


FORM OF ORDER SHEET

Court of _____

Appeal No. 1100/2024

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. Tasbih Ullah 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

C.M. No _____/2024

In

Service Appeal No _____/2024

Tasbiin UllahAppellant

V E R S U S

Govt. & Others.Respondents

APPLICATION FOR FIXATION OF TITLED SERVICE APPEAL AT PRINCIPLE SEAT OF THIS HONORABLE TRIBUNAL AT PESHAWAR.

Respectfully Submitted:-

1. That the above titled service appeal is being filed today i.e 02.08.2024 in which no date of hearing is fixed.
2. That the relevant contesting respondents No 1 & 2 as well as the counsel of the appellant are seated at Peshawar hence the applicant requests for fixation of the titled Service Appeal at principal seat of this honorable Tribunal at Peshawar.
3. That the rules on the subject are also very much clear which favors fixation of Service Appeals at the convenience of the parties.
4. That there is no legal bar on fixation of titled Service Appeal at principal seat of this honorable Tribunal which would rather cause convenience to the parties.

It is therefore most humbly prayed, that on acceptance of this application, the titled Service Appeal, may kindly be fixed at the principal seat of this honorable Tribunal at Peshawar.

Dated:--02-08-2024

Appellant

Through

Fazal Shah Mohmand

Advocate Peshawar.

BEFORE THE KHYBER PAKHTUNKHWA, SERVICE TRIBUNAL
PESHAWAR

Service Appeal No 1100 /2024

Tasbih UllahAppellant

V E R S U S

Director & others.Respondents

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Dated:-01-08-2024

Tasbih Ullah
Appellant

Through

Fazal Shah Mohmand
Advocate,
Supreme Court of Pakistan,

&
Ibad Ur Rehman Khalil

&
Baseer Shah
Advocates High Court

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

①

BEFORE THE KHYBER PAKHTUNKHWA, SERVICE TRIBUNAL
PESHAWAR

Service Appeal No 1100 /2024

Tasbih ullah , Village Secretary, Village Council, Khari kamar,
Mamund, District Bajaur.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, Bajaur.Respondents

APPEAL U/S 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 FOR THE ANTE-DATION OF ORDER DATED 07-08-2023, WHEREBY 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 07-08-2023, may kindly, given effect from 10-12-2021, thereby placing the name of the appellant at his due place in the 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

②

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 4945-P/2022 titled as Fazal Janan & 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 21-12-2022. **(Copy of Writ Petition & Judgment dated 21-12-2022 is enclosed as Annexure C).**
6. That finally after filing Contempt of Court petition, the appointment order of the appellant and his colleagues was issued vide Order dated 07-08-2023 and the appellant accordingly reported arrival on 08-08-2023. **(Copy of Appointment Order dated 07-08-2023 & Arrival Report is enclosed as Annexure D).**
7. That the appellant filed departmental appeal dated 19-04-2024 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 Departmental Appeal & Receipt is enclosed as Annexure E).

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8. That the impugned Office Order dated 07-08-2023 is liable to be modified thereby giving it effect from 10-12-2021 instead of 07-08-2023 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 21-12-2022, 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.

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

[Signature]
Appellant

Through

Fazal Shah Mohmand
Advocate,
Supreme Court of Pakistan,
&
Ibad Ur Rehman Khan
&
Baseer Shah
Advocates High Court

LIST OF BOOKS:

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

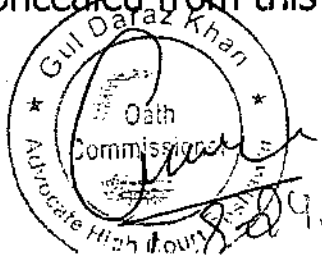
CERTIFICATE:

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.

[Signature]
ADVOCATE

AFFIDAVIT

I, Tasbih ullah , Village Secretary, Village Council, Khari kamar, Mamund, District Bajaur, 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.



