19.06.2017

Appellant with counsel and Mr. Muhammad Adeel Butt, Additional AG for the respondents present. Arguments could not be heard due to learned member executive is on leave. To come up for arguments on 15.08.2017 before D.B.

(Muhammad Amin Khan Kundi) Member

15.08.2017

Counsel for the appellant and Mr. Muhammad Jan, Deputy District Attorney for the respondents present. Arguments heard and record perused.

This appeal is also accepted as per detailed judgment of to-day in connected service appeal No. 597/2013 entitled "Bakhat Munir Versus the Secretary, Higher Education Department, Khyber Pakhtunkhwa, Peshawar and others". Parties are left to bear their own costs. File be consigned to the record room.

Member ANNOUNCED

·在1945年5月5日37日

15.08.2017

hairman

26.10.2016

Clerk to counsel for the appellant and Mr. Ziaullah GP for respondents present. Arguments could not be heard due to general strike of the Bar. To come up for arguments on 30.12.2016w3.

(PIR BARHSH SHAH) MĚMBER

(ABDUL LATIF) MEMBER

30.12.2016

Counsel for the appellant and Addl. AG for respondents present. Counsel for the appellant submitted Wakalat Nama on behalf of the appellant. Arguments could not be heard due to incomplete bench. Case adjourned to 22.03.2017 for arguments before D.B.

(AHMAD HASSAN MEMBER

22.03.2017

Counsel for the appellant and Addl. AG for respondents present. Arguments could not be heard due to incomplete bench. Adjourned. To come up for arguments on 19.06.2017 before D.B.

20.03.2015

Counsel for the appellant and Mr. Ibrar Ali, AD for respondents alongwith Muhammad Jan, G.P present. Rejoinder submitted. To come up for arguments on 13.10.2015.



013.10.2015

Clerk to counsel for the appellant and Mr. Murad Khan, Supdt alongwith Mr. Muhammad Jan, GP for respondents present. Clerk to counsel for the appellant requested for adjournment. To come up for arguments on 14 - 4 - 16

Member

14.04.2016

Counsel for the appellant and Mr. Ziaullah, GP for respondents present. Counsel for the appellant requested for adjournment. To come up for arguments on 20.06.2016.

Member



20.06.2016

Counsel for the appellant and Mr. Muhammad Jan, GP for respondents present. Arguments could not be heard due to learned Member (Judicial) is on leave. To come up for arguments on 26.10.2016.



Counsel for the appellant and Mr. Bukhari Shah, SO for respondents No. 1 to 3 with AAG for the respondents present. Written reply has not been received. To come up for written reply/comments on 24.4.2014

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firms

Counsel for the appellant, M/S Aziz Khan, Assistant for respondents No: 1 to 3 and Irshad Muhammad, Supdt. for respondent No. 4 with AAG present. Written reply has not been received, and request for further time made on behalf of the respondents. Another chance is given for written reply/comments, positively, on 24.7.2014.

24.7.2014

28.01.2014

24.4.2014

Mr. Taimur Ali, Advocate on behalf of counsel for the appellant and Mr. Muhammad Bashir, AD for respondents No. 1 to 3 with Mr. Ziaullah, GP for the respondents present. Joint written reply/para-wise comments received on behalf of the respondents, copy whereof is handed over to the learned Advocate appearing on behalf of counsel for the appellant for rejoinder alongwith connected appeals on 28.11.2014.

28.11.2014

Clerk of counsel for the appellant and Mr. Anees-ur-Rehman, Junior Clerk for respondents No. 1 to 3 with Mr. Muhammad Adeel Butt, AAG for the respondents present. The Tribunal is incomplete. To come up for rejoinder alongwith connected appeals on 20.03.2015.

Reader

24.07.2013

why all's

Appellant with counsel present and heard on preliminary. Contends that the appellant has not been treated in accordance with the law/rules. He was appointed vide order dated 3.11.2012 as Lab Attendant and took over charge on 05.11.2012. The principal (Respondent No.3) has stopped the pay of the appellant on 01.12.2013 in pursuance of telephonic call of the Departy Director on 30.12.2011. He filed departmental appeal on 04.12.2012 which has not been responded within the statutory period of 90 days. The instant appeal has been filed on 03.04.2013 which is within time. Points raised need consideration. The appeal is admitted to regular hearing subject to all legal objections. The appellant is directed to deposit the security amount and process fee within 10 days. Thereafter, notice be issued to the respondents. Case adjourned to 18.11.2013 for submission of written reply.

Member.

24.7.2013

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

nairı

18.11.2013

Counsel for the appellant and Aziz Khan, Assistant for respondents No. 1 and 2 present. The worthy Chairman is on tour to Abbottabad. To come up for written reply/comments on 28.1.2014.



4.6.2013

Munshi to Counsel for the appellant present. In pursuance of the Khyber Pakhtunkhwa Service Tribunals (Amendment) Ordinance 2013, (Khyber Pakhtunkhwa ord. II of 2013), the case is adjourned on note Reader for proceedings as before on 26.6.2013.

26,6.2013

Munshi for the Counsel of the appellant present. In pursuance of the Khyber Pakhtunkhwa Service Tribunals (Amendment) Ordinance 2013, (Khyber Pakhtunkhwa ord: 11 of 2013), the case is adjourned on note Reader for proceedings as before on 24.07.2013.

Reader

22.05.2013

Counsel for the appelant present. In pursuance of the Khyber Pakhtunkhwa Service Tibunals (Amendment Ordinance, 2013) (Khyber Pakhtnkhwa Order II of 2013), the case is adjourned on note Reader for proceeding as before on 4.6.2013

M der.

Form-A

FORM OF ORDER SHEET

Court of /2013 Case No._ S.No. Date of order Order or other proceedings with signature of judge or Magistrate Proceedings 1 2 3 03/04/2013 The appeal of Mr.Arif Ullah presented today by Mr. 1 Muhammad Asif Yousafzai Advocate may be entered in the Institution Register and put up to the Worthy Chairman for preliminary hearing. STRAR 2 4-4-2013 This case is entrusted to Primary Bench for preliminary -2013, hearing to be put up there on _____ ~ (CHAIRMAI

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR.

APPEAL NO. 594 /2013.

Arifullah

19. 19. 19 19. 19. 19

VS

Higher Edu: Deptt:

INDEX.

S.NO	DOCUMENTS	ANNEXURE	PAGE
1-	Memo of appeal.	·	1 – 3
2-	Appointment order.	A	4 – 5
3-	Arrival report.	B .	6
4-	Medical fitness.	C	7
5-	Order dt. 1.12.2012.	D	8
6-	Appeal.	E	9
7-	Vakalat nama		10.

APPELLANT

THROUGH: Au M.ASIF YOUSAFZAI

ADVOCATE.

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR.

APPEAL NO. <u>594</u> /2013.

ve b Broom

...Appellant.

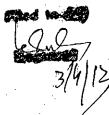
Arizullah Lab: Attendant, GDC, Landi Jalandar Bannu.

- 1- The Secretary Higher Education Deptt: KPK Peshawar.
- 2- The Director Higher Education Deptt: KPK Peshawar.
- 3- The Principal Govt: College Landi Jalandar Bannu.

VERSUS

4- The Secretary Finance Deptt: KPK Peshawar.

...... Respondents



APPEAL UNDER SECTION -4 OF THE KPK SERVICE TRIBUNALS ACT 1974 AGAINST THE ORDER OF RESPONDENT NO.3 DATED. 1.12.2012 WHEREBY THE PAY OF THE APPELLANT HAS BEEN STOPPED FOR NO GOOD REASONS AND AGAINST NOT TAKING ANY ACTION OF THE DEPARTMENTAL APPEAL OF APPELLANT WITHIN STATUTORY PERIOD OF NINETY DAYS.

<u>PRAYER:</u>

That on acceptance of this appeal the order dated. 1.12.2012 may be set-aside and the respondents may be directed to grant the pay to appellant from December 2012 till date and onwards being still in service and performing regular duty. Any other remedy which this august Tribunal deems fit that may also be awarded in favour of appellant.

<u>R.SHEWETH.</u>

2-

3-

1- That the appellant was appointed as <u>Lab. Allendaul</u> by the competent authority vide order dated. 3.11.2012. after the approval and recommendations of proper Departmental Selection committee. Copy of the order is attached as Annexure – A.

That the appellant reported for arrival on 5.11.2012 along with medical fitness certificate. The appellant regularly performed and is still performing his duty in the office/college of respondent no.3 and has also drawn pay for the month of November 2012. Copies of the charge report and medical fitness certificate are attached as Annexure – B & C.

That all of sudden the respondent No.3 has stopped the payoff the appellant on 1.12.2012 in pursuance of telephone call and letter dt. 5.11.2012. Copy of the order & letter is attached as Annexure – D.

4- That the appellant filed departmental appeal on 4.12.2012 against the order of respondent no.3 and waited for statutory period but no reply has been received by the appellant so far. Hence the present appeal on the following grounds amongst others. Copy of the appeal is attached as Annexure – E.

GROUNDS:

A- That the order dated.1.12.2012 of respondent no.3 and not taking action on the departmental appeal of appellant within statutory period is against the norms of justice and material on record. Therefore not tenable. That the appellant is still performing his duty regularly and there are no complaints against the appellant. Thus the appellant cannot be deprived from his legal right of pay of the post.

Ś.

B-

E-

F- '

- C- That the appellant has been condemned unheard as no prior notice or chance of defense was provided to appellant before passing order of stopping pay of appellant.
- D- That the appellant has not been treated according to law and rules and the act of the respondents is an arbitrary and without legal footings.
 - That the appellant is legally entitled to the pay of the post against which he is performing his duties under section 17 of the Civil Servant Act 1973.
 - That the appellant seeks permission to advance other grounds and proofs at the time of hearing.
 - It is therefore most humbly prayed that the appeal of the appellant may be accepted as prayed for.

