


FORM OF ORDER SHEET

Court of _____

Appeal No. _____ **1097/2024**

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	05/08/2024	<p>The appeal of Mr. Amir Khatam presented today by Mr. Fazal Shah Mohmand Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on 08/08.2024. Parcha Peshi given to counsel for the appellant.</p> <p>By the order of Chairman</p>  <p>REGISTRAR</p>

**BEFORE THE KHYBER PAKHTUNKHWA, SERVICE TRIBUNAL
PESHAWAR**

Service Appeal No 1097/2024

Amir Khatam.....Appellant

V E R S U S

Director & others.....Respondents

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Dated:-01-08-2024



Appellant

Through


Fazal Shah Mohmand
Advocate,
Supreme Court of Pakistan


Ibad Ur Rehman Khalil

&
Baseer Shah
Advocate(s) High Court


OFFICE:-Cantonment Plaza Flat 3/B Khyber Bazar Peshawar Cell# 0301 8804841
Email:- fazalshahmohmand@gm .il.com

①

BEFORE THE KHYBER PAKHTUNKHWA, SERVICE TRIBUNAL
PESHAWAR

Service Appeal No 1097/2024

Amir Khatam, Village Secretary, Village Council, Burhan Khel-3, Tribal District Mohmand.
.....**Appellant**

VERSUS

1. Director Local Government & Rural Development Department, Khyber Pakhtunkhwa, Peshawar.
2. Govt. of Khyber Pakhtunkhwa through Secretary Local Govt. Elections and Rural Development Department, Civil Secretariat Peshawar.
3. Assistant Director, Local Government & Rural Development, Mohmand.
.....**Respondents**

APPEAL U/S 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 FOR THE ANTE-DATION OF ORDER DATED 13-02-2024, V. HEREBY THE APPELLANT HAS BEEN APPOINTED WITH IMMEDIATE EFFECT INSTEAD FROM 10-12-2021 AND FOR WHICH DEPARTMENTAL APPEAL OF THE APPELLANT HAS NOT BEEN RESPONDED SO FAR DESPITE THE LAPSE OF MORE THAN THE STATUTORY PERIOD OF NINETY DAYS.

PRAYER:-

On acceptance of this appeal, the Office Order dated 13-02-2024, may kindly, given effect from 10-12-2021, thereby placing the name of appellant at his due place and order of merit with all back benefits.

Respectfully Submitted:-

1. That the appellant is highly qualified and after 25th Constitutional amendment and subsequent merger of FATA into Khyber Pakhtunkhwa and in order to promote the Local Government System in the merged Districts, number of Village Councils and Neighborhood Councils were created.
2. That for the said purpose, recruitment process of the required officials/staff of Village Secretaries (BPS-09), for

the newly created Village Council and Neighborhood Councils was initiated in all Newly Merged Districts vide Advertisement in daily Newspapers of wide circulation inviting online applications through ETEA website. **(Copy of Advertisement is enclosed as Annexure A).**

3. That in the advertisement, the reserved quota for female, minorities and disabled persons was duly mentioned according to rules but with no specification, the appellant being perfectly fit, eligible and coming up to the criteria, also applied for appointment to the said post, the appellant qualified written test conducted through ETEA and was placed at the top of Final merit list of his respective Village/Neighborhood Council.
4. That the appellant was awaiting his appointment, however appointment orders were issued of his colleagues vide Order dated 10-12-2021 while upon query, the appellant was told that subsequent to draw, the post of Village Secretary in the respective Village/ Neighborhood Council have been reserved for females, minorities and disabled persons. **(Copies of Appointment Orders are enclosed as Annexure B).**
5. That against reserving posts through draw, the appellant along with others approached the honorable Peshawar High Court, Peshawar by filing Writ Petition No 3658-P/2022 titled as Waheed Ullah & others VS Govt. & others which was allowed with directions to respondents to issue the appointment order of the appellant and his colleagues vide Judgment dated 17-01-2024. **(Copy of Writ Petition & Judgment dated 17-01-2024 is enclosed as Annexure C).**
6. That finally the appointment order of the appellant and his colleagues was issued vide Order dated 13-02-2024 and the appellant accordingly reported arrival on 14-02-2024. **(Copy of Appointment Order dated 13-02-2024 & Arrival Report is enclosed as Annexure D).**
7. That the appellant filed departmental appeal dated 07-04-2024 for ante-dation of his appointment Order which has not been responded so far, despite the lapse of more than the statutory period of ninety days. **(Copy of**

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Departmental Appeal & Receipt is enclosed as Annexure E).

