

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Appeal No. 348/2019

Date of Institution ... 21.02.2019

Date of Decision ... 26.09.2019

Mr. Hidayat Ullah son of Gul Sabir Khan, R/O Muhammad Khel, Tehsil Data Khel,
District North Waziristan. ... (Appellant).

VERSUS

The Director (E&SE) Department, Khyber Pakhtunkhwa Peshawar and two others.
... (Respondents)

Present.

Mr. Mir Zaman Safi,
Advocate.

... For appellant

MR. HAMID FAROOQ DURRANI,

... CHAIRMAN

JUDGMENTHAMID FAROOQ DURRANI, CHAIRMAN:-

1. Instant appeal contains the following prayer:-

"That on acceptance of this appeal the respondents may kindly be directed to accept/allow the appellant to submit his arrival report and the respondents may further be directed to release the monthly salaries of the appellant w.e.f. 28.08.2013 till date. Any other remedy which this august Tribunal deems fit that may also be awarded in favour of the appellant."

2. Learned counsel heard and the available record gone through.

3. It is laid in the memorandum of appeal that the appellant was initially appointed as Physical Education Teacher by respondent No. 2 on 28.08.2013. Pursuant to the appointment order the appellant submitted arrival report and started performing his duty, however on 21.09.2013, the appointment was declared null & void on the ground that his degree/certificate was fake. The order dated 21.09.2013 was questioned by the appellant alongwith other colleagues before the Honourable Peshawar High Court. The Honourable Court allowed the

Writ Petition through a single judgment on 10.09.2015, whereby, the respondents were directed to make recommendations for appointment of the petitioners after verification of their educational testimonials. Subsequently, the name of appellant was placed in a tentative revised short list of Male PETs for Tehsil Data Khel, however, the appellant could not find any mention in the final merit list dated 10.08.2016. It is the claim of appellant that his exclusion from the short list was unlawful as he had duly acquired Physical and Health Diploma and in the light of a judgment by the Apex Court he was entitled to be reinstated against the post of PET.

4. Admittedly, the appellant was not issued any appointment/adjustment order by the respondents after the decision of Writ Petition No. 330-B/2015. It was noted in the order dated 10.09.2015, as relied upon by the appellant, that formal appointment order of petitioners in compliance with the recommendations of the competent authority, were to be issued. The requisite recommendations were required to be made within 30 days in accordance with law, merit and after due verification of educational testimonials.

It is a fact that release of monthly salary of appellant and submission of arrival report, as prayed for in the appeal in hand, are ancillary to his appointment which was never made after 21.09.2013, the date when prior appointment of appellant and others was declared null & void.

5. In view of the above noted facts, the appeal in hand does not merit admission for regular hearing, hence is dismissed in limine.

File be consigned to the record room.


(HAMID FAROOQ DURRANI)
CHAIRMAN

ANNOUNCED
26.09.2019

01.08.2019

Learned counsel for the appellant present.

The appellant is not in attendance before this Tribunal to apprise certain facts of his case. Adjourn. Appellant be put to notice for 08.08.2019. To come up for preliminary hearing on the date fixed before S.B.



Member

08.08.2019

Appellant in person present.

Requests for adjournment due to non-availability of his learned counsel.

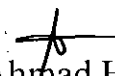
Adjourned to 26.09.2019 for preliminary hearing before S.B.



Chairman

25.04.2019

Counsel for the appellant present seeks adjournment.
Adjourned. Case to come up for preliminary hearing on
14.06.2019 before S.B.


(Ahmad Hassan)
Member

14.06.2019

Junior to counsel for the appellant present.

Due to general strike on the call of Khyber
Pakhtunkhwa Bar Council, instant matter is adjourned to
19.07.2019 for preliminary hearing before S.B.


Chairman

19.07.2019

Mr. Kamran Advocate for appellant present.

Learned counsel for the appellant requests for
adjournment as the brief of instant appeal is with his other
colleague who has proceeded to his village.

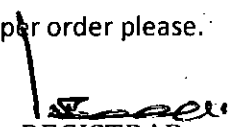


Adjourned to 01.08.2019 for preliminary hearing
before S.B.


Chairman

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 348/2019

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	08/03/2019	<p style="text-align: center;">The appeal of Mr. Hidayat Ullah resubmitted today by Mr. Noor Muhammad Khattak Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-	11/03/19	<p style="text-align: center;">This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>26/03/19</u>.</p> <p style="text-align: right;"> Member</p> <p>Learned counsel for the appellant present and seeks adjournment. Adjourn. To come up for preliminary hearing on 25.04.2019 before S.B</p>
26.03.2019		<p style="text-align: center;">Learned counsel for the appellant present and seeks adjournment. Adjourn. To come up for preliminary hearing on 25.04.2019 before S.B</p> <p style="text-align: right;"> Member</p>

The appeal of Mr. Hidayat Ullah son of Gul Sabir Khan r/o Muhammad Khel Tehsil Data Khel District North Waziristan 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.

not removed

- 1- Copy of impugned order is not attached with the appeal which may be placed on it.
- 2- Copy of order dated 21.09.2013 mentioned in para-3 of the memo of appeal is not attached with the appeal which may be placed on it.
- 3- Annexures-F &H of the appeal are illegible which may be replaced by legible/better one.

No. 316 /S.T,

Dt. 22-2- /2019

[Signature]
22/2/19
REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Noor Muhammad Khattak Adv. Pesh.

Note

Sr

No impugned order has been issued in the said matter. That copy of the dated 21.9.2013 is not available with the appellant and objection on annexure F & H have been removed, hence re-submitted today dated 6/03/2019.

[Signature]
6/3/2019

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

APPEAL NO. 348 /2019

HIDAYAT ULLAH

VS

EDUCATION DEPTT

INDEX

S.NO.	DOCUMENTS	ANNEXURE	PAGE
1	Memo of appeal	1- 3.
2	Domicile	A	4.
3	Educational testimonials	B	5- 9.
4	Appointment order	C	10- 11.
5	Charge report and attendance register	D & E	12- 13.
6	Judgment	F	14- 16.
7	Merit lists	G	17- 18.
8	Apex Court Judgment	H	19- 37.
9	Diploma	I	38.
10	Departmental appeal	J	39.
11	Vakalat nama	40.

APPELLANT

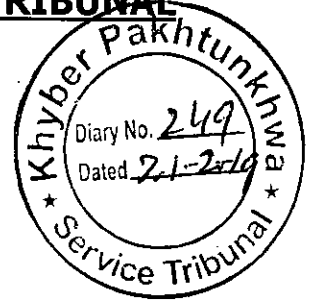
THROUGH:

NOOR MOHAMMAD KHATTAK,
ADVOCATE

Flat No. 3, Upper Floor,
Islamia Club Building,
Khyber Bazar, Peshawar
0345-9383141

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR**

APPEAL NO. 348 /2019



Mr. Hidayat Ullah S/O Gul Sabir Khan,
R/O Muhammad Khel, Tehsil Data Khel,
District North Waziristan.....

APPELLANT

VERSUS

- 1- The Director (E&SE) Department, Khyber Pakhtunkhwa, Peshawar.
- 2- The Director Education Tribal Districts, FATA Secretariat, Warsak Road, Peshawar.
- 3- The District Education Officer, District North Waziristan.

.....**RESPONDENTS**

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE INACTION OF THE RESPONDENTS BY NOT ACCEPTING/ALLOWING THE ARRIVAL REPORT OF THE APPELLANT AND NOT RELEASING MONTHLY SALARIES OF THE APPELLANT W.E.F. 28.8.2013 TILL DATE AND AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS

PRAYER:

That on acceptance of this appeal the respondents may kindly be directed to accept/allow the appellant to submit his arrival report and the respondents may further be directed to release the monthly salaries of the appellant w.e.f. 28.8.2013 till date. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant.

