

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**  
**AT CAMP COURT D.I.KHAN**

Service Appeal No. 354/2019

Date of Institution ... 21.02.2019

Date of Decision ... 27.10.2021

Safeer Khan S/O Mulazim Hussain Khan R/O Saidallian Tehsil Pharpur D.I. Khan.  
... (Appellant)

VERSUS

Director Elementary and Secondary Education Department Peshawar and four  
others. ... (Respondents)

Mr. Anwar Awan,  
Advocate ... For Appellant

Mr. Muhammad Rasheed,  
Deputy District Attorney ... For Respondents

**ROZINA REHMAN** ... **MEMBER (JUDICIAL)**  
**ATIQU-UR-REHMAN WAZIR** ... **MEMBER (EXECUTIVE)**

**JUDGMENT**

**ATIQU-UR-REHMAN WAZIR MEMBER (E):-** Brief facts of the case are that the appellant was appointed as Behishti vide order dated 12-11-2013, but such order of appointment was cancelled vide order dated 18-02-2014, against which the appellant filed a writ petition No 128-D/2014. The writ petition was allowed vide judgment dated 12-02-2015 in favor of the appellant but the respondents were also allowed to conduct a de-novo inquiry in accordance with law. The respondents conducted de-novo inquiry and as a result of de-novo proceedings, the appellant was terminated from service vide order dated 22-09-2018, against which the appellant filed departmental appeal dated 22-10-2018, which was not responded,

hence the instant service appeal with prayers that the impugned order dated 22-09-2018 may be set aside and the appellant may be re-instated with all back benefits.

02. Learned counsel for the appellant has contended that the appellant has not been treated in accordance with law and actions of the respondents are malafide besides being discriminatory and harsh; that the respondents without re-instating the appellant, initiated inquiry without associating the appellant in the disciplinary proceedings; that appointment of the appellant was in accordance with the prescribed legal procedure and after observing all the legal formalities; that the appellant has been penalized without giving him opportunity of hearing; that no show cause was issued before passing the impugned order, which is against the principles of natural justice.

WM 03. Learned Deputy District Attorney for the respondents has contended that appointment order of the appellant was not issued by the competent authority i.e. District Education Officer, rather he was appointed by Head Mistress of the school without having the authority for such appointment, without advertisement, without merit and without approval of the departmental selection committee; that appointment order of the appellant was cancelled as per law and rule; that upon directives of the honorable High Court, de-novo proceedings were conducted and upon recommendation of the inquiry report, the appellant was terminated from service vide order dated 22-09-2018 and son of the Mr. Abdul Sattar, who had retired from the post of Behishti was appointed in his place on retired son quota, which was in accordance with law;

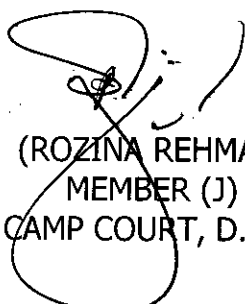
04. We have heard learned counsel for the parties and have perused the record.


05. Record reveals that one Mr. Abdus Sattar, who was serving as Behishti in the school, retired from service on 05-11-2013. Just after his retirement, Head Mistress of the said school appointed the appellant as Behishti vide order dated 12-

11-2013, but without observing codal formalities. The head mistress also was not competent to make such appointment. On the complaint of a local MPA, an inquiry was conducted in the case and it was found that the appellant has been appointed illegally and without observing the legal formalities, hence his appointment order was cancelled vide order dated 18-02-2014 and one Mr. Fiaz Hussain S/o Abdus Sattar was appointed against 25% quota reserved for sons of retired employees. Feeling aggrieved, the appellant filed a writ petition No 128-D/2014, which was allowed in favor of the appellant vide judgment dated 12-02-2015, but the respondents were also allowed to conduct de-novo inquiry. During the course of de-novo proceedings, the appellant was afforded proper opportunity of defense, but the inquiry committee found his appointment order as illegal, hence in light of recommendations of the inquiry report, the appellant was terminated from service vide order dated 22-09-2018. We have observed that appointment order of the appellant was not made in accordance with law and by an incompetent authority. Subsequently son of the retired Behishti was appointed against the vacant post against the reserved quota of retired employees, which was made in accordance with the law. As per orders of the Honorable Peshawar High Court, a proper inquiry was conducted, where ample opportunity was afforded to the appellant to defend his cause but the appellant failed to defend his case. We have not noticed any irregularities in the instant case, hence does not warrant any interference.

06. In view of the foregoing discussion, the instant appeal is dismissed being devoid of any force. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED  
27.10.2021

  
(ROZINA REHMAN)  
MEMBER (J)  
CAMP COURT, D.I.KHAN

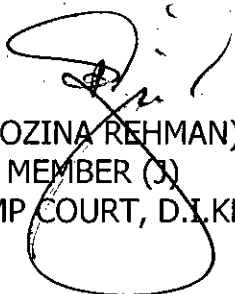
  
(ATIQ-UR-REHMAN WAZIR)  
MEMBER (E)  
CAMP COURT, D.I.KHAN

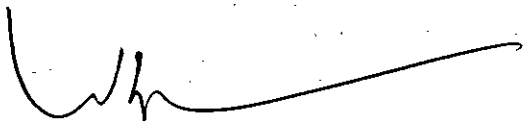
ORDER  
27.10.2021

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

Vide our detailed judgment of today, separately placed on file, the  
instant appeal is dismissed being devoid of any force. Parties are left to  
bear their own costs. File be consigned to record room.

ANNOUNCED  
27.10.2021

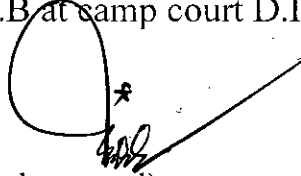
  
(ROZINA REHMAN)  
MEMBER (J)  
CAMP COURT, D.I.KHAN

  
(ATIQ-UR-REHMAN WAZIR)  
MEMBER (E)  
CAMP COURT, D.I.KHAN

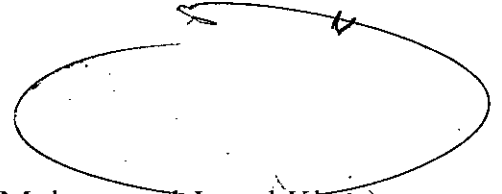
28.10.2020

Nemo for the appellant present. Mr. Muhammad Jan,  
Deputy District Attorney for respondents is present.

Since the Members of the High Court as well as of the  
District Bar Association D.I.Khan are observing strike today,  
therefore, the case is adjourned to 21.12.2020 for arguments  
before D.B at camp court D.I.Khan.



(Mian Muhammad)  
Member(E)



(Muhammad Jamal Khan)  
Member(J)  
Camp Court D.I Khan

21-12-2020

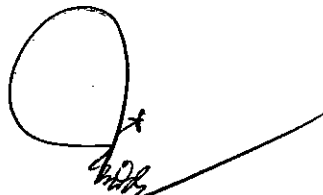
*Due to COVID 19, the case is  
adjourned to 25.3.2021 for the same.*



25.03.2021

Nemo for the appellant. Mr. Asif Masood Ali Shah, Deputy  
District Attorney for the respondents present.

Today's date was posted on Note Reader, therefore, notice  
for prosecution of the appeal be issued to appellant as well as his  
counsel and to come up for arguments before D.B at Camp Court  
D.I.Khan on 23.06.2021.



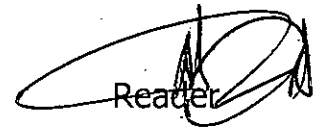
(MIAN MUHAMMAD)  
MEMBER (EXECUTIVE)  
CAMP COURT D.I.KHAN



(SALAH-UD-DIN)  
MEMBER (JUDICIAL)  
CAMP COURT D.I.KHAN

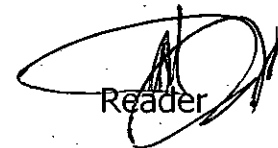
26/3/2020

Due to COVID-19 the case is adjourned. To come up for the same 22/4/2020 at Camp Court, D.I Khan

  
Reader

22/4/2020

Due to COVID-19 the case is adjourned. To come up for the same 22/9/2020 at Camp Court, D.I Khan

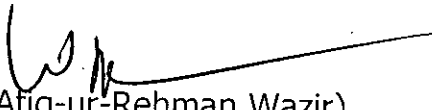
  
Reader


22.09.2020

Nemo for appellant.

Mr. Usman Ghani learned District Attorney alongwith Imran Shah Litigation Officer for respondents present.


Notice be issued to appellant and his counsel for 28.10.2020 for arguments before D.B at Camp Court D.I Khan.

  
(Atiq-ur-Rehman Wazir)  
Member (E)  
Camp Court, D.I Khan

  
(Rozina Rehman)  
Member (J)  
Camp Court, D.I Khan

29.01.2020

Appellant in person and Mr. Usman Ghani, District Attorney alongwith M/S Imran Shah, Litigation Officer on behalf of respondents No. 1, 2, 3 & 5 and Muhammad Rashid, Assistant Account Officer on behalf of respondent No. 4 present. Written reply on behalf of respondent No. 4 has already been submitted. Representative of respondents No. 1, 2, 3 & 5 submitted written reply today. Case to come up for rejoinder and arguments on 26.03.2020 before D.B at Camp Court D.I.Khan.

  
(Muhammad Amin Khan Kundi)  
Member  
Camp Court D.I.Khan

24.09.2019

Learned counsel for the appellant present. Muhammad Rashid Accounts officer representative of respondent No.4 present and submitted written reply/comments on behalf of respondent No.4. Imran Shah Litigation Officer representative of respondents No.1 to 3 & 5 absent. Notice be issued to respondents No.1 to 3 & 5 as well as their absent representative for submission of written reply/comments. Adjourn. To come up for written reply/comments on 23.10.2019 before S.B at Camp Court, D.I.Khan.

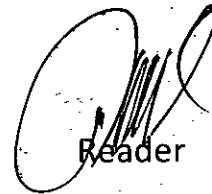


Member

Camp Court, D.I.Khan.

23/10/2019

Since tour to D.I.Khan has been cancelled .To come for the same on 27/11/2019.



Reader

27.11.2019

Counsel for the appellant and Mr. Ziaullah, Deputy District Attorney for the respondents present. Written reply on behalf of respondent No. 4 has already submitted. Neither written reply on behalf of respondents No. 1 to 3 & 5 submitted nor their representatives are present, therefore, notices be issued to respondents No. 1 to 3 & 5 with the direction to direct the representatives to attend the court and submit written reply on the next date positively. Case to come up for written reply/comments on behalf of respondents No. 1 to 3 & 5 on 29.01.2020 before S.B at Camp Court D.I.Khan.



(Muhammad Amin Khan Kundi)

Member

Camp Court D.I.Khan



24.04.2019

Appellant alongwith junior to counsel for the appellant present and seek adjournment as learned counsel is not in attendance. Adjourn. To come up for preliminary hearing on 26.06.2019 before S.B at Camp Court, D.I.Khan.



Member  
Camp Court, D.I.Khan.

