

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Appeal No. 1037/2016

Date of Institution ... 06.10.2016

Date of Decision ... 08.12.2017

Irshad Ullah, Ex: Village Secretary (BPS-7),
Village Council Jandri, District Karak.

... (Appellant)

VERSUS

1. The Secretary Local government and Rural Development Department,
Khyber Pakhtunkhwa, Peshawar and 2 others.

... (Respondents)

MR. NOOR MUHAMMAD KHATTAK
Advocate

--- For appellant.

MR. MUHAMMAD RIAZ PAINDAKHEL,
Assistant Advocate General

--- For respondents.

MR. AHMAD HASSAN, ...
MR. MUHAMMAD AMIN KHAN KUNDI ...

MEMBER (Executive)
MEMBER (Judicial)

JUDGMENT

AHMAD HASSAN, MEMBER.- Arguments of the learned counsel for
the parties heard and record perused.

FACTS

2. The brief facts are that the appellant was appointed as Village Secretary in BPS-07 vide order dated 23.12.2015 and was performing duty at the place of his posting. Astonishingly the appointment order was unilaterally cancelled/withdrawn vide impugned order dated 05.04.2016 constraining him to prefer departmental appeal on 28.06.2016 which was not responded, hence, the instant service appeal on 06.10.2016.

ARGUMENTS

3. Learned counsel for the appellant argued that on the recommendations of Departmental Selection Committee he was appointed as Secretary Village Council vide order dated 23.12.2015. That he submitted arrival report on 28.12.2015 and was accepted by the competent authority. However, salary of the appellant was not released. Time and again he approached the respondents but to no avail. As a last resort he filed Writ Petition in Peshawar High Court for release of his salary but astonishingly during the pendency of the above petition respondent no.3 vide impugned order dated 05.04.2016 cancelled/withdrawn his appointment order and the same was communicated to him on 20.06.2016. Subsequently the writ petition was withdrawn by the appellant. Feeling aggrieved of this order the appellant filed departmental appeal on 28.06.2016 which was not decided within statutory period, hence, the instant service appeal. Though being a civil servant but was not treated according to Khyber Pakhtunkhwa (Appointment, Promotion, Transfer) Rules, 1989. No regular enquiry was conducted before passing the impugned order. Principle of *locus-poinententiae* was also not followed in this case. He further contended that at the time of appointment he fulfilled the required qualification and presented certificate course in M.S. Office w.e.f 01.01.2013 to 30.06.2013 from Khattak Polytechnic and Technical Centre Karak. This centre is affiliated with Khyber Pakhtunkhwa Trade Testing Board and necessary certificate to this effect is annexed with rejoinder submitted by the learned counsel for the appellant. Furthermore, the Supreme Court of Pakistan in judgment in Civil Appeal no. 843-863/2014 dated 08.04.2016 not only validated certificate or diploma issued by Skill Development Council but even allowed those who could not improve

their qualification up till now and were given a period of one year for improvement of qualification which would be reckoned from the date of commencement of next available academic session of the respective programme. Hence, even on the basis of the said judgment the appellant was eligible for appointment. Reliance was placed on case law as reported in 1997 SCMR 1552.

4. On the other hand learned Assistant Advocate General argued and conceded that at the time of submitting application for appointment against the post of Secretary Village Council he submitted six months certificate in MS Office from Khattak Polytechnic and Technical Center Karak. However, after appointment when directed by the respondents to produce certificate for verification, the appellant provided a different certificate of Skill Development Board for the Session 01.07.2015 to 31.12.2015, while advertisement for recruitment was issued on 26.06.2015. It means that he was not eligible for appointment at the time of advertisement. Furthermore, in view of judgment of Supreme Court of Pakistan in Civil Appeal no. 843-863/2014 dated 08.04.2016 the Skill Development Council is not competent to issue certificate/diploma, hence, appellant was not eligible/qualified for appointment. A show cause notice was also served on him but he failed to submit proper defense in time. Impugned order was passed after observing all codal formalities.

CONCLUSION.

5. Careful perusal of record would reveal that the post of Secretary Village Council was advertised by the respondents on 11.04.2015. The appellant also applied for the said post and was accordingly selected after observance of all codal formalities vide order dated 23.12.2015. He submitted arrival report and started performing duty. At the time of appointment he submitted six months certificate course in M.S Office w.e.f 01.01.2013 to 30.06.2013 conducted by

Khattak Polytechnic and Technical Centre Karak duly affiliated/recognized by Trade Testing Board, Khyber Pakhtunkhwa. Necessary certificate to this effect is also available on record.

6. Later on when the department directed the appellant to provide documents for verification, he provided a certificate issued by Skill Development Council from 01.07.2015 to 31.12.2015, while closing for submission of application for the post of Secretary Village Council was 26.06.2015. As such the appellant was not eligible for appointment because he did not possess the required qualification at the time of appointment. There are inherent contradictions in the reply/arguments of official respondents. They have admitted that six months M.S Office certificate obtained by the appellant from Khattak Polytechnic and Technical Center, Karak is valid and has not been declared fake or bogus by any agency. It has also been conceded that the same was presented by the appellant at the time of appointment. It further gives credence that he was eligible for appointment and was rightly selected by the Departmental Selection Committee and finally his appointment order was notified on 23.12.2015. That the Supreme Court of Pakistan in its judgment dated 08.04.2016 validated the certificate issued by Skill Development Council. The august Court in its judgment even allowed those candidates who improved their qualification afterwards and those who could not improve their qualification up till now were allowed to improve the same within a period of one year which would be reckoned from the date of commencement of the next available academic session of the respective programme. On the other hand in view of judgment of the Supreme Court of Pakistan referred to above the appellant is eligible for appointment.

7. The Procedure followed by the respondents for cancelling his appointment order is not tenable in the eyes of law. Before passing impugned order regular enquiry should have been conducted as held by the august Supreme Court of Pakistan in 1997 SCMR 1552, so as to provide fair opportunity to the appellant to clear his position. Similarly as held by the august Supreme Court of Pakistan in 1996 SCMR 1350 there cannot be two opinions about a settled proposition of law that if any irregularities/illegalities are committed by the department then the sufferer should not be the civil servant. Though defense of locus-poinententiae is available only in those orders which are not void but before withdrawing any order the minimum standard of due process, atleast, should be honored which has not been done in the instant case.

8. As a sequel to above, the appeal is accepted and the impugned order is set aside. Respondents are placed at liberty to conduct *de-novo* inquiry strictly in accordance with rules. Parties are left to bear their own costs. File be consigned to the record room.


(MUHAMMAD AMIN KHAN KUNDI)
MEMBER


(AHMAD HASSAN)
MEMBER

ANNOUNCED
08.12.2017

Order

08.12.2017

Counsel for the appellant and Asst: AG for respondents present.
Arguments heard and record perused.

Vide detailed judgment of today of this Tribunal placed on file, the appeal is accepted and the impugned order is set aside. Respondents are placed at liberty to conduct de-novo inquiry strictly in accordance with rules. Parties are left to bear their own costs. File be consigned to the record room.

Announced:
08.12.2017.



(AHMAD HASSAN)
Member

Muhammad Amin
(MUHAMMAD AMIN KHAN KUNDI)
Member

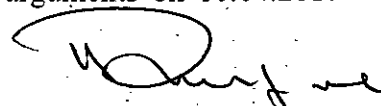
18.01.2017

Counsel for the appellant and Mr. Muhammad Ali, Assistant Director alongwith Addl. AG for respondents present. Written reply not submitted. Requested for adjournment. To come up for written reply/comments on 27.02.2017 before S.B.


(ASHFAQUE TAJ)
MEMBER

27.02.2017


Counsel for appellant and Mr. Mirza Ali Khan, Supervisor alongwith Mr. Muhammad Adeel Butt, Additional AG for respondents present. Written reply by respondents submitted and copies delivered to all concerned. To come up for rejoinder and arguments on 10.04.2017 before D.B.


(ASHFAQUE TAJ)
MEMBER

10.04.2017

Clerk of the counsel for appellant present. Mr. Mir Zali Khan, Supervisor alongwith Mr. Muhammad Adeel Butt, Additional AG for respondents also present. Clerk of the counsel for appellant submitted rejoinder and requested for adjournment on the ground that his counsel is not available. Adjourned. To come up for arguments on 01.08.2017 before D.B.


(Ahmad Hassan)
Member


(Muhammad Amin Khan Kundi)
Member

01.08.2017

Counsel for the appellant and District Attorney for the respondents present. Counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 08.12.2017 before the D.B.


Member


Chairman

~~Order~~

~~08.12.2017~~

~~Counsel for the appellant and Asst. AG for respondents present
Arguments heard and record perused.~~

~~Wide detailed judgment of today of this Tribunal placed on file, the
appeal is accepted and the impugned order is set aside. Parties are left to
bear their own costs. File be consigned to the record room.~~

~~Announced
08.12.2017~~

~~(AEMAD HASSAN)
Member~~

~~(MUHAMMAD AMIN KHAN) D
Member~~

25.10.2016

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant was serving as Village Secretary in BPS-07 vide appointment order dated 23.12.2015 which was unilaterally withdrawn vide impugned order dated 05.04.2016 constraining to prefer departmental appeal on 28.06.2016 which was not responded and hence the instant service appeal on 06.10.2016.


That the impugned order is against facts and law as no opportunity of hearing afforded to the appellant before passing the said order.

Points urged need consideration. Admit. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply/comments for 12.12.2016 before S.B.


Chairman

13.12.2016



Since 12th December, 2016 has been declared as public holiday on account of 12th Rabi-ul-Awal, therefore, case to come up for the same on 18.01.2017 before S.B.


Reader

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 1037/2016

S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	06/10/2016	<p>The appeal of Mr. Irshadullah presented today by Mr. Noor Muhammad Khattak Advocate may be entered in the Institution Register and put up to the Learned Member for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p> <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>25-10-16</u></p> <p style="text-align: right;"> MEMBER</p>

BEFORE THE KHYBER PA KHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. 1037 /2016

IRSHAD ULLAH

VS

GOVT: OF KPK

INDEX

S. NO.	DOCUMENTS	ANNEXURE	PAGE
1.	Memo of appeal	1- 3.
2.	Advertisement	A	4.
3.	Educational testimonials	B	5- 12.
4.	Appointment order	C	13- 15.
5.	Medical certificate	D	16- 17.
6.	Memo of writ petition	E	18- 20.
7.	Impugned order	F	21.
8.	Departmental appeal	G	22- 23.
9.	Vakalat nama	24.