R/SHEWETH:

ON FACTS:

- 1- That appellant is the law abiding and well educated resident of district north Waziristan. Copy of domicile certificate and educational testimonials are attached as annexure..... **A & B.**
- 2- That appellant was initially appointed as physical education teacher(PET) in GHS Ghazlama Data Khel by respondent no.2 vide order dated 28-08-2013. That appellant accordingly submitted his arrival report and started his duty in the above mentioned school. Copies of appointment order dated 28.08.2013 arrival report attendance register are attached as annexure.....**C, D & E.**

- 3- That later on another order bearing NO.3911-99/S dated 21-09-2013 was issued by respondent No. 3 whereby the appointment orders of appellant and his other colleagues recruited on different posts were declared null and void on the ground that their degrees/certificates were fake.
- 4- That feeling aggrieved the appellant along with other colleagues challenged the said order before the Honorable Peshawar High Court, Peshawar and the Honorable Court allowed all writ petitions through a single judgment dated 10/09/2015 whereby the respondent were directed to make recommendation for appointment of the petitioners after due verification of their educational testimonials by the concerned boards/universities/institutions. Copy of the judgment dated 10.09.2015 is attached as annexure.....**F.**
- 5- That thereafter, the respondent No. 3 in light of judgment of Honorable Peshawar High Court made fresh merit lists and as such the appellant was placed at Serial No.2 in the said merit list of PET dated 26/05/2016, however the name of appellant was dropped from final merit list of PET dated 10/08/2016 due to the reason that appellant has acquired his Physical Education Diploma from the unrecognized institute i.e. Skill Development Council (SDC). Copies of tentative and final merit list are attached as annexure.....**G.**
- 6- That disqualification of appellant on the basis of Skill Development Council diploma was in utter violation of the august Supreme Court Judgment dated 28/04/2016 whereby the Honorable bench holds that let them continue, if they besides the certificates or diplomas issued by the council, possess the requisite qualifications. Those who could not improve their qualification up till now should improve it within a period of one year, which would be reckoned from the date of commencement of the next available academic session of the respective program. Copy of judgment dated 28-04-2016 is annexed as annexure.....**H.**
- 7- That later on the appellant also acquired the Health and Physical Education Diploma from Sarhad University Peshawar. That in light of the Apex Court judgment the appellant is fully entitled to be re-adjustment/re-instating against the post of PET. Copy of diploma is annexed as annexure**I.**
- 8- That after acquiring the said Diploma the appellant visited the concerned quarter for arrival report against the post of PET but the respondent Department is not willing to do so. That appellant feeling from the inaction of the respondent Department by not allowing the appellant to submit his arrival report preferred Departmental appeal before the appellate authority but the same is un-responded. Copy of the Departmental appeal is attached as annexure.....**J.**

9- That appellant feeling aggrieved and having no other remedy filed the instant service appeal before this august Tribunal on the following grounds amongst the others.

GROUND:

A- That the inaction of the respondent Department by not allowing/accepting the arrival report of the appellant and not releasing monthly salaries of the appellant w.e.f. 28.8.2013 till date is against the law, facts and norms of natural justice.

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 the respondents violated Article-4 and 25 of the Constitution of Islamic Republic of Pakistan-1973.

C- That the respondent Department acted in arbitrary and malafide manner by not allowing/accepting the arrival report of the appellant and not releasing monthly salaries of the appellant w.e.f. 28.8.2013 till date.

D- That the inaction of the respondents by not allowing/accepting the arrival report of the appellant and not releasing monthly salaries of the appellant w.e.f. 28.8.2013 till date inspite of acquiring the requisite diploma is discriminatory.

E- That the not allowing/accepting the arrival report of the appellant and not releasing monthly salaries of the appellant w.e.f. 28.8.2013 till date is the violation of natural justice.

F- That the inaction of the respondents by not allowing/accepting the arrival report of the appellant and not releasing monthly salaries of the appellant w.e.f. 28.8.2013 till date is the utter violation of the judgment dated 28/04/2016 passed by the Honorable Supreme Court of Pakistan.

G- That appellant seeks permission to advance other grounds and proofs at the time of hearing.

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

Dated: 06.02.2019

APPELLANT
[Signature]
HIDAYAT ULLAH

THROUGH:
NOOR MOHAMMAD KHATTAK
& *[Signature]*
MIR ZAMAN SAFI
ADVOCATES

TRIBAL DOMICILE CERTIFICATE

A-4



Certified that Mr. HEDA YA T ULLA H

Son / Daughter of GUL SABER KHAN

Tribe DOHR Sub Tribe MA ILEKH

Village MOHAMMA D KHEL Tehsil DATTA KHEL

Sub-Division MIRAN SHAH is bonafide resident

North Waziristan Agency.

Photo



[Handwritten signature]
HEAD MASTER
Govt High School
Ghaziama N.W.A.

[Handwritten signature]

Political Naib Tehsildar
(Name in Block Letters)
(JAE MOHAMMAD)
Tehsil Datta Khel
P.O. *[Handwritten]*

APPROVED
Assistant Political Officer
N.W. Agency *[Handwritten]*

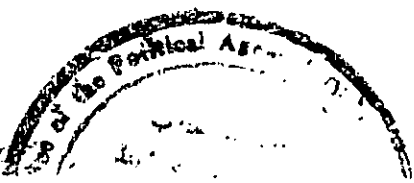
Assistant Political Officer / Agent MIRAN SHAH
(Name in Block Letters)

[Handwritten signature]
(AHMAD KHAN)

Countersigned

No. *[Handwritten]*

Date with seal 20/3/2003



[Handwritten signature]
Political Agent

بیان ملکان

ہم تصدیق کرتے ہیں کہ سبھی برائین ملک ولد مل ہوا کبیر
..... تفصیل ملک ملک

شاہی وزیرستان ایجنسی کا مستقل باشندہ ہے۔ قوم کے ساتھ نفع و نقصان میں برابر کا شریک ہے نیک چلن ہے۔
حکومت کو فائدہ ہے۔ نہ یہ تخریب کار ہے اور نہ مفرور ہے۔ غلط ثابت ہونے پر مبلغ (2) دو لاکھ روپے جرمانہ ادا کریں گے۔

ماری 2002

العبد

العبد

(2) ملک
.....

(1) ملک
.....

157-50-041567

157-34-00261

ATTESTED

Political (N) Tehsildar

Tehsil Debraichel

.....

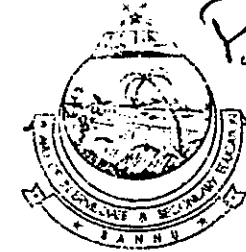
S.No. 2264

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

Roll No. 8165



Board of Intermediate and Secondary Education
Bannu N-W.F.P. (Pakistan)



SECONDARY SCHOOL CERTIFICATE EXAMINATION

SESSION 2002 (Annual)

This is to Certify that Hedayat Ullah

Son of Gul Sabir Khan

Student of Govt. High School Muhammad Khel, N.W. Agency

has passed the Secondary School Certificate Examination of the Board of Intermediate and Secondary Education, Bannu held in March, 2002 as a Regular candidate.

He obtained 477 marks out of 850 and has been placed in Grade "C" Representing Good.

The candidate passed in the following subjects:

1. English	2. Urdu	3. Pakistan Studies	4. Islamiyat (Comp)
5. Riazi (New)	6. Physics	7. Chemistry	8. Biology

Date of birth according to admission form is 03 July, Nineteen Eighty-Six. (03-07-1986)

Date of declaration of Result: 29-06-2002

Prepared on: January 17, 2005

Assistant Secretary

HEADMASTER
Govt High School
Ghazlana N.W.A

SECRETARY

THIS CERTIFICATE IS ISSUED WITHOUT ALTERATION OR IMPAIRURE

6

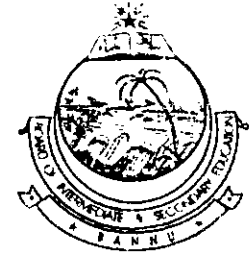
S.No. 5814

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

Roll No. 5243



Board of Intermediate and Secondary Education
Bannu N-W.F.P. (Pakistan)



INTERMEDIATE EXAMINATION

SESSION 2004 (Supply)
Humanities Group

This is to Certify that Hedayat Ullah

Son of Gul Sabir Khan

Student of North Waziristan Agency

Registration No. 301-BB-MS-1-02 has passed the Intermediate Examination of the Board of Intermediate & Secondary Education, Bannu held in November, 2004 as a Private candidate.

He obtained 567 marks out of 1100 and has been placed in Grade C Representing Good.

