


12.03.2018

Counsel for the appellant and AAG alongwith Mr. Attaullah, DEO and Mr. Muhammad Kamran, ADO for the respondents present. Arguments of the learned counsel for the appellant heard. The learned AAG requested for adjournment on the ground that their file is incomplete. Adjourned. To come up for arguments tomorrow on 13.03.2018 before the D.B at camp court, D.I.Khan.



Member


Chairman
Camp Court, D.I.Khan

13.03.2018

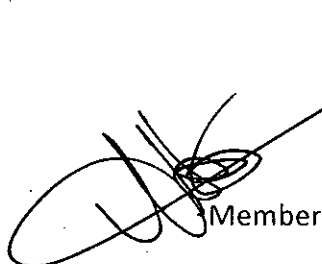
Counsel for the appellant and Mr. Ziaullah, Deputy District Attorney alongwith Mr. Attaullah, DEO and Mr. Muhammad Kamran, ADO for the respondents present. Further arguments heard. To come up for order on 14.03.2018 before this D.B at camp court, D.I.Khan.

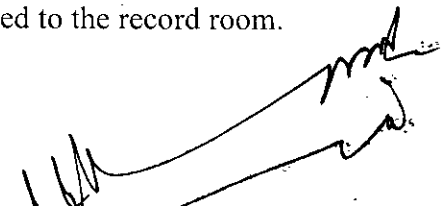

Member


Chairman
Camp Court, D.I.Khan

14.03.2018

Clerk of counsel for the appellant and Mr. Ziaullah, Deputy District Attorney alongwith Mr. Attaullah, DEO and Mr. Muhammad Kamran, ADO for the respondents present. Arguments already heard. Record perused. Vide our detailed judgment of today in service appeal No. 943/2012 entitled "Mst. Mehnaz Begum Vs. The Government of Khyber Pakhtunkhwa through Secretary, E&SE, Peshawar and others" this appeal is also dismissed. Parties are left to bear their own costs. File be consigned to the record room.



Member


Chairman
Camp Court, D.I.Khan

ANNOUNCED
14.03.2018


30.11.2017


Appellant in person present. Mr. Farhaj Sikandar, District Attorney alongwith Mr. Muhammad Kamran, ADO (litigation) for the respondents also present. Written reply on behalf of respondents submitted. Adjourned. To come up for rejoinder and arguments on 23.01.2018 before D.B at Camp Court D.I.Khan.


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

23.01.2018

Appellant in person and Mr. Farhaj Sikandar, Deputy District Attorney alongwith Mr. Muhammad Kamran, ADO for respondents present. Arguments could not be heard due to general strike of the Bar. Adjourned. To come up for arguments on 12.03.2018 before D.B at camp court D.I.Khan.


(Ahmad Hassan)
Member (J)


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

12.03.2018

Counsel for the appellant and learned AAG alongwith Mr. Attaullah Minakhel, DEO and Mr. Muhammad Kamran, ADO for respondents present. Arguments of learned counsel for the appellant heard. The learned AAG requested for adjournment on the ground that their file is incomplete. Adjourned. To come up for arguments tomorrow on 13.03.2018 before D.B at camp court, D.I.Khan.


Member


Chairman
Camp court, D.I.Khan

Service Appeal No. 1205/2015


26.04.2016

Since tour is hereby cancelled, therefore, the case is adjourned for the same on 23.08.2017.

Reader

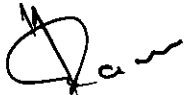
23.08.2017

Counsel for the appellant present. Mr. Muhammad Kamran, ADO (litigation) alongwith Mr. Farhaj Sikandar, District Attorney for the respondents also present. Written reply on behalf of respondents not submitted. Representative of respondent-department requested for further time for submission of written reply. Adjourned. To come up for written reply/comments on 26.10.2017 before S.B at Camp Court D.I.Khan.


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

26.10.2017

Counsel for the appellant present. Mr. Kamran ADO (Litigation) alongwith Mr. Farhaj Sikandar District Attorney for the respondents present. Representative of the respondents department requested for further time to file written reply. Request accepted by way of last chance. To come up for written reply on 30.11.2017 at Camp Court D.I.Khan.


Muhammad Hamid Mughal
Member (J)
Camp Court D.I.Khan

22.12.2015

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant was serving as a Civil Servant in Education Department and after protected litigations including appeal in this Tribunal as well as writ petitions before High Court and it was directed that the appellant be treated in accordance with law and pursuant to the said directives impugned order dated 8.2.2012 terminating the services of the appellant was issued which was communicated to the appellant in writ petition on 14.5.2015 where against departmental appeal was preferred on 8.6.2015 followed by the instant service appeal on 7.10.2015.

Appointed
Security Deposit
Success Fee

That the appointment of appellant was made in the manners prescribed in KPK Civil Servants (APT) Rules, 1989 and, moreover, the inquiry was not conducted in the prescribed manners and findings were based on a fact finding inquiry which is not valid in the eye of law.

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 22.2.2016 before S.B.


Chairman

22.02.2016




None present for appellant. M/S Khurshid Khan, SO and Hameed-ur-Rehman, AD (lit.) alongwith Addl: A.G for respondents present. Requested for adjournment. To come up for written reply/comments on 26.4.2016 before S.B at Camp Court D.I.Khan as the matter pertains to the territorial limits of D.I.Khan Division.


