

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Restoration Application. NO. 219/2023

IN

Execution Petition No. 12/2023

IN

Service Appeal No.300/2016

MUHAMMAD AQIB ZAMAN

V/S

EDUCATION DEPARTMENT

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Dated

30/9/23

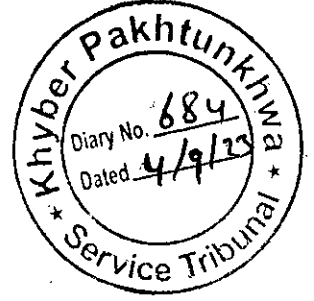
APPLICANT/APPELLANT

Through:


NOOR MOHAMMAD KHATTAK
Advocate Supreme Court.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Restoration Application. NO. 219/2023
IN
Execution Petition No. 12/2023
IN
Service Appeal No.300/2016



MUHAMMAD AQIB ZAMAN V/S EDUCATION DEPARTMENT

APPLICATION FOR PLACING ON FILE NECESSARY DOCUMENTS IN THE ABOVE TITLE RESTORATION APPLICATION

Respectfully Sheweth:

1. That the above title Restoration application is pending adjudication before this Honourable Tribunal which has been fixed for hearing on 25.09.2023.
2. That there are some necessary documents that needs to be place on file for the just and fair decision in the above titled service appeal. Copy of Additional Documents are attached as **Annexure A.**
3. That any other grounds and proof with regard to the additional documents would be raised at the time of argument with prior permission of this Honourable Tribunal.

It is, therefore, most humbly prayed that on acceptance of this application on behalf of the appellant the additional documents may be placed on file, for just and proper decision of the above mentioned service appeal.

Dated 30/8/23


APPLICANT/APELLANT

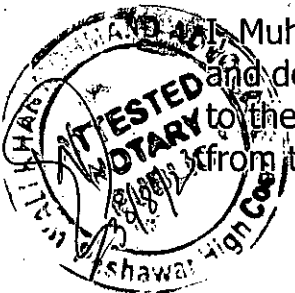
Through:


NOOR MOHAMMAD KHATTAK
Advocate Supreme Court.


AFFIDAVIT

Muhammad Aqib Zaman (the Applicant/Appellant) do hereby solemnly affirm and declare on Oath that the contents of this **Application** are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Hon'ble Court.



DEPONENT



"A"

Sr. No.	Date of order/proceedings	Order or other proceedings with signature of Judge or Magistrate
1	2	<p style="text-align: center;">- 4 -</p> <p style="text-align: center;">3</p> 
BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL		
Service Appeal No. 298/2016		
Date of Institution ... 28.03.2016		
Date of Decision ... 31.05.2018 ✓		
Mr. Wahid Zaman Ex: CT, Kurram Agency.		
Appellant		
Versus		
<ol style="list-style-type: none"> 1. The Additional Chief Secretary FATA, FATA Secretariat Warsak Road Peshawar. 2. The Director of Education FATA, FATA Secretariat Warsak Road Peshawar. 3. The Additional Agency Education Officer, Lower and Central Kurram Agency at Sadda. 4. The Agency Account Officer, Kurram Agency. 		
Respondents		
<u>JUDGMENT</u>		
31.05.2018	<u>MUHAMMAD HAMID MUGHAL, MEMBER</u> - Learned	
counsel for the appellants and Mr. Kabir Ullah Khattak, Additional Advocate General for the respondents present.		
<p>2. This single/common judgment shall dispose of the above captioned Appeal filed by (1) Wahid Zaman (Ex. CT) as well as (2) Service appeal No.294/2016 filed by Muhammad Siddique (Ex. CT), (3) Service appeal bearing No.299/2016 filed by Muhammad Saeed (Ex. CT), (4) Service appeal bearing No. 300/2016 filed by Aqib Zaman (Ex. CT), (5) Service appeal bearing No.302/2016 filed by Lateef Hussain (Ex. CT), being identical in nature.</p>		

ATTESTED



EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

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3. The appellants (Ex-CTs), have filed the present appeal u/s 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the order dated 11.12.2015 whereby the appellants were terminated w.c.f the date of their appointments.

4. Learned counsel for the appellants argued that the respondent No.3 through advertisement published in the newspaper advertised various posts in Education Department Kurram Agency including the posts of CT and the appellant having the requisite qualification for the posts of CT applied for the same; that after participation in the test and interview the appellants were declared successful in the selection process and consequently the appellants were offered the said post through issuance of appointment order. Further argued that in response to the appointment of the appellants they started performing their duties at the stations/schools concerned. Further argued that astonishingly the respondent No. 3 issued the impugned order dated 11.12.2015 whereby the services of the appellants were terminated with retrospective effect. Further argued that the appellants have not been treated in accordance with law. Further argued that the appellants were appointed in the light of Appointment, Promotion & Transfer Rules. Further argued that the appellants were terminated without any regular inquiry and issuance of show cause notice. Further argued that no chance of personal hearing was given to the appellants before the issuance of impugned order. Learned counsel for the appellants strenuously argued that the impugned order is against the law, facts and norms of natural justice.