[Signature]
DEPONENT

BEFORE THE KHYBER PAKHTUNKHWA, SERVICE TRIBUNAL
PESHAWAR

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Service Appeal No _____/2024

Tasbih UllahAppellant

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:-01-08-2024

Tasbih Ullah
Appellant

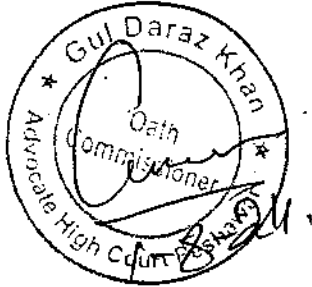
Through

Fazal Shah Mohmand
Fazal Shah Mohmand
Advocate
Supreme Court of Pakistan

AFFIDAVIT

6

I, Tasbih ullah , Village Secretary, Village Council, Khari kamar, Mamund, District Bajaur, District Bajaur, 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.




Tasbih ullah
DEPONENT

old order

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"B"

	OFFICE OF THE ASSISTANT DIRECTOR LG & RDD TRIBAL DISTRICT BAJAUR
	Ph # 0942-220818

No. 307-315 LG & RDD(B)
Date: 10-12-2021.

OFFICE ORDER:

Consequent upon the recommendation of the Departmental Selection / Recruitment Committee, Mr. Khalista Rahuman S/O Mr. Badshah Muhammad is hereby appointed as Village/Neighborhood secretary (BPS-9) against the vacant post of Village/Neighborhood Council Manogai Salazni, Sub Division Khar with all usual salary and allowances as admissible under the rules and existing policy of the Provincial Government, on the below mentioned terms & conditions. Furthermore, the candidate must submit acceptance within 15 days of publication of this order.


Terms & Conditions:

1. The appointment is made subject to the conditions that the candidate is having domicile of District Bajaur.
2. Medical Certificate should be produced from Medical Superintendent District Headquarters Hospital before taking over charge.
3. Charge report should be submitted to all concerned in duplicate.
4. On his initial appointment, the official will be on probation period for one year and this period can be extended as per rules and policy.
5. His services will be purely on temporary basis and is liable to termination on one-month notice from either side. In case of resignation without notice, his one month allowances shall be forfeited to the government.
6. He should not be handed over charge if his age exceeds Thirty years or below eighteen years except if he is granted age relaxation by the relevant authority.
7. He should join his post within fifteen days of issuance of this order. In case of failure to join the post within stipulated period, his appointment will stand expired automatically and no subsequent appearance etc, shall be entertained.
8. He will be governed by such rules and regulations as may be issued from time to time by the government.
9. The appointment is made subject to verification of all the documents of the candidate. In case of non verification of any document, appointment shall be liable to cancellation.


Assistant Director,
LG & RDD, Tribal District Bajaur


Copy forwarded for information to:

1. The Director General LG & RDD Khyber Pakhtunkhwa, Peshawar.
2. The Director LG&RDD NMDs Khyber Pakhtunkhwa, Peshawar.
3. The Deputy Commissioner, Tribal District Bajaur.
4. The Section Officer (Establishment) LGE & RDD Khyber Pakhtunkhwa, Peshawar.
5. The District Accounts Officer Tribal District Bajaur
6. The Tehsil Municipal Officer Khar.
7. Official Concerned.
8. Office Order file.


Assistant Director,
LG & RDD, Tribal District Bajaur



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	OFFICE OF THE ASSISTANT DIRECTOR LG & RDD TRIBAL DISTRICT BAJAUR
	Ph # 0942-220818

No. LC & RDD(B)
Date: 10-12-2021.

OFFICE ORDER:

Consequent upon the recommendation of the Departmental Selection / Recruitment Committee, [redacted] is hereby appointed as Village/Neighborhood secretary (BPS-9) against the vacant post of Village/Neighborhood [redacted] sub Division Nawagai with all usual salary and allowances as admissible under the rules and existing policy of the Provincial Government, on the below mentioned terms & conditions. Furthermore, the candidate must submit acceptance within 15 days of publication of this order.


