

10.03.2021

Appeal No. 598/2014
Haroon Badshah vs Govt

Appellant present through counsel.

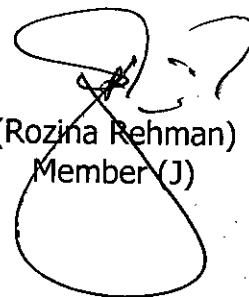
Riaz Khan Paindakheil learned Assistant Advocate General
for respondents present.

An application for adjournment of the instant appeal till
the decision of the case pending in the Accountability Court,
was submitted.

In view of the above, the instant service appeal stands
adjourned sine die till the disposal of the case pending
before the Accountability Court, however, parties would be
at liberty to seek restoration of instant case after decision by
the Accountability Court. File be consigned to the record
room.



(Atiq ur Rehman Wazir)
Member (E)



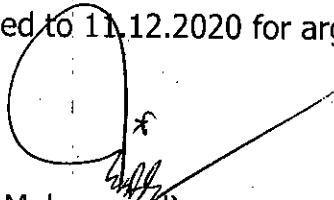
(Rozina Rehman)
Member (J)


13.11.2020

Junior to counsel for appellant present.

Usman Ghani learned District Attorney for respondents present.

Lawyers are on general strike, therefore, case is adjourned to 11.12.2020 for arguments, before D.B.


(Mian Muhammad)
Member (E)

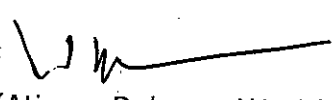

(Rozina Rehman)
Member (J)

11.12.2020

Junior to counsel for the appellant and Addl. AG for the respondents present.

Former requests for adjournment as learned senior counsel for the appellant is engaged before the Honourable High Court today.

Adjourned to 12.01.2021 for hearing before D.B.


(Atiq-ur-Rehman Wazir)
Member(E)



Chairman


12.01.2021

Appellant present through counsel.

Riaz Khan Paindakheil learned Assistant Advocate General alongwith Salim Khan S.O and Kashif Munir Librarian for respondents present.

Counsel for appellant remained busy in arguments in case titled Noorani Shah Versus Govt. before this D.B, therefore, instant case is adjourned to 10.03.2021 before D.B.


(Atiq ur Rehman Wazir)
Member (E)


(Rozina Rehman)
Member (J)

03.07.2020

Due to COVID-19, the case is adjourned to 07.08.2020 for the same.


Reader

07.08.2020

Due to summer vacation case to come up for the same on 09.10.2020 before D.B.



Reader

09.10.2020

Appellant present through counsel.

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

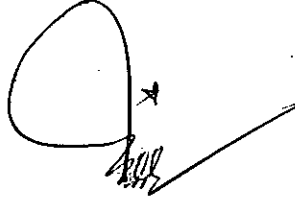
Former requests for adjournment; granted. To come up for arguments on 13.11.2020 before D.B.


(Atiq ur Rehman Wazir)
Member (E)


(Rozina Rehman)
Member (J)

10.03.2020

Counsel for the appellant present. Addl: AG for respondents present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 01.04.2020 before D.B.



Member



Member

01.04.2020

Due to public holiday on account of COVID19, the case is adjourned to 12.06.2020 for the same as before.



Reader

12.06.2020

Learned counsel for the appellant present. Mr. Kabir Ullah Khattak learned Additional Advocate General for the respondents present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 03.07.2020 before D.B.



(Rozina Rehman)
Member



(M.Amin Khan Kundi)
Member

09.07.2019

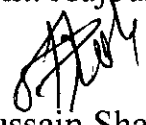
Learned counsel for the appellant and Mr. Kabir Ullah Khattak learned Additional Advocate General alongwith Mukhtiar Alam Superintendent present. Learned counsel for the appellant seeks adjournment. Adjourn. To come up for arguments on 24.09.2019 before D.B.


Member


Member

24.09.2019

Counsel for the appellant and Mr. Kabirullah Khattak, Additional AG for the respondents present. Learned counsel for the appellant seeks adjournment. Adjourned to 28.11.2019 for arguments before D.B.

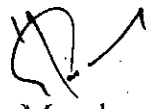

(Hussain Shah)
Member


(M. Amin Khan Kundi)
Member

28.11.2019

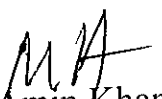
Due to general strike of the Pakistan Bar Council, the case is adjourned. To come up on 24.01.2020 before D.B.

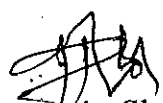

Member


Member


24.01.2020


Due to general strike on the call of Khyber Pakhtunkhwa Bar Council learned counsel for the appellant is not available today. Mr. Kabirullah Khattak learned Additional Advocate General for the respondents present. Adjourned to 10.03.2020 for further proceedings/arguments before D.B.


(M. Amin Khan Kundi)
Member

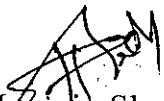

(Hussain Shah)
Member


01.03.2019 Mr. Muhammad Jan learned Deputy District Attorney present. Due to general strike of the bar, the case is adjourned. To come up for arguments on 16.04.2019 before D.B.


Member


Member

16.04.2019 Appellant with counsel present. Mr. Zia Ullah learned Deputy District Attorney for the respondents present. Learned counsel for the appellant requested for adjournment. Adjourned. To come up for arguments on 13.05.2019 before D.B.


(Hussain Shah)
Member


(M. Amin Khan Kundi)
Member

13.05.2019 Nemo for the appellant. Mr. Riaz Paindakhel learned Assistant Advocate General for the respondents present. Due to leave of the worthy Chairman the case is adjourned to 09.07.2019 for arguments before D.B.


(Hussain Shah)
Member

07.01.2019

Appellant in person and Mr. Muhammad Jan learned Deputy District Attorney present. Appellant seeks adjournment as his counsel is not in attendance. Adjourn. To come up for arguments on 10.01.2019 before D.B.

Member

Member

10.01.2019

Appellant in person and Mr. Kabir Ullah Khattak learned Additional Advocate General along with Mukhtiar Alam ADEO present. Appellant seeks adjournment as his counsel is not in attendance. Adjourn. To come up for arguments on 24.01.2019 before D.B.


