


Order

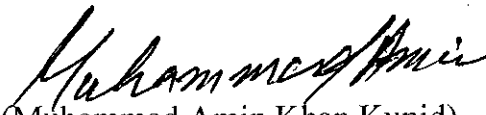
31.10.2019 Counsel for the appellant present. Addl: AG alongwith Mr. M. Sharif, ADEO for respondents . Arguments heard and record perused.

This appeal is also remitted as per detailed judgment of today placed on file in service appeal No. 1259/2014 titled "Musharraf Khan-vs-The Additional Chief Secretary FATA, FATA Secretariat, Warsak Road, Peshawar and two others." Parties are left to bear their own cost. File be consigned to the record room.

Announced:
31.10.2019



(Ahmad Hassan)
Member



(Muhammad Amin Khan Kunid)
Member

24.04.2019

Counsel for the appellant and Addl. AG alongwith
Naseem Mehmood, AAEO for the respondents present.

Learned counsel for the appellant requests for
adjournment due to over work before the honourable High Court
today.

Adjourned to 08.07.2019 before the D.B.



Member



Chairman

08.07.2019

Counsel for the appellant and Addl:AG for respondents
present. Counsel for the appellant seeks adjournment.
Adjourned. Case to come up for arguments on 23.09.2019
before D.B.



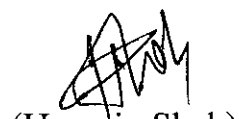
Member




Member

23.09.2019

Due to general strike on the call of Khyber
Pakhtunkhwa Bar Council learned counsel for the appellant
is not in attendance. Mr. Kabirullah Khattak learned
Additional Advocate General for the respondents present
Adjourned. To come up for arguments on 31.10.2019
before D.B.




(Hussain Shah)
Member



(M. Amin Khan Kundi)
Member

26.09.2018

Counsel for the appellant present. Mr. Kabirullah Khattak, Addl: AG for respondents present. Learned Addl: AG seeks adjournment. Granted. Case to come up for arguments on 08.11.2018 before D.B.


(Ahmad Hassan)
Member


(M. Amin Khan Kundi)
Member


08.11.2018

Due to retirement of Hon'ble Chairman, the Tribunal is defunct. Therefore, the case is adjourned. To come up on 31.12.2018


READER

31.12.2018


Junior to counsel for the appellant and Mr. Kabirullah khattak learned Additional Advocate General alongwith Naseem Mehmood AAEO present. Junior to counsel for the appellant seeks adjournment as senior counsel for appellant is indisposed. Adjourn. To come up for arguments on 06.02.2019 before D.B.


Member


Member

06.02.2019

Clerk to counsel for the appellant present. Mr. Kabirullah Khattak, Addl: AG alongwith Mr. Nasim Mehmood, ADEO for respondents present. Clerk to counsel for the appellant seeks adjournment due to general strike of the Bar. To come up for arguments on 24.04.2019 before D.B.


(Ahmad Hassan)
Member


(M. Amin Khan Kundi)
Member

29.03.2018

Counsel for the appellant and Addl. AG alongwith Daud Jan, Supdt. for the respondents present. Learned AAG seeks adjournment. Adjourned. To come up for record and arguments on 01.06.2018 before D.B.


Member


Chairman

01.06.2018

Counsel for the appellant and Mr. Muhammad Jan, Deputy District Attorney alongwith Mr. Naseem Mehmood, AEO for respondents present. Representative of the respondent-department seeks adjournment to produce complete record as mentioned in previous order sheet dated 20.12.2017. Last opportunity is granted. Adjourned. To come up for record and arguments on 02.08.2018 before D.B.


(M. Amin Khan Kundi)
Member


(M. Hamid Mughal)
Member

z02.08.2018

Junior to counsel for the appellant and Mr. Kabir Ullah Khattak alongwith Mr. Naseem Mehmood AAEO for the respondents present. Junior to counsel for the appellant seeks adjournment as senior counsel is not in attendance. Adjourned. To come up for arguments on 26.09.2018 before D.B.


(Ahmad Hassan)
Member


(Muhammad Hamid Mughal)
Member

25.09.2017

Since 07.09.2017 has been declared as a public holiday on account of first Muharram. Therefore cases adjourned to 20.12.2017.

REASER

20.12.2017

Counsel for the appellant and Mr. Muhammad Jan DDA for the respondents present. Arguments partly heard. During the arguments, this Tribunal reaches the conclusion that for proper appreciation of the facts of the present appeal the record of selection process is must. The department is directed to produce all the record of selection process including the advertisement, minutes of the DPC and record whether the posts were project posts or regular posts. To come up for further arguments on 07.02.2018 before this D.B.

Member

Chairman

7.2.2018

Counsel for the appellant and Addl. AG for the respondents present. Due to shortage of time, arguments could not be heard. To come up for record and further arguments on 29.03.2018 before the D.B already heard the case on 20.12.2017.

Member

Chairman

29.09.2016

Clerk to counsel for the appellant and Mr. Muraza Khan Stenographer alongwith Addl. AG for respondents present. Written reply submitted. Cost of Rs. 300/- also paid and receipt thereof obtained from the learned counsel for the appellant. The appeal is assigned to D.B for rejoinder and final hearing on 9.01.2017.


Chairman

09.01.2017

Clerk to counsel for the appellant and Mr. Haj Muhammad AAO alongwith Addl. AG for respondents present. Rejoinder submitted which is placed on file. To come up for arguments on 30.05.2017.


(AHMAD HASSAN)
MEMBER


(MUHAMMAD AAMIR NAZIR)
MEMBER

30.05.2017

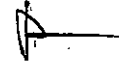
Clerk of the counsel for appellant present. Mr. Muhammad Adeel Butt, Additional AG for the respondents also present. Due to strike of the bar learned counsel for the appellant is not in attendance. Adjourned. To come up for arguments on 22.09.2017 before D.B.


(GUL ZEB KHAN)
MEMBER


(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

24.02.2016

Agent of counsel for the appellant and Mr. Kifayatullah, Junior Clerk alongwith Addl: A.G for respondents present. Written reply not submitted despite extension of last opportunity and cost of Rs. 200/-. Requested for further adjournment. Another last opportunity is extended subject to payment of further cost of Rs. 100/- which shall be borne by the respondents from their own pockets. To come up for written reply/comments and cost of Rs. 300/- on ~~28.4~~ 2016 before S.B.



