

BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA SERVICE

TRIBUNAL PESHAWAR

Appeal No.553/2023

Said FaridAppellant

VERSUS

Govt. Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education, & Others Respondents

PARA WISE COMMENTS ON BEHALF OF RESPONDENTS ARE AS

UNDER:

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Respondent NO 3

District Education Officer
(Male) Tor ghar

BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA SERVICE

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VERSUS

Govt. Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education, & Other..... Respondents

PARA WISE COMMENTS ON BEHALF OF RESPONDENTS NO.1-5

RESPECTFULLY SHEWETH:

The respondent submit as under:-

PRELIMINARY OBJECTIONS:-

Khyber Pakhtunkhwa
Service Tribunal
Diary No. 7195
Dated 28/8/2023

1. That the Appellant has got no cause of actions/locus standi.
2. That the instant appeal is filed by suppressing the material facts from this honorable Tribunal, hence not maintainable.
3. That the appellant was reinstated in the light of Judgment of Peshawar High Court Bench Abbottabad subject to outcome of denovo enquiry regarding verification of his Domicile Certificate and after conducting the denovo enquiry by Deputy Commissioner Tor Ghar, his pay has been released and arrears for the period of performance of duty have also been paid to him.
4. That the instant appeal is against the prevailing law & rules.
5. That the instant appeal has been filed just to pressurize the respondents.
6. That this honorable tribunal lacks jurisdiction in the instant matter in issue.
7. That the instant appeal is hopelessly time barred.
8. That the appeal is bad for mis-joinder and non-joinder of the necessary and proper parties.
9. That the appellant is estopped to sue through his own conduct.

REPLY ON FACTS

1. That Para No-1 is incorrect, his appointment order was withdrawn due to non-verification of his domicile certificate.
2. In reply to Para No. 2 it is stated that, while deciding the case, the High Court held in the judgment that impugned order have been passed on the back of the appellant and he was not associated at all in the enquiry proceeding where under, his domicile was found un-verified/fake.
3. In reply to Para No.3, it is stated that incompliance of the judgment of Honorable Peshawar High Court Abbottabad bench dated 15-05-2018 in writ petition No.897-A/2016 the service of appellant was reinstated subject to outcome of denovo enquiry regarding verification of his domicile certificate.
4. In reply to para No.4, it is stated that the Deputy Commissioner Tor Ghar conducted denovo enquiry by participating him in enquiry proceeding and submitted his recommendations that he is resident of District Tor Ghar and his domicile certificate has rightly been issued to him.
5. In reply to para No. 5, it is submitted that appellant and other candidates were appointed on adhoc basis vide order Endst: No.1060-70/dated Tor Ghar 13th April 2016 (Annexure -A) As per Para No.5 of the terms & conditions of appointment order (Annexure-A) the domicile of appellant (Annexure -B) was forwarded to authority/Deputy Commissioner Tor Ghar for verification vide No.1593 dated 31.05.2016 (Annexure-C). The Deputy Commissioner Tor Ghar issued letter No. 1223/DC/TG dated 09.05.2016 (Annexure-D) and Assistant Commissioner letter No.AC (2016)/TG 2792-93 dated 18-08-2016 (Annexure-E), the District Education Officer (M) E&SE Tor Ghar withdrawn/denotify the appointment in

respect of Said Farid PST GPS Shagai vide Endst: No. 2915-25 dated 07-09-2016 (Annexure-F). The appellant filed writ petition No. 897-A/2016 before the Honorable High Court Peshawar which was decided on 15-05-2018 (Annexure -G) with the following directions:-

“... with directions to the respondent to re-instate the petitioner in their service, however the respondent would be at liberty to proceed against them if they so wish but in accordance with law & rules on the subject”

As per ibid judgment of Honorable High Court, the department issued notification No. 4930-36 Dated 03-07-2018 (Annexure-H) regarding re-instatement. Therefore the DEO (Male) Tor Ghar issued letter No. 4956 Dated 03-07-2018 (Annexure-I) to Deputy Commissioner Tor Ghar for conducting of enquiry regarding verification of domicile. The Deputy Commissioner Tor Ghar vide letter No. Steno/ADC (2018)/TG/131 dated 27-12-2018 (Annexure-J) submitted the inquiry report of Additional Deputy Commissioner Tor Ghar dated 27-12-2018 (Annexure K) to the DEO (Male) Tor Ghar. In view of the inquiry report (Annexure J&K), his pay have been released in the light of the judgment of High Court and arrears for the period of performance of duty have also been paid, No such order regarding payment of back benefits was made by the Honorable High Court for period, he remained out of service. Appellant has also filed COC No.142-A/2019 in the Peshawar High Court Abbottabad Bench for initiating of contempt proceeding against the respondents, wherein the Honorable Court hold that as the respondents implemented the judgment dated 15-05-2018 by reinstating the appellant and since there was no directions qua payment of back benefits hence the COC of the appellant was dismissed on 13.01.2021 (Annexure-L).


6. In reply to para No. 6, it is submitted that no order for grant of back benefits was passed by the Honorable Court for the period he remained out of service.
7. The Appellant has no cause of action/ locus standi.

REPLY ON GROUNDS:-

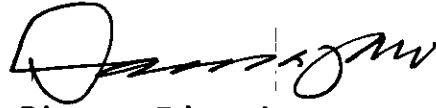
- A) Incorrect, hence denied. His reinstatement order was made subject to outcome of denovo enquiry regarding the genuineness of his domicile certificate for the purpose of payment of salary for the period of his duty performance.
- B) Incorrect, Complete and comprehensive reply has already been given in preceding paras alongwith entire relevant record.
- C) That para No. C, of the grounds as composed is incorrect. After conducting denovo enquiry regarding his domicile certificate, his pay was released and arrear for the period of performance of duty was paid to him.
- D) Incorrect, hence denied. Detail reply has already been given in supra Para No.5.
- E) Incorrect hence denied. Detail reply already given in supra para No.5.
- F) Incorrect, against the record, without any proof, hence denied.
- G) As stated in para ibid.
- H) Incorrect, against the record, without any proof, hence denied
- I) As stated in para ibid.
- J) That the Respondents seek permission to argue further points at the time of arguments.