Member


Member

24.01.2019

Appellant with Junior to counsel and Addl: AG alongwith Mr. Mukhtiar Alam, ADEO for respondents present. Junior to counsel for the appellant seeks adjournment. Adjourned. Case to come up for arguments on 01.03.2019 before D.B.


(Ahmad Hassan)
Member


(M. Amin Khan Kundi)
Member

13-10-18

Case is hereby cancelled, therefore the case is adjourned for the same on 28-11-18 at court D.I. - Khan



28.11.2018

Clerk of the counsel for appellant present. Mr. Usman Ghani, District Attorney for the respondents present. It was noticed by the Tribunal that similar nature cases namely Noorani Shah, Amanullah and Bahadar Khan are pending before this Tribunal at Principal seat Peshawar in which next date of hearing is fixed as 13.12.2018 therefore, the instant appeal is also fixed at principal seat Peshawar on same date. To come up for rejoinder, if any, and arguments on 13.12.2018 before D.B at Principal seat Peshawar.



(Ahmad Hassan)
Member
Camp Court D.I.Khan



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

13.12.2018

Counsel for the appellant present. Mr. Muhammad Jan, DDA for respondents present. Counsel for the appellant seeks adjournment. Adjourned. Case to come up for arguments on 07.01.2019 before D.B.



Member

Member

Service Appeal No. 598/2014

22.02.2018

Appellant in person present. Mr. Usman Ghani, District Attorney alongwith Mst. Sabra Parveen, DEO (F) for the respondents also present. Written reply not submitted. Learned District Attorney requested for further adjournment. Last opportunity granted. Adjourned. To come up for written reply/comments on 26.04.2018 before S.B at Camp Court D.I.Khan.

MA

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

25.05.2018

Due to retirement of the Worth Chairman, the Tribunal become non-functional. To come up for the same 22.06.2018. Notice be issued to the parties accordingly.

MA
Member

22.06.2018

Appellant in person present. Mr. Dil Jan, Assistant for respondents present and written reply submitted. To come up for rejoinder, if any, and arguments on 29.08.2018 before the D.B at camp court, D.I.Khan.

S
Chairman

Camp Court, D.I.Khan

29.08.18

AT.

*Clerk to Counsel for the appellant present
no one for the respondents present. Court is hereby cancelled
therefore the case is adjourned for the same
on 23.10.18 at Camp Court D.I Khan.*

[Signature]


28.03.2017

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


Reader


23.08.2017

Appellant in person present. Mr. Farhaj Sikandar, District Attorney for the respondents present. Representative of respondent-department is not in attendance, therefore, notice be issued to the respondents with the direction to direct the representative to attend the court and submit written reply on the next date positively. Adjourned. To come up for written reply/comments on 29.12.2017 before S.B at Camp Court D.I.Khan.


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


29.12.2017

Appellant in person present. Mr. Farhaj Sikandar, District Attorney alongwith Mst. Sabra Parveen, DEO (F) for the respondents also present. Written reply not submitted. Learned District Attorney requested for further adjournment. Adjourned. To come up for written reply/comments on 22.02.2018 before S.B at Camp Court D.I.Khan.


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

26.01.2016

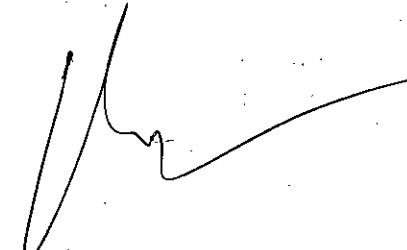
Appellant in person and Mr. Farhaj Sikandar, GP for the respondents present and requested for time to contact the respondents. To come up for written reply of the respondents on 24.5.16 at camp court, D.I.Khan.



MEMBER
Camp Court, D.I Khan

24.05.2016

Appellant in person and Mr. Sharif Ullah, ADO along with Mr. Farhaj Sikandar, GP for respondents present. Representative of the respondents requested for time to submit written reply. To come up for written reply/comments on 25.10.2016 at camp court D.I. Khan.

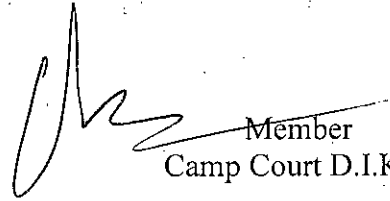


Member

Camp Court D.I.Khan

25.10.2016

Appellant in person and Mr. Farhaj Sikandar, Government Pleader for the respondents present. Written reply by respondents not submitted. Learned GP requested for further time for submission of written reply. Request accepted. To come up for written reply/comments on 28.03.2017 before S.B at Camp Court D.I.Khan.



Member

Camp Court D.I.Khan

5 10.02.2015 Appellant in person and Assistant A.G for respondents present.
Written reply not submitted. Requested for adjournment for written reply.
Adjourned to 27.03.2015.


Chairman

6 27.03.2015 Appellant in person and Addl: A.G for respondents present.
Written reply not submitted. Requested for adjournment. Last
opportunity granted. The same be submitted by the respondents at
Camp Court D.I.Khan on 25.5.2015.


Chairman

25.05.2015 Appellant in person and Mr. Farhaj Sikandar, G.P present.
Fresh notices be issued to the respondents by way of last chance.
To come up for written reply on 26.10.2015, at camp court,
D.I.Khan. This will be the last chance for the respondents.


MEMBER
Camp Court, D.I.Khan.

26.10.2015 Appellant in person and Mr. Farhaj Sikandar,
GP with Sharifullah, ADO for the respondents present and
requested for further time. To come up for written reply at
camp court, D.I.Khan on 25-1-16


MEMBER
Camp court, D.I.Khan

Appeal No. 598/2014
Mr. Humayun Badshah

3. 09.06.2014

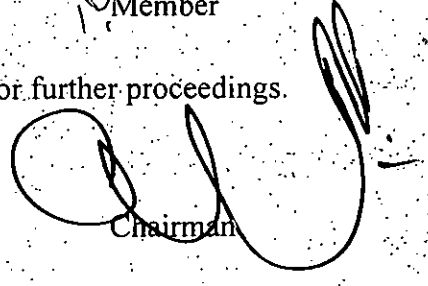
Counsel for the appellant present. Preliminary arguments heard and case file perused. Counsel for the appellant contended that the appellant has not been treated in accordance with law/rules. Against the impugned order dated 26.12.2013, he filed departmental appeal on 13.01.2014, which has not been responded within the statutory period of 90 days, hence the present appeal on 28.04.2014. Points raised at the Bar need consideration. The appeal is admitted to regular hearing subject to all legal objections. The appellant is directed to deposit the security amount and process fee within 10 days. Thereafter, Notices be issued to the respondents. To come up for written reply/comments on 03.09.2014.