26.06.2019

Counsel for the appellant Safer Khan present. Preliminary arguments heard. It was contended by learned counsel for the appellant that the appellant was appointed as Bahishti in Education Department. His appointment order was cancelled by the competent authority vide order dated 18.02.2014. The appellant challenged the same through writ petition before the worthy High Court and the worthy High Court disposed of the writ petition, set-aside the impugned order and the department was directed to conduct fresh inquiry into the matter through another competent inquiry officer, whose report shall be well-reasoned, but the petitioner should be given his due right of hearing before passing any order keeping in view the aforesaid observations vide judgment dated 12.02.2015. The respondent-department was not implementing the judgment of the worthy High Court therefore, the appellant filed Contempt of Court Application against the respondents before the worthy High Court and the worthy High Court disposed of the Contempt of Court Application vide order dated 24.09.2018 wherein the worthy High Court observed that the respondent-department had stated before the court that the appellant was terminated from service by the respondent-department vide order dated 22.09.2018 therefore, on coming to know, the appellant filed departmental appeal on 22.10.2018 which was not responded hence, the present service appeal. It was further contended that the respondent-department has not conducted inquiry proceeding as per rules or as per direction of the worthy High Court nor the appellant was provided opportunity of personal hearing and defence nor any show-cause notice was issued to the appellant therefore, the impugned order is illegal and liable to be set-aside.

The contentions raised by the learned counsel for the appellant need consideration. The appeal is admitted for regular hearing subject to deposit security and process fee within 10 days, thereafter, notice be issued to the respondents for written reply/comments for 24.09.2019 before S.B at Camp Court D.I.Khan.



(Muhammad Amin Khan Kundi)

Member  
Camp Court D.I.Khan

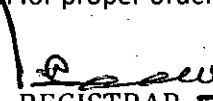


Appellant Deposited  
Security & Process Fee

28/6/19

Form- A  
FORM OF ORDER SHEET

Court of \_\_\_\_\_

Case No. 354/2019

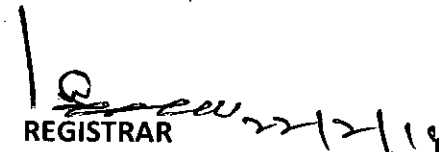
S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	11/03/2019	<p>The appeal of Mr. Safeer Khan received today by post through Mr. Muhammad Anwar Awan Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR - 11/3/2019</p>
2-	12-3-19	<p>This case is entrusted to touring S. Bench at D.I.Khan for preliminary hearing to be put up there on <u>27-3-2019</u></p> <p style="text-align: right;"> CHAIRMAN</p>
	27.03.2019	<p>Nemo for appellant.</p> <p>Notices be issued to appellant and his learned counsel for preliminary hearing on 24.04.2019 before S.B at camp court, D.I.Khan.</p> <p style="text-align: right;"> Chairman Camp Court, D.I.Khan</p>

The appeal of Mr. Safer Khan son of Mulazim Hussain Khan R/O Saidallian Tehsil Pharpur received today by i.e. on 21.02.2019 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Copies of impugned termination order dated 22.9.2018 mentioned in para-8 of the memo of appeal and departmental appeal against it are not attached with the appeal which may be placed on it.
- 2- One copy/set of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No. 317 /S.T,

Dt. 22-2-/2019

  
REGISTRAR  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

Mr. Muhammad Anwar Awan Adocate,  
Supreme Court of Pakistan at D.I.Khan.

Respected Sirs,

The respondent verbally informed the Honible High court Peshawar Bench D.I.Khan on 22-9-2018 regarding appellant termination. The order of Honible court is annexed as Annexure K.

Anwar  
Adv

**BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR.**

Appeal no...354... of 2019.

Safeer Hussain

**VERSUS**

Govt; Of KPK and others

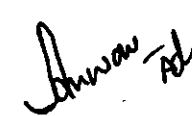
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No.	Particulars	Annexure	Pages
1	Appeal		1-3
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3	Copy of letter/Advertisement	B	5
4	Copy of Application	C	6
5	Copy of appointment order	D	7-
6	Copy of Medical certificate & Charge Report	E	8-9
7	Copy of Complaint	F	10
8	Copy of Inquiry	G	11
9	Cancellation Order	H	12
10	Copy of Writ & Judgment	I	13-17
11	Copy of Contempt Application	J	18-19
12	Copy of Judgment dated 24-09-2018	K	20-21
13	Copy of Inquiry	L	22-24
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Your humble Petitioner

  
Safeer Hussain

Dated; 19-02-2019

  
Mohammad Anwar Awan  
Advocate Supreme Court.

BEFORE THE KP SERVICE TRIBUNAL PESHAWAR  
CAMP AT D.I.KHAN.

Appeal no. 354 of 2019.

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 254

Dated 21-2-19

Safeer Khan S/O Mulazim Husasin Khan R/O Saidallian Tehsil  
Pharpur D.I.Khan.

VERSUS

1. Director Elementary and Secondary Education Deptt: Peshawar.
2. District Education officer (Elementary and Secondary) Education Deptt: D I Khan (*Female*)
3. Deputy Commissioner D.I.Khan
- ✓ 4. Account Officer Kechary Road Dera Ismail Khan.
5. Government of KP through secretary Elementary and Secondary Education Deptt: Peshawar.

Filed to-day

*Registrar*

APPEAL UNDER SECTION 4 OF KP SERVICE TRIBUNAL  
ACT 1974 AGAINST ILLEGAL AND MALAFIDE  
TERMINATION ORDER DATED 22-09-2018 FROM SERVICE  
ON THE BACK OF APPELLANT.

That the brief facts of the case are as under:

1. That the petitioner is permanently resident of Tehsil Pharpur and District D.I.Khan. Copy of domicile is annexure A.
2. That the post of Bahishti BPS-1 is advertised by the respondent NO-4 vide letter dated 05.11.2013. Copy of the letter is annexure B.
3. That the petitioner according to the rules applies for the post by submitting his application. Copy of application is annexures C.
4. That the petitioner after observing all codal formalities appointed by respondent NO-4 on the post on 12.11.2013. Copy of appointment letter is annexure D.
5. That the petitioner provide medical certificate, took the charge of post and performing his duties to utmost satisfaction of his superior Copy of medical certificate and charge certificate is annexure E.

Re-submitted to -day  
and filed.

*Registrar*

11/3/19

6. That on the complaint of Javed Akbar Khan MPA Halqa that appointment of petitioner was made by competent authority without his consent so respondent NO-3 in absence of petitioner, conducted an inquiry and cancelled the order of petitioner. Copy of complaint, inquiry report and cancellation order is Annexure F, G and H.
7. That feeling aggrieved, the appellant approached Hon'ble High Court through writ petition NO-128\_D of 2014 which was accepted vide order dated 12.2.2015. Copy of writ petition and judgment dated 12.2.2015 are Annexure I
8. That to implement the judgment of Hon'ble High Court, petitioner filed Contempt of Court application in which after several opportunities they filed ex-parte inquiry report in which petitioner's service was terminated vide order dated 22-09-2018 without reinstating the petitioner. Copies of COC application, Judgment Dated 24-09-2018 and Inquiry report are Annexure J, K & L.
9. That feeling aggrieved from above said action petitioner is constrained to approach this honorable court on the following amongst others:

*Annexure*

**GROUND S;**

1. That the appellants are not treated in accordance with law and the actions of the respondents are mala fide besides being discriminatory and harsh.
2. That the respondent without reinstating the petitioner, initiated inquiry without calling the petitioner to defend himself. According to judgment dated 12.2.2015 the petitioner was not reinstated and inquiry was held in absentia without providing any opportunity to the petitioner. It is also an admitted law that before conducting any inquiry against the petitioner, he should be reinstated in to service.
3. That appellant was entered in service after observing all codal formalities and appointed bahishti as per law and rules.
4. That appellants are being penalized without giving them any opportunity of hearing, they were neither associated with the proceeding of inquiry nor have given any show cause notice by the department, which is against the principal of natural justice.

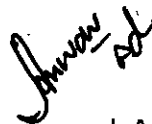
In view of the above, It is, therefore, most respectfully prayed that on acceptance this appeal this honorable court may pleased to declare that order dated 22-09-2018 as illegal, void, without lawful authority and of no legal effect and respondents may pleased be directed to reinstate the appellant with all back benefits.

YOUR HUMBLE APPELLANT



Safer Hussain  
Through Counsel

Dated; 19-02-2019.

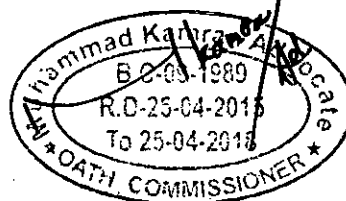
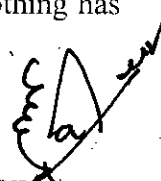


Mohammad Anwar Awan  
Advocate Supreme Court

AFFIDAVIT

**Safer Hussain** do hereby solemnly affirm and declare on OATH that the contents of the same are true and correct to the best of my knowledge and belief and that nothing has been concealed from this honorable court.

Deponent.



DOMICILE CERTIFICATE

Safeer Hussain Khan Son/Daughter of Malazim Hussain Khan

I hereby declare that I was born of parents who are permanently domiciled in North West Frontier Province having been born / settled in this Province.

I was born at village / Mohallah Said Alliam P/O Kot Trai  
Tehsil Pahar Pur District Dera Ismail Khan.

Safeer Hussain  
Signature / Thumb Impression  
of the Applicant

Dated: 14-04-2010

Pursuance to the declaration dated 14-04-2010 filled in by

Mr. Miss Safeer Hussain Khan Son / Daughter of Malazim Hussain Khan

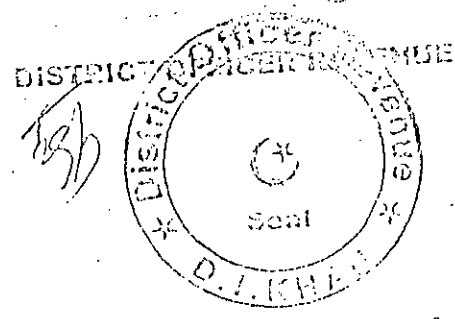
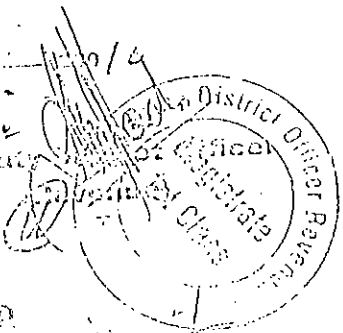
domiciled in North West Frontier Province, it is hereby certified that the said  
Mr. Miss Safeer Hussain Khan is born of Parents who are permanently residents of the  
North west Frontier Province having been born / settled within it.

I have satisfied myself from personal knowledge verified to me by MT PHP

That the above declaration is true and certify accordingly.

Attested  
Janwar 28th

Attested JMB  
Head Master  
Govt. High School  
Saldallan D.I. Khan  
COUNTERSIGNED



Strike out which ever is not applicable  
No. 9244 / D. O. R.

