
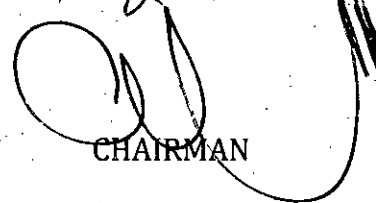


Form- A
FORM OF ORDER SHEET

Court of _____


Case No. 1270 /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 Mst. Sunbal Laila Gul 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> 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> CHAIRMAN</p> |

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of the Hon'ble Peshawar High Court, Peshawar dated 20.12.2011, that subsequently, the said appointment order was withdrawn on the plea of non-availability of post and that his departmental appeal has not been responded within the statutory period of ninety days, hence the present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 deposited process fee + security


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

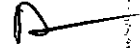
29.10.2015

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

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

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.

25.09.2017

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

(GUL ZEB KHAN)
MEMBER

(MUHAMMAD AMIN KHAN KUNDI)
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.

READER

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

29.03.2018


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

202.08.2018

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

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

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.

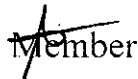
Adjourned to 08.07.2019 before the D.B.


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

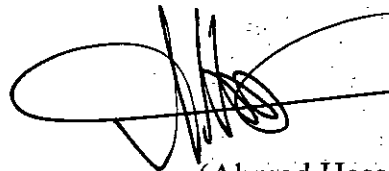

(M. Amin Khan Kundi)
Member

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

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. 11270 /2014

SUNBAL LAILA GUL

VS

A.C.S. FATA

INDEX

| S. NO. | DOCUMENTS | ANNEXURE | PAGE |
|---------------|---------------------|-----------------|-------------|
| 1. | Memo of appeal | | 1-3. |
| 2. | Appointment order | A | 4. |
| 3. | Charge report | B | 5. |
| 4. | Termination order | C | 6. |
| 5. | Letter | D | 7. |
| 6. | Departmental appeal | E | 8-9. |
| 7. | Vakalat nama | | 9.10. |

APPELLANT

THROUGH:

NOOR MOHAMMAD KHATTAK
ADVOCATE

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. 1870 /2014

1289
23-10-2014

Mst: Sunbal Laila Gul, Theology Teacher,
Govt Girls Primary School Noor Khan Banda, North Waziristan
Agency.....**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
PAKHTUNKHWA SERVICE 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 NOT
TAKEN ACTION 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 grant/allow 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 bonafide resident of Miran Shah North Waziristan Agency and having the requisite qualifications for T.T. posts laying vacant in North Waziristan Agency.
2. That the appellant was appointed against the deceased son quota at GGPS Noor Khan Banda at Miran Shah North Waziristan Agency. That on the very next day i.e.

28.5.2014 the appellant submitted her charge report and performing her duties quite efficiently and upto the entire satisfaction of her superiors. Copy of the appointment order and charge report are attached as annexure.....**A & B.**

3. That the appellant was terminated vide dated 16-6-2014 due to non availability of post. Copy of the termination order is attached as annexure.....**C.**
4. That the Agency Education Officer vide his letter showed 8 T.T. posts vacant with him. Copy of the letter is attached as annexure.....**D.**
5. 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.....**E.**

GROUND:

- A. That the impugned order dated 16-06-2014 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 not considering the petitioner under the deceased employees son quota despite of having eligibility and fitness is against the law, facts, norms of natural justice.
- D. That the appellant has not been treated in accordance with law and rules and as such the respondents acted an arbitrary and malafide intention.
- E. That not appointing the appellant on the post of TT under the Deceased Employees Sons quota the concerned authority appointment/promotion/transfer rules 1989.
- F. That appellant highly discriminated and the respondents violated the principle of natural justice.
- G. That appellant seeks permission to advance other grounds and proofs at the time of hearing.


It is therefore most humbly prayed that on acceptance of this appeal the concerned authority i.e. Agency Education officer NWA may be directed to appoint the appellant on the post of T.T. in the light of Deceased Employees son quota. Any other remedy which this august court deems fit may also be awarded in favor of the appellant.

APPELLANT



SUNBAL LAILA GUL

THROUGH:



**NOOR MUHAMMAD KHATTAK
ADVOCATE**

A-4

OFFICE OF THE AGENCY EDUCATION OF ICER NORTH WAZIRISTAN AGENCY.

APPOINTMENT ORDER.

As per policy by the Govt: of Khuber Pakhtunkhwa Peshawar under the rules deceased son Quota, SUNBAL LAILA GUL D/O BAKHKAL JANA Ex-Caller TWA is hereby appointed against a vacant T.T Post at Govt: Girls Primary school Noor Khan Banda Teh: Miranshah in NPS NO. 05 at Rs. (6100-610-1030) PN plus usual allowances as admissible under (Deceased son quota) with effect from the date of taking over charge subject to the terms and conditions:-

TERMS AND CONDITIONS.

1. His appointment is made on temporary basis and is liable to termination at any time with out notice, if he wishes to resign from his post he should give one month's prior notice or forfeit one month's pay in lieu thereof.
2. He should bring his health and age certificate from the Medical Superintendent A.R.Q, Hospital, Miranshah.
3. If he fails to resume his charge within 15-days, his order will be treated as cancelled.
4. He should not be handed over charge if he below 18-years and above 35-years of age.
5. His original Domicile certificate and CNIC should be checked and Photostate copy be placed on record.
6. His original & Qualification should be got checked and verification should be sent to the concerned Board /Institutions.
7. If his qualification is bogus he will be terminated from the service.
8. He will be terminated if his cnic Domicile were Bogus he will be terminated.
9. The appointee is entitled from all benefits to a civil servants.

(Signature)
(MR. AZAM KHAN)
Agency Education Officer
N.W. Agency Miranshah.

Endst: NO. 1808-13 /Ap: B: Dated 27/5/2014

Go y to :-

1. The Director of Education FATA Peshawar.
2. The Agency Accounts Officer NWA Miranshah
3. Headmaster Concerned.
4. AAO Concerned.
5. Accountant Local office.

(Signature)
Agency Education Officer
North Waziristan Miranshah.

(Signature)
Sund

کتابخانه اہل بیت

تاریخ: 28/5/14 ھ کو فیروز کوٹہ کے دور میں لکھی گئی اور سند کی صورت

میں جو اس خط پر لکھی گئی اس پر 13-1808 ھ تک 27/5/14

کا یہ خط لکھا گیا ہے اور اس میں سکون نور خان کو پتہ دیا گیا

کہ اس خط میں جو اس خط پر لکھی گئی اس پر 13-1808 ھ تک 27/5/14

کے یہ خط لکھا گیا ہے اور اس میں سکون نور خان کو پتہ دیا گیا

رہا نامہ

سید احمد شاہ

کو پتہ دیا گیا ہے اور اس میں سکون نور خان کو پتہ دیا گیا

415 ACCAR
Keep on record please
Amir

Amir
Sardar



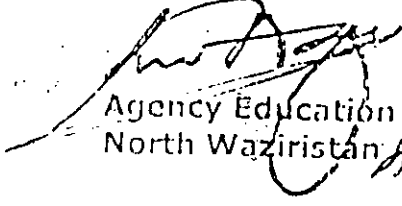
C-6

OFFICE OF THE AGENCY EDUCATION OFFICER NW AGENCY MIRANSHAH

Termination Order

As per report of AAEO male the following Qari / TT Teacher are hereby terminated due to non availability of Posts. Hence this office is not in the position to honour the court decision due to above mentioned reason.

| S. No. | Name | Name of School |
|--------|-----------------------------------|-------------------------|
| 1. | Musharaf Khan TT | GGPS Shahbaz Kot |
| 2. | Rashid Ullah S/o Peshawar Khan TT | GGPS ZarJanan Kot |
| 3. | Ishaque TT | GGPS Zabardast Kot |
| 4. | Ashraf Ali TT | GGPS Pipali Pekar |
| 5. | Qari Kabir | GHS Muhammad Khel |
| 6. | Qari Huzur | GMS Ghazlama |
| 7. | Ihsan Ullah TT | GPS Raji Kot |
| 8. | Islam Muhammad TT | GPS Zarjanan Kot |
| 9. | Nek Muhammad TT | GPS Khunam Shah Kot |
| 10. | Qismat Ullah TT | GPS Spin Khur Bura Khel |
| 11. | Rashid Ullah S/o Ahmad Khan | GPS Ghulam Khan |
| 12. | Sanbal Laila Gul TT | GGPS Noor Khan Kot |

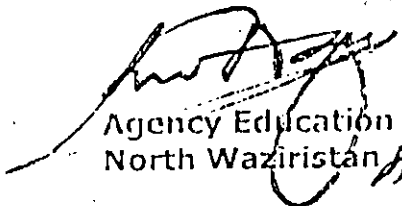

Agency Education Officer
North Waziristan Agency

Ends: No. 1869-73 /Termination / TT/Qari/AEO/MIRN

Dated: 16-6-2014

Copy to:

1. The Director Education (FATA) KPK Peshawar. The Political Agent NWA Miranshah
2. The Agency Account Officer Miranshah
3. AAEO Concerned.
4. Candidate Concerned.


Agency Education Officer
North Waziristan Agency



D-7

OFFICE OF THE AGENCY EDUCATION OFFICER N.W.AGENCY

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

| S.No | Category | Male | | | Female | | | Total Sanct: Posts |
|----------------|----------|------------------------|-------------|-----------|------------------------|------------|------------|--------------------|
| | | Total Sanctioned posts | Filled-up | Vacant | Total Sanctioned posts | Filled-up | Vacant | |
| 1 | CT | 209 | 239 | 3 | 97 | 57 | 40 | 386 |
| 2 | DM | 85 | 68 | 1 | 44 | 12 | 32 | 129 |
| 3 | PET | 87 | 63 | 1 | 43 | 19 | 24 | 130 |
| 4 | AT | 81 | 68 | 1 | 42 | 13 | 29 | 123 |
| 5 | TT | 396 | 266 | 3 | 112 | 104 | 8 | 508 |
| 6 | Qari | 25 | 22 | 1 | 10 | 4 | 6 | 35 |
| 7 | P/Imam | 17 | 15 | 1 | 0 | 0 | 0 | 17 |
| 8 | PTC | 858 | 854 | 1 | 707 | 705 | 2 | 1562 |
| 9 | ET | 3 | 3 | 0 | 0 | 0 | 0 | 3 |
| G:Total | | 1838 | 1723 | 13 | 1055 | 914 | 141 | 2893 |

[Signature]
Agency Education Officer
North Waziristan Agency

The Above Posts/ Statement is Verified for Up-gradation

Agency Accounts Officer
North Waziristan Agency

[Signature]
Suresh



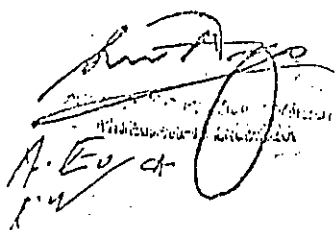
صوبہ ڈائریکٹر ایجوکیشن خانہ دروازہ اورڈیو
یو ایس ایٹ ریجنل ایجوکیشن آفیسر NWA میرٹھا
عنوان: ایپیل برائے سالانہ امتحانات کے نتائج بحالی

صوبہ عالی! خود مابہ تذاریف میں کہ لیا اور بحالی کو رٹنے ہمیں کورڈر ایٹیشن
نمبر 2768/11/12/11 تاریخ 26/12/11 میں ڈائریکٹر ایجوکیشن خانہ نے 26/12/11 کو AEO نادو
میں ضمیمہ دیا اور ایسی روشنی میں ڈائریکٹر ایجوکیشن خانہ نے 26/12/11 کو AEO نادو
کو اجراء کیلئے ہدایت جاری کیا۔ اور AEO صاحب نے اس ہدایت کا موافقہ
میں تحریری طور پر اطمینان جاری کیا۔ لیکن آفیسر AEOs نے AEO صاحب کو
مذکورہ نتیجے پر مبنی کہ ہمارے ملوں خانہ ایجوکیشن میں ہیں۔ اور ایسی ہی AEO
صاحب نے ہمیں کونسلیشن اور ڈیو کی۔ چونکہ یہ کام سالانہ امتحانات کے نتائج
کا ہی متعلق ہے۔

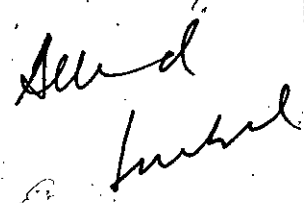
لہذا اطمینان کی صورت میں طرہ سے کہ مع عرب نوٹ میں اور کوئی خاص ذرا
آپ کو نہیں ہے۔ لہذا ہمیں سالانہ امتحانات یعنی کہ کورڈر ضمیمہ کا اڈیو 4-5-09
سے بحالی کے اطمینان کے ساتھ ساتھ اساتذہ کے ساتھ ہدایتی ڈیٹا کرنا اور
اس کا تدارک سنبھالنا۔

Director Edu: RATA

Forwarded please


A. E. O. Ch

رٹا تدارک سنبھالنا
Sambhal
نور خان نوٹ


Sambhal

- ① Musharraf Ullah TT SPS Shalibzist ✓
- (2) Ashraf Ali TT SPS Papali perce ✓
- 3) Naei Mohd TT SPS Wacil Khanist ✓
- 4) Islam Mohamed TT SPS Ranjmanist ✓
- 5) Qismatullah TT SPS ✓
- 6) Ishaque TT SPS ✓
- 7) Ihsanullah TT SPS Rajiist ✓
- 8) Rashheedullah TT SPS Ranjmanist ✓
- 9) Davi ^{M.} Huzoor SPS Mohd Ayaz Ichusali ✓
- (10) Davi Mohd Kabeer SPS Land charichal ✓
- 11) Saibul Hila Gul TT SPS Noor Khan Bunda Minasrah ✓
- 12) Rashidullah S/o Ahmad Khan TT SPS Shulamichal ✓

19)

Received

To Day

19/6/2014

Aliud Insul



VAKALATNAMA

IN THE COURT OF ICPR S.T. Pesh

Appeal OF 2014

Sambhal (APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

ACS DATA & others (RESPONDENT)
(DEFENDANT)

I/We Sambhal
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 / 9 / 2014

Jin
CLIENT

Accepted
NOOR MOHAMMAD KHATTAK
(ADVOCATE)

OFFICE:

Room No.1, Upper Floor,
Islamia Club Building, Khyber Bazar,
Peshawar City.

Phone: 091-2211391

Mobile No.0345-9383141

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:

Noor Mohammad Khattak
Advocate

Attested

28-04-16

BEFORE THE KHYBER PUKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Appeal No: 1270/2014

Sunbal Laila GulAppellant.

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.

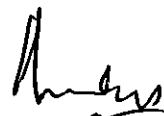
Respondent No. 3.


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.