

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
PESHAWAR AT CAMP COURT ABBOTTABAD.

Service Appeal No. 1057/2019

Date of institution ..... 23.07.2019

Muhammad Iqbal S/O Khani Zaman, R/O Sambli Dahri Tehsil and District Abbottabad. Currently working as P.T.C in G.P.S Saran.

VERSUS

Government of Khyber Pakhtunkhwa, through Secretary Education Peshawar and two others.

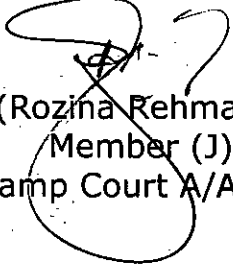
ORDER  
19.01.2022

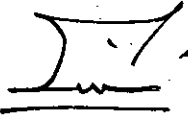
Mr. Sajjad Ahmed Abbasi, Advocate, for the appellant present. Mr. Sohail Ahmed Zeb, Litigation Officer alongwith Mr. Kabirullah Khattak, Additional Advocate General for the respondents present.

Learned counsel for the appellant stated at the bar that the he wants to withdraw the instant appeal unconditionally. In this regard, written endorsement of learned counsel for the appellant was obtained at the margin of order sheet.

In light of the above, the appeal in hand stands dismissed as withdrawn. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED  
19.01.2022

  
(Rozina Rehman)  
Member (J)  
Camp Court A/Abad

  
(Salah-ud-Din)  
Member (J)  
Camp Court A/Abad

*Withdraw the  
Appeal unconditionally  
19.01.2022  
Sajjad Abbasi  
Advocate  
Counsel for Appellant*

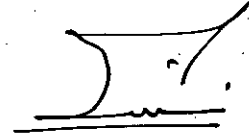
20.09.2021

Nemo for the appellant. Mr. Sohail Ahmed Zeb, Litigation Officer alongwith Mr. Riaz Ahmed Paindakhel, Assistant Advocate General for the respondents present.

Notice for prosecution of the appeal be issued to the appellant as well as his counsel and to come up for arguments before the D.B on 15.11.2021 at Camp Court Abbottabad.



(ATIQU-UR-REHMAN WAZIR)  
MEMBER (EXECUTIVE)  
CAMP COURT ABBOTTABAD



(SALAH-UD-DIN)  
MEMBER (JUDICIAL)  
CAMP COURT ABBOTTABAD

15.11.2021

Counsel for the appellant and Mr. Muhammad Riaz Khan Paindakhel, Asstt. AG alongwith Sohail Ahmad Zaib, Litigation Officer for the respondents present.

Counsel for the appellant requests for adjournment. Request is accepted. To come up for arguments on 19.01.2022 for arguments before the D.B at Camp Court, Abbottabad.



(Rozina Rehman)  
Member(Judicial)  
Camp Court, A/Abad



Chairman  
Camp Court, A/Abad

21.02.2020

Due to COVID-19, the case is adjourned for the same on 18.02.2021.

  
READER

18.02.2021 Counsel for appellant present.

Noor Zaman Khattak learned District Attorney for respondents present.

Former made a request for adjournment. Adjourned. To come up for arguments on 19.05.2021 before D.B at Camp Court, Abbottabad.



(Atiq ur Rehman Wazir)

Member (E)

Camp Court, A/Abad



(Rozina Rehman)

Member (J)

Camp Court, A/Abad

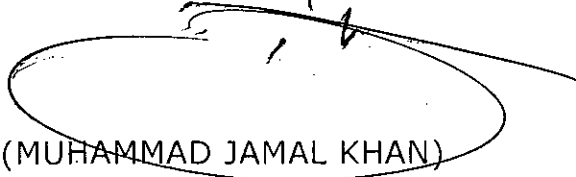
19.5.21 Due to covid-19, The case is adjourned to 20/8/2021 as before.

  
Reader.

16.09.2020

Appellant is present in person. Mr. Usman Ghani, District Attorney alongwith representative of the department Mr. Sohail Ahmad Zeb, Assistant Litigation are present.

Representative of the department submitted para-wise comments on behalf of respondents No. 1 to 3 which are placed on file record. File to come up for rejoinder and arguments on 19.11.2020 before D.B at Camp Court, Abbottabad.

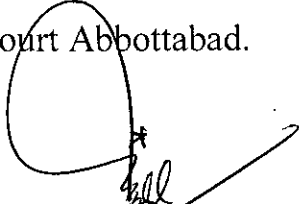
  
(MUHAMMAD JAMAL KHAN)  
MEMBER  
CAMP COURT ABBOTTABAD

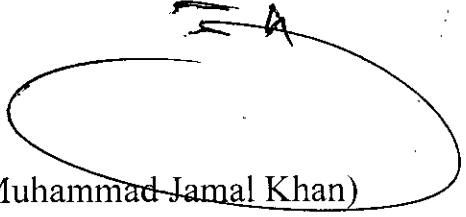
19.11.2020

Counsel for the appellant is present. Mr. Muhammad Riaz Khan Paindakhel, Asst: AG alongwith Mr. Sohail Ahmad Zeb, Assistant for respondents are present.

Learned counsel for the appellant requests for adjournment as he has not prepared the brief.

Adjourned to 21.01.2021 for arguments before D.B at camp court Abbottabad.

  
(Mian Muhammad)  
Member(E)

  
(Muhammad Jamal Khan)  
Member(J)  
Camp Court Abbottabad

23.01.2020

No one present on behalf of appellant. Written reply not submitted. Sohail Ahmad Zeb Litigation Officer representative of respondent department present and seeks time to furnish written reply/comments. Granted. To come up for written reply/comments on 20.02.2020 before S.B at Camp Court Abbottabad. Appellant be also put to notice for the date fixed.



Member  
Camp Court, A/Abad

Due to covid ,19 case to come up for the same on / /  
at camp court abbottabad.

Reader

9 / 20 Due to summer vacation case to come up for the same on / 16  
at camp court abbottabad.



Reader

20.12.2019

Counsel for the appellant Muhammad Iqbal present. Preliminary arguments heard. It was contended by learned counsel for the appellant that the respondent-department had issued advertisement for the post of PST. It was further contended that the appellant also applied for the said post in the year 2014. It was further contended that the appellant was fully entitled and eligible for the post of PST but despite his eligibility and entitlement, the respondent-department had not appointed him as PST in the year 2014. It was further contended that the appellant filed Civil Suit for his appointment to the post of PST. It was further contended that the Civil Suit was conditionally decree by the competent court in favour of the appellant. It was further contended that the in order to remove the ambiguity/conditionally, the appellant filed appeal before the Additional District Judge Abbottabad which was accepted and the respondent-department was directed to appointment him as PST. It was further contended that feeling aggrieved from the judgment of the Additional District Judge Abbottabad, the respondent-department filed revision petition before the Worthy High Court but the same was also dismissed by the Worthy High Court. It was further contended that the appellant again filed execution petition which was also decided in favour of the appellant and ultimately on the basis of judgment dated 09.01.2018 passed by the Additional District Judge Abbottabad, the appellant was appointed as PST vide order dated 19.02.2019. It was further contended that since the appellant was fully entitled and eligible for appointment to the post of PST with effect from the year 2014 and the competent court also decree civil suit of the appellant. It was further contended that the respondent-department was bound to appoint the appellant from retrospective date i.e from the year 2014 when his other colleagues were appointed but the respondent-department has appointed him with effect from 19.02.2019. It was further contended that the respondent-department has also mentioned in the term and condition No. 2 of the appointment order that as per Notification dated 30.01.2018 the qualification for the post of PST is Bachelor degree, therefore, the appellant was also directed to pass/obtain qualification Bachelor degree within two years. It was further contended that since the appellant was appointed as PST on the basis of judgment dated 09.01.2018 passed by the Additional District Judge Abbottabad, therefore, the notification regarding the qualification of Bachelor degree for the post is not applicable on the appellant. It was further contended that the appellant filed departmental appeal but the same has not been decided so far.

The contention raised by learned counsel for the appellant needs consideration. The appeal is admitted for regular hearing subject to all legal objections. The appellant is directed to deposit security and process fee within 10 days, thereafter, notices be issued to the respondents for written reply/comments for 23.01.2020 before S.B at Camp Court Abbottabad. Learned counsel for the appellant also submitted application for suspension of No. 2 of appointment letter of the appellant till the final disposal of the instant service appeal. Notice of the said application be also issued to the respondents for the date fixed.






(Muhammad Amin Khan Kundi)  
Member  
Camp Court Abbottabad

Appoint-ment  
Security & Process Fee

Form- A  
FORM OF ORDER SHEET

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

Case No.- 1057/2019


S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	16/08/2019	<p>The appeal of Mr. Muhammad Iqbal received today by post through Mr. Sajjid Ahmad Abbasi 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 16/8/19</p>
2-	30-8-19	<p>This case is entrusted to touring S. Bench at A.Abad for preliminary hearing to be put up there on <u>25-10-19</u></p> <p style="text-align: right;"> CHAIRMAN</p>
25.10.2019		<p>Appellant absent. Counsel for the appellant absent. Notice be issued to appellant for the date fixed. To come up for preliminary hearing on 20.12.2019 before S.B at camp court, Abbottabad.</p> <p style="text-align: right;"> Member Camp court, A/Abad</p>

The appeal of Mr. M. Iqbal received to-day i.e. on 23-07-2019 is incomplete on the following score, which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Law / Section under which appeal is filed is not mentioned in memo of appeal.
- 2- Annexures of appeal should be attested.

No. 1352 /S.T,

Dt. 31-7- /2019.

  
REGISTRAR,  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.


Sajjad Ahmed Abbasi.  
Adv, Abbottabad.

Sir

The titled Appeal was received <sup>in</sup> my office on 7.8.2019, for removal of objections.

Sir,  
To Remove first objection it is submitted that the titled Appeal is under Section 4 of KPK. Service Tribunal Act 1974.  
Annexures of Appeal have been attested to Remove the 2nd objection.

Sir,  
It is pertinent to mention here that the name of Appellant is Mohammad Iqbal and not Zaheer Ahmed.  
After removal of objections This Appeal is re-submitted, please.

  
10.8.2019



**BEFORE THE SERVICES TRIBUNAL**  
**KHYBER PAKHTUNKHAWA PESHAWAR**

*Appeal no. 1057/2019*

Muhamamd Iqbal s/o Khani Zaman r/o Sambli Dahri Tehsil and District Abbottabad  
currently working as P.T.C in G.P.S Saran.

... APPELLANT

VERSUS

1. Government of Khyber PakhtunKhawa through Secretary Education Peshawar.
2. District Education Officer (M) Abbottabad.
3. Director Elementary and Secondary Education Peshawar.

...RESPONDENTS

**SERVICE APPEAL**  
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*M. Iqbal*  
... APPELLANT

Through

*[Signature]*  
SAJJAD AHMED ABBASI,  
ADVOCATE HIGH COURT,  
ABBOTTABAD.

DATED: 22/07/2019

Diary No. \_\_\_\_\_  
Dated 23/7/19

**BEFORE THE SERVICES TRIBUNAL**  
**KHYBER PAKHTUNKHAWA PESHAWAR**

*Appeal no. 1057/2019*

Muhamamd Iqbal s/o Khani Zaman r/o Sambli Dahri Tehsil and District Abbottabad  
currently working as P.T.C in G.P.S Saran.

... APPELLANT

VERSUS

1. Government of Khyber PakhtunKhawa through Secretary Education Peshawar.
2. District Education Officer (M) Abbottabad.
3. Director Elementary and Secondary Education Peshawar.

...RESPONDENTS

SERVICE APPEAL AGAINST OFFICE ORDER NO. 2021-28/EB  
II/ LITIG BRANCH DATED 19-02-2019 ISSUED BY  
RESPONDENT NO. 2 WHEREBY INSTEAD OF ISSUING THE  
ORDER FROM 15-10-2014 OR FROM 21-10-2014 THE  
RESPONDENTS ISSUED THE SAME ON 19-02-2019 AND THE  
RESPONDENT NO. 2 WHILE ISSUING THE APPOINTMENT  
ORDER OF APPELLANT ILLEGALLY, WITH MALAFIDE  
INTENTION, WITHOUT LAWFUL AUTHORITY AND  
WITHOUT JURISDICTION IMPOSED A CONDITION, FOR  
PASSING A BACHELOR DEGREE FROM A RECOGNIZED  
UNIVERSITY WITHIN TWO YEARS, ON THE APPELLANT  
ON THE BASIS OF A NOTIFICATION NO.  
SO(PE)4-5/SSRC/MEETING/2012 TEACHING CADRE/2017  
DATED 30-01-2018.

**PRAYER:**

ON ACCEPTANCE OF THIS APPEAL THE CONDITION FOR  
PASSING OF BACHELOR DEGREE FROM A RECOGNIZED

**Filed to-day**

**Registrar**

*3/7/19*

Re-submitted to -day  
and filed.

**Registrar**

*16/8/19*

UNIVERSITY WITHIN 2 YEARS IMPOSED ON THE APPELLANT IN APPOINTMENT LETTER DATED 19-02-2019 BE CANCELLED AND APPOINTMENT LETTER OF THE APPELLANT BE TREATED ON THE BASIS OF A POLICY PREVALENT IN THE YEAR 2014 AND THE SAID ORDER BE ISSUED FROM 21-10-2014.

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**RESPECTFULLY SHEWETH:**

1. That the Appellant on the basis of an advertisement published on 05-01-2014 for the appointment of P.T.C (M) in the department of Elementary & Secondary Education Abbottabad applied for appointment.
2. That the Appellant also passed N.T.S Test as was the requirement of the Respondents.
3. That the Appellant was placed in the merit list of different schools at No. 6.
4. That one way or the other the rest of the candidates in the merit list from No. 1 to 5, either were disqualified for not obtaining the P.T.C certificate from a recognized institution established for imparting the Teaching Course or they opted not to join the service or they were appointed.
5. That the appellant considering himself eligible for appointment against the post of P.T.C and upon the refusal of the respondent the appellant on 21-10-2014 filed a Civil Suit

before the Court of Senior Civil Judge Abbottabad which was entrusted to the Court of Civil Judge-VII Abbottabad for its disposal. Copy of Plaint is annexed as annexure "A".

6. That Respondents appeared before the Court of Civil Judge-VII Abbottabad and submitted their Written Statement. Copy of Written Statement is annexed as annexure "B".
7. That after recording the evidence produced by both the parties the Court of Civil Judge-VII Abbottabad on 23-12-2016 decreed the suit filed by the appellant. Copy of Judgment and Decree is annexed as annexure "C" & "D".
8. That while passing the Decree dated 23-12-2016 the Court of Civil Judge-VII Abbottabad made the Decree conditional upon the acceptance of C.P.L.A NO. 617-P/2014 in favour of respondents, therefore appellant filed an appeal before the Court of District Judge Abbottabad which appeal was entrusted to the Court of Additional District Judge-III Abbottabad for striking down the condition as mentioned above. Copy of memo of appeal is annexed as annexure "E".
9. That the Court of Additional District Judge-III Abbottabad on 11-01-2017 accepted the appeal filed by the appellant and directed the respondents to appoint the appellant against the post lying vacant in the schools applied by appellant. Copy of Judgment and Decree is annexed as annexure "F" & G.

10. That the appellant filed an execution petition before the Court of Civil Judge-VII Abbottabad. Copy of execution petition is annexed as annexure "H".
11. That the Respondents challenged the Judgment and Decree dated 11-01-2017 before the Honourable Peshawar High Court through a Revision Petition. Copy of Revision Petition is annexed as annexure "I".
12. That the Honourable Peshawar High Court on 26-11-2018 dismissed the Revision Petition filed by the Respondents. Copy of Judgment and Order dated 26-11-2018 passed by Peshawar High Court Abbottabad Bench is annexed as annexure "J".
13. That after the dismissal of Revision Petition by the Honourable Peshawar High Court Abbottabad Bench the Respondents filed an objection petition in the execution petition filed by the Appellant. Copy of Objection Petition is annexed as annexure "K".
14. That after receiving the reply annexure "L" from the Appellant and after hearing the arguments the executing court on 21-01-2019 dismissed the Objection Petition filed by the Respondents. Copy of Judgment and Order is annexed as annexure "M".
15. That on 31-01-2019 Respondents filed a Revision Petition before District Judge Abbottabad against the dismissal of

Objection Petition which was entrusted to the Court of Additional District Judge-IV Abbottabad for disposal. Copy of Revision Petition is annexed as annexure "N".

16. That on 14-02-2019 the Court of Additional District Judge-IV Abbottabad dismissed the Revision Petition filed by the Respondents. Copy of Judgment and Order is annexed as annexure "O".

17. That;

- i. Despite the fact that the appellant was eligible to have been appointed against the P.T.C post,
- ii. Despite the fact that the posts were vacant in the Schools applied by the appellant,
- iii. Despite the fact that the suit of the appellant was decreed which remained intact up to Honourable High Court.

The Respondents tried their level best not to issue the appointment order of Appellant against the P.T.C Post.

18. That on 19-02-2019 reluctantly but due to the order of the executing court the respondents issued the impugned appointment order in favour of appellant which was given to appellant on 01-03-2019 in the Court. Copy of appointment order is annexed as annexure "P".

19. That as there was no policy of passing of or obtaining of Bachelor Degree at the time of applying for appointment in the

year 2014 nor there was any such condition in the advertisement therefore the appellant on 27-03-2019 filed a departmental Appeal/ Representation before the Director Elementary and Secondary Education Peshawar against the condition impugned herein in the appointment order dated 19-02-2019 which was handed over to the appellant on 01-03-2019 and against the date of appointment as 19-02-2019 instead of 15-10-2014 when appointment letters of others were issued or when suit was filed. Copy of appeal alongwith receipt is annexed as annexure "Q" & "R".

20. That the Respondent No. 3 before whom representation/ departmental appeal was filed had not decided the same, hence this appeal on the following amongst other Grounds.

**GROUND:**

- a. That on the basis of advertisement dated 05-01-2014 the appellant applied for the Post of P.T.C and was, as per record, eligible to have been appointed against the post of P.T.C in any of the schools applied by the appellant through order dated 15-10-2014 but the respondent illegally did not appoint the appellant.
- b. That the suit filed by the Appellant on 21-10-2014 was decreed, therefore appellant at least, was entitle to have been appointed on 21-10-2014 if not on 15-10-2014.

- c. That the appellant cannot be blamed for his appointment against the advertisement post with effect from 19-02-2019 instead of 15-10-2014 or 21-10-2014.
- d. That on 05-01-2014 when the posts for appointment of P.T.C were advertised or on the date of appointments i.e. 15-10-2014 on the basis of advertisement dated 05-01-2014 or on the date of filing of suit by appellant i.e. on 21-10-2014 or even on the date of decree of suit dated 23-12-2016 and even on the date of acceptance of appeal dated 11-01-2017 there was no condition for passing of Bachelor Decree for the appointment of P.T.C, therefore the inclusion of such a condition in the appointment order of appellant is illegal and without Jurisdiction and is liable to be set aside.
- e. That a policy or notification cannot be imposed retrospectively.
- f. That the issuance of appointment order dated 19-02-2019 instead of 15-10-2014 or 21-10-2014 and inserting in it a condition not prevalent on the date of application i.e. 20-01-2014 is against the law, facts, without jurisdiction and lawful authority which cannot be termed as bona fide and is liable to be cancelled.
- g. That this service appeal is being filed within prescribed period of limitation.



IT IS THEREFORE HUMBL Y PRAYED THAT ON ACCEPTANCE OF THIS APPEAL THE CONDITION FOR PASSING OF BACHELOR DEGREE FROM A RECOGNIZED UNIVERSITY WITHIN 2 YEARS IMPOSED ON THE APPELLANT IN APPOINTMENT LETTER DATED 19-02-2019 BE CANCELLED AND APPOINTMENT LETTER OF THE APPELLANT BE TREATED ON THE BASIS OF A POLICY PREVALENT IN THE YEAR 2014 AND THE SAID ORDER BE ISSUED FROM 21-10-2014.