Terms & Conditions:

1. The appointment is made subject to the conditions that the candidate is having domicile of District Bajaur.
2. Medical Certificate should be produced from Medical Superintendent District Headquarters Hospital before taking over charge.
3. Charge report should be submitted to all concerned in duplicate.
4. On his initial appointment, the official will be on probation period for one year and this period can be extended as per rules and policy.
5. His services will be purely on temporary basis and is liable to termination on one-month notice from either side. In case of resignation without notice, his one month allowances shall be forfeited to the government.
6. He should not be handed over charge if his age exceeds Thirty years or below eighteen years except if he is granted age relaxation by the relevant authority.
7. He should join his post within fifteen days of issuance of this order. In case of failure to join the post within stipulated period, his appointment will stand expired automatically and no subsequent appearance etc, shall be entertained.
8. He will be governed by such rules and regulations as may be issued from time to time by the government.
9. The appointment is made subject to verification of all the documents of the candidate. In case of non verification of any document, appointment shall be liable to cancellation.


 Assistant Director
 LG & RDD, Tribal District Bajaur

Copy forwarded for information to:

1. The Director General LG & RDD Khyber Pakhtunkhwa, Peshawar.
2. The Director LG&RDD NMDs Khyber Pakhtunkhwa, Peshawar.
3. The Deputy Commissioner, Tribal District Bajaur.
4. The Section Officer (Establishment) LGE & RDD Khyber Pakhtunkhwa, Peshawar.
5. The District Accounts Officer Tribal District Bajaur
6. The Tehsil Municipal Officer Khar.
7. Official Concerned.
8. Office Order file.


 Assistant Director
 LG & RDD, Tribal District Bajaur



**OFFICE OF THE ASSISTANT DIRECTOR,
LG & RDD, SOUTH WAZIRISTAN TRIBAL DISTRICT.**

Dated Tank the 13 /12/2021

OFFICE ORDER.

No. 8014-18 (ADRD/SWTD/DDAC). Consequent upon the recommendations of the Departmental Selection Committee, Mr. Raza Ali son of Mir Awaz Khan bearing CNB No. 21704-4190770-1 resident of Shakkari Tehsil Saratogh is hereby appointed as Village Secretary (HPS-09) against the vacant post in Village Council Guleshal-III (Shogai) on the terms and conditions mentioned below subject to the condition that:-

- i) The Village Council Guleshal-III (Shogai) Latha Sub Division was determined for recruitment of Village Secretaries under reserved quota of Females in light of directions of the Supreme Court of Pakistan regarding observing reserved quota of Minorities etc against initial recruitment by all government offices, as per draw conducted by the Deputy Commissioner South Waziristan District.
- ii) That the respondents have already filed a Civil Petition for Leave to Appeal i.e. CPLA No.784-P/2021 before the Apex Supreme Court of Pakistan against the impugned Judgment dated 10.11.2021 of the Honourable Peshawar High Court Dikhan Bench.
- iii) That instant order is subject to the outcome of above mentioned CPLA and shall be finalized in light of the Judgment of Apex Court accordingly.

Terms and Conditions

- 1. He is required to join duty within 15 days after issue of this office order.
- 2. He has to produce medical certificate from the Medical Superintendent AHQ Hospital Wana
- 3. His appointment is subject to verification of the academic record and other documents by the department. In case of any discrepancy found/reported later on, his appointment shall be liable to be terminated.
- 4. His services will be on probation for one year as per APT Rules 1989 which is further extendable for next one year.
- 5. In case of leaving this assignment, one month's advance notice or pay in lieu thereof shall be recovered from his salary.

Assistant Director
LG&RDD South Waziristan District

Copy Number & Date

Copy of above is forwarded to:-

- 1) The Medical Superintendent, AHQ Hospital Wana.
- 2) The District Accounts Officer South Waziristan District.
- 3) The Accountant, LG&RDD office SWTD Tank
- 4) Above named candidate for information and immediate compliance.
- 5) Office Order file.

Assistant Director,
LG&RDD South Waziristan District

11 C

IN THE PESHAWAR HIGH COURT PESHAWAR

Writ Petition No _____/2022

- عبد الرحمن
1. Fazal Jehan son of Fazal Jalal R/O VC: Shawoi Pala Khel, Upper Orakzai Distirct Orakzai
 2. Fazal Hakim S/O Hakeem Khan R/O VC: 5, Paya Jawaki, Tehsil Dara Sub Division Darra Kohat
 3. Abdur Rehman S/O Munir Khan R/O VC: Manai, Mandal, Tehsil Salarzai District Bajaur
 4. Abdul Majeed S/O Abdul Hanan R/O VC: Tankhata Tehsil Khar District Bajaur
 5. Muhammad Sadiq S/O Farooq Shah R/O VC: Bara Sewai Tehsil Mamund District Bajaur.
 6. Tasbihullah S/O Hakim Said R/O VC: Kharhy Kamar Tehsil Mamund District Bajaur
 7. Farman Ullah S/O Malang Jan R/O VC: Malkana, Tehsil Salarzai District Bajaur
 8. Habib ur Rehman S/O Nawsher Khan R/O VC: Lara Mukha, District Bajaur
 9. Haneef Ullah S/O Said Karim Khan R/O VC: Lara Ghundai Tehsil Salarzai District Bajaur.
 10. Naseem Gul S/O Ziarat Gul R/O VC: Kitkot Loi Mamund Distrcit Bajaur
 11. Aziz Ur Rahim S/O Gul Hamid Jan R/O VC: Kooka Tehsil-Salarzai District Bajaur
 12. Ziauddeen S/O Muhammad R/O VC: Lar Gambat Tehsil Salarzai District Bajaur
 13. Ruhullah S/O Abdul Manan R/O VC: Nakhtar Lui Mamund District Bajaur
 14. Anwar Ul Haq S/O Muhammad Samar R/O VC: Mohalla Lal Karim Nawaghai District Bajaur
 15. Sallman Khan S/O Abdullah Jan R/O VC: Chorai Utman Khel District Bajaur
 16. Muhammad Ayaz S/O Ralimat Said R/O VC: Hashim Charmang-1 District Bajaur
 17. Gulab Gul S/O Samand khan R/O VC: Bar Kemal Malangai Mamund District Bajaur
 18. Bahadar Munir S/O Bakhtyar Gul R/O VC: Dabar 1 Mamund District Bajaur
 19. Abdul Ghaffar S/O Khan Badshah R/O VC: Safaray Mamund District Bajaur
 20. Shakir Ullah S/O Habib Ahmad R/O VC: Chorak tehsil salarzai District Bajaur.
-Petitioners

VERSUS

- h
1. Govt. of Khyber Pakhtunkhwa through Secretary Local Govt. Elections and Rural Development Department, Civil Secretariat Peshawar.

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2. Director Local Government & Rural Development Department,
Khyber Pakhtunkhwa, Peshawar.

.....Respondents

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

Respectfully Submitted:-

1. That the petitioners hail from various merged Districts including District Orakzai, Kohat and District Bajaur and are highly qualified even up to Master Degrees. **(Copies of Domicile Certificates, CNICs & Testimonials are enclosed as Annexure A, B & C).**
2. That in order to promote Local Government in the merged Districts, the Government of Khyber Pakhtunkhwa created number of Village Councils and Neighborhood Councils in merged Districts of Khyber Pakhtunkhwa.
3. That for the said purpose recruitment process of the required officials/staff of Village Secretaries for all the said Village Councils and Neighborhood Councils was initiated through advertisement in daily Newspapers of wide circulation. **(Copies of advertisements are enclosed as Annexure D).**
4. That the respondents department invited online applications through ETEA website for appointment to the post of Village Secretaries (BPS 09) for village /Neighborhood Councils in the Districts on Village Council basis. It is pertinent to mention that in the advertisement for the posts of village/Neighborhood secretaries reserved quota for female, Minorities and disabled persons was mentioned according to the rules but with no specification of village/ neighborhood councils.
5. That being jobless the petitioners having academic qualification up to Master Degrees/Equivalent to Master Degree and equipped requisite Technical/ Professional qualification were eager to find employment throughout the District. However, as per advertisement and procedure of online application available on the website of the ETEA the petitioners were required to make apply only to the posts of Village/ Neighborhood Councils of which they were residents, hence accordingly the petitioners applied in their respective village/ Neighborhood Councils for appointment to the posts of Village Secretaries.
6. That the petitioners, qualified ETEA, and were then called for interviews which they qualified where after Over All Village Council wise Merit List was prepared, wherein petitioners were placed at the top of Local Merit List and after being placed in

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**ATTESTED
EXAMINER**

High Court

the final Merit List, were legitimately expecting that soon their appointment orders will be issued. (Copy of the Final Merit Lists is enclosed as Annexure E).

