


FORM OF ORDER SHEET

Court of _____

12(2) CPC Petition No. 1283 /2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	24/10/2024	<p>The Petition U/S 12(2) CPC in service appeal no. 7281/2021 submitted today Mr. Farhan Tariq Advocate. It is fixed for hearing before Division Bench at Peshawar on - 30.10.2024. Original file be requisitioned. Parcha Peshi given to the counsel for the petitioner.</p> <p>By order of the Chairman  REGISTRAR</p>

**BEFORE THE HON'BLE KHYBER PAKHTUNKHWA
SERVICES TRIBUNAL, PESHAWAR**

12(2) Petition No. 1283 /2024

In

Service Appeal No.7281/2021

Sadiq Shah.....APPLICANT/APPELLANT

VERSUS

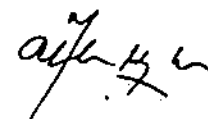
Govt. of Khyber Pakhtunkhwa & others.....RESPONDENTS

I N D E X

S.No.	Description of Documents	Annex	Pages
1.	12(2) Petition with Affidavit		1-3
2.	Copies of Grounds of Appeal and Order of this Hon'ble Tribunal dated 13.06.2024	A & B	4-11
3.	Copies of Documents and Notifications relied upon	C	12
4.	Wakalatnama		13

Applicant/Appellant

Through:



FARHAN TARIQ
Advocate High Court
Cell: 0345-9108092

Dated: 24.10.2024

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**BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICES
TRIBUNAL, PESHAWAR**

Service Appeal No-7281/2021

In Re: 12(2) Petition. No. 1283 P/2024

Sadiq Shah S/o Khanawada R/o Village Haleemzai Tehsil Ekka Ghund
District Mohmand

Applicant/Appellant

VERSUS

1. Government of Khyber Pakhtunkhwa through Secretary, E&SE, Civil Secetariat Peshawar
2. Dsitrit Education Officer Mohmand Tribal District. Ghalanai District Mohmand
3. Directorate of Elementary and Secondary Education Khyber Pakhtunkhwa Peshawar

Respondents

PETITION UNDER SECTION 12(2) CPC, 1908 FOR/ON BEHALF OF APPLICANT/APPELLANT FOR SETTING ASIDE JUDGMENT AND ORDER DATED 13-06-2024 PASSED BY THE LEARNED MEMBER KHYBER PAKHTUNKHWA SERVICES TRIBUNAL PESHAWAR IN ABOVE TITLED SUIT WHEREBY THE APPEAL WAS DISMISSED WITHOUT GIVING OPPURTUNITY OF HEARING THE CASE ON BEHALF OF THE APPLICANT/APPELLANT

Respectfully Sheweth:-

1. That the applicant besides being an educated person belongs to a respectable family and has never been found indulged in any illegal activity.
2. That an appeal against the District Education Officer and others was filed by the applicant/ appellant whereby comments were filed by the respondents.
3. That after submitting rejoinder the applicant on the date of hearing i.e., 13-06-2024 appeared before the Tribunal for final arguments on the appeal.

That at the very outset the Counsel for respondents raised an objection that verified document is not available on file to which the Hon'ble Bench directed the Counsel for appellant to produce document and submit the same before the Tribunal.

4. That the Counsel for appellant after getting verification from IBCC when was filing application for submitting additional documents was informed that the case has been dismissed by the Bench on the same day. Copy of the Judgment and Order is attached.

5. That feeling aggrieved from the Order dated 13-06-2024 he applicant/Appellant challenged the same before this Hon'ble Tribunal on the following grounds. (APPEAL GROUNDS & ORDER SHEET 13-06-2024 ATTACHED AS ANNEXTURE "A" "B")

Grounds:

- A. That the Judgment and Order dated 13-06-2024 is bad in law and facts both hence not maintainable in the eyes of law.
- B. That the Counsel for the appellant has not argued the case and the case was decided in the absence of the Counsel after hearing the arguments of respondents.
- C. That the Counsel for the appellant was directed to submit the verification report from the IBCC and surprisingly the case/ appeal was dismissed by the Hon'ble bench without giving opportunity to the applicant's counsel of arguments.
- D. That material facts have been concealed by the counsel for respondents from the Hon'ble Bench therefore, the decision of the case is not as per law.
- E. That the facts have not been brought before the Hon'ble Bench and the decision so made is against the natural justice.
- F. That the impugned Dismissal Order having been obtained by the Counsel for respondents by concealing facts from the Bench is otherwise illegal and merits to be set aside.
- G. That the Appellants, however, reserve the right to present further arguments verbally or in writing and to present additional evidence to prove their case.