8. That the impugned Office Order dated 13-02-2024 is liable to be modified thereby giving it effect from 10-12-2021 instead of 13-02-2024 and the denial of respondents, is against the law, facts and principles of justice on grounds inter-alia as follows:-

GROUND:

- A. That the omission and commissions of the respondents of not giving effect to appointment Order of the appellant is illegal, unconstitutional, and unlawful, without lawful authority and of no legal effect.
- B. That the appellant is denied treatment in accordance with law and rules which being her fundamental right as per Article 4 and 25 of the Constitution and law of the land.
- C. That the ground on which appointment was denied to the appellant has been declared illegal by the honorable Peshawar High Court, Peshawar vide its Judgment dated 17-01-2024, and hence the appellant is entitled to appointment with his colleagues.
- D. That due to the omissions and commissions of respondents, the appellant has badly suffered in terms of finances and seniority, as the appellant has been placed at low position than those appointed on 10-12-2021.
- E. That even such petitions have been allowed by the honorable Peshawar High Court, Peshawar as well as by this honorable Tribunal, hence the appellant too deserve the same treatment and should not be discriminated.
- F. That there is no omission or commission on part of the appellant thus he could not be punished for the fault of others even if any.

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G. That the appellants seek the permission of this honorable Tribunal for further/additional grounds at the time of arguments.

It is therefore prayed that appeal of the appellant may kindly be accepted as prayed for in the heading of the appeal.

Any other relief deemed appropriate and not specifically asked for, may also be granted in favor of the appellant.

Dated:-01-08-2024

Amir

Appellant

Through

Fazal Shah Mohmand

Fazal Shah Mohmand
Advocate,

Supreme Court of Pakistan

LIST OF BOOKS:

1. Constitution 1973.
2. other books as per need

CERTIFICATE:

Certified that as per instructions of my client, no other Service Appeal on the same subject and between the same parties has been filed previously or concurrently before this honorable Tribunal.

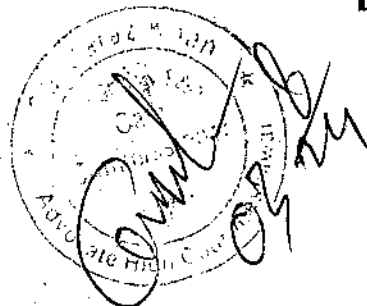
Fazal Shah Mohmand
ADVOCATE

AFFIDAVIT

I, Amir Khatam, Village Secretary, Village Council, Burhan Khel-3, Tribal District Mohmand, do hereby solemnly affirm and declare on oath that the contents of this **Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this honorable Tribunal.

Amir

DEPONENT



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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No _____/2024

Amir Khatam.....Appellant

V E R S U S

Director & others.....Respondents

Application for the condonation of delay if any

Respectfully Submitted:-

1. That the accompanying appeal is being filed today in which no date of hearing has been fixed so far.
2. That the grounds of appeal may be considered as integral Part of this application.
3. That the appellant approached respondents for ante-dation of his appointment Order and he was time and again assured that his grievances will soon be redressed but to no avail even departmental appeal of the applicant is still pending before the respondents.
4. That the as the appellant is continuously suffering in terms of finances and seniority, thus being recurring cause of action for which no limitation runs while denying such right to the appellant and the loss is caused to the appellant every month.
3. That even otherwise law as well as the superior Courts dictas favors decision of cases on merit instead of technicalities.

It is therefore prayed, that on acceptance of this application, the delay if any in filing of instant appeal may kindly be condoned.

Dated:-05-08-2024

Amir
Appellant

Through

Fazal Shah Mohmand
Fazal Shah Mohmand
Advocate,
Supreme Court of Pakistan

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**BEFORE THE KHYBER PAKHTUNKHWA, SERVICE TRIBUNAL
PESHAWAR**

Service Appeal No _____/2024

Amir Khatam.....Appellant

V E R S U S

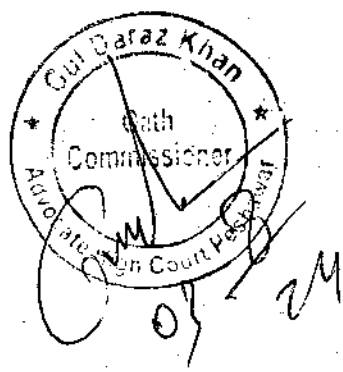
Director & others.....Respondents

AFFIDAVIT

I, **Amir Khatam** Village Secretary, Village Council, **Burhan** Khel-3, Tribal District Mohmand, do hereby solemnly affirm and declare on oath that the contents of this **Application** are true and correct to the best of my knowledge and belief and nothing has been concealed from this honorable Tribunal.