Chairman

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 1205/2015

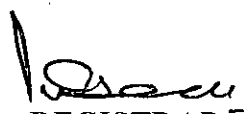
S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	26.10.2015	<p>The appeal of Mr. Abdul Rasheed Khan resubmitted today by Mr. Muhammad Arif Baloch Advocate may be entered in the Institution register and put up to the Worthy Chairman for proper order.</p> <p style="text-align: right;"> REGISTRAR</p>
2		<p>This case is entrusted to S. Bench for preliminary hearing to be put up thereon <u>10-11-15</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
3	10.11.2015	<p>None present for appellant. The appeal be relisted for preliminary hearing for 22.12.2015 before S.B.</p> <p style="text-align: right;"> Chairman</p>

The appeal of Mr. Abdul Rasheed Khan son of Gola Khan for the purpose of Service House No. 1571, Street No. 15, Jinnah Road, Airport Society, Rawalpindi, received to-day i.e. on 08.10.2015 is incomplete on the following score which is returned to his counsel for completion and resubmission within 15 days.

1. Copy of first termination order, Certified copy of judgment of this Tribunal, Order of the Hon'ble High Court and subsequent termination order (complete) may be placed on file.

No. 1574 /ST,

Dated 8/10 /2015


REGISTRAR
KPK SERVICE TRIBUNAL,
PESHAWAR.

MR. MUHAMMAD ARIF BALOCH ADVOCATE, D.I.KHAN.

The first termination order was set aside by this Honorable Tribunal vide judgment dated 27-9-2011 and not subject matter of this instant appeal. However, it shall be provided at the time of arguments.



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BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,

PESHAWAR

Service Appeal No. 1205 /2015

Abdur Rasheed Khan

VERSUS

Ministry of Education ETC

INDEX

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Abdur Rasheed Khan
Appellant

Through

Muhammad Arif Baloch
Muhammad Arif Baloch
Advocate High Court

S.W.P Province
Service Tribunal
Diary No. 1173
Date 7-10-15

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,

PESHAWAR

Service Appeal No. 1205/2015

Abdul Rasheed Khan Son of Gola Khan, Address for the purpose of Service House No.1571, Street No. 15, Jinnah Road Airport Society, Rawalpindi. _____
Appellant

VERSUS

1. Ministry of Education Block-A, Civil Secretariat KPK, through Secretary Elementary and secondary Education, Peshawar
2. Director of Education (E&SE) Khyber Pakhtunkhawa Peshawar.
3. Executive District officer (E&SE) Dera Ismail Khan. _____ **Respondents**

APPEAL UNDER SECTION 4 OF KHYBER PAKHTUNKHAWA SERVICE TRIBUNAL ACT, 1974 AGAINST IMPUGNED ORDER DATED 8-2-2012 (ANNEX-A) WHICH HAS BEEN SUBMITTED BY THE RESPONDENTS DURING PROCEEDINGS ON 14-5-2015 BEFORE HONORABLE HIGH COURT PESHAWAR, D.I KHAN BENCH IN WRIT PETITION NO.630-D/2014, WHEREBY SERVICES OF THE APPELLANT HAS BEEN TERMINATED IN UTTER DISREGARD AND WITHOUT OBSERVING LEGAL REQUIREMENTS. THE APPELLANT FILED DEPARTMENTAL APPEAL ON 8-6-2015 (Annex-B) BUT NO RESPONSE HAS BEEN GIVEN WITHIN STATUTORY PERIOD.

Respectfully Sheweth:

That before proceeding to facts and grounds of instant appeal it is essential to give brief history of the case. The respondents advertised the posts of CT, DM, PET, PST, TT etc in daily "Mashriq" in 7th April, 2007. The appellant and others qualified candidates applied in response to above said advertisement. Resultantly about more than 1600 candidates were selected by the respondents against respective posts in early 2007. (Annex-C Advertisement)

In year 2008, a local Member of the Provincial Assembly raised question regarding appointments/recruitments made in year 2007 which was referred to Standing Committee for Elementary and Secondary Education by the Provincial Assembly. Ultimately, the Standing Committee recommended that within one month the department should cancel appointment orders of those persons who were illegally appointed during the period 1-12007 to June 2008.

Filed to-day
7/10/15
Registrar

Re-submitted to-day
and filed;

26/10/15
Registrar

Resultantly, respondents terminated the services of more than 1600 teachers by single order dated 4-9-2009 without authority and adopting legal procedure. After approaching different legal forums, the said order was challenged before this honorable Tribunal. This Honorable Tribunal pleased to set aside termination order dated 4-9-2009 in term of relief granted in Para 9 (iii) of judgment dated 27-9-2011. Afterward no response of any sought has been given to the appellant therefore, he filed a writ petition No. 630-D/2015 in Peshawar High Court, D.I. Khan Bench. In the result of said writ petition the impugned order dated 8-2-2012 has been submitted in the High Court on 14-5-2015. Hence this instant appeal on following facts and grounds:

1. That in daily "Mashriq" Peshawar dated 7th April 2007 advertisement appeared from the respondent No.3 (Executive District Officer Elementary and Secondary Education Dera Ismail Khan), wherein he invited application for unspecified posts both male and female of CT, DM, PET, AT, TT, Qari and PST. Alongwith other conditions for selection of the candidates, the minimum qualification for the post, date of test and interview as well as venues were also mentioned.
2. That appellant is FA and possessing Certificate in Commerce and Primary Teaching Certificate (PTC) issued by recognized institution of Government. The appellant possess prerequisite qualification for the post of PTC. **(Annex-D, Credentials)**
3. That consequent upon the approval of Selection Committee, the respondents appointed the appellant against vacant post of PTC (Male) in BPS-7 vide order dated 1-10-2007. **(Annex-E&F, appointment & joining report)**
4. That appellant resumed his duty on 2-10-2007. The appellant was serving with devotion and sincerity but without Show Cause Notice, association in any inquiry, charge sheet and statement of allegation terminated the service of the appellant vide order dated 4-9-2009 against which appeal was preferred before this Honorable Tribunal. The Honorable Tribunal pleased to set aside termination order dated 4-9-2009 vide judgment dated 27-10-2011 and remanded the case to respondent No.1 for reconsideration.
5. That in post remand proceedings only record (credentials) of the appellant was collected but afterward no response has been given about the result of reconsideration. Therefore, he approached before Honorable Peshawar High Court, D.I.Khan Bench. During the proceeding on 14-5-2015 before Honorable Peshawar High Court, D.I. Khan Bench, the respondents submitted the impugned termination order dated 8-2-2012. Hence this instant appeal on following grounds:
 - A. That reason for termination shows that appointments of CT (Male) were illegal, irregular and void ab-initio in term of rule 10(2) of Khyber Pakhtunkhawa Civil Servant (Appointment, Promotion and Transfer) Rules 1989 and prescribe method of recruitment. The Said ground/reason is not attracted in the appellant's case because the post has not been in the preview of commission hence it was made on the recommendation of Selection Committee and post was duly

