No: 1696/2019

**Mr. Fateh Rahman S/O Haji Mahmood R/O Toughkhel , Kot , Tehsil Batkhela District Malakand.
(Appellant)**

VERSUS

- 1. The Secretary Education (E&SE) Khyber Pakhtunkhwa , Peshawar.**
- 2. The Director Elementary (E&SE) Khyber Pakhtunkhwa , Peshawar.**
- 3. The District Education Officer (Female) Malakand at Batkhela**
- 4. The District Account Officer Malakand at Malakand.**

(Respondents)

AFFIDAVIT

I , do hereby solemnly affirm and declare on oath that all the contents of the accompanying
parawise comments are true and correct to the best of my knowledge and belief and all the coddle
formalities were fulfilled.


**District Education Officer
(F) Malakand at Batkhela.**

(A)

BETTER COPY

OFFICE OF THE SUBDIVISIONAL DISTRICT EDUCATION OFFICER FEMALE MALAKAND AGENCY AT BATKHELA

OFFICE ORDER:

The following class- IV servants are hereby appointed as Caller Naib Qasid at Govt: Girls Community Model School Sro Kanro Kot Malakand Agency against the newly created posts on scales as notes against each under the rules in the interest of public service posts sanctioned vide Endst: No. BO7/F-F 2-102/96-97/CMS dated 20-01-1997.

S No.	Name of C-IV Servant	School	Remarks
1	Fateh Rehman S/O Mehmood V& PO Sro Kanro Kot	Sro kanro (Kot) Mkd. Agy	Appointed as Naib Qasid in BPS No. 1 Rs. 1245-35-1770 plus usual allowances
2	Tajbaro W/O Mehmood V& PO Sro Kanro Kot	Sro kanro (Kot) Mkd. Agy	Appointed as Caller in BPS No. 1 Rs. 1245-35-1770 plus usual allowances
3	Khan Rehman S/O Abdul Qadus V& PO Sro Kanro Kot	Sro kanro (Kot) Mkd. Agy	Appointed as a contract Chowkidar @ Rs. 1200/- fixed.

TERMS AND CONDITIONS

1. No TA/DA is allowed and charge report should be submitted to all concerned.
2. The appointment is purely temporary and subject to termination any time without assigning any prior notice.
3. The appointment of contract Chowkidar will continue their service on contract basis from the date of taking over charge and must completion of 2 years' service incumbents will apply for renewal of his appointment under the existing rules.
4. The candidates are required to produce health and age certificate from the Medical Supdt. Batkhela.
5. Incumbent's age should not exceed than 45 years and less than 18 years.

----Sd-----

**Sub.Divl. Edu. Officer (F)
Mkd. Agency at Batkhela**

Endst: No. 1014-17 Dated: 7-5-97

Copy forwarded for information to the:

1. The DEO (F) Pry. Mkd Agency at Batkhela.
2. Headmistress concerned.
3. Candidates concerned.

(MAHJBEEN)

**Sub.Divl. Edu. Officer (F)
Mkd. Agency at Batkhela**

alshel
feels
Dist. Edu. Officer (F)
Malakand at Batkhela

خواہش ہے۔۔ جناب سب ڈیپارٹمنٹ آف ایجوکیشن افسر صاحب: تانہ بیٹا خیل

عنوان: درخواست برائے ریٹائرمنٹ ٹیچر ایک گراؤنڈ

جناب عالیہ!

موربانہ گزارش ہے۔ کہ مذوی بحیثیت نایب قاضی گورنمنٹ گرنریپریٹریوٹیونی ماڈل سکول سروکانڈ کوٹ میں اپنی خدمات انجام دے رہا ہوں۔ مذوی معذور ہے۔ اور دونوں پاؤں سے معذور ہے۔ مذوی مزید ڈیوٹی انجام دینے سے قاصر ہوں۔ اور میڈیکل بورڈ پر ریٹائرمنٹ لینا چاہتا ہوں۔

لہذا آپ صاحبان سے التماس ہے۔ کہ مذوی کو

مورخہ یکم ستمبر 2016ء سے میڈیکل بورڈ پر ریٹائرمنٹ دینے کے احکامات ہمارے حکام کو فرما کر شکور فرمائیں۔

فقط زیادہ ادب

مورخہ: 2016-8-30

عمران
Examination

سائل قاضی رحمان نایب قاضی گورنمنٹ گرنریپریٹریوٹیونی ماڈل سکول سروکانڈ کوٹ تانہ بیٹا خیل

D.E.O (F) Mkd
Diary ...1965.....
Date: 30-8-2016.....

