

BEFORE THE HONARABLE KHYBER PAKHTUNKHWA SERVICE

TRIBUNAL PESHAWAR

Appeal No.552/2023

Shabbir Ahmad.....Appellant

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

TRIBUNAL PESHAWAR

Khyber Pakhtunkhwa
Service Tribunal

Appeal No.552/2023

Diary No. 7194

Dated 28/8/2023

Shabbir Ahmad.....Appellant

VERSUS

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

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

RESPECTFULLY SHEWETH:

The respondent submit as under:

PRELIMINARY OBJECTIONS:

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 That Para No-1 is incorrect, his appointment order was withdrawn due to non-verification of his domicile certificate.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 in compliance of the judgment of Honorable Peshawar High Court Abbottabad bench dated 09.05.2018 in writ petition No.910-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 12 other candidates were appointed on adhoc basis vide order Endst: No.919-28/dated Tor Ghar 09th 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 (2016)/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 Nusrat Shah CT GMS Shadag vide Endst: No. 2924-31

3 -

Dated 07.09.2016 (Annexure-F). The appellant alongwith others filed writ petition No. 910-A/2016 before the Honorable High Court Peshawar which was decided on 21-02-2018 (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. 5441-47 Dated 22-05-2018 (Annexure-H) regarding re-instatement. Therefore the DEO (Male) Tor Ghar issued letter No. 4530-33 Dated 22.05.2018 (Annexure-I) to Deputy Commissioner Tor Ghar for conducting of enquiry regarding verification of domicile. The Deputy Commissioner Tor Ghar vide letter No. Dom/DC (2018)/TG/1988-89 dated 04-10.2018 (Annexure-J) submitted the inquiry report of Assistant Commissioner Judba Tor Ghar dated 03-10.2018 (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.144-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 09.05.2018 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. No. The Appellant has no cause of action/locus standi.

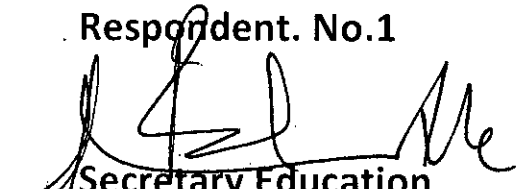
- 4 -

REPLY ON GROUNDS: -

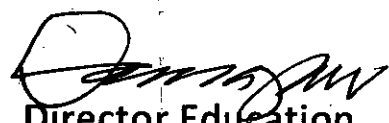
- A) Incorrect, hence denied. His reinstatement order was made subject to outcome of denovo enquiry regarding the genuineness of his domicile certificate for the purpose of payment of salary for the period of his duty performance.
- B) Incorrect, Complete and comprehensive reply has already been given 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 as was also 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) 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
Torghar Peshawar

Respondent No.3


District Education Officer (Male)
District Tor Ghar

Respondent No.4


Secretary Finance
KPK Peshawar

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

Respondent. No.5

District Accounts officer

~~Torghar
DISTRICT ACCOUNT OFFICER
Torghar~~

BEFORE THE HONARABLE KHYBER PAKHTUNKHWA SERVICE

TRIBUNAL PESHAWAR

Appeal No. 552/2023

Shabbir Ahmad.....Appellant

VERSUS

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

PARA WISE COMMENTS ON BEHALF OF RESPONDENTS ARE AS

UNDER:

AFFIDAVIT

I, ZAHID HUSSAIN DEO (M) 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.

[Signature]
DEPONENT



It is further stated on oath that in this appeal the answering respondent have neither been placed ex-parte nor their defence has been struck off cost.

-7 ~~Ann A~~ Ann A

~~ANNEXURE~~ Nⁿ 23

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

NOTIFICATION

Consequent upon the recommendations of the Departmental Selection Committee, appointment of the following candidates are hereby ordered against the post of Certified Teacher (CT General) School based in BPS-15 (Rs 10985-905-38135/- @ 10985, 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 TEACHER	FATHER NAME	SCORE	NAME OF SCHOOL WHERE APPOINTED	REMARKS
1	Kifayat Ullah	Muhammad Tahir	90.58	GMS Kand Dour Mera	Against VIP
2	Nusrat Shah	Iqbal Shah	92.37	GMS Shadag	--do--
3	Mujeeb Ur Rahman	Sultan Said	99.76	GMS Shagai	--do--
4	Shabbir Ahmed	Ikhtiar Malook	78.13	GMS Shingaldar	--do--
5	Abdul Jalil	Abdul Ghaffar	97.0	GMS Judba	--do--
6	Haleem Zada	Shereen	93.63	GMS Judba	--do--
7	Shakir Ullah	Ali Muhammad	96.16	GMS Shatal	--do--
8	Bakhti Zar Said	Nawab Said	112.19	GMS Cheer	--do--
9	Sharifur Rahman	Yaqub Khan	95.07	GMS Kotlay	--do--
10	Sham Shair	Asim Khan	94.13	GMS Kotlay	--do--
11	Safi Ullah	Aadur Rauf	91.99	GMS Kand Bala	--do--
12	Meraj Mehmood	Wazir Ur Rehman	106.32	GMS Kotkay	--do--
13	Syed Alam Khan	Syed Munawar Alam Khan	105.82	GMS Darow	--do--

TERMS & CONDITIONS:

1. NO TA/DA etc 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. They should not be handed over charge if their age is above 35 years or below 18 years.
5. Their Appointments are subject to the condition that their CERTIFICATE/DOCUMENTS AND DOMICILES be verified from the concerned authorities by the District Education Officer (M), 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.
6. 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.
7. 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.
8. 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.

Ames-let
SUC



9. They should produce Health and Age Certificate from the Medical Superintendent concerned before taking over charge.
10. They will be governed by such rules and regulations as may be issued from time to time by the Government.
11. 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 proceeded under the rules framed from time to time.
12. 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.
13. 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.
14. Before handing over charge their document should be checked by the concerned Head of institutions, if they don't possessed the prescribed qualification of the post they should not be handed over the charge.

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

ndst: No. 919-28/Dated Tor Ghar 09th April 2016.

copy forwarded for information and necessary action to the: -

1. Secretary to Government Khyber Pakhtunkhwa E&SE 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 Mansehra.
6. District Monitoring Officer (IMU) Tor Ghar.
7. District Education Management Information System (DEMIS) Local Office.
8. Head Masters/GMS Concerned.
9. Officials Concerned.
10. Office File.


District Education Officer (M)
E&SE Tor Ghar

Annexure 'm'

(49)

**DOMICILE CERTIFICATE
(NORTH WEST FRONTIER PROVINCE)**

I declare that I was born of parents who are permanently
Domiciled in N.W.F.P. having belonged to it by birth/settled.

I belong by birth to Village / Mohallah DHERI KAKA KHAIL F.R KALA DHAKA
Tehsil OGHI District MANSEHRA

Shauq
Signature of the applicant

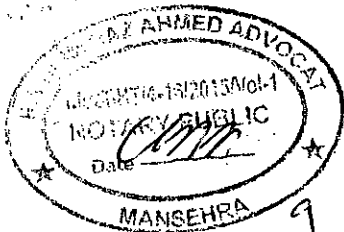
Dated: 23 - 12 - 2005.

Pursuance to the declaration dated 23- 12 -2005 filed BY SHABIR AHMAD
SON OF IKHTIAR MALOOK.

hereby certified that the said PERSON is born of parents who are permanent
residents of the N.W.F.P., having belonged to it by birth/settled in it.

I have satisfied my self from personal/my *PAI TERP* knowledge verification that
the above declaration is true and certify.

This 24 day of December 2006.



Im Khan
ADMINISTRATOR
KALA DHAKA DISTRICT MANSEHRA.

COUNTERSIGNED.
DISTRICT CO-ORDINATION OFFICER.

M&F

Amx. "E" (19)



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

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

No. 1593
Dated: 21/05/2016

Amx. "F"

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.

Handwritten signature/initials at the bottom of the page.

21

1

2

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

Signature

JUDGE

JUDGE

Certified to be True Copy
EXAMINER
215 JAN 2021
Peshawar Bench
Authorised Director of Exd Ordns

M.Saleem /PS*

(DB) Mr. Justice Mohammad Ibrahim Khan and Mr. Justice Shakeel Ahmad

and qualificatio

22

17	✓	Abdul Salim ✓ S. No. 10	Noor Zada S/o Ghulam Muhammad ✓
18	X	Muhammad Naseem	Jamal Khan S/o Nizam 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. 5	Basheer Ahmad S/o Akhtayar Malook
22		Abu Zar	Elasam Ul Haq S/o Saif Ul Maloq
23	✓	Fahy Ullah Pathan S. No. 40	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 Toti 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. 42	
36	X	Abdur Rehman	
37	X	Gul Zada	
38	X	Hakeem Ullah	
39	✓	Muhammad Fayaz S. No. 8 ✓	
40	X	Ismail Khan	
41	X	Toti 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. 9/15/16

Appointed S. No. 2

M. Zaman
Deputy Commissioner
Torghar
Deputy Commissioner
Torghar

- 13 -
ANNEX E

~~ANNEX~~
~~15~~
ANNEX-2

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

Supervisor
18/08/2016

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

- 14 - AMX Amx. F



OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) TOR GHAR
Ph. 0345-6660087 Fax. Nil
Email. torgharemis@gmail.com

No. _____
Dated: ___ / ___ / 2016

(Handwritten initials)

NOTIFICATION

(Handwritten signature)

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. 5 of the Appointment order issued vide this office Notification No.919-28 Dated 09/04/2016, the competent authority E&SE Tor Ghar is pleased to withdraw/denotify the appointment in respect of Shabir Ahmad S/O Ikhtiar Malook CT GMS Shingaldar w.e.f the date of his appointment.

---SD---

District Education Officer (M)
E&SE Tor Ghar

Endst: No 2924-31 / Dated 7/9 / 2016.

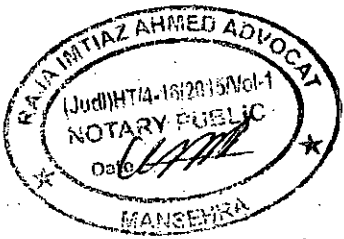
Copy for Information to the.

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. District Monitoring Officer (IMU) Tor Ghar.
7. District Education Management Information System (DEMIS) Local office.
8. Office File.

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

(Handwritten signature and date 7/9/16)

DESIGNED TO BE TRUE

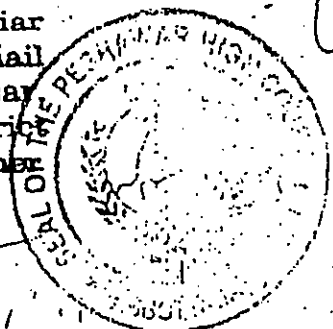


24/9
2016

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.

11/9/10

Shabbir Ahmed son of Ikhtiar Malook, resident of Dhari Kaka Khail Village Council Mangri Kamaisa Tehsil Judbah, District Torgarh.....Petitioner



Versus

- 1) Khyber Pakhtunkhwa through Secretary, Elementary & Secondary Education Department, Peshawar.
- 2) Director, Elementary & Secondary Education Department, Peshawar
- 3) District Education Officer (Male), Elementary & Secondary Education Department, Torgarh.
- 3-A) Deputy District Education Officer (Male), Elementary & Secondary Education Department, Torgarh.
- 4) Deputy District Education Officer, Torgarh.
- 5) Assistant District Education Officer, Judbah.
- 6) Revenue Officer, Judbah.
- 7) Field Officer, Mangri Kamaisa Tehsil, Judbah.
- 8) Patwar, Kamaisa Tehsil, District Torgarh.

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(92)

10) Khawas Khan, Nazim, Village
Council Mangri, Kamalpur
Tahsil Jubbah, District
Torghar..... Respondents

WRIT PETITION UNDER ARTICLE
199 OF THE CONSTITUTION OF
ISLAMIC REPUBLIC OF PAKISTAN,
1973

Petitioner Respectfully sheweth!

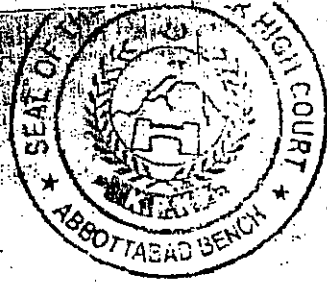
1) That, the petitioner in response to respondent No. 3 advertisement to fill vacant certified teachers (CT) posts available at different public sector schools in the district of Torghar, applied for his appointment against one of such posts.

(Copy of advertisement is annexed as Annexure "A")

2) That, the petitioner duly qualified the criteria and after passing all the tests and interview and scoring of 78.73 points and being highly educated person and in possession certificate in teaching (CT) and B.Ed Degree from Allama Iqbal Open University,

FILED TODAY

Jh
Additional Registrar
Peshawar High Court
Abbottabad Bench
25/1/91



(Handwritten initials)

Date of hearing: 18.07.2018

Petitioner (represented) by Mr. Saeed Ashraf

Respondent: Pakhtunkhwa through Elementary & Secondary Department, Peshawar by Mr. Yasir Zahoor Ali

LAL JAMAL PAK, J. Petitioner

through the instant petition under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973 has prayed this Court for issuance of a writ to declare the inquiry proceedings and letters dated 11.05.2015, 18.08.2016, 19.05.2016 issued by the respondents as illegal and unlawful. He has also prayed that notification dated 07.09.2016 whereby his appointment order has been withdrawn be also declared as illegal, unlawful, and of no legal effect.

again

Certified to be a true copy of the original
01
Per: [Signature]
Authorised Officer

(18)

2. Pursuant to the appointment Annexure "A" to the writ petition, petitioner applied for his appointment for the post of Certified Teacher (CT). After going through the prescribed selection process, he was appointed as Certified Teacher vide order dated 09.04.2016, whereafter he took over charge and started his teaching career, however, vide notification dated 07.09.2016, his appointment order was withdrawn by the respondents on the ground that the concerned quarters had found his domicile certificate unverified. Feeling aggrieved from the withdrawal of his appointment order, petitioner has filed the instant writ petition for annulment thereof.

gaur

Certified Teacher
Post
Annulment

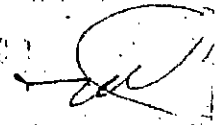
[Signature]

3. This Court on 06.12.2016 had directed the respondents to file their parawise comments, which have been so filed, wherein issuance of the desired writ has been opposed.

(B)

5. Perusal of the case record would show that upon recommendations of the departmental selection committee, the petitioner was appointed on 9th April 2016 as Certified Teacher, whereafter he had joined the education department. After taking over charge, Deputy Commissioner Torghar initiated an inquiry regarding verification of the petitioner's domicile, wherein his domicile was found unverified and consequently the appointing authority withdrew the petitioner's appointment order.

Copy

Certified

 Authenticated

6. True that the petitioner's appointment order has been withdrawn by the appointing authority in light of the inquiry report whereunder his domicile was found unverified but pronounced aspect of the case is that the petitioner was not associated in the inquiry process so as to get his point of view qua the allegation. No doubt the *Patwari Halqa* did record statements of some persons of

(10)

did not hail from his village council. Be-

that as it may be the petitioner was not associated at all in the inquiry process and the impugned order has been passed on his back despite the fact that he was available in his village and place of posting, therefore, the impugned letters and the notification issued are of no legal effect as it is cardinal principle of law that no one shall be condemned unheard.

Certified
[Signature]
Postal
[Signature]

gpm

7. Record also shows that the petitioner was appointed on 09.04.2016 upon the recommendations of a duly constituted departmental selection committee, whereafter he performed his duties till 07.09.2016 and as such he could not have been shunted out from his service the way he has been. It is well settled that whenever a drastic action is desired to be taken against a person then he must be given an opportunity to explain his position and the principles of law have



always deprecated unilateral actions culminated in major penalties.

8. For what has been discussed above, we accept this petition, declare the impugned notification dated 07.09.2016 as illegal, unlawful and of no legal effect. Consequently the petitioner is re-instated in his service. However, the respondents would be at liberty to proceed against the petitioner if they so wish but in accordance with law and rules on the subject.

Announced
21.02.2018
Thurs 73

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Self Pledge

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Pesth
Authoriz

Hon'ble Justice Lal Jan Khattak
Hon'ble Justice Syed Arshid Ali



- 22 -

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

A.M.S. H

Email: torgharemis@gmail.com



NOTIFICATION

In compliance with the Judgment of Honorable Peshawar High Court Bench Abbottabad, dated 21/02/2018, in Writ Petition No. 910-A/2016, the services of Mr. Shabir Ahmed Ex-CT is reinstated as CT at GMS Shingaldar from the date of his withdrawn order.

His 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. 4541-47 /Dated 22/05/2018.

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 GMS Concerned.
6. Teacher Concerned.
7. Office File.


District Education Officer (M)
District Tor Ghar

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. 209 A/2017 AND WP NO.910A/2016 UNDER TITLED MUHAMMD MINHAJ & SHABIR AHMAD VS 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 Minhaj	Behram Gohar	Cheechan Dehri Tehsil Judba	Tor Ghar
2	Shabir Ahmad	Ikhtiar Malook	Dehri Kaka Khail Tehsil Judba	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 certificate vide this Office Order Endst: No.4282-90 dated 15.12.2016.
3. That aggrieved from the withdrawal orders dated of the then DEO Male Tor Ghar, they have filed the writ petition No. 910-A/2016, & 209-A/2017 titled Muhammad Minhaj & Shabir, Ahamd VS Secretary Education etc. before the Honorable Peshawar High Court Bench Abbottabad under article 199 of the constitution of Islamic Republic of Pakistan 1973, with the contention to may declare the enquiry proceedings and letters dated 09.05.2016, 11.11.2016. and 18.08.2016 issued by respondent No.5 (Deputy Commissioner Tor Ghar) and withdrawal Notification in the light of above mentioned letters are 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 Domicile was found un verified, therefore accepted their writ petition 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

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

*AC (J) 205 initiate
engaging*

30/5/18

AC (J)

District Education Officer (M)
Tor Ghar

Endst: No _____ Date _____ / _____ 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

- 25 -

AMXK

Office of the Assistant Commissioner, Judba
District Torghar

No. Reader/.....
Dated Torghar the 03/10/2018

Fax No 97-580188
d.torghar@gmail.com

To

The Deputy Commissioner
Torghar

Subject:

INQUIRY

In pursuance of the Deputy Commissioner Office Diary No. 1961 dt: 25-06-2018, wherein, the undersigned was asked to conduct inquiry regarding the domicile verification of Mr. Shabbir Ahmad.

BACKGROUND:-

Mr. Shabbir Ahmad S/o Ikhtiar Malook was appointed as CT by the Education Department Torghar on 09-04-2016. His domicile was sent to Deputy Commissioner Office Torghar for verification. The Education Department Torghar which was not verified. Consequent upon non-verification of his domicile certificate, the appointment order of the above mentioned teacher was withdrawn by the Education Department on 07-09-2016 vide notification No. 2924-31. The teacher sought relief from the Peshawar High Court through filing of Application No. 9.0-A/2016 (Annex A). Peshawar High Court Abbottabad Bench re-instated the above mentioned teacher vide judgment dt: 21-02-2018 (Annex B) leaving the respondents at liberty to proceed against him in accordance with law and rules if they so desire.

Education Department Torghar requested Deputy Commissioner 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.


PROCEEDINGS:-

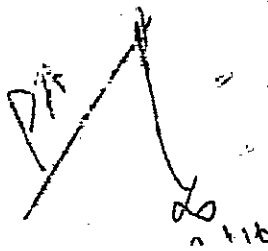
The Undersigned proceeded in the matter and issued notice to the teacher to appear before the undersigned alongwith his supporting documents. He was also directed to bring with him village secretary, village Nazim, Tehsil Member, District Member and District Nazim for recording evidence for or against him, as the case may be. Mr. Shabbir Ahmad, alongwith village secretary, village Nazim, Tehsil Member, District Member and District Nazim appeared before the undersigned and recorded their statements (Annex C) verifying the residential status of Mr. Shabbir Ahmad. The undersigned have gone through the documents (Domicile Certificate, CNIC, previous appointment letter of Sessions Court Torghar, Parents CNICs and Domicile Certificates, Brothers and sisters domicile certificates and CNICs, Sister's appointment letter of education department and Electoral roll) provided by Shabbir Ahmad.

FINDINGS/ RECOMMENDATIONS

From the above proceeding, statements of the local representatives and examination of the documents I reached to the conclusion that Mr. Shabbir Ahmad is bona fide resident of District Torghar and the domicile certificate has rightly been issued to him.

Report is submitted


Assistant Commissioner
Judba, Torghar



Office of the Deputy Commissioner
District Torghar
No. DCM/DC/Judba/111
Dated Torghar, 05-10-2018

[Handwritten signatures and scribbles]

Fax: 0992-58037
Mobile: 9929111111

To: The District Education Officer (S) Torghar

Subject: INQUIRY PROCEEDING FOR VERIFICATION OF DOMICILE IN THE LIGHT OF JUDGEMENTS OF HONORABLE HIGH COURT PESHAWAR BENCH ABBOTTABAD, RENDERED IN WP NO. 209 A/2017 AND WP NO. 910A/2016 UNDER TITLED MUHAMMAD MINHAJ & SHABIR AHMAD VS GOVT:

Reference to your office letter No. 4530-33 Dated: 22-05-2018 on the Subject cited above.

Enclosed Please find herewith an inquiry report in respect of Shabir Ahmad S/o Ikhtiar Malook submitted by Assistant Commissioner Judba for further necessary action.

[Handwritten signature]

Deputy Commissioner
Torghar

Copy to:-

- 1. Assistant Commissioner Judba, Torghar

Deputy Commissioner
Torghar

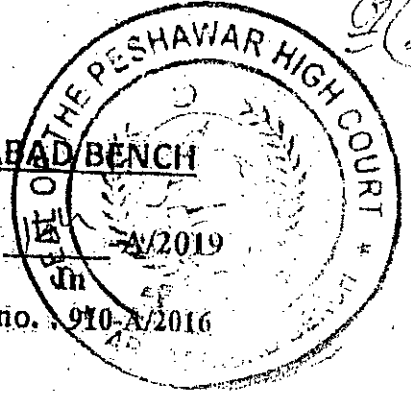
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BEFORE THE PESHAWAR HIGH COURT ABBOTTABAD BENCH

COC 11/2/2019

WP no. 910-A/2016



Shabbir Ahmed S/o Ikhtair Malook R/o G.M.S Shangaldar District
Torghar.

... Petitioner

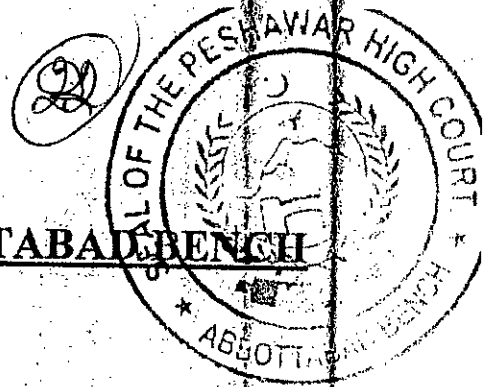
VERSUS

1. Hafiz Muhammad Ibrahim, Director, Elementary & Secondary
Education, Khyber Pakhtunkhawa, Peshawar.
2. Jaffar Mansoor Abbasi, District Education Officer (Male),
Torghar, Judbah.
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 21-02-2018 IN WP NO 910-A/16 WHEREBY
RESPONDENTS REFUSED TO PAY BACK BENEFITS I.E.
SALARIES/BENEFITS FOR THE PERIOD BETWEEN 07-09-2016 TO 22-
05-2018 ALONG WITH INCREMENT 2016,2017 &2018 ETC.

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EXAMINER
11 FEB 2021
Peshawar High Court Abs Bench
Authorized Under Sec 75 Evid Ordns.



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.144-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 style="text-align: center;">****</p> <p>SHAKEEL AHMAD, J: By means of this contempt petition, the petitioner has sought the following relief:</p> <p style="padding-left: 40px;"><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 22.05.2018 alongwith increment of 2016, 2017 and 2018 etc."</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 21.02.2018 of this Court, passed in WP No.910-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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EXAMINER
11 FEB 2021
Peshawar High Court At: Bench
Authorized Under Sec 73 Evid Ordns.

(25) 40

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

"For what has been discussed above, we accept this petition, declare the impugned notification dated 07.09.2016 as illegal, unlawful and of no legal effect. Consequently, the petitioner is re-instated in his service. However, the respondents would be at liberty to proceed against the petitioner if they so wish but in accordance with law and rules on the subject."

The record reflects that the respondents, in compliance with the above referred direction of this Court passed in WP No.910-A/2016, re-instated the petitioner in service vide Notification bearing Endst.No.4541-47 dated 22.05.2018, 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 denovo 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 21.02.2018.

5. In view of above, this petition is dismissed.

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EXAMINER
11 FEB 2021
Peshawar High Court Atd Bench
Authorized Under Sec. 75 Evid Ordns.

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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

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EXAMINER
11 FEB 2021
Peshawa High Court At Bench
Authorized Under Sec 75 Evid Ordns

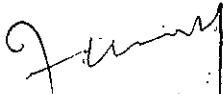
*M. Saleem / PS**

(DB) Mr. Justice Mohammad Ibrahim Khan and Mr. Justice Shakeel Ahmad

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

SherShahi