advertised. The appellant has possessed prerequisite qualification for the post as per rule 10(3) of Khyber Pakhtunkhawa Civil Servant (Appointment, Promotion and Transfer) Rules, 1989.

B. That without prejudice to the above and in addition thereto that appellant should not be made to suffer for such lapses on the part of appointing authority. Reliance is placed on (1996 SCMR 411, 2004 SCMR 303, 2006 SCMR 676, PLJ 2006 SC 81 PLJ 2011 Lahore 736 (Multan Bench Multan) and 2011 SCMR 1581


C. That appellant had been appointed on regular basis and completed his probationary period successfully hence, appellant could not deal beyond the provisions of the Khyber Pakhtunkhawa Civil Servant Act and rules framed there under. There is no charge sheet, statement of allegation and show cause notice stand against appellant therefore, termination from service without charge sheet, statement of allegation and show cause notice has no value in eyes of law impugned order is liable to set aside.

D. That, although the Provincial Assembly, had directed termination of only unlawful appointment, yet for malafide reason the respondents abdicated his authority in favor of the dictate of the Provincial Assembly by wrongly assuming it to be a direction for termination of the service of the appellant.

In view of the above submissions, it is most respectfully prayed that this Honorable Tribunal may kindly be pleased to accept instant appeal and set aside the impugned order of termination dated 8-2-2012 and respondents may kindly be directed to reinstate the appellant into service with back benefits.


Appellant

Through


Muhammad Arif Baloch
Advocate High Court
House No.1571, Jinnah Street, Sector-4,
Airport Society Rawalpindi
Cell No.0300-5082482

Certificate:

It is certified as per instruction received from the appellant that it is first appeal against impugned order before Tribunal. It is further certified that this appeal has been arisen from violation of non fulfillment of mandatory obligation under the law and no appeal, revision; review and writ petition is pending before any court of law.


Counsel

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,

PESHAWAR

Service Appeal No. _____/2015

Abdul Rasheed Khan

VERSUS

MINISTRY OF EDUCATION ETC


AFFIDAVIT IN APPEAL

I, Abdul Rasheed Khan S/o Gola Khan, address as given in memo of appeal do hereby solemnly affirm and declare that content of accompanied appeal are correct and true to the best of my knowledge and belief, nothing has been concealed intentionally and willfully.


Deponent

Verification:

It is verified on oath at Rawalpindi this day 29th September, 2015 that contents of above mentioned affidavit are correct and true.


ATTESTED
MUJEEB-UR-REHMAN
Oath Commissioner
Advocate High Court


Deponent

5

**BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR**

Service Appeal No. _____/2015

Abdul Rasheed Khan **VERSUS** MINISTRY OF EDUCATION ETC

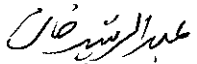

**APPLICATION FOR EXEMPTION OF FILING CERTIFIED COPIES READ
WITH INHERENT POWER OF THIS HONORABLE TRIBUNAL**

Respectfully submits:

1. That the contents of the accompanying Appeal may kindly be read as part of the present application as the same are not being repeated herein for the sake of brevity and to avoid prolixity.
2. It is submitted that the Appeal is being filed in urgency and due to paucity of time; the Appellant could not get the certified copies of all annexure attached with the Appeal.
3. it is, therefore, prayed the Appellant may be permitted to file the uncertified copies of annexure.
4. The Appellant undertakes to file the certified copies/typed copies, if this Hon'ble Court so directs.
5. That the present application is being filed bonafide and in the interest of justice.

In view of above submissions it is therefore, prayed that instant application for exemption may graciously be accepted in the interest of justice.

Through


Applicant

Muhammad Arif Baloch
Advocate High Court

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,

PESHAWAR

Service Appeal No. _____/2015

Abdul Rasheed Khan

VERSUS

MINISTRY OF EDUCATION ETC

AFFIDAVIT IN EXEMPTION APPLICATION

I, Abdul Rasheed Khan Shah do hereby solemnly affirm and declare that content of accompanied application are correct and true to the best of my knowledge and belief, nothing has been concealed intentionally and willfully.

عبدالرشید خان
Deponent

Verification:

It is verified on oath at Rawalpindi this day 29th September, 2015 that contents of above mentioned affidavit are correct and true.

عبدالرشید خان
Deponent
ATTESTED
MOJIB UDDIN REHMAN
Oath Commissioner
Advocate High Court

OFFICE THE EXECUTIVE DISTRICT OFFICER (U&SE) D.I.Khan

ORDER:

In pursuance of order dated 27-10-2011 of the KPK Service Tribunal in service appeal No. 1407/2010 and other connected appeals, committee headed by the Secretary to Govt. of Khyber Pakhtunkhwa (E&SE) Department considered the cases of the appellants and similar placed persons and came to the conclusion that the appointment of the following PSTs (Male) was illegal, irregular and void ab-initio in terms of rule 10(2) of the NWFP Civil Servants Appointment, Promotion and Transfer) Rules 1989 and prescribed method of recruitment. On recommendation of the committee contained at page 103-104 of the enquiry report, their so called services are hereby terminated.