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

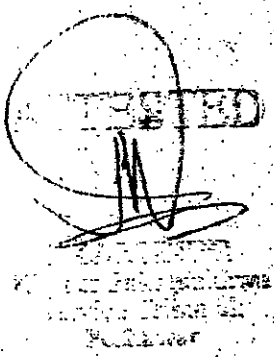
ATTESTED


hence liable to be set aside.

5. As against that learned Additional Advocate General while opposing the present appeal argued that the respondent department inquired the anomalies carried out in the recruitment process in Kurram Agency and for that purpose constituted oversight committee to trace out illegal appointees; that the committee submitted its report and thereby clearly picked out those candidates who had applied through fake and bogus degrees and were appointed illegally.

6. Arguments heard. File perused.

7. It is not disputed that the posts of C.T were advertised through advertisement in the newspaper and that the appellants having been fully qualified and eligible to apply for the same, participated in the recruitment process. Perusal of the impugned order dated 11.12.2015 would show that the appellants were terminated not for the reason that they were not eligible or duly qualified for posts of C.T rather their services were terminated simply on the ground that appointments of appellants Wahid Zaman (Ex. CT), Muhammad Siddique (Ex. CT), Muhammad Saeed (Ex. CT) and Aqib Zaman (Ex. CT) were found in excess to Sub Divisional quota and appellant Lateef Hussain (Ex. CT) is domicile holder of upper Kurram. In the written reply submitted by the respondent department is has not been explained that indeed for the posts of C.T there was a Sub Divisional quota. similarly in the written reply there is no mention of number of vacant posts of C.T

A circular stamp with the word "REGISTERED" inside, overlaid with a handwritten signature. Below the signature, there is some faint, illegible text.

ATTESTE

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in each Sub Division neither the total number of candidates posted against the posts of C.T in each Sub Division was given. It may also be mentioned that in the advertisement available on file it was simply mentioned that the candidate should be the permanent resident of Kurram Agency hence no distinction of upper Kurram or lower Kurram was there in the advertisement. Similarly the respondent department has not furnished any report of the committee declaring the appointments of the appellants as illegal. During the course of arguments learned Additional Advocate General failed to bring to the notice of this Tribunal any record/report justifying the issuance of the impugned order.

8. In the light of above discussion this Tribunal is constrained to issue direction to the respondent department to adjust/reinstate the appellants at the posts C.T with immediate effect without back benefits. The present service appeals bearing No.298/2016, 294/2016, 299/2016, 300/2016 and 302/2016 are accepted in the above terms. Parties are left to bear their own costs. File be consigned to the record room after its completion.

Certified by signature copy
 [Signature]
 [Stamp]
 [Text]

[Signature]
 Ahmed Hassan
 Member

[Signature]
 Muhammad Hamid Mughal
 Member

Date of Presentation of Application 7-6-18
 Number of Files 2400
 Copying Fee 14
 Urgent 2
 Total 16
 Name of Officer Harris
 Date of Completion 7-6-18
 Date of Delivery of Copy 7-6-18

ATTESTED



8-

Add: District Education Office
Lower & Central Kurram Sadda
Phone No 0926-520674
No. _____ /Edu: Dated ____ / ____ /2018
Email: educationsadda@gmail.com

NOTIFICATION.

Consequent upon the approval of Director Elementary & Secondary Education of Khyber Pakhtunkhwa, Peshawar No 10024/Lit:II dated Peshawar the 29-10-2018 and judgment of Khyber Pakhtunkhwa Service Tribunal Peshawar Judicial Complex in Execution No 294/18 in Service Appeal No 300/2016 MR. Aqib Zaman CT is hereby conditionally reinstated without back benefit at GIS Makhlizal Lower Kurram with immediate effect subject to final decision filed against the impugned in supreme Court of Pakistan subject to provision of his providing surety on judicial stamp paper in case the CPLA turned out to be in favour of the department the amount if any paid to the petitioner will be recovered in cash or coin.

Terms Conditions.

1. The reinstatement order and release of running pay will only be effective on furnishing surety on judicial stamp papers by petitioner.
2. If they failed to take over charge within 15 days, his appointment will automatically be considered as cancelled.
3. Charge report should be submitted to this office.

No. 6626-30 /Edu Dated 22 / 11 / 2018

Copy for information to the -

1. Director of Education NMD Districts Peshawar
2. Deputy Commissioner Kurram.
3. Asstt: DEO Local Office.
4. Official Concerned.
5. Office file.

