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BEFORE THE KHYBER PAKTUNKHWA SERVICE TRIBUNAL PESHAWAR Daved 2-9/3/1-3

Service Appeal No. 373/2023

Bakht Munir S/O Mian Jan R/O Village Shawar Tehsil Babuzai, District Swat.

Versus

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OFFICER (M) DISTRICT EDUC SWAT AP GULKADA

BEFORE THE KHYBER PAKTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 373/2023

₩.J. .

Bakht Munir S/O Mian Jan R/O Village Shawar Tehsil Babuzai, District Swat.

.....Appellant

Versus

Parawise Comments on Behalf of the Respondent No. 2, 3 and 4 Respectfully shewith Preliminary objections

- 1. That the Appellant is not an aggrieved person within the meaning of Section 4 of the Service Tribunal Act, 1974.
- 2. That the Appellant has no cause of action / locus standi.
- 3. That the Appellant has not come to this Honorable Tribunal with clean hands.
- 4. That the Appellant has filed this instant Service Appeal just to pressurize the respondents.
- 5. The present Service Appeal is liable to be dismissed for non-joinder/mis joinder of necessary parties.
- 6. That the instant Service Appeal is against the prevailing law and rules.
- 7. That the Appellant has filed this instant Service Appeal on malafide motives.
- 8. That the instant Appeal is badly time barred.
- 9. That the instant Service Appeal is not maintainable in the present form, and above in the present circumstances of the issue.
- 10. That this Honorable Tribunal has got no jurisdiction as the matter in dispute has already been decided by the Honorable PHC Mingora Benc/Darul Qaza Swat twice vide judgment dated 24.09.2018 in Writ Petition No. 577-M/2017 and W.P 1199-M/2018 dated 03.02.2020. Against the said judgment the Appellant also filed Review Petition which was dismissed by the Honorable Court. The Appellant also agitated this issue before the Honorable Apex Court as well as he filed civil suit and then withdrawn the said civil suit. It clearly means that the Appellant is wasting the precious time of this Honorable Tribunal as well as the Government functionaries.
- 11. That the Appellant has been estopped by his own conduct by submitting fake and forged documents for his appointment.
- 12. That the Appellant has concealed the material facts from this honorable tribunal.

FACTS

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- 1. That the Para No.1 is correct.
- 2. That the Para No.2 is correct to the extent of withdrawal of the appointment order of the Appellant. In fact, the Appellant submitted DMC of HSSC/FA in which his total obtained marks were shown as 649. After appointment, the said DMC of the Appellant was sent to BISE Swat for verification. The BISE Swat Authorities declared that as per record the marks of the Appellant was written as 649 instead of 449 by mistake. They further requested that the said candidate may be informed to provide original certificate/DMC for further necessary action. Similarly through another letter dated 01.08.2017, the Secretary BISE Swat declared that due to clerical mistake the roll number is written as 241449 HSSC (A) 2001 instead of 241490 HSSC (A) 2001 and further requested to direct the concerned teacher to bring his original certificate to this office for replacement. They further clarified the detail of the Appellant as under:

Name:	Bakht Muner
F/Name:	Mian Jan
Roll no:	241490 HSSC (A) 2001
OC No:	S.No V 26593
Marks Obtained:	449 instead of 649.

Similarly, the BA DMC provided by the Appellant was sent to the University of Peshawar which was returned by the Deputy Controller of Examinations University of Peshawar declared as fake and tempered. In fact, the correct marks of the Appellant are 248 and he produced DCM of BA with marks obtained as 284.

Keeping in view the above verifications by the concerned Board and University, the respondent No. 04 withdrawn the appointment order of the Appellant from the date of issue in the interest of public service.

