27/3/2020 Due to COVID-19 the case is adjourned. To come up for the same 23/4/2020 at Camp Court, D.I Khan

Reader

23/4/2020 Due to COVID-19 the case is adjourned. To come up for the same 25/9/2020 at Camp Court, D.I Khan

Reader

The Review Petition filed by the Petitioner dated 25.09.2020 is not available under the law hence learned counsel for the petitioner is withdraw the same.

25.09.2020 Counsel for petitioner present.

Mr. Muhammad Jan learned Deputy District Attorney for respondents present.

Learned counsel for petitioner requested for withdrawal of the present review petition as there is no provision of review before this Tribunal, under the law. In this respect, signature of learned counsel was obtained on the margin of the order sheet.

In view of above, the present review petition is hereby dismissed as withdrawn. No order as to costs. File be consigned to the record room.

Announced.
25.09.2020

(Rozina Rehman)
Member (J)
Camp Court, D.I.Khan

30.01.2020 None present on behalf of the appellant. Mr. Usman Ghani, District Attorney for the respondents present. Notices be issued to appellant and her counsel for attendance and preliminary hearing for 27.02.2020 before S.B at Camp Court D.I.Khan.

(M. Amin Khan Kundi)
Member
Camp Court D.I.Khan

27.02.2020 None present on behalf of the petitioner. Notice be issued to petitioner for attendance for 27.03.2020 before S.B at Camp Court D.I.Khan.

(Muhammad Amin Khan Kundi)
Member
Camp Court D.I.Khan.

26.08.2019 None present on behalf of the petitioner. Notice be issued to petitioner and his counsel for attendance for 23.10.2019 before S.B at Camp Court D.I.Khan. and to come ready for Preliminary argument on the

(Muhammad Amin Khan Kundi)
Member
Camp Court D.I.Khan

23/10/2019 Since tour to D.I.Khan has been cancelled .To come for the same on 28/11/2019.

Reader

28.11.2019 Clerk to counsel for the petitioner and Mr. Ziaullah, Deputy District Attorney for the respondents present. Clerk to counsel for the petitioner requested for adjournment on the ground that learned counsel for the petitioner is not available today due to general strike of the Bar. Adjourned to 30.01.2020 for preliminary arguments before S.B at Camp Court D.I.Khan.

(Muhammad Amin Khan Kundi)
Member
Camp Court D.I.Khan

23.01.2019 Nemo for petitioner. Mr. Farhaj Sikandar, District Attorney for the respondents present.

The original record has not been requisitioned as ordered on 28.12.2018, therefore, instant matter is adjourned to 26.03.2019 before s.B at camp court, D.I.Khan.

Chairman
Camp Court, D.I.Khan

26.03.2019 Counsel for the petitioner present. Mr. Farhaj Sikandar, District Attorney alongwith Mr. Muhammad Imran Shah, Litigation Officer for respondents present. Counsel for the petitioner seeks adjournment. Case to come up for further proceedings on 25.06.2019 before S.B at camp court, D.I.Khan.

Member
Camp Court, D.I.Khan

25.06.2019 Counsel for the petitioner present and requested for adjournment. Adjourned to 26.08.2019 for further proceedings before S.B at Camp Court D.I.Khan.

(Muhammad Amin Khan Kundi)
Member
Camp Court D.I.Khan

26.11.2018 Counsel for the applicant present. Mr. Usman Ghani, District Attorney alongwith Mr. Muhammad Imran Shah, Assistant Litigation and Private respondent No. 5 DEO (F) Lakki Marwat in person present. The review petition was filed against the judgment of this Tribunal, however, on the next date inadvertently notice was issued to the respondents for attendance although the review petition is yet not admitted for regular hearing. To come up for preliminary hearing on 19.12.2018 before S.B at Camp Court D.I.Khan. Respondents are exempted for attendance in the instant appeal till the admission of appeal for regular hearing.

(Muhammad Amin Khan Kundi)
Member
Camp Court D.I.Khan

19.12.2018 As per direction of the worthy Chairman Khyber Pakhtunkhwa Service Tribunal, D.I.Khan tour dated 19.12.2018 has been rescheduled and the case is re-fixed for 28.12.2018.