Member

28.4.2016

Agent of counsel for the appellant and Mr. Shahabud Din, AAEO for the respondents present. Cost of Rs. 300/- paid and receipt whereof obtained from the agent of counsel for the appellant. Written reply not submitted despite extension of last opportunity and cost of Rs. 300/-. Requested for further adjournment. Another last opportunity is extended subject to payment of further cost of Rs. 300/- which shall be borne by the respondents from their own pockets. To come up for written reply/comments and cost of Rs. 300/- on 04.08.2016 before S.B.



Chairman

5

13.05.2015

Counsel for the appellant, M/S Daud Jan, Supdt. and Akhtar Nawaz, Assistant Agency Education Officer alongwith Addl: A.G for respondents present. Written reply not submitted. Requested for adjournment. To come up for written reply on 10.8.2015 before S.B.


Chairman

6

10.08.2015

Counsel for the appellant, M/S Daud Jan, Supdt. and Akhtar Nawaz, Assistant Agency Education Officer alongwith Assistant A.G for respondents present. Written reply not submitted. Requested for further adjournment. Last opportunity granted. To come up for written reply/comments on 29.10.2015 before S.B.


Chairman

7

29.10.2015

Counsel for the appellant and Mr. Daud Jan, Supdt. alongwith Addl: A.G for respondents present. Written reply not submitted despite last opportunity. Requested for further adjournment. Last opportunity is extended subject to payment of cost of Rs. 200/- which shall be borne by the respondents from their own pockets. To come up for written reply/comments and cost on 24.02.2016 before S.B.


Chairman

19.01.2015

Clerk of counsel for the appellant present, and requested for adjournment due to General Strike of the Bar. Request accepted. To come up for preliminary hearing on 23.02.2015.


Member


23.2.2014

Counsel for the appellant present and submitted that the appellant was appointed on the strength of judgment of the Hon'ble Peshawar High Court, Peshawar dated 20.12.2011; that subsequently, the said appointment order was withdrawn on the plea of non-availability of post and that his departmental appeal has not been responded within the statutory period of ninety days, hence the present appeal. Counsel for the appellant further submitted that cases of similar nature have already been admitted in service appeal No. 1139/2014 and fixed for written reply before the Hon'ble Bench-I.

Points raised need consideration. The appeal is admitted for regular hearing subject to all legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written on 13.05.2015 before the learned Bench-I with the above said similar nature cases.


Member



Appellant's counsel present & security fee



Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 1262 /2014

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	23/10/2014	<p>The appeal of Mr. Naik Muhammad presented today by Mr. Noor Muhammad Khattak Advocate may be entered in the Institution register and put up to the Worthy Chairman for preliminary hearing.</p> <p style="text-align: right;"> REGISTRAR</p>
2	29-10-2014	<p>This case is entrusted to Primary Bench for preliminary hearing to be put up there on <u>19-1-2015</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. 1269 / 2014

NAIK MUHAMMAD

VS

A .C.S FATA

INDEX

S.NO.	DOCUMENTS	ANNEXURE	PAGE
1.	Memo of appeal	1- 3.
2.	affidavit	4.
3.	Memo of writ petition	A	5- 10.
4.	Judgment	B	11- 12.
5.	Application	C	13.
6.	Scrutiny Committee report	D	14- 16
7.	Appointment order	E	17-18
8.	Charge report	F	19
9.	Withdrawal order	G	20
10.	Letters	H	21-22
11.	Departmental appeal	I	23-25
12.	Wakalat nama	26

APPELLANT

THROUGH:


NOOR MOHAMMAD KHATTAK
ADVOCATE

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Appeal No. 1269 /2014

Mr. Nek Muhammad, TT,
GPS Wakil Khan Kot, North Waziristan Agency

1299
23/10/2014

..... **Appellant**

VERSUS

- 1- Additional Chief Secretary FATA, FATA Secretariat, Warsak Road, Peshawar.
- 2- The Director of Education FATA, FATA Secretariat, Warsak Road, Peshawar.
- 3- The Agency Education Officer, North Waziristan Agency at Miran Shah.

..... **Respondents**

APPEAL UNDER SECTION-4 OF KHYBER
PAKHTUNKHWASERVICE TRIBUNAL ACT 1974
AGAINST THE IMPUGNED ORDER DATED 16-06-2014
WHEREBY THE APPOINTMENT ORDER OF THE
APPELLANT HAS BEEN WITH DRAWN/CANCELLED IN
VOILATION OF LAW AND RULES AND AGAINST NO
ACTION TAKEN ON THE DEPARTMENTAL APPEAL OF
THE APPELLANT WITHIN THE STATUTORY PERIOD
OF NINETY DAYS

PRAYERS:

That on acceptance of this appeal the impugned order dated 16-06-2014 may vary kindly be set aside and respondents may be directed to re-instate the appellant with all back benefits. Any other remedy which this august Court deems fit may also be awarded in favor of the appellant.

23/10/14 **R/SHEWETH:**
ON FACTS:

- 1- That the appellant is the local resident of Miran Shah North Waziristan Agency and have the requisite qualifications for the post of Theology Teacher.
- 2- That appellant filed a writ petition No.2768/2011 in the Hon'ble Peshawar High Court Peshawar for appointment on the post of Theology Teacher. That the Hon'ble Peshawar High Court Peshawar while disposing the writ petition of appellant directed the respondents for disposed of the representation/application of appellant with in a month time strictly on merit and in accordance with rules and policy of

the Government on the subject vide judgment dated 20-12-2011. Copies of the memo of writ petition and judgment are attached as annexure **A and B.**