3. That the Para No.3 is incorrect and denied. The Appellant wants to mislead this Honorable Tribunal by concealing the material facts from this Honorable Tribunal. The Appellant has not come to this Honorable Tribunal with clean hands. The respondent department has acted in accordance with the law, rules and policy. The Honorable PHC Mingora Bench/Darul Qaza Swat clearly directed to complete the verification of the DMC of the Appellant within one month and thereafter the DEO Male Swat shall pass appropriate order of the appointment of the Bakht Munir and in case if it is found by the respondents that the DMC of Bakht Munir is fake and withdraws the

order of appointment of Bakht Munir, then he shall consider Zahid Hussain against the said post of PST.

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Thus, on the directions of the Honorable Court, the BISE Swat authorities conducted an enquiry through an enquiry committee comprised of assistant controller conduct and assistant secretary certificate. The enquiry committee declared that the actual marks of the Appellant are 449 instead of 649. They further clarified that marks obtained against Urdu as 168 in the photocopy of DMC clearly found tempered as his actual marks in Urdu are 68 only and the marks against Islamait History are 181 as against actual marks 81 only. Resultantly, there found clear tempering in the total marks obtained as 649 instead of the actual marks 449. The enquiry committee further recommended that photocopy of mark sheet (DMC) bearing marks obtained 649 (Six hundred and forty nine) Grade "C" is fake and bogus.

Thus, the respondent department withdrawn the appointment order of the Appellant after full justification and the entire satisfaction. (FA DMC, BA DMC, & enquiry report annexed as annexure A, B & C)

4. That the Para No.4 is incorrect and denied. The respondent department has to act in accordance with the law, rule and policy. Verification of candidates/appointees are made officially through official letters. As stated in the foregoing paras both the DMCs of the FA and BA of the Appellant have clearly been declared as fake and bogus by the concerned authorities.

It is pertinent to mention here that the Appellant malifidely submitted photo state of his BA degree where no marks are given. Only division I,e second division has mentioned. As 248 and 284 both marks are in second division. Therefore, when his DMC of 284 marks was sent to University of Peshawar which was returned as forged and fake. Thus, the Appellant malifidely and fraudulently submitted his BA degree for verification to conceal his actual marks.

- 5. That the Para No. 5 pertains to respondent No. 01 and 05, hence, no comments.
- 6. That the para No. 6 is correct to the extent of lengthy litigation by the Appellant, the rest of the para is incorrect and denied. The matter has rightly been resolved by the respondent department.
- 7. That the para No. 7 is incorrect and denied. This Honorable Tribunal has got no jurisdiction as the matter has already been decided by the PHC Mingora Bench/Darul Qaza Swat in so many rounds of litigation as stated in the preliminary objections.
- 8. That the para No. 8 is incorrect and denied. The Appellant has estopped by his own conduct by submitting forged and fake documents. The Honorable PHC also held that the Appellant has obtained the said documents fraudulently.

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- 9. That the para No. 9 is incorrect and denied. Detail reply of this para has already been given in foregoing paras. Thus, the instant Service Appeal of the Appellant is bereft of any merit, hence, liable to be dismissed.

It is, therefore, very humbly prayed that the instant Service Appeal of the Appellant may be dismissed with cost in favor of the respondents.

DISTRICT EDUCATION CER (M) SWAT AT GULRADA

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DIRECTOR, ELEMENTARY AND SECONDARY EDUCATION KHYBER PAKHTUNKHWA

SECRETARY, ELEMENTARY AND SECONDARY EDUCATION PESHAWAR

BEFORE THE KHYBER PAKTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 373/2023

Versus

AFFIDAVIT

I, Hussain Ali Legal Representative, do hereby solemnly affirm and declare on oath on the directions and on the behalf of the Respondents that the contents of the comments are true and correct to the best of my knowledge and belief and nothing has been kept secret from this Honorable Tribunal.