Reader

28.12.2018 Counsel for the petitioner present. The case was fixed for arguments on review petition. Learned counsel for the petitioner was asked that the review is not applicable under the Khyber Pakhtunkhwa Service Tribunal Act, 1974, but he requested that the original record may be requisitioned thereafter, he will argue the case. To come up for record and preliminary arguments on 23.01.2019 before S.B at Camp Court D.I.Khan. The original record be requisitioned for the date fixed.

(Muhammad Amin Khan Kundi)
Member
Camp Court D.I. Khan

26.04.2018 Tour is hereby cancelled, Therefore the case is adjourned for the same on 30.07.2018 before S.B.

Reader
Camp Court D.I Khan

30.07.2018 None present on behalf of the petitioner. Tour is hereby cancelled. Therefore the Execution is adjourned for the same on 10.09.2018 before S.B.

Reader
Camp Court D.I Khan

10.09.2018 None present on behalf of the petitioner. Mr. Ziaullah, Deputy District Attorney on behalf of the respondents present. Representative of the department is not in attendance therefore, fresh notice be issued to the respondents with the direction to direct the representative to attend the court on the next date positively. Adjourned. To come up for further proceedings on 26.11.2018 before S.B at Camp Court D.I.Khan. Notice be also issued to petitioner as well as her counsel for the date fixed.

(Muhammad Amin Khan Kundi)
Member
Camp Court D.I.Khan

FORM OF ORDER SHEET

Court of _____

Review Petition No. **53/2018**

S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	21/02/2018	The Review Petition submitted by Mst. Bilqees Bibi received to- day by post through Mr. Muhammad Waqar Alam Advocate may be entered in the relevant Register and put up to the Court for proper order please. REGISTRAR
2-	26-2-18	This Review Petition be put up before Touring S. Bench at D.I.Khan on 15-3-2018 CHAIRMAN
	15.03.2018	Counsel for the petitioner present and seeks adjournment. Adjourned. To come up for further proceedings on 28.06.2018 before S.B. (AHMAD HASSAN) MEMBER Camp Court D.I.Khan

BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL CAMP COURT DERA ISMAIL KHAN

Review Petition No. 53 /2018

Mst. Bilqees Bibi **.....(Petitioner)**

VERSUS

Govt; of KPK through Secretary Education Department Peshawar & others.

.....(Respondents)

INDEX

S.NO	PARTICULARS	ANNEXURE	PAGE NO.
1	Grounds of Review Petition alongwith affidavit.	--	1-5
2	Copy of order dated 28/12/2017	--	6-10
3	Wakalatnama		11

Your Humble Petitioner

Mst. Bilqees Bibi
Through counsel

Dated: 20 /02/2018

Muhammad Waqar Alam
Advocate High Court

(1)

BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL CAMP COURT DERA ISMAIL KHAN

Review Petition No. 53 /2018

In Service Appeal No 1348/2014

Mst. Bilqees Bibi daughter of Khaliqdad r/o Basti Ustarana Janubi, Tehsil & District Dera Ismail Khan. Ex SST General posted at GGHS Mahra, District Dera Ismail Khan.

.....(Petitioner)

VERSUS

1. Govt. of Khyber Pakhtunkhwa, through Secretary Education Department Peshawar.
2. Secretary to Govt. of Khyber Pakhtunkhwa, Elementary & Secondary Education Peshawar.
3. Director Elementary & Secondary Education Peshawar.
4. District Education Officer (Female) Dera Ismail Khan.
5. District Education Officer (Female) Lakki Marwat.
6. Deputy Director (Female) Elementary & Secondary Education (F) KPK, Peshawar.
7. District Account Officer, Dera Ismail Khan.
8. Head Mistress/Principal GGHS, Mahra, Dera Ismail Khan.

.....(Respondents)

REVIEW PETITION UNDER SECTION 114 CPC READ WITH ORDER 47 CPC AGAINST ORDER OF THIS HONOURABLE TRIBUNAL DATED 28/12/2017 IN SERVICE APPEAL NO. 1348/2014.

