

14.11.2022

Counsel for the appellant present.

Kabir Ullah Khattak, learned Additional Advocate General for respondents present.

Learned Member (Judicial) is on leave, therefore, arguments could not be heard. Adjourned. To come up for arguments on 04.01.2023 before D.B

SCANNED
KPST
Peshawar

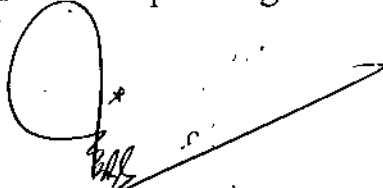

(Fareeha Paul)
Member (E)


04.01.2023

Learned counsel for the appellant present. Mr. Naseer-ud-Din Shah, Assistant Advocate General for the respondents present.

Learned counsel for the appellant requested for adjournment on the ground that he has not made preparation for arguments. Adjourned. To come up for arguments on 03.03.2023 before D.B.

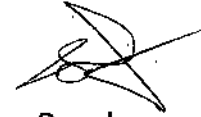
SCANNED
KPST
Peshawar


(Mian Muhammad)
Member (E)


(Salah-ud-Din)
Member (J)

23.11.2021

Proper D.B is not available, therefore, case is adjourned to 1 / 3 / 2022 for the same as before.



Reader

1-3-22

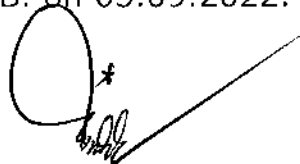
Due to retirement of the Hon.ble Chairman the case is adjourned on 13-6-22

Reader

13.06.2022

Clerk of counsel for the appellant present. Mr. Kabirullah Khattak, Additional Advocate General for the respondents present.

Clerk of counsel for the appellant stated that learned counsel for the appellant is unable to attend the Tribunal today due to strike of Lawyers. Adjourned To come up for arguments before the D.B. on 05.09.2022.



(MIAN MUHAMMAD)
MEMBER (EXECUTIVE)



(SALAH-UD-DIN)
MEMBER (JUDICIAL)

05.09.2022

Due to leave of the Worthy Chairman, the Bench is incomplete. Case to come up for the same on 14.11.2022 before the D.B.



Reader

29.07.2021

Stipulated period passed reply not submitted.

Learned Addl, A.G be reminded about the omission and for submission of reply/comments within extended time of 10 days.


Chairman

2/7/21
S.B.

29.03.2021

Nemo for appellant.

The appellant was not put on notice, therefore, appellant/counsel be put on notice for 2 / 7 / 2021 for preliminary hearing, before S.B.

(Rozina Rehman)
Member (J)

02.07.2021

Counsel for the appellant present. Preliminary arguments heard.

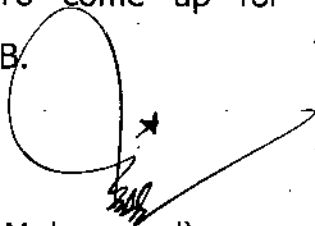
Points raised need consideration. The appeal is admitted to regular hearing, subject to all just and legal objections including limitation. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments in office within 10 days after receipt of notices, positively. If the written reply/comments are not submitted within the stipulated time, the office shall submit the file with a report of non-compliance. File to come up for arguments on 23.11.2021 before the D.B.

Appellant Deposited
Security & Process Fee
2/7

Chairman

01.06.2020

None for the appellant present. Notices be issued to the appellant and his counsel. Adjourned. To come up for preliminary hearing on 03.08.2020 before S.B.


(Mian Muhammad)
Member

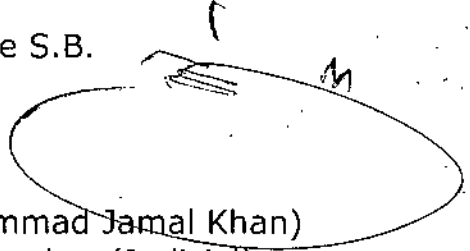
03.08.2020

Mr. Saadullah Khan Marwat, Advocate, for appellant is present and seeking adjournment. Adjourned to 22.10.2020. File to come up for preliminary hearing before S.B.


(MUHAMMAD JAMAL KHAN)
MEMBER

22.10.2020

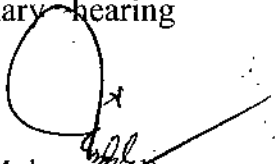
Since the Members of the High Court as well as of the District Bar Association Peshawar are observing strike today, therefore, the case is adjourned to 30.12.2020 on which date to come up for preliminary hearing before S.B.


(Muhammad Jamal Khan)
Member (Judicial)

SCANNED
KPST
Peshawar

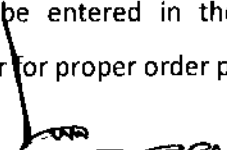


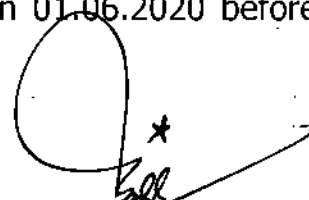
30.12.2020

None for the appellant present.
Adjourned to 29.03.2021 for preliminary hearing before S.B.


(Mian Muhammad)
Member(E)

FORM OF ORDER SHEET

Court of _____
 Case No.- 2039 /2020


| S.No. | Date of order proceedings | Order or other proceedings with signature of judge |
|-------|---------------------------|---|
| 1 | 2 | 3 |
| 1- | 18/03/2020 | <p>The appeal of Mst. Fahmida Bibi resubmitted today by Mr. Saadullah Khan Marwat Advocate may be entered in the Institution Register and put up to the Learned Member for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p> |
| 2- | 06.05.2020 | <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>06-05-20</u></p> <p style="text-align: right;"> MEMBER</p> |
| | 13.05.2020 | <p>Nemo for the appellant. Adjourn. To come up for preliminary hearing on 13.05.2020 before S.B.</p> <p style="text-align: right;"> Member</p> <p>None for the appellant present. Adjourned. To come up for preliminary hearing on 01.06.2020 before S.B.</p> <p style="text-align: right;"> (Mian Muhammad) Member</p> |

The appeal of Mst. Fahmida Bibi d/o Amin Khan PST GGPS Hindal Langer Khel Lakki Marwat received today i.e. on 25.02.2020 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

Annexures E, F, K and M of the appeal are illegible which may be replaced by legible/better one.

No. 475 /S.T,

Dt. 26-02 /2020.


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Saadullah Khan Marwat Adv. Pesh.

Jir

Re-submitted after completion.



BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

S.A No. 2039 /2020

Fahmida Bibi

versus

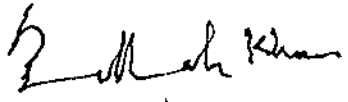
D.E.O (F) & Others

I N D E X

| S. No | Documents | Annex | P. No. |
|-------|--|-------|--------|
| 1. | Memo of Appeal | | 1-5 |
| 2. | Appointment order dated 25-02-2011 | "A" | 6-7 |
| 3. | Charge Report dated 26-02-2011 | "B" | 8 |
| 4. | Service Book | "C" | 9-13 |
| 5. | Termination order dated 27-07-2012 | "D" | 14 |
| 6. | Order of appellate authority, 26-12-2012 | "E" | 15-16 |
| 7. | Reinst: with all back benefits, 28-12-2012 | "F" | 17 |
| 8. | Suit / Amended Suit dated 03-05-2016 | "G" | 18-24 |
| 9. | Judgment dated 27-04-2017 | "H" | 25-33 |
| 10. | Dismissal order dated 04-05-2017 | "I" | 34 |
| 11. | Appeal to DJ dated 05-05-2017 | "J" | 35-38 |
| 12. | Judgment dated 31-05-2017 | "K" | 39-50 |
| 13. | Revision Petition dated 13-06-2017 | "L" | 51-57 |
| 14. | Judgment of HC dated 26-09-2018 | "M" | 58-67 |
| 15. | Reinstatement order dated 24-11-2018 | "N" | 68 |
| 16. | Representation dated 19-12-2018 | "O" | 69-70 |
| 17. | Rejection order dated 21-08-2019 | "P" | 71 |

Appellant

Through



Saadullah Khan Marwat
Advocate.
21-A Nasir Mansion,
Shoba Bazaar, Peshawar
Ph: 0311-9266609

Dated: 20-02-2020

BEFORE KPK, SERVICE TRIBUNAL, PESHAWAR

S.A No. 2039/2020

Fahmida Bibi. D/O Amin Khan
PST, Government Girls Primary
School Hindal Langer Khel,
Lakki Marwat. Appellant

Versus

1. District Education Officer, (F)
Lakki Marwat.
2. Director of Education, Directorate of
Elementary & Secondary Education
Department, KP, Peshawar.
3. Secretary, Government of KP,
Elementary & Secondary Education
Department, Peshawar.
4. District Accounts Officer,
Lakki Marwat Respondents

⇔<=>⇔<=>⇔<=>⇔<=>⇔

**APPEAL U/S 4 OF SERVICE TRIBUNAL ACT, 1974
AGAINST OFFICE ORDER NO. 5138-42, DATED
24-11-2018 WHEREBY APPELLANT WAS
REINSTATED IN SERVICE WITH IMMEDIATE
EFFECT INSTEAD OF DATE OF TERMINATION I.E.
04-05-2017 OR OFFICE ORDER NO. 2371 DATED
21-08-2019 OF R. NO. 02, WHEREBY
REPRESENTATION OF APPELLANT WAS
REJECTED FOR NO LEGAL REASON:**

⇔<=>⇔<=>⇔<=>⇔<=>⇔

Respectfully Sheweth:

1. That after advertisement of the post of PST on 11-05-2010, appellant applied along with others to the said post for appointment as such and after going through the prescribed procedure of selection, she was appointed as such on merit on 25-02-2011 and her name was figured at S. No. 11. (Copy as Annex "A")
2. That on 26-02-2011, charge of the said post was assumed at GGPS Toti Abad, Lakki Marwat, followed by Service Book. (Copies as Annex "B" & "C")
3. That appellant was performing her official duties to the best of her ability and gave remarkable results to the department, yet for no reason and justification, she was terminated from service on 27-07-2012 by R. No. 01, figuring her name at S. No. 04 along with others but here it would not be out of place to mention that except appellant, the other female teachers from S. No. 01 to 06 who were terminated on the same allegations were reinstated into services with all back benefits. (Copy as Annex "D")
4. That appeal for reinstatement was filed before the hon'ble Tribunal which was remitted to the appellate authority / District Coordination Officer Lakki Marwat to decide the same as per the mandate of law and then on 26-12-2012 the same was decided by the DCO holding therein that appellant fulfills the qualifications required for the post of PST by considering her certificates as correct. (Copy as Annex "E")
5. That in pursuance of the aforesaid order, appellant was reinstated in service on 28-12-2012 with all back benefits. (Copy as annex "F")
6. That Mst. Dur-e-Shehwar filed suit for appointment against the respondents and appellant before the court of Senior Civil Judge, Lakki Marwat, yet the same was withdrawn, being not properly drafted, so on 03-05-2016, the plaint was amended and then after thorough probe, the learned Civil Judge Lakki Marwat was

pleased to accept the same with direction to the department to appoint Dur-e-Shehwar as such vide judgment dated 27-04-2017. (Copies as Annex "G" & "H")

7. That in pursuance of the aforesaid judgment, appellant was again dismissed from service on 04-05-2017 with immediate effect by R. No. 01. (Copy as Annex "I")
8. That appellant on 05-05-2017, appellant filed appeal before the District Judge, Lakki Marwat against the said judgment of the learned Civil Judge, which was dismissed vide judgment dated 31-05-2017. (Copies as annex "J" & "K")
9. That thereafter, appellant filed Revision Petition before the Peshawar High Court, Circuit Bench Bannu on 13-06-2017, which was accepted on 26-09-2018, setting aside the said judgments of the lower forum to be of no legal effect, meaning thereby that order of appointment of appellant was per the mandate of law. (Copies as annex "L" & "M")
10. That in pursuance of the aforesaid judgment of the hon'ble High Court, appellant was reinstated in service on 24-11-2018 but with immediate effect instead of the date of termination from service. (Copy as annex "N")
11. That on 19-12-2018, appellant submitted representation before R. No. 02 to reinstate her in service from the date of termination and not with immediate effect; which was rejected on 21-08-2019, which copy was received from the office at personal level on 24-01-2020. (Copy as annex "O" & "P")

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

GROUND S:

- a. That appellant was initially appointed as PST on 25-02-2011 in prescribed manner and assumed the charge of the said post on 26-02-2011.

- b. That the then respondents made appointments over and above sanctioned posts in lieu of considerations which created great problem not only for respondents but also for appointees and then to adjust others, genuine documents of teachers were termed fake.
- c. That appellant was terminated from service time and again for no legal reason but to satisfy the lust of respondents and when the demand of the respondents was not complied with, then such drama of termination and certificates was staged.
- d. That this hon'ble Tribunal time and again directed respondents to release monthly salaries and arrears within a period of one month but the orders of the hon'ble Tribunal were thrown to a waste box as their lust was not honored.
- e. That Mst. Dur-e-Shahwar alien to the subject matter filed cases before the courts which were illegally accepted but in final round, appellant succeeded, yet during the pendency of the cases, R. No. 01 shown her high handedness by terminating appellant from service and again reinstated with immediate effect instead of the date of termination.
- f. That it was the lapses of the respondents to put appellant with agonies for no legal reason but for the aforesaid purpose, so such action of the respondents was not only illegal but was based on ulterior motive.
- g. That the impugned order dated 24-11-2018 passed by R. No. 01 is also in total dis-regard of law as they were restrained by this hon'ble Tribunal from passing any adverse order but still they did so and the order of the hon'ble Tribunal was mis-behaved.
- h. That appellate order dated 21-08-2019 of R. No. 02 was not supported by reasons as is held by the apex court in numerous judgments.

- i. That in the circumstances stated above, appellant is not only entitled for reinstatement in service with all back benefits from the date of termination but also from the withheld salaries / arrears, with such other relief as may be deemed proper and just in circumstances of the case.

It is, therefore, most humbly prayed that on acceptance of the appeal order dated 24-11-2018 and 21-08-2019 of the respondents be set aside / modified to the extent of reinstatement in service with immediate effect instead of date of termination from service with all back benefits.

Fahmida Bibi

Appellant

Through

Saadullah Khan Marwat

Saadullah Khan Marwat

Arbab Saif-ul-Kamal

Arbab Saif-ul-Kamal

Amjad Khan

Amjad Khan
Advocates.

Dated 20-02-2020

A

6

OFFICE OF THE EXECUTIVE DISTRICT OFFICER ELE & SEC EDUCATION DEPTT LAKKI MARIYA
APPOINTMENT ORDER

Consequent upon the recommendations of District Selection Committee appointment of below named candidates are hereby ordered as Primary School Teacher (F) in BPS-07 (3530-190-9230) plus usual allowances as admissible under the rules on regular basis against vacant posts, under provision of Establishment & Administration Department circular bearing No. SOR-6(E&AD)13-01/2005 dated 10-08-2005 on the terms & conditions given below in the interest of public service from the date of taking over charge.

①

OPEN MERIT

EXP 10/5
C. Reman
SACIB KHAN
Ag. Civil Judge
Lakki Mariyat
Post
-do-
CM

| SNo | Name | Father name & address | To be posted at | Remarks |
|-----|---------------------|---|-------------------------------|---------|
| 1 | Murwarida Bibi | Sahib Jan R/o Titter khel | GGPS Ghazi Khel | -do- |
| 2 | Haseena Latif | Latifollah R/o Gandhi Khan Khel | GGPS Haliq Mala Khel | -do- |
| 3 | Shehla Mehmood | Mehmood Hashim R/o Tajazai | GGPS Khushdil Adamzai | -do- |
| 4 | Najma Naureen | Muhammadullah R/o Pahar Khel Thall | GGPS Wanda Khan Doran | -do- |
| 5 | Shakila Qayyum | Abdul Qayyum R/o Lakki | GGPS Mash Habibullah | -do- |
| 6 | Romana Gul | Saif Ur Rehman Shah R/o Maruandi | GGPS Qimat Manjiwala | -do- |
| 7 | Hussan Pari | Nawaz Khan R/o Gandhi Khan Khel | GGPS Azal Mir Bhattani | -do- |
| 8 | Sobia Gul | Gul Badshah R/o Lakki | GGPS shamooni Khatak Manzilab | -do- |
| 9 | Hanida Gul | Dilawar Khan R/o Gandhi Khan Khel | GGPS Gandhi Qumar Zaman | -do- |
| 10 | Robina Shaheen | Falak Naz R/o Lakki | GGPS Langer Khel Hindal | -do- |
| 11 | Sumla Rahim Qureshi | Abdur Rahim R/o Darra Pezu | GGPS Sarga Kheru Khel | -do- |
| 12 | Shehla Shuheen | Mir zali Khan R/o Dallo Khel | GGPS Wanda Kalon | -do- |
| 13 | Kanwal Urooj | Muhammad Ramzan R/o Lakki | GGPS Wanda Khan Doran | -do- |
| 14 | Farhat Nisa | Watan Khan R/o Lakki | GGPS Wanda Lughman | -do- |
| 15 | Rukhsana Hayat | Hayat Ullah Khan R/o Nar Abu Samand Begu Khel | GGPS Taxiall Mills | -do- |
| 16 | Nighat Sitana | Muhammad Bashir R/o UC Nar Abu Samand Begu Khel | GGPS Shakh Quli Khan No 2 | -do- |
| 17 | Musarat Shaheen | Muhammad Nazi Khan R/o Serai Naurang | GGPS Sher Jan Abad | -do- |
| 18 | Zaheen Begum | Naseeb Afi Shah R/o Mama Khel | GGPS Kotka Madal | -do- |
| 19 | Farida Bibi | Muhammad Ghulam R/o Abdul Khel | GGPS Jhang Khel No.2 | -do- |
| 20 | Hajra Musarat | Muhammad Ibrahim R/o Masha Mansour | GGPS Biland Khel | -do- |

02/04/2016

UNION COUNCIL MERIT

| S No | Name | Father name & U/C | To be posted at | Remarks |
|------|---------------|------------------------------|--------------------------|---------|
| 1 | Nadia Parveen | Altaf Khan UC Marmandi Azim | GGPS Nar Gul Hassan Shah | -do- |
| 2 | Romana Sohrab | Sohrab Khan UC Serai Naurang | GGPS Kotka Zarwali | -do- |

Submitted to be Imp. Govt
17/3/16

| | | | | |
|----|-----------------|--------------------------------|-------------------------|------|
| 3 | Qumari Talat | Hamidullah UC Gandhi Khan Khel | GGPS Amin Jabu Khel | -do- |
| 4 | Zubaida | Gul Nawaz Khan UC Baist Khel | GGPS Harima Talu Wakil | -do- |
| 5 | Sadia Khan | Kalu Khan UC Ghazni Khel | GGPS Bai Khan Jabu Khel | -do- |
| 6 | Musarat Shaheen | Awal Khan UC Kheru Khel Paeca | GGPS Sheri Khel Faqiran | -do- |
| 7 | Najma Irom | Amanullah Khan UC Abdul Khel | GGPS Illawal Khel | -do- |
| 8 | Sakina Gul | Shah Alam Khan UC Titter Khel | GGPS Tabi Murad | -do- |
| 9 | Jamshid Bibi | Ghulam Nabi UC Lakki | GGPS Hamid Abad Lakki | -do- |
| 10 | Fehmida | Inayatallah Khan UC Isak Khel | GGPS Zer Janu | -do- |
| 11 | Fehmida Bibi | Amin Khan U/C Begu Khel | GGPS Toti Abad | -do- |
| 12 | Nareen Niazi | Abdul Ghafar U/C Dara Tang | GGPS WandaKhara | -do- |
| 13 | Gul Shan Bibi | Jan Gul U/C Bkhal Ahmad Zai | GGPS Khan Khel Mandozai | -do- |
| 14 | Shamim Begum | Ahmad Jan U/C Behram Khel | GGPS Khush Dil Adamzai | -do- |