HUSSAIN ALT LEGAL REPRESENTATIVE O/O DEO (M) SWAT





GOVERNMENT OF KHYBER PAKHTUNKHWA ELEMENTARY & SECONDARY EDUCATION DEPARTMENT

Block "A" Civil Secretariat, Peshawar

Phone No. 091-9211128

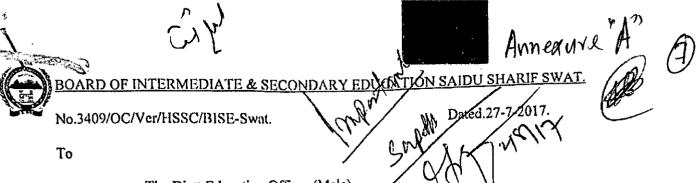
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AUTHORITY LETTER

It is certified that Hussain Ali, Legal Representative Office of District Education Officer (Male) Swat, Elementary & Secondary Education Department is hereby authorized to submit para-wise comments and attend the Service Tribunal, Camp Court Swat on behalf of Respondent Nos. 02, 03 & 04 in Service Appeal No. 373/2023 Title Bakht Munir Vs Government of Khyber Pakhtunkhwa & Others on the eve of each hearing till the disposal of the instant case.

etary

Elementary & Secondary Education, Department.



The Distt:Education Officer (Male), Distt: Swat.

Subject: VERIFICATION.

Reference your letter No.10254/PF/Bakht Muner/PST/DEO/Swat dated.01-07-2017 on the subject cited above.

It is to inform you that the certificate bearing Roll No.241449 HSSC (A)2001 on the name of Bakht Muner S/O Mian Jan OC No.V 26593 is correct, but as per our record the marks was wrote <u>649</u> instead of <u>449</u> by mistake.

the marks was wrote <u>042</u> instead of <u>142</u> by instance. Therfore, the candidate Mr.Bakht Muner may be informed to provide the original <u>certificate</u>/original <u>DMC</u> to this office for further necessary action please.

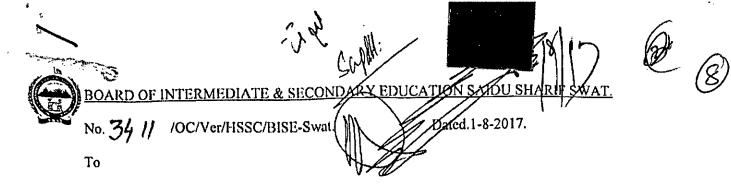
---Sol -(SECRETARY) B.I.S.E. SAIDU SHARIF,SWAT

Copy to:

P.S to Chairman, BISE, Swat.

SECRETARY) B.I.S.E.SAIDU SHARIF, SWAT.





The Distt:Education Officer (M) Distt:Swat.

Subject:- VERIFICATION.

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Reference this office letter No.3409/OC/Ver/HSSC/BISE-Swat dated.27-7-2017 in response of your letter No.10254/PF/Bakht Muner/PST/DEO/Swat dated.1-7-2017. It is to inform you that due to clerical mistake the Roll No. is written as 241449 HSSC (A)2001 instead of 241490 HSSC (A) 2001. Therefore you are requested to direct the Concerned teacher to bring the original certificate to this office for replacement.

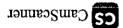
Name:Bakht MunerF/Name:Mian JanRoll No:241490 HSSC (A) 2001OC No:S.No V 26593Marks obtained : 449 instead of 649

Therefore the concerned teacher may be informed to provide original DMC and Original Certificate to this office for further necessary action please.

(SECRETARY) B.I.S.E. SAIDU SHARIF, SWAT







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Controller of Examinations University of Peshawar Pakistan

No. 091-922 20 (3015) Exchange. 091-9216701-Fax No. 091-9222187 EMail: controller@upesh.cdu.pk

No. 40/CE/Secrecy

To:

The District Education Officer (Malc) Swat

Dated: 12-02-2018

VERIFICATION OF DOCUMENT(S)

Dear Sir/Madam,

Subject:

I am to refer to your letter No. 7373, Dated 06-01-2018, and to enclose herewith the respective document(s) sent for verification. The same is/are duly checked with the record and returned with its/their status delineated hereunder:

ſ	S.No	Roll No.	Name	Examination / Session	Status
	1	91999	Bakht Munir S/O Mian Jan	Bachelor of Arts, Part – II Annual Examination –2004	FOUND FAKE

Encl:

- Tempered DMC. 1.
- Photo copy of original result gazette attached. 2.