Dated D. I. Khan 14/07/10



# VERIFICATION

ضلع کراچی کے تحت واقعہ اور اس کے تحت  
 کراچی کے تحت واقعہ اور اس کے تحت  
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 کراچی کے تحت واقعہ اور اس کے تحت

URBAN AREA

*[Signature]*  
 G. PATHWARI  
 22/7/10

1. COUNCILLOR

2. GIRDAWAR

2. N/NAZIM

*[Signature]*  
 3. COUNCILLOR  
 Syed Ghulam Abbas Shah  
 Councillor  
 U.C Kotjari (D.J. Khan)

3. NAZIM

4. N/NAZIM  
 Syed Muhammad Kazi Shah  
 Naib Nazim  
 U.C Kotjari (D.J. Khan)

4. POLICE

5. NAZIM

5. TENSILDAR

*[Signature]*  
 6. TENSILDAR  
 24/7/10



بِسْمِ اللّٰهِ الرَّحْمٰنِ الرَّحِیْمِ

محذرت صاحب ہیڈ ماسٹر پبلس صحابہ گورنمنٹ گرلز ہائی سکول کوٹ جالی تحصیل ساہیوال

محفوظ: درخواست برائے تعیناتی بطور ہوشی طلبہ فور۔

جناب عالیہ: گذارش ہے کہ مجھے معتبر ذرائع سے معلوم ہوا ہے کہ آپ کے زیر سربراہ گورنمنٹ گرلز ہائی سکول کوٹ جالی میں ہوشی کی پوسٹ خالی پڑی ہے۔ عرض گزار ہوں کہ میری فیصلہ ڈسٹریکشن میں پاس تھوں۔ میری عمر 19 سال ہے۔ صحت مند و جوان ہوں۔ بہر روز کار تھوں۔ براہ کرم مجھے ہوشی کی خالی پوسٹ پر تعینات فرمایا جائے۔

اسکی نوڈرٹس شاہانہ ہوں۔

مخبرہ 07-11-2013

الصارفہ  
سیدہ سیدہ خان ولد ملازم سیدہ سیدہ خان گاؤں سیدہ سیدہ خان کوٹ جالی تحصیل ساہیوال

مہلح ڈیرہ اسماعیل خان  
Safiz  
7/11

Attested  
Amwaw adu

OFFICE OF THE HEAD MISTRESS GOVT: GIRLS HIGH SCHOOL  
KOT JAI DERA ISMAIL KHAN.

(D)

(P-7)

APPOINTMENT ORDER.

Mr. Safeer Hussain Khan S/O Mulazim Hussain Khan resident of village Saidallian Post Office Kot jai Tehsil Paharpur Districtt Dera Ismail Khan is hereby appointed against the vacant post of Bahishti at G.G.H.S Kot Jai DIKhan in (BPS-1) plus usual allowances as admissible in the interest of public service with immediate effect on the following terms & Conditions.

TERMS & CONDITIONS:

1. His service will be considered as regular without Pension/Gratuity in the terms of section -09 of the KPK civil servant act 1973 amended in 2005.
2. He will contribute towards in GPF@ 10% of the minimum of pay and the Government will make 10% contribution.
3. He will be Governed by such rules and the Government may prescribe regulation as from time to time for the category to which he belongs.
4. His appointment is made on temporary and liable to termination at any time without assigning any notice and reason.
5. One month pay will be forfeited to Government in case of resignation without prior notice. The period of giving notice is one month before resignation.
6. His original certificates, Degrees should be got verified from the respective boards/University before release of pay, all expenses will be born by the candidate.
7. He is required to join the post within 30 days falling which the appointment order will stand canceled automatically.
8. The appointment is made subject to the condition that the candidate is permanent domiciled of District D.I.Khan.
9. He is required Health and Age Certificate from the Medical Superintendent of District Head Quarter Teaching Hospital Dera Ismail Khan.
10. Charge reports should be sent to all concerned.

Attested  
Anwar Adil

*Saeeda Khan*  
HEAD MISTRESS, Head Mistress  
GOVT: GIRLS HIGH SCHOOL, S. Kotjal  
DERA ISMAIL KHAN, D.I.Khan

Endst: No. 199-203 / Dated Kot Jai the 12-11 / 2013.

Copy forwarded to the:-

1. District Education Officer (Male) Dera Ismail Khan.
2. Director (Elementary and Secondary) Education Khyber Pakhtoon Khaw Peshawar.
3. Dupty Commissioner Dera Ismail Khan.
4. District Accounts Officer Dera Ismail Khan.
5. Official concerned.

*Saeeda Khan*  
HEAD MISTRESS, Head Mistress  
GOVT: GIRLS HIGH SCHOOL, S. Kotjal  
DERA ISMAIL KHAN, D.I.Khan

Dera Ismail Khan

K.P.F. Med No.4

MEDICAL CERTIFICATE

Name of Official Safeer Hussain Khan

Caste or race Baloch

Father's Name Mulazim Hussain Khan

Resident Saidallian P/O Kotjai Tehsil Paharpur & District DIKhan

Date of Birth 05-03-1994 (12103-1831155-7)

Exact height by measurement (5'-3")

Personal mark of Identification Wound Scar on Eye Brow

Signature of Official Safiy

Signature of Head of Office Saeed Khan

*Attested  
Anwar Adh*

Seal of Office

Head Mistress  
G.G.H.S. Kotjai  
D.I.Khan

I do hereby certify I have examined Safeer Hussain Khan

A candidate for employment in the office of GGHS Kotjai

and cannot discover that he had any disease communicable or other constitution affection or bodily infirmity except nil

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

GGHS Kotjai his age according to his own statement 19 Years 08 Month 07 Days

and by appearance about 19 Years 08 Month 07 Days .



LEFT HAND THUMB AND FINGER

IMPRESSION: 12/11/2013

MEDICAL SUPERINTENDENT  
DHQT HOSPITAL DIKHAN

*[Signature]*  
Medical Superintendent  
D.H.Q.T, Hospital  
Dera Ismail Khan

- F - 10

Mr. Javeed Akbar Khan

Halqa MPA PF 68

To,

The Director  
(E&SE) Khyber Pakhtunkhwa  
Peshawar

Subject: Complaint

Dear sir,

It has come to my notice that Mst. Saeceda Parveen Headmistress GGHS Kot Jai has appointed one non local class IV in her school without my consent / recommendation & also without obtaining NOC from concern authority.

Necessary action under the rules & policy may please be taken against her.

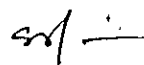


Javeed Akbar Khan

Attested  
Javeed Akbar Khan

Copy to the:

1. District Education Officer (Female) DI Khan for similar action.
2. Headmistress GGHS Kot Jai DI Khan.



Javeed Akbar Khan

H.M. Kot jai

G-112-

To,  
The District Education Officer,  
Female Dera Ismail Khan

Respected Madam,

I Mst. Akhter Batool appointed enquiry officer vide your office letter No. 5776, dated 9/12/2013 to conduct the enquiry against the Headmistress GGHS, Kot Jai so the finding of the enquiry as conducted by me are submitted as under:-

1. The person Mr. Saqeer Hussain is appointed against the vacant post.
2. Appointment made by concerned Headmistress for the post of Bahishti as Class IV after taking NOC from Engineer Dawar Khan Kiudi MNA N.A-25.
3. No forfeiture of Govt. Servant right also occurred as the school is situated as Govt. Land not donated by any person of the area. In fact no prior approval has been taken from the competent authority / Head of the department. All the Photo copies of relevant documents are attached herewith submitted for your kind perusal and record.

*Attested  
Anwar Adn*

YOURS SINCERELY

*[Signature]*  
(AKHTER BATOOL)  
Enquiry Officer  
Headmistress,  
GGHS, Musazai Sharif  
DIKhan.

Headmistress  
GGHS  
Musazai Sharif DIKhan

Cancellation Order:-

In the light of enquiry conducted by Mrs, Akhter Batool Head Mistress, GGHS, Musa Zai DIKhan, the appointment order in respect of Safeer Hussain S/O Mulazim Hussain Bahishti issued vide Head Mistress, GGHS, Kot Jai, DIKhan Endst. No. 199.203, Dated. 12.11.2013 is hereby cancelled.

*[Signature]*  
DISTRICT EDUCATION OFFICER  
(FEMALE) DERA ISMAIL KHAN

Endst, No. 1426-28

Dated, 18/02/2014

Copy forwarded for information & necessary action to the:-

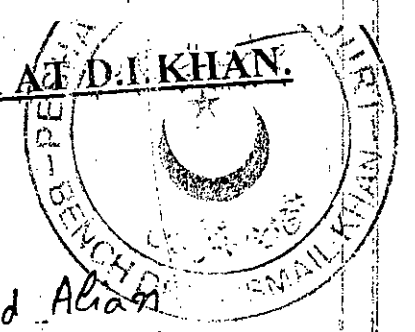
1. District Accounts Officer DIKhan.
- 2-3. Head Mistress GGHS, Kot Jai & GGHS, Musa Zai DIKhan.

*[Signature]*  
DISTRICT EDUCATION OFFICER  
(FEMALE) DERA ISMAIL KHAN

*Attested  
Anwar adr*

I - 13 -

BEFORE PESHAWAR HIGH COURT BENCH AT D.I. KHAN.



Writ No. 178 Of 2014.

Safeer Hussain Khan S/o Mulazim Hussain Khan R/O Said Alan

District D.I.Khan.

VERSUS

1. Government of KPK through secretary Elementary and Secondary Education Deptt: Peshawar.
2. Director Elementary and Secondary Education Deptt: Peshawar.
3. District Education Officer (Female) D.I .khan.
4. Head Mistress Govt; <sup>Girl</sup> High School; Kot Jai D.I.Khan.
5. Fiaz Ahmad S/O Abdul Sattar R/O GGHS Kot Jai D.I.Khan.

PETITION UNDER ARTICLE 199 OF CONSTITUTION OF THE ISLAMIC REPUBLIC OF PAKISTAN, 1973.

Respectfully Sheweth

The facts leading rise to present writ petition in brief are: -

1. That the petitioner is permanently resident of Tehsil Pharpur District D.I.Khan. Copy of Domicile is Annexure.
2. That the post of Behishti BPS-1 is advertised by the respondent No-4 vide letter dated 05.11.2013. Copy of letter is Annexure B.

ATTESTED  
*S. Ate*  
EXAMINOR  
Peshawar High Court  
D.I.Khan Bench  
10-10-15

5/31



14

the petitioner according to the rules applies for the post by submitting his application. Copy of application is Annexure C.

