


FORM OF ORDER SHEET

Court of _____

Appeal No.

1774/2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	07/10/2024	<p>The appeal of Mr. Mehmood Khan presented today by Mr. Gul Tiaz Khan Advocate. It is fixed for preliminary hearing before touring Single Bench at Bannu on 23.10.2024. Parcha Peshi given to counsel for the appellant.</p> <p>By order of the Chairman</p> <p> REGISTRAR</p>

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

Appeal No 1774 of 2024

Mehmood Khan SPST GPS Kamal Jabo Khel Tehsil & District Lakki

Marwat

.....Appellant

VERSUS

The District Education Officer (Male) Lakki MarwatRespondent.

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Dated: 30 /09/2024

Your Humble Appellant,
Through Counsel


GUL TIAZ KHAN MARWAT,
Advocate High Court, D.I.Khan

I

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

Appeal No 1774 of 2024

Mehmood Khan SPST GPS Kamal Jabo Khel Tehsil & District Lakki
MarwatAppellant

VERSUS

The District Education Officer (Male) Lakki MarwatRespondent

**APPEAL U/S 4 OF KPK SERVICE TRIBUNAL ACT 1974
AGAINST THE ORDER OF WITHHOLDING AND NON-
DISPOSAL OF REPRESENTATION OF THE APPELLANT IN
RESPECT OF GRANTING SENIORITY AND PAY FIXATION
WITH EFFECT FROM 02.05.2009 BY RESPONDENT WITHIN
THE STATUTORY PERIOD OF 90 DAYS.**

Respected Sir,

- (1) That the addresses of the parties given above are sufficient for the purpose of service of the parties.
- (2) That the appellant is a citizen of Islamic Republic of Pakistan and being a citizen of the Country has the rights and obligation under the constitution.
- (3) That the appellant have academic qualification MSc. (Mathematics) alongwith PST Certificate as professional Degree.
- (4) That the respondent invited application for different posts including PST. in Education Department Lakki Marwat through publication Daily "AAJ" Peshawar dated 16.10.2008.
- (5) That the appellant also applied for the post of PST through submission an application and had participated in the test and interview and qualified the same.

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- (6) That after passing the requisite test and interview, merit list was prepared where the appellant was placed at S. No. 4 in the first merit list and then placed at S. No. 5 in the 2nd merit list and lastly was placed at S. No. 6 in the third merit list but experience certificate and qualification of Master degree has not been considered while preparing the merit list by the office of respondent.
- (7) That the candidate at S. No. 10 in the first merit list was placed at S. No. 1 in second merit list and in third merit list he was placed at S. No. 2 due to experience marks (non-formal experience certificate).
- (8) That similarly one Mr. Nisar Muhammad was placed at S. No. 7 in first merit list, and then he was placed at S. No. 8 in second merit list while in third merit list, the aforesaid Nisar Muhammad was placed at S. No. 1 without any reason but only due to experience certificate but 3 years experience of appellant and having Master degree, appellant was neglected rather not considered while preparing the merit list. Likewise respondent has discarded first merit list and second merit list without any reason which is clear violation of rules and policy of the department.
- (9) That candidate who was on low merit from the appellant was appointed as PST vide order dated

June 2

02.05.2009 and the appellant met out discriminatory as merit position of the appellant was higher than the other candidates in the merit list.

- (10) That the appellant knocked the door of the honourable Peshawar High Court Bannu Bench by filing Writ Petition No. 228-B of 2010 which was accepted vide judgment dated 19.02.2015 and respondent was directed to consider the appellant for appointment as a PST on the availability of first vacant post. Copy of judgment is enclosed as **Annexure A**.
- (11) That in compliance with the judgment of this honourable Court, appointment order of the Appellant as a PST was issued by the respondent vide office order Endst: No. 3043-50 dated 09.06.2015. Copy of appointment order is enclosed as **Annexure-B**.
- (12) That the appellant was deprived from his vested rights of appointment as a PST on the basis of higher merit position and candidates of low merit were appointed on 02.05.2009.
- (13) That having no other remedy, the appellant sought the indulgence of this Honourable High Court Bannu Bench by filing writ Petition No. 871-B/2020 for issuance of writ to anti-date the appointment of appellant w.e.f 02.05.2009. Copy of writ petition is enclosed as **Annexure - C**.

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(14) That comments were called for from the respondent which were submitted accordingly wherein the bar of jurisdiction contained under Article-212 of the Constitution was raised. Copy of comments is enclosed as **Annexure-D.**

(15) That the writ petition came up for hearing on 29.05.2024 and the honourable Court was pleased to convert the writ petition into representation and was sent to respondent to be decided within a period of two months with observations and directions to consider the plea of appellant according to law, rules and policy of the Provincial Govt. Copy of order is enclosed as **Annexure - E.**

(16) That the order of the Honourable High Court has been communicated by the Additional Registrar of High Court officially to respondent and the appellant also communicated the order of High Court to respondent vide written application dated 07.06.2024. Copy of application is enclosed as **Annexure - F.**

(17) That inspite of directions of Honourable High Court, representation of the appellant has not been decided within the stipulated period of 60 days by respondent as directed by the honourable Court, therefore, having no other way, the appellant is obliged to knock the door of this honourable Tribunal under its appellate

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jurisdiction inter alia on the following grounds:

GROUNDS:

- A. That the impugned action/ office order of respondent to appoint candidates of low merit then the appellant on 02.05.2009 and to deprive and ignored the appellant to consider for appointment having high merit position than other candidates is arbitrary, malafide, void ab-initio, without lawful authority, without jurisdiction and of no legal effects qua the rights of appellant whose merit position was high than the other candidates.
- B. That it was not the fault of appellant rather he was deprived by the office of the respondent of his vested rights of appointment and extended undue favour to appoint candidates of low merit.
- C. That the appellant was fully entitled to be appointed on 02.05.2009 but he was ignored and due to this wrong and discriminatory action of office of respondent appellant could not be given his due rights.
- D. That there is a precedent case / judgment dated 22.04.2015 of this honourable Court at Principal seat passed in W.P No. 2258/2011 titled as "Abdur Rehman V/S Agency Education Officer Miran Shah and others wherein petitioners were held declared to be appointed as per merit list an allocated quota and as a consequence of which the petitioner Abdur Rehman
- Amir*

was appointed as such on 06.01.2016 but seniority was given with effect from 08.10.2009. Copies of judgment and appointment order are enclosed as **Annexure G&H** respectively.

E. That yet there is another precedent case / judgment dated 25.09.2018 of the honourable Court of D.I.Khan Bench passed in W.P No. 686-D/2014 wherein similar relief i.e. (Seniority and pay fixation) has been granted to Kalim Ullah petitioner and he was held entitled to the seniority from the year 2014 from the date when his other colleagues were appointed pursuant to the same advertisement although he was appointed in the year 2019. Copy of judgment is enclosed as **Annexure J**.

F. That yet there is another precedent case / order dated 22.12.2021 of the honourable Court of D.I.Khan Bench passed in W.P No. 431-D/2020 wherein similar relief i.e. (Seniority and pay fixation) has been granted to the petitioners and they were held entitled to the seniority with effect from 13.05.2020 from the date when their other colleagues were appointed pursuant to the same advertisement although they were appointed on 05.08.2022. Copy of judgment is enclosed as **Annexure K**.