Appellant Deposited
Security & Process Fee
Rs. 2,000/- Bank
Receipt is Attached with File


Member

4. 09.06.2014

This case be put before the Final Bench 2 for further proceedings.


Chairman

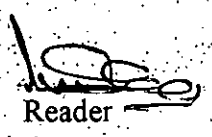
3-9-14

The Hon'ble Bench's on P.O.
Reader's case is adj'd B 10-11-14.


Reader

10.11.2014



Appellant in person and Mr. Bahadar Zaman, Senior Clerk on behalf of respondent No.4 with Mr. Muhammad Adeel Butt, AAG for the respondents present. The Tribunal is incomplete. To come up for written reply on 10.02.2015.


Reader

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 598 /2014

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	28/04/2014	<p style="text-align: center;">The appeal of Mr. Haroon Badshah presented today by Mr. Saadullah Khan Marwat Advocate may be entered in the Institution register and put up to the Worthy Chairman for preliminary hearing.</p> <p style="text-align: right;"> REGISTRAR</p>
2	5-5-2014	<p style="text-align: center;">This case is entrusted to Primary Bench for preliminary hearing to be put up there on <u>9-6-2014</u></p> <p style="text-align: right;"> CHAIRMAN</p>

BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR

S.A No. 598 /2014

Haroon Badshah

Versus

Chief Minister & others

I N D E X

S.#	Description of Documents	Annex	Page
1.	Memo of Appeal		1-3
2.	Charge Sheet, 31.12.2012	"A"	4-6
3.	Reply to Charge Sheet, 09.01.2013	"B"	7
4.	Show Cause Notice, 17.04.2013	"C"	08-09
5.	Reply to Notice, 02.05.2013	"D"	10
6.	Impugned Order, 26.12.2013	"E"	11
7.	Representation, 13.01.2014	"F"	12-13

Appellant

Through



Dated: .03.2014

(Saadullah Khan Marwat)
Advocate
21-A Nasir Mension,
Shoba Bazar, Peshawar..
Ph: 0300-5872676

BEFORE THE KPK, SERVICE TRIBUNAL, PESHAWAR

S.A No. _____/2014

Haroon Badshah S/o Behraam Khan,
Junior Clerk, GHS, Titter Khel, Lakki Marwat,
Ex-Junior Clerk, DDO (Female) Office, Lakki Marwat Appellant

Versus

1. Chief Minister, Govt. of KP, through Chief Secretary, Govt. of KP, Civil Secretariat, Peshawar.
2. Secretary, Government of KP, Elementary & Secondary Education Department, Peshawar.
3. Director of Education, Directorate of Elementary & Secondary Education, KP, Peshawar
4. District Education Officer (Female), Elementary & Secondary Education, Lakki Marwat Respondents

⇔<=>⇔<=>⇔<=>⇔<=>⇔

APPEAL U/S 4 OF THE SERVICE TRIBUNAL ACT, 1974 AGAINST OFFICE NOTIFICATION NO. SO(S/M) E&SED/4-17/2012, DATED 26.12.2013 OF R. NO. 1 WHEREBY MINOR PENALTY OF WITHHOLDING OF TWO INCREMENTS FOR TWO YEARS WAS IMPOSED BY APPELLANT FOR NO LEGAL REASON.

⇔<=>⇔<=>⇔<=>⇔<=>⇔

Respectfully Sheweth:

Short facts giving rise to the present appeal are as under:-

1. That appellant was appointed initially as Junior Clerk on 19.10.2005 and was posted as such in GHS, Matora, Lakki Marwat.
2. That on 31.12.2012, appellant was served with Charge Sheet & statement of allegations to the effect:-

"Committed gross negligence, supporting and assisting the Ex-EDO in making illegal appointments in violation of merit, Govt. policy and procedures in the office of EDO, E&SE, Lakki Marwat". (Copy as annex "A")

Here it is not out of place to mention that the Charge Sheet was served directly by R. No. 2 upon appellant and not by the Inquiry Officer.

3. That the Charge Sheet of 31.12.2012 was replied by the appellant on 09.01.2013 by denying the allegations. (Copy as annex "B")
4. That perhaps inquiry in the matter was initiated but the same was not conducted as per the mandate of law because neither any statement of any witness(s) was recorded in presence of appellant nor he was afforded opportunity of cross examination, being mandatory, yet report was submitted to the authority for onward action.
5. That on 17.04.2013, appellant was served with Show Cause Notice on the aforesaid allegations to reply the same which was replied on 02.05.2013 in the aforesaid manner. (Copies as annex "C" & "D")
6. That on 26.12.2013, minor penalty of withholding of two increments for two years was imposed by R. No. 1 upon appellant which order was issued by R. No. 2. (Copy as annex "E")
7. That on 13.01.2014, appellant submitted representation before R. No. 1 to review the aforesaid punishment which met dead response till date. (Copy as annex "F")


Hence this appeal, inter alia, on the following grounds:-

G R O U N D S :

- a. That appellant has no concern, whatsoever, with the subject matter as he is simple Assistant and routed out the case as per procedure.
- b. That appointments were made by the Ex-EDO, E&SE who was competent to do so. Appellant was no authority to look into the matter as to whether the orders of appointment were legal or illegal.

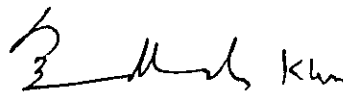
- c. That inquiry was not conducted as per the mandate of law. Neither any statement of any witness(s) was recorded in presence of appellant nor he was afforded opportunity of cross examination.
- d. That procedure lapses took place in dealing with the matter, so on this score alone, he was not liable to any punishment.
- e. That personal hearing, being mandatory, was not afforded to appellant what to speak of providing him opportunity of self defence.
- f. That the Show Cause Notice did not bear complete inquiry proceeding which was mandatory to reply the Notice as per the mandate of law.
- g. That appellant, being low paid employee, was not amenable to any panel action, so the impugned order is based on ulterior motive.

