

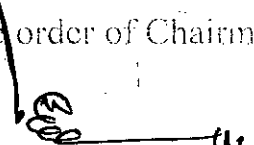
FORM OF ORDER SHEET

Court of _____

Case No. -

905

/2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	02/05/2023	<p>The appeal of Mr. Qari Umar Nabi resubmitted today by Mr. Amjad Ali Mardan Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on-</p>
		<p>By the order of Chairman</p>
		<p> REGISTRAR</p>

This is an appeal filed by Qari Umar Nabi today on 22/03/2023 against the order dated 16.12.2022 against which he made/preferred departmental appeal/representation on 10.01.2023 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 report 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- Annexures of the appeal be attested.
- 2- Check list is not attached with the appeal. ✓
- 3- Appeal has not been flagged/marked with annexures marks. ✓
- 4- All the annexures of the appeal are illegible which may be replaced by legible/better one.
- 5- Six more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal. ✓

No. 1006 /ST.

Dt. 24/3 /2023.

REGISTRAR,
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Anjad Ali Adv.
High Court Mardan.

objection removed
and resubmitted after
completion attached for
Adv
Umar
2/5/2023

Anjad Ali
ADVOCATE
SUPREME COURT

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 905 /2023

Qari Umar Nabi S/O Mohammad Zaman R/O Village Kund Khwar
Tehsil Takht Bhai District Mardan

..... (Appellant)

VERSUS

Govt of KPK through Secretary Elementary and Secondary
Education Civil Secretariat Peshawar and others

..... (Respondents)

INDEX

S.No	Description of Documents	Annexure	Page
1	Service appeal along with affidavit		1-10
2	Copy of the domicile of appellant	A	11-12
3	Copies of the academic documents of appellant	B	13-20
4	Copy of the advertisement	C	21
5	Copy of the appointment order dated 29/09/2007	D	22-23
6	Copy of the medical certificate	E	24
7	Copy of the charge report	F	25
8	Copy of the service book of the appellant	G	26-29
9	Copy of the pay release order dated 31/03/2008	H	30
10	Copy of the salary statement of July 2008	I	31
11	Copy of the FIR	J	32-33
12	Copy of the judgment dated 02/11/2009 & order dated 1/1/2010 along with notification dated 31/03/2010	K	34-38
13	Copy of the judgment dated 24/06/2013	L	39-43
14	Copy of the service appeal along with judgment dated 04/10/2022	M	44-47

15	Copy of the order dated 19/11/2022	N	48
16	Copy of the impugned office order dated 16/12/2022	O	49
17	Copy of the departmental appeal dated 07/01/2023 along with post office receipt and AD card	P	50-59
18	Copy of the judgment reported in 2010 PLC (CS) 608	O	60-64
19	Wakalatnama		65

Appellant *Amjad*

Through

Amjad Ali (Mardan)

Advocate

Supreme Court

Amjad Ali
ADVOCATE
SUPREME COURT

Dated: 24/3/2023

①

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 905 /2023

Qari Umar Nabi S/O Mohammad Zaman R/O Village Kund
Khwar Tehsil Takht Bhai District Mardan

..... (Appellant)

VERSUS

1. Govt of KPK through Secretary Elementary and Secondary Education Civil Secretariat Peshawar.
2. Secretary Elementary and Secondary Education Civil Secretariat Peshawar.
3. Director of Elementary & Secondary Education KP at Directorate of E&SED Hashtangari Chowk, Near Qila Bala Hisar Peshawar.
4. District Education Officer (Male) Mardan

..... (Respondents)

SUBJECT: *Appeal under section 4 of Service Tribunal Act read with rule 19 of the KP Government Servants (Efficiency & Discipline) Rules 2011 against the office order bearing Endst No 10805-06 dated 16/12/2022 passed by respondent no 4 (i.e District Education Officer Male Mardan) wherein the DEO(M) Mardan has withdrawn reinstatement order dated 19/11/2022 and imposed major penalty of removal from service upon the appellant and thereafter appellant filed departmental appeal dated 07/01/2022 which dispatched through registered post & acknowledge due card dated 10/01/2022 which remained un-responded after lapse of 60 days which are illegal against law and facts and liable to be set aside.*

Filed to-day

Registrar

24/3/2023

Khyber Pakhtunkhwa
Service Tribunal
Case No. 4519
Dated 24/3/2023

Respected Sir,

Appellant humbly submits as under:

1. That appellant is permanent resident of District Mardan as evident from his domicile (**Copy of the domicile of appellant is attached as Annexure A**)
2. That appellant is equipped with qualification such as Nazira Quran e Kareem along with Tajweed (Qirat), Hifz

(2)

e. Quran and B.A (Copies of the academic documents of appellant are attached as Annexure B)

3. That District Coordination Officer Mardan advertised post of Qari vide Daily Mashriq dated 07/05/2007 (Copy of the advertisement is attached as Annexure C)
4. That appellant competed in the selection process and after completion of all codal formalities and due recommendation of the Departmental Selection Committee, appellant was appointed as a Qari Teacher vide appointment order dated 29/09/2007 (Copy of the appointment order dated 29/09/2007 is attached as Annexure D)
5. That appellant was examined by the authorized Medical Superintendent and was declared fit (Copy of the medical certificate is attached as Annexure E)
6. That appellant assumed charge and submitted charge report on 09/10/2007 (Copy of the charge report is attached as Annexure F)
7. That appellant performed satisfactory service and there is no complaint against the appellant in his entire service (Copy of the service book of the appellant is attached as Annexure G)
8. That the Executive District Officer Schools & Literacy Mardan after due verification of the documents of the appellant from the quarters concerned issued pay release order dated 31/03/2008 (Copy of the pay release order dated 31/03/2008 is attached as Annexure H)
9. That there is no complaint against the appellant against the appellant wherein appellant performed duty to the entire satisfaction of his superiors.
10. That appellant performed duty and received salaries from October 2007 till July 2008 (Copy of the salary statement of July 2008 is attached as Annexure I)
11. That FIR No 8 dated 28/08/2009 was lodged by Anti Corruption, Mardan U/S 419, 420, 468, 471, 109 PPC & 5(2) PC Act against the appellant along with Said Azeem (ADO) wherein the later ADO was acquitted of the

(3)

charges by the Special Judge Anti Corruption and appellant was convicted & sentenced (**Copy of the FIR is attached as Annexure J**)

12. That appointment order dated 29/09/2007 of appellant was withdrawn vide order dated 31/12/2008 wherein appellant's service appeal was accepted vide order dated 02/11/2009 wherein the withdrawal order dated 31/12/2008 is set aside and appellant is reinstated into service with all back benefits, however, after de-novo inquiry, a major penalty of removal from service was imposed upon appellant vide notification dated 31/03/2010 thus appellant is entitled to the service as well as monetary benefits from 29/09/2007 till 31/03/2010 as per aforementioned judgment of the Honorable Service Tribunal. Relevant Para of judgment dated 02/11/2009 is reproduced as under: (**Copy of the judgment dated 02/11/2009 & order dated 1/1/2010 & notification dated 31/03/2010 is attached as Annexure K**)

"8. In view of the above, the appeal is accepted, the impugned order dated 01.12.2008 is set aside and appellant is reinstated into service with all back benefits. The respondents may conduct a de-novo inquiry in the matter and to provide fair chance to the appellant to defend himself at all stages of the inquiry proceedings, which shall be completed within two months from the receipt of this judgment..."

13. That appellant filed criminal appeal before the Honorable Peshawar High Court Peshawar wherein the Honorable Peshawar High Court Peshawar was pleased to acquit and exonerate the appellant of all the charges vide judgment dated 24/06/2013, however, appellant shall not be entitled to claim back benefits nor Department shall pay them any such benefit and copy of this judgment be sent to competent authority/appointing authority of the appellant. The Honorable Court further observed that there is no complaint on behalf of the Head of the Departmental Authority to the effect that appellant was unable to deliver or was incompetent to teach the pupils effectively and properly as required of a well-versed teacher rather appellant successfully completed the 14 months service without any complaint from the Department side and appellant had a genuine degree of BA and the conviction and sentence awarded by the

(4)

Special Judge Anti Corruption Peshawar vide judgment dated 22/10/2013 was set aside. Copy of the relevant Para of judgment dated 24/06/2013 is reproduced as under: (Copy of the judgment dated 24/06/2013 is attached as Annexure L)

"7. Even the head of the institution did not

make a complaint to the departmental authority that the appellants were unable to deliver or they were incompetent to teach their pupils effectively and properly as required of a well versed teacher rather they successfully completed the fourteen months service without any complaint from the department side and when one of them has a genuine BA degree and the other has shown ignorance about it and because evidence on this point, adduced by the prosecution, is susceptible to more than two interpretations and appreciate then, benefit of doubt shall go to the accused being cardinal principle of criminal justice.

Accordingly, while extending benefit of doubt to both the appellants, their appeal is allowed. Conviction & sentences awarded to the appellants by the Judge Special Court Anti-Corruption Peshawar vide impugned judgment dated 22.1.2013 are set aside and they are acquitted of all the charges leveled against them, however, they shall not be entitled to claim back benefits nor the department shall pay them any such benefits and copy of this judgment be sent to the competent/appointing authority of the appellants. The appellants are on bail and their sureties are discharges from the liability of bail bonds."

14. That appellant filed another service appeal no 574 of 2014 against the removal order dated 31/03/2010 wherein the Honorable Service Tribunal vide order dated 04/10/2022 reinstated appellant for the purpose of inquiry wherein the points of inquiry have been

(5)

explained for the purpose of convenience, the operative part i.e Para 2 of the judgment dated 04/10/2022 is reproduced as under: (Copy of the service appeal alongwith judgment dated 04/10/2022 is attached as Annexure M)

"2. After hearing arguments of learned counsel for the appellant and Deputy District Attorney for respondents both were confronted with the

inquiry report on the basis of which impugned order was passed. Findings-B refers to some school record. We are afraid that school record does never contain any record after the SSC examination result etc as after passage of SSC the students goes to College and University. Therefore, there was no occasion that school record must contain at least, B.A Degree with it. Similarly there is reference to the record of EDO, Mardan wherein it is shown that the appellant had passed BA in the year 2004 from the Peshawar University and as against that it is alleged that the appellant had passed his BA examination from Malakand University. The enquiry report is silent regarding the fact whether the document retained in the office of the EDO Mardan were those which were presented by the appellant at the time of appointment and similarly whether the documents referred to as school record were also annexed with the application for appointment by the appellant or not? Likewise the report is not disclosing the facts by annexing any merit list as to what benefits and how that was got by the appellant because of the alleged fake documents, the learned counsel for the appellant as well as Deputy District Attorney were unanimous to agree that let this matter be remitted to the Department for conducting detailed inquiry covering all the facts and/or atleast the above points and then Department may proceed in accordance with law. The appellant is reinstated for the purpose of inquiry. The inquiry shall be completed within sixty days after receipt of this order. Copy of the inquiry report be transmitted to the Registrar of the Tribunal.

Similarly, date of acknowledgement of the order be also communicated to the Registrar of

(6)

this Tribunal. This instant execution appeal is disposed of in the above terms. Consign....”

15. That appellant is reinstated in service vide order dated 19/11/2022 for the purpose of inquiry **(Copy of the order dated 19/11/2022 is attached as Annexure N)**
16. That the worthy District Education Officer (Male) Mardan has vide impugned office order bearing Endst No 10805-06 dated 16/12/2022 imposed major penalty of removal from service upon the appellant and withdrawn reinstatement order dated 19/11/2022 which is illegal against law and facts **(Copy of the impugned office order dated 16/12/2022 is attached as Annexure O)**
17. That appellant preferred departmental appeal dated 07/01/2023 which is dispatched through registered post which remained un-responded **(Copy of the departmental appeal dated 07/01/2023 along with post office receipt and AD card is attached as Annexure P)**
18. That impugned office order bearing Endst No 10805-06 dated 16/12/2022 wherein imposed major penalty of removal from service upon the appellant and reinstatement order dated 19/11/2022 is withdrawn is illegal against law and facts on the following grounds:

GROUND:

- A. Because appellant is innocent and falsely charged.
- B. Because appellant was not associated with the de-novo enquiry proceedings nor any witness was examined in presence of the appellant nor appellant was confronted with any document/record.
- C. Because appellant has neither been charge sheeted nor statement of allegation has been issued to the appellant nor show cause notice has been given to the appellant.
- D. Because the concerned officers were neither interrogated nor arrayed as an accused in the instant case which is a glaring illegality and appellant being a low-paid employee has been made a scapegoat.
- E. Because all codal formalities for appointment have been completed and appellant being eligible for the post of

Qari was duly appointed after proper recommendation of the Departmental Selection Committee. (7)

- F. Because all academic credentials have been already verified by the worthy Executive District Officer Schools & Literacy Mardan and his academic documents have been found correct.
- G. Because major penalty of removal from service has been imposed upon the appellant under the E&D rules 2011 whereas the appellant is appointed in the year 2007. The E&D Rules 2011 has no retrospective effect and not applicable to the appellant and solely on this score, the entire inquiry and impugned removal order is illegal, without lawful authority.
- H. Because appellant is made a rolling ball at the hands of the Department wherein he is suffering rigours of departmental inquiries and denovo inquiries but of no avail.
- I. Because the whole inquiry and the whole proceedings are illegal as appellant cannot be targeted alone while excluding all the concerned government servants which is against the judgments of the Honorable Supreme Court of Pakistan and the appellant alone cannot be made a scapegoat.
- J. Because a vested right has accrued to the appellant wherein appellant has performed duty for almost 14 months and appellant cannot be divested of the same.
- K. Because the principle of Audi Alteram Partem is to be read into every statute.
- L. Because as per the principle of Audi Alteram Partem (No one can be condemned unheard), which principle has been defeated in the instant case as the appellant has neither been charge sheeted, nor statement of allegation has been issued nor show cause notice has been issued nor any opportunity of hearing has been afforded nor the appellant has been associated with any inquiry nor any witness has been examined in presence of the appellant nor any opportunity of cross examination has been provided.
- M. Because the appointment order has been passed after observing all codal formalities and in accordance with law and once the appointment order has been acted upon

and the appellant has performed duty for almost 14 months, then the Department cannot back-track as per principle of locus poenitentiae as a vested right has accrued to the appellant. (8)

N. Because the DEO (M) Mardan/Executive District Officer (Schools & Literacy) Mardan or other concerned officials who signed the appointment order have not even been questioned to this effect.