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- G. That even there is an office order bearing Endst: No. 1376-83 dated 25.01.2019 issued by the office of the respondent vide which candidates who have been appointed on 25.01.2019 have been granted seniority with effect from time/date of advertisement i.e. 2015 and 2016 respectively. Copy of office order will be produced during arguments.
- H. That it is the legal and moral obligations of office of respondent to decide the representation of the appellant within reasonable time, with reason and to communicate the result of the same to the appellant but he failed to do so.
- I. That the appellant is entitled for equal treatment of law under the provisions of fundamental rights guaranteed under the Constitution but the appellant has met out discriminated treatment at the hands of office of respondent.
- J. That provisions of Article-4 of the constitution provide constitution guaranteed to the peoples and citizens that the executive cannot take their rights of life, liberty and property without legal justification but appellant has been deprived by the respondents of his legal and vested rights.
- K. That this Honourable Tribunal has vast powers under the constitution and is the custodian of constitution and fundamental rights of the citizens of the country.

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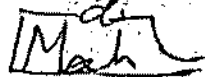
L. That Counsel for Appellant may please be allowed to raise additional grounds during the course of arguments.

In view of the submissions made above, it is, therefore, humbly prayed that on acceptance this Appeal, this Honourable Tribunal may very graciously be pleased to pass an order declaring the impugned actions / inactions of the office of Respondent to be void, illegal, against law, without lawful authority and without jurisdiction and as a consequence thereof, respondent may please directed to process the case for fixation of seniority and fixation of pay of appellant with effect from 02.05.2019 so as to meet the ends of justice and fair play.

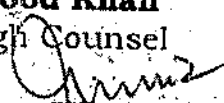
Any other relief deemed appropriate in the prevailing circumstances may also be granted.

Dated: 30/09/2024

Your Humble Appellant,

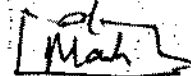


Mehmood Khan
Through Counsel


Gul Tiaz Khan Marwat
Advocate High Court
D.I.Khan

CERTIFICATE:

Certified that it is a first Appeal before this Honourable Tribunal by the appellant on the subject.



Appellant

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BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

Appeal No _____ of 2024

Mehmood Khan SPST GPS Kamal Jabu Khel Tehsil & District Lakki

Marwat

.....Appellant

VERSUS

The District Education Officer (Male) Lakki MarwatRespondent

AFFIDAVIT:

I, Mehmood Khan S/O Saleem Khan R/O Jabu Khel Tehsil & District Lakki Marwat, the Appellant do hereby solemnly affirm and declare on Oath that the contents of the writ petition are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Honourable Tribunal.


DEPONENT

JUDGMENT SHEET

**IN THE PESHAWAR HIGH COURT,
BANNU BENCH.**

(Judicial Department)

W.P No. 228-B of 2010.

JUDGMENT

Date of hearing 19.2.2015

Appellant-Petitioner Mehmood Khan s/o Salimullah Khan

By Salimullah Khan Panzai A/o and Muhammad Tariq A/o

Respondent By Safiqul Rahman Khattak A/o

Private By Agha Nawaz A/o

MUHAMMAD YOUNIS THAHEEM, J---Petitioner

Mehmood Khan, through instant Writ Petition has prayed for issuance of directions to the respondents to appoint him as PST teacher.

2. Briefly stated facts of the case are that respondent No.3/EDO Elementary and Secondary (El & Se) Education Lakki Marwat advertised various posts in daily Aaj Peshawar dated 16.10.2008 requiring services of different categories including the posts of PST. The petitioner considering himself eligible for the post of PST applied, wherein requisite qualifications for the post in question were FA/FSc with PTC

ATTESTED
EXAMINER
PESHAWAR HIGH COURT
BANNU BENCH

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certificate from any recognized Government Institution. The petitioner considering himself eligible for the post in question applied and in the merit list prepared by the department his name was placed at serial No.4 in the first merit list. Thereafter second merit list was prepared, wherein name of the petitioner was mentioned at serial No.5 and then third merit list was prepared where his name was placed at serial No.6. The grievance of the petitioner is that respondents No.5 and 6 despite having low merit as against him have been appointed while he (the petitioner) being master degree holder with three years teaching experience has been neglected.

3. We have carefully gone through the record and considered valuable arguments of learned counsel for the parties.

4. In his comments the EDO Elementary and Secondary (El & Se) Education Lakki Marwat/respondent No.3 has taken the plea that petitioner was not having the requisite experience and had not annexed his experience certificate with his documents within a due date before test/interview.

Signature


ATTESTED
 EXAMINER
 Lakki Marwat
 District Head Office

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[Signature] [Signature]

However, such reply of the answering respondent is without any substance, because in the advertisement referred to above, there is no mention of any experience for the post of PST. The record divulges that the petitioner has served in Frontier Model School (Saeed Khel) as PTC teacher with effect from April 2006 to April 2007. Moreover, according to his qualification, the petitioner being a master degree holder has applied to respondents' department for recruitment of the post in question well in time and the three merit lists prepared by the EDO (respondent No.3) speaks volume of the facts that though the petitioner was eligible for recruitment as PST teacher but he was ignored for no valid and sound reason as neither any experience was mentioned in the advertisement nor it could be made basis for refusing appointment to the petitioner while he was placed on serial No.4 of 1st merit list than the respondents who were on 7th or lower than him and was discriminated.

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5. As a result of above discussion, we allow this petition and respondent NO.3/EDO Elementary and Secondary (El & Se) Education Lakki Marwat is directed to consider the

ATTESTED
EXAMINER
Lakki Marwat Cou
District Head

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petitioner for appointment as a PST teacher on the availability
of first vacant post.

Announced.
19.02.2015.

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JUDGE

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JUDGE

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10/09/15/15

CERTIFIED TO BE TRUE COPY
Examiner
Peshawar District Court Bench
Authorised under Article 87 of
the Qanun-e-Shahadat Order 1924

B OE 14

OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) LAKKI MARWAT

APPOINTMENT ORDER

In Compliance of decision of Honourable High Court, Bannu Bench Order dated 19-02-2015, Writ Petition No.228-B/2010 the below named candidate is hereby appointed as PST Male in BPS-12 Rs. (7000-500-22000) /- plus usual allowances as admissible under the rules on regular basis, under the provision of Establishment & Administration Department circular bearing No. SOR-6(E&AD) 13-01/2005 dated 10-08-2005 on the terms and conditions given below.

S.No	Name	Union Council	Proposed School	Remarks
1	Mehmood Khan	Ghazni Khel	GPS Kamal Jabu Khel	In the light of decision Honourable Peshawar High Court Bannu Bench order dated 19-02-2015, Writ Petition No.228-B/2010

TERMS AND CONDITIONS:-

1. His appointment will be considered regular without pension and gratuity in terms of section 19 of NWFP civil servant Act 1973, as amended vide NWFP Civil Servant (Amendment) Act, 2005. He will however be entitled to Government provident fund in such a manner and such a rate as may be prescribed by Govt.
2. In case of resignation without notice two months pay/allowance will be refunded to Govt.
3. No TA/DA is allowed.
4. His services will be governed by such rules and regulations as may be issued by Govt. from time to time.
5. In Case of misconduct he will be proceeded against the civil servant removal from service (special power) ordinance, 2000 and rules frame from time to time.
6. Charge reports should be submitted to all concerned.
7. The DDO will check verified documents before the drawl of pay. However any fake documentation of certificates/degrees detected at any stage will make the employ liable for termination and disciplinary action.
8. The appointment order is liable to termination, if candidate failed to take over charge within 15 days of commencement date.
9. The undersigned reserves the rights of amendment in case of any mistake.
10. He is required to produce Health and age certificate from Medical Superintendent DHQ Hospital Lakki Marwat