TERMS & CONDITIONS:

1. Their appointment will be considered without pension and gratuity in terms of section 19 of NWFP Civil Servant Act 1973, as amended vide NWFP Civil Servant (Amendment) Act, 2005 but the candidates already working as permanent Govt. Servants, will under take whether they want to continue the benefits of old service or new, they will however be entitled to contributory provident fund in such a manner and such a rate as may be prescribed by Govt.
2. In case of resignation without notice two months pay/allowance will be refunded to Govt.
3. Their services will be governed by such rules and regulations as may be issued by Govt from time to time.
4. In case of misconduct they will be proceeded against the civil servant removal from service (special power) ordinance, 2000 and rules frame from time to time.
5. Charge reports should be submitted to all concerned
6. No TA/DA is allowed
7. The undersigned will check and verify the certificates/degrees of above candidates from concerned Boards/Universities before the draw of their pay.
8. The appointment order is liable to termination, if the candidate failed to take over charge within 30 days of commencement date.
9. The undersigned reserve the rights of amendment in case of any mistake.
10. They are required to produce health and age certificate from medical superintendent DHQ hospital Lakki Marwat

(Noor Hassan Khan)
Executive District Officer
Ele: & Sec: Education Deptt
Lakki Marwat

Endst No. 2074-79/PST(F)

Dated 25/2/2011

Copy to the

1. Director Ele: & Sec: Education Deptt Khyber Pukhtunkhwa, Peshawar
2. District Co-ordination Officer Lakki Marwat
3. District Officer female local office
4. District Accounts officer Lakki Marwat
5. Deputy District Officer (F) Primary local office
6. Head Teachress school concerned

Assisted to be Exec. Officer
Office of the District

Executive District Officer

B

8

26-2-11

GOVERNMENT OF NORTH-WEST FRONTIER PROVINCE

CERTIFICATE OF TRANSFER OF CHARGE

Notified that I, Fahmida Bibi
have this day on 26-2-2011 before noon taken over charge of the office PST G.G.P.S
after relinquished

Toti Abad Lakki with reference to the Order of the N.W.F.P. Government
No. 2074-79/PST(E) vide EDO (E.S) Lakki Dated 25-2-2011

transferring Mr. Appointed against vacant post
to /

2. Particulars of Cash and Important/Secret/Confidential documents handed over/taken over are noted on the reverse.

Station, Lakki Marwat Signature of relieved Government Servant vacant post
Designation PST

Dated 26/2/2011 Signature of Government Servant receiving charge Fahmida Bibi
Designation PST

Encls. No. 719 Dated 26-2-2011

From The Headmistress G.G.P.S
Toti Abad Lakki Marwat

- 1. The Accountant-General, N.W.F.P., Peshawar.
- 2. EDO (E.S) Lakki
- 3. ADO Lakki
- 4. D.D.O (E) Lakki
- 5. D.C.O Lakki

The charge of the Office of PST G.G.P.S Toti Abad Lakki

is transferred to Miss Fahmida Bibi newly appointed

on the fore noon of the 26-2-2011

Signature [Signature] 26/2/2011

c/c [Signature]

C

9

ID. NO: 11201--9464412-6⁷

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.

Name: FAHMIDA BIBI

Race: Pakhtoon (Pathan)

Residence: Lakki Marwat






Father's name and residence: AMIN KHAN

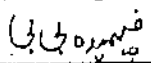
Date of birth by Christian era as nearly as can be ascertained: (01-09-1989)
1st September N.H. & Eighty Nine

6. Exact height by measurement:

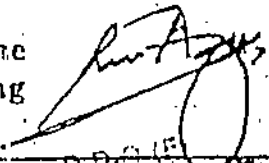
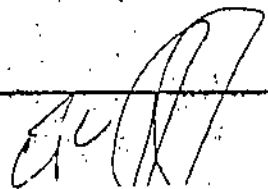
7. Personal marks for identification:

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


| | | | |
|---------------|---|-------------|---|
| Little Finger |  | Ring Finger |  |
| Middle Finger |  | Fore Finger |  |
| Thumb |  | | |

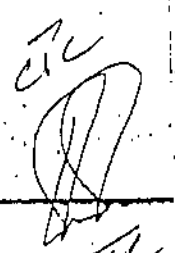
9. Signature of Government Servant: Fahmida Bibi


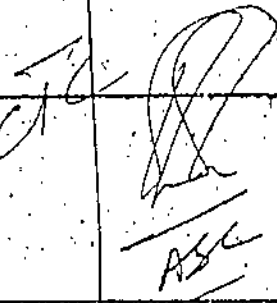
10. Signature and designation of the Head of the Office, or other Attesting Officer.

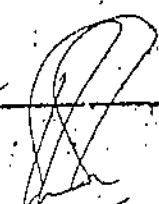

D.D. 15/11/89
F.S. Edu: Lakki Marwat


| 1. | 2. | 3. | 4. | 5. | 6. | 7. | 8. |
|---|---|---|-------------------------|--------------------------------|--|-------------------------------|----------------------------------|
| Name of post | Whether substantive or officiating and whether permanent or temporary | If officiating, state (i) substantive appointment, or (ii) whether service counts for pension under Art. 371 C.S.R. | Pay in substantive post | Additional Pay for officiating | Other emolument falling under the term "P" | Date of appointment | Signature of Government Servant. |
| <p>PST GGPS Toti Abad Lakki</p> | <p>Per Temp</p> | <p><u>BPS-07</u> <u>(3530-190-9230)</u></p> | <p>Rs. 3530/-</p> | | | <p>26/2 2011 (FM)</p> | <p>Fahimul Bibi</p> |
| <p>Do</p> | <p>Do</p> | | <p>Rs. 3720/1pm</p> | | | <p>01/12 2012</p> | <p>Fahimul Bibi</p> |
| | | <p><u>Revision of Pay for 7/2011</u></p> | <p>X</p> | | | | |
| | | <p>B.7 (5800-320-15400)</p> | | | | | |
| | | <p>Pay on 30/6/11 3537/-</p> | | | | | |
| | | <p>Pay on 1/7/11 5800/-</p> | | | | | |


 D.D.O (F)
 E&S Edu: La. & M.


 ASL

| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 |
|---|---|---|-------------------------|--------------------------------|--|---------------------|--|
| Name of post | Whether substantive or officiating and whether permanent or temporary | If officiating, state (i) substantive appointment, or (ii) whether service counts for pension under Art. 371 C.S.R. | Pay in substantive post | Additional Pay for officiating | Other emolument falling under the term "p" | Date of appointment | Signature of Government Servant |
| PST post | | | | | | | |
| GGPS Poli abad Lakki | Per/subs | | 6120/- | | | 1/12/2011 | |
| <p>Fixation of pay due to upgradation from B-7 to B-12 w.e.f 1/7/2012 B-12 (7000 - 500 - 22000)</p> | | | | | | | |
| | | | 6120/- | B-7 | | | |
| | | | 7000/- | B-12 | | | |
| | | | | | DDO | | |
| Do | do | | 7000/- PM | | | 1/12/2011 | |
| | | | | | | | |
| | | | | | | |  PSC |

| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 |
|--|---|---|-----------------------------|--------------------------------|--|-----------------------------------|--|
| Name of post | Whether substantive or officiating and whether permanent or temporary | If officiating, state (i) substantive appointment, or (ii) whether service counts for pension under Art. 371 C.S.R. | Pay in substantive post | Additional Pay for officiating | Other emolument falling under the term "p" | Date of appointment | Signature of Government Servant. |
| PST post | | | | | | | |
| GGPS Poli abad Lakki | Per/sub | | 6120/- | | | 1 ¹² / ₂₀₁₁ | |
| Fixation of pay due to upgradation from B-7 to B-12 w.e.f 1/7/2012 B-12 (7000-500-22000) | | | | | | | |
| | | | Pay on 30/6/12 @ 6120/- B-7 | | | | |
| | | | Pay on 1/7/12 @ 7000/- B-12 | | | | |
| | | | | | DDO | | |
| Do | do | | @ 7000/- PM | | | 1 ¹² / ₂₀₁₂ | |
| | | | | | | | J.C.  ASG |

| 9 | 10 | 11 | 12 | 13 | | 14 | 15 | |
|--|------------------------------------|---|--|------------------------------------|---|-----------------------------|--|---|
| | | | | Leave | | | | |
| Signature and Designation of the head of the office or other attesting officer in attestation of column 1 to 4 | 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 | 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 | | Signature of the head of the office or other attesting officer | References to recorded punishment or censure or praise of the Government Service. |
| | | | | | Period | Government to which payable | | |
| | | | | | Appointed as PST at GGS Toti Abad Lakh | | | |
| | | | | | vide EDO (ERS) Lakkhi | | | |
| | | | | | Endst NO. 2074-79/PST (F) dated 25-02-2011 | | | |
| | | | | | on the regular basis | | | |
| | | | | | D.D.O (F) Lakkhi | | | |
| | | | | | D.O (F) Lakkhi | | | |
| | | | | | Passed P&T Exam from 19111 Islamabad. Under Roll No 2654780 Securing 637/900 marks Result declared on 14/3/2009 | | | |
| | | | | | T-292 dt 12-1-14 | | | |
| | | | | | D.D.O (F) Lakkhi | | | |
| | | | | | D.D.O (F) Lakkhi | | | |
| | | | | | D.D.O (F) Lakkhi | | | |
| | | | | | Passed SSC Exam from BISE Bahawal. Under Roll No 507 Securing 786/1050 marks Result on 20-6-2005 | | | |
| | | | | | D.D.O (F) Lakkhi | | | |

| 10 Name and Designation of the officer in possession of columns 1 to 4 | 11 Date of termination or appointment. | 12 Reason of termination such as promotion, transfer, dismissal, etc.) | 13 Signature of the head of the office or other attesting officer. | 14 Leave | | 15 Reference to any recorded punish- ment or censure or praise of the Government Servant. |
|---|---|---|--|--|---|--|
| | | | | Nature and duration of leave taken. | Allocation of period of leave on average pay upto four months for which leave salary is payable to another Government | |
| | | | | | Period | |
| <p><i>[Signature]</i> D.D.O (F) E&S Edu: Larkhi Marwat</p> | 20/6/11 | Postupgraded | DDO | | | <p>Awarded B-12 vide direction of Elementary and Secondary Edu KPK Peshawar Edost No 1685-1709 dated 27/5/2012 -</p> |
| <p><u>Under taking</u></p> <p>I have by under taking that any over payment made to me due to wrong fixation should be made good from my pay/pension by Govt/depnt</p> | | | | | | <p><i>[Signature]</i> D.D.O (F) E&S Edu: Larkhi Marwat</p> <p>Passed FSC Exam from BISE Bannu under Roll No 12128 securing 656/1100 marks result on 10/5/2007.</p> |
| <p><i>[Signature]</i> D.D.O (F) E&S Edu: Larkhi Marwat</p> | | | <p>Fahmida Bibi D.D.O</p> | | | <p><i>[Signature]</i> D.D.O (F) E&S Edu: Larkhi Marwat</p> <p>Passed BA Exam from UST Bannu. under Roll No 22996 securing 300/550 marks result on 9/9/2011</p> |
| <p><i>[Signature]</i> D.D.O (F) E&S Edu: Larkhi Marwat</p> | | | | | | <p><i>[Signature]</i> D.D.O (F) E&S Edu: Larkhi Marwat</p> |

D 14

OFFICE OF THE EXECUTIVE DISTRICT OFFICER (E&S) EDUCATION LAKKI MARWAT

OFFICE ORDER:-

Consequent upon the verification of Academic/Professional Certificates by the concerned Board i.e (BISE) Hangu and found bogus/Fake/tempered, the services of the following primary school teachers (Female) are hereby terminated from the date of their appointment.

| S. No | Name | Father Name | Place of appointment | Order issued vide/No. and dated |
|-------|----------------|---------------------|--------------------------|--|
| 1 | Shamim Begum | Ahmad Jani | GGPS, Khushdil Adamzai | 2074-79/PST(F) Dated 25-02-2011 at S.No.14 |
| 2 | Jamshed Bibi | Ghulam Nabi | GGPS, Hameed Abad, Lakki | 2074-79/PST(F) Dated 25-02-2011 at S.No.9 |
| 3 | Rukhsana Hayat | Hayat Ullah | GGPS, Textile Mills | 2074-79/PST(F) Dated 25-02-2011 at S.No.15 |
| 4 | Fahmida Bibi | Amin Khan | GGPS, Tooti Abad | 2074-79/PST(F) Dated 25-02-2011 at S.No.11 |
| 5 | Nusrat Shaheen | Awal Khan | GGPS, Sheri Khel Faqiran | 2074-79/PST(F) Dated 25-02-2011 at S.No.6 |
| 6 | Noureen Niazi | Abdul Ghafoor Niazi | GGPS, Wanda Khara | 2074-79/PST(F) Dated 25-02-2011 at S.No.12 |

Endst. No. 5800-806

Dated. 27-7-2012

- Copy to the:-
- Secretary to Government of Khyber Pakhtunkhwa (E&S) Education Department, Peshawar.
 - Director, Elementary & Secondary Education Department Khyber Pakhtunkhwa.
 - Honorable District Session Judge, Lakki Marwat.
 - District Coordination Officer, Lakki Marwat.
 - District Officer (F) local office.
 - District Accounts Officer, Lakki Marwat.
 - Deputy District Officer (F) local office.

Attested to be True Copy

 Examiner,
Office of the District & Session Judge, Lakki

E

15

BETTER COPY

BEFORE THE APPELLATE AUTHORITY/

DISTRICT COORDINATION OFFICER, LAKKI MARWAT

Mst Fahmida Bibi D/O Amin Khan
EX-PST GGPS Toti Abad, Distt. Lakki Marwat.....

Appellant.

Versus

Executive District Officer,
E&S Education, Lakki Marwat.....

Respondent.

ORDER

This order will dispose of an appeal preferred by Mst. Fahmida Bibi D/O Amin Khan, Ex-PST, GGPS Toti Abad, Lakki Marwat against her termination from service. She requested for her re-instatement. The appellant was terminated from service by the Executive District Officer, E&S Education, Lakki Marwat vide order No.5800-806, dated 27.7.2012.

Brief history of the case is that the then Executive District Officer, E&S Education, Lakki Marwat advertised PST posts on 11.05.2010. Appointments were made consequently. The appointment order of the appellant was issued vide No. 2074-79/PST(F), dated 25.02.2011. Later on services of the appellant along with 5 others were terminated on 27.7.2012 on the grounds that their certificates were found bogus.

The District Education Officer, Lakki Marwat is present and heard. He stated that he sent testimonials of the appellant to the Board of Intermediate & Secondary Education, Bannu. The Board declared Matriculation Certificate of the appellant bearing Roll No.50931 with passing Marks as 810/1050, as bogus. According to him the services of the appellant were terminated on the grounds of documents fakeness therefore it did not need service of notice or show cause letter etc.

The Counsel for the appellant is present and heard. He stated that her Matriculation Certificate is not bogus at all. He produced a copy of the certificate bearing Roll No. 50931 with passing Marks as 786/1050 duly verified by the BISE Bannu.

The available record perused and parties examined I became clear that the Matriculation Certificate submitted by the appellant to the Education Department with the application was tempered. The verdict of the appellant is that it was tempered in the respondent's office, while the Executive District Officer, E&S Education, District Lakki Marwat condemned the appellant that she submitted tempered copy to his office while applying for the post, in order to get top position in the Merit List. The appellant further stated that if her correct certificate is considered then she qualifies the minimum qualification required for the post. The respondent did not oppose the plea that the appellant possesses the minimum qualification required for the post of PST.

Keeping in view the available record and statements of proved that the Matriculation Certificate of the appellant was tempered appointed on the certificate so tempered. It also became evident that the appellant fulfills the minimum qualification required for the post of PST by considering her correct certificate. The appeal is, therefore, accepted subject to the condition that the appellant qualifies for appointment as per criteria / rules and policy.

Announced.

Dated 26.12.2012

(NISAR AHMED)
District Coordination Officer
Lakki Marwat.
(Appellant Authority)

E 15

BEFORE THE APPELLATE AUTHORITY/
DISTRICT COORDINATION OFFICER, LAKKI MARWAT

Mrs. Fehmida Bibi D/O Anin Khan
Tati Abad, Distt. Lakki Marwat.....

Appellant.

Versus

Executive District Officer,

E&S Education, Lakki Marwat.....

Respondent

ORDER.

Q

This order will dispose of an appeal preferred by Mrs. Fehmida Bibi D/O Anin Khan, Ex-PST, GGPS Tati Abad, Lakki Marwat against her termination from service. She requested for her re-instatement. The appellant was terminated from service by the Executive District Officer, E&S Education, Lakki Marwat vide order No. 5800-806, dated 27.7.2012.

Brief history of the case is that the then Executive District Officer, E&S Education, Lakki Marwat and notified P.O. No. 11/05/2010. Appointments were made consequently. The appointment order of the appellant was issued vide No. 2074-79/PST(I), dated 27.7.2011. Later on 27.7.2012 the appellant along with 5 others were terminated on the grounds that their certificates were found bogus.

The District Education Officer, Lakki Marwat is present and heard. He stated that he sent testimonials of the appellant to the Board of Intermediate & Secondary Education, Bannu. The Board declared Matriculation Certificate of the appellant bearing Roll No. 50931 with passing Marks as 810/1050 as bogus. According to him the services of the appellant were terminated on the grounds of documents takenness therefore it did not need service of notice or show cause letter etc.

The Counsel for the appellant is present and heard. He stated that her Matriculation Certificate is not bogus at all. He produced a copy of the certificate bearing Roll No. 50931 with passing Marks as 786/1050 duly verified by the ^{U.S.E.S.T} Bannu.

The available record perused and parties examined. It became clear that the Matriculation Certificate submitted by the appellant to the Educational Department with the application was tempered. The verdict of the appellant is that it was tempered in the respondent's office, while the Executive District

E 15
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BETTER COPY

BEFORE THE APPELLATE AUTHORITY/

DISTRICT COORDINATION OFFICER, LAKKI MARWAT

Mst Fahmida Bibi D/O Amin Khan
EX-PST GGPS Toti Abad, Distt. Lakki Marwat.....

Appellant.

Versus

Executive District Officer,
E&S Education, Lakki Marwat.....

Respondent.

ORDER

This order will dispose of an appeal preferred by Mst. Fahmida Bibi D/O Amin Khan, Ex-PST, GGPS Toti Abad, Lakki Marwat against her termination from service. She requested for her re-instatement. The appellant was terminated from service by the Executive District Officer, E&S Education, Lakki Marwat vide order No.5800-806, dated 27.7.2012.