Amir

DEPONENT



B اشتہاریہ بھرتی جوئر سپیکر، بھاری و بلیج ایئر ہوڈ کوئل

(7)

نگہ برداریات اور بھرتی کی تمام شرائط و ضوابط وغیرہ مندرجہ ذیل ہیں۔

ذیل پر اطلاع ہونے کے بعد اگر وہ (ایئر سپیکر) (UPS-DG) کی کارپوریشن میں بھرتی کرنے کے لئے درخواست دہن کے قابل ہو گا تو اسے
 درخواستیں منظور ہوں۔

تعمیراتی کارپوریشن کی تمام شرائط و ضوابط وغیرہ مندرجہ ذیل ہیں۔

سر	نمبر	تعداد	تعداد	نوع	پاس
1	18-30	08	10	ایئر سپیکر	ایئر سپیکر ہونے کے لئے
			27	بلیج	بلیج ہونے کے لئے
			06	کوئل	کوئل ہونے کے لئے

1. درخواستی شخص کے لئے ایئر سپیکر ہونے کی ضرورت ہے اور اس کے پاس ایئر سپیکر ہونے کے لئے تمام شرائط و ضوابط ہونے چاہئے۔
 2. اس کے پاس ایئر سپیکر ہونے کے لئے تمام شرائط و ضوابط ہونے چاہئے اور اس کے پاس ایئر سپیکر ہونے کے لئے تمام شرائط و ضوابط ہونے چاہئے۔
 3. اس کے پاس ایئر سپیکر ہونے کے لئے تمام شرائط و ضوابط ہونے چاہئے اور اس کے پاس ایئر سپیکر ہونے کے لئے تمام شرائط و ضوابط ہونے چاہئے۔
 4. اس کے پاس ایئر سپیکر ہونے کے لئے تمام شرائط و ضوابط ہونے چاہئے اور اس کے پاس ایئر سپیکر ہونے کے لئے تمام شرائط و ضوابط ہونے چاہئے۔
 5. اس کے پاس ایئر سپیکر ہونے کے لئے تمام شرائط و ضوابط ہونے چاہئے اور اس کے پاس ایئر سپیکر ہونے کے لئے تمام شرائط و ضوابط ہونے چاہئے۔

- 1۔ آن لائن درخواست نام ETEA کے ویب سائٹ پر www.etea.edu.pk پر 12 ستمبر 2020ء سے 13 ستمبر 2020ء تک کھلی رکھی جائے گی۔
- 2۔ اس کے پاس ایئر سپیکر ہونے کے لئے تمام شرائط و ضوابط ہونے چاہئے اور اس کے پاس ایئر سپیکر ہونے کے لئے تمام شرائط و ضوابط ہونے چاہئے۔
- 3۔ اس کے پاس ایئر سپیکر ہونے کے لئے تمام شرائط و ضوابط ہونے چاہئے اور اس کے پاس ایئر سپیکر ہونے کے لئے تمام شرائط و ضوابط ہونے چاہئے۔
- 4۔ اس کے پاس ایئر سپیکر ہونے کے لئے تمام شرائط و ضوابط ہونے چاہئے اور اس کے پاس ایئر سپیکر ہونے کے لئے تمام شرائط و ضوابط ہونے چاہئے۔
- 5۔ اس کے پاس ایئر سپیکر ہونے کے لئے تمام شرائط و ضوابط ہونے چاہئے اور اس کے پاس ایئر سپیکر ہونے کے لئے تمام شرائط و ضوابط ہونے چاہئے۔
- 6۔ اس کے پاس ایئر سپیکر ہونے کے لئے تمام شرائط و ضوابط ہونے چاہئے اور اس کے پاس ایئر سپیکر ہونے کے لئے تمام شرائط و ضوابط ہونے چاہئے۔
- 7۔ اس کے پاس ایئر سپیکر ہونے کے لئے تمام شرائط و ضوابط ہونے چاہئے اور اس کے پاس ایئر سپیکر ہونے کے لئے تمام شرائط و ضوابط ہونے چاہئے۔
- 8۔ اس کے پاس ایئر سپیکر ہونے کے لئے تمام شرائط و ضوابط ہونے چاہئے اور اس کے پاس ایئر سپیکر ہونے کے لئے تمام شرائط و ضوابط ہونے چاہئے۔
- 9۔ اس کے پاس ایئر سپیکر ہونے کے لئے تمام شرائط و ضوابط ہونے چاہئے اور اس کے پاس ایئر سپیکر ہونے کے لئے تمام شرائط و ضوابط ہونے چاہئے۔
- 10۔ اس کے پاس ایئر سپیکر ہونے کے لئے تمام شرائط و ضوابط ہونے چاہئے اور اس کے پاس ایئر سپیکر ہونے کے لئے تمام شرائط و ضوابط ہونے چاہئے۔
- 11۔ اس کے پاس ایئر سپیکر ہونے کے لئے تمام شرائط و ضوابط ہونے چاہئے اور اس کے پاس ایئر سپیکر ہونے کے لئے تمام شرائط و ضوابط ہونے چاہئے۔
- 12۔ اس کے پاس ایئر سپیکر ہونے کے لئے تمام شرائط و ضوابط ہونے چاہئے اور اس کے پاس ایئر سپیکر ہونے کے لئے تمام شرائط و ضوابط ہونے چاہئے۔