APPELLANT Arifullah

THROUGH:

YOÚSAFZAI ADVOCATE.



OFFICE OF THE PRINCIPAL GOVT: DEGREE COLLEGE LANDI JALANDAR BANNU.

Appointment Notification:

As per decision / recommendation of the Departmental Selection Committee dated 03-11-2012, constituted for the recruitment of class-4 at Govt Degree College Landi jalander Bannu; The competent authority is pleased to appoint the following persons for the posts mentioned against each in this college with immediate effect :-

S.No	Name	F/Name	POSTS With BPS
01	Fida ullah	Miradar khan	Naib Qasid-01
02 🗸	Arifullah	Muhammad Nawaz	Lab Attendant-01
03	Gulyar	Sabir Zaman	Mali-01
04	Jaidad khan	Farid khan	Lab attendant-01
05	Ikhtiar Zaman	Farid khan	Lab Attendent-01
06	Sahib zada	Adil Badshah	Naib Qasid-01
07	BakhtMunir	Gul Zaman	Tube well operator-01
08 4	Khandan	Amil Zaman	Chowkidar-01
09	Shafi ullah	Sawdad khan	Sweeper-01
10	Shahid ullah	Sawdad khan	Sweeper-01
11	Shams Zaman	S'adrai	Chowkidar-01

The Appointments of the above class 4 servants will be subject to the following terms and conditions.

TERMS AND CONDITIONS:

- 1. Charge Reports should be submitted to all concerned.
- 2. No TA/DA etc is allowed.
- 3. The Appointment of the above candidates are being made on purely temporary basis and is liable to termination at any time with out notice And with out assigning any reason.
- 4. They are not entitled to any pension & gratuity.
- 5. They should produce their Health & age certificate from Medical Supdtt;DHO Hospital Bannu.
- 6. They will be governed by the rules & Regulations of the provincial-Govt Prescribed for such employees.

R-10134 03-11-2012

Principal/DDO Govt : Degree College Landi Jalandar Bannu



Endst: No...190-96

Dated:GDC L.J-03-11-2012

Copy of the above is forwarded for information to ...

1. The Director Higher Education Department KPK Peshawar.

2.P.S to Minister for Higher Education Department KPK Peshawar.

3. PS to Secretary Higher Education Department KPK Peshawar.

4. Section Officer Higher Education Department KPK Peshawar.

5. The District Account officer Bannu. 6. Officials concerned.

R 2035 03-11-2012 Principal/DDO Govt : Degree college Landi jalandar Bannnu

Atterted Page 05-11-2012

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OFFICE OF THE PRINCIPAL COVEREE COLLECT LANDLAN AND AN AND

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The Director Higher Education RPK Peshawar,

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Officer Concerned.

D.S. To Sucretary Higher Edu KOK Perh.

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The Distt Accounts Officer Bannu.

MEDICAL FEINESS CEREBUCA

MB, Arifullah than. Manie Of Official MR. Mobsonand Maculas Khain Fatter Hauo 10 lim ر to definition. f Tillar tilol kha Celad no of to theil a akki Marmat 109 11980 NIC: Daite Of Birth, 🛛 🖉 Fxact Height by measurement : 61 Personal marks stemification: 10-ll. m (K-16 3) of 11 a solution of лĿ Ø peniative of Line of office; Scal of office: Khan I do hereby certify that I have examined Mr./Mc. For employment the office of (Ealles) CovBDG500 avoli QAD Salar and cannot discover that he/she has any diseases communicable of either constitutional ATD. 5 a Or bodily deformity except I do not consider as disqualification for employment in the office of the L- I-Buzal Labor Attalty 32 years and by appearance is about the ther age according to his own statement is Then 9 400 years. , (⁻⁾ timate sources 14. Prior bace band and lingers al Superintendent 4, Teaching Hospital Bannu '* .L. STED

FFICE OF THE DIRECTOR HIGHER EDUCATION KHYBER PAKHTUNKHWA PESHAWAR. ____/CA-VII/ Estt: Branch/GDC, Parova Dated Peshawar the 6/1/1/2012 -Copy of overleaf is forwarded for information and necessary ection to the:-Principal Govt; Degree Contact, Landi Jalandar (Bannu). Govt; Girls Degree College, Tank. 2. Gov:; Degree College, Parova (D.I.Khan). 3. .Section Officer (Colleges-II) Govt; of Khyber Pakhtunkhwa, 4. Higher Education Department Peshawar with reference to letter No referred to above: PS to Secretary Higher Education Khyber Pakhtunkhwa. 5.1 DY: DIRECTOR (ESTABLISHMENT) Dy Director Ginulam Alist make a telephonic call #091-9210242 to me on 30-11-2012 at 11:22 am and ordered to Stop the pay of the appointees with immediate offect. This letter was with Dy Director (H.E), mr-ghagoonullah Lecturier in Islamiat received it from by Director on the same day. In compliance to that letter, Stop further process in the matter. Covt Gegree College Landi Jalander E., Munawar John/Eudersement Folder /Decoments 01

MOSTIMMEDIATE

Govt. Of Khyber Pakhtunkhw HIGHER EDUCATION, ARCHIVES & LIBRARIES DEPARTMENT

NO. SO(COLLEGES-II)/28-1/ 2012. Dated Peshawar the 05.11.2012.

The Director, Higher Education Khyber Pakhtunkhwa, Peshawar.

Γo

© SUBJECT: - APPOINTMENT NOTIFICATION OF CLASS-IV AT GDC LANDI JALANDAR, BANNU/ GGDC TANK / GDC PAROVA D.I. KHAN / INQUIRY.

Dear Sir.

I am directed to refer to the subject cited above and to state that the Competent Authority has been pleased to direct that Appointment Notifications of Class-IV issued by the Principals concerned may be keld in abeyance with immediate effect till further orders. I am further directed to request that the Competent Authority has constituted a fact finding Committee of Mr. Niaz Mohammad, Principal, Govt. Degree College, Naguman, Peshawar and Mr. Bukhari Shah, Section Officer (Litigation), Higher Education Department to conduct an inquiry in the subject case and innish a report to this Department within three (03) days, positively.

Yours faithfully

Endsig- No. & Unite Even.

SECTION OFFICER (COLLEGES-II)

Copy of the above is forwarded to the:-

- \Rightarrow Principals, of the concerned colleges.
- ⇒ P.S to Minister, Higher Education, Khyber Pakhtunkhwa.
- $\star \Rightarrow$ P.S to Secretary, Higher Education Department.

-SECTION OFFICER (COLLEGES-II)

Ŷ, جضور جناب ڈائر یکڑ صاحب ہائرا یجو کیشن خیبر پختون خواہ پیثاور عنوان: (تحكماندا ييل برخلاف تحكم (Colleges-II) N.So ورخد 2012-11-05 جوكدا بيلانت كومورخد 2012-12-04 كوموصل مواب) استدعائے ایل بمنظوری ایپل مذاحکم زیرا پیل کوکالعدم دمنسوخ قراردیا جائے نیز ایپلانٹ کے سروس بحالی معہ جملہ مراعات ونٹو اہ برقر ارر کھے جاوے۔ جتاب عالى! ایپاین مش حسب ذیل عرض کرتا ہے۔ 1 - بيكما يلانت كوحسب ضابطهازروئ قانون مورخه 2012-11-03 كوبطور Attendant ، طلال مجازاتهار في في تعينات كيا تميا جوكه مورخه 05-11-2012 - چارج ليا ہوا ہے۔ 2- ریکد آج مورجہ 2012-12-04 کو جناب پر سپل صاحب نے ایپلا نٹ کی تخواہ بند کرنے اورا۔۔ نوکری۔۔ نکالنے کا ظلم زبانی کیااور علم مورجہ 2012-11-05 كاحوالد ديا، جس كى فو توكاني ايما فث ف وصول كير، جولف ب-3 - بدار بالانت کے میڈیکل فٹنس سر میفیکیٹ لف ہے۔ 4- بدکداب آب ساحبان کونکهاندا پیل بهطابق قانون حسب ذیل عرض ہے۔۔.. الف _ به که تکم زیرا بیل سراسرغیر قانونی اورخلاف انصاف ہے۔ ب ۔ یہ کہ ایپلانٹ کی تعیاتی میرٹ اور قانون کے مطابق ہوئی ہے جبکہ یاسی سازش کی بناء پر ایپلانٹ کو نکالے جانے پر تلے ہوئے ہیں۔ ج۔ یہ کہا پلا نے کوکوئی نوٹس نہیں دیا گیا ہے جبکہ ایہ کا نہ اپنے خاندان کا داحد ذریعہ معاش ہے۔ و ... به که ایپلانت کارزق حلال د را بعه برقر اررکها جاو یه .. لهذااستدعاب كمنظوري اپيل مذااييلا نث كى نوكرى/تعيناتى كوبرقرارركھاجائے، نيز شخوا دومراعات ديے جانے كاتھم زيرا پيل كوكالعدم دمنسوخ قرار ديے جانے كاتھم صادرفر مایاجاوے۔ مورند 04-12-2012 آلكا تابعدار: عارف المتر حلر في توار م د تظور خواست گ^زار<u> مما رف ا</u>ل می Lab, Attendant کا یی تو: 1_سیکریٹری ہائرا یجو کیشن خیبر پختون خواہ پیٹاور 2 - يرتسل ڈگری کالج لندی جالندھر بنوں

VAKALAT NAMA		
	NO/20	ρ
IN THE COURT OF Se	wice Tribunal	Jeshawah
Arizullah	-	(Appellant) (Petitioner) (Plaintiff)
	VERSUS	
Higher Edu	Bapili.	(Respondent) (Defendant)

I/We Hu Do hereby appoint and constitute M.Asif Yousafzai, Advocate, Peshawar,

Do hereby appoint and constitute **M.Asir Yousarzai, Advocate, Pesnavar**, to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate/ Counsel on my/our costs.