It is, therefore, most humbly prayed that on acceptance of the appeal, the order dated 26.12.2013 of R. No. 1 be set aside, with such other relief as may be deemed proper and just in circumstances of the case.




Appellant

Through

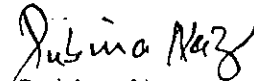


Saadullah Khan Marwat



Arbab Saif-ul-Kamal

&



Miss Robina Naz,
Advocates,

Dated: .03.2014

A

4

31-12-12

CHARGE SHEET

I, Amir Haider Khan Hoti, Chief Minister, Khyber Pakhtunkhwa as Competent Authority, hereby charge you, Mr. Haroon Badshah, Junior Clerk (BS-07) Office of the EDO E&SE Lakki Marwat, as follows:-

That you, while posted as Junior Clerk (BS-07) Office of the EDO E&SE Lakki Marwat committed the following irregularity:

"Committed gross negligence, supporting and assisting the Ex-EDO in making illegal appointment in violation of merit, Government Policy and Procedures in the Office of EDO E&SE Lakki Marwat."

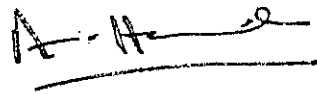
2- By reason of the above, you appear to be guilty of misconduct under Rule-3 of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011 and have rendered yourself liable to all or any of the penalties specified in Rule-4 of the Rules ibid.

3- You are, therefore, required to submit your written defence within seven days of the receipt of this Charge Sheet to the inquiry officer/ inquiry committee, as the case may be.

4- Your written defence, if any, should reach the inquiry officer/ inquiry committee within specified period, failing which it shall be presumed that you have no defence to put in and in that case ex-parte action shall be taken against you.

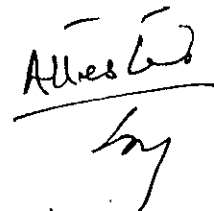
5- Intimate whether you desire to be heard in person.

6- A Statement of Allegations is enclosed.



(AMIR HAIDER KHAN HOTI)
CHIEF MINISTER KHYBER PAKHTUNKHWA
COMPETENT AUTHORITY

Mr. Haroon Badshah, Junior Clerk (BS-07),
Office of the EDO Elementary & Secondary Education,
Lakki Marwat.



5
DISCIPLINARY ACTION

I, Amir Haider Khan Hoti, Chief Minister, Khyber Pakhtunkhwa as Competent Authority, am of the opinion that Mr. Haroon Badshah, Junior Clerk (BS-07) Office of the EDO E&SE Lakki Marwat, has rendered himself liable to be proceeded against, as he committed the following acts/ omissions, within the meaning of Rule-3 of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011.

STATEMENT OF ALLEGATIONS

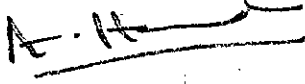
“Committed gross negligence, supporting and assisting the Ex-EDO in making illegal appointment in violation of merit, Government Policy and Procedures in the Office of EDO E&SE Lakki Marwat.”

2- For the purpose of inquiry against the said accused with reference to the above allegations, an inquiry officer/ inquiry committee, consisting of the following, is constituted under Rule 10(1)(a) of the ibid Rules:

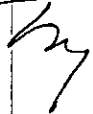
- i. Mr. Muhammad Hameed (B-21) Chairman P.T.
- ii. _____
- iii. _____

3- The inquiry officer/ inquiry committee shall, in accordance with the provisions of the ibid Rules, provide reasonable opportunity of hearing to the accused, record its findings and make within thirty days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused.

4- The accused and a well conversant representative of the department shall join the proceedings on the date, time and place fixed by the inquiry officer/ inquiry committee.


(AMIR HAIDER KHAN HOTI)
CHIEF MINISTER KHYBER PAKHTUNKHWA
COMPETENT AUTHORITY

Mr. Haroon Badshah, Junior Clerk (BS-07),
Office of the EDO Elementary & Secondary Education,
Lakki Marwat.

Attest




6

**GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT**

NOTIFICATION

Dated Peshawar the December 31, 2012

NO.SO(S/M)E&SED/4-17/2012/Noor Hassan Khan Ex-EDO Lakki: The Competent Authority is pleased to appoint Mr. Muhammad Humayun, Chairman (BS-21) Provincial Inspection Team, Khyber Pakhtunkhwa, Peshawar to conduct enquiry against Mr. Noor Hassan Khan, Ex-Executive District Officer (BS-19) E&SE Lakki Marwat (Now Principal GHSS Kheshgi Payan District Nowshera) and others to probe into the allegations leveled against them in the Charge Sheets and Statements of Allegations with immediate effect.

2. The enquiry officer shall submit recommendations/ report to the Competent Authority within thirty (30) days. (Copies of charge sheets & statements of allegations are enclosed).

SECRETARY

Endst: of even No. & Date

Copy forwarded to the:

1. Mr. Muhammad Humayun, Chairman (BS-21) Provincial Inspection Team, Khyber Pakhtunkhwa, Peshawar.
2. Director, E&SE Khyber Pakhtunkhwa, Peshawar.
3. Mr. Noor Hassan Khan, Ex-Executive District Officer (BS-19) E&SE Lakki Marwat (Now Principal GHSS Kheshgi Payan District Nowshera).
4. Mr. Muhammad Ayub, District Officer (Male) E&SE Lakki Marwat (Copies of Charge Sheet & statement of allegations are enclosed).
5. Mr. Noorani Shah, Deputy District Officer (M/P), E&SE Lakki Marwat (Copies of Charge Sheet & statement of allegations are enclosed).
6. Mr. Amanullah, Head Clerk Office of the EDO E&SE Lakki Marwat (Copies of charge sheet & statement of allegations are enclosed).
7. Bahadur Zaman, Senior Clerk Office of the EDO E&SE Lakki Marwat (Copies of charge sheet & statement of allegations are enclosed).
8. Mr. Haroon Badshah, Junior Clerk Office of the EDO E&SE Lakki Marwat (Copies of charge sheet & statement of allegations are enclosed).
9. PS to Secretary, E&SE Department, Khyber Pakhtunkhwa.
10. PS to Additional Secretary, E&SE Department, Khyber Pakhtunkhwa.
11. Office order file.