Brief history of the case is that the then Executive District Officer, E&S Education, Lakki Marwat advertised PST posts on 11.05.2010. Appointments were made consequently. The appointment order of the appellant was issued vide No. 2074-79/PST(F), dated 25.02.2011. Later on services of the appellant along with 5 others were terminated on 27.7.2012 on the grounds that their certificates were found bogus.

The District Education Officer, Lakki Marwat is present and heard. He stated that he sent testimonials of the appellant to the Board of Intermediate & Secondary Education, Bannu. The Board declared Matriculation Certificate of the appellant bearing Roll No.50931 with passing Marks as 810/1050, as bogus. According to him the services of the appellant were terminated on the grounds of documents fakeness therefore it did not need service of notice or show cause letter etc.

The Counsel for the appellant is present and heard. He stated that her Matriculation Certificate is not bogus at all. He produced a copy of the certificate bearing Roll No. 50931 with passing Marks as 786/1050 duly verified by the BISE Bannu.

The available record perused and parties examined I became clear that the Matriculation Certificate submitted by the appellant to the Education Department with the application was tempered. The verdict of the appellant is that it was tempered in the respondent's office, while the Executive District Officer, E&S Education, District Lakki Marwat condemned the appellant that she submitted tempered copy to his office while applying for the post, in order to get top position in the Merit List. The appellant further stated that if her correct certificate is considered then she qualifies the minimum qualification required for the post. The respondent did not oppose the plea that the appellant possesses the minimum qualification required for the post of PST.

Keeping in view the available record and statements of the parties it is proved that the Matriculation Certificate of the appellant was tempered and was appointed on the certificate so tempered. It also became evident that the appellant fulfills the minimum qualification required for the post of PST by considering her correct certificate. The appeal is, therefore, accepted subject to the condition that the appellant qualifies for appointment as per criteria / rules and policy.

Announced.

Dated 26.12.2012

(NISAR AHMED)
District Coordination Officer
Lakki Marwat.
(Appellant Authority)

Officer, E&S Education, District Lakki Marwat condemned the appellant that she submitted tempered copy to his office while applying for the post, in order to get top position in the Merit List. The appellant further stated that if her correct certificate is considered then she qualifies the minimum qualification required for the post. The respondent did not oppose the plea that the appellant possesses the minimum qualification required for the post of PST.

Keeping in view the available record and statements of the parties it is proved that the Matriculation Certificate of the appellant was tempered and was appointed on the certificate so tempered. It also became evident that the appellant fulfills the minimum qualification required for the post of PST by considering her correct certificate. The appeal is, therefore, accepted subject to the condition that the appellant qualifies for appointment as per criteria / rules and policy.

Announced

Dated 26.12.2012



(NISAR AHMED)
District Coordination Officer
Lakki Marwat.
(Appellate Authority)



F 17

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BETTER COPY

OFFICE OF THE EXECUTIVE DISTRICT OFFICER (E&S) EDUCATION, LAKKI MARWAT

Dated December 28, 2012

OFFICE ORDER

No.11257-60/E&S/EDO. WHEREAS Mst. Fahmida Bibi D/O Amin Khan, while serving as PST at Govt. Girls Primary School Toti Abad, District Lakki Marwat was terminated from service vide this Office Order No.5800-806, dated 27.7.2012.

WHEREAS the said PST lodged an appeal before the District Coordination Officer, Lakki Marwat against her termination from service.

SHEREAS the District Coordination Officer, Lakki Marwat being appellat authority, examined the record, heard the appellat through her Counsel and finally accepted her appeal vide his detailed order 26.12.2012.

WHEREAS the Legal Advisor of this office certified that no case is pending against the appellat in any Court of Law. He opined that the appellat deserves to be re-instated in service on the grounds that she possesses the minimum qualification so required for appointment as PST.

THEREFORE, Mst. Fahmida Bibi D/O Amin Khan, Ex-PST, GGPS Toti Abad, District Lakki Marwat is hereby re-instated in service with effect from the date of her termination from service with back benefits.

(MIR AZAM KHAN)
Executive District Officer
E&S Education, Lakki Marwat.

Edst, No & Date even

Copy forwarded to:-

1. The District Coordination Officer, Lakki Marwat.
2. The District Accounts Officer, Lakki Marwat. He is requested that PST concerned may be released her pay being Service Tribunal Case.
3. The DDO (M).E&S Education, Lakki Marwat.
4. Official Concerned.

Executive District Officer
E&S Education, Lakki Marwat.

F

17 28-12-12

OFFICE OF THE EXECUTIVE DISTRICT OFFICER (E&S) EDUCATION, LAKKI MARWAT

Dated December 28, 2012.

OFFICE ORDER


11257-80 E&S/EDDO. WHEREAS Mst. Fahmida Bibi D/O Amin Khan, while serving as PST at Govt. Girls Primary School Toti Abad, District Lakk Marwat was terminated from service vide this Office Order No.5800-806, dated 27.7.2012.

WHEREAS the said PST lodged an appeal before the District Coordination Officer, Lakk Marwat against her termination from service.

WHEREAS the District Coordination Officer, Lakk Marwat being appellate authority, examined the record, heard the appellant through her Counsel and finally accepted her appeal vide his detailed order 26.12.2012.

WHEREAS the Legal Advisor of this office certified that no case is pending against the appellant in any Court of Law. He opined that the appellant deserves to be re-instated in service on the grounds that she possesses the minimum qualifications so required for appointment as PST.


WHEREFORE, Mst. Fahmida Bibi D/O Amin Khan, Ex-PST, GGPS Toti Abad, District Lakk Marwat, is hereby re-instated in service with effect from the date of her termination from service with back benefits.


(MST. FAHMIDA BIBI)
Executive District Officer
E&S Education, Lakk Marwat.

Enclst. No. & Date even.

Copy forwarded to:-

1. The District Coordination Officer, Lakk Marwat.
2. The District Accounts Officer, Lakk Marwat. He is requested that PST concerned may be released her pay being: Service Tribunal Case.
3. The DDO (M), E&S Education, Lakk Marwat.
4. Official Concerned.


Executive District Officer
E&S Education, Lakk Marwat

BEFORE THE LEARNED SENIOR CIVIL JUDGE,

LAKKI MARWAT. Civil suit No. 120/Z-R/2012

9

Durr-e-Shahwar w/o Khalid Iqbal r/o Mohallah Mina Khel, District Lakki Marwat.(Plaintiff)

VERSUS

1. Government of Khyber Pakhtunkhwa through Secretary (E&S) Education, Peshawar.
2. Director Education, Peshawar.
3. Executive District Officer (E&S) Education, Lakki Marwat.
4. Jamshed Bibi d/o Ghulam Nabi, Mohallah Minakhel (Sayedan), District Lakki Marwat.
5. District Education Officer (E+S)(F) Lakki Marwat.(Defendants)

Handwritten signature
Senior Civil Judge
Lakki Marwat

- A. Suit for declaration and permanent injunction to the effect that appointment order of defendant No.4 as PST(F) be declared as illegal, unlawful, without lawful authority and being based on mala fide intention and violative upon the rights of the plaintiff.
- B. Declaration and permanent injunction to the effect that defendant No.4 may very graciously be declared as low in merit from the plaintiff and the plaintiff has the superior right from the defendant No.4 for appointment as PST(F).
- C. Declaration and permanent injunction to the effect that defendants No.1 to-3 may very graciously be directed to issue the appointment order of the plaintiff as PST(F) in union council Lakki-I being top on merit list and accordingly the appointment order of the plaintiff be issued.
- D. Declaration and permanent injunction to the effect that defendants may very graciously be directed to give Experience Marks to the plaintiff as given to other similar candidates & thereafter prepared the merit list of top candidates of union council Lakki-I and then issue the appointment order of the plaintiff as PST.

Handwritten notes:
23-4-12
23-4-12
23-4-12
23-4-12
23-4-12

Court Fee Affixed = Nil or ordered by this Hon'ble Court.

TESTE -
Handwritten signature
Examiner to
District & Session Judge
Lakki Marwat.
28.09.12

Respectively Sheweth.

The plaintiff submits as under:

1. That plaintiff is the permanent resident of union council Lakki-I. Copy of National Identity Card & Domicile Certificate are attached as annexure A/1 - A/2.
2. That defendant No.3 advertised vacancies of PST(F) on 11/05/2010 in daily newspaper "Aaj". Copy of advertisement is attached as annexure - B.
3. That plaintiff is well educated having master degree, B.Ed, C.T & PST degree on her credited. Being eligible for PST(F), the plaintiff applied to the aforesaid advertisement. Copy of educational documents of the plaintiff are attached as annexure C/1 - C/8.
4. That thereafter, the plaintiff appeared in test & interview and secured top position but unfortunately the defendant No.3 didn't issue the appointment order of the plaintiff as PST(F) with ulterior motives and with mala fide intention. Copy of merit list of union council Lakki-I is attached as annexure D/1 - D/3.
5. That in the aforesaid merit list, the plaintiff has not been given Experience Marks which was given to other similar candidates, as such the act of the defendant No.3 of not giving Experience Marks to the plaintiff amounts to discrimination.
6. That for the union council Lakki-I, 05 vacancies of PST(F) were available, out of which 03 candidates from union council Lakki-I were managed in open merit and were appointed as PST(F). Whereas two vacant post were left for union council Lakki-I, upon which defendant No.4 was appointed as PST(F) who is low in merit from the plaintiff but she has been shown high in merit list from the plaintiff with mala fide intention & with ulterior motives. Appointment order & educational documents of defendant No.4 are attached as annexure E/1 - E/7.
7. That aforesaid appointment of defendant No.4 in the plaintiff's union council i.e. Lakki-I is illegal, unlawful, without lawful authority, violative upon the rights of the plaintiff, discriminatory and is based on mala fide intention of the defendants and with ulterior motives.

Examiner to
District & Session Judge
Lakki Marwat.

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- 8. That plaintiff wrote application to the defendant No.3 to appoint the plaintiff as PST(F) in union council Lakki-I but defendant No.3 refused to do so; therefore, the instant suit is filed.
- 9. that cause of action arose to the plaintiff against the defendants few days back when plaintiff came to know the illegalities done in the preparation of merit lists and issuing of appointment orders.
- 10. That value for the purpose of Court Fee and jurisdiction is nil. The instant suit is exempted from Court Fee.
- 11. That as cause of action arose to the plaintiff against the defendants in Lakki Marwat and as the plaintiff and the defendants are residing in Lakki Marwat, therefore, this Hon'ble Court has got jurisdiction to entertain the instant suit.

Mentha
 District Judge
 Lakki Marwat

It is therefore, most humbly prayed that on acceptance of instant suit, the suit of the plaintiff be decreed against the defendants as prayed for in the heading of the suit / plaint.

Eul

Plaintiff

Shahid

Through Counsel,
 Shahid Saleem Mina Khel,
 Advocate High Court.

Verification:

Verified on oath that contents of the plaint are correct and true to the best of my knowledge and belief and nothing has been concealed from this Learned Court.

As GAZ
ATTESTED
 H. Muhammad Akram Khan Advocate
 NOTARY PUBLIC
 Date: _____
 Dist: Courts Lakki Marwat
02/06/18

Eul

Deponent

ATTESTED

Shahid

Examiner to
 District & Session Judge
 Lakki Marwat.

29.09.18

Amended Plaint

BEFORE THE LEARNED CIVIL JUDGE-VI, LAKKI MARWAT.

Civil Suit No. 120/T-R/2012

Mst: Durri e Shahwar w/o Khalid Iqbal r/o Mohallah Mina Khel, District Lakki Marwat.(Plaintiff)

VERSUS

1. Government of Khyber Pakhtunkhwa through Secretary (E&S) Education, Peshawar.
2. Director Education, Peshawar.
3. District Education Officer (M), Elementary & Secondary Education, Lakki Marwat.
4. Mst: Jamshid Bibi d/o Ghulam Nabi, Mohallah Mina Khel, (Sayedan), District Lakki Marwat.
5. District Education Officer (F), Elementary & Secondary Education, Lakki Marwat.
6. Mst: Fehmida Bibi d/o Ameen Khan r/o village Begu Khel, District Lakki Marwat.

.....(Defendants)

OC-17
3.5.2016
[Signature]

ATTESTED
[Signature]
A. Examiner to District & Sessions Judge Lakki Marwat.
29.07.12

- Suit for declaration to the effect that appointment orders of defendant No.4 and 6 as PST(F) be declared as illegal, unlawful, without lawful authority and being based on mala fide intention and violative upon the rights of the plaintiff.
- B. Declaration to the effect that defendant No.4 may very graciously be declared as low in merit from the plaintiff and the plaintiff has the superior right from the defendant No.4 for appointment as PST(F).
 - C. Declaration the effect that defendant No.6 has wrongly and illegally been appointed as PST(F) on vacant post of Union Council Lakki City-I being against rules, regulations and policy as defendant No.6 belongs to Union Council Begu Khel and she can not be appointed on vacant post / seat of Union Council Lakki City-I.
 - D. Suit for seeking permanent & mandatory injunction to the effect that official defendants No.1, 2 to 5 may very graciously be directed to issue the

appointment order of plaintiff as PST(F) in Union Council Lakki City-I being top on merit list prepared for Union Council Lakki City-I and accordingly the appointment order of plaintiff be issued.

- E. Suit for seeking permanent & mandatory injunction to the effect that official defendants may very graciously be directed to give experience marks to the plaintiff as given to other similar candidates & thereafter prepare the merit list of top candidates of Union Council Lakki City-I and then issue the appointment order of the plaintiff as PST.

Court Fee Affixed = Nil or ordered by this Hon'ble Court.

RESPECTIVELY SHEWETH:

The plaintiff submits as under;

1. That plaintiff is the permanent resident of Union Council Lakki City-I. Copy of CNIC and Domicile Certificate are attached as annexure A/1-A/2.
2. That defendant No.3 advertised vacancies of PST(F) on 11.05.2010 in daily newspaper "Aaj". Copy of advertisement is attached.
3. That plaintiff is well educated having master degree, B.Ed, C.T & PTC degree on her credit. Being eligible for PST(F), the plaintiff applied to the aforesaid vacancy of PST(F). Copy of educational documents of the plaintiff are attached.
4. That thereafter, the plaintiff appeared in test & interview and secured top position on merit list prepared for Union Council Lakki City-I but unfortunately the defendant No.3 did not issue the appointment order of the plaintiff as PST(F) with ulterior motives and with mala fide intention and issued appointment order of defendant No.4 who is low in merit from plaintiff and then issued appointment order of defendant No.6 who does not belong to Union Council Lakki City-I. Copy of merit list of Union Council Lakki City-I is attached.

ATTN: S.F.

Examiner to
District & Session
Lahore, Punjab.
27.9.10

That as per policy and advertisement dated 11.05.2010, 60% candidates were to be appointed on open merit and 40% candidates were to be appointed on union council-wise merit list. As such the plaintiff was entitled for appointment as PST(F) being top on merit list prepared for Union Council Lakki City-I on basis of union council wise merit list but instead defendant No.3 appointed defendant No.6 who belongs to Union Council Begu Khel which is illegal, unlawful, and against the policy.

6. That for the Union Council Lakki City-I, 02 vacancies of PST(F) were available. 03 top candidates from Union Council Lakki City-I were appointed ~~X X X X X~~ on open merit basis as PST(F) as per policy whereas 02 vacant post were left for Union Council Lakki City-I, upon which defendant No.4 was appointed as PST(F) who is low in merit from the plaintiff but she has been shown high in merit list from the plaintiff with mala fide intention & with ulterior motives whereas defendant No.6 belongs to Union Council Begu Khel but she has been wrongly appointed as PST(F) on vacant seat / post of Union Council Lakki City-I which is illegal, unlawful, without lawful authority and against the policy. This fact is also admitted by record keeper of Education Department. Copy of statement of record keeper of Education Department is attached.
7. That in the aforesaid merit list, the plaintiff has not been given experience marks which was given to other similar candidates, as such the act of the defendant No.3 of not giving experience marks to the plaintiff amounts to discrimination.
8. That the plaintiff wrote application to the defendant No.3 to appoint the plaintiff as PST(F) in Union Council Lakki City-I but defendant No.3 refused to do so, therefore, the instant suit is filed.
9. That cause of action arose to the plaintiff against the defendants few days back from the institution of instant first suit when plaintiff came to know the illegalities done in the preparation of merit lists and issuing of illegal appointments orders.
10. That the value for the purpose of Court Fee and jurisdiction is nil. The instant suit is exempted from Court Fee.
11. That cause of action arose to the plaintiff against the defendants in Lakki Marwat and as the plaintiff and the defendants are residing in Lakki Marwat, therefore, this Hon'ble Court has got jurisdiction to entertain the instant suit.

ND
3/5/18

ATTESTED

Examiner
District & Sessions Judge
Lakki Marwat.

29.09.18

It is therefore, most humbly prayed that on acceptance of instant suit, the suit of the plaintiff be decreed against the defendants as prayed for in the headings of the suit / amended plaint.

Handwritten notes:
0.17
31/5/16

Handwritten signature

Plaintiff

Handwritten signature

Through Counsel,
Shahid Saleem Minna Khel,
Advocate High Court.

VERIFICATION:

Verified on oath that contents of the plaint are correct and true to the best of my knowledge and belief and nothing has been concealed from this learned court.

Handwritten signature

Deponent.

Through Counsel
Shahid Saleem
Minna Khel
Advocate

Handwritten signature

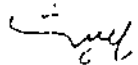
ATTESTED

Handwritten signature
Examiner to
District & Session Judge
Lakki Marwat.

23.09.18

It is therefore, most humbly prayed that on acceptance of instant suit, the suit of the plaintiff be decreed against the defendants as prayed for in the headings of the suit / amended plaint.

0-17
31/5/16



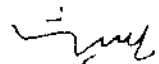
Plaintiff



Through Counsel,
Shahid Saleem Minn Khel,
Advocate High Court.

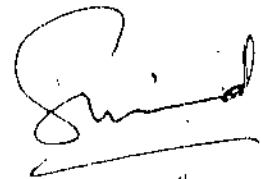
VERIFICATION:

Verified on oath that contents of the plaint are correct and true to the best of my knowledge and belief and nothing has been concealed from this learned court.

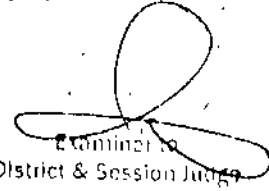


Deponent.

Through Counsel
Shahid Saleem
Minn Khel
Advocate



ATTESTED


Examined by
District & Session Judge
Lahore

29.9.18

11

25

27-4-17

IN THE COURT OF ABDUL MAJID CIVIL JUDGE-VI
LAKKI MARWAT.

Civil suit #.....F20/1-R of 2012
Date of institution.....05-06-2012/28-03-2015
Date of Decision.....27-04-2017

Mst. Dur-e-Shahwar W/o Khalid Iqbal R/o Mohallah Mina Khel District
Lakki Marwat..... (Plaintiff)

.....Versus.....

