

S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
	01.02.2016	<p style="text-align: center;"><u>KHYBER PAKHTUNKHWA SERVICE TRIBUNAL.</u> <u>CAMP COURT SWAT.</u></p> <p style="text-align: center;">APPEAL NO. 836/2015</p> <p style="text-align: center;">(Asim Khan-vs- District Education Officer (Female) District Malakand at Batkhela and others).</p> <p><u>JUDGMENT</u></p> <p><u>ABDUL LATIF, MEMBER:</u></p> <p>Appellant with counsel and Mr. Muhammad Zubair, Sr. G.P for respondents present.</p> <p>2. The instant appeal has been filed by the appellant under Section-4 of KPK Service Tribunal Act, 1974 against the office order dated 07.04.2015 issued by respondent No.1 whereby the office order dated 19.11.2014 was cancelled to the extent of appointment of the appellant. He prayed that on acceptance of this appeal the impugned office order dated 07.04.2015 of respondent No.1 may kindly be set aside being illegal, arbitrary, and without lawful justification. The respondents may also be graciously, directed to release the outstanding and onward salaries alongwith all of the ancillary benefits to the appellant.</p> <p>3. Brief facts giving rise to the instant appeal are that the appellant was appointed as Chowkidar at Govt: Girls Primary School Zahirabad, Batkhela District Malakand against the substantive vacancy by the respondent No.1 after observing all the prescribed codal formalities and the required procedure vide letter/appointment order dated 19.11.2014. That having taken over the charge the</p>

appellant was performing his duties. However, meanwhile, at the utter surprise of the appellant his appointment order was cancelled, by respondent No.1 vide impugned cancellation order, without any lawful justification and observing the necessary legal requirements for the cancellation. That on coming to know about the said cancellation the appellant made a departmental representation/appeal dated 08.04.2015 to respondent No.2 by way of registered post. For necessary action the copy whereof was also sent to the respondent NO.3 further, the respondent No. 1 was also delivered with a copy of the same which was not responded within the statutory period, hence the instant present appeal.

4. Learned counsel for the appellant argued that the impugned cancellation order of the appointment of the appellant was illegal, arbitrary, without lawful authority and jurisdiction and was void ab-initio therefore not maintainable. He further argued that the appellant was appointed amongst others as Chowkidar on 19.11.2014 after fulfillment of all the requirement as prescribed under the law. He further argued that the appellant was declared medically fit, assumed the charge of his post and performed duties but all of a sudden the order of his appointment was cancelled on 07.04.2015 without any rhyme or reason. He further contended that no charge sheet or show cause was served on the appellant nor was any enquiry conducted before passing of the impugned order and added that the appellant was not given opportunity of personal hearing and as such was condemned unheard. He contended that principles of natural justice were not adhered to and prayed that on acceptance of this appeal the impugned order may be set aside and appellant maybe reinstated in service with all back benefits including the payment of salary for the period he

A.F.I.

remained out of service.

5. The learned Sr. GP resisted the appeal and argued that appointment order of the appellant dated 19.11.2014 was withdrawn by the competent authority due to family conflict of the appellant and a claim of another family member over the relevant post. He further contended that the appellant was under the probation for a period of two years and had performed only for five months hence competent authority was justified to withdraw the orders of his appointment within the probation period without serving any notice on him. He further argued that a Writ Petition in Dar-ul-Qaza, Swat instituted by one of the kinship of the appellant was still pending adjudication by the august High Court Bench, Swat. He prayed that the appeal being devoid of any merits may be dismissed. The learned counsel for the appellant in rebuttal stated that a Writ Petition as stated by the learned Sr.GP was pending in the Peshawar High Court, Swat Bench but the petitioner was not pressing for a decision on the same and the same could not be hurdle in the way of decision in the instant appeal.

6. We have heard arguments of the learned counsel for the appellant as well as learned Senior Government Pleader for respondents and perused the record.

7. From perusal of the record it transpired that appointment order of the appellant dated 19.11.2014 was cancelled by the competent authority vide impugned order dated 07.04.2015. The same orders were however passed in blatant violation of the law, rules and norms of justice as the appellant was not given any show cause notice nor was he given opportunity of proper defense. Furthermore he was not

given opportunity of personal hearing and as such was condemned unheard which action of the respondents was against the law, the rules and the principle of natural justice as well. In the circumstances, the Tribunal is constrained to indulge in the case, the impugned order is therefore set aside and the appellant is reinstated in service. The competent authority is however at liberty to initiate fresh proceedings against the appellant but strictly in accordance with law and rules by providing him full opportunity of defense. The proceedings shall be completed within sixty days of the receipt of this judgment. The question of back benefits of the intervening period shall be decided as per rules in vogue. Parties are left to bear their own costs. File be consigned to the record.


(MUHAMMAD AZIM KHAN AFRIDI)
CHAIRMAN


(ABDUL LATIF)
MEMBER

ANNOUNCED
01.02.2016

8.12.2015

Appellant in person and Mr. Bashir Ahmad, Headmaster alongwith Mr. Amir Qadir, G.P for respondents present. Comments submitted. The appeal is assigned to D.B for rejoinder and final hearing for 01.2.2016 at Camp Court Swat. The restraint order shall continue.


Chairman
Camp Court Swat


7.9.2015

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant was appointed as Chowkidar in Education Department vide appointment order dated 19.11.2014 and that on the basis of the same he resumed charge on 20.11.2014 where-after his service book was prepared and appellant performed his duties when vide impugned order dated 7.4.2015 the appointment order of the appellant was unilaterally cancelled against which he submitted departmental representation dated 8.4.2015 on 14.4.2015 which was not responded and hence the instant service appeal on 27.7.2015.

That no opportunity of hearing was afforded to the appellant nor any lawful justification available for unilaterally terminating the services of the appellant.


Points urged need consideration. Admit. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply/comments for 2.11.2015 before S.B at Camp Court Swat. Notice of application be also issued for the date fixed. Till further orders no other person be appointed against the vacancy against which the appellant was serving.