- 3-** That on the direction of Hon'ble Peshawar High Court Peshawar, respondent No.3 (Agency Education Officer) constituted a committee to check/Scrutinized the documents and determines the merit/rights of the appellant. That the committee has strongly recommended the appellant for appointment on the post of TT vide dated 26.3.2014. Copies of the application and scrutiny committee report are attached as annexure **C & D.**
- 4-** That on the directions of Hon'ble Peshawar High Court Peshawar, and recommendation of the respondent No.2, the respondent No.3 issued appointment order of the appellant as TT vide order dated 12-05-2014. That accordingly the appellant took over the charge of his post vide dated 13.05.2014 and started performing his duty quite efficiently and up to the entire satisfaction of superiors. Copies of the appointment order and charge report are attached as annexure **E and F.**
- 5-** That astonishingly respondent No.3 vide order dated 16.06.2014 withdrawn the appointment order of the appellant with out any reasons/justification. That it is very pertinent to mention here that the Directorate of Education FATA Peshawar already directed the respondent No.3 to re-appoint the community School Teachers as per policy vide dated 19-02-2014. That it is further stated the respondent No.3 vide letter dated 06-06-2014 addressed to respondent No.2 refused to comply with the verdicts of Hon'ble Peshawar High Court Peshawar judgment dated 20-12-2011. Copies of the withdrawal order and letters are attached as annexure **G & H.**
- 6-** That feeling aggrieved from the impugned order dated 16-06-2014 the appellant filed Departmental appeal to respondent No.2 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 **I.**

GROUNDS:

- A-** That the impugned order dated 16-056-2014 is against the law, facts, norms of natural justice and materials on record hence not tenable and liable to set aside.

- B- That the appellant has not been treated by the respondent Department in accordance with law and rules on the subject noted above and as such respondents violated article 4 and 25 of the constitution of Islamic Republic of Pakistan 1973.
- C- That no show cause notice has been served on the appellant by the respondent Department before issuing the impugned order 16.06.2014 against the appellant.
- D- That no chance of personal hearing/ personal defense has been given to appellant before issuing the impugned order dated 16.06.2014 against the appellant.
- E- That the impugned order dated 16.06.2014 has been issued by the respondents in violation of the principle of Locus Poenitentiae.
- F- That the respondent Department acted in arbitrary and malafide manner while issuing the impugned order dated 16.06.2014 against the appellant.
- G- That appellant seeks permission to advance other grounds and proofs at the time hearing.

It is therefore humbly prayed that the appeal of the appellant may be accepted as prayed for.


APPELLANT

NEK MOHAMMAD

THROUGH: 
NOOR MOHAMMAD KHATTAK
ADVOCATE

A - (5)

BEFORE THE PESHAWAR HIGH COURT, PESHAWAR.



Writ Petition 2768 /2011

1. Mr. Musharaf Khan S/O Sher Ayub,
Presently R/O Khan Town, Darmangi Garden,
Warsak Road, Peshawar.
2. Mr. Qari Kabeer S/O Muhammad Khanan,
Presently R/O Khan Town, Darmangi Garden,
Warsak-Road, Peshawar.
3. Mr. Ashraf Ali S/o Sher Ayub, Tehsil Speenwam,
North Waziristan Agency.
4. Mr. Nek Muhammad S/O Sher Ayub,
Presently R/O Khan Town, Darmangi Garden,
Warsak Road, Peshawar.
5. Mr. Islam Muhammad S/O Sher Ayub,
Presently R/O Khan Town, Darmangi Garden,
Warsak Road, Peshawar.
6. Mr. Rashid Ullah, R/O Khan Town,
Darmangi Garden Warsak Road, Peshawar.

14
3/16/11

PETITIONERS

VERSUS

1. The Additional Chief Secretary (FATA), Government of Khyber
Pakhtunkhwa, FATA, Secretariat, Warsak Road, Peshawar.
2. The Director of Education, FATA, FATA Secretariat, Warsak Road,
Peshawar.
3. The Agency Education Officer, North Waziristan Agency, (N.W.A).

RESPONDENTS

ATTESTED

EXAMINER
Peshawar High Court,

21 AUG 2014

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(6)

(b)

.....

WRIT PETITION UNDER ARTICLE 199 OF
THE CONSTITUTION OF PAKISTAN 1973
AS AMENDED UPTO DATA.

RESPECTFULLY SHEWETH:

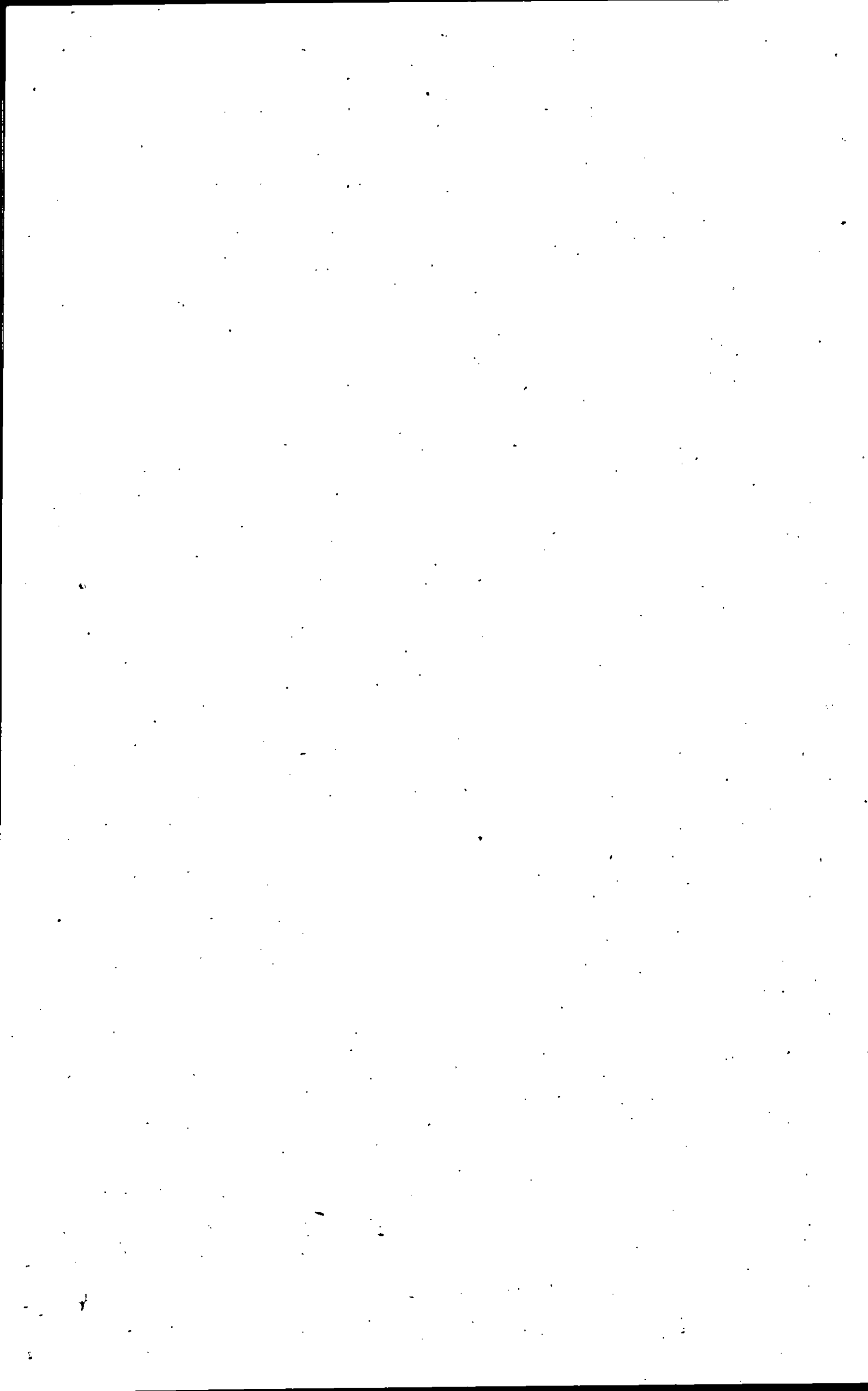
Brief Facts giving rise to the present Petition are as under:

1. That the petitioners are a qualified Qari/T.T. and have the qualification of SSC/F.A, Shahadatul Khassa, Shahadatul Alia (B.A) and Shahadatul Alamia (M.A). The qualification of the petitioners are recorded in the Merit list, the copy of which is already attached as Annexure-A & B.
2. That the respondent No.3 advertised some posts of Qari/T.T for which the petitioners had also applied. The petitioners had appeared in test and interview and became on merit list of their respective Tehsils for appointment. Copy of the Merit list is attached as Annexure- A & B.
3. That despite of the having merit position, the petitioners were not appointed for the reason of non availability of posts. Therefore, the petitioner's field appeals to the respondent No.2 with post availability certificates, issued by the Principle of the concerned schools. The said appeals were forwarded to AEO, NWA for appointing the petitioners. Copies of the Appeal is attached as Annexure- C .
4. That on the appeals of the petitioners, the AEO (NWA) requested the respondent No.2 for allowing the AEO to appoint the petitioner against the available post. Copy of the letter is attached as Annexure-D.
5. That after that letter of AEO, the respondent No.2 kept mum , therefore, the petitioners again made appeals for justice to the respondent No.2 who was kind enough and issued a clear direction to AEO for appointment on the appeal but respondent No.3 had not taken action on the said directives. Copy of Appeals are attached as Annexure- E

ATTESTED

EXAMINER
Peshwar High Court,

21 AUG 2014



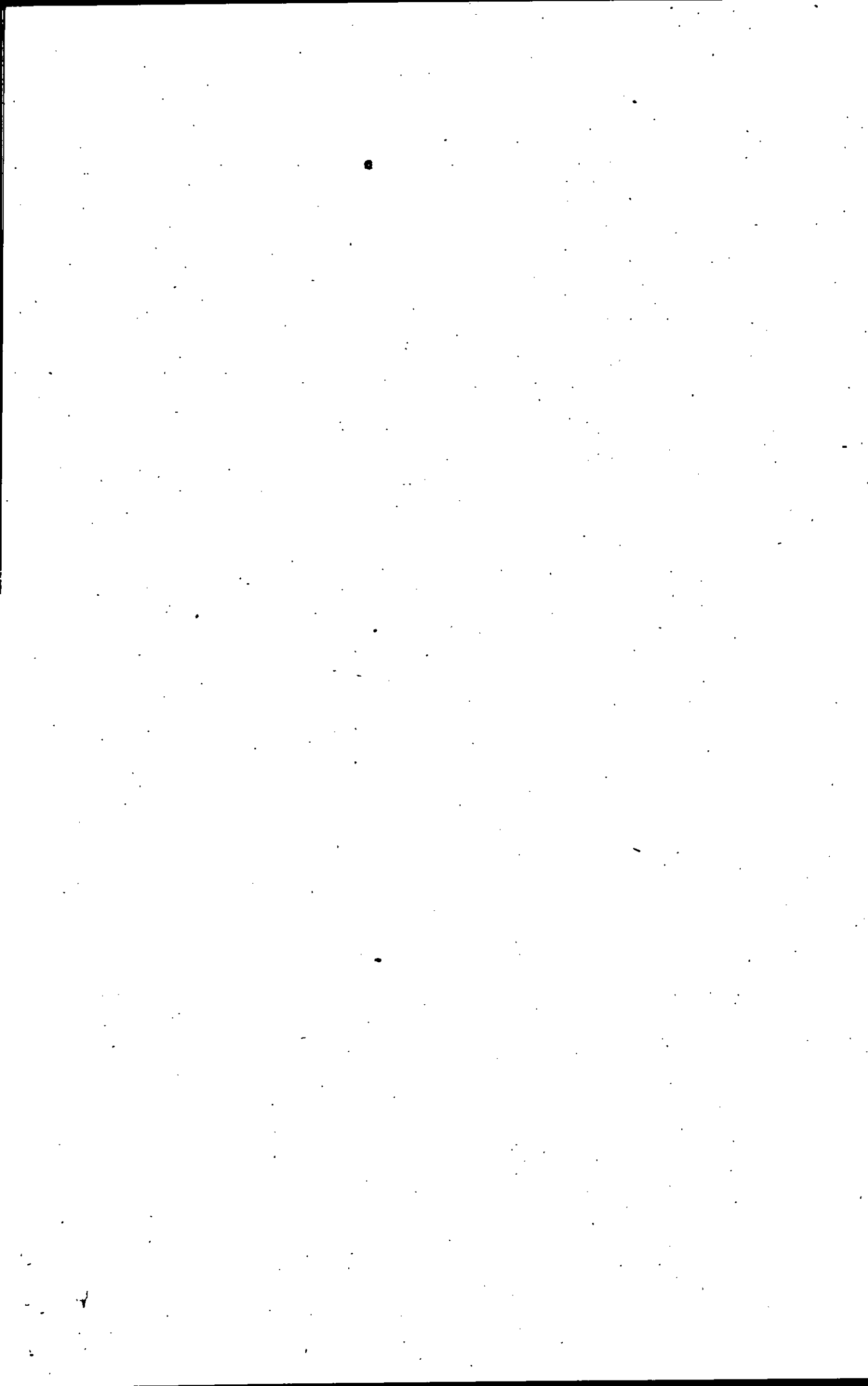
6. That despite of clear directions of the respondent No.2, the respondent No.3 is not willing to comply with the directions of respondent No.2 due to which the petitioner have continuously been suffering. Thus, having no other alternated remedy, the petitioner comes to this august Court on the following grounds amongst the others:

GROUNDS:

- A) That not complying with the directions of respondent No.2 by respondent No.3 which causes to keep deprive the petitioners from the legal rights are against the norms of justice, equity and fair play.
- B) That though the petitioners are having merit position and the respondent No.2 has also issued directions for the appointment of the petitioner but the respondent No.3 is not willing to give due rights to the petitioner, thus the in-action of the respondent No.3 is arbitrary and without lawful authority.
- C) That the respondent No.3 is not performing his duty which he required under the law to do, due to which the valuable rights of the petitioners are suffering a lot.
- D) That due to illegal and unlawful insertion of the respondent No.3, the petitioners have been kept deprived from their valuable rights of appointment because the petitioners are not only on the merit but the posts also available.
- E) That the petitioners have not been treated according to law and rules.
- F) That the in-action and attitude of the respondent No.3 is against the spirit of Article-4, 25, 27 of the Constitution.
- G) That the petitioners seek 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 in-action and not appointing the petitioners by Respondent No.3 may be declared as illegal, unlawful, without lawful authority and against the norms of

ATTESTED
EXAMINER
Allahabad High Court
27 AUG 2014



justice. The respondents may further please be directed to issue the appointment order (from 04.05.2009) of the petitioners being on merit and posts were also available. Any other remedy which this august Court deems appropriate and not specifically prayed for, may also be awarded in favour of petitioners.

Petitioners
Musharaf Khan & Others.

Through:

(M. ASIF YOUSAFZAI)
Advocate Peshawar.

NOTE:

It is verified that no other similar Writ Petition has been filed between the same parties earlier in this august Court.

DEPONENT

LIST OF BOOKS

1. Constitution of Pakistan 1973.
2. Any other laws as per needs.

ATTESTED

EXAMINER
Peshawar High Court.

21 AUG 2014

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9

BEFORE THE PETITIONER HIGH COURT, PESHAWAR.

Writ Petition No. 2768 /2011.

Qari Kabeer & Others. V/S ACS (FATA) & Others.

ADDRESSES OF THE PARTIES

PETITIONERS

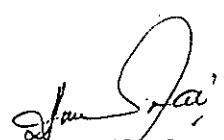
1. Mr. Musharaf Khan S/O Sher Ayub, Presently R/O Khan Town, Darmangi Garden, Warsak Road, Peshawar.
2. Mr. Qari Kabeer S/O Muhammad Khanan, Presently R/O Khan Town, Darmangi Garden, Warsak Road, Peshawar.
3. Mr. Ashraf Ali S/o Sher Ayub, Tehsil Speenwam, North Waziristan Agency.
4. Mr. Nek Muhammad S/O Sher Ayub, Presently R/O Khan Town, Darmangi Garden, Warsak Road, Peshawar.
5. Mr. Islam Muhammad S/O Sher Ayub, Presently R/O Khan Town, Darmangi Garden, Warsak Road, Peshawar.
6. Mr. Rashid Ullah, R/O Khan Town, Darmangi Garden Warsak Road, Peshawar.

RESPONDENTS

1. The Additional Chief Secretary (FATA), Government of Khyber Pakhtunkhwa, FATA, Secretariat, Warsak Road, Peshawar.
2. The Director of Education, FATA, FATA Secretariat, Warsak Road, Peshawar.
3. The Agency Education Officer, North Waziristan Agency, (N.W.A):

Petitioner
Musharaf Khan etc

Through:


(M. ASIF YOUSAFZAI)
Advocate Peshawar.

ATTESTED
EXAMINER
Peshawar High Court.
21 AUG 2014

BEFORE THE PETITIONER HIGH COURT, PESHAWAR.

18

6

18

Writ Petition No. 2268/2011.

Musharaf Khan & Others.

v/s

ACS (FATA) & Others.

AFFIDAVIT

I, Muhammad Asif Yousafzai, Advocate, High Court, Peshawar on instructions and on behalf of petitioner, do hereby solemnly affirm and declare that the contents of the Writ Petition are true and correct to the best of my knowledge and belief.

DEPONENT

M. Asif Yousafzai
(M. ASIF YOUSAFZAI)
Advocate Peshawar.

2561-
I verified that the above was verified on solemnly
information before me in office, at s. 3rd
day of October 2014 by Muhammad Asif Yousafzai
who was identified by Asif Yousafzai
Who is personally known to me:
Asif Yousafzai
Oath Commissioner
Peshawar High Court, Peshawar.

ATTESTED

EXAMINER
Peshawar High Court,
21 AUG 2014

18

B - 11

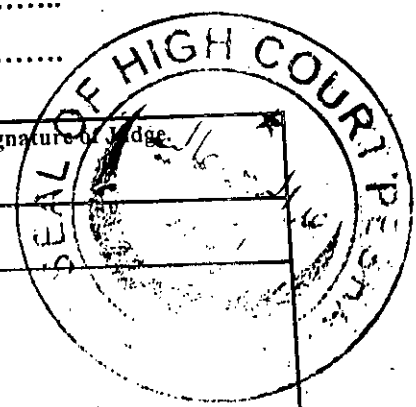
PESHAWAR HIGH COURT, PESHAWAR

FORM OF ORDER SHEET

16

Court of.....

Case No.....of.....