4. The petitioner after observing all codal formalities appointed by respondent No-4 on the post on 12.11.2013. Copy of appointment letter is Annexure D.
5. That the petitioner provide medical certificate, took the charge of the post and performing his duties to utmost satisfaction of his superior. Copy of medical certificate and charge certificate is Annexure E.
6. That on the complaint of Javed Akbar Khan MPA Halqa that appointment of petitioner was made by the competent authority without his consent so respondent No-3 in absence of petitioner, conducted an inquiry and cancelled the order of petitioner. Copy of complaint, inquiry report and cancellation order is Annexure F, G and H.
7. That the respondent No-3 on the recommendation of Chief Minister appointed respondent No-5. Copy of application and order is Annexure I.
8. That feeling aggrieved from above said action appellants are constrained to approaches this honorable court on the following amongst other:

GROUND:

- 5/3/14
1. That the action of respondents is against facts and law, ultra virus and without any Jurisdiction.
  2. That petitioner order of appointment was cancelled without giving an opportunity and decided the complaint against him. The order of cancellation is issued illegally and without any authority. Copy

ATTESTED

*E. uter*

EXAMINER

Peshawar High Court  
D.I. Khan Bench

10 - 10 - 15

- 15 -

Notification is Annexure J.

- 3. That the petitioner order's was cancelled totally on the political basis and pressure. The petitioner is victimized on the instant of local MPA who has no authority.
- 4. That respondent No-3 after cancellation of order of petitioner, appointed respondent No-5 on the recommendation of Chief Minister without observing any codal formalities.

In wake of above submission it is respectfully prayed that on acceptance of this writ Petition the letter No 1426-28 and 1436-40 dated 18.02.2014 may kindly be declared as illegal, void and without any authority. It is also be prayed that any other relief which this honorable court deem fit in the circumstances of the case may kindly be granted.

Filed by: *[Signature]*  
 Add: Registrar  
*0573/14*

Dated; 27-02-2014.

ATTESTED  
*[Signature]*  
 EXAMINOR  
 Peshawar High Court  
 D.I. Khan Bench  
 10-10-15

Your Humble Petitioner.

*Sq*  
*eevt*

Safeer Hussain Khan

THROUGH COUNSEL

*[Signature]*  
*now*

Muhammad Anwar Awan  
Advocate Supreme Court.

PESHAWAR HIGH COURT D.I.KHAN BENCH

FORM OF ORDER SHEET



Date of order or other proceedings	Order or other proceedings with signature of Judge(s)
(1)	(2)
12/2/2015	<p><b>WP No.128-D of 2014.</b> Present: Mr. Muhammad Anwar Awan advocate for petitioner.</p> <p>-----</p> <p><b>MUHAMMAD GHAZANFER KHAN J.-</b>This writ petition is directed against the order dated 18/2/104 bearing No.1426-28 passed by the District Education Officer (Female) D.I.Khan, whereby appointment order of the petitioner Safer Hussain was cancelled.</p> <p>2. Brief facts of the case are that the petitioner was appointed as Bahisti at GGHS Kot Jai D.I.Khan in BPS-I vide order bearing No.199-203 dated Kot Jai dated 12-11-2013 issued by the Head Mistress, Govt: Girls High School D.I.Khan. However, on the complaint of local MPA that the petitioner was non-local and appointed without his consent, recommendation and NOC from competent authority, Mrs. Akhtar Batool, Head Mistress, GGHS Musazai Sharif D.I.Khan was appointed as Enquiry Officer who in her report stated that no prior approval was taken from the competent authority and thus the aforesaid order was cancelled vide order dated 18/2/2014 which the petitioner has assailed in the instant petition.</p> <p>3. We have heard and considered the arguments of learned counsel for the petitioner in the light of available record of the case.</p> <p>4. Whether the petitioner was appointed</p>

*[Handwritten signature]*

ATTESTED

*[Handwritten signature]*

EXAMINOR  
Peshawar High Court  
D.I.Khan Bench

10-10-15

rightly and competently in accordance with the relevant rules of the Government on the subject and whether the complaint of local MPA has any legal nexus/sanctity with the matter in hand are the questions which could well be answered by the official respondents/department, but the fact is that while passing the impugned order, respondent No.3 has not given any opportunity of hearing to the petitioner and thus the order having been passed at his back being in violation of principles of natural justice is liable to be struck down.

5. In wake of the above, the writ petition is allowed as prayed for and the impugned order is set aside. The respondents are, however, at liberty to conduct a fresh enquiry into the matter through another competent Inquiry Officer, whose report should be well-reasoned, but the petitioner should be given his due right of hearing before passing any order keeping in view the aforesaid observations.

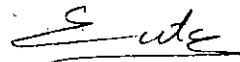
ANNOUNCED  
12/2/2015.

  
JUDGE

~~JUDGE~~  


*Handwritten notes:*  
2/3

ATTESTED



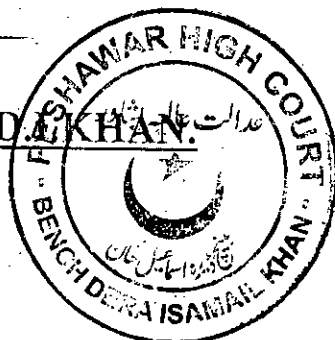
EXAMINOR

Peshawar High Court  
D.I.Khan Bench

10-10-15

J-18-

**BEFORE PESHAWAR HIGH COURT BENCH AT D.I.KHAN.**



Contempt Application No. 743-D Of 2015.

Safeer Hussain Khan S/O Mulazim Hussain Khan Kot Jai R/O  
Saidallian Tehsil Pahar pur District D.I.Khan.

**VERSUS**

Azra Bibi District Education Officer (Female) D.I.Khan.

**APPLICATION FOR CONTEMPT OF COURT**

Respectfully Sheweth

Filed today 3206

Add: Registrar  
27/10/15

The facts leading rise to present writ petition in brief are:-

1. That the petitioner was appointed as Bahishti at GGHS Kot Jai in BPS-1 on 12-11-2013. On complaint of local MPA the appointment order was cancelled vide order dated 18-02-2014. The petitioner filed writ petition No. 128-D of 2014 which was accepted and the impugned order is set aside vide judgment dated: 12-02-2015. Copy of writ petition and judgment is Annexure A.
2. That the petitioner moved an application for his reinstatement but no heed was given to his request and later on respondent totally agrees to act upon the judgment of Hon'ble High Court. Copy of Application is Annexure B.

ATTESTED  
EXAMINOR  
Peshawar High Court  
D.I.Khan Bench  
27-10-15

That feeling aggrieved and having no other alternative remedy, the petitioner approaches this Hon'ble court through contempt petition inter alia on the following grounds:

GROUND:

- 1- That the respondent is duty bounded to obey the order of Hon'ble High Court which was issued on 12-02-2015 after submission of comments on behalf of respondent.
- 2- That the petitioner moved an application for his reinstatement on several times but respondent refused to act upon the judgment of Hon'ble High Court without any lawful excuse.

It is therefore, humbly prayed that respondent may kindly be punished according with law.

Your Sincerely

Filed today 3206  
Add: Registrar.  
27/10/15

Sg Hussain

Safeer Hussain Khan

THROUGH COUNSEL

Dated; 10-10-2015

ATTESTED  
24-10-15  
EXAMINOR  
-eshawar High Court  
D.I.Khan District

Anwar Adv

Mohammad Anwar Awan  
Advocate Supreme Court.

K-20

**JUDGMENT SHEET**  
**IN THE PESHAWAR HIGH COURT,**  
**D.I.KHAN BENCH**  
(Judicial Department)

C.O.C.No.743-D/2015

Safeer Hussain Khan



Versus.

Azra Bibi

**JUDGMENT**

For petitioner: **Muhammad Anwar Awan Advocate.**

For respondent: **Mr. Adnan Ali, Asstt: A.G.**

Date of hearing: **24.9.2018.**

\*\*\*

**IJAZ ANWAR, J.-** Through the instant petition, the petitioner seeks initiation contempt of Court proceedings against the respondent Azra Bibi, District Education Officer (F), D.I.Khan for non compliance of judgment dated 12.02.2015 passed by this Court in W.P.No.128-D/2014.

2. Arguments heard and record perused.

3. This Court vide order dated 12.02.2015 has set aside the cancellation of appointment order dated 18.02.2014 of the petitioner and allowed the respondents to conduct fresh inquiry into the matter strictly in accordance with law. Thereafter the inquiry conducted by the respondents has been rejected by this Court vide order

Imran/\*

(D.B) Hon'ble Mr. Justice Ijaz Anwar and Hon'ble Mr. Justice Shakeel Ahmad

RECEIVED  
24-10-18  
EXAMINOR  
Peshawar High Court  
D.I.Khan Bench

dated 01.11.2016. Now again the respondents have conducted inquiry and in pursuance thereof vide order dated 22.9.2018 the petitioner was terminated from service.

- 21 -

4. On his termination, a separate cause of action accrued to the petitioner, because as per direction of this Court fresh inquiry has already been conducted and recommendations were duly communicated.

5. In view of above, no case for contempt of Court is made, therefore, it is accordingly dismissed.

Announced.  
Dt: 24.9.2018.

JUDGE

JUDGE

01/11/19  
25/1

G.R.No. 3477  
Application Received on 23-10-18  
Copying Fee deposited Rs.             
No of Papers 04 page  
Copying Fee 04  
Urgent Fee             
Total Fee 16/-  
Copy ready for delivery 24-10-18  
Copy delivered on 24-10-18  
Signature of Examiner [Signature]

[Signature]  
24-10-18

Certified to be True Copy  
24/10/18  
EXAMINOR  
Authorized Under Section 97 of  
Qanun-e-Shahadat-1984



**ENQUIRY REPORT REGARDING APPOINTMENT OF MR. SAFEER HUSSAIN BAHISHTI AND MR. FIYAZ HUSSAIN BAHISHTI AT GGHS KOT JAI DERA ISMAIL KHAN**

**1. ENQUIRY OFFICERS**

1. Syeda Now Bahar, (Chairperson) Principal GGHS Paharpure D I Khan
2. Mehnaz (Member) DPE GGHS Mitha Pure D I Khan
3. Zafar Ullah (Member) S/C GGHS Mitha Pure D I Khan

2. **Place of Enquiry** Government Girls High School Kot Jai D I Khan

3. **Date of Enquiry** 01-02-2016

**BRIEF HISTORY OF THE CASE**

The District Education Officer (Female) Dera Ismail Khan Elementary & Secondary Education Department marked an enquiry regarding appointment of Mr Safeer Hussain S/O Mulazim Hussain R/O Said Allian, and Mr Fiyaz Hussain S/O Abdul Sattar R/O Jarra Tehsil Paharpure D I Khan done by the Headmistress GGHS Kot Jai and DEO (Female) D I Khan respectively.

**STATEMENT OF ALLEGATIONS**

1. Headmistress GGHS Kot Jai Vide her No. 199-203 dated 12-11-2013 appointed Mr Safeer Hussain S/O Mulazim Hussain R/O Said Allian as Bahishti BPS-01 against the post which was vacated by Mr Abdul Sattar on his retirement by attaining the age superannuation on 05-11-2013. Mr Safeer Hussain took over the charge on 13-11-2013 and served till 24-02-2014. The DEO (Female) cancelled his orders Vide Endst: No 1426-28 dated 18-02-2014 on the complaint of Halqa MPA. Resultantly, Mr Safeer Hussain filed a writ petition before Honourable Peshawar High Court D I Khan bench and the Honourable Court set aside the termination orders of DEO (female) D I Khan on 12-02-2015 (Photocopy of Appointment Order, Attendance Resister, Charge Report, Cancellation Order and Written Statements are attached).

2. However, the District Education Officer (Female) Dera Ismail Khan appointed one Mr. Fiyyaz Hussain S/O Abdul Sattar against the said vacant post of Bahishti on employee son quota Vide Endst: No. 1436-40 dated 18-02-2014. He took over the charge on 25-02-2014 and performing his duties and regularly drawing his pay since then to till date.
3. Mr. Safeer Hussain has been given the right of hearing and a written statement has been received from him which is also attached along with the enquiry report. He gave his defense that he came to know about the vacant post of Bahishti through unknown source and he gave simple application and was appointed by the committee of the school.

### FINDINGS

The Enquiry committee observed the following findings which are evident from the record.

1. It is an astonishing fact that Mr. Safeer Hussain was appointed within 07 days after the retirement of Mr. Abdul Sattar. Hence, the Headmistress was hasty and appointed haphazardly.
2. Another astonishing fact is that the said Headmistress constituted a committee for appointment where there was only one applicant Mr. Safeer Hussain.
3. The Headmistress GGHS Kot Jai D I Khan lacks jurisdiction of appointment of a Bahishti because she has no appointment powers under the rules.
4. The letter she refers Director E&SED KPK Vide 2027-77 dated 12-12-2013 for appointment does not cover her jurisdiction which transpires that the act of appointment on her part was tricky and fraudulent because the appointment was done one month before the issuance of the said letter.
5. However, if the said Headmistress had having legal jurisdiction to appoint a Bahishti, the appointment of Mr. Safeer Hussain had been made by neglecting and overlooking all codal formalities i.e. advertisement, shortlisting, interviews etc.

CONCLUSION

1. The appointment of Mr Safeer Hussain done by Headmistress GGHS Kot Jai D I Khan was fraudulent and had malafide intention.
2. Obviously, the available record shows that the appointment done by said Headmistress was in violation of the prevailing laws and, thus, cannot be blessed with any legitimacy or protection under any canon of law.
3. The responsibility is therefore fixed on the said Headmistress for highhandedness and making fake and malafide appointment.
4. Mr Fiyyaz Hussain Bahishti who was appointed by the competent authority on employee son quota may be retained at GGHS Kot Jai D I Khan.
5. However, Mr Safeer Hussain remained Bahishti for more than two months. Hence, being poor and down trodden, his case may please be considered sympathetically and affectionately on humanitarian ground.

Syeda Now Bahar  
 Chairperson/Principal  
 GGHS Paharpure DIK  
**PRINCIPAL**  
 (S.G.H.S.S)  
 PAHARPUR (D.I.Khan)

Mehnaz DPE  
 GGHS Mithapure  
 Member

Zafarullah S/c  
 GGHS Mithapure  
 Member

25 - خدمت جناب ڈائریکٹر (ایلمینٹری & سیکنڈری) ایجوکیشن پشاور

عنوان: محکمانہ اپیل بوساطت ڈسٹرکٹ ایجوکیشن آفیسر زنانہ

ڈیرہ اسماعیل خان

جناب عالی!

موڈ بانہ گزارش ہے کہ من سائل 05-11-2013 کو بہشتی تعینات ہوا تھا۔ لیکن اس وقت کے MPA جاویدا کبر کی سیاسی مداخلت پر من سائل کا تعیناتی حکم مورخہ 18-02-2014 کو منسوخ کر دیا گیا اور میری جگہ فیاض احمد ولد عبدالستار کو تعینات کیا گیا جس کو من سائل نے بذریعہ درخواست رٹ نمبری 128 سال 2014 چیلنج کیا جو کہ مورخہ 12-02-2015 کو منظور ہو گئی اور منسوخ تعیناتی حکم مورخہ 18-02-2014 کو عدالت عالیہ نے ختم فرمایا اور حکمہ کو اجازت دی کہ وہ اگر مناسب سمجھے تو دوبارہ انکوائری کر سکتا ہے۔ حکم عدالت لف ہے۔

جناب عالی! محکمہ نے عدالت عالیہ کے حکم پر من سائل کو تعینات نہیں کیا تو من سائل نے درخواست توہین عدالت نمبری 743/15 دائری کی جس مورخہ 24-09-2018 کو محکمہ نے نمائندہ کے زبانی طور پر بتلایا کہ انکوائری کر کے من سائل کو 22-09-2018 کو Terminate کر دیا گیا جس پر درخواست توہین عدالت فیصلہ کر دی گئی۔ نقل لف ہے۔

گزارش ہے کہ حکم عدالت عالیہ کے بعد من سائل کو نوکری پر بحال نہیں کیا گیا بلکہ من سائل کو طلب کیے بغیر خفیہ طور پر انکوائری کر کے Terminate کیا گیا۔ من سائل کے خلاف کوئی انکوائری

نہیں کی گئی نہ کوئی شوکار نوٹس و چارج شیٹ نہیں کیا گیا بلکہ یکطرفہ کارروائی کر کے نوکری سے ہٹا دیا گیا جو غیر قانونی ہے۔

Ms. Saad  
23/10/18

لہذا موڈ بانہ گزارش ہے کہ من سائل کو دوبارہ نوکری

پر بحال فرمایا جاوے۔

مورخہ: 22-10-2018

سفیر حسین خان ولد ملازم حسین خان سکنہ سید علیاں ڈاکخانہ کوٹجائی

تحصیل پہاڑ پور ضلع ڈیرہ اسماعیل خان  
Salfeen

# VAKALATNAMA

BEFORE THE COURT KPK Service Tribunal BENCH D.I.KHAN

Safeer Hussain **VERSUS** Govt of KPK ete

TITLE Appeal

I/WE petitioner

The Above Named Safeer Hussain hereby appoint

**MUHAMMAD ANWAR AWAN ADVOCATE SUPREME COURT,**

in the above Captioned Cases to all or any of the following Acts Deeds & Things.

- ✓ To Appear, Act & Plead for Me/Us in the above mentioned cases in this Court/Tribunal in which the same may be tried or heard or any other proceedings out of our connected therewith.
- ✓ To Sign, Verify, File OR Withdraw all proceedings, Petitions, Appeals, Affidavits, Applications for Compromise OR Withdrawals OR for the Submission of Arbitration of the said case OR any other Documents may be Deemed Necessary OR Advisable by them by the Conduct, Prosecution OR Defense of the above case at all its stages.
- ✓ To Receive Payments, Issue receipts for all moneys that may be OR become Due & Payable to us during the course on Conclusion of the Proceedings.
- ✓ To do all other Acts & Things, Which may be Deemed Necessary OR Advisable during the course of Proceedings.

AND HEREBY AGREE:

- To Ratify Whatever Advocates may do the Proceedings.
- Not to Hold the Advantages Responsibilities if the said case be proceed Ex-parte OR Dismissed in Default in Consequence of their Absence from the Court when it is called for Hearing.
- That the Advocates shall be entitled to withdraw from the Prosecution of the said case if the Whole or any part of the Agreed Fee Remain Un-Paid.
- That Advocates may be Permitted to argue any other point at the time of Arguments.

In Witness Whereof I/We have signed this Vakalatnama here under the Contents of which have been Read/Explained to Me/Us which is fully understood by Me/Us.

Dated: 19/2/19

Accepted By:

Muhammad Anwar Awan

SIGNATURE OF EXECUTANT (S)

Safeer Hussain  
0344-93-53-051

**MUHAMMAD ANWAR AWAN  
ADVOCATE SUPREME COURT  
03339962231**

**BEFORE THE HONORABLE KHYBER ;PAKHTUNKHWA SERVICE TRIBUNAL**  
**CAMP TRIBUNAL, D. I. KHAN**

**Service Appeal No. 354 /2019**

**Safeer Khan or Safeer Hussain s/o Mulazim Hussain, \_\_\_\_\_ Appellant**

**Vs**

Director Elementary &Secondary Education, Khyber Pakhtunkhwa.....Respondent No.1

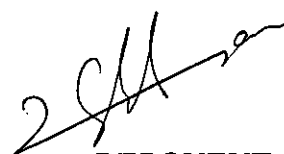
District Education Officer, (Female) D.I.Khan .....Respondent No.2

Deputy Commissioner, D.I.Khan .....Respondent No.3

Secretary Elementary &Secondary Education, Khyber Pakhtunkhwa.....Respondent No.5

**PARAWISE COMMENTS ON BEHALF OF RESPONDENTs 1, 2, 3, and 5**

S.No.	DESCRIPTION OF DOCUMENTS	Pages
1	Para-wise Comments on Behalf of Respondent	1-4
2	AFFIDAVIT	5
3	AUTHORITY	6
4	Annexure A <i>Inquiry Report -</i>	<i>7-11</i>
5	Annexure B <i>Termination Order .</i>	<i>12</i>
6	Annexure C	<i>1</i>
7	Annexure D	
8	Annexure E	
9	Annexure F	
10	Annexure G	

  
**DEPONENT**

Dr. Muhammad Imran Shah  
Subject Specialist (BS 18)  
as  
LITIGATION OFFICER  
O/O DEO (F), D.I.Khan  
12101-2797412-1

**BEFORE THE HONORABLE KHYBER ;PAKHTUNKHWA SERVICE TRIBUNAL**  
**CAMP TRIBUNAL, D. I. KHAN**

**Service Appeal No. 354 /2019**

**Safeer Khan or Safeer Hussain s/o Mulazim Hussain, \_\_\_\_\_ Appellant**

**Vs**

Director Elementary &Secondary Education, Khyber Pakhtunkhwa.....Respondent No.1

District Education Officer, (Female) D.I.Khan .....Respondent No.2

Deputy Commissioner, D.I.Khan .....Respondent No.3

Secretary Elementary &Secondary Education, Khyber Pakhtunkhwa.....Respondent No.5

**PARAWISE COMMENTS ON BEHALF OF RESPONDENTS 1, 2, 3, and 5**

**Preliminary Objections:**

- 1.** That the Appellant has not come to this Honorable Tribunal clean handed.
- 2.** That the Appellant was not appointed by the competent authority, District Education Officer, rather he had been appointed by the headmistress of the said school, without having the authority for appointment of the Class IV Employee, without merit, without advertisement and without the approval/ making of Departmental Selection Committee.
- 3.** That the appointment letter was issued to the Appellant haphazardly, right after the one Mr. not by the competent authority and without proper course of job appointment, i.e. Advertisement and Departmental Selection Committee etc.
- 4.** The Worthy **Judgment** passed on 24.07.2017 by the Honorable Khyber Pakhtunkhwa Service Tribunal, Camp Court D.I.Khan in **SA No. 1041/ 2014** filed by the Appellant Muhammad Asif S/O Hasti Khan, R.O Wanda Jamal, Ex-Sweeper GHS Wanda Jamal, D.I.Khan, who was appointed by the Head Master on 2.11.2013, **speaks on invalidity of appointment orders passed by the Head Master**, being not Competent for appointment of a Class IV Employee.
- 5.** That the Head Mistress GGHS Kot Jai, D.I.Khan Mrs. Saeeda Parveen has, in respect of Mr. Safeer Hussain S/o **Mulazim Hussain**, wrongly issued, the appointment order (On Open Merit for the vacant post of Ex-Bahishti GGHS Kot Jai, who **retired on 5.11.2013**) without observing formal procedures (Advertisement / merit etc.) for recruitment to the post of Class IV; though, the post of Bahishti is a dying cadre and according to the letter forwarded by **Establishment Department No. SOR-VI (E&AD)1-3/2007 dated 22.3.2007**, the dying cadre posts shall stand abolished as and when fall vacant.

*Dr*

A brief History is humbly presented in the following lines for the kind perusal of this Honorable Tribunal:

- a) **On 5.11.2013:** \_\_\_\_\_ Mr. Abdus Sattar Class IV, Bahishti GGHS Kot Jai proceeded for retirement on superannuation.
- b) **On 12.11.2013:** \_\_\_\_\_ Mr. Safeer Hussain S/O Mulazim Hussain has been appointed to the post of **Bahishti GGHS Kot Jai** vide **Order No.199-203, dated 12.11.2013, by the Headmistress, Saeeda Begum** without advertisement and without observing other formal procedures for recruitment to the post of Bahishti, though the post of Bahishti is a dying cadre and according to the letter forwarded by



Establishment Department No. SOR-VI (E&AD)1-3/2007 dated 22.3.2007, the dying cadre posts shall stand abolished as and when fall vacant.

- c) On 18.02.2014: That Mr. Safeer Hussain S/O Mulazim Hussain has merely performed his duties for only 3 and a half months from 13.11.2013 to 27.2.2014 and his appointment order was cancelled on 18.2.2014 by the DEO (Female), D.I.Khan who subsequently appointed, on 25% quota, Mr. Fiaz Hussain S/o Abdus Sattar (Ex-Bahishti GGHS Kot Jai, who retired on 5.11.2013).
- d) On 12.2.2015: That the worthy Judgment of the Honorable Peshawar High Court dated 12.2.2015 strikes down the cancellation of appointment order issued by DEO Female D.I.Khan vide letter No.1426-28, dated 18.02.2014 in Respect of Mr. Safeer Hussain, passed in W.P No. 128-D of 2014. However liberty was, therein, granted by the worthy judgment to conduct a fresh inquiry into the matter through another competent Authority.
- e) On 1.11.2016: That Appointment order of Mr. Safeer Hussain S/O Mulazim Hussain was inquired into by DEO Female, D.I.Khan by Constituting an inquiry under Chairpersonship of Principal Syeda Nau Bahar, yet this inquiry was termed as illegal and set aside being ensued by NO RESULTS by the Worthy Order of Peshawar High Tribunal D.I.Khan Bench, Passed on 1.11.2016 in CoC No. 743-D/2015.
6. That in compliance to the Worthy Judgment of Peshawar High Tribunal D.I.Khan Bench, Passed on 12.2.2015 in W.P No. 128-D of 2014, that grants allows the respondents to conduct a fresh inquiry into the matter through another competent Inquiry officer. This provides grounds to constitute another inquiry (this one in 2018) that may assure, in terms of results, being fruitful with all legacies.

7. Therefore, a fresh inquiry has been conducted vide Notification No. 14910-16 dated 14.7.2018 where the Appellant Mr. Safeer Hussain was properly personally heard.  
**As per recommendations of the fresh inquiry,**

The post of class IV, Bahishti, GGHS Kot Jai, be considered abolished. Hence this committee finds no reason for appointment of Safeer Hussain as Bahishti, GGHS Kot Jai. Yet this committee has no objection on fresh appointment of Mr. Safeer Hussain on open merit class IV post as per policy of the Government of Khyber Pakhtunkhwa.

(Inquiry Report Annexed as A)

8. In this connection the servant issued a Notification No. 20823-29 dated, 22/9/2018, that notifies on setting aside the wrongly issued appointment order and terminates the Services of the Appellant, Mr. Safeer Hussain S/o Mulazim Hussain, with immediate effect. The same was communicated to the Honorable Peshawar High Court along with inquiry report in COC Petition No.743-d/ 2015 and the worthy Judgment dated 24.9.2018 was passed that dismissed the Petition due to No Case of COC.

(Termination Order Annexed as B) 

*Therefore, it is humbly prayed that the instant Service Appeal may graciously be dismissed.*

**Objections on Facts:**

- 1. Para does not relate to the merit of this appeal.** Moreover, the first Appointment of the Appellant was made dated 12.11.2013, by the Head Mistress, who was not competent and also was made ignoring the proper procedures of appointments for the post of class IV, i.e. without having the authority for appointment of the Class IV Employee, without merit, without advertisement and without the approval/ making of Departmental Selection Committee.
- 2. Strictly Denied:** No such advertisement was made as revealed by the inquiry.
- 3. Strictly denied:** All this is fake story as revealed by the inquiry.  
*(Inquiry Report Annexed at A)*
- 4. Strictly Denied.** That the first Appointment of the Appellant was made dated 12.11.2013, by the Head Mistress, who was not competent and also was made ignoring the proper procedures of appointments for the post of class IV, i.e. without having the authority for appointment of the Class IV Employee, without merit, without advertisement and without the approval/ making of Departmental Selection Committee.  
*(Inquiry Report Annexed as A)*
- 5. Strictly Denied.** That all of the things go waste when the first appointment Order was found invalid. As mentioned above in Para 4 of the Facts and revealed by the fresh inquiry under the order of Peshawar High Court in COC 743-D/2015.
- 6. Obsolete.** As the fresh case of the Appellant is to litigate on the termination order Issued dated 22.09.2018 after personally hearing the Appellant and thorough perusal of the case by the well-versed inquiry officers and communicating its Recommendations to The Honorable Peshawar High Court in COC No 743-D/2015, thence, the Judgment dated 24.9.2018 was passed against the Appellant. Also an authority for kind perusal of this Honorable Tribunal is placed forth, herewith.

The Worthy **Judgment** passed on 24.07.2017 by the Honorable Khyber Pakhtunkhwa Service Tribunal, Camp Court D.I.Khan in **SA No. 1041/ 2014** filed by the Appellant Muhammad Asif S/O Hasti Khan, R.O Wanda Jamal, Ex-Sweeper GHS Wanda Jamal, D.I.Khan, who was appointed by the Head Master on 2.11.2013, **speaks on invalidity of appointment orders passed by the Head Master**, being not Competent for appointment of a Class IV Employee.

*(Termination Order Annexed as B)*

- 7.** As mentioned above in Para 6 of Facts.
- 8.** As mentioned above in Para 6 of Facts.
- 9. Strictly denied.** That the appellant finds no legal footing to litigate his case before this Honorable Tribunal, hence this Appeal may kindly be dismissed with cost.

### **Objections on Grounds:**

- 1. Strictly Denied.** That behavior of the respondents has always been friendly, without any mala fide intent and that the Appellant has been dealt according to Rule of Law and Merit Based Policy of the Government of Khyber Pakhtunkhwa.
- 2. Strictly Denied.** That the termination order Issued dated 22.09.2018 after personally hearing the Appellant and thorough perusal of the case by the well-versed inquiry officers and communicating its Recommendations to The Honorable Peshawar High Court in COC No 743-D/2015, thence, the Judgment dated 24.9.2018 was passed against the Appellant. Also an authority for kind perusal of this Honorable Tribunal is placed forth, herewith.

The Worthy **Judgment** passed on 24.07.2017 by the Honorable Khyber Pakhtunkhwa Service Tribunal, Camp Court D.I.Khan in **SA No. 1041/ 2014** filed by the Appellant Muhammad Asif S/O Hasti Khan, R.O Wanda Jamal, Ex-Sweeper GHS Wanda Jamal, D.I.Khan, who was appointed by the Head Master on 2.11.2013, **speaks on invalidity of appointment orders passed by the Head Master**, being not Competent for appointment of a Class IV Employee.

**3. Strictly Denied.** That the Appellant was not appointed by the competent authority, District Education Officer, rather he had been appointed by the headmistress of the said school, without having the authority for appointment of the Class IV Employee, without merit, without advertisement and without the approval/ making of Departmental Selection Committee.

**4. Strictly Denied.** As mentioned above in Para 2 of Grounds.

*That the termination order issued dated 22.09.2018 after personally hearing the Appellant and thorough perusal of the case by the well-versed inquiry officers may be allowed to stay in field and that the appeal of this Appellant may kindly be dismissed with cost.*

  
DISTRICT EDUCATION OFFICER  
(FEMALE) DERA ISMAIL KHAN

**BEFORE THE HONORABLE KHYBER ;PAKHTUNKHWA SERVICE TRIBUNAL**  
**CAMP TRIBUNAL, D. I. KHAN**

**Service Appeal No. 354 /2019**

**Safeer Khan or Safeer Hussain s/o Mulazim Hussain, \_\_\_\_\_ Appellant**

**Vs**

**Director Elementary &Secondary Education, Khyber Pakhtunkhwa.....Respondent No.1**

**District Education Officer, (Female) D.I.Khan .....Respondent No.2**

**Deputy Commissioner, D.I.Khan .....Respondent No.3**

**Secretary Elementary &Secondary Education, Khyber Pakhtunkhwa.....Respondent No.5**

**AFFIDAVIT**

Dr. Muhammad Imran Shah, Subject Specialist (BS-18), GHSS Muryali, D.I.Khan, Litigation Officer, Office of the DEO (F) D.I.Khan, representing on behalf of District Education Officer (Female) D.I.Khan, in above titled Service Appeal, do hereby solemnly affirm on oath that all the contents of Para-wise comments are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Honorable Tribunal.

**Respondent**

***Mrs. Syedda Anjum***  
**DISTRICT EDUCATION OFFICER**  
**(FEMALE) DERA ISMAIL KHAN**

**DEPONENT**

**Dr. Muhammad Imran Shah**  
**Subject Specialist (BS 18)**  
**as**  
**LITIGATION OFFICER**  
**O/O DEO (F), D.I.Khan**  
**12101-2797412-1**

**IDENTIFIED BY**

**DISRICT ATTORNEY**  
**DERA ISMAIL KHAN**

**BEFORE THE HONORABLE KHYBER ;PAKHTUNKHWA SERVICE TRIBUNAL**  
**CAMP TRIBUNAL, D. I. KHAN**

**Service Appeal No. 354 /2019**

**Safeer Khan or Safeer Hussain s/o Mulazim Hussain, \_\_\_\_\_ Appellant**

**Vs**

**Director Elementary &Secondary Education, Khyber Pakhtunkhwa.....Respondent No.1**

**District Education Officer, (Female) D.I.Khan .....Respondent No.2**

**Deputy Commissioner, D.I.Khan .....Respondent No.3**

**Secretary Elementary &Secondary Education, Khyber Pakhtunkhwa.....Respondent No.5**

**AUTHORITY**

I, Mrs. Syedda Anjum, District Education Officer (Female), D.I.Khan do hereby authorize Mr. Dr. Muhammad Imran Shah, Subject Specialist (BS-18), GHSS Muryali, D.I.Khan, working as Litigation Officer Office of the DEO(F) D.I.Khan, **to represent and submit Para-wise comments / reply** on behalf of the Respondent, the District Education Officer (Female) D.I.Khan, before The Honorable Khyber Pakhtunkhwa Service Tribunal, Camp Court D.I.Khan till the final Judgment in the above titled Execution Petition / Service Appeal.

**RESPONDENT**

*Mrs. Syedda Anjum*

**DISTRICT EDUCATION OFFICER  
(FEMALE) DERA ISMAIL KHAN**

**DEPONENT**

*Dr. Muhammad Imran Shah*

12101-2797412-1

Subject Specialist (BS 18)

GHSS Muryali, D.I.Khan

as

**LITIGATION OFFICER**

**O/O DEO (F), D.I.Khan**



OFFICE OF THE DISTRICT EDUCATION OFFICER  
(FEMALE) DERA ISMAIL KHAN

0966-9280133

Notification.

LOCAL SCRUTINY COMMITTEE FOR THE PROCESS OF APPOINTMENT/  
REINSTATEMENT OF CLASS IV SERVANTS ON DECEASED QUOTA/ EMPLOYEE SON  
QUOTA/ COURT CASES/ DIRECTORATE CASES.

The competent authority is pleased to constitute this Local Scrutiny Committee on the subject mentioned above and appoint following Scrutiny Officers for the crystalline conduction of scrutiny in the above mentioned matter of immense public interest:

1. Mrs. Zeb-un-Nisa, Principal (BS-19) GGHSS Muryali, D.I.Khan, as Chairperson of the Scrutiny Committee, and
2. Mr. Dr. Muhammad Imran Shah, Subject Specialist, (BS-18), GHSS Muryali, D.I.Khan, Member Committee
3. Mr. Jamal Ahmad Mirza, Head Master (BS-17), GHS Chahikan, D.I.Khan as Member Committee
4. Mrs. Abida Nasreen, ADEO (F) Primary, O/o DEO (F), D.I.Khan, as Member Committee
5. Mrs. Noor Khadija, ADEO (F) Secondary, O/o DEO (F), D.I.Khan, as Member Committee
6. All of the Dealing Assistants, as Member Committee (For record keeping)

Scrutiny Officers are hereby directed to personally peruse the Judgments passed by Honourable Peshawar High Court, D.I.Khan Bench, instruction passed by worthy Secretary and/or Director Elementary and Secondary Education, Khyber Pakhtunkhwa, Peshawar to see how these directions can be plausibly followed in the best interest of public service delivery.

For earlier and fruitful results, the committee is needed only to scrutinize the priority queue for appointment/ reinstatement of the cases in hand and nothing before the earlier inquiries, instructions and judgments be perused then submit the report to the undersigned on the factual situation along with plausible suggestions on reinstatement/ appointment or otherwise as earlier as may be possible.

The officers concerned are required to enquire the matter transparently.

Annexure A provides the LIST OF CASES, whereas, the RELEVANT RECORD is available with the concerned Dealing Assistants and will be provided on demand.

DISTRICT EDUCATION OFFICER  
(FEMALE) DERA ISMAIL KHAN

Endst. No. 14910-14

Dated, D.I.Khan the 14 / 7 / 2018.

Copy of the above forwarded for information to:

1. Director Elementary and Secondary Education, Khyber Pakhtunkhwa, Peshawar.
2. PA to Secretary, Elementary and Secondary Education, Khyber Pakhtunkhwa, Peshawar.
3. Deputy Commissioner, D.I.Khan.
4. Officer Concerned.
5. Office copy.

DISTRICT EDUCATION OFFICER  
(FEMALE) DERA ISMAIL KHAN



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**OFFICE OF THE PRINCIPAL  
GOVERNMENT GIRLS HIGH SCHOOL MURYALI,  
DERA ISMAIL KHAN**

No. 342  
Dated, D.I.Khan the 12/8/2018

To

The District Education Officer,  
(Female), Dera Ismail Khan.

**SUBJECT: LOCAL SCRUTINY COMMITTEE FOR THE PROCESS OF APPOINTMENT/  
REINSTATEMENT OF CLASS IV SERVANTS ON DECEASED QUOTA/  
EMPLOYEE SON QUOTA/ COURT CASES/ DIRECTORATE CASES.**

Reference your office Letter No. 14910-16 dated 14/7/2018, this Committee is hereby forwarding its minutes/ recommendations (11 pages) for onwards perusal, please.

S.No.	Name	Nature of the Case	Decision
1.	Muhammad Taqi	Adjustment	YES
2.	Muhammad Sibtain	Adjustment	YES
3.	Fatima Bibi	Adjustment	YES
4.	Muhammad Ali	Adjustment	YES
5.	Sabir Jameel	Salary Opening	YES
6.	Abdus Sattar S/o Raza Muhammad	Re-Instatement	YES
7.	Muhammad Waqas	Re-Instatement	YES
8.	Qaisar Iqbal	Re-Instatement	YES
9.	Muhammad Ikram	Re-Instatement	YES
10.	Barkatullah	Re-Instatement	YES
11.	Abdus Sattar S/o Abdul Ghafar	Re-Instatement	YES
12.	Muhammad Awais	Fresh Appointment 100% Quota	YES
13.	Nargis Bibi	Fresh Appointment 100% Quota	YES
14.	Khan Zaman	Fresh Appointment 100% Quota	YES
15.	Hafsa Bibi	Fresh Appointment 100% Quota	YES
16.	Waqas Ahmad	Fresh Appointment 100% Quota	YES
17.	Amna Bibi	Fresh Appointment 100% Quota	YES
18.	Muhammad Younus	Fresh Appointment 25% Quota	YES
19.	Muhammad Adnan	Fresh Appointment 25% Quota	YES
20.	Javed Iqbal	Fresh Appointment 25% Quota	YES
21.	Muhammad Irfan	Valid / Invalid Case	NO
22.	Riaz Hussain	REPEAL of RESIGNATION	NO
23.	Safeer Hussain	Re-Instatement	NO

This letter is hereby forwarded on recommendation of the Scrutiny Committee

CHAIRPERSON  
(Scrutiny Committee)

(Zaib-un-Nisa)

PRINCIPAL  
GGHS MURYALI  
DERA ISMAIL KHAN

203  
13/8/18



OFFICE OF THE PRINCIPAL  
GOVERNMENT GIRLS HIGH SCHOOL, MURYALI  
DERA ISMAIL KHAN  
(FOR SCRUTINY COMMITTEE)

MINUTES

11- ELEVEN PAGES

OF THE SCRUTINY MEETING

FOR APPOINTMENT/ REINSTATEMENT OF THE CLASS IVs  
IN DISTRICT EDUCATION OFFICE FEMALE D.I.KHAN  
AS PER WORTHY ORDERS BY PESHAWAR HIGH COURT D.I.KHAN BENCH  
AND/OR DIRECTOR E&SE KHYBER PAKHTUNKHWA, PESHAWAR.

1.

Muhammad Taqi S/O Ghulam Qadir

Honestly Submitted that:

1. 1.1.1993. That Muhammad Taqi S/O Ghulam Qadir has been appointed to the post of Chowkidar GHS Kathgarh, D.I.Khan, vide Order No. 324-28, dated 1.1.1993, issued by Headmaster GHS Kathgarh, D.I.Khan.
2. 26.9.2012. That Muhammad Taqi S/O Ghulam Qadir was transferred from Chowkidar GHSS Kath Garh, D.I.Khan to Chowkidar GGPS Kachi Kath Garh, D.I.Khan vide No.13114-17, dated 26.9.2012.
3. 1.11.2012. That Muhammad Taqi S/O Ghulam Qadir was transferred from Chowkidar GGPS Kachi Kath Garh, D.I.Khan to Chowkidar GGMS Kachi Kath Garh, D.I.Khan vide No. 16188-95, dated 1.11.2012.
4. 8.11.2012. That Muhammad Taqi S/O Ghulam Qadir was transferred from Chowkidar GGMS Kachi Kath Garh, D.I.Khan to Chowkidar GGPS Saido Wali, D.I.Khan vide No.17006-09, dated 8.11.2012.
5. 10.1.2013. That Muhammad Taqi S/O Ghulam Qadir was transferred from Chowkidar GGPS Saido Wali, D.I.Khan to Chowkidar GGHS No.3 D.I.Khan vide No.4762-64, dated 10.10.2013.
6. 5.5.2013. That Muhammad Taqi S/O Ghulam Qadir was transferred from Chowkidar GGHS NO.3, D.I.Khan to Chowkidar GGHS Yarik, D.I.Khan vide No.3867-70, dated 5.5.2013.
7. 16.5.2014. That Muhammad Taqi S/O Ghulam Qadir was transferred from Chowkidar GGHS Yarik, D.I.Khan (SURPLUS) to Chowkidar GGHS Bhigwani Shumali, D.I.Khan vide No.4206-9, dated 16.5.2014.
8. 7.11.2015. That Muhammad Taqi S/O Ghulam Qadir was transferred from Chowkidar GGHS Bhigwani Shumali, D.I.Khan (SURPLUS) to Chowkidar GGHS Mithapur, D.I.Khan vide No.7826-28, dated 7.11.2014.
9. 24.6.2016. That Muhammad Taqi S/O Ghulam Qadir was transferred from

<p>CHAIRPERSON Zeb un Nisa Principal BS- 19 GGHS Muryali, DIK</p>	<p>MEMBER Muhammad Imran Shah SS BS-18 GHSS Muryali, DIK</p>	<p>MEMBER Jamal Ahmad Mirza HM, BS-17 GHS Chehkan, DIK</p>	<p>MEMBER Mrs. Abida Nasreen ADEO (Primary), Distt. Edn. Office (F)</p>	<p>MEMBER Mrs. Noor Khadija ADEO (Secondary), Distt. Edn. Office (F)</p>
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"Appeal in respect of Mr. Riaz Hussain Ex-Chowkidar, GGPS Chah Jaggu Wala, D.I.Khan is hereby **REJECTED** and the Notification dated 18.2.2009 regarding acceptance of his resignation from service is hereby upheld."

- 5. The then (2003-2017) In-Charge Headmistress, GGPS Chah Jaggu Wala, Mrs. Nasreen Kausar, stated in her written affidavit, before this Scrutiny Committee, that Mr. Riaz Hussain, Ex-Chowkidar GGPS Chah Jaggu Wala, himself brought his written resignation from service, which was duly forwarded to the then EDO E&SE D.I.Khan on 16.2.2009. She, on oath, added that she did not endorse any other application for REPEAL of RESIGNATION i.r.o Mr. Riaz Hussain, Ex-Chowkidar GGPS Chah Jaggu Wala, later. Whereas, after few days, the newly appointed Chowkidar, Mr. Muhammad Irfan Khan attended the school till he left.
- 6. Hence, the forwarding statement written on face of the application under the subject, "**FORGED APPLICATION FOR RESIGNATION**" submitted to the EDO E&SE D.I.Khan and the Director E&SE Khyber Pakhtunkhwa, for the REPEAL OF RESIGNATION of Mr. Riaz Hussain, Ex-Chowkidar, GGPS Chah Jaggu Wala, is  

"A FORGERY, COUNTERFEIT AND A MALAFIDE ACT OF THE APPLICANT."