Sr. No.	Appeal No/year	Name of appellant	Father's Name	School
1	2528/10	Tariq Hussain	Ghulam Qasi	GPS Ghumsan
2	Nil	Malik Abdur Rashid	Haji Malik Rashid	GPS Sakhari
3	Nil	Shoukat Imran	Muhammad Nawaz	GPS Umar Buba
4	2391/10	Muhammad Saifdar	Muhammad Azam	GPS Kot Mehsudan Band Kurai
5	2036/10	Atta Muhammad	Allahdad	GPS Muga
6	3102/10	Abdul Ghafar	Sher Muhammad	GPS Udwal
7	2648/10	Abdul Saeed Khan	Ahmad	GPS Asghan Khel
8	2372/10	Muhammad Asif	Faiz Pascof	GPS No.1 Kachi Kiri Baz Muhammad
9	2052/10	Muhammad Naeem	Muhammad Ibrahim	GPS Jhoke Da/Din Pur
10	1893/10	Asif Mehmood	Abdul Aziz	GPS Jhoke Batal
11	2090/10	Saifur Rehman	Sona Khan	GPS No. 4 Kuchhi/GPS No.2 Maddi
12	Nil	Khalid Mehmood Khan	Chaudry Nizam Din	GPS Jandhir Abdul Sattar
13	2114/10	Muhammad Shahid	Falik Saeed	GPS Talgai
14	2066/10	Muhammad Askar	Muhammad Ramzan	GPS Jhoke Sakhari
15	2626/11	Ghulam Abid Shah	Ghulam Aabae Shah	GPS Audwal/GPS Joke Dar
16	1755/10	Muhtaz Ahmad	Ghulam Akbar	GPS Jhoke Dar / Abdul Khel
17	1494/10	Muhammad Javed	Malik Allah Nawaz	GPS Aslam Aabae/Kala Gorh
18	1721/10	Kilayatullah	Sarfaraz	GPS Jhock Daar
19	2724/10	Muhammad Ali	Malik Allah Wasaya	GPS Sheesha / GPS Rora
20	2101/10	Muhammad Khalilur Rehman	Haji Fazal Rehman	GPS Noor Pur Paliyar
21	1455/10	Ghulam Abbas	Maula Dad	GPS Jok Amini/DIK/No.1 Kot Essa Khan
22	Nil	Muhammad Javed	Muhammad Iqbal	GPS Saidallan/Khanu Khel
23	Nil	Muhammad Ishfaq	Muhammad Mushtaq	GPS Umer Khel
24	2640/10	Sheikh Muhammad Zahid	Sheikh Ghulam Akber	GPS Bait Keheri/GPS Malik Mir/Dhapanwali
25	1989/10	Syed Muhammad Abdullah Shah	S.Nazar Hussain	GPS Kachi Khasore
26	2853/10	Qamar Ali	Jan Muhammad	GPS Kachi Kath Garh
27	Nil	Karam Elahi	Khuda Baksh	GPS Basti Zangadaa Wali
28	1451/10	Umar Hayat Khan	Khan Muhammad	GPS Buzdar / Kiri Malang
29	1425/10	Muhammad Aslam	Muhammad Hassan	GPS Jhoke Riad/GPS Wanda Buchra
30	2377/10	Muhammad Ismail	Muhammad Hayat	GPS Wanda Nadir Shah

eye

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551	Nil	His bullah Khan	Abdul Ghafar	Shanki GPS Gara Audal/Gara Fatei Khel
552	Nil	Muhammad Saleem	Falak Sher	GPS Pota Dadan Zai
553	Nil	Syed Zeshan Ali	Syed Iftikhar Hussain Shah	GPS Shesha/Chah Malik Wala
554	Nil	Muhammad Tufail	Aziz ur Rehman	GPS Jal Wala Shumali
555	Nil	Noiman Khan	Ismail Khan	GPS Zamir Abad
556	Nil	Mureed Mehdi	Ghulam Shabir	GPS Bhanay Wali
557	Nil	Rafi Ullah	Sher Zaman	GPS Mumrez Tareen
558	Nil	Sami Ullah	Muhammad Ramzan	GPS Jahan Khani
559	Nil	Amanullah	Sheikh Abdullah	GPS Gara Dad
560	Nil	Muhammad Ashiq	Muhammad Bakhsh	GPS Jhock Rab Nawaz
561		Muhammad Bilal	Ghulam Hussain	GPS Rom
562	2121/10	Abdul Ghaffar	Sona Khan	GPS/GMPS Rodi Khel
563	2341/10	Rahmatullah	Ahmed Hussain	GPS No-2 Pahar pur
564	1716/10	Muhammad Shamsud Din	Salahud Din	GPS Khiyara Basharat
565	1754/10	Nazar Gul	Muhammad Gul	GPS Wanda Abu
566	251 3/10	Inam Ullah	Shah Zaman	GPS Kachi Akram
567	1870/10	Muhammad Aqeel Shah	Ijaz Hussain Shhah	GPS Mandhran Saidan
568	2534/10	Fazal Rehman	Muhammad Ramzan	GPS Udwal
569	1889/10	Allah Da Kher	Noor Muhammad	GPS Maqbool Abad
570	150 4/10	Abdur Rashid	Gola Khan	GPS Dhallah No.1 ✓
571	2152/10	Ghazanfurullah	Aziz Ullah	GPS Gara Bakhsha
572	256/11	Zaffar Iqbal	Muhammad Ramzan	GPS No. Kaich
573	35/11	Muhammad Hanif	Muhammad Ali	GPS Wanda Bhutta / Jhoke Dabari
574	2762/10	Fazal Illahi	Muhammad Shari Shad	GPS Gara Mureed Shah
575	2849/10	Ghulam Rasool	Muhammad Amin	GPS No.2 Wanda Madat
576	2721 /10	Muhammad Bashir	Muhammad Wazir Khan	GPS Aslam Abad
577	2742/10	RahmatulJah	Saifulah	GPS Mochani/Basti Malik Mir
578	2577/10	Shah Jehan	Khuda Bakhsh	GPS Jhoke Lal Khan

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K.P.K
بخدمت جناب ڈائریکٹر ایگزیکٹو ایڈمنسٹریٹو سیکرٹری ایجوکیشن صوبہ بہاولپور

عنوان :- اپیل

جناب عالی!