Serial No. of Order of Proceedings	Date of Order of Proceedings	Order or other Proceedings with Signature of Judge
1	2	3
	<p>ORDER 20.12.2011</p>	<p><u>Writ Petition No.2768/2011</u></p> <p>Present: Mr. Muhammad Asif Yousafzai, Adv., for Musharaf Khan etc., petitioners.</p> <p>*****</p> <p>ATTAULLAH KHAN, J.-Petitioners, through the instant petition, have asked for the issuance of an appropriate writ declaring that the act of respondent No.3 by not appointing them as Qari / T.T., being nullity in the eye of law is of no effect whatever. They have also asked for the issuance of an appropriate directing the respondents to issue their appointment orders with effect from 04.05.2009 being top of the merit.</p> <p>2. We have gone through the available record carefully and considered the submissions made by the learned counsel for the petitioners.</p> <p>3. The learned counsel for the petitioners at the very outset requested that he would be satisfied if this.</p>

ATTESTED
 EXAMINER
 Peshawar High Court.
 21 AUG 2014

18

Court treats the instant petition as a representation and sends it to the concerned authority for disposal in accordance with law. In this view of the matter, we while disposing of this writ petition, treat it as a representation and direct the office to send it to the Additional Chief Secretary (FATA) Peshawar for decision in accordance with law, rules, policy and merits within a month. This writ petition, thus, stands disposed of. However, the petitioners would be at liberty to approach this Court through a fresh petition, if their grievance is not redressed.

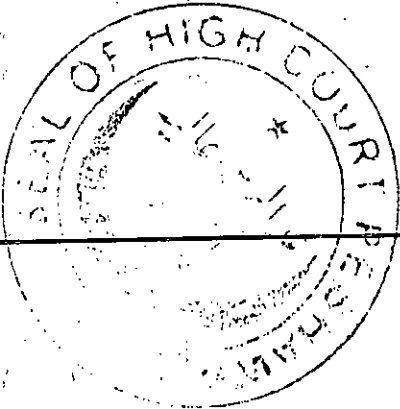
Announced.
20. 12. 2011

sd/ Attaullah Khan - J. JUDGE
sd/ Waseer Ahmad Sethi - J. JUDGE
sd/ Waseer Ahmad Sethi

CERTIFIED TO BE TRUE COPY
 Peshawar Examiner
 Peshawar High Court, Peshawar
 Authorized Under Article 177 of
 The Constitution of the Islamic Republic of Pakistan
 21 AUG 2014

2052
 8P
 16-00
 19-8-14
 21-8-14
 21-8-14

Date Given For (Fayaz)
 Date of Delivery 25-8-14
 Received By



0923-302788

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Director Education
ATA Secretariat, Peshawar.

Handwritten signature

- 1- *Attorney General's office*
- 2- *Minister's office*
- 3- *Minister's office*
- 4- *Minister's office*

Handwritten notes:
 The Court decisions may
 be implemented in letter and
 spirit

Handwritten paragraph:
 Though it is fairly apparent in your letter that
 orders may easily be passed to the quarter concerned
 to strictly comply the Court decisions will not be
 already cases in the larger volume of practice/petitions.
 The honorable Court has been directed on cases
 which comes out of the honorable Court
 and the Court may not be following a delay tactics and the
 Court's honorability should have been directed on cases
 which is seen pending in the office of the Minister
 and the Court's honorability should have been directed on cases
 which comes out of the honorable Court

Abd Nisat

Handwritten list of dates:
 15/6/11, 18/7/11, 23/7/11, 11/25/2012, 27/6/11
 and 5/8-1/12

Handwritten text:
 The Ministry of Education
 Peshawar

From: The Enquiry Committee
AEO Office Miran Shah.

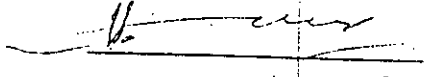
To: The Agency Education Officer
North Waziristan Miran Shah.

SUBJECT: **ENQUIRY REPORT.**

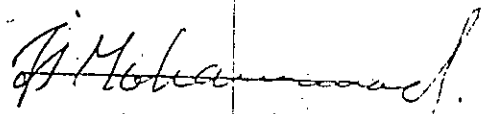
Memo:

Kindly refer your order dated 26/03/2014 and to state that we the undersigned Scrutinized check the documents and determined the merit of the candidates recorded there in and the applicants in the write petition No. 2768/2011, 568-p/2012 and 46/2011 and found that they deserved appointment as required in the applications. The Court decision may be honoured in favour of the above mentioned write petitioners.

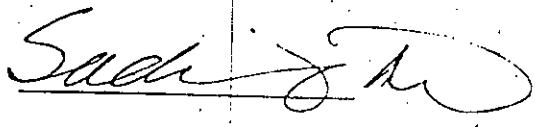
1- Mr. Umer Niaz Khan Supdt Chairman



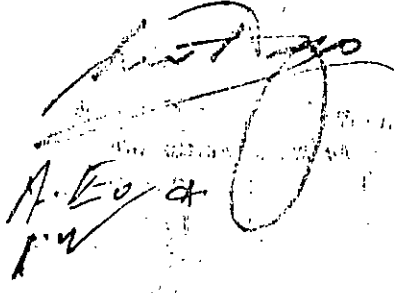
2- Taj Muhammad AAEO Member



3- Sadiq Ali AAEO Member



of Signed agreed and physically checked.



AEO
12

*Advised
3/4*

OFFICE OF THE AGENCY EDUCATION OFFICER N.W. AGENCY MIRANSHAH

APPOINTMENT

In the light of Peshawar High Court Peshawar, decision vide Writ Petition No. 2768/2011 dated 20/12/2011 and W.P No. 568/P/2012 dated 8/5/2012 and Director Education FATA K.P.K Peshawar order direction dated 16/12/2013 and dated 11/2/2014. The following TT Teachers are here by appointed against the vacant posts in BPS-14 at RS: (8000-610-26300) Per Month plus usual allowances as admissible under the rules with effect from 4-5-2009. In the interest of Justice/Public Service.