(2)

Respectfully Sheweth:-

BRIEF FACTS:-

1- That the petitioner filed a service appeal No. 1348/2014 titled "Bilqees Bibi Vs. Govt. of KPK" before the honourable Khyber Pakhtunkhwa Service Tribunal with the prayers fully described therein.

2- That on 28/12/2017, this Honourable Tribunal dismissed the service appeal of the petitioner. Copy of order dated 28/12/2017 is enclosed herewith.

3- That the posts in Education Department were advertised by the provincial Govt. including the post of SST General (BPS-16) and the provincial Public Service Commission was pleased to conduct the exam etc and sent the recommendations, the petitioner accordingly applied against the post of SST General (Female) and Public Service Commission declared the petitioner is/was eligible vide letter dated 21/07/2011. Copy of which at page 5 on Judicial File.

4- That thereafter, the Public Service Commission issued a tentative list of candidates wherein name of the petitioner is placed at Serial no. 9. Copy of which is already at Page 6 of Judicial File.

5- That after completing all the codel formalities, the Provincial Public Service Commission sent the recommendations to the Education Department vide notification dated 09/10/2012, the appointment orders of the eight candidates were issued in which the petitioner is appearing at serial no. 3 from Zone-4 and her services were placed at the disposal of EDO E&SE Lakki Marwat for further posting. Copy of notification is at page 11 of Judicial File.

6- That the petitioner submitted arrival reports and started her duties to the entire satisfaction of her

superiors and later on transferred her services from District Lakki Marwat to District Dera Ismail Khan which was accordingly honoured by the competent authority. Copies of which is at Page 14 of Judicial File.

7- That thereafter the salaries of the petitioner were stopped by the respondents and notification dated 09/10/2012 was mysteriously disowned by the Directorate vide which eight number of candidates were appointed and declared the said own notification dated 16/12/2013 vide which the petitioner was transferred from District Lakki Marwat to District D.I.Khan. Annexure-H on Judicial File.

8- That vide order dated 15/07/2014, the DEO (F) D.I.Khan through letter stopped the petitioner not to come to her place of posting and her pay was also stopped as according to DEO her services has been terminated but no formal termination order was issued in response petitioner moved departmental appeal to respondent no. 2 dated 22/07/2014. Copy of which is at Page 16 of Judicial File..

9- That the petitioner filed a service appeal, which was accordingly admitted for regular hearings and the official respondents contested the case by submitting their written replies and thereafter the honourble Tribunal passed impugned order dated 28/12/2017 vide which the service appeal of the petitioner was dismissed. Copy of order dated 28/12/2017 is enclosed herewith.

10- That this honourable court totally ignored the above mentioned facts in its judgment and the petitioner is still deprived from her valuable right. Hence, the case of the petitioner is reviewable.

11- That now aggrieved from the order dated 28/12/2017, the petitioner wants to review the order

of this honourable Tribunal, inter alia, on the following legal grounds.

GROUNDS:

a. That the learned Tribunal while passing the impugned judgment has totally ignored the competency of the petitioner and in this respect the act of official respondents by disowning their own notification is against the natural justice and amounts to miscarriage of justice.

b. That the service appeal of the petitioner is dismissed on only technical grounds because the petitioner is not responsible under the law to provide a number of posts of SST General and merit list among the selected candidates, moreover, by calling from petitioner success letter/letter of recommendation regarding her selection by the Khyber Pakhtunkhwa Public Service Commission by the Tribunal is alien to law because when the petitioner has been appointed vide valid notification along with other seven candidates and thereafter the petitioner served the department to the entire satisfaction of her superiors but at belated stage the department disowned their own orders which becomes passed and closed transactions and the petitioner has accrued valuable rights by dint of time, so, it is clear that the malice on the part of official respondents is very much proved, hence, the service appeal of the appellant is liable to be accepted as prayed for.

c. That there are other legal as well as factual points involved which were not brought before this worthy court and opportunity of arguments to the present petitioner is indispensible for the just decision of the case. Hence, the review of order dated 28/12/2017 is the requirement of law and circumstances as well.

d. That this honourable court has got vast and ample powers and competent jurisdiction to review the order dated 28/12/2017 passed in Service Appeal No. 1348/2014 to the extent of petitioner in the large interest of justice.

e. That any further ground, if needed, will be agitated at the time of arguments.