Amount Deposited
Security & Process Fee
35/-


Chairman
Camp Court Swat

2.11.2015




Appellant in person and Mr.Bashir Ahmad, Headmaster alongwith Mr.Muhammad Zubair, Sr.GP for respondents present. Written reply not submitted. Requested for adjournment. To come up for written reply/comments on 8.12.2015 before S.B at Camp Court Swat. The restraint order shall continue.


Chairman
Camp Court Swat

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 836 /2015

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	27.07.2015	<p>The appeal of Mr. Asim Khan resubmitted today by Mr. Muhammad Yar Melazai Advocate may be entered in the Institution register and put up to the Worthy Chairman for proper order.</p> <p style="text-align: right;"> REGISTRAR</p>
2	28 → - 15	<p>This case is entrusted to Touring Bench Swat for preliminary hearing to be put up thereon <u>03-8-15</u></p> <p style="text-align: right;"> CHAIRMAN</p>
3.	03.8.2015	<p>None present for appellant. Notice to counsel for the appellant be issued for preliminary hearing for 7.9.2015 before S.B at camp court Swat.</p> <p style="text-align: right;"> Chairman Camp Court Swat</p>

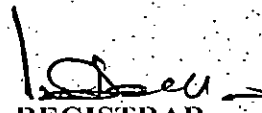
This is an appeal filed by Mr. Asim Khan today on 07/05/2015 against the order dated 07.04.2015 against which he preferred/made a departmental appeal on 08.04.2015 the period of ninety days is not yet lapsed as per section 4 of the Khyber Pakhtunkhwa Service Tribunal Act 1974, which is premature as laid down in an authority reported as 2005-SCMR-890.

As such the instant appeal is returned in original to the appellant/counsel. The appellant would be at liberty to resubmit fresh appeal after maturity of cause of action and also removing the following deficiencies:-

- 1- Addresses of the parties be submitted in proper format.
- 2- Annexures of the appeal may be attested.
- 3- Six more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal

No. 687/ST

Dt. 8/5/2015


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Muhammad Yar Malezai Adv.
High Court Swat

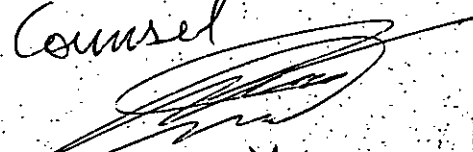
Re-institution of the appeal &
Removal of the deficiencies

R/Siv

The appeal accompanied herewith is to be submitted after removing the objections / the deficiencies

Appellant Asim Khan
Asim Khan

Through Counsel


Muhammad Yar
(Malezai) Advocate

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR

Service Appeal No. 836 /2015.

Asim Khan

VS

D.E.O (F) and Others

INDEX

S#	Description of documents	Annexur e	Pages
1	Memo of service Appeal		A-3
2	Misc. Application for suspension of the impugned cancellation order along with affidavit		4,5
3	Memo of Parties & their Addresses		5A
4	Copy of the appointment order dated 19/11/2014	A	6
5	Copies of the charge report and the extracts from the service book	B	7-10
6	Copy of the impugned cancellation order dated 07/04/2015	C	11
7	Copy of the representation/Appeal	D	12,13
8	Copies of Postal receipts	E	14
9	Other documents		15
10	Wakalatnama		16

Appellant

Asim Khan

Asim Khan

Through Counsel

Muhammad Yar
Muhammad Yar (Malezai)
ADVOCATE HIGH COURT
Office: Room # B-3, Azeem Khan
Plaza, Makanbagh, Mingora, Swat.
Cell# 0346-9390186

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR

Service Appeal No. 836 /2015.

A.W.F. Province
Service Tribunal
Diary No. 462
Dated 07-5-2015

Asim Khan S/o Muhammad Zahir (Chowkidar GPS Zahira
Abad, Batkhela District Malakand) resident of village Agra,
Batkhela, District Malakand.Appellant

VERSUS

- (1) District Education Officer (Female) District Malakand
At Batkhela,
- (2) Director Education Department Khyber Pakhtunkhwa
At Peshawar,
- (3) Secretary to Govt. of Khyber Pakhtunkhwa Education
Department at Peshawar,
- (4) Khyber Pakhtunkhwa through Secretary Education
Govt. of Khyber Pakhtunkhwa at Peshawar.
.....Respondents

APPEAL UNDER SECTION 4 OF KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AND
ALL OTHER ENABLING PROVISIONS OF LAW AGAINST
THE OFFICE ORDER DATED 07/04/2015 ISSUED BY THE
RESPONDENT NO.1 WHEREBY THE OFFICE ORDER
HAVING ENDST NO. 5061-68 DATED 19/11/2014 WAS
CANCELLED TO THE EXTENT OF APPOINTMENT OF THE
APPELLANT.

Prayer:

On acceptance of the present appeal the impugned
office order dated 07/04/2015 of the respondent No.1 may
kindly, be set aside being illegal, arbitrary, and without
lawful justification.

The respondents may also be, graciously, directed to
release the outstanding and onward salaries along with all
of the ancillary benefits to the appellant.

Respectfully Sheweth,

Brief relevant facts giving rise to the instant appeal are as
follows:

1. That the appellant was appointed as chowkidar at Govt.
Girls Primary School Zahirabad, Batkhela District
Malakand against the substantive vacancy by the
respondent No.1 after observing all the prescribed codal
formalities and the required procedure vide
letter/appointment order bearing Endst. No. 5061-

Submitted to-
ed.