SA

(Nazir Khan Khattak)
District Education Officer
(Male) Lakki Marwat

Endst No

3043-50

Dated. 9/6/2015

Copy forwarded for information to the:-

1. Honourable Judge Peshawar High Court Bannu Bench vide ref; his court order dated above.
2. Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.
3. Deputy Commissioner Lakki Marwat
4. District Accounts Officer, Lakki Marwat
5. Medical Superintendent DHQ Hospital Lakki Marwat
6. Sub Divisional Education Officer (M) Lakki Marwat.
7. ASDEO (Circle) Concerned
8. Teacher Concerned

Attended
Jun 2
ADM

District Education Officer
(Male) Lakki Marwat

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BEFORE THE PESHAWAR HIGH COURT BANNU BENCH

W.P No 877-B of 2020

Mehmood Khan S/O Saleem Khan R/O Jabu Khel Tehsil & District Lakki

Marwat

.....Petitioner

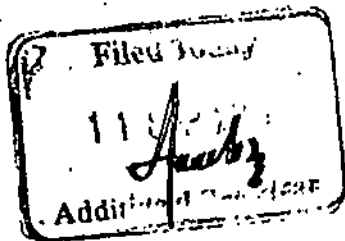
VERSUS

1. Govt: of K.P.K through Chief Secretary Civil Secretariat Peshawar.
 2. The Secretary Education Govt: of KPK Civil Secretariat Peshawar.
 3. The Director Elementary & Secondary Education Govt. Of KPK Peshawar.
 4. The District Education Officer (Male) Lakki Marwat
 5. Waheed Ullah S/O Dilawar Khan R/O Ghazni Khel Tehsil & District Lakki Marwat
-Respondents.

WRIT PETITION UNDER ARTICLE 199 OF THE CONSTITUTION OF ISLAMIC REPUBLIC OF PAKISTAN 1973

RESPECTFULLY SHEWETH:

- (1) That the addresses of the parties given above are sufficient for the purpose of service of the parties.
- (2) That the petitioner is a citizen of Islamic Republic of Pakistan and being a citizen of the Country has the rights and obligation under the constitution.
- (3) That the petitioner have academic qualification MSc. (Mathematics) alongwith PST Certificate as professional Degree.
- (4) That the respondent No. 4 invited application for different posts including PST in Education Department Lakki Marwat through publication Daily "AAJ" Peshawar dated 16.10.2008.

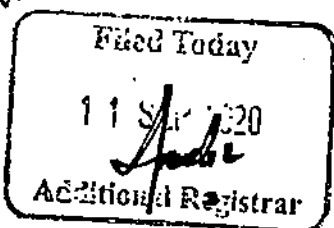


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- (5) That the petitioner also applied for the post of PST through submission an application and had participated in the test and interview and qualified the same.
- (6) That after passing the requisite test and interview, merit list was prepared where the petitioner was placed at S. No. 4 in the first merit list and then placed at S. No. 5 in the 2nd merit list and lastly was placed at S. No 6 in the third merit list but experience certificate and qualification of Master degree has not been considered while preparing the merit list by the office of respondent No. 4.
- (7) That respondent No. 5 was placed at S. No. 10 in the merit list and thereafter respondent No. 5 was placed at S. No. 1 in second merit list and in third merit list respondent No. 5 was placed at S. No 2 due to experience marks (non-formal experience certificate).
- (8) That similarly one Mr. Nisar Muhammad was placed at S. No. 7 in first merit list, and then he was placed at S. No. 8 in second merit list while in third merit list, the aforesaid Nisar Muhammad was placed at S. No. 1 without any reason but only due to experience certificate but 3 years experience of petitioner and having Master degree, petitioner was neglected rather not considered while preparing the merit list. Likewise respondent No. 4 has discarded first merit list and second merit list without any reason which is clear violation of rules and policy of the department.
- (9) That respondent No. 5 who was on low merit from the petitioner was appointed as PST vide order dated 02.05.2009 and the petitioner met out discriminatory as merit position of the petitioner was higher than the respondent No. 5 in the merit list.
- (10) That the petitioner knocked the door of this honourable Court by filing Writ Petition No. 228-B of 2010 which was accepted vide judgment dated 19.02.2015 and respondent No. 4 was directed to

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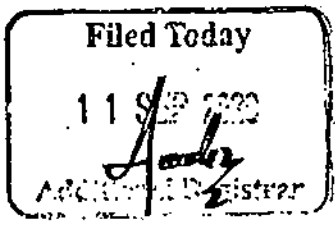
consider the petitioner for appointment as a PST on the availability of first vacant post. Copies of Writ Petition along with judgment are enclosed as Annexure A&B respectively.

- (11) That in compliance with the judgment of this honourable Court, appointment order of the Petitioner as a PST was issued by the respondent No. 4 vide office order Endst: No. 3043-50 dated 09.06.2015. Copy of appointment order is enclosed as Annexure-C.
- (12) That after joining the service, the petitioner filed (incompetent) writ petition No. 692-B/2016 for grant of arrears of salaries with effect from 06.03.2009 to 09.06.2015 but the writ petition was dismissed in limine on 28.02.2018 due to bar contained under Article-212 of the constitution. Copy of order is enclosed as Annexure-D.
- (13) That the petitioner was deprived from his vested rights of appointment as a PST on the basis of higher merit position than respondent No. 5 who have been appointed on 02.05.2009.
- (14) That having no other remedy, the petitioner seeks the indulgence of this Honourable Court for issuance of writ to anti-date the appointment of petitioner w.e.f 02.05.2009 inter alia on the following grounds:-

GROUNDS:

- A. That the impugned action/ office order of respondent No. 4 to appoint respondent No. 5 on 02.05.2009 and to deprive and ignore the petitioner to consider for appointment having high merit position than respondent No. 5. is arbitrary, malafide, void ab-inittio, without lawful authority, without jurisdiction and of no legal effects qua the rights of petitioner whose merit position was high than the respondent No. 5.

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- B. That it was not the fault of petitioner rather he was deprived by the office of the respondent No. 4 of his vested rights of appointment and extended undue favour to appoint respondent No. 5.
- C. That the petitioner was fully entitled to be appointed on 02.05.2009 but he was ignored and due to this wrong and discriminatory action of office of respondent No. 4, petitioner could not be given his due rights.
- D. That there is a precedent case / judgment dated 25.09.2018 of this honourable Court of D.I.Khan Bench passed in W.P No. 686-D/2014 wherein similar relief i.e. (Seniority and pay fixation) has been granted to the petitioner and he was held entitled to the seniority from the date when his other colleagues were appointed pursuant to the same advertisement. Copy of judgment is enclosed as Annexure E.
- E. That it is a settled proposition of law as laid down by the August Supreme Court of Pakistan that for issuance of illegal appointment orders, the appointees may not be suffered and the responsible officers / appointing authority be punished for issuance of illegal appointment orders.
- F. That Counsel for Petitioner may please be allowed to raise additional grounds during the course of arguments.

In view of the submissions made above, it is, therefore, humbly prayed that on acceptance this Writ Petition, this Honourable Court may very graciously be pleased to issue Writ directing the respondents to anti-date the appoint order of petitioner by granting seniority and pay fixation w.e.f 02.05.2009.

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Filed Today
11 SEP 2020
Additional Registrar

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Any other relief deemed appropriate in the prevailing circumstances may also be granted.

