

**BEFORE THE HONORABLE KHYBER PAKHATUNKHWA SERVICE TRIBUNAL
PESHAWAR.**

Service Appeal No: 837/2024

Ihsan Wali Shah ,PST GPS Palsooi Banda Tehsil Lachi District Kohat **Appellant**

VERSUS

District Education Officer (Male)Kohat& other**Respondents**

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District Education Officer
DISTRICT EDUCATION OFFICER
(MALE) KOHAT

①

BEFORE THE HONORABLE KHYBER PAKHATUNKHWA SERVICE TRIBUNAL
PESHAWAR.

Service Appeal No: 837/2024

Ihsan Wali Shah ,PST GPS Palsooi Banda Tehsil Lachi District Kohat **Appellant**

VERSUS

Government of Khyber Pakhtunkhwa through the Secretary E&SE Khyber Pakhtunkhwa & others
.....**Respondents**

JOINT PARAWISE COMMENTS ON BEHALF OF RESPONDENTS No: 1-2.

Respectfully Sheweth,

The Respondents as under.

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 16209

Dated 01-10-24

PRELIMINARY OBJECTIONS.

- 1 That the appellant has got no cause of action locus standi.
- 2 That the instant Service appeal is badly time barred.
- 3 That the appellant has concealed material facts from the Hon'ble Tribunal in the instant service appeal.
- 4 That the instant service appeal is against the relevant provisions of law.
- 5 That the appellant has not come to this Hon'ble Tribunal with clean hands.
- 6 That the instant appeal is liable to be dismissed for mis-joinder & non-joinder of the necessary parties to the present appeal.
- 7 That the appellant is estopped by his own conduct to file the instant appeal.
- 8 That the instant service appeal is not maintainable in the present form & circumstances of the case.

FACTS.

- 1 That Para No: 1 of the Fact is pertain to record. However, the Domicile in hand of the appellant still having no record and the domicile is not duly issued officially, but by the virtue of the order of SMBR the appellant domicile is considered. **(Copy of SMBR orders is annexed as annexure A)**
- 2 That Para No: 2 of the fact is pertain to record needless to mention that the para is irrelevant on the basis that the appellant got fresh appointment.
- 3 That Para No: 3 of the fact is pertain to record.
- 4 That Para No: 4 of the fact is pertains to record & irrelevant.
- 5 That Para No: 5 of the fact is pertains to record & irrelevant to the subject matter.
- 6 That Para No: 6 of the fact is correct & based on solid reason.
- 7 That Para No: 7 of the fact is pertains to record.
- 8 That Para No: 8 of the fact is pertains to record.
- 9 That Para No: 09 of the fact is pertains to record, having no concern with the subject matter of the appeal, as a matter of fact from Para No: 01 of the appeal up to para 10 the respondent department is still not understanding that by agitating immaterial fact before the gracious forum what he intend to means.

- 10 That Para No: 10 of the fact is stated vide para No: 9 above
- 11 That Para No: 11 of the fact is pertain to record. However, after issuance of the minutes there was also mentioned that word OR otherwise which denotes discretion when no specific directions were recommended.
- 12 That Para No: 12 of the fact is pertains to record having no concern with the subject appeal.
- 13 That Para No: 13 of the fact is pertains to record. However, the appellant conceals the material fact and divert the attention of the Hon'ble Service Tribunal by manipulating the facts as Hon'ble Peshawar High Court Peshawar no order was passed for appointment neither it was directed to pass appropriate order so far as the contents of the application & contents of the appeal are quite different. In fact, the appellant contention is to seeks the benefit and emoluments as appellant not challenged the order of appointment which need modification by the appellant. If the appellant was aggrieved from the order why the appellant has submitted arrival report of his appointment, which specks that appellant admit his appointment as a correct & legal. Its again stated if appellant having a grievance why the appellant took over charge the post in the light of appointment order. Why the appellant ensures regular attendance? even though the appellant also withdraw his salary in the light of appointment order which shows he is not aggrieved in all respect only for seeks of ego and disrespecting the received cutesy of the respondent department. **(Copy of appointment order, Charge report and salary slip are annexed as annexure B, C & D)**
- 14 That Para No: 14 of the fact is correct & based on sound reasons accordingly.
- 15 That Para No: 15 of the fact is incorrect the appeal of the appellant is not maintainable on a technical point of law that the appellant prefers a departmental appeal on dated 06.05.2024 and file service appeal on 14.04.2024 as per affidavit & the record of rejection of departmental representation on 15.05.2024 which creates serious doubtendants in filing which need also urged consideration & indulges of Hon'ble Service Tribunal.

GROUNDS: -

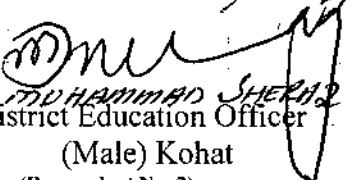
- A. That Para No: A of the ground if the order dated 13.02.2024 is against the law then the respondent Department is liberty to withdraw his order & the appellant by virtue of his conduct deliberately dragged himself into litigation.
- B. That Para No: B of the ground incorrect, detail already explain vide para A above
- C. That Para No: C of the ground is irrelevant and already discussed above in leading paras.
- D. That Para No: D of the ground is pertaining to record, however in all the orders of respected court including inquiry report review committee, there is no specific direction worth mentioning here the word OR Otherwise is sufficient to issue the order of appointment. **(Copy of enquiry report is annexed as annexure E)**
- E. That Para No: E of the ground is incorrect, respondent Department already blessed him with appointment order which was not challenged by the appellant at any forum except seeks modification.
- F. That Para No: F of the ground is pertaining to record. However, every case has, his own motion & creaks.
- G. That Para No: G of the ground incorrect at the time of recruitment and in pursuance of a complaint lodged by someone against the appellant the worthy Deputy Commissioner Kohat de notified/withdrawn the domicile certificate of the appellant mentioned therein as fake. Which was later on the respondent department was bound to withdraw/cancelled the appellant appointment order made on the basis of fake

domicile. (Copy of Deputy Commissioner office letter No: 1150-55/DC/Domicile Clerk dated 04.06.2013 is annexed as annexure F)