2/5/15

2

68/Rectt:/Class-IV dated 19/11/2014 at its serial No.6. **(Copy of the appointment order is Annexure "A").**

2. That having taken over the charge the appellant was performing his duties with full zeal and zest to the entire satisfaction of his superiors and never had any complaint ever voiced against him by any person. However, meanwhile, at the utter surprise of the appellant his above noted appointment order was cancelled, by the respondent No.1 vide the impugned cancellation order, without any lawful justification and observing the necessary legal requirements for the cancellation. **(Copies of the charge report and the extracts from the service book are Annexure "B" and the impugned cancellation order is Annexure "C").**
3. That on coming to know about the said cancellation the appellant made a departmental representation / appeal dated 08/04/2015 to the respondent No.2 by way of registered post. For necessary action the copy whereof was also sent to the respondent No.3 further, the respondent No.1 was also delivered with a copy of the same. But this representation / appeal is yet to be replied by any of the respondents. **(Copy of the representation/Appeal is Annexure "D" and postal receipts are Annexure "E").**
4. That feeling aggrieved from the impugned cancellation and the action / inaction of the respondents the appellant prefers the instant appeal to this Honorable Tribunal, inter alia, on the following grounds:

Grounds:

- I. That the impugned cancellation order and action / inaction of the respondents is illegal, arbitrary, without lawful authority and jurisdiction, and is vide ab initio. Therefore not maintainable on whatsoever grounds.
- II. That the appellant was duly appointed after complying with all of the prescribed requirements and the codal formalities who, after taking over the charge was performing his duties and discharging his functions up to the full satisfaction of his superiors and there has been voiced no complaint by any person against him. He is having a track record of his service without any adverse remarks from his superiors. Hence in this state of affairs the cancellation of the appointment of the appellant is baseless, ill founded and having no backing of law. It is also against the rules and the principle of locus poenitentiae.

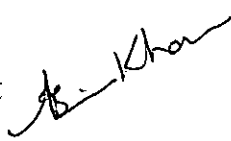
- III. That neither the appellant has been given any notice or show cause nor given any opportunity of personal hearing and as such against the principals of natural justice the appointment of the appellant has been cancelled without giving any reason or justification therefor.
- IV. That the impugned act /cancellation of the appointment order by the respondent department is the illegal treatment meted out to the appellant which is not warranted by any concept of justice. The same is also based on mala fide reasons for ulterior motives.
- V. That the cancellation is neither in the exigency of service nor in public interest, but its politically motivated only to benefit there blue eyed one the person of political influence.
- VI. That the cancellation in question is whimsical, capricious and founded on surmises and conjectures. It is an act of high handedness and the misuse rather the abuse of the authority and of the public office as well.
- VII. That further grounds with the leave of this Honorable Tribunal/ Court will be raised at the time of hearing.

In view of the above submissions, it is therefore most humbly prayed before this Honorable Tribunal/Court that on acceptance of the present appeal the impugned office order dated 07/04/2015 of the respondent No.1 may kindly be set aside to be illegal, arbitrary, and without lawful justification.

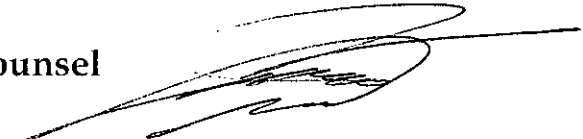
The respondents may also be, graciously, directed to release the outstanding and onward salaries along with all of the ancillary benefits to the appellant.

Any other relief, though not specifically prayed for, which is deemed fit and appropriate in the circumstances may also be kindly granted.

Appellant


Asim Khan

Through counsel


Muhammad Yar (Malezai)
ADVOCATE HIGH COURT
Office: Room # B-3, Azeem
Khan Plaza, Makanbagh,
Mingora, Swat.
Cell# 0346-9390186

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR

Misc.Application No. _____/2015

IN

Service Appeal No. _____/2015.

Asim Khan

VS

D.E.O (F) & Others

APPLICATION FOR SUSPENSION OF THE OPERATION OF
THE IMPUGNED CANCELLATION ORDER AND
MAINTAINING STATUS QUO

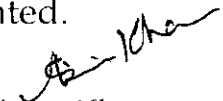
Respectfully Sheweth,

1. That the above titled appeal is accompanied with the present application which has not been fixed so far.
2. That prima facie there is strong case in favor of the appellant while the balance of inconvenience is also lying in his favor.
3. That if the respondent was not restrained from the appointment of any person on the subject of the impugned order and so the status quo was not maintained, the applicant / appellant will suffer from serious irreparable injury and loss.

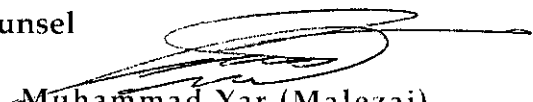
It is therefore very humbly prayed that on acceptance of the present application the operation of the cancellation order impugned in the above titled writ petition may kindly be suspended and the respondents may be directed to maintain the status quo regarding the subject post till the final disposal of the said appeal. Further the respondents may also be directed to release all of the outstanding salaries and other ancillary benefits to the applicant/appellant.

Any other relief, though not specifically prayed for, which is deemed fit and appropriate in the circumstance may also be graciously granted.

Applicant


Asim Khan

Through counsel


Muhammad Yar (Malezai)
ADVOCATE HIGH COURT
Office: Room # B-3, Azeem
Khan Plaza, Makanbagh,
Mingora, Swat.
Cell# 0346-9390186

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR

Misc. Application No. _____/2015

IN

Service Appeal No. _____/2015.

Asim Khan

VS

D.E.O (F) & Others

APPLICATION FOR SUSPENSION OF THE OPERATION OF THE IMPUGNED
CANCELLATION ORDER AND MAINTAINING STATUS QUO

AFFIDAVIT

(Of Asim Khan S/o Muhammad Zahir, the applicant / appellant)


It is hereby solemnly affirm & declare on oath that the contents of the above titled application are true & correct to the best of my knowledge & belief.

Deponent


ASIM KHAN

CNIC# 15402-1725089-7

Identified by


Muhammad Yaqub
(Malezai) Advocate

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR.

Service Appeal No. _____/2015.

Asim Khan

V/S

D.E.O (F) and others

MEMO OF PARTIES AND THEIR ADDRESSES

Petitioners and their address:

Asim Khan S/o Muhammad Zahir (Chowkidar GPS
Zahir Abad, Batkhela District Malakand)
resident of village Agra, Batkhela, District Malakand.