O. Because appellant has no approach to the official record of Education Department.

P. Because the entire misconception has arisen from the fact that appellant's BA degree is from Malakand University whereas the Anti Corruption Department and the Education Department were seeking verification of the same from Peshawar University.

Q. Because there is neither any forgery nor any fraud on the part of appellant, much less, when appellant has been acquitted and exonerated of the charges of forgery and fraud by the Honorable Peshawar High Court Peshawar and said judgment was communicated to the competent authority of the appellant and the said judgment attained finality then the very inquiries for the same charges of forgeries after earning acquittal from the Honorable Peshawar High Court Peshawar on the same charge is squarely falling within the principle of double-jeopardy within the meaning of Article 13 of Constitution of Pakistan 1973 which is fundamental right of every citizen and is reproduced as under for convenience:

"Protection against double punishment and self incrimination

13. No person—

(a) shall be prosecuted or punished for the same offence more than once; or

(b) shall, when accused of an offence, be compelled to be a witness against himself."

R. Because beside initiation of the inquiries after the judgment of the Honorable Peshawar High Court Peshawar is contemptuous on the part of the officers of Education Department.

S. Because the Honorable Peshawar High Court Peshawar has declared the appellant as a competent and well-versed teacher and thus vested right has accrued to the appellant and appellant cannot be divested of his rights.

(9)

It wouldn't be out of place to mention that departmental inquiry cannot replace/brush aside the judgment of the Honorable Peshawar High Court Peshawar dated 24/06/2013 which has attained finality as the same was not impugned before the Higher Court.

T. Because the order dated 04/10/2022 of the Honorable Service Tribunal which provide for completion of inquiry within sixty days has lapsed on 03/12/2022 and any finding beyond the said period is blatant violation of the said judgment and untenable in the eye of law. Appellant is fortified in this respect that the judgment of the Honorable Supreme Court reported in 2010 PLC (CS) 608, the finding of the inquiry Committee beyond the period prescribed in the judgment of the Service Tribunal is nullity in the eye of law (**Copy of the judgment reported in 2010 PLC (CS) 608 is attached as Annexure Q**)

U. Because appellant being a low paid employee had no access to the official record and when no action has been taken against the officers who were custodian of the record and having access to the record then making appellant scapegoat is squarely in violation of the judgment of the Honorable Supreme Court of Pakistan reported in 1996 PLD Supreme Court 412/413 in case titled as Education Department versus Saad Ullah.

V. Because appellant is suffering the rigours of the criminal trials and service trials, Departmental trials again and again for the last 15 years with no fault on the part of the appellant.

W. Because appellant is jobless and entitled for back benefits.

It is therefore humbly prayed that on acceptance of this service appeal, impugned office order bearing Endst No 10805-06 dated 16/12/2022 passed by respondent no 4 (i.e District Education Officer (Male) Mardan) wherein reinstatement order dated 19/11/2022 of appellant has been withdrawn and major penalty of removal from service has been imposed upon the appellant may please be set aside and appellant may please be reinstated in service with all back benefits.

Appellant

Through

Amjad Ali (Mardan)
Advocate
Supreme Court

Dated: ___ / 3 / 2023

(10)

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

Service Appeal No. _____/2023

Qari Umar Nabi S/O Mohammad Zaman R/O Village Kund Khwar
Tehsil Takht Bhai District Mardan

..... (Appellant)

VERSUS

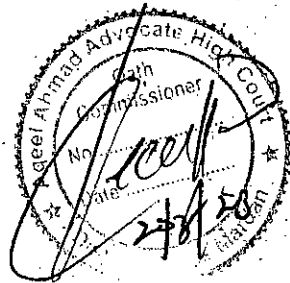
Govt of KPK through Secretary Elementary and Secondary
Education Civil Secretariat Peshawar and others

..... (Respondents)

AFFIDAVIT

I, Qari Umar Nabi S/O Mohammad Zaman R/O Village Kund
Khwar Tehsil Takht Bhai District Mardan (appellant), do
hereby solemnly affirm and verify that the contents of the service
appeal are true and correct to the best of my knowledge and
belief and nothing has been concealed from this Honorable Court.

Deponent 



Aux (A)

11

DOMICILE CERTIFICATE

I Umar Nabi Son/Daughter of Umar Nabi hereby declare that I was born of parents who are permanently domiciled in North-West Frontier Province having been born/settled in this Province.

I was born at Village/Mohallah Dang Khawar (Shah) Tehsil Takht I-Bhan Division Mardan

Umar Nabi
Signature of the Applicant
Date: 17/7/2000

Persuance to the declaration dated 17/7/2000 filed by Mr/Miss Umar Nabi Son/Daughter of Umar Nabi

domiciled in North - West Frontier Province, it is hereby certified that the said Umar Nabi born of parents who are permanent residents of North-West Frontier Province having been born/settled within it.

I have satisfied myself from personal knowledge/verification that the above declaration is true and certify accordingly.

This 15 day of July 2000

Name: Abdul Stokes Durrani
Designation: MAGISTRATE 1st Class
MARDAN/TAKHT-I-BHAN
(Seal)

WITNESSED AND
SIGNED

[Signature]
DISTRICT MAGISTRATE
MARDAN
(Seal)



No. 9971 /G. Dated 17/7/2000

(Strike out which ever is not applicable)

(9A)

(12)

گلیف ٹی ایچ 203 - 204 عمری والد محمد زمان صاحب کو رقم (لوٹروٹ) کے اعداد لکھنے

لوٹروٹ میٹری سٹول اور دیگر اشیاء کی قیمت سے حاصل ہونے والی رقم

الحمد لله

Dr. S. Khan
Secretary to the Board of Directors

گلیف ٹی ایچ 203 کے عمری والد محمد زمان صاحب کے متعلقہ حسابوں پر رقم

مبلغ 2000 روپے رقم لوٹروٹ میٹری سٹول میں جمع ہونے والی رقم ہے

تاریخ: 15/11/20

میں نے اس رقم کو گلیف ٹی ایچ 203 کے عمری والد محمد زمان صاحب کے متعلقہ حسابوں پر رقم کرنے کے لیے

میں نے اس رقم کو گلیف ٹی ایچ 203 کے عمری والد محمد زمان صاحب کے متعلقہ حسابوں پر رقم کرنے کے لیے

Dr. S. Khan
Secretary to the Board of Directors

(13)

Part (B)

S. No. PB No 120214

Board of Intermediate & Secondary Education
PESHAWAR

DETAILED MARKS CERTIFICATE
Secondary School Certificate Examination
(SCIENCE GROUP)

Session 19 2000 (Annual/Supplementary)

Name Umer Nabi

Father's Name Mohammad Zaman Roll No. 38354

SUBJECT	Total Number of marks allotted	MARKS OBTAINED			
		Theory	Practical	In Figure	In Words
1. English	150			103	/
2. Urdu	150			95	
3. Islamiyat	75			60	
4. Pakistan Studies	75			34	
5. Mathematics	100			62	
6. Physics	100	62	19	81	
7. Chemistry	100	33	19	52	
8. Biology	100	39	18	57	
Total	850			544	FIVE HUNDRED & FORTY FOUR

Note: Errors/Omissions excepted
F: Failed in the paper (s)

Prepared by: _____

Checked by: _____

Date _____ 19

20

Controller of Examinations
Board of Intermediate & Secondary Education
PESHAWAR

ATTESTED

[Handwritten signature]

[Handwritten signature]
SUPREME COURT

No. 125483

Roll No. 38354



Board of Intermediate and Secondary Education
Peshawar N.W.F.P. Pakistan

Secondary School Certificate Examination

SESSION 2000 - ANNUAL

(Science Group)

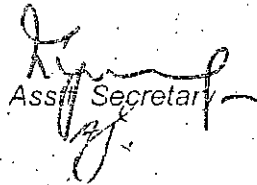
This is to Certify that Umar Nabi Son / Daughter of Muhammad Zaman
and a student of Govt. High School, Lund Khawar, Mardan has passed the Secondary School Certificate
Examination of the Board of Intermediate and Secondary Education, Peshawar held in March/April, 2000 as a Regular
candidate. He / She obtained 544 Marks out of 850 and has been placed in Grade B Representing Very Good

The Candidate passed in the following subjects:

- | | | | |
|------------|---------------------|----------------|--------------|
| 1. English | 3. Islamiyat | 5. Mathematics | 7. Chemistry |
| 2. Urdu | 4. Pakistan Studies | 6. Physics | 8. Biology |

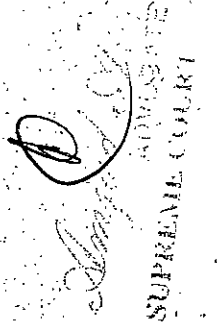
He / She has been awarded Grade C on the basis of internal assessment by the Institution concerned.

Date of birth according to admission form March 1, 1983


Asst. Secretary


Secretary

This certificate is issued without alteration or erasure


ADVOCATE
SUPREME COURT

(15)

(X)

Board Of Intermediate & Secondary Education
SAIDU SHARIF, SWAT.

No. Sw. 7827

DETAILED MARKS CERTIFICATE
Intermediate Examination (Pre-Engineering Group)
Session 2007 (Annual/Supplementary)



PART-II

Name Umar Nabi

Father's Name Muhammad Naman Roll No. 216179

SUBJECTS	Marks Alloted				Marks Obtained				
	Part-I	Part-II		Total Marks	Part-I		Part-II		Total in Figures
		Theory	Practical		Theory	Practical	Theory	Practical	
1. English	100	100		200					
2. Urdu	100	100		200					91
3. Islamic Education	50			50					110
4. Pakistan Studies		50		50					62
5. Mathematics	100	100		200					89
6. Physics	100	75	25	200	41	17	37	08	103
7. Chemistry	100	75	25	200	34	09	22	12	77
Total	550	500	50	1100					532-D

Total Marks in words Five Hds & Thirty two

Errors/omissions excepted

Date

Prepared by

Checked by

Controller of Examinations
Board of Intermediate & Secondary Education
Saidu Sharif, Swat.

[Handwritten signature]

[Handwritten signature]
SUPREME COURT

16

S. No. 09142



Roll No. 216179

BOARD OF INTERMEDIATE AND SECONDARY EDUCATION



Saidu Sharif Swat N.W.F.P. Pakistan

INTERMEDIATE EXAMINATION

FRE: ENGINEERING

SESSION 2002 (ANNUAL / SUPPLEMENTARY)

THIS IS TO CERTIFY THAT UMAR MABI

Son / Daughter of MUHAMMAD ZAMAN

and a student of GOVT DEGREE COLLEGE DARGAI MKD ARROY

Registered No. 124-D-2000 has passed the Intermediate Examination of

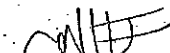
the Board of Intermediate & Secondary Education, Saidu Sharif, Swat held in

2002 as a *Regular private candidate*. He / She obtained 532

Marks out of 1100 and has been placed in Grade D Representing FAIR

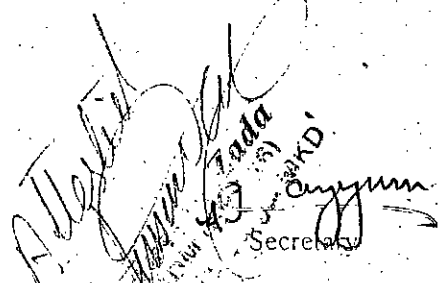
Internal Grade


The Examination was taken as a whole / in parts.

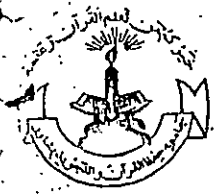

Asstt. supdt

Asstt. Secretary

This certificate is issued without alteration or erasure.


Secretary


ADVOCATE
SUPREME COURT



قائم شدہ ۱۳۵۲ھ

فون جامعہ 091-2211365

۱۷

جامعہ حفظ القرآن والتجوید رجسٹرڈ پشاور

جامع مسجد حاجی طورہ قل بائے بخاری ہسپتال روڈ پشاور (پاکستان)

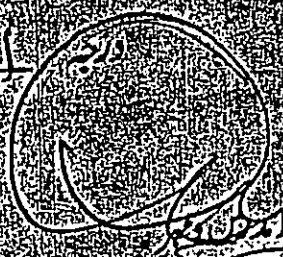
تاریخ: ۱۱/۱۱/۲۰۱۷ء سند نمبر: ۹۸-۱۱-۹۸

نام: فدوی قاری عمر ایوبی ولدیت: محمد علی ایوبی صاحب شہادہ
طلبہ سہ ماہی (دیکھو) حاصل کیے گئے تاریخ اجراء سند: ۱۱/۱۱/۲۰۱۷ء

مضامین	کل نمبر	حاصل کردہ نمبرز
یسرنا القرآن	100	96
ناظرہ القرآن الکریم	100	94
تجوید القرآن	100	95
متق وقرات	100	92
دیگر امور و تربیت	100	97
کُل نمبر	500	469

امام (مستام) - لورکشن

ISLAMIC UNIVERSITY OF PESHAWAR
P.O. Box 112, Huzul-Quran, Talwood (Road)
Opposite Masjid Nurul Bal Beikhat
L.R.H. Road Peshawar (Pakistan)
Phone No. 211365



دستخط مہتمم و مہتممہ

Supreme Council
SUPREME COUNCIL

UNIVERSITY OF MALAKAND PAKISTAN

18524

S.No. _____



G.D.C Dargai Malakand Agency

DETAILED MARKS CERTIFICATE

B.A Part-II Annual(Compant),2005

Name **UMAR NABI**

Father's Name **MUHAMMAD ZAMAN**

Registration No **2002540043**

Roll Number **381595**

Subject Code	Subject Name	Total Marks	Marks Obtained	REMARKS
BA001	POLITICAL SCIENCE	75	35	PASSED
BA002	ISLAMIC STUDIES(E)	75	38	PASSED
BA010	English(C)	75	25	PASSED
G0003	PAK. STUDY	40	17	PASSED
ZBA003	BA PART-I MARKS	285	141	PASSED
		550	256	

Errors and Omissions are subject to subsequent rectification.