Mujeeb-ur-Rehman
(MUJEEB-UR-REHMAN)
SECTION OFFICER (SCHOOLS/MALE)

Syed
ky

Received
7/1/2013

To

Mr., Mohammad Humayun

Inquiry Officer, Chairman,

Provincial Inspection Team, Khyber Pakhtun Khwa Peshawar.

Subject;

REPLY TO CHARGE SHEET / STATEMENT OF ALLEGATION

Respected Sir,

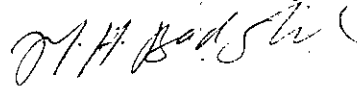
Kindly refer to Govt: of Khyber Pakhtun Khwa Elementary and Secondary Education Department Peshawar, Notification No SO(S/M) E&SED/4-17/2012/Noor Hassan Khan, Ex-EDO Lakki dated 31/12/2012, received on 7/1/2013 at 2.00 PM, the required replies to the charge sheet/ statement of allegation are being submitted to your good self, as directed in the same Notification, as under:

- 1 I have committed no irregularity or illegality because I have no concern with the appointment order made during the incumbency of the then EDO (E&SE) Lakki Marwat. I never supported and assisted the said EDO in making illegal appointment in violation of merit, Government Policy and procedure in the office.
The files dealt with were in routine manner and being no authority, I have no concern with the appointment made, if any.
- 2 By reason of the above, I do not appear to be guilty of misconduct under the quoted Law, being defective and am not liable to any penalty specified in the Rules.
- 3 Written reply is submitted within stipulated period of time to the inquiry Officer/ inquiry committee.
- 4 As directed written reply is submitted within specified period to the inquiry officer.
- 5 I wish to be heard in person.
- 6 Needs no comments.

It is therefore, most humbly requested that the Charge Sheet/ Statement of allegations may kindly be dropped by keeping in view aforesaid submissions and I may be exonerated of the same forever.

Thanking You Sir,

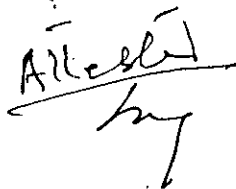
Your's obediently



Haroon Bad Shah

**Junior Clerk, Office of the
Sub Divisional Education Officer
(Female) Lakki Marwat.**

Dated 09-01-2013



Copy for information to the:

1. Director E&SE Khyber Pakhtun Khwa Peshawar.
2. PS to Secretary E&SE Khyber Pakhtun Khwa Peshawar.
3. PS to Additional Secretary E&SE Khyber Pakhtun Khwa Peshawar.

C

- 8 -

17-4-13

SHOW CAUSE NOTICE

I, Justice (R) Tariq Pervez Khan, Chief Minister, Khyber Pakhtunkhwa, as competent authority, under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, do hereby serve you, Mr. Haroon Badshah, Junior Clerk (BS-07) Office of the DEO (Male) Lakki Marwat as follows:-

- (i) that consequent upon the completion of inquiry conducted against you by the inquiry officer/ inquiry committee for which you were given opportunity of hearing; and
- (ii) on going through the findings and recommendations of the inquiry committee, the material on record and other connected papers including your defence before the inquiry officer/ inquiry committee,-

2. I am satisfied that you have committed the following acts/omissions specified in Rule-3 of the said rules:

(b) Guilty of Misconduct

3. As a result thereof, I, as competent authority, have tentatively decided to impose upon you the penalty of Withholding of two increments for two years under Rule-4 of the said Rules.

4. You are, thereof, required to show cause as to why the aforesaid penalty should not be imposed upon you and also intimate whether you desire to be heard in person.

5. If no reply to this notice is received within seven days or not more than fifteen days of its delivery, it shall be presumed that you have no defence to put in and in that case an ex-parte action shall be taken against you.

6. A copy of the findings of the inquiry officer/ inquiry committee is enclosed.

Recd by


(JUSTICE (R) TARIQ PERVEZ KHAN)
CHIEF MINISTER KHYBER PAKHTUNKHWA
COMPETENT AUTHORITY

Mr. Haroon Badshah, Junior Clerk (BS-07),
Office of the DEO (Male) Lakki Marwat.

17.4.2013

REGISTERED / AD

GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT



No. SO(S/M)E&SED/4-17/2012/Noor Hassan Ex-DEO Lakki Marwat
Dated Peshawar the April 23, 2013

To

Mr. Haroon Badshah,
Junior Clerk, Office of the District Education Officer (Male),
Lakki Marwat.

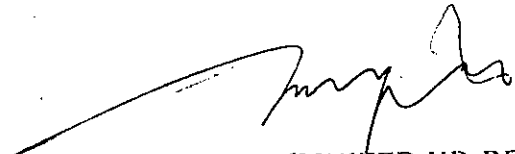
Subject: - **SHOW CAUSE NOTICE**

I am directed to refer to the subject noted above and to enclose herewith a copy of the Show Cause Notice wherein the Competent Authority (Chief Minister Khyber Pakhtunkhwa) has tentatively decided to impose the Minor Penalty of "Withholding of Two Increments for Two Yeras" under Rule-4 of the Khyber Pakhtunkhwa, Government Servants (Efficiency & Discipline) Rules, 2011 in connection with the charge leveled against you.

2. You are therefore directed to furnish your reply to the Show Cause Notice as to why the aforesaid penalty should not be imposed upon you and **also intimate whether you desire to be heard in person.**

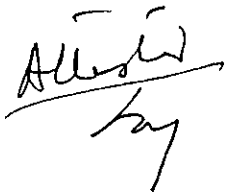
3. Your reply should reach to this Department **within Seven (07) days** of the delivery of this letter otherwise ex-parte action shall be taken against you.

Encl: As Above:


(MUJEEB-UR-REHMAN)
SECTION OFFICER (SCHOOLS/MALE)

Endst: of even number & date:

Copy of the above is forwarded to PS to Secretary E&SE Department Khyber Pakhtunkhwa.


SECTION OFFICER (SCHOOLS/MALE)

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2-5-13

The Hon'ble Chief Minister,
Khyber Pakhtunkhwa, Peshawar.