*M. I. Ghani*  
...APPELLANT

Through

*M. I. Ghani*  
SAJJAD AHMED ABBASI,  
ADVOCATE HIGH COURT,  
ABBOTTABAD.

DATED: 22/07/2019

**VERIFICATION:**

It is verified on oath that the contents of foregoing Appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Tribunal.

*M. I. Ghani*  
...APPELLANT

**BEFORE THE SERVICES TRIBUNAL**  
**KHYBER PAKHTUNKHAWA PESHAWAR**

Muhamamd Iqbal s/o Khani Zaman r/o Sambli Dahri Tehsil and District Abbottabad currently working as P.T.C in G.P.S Saran.

... APPELLANT

VERSUS

1. Government of Khyber PakhtunKhawa through Secretary Education Peshawar.
2. District Education Officer (M) Abbottabad.
3. Director Elementary and Secondary Education Peshawar.

...RESPONDENTS

**SERVICE APPEAL**  
**AFFIDAVIT**

I, Muhamamd Iqbal s/o Khani Zaman r/o Sambli Dahri Tehsil and District Abbottabad currently working as P.T.C in G.P.S Saran, do hereby solemnly affirm and declare on oath that the contents of foregoing service appeal are true and correct to the best of my knowledge and belief and nothing has been concealed therein from this Tribunal.

*M. Gleed*  
 ...DEPONENT



22/07  
2019

**BEFORE THE SERVICES TRIBUNAL**  
**KHYBER PAKHTUNKHAWA PESHAWAR**

Muhamamd Iqbal s/o Khani Zaman r/o Sambli Dahri Tehsil and District Abbottabad  
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...RESPONDENTS

**SERVICE APPEAL**

**CERTIFICATE**

Certified that no such like Service Appeal has earlier been filed, nor  
decided by this Tribunal except the present one.

DATED: 22/07/2019

Through

*M. Iqbal*  
.....APPELLANT  
*S.A.*  
SAJJAD AHMED ABBASI,  
ADVOCATE HIGH COURT,  
ABBOTTABAD.

**BEFORE THE SERVICES TRIBUNAL**  
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...RESPONDENTS

**SERVICE APPEAL**  
**ADDRESSES OF THE PARTIES**

Respectfully Sheweth:-

Addresses of the parties are as under:-

Muhamamd Iqbal s/o Khani Zaman r/o Sambli Dahri Tehsil and District Abbottabad  
currently working as P.T.C in G.P.S Saran.

... APPELLANT

VERSUS

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...RESPONDENTS

*M. Iqbal*  
... APPELLANT

Through

*SAJJAD AHMED ABBASI*  
SAJJAD AHMED ABBASI,  
ADVOCATE HIGH COURT,  
ABBOTTABAD.

DATED: 22/07/2019

**BEFORE THE SERVICES TRIBUNAL**  
**KHYBER PAKHTUNKHAWA PESHAWAR**

Muhamamd Iqbal s/o Khani Zaman r/o Sambli Dahri Tehsil and District Abbottabad  
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...RESPONDENTS

**SERVICE APPEAL**

APPLICATION FOR SUSPENSION OF THE CONDITION  
 NO. 2 I.E. WITH RESPECT TO PASSING OF BACHELOR  
 DEGREE WITHIN TWO YEARS MENTIONED IN THE  
 APPOINTMENT LETTER NO. 2021-28/EB-II/LITIG  
 BRANCH DATED 19-02-2019 TILL THE FINAL DISPOSAL  
 OF THE TITLED APPEAL.

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**RESPECTFULLY SHEWETH:**

1. That the titled appeal is being filed before this Honourable Tribunal.
2. That the prima facie the appeal filed by the appellant is very strong  
 and there is every likelihood of its success.
3. That the balance of convenience also lies in favour of the Appellant.
4. That valuable rights of Appellant are involved and in case the  
 condition for passing of Bachelor Degree in appointment letter dated

19-02-2019 is not suspended till the final disposal of titled service appeal the appellant will suffer irreparable loss.

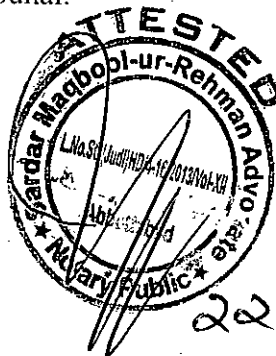
IT IS THEREFORE HUMBL Y PRAYED THAT ON ACCEPTANCE OF THIS APPLICATION THE CONDITION NO. 2 I.E. WITH RESPECT TO PASSING OF BACHELOR DEGREE WITHIN TWO YEARS MENTIONED IN THE APPOINTMENT LETTER NO. 2021-28/EB-II/LITIG BRANCH DATED 19-02-2019 TILL THE FINAL DISPOSAL OF THE TITLED APPEAL BE SUSPENDED.

DATED: 22/07/2019

*M. Iqbal*  
...APPELLANT  
Through  
*22-7-19*  
SAJJAD AHMED ABBASI,  
ADVOCATE HIGH COURT,  
ABBOTTABAD.

**AFFIDAVIT:**

I, Muhamamd Iqbal s/o Khani Zaman r/o Sambli Dahri Tehsil and District Abbottabad currently working as P.T.C in G.P.S Saran do hereby solemnly affirm and declare on oath that the content of foregoing application are true and correct to the best of my knowledge and belief and nothing has been concealed therein from this Honourable Tribunal.



*M. Iqbal*  
...DEPONENT



نیز تقرری مدعا علیہ نمبر 4 بھی بوجہ معذوری قابل منسوخی ہے۔



مایت بغرض کورٹ فیس و اختیار سماعت

-200/- روپے

ب دعویٰ امراء صدور ڈگری حکم امتناعی دوامی کہ مدعا علیہم یونین کونسل یوئی اور ککمنگ و دیگر میرٹ کی خالی PST

آسامیوں پر مزید غیر قانونی تقرری سے اجتناب کریں اور علی الدوام بازر ہیں۔

مایت بغرض کورٹ فیس و اختیار سماعت

-200/- روپے

10.15

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30 JAN 2017  
EXAMINER  
District & Sessions Judge,  
Abbottabad

جناب عالی! بیان دعویٰ ذیل عرض ہے۔

1- یہ کہ مدعی نے سال 1996ء میں باقاعدہ میٹرک کا امتحان فرسٹ ڈویژن میں پاس کیا اور پھر سال

1998ء میں بطور ریگولر سٹوڈنٹ PTC کے امتحان میں کامیابی حاصل کی۔ نقل DMC، سندھ

Relieving Chit لف ہیں۔

2- یہ کہ سال 2012ء میں مدعی نے آرٹس میں ایبٹ آباد بورڈ سے انٹرمیڈیٹ کیا جبکہ سال 2011ء

میں تقریباً ایک سال گورنمنٹ پرائمری سکول ڈھیری میں UNICEF کے تحت بطور ٹیچر ملازمت

کی۔ نقل DMC انٹرنیشنل ثبوت ملازمت لف ہیں۔

3- یہ کہ مدعی سال 1998ء سے پرائمری سکول ٹیچر کی ملازمت کے لئے باقاعدہ کوشش کرتا چلا آ رہا ہے تاہم

تقرری نہ ہوگی۔ گزشتہ سال جنوری 2014ء میں مدعا علیہ نمبر 1 کی جانب سے معذمگر پرائمری سکول

Attested

10.8.19  
Sajjad Ahmed Abbasi  
Advocate High Court  
Abbottabad



10.8.19

Alves

ایگزیکٹو ڈائریکٹر، ایئر سروسز، ایئر فورس، اسلام آباد

8- ترمیمی نوٹیفکیشن کے تحت درج کی گئی نوٹیفکیشن کے تحت ایئر سروسز کے

تعمیراتی نوٹیفکیشن کے تحت ایئر سروسز کے تحت ایئر سروسز کے

تعمیراتی نوٹیفکیشن کے تحت ایئر سروسز کے تحت ایئر سروسز کے

تعمیراتی نوٹیفکیشن کے تحت ایئر سروسز کے تحت ایئر سروسز کے

تعمیراتی نوٹیفکیشن کے تحت ایئر سروسز کے تحت ایئر سروسز کے

تعمیراتی نوٹیفکیشن کے تحت ایئر سروسز کے تحت ایئر سروسز کے

تعمیراتی نوٹیفکیشن کے تحت ایئر سروسز کے تحت ایئر سروسز کے

6- ترمیمی نوٹیفکیشن کے تحت ایئر سروسز کے تحت ایئر سروسز کے

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5- ترمیمی نوٹیفکیشن کے تحت ایئر سروسز کے تحت ایئر سروسز کے

21.10.19

تعمیراتی نوٹیفکیشن کے تحت ایئر سروسز کے

تعمیراتی نوٹیفکیشن کے تحت ایئر سروسز کے تحت ایئر سروسز کے

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تعمیراتی نوٹیفکیشن کے تحت ایئر سروسز کے تحت ایئر سروسز کے

4- ترمیمی نوٹیفکیشن کے تحت ایئر سروسز کے تحت ایئر سروسز کے

تعمیراتی نوٹیفکیشن کے تحت ایئر سروسز کے تحت ایئر سروسز کے

تعمیراتی نوٹیفکیشن کے تحت ایئر سروسز کے تحت ایئر سروسز کے

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District & Sessions Judge,  
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30 JAN 2017

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بمطابق قانون مدعی کو ملازمت دینے سے انکاری ہیں اور گزشتہ دو یوم سے صریحاً انکار کر رہے۔

سے بنائے دعویٰ از مورخہ 15/10/2014 اور گزشتہ دو یوم سے مدعی کو برخلاف مدعا علیہم جاسوس۔

لہذا استدعا ہے کہ دعویٰ مدعی حسب استدعا برخلاف مدعا علیہم ڈگری فرمایا جاوے۔

الرقوم: 21/10/2014 ایٹ آباد

Senior Civil Judge  
Abbottabad  
Date: 21/10/2014

محمد اقبال (مدعی)

M-Allah بذریعہ وکیل خود

پتہ فریقین:

جناب عالی!

پتہ فریقین عنوان

دعویٰ میں درست طور پر درج ہے۔

الرقوم: 21/10/2014 ایٹ آباد

تصدیق:

با اقرار صالح تصدیق کی جاتی ہے کہ جملہ مراتب عرضی

دعویٰ تا حد علم و یقین میرے صحیح و درست ہیں اور کوئی بھی امر

عدالت آنحضرت سے مخفی یا پوشیدہ نہ رکھا گیا ہے۔

الرقوم: 21/10/2014 ایٹ آباد

محمد اقبال (مدعی)

M-Allah بذریعہ وکیل خود

محمد اقبال (مدعی)

M-Allah

Attested to be a True Copy.

30 JAN 2017

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District & Sessions Judge,  
Abbottabad

Attested

Sajjad Ahmed Abbasi  
Advocate High Court  
Abbottabad

(16)

Annexure "B"



18

IN THE COURT OF CIVIL JUDGE VIII ABBOTTABAD

Muhammad Iqbal

.....PLAINTIFF

Vs

EDO & Other

.....DEFENDANTS

Suit for Declaration etc

Written statement on behalf of defendant No. 1

INDEX

Sr	Description	Page Nos	Annexures
1	Written statement alongwith verification	1 to 3	
2	Replication alongwith affidavit	4	
3	Copy of writ petition No.354 A/2014	5 to 12	"A"
4	Copy of judgment dated 10/09/2014	13	"B"
5	Copy of Advertisement	14 to 15	"C"
6	Copy of appointment order dated 15/10/2014	16 to 21	"D"

16

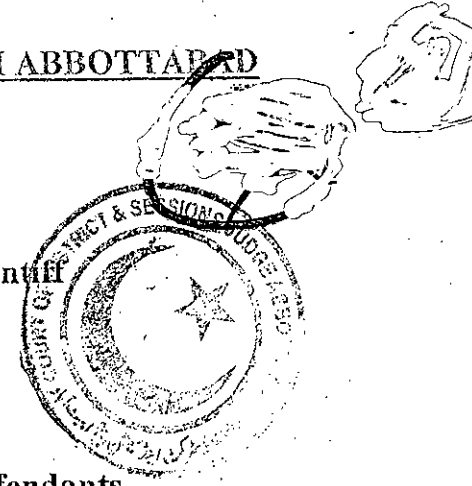
Dated :17/12/2014

Defendant No. 1

*[Signature]*  
 District Education Officer (VI)  
 Abbottabad.

*[Signature]*  
 Sajjad Ahmed Abbasi  
 Advocate High Court  
 Abbottabad

19



Muhammad Iqbal.....Plaintiff

VERSUS

EDO & Others.....Defendants

WRITTEN STATEMENT ON BEHALF OF DEFENDANT NO.1

تقدم نمبر  
320/1

Respectfully Sheweth:

Written statement on behalf of defendant is submitted as under:

Preliminary Objections:

1. That the plaintiff has no cause of action against the answering defendant.
2. That the suit is not maintainable in its present form and is liable to be dismissed.
3. That the plaintiff has failed to join the necessary party, thus, the suit is liable to be dismissed summarily.
4. That the plaintiff has not come to court with clean hands and suppressed the material facts from the court, thus, he is not entitled to any discretionary relief under equity and suit is liable to be dismissed.
5. That this court lacks the jurisdiction to entertain the present suit.
6. That the plaintiff has badly failed to determine a correct value to the suit and to affix the requisite court fee, thus, the suit is liable to be dismissed under order 7 rule 11 of CPC.

21/10/14  
پہلے اپنی  
23/12/14

18-12-2015

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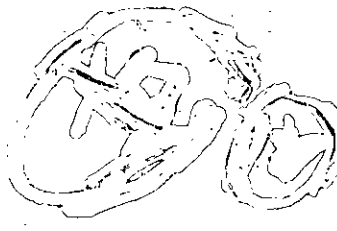
30 JAN 2017  
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District & Sessions Judge,  
Abbottabad

Attested  
to 8-19-  
Sajjad Ahmed Abbasi  
Advocate High Court  
Abbottabad

Actual Objections:

(18)

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1. That the Para No. 1, of the plaint relates to plaintiff's personal record.
2. That the Para No. 2, of the plaint relates to plaintiff's personal record, hence need no comment.
3. That Para No. 3, of the plaint is correct.
4. In reply to para No. 4 of the plaint, it is submitted that as per advertisement there were 04 vacant posts in UC Boi Abbottabad, out of which, 02 posts were filled vide appointment order No.7579-7686 dated 15/10/2014, while 02 posts were reserved to avoid the multiplicity of litigation as one Mr. Muhammad Jehangir & Other have filed writ petition NO.354A/2014 before this honorable Court and the same was allowed on 10/09/2014, and the department has challenged the order dated 10/09/2014 in the honorable Supreme court of Pakistan & that's why 02 posts were reserved by the then DEO. Copies of the writ petition NO.354A/2014, judgment dated 10/09/2014 and advertisement are annexed as Annexure "A", "B" & "C" respectively.
5. In reply to para No.5 of the plaint it is submitted that as per condition No.10 of the advertisement that appointment will be made according to the recruitment rules/ policy of Khyber Pakhtunkhwa Government. As per recruitment rules/ policy there is no batch wise appointment.
6. That para No. 6 of the plaint is incorrect, hence denied. Defendant No. 4 is the resident of Union Council Boi and rightly appointed by the then DEO due to higher merit position than the plaintiff. Copy of the appointment order dated 15/4/10/2014 is annexed as Annexure "D".
7. That para No. 7 of the plaint is self contradictory to the para No.5 of the plaint. It is submitted that the department has challenged the order dated 10/09/2014 in the honorable Supreme court of Pakistan & that's why 02 posts were reserved by the then DEO.

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30 JAN 2017

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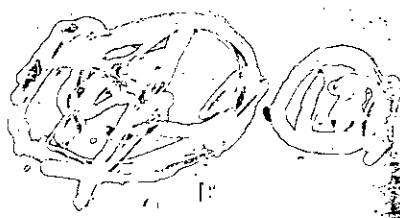
Judge

*Attested*  
10-8-19  
Sajjad Ahmed Abbasi  
Advocate High Court  
Abbottabad

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(19)

(21)



8. That para No.8 of the plaint is incorrect, hence denied.

It is, therefore, in the light of above stated facts and circumstances very humbly prayed that the plaint in hand may please be dismissed with cost.

*[Handwritten Signature]*  
District Education Officer (M)

Abbottabad.

(Defendant No.1)

Dated;17/12/2014

Verification

It is verified on oath that the contents of foregoing amended written statement are true and correct as per my information and belief.

*[Handwritten Signature]*  
Defendant No. 1

Addresses of the Parties

Addresses of the parties are correctly mentioned in the heading of the plaint.

*[Handwritten Signature]*  
Defendant No. 1

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District & Sessions Judge  
Abbottabad

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Sajjad Ahmed Abbasi  
Advocate High Court  
Abbottabad

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Annexure C

IN THE COURT OF FAZAL NASIR SHAH CIVIL JUDGE-VII  
ABBOTTABAD

Case No.....320/1  
Date of institution.....21.10.2014  
Date of decision.....23.12.2016

Mohammad Iqbal s/o Khani Zaman r/o Sambli Dheri Tehsil & District  
Abbottabad.

.....(Plaintiff)

VERSUS

1. District Education Officer (Male), Abbottabad.
2. Director Elementary & Secondary Education Khyber Pakhtunkhwa,  
Peshawar.
3. Govt of Khyber Pakhtunkhwa through Secretary Education Khyber  
Pakhtunkhwa, Peshawar.
4. Abdul Jabbar s/o Mohammad Ismail r/o Bandi Hamza Dhakkar Tehsil &  
District Abbottabad.

..... (Defendants)

Counsel for plaintiff: Raja Mohammad Shakeel Advocate.

Counsel for defendants: None. The case argued by Mohammad Zubair  
Dealing Clerk Education Department.

(SUIT FOR DECLARATION ETC)

JUDGMENT  
23.12.2016

1. On 05.01.2014 the department of Elementary & Secondary Education District Abbottabad advertised certain posts of male teachers on Adhoc School Based system. The last date for submission of applications was 20.01.2014. Mohammad Iqbal/plaintiff applied for the post of Primary School Teacher (PST) BPS-12. Plaintiff belongs to Union Council Boi, Abbottabad. In the said U/C there were one post each in four schools namely GPS Bagotar, GPS Chujjan, GPS Deedal, and GPS Rankot. Plaintiff applied for the posts in all the schools.

FAZAL NASIR SHAH  
Civil Judge VII/JM  
Abbottabad.

23.12.16

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10.8.19  
Sajjad Ahmed Abbasi  
Advocate High Court  
Abbottabad

Filed to  
District & Sessions Judge,  
Abbottabad

2. The result was declared and plaintiff got 70.05 marks in the merit list. School-wise merit list was prepared. In GPS Bagotar Abdul Qadeer Khan got first position by securing 96.89 marks in the merit list, Mohammad Jehangir Khan second 93.03 marks, Fakhar Ali Shah third 86.72 marks, Mohammad Nadeem fourth 84.69 marks, Sardar Shuja-ur-Rehman fifth 84.32 marks and Mohammad Iqbal/plaintiff got sixth position 70.05 marks. The post is not filled yet.

3. In GPS Chajjan Abdul Jabbar got first position by securing 99.79 marks in the merit list, Abdul Qadeer second 96.89 marks, Mohammad Jehangir Khan third 93.03 marks, Mohammad Nadeem fourth 84.69 marks, Sardar Shuja-ur-Rehman fifth 84.32 marks, Mohammad Shafiq sixth 79.26 marks, Ishfaq Ahmed seventh 76.01 marks and Mohammad Iqbal/plaintiff got eighth position 70.05 marks. Abdul Jabbar the topper was appointed against the post. He had not applied for the posts in the other three schools.

4. In GPS Deedal Abdul Qadeer got first position by securing 96.89 marks in the merit list, Mohammad Jehangir Khan second 93.03 marks, Fakhar Ali Shah third 86.72 marks, Mohammad Nadeem fourth 84.69 marks, Sardar Shuja-ur-Rehman fifth 84.32 marks, Ibrar Hussain Shah sixth 82.81 marks, Abdul Wahid seventh 76.27 marks, Ishfaq Ahmed eighth 76.01 marks and Mohammad Iqbal/plaintiff got ninth position 70.05 marks. Fakhar Ali Shah the third was appointed against the post.