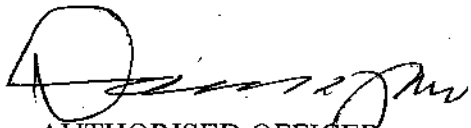
- H. That Para No: H of the ground is incorrect, it is obvious from the terms & condition at Sr No: 2 of the 1st appointment order of the appellant, he served only 04 months approximately, in this scenario the appellant service was purely on probation period and terms and condition at S. No: 8 is also applicable upon his 1st appointment order.
- I. That Para No: I of the grounds is irrelevant, however the appellant use unfair practice. Hence he is responsible on his own conduct.
- J. That Para No: J of the grounds is incorrect to the extent of intervening period as he has not served the department for a long term.
- K. That Para No: K of the grounds is in correct already discussed above.
- L. That Para No: L of the grounds is incorrect not pertain to the subject matter of appeal as the appellant to intents to seeks modification neither back benefits.
- M. That Para No: M of the grounds is incorrect, there was no merit neither any cogent reasons explain in Departmental appeal. Hence rightly rejected.
- N. That Para No: N, the respondents also seek permission to raise further grounds at the time of arguments.

PRAYER

In the light of above material facts, it is humbly prayed that the appeal liable to dismissed as he was already being appointed in any manner need no further extra ordinary relief.


 M. HAMID SHERIF
 District Education Officer
 (Male) Kohat
 (Respondent No: 2)

SAMINA ALTAF
 Director


 AUTHORISED OFFICER
 ABDUS SAMAD
 DEPUTY DIRECTOR,
 Elementary & Secondary Education
 Khyber Pakhtunkhwa Peshawar.
 (Respondent No: 1)

**BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.**

Service Appeal No: 837/2024

Ihsan Wali Shah ,PST GPS Palsooi Banda Tehsil Lachi District Kohat **Appellant**

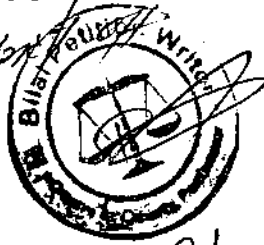
VERSUS

District Education Officer (Male) Kohat & other **Respondents**

Affidavit

I, Muhammad Sheraz District Education Officer (Male) Kohat solemnly affirm and declare on oath that the contents of the accompanying Parawise comments are true and correct to the best of my knowledge and belief and nothing has been concealed withheld from the Honorable Court. *It is further stated on oath the accompanying respondents have neither left nor ex-parte nor their defence is stopped.*

Deponent



1-10-24

[Handwritten signature]

DISTRICT EDUCATION OFFICER
(MALE) KOHAT
CNIC No: 14203-2057044-7
Cell No: 03005325372

**District Education Officer
(Male) Kohat**

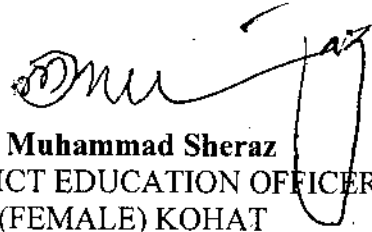
Identified by

OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) KOHAT

AUTHORITY LETTER

Certified that Mr. Waheed Gul LLb, Litigation Officer, office of the District Education Officer (Male) Kohat is hereby authorized to attend the Honourable Service Tribunal Khyber Pakhtunkhwa Peshawar in connection with Service 837/2024 titled Mr. Ihsan Wali Vs Director Elementary & Secondary Education Khyber Pakhtunkhwa and DEO (M) Kohat etc on behalf of the undersigned.

He is also authorized to submit Parawise reply etc on behalf of the undersigned



Muhammad Sheraz
DISTRICT EDUCATION OFFICER
(FEMALE) KOHAT

District Education Officer
(Male) Kohat

**BEFORE MEMBER-I, BOARD OF REVNEUE, KHYBER
PAKHTUNKHWA, PESHAWAR.**

Deputy Commissioner, Kohat.....Petitioner

Versus

Ihsan Wali Shah.....Respondent

ATTESTED

[Signature]
Reader to Member-I

Case No..... 415/2021/MBR-I
Date of institution: 28.06.2022
Date of Decision: 31.08.2022

**REVIEW PETITION AGAINST THE ORDER DATED 19.04.2022
OF MEMBER-I, BOARD OF REVENUE.**

JUDGMENT

MBR-I.. My this order will dispose off the instant review petition filed in this court against the order of Member-I Board of Revenue, dated 19.04.2022.

2. The brief facts leading to the institution of the instant revision petition are that the present respondent Mr. Ihsan Wali Shah was issued a domicile certificate of Showki, Union Council Sudal, Tehsil and District Kohat, bearing No. 1399/DOR&E dated 28.02.2009 by the then District Officer, Revenue and Estate Kohat. Mr. Athar Mehmood S/o Muhammad Akram Khan resident of Malgeen, Kohat filed a complaint in the office of Deputy Commissioner, Kohat stating therein that the present respondent was basically the resident of District Kozak, therefore, the domicile certificate in the name of the present respondent may be cancelled. The District Administration, Kohat initiated an inquiry on the complaint and on the basis of recommendations of the inquiry report, the domicile certificate was cancelled vide order No. 1150-55/DC/domicile clerk dated 04.06.2013; against this order the present respondent filed revision petition before the Commissioner, Kohat which was dismissed vide order dated 01.07.2021; against this order present respondent has filed the revision petition before Member-I, Board of Revenue which was accepted vide order dated 19.04.2022. Feeling aggrieved thereby, the present petitioner then filed review petition before this forum.