It is therefore; requested that on acceptance of this petition this Hon'ble Tribunal may very graciously be pleased to reconsider the matter by taking review of the judgment dated 28/12/2017 and the Service Appeal No. 1348/2014 of the petitioner may please be accepted as prayed for and decided afresh in the large interest of justice.

Your Humble Petitioner

Bilqees Bibi

Mst. Bilqees Bibi
Through counsel

Dated: 20/02/2018

Muhammad Waqar Alam
Advocate High Court

AFFIDAVIT

I, **Mst. Bilqees Bibi** d/o Khaliqdad r/o Basti Ustarana Janubi, Tehsil & District Dera Ismail Khan, the petitioner, do hereby solemnly affirm and declare on oath that contents of the petition are true and correct to the best of my knowledge and that nothing has been concealed from this Hon'ble Court.

20/2/2018

DEPONENT
Bilqees Bibi

(6)

Sr. No	Date of order/ proceedings	Order or other proceedings with signature of Judge or Magistrate
1	2	3

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL AT CAMP COURT D.I.KHAN

Appeal No. 1348/2014

Date of Institution ...06.11.2014
Date of Decision ... 28.12.2017

Mst. Bilqees Bibi D/o Khaliq Dad R/o Basti Ustrana Janubi Tehsil and District D.I.Khan. **Appellant**

1. The Government of Khyber Pakhtunkhwa through Chief Secretary Khyber Pakhtunkhwa, Peshawar.
2. Secretary to Government of Khyber Pakhtunkhwa, Elementary and Secondary Education Department, Peshawar.
3. Director of Elementary & Secondary Education Department, Peshawar
4. District Education Officer (Female), D.I.Khan.
5. District Education Officer(Female), Lakki Marwat.
6. Deputy Director (Female), Elementary and Secondary Education Khyber Pakhtunkhwa, Peshawar.
7. District Accounts Officer, D.I.Khan.
8. Headmistress/Principal Government Girls High School Marlia, D.I.Knan

Respondents

28.12.2017

JUDGMENT

MUHAMMAD HAMID MUGHAL, MEMBER: -

Learned counsel for the appellant and Mr. Farhaj Sikandar, Learned Deputy District Attorney on behalf of the respondents present.

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

7

Appellant has filed the present service appeal against the respondents wherein she made impugned order dated 15.07.2014 vide which her appointment order dated 09.10.2012 as S.S.T General was disowned and her appointment was declared suspicious/fake and bogus.

2. Learned counsel for the appellant contended that the appellant was selected by the Khyber Pakhtunkhwa Public Service Commission for the post of SST General and consequently the appellant was appointed as SST General in BS- 16 vide order dated 09.10.2012, issued by Director of Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar and the appellant performed her service as SST General in District Lakki Marwat and District D.I.Khan. Further argued that vide impugned order dated 15.07.2014 the appointment order of appellant dated 09.10.2012 was disowned being suspicious/fake and bogus. Further argued that the appellant has been deprived from her service without any inquiry and show cause notice hence the impugned order is illegal. Further argued that the appointment order of appellant dated 09.10.2012 was validly issued. Further argued that the

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

(8)

appellant was appointed on merit. Learned counsel for the appellant stressed for setting aside the impugned order and reinstatement of the appellant.

3. As against that learned Deputy District Attorney while opposing the present appeal argued that the appellant was not selected by the Khyber Pakhtunkhwa Public Service Commission for the post of SST General against the vacant posts. Further argued that appointment order of the appellant is fake and bogus. Further argued that upon the inquiry as conducted by the Anti-Corruption Department the appointment of the appellant was also found fake and bogus. Further argued that no departmental appeal was preferred against the impugned order hence the present appeal is otherwise not maintainable. Further argued that the original appointment order of the appellant was fake and bogus hence the subsequent posting/transfer orders of the appellant has also had no legal effect. Further argued that the appellant entered into service through fake and bogus appointment order hence she is not civil servant and as such the present appeal is not entertainable.