Examination Held in **July-August, 2005**

Examination was taken as a whole/in parts.

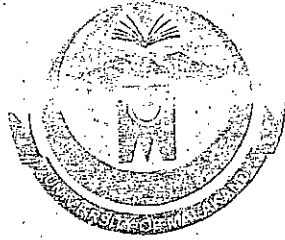
Admitted
HUSNA ZAFER
 G.D.C. DARGAI MALAKAND AGENCY

Result Declared on **15-Oct-2005**

Controller of Examinations
University of Malakand

Date of Issue **18-Oct-2005**

Supreme Court
SUPREME COURT



UNIVERSITY OF MALAKAND
PAKISTAN

Serial No BA/RG/0794

This Degree of
Bachelor of Arts
Is Awarded to

Mr/Ms UMAR NABI Son/Daughter of MUHAMMAD ZAMAN

Student/Probation candidate of GOVT. DEGREE COLLEGE DARGAI MALAKAND AGENCY

Having passed the prescribed examination held in JULY--AUGUST, 2005

Session 2002-2004 Registration No 2002540043 Roll No 381595

Division SECOND

Examination was taken as a whole/in parts

Issuance Date JANUARY 15, 2009

[Signature]
Controller of Examinations

[Signature]
Registrar

[Signature]
Constituted
Vice Chancellor

[Signature]
SUNRISE

20

Err.
Exa
Exa

(21)

Annex C

7/5/2008

Sl. No.	Description	Rate	Quantity	Amount	Remarks
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58
59
60
61
62
63
64
65
66
67
68
69
70
71
72
73
74
75
76
77
78
79
80
81
82
83
84
85
86
87
88
89
90
91
92
93
94
95
96
97
98
99
100

INFORM/05

Daily Mashriq

SUPREME COURT

ATTESTED

Handwritten signature/initials

SUPREME COURT

OFFICE OF THE EXECUTIVE DISTRICT OFFICER (SCHOOLS & LITERACY) MARDAN

NOTIFICATION:

Consequent upon the advertisement published in the daily "Mashriq" Peshawar dated 03/04/2007 and interview held on 26/04/2007 by the District recruitment selection committee and approval given by the district selection / promotion committee in its meeting held on 20/09/2007, the undersigned being competent authority is pleased to appoint the following Qari (Male) candidates in EPS-07 (Rs. 2940-160-7740) plus usual allowances as admissible to them under the contract policy 2005 against the vacant Qari posts at the schools noted against each with effect from the date of their taking over charge in the interest of public service subject to the following existence terms and conditions:

S#	Name	Father's Name	Residence	School where Appointed	Remarks
1	Habib Gul	Mehmood Gul	Pir Abdul Haq Koroona Kot Road Takht Bhai	GHS Khadi Killi	Against Vacant Qari Post
2	Umar Naci	Muhammad Zaman	Zarin Abad PO Lund Khwar Takht Bhai	GHS Qutab Garh	Against Vacant Qari Post
3	Hamid Ur Rahman	Habib Ur Rahman	Vill: Khwaja Rashaka Nisara Road Mardan	GHS Pati Kaian	Against Vacant Qari Post
4	M. Abdul Ali Khan	Musafor Khan	Moh: Adda Rustam	GHS Naseer Killi	Against Vacant Qari Post
5	Muhammadi Ayub	Muhammad Yaqoob	VPO Qasmi Mardan	GHSS Kori Zarmol	Against Vacant Qari Post
6	Insan Ullah	Amir Ullah	VPO Ato	GHS Mian Khan	Against Vacant Qari Post
7	Muhammad Hayat	Khair Ullah	Vill: Islam Gul Koroona PO Ikram Pur Takht Bhai	GHS Kati Garhi	Against Vacant Qari Post
8	Hafiz Muhammad Farooq	Taufur Khan	Moh: Sahib Zada Baba Bakhshali Mardan	GHS Bakhshali	Vice Muhammad Ibrahim AT Post
9	Muhammad Shah	Shah Zareen	Bagh Colony Chato Chowk Street# 3 Shamsi Road	GHS Shamshad Abad	Against Vacant Qari Post
10	Said Hassan	Shamsher Khan	VPO Jori Moh. Mirzagan Mardan	GHS Nodah Toru	Against Vacant Qari Post
11	Liaqat Ali	Abdul Chaffar	Vill: K. D. Zai Moh: Pakistan Koroona Garhi Kapura	GHS Qasam Toru	Against Vacant Qari Post
12	Asad Ullah	Hamdullah Shah	VPO Gumbat Mardan	GHS Dhakki Gumbat	Against Vacant Qari Post
13	Fazal Sher	Zarif Khan	H# 9 Street# 1 Block "B" Canal Road Islam Bagh	GHS Pir Abad	Against Vacant Qari Post
14	Muhammad Fuzai	Sames Ur Rahman	VPO Gumbat	GHSS Pirsada	Against Vacant Qari Post
15	Muhammad Hussain	Faqeer Hussain	Madina Colony Khat Killi Par Hoti Mardan PST GPS Pani Alladad Khat	GHS Badar Banda	Against Vacant Qari Post

TERMS AND CONDITIONS:

1. Their appointments are made purely on contract policy 2005 and will not be entitled for pension / Gratuity as per policy and are liable to termination at any time without any notice or reason. Moreover in-service candidates will also be governed by the contract policy 2005.

2. They will be required to produce certificates from the concerned Medical

Ann D 22

7
3

- 3- They are not allowed to take over charge if their age is less than 13 years and above 33 years, however the candidates who obtained age relaxation certificate from the competent authority are entitled to take overcharge.
- 4- Their educational/professional certificates/degree should be verified from the concerned Board/University before drawl of their pay and pay should not be released till the comparison of their score with merit list maintained in this office after verification.
- 5- No TA/DA is allowed.
- 6- They will be governed by contract policy 2005 and other policy/rules released by the Govt. from time to time.
- 7- They are entitled for annul increment on completion of one year service.
- 8- They will take over charge of the post within 15 days.
- 9- In case of resignation they will give one month prior notice to the Department of Education one month's salary in Government treasury.
- 10- In case of duplication of post the appointment order of junior most candidate will be withdrawn automatically.
- 11- If in case there certificate / degrees are found fake there appointment order will be withdrawn from the date of issue and the FIR will be register against the concerned

(MIAN WALI MUHAMMAD)
EXECUTIVE DISTRICT OFFICER
(SCHOOLS & LITERACY) MARDAN

Endst: No. 11201/G / Appt: Qari/10-2007. Dated Mardan the 29/9/07 2007.

Copy forwarded for information and necessary action to

- 1- Director Schools and Literacy NWFP, Peshawar.
- 2- District Nazim Mardan.
- 3- District Coordination Officer Mardan.
- 4- District Accounts Officer Mardan.
- 5- District Officer (S & L) Male Mardan.
- 6- Principal / Head Master Concerned.
- 7- Supdt: local office.
- 8- ADO (Estt :) Local Office.
- 9- Candidate Concerned.

Mian Wali Muhammad
EXECUTIVE DISTRICT OFFICER
SCHOOLS & LITERACY MARDAN

29/9/07

OFFICE OF THE EXECUTIVE DISTRICT OFFICER (SCHOOLS & LITERACY) MARDAN

NOTIFICATION:

Consequent upon the advertisement published in the daily Mashriq Peshawar dated 03.04.2007 and interview held on 26.04.2007 by the District Recruitment selection committee and approval given by the district selection / promotion committee in its meeting held on 28.08.2007, the undersigned being competent authority, is pleased to appoint the following Qari (Male) candidates in BPS-07 (Rs. 2940-160-7740) plus usual allowances as admissible to them under the contract policy 2005 against the vacant posts at the schools noted against each with effect from the date of their taking over charge in the interest of public service subject to the following existence terms and conditions:

S #	Name	Fathers Name	Residence	School where appointed	Remarks
1.	Habib Gul	Mehmood Gul	Pir Abdul Haq Koroona Kot Road Tkht Bhai	GHS KHadi Killi	Against vacant Qari Post
2.	Umar Nabi	Muhammad Zaman	Zarin Abad PO Lund Khwar Takht Bhai	GHS Qutab Garh	Against vacant Qari Post
3.	Hamid ur Rehman	Habib ur Rehman	Vill. Khwaja Rashaka Nisata road Mardan	GHS Pati Kalan	Against vacant Qari Post
4.	H Abdul Ali Khan	Musafar Khan	Moh Adda Rustam	GHS Naseer Killi	Against vacant Qari Post
5.	M Ayub	M Yaqoob	VPO Qasmi Mardan	GHSS Kohi Barmol	Against vacant Qari Post
6.	Ihsan Ullah	Amir Ullah	VPO Alo	GHS Mian Khan	Against vacant Qari Post
7.	Muhammad Hayat	KhairUllah	Vill IslamGuli Koroona PO IkramPur Takht Bhai	GHS Kati garhi	Against vacant Qari Post
8.	Hafiz Muhammad Farooq	Taufur Khan	Moh Sahib Zada Baba Bakhshali Mardan	GHS Bakhshali	Against vacant Qari Post
9.	Muhammad Shah	Shah Zareen	Bagh Colony Chato Chowk Stret No3 Shamsi Road	GHS Shamshad Abad	Against vacant Qari Post
10.	Said Hasasn	Shamsher Khan	VPO Moh Mizagan Mardan	GJS Nodeh Toru	Against vacant Qari Post
11.	Liaqat Ali	Abdul Ghaffar	Vil K D Zai Moh Pakistan Koroona Garhi Kapura	GHS Qasam Toru	Against vacant Qari Post
12.	Asad Ullah	Hamdullah Shah	VPO gumbat Mardan	GHS Dhakki Gumbat	Against vacant Qari Post
13.	Fazal Sher	Zarif Khan	H No 9 Street No.1 Block B Canal Road, Islam Bagh	GHS Pir Abad	Against vacant Qari Post
14.	M Fazeel	Samee ur Rehman	VPO gumbat	GHS Pirsadda	Against vacant Qari Post
15.	Iftikhar Hussain	Faqeer Hussain	Adina Colony Khat Killi Par Hoti Mardan PST GPS Pani Alladad Kheil	GHS BadarBanda	Against vacant Qari Post

Terms and conditions:

1. Their appointments are made purely on contract policy 2005 and will not be entitled for pension/ Gratuity as per policy and are liable to termination at any time without any notice or reason. Moreover in service candidates will also be governed by the contract policy 2005.
2. (sic)

BETTER COPY

23

3. They are not allowed to take over charge if their age is less than 18 years and above 33 years, however the candidates who obtained age relaxation certificate from the competent authority are entitled to take over charge.
4. Their educational/ professional certificates/ degree should be verified from the concerned Board/ University before drawl of their pay and pay should not be released till the comparison of their score with merit list maintained in this office after verification.
5. NO TA/ DA is allowed.
6. They will be governed by contract policy 2005 and other policy/ rules released by the Govt from time to time.
7. They are entitled for annual increment on completion of one year service.
8. They will take over charge of the post within 15 days.
9. In case of resignation they will give one month prior notice to the Department or forfeit one months salary in Government treasury.
10. In case of duplication of post the appointment order of junior most candidate will be withdrawn automatically.
11. If in case there certificate/ degrees are found fake there appointment order will be withdrawn from the date of issue and the FIR will be register against the concerned.

Mian Wali Muhammad
Executive District Officer
(Schools & Literacy) Mardan

Endst No. 11201/G/ APpvt: Qari/ 10-2007 Dated Mardan the, 29.09.2007

Copy forwarded for information and necessary action to the:-

1. Director Schools and Literacy NWFP, Peshawar.
2. District Nazim Mardan.
3. District Coordination Officer Mardan.
4. District Accounts Officer Mardan.
5. District Officer (S&L) Mal Mardan.
6. Principal/ Head Master Concerned.
7. Suptd: Local Office.
8. ADO (Estt) Local Office.
9. Candidate Concerned.

Executive District Officer
(Schools & Literacy) Mardan

(24)

Aux - E

D - (13)

CS&PD-FWFD-27 (33-290) P. of 100-29-7-93-(16)

N.W.F.P. Med. No. 1

MEDICAL CERTIFICATE

Name of Official..... Mr. Umair Nabi ✓
 Caste or race..... Muslim
 Father's name..... Muhammad Zaman
 Residence..... Villi Zarin Abad, P.O. Lund, Khawar
 Teh., Tatchat Bhasi Distt. Multan
 Date of birth..... 01-3-1933
 Exact height by measurement..... 5-7
 Personal mark of identification..... ~~att~~ A black mole near left eye
 Signature of the Official.....
 Signature of head of office.....

Seal of Office.....

I do hereby certify that I have examined Mr. Umair Nabi a candidate for employment in the Office of the E.D.O. (Schools & Literacy) Multan and can not discover that he had any disease communicable or other constitutional affection or bodily infirmity except..... Nil

I do not consider this as disqualification for employment in the office of the above as Qass..... His age according to his own statement 24 year and by appearance about 24 year.

ATTESTED

[Signature]

LEFT HAND THUMB AND FINGER IMPRESSIONS.....

Medical Superintendent, Civil Hospital.....