I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter. The Advocate/Counsel is also at liberty to leave my/our case at any stage of the proceedings, if his any fee left unpaid or is outstanding against me/us.

Dated

(CLIENT)

ACCEPTED

YOUŚAFZAI ASÍF Advocate

M. ASIF YOUSAFZAI Advocate High Court, Peshawar

OFFICE:

Room No.1, Upper Floor, Islamia Club Building, Khyber Bazar Peshawar. Ph.091-2211391-0333-9103240

<u>Before the Service Tribunal Khyber Pakhtunkhwa, Peshawar</u>

Service Appeal No.594/2013

Arif Ullah

Appellant

Versus

- 1. Secretary Higher Education Govt of KPK Respondent No.1
- 2. Director Higher Education(Colleges) KPK Respondent No.2
- 3. Principal Govt Degree College Landi Jalandher Bannu Respondent No.3
- 4. Secretary Finance Department Govt of KPK Respondent No.4

Respondents

Subject: - PARA WISE COMMENTS ON BEHALF OF RESPONDENT NO.1, 2 &4.

Respected Sheweth,

Preliminary Objections

- I. The appellant has no locus standi to file the Appeal in hands.
- II. That the appellant has concealed material facts from this Hon'able Court hence the Appeal in hands is not maintainable.
- III. The appointment order of the appellant was not in accordance with the prescribed manner as provided in the Appointment and Promotion rules.
- IV. That the appeal is badly time barred.
- V. That the appellant has been estopped by his own conduct to file the instant appeal.
- VI. That the appellant has no cause of action.
- VII. That the Hon'able Tribunal has no jurisdiction to entertain the appeal.
- VIII. That the appellant has no come to the court with clean hands.

<u>Facts</u>

- 1. Incorrect. The appointment order dated 03/11/2012 was not according to the strict codal formalities as it was made in undue haste. A lecturer in (BPS-17) has issued the appointments orders which fall beyond his jurisdiction. Above that this committee has interviewed all these 11 candidates and issued their orders on the same day to the extent that they have taken their charge of offices. Furthermore, a thick cloud of malafide is visible as evident from the inquiry report dated 26/11/2012(Annexure-A) wherein three main objections have been raised by the Inquiry Officers:
 - i. There is a variation between the date of requisition of the College Administration for the candidates i.e. 08/10/2012 and provision of the candidates by employment exchange Bannu i.e. 02/10/2012. Another disputed point is that the Manager Employment Exchange, Bannu only sent the same names of those 11 candidates who were later on appointed. However in the eyes of law and procedural experiences he should have sent more than 11 candidates.
 - **ii.** No call letters to candidates were issued, which is pre- requisite for such like appointments.
- iii. The DDO being a lecturer in BPS-17 and not an officer of category-II is not competent to issue these appointments orders.
- **2.** Incorrect. The DDO concerned was informed to held in abeyance the appointment orders vide Endst No.SO(COLLEGES-II)28-1/2012 dated 05/11/2012 per Annexure-D of the appeal.
- **3.** Incorrect. The pay was stopped due to the gross irregularities reported to the Provincial Government in the appointments of the appellants.
- 4. Incorrect. His Departmental appeal has been considered and filed being meritless.

<u>Grounds</u>

- **A.** Not admitted. The action of the Respondents is legal, lawful and in the best interest of public.
- **B.** Not admitted. The appellant is trying to misguide the Court by claiming that he is still performing his duties but, in Para-2 of the Departmental appeal he himself admits that the DDO has stopped his salary and cancelled his appointment order. According to the inquiry report (Annexure-A) supra the appointments orders are made purely on temporary basis and are liable to termination at any time with out any notice or assigning any reason.
- **C.** Incorrect[®] Per terms and conditions the appointment of the appellant was liable to termination without serving upon him any notice.
- **D.** Incorrect. The action of the Respondents is according to the law and rules as stated above.
- **E.** Incorrect. Section -17 of the civil servant act, 1973 deals with the seniority of the civil servant and not with the payment of salary, hence denied.
- **F.** The Respondents also seek permission to advance additional arguments at the time of the hearing of the case.

<u>Praver</u>

The above arguments prove that the appellant has very weak legs to stand upon, hence the appeal in hand may graciously be dismissed.

Secretary To Govt: of KPK Higher Education Department Respondent No.1

Director Higher Educatio

Director Higher Eckleybon Pakhtunkhwa Khyber PakhtoorRespondent No.2 Khyber Road Peshawar.

> Principal Govt Degree College Landi Jalandher Bannus College Respondent No.3

> > Lands

11ll

Secretary To Govt: of KPK Finance Department Respondent No.4 Before the Service Tribunal Khyber Pakhtunkhwa, Peshawar

Service Appeal No.592/2013 Fida Ullah-----

Versus

- 1. Secretary Higher Education Govt of KPK Respondent No.1
- 2. Director Higher Education(Colleges) KPK Respondent No.2
- 3. Principal Govt Degree College Landi Jalandher Bannu Respondent No.3
- 4. Secretary Finance Department Govt of KPK Respondent No.4

------Respondents

<u>Affidavit</u>

I Muhammad Bashir Assistant Director(Litigation Cell) Higher Education Khyber Pakhtunkhwa solemnly affirm and declare on oath that the contents of Para wise comments in the above mentioned service appeal are true and correct to the best of my knowledge and belief that nothing has been concealed or withheld from this Honable Tribunal.

Identified by

----- Appellant

Deponent CNIC 33301-5765388-9. The Secretary

Govt. of Khyber Pakhtunkhwa

Higher Education Department.

Subject:- APPOINTMENT NOTIFICATION OF CLASS-IV AT GDC LANDI JALANDAR, BANNU /

GGDC TANK/ GDC PROVA D.I.KHAN/ INQUIRY.

Memo,

Kindly refer to the letter No.SO(COLLEGES-II)28-1/2012, Dated 05-11-1012, regarding probe in the matter of selection for certain posts in three Govt Colleges.

1-Govt. Girls Degree College Tank. As per-available record and statement of the Principal Miss Farida Shah, there are Five vacant posts (one each of Driver, Bearer, Mali, Cook and Sweeper). A letter was sent to the Manager Employment Exchange D.I.Khan for the provision of suitable candidates (Annex-A). In response a list of 28 persons was provided (Annex-B) The Principal also advertised the posts through local notices affixed at various prominent places. Therefore, total Number of candidates raised to 135. Similarly the DCO Tank was asked by the Principal for NOC. In response the DCO provided at a list of 23 persons from surplus pool (Annex-C)but there was no suitable persons for the job except driver who remained absent on the date of interview. A committee was constituted of the following persons to conduct the interview.

- 1- Miss Farida Shah Principal (chair person)
- 2- Miss Zainab Lecture 👘 (Member)
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<u>2-Govt Degree Collge Prova D.I.Khan.</u> As per statement of the Principal Prof: Said Nawaz, there is only one post of tube well operator is vacant in the college. The Manager employment Exchange D.I.Khan was asked for the provision of suitable candidates(Annex-D) and in response a list of Eight persons was provided(Annex-E). Similarly Principal called the application through local Notices and Six persons applied. Total number of the candidates raised to 14. Interview was conducted on 03-11-2012, candidates were informed through local notices and the following persons conducted the interview.

Dated: / /2012

Unverse Eigher Ldycalien

Copy of the above is submitte Peshawar for information please.

The Secretary

Govt. of Khyber Pakhtunkhwa

Higher Education Department.

Subject:- APPOINTMENT NOTIFICATION OF CLASS-IV AT GDC LANDI JALANDAR, BANNU /

GGDC TANK/ GDC PROVA D.I.KHAN/ iNQUIRY.

Memo,

Kindly refer to the letter No.SO(COLLEGES-II)28-1/2012, Dated 05-11-1012, regarding probe in the matter of selection for certain posts in three Govt Colleges.

1-Govt. Girls Degree College Tank. As per available record and statement of the Principal Miss Farida Shah, there are Five vacant posts (one each of Driver, Bearer, Mali, Cook and Sweeper). A letter was sent to the Manager Employment Exchange D.I.Khan for the provision of suitable candidates (Annex-A). In response a list of 28 persons was provided.(Annex-B) The Principal also advertised the posts through local notices affixed at various prominent places. Therefore, total Number of candidates raised to 135. Similarly the DCO Tank was asked by the Principal for NOC. In response the DCO provided at a list of 23 persons from surplus pool (Annex-C)but there was no suitable persons for the job except driver who remained absent on the date of interview. A committee was constituted of the following persons to conduct the interview.

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1- Prof: Said Nawaz Principal

2- Mr. Niaz Hussain Lecturer

3- Mr. Sohail Rizwan Lecture

Mr. Habibur Rehman SO Colleges

(Provincial Nominee) Five persons among the candidates were present Annex-F) and one Mr. Ihsanullah was selected as principal candidate and Muhammad Arshad as alternate candidate . The process was completed at 11.30 A.M. on 03-11-2012, no appointment order has so far been issued.