At Bathkela
No 1740 Dated 05/09/2016

D.E.O (F) Malakand
Application is submitted
for further consideration
in the light of
message of H.A to H.O

DA (F)
Applicant may be directed
to submit his application
in stamped paper.

5/9/2016

30/8/16
30/8/16

DISTRICT MEDICAL BOARD MALAKAND AT DHQ HOSPITAL BATHKHELA

BOARD CONSISTING OF

1. Dr. Wakeel Muhammad Medical Superintendent
2. Dr. Munir Khan Medical Specialist
3. Dr. Sardar Hussain Surgical Specialist
4. Dr. Mohammad Riaz Orthopedic Specialist

Mr. Fateh Rahman Naib Qasid Govt. Girls Community School Sarokandow (Kot) appeared before the standing Medical Board and was examined.

OPINION:

We the members of the medical board examined Mr. Fateh Rahman Naib Qasid Govt. Girls Community School Sarokandow (Kot) Education Department Malakand in detail we found him disabled due to weakness of both lower limbs which according to him since childhood when he was age of 3 years and suffered polio. As he has served 19 years on the post and was recruited on disable seats as per own statement.

Therefore he can continue his duties according to his recruitment rules.

DE.O (F) Mkd
Diary 2257
Date 19-10-2016
At Bathkela

Station: DHQ Hospital Bathkela
Date: 13/10/2016


Dr. Wakeel Muhammad
Medical Superintendent,
DHQ Hospital Bathkela


Dr. Munir Khan
Medical Specialist
DHQ Hospital Bathkela


Dr. Mohammad Riaz
Orthopedic Specialist
DHQ Hospital Bathkela


Dr. Sardar Hussain
Surgical Specialist
DHQ Hospital Bathkela

OFFICE OF THE MEDICAL SUPERINTENDENT DHQ HOSPITAL BATHKHELA

No. 4044 / M&B
Copy Forwarded to:

Dated 18/10/2016

The District Education Officer (Female) Malakand at Bathkela w/r to his letter No. 5331 Dated 27/09/2016 for information


Medical Superintendent,
DHQ Hospital Bathkela

OFFICE OF THE
DISTRICT EDUCATION OFFICER (F)
MALAKAD AT BATKHELA.

NO 145

Dated 05/01/2018

(5/1/2018)

DFA

To

The Medical Superintendent,
Malakand at BetKhela..

Subject:-

MEDICAL BOARD OF MR.FATEH RAHMAN NAIB QASID GGCMS,SRO KANRO KOT.

Memo,

Kindly refer to your office endst.No. 4044 /MB dated 18-102017 on the above cited subject.

It is submitted for your kind information that Mr. Fateh Rahman Naib Qasid of GGCMS, Sro.Kanro kot was appeared before the standing medical Board, Malakand and was examined . The Santing Medical board found him disabled due to weakness of both lower limbs, which according to him as since childhood when he was age of 3 three years and suffered polio. As he served 19 years on the post and was recruited on disable seats as per his own statement. Therefore he can continue his duties according to his recruitment rules.

A wrong verbal statement has been given by the above named Naib Qasid to standing medical board, District Malakand on 13-10-2016 that he was recruited on disable seats/quota. Actually Mr. Fateh Rahman N/Qasid GGCMS, Sro Kanro kot was appointed against newly created Naib Qasid post on land owner seat/quota vide Sub Divisional Education officer (Female) Malakand at Batkhela office order endst. No. 1014-17 dated 07-05-1997 (Copy attached).