Wt WP as W

Deputy Controller of Examinations (Secrecy) University of Peshawar

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_imeligilitien.__ UNIVERSITY OF PESHAWAR ļ, (PARISTAN) NY 921369 Roll Nr. 91900 **Detailed Marks Certificate** B. A. Part- II (Annual) Examination 2004 ٩. Same. Jan Min Foiner's Nome _ Sectified that the candidate secured the following marks and placed in -Diation MARKS DBTAINED MAXIMUM M A R X S SUBJECTS IN FIGURES IN WOR-I Chiene 25 75 L. English (Computeory AKE = pash to 7. ... Jsel std. 75 1 Venticat 1. Pakistan Studies (Compulsory) (25) ¢() 685 C 141 Part-I Merks onie TOTAL 550 Sec. \$ 10. two zz is subsequent reartification ght. THY OVA IN PARTS 248 Two he Stamballov GOSTROBLER OF EXAMISATIONS QUIVERSITY OF PESHAWAS repared by (Tempering in The marths. Photo Copy of original Result Gazettee attached. CS CamScanner

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	azal Ahad	м	Saif Pagis	98-PS-28216	Re: Eng	
	akim Khan	м	Nasray		Re: Eng	
	ariq Ahmad	м	Muhammad Zahir		Re: Eng	
	tikhar Hussain	м	Atta Ullah Khan		Re: Eng	
	unshaid	м	Muhammad Zahir		Re: Eng	
	ounas Ali	м	Abdul Hadi		Re: Eng	- 1
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	alah ud Din	м	Noor Habib	02-PC-1292	Re: Eng	
_	arwar Iqbal	м	Sardar Khan	99-PS-3933	Re: Eng Dues Rs.1400/-	١.
	Shahi Mohd	м	Nowsherawan	2K-PC-6846	Re: Eng	
	Amjad Ali	м	Buzurg Jamhar	93-J-8558	Re: Eng Dues Rs. 1400/-	्रम
	Zia ur Rahman	м	Abdur Rashid		Re: Eng	
	Habib Ullah Khan	м	Akbar Khān	99-PS-39356	Re: Eng	. 3
	Walayat Noor	м	Abdul Qadir		276-11 Eag, Pa, I.Std JPS	. 4.
	Shahi Mohd	м	Nawsher Rawan		Re: Eng	Ĵ
	Syed Afzal Khan	м	Abdul Malik		Re: Eng	
	Muhammad Sohaib	м	Muhamamd Younas		Re: Eng	
	Muhammad Saleem	м	Faridoon Khan	98-PS-10671	Re: Eng Dues Rs.1400/-	
	Haider Shah	м	Khaista Bacha		Absent	
	Sharafat Ali	м	Anwat Ali		Re: Pa Dues Rs.1110/-	
1976	Hukmat Khan	м	Haji Dosham Khan		238III Eng.Ur.LStd.PS	
1977	Muhammad Rahim Shi	uh M	Muhammad Mutaqi Shah		Re: Ur	
1978	Ubai Rasool	м	Ghulam Rescol		Re: Ur	
1079	Abdul Wahab	м	Ajmir Perwiz		Re: Eng.EE	
1980	Ihsan Ullah Khan	м	- Haji Bakht Zamin Khan		Re: Eng	
	Umara Khan	м	Zarawar Khan		Absent	4
1982	Noor Muhammad Kha	лM	Taj Muhammas Khan		Re: Eng	
1983	Fazal Rabi	м	Fazal Wadood	02-PC-14054	Re: Eng Dues Rs. 1500/-	
1984	Muhammad Hayat Kh	an M	Muhamarad Zamio Khen		Re: Eng Dues Rs.1200/-	
01985	Khan Ali	м	Mubariz All Khan		Re: Eng.Soci	
986	Fazal Rahim	М	Luqman Zarin		Re: Eng Dues Rs. 500/-	(and the second s
91987	Rahmani Gul	м	Rahmai Gui		Fuiled	48,222
91988	Anwar Ali	м	Tota Lala		RL Dues Rs.2410/-	
01989	Ahmad Karim	м	Qalandar		Absent	
91990	Sana Ullah	м	Muhammad Ghafar		Re: Eng	
01991	Kawsar Nyazi	м	Sabir Khan		Re: Eng	3.62
91992	Muhammad Fazl Ulta	ћ М	Muhamami Muriza	`	Re: Eng	
91993	Muhammad Zada	м	Wazir Zada		Re: Eng	
91994	Hazrat Hussain (IMP) м	Nail Zada		MNI	
91995	Abdul Mateen	м	Fazal Noor		Re: Eng	
91995	Fazal Subhan	м	Abdur Rahim		Absent	- 4
91990	Khshal Khan	м	Darwesh		Absent	
91998	Nasir Ali Khan	М	Muht Tabir Khan	97-MT-1611	Re: Eng 248-11 Eng, Pa, I.Std, IPS	
91998 91999	Bakht Muner	М	Mian Jan		248-11 cng.ra.1.510,1PS	Ę,