Dated: 11/09/2020

Your Humble Petitioner,
Mehmood
Mehmood Khan
Through Counsel

Gul Tiaz Khan Marwat
Gul Tiaz Khan Marwat
Advocate High Court
D.I.Khan

CERTIFICATE:

Certified that it is a first petition on the subject before this Honourable Court.

Mehmood
Petitioner

LIST OF BOOKS:

1. Constitution of Pakistan.
2. General Clauses Act.
3. KPK appointment, promotion and transfer Rules, 1989
4. KPK Civil Servants Act-1973
5. Judgments on the point.

AFFIDAVIT:

I, Mehmood Khan S/O Saleem Khan R/O Jabu Khel Tehsil & District Lakki Marwat, the Petitioner do hereby solemnly affirm and declare on Oath that the contents of the writ petition are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Honourable Court.

Mehmood
DEPONENT

Identified by:

Gul Tiaz Khan Marwat
Gul Tiaz Khan Marwat
Advocate High Court
D.I.Khan

CNIC 11201-8445947-5

11201

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Sep 2020 by Dr. A. H. Khan

S/o Saleem Khan R/O Lakki

who is personally identified by Gul Tiaz Khan Marwat

who is personally identified by Dr. A. H. Khan

Filed Today

11 SEP 2020

Abul

Additional Registrar

Civil Commissioner
Peshawar High Court
Bannu Bench

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BEFORE THE HONOURABLE PESHAWAR HIGH COURT, BENCH BANNU

In-WP No. 871-B/2020

Mehmood Klian..... Petitioner

Versus

Govt of KPK through Secretary E & S Education Department KPK Peshawar.
ETC..... Respondent.

SUBJECT:- WRITTEN REPLY/COMMENTS FROM THE RESPONDENTS. 4

PRELIMINARY OBJECTION:-

- (1) The petitioner has no cause of action.
- (2) The petitioner has not come to the court with clean hands.
- (3) The petitioner is estopped by his own conduct to file instant petition.
- (4) That the previously same type of writ petition No.692-B/2016 filled by the petitioner was dismissed by this Hon'ble court on the issue of jurisdiction, therefore the present petition being same nature is barred by law is liable to be dismissed. (Judgment in WP No.692-B/2016 Annexed as A)
- (5) The petitioner has no locus standi.
- (6) That petitioner has mala-fidly filed the instant writ petition only to pressurize the department, therefore, heavy cost may please be imposed on the petitioner.
- (7) That the case of the petitioner concerned with the terms and conditions of service, and this Hon'ble court has no jurisdiction in the instant matter as barred under article 212 of constitution of Islamic of Republic of Pakistan.
- (8) That the writ of the petitioner is being infructuous and being liable to be dismissed on various legal as well as factual grounds.

FACTUAL OBJECTIONS:-

1. : That the para No.1 is correct. Hence need no reply.

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2. Para No.2 is correct. The respondents didn't infringed any right of the petitioner but the petitioner does not obliged to the law as he has to agitate the matter before correct forum.
3. That Para No.3 concerned with the petitioner's qualifications.
4. That Para No.4 is correct. Hence need no reply
5. That para No.5 is correct. Hence need no reply
6. That para No.6 had already been decided by this Honorable court.
7. Para No.7 to 10 are replied collectively. That in the initial writ petition No. 228/2010 this Hon'ble Court does not directed about the considering the appointment of petitioner from the initial date i.e 02-05-2009 rather directed the respondents to consider the petitioner on availability of first vacant post. Furthermore, in previous writ petition No. 692-B/2016, same facts & grounds were agitated before this Hon'ble court therefore, need no reply.
8. Para No.11. The appointment order of petitioner was issued in compliance of direction given by this Hon'ble court.
That para No.12 is correct. The petitioner previously filed incompetent writ petition and now the present writ petition is also incompetent being the same nature.
10. That para No.13 is replied that the issue in this para had already been decided by this Hon'ble court.
11. That the instant writ petition is based on malafide and to pressurize the department and is being incompetent, without merit hence liable to be dismissed on various factual and legal grounds.

Grounds:

- a) That the Para A is replied that the issue was previously agitated before this Hon'ble court and the same was correctly decided by this Hon'ble court.
- b) Para B. That this Hon'ble court while allowing the initial writ petition No. 228/2010, through judgment dated: 19-02-2015 directed the respondents to

Additional
Advocate General
Bihar Bench

07/06/21

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consider the petitioner for post of PST on availability of first vacant post, wherefrom it could easily be derived that this Hon'ble court does not in any way declare or directed the respondents to consider the petitioner's from the 02-05-2009, therefore, the petitioner is not entitled to claim the same as the case of the petitioner came under principle of resjudicata.

- c) Para C. That the respondents issue order of petitioner's appointment in compliance of orders of this Hon'ble court, wherein no direction were given about the consider the petitioner's appointment form 02-05-2009.
- d) Para D. That the mentioned judgment is not concerned with the instant case. The present case is about the seniority and back benefits and the same came under the jurisdiction of Service Tribunal. therefore the petitioner could not claim the same from this Hon'ble court.
- e) That the present case is different from the other cases, as in the present case, in initial writ petition no such like directions or comments are passed about considering the petitioner from initial date, moreover the 2nd writ petition of the petitioner was dismissed due to lack of jurisdiction.
- f) That the counsel of the respondents may please be allowed to raise further points at the time of arguments.

In the light of above submissions, this Hon'ble Court may very graciously be pleased to:

- i. Dismiss the instant writ petition.
- ii. Special compensatory costs may kindly be awarded under the circumstances.

*verified
by
27/06/21*

[Signature]
DISTRICT
EDUCATION OFFICER (M)
LAKKI MARWAT, Respondent No. (1)

PESHAWAR HIGH COURT, BANNU BENCH

FORM OF ORDER SHEET

E 23

Date of Order or proceedings	Order or other proceedings with signature of Judge(s)
(1)	(2)
29.05.2024	<p><u>W.P. No. 371-B/2020</u></p> <p>Present: Mr. Gul Tiaz Khan Marwat Advocate for the petitioner. Mr. Najib Ullah, A.A.G. for official respondents. Mr. Inam Ullah Khan Marwat Advocate for respondent No.5. Mukhtiar Alam, L.O. for respondents.</p> <p>***</p> <p><u>KAMRAN HAYAT MIANKHEL, J.-</u> The learned counsel for the petitioner stated that he would be satisfied if this writ petition is converted into representation and sent to respondent No.4, i.e., DEO (Male), Lakki Marwat with directions to consider the plea of the petitioner according to law, rules, and policy of the Provincial Government.</p> <p>2. In view of the above, this petition is disposed of accordingly. However, it is deemed appropriate to direct the respondent No.4 to do the needful within a period of two months after the receipt of a copy of this judgment.</p> <p><u>Announced</u> 29.05.2024</p> <p style="text-align: right;"><i>[Signature]</i> JUDGE</p> <p style="text-align: right;"><i>[Signature]</i> JUDGE</p>

RECORDED
30 MAY 2024
JUDGE

Charfor Zain

(D.B) Hon'ble Mr. Justice Kamran Hayat Miankhal
Hon'ble Mr. Justice Dr. Khurshid Iqbal

CERTIFIED TO BE TRUE COPY

Examiner
Peshawar High Court Bannu Bench
Authorized Under Article 87 of
Constitution of Pakistan Ordinance 1987

08.06.2024

The District Education Officer (M)
Lakki Marwat.