Date of declaration of Result: 27-01-2005

Prepared on: November 19, 2013

Assistant Secretary

HEAD MASTER
Govt High School
Ghazlana N.W.A

SECRETARY

GOMAL UNIVERSITY



DERA ISMAIL KHAN

(N.W.F.P. PAKISTAN)

**DETAILED MARKS CERTIFICATE
BACHELOR OF ARTS PART II**

7

Held in June-July 2007
Session 2007/Annual

Roll No: 10618

Name: Hadayat Ullah

The Candidate secured the following marks & has been placed in 2nd Division

SUBJECT	Total No of Marks Allotted	MARKS OBTAINED	
		In Figure	In Words
English	75	26	Twenty Six
Urdu	75	-	-
Pashto	75	-	-
English Elective	75	-	-
Arabic	75	-	-
Persian	75	-	-
Statistics	75	-	-
Geography	75	-	-
History	75	-	-
Economics	75	-	-
Political Science	75	-	-
Islamic Studies	75	41	Forty One
Law	75	-	-
HPE	75	60	Sixty
Pak Studies	40	18	Eighteen
Sociology	75	-	-
Electronics	75	-	-
Home Economics	75	-	-
Psychology	75	-	-
Math A	75	-	-
Math Additional	75	-	-
Math B	75	-	-
Aggregate Part-I	285	152	One Hundred and Fifty Two
Total Marks	550	297	Two Hundred and Ninety Seven

The Examination was taken as a Whole/In Parts

Result Declaration Date 11/09/2007

[Signature]
HEADMASTER
Govt High School
Ghazlana N.W.A

Additional Controller of Examination
City Campus, Gomal University,
Dera Ismail Khan

S.No. 196

بِسْمِ اللّٰهِ الرَّحْمٰنِ الرَّحِیْمِ

9

Board of Intermediate & Secondary Education



BANNU

Inter: College Sports Tournament

SESSION 2007-2008

Name _____

Father's Name Saad Khan _____

Institution Govt. College _____

Event Cricket _____

Place Winner _____



HEAD MASTER
Govt High School
Ghazlama N.W.A

President

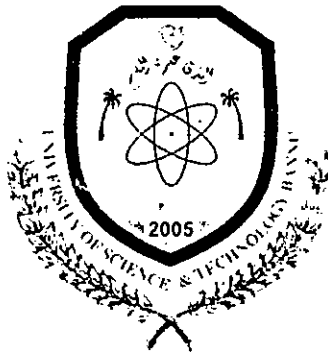
Secretary

Date 24/12/2007

S. No. 197

UNIVERSITY OF SCIENCE & TECHNOLOGY

9



INTER COLLEGES SPORTS TOURNAMENT

SESSION 2006-07

CERTIFICATE

Name HIDAYATULLAH

Father's Name GH. S. BIR...

Institution GOVT. POST GRADUATE COLLEGE MIRANSAH

Game / Event CRICKET

Position RUNNER

Time / Distance / Height _____

Date 19/03/2007

19/03/2007



[Handwritten signatures]

HEAD MASTER
Govt High School
Ghazlama, N.W.A

PRESIDENT
B.U.S.T.C.

REGISTRAR
UST BANNU

SECRETARY
B.U.S.T.C.

APPOINTMENT ORDER:

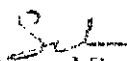
C-10

Consequent upon the recommendation of Departmental Selection committee, the following trained PET Male Candidates are hereby appointed as PET Teachers on temporary basis in BPS-09 at Rs. (6200-380-17600) per month plus usual allowances as admissible under the rules against vacant PET posts in the schools mentioned each against their names from the date of taking over charge.

S.No	Name with Father Name	Qualification	Place of posting	Remarks
1. ✓	Hidayat Ullah S/o Gul Sabir Khan	BA/JDPE	GHS Ghazlama Tehsil Datta Khel	Against vacant post
2.	Nomran Khan S/o Yasin Khan	BA/JDPE	GHS Muhammad Khel	-do-
3.	Akhtar Ali Khan S/o Syed Nek Khan	BA/JDPE	GMS Pir Samand	-do-
4.	Rahman Zeb S/o Muhammad Rikhan	BA/JDPE	GHS Land	-do-

TERMS & CONDITIONS:

1. Their appointment is made on temporary basis and is liable to termination at any time with out any notice. If they wish to resign from their post, they should give one month prior notice or forfeit one month pay in lieu thereof.
2. They should bring their Health and Age certificate from Medical Supdt: A.H.Q Hospital Miranshah.
3. If they fail to assume their charge with in 15 days, their order will be treated as cancelled.
4. They should not be handed over charge if they are below 18 years and above 35 years of age.
5. Their Academic/Professional Certificates/Degrees will be referred to the concerned Boards/Universities for by depositing usual fee charge for proper necessary verification & their salaries will not be drawn until and unless their verification are received in this office.
6. Their original Qualification, Date of Birth, Domicile Certificates and C.N.I.C should be checked and photo copy be placed on record.
7. They will be terminated if their Academic/Professional Certificates/Degrees were found fake/bogus and tampered.
8. The appointees are entitled for all benefits admissible to civil servants.


(Muhammad Zaveed Wazir)
Agency Education Officer
North Waziristan Agency


Encls. No. 996-1502 Appointment/PET/AEO/NWA

Dated: 28/8 /2013

Copy to:-

1. The Director of Education (FATA) KPK Peshawar.
2. The Political Agent NWA Miranshah.
3. The Agency Accounts Officer Miranshah.
4. AAO concerned.
5. Head of Institution concerned.
6. Candidates concerned.
7. Accountant local office.

ATTESTED


Agency Education Officer
North Waziristan Agency

11

MEDICAL CERTIFICATE

Name of Official. Mr. Hidayatullah

Caste or race. Muslim

Father's Name Mr. Gul Sabir Khan

Residence. 7 village Muhammad Khel
Tahsil Datta Khel N.W.F.

Date of birth. 03-7-1986

Exact height by measurement. 15-7

Personal Mark of Identification. Wound Scar on left Hand

Signature of the Official. [Signature]

Signature of head of Office. _____

Seal of Office _____

I do hereby certify that I have examined Mr./Miss. Hidayatullah
candidate for employment in the Office of the Education Dept.
and can not discover that he/she had any disease communicable or other
constitutional effect ion or bodily infirmity except nil

I do no consider this as disqualification for employment in the office of the
Education Dept. His/her age according to his own statement 27
Years and by appearance about 27 years.

LEFT HAND THUM AND FINGER
IMPRESSIONS [Impressions]
7/9/2013

[Signature]
Medical Superintendent,
AHO Hospital Miranshah.
Medical Superintendent
Agency H.O. Hospital
MIRANSHAH

ATTESTED
[Signature]

ملاحظات الیوم			صوم اللہ			حبیب الرحمان			رقم
DEPT			Labi Tech			T-T			نمبر
تاریخ	تاریخ	تاریخ	تاریخ	تاریخ	تاریخ	تاریخ	تاریخ	تاریخ	نمبر
									1
7/30	7/30	7/30	12/30	12/30	7/30	حبیب	12:30	7:30	2
12/30	12/30	12/30	7/30	7/30	7/30	حبیب	"	"	3
"	"	"	12/30	12/30	7/30	حبیب	"	"	4
"	"	"	"	"	"	حبیب	"	"	5
"	"	"	"	"	"	حبیب	"	"	6
"	"	"	"	"	"	C-leave	"	"	7
"	"	"	"	"	"	"	"	"	8
"	"	"	"	"	"	"	"	"	9
"	"	"	"	"	"	"	"	"	10
"	"	"	"	"	"	"	"	"	11
"	"	"	"	"	"	"	"	"	12
"	"	"	"	"	"	"	"	"	13
"	"	"	"	"	"	"	"	"	14
"	"	"	"	"	"	"	"	"	15
"	"	"	"	"	"	"	"	"	16
"	"	"	"	"	"	"	"	"	17
"	"	"	"	"	"	"	"	"	18
"	"	"	"	"	"	"	"	"	19
"	"	"	"	"	"	"	"	"	20
"	"	"	"	"	"	"	"	"	21
"	"	"	"	"	"	"	"	"	22
"	"	"	"	"	"	"	"	"	23
"	"	"	"	"	"	"	"	"	24
"	"	"	"	"	"	"	"	"	25
"	"	"	"	"	"	"	"	"	26
"	"	"	"	"	"	"	"	"	27
"	"	"	"	"	"	"	"	"	28
"	"	"	"	"	"	"	"	"	29
"	"	"	"	"	"	"	"	"	30
"	"	"	"	"	"	"	"	"	31
میزان	میزان	میزان	میزان	میزان	میزان	میزان	میزان	میزان	میزان
2	2	2	2	2	2	4	4	4	4

HEAD MASTER
Govt High School
Ghazilama N.W.A

2

2

Govt High School
Ghazilama
N.W. Agency

BETTER COPY OF PAGE-14

**JUDGMENT SHEET
IN THE PESHAWAR HIGH COURT, BANNU BENCH
(Judicial Department)**

JUDGMENT

*Writ Petition No. 330-B of 2015
Rasool Mehmood and others
Addl. Chief Secretary FATA etc*

Date of hearing 10.9.2015

Appellant-Petitioner Rasool Mehmood and others

By Alamzeb Khan Adv

Respondent by F.M Sabir Adv (Standing Counsel)

No.3 by Faridullah Shah Wazir Adv

MUHAMMAD YOUNAS TAHEEM J--- This judgment in writ petition No. 330-B shall also dispose of writ petitions bearing No.s 354-B of 2013, 421-B of 2013, 10-B of 2014 and 387-B of 2015; because in all these petitions common question of law and fact is involved and arising out of one and the same order bearing No. 3991-99/S dated 21-9-2013 passed by the Political Agent, North Waziristan Agency Miranshah, respondent No.3 herein, whereby appointment orders of the petitioners in the education Department North Waziristan Agency, recruited on different posts, have been declared null and void on the ground that their degrees/certificates were fake.