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

(9)

4. Arguments heard. File perused.

5. The appellant has neither disclosed in her appeal that how many posts of SST General were advertised nor furnished her order of merit amongst the selected candidates. The appellant has also not submitted any success letter/letter of recommendation regarding her selection by the Khyber Pakhtunkhwa Public Service Commission nor produced notification of Khyber Pakhtunkhwa Public Service Commission vis a vis recommendation/selection of appellant for the post of SST General. It is also not the plea of appellant that the relevant necessary documents as mentioned above are in her possession or she can produce the same before the court upon procuring the copies thereof under the law. The appellant has not arrayed the department of Khyber Pakhtunkhwa Public Service Commission in the calendar of respondents. In the given circumstances the appellant has not been able to substantiate her case that she was recommended/selected by the Khyber Pakhtunkhwa Public Service Commission for appointment as SST General against vacant posts and bitterly failed to refute the stance

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

(10)

of respondents, rather the appellant has based her case merely on the technical grounds. Nothing convincing is available on file to suggest that the departmental appeal was indeed submitted before the appellate authority.

6. In the light of above discussion this Tribunal is constrained to hold that the appellant has not been able to seek indulgence of this Tribunal. Consequently the present appeal is dismissed. Parties are left to bear their own costs. File be consigned to the record room after its completion.

Announced
28-12-2017

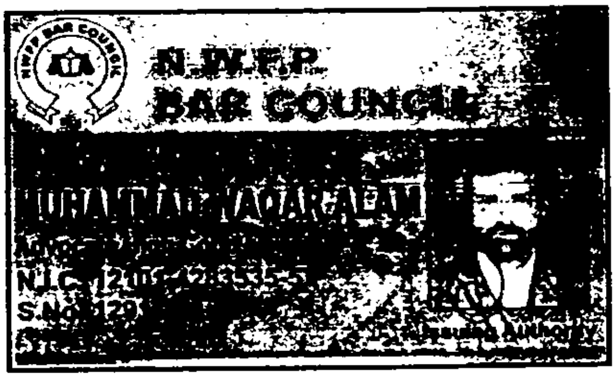
Sd/- M. Hamid Mughal
Member
Camp Court D.I.Khan

Sd/- M. Amin Khan Kundi
Member

Certified to be ture copy
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Date of Presentation of Application 17-01-2018
Number of Words 2580
Copying Fee 12
Urgent 2
Total 14
Name of Copyist
Date of Completion of Copy 17-01-18
Date of Delivery of Copy 17-01-18

وکالت نامہ



Father's Name: MUHAMMAD KHURSHID ALAM
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Enrolment Dt. L.C 28-05-2007
Enrolment Dt. H.C. 03-10-2009
Place of Practice D.I.KHAN
Date of Birth: 15-04-1982
Blood Group:

N.W.F.P. BAR COUNCIL
1st Floor G-Block, Khyber Road Peshawar. Ph. 091-9211172
E-mail: nwfpbarcouncil@hotmail.com

بعدالت جناب KHYBER PAKHTUNKHWA SERVICE APPEAL PESHAWAR.

منجانب PETITIONER

Balqees Bibi بنام Govt. of KPK etc

دعوئ یا جرم

تفصیل دعوئ یا جرم Review Petition.

باعث تحریر آنکہ

مقدمہ مندرجہ بالاعنوان میں اپنی طرف واسطے پیروی وجوابدہی برائے پیشی یا تصفیہ مقدمہ بمقام کیلئے