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BOARD OF INTERMEDIATE & SECONDARY EDUCATION SAIDU SHARIF, SWA

No.1493/P.A Secretary/BISE Swat.

То

 The District Education Officer (M) Distt: Swat.

Subject:-

WRIT PETITION NO.480-M OF 2017 TITLED AS " ZAHID HUSSAIN VS GOVT OF KPK &OTHERS" ALONG WITH WRIT PETITION NO. 577-M/2017 TITLED AS "BAKHT MUNIR VS GOVT OF KPK AND OTHERS".

Reference the court decision dated 24/09/2018 an enquiry committee had constituted by BISE Swat, just to verify the DMC in respect of Bakht Munir S/O Mian jan Roll No.241490 HSSC (A) 2001 in the light of court directives enquiry report is being submitted for further process please.

(SECRETARY)

Dated.15/10/2018.

B.I.S.E. SAIDU SHARIF, SWAT.

Copy for information to:

P.S to Chairman, BISE Swat.

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BOARD OF INTERMEDIATE & SECONDARY EDUCATION SAIDU SHARIF SWAT



INQUIRY REPORT

INTRODUCTION:

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New York

An inquiry committee was constituted vide office order No. 325/PA-Secretary/BISE-Swat dated: 04/10/2018 to probe into the matter regarding Marksheet (Detailed marks certificate /DMC) issued by B.I.S.E Saidu Sharif Swat in respect of Mr. <u>Bakht Muner S/O</u> <u>Mian Jan</u> and give its recommendations.

The inquiry committee comprised the following officers

- Mr. MOHAMMAD ISHAQ (Assistant Controller Conduct)
- Mr. IHSAN ULLAH (Assistant Secretary Certificate)

PROCEDURE

The inquiry committee used the following tools for the purpose of finding out factual position of the case under consideration.

- Perusal of the relevant available record
- Verification of the documents concerned

The committee perused all the concerned record available.