2. we have heard the learned counsel for the parties and gone through the record annexed with the petition.
3. Perusal of the record transpires that the petitioners of the instant writ petition on the same subject matter, have earlier filed Writ Petition No. 497-P of 2015 which was decided on 9.6.2015 and the respondents/department were directed to issue formal appointment orders of the petitioner in compliance with the recommendation of the competent authority, positively within prescribed period. The only grievance of petitioners is that till date the competent authorities have not made any recommendation for their appointment.
4. In wake of the above, we direct the competent authorities of the education department to make recommendation for appointment of the petitioners in all the writ petitions on the posts in question positively within thirty days strictly in accordance with law, policy of the Government on the subject, merit and after due verification of their educational testimonials by the concerned Boards/Universities/Institutions.
5. For the reason discussed above, all the writ petitions are disposed off accordingly.

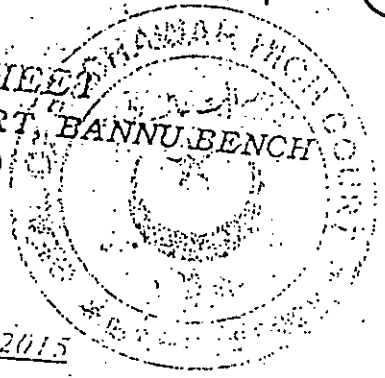
ANNOUNCED

10.9.2015

①

F-14

JUDGMENT SHEET
IN THE PESHAWAR HIGH COURT, BANNU BENCH
(Judicial Department)



JUDGMENT

Writ petition No. 330-B of 2015

Rasool Mahmood and others

Vs

Addl. Chief Secretary FATA etc

Date of hearing 10.9.2015

Appellant-Petitioner Rasool Mahmood and Others

By Ahmad Zah Khan Adv

Respondent By F.M. Sabir Adv. (Standing Counsel)

and By Faridullah Uddin Adv.

MUHAMMAD YOUNUS THAHEEM J. This

judgment in writ petition No.330-B of 2015 shall also
dispose of writ petitions bearing Nos. 354-B of 2013, 421-
B of 2013, 10-B of 2014 and 387-B of 2015; because in all
these petitions common question of law and fact is
involved and arising out of one and the same order bearing
No.3991-99/S dated 21-9-2013 passed by the Political
Agent, North Waziristan Agency Miranshah, respondent

ATTESTED

ATTESTED

By [Signature]
Judicial Officer
Bannu Bench

(2)

(15)

No.3 herein, whereby appointment orders of the petitioners in the education department, North Waziristan Agency recruited on different posts, have been declared null and void on the ground that their degrees/ certificates were fake.

2. We have heard the learned counsel for the parties and gone through the record annexed with the petition.

3. Perusal of the record transpires that the petitioners of the instant writ petition on the same subject matter, have earlier filed Writ petition No:497-P of 2015 which was decided on 9.6.2015 and the respondents/ department were directed to issue formal appointment orders of the petitioners in compliance with the recommendation of the competent authority, positively within prescribed period. The only grievance of the petitioners is that till date the competent authorities have not made any recommendation for their appointment.

S
2

ATTESTED



ATTESTED
EXAMINER

3

16

4. In wake of the above, we direct the competent authorities of the education department to make recommendation for appointment of the petitioners in all the writ petitions on the posts in question positively within strictly in accordance with law, policy of the Government on the subject, merit and after due verification of their educational testimonials by the concerned Boards/ Universities/institutions.

5. For the reason discussed above, all the writ petitions are disposed off accordingly.

Sd/- Ikramullah Khan, J

ANNOUNCED
10.9.2015

Sd/- Muhammad Younis Tahir, J

CERTIFIED TO BE TRUE COPY

10/10/2015

Patronage of the Court, District Bench
Authenticity under Article 37 of
the Constitution of Pakistan under 1984

Azam/PS

G-17

OFFICE OF THE AGENCY EDUCATION OFFICER NORTH WAZIRISTAN AGENCY MIRANSHAH
(TENTATIVE) REVISED SHORT LIST OF MALE "PET" TEHSIL DATTA KHEL 26/5/2016

Sl.No	Name	F/Name	DOB	SSC			FAIR USE			BAHAR			M.A.M. Ex			IDPE (PET)			Service Marks	Art & Music	Total Score	Remarks
				Total	Lab Marks	Grade	Total	Lab Marks	Grade	Total	Lab Marks	Grade	Total	Lab Marks	Grade	Total	Lab Marks	Grade				
1	Akhtar Ali Khan	Syed Nek Khan	3.4.1992	900	421	9.36	1100	554	10.07	550	282	10.25	0	0	0	1050	679	12.83	0	10	52.81	
2	Hudaysoh	Gul Sabir Khan	3.7.1988	850	477	11.22	1100	567	10.31	550	297	13.8	0	0	0	150	1000	15.50	0	0	47.10	
3	Matiullah	Psydo Sardar	19.11.1977	850	395	9.29	1100	535	9.73	550	266	9.57	1100	611	8.33	1050	544	10.36	0	0	47.36	for Service Service Cert. Issued
4	Nomran Khan	Yasin Khan	17.1.1987	850	437	10.28	1100	547	9.95	550	270	9.82	0	0	0	850	543	12.78	0	0	42.83	PETITION
5	Rehman Zeb	Muhammad Rai Khan	13.9.1982	850	444	10.45	1100	545	9.91	550	276	10.04	0	0	0	1050	634	12.68	0	0	41.32	
6	Khalid Ullah	Amin Noor Khan	30.3.1984	850	381	8.96	1100	562	10.22	550	275	10	0	0	0	850	516	12.14	0	0	41.32	
7	Sbafiqullah	Khan Sahib Khan	11.4.1984	850	403	9.48	1100	500	9.09	550	237	8.52	0	0	0	1050	632	13.18	0	0	48.27	

1. Muhammad Nabi AEO NWA
Chairman

2. Muhammad Saleem Wazir
HM Hasham Abad Khyber Agency

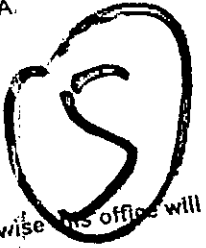
3 Abdul Manan
SO (Education) FATA.

4. Mr Fazal Wadood
Political Tehsil Dar MRN

5. Mr Samullah
V/Principal GHSS Eidck NWA

6. Mr Noorullah Jan
AAEO NWA

7. Mst. Taj Meena
AAEO(F) NWA



Not submitted before the end of Tentative date, otherwise this office will not be responsible for their recruitments.

[Handwritten signature]

18

OFFICE OF THE AGENCY EDUCATION OFFICER NORTH WAZIRISTAN AGENCY MIRANSHAH
 REVISED FINAL MERIT LIST BEFORE VERIFICATION OF MALE "PET" TEHSIL DATTA KHEL 10/8/2016

S.No	Name	F/Name	DOB	SSC			FA/F.Sc			BA/B.Sc			M.A/M.Sc			JDPE (PET)			Service Marks	Science Marks	Total Score	Remarks	
				Total	Obt. Marks	Score	Total	Obt. Marks	Score	Total	Obt. Marks	Score	Total	Obt. Marks	Score	Total	Obt. Marks	Score					
1	Akhtar Ali Khan	Syed Nek Khan	3.4.1992	900	421	9.36	1100	554	10.07	550	282	10.25	0	0	0	1050	679	12.93	0	0	10	52.51	
2	Nomran Khan	Yasin Khan	17.1.1987	850	437	10.28	1100	547	9.95	550	270	9.82	0	0	0	850	543	12.78	0	0	0	42.83	In-Service Service Cert Required
3	Rahman Zeb	Muhammad Rai Khan	13.9.1982	850	444	10.45	1100	545	9.91	550	276	10.04	0	0	0	1050	634	12.08	0	0	0	42.48	PETITIONER
	Khalid Ullah	Amin Noor Khan	30.3.1984	850	381	8.96	1100	562	10.22	550	275	10	0	0	0	850	518	12.14	0	0	0	41.32	
	Shafiqullah	Khan Sahib Khan	11.4.1984	850	403	9.48	1100	500	9.09	550	237	8.62	0	0	0	1050	692	13.18	0	0	0	40.37	