1. Government Of Khyber Pakhtunkhwa through Secretary (E&S) Education, Peshawar;
2. Director Education Peshawar;
3. District Education Officer (M), Elementary & Secondary Education, Lakki Marwat;
4. Mst. Jamshed Bibi D/o Ghulam Nubi, Mohallah Mina Khel (Sayedan) District Lakki Marwat;
5. District Education Officer (F) Elementary & Secondary Education Lakki Marwat;
6. Mst. Fehmida Bibi D/o Ameen Khan R/o Village Begu Khel District Lakki Marwat.....Defendants

SUIT FOR DECLARATION, PERMANENT MANDATORY INJUNCTION

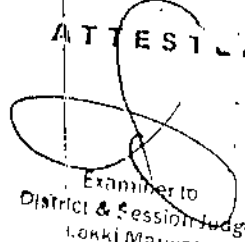
JUDGMENT:
27-04-2017

Plaintiff seek declaration to the effect that she is entitled to be appointed as PST (F) declaring the appointment orders of defendants Nos. 4 & 6 on the vacant post of UC Lakki City-1 is against the rules, regulations and policy. The appointment of the defendants at U/C Lakki City-1 is illegal and ineffective upon the rights of the plaintiff.

She also seeks permanent mandatory injunction to the effect that the defendants Nos. 1, 2, 3 and 5 be directed to issue the appointment order to the plaintiff in Union Council Lakki City-1. She also asks experience marks given to the similar candidate and preparation of fresh merit list.

Amjad
27-4-17

ABDUL MAJID
Civil Judge/Judicial Magistrate-VI
Lakki Marwat

ATTESTED

Examiner to
District & Session Judge
Lakki Marwat.
27-04-2017

As per complaint the plaintiff is domiciled at Union Council Lakki City-1. The defendants invited appointments to the post of PST (F) on 11-05-2010 in Daily Newspaper "Aaj". The plaintiff applied for the post and appeared in test and interview. She secured top position in list of UC Lakki City-1. She was not appointed but instead appointment order was issued to defendant No. 4 who was then dismissed and instead of appointing plaintiff being top on merit the defendants appointed defendant No. 6 at U/C Lakki City-1.

As per policy 60% candidates were to be appointed on open merit and 40% on Union Council Merit. Therefore after the dismissal of defendant No. 4 the plaintiff was top on merit out of two vacancies as per policy in Union Council Lakki-II. So she is entitled to be appointed on the said post. In the merit list she is not given experience marks, which is her right. The defendants are not appointing her so the suit is in hand.

The amended written statement was filed by defendants Nos. 1 to 3 and 6. Thereafter the amended issues were framed.

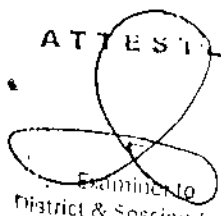
Prior to this the suit was instituted on 05-06-2012 and after various stages it got dismissed on 10-10-2013. The suit was remanded by the court of learned Additional District Judge-II Lakki Marwat for additional evidence and decision.

The plaint was amended on 03-05-2016 and after getting amended written statements the issues are framed as under:-

AMENDED ISSUES:

1. Whether the plaintiff has cause of action?
2. Whether the suit of the plaintiff is in time?
3. Whether the plaintiff secured top position in merit list for union council Lakki City-1 as compared to defendant No. 4?

Amended
27-4-17
ABDUL MAJID
Civil Judge (District Judge)
Lakki Marwat

ATTEST

Examiner
District & Session Judge
Lakki Marwat
27.09.17

4. Whether the plaintiff is resident of UC Lakki City-1 while Defendant No. 6 is belongs to Village Council Begu Khel and defendant No. 6 is illegally appointed violating the Union Council-wise merit?
5. Whether the plaintiff was not given the experience marks discriminating her from the other candidates?
6. Whether the appointment of defendant No. 6 is on merit, policy and according to law?
7. Whether the defendants Nos. 1, 2, 3 & 5 have complied all the legal codal formalities for the appointments?
8. Whether the plaintiff is entitled to the decree as prayed for?
9. Relief?

After framing of issues both the parties were directed to lead evidence, whereupon, Sana Ullah Khan Record Keeper as RPW-1, Khalid Iqbal as RPW-2, and thereafter closed the evidence.

In rebuttal, defendants produced and examined, Sana Ullah Khan Record Keeper/Representative of defendants as RDW-1, Ameen Khan as RDW-2 and thereafter closed the evidence.

Arguments on suit heard and issues wise decisions are as under:-


ISSUES NOS. 3 & 4:

- *Whether the plaintiff secured top position in merit list for union council Lakki City-1 as compared to defendant No. 4?*
- *Whether the plaintiff is resident of UC Lakki City-1 while Defendant No. 6 is belongs to Village Council Begu Khel and defendant No. 6 is illegally appointed violating the Union Council-wise merit?*

Ammed
27-4-17

ABDUL WAJID
Civil Judge/Judicial Magistrate-VI
Lakki Maiwat

From the pleadings it is not clear as what numbers of seats were allocated for open merit for the purpose of 60% Quota of the District and what number of

ATTESTED

Examining Officer
District & Session Judge
Lakki Maiwat.
29.09.15

seats are allocated for Union Council of 40% Quota of the Union Council. It is specially not clear with respect to Union Council Lakki City-1 and Begu Khel Union Councils. From the oral assertions of parties it is however inferred that only two seats for Union Council Lakki-1 were available to be filled for 40% Quota of Union Council. There was no seat available for Union Council Begu Khel.

In support of claim of the plaintiff RPW-2 the attorney for the plaintiff stated while relying on the earlier statement before remand, that according to policy there were two vacant seats of UC Lakki-1. On one seat Jamshad Bibi was appointed. She got terminated and on her place Hamida Bibi got appointed. On second seat defendant No. 6 was illegally appointed because she belongs to UC Begu Khel and she could not be appointed at Union Council City-1. After Hamida Bibi and Jamshad Bibi, plaintiff was on top of the merit list of UC Lakki-1 therefore she must be appointed. In cross examination he again stressed that there were two seats of UC Lakki. He is not cross examined on being top on merit of UC Lakki-1.

The two seats are confirmed in the statement of record keeper of the Education Department RPW-1. He confirmed the 60%:40% Quota. He produced the merit list of Union Council Lakki-1 as Ex RPW 1/2 and Merit List of UC Begu Khel as Ex.RPW 1/3. According to Ex.RPW 1/2 plaintiff is shown at merit No. 6 of Union Council while at merit No. 1, 2 and 3 the candidates were appointed in Open Merit through appointment letter No. 2074-79/PST(F) dated 25-02-2011. At Union Council Lakki City-1 serial No. 4 Jamshad Bibi was appointed. She was then dismissed and then Hamida Bibi at serial No. 5 was appointed. Thereafter plaintiff was waiting for appointment but vide above appointment letter defendant No. 6 was appointed at vacant post of GGPS Toti Abad, which was the vacant seat of UC Lakki-1.

Amir
27.4.17
ABDUL RAJID
Cand. for post of teacher in Government
Lakki Mawwat.

ATTEST

[Signature]
Examined to
District & Session Judge
Lakki Mawwat.
29.12.18

The name of defendant No. 6 is not found either in open merit list Ex.RPW 1/1 and also she is not entered at the merit list of UC Lakki-1. She is on top of the list at UC Begu Khel as per Ex.RPW 1/1. The whole evidence from both sides is silent about any seat of UC Begu Khel

The attorney for defendant No. 6 RDW-2 accepted that she is appointed at GPS Toti Abad. Defendant No. 6 belongs to UC Begu Khel where she was on top of list at serial No. 1114. This is also confirmed by Merit List Ex.RPW 1/1. This witness on behalf of defendant No. 6 accepted that at Lakki City-1 Union Council there were two seats vacant, one was for open merit and the second was for Union Council.

He however could not substantiate that if one seat was for Open Merit then there are three or four candidates as per appointment order were appointed on open merit and one Hamida Bibi was appointed on one seat. The question arises as to on what seat defendant No. 6 was appointed? The whole evidence is silent about any seat of UC Begu Khel. He in cross examination accepted that the name of defendant No. 6 was mistakenly appointed at UC Lakki City-1 and in this respect he has submitted application for correction. So for no correction is effected from the Education Department.

Therefore the argument that she is appointed at UC Begu Khel is itself nullified by the statement of RDW-1. In cross examination this witness again accepted it true that defendant No. 6 applied at UC Begu Khel but she was appointed at UC Lakki City-1. This is applied for correction. The relevant statements are as under:-

میں نے جامعہ کنگلی میں 1 کے اپنی اور میں نے پورے کنگلی میں ہی نہیں لیکن ملٹی سے من م جامعہ کا نام میں کونسل کنگلی میں دیکھا ہے۔ کنگلی اہل
پر کنگلی کے لیے میں نے درخواست دے چکی ہے۔ لیکن اس دوران میں کنگلی اور چکسا اور پورٹ نے کنگلی میں ہی ہے۔ دوسری دیکھا اور
کے ذرا ہے۔

Amended
27.4.17
ABDUL MAJID
Magistrate
Lakki Maiwat

ATTEST


Examner to
District & Session Judge
Lakki Maiwat.

29.09.18

In cross examination he accepted as under:-

یہ درست ہے۔ کہ نمبر دہانے اہالی ہر میں کونسل بگور کھل پر کیا تھا جس سے مرنی ہو میں کونسل لکی ٹی 1 پر کیا گیا ہے۔ اور وہ کہا کہ یہ ایک کالی جی جس کے لئے میں نے درخواست کر رکھی ہے۔ اور اس پر اب تک کوئی کارروائی نہیں ہوئی۔

From the above analysis of merit list and the statements of the parties we can easily infer that apart from the marks and experience qualification which is duly considered, the plaintiff at Serial No. 6 after Janshad Bibi and Hamida Bibi is on top of the list and she should have been appointed at UC Lakki-1 on the second seat after Hamida Bibi. Instead the defendants/Education Department had appointed defendant No. 6. She was deserving at UC Begu Khel but there was no seat vacant for appointment. So she was shifted mala fide by the then Education Head to UC Lakki City-1. She may be on top in merit and marks compared to plaintiff but having no vacant seat at Begu Khel Union Council she cannot be held entitled for the appointment. On the other hand the plaintiff being top on merit should have been appointed on the second vacant seat of UC Lakki City-1.

This is the matter of Domicile which is not considered and not the top scoring marks.

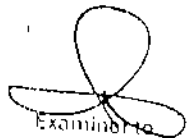
As a result issue No. 3 is decided in positive in the manner that she is top on merit at serial No. 6 after serial No. 5 Mst. Hamida Bibi. While issue No. 4 also decided in positive.

ISSUE NO. 6:

- *Whether the appointment of defendant No. 6 is on merit, policy and according to law?*

The merit list and the oral assertions of RPW-1, RPW-2, RDW-2 would suggest that defendant No. 6 though having good marks and merit, belongs to Union Council Begu Khel and not to Union Council Lakki-1. Similarly plaintiff belongs to Lakki City-1 and not otherwise. The merit of Lakki City-1 favours the

ATTEST


Examiner to
District & Session Judge
Lakki Mahwal.

22/09/2018

Annex
B-2021-2022-1187-4-12
www.lawsonline.com

plaintiff to be appointed. Defendant No. 6 has been appointed at Lakki City-1 violating the right of the plaintiff. It can safely be held that the appointment of defendant No. 6 was not according to policy and merit of UC Lakki City-1. Therefore the issue is decided in negative.

ISSUE NO. 5:

- *Whether the plaintiff was not given the experience marks discriminating her from the other candidates?*

The plaintiff did not produce any evidence about her experience. Similarly she did not point out any experience marks to be given to her. Otherwise the merit at UC Lakki City-1 support her on top of the merit after Hamida Bibi. This issue is not proved. Therefore decided against the plaintiff.

ISSUE NO. 7:

- *Whether the defendants Nos. 1, 2, 3 & 5 have complied all the legal codal formalities for the appointments?*

Summing up the discussion on issues Nos. 3, 4, 5 and 6 it is clear that the codal formalities and rules are not followed for appointing defendant No. 6 at Union Council Lakki City-1. She is clearly domiciled at UC Begu Khel. She is appointed at Lakki City-1 against the merit, rules and policy. The issue is decided in negative.

ISSUE NO. 2:

- *Whether the suit of the plaintiff is in time?*

As per Article 120 of Limitation Act the limitation is six years for declaration. The cause of action as per plaint is taken from the denial of the defendants. The initial suit was instituted on 05-06-2012. The remand is the continuation of suit. Therefore the suit is well within time. Issue is decided in positive.

ATTEST

Exhibitor to
District & Session Judge
Lakki Marwat.

29.09.2018

ISSUES NOs. 1 & 8:

- Whether the plaintiff has cause of action?
- Whether the plaintiff is entitled to the decree as prayed for?

The detailed discussion on the various issues proves the cause of action of the plaintiff. The appointment of defendant No. 6 was violative of rules with respect to domicile. Therefore not only the plaintiff has cause of action but she is also entitled to the decree. Both the issues are decided in positive.

RELIEF:

As sequel to the above discussion, the suit of the plaintiff is decreed. The defendants Nos. 1, 2, 3 and 5 shall appoint the plaintiff after the dismissal of defendant No. 6. Her services shall be reckoned from the date of her appointment. She is not entitled to any previous pay, salary or any other allowances. No order as to costs.

Case file be consigned to the record room after its necessary completion and compilation.

Announced:
27-04-2017

Amir
(Abdul Majid)
Civil Judge-VI Lakkhi Marwat.
Civil Judge/Judicial Magistrate-VI
Lakkhi Marwat

CERTIFICATE:

Certified that this judgment consists of 08 pages. Each and every one has been read over corrected and signed wherever it was necessary.

C. O. NO. 6740
Application received on 29.9.18
Copying Fee deposited on 29.9.18
Judgment received for copying 29.9.18
No. of words 82,400
Copying Fee Nil
Search Fee Nil
Urgent Fee Nil
Name of Copyist Nil
Copy completed on 29.9.18
Copy delivered on 29.9.18
Name of Examiner Nil

Amir
(Abdul Majid)
Civil Judge-VI Lakkhi Marwat.
ABDUL MAJID
Civil Judge/Judicial Magistrate-VI
Lakkhi Marwat

ATTESTED
[Signature]
Examiner to
District & Session Judge
Lakkhi Marwat.
27.09.18

IN THE COURT OF ABDUL MAJID, CIVIL JUDGE-VI
LAKKI MARWAT.

Decree Sheet

Civil suit #.....120/1-R of 2012
Date of institution.....05-06-2012/28-03-2015
Date of Decision.....27-04-2017

Mst. Durr-e-Shahwar W/o Khalid Iqbal R/o Mohallah Minn Khel District Lakki Marwat..... (Plaintiff)

.....Versus.....

1. Government Of Khyber Pakhtunkhwa through Secretary (E&S) Education, Peshawar;
2. Director Education Peshawar;
3. District Education Officer (M), Elementary & Secondary Education, Lakki Marwat;
4. Mst. Jamshed Bibi D/o Ghulam Nabi, Mohallah Minn Khel (Sayedan) District Lakki Marwat;
5. District Education Officer (F) Elementary & Secondary Education Lakki Marwat;
6. Mst. Fehmida Bibi D/o Ameen Khan R/o Village Begu Khel District Lakki Marwat.....Defendants

CLAIM:

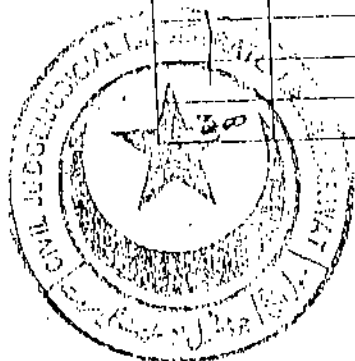
- A. Decree for declaration to the effect that she is entitled to be appointed as PST (F) declaring the appointment orders of defendants Nos. 4 & 6 on the vacant post of UC Lakki City-1 is against the rules, regulations and policy. The appointment of the defendants at U/C Lakki City-1 is illegal and ineffective upon the rights of the plaintiff.
- B. Decree for permanent mandatory injunction to the effect that the defendants Nos. 1, 2, 3 and 5 be directed to issue the appointment order to the plaintiff in Union Council Lakki City-1. She also seeks experience marks given to the similar candidate and preparation of fresh merit list.

This suit coming on this day for final disposal before the court of Civil Judge-VI Lakki Marwat in the presence of counsels for the parties. It is ordered that the suit of the plaintiff is decreed. The defendants Nos. 1, 2, 3 and 5 shall appoint the plaintiff after the dismissal of defendant No. 6. Her services shall be reckoned from the date of her appointment. She is not entitled to any previous pay, salary or any other allowances. No order as to costs.

Given under my hand and the seal of the court on 27th April, 2017.

Abdul Majid
27-4-17
Abdul Majid
Civil Judge VI
Lakki Marwat
District & Sessions Judge
Lakki Marwat
Magistrate-VI
Lakki Marwat

| نمبر | ملاحظات | مبلغ | ملاحظات | نمبر |
|-------|---------|-------|---------|------|
| | دعاویہ | 600/- | دعاویہ | |
| | دعاویہ | | دعاویہ | |
| 300/- | دعاویہ | 230/- | دعاویہ | |
| | دعاویہ | | دعاویہ | |
| | دعاویہ | | دعاویہ | |
| | دعاویہ | | دعاویہ | |
| | دعاویہ | 830 | دعاویہ | |



Abdul Majid
Examiner to
District & Sessions Judge
Lakki Marwat, Civil Judge VI
Magistrate-VI
Lakki Marwat
29-4-18

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4-5-17

OFFICE OF THE DISTRICT EDUCATION OFFICER (FEMALE) LAKKI MARWAT

OFFICE ORDER/DISMISSAL FROM SERVICE:-

Consequent upon the decision of Honourable Civil Judge No. VI Lakki Marwat dated: 27-04-2017 the services of Fehmida Bibi D/O Amin Khan PST GGPS Saced Khel is hereby dismissed with immediate effect

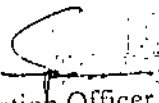
Necessary entry to this effect should be made in her service book accordingly.

(Sabra Parveen)
District Education Officer
(Female) Lakki Marwat

Dated 4/5/17

Encl: No. 7038-43

- Copy to the:-
- 1- Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.
 - 2- District Accounts Officer Lakki Marwat.
 - 3- Honourable Civil Judge No. VI Lakki Marwat.
 - 4- SDEO (F) Lakki Marwat.
 - 5- District Monitoring Officer Lakki Marwat.
 - 6- Office File.