Through: PROPER CHANNEL

Subject: IMPLEMENTATION OF ORDER DATED
29.05.2024 PASSED BY PESHAWAR
HIGH COURT BANNU BENCH IN WRIT
PETITION NO. 871-B/2020.

F.
24

Respected Sir,

The Applicant submits the following few lines for your sympathetic consideration please:-

- (1) That the petitioner filed the above noted writ petition in the Peshawar High Court Bannu Bench which came up for hearing before the Honourable Division Bench of High Court 29.05.2024 and the Honourable Division Bench was pleased to treat the writ petition as representation to be decided by your good self within 60 days. Copy of order is enclosed for kind perusal.
- (2) That the order alongwith writ petition and relevant documents will be received in your good self office from the office of Additional Registrar Peshawar High Court Bannu Bench in routine.

In view of the above submission, it is therefore, humbly prayed that the subject cited order of the Honourable High Court may please be implemented in letter and spirit and representation of the Applicant may please be considered as per observation of the Honourable Division Bench of High Court.

Dated: 07/06/2024



Your Obedient Servant

Mehmood Khan
SPST, GPS Kamal Jabu Khel
Tehsil & Distt: Lakki Marwat

Diary NO. 1510

dt 07/06/24

BEFORE THE HON'BLE PESHAWAR HIGH COURT PESHAWAR

Writ Petition No. 2258/06/2011

Abdur Rehman S/O Khunabat Khan R/O Ali Khail, Hamzohi, Miran Sh
North Waziristan Agency.

..... Petitioner



VERSUS

1. Agency Education Officer, Miran Shah, North Waziristan.
2. Director, Directorate of Education FATA, Warsak Road, Peshawar.
3. Political Agent, North Waziristan Agency.
4. Mr. Taj Mohammad, Member-selection Committee, Assistant Agency Education Officer, Miran Shah, through Director Education FATA/ respondent No.2

..... Respondents

WRIT PETITION UNDER ARTICLE 199 OF THE
CONSTITUTION OF PAKISTAN 1973

PRAYER: ON ACCEPTANCE OF THIS WRIT PETITION WRIT MAY
VERY KINDLY BE ISSUED TO THE RESPONDENTS TO
ISSUE THE APPOINTMENT ORDER OF THE PETITIONER
AS PRIMARY TEACHER COURSE TEACHER IN
ACCORDANCE WITH THE MERIT LIST PREPARED FOR
SELECTION / RECRUITMENT AND ALLOCATION OF
POSTS.

Respectfully Sheweth: -

1. That the petitioner had appeared for test / interview for four posts of PTC Teacher conducted by the Agency Education Officer, Miran Shah, North Waziristan Agency exclusively allocated quota for Tehsil Miran Shah.
(Copies of qualification enclosed as Annex- A)
2. That the petitioner stood at serial No.6 of the final merit list but subsequently the petitioner rose to serial No. 4 of the merit list as the candidate at serial No. 1, namely Abid Ullah was appointed as CT Teacher and the candidate at serial No. 4, namely Mohammad Zamar, was appointed as SET Teacher.
(Copy of merit List enclosed as Annex- B)
And appointment orders of the two candidates are to be filed by the department being not provided to the petitioner.
3. That the petitioner, therefore, acquired due position on the merit list at serial No. 4 and had the right to be appointed to one of the four posts of the allocated quota for the Tehsil Miran Shah as the merit list reveals.

FILED TODAY

Duty Registrar

27 JUL 2011

ATTESTED

EXAMINE

Judgment Sheet

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**IN THE PESHAWAR HIGH COURT, PESHAWAR
JUDICIAL DEPARTMENT**

J U D G M E N T

*Writ Petition No.2258/2011
Date of hearing.....22.04.2015.*



**Abdur Rehman
Vs**

Agency Education Officer & others

Petitioner(s) by.....*Shahab Khan Advocate*

Respondent(s) by.....*Rob Nawaz Khan Advocate*

IRSHAD QAISER, J:- Through this single Judgment, we intend to decide instant W.P No. 2258/2011 as well as the connected W.P No.2259/2011 as common question of law and facts are involved in both these petitions.

2. In essence, the grievances of the petitioners are that they applied for test/interview for four posts of PTC Teacher conducted by the Agency Education Officer, Miran Shah, North Waziristan Agency exclusively allocated quota for "Tehsil Miran Shah." After test/interview the petitioners were placed at serial No.5&6 of the merit list respectively. That the candidate at serial No.1 namely Abid Ullah was appointed as (CT)

JS

**ATTESTED
EXAMINER
Peshawar High Court**

Class Teacher and the candidate at serial No.4 namely Muhammad Zaman was appointed as SET Teacher, therefore, the petitioners move up to serial No.3&4 of the merit list. That respondent No.1 in violation of the merit list and allocated quota ordered transfer of one namely Saleem Ullah from Tehsil Dcsli and filled the post vide quota specified and allocated for "Tehsil Miran Shah" and one Khalil-ur-Rehman whose name was altogether not included in the merit list was appointed as PTC Teacher and thus two posts of "Tehsil Miran Shah" were filled on political and other consideration in contravention of law, rules and the rights of the petitioners. Feeling aggrieved from the orders of respondent No.1, petitioners preferred appeal to the Director Education FATA, KPK, who conducted an inquiry and after inquiry the main Member of the Selection/Recruitment Committee gave statement that the petitioner is entitled and deserving persons to be appointed as per merit list, but respondents No.1&2 did not consider the case of the petitioners. It is contended that since their rights have been

ATTESTED
EXAMINER
Peshawar High Court

infringed and they have been discriminated, therefore, they filed present writ petitions.

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3. Respondents submitted their comments, wherein they had not denied the contention of petitioners.

4. Arguments heard and record perused.

5. Admittedly the applications were invited through advertisement for recruitment of four posts of PTC exclusively for allocated quota of "Tehsil Miran Shah." Both the petitioners being the resident of "Tehsil Miran Shah" North Waziristan agency applied for the posts. They appeared for test/interview. After doing the needful petitioner Muhammad Umer stood at serial No.5 and Abdur Rehman at serial No.6 of the final merit list. Abid Ullah is at serial No.1, Abidur-Rehman at serial No.2, Khaliq Rehman at serial No.3, Muhammad Zaman at serial No.4, while petitioners Muhammad Umer and Abdur-Rehman are at serial No.5&6 respectively. Since there were four vacant posts, therefore candidates at serial No.1 to 4 were appointed. Subsequently Abid Ullah at

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ATTESTED
EXAMINER
Peshawar High Court

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serial No.1 was appointed as CT teacher and Muhammad Zaman at serial No.4 was appointed as SET Teacher. When these posts became vacant the present petitioners acquired due position on merit list at serial No.3 & 4 respectively and while occupying the position at serial No.3 & 4 they become entitled to be appointed against the two vacant posts reserved for "Tehsil Miran Shah." Respondents No.1 & 2 in their comments admitted this position. They also admitted that Salim Ullah was transferred from Tehsil Dosli and filled the post allocated for "Tehsil Miran Shah" while Khalidur Rehman was included in the revised merit list after adding 05 additional marks for his teaching experience in EFA and Deeni Madaris project in Education Sector.