Moreover disability certificate issued by the District officer Social welfare and women Development Department District Malakand on 14-11-2009 to Mr. Fateh Rahman N/Qasid (Copy attached),in which he was declared disable after twelve years six months of his appointment ,as he was appointed on 14-05-1997.

It is therefore, requested that the medical board case of Mr. Fateh Rah man Naib Qasid GGCMS, Sro kanro kot may be reconsidered, as he is disable due to weakness of both lower limbs, and cannot perform his official duty please.

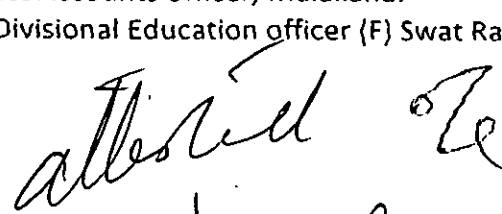
Encl: As above.



DISTRICT EDUCATION OFFICER (F)
MALAKAND AT BATKHELA.

Endst. No. _____

Copy of the above is forwarded for information to:-

1. The District Accounts officer, Malakand.
2. The Sub Divisional Education officer (F) Swat Ranizai at Batkhela.


DISTRICT EDUCATION OFFICER (F)
MALAKAND AT BATKHELA.



25



OFFICE OF THE MEDICAL SUPERINTENDENT DHQ: HOSPITAL BATKHELA

Phone No. (0932) 410242, Fax No. (0932) 410243,

Email: dhqh_btk_mkd@hotmail.com

No. 4586/MB

Dated: 28/11 /2016

To,

The District Education Officer (Female)
Malakand at Batkhela

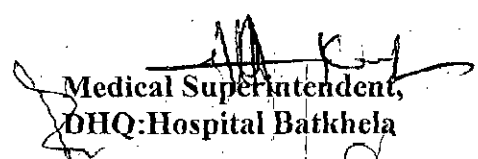
Shah Azam
28/11

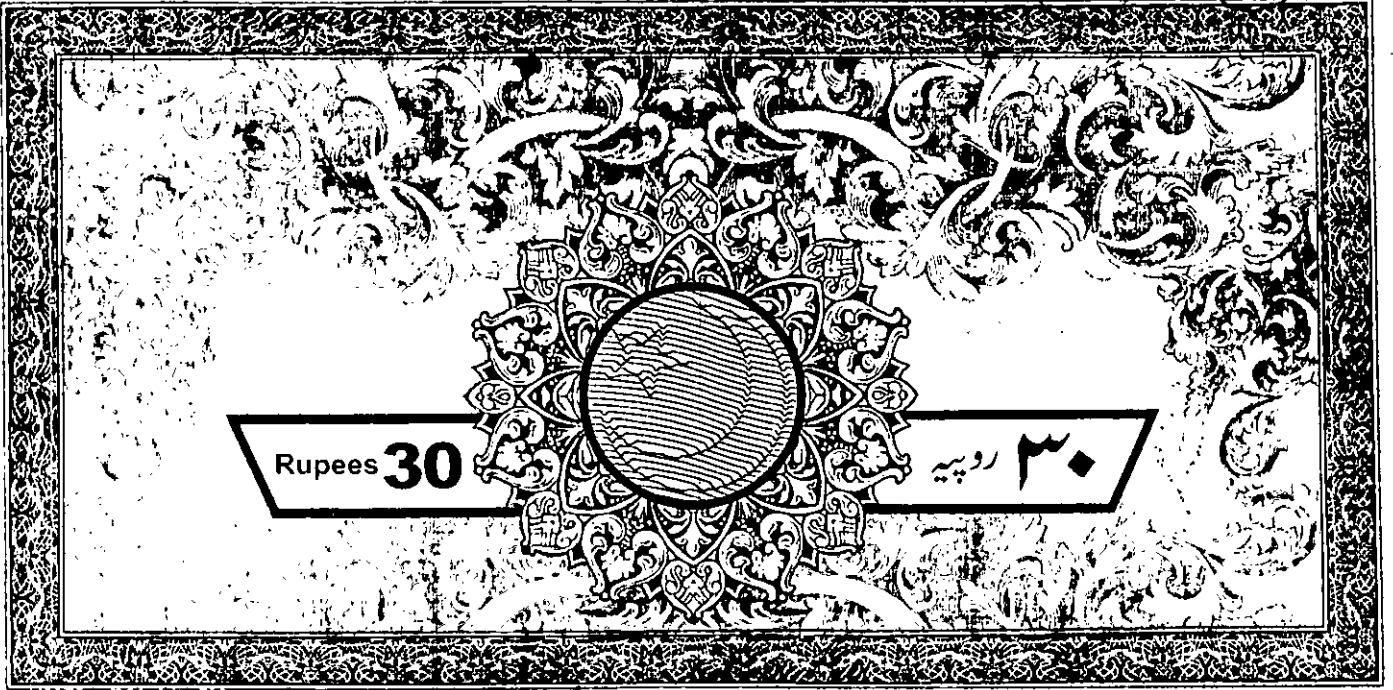
Subject:
Memo,

MEDICAL BOARD

Reference your letter No. 6170/class-IV/Medical Board Dated 21/11/2016.