جارج رپورٹ

من فستی عمرنی ے قاری پوسٹ پراج مورف 9/10
2007

قبل از دو پیر بسطابق ای ڈی او صاحب دستاورد

پیر بی (مردان) اور ڈاکٹر بتا - 1120 گورنمنٹ ہائی سکول
29-4-07

قوت گروہ مردان میں اپنے عہدے کا جارج ازاں پیر

صاحب گورنمنٹ ہائی سکول قوت گروہ پیر کا مشورہ کیا

~~دستور کا پیر~~

Head Master
G.H.S Qutab Garh
(Mardan)

Forwarded to DPO
Mardan for report.
No. 857
9/10/07

دستور گروہ مذکورہ
Head Master
G.H.S Qutab Garh
(Mardan)

ATTESTED

[Signature]

Ann-G

F-15

(For use in Police Department only)

26

1. Passed S.S.C. Exam; Under Roll No. 38354 in the First Div. from The B.I.S.E. Peshawar in Session 2000 (A), obtaining marks 544/850.

[Signature]

Head Master

Head Office
(Murdan)

Verification Roll No. dated received back

2. Passed F.Sc. Exam; under R. No. 216179 obtaining 532/1100 and was placed in grade (P) from B.I.S.E. Swat Sharif Swat in Session 2002 (A).

Left Thumb Impression

Head Master

Head Office
(Murdan)

3. Passed A'rat Examination under R. No. 98 obtaining marks 469/500 in grade 'A' from Jamia Hafizul Quran wa Tajweed Peshawar in session 2004. A.

First Arts

Head Master
Head Office
(Murdan)

English
Verification of Documents

4. All documents of Umer Nabli B. 1876 B. Mohamed Zaman

Madani/Professional) have been verified from concerned Madrasa/Board/University/Regal/Regulation and found correct.

Training School Final examination

Head Master

Other qualifications

Head Master
Head Office
(Murdan)

ATTESTED

[Signature]

16

27

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

1. Name: UMAR-NABI.

2. Race: AFGHAN.

3. Residence: Zarin, Abad - P.O. Lund - Khwar Distt. Nand.

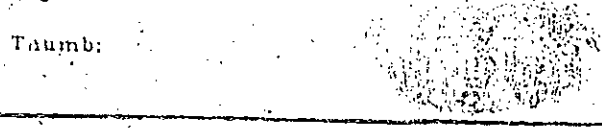
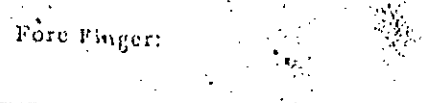
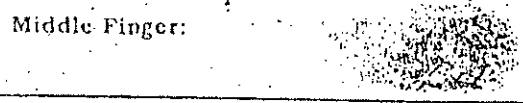
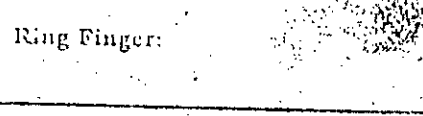
4. Father's name and residence: MUHAMMAD-ZAMAN.

5. Date of birth by Christian era as nearly as can be ascertained: 01-03-1983.

6. Exact height by measurement: 5-7

7. Personal marks for identification: A black mole near Left Eye.

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



9. Signature of Government Servant: Umar

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

ATTESTED

Head Master
G.H.S. Quaid-e-Azam
Lund

(29) (18)

9	10	11	12	13		14	15
Signature and Designation of the head of the office or other attesting officer in attestation 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	Remarks (such as particulars of service or period of the Government service)
				Nature and duration of leave taken	Allocation of period of leave on average pay upto four months for which leave salary is payable to another Government		
				Period	Government to which payable		
				Appointed against	Overt Part in		
MF-24 3/5/08	Pay for 9-10-07 to 21-10-07				PS 07 (2940-160-7740) plus annual		
PS 2940/PS 149-A let. ded. of B, F, D, E, IC. with B. 2385/-	Med. AL				All the Qualification		Certificates has been
	NU.Dum				verified from the		institutions concerned
					and found correct.		
					I Mr. Umar Nadeem		
					M. S. Zaman GHS		
					Quatab, arden is hereby undertake		
					that if any over payment is made		
					to me in appt/ fixation of pay		
					the same will be deducted from		
					my pay / pension / gratuity etc		

ATTESTED

H. M. P. W.

Sig. (D. S.)

Nomee (D. S.)

Post. Can.

30
Amir - H

OFFICE OF THE EXECUTIVE DISTRICT OFFICER (S & L) MARDAN.

OFFICE ORDER.

Consequent upon the documents verification made by the Headmaster, GHS, Qutab Garh Mardan in respect of Mr. Umar Nabi Qari of his school vide his office Endst: No. 24 dated 26.3.08 and score checked with the merit list and found correct. The pay of the above named Qari is hereby released with effect from 9.10.2007.

Necessary entry to this effect should be made in his service book.

(Amir Bahadar Khan)
Executive District Officer
Schools & Literacy Mardan

6871/6

Endst: No. 6871/6 /E-V/PF Umar Nabi Qari/Dated Mardan the 31/3 /08

Copy for information to the:-

1. Headmaster, GHS, Qutab Garh Mardan w/t to his NO. & date as cited above.
2. D.A.O. Mardan.

Executive District officer
Schools & Lit: Mardan,

31/3

(31)

Aux - I

H - 20

SH: 6190

Nandan

P. S. No. 003 North, July 2008
MR247 - HEAD MASTER O. H. S. GUDA
Hig. Education School,
M.H. S.
M.H. S.
M.H. S.

Pers No: 00397628 Rank: MR247
Name: UNAR NABI
Des: 2631
MIP No: 131020372828
CPF Interest Free
07 Regular / Contract

PAYS AND ALLOWANCES:

0001-Basic Pay	3,539.00
1000-House Rent Allowance	1,059.00
1300-Medical Allowance	500.00

Gross Pay and Allowances

5,098.00

DEDUCTIONS:

CPF Balance	3,720.00	Subtr.	485.00
3501-Provident Fund			35.00
3604-Group Insurance			44.00
3640-Emp. Edu. Fund			4.00

Total Deductions

548.00

4,541.00

ON 01.03.1983
00 Years 07 Months 024 Days
Government Contribution to CPF

CPF Quota:
AML SHER GARN
01-208-2465-00
485.00
SHER GARN

ATTESTED

[Handwritten signature]

Clear Copy

32

ابتدائی اطلاعی رپورٹ

ابتدائی اطلاع نسبت جرم قابل دست اندازی پولیس رپورٹ شدہ زبردفعہ ۱۵۴ مجموعہ ضابطہ فوجداری

ضلع مردان

تھانہ ACE مردان

تاریخ وقت وقوع 29.09.07 دفتری اوقات

نمبر 08

۱-	تاریخ و وقت رپورٹ	10.06.09 دفتری اوقات پرچہ
		28.08.09 وقت 09.00 بجے
۲-	نام سکونت اطلاع دہندہ مستغیث	شاہ حسن خان انسپکٹر CO مردان
۳-	مختصر کیفیت جرم (معہ دفعہ) حال اگر کچھ لیا گیا ہو۔	PPC 419-420-468-471-5(2) PC Act 109
۴-	جائے وقوعہ فاصلہ تھانہ سے اور سمت	دفتر EDO صاحب ایجوکیشن مردان بفاصلہ منجانب مشرق 2 کلومیٹر
۵-	نام سکونت ملزم	۱- سید سلیم سابقہ ADO سال GHS SET پارک تخت بھائی ۲- سابقہ قاری محمد نبی ۳- سابقہ قاری حبیب گل محکمہ ایجوکیشن مردان
۶-	کارروائی جو تفتیش کے متعلق کی گئی اگر اطلاع کرنے میں توقف ہوا تو وجہ بیان کرہ	بحوالہ لیٹر نمبر 7189/25.08.09 منجانب DAC صاحب موصول ہونے پر درج رجسٹر کیا گیا
۷-	تھانہ سے روانگی کی تاریخ و وقت	برسبیل ڈاک

ابتدائی اطلاع نیچے درج کرو۔ مستغیث مندرجہ خانہ نمبر 2 کو معتبر ذرائع سے اطلاع ملی۔ کہ گزشتہ سال محکمہ تعلیم میں دو سائتہ جنکے نام عمر نبی اور حبیب گل قاری پوسٹ پر جعلی اسناد پر بھرتی ہو کر اہلکاران محکمہ تعلیم کے ملی بھگت اور ساز باز سے حکومتی خزانے کو تنخواہ کی مد میں نقصان پہنچانے کے علاوہ دیگر اہل امیدواروں کی حق تلفی کر رہے ہیں۔ اس رپورٹ پر جناب DAC صاحب نے بحوالہ لیٹر نمبر 5683 مورخہ 18.06.09 کو اوپن انکوائری نمبر 42/09 برخلاف اہلکاران ایجوکیشن کی اجازت دے کر دوران انکوائری بحوالہ لیٹر CO ACE 72/5 مورخہ 25.06.09 محکمہ تعلیم سے جملہ ریکارڈ حاصل کر کے معاملے کی نسبت حسب حکم جناب DAC صاحب سینئر آڈیٹر شاہ جہان خان نے مکمل آڈٹ کر کے بحوالہ لیٹر نمبر 54-6951 مورخہ 12.08.09 آڈٹ رپورٹ موصول ہو کر جن میں قاری عمر نبی کے ذمہ مبلغ 574821 روپے اور قاری حبیب گل کے ذمے مبلغ 569041 روپے مورخہ 09.10.07 تا 31.08.08 تنخواہ کی مد میں کل مبلغ 143861 روپے حکومتی خزانے کو نقصان پہنچانا تحریر کیا ہے۔ اور جملہ اسناد کی جعلی ثابت ہونے پر GHS قطب گڑھ اور GHS ہادی کلب کے متعلقہ ہیڈ ماسٹر صاحبان کے خلاف حکمانہ کارروائی تجویز کی لہذا بحوالہ لیٹر نمبر 1184/DEG/12.08.09 کنٹرولر آف ایگزامینیشن پشاور

4500/GP 21.4.07
 دوران سپیکشن و انٹریولر جملہ اسناد اور ریکارڈ کی جہان میں آنے کا حجاز اور پانچواں تھا۔
 نے ملی تقدیر سے اود اعانت سے تاروی نمبر کی اور جسٹس کل کو برٹ ڈسٹ
 اور سپیکشن میں ان ہی کے جعلی اسناد قبولہ خود آ سکی لقمہ لقی شہرہ ہیں۔
 کچھ بنیاد بنا کر دوسرے اہل ایتروادوں کو باقی پاس کرتے پھر کی کرنے
 میں دردی 2۔ لکڑا لقمہ رافے ADL T ضابطہ حساب الخلم بنا۔
 DAC ضابطہ کورال لکڑا لقمہ 1189/180 شہرہ بدست پر خلاف آئندہ جان
 اسپر اعظم شائع AD 2009 ع 250 جاری نمبر جویم 250 ع 2009 جاری جویم لکڑا لقمہ
 آئندہ علی تمام الدین کوٹ روٹ تحت بیانی سے خلاف بکشمیہ بالہ درج
 رصٹر کیا جاتا ہے۔ اگر دوران کنفیسنٹ مائیکل پورٹ میں مذکورین
 یا دیگر سرکاری ایڈیٹران / سپریمیں دارتہ باعیت کرے تو آئے خلاف
 بھی جانوئی مارو آئی حسب ستر لقمہ عمل میں لائی جاؤگی۔ کدورت لراتا
 5 دیگر کاغذات بھی لرا کاغذ صبر لقمہ ہوتے۔ میں لقمہ
 کنفیسنٹ جون۔ لکڑا لقمہ گزاش۔

CO ACE Moradun
 28.8.2009

دستخط
 شہ

اطلاع کے لیے اطلاع دینا کہ اسناد اور ریکارڈ کی جہان میں آنے کا حجاز اور پانچواں تھا۔ لکڑا لقمہ
 سرخ روشنی سے بالمتبادل نام پر ایک لقمہ یا مشہور عمل لکڑا لقمہ واسطہ ناٹ، گان سلاؤ غیر یا ودا لکڑا لقمہ یا افغانستان جہان سرخوں میں

33

نے قاری عمر نبی اور قاری حبیب گل BA?MA کے جملہ اسناد بوجس اور جعلی تصدیق ہو کر دوران انکوائری جملہ ریکارڈ کے ملاحظہ سے پایا گیا۔ کہ سید عظیم سابقہ ADO کو بحوالہ لیٹر نمبر 4500/G/ 21.04.07 مجاریہ EDO مردان جو کہ سیکشن 181 میں کے انچارج مقرر ہوئے۔ جو کہ دوران سیکشن وائٹریو جملہ اسناد و ریکارڈ کی چھان بین کرنے کا مجاز اور پابند تھا۔ کے ملی بھگت سے اور اعانت سے قاری عمر نبی اور حبیب گل کو میرٹ لسٹ اور سیکشن میں ان ہی کے جعلی اسناد جو کہ خود اسکی تصدیق شدہ ہیں کو بنیاد بنا کر دوسرے اہل امیدواروں کو بائی پاس کر کے بھرتی کرانے میں مدد دی ہے۔ لہذا بعد رائے ADLI صاحب حسب احکم جناب DAC صاحب بحوالہ لیٹر نمبر 1189/ACE/ 25.08.2009 سریدست برخلاف ملزمان سید عظیم سابقہ ADO قاری عمر نبی ولد محمد زمان سکند لونڈ خور۔ قاری حبیب گل ولد محمود گل سکند محلہ قیام الدین کوٹ روڈ تحت بھائی کے خلاف بجرم بالا درج رجسٹر کیا جاتا ہے۔ اگر دوران تفتیش فائنل رپورٹ میں مذکورین یاد دیگر سرکاری اہلکاران اسویلیں ملوث پائے گئے تو انکے خلاف بھی قانونی کارروائی حسب ضابطہ عمل میں لائی جائیگی۔ کیفیت نمبر اتانمبر ۵ و دیگر کاغذات ضمنی نمبر اکا حصہ تصور ہوئے۔ میں مصروف تفتیش ہوں۔ پرچہ گزارش ہے۔

CO ACE Mardan

28.08.2009

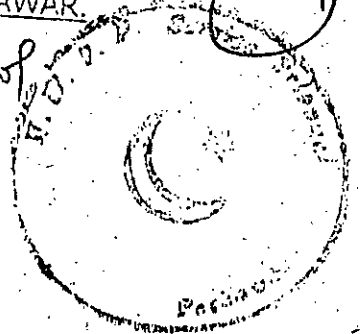
And- K J- (22)

34

BEFORE THE NWFP SERVICE TRIBUNAL, PESHAWAR.