JOS

6. Admittedly name of Khalil-ur-Rehman is not mentioned in the merit list. Moreover no revised merit list was attached to prove their contention. It is also admitted fact that on the basis of appeal filed by petitioner to concerned P.A, an inquiry was conducted and statements of concerned Officers/Members of Selection/

[Signature]
ATTESTED
 EXAMINER
 Peshawar High Court

Recruitment Committee including Taj Muhammad were recorded, wherein they admitted that petitioners are entitled to be appointed as per merit list and availability of vacancies. Respondents also admitted the inquiry and annexed the statement of Taj Muhammad Senior Member of Selection Committee.

7. All the above noted facts and circumstances of the case reveal that respondents in violation of merit list and allocated quota reserved for "Tehsil Miran Shah" passed an order of transfer of Salim Ullah from Tehsil Dosli and appointed Khalilur-Rehman as PTC Teacher, whose name was altogether not included in the merit list. In such situation we have not been able to rebut the contention of petitioners that these two posts were filled on political ground or other consideration in contravention of law, rules and the rights of the petitioners.

8. Thus both the W.P No. 2258/2011 and W.P No.2259/2011 are admitted and allowed. The competent authority i.e respondents No.1 &2 are

ATTESTED
EXAMINER
Peshawar High Court

directed to issue the appointment orders of the

petitioners as per merit list and allocated quota

within period of one month positively.

JUDGE

JUDGE

Announced,

22.04.2015.

CERTIFIED TO BE TRUE COPY

EXAMINER

Reswaraj, High Court, Reswaraj

Authorized under Article 227 of

the Constitution of India Act 1984

02 SEP 2023

7301

Date of Presentation of Application: 12-09-2023

No of Pages: 10-01

Copying fee: 40-00

Total: 40-00

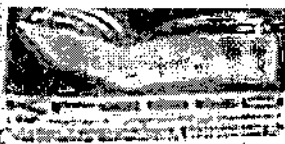
Date of Preparation of Copy: 02-07-2023

Date of Printing of Copy: 02-07-2023

Page No: 01-01

Page No: 01-01

31



V.M.M. H.P.

DISTRICT EDUCATION OFFICER,
(MALE), NORTH WAZIRISTAN, MIRANSHAH

H

32

OFFICE ORDER:

In pursuance of the Directorate of Elementary & Secondary Education Khyber, Pakhtunkhwa Peshawar letter No. 9900/District North Waziristan, Dated: 26/07/2023 regarding resolving issue of the following officials in the light of Honourable Peshawar High Court judgement in W.P No. 2258/2011 dated: 22.04.2015. The ground of the their cases is as under:

1. PTC posts were advertised during 2009, out of which some candidates were appointed during that period, while the applicants were not appointed being in Merit during that period.
2. In the light of WP No. 2258/2011 & W.P No. 2259/2011, dated: 22.04.2015, the applicants were appointed during 2016.
3. Now they were requesting for their seniority from the date of advertisement/1st appointments of candidates during 2009.

In the light of above static facts, and the same nature decision of Honourable Supreme Court of Pakistan, as of request of the applicants, their seniority have been allowed from the date of 1st appointed candidates out of same advertisement, in the best interest of public service:

S#	Name of Official with school	Desig:	Date of 1 st appointment	Seniority effective date
1	Muhammad Umar, GPS Maula Khan Kot Toor Langi	PST	05/01/2016	08/10/2009
2	Abdur Rehman, GPS Ahmad Khel	PST	05/01/2016	08/10/2009

(MOHIB-UR-REHMAN DAWAR)
District Education Officer (M)
North Waziristan, Miranshah

Endst: No. 41548-53 Dated: 02/08/2023

Copy forwarded for information to the:

1. PA to Director, Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
2. Deputy Commissioner North Waziristan.
3. District Accounts Officer, North Waziristan.
4. SDEO/ASDEOs concerned.
5. Officials concerned
6. Master File.

District Education Officer (M)
North Waziristan, Miranshah

J 33

BEFORE THE PESHAWAR HIGH COURT D.I.KHAN BENCH

W.P.No. 686/2014



Kaleem Ullah S/o Azhar Ubaidullah
R/o Jhok Qureshi, UC Muryali, District D.I.Khan

03427979349

PETITIONER

VERSUS

- (1) Govt. of KPK through Chief Secretary, Civil Secretariat Peshawar
- (2) Secretary of Education, Govt. Of KPK, Civil Secretariat Peshawar
- (3) Secretary Establishment & Administration Deptt., Govt. Of KPK, Civil Secretariat Peshawar
- (4) The Director Elementary & Secondary Education Deptt: Govt. Of KPK, Peshawar.
- (5) The District Education Officer (Male) D.I.Khan
- (6) Zameer Hussain S/o Bashir Hussain PST- GPS Jhok Qureshian District D.I.Khan.....RESPONDENTS

WRIT PETITION UNDER ARTICLE 199 OF THE CONSTITUTION OF ISLAMIC REPUBLIC OF PAKISTAN 1973.

Respectfully Sheweth,

- 1) That the addresses of the parties given in memo of petition are sufficient for the purpose of services of the parties.
- 2) That the petitioner is bona fide resident of Jhok Qureshi District D.I.Khan and has the qualifications up to B.Sc. with PST certificate. Copies of testimonials are enclosed as Annexure A, A-1 to A-4.
- 3) That the petitioner was earlier appointed as PST in the GPS Noon District D.I.Khan in the year 2007 but later on services of the petitioner including others i.e. 1613 teachers were terminated as a consequence of issuance of order by the standing committee of Provincial Govt. Of KPK.
- 4) That the petitioner like other affectees sought the legal remedy upto august Supreme Court of Pakistan and as a consequence thereof, the petitioner then filed service appeal in the KPK service tribunal and the Learned tribunal was pleased to

Filed to the
Addl. Registrar.

8/12/14

Just

WP.686-D of 2014 (Kaleemullah:Vs.Govt of KPK)(Grounds)

EXAMINER
Peshawar High Court Bench
Date: 24/9/14

JUDGMENT SHEET
IN THE PESHAWAR HIGH COURT, D.I.KHAN BENCH
(Judicial Department)

Writ Petition No.686-D of 2014

34

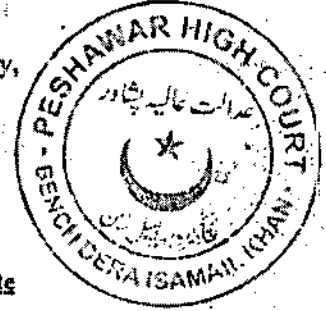
Kaleemullah

Versus

Govt. of Khyber Pakhtunkhwa through Chief Secretary,
Peshawar and five others

JUDGMENT

Date of hearing: 25.9.2018
For Petitioner: Mr. Gul Tiaz Khan Marwat Advocate
For respondents No.1 to 4: Mr. Adnan Ali, Assit: A.G
For respondent No.6: Mr. Ahmad Ali Khan Advocate



IJAZ ANWAR, J.- Through the instant petition under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973, the petitioner Kaleemullah has called in question the order dated 05.12.2014 of District Education Officer (M), D.I.Khan whereby Zameer Hussain, respondent No.6, was appointed as PST and posted in GPS Jhok Qureshian and instead seeks his appointment as PST.