Chairman
 1. MUHAMMAD NABI AEO NWA
 AEO N.W.Agency

Member
 2. Muhammad Saleem Wazir
 HM Hasham Abad Khyber Agency

Member
 3. Abdul Manan
 SO (Education) FATA

Member
 4. Mr. Fazal Wadood
 Political Tehsildar MRN

Member
 5. Mr. Samiullah
 Principal GHSS Eidak NWA

Member
 6. Mr. Noorallah Jan
 AAEO NWA

Member
 7. Nst. Taj Meena
 AAEO(F) NWA

ATTACHED

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

PRESENT:

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

CIVIL APPEALS NO. 843 TO 869 AND 969 TO 970 OF 2012 AND CIVIL APPEALS NO. 263-L TO 265-L OF 2013 AND 984, 127-P AND 129-P TO 134-P AND 136-P TO 141-P AND 143-P TO 148-P OF 2014 AND CIVIL PETITIONS NO. 1353-L OF 2012 AND 3474 OF 2015 AND CMAs. NO. 1378 OF 2014 AND 6497 OF 2014.

(On appeal against the judgments dated 23.04.2012, 2.4.2014, 29.5.2012, 12.06.2012, 16.5.2012, 25.4.2013, 30.05.2013, 11.09.2013, 16.09.2013, 27.6.2013, 14.5.2014, 10.06.2014, 15.5.2014, 3.6.2014 and 23.9.2015 of the Lahore High Court, Lahore High Court, Rawalpindi Bench, Peshawar High Court, Peshawar and High Court of Balochistan Quetta in W.P. Nos. 3002, 3519/2010, 256/11, CA.87/10, WP. 4208/10, 5468/10, ICAs. 232/11, 258/10, WPs. 1229/09, 23067/09, 2130/10, 15724/10, 3751/10, 3752/10, 21755/10, 23465/10, ICAs. 87/2010, 248/10, 249/10, 257/10, Wps. 9878/10, 15813/10, 15918/10, 16844/10, 15438/11, ICAs. 233/11, 234/11, WPs. 4146/10, 3173-P/12, 3172-P/12, 3174-P/12, 3239-P/12, 3240-P/12, 1297-P/12, 3032-P/12, 3283-P/13, 3321-P/12, 3362-P/12, 3378-P/12, 122-P/13, 1279-P/12, 1499-P/12, 1349-P/14, 746-P/14, 207-M-P/14, 1393/14 and CP. 811/2015).

DCO/Chairman District Recruitment Committee, Khanewal and others.

EDO (Education), Lochran/Member Recruitment Committee, Loh-dhran and others.

DCO/Chairman District Recruitment Committee, Sahiwal and others.

DCO/Chairman District Recruitment Committee, Sahiwal and others.

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

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

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

DCO/Chairman District Recruitment Committee, Bahakkar and others.

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

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

IN THE SUPREME COURT OF PAKISTAN
(APPELLATE JURISDICTION)

H-19

PRESENT:

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

CIVIL APPEALS NO. 843 TO 843 AND 969 TO 973 OF 2012 AND
CIVIL APPEALS NO. 263-L TO 265-L OF 2013 AND 984, 127-P AND
129-P TO 134-P AND 136-P TO 141-P AND 143-P TO 148-P OF
2014 AND CIVIL PETITIONS NO. 1353-L OF 2012 AND 3474 OF
2015 AND CMAs. NO. 1378 OF 2014 AND 6497 OF 2014.

(On appeal against the judgments dated 23.04.2012, 2.4.2014,
29.5.2012, 12.06.2012, 15.5.2012, 25.4.2013, 30.05.2013, 11.9.2013,
16.9.2013, 27.6.2013, 14.5.2014, 10.6.2014, 15.5.2014, 3.6.2014 and
23.9.2015 of the Lahore High Court, Lahore, Lahore High Court,
Rawalpindi Bench, Peshawar High Court, Peshawar and High Court
of Balochistan Quetta in W. P. Nos. 3002, 3519/ 2010, 256/11,
ICA.87/10, WP. 4208/10, 5468/10, ICAs. 232/11, 258/10, WPs. 1229/09,
23067/09, 2130/10, 15724/10, 3751/10, 3752/10, 21755/10, 23465/10,
ICAs. 87/2010, 248/10, 249/10, 257/10, WPs. 9878/10, 15813/10,
15918/10, 16844/10, 15638/11, ICAs. 233/11, 234/11, WPs. 4146/10,
3173-P/12, 3172-P/12, 3174-P/12, 3239-P/12, 3240-P/12, 1297-P/12,
5032-P/12, 3283-P/13, 3321-P/12, 3362-P/12, 3378-P/12, 122-P/13,
1279-P/12, 1499-P/12, 1349-P/14, 746-P/14, 207-M-P/14, 1393/14 and
CP. 811/2015).

DCC/Chairman District Recruitment Committee,
Khanewal and others.

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

DCO/Chairman District Recruitment Committee, Sarnawal and others.

DCO/Chairman District Recruitment Committee, Sarnawal and others.

DCO/Chairman District Recruitment Committee,
Faisalabad and others.

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

DCO/Chairman District Recruitment Committee, Hafizabad and others.

DCO/Chairman District Recruitment Committee, Bahakkar and others.

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

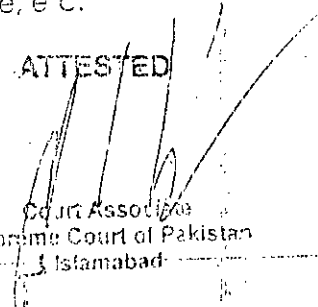
DCO/Chairman District Recruitment Committee,
Nankana Schib and others.

0/

ATTESTED



ATTESTED


Court Associate
Supreme Court of Pakistan
Islamabad

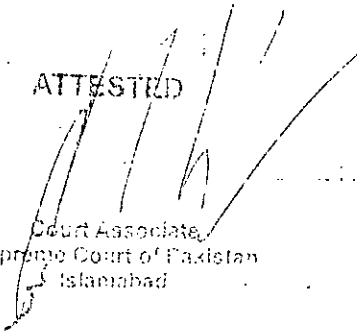
20

- Province of the Punjab Through Secretary (Schools) and others.
- Govt. of the Punjab thr. Secy. Education, Lahore and others.
- EDO (Education) Member Executive Committee, Lodhran and others.
- EDO (Education) Member Executive Committee, Lodhran and others.
- EDO (Education), Multan and others.
- EDO (Education), Multan and others.
- DCO Jhang and others.
- Govt. of Punjab thr. Secy Education, Lahore and others.
- Executive District Officer (Education) Kharrewal and others.
- DCO/Chairman District Recruitment Committee, Bhakkar and others.
- DCO/Chairman District Recruitment Committee, Bhakkar and others.
- DCO/Chairman District Recruitment Committee, Bhakkar and others.
- EDO (Education) Chakwal/Member Recruitment Committee, etc.
- EDO (Education) Chakwal/Member Recruitment Committee, etc.
- The Secy. Govt. of Punjab Education Department, Punjab, Lahore, etc.
- District Co-ordination Officer Bahawalnagar and another.
- District Co-ordination Officer Bahawalnagar and another.
- District Co-ordination Officer Bahawalnagar and another.
- District Co-ordination Officer Bahawalnagar and another.
- Secy. School Education Department, Govt. of Punjab Lahore, etc.
- District Education Officer (Male) Charsadda and others.
- District Education Officer (Male)-Peshawar and others.
- District Education Officer (Male) Peshawar and others.
- District Education Officer (Male) Peshawar and others.
- District Education Officer (Male) Peshawar and others.
- Provincial Govt. thr. Secy (E&S) Education, Peshawar, etc.
- Director Education FATA, Peshawar and others.
- Director Education FATA, Peshawar and others.

ATTESTED



ATTESTED



Court Associate,
Supreme Court of Pakistan
Islamabad

21

Director Education FATA, Peshawar and others.
Additional Chief Secretary FATA, Peshawar and others.
Additional Chief Secretary FATA, Peshawar and others.
Secretary to Govt. of KPK (E&S) Education Peshawar and others.
Govt. of KPK thr. Chief Secretary, Peshawar and others.
District Education Officer, Peshawar and others.
District Education Officer, Peshawar and others.
District Education Officer, (Male) Dir Lower and others.
Govt. of KPK thr. Chief Secretary, Peshawar and others.
Muhammad Siddique and others.