Documents and Notifications relied upon are attached as Annexure "C".

AN

PRAYER

It is, therefore, most humbly prayed that on acceptance of the instant application the Judgment and Order dated 13-06-2024 may kindly be set aside
AND

The Counsel for applicant/ appellant may be given opportunity to argue the case/ defend his case

Petitioner/ Plaintiff


at 13 through
FARHAN TARIQ
Advocate, Peshawar

AFFIDAVIT

I, Farhan Tariq Advocate states on oath that the contents above are true and correct and nothing has been concealed from this Hon'ble Tribunal

Identified by:

at 13
Deponent


24/10/24

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Annex A

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

ST Appeal No. _____ /2021

Sadiq Shah S/o.Khanawada
R/o Village Haleemzai Tehsil Ekka Ghund
District Mohmand

.....APPELLANT

Versus

1. Govt of Khyber Pakhtunkhwa through Secretary
2. District Education Officer Mohmand Tribal District.
3. Directorate of Elementary and Secondary Education Khyber Pakhtun Khwa Peshawar.

.....RESPONDENTS

Appeal under Services Tribunal Act 1974 against the Order of District Education Officer Mohmand tribal District Dated 25-03-2021 whereby the appellant's appointment Order was withdrawn/ appellant was terminated from services on baseless allegations and neither giving him opportunity to defend himself nor associating him in any inquiry.

PRAYER

On acceptance of this appeal this Hon'ble Court may be pleased to set aside termination Order dated 25-03-2021 and termination Order may be declared illegal and against law having no binding force on the rights of the Appellant.

Respectfully Sheweth:

1. That the appellant besides being a law abiding peaceful citizen of the Country is/ was also a responsible Government Servant. He holds an unblemished service record and has never been charged or indicated for any misconduct/ offence whatsoever. The appellant prior to the illegal termination/ removal from service vide Order dated 25-03-2021 was serving as Theology teacher/ TT at the Government Primary School Said Shah Kor District Mohmand. Copy of the appointment letter dated 17-11-2020 is enclosed as annexure "A".
2. That before assuming charge at the office/ school the appellant as per rules and directions of the superiors submitted all his educational record and also deposited the required fee for verification of documents. Needless to mention here that the appellant was/ is entitled for the post and all the requisite documents/ educational documents were submitted for verification to the office of the respondents. Copy of the educational documents and verification fee receipts are attached and marked as Annexure "B" and "C".

Attested to be true
Copy

1-A

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3. That the appellant after the verification of documents and fulfillment of codal formalities joined his services on 17-11-2020. Copy of the arrival report is attached and marked as Annexure "D".

4. That from day one of the initial appointment, the appellant performed his duties with full devotion/ dedication and upto the entire satisfaction of his Superiors. During his service career there has not been a single complaint against the appellant which clearly shows that the appellant maintained unblemished service record and enjoyed very good reputation amongst his colleagues and students. Needless to mention here that the appellant was awarded salary which he received monthly. Copy of the salary slips are attached and marked as Annexure "E"

5. That the appellant throughout his career never remained absent from his duty rather performed his duty with full devotion and dedication. The attendance register of Government Primary School Said Shah Kor District Mohmand confirms that the appellant had regularly attended office/ school during his service period. Copy of the attendance register is attached and marked as Annexure "F"

6. That the appellant as routine reached school to perform his duty and to take his classes when he informed by one of his colleague that he has been terminated from duty. Appellant rushed to the office of principal/ head master and was shocked to see his termination Order dated 25-03-2021. The appellant was further shocked to see the allegations of submitting fake and forged documents for getting the job which are/ were not only baseless but very insulting in nature as well. Copy of the termination Order dated 25-03-2021 is attached and marked as annexure "G"

7. That the appellant was informed that the decision of termination has been taken by the respondents after conducting inquiry but surprisingly the appellant was never informed about the inquiry so conducted and also had never been given opportunity to defend himself before the competent forum.

It was further very astonishing to note that the other person namely Ajmali Khan who was appointed as theology teacher in place of the present appellant took charge on the 24th March 2021 while the so called termination Order was/ is issued on 25th March 2021 which clearly shows the malafide intention of the respondents. Copy of the appointment letter dated 24-04-2021 is attached and marked as Annexure "H".