Appeal No. 609/2009

609/2009



Date of Institution .. 01.04.2009
Date of Decision .. 02.11.2009

Qari Umar Nabi S/O Muhammad Zamian,
Ex-Qari, Government High School, Qutab Gari,
District, Mardan.

(Appellant).

VERSUS

1. Executive District Officer (Elementary & Secondary) Education, Mardan.
2. Director (Elementary & Secondary Edu:), Peshawar: (Respondents)

APPEAL UNDER SECTION 4 OF THE NWFP SERVICE TRIBUNALS ACT, 1974 READ WITH SECTION 10 OF THE NWFP REMOVAL FROM SERVICE (SPECIAL POWERS) ORDINANCE, 2000 AGAINST THE NOTIFICATION ENDST. NO. 7187-89, DATED 31.12.2008 WHEREBY THE APPOINTMENT ORDER DATED 29.9.2007 OF THE APPELLANT WAS WITHDRAWN AND ORDERED FOR THE RECOVERY OF SALARIES DRAWN BY THE APPELLANT AGAINST WHICH THE APPELLANT PREFERRED DEPARTMENTAL APPEAL DATED 03.1.2009 WHICH WAS NOT RESPONDED DESPITE THE LAISE OF 60 DAYS.

MR. MUMTAZ AHMAD,
Advocate

For appellant.

MR. ZAHID KARIM KHALIL,
Addl. Government Pleader,

For respondents.

MR. SULTAN MAHMOOD KHATTAK,
SYED MANZOOR ALI SHAH,

MEMBER
MEMBER

ATTESTED

JUDGMENT

SULTAN MAHMOOD KHATTAK, MEMBER: This appeal has been filed against the order dated 31.12.2008, whereby the appointment order dated 29.9.2007 of the appellant was withdrawn.

2. Brief facts of the case are that the Education Department, Mardan advertised some vacant posts including the post of Qari (BPS-7). The appellant submitted his application for the post of Qari having the prescribed

ATTESTED

M.A.

EXAMINER
ATTESTED
M.A.

(23)

35

qualification of Matric with Sanad-ul-Faragh from a recognized Madrassa. His name come on the merit list and on the recommendations of the Departmental Selection Committee, he was appointed as Qari (BPS-7), vide order dated 29.9.2007. The appellant took-over the charge of his post, his service book was prepared and started performing his duties. Vide impugned order dated 31.12.2008, his appointment order was withdrawn and recovery of salaries received by him was also ordered. Feeling aggrieved, he submitted departmental appeal on 03.1.2009, which elicited no response within the statutory period. Hence the present appeal on 01.1.2009.

3. Notices were issued the respondents. They filed their joint written reply and contested the appeal. No replication was filed in rebuttal.

4. Arguments heard and record perused.

5. Counsel for the appellant contended that the appellant was appointed by the competent Authority, after observing all the codal formalities. He served on the post for some time and valuable rights have been accrued to him, on the principles of locus-poenitentiae which cannot be taken back from him without holding regular enquiry. He further contended that the appointment order was withdrawn with retrospective effect and the word "withdrawn" is nowhere exist in the panel of punishments. Counsel for the appellant stated that if there was any flaw in the appointment order, it was the responsibility of the respondents, for which the appellant could not be suffered. To conclude, he stated that the appellant was not dealt with in accordance with law and prescribed procedure. This has been admitted by the respondents in para-6 and ground-C of their joint written reply.

36. The A.G.P, on the other hand argued that the appellant submitted fake documents and on the basis of which he come on merit and was appointed. He further contended that the appellant was served with a notice to provide his documents for verification but he failed to do so, therefore, his appointment order was withdrawn vide order dated 31.12.2008. He stated that the appointment of the appellant was illegal and ill-gotten appointment cannot be protected by any court or forum. He also

ATTESTED

[Handwritten signature]

referred to Section 21 of the General Clause Act, that the Competent Authority can withdraw an illegal order at any stage/time.

36

7. The Tribunal observes that the appellant was appointed on 29.7.2007 by the competent Authority after observing all the usual formalities. He served on the post for some time and valuable rights have been acquired to him which could not be taken back from him without adopting proper procedure. His appointment order was withdrawn on 31.12.2008 but the respondents had not followed the proper procedure. If there was some illegality in the appointment order of the appellant the respondents should have adopted proper procedure and should have conducted regular enquiry through an enquiry officer/committee but no such enquiry had been conducted in the matter and no fair chance had been provided to the appellant to defend himself. As such the impugned order is nothing but a nullity in the eyes of law.

8. In view of the above, the appeal is accepted, the impugned order dated 31.12.2008 is set aside and the appellant is reinstated into service with all back benefits. The respondents may conduct a de novo enquiry in the matter and to provide fair chance to the appellant to defend himself at all stages of the enquiry proceedings, which shall be completed within two months from the receipt of this judgment.

9. This order will also dispose of another connected Appeal No. 610/2009, titled "Qari Habib Gul Versus E.D.O (E&S) Education Mardan etc." as in both the appeals similar questions of law and facts are involved.

10. Parties are left to bear their own costs. File be consigned to the record.

ANNOUNCED
02.11.2009

(S. MANZOOR ALI SHAH)
MEMBER

(SULTAN MAHMOOD KHATTAK)
MEMBER

ATTESTED

Ann-K K-25

OFFICE OF THE EXECUTIVE DISTRICT OFFICER (E & S.E.)

OFFICE ORDER

37

Consequent upon the decision of the Basic Service Tribunal, Faisalabad dated 2.11.2009 in appeal No. 609/09 and appeal No. 676/09, titled Qari Umar Nabi & Qari Habib Gul Vs Govt of N.W.F.P. & others. This office order No. 7187-89 dated 31.12.2008 is set aside and Qari Umar Nabi OHS, Qatab Garh and Qari Habib Gul OHS, Khadi Killa are hereby re-instated in to service in the same schools against vacant posts with all back benefits.

However, Mr. Sub-Head School Principal, Qatab Garh, Faisalabad is hereby appointed as enquiry officer to conduct de novo enquiry in the matter and to provide fair chance to the appellant depend himself at all stages of enquiry proceeding, which shall be completed within two weeks.

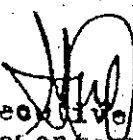
(Manifullah)

Executive District Officer
Elementary & Secondary Education

Under No. _____ / V / 1 / 2009 / Qatab Garh / Faisalabad / Dated 1/1/2010

Copy of the above is forwarded to the:-

1. Principal, Qatab Garh, Faisalabad
2. Headmaster, Qatab Garh, Faisalabad
3. Headmaster, Qatab Garh, Faisalabad
4. Qatab Garh, Faisalabad
5. Offices concerned.


Executive District Officer
Elementary & Secondary Education, Faisalabad.

ATTESTED



OFFICE OF THE EXECUTIVE DISTRICT OFFICER (E&SE MARDAN)

OFFICE ORDER.

Consequent upon the decision of the NWFP Service Tribunal Peshawar dated 2.11.2009 in appeal No. 809/09 and appeal No. 610/09 title Qari Omar Nabi & Qari Habib Gul Govt: Of and others. This office endst No. 7189-89 dated 31.12.2008 is set aside and Qari Umar Nabi GHS, Qutab Garh and Qari Nabi Gul Ex Qari GHS Rhadi Killi or hereby re instated in to service in the same schools against vacant posts with all back benefits.

However, Mr. Muhammad Kamal, Principal, GHS Takkar Tehsil Tkaht Bhai is hereby appointed as enquiry officer to conduct denovo enquiry in the and to service their change to the appellant depend himself at all of enquiry proceedings which shall be completed with in two weeks.

Sd/-
Hanifullah
Executive District Officer
Literacy & Secondary Education

Endst No. _____ V/ Peshawar / Dated 01.01.2010.

Copy of the above is referred to the:-

1. Principal GHSS, Takkaer Takht Bhai.
2. Headmaster GHS, Takh Bhai
3. Headmaster, GHS Shadi Killi T Bhai.
4. Officers concerned.

Sd/-
Executive District Officer
Literacy & Secondary Education

Aux - L - (38)

L - 26

Directorate of Elementary & Secondary
Education Khyber Pakhtunkhwa

NOTIFICATION

1. WHEREAS, Qari Umar Nabi GHS Qutab Garh Tehsil Takht Bai Mardan was proceeded against under the NWFP, Removal from service (Special Powers) Ordinance, 2000 for the charges mentioned in the statement of allegations.
2. AND WHEREAS, Mr. Khan Sher Principal GHS No.1 Yar Hussain Swabi was appointed as Enquiry officer to conduct a formal enquiry against the accused teacher, for the charges levelled against him.
3. AND WHEREAS the Enquiry Committee after having examined the charges, evidence on record has submitted the report vide No.907 dated 6-2-2010.
4. AND WHEREAS a show cause notice was served upon the accused teacher vide letter No. 4539 dated 3-5-2010.
5. AND WHEREAS the accused teacher was heard in person by the Competent authority on 25-10-2010.
6. AND WHEREAS the authority, after having considered the charge, evidence on the record, explanation of the accused teacher, is of the view that the charges against the teacher concerned have been proved.
7. NOW; THEREFORE, in exercise of powers conferred by the NWFP, Removal from service (Special Powers) Ordinance, 2000, the Competent Authority (Directress Elementary & Secondary Education Khyber Pakhtunkhwa) is pleased to impose major penalty of Removal from service upon Qari Umar Nabi GHS Qutab Garh Tehsil Takht Bai Mardan.

DIRECTRESS
ELEMENTARY & SECONDARY
EDUCATION KHYBER PAKHTUNKHWA,
PESHAWAR

Endst.No. 4582 & /F.No.16/SET(M) Dated Peshawar the 31-10-2010.

Copy forwarded to the:-

1. Executive District Officer (E&SE) Mardan.
2. District Account Officer Mardan.
3. Headmaster GHS GHS Qutab Garh Tehsil Takht Bai Mardan
4. Teacher concerned.
5. PA to the Directress E&SE Khyber Pakhtunkhwa, Peshawar

Deputy Director (Establishment)
E&SE Khyber Pakhtunkhwa, Peshawar

ATTESTED

2/11/2009
M. J. Khan
S.T.

Judgment Sheet

IN THE PESHAWAR HIGH COURT,
PESHAWAR
(Judicial Department)

Ann - L

PA - (27)

39/

Cr.A.No. 43-P/2013.

JUDGMENT

Date of hearing. 24.06.2013.

Appellants. (Qari Umar Nabi & Qari Habib Gul) By Mr. Amjad Ali,
Advocate.

State: By Mr. Waheedullah Khan, Advocate.

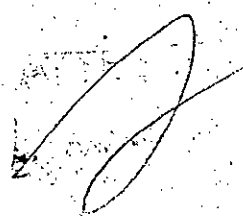

DOST MUHAMMAD KHAN, CJ. The appellants, Qari Habib Gul and Qari Umar Nabi, were booked for crimes under sections 109, 419, 420, 468, 471 PPC read with section 5 (2) P.C Act, Police Station Anti-Corruption (Provincial), Mardan and at the conclusion of the trial, the learned Judge Anti-Corruption Peshawar vide impugned judgment dated 22.01.2013 convicted both of them and sentenced them each

as follows:-

1. Under section 419 PPC, three years R.I with a fine of Rs. 50000/- each or in default thereof to undergo six months S.I each.

2. Under section 420 PPC, three years R.I with a fine of Rs. 50000/- each or in default thereof to undergo six months S.I each.

ATTESTED



(40) (28)

3. Under section 468 PPC, three years R.I with a fine of Rs. 50000/- each or in default thereof to undergo six months S.I each.
4. Under section 471 PPC, three years R.I with a fine of Rs. 50000/- each or in default thereof to undergo six months S.I each.
5. Under section 5 (2) PC. Act, three years R.I with a fine of Rs. 50000/- each or in default thereof to undergo six months S.I each.
6. Under section 109 PPC, acquitted.

2. The appellants have questioned their conviction & sentences on various grounds.

3. Brief but relevant facts of the case are that post of Qari in Education Department was advertised and maximum qualification therefor was fixed FA/ F.Sc or equivalent 'Sanad' from the recognized religious institution duly affiliated with Higher Education Commission and 'Wafaq-ul-Madaris', however, it has been alleged that both the appellants annexed their B.A and M.A. qualification alongwith the required one and in this way extra marks were

granted to them and they successfully made entry into service, however, when ACE got secret information, it

ATTESTED

[Handwritten signature]

ATTESTED
EXAMINER
National High Court

probed into the matter and detected that the extra qualification shown by the appellants i.e. BA and MA were bogus including the DMC which were denied by the Controller of Examination University of Peshawar to have been issued by the University, hence, they were booked for causing loss to the public exchequer.

29
41

4. It is not denied that the maximum qualification for the post was FA/ F.Sc or equivalent religious 'Sanad' from the recognized 'Madrassa'.

5. It is not clear from the evidence brought on record that how much extra marks were granted to them viz a viz other candidates and whether it was on the strength of extra marks or otherwise they were appointed.

6. Both the appellants, present on bail in the court, stated that they are ready to take special oath that neither the application form was signed by one of them, Qari Habib Gul, while the other stated that his BA qualification was absolutely correct and genuine and no plausible evidence has been brought on record to prove that the same was forged or bogus. Both of them stated that they have not claimed nor

ATTESTED

[Handwritten signature]

ATTESTED
[Handwritten signature]

(42)

(35)

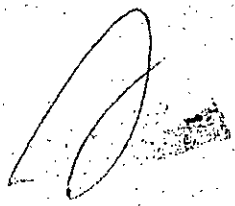
they would claim any back benefits which is more than One lac rupees in each case and that they were ignorant of the fact, particularly Qari Habib Gul, that who has signed the form and who has annexed the BA Degree on which he never relied at any stage and even during service he has rendered for 14 months as Qari Teacher.