2. The facts as narrated in the petition are that the petitioner was earlier appointed as PST, but his services alongwith others were terminated in consequence of the order of Standing Committee of Provincial Government of Khyber Pakhtunkhwa; that the petitioner sought his remedy up to august apex Court and then filed service appeal. The Service Tribunal constituted a committee

EX-105

EXAMINOR
Peshawar High Court Bench,
Dera Ismail Khan 24/9/18

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under the chairmanship of Secretary Education, Government of Khyber Pakhtunkhwa. The committee besides other recommendations, also recommended that Executive District Officer Education, D.I.Khan is required to advertise the vacant posts immediately and complete the recruitment process before 15th March, 2012 and the terminated teachers may be provided opportunity to compete if they are qualified for the post. That after recommendations of enquiry committee, the petitioner again filed Service appeal which is still pending but in the meanwhile, the posts of PSTs were again advertised in January, 2014; that the petitioner qualified the test of NTS and also participated in the interview, where after tentative proposed list was prepared, wherein the petitioner's name appeared at serial No.70; that due to litigation since 2007, the petitioner became overage by three years and ten months; that he moved various applications for processing his case for relaxation of upper age limit, but the matter could not be finalized and finally on 05.12.2014, appointments were made including the appointment of respondent No.6, but the petitioner was ignored. Hence the instant petition.

3. Arguments heard and record perused.

EXAMINOR
Dera Ismail Khan High Court Bench,
Dera Ismail Khan 24/07/24

4. Perusal of the record reveals that the respondents advertised different posts including the post of PST (Male) BPS-12. Both the petitioner and respondent No.6 applied and appeared in the written test conducted by National Testing Service Pakistan. When the final merit was prepared, the petitioner obtained 104.40 marks while respondent No.6 obtained 97.78 marks, however, both of them were overage. The petitioner was overage by 03 years 10 months and 19 days on the last date of submission of applications while respondent No.6 was overage by 01 year and 10 months. Astonishingly when the appointment order dated 05.12.2014 was issued, respondent No.6 was appointed while the petitioner was denied on the ground of being overage.

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5. In accordance with Khyber Pakhtunkhwa Initial Appointment to Civil Posts (Relaxation of Upper Age Limit) Rules, 2008, a candidate is required to seek age relaxation prior to the appointment. The candidates belonging to general categories are required to seek up to two years age relaxation from the appointing authority and beyond that from the Establishment Department. The comments submitted by the respondents show that respondent No.6 was allowed age relaxation by the appointing authority while the applications submitted by

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EXAMINOR
Punjab High Court Bench
Dera Ismail Khan 24/01/24

the petitioner, much prior to the issuance of appointment, were spoiled in red-tapism.

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6. During the course of hearing, learned counsel for respondent No.6 relied upon two judgments of this Court in W.P.No.13-D/2015 decided on 07.3.2018 and W.P.No.208-D/2015 decided on 31.10.2017 authored by one of us (Mr. Justice Shakeel Ahmad). However, on perusing the judgments, it transpired that the facts of those cases are different from the one in hand, because in the instant case, there was an objection that the application for age relaxation was not routed through proper channel, while the record speaks otherwise. Both the appointing authority and the competent authority were duly approached for age relaxation. Similarly, the Establishment Department vide letter dated 14.11.2014, forwarded the request of the petitioner to the Secretary, Government of Khyber Pakhtunkhwa, Elementary & Secondary Education Department. Surprisingly, the same was further forwarded by the Secretary office to the Directorate of Education vide letter dated 21.11.2014 and then again the Directorate send the same to District Education Officer (M) D.I.Khan, but the petitioner was never conveyed the outcome as thereafter, only cogent reasons and sound justification for age relaxation were asked besides copy of minutes of DPC,

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AT 153

EXAMINOR

Peshawar High Court Bench,
Dera Ismail Khan 24/9/24

when in the meanwhile, vide letter dated 05.12.2014, appointment orders were issued. All this shows that the petitioner being vigilant enough performed his part of obligations in approaching the authorities for age relaxation, but there was complete slackness on the part of the official respondents in processing the same.

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7. There is yet another very important aspect of the case. The petitioner remained in service of the respondents department from the year 2007 till 2012. It is alleged that appointment of the petitioner was illegal and he was terminated from service alongwith many other civil servants who are still litigating before the Service Tribunal. These are the justified and cogent reasons for the relaxation of upper age limit. Even if we refer to Khyber Pakhtunkhwa Initial Appointment to Civil Posts (Relaxation of Upper Age Limit) Rules, 2008, it would transpire that where a civil servant remained in government service for a period of two years, he is entitled to automatic age relaxation of ten years. In such circumstances, had the case of the petitioner been expeditiously processed, he would have gotten age relaxation and ultimate appointment because of his higher merit position.

EXAMINER
Peshawar High Court Bar
Derivation No. 24/9/14

8. We have also considered the appointment of respondent No.6 and found that though he was having low merit i.e. 97.78 marks, but when the petitioner was kept out of the contest, he was next in merit and thus was appointed. However, there was no fault on his part either in depriving the petitioner of appointment or getting undue favour from the respondents. We are thus not inclined to disturb respondents No.6, who is in the service of the respondents department since 05.12.2014, but at the same time, would not leave the petitioner as remediless, because he was deprived of his due right of appointment.

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9. For the stated reasons, the petitioner has made out a case for the indulgence of this Court. We thus allow this petition to the extent that the petitioner shall be allowed appointment against first available vacancy. He shall also be entitled to the seniority from the date when his other colleagues were appointed pursuant to the same advertisement. It is, however, clarified that he shall not be entitled to arrears of salaries, except fixation of pay.

Announced
Dr. 25.9.2018.
Habit

JUDGE

JUDGE

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

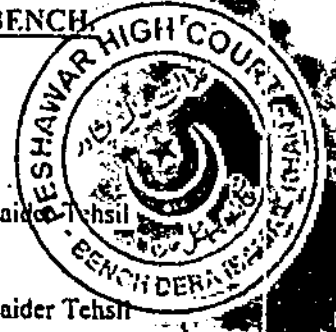
EXAMINER
Punjab High Court Bench,
Durg Ismail Khan 24/9/24

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28/9

Writ Petition No. _____/2020.

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40



1. Sajid Khan Son of Hassan Ghulam Resident of Janky, Post office Karri Haider Tehsil & District Tank present Model town, Post Office PTI, Dera Ismail Khan.
2. Amanullah son of Haider Khan Resident of village and post office kirri Haider Tehsil & District Tank.
3. Tosefulah son of Sher Ali Resident of village and post office kirri Haider Tehsil & District Tank.
4. Asad Bilal son of Akhtar Munir Shakir Resident of village and post office kirri Haider Tehsil & District Tank.
5. Zia Ur Rehman son of Muhammad Zaman Resident of Maghzai, Post office Umar Adda, Tehsil & District Tank.

(Petitioners)

Versus

1. Government of Khyber Pakhtunkhwa through Secretary (Elementary and Secondary Education) Department, Peshawar.
2. Director, Elementary and Secondary Education, Peshawar.
3. District Education Officer (Male), District Tank.

(Respondents)

**WRIT PETITION UNDER ARTICLE 199 OF
THE CONSTITUTION OF ISLAMIC REPUBLIC
OF PAKISTAN 1973.**

Note:- Addresses given above are sufficient for the purpose of service of parties.

BRIEF FACTS.