CNIC# 15402-1725089-7

Cell#

Respondents and their addresses:

- (1) District Education Officer (Female) District Malakand
At Batkhela,
- (2) Director Education Department Khyber Pakhtunkhwa
At Peshawar,
- (3) Secretary to Govt. of Khyber Pakhtunkhwa Education
Department at Peshawar,
- (4) Khyber Pakhtunkhwa through Secretary Education
Govt. of Khyber Pakhtunkhwa at Peshawar.

Petitioner

Through counsel

Muhammad Yar (Malezai)

ADVOCATE HIGH COURT

Office: Room # B-3, Azeem
Khan Plaza, Makanbagh.

Mingora, Swat.

Cell# 0346-9390186

Anex. A

OFFICE OF THE DISTRICT EDUCATION OFFICER (FEMALE) MALAKAND AT BIK

APPOINTMENT

Consequent upon the recommendation of the Departmental Selection Committee Malakand, in its meeting held on 28-10-2014 The undersigned has been pleased to approve and appoint the following Class-IV Servant in BPS-I (Rs-1800-150-9300) plus usual allowances as admissible to them under the rules on regular basis, from the date of their taking over charge with the following terms and conditions.

S.N.	Name & Father/Husband Name	Appointed as	Name of School	Remarks
1.	Farzana W/O Luq Khan Vill: & P.O Sakhakot	L/Attendant	GGHSS Sakhakot	Against the Vacant post.
2.	Mohammad Iqbal S/O Mohammad Amin-u-Din, Vill: & P.O Sakhakot Jarai	N/Qasid.	GGMS Jarai S.Kot	Newly Created post
3.	Asid Zia S/O Mohammad Amin-u-Din Vill: & P/O Sakhakot Jarai	Sweeper	GGMS Jarai S.Kot	Newly Created post
4.	Mautawakil S/O Malak Noor Vill: & P/O Dheri Kot	Chowkidar	GGPS Dheri Kot	Against the Vacant post.
5.	Anila Sadiq W/O Ayub Masch Vill: & P/O Malakand Khas	Sweeper	GGHS Malakand	Against the Vacant post.
6.	Asim Khan S/O Mohammad Zhir Vill: & P/O Agra	Chowkidar	GGPS Zahir Abad	Against the Vacant post.
7.	Mahbub Ali S/O Ali Rehman Vill: & P/O Jabban	N/Qasid.	GGMS Jabban	Newly Created post
8.	Shah Neela W/O Sajad Ali Vill: & P/O Jabban	Sweeper	GGMS Jabban	Newly Created post

TERMS AND CONDITIONS

1. His/her service will be considered regular and will be entitled to the benefits as provided under Section 19(1) (2) (3) and (4) substituted under Section 2 of the Khyber Pakhtunkhwa Civil Servants (Amendment) Act, 2013.
2. He/she shall be on probation for the period of 2 years which is extendable to one year more.
3. His/her service will be liable to termination on one month's notice from either side. In case of resignation without notice, his one month's pay/allowances shall be forfeited to government.
4. The appointee should join his/her posts within 15 days of the issuance of this order, failing which the order shall stand automatically cancelled.
5. He/she is required to produce health and age certificate from the Medical superintendent, D/O Hospital, Bakhela, Malakand.
6. He/she should not be handed over Charge if his age exceeds 40 years or below 18 years vide Govt. of Khyber Pakhtun Khwa Establishment Department Notification NO.SOE-III (E&AD) 2-5/2014 dated 08-09-2014.
7. He/she will be governed by such rules and regulation as may be issued from time to time by the Government.
8. Charge report should be submitted to all concerned.

(MST:RABBIA BIBI)
DISTRICT EDUCATION OFFICER
(FEMALE) MALAKAND AT BAKHELA

Enclst No. 5061-68 /Recit./Class-IV/ dated Bakhela the 19/11/2014.

Copy forwarded to:-
1. The Director E&SE Khyber Pakhtun Khwa Peshawar.
2. The Principals/Head Mistresses concerned.

Annex B

چارج رپورٹ
(جی بی ایس آئی)

7

مطالبہ آرڈر نمبر 68-5061 بتاریخ 2014-11-19

از آمد ڈسٹرکٹ ایجوکیشن آفیسر صاحب، رٹائنڈ ملازمین ایس بیٹھ

ملازمین ایس بیٹھ، آج بتاریخ 2014-11-20

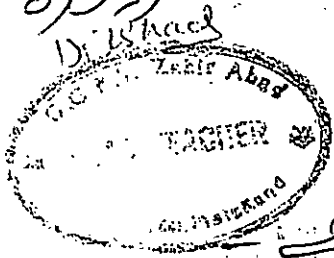
قبل از دوپہر میں مسٹر عاصم خان ولد محمد ظاہر کے

جی بی ایس آئی میں بحیثیت چوکیدار گورنمنٹ پرائمری

سکول ظاہر آباد میں ایک عہدے کا چارج

سنبھال لیا ہے۔

چارج گریڈ



چارج دہنڈہ
As Khan

لغویہ برائے فروغ کارروائی و ارسال فرمیت ہے

1. ڈسٹرکٹ ایجوکیشن آفیسر صاحب، رٹائنڈ ملازمین ایس بیٹھ

2. ایس بیٹھ (رٹائنڈ) ملازمین ایس بیٹھ

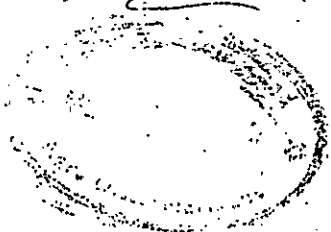
3. ڈسٹرکٹ ایجوکیشن آفیسر ملازمین

4. ایس بیٹھ (رٹائنڈ) ملازمین

5. متعلقہ بیڈ ٹیچر

دستیخطیہ

As Khan



At:
(Super Intendant)
SDEO(F) Batkhal

①

Note: The entries on this page should be re-newed or re-attested at least every five years and the signature to lines 9 and 10 should be dated.