FINDINGS

Consequent upon the procedure adopted by the inquiry committee, the following facts were found.

i. The one Mr. <u>Bakht Muner S/O Mian Jan</u> appeared in higher secondary school certificate Annual Examination in Art/ Humanities group under Roll No. 241490 in the year 2001, and secured 449 (Four Hundred and forty nine) marks out of the total

Page 1 of 2



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marks 1100 and subsequently was placed in grade "D". The same marks have been shown on page No. 158 of the result gazette of Board of Intermediate & Secondary Education Saidu Sharif Swat (copy annexed at page 1) The detailed marks certificate (DMC) issued to the incumbent with marks 449 (Four

Hundred and forty nine). Proof attached at page 3, 4. There has been found clear tampering in the photocopy of the DMC in marks obtained ii.

against Urdu as 168 whereas actual marks obtained the Urdu Subject are 68, and the marks obtained shown against Islamic History (I.H) are 181 as against actual marks jii. obtained which are 81. Resultantly there has been found clear tampering in the total

marks obtained as 649 instead of the actual marks 449. The copy of DMC with obtained marks 649 (six hundred and forty nine) is not

iv. genuine, hence is fake and bogus.

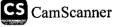
RECOMMENDATIONS

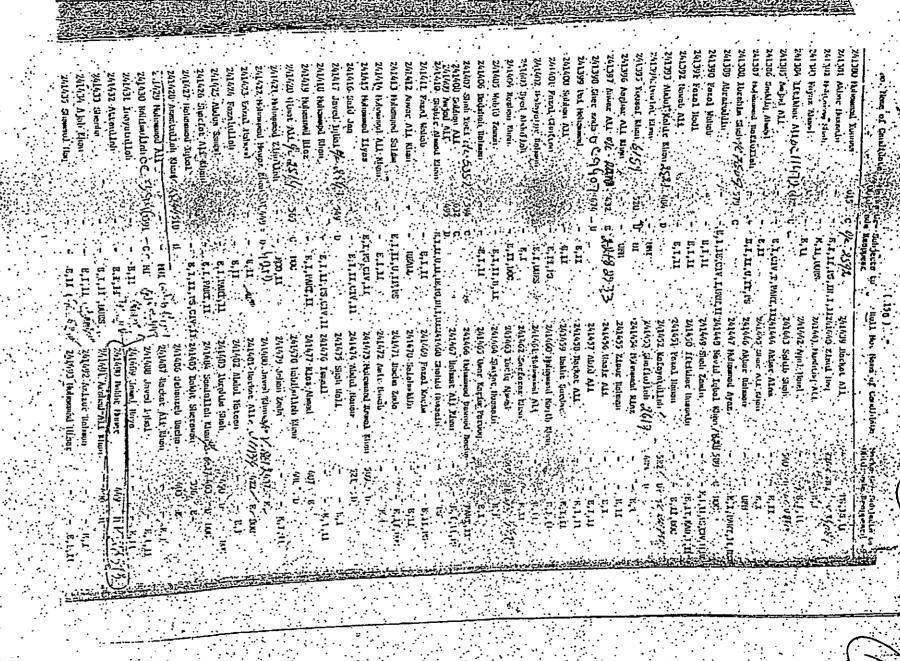
Keeping in view the nature of the case under study the marks obtained as per record of the Board of Intermediate and Secondary Education Saidu Sharif Swat in respect of Mr. Bakht Muner S/O Mian Jan Roll No. 241490 Higher School Certificate Annual Examination 2001(Arts/ Humanities Group) are 449 (four hundred and forty nine) out of 1100, and the grade is "D". The photocopy of marksheet (DMC) for the Roll No. noted above bearing marks obtained 649 (six hundred and forty nine) Grade "C" is fake and bogus.

ssistant Controller Conduct MOHAMMAD ISHAQ,

IHSAN ULLAH, Assistant Secretary (Certificate)