- 7. That the petitioners were awaiting their appointment against the subject posts of Village/Neighborhood Secretaries, however upon approaching respondents, the petitioners were told that as per the decision made in the meeting of Departmental Selection Committee dated 19-07-2021 and 23-07-2021, the posts of Village Councils/Neighborhood Councils have been excluded and reserved for females, minorities and disabled candidates through draw. It is pertinent to mention that in the said Village/Neighborhood Councils no candidates from female, minorities and disabled have applied for the subject posts. (Copy of Minutes is enclosed as Annexure F).
- 8. That appointments to posts in other Village/Neighborhood Councils to the posts of Village Secretaries were made on 10-12-2021 while the appointments on the posts of Village/Neighborhood Councils of the petitioners were not made treating them differently.
- 9. That being aggrieved of the omissions and commissions of respondents of reserving quota for females, minorities and disabled through draw and depriving the petitioners of their due right of appointment, is against the law, facts and principles of justice and the petitioners having no other adequate remedy approach this honorable, on grounds inter-alia as follows:-

GROUND:-

- A. That the acts and omissions of the respondents are illegal, unconstitutional, with out jurisdiction, with out lawful authority and of no legal effect, therefore need the interference of this honorable Court.
- B. That the petitioners are denied treatment in accordance with law and rules in violation of Article 4 and 25 of the Constitution and law of the land.
- C. That the posts of Village/Neighborhood Councils were duly advertised, the petitioners being perfectly fit, eligible and coming up to the criteria applied for the same and after qualifying test and interviews were placed at the top of their Village/Neighborhood Council, thus were **Legitimately Expecting** their appointment.

ATTESTED
EXAMINER

D. That the impugned action of respondents are without lawful authority, ultravires and not known to law hence against the Constitutional mandate besides being condemned and struck down by the Superior Courts.

E. That appointment or allocation of posts through draw is not mandated by law, rather law provide for appointment and reservation of posts in clear terms which is verily explicit.

F. That exclusion of the subject posts from open merit is in total disregard of Article 18, 25 and 27.

G. That the subject post is to be filled from the Village Council/Neighborhood Council concerned while reservation of quota and that too through draw for District is not in consonance with law and justice.

H. That the impugned actions of respondents have no support of law, rules or policy hence too the same is liable to be struck down.

I. That it is worth to mention that there is no candidates who have applied for the subject posts from females, disabled or minorities hence too the petitioners are entitled to the claimed relief.

J. That even this honorable Court has allowed the like petitions including Writ Petition No 521-D/2021 titled as Sadiq Ali etc VS Govt. and others on 10-11-2021, Writ Petition No 951-P/2022 titled as Nizam Ullah etc VS Govt. and others on 23-06-2022 and Writ Petition No 5154-P/2021 titled as Riaz Ullah etc VS Govt. and others on 10-11-2022, hence too the petitioners are entitled to the same treatment. (Copies of Judgments dated 10-11-2021, Judgment dated 23-06-2022 and Judgment dated 10-11-2022 is enclosed as Annexure G).

K. That the non-appointment of the petitioners is not in consonance with law, rules, fair play and principles of justice.

L. That the some of the petitioners earlier filed Writ Petition No 1290-M/2021 which was withdrawn with permission to file fresh one.

ATTESTED
EXAMINER

M. That the valuable rights of the petitioners are associated and if the petitioners are not appointed they would suffer an irreparable loss.

N. That the petitioners seek the permission of this honorable Court for additional grounds at the time of arguments.

It is therefore prayed that on acceptance of this Writ petition an appropriate writ may please be issued

A. Declaring the omissions and commissions of respondents by issuing the impugned Minutes of the Departmental Selection Committee dated 19-07-2021 and 23-07-2021 by allocating the filling of the posts of Village Secretaries through draw and not considering the petitioners for appointment against the post of Village Secretaries (BPS-09), as illegal, unlawful and ineffective upon the rights of the petitioners


B. Directing respondents to consider the petitioners for appointment against the posts of Village Secretaries against their respective Village/Neighborhood Councils w.e.f 10-12-2021 when their other colleagues were appointed with all back benefits.

Any other relief deemed appropriate in circumstances of the case and not specifically asked for may also be granted in favor of the petitioners.

INTERIM RELIEF:-

By way of Interim Relief, this August Court may kindly be pleased to restrain respondents from appointment on the subject posts of Village Secretaries, , till the final disposal of this writ petition.

Dated:-09-12-2022

Through  Petitioners
Fazal Shah Mohmand
Advocate,
Supreme Court of Pakistan

LIST OF BOOKS:

- 1. Constitution 1973.
- 2. Other books as per need

ATTESTED
EXAMINER

CERTIFICATE:

Certified that as per instructions of my client, no Writ petition on the same subject and between the same parties has been filed previously or concurrently before this honorable Court.


ADVOCATE



(16)
d

IN THE PESHAWAR HIGH COURT PESHAWAR

Writ Petition No _____/2022
Fazal JananPetitioner,

VERSUS

Govt & others.....Respondents

AFFIDAVIT

I, *Fazal Janan S/O Fazal Jalal R/O Mir kalam Khel, Babar khel, Mamuzai kali Tehsil Upper District Orakzai*, do hereby solemnly affirm and declare on oath that the contents of this **Writ Petition** are true and correct to the best of my knowledge and belief and nothing has been concealed from this honorable Court.

Identified by



Fazal Shah Mohmand

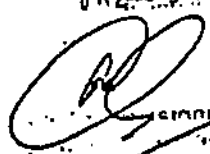
Advocate Peshawar



DEPONENT

Cnic: 21604-7417651-1 ✓

Call No: 03055414577



Certified true attestation day 09 at <i>Fazal Jalal</i>	in presence of <i>Fazal Janan</i> <i>Orakzai</i> <i>Fazal Shah</i>  09/12/2022
------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

ATTESTED EXAMINER



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**PESHAWAR HIGH COURT PESHAWAR
ORDER SHEET**

Date of Order or Proceedings	Order or other Proceedings with Signature of Judge or that of parties or counsel where necessary
1	2
21.12.2022	<p>WP No. 4945-P/2022 with IR.</p> <p>Present: Mr. Fazal Shah Mohmand, advocate for the petitioners.</p> <p>Mr. Muhammad Inam Yousafzai, Addl. AG for the respondents.</p> <p>*****</p> <p>LAL JAN KHATTAK, J.:- At the very outset, the former stated at the bar that the petitioners would be satisfied and would not press this petition anymore if their case is sent to the respondent No.2 for decision thereon in accordance with law, rules and policy on the subject to which the latter did not object.</p> <p>2. In view of the above, we dispose of this petition by directing the respondent No.2 to have a look on it at his end and redress the petitioners' grievance as per law, rules and policy laid down. Office shall send the petition to the respondent in original by retaining photocopies for the purpose of record.</p> <p style="text-align: right;">  JUDGE </p> <p style="text-align: right;">  JUDGE </p> <p style="text-align: center;"> 4130 30-07-2024 28-10 30-07-2024 30-07-2024 </p> <p style="text-align: right;"> CERTIFIED TO BE TRUE COPY EXAMINER Peshawar High Court, Peshawar Authorized Under Article 8, 7 of the Qanun-e-Shahada Act 1989 30 JUL 2024 </p>



Date of Presentation of Application
Date of Filing
Date of Hearing
Date of Judgment
Date of Issuance of Order



OFFICE OF THE ASSISTANT DIRECTOR LG&RDD TRIBAL DISTRICT
BAJAUR

Ph # 0942220818

20

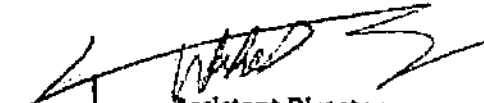
No. 3343-52/LG&RDD (B)
Dated 07/08/2023

OFFICE ORDER

Consequent upon the Judgement of Peshawar High Court, W.P.No. 4945/2022 title Fazal Jahan & Other Vs Government of Khyber Pakhtunkhwa ETC and subsequently direction of PHC in COC No. 76-P/2023 W.P.4945-P/2022 title Fazal Jahan & Other Vs Government of Khyber Pakhtunkhwa, Mr. Tasbiullah S/O Hakim Said bearing CNIC No.21104-3784466-5 resident of Khari Kamar Tehsil Wara Mamund Tribal District Bajaur is hereby appointed as Village Secretary (BPS-09) against the vacant post in Village Council Khari Kamar on the term & condition mentioned below.

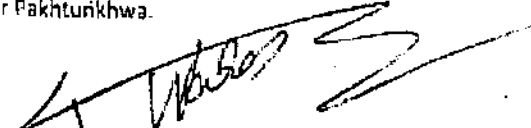
Terms & Conditions:

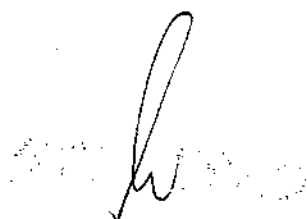
1. The Village Councils Khari Kamar was determined for recruitment of Village Secretaries under reserved quota of (Female, Minority & Disable) in light of direction of the Supreme Court of Pakistan regarding observing of reserved quota of Minorities etc.
2. The appointment is made subject to the conditions that the candidate is having domicile of District Bajaur.
3. Medical Certificate should be produced from Medical Superintendent District Headquarters Hospital before taking over charge.
4. He will be on probation for a period of one year & this period can be extended as per rules & Policy.
5. Charge report should be submitted to all concerned in duplicate.
6. His services can be terminated at any stage without assigning the reasons.
7. His services will be purely on temporary basis and is liable to termination on one month notice from either side. In case of resignation without notice, his one month allowances shall be forfeited to the Government.
8. He should not be handed over charge if his age exceeds 30 years or below 18 years except if he is granted relaxation by the Establishment Department as well as by the appointing authority.
9. He should joined his post within fifteen days of issuance of this order. In case of failure to join the post within the stipulated period, his appointment will stand expired automatically and no subsequent appearance etc. shall be entertained.
10. He will be governed by such rules and regulations as may be issued from time to time by Khyber Pakhtunkhwa Government.
11. The appointment is made is subject to verification of all the documents of the candidate.


Assistant Director
LG&RDD, Tribal District Bajaur

Copy forwarded for information to:-

1. The Director General LG&RDD Khyber Pakhtunkhwa Peshawar.
2. The Director LG&RDD NMDs Khyber Pakhtunkhwa Peshawar.
3. The Deputy Commissioner Tribal District Bajaur.
4. The District Accounts Officer Tribal District Bajaur.
5. The Section Officer (Litigation) LG&RDD Khyber Pakhtunkhwa.
6. The Section Officer Establishment LG&RDD Khyber Pakhtunkhwa.
7. PS to Secretary LGE&RDD Khyber Pakhtunkhwa.
8. Official Concerned.
9. Office Order file.


Assistant Director
LG&RDD, Tribal District Bajaur



(2)

Arrival Report

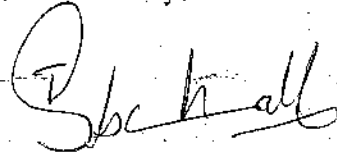
To,

The Assistant Director LG & RDD
Tribal District Bajaur.

Subject: Charge Report.

In compliance with office order No. 3343-52 LG & RDD (B) Date: 07/08/2023/
Tasbih ullah here by submit my arrival for performing duty as **Village/
Neighborhood Secretary (BPS-9)** in the OFFICE OF THE ASSISTANT
DIRECTOR LG & RDD TRIBAL DISTRICT BAJAUR, today on 08 Aug 2023

Yours Sincerely,



Tasbih ullah

Village/ Neighborhood Secretary (BPS-9)

Khari Kamar Sub Division Nawagai




8

**RECRUITMENT OF VILLAGE SECRETARIES (BPS-09) IN LG& RDD TRIBAL DISTRICT BAJAUR, THROUGH ETEA, VC/NC-WISE MERIT LIST
(DISTRICT: BAJAUR SUB DIVISION NAWAGAI)**

S.No	ETEA Roll No	Name of Candidate	Father Name	CMIC No	Name of VC/NC	Academic Marks	ETEA Test Marks	Addt. Higher Qualification Marks/12	Interview Marks	Experi-ence Marks	Total Marks	G.Total	Remarks
1	2	3	4	5	6	7	8	9	10	11	12	13	
104	3382	TASBINULLAH	HAKIM SAID	211-4-3784465-5	VC Kharal Kamar	70	44	8	6		122	128	VC Kharal Kamar is reserved for observance of Female Quota.
123	1377	SHAFI ULLAH	HABIB ULLAH	21104-80495510-7	VC Kharal Kamar	70	38	12	6		120	126	
146	6420	IBRAHIM KHAN	SARFARAZ KHAN	21104-7992942-3	VC Kharal Kamar	70	41	8	5		119	124	OT result sheet not specified
161	1493	ZAID	SHER MOHAMMD	21104-8517462-9	VC Kharal Kamar	70	39	8	4		117	121	
535	4120	JABER KHAN	MUHAMMAD	21104-0367830-5	VC Kharal Kamar	70	34	8	6		112	118	
237	3018	MUHAMMAD ISHAQ	SIRAJ AHMAD	21104-9576068-3	VC Kharal Kamar	70	34	8	4		112	116	
377	3281	TAMRIZ KHAN	AWAL KHAN	21104-3450171-3	VC Kharal Kamar	53	39	6	5		98	103	

Note:- Errors/Omissions, if any, are subject to rectification by the Appointing Authority.


ASSISTANT DIRECTOR
 LG&RDD, TRIBAL DISTRICT BAJAUR
 CHAIRMAN SELECTION & RECRUITMENT COMMITTEE



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

Subject: - Appeal for Ante-dated Appointment


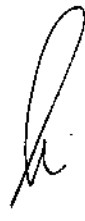
19 "E"

Respectfully Submitted:-

That the appellant is the permanent resident of Newly Merged District Bajaur 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 11-07-2020 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 10-12-2021 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 4945-P/2022 titled as Fazal Janan & others VS Govt. & others which was allowed vide Judgment dated 21-12-2022 with directions to issue the appointment order of the appellant however the same was issued after filing of Contempt of Court petition and the appellant was finally appointed vide Order dated 07-08-2023.

The appellant was thus deprived of his due right of appointment with his colleagues on 10-12-2021 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 10-12-2021 instead of 07-08-2023. The appellant is entitled to be given seniority and financial benefits w.e.f. 10-12-2021.

It is therefore requested that on acceptance of this appeal, the appointment order of the appellant dated 07-08-2023 may kindly be given effect from 10-12-2021 with all back benefits.



Dated: -16-04-2024

Tasbih Ullah
Village Secretary, VC Khari Kamar,
Mamund District Bajaur
Cell #: 03000523661

VAKALATNAMA

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL

PESHAWAR

TasbiH Ullah **Petitioner/Appellant**

VERSUS

Director & others **Respondents/Defendants**

I, TasbiH Ullah do hereby appoint and constitute,

Fazal Shah Mohmand, Ibad Ur Rehman Khalil & Baseer Shah Advocates
To act, appear and plead in the above-mentioned matter and to withdraw or compromise the said matter or submit to arbitration any differences or dispute that shall arise touching or in any manner relating to the said matter and to receive money and grant receipts therefore and to do all other acts and things which may be necessary to be done for the progress and the course of the prosecution of the said matter.

1. To draft and sign files at necessary pleadings, applications, objections, affidavits or other documents as shall be deemed necessary and advisable for the prosecution of the said matter at all its stages.
2. To employ any other Legal Practitioner, authorizing him to exercise the power as conferred on the undersigned advocate, wherever he may think fit to do so.

AND I hereby agree to ratify whatever the Advocate or his substitute shall do in the above matter. I also hereby agree not to hold the advocate or his substitute responsible for the result of the said matter in consequence of his absence from the court when the said matter is called up for hearing. I further hereby agree that in the event for the whole or any part of the fee to be paid to the advocate remaining unpaid, he shall be entitled to withdraw from the above matter. Received by me on 1-8-2024.

TasbiH Ullah
Client (s)

ACCEPTED BY: [Signature]
Fazal Shah Mohmand ASC,

[Signature] Ibad Ur Rehman Khalil
&

Baseer Shah
Advocates, High Court.