②

1. Name: Asim Khan

2. Race: Muslim / Pakistani

3. Residence: village and P.O. Agra Mahallah Zamri
Kandora Agra.

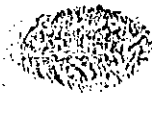




4. Father's Name and residence: Muhammad Zahir

5. Date of birth by Christian era as nearly as can be ascertained: 30-03-1989
Thirty March, N.H., Eighty Nine)

6. Exact height by measurement: 5-18

7. Personal marks for identification: NIL

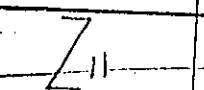
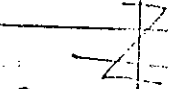
8. Left hand thumb and Finger impression of (Non-Gazetted) officer:

Little Finger:		Ring Finger:	
Middle Finger:		Fore Finger:	
Thumb:			

9. Signature of Government Servant: Asim Khan

10. Signature and designation of the Head of the officer, or other Attesting Officer: ZI AH
S.D.E.O (Female)
Batkrola

G
(Super Intendant)
SDEO(F) Batkrola

9	10	11	12	13		14	15
Signature and Designation of the head of the office or other attesting officer in attesting of columns 1 to 8	Date of termination or appointment	Reason of termination (such as promotion, transfer, dismissal, etc)	Signature of the head of the office or other attesting officer	Leave		Signature of the head of the office or other attesting officer.	Reference to any recorded punishment or censure, or reward or praise of the Government servant
				Nature and duration of leave taken	Allocation of period of leave on average pay upto four months for which leave salary is debitable to another Government		
				Period	Government to which debitable		
 S.D.E.O. (Female) Bathinda					Appointed as Chief Clerk in BPS-I (A. 4800-150-9300)		
					plus usual allowances at GGS 2 nd Min Actual Agro.		
					vide DDO (F) MCDI at BTR Office order No. 5061-68		
					dt 19-11-2019.		
						 S.D.E.O. (Female) Bathinda	
					T343 8/11/15	P.A. dt 60810- Dect 1832-	
						M.A. dt 18978/- pay + 15% 20 ¹¹ / ₁₄ 31 ³ / ₁₅	
						DDO 49/11/15	
						Att:	
						(Superintendent) SDEO (F) Bathinda	

Annex. C

TO BE SUBSIUATE BEARING THE SAME NO. & DATE

11



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

Telephone No. 0932-410283
E-mail: emismalakand@yahoo.com

OFFICE ORDER.

Consequent the appointment order issued vide this Office Endst: NO. 5061-68, dated 19-1-2014 at S.NO.6 Mr:Asim Khan S/O Mohammad Zahir Village & P/O Agra appointed as Chowkidar Is hereby cancelled and the same post will be filled in the next DSC meeting and the selection will be made on pure merit bases.

(MISS:RABBIYBIBI)
DISTRICT EDUCATION OFFICER
(FEMALE) MALAKAND AT BATKHELA

Endst: NO. 958-56 / Appointment/Class-IV/ dated Batkhela the 07/09/2015.

Copy forwarded to:-

1. The District Accounts Officer Malakand.
2. The Budget & Accounts Officer-Local Office.
3. The SDEO(Female) Malakand at Batkhela.
4. The teachers concerned.

DISTRICT EDUCATION OFFICER
(FEMALE) MALAKAND AT BATKHELA

Faridoon Khan/D.A.

OFFICE OF THE DISTRICT EDUCATION OFFICER (FEMALE) MALAKAND AT BATKHELA

T/C

محمد یار (میلزنی)
یڈواریٹ

حکومت جناب ڈائریکٹر ضلعی ایجوکیشن ضلع مظفر آباد

مخبر: 1۔ ایل اے کالنی وزارت آرٹس

2۔ جی پی اس نظام آباد (انٹرن) ضلع مظفر آباد

dated 8-4-2015

جناب عالی! گزارش حسب ذیل ہے۔

چونکہ سائیل ہر لحاظ سے ایل بیوکر حسب ضابطہ اور قانون

ڈسٹرکٹ سلیکشن کمیٹی نے موزوں یا کر جسکی سفارش پر

ہوئے حکم لغتائی نمبرہ 19/2014 گورنمنٹ گرنرز پرائمری سکول

ظاہر آباد تحصیل ٹھیکہ ضلع مظفر آباد کی درجہ چارج (جو کبھی)

کی عالی آسامی پر بھرتی کروایا گیا۔

لیکن حیرت انگیز طور پر بعد میں ڈسٹرکٹ ایجوکیشن آفیسر

ملاکنڈ نے مذکورہ بھرتی حکم نامہ ہونے حکم نمبرہ 07/2015

کیٹل کروایا۔

سائیل نے بھرتی ہو کر مذکورہ سکول پر ڈیوٹی کی چارج لیکن

بغیر کسی توقف کے مسلسل خوسا ایل بی سے اپنی فرائض منصبی

ادا کرتا رہا۔ اور اندر میں حالات کسی بھی طور پر سائیل کے

خلاف کسی بھی شخص سے کوئی شکایت سامنے نہیں آئی ہے۔

سائیل کی بھرتی کی مشورتی کوئی وجہ بتائے بغیر کی گئی ہے۔

نیز یہ کہ سائیل کو کوئی نوٹس نہیں دیا گیا ہے اور نہ کوئی

وضاحت طلب کی گئی ہے۔ اور یوں ضابطہ اور قانون والی صورت

کے تمام مسلمہ اصولوں کو بالائے نام رکھے ہوئے مذکورہ حکم مشورتی

جاری کیا گیا ہے۔ حکم نمبرہ 07/2015 بابت حکم بھرتی/لغتائی

سائیل نمبرہ 19/2014 کو خلاف قانون، خلاف ضابطہ اور خلاف اصول

قرار دے کر مستوح فرمایا جائے۔ اور سائیل کی حکم بھرتی/لغتائی

مذکورہ کو بحال کرنے کے احکامات صادر فرمائے جائیں۔

P.T.O

Accepted to be true copy
محمد یار (میلزئی)