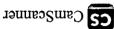
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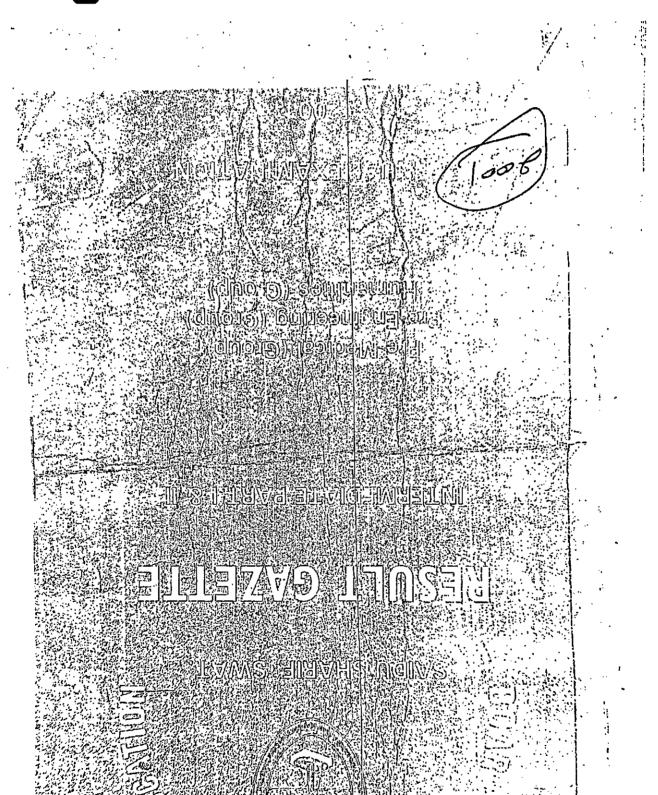






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Board Of Tritermediate & Secondary Education SALDU SILARLY, SWAT DETAILED MARKS CERTIFICATE

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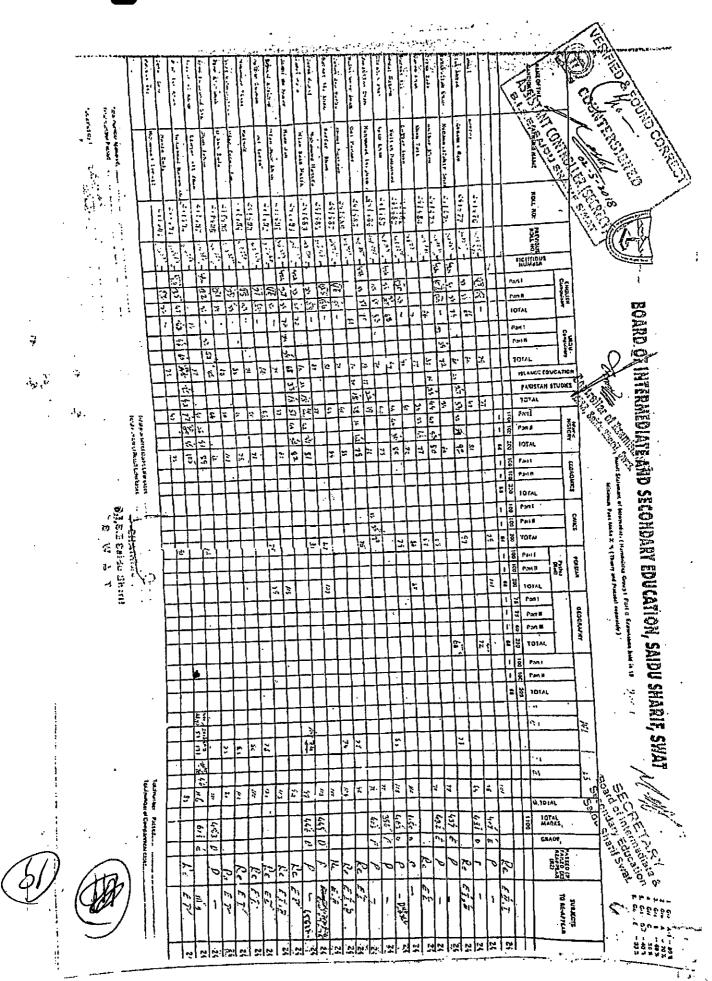
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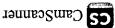
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