District Education Officer
(Female) Lakki Marwat

12

بعداً بت جواب ڈیکریٹ کی درخواست

محکمہ فیملی عدالت، لاہور
Civil Appeal No. 45/3/2017

دارخوامت در بارہ جعلی کرنے کا سزا دینے کے لئے
محکمہ فیملی عدالت، لاہور 27/4/2017ء کی فیصلہ پر جس قسم
کا جعلی نوٹریس لکھا گیا ہے وہ سزا دینی کی بجائے
ایڈجسٹ کو نوٹریس سے suspend & terminate
کرنے سے متعلقہ مہینہ کرنے کی ڈیڑھ لکھ سے زائد روپے
داد رسی ہو کر ان کے ساتھ ہو تا ہے اس میں یا جو کچھ عدالت سے

Recd. to
Distt. & Sessions Judge
Lahore

جائے، اگر عدالت میں ہے۔

یہ کہ اس میں ہزار روپے سے لے کر ایک لاکھ روپے تک بلایا گیا ہے اس میں ایڈجسٹ کا
تائید دہی نہیں ہے۔

یہ کہ اس میں لاکھوں روپے سے لے کر ایک لاکھ تک بلایا گیا ہے اس میں ایڈجسٹ کا
تائید دہی نہیں ہے۔

بہتر ہے کہ اس میں لاکھوں روپے سے لے کر ایک لاکھ تک بلایا گیا ہے اس میں ایڈجسٹ کا
تائید دہی نہیں ہے۔

بہتر ہے کہ اس میں لاکھوں روپے سے لے کر ایک لاکھ تک بلایا گیا ہے اس میں ایڈجسٹ کا
تائید دہی نہیں ہے۔

بہتر ہے کہ اس میں لاکھوں روپے سے لے کر ایک لاکھ تک بلایا گیا ہے اس میں ایڈجسٹ کا
تائید دہی نہیں ہے۔

حوالہ 55
2017

محکمہ فیملی عدالت، لاہور

Fahmida Bibi

بہتر ہے کہ اس میں لاکھوں روپے سے لے کر ایک لاکھ تک بلایا گیا ہے اس میں ایڈجسٹ کا
تائید دہی نہیں ہے۔

Recd. to
Distt. & Sessions Judge
Lahore

NO 8 OCT 2018

NO 8 OCT 2018

Fahmida

تعمیرات خرابی ڈسٹرکٹ جج صاحب قلم نگہداشت

معائنہ فقیدہ لوبی ڈسٹرکٹ جج صاحب قلم نگہداشت (ایڈولٹ)

- ① معائنہ درستیوار زمین فلاحی اہمال قلم نگہداشت (ایڈولٹ)
- ② قلم نگہداشت خیریتخواہ بنیادیں قلم نگہداشت (ایڈولٹ)
- ③ ڈسٹرکٹ جج صاحب قلم نگہداشت (ایڈولٹ)
- ④ ڈسٹرکٹ جج صاحب قلم نگہداشت (ایڈولٹ)
- ⑤ معائنہ فقیدہ لوبی ڈسٹرکٹ جج صاحب قلم نگہداشت (ایڈولٹ)
- ⑥ قلم نگہداشت (ایڈولٹ)

اپریل 2012ء کو اپنی قلم نگہداشتی و فقیدہ لوبی 120 راجہ
 2012-06-28 / 2017-07-27 / 2015-03-28
 سوال جج صاحب قلم نگہداشت جی آر سے ڈگری سرٹیفکیٹ
 ریپائٹنگ لوبی 120 راجہ لوبی قلم نگہداشت
 ڈگری لیا ہے

Reader to
 Distt. & Session Judge
 Lakki Marwat

ایڈولٹ جج صاحب قلم نگہداشت
 2017-07-27 / 2018-08-08
 معائنہ حالت مسوخ خرابی جگہ لوبی
 ریپائٹنگ خرابی جگہ

ATTESTED
 Examiner to
 District & Session Judge
 Lakki Marwat.
 08 OCT 2018

ایہ کہ حکم ڈگری و فقیدہ خواہ 2017-07-27 / 2018-08-08
 قانون و فلاحی واقعات ہے اور قابل مسوخ ہے
 نقل لوبی لوبی جگہ لوبی لوبی و فقیدہ لوبی لوبی

(۱) میرے محکمہ اعلیٰ و اعلیٰ تعلیمات کے تحت اپنی تعلیمات کو فروغ دینے کے لیے
 Miss Reading اور Non Reading کے لیے اور ان کے لیے مختلف APP-recent
 کے لیے جس کی وجہ سے میرے محکمہ اعلیٰ و اعلیٰ تعلیمات کا نون sustainable
 نہیں ہے اور قابل سمجھتی ہے۔

(۲) یہ کہ جن ایجنسیوں کے تحت تعلیمات کے تحت تعلیمات کو اپنے
 جواب دہی اور شہادت سے ثابت کیا گیا ہے کہ میں اس میں اپنی تعلیمات کو فروغ
 دینے کی صورتوں میں ہوں۔

(۳) یہ کہ میرے محکمہ اعلیٰ و اعلیٰ تعلیمات کو کوئی نیا تعلیمی حاصل ہے بلکہ میری تعلیم

اور شہادت میں ہے۔

(۴) یہ کہ جس ایجنسی کے تحت تعلیمات کے تحت تعلیمات کو فروغ دینے کے لیے
 قائل تعلیمات سے میری تعلیمات میں کیا جاتا ہے۔

2011 SEMR 1581 میرے محکمہ اعلیٰ و اعلیٰ تعلیمات کے
 Reader to Distt & Session Judge Lohki Mahwat

(۵) یہ کہ میرے محکمہ اعلیٰ و اعلیٰ تعلیمات کے تحت تعلیمات کو فروغ دینے کے لیے
 میں نے اپنی تعلیمات کو فروغ دینے کے لیے اپنی تعلیمات کو فروغ دینے کے لیے

(۶) یہ کہ میرے محکمہ اعلیٰ و اعلیٰ تعلیمات کے تحت تعلیمات کو فروغ دینے کے لیے
 میں نے اپنی تعلیمات کو فروغ دینے کے لیے اپنی تعلیمات کو فروغ دینے کے لیے

میرے محکمہ اعلیٰ و اعلیٰ تعلیمات کے تحت تعلیمات کو فروغ دینے کے لیے
 میں نے اپنی تعلیمات کو فروغ دینے کے لیے اپنی تعلیمات کو فروغ دینے کے لیے

میرے محکمہ اعلیٰ و اعلیٰ تعلیمات کے تحت تعلیمات کو فروغ دینے کے لیے
 میں نے اپنی تعلیمات کو فروغ دینے کے لیے اپنی تعلیمات کو فروغ دینے کے لیے

(۷) یہ کہ میرے محکمہ اعلیٰ و اعلیٰ تعلیمات کے تحت تعلیمات کو فروغ دینے کے لیے
 میں نے اپنی تعلیمات کو فروغ دینے کے لیے اپنی تعلیمات کو فروغ دینے کے لیے

انڈیا کے مسدود کرنے اور انڈیا کے قیام پر عمل کیے گئے ہیں اور ان کے خلاف کارروائی ہو رہی ہے۔
یہ کہ ان کے خلاف کارروائی ہو رہی ہے اور ان کے خلاف کارروائی ہو رہی ہے۔

یہ کہ ان کے خلاف کارروائی ہو رہی ہے اور ان کے خلاف کارروائی ہو رہی ہے۔
انڈیا کے قیام پر عمل کیے گئے ہیں اور ان کے خلاف کارروائی ہو رہی ہے۔

یہ کہ ان کے خلاف کارروائی ہو رہی ہے اور ان کے خلاف کارروائی ہو رہی ہے۔
انڈیا کے قیام پر عمل کیے گئے ہیں اور ان کے خلاف کارروائی ہو رہی ہے۔

Reader to
Distt. & Session Judge
Lakki Marwat

حوافہ 52
2017

حیات فقیدہ بی بی فاطمہ انیس سالہ لڑکی کے انتقال کی خبر سے

راہیلہ بی بی
بی بی فاطمہ بی بی

Fahmida Bibi

ATTESTE
Examiner of
District & Session Judge
Lakki Marwat

03 OCT 2018

بی بی فاطمہ بی بی
5/2017

تسلیم شدہ

تسلیم شدہ بی بی فاطمہ بی بی

حیات فقیدہ بی بی فاطمہ انیس سالہ لڑکی کے انتقال کی خبر سے
یہ کہ ان کے خلاف کارروائی ہو رہی ہے اور ان کے خلاف کارروائی ہو رہی ہے۔

یہ کہ ان کے خلاف کارروائی ہو رہی ہے اور ان کے خلاف کارروائی ہو رہی ہے۔
انڈیا کے قیام پر عمل کیے گئے ہیں اور ان کے خلاف کارروائی ہو رہی ہے۔

راہیلہ بی بی

Fahmida Bibi

حیات فقیدہ بی بی فاطمہ انیس سالہ لڑکی کے انتقال کی خبر سے

Fahmida Bibi

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IN THE COURT OF MRS. ZARQAISH SANI,
DISTRICT JUDGE, LAKKI MARWAT.

Civil appeal.....No.45/13 of 2017.

Date of institution.....06.05.2017.

Date of decision.....31.05.2017.

Mst: Fehmida Bibi daughter of Amin Khan R/O Begu
Khel, District Lakki Marwat.....Appellant.

.....Versus.....

1-Mst: Durr-e-Shahwar wife of Khalid Iqbal R/O
Mohallah Mina Khel, Lakki Marwat...Real respondent.

2-Government of Khyber Pakhtunkhwa through
Secretary Education, Peshawar,

3-Director Education Peshawar,

4- District Education Officer (Male), Lakki Marwat,

5- District Education Officer (Female), Lakki Marwat,

6- Mst: Jamshed Bibi daughter of Ghulam Nabi R/O
Mohallah Saeed Khel.....Proforma respondents.

JUDGMENT.

Appellant/ defendant is aggrieved by the judgment and decree
passed by learned Civil Judge-VI, Lakki Marwat, in civil suit No.120/1.R on
27.04.2017 (wrong number given in appeal. Correct number be mentioned
by the Moharrir in the appeal, with red ink), whereby suit of the
plaintiff/respondent No.01 Mst: Dur-e-Shahwar wife of Khalid Iqbal, had
been decreed in her favour.

Prayer in appeal is for setting aside the impugned judgment
and decree and dismissing the suit of respondent/ plaintiff.

Bani
District & Sessions Judge
Lakki Marwat

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IN THE COURT OF MRS. ZARQAISH SANI,
DISTRICT JUDGE, LAKKI MARWAT.

Civil appeal.....No.45/13 of 2017.

Date of institution.....06.05.2017.

Date of decision.....31.05.2017.

Mst: Fehmida Bibi daughter of Amin Khan R/O Begu
Khel, District Lakki Marwat.....Appellant.

.....Versus.....

1-Mst: Durr-e-Shahwar wife of Khalid Iqbal R/O
Mohallah Mina Khel, Lakki Marwat...Real respondent.

2-Government of Khyber Pakhtunkhwa through
Secretary Education, Peshawar,

3-Director Education Peshawar,

4- District Education Officer (Male), Lakki Marwat,

5- District Education Officer (Female),Lakki Marwat,

6- Mst: Jamshed Bibi daughter of Ghulam Nabi R/O
Mohallah Saeed Khel.....Proforma respondents.

JUDGMENT.

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passed by learned Civil Judge-VI, Lakki Marwat, in civil suit No.120/I.R on
27.04.2017 (wrong number given in appeal. Correct number be mentioned
by the Moharrir in the appeal, with red ink), whereby suit of the
plaintiff/respondent No.01 Mst: Dur-e-Shahwar-wife of Khalid Iqbal, had
been decreed in her favour.

Prayer in appeal is for setting aside the impugned judgment
and decree and dismissing the suit of respondent/ plaintiff.

Bani
District & Sessions Judge
Lakki Marwat

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Arguments of the counsel for the parties were heard. Record perused.

According to the learned counsel for appellant/ defendant, the learned trial court had not properly appreciated the evidence available on record and due to mis-reading and non-reading of the evidence in proper contest, the learned trial court had given decision on all the issues against the appellant/ defendant. Appellant had remained in service and performed her duties in the said post for more than four years, therefore, legally her services could not be terminated. That in accordance with government policy, 60 % quota was fixed for appointment on open merits from the district and the remaining 40 % was for appointment against the vacancies in union council. There were two vacancies in U/C Lakki City-I. Out of these two vacancies, one was to be filled up on open merit of the district and another from union council. Against the vacancies of union council, Mst: Hameeda Bibi had been appointed. Her appointment had been admitted by the plaintiff/ respondent as correct, therefore, she has got no cause of action. He prayed for the acceptance of appeal.

Bam
District & Sessions Judge,
Lakki Marwat

Counsel for the plaintiff/ respondent Durr-e-Shahwar refuted his arguments. According to him, appellant/ defendant No.6 Mst: Fehmida Bibi daughter of Amin Khan, belonging to U/C Begu Khel, had been wrongly and illegally appointed as PST (F) on vacant post of U/C Lakki City-I. Her appointment against the seat of U/C Lakki City-I was in violation of the policy and rules and regulation. He supported the impugned judgment and decree, whereby respondent/ plaintiff Mst: Durre-e-Shahwar was rightly granted decree in her-suit. According to him, respondent/ plaintiff Mst: Durre-e-Shahwar had appeared in the test and interview and secured top position on merit list of U/C Lakki City-I, but the defendant/ respondent

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No.3 (District Education Officer) had done appointment of defendant No.04 Mst: Jamshed Bibi. Thereafter, also made appointment of appellant/ defendant No.06 Mst: Fehmida Bibi against the other vacant post in U/C Lakki City-I. Appellant/ defendant No.6 Mst: Fehmida Bibi did not belong to U/C Lakki City-I. She was resident of Begu Khel. 60 % vacancies of District-wise merits had already been filled up and appellant was not appointed on any of the vacancy on open merit of the district. For U/C Lakki City-I, two vacancies of PST (F) were available, as three top candidates of U/C Lakki City-I had been appointed on open merit from 60 % quota of the District. Two vacant posts were lying in Lakki City-I. That appellant Mst: Fehmida Bibi was not amongst the top 20 females who were appointed on district open merit. To increase her merit, fake documents were prepared.

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District & Sessions Judge,
Lakki Marwat.

Original documents are Ex RPW-1/7. Her father was examined as RDW-2. In his examination in-chief he stated that defendant/ appellant belongs to U/C Begu Khel. He in his cross examination admitted that his daughter had applied from the Quotta of union council. He had got no knowledge about the vacancies of U/C Begu Khel. He admitted it correct that his daughter had applied on U/C Begu Khel, but she was appointed against the vacancy of U/C Lakki City-I. Volunteered that it was a mistake, for correction of which he had moved an application, but uptill now no action had been taken on it. He was asked about the numbers of his daughter in Matric. At Page-31 of the merit list Ex RPW-1/4, in which at S.No.1114 of U/C Begu Khel, 810 numbers were mentioned in front of the name of Mst: Fehmida Bibi in Metric, while she had secured 786 marks in Matric. That in Ex RPW-1/8, upon the verification of academic Certificates from the concerned board, when her certificates were found bogus, fake and tampered, her services were terminated from the date of her appointment. Name of Mst: Fehmida

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Bibi appears at S.No.04 at this office order, dated 27.07.2012. In spite of her termination on the afore-mentioned ground, she managed her re-instatement on 28.12.2012. Learned counsel for the respondent/ plaintiff relied upon:-

1-Judgment in writ petition No.87 of the year 2011, decided on 23.11.2011.

2-Judgment in writ petition No.408-B of the year 2011, decided on 09.05.2012,

3-Judgment in writ petition No.362-B of the year 2011, decided on 18.02.2015,

4-2012 P L C (C.S) 772 [Lahore High Court], Citation-4 & s,

5-2015 P L C (C.S) 315 [Supreme Court of Pakistan]

6-2013 P L C (C.S) 38,

In the case law, reported in 2015 P L C (C.S) 315 [Supreme Court of Pakistan], it was held that:-

Civil Service----

Bani
District & Sessions Judge,
Lakki Marwat.

-----Contract employment---Advertised posts---Selection process---irregularities and non-observance of codal formalities in selection process---Termination from service---Reinstatement in service after re-processing selection of each appointee---Locus poenitentiare, rule of---Scope---Respondents participated in the selection process, where after they were issued appointment letters and joined their respective services---Subsequently respondents were issued termination letters on the basis that their appointments had been made without observing codal formalities, and the official who had signed their appointment letters was not competent to do so---respondents filed constitutional petition before the High Court, which was allowed and impugned termination orders were set aside with the directions that a Committee should be constituted to

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reprocess the case of each respondent; that in case any of the respondents had submitted a fake document, or there was any criminal case pending against him, or he was not a resident of the area for which recruitments were made or otherwise did not meet the eligibility criteria provided in the advertisement on the basis of which he was appointed, such respondent shall not be inducted into service, and that all other respondents shall be deemed to have been reinstated into service with effect from the date on which their services were terminated---Validity---Such order passed by the High Court was absolutely valid and it had been left to the department itself to scrutinize/ examine the eligibility of the respondents--- High Court gave direction to retain those who passed the eligibility by applying the rule of locus poenitentiae, notwithstanding that there was some irregularity in the process of selection, may be on account of one of the members (of the recruitment committee) who was said to be incompetent to act as appointing authority, and those who were not eligible/ qualified were to be relieved from service--- Department had to act fairly in terms of the directions of the High Court and take further action---Supreme Court directed the re-selection process, as mandated by the High Court, should be completed within a period of two months without fail".

Brief facts of the case are that on 08.06.2012, respondent/ plaintiff Mst: Durre-e-Shahwar had instituted a suit for declaration and permanent injunction, wherein she had challenged the appointment order of defendant No.04 Mst: Jamshed Bibi daughter of Ghulam Nabi, being illegal, unlawful, without lawful authority, based on malafide and violative upon her rights. On 10.10.2013 this suit was dismissed. On 04.03.2015, the case was

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remanded by the learned Appellate Court, to the civil court for recording additional evidence.

Perusal of the judgment in appeal dated 04.03.2015 shows that on the request of counsel for the appellant that the evidence ought to be recorded at civil court so that issue-wise judgment with the findings of civil court emerge to the surface and if evidence is recorded at appellate stage, they may miss a forum of appeal, for recording additional evidence, case was remanded to civil court.

After the remand, in civil court on 18.04.2015, application for impleadment of Mst: Fehmida Bibi was moved by counsel for plaintiff. On 23.04.2015, application for impleadment of Mst: Fehmida Bibi (appellant herein) as defendant was accepted and her name was mentioned with red ink in the plaint. Notice was issued to her. On 11.05.2015, counsel for plaintiff moved an application under Order-VI Rule-17 C.P.C. On 09.04.2016, application of plaintiff Mst: Durr-e-Shahwar for amendment in the plaint was allowed. On 03.05.2016, amended plaint was submitted by her. Subsequently, Mst: Fehmida Bibi, filed an application under Order-VII Rule-11 C.P.C, but her afore-mentioned application was dismissed on 16.07.2016.

After submission of amended pleadings, following issues were framed.

ISSUES.

- 1- Whether the plaintiff has got a cause of action?
- 2- Whether the suit of the plaintiff is within time?
- 3- Whether the plaintiff secured top position in merit list for union council Lakki City-1 as compared to defendant No.04?

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- 4- Whether the plaintiff is resident of U/C Lakki City-I, while defendant No.6 belongs to village Council Begu Khel and defendant No.6 is illegally appointed, violating the Union Council-wise merit?
 - 5- Whether the plaintiff was not given the experience marks discriminating her from the other candidates?
 - 6- Whether the appointment of defendant No.6 is on merit, policy and according to law?
 - 7- Whether the defendants No.1, 2, 3 & 5 have complied all the legal codal formalities for the appointments?
 - 8- Whether the plaintiff is entitled to the decree as prayed for?
 - 9- Relief.

Bani
District Judge
Lakki Marwat
After recording of evidence in the trial court, arguments were heard and by way of impugned judgment and decree suit of the plaintiff/respondent was decreed.

ISSUES NO.3 & 4.

Whether the plaintiff secured top position in merit list for union council Lakki City-I as compared to defendant No.04?

Whether the plaintiff is resident of U/C Lakki City-I, while defendant No.6 belongs to village Council Begu Khel and defendant No.6 is illegally appointed, violating the Union Council-wise merit?

Perusal of record reveals that the learned trial court has made reference to the evidence recorded in the case.