In the light of above stated facts & circumstances, it is most humbly prayed that the instant appeal may kindly be dismissed with cost.


Respondent. No.1


Secretary Education
(E&SE) Peshawar.


Respondent No. 2


Director Education
(E&SE) Peshawar
Director
Elementary & Secondary Education
Khyber Pakhtunkhwa Peshawar

Respondent No.3


District Education Officer (Male)
District Tor Ghar
District Education Officer
(Male) Tor ghar

Respondent No.4


Secretary Finance
KPK Peshawar

Respondent No.5


District Account Officer
Tor Ghar
DISTRICT ACCOUNT OFFICER
Torghar

BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA SERVICE

TRIBUNAL PESHAWAR

Appeal No.553/2023

Said FaridAppellant

VERSUS

Govt: of KPK through Secretary E&SE and other.....Respondents

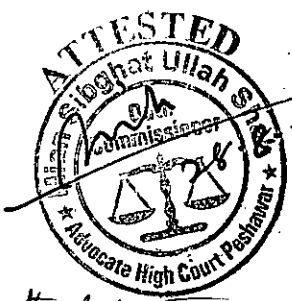
PARA WISE COMMENTS ON BEHALF OF RESPONDENTS ARE AS

UNDER:

AFFIDAVIT

I. Mr, Zahid Hussain DEO(CM) District Torghar, do hereby solemnly affirm on oath, that the contents of Parawise comments are True & Correct in the best of my knowledge & belief and nothing has been concealed or suppressed from this honorable tribunal.


DEPONENT



It is further stated on oath that in this appeal the answering respondent have to neither been placed ex-parte neither defence have been struck off cost.

~~CONFIDENTIAL~~ ^{N 84}

OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) DISTRICT TOR GHAR

NOTIFICATION

Consequent upon the recommendations of the Departmental Selection Committee and sanction of relaxation of upper age limit to the extent of period mentioned against each as per rule 3 (II) of the Govt of Khyber Pakhtunkhwa initial appointment to civil post (relaxation of upper age limit) rules 2008 in addition to the automatic relaxation to the candidates belonging to specified backward area of Kala Dhaka (Tor Ghar) as per provision rule 3 (II) of the aforesaid rules, the appointment of the following candidates are hereby ordered against the vacant posts of Primary School Teacher (PST) on School based in DPS-12 (Rs.9055-650-28555) @ Rs.9055/- fixed plus usual allowances as admissible under the rules on adhoc basis and school basis initially for a period of one year under the existing policy of the Provincial Government, in Teaching Cadre on the terms and conditions given below with effect from the date of their taking over charge :-

S NO	NAME OF CANDIDATE	FATHER'S NAME	SCORE	WARD/ UNION COUNCIL	NAME OF SCHOOL WHERE APPOINTED	AGE RELAXATION GRANTED IN ADDITION TO AUTOMATIC RELAXATION
1	Said Farid Khan	Abdul Shaheed	31.40	Harnail	GPS Shagai	27 Days
2	Jamal Khan	Hujam Khan	67.76	Jhatka	GMPS Barar Shatal	One year Four months and 27 days

TERMS & CONDITIONS:

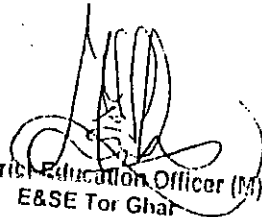
1. NO TAVDA is allowed.
2. Charge reports should be submitted to all concerned in duplicate.
3. Appointment is purely on temporary & adhoc basis initially for a period of one year.
4. Their Appointments are subject to the condition that their CERTIFICATE/DOCUMENTS AND DOMICILES be verified from the concerned authorities by the District Education Officer before release of their salaries. Anyone who found producing fake documents will be dismissed from service and the case will further be reported to the law enforcing agencies for action under the relevant law.
5. Their services are liable to termination on one month's notice from either side. In case of resignation without notice his one-month pay/allowances shall be forfeited to the Government treasury.
6. Their Pay will not be activated until and unless pay release order is not issued by the competent authority after verification of their documents by the District Education Officer.
7. They should join their post within 10 days of the issuance of this notification. In case of failure to join the post within 10 days of the issuance of this notification, their appointment will expire automatically and no subsequent appeal etc shall be entertained.
8. They should produce Health and Age Certificate from the Medical Superintendent concerned before taking over charge.
9. They will be governed by such rules and regulations as may be issued from time to time by the Government.
10. Their services shall be terminated at any time, in case their performance is found unsatisfactory during their contract period. In case of misconduct, they shall be preceded under the rules framed from time to time.
11. Their appointment is made on School based, they will have to serve at the place of posting, and their services are not transferable to any other station.
12. The competent Authority reserve the right to rectify the errors and omissions, if any noted/observed at any stage in the instant order issued erroneously.
13. Before handing over charge once again their document may be checked by the SDEO (M) Tor Ghar if they don't have the prescribed qualifications prescribed for the post they should not be handed over the charge.

SD-
Abdullah
District Education Officer (M)
E&SE Tor Ghar

Endst: No. 1060-70/Dated Tor Ghar 13th April 2016.