TLC
Muhammad Yaqub
(malazoi) Ahsolan

Dated 8-11-2016

الغرض

المدارء باسم خان جو کتبا 49 ps طابو آباد ضلع ملتان
154-021725089-7

بقول برائے اطلاع اور ضروری کارروائی ارسال عرفیت ہیں۔

- 1. ڈائریکٹر انچو کسٹس حیدرآباد حواء ملتان
- 2. سیکرٹری انچو کسٹس حیدرآباد حواء ملتان
- 3. وزیر تعلیم حیدرآباد حواء ملتان
- 4. ڈسٹرکٹ انچو کسٹس آفیسر (زناپہ) ملتان ضلع ملتان

TIC

محمد یار (ملتان)
یڈرٹ

TIC

M. Yaqub (Malozai)
Advocate

of sender

No. 875 For Insurance Notices see reverse. Stamps affixed except in case of uninsured letters of not more than the initial weight prescribed in the Post Office Guide or on which no acknowledgement is due. Rs. Ps.

Received a registered addressed to _____ Date Stamp _____

Initials of Receiving Officer _____ Write here "letter", "postcard", "packet" or "parcel" with the word "insured" before it when necessary.

Insured for Rs. (in figures) _____ (in words) _____

Insurance fee Rs. _____ Ps. _____ Weight _____ Kilo Grams

Name and address of sender _____

If insured.

No. 876 For Insurance Notices see reverse. Stamps affixed except in case of uninsured letters of not more than the initial weight prescribed in the Post Office Guide or on which no acknowledgement is due. Rs. Ps.

Received a registered addressed to _____ Date Stamp _____

Initials of Receiving Officer _____ Write here "letter", "postcard", "packet" or "parcel" with the word "insured" before it when necessary.

Insured for Rs. (in figures) _____ (in words) _____

Insurance fee Rs. _____ Ps. _____ Weight _____ Kilo Grams

Name and address of sender _____

If insured.

MEDICAL CERTIFICATE

15

- > Name of Official Asim Khan
- > Father/Husband Name Muhammad Zahir
- > Caste or race. Muslim / Pakistani
- > Residence. Agra District Malakand
- > Date of birth. 30/03/1989 According to NIC
- > Exact height by measurement 5' 10"
- > Personal mark identification. Scar on chest.
- > Signature of the official. Asim Khan
- Signature of head of office. _____

Seal of office

I do hereby certify that I have examined Mr. Asim Khan candidate for employment in the office of the Education and cannot discover that he/she had any disease communicable or other constitutional affection or bodily infirmity except.

I do not consider this as disqualification for employment in the office of the Education his/her age according to his/her own statement (25) Years, and by appearance/ general development is about (25-26) years.

Impressions

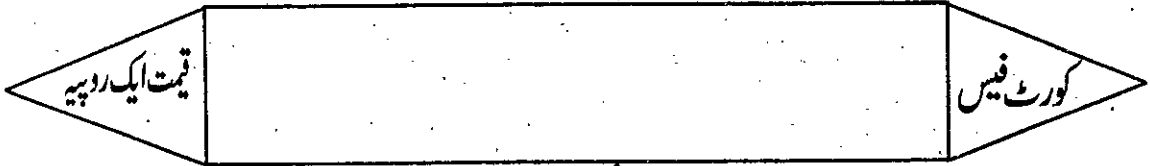
Small Fig:	Ring Fig:	Middle Fig:	Index Fig:	Thumb.
				

Date: November 24, 2014
10:23 AM

JK
Medical Superintendent,
DHQ, Hospital Batakhele
Mentel Batakhele
D.H.Q Batakhele

AK
G
(Super Intendant)
SDEO(F) Batakhele

بعدالت خیر دکن کوہاہ سکریٹری جنرل شاہ



مورخہ 05 مئی ۱۹۵۲ء منجانب اڈیلانڈ
 مقدمہ عاصم خان
 دعویٰ سکریٹری جنرل
 بنام ڈسٹرکٹ انجینئر جنرل (پبلک ورکس) ضلع ملائند
 جرم ۵
باعث تحریر آنک

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ آن مقام شاہ در اڈیلانڈ / سید درین کبیلے (پبلک ورکس) نے اڈیلانڈ مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیاط ہوگا۔ نیز وکیل صاحب کو راضی نامہ و تقرر ثالث و فیصلہ پر حلف دینے جواب دی اور اقبال دعویٰ اور درخواست ہر قسم کی تصدیق زرا اور اس پر دستخط کرنے کا اختیار ہوگا۔ نیز بصورت عدم پیروی یا ڈگری ایک طرف یا اپیل کی برآمد ہوگی اور منسوخ مذکور کے نسل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنی ہمراہ یا اپنی بجائے تقرر کا اختیار ہوگا۔ اور صاحب مقررہ شدہ کو بھی جملہ مذکورہ بالا اختیارات حاصل ہونگے اور اس کا ساختہ برواختہ منظور و قبول ہوگا۔ اور دوران مقدمہ میں جو خرچہ و ہرجانہ التوائے مقدمہ کے سبب سے ہوگا اسکے مستحق وکیل صاحب ہونگے۔ نیز بقایا و خرچہ کی وصولی کرتے وقت کا بھی اختیار ہوگا اگر کوئی تاریخ پیشی مقام دورہ ہر ہو یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہونگے کی پیروی مقدمہ مذکور لہذا وکالت نامہ لکھ دیا کہ سند رہے

المقوم ۵ مئی ۱۹۵۲ء

شاہ در اڈیلانڈ

کے لئے منظور ہے
 شاہ در اڈیلانڈ / سید درین کبیلے
 Attested and accepted

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTOONKHWA PESHAWAR

Service Appeal No 836/2015

Mr. Asim Khan S/O Mohammad Zahir Ex-Cowkidar GPS Zahir Abad Batkhela Village
Agra District Malakand, (Appellant)