RPW-1 is Sanullah Khan Record Keeper, SDEO (F), Lakki Marwat. In his examination in-chief, he has produced termination order of Mst: Fehmida Bibi dated 27.07.2012, which is Ex RPW-1/8, and re-

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instatement order dated 28.12.2012 as Ex RPW-1/9, reinstatement order issued by DCO dated 26.12.2012, which is ex RPW-1/10.

After the remand, this PW was examined on 21.12.2016. About record he stated that the entire record was in possession of NAB. He clearly stated that in respect of the plaintiff, all the documentary evidence had been exhibited in this case. After the remand of case, on exhibition of documents, counsel for Mst: Fehmida Bibi has raised objection. With reference to the advertisement dated 11.05.2010, he stated that 60 % appointment was to be done on District basis on open merit and 40 % from union council concerned on merit. He provided union council merit list of Begu Khel, which is Ex RPW-1/3. He has also brought open merit list of the district and union council. Merit list of Lakki City-I is from S.No.888 to 996. From S.No.888, 889 and 890, three persons were appointed on district open merit list. At S.No.891 is Mst: Jamshed Bibi (her appointment from U/C was challenged by Durre-e-Shawar when she instituted her suit in 2012). According to this witness Mst: Jamshed Bibi had been dismissed and Mst: Hamida Bibi at S.No.892 was appointed. Mst: Durr-e-Shawar is at S.No.893 of U/C Lakki City-I merit list. At the time of advertisement, there were two vacancies of Lakki City-I. Here it may noticed that the appellant Mst: Fehmida Bibi is not resident of U/C Lakki City-I, but she is resident of U/C Begu Khel. In his cross in the beginning, he stated that at the time of advertisement, there two vacant posts of U/C Lakki City-I, one was allocated for open merit and other for U/C merit list. (He wrongly said it). Both are for U/C Lakki City-I.

This witness has also appeared as RDW-1. In his examination in-chief he stated that in the advertisement, at item No.01 it is given that per government policy 60 % seats were to be filled on District open merit and 40 % on U/C merit. In accordance with this advertisement, two vacancies of

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U/C Lakki City-I were to be filled up; Mst: Fehmida Bibi is at S.No.38 of the open merit list, Mst: Durr-e-Shahwar is at S.No.47 and in the union council merit list Mst: Hamida Bibi is at S.No.892 and Mst: Durr-e-Shawar is at S.No.893. In the beginning in U/C Lakki City-I, Mst: Jamshaida Bibi was appointed. Her documents were bogus and she was terminated. Mst: Hamida Bibi who is at S.No.892 of the merit list of U/C Lakki City-I, was appointed in her place. In U/C Lakki City-I merit list, Mst: Jamsheda Bibi, Mst: Hamida and plaintiff are at S.No.04, 05 & 06. Name of Mst: Fehmida does not exist in open merit list of the union council.

Father of the appellant/ defendant Mst: Fehmida Bibi in his examination in-chief stated that she (Fehmida) had applied for appointment on district open merit list but she was appointed from U/C Lakki City-I. For correction, she had moved an application, but in the meanwhile, EDO had transferred and correction was not done on her application. According to him, there was only one post of U/C Lakki City-I. In the first two lines of his examination in-chief, he had stated that she belongs to U/C Begu Khel. There were two posts of Lakki City-I, but wrongly stated that one post was for U/C and other was for open merit. In the same breath he says that Mst: Shakila Qayum at S.No.888, Mst: Sobia Gul and Kanwal Arooj of Lakki City-I had been appointed on district open merit, though they belong to Lakki City-I. Automatically, appointment of residents of U/C Lakki City-I were done on district open merit, the seats went to the U/C Lakki City-I. Admittedly, there were two seats of Lakki City-I. After termination of Mst: Jamsheda Bibi. MSt: Hamida Bibi was appointed and second post of union council was to be filled by the residents of same union council. Mst: Durr-e-Shahwar is at S.No.893 of the union council Lakki City-I.

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District & Sessions Judge,
Lakki Mahwal

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Mst: Durr-e-Shawar was entitled to appointment on the second vacancy of U/C Lakki City-I, because Mst: Hamida Bibi was at S.No.892. Appellant is not the resident of U/C Lakki City-I. The vacancy was of union council merit. The finding of learned trial court on issues No.3 & 4 is correct, need no interference.

ISSUE NO.6.

Whether the appointment of defendant No.6 is on merit, policy and according to law?

These two vacancies were not of District open merit, but of U/C Lakki City-I. Appellant/ defendant Mst: Fehmida Bibi belongs to U/C Begu Khel. She cannot be given any preference over Mst: Durr-e-Shawar plaintiff/ respondent, who is the resident of U/C Lakki City-I and next in merit to Mst: Hamida Bibi, who was appointed on termination of Mst: Jamsheda Bibi. Issue No.6 is rightly decided against the appellant.

ISSUES NO.5 & 7.

Whether the plaintiff was not given the experience marks discriminating her from the other candidates?

Whether the defendants No.1, 2, 3 & 5 have complied all the legal codal formalities for the appointments?

Finding of the learned trial court on these issues is correct, needs no interference.

ISSUE NO.2.

Whether the suit of the plaintiff is within time?

Finding of the learned trial court upon issue No.2 is correct.

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ISSUES NO.1 & 8.

Whether the plaintiff has got a cause of action?


Whether the plaintiff is entitled to the decree as prayed for?

Finding of the learned trial court is correct. Suit of respondent/ plaintiff had rightly been decreed in her favour.

In view of my afore-mentioned issue-wise discussion, I hold that there is no force in the appeal, therefore, the same stands dismissed. Parties are left to bear their own costs.

File of this Court be consigned to record room after its necessary completion and compilation.


Announced.
31.05.2017.


(Mrs. Zarqalish Sani)
District Judge,
Lakki Marwat
District & Sessions Judge
Lakki Marwat.

CERTIFICATE.

Certified that this judgment consists of Eleven (11) pages.

Each page has been read, corrected and signed by me, wherever necessary.


(Mrs. Zarqalish Sani)
District Judge,
Lakki Marwat
District & Sessions Judge
Lakki Marwat.

50

DECREE SHEET

**IN THE COURT OF MRS. ZARQAISH SANI, DISTRICT JUDGE,
LAKKI MARWAT.**

Civil Appeal No.....45/13 of 2017.

Date of Institution.....06/05/2017.

Date of Decision.....31.05.2017.

Mst: Fehmida Bibi D/O Amin Khan R/O Begu Khel, District
Lakki Marwat**Appellant.**

.....**Versus**.....

1. Mst: Durr-e-Shahwar wife of Khlid Iqbal R/O Mohallah
Mina Khel District Lakki Marwat.....**Real Respondents**

2. Government of Khyber Pakhtunkhwa and others.....
.....**Proforma Respondents.**

Appellant / defendant is aggrieved by the judgment and decree passed by learned Civil Judge-VI, Lakki Marwat, in civil suit No.120/1-R on 27.04.2017, whereby suit of plaintiff / respondent No.01 Mst: Durr-e-Shahwar wife of Khalid Iqbal had been decree in her favour.

Vide my detailed judgment of today, placed on file, I hold that there is no force in the appeal, therefore, the same stands dismissed. Parties are left to bear their own costs.

Appellant

Rs.500

COSTS OF APPEAL

Court fee
Stamp for power
Service of process
Publication fee
Pleader's fee
Misc.

Respondent

NIL

Given under my hand and seal of court this 31.05.2017.

(Note. Pleader fee not applicable as prescribed certificate has not been annexed).



Bani
(Mrs. Zarqaish Sani)
District Judge,
Lakki Marwat

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31-5-17

IN THE COURT OF MRS. ZARQAISHI SANI,
DISTRICT JUDGE, LAKKI MARWAT.

Civil appeal.....No.45/13 of 2017.

Date of institution.....06.05.2017.

Date of decision.....31.05 2017.

Mst: Fehmida Bibi daughter of Amin Khan R/O Begu
Khel, District Lakki Marwat.....Appellant.

.....Versus.....

1-Mst: Durr-e-Shahwar wife of Khalid Iqbal R/O
Mohallah Mina Khel, Lakki Marwat...Real respondent.

2-Government of Khyber Pakhtunkhwa through
Secretary Education, Peshawar,

3-Director Education Peshawar,

4- District Education Officer (Male), Lakki Marwat,

5- District Education Officer (Female),Lakki Marwat.

6- Mst: Jamshed Bibi daughter of Ghulam Nabi R/O
Mohallah Saced Khel.....Proforma respondents.

JUDGMENT.

Appellant/ defendant is aggrieved by the judgment and decree passed by learned Civil Judge-VI, Lakki Marwat, in civil suit No.120/1.R on 27.01.2017 (wrong number given in appeal. Correct number be mentioned by the Moharrir in the appeal, with red ink), whereby suit of the plaintiff/respondent No.01 Mst: Dur-e-Shahwar wife of Khalid Iqbal had been decreed in her favour.

Bani
District & Session Judge
Lakki Marwat.

Prayer in appeal is for setting aside the impugned judgment and decree and dismissing the suit of respondent/ plaintiff.

ATTEST
03 OCT 2017
Examiner to
District & Session Judge
Lakki Marwat.

Arguments of the counsel for the parties were heard. Record perused.

According to the learned counsel for appellant/ defendant, the learned trial court had not properly appreciated the evidence available on record and due to mis-reading and non-reading of the evidence in proper contest, the learned trial court had given decision on all the issues against the appellant/ defendant. Appellant had remained in service and performed her duties in the said post for more than four years, therefore, legally her services could not be terminated. That in accordance with government policy, 60 % quota was fixed for appointment on open merits from the district and the remaining 40 % was for appointment against the vacancies in union council. There were two vacancies in U/C Lakki City-I. Out of these two vacancies, one was to be filled up on open merit of the district and another from union council. Against the vacancies of union council, Mst. Hameeda Bibi had been appointed. Her appointment had been admitted by the plaintiff/ respondent as correct, therefore, she has got no cause of action. He prayed for the acceptance of appeal.

B Sam
District & Sessions Judge
Lakki Mairwas

Counsel for the plaintiff/ respondent Durr-e-Shahwar refuted his arguments. According to him, appellant/ defendant No 6 Mst. Fehmida Bibi daughter of Amin Khan, belonging to U/C Begu Khel, had been wrongly and illegally appointed as PST (F) on vacant post of U/C Lakki City-I. Her appointment against the seat of U/C Lakki City-I was in violation of the policy and rules and regulation. He supported the impugned judgment and decree, whereby respondent/ plaintiff Mst. Durr-e-Shahwar was rightly granted decree in her suit. According to him, respondent/ plaintiff Mst. Durr-e-Shahwar had appeared in the test and interview and secured top position on merit list of U/C Lakki City-I, but the defendant/ respondent

ATTEST

[Signature]
Examiner to
District & Session J
Lakki Mairwas.

03 OCT 2016

31

No.3 (District Education Officer) had done appointment of defendant No.04 Mst: Jamshed Bibi. Thereafter, also made appointment of appellant/defendant No.06 Mst: Fehmida Bibi against the other vacant post in U/C Lakki City-I. Appellant/defendant No.6 Mst: Fehmida Bibi did not belong to U/C Lakki City-I. She was resident of Begu Khel. 60 % vacancies of District-wise merits had already been filled up and appellant was not appointed on any of the vacancy on open merit of the district. For U/C Lakki City-I, two vacancies of PST (F) were available, as three top candidates of U/C Lakki City-I had been appointed on open merit from 60 % quota of the District. Two vacant posts were lying in Lakki City-I. That appellant Mst: Fehmida Bibi was not amongst the top 20 females who were appointed on district open merit. To increase her merit, fake documents were prepared. Her original documents are Ex RPW-1/7. Her father was examined as RDW-2. In his examination in-chief he stated that defendant/ appellant belongs to U/C Begu Khel. He in his cross examination admitted that his daughter had applied from the Quotta of union council. He had got no knowledge about the vacancies of U/C Begu Khel. He admitted it correct that his daughter had applied on U/C Begu Khel, but she was appointed against the vacancy of U/C Lakki City-I. Volunteered that it was a mistake, for correction of which he had moved an application, but uptill now no-action had been taken on it. He was asked about the numbers of his daughter in Matric. At Page-31 of the merit list Ex RPW-1/4, in which at S.No 1111 of U/C Begu Khel, 8100 T Y E S T L L numbers were mentioned in front of the name of Mst: Fehmida Bibi in Matric, while she had secured 786 marks in Matric. That in Ex RPW-1/8 upon the verification of academic Certificates from the concerned board, when her certificates were found bogus, fake and tampered, her services were terminated from the date of her appointment. Name of Mst: Fehmida

Bain
 10/10/16
 10/10/16

Examined to
 District & Session Judge
 Lakki City-I

03 OCT 2016

Bibi appears at S.No.04 at this office order, dated 27.07.2012. Inspite of her termination on the afore-mentioned ground, she managed her re-instatement on 28.12.2012. Learned counsel for the respondent/ plaintiff relied upon:-

1-Judgment in writ petition No.87 of the year 2011, decided on 23.11.2011.

2. Judgment in writ petition No.408-B of the year 2011, decided on 09.05.2012.

3-Judgment in writ petition No.362-B of the year 2011, decided on 18.02.2015.

4-2012 P L C (C.S) 772 [Lahore High Court], Citation-i & s.

5-2015 P L C (C.S) 315[Supreme Court of Pakistan]

6-2013 P L C (C.S) 38.

In the case law, reported in 2015 P L C (C.S) 315 [Supreme Court of Pakistan], it was held that:-

Saini
District & Sessions Judge,
Lakki Marwat.

Civil Service-----

-----Contract employment---Advertised posts---Selection process---irregularities and non-observance of codal formalities in selection process---Termination from service---Reinstatement in service after re-processing selection of each appointee-- Locus poententiate, rule of---Scope---Respondents participated in the selection process, where after they were issued appointment letters and joined their respective services. Subsequently respondents were issued termination letters on the basis that their appointments had been made without observing codal formalities, and the official who had signed their appointment letters was not competent, to do so. Respondents filed constitutional petition before the High Court, which was allowed and impugned termination orders were set aside with the directions that a Committee should be constituted to

TESTED
Examined to
District & Session Judge
Lakki Marwat.

10.3 OCT 2018

reprocess the case of each respondent; that in case any of the respondents had submitted a fake document, or there was any criminal case pending against him, or he was not a resident of the area for which recruitments were made or otherwise did not meet the eligibility criteria provided in the advertisement on the basis of which he was appointed, such respondent shall not be inducted into service, and that all other respondents shall be deemed to have been reinstated into service with effect from the date on which their services were terminated---Validity---Such order passed by the High Court was absolutely valid and it had been left to the department itself to scrutinize/examine the eligibility of the respondents--- High Court gave direction to retain those who passed the eligibility ^{rely} by applying the rule of locus poenitentiae, notwithstanding that there was some irregularity in the process of selection, may be on account of one of the members (of the recruitment committee) who was said to be incompetent to act as appointing authority, and those who were not eligible/qualified were to be relieved from service-- Department had to act fairly in terms of the directions of the High Court and take further action---Supreme Court directed the selection process, as mandated by the High Court, should be completed within a period of two months without fail".

TESTE
 Examiner to
 District & Session Judge
 Laloki Mandal.

Brief facts of the case are that on 08.06.2012, respondent/ plaintiff Mst: Durre-e-Shahwar had instituted a suit for declaration and permanent injunction, wherein she had challenged the appointment order of defendant No.04 Mst: Jamshed Bibi daughter of Ghulam Nabi, being illegal, unlawful, without lawful authority, based on malafide and violative upon her rights. On 10.10.2013 this suit was dismissed. On 04.03.2015, the case was

03 OCT 2015

remanded by the learned Appellate Court, to the civil court for recording additional evidence.

Perusal of the judgment in appeal dated 04.03.2015 shows that on the request of counsel for the appellant that the evidence ought to be recorded at civil court so that issue-wise judgment with the findings of civil court emerge to the surface and if evidence is recorded at appellate stage, they may miss a forum of appeal, for recording additional evidence, case was remanded to civil court.

After the remand, in civil court on 18.04.2015, application for impleadment of Mst: Fehmida Bibi was moved by counsel for plaintiff. On 13.04.2015, application for impleadment of Mst: Fehmida Bibi (appellant herein) as defendant was accepted and her name was mentioned with red ink in the plaint. Notice was issued to her. On 11.05.2015, counsel for plaintiff moved an application under Order-VI Rule-17 C.P.C. On 09.04.2016, application of plaintiff Mst: Durr-e-Shahwar for amendment in the plaint was allowed. On 03.05.2016, amended plaint was submitted by her. Subsequently, Mst: Fehmida Bibi filed an application under Order-VII Rule-11 C.P.C, but her afore-mentioned application was dismissed on 16.07.2016.

Bani
District & Session Judge
Lakki Marwat

After submission of amended pleadings, following issues were framed.

ISSUES.

- 1- Whether the plaintiff has got a cause of action?
- 2- Whether the suit of the plaintiff is within time?
- 3- Whether the plaintiff secured top position in merit list for union council Lakki City-I as compared to defendant No.04?

TESTED
Examiner
District & Session Judge
Lakki Marwat.

03 OCT 2018

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4. Whether the plaintiff is resident of U/C Lakki City-1, while defendant No. 6 belongs to village Council Begu Khel and defendant No. 6 is illegally appointed, violating the Union council-wise merit?
5. Whether the plaintiff was not given the experience marks discriminating her from the other candidates?
6. Whether the appointment of defendant No. 6 is on merit, policy and according to law?
7. Whether the defendants No. 1, 2, 3 & 5 have complied all the legal codal formalities for the appointments?
8. Whether the plaintiff is entitled to the decree as prayed for?
9. Relief.

After recording of evidence in the trial court, arguments were heard and by way of impugned judgment and decree suit of the plaintiff / respondent was decreed.

ISSUES NO. 3 & 4.

Whether the plaintiff secured top position in merit list for union council Lakki City-1 as compared to defendant No. 04?

Whether the plaintiff is resident of U/C Lakki City-1, while defendant No. 6 belongs to village Council Begu Khel and defendant No. 6 is illegally appointed, violating the Union Council-wise merit?


Perusal of record reveals that the learned trial court has made reference to the evidence recorded in the case.

RPW-1 is Sanaullah Khan Record Keeper, SDEO (F), Lakki Marwat. In his examination in-chief, he has produced termination order of Mst. Fehmida Bibi dated 27.07.2012, which is Ex. RPW-1/8, and re-

instatement order dated 28.12.2012 as Ex RPW-1/9, reinstatement order issued by DCC dated 26.12.2012, which is ex RPW-1/10.

After the remand, this PW was examined on 21.12.2016. About record he stated that the entire record was in possession of NAB. He clearly stated that in respect of the plaintiff, all the documentary evidence had been exhibited in this case. After the remand of case, on exhibition of documents, counsel for Mst: Fehmida Bibi has raised objection. With reference to the advertisement dated 11.05.2010, he stated that 60 % appointment was to be done on District basis on open merit and 40 % from union council concerned on merit. He provided union council merit list of Begu Khel, which is Ex RPW-1/3. He has also brought open merit list of the district and union council. Merit list of Lakki City-I is from S.No 888 to 996. From S.No.888, 889 and 890, three persons were appointed on district open merit list. At S.No.891 is Mst: Jamshed Bibi (her appointment from U/C was challenged by Durre-e-Shawar when she instituted her suit in 2012). According to this witness Mst: Jamshed Bibi had been dismissed and Mst: Hamida Bibi at S.No.892 was appointed. Mst: Durr-e-Shawar is at S.No.893 of U/C Lakki City-I merit list. At the time of advertisement, there were two vacancies of Lakki City-I. Here it may noticed that the appellant Mst: Fehmida Bibi is not resident of U/C Lakki City-I, but she is resident of U/C Begu Khel. In his cross in the beginning, he stated that at the time of advertisement, there were two vacant posts of U/C Lakki City-I, one was allocated for open merit and other for U/C merit list. (He wrongly said it). Both are for U/C Lakki City-I.