...Appellant(s)/Petitioner

VERSUS

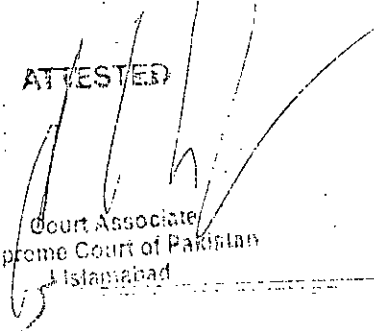
Kishwar Sultana and others.
Mst. Imtiaz Khedim and others.
Nosim Akhtar and others.
Muhammad Ejaz Kamran and another.
Mst. Shazia Ambreen and others.
Nazra Batool and others.
Nazra Batool and others.
Samina Bibi and others.
Muhammad Asghar and others.
Mst. Azra Bano and others.
Asif Ali and others.
Saira Younas and others.
Mst. Sanobar Tabassum and others.
Sheikh Irfan Ahmad and others.
Nosir Abbas and others.
Muhammad Imran Hussain and others.

ATTESTED



ATTESTED

Court Associate
Supreme Court of Pakistan
Islamabad



22

Nasim Akhler.

Avisha Mumtaz and others.

Mst. Zubaida Nazli and others.

Abdul Ghaffar Noon and others.

Saeeda Malik and others.

Mehboob Alam Khan and others.

Sajid Mumtaz and others.

Alfah Hussain and others.

Mst. Yasmeen Tahira and others.

Adeela Afzal.

Adeela Afzal.

Alla-ul-Ghafoor, etc.

Talib Hussain, etc.

Samina Sikandar and another.

Musleh ud Din and others.

Saeed Khan.

Abid Hussain and another.

Muhammad.

Saeed Khan.

Centre Research of Education thr. Zafar Iqbal.

Snabana and others.

Mst. Naheeda Nizam.

Shakirullah and others.

Tariq Aziz and others.

Rifaqat Khan and others.

Mst. Shokeela Naz and others.

Mst. Neelam Waris.

Syed Iqbal Abbas.

SW

ATTESTED

[Signature]

ATTESTED

[Signature]
Court Associate
Supreme Court of Pakistan
Islamabad

23

Mikhar Ali and others.
Lalif ur Rehman and others.

Zia-ur-Rahman and others.

Msi. Mehreen Hayat.

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

...Respondent(s)

For the Appellants(s): Mr. Mudassar Khalid Abbasi, AAG, Pb.
Mr. Waqar Ahmed Khan, Addl. A. G. KPK.
Majeedullah, Legal Representative DE(E&SE)
Peshawar.
Fazl-e-Khalid, Legal Representative DEO (Male)
Sawabi.

For the respondents: Mr. Ijaz Anwar, ASC.
(in CAs. 145-P to 147-P/14 and 128-R/14).
Molvi Ejaz-ul-Haq, ASC.
(in CAs. 843, 844, 850, 854, 969, 356 and
859/2012)
Syed Wasaf-ul-Hassan Shah, ASC
(in CA. 843/12)
Mr. Abdul Rehman Siddiqui, ASC
(in CMAs. 1490 and 6497/14)
Mr. M. Siddique Khan Baloch, ASC
(in CMAs. 2366-2367/16)
Rehmanullah, In person.
Farooq Ahmed, In person.
Musharaf Shah, In person.
M. Ishaq, In person.
M. Zia-ul-Haq, In person.
(in CA. 145-F/2014).

On Court's Notice:

Mr. Sohail Ahmed, DAG.

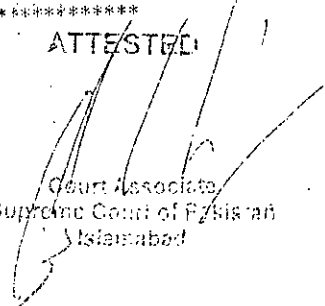
Date of Hearing: 08.04.2016 (Judgment Reserved)

etc

ATTESTED



ATTESTED



Court Associate
Supreme Court of Pakistan
Islamabad

JUDGMENT

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

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

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

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

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

24

J U D G M E N T

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

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

3. The learned AAG, Punjab appearing on behalf of the appellants contended that Skill Development Council was established under the National Training Ordinance, 1980 and the rules made thereunder, for providing technical and vocational training and not for awarding any certificate or diploma in the fields of art, craft, education or physical education; and that the Skill Development Council overstepped its limits by offering courses in the fields mentioned above and issuing certificates or diplomas therein. He next contended that since the certificates or diplomas issued by the Skill Development Council do not conform to the course, curriculum or training required for art, craft, education or physical education, any appointment made on the basis of such certificate or diploma being against the provisions of the Ordinance

2/11

ATTESTED

ATTESTED

Court Associate
Supreme Court of Pakistan
Islamabad

25

and rules made thereunder is liable to be annulled. Even the National Training Board, the learned AAG maintained, constituted under the Ordinance cannot issue any directive to protect any such diploma or certificate when its role in the whole affair is recommendatory. The learned AAG to support his contention also placed reliance on the letter No: SO(SE-IV)4-461/09 dated 16.08.2010 issued by the Secretary Schools Education Department, Govt. of Punjab.

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

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

CAV

ATTESTED

ATTESTED

✓
Court Associate
Supreme Court of Pakistan
Islamabad

26

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

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

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

- a) "establishment" means any office, firm, industrial unit, undertaking, shop or premises in which workmen are employed for the purpose of carrying on any industry;
- b) "industry" means any business, trade, manufacture, calling, service, employment or occupation;
- c) "institution" means a school, college or institute, by whatever name called, imparting vocational training;
- d) "National Board" means the National Training Board constituted under section 3 ;
- ca) "National Trade Testing Board" means National Trade Testing Board constituted by the National Training Board under sub-section (2) of section 4 ;
- e) "prescribed" means prescribed by regulations made under this Ordinance;
- f) "Provincial Board" means a Provincial Training Boards constituted under sub-section (2) of section 5;

04.

ATTESTED



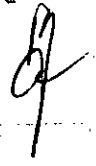
ATTESTED

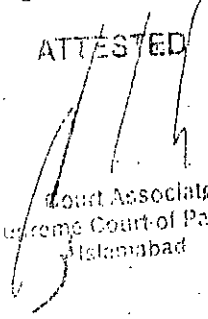
Court Associate
Supreme Court of Pakistan
Islamabad

28

- v) supervise such training programmes are funded from the Federal budget;
- vi) prepare national training plan, programs and projects in view of local as well as foreign requirements and monitor their implementation;
- vii) recommend to the Federal Government means for financing training programmes;
- viii) promote and finance training of establishment based or institution-based training officials and instructors;
- ix) organize and conduct seminars and workshops for various types of personnel associated with training activities;
- x) collect and compile statistics related to training;
- xi) co-ordinate the working of Provincial Boards and Technical Education and Vocational Training Authority;
- xii) review existing and propose legislation on vocational training and recommend necessary legislative provisions with the concurrence of the Provincial Boards and Technical Education and Vocational Training Authority;
- xiii) issue to establishments, Provincial Boards, Technical Education and Vocational Training Authority or institutions for compliance, directives within the framework of the approved plans and projects;
- xiii(a) assist and establish institutions in collaboration with private sector to promote technical, vocational and in-plant training and skill development;

Q/V

ATTESTED


ATTESTED

Court Associate
Supreme Court of Pakistan
Islamabad

29

- xiii) undertake registration and licensing of all establishment, organizations or institutions which are offering or providing vocational training;
- xiii) develop system and conduct trade testing and certification of skilled workers who have received vocational training through any source or acquired skills through experience or informal system;
- xiv) do all other acts necessary for carrying out the purposes of this Ordinance;


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

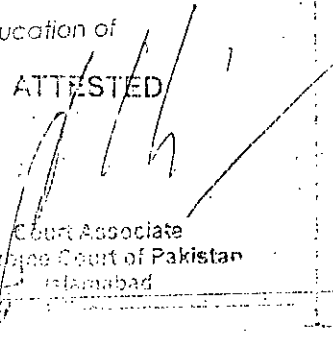
9. Functions of Skill Development Council have been dealt with by Rule 6 of the Rules of Business of Skill Development Council, 2013 which reads as under :-

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

- a) Provide a productive link between employers, employees, training providers and trainees;
- b) identify training needs of the geographical area, analyze and orientalize training needs and arrange training, retraining as well as skill up-gradation through contracted arrangement with public and private training institutes/establishments and in-plant training mode.
- c) Develop National Vocational Qualifications for prescribed levels from pre to post education of

Q/M

ATTESTED


ATTESTED

Court Associate
Supreme Court of Pakistan
Islamabad

30

technical/professional skills and knowledge based on employment and industry/market need analysis and submits for approval of NTB.