ATTACHED

(8) B

**OFFICE OF THE ASSISTANT DIRECTOR, LOCAL GOVERNMENT AND RURAL DEVELOPMENT
DEPARTMENT TRIBAL DISTRICT MOHMAND.**

No. 1055-62 /ADRD/VCs/NCs/M Dated Ghallana the 16 /11/2021

APPOINTMENT ORDER.

Consequent upon the recommendation of the Departmental Selection Committee Mr. Ijaz Ahmad son of Muhammad Ali Khan of Village Council Burhan Khel VC-4 District Mohmand has been appointed as Secretary village /neighbourhood Council BPS-09 (11770-730-33630) plus usual allowances as admissible under the Rules purely on temporary basis in Local Govt. & Rural Development Department Tribal District Mohmand against the vacant post Village Council Burhan Khel VC-4. The terms and conditions of his appointment, in addition to other prevalent Rules and Regulations shall be as under:-

- 1- His appointment is subject to the condition that the certificates /degrees must be verified from the concerned Institutes/Boards and in case he found producing bogus Documents/testimonials will be reported to the law enforcing agencies for further action.
- 2- He will be governed by the Provision of Khyber Pakhtunkhwa civil servant Act, 1973 and in matters not specially mentioned in this order shall be governed such Rules and regulation relating to leave, Medical attendance, seniority etc as have been or may be prescribed from time to time by the Government for the category/status of Government servant to which he belong.
- 3- He will be governed by services conduct Rules, 1987 the Government, Khyber Pakhtunkhwa servants (Efficiency and Discipline) Rule, 2011 and any other instructions as may be issued by the Government of Khyber Pakhtunkhwa from time to time.
- 4- He will initially be on probation for a period of one year. His services will be liable to termination at any time without assigning any reasons before expiry of the period of probation /extended period of probation if his work and conduct during this period is not found satisfactory. In such an event, he will be given a month's notice of termination of services. In case of his resignation without notice their one month pay /allowances shall be forfeited to the Government.
- 5- His employment will not in any case confer upon then any claim or right to permanent employment in the Department. He will however, be eligible for continuance and eventual confirmation on satisfactory completion of probation (included the extended period of probation) if and when a regular substantive vacancy in the post is available to him.
- 6- He will join duty on his own expenses.
- 7- He will produce a Medical certificate of fitness (Health and age certificate) from Medical Superintendent DHQ Hospital Mohmand and Police Clearance Certificate from District Police Officer Mohmand before reporting for duty in this Department as required under the rules.

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- 8- He can be posted any where in the district for performance of the duty and he is bound to serve any official work assigned to him as the case may be.
- 9- If the above terms and conditions of appointment are accepted to him, he should immediately communicate his acceptance in writing to the Department of LG&RDD Mohmand within fifteen (15) days and report for duty to the office of Assistant Director, LG&RDD Mohmand for further posting and necessary process.
- 10- Pay will not be drawn until and unless a certificate to this effect by Office the Assistant Director, LG&RDD, Mohmand is issued that his certificates/degree are verified. District Accounts Officer (DAO) Mohmand should release salaries on the production of duty certificate duly signed/countersigned by Assistant Director, LG&RDD, Tribal District Mohmand.
- 11- If any meritorious candidate is deprived from appointment by this order and the competent authorities accepted his appeal, this appointment order will be withdrawn accordingly.

Assistant Director, LG&RDD
Tribal District Mohmand

Endst. No. and date even.

Copy forwarded for information:-

- 1- The Director General, Local Govt: & Rural Development Department, Khyber-Pakhtunkhwa Peshawar.
- 2- The Deputy Commissioner, Tribal District Mohmand.
- 3- The Director, Local Govt: & Rural Development Department (Merged Areas) Khyber Pakhtunkhwa Peshawar.
- 4- The Medical Superintendent HQ Mohmand.
- 5- The District Police Officer, Mohmand.
- 6- The District Accounts Officer, Tribal District Mohmand.
- 7- Master file.
- 8- The official concerned.