موردہ نامہ التماس ہے کہ سائل محکمہ ایجوکیشن میں P-S-T کی پوسٹ پر ملازم تھا۔ اور سائل ہر لحاظ سے اس

پوسٹ پر مطلوبہ تعلیمی قابلیت رکھتا ہے۔ سائل نے ایجوکیشن ڈیپارٹمنٹ میں تقریباً عرصہ دو سال تک ملازمت کی اور محکمہ سے تمام

مرامات بھی قانون کے مطابق وصول کرتا رہا لیکن اچانک سائل کو مورخہ 14/5/1975 کو حکم آرڈر نمبر 630/175

تحت بغیر ہی شوکا نوٹس کے بلاوجہ ملازمت سے صرف ہٹایا گیا ہے۔ جو کہ سائل کے ساتھ سراسر زیادتی اور خلاف

قانون ہے

لہذا آپ سے استدعا کی جاتی ہے کہ سائل کو تمام مرامات کے ساتھ اپنی ملازمت پر بحال کیا جاوے۔ بصورت دیگر سائل اپنا قانونی حق محفوظ رکھتا ہے۔

08/05/75

آپ کی عین نوازش ہوگی
فقہاء مورخہ

عبدالرشید گولڑا خان

عبدالرشید گولڑا خان

cre

10

DIRECTORATE OF CURRICULUM & TEACHERS EDUCATION, N.W.F.P., PESHAWAR
PRIMARY TEACHING CERTIFICATE (PTC)
(ORIGINAL CERTIFICATE)

Serial No. _____

Roll No. 7953

Session 1996

Marks Obtained 647 / 1200

Division IInd

Certified that Mr./Mrs./Miss Abdur Rashid

Son/Daughter of Gola Khan is a student of

GEC(M) D. I. Khan

having passed the prescribed P.T.C. Examined held in 12/11/96

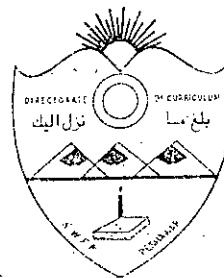
is qualified to teach in Primary School of Schools & Literacy Department.

Prepared by _____

Checked by _____

Result declaration date 13/5/97

Date of Issue 9/4/2011



*Assistant Director (Examinations),
N.W.F.P., Peshawar.*

Handwritten signature

Roll No. 7953

Govt. College of Education for Elementary Teachers (Male)

Dera Ismail Khan.

D.M/P.T.C/C.T. (Gen.)

Session 1995-96

Provisional Certificate

This is to certify that Mr. Abdul Rasheed Son of Gula Khan of this institution has PASSED the D.M.P.T.C/C.T (Gen) Examination, held in x as a Regular Candidate, according to the result Gazette/D.M.C Supplied by the Registrar Departmental Examination, Education, Department Peshawar.

Marks obtained 647 Out of 1200 Marks.

Division 2nd Conduct Good

Date of Declaration of Result: 13-5-97

Prepared by Mul Checked by Subhan

Principal
PRINCIPAL

Govt College of Edu-For Elementary Teachers (Male)
Dera Ismail Khan

C/S

بِسْمِ اللّٰهِ الرَّحْمٰنِ الرَّحِیْمِ

BOARD NO. 003061

Roll No. 9418

BOARD OF INTERMEDIATE AND SECONDARY EDUCATION



Bannu N.W.F.P. Pakistan

Secondary School Certificate Examination

SESSION 1994 (SUPPLEMENTARY)

THIS IS TO CERTIFY THAT

ABDUL RASHEED KHAN

Son/Daughter of

GULA KHAN

and a student of

DISTRICT DI. KHAN

has passed the Secondary School Certificate Examination of the Board of Intermediate & Secondary Education, Bannu.

as a Regular / Private candidate. He/She obtained 381 Marks out of 850

and has been placed in Grade D Representing FAIR.

The Candidate passed in the following subjects.

- | | | | | | | | |
|------------|--------------|--------------|---------------------|---------------|-----------------|-----------------|--------|
| 1. English | 2. Islamiyat | 3. Islamiyat | 4. Pakistan Studies | 5. GEN: MATHS | 6. GEN: SCIENCE | 7. ISL: STUDIES | 8. ART |
|------------|--------------|--------------|---------------------|---------------|-----------------|-----------------|--------|

He / She has been awarded Grade D on the basis of

Internal assessment by the Institution concerned.

Date of birth according to admission form is 15TH FEBRUARY,

one thousand nine hundred and SIXTY NINE (15/02/1969)

Asst. Secretary

Secretary

This certificate is issued without alteration or erasure.

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GOVERNMENT OF NWFP
SCHOOLS & LITERACY DEPTT.

Dated Peshawar the 11-4-2007.

ORDER

NO.SO(PE)/7-1/Age Relaxation/07. Sanction is hereby accorded to the relaxation in upper age limit in favour of the following candidates for appointment as P.T.C.T for the period noted against each.

S.No.	Name & Parentage	Over-aged by
1.	Mr. Abdur Rashid S/O Gula Khan	3 years 2 month & 05 days
2.	Mr. Shaukat Ali S/O Mukarram Khan	11 months & 12 days

The above sanction is subject to the completion of all codal formalities.

Endst. No. & Date even.