Copy forwarded for information and necessary action to the:-

1. Secretary to Government of Khyber Pakhtunkhwa E&S Education Department Peshawar.
2. Director E&SE Khyber Pakhtunkhwa, Peshawar.
3. PS to Minister E&SE Department Khyber Pakhtunkhwa Peshawar.
4. Deputy Commissioner District Tor Ghar.
5. District Accounts Officer Tor Ghar at Manselra.
6. Sub Divisional Education Officer (M) Tor Ghar.
7. District Monitoring Officer (IMU) Tor Ghar.
8. District Education Management Information System (DEMIS) Local Office.
9. Head Teacher GPS Concerned.
10. Official Concerned.
11. Office File.


District Education Officer (M)
E&SE Tor Ghar

ANNEXURE



DOMICILE CERTIFICATE

KHYBER PUKHTOON KHWA

TOR GHAR



Declare that I born of parent who are/were permanently Domiciled in KHYBER PUKHTOON KHWA having belonged to it by birth/settled in this province.

I was born at Village CHER MA L KHALL (TG)

Tehsil JUNA District TORGHAR

[Signature]
Signature of Applicant

Pursuance to the Declaration Date 30/5/2011

Filed by Mr/Miss SUEH FARID S/D/O ABDUL HAQ

it is hereby certified that the above APPLICANT is born of parents who are permanent resident of Khyber Pakhtoon Khwa Province having born settled with in it.

Report of Tehsildar (Tor Ghar)

I having satisfied myself from personal & my knowledge verification that the above declaration is true.

No 1777 DOR Dated 06/06/2011

COUNTERSIGNED

District Officer,
Revenue & Estate Tor Ghar

[Signature]
District Officer
Revenue & Estate Tor Ghar

Deputy District Officer
Revenue & Estate
District Tor Ghar

[Signature]
Deputy District Officer
Revenue & Estate
Tor Ghar

تصدیق کی جاتی ہے کہ مسی ولد کے قومی نام ہے۔ آباد اجداد سے رہائش و پیدائش ہے یہ کہ فارم ہذا پر حسب تصویر درخواست کنندہ کی ہے۔ جو میرے تصدیق کردہ سائل اساتذہ کو ذاتی طور پر جانتے ہیں اور ڈومیسائل سرٹیفکیٹ ہمارے ذاتی تصدیق پر دیا جا رہا ہے۔ مذکورہ بالا تصدیق میں علاقے کی تمام تر ذمہ داری ہماری ہوگی۔

گواہ نمبر 2	گواہ نمبر 1
نام _____ ولد _____	نام _____ ولد _____
شخصی کارڈ نمبر _____	شخصی کارڈ نمبر _____
دستخط _____	دستخط _____

دستخط ملک
 نام _____
 شخصی کارڈ نمبر 13584-2257722
 دستخط _____
 SYED LAIQ AZIZ SHAR
 Qabaili Khatunuma-F.R.
 Kala Dhaka

Attested as Per Verification of
 the elders of the above tribe
 Naib Tehsildar
 Judda District Tor Ghar

Ann C - 9 -

~~Ann C - 9 -~~



OFFICE OF THE DISTRICT EDUCATION OFFICER (M&F) TOR GHAR

Ph. 0345-6660087 Fax. Nil
Email. torgharemis@gmail.com

No. 1593
Dated: 31/05/2016

To

The Deputy Commissioner,
District Tor Ghar

Sub:

**VERIFICATION OF DOMICILE CERTIFICATES & CANCELLATION/WITHDRWL
OF APPOINTMENT ORDERS UPON VERIFICATION OF DOMICILES.**

Memo.

Reference your letter No.1223/DC (2016)/TG dated 09-05-2016 and letter No. 1062-66 AAC (R)(JUDBA)/TG Dated Torghar the 24-05-2016 received from Additional Assistant Commissioner (Revenue) Torghar (copy attached) in c/w the subject captioned above.
It is humbly stated that;

1. In para-5 of the appointment Notification Endst: No. 919-28/Dated Torghar April 9, 2016 it has been stated that "The appointments are subject to the condition that their certificates/documents & **domiciles** be verified from the concerned authorities by the DEO(M), anyone who found producing **fake/bogus** documents shall be dismissed from service and the case will further be reported to the law enforcing agencies for action under the relevant law & the domiciles then sent to your good self for verification or otherwise.
2. The reply received from your good end vide your letter No.1223/DC (2016)/TG dated 09-05-2016 declaring 27 domiciles as **unverified** & not as **fake/bogus**, means the said unverified declared domiciles can be declared verified at some later stages as in case of Mr. Muhammad Adil & Mr. Abdul Waheed who's domiciles once declared unverified & later on declared verified vide your office letter No. Estab/DC(2016)/TG/1468 dated Torghar the 26-05-2016.
3. In view of the above it is requested to kindly communicate the details of all such domiciles as fake/bogus rather than unverified please to peruse the case further as per rule.
4. Also please send the remaining pending domicile verification report for further necessary action please.

dc
District Education Officer (M&F)
Tor Ghar

Endst; No. 1594-95 dated 31/5/ 2016.

Copies submitted for information & necessary action to;

1. P.A to Director E&SE KP, Peshawar
2. Additional Assistant Commissioner (Revenue) Torghar
3. Office File

dc
District Education Officer (M&F)
Tor Ghar

Twitter. Type "Follow torghardeo" in your mobile message & send it to "40404" to get free updates of DEO Education office Torghar on your mobile.