VERSUS

1. The Secretary to Govt of Khyber Pakhtoonkhwa Elementary and secondary Education Peshawar
 2. The Director Elementary & Secondary Education, Khyber Pakhtoonkhwa, Peshawar.
 3. The District Education Officer (Male) Malakand at Batkhela.
- (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. Correct to the extent that the appellant was appointed as a chowkidar at GPS Zahir Abad Batkhela vide this office endst No 5061 dated 19/11/2014.
2. Correct to the extent that the appointment order dated 19/11/2014 was withdrawn due to their family conflict and in this conflict one of the appellant's cousin Mr. Tauseef Khan already submitted a writ petition No 394-M/2014 in the Peshawar High Court Mingora Bench (Dar-ul-Qaza Swat).
(the appellant grand father application to AAC Batkhela and an order sheet of Honourable High Court Mingora Bench attached as annexure A&B)

3. Incorrect, as a writ Petition No 394-M/2014 in the Peshawar High Court Mingora Bench (Dar-ul-Qaza Swat was already under trail against the appellant However Respondent No 2 asked comments from respondent No 3 on the appellant's departmental appeal. But kept it pending till the decision of the court.
(Comments of Respondent No3 attached as annexure C)

4. The appellant has got no cause of action to file instant appeal.

GROUND.

I Incorrect, the appellant has been treated in accordance with law by the respondent Department and no violation has been made to withdraw his appointment order due his family conflict.

II Incorrect, because the appellant was on probation period for 2 years and he performed only 5 months service whereas his order withdrawn due their family conflict.

III Incorrect, the appellant's cousin already submitted the writ petition against him which is under trail in the Honourable Peshawar High Court Mingora Bench(Dar-ul-Qaza)

IV Incorrect, the impugned order is according to law .

V As replied in Paras above

VI As replied in Paras above

A. The respondents seek permission to raise additional grounds at the time of arguments.

In light of the above facts it is submitted to kindly dismiss the appeal in hand with cost.

RESPONDENT NO. 3

**DISTRICT EDUCATION OFFICER
(F) MALAKAND AT BATKHELA.**

RESPONDENT NO 2

**DIRECTOR (E&SE)
KHYBER PAKHTUNKHWA
AT PESHAWAR.**

11/11/2015

RESPONDENT NO. 1

**SECRETARY (E&SE) DEPARTMENT
KHYBER PAKHTUNKHWA PESHAWAR.**

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.**

اعدالت جناب A.A.C صاحب مقام بیٹ خید ملاکنڈ
Amnence (A)

حاجی چنی خان ولد عبدالمنان ساکن آگرہ زینی کنڈاؤ - (سائیل)

PC Agra.
For Inquiry and
Report.

بنام

- (i) مصطفیٰ کمال ولد حاجی چنی خان ساکن آگرہ
- (ii) توفیق خان ولد مصطفیٰ کمال ساکن آگرہ

استغاثہ زیر دفعات 419/420/PPC

W.P. No. 419/420/PPC
Additional Assistant
Commissioner
Bathinda

جناب عالی!

گزارش حسب ذیل عرض رسال ہے۔

- (i) یہ سائیل موضع آگرہ کا جری پدی پائندہ ہے۔
- (ii) یہ سائیل کے چھ بیٹے ہیں۔ تمام بیٹے ایک ایک آباد ہیں۔
- (iii) یہ سائیل نے اپنے جری جائیداد میں سے ایک قطعی آراخی برائے
تھمر گورنمنٹ گریلز پرائمری سکول ظاہر آباد آگرہ کے لئے دیا تھا۔

(iv) یہ سائیل چنی خان (Recommendation) پر حکم تعلیم نے پیر عمر زمین

نوکیٹت جو کیدار بھرتی کیا تھا۔ پیر عمر زمین نے سکول سے پینشن حاصل کیا ہے۔
یہ سائیل پیر عمر زمین پینشن حاصل کرنے کے بعد (GGPS) میں جو کیدار پوسٹ
خالی ہوئی۔

(v) یہ سائیل نے EDO کی دفتر اپنے نواسرہ بہ اسم محمد عام خان ولد محمد ظاہر
کے لئے (Recommendation) بھرتی ہونے کے لئے حکم تعلیم سے استدعا کی

(vi) یہ سائیل حکم تعلیم نے خلاف قانون۔ خلاف واقعہ۔ خلاف شریعت
خلاف پالیسی پیر محمد عام خان کی جگہ دوسرا جسکا نام توفیق خان
ولد مصطفیٰ کمال کو تفویض کیا۔

(vii) یہ کہتے ہیں کہ والد مصطفیٰ کمال نے حکمہ تعلیم کو غلط بیانی دیکھ کر دسی فراڈ فریب اور (Cheting) کا مظاہرہ کیا۔ مصطفیٰ کمال نے چینی خان کو مردہ بیان کیا۔ حالانکہ چینی خان زندہ ہے۔ اور آج عدالت کے سامنے کھڑا ہے۔

(viii) یہ کہ من سائیل کو علم ہونے پر دفتر DEO صاحب بٹ خیل جابر حکم مذکورہ کو منسوخ کیا۔ کاپی آڈر کنڈیشن لف درخواست ہذا ہے۔

(ix) یہ کہ مسرول علیہم مصطفیٰ کمال نے من سائیل جھوٹ۔ دھوکہ دہی کے بنیاد پر آئٹرن بلا کو من سائیل کو وفات بیان کر کے غلط بیانی کا مرتکب ہوا ہے۔

(x) یہ کہ حکمہ تعلیم نے مورخہ 28.6.2014 کو حکم کرتے ہوئے مصطفیٰ کمال نے جو غلط بیانی حکمہ تعلیم سے کی تھی جس سے واقعات حالات اور حقائق حکمہ 28.6.2014 سے صاف طور پر ظاہر ہے۔ حکمہ تعلیم کو قانونی چارے چاہئے تھا۔ کہ وہ مصطفیٰ کمال کے خلاف قانونی طور پر ایف. آئی. آر درج کرتے لیکن حکمہ تعلیم نے مصطفیٰ کمال کے خلاف کوئی قانونی کارروائی عمل میں نہیں لائی تھی۔