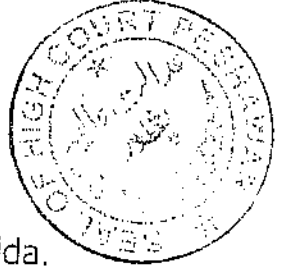
Assistant Director, LG&RDD
Tribal District Mohmand

ATTACHED

10 Annex C

BEFORE THE PESHAWAR HIGH COURT, PESHAWAR

WRIT PETITION NO. _____/2022



1. Mr. Waheed Ullah S/o Rehmat Ullah,
R/O Mirzai, PO Shabqadar, Tehsil Shabqadar, District Charsadda.
2. Mr. Amir Khatam s/o Zarda Ali Khan,
R/O Pir Ghat Kalai, P.O Yaka Ghund, Hussaini Kor, Tehsil Pandyali,
District Mohmand.
3. Mr. Inayat Ullah s/o Ghulam Rehman
R/O Zameer Abad, P.O Yakaghund, Tehsil Yakaghund, District
Mohmand.

..... PETITIONERS

VERSUS

- 1- The Government of Khyber Pakhtunkhwa through Chief Secretary,
Khyber Pakhtunkhwa, Peshawar.
- 2- The Secretary Local Government and Rural Development
Department, Khyber Pakhtunkhwa, Peshawar.
- 3- The Assistant Director Local Government & Rural Development
Merged District Mohmand.

..... RESPONDENTS

WRIT PETITION UNDER ARTICLE 199 OF THE
CONSTITUTION OF ISLAMIC REPUBLIC OF
PAKISTAN 1973 AS AMENDED UP TO DATE

R/SHEWETH:

ON FACTS:

- 1- That petitioners are the peaceful & bonafide citizens of Pakistan,
and living with their families within the territorial jurisdiction of
this Honorable Court. Copies of the CNIC's are attached as
annexure

..... A.

- 2- That the respondents advertised the posts of Village Secretaries
(BPS-9) for Tehsils Upper Mohmand, lower Mohmand and Baizai in
the respondent Department through Newspaper. That the
petitioners having the requisite qualifications applied for the ibid.
post from Village Councils Utman Khel VC-3, Burhan Khel VC-3
and Utman Khel VC-8 respectively. Copies of the advertisement
and educational testimonials are attached as annexure

..... B & C.

WP3658-2022 WAHEED ULLAH VS GOVT CF.pdf

ATTESTED

ATTESTED
EXAMINER
PESHAWAR HIGH COURT

- 3- That the petitioners after participated in the written test and interview were declared successful and accordingly they were enlisted at the top of the merit lists of their respective Village Councils. That being at the top of the merit lists of their respective village councils the petitioners were quite hope full for their appointment against the posts of village secretly (BPS-9) but the respondents instead of issuing the appointment orders of the petitioners filled the ibid posts through minority, Female and disable quota vide impugned minutes dated 19.7.2021 & 23.7.2021. Copies of the merit lists and impugned minutes are attached as annexure **D and E.**
- 4- That petitioners feeling aggrieved and having no other remedy filed the instant writ petition on the following grounds amongst the others.

GROUNDS:

- A- That the impugned minutes of the Departmental Selection Committee dated 19.7.2021 and 23.7.2021 issued by the respondents is against the law, facts, norms of natural justice and materials on the record hence not tenable in the eye of Law and needs interference of this Honorable Court.
- B- That petitioners have not been treated in accordance with law and rules by the respondent Department on the subject noted above and as such the respondents violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.
- C- That the respondents have malafidly ignored the petitioners from appointment to the post Village Secretary (BS-9) just to accommodate their blue eyed chap persons.
- D- That the respondents acted in arbitrary and malafide manner by illegally and unlawfully depriving the petitioners from appointment against the post of village secretary (BPS-9).
- E- That the as per recent judgment of this august Court passed in W.P No.521-D/2021 dated 10.11.2021 similar nature writ petition has been allowed by this august Court. Copy of the judgment is attached as annexure **H.**
- F- That the respondents discriminated the petitioners by not considering them for appointment against the post of Village Secretary (BPS-9).
- G- That the respondents discriminated the petitioner on the subject noted above and as such the respondents violated the principle of natural justice.

ATTESTED
[Signature]

ATTESTED
EXAMINER
Peshawar High Court

- H- That the act of the respondents is against Article 38 (e) of the Constitution of Islamic Republic of Pakistan.
- I- That, any other ground would be taken at the time of argument with prior permission of this Honorable Court

It is therefore, most humbly prayed that on acceptance of this writ petition the action and inaction of the respondents by issuing the impugned minutes of the Departmental Selection committee dated 19.7.2021 & 23.7.2021 and not considering the petitioners for appointment against the post of Village Secretary (BPS-9) may kindly be declared as illegal, unconstitutional and in effective upon the rights of the petitioners. That the respondents may kindly be directed to consider the petitioners for appointment on the post of Village Secretary (BPS-9) with all back benefits including seniority. Any other remedy which this august Court deems fit that may also be awarded in favor of the petitioner.