SECRETARY

Copy forwarded to:-

- 1- The Executive Distt. Officer, Schools & Literacy D.I.Khan for information & necessary action.
- 2- The Executive Distt. Officer, Schools & Literacy Mardan for information & necessary action.
- 3- The Distt. Accounts Officers DIKhan/Mardan.
- 4- Mr. Abdur Rashid S/O Gula Khan Vill: Dhalla Tehsil Pabarpur Distt: DIKhan.
- 5- Mr. Shaukat Ali S/O Mukarram Khan Vill: Lundkhur Tehsil Takht Bhai Distt. Mardan.

Attested
[Signature]

Distt. District Officer
(M) Primary, Teh. Pabarpur

[Signature]
SECTION OFFICER (PRIMARY)

c/c
[Signature]

OFFICE OF THE EXECUTIVE DISTRICT OFFICER, (SCHOOLS & LITERACY)
DERA ISMAIL KHAN.

APPOINTMENT ORDER:

Consequent upon the approval of Selection Committee, the following Male Candidate is hereby appointed against vacant post of PTC in the school noted against their name in BPS - 07 plus normal allowances being a qualified, fit & candidate as per existing policy in the interest of public service w/o from the date of taking over charge on the following terms and conditions.

<u>S.No.</u>	<u>Name of Candidate with Father's Name</u>	<u>Schools where posted</u>
1.	Abdur Rasheed S/O Gola Khan R/O D.I.Khan.	GPS, Dhallah No 01 (Addl: Post)

TERMS & CONDITIONS:

1. Charge reports should be submitted to all concerned.
2. No pensionary benefit will be available.
3. The services of the above named candidate is made purely on temporary basis & liable to terminate at any time with out assigning any notice reason.
4. The candidate will produce Health & Age certificate from the M.S concerned.
5. The original documents may be checked/verified by concerned Board University through DDO concerned before handing over charge.
6. No TADA is allowed.

Sd/-
EXECUTIVE DISTRICT OFFICER,
SCHOOLS & LITERACY DIRKHA

Endst: No.

20461-65

Dated: D.I.Khan the

01/10/2007

Copy to the:-

1. Director Schools & Literacy N.W.F.P, Peshawar
2. District Co-ordination Officer, D.I.Khan.
3. District Accounts Officer, D.I.Khan.
4. Principal/Headmistress/ Headmaster concerned
5. Candidate concerned.

[Handwritten Signature]

Executive Distt. Officer,
SCHOOLS & LITERACY
Dera Ismail Khan.

[Handwritten Signature]
EXECUTIVE DISTRICT OFFICER,
SCHOOLS & LITERACY DIRKHA

[Handwritten Initials]

وکالت نامہ

کورٹ فیس _____
 قیثی _____

بعدالت جناب حصصی عدالت برائے سرسول

منجانب بدیشن

بنام عبدالرشید خاں

دعوے یا جرم ایہ پھل باعث تحریر آنکہ _____

مندرجہ بالا عنوان میں اپنی طرف سے پیروی و جوابدہی مقام سرسول حصصی عدالت برائے سرسول

مخبر سرسول کے بارے میں شرط وکیل مقرر کیا ہے کہ میں ہر پیشی پر خود یا بذریعہ مختار خاص روز عدالت

حاضر ہوتا رہوں گا اور بوقت پکارے جانے وکیل صاحب موصوف کو اطلاع دے کر حاضر کروں گا۔ اگر کسی پیشی پر مظہر حاضر نہ ہو اور

موصوف صدر مقام کچہری کے علاوہ کسی اور جگہ یا کچہری کے مقررہ اوقات سے پہلے یا بروز تعطیل پیروی کر نیکی مجاز نہ ہوں گے اگر مقدمہ

کچہری کے کسی اور جگہ سماعت ہونے پر یا بروز کچہری کے اوقات کے آگے یا پیچھے ہونے پر مظہر کو کوئی نقصان پہنچے تو ذمہ دار یا اس کے

واسطے کسی معاوضہ ادا کرنے مختار نامہ واپس کرنے کے بھی صاحب موصوف ذمہ دار نہ ہوں گے۔ مجھے کل ساختہ پرواختہ صاحب مشن کردہ

ذات خود منظور و قبول ہوگا اور صاحب موصوف کو عرضی دعویٰ اور درخواست اجرائے ڈگری و نظر ثانی اپیل گرانے اور رسید دینے

اور داخل کرنے کا ہر قسم کا بیان دینے اور سپرد دہائی و راضی نامہ، فیصلہ برخلاف کرنے و اقبال دعویٰ کا اختیار ہوگا اور بصورت اپیل و بشرط

ادائیگی علیحدہ پیروی مختار نامہ کرنے کا مجاز ہوگا اور بصورت ضرورت اپیل یا اپیل کے واسطے کسی دوسرے وکیل یا بیرسٹر کو

بجائے اپنے ہمراہ مقرر کریں اور ایسے مشیر قانونی کو بھی اس امر میں وہی اختیارات حاصل ہوں گے جیسے صاحب موصوف کو

پوری فیس تاریخ پیشی سے پہلے ادا نہ کروں گا تو صاحب کو پورا اختیار ہوگا کہ مقدمہ کی پیروی نہ کریں اور ایسی حالت میں میرا مطالبہ

صاحب موصوف کے برخلاف نہیں ہوگا۔ لہذا مختار نامہ لکھ دیا ہے کہ سندر ہے۔

عبدالرشید خاں
 مورخہ 20

(Handwritten Signature)