(ix) یہ کہ مصطفیٰ کمال نے دھوکہ دہی۔ فراڈ۔ فریب اور جھٹکا کیا ہے جو قابل سزا ہے۔

لہذا استدعا ہے کہ بمنظوری درخواست مصطفیٰ کمال و لہ چینی خان کے خلاف ایف. آئی. آر درج کروانے کے احکامات صادر فرمائے

علی

چینی خان ولد عبدالمنان ساکن آگرہ

Hawaz Ali Advocate H.C
Oath Commissioner
Dist: Court Bahkela
Date: 28/6/2014
No. 44/2014 Attested

بان حلیٰ اجماع در وقت صبح و بعد از وقت
مطابق درست ہے
محمد امین مصطفیٰ



10

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

American
(B)

FORM OF ORDER SHEET

Court of
Case No. of

Serial No. of order or proceeding 1	Date of Order or Proceedings 2	Order or other Proceedings with Signature of Judge and that of parties or counsel where necessary. 3
	17.4.2015	<p><u>W.P No. 394-M/2014</u> <u>With Interim Relief</u></p> <p>Present: Petitioner in person.</p> <p>Muhammad Yar Malezai, Advocate for applicant in C.M No. 299-M/2015.</p> <p>***</p> <p>Comments sought from respondent No.2 not yet received. Learned A.A.G., present in Court in some other cases, is directed to procure the comments positively. Adjourned to a date in office.</p> <p><u>C.M No. 299-M/2015</u></p> <p>Notice to the parties.</p> <p>Malik Manzoor Hussain-J Sd. Jaffer Ali-J</p> <p>1693</p> <p>28.4.15</p> <p>69</p> <p>121-</p> <p>28.4.15</p> <p>Certified to be true copy.</p> <p><i>[Signature]</i></p> <p>28/4/15</p>

APPEARED

[Signature]
Superintendent.
D.E.O (F) Batkhela

17/04



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

Telephone No. 0932-410283
E-mail: emismalakand@yahoo.com

Annexure
(C)

No. _____/P&D/Court File/Asim Dated Batkhela the: _____/_____/2015.

TO

The Director,
Elementary & Secondary Edu: Department,
Khyber Pakhtun Khwa Peshawar.

Subject:- APPEAL FOR RE-INSTATEMENT.

Memo:-

Kindly refer to your office Memo: NO.673/RNO: /A-20/C-IV/Mkd: dated 05-08-2015 on the subject cited above and it is stated for your kind information that Mr:Tausfeef Ali S/O Mustafa Kamal (who is the cousin of the Applicant Mr:Asim Khan S/O Mohammad Zahir) applied for the post of Chowkidar as his uncle retired from the post of Chowkidar from GGPS Zahir Abad. Only one application was received for the said post and no one applied for the said post except Mr:Tauseef Ali S/O Mustafa Kamal. So during the DSC Meeting Mr:Tauseef Ali was appointed in the said School. The Grand Father of Tauseef Ali and Asim Khan Namely Chamri Khan approach to the MPA to with draw the order of Tauseef Ali and appointed Asim Khan. The than DEO(F) Malakand Mst:Rabbia Bibi with draw the order of Mr:Tauseef Ali and appoint Mr:Asim Khan S/O Mohammad Zahir. Mr:Tauseef Ali submit a petition in the Peshawar High Court Darul Qaza Bench Swat for justice, the case is under process and both the Applicant pressurize the Department through the High level Recommendations. Sir they played a great game with the E&SE Department and they also thank that their family will be get two posts i.e One appointed on open merit and other will be appointed through the Court. So this office consults the issue regarding the subject case with Additional Advocate General and informs him from the entire situation faced to the Department. On the consultation of the worthy AAG this office with draw both the orders till the decision of the Honourable High Court. Submitted for information please.

OFFICE OF THE DISTRICT EDUCATION OFFICER (F) MALAKAND.

DISTRICT EDUCATION OFFICER
(FEMALE) MALAKAND AT BATKHELA

S/c

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR

Service appeal No. 836 of 20 15

Mr. Asim KhanAppellant

VERSUS

District Education Officer etcRESPONDENTS

Rejoinder on behalf of appellant to
the comments filed by the
respondents No. 1 to 3

Respectfully Sheweth,

The rejoinder is stated as follows :

PRELIMINARY OBJECTIONS:

1. That all the preliminary objections of the comments are incorrect, wrong and illegal.

FACTS :-

1. Para No.1 of the comments is correct.
2. Para No. 2 of the comments to the extent of the reasons given for the withdrawal order is incorrect while the rest of the para is admitted as correct.
3. Para No.3 of the comments is correct. Further it is stated that the writ petition No. 394-M / 2014 pending before the Hon'ble Peshawar High Court

Mingora Bench filed by Mr. Tauseef Khan is not maintainable. The same was filed by the petitioner Mr. Tauseef for the restoration of his appointment order, which was cancelled by the respondent department as the same being irregular and illegal. The matter squarely falls within the jurisdiction and authority of this Hon'ble tribunal and not of the Hon'ble High Court.

4. Para No. 4 of the comments is incorrect.

GROUND :-

All the grounds of the comments are incorrect.

PRAYER :

It is therefore very humbly prayed that the comments filed by the respondents may kindly be turned down and the appeal of the appellant may very graciously may be allowed.

Petitioner
Through
Muhammad yar (Malazay)
ADVOCATE High Court

AFFIDAVIT

I, do hereby solemnly affirm and declare on oath that the contents of the **Rejoinder** are true and correct to the best of my knowledge and belief.



Deponent

Asim Khan appellant

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

No. 244 ST

Dated 16 / 2 / 2016


To

The DEO (F),
Malakand at Batkhela.

Subject: - Judgement.

I am directed to forward herewith certified copy of Judgement dated 1.2.2016 passed by this Tribunal on subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.