INTERIM RELIEF:

By way of interim relief, the impugned minutes of the Departmental Selection Committee dated 19.7.2021 & 23.7.2021 may kindly be suspended till the final disposal of the instant writ petition.

PETITIONERS

W. Farooq
WAHEED ULLAH & Others

THROUGH:

[Signature]
NOOR MUHAMMAD KHATTAK
[Signature]
UMAR FAROOQ MOHMAND
[Signature]
WALEED ADNAN
[Signature]
MUHAMMAD AYUB
advocates

VERIFICATION:

It is verified that no other earlier writ petition was filed between the parties.

LIST OF BOOKS:

1. Constitution of Pakistan.
2. Services Laws Books.
3. Any other Case law as per need.

DEPONENT

[Signature]
CERTIFIED TO BE TRUE COPY
EXAMINED
Peshawar High Court Peshawar
Authority established under Article 175B
of the Constitution of Pakistan dated 23.11.1984
03 AUG 2024

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IN THE HON'BLE PESHAWAR HIGH COURT PESHAWAR

W.P No. ____/2022

Waheed Ullah..... Petitioner

VERSUS

Govt of KPK & others..... Respondents

AFFIDAVIT

I, Waheed Ullah S/o Rehmat Ullah R/o Mirzai P.O Shabqadar, Tehsil Shabqadar District Charsadda, do hereby solemnly affirm and declare that the contents of the accompanying Writ Petition true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.

Waheed Ullah

DEPONENT

CNIC # 17101-6527649-1 ✓

Cell # 03065958806

Identified By:

Noor Muhammad Khattak

NOOR MUHAMMAD KHATTAK
ASC, Peshawar

No: 17503

Certified that the above was verified on solemnly affirmation before me in office this 06 day of Sept 2022 at Charsadda etc. Waheed Ullah who was identified by Noor M. Khattak who is personally known to me.

Noor M. Khattak
Deputy Commissioner
Peshawar
06/09/22

Noor M. Khattak

CERTIFIED TO BE TRUE COPY

EXAMINED
Postmaster General
Authorized Officer
03 AUG 2024

19

IN THE PESHAWAR HIGH COURT, PESHAWAR
[JUDICIAL DEPARTMENT]

Writ Petition No.3658-P/2022.

Waheed-Ullah & 2 others

versus

*The Government of Khyber Pakhtunkhwa through
Chief Secretary, Peshawar & 2 others*



Date of hearing: 17.01.2024.

Petitioners by: *Mr. Noor Muhammad Khattak,
Advocate.*

Respondents by: *M/S Junaid Zaman & Umar Farooq,
AAGs.*

JUDGMENT

SHAKEEL AHMAD, J.- Through the instant petition filed under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, the petitioners have prayed for the following relief: -

"It is therefore, most humbly prayed that on acceptance of this writ petition the action and inaction of the respondents by issuing the impugned minutes of the Departmental Selection Committee dated 19.07.2021 & 23.07.2021 and not considering the petitioners for appointment against the post of Village Secretary (BPS-9) may kindly be declared as illegal, unconstitutional and ineffective upon the rights of the petitioners. That the respondents may kindly be directed to consider the

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EXAMINER**
Peshawar High Court

petitioners for appointment on the post of Village Secretary (BPS-9) with all back benefits including seniority. Any other remedy which this august Court deems fit that may also be awarded in favour of the petitioner".

02. The facts of the case, in brief, are that through a public notice, respondent No.3 invited applications for appointment as Village Secretary in BPS-09 for Village/ Neighborhood Council at Tehsil Upper Mohmand, Lower Mohmand and Baizai, on the terms and conditions, mentioned therein. The petitioners having requisite qualifications, applied for the same from Village Councils Utman Khel VC-3, Burhan Khel VC-3 & Utman Khel VC-8, respectively, competed with others, and finally they were enlisted at the top of the merit list of their respective Village Councils, but, the respondents instead of issuing their appointment orders, decided to fill the impugned posts from the quota reserved for female, minority and disable candidates vide impugned minutes of

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Peshawar High Court

meeting dated 19.07.2021 & 23.07.2021. Hence, the instant petition.

03. Pursuant to the order of this Court, respondent No.3 submitted his para-wise comments, raising therein, many factual and legal objections.