8. That the matric certificate and all other educational documents produced/ submitted by the appellant are/ were genuine and the allegation that the same is fake is not only baseless but also embarrassing. Needless to mention here that the appellant got the job on merits and nothing had been kept secret from the concerned authorities at all. The appellant submitted genuine documents and after complete verification the appointment letter was issued in favour of the appellant. Copy of the so called fake document is attached and marked as Annexure "I"

Attested to be true
Copy

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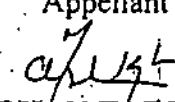
- 6 2
9. That the appellant thus dismayed immediately filed departmental appeal before the Director District Education Officer Mohmand Tribal District on 02-04-2021 but till today no Order on the appeal has been passed. Copy of departmental appeal and TCS receipts are attached and marked as Annexure "J" & "K".
 10. That the appellant feeling aggrieved of his termination Order knocks the door of this Hon'ble Court to challenge his termination on the following grounds amongst others.

GROUNDS

1. That the termination of the appellant dated 25-03-2021 is bad in law and facts both being in violation of golden principles of natural justice.
2. That neither any charge sheet was served upon the appellant nor was he associated with any inquiry hence, the termination is based on illegal/ ex parte inquiry and is liable to be set aside.
3. That the appellant before taking charge deposited fee for verification of all the documents submitted by him before the competent forum and the respondents after complete verification allowed the appellant to take charge as theology teacher. Needless to mention here that all the documents produced and submitted before the respondents/ competent forum are genuine and no illegality has been made by the appellant at all.
4. That the inquiry committee has decided the matter without informing the appellant and without giving any notice of hearing or defending himself which makes the inquiry one sided and biased in nature.
5. That as the letter dated 25-03-2021 is wrong having no binding force on the rights of the appellant which needs to be reversed and appellant being eligible be restored on his duties.
6. That no law approves any action which amounts to condemning the appellant unheard.
7. That other grounds will be raised at the time of arguments with the permission of the Hon'ble Tribunal.

It is, therefore, graciously prayed that on acceptance of this appeal the Order dated 25-03-2021 may be set aside and the appellant be restored on his duty with all the back benefits.

Any other relief not specifically asked for but this Hon'ble Tribunal deems appropriate is also prayed for.

Appellant
Through 
FARHAN TARIQ
Advocate, Peshawar

Witnessed to be true
Conv
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Annex 13

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No. 7281/2021



BEFORE: MRS. RASHIDA BANO ... MEMBER (J)
MISS FAREEHA PAUL ... MEMBER (E)

Sadiq Shah S/O Khanawada R/O village Haleemzai Tehsil Ekka Ghund,
District Mohmand.(Appellant)

Versus

1. Government of Khyber Pakhtunkhwa through Secretary, E&SE, Civil Secretariat, Peshawar.
2. District Education Officer Mohmand Tribal District, Ghalana District Mohmand.
3. Directorate of Elementary and Secondary Education Khyber Pakhtunkhwa Peshawar.(Respondents)

Mr. Farhan Tariq,
Advocate ... For appellant

Mr. Asif Masood Ali Shah,
Deputy District Attorney ... For respondents

Date of Institution.....	15.03.2019
Date of Hearing.....	13.06.2024
Date of Decision.....	13.06.2024

JUDGEMENT

FAREEHA PAUL, MEMBER (E): The service appeal in hand has been instituted under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the order dated 25.03.2021, whereby appointment order of the appellant was withdrawn. It has been prayed that on acceptance of the appeal, the impugned order might be set aside by declaring it illegal and against the law.

2. Brief facts of the case, as given in the memorandum of appeal, are that the appellant was serving as Theology Teacher at the Government

ATTESTED

MS. JINER
Khyber Pakhtunkhwa
Service Tribunal

10-10-24

Primary School Said Shah Kor, District Mohmand vide order dated 17.11.2020. Before assuming charge at the school, the appellant, as per rules and directions of the superiors, submitted all his educational record and also deposited the required fee for verification of documents. After verification of documents and fulfillment of all codal formalities, he joined his service on 17.11.2020. He was informed that his appointment was withdrawn with the allegations of submitting fake and forged documents for getting the job. Feeling aggrieved, he preferred departmental appeal before the DEO Tribal District Mohmand on 02.04.2021 which was not responded; hence the instant service appeal.

3. Respondents were put on notice who submitted written reply. We heard the learned counsel for the appellant as well as learned Deputy District Attorney for the respondents and perused the case file with connected documents in detail.