Add: District Education Officer
Lower & Central Kurram Sadda

8.11.2018
Add: District Education Officer
Lower & Central Kurram Sadda

Attested
Head Master
G.H.S. Ghosia Ibrahim
Distt: Kurram

ATTESTED

-9-

IN THE SUPREME COURT OF PAKISTAN
(APPELLATE JURISDICTION)

PRESENT:

MR. JUSTICE GULZAR AHMED, H.C.J.
MR. JUSTICE FAISAL ARAB
MR. JUSTICE IJAZ UL AHSAN

CIVIL PETITION NO. 689-P TO 693-P OF 2018

(Against the judgment dated 31.05.2018 of the
KPK Service Tribunal, Peshawar passed in
Service Appeal No.298/2016, 299/2016,
300/2016 & 302/2016)

Additional Chief Secretary, FATA, FATA Secretariat, Warsal Road,
Peshawar and others

...Petitioner(s)
(in all cases)

VERSUS

Muhammad Siddique
Wahid Zaman
Muhammad Saeed
Aaqib Zaman
Latif Hussain

In C.P.689-P/2018
In C.P.690-P/2018
In C.P.691-P/2018
In C.P.692-P/2018
In C.P.693-P/2018

...Respondent(s)

For the Petitioner(s): Barrister Qasim Wadood, Addl.A.G. KPK
Mian Saadullah Jandoli, AOR

For the Respondents: Not represented

Date of hearing: 06.10.2020

ORDER

GULZAR AHMED, C.J. Civil Petitions No.689-P to
691-P/2018 are barred by 35 and Civil Petitions No.692-P and
693 P/2018 are barred by 61 days. The applications for
condonation of delay have been filed. The reasons assigned in the
same are late supply of documents, process of completion of
attested copies of the impugned judgment and lengthy
correspondence. Such reasons are not accepted by this Court as
sufficient cause for condoning the delay. Further, each day's delay
has not been explained in the applications and no affidavit of

ATTESTED

IN THE SUPREME COURT OF PAKISTAN

(APPELLATE JURISDICTION)

PRESENT:

MR. JUSTICE GULZAR AHMED, HCJ

MR. JUSTICE FAISAL ARAB

MR. JUSTICE IJAZ UL AHSAN

CIVIL PETITION NO.689-P TO 693-P OF 2018

(Against the judgment dated 31.05.2018 of the KPK Service Tribunal, Peshawar passed in Service Appeal No.298/2016, 299/2016, 300/2016 & 302/2016)

Additional Chief Secretary FATA, FATA Secretariat, Warsak Road,
Peshawar and others

...Petitioners)

(in all cases)

VERSUS

Muhammad Siddique

In C.P.689-P/2018

Wahid Zaman

In C.P.690-P/2018

Muhammad Saeed

In CP.691-P/2018

Aqib Zaman

In C.P.692-P/2018

Lateef Hussain

In C.P.693-P/2018

...Respondents)

For the Petitioner(s)

Barrister Qasim Wadud, Addl AG KPK

Mian Saadullah Jandoli, AOR

For the Respondents

Not represented

Date of hearing:

06.10.2020

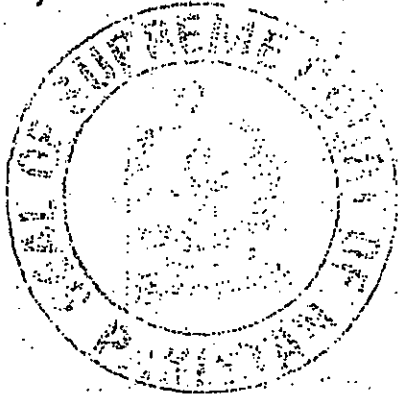
ORDER

GULZAR AHMED, CJ:- Civil Petitions No.689-P/2018 to 591-P/2018 are barred by 35 and Civil Petition No.692-P and 693 P/2018 are barred by 61 days. The applications for condonation of delay have been filed. The reasons assigned in the same are late supply of documents, process of completion of attested copies of the impugned judgment and lengthy correspondence. Such reasons are not accepted by this Court as sufficient casus condoning the delay. Further each day's delay has not been explained in the applications and no affidavit of

-10-

official of petitioners has been filed except that of an AOR. The applications thus merit no consideration. The same are, therefore, dismissed with the result that the main petitions are dismissed as time barred.

Sd- Gulzar Ahmed, HCJ
Sd- Faisal Arab, J
Sd- Ijaz ul Ahsan, J



Certified to be true copy

Assistant Registrar
Supreme Court of Pakistan
Peshawar.

15/10/20

Peshawar, the
6th of October, 2020
Not Approved For Reporting
Waqas Naseer/

7/10/20

ATTESTED

Official of petitioners has been filed except that an AOR. The applications thus merit no consideration. The same are therefore, dismissed with the result that the main petitions are dismissed as time barred.

Sd- Gulzar Ahmed, HCJ
Sd- Faisal Arab, J
Sd- Ijaz Ul Ahsan, J

Peshawar, the
6th of October, 2020
Not Approved for Reporting.