S.No:	Name	Place of posting	Remarks
1.	Nek Muhammad TT	GPS Khunam Shah Kot	Against Vacant Post
2.	Rashid ullah TT	GPS Ghulam Khan Kot	-Do-
3.	Ishaq TT	GPS Zabdast Kot	-Do-
4.	Qismat Ullah TT	GPS Speen.Khur Burakhel	-Do-

Terms condition:

1. Their appointment is made on Temporary basis and is liable to terminate at any time without any notice. If They wish to resign from their post they should give One month prior notice or forfeit On month pay in lieu thereof.
2. They should bring their medical certificates from Medical Superintendent AHQ Hospital MRN.
3. If they fail to assume their charge within 15 days, their order shall be treated as cancelled.
4. They should be handed over charge if they are not less than 18 years and above than 33 years of age.
5. Their original qualification date of birth and Domicile certificate should be checked and be placed on the Record.
6. Their service will be terminated if they found absent for four days continuously from the date of taking over charge.
7. They will be terminated if their certificates found fake/bogus and tempered.

[Signature]
Agency Education Officer
North Waziristan Agency

Ends: No. 1744-49 /Appointment/TT/AEO/MRN

Dated 12/5 /2014

Copy To:

1. The honorable Registrar Peshawar High Court Peshawar w/r to writ petition No. 2768/2011 and W.P No. 568-P2012.
2. The Director of Education (FATA) KPK Peshawar w/r to his direction dated 5/12/2013.
3. The Political Agent NWA miranshah.
4. The Agency Account officer Miranshah
5. AAEO Concerned.
6. Candidate concerned.

[Signature]
[Signature]

[Signature]
Agency Education Officer
North Waziristan Agency

No. 1608 /AEO/NWA/MRN Dated 30 /04/2014.

Ⓞ
H - (18)

From:

The Agency Education officer
North Waziristan Agency.

To:

The Director of Education
PATA KPK Peshawar.

Subject:- Vacant Post.

Memo:

Ref: Assistant Director (Mr. Laiq Khan) P&D Directorate
of Education PATA Peshawar Memo: NO. 14498 dated 24.4.2014.

As per report of Assistant Agency Education Officers
regarding vacant Posts of P.S.T (PTC) in N.W. Agency is sent for
further necessary action as demanded by the Community school Teachers.
(List of 14 posts attached).

Agency Education officer
North Waziristan Agency.

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Handwritten signature

ATTESTED

ATTESTED

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OFFICE OF THE AGENCY EDUCATION OFFICER,
NWA, MIRAN SHAH.

From: The Agency Education Officer,
NWA, Miranshah

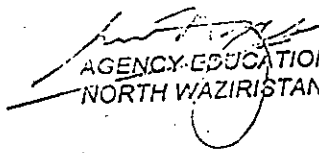
To
The Director Education FATA,
KPK, Peshawar.

Subject: Implementation of Court Decision Bearing Appeal
No.1516/2011 Ahmad Qadar V/S Agency Education Officer,
NWA Miran Shah

Memo:

Kindly refer to your letter No.20093; dated 11/11/2013 and to state that there is no vacant post to comply with the order/judgment of the Hon'ble Service Tribunal, KPK Peshawar passed in respect of Ahmad Qadar, PTC and others on dated 15.5.2012.

Report is submitted for your kind perusal please.


AGENCY EDUCATION OFFICER
NORTH WAZIRISTAN AGENCY


Endst. No. 10-11


Dated 18-12-2013

Copy to:

Political Agent, NWA, Miran Shah, for information.

Agency Education Officer,
NWA, Miran Shah.


ATTESTED


3/10

OFFICE OF THE AGENCY EDUCATION OFFICER N.W.AGENCY

DETAIL OF CATEGORY-WISE SANCTIONED POSTS (MALE & FEMALE)

Sr.No	Category	Male			Female			Total Sanct. Posts
		Total Sanctioned posts	Filled-up	Vacant	Total Sanctioned posts	Filled-up	Vacant	
1	CT	289	259	30	97	57	40	386
2	DM	85	68	17	44	12	32	129
3	PET	87	68	19	43	19	24	130
4	AT	84	68	16	42	13	29	123
5	TT	396	368	28	112	104	8	508
6	Qari	25	22	3	10	4	6	35
7	P/Imam	17	15	2	0	0	0	17
8	PTC	858	854	4	707	705	2	1562
9	ET	3	3	0	0	0	0	3
G:Total		1838	1723	115	1055	914	141	2893

K.S.O

[Signature]
Agency Education Officer
North Waziristan Agency

The Above Posts/ Statement is Verified for Up-gradation

Agency Accounts Officer
North Waziristan Agency

Accepted
3/11

صبا ڈائریکٹر ایجوکیشن خانا اور سہ اورد لکھنؤ
پو اسٹا لٹ ریجنی ریجو کیشن افسیر NWA سرالتنا
عنوان :- پیل پرائے سائلج تراعات کے سلاق بحالی

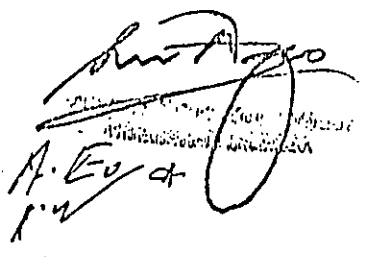
صبا عالی !
خود ماہ ذرا رش فی کہ لکھنؤ وری عالی کورسٹن پمیں کورال ریٹک پمیشن
نمبر 2768/011/12/011 ریٹری ریٹری 2/12/011 م-568 نوم 8-5-012 پمارے حق
میں فیصلہ کیا اور اسی روشنی میں ڈائریکٹر ایجوکیشن خانا نے 06/12/013 کو AEO نادو
کو اہراو کھلیے ہدایت جاری کیا اور AEO صاحب نے اسی ہدایت کا موٹی میں
صبا تقرری کا اضاات جاری کیا۔ لیکن اسی دن AEO نے AEO کو
پہلے پیل کے پمارے ماس خانا پوسٹیں پمیں جنیں اور اسی کے پ
صبا نے پمیں کیشن اورد جاری کیا۔ نوم پمیں صبا ماس خانا پوسٹیں پمیں
کا ہی سٹاک ہے

لذا اکتبا کی خدمت میں عرض کر کہ مع عریب و زعم اور کھلی صبا ذرا
آپک کھلی ہے لہذا کوم پمیں سائلج تراعات پمیں کہ کورڈ فیصلہ کا اوتنی پمیں 4-5-09
سے بحالی کے اضاات لکھنؤ تراعات کے سلاق جاری فرما کر شکر و صبر

Director Edu: PATA

رہا نا پیل
رہا نا پیل
رہا نا پیل

Forwarded please.