4. Learned counsel for the appellant, after presenting the case in detail, argued that the appellant, after the verification of his documents and fulfillment of codal formalities, joined his service and started performing his duty and that its subsequent withdrawal was bad in the eyes of law. He further argued that neither any charge sheet was served upon him nor he was associated with any inquiry, hence the impugned order was illegal and liable to be set aside. He requested that the appeal might be accepted as prayed for.

RECEIVED
DEPT. DIST. ATTORNEY
Tribal District Mohmand
Peshawar

5. Learned Deputy District Attorney, while rebutting the arguments of learned counsel for the appellant, argued that the appellant applied for 'T'

[Handwritten signature]

post through NTS and after qualifying the test he scored 101.52 marks. Departmental Selection Committee recommended him for appointment against the post of 'TT' on 17.01.2020. After appointment of the appellant, one, Ajmali Khan second in the waiting list candidates, submitted a complaint to the Director Education, Newly Merged Areas Khyber Pakhtunkhwa that the documents of the appellant were fake and tempered. In the light of the said complaint, a fact finding inquiry was conducted and after the inquiry IBCC Board certificate of the appellant was proved fake and bogus by the concerned regional office. After the inquiry, Directorate of Elementary & Secondary Education, vide letter dated 16.03.2021, directed the DIO to withdraw the appointment order of the appellant which was done through the impugned order in accordance with law. He requested that the appeal might be dismissed.


6. Arguments and record presented before us transpire that the appointment order of the appellant was withdrawn vide an order of District Education Officer, Mohmand Tribal District dated 25.03.2021 and the same has been impugned before us. The appellant was appointed as Theology Teacher vide an order dated 17.11.2020 under certain terms and conditions. Condition no. 4 of the appointment order stated that appointment was subject to the verification of certificates/degrees from the concerned authorities by the office of DIO, Mohmand Tribal District and anyone producing bogus documents/testimonials would be reported to the law enforcing agencies for further action. The respondents, in their reply, stated that the appellant did not submit the documents for verification,

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 Service Tribunal
 Peshawar

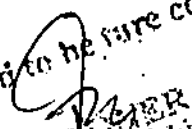
however their salaries were released subject to the condition that if documents of anyone were found bogus or fake, he/she would refund the entire emoluments in government treasury. On a complaint received from one Mr. Ajmal Khan, a candidate in the waiting list, a fact finding inquiry was conducted and it was found that the IBCC Board certificate of the appellant was fake/bogus. Respondents in their reply, at annex-D, page 17, attached a letter of Government of Pakistan, Ministry of Federal Education and Professional Training, Inter Board Committee of Chairman, dated 19.01.2021 which clearly stated that the relevant record (of Sadiq Shah) had been checked and it was found that the equivalence certificate was fake/bogus. Learned counsel for the appellant could not produce any argument in rebuttal of that document of the Government of Pakistan. In the presence of such a documentary evidence and clear terms and conditions, the plea of the appellant became groundless.

7. In view of the above discussion, the service appeal is dismissed. Cost shall follow the event. Consign.

8. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal this 13th day of June, 2024.*


(FARHEEN PAUL)
Member (I).

Certified to be true copy


MEMBER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar


(RASHIDA BANO)
Member (J)

Fazle Subhan PS


10-10-24


11
SA 7281/2021

13th June, 2024 01. Mr. Farhan Tariq, Advocate for the appellant present.
Mr. Asif Masood Ali Shah, Deputy District Attorney for the
respondents present. Arguments heard and record perused.

02. Vide our detailed judgment consisting of 04 pages, the
service appeal is dismissed. Cost shall follow the event.
Consign.

03. *Pronounced in open court in Peshawar and given under
our hands and seal of the Tribunal on this 13th day of June,
2024.*


(FARNIHA PAUL)
Member (I)


(RASHIDA BANO)
Member(J)

Fazal Subhan PS

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Annex

By Courier

Ph: (051)9106632

Fax: (051)9216361



GOVERNMENT OF PAKISTAN
MINISTRY OF FEDERAL EDUCATION & PROFESSIONAL TRAINING
INTER-BOARDS COORDINATION COMMISSION
PLOT # 25, ST # 38, I & T CENTRE, G-10/4, ISLAMABAD

No. IBCC/Verification/OLS/2024/16116

Dated: 26th September, 2024

Subject: VERIFICATION OF EQUIVALENCE CERTIFICATES

I am directed to refer to your Letter dated 23-9-2024 regarding verification of equivalence certificate SSC issued by IBCC. The relevant record of following candidate has been checked and found the equivalence certificate as correct and authentic in accordance with the record being maintained by regional office, Peshawar:

