

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
CAMP COURT ABBOTTABAD

Service Appeal No. 1256/2016

Date of Institution... 26.12.2016

Date of decision... 17.01.2018

Esa Khan son of Talib Malik R/O Tarnawa, Post office Khanpur, Tehsil and District, Haripur. ... (Appellant)

Versus

1. Government of Khyber Pakhtunkhwa through Secretary Higher Education, Peshawar and two others. (Respondents)

Mr. Sajid-ur-Rehman,
Advocate

... For appellant.

Mr. Usman Ghani,
District Attorney

... For respondents.

MR. NIAZ MUHAMMAD KHAN,
MR. AHMAD HASSAN,

... CHAIRMAN
... MEMBER

JUDGMENT

NIAZ MUHAMMAD KHAN, CHAIRMAN: Arguments of the learned counsel for the parties heard and record perused.

FACTS

2. The appellant was removed from service on 21.12.2015 against which he first filed application on 25.12.2015 and thereafter he filed a Writ Petition before the Worthy Peshawar High Court on 23.2.2016. The same writ was decided on 28.3.2016. Thereafter, the appellant filed a representation/appeal on 02.4.2016 on the basis of the judgment of the Worthy Peshawar High Court. The same was not responded to and thereafter he filed the present service appeal on 26.12.2016.

3. At the very outset this Tribunal put the question of limitation, therefore, the question of limitation would be decided first.

ARGUMENTS

4. The learned counsel for the appellant argued that he filed first appeal/application on 25.12.2015 within time and thereafter he filed Writ Petition and in the Writ Petition, the Worthy Peshawar High Court directed the department to decide the pending appeal of the appellant. That the appellant further submitted another appeal/representation on 02.4.2016 on the strength of the judgment of Worthy Peshawar High Court which was also not responded to and thereafter, he filed the present service appeal. The learned counsel for the appellant referred to his application for condonation of delay. The reasons given in the application were that the appellant waited for the decision of the departmental appeal and secondly, that the appellant was told by respondent No. 3 to join his duty. That he joined his duty but there was no reinstatement order in written form. That finally respondent No. 3 refused to issue the order in December, 2016 and that is why he filed the present service appeal. The learned counsel for the appellant next contended that the department did not take the objection of limitation in their written reply.

5. On the other hand, the learned District Attorney argued that the limitation being an issue of law could be raised at any time without raising it in the written reply. He further argued that the present appeal was hopelessly time barred for the reason that limitation would run from 25.12.2015 and no subsequent eventuality would stop limitation. He also referred to two judgments of this Tribunal delivered yesterday in service appeals No. 720/2012 entitled "*Mst. Mehmoona Bibi Vs. Government of Khyber Pakhtunkhwa through Secretary, Elementary & Secondary Education, Peshawar and others*" and No. 01/2013 entitled "*Muhammad Altaf Vs. Government of Khyber*

Pakhtunkhwa through Secretary Home and Tribal Affairs Department, Peshawar and others".

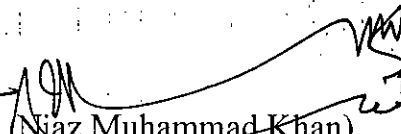
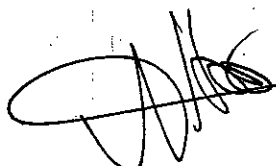
CONCLUSION.

6. It is now a settled principle of administrative law that no second appeal/representation etc. would stop running of period of limitation. In the present case the limitation started from 25.12.2015 and the appellant was bound to have had approached this Tribunal within 150 days of the passing of the order of removal from service which expired in May, 2016. But the appellant approached this Tribunal in December, 2016.

7. Now the first contention of the learned counsel for the appellant is that his appeal is within time and alternatively he has moved an application for condonation of delay. The first argument of the learned counsel for the appellant does not carry any weight because admittedly he filed the first appeal/application on 25.12.2015 and thereafter he went in writ jurisdiction without assigning any reason that why did he approach the Worthy High Court having no jurisdiction. This Tribunal in a number of cases including two cases referred to by the learned District Attorney has held that pursuing remedy in wrong forum on the basis of wrong advise of counsel etc. *per se* is no ground for condonation of delay unless it is shown that why the appellant approached the wrong forum. Reliance is placed on the judgment of the august Supreme Court of Pakistan reported as PLD-2016-Supreme Court-872. The Worthy Peshawar High Court while refusing to entertain the writ on the ground of jurisdiction also made an observation that if the departmental appeal was decided the appellant would have right to approach the proper forum against that order. The Worthy Peshawar High Court never ordered this Tribunal to treat the appeal of the appellant as within time without the order of the departmental appellate authority as the Worthy Peshawar High Court lacked the jurisdiction.

8. Now we are to see whether alternatively the reason advanced in the application for condonation of delay are plausible for condonation of delay. The reasons given are that the appellant waited for the decision of the departmental authority and second is that the appellant was verbally reinstated in service but when the department denied specifically to issue written order in December, 2015, he filed the present service appeal. This Tribunal is first to see whether this ground is based on some truth or is after thought. The application for condonation of delay was filed on 19.01.2016, 20 days after filing of the present service appeal. If we go through the memorandum of appeal nowhere this ground has been taken by the appellant that he was verbally reinstated. This ground has got no truth and if granted for arguments sake even then it is no ground for condonation of delay.

9. As a sequel to the above discussion, no reasonable ground is made out for condonation of delay. The application for condonation of delay is rejected and the appeal being time barred is also dismissed. Parties are left to bear their own costs. File be consigned to the record room.



Niaz Muhammad Khan
Chairman
Camp Court, A/Abad

(AHMAD HASSAN)
Member

ANNOUNCED

17.01.2018

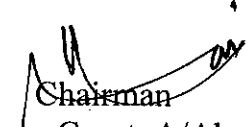
1256/16

25.08.2017

Counsel for the appellant and Mr. Muhammad Bilal, Deputy District Attorney present. Fresh notices be issued to the respondents through registered post. To come up for Written reply/comments on 16.10.2017 before S. B at camp court, Abbottabad.

16.10.2017

None present on behalf of the appellant. Mr. Muhammad Bilal, Deputy District Attorney alongwith Professor Muhammad Saddique for the respondents present. Written reply on behalf of respondents submitted. The appeal is assigned to D.B for rejoinder, if any, and arguments for 17.01.2018 at camp court, Abbottabad.



Chairman
Camp Court, A/Abad

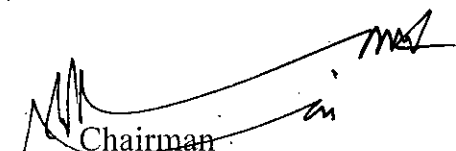

Chairman
Camp court, Abbottabad.

17.01.2018

Counsel for the appellant and Mr. Usman Ghani, District Attorney alongwith Khushi Muhammad, SO (Litigation) for the respondents present. Arguments heard. Record perused.

Vide our detailed judgment of today, the application for condonation of delay is rejected and the appeal being time barred is also dismissed. Parties are left to bear their own costs. File be consigned to the record room.


Member


Chairman
Camp court, A/Abad,

ANNOUNCED

17.01.2018

Appeal No. 1256/2016
Eisa Khan vs Govt

19.1.2017

Learned counsel for the appellant argued that the appellant was serving as Naib Qasid when removed from service vide impugned order dated 21.12.2015 on the allegations of illegal appointment where-against he preferred departmental appeal on 07.01.2016 which was not responded constraining the appellant to prefer Writ Petition before the Hon'ble Peshawar High Court, Abbottabad Bench which was decided on 28.03.2016 with the directions to the respondents to decide the departmental appeal of the appellant within a reasonable time. That despite the directions respondents failed to decide the departmental appeal of the appellant and hence the instant service appeal on 26.12.2016.

Appellant Deposited
Security & Process Fee

Points urged need consideration. Admit subject to limitation. Subject to deposit of security and process fee within 10 days notices be issued to the respondents. To come up for written reply/comments on 21.04.2017 before S.B at camp court, Abbottabad. Counsel for the appellant also submitted an application for condonation of delay. Notice of application shall also be issued to the respondents.

Chairman
Camp court, A/Abad

21.04.2017



Appellant in person and Mr. Muqarrab Khan, S.O (Litigation) and Malik Muhammad Siddique, Sr.GP for the respondents present. Written reply not submitted. Requested for adjournment. The Worthy Chairman is on leave. To come up for written reply/comments on 25.08.2017 before S.B at camp court, Abbottabad.

Registrar
Camp Court, Abbottabad.

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 1256/2016

S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	26/12/2016	<p>The appeal of Mr. Eisa Khan presented today by Mr. Sajid-ur-Rehman Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-	26-12-20	<p>This case is entrusted to S. Bench for preliminary hearing: to be put up there on <u>19-01-2017</u> at Camp Court <u>Absottabad</u></p> <p style="text-align: right;"> CHAIRMAN</p>

**BEFORE THE HONOURABLE KHYBER PAKHTUNKWA SERVICE
TRIBUNAL, PESHAWAR**

Services Appeal No. 1256/2016

Eisa Khan VS Govt. of KPK etc.

SERVICES APPEAL

I N D E X

S.No	Description of Documents	Annexure	Pages
1.	Service appeal alongwith affidavit, addresses of the parties.		
2.	Copy of appointment order.	"A"	10-11
3.	Copy of salary slips for the month of November 2015.	"B"	13
4.	Copy of letter dated 14-12-2015.	"C"	15
5.	Copy of impugned order datd 21-12-2015.	"D"	16
6.	Copy of departmental representation	"E"	16-A
7.	Copy of writ petition no.169-A/2016.	"F"	17-26
6.	Copy of representation.	"G"	27-29
7.	Wakalat Nama	"H"	30

Dated: 30-10-2016

**Appellant
Eisa Khan**

Through Counsel


**Sajid Ur Rehman Khan
Advocate High Court,
At Haripur**

①

**BEFORE THE HONOURABLE KHYBER PAKHTUNKWA SERVICE
TRIBUNAL, PESHAWAR**

Services Appeal No. 1256/2016

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 1315

Dated 26-12-2016

Eisa Khan S/O Talib Malik R/O Tarnawa, P.O Khanpur, Tensil &
District Haripur.

..... Appellant

VERSUS

1. Govt. of Khyber Pakhtunkhwa, through Secretary Higher Education KPK Peshawar.
2. Director Higher Education Khyber Pakhtunkhwa, Peshawar.
3. Principal Govt. Degree College, Khanpur, Haripur.

..... Respondents

=====

SERVICE APPEAL UNDER SECTION 4 OF THE KPK SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 21-12-2015 ISSUED BY RESPONDENT NO.2 REMOVED/ DISMISSED THE APPELLANT FROM SERVICE IS ILEA, UNLAWFUL, MALA FIDE, WITHOUT LAWFUL AUTHORITY, WITHOUT JURISDICTION, ARBITRARILY, PERVERSE, CAPRICIOUS, FANCIFUL AND CONSEQUENTLY OF NO LEGAL AFFECTION UPON THE RIGHT OF APPELLANT.

Filed to-day

Registrar

26/12/16

PRAYER: On acceptance of the appeal, the respondents be kindly directed to reinstate the appellant on service as Naib Qasid w.e.f 21-12-2015 with all back benefits. Any other relief deemed fit and proper in the circumstances of the case.

=====

Respectfully Sheweth;

That brief facts giving rise to the present appeal are arrayed as under:-

1. That the appellant was working in Govt. Degree College Khanpur, Haripur as Security Guard and on creation of Post of Naib Qasid, the appointment of appellant was made by Respondent No.3 as Naib Qasid vide Order No. 1159/64 Dated 06-12-2014 on the recommendation of the selection committee after observing all the codal formalities. (Copy of appointment order is annexed as **Annexure "A"**).
2. That thereafter appellant assumed the charge of the post of Naib Qasid and also drawn his salary. (Copy of salary slip of November 2015 is annexed as **Annexure "B"**).
3. That Respondent No. 2 vide letter No. 336006/CA-I/Estt: Dated 14-12-2015 directed Respondent No.3 to remove the services of sappellant, as the appointment of the appellant is devoid of lay down procedure and in contravention of the rules. (Copy of letter dated 14-12-2015 is annexed as **Annexure "C"**).
4. That in compliance of letter dated 14-12-2015, the respondent No.2 removed/dismissed the appellant from service vide impugned order dated 21-12-2015 due to devoid of the laid down procedure and in contravention of rules. (Copy of impugned order dated 21-12-2015.is annexed as **Annexure "D"**).
5. That feeling aggrieved, the appellant submitted departmental representation before Respondent No.2 but to no avail. (Copy of representation is annexed as **Annexure "E"**).
6. That the appellant has tried his level best to convince the respondents that the appointment of appellant as Naib Qasid is made after observing all codal formalities which is evidence from appointment order but they paid no heed whatsoever to the genuine and lawful demand of appellant.
7. That feeling aggrieved of the aforesaid situation, the appellant had filed writ petition no. 169-A/2016 before the August Peshawar High Court at Abbottabad Bench. (Copy of writ petition is annexed as **Annexure "F"**).
8. That the Honorable Peshawar High Court Abbottabad Bench had directed the appellant (the then petitioner) vide order dated

28-03-2016 to approach the proper forum under the law hence, this appeal. (Copy of order dated 28-03-2016 is annexed as **Annexure "E"**).

9. That assailing the impugned act of respondents being unwarranted at law and facts, inter-alia on the following grounds:-

GROUNDS OF APPEAL:-

- a) That the act of respondents is illegal, against the law, facts and circumstances of the case, hence not maintainable.
- b) That respondents have not treated appellant in accordance with law, rules and policy on the subject and acted in violation of service rules and unlawfully removed the appellant from service which is unjust, unfair, illegal and hence not sustainable in the eye of law.
- c) That appellant was appointed as Naib Qasid after fulfillment of all the codal formalities but respondents without any lawful justification removed him from service which has resulted in serious miscarriage of justice, amounting to sheer discrimination on the part of respondents.
- d) That the appointment of appellant was made by the competent authority after observing all codal formalities which is evident from the speaking appointment order and removal of appellant from service without any fault on the part of appellant is against the natural justice and also against the procedure laid down in the Efficiency and Disciplinary Rules.
- e) That under the procedure laid down in Section 10, 11, 12, 13, 14 & 15 it was imperative upon the authority to serve the appellant statement of allegation, show cause notice, final show cause notice with a copy of inquiry report and chance of personal hearing before passing any order, if any fault was on the part of appellant but in the instant case respondents failed to adopt such procedure which shows the mala fide on part of respondents, hence the act of the respondents

caused grave injustice to the appellant, therefore act of respondents is liable to be set aside.

- f) That appellant was appointed vide order dated 06-12-2014 and respondent no.3 removed the appellant from service vide order dated 21-12-2015 after so long time, if appointment of appellant was not made in accordance with procedures and in contravention of the rules then respondents were bound to terminate the appellant in time but in the instant case appellant has drawn his salary till November 2015 and thereafter the moved from his service after so long time which clearly shows the mala fide of respondents, hence the impugned order is liable to be set aside.
- g) That no other efficacious, speedy or adequate remedy is available to the appellant except the instant constitutional petition.
- h) That valuable rights of the appellant are involved in the matter.
- i) That the appellant seeks leave of this Honorable Service Tribunal to agitate additional Grounds at the time of Hearing of this Service Appeal.

In the light of above stated facts it is humbly prayed that on acceptance of appeal, the respondents be kindly directed to reinstate the appellant or service as Naib Qasid w.e.f 21-12-2015 with back benefits. Any other relief deemed fit and proper in circumstances of the case.

Dated: 30-10-2016

**Appellant
Eisa Khan**



Through Counsel

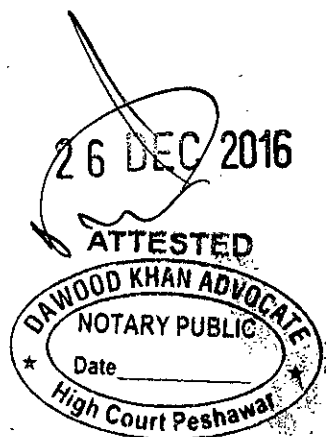
Sajid ur Rehman Khan
**Sajid ur Rehman Khan
Advocate High Court,
At Haripur**

Affidavit:

I, Mr. Eisa Khan S/O Talib Malik R/O Tarnawa, P.O Khanpur, Tehsil & District Haripur do hereby solemnly affirm and declare that the contents of instant appeal are true and correct to the best of my knowledge and belief and nothing material has been suppressed from this Honorable Court.

Dated: 30-10-2016

**Appellant
Eisa Khan**



**BEFORE THE HONOURABLE KHYBER PAKHTUNKWA SERVICE
TRIBUNAL, PESHAWAR**

Services Appeal No. _____

Eisa Khan S/O Talib Malik R/O Tarnawa, P.O Khanpur, Tehsil &
District Haripur.

..... Appellant

VERSUS

Govt. of Khyber Pakhtunkhwa, through Secretary Higher Education
KPK Peshawar & others

..... Respondents

SERVICES APPEAL

LIST OF BOOKS

- 1. Constitution of Islamic Republic of Pakistan, 1973.
- 2. Other law books are cited at Bar.

Dated: 30-10-2016

Appellant
Eisa Khan



Through Counsel

Sajid ur Rehman Khan
Sajid ur Rehman Khan
Advocate High Court,
At Haripur

**BEFORE THE HONOURABLE KHYBER PAKHTUNKWA SERVICE
TRIBUNAL, PESHAWAR**

Service Appeal No. _____

Eisa Khan S/O Talib Malik R/O Tarnawa, P.O Khanpur, Tehsil &
District Haripur.

..... Appellant

VERSUS

Govt. of Khyber Pakhtunkhwa, through Secretary Higher Education
KPK Peshawar & others

..... Respondents

SERVICES APPEAL

ADDRESSES OF THE PARTIES

Respectfully Sheweth:-

Addresses of the parties are as under:-

Eisa Khan S/O Talib Malik R/O Tarnawa, P.O Khanpur, Tehsil &
District Haripur.

..... Appellant

VERSUS

1. Govt. of Khyber Pakhtunkhwa, through Secretary Higher Education KPK Peshawar.
2. Director Higher Education Khyber Pakhtunkhwa, Peshawar.
3. Principal Govt. Degree College, Khanpur, Haripur.

..... Respondents

Dated: 30-10-2016

Appellant

Eisa Khan



Sajid ur Rehman Khan

Through Counsel

**Sajid ur Rehman Khan
Advocate High Court,
At Haripur**

۱	۲	۳	۴	۵	۶
نام و نام خانوادگی	نام و نام خانوادگی	شماره ثبت	رقبہ سند	نام کارمندان و اولاد	نام ملک و احوال
محمد علی	محمد علی	۱۰۰۳	۶-۹۶ ۵-۸۵		شماره سند املاک ۱۱۲۰۶ آدرس و حدود - - - پسران و طالبات ثبت قلم مشغولین استعاره و سند قبال $\frac{۲۵}{۱۹۲۶}$ بر رویه $\frac{۱۹۰۱}{۱۹۲۶}$

شهادت
سید محمد

صفا علی
امین طالبان
شهادت
۱۳۱۱/۱۲/۲۹

ANNEXURE - A

OFFICE OF THE PRINCIPAL GOVT: DEGREE COLLEGE KHANPUR (HARIPUR).

Appointment Order.

Dated: 06.12.2014.

Consequent upon the recommendations of the selection committee comprising of college staff members and elders/ retired teachers, Mr. Esa Khan S/O Talib Malik, resident of Khanpur, who has been working on the post of Security Guard, is, hereby, appointed against the newly created post of Naib Qasid vide order No. SOB/HE/1-5/SNEs/2014-15, with terms and conditions given below.

Moreover, on the post of Security Guard, vacated consequently, which already stands sanctioned by the competent authority (copy attached), Mr. Muhammad Yasir S/O Ghulam Sarwar, resident of Mohra Ghazan, Khanpur is being appointed with immediate effect, keeping in view the prevailing precarious law and order situation in the area.

Terms and Conditions.

1. Charge Report should be submitted to all concerned.
2. This appointment is made on temporary basis and is liable to termination at any time without any notice/reasons. In case he wishes to resign from the service, he will have to give one month prior notice or surrender one month pay to Govt.
3. They should produce Health & age Certificate from the concerned Medical Supdt: before taking over the Charge.
4. No. T.A/D.A is allowed to anyone.
5. They should join their posts within 14 days of the issue of this order.
6. They will be governed as per orders/Notifications issued by the Govt. from time to time.

Prof: Akhtar Shah A Shah 2. Sajid Hussain Shah Sajid Hussain Shah

3. Ikram Ullah Ikram Ullah Elders 4. Raja Muhammad Shorab Raja Muhammad Shorab

5. Raja Arshad Zaman Raja Arshad Zaman 6. Raja Nawazish Raja Nawazish

Attest
Attest

Principal
Govt Degree College
Khanpur (Haripur)

Endst: No 1157-64

Dated Khanpur the 06-12-2014

Copy forwarded for information to:

1. The Director Higher Education Department Khyber Pakhtunkhwa Peshawar.
2. The District Accounts Officer Haripur.
- 3-4. Candidates concerned.
5. Departmental Selection Committee.
6. Head Clerk Office record.

Principal
Govt: Degree College
Khanpur (Haripur)

OFFICE OF THE PRINCIPAL GOVT DEGREE COLLEGE KHANPUR HARIPUR

No. 1516 /P.F

Dated Khanpur the 15/07/2015

CORRIGENDUM

Endst: No. 1159-64 dated the Khanpur 06.12.2014

In partial modification of appointment order of even No. dated 06.12.2014, the correct particulars of appointees are mentioned below:-

Serial #	Name of appointee	Father's name	Date of birth	Post
1	Esa Khan	Talib Malik	01.01.1986	Naib Qasid
2	Muhammad Yasir	Ghulam Sarwar	09.02.1987	Security Guard

The terms and condition will remain same as mentioned in the appointment order. They should produce fresh health and age certificate from the concerned Medical Superintendent within 14 days of the issue of this order/corrigendum.

Govt. Degree College
Khanpur Haripur
PRINCIPAL
Govt. Degree College
Khanpur (Haripur)

Copy forwarded for Information to:-

1. The Director Higher Education Department KPK Peshawar
2. The District Accounts Officer Haripur.
3. Appointees concerned.
4. Department Selection Committee.
5. Head Clerk Office record.

Govt. Degree College
Khanpur Haripur
PRINCIPAL
Govt. Degree College
Khanpur (Haripur)

OFFICE OF THE MEDICAL SUPERINTENDENT DHQ HOSPITAL HARIPUR



12

HEALTH AND AGE CERTIFICATE

Name of Official: Essa

Cast of race: Pakistani Father's Name: Talib Malik

Residence: R/o Tarna P. Khanpur Tal. G. Distt Haripur

By Birth was born: 01/01/1986 KPK, Pakistan Exact Height: 5'6"

Personal mark of Identification: Scar mark on face

Signature of Official:

Signature of Head of Department:

Principal
Govt Degree College
Khanpur (Haripur)

I do hereby certify that I have examined Mr./Miss./Mrs. Essa

A candidate for employment in the office of the: Principal Govt. Degree College Khanpur Haripur

and can't discover that he/she had any disease communicable or other constitutional affection or bodily infirmity except: (Left hand thumb and index finger for eye)

I do not consider this as disqualification for employment in the office of the:

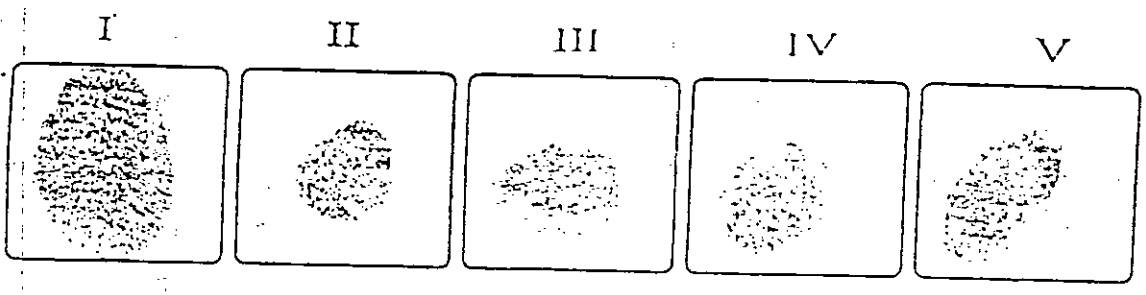
Principal Govt. Degree College Khanpur Haripur

His age according to his own statement: 29 Years and by

appearance about Twenty nine years.

Attested
Mr. Na

LEFT HAND THUMB AND FINGER IMPRESSIONS



Dated: 16/07 2015

Medical Superintendent
DHQ Hospital Haripur

ATTESTED

PRINCIPAL
Govt Degree College
Khanpur (Haripur)

16-07-2015
MEDICAL SUPERINTENDENT
DHQ HOSPITAL HARIPUR

13

ANNEXURE - (B)

Government of Khyber Pakhtunkhwa District Accounts Office Haripur
Monthly Salary Statement (November-2015)



Personal Information of Mr ESA KHAN d/w/s of TALIB KHAN

Personnel Number: 00742-159 CNIC: 1330223717819

Length of Service: 00 Years 11 Months 026 Days

Date of Birth: 01.01.1986 Entry into Govt. Service: 06.12.2014

Employment Category: Active Permanent

Designation: Naib Qasid

Vendor Number:

DPO Code: HR4110-PRINCIPAL G.D.C KHAN PUR.

80002079-GOVERNMENT OF KHYBER PAKH.

GPF A/C No:

Interest Applied: Yes

GPF Balance: 1,398.00

Pay and Allowances:

Pay scale: BPS For - 2015

Pay Scale Type: Civil BPS: 01

Pay Stage: 0

Wage type		Amount	Wage type		Amount
0001	Basic Pay	6,210.00	1000	House Rent Allowance	891.00
1210	Convey Allowance 2005	1,785.00	1300	Medical Allowance	1,500.00
1973	Adhoc Allowance 2011 @ 50%	1,485.00	2148	15% Adhoc Relief AII-2013	720.00
2174	Adhoc Relief Allow-2014	480.00	2199	Adhoc Relief Allow @ 10%	621.00

Deductions - General

Wage type		Amount	Wage type		Amount
3001	GPF Subscription - Rs 274	-274.00	3501	Benevolent Fund	-120.00
3511	Addl Group Insurance	-3.00	3601	Group Insurance	-58.00
3990	Emp.Edu. Fund KPK	-50.00			0.00

Deductions - Loans and Advances

Loan	Description	Principle amount	Deduction	Balance
Tax Payable:	0.00 Recovered till November-2015:	0.00	Exempted:	Recoverable: 0.00

Gross Pay (Rs.): 13,692.00

Deductions: (Rs.): -505.00

Net Pay: (Rs.): 13,187.00

Account Number: 102491 Bank Details: NATIONAL BANK OF PAKISTAN, 250582 KHAN PUR BRANCH

Attest
M. A.

(SI/ZA/11/07/12/2015/09/13/46) 2) All amounts are in Pak Rupees 3) Errors & omissions excepted



**DIRECTORATE OF HIGHER EDUCATION
KHYBER PAKHTUNKHWA,
KHYBER ROAD PESHAWAR**

15

Phone # 091-9210242, 9211025/Fax # 9210215

No. 33606 /CA-1/Estt: Branch/

Dated Peshawar the 14/12/2015

To

to file
The Principal
Govt. Degree College Khanpur(Haripur).

Ann - (C)

SUBJECT: APPOINTMENT ORDER.

I am directed to refer to the subject noted above and to state that Mr. Essa Khan was appointed as Naib Qasid vide your office Endst.No.1159-64 dated 06.12.2014, devoid of the laid down procedure and in contravention of rules.

In view of the same, you are directed to remove him from his service and fill the post by following all procedural/Legal formalities.

Enclosed original Service Book.

M. Bashir

DY: DIRECTOR (ESTABLISHMENT)

Endst.No _____/

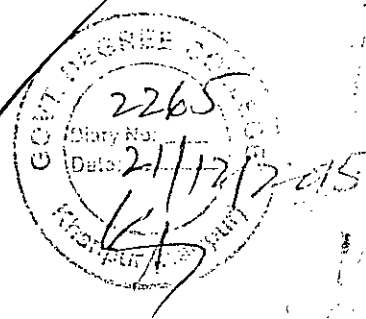
Copy of the above is forwarded to the District Accounts officer Haripur.

DY: DIRECTOR (ESTABLISHMENT)

*Mr. Khalid to note and
compliance immediately*

*Amjad
21/12/2015*

*Noted Sir
21/12/2015*



16

ANNEXURE - ①

OFFICE OF THE PRINCIPAL GOVT: DEGREE COLLEGE KHANPUR (HARIPUR).

OFFICE ORDER.

Dated. 21.12.2015

Subject: REMOVAL FROM SERVICE.

In response to Deputy Director (Establishment) Directorate of Higher Education Khyber Pakhtunkhwa, Peshawar office order/letter No. 33606/CA-1/Esstt:Branch, dated Peshawar the 14.12.2015. Mr. Esa Khan, Naib Qasid is hereby removed/dismissed from his service w.e.f 21.12.2015, due to devoid of the laid down procedure and in contravention of rules.



Principal
Govt. Degree College
Khanpur (Haripur)

Endst: No. 381-89

Copy forwarded to:-

1. The Deputy Director (Establishment) Higher Education Department, Peshawar for information, please.
2. The District Account Officer, Haripur.
3. Mr. Esa Khan, Naib Qasid.
4. Office Record.

2
Alam
Yusuf



Principal
Govt. Degree College
Khanpur (Haripur)

Annexure (E) 16
 حضور صاحب سیکرٹری ہاؤس گلہ گانہ لعلیہ لہور

اپیل

صفحہ 16

(16-A)

صاحب عالی رہنمائی اور سپریم کورٹ کے فیصلے کے تحت
 اور فیصلے کے تحت 12-12-15 کو ڈاکٹر عزیز گلہ گانہ لہور
 میں بحیثیت نائب قاضی معززوں کے طور پر تعینات کیا گیا تھا
 اور فیصلے کے تحت 15-12-15 کو ڈاکٹر عزیز گلہ گانہ لہور
 برائے تیار لہور 15-12-15 کے تحت ملائی حضور انصافی کے ڈیسک پر
 خارج ہے۔ جو ظلم اور جبر انصافی کے ساتھ ہے۔ صاحب عالی نے
 پرزور استدعا اور اپیل ہے کہ فیصلے کو ڈیسک پر ہونا سے بچانے
 کے احکامات صادر فرمائے احساناً عظیم فرمائیں اور
 فیصلے و رہنمائی معزز اور جبر حضور ہے

عزیز گلہ گانہ

فیصلے عالی خان نائب قاضی معزز ڈاکٹر عزیز گلہ گانہ لہور
 - شناختی کارڈ نمبر 2371781-2-13302 (03429692660) 110 (11)

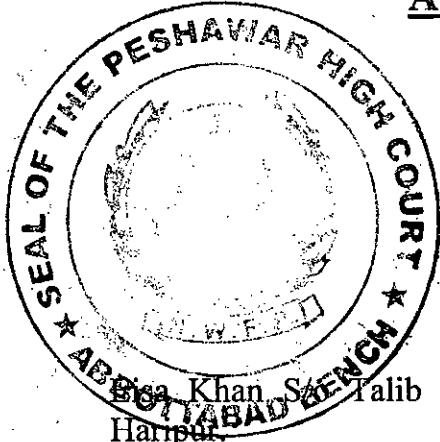
(1) Copy to The Chief Secretary
 K.P.K. Peshawar.

رہنمائی عالی خان

Altaf
 گلہ گانہ

Annexure (F) (A) (B) (17)

BEFORE THE PESHAWAR HIGH COURT,
ABBOTTABAD BENCH



W.P No. 169-A /2016

Biga Khan, S. Talib Malik R/o Tarnawa P.O Khanpur Tehsil & District Haripur.

...PETITIONER

VERSUS

1. Govt. of Khyber Pakhtunkhawa through Secretary Higher Education, KPK, Peshawar.
2. Director Higher Education, Khyber Pakhtunkhawa, Peshawar.
3. Principal Govt. Degree College, Khanpur Haripur.

...RESPONDENTS

WRIT PETITION UNDER ARTICLE 199 OF
CONSTITUTION OF ISLAMIC REPUBLIC OF
PAKISTAN 1973, SOLICITING DECLARATION TO THE
EFFECT THAT PETITIONER WAS APPOINTED VIDE
ORDER DATED 06/12/2014 AS NAIB QASID AND
CORRIGENDUM WAS ALSO ISSUED VIDE LETTER
NO. 1516/P.F DATED 15/07/2015 BUT THEREAFTER ON
THE DIRECTIONS OF RESPONDENT NO.2,
RESPONDENT NO.3 VIDE IMPUGNED ORDER DATED

No 948
23-2-16
Certified to be True Copy
Ex. 19/5/16
Peshawar High Court
Abbottabad Bench
Authorized Under Sec 75 Acts Ordms

[Handwritten signature]
23/2/16

21/12/2015 REMOVED/DISMISSED THE PETITIONER FROM SERVICE IS ILLEGAL, UNLAWFUL, MALAFIDE, WITHOUT LAWFUL AUTHORITY, WITHOUT JURISDICTION ARBITRARY, PERVERSE, CAPRICIOUS, FANCIFUL AND CONSEQUENTLY OF NO LEGAL EFFECT UPON THE RIGHTS OF PETITIONERS.

PRAYER: - ON ACCEPTANCE OF THE INSTANT WRIT PETITION, THE RESPONDENTS BE KINDLY DIRECTED TO REINSTATE THE PETITIONER IN SERVICE AS NAIB QASID W.E.F 01/12/2015 WITH ALL BACK BENEFITS OR ANY OTHER RELIEF DEEMED FIT AND PROPER IN THE CIRCUMSTANCES OF THE CASE.

Respectfully Sheweth: -

FACTS:

1. That the petitioner was working in the Govt. Degree College Khanpur Haripur as Security Guard and on creation of post of Naib Qasid the appointment of petitioner was made by respondent No. 3 as Naib Qasid vide order No. 1159/64 dated 06/12/2014 on the recommendations of the Selection Committee after observing all the codal formalities. Copy of appointment order is annexed as Annexure "A".

Certified to be true Copy
 Peshawar High Court
 Abbottabad Bench
 Authorized Under Sec 75 Acts Ordms

FILED TODAY

Additional Registrar
 Peshawar High Court
 Abbottabad Bench

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2. That thereafter petitioner assumed the charge of the post of Naib Qasid and also drawn his salary. Copy of salary slip of November, 2015 is attached as Annexure "B".
3. That respondent No.2 vide letter No. 336006/CA-I/Estt: dated 14/12/2015 directed respondent No.3 to remove petitioner from service as the appointment of petitioner is devoid of lay down procedure and in contravention of the rules. Copy of letter dated 14/12/2015 is annexed as Annexure "C".
4. That in compliance of letter dated 14/12/2015, respondent No.3 removed/dismissed the petitioner from service vide impugned order dated 21/12/2015 due to devoid of the laid down procedure and in contravention of rules. Copy of impugned order dated 21/12/2015 is annexed as Annexure "D".
5. That feeling aggrieved, petitioner submitted departmental representation before respondent No.2 but to no avail. Copy of representation is annexed as Annexure "E".
6. That the petitioner has tried his level best to convince the respondents that the appointment of petitioner as

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 Examinee
 Peshawar High Court
 Abbottabad Bench
 Authorized Under Sec 75 Acts Ordms

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Additional Registrar
 Peshawar High Court
 Abbottabad Bench

Naib Qasid is made after observing all codal formalities which is evident from appointment order but they paid no heed whatsoever to the genuine and lawful demand of petitioner.

7. That feeling aggrieved of the aforestated situation, the petitioner has come to this Honourable Court, assailing the impugned act of respondents being unwarranted at law and facts, inter-alia, on the following amongst many others: -

GROUND S :-

- a. That the act of respondents is illegal, against the law, facts and circumstances of the case, hence, not maintainable.
- b. That respondents have not treated petitioner in accordance with law, rules and policy on the subject and acted in violation of Article-4 of the Constitution of Islamic Republic of Pakistan 1973 and unlawfully removed the petitioner from service which is unjust, unfair, illegal and hence not sustainable in the eye of law.
- c. That petitioner was appointed as Naib Qasid after fulfillment of all the codal formalities but respondents without any lawful justification

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Examined by
Peshawar Bench
Abbottabad Bench
Authorized Under Seda 75 Acts Ord 1973

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Additional Registrar
Peshawar High Court
Abbottabad Bench

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removed him from service which has resulted in serious miscarriage of justice, amounting to sheer discrimination on the part of respondents.

- d. That the appointment of petitioner was made by the competent authority after observing all codal formalities which is evident from the speaking appointment order and removal of petitioner from service without any fault on the part of petitioner is against the natural justice and also against the procedure laid down in the Efficiency and Disciplinary Rules.
- e. That under the procedure laid down in section 10, 11, 12, 13, 14 & 15 it was imperative upon the authority to serve the petitioner statement of allegations, show cause notice, final show cause notice with a copy of inquiry report and chance of personal hearing before passing any order, if any fault was on the part of petitioner but in the instant case respondents failed to adopt such procedure which shows the malafide on part of respondents, hence the act of respondents caused grave injustice to the petitioner, therefore, act of respondents is liable to be set aside.

Certified to be True Copy
 Examined by
 Peshawar High Court
 Abbottabad Bench
 Authorized Under Section 5 Act of 1973
 13/15/16

FILED TODAY

Additional Registrar
 Peshawar High Court
 Abbottabad Bench
 13/15/16

(10) (6)

(22)

- f. That petitioner was appointed vide order dated 06/12/2014 and respondent No. 3 removed the petitioner from service vide order dated 21/12/2015 after so long time, if appointment of petitioner was not made in accordance with procedures and in contravention of the rules then respondents were bound to terminate the petitioner in time but in the instant case petitioner has drawn his salary till November, 2015 and thereafter he removed from his service after so long time which clearly shows the malafide of respondents, hence the impugned order is liable to be set aside.
- g. That no other efficacious, speedy or adequate remedy is available to the petitioner except the instant constitutional petition.
- h. That valuable rights of the petitioner are involved in the matter.
- i. That the other points shall be agitated at the time of arguments with the leave of this Honourable Court.

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Examiner
Peshawar High Court
Abbottabad Bench
Authorized Under Sec 75 Acts Grams

FILED TODAY

Additional Registrar
Peshawar High Court
Abbottabad Bench
27/11/16

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j. That court fee stamps worth Rs. 500/- is annexed with the petition.

Under the circumstances, it is respectfully prayed that on acceptance of the instant writ petition, the respondents be kindly directed to reinstate the petitioner in service as Naib Qasid w.e.f 01/12/2015 with all back benefits in Govt. Degree College Khanpur, Haripur or any other relief deemed fit and proper in the circumstances of the case.

INTERIM RELIEF: -

It is further prayed that respondents be directed not to appoint any other person on the vacant post of Naib Qasid in Govt. Degree College Khanpur, Haripur till final disposal of the titled writ petition.

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13/15/16
Peshawar High Court
Abbottabad Bench
Authorized Under Sec 75 Acts Ordinance

...PETITIONER

Through

Dated: 20/01/2016

Sajid ur Rehman
(Sajid ur Rehman)
Advocate High Court, Haripur

VERIFICATION:

Verified on oath that the contents of forgoing writ petition are true and correct to the best of my knowledge and belief and nothing has been concealed therein from this Honourable Court


...PETITIONER

FILED TODAY
MJ
Subordinate Judge
Abbottabad Bench
23/1/16

(12) (8)

BEFORE THE PESHAWAR HIGH COURT,
ABBOTTABAD BENCH

(24)

W.P No. 169-A /2016

Eisa Khan S/o Talib Malik R/o Tarnawa P.O Khanpur Tehsil & District Haripur.

...PETITIONER

VERSUS

Govt. of Khyber Pakhtunkhwa through Secretary Higher Education, KPK, Peshawar & others.

...RESPONDENTS

Certified to be True Copy
Examined
Peshawar High Court
Abbottabad Bench
Authorized Under Sec 75 Acts Ordinance

WRIT PETITION

AFFIDAVIT

I, Eisa Khan S/o Talib Malik R/o Tarnawa P.O Khanpur Tehsil & District Haripur, do hereby solemnly affirm and declare that the contents of forgoing writ petition are true and correct to the best of my knowledge and belief as per information furnished by my client and nothing has been concealed therein from this Honourable Court. Furthermore neither such like writ petition has earlier filed nor decided by any court of law.

13302-2371781-9

919/419

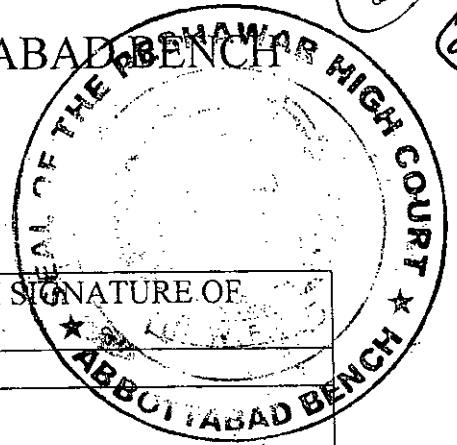
419

DEPONENT

73
Eisa Khan S/o Talib Malik
Tarnawa P.O Khanpur Tehsil
District Haripur

[Handwritten signatures and dates]
23/12/16

PESHAWAR HIGH COURT, ABBOTTABAD BENCH

FORM 'A'
FORM OF ORDER SHEET

Date of Order or Proceedings	ORDER OR PROCEEDINGS WITH SIGNATURE OF JUDGE/JUDGES
1	2
28.03.2016	<p data-bbox="470 560 790 598"><u>W.P No.169-A/2016.</u></p> <p data-bbox="470 637 1252 726">Present: Mr. Sajid-ur-Rehman Khan, Advocate, for petitioner.</p> <p data-bbox="877 802 933 828">***</p> <p data-bbox="470 930 1364 1694"><u>QALANDAR ALI KHAN,J:-</u> After arguments at some length, the learned counsel for the petitioner stated that being conscious of bar of jurisdiction under Article 212 of the Constitution of Islamic Republic of Pakistan, 1973, the petitioner would seek his remedy in the forum available to him under the law; but, at the same time, would request for a direction to the Director, Higher Education, Khyber Pakhtunkhawa, Peshawar, (respondent No.2) to render a decision on the departmental appeal/representation of the petitioner pending before him since 07.01.2016.</p> <p data-bbox="486 1719 1364 2254">Therefore, with direction to the Director, Higher Education, Khyber Pakhtunkhawa, Peshawar (respondent No.2) to render a decision, with reasons, on the departmental appeal/representation of the petitioner at the earliest as the departmental appeal/representation of the petitioner is pending before him for the last more than three months, where-after, the petitioner, if still felt aggrieved of the final order of the</p>

Certified to be True Copy
Examined by
Peshawar High Court
Abbottabad Bench
Authorized Under Sec 75 Acts Ord 1973

گھوڑا رضا سیکرٹری ہاؤس، قلعہ، لعلیہ کالج، پشاور

صفحہ ۱ = اصل

صاحب عالی رہنمائی اور سربراہی کے نام سے کہ فدوی حضور سے
 اور حضور، کو حضور، 2011-12-16 کو ڈیڑھ گھنٹہ کے لیے کالج پشاور
 میں بحیثیت نائب قاضی حضوروں کو کورٹ پر معزنی کیا گیا تھا
 اور فدوی کورٹ کے 15-12-11 کو آڈیو 336061089 پر
 براہ کتب تاریخ 15-12-11 کے تحت ملائیس حضور داخلی کے ڈیسک
 خارج ہے۔ جو ظلم اور جبر العسائی ہے متراکت ہے۔ صاحب عالی سے
 سرزور استیفا اور اصل ہے کہ فدوی کو ڈیسک سے ہٹا دیا جائے
 کے اصطلاحات جہاد و فتنہ افسانہ عظیم ذہن شکر فرمائیں۔
 فدوی رہنمائی حضور اور حضور ہے

25.12.2015

محمد رفیق

فدوی عیسیٰ خان نائب قاضی کورٹ ڈسٹریکٹ کالج پشاور

پتہ: کالج پشاور، 2371781-2-13302 (03429692660) (1111)

(1) Copy to The Chief Secretary
K.P.K. Peshawar.

پشاور، قلعہ، لعلیہ کالج

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Annexure-9

To,
The Director Higher Education
Khyber Pakhtunkhwa Peshawar.

Subject:-

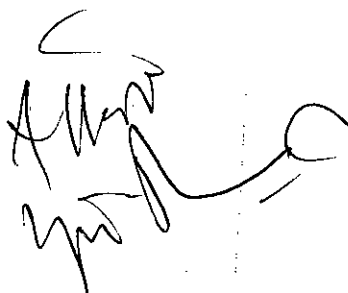
**DEPARTMENTAL REPRESENTATION/APEAL UNDER SECTION 17
OF EFFICIENCY & DISCIPLINE RULES, 2011 AGAINST ORDER
NO.386-89 DATED 21-12-2015 ISSUED BY PRINCIPAL GOVT: DEGREE
COLLEGE KHANPUR DISTRICT HARIPUR REGARDING DISMISSAL
OF SERVICES OF APPELLANT.**

R/Sir,

With due regards, it is submitted that brief facts giving arise to the institution of instant Departmental Representation are as appended below please:-

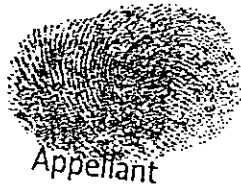
FACTS

1. That prior to 06-12-2014 the appellant was working on the post of Security Guard and on creation of post of Naib Qasid the appointment of appellant was ordered by the principal GDC Khanpur District Haripur as Naib Qasid vide order No.1159-64 dated 06-12-2014, on the recommendation of the Selection Committee after observing all codal formalities as evidence from the appointment order. (Copy attached).
2. That appellant accordingly assumed the charge of the post of Naib Qasid and a salary was drawn and paid to the appellant vide personal No.00742459(CNIC No.13302-2371781-9 for whole period of duty from the date of appointment. (copy of Pay Slip of November 2015 is attached for ready reference).
3. That Deputy Director (establishment) Directorate of Higher Education Khyber Pakhtunkhwa issued a letter No. 336006/CA-I/Estt: Branch dated 14-12-2015 addressed to principal GDC Khanpur stating that "Mr. Essa Khan was appointed as N/Q vide your office Endst: No.1159-64 dated 06-12-2014, the devoid of the lay down procedure and in contravention of the rules. In view of the same, you are directed to remove him from his service and fill the post by following all procedure/legal formalities." (Copy attached).

GROUND OF APPEAL


1. That the appointment of appellant was made by the competent authority after observing all codal formalities which is evidence from the speaking appointment order and have been dismissed from service without any fault on the part of appellant this act of the Department/Authority is against the natural justice and also against the procedure laid down in the E&D Rules, 2011.
2. That under the procedure laid down in section 10,11,12,13,14 & 15 it was imperative upon the authority to serve the appellant statement of allegation, Show Cause Notice, Final Show Cause Notice with a copy of enquiry report and chance of personal hearing before passing any order, if any fault was on the part of appellant. Hence the Act of Authority is illegal and liable to set aside.

In the light of above stated facts/grounds, it is humbly prayed that the appeal of appellant may graciously be accepted by reinstating the appellant in service with effect from the date of termination with all back benefits in the interest of justice and obliged.



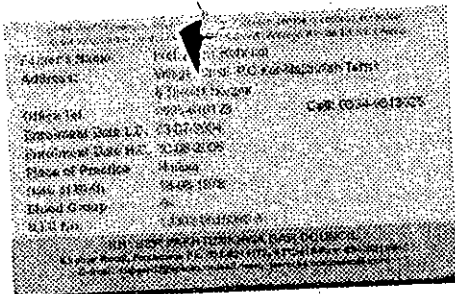
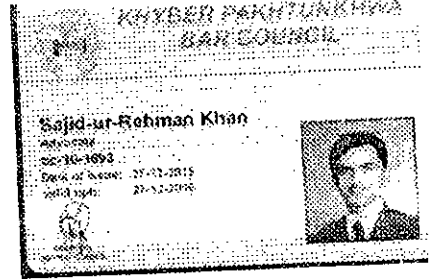
Appellant

Essa Khan Naib Qasid
 GDC Khanpur Haripur -
 Under order of Dismissal
 Resident of village Ternava P/O
 Khanpur tehsil & District Haripur
 02-04-2016

Essa Khan
Naib Qasid

وکالت نامہ

از دفتر ساجد الرحمن خان ایڈووکیٹ ہائی کورٹ آفس نمبر 9، شیرپاؤ پلازہ ڈسٹرکٹ کورٹس ہری پور



بعدالت جناب رحمہار جہرہ خٹو خواجہ سردار گل محمد سہیل کسور

منجانب علی رضا اسلمنٹ

علی رضا خان بنام گوگنٹے جی ۵

نوعیت مقدمہ سروس ایبل بمقام عدالت کسور

مندرجہ بالا عنوان میں اپنی طرف سے پیروی مقدمہ کیلئے ساجد الرحمن خان ایڈووکیٹ ہائی کورٹ کو بدیں شرط وکیل مقرر کیا جو کہ میں ہر پیشی پر خود یا بذریعہ مختار خاص رو برو عدالت حاضر ہوتا رہوں گا اور بوقت پکارے جانے وکیل صاحب کو اطلاع دیکر حاضری کروں گا۔ اگر کسی پیشی پر مظہر حاضر نہ ہو اور غیر حاضری کی وجہ سے کسی طور پر مقدمہ میرے خلاف ہو گیا تو موصوف اس کے کسی طرح ذمہ دار نہ ہوں گے نیز وکیل صاحب موصوف صدر مقام کچہری کے علاوہ کسی اور جگہ یا کچہری کے مقرر اوقات سے پہلے یا بروز تعطیل پیروی کرنے کے مجاز نہ ہوں گے۔ اگر مقدمہ مقام کچہری کے کسی اور جگہ سماعت ہونے پر یا بروز کچہری کے اوقات کے آگے یا پیچھے ہونے پر مظہر کو کوئی نقصان پہنچے تو ذمہ دار یا اس کے واسطے کسی معاوضہ ادا کرنے، مختار نامہ واپس کرنے کے بھی صاحب موصوف ذمہ دار نہ ہوں گے۔ مجھے کل ساختہ و پرداختہ صاحب مثل کردہ ذات خود منظور قبول ہوگا۔ اور صاحب موصوف کو عرضی دعویٰ، جواب دعویٰ اور درخواست اجراءے ڈگری و نظر ثانی و اپیل نگرانی دائر کرنے نیز ہر قسم کی درخواست پر دستخط تصدیق کرنے کا بھی اختیار ہوگا اور کسی حکم یا ڈگری کے اجراء کرنے اور ہر قسم کاروبار وصول کرنے اور رسید دینے اور داخل کرنے کا، ہر قسم کا بیابان دینے اور سپرد تالی و راضی نامہ و فیصلہ برخلاف کرنے، اقبال دعویٰ کا اختیار ہوگا اور بصورت اپیل و برآمدگی مقدمہ یا منسوخی ڈگری یکطرفہ درخواست حکم امتناعی یا ڈگری قبل از فیصلہ اجراءے ڈگری بھی صاحب موصوف کو بشرط ادا سنگی علیحدہ پیروی مختار نامہ کرنے کا مجاز ہوگا اور بصورت ضرورت اپیل یا اپیل کے واسطے کسی دوسرے وکیل یا بیرٹر کو بجائے اپنے یا ہمراہ مقرر کریں اور ایسے مشیر قانونی کو بھی اس امر میں وہی اختیارات حاصل ہوں گے جیسے صاحب موصوف کو حاصل ہیں، پوری فیس تاریخ پیشی سے پہلے ادا نہ کروں گا تو صاحب موصوف کو پورا اختیار ہوگا کہ وہ مقدمہ کی پیروی نہ کریں اور ایسی حالت میں میرا مطالبہ صاحب کے برخلاف نہیں ہوگا۔ لہذا مختار نامہ نہ لکھ دیا ہے تاکہ سند ہے۔ مضمون مختار نامہ سن لیا ہے اور اچھی طرح سمجھ لیا ہے اور منظور ہے۔