- ① Mushraf Ullah TT SPS Shahbazkot ✓
- (2) Ashraf Ali TT SPS Papali persee ✓
- 3) Naeel Mohd TT SPS Wacil Khan Kot ✓
- 4) Islam Mohamed TT SPS Ranjman Kot ✓ (12)
- 5) Qismatullah TT SPS Received
To Day
- 6) Ishaque TT SPS ✓
- 7) Ihsanullah TT SPS Raji Kot ✓ 19/6/
- 8) Rashidullah TT SPS Ranjman Kot ✓ 20/4
- 9) Davi ^{M.} Huzoor SPS Mohd Ayyaz Ichuslali ✓
- (10) Davi Mohd Kabir SPS Land charichel ✓
- 11) Saibul Hiba Gul TT SPS Noor Ichan Buda Kimsara ✓
- 12) Rashidullah, S/o Ahmad Ichan TT SPS Ghulam Ichan ✓

Ahmed
Siv

VAKALATNAMA

IN THE COURT OF KPK SUP TRIBUNAL PESHAWAR
APPEAL OF 2014

NEK MUHAMMAD

(APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

ACS FATA

(RESPONDENT)
(DEFENDANT)

I/We Nek Muhammad

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. 26 / 09 / 2014

34
CLIENT

h
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

SA-1259/16
32 others.

Receipt

I have received Rs. 9900/- of fine
in connected appeals of Musharraf
Khan & 32 others vs A.C.S FATA
in appeal No. 1259/2014 today dated
28/4/2016.

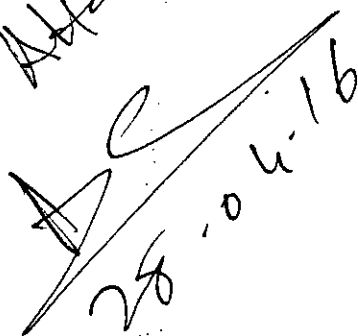
Dated: 28/4/2016

Appellant

Through:

Moos Mohammad Khattak
Advocate

Attest


28.04.16

BEFORE THE KHYBER PUKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Appeal No: 1262/2014

Naik Muhammad.....Appellant.

VERSUS

1. The Additional Chief Secretary FATA Secretariat, Warsak Road, Peshawar.
2. The Director Education FATA, FATA Secretariat, Peshawar.
3. The Agency Education Officer, North Waziristan Agency Respondents.

Para-wise comments on behalf of respondent No: 2 & 3.

Respectfully Sheweth:

Preliminary Objection

1. That the appellant has got no cause of action to file the instant appeal.
2. That the appellant has not come to this Honorable Tribunal with clean hands.
3. That the appellant has concealed material facts from this Honorable Tribunal.
4. That the appellant is estopped by his own conduct to bring the present appeal.
5. That the appeal is bad due to mis-joinder and non-joinder of necessary parties.
6. That the appeal is barred by law and no departmental appeal is made to the competent authority against the impugned order. Hence not maintainable under Section-4 of Service Tribunal Act.

On Facts:

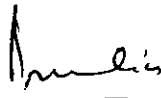
1. Subject to proof.
2. Incorrect. The writ petition earlier filed by the petitioner/appellant clearly showed, that they pray before the honorable court for issuance of writ to direct the respondent i.e. Agency Education Officer for appointment against project communal TT post, so it is incorrect, that they had file the same petition for permanent TT post. (Copy of writ petition already attached as Annexure (A) by appellant.
3. The committee so constituted has wrongly/mistakenly implemented court directions dated 24.02.2011. As the honorable court has directed to dispose of the case of the petitioners as per law/policy, (copy already attached as Annexure-B by appellant). Whereas committee has altogether ignored the fact, that appellant had filed their case for appointment against Project TT posts, which was not advertised, nor applications were called from the appellants, and furthermore, no merit record have been shown by the committee from which it can be inferred that they were entitled for appointment.
4. Incorrect. The appointment orders were issued without due course of law/policy, as direct inductions without any advertisement/merit and policy is liable to be cancelled/withdrawn. Furthermore, the appellant appointment were made without taking into consideration the availability of vacant posts, therefore, respondent department legally interfered and rectified the matter as was required.
5. Incorrect. The cancellation/withdrawn order dated 20.05.2014 is legal, as under the law, the competent authority where can make an order also can rescind an order under the law.
6. The competent authority cancelled/withdrawn the appointment order of the appellant being repugnant to rules/policy.

Grounds:


- A. Incorrect. That the impugned order dated 20.05.2014 is in accordance with law/policy.
- B. Incorrect. Respondents have acted according to law/policy, as the appellant was wrongly appointed, therefore, their appointment was liable to be struck down under the law.
- C. Incorrect. The show cause notice is usually issued in absentees cases, whereas case of the appellant was of serious nature being a loss to national exchequer, because there were no available vacant posts on which appellant were appointed which was a sheer violation of law/policy. Further an illegal act can not create a right.
- D. Incorrect. The appellant were properly informed to submit their initial appointment and service book which they did not so provide, and it is clearly showed on their part that they were quiet known the fact of their illegal appointment.
- E. Incorrect. The rule of locus poenitentiae is not applicable in an illegal rules.
- F. Incorrect. Hence denied.
- G. The respondents also seek permission to advance other grounds and proofs at the time of arguments.

In light of the above facts it is humbly requested to please dismiss the appeal with cost throughout.

Respondent No. 2.


for Director Education FATA.

Respondent No. 3.


for Agency Education Officer,
North Wazisistan Agency.


AFFIDAVIT

We the above respondents do hereby declare and affirm that the above comments are true and correct to the best of our Knowledge and belief and nothing has been concealed from this Honorable Tribunal.

Respondent No. 2.


for Director Education FATA.

Respondent No. 3.


for Agency Education Officer,
North Wazisistan Agency.