APPELLANT

THROUGH: 
NOOR MOHAMMAD KHATTAK
ADVOCATE

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Khyber Pakhtunkhwa
Service Tribunal

APPEAL NO. 1037 /2016

Diary No. 1046

Irshad Ullah, Ex: Village Secretary (BPS-7),
Village Council Jandri, District Karak.....

Dated 06-10-2016

APPELLANT

VERSUS

- 1- The Secretary Local Government & Rural Development Department, Khyber Pakhtunkhwa, Peshawar.
- 2- The Director General Local Government & Rural Development Department, Khyber Pakhtunkhwa, Peshawar.
- 3- The Assistant Director Local Government & Rural Development Department, Karak.

..... **RESPONDENTS**

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 AGAINST THE IMPUGNED ORDER DATED 5.4.2016 COMMUNICATED TO APPELLANT ON 20.6.2016 WHEREBY THE APPOINTMENT ORDER OF THE APPELLANT HAS BEEN CANCELLED AND AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS

PRAYER:

That on acceptance of this appeal the impugned order dated 05.4.2016 communicated to the appellant on 20.6.2016 may very kindly be set aside and the respondents may be directed to re-instate the appellant with all back benefits. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant.

Filed to-day
[Signature]
Registrar

R/SHEWETH:
ON FACTS:

Brief facts giving rise to the present appeal are as follows:

- 1- That appellant is the bonafide resident of Village Tabi Khwa Jindri, Tehsil & District Karak and belongs to respectable family.
- 2- That respondent Department through advertisement dated 11.4.2015 invited applications from the suitable candidates for the posts of Village Secretary/ Neighborhood Secretary in

the Local Government and Rural Development Department.
Copy of the advertisement is attached as annexure..... **A.**

- 3- That appellant being eligible candidate for the said post applied and after participated in the written Test and interview the appellant was declared successful and he was subsequently placed at serial No.1 of the merit list. That wherein the appellant was offered the post of Village Secretary on the proper recommendations of Departmental selection Committee vide Notification dated 23.12.2015. Copies of the educational Testimonials and appointment order are attached as annexure..... **B & C.**
- 4- That after appointment the appellant submitted his medical certificate along with arrival report and started performing his duty quite efficiently and up to the entire satisfaction of his superiors. Copy of the medical certificate is attached as annexure..... **D.**
- 5- That astonishingly right from appointment the salaries of the appellant has not been released by the concerned authority with out any reason and clear justification. That appellant time and again visited the concerned quarter but no fruitful result was obtained where after the appellant submitted writ petition before the Peshawar High Court for release of salaries but during the pendency of the said writ petition the appellant was informed that his appointment order has been cancelled by the respondent No.3 vide impugned order dated 05.4.2016 which was communicated to appellant on 20.6.2016. Copies of writ petition and impugned order are attached as annexure **E & F.**
- 6- That appellant feeling aggrieved from the impugned order dated 05.4.2016 preferred Departmental appeal but no reply has been received so far. Hence the present appeal on the following grounds amongst the others. Copy of the Departmental appeal is attached as annexure **G.**

GROUND:

- A- That the impugned order dated 5.4.2016 is against the law, facts, norms of natural justice and materials on the record hence not tenable and liable to be set aside.
- B- That appellant has not been treated by the respondent Department in accordance with law and Rules on the subject noted above and as such the concerned authority violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.

- C- That the respondent Department inspite of knowing the fact that appellant has been appointed in light of APT Rules 1989 and is regularly performing his duty as village secretary issued the impugned order dated 5.4.2016.
- D- That the respondent Department discriminated the appellant on the subject noted above and as such the authority violated the principle of natural justice.
- E- That no regular inquiry has been conducted in the matter, therefore the impugned order dated 5.4.2016 is not tenable and liable to be set aside.
- F- That respondents violated the principle of Locus Poenitentiae while issuing the impugned order dated 5.4.2016 against the appellant.
- G- That the respondent Department acted in arbitrary and malafide manner by issuing the impugned order dated 5.4.2016.
- H- That the institute of Khattak polytechnic & Technical Centre Karak from where the appellant has completed the requisite course is affiliated with Khyber Pakhtunkhwa trade testing Board, therefore the appellant is fully eligible for the said post and as such the impugned order is not tenable and liable to be set aside. Copy of the affiliation certificate is attached as annexure H.
- I- That 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 kindly be accepted as prayed for.

Dated: 01.10.2016

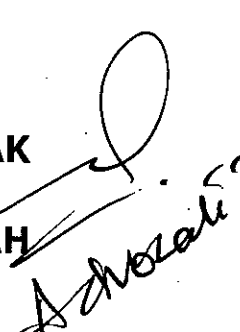
APPELLANT


IRSHAD ULLAH

THROUGH:


NOOR MOHAMMAD KHATTAK

&
SYED IMDAD HUSSAIN SHAH
ADVOCATES


A. Imdad Hussain Shah

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. _____/2016

Irshad Ullah

VS

Govt: of KPK

APPLICATION FOR CONDONATION OF
DELAY IN FILING THE ABOVE NOTED
APPEAL

R.SHEWETH:

- 1- That the appellant has filed an appeal along with this application in which no date has been fixed so far.
- 2- That the appellant prays for the condonation of delay in filing the above noted appeal inter alia on the following grounds:

GROUND OF APPLICATION:

- A- That valuable rights of the appellant are involved in the case hence the appeal deserve to decide on merit.
- B- That it has been the consistent view of the Superior Courts that cases should be decided on merit rather on technicalities including the limitation. The same is reported in 2004 PLC (CS) 1014 and 2003 PLC (CS) 76.

It is therefore prayed that on acceptance of this application the delay in filing the above noted appeal may please be condoned.

Dated: 06.10.2016.

APPELLANT


IRSHAD ULLAH

THROUGH:


NOOR MOHAMMAD KHATTAK
ADVOCATE

محکمہ بلدیات و دیہی ترقی حکومت خیبر پختونخوا ایشاور
دفتر ڈائریکٹر جنرل محکمہ بلدیات و دیہی ترقی صوبہ خیبر پختونخوا ایشاور

A-④

اشتہار برائے بھرتی و پلج / نمبر ہڈ کونسل سیکرٹری (BPS-07)

محکمہ ہذا کی طرف سے درج ذیل خالی آسامیوں کو پُر کرنے کیلئے صوبہ خیبر پختونخوا کے ڈومیسائل کے حامل اہل امیدواروں سے درخواستیں مطلوب ہیں۔ جو کہ اس اشتہار کی اشاعت کے پندرہ (15) یوم کے اندر اندر اپنے متعلقہ ضلع کے اسٹنٹ ڈائریکٹر محکمہ بلدیات و دیہی ترقی کے دفتر میں دفتری اوقات کار کے دوران بمعہ تصدیق شدہ دستاویزات جمع کرائی جاسکتی ہیں۔ تفصیل آسامیاں و مطلوبہ قابلیت اور درکار عمر کی حد نیچے درج ہیں۔

نمبر شمار	ضلع	نام آسامی	بنیادی سکیل	مطلوبہ قابلیت	عمر کی حد
1	متعلقہ	پلج / نمبر ہڈ کونسل سیکرٹری	07	i..... تصدیق شدہ بورڈ سے ایف اے / ایف ایسی سی یا اس کے مساوی امتحان پاس کیا ہو۔ (ii) تصدیق شدہ ادارے سے کمپیوٹر سافٹ ویئر 6 ماہ کا کورس پاس کیا ہو۔ MS-Word, Excel, Inpage (Urdu) and Internet/ Email (iii) ان (iii) - Internet/ Email (Inpage) اور انٹرنیٹ پر عبور حاصل ہو۔	18-25

ATTESTED

(1)۔ متعلقہ پلج / نمبر ہڈ کونسل کے باشندے کو ترجیح دی جائے گی۔ (2)۔ مذکورہ بالا بھرتی متعلقہ ضلع کے سرپلس پول میں موجود عملہ (Surplus Staff) کے مکمل تعیناتی (Adjustment) کے بعد عمل میں لائی جائیگی۔ مطلوبہ تعلیمی قابلیت اور دیگر شرائط پر پورا اترنے والے امیدواروں سے درخواست ہے کہ وہ اس اشتہار کی اشاعت کے پندرہ (15) یوم کے اندر اندر اپنے تصدیق شدہ دستاویزات اپنے ڈومیسائل کے حامل ضلع کے اسٹنٹ ڈائریکٹر محکمہ بلدیات و دیہی ترقی کے دفتر میں جمع کرائیں۔

اشتہار: ڈائریکٹر محکمہ بلدیات و دیہی ترقی، خیبر پختونخوا

* InfoKPGovt * @infoKPGovt *Send KP to 8333 INF(P)2000

ATTESTED



BOARD OF INTERMEDIATE & SECONDARY EDUCATION KOHAT

No. 6130 /Cert/Veri/SSC/Inter/BISEK

Dated: 25-01-2011

From: Asstt. Secretary Certificates
BISE Kohat.

B-5

To: The Assistant Director
LG & RDP
Karak

Subject: VERIFICATION

Memo: Reference your letter No. 61 dated 18-01-2011 regarding verification of Original Certificate(s) of the following candidate(s). The original Certificate(s) is/are duly checked / verified and found correct: -

S #	Roll No	Name	Father's Name	Session	Date Of Birth	Marl Gra
1	7138	Iqbal Ullah	Abdul Ghaffar	2010/8 HSSC	20-05-94	788
2						
3						
4						
5						
6						
7						
8						
9						
10						

ATTESTED

- Note:
1. Only photo copies of provisional/original certificates must be sent to Asstt. Secretary certificates.
 2. DMC must be sent to Asstt. Controller Secrecy.

ATTESTED



S. No. 24643

Roll No. 7139

MARKS IMPROVED

ذات اللہ

CHECKED & VERIFIED
ASSISTANT SECRETARY
BOARD OF INTERMEDIATE & SECONDARY
EDUCATION KARAK

6

Khyber Pakhtunkhwa, Pakistan.
SECONDARY SCHOOL CERTIFICATE EXAMINATION
SESSION: 2010 SUPPLY

This is to Certify that IRSHAD ULLAH Son / Daughter of Mr. ABDUL GHAFFAR
and a student of DISTRICT KARAK

Examination of the Board of Intermediate and Secondary Education, Kohat held in Sep, 2010 as a PRIVATE candidate. He / She obtained 798 Marks out of 1050 and has been placed in A Grade, Representing EXCELLENT

The Candidate passed in the following subjects:

- | | | | |
|----------------|------------|--------------|-----------------|
| 1. English | 2. Urdu | 3. Islamiyat | 4. Pak. Studies |
| 4. Mathematics | 6. Physics | 7. Chemistry | 8. Biology |

Date of birth according to admission form is 20/05/1994

In words: TWENTIETH MAY, ONE THOUSAND NINE HUNDRED AND NINETY FOUR

Asstt. Secretary

ISSUED IN LIEU OF ROLL .NO: 57733 SSC ANNUAL EXAM 2010

This certificate is issued without alteration or orasure.

Secretary

Attested
TARAF
Secretary
GAS

ATTESTED

No. 628 /Cert/Veri/SSC/Inter/BISEK

Dated: 25-01-2016

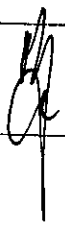
From: Asstt. Secretary Certificates
BISE Kohat.

To: The Assistant Director
LG & R.D.D
Kenak

(7)

Subject: VERIFICATION

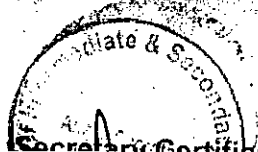
Memo: Reference your letter No. 62 dated 18-01-
regarding verification of Original Certificate(s) of the following candidate(s). The ori
Certificate(s) is/are duly checked / verified and found correct: -

S #	Roll No	Name	Father's Name	Session	Date Of Birth	Mat Gr
1	44360	188hadullah	Abdul Ghafoor	2012/A HSSC	-	712
2						
3						
4						
5						
6		ATTESTED				
7						
8						
9						
10						

- Note:
1. Only photo copies of provisional/original certificates must be sent to Asstt. Secretary certificates.
 2. DMC must be sent to Asstt. Controller Secrecy.

ATTESTED




Asstt. Secretary Certificates

S. No.

Roll No. 44360

CHECKED & VERIFIED
 ASSISTANT SECRETARY (CERTIFICATE)
 BOARD OF INTERMEDIATE & SECONDARY
 EDUCATION, ROHAT
 25-01-16

ذات الحجة

8

Board Of Intermediate and Secondary Education
Rohat

Khyber Pakhtunkhwa, Pakistan.
HIGHER SECONDARY SCHOOL CERTIFICATE EXAMINATION
GROUP: PRE-MEDICAL
SESSION: 2012 (ANNUAL)

This is to Certify that IRSHAD ULLAH Son / Daughter of Mr. ABDUL GHAFFAR
 and a student of DANISH PUBLIC SCHOOL & COLLEGE CHOKARA KARAK having Registered No.
095-BK/DPSCCK-2010 has passed the *Intermediate Examination* of the Board of Intermediate and Secondary Education, Rohat held
 in MAY, 2012 as a REGULAR candidate. He / She obtained 712 Marks out of 1100 and has been placed in B
 Grade, Representing VERY GOOD

ATTESTED

Asstt. Secretary

This certificate is issued without alteration or erasure.

Secretary

TARIQ OBAL
 Secondary School Teacher
 G.H.S Shikarpur Chounta

ATTESTED

9

KHATTAK POLYTECHNIC & TECHNICAL CENTRE

KARAK

TTB Reg.No: DTE&MT/TTB/AFF/10018-3

Affiliated with K.P.K Trade Testing Board/ Zakat, Usher & Women Development KPK



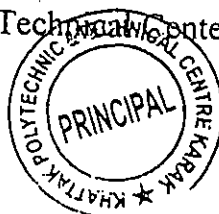
Mr/Mrs/Miss IRSHAD ULLAH Son/D/W/O
ABDUL GHAFFAR under Roll No 56 has Successfully
Completed **SIX-MONTH** Certificate Course in **MS**
OFFICE From 01/01/2013 to 30/06/2013

Principal *[Signature]*

Khattak Polytechnic & Technical Center
Karak

ATTESTED

[Signature]



Address: Algadi Road / Shagie Road Near Wapda Office Karak City

ATTESTED

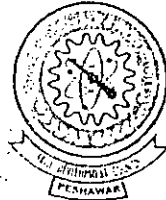
[Signature]

10

Reg. No. SDC/CMICC/152078

R.B. No. 001318-16

Skill Development Council
Peshawar
 Established Under National Training Ordinance 1980



This is to certify that

Mr/Mrs/Miss IRSHAD ULLAH Son/Daughter of ABDUL GHAFFAR

Has successfully completed a special training course organized by the SDC Peshawar in the trade of I.T.(MICROSOFT OFFICE)

held at CREATIVE MIND INNOVATIVE (CMI) COMPUTER CENTRE, KARAK

From 01-07-2015 To 31-12-2015

In recognition thereof this certificate is issued

On 30th day of JAN-2016

NOTICE

Skill Development Council Peshawar

01 MAR 2016

ATTACHED

Principal

ATTESTED



Haji Muhammad Jawid
CHAIRMAN
SDC PESHAWAR



SKILL DEVELOPMENT COUNCIL PESHAWAR

Established Under National Training Ordinance 1980
C/o GTVC Gulbahar Peshawar Ph.091-2261898 Fax: 2606259
Email: sdcpeshawar@outlook.com

11

Ref# SDC/LG&RDD-KRK/V1263-16
Dated: 05-03-2016

THE ASSISTANT DIRECTOR,
LOCAL GOVERNMENT &
RURAL DEVELOPMENT DEPARTMENT,
KARAK.

Subject: VERIFICATION

This is to certify that certificates issued in favor of Mr. Irshad Ullah S/o Abdul Ghaffar as per detail given below is genuine and has been issued by the SKILL DEVELOPMENT COUNCIL PESHAWAR.

S#	NAME	F/NAME	TRADE	CERTIFICATE S.
01	IRSHAD ULLAH	ABDUL GHAFFAR	I.T (MICROSOFT OFFICE)	A-38795

Photo copy of the certificate is duly verified and sent back as desired.

(SYED HALIM SHAH)
DIRECTOR SDC

ATTESTED

Director
Skill Development Council
Peshawar.

12



GOVERNMENT OF KHYBER PAKHTUNKHWA



KHYBER PAKHTUNKHWA TRADE TESTING BOARD

Directorate General Technical Education & Manpower Training
PESHAWAR

Serial No. 0003

AFFILIATION CERTIFICATE

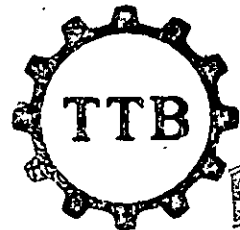
It is Certified that KHATTAK POLYTECHNIC & TECHNICAL CENTRE HARAK Is hereby

Affiliated for imparting technical and Vocational training activities with TRADE TESTING BOARD

Khyber Pakhtunkhwa. Vide Registration No DTE & MT/TTB/AFF- 10018-3 dated 04/03/2010

Discipline/Trade TY, SURVEY, COMPUTER, ELECTRICIAN, TELECOM ELECTRONICS, DIT, SAFETY, RAC


SECRETARY



ATTESTED


CHAIRMAN

OFFICE OF THE ASSISTANT DIRECTOR
LOCAL GOVERNMENT & RURAL
DEVELOPMENT DEPARTMENT
DISTRICT KARAK

Dated 23rd December 2015

OFFICE ORDER

No. 946 / ADLG&RDD /KK(Recruitment) : Consequent upon recommendation of the Selection & Recruitment Committee, the following candidates are hereby appointed as Secretary Village Council in BS-7 (Rs. 7196-715-19930) plus usual allowances as admissible under the rules on regular basis under the existing policy of the Provincial Government with immediate effect on the terms and conditions given below:

S#	Name of Candidate	Father Name	Vacant VC/ NG- Against which appointed
1	Alim Azam	Ami Azam	Sabir Abad
2	Mohammad Zahid	Sardar Ali Khan	Delli Mela
3	Tahir Mehmood	Amir Zada	Dhand Edal Khel
4	Rashid Iqbal	Mir Sahib Khan	Plosar Sar
5	Asif Hayat	Nasrullah Khan	Chani Khel
6	Amjad Iqbal	Khiyal Marjan	Tarki Khel
7	Asaad Dullah	Abdul Ghafar	Jandri
8	Shahzada Irfan	Lal Shah Noor	Terkha Koi
9	Qismat Gul	Asal Gul	Dhooda Khel
10	Mohamad Atif	Asal Mohammad	Sarat Khel
11	Shahid Rasool	Rasool Khan	Soordog
12	Inamullah	Aqal Badshah	Latamber Sharki
13	Azmatullah	Faizullah Khan	Warana Latamber
14	Umer Sohail	Umer Ghani	Mandawa
15	Mohammad Ijaz ul Haq	Mohammad Fahir Shah	Jatta Ismail Khel
16	Niamatullah	Qimat Jan	Makori
17	Muhammad Salman zafar	Raham badshah	Mammi Khel
18	Issa Hassan	Moin Gul	Teri
19	Hazrat Bilal	Zar Badshah	Teri Sapari

ATTESTED

ATTESTED

Sl#	Name of Candidate	Father Name	Vacant VC/ NC Against which appointed
20	Mazhar Islam	Farooq Islam	Ahmadi Banda
21	Miakhur Younus	Mohammad Rasool	Esak Khumari
22	Saeed Ur Rehman	Amal Jan	Mardan Khel
23	Zahid Kamal Akhtar	Khan Bad Shah	Gurguri
24	Wajahat Iqbal	Khalid Iqbal	Dagar Nari
25	Mohammad Jehangir	Hamayun Khan	Khuram Mohammad Zai
26	Umer Riaz	Umer Hayat Khan	Saikot
27	Mukhtar Ahmad	Fazal Mir	Warana Mir Hassan Khel
28	Mohammad Zafran	Shahadat Khan	Warana Muskan
29	Mohammad Adnan	Momin Khan	Tatar Khel
30	Farman Ullah	Islam Badshah	Chowkara
31	Hani fur Rehman	Ali Zar Khan	Ghundi Kalla
32	Faisal Aziz Khan	Azir Ur Rehman	Ahmad Abad
33	Mohammad Sabir	Qadir Khan	Khujaki Kala
34	Nadir Ullah	Wazir Mohammad	Yaghi Muskan
35	M.Gul Riaz Khan	Din Mohammad Khan	Siraj Khel
36	Mohammad Haleem	Gul Dar Khan	Sarki Lawgher
37	Asmatullah	Gul Qadir Khan	Bogaraa
38	Kifayatullah	Noor Syad	Shah Saleem
39	M.Nisar Kausar	Saifullah Khan	Nara
40	Naqibullah Khan	Ghulam Qadir	Kari Dand
41	Nasir Mahmood	Taj Mahmood	Nari Panos

Terms & Conditions

- 1) Their services will be considered regular and they will be eligible for pension/deduction of GP fund in terms of Khyber Pakhtunkhwa Civil Servants Act 1973, as amended in 2013.
- 2) In case of quitting service they will have to give one month's notice. In case of resignation without notice, their one month's pay/allowances shall be forfeited to the Govt.

ATTESTED

[Handwritten Signature]

ATTESTED

[Handwritten Signature]

15

- 3) They will produce health and age certificate from Medical Superintendent DHO Hospital Karak.
- 4) They would be on probation for period of one year extendable for another one year.
- 5) They will be governed by such rules and regulations applicable to government employees as may be issued from time to time.
- 6) No TA/DA will be allowed to the appointees for joining their duty.


Assistant Director
LG & RDD, Karak

Endst: of even No. & Date :

Copy forwarded to the:

- 1) Director General Local Government & Rural Development Department
Khyber Pakhtunkhwa, Peshawar.
- 2) Deputy Commissioner Karak
- 3) District Accounts Officer Karak
- 4) Officials concerned
- 5) Office Order file

ATTESTED




Assistant Director
LG & RDD, Karak

ATTESTED



D-16

OFFICE OF THE MEDICAL SUPERINTENDENT DHQ HOSPITAL KARAK
HEALTH AND AGE CERTIFICATE

Name Irshadullah
Father's Name Abdul Ghaffar
Nationality Pakistan
Cast Khattak
Residence Village Tabi khwa Tandri
Teh. & Dist Karak
Date of Birth 20.05.1994 Height 5'-9"
Personal Mark of Identification A circular scar above lat. end of eyebrow


HEAD OF OFFICE

I hereby certify that I have examined Mr/ Miss. Irshadullah
a candidate for employment in the Office of the LG & RDO Karak
Department and cannot discover that he /she has any communicable disease
constitutional affection or bodily infirmity except nil.
I do not consider his/her disqualification for employment in the any other
Department.

His/her age according to his/her own statement is (21) years and by physical
appearance in my opinion he/she is about twenty one years of age.

LEFT/RIGHT HAND THUMB & FINGERS IMPRESSION.

Thumb Fore Finger Middle Finger Ring Finger Little Finger

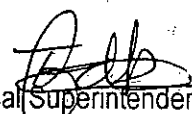


ATTESTED



ATTESTED




Medical Superintendent
DHQ Hospital Karak 26/11/15



17

To

The Assistant Director,

LG & RDD Karak.

Subject: Arrival Report

Respected Sir,

In compliance with office order No. 946/ADLG&RDD/KK(Recruitment) dated 23 December 2015 issued by the assistant director LG & RDD Karak.

I beg to submit my arrival report for duty today on 28 December, 2015 (FN).

Thanking You

Yours obediently,

IRSHAD ULLAH

IRSHAD
Secretary village council Tandrain

Assistant Supervisor
/

For record & report to VC
concerned for duty accordingly.

AD LG&RDD Karak
28/12/2015

Je

ATTESTED



ATTESTED



BEFORE THE PESHAWAR HIGH COURT PESHAWAR

WRIT PETITION NO. _____/2016

E-(18)

Mr. Irshad Ullah S/O Abdul Ghaffar,
R/O Village Tabi Khwah Jindri,
Tehsil and District Karak.

..... **Petitioner**

VERSUS

- 1- The Government of Khyber Pakhtunkhwa through Secretary Local Government and Rural Development Department, Khyber Pakhtunkhwa, Peshawar.
- 2- The Director General, Local Government and Rural Development Department, Khyber Pakhtunkhwa, Peshawar.
- 3- The Assistant Director, Local Government and Rural Development Department, District Karak.
- 4- The District Account Officer, District Karak.

..... **Respondents**

**WRIT PETITION UNDER ARTICLE 199 OF THE
CONSTITUTION OF ISLAMIC REPUBLIC OF
PAKISTAN 1973 AS AMENDED UP TO DATE**

R/SHEWETH:

ON FACTS:

Brief facts giving rise to the present Writ petition are as follows:

- 1- That petitioner is the bonafide resident of Village Tabi Khwa Jindri, Tehsil & District Karak and belongs to respectable family. Copies of the CNIC and Domicile are attached as annexure **A & B.**
- 2- That respondent No.2 through advertisement dated 11.4.2015 invited applications from the suitable candidates for the posts of Village Secretary/ Neighborhood Secretary in the Local Government and Rural Development Department. Copy of the advertisement is attached as Annexure **C.**
- 3- That petitioner being eligible candidate for the said post applied and after participated in the written Test and interview the petitioner was declared successful and he was subsequently placed at serial No.1 of the merit list. That wherein the petitioner was offered the post of Village Secretary on the proper recommendations of Departmental selection Committee vide Notification dated 23.12.2015.

TESTED




Copies of the educational testimonials and appointment order are attached as annexure **D and E.**

- 4- That after appointment the petitioner submitted his medical certificate along with arrival report and started performing his duty quite efficiently and up to the entire satisfaction of his superiors. Copy of the medical certificate and arrival report are attached as annexure **F and G.**
- 5- That astonishingly right from appointment till date the salaries of the petitioner has not been released by the respondents with out any reason and clear justification. That petitioner time and again visited the concerned quarter but no fruitful result was obtained.
- 6- That petitioner feeling aggrieved and having no other remedy filed the present writ petition on the following grounds amongst the others.

GROUND:

- A- That not releasing monthly salaries of the petitioner w.e.f. appointment order till date by the respondents is against the law, facts and norms of natural justice.
- B- That petitioner has not been treated by the respondent Department in accordance with law and Rules on the subject noted above and as such the respondents violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.
- C- That the respondent No.3 inspite of knowing the fact that petitioner has been appointed in light of APT Rules 1989 and is regularly performing his duty as village secretary is not been willing to release the monthly salaries of the petitioner.
- D- That the respondents discriminated the petitioner on the subject noted above and as such the respondents violated the principle of natural justice.
- E- That not releasing the monthly salaries of the petitioner the respondents violating the spirit of Article 11 of the Constitution of Pakistan 1973.
- F- That the respondent Department acted in arbitrary and malafide manner by not releasing the monthly salaries of the petitioner.

ATTESTED


- G- That there is no provision under the law and Rules whereby the salary of a civil servant be withheld.
- H- That petitioner seeks permission to advance other grounds and proofs at the time of hearing.

It is therefore most humbly prayed that on acceptance of this writ petition the inaction of the respondent No.3 and 4 by not releasing the monthly salaries of the petitioner w.e.f. 28.12.2015 till date may kindly be declared as illegal, unconstitutional and ineffective upon the rights of the petitioner. That the respondent No.3 and 4 may please be directed to release the monthly salaries of the petitioner w.e.f. 28.12.2015 till date. Any other remedy which this august Court deems fit that may also be awarded in favor of the petitioner.

PETITIONER

Irshad

IRSHAD ULLAH

THROUGH:

Noor

**NOOR MOHAMMAD KHATTAK
ADVOCATE HIGH COURT
(0345-9383141)**

VERIFICATION:

It is verified that no other earlier writ petition was filed between the parties.

Noor

DEPONENT

LIST OF BOOKS:

1. CONSTITUTION OF PAKISTAN.
2. SERVICES LAWS BOOK.
3. ANY OTHER CASE LAW AS PER NEED.

ATTESTED

Noor

F-(21)

OFFICE OF THE ASSISTANT DIRECTOR LOCAL GOVERNMENT AND RURAL
DEVELOPMENT DEPARTMENT KARAK

The 5th April 2016

Office Order:-

No. 177 / ADLG&RDD/KK (Recruitment):- whereas Mr. Irshadullah s/o Abdul Ghafar was appointed as Secretary Village Council Jandri vide this office order No. 946/ADLG&RDD/KK (Recruitment) dated 23-12-2015.

Whereas 06-7-2015 was the closing date for submission of applications for the posts of Secretary Village Council and the prescribed qualifications included FA/FSc or equivalent and 6-month course in computer software from a recognized institution.

Whereas he has completed computer diploma from 01-07-2015 to 31-12-2015 and on that score he did not possess the prescribed qualification on the closing date for apply i.e. 6-7-2015.

Whereas his case was referred to the DG LG & RDD Peshawar for advice / guidance who replied that the advertisement is very much clear in respect of requirements for the post of secretary VC.

Whereas he was ineligible at the time of apply as explained above, his appointment order issued vide No. 946/ADLG&RDD/KK (Recruitment) dated 23-12-2015 is hereby cancelled with immediate effect.

Attested
20/6/2016

Assistant Director
LG & RDD Karak

Encl: of even No & Date

Copy forwarded to the:

1. Director General LG & RDD, Khyber Pakhtunkhwa, Peshawar.
2. Deputy Commissioner Karak
3. District Accounts Officer Karak
4. Office Order file.
5. Official concerned.

Assistant Director
LG & RDD Karak

ATTESTED



To

G- 22

The Director General LG&RD Department,
Khyber Pakhtunkhwa, Peshawar.

**SUBJECT: DEPARTMENTAL APPEAL AGAINST THE IMPUGNED
ORDER DATED 5.4.2016 COMMUNICATED TO
APPELLANT ON 20.6.2016 WHEREBY THE
APPOINTMENT ORDER OF THE APPELLANT HAS
BEEN CANCELLED**

**R/SHEWETH:
ON FACTS:**

**Brief facts giving rise to the present Departmental
appeal are as follows:**

- 1- That appellant is the bonafide resident of Village Tabi Khwa Jindri, Tehsil & District Karak and belongs to respectable family.
- 2- That your good self through advertisement dated 11.4.2015 invited applications from the suitable candidates for the posts of Village Secretary/ Neighborhood Secretary in the Local Government and Rural Development Department.
- 3- That appellant being eligible candidate for the said post applied and after participated in the written Test and interview the appellant was declared successful and he was subsequently placed at serial No.1 of the merit list. That wherein the appellant was offered the post of Village Secretary on the proper recommendations of Departmental selection Committee vide Notification dated 23.12.2015.
- 4- That after appointment the appellant submitted his medical certificate along with arrival report and started performing his duty quite efficiently and up to the entire satisfaction of his superiors.
- 5- That astonishingly right from appointment the salaries of the appellant has not been released by the concerned authority with out any reason and clear justification. That appellant time and again visited the concerned quarter but no fruitful result was obtained where after the appellant submitted writ petition before the Peshawar High Court but during the pendency the appellant was informed that his appointment order has been cancelled by the concerned authority.
- 6- That appellant submitted application for issuance of cancellation order that on the said request of appellant the cancellation order was communicated to appellant on 20.6.2016.

ATTESTED



7- That appellant feeling aggrieved filed the present Departmental appeal on the following grounds amongst the others.

GROUND:

- A- That the impugned order dated 5.4.2016 is against the law, facts, norms of natural justice and materials on the record hence not tenable and liable to be set aside.
- B- That appellant has not been treated by the Department in accordance with law and Rules on the subject noted above and as such the concerned authority violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.
- C- That the concerned authority inspite of knowing the fact that appellant has been appointed in light of APT Rules 1989 and is regularly performing his duty as village secretary issued the impugned order dated 5.4.2016.
- D- That the concerned authority discriminated the appellant on the subject noted above and as such the authority violated the principle of natural justice.
- E- That no regular inquiry has been conducted in the matter, therefore the impugned order dated 5.4.2016 is not tenable and liable to be set aside.
- F- That the respondent Department acted in arbitrary and malafide manner by issuing the impugned order dated 5.4.2016.
- G- That appellant seeks permission to advance other grounds and proofs at the time of hearing.

It is therefore most humbly prayed that on acceptance of this Departmental appeal the impugned order dated 5.4.2016 may kindly be set aside and the appellant may kindly be re-instated into service with all back benefits. Any other remedy which your good self deems fit that may also be awarded in favor of the appellant.

Dated: 28.6.2016

ATTESTED



APPELLANT



**Irshad Ullah s/o Abdul Ghaffar
Village Tabi Khwa Jindri Tehsil &
District Karak**

VAKALATNAMA

IN THE COURT OF KPK Service Tribunal Peshawar

Appeal No. 1037 OF 2016

Iqshad Ullah (APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

Gont: of KPK (RESPONDENT)
(DEFENDANT)


I/We Iqshad Ullah

Do hereby appoint and constitute **NOOR MOHAMMAD KHATTAK, Advocate, Peshawar** 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 cost. 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.

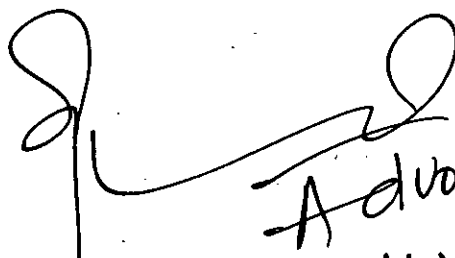
Dated. ___/___/2016



CLIENT


ACCEPTED
NOOR MOHAMMAD KHATTAK
(ADVOCATE)

OFFICE:
Room No.1, Upper Floor,
Islamia Club Building, Khyber Bazar,
Peshawar City.
Phone: 091-2211391
Mobile No.0345-9383141


Advocate
S. Imroz Hussain
Advocate

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA
PESHAWAR

SERVICE APPEAL NO 1037 OF 2016

Irshad Ullah Ex Village Secretary Appellant

Secretary Local Govt; and Rural Development Department Khyber Pakhtunkhwa, Peshawar, and others..... Respondents.

JOINT REPLY ON BEHALF OF THE RESPONDENTS

Respectfully Sheweth,

Joint Reply on Behalf of the respondents is submitted as under;

Preliminary Objections:

1. The appellant has no cause of action against the respondents.
2. The appellant has got no locus standee.
3. The appellant has suppressed some important facts from the Honorable Tribunal.
4. The appeal is against Law and Facts.
5. The appellant has not to come to the tribunal with clean hands.
6. The appellant is bad for non-joinder and mis-joinder of necessary parties.
7. The Appeal is not entertain able and maintainable in the present form.
8. The Appeal is badly and absolutely Time Barred.
9. The appellant is estopped by his own conduct to bring the instant appeal against the respondents.
10. The Appeal is liable to be dismissed in limine, without further Proceeding.

Facts:

1. Para No. 1 of the appeal is correct.
2. Para No. 2 of the appeal is admitted Correct.
3. Para No. 3 of the appeal is correct up to the extent that the appellant applied for the post and submitted 6 months certificate of MS Office from Khattak Polytechnic & Technical centre Karak from 01/01/2013 to 30/06/2013 copy of certificate is annexed "A". However when after appointment respondents directed appellant for production of certificate for purpose of verification by the concerned board. The appellant submitted/produced another certificate issued by Skill Development Board for the session of 01/07/2015 to 31/12/2015 which is meant that at the time of advertisement 26/06/2015 the appellant was not eligible for appointment on account of not possessing/having

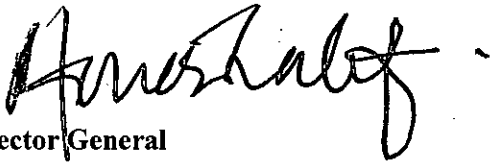
- required professional qualification. Furthermore as per judgment of the supreme court of Pakistan in civil appeal No.843 to 863/2014 dated: 08/04/2016, The Skill Development Council is not competent to issue certificates or diplomas. Hence the appointment order of appellant is void ab initio which creates no right in favor of appellant copy of the judgment is a next as "B". Moreover guidance and this regard has been sought by the No. 3 from the office of respondent No.2, who directed the respondent No.3 vide his letter No. director(LG) 3-1/establishment /2013/6766 dated:04/04/2016 copy annexed "C".
4. Para No. 4 of the appeal has ambiguously been drafted. Actually the respondent No. 3, after production of 2nd certificate for the session of 01/07/2015 to 31/12/2015 issued a show cause notice to the appellant vide letter No.138 dated; 09/03/2016. But appellant failed to reply within specific time and remain silent. Therefore respondent No. 3 had no other solution of the problem and was constrained to withdraw appointment order the appellant through termination order of dated: 05/04/2016.
 5. Para No. 5 of the appeal needs interpretation /Explanation. After Verification of Documents it was found that the appellant was not eligible for appointment at the of submission application for Candidate.
 6. Para No 6 of the Appeal is not relating to the respondents and is legal, Hence No Comments.

Grounds:

- A. 'Incorrect' impugned order is in accordance with law and rules.
- B. 'Incorrect' and Baseless. Actually the appellant as evident from the Certificate of Computer Skill was not eligible for appointment. He obtained the same by committing fraud with the department.
- C. 'Incorrect' this fact was disclosed during Verification of Computer Certificate that the Appellant was Student and has not Completed Computer Course. (Copy of Certificate Annexed)
- D. 'Incorrect' and Baseless. The respondent have no ill-will the appellant.
- E. 'Incorrect' and Baseless. There is No need of inquiry because the Certificate itself is Sufficient Proof in this respect.
- F. 'Incorrect' The Appellant has Suppressed / Concealed important Material facts from the respondent and now from the Honorable tribunal. The rule of locus ponetiante cannot be attracted in case of the illegalities
- G. 'Incorrect' and Baseless. As per above
- H. 'Incorrect' and Ambiguous. The appellant was asked to produce Original Certificate of Khattak Poly Technic Institute But he failed to produce the same, and then he produce another Certificate Issued by Skill Development Council. (S.D.C)
- I. Legal Hence It Needs No Comments. The respondents also seek permeation of this honorable tribunal to add further ground during arguments.

It is therefore, humbly, prayed that in light of the reply the appeal may be dismissed with Cost.

RESPONDENTS:



Director General
Local Govt: and Rural Development Department
Khyber Pakhtunkhwa Peshawar
Director General
Local Govt: Rural Development
Khyber Pakhtunkhwa



Assistant Director
LG&RDD Karak



Secretary
Local Govt: and Rural Development Department
Khyber Pakhtunkhwa Peshawar

KHATTAK POLYTECHNIC & TECHNICAL CENTRE

KARAK

TTB Reg No: DTE&MT/TTB/AFF/10018-3

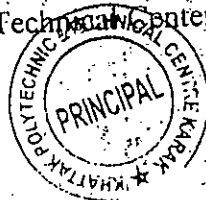
Affiliated with K.P.K Trade Testing Board/ Zakat, Usher & Women Development KPK



Mr/Mrs/Miss IRSHAD ULLAH Son/D/W/O
ABDUL GHAFFAR under Roll No 56 has Successfully
Completed **SIX-MONTH** Certificate Course in **MS**
CFICE From 01/01/2013 to 30/06/2013

Attested
[Signature]
ARIO IOBAL
Secondary School Teacher
G.H.S Shireedan Chountra

Principal *[Signature]*
Khattak Polytechnic & Technical Center
Karak



Address: Algadi Road / Shagie Road Near Wapda Office Karak City

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nting
4.
8.
JR



SKILL DEVELOPMENT COUNCIL PESHAWAR

Established Under National Training Ordinance 1980
C/o GTVC Gulbahar Peshawar Ph: 091-2261898 Fax: 2606259
Email: sdcpeshawar@outlook.com

Ref# SDC/LG&RDD-KRK/1868-16
Dated: 05-03-2016

THE ASSISTANT DIRECTOR,
LOCAL GOVERNMENT &
RURAL DEVELOPMENT DEPARTMENT,
KARAK.

Subject: VERIFICATION

This is to certify that certificates issued in favor of Mr. Irshad Ullah S/o Abdul Ghaffar as per detail given below is genuine and has been issued by the SKILL DEVELOPMENT COUNCIL PESHAWAR.

#	NAME	F/NAME	TRADE	CERTIFICATE S.#
1	IRSHAD ULLAH	ABDUL GHAFFAR	I.T (MICROSOFT OFFICE)	A-38795

Photo copy of the certificate is duly verified and sent back as desired.

(SYED HALIM SHAH)
DIRECTOR SDC

Director
Skill Development Council
Peshawar.

SDC/CMICC/152078

A-38795

R.B No. 001318-16

Skill Development Peshawar Council

Established Under National Training Ordinance 1980

Competency Based Certificate



This is to certify that

Mr/Mrs/Miss IRSHAD ULLAH Son/Daughter of ABDUL GHAFAR

Has successfully completed a special training course organized by the SDC Peshawar
in the trade of I.T.(MICROSOFT OFFICE)

held at CREATIVE MIND INNOVATIVE (CMI) COMPUTER CENTRE, KARAK

From 01-07-2015 To 31-12-2015

In recognition thereof this certificate is issued

On 30th day of JAN-2016

Verified

Javed

Chairman
Skill Development Council
Peshawar.

01 MAR 2016

Javed
PRINCIPAL



Javed
HAJ MUHAMMAD JAVED

CHAIRMAN
SDC PESHAWAR

**IN THE SUPREME COURT OF PAKISTAN
(APPELLATE JURISDICTION)**

PRESENT:

**MR. JUSTICE EJAZ AFZAL KHAN
MR. JUSTICE SARDAR TARIQ MASOOD
MR. JUSTICE FAISAL ARAB**

CIVIL APPEALS NO. 843 TO 863 AND 969 TO 970 OF 2012 AND CIVIL APPEALS NO. 263-L TO 265-L OF 2013 AND 984, 127-P AND 129-P TO 134-P AND 136-P TO 141-P AND 143-P TO 148-P OF 2014 AND CIVIL PETITIONS NO. 1353-L OF 2012 AND 3474 OF 2015 AND CMAs. NO. 1378 OF 2014 AND 6497 OF 2014.

(On appeal against the judgments dated 23.04.2012, 2.4.2014, 29.5.2012, 12.06.2012, 15.5.2012, 25.4.2013, 30.05.2013, 11.9.2013, 16.9.2013, 27.6.2013, 14.5.2014, 10.6.2014, 15.5.2014, 3.6.2014 and 23.9.2015 of the Lahore High Court, Lahore, Lahore High Court, Rawalpindi Bench, Peshawar High Court, Peshawar and High Court of Balochistan Quetta in W. P. Nos. 3002, 3519/2010, 256/11, ICA.87/10, WP. 4208/10, 5468/10, ICAs. 232/11, 258/10, WPs. 1229/09, 23067/09, 2130/10, 15724/10, 3751/10, 3752/10, 21755/10, 23465/10, ICAs. 87/2010, 248/10, 249/10, 257/10, WPs. 9878/10, 15813/10, 15918/10, 16844/10, 15638/11, ICAs. 233/11, 234/11, WPs. 4146/10, 3173-P/12, 3172-P/12, 3174-P/12, 3239-P/12, 3240-P/12, 1297-P/12, 3032-P/12, 3283-P/13, 3321-P/12, 3362-P/12, 3378-P/12, 122-P/13, 1279-P/12, 1499-P/12, 1349-P/14, 1746-P/14, 207-M/14, 1393/14 and CP. 811/2015).

DCO/Chairman District Recruitment Committee,
Khanewal and others.

EDO (Education), Lodhran/Member Recruitment Committee,
Lodhran and others.

DCO/Chairman District Recruitment Committee, Sahiwal and others.

DCO/Chairman District Recruitment Committee, Sahiwal and others.

DCO/Chairman District Recruitment Committee,
Faisalabad and others.

DCO/Chairman District Recruitment Committee,
Hafiz Abad and others.

DCO/Chairman District Recruitment Committee, Hafizabad and others.

DCO/Chairman District Recruitment Committee, Bahakkar and others.

Secretary Govt. of the Punjab Education Deptt., Lahore, etc.

DCO/Chairman District Recruitment Committee,
Nankana Sahib and others.

Province of the Punjab through Secretary (Schools) and others.

Govt. of the Punjab thr. Secy. Education, Lahore and others.

EDO (Education) Member Executive Committee, Lodhran and others.

EDO (Education) Member Executive Committee, Lodhran and others.

EDO (Education), Multan and others.

EDO (Education), Multan and others.

DCO Jhang and others.

Govt. of Punjab thr. Secy Education, Lahore and others.

Executive District Officer (Education) Khanewal and others.

DCO/Chairman District Recruitment Committee, Bhakkar and others.

DCO/Chairman District Recruitment Committee, Bhakkar and others.

DCO/Chairman District Recruitment Committee, Bhakkar and others.

EDO (Education) Chakwal/Member Recruitment Committee, etc.

EDO (Education) Chakwal/Member Recruitment Committee, etc.

The Secy. Govt. of Punjab Education Department, Punjab, Lahore, etc.

District Co-ordination Officer Bahawalnagar and another.

District Co-ordination Officer Bahawalnagar and another.

District Co-ordination Officer Bahawalnagar and another.

District Co-ordination Officer Bahawalnagar and another.

Secy. School Education Department, Govt. of Punjab Lahore, etc.

District Education Officer (Male) Charsadda and others.

District Education Officer (Male) Peshawar and others.

District Education Officer (Male) Peshawar and others.

District Education Officer (Male) Peshawar and others.

District Education Officer (Male) Peshawar and others.

Provincial Govt. thr. Secy (E&S) Education, Peshawar, etc.

Director Education FATA, Peshawar and others.

Director Education FATA, Peshawar and others.

Director Education FATA, Peshawar and others.

Additional Chief Secretary FATA, Peshawar and others.

Additional Chief Secretary FATA, Peshawar and others.

Secretary to Govt. of KPK (E&S) Education Peshawar and others.

Govt. of KPK thr. Chief Secretary, Peshawar and others.

District Education Officer, Peshawar and others.

District Education Officer, Peshawar and others.

District Education Officer, (Male) Dir Lower and others.

Govt. of KPK thr. Chief Secretary, Peshawar and others.

Muhammad Siddique and others.

...Appellant(s)/Petitioner

VERSUS

Kishwar Sultana and others.

Mst. Imtiaz Khadim and others.

Nasim Akhtar and others.

Muhammad Ejaz Kamran and another.

Mst. Shazia Ambreen and others.

Nazra Batool and others.

Nazra Batool and others.

Samina Bibi and others.

Muhammad Asghar and others.

Mst. Azra Bano and others.

Asif Ali and others.

Saira Younas and others.

Mst. Sanobar Tabassum and others.

Sheikh Irfan Ahmad and others.

Nasir Abbas and others.

Muhammad Imran Hussain and others.

Nasim Akhter.

Ayisha Mumtaz and others.

Mst. Zubaida Nazli and others.

Abdul Ghaffar Noon and others.

Saeeda Malik and others.

Mehboob Alam Khan and others.

Sajid Mumtaz and others.
Altaf Hussain and others.

Mst. Yasmeen Tahira and others.

Adeela Afzal.

Adeela Afzal.

Atta-ul-Ghafoor, etc.

Talib Hussain, etc.

Samina Sikandar and another.

Muslah ud Din and others.

Raees Khan.

Abid Hussain and another.

Inayatullah.

Saeedullah.

Centre Research of Education thr. Zafar Iqbal.

Shabana and others.

Mst. Naheeda Nizam.

Shakirullah and others.

Tariq Aziz and others.

Rifaqat Khan and others.

Mst. Shakeela Naz and others.

Mst. Neelam Waris.

Syed Ibne Abbas.

Iftikhar Ali and others.

Latif ur Rehman and others.

Zia-ur-Rahman and others.

Mst. Mehreen Hayat.

The Secretary, Govt. of Balochistan, Education Department,
Quetta and others.

...Respondent(s)

For the Appellant(s):

Mr. Mudassar Khalid Abbasi, AAG, Pb.

Mr. Waqar Ahmed Khan, Addl. A. G. KPK.

Majeedullah, Legal Representative DE(E&SE) Peshawar.

Fazle-Khaliq, Legal Representative DEO (Male) Sawabi.

For the respondents :

Mr. Ijaz Anwar, ASC.
(in CAs. 145-P to 147-P/14 and 128-P/14).

Molvi Ejaz-ul-Haq, ASC.
(in CAs.843, 844, 850, 854, 969, 856 and 859/2012)

Syed Wasat-ul-Hassan Shah, ASC
(in CA. 843/12)

Mr. Abdul Rehman Siddiqui, ASC
(in CMAs.1490 and 6497/14)

Mr. M. Siddique Khan Baloch, ASC
(in CMAs: 2366-2367/16)

Rehmanullah, In person.
Farooq Ahmed, In person.
Musharaf Shah, In person.
M. Ishaq, In person.
M. Zia-ul-Haq, In person.
(in CA. 145-P/2014).

On Court's Notice:

Mr. Sohail Ahmed, DAG.

Date of Hearing:

08.04.2016 (Judgment Reserved)

JUDGMENT

EJAZ AFZAL KHAN, J.- These appeals with the leave of the Court have arisen out of the judgments dated 23.04.2012, 29.5.2012, 12.06.2012, 15.5.2012, 25.4.2013, 30.05.2013, 11.9.2013, 16.9.2013, 27.6.2013, 14.5.2014, 10.6.2014, 15.5.2014, 3.6.2014 and 02.04.2014 of the Lahore High Court, Lahore, Lahore High Court, Rawalpindi Bench, Rawalpindi and Peshawar High Court, Peshawar whereby they dismissed the Intra Court Appeals and Writ Petitions filed by the appellants. Civil Petition No. 3774 of 2015 has arisen out of the judgment dated 23.09.2015 of the High Court of Balochistan, Quetta whereby the petition filed by the petitioner was dismissed in limine.

2. As the points urged in these appeals as well as petitions are identical, we dispose them of by this single judgment.

3. The learned AAG, Punjab appearing on behalf of the appellants contended that Skill Development Council was established under the National Training Ordinance, 1980 and the rules made thereunder, for providing technical and vocational training and not for awarding any certificate or diploma in the fields of art, craft, education or physical education; and that the Skill Development Council overstepped its limits by offering courses in the fields mentioned above and issuing certificates or diplomas therein. He next contended that since the certificates or diplomas issued by the Skill Development Council do not conform to the course, curriculum or training required for art, craft, education or physical education, any appointment made on the basis of such certificate or diploma being against the provisions of the Ordinance and rules made thereunder is liable to be annulled. Even the National Training Board, the learned AAG maintained, constituted under the Ordinance cannot issue any directive to protect any such diploma or certificate when its role in the whole affair is recommendatory. The learned AAG to support his contention also placed reliance on the letter No: SO(SE-IV)4-461/09 dated 16.08.2010 issued by the Secretary Schools Education Department, Govt. of Punjab.

4. The learned Additional A.G. KPK endorsed the arguments of learned AAG, Punjab.

5. Learned ASC appearing on behalf of respondents contended that where respondents have qualified diplomas or certificates under the aegis of Skill Development Council in the fields of art, craft, education or physical education, their appointments were rightly made on the basis of such diplomas and certificates in various departments of Government, therefore, no exception could be taken to their appointments at this stage. Such appointments, the learned ASC contended, cannot be undone even under the doctrine of *locus poententia*, when not only decisive steps have been taken, but valuable rights have also accrued to the respondents. Learned ASC went on to argue that many respondents whose appointments have been made on the basis of diplomas or certificates issued by the Skill Development Council, also possessed requisite qualifications at the time of their appointments and many acquired it after their appointments, therefore, their appointments cannot be undone, even if it is assumed that the diplomas or certificates issued by the Council have no statutory sanction.

6. We have gone through the record carefully and considered the submissions of learned AAG Punjab, learned Addl. AG, KPK as well as learned ASCs for the respondents.

7. What is National Training Board? What is Skill Development Council? What is vocational training? Answer to these questions and allied thereto are fully answered by Section 2 of the Ordinance which reads as under:-

"Definitions. - In this Ordinance, unless there is anything repugnant in the subject or context. -

- a) "establishment" means any office, firm, industrial unit, undertaking, shop or premises in which workmen are employed for the purpose of carrying on any industry;
- b) "industry" means any business, trade, manufacture, calling, service, employment or occupation;

- c) "institution" means a school, college or institute, by whatever name called, imparting vocational training;
- d) "National Board" means the National Training Board constituted under section 3 ;
- da) "National Trade Testing Board" means National Trade Testing Board constituted by the National Training Board under sub-section (2) of section 4 ;
- e) "prescribed" means prescribed by regulations made under this Ordinance;
- f) "Provincial Board" means a Provincial Training Boards constituted under sub-section (2) of section 5;
- fa) "Provincial Trade Testing Board" means provincial Trade Testing Board constituted by the Provincial Training Board;
- fb) "Skill Develop Council" means the Skill Development Council, constituted by the National Training Board under sub-section (2) of section 4;
- fc) "Technical Education and Vocational Training Authority" means the Technical Education and Vocational Training Authority constituted by the Provincial Government;
- g) "Vocational training" means training in any physical and professional skill, trade, calling or occupation".

8. What are the functions of National Training Board are enumerated in Section 4 of the Ordinance which reads as under :-

"4. Functions of the National Board.—(1) The National Board shall –

- i) collaborate with the source of labour market information as determined from a survey of establishments with a view to assessing on a continuing basis existing and future training needs, both local and foreign;
- ii) systematically study existing training programmes with respect to their relevance, duration and size and recommend such measures to be taken as seem desirable to improve the quality of training;
- iii) establish criteria for evaluating and determining training programmes and facilities;

- iv) develop training syllable and establish and specify national training standards and trade testing rules to ensure horizontal and vertical mobility;
- v) supervise such training programmes are funded from the Federal budget;
- vi) prepare national training plan, programs and projects in view of local as well as foreign requirements and monitor their implementation;
- vii) recommend to the Federal Government means for financing training programmes;
- viii) promote and finance training of establishment based or institution-based training officials and instructor's;
- ix) organize and conduct seminars and work-shops for various types of personnel associated with training activities';
- x) collect and compile statistics related to training;
- xi) co-ordinate the working of Provincial Boards and Technical Education and Vocational Training Authority;
- xii) review existing and propose legislation on vocational training and recommend necessary legislative provisions with the concurrence of the Provincial Boards and Technical Education and Vocational Training Authority;
- xiii) issue to establishments, Provincial Boards, Technical Education and Vocational Training Authority or institutions for compliance directives within the framework of the approved plans and projects;
- xiiia) assist and establish institutions in collaboration with private sector to promote technical, vocational and in-plant training and skill development;
- xiiib) undertake registration and licensing of all establishment, organizations or institutions which are offering or providing vocational training;
- xiiic) develop system and conduct trade testing and certification of skilled workers who have received vocational training through any source or acquired skills through experience or informal system;

xiv) do all other acts necessary for carrying out the purposes of this Ordinance;

(2) The National Board may set up such administrative and technical committees, skill development councils, authorities, trade testing boards or other such bodies for the efficient performance of its functions, and entrust to such committees, skill development councils, authorities, trade testing boards or other such bodies such functions as it may consider necessary."

9. Functions of Skill Development Council have been dealt with by Rule 6 of the Rules of Business of Skill Development Council, 2013 which reads as under :-

"6. Functions of the Council: The Council will perform following functions :

- a) Provide a productive link between employers, employees, training providers and trainees;
- b) identify training needs of the geographical area, analyze and orientalize training needs and arrange training, retraining as well as skill up-gradation through contracted arrangement with public and private training institutes/establishments and in-plant training mode.
- c) Develop National Vocational Qualifications for prescribed levels from pre to post education of technical/professional skills and knowledge based on employment and industry/market need analysis and submits for approval of NTB.
- d) Assure quality training for youth and already employed persons by preparing courses, setting standards, developing Quality Management System and final trade testing and certification. Trade Testing and certification up to six months duration will be carried out by SDC with the concurrence of National Training Board and the courses more than six months duration will be conducted by the NTB/PTB.
- e) Develop the potential of work-force by increasing their standard of skill and basic education so as to increase productivity, quality of product and to meet the needs of both domestic and international market.
- f) Motivate employers to operate as investor in human capital, so as to encourage organizations to invest in people through participation in skill development programmes besides arranging skill competitions for enhancing the popularity of vocational training in all areas and

- improving proficiency of skilled workers as well as promote self employment by providing loan to winners.
- g) Support informal sector i.e. Ustad-Shagird system through provision of training for skill enhancement and trade testing. Provide skill training and structured education to working children at small garages and workshops to protect child Labour and bring them into main stream of vocational education and training.
 - h) Develop and implement special training programme for women, children of industrial workers and under privileged youth to prepare them for gainful employment or to engage in some income generating activities to raise their standard of living and social up lifting through self employment.
 - i) Develop and arrange specialized training programme in information Technology for un-employed educated youth (Matriculate-Graduate) to provide them maximum employment opportunities locally and abroad.
 - j) Introduction and promotion of distance learning, computer based training and new training technologies including video conferencing through support and affiliation with international institutions/Universities involving local institutions.
 - k) Customized training programme for the rehabilitation of expatriates and employers being declared surplus due to privatization as well as downsizing programmes of the Government.
 - l) Any other programme and activity to promote technical vocational education and training in the country with the approval of NTB."

10. How the Council shall conduct its business or what is procedure therefor has been chartered out in Rule 7 of the above mentioned rules which reads as under :-

"7. Procedure to Conduct Business :

- a) The SDCs shall set its targets regarding number of trainees to be trained in various Vocational Qualifications from proficiency and competency based certificate and diploma level for better employment opportunities to the trainees.
- b) The SDCs shall identify the training need through surveys, direct interaction with employer associations/individual employers and keeping in view the local and international market trend.

- c) The SDCs shall design and Develop the training programmes through technical committees comprised of representatives from business organizations and training providers and will arrange the training of educated youth and already employed at various public and private training institutes including industry individually or with group of institutes on contractual basis.
- d) The Selection of the Institute/Training Providers will be made keeping in view the facilities available at the institute(s) and the contents of the course.
- e) The Council will recommend registration of public and private institutes including industry based training institutes to NTB/PTB as covered under National Training Ordinance 2002.
- f) Training programme will be announced in the newspapers and selection of trainees will be made by the SDCs on merit with the help of participating institutes.
- g) The SDC shall also register and impart training to school leavers Matric dropouts, educated and uneducated, unemployed, child trainee and other workers in the formal and informal sectors for the purpose of imparting training and skill up grading in all programmes sponsored by the Government or any other donor agency or body.
- h) The SDC will charge at an average 10% service charges from the training institutes for each training programme to cover the cost of advertisement, brochure, registration and certification and other expenses of the Council. The rate of service charges may be reduced or increased keeping in view the nature and potential of the training programme. However, the fee structure should be on cost recovery basis.
- i) The Council will develop a mechanism to provide financial assistance in shape of repayable loan, free sponsorship to the deserving trainees/government servants and their employees but number of such cases would depend on the availability of funds.
- j) The Council may issue to the trainee a trainee card which may be used as the basis for reimbursing the training cost to the training institution or employer where training is to be imparted. A system of training credit for crediting training cost to the training provider may be established.

- k) The Council will draw its own action plan for attaining the objectives and making the Council to operate on a self financing basis with the approval of NTB.
- l) All SDCs will forward the following to NTB.
 - a) Annual Training Plan by 1st Week of December every year.
 - b) Six month progress report and expenditure statement.
 - c) Yearly progress report.
- m) The Chairman shall appoint a Director SDC, subject to approval of the Council, who will be responsible for administering and implementing the decisions of the Council and who will be fully accountable to the Council for all his actions. The Director will also act as Secretary of the Council.
- n) For smooth and efficient administration and implementation of the affairs of the Council, the Chairman will contract tasks and assignments.
- o) The Council will constitute various committees for the smooth functioning of the work.
- p) The Chairman will be the ex-officio Chairman of all committees formed by the Council.
- q) The Director will be the ex-officio Secretary of all committees constituted by the Council.
- r) The SDC may delegate any or all of its power to the Chairman, or any member or committee(s) appointed by it subject to such conditions as it may deem fit.
- s) The Chairman shall use the powers of the council in its absence or whenever the council is not in session subject to confirmation of all the decisions taken in exercise of the powers under this provision, of the Council in its next meeting."

11. Letter dated 16.08.2010 of the Secretary Schools Education Department, Govt. of Punjab is also relevant which reads as under :-

"Govt. of the Pakistan, Ministry of Labour and Manpower National Training Bureau, Islamabad vide No.1(57)NTB-TT&C/2009/66 dated 2.6.2010 has replied that 'Skill Development Councils (SDCs) were established and their

Rules of Business were framed by the Ministry vide No.3/2/2001-TT-II dated 17.7.2002. These Rules of Business authorize SDCs to conduct courses and issue certificate for only 06 months duration with the concurrence of National Training Board. Diplomas of Art and Craft, Oriental Teacher and Physical Education are not including in the list provided by the Govt. of Pakistan, Ministry of Labour and Manpower, National Training Bureau, Islamabad (list attached). Therefore, awarding of such diplomas by SDCs is complete violation of Rules of Business of SDCs."

12. A careful reading of the above quoted provisions of the Ordinance and the Rules would reveal that domain of the National Training Board and Skill Development Council is clearly demarcated by the provisions of the Ordinance and Rules made thereunder. The purpose behind the establishment of Board is to provide technical education and vocational training in any physical and professional skill, trade, calling or occupation. The Board does not do all this in a vacuum. It makes a survey and systematic study of the market to assess the existing and future training needs, both at local and foreign level and establishes criteria for evaluating and determining training programmes and facilities. After doing so, it develops syllabi, establishes and specifies national training standards and trade testing rules to ensure horizontal and vertical mobility, develops system and conducts trade testing and certification of skilled workers who have received vocational training through any source or acquired skills through experience and informal system, as is provided in Section 4 of the Ordinance. The Skill Development Council as the very name suggests focuses on labour, market, information and launches technical education and vocational training in any physical and professional skill, trade, calling or occupation so that the people who cannot acquire higher or specialized education may get opportunities of employment, according to the needs and requirements of the market. Art, craft, education and physical education are well beyond the domain of the Council and capacity of its faculty. It thus could not launch programmes in any of these fields. The Board and the Council travelled beyond what they were established for by launching programmes falling exclusively in the domain of art, craft, education or physical education. The letter reproduced above also clearly demarcated the domain of the Board and the Council.

In spite of that the Council issued certificates and diplomas in such fields, even in respect of the courses of one year duration. Another amazing and intriguing fact is that appointments have been made on the basis of such diplomas and certificates in the educational institutions without caring to know that the Council does not have the power and competence to launch such programmes, courses and curriculums and issue certificates and diplomas in this behalf. The education being a specialized field having many dimensions in today's context could not thus be left to the faculty which did not have specialized qualification and training therefor. Persons on the peak of Education Department went into deep slumber. Even if a few of them were awake, they watched the sight and spectacle with hands folded and legs crossed. By the time they realized and raised hue and cry, the water had gone above their heads. Yes, it is never too late to mend but what to do! Retain them, is the answer of the protagonists of *status quo*. Don't worsen the bad if correction is possible, is the answer given by those who are guided by prudent and progressive outlook. We deliberated over the pros and cons of the answers thus given. The solution we have come out with is simple! Let them continue, if they besides the certificates or diplomas, issued by the Council, possess the requisite or equivalent qualifications. Let those also continue, who improved their qualifications even thereafter. Those who could not improve their qualification up till now should improve it within a period of one year, which would be reckoned from the date of commencement of the next available academic session of the respective programme. We, therefore, allow the appeals, convert the petitions into appeals and allow them in the terms mentioned above.

Judge

Judge

Judge

Announced in open Court at Islamabad on

CAs. 843 TO 863 AND 969 TO 970 OF 2012 AND 263-L TO 265-L OF 2013 AND 984, 127-P AND 129-P TO 134-P AND 136-P TO 141-P AND 143-P TO 148-P OF 2014 AND CPs. 1353-L OF 2012 AND 3474 OF 2015 AND CMAAs. NO. 1378 OF 2014 AND 6497 OF 2014.

Judge

'Not approved for reporting'
M. Azhar Malik



OFFICE OF THE DIRECTOR GENERAL
LOCAL GOVERNMENT & RURAL DEVELOPMENT
DEPARTMENT KHYBER PAKHTUNKHWA

No. Director (LG) 3-1/Establishment/2013
Dated Peshawar, the 4th April, 2016

16766

To

The Assistant Director,
LG&RDD, Karak.

Subject: - ELIGIBILITY

I am directed to refer to your letter No. 169/AD/LGKK dated 30-03-2016 on the subject noted above and to inform you that the advertisement dated 26th June, 2015 is very much clear in respect of requirements for applicants. Furthermore, the instructions dated 3rd December, 2015 are also clear in this matter.

Sh. Javed
4/4
Assistant Director (Lit.)
LG&RDD

Copy forwarded to the:

1. PA to Director General, LG&RDD, Khyber Pakhtunkhwa.

Sh. Javed
4/4
Assistant Director (Lit.)
LG&RDD



OFFICE OF THE ASSISTANT DIRECTOR
LOCAL GOVERNMENT & RURAL DEVELOPMENT
DEPARTMENT DISTRICT KARAK

No. 138/ADLGKK

Dated: 09/03/2016

To:

Irshad Ullah S/O Abdul Ghaffar
Secretary Village Council
Resident of Tabbi Khwa
Tehsil & District Karak.

Subject: **SHOW CAUSE NOTICE**

I Mr. Zeeshan Ali Assistant Director Local Govt; & Rural Devilmnt Department Karak Being a competent authority serve you Mr. Irshad Ullah Secretary Village Council a Show Cause Notice that you have produced two different bogus unfair invalid and Un-Admissible Certificates for appointment of yourself as a Secretary Village Council. So you have Committed Offense of Fraud and Cheating and have got appointment order on the basis of wrong Bogus/Counterfeit and unfair, Invalid Certificate. Moreover it is evident from the presale of the Certificate that you were not eligible for appointment. But you have Committed Fraud with the Department. So you are asked to Show Cause of your this act and Commissions and Omission under rule of the Khyber Pakhtunkhwa Govt; Servant Efficiency and Disciplinary Rules 2011 within 14 days. Otherwise Failing Which your Service and appointment Order shall be recalled and your Services shall be terminated.


Assistant Director
LG&RDD Karak

OFFICE OF THE ASSISTANT DIRECTOR FOR LOCAL GOVERNMENT AND RURAL DEVELOPMENT DEPARTMENT KARAK

Office Order:

The 5th April 2016
No. 179 / ADI.G.&RD/KK (Recruitment) - whereas Mr. Irsadullah s/o Abdul Chahar was appointed as Secretary Village Council dated 23-12-2015.

Whereas 06-7-2015 was the closing date for submission of applications for the posts of Secretary Village Council and the prescribed qualifications included F.A/Sc or equivalent and 6-month course in computer software from a recognized institution.

Whereas he did not possess the prescribed qualification from 01-07-2015 to 31-12-2015 and on that score he has completed computer diploma from 01-07-2015 to 31-12-2015 and on 01-07-2015.

Whereas his case was referred to the DC, I.G. & RD, Peshawar for advice & guidance who pointed that the advertisement is very much clear in respect of requirements for the post of Secretary VC.

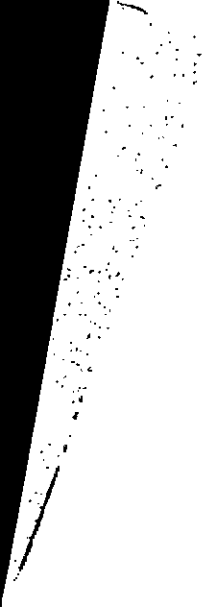
Whereas he was ineligible at the time of apply as explained above, his appointment order issued vide No. 946/ADI.G.&RD/KK (Recruitment), dated 23-12-2015 is hereby cancelled with immediate effect.

Indst. of even No & Date

- 1. Director General I.G. & RD, Khayber Pakhtunkhwa, Peshawar.
- 2. Deputy Commissioner Karak.
- 3. District Accounts Officer Karak.
- 4. Office Order file.
- 5. Official concerned.

Assistant Director
I.G. & RD, Karak

Assistant Director
I.G. & RD, Karak





OFFICE OF THE ASSISTANT DIRECTOR
LOCAL GOVERNMENT & RURAL DEVELOPMENT
DEPARTMENT DISTRICT KARAK

No. 642 /ADLGKK

Dated. 19/09/2016

To

The Director General
Local Government & Rural Development Department
Khyber Pakhtoonkhwa Peshawar

Subject:

DEPARTMENTAL APPEAL AGAINST THE IMPUGNED ORDER
DATED 05/04/2016 COMMUNICATED TO APPELLANT ON
20/06/2016 WHEREBY THE APPOINTMENT ORDER OF THE
APPELLANT HAS CANCELLED.

This is reference to letter No.2650/Dc/Ed dated 28/07/2016.

It is submitted that:-

1. The posts of Village Secretaries were advertised in the Daily Mashriq Peshawar dated 26/06/2015. The closing date for submission of applications for the post was 06/07/2015, and the prescribe qualifications included FA/FSc or equivalent and six months computer software course from recognized institution. (Copy attached).
2. During the interview the applicant submitted a six months I.T certificate from Khattak POLY TECHNIC & TECHNICAL CENTER Karak affiliated with Khyber Pakhtunkhwa Trade and Testing Board and completed the course from 1/1/2013 to 30/6/2013 (copy attached).
3. The applicant Mr, Irshad Ullah S/O Abdul Ghafar was appointed as Secretary Village council Jandri vide this office order No.946/ADLG&RDD/KK (Recruitment) dated. 23/12/2015.
4. After appointment the office of the undersigned need to verify the documents of all the appointees. The applicant submitted six months I.T Certificate from Skilled Development Council on 18/02/2016 instead of six months IT certificate from KHATTAK POLY TECHNIC & TECHNICAL CENTER KARAK affiliated with Khyber Pakhtunkhwa Trade and Testing Board which was earlier has been submitted during the interview. The applicant has completed the six months I.T certificate from Skilled Development Council from 01/07/2015 to 31/12/2015. While considering the six months IT certificate from Skilled Development Council shows that he has not possessed the prescribed qualification on the closing date of apply i.e 06/07/2015 as well as appointed order date 23/12/2016.
5. The case was refer to Director General LG &RDD Khyber Pakhtunkhwa Peshawar for advise vide office No.169/ADLGRDD.

6. dated.30/03/2016, whether he was eligible for the post of Village Secretary or otherwise. (Copy attached)
7. The Director General LG & RDD Khyber Pakhtunkhwa Peshawar replied that the advertisement was very much clear in respect of requirements for the post of Secretary Village Council vide letter No. Director (LG) 3-1/Establishment/2013/6766. Dated Peshawar, the 4th April, 2016. (Copy attached)
8. Therefore he was ^{not} ineligible at the time of apply as explained above and his appointment order No.946/ADLG&RDD/KK (Recruitment) dated. 23/12/2015 has been cancelled vide No. No.174/ADLG&RDD/KK (Recruitment) dated, 5th April 2016. (Copy attached)

The reported is submitted for further necessary action please.


Assistant Director
LG & RDD Karak




**OFFICE OF THE ASSISTANT DIRECTOR LOCAL
GOVERNMENT AND RURLA DEVELOPMENT
DEPARTMENT DISTRICT KARAK**

AUTHORITY LETTER

Mr. Mir Zali Khan Supervisor Local Govt: & Rural Development Department Karak is hereby authorised to attend the Court on behalf of the Assistant Director LG&RDD Karak on 10/04/2017 KPK, Service Tribunal Peshawar.

Case Title: Service Appeal No. 1037/2016 Mr Irshad Ullah Vs Govt: of KPK


Assistant Director
LG&RDD Karak. 7/4/17

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

No 2718 /ST

Dated 20 /12/2017

To

The Assistant Director Local Government & Rural Development Department,
Government of Khyber Pakhtunkhwa,
Karak

Subject: **JUDGEMENT/ ORDER IN APPEAL NO. 1037/16, Mr.IRSHAD ULLAH.**

I am directed to forward herewith a certified copy of Judgment/order dated 08/12/2017 passed by this Tribunal on the above subject for strict compliance.

Encl: As above

DLK
REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.