This witness has also appeared as RDW-I. In his examination in-chief he stated that in the advertisement, at item No.01 it is given that per government policy 60 % seats were to be filled on District open merit and 40 % on U/C merit. In accordance with this advertisement, two vacancies of

ATTESTED

 Examiner to
 District & Session Judge
 Lakki Marwat.

U/C Lakki City-I were to be filled up. Mst: Fehmida Bibi is at S.No.38 of the open merit list. Mst: Durr-e-Shahwar is at S.No.47 and in the union council merit list Mst: Hamida Bibi is at S.No.892 and Mst: Durr-e-Shawar is at S.No.893. In the beginning in U/C Lakki City-I, Mst: Jamshaida Bibi was appointed. Her documents were bogus and she was terminated. Mst: Hamida Bibi who is at S.No.892 of the merit list of U/C Lakki City-I, was appointed in her place. In U/C Lakki City-I merit list, Mst: Jamsheda Bibi, Mst: Hamida and plaintiff are at S.No.04, 05 & 06. Name of Mst: Fehmida does not exist in open merit list of the union council.

Sam
District & Session Judge
Lakki Marwat

Father of the appellant/ defendant Mst: Fehmida Bibi in his examination in-chief stated that she (Fehmida) had applied for appointment on district open merit list but she was appointed from U/C Lakki City-I. For correction, she had moved an application, but in the meanwhile, EDO had transferred and correction was not done on her application. According to him, there was only one post of U/C Lakki City-I. In the first two lines of his examination in-chief, he had stated that she belongs to U/C Begu Khel. There were two posts of Lakki City-I, but wrongly stated that one post was for U/C and other was for open merit. In the same breath he says that Mst: Shakila Qayum at S.No.888, Mst: Sobia Gul and Kanwal Arooj of lakki City-I had been appointed on district open merit, though they belong to Lakki City-I. Automatically, appointment of residents of U/C Lakki City-I were done on district open merit, the seats went to the U/C Lakki City-I. Admittedly, there were two seats of Lakki City-I. After termination of Mst. Jamsheda Bibi, Mst: Hamida Bibi was appointed and second post of union council was to be filled by the residents of same union council. Mst: Durr-e-Shahwar is at S.No.893 of the union council Lakki City-I.

TESTED
03 OCT 2010
Examiner to
District & Session Judge
Lakki Marwat.

Mst: Durr-e-Shawar was entitled to appointment on the second vacancy of U/C Lakki City-I, because Mst: Hamida Bibi was at S.No.892. Appellant is not the resident of U/C Lakki City-I. The vacancy was of union council merit. The finding of learned trial court on issues No.3 & 4 is correct. need no interference.

ISSUE NO.6.

Whether the appointment of defendant No 6 is on merit, policy and according to law?

These two vacancies were not of District open merit, but of U/C Lakki City-I. Appellant/ defendant Mst: Fehmida Bibi belongs to U/C Begu Khel. She cannot be given any preference over Mst: Durr-e-Shawar plaintiff/ respondent, who is the resident of U/C Lakki City-I and next in merit to Mst: Hamida Bibi, who was appointed on termination of Mst: Hamsheda Bibi. Issue No.6 is rightly decided against the appellant.

Bam

ISSUES NO.5 & 7.

Whether the plaintiff was not given the experience marks discriminating her from the other candidates?

Whether the defendants No.1, 2, 3 & 5 have complied all the legal codal formalities for the appointments?

Finding of the learned trial court on these issues is correct. needs no interference.

ATTESTED

Examiner to District & Session Judge Lakki Marwat.

09 OCT 2018

ISSUE NO.2.

Whether the suit of the plaintiff is within time?

Finding of the learned trial court upon issue No.2 is correct.

ISSUES NO. 1 & 8.

Whether the plaintiff has got a cause of action?

Whether the plaintiff is entitled to the decree as prayed for?

Finding of the learned trial court is correct. Suit of respondent plaintiff had rightly been decreed in her favour.

In view of my afore-mentioned issue-wise discussion, I hold that there is no force in the appeal, therefore, the same stands dismissed. Parties are left to bear their own costs.

File of this Court be consigned to record room after its necessary completion and compilation.

Announced.
31.05.2017.

Bani
(Mrs. Zarqaisi Sani)
District Judge,
Lakki Marwat
District Lakki Marwat.

CERTIFICATE.

Certified that this judgment consists of Eleven (11) pages.

Each page has been read, corrected and signed by me, wherever necessary: 03 OCT 2018

ATTESTED
[Signature]
Examiner to
District & Session Judge
Lakki Marwat

Bani
(Mrs. Zarqaisi Sani)
District Judge,
Lakki Marwat
District Lakki Marwat.

Case No. 6874
Application received on 3-10-18
Copying Fee deposited on 3-10-18
Judgment received for copying 3-10-18
No. of words 15 sheets
Copying Fee Nil
Search Fee Nil
Urgent Fee Nil
Name of Copyist 106
Copy completed on 3-10-18
Copy delivered on 3-10-18
Name of Examiner 106

DECREE SHEET

IN THE COURT OF MRS. ZARQAISH SANI, DISTRICT JUDGE,
LAKKI MARWAT.

Civil Appeal No.....45/13 of 2017.

Date of Institution.....06/05/2017.

Date of Decision.....31.05.2017.

Mst: Fehmida Bibi D/O Amin Khan R/O Begu Khel, District
Lakki MarwatAppellant.

.....Versus.....

- 1. Mst: Durr-e-Shahwar wife of Khlid Iqbal R/O Mohallah
Mina Khel District Lakki Marwat.....Real Respondents
- 2. Government of Khyber Pakhtunkhwa and others.....
.....Proforma Respondents.

Appellant / defendant is aggrieved by the judgment and decree passed by
learned Civil Judge-VI, Lakki Marwat, in civil suit No.120/1-R on 27.04.2017, whereby
suil of plaintiff / respondent No.01 Mst: Dure-e-Shahwar wife of Khalid Iqbal had been
decree in her favour.

Vide my detailed judgment of today, placed on file, I hold that there is no force
in the appeal, therefore, the same stands dismissed. Parties are left to bear their own
costs.

| <u>Appellant</u> | <u>COSTS OF APPEAL</u> | <u>Respondent</u> |
|------------------|---|-------------------|
| Rs.500 | Court fee Stamp for power Service of process Publication fee Pleader's fee Misc. | NIL |

Bani
District Judge
Lakki Marwat

ATTESTED

[Signature]
Examiner to
District & Session Judge
Lakki Marwat.

Given under my hand and seal of court this 31.05.2017.

(Note. Pleader-fee not applicable as prescribed certificate has not been annexed).



Bani
(Mrs. Zarqaish Sani)
District Judge,
Lakki Marwat

03 OCT 2018

BEFORE THE PESHAWAR HIGH COURT BANNU
BENCH BANNU

CIVIL REVISION PETITION NO. 110-B /2017

Mst. Fahmida Bibi daughter of Amin Khan resident of Begu Khel Tehsil and district Lakki Marwat.

.....(Petitioner).

VERSUS

1- Dure Shahwar wife of Khalid Iqbal resident of Muhallah Mina Khel Tehsil and district Lakki Marwat.

2- Government of Khyber Pukhtunkhwa through Secretary Education (Schools), Peshawar.

3- Director Elementary and Secondary Education, Khyber Pukhtunkhwa, Peshawar.

4- District Education Officer (Female) Lakki Marwat.

5- Mst. Jamshed Bibi daughter of Ghulam Nabi R/O Muhallah Saeed Khel, Lakki Marwat.....

Respondents

CIVIL REVISION PETITION UNDER SECTION 115 OF
THE CPC AGAINST THE JUDGMENT AND DECREE
IN CIVIL APPEAL NO.45/13 DATED 31/05/2017
PASSED BY THE LEARNED DISTRICT JUDGE LAKKI
MARWAT WHO CONFIRMED THE JUDGMENT AND
DEC REE OF THE LEARNED TRIAL COURT IN CIVIL
SUIT NO.120/1-R DATED 27/04/2017 OF CIVIL

JUDGE-VI LAKKI MARWAT WHO DECREED THE
SUIT OF THE RESPONDENT NO.1.

Filed to
Admitted & Registered

PRAYER

ON ACCEPTANCE OF THIS REVISION PETITION, BOTH THE JUDGMENTS AND DECREES OF THE LEARNED COURTS BELOW BING ILLEGAL,

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ASL

RECEIVED
PESHAWAR HIGH COURT
BANNU BENCH

BEFORE THE PESHAWAR HIGH COURT BANNU
BENCH BANNU

CIVIL REVISION PETITION NO. 110-B 12017

h 2017

Mst. Fahmida Bibi daughter of Amin Khan resident of Begu Khel Tehsil and district Lakki Marwat.

.....(Petitioner).

V E R S U S

- S* — 1- Dure Shahwar wife of Khalid Iqbal resident of Muhallah Mina Khel Tehsil and district Lakki Marwat.
- 2- Government of Khyber Pukhtunkhwa through Secretary Education (Schools), Peshawar.
- F* 3- Director Elementary and Secondary Education, Khyber Pukhtunkhwa, Peshawar.
- EX* — 4- District Education Officer (Female) Lakki Marwat.
- EX* 5- Mst. Jamshed Bibi daughter of Ghulam Nabi R/O Muhallah Saeed Khel, Lakki Marwat.....

Respondents

CIVIL REVISION PETITION UNDER SECTION 115 OF
THE CPC AGAINST THE JUDGMENT AND DECREE
IN CIVIL APPEAL NO.45/13 DATED 31/05/2017
PASSED BY THE LEARNED DISTRICT JUDGE LAKKI
MARWAT WHO CONFIRMED THE JUDGMENT AND
DEC REE OF THE LEARNED TRIAL COURT IN CIVIL
SUIT NO.120/1-R DATED 27/04/2017 OF CIVIL
JUDGE-VI LAKKI MARWAT WHO DECREED THE
SUIT OF THE RESPONDENT NO.1.

Acknowledged & Registered

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ABC

P R A Y E R

ON ACCEPTANCE OF THIS REVISION PETITION, BOTH THE JUDGMENTS AND DECREES OF THE LEARNED COURTS BELOW BING ILLEGAL,

RECEIVED
PESHAWAR High Court
Bannu Bench

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16

WITHOUT JURISDICTION, AGAINST LAW AND MISCONCEIVED, MAY VERY KINDLY BE SET ASIDE BY DISMISSING THE BASIC CAUSE OF THE RESPONDENT NO.1 WITH COSTS THROUGHOUT. MOREOVER, THE DISMISAL ORDER DATED 4/05/2017 OF THE PETITIONER AND THE APPOINTMENT ORDER OF THE RESPONDENT NO.1 DATED 4/5/2017 ON THE BASIS OF THE IMPUGNED JUDGMENT, MAY ALSO BE DECLARED ILLEGAL, VOID AB INITIO AND IN EFFECTIVE UPON RIGHTS OF THE PETITIONER.

BRIEF FACTS

Respectfully Sheweth:-

- 1- That the posts of PST were advertised by the official respondents, the petitioner being Denizen of district Lakki Marwat, having appropriate qualification, accordingly applied. (*Photo copies of the domicile, F.A, Matric and PTC certificates are annexure A, B, C, & D respectively*).
- 2- That on the basis of merit, inter alia, the appointment order of the petitioner was issued by the competent authority on 25/02/2011 (*Attested copy of appointment order dated 25/2/2011 is annexure E*).
- 3- That accordingly the medical certificate was granted by the Medical Superintendent, copy of which is *annexure F* and thereafter the petitioner

Filed Today

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2017
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ABC

ATTESTED
EXAMINER
Peshawar High Court
Bannu Bench

assumed the charge of her duty on 26/02/2011 copy of which is *annexure G*.

4- That the Government of KPK accordingly prepared her service book, copy of which is *annexure H*.

5- That on 27/02/2012 the petitioner was terminated from service on the basis of flimsy and unfounded grounds, but the same was realized by the department and she was re instated by the departmental appellate authority vide order dated 28/12/2012 (*Attested copy of the order dated 27/02/2012 and the re instatement by the Appellate authority dated 28/12/2012 are annexure I and J respectively*).

6- That the Service Tribunal KPK also endorsed the above said order of re instatement of the petitioner while in service Appeal No.1357/2012 dated 16/01/2014 and in Service appeal No.284 dated 01/01/2014 (*Attested copies of both the orders are annexure K and L respectively*.)

7- That one civil suit No.91/2012 was filed by Mehreen Yousaf which was disposed of by the learned Civil Judge-II Lakki Marwat on 30/01/2015 (*Attested copies of judgment and decree are annexure M and N respectively*).

Filed To
Auditors
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[Signature]
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ATTENDED
J. HANIF
Registrar High Court
Bannu Bench

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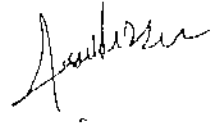
8- That the petitioner filed Appeal No.5/13 of 2015, which was decided by the learned Additional District Judge-IV, Lakki Marwat, who accepted the appeal and remanded the case back to Civil Judge-IV, Lakki Marwat for decision afresh. (Attested copy of the judgment of ADJ_IV, Lakki Marwat dated 19/12/2015 is annexure O).

9- That the learned Civil Judge after remand of the case decreed the civil suit No.120/1-R dated 27-4-2017, the judgment and decree of the same are annexure P and Q respectively).

10- That the petitioner then filed appeal before the learned District Judge Lakki Marwat who also vide impugned judgment dated 31/5/2017 confirmed the trial court judgment (Attested copies of the Memo of appeal, judgment and decree dated 31/5/2017 are annexed herewith as annexure R, S and T respectively).

11- That the official respondents immediately on the basis of the said impugned judgments, issued dismissal order of the petitioner and the appointment of the respondent No.1 on 4/5/2017. (Copies of both the orders are annexure U¹ and V respectively).


HSC



ATTESTED
EXAMINER
Peshawar High Court
Banna Bazar

12) That keeping in view the facts and circumstances of the matter, the petitioner respectfully invokes the Revisional authority of this Honourable court, inter inter alia, on the following grounds:-

GROUNDS

- (I) That both the judgments and decrees of the learned courts below are illegal, un-lawful, without jurisdiction and ineffective upon rights of the petitioner.
- (II) That once a competent forum departmental appellate authority as well as the Service Tribunal decided the said matter, could not be re-agitated by the learned civil court in any way under the law.
- (III) That the law on the subject has, totally been mis-concieved by both the learned courts below and needs to be corrected by exercising Revisional jurisdiction by this Honorable court.
- (IV) That the immediate execution of the impugned judgments by the official respondents by itself speaks the malafide of the respondents.

For the above stated reasons, and others to be stated at the time of arguments it is, therefore, mostly prayed that on acceptance of this revision petition, both the judgments and decrees of the learned courts below being illegal, without jurisdiction, against law and misconceived, may very kindly be set aside by dismissing the basic cause of the respondent No.1 with

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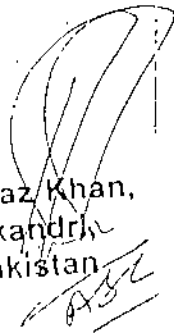
costs throughout. Moreover, the dismissal order dated 4/05/2017 of the petitioner and the appointment order of the respondent No.1 dated 4/5/2017 on the basis of the impugned judgment, may also be declared illegal, void ab initio and in effective upon rights of the petitioner.

Dated 13/06/2017

Fahimda Bibi
Mst. Fahimda bibi
Petitioner

Through counsel

Muhammad Shah Nawaz Khan,
Sikandri
Advocate Supreme court of Pakistan
(Stationed at Bannu)



CERTIFICATE

It is to certify that the contents of this petition are true and correct and no similar petition was ever filed before any court as per information conveyed to me by my client.

Fahimda Bibi
(Advocate)



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EXAMINER
Nawab High Court
Bannu Bench

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Thereafter, petitioner/defendant No.6 filed appeal which was dismissed by the learned District Judge on 31.5.2017 and hence the instant revision petition.

4. I have heard arguments of learned counsel for the parties and perused the record.

5. The subject matter of the instant case revolves around a post of Primary School Teacher (female) BPS-7.

6. On 25.02.2011, after fulfillment of codal formalities, petitioner was appointed on the subject post whereafter she was issued medical fitness certificate and took over the charge on 26.02.2011 in Government Primary School, Totti Abad, District Lakki Marwat. Her service book was prepared and she continued to perform her duties, when she was terminated on 27.7.2012 after about 17 months. She was alleged to have produced bogus/fake educational certificates and was terminated vide order Ex.PW.1/7. Her departmental appeal before the higher authority was allowed on 26.12.2012 and was re-instated in service on 28.12.2012, although in the meanwhile, she had also filed appeal before

the Khyber Pakhtunkhwa Services Tribunal bearing No.1357

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Imranullah (S.B) Mr. Justice Muhammad Nasir Mahboob

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Peshawar High Court
Bannu Bench

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of 2012 which was heard on 16.1.2014 after the statement of representative of respondent/department that since she has been re-instated in service, therefore, the appeal was disposed of. She again started receiving her salary, but, during this interregnum respondent No.1 and one Mehreen Yousaf had also filed two civil suits bearing No. 91/1 of 2012 instituted on 02.5.2012 and civil suit No. 120/1 of 2012 instituted on 05.6.2012. The suit No. 91/1 was decreed on 30.01.2015 while appointment of present petitioner was declared as null and void alleging it to be based on collusion. As regards the suit of respondent No.1 wherein present petitioner was defendant No.6, it was decreed on 27.4.2017, but, said Mehreen Yousaf was not impleaded as party therein.

7. Petitioner challenged judgment and decree passed in favour of Mehreen Yousaf bearing No. 5/13 of 2015 while respondents/department also filed civil appeal bearing No. 8/13. Both the appeals were allowed and the case was remanded back to the learned trial court for consolidation of both the suits together to be decided accordingly. After recording evidence of both the parties, the suit of respondent

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EXAMINER
Peshawar High Court
Barou Bench

Inramullah (S.B) Mr. Justice Muhammad Nasir Mahfooz

No.1 was decreed which was, again challenged by the petitioner in civil appeal No. 45/13 of 2017, but, has been dismissed through impugned judgment and decree on 31.5.2017.

8. It may be mentioned, that soon after decree in favour of respondent No.1, she was appointed as Primary School Teacher (female) on 04.5.2017 and petitioner was again terminated from service on the same date. The legality of the order passed by the Services Tribunal Khyber Pakhtunkhwa and acceptance of departmental appeal has never been challenged so not considered by any court below when the petitioner was re-instated in service pursuant to the decision of departmental authority; further ed by the Service Tribunal Khyber Pakhtunkhwa.