(Chairman)

(Member)

(member)

3- Govt Degree College Landi Jalandar Bannu :- According to available record and statement of the DDO/ Incharge Principal Mr. Ahmad Raza Lecturer in Political Science, there are eleven vacant. Posts consisting of 3 Lab attendant, 2 chowkidars, 2 Naib Qasid, 2 sweepers, 1 Mali and Itube well operator. A letter was sent to the Manager Eployment Exchange Bannu on 08-10-2012(Annex-G) asking for the provision of suitable candidates and DCO for NOC on the same date (Annex-H)but the List of 11 persons had sent by Manager employment Exchange Bannu on 02-10-2012, prior to the requisition (Annex-I). The DCO, however, granted NOC on the same date(Annex-J). Interview was conducted on 03-11-2012 at 12.30 P.M. and the following persons conducted the interview.

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2- Mr. Gul Tiaz Khan Lecturer

3- Mr.Alam Zeb Khan Lecturer

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There is a variation between the date of requisition of the college administration for the candidates i.e. 08, 10-2012, and provision of the list of candidates by Employment Exchange Bannu i.e. 02-10-2012. Provision before requisition establishes malafide.

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Section Officer (Litigation) **Higher Education Department**

Bukhari Shah

Principal

Govt Degree College Naguman.

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Niaz Muhammad

appeared for interview on 03/11/12 may also be interviewed afresh, and Their Out be considered in The bresh process

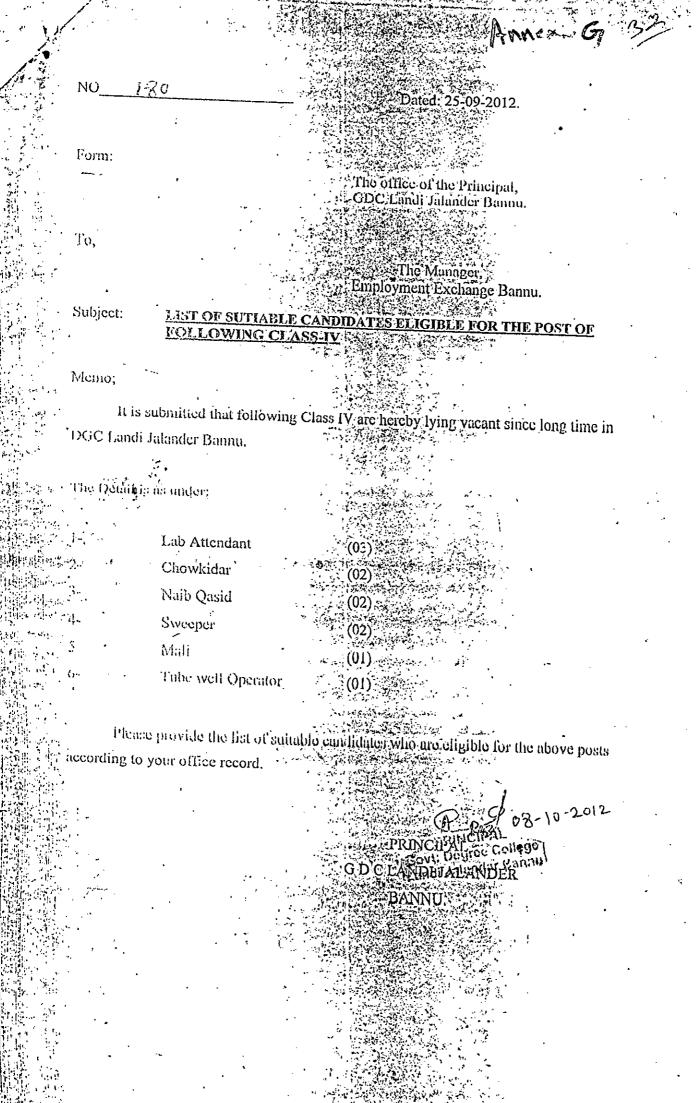
The Selection Committee

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Dated: ____/2012

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62) • • • • • • • • • • • • Sweeper (05)hiseO.disN, ŤË (50) Chowlddar 17 (03) -1. Lub Auendani ni omn guol ooms meers guiv ly vieroly ly ingest and bonimdre si it GDC Landi Jalander Dannu. Sequest list of Class IV and Cab Microdant y-fema, apolda8 and the second s mang The District Coordination Officer 0.1minut robusht ibm. (OOL Indianal ail to sailte all' Reput ्र भूमाम प्रविद्धा ग -C.37 ON 11-1-2M - 01 N H - x004 4

No:- 408/EEB/Apponia

The Manager, Employment exchanges Bannu,

The Principal,

GDC Laudi Jalandar Bannu

Subject: List of Registered Candidates

Renourable Sir,

From,

Ϋo.

It is to inform you that this office got various application regarding the newly created post at your college. The list of the candidates are as follows.

1. Fida Ullah S/O Mirdad Khan Reg: 1143/EP/011

2. Arif Ullah S/O Muhammad Nawaz Reg: 280/05

3 Gul Yar S/O Sabir Zaman Reg: 866/011

4. Jaidad Khan S/O Farid Khan Rog: 049/EP/011

5. Ikhtiar Zaman S/O Farid Khan Reg; 830/834 (153/EP/01)

6. Sahib Zada S/O Adil Badshah Reg: 870/011

7. Bakht Munir S/O Gu Zaman Reg: 144/EP/011 44

8. Khandan S/O Amil Zaman Reg: 865/011

9. Shafi Ullah S/O Sawdad Khan Reg: 868/011

10. Shahid Ullah S/O Khan Reg: 1207/EP/011

11. Shams Zaman S/O Sadrai Regi 1142/EP/011

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(Annexure-J)

Sd/ District Coordination Officer Bannu.

OFFICE OF THE DISTRICT COORDINATION OFFICER, BANNU

No. 4134/DCO/AE/NOC Dated 09/10/2012

То

The Principal Govt Degree College Landi Jalandher, Bannu.

Subject: - NO OBJECTION CERTIFICATE.

Reference your letter No. 182 dated 09/10/2012.

This office has got no objection over filling of the vacant posts of the following Class-IV lying vacant in Govt Degree College Landi Jalandher Bannu subject to the fulfillment all codal formalities under rules/ policy.

S#	Nomenclature of post with BPS	No. of Posts	Institution in which
			the post lying vacant
1	Lab Attendant	· 03 。	GDC, Landi Jalandher
			Bannu
2	Chowkidar	02	do
3	Naib Qasid	02	do
4	Sweeper	02	do
5	Mali	01	do
6	Tube Well operator	01	do



To.

GOVT. OF KHYBER PAKHTUNKHWA HIGHER EDUCATION, ARCHIVES & LIBRARIES DEPARTMENT

No. SO (COLLEGES-II)HE/19-1/2012. Dated Peshawar the September 28th, 2012.

Anner

The Director, Higher Education, Khyber Pakhtunkhwa, Peshawar.

SUBJECT: - INTERVIEW FOR THE APPOINTMENT OF CLASS-IV EMPLOYEES

Sir, I am directed to refer to the subject noted above and to state that the Competent Authority in Higher Education Department has been pleased to nominate Mr. Mohammad Zaman, Deputy Chief Planning, Officer of this Department to conduct interview of the above mentioned posts in the following colleges:

GDC (Boys) Mamash Khel Bannu.

GDC (Boys) Landi Jalandar Bannu.

GDC (Boys) Domail Bannu.

Endst: No & Date of even

З.

SECTION OFFICER (COLLEGES-II)

Copy forwarded for information to the:

 PS to Secretary, Higher Education Department.
 Muhammad Zaman, Dy: Chief Planning Officer, Higher Education Department

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SECTION OFFICER (COLLEGES-II)



GOVT. OF KHYBER PAKHTUNKHWA HIGMER EDUCATION, ARCHIVES & LIBRARIES DEPARTMENT

Apprex-l-

Dated Peshawar the 05.10.2012.

NOTIFICATION

NO. SO(C-II)MED/28-1/2012. Consequent upon the issuance of fresh Job distribution by the Provincial Government among one of the following, subject to the availability, will attend the DSC meeting as Govt, nominee for the recruitment of Class-IV staff in the different colleges of Khyber Pakhtunkhwa (Male & Female) with immediate affect:-

		and the second
5. No.	Name & Designation of the Officer	Areas for which nominated
	Mr. Habib-ur-Rahman, SO(C-II)	For southern areas.
- 2	Mr. Pir Mohammad Khan, SO(C-I)	For Northern areas.
3.	Mr. Ghulam Ali, Deputy Director (Estt),	For Central districts.
4.	Directorate of Higher Education. Mr. Naveed Khan, Deputy Director (P&D),	For Hazara Division.
	Directorate of Higher Education.	an a construction of products a construct by the object of the second

SECRETARY TO GOVT. OF KHYBER PAKHTUNKHWA HIGHER EDUCATION DEPARTMENT

ndst: No. & Date Even,

A copy is forwarded to the:-

- Director, Higher Education, Khyber Pakhtunkhwa, Peshawar.
 P.S to Minister, Higher Education, Khyber Pakhtunkhwa, Peshawar.
 P.S to Secretary, Higher Education Department.
- Officers concerned.

(HABIB-UR-RAHMAN) SECTION OFFICER (COLLEGES-II) なかないため、「「「「「「「」」」という」」という。

OFFICE OF THE PRINCIPAL GOVT: DEGREE COLLEGE

Appointment Notification:

As per decision / recommendation of the Departmental Selection Committee dated 03-11-2012, constituted for the recruitment of class-4 at Govt Degree College Landi jalander Bannu; The competent authority is pleased to appoint the following persons for the posts mentioned against each in this college with immediate effect :-

Amex- pol.

S.No	Name «	F/Name	POSTS With BPS
01	Fida ullah	- Miradar khan	Naib Qasid-01
02	Arifullah	Muhammad Nawaz	Lab Attendant-01
03	Gulyar	Sabir Zaman	Mali-01
04	Jaidad khan	Farid khan	Lab attendant-01
05	Ikhtiar Zaman	Farid khan	Lab Attendent-01
06	Sahib zada	Adil Badshah	Naib Qasid-01
07	BakhtMunir	Gul Zaman	Tube well operator-01
08	Khandan	Amil Zaman	Chowkidar-01
09	Shafi ullah	Sawdud khan	Sweeper-01
1.0	Shahid ullah	Sawdad khan	Sweeper-01
11	Shams Zaman	Sadrai	Chowkidar-01

The Appointments of the above class 4 servants will be subject to the following terms and conditions.

TERMS AND CONDITIONS:

- 1. Charge Reports should be submitted to all concerned.
- 2. No TA/DA etc is allowed.
- 3. The Appointment of the above candidates are being made on purely
- temporary basis and is liable to termination at any time with out notice And with out assigning any reason.
- 4. They are not entitled to any pension & gratuity.
- 5. They should produce their Health & age certificate from Medical Supdtt;DHO Hospital Bannu.
- 5. They will be governed by the rules & Regulations of the provincial-Govt Prescribed for such employees.

1039 03-11-2012 Principal/DDO

Govt : Degree College Landi Jalandar Bannu

Endst: No...190-96

Dated:GDC L.J-03-11-2012

Copy of the above is forwarded for information to ...

The Director Higher Education Department KPK Peshawar.
 P.S to Minister for Higher Education Department KPK Peshawar.
 PS to Secretary Higher Education Department KPK Peshawar.
 Section Officer Higher Education Department KPK Peshawar.

- 5. The District Account officer Bannu.
- 6. Officials concerned.

9-11-2012 Principal/DDO

Govt : Degree college Landi jalandar Bannnu

AMERARD Cat rom

Govt: Demse nollege Landi Jabanonar Bannu

Before the Service Tribunal Khyber Pakhtunkhwa, Peshawar

Service Appeal No.594/2013

Arif Ullah

Appellant

Versus

- 1. Secretary Higher Education Govt of KPK Respondent No.1
- 2. Director Higher Education(Colleges) KPK Respondent No.2
- 3. Principal Govt Degree College Landi Jalandher Bannu Respondent No.3
- 4. Secretary Finance Department Govt of KPK Respondent No.4

Respondents

Subject; - PARA WISE COMMENTS ON BEHALF OF RESPONDENT NO.1, 2 &4.

Respected Sheweth,

Preliminary Objections

- I. The appellant has no locus standi to file the Appeal in hands.
- II. That the appellant has concealed material facts from this Hon'able Court hence the Appeal in hands is not maintainable.
- III. The appointment order of the appellant was not in accordance with the prescribed manner as provided in the Appointment and Promotion rules.
- 'IV. That the appeal is badly time barred.
- V. That the appellant has been estopped by his own conduct to file the instant appeal.
- VI. That the appellant has no cause of action.
- VII. That the Hon'able Tribunal has no jurisdiction to entertain the appeal.
- VIII. That the appellant has no come to the court with clean hands.

Facts

- 1. Incorrect. The appointment order dated 03/11/2012 was not according to the strict codal formalities as it was made in undue haste. A lecturer in (BPS-17) has issued the appointments orders which fall beyond his jurisdiction. Above that this committee has interviewed all these 11 candidates and issued their orders on the same day to the extent that they have taken their charge of offices. Furthermore, a thick cloud of malafide is visible as evident from the inquiry report dated 26/11/2012(Annexure-A) wherein three main objections have been raised by the Inquiry Officers:
 - i. There is a variation between the date of requisition of the College Administration for the candidates i.e. 08/10/2012 and provision of the candidates by employment exchange Bannu i.e. 02/10/2012. Another disputed point is that the Manager Employment Exchange, Bannu only sent the same names of those 11 candidates who were later on appointed. However in the eyes of law and procedural experiences he should have sent more than 11 candidates.
 - ii. No call letters to candidates were issued, which is pre- requisite for such like appointments.
 - iii. The DDO being a lecturer in BPS-17 and not an officer of category-II is not competent to issue these appointments orders.
- 2. Incorrect. The DDO concerned was informed to held in abeyance the appointment orders vide Endst No.SO(COLLEGES-II)28-1/2012 dated 05/11/2012 per Annexure D of the appeal.
- **3.** Incorrect. The pay was stopped due to the gross irregularities reported to the Provincial Government in the appointments of the appellants.
- 4. Incorrect. His Departmental appeal has been considered and filed being meritless.

Grounds

A. Not admitted. The action of the Respondents is legal, lawful and in the best interest of public.

B. Not admitted. The appellant is trying to misguide the Court by claiming that he is still performing his duties but, in Para-2 of the Departmental appeal he himself admits that the DDO has stopped his salary and cancelled his appointment order. According to the inquiry report (Annexure-A) supra the appointments orders are made purely on temporary basis and are liable to termination at any time with out any notice or assigning any reason.

- **C.** Incorrect[#]Per terms and conditions the appointment of the appellant was liable to termination without serving upon him any notice.
- D. Incorrect. The action of the Respondents is according to the law and rules as stated above.
- E. Incorrect. Section -17 of the civil servant act,1973 deals with the seniority of the civil servant and not with the payment of salary, hence denied.
- F. The Respondents also seek permission to advance additional arguments at the time of the hearing of the case.

<u>Praver</u>

The above arguments prove that the appellant has very weak legs to stand upon, hence the appeal in hand may graciously be dismissed.

Secretary To Govt: of KPK Higher Education Department Respondent No.1

Director Higher Education Khyber Pakhtunkhwa Director Higher Education Khyber Pakhtoon Khwa Respondent No.2 Khyber Road Peshawar.

andar

an ma Principal Govt Degree College negra Landi Jalandher Bannu Respondent No.3 ?INCIP

Secretary

To Govt: of KPK **Finance Department** Respondent No.4

The Secretary Govt, of Khyber Pakhtunkhwa Higher Education Department.

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So Directos Elgher Education

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We Director, Higher Education

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Bukhari Shah Section Office (Litigation) r : i **Higher Education Department**

Principal

Govt Degree College Naguman.

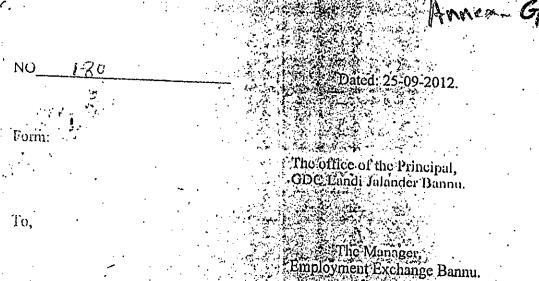
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26/1/p

Dated: ____/2012

an Director, Eigher Education

Copy of the above is subouteshawar for information please



Subject: LIST OF SUTIABLE CANDIDATES ELIGIBLE FOR THE POST OF FOLLOWING CLASS-V PARTY AND

Memo;

It is submitted that following Class IV are hereby lying vacant since long time in DGC Landi Jalander Bannu.

The Detail is as under:

`Л.

Lab Attendant (03) 🕅 : Chowkidar (02) Naib Qasid Sweeper AV. T. Mali (01) Carterian Tube well Operator (01)

Please provide the list of suitable cundidates who are eligible for the above posts according to your office record.

PRINCIPA

G.D.C.E.A.P.B.B.ATANIDER

ANNU'

08-10-2012

W. S. S. S. <u>ในสารแหน่</u>สอบเนลา -71-07-be 39tt c'r (i - 2102 - 10 - 2015 -- G 1405 222+ Approved of the second and the second מינט אישדר אות גים וגצווניון בלתיצונים אישר ג ברסתיא $\mathcal{I}_{G,\mathcal{N}}$ (10)Tobring Contraction of the second sec 141 (10) - iluM .č (77) Sweeper و او او می او می او مواد 1 (70) biseQ.dinW 31 (20) Chowledair **.**2. (03) Lub Attendant 1 GDC Landi Jalander Bannu. ni omit gnol oom: muory gniyl ydorod om VI seelO gniyrollol mit bomindu: si it fomoly Request list of Class IV and Eab Micendank nolong Anc District Coordination Others .numit 4 1 . **'**0] united robushel, ibm. 1 O(I) The Office of the Participal Contraction :uo. ji 5.107 637 -.0M 121-1211 - XONNOX

The Manager,

Employment exchanges Bannu,

to.

From,

The Principal,

GDC Landi Jalandar Banni

Subject: List of Registered Candidates

Honourable Sir,

It is to inform you that this office got various application regarding the newly created post at your college. The list of the candidates are as follows.

- no8 / FEB/A

10

Employment Exchange Bannu.

> Managor Employment Exchange Carles BANNU

1. Fida Ullah S/O Mirdad Khan Reg: 1143/EP/011

2. Arif Ullah S/O Muhammad Nawaz Reg: 280/05

3. Gul Yar S/O Sabir Zaman Reg: 866/011

4. Jaidad Khan S/O Farid Khan Rog: 049/EP/011

5. Ikhtiar Zaman S/O Farid Khan Reg: 8798014 1153/EP/011

6. Sahib Zada S/O Adil Badshah Reg: 870/011

7. Bakht Muuir S/O Gu Zaman Reg: 144/EP/011

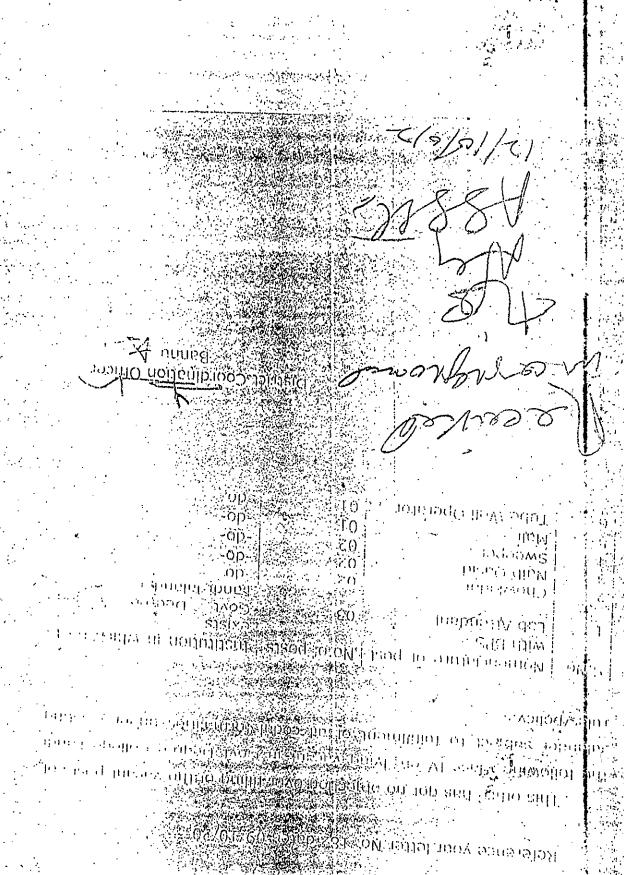
8. Khandan S/O Amil Zaman Reg: 865/011

9. Shafi Ullah S/O Sawdad Khan Reg: 868/011

10. Shahid Ullah S/O Khan Reg: 1207/EP/011

11. Shams Zaman S/O Sadrai Regi 1142/EP/011

Dated: 2. 10 012



ALICON CERTIFICATION OF THE REAL PROPERTY OF

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(Annexure-J)

OFFICE OF THE DISTRICT COORDINATION OFFICER, BANNU

No. 4134/DCO/AE/NOC Dated 09/10/2012

The Principal Govt Degree College Landi Jalandher, Bannu.

Subject: - NO OBJECTION CERTIFICATE.

То

Reference your letter No. 182 dated 09/10/2012.

This office has got no objection over filling of the vacant posts of the following Class-IV lying vacant in Govt Degree College Landi Jalandher Bannu subject to the fulfillment all codal formalities under rules/ policy.

S#	Nomenclature of post with BPS	No. of Posts	Institution in which
			the post lying vacant
1	Lab Attendant	03	GDC, Landi Jalandher
ŧ			Bannu
2	Chowkidar	02	do
3	Naib Qasid	02	do
4	Sweeper	02	do :
5	Mali	01	do
6	Tube Well operator	01	do
			,

Sd/ District Coordination Officer Bannu.

Anner-K

GOVT. OF KHYBER PAKHTUNKHWA HIGHER EDUCATION, ARCHIVES & LIBRARIES DEPARTMENT

No. SO (COLLEGES-II)HE/19-1/2012. Dated Peshawar the September 28th, 2012.

The Director, Higher Education, Khyber Pakhtunkhwa, Peshawar:

SUBJECT: - INTERVIEW FOR THE APPOINTMENT OF CLASS-IV EMPLOYEES

Sir,

I am directed to refer to the subject noted above and to state that the Competent Authority in Higher Education Department has been pleased to nominate Mr. Mohammad Zaman, Deputy Chief Planning Officer of this Department to conduct interview of the above mentioned posts in the following colleges:

GDC (Boys) Mamash Khel Bannu.

GDC (Boys) Landi Jalandar Bannu.

GDC (Boys) Domail Bannu.

SECTION OFFICER (COLLEGES-II)

1.

Endst: No & Date of even

2.

Copy forwarded for information to the:

PS to Secretary, Higher Education Department. Muhammad Zaman, Dy: Chief Planning Officer, Higher Education Department

SECTION OFFICER (COLLEGES-II)

То



GOVT. OF KHYBER PAKHTUNKHWA HIGHER EDUCATION, ARCHIVES & LIBRARIES DEPARTMENT

Aprice - La

Dated Peshawar the 05.10.2012.

TIFICATION

NO. SO(C-II)HED/28-1/2012. Consequent upon the issuance of fresh Job distribution by the Provincial Government among one of the following, subject to the availability, will attend the DSC meeting as Govt. nominee for the recruitment of Class-IV staff in the different colleges of Khyber Pakhtunkhwa (Male & Female) with immediate effect:-

· · ·	/ · · · · · · · · · · · · · · · · · · ·	A REAL PROPERTY AND A REAL
S. No.	Name & Designation of the Officer	Areas for which nominated
1.	Mr. Habib-ur-Rahman, SO(C-II)	For southern areas.
2	Mr. Pir Mohammad Khan, SO(C-I)	For Northern areas. For Central districts.
3.	Mr. Ghulam Ali, Deputy Director (Estt), Directorate of Higher Education.	
4.	Mr. Naveed Khan, Deputy Director (P&D),	For Hazara Division.
	Directorate of Higher Education.	

SECRETARY TO GOVT. OF KHYBER PAKHTUNKHWA HIGHER EDUCATION DEPARTMENT

Endst: No. & Date Even,

A copy is forwarded to the:-

- Director, Higher Education, Khyber Pakhtunkhwa, Peshawar.
 P.S to Minister, Higher Education, Khyber Pakhtunkhwa, Peshawar.
 P.S to Secretary, Higher Education Department.

- 4. Officers concerned.
- Ble <u>)</u> (HABIB-UR-RAHMAN) SECTION OFFICER (COLLEGES-II)

<u>DFFICE OF THE PRINCIPAL GOVT: DEGREE COLLEGE</u> Landi jalandar bannu.

Appointment Notification:

As per decision / recommendation of the Departmental Selection Committee dated 03-11-2012, constituted for the recruitment of class-4 at Govt Degree College Landi jalander Bannu; The competent authority is pleased to appoint the following persons for the posts mentioned against each in this college with immediate effect :-

MACA

S.No	Name	F/Name'	POSTS With BPS
01	Fida ullah	- Miradar khan	Naib Qasid-01
02	Arifullah ;	Muhammad Nawaz	Lab Attendant-01
03	Gulyar	Sabir Zaman	Mali-01
04	Jaidad khan 🕴 👘	Farid khan	Lab attendant-01
05	Ikhtiar Zaman	Farid khan	Lab Attendent-01
06	Sahib zada	Adil Badshah	Naib Qasid-01
07	BakhtMunir	Gul Zaman	Tube well operator-01
08	Khandan	Amil Zaman	Chowkidar-01
09 ű	Shafi ullah	Sawdad khan	Sweeper-01
10.	Shahid ullah	Sawdad khan .	Swceper-01
1,1	Shams Zaman	Sadrai	Chowleidar-01

The Appointments of the above class 4 servants will be subject to the following terms and conditions.

TERMS AND CONDITIONS:

- 1. Charge Reports should be submitted to all concerned.
- 2. No TA/DA etc is allowed.
- 3. The Appointment of the above candidates are being made on purely temporary basis and is liable to termination at any time with out notice.
- And with out assigning any reason.
- And with out assigning any reason.
 They are not entitled to any pension & gratuity.
- They should produce their Health & age certificate from Medical
 Supdit;DHO Hospital Bannu.
- 6. They will be governed by the rules & Regulations of the provincial-GovtPrescribed for such employees.

R 139 03-11-2012

Principal/DDO Govt : Degree College Landi Jalandar Bannu

Endst: No ... 190-96

1

1

Dated:GDC L.J-03-11-2012

Copy of the above is forwarded for information to ...

The Director Higher Education Department KPK Peshawar.
 P.S to Minister for Higher Education Department KPK Peshawar.
 PS to Secretary Higher Education Department KPK Peshawar.
 Section Officer Higher Education Department KPK Peshawar.
 The District Account officer Bannu.
 Officials concerned.

03-11-2012 Principal/DDO

Govt : Degree college Landi jalandar Bannnu

Friended R Papall-COR

Govi: Denning rollege gandi Jatanunar Bannu

<u>Before the Service Tribunal Khyber Pakhtunkhwa, Peshawar</u>

Service Appeal No.594/2013

Arif Ullah

Appellant

Versus

1. Secretary Higher Education Govt of KPK Respondent No.1

2. Director Higher Education(Colleges) KPK Respondent No.2

- 3. Principal Govt Degree College Landi Jalandher Bannu Respondent No.3
- 4. Secretary Finance Department Govt of KPK Respondent No.4

Respondents

Subject; - PARA WISE COMMENTS ON BEHALF OF RESPONDENT NO.1. 2 &4.

Respected Sheweth,

Preliminary Objections

- I. The appellant has no locus standi to file the Appeal in hands.
- II. That the appellant has concealed material facts from this Hon'able Court hence the Appeal in hands is not maintainable.
- III. The appointment order of the appellant was not in accordance with the prescribed manner as provided in the Appointment and Promotion rules.
- IV. That the appeal is badly time barred.
- V. That the appellant has been estopped by his own conduct to file the instant appeal.
- VI. That the appellant has no cause of action.
- VII. That the Hon'able Tribunal has no jurisdiction to entertain the appeal.
- VIII. That the appellant has no come to the court with clean hands.