34

7. Even the head of the institution did not make a complaint to the departmental authority that the appellants were unable to deliver or they were incompetent to teach their pupils effectively and properly as required of a well versed teacher rather they successfully completed the fourteen months service without any complaint from the department side and when one of them has a genuine BA degree and the other has shown ignorance about it and because evidence on this point, adduced by the prosecution, is susceptible to more than two interpretations and appreciation then, benefit of doubt shall go to the accused being cardinal principle of criminal justice.

Accordingly, while extending benefit of doubt to both the appellants, their appeal is allowed. Conviction &

ATTESTED



43

31

sentences awarded to the appellants by the Judge Special
 Court Anti-Corruption Peshawar vide impugned judgment
 dated 22.1.2013 are set aside and they are acquitted of all the
 charges leveled against them, however, they shall not be
 entitled to claim back benefits nor the department shall pay
 them any such benefits and copy of this judgment be sent to
 the competent / appointing authority of the appellants. The
 appellants are on bail and their sureties are discharged from
 the liability of bail bonds.

Announced: *Sd/- Dost Muhammad Khan*
 24.06.2013.

Qaseem

Ch.

904

Date of Presentation of Application: 12-7-13

No. of Pages: 14P

Copying fee: /

Stamp Fee: /

Total: 28.00

Date of Preparation of Copy: 16-7-13

Date of Copy for Delivery: 16-7-13

Date of Delivery of Copy: 31-7-13

By: *Jm 694*

VERIFIED TO BE TRUE COPY

Examined
 Peshawar High Court Peshawar
 Autho [unclear] Article 87 of
 The Qasim-e-Shahadat Order 1984

16-7-13

ATTESTED

gf

cd

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. 574 /2014

Mr. Qari Umar Nabi S/O Mohammad Zaman,
R/O Village Lund Khwar, Tehsil Takht Bhai, District Mardan

Appellant

VERSUS

- 1- The Government of Khyber Pakhtunkhwa through Secretary E&SE Department, Khyber Pakhtunkhwa, Peshawar.
- 2- The Director of (E&SE) Department, Khyber Pakhtunkhwa, Peshawar.
- 3- The District Education Officer (Male) District Mardan.

Respondents

APPEAL UNDER SECTION-4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974
AGAINST THE ORDER DATED 31.03.2010 WHEREBY THE
APPELLANT WAS REMOVED FROM SERVICE UNDER RSO
2000 AND AGAINST NOT TAKING ACTION ON THE
DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN
THE STATUTORY PERIOD

PRAYER:

That on acceptance of this appeal the impugned order dated 31.10.2010 may very kindly be set aside and the respondents may be directed to re-instate the appellant with all back benefits. Any other remedy which this august tribunal deems fit that may also be awarded in favor of the appellant.

R/SHEWETH:

- 1- That the appellant was appointed as Qari (BPS-07) in the respondent Department on the recommendations of proper Departmental Selection Committee vide order dated 29.09.2007. That in compliance the appellant submitted his medical certificate and took over the charge on the said post vide dated 09.10.2007. Copies of the advertisement, academic record, appointment order, medical certificate and charge report are attached as annexure **A, B, C, D & E.**
- 2- That after appointment the appellant started performing his duty quite efficiently and up to the entire satisfaction of his superiors. Copies of the service book, verification letter and pay roll are attached as annexure **F, G & H.**

45

- 3- That appellant while working as Qari in the respondent Department an FIR was lodged against the appellant under section 419/420/468/471 PPC and 5(2) of PC act on having fak documents. That on the basis of that FIR the respondent Department withdrawn the appointment order of the appellant. That the appellant challenged the said order before this august service tribunal in appeal No. 609/2009. That this august service tribunal while disposing the appeal of appellant directed the respondent Department to re-instate the appellant with all back benefits and to conduct denovo inquiry in the matter. Copies of the FIR, service tribunal judgment and re-instatement order are attached as annexure **I, J & K.**

- 4- That vide order dated 31.03.2010 the appellant was again removed from service under RSO 2000 on the same allegation. That the appellant assailed/challenged the judgment of Learned Judge Anti-Corruption Peshawar dated 22.01.2013 in CR.A No.48-P/2013 before the Hon'ble Peshawar High Court Peshawar. That the Peshawar High Court Peshawar allowed the appeal of appellant and the convection and the sentence awarded to the appellant by the judge Special Court Anti Corruption Peshawar vide impugned judgment dated 22.1.2013 was set aside and the appellant was acquitted of all the charges leveled against him vide judgment dated 24.6.2013. Copies of the impugned order and judgment are attached as annexure **L & M.**

- 5- That appellant after acquittal from the said charges filed Departmental appeal before the respondent No.2 for his re-instatement but no response has been received so far. Hence the present appeal on the following grounds amongst the others. Copy of the Departmental appeal is attached as annexure **N.**

GROUND:

- A- That the impugned order dated 31.03.2010 is against the law, facts, norms of natural justice and materials on the record hence not tenable and liable to be set aside.

- B- That the appellant has not been treated by the respondent in accordance with law and rules on the subject noted above and as such the respondent Department violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.

Amir Ali
SUPERVISOR

46

- C- That no regular enquiry has been conducted by the respondent Department nor opportunity of personal defense/hearing has been given to the appellant before issuing the impugned order dated 31.03.2010.
- D- The respondent Department acted in arbitrary and malafide manner before issuing the impugned order dated 31.3.2010.
- E- That inspite of the judgment of Hon'ble Peshawar High Court Peshawar issued on 24.06.2013 the respondent Department is still not willing to re-instate the appellant into service which shows clear malafide on the part of respondent Department.
- F- That the education Department acted in uneducated manner by not re-instating appellant into service inspite of clear directions given by the Hon'ble Peshawar High Court Peshawar.
- G- That appellant seeks permission to advance other grounds and proofs at the time of hearing.

It is therefore most humbly prayed that the appeal of the appellant may be accepted as prayed for.

APPELLANT

Umar Nabi
UMAR NABI

THROUGH:

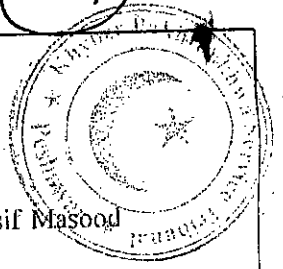
Noor Mohammad Khattak
NOOR MOHAMMAD KHATTAK
ADVOCATE

Supervisor

SUPERVISOR

47

Appeal No. 574/2021
Umair Nabi vs Govt



04th Oct. 2022 1. Learned counsel for the appellant present. Mr. Asif Masood

Ali Shah, Deputy District Attorney for respondents present.

2. After hearing arguments, of learned counsel for the appellant and Deputy District Attorney for respondents both were confronted with the inquiry report on the basis of which impugned order was passed. Finding-B refers to some school record. We are afraid that school record does never contain any record after the SSC examination result etc as after passage of SSC the students goes to College and University. Therefore, there was no occasion that school record must contain at least, B.A degree with it. Similarly there is reference to the record of EDO, Mardan wherein it is shown that the appellant had passed B.A in the year 2004 from the Peshawar University and as against that it is alleged that the appellant had passed his BA examination from Malakand University. The enquiry report is silent regarding the fact whether the document retained in the office of the EDO Mardan were those, which were presented by the appellant at the time of appointment and similarly whether the documents referred to as school record were also annexed with the application for appointment by the appellant or not? Likewise the report is not disclosing the facts by annexing any merit list as to what benefits and how that was got by the appellant because of the alleged fake documents, the learned counsel for the appellant as well as Deputy District Attorney were unanimous to agree that let this matter be remitted to the department for conducting detailed enquiry covering all the facts and/ or at least the above points and then the department may proceed in accordance with law. The appellant is reinstated for the purpose of enquiry. The enquiry shall be completed within sixty days after receipt of this order. Copy of the enquiry report be transmitted to the Registrar of this Tribunal. Similarly date of acknowledgement of the order be also communicated to the Registrar of this Tribunal. The instant execution appeal is disposed off in the above terms. Consign.

3. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal on this 04th day of October, 2022.*

Copy for five copy
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

(Farzana Paul)
Member(E)

(Kalim Arshad Khan)
Chairman



OFFICE OF THE DISTRICT EDUCATION OFFICER

(MALE) MARDAN

☎ & ☎ 0937-933151 , ☎ deomalemardan



Ans - N

Office Order.

48

In the light of service Tribunal Decision received on 06-11-2022 through legal advisor, Mr. Umar Nabi Ex-Qari GHS Qutab Garh Mardan is hereby re-instated in to service for the purpose of enquiry.

(ZULFIQAR UL MULK)
DISTRICT EDUCATION OFFICER
(MALE) MARDAN.

Endst: No. 9761/PF Umar Nabi Ex-Qari/

Dated 19 / 11 /2022.

Copy forwarded for information and necessary action to the:-

1. Director Elementary and Secondary Education Khyber Pakhtukhwa Peshawar.
2. Registrar Service Tribunal Khyber Pakhtunkhwa Peshawar.
3. Concerned Principal/Head Master.
4. Official Concerned.
5. General File.

DISTRICT EDUCATION OFFICER
(MALE) MARDAN.



DISTRICT EDUCATION OFFICE (M) MARDAN

Phone & Fax #. 0937933151

Email address: deomale.mardan@gmail.com

49

Aug - 0

OFFICE ORDER

Whereas, Umar Nabi Ex-Qari GHS Qatab Garh was proceeded against under Khyber Pakhtunkhwa Civil Servant (Efficiency and Discipline) Rules 2011.

And whereas, Mr. Ashraf Ali Principal GHS Baghdada and Mr. Mirza Muhammad Hashim Master GHS Surband were appointed as inquiry officers vide this office Fudst No. 9761/PI dated 11/11/2022, to conduct an inquiry against the accused teacher for the charges levelled against him.

And whereas, the accused teacher was heard in person by the inquiry committee.

And whereas, the inquiry committee after having examined the charges, evidence on record, has submitted their report recommendations.

And whereas, the competent authority after having considered the charges, evidence on the record, explanation of the accused teacher, is of the view that the charges levelled against the teacher concerned have been proved and hereby withdraw the office order vide this office Fudst No. 9761/PI Umar Nabi Ex-Qari Dated 19/11/2022.

Now, in the exercise of powers conferred under sub-clause (b) of clause (1) of E&D rules 2011, the competent authority, hereby impose major penalty *removal from service* upon Mr. Umar Nabi Ex-Qari GHS Qatab Garh, Mardan with effect from appointment i.e. 29/09/2007, under the E&D rules 2011.

IMTIAZ KHAN
DISTRICT EDUCATION OFFICER
(MALE) MARDAN

Date: 16/11/2022

12805-06

Copy forwarded for information and necessary action to the:-

1. P.S. to Secretary to the Govt. E&SED Khyber Pakhtunkhwa Peshawar
2. PA to Director E & SE Khyber Pakhtunkhwa, Peshawar
3. PA to Deputy Commissioner Mardan
4. Registrar, KP Service Tribunal, Khyber Pakhtunkhwa Peshawar.
5. Headmaster concerned
6. Umar Nabi Ex-Qari GHS Qatab Garh (Zarin Abud, PO I und Khwar, Tehsil Takht Bilgram, Mardan)
7. E&S Section Local Office
8. Litigation Section Local Office
9. Master file

DISTRICT EDUCATION OFFICER
(MALE) MARDAN

BETTER COPY

49

**ELEMENTARY & SECONDARY EDUCATION DEPARTMENT, GOVT OF KHYBER
PAKHTUNKHWA**

District Education Office (M) Mardan
Phone & Fax No. 0937933151
Email address: deomalemardan@gmail.com

OFFICE ORDER

Whereas, Umar Nabi Ex Qari GHS Qutab Garh was proceed against the Khyber Pakhtunkhwa, Civil Servant (Efficiency & Discipline) Rules 2011.

And whereas, Mr. Ashraf Ali Principal GHSS Baghdada and MR. Mir Alam Headmaster GHS Sarband were appointed as inquiry officers vide this office Endst No. 941/ I/G Dated 11.11.2022 to conduct an inquiry against the accused teacher for the charges leveled against him.

And whereas, the accused teacher was heard in person by the inquiry committee.

And whereas, the enquiry committee after having examined the charged evidence on record, has submitted their report / recommendation.

And whereas, the competent authority after having considered the charges evidence on the record, explanation of the accused teacher, is of the view that the charges against the teacher concerned have been proved and hereby withdraw the office order issued vide this office Endst No. 9761/PF / Umar Nabi Ex Qari Dated 19.11.2022.

Now, in the exercise of powers conferred under sub clause (b) of the proviso of clause (4) of E&D Rules 2011, the competent authority, hereby impose major penalty of removal from service upon Mr. Umar Nai Ex Qari GHS Qutab Garh, Mardan w.e.f his date of appointment i.e. 29.09.2007, under the E&D rules 2011.

Sd/-

Imtiaz Khan
District Education Officer
(Male) Mardan

Endst No. 10805-06

Dated 16.12.2022

Copy forwarded for information and necessary action to the:-

1. P.S to Secretary to the Govt E&SED Khyber Pakhtunkhwa Peshawar.
2. PA to Director E & SE Khyber Pakhtunkhwa, Peshawar.
3. PA to Deputy Commissioner Mardan.
4. Registrar, KP Service Tribunal, Khyber Pakhtunkhwa, Peshawar.
5. Headmaster concurred.
6. Umar Nabi Ex Qari GHS Qutab Garh (Zarin Abad, PO Lund Khwar, Tehsil Takht Bhai Distt Mardan).
7. EMIS Section Local Office.
8. Litigation Section Local Office.
9. Master File.

Sd/-

District Education Officer
(Male) Mardan

To

The Director,
Elementary and Secondary Education KP Peshawar
At Directorate of E&SED Hashtangari Chowk, Near
Qila Bala Hisar Peshawar.