04. Heard and record perused.

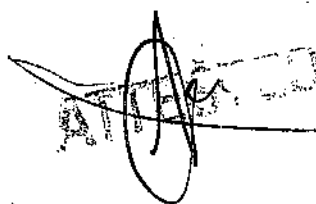
05. It is reflected from the record that through a public notice, respondent No.3 invited applications for appointment as Village Secretary for Village/ Neighborhood Council at Tehsil Upper/Lower Mohmand and Baizai, on the terms and conditions, mentioned therein. The petitioners having requisite qualifications applied for the same from Union Council, Utman Khel VC-3, Burhan Khel VC-3 & Utman Khel VC-8, respectively, competed with others, finally they were enlisted at the top of the merit list, displayed by the respondents, but, instead of issuing appointment orders of the petitioners, the respondents decided to fill the impugned posts

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EXAMINER
Peshawar High Court

through quota reserved for minorities, females and disable candidates, as is reflected from the impugned minutes of meeting dated 19.07.2021 and 23.07.2021. The respondents have not denied the merit position of the petitioners. They have also not denied that no one had applied for appointment as Village Secretary against the reserved quota, mentioned above and the seats to be filled through open competition are still lying vacant, therefore, the petitioners have made out a case for interference.

06. For what has been stated hereinabove, this petition is admitted and allowed. Consequently, the impugned minutes of meeting of the Departmental Selection Committee dated 19.07.2021 and 23.07.2021, whereby and whereunder, the impugned posts were decided to be filled through the candidates from the reserved quota of females, minorities and disable candidates in future in the absence of any candidate falling within the said category from

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EXAMINER
Peshawar High Court

18

Upper and Lower Mohmand, are set aside and the respondents are directed to consider the petitioners for appointment as Village Secretary in BPS-09, if they qualify on merit, strictly in accordance with law. No order as to costs.

Announced.
17.01.2024

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JUDGE

[Signature]

JUDGE

DB
Hon'ble Mr. Justice Ijaz Anwar
Hon'ble Mr. Justice Shakeel Ahmad

Himayat, CS

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EXAMINED
Peshawar High Court, Peshawar
Authorised Under Article 177 of
the Constitution of Pakistan
03 AUG 2024

4921
~~03-08-2024~~
Date of Presentation of Application
No of Pages 9
Copying fee 36-00
Total
Date of Payment 03-08-2024
Date of Receipt of Money 03-08-2024
Received By *[Signature]*

[Signature]
ATTY

19 Anet D

OFFICE OF THE ASSISTANT DIRECTOR SENIOR
LOCAL GOVERNMENT AND RURAL DEVELOPMENT
DEPARTMENT DISTRICT MOHMAND.

No. _____ VCNC/Appointment/ADRD/M
Dated 13/02/2024

ORDER

Consequent upon the Judgement of Peshawar High Court, Peshawar Dated 17/01/2024 in W/P No 3658-P/2022 title Waheed Ullah & Others VS Government of Khyber Pakhtunkhwa Mr. Amir Khatam S/O Zarda Ali Khan, CNIC No. 21403-6457628-5, Resident of Bir Ghat Kalay, Hassaini Kor, Burhan Khel Tehsil Pandialy, District Mohmand is hereby appointed as Village Secretary (BPS-09) (Rs.17470-1090-50170) against the vacant post in Village Council Burhan Khel-03, on the below mentioned terms & conditions

The Village Council Burhan Khel-03 Tehsil Pandialy was selected for recruitment of Village Secretaries under reserved quotas of (Female, Minority & Disable) in light of the directions/orders of the Supreme Court of Pakistan and Khyber Pakhtunkhwa Civil Servants Rules 1989

Terms & Conditions:

1. The appointment will be subject to the condition that the candidate is a permanent domiciled of District Mohmand
2. He should produce Medical Certificate form Medical Superintendent District Headquarters Hospital before assuming the charge
3. He will be on probation for a period one (01) year and this period can be extended as per rules/policy.
4. His services can be terminated during the probation period without assigning any reason.
5. His services will be purely on temporary basis and are liable to be terminated on one month notice from either side. In case of resignation without notice, his one-month salary/allowances shall be forfeited to the Government.
6. He should not assume the charge if his age exceeds 30 years or below 18 years, except age relaxation granted by the Establishment Department as well as by the appointing authority
7. He should Report for duty within fifteen (15) days of the issuance of this order. In case of failure, his appointment order will stand invalid automatically and no subsequent appearance etc shall be entertained
8. He will be governed by all such rules/regulations issued time to time by the Provincial Government
9. The appointment is made subject to verification of all testimonials of the candidate

Assistant Director (Sr),
LG&RDD, Mohmand.

Copy forwarded for information to the:

1. Director General LG&RDD khyber Pakhtunkhwa
2. Director LG&RDD, NMDS Khyber Pakhtunkhwa
3. Deputy Commissioner Tribal District Mohmand
4. District Accounts Officer Tribal District Mohmand
5. Section Officer (Litigation) LG, E&RDD, Khyber Pakhtunkhwa.
6. Section Officer Establishment LG E&RDD Khyber Pakhtunkhwa
7. PS to Secretary LG, E&RDD Khyber Pakhtunkhwa.
8. Official Concerned.
9. Office Order file

Assistant Director (Sr),
LG&RDD, Mohmand.