Attested
[Signature]

and ... ificati

(8)

(17)
22

17	✓	Abdul Salim ✓ S.No. (10)	Noor Zada S/o Ghulam Muhammad ✓
18	X	Muhammad Naseem	Jamal Khan S/o Nujam Khan
19	✓	Wahiz Ullah S.No. 4	Mohammad Adil S/o Niaz Muhammad
20	✓	Ghani ur Rehman S.No. 15	Abdul Wahid S/o Sarfaraz Khan
21	✓	Muhammad Rafiq S.No. 6	Basheer Ahmad S/o Akhtayar Malook
22		Abu Zar	Elasam Ul Haq S/o Saif Ul Malooq
23	✓	Falhy Ullah Palhan S.No. 48	Naseem Ahmad S/o Akhtayar Malook
24	✓	Qadar Muhammad S.No. 44 ✓	Mohammad Minaj S/o Behram Gohar
25	X	Misbaha Ullah	Nawab Zada S/o Muzamil Khan
26	X	Waseem Ullah	Gul Rehman S/o Toli Khan
27	✓	Gul Faroosh Farooqi S.No. 39	Muhammad Amjad Ali S/o Fozal Rabi
28		Hayat Ul Haq	Nusrat Shah S/o Iqbal Shah
29	✓	Muhammad Islam S.No. 41	
30	✓	Sana Ullah S.No. 38 ✓	
31	✓	Shakir Ullah S.No. 7 ✓	
32	X	Khan Mohammad	
33	X	Ali Badshah	
34	✓	Naeem Ullah ✓	
35	✓	Khyal Mohammad S.No. (14)	
36	X	Abdur Rehman	
37	X	Gul Zada	
38	X	Hakeem Ullah	
39	✓	Muhammad Fayaz S.No. 8 ✓	
40	X	Ismail Khan	
41	X	Toli Rehman	
42	X	Syed Rafiq Shah	
43	X	Syed Naeem Ul Haq	
44		Syed Hamid Ullah Shah	
45	✓	Umer Habib S.No. 2 ✓	
46	✓	Shabir Ahmad S.No. 3 ✓	
47	✓	Rehman Ullah S.No. 5 ✓	

S.No. 43
Appointed
Appointed S.No. 2
Appointed S.No. 2
Appointed S.No. 5
Appointed S.No. 4
Appointed S.No. I
Appointed S.No. 9
10/11/2016
Appointed S.No. 2

M. Zaman
Deputy Commissioner
Torghar
Deputy Commissioner
Tor Ghar

-12- ANNEX II

~~ANNEX II~~
~~RE COPY~~
15

Office of the Assistant Commissioner, Judba
District Torghar
No. AC(2016)/TG 2792-93
Dated Torghar the 18/08/2016.

Am "D"

To
The District Education Officer (Male)
Torghar.

Subject: VERIFICATION OF DOMICILE CERTIFICATES & CANCELLATION/WITHDRAWL OF APPOINTMENT ORDERS UPON VERIFICATION OF DOMICILES.

Memo:

I am directed to refer your office letter No. 1593 dated: 31.05.2016 on the subject cited above and to state that as per direction of the worthy Deputy Commissioner Torghar that all the unverified domicile certificates may be considered as unverified/fake.

im
Assistant Commissioner
Judba Torghar

Encl: No. & Date Even:

Copy to the Deputy Commissioner Torghar for information, please.

Assistant Commissioner
Judba Torghar

Accepted
[Signature]

- 13 -
Annex F



OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) TOR GHAR

Ph. 0345-6660087 Fax. Nil
Email. torgharemis@gmail.com

No. _____
Dated: ____ / ____ / 2016



NOTIFICATION

Reference to the Deputy Commissioner Tor Ghar letters No. 1223/DC (2016)/TG Dated 09/05/2016, No. 1394/DC (2016) TG Dated 19/05/2016 and Assistant Commissioner Letter No. AC(2016)/TG 2792-93 dated 18/08/2016, in connection with the terms and conditions No. 4 of the Appointment order issued vide this office. Notification No. 1060-70 Dated 13/04/2016, the competent authority E&SE Tor Ghar is pleased to withdraw/denotify the appointment in respect of Said Farid Khan S/O Abdul Shaheed PST GPS Shagai w.e.f the date of his appointment.

---SD---

District Education Officer (M)
E&SE Tor Ghar

Endst: No 2915-93 /Dated 7/9/2016.

Copy for Information to the.

1. Director E&SE Khyber Pakhtunkhwa Peshawar.
2. Deputy Commissioner Tor Ghar with the remarks that denotification and legal action has been initiated against the teachers as directed.
3. District Police Officer Tor Ghar with request to Lodge FIR as per rules against above mentioned candidate.
4. District Nazim Tor Ghar.
5. District Account Officer Tor Ghar at Mansehra.
6. Sub Divisional Education Officer (M) Tehsil Judba.
7. District Monitoring Officer (IMU) Tor Ghar.
8. District Education Management Information System (DEMIS) Local office.
9. Office File.

Dy: District Education Officer (M)
E&SE Tor Ghar

Advised
[Signature]

Note. All employees education department & other interested ones, please Type "Follow torghardeo" in your mobile message & send it to "40404" to get free tweets of DEO Education Torghar on your mobile.

**BEFORE THE PESHAWAR HIGH COURT,
BENCH ABBOTTABAD**

MP. NO. 897-A/16

- 1) Muhammad Ismail son of Bakht Zada, resident of Kund Mada Khail, Post Office Darband, Tehsil and District Torghar
- 2) Muhammad Ikraam son of Muhammad Ashiq resident of Fazal Bassi Khail, Post Office Judbah Torghar.
- 3) Saif Farid son of Abdul Shaheed, resident of Judbah Cherr, Tehsil and District Torghar.
- 4) Hashim Ali son of Hazrat Ahmed, resident of Utlair Bassi Khail Darband Utla, Tehsil and District Torghar.
- 5) Akhtar Muhammad son of Yaqeen Khan resident of Novray Hassan Zai, Tehsil and District Torghar.
- 6) Jamal Khan son of Hajim Khan, resident of Qalasar, Post Office Oghi, Tehsil and District Torghar.
- 7) Noorzada son of Ghulam Muhammad, resident of Shatal, Post Office Judbah, Tehsil and District Torghar.
- 8) Syed Farmanullah Shah son of Usmanullah Shah, resident of Oghi Village Dara Akazai, Tehsil and District Torghar
- 9) Nusrat Shah son of Iqbal Shah, resident of Sural, PO Judbah, Tehsil and District Torghar.
- 10) Sharif-Ur-Rehman son of Yaqoob Khan, resident of Bassi Khail, PO Judbah, Tehsil and District Torghar.....Petitioners

Certified to be True Copy
EXAMINER
24 MAY 2018
Peshawar High Court Wtd. Bench
Authorized Under Sec: 75 Evid Ordns.

FILED TODAY

Additional Registrar
Peshawar High Court
Abbottabad Bench (10)

Attested
[Signature]

- 15 -

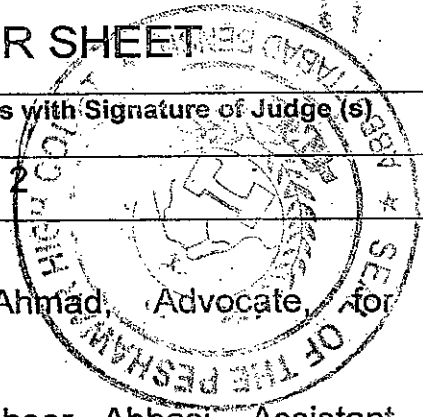
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3

PESHAWAR HIGH COURT, ABBOTTABAD BENCH.

FORM OF ORDER SHEET

Date of Order of Proceedings	Order or other Proceedings with Signature of Judge (s)
1	
<p style="text-align: center;"><u>15.05.2018</u></p>	<p style="text-align: center;"><u>W.P.No. 897-A/2016.</u></p> <p>Present: Mr. Adeel Ahmad, Advocate, for the petitioner.</p> <p>Mr. Yasir Zahoor Abbasi, Assistant A.G alongwith Fakhar Saeed, ADEO (Litigation) Torghar.</p> <p>Mr. Junaid Anwar Khan, Advocate, for respondent No.7.</p> <p>Mr. Naeem Anwar, Advocate, for respondent No.9.</p> <p style="text-align: center;">***</p> <p><u>LAL JAN KHATTAK, J.-</u> Through this petition under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973, the petitioners have prayed this court for issuance of a writ declaring the notifications bearing Endorsement Nos. 2967-75, 2861-69, 2915-23, 2844-52, 2826-34, 2852-60, 2879-89, 2940-48, 2907-14 and 2932-39 dated 07.09.2016 as illegal, unlawful and of no legal effect whereby their appointment orders have been withdrawn.</p> <p>2. Arguments heard and record gone through.</p>



lgp

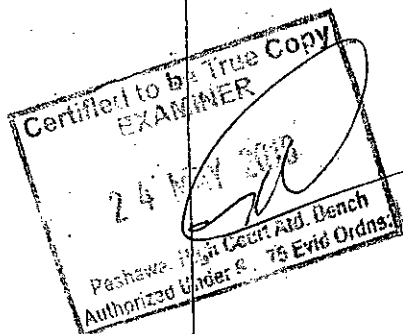
Certified to be True Copy
EXAMINER
23 MAY 2018
Peshawar High Court, Abbottabad Bench
Authorized Under S. 25(1)(b) Ordos.

3. At the very outset, learned counsel for the petitioners pointed out at the bar that the issue raised by the petitioners in this petition has already been laid to rest by this court in judgments dated 21.02.2018, 22.02.2018, 09.05.2018 and 10.05.2018 delivered in Writ Petitions No. 910-A/2016, 209-A/2017, 1082-A/2016 and 48-A/2017 respectively wherein, while accepting the referred petitions this court has not only declared the likewise notifications as illegal and of no legal effect but at the same time also ordered for re-instatement of the petitioners therein in their service leaving the respondents at liberty to proceed against them, if they so wish but in accordance with law and rules on the subject.

4. Perusal of the case record would show that the petitioners' case is fully at par with the referred writ petitions. When in all respect the petitioners' case is identical with the cases already decided by this court, then there would be no justification to take a view different than the one already taken by this Court earlier.

5. In the wake of the above and for the reasons given

Open



in the referred judgments, this petition is allowed and consequently, the impugned notifications dated 07.09.2016 are declared illegal, unlawful and of no legal effect with direction to the respondents to re-instate the petitioners in their service, however, the respondents would be at liberty to proceed against them if they so wish but in accordance with law and rules on the subject.

Sd/- Judge,
Sd/- Judge,

Certified to be True Copy
EXAMINER
24 MAY 2018
Peshawar High Court Atd. Bench
Authorized Under Sec. 75 Evid Ordns.

Saif, PS.

Hon'ble Mr. Justice Lal Jan Khattak
Hon'ble Mr. Justice Muhammad Nasir Mehfooz

in the referred judgments, this petition is allowed and consequently, the impugned notifications dated 07.09.2016 are declared illegal, unlawful and of no legal effect with direction to the respondents to re-instate the petitioners in their service, however, the respondents would be at liberty to proceed against them if they so wish but in accordance with law and rules on the subject.

Sell judge,
Sell judge,

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EXAMINER
24 MAY 2018
Peshawar High Court Atd. Bench
Authorized Under Se: 75 Evid Ords:

Salf. PS.

Hon'ble Mr. Justice Lal Jan Khattak
Hon'ble Mr. Justice Muhammad Nasir Mehfooz



- 18 -
**OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE)
DISTRICT TOR GHAR**

Email: torgharemis@gmail.com



NOTIFICATION

Anx. H

In compliance with the Judgment of Honorable Peshawar High Court Bench Abbottabad dated 15/05/2018, in Writ Petition No. 897-A/2016, the services of the following teachers are reinstated on their posts in the schools mentioned against each from the date of their withdrawn order.

S. NO	NAME	FATHER NAME	DESIGNATION	NAME OF SCHOOL
1	Muhammad Ismaeel	Bakht Zada	PST	GPS Legra MK
2	Muhammad Ikram	Muhammad Ashiq	PST	GPS Shagai
3	Said Farid	Abdul Shaheed	PST	GPS Shagai
4	Hashim Ali	Hazrat Ahmed	PST	GPS Soray Asharay
5	Akhtar Muhammad	Yaqeen Khan	PST	GPS Gari H/Zai
6	Jamal Khan	Hajim Khan	PST	GMPS Barar Shatal
7	Noor Zada	Ghulam Muhammad	PST	GPS Shatal
8	Syed Farman Ullah Shah	Usman Ullah Shah	PST	GPS Kand Bala
9	Nusrat Shah	Iqbal Shah	CT	GMS Shadag
10	Sharif Ur Rehman	Yaqoob Khan	CT	GMS Kotkay

Their arrears of pay and allowances will be decided on the outcome of the de-novo inquiry.

SD

**District Education Officer (M)
District Tor Ghar**

Endst: No. 4930-86 /Dated 03 / 07 /2018.

Copy for information to the.

1. Director E&SE Khyber Pakhtunkhwa Peshawar.
2. Deputy Commissioner Tor Ghar.
3. District Monitoring Officer IMU Tor Ghar
4. District Accounts Officer Tor Ghar
5. Head Master/Head Teacher GPS/GMS Concerned.
6. Teacher Concerned.
7. Office File.

**District Education Officer (M)
District Tor Ghar**

Note. All employees education department & other interested ones, please Type "Follow torghardeo" in your mobile message & send it to "40404" to get free tweets of DED Education Torghar on your mobile.

*Attested,
[Signature]*

No. 4956 /Dated 03/07/2018

Amx. J.

To,
The Deputy Commissioner
Tor Ghar.

Subject: INQUIRY PROCEEDING FOR VERIFICATION OF DOMICILE IN THE LIGHT OF JUDGEMENS OF HONORABLE HIGH COURT PESHAWAR BENCH ABBOTTABAD, RENDED IN WP NO. 897-A/2016, 48-A/2017 AND NO. 1082-A/2016 AGAINST GOVT:

Memo:
I am to refer to the subject captioned above and to state,

1. That, this office had made Appointments of following candidates, subject to verification of their testimonials & Domicile certificate as per detail given below.

S.No	Name	Father Name	Village & Tehsil	District
1	Muhammad Ismaeel	Bakht Zada	Kand Mada Khail	Tor Ghar
2	Muhammad Ikram	Muhammad Ashiq	Fazal Basi Khail	Tor Ghar
3	Said Farid	Abdul Shaheed	Judba Cheer	Tor Ghar
4	Hashim Ali	HAzrat Ahmed	Uthlair Basi Khail	Tor Ghar
5	Akhtar Muhammad	YAqeen Khan	Nadray Hassan Zai	Tor Ghar
6	Jamal Khan	Hajim Khan	Kala Sar Judba	Tor Ghar
7	Noor Zada	Ghullam Muhammad	Shatal Judba	Tor Ghar
8	Syed Farman Ullah Shah	Usman Ullah Shah	Daro Aka Zai	Tor Ghar
9	Nusrat Shah	Iqbal Shah	Sormal Judba	Tor Ghar
10	Sharif Ur Rehman	Yaqoob Khan	Shaloon Basi Khail	Tor Ghar
11	Abdul Jalil	Abdul Ghaffar	Darbani Aka Zai	Tor Ghar
12	Muhammad Amjad Ali	Fazal Rabi	Lonia Basi Khail	Tor Ghar
13	Atta Ullah	Shehzada	Harnail Basi Khail	Tor Ghar

2. That, subsequently, their appointment order were withdrawn/denotified w.e.f the date of their appointment, due to non-verification of their Domicile certificates.

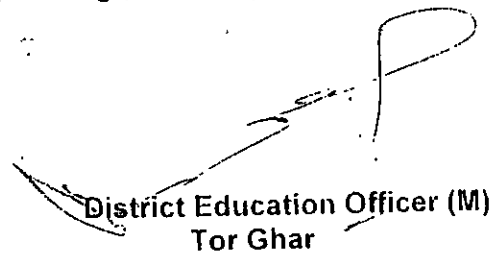
3. That aggrieved from the withdrawal orders dated of the then DEO Male Tor Ghar, they have filed the writ petition No. 897-A/2016, No. 48-A/2017 and No. 1082-A/2016, under titled Muhammad Ismaeel, Muhammad Amjad Ali etc and Abdul Jalil VS Secretary Education etc, before the Honorable Peshawar High Court Bench Abbottabad under article 199 of the constitution of Islami Republic of Pakistan 1973, with the contention to may declare the enquiry proceedings and letter No. 1223/DCTG Dated 09/05/2016. No. 1934 Dated 19/05/2016 No. 1589-90 Dated 15/06/2016 No. 2792-93 Dated 18/06/2016 No. 1936 Dated 30/08/2016 issued by respondent No. 5 (Deputy Commissioner Tor Ghar) and withdrawal Notification in the light of above mentioned letters as illegal and un lawful, against the law an principles of natural justice, null and void and of no effect what so ever and be quashed.

4. That the Honorable Court while deciding the case held in the Judgment that impugned order has been passed on the back of the petitioner and they were not associated at all in the enquiry proceedings, where under their Domiciles were found un verified, therefore accepted their writ petitions and they were reinstated in their service.

5. That they have been reinstated in their service by this office as per decision of the Honorable Peshawar High Court Bench Abbottabad

Allesied
SK

our good self is therefore requested as desired by Honorable High Court that they may kindly participated in inquiry proceedings. There after the current status of their Domiciles may please be unicated to this office to proceed further in the instant case, in the light of court judgments.


District Education Officer (M)
Tor Ghar

Endst: No 4957-59 Date 03 107 2018

Copy for information to the:

1. Director E&SE Khyber Pakhtunkhwa Peshawar.
2. PS to Secretary E&SED Khyber Pakhtunkhwa Peshawar.
3. Office File.

District Education Officer (M)
Tor Ghar

mx.J

356



Office of the Deputy Commissioner
District Torghar
No. Dom/DC(2018)/TG/ 2253
Dated Torghar the 31/12/2018

Fax# 0997-580188
dctorghar@gmail.com

AD 30 EJS

To: *Pl. Put up*
The District Education Officer (M),
Torghar

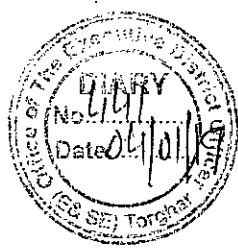
Subject: **INQUIRY PROCEEDING FOR VERIFICATION OF DOMICILE IN THE LIGHT OF JUDGEMENTS OF HONORABLE HIGH COURT PESHAWAR BENCH ABBOTTABAD, RENDERED IN WP NO.897-A/2016,48-A/2017 AND No.1082-A/2016 AGAINST GOVT:**

Reference to your office letter No. 4956 Dated: 03-07-2018 on the Subject cited above;

Enclosed Please find herewith an Inquiry report submitted by Additional Deputy Commissioner Torghar for further necessary action.

[Signature]
Deputy Commissioner
Torghar

Advised
[Signature]



- 22 -

Office of the Additional Deputy Commissioner
District Torghar

No. Steno/ADC (2018)/TG/ 132

Dated Torghar the 27/12/2018

Annex - K

To,

The Deputy Commissioner
Torghar.

Subject: **INQUIRY**

In pursuance of the Deputy Commissioner Office letter bearing NO. Dom/DC (2018)/TG/1944 dt: 02-10-2018, Wherein, the Additional Deputy Commissioner Torghar was asked to conduct inquiry regarding the domicile verification of the following persons.

1. Hasham Ali S/O Hazrat Ahmad.
2. Muhammad Ikram S/O Muhamimad Ishaq.
3. Muhammad Amjad Ali S/O Fazal Rabi.
4. Noor Zada S/O Ghulam Muhammad.
5. Attah Ullah S/O Shehzada.
6. Siad Farid S/O Abdul Shahid.
7. Nasrat Shah S/O Iqbal Shah.
- ✓ 8. Abdul Jalil S/O Abdul Ghafor.
9. Jamal Khan S/O Hajim Khan.

BACKGROUND:-

The above named persons were appointed as teachers by the Education Department Torghar. Their domicile certificates were sent to Deputy Commissioner Office Torghar for verification which were not verified. Consequent upon non- verification of their domicile certificates, the appointment orders of the above mentioned teachers were withdrawn by the Education Department. These teachers sought relief from the Peshawar High Court through filing writ petition No. 897-A/2016, No.48-A/2017, and No.1082-A/2016 (**Annex A**). Peshawar High Court Abbottabad Bench re-instated the above mentioned teachers vide judgment dat: 15-05-2018 dat: 09-05-2018 and dated: 10-05-2018 respectively (**Annex B**) leaving the respondents at liberty to proceed against them in accordance with law and rules if they so desire.

Education Department Torghar requested Deputy Commissioner Torghar vide letter No. 4956 Dated: 03-07-2018 to conduct inquiry as per judgment of the Peshawar High Court Abbottabad Bench, as the case is not fit for CPLA in the August Supreme Court of Pakistan. (**Annex C**)

PROCEEDINGS:-

The Undersigned proceeded with the matter and issued notices to the teachers to appear before the undersigned alongwith their supporting documents. They were also directed to bring with them village secretary, village Nazim, Tehsil Member, District Member and District Nazim for recording evidence for or against them, as the case may be. They alongwith village secretary, village Nazim/Naib Nazim, Tehsil Member, District Member and District Nazim appeared before the Inquiry Officer and recorded their statements verifying the residential status of the above mentioned teachers. The undersigned have gone through the documents i.e. (Domicile Certificates, CNICs, residential certificates and statements of the local elected representatives (**Annex D1 to D9**))

FINDINGS/ RECOMMENDATIONS

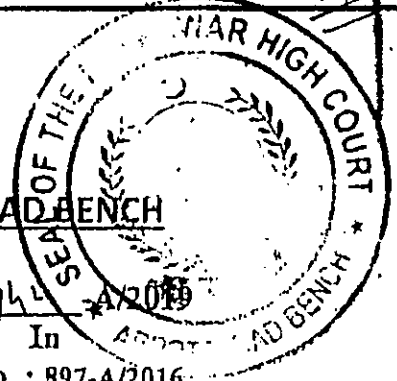
From the above proceedings, statements of the local representatives and examination of the documents provided by the candidates. It seems that the above mentioned teachers are residents of District Torghar and the domicile certificates have rightly been issued to them.

Report is submitted

Ali Aslam
S. M. Khan

Saleem
Additional Deputy Commissioner
Torghar

(2)



BEFORE THE PESHAWAR HIGH COURT ABBOTTABAD BENCH

COC 14/11/2016
In
WP no. : 897-A/2016

1. Muhammad Ikram S/o Muhammad Ishaq R/o G.P.S Jubbha District Torghar.
2. Said Farid S/o Abdul Shaheed R/o G.P.S Shagai District Torghar.
3. Hashim Ali S/o Hazarat Ahmed R/o G.P.S Soray Asharay District Torghar.
4. Jamal Khan S/o Hajim Khan R/o G.M.P.S Barar Shatal District Torghar.
5. Ncor Zada S/o Ghulam Muhammad R/O G.P.S Shatal District Torghar.
6. Nusrat Shah S/o Iqbal Shah R/o G.M.S Shadag District Torghar.

... Petitioners

VERSUS

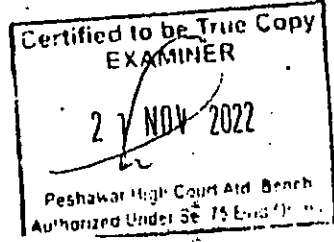
1. Hafiz Muhammad Ibrahim, Director, Elementary & Secondary Education, Khyber Pakhtunkhawa, Peshawar.
2. Jaffar Mansoor Abbasi, District Education Officer (Male), Torghar, Jubbha.
3. Amanullah, Accounts Officer Torghar, at Mansehra.

... Respondents/Contemnors

PETITION FOR INITIATING CONTEMPT OF COURT PROCEEDINGS
AGAINST RESPONDENTS FOR DISOBEYING THE ORDERS OF THIS
AUGUST COURT DATED 15-05-2018 IN WP NO 897-A/16 WHEREBY
RESPONDENTS REFUSED TO PAY BACK BENEFITS I.E.
SALARIES/BENEFITS FOR THE PERIOD BETWEEN 07-09-2016 TO 03-

07-2018 ALONG WITH INCREMENT 2016, 2017 & 2018 ETC.

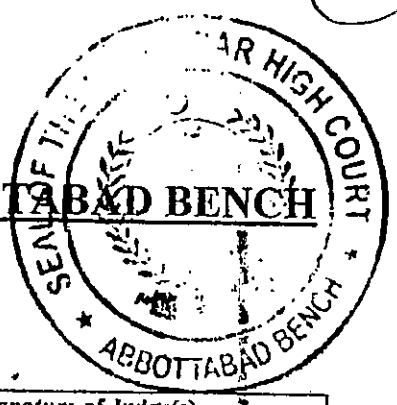
Attested
S. H. A.



(24)

PESHAWAR HIGH COURT, ABBOTTABAD BENCH

ORDER SHEET



Date of Order of Proceedings	Order or other Proceedings with Signature of Judge(s).
1	2
13.01.2021	<p>C.O.C No.142-A-2019</p> <p>Present: Mr. Nazakat Ali Tanoli, Advocate, for the petitioner.</p> <p>Sardar Muhammad Asif, Assistant Advocate General, for the respondents</p> <p>****</p> <p>SHAKEEL AHMAD, J: By means of this contempt petition, the petitioner has sought the following relief:</p> <p><i>"It is therefore, most humbly prayed that the contempt proceedings be initiated against the respondents for disobeying the order of this Court and exemplary punishment be awarded, respondents may graciously be directed to pay salaries/ benefits for the period between 07.09.2016 to 03.07.2018 alongwith increment of 2016, 2017 and 2018."</i></p> <p>2. In essence, the grievance of the petitioner is that though he has been reinstated in service by the respondents in view of the order dated 15.05.2018 of this Court, passed in WP No.897-A/2016, however, they have denied payment of back benefits to the petitioner.</p> <p>3. Arguments heard. Record perused.</p> <p>4. Perusal of record reveals that while allowing</p>

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21 NOV 2022
Peshawar High Court Aid Bench
Authorized Under Sec 19E and 19G

the aforesaid writ petition filed by the petitioner, this Court directed the respondents, as under:

"In the wake of the above and for the reasons given in the referred judgments, this petition is allowed and consequently, the impugned notifications dated 07.09.2016 are declared illegal, unlawful and of no legal effect with direction to the respondents to re-instate the petitioners in their service, however, the respondents would be at liberty to proceed against them if they so wish but in accordance with law rules on the subject."

The record reflects that the respondents, in compliance with the above referred direction of this Court passed in WP No.897-A/2016, re-instated the petitioner in service vide Notification bearing Endst.No.4930-36 dated 03.07.2018, thus, the judgment of this Court has been implemented by the respondents. Since, there was no direction qua payment of back benefits to the petitioner in the judgment of this Court, the respondents were not under obligation to grant such benefits. Needless to refer that the respondents have already mentioned in the said notification that the arrears of pay and allowances will be decided on the outcome of the de novo inquiry. As such, contempt of Court proceedings cannot be initiated against the respondents when they have already complied with the order of this Court dated 15.05.2018.

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EXAMINER
21 NOV 2022
Peshawar High Court Bench
Authorized Under Section 10 of the Courts Ordinance

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5. In view of above, this petition is dismissed. However, the petitioner shall be at liberty to approach the appropriate forum provided under the law for redressal of his grievance, if any, in accordance with law qua the issue of back benefits.

Announced.
Dt. 13.01.2021.

[Signature]
JUDGE

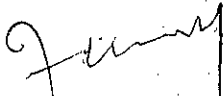
[Signature]
JUDGE

Certified to be True Copy
EXAMINER
21 NOV 2022
Peshawar High Court and Bench
Authorized Under 3

OFFICE OF THE DISTRICT EDUCATION OFFICER (M)
TORGHAR

AUTHORITY LETTER

Mr. Sher Shah Superintendent (BPS-17) of this office is hereby nominated to attend the Hon'able Service Tribunal Court in connection with official cases on my behalf please.


28-8-2023
District Education officer (M)
Tor Ghar

Dated 28.08.2023

SherShah