9. The arguments of learned counsel for respondent No.1, that she was seeking fresh appointment so she could not invoke jurisdiction of Service Tribunal, may have some force, but on the other hand, petitioner who was a civil servant had sought remedy in departmental proceedings as well as from the Services Tribunal, rightly though she can only defend the

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JUDICIAL OFFICER
District Court
Mardan District

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civil suits and cannot invoke jurisdiction of the civil court. The question is still un-resolved as to how decree of civil court can be super imposed over order of departmental authority or the Services Tribunal particularly when these were not even subject matter before the civil court. This question can be answered from the other perspective. Whether there is an order which is void and without jurisdiction, if so, then the same has to be set-aside through proper proceedings and could not be merely ignored for being void as a vested right is created in favour of petitioner. In this regard reliance is placed on a judgment *Abdul Majeed & 6 others V. Muhammad Subhan and 2 others* reported as 1999 SCMR 1245, the relevant part is given below:-

"If the transaction which is sought to be set aside was a voidable one, it is essential that the transaction be set aside. If it be not voidable, but void, the question of setting it aside would not arise. As to whether a transaction is voidable or void there is a simple criterion: did the transaction create any legal effects, that is, did the transaction transfer, create or terminate or otherwise affect any rights? In a void transaction no legal effects are produced. In a voidable transaction legal effects are produced but some person has the right to avoid the transaction and if he exercises that option the process by which rights were affected is reversed and the original

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Miramullah (S.B) Mr. Justice Muhammad Nasir Mahfooz

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 Mr. Justice Nasir
 Federal High Court
 Bannu Bench

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situation as it existed before the transaction is restored
(subject to adjustment of equities). "

10. If on the one hand, respondent/department had re-instated her after her first termination that could not be presumed to have been passed in ignorance of the educational documents produced by the petitioner because the department had raised no objection on disposal of her appeal and on the other hand, the department has never challenged the order of decision passed by Services Tribunal before the august Supreme Court of Pakistan. Once an order of a court has attained finality then principle of Locus poenitentiae applies with much force, firstly, when petitioner performed her duties for 17 months her services were terminated without issuing any show-cause notice or any departmental proceedings were initiated against her, and she continued to perform her duties and received her salary for such a long period, secondly, the department has remained privy to the first re-instatement order and had even defended the appointment of petitioner by challenging the decree of civil court in appeal No. 8/13 of 2015 before the learned Additional District Judge.

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(S B) Mr Justice Muhammad Nasir Mahfooz

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Secretary of High Court
Islamabad

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11. Petitioner had produced any fake documents or not or whether she belonged to the area for which the post of Primary School Teacher (female) was advertised and she was appointed and how the order of Services Tribunal can be ignored, requires to have been considered in proper departmental proceedings against the petitioner and not by a civil court. Even if the impugned judgment and decree was passed by a civil court respondent/department was legally bound to implement the same after initiating departmental proceedings under the Efficiency and Disciplinary Rules 2011. In this regard reliance is placed on a judgment *Abdul Majeed & 6 others V. Muhammad Subhan and 2 others* reported as 2005 SCMR 445, the relevant part is given below:-

"It hardly needs any elaboration that assessment of suitability for appointment being subjective assessment exclusively falls within the jurisdictional domain of appointing authority which cannot be compelled to make any appointment. The exercise of discretion, if it is fair and transparent cannot be justiciable in the absence of any mala fide which though was alleged but could not be substantiated by producing any cogent and concrete evidence."

Imranullah (S.B) Mr. Justice Muhammad Nasir Mahfooz

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Bannu

12. In the circumstances of the present case there appears to be violation of law by the respondent/department as well as by the learned courts below which could not be left un-disturbed.

13. In view of the above, I hold that the present revision petition fulfills the essential pre-requisite of Section. 115 CPC, to hold that learned courts below have not properly exercised their jurisdiction and have exercised jurisdiction not vested by law, thereby resulting in material irregularities and illegalities. The instant petition is, therefore, allowed but with no order as to costs.

Announced
26.9.2018.

Sd/-Mr. Justice Muhammad Nasir Mahfooz

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Secretary
Peshawar Bench
Authorised under Article 87 of
the Qanun-e-shahadat Order 1988

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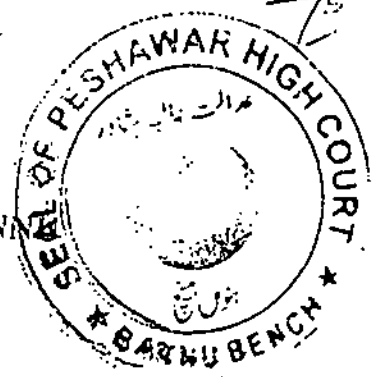
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JUDGMENT SHEET
IN THE PESHAWAR HIGH COURT, BANNU
BENCH.



C.R No. 110-B/2018.

Mst:Fahmida Bibi

Vs

Dur-e-Shahwar etc:

JUDGMENT

Date of hearing 26.9.2018

Present:

Muhammad Shah Nawaz Khan Sikandari advocate for petitioner.

Mr.Qudratullah Khan Gandapur Asstt:A.G for Official respondents.

M/S. Rustam Khan Kundi and Shahid Salim Mina Khel advocate for respondent No.1.

MUHAMMAD NASIR MAHFOOZ, J.--- The instant Civil

Revision Petition is directed against the judgment and decree dated 31.5.2017, in Civil appeal No. 45/13 passed by the learned District Judge, Lakki, whereby judgment and decree of the learned trial court in civil suit No. 120/1-R dated 27.4.2017 was confirmed vide which the suit of respondent No.1 was decreed.

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2. Gist of the facts of the case are that petitioner/respondent No.1 filed a suit for declaration to the

Inramullah (S.B) Mr. Justice Muhammad Nasir Mahfooz

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Peshawar High Court
Bannu Bench

effect that she is entitled to be appointed as Primary School Teacher (female) by declaring the appointment orders of respondent No.5/defendant No.4 and petitioner/defendant No.6, on the vacant post of PST(F) Union Council Lakki City-I is against the rules, regulations and policy. It is further alleged that appointment of defendants at Union Council Lakki City-I is illegal and ineffective upon the rights of the respondent No.1/plaintiff, who also sought permanent mandatory injunction to the effect that the official respondents be directed to issue appointment order in favour of respondent No.1/plaintiff in Union Council Lakki, City-I as she is domiciled therein. Beside that she also asked for experience marks given to the similar candidate and preparation of a fresh merit list. The official respondents invited applications in an advertisement published in daily newspaper "Aaj" dated 11.5.2010 for the post of Primary School Teacher (female). Respondent No.1/plaintiff appeared in the test and interview, secured top position in the list of Union Council Lakki City-I, but she was not appointed rather appointment was offered to respondent No.6, who was then

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 Presiding High Court
 Bahawalpur

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dismissed and instead of appointing respondent No.1/plaintiff being on top of the merit list, respondent/defendant No.6 was appointed at the said Union Council. Per policy 60% candidates were to be appointed on open merit while 40% were to be appointed on Union Council merit, thus, after dismissed of respondent No.6, respondent No.1/plaintiff was to be appointed being on top of merit and that she was not awarded experience marks.

3. Out of divergent pleadings of the parties, issues were framed and was dismissed on 10.10.2013, which was remanded by the court of learned Additional District Judge-II, Laki Marwat for additional evidence and decision afresh, thus, plaint was amended on 03.5.2016 and after filing amended written statement, the learned trial court framed as many as nine issues including relief, thereafter, the parties led the evidence of their choice in support of their respective contentions. After hearing pro and contra arguments, the learned trial Court vide judgment dated 27.4.2017 granted decree in favour of respondent No.1/plaintiff for her appointment after dismissal of petitioner/defendant No.6.

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EXAMINER
Peshawar High Court
Banni Branch

Thereafter, petitioner/defendant No.6 filed appeal which was dismissed by the learned District Judge on 31.5.2017 and hence the instant revision petition.

4. I have heard arguments of learned counsel for the parties and perused the record.

5. The subject matter of the instant case revolves around a post of Primary School Teacher (female) BPS-7.

6. On 25.02.2011, after fulfillment of codal formalities, petitioner was appointed on the subject post whereafter she was issued medical fitness certificate and took over the charge on 26.02.2011 in Government Primary School, Totti Abad, District Lakki Marwat. Her service book was prepared and she continued to perform her duties, when she was terminated on 27.7.2012 after about 17 months. She was alleged to have produced bogus/fake educational certificates and was terminated vide order Ex.PW.1/7. Her departmental appeal before the higher authority was allowed on 26.12.2012 and was re-instated in service on 28.12.2012, although in the meanwhile, she had also filed appeal before the Khyber Pakhtunkhwa Services Tribunal bearing No.1357

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Muhammad (S.B) Mr. Justice Muhammad Nadeem Malik

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District Bench

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of 2012 which was heard on 16.1.2014 after the statement of representative of respondent/department that since she has been re-instated in service, therefore, the appeal was disposed of. She again started receiving her salary, but, during this interregnum respondent No.1 and one Mehreen Yousaf had also filed two civil suits bearing No. 91/1 of 2012 instituted on 02.5.2012 and civil suit No. 120/1 of 2012 instituted on 05.6.2012. The suit No. 91/1 was decreed on 30.01.2015 while appointment of present petitioner was declared as null and void alleging it to be based on collusion. As regards the suit of respondent No.1 wherein present petitioner was defendant No.6, it was decreed on 27.4.2017, but, said Mehreen Yousaf was not impleaded as party therein.

7. Petitioner challenged judgment and decree passed in favour of Mehreen Yousaf bearing No. 5/13 of 2015 while respondents/department also filed civil appeal bearing No. 8/13. Both the appeals were allowed and the case was remanded back to the learned trial court for consolidation of both the suits together to be decided accordingly. After recording evidence of both the parties, the suit of respondent

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DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION
KHYBER PAKHTUNKHWA PESHAWAR



No. _____ of No. 624/Dep'ty Larki

Dated Peshawar the 21/8 2018

To
The District Education Officer
Peshawar Larki Marwat

REPRESENTATION DEPARTMENTAL APPEAL AGAINST
THE IMPUGNED DEED (LARKI MARWAT ENDT.
HEARING NO. 2138-12 DATED 24-11-2018

I am directed to refer to your letter No 2342 dated 28/02/2018 on the subject cited above and to state that the competent authority has rejected the appeal of Mst. Fehmida Bibi PST GHS Saeed Kiel District Larki Marwat hence she may be informed accordingly.

~~Deputy Director Female
(E&SE) Khyber Pakhtunkhwa~~

Encl. No. 2371
Copy forwarded to the:-

- 1- Mst. Fehmida Bibi PST GHS Saeed Kiel District Larki Marwat
- 2- PA to Director E&SE Local office.

Deputy Director Female
(E&SE) Khyber Pakhtunkhwa

[Signature]

[Signature]

24-1-20

بعد الت جناب سروریں ٹریبونل صوبہ سرحد پشاور

مخانب املانٹ

نہیدہ بی بی بنام محکمہ تعلیم و تربیت

دعوی اپیل

باعث شکریہ ایٹکہ

مستند مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ آن مقام پشاور کیلئے اسعد امان خان سردار سے ایڈووکیٹ ہائی کورٹ کو وکیل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی وکل کاروائی کا کامل اختیار ہوگا نیز وکیل صاحب کو کرنے رضی نامہ و تقررات و فیصلہ برعکس دینے جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ اور مرضی دعویٰ اور درخواست ہرجم کی تطہیر اور اس پر دستخط کرنے کا اختیار ہوگا نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور مستحق بنیاد پر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا اور بصورت ضرورت مقدمہ مذکور کے وکل یا اجزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنی بجائے تقرر کا اختیار ہوگا اور اس عہد مقرر شدہ کو بھی وہی جملہ مذکورہ بالا اختیارات حاصل ہوں گے اور اس کا ساختہ پرواختہ منظور قبول ہوگا و دوران مقدمہ میں جو خرچہ و ہرجانہ التواء مقدمہ کے سبب سے ہوگا اس کے مستحق وکیل صاحب موصوف ہوں گے نیز بقایا و خرچہ کی وصولی کرنے کا بھی اختیار ہوگا اگر کوئی تاریخ پیشی مقام دورہ پر ہو یا عدسے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکور کریں۔

المزوم

العبد العبد العبد

سعد اللہ خان مرقت
ایڈووکیٹ
ایڈووکیٹ
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Fahmida Bibi

BEFORE THE HON'BLE KHYBER PAKHTOON KHWA
SERVICE TRIBUNAL, PESHAWAR

Service appeal No. 2039/2020

MST: Fahmida Bibi

VERSUS

Govt of KPk, ETC

PARA WISE COMMENTS ON BEHALF OF RESPONDENTS NO.1,2,3

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**BEFORE THE HON'BLE KHYBER PAKHTOON KHWA
SERVICE TRIBUNAL, PESHAWAR**

Service appeal No. 2039/2020

MST: Fahmida Bibi

VERSUS

GOVT OF KPK, ETC

PARA WISE COMMENTS ON BEHALF OF RESPONDENTS

Respectfully Sheweth,

The Respondents humbly submits as under:

PRELIMINARY OBJECTIONS:

- i. That the appeal is badly time barred.
- ii. That the appellant has got no locus-standi to file the instant appeal.
- iii. That the appellant has not come to this tribunal with clean hands.
- iv. That the appeal is not maintainable in the present from and also in the present circumstances.
- v. That the appellant has filed the instant appeal just to pressurize the respondents.
- vi. That the appeal is against the facts, rules and laws.
- vii. That the appellant is precluded and estopped from filing the instant appeal due to his own conduct.
- viii. That the appellant has concealed some material facts from this Hon'ble Tribunal. That the petitioner applied with tempered documents only to gain position in merit list, which is evident from the order of appellate authority already Annex-E by appellant herself. The appellant got position in merit list with tempered documents and she was terminated but later on appellant was re-instated in to service. The deserving candidate Mst. Dure Shehwar filed a suit and the learned Civil Judge on 27-04-2017 declared the appointment order of appellant as void and against law while in the light of above said judgment and decree the appellant was dismissed from service on 04-05-2017. It is pertinent to mention that judgment and decree of learned civil,

judge was further upheld by the learned Appellate court. Therefore the respondents / department was not responsible of appellant's dismissal.

- ix. That the August High Court set-aside the judgments and decrees on technical grounds but never discussed or directed the respondents to re-instate the appellant from date of termination with back benefits. Therefore the appellant cannot demand the back benefits, which is already annexed as M by the appellant with her appeal. It is also pertinent to mention that the civil suit was filed by the deserving candidate who was withheld from appointment due to tempering of certificates by the appellant, therefore, the appellant was also responsible for the initiating of litigation by Mst. Dur-e-Shehwar, so she is not entitled for the salary / back benefit for the period when her service was terminated in the light of judgment of courts and she never performed any duty. It is pertinent to mention again that the department was not responsible for appellant's dismissal from service.
- x. That the appeal in hand is not verified by the appellant.

FACTS:

1. That Para No-1 replied as that the appointment of appellant was illegal as mentioned above. The appellant applied with bogus and tempered documents, only to get position in merit list and due to her this act the deserving candidates were left from appointment. The appellant cheated the department.
2. That Para No-2 has no concern with instant matter therefore not replied.
3. That Para No-3 is replied as that the appellant was terminated from service due to her cheating in her credentials, which was later on proved but due to technical grounds the Hon'ble Peshawar High Court dismissed the litigation of Mst Dur-e-Shehwar.
4. Para No.4 is incorrect. Because appellate authority / DCO never declared the certificate of appellant as correct rather he mentioned the faking / tempering of documents for getting position in merit list but due to policy of minimum qualifications her appeal was accepted.

5. Para No.5 is correct.
6. Para No.6 is correct. The learned civil court after finding the appointment of appellant on the basis of forged / tempered documents, declared her appointment as void.
7. Para No.7 is correct. The department in light of judgment and decree of learned civil court, issued order of appellant's dismissal.
8. Para No.8 is also correct. The appellate court also upheld the judgment & decree of learned trial court.
9. Para No.9 is replied as that the august high court neither directed the respondents / department to re-instate the appellant from the date of termination nor has ordered to issue back benefits.
10. Para 10 is correct. The respondents were not directed to re-instate from the date of termination.
11. Para No.11 is replied as that the appellant was also responsible for the initiation of litigation against her and department due to her cheating in her credentials. The present appeal is filed just to pressurize the department, therefore liable to be dismissed on the following grounds interalia...


GROUND:


- i. That Para No. A is replied as that the appellant got appointment due to tempering in her credentials.
- ii. Para No. B is incorrect. The documents / certificates of appellant were tempered and fake which was also mentioned by the D.C.O (appellate authority). The appellant is not eligible to point finger or to blame the department because she by herself was responsible for her termination and litigation.


- iii. Para No. C is incorrect. The respondents / department issued termination orders in light of judgment & decree of civil court. It is pertinent to mention that the appellant was declared guilty by the D.C.O and learned courts which fact alone is sufficient to disqualify her from demanding back benefits. The August. High Court set-aside the judgments and decrees of lower courts on technical ground without ordering back benefit or re-instatement of appellant from the date of termination.
- iv. Para No.D is incorrect. No such like orders were given by this Hon'ble court in the instant matter.
- v. Para No.E. The facts need consideration are, that the appellant herself was responsible of litigation initiated against her because of her wrong act / cheating the department and due to such wrong act the deserving candidate was withheld from service.
- vi. Para No.F incorrect. The respondents acted in accordance with law and in light of judgments & decrees of competent courts.
- vii. Para No. G is incorrect. The respondents acted in good faith in accordance with law and policy. The person is not entitled for the period when he / she did not perform any duty.
- viii. Para No.H is replied that the departmental appeal of appellant was rejected in accordance with law and after consideration of appellant's record of cheating the department and responsible for litigation, from which the department also suffered.
- ix. Para No. I is incorrect. The appellant was responsible for her termination because she cheated in her credentials, which came to the surface and learned civil court ordered her termination. The appellant is not entitled for any back benefits or any other relief,
- x. That the respondents may be allowed to raise / advance additional ground at the time of arguments.

It is therefore most humbly prayed that this Hon'ble Tribunal may very graciously be pleased to dismiss the instant appeal with cost.

Dated: /10/2021


SECRETARY E&S
EDUCATION, KPK,
PESHAWAR
RESPONDENTS NO.3


DIRECTOR E&S
EDUCATION, KPK,
PESHAWAR
RESPONDENTS NO.2


DISTRICT
EDUCATION OFFICER (F)
LAKKI MARWAT.
RESPONDENT NO. 1

6

AFFIDAVIT

I Muhammad Nazir Litigation Officer office of the District Education Officer (Female) Lakki Marwat declare upon oath that the contents of the attached para Wise comments are correct to the best of my knowledge and belief and nothing has been intentionally concealed.

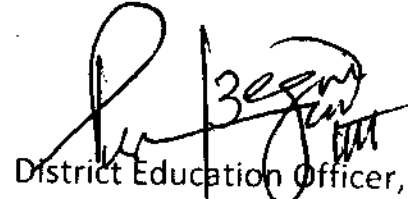


Deponent

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AUTHORITY

Mr. Muhammad Nazir Khan Litigation Officer office of the District Education Officer (Female) Lakki Marwat is hereby authorized to submit the para wise reply in service appeal No.2039/2020 Mst: Fahmida Bibi VS Govt: of PKP in the Honourable Service Tribunal Khyber Pakhtunkhwa Peshawar.


District Education Officer,
(Female) Lakki Marwat.