In continuation of this office medical board letter No. 4044/MB Dated 18/10/2016. The opinion of the medical board Doctors is that Mr. Fateh Rahman examined and found him disabled due to weakness of both lower limbs.

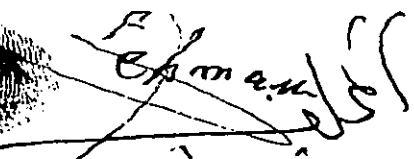
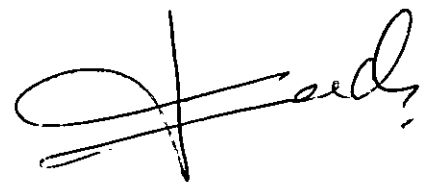

Medical Superintendent,
DHQ: Hospital Batkhela



بیان حلف

خط سے فاتح الرحمن ولد حاجی محمود سانی کو خفیہ کوٹ قیصل
 کے نیا ملک ملائندہ بروئے قمبر گھوڑا حلفاً اقرار کر کے عہد دیکھا ہوں کہ
 میں حکمہ ایجوکیشن میں بحیثیت نائب قیصل تمام تمام GGCMS سروکاروں
 کوٹ قیصل فرانسس منجی سرانجام دے رہا ہوں۔ من حلف نے ہمزید
 ملائندہ بورڈ ریٹائرمنٹ کے لئے درخواست دی تھی۔ من حلف کا مڈیکل
 پورہ ہے۔ اگر حکمہ ایجوکیشن من حلف کو مڈیکل بورڈ پر ریٹائر
 کرنا چاہیے۔ تو اس پر مجھے کوئی ملود و اعتراض نہ ہوگا۔
 میں ہ انوار صالح نریلا نے باور کرنا ہوں کہ جہد مراتب بیان حلفی کا وہ
 علم و یقین میرے دست و طبع ہے۔ اور کوئی امر مخفی یا چھپا ہوا نہیں لکھا
 گیا ہے۔ گھوڑا بیانی ہی صورت میں تمام خود دہاری من حلف ہر حال
 ہوں گے۔

گھوڑا بیانی حلف اسی نسبت مڈو قمبر گھوڑا - المرقوم کا دستخط 23/11/2011


 Faizuddin
 فاتح الرحمن نریلا

 Muhammad Ayaz
 Cash Commissioner


 Muhammad Ayaz
 Cash Commissioner

دعا ہے اور علم کے لئے بھی جو کتا پر بنا دیا ہے
اگلے تاریخ کو میں اسکا ایک حصہ آرڈر کر دوں گی
دیکھو آج میں عزیزی کا نام لیا ہے اور اس کے لئے
لکھنا آج ہی لکھوں گا اسکا قصہ ہے

سید کریم رضا
میرزا کا ایک حصہ اعظم کا
سید کریم رضا کے آج دعا ہے اور اس کے لئے
میرزا کا ایک حصہ اعظم