Through: Secretary to Government of Khyber Pakhtunkhwa
Elementary & Secondary Education Department, Peshawar.

SUBJECT REPLY TO THE SHOW CAUSE NOTICE

Respected Sir,

Kindly refer to the Govt: of Khyber Pakhtunkhwa Elementary & Secondary Education Department No SO(S/M) E&SED/4-17/2012/Noor Hassan Ex-DEO Lakki Marwat dated Peshawar the April 23,2013, the required replies to the Show Cause Notice are being submitted to your good self , as directed in same Notification, as under:

Sir,

1. I have no concerned with the appointment orders made during the incumbency of the then EDO (E&SE) Lakki Marwat. I never supported & assisted him in making the appointments in violation of merit, policy and procedures.
2. I am dealing matters in routine, I am no authority to make any appointment.
3. I am not guilty of any misconduct, so the show cause notice may kindly be dropped and I may be exonerated of the baseless charges.

I may be heard in person.

Dated:

2/5/13

Yours obediently,

H. Bad Shah

Haroon Bad Shah

Junior Clerk office of the

Sub: Divisional Education Officer,

(F) Lakki Marwat

[Handwritten signature]
16/3/13
C. H. C.

[Handwritten signature]



E 11 26-12-13

**GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT**

Dated Peshawar the December 26, 2013

NOTIFICATION

NO.SO(S/M)E&SED/4-17/2012/ Noor Hassan & others: WHEREAS Mr. Haroon Badshah, Junior Clerk (BS-07) office of District Education Officer Male Lakki Marwat was proceeded against under the Khyber Pakhtunkhwa Govt: Servants (Efficiency & Discipline) Rules, 2011 for the charges mentioned in the charge sheet and statement of allegations.

2. **AND WHEREAS** Mr. Muhammad Humayun, Chairman (BS-21) Provincial Inspection Team, Khyber Pakhtunkhwa Peshawar was appointed as Inquiry Officer to conduct formal Inquiry against the accused official, for the charges leveled against him in accordance with the rules.

3. **AND WHEREAS** the Inquiry Officer after having examined the charges, evidence on record and explanation of the accused official has submitted the report.

4. **AND WHEREAS** a show cause notice was served upon Mr. Haroon Badshah, Junior Clerk (BS-07) office of District Education Officer Male Lakki Marwat dated 17-04-2013.

5. **AND WHEREAS** the Competent Authority (Chief Minister, Khyber Pakhtunkhwa) after having considered the charges and evidence on record, inquiry report, explanation of the accused official in response to the Show Cause Notice is of the view that the charges against the accused official have been proved.

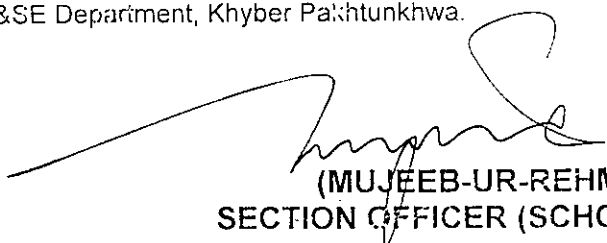
6. **NOW, THEREFORE**, in exercise of the powers conferred under section 14 of Khyber Pakhtunkhwa Govt: Servants (Efficiency & Discipline) Rules, 2011, the Competent Authority (Chief Minister, Khyber Pakhtunkhwa) is pleased to impose minor penalty of "Withholding of two increments for two years" upon Mr. Haroon Badshah, Junior Clerk (BS-07) office of District Education Officer Male Lakki Marwat.

SECRETARY

Endst: of Even No. & Date:

Copy forwarded to the: -

- 1- Accountant General, Khyber Pakhtunkhwa, Peshawar.
- 2- PSO to Chief Minister Khyber Pakhtunkhwa Peshawar.
- 3- Director, Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
- 4- District Education Officer (Male), Lakki Marwat.
- 5- District Accounts Officer, Lakki Marwat.
- 6- Mr. Haroon Badshah, Junior Clerk (BS-07) office of District Education Officer Male Lakki Marwat.
- 7- PS to chief Secretary Khyber Pakhtunkhwa Peshawar.
- 8- PS to Secretary, E&SE Department, Khyber Pakhtunkhwa.
- 9- PA to Additional Secretary, E&SE Department, Khyber Pakhtunkhwa.
- 10- Office order file.


**(MUJEEB-UR-REHMAN)
SECTION OFFICER (SCHOOLS/MALE)**

To

F
12
13-1-14
The Hon: Chief Minister,
Govt: Of Khyber Pakhtunkhwa,
Peshawar.

Through Proper Channel

Representation against Office Notification No.SO (SIII)E&SED/4-17/2012/Noor Hassan & Others, dated 26/12/2013, received on 03/01/2014, of the authority issued by Secretary, Govt: of Khyber Pakhtunkhwa, E&SED, Peshawar whereby minor penalty of withholding of two increments for two years was imposed for no legal reasons.

Respected Sir,

- 1 That appellant was appointed as junior clerk on 19/10/2005, and since then he has been performing his duties with full devotion.
- 2 That during the incumbency of the then EDO, ES&SED, Lakki Marwat, illegal appointments of PTC&CT (M&F) were made; So enquiry was initiated against appellant and others. On 31/12/2012, he was served with charge sheet/ Statement of allegations by the then Chief Minister, Khyber Pakhtunkhwa, Peshawar. The Charge was:

“Committed gross negligence, sporting & assisting the EX-EDO in making illegal appointment is in violation of merit, Govt: Policy and procedures in the office of EDO,E&SE, Lakki Marwat”
- 3 That on 9/01/2013, reply to the said Charge Sheet was submitted, by denying the allegation, that I never facilitated the then EDO in this respect as I was no authority.
- 4 That self made report was furnished by the enquiry officer as appellant was never associated with the same nor any statement of any witness(s) was recorded in his presence nor he was given opportunity of cross-examination, what to speak of affording his opportunity of self defence & personal hearing.
- 5 That on 23/04/2013, appellant was served with show cause notice without supply of enquiry proceedings which was replied on 2/5/2013, in the aforesaid manner.
- 6 That on 26/12/2013, appellant was awarded with aforesaid punishment by my honour.