المرقوم ما 2076 10 30

Accepted & Attested

(Appellant)

ساجد الرحمن خان ایڈووکیٹ ہائی کورٹ

علی رضا خان



**BEFORE THE HONOURABLE SERVICE TRIBUNAL, CAMP COURT,
ABBOTTABAD.**

S.A#1256/2016

Mr. Eisa Khan.....Appellant.

Versus

Govt. of Khyber Pakhtunkhwa
Through Secretary and Director,
Higher Education Peshawar Respondents.

Subject: PARAWISE COMMENTS ON BEHALF OF RESPONDENTS NO. 1, 2 & 3.

PRELIMINARY OBJECTIONS: -

Respectfully Sheweth: -

1. That the appellant has got no locus standi/cause of action to file the instant case.
2. That the appellant is trying to mislead the Tribunal by concealing material facts.
3. That the Honourable Tribunal lacks Jurisdiction to entertain the instant appeal.
4. That the instant Service appeal is hit by doctrine of laches.
5. That the appellant, is estopped by his own conduct to file the instant case.

Facts:-

1) Correct to the extent that the appellant was working in Government Degree College, Khanpur, (Haripur) as Security Guard. As far as the creation of post of Naib Qasid is concerned, the Principal advertised the post of Chowkidar in daily Newspaper "Riyasat" (Annex-A), while the appellant was appointed on the post of Naib-Qasid, which is itself illegal. Moreover, the then Principal, Government Degree College, Khanpur, (Haripur) did not fulfil all the codal formalities as prescribed in the Civil Servant Act 1973. The Selection Committee Constituted for Class-IV appointment by the then Principal, was consisted of three Lecturers of local College and three from outside College. Such type of Selection Committee was against the law and rules. According to Civil Servant Act 1973, the Selection Committee should comprise on the following members.

- i. Principal of the College
- ii. Senior most Professor of the College.
- iii. A nominee of the Department.

It is pertinent to mention here that the then Principal, Government Degree College, Khanpur, (Haripur) made the appointment on temporary basis and was liable to termination at any time without any notice date (copy of appointment order 16-12-2014 is attached as Annex-B).

2) Correct that the appellant assumed the charge of the post of Naib-Qasid and also drawn his Salary.

Altered by
AA
ASIF Khan (HED)

- 3) Correct that respondent No.2 vide letter No. 33606/CA-I/Estt: dated 14-12-2015 directed the respondent No.3 to remove the appellant from Service because the then Principal, did not fulfil all the codal formalities as neither list of candidates from employment exchange was obtained, despite of the fact that Employment Exchange office is functioning in District Haripur, nor did Mr. Eisa Khan ever produced employment exchange registration card. Furthermore NOC was also not obtained from Deputy Commissioner, Haripur and there have been no list attendance of the candidates neither for the post of Security Guard nor for the Naib Qasid.
- 4) Correct as codal formalities were not fulfilled, hence the appellant was removed from service.
- 5) Pertains to record.
- 6) Incorrect and already explained in the preceding paras.
- 7) Pertains to record.
- 8) Pertains to record.
- 9) Need no comments.


Grounds:-

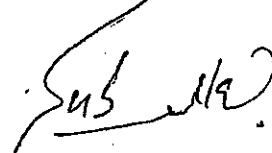
- A. Incorrect. That the act of respondents is legal and in accordance with law.
- B. Incorrect. That the appellant has been treated in accordance with law, rules and policy.
- C. Incorrect and already explained in the preceding paras.
- D. Incorrect and misconceived. Already explained in the preceding paras.
- E. Incorrect. The appellant was appointed on temporary basis and it was written in the terms and conditions of the order that he is liable to termination without any notice/reasons.
- F. Incorrect and already explained in the preceding paras.
- G. Needs no comments.
- H. Incorrect. The rights of the appellant have not been violated.
- I. The respondents may be allowed to raise additional grounds at the time of hearing of the case.

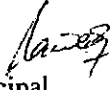
Prayer:-

It is, therefore, humbly prayed that the instant appeal is based on mis-conception/mis-statement and hence liable to be dismissed with cost.

*Attested by
Asif Khan
A.O.(Lit) HED*


Secretary,
Higher Education Department
Respondent No.1


Director,
Higher Education Department
Respondent No.2


Principal,
Govt: Degree College Khanpur,(Haripur)
Respondent No.3

Annex-B

44

OFFICE OF THE PRINCIPAL GOVT: DEGREE COLLEGE KHANPUR (HARIPUR).

Appointment Order.

Dated: 06.12.2014.

Consequent upon the recommendations of the selection committee comprising of college staff members and elders/ retired teachers, Mr. Esa Khan S/O Talib Malik, resident of Khanpur, who has been working on the post of Security Guard, is, hereby, appointed against the newly created post of Naib Qasid vide order No. SOB/HE/1-5/SNEs/2014-15; with terms and conditions given below.

Moreover, on the post of Security Guard, vacated consequently, which already stands sanctioned by the competent authority (copy attached), Mr. Muhammad Yasir S/O Ghulam Sarwar, resident of Mohra Ghazan, Khanpur is being appointed with immediate effect, keeping in view the prevailing precarious law and order situation in the area.

Terms and Conditions.

1. Charge Report should be submitted to all concerned.
2. This appointment is made on temporary basis and is liable to termination at any time without any notice/reasons. In case he wishes to resign from the service, he will have to give one month prior notice or surrender one month pay to Govt.
3. They should produce Health & age Certificate from the concerned Medical Supdt: before taking over the Charge.
4. No. T.A/D.A is allowed to anyone.
5. They should join their posts within 14 days of the issue of this order.
6. They will be governed as per orders/Notifications issued by the Govt. from time to time.

Prof: Akhtar Shah A. Akhtar 2. Sajid Hussain Shah Sajid Hussain

3. Ikram Ullah Ikram Ullah Elders 4. Raja Muhammad Shorab Raja Muhammad Shorab

5. Raja Arshad Zaman Raja Arshad Zaman 6. Raja Nawazish Raja Nawazish

Principal
Govt: Degree College
Khanpur (Haripur).

Endst: No 1159-64

Dated Khanpur the 06-12-2014.

Copy forwarded for information to:

1. The Director Higher Education Department Khyber Pakhtunkhwa Peshawar.
2. The District Accounts Officer Haripur.
- 3-4. Candidates concerned.
5. Departmental Selection Committee.
6. Head Clerk Office record.

Principal
Govt: Degree College
Khanpur (Haripur).