1. That the respondents advertised different post in education department including the posts of PST teachers in district Tank. Copy of publication is enclosed herewith as ANNEXURE A.
2. That the petitioner No.1 is DVM along with PTC, Petitioner No.2 is Master in Islamiyat as well as B.Ed. Petitioner No.3 is master in Islamiyat as well as PTC, Petitioner No.4 is master in Islamiyat as well as M.Ed and Petitioner No.5 is MSc in Zoology and having M.Ed requisite qualification, applied for the post of PST. Copies of testimonials are enclosed herewith as Annexure-B.
3. That the respondents shown vacant posts of PST in different union councils for the year 2019, wherein union council Waraspoon, there were six (6) vacant posts on PSTs

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EXAMINOR

WP No.431-D of 2020 (Grounds)

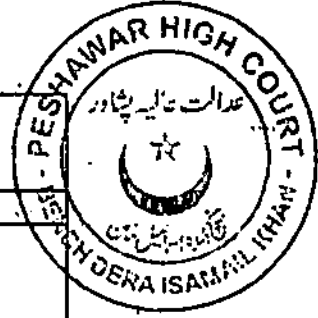
Peshawar High Court Bench,
Dera Ismail Khan

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PESHAWAR HIGH COURT, D.I.KHAN BENCH

FORM OF ORDER SHEET



Date of order or proceedings	Order or other proceedings with signature of Judge(s).
(1)	(2)
22.12.2021	<p><u>W.P. No.431-D/2020 with Interim Relief & C.M.Nos.601-D/2020, 851-D/2021.</u></p> <p><u>Present:-</u> Mr. Salimullah Khan Ranazai, Advocate for the petitioners.</p> <p>Mr. Kamran Hayat Miankhel, Addl: A.G. for the respondents.</p> <p style="text-align: center;">***</p> <p><u>Sahibzada Asadullah, J.-</u> Through the instant writ petition under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973, the petitioner has prayed for directing the respondents to act in accordance with law, rules and policy of the Government with further prayer that petitioner be declared qualified candidate for the post of primary school teacher.</p> <p>2. Brief facts as narrated in the writ petition are that the petitioner No.1 is possessing degrees of DVM, PTC, M.A Islamiyat and B.Ed. as well as M.Ed, whereas petitioner No.5 has done his M.Sc. in Zoology and also possessing M.Ed. degree; that the petitioners applied for the posts of Primary School Teacher, which were shown vacant by the respondents in different union councils, whereas six</p>

ATTEST

EXAMINOR
Peshawar High Court Bench,
Dera Ismail Khan 20/12/21

posts in union council Waraspoon were shown vacant; that the respondents issued a tentative merit list, wherein names of the petitioners appeared at serial Nos.3, 5, 6, 8 and 9, respectively, but it was to their surprise when one post in union council Waraspoon was shown in the merit list. Hence, this constitutional petition.

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3. In pursuance of the order of this Court, the respondent No.4 furnished para-wise comments, wherein stance of the petitioner was rebutted on the ground that only one post of PST was vacant in union council Waraspoon, District Tank, but erroneously six posts were advertised due to establishment of Govt. Primary School Kirri Maghzai Arzi Khan Kalai in the same union council in the year 2016-17, vide Chief Planning Officer E&SE Department letter No.CPO/SPO-1/PO/E&SE-1/ADP/2016-2017/Provincial dated Peshawar the 08.6.2017, issued by the Government of Khyber Pakhtunkhwa; that subsequently, in the light of the decision by Provincial Cabinet Khyber Pakhtunkhwa meeting held on 26.10.2017, it was notified that lady teachers be appointed in newly boys established schools. It has been further alleged by the answering respondent, that the male candidates including the petitioners could not be appointed because the posts in the said school were sanctioned

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EXAMINOR

Peshawar High Court Bench,
Dara Ismail Khan, 20/9/2017

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by the Finance Department for recruitment of female candidates. The learned counsel for the petitioner also filed rejoinder to the comments, where stance of the respondents was rebutted.

4. Arguments heard and record gone through.

5. Before proceeding further, it is pertinent to mention that certain C.Ms. i.e. C.M. No.601-D/2020, 851-D & 940-D/2021 have been filed for submission of additional documents, which are allowed and the documents annexed thereto are made part and parcel of the writ petition.

6. The record tells that six posts were advertised for recruitment of primary school teachers in union council Waraspoon against which the petitioner and one other held to be on merit for selection, however, but only one candidate was appointed and rest of five posts, according to respondents, were converted for appointment of female lady teachers. As per direction of this Court, a document placed on the record by Sub Divisional Education officer (Male), Tank, via C.M. No.940-D of 2021 shows twelve primary schools were established in union council Waraspoon. In such view of the matter, the plea taken by respondents for refusing to appoint the petitioners has no leg to stand

EXAMINOR
Dera Ismail Khan, 26/9/24
Dera Ismail Khan High Court Bench

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upon. The learned Additional Advocate General when confronted with the above, he candidly admitted the same fact.

7. In view of what has been discussed above, this writ petition is admitted and allowed, resultantly, the respondents are directed to consider the petitioners for appointment against the post of PSTs in any of the 12 schools, since they have been selected on merit and wrongly held that there was only one school in union council of the petitioners.

Announced
Di: 22.12.2021.


JUDGE


JUDGE

*Office
12/1/22*

EXES


EXAMINOR
Punjab High Court Bench,
Dera Ismail Khan 20/1/22



KHYBER PAKHTUNKHWA
BAR COUNCIL

ADVOCATE HIGH COURT

GUL TIAZ KHAN

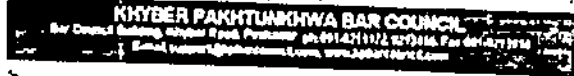
Advocate
bc-11-2787
Date of Issue: June 2020
Valid upto: June 2023



Secretary
KP Bar Council

Father's Name: MUHAMMAD NAJAZ KHAN
Address: E-27 COMMISSIONERS COLONY NORTH
REGULAR ROAD D.I. KHAN
Contact No:
Enrolment Date LCCB-July-2008
Enrolment Date HCC-11-November-2010
Place of Practice: D.I. KHAN
Date of Birth: 01-November-1961
Blood Group: B+VE
C.NIC No. 124815311491

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VAKALATNAMA

IN THE COURT OF ... K.P.K. Service Tribunal Peshawar ... D.I. Khan

Mehmoad Khan VERSUS District Education Officer (CM)

Title Service Appeal D.I. Khan

I/we Mehmoad Khan

The above named Appellant hereby appoint Gul Tiaz Khan Marwat Advocate High Court D.I. Khan, in the above mentioned case to all or any of the following acts, deeds and things.

1. To appear, act and plead for me/us in the above mentioned case in this court/tribunal in which the same may be tried or heard or any other proceedings out of our connected therewith.
2. To sign and verify and file or withdraw all proceedings, petitions, appeals, affidavits, and applications for compromise or withdrawal, or for the submission to arbitration of the said case or any other documents, may be deemed necessary or advisable by them by the conduct, prosecution or defense of the said case at all its stages.
3. To receive payments of and issue receipts for all moneys that may be or become due and payable to us during the course on conclusion of the proceeding.
To do all other acts and things, which may deemed necessary or advisable during the course of proceedings.
AND hereby agree:
 - a. To ratify whatever advocates may do the proceedings.
 - b. Not to hold the advocates responsible if the said case be proceed ex-parte or dismissed in default in consequence of their absence from the court when it is called for hearing.
 - c. That the advocates shall be entitled to withdraw from the prosecution of the said case if the whole or any part of the agreed fee remains un-paid.
 - d. That advocates may be permitted to argue any other point at the time of arguments.

In witness whereof I/we have signed this vakalatnama here under the contents of which have been read/explained to me/us which is fully understood by me/us.

Date: / /2024

Meh
Signature of Executants (s)

Attested & Accepted:
[Signature]
Gul Tiaz Khan Marwat
Advocate High Court D.I. Khan (KPK)
Cell No. 0300-9092488 / 0345-9853488