Facts

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- 1. Incorrect. The appointment order dated 03/11/2012 was not according to the strict codal formalities as it was made in undue haste. A lecturer in (BPS-17) has issued the appointments orders which fall beyond his jurisdiction. Above that this committee has interviewed all these 11 candidates and issued their orders on the same day to the extent that they have taken their charge of offices. Furthermore, a thick cloud of malafide is visible as evident from the inquiry report dated 26/11/2012(Annexure-A) wherein three main objections have been raised by the Inquiry Officers:-
 - There is a variation between the date of requisition of the College Administration for the candidates i.e. 08/10/2012 and provision of the candidates by employment exchange Bannu i.e. 02/10/2012. Another disputed point is that the Manager Employment Exchange, Bannu only sent the same names of those 11 candidates who were later on appointed. However in the eyes of law and procedural experiences he should have sent more than 11 candidates.
 - ii. No call letters to candidates were issued, which is pre- requisite for such like appointments.
 - iii. The DDO being a lecturer in BPS-17 and not an officer of category-II is not competent to issue these appointments orders.
- 2. Incorrect. The DDO concerned was informed to held in abeyance the appointment orders vide Endst No.SO(COLLEGES-II)28-1/2012 dated 05/11/2012 per Annexure D of the appeal.
- **3.** Incorrect. The pay was stopped due to the gross irregularities reported to the Provincial Government in the appointments of the appellants.
- 4. Incorrect. His Departmental appeal has been considered and filed being meritless.

rounds

A. Not admitted. The action of the Respondents is legal, lawful and in the best interest of public.

B. Not admitted. The appellant is trying to misguide the Court by claiming that he is still performing his duties but, in Para-2 of the Departmental appeal he himself admits that the DDO has stopped his salary and cancelled his appointment order. According to the inquiry report (Annexure-A) supra the appointments orders are made purely on temporary basis and are liable to termination at any time with out any notice or assigning any reason.

- C. Incorrect, Per terms and conditions the appointment of the appellant was liable to termination without serving upon him any notice.
- D. Incorrect. The action of the Respondents is according to the law and rules as stated above.
- E. Incorrect. Section -17 of the civil servant act,1973 deals with the seniority of the 💱 civil servant and not with the payment of salary, hence denied.
- F. The Respondents also seek permission to advance additional arguments at the time of the hearing of the case.

*Praver

The above arguments prove that the appellant has very weak legs to stand upon, hence the appeal in hand may graciously be dismissed.

Secretary To Govt: of KPK **Higher Education Department Respondent** No.1

Director Higher Education Khyber Pakhtunkhwa Khyber Pakhtoon Khwa Respondent No.2 Khyber Road Peshawar.

alandar B2

an and Principal Govt Degree College Degra Landi Jalandher Bannu **Respondent No.3** 'RINCIP

Secretary

To Govt: of KPK **Finance Department** Respondent No.4

The Secretary

Govt. of Khyber Pakhtunkhwa Higher Education Department.

Subject:- APPOINTMENT NOTIFICATION OF CLASS-IV AT GDC LANDI JALANDAR, BANNI

GGDC TANK/ GDC PROVA D.I.KHAN/ INQUIRY.

Memo,

Kindly refer to the letter No.SO(COLLEGES-II)28-1/2012, Dated 05-11-1012, regarding probe in the matter of selection for certain posts in three Govt Colleges.

1-Govt. Girls Degree College Tank. As per available record and statement of the Principal Miss Farida Shah, there are Five vacant posts (one each of Driver, Bearer, Mali, Cook and Sweeper). A letter was sent to the Manager Employment Exchange D.I.Khan for the provision of suitable candidates (Annex-A). In response a list of 28 persons was provided (Annex-B) The Principal also advertised the posts through local notices affixed at various prominent places. Therefore, total Number of candidates raised to 135. Similarly the DCO Tank was asked by the Principal for NOC. In response the DCO provided at a list of 23 persons from surplus pool (Annex-C)but there was no suitable persons for the job except driver who remained absent on the date of interview. A committee was constituted of the following persons to conduct the interview.

- (chair person) 1-. Miss Farida Shah Principal
- 2- Miss Zainab Lecture

(Member)

3- · Dr. Abdul Wahab Associate Professor GPGC D.I.Hkan (Member)

4- Mr. Habibur Rehman, SO. Colleges (Provincial Nominee)

Interview was conducted on 02-11-2012 and selection was made on the basis of suitability cum fitness but no appointment order has so far been issued.

2-Govt Degree Collge Prova D.I.Khan. As per statement of the Principal Prof: Said Nawaz, there is only one post of tube well operator is vacant in the college. The Manager employment Exchange D.I.Khan was asked for the provision of suitable candidates(Annex-D) and in response a list of Eight persons was provided (Annex-E). Similarly Principal called the application through local Notices and Six persons applied. Total number of the candidates raised to 14. Interview was conducted on 03-11-2012, candidates were informed through local notices and the following persons conducted the interview.

Copy of the above is submitted Peshawar for information please.

/____72012 Dated:

Director (Eigher Education

The Secretary Govt, of Khyber Pakhtunkhwa Higher Education Department.

Subject:- APPOINTMENT NOTIFICATION OF CLASS-IV AT GDC LANDI JALANDAR, BANNU

GGDC TANK/ GDC PROVA D.I.KHAN/ INQUIRY.

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- 1- Miss Farida Shah Principal (chair person)
- 2- Miss Zainab Lecture (Member)
- 3- · Dr: Abdul Wahab Associate Professor GPGC D.I.Hkan (Member)
- 4- Mr. Habibur Rehman SO. Colleges (Provincial Nominee)

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Copy of the above is submity Peshawar for information please. Dated: _____72012

We Unestox Eigher Education

- 1- Prqf: Said Nawaz Principal
- 2- Mr. Niaz Hussain, Lecturer
- 3- Mr. Sohail Rizwan Lecture
- 4- Mr. Habibur Rehman SO Colleges

Five persons among the candidates were present Annex-F) and one Mr. Ihsanullah was selected as principal candidate and Muhammad Arshad as alternate candidate . The process was completed at 11.30 A.M. on 03-11-2012, no appointment order has so far been issued.

3- Govt Degree College Landi Jalandar Bannu :- According to available record and statement of the DDO/ Incharge Principal Mr. Ahmad Raza Lecturer in Political Science, there are eleven vacant Posts consisting of 3 Lab attendant, 2 chowkidars, 2 Naib Qasid, 2 sweepers, 1 Mali and 1tube well operator. A letter was sent to the Manager Eployment Exchange Bannu on 08-10-2012(Annex-G) asking for the provision of suitable candidates and DCO for NOC on the same date (Annex-H)but the List of 11 persons had sent by Manager employment Exchange Bannu on 02-10-2012, prior to the requisition (Annex-I). The DCO, however, granted NOC on the same date(Annex-J). Interview was conducted on 03-11-2012 at 12.30 P.M. and the following persons conducted the interview.

1-	Mr. Ahmad Raza Lecturer DDO	(chairman)
	Mr. Gul Tiaz Khan Lecturer	(Member)
3-	Mr. Alam Zeb Khan Lecturer	(Member)
•	Mr. Habibur Rehman SO Colleges	(Provincial Nominee)

No call letter for the interview was issued to candidates nor it was published through local notice. However all of the 11 cndidates were selected, their appointment orders were issued on the same date i.e. 03-11-2012, they were handed over charge of their duties inspite of the facts that only 7 persons had submitted their Medical fitness.

Therefore the following discrepancies are pointed out;

There is a variation between the date of requisition of the college administration for 1 the candidates 1.e. 08-10-2012, and provision of the list of candidates by Employment-Exchange Bannu 1.e. 02-10-2012. Provision before requisition establishes malafide.

No call letter to the candidates was issued to appear for interview but all were 2-present for.

The Employment Exchange Bannu provided a list of exactly 11 candidates so that 3selection committee had no option but to select all. This aspect of the case also speaks of malafide and intransparancy of the process.

Copy of the above is submitte Peshawar for information please.

Dated: / /2012 We Director Eligher Education

DDO being a Lecturer IN Grade-17 and not an officer of category-II, not competent to issue appointment orders.

It is worth mentioning that interview started on 03-11-2012, at 12.30 ,completed the process on the same day and appointment orders issued on the same day too. Therefore, such hasty decisions, shows pre planning.

6-It is noted from the record of Higher Education Department that Mr. Muhammad Zaman Deputy CPO was nominated for the said college (Annex-K) and then Mr. Habibur Rehman was nominated (Annex-L).

It has been written in the appointment orders that "The appointments are being made on purely temporary basis and is liable to termination at any time without notice and without assigning any reason." Therefore it is recommended that appointment orders of all the 11 person issued vide No.190-96 dated 03-11-2012 at Govt Degree College Landi Jalandar Bannu (Annex-M)may be cancelled and it may be

reprocessed to maintain transparency in appointment pariticularly in view of the intransparancy in the process of selection and constitution of improper selection committee.

Niaz Muhammad

Bukhari Shah Section Officer (Litigation) **Higher Education Department**

Principal

Govt Degree College Naguman.

Moreove the (11) conductates toted. Beened for interview on 03/11/12 many Cooker interviewed a fresh, and their Bases be considered in The Bresh process of Selection, and after constitution of Two Selection Committee

26/1/2

Dated: /___/2012

an Line spielligher Education

Copy of the above is submitte Peshawar for information please.

	Annex-	G
NO <u>1-80</u>	Dated: 25-09-2012.	•
Form:		
	The office of the Principal, ODC Landi Jalander Bannu.	
To,		
	Employment Exchange Bannu.	
Subject: LIST OF	SUTIABLE CANDIDATESTLICIBLE FOR THE BOST	OF
FOLLOY	VING CLASS-IV	<u>Or</u>
Memo;		
It is submitted th DGC Landi Jalander Bar	t following Class IV are hereby lying vacant since long ti	ime in
	nu.	
The Detail is as under:		
Lab Atten	dant (03)	. • •
2. Chowkida	(02)	•.

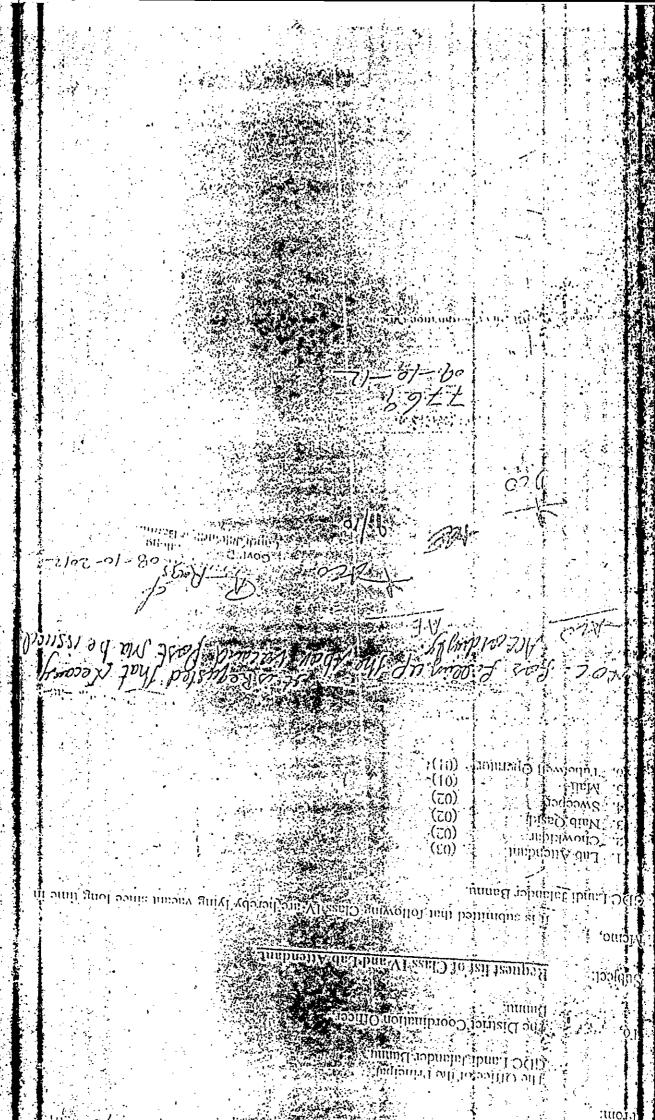
1.1

Naib Qasid Sweeper Mali Tube well Operator

Please provide the list of suitable cundidates who are eligible for the above posts according to your office record.

G D C LANDBUAT-NUDER

08-10-2012



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G H-xauntura

The Manager,

From,

10.

Employment exchanges Bannu,

The Principal,

GDC Landi Jalandar Bannu

Subject: List of Registered Candidates

Honourable Sir,

It is to inform you that this office got various application regarding the newly created post at your college. The list of the candidates are as follows.

1. Fida Ullah S/O Mirdad Khan Reg: 1143/EP/011

2. Arif Uliah S/O Multammad Nawaz Reg: 280/05

3. Gul Yar S/O Sabir Zaman Reg: 866/011*

4. Jaidad Khan S/O Farid Khan Rog: 049/EP/011

5. Ikhtiar Zaman S/O Farid Khan Reg: 870/014 1153/EP/011

6. Sahib Zada S/O Adil Badshah Reg: 870/011

7. Bakht Munir S/O Gu Zaman Reg: 144/EP/011

8. Khandan S/O Amil Zaman Reg: 865/011

9. Shafi Ullah S/O Sawdad Khan Reg: 868/011

10. Shahid Ullah S/O Khan Reg: 1207/EP/011

11. Shams Zaman S/O Sadrai Reg: 1142/EP/011

Dated: 2 10 oth

Manager, **Employment** Exchange Bannu,

- 408 / EEB /

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(Annexure-J)

OFFICE OF THE DISTRICT COORDINATION OFFICER, BANNU

No. 4134/DCO/AE/NOC Dated 09/10/2012

The Principal Govt Degree College Landi Jalandher, Bannu.

Subject: - NO OBJECTION CERTIFICATE.

Τn

Reference your letter No. 182 dated 09/10/2012.

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S#	Nomenclature of post with BPS	No. of Posts	Institution in which the post lying vacant
1	Lab Attendant	03	GDC, Landi Jalandher (
1.			Bannu
2	Chowkidar	02	do
3	Naib Qasid Sweeper	02	do i do i
5 .	Mali	01	do
6	Tube Well operator	01	do

Sd/ District Coordination Officer Bannu.

Anner-K

GOVT. OF KHYBER PAKHTUNKHWA HIGHER EDUCATION, ARCHIVES & LIBRARIES DEPARTMENT

No. SO (COLLEGES-II)HE/19-1/2012. Dated Peshawar the September 28th, 2012.

То

The Director, Higher Education, Khyber Pakhtunkhwa, Peshawar:

SUBJECT: - INTERVIEW FOR THE APPOINTMENT OF CLASS-IV EMPLOYEES

Sir, I am directed to refer to the subject noted above and to state that the Competent Authority in Higher Education Department has been pleased to nominate Mr. Mohammad Zaman, Deputy Chief Planning, Officer of this Department to conduct interview of the above mentioned posts in the following colleges:

GDC (Boys) Mamash Khel Bannu.

GDC (Boys) Landi Jalandar Bannu.

3. GDC (Boys) Domail Bannu.

Endst: No & Date of even

2.

1.

2.

SECTION OFFICER (COLLEGES-II)

Copy forwarded for information to the: .

PS to Secretary, Higher Education Department. Muhammad Zaman, Dy: Chief Planning Officer, Higher Education Department

SECTION OFFICER (COLLEGES-II)



GOVT. OF KHYBER PAKHTUNKHWA HIGHER EDUCATION, ARCHIVES & LIBRARIES DEPARTMENT

Annex-La

Dated Peshawar the 05.10.2012.

<u>OTIFICATION</u>

NO. SO(C-11)HED/28-1/2012. Consequent upon the issuance of fresh Job distribution by the Provincial Government among one of the following, subject to the availability, will attend the DSC meeting as Govt. nominee for the recruitment of Class-IV staff in the different colleges of Khyber Pakhtunkhwa (Male & Female) with immediate effect:-

	· ·	A REAL PROPERTY AND A REAL	I de la companya de la	
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L'aza		Mr. Habib-ur-Rahman, SO(C-II)	For southern areas.	ı.
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	4.	Mr. Naveed Khan, Deputy Director (P&D),	For Hazara Division.	
سريا		Directorate of Higher Education.	and a second and provide an approximation of the second second second second second second second second second	٤,

SECRETARY TO GOVT. OF KHYBER PAKHTUNKHWA HIGHER EDUCATION DEPARTMENT

Endst: No. & Dato Even.

- A copy is forwarded to the:-
- Director, Higher Education, Khyber Pakhtunkhwa, Peshawar.
 P.S to Minister, Higher Education, Khyber Pakhtunkhwa, Peshawar.
 P.S to Secretary, Higher Education Department.
- 4. Officers concerned.
- Illes 2 (HABIB-UR-RAHMAN) SECTION OFFICER (COLLEGES-II)

OFFICE OF THE PRINCIPAL GOVT: DEGREE COLLEGE LANDI JALANDAR BANNU.

Appointment Notification:

As per decision / recommendation of the Departmental Selection Committee dated 03-11-2012, constituted for the recruitment of class-4 at Govt Degree College Landi jalander Bannu; The competent authority is pleased to appoint the following persons for the posts mentioned against each in this college with immediate effect :-

Annex-

S.No	Name 🐑	F/Name'	POSTS With BPS
01	Fida ullah	-Miradar khan	Naib Qasid-01
02	Arifullah	Muhammad Nawaz	Lab Attendant-01
03	Gulyar	Sabir Zaman	Mali-01
04	Jaidad khan	Farid khan	Lab attendant-01
05 [·] .	Ikhtiar Zaman	Farid khan	Lab Attendent-01
06: 5	Sahib zada	Adil Badshah	Naib Qasid-01
07 ·	BakhtMunir	Gul Zaman	Tube well operator-01
08 -	Khandan	Amil Zaman	Chowkidar-01
09 ñ	Shafi ullah	Sawdad khan	Sweeper-01
101	Shahid ullahi	Sawdad khan	Sweeper-01
1,1	Shams Zaman	Sadrai	Chowkidar-01

The Appointments of the above class 4 servants will be subject to the following terms and conditions.

TERMS AND CONDITIONS

- 1. Charge Reports should be submitted to all concerned.
- 2. No TA/DA etc is allowed.
- 3. The Appointment of the above candidates are being made on purely temporary basis and is liable to termination at any time with out notice
- And with out assigning any reason.
 They are not entitled to any pension & gratuity.
- 5. They should produce their Health & age certificate from Medical Supdtt;DHO Hospital Bannu.
- 6. They will be governed by the rules & Regulations of the provincial-GovtPrescribed for such employees.

R-1034 03-11-2012 Principal/DDO

Govt : Degree College Landi Jalandar Bannu

Endst: No...190-96

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Dated:GDC L.J-03-11-2012

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Copy of the above is forwarded for information to ..

The Director Higher Education Department KPK Peshawar.
 P.S to Minister for Higher Education Department KPK Peshawar.
 PS to Secretary Higher Education Department KPK Peshawar.
 Section Officer Higher Education Department KPK Peshawar.
 The District Account officer Bannu.
 Officials concerned.

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Principal/DDO Govt : Degree college Landi jalandar Bannu

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Govi: Denise noboge Kandi Jahanimar Banni