The Assistant Director,
Local Govt & Rural Development
Department District Mohmand

Subject: ARRIVAL REPORT.

R/Sir,

In compliance with your Office Order No.90 99/VCNC/Appointment/ADRD/M dated 13 02 2024, I Amir Khatam Secretary Village Council Burhankhel -3, Tehsil Pandyali submit my arrival for duty today on 14-02 2024(F.N)

Your Obedient

(Amir Khatam)
Secretary, Village
Council Burhankhel -3.

Seen

Seen

14/2/24

ATTACHED

21 Annex E

**Before the Director Local Government & Rural Development
Department, Khyber Pakhtunkhwa, Peshawar**

Subject:- Appeal for Ante-dated Appointment

Respectfully Submitted:-

That the appellant is the permanent resident of Newly Merged District Mohmand and after the merger of FATA in Khyber Pakhtunkhwa, the posts of Village Councils and Neighborhood Councils were created for which recruitment process of the required officials/staff of Village Secretaries was initiated vide Advertisement date 13-07-2020 in all the Newly Merged Districts through ETEA. The appellant being fit and eligible applied for the post of Village Secretary and after qualifying the test also qualified the interview and was placed in the Final Merit List. Colleagues of the appellant were appointed vide Order dated 16-11-2021 while instead of appointment of the appellant, the Departmental Selection Committee in its meeting dated 19-07-2021 and 23-07-2021, decided through draw to allocate the post of Village Councils/Neighborhood of the-appellant for females, minorities and disabled candidates which was impugned in the Peshawar High Court vide Writ Petition No 3658-P/2022 titled as Waheed ullah & others VS Govt. & others which was allowed vide Judgment date 17-01-2024 with directions to issue appointment order. however the appellant was finally appointed vide Order dated 13-02-2024.

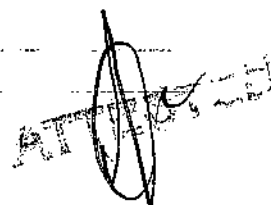
The appellant was thus deprived of his due right of appointment with his colleagues on 16-11-2021 for no fault on his part. The appointment of the appellant was delayed by the department through illegal acts which were declared illegal by the Peshawar High Court hence no omission or commission could be attributed to the appellant. The appellant is entitled to appointment as Village Secretary with his colleagues thereby giving effect to his appointment order from 16-11-2021 instead of 13-02-2024. The appellant is entitled to be given seniority and financial benefits w.e.f. 16-11-2021.

It is therefore requested that on acceptance of this appeal, the appointment order of the appellant dated 13-02-2024 may kindly be given effect from 16-11-2021 with all back benefits.



Dated:-07-04-2024

Amir khatam village secretary
burkhan khel-3
Tribal District Mohmand
Cell# 03144819865



21A

No. 1276

For Insurance Notices see reverse. Rs. Ps.
Stamps affixed except in case of
insured letters of not more than
the initial weight prescribed in the
Post Office Guide or on which no
acknowledgement is required.

Handwritten: 90

Received a registered
addressed to _____

Date-Stamp

*Write here "letter", "postcard", "packet" or "parcel"
with the word "insured" before when necessary.

Insured for Rs. (in figures) 100 (in words) _____

Insurance fee Rs. _____ Ps. _____ (in words) _____

Weight }
 } kilo
 } grams

Name and address of sender _____

Vertical stamp: If insured

Vertical stamp: RGL17353091

ATTEMPTED

بعدالت

خیر محنت کو اسروسز انٹرنل لسٹاؤ

Petitioner 2024ء پنجاب
بنام حکومت و غیرہ

امبرہم

Service Appeal

موزخہ
مقدمہ
دعوی
جرم

باعث تحریر آنکے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ
آن مقام لسٹاؤ کیلئے فضلہ منہم عباد الرحمن خلیہ بعدتاء ایدو

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز
وکیل صاحب کو راضی نامہ کرنے و تقرر ثالثتہ فیصلہ برحلاف دیئے جواب دہی اور اقبال دعویٰ اور
بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق
زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخ
نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور
کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ لیا اپنے بجائے تقرر کا اختیار
ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ
پرداختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ دہر جائد التوائے مقدمہ کے سبب سے وہوگا۔
کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی
مذکورہ کریں۔ لہذا وکالت نامہ لکھد یا کہ سندر ہے۔

المرقوم 03
ماہ اللہت 2024ء

واہ العبد
بمقام لسٹاؤ
کے لئے منظور ہے۔