Hence, this appeal, inter alia, on the following grounds:-

Grounds:

- a. That appellant is simple Junior Clerk and is confined to the said task and has no concern with the appointment.
- b. That appointments were made by the Ex-EDO, E&SED, Lakki Marwat who was competent to do so. The same were legal or illegal was the responsibility the then authority.
- c. That enquiry was not conducted as per the mandate of law. No statement of any witness(s) was recorded in presence of appellant nor he was afforded opportunity of cross-examination.
- d. That appellant was not provided opportunity of personal hearing being mandatory, so the impugned order is of no legal effect.
- e. That procedural lapses exist in the matter, so the impugned order is not based on legal footing, but is otherwise.

It is, therefore, most humbly requested that impugned order dated 26/12/2013, reviewed/set aside and the withholding of the increments be restored without any encumbrance thereupon.

Dated 13/1/2014

Attested by

Appellant

Haroon Bad Shah

Haroon Bad Shah
S/O Behram Khan
J/Clerk GHS Titter Khel
Lakki Marwat
Ex- Junior Clerk
Sub: Divisional
Education office
(F) Lakki Marwat

IN THE SERVICE TRIBUNAL PESHAWAR BENCH D I KHAN
SERVICE APPEAL NO. 598/2014

Haroon Bacha

Versus

Govt of Khyber Pakhtunkhwa and others

Index

S No	Description of documents	Annexures	Pages
01	Para Wise Comments	A	1-2
02	Annexures	B	3-6
03	Affidavit	C	7

Through


Dil Jan Khan

Incharge Superintendent
O/O District Education Officer
(Female) Lakki Marwat

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

S.A.No 598 /2014

Haroon Badshah S/O Behram Khan Junior Clerk office of the SDEO (Female) Lakki Marwat
now working at GGHS Marmandi Azim Tehsil Serai Naurang District Lakki Marwat.

..... Appellant

Versus

Chief Minister Khyber Pakhtunkhwa and others.

..... Respondents

Subject:- PARA WISE COMMENTS/REPLY ON BEHALF OF REPENDENTS No 1 TO 4

Respectfully Sheweth:

Preliminary Objection:-

1. The Appellant has no cause of action.
2. The Appellant has filed the instant appeal just to tease the respondents.
3. The Present Appeal is against the prevailing law, rules on the subject.
4. The Appellant has been stopped by his own conduct.
5. The present appeal is not tenable in the eye of law.

Comments of the facts:-

1. Para No 1 is related to the Service record of appellant.
2. The Para No 2 is Correct. (Charge sheet as Annexure "A")
3. Para No 3 is Correct. But reply was not found satisfactory. (Annexure-B)
4. Para No 4 is incorrect . The Inquiry has been conducted according to law and it is not mandatory to recording the statements of Appellant or witnesses in presence of appellant and such other opportunity like cross examination to extend to petitioner. The inquiry was conducted as per prevailing law and rules.(Reply is as Annexure-C)
5. Para No 5 is Correct, to the extent of show cause notice and reply against show cause, but the reply was not satisfactory. (Show Cause and Reply as Annexure-D)
6. Para No 6 is Correct.
7. Para No 7 is Correct.

Comments to the Grounds:

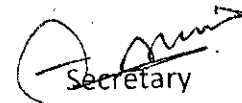
- A. Incorrect, the appellant has signed the appointment documents without any authority and facilitated the Ex- EDO.

Correct. to the extent that the appointment orders was issued by Ex.EDO, rest of the Para is incorrect.

- C. In Correct the inquiry has been conducted as per mandate of law and it is not mandatory to record the statements of Appellant or witnesses in presence of appellant and such other opportunity like cross examination to extend to petitioner.
- D. Incorrect. No procedural lapses took place in dealing with the matter.
- E. Incorrect. The appellant was heard in person as stated in impugned order.
- F. Incorrect and not admitted, the statement of appellant in this Para as well as in for going Para,s are false, baseless, without any cogent legal proof against facts, material on record and documentary evidence.
- G. Incorrect. The orders dated 26/12/2013(**With holding of 2 increments for 2 years**) is according to law and norms of justice.

it is, therefore, requested that the instant appeal may kindly be dismissed.

dated 19 / 02 / 2018


Secretary

to Govt: of Khyber Pakhtunkhwa
Elementary & Secondary
Education Deptt: Peshawar.


Director,

Elementary & Secondary
Education Khyber Pakhtunkhwa Peshawar



District Education Officer,
(Female) Lakki Marwat

A

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31-12-12

(31)
(A)

CHARGE SHEET

I, Amir Haider Khan Hoti, Chief Minister, Khyber Pakhtunkhwa as Competent Authority, hereby charge you, Mr. Haroon Badshah, Junior Clerk (BS-07) Office of the EDO E&SE Lakki Marwat, as follows:-

That you, while posted as Junior Clerk (BS-07) Office of the EDO E&SE Lakki Marwat committed the following irregularity:

"Committed gross negligence, supporting and assisting the Ex-EDO in making illegal appointment in violation of merit, Government Policy and Procedures in the Office of EDO E&SE Lakki Marwat."

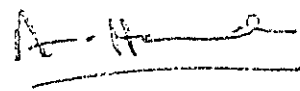
2- By reason of the above, you appear to be guilty of misconduct under Rule-3 of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011 and have rendered yourself liable to all or any of the penalties specified in Rule-4 of the Rules ibid.

3- You are, therefore, required to submit your written defence within seven days of the receipt of this Charge Sheet to the inquiry officer/ inquiry committee, as the case may be.

4- Your written defence, if any, should reach the inquiry officer/ inquiry committee within specified period, failing which it shall be presumed that you have no defence to put in and in that case ex-parte action shall be taken against you.

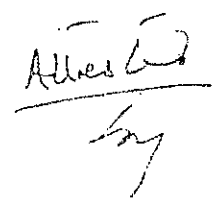
5- Intimate whether you desire to be heard in person.

6- A Statement of Allegations is enclosed.



(AMIR HAIDER KHAN HOTI)
CHIEF MINISTER KHYBER PAKHTUNKHWA
COMPETENT AUTHORITY

Mr. Haroon Badshah, Junior Clerk (BS-07),
Office of the EDO Elementary & Secondary Education,
Lakki Marwat.