محمد وقار عالم ایڈووکیٹ ہائی کورٹ

کوحسب ذیل شرائط پر وکیل مقرر کیا ہے، کہ میں ہر پیشی پر خود بذریعہ مختیار خاص روبرو عدالت حاضر ہوتا رہوں گا۔ اور ہر وقت پکارے جانے مقدمہ وکیل صاحب موصوف کو اطلاع دیکر حاضر عدالت کروں گا، اگر پیشی پر مظہر حاضر نہ ہوا۔ اور مقدمہ میری غیر حاضری کی وجہ سے کسی طور پر میرے برخلاف ہوگیا۔ تو صاحب موصوف اسکے کسی طرح ذمہ دار نہ ہوں گے، نیز وکیل صاحب موصوف صدر مقام کچہری کے علاوہ کسی جگہ یا کچہری کے اوقات سے پہلے یا پیچھے یا بروز تعطیل پیروی کرنے کے ذمہ دار نہ ہوں گے۔ نیز وکیل صاحب موصوف صدر مقام کچہری کے علاوہ کسی جگہ یا کچہری کے اوقات سے پہلے یا پیچھے یا بروز تعطیل پیروی کرنے کے ذمہ دار نہ ہوں گے۔ اور مقدمہ صدر کچہری کے علاوہ اور جگہ سماعت ہونے یا بروز تعطیل یا کچہری کے اوقات کے آگے پیچھے پیش ہونے پر مظہر کو کوئی نقصان پہنچے تو اس کے ذمہ دار یا اس کے واسطے کسی معاوضہ کے ادا کرنے یا محنتانہ واپس کرنے کے بھی موصوف ذمہ دار نہ ہوں گے۔ مجھ کو کل ساختہ پرداختہ صاحب موصوف مثل کردہ ذات خود منظور وقبول ہوگا۔ اور صاحب موصوف کو عرضی دعوئ، یا جواب دعوئ یا درخواست اجرائے ڈگری ونظر ثانی اپیل نگرانی وہر قسم درخواست پر دستخط وتصدیق کرنے کا بھی اختیار ہوگا۔ اور کسی حکم یا ڈگری کرانے اور ہر قسم کا روپیہ وصول کرنے اور رسید دینے اور داخل کرنے اور ہر قسم کے بیان دینے اور اس پر ثالثی یا راضی نامہ وفیصلہ بر حلف کرنے، اقبال دعوئ کا بھی اختیار ہوگا۔ اور بصورت مقرر ہونے تاریخ پیشی مقدمہ مذکورہ بیرون از کچہری صدر پیروی مقدمہ مذکورہ نظر ثانی واپیل ونگرانی وبرآمدگی مقدمہ یا منسوخی ڈگری یکطرف یا درخواست حکم امتناعی یا قرقی یا گرفتاری قبل از فیصلہ اجرائے ڈگری بھی صاحب موصوف کو بشرط ادائیگی علیحدہ محنتانہ پیروی کا اختیار ہوگا اور تمام ساختہ پرداختہ صاحب موصوف مثل کردہ ذات خود منظور وقبول ہوگا۔ اور بصورت ضرورت صاحب موصوف کو یہ بھی اختیار ہوگا کہ مقدمہ مذکورہ یا اسکے کسی جزو کی کاروائی یا بصورت درخواست نظر ثانی اپیل یا نگرانی یا دیگر معاملہ مقدمہ مذکورہ کسی دوسرے وکیل یا بیرسٹر کو اپنے بجائے یا اپنے ہمراہ مقرر کریں۔ اور ایسے مشیر قانون کو بھی ہر امر میں وہی اور ویسے اختیارات حاصل ہوں گے، جیسے صاحب موصوف کو حاصل ہیں، اور دوران مقدمہ میں جو کچھ ہرجانہ التواء پڑیگا، وہ صاحب موصوف کا حق ہوگا۔ اگر صاحب موصوف کو پوری فیس تاریخ پیشی سے پہلے ادا نہ کروں گا۔ تو صاحب موصوف کو پورا اختیار ہوگا کہ وہ مقدمہ کی پیروی نہ کریں اور ایسی صورت میں میرا کوئی مطالبہ کسی قسم کا صاحب موصوف کے برخلاف نہیں ہوگا۔

لہذا وکالت نامہ لکھدیا ہے۔ تاکہ سند رہے

مورخہ ____ ماہ ____ 201

مضمون وکالت نامہ سن لیا ہے۔ اور اچھی طرح سمجھ لیا ہے اور منظور ہے۔

العبد ____ العبد ____ العبد ____

Bilqees Bibi

18

محمد وقار عالم ایڈووکیٹ ہائی کورٹ