العبد

BEFORE THE HONOURABLE SERVICE TRIBUNAL KPK PESHAWAR

Service Appeal No. 1205/2015

Abdur Rashid

VS

Government of KPK

JOINT PARAWISE COMMENTS ON BEHALF OF RESPONDENTS

Preliminary Objections

1. That the Service Appeal is not maintainable and incompetent in the eyes of law in its present form.
2. That the appellant is estopped by his own unwholesome conduct as Public Servant to file this appeal.
3. That the appellant has got no cause of action or locus standi to file the instant appeal, when there is provision for Review under Rule 3 of Appeal Rules, 1986.
4. That the appellant has not come to this Honourable Court with clean hands and has suppressed all relevant facts.
5. That the appellant has concealed the material facts and ground realities from this Honourable Tribunal.
6. That the appeal is bad due to mis-joinder / non-joinder of necessary parties.
7. That the appellant has not come to Honourable Court with clean hands.
8. That the KPK Service Tribunal has no jurisdiction to entertain the instant petition in its present form.
9. That the appeal has been mis-oriented, mis-constructed and mistakenly drawn and is incompetent in its present frame and context, and is liable for Rejection.
10. That the appeal is weak having no force, fabricated, fictitious, based on ill will, malafide motives and having no legal footings in the eyes of law.
11. That the present service appeal is not maintainable in its present form and jurisdiction of this **Honourable Service Tribunal** is barred by the **Section 23 of Khyber Pakhtunkhwa Rules 1974** "According to which no Tribunal shall entertain any appeal in which the matter directly or substantially has already been finally decided by a Court / Tribunal of competent jurisdiction".
12. That the recommendations of the Committee constituted in light of direction of this Honourable Tribunal were implemented and terminated all the illegal teachers and provided them termination orders. Hence the appeal is badly time barred as well as barred by leeches.
13. That the proceeding with the instant appeal would be a futile exercise and just wastage of the precious time of this honourable Tribunal.
14. That as stated in the objections supra, the appeal is bereft of cause of action and is liable for dismissal.

Objection on Facts

1. Para pertains to the address of parties hence need no comments.
2. Incorrect / not admitted. Vehemently denied. The EDO (S&L) advertised vacant post of PST, CT and other cadres on **07.04.2007**. After completion of codal formalities 309 male PSTs was appointed on merit under joint appointment order No. 12655-973 dated 02.07.2007. The name of appellant does not reflect in the said appointment order.
 - i. The appellant is one of the 1613 illegal terminated teachers. His services along with 1613 teachers were terminated by the then **DCO DIKhan** vide order dated 04.09.2009. (annexure A).
 - ii. Termination orders dated 04.09.2009 were challenged before the **Honourable Peshawar High Court DIKhan Bench** and Honourable High Court suspended

- the operation of termination orders dated 04.09.2009 till the decision of writ petitions (**annexure B**).
- iii. On 29.04.2010 writ petitions were returned to the petitioners and termination orders dated 04.09.2009 was implemented with effect from 01.05.2010 (**annexure C**).
 - iv. That the appellant and others preferred service appeal for reinstatement of their services.
 - v. The **Honourable Service Tribunal vide judgment dated 27.10.2011 in Service Appeal No. 1407/2010** instead of outright reinstatement of appellant and others remanded / sent back case of the appellant and similar placed persons to the Secretary E&SE KPK Peshawar for reconsideration (**annexure D**).
 - vi. The High Level inquiry committee headed by the Secretary E&SE KPK Peshawar examined and considered the case of the appellant and others. The committee dismissed the appeals of all the appellants being devoid of merits as well as legal footings and submitted inquiry report to this Honourable Tribunal. The name of the appellant reflects in the findings of inquiry committee.
 - vii. Incompliance with the recommendations of the inquiry committee, the then EDO DIKhan issued **termination order on 08.02.2012**. The name of appellant is present in the termination order list.
 - viii. After submission of inquiry report and termination orders some of the aggrieved affectees filed Execution Petitions for the implementation of the order dated 27.10.2011 of the Honourable Tribunal. The Honourable Tribunal disposed of Execution Petition on 14.03.2012. Subsequently order dated 14.03.2012 of the Honourable Tribunal was challenged in CPLA before Supreme Court of Pakistan. But the apex court declined leave to appeal and dismissed the petitions. Thus termination of the service of the appellant and others attained finality. (**annexure E, F**)
3. Incorrect / not admitted. This para pertains to the record.
 4. Incorrect/not admitted, strongly denied. The appellant was appointed as school teacher **without observing all the codal formalities**. The appointment of the appellant was illegal, out of turn without performing all the pre-requisites which are necessary and compulsory for the appointment of the school teacher as per existing rules. The act of the respondents is quite legal, justified, bonafide, based on real legal facts and in the interest of government and the public at large.
 5. Incorrect/not admitted, intensely denied. In year 2008 Mr. **IsrarUllah Khan Gandapur (Late) Ex MPA** has raised a question in provincial assembly regarding the **illegal appointments and recruitments in the education department DIKhan**. Hence the provincial Assembly constituted a committee No. 26 for Elementary and Secondary Education Department dated 20.08.2008. The standing committee No. 26 scrutinized all the appointments record of the year 2007-08 and concluded that all the illegal appointed teachers were terminated from service during the period of 01.01.2007 to 30.06.2008. (**Annexure G**) Therefore the appellant **has been terminated from service along with all the illegally appointed teachers in the year 2007 & 2008** on the direction of Provincial Government dated 04.09.2009. Then appellant and other terminated teachers approached the **Honourable High Court and Supreme Court of Pakistan, both the courts has dismissed the appeals of appellant**. Then appellant and others approach the Honourable

Service Tribunal and Service Tribunal remanded all the appeals to the Secretary E&SE KPK Peshawar vide judgment dated 27.10.2011 in Service Appeal No. 1407/2010. Therefore, the stance of the appellant is having no truth and is totally false and fictitious.