To

Mr., Mohammad Hamayun

Inquiry Officer, Chairman.

Provincial Inspection Team, Khyber Pakhtun Khwa Peshawar.

Subject;

REPLY TO CHARGE SHEET / STATEMENT OF ALLEGATION

Respected Sir,

Kindly refer to Govt. of Khyber Pakhtun Khwa Elementary and Secondary Education Department Peshawar, Notification No. SO(S/M) E&SED/4-17/2012/Noor Hassan Khan, Ex-EDO Lakki dated 31/12/2012, received on 7/1/2013 at 2.00 PM, the required replies to the charge sheet/ statement of allegation are being submitted to your good self, as directed in the same Notification, as under:

1. I have committed no irregularity or illegality because I have no concern with the appointment order made during the incumbency of the then EDO (E&SE) Lakki Marwat. I never supported and assisted the said EDO in making illegal appointment in violation of merit, Government Policy and procedure in the office. The files dealt with were in routine manner and being no authority, I have no concern with the appointment made, if any.
2. By reason of the above, I do not appear to be guilty of misconduct under the quoted Law, being defective and am not liable to any penalty specified in the Rules.
3. Written reply is submitted within stipulated period of time to the inquiry Officer/ inquiry committee.
4. As directed written reply is submitted within specified period to the inquiry officer.
5. I wish to be heard in person.
6. Needs no comments.

It is therefore, most humbly requested that the Charge Sheet/ Statement of allegations may kindly be dropped by keeping in view aforesaid submissions and I may be exonerated of the same forever.

Thanking You Sir,

Your's obediently

M.H. Bad Shah

Haroon Bad Shah

Junior Clerk, Office of the
Sub Divisional Education Officer,
(Female) Lakki Marwat.

Dated 09-01-2013

Attested by

Copy for information to the:

1. Director E&SE Khyber Pakhtun Khwa Peshawar.
2. PS to Secretary E&SE Khyber Pakhtun Khwa Peshawar.
3. PS to Additional Secretary E&SE Khyber Pakhtun Khwa Peshawar.

C 8 13

SHOW CAUSE NOTICE

I, Justice (R) Tariq Pervez Khan, Chief Minister, Khyber Pakhtunkhwa, as competent authority, under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, do hereby serve you, Mr. Haroon Badshah, Junior Clerk (BS-07) Office of the DEO (Male) Lakki Marwat as follows:-

- (i) that consequent upon the completion of inquiry conducted against you by the inquiry officer/ inquiry committee for which you were given opportunity of hearing; and
- (ii) on going through the findings and recommendations of the inquiry committee, the material on record and other connected papers including your defence before the inquiry officer/ inquiry committee,-

2. I am satisfied that you have committed the following acts/omissions specified in Rule-3 of the said rules:

(b) Guilty of Misconduct

3. As a result thereof, I, as competent authority, have tentatively decided to impose upon you the penalty of Withholding of two increments for two years under Rule-4 of the said Rules.

4. You are, thereof, required to show cause as to why the aforesaid penalty should not be imposed upon you and also intimate whether you desire to be heard in person.

5. If no reply to this notice is received within seven days or not more than fifteen days of its delivery, it shall be presumed that you have no defence to put in and in that case an ex-parte action shall be taken against you.

6. A copy of the findings of the inquiry officer/ inquiry committee is enclosed

Handwritten signature

Handwritten signature
(JUSTICE (R) TARIQ PERVEZ KHAN)
CHIEF MINISTER KHYBER PAKHTUNKHWA
COMPETENT AUTHORITY

Mr. Haroon Badshah, Junior Clerk (BS-07),
Office of the DEO (Male) Lakki Marwat.

17.4.2013

(21)

D

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2-5-13

To

The Hon'ble Chief Minister,
Khyber Pakhtunkhwa, Peshawar.

Through:

Secretary to Government of Khyber Pakhtunkhwa
Elementary & Secondary Education Department, Peshawar.

SUBJECT

REPLY TO THE SHOW CAUSE NOTICE

Respected Sir,

Kindly refer to the Govt. of Khyber Pakhtunkhwa Elementary & Secondary Education Department No SO(S/M) E&SED/4-17/2012/Noor Hassan Ex-DEO Lakki Marwat dated Peshawar the April 23,2013, the required replies to the Show Cause Notice are being submitted to your good self, as directed in same Notification, as under:

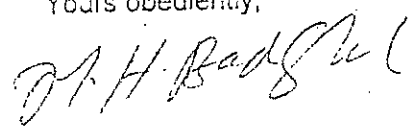
Sir,

1. I have no concerned with the appointment orders made during the incumbency of the then EDO (E&SE) Lakki Marwat. I never supported & assisted him in making the appointments in violation of merit, policy and procedures.
2. I am dealing matters in routine, I am no authority to make any appointment.
3. I am not guilty of any misconduct, so the show cause notice may kindly be dropped and I may be exonerated of the baseless charges.

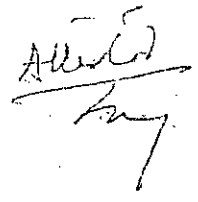
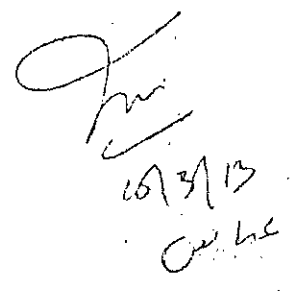
I may be heard in person.

Dated: 2/5/13

Yours obediently,



Haroon Bad Shah
Junior Clerk office of the
Sub: Divisional Education Officer,
(F) Lakki Marwat

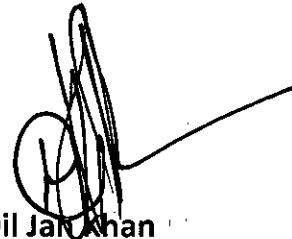


SERVICE APPEAL NO. 598/2014

AFFIDAVIT

I, Mr Dil Jan Khan In-charge Superintendent office of District Education Officer female Lakki Marwat, solemnly affirm and declare on oath that contents of instant comments are correct to the best of my knowledge and belief. Nothing has been concealed from this Honorable Service Tribunal.

Dated. _____



Dil Jan Khan
In-charge Superintendent
O/O District Education Officer
(Female) Lakki Marwat