3

3. The respondents were summoned and notices were issued.

4. Parties along with learned counsel present. Arguments of both the parties were heard in detail.

Attested
[Signature]
Sub Divisional Education Officer
(Male), Kohat

5. After hearing of arguments and perusal of available records on file, it was revealed that no new facts / substantial grounds were presented by the petitioner, on the basis of which to review the impugned order. Consequent to this, I have come to the conclusion that the current review petition being without any substance and meritless is hereby dismissed and judgment / order passed by this court dated 19.04.2022 is upheld. Deputy Commissioner, Kohat is hereby directed to restore the Domicile Certificate of the present respondent. Parties are left to bear their own cost. It is verified that the instant judgment / order comprises of five (05) paragraphs spread over two (02) pages. Each and every page has been signed by the undersigned.

File be consigned to record room after necessary completion.

Announced
31.08.2022

ATTESTED

[Signature]
11-4
23
Reader to Member-I

[Signature]
(FAZAL KHALIQ)
MEMBER-I

Attested

[Signature]

Sub-Divisional Education Officer
(Male) Kohat



AMM B-7

OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) KOHAT

NOTIFICATION.

1. **WHEREAS**, Mr. Ihsan Wali Shah GPS Paloosi Banda District Kohat was appointed as PST vide this office order No. 1293-1344 dated 23-02-2013 and he took over charge on the post on 26-02-2013 dated at GPS Paloosi Banda UC Sudal (Lachi) District Kohat.

2. **AND WHEREAS**, his Domicile Certificate was declared Fake/cancelled by Deputy Commissioner Kohat as per order No.1150-55/DC/Domicile/Clerk dated 04-06-2013, and consequently cancelled his appointment vide order No.4278-82 dated 17-06-2013.

3. **AND WHEREAS**, feeling aggrieved the appellant has invoked the constitutional jurisdiction under Article-815(3) of the Islamic Republic of Pakistan, 1973 through filing Civil Petition No.4610 of 2018 before the Honorable Supreme Court of Pakistan under case Titled Ihsan Wali Shah Vs. Secretary Education Khyber Pakhtunkhwa, Peshawar & Other against the Judgment dated 04-10-2018 passed by Honorable Service Tribunal, Peshawar under Service Appeal No.1328 of 2015 which has been decided vide Judgment dated 23-02-2021 and ordered that the petitioner can seek relief regarding his service after restoration of his Domicile.

4. **AND WHEREAS**, Ihsan Wali Shah Resident of District Kohat again filed an appeal in SMBR Peshawar for restoration of Domicile which was decided in his favor.

5. **AND WHEREAS**, The Deputy Commissioner Kohat filed a review petition in SMBR Peshawar against the said Judgment which was decided with the remarks "That the current petition being without any substance and, meritless is hereby dismissed and Judgment/order passed by this court dated 19-04-2022 is upheld, Deputy Commissioner Kohat is hereby directed to restore the domicile certificate of the present respondent."

6. **AND WHEREAS**, in compliance with Judgment under case No.415/2021/MBR-I dated 19-04-2022, Deputy Commissioner Kohat restored his domicile vide order No.821/DC/KT dated 27-06-2023.

7. **AND WHEREAS**, feeling aggrieved the appellant filed an appeal before Honorable Peshawar High Court Peshawar under W.P No.4380-P/2023 which has been decided vide Judgment dated 08-11-2023, whereby, the petition has been remitted to the Director E&SE with directions to pass an appropriate order in the matter as request is made vide letter dated 29-08-2023.

8. **AND WHEREAS**, in compliance of the Honorable High Court Peshawar Judgment dated 08-11-2023 and Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar Notification No.2247-51 dated 05-12-2023, after threadbare discussion, the conclusion that the appellant is entitled to be appointed against the PST post.

9. **NOW THEREFORE**, having gone through the whole case record including Judgment dated 08-11-2023 of the Honorable Peshawar High Court Peshawar along with directions of the Appellate authority I, Muhammad Sheraz, the appointing authority, (District Education Officer (M) Kohat), am pleased to appoint Mr. Ihsan Wali Shah S/O Hassan Wali Shah UC Sudal Tehsil Lachi District Kohat against the post of PST at GPS Paloosi Banda UC Sudal (Lachi) in BPS-12 (Rs.19770-1430-62670) @ Rs.19770/- fixed plus usual allowance as admissible under the rules on adhoc basis on Contract under the existing policy of the Provincial Government, in Teaching Cadre against the vacant post on the terms and condition given below with effect from the date of his taking over charge.

Attested

Sub-Divisional Education Officer
(Male) Kohat

~~Ammt - C~~

783
مہاراجہ صاحب

چارج رپورٹ

حکم دہسٹریٹس ایجوکیشن آفیسر صاحب (مردانہ) کوٹھان

کوٹھان آرڈر نمبر 724-3 بتاریخ 13/2/24 بطور PST

امسان ولی شاہ کو گورنمنٹ پرائمری سکول پولوسی بارڈ

میں Appointment کا حکم صادر فرمایا ہے۔ نیز آج

مؤرخہ 14/2/2024 سے از دوپہر چارج دیا گیا۔

چارج رپورٹ دفتر بڑا کو ارسال فرمائی ہے۔

چارج دہندہ چارج گریڈ

Accepted under protest
Head Teacher
GPS, Faisalabad

Attested
Sub. Divisional Edu. Officer
(Male) Kohat

Kohat

S# 1

P Sec:002 Month:April 2024

KT6292 Govt: Primary Schools (Mal

GOVT PRIMARY SCHOOLS (MA

Pers #: 01061077 Buckle:

Name: IHSAN WALI SHAH
PRIMARY SCHOOL TEACHER

CNIC No.1420320645435

GPF Interest Applied:

12 Vocational Temporary

KT6292

PAYS AND ALLOWANCES:

0001-Basic Pay	19,770.00
1001-House Rent Allowance 45%	2,940.00
1210-Convey Allowance 2005	2,856.00
1300-Medical Allowance	1,500.00
2316-Teaching Allowance 2021	2,664.00
2341-Dispr. Red All 15% 2022KP	1,998.00
2347-Adhoc Rel Al 15% 22 (PS17)	1,998.00
2378-Adhoc Relief All 2023 35%	6,919.00

Gross Pay and Allowances

40,645.00

DEDUCTIONS:

GPF Balance 0.00	Subrc:	2,300.00
3501-Benevolent Fund		1,200.00
3541-DC Pension Emp KP 2022		1,977.00
3990-Emp.Edu. Fund KPK		135.00
4004-R. Benefits & Death Comp:		600.00

Total Deductions

7,212.00

Attched
Amir

ES. CHAKI
M. S. CHAKI

33,433.00

D.O.B

LFP Quota:

08.08.1979

BANK AL HABIB LIMITED B B KATCHERY CHOKK R

00 Years 02 Months 018 Days

004400199601

REINSTATEMENT REVIEW COMMITTEE

Endst No: 01-RRC

Dated: 03-08-2023

Venue of Inquiry: DEO (M) Office Kohat

Date of Inquiry: 31-07-2023 to 03-08-2023

To:

The DEO (M) Kohat

Title of Inquiry: Reinstatement Review Committee IRO Mr. Ihsan Wali Shah

Preamble:

An appeal was solicited by Mr. Ihsan Wali Shah s/o Hassan Wali Shah, Ex-Primary School Teacher henceforth PST to the Minister for Education, Peshawar KP stating:

1. That he was appointed on the post of PST on 23-02-2013 in GPS Palosi Banda (UC Sudal).
2. That he took over the charge of the said post in above-mentioned school on 26-02-2013.
3. That he regularly attended his duty in the said school for a period of (about) four months.
4. That his Domicile Certificate was declared fake by Deputy Commissioner Kohat as per order No. 1150-55/DC/Domicile/Clerk dated 04-06-2013.
5. That District Education Officer (Male) henceforth DEO (M) Kohat cancelled his Appointment Order No. 1293-1344 dated 23-02-2013 (on the basis of cancellation of his domicile).
6. That the petitioner is resident of District Kohat of the said Union Council (UC).
7. That he has been suffered badly and carried out a series of litigation.
8. That the apex court i.e. Supreme Court of Pakistan ordered that the petitioner can seek relief regarding his service after restoration of his domicile.
9. That the Senior Member of Board of Revenue henceforth SMBR Peshawar directed DC Kohat for restoration of his Domicile.
10. That the SMBR cancelled the review of DC Kohat and set aside the impugned Order No. 1150-55/DC dated 04-06-2013 and directed DC Kohat for restoration of his Domicile.
11. That his Domicile has now been restored by DC Kohat upon the directions of SMBR.
12. That his service be now restored along with all back benefits / arrears.

Proceeding:

Consequent upon the directions of District Education Officer (Male) Kohat vide office Endst No. 5875-78 dated Kohat the 27-07-2023, the Reinstatement Review Committee comprising following officers visited DEO (M) office Kohat on 31/07/2023.

Ahsan
Amir
Sub. Divisional Edu. Officer
(Male) Kohat

- | | | |
|----|--|----------|
| 1. | Mr. Riaz Gul, Principal (BS-19) GHS Tappi, Kohat | Chairman |
| 2. | Mr. Irshad Khan, HM GHS Sheikhan, Kohat | Member |
| 3. | Mr. Azad Rahman, HM GHS Nusrat Khel, Kohat | Member |


The Reinstatement Review Committee probed into the matter in the light of following TORs given by DEO (M) office Kohat. It is pertinent to mention that Mr. Ihsan Wali Shah s/o Hassan Wali Shah, the aggrieved, was also called to the DEO (M) office Kohat by the Committee for personal hearing. Detail of TORs is as under:

1. The Committee will scrutinize all record pertaining to the above case.
2. The committee will scrutinize / check all legal proceedings / court judgment relevant to the case.
3. The committee will check claim / appeal of the appellant.
4. The committee will be responsible to submit report along with recommendations in the light of rules / policy within a week time positively.

Facts:

The committee scrutinized all the record, legal proceedings / court judgment, claim/appeal of the appellant etc. pertaining to the case. Facts of the case are as under:


1. Mr. Ihsan Wali Shah s/o Hassan Wali Shah was issued Domicile No. 1399-DOR&E dated 28-02-2009 of village Showeki (UC Sudal) by District Officer Revenue & Estate Kohat (**Copy of Domicile and Domicile Certificate Register are annexed as 'A & B'**).
2. Mr. Ihsan Wali Shah s/o Hassan Wali Shah, Ex-PST was appointed as PST in BPS-07 (Rs. 5800-320-11540) on initial recruitment at Union-Council-wise-school (UC Sudal) on the approval of Departmental Selection Committee and was posted to GPS Palosi/Sudal vide DEO (M) Kohat Appointment Order Endst No. 1293-1344/Apptt of PST/DEO (Male) 2013 dated 23-02-2013 (**Copy of Appointment Order is annexed as 'C'**).
3. Mr. Ihsan Wali Shah, Ex-PST took over the charge at GPS Palosi (UC Sudal) on 26-02-2013 and regularly served for about four month (**copy of Charge Report and attendance are annexed as 'D & E'**).

Attested

 Sub-Divisional Edu. Officer
 Kohat

Domicile No. 1399-DOR&E dated 28-02-2009 in respect of Mr. Ihsan Wali Shah s/o Hassan Wali Shah was cancelled being considered fake by Office of the Deputy Commissioner Kohat vide letter No. 1150-55/DC/Domicile Clerk dated 04-06-2013 in the light of verification by the Assistant Commissioner Lachi, through Field Revenue Staff on the basis of a complaint lodged in the office of Deputy Commissioner by one Mr. Athar Mehmood s/o Muhammad Akram Khan resident of Malgeen, Kohat, stating therein that Mr. Ihsan Wali Shah s/o Hassan Wali Shah, Ex-PST was basically the resident of District Karak (**Office Order - DC Kohat is annexed as 'F'**).

5. DEO (M) Kohat, in the light of cancellation of Domicile IRO Ihsan Wali Shah s/o Hassan Wali Shah by the competent authority, cancelled Appointment Order Endst No. 1293-1344 dated 23-02-2013 IRO Ihsan Wali Shah s/o Hassan Wali Shah vide DEO (M) Kohat Endst No. 4278-82 dated 17-06-2013 **(copy of cancellation of Appointment Order is annexed as 'G')**.
6. Mr. Ihsan Wali Shah s/o Hassan Wali Shah, feeling aggrieved, suited a case in Civil Court Kohat for his reinstatement which entertained and adjudicated upon the matter allowing the petitioner by returning the plaint to the plaintiff for presentation before Service Tribunal KP being competent forum exclusively having the jurisdiction of service matters and established specifically for this purpose **(Order of Civil Court Kohat dated 01-10-2015 is annexed as 'H')**.
7. Mr. Ihsan Wali Shah s/o Hassan Wali Shah, the petitioner, filed a petition – Appeal No. 1328 of 2015 in Service Tribunal KP which was dismissed with no order being not maintainable on the grounds that the appellant had neither restored his Domicile till the disposal of the case i.e. 04-10-2018 nor challenged before proper forum. The Service Tribunal further stated that the appellant was supposed to file departmental appeal within one month of cancellation of his Appointment Order but he filed his departmental appeal on 15-10-2015 after more than two years, which was badly time-barred. **(Copy of Service Tribunal Judgment is annexed as 'I')**.
8. The petitioner, feeling aggrieved from Service Tribunal KP suited Civil Petition No. 4610 of 2018 in the Apex Court – Supreme Court of Pakistan wherein counsel for the appellant pleaded for withdrawal his petition to file proceedings for restoration of domicile certificate in the relevant forum and if he (the petitioner) succeeds, will seek relief for his reinstatement. The Order of Supreme Court dated 23-02-2021 goes as under:

“(The) petitioner is going to file proceedings for restoration of his very Domicile of District Kohat and after he succeeded in getting restoration of his Domicile of District Kohat, he will seek relief against the order by which his appointment order was cancelled. He therefore, does not press the petition. Dismissed as such” (copy of Supreme Court Order is annexed as 'J').

AHester

 Sub: Divisional Edu. Officer
 (Male) Kohat

9. Mr. Ihsan Wali Shah s/o Hassan Wali Shah suited Appeal No. 04/2021 dated 30-03-2021 in the Court of Commissioner, Kohat Division Kohat which maintained the impugned order dated 04-06-2013 of District Administration, Kohat and dismissed his appeal. The judgment/order of the Court of Commissioner, Kohat Division Kohat dated 01-07-2021 goes as under:

“The record shows that at the time of issuing domicile certificate by the then DOR Kohat in the name of the appellant, he (the appellant) was not permanently residing in District Kohat. The appellant had concealed the facts and obtained illegally the domicile certificate of District Kohat” (Copy of Commissioner Kohat Judgment/Order is annexed as 'K').

10. Feeling aggrieved in the Court of Commissioner, Kohat Division Kohat, the appellant filed a revision petition case No. 415/2021/MBR-1 before the Member-1, Board of Revenue Khyber Pakhtunkhwa Peshawar on 09-09-2021 against the judgment/order of the learned Commissioner, Kohat Division Kohat dated 01-07-2021. MBR-1 accepted his instant appeal and decided the case on 19-04-2022 setting aside the impugned order dated 01-07-2021 of the Commissioner, Kohat and order No. 1150-55/DC dated 04-06-2013 of Deputy Commissioner Kohat. MBR-1 restored the domicile certificate of the appellant Ihsan Wali Shah which was issued vide order Serial No. 1399 dated 28-02-2009. Facts revealed on hearing the case on 06-01-2022 at MBR-1 KP, Peshawar go as under:

"Section 17 of the Pakistan Citizenship Act, 1951 and Rule 23 of the Pakistan Citizenship Rules, 1952 are very much clear that if a person ordinarily resident for one year in a District, he can obtain domicile of the said District".

It further states that:

"From perusal of records, it was revealed that the petitioner's name is included in the electoral list of 2012 of District Kohat. The petitioner's CNIC and Form 'B' of his family also indicates the address of District Kohat. The resident certificate was issued to the petitioner from the office of Secretary UC Sudal dated 03-07-2012. The petitioner also presented computerized copy of Service Deliver Center Lachi as a proof of his ownership of land in Mouza Showeki which further strengthen his case" (Copy of MBR-1 Judgment is annexed as 'L').

11. Deputy Commissioner Kohat, as petitioner, filed an instant review in the court of MBR-1 against the order of Member-1 Board of Revenue dated 19-04-2022 wherein it was revealed that no new facts / substantial grounds were presented by the petitioner (Deputy Commissioner Kohat). The review petition being without-any-substance and meritless was dismissed and judgment / order passed by MBR-1 dated 19-04-2022 was upheld and Deputy Commissioner Kohat was directed to restore the Domicile Certificate of the respondent (Mr. Ihsan Wali Shah s/o Hassan Wali Shah, Ex-PST **copy of MBR-1 judgment is annexed as 'M'**).

Attested
Sub. Divisional Edu. Officer
(Male) Kohat

Before the implementation of MBR-1's judgment by the deputy Commissioner Kohat vide DC Kohat Office Order No. 821 /DC/KT dated 27-06-2023, Mr. Ihsan Wali Shah s/o Hassan Wali Shah solicited an appeal to the Minister for Education KP on 02-05-2023 along with judgment for restoration (reinstatement) of his service. The Minister marked the appeal to the Director Elementary & Secondary Education henceforth E&SE KP for necessary action **(Copy of appeal is annexed as 'N')**.

13. The Directorate of E&SE vide Letter No. 6775 /F.No.Appeal for Restoration of Annual Increment dated Peshawar the 24-05-2023 communicated a copy of the appeal along with Court Judgment to DEO (M) Kohat and asked him to implement the decision of honorable Supreme Court of Pakistan rendered in

Civil Petition No. 4610 of 2018 (Copy of Directorate Letter is annexed as 'O').

14. DEO (M) Kohat initiated a letter No. 4965/EDO/Primary, dated 16-06-2023 to Deputy Commissioner Kohat asking him regarding the implementation of MBR-1's judgment and seeking the status of Domicile in respect of Mr. Ihsan Wali Shah s/o Hassan Wali Shah, Ex-PST (Copy of DEO (M) Kohat Letter is annexed as 'P').

15. Deputy Commissioner Kohat in response to the letter of DEO (M) Kohat as well as in compliance with judgment contained in case No. 415/2021/MBR-1, dated 19-04-2022 restored Domicile Certificate bearing No. 1399-DOR&E dated 28-02-2009 in respect of Ihsan Wali Shah s/o Hassan Wali Shah Vide DC Kohat Office Order No. 821 /DC/KT dated 27-06-2023, after a lapse of 14 months and 8 days of the direction of MBR-1 (Copy of Order – DC Kohat is annexed as 'Q').

16. After the restoration of Domicile No. 1399-DOR&E dated 28-02-2009 IRO Ihsan Wali Shah by the DC Kohat vide Letter No. 821 /DC/KT dated 27-06-2023, the DEO (M) Kohat initiated a letter to the Director E&SE KP vide DEO (M) Kohat letter No. 5261 /ADEO(E) PRY dated 05-07-2023 with the request to guide him regarding appropriate action for resolving the issue as the appellants constantly visit DEO (M) Kohat requesting for restoration / reinstatement of his Appointment Order Endst No. 1293-1344/Apptt of PST/DEO (Male) 2013 dated 23-02-2013 (Copy of DEO (M) Kohat Letter is annexed as 'R').

17. The Director E&SE KP vide directorate of E&SE KP Letter No. 6534 / F.NoAppeal for Restoration of Annual Increment dated Peshawar the 10-07-2023 directed DEO (M) Kohat to decide the case at his own level being the competent authority of PST (BPS-12) in the light of Court Judgment of Honorable Supreme Court of Pakistan rendered in Civil Petition No. 4610 of 2018. The director further asked to tackle the said case with Deputy Commissioner Kohat regarding his (the appellants) Domicile issue (Copy of Directorate Letter is annexed as 'S').

Attended
[Signature]
Sub-Divisional Education Officer
(Male) Kohat

DEO (M) Kohat initiated a letter vide DEO (M) Kohat Memo No. 5505 dated Kohat the 12-07-2023 in response to Directorate letter No. 6534 dated 10-07-2023 with the request to submit the case IRO Mr. Ihsan Wali Shah to competent forum for deciding his intervening period as DEO (M) office Kohat is unable to proceed further in the instant case until the intervening period is decided. DEO (M) Kohat resubmitted the case to directorate with the following grounds:

"The intervening period between cancellation of his appointment order and restoration of his domicile is more than ten years. If the appellants appointment order is reinstated on the basis of his domicile, then it is necessary to decide the intervening period which is beyond the competency of undersigned"

The DEO (M) Kohat further stated that "*the instant case of appointment of the incumbent is a fresh / new for this office. No such precedence has come into the notice of the undersigned in past*" (Copy of DEO (M) Kohat Letter is annexed as 'T').

19. The Director, nonetheless, has not responded to the DEO (M) Kohat Letter Memo No. 5505 sated 12-07-2023 regarding submission of the case to the competent forum, instead, the Minister for Education as well as the Director E&SE KP have instructed him through telephonic conversation to constitute Departmental Selection Committee but as it was the case of reinstatement instead of selection/appointment, therefore, the worthy DEO (M) Kohat constituted "Reinstatement Review Committee" comprising three competent officers vide DEO (M) Kohat letter Endst No. 5875-78 dated Kohat the 27-07-2023.

Findings:

The Reinstatement Review Committee in the light of facts mentioned above arrived at the following findings:

1. Mr. Ihsan Wali Shah s/o Hassan Wali Shah, as a matter of fact, pursued his case ardently in a legal way and has never been passive and that he has suffered heavily in terms of mental-distress, time and resources.
2. It is evident from the restoration of "Domicile" No. 1399-DOR&E dated 28-02-2009 IRO Mr. Ihsan Wali Shah S/O Hassan Wali Shah by the competent authority in the light of SMBR-1 directions that the appellant is a bona-fide resident of District Kohat and his Domicile was genuine.
3. Cancellation of Domicile No. 1399-DOR&E dated 28-02-2009 by DC Kohat vide Deputy Commissioner Kohat letter No. 1150-55/DC/Domicile Clerk dated 04-06-2013 was illegal for a defect in disciplinary proceedings without attending to the merits of the case.
4. Consequential cancellation of Appointment Order Endst No. 1293-1344/Apptt of PST/DEO (Male) 2013 dated 23-02-2013 IRO Mr. Ihsan Wali Shah by the DEO (Male) office Kohat vide Cancellation Endst No. 1293-1344 dated 17-06-2013, to which, though, no exception could be taken stands illegal after the restoration of his Domicile by competent authority in the light of Court Judgment and needs to be restored/reinstated without further delay.
5. Regarding restoration/reinstatement of Mr. Ihsan Wali Shah s/o Hassan Wali Shah, EX-PST to the service, however, The Director E&SE KP is of the view that DEO (M) Kohat being competent authority of PST (BS-12) should decide the case at his own level in the light of Court Judgment of honorable Supreme Court of Pakistan rendered in Civil Petition No. 4610 of 2018 while DEO (M) Kohat is of the opinion that the intervening period between cancellation of his Appointment Order and restoration of his domicile is more than ten years which is beyond his competency.

Attended
 [Signature]
 Div. Divisional Edu. Officer
 (Male) Kohat

6. The intervening period (between cancellation of appointment order on 17-06-2013 and restoration of his domicile on 27-06-2023) consist of 10 years and 10 days which is beyond the competency of DEO (M) Kohat.
7. The restoration of Domicile IRO Ihsan Wali Shah exhibits that his document was genuine. It explicitly depicts that he is honorably acquitted of the allegations - "**concealment of facts**" and "**illegally obtaining the Domicile**" leveled against him the in Court of Commissioner. Regarding such an acquittal (honourably) after reinstatement, as per **Compilation of the Fundamental Rules and Supplementary (Rules Volume 1, Page 96) [Government of Pakistan Finance Division]** only *revising or appellate authority* may grant his back benefits (full pay etc.) for the period of his absence from duty.
8. It is also evident from the appeal/application for restoration / reinstatement by the appellant that he (Mr. Ihsan Wali Shah s/o Hassan Wali Shah, Ex-PST) feels aggrieved from District Administration Kohat for cancellation of his genuine domicile and consequently from DEO (M) Kohat on account of cancellation of his Appointment Order, therefore, instead of giving an appeal to the appointing authority i.e. DEO (M) Kohat, he solicited his appeal / application for restoration to the higher authority i.e. Minister for Education KP who has referred / marked the case to the director E&SE KP.

Recommendations:

In view of the above given facts/actualities, the Reinstatement Review Committee hereby recommends that:

The Director E&SE KP may humbly be requested for issuing vivid directions regarding the case i.e. restoration/reinstatement or otherwise IRO Mr. Ihsan Wali Shah s/o Hassan Wali Shah at the earliest as his Domicile has already been restored by the competent authority and in the case of restoration / reinstatement, the competent authorities may please be approached for his back benefits in the light of **ESTA Code KP and Compilation of the Fundamental Rules and Supplementary Rules Volume 1 (Government of Pakistan Finance Division)** respectively which go as under,:

"In continuation of this Department letter No. S(R)-13/58/SO.XII, dated the 30th September, 1958, I am directed to say, that according to Rule 152(a) of the Sind Civil Service Rules, Volume-I, (which corresponds to Rule 7.3 of Civil Service Rules, Punjab, Volume-I) when a Government servant is honourably acquitted in a departmental enquiry or trial in Court, the period of absence from duty on account of the suspension, dismissal or removal from service, has to be treated as period spent on duty."

Reference:

[Dismissal or removal of Government Servants - Allowances on reinstatement – ESTA CODE: Establishment Code Khyber Pakhtunkhwa (Revised Edition 2011, Page 167)]

Ahsan
 Sub Divisional Edu. Officer
 (Male) Kohat

54 - Where a government servant has been dismissed or removed is reinstated, the revising or appellate authority may grant to him for the period of his absence from duty:-
 a. if he is honourably acquitted, the full pay to which he would have been entitled if he had not been dismissed or removed,....."

Compilation of the Fundamental Rules and Supplementary Rules Volume 1 (Government of Pakistan Finance Division) Page 96.

The report is submitted to DEO (M) Kohat on 03-08-2023 for further necessary action please.

Mr. Riaz Gul, Principal (BS-19) GHS Tappi, Kohat

[Signature]
Chairman

Mr. Irshad Khan, HM GHS Sheikhan, Kohat

[Signature]
Member

Mr. Azad Rahman, HM GHS Nusrat Khel, Kohat

[Signature]
Member

Attested
[Signature]
District Education Officer

Sub Divisional Edu Officer
(Male) Kohat

[Handwritten signature]

[Faint handwritten notes and stamps]

Additional Dy: Commissioner,
Kohat

[Handwritten signature]

- 1- The Additional Dy: Commissioner Kohat.
- 2- The District Education Officer, Male, Kohat.
- 3- The District Registrar MADRA, Kohat.
- 4- The Assistant Commissioner Lachi.
- 5- The Sub Divisional Education Officer, (Male) Primary, Kohat.
- 6- Donielle Clerk DC Office Kohat.

CC:

Additional Dy: Commissioner,
Kohat.

[Handwritten signature]

2009 is hereby cancelled being false.

Consequent upon the verification made by the Assistant Commissioner Lachi, through Field Revenue Deptt. Donielle Certificate issued in the name of Hassan Wali Shah vide Donielle No 1399-DOKRE, dated 28-2-

OFFICE ORDER

NO. MS/20-52 /DC/Donielle Clerk
Dated: 4-Jun-13

OFFICE OF THE
Deputy Commissioner
Kohat

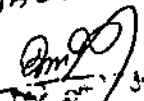


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RECRUITMENT LIST

Consequent upon the approval of the Departmental Selection Committee, the following are hereby appointed as a PST Teacher on 100 percent initial recruitment at Union Council Wise school listed against each in IPPS-07 (Rs. 5800-320-11540) plus usual allowances in the interest of public service with effect from date of taking over charge.

Sr No	Name of Candidate	Fathers Name	Union Council	Posted at	Remarks
1	Syed Mir Shah Gul	Syed Ali Askar	Ali Zai	GPS Chashma Mitha Khan	AVP
2	Waqar Ahmed	Riaz Ul Haq	Dillitang	GPS Gandilay Bala	-do-
3	Zahir Khan	Zafar Khan	Dillitang	GPS Siab	-do-
4	Kilayat Ullah	Burhan Ud Din	Chorlaki	GPS Zero Dhok	-do-
5	Taqeem Ul Haq	Shams ul Haq	Chorlaki	GPS Gadari-Bana	-do-
6	Nusrat Ali Shah	Sher Badshah	Dhoda	GPS No.1 Shadi Khel	-do-
7	Zohair Hassan	Hayat Khan	Dhoda	GPS Banda Mosam Khan	-do-
8	Nouman Khan	Abdul Muhammad	Jama	GPS Mir Banda Jama	-do-
9	Zia Ul Haq	Habib Ullah Khan	Jama	GPS Zara Mela Jama	-do-
10	Saqib Mehmood	Muhammad Wisal	Kharmatoo	GPS No.1 Kot	-do-
11	Dost Muhammad	Khan Muhammad	Khunnatoo	GPS Bohra garhi	-do-
12	Shahid Ur Rehman	Habib Ur Rehman	Khushal Garh	GPS Kander	-do-
13	Irfan Ullah	Subidan Gul	Lachi R	GPS Hoti	-do-
14	Rashid Bilal	Hazrat Bilal	Lachi R	GPS Wajai	-do-
15	Farran Ullah	Mir Surat Shah	Lachi U	GPS Khan Colony	-do-
16	Zia Ur Rehman	Abdul Wadood	Lachi U	GPS Khan Colony Lachi	-do-
17	Hamid Ali Khan	Yuqoob Ali Khan	Lachi U	GPS No.3 Lachi Puyan	-do-
18	Zubair Ahmed	Jamshid Khan	Lachi U	GPS No.3 Lachi Bala	-do-
19	Syed Mahtab Ahmed/Shah	Syed Ahmed Shah	Muhammad Zai	GPS Naway Kally	-do-
20	Adnan Khan	Luqman Khan	Muhammad Zai	GPS West Muhammad Zai	-do-
21	Walyas Khan Disable Quota	Jahan Zai	Nasrat Khel	GPS Barh	-do-
22	Azmat Ullah Khan	Izhar Khan	Nasrat Khel	GPS Kaghzai	-do-
23	Muhammad Ihsan	Muhammad Sadiq	S/Dara-U	GPS No.3 S/dara	-do-
24	Muhammad Ali	Shaukat Ali Khan	Shah Pur	GPS Boraka	-do-
25	Muhammad Ishaq	Abdullah Jan	Shah Pur	GPS Barua	-do-
26	Syed Atif Abbas	Syed Ahmed Ali Shah	Sherkot	GPS Gul K Kuroni	-do-
27	Ihsan wali Shah	Hassan Wali Shah	Sudal	GPS Palosi	-do-
28	Muhammad Arif	Taj Mali Khan	Sudal	GPS Dh: Umer Badshah	-do-
29	Naimat Ullah Khan	Safar Jaman	Sudal	GPS Dh: Umer Badshah	-do-
30	Muhammad Saeed	Ismail	Sudal	GPS No.1 Malgin	-do-

Attested

 Officer

31	Riaz Khan	Yaqeen Khan	Summari	GPS Cheechana	-do-
32	Maked Gul	Inzar Gul	Summari	GPS No.2 Sumari Payan	-do-
33	Farooq Khan	Payo Khan	Summari	GPS Sumari Balo	-do-
34	Saahin Mahmood	Umer Khan	Surgul	GPS No.1 Surgul	-do-
35	Ubaid Ur Rehman	Hafiz Ur Rehman	Urban II	GPS Tehsil	-do-
36	Muhammad Irfan	Muhammad Saleem	Urban II	GPS No.1 City	-do-
37	Taj Muhammad	Gi.alam Muhammad	Urban IV	GPS Malan Abad	-do-
38	Museem Khan	Jamil Khan	Urban IV	GPS No.1 I.D.A	-do-
39	Mahmud Shah	Nazir Badshah	Urban V	GPS Shepao Cely	-do-
40	Nazar Hussain	Razal Hussain	Urban V	GPS Shepao Cely	-do-
41	Zabid Nazir	Nazir Bal	Urban V	GPS Shepao Col	-do-
42	Muhammad Waqas	Rashid Khan	Urban VI	GPS Talab Banda	-do-
43	Rashid Mahmood	Nasid Gul	Urban VI	GPS Mirozai	-do-
44	Helay - Hassan	Alim Hassan	Usterzai	GPS No.2 Usterzai Payan	-do-
45	Syed Sajid Abbas	Syed Sajir Hussain	Usterzai	GPS Star Sam.	-do-
46	Mihtab Ali	Talib Ali	Usterzai	GPS No.2 Usterzai Payan	-do-
47	Kasim Khan	Ezat Mir	Z.S.A.Dad	GPS Khwaj Khel	-do-
48	Shah Jahan	Misri Khan	Z.S.A.Dad	GPS No.1 Tori Staca	-do-
49	Aziz Ur Rehman	Mala Khan	Gumbal	GPS No.2 Gnuizai Bala	-do-

TERMS & CONDITIONS

1. They will be governed by such Rules & Regulation as may be issued from time to time by the Government
2. Their services will be terminated by any time, if in case their performance is found unsatisfactory/ found any error/fraud they will be processed against under the E&D Rules 1973.
3. They are required to produce Health and Age Certificate from Medical authority concerned before taking over charge.
4. They will produce Bank receipt for the fee deposit in connection with verification of their documents before handing and taking over charge to this office. In case their documents proved fake/forged their appointment will be considered as cancelled without any right or privilege of cost.
5. The DDO concerned is bound not to draw their pay till the verification process of their documents are completed.
6. No TA/DA etc is allowed.
7. They will not be handed over charge if they are under 18 years and above 35 years of Age.
8. Their service will be considered as Regular but without Pension and gratuity in term of Section 19 of KPK Civil Servant Act 1973 as amended by KPK Civil Servant amendment act 2005
9. They will be contributing CP fund @ 10% at the minimum of pay and 10% contribution will be made by Government.
10. They will have to take over charge within 15 days after the issuance of this office otherwise the order will stand null and void.
11. They will be bound to complete their normal tenure and will not be transferred
12. Their Seniority will be determined in accordance with the Departmental criteria

(IMTIAZ UL HAQ)
DISTRICT EDUCATION OFFICER
(MALE) KOHAT

Dated Kohat the 23-02-2013

Encl: No. 1293-1344 /Appd of PST/ DEO (Male) 2013

Copy of the above is forwarded for information to the:-

1. PA to Director (Gen. & Secy) C.O. KPK, Peshawar.

2. SDO (Male) Kohat & Lachi

3. DAO Kohat with the request that the bill of the above named candidate may not be honoured till the verification process is completed duly authenticated by this office.

4. Candidate concerned.

(MALE) KOHAT

Attested

(Signature)
Sub-Divisional Edu. Officer
(Male) Kohat