- d) Assure quality training for youth and already employed persons by preparing courses, setting standards, developing Quality Management System and final trade testing and certification, Trade Testing and certification up to six months duration will be carried out by SDC with the concurrence of National Training Board and the courses more than six months duration will be conducted by the NTB/PTB.
- e) Develop the potential of work-force by increasing their standard of skill and basic education so as to increase productivity, quality of product and to meet the needs of both domestic and international market.
- f) Motivate employers to operate as investor in human capital, so as to encourage organizations to invest in people through participation in skill development programmes besides arranging skill competitions for enhancing the popularity of vocational training in all areas and improving proficiency of skilled workers as well as promote self employment by providing loan to winners.
- g) Support informal sector i.e. Ustad-Shagird system through provision of training for skill enhancement and trade testing. Provide skill training and structured education to working children at small garages and workshops to protect child Labour and bring them into main stream of vocational education and training.
- h) Develop and implement special training programme for women, children of industrial workers and under privileged youth to prepare

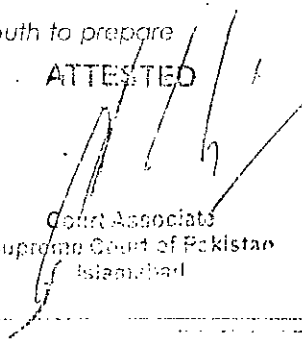
em

ATTESTED



ATTESTED

Court Associate
Supreme Court of Pakistan
Islamabad



31

them for gainful employment or to engage in some income generating activities to raise their standard of living and social up lifting through self employment.

- i) Develop and arrange specialized training programme in information Technology for unemployed educated youth (Matriculate-Graduate) to provide them maximum employment opportunities locally and abroad.
- ii) Introduction and promotion of distance learning, computer based training and new training technologies including video conferencing through support and affiliation with international institutions/Universities involving local institutions.
- k) Customized training programme for the rehabilitation of expatriates and employees being declared surplus due to privatization as well as downsizing programmes of the Government.
- l) Any other programme and activity to promote technical vocational education and training in the country with the approval of NTEB."

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

7. Procedure to Conduct Business :

- a) The SDCs shall set its targets regarding number of trainees to be trained in various Vocational Qualifications from proficiency and competency based certificate and diploma level for better employment opportunities to the trainees.

em

ATTESTED



ATTESTED

Court Associate
Supreme Court of Pakistan
Islamabad

32

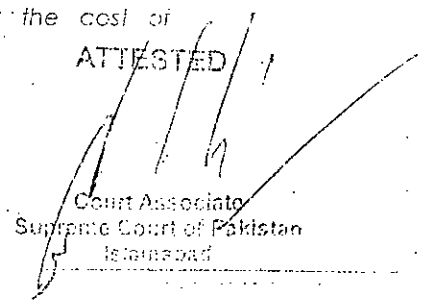
- b) The SDCs shall identify the training need through surveys, direct interaction with employer associations/individual employers and keeping in view the local and international market trend.
- c) The SDCs shall design and Develop the training programmes through technical committees comprised of representatives from business organizations and training providers and will arrange the training of educated youth and already employed at various public and private training institutes including industry individually or with group of institutes on contractual basis.
- d) The Selection of the Institute/Training Providers will be made keeping in view the facilities available at the institute(s) and the contents of the course.
- e) The Council will recommend registration of public and private institutes including industry based training institutes to NTB/PTB as covered under National Training Ordinance 2002.
- f) Training programme will be announced in the newspapers and selection of trainees will be made by the SDCs on merit with the help of participating institutes.
- g) The SDC shall also register and impart training to school leavers Matric dropouts, educated and uneducated unemployed, child trainee and other workers in the formal and informal sectors for the purpose of imparting training and skill up grading in all programmes sponsored by the Government or any other donor agency or body.
- h) The SDC will charge at an average 10% service charges from the training institutes for each training programme to cover the cost of

Q/w

ATTESTED



ATTESTED



Court Associate
Supreme Court of Pakistan
Islamabad

33

advertisement, brochure, registration and certification and other expenses of the Council. The rate of service charges may be reduced or increased keeping in view the nature and potential of the training programme. However, the fee structure should be on cost recovery basis.

- i) The Council will develop a mechanism to provide financial assistance in shape of repayable loan, free sponsorship to the deserving trainees/government servants and their employees but number of such cases would depend on the availability of funds.
- ii) The Council may issue to the trainee a trainee card which may be used as the basis for reimbursing the training cost to the training institution or employer where training is to be imparted. A system of training credit for crediting training cost to the training provider may be established.
- k) The Council will draw its own action plan for attaining the objectives and making the Council to operate on a self financing basis with the approval of NTB.
- l) All SDCs will forward the following to NTB.
 - a) Annual Training Plan by 1st Week of December every year.
 - b) Six month progress report and expenditure statement.
 - c) Yearly progress report.
- m) The Chairman shall appoint a Director SDC, subject to approval of the Council, who will be responsible for administering and implementing the decisions of the Council and who will be fully accountable to the Council for all his actions. The Director will also act as Secretary of the Council.

@/w

ATTESTED

ATTESTED

Court Associate
Supreme Court of Pakistan
Islamabad

34

- n) For smooth and efficient administration and implementation of the affairs of the Council, the Chairman will contract tasks and assignments.
- o) The Council will constitute various committees for the smooth functioning of the work.
- p) The Chairman will be the ex-officio Chairman of all committees formed by the Council.
- q) The Director will be the ex-officio Secretary of all committees constituted by the Council.
- r) The SDC may delegate any or all of its power to the Chairman, or any member or committee(s) appointed by it subject to such conditions as it may deem fit.
- s) The Chairman shall use the powers of the council in its absence or whenever the council is not in session subject to confirmation of all the decisions taken in exercise of the powers under this provision, of the Council in its next meeting."

11. Letter dated 16.03.2010 of the Secretary Schools Education Department, Govt. of Punjab is also relevant which reads as under :-

"Govt. of the Pakistan, Ministry of Labour and Manpower National Training Bureau, Islamabad vide No.1(57)NTB-TT&C/2009/66 dated 2.6.2010 has replied that 'Skill Development Councils (SDCs) were established and their Rules of Business were framed by the Ministry vide No.3/2/2001-TT-II dated 17.7.2002. These Rules of Business authorize SDCs to conduct courses and issue certificate for only 06 months duration with the concurrence of National Training Board, Diplomas of Art and Craft, Oriental Teacher and Physical Education are not including in the list

Ok

ATTESTED



ATTESTED

Cour. Associate
Supreme Court of Pakistan
Islamabad

BETTER COPY PAGE 35- TO 37

Provided by the Govt: of Pakistan, Ministry of Labour and Manpower, National Training Bureau, Islamabad (list attached). Therefore, awarding of such diplomas by SDCs is complete violation of Rules of Business of SDCs.”

12. A careful reading of the above quoted provisions of the ordinance and the rules would reveal that domain of the National Training Board and skill development Council is clearly demarcated by the provisions of the ordinance and rules made thereunder. The purpose behind the establishment of Board is to provide technical education and training in any physical and professional skill, trade calling or occupation. The board does not do all this in a vacuum. It makes a survey and systematic study of the market to assess the existing and future training needs both at local and foreign level and establish criteria for evaluating and determining training programmes and facilities. After doing so, it develops syllable, establishes and specifies national training standards and trade testing rules to ensure horizontal and vertical mobility, develops system and conducts trade testing through any source or acquired skills through vocational training through any source or acquired skills through experience and informal system, as is provided in section 4 of the ordinance the skill development council as the very name suggests focuses on labor market information and launches technical education and vocational training in any physical and professional skill trade calling or occupation so that the people who cannot acquire higher or specialized education may get opportunities of employment according to the needs and requirements of the market art, craft, education, and physical education. The letter reproduced above also clearly demarcated the domains of the Board and the Council. In spite of that the Council issued certificates and diplomas in such fields, even in respect of the courses of one year duration. Another amazing and intriguing fact is that appointments have been made on the basis such diplomas and certificates in the educational institutions without caring to know that the Council does not have the power and competence to launch such programmers, courses and curriculums and issue certificates and diplomas in this behalf. The education being a specializing fields having many dimensions in today's context could not thus be left to the faculty which did not have specialized qualification and training therefore, persons on the peak of education department went into deep slumber. Even if a few of them were awake, they watched the sight and spectacle with hands folded and legs crossed. By the time they realized and raised hue and cry, the water had gone above their heads. Yes, it is never too late to mend but what to do. Retain them, is the answer of the protagonists of status quo. Don't worsen the bad if correction is possible, is the answer given by those who are guided by prudent and progressive outlook. We deliberated over the pros and cons of the answers this given. The solution we have come out with is simple. Let them continue, if they besides the certificates or diplomas, issued by the Council, Possess the requisite or equivalent qualifications. Let those also continue, who improved their qualifications even thereafter. Those who could not improve their qualification up till now should improve it within a period of one year, which would be reckoned from the date of commencement of the next available academic session of the respective programme. We, therefore allow the appeals, convert the petitions into appeals and allow them in the terms mentioned above..

35

provided by the Govt. of Pakistan, Ministry of Labour and Manpower, National Training Bureau, Islamabad (list attached). Therefore, awarding of such diplomas by SDCs is complete violation of Rules of Business of SDCs."

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

62.

ATTESTED

ATTESTED

CA/Associate
of Court of Pakistan

36

education are well beyond the domain of the Council and capacity of its faculty. It thus could not launch programmes in any of these fields. The Board and the Council travelled beyond what they were established for by launching programmes falling exclusively in the domain of art, craft, education or physical education. The letter reproduced above also clearly demarcated the domain of the Board and the Council. In spite of that the Council issued certificates and diplomas in such fields, even in respect of the courses of one year duration. Another amazing and intriguing fact is that appointments have been made on the basis of such diplomas and certificates in the educational institutions without caring to know that the Council does not have the power and competence to launch such programmes, courses and curriculums and issue certificates and diplomas in this behalf. The education being a specialized field having many dimensions in today's context could not thus be left to the faculty which did not have specialized qualification and training thereof. Persons on the peak of Education Department went into deep slumber. Even if a few of them were awake, they watched the sight and spectacle with hands folded and legs crossed. By the time they realized and raised hue and cry, the water had gone above their heads. Yes, it is never too late to mend but what to do! Retain them, is the answer of the protagonists of status quo. Don't worsen the bad if correction is possible, is the answer given by those who are guided by prudent and progressive outlook. We deliberated over the pros and cons of the answers thus given. The solution we have come out with is simple: Let them continue, if they besides the certificates or diplomas, issued by the Council, possess the requisite or equivalent

0/5

ATTESTED
[Signature]

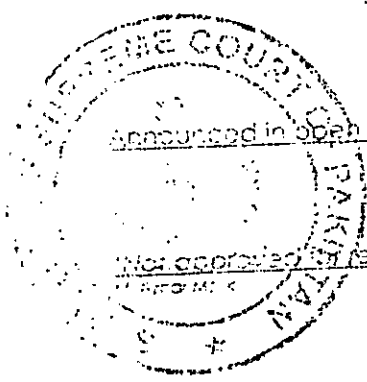
ATTESTED
[Signature]
Counsel Associate
Supreme Court of Pakistan
Islamabad

37

qualifications. Let those also continue, who improved their qualifications even thereafter. Those who could not improve their qualification up till now should improve it within a period of one year, which would be reckoned from the date of commencement of the next available academic session of the respective programmes. We, therefore, allow the appeals, convert the petitions into appeals and allow them in the terms mentioned above.

Sd/- Enz Afzal Khan, J
Sd/- Sardar Tariq Masood, J
Sd/- Faizal Haq, J

Certificate to be made Copy



Announced in Open Court at Islamabad on 28.2.2016

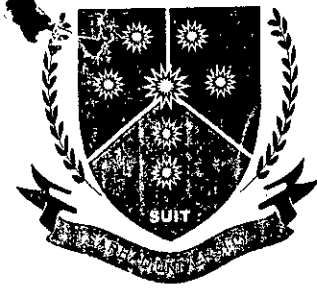
Court Associate
Supreme Court of Pakistan
Islamabad

[Signature]
Judge

30.4.16

Cr. No: EP 29/16 (Civil/Criminal)
Date of Presentation: 2-5-16
No of Words: 5
No of Folios: 1
Requisition: 2
Copy Fee: 29
Court Fee: 5
Date of Completion of Copy: 3-5-16
Date of delivery of Copy: 2-5-16
Compared by: [Signature]
Received by: [Signature]

ATTESTED
[Signature]



Sarhad University

OF SCIENCE & INFORMATION TECHNOLOGY, PESHAWAR.

I-38

Serial Number SUIT-2018-PRO-8977

Date issued: 11 July, 2018

Provisional Certificate

This is to certify that Mr./Ms. Hedayat Ullah
son / daughter of Mr. Gul Sabir Khan
registration number SUIT-16-01-070-0565
is a regular student of the Sarhad University of Science and Information Technology,
Peshawar in the session 2016 - 2018

Mr./Ms. Hedayat Ullah has according to the result notification,
issued by the University, passed the Junior Diploma in Health & Physical Education
Examination Annual/Supplementary held in 30-Jan to 5 Mar-2018 and secured 1st
division, obtained 723 marks out of 1050. He/she has already been issued
a DMC by the Controller of Examinations. He/she will receive his/her Diploma in
relevant convocation (if desired).

Mr./Ms. Hedayat Ullah bears good moral character and his/her
conduct during his/her stay at the University from 03 Oct, 2016 to 15 May, 2018
has been Very Good

ATTESTED

Director General
Directorate of Distance
Learning Management

حکومت سندھ ڈائریکٹر جنرل تعلیمی افسانہ و سرپرستی اور کھیل

J-39

درخواست پورے متنوع فارم پورٹ

صداقت علی

گزارش ہے کہ میں مورخہ 28/8/2013ء سے حاصل کیے

ڈیپارٹمنٹ پورے physical education شیجر تصنیف کیا۔ بعد از تصنیف میں
نے گورنمنٹ ہائی سکول عزیز لہہ دشت میں باقاعدہ ڈیوٹی شروع کی۔
لیکن مورخہ 21/9/2013ء سے اور پورے ڈیپارٹمنٹ میں منتقلی کے حکم
تصنیف کو منظور کر دیا گیا۔ جس کے خلاف میں نے لیکچر ہائی کورٹ
لیا۔ جس میں مقدمہ دائر کیا۔ جس کو عدالت عالیہ نے مورخہ 10/9/2015ء کو
منظور کر کے حکم دیا کہ اوصافاً صادر کی کہ سائلین کو نوکریاں نیز بحال رکھا
جائے۔ لیکن حکم نے جو سبک دہی کا حکم دیا اس میں پہلے سبک دہی
میں مجھے سبک دہی پر لکھا گیا۔ تاہم جس میں سبک دہی میں جو کہ 10/8/2016ء
کو صادر کیا گیا ہے جس پر نواح حکم صادر کیا گیا تھا۔ اور وہ یہ تھا کہ
ان کے Skill development Council کا ڈیوٹی ناقابل قبول ہے۔ سبک دہی کورٹ
آف ایٹارن کے اوصافاً کی روشنی میں منظرہ سبک دہی پر لکھا گیا ہے باقاعدہ
طور پر پورے فیشنل ڈیپارٹمنٹ میں حاصل کی۔

آپ حاصل کیے التماس ہے کہ مذکورہ اوصافاً کو سبک دہی پر لکھا گیا ہے
جواز پورٹ نیز منظور کر لیں۔

Attested

اعراض
30/10/2018
مہارت اللہ (Physical Education Teacher)

VAKALATNAMA

Before the Peshawar Bench of the High Court of Khyber Pakhtunkhwa Service Tribunal
Peshawar

Appeal
~~Writ Petition~~ No. _____ /2019

Hidayat Ullah

(APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

Education Dept.

(RESPONDENT)
(DEFENDANT)

I/We Hidayat Ullah

Do hereby appoint and constitute **NOOR MOHAMMAD KHATTAK, Advocate, Peshawar** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate Counsel on my/our cost. I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter.

Dated. _____ / _____ /2019

Hidayat Ullah
CLIENT

Noor Mohammad Khattak
ACCERTED
NOOR MOHAMMAD KHATTAK
ADVOCATE
15401-0705985-5
(BC-08-0853)

&

MUHAMMAD MAAZ MADNI
ADVOCATE

Mir Zaman Safi
ADVOCATE
SHAH ZULFIKAR YOUSAFZAI
Advocate

OFFICE:

Flat No.3, Upper Floor,
Islamia Club Building, Khyber Bazar,
Peshawar City.
Phone: 091-2211391
Mobile No.0345-9383141