Aux (P)

(50)


Subject: Departmental appeal against the office order bearing Endst No 10805-06 dated 16/12/2022 passed by District Education Officer (Male) Mardan wherein major penalty of removal from service has been imposed upon the appellant which is illegal against law and facts.

PRAYER: On acceptance of this departmental appeal, impugned office order bearing Endst No 10805-06 dated 16/12/2022 passed by District Education Officer (Male) Mardan wherein major penalty of removal from service has been imposed upon the appellant may please be set aside and appellant may please be reinstated in service with all back benefits.

Respected Sir,

Appellant humbly submits as under:

1. That appellant is permanent resident of District Mardan as evident from his domicile (**Copy of the domicile of appellant is attached as Annexure A**)
2. That appellant is equipped with qualification such as Nazira Quran e Kareem along with Tajweed (Qirat), Hifz e Quran and B.A (**Copies of the academic documents of appellant are attached as Annexure B**)
3. That District Coordination Officer Mardan advertised post of Qari vide Daily Mashriq dated 07/05/2007 (**Copy of the advertisement is attached as Annexure C**)
4. That appellant competed in the selection process and after completion of all codal formalities and due recommendation of the Departmental Selection Committee, appellant was appointed as a Qari Teacher


ADVOCATE
SUPREME COURT

vide appointment order dated 29/09/2007 **(Copy of the appointment order dated 29/09/2007 is attached as Annexure D)**

(51)

5. That appellant was examined by the authorized Medical Superintendent and was declared fit **(Copy of the medical certificate is attached as Annexure E)**
6. That appellant assumed charge and submitted charge report on 09/10/2007 **(Copy of the charge report is attached as Annexure F)**
7. That appellant performed satisfactory service and there is no complaint against the appellant in his entire service **(Copy of the service book of the appellant is attached as Annexure G)**
8. That the Executive District Officer Schools & Literacy Mardan after due verification of the documents of the appellant from the quarters concerned issued pay release order dated 31/03/2008 **(Copy of the pay release order dated 31/03/2008 is attached as Annexure H)**
9. That there is no complaint against the appellant against the appellant wherein appellant performed duty to the entire satisfaction of his superiors.
10. That appellant performed duty and received salaries from October 2007 till July 2008 **(Copy of the salary statement of July 2008 is attached as Annexure I)**
11. That FIR No 8 dated 28/08/2009 was lodged by Anti Corruption Mardan U/S 419, 420, 468, 471, 109 PPC & 5(2) PC Act against the appellant along with Said Azeem (ADO) wherein the later ADO was acquitted of the charges by the Special Judge Anti Corruption and appellant was convicted & sentenced **(Copy of the FIR is attached as Annexure J)**
12. That appointment order dated 29/09/2007 of appellant was withdrawn vide order dated 31/12/2008 wherein appellant's service appeal was accepted vide order dated 02/11/2009 wherein the withdrawal order dated 31/12/2008 is set aside and appellant is reinstated into service with all back benefits, however, after de-novo inquiry, a major penalty of removal from service was imposed upon appellant vide notification dated 31/03/2010 thus appellant is entitled to the service as well as monetary benefits from 29/09/2007 till

Signature

31/03/2010 as per aforementioned judgment of the Honorable Service Tribunal. Relevant Para of judgment dated 02/11/2009 is reproduced as under: (Copy of the judgment dated 02/11/2009 & notification dated 31/03/2010 is attached as Annexure K)

52

"8. In view of the above, the appeal is accepted, the impugned order dated 01.12.2008 is set aside and appellant is reinstated into service with all back benefits. The respondents may conduct a de-novo inquiry in the matter and to provide fair chance to the appellant to defend himself at all stages of the inquiry proceedings, which shall be completed within two months from the receipt of this judgment..."

13. That appellant filed criminal appeal before the Honorable Peshawar High Court Peshawar wherein the Honorable Peshawar High Court Peshawar was pleased to acquit and exonerate the appellant of all the charges vide judgment dated 24/06/2013, however, appellant shall not be entitled to claim back benefits nor Department shall pay them any such benefit and copy of this judgment be sent to competent authority/appointing authority of the appellant. The Honorable Court further observed that there is no complaint on behalf of the Head of the Departmental Authority to the effect that appellant was unable to deliver or was incompetent to teach the pupils effectively and 'properly as required of a well-versed teacher rather appellant successfully completed the 14 months service without any complaint from the Department side and appellant had a genuine degree of BA and the conviction and sentence awarded by the Special Judge Anti Corruption Peshawar vide judgment dated 22/10/2013 was set aside. Copy of the relevant Para of judgment dated 24/06/2013 is reproduced as under: (Copy of the judgment dated 24/06/2013 is attached as Annexure L)

"7. Even the head of the institution did not make a complaint to the departmental authority that the appellants were unable to deliver or they were incompetent to teach their pupils effectively and properly as required of a well versed teacher rather they successfully completed the fourteen months service without any complaint from the

department side and when one of them has a genuine BA degree and the other has shown ignorance about it and because evidence on this point, adduced by the prosecution, is susceptible to more than two interpretations and appreciate then, benefit of doubt shall go to the accused being cardinal principle of criminal justice.

Accordingly, while extending benefit of doubt to both the appellants, their appeal is allowed. Conviction & sentences awarded to the appellants by the Judge Special Court Anti-Corruption Peshawar vide impugned judgment dated 22.1.2013 are set aside and they are acquitted of all the charges leveled against them, however, they shall not be entitled to claim back benefits nor the department shall pay them any such benefits and copy of this judgment be sent to the competent/appointing authority of the appellants. The appellants are on bail and their sureties are discharges from the liability of bail bonds."

14. That appellant filed another service appeal no 574 of 2014 against the removal order dated 31/03/2010 wherein the Honorable Service Tribunal vide order dated 04/10/2022 reinstated appellant for the purpose of inquiry wherein the points of inquiry have been explained for the purpose of convenience, the operative part i.e*Para 2 of the judgment dated 04/10/2022 is reproduced as under: (Copy of the judgment dated 04/10/2022 is attached as Annexure M)

"2. After hearing arguments of learned counsel for the appellant and Deputy District Attorney for respondents both were confronted with the inquiry report on the basis of which impugned order was passed. Findings-B refers to some school record. We are afraid that school record does never contain any record after the SSC examination result etc as after passage of SSC the students goes to College and University. Therefore, there was no occasion that school record must contain at least, B.A Degree with it. Similarly there is reference to the record of

Amir J. Khan
ADJ. CLERK
SUPREME COURT

(54)


EDO, Mardan wherein it is shown that the appellant had passed BA in the year 2004 from the Peshawar University and as against that it is alleged that the appellant had passed his BA examination from Malakand University. The enquiry report is silent regarding the fact whether the document retained in the office of the EDO Mardan were those which were presented by the appellant at the time of appointment and similarly whether the documents referred to as school record were also annexed with the application for appointment by the appellant or not? Likewise the report is not disclosing the facts by annexing any merit list as to what benefits and how that was got by the appellant because of the alleged fake documents, the learned counsel for the appellant as well as Deputy District Attorney were unanimous to agree that let this matter be remitted to the Department for conducting detailed inquiry covering all the facts and/or atleast the above points and then Department may proceed in accordance with law. The appellant is reinstated for the purpose of inquiry. The inquiry shall be completed within sixty days after receipt of this order. Copy of the inquiry report be transmitted to the Registrar of the Tribunal.

Similarly, date of acknowledgement of the order be also communicated to the Registrar of this Tribunal. This instant execution appeal is disposed of in the above terms. Consign...."

15. That appellant is reinstated in service vide order dated 19/11/2022 for the purpose of inquiry (Copy of the order dated 19/11/2022 is attached as Annexure N)
16. That the worthy District Education Officer (Male) Mardan has vide impugned office order bearing Endst No 10805-06 dated 16/12/2022 imposed major penalty of removal from service upon the appellant and withdrawn reinstatement order dated 19/11/2022 which is illegal against law and facts on the following grounds:

GROUND:

- A. Because appellant is innocent and falsely charged.


ADVOCATE
SUPREME COURT

- B. Because appellant was not associated with the de-novo enquiry proceedings nor any witness was examined in presence of the appellant nor appellant was confronted with any document/record.
- C. Because appellant has neither been charge sheeted nor statement of allegation has been issued to the appellant nor show cause notice has been given to the appellant.
- D. Because the concerned officers were neither interrogated nor arrayed as an accused in the instant case which is a glaring illegality and appellant being a low-paid employee has been made a scapegoat.
- E. Because all codal formalities for appointment have been completed and appellant being for the post of Qari was duly appointed after proper recommendation of the Departmental Selection Committee.
- F. Because all academic credentials have been already verified by the worthy Executive District Officer, Schools & Literacy Mardan and his academic documents have been found correct.
- G. Because the whole inquiry and the whole proceedings are illegal as appellant cannot be targeted alone while excluding all the concerned government servants which is against the judgments of the Honorable Supreme Court of Pakistan and the appellant alone cannot be made a scapegoat.
- H. Because a vested right has accrued to the appellant wherein appellant has performed duty for almost 14 months and appellant cannot be divested of the same.
- I. Because the principle of Audi Alteram Partem is to be read into every statute.
- J. Because as per the principle of Audi Alteram Partem (No one can be condemned unheard), which principle has been defeated in the instant case as the appellant has neither been charge sheeted, nor statement of allegation has been issued nor show cause notice has been issued nor any opportunity of hearing has been afforded nor the appellant has been associated with any inquiry nor any witness has been examined in presence of the appellant nor any opportunity of cross examination has been provided.
- K. Because the appointment order has been passed after

(58)

observing all codal formalities and in accordance with law and once the appointment order has been acted upon and the appellant has performed duty for almost 14 months, then the Department cannot back-track as per principle of locus poenitentiae as a vested right has accrued to the appellant.

L. Because the DEO(M) Mardan/Executive District Officer (Schools & Literacy) Mardan or other concerned officials who signed the appointment order have not even been questioned to this effect.

M. Because appellant has no approach to the official record of Education Department.

N. Because the entire misconception has arisen from the fact that appellant's BA degree is from Malakand University whereas the Anti Corruption Department and the Education Department were seeking verification of the same from Peshawar University.

O. Because there is neither any forgery nor any fraud on the part of appellant, much less, when appellant has been acquitted and exonerated of the charges of forgery and fraud by the Honorable Peshawar High Court Peshawar and said judgment was communicated to the competent authority of the appellant and the said judgment attained finality then the very inquiries for the same charges of forgeries after earning acquittal from the Honorable Peshawar High Court Peshawar on the same charge is squarely falling within the principle of double-jeopardy within the meaning of Article 13 of Constitution of Pakistan 1973 which is fundamental right of every citizen and is reproduced as under for convenience:

"Protection against double punishment and self incrimination

13. No person—

(a) shall be prosecuted or punished for the same offence more than once; or

(b) shall, when accused of an offence, be compelled to be a witness against himself."

P. Because beside initiation of the inquiries after the judgment of the Honorable Peshawar High Court Peshawar is contemptuous on the part of the officers of Education Department.

Q. Because the Honorable Peshawar High Court Peshawar has declared the appellant as a competent and well-

Amir Ali
ADVOCATE
SUPREME COURT

versed teacher and thus vested right has accrued to the appellant and appellant cannot be divested of his rights. It wouldn't be out of place to mention that departmental inquiry cannot replace/brush aside the judgment of the Honorable Peshawar High Court Peshawar dated 24/06/2013 which has attained finality as the same was not impugned before the Higher Court.


R. Because the order dated 04/10/2022 of the Honorable Service Tribunal which provide for completion of inquiry within sixty days has lapsed on 03/12/2022 and any finding beyond the said period is blatant violation of the said judgment and untenable in the eye of law. Appellant is fortified in this respect that the judgment of the Honorable Supreme Court reported in 2010 PLC (CS) 608, the finding of the inquiry Committee beyond the period prescribed in the judgment of the Service Tribunal is nullity in the eye of law **(Copy of the judgment reported in 2010 PLC (CS) 608 is attached as Annexure O)**

S. Because appellant being a low paid employee had no access to the official record and when no action has been taken against the officers who were custodian of the record and having access to the record then making appellant scapegoat is squarely in violation of the judgment of the Honorable Supreme Court of Pakistan reported in 1996 PLD Supreme Court 412/413 in case titled as Education Department versus Saad Ullah.

T. Because appellant is suffering the rigours of the criminal trials and service trials, Departmental trials again and again for the last 15 years with no fault on the part of the appellant.

U. Because appellant is jobless and entitled for back benefits.

It is therefore humbly prayed that on acceptance of this departmental appeal, impugned office order bearing Endst No 10805-06 dated 16/12/2022 passed by District Education Officer (Male) Mardan wherein major penalty of removal from service has been imposed upon the appellant may please be set aside and appellant may please be reinstated in service with all back benefits.

(Appellant) 
Qari Umar Nabi S/O Mohammad
Zaman R/O Village Lund Khwar
Tehsil Takht Bhai District Mardan

Through


Amjad Ali (Mardan)
Advocate

Dated: 07/01/2023

Supreme Court 

Supreme Court

58

0.1483

For Insurance Notices see reverse.

Rs. | Ps.

Station RGL52676446 in case of

uninsured contents

the initial weight prescribed in the

Post Office Guide or on which no

acknowledgement is due.

70-

Received a registered
addressed to

Director Education
Date Stamp

Initials of Receiving Officer with the word "insured" before it when necessary.

Insured for Rs. (in figures) Secondary Education (in words) Keshavnagar

Insurance fee Rs. Ps. (in words) Weight Kilo Grams

Name and address of sender
M.K.D. - Doo' Umar Nabi

Supreme Court
ADVOCATE

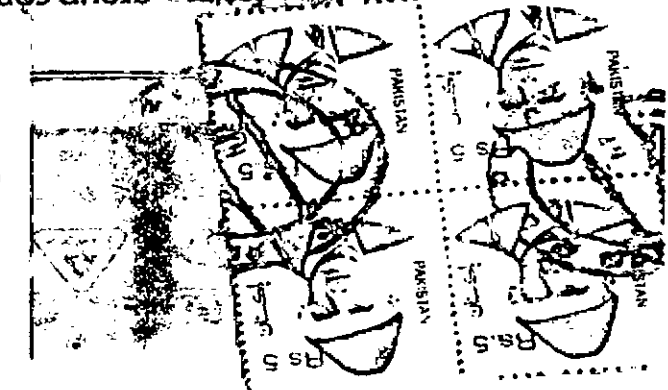
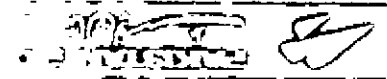
10/1/2023

69

www.fatima-group.com | 0800-91919

Handwritten Urdu text on a lined envelope, including a return address and recipient details.

ACKNOWLEDGEMENT DUE CARD



Sender's Name & Address: Gen Umar Nabi S
Tehsil Dargah District Malakwal
POSTCODE



Address: Directorate of SED Hashimpora
To: Director, Elementary & Secondary Education
Chak near Cilla Bala Hiscer P...

SAY NO TO CORRUPTION

POST OFFICE Savings Bank
Urgent Mail Service
POSTAL CHAN
RGL52876446
PAKISTAN POST

Aux (6)
Kia (10) (60)

[Supreme Court of Pakistan]

Present: Javed Iqbal and Anwar Zaheer Jamali, JJ

NATIONAL BANK OF PAKISTAN and others

Versus

SHAMOON KHAN and others

Civil Petition No.1557-L of 2001, decided on 29th March, 2010.

(On appeal from judgment, dated 28-2-2001 passed by the Federal Service Tribunal, Lahore in Appeal No.533/L of 1998).


(a) Service Tribunals Act (LXX of 1973)---

---S. 4---Limitation Act (IX of 1908), 5.5---Appeal---Condonation of delay---Jurisdiction--- Sufficiency of cause for condonation of delay being question of fact is within the exclusive jurisdiction of Service Tribunal---Once discretion is exercised regarding question of limitation by Service Tribunal, it is not usually interfered with by Supreme Court.

Ali Hasan Rizvi v. Islamic Republic of Pakistan 1986 SCMR 1086; Hussain Bibi v. Mubarak Hussain 1976 SCMR 262; Yousaf Hussain Siddiqui v. Additional Settlement and Rehabilitation Commissioner, Peshawar and 5 others 1976 SCMR 268; WAPDA v. Abdur Rashid Dar 1990 SCMR 1513; Sher Bahadur v. Government of N.W.F.P. 1990 SCMR 1519 and Zahida v. Deputy Director 1990 SCMR 1504 rel.

(b) Constitution of Pakistan (1973)---

---Arts. 185(3) & 212(3)---Petition for leave to appeal---Maintainability---Petition for leave to appeal is only competent where case involves substantial question of law of public importance---Where no question of law of public importance is involved leave to appeal may not be granted.


JAVED IQBAL
SUPREME COURT

Muhammad Iqbal v. Secretary to Government of Punjab 1986 SCMR 1; Karamat Hussain v. Province of the Punjab 1982 SCMR 897; Razia Sultana v. Government of Punjab 1981 SCMR 715; M. Yamin Qureshi v. Islamic Republic of Pakistan PLD 1980 SC 22; Irtiga Rasool Hashmi v. Water and Power Development Authority and another 1980 SCMR 722; Dilbar Hussain v. Province of Punjab 1980 SCMR 148; Yousaf Hussain Siddiqi v. Additional Settlement and Rehabilitation Commissioner 1976 SCMR 268; Muhammad Azhar v. Service Tribunal; Islamabad 1976 SCMR 262; M.A. Majid v. Government of Pakistan 1976 SCMR 311; (Director Food v. Rashid Ahmad 1990 SCMR 1446; Muhammad Manzoor Ahmad v. Commissioner Multan Division 1990 SCMR 560; Government of Punjab v. Khalid Hussain Gill 1989 SCMR 748; Abdul Razaq v. Province of Punjab 1980 SCMR 876 and Muhammad Yaqub Sheikh v. Government of the Punjab 1987 SCMR 1354 rel.

61

(c) Service Tribunals Act (LXX of 1973)---

---S. 4---Constitution of Pakistan (1973), Art.212(3)---Reinstatement---De novo inquiry---Service Tribunal reinstated employee in service with option to bank employer to initiate de novo inquiry---Validity---Inquiry was not got conducted against employee in accordance with relevant provisions of law and it was found in flagrant violation of the principles enunciated in cases already decided by Supreme Court---Service Tribunal had given fair opportunity to bank to initiate inquiry proceedings de novo within a period of three months but nothing could be done for the reasons best known to it---Judgment passed by Service Tribunal was free from any illegality or infirmity and did not call for interference---Leave to appeal was refused.

Shakeel Ahmad v. Commandant 502 Central Workshop E.M.E. 1998 SCMR 1970; Basharat Ali v. Director, Excise and Taxation 1997 SCMR 1543; Land Reforms Commission; Punjab Lahore and another v. Mst. Azra Parveen and 2 others 1995 SCMR 890 and Jan Muhammad v. General Manager, Karachi 1993 SCMR 1440 rel.

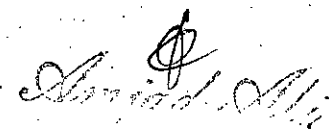
Muhammad Qamar-uz-Zaman, Advocate Supreme Court for Petitioner.

Ch. Muhammad Khalid Farooq, Advocate Supreme Court for Respondents.

Date of hearing: 29th March, 2010.

JUDGMENT

JAVED IQBAL, J.--- This petition for leave to appeal is directed under Article 212(2) of the Constitution of Islamic Republic of Pakistan, 1973 against the judgment dated 28-2-2001 passed


JAVED IQBAL
SUPREME COURT

by learned Federal Service Tribunal, Lahore whereby the appeal preferred on behalf of respondents has been accepted.

62

2. The facts of the case have been mentioned elaborately in the judgment impugned and the petition in hand hence reproduction whereof would be of no use.

3. It is mainly contended by the learned Advocate Supreme Court on behalf of petitioner/Bank that the appeal of respondent should have not been accepted as it was badly barred by time which escaped the notice of the learned Federal Service Tribunal causing serious prejudice against the petitioners. It is next contended that appeal should have been dismissed on the sole ground of limitation which could not be examined by the learned Service Tribunal in its true perspective resulting in serious miscarriage of justice. It is also pointed out that after initiation of disciplinary action a full-fledged inquiry was conducted and the charges levelled against the respondent No.1 were substantiated by adducing cogent and concrete evidence and hence the question of fresh inquiry as directed by Service Tribunal is without any lawful justification.

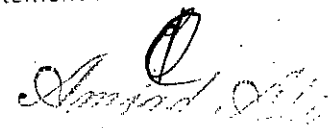
4. We have carefully examined the contentions as agitated on behalf of the petitioner in the light of relevant provisions of law and record of the case. We have minutely perused the judgment impugned. After having gone through the entire record we are of the view that all the points including question of limitation have been dilated upon and decided in a comprehensive manner in the judgment impugned and relevant portion whereof is reproduced hereinbelow for ready reference:--

"(5) Arguments heard and the record perused. Although the respondent-Bank has stressed that the inquiry was held and consequent action taken strictly in accordance with law but no document has been placed to substantiate and to rebut the allegations and contentions of the appellant to the effect that the inquiry was held strictly in accordance with law. The appellant has however placed two documents and two inquiry reports dated 19-5-1981 and 1-11-1981 indicating only some procedural lapses but there is no suggestion for punishment at all. The relevant paras of the inquiry report dated 19-5-1981 is reproduced:-

"From the perusal of what has been stated above it is said beyond doubt that the Branch Manager, Cashier Incharge and Mr. Shamoan Khan, Assistant are irresponsible, carefree and negligent in the performance of their duties which can place the bank in awkward position at any stage.

However, it is gathered from the conversation and cross question that there was some dispute of Rs.2000 of the depositor with Mr. Shamoan Khan, Assistant of the branch (who had good relations with each other) which was later on settled with the intervention of the respectables of the Town.

The complainant has already given in writing duly witnessed by the Chairman of the Town that the issue stands settled. He has again given me the enclosed statement wherein he has stated


SUPERVISOR

that he lodged the complaint by mistake and now after checking the record he has come to the conclusion that the complaint lodged by him was wrong and therefore may not be filed."

63


The observation of the Inquiry Officer in the second inquiry report dated 1-11-1981 regarding the appellant is also reproduced for better appreciation of the case:

"Mr. Shamoan Khan, Senior Assistant was in need of funds so he tendered some ornaments to the Branch Cashier for the purpose. He stated his occupation as Zamindar instead of "Bank Service". Thus he tried to conceal his identity. He might be knowing that if he will declare his occupation as "Bank's service" the loan will not be granted to him without the permission of the competent authority. Thus he availed loan at public rates."

From the perusal of the documents only placed by the appellant it appears that quantum of punishment is of the highest degree of removing the appellant from service. The respondents failed to substantiate their contention by placing any document but on the other side the appellant has been able to make out a case that the inquiry was not held in accordance with law as submitted by him above. Keeping in view the above discussion we hold that imposition of penalty on the basis of defective inquiry was not justified. The appeal is hereby accepted, the impugned order dated 23-1-82 is hereby set aside and the appellant is reinstated in service. This order will be without prejudice to the discretion of the respondent to initiate inquiry proceedings de novo within a period of three months and the question of back-benefits shall depend upon the result of de novo inquiry".

5. A careful perusal of the operative portion of the judgment impugned as reproduced hereinabove would indicate that the question of limitation has been dilated upon and decided. It is well-established by now that sufficiency of cause of condonation of delay being question of fact is within the exclusive jurisdiction of Tribunal. *Ali Hasan Rizvi v. Islamic Republic of Pakistan* 1986 SCMR 1086, *Hussain Bibi v. Mubarak Hussain* 1976 SCMR 262, *Yousaf Hussain Siddiqui v. Additional Settlement and Rehabilitation Commissioner, Peshawar and 5 others* 1976 SCMR 268. Even otherwise once the discretion is exercised qua the question of limitation by the learned Service Tribunal it is not usually interfered with by this Court. In this regard reference can be made to cases titled *WAPDA v. Abdur Rashid Dar* 1990 SCMR 1513, *Sher Bahadur v. Government of N.-W.F.P.* 1990 SCMR 1519, *Zahida v. Deputy Director* 1990 SCMR 1504.

6. It may not be out of place to mention here that leave to appeal to this Court is only competent where a case involves a substantial question of law and public importance. *Muhammad Iqbal v. Secretary to Government of Punjab* 1986 SCMR 1, *Karamat Hussain v. Province of the Punjab* 1982 SCMR 897, *Razia Sultana v. Government of Punjab* 1981 SCMR 715, *M. Yamin Qureshi v. Islamic Republic of Pakistan* PLD 1980 SC 22, *Irtiq Hashmi v. Water and Power Development Authority and another* 1980 SCMR 722, *Dilbar Hussain v. Province of Punjab* 1980 SCMR 148, *Yousaf Hussain Siddiqui v. Additional Settlement and Rehabilitation Commissioner* 1976 SCMR 268, *Muhammad Azhar v. Service Tribunal, Islamabad* 1976 SCMR 262; *M.A. Majid v. Government of Pakistan* 1976 SCMR 311. where no question of law of public importance is involved leave to appeal may not be granted. *Director Food v. Rashid Ahmad* 1990 SCMR 1446, *Muhammad Manzoor Ahmad v. Commissioner Multan Division* 1990 SCMR 560, *Government of Punjab v. Khalid Hussain Gill* 1989 SCMR 748, *Abdul Razaq v. Province of Punjab* 1980 SCMR 876, *Muhammad Yaqub Sheikh v. Government of the Punjab* 1987 SCMR 1354. The


SUGGESTION

learned Advocate Supreme Court was asked pointedly that what is the question of law of public importance, but no satisfactory answer could be given. Let we mention here at this juncture that inquiry was not got conducted in accordance with relevant provisions of law and moreso it was found in flagrant violation of the principles enunciated in cases titled Shakeel Ahmad v. Commandant 502 Central Workshop E.M.E. 1998 SCMR 1970, Basharat Ali v. Director, Excise and Taxation 1997 SCMR 1543, Land Reforms Commission, Punjab, Lahore and another v. Mst. Azra Parveen and 2 others 1995 SCMR 890, Jan Muhammad v. General Manager, Karachi 1993 SCMR 1440. The Service Tribunal has given a fair opportunity to the petitioner to initiate inquiry proceedings de novo within a period of three months but nothing could be done for the reasons best known to it.

64

7. The upshot of the above discussion is that the judgment impugned being free from any illegality or infirmity does not call for interference. The petition being meritless is dismissed and leave refused.

M.H./N-7/SC

Petition dismissed.

Amjad Ali
SUPREME COURT

حکومت سندھ، حکومت سندھ، سندھ ہائیڈرو پاور

بعد الت

65

Appellant منجانب 2023

07/03/2023 مورخہ:

بنام: حکومت سندھ، سندھ ہائیڈرو پاور، سندھ ہائیڈرو پاور
ادھوکیٹس وغیرہ

مقدمہ: قاری عمر بی

دعویٰ: Service appeal

جرم:

باجت تحریر آئندہ

مقدمہ مندرجہ عنوان بالا اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ

آئین مقام سندھ کیلئے امجد علی ایڈووکیٹ، سپریم کورٹ آف پاکستان اسلام آباد

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ برحلف دیے جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرنے اجراء وصول چیک و روپیہ عرضی دعویٰ اور درخواست ہر قسم کی تصدیق زاریں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختیار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ با اختیارات حاصل ہوں گے اور اس کا ساختہ پر واختہ منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ و جانہ التوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب یا بندہ ہوں گے۔ کہ پیروی مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سنڈ رہے۔

2023

ماہ مارچ

المرقوم: 67

العبد

گواہ

العبد

بمقام سندھ کے لیے منظور ہے۔

Accepted by

Amjad Ali
SUPREME COURT
SUPREME COURT

(67/03/23)

67