6. Incorrect / not admitted, vigorously denied. The Secretary Education has constituted a committee to probe the matter. **The committee concluded that the appointment of the appellant and other were illegal and irregular under Rule 10(2) of the Khyber Pakhtunkhwa Civil Servant Appointment Promotion and Transfer Rules 1989** which reproduce as, **“initial recruitment to the posts which do not fall within the purview of the commission shall be made on the recommendations of the Departmental Selection Committee after the vacancies have been advertised in the News Papers”**. The termination order of the appellant has been made in good faith, bonafide and in the best interest of public at-large.
7. Incorrect / not admitted, fervently denied. The recommendations of the enquiry committee were implemented with letter and spirit. In the **Execution Petition No. 34/2012 the Director E&SE KPK Peshawar and EDO DIKhan stated at the bar** dated 14.03.2012 before the Service Tribunal that they have already implemented the recommendations of the committee and issued the termination orders / letter accordingly. Further appellants filed **writ petition No 481/2014** and the same was disposed of on 03.02.2015. This act of the respondents cannot be declared against the law on any ground whatsoever but the straight away rejection of appeal. **(Annexure H)**
8. Incorrect / not admitted. The appeal of appellant is badly time barred. According to Section 23 of Khyber Pakhtunkhwa Rules 1974 “No Tribunal shall entertain any appeal in which the matter directly or substantially has already been finally decided by a Court / Tribunal of competent jurisdiction”.
9. Incorrect / not admitted. The Honourable Court has no jurisdiction to interfere in the administrative action of the authority in instant Service Appeal.

Objections on Ground

1. Incorrect/ not admitted, strongly denied. After fulfilling all the codal and legal formalities, besides the act of respondents was according to the law with legal justification and in the light of **Judgment on Service Tribunal in service appeal No. 1407/2010 decided on 27.10.2011**. There is no pre-pense malice in fact and malice in law against the appellant.
2. Incorrect / not admitted, vehemently refuted. The report of committee was comprehensive in all respect as per the direction of Honourable Service Tribunal Khyber Pakhtunkhwa Peshawar.
3. Incorrect / not admitted, forcefully denied. The committee was constituted on the direction of the Honourable Service Tribunal. After personal hearing of appellants

committee comes to the conclusion that the **appointments of the appellants were illegal and irregular in the light of Rule 10(2) of APT 1989 (annexure I).**

4. Incorrect / not admitted, hotly denied. The appellants were treated according to law and provided an **opportunity of hearing and defense** but the appellants failed to defend their illegal appointment orders. The termination orders were issued in the public interest by the Competent Authority after fulfilling all legal and codal formalities, therefore, the petitioner has got no cause of action or locus standi to file the writ petition for his grievances
5. Incorrect / not admitted heatedly denied. It is clear crystal from the **judgment dated 14.03.2012 in EP No. 34/2012 the termination orders were produced before the Honourable Service Tribunal and the same termination order were also presented before the Honourable High Court dated 03.02.2015.** The photocopy of the same was provided to the appellants. Hence the appeal of the appellant is badly time barred and in fructuous.

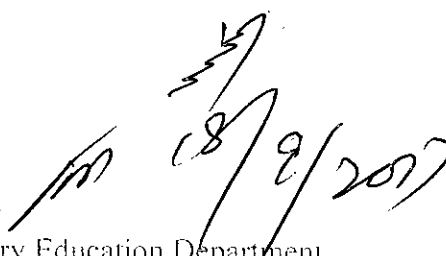
The respondents also seek leave of the Honourable Court to advance and urge additional as well as further grounds during the course of arguments.

PRAYER:

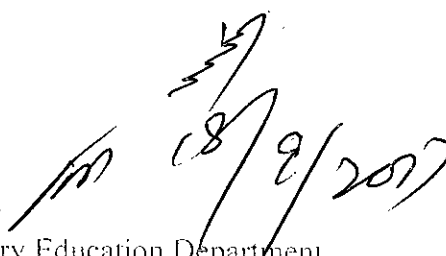
It is, therefore, most humbly prayed that on acceptance of these para-wise comments, the instant Service Appeal being devoid of legal footings and merits, may graciously be dismissed with cost.

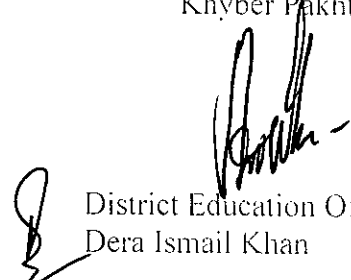

Secretary

Elementary & Secondary Education Department
Khyber Pakhtunkhwa Peshawar


Director

Elementary & Secondary Education Department
Khyber Pakhtunkhwa Peshawar


Director
Elementary & Secondary Education
Khyber Pakhtunkhwa Peshawar


District Education Officer
Dera Ismail Khan

BEFORE THE HONOURABLE SERVICE TRIBUNAL KPK PESHAWAR

Service Appeal No. 1205/2015

Abdus-Rashid .

VS

Government of KPK

Affidavit

I Mr. kamran Khan legal representative of District Education Officer (M) DIKhan do hereby solemnly affirm and declared on oath that content of the above mentioned service appeal are correct to the best of my knowledge and nothing has been concealed from this Honorable Service Tribunal.

Mr. Kamran Khan
Deputy District Education Officer
District Education Officer (M) DIKhan

BEFORE THE HONOURABLE SERVICE TRIBUNAL KPK PESHAWAR

Service Appeal No. 1205/

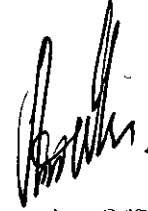
Abdur-Rasheed

VS

Government of KPK

Authority

I District Education Officer (M/F) DIKhan do hereby authorized Mr. Kamran Khan Legal representative of DEO (M) DIKhan to attend this Honourable Service Tribunal KPK Peshawar DIKhan Bench on my behalf in connection with submission of para wise comments and till the decision of the service appeal.



District Education Officer (M/F)
Dera Ismail Khan