**RECOMMENDATION:**

This committee recommends on **NO REINSTATEMENT** i.r.o **RIAZ HUSSAIN**, as per Director Elementary and Secondary Education Khyber Pakhtunkhwa, Notification dated 9.6.2016 that clearly **REJECTS** the appeal i.r.o Riaz Hussain.

23.

Safeer Hussain S/O Mulazim Hussain

**Honestly Submitted that:**

- 1. On 11.11.2013: Mr. Abdus Sattar Class IV, Bahishti GGHS Kot Jal proceeds for superannuation retirement.
- 2. On 12.11.2013: Mr. Safeer Hussain S/O Mulazim Hussain has been appointed to the post of Bahishti GGHS Kot Jal vide Order No.199-203, dated 12.11.2013, by the Headmistress, Saeeda Begum without observing formal procedures for recruitment to the post of Bahishti, though the post of Bahishti is a dying cadre and according to the letter forwarded by Establishment Department No. SOR-VI (E&AD)1-3/2007 dated 22.3.2007, the dying cadre posts shall stand at olished as and when fall vacant.
- 3. On 12.2.2015: That Appointment order of Mr. Safeer Hussain S/O Mulazim Hussain has already been inquired into and then cancelled by DEO Female D.I.Khan vide letter No.1426-28, dated 18.02.2014, yet it was stricken down by the Worthy Judgment of Peshawar High Court D.I.Khan Bench, Passed on 12.2.2015 in W.P No. 128-D of 2014. However liberty was, therein, granted by the worthy judgment to conduct a fresh inquiry into the matter through another competent Authority.
- 4. On 11.11.2016: That Appointment order of Mr. Safeer Hussain S/O Mulazim Hussain was again inquired into by DEO Female, D.I.Khan by constituting another

Page 9 of 11

<p>CHAIRPERSON Zabunnisa Principal BS-19 GHS Muryal, DIK</p>	<p>MEMBER Muhammad Irfan Shah SS BS-18 GHS Muryal, DIK</p>	<p>MEMBER Jamal Ahmad Mirza HM, BS-17 GHS Chahkan, DIK</p>	<p>MEMBER Mrs. Abida Nasreen AEO (Primary), Distt. Edn. Office (F)</p>	<p>MEMBER Mrs. Noor Khadija AEO (Secondary), Distt. Edn. Office (F)</p>
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inquiry under Chairpersonship of Principal Syeda Nau Bahar, yet this inquiry was termed as illegal and set aside being ensued by NO RESULTS by the Worthy Order of Peshawar High Court D.I.Khan Bench, Passed on 1.11.2016 in CoC No. 743-D/2015.

- 5. That Mr. Safeer Hussain S/O Mulazim Hussain has performed his duties from 13.11.2013 to 27.2.2014 unless his appointment order was cancelled on 18.2.2014 by the then DEJ (Female), D.I.Khan who subsequently appointed Mr. Fiaz Hussain, S/o Abdus Sattar (Ex-Bahishti GGHS Kot Jai, who retired on 5.11.2013).
- 6. The Worthy Judgment of Peshawar High Court D.I.Khan Bench, Passed on 12.2.2015 in W/P No. 121-D of 2014, however, grants liberty to conduct a fresh inquiry into the matter through another competent inquiry officer. This provides grounds to constitute another inquiry (this one) that may assure, in terms of results, being fruitful with all legacies.

**RECOMMENDATION:**

The Perusal of record supported by the personal statements (on personal hearing) of the Headmistress and the Class IV candidate Mr. Safeer Hussain reveals:

- 1. That the Head Mistress GGHS Kot Jai, D.I.Khan Mrs. Saeeda Parveen has, in respect of Mr. Safeer Hussain S/o Mulazim Hussain, wrongly issued, the appointment order (On Open Merit) for the vacant post of Ex-Bahishti, GGHS Kot Jai, who retired on 5.11.2013) without observing formal procedures (Advertisement / merit etc.) for recruitment to the post of Class-IV; though, the post of Bahishti is a dying cadre and according to the letter forwarded by Establishment Department No. SOR-VI (E&AD)1-3/2007 dated 22.3.2007, the dying cadre posts shall stand abolished as and when fall vacant.
- 2. That the then District Education Officer (Female) D.I.Khan has, alternatively, in respect of Mr. Fayyaz Hussain S/o Abdus Sattar (Ex-Bahishti GGHS Kot Jai, who retired on 5.11.2013), wrongly issued, in piece meal, the appointment order without observing formal procedures (Advertisement / merit etc.) for recruitment to the post of Class IV, though the post of Bahishti is a dying cadre and according to the letter forwarded by Establishment Department No. SOR-VI (E&AD)1-3/2007 dated 22.3.2007, the dying cadre posts shall stand abolished as and when fall vacant.
- 3. As the appointment of Mr. Fayyaz Hussain was already repealed / cancelled by the then DEO (Female), D.I.Khan (Mrs. Perveen begum Khattak) vide Letter No. ....dated.....in the light of the Establishment Department No. SOR-VI (E&AD)1-3/2007 dated 22.3.2007, that reads, "the dying cadre posts shall stand abolished as and when fall vacant".

This committee recommends that:

THE POST OF CLASS IV, BAHISHTI, GGHS KOT JAI, BE CONSIDERED ABOLISHED  
HENCE THIS COMMITTEE FINDS NO REASON FOR APPOINTMENT OF SAFEER HUSSAIN AS BAHISHTI, GGHS KOT JAI. YET THIS COMMITTEE HAS NO OBJECTION ON FRESH APPOINTMENT OF MR. SAFEER HUSSAIN ON OPEN MERIT CLASS IV POST ANYWHERE AS PER POLICY OF THE GOVERNMENT OF KHYBER PAKHTUNKHWA.

ALSO, name of Mr. Fayyaz Hussain S/o Abdus Sattar, Ex- Bahishti GGHS Kot Jai be placed on merit list for considering his appointment on 25 % EMPLOYEE SON QUOTA (quota, ON HIS OWN TURN AS PER POLICY OF THE GOVERNMENT OF KHYBER PAKHTUNKHWA.

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<p>CHAIRPERSON Zeb un Nisa Principal BS-19 GGHS Muryali, DIK</p>	<p>MEMBER Muhammad Imran Shah BS BS-18 GGHS Muryali, DIK</p>	<p>MEMBER Jamal Ahmad Mirza HM, BS-17 GHS Chehkan, DIK</p>	<p>MEMBER Mrs. Abida Nasreen ADEO (Primary), Distt. Edn. Office (F)</p>	<p>MEMBER Mrs. Noor Khadija ADEO (Secondary), Distt. Edn. Office (F)</p>
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**OFFICE OF THE DISTRICT EDUCATION OFFICER  
(FEMALE) DERA ISMAIL KHAN  
Phone No. 0966-9280133**

No. \_\_\_\_\_ Dated, D.I.Khan, the \_\_\_\_\_ / \_\_\_\_\_ /2018

**Notification.**

Reference this Office Letter No. 14910-16, dated 14.07.2018, D.I.Khan, on constituting a Local Scrutiny Committee in the matter of Reinstatement/ Appointment of Class IV employees.

Reference Office of The Chairperson Local Scrutiny Committee, Letter No. 342, dated 12.08.2018, D.I.Khan on forwarding the recommendations in the matter of Reinstatement/ Appointment of Class IV employees.

I, Mrs. Zaib Un Nisaa, District Education Officer (Female), D.I.Khan, being Competent Authority, agree/ accede to the recommendations of the Local Scrutiny Committee and Order on **setting aside** the appointment order which was wrongly issued in respect of Mr. Safer Hussain S/O Mulazim Hussain, Ex-Bahhishti GGHS Kot Jai, Vide Order No.199-203, dated 12.11.2013, by the Head Mistress, being Not a competent Authority for appointment to post of **CLASS IV**, with immediate effect, in the best interest of public service delivery.

DISTRICT EDUCATION OFFICER  
(FEMALE) DERA ISMAIL KHAN

Endst. No. <sup>20823-29</sup> 30/Vol.1/Disciplinary Cases Estab. Dated, The D.I.Khan. <sup>22/09</sup> /2018.

Copy for information to:

1. The Additional Registrar, Peshawar High Court, D.I.Khan Bench.
2. Director Elementary and Secondary Education, Khyber Pakhtunkhwa, Peshawar.
3. PS to Secretary Elementary and Secondary Education, Khyber Pakhtunkhwa, Peshawar.
4. Deputy Commissioner, D.I.Khan.
5. District Accounts Officer, D.I.Khan.
6. PA to DEO (Female), D.I.Khan.
7. Master File.

DISTRICT EDUCATION OFFICER  
(FEMALE) DERA ISMAIL KHAN

**BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER  
PAKHTUNKHWA PESHAWER CAMP AT D.I.KHAN.**

Appeal No: 354 OF /2019

Safeer Khan S/o Mulazim Hussain Khan R/o Saidallian Tehsil  
Pharapur D.I.Khan.

**“VERSUS”**


1. Director Elementary & Secondary Education Department Khyber Pakhtunkhwa Peshawar.
2. District Education Officer Female (Elementary & Secondary) Education Department D.I.Khan.
3. Deputy Commissioner, D.I.Khan.
4. District Accounts Kechary Road D I Khan.
5. Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Department Peshawar.

**Respectfully (Sheweth)**

Para wise Reply of the respondent No (4) are as under:

- Para (1) Para not related to Respondent No (4).
- Para (2) Respondent No. 04 has not exercise the power of Respondent No. 02 regarding the post of Behishti Bs-01 advertised whereas the para related to respondent No 02 being administration matter.
- Para (3) Para related to Respondent No (2).
- Para (4) Respondent No. 04 is not appointing authority of Education Department. The para related with Respondent No. 02 being administrative nature case.
- Para (5) Incorrect/Not admitted para not related with respondent No. 04 being administrative matter.
- Para (6) As above para no. 05.
- Para (7) Incorrect/Not admitted para not related with respondent No. 04 being administrative matter.
- Para (8) As above para no. 07.
- Para (9) As above para no. 07.

It is therefore, humbly prayed that as acceptance of above mentioned para wise reply, that the name of Respondent No (4) may graciously be exclude from the penal of Respondents.

  
**District Accounts Officer,**  
Dera Ismail Khan.  
(Respondent No 4)

**BEFORE THE HONOURABLE SERVICE TRIBUNAL KHYBER  
PAKHTUNKHWA PESHAWER CAMP AT D.I.KHAN.**

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5. Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Department Peshawar.

**AFFIDAVIT**

I Mr. Saeed-ur-Rehman Distt Comptroller of Accounts Dera Ismail Khan do hereby solemnly affirm and declare that All the contents of para wise reply submitted by the Respondent No (4) are true and Correct to the best of my knowledge and belief. That nothing has been Concealed the Honorable Court.

  
**DEPONENTS**