5. In GPS Rankot Abdul Qadeer got first position by securing 96.89 marks in the merit list, Mohammad Jehangir Khan second 93.03 marks, Fakhar Ali Shah third 86.72 marks, Mohammad Nadeem fourth 84.69 marks, Sardar Shuja-ur-Rehman fifth 84.32 marks, Ishfaq Ahmed sixth 76.01 marks and Mohammad Iqbal/plaintiff got seventh position 70.05 marks. The post is not filled yet.

FAZAL NASIR SHAH  
Civil Judge VII/JM  
Abbottabad

23.12.16

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10-8-19  
Sajid Ahmad Abbeel  
Advocate High Court  
Abbottabad

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6. In school-wise merit list Mohammad Iqbal/plaintiff got sixth, eighth, ninth and seventh position in GPS Bagotar, GPS Chajjan, GPS Deedal and GPS Rankot respectively.

Abdul Jabbar and Fakhar Ali Shah were appointed in GPS Chajjan and GPS Deedal respectively. Mohammad Jehangir and Mohammad Nadeem were denied appointment as they were having certificates of PTC from the Skill Development Council (SDC). As Mohammad Jehangir Khan and Mohammad Nadeem were knocked out, so plaintiff considers himself eligible for the appointment.

7. Mohammad Jehangir and Mohammad Nadeem filed Writ Petition No. 354-A/2014 before the honourable Peshawar High Court, Abbottabad Bench for their appointment. The Writ Petition was decided on 10.9.2014. The following order was passed:

*"Vide detailed judgment recorded in Writ Petition No. 379-A of 2014 titled Zohaib Hassan etc. Vs. DEO (M) Kohistan etc, the instant writ petition stands allowed and respondents are directed to consider the petitioners for appointment, if otherwise found fit and eligible."*

The department has filed CPLA before august Supreme Court of Pakistan against the judgment of the Hon'ble High Court which is still pending. Plaintiff on the other hand filed the present suit.

8. On 21.10.2014 plaintiff filed the present suit for declaration to the effect that plaintiff is entitled to be appointed against the post of PST BPS-12 as he has secured 70.05 marks in the merit list. In relief "Bay" plaintiff has sought permanent injunction so that defendants may not appoint any other person against the vacant posts in U/C Boi and U/C Kukmang.

9. Defendants were summoned. Defendant No.1 submitted written statement on 18.12.2014. Rest of the defendants were

FAZAL NASIR SHAH  
Civil Judge VII/JM  
Abbottabad

23.12.16

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*[Signature]*  
Dist. Jge.

*Attested*  
*[Signature]*  
10.8.19.  
Sajjad Ahmed Abbasi  
Advocate High Court  
Abbottabad

placed and proceeded ex parte. The following issues were framed by my learned predecessor-in-office on 18.02.2015.

ISSUES:

1. Whether the plaintiff has got cause of action? OPP
2. Whether the plaintiff is estopped to sue by his own conduct? OPD
3. Whether the plaintiff is eligible to be appointed against the post PST? OPP
4. Whether the plaintiff deserve to be appointed against the post of PST? OPP
5. Whether appointment order No 7579-7686 dated 15.10.2014 is void and illegal to the extent of plaintiff and hence ineffective upon his rights? OPP
6. Whether the plaintiff is entitled to be appointed against the post of PST. Created in Union Council Boi and adjacent U/C Kukmang? OPP
7. Whether plaintiff is entitled to the decree as prayed for? OPP  
Relief.

10. Parties were given opportunity to lead their evidence.

Plaintiff produced three witnesses.

Abdul Rehman Senior Clerk DEO (Male) office was examined as PW-1. Mohammad Iqbal/plaintiff examined himself as PW-2. Ali-ur-Rehman s/o Khanzi Zaman was examined as PW-3.

Mohammad Zubair Dealing Clerk (PST) education department was examined sole witness as DW-1.

11. Learned counsel for the plaintiff stated that plaintiff is the resident of U/C Boi. There were four posts of PST in U/C Boi. Two posts have been filled by the department and two are still lying vacant. Plaintiff has passed the NTS test and has secured 70.05 marks in the merit list. Plaintiff is entitled to be appointed

FAZAL NASIR SHAH  
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23.12.16

*Attested*  
*10-8-19*  
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Abbottabad

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Abbottabad

against one of the two vacant posts lying in U/C Boi. The department is not appointing the plaintiff without any reason. Prayed that the suit may be decreed.

12. Mohammad Zubair Dealing Clerk department of Education stated that plaintiff is at serial No.6 in the merit list. The posts were four in number. Two posts have been filled by the appointment of Abdul Jabbar and Fakhar Ali Shah. Two posts are not filled yet because Mohammad Jehangir and Mohammad Nadeem have approached the court when they were not appointed. The Hon'ble High Court Abbottabad Bench has allowed the writ of Mohammad Jehangir and Mohammad Nadeem. The department has filed CPLA in the august Supreme Court of Pakistan against the judgment of the Hon'ble High Court which is still pending. There is no post against which the plaintiff can be appointed. Even if the appeal of the department is accepted by the august Supreme Court still plaintiff cannot be appointed and the posts will be re-advertised. Prayed that the suit may be dismissed.

13. I have heard learned counsel of the parties and perused the available record.

14. Now I come to issue-wise discussion in the case. Issues No.3,4 & 6 are inter-connected and will be taken up jointly for discussion.

- Whether plaintiff is eligible to be appointed against the post of PST.
- Whether plaintiff deserves to be appointed against the post of PST.
- Whether plaintiff is entitled to be appointed against the post of PST created in U/C Boi and adjacent U/C Kukmang.

a). The case of the plaintiff is that he has passed the NTS test, has secured 70.05 marks in the merit list and was not appointed by the Education Department against the post of PST

FAZAL NASIR SHAH  
Civil Judge VII/JM  
Abbottabad

23.12.16

*Attested*  
*Signed*  
10.8.19  
Sajjad Ahmed Abbael  
Advocate High Court  
Abbottabad

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Abbottabad

BPS-12. Plaintiff belongs to U/C Boi. Admittedly there were four posts of PST in U/C Boi. The posts were school based. There was one post each in GPS Bagotar, GPS Chajjan, GPS Deedal and GPS Rankot. When the result was announced plaintiff got sixth, eighth, ninth and seventh position respectively in the above mentioned schools.

b). In GPS Chajjan the topper Abdul Jabbar was appointed. In GPS Deedal the third Fakhar Ali Shah was appointed. The posts in GPS Bagotar and GPS Rankot are not filled yet. In GPS Bagotar the second Mohammad Jehangir Khan and the fourth Mohammad Nadeem Khan were not appointed as they were having PTC from SDC. The said two candidates also got second and fourth positions respectively in GPS Rankot. The case of these two candidates (Mohammad Jehangir Khan and Mohammad Nadeem) is pending in the august Supreme Court of Pakistan in CPLA No.617-P/2014. If the CPLA is dismissed, then plaintiff has no case because the Hon'ble High Court has already given judgment in favour of these two candidates namely Mohammad Jehangir Khan and Mohammad Nadeem in Writ Petition No.354/2014 decided on 10.9.2014. If they are appointed against the posts in GPS Bagotar and GPS Rankot then plaintiff has no right to be appointed against any post. If the decision is otherwise i.e if the CPLA is accepted and the two candidates (Mohammad Jehangir Khan and Mohammad Nadeem) are knocked out, then plaintiff is next in the merit list and would be entitled to be considered for appointment, if otherwise found fit and eligible. It means that the case of the plaintiff is dependent on the acceptance or otherwise of the CPLA No.617-P/2014 pending in the august Supreme Court of Pakistan. Plaintiff is entitled only to a conditional decree in his favour. The condition would be the acceptance of the CPLA and the knocking down of the two candidates Mohammad Jehangir Khan and Mohammad Nadeem.

Issues decided accordingly.

FAZAL NASIR SHAH  
Civil Judge VII/JM  
Abbottabad

23.12.16

Attested  
10-8-19  
Sajjad Ahmed Abbasi  
Advocate High Court  
Abbottabad

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Abbottabad

15. Issue No.2 is:

- Whether plaintiff is estopped to sue by his own conduct.

The burden of proof is on the defendants. There is nothing in the evidence from which it can be deduced that plaintiff is estopped to sue.

Issue decided in negative.

16. Issue No.5 is:

- Whether appointment order No.7179-7686 dated 15.10.2014 is void and illegal to the extent of plaintiff and hence ineffective upon his rights.

Plaintiff alleges that appointment order No.7179-7686 dated 15.10.2014 is illegal to the extent of non-appointment of the plaintiff. The appointment order is available on file as Ex-PW 1/1. There seems to be no illegality in the appointment order. In all the four schools plaintiff was at the bottom of the merit list and was rightly not appointed in the initial appointment order. Plaintiff is entitled only in the changed circumstances when a candidate joined one school leaving the other. There is nothing wrong with the appointment order. It cannot be concluded that appointment order No.7579-7686 dated 15.10.2014 is illegal to the extent of non-appointment of the plaintiff.

Issue decided accordingly

17. Issues No.1,7 are:

- Whether plaintiff has got a cause of action.
- Whether plaintiff is entitled to the decree as prayed for.

Plaintiff has got a cause of action and is entitled to the decree but not as prayed for.

Issue decided accordingly.

FAZAL NASIR SHAH  
Civil Judge VII/JM  
Abbottabad

23.12.16

Accepted  
10.8.19  
Sajjad Ahmed Abbas  
Advocate High Court  
Abbottabad

Plaintiff is entitled to be a Teacher  
2017  
EXAMINER  
District & Sessions  
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18. In the circumstances, the suit of the plaintiff is decreed in the following terms:

- Plaintiff/Mohammad Iqbal is entitled to be considered for appointment against the vacant post in GPS Bagotar or GPS Rankot, if otherwise found fit and eligible.
- The decree in favour of the plaintiff will be dependent on the acceptance of CPLA No.617-P/2014 pending the august Supreme Court of Pakistan and the knocking down of the two candidates Mohammad Jehangir Khan and Mohammad Nadeem.

The suit disposed of accordingly.

Parties to bear their own costs.

File be consigned to Record Room after its completion and compilation.

Announced  
23.12.2016

Fazal Nasir Shah  
Civil Judge-VII  
Abbottabad

CERTIFICATE

Certified that my this judgment consists of eight pages; each page has been read, signed and corrected by me wherever was necessary.

Announced  
23.12.2016

Fazal Nasir Shah  
Civil Judge-VII  
Abbottabad

No. 19550 / 26/12/2016

Date of Presentation of Application

Date of Disposal of Case

Date of Delivery of Copy

Kashif  
04/01/2017

*Attested*  
Sajjad Ahmed Abbasi  
Advocate High Court  
Abbottabad

Sajid Ahmed Abbasi  
Advocate High Court  
10.8.19

*[Handwritten signature]*

District & Sessions Judge  
District Court  
10/8/19

الحضرت صاحبزادہ کی طرف سے درخواست کی گئی ہے کہ ان کی پوری جائیداد پر ایک ایسی ہیڈنگ لگائی جائے جس سے ان کی جائیداد کی تحفظ کی جاسکے۔  
ان کی درخواست پر ایک ایسی ہیڈنگ لگائی جائے جس سے ان کی جائیداد کی تحفظ کی جاسکے۔  
ان کی درخواست پر ایک ایسی ہیڈنگ لگائی جائے جس سے ان کی جائیداد کی تحفظ کی جاسکے۔  
ان کی درخواست پر ایک ایسی ہیڈنگ لگائی جائے جس سے ان کی جائیداد کی تحفظ کی جاسکے۔  
ان کی درخواست پر ایک ایسی ہیڈنگ لگائی جائے جس سے ان کی جائیداد کی تحفظ کی جاسکے۔

- 1- ڈپٹی سیکریٹری (DEO) برائے ضلع لاہور
- 2- ڈپٹی سیکریٹری برائے ضلع لاہور
- 3- ڈپٹی سیکریٹری برائے ضلع لاہور
- 4- ڈپٹی سیکریٹری برائے ضلع لاہور

U-1  
Sajid Ahmed Abbasi  
10.8.19

تاریخ	32/1	21-10-2014	23-12-2016	23-12-2016
مقام	لاہور	لاہور	لاہور	لاہور

محکمہ خزانہ لاہور  
لاہور

Annexure D  
30

Sajid Ahmed Abbasi  
Advocate High Court  
Abbottabad  
10.8.19

Muhammad Jaseer Khan and Muhammad Nadeem the suit

Particulars	Debit	Credit
Balance b/d		1950/-
Bank		100
Dr. Jaseer Khan	350	
Dr. Nadeem	500 + 1000 / 1500/-	
Dr. Jaseer Khan		
Dr. Nadeem		
Dr. Jaseer Khan		
Dr. Nadeem		
Dr. Jaseer Khan		
Dr. Nadeem		
Dr. Jaseer Khan		
Dr. Nadeem		
Dr. Jaseer Khan		
Dr. Nadeem		
Dr. Jaseer Khan		
Dr. Nadeem		

The debt in favour of the Plaintiff is admitted and the Plaintiff is entitled to the amount of Rs. 1950/- with interest @ 12% per annum from the date of the account up to the date of payment.

The sum of Plaintiff is deemed to be received on the following terms:  
1. The sum of Rs. 100/- on 10.8.19  
2. The sum of Rs. 350/- on 10.8.19  
3. The sum of Rs. 500/- on 10.8.19  
4. The sum of Rs. 1000/- on 10.8.19

PSTI No. 617-2/2014 pending the case  
2001-

CPLA No. 617-2/2014 pending the case

Admittedly Parties to the suit



بعدالت جناب ڈسٹرکٹ جج صاحب ایبٹ آباد۔ **Annexure E**

59/13

محمد اقبال ولد خانیزمان سکنتہ سہیلی ڈھیری، تحصیل و ضلع ایبٹ آباد

--- اپیلانٹ / مدعی ---  
11-01-17

بنام

09-01-18

(1) ڈسٹرکٹ ایجوکیشن آفیسر (D.E.O) (مردانہ) ضلع ایبٹ آباد۔

(2) ڈائریکٹر ایلمینٹری اینڈ سیکنڈری ایجوکیشن خیبر پختونخوا، پشاور۔

(3) حکومت خیبر پختونخوا اذریج سیکرٹری تعلیم خیبر پختونخوا، پشاور۔

(4) عبدالجبار ولد محمد اسماعیل سکنتہ بانڈی حمزہ ڈھکر، تحصیل و ضلع ایبٹ آباد۔

17  
Superintendent to  
District & Sessions Judge  
Abbottabad

815  
--- رسپانڈنٹس / مدعا علیہم ---

اپیل بنام ناراضی فیصلہ ڈگری فاضل عدالت ماتحت سول جج VII، ایبٹ آباد مورخہ 23.12.2016 مقدمہ نمبر 320/1 جسکی رُو سے دعویٰ مدعی مشروط طور پر ڈگری فرمایا گیا۔ جو معزز اعلیٰ عدلیہ کے فیصلہ جات کی روشنی میں ناقابل بحالی و قابل ترمیم ہے۔ چونکہ فاضل عدالت ماتحت کا مشروط بناؤ پر فیصلہ مدعی / اپیلانٹ کو حصول ملازمت سے محروم رکھنے کے مترادف ہے جو آئین، قانون اور انصاف کے تقاضوں کے منافی ہے۔

Allocated to Mr. I. I. Khan

27 JAN 2018

27 JAN 2018  
District & Sessions Judge  
Abbottabad

استدعا :- بمظہوری اپیل ہذا فیصلہ ڈگری فاضل عدالت ماتحت سول جج VII، ایبٹ آباد

مقدمہ نمبر 320/1 مورخہ 23.12.2016 میں ترمیم فرماتے ہوئے مدعی / اپیلانٹ کو معزز

عدالت عالیہ کے فیصلہ جات کی روشنی میں یونین کونسل بوئی میں GPS ریکورڈ اور GPS گوتہ میں

PST کی دو خالی آسامیوں میں سے کسی بھی ایک آسامی پر بطور پرائمری سکول ٹیچر (PST)

Attested  
Sajjad Ahmed Abbasi  
Advocate High Court  
Abbottabad

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صفحہ 4

رکھا ہے حالانکہ ریپانڈنٹ نمبر 1 نے Impugned Appointment Order کے بعد یونین کونسل  
بوٹی میں NTS کے تحت 20 سے زائد امیدواران کو بھرتی کیا ہے جبکہ اب بھی کئی PST پوسٹیں  
ریپانڈنٹس/مدعا علیہم کے پاس خالی پڑی ہوئی ہیں۔

(ج) یہ کہ فاضل عدالت ماتحت نے متعین نمبر 2 پر درست فیصلہ صادر فرمایا ہے۔

(د) یہ کہ فاضل عدالت ماتحت کا متعین نمبر 5 پر فیصلہ انتہائی عجلت میں صادر کیا گیا اور ریکارڈ بر مشل کو یکسر نظر  
انداز کرتے ہوئے فیصلہ صادر فرمایا گیا جو کہ ناقابل بحالی اور قابل ترمیم ہے۔

(ذ) یہ کہ فاضل عدالت ماتحت نے بر متعین نمبر 1 اور 7 پر فیصلہ فرماتے ہوئے قانونی غلطی فرمائی ہے جو فاضل عدالت

ماتحت نے شجاعت فریقین کا بغور جائزہ نہ لیا ہے اور نہ ہی معزز عدالت عالیہ کے فیصلہ جات کو مد نظر رکھا ہے۔ چونکہ

آسامیاں Reserve رکھنا ریپانڈنٹس/مدعا علیہم کی بدینتی کو ظاہر کرتا ہے۔ قانوناً و انصافاً مدعی/اپیلانٹ بھرتی ہونے کا

اہل و حقدار ہے۔ اس طرح فاضل عدالت ماتحت نے متعین نمبر 1 اور 7 پر درست فیصلہ صادر نہ فرمایا ہے۔

(ر) یہ کہ فاضل عدالت ماتحت نے ایک طرف اپیلانٹ/مدعی کی Entitlement کی ڈگری صادر فرمائی ہے جبکہ دوسری

طرف اپیلانٹ/مدعی کو CPLANo 617/P2014 سے مشروط رکھا ہے۔ چونکہ ریپانڈنٹس/مدعا علیہم نے مذکورہ

CPLA کا حوالہ دیا ہے جس پر معزز عدالت سپریم کورٹ آف پاکستان کا کوئی حکم صادر شدہ نہ ہے۔ اس طرح مذکورہ

CPLA کا مدعی کی ملازمت سے کوئی تعلق واسطہ نہ ہے اور نہ ہی امیدواران محمد جہانگیر اور محمد ندیم، جو نہ صرف نا اہل

برائے PST پوسٹ ہیں بلکہ ہر دو امیدواران نے محکمہ پولیس اور پاک آرمی میں ملازمت بھی اختیار کر رکھی ہے۔

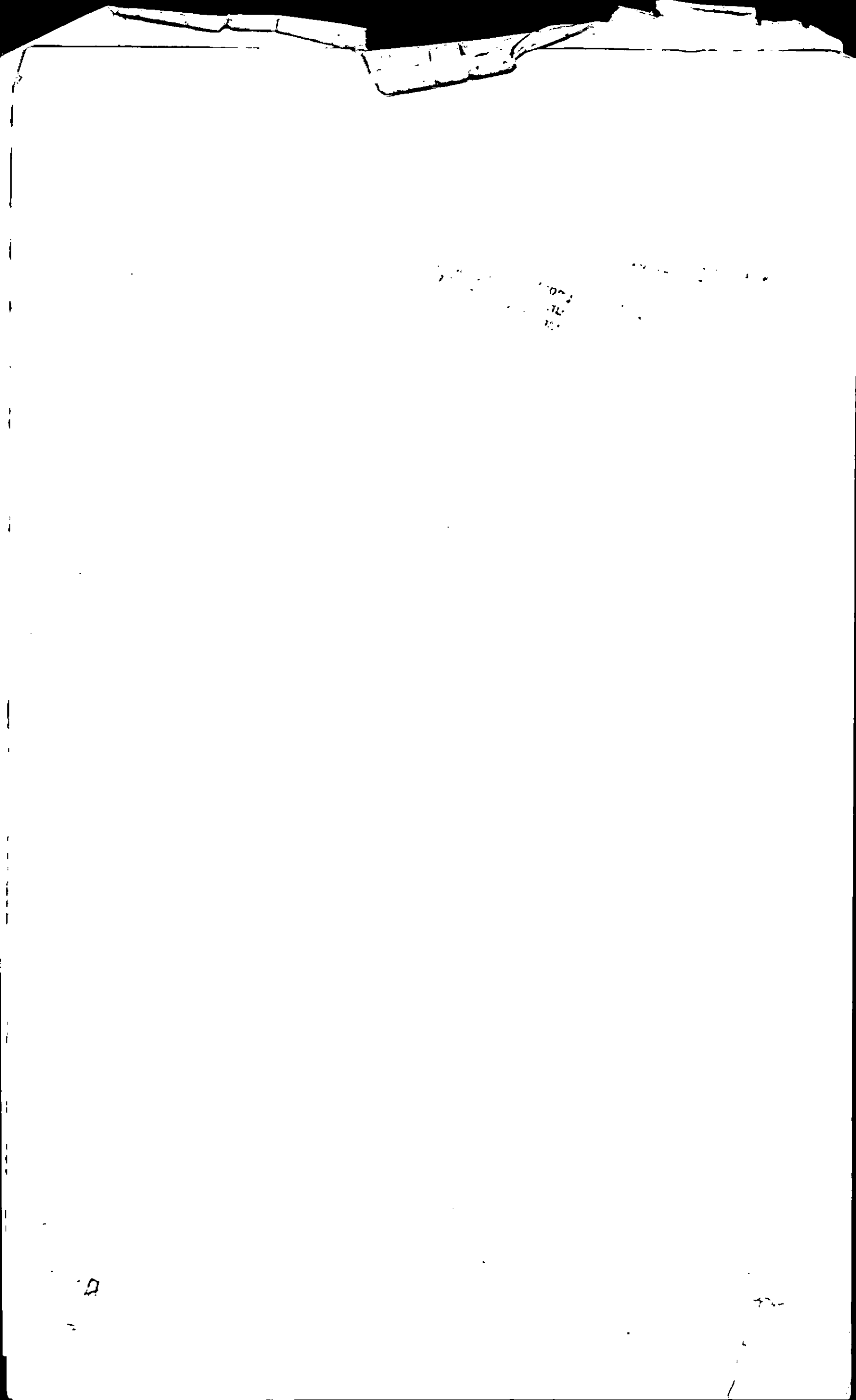
(ز) یہ کہ فاضل عدالت ماتحت نے فیصلہ صادر کرتے وقت اس بات کا بغور جائزہ نہ لیا ہے کہ اپیلانٹ/مدعی پیشہ

ورانہ اور اکیڈمک کوالیفیکیشن دونوں کا حامل ہے۔

(س) یہ کہ اگر اپیلانٹ/مدعی کو یونین کونسل بوٹی کی دو خالی آسامیوں پر بھرتی نہ کیا گیا تو اپیلانٹ/مدعی آئندہ بھرتی

کے لیے Over age ہو جائے گا۔ چونکہ آئین اور قانون کے تحت ہر شہری کو ملازمت فراہم کرنا ریاست/حکومت

Attested  
Sajjad Ahmed Abbasi  
Advocate High Court  
Abbottabad  
10.8.19



رکھا ہے حالانکہ ریپانڈنٹ نمبر 1 نے Impugned Appointment Order کے بعد یونین کونسل

بوئی میں NTS کے تحت 20 سے زائد امیدواران کو بھرتی کیا ہے جبکہ اب بھی کئی PST پوسٹیں

ریپانڈنٹس / مدعا علیہم کے پاس خالی پڑی ہوئی ہیں۔

(ج) یہ کہ فاضل عدالت ماتحت نے متفقہ نمبر 2 پر درست فیصلہ صادر فرمایا ہے۔

(د) یہ کہ فاضل عدالت ماتحت کا متفقہ نمبر 5 پر فیصلہ انتہائی عجلت میں صادر کیا گیا اور ریکارڈ بر مشل کو یکسر نظر

انداز کرتے ہوئے فیصلہ صادر فرمایا گیا جو کہ ناقابل بحالی اور قابل ترمیم ہے۔

(ذ) یہ کہ فاضل عدالت ماتحت نے بر متفقہ نمبر 1 اور 7 پر فیصلہ فرماتے ہوئے قانونی غلطی فرمائی ہے جو فاضل عدالت

ماتحت نے شجاعت فریقین کا بغور جائزہ نہ لیا ہے اور نہ ہی معزز عدالت عالیہ کے فیصلہ جات کو مد نظر رکھا ہے۔ چونکہ

آسامیاں Reserve رکھنا ریپانڈنٹس / مدعا علیہم کی بدینتی کو ظاہر کرتا ہے۔ قانوناً و انصافاً مدعی / اپیلانٹ بھرتی ہونے کا

اہل و مختار ہے۔ اس طرح فاضل عدالت ماتحت نے متفقہ نمبر 1 اور 7 پر درست فیصلہ صادر نہ فرمایا ہے۔

(ر) یہ کہ فاضل عدالت ماتحت نے ایک طرف اپیلانٹ / مدعی کی Entitlement کی ڈگری صادر فرمائی ہے جبکہ دوسری

طرف اپیلانٹ / مدعی کو CPLA No 617/P2014 سے مشروط رکھا ہے۔ چونکہ ریپانڈنٹس / مدعا علیہم نے مذکورہ

CPLA کا حوالہ دیا ہے جس پر معزز عدالت سپریم کورٹ آف پاکستان کا کوئی حکم صادر شدہ نہ ہے۔ اس طرح مذکورہ

CPLA گامدعی کی ملازمت سے کوئی تعلق واسطہ نہ ہے اور نہ ہی امیدواران محمد جہانگیر اور محمد ندیم، جو نہ صرف نااہل

برائے PST پوسٹ ہیں بلکہ ہردو امیدواران نے محکمہ پولیس اور پاک آرمی میں ملازمت بھی اختیار کر رکھی ہے۔

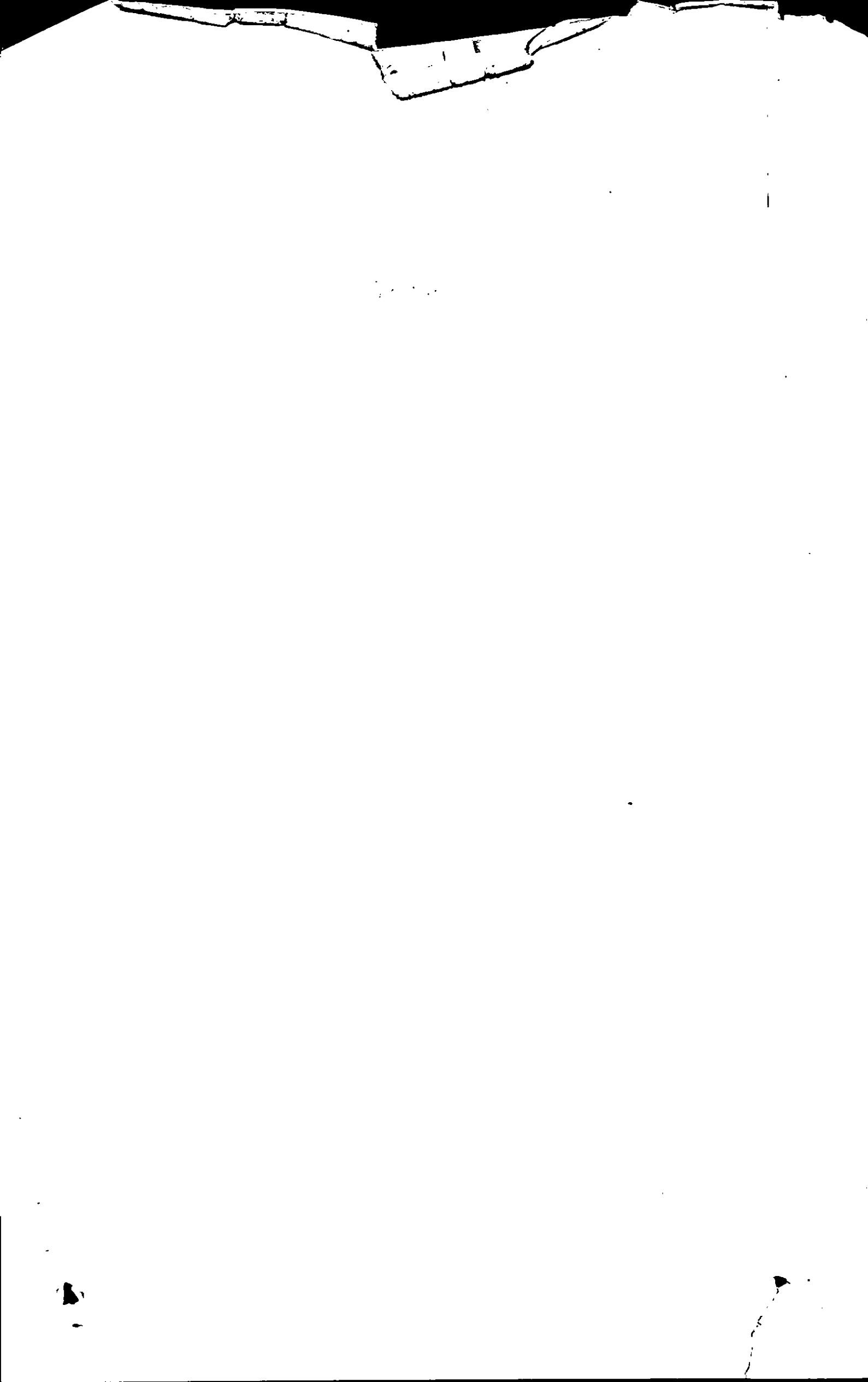
(ز) یہ کہ فاضل عدالت ماتحت نے فیصلہ صادر کرتے وقت اس بات کا بغور جائزہ نہ لیا ہے کہ اپیلانٹ / مدعی پیشہ

ورانہ اور اکیڈمک کوالیفیکیشن دونوں کا حامل ہے۔

(س) یہ کہ اگر اپیلانٹ / مدعی کو یونین کونسل بوئی کی دو خالی آسامیوں پر بھرتی نہ کیا گیا تو اپیلانٹ / مدعی آئندہ بھرتی

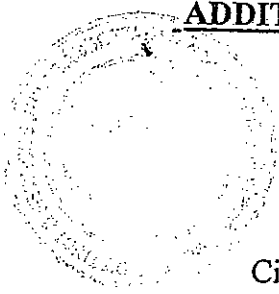
کے لیے Over age ہو جائے گا۔ چونکہ آئین اور قانون کے تحت ہر شہری کو ملازمت فراہم کرنا ریاست / حکومت

Attested  
10.8.19  
Sajjad Ahmed Abbasi  
Advocate High Court  
Abbottabad



Annexure F

IN THE COURT OF ASAD ALL,  
ADDITIONAL DISTRICT JUDGE-III,  
ABBOTTABAD.



17/6/17

815

Civil Appeal No. 59/13 of 2017

Date of institution: - 11/01/2017

Date of decision: - 09.01.2018

Muhammad Iqbal S/o Khani Zaman

(APPELLANT)

VERSUS

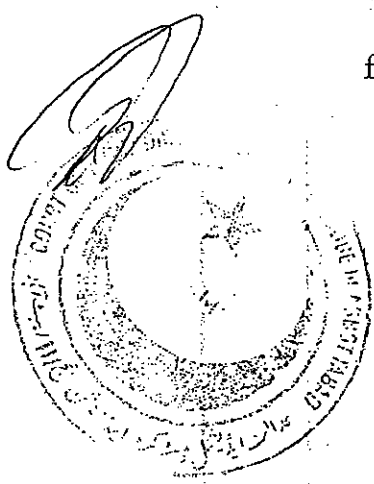
DEO (Male), Abbottabad & others.

(RESPONDENTS)

JUDGMENT

1. Through this judgment, I intend to dispose of current appeal, filed against order of learned Civil Court dated 23/12/2016, wherein the learned Civil Court disposed off the pliant in the following terms;

- a. Plaintiff/ Mohammad Iqbal is entitled to be considered for appointment against the vacant post in GPS Bagotar or GPS Rankot, if otherwise found fit and eligible.



*Attested*  
*call*  
10.8.19  
**Sajjad Ahmed Abbasi**  
Advocate High Court  
Abbottabad

**Sajjad Ahmed Abbasi**  
Advocate High Court  
Abbottabad

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b. The decree in favour of the plaintiff will be dependent on the acceptance of CPLA No. 617-P/2014 pending in the August Supreme Court of Pakistan and the knocking down of the two candidates Mohammad Jehangir Khan and Mohammad Nadeem.

2. Brief facts of the case are that on 05.01.2014, the department of Elementary & Secondary Education District Abbottabad advertised certain posts of male teachers on Adhoc School Based system. The last date for submission of applications was 20.01.2014. Mohammad Iqbal / appellant applied for the post of primary school teacher (PST) BPS-12. Plaintiff belongs to Union Council Boi, Abbottabad. In the said U/C, there were one post each in four schools namely GPS Bagotar, GPS Chajjan, GPS Deedal and GPS Rankot. Appellant applied for the posts in all the schools. The result was declared and plaintiff got 70.05 marks in the merit list. School wise merit list was prepared, vide which, in GPS Bagotar, the appellant / plaintiff got sixth position. The post is not filled yet. Whereas, in GPS Rankot, appellant / plaintiff got seventh position and the same post is also not filled yet. In school wise merit list, Mohammad Iqbal/appellant got sixth, eighth, ninth and seventh position in GPS Bagotar, GPS Chajjan, GPS Deedal and GPS Rankot respectively. The other candidates, who are more eligible for the vacant post of PST at GPS

Attested  
10.8.19  
Sajjad Ahmed Abbasi  
Advocate High Court  
Abbottabad

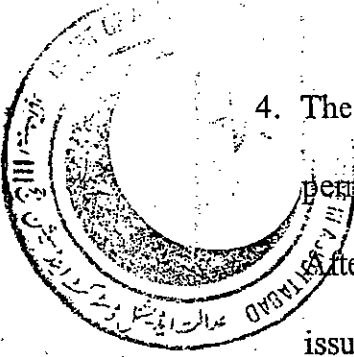
Bagotar and GPS Rankot are Abdul Jabbar and Fakhar Ali Shah, who are appointed in GPS Chajjan and GPS Deedal respectively. Mohammad Jehangir and Mohammad Nadeem were denied appointment as they were having certificates of PTC from the Skill Development Council (SDC). As Mohammad Jehangir Khan and Mohammad Nadeem were knocked out so appellant/ plaintiff considers himself eligible for the appointment. Mohammad Jehangir and Mohammad Nadeem filed writ petition No. 354-A/2014 before the Honorable Peshawar High Court, Abbottabad bench for their appointment. The WP was decided as;

*"Vide detailed judgment recorded in WP No. 379-A of 2014, titled Zohaib Hassan etc Vs DEO (M), Kohistan etc, the instant writ petition stands allowed and respondents are directed to consider the petitioners for appointment, if otherwise found fit and eligible".*

3. After deciding the writ petition, the department has filed CPLA before the August Supreme Court of Pakistan against the judgment of Honourable Peshawar High Court, Abbottabad bench, which is still pending.

4. The appellant/ plaintiff filed suit for declaration and permanent injunction on 21.10.2014 before the Trial Court.

After court process, the learned Trial Court framed following issues:



*Attested*  
10-8-19  
**Sajjad Ahmed Abbasi**  
Advocate High Court  
Abbottabad



ISSUES:

- a. Whether the plaintiff has got cause of action?
- b. Whether the plaintiff is estopped to sue by his own conduct?
- c. Whether the plaintiff is eligible to be appointed against the post of PST?
- d. Whether the plaintiff deserve to be appointed against the post of PST?
- e. Whether appointment order No. 7579-7686 dated 15.10.2014 is void and illegal to the extent of plaintiff and hence ineffective upon the rights?
- f. Whether the plaintiff is entitled to be appointed against the post of PST. Created in UC Boi and adjacent UC Kukmang?
- g. Whether plaintiff is entitled to the decree as prayed for?
- h. Relief?

*[Handwritten signature]*

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Copy of the order of the learned Trial Court dated 15.10.2014 is attached herewith for reference.

5. The Learned Trial Court after recording pro and contra evidence, disposed off the plaint in the following terms;



- a. Plaintiff/ Mohammad Iqbal is entitled to be considered for appointment against the vacant post in GPS Bagotar or GPS Rankot, if otherwise found fit and eligible.

Attested  
*[Signature]*  
10.8.18  
**Sajjad Ahmed Abbasi**  
Advocate High Court  
Abbottabad

b. The decree in favour of the plaintiff will be dependent on the acceptance of CPLA No. 617-P/2014 pending in the August Supreme Court of Pakistan and the knocking down of the two candidates Mohammad Jehangir Khan and Mohammad Nadeem.

Hence, the appeal.

6. Arguments from both sides heard and I perused the record.

7. While arguing his case, learned counsel for the appellant contended that Mohammad Jehangir and Mohammad Nadeem were denied appointment as they were having certificates of PTC from the Skill Development Council (SDC). As Mohammad Jehangir Khan and Mohammad Nadeem were knocked out so appellant/ plaintiff considers himself eligible for the appointment at GPS Bagotar or GPS Rankot. Reliance was placed on.

a. 2009 SCMR 382

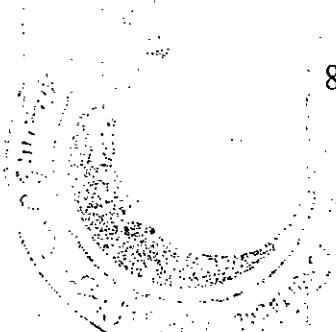
b. 2014 PLC (C.S) 526 (Peshawar)

8. On the other hand, learned counsel for respondents argued that there is no right of appellant for the appointment as PST teacher as per initial advertisement Ex.PW-2/5, it was clearly stated in para No. 02 that all the appointment will be on adhoc

Attested

*[Signature]*  
10-8-19  
Sajjad Ahmed Abbas  
Advocate High Court  
Abbottabad

*[Handwritten marks]*  
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Att

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/ contract basis for one year. That the same period has already been passed and there is no right of the appellant to challenge the same. That CPLA has already been pending before the Apex Court and until and unless the same is decided, case of the appellant be adjourned sine-die. That another case is also pending before the August Peshawar High Court, Abbottabad bench and the same issue is under adjudication therein. It was contended that appeal of the appellant be dismissed accordingly.

9. After hearing both the parties and going through the available record, it is evident that present case of the appellant pertains to appoint as PST teacher in GPS Rankot and Bagotar. The perusal of evidence reveals that appellant applied for 05 schools through NTS form. However, he secured his position in GPS Rankot and GPS Bagotar at serial No. 7 and serial No. 6 respectively. As the candidate namely Nadeem and Jehangir who are waiting for appointment, has already joined service in police and army and one Nadeem has submitted affidavit in this regard that he is no more interested in teaching job, hence, in the situation, appellant has a legal expectancy to be considered as PST on the reserved post. In this regard, statement of DW-01 recorded in cross examination is also referred;


Attested  
10.8.19  
Sajjad Ahmed Abbasi  
Advocate High Court  
Abbottabad

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’اگر عدالت مدعی کو خالی پوسٹ GPS بگوتھر میں تعینات کرتی ہے تو محکمہ تعلیم کو کوئی اعتراض نہ ہے۔ اسی طرح GPS رنگوٹ میں بھی چھ (6) پوسٹ (PST) میں تعیناتیاں ہو چکی ہیں اور ایک پوسٹ اب بھی خالی ہے۔ عدالت اگر GPS رنگوٹ میں مدعی کی تعیناتی کا حکم جاری کرے تو مجھے/محکمہ تعلیم کو کوئی اعتراض نہ ہے۔‘


Who expressed no objection if the appellant is recruited as such. As far as, the effect of CPLA in August Apex Court is concerned, there is no status quo in the same, hence, in my opinion, the case of the appellant can't be lingered on for an indefinite period of time. Education being the foremost requirement of the society, and the appellant being otherwise eligible, should be given an opportunity to serve the society and enter his input as a valuable individual. In the situation, I modify impugned order of the learned Trial Court and direct the respondent to appoint the appellant as PST teacher against reserved seats in GPS Rankot or GPS Bagotar, if otherwise eligible for it. Both the cases are decided accordingly. File be consigned to record room after its completion and record be returned forthwith.

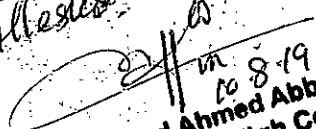
**Announced**  
09/01/2018

  
**ASAD ALI**  
Additional District Judge-III  
Abbottabad

**CERTIFICATE**

*It is certified that this judgment consists of 07 pages and I have signed each page after thorough perusal.*

  
**ASAD ALI**  
Additional District Judge-III  
Abbottabad

514  
Attested  
  
10/8/19  
**Sajjad Ahmed Abbasi**  
Advocate High Court  
Abbottabad

17-01-18  
17-01-18

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Annexure 9

**DECREE SHEET  
IN THE COURT OF ASAD ALI  
ADDITIONAL DISTRICT JUDGE-III,  
ABBOTTABAD.**

17  
215

Civil Appeal No. 59/13 of 2017  
Date of institution: - 11/01/2017  
Date of decision: - 09.01.2018

Muhammad Iqbal S/o Khani Zaman

(APPELLANT)

VERSUS

DEO (Male), Abbottabad & others.

(RESPONDENTS)


**JUDGMENT**

*The appeal came up for hearing on 09.01.2018 in presence of the parties.*

**Order sheet**  
09.01.2018

I modify impugned order of the learned Trial Court and direct the respondent to appoint the appellant as PST teacher against reserved seats in GPS Rankot or GPS Bagotar, if otherwise eligible for it. Both the cases are decided accordingly.

**Announced:**  
09.01.2018

  
(ASAD ALI)  
ADJ-III, Abbottabad

**COSTS OF APPEAL**

**APPELLANT**

**COST OF APPEAL**

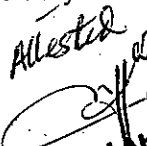
**RESPONDENT**


Stamp on appeal  
Court fee  
Stamp for power  
Publication fee  
Service of Process  
Pleader's Fee  
Miscellaneous

TOTAL

Cost of the appeal has not been allowed.

Given under my hand and seal of the Court this day of 9<sup>th</sup> day of January, 2018.

*Attested*  
  
10.8.19.  
**Sajjad Ahmed Abbasi**  
Advocate High Court  
Abbottabad

  
(ASAD ALI)  
ADJ-III, Abbottabad

کافرض ہے۔ اپیلانٹ / مدعی کا دعویٰ ثابت شدہ ہے۔

9- یہ کہ اپیل اندر میعاد ہے اور عدالت آنحضرت کو اختیار سماعت حاصل ہے۔

10- یہ کہ مزید نکات بوقت بحث عدالت کی پیشگی اجازت سے اٹھائے جائیں گے۔

لہذا اندر میں حالات بالا استدعا ہے بمنظوری اپیل ہذا فیصلہ و ڈگری فاضل عدالت ماتحت سول جج-VII،

ایبٹ آباد مورخہ 23.12.2016 میں ترامیم فرماتے ہوئے اپیلانٹ / مدعی کو یونین کونسل بونی کی دو خالی

آسامیوں GPS بگور اور GPS رکاوٹ کی کسی بھی ایک خالی آسامی پر بھرتی فرمانے کا حکم صادر فرمایا جاوے۔

المرقوم: 11/01/2017 ایبٹ آباد۔

محراقبال ولد خانیزمان۔۔۔ اپیلانٹ

M-Ileal

بذریعہ وکیل خود:

سردار محمد اکمل ایڈووکیٹ ہائی کورٹ۔ ایبٹ آباد

A

پتہ جات فریقین:

تصدیق کی جاتی ہے کہ پتہ جات فریقین درست

طور پر عنوان دعویٰ میں درج شدہ ہیں۔

المرقوم: 11/01/2017 ایبٹ آباد۔

محراقبال ولد خانیزمان۔۔۔ اپیلانٹ

M-Ileal

A

تصدیق:

باقر اصرار تصدیق کی جاتی ہے کہ جملہ مراتب اپیل

تا حد علم و یقین میرے صحیح و درست ہے۔ نیز کوئی امر

عدالت ہذا سے مخفی نہ رکھا گیا ہے۔

المرقوم: 11/01/2017 ایبٹ آباد۔

محراقبال ولد خانیزمان۔۔۔ اپیلانٹ

M-Ileal

بذریعہ وکیل خود:

Sajjad Ahmed Abbasi  
Advocate High Court  
Abbottabad

Sajjad Ahmed Abbasi  
Advocate High Court  
Abbottabad

Annexure H

درخواست اجراء سے وگری

بھارت چاہے

بھارت چاہے مولانا محمد صاحب ابراہیم آباد

نمبر	Appeal Number 59/13 Date of Institution 11.01.17 Date of Decision 9.11.15
موضوع	ڈیوٹی کے بارے میں درخواست ڈیوٹی کے بارے میں درخواست ڈیوٹی کے بارے میں درخواست ڈیوٹی کے بارے میں درخواست ڈیوٹی کے بارے میں درخواست
تاریخ وگری	11.01.17
بھارت چاہے	بھارت چاہے
ڈیوٹی	ڈیوٹی کے بارے میں درخواست
ڈیوٹی	ڈیوٹی کے بارے میں درخواست
بھارت چاہے	بھارت چاہے
بھارت چاہے	بھارت چاہے

جناب عالی کے وگری سے درخواست ہے کہ

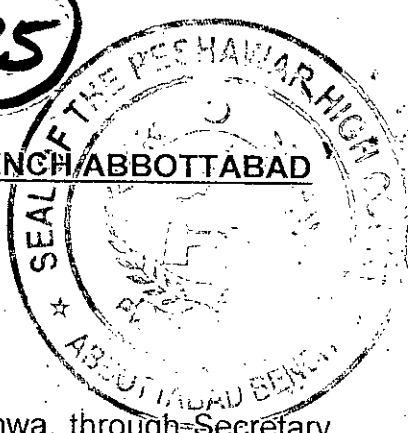
بھارت چاہے

M-2 Carl

Sajjad Ahmed Abbasi  
Advocate High Court  
Abbottabad

Annexure I (45)

PESHAWAR HIGH COURT, CIRCUIT BENCH ABBOTTABAD



C.R No. 250-A/2018

1. Provincial Government of Khyber Pakhtunkhwa, through Secretary Education, Provincial Secretariat, Peshawar.
2. Director, Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
3. District Education Officer (Male), District Abbottabad.

.....Petitioners

Versus

Muhammad Iqbal s/o Khani Zaman, R/O Sambli Dheri, Tehsil & District Abbottabad.

.....Respondent/Plaintiff

CIVIL REVISION U/S 115 OF C.P.C AGAINST THE IMPUGNED JUDGMENT/ORDER DATED 09/01/2018, PASSED BY THE LEARNED ADDITIONAL DISTRICT JUDGE-III, ABBOTTABAD IN APPELLATE JURISDICTION, WHEREBY THE CONDITIONAL JUDGMENT AND DECREE DATED 23/12/2016 OF THE LEARNED CIVIL JUDGE-VII, ABBOTTABAD WAS MODIFIED.

No: 3736  
11.07.18

PRAYER:-

BY ACCEPTANCE OF INSTANT REVISION PETITION THE IMPUGNED JUDGMENT/ORDER DATED 09/01/2018, PASSED BY THE LEARNED ADDITIONAL DISTRICT JUDGE-III, ABBOTTABAD MAY KINDLY BE SET ASIDE AND THE SUIT FILED BY THE RESPONDENT/PLAINTIFF MAY GRACIOUSLY BE DISMISSED/REJECTED WITH COST THROUGHOUT.

No. 3353  
21/6/18

RE-FILED TODAY

ADDITIONAL REGISTRAR  
PESHAWAR HIGH COURT  
ABBOTTABAD BENCH

11/07/18

RESPECTFULLY SHEWETH:-

1. That Respondent/Plaintiff has filed a suit for declaration and permanent injunction for his appointment against the vacant post of PST in GPS Rankot or Bagotar. (Copy of plaint is annexed as "A")

ADDITIONAL REGISTRAR  
PESHAWAR HIGH COURT  
ABBOTTABAD BENCH

21/6/18

Certified to be True Copy  
EXAMINER  
04 DEC 2018  
Peshawar High Court App. Bench  
Authorized Under Sec: 75 Evid Ordns.



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2. That the Petitioners/Defendants Department were summoned who appeared and submitted the written statement wherein legal and factual objections were raised. (Copy of written statement is annexed as "B")
3. That from the divergent pleadings of the parties the learned trial Court framed issues and both the parties produced evidences in support of their respective claims. (Copy of evidence is annexed as "C").
4. That the learned trial Court, Civil Judge-VII, Abbottabad vide Order and Decree dated 23/12/2016 passed a conditional decree. (Copy of Judgment dated 23/12/2016 is annexed as "D")
5. That the respondent/appellant filed appeal before District Judge, Abbottabad which appeal was allowed by ADJ-III, Abbottabad and the Judgment and decree of learned trial Court was modified vide Order and Judgment dated 09/01/2018. (Copy of Judgment is annexed as "E")
6. That being aggrieved and dissatisfied with the Judgment and decree dated 09/01/2018 passed by the learned ADJ-III, Abbottabad the Petitioners approach this Hon'ble Court inter alia on the following grounds amongst others:-

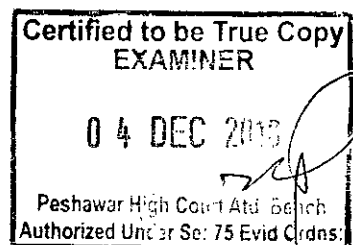
GROUND:-

- A. That one of the glaring illegality committed by learned lower Court is to not considering the actual facts that the respondent applied for the post of PST and appeared in Exam and got 6<sup>th</sup>, 7<sup>th</sup>, 8<sup>th</sup> and 9<sup>th</sup> position at various School wise/UC wise merit list. Wherein topper of the merit list were appointed except two UCs where education the educational qualifications of the toppers were under object. the objections were challenged by two candidates namely Jehangir Khan and Muhammad Naeem in Writ Petition before Hon'ble Peshawar High Court and same were decided in their favour however the department filed CPLA which was pending in the august Apex Court.

RE-FILED TODAY

ADDITIONAL REGISTRAR  
PESHAWAR HIGH COURT  
ABBOTTABAD BENCH

11/07/18



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- B. That the impugned Order, Judgment and decree is against law, facts and record available, hence untenable.
- C. That the learned lower appellate Court has not taken in his consideration material/documentary evidence brought on record by the petitioners.
- D. That the impugned Judgment and Order is the result of non-appreciation of evidence and is based on surmises and conjectures.
- E. That the impugned Judgment is the outcome of exercising the jurisdiction in excess and needs interference by this Hon'ble Court.
- F. That the impugned Judgment and Order has occasioned miscarriage of justice and made the case in hand for legal complications.
- G. That the impugned Judgment is based on assumption and presumption and is the result of mis-reading and non-reading of evidence.
- H. That the petitioners may kindly be allowed to put forward any other arguments/documents at the time of hearing of instant petition.

It is, therefore, humbly prayed that by acceptance of instant Revision Petition the impugned judgment/order dated 09/01/2018, passed by the learned Additional District Judge-III, Abbottabad may kindly be set aside and the suit filed by the respondent/plaintiff may graciously be dismissed/rejected with cost throughout.

**RE-FILED TODAY**

ADDITIONAL REGISTRAR  
PESHAWAR HIGH COURT  
ABBOTTABAD BENCH

*Handwritten signature and date*

Certified to be True Copy  
EXAMINER  
04 DEC 2018  
Peshawar High Court Bench  
Authorized Under Sec: 10 Evid Ordns:

*Handwritten signature*

19.08.2018

Advocate General,  
Khyber Pakhtunkhwa,  
Peshawar.

7523	No.
8/12/78	Date of Presentation
204	Rate of Rates
204	Printing Fee
204	Lighter Fee
204	Total
<i>[Signature]</i>	Name of Copyist
8/12/78	Date of Preparation of Copy
8/12/78	Date of Intimation
8/12/78	Date of Delivery of Copy

Judgment Sheet  
IN THE PESHAWAR HIGH COURT, ABBOTTABAD  
BENCH  
JUDICIAL DEPARTMENT

Civil Revision No. 250-A/2018

JUDGMENT

Date of hearing..... 26.11.2018.....

Petitioner.....(Govt of KPK & 02 others) By Mr. Yasir Zahoor  
Abbasi, Assistant AG alongwith Sohail Ahmad Zeb,  
Litigation officer, DEO (M) Abbottabad.

Respondents. (Muhammad Iqbal) By Mr. Sajjad Ahmad Abbasi,  
Advocate.

\*\*\*\*\*

LAL JAN KHATTAK, J.- This revision  
petition is directed against the judgment and  
decree dated 09.01.2018 of the learned  
Additional District Judge-III, Abbottabad,  
whereby of the petitioners' appeal, against the  
judgment and decree dated 23.12.2018 of the  
learned Civil Judge-VII, Abbottabad, has been  
dismissed.

*again*

2. Respondent Muhammad Iqbal had  
filed a suit for declaration and mandatory  
injunction to the effect that for his meritorious  
position he was to be appointed against a  
PTC post in his Union Council. The learned  
trial court on 09.01.2018 decreed the suit with  
which the learned appellate court has  
concurd albeit with some modification.

3. Arguments heard and record gone  
through.

100% Free Copy  
EXEMPTED  
03 DEC 2018  
S. S. Khan  
S. S. Khan  
S. S. Khan  
S. S. Khan

*Sajjad Ahmad Abbasi*  
19/11/18  
Sajjad Ahmad Abbasi  
Advocate High Court  
Abbottabad

19/11/18

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→ Petition No. 234 is On Dismissal Page

2

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4. Perusal of the case record would show that the learned appellate court had passed its judgment and decree on 09.01.2018. Petitioners applied for getting attested copies of the judgment and decree on 30.01.2018 which were supplied to them on 22.02.2018 whereas the petition in hand was filed on 21.06.2018 and, as such, same is barred by forty eight (48) days.

5. Though the petitioners have filed an application for condonation of the delay, caused in filing the petition, but as the grounds taken by them for condoning the delay are not sound and delay of each day has not been explained by them, therefore, the desired condonation cannot be granted to them.

6. For what has been discussed above, the application for condonation of delay is dismissed and resultantly the revision petition is hereby dismissed for its being barred by time.

Attested  
 Sajjad Ahmed Abbasi  
 Advocate High Court  
 Abbottabad  
 16.8.19

Examined to be True Copy  
 EXAMINER  
 13 DEC 2018  
 High Court of Sindh  
 Hyderabad Under Sec: 75 Evid Ordns

Announced:  
26.11.2018.  
 (\*Arshad Iqbal\*)

Sd/Arshad Iqbal

# ① Annexure K

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لعدالت جناب سرلجج III صاحب ایسٹ آباد

محمد اقبال نام ڈسٹرکٹ ایجوکیشن آفیسر (مردانہ)  
(ڈگریئر) ایسٹ آباد وغیرہ

درخواست اجراء ڈگری

عذرات بجانب مدلوں تحت سیکشن 47 آرڈر 21  
رولز 23 سب رول 2

جناب عالی! عذرات ذیل عرض ہیں

1- یہ کہ ڈگریئر نے برخلاف مدلوں درخواست اجراء تحریر 8/2/2018

تحت اپیل نمبر 59/13/2017 منقلہ 9/01/2018 لعدالت III ADJ

ایسٹ آباد نے modify کرتے ہوئے مقدمہ نمبر 320/1 منقلہ 23/12/2016

کو اس حد تک حال رکھا کہ ڈگریئر کو تعینات کیا جائے "if otherwise eligible for it"

درخواست و مفصلہ جات پہلے سے مثل عدالت

یہ عدالت پر موجود ہیں  
2- یہ کہ مدلوں نے school based appointment on contract for one year

کلیے خالی آسامیوں پر تعیناتی کیلئے 05/01/2014 کو اخبار میں

انتہا ردا جس سے درخواست دینے کی آخری تاریخ 20/01/2014

مقرر تھی۔ ڈگریئر نے بھی چار اسکولز one post each school

Attested  
Sajjad Ahmed Abbasi  
Advocate High Court  
Abbottabad  
10.8.19

apply کیا اور 70.05 نمبر حاصل کیے۔ جبکہ سولہ سیرٹیفکیٹ کے مطابق ڈگری دار کی ذیل پوزیشن ہیں۔

- |   |  |
|---|--|
| 1 | GPS بگورٹر ① پوسٹ - ڈگری دار 6th Position - محمد جہانگیر |
| 2 | GPS چھجیاں ① پوسٹ 8th Position - عبدالجبار               |
| 3 | GPS دیول ① پوسٹ 9th - محمد علی شاہ                       |
| 4 | GPS زنگوٹ ① پوسٹ 7th Pos - ندیم                          |
- IST Position  
 IST Position  
 Appointed  
 IST Position  
 (Reserved) IST Position

3- یہ کہ GPS بگورٹر محمد جہانگیر اور GPS زنگوٹ کیلئے ندیم Top پیر تھے جن کے پاس CPTC کی بجائے Skill development certificate ہونے کی بنا پر مرد لوہان نے لعتیاتی سے الگا کیا جس کے خلاف جہانگیر اور ندیم نے عدالت عالیہ ایسٹ آباد WP 354-A/14 منفصلہ 10/09/2014 بعنوان جہانگیر Gov of KPK vs وغیرہ و ندیم Gov of KPK vs دائر کی جس کے خلاف حکومت KPK / حکمہ الحکم نے

نے CPLA 617-P/2014 عدالت عظمیٰ دائر کر رکھی ہیں جو کہ زیر تجویز ہیں

4- یہ کہ محمد جہانگیر نے GPS بگورٹر کیلئے محمد پرویز کو Affidavit تحریر

دیا جسکی بنیاد پر محمد پرویز نے WP 782-A/14 منفصلہ 21/2/17

بعنوان محمد پرویز بنام Gov of KPK وغیرہ دائر کی جسکے خلاف مدیوں / حکمہ الحکم نے

نے CPLA 614-P/18 عدالت عظمیٰ میں دائر کر رکھی ہے جو کہ زیر تجویز ہے۔

حکمہ رٹ پستینر منسلک جات و CPLAs اوقت بحث

دیئے جائیں گے۔

5- یہ کہ محمد ندیم نے زنگوٹ کیلئے ڈگری دار محمد اقبال کو Affidavit

تحریر 14/03/17 دیا جسکی بنیاد پر ڈگری دار 6 اشخاص کو بائی پاس

Alleged  
 10.8.19.  
 Sajjad Ahmed Abbasi  
 Advocate High Court  
 Abbottabad

کر کے محض بیان حلفی کی بنیاد پر ایسا استحقاق مانگ رہا ہے جو کہ سرسراہ  
 عنبر قالونی، ماورائے آئین تحت متعلقہ قانون ویالسی ہے اور ناقابل  
 الیائے ڈگری ہائے ہے۔ بیان حلفی محررہ 14/03/17 پہلے سے مثل عدالت  
 پر موجود ہے۔ جملہ متعلقہ دستاویزات پہلے سے مثل عدالت پر موجود ہیں۔  
 6- یہ کہ عدلوں نے تحت قانون ویالسی مد نظر رکھتے ہوئے مجوزہ خالی پوسٹوں  
 پر مزید تعیناتی کے تحت درپیش مشکلات سے بچنے کیلئے محررہ اگست 2015 کو  
 مجوزہ پوسٹوں پر تعیناتی کو نذر اہم ایشیا، خسوخ کر دیا۔ یہ درخواستیں  
 مستحکم کر کے نئے بندوں کی تقریبات کی گئیں۔ جس میں ڈگری دار نے سرے سے  
 apply نہیں کیا۔ ایشیا، محررہ 20/09/2015 MARK-A پہلے سے  
 مثل عدالت پر موجود ہے۔

### Grounds

i- یہ کہ ڈگری ہائے تحت متعلقہ قانون ویالسی نیز میرٹ لسٹ school-  
 based appointments کی روشنی میں ڈگری دار کا متعلقہ لسٹ پر کوئی بھی  
 eligibility and fitness کے حقوق سرے سے پیدا نہ کرتے ہیں بدین وجہ منسلکہ  
 حیات و ڈگری ہائے ناقابل الیائے ہیں۔

ii) یہ کہ منسلکہ حیات و ڈگری ہائے میں مکمل طور پر ایشور آف لاپس جو  
 کہ عدالت عدا کو سماعت کا مکمل اختیار حاصل ہے اور تقاضائے الصاف و قانون  
 بھی ہے کہ کسی دوسرے کے حقوق مکمل طور پر سوخت نہ ہو جائیں۔

iii) یہ کہ بیان حلفی نہایت قدیم بحق محمد اقبال ڈگری دار کا استحقاق کو  
 باقی پاس کر کے قالونی کوئی independent استحقاق بحق ڈگری دار سے  
 کرتی ہے جو کہ سرسراہ غلط، ماورائے آئین متعلقہ قانون ویالسی کے بھی خلاف ہے  
 اور عدالت عدا تحت CPC بحشت Executing Court حکم سیکشن 47  
 آرڈر 21، رول 23 اور متعلقہ رولز کے تحت بھی once for all

Attested  
 10-8-19  
 Sajjad Ahmed Abbas  
 Advocate High Court  
 Abbottabad



منیہ کرنہ کہ مکمل اختیار رکھتی ہے۔ لہذا اور بوقت میں اٹھائے جائیں گے۔

المرفوع 21/12/18

ڈسٹرکٹ ایجوکیشن آفیسر (جنرل) ایس ڈی اے اربابوٹہ  
مدر لویان

*[Signature]*  
Dy. District Education Officer  
(Male) Abbottabad 11/12/18

*[Signature]*  
18-8-19  
Sajid Ahmed Abbas  
Advocate High Court  
Abbottabad

عدالت ہونے کا حق اور اس کا ادا

مذاہمتی نام ڈسٹرکٹ ایجوکیشن آفیسر (مرتبہ) ریفیرو

درخواست اجراء ڈگری

عذرات تحت سیکشن 47 دفعہ CPC

خواب عالی - جواب مناسب ڈگریوار دیا ہے

عذرات تہدی

1۔ عذر داری کا جواز مخصوص کی طرف سے دائر نہیں

کی ہے۔ اگرچہ دفعہ 47 CPC

آرڈر 23 (2) کا اطلاق

درخواست اجراء عنوان پر ہی نہیں ہے

2۔ ڈگری عدالت مالک پر تک برقرار رہی ہے

اس کے بعد عذرات عنوان نہ صرف عدالت ہونا

کی تہ ہیں بلکہ عدالت اس کے عدالت مالک

ڈسٹرکٹ کی بھی تہ ہیں ہے

3۔ عدالت ہذا کے حکم مورخہ 12/07 کو بھی

Frustrate کرنے کی سعی ہے

عذرات واقعاتی

1۔ فقرہ نمبر 1 اور 2 سے متعلق ہے۔ مقدم ڈگریوار

مقابلہ عدالت contest ہو کر نیند ڈگری ہوئی

2۔ فقرہ نمبر 2 Misconceived ہے۔ یہ تمام امور مقدم

کے متعلق ہیں۔ عذر داری میں نہیں اٹھائے جاسکتے

3۔ فقرہ نمبر 3 عدالت ہذا کے ساتھ Hide n Seek

کی کوشش ہے۔ عدالت ہذا کے علم میں ہے



Attested

10-8-19  
Sajjad Ahmed Abbasi  
Advocate High Court  
Abbottabad

جوائننگ میں Police Service کر رہی ہے جبکہ مذکورہ "آرڈر" -  
میں اعتراض درکاروں کا "سہروردہ" نہیں ہے۔ درکاروں کے  
ڈگری کے مطابق "Act" کر رہا ہے۔ وہ نہ وہ جان بوجھ کر  
نہیں کر رہے ہیں۔

4۔ فقرہ نمبر 4 Misconceived ہے اور فقرہ نمبر 4 کے  
ساتھ باہم متصادم ہے۔ تقویات کا تبادلہ کرنا  
بھی ممکن نہیں ہے۔

5۔ فقرہ نمبر 5 کے نزدیک عدالت اپیل کی عدالت عالیہ کی  
عدالت ہے۔ ڈگری حکم نہیں ہو سکتی ہے۔ محض  
لفاظی ہے اور عدالت کے ذریعہ یہ ذمہ داری ہے کہ وہ  
ڈگری کو Execute کرے۔  
عوا - گراؤنڈز -

1۔ فقرہ نمبر 1 غلط ہے اور عدالتوں کے مفہوم کا  
ڈگری حکم بنیاد پر اجراء عنوان ذمہ داری ہے  
یہ نہیں ہے۔

(ii) غلط ہے۔

(iii) فقرہ نمبر (iii) بھی غلط ہے بالکل ہی بنیاد  
پر ہے۔

Attested  
Sajjad Ahmed Abbasi  
Advocate High Court  
Abbottabad

استدعا حیدر عذر داری ہم فرم  
خارج فرمایا جاگ

4.1.19  
محمد امین ڈگری دار

M. J. Leal  
ریڈو کھٹ  
4.1.19

بیان دلفی  
دلفی ہائی کورٹ میں جواب  
عذر داری میں عہد و پیمانہ  
درست میں  
4.1.19  
محمد امین ڈگری دار  
M. J. Leal



4-1-2019

(56)

Annexure M

0-12  
04.01.19

Counsel for DH present. CP for JDs present.  
Replication submitted today. File to  
come up for arguments and order on

11-01-2019

ISLAMUDDIN  
Senior Civil Judge (Judicial-I)  
Abbottabad

0-13  
11.1.19


presence as before. File  
to come up for further  
proceedings on 21-1-19.

ISLAMUDDIN  
Senior Civil Judge (Judicial-I)  
Abbottabad

Order...14  
21.01.2019

Decree Holder alongwith counsel present. JD through District Attorney present. As the JD had filed an objection petition which after hearing arguments is turned down today. The main assertion of JD in the objection petition was that they have already filed four CPLA about the same posts in supreme court, but the JDs have till date not submitted any suspension or stay order from August Supreme court of Pakistan. Only on this assertion the appointment of DH cannot be lingered on for an indefinite period, so JDs are directed to issue appointment letter to the Decree holder immediately. To come up for compliance of court order on 01-02-19.

Attested  
Sajjad Ahmed Abbasi  
Advocate High Court  
Abbottabad

  
ISLAMUDDIN  
Senior Civil Judge (Judicial-I),  
Abbottabad



Ady-W  
وزیر عدالت

4

3

57

# Annexure N

Date of Order  
Proc  
1

لعدالت جناب ڈسٹرکٹ جج صاحب ایسٹ ارباد

Subordinate to  
District & Sessions Judge  
Abbottabad  
31-1-19

1) نوٹیفکیشن کا ریکارڈ بذریعہ سیکریٹری قیام (E & SE) سٹاؤڈ

2) ڈائریکٹری کا ریکارڈ قیام (E & SE) سٹاؤڈ

3) DEO میل (E & SE) ایسٹ ارباد

مقدمہ نمبر

99/CR

رجوعہ

31/01/19

(ایسٹ ارباد / سٹاؤڈ)

نما

محمد اقبال 5/5 خانیزمان سائنس سبیلی ڈیپارٹمنٹ ایسٹ ارباد

(ایسٹ ارباد / سٹاؤڈ)

Deemed to be a True Copy  
18 FEB 2019

EXAMINER  
District & Sessions Judge  
Abbottabad

ایسٹ ارباد

بر خلاف فیصلہ و حکم عدالت جناب سول جج 11/11

ایسٹ ارباد در مقدمہ نمبر 18/10/18 صدر 1/21/2019 جسی

ٹو سے دہشت گردی کے ریکارڈ پر تقرری / تفتیشی ملاحظہ

ایسٹ ارباد کا ریکارڈ صدر کیا جیکہ در مقدمہ نمبر 228/18/18 صدر 5

21/1/2019 جسی ٹو سے ایسٹ ارباد / سٹاؤڈ کے عدالت خارج

فریسا

Sajjad Ahmed Abbasi  
Advocate High Court  
Abbottabad

استدعا فیصلہ :-

مختصر یہ ایسٹ ارباد / سٹاؤڈ نے فیصلہ و حکم عدالت حاکمیت تحت  
مقدمہ / درخواست اعدا کی 18/10/18 صدر 1/21/2019 نا ضلع

مذکورہ اپیل / نڈرائی - CPLAS زید تجویز عدالت غلطی کے فیصلہ

جات تک منسوخ و کالعدم قرار دیا جائے فیصلہ نمبر 201/19 در مقدمہ

228/6 عذرات ایپلائنٹ / اسٹان / منظور فرمائے جاویں نیز دیکھو

بھی داد کی قرین اوصاف یو ایپلائنٹ / اسٹان کو دلائل جاوے

Superintendent to District & Sessions Judge Sahiwal

31-1-19

جناب عالی! نڈرائی اپیل / نڈرائی فیصلہ غلط ہے۔

① یہ کہ ریٹائرمنٹ کے خلاف ایپلائنٹ / اسٹان کے خلاف تھ اپیل نمبر 59/13

منفصلہ 9/1/18 عدالت III-JD اسٹ آباد منظور فرمائی جس کی ڈوس

در مقدمہ 320/13 منفصلہ 23/12/16 عدالت ماتحت سول جج II اسٹ آباد

کو modify کرنے کی سوشل ایپلکیشن ریٹائرمنٹ کو GPS ریکارڈ فراہم ہوئی  
میں یقینات کیا جائے "if others wise eligible for it"

نقل حکم و ڈگری اپیل منفصلہ 9/1/18

عدالت III-JD و حکم و ڈگری منفصلہ

23/12/16 عدالت VII-JD لف بی

Attested to be a True Copy  
110 FEB 2019  
EXAMINED  
District & Sessions Judge  
Sahiwal

② یہ کہ ایپلائنٹ / اسٹان نے فیصلہ جات و ڈگریاں کو چیلنج کر کے

نڈرائی نمبر 250-A/18 نمبر 19/6/18 عدالت عالیہ پشاور ہائی کورٹ

اسٹ آباد بیج ڈگری جو عدالت عالیہ کے فیصلہ نمبر 26/11/18 کو فیصلہ ہوا

جس کی ڈوس Merit کی بجائے Limitation پر خارج ہوئی۔

نقل نڈرائی نمبر 250-A/18 نمبر 19/6/18

منفصلہ 26/11/18 لف بی

③ یہ کہ ریٹائرمنٹ کے خلاف ایپلائنٹ / اسٹان در خواست الہر و ڈگری تھ 18/10

نمبر 8/2/18 حکم و ڈگری اپیل منفصلہ 9/1/18 عدالت III-JD اسٹ آباد

و مقدمہ نمبر 320/16 منفقہ 23/12/16 عدالت ۷۱۱- جی جی صاحب کی مدد سے  
Deputy Assistant to District & Sessions Judge  
Abbottabad

۷۱۱- جی جی صاحب کی مدد سے ڈائری

31-1-19

نقل درخواست اجراء ڈائری نمبر 18/10 و درخواست

و جواب درخواست بابت suspension لف میں

4) یہ کہ اپلاشن / اسٹلان بعد نوٹس عذرات در مقدمہ نمبر 228/6 نمبر 21/12/18

تحت اجراء ڈائری ڈائری جس پر سپانڈنٹ نے جواب عذرات نمبر 19/1/19  
ڈائری عدالت کیے۔

نقل عذرات و جواب عذرات لف میں

5) یہ کہ عدالت ماتحت نے اپلاشن / اسٹلان کے عذرات در مقدمہ نمبر 228/6 کو

فار ج کے اپنا فیصلہ نمبر 21/12/18 صادر کیا جبکہ درخواست اجراء ڈائری

در مقدمہ نمبر 18/10 منفقہ 21/12/18 کی رو سے درخواست اجراء ڈائری کو

منظور کرنے سے روک دیا گیا ہے کہ سپانڈنٹ کو

لوہست تا فیصلہ CPLAS پر تفتیشی کاغذات کے صادر فرمایا جو کہ اضافی

قانون و آئین تحت منفقہ قانونی و ایسی قابل معافی ہے۔

نقل حکم عدالت ۷۱۱- جی جی درخواست اجراء ڈائری  
ڈائری در مقدمہ نمبر 18/10 منفقہ

نمبر 21/12/18 و عذرات در مقدمہ نمبر 228/6  
منفقہ 21/12/18 لف میں

:- GROUNDS

یہ کہ فیصلہ جات و ڈائری کی رو سے فیصلہ تحت اجراء ڈائری نمبر 12/12/18  
بابت تفتیشی سپانڈنٹ ماورائے قانون تحت ایسی و آئین ناقابل اجراء ڈائری

رانہ کہ عدالت عاقبت نے اپنے فیصلہ جت ڈگریا ہے، عداد کے وقت مستندات  
 پر پیدائشیان کو کمرے سے نظر انداز کر کے اپنا فیصلہ جات و فیصلہ اجراء ڈگریا ہے

Superintendent to  
 District & Sessions Judge  
 Abbottabad  
 31-1-14

کو قیاسی استدلال کی بنیاد پر عداد لیا گیا ہے سپانڈنٹ نے  
 should based appointment on contract  
 for one year.

اپنے فحاشی آسامیوں پر ترقیاتی کیٹیج 2014/1/5 کو اخبار میں اشتہار دیا جس  
 میں درخواست دہنے کی آخری تاریخ 2014/1/20 مقرر تھی سپانڈنٹ نے بھی ہار  
 سکو کہ one post each apply اپنا اپنا اور 70-05  
 بننے حاصل کیے جبکہ سکول میں میڈیکل کسٹ کے مطابق ڈگریا کی GPS  
 نکلوت میں 7TH ٹوٹیشن اور GPS ٹیکوٹر میں 6TH  
 ٹوٹیشن میں ہیں وہ فیصلہ تحت اجراء ڈگریا ناقابل بحالی اور قابل منوعی

تقریر میڈیکل کسٹ دا اخبار اشتہار اور  
 ریکارڈ لف ہے۔

Abbottabad Form 601  
 2014

(111) یہ فیصلہ تحت اجراء ڈگریا بابت وقتاتی سپانڈنٹ جعفر اف فیصلہ جات  
 عدالت ہائے میں عدالت عاقبت نے اپنا فیصلہ نمبر 12/12/18 عداد کر کے  
 وقت اس امر کو کمرے سے نظر انداز فرمایا کہ سپانڈنٹ سے پہلے ان کو پوسٹ  
 ہائے پر محمد جمالی کے محمد ندیم Topers آئے جن کو سپانڈنٹ نشان نے  
 SDC ڈیپوٹ کی بنیاد پر offer کیا جنوں نے 14/A-354 WP  
 عدالت عالیہ ہائی کورٹ دائر کی جس پر فیصلہ 16/9/14 عداد دیا جس کے  
 خلاف صوبائی حکومت نے 14/A-6179 CPJAS عدالت عظمیٰ میں دائر کر  
 رکھی ہے جو کہ زیر رجسٹر ہے اس طرح محمد جمالی کے GPS ٹیکوٹر کے محمد  
 پرویز کو Affidavit نمبر 7/12/17 دیا جس کی بنیاد پر محمد پرویز نے



(5)

(6)

(61)

نمبر 782-A/14 سپر منسٹر 2/18/21 عنوان محمد پرویز  
 گورنمنٹ لاء سپر منسٹر کے خلاف ایڈوائسنگ رپورٹ  
 CPLAS عدالت عظمیٰ نے سپر منسٹر کے خلاف ایڈوائسنگ رپورٹ  
 زیر التعمیر کے اس طرح فیصلہ جات و ڈگریاں دے کر عدالت عظمیٰ نے  
 عدالت عظمیٰ زیر التعمیر کے فیصلہ عدالت عظمیٰ کے فیصلہ  
 تحت اجراء و ڈگری ناقابل بحال و قابل منسوخ ہیں۔

Superintendent to  
 District & Sessions  
 Abbottabad  
 31-1-19

تقریباً عدالت عظمیٰ نے فیصلہ جات و  
 بیان عظمیٰ CPLAS کے خلاف ہیں

(۱۷) یہ کہ محمد رفیق نے Cops ریکورڈ میں ایک ریسپانڈنٹ وکٹیفائیڈ  
 نمبر ۱۴/۳/۱۷ دیا جسکی بنیاد پر ریسپانڈنٹ نے ۱۴/۳/۱۷ میں کو باقی پاس  
 کر کے ضمن بیان عظمیٰ بنیاد پر ریسپانڈنٹ کے استحقاق حائل رہا ہے جو کہ گورنمنٹ  
 قانونی ماوراء آئین تحت متعلقہ قانون و بالسی کے لئے ناقابل برضا و ڈگری

بیان عظمیٰ نمبر ۱۴/۳/۱۷

18 FEB 2019  
 EXAMINER  
 District & Sessions Judge  
 Abbottabad

(۱۸) یہ کہ ایڈوائسنگ رپورٹ کے تحت قانون و بالسی منظر نظر رکھ کر ایڈوائسنگ رپورٹ  
 کیسوں پر فیصلہ دینا کے تحت عدالت عظمیٰ نے فیصلہ جات و ڈگریاں دے کر عدالت عظمیٰ  
 2015 کو جوڈرہ کیسوں پر فیصلہ دینا کے تحت عدالت عظمیٰ نے فیصلہ جات و ڈگریاں دے کر  
 عدالت عظمیٰ نے فیصلہ جات و ڈگریاں دے کر عدالت عظمیٰ نے فیصلہ جات و ڈگریاں دے کر  
 عدالت عظمیٰ نے فیصلہ جات و ڈگریاں دے کر عدالت عظمیٰ نے فیصلہ جات و ڈگریاں دے کر

تقریباً عدالت عظمیٰ نے فیصلہ جات و ڈگریاں دے کر عدالت عظمیٰ نے فیصلہ جات و ڈگریاں دے کر  
 MARK-A#20/9/15

62 8 6

Superintendent of  
District & Sessions Judge,  
Abbottabad  
31-1-19

لہذا استدعا ہے کہ منظور ہی ایپل / نڈرائی فیصلہ  
دفعہ نمبر ۵۵۰/۱۹/۱۱۱۲ در مقدمہ نمبر ۲۸۸/۱۹  
تحت عذرات کو منظور فرمائے تاکہ ایپل فیصلہ نمبر ۵  
۱۹/۱۱/۱۲ معذرتاً شیخ در مقدمہ نمبر ۱۸/۱۵  
تحت امراء ڈگری کو تا فیصلہ ایپل و اس کے  
ممنوع فرمائے تاکہ صادر فرمایا جاوے۔  
الحرف نمبر ۵۱/۳۱  
۲۰۱۹

ایبٹ آباد ندریہ ڈی ایچ او ایپل ایبٹ آباد  
District Education Officer  
(M) Abbottabad  
ندریہ

Registered to the Govt. of Punjab  
19 FEB 2019

CHAMPKNER  
District & Sessions Judge  
Abbottabad

ڈسٹرکٹ انارنی ایبٹ آباد

بیان حلفی

حکم ہدایت ایپل / نڈرائی فیصلہ علی و تھیں ہی صورتاً درست ہیں لہذا  
کوئی امر عدالت کے خلاف نہ رکھا گیا ہے لہذا یہ ہم جوں ایپل /  
نڈرائی کسی عدالت میں زیر ترمیم ہے۔

الحرف نمبر ۵۱/۳۱  
۲۰۱۹



District Education Officer  
(M) Abbottabad

ایبٹ آباد ندریہ ڈی ایچ او ایبٹ آباد

(7) (9) (63)

ادارہ التدریس جامعہ صاحب اسٹڈیٹ ارباب

*[Handwritten signature]*

محمد اقبال

مدرس

گورنمنٹ کالج

Deputy Commissioner to  
District & Sessions Judge,  
Abbottabad

31-1-19

اپیل / تدراسی سوسائٹی

ضابطہ عالی

مقدمہ قراقرم ذیل میں

یہ کہ پتہ قراقرم میں اپیل / تدراسی سوسائٹی درست طور پر

موجود ہے

المقررہ 31/01/2019

اپوزیشن نذریہ DEO میں اسٹڈیٹ ارباب

District Education Officer  
(M) Abbottabad

نذریہ

ڈسٹرکٹ ارباب اسٹڈیٹ ارباب

*[Handwritten signature]*

RECEIVED  
27 FEB 2019  
DEPT. OF EDUCATION  
ABBOTTABAD

Superintendent to District & Sessions Judge, Abbottabad 31-1-19

عدالت ڈسٹرکٹ جج صاحب ریٹ آباد

کے گوت وینڈر ۷۵ محمد امین

اپیل انڈرانی سول

درخواست نمبر ۱۱۱/۱۹/۱۹ عدالت VII-CJ تحت اصرار ڈگری در مقدمہ ۱۸/۱۰-۱۸/۱۰ جس کی رو سے ایوان انڈرانی کو حکم دیا گیا کہ وہ ریٹنگ کو دس دنوں کی حوسٹ پر تعینات کریں۔ قتل کے لیے جو تیز عدالت غلطی وینڈر اپیل کے suspend کرنے کا اہتمام ہمارے کیا جائیں۔

عناصرت عالی! درخواست ذیل عرض ہے۔

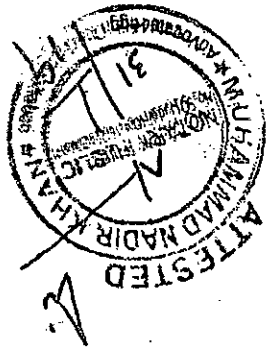
۱۔ یہ کہ اپیل انڈرانی محمد ابرار صاحب نمبر ۱۱۱/۱۹/۱۹ عدالت VII-CJ ریٹ آباد کے خلاف عدالت آنحضرت جاری ہے۔

Approved by True Copy 18 FEB 2019

District Judge, Abbottabad

۲۔ یہ کہ بادی الزمیر میں cPLAS عدالت غلطی میں قوی اہتمام موجود ہیں ۱۱۱/۱۹/۱۹ کے بارے میں 3rd person کے استحقاق کی وجہ سے قوی اہتمام میں درخواست گزار کو اپیل انڈرانی کا بندہ رکھنا چاہیے۔

۳۔ یہ کہ اپیل انڈرانی میں ریٹنگ Affidavit کی بنیاد پر اپنا استحقاق باریاں کو Bypass کرنے میں اپیل انڈرانی کی اپیل انڈرانی کے Fate و Poma facie کی بنیاد پر ۱۱۱/۱۹/۱۹



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Handwritten text in Urdu: "ڈسٹرکٹ ایجوکیشن آفیسر، ایبٹ آباد"

Stamp: "18 FEB 2019" and "District & Sessions Judge, Abbottabad".

District Education Office, (M) Abbottabad

Handwritten text: "ڈسٹرکٹ ایجوکیشن آفیسر، ایبٹ آباد" and "ڈسٹرکٹ ایجوکیشن آفیسر، ایبٹ آباد"

Handwritten date: "31/01/2019"

Handwritten text: "ڈسٹرکٹ ایجوکیشن آفیسر، ایبٹ آباد"

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Handwritten date: "31-1-19"

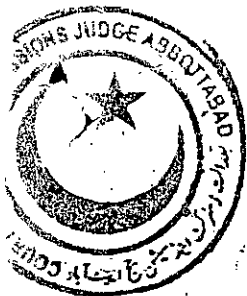
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Handwritten text: "ڈسٹرکٹ ایجوکیشن آفیسر، ایبٹ آباد"

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Adly-W  
بجوات جاب

Annexure 0

17

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**IN THE COURT OF SYED IFTIKHAR SHAH,  
ADDL. DISTRICT JUDGE-IV  
ABBOTTABAD**

Civil Revision No 22/CR of 2019  
Date of institution: 31.01.2019  
Date of decision: 14.02.2019

Government of KPK through Secretary Education Elementary and Secondary Education Peshawar and two others

(APPELLANTS/JUDGMENT DEBTORS)

**V E R S U S**

Muhammad Iqbal S/O Khani Zaman R/O Samli Dheri, Tehsil & District Abbottabad

(RESPONDENT/DECREE HOLDER)

**JUDGEMENT**

Through this judgment, I intend to dispose of revision petition No 22/CR of 2019, filed by the Appellants/JDs, against the Respondent/DH, impugning the order dated 21.01.2019 passed by learned Senior Civil Judge (Judicial-II, Abbottabad)/Executing Court in objection petition No 228/6 of 2018, vide which the objection petition filed by the appellants/JDs was dismissed and the appellants were directed to appoint the respondent/decree holder on conditional basis, subject to decision of August Supreme Court of Pakistan in CPLA.

2. The respondent/decree holder on 21.10.2014 filed civil suit No 320/1 titled as "Mhammad Iqbal VS DEO Male Abbottabad and others" against the appellants/JDs by contending that few posts of male teachers on adhoc school base system was advertised by Elementary and Secondary Education Abbottabad on 05.01.2014. The respondent Muhammad Iqbal applied for the post of primary school teacher (PST). The respondent was the resident of union council Boi, Abbottabad. In the said U/C there was one post each in four schools namely GPS Bagotar, GPS Chagan, GPS Deedal, GPS Rankot. The respondent applied for all posts. That later on the appellants/JDs did not consider the respondent for his appointment as PST. resultantly respondent knocked the door of the civil court through civil suit No 320/1

14/2/19  
FEB 2019  
Sayed Ahmed Abbasi  
Advocate High Court  
Abbottabad

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dated 21.10.2014. The learned CJ VII, Abbottabad on 23.12.2016 decreed the respondent and appellants were directed to consider the respondent's appointment against the vacant post in GPS Bagotar or GPS Rankot, if otherwise respondent is found fit and eligible. The decree in favour of respondent was made conditional to the CPLA No 617/P/2014 pending before the August Supreme Court of Pakistan. That feeling aggrieved from the said judgment and decree of learned CJ VII, Abbottabad dated 23.12.2016, the respondent filed civil appeal No 59/13 of 2017 on 11/01/2017 before learned ASJ III, Abbottabad. The judgment and decree of the learned trial court dated 23.12.2016 was modified by ASJ-III Abbottabad on 09.01.2018 by the acceptance of appeal and the appellants/JDs were directed to appoint the respondent as PST, teacher against the reserved seats in GPS Rankot or GPS Bagotar, if respondent is otherwise eligible fit.

3. The Government of KPK/JDs filed civil revision No 250-A/2018 before the honorable PHC, Abbottabad bench, which was decided on 26.11.2018 whereby the civil revision stands dismissed being time barred. The respondent on the strength of judgment and decree in his favour, filed execution petition before the learned Executing Court. The appellants/JDs submitted objections petition No 228/6 of 2018 on 21.12.2018 before the learned executing court, which was dismissed by the learned Senior Civil Judge (Judicial II, Abbottabad)/Executing Court vide impugned order dated 21.01.2019 and appellant/JDs were directed to appoint respondent on conditional basis subject to decision of August Supreme Court of Pakistan in CPLA. Hence the appeal.

4. During the pendency of revision petition, the respondent without any notice appeared before the court through counsel and submitted wakalatnama and therefore, the revision petition was fixed for arguments.

5. Arguments of both the counsel heard and record perused.

Attested  
10.8.19  
Sajjad Ahmed Abbasi  
Advocate High Court  
Abbottabad

(19)

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6. The learned counsel for the appellants/JDs argued that against the judgment by the hon'ble PJC, Abbottabad bench in civil revision 250-A/2018 dated 26.11.2018, the CPLA has been filed in the August Supreme court of Pakistan and till the decision of CPLA the proceedings before the learned executing court may kindly be suspended. As per appellants/JDs there is likelihood of favourable order in CPLA against the respondent, therefore, prayer for the acceptance of the instant revision petition and suspension of the execution proceedings pending before the learned Senior Civil Judge (Judicial II, Abbottabad) was made.

7. In rebuttal, the learned counsel for the respondent rebutted the arguments by contending that facts mentioned in the revision are properly argued before the learned appellate court and the learned appellate court has properly recorded his finding in this regard through judgment in civil appeal No.59/13 of 2017, dated 09.01.2018 through which the decree of learned trial court dated 23.12.2016 is modified which is liable to be executed. That no restraining order is passed by August Supreme Court of Pakistan in the CPLA filed by the appellants/JDs and as such the respondent cannot be deprived from the fruit of his decree. The order passed by the learned executing court is a conditional order which is subject to modification after the decision made in the CPLA by the August Supreme Court of Pakistan. The present petition is filed by the appellants/JDs just to frustrate the execution proceedings which are in progress before the learned executing court. Thus, prayer for rejection of the revision petition is made accordingly.

8. Perusal of record reveals that objection petition 228/6 dated 21.12.2018 filed by the appellants/JDs before the learned executing court contains the same facts which were already properly argued before the learned ASJ III, Abbottabad and the learned ASJ III, Abbottabad after hearing the arguments of both the parties vide his judgment in civil appeal No 59/13 of 2017 on 09.01.2018 rejected the stance of the appellants

14/2/19

J19  
Senior Judge  
Court

*Almas*  
*Sajjad*  
**Sajjad Ahmed Abbasi**  
Advocate High Court  
Abbottabad



2c

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and passed a conditional decree, while modifying the judgment of the learned court dated 23.12.2016 whereby the appellants/JDs were directed to appoint respondents as PST against the reserved seat in GPS Rankot or GPS Bagotar. The order passed by the learned executing court Senior Civil Judge (Judicial Magistrate II, Abbottabad) dated 21.01.2019 on the strength of the judgment of the learned appellate court/ADJ III, Abbottabad is conditional order where the appellants were directed to appoint the respondent on conditional basis subject to the decision of August Supreme Court of Pakistan in CPLA. The record reveals that there is no restraining order from the August Supreme Court of Pakistan in favour of the appellants and the respondent for an indefinite period cannot be restrained from taking benefit of decree passed in his favour. A decree without its execution is just like a lemonade without its lime juice.

9. The appellants/JDs through objection petition has not brought any new fact before the learned executing court and this court. The facts mentioned in the objection petition are properly addressed by the learned ASJ III, Abbottabad through his judgment in civil appeal No.59/13 on 09.01.2018. Furthermore, there is no restraining order from the August Supreme Court of Pakistan in CPLA filed against the order of hon'ble PHC, Abbottabad bench passed in civil revision No 250-A/2018 dated 26.11.2018. The appeal in hand is filed on 31.01.2019 by the appellants/JDs before this court and till date the appellants/JDs despite commitment failed to bring any stay order from the August Supreme Court of Pakistan. Thus it is held that order of the learned executing court was made properly in accordance with the befitted circumstances of the case. Therefore, there is no need to interfere in the order of learned executing court.

In the, light of above-mentioned facts, the instant revision petition filed by the appellants/JDs against the order dated 21.01.2019 passed by learned executing court Senior

14/2/19

14/2/19  
Sajjad Ahmed Abbas  
Advocate High Court  
Abbottabad

(21) (70)

Civil Judge-II Abbottabad stands dismissed. There is no order as to costs. The case is consigned to RR after its necessary, completions and compilations while copy of this judgment be sent to the learned executing court for placing the same on record.

Announced.  
14/02/2019

*[Signature]*  
(Syed Iftikhar Shah)  
Add: District Judge-IV,  
Abbottabad

14/2/19

CERTIFICATE

It is certified that this judgment consists of 05 pages. I signed each page after reading and making correction.

*[Signature]*  
(Syed Iftikhar Shah)  
Add: District Judge-IV,  
Abbottabad

14/2/19

No. 2519 Date 15/02/19

D of Pre. 15/02/19 Application 15/02/19

No of 1 15/02/19

Obj. 15/02/19

U. 15/02/19

T. 15/02/19

Part. 15/02/19

Preparation of 15/02/19

Copy 15/02/19

*[Signature]*  
18 FEB 2019  
EXAMINER  
District & Sessions Judge  
Abbottabad

*[Signature]*  
Attested  
10.2.19  
Sajjad Ahmed Abbasi  
Advocate High Court  
Abbottabad



22 (71)

**MEMO OF COST**  
**IN THE COURT OF SYED IFTIKHAR SHAH,**  
**ADDITIONAL DISTRICT JUDGE-IV, ABBOTTABAD**

Civil Revision No 22/CR of 2019  
Date of institution: 31.01.2019  
Date of decision: 14.02.2019

Government of KPK through Secretary Education Elementary and Secondary Education Peshawar and two others

(APPELLANTS/JUDGMENT DEBTORS)

**VERSUS**

Muhammad Iqbal S/O Khani Zaman R/O Samli Dheri, Tehsil & District Abbottabad

(RESPONDENT/DECREE HOLDER)

**JUDGMENT**

The civil revision came up for hearing on 14/02/2019 in presence of counsel for the parties.

**Order sheet**  
14/02/2019.

The instant revision petition filed by the appellants/JDs against the order dated 21.01.2019 passed by learned executing court Senior Civil Judge-II Abbottabad stands dismissed. There is no order as to costs.

**Announced**  
14/02/2019

*[Signature]*  
(SYED IFTIKHAR SHAH)  
ADJ-IV, ABBOTTABAD

14/2/19

**COSTS OF REVISION**

PETITIONER

COST REVISION

RESPONDENT

- Stamp on revision
- Court fee
- Stamp for power
- Publication fee
- Service of Process
- Pleader's Fee
- Miscellaneous

*[Signature]*  
14-8-19.  
Sajjad Ahmed Abbasi  
Advocate High Court  
Abbottabad

**TOTAL**

Cost of the revision has not been allowed, as the required certificates under the rule have not been furnished.

Given under my hand and seal of the Court this day of 14<sup>th</sup> day of February, 2019.

*[Signature]*  
(SYED IFTIKHAR SHAH)  
ADJ-IV, ABBOTTABAD

14/2/19

Who is a True Court  
8 FEB 2019  
EXAMINER  
Sajjad Ahmed Abbasi  
Advocate High Court  
Abbottabad

## APPOINTMENT

72 Annexure P

In pursuance to the Judgment of Honorable Court of Additional District Judge-III Abbottabad passed in Civil appeal No.59/13 of 2017 dated 09.01.2018 and as per recommendation of the Departmental Selection Committee, appointment of the following candidate is hereby ordered **conditionally, as the instant appointment order shall be subject to the final decisions of CPLAs Nos.617-P/2014 & 60-P/2019 pending before the August Supreme Court of Pakistan** against the vacant posts of PST School based, in BPS-12. (Rs.13320-960-42120) @ Rs. 13320/- fixed plus usual allowances as admissible under the rules on adhoc basis on Contract under the existing policy of the Provincial Government, in Teaching Cadre on the terms and conditions given below with effect from the date of his taking over charge:

Sr	NTS Roll No/year	Name/Father name	Date birth	CNIC No.	Candidate U C	Qualification	Merit	School	Remarks
I	1160281 2014	Muhammad Iqbal S/O Khani Zaman	04.3.1980	13101-0978655-1	Boi	FA/PTC	70.05	GPS Rankot	Ag: V/Post

## TERMS &amp; CONDITIONS:

1. His appointment is being made **conditionally as the instant appointment order shall be subject to the final decisions of CPLAs Nos.617-P/2014 & 60-P/2019 pending before the August Supreme Court of Pakistan and appointment order will be withdrawn in the result of decisions of CPLAs accordingly.**
2. He is required to pass Bachelor Degree from recognized University within two years of the issuance of this order as the requisite qualification for the appointment of PST is Bachelor Degree in the light of Govt: of Kyber Pakhtunkhwa E&SED vide Notification No.SO (PE)4-5/SSRC/Meeting/2012/Teaching Cadre/2017 dated 30.01.2018, otherwise his appointment order will be withdrawn accordingly.
3. No TA/DA etc is allowed.
4. Charge reports should be submitted to all concerned in duplicate.
5. Appointment is purely on temporary & contract basis initially for one year from the date of issuance.
6. He is overage by 3-years, 11-months & 15 days and his case for the sanction of relaxation in Upper Age limit is forwarded to the Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.
7. Appointment is subject to the condition that the certificate/documents must be verified from the concerned authorities by the DEO Office, anyone found producing bogus Certificate will be reported to the law enforcing agencies for further action.
8. His services are liable to termination on one month's notice from either side. In case of resignation without notice his one-month pay/allowances shall be forfeited to the Government.
9. Pay will not be drawn until and unless a certificate regarding verification of their documents is issued by this office.
10. He should join his post within fifteen days at the end of winter vacations i.e 01.3.2019.
11. Health and Age Certificate should be produced from Medical Superintendent concerned before taking over charge.
12. He will be governed by such rules and regulations as may be issued from time to time by the Govt.
13. His services shall be terminated at any time, in case his performance is found unsatisfactory during contract period. In case of misconduct, he shall be proceeded under the rules framed from time to time.
14. His appointment is made on School based, he will have to serve at the place of posting, and his service is not transferable to any other station.
15. Before handing over charge, once again his document may be checked by the DDO concerned, if he has not the required relevant qualifications as per rules. He may not be handed over charge of the post.
16. In case of miscalculation of his marks affecting merit at any stage will be rectified accordingly which may affect the place of posting and appointment resultantly.

Alleged  
Sajjad Ahmed Abbasi  
Advocate High Court  
Abbottabad

sd  
District Education Officer (M)  
Abbottabad

Endst No 2021-28 /EB-II/ Litig Branch/

Dated 19/2 /2019

Copy forwarded for information and necessary action to the:-

1. The Honorable Court of Additional District Judge-III Abbottabad w/r to judgment passed in Civil appeal No.59/13 of 2017 dated 09.01.2018
2. Director E&SE Khyber Pakhtunkhwa, Peshawar.
3. District Comptroller of Accounts Abbottabad.
4. Sub Divisional Education Officer (M) Abbottabad with the remarks that relevant entries be made in his service book.
5. PS to the Secretary to Govt. Khyber Pakhtunkhwa E&SE Department Peshawar.
6. AP EMIS local office.
7. Candidate Concerned.
8. Master File.

District Education Officer (M)  
Abbottabad

(73)

Annexure Q

بخدمت جناب ڈائریکٹر صاحب ایلیمنٹری اینڈ سیکنڈری ایجوکیشن پشاور

جناب عالی!

گزارش ہے کہ سائل نے 20 جنوری 2014ء کو NTS ٹیسٹ برائے تعیناتی PTC پوسٹ دیا تھا جس پر سائل کو کامیابی کے باوجود تعینات نہ کیا گیا سائل نے 21 جنوری 2014ء کو عدالت دیوانی ایبٹ آباد میں مقدمہ دائر کیا سائل کے حق میں 23-12-2016 کو مقدمہ مشروط ڈگری ہو سائل نے 09-01-2017 کو ڈسٹرکٹ کورٹ ایبٹ آباد میں اپیل دائری کی ایڈیشنل ڈسٹرکٹ جج-III ایبٹ آباد نے سائل کے حق میں مقدمہ ڈگری کر دیا ہے۔ محکمہ نے اس فیصلہ کے خلاف پشاور ہائی کورٹ میں نگرانی کی ہائی کورٹ سے محکمہ کی نگرانی خارج ہوئی مقدمہ سول جج صاحب-VII کے پاس اجراء میں تھا سینئر سول جج صاحب کی عدالت میں 4 سال 4 ماہ کے بعد سائل کو پالیسی 2019 کے مطابق تعینات کیا گیا جبکہ سائل کی تعیناتی کا تعلق پالیسی 2014 کے متعلق ہے۔ (نقل لف ہے)۔

حکم تعیناتی مورخہ 19-02-2019 جو کہ من سائل کو 01-03-2019 کو روبرو عدالت کیا گیا میں من سائل کی تعیناتی 19-02-2019 سے ہے جبکہ یہ تعیناتی 21-01-2014 جب سائل نے مقدمہ دائر کیا ہونا چاہیے تھی۔ علاوہ ازیں سائل کو B.A کا امتحان دو سال میں پاس کرنے کی شرط کے ساتھ تعیناتی کیا گیا ہے جبکہ یہ شرط اس وجہ سے ختم ہونی چاہیے کیونکہ مذکورہ پالیسی سال 2018ء کی ہے اور یہ شرط 2014ء پر applicable نہ ہے۔

استدعا ہے کہ سائل کا حکم تعیناتی بطور P.T.C سال 2014ء سے جاری فرمایا جاوے۔

PTC M. Akmal محمد اقبال ولد خانیزمان سکنہ سبلی ڈھیری ایبٹ آباد

موبائل نمبر: 0313-0531286

شناختی کارڈ نمبر: 1-0978655-13101

27/3/19  
Sajid Ahmed Abbasi  
Advocate High Court  
Abbottabad

**BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL PESHAWAR AT CAMP COURT ABBOTTABAD.**

**Appeal No. 1057/2019**

Muhammad Iqbal.....Appellant

**VERSUS**

Govt of Khyber Pakhtunkhwa & Others .....Respondents

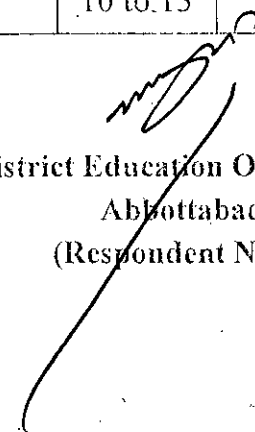
**PARAWISE COMMENTS ON BEHALF OF RESPONDENTS NOS. 01 TO 03**

**SERVICE APPEAL**

**INDEX**

<b>Sr.No</b>	<b>Description</b>	<b>Page Nos</b>	<b>Annexures</b>
1	Comments alongwith Affidavit	01 to 05	
2	Copy of Notification dated 13-11-2012	06 to 09	"A"
3	Copy of Notification dated 30-01-2018	10 to 13	"B"

Dated: 30/01/2020

  
District Education Officer (M)  
Abbottabad  
(Respondent No. 02)

**BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL PESHAWAR AT CAMP COURT ABBOTTABAD.**

Appeal No. 1057/2019

Muhammad Iqbal.....Appellant

**VERSUS**

Govt of Khyber Pakhtunkhwa & Others .....Respondents

**PARAWISE COMMENTS ON BEHALF OF RESPONDENTS NOS. 01 TO 03**

**Respectfully Sheweth:-**

Parawise Comments on behalf of respondents are submitted as under:-

**PRELIMINARY OBJECTIONS:-**

1. That the appellant has no cause of action to file the instant appeal.
2. That the appellant has no locus standi.
3. That the departmental appeal was filed beyond the period of limitation hence, instant service appeal is liable to be dismissed.
4. That the appellant did not come to this Honorable Tribunal with clean hands.
5. That the instant appeal is hopelessly time barred.
6. That the appellant concealed and distorted the material facts from this Honorable Tribunal.
7. That the present appeal has been filed just to pressurize and blackmail the respondents.
8. That the instant appeal is not maintainable in its present form.
9. That the instant service appeal is against the prevailing Notification No. SO (PE)4-5/SSRC/Meeting/2012/Teaching Cadre/2017 dated 30-01-2018 the requisite qualification for the post of PST is Bachelor's Degree from a recognized University hence, present service appeal is liable to be dismissed.

**FACTUAL OBJECTIONS:-**

1. That Para No. 1, of the instant service appeal is relates to the advertisement.

2. That Para No. 2, of the instant service appeal is relates to the NTS record.
3. That Para No. 3, of the instant appeal relates to record.
4. In reply to Para No.4, of the instant service appeal as composed is incorrect hence; denied as per advertisement there were 04 posts of in UC Boi Abbottabad were vacant, out of which 02 posts were filed vide appointment No. 7579-7686 dated 15-10-2014 and 02 posts were reserved to avoid the multiplicity of litigation as one Mr. Muhammad Jehangir & Other have filed writ petition No. 354-A/2014 before this Honourable Court and the same was allowed on 10-09-2014 and Education department has challenged the order dated 10-09-2014 before the Honourable Supreme Court of Pakistan & that's why 02 posts were reserved by the then DEO and one Mr. Sardar Shujah-ur-Rehman having 84.32 marks could not be appointed due to low merit position in the appointment order dated 15-10-2014 and he applied afresh and was appointed vide Notification No. 1591-97 dated 14-03-2015.
5. That Para No.5, of the instant appeal relates to judicial record.
6. That Para No. 6, of the instant appeal relates to judicial record.
7. That Para No. 7, of the instant service appeal relates to judicial record.
8. That Para No. 8, of the instant service appeal relates to judicial record.
9. That Para No. 9, of the instant service appeal relates to judicial record.
10. That Para No. 10, of the instant service appeal relates to judicial record.
11. That Para No. 11, of the instant service appeal relates to judicial record.
12. That Para No. 12, of the instant service appeal relates to judicial record.



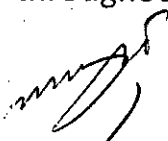
13. That Para No. 13, of the instant service appeal relates to judicial record.
14. That Para No. 14, of the instant service appeal relates to judicial record.
15. That Para No. 15, of the instant service appeal relates to judicial record.
16. That Para No. 16, of the instant service appeal relates to judicial record.
17. That Para No. 17, of the instant service appeal as composed is incorrect hence, denied.
18. That Para No. 18, of the instant service appeal is correct to the extent of issuance of appointment order dated 19/02/2019 while rest of the Para as composed is incorrect hence, departmental appeal was filed beyond the statutory period.
19. That Para No. 19, of the instant service appeal as composed is incorrect hence, denied as appointment order of appellant was made conditionally subject to their final decision of CPLAs No. 617-P/2017 and CPLA No. 60-P/2019 pending before the August Supreme Court of Pakistan. Furthermore, Government of Khyber Pakhtunkhwa Elementary & Secondary Education Department amended the Notification dated 13-11-2012 vide Notification dated 30-01-2018 wherein, at serial No. 21 in column No. 3 & 4 the requisite qualification for the post of PST is Bachelor Degree. (Copy of Notification dated 13-11-2012 and 30-01-2018 are annexed herewith as "A" & "B" respectively).
20. That Para No. 20, of the instant service appeal relates to record.

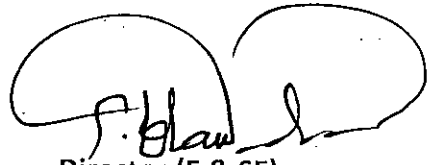
**GROUNDS:-**

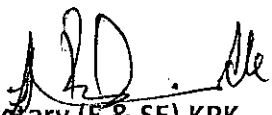
- a. In reply to ground a, comprehensive reply has already been given in Para No. 4 of the Factual Objection.
- b. In reply to ground b, comprehensive reply has already been given in Para No. 4 & 19 of the Factual Objection.

- c. In reply to ground c, comprehensive reply has already been given in Para No. 4 of the Factual Objection.
- d. In reply to ground d, comprehensive reply has already been given in Para No. 4 of the Factual Objection.
- e. That ground e, of the instant service appeal as composed is incorrect hence, denied.
- f. That ground f, of the instant service appeal as composed is incorrect hence, denied.
- g. That ground g, of the instant service appeal as composed is incorrect hence, denied.
- h. That the respondents seek permission of this Honourable Tribunal to advance further grounds during arguments.

It is, therefore, very humbly prayed that in the light of forgoing comments the appeal in hand may graciously be dismissed with cost throughout.

  
District Education Officer (M)  
Abbottabad.  
(Respondent No. 2)

  
Director (E & SE)  
E & SE, KPK, Peshawar.  
(Respondent No. 3)

  
Secretary (E & SE) KPK  
Peshawar.  
(Respondent No. 1)

**BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL PESHAWAR AT CAMP COURT ABBOTTABAD.**

**Appeal No. 1057/2019**

Muhammad Iqbal.....Appellant

**VERSUS**

Govt of Khyber Pakhtunkhwa & Others .....Respondents

**PARAWISE COMMENTS ON BEHALF OF RESPONDENTS NOS. 01 TO 03**

**AFFIDAVIT**

I, Mr. Qazi Tajjamal Hussain, District Education Officer (M) Abbottabad, do hereby affirm and declare on oath that contents of forgoing comments are correct and true according to the best of my knowledge and belief and nothing has been suppressed from this Honorable Tribunal.

  
**DEPONENT**

GOVERNMENT OF THE KHYBER PAKHTUNKHWA  
ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT.

NOTIFICATION

Peshawar, dated the November 13, 2012.

No. SD/3/34-SSR/CA Meeting/2012/Teaching Cadre: In pursuance of the provisions contained in sub rule (2) of rule 3 of the Khyber Pakhtunkhwa Civil Services (Appointment, Promotion and Transfer) Rules, 1989 and in supersession of all Notifications issued in this behalf, the Elementary and Secondary Education Department in consultation with the Establishment Department and the Finance Department hereby lays down the method of recruitment, qualification and other conditions specified in the Appendix to this Notification which shall be applicable to all the posts specified in Column No. 2 of the said Appendix and the schedule therewith.

SECRETARY TO GOVERNMENT OF THE KHYBER PAKHTUNKHWA  
ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT.

Encl. No. & Date as above.

Copy forwarded to:-

1. The Secretary to Govt. of Khyber Pakhtunkhwa, Establishment Department.
2. The Secretary to Govt. of Khyber Pakhtunkhwa, Finance Department.
3. The Secretary to Govt. of Khyber Pakhtunkhwa, Law Department.
4. The Secretary Khyber Pakhtunkhwa, Public Service Commission Peshawar.
5. The Accountant General, Khyber Pakhtunkhwa Peshawar.
6. The Director (ESSE) Khyber Pakhtunkhwa Peshawar.
7. The Director Education (FA/TA), Peshawar.

- 9. The Director Curriculum & Teachers Education Abbottabad.
- 9. The Director (PTE) Khyber-Pakhtunkhwa Peshawar.
- 10. The Director ESRU, Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar.
- 11. The Deputy Director Database (EMIS) E&SE Department.
- 12. All District Coordination Officers in Khyber Pakhtunkhwa.
- 13. All Executive District Officers Elementary & Secondary Education in Khyber Pakhtunkhwa.
- 14. All District Accounts Officers in Khyber Pakhtunkhwa / Agency Accounts Officers FATA.
- 15. All Agency Education Officers FATA.
- 16. P.S. to Governor, Khyber Pakhtunkhwa.
- 17. P.S. to Chief Minister, Khyber Pakhtunkhwa.
- 18. P.S. to Chief Secretary, Khyber Pakhtunkhwa.
- 19. P.S. to Minister, E&SE Khyber Pakhtunkhwa Peshawar.
- 20. P.S. to Secretary E&SE Department.
- 21. Master File.

*[Handwritten Signature]*  
 Section Officer (Primary)

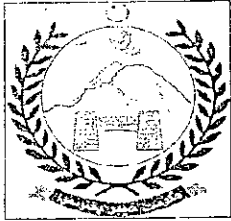
APPENDIX

S.No.	Nomenclature of the post.	Minimum qualification and experience for initial appointment or by transfers.	Age limit.	Method of recruitment.
1.	2.	3.	4.	5.
1.	Secondary School Teacher (SPS-15).	(i) Second class Bachelor's Degree with two subjects as Chemistry, Botany, Zoology, Physics, Mathematics, Statistics, Humanities and other equivalent groups from a recognized University; or  (ii) M.A in Education or Bachelor's Degree in Education, from a recognized University.	18 to 35 years.	(a) Fifty per cent by promotion on the basis of seniority-cum-fitness, in the following manner:  (i) forty per cent from amongst the Certified Teachers (General), Certified Teachers (Agriculture), Certified Teachers (Industrial Arts) and Certified Teachers (Home Economics) with at least five years service as such and having qualification mentioned in column No. 3;  (ii) four per cent from amongst the Drawing Masters with at least five years service as such and having qualification mentioned in column No. 3;  (iii) four per cent from amongst the Physical Education Teachers with at least five years service as such and having qualification mentioned in column No. 3.

②

with at least five years service as such : having qualification prescribed for all recruitment of Primary School Teacher.			
By initial recruitment on merit at Union Cou level provided that if no suitable candidate within the Union Council is available, then fr the adjacent Union Councils on merit.	18 to 35 years.	(i) Intermediate or equivalent qualification, from a recognized Board with Primary School Teacher Certificate/ Diploma in Education from a recognized Institute; or  (ii) Secondary School Certificate, from a recognized Board in second Division with two years Associate Degree in Education from a recognized University.	Primary School Teacher (BPS-12).
By initial recruitment.	18 to 35 years.	Intermediate with Hiz-e-Quran and Qirat Saheed from a recognized Institution.	Qari (BPS-12).

18



**GOVERNMENT OF KHYBER PAKHTUNKHWA  
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT**

**NOTIFICATION**

Peshawar, dated the 30<sup>th</sup> January, 2018.

1617  
19-2-18

**No.SO(PE)4-5/SSRC/Meeting/2012/Teaching Cadre/2017:-** In pursuance of the provisions contained in sub rule (2) of rule 3 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, the Elementary and Secondary Education Department, in consultation with the Establishment Department and the Finance Department hereby directs that, in this Department's Notification No.SO(PE)4-5/SSRC/Meeting/2012/Teaching Cadre, dated 13-11-2012, the following further amendments shall be made, namely:-

**AMENDMENTS**

In the Appendix,-

(i) against Serial No.1, in columns No.3 and 4, for the existing entries, the following shall be substituted, namely:

3	4
(i) At least Second Class Bachelor's Degree or four (4) years BS Degree in the relevant subject; and  (ii) nine months in service mandatory professional training at Regional Institute for Teacher Education (RITE) or Provincial Institute for Teacher Education (PITE).	21 to 35 years";

*Suppld*  
*ADCE*  
*For Compliance*  
*as amended*

(ii) against Serial No.1B, in columns No.3 and 4, for the existing entries, the following shall be substituted, namely:

3	4
(i) At least Second Class Bachelor's Degree from a recognized University from the following groups with two subject on-need basis.  (ii) Chemistry, Botany or Zoology; or	19 to 35 years";

17/2/18



EP

<p>(b) Physics, Maths or Statistics; or  (c) Humanities and other equivalent groups at degree level with English as subject;  and  (ii) nine months in service mandatory professional training at Regional Institute for Teacher Education (RITE) or Provincial Institute for Teacher Education (PITE).</p>	
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(iii) against Serial No. 10, in columns No.3 and 4, for the existing entries, the following shall be substituted, namely:

3.	4.
<p>(i) At least Second Class Master's Degree in Arabic from a recognized University; or at least Second Class Bachelor's Degree from a recognized University with Shahadatul Alamia Fil Uloomul Arabia wal Islamia from a recognized Tanzimuatul Wafaqul Madaris; or Darul Uloom Saidu Sharif Swat, Darul Uloom Charbagh Swat, Darul Uloom Chitral, Darul Uloom Darosh Chitral and any other Government run Darul Uloom, as notified by Government from time to time; and  (ii) nine months in service mandatory professional training at Regional Institute for Teacher Education (RITE) or Provincial Institute for Teacher Education (PITE).</p>	<p>19 to 35 years";</p>

(iv) against Serial No. 11, in columns No.3 and 4, for the existing entries, the following shall be substituted, namely:

3.	4.
<p>(i) At least Second Class Master's Degree in Islamiyat from a recognized University; or at least Second Class Secondary School Certificate from a recognized Board with Shahadatul Alamia from a recognized Tanzimuatul Wafaqul Madaris; or Darul Uloom Saidu Sharif Swat, Darul Uloom Charbagh Swat, Darul Uloom Chitral, Darul Uloom Darosh Chitral and any other Government run Darul Uloom, as notified by Government from time to time; and  (ii) nine months in service mandatory professional training at Regional Institute for Teacher Education (RITE) or Provincial Institute for Teacher Education (PITE).</p>	<p>19 to 35 years";</p>

13

(v) against Serial No. 13, in columns No.3 and 4, for the existing entries, the following shall be substituted, namely:

3.	4.
(i) Bachelor's Degree from a recognized University; and (ii) nine months in service mandatory professional training at Regional Institute for Teacher Education (RITE) or Provincial Institute for Teacher Education (PITE).	19 to 35 years"

(vi) against Serial No. 17, in columns No.3 and 4, for the existing entries, the following shall be substituted, namely:

3.	4.
(i) Bachelor's Degree from a recognized University; and (ii) nine months in service mandatory professional training at Regional Institute for Teacher Education (RITE) or Provincial Institute for Teacher Education (PITE).	19 to 35 years"

(vii) against Serial No. 18, in columns No.3 and 4, for the existing entries, the following shall be substituted, namely:

3.	4.
(i) Bachelor's Degree from a recognized University; and (ii) nine months in service mandatory professional training at Regional Institute for Teacher Education (RITE) or Provincial Institute for Teacher Education (PITE).	19 to 35 years"

(viii) against Serial No. 21, in columns No.3 and 4, for the existing entries, the following shall be substituted, namely:

3.	4.
(i) Bachelor's Degree from a recognized University; and (ii) nine months in service mandatory professional training at Regional Institute for Teacher Education (RITE) or Provincial Institute for Teacher Education (PITE).	19 to 35 years"; and

13

(Handwritten mark)

(ix) against Serial No.22, in columns No.3 and 4, for the existing entries, the following shall be substituted, namely:

3	4
(i) Bachelor's Degree from a recognized University and Qirat Sanad from registered Institution; and	19 to 35 years
(ii) nine months in service mandatory professional training at Regional Institute for Teacher Education (RITE) or Provincial Institute for Teacher Education (PITE).	

**SECRETARY TO  
GOVERNMENT OF KHYBER PAKHTUNKHWA  
ELEMENTARY & SECONDARY EDUCATION  
DEPARTMENT.**

**Endst: of even No & date:**

1. The Secretary to Government of Khyber Pakhtunkhwa, Establishment and Administration Department Peshawar.
2. The Secretary to Government of Khyber Pakhtunkhwa, Finance Department Peshawar.
3. The Secretary to Government of Khyber Pakhtunkhwa, Law Department Peshawar
4. The Secretary Khyber Pakhtunkhwa, Public Service Commission Peshawar.
5. The Accountant General Khyber Pakhtunkhwa Peshawar.
6. The Director, Elementary and Secondary Education, Khyber Pakhtunkhwa Peshawar.
7. The Director of Education (FATA) Peshawar.
8. The Director, Curriculum and Teacher Education Khyber Pakhtunkhwa Abbottabad.
9. The Director, (PITE) Khyber Pakhtunkhwa Peshawar.
10. The Director, ESRU Elementary and Secondary Education Department Khyber Pakhtunkhwa Peshawar.
11. Manager Government Printing Press Khyber Pakhtunkhwa Peshawar.
12. The Deputy Director, EMIS (E&SE) Department Khyber Pakhtunkhwa Peshawar
13. All District Education Officers (M&F) in Khyber Pakhtunkhwa. *A/Algo-d*
14. All District Accounts Officers in Khyber Pakhtunkhwa.
15. All Agency Education Officers/ Agency Accounts Officers in FATA.
16. PS to Governor Khyber Pakhtunkhwa. Peshawar.
17. PS to Chief Minister Khyber Pakhtunkhwa. Peshawar.
18. PS to Chief Secretary Khyber Pakhtunkhwa. Peshawar.
19. PS to Minister E&SE Khyber Pakhtunkhwa. Peshawar.
20. PS to Secretary E&SE Khyber Pakhtunkhwa Peshawar.

(Handwritten signature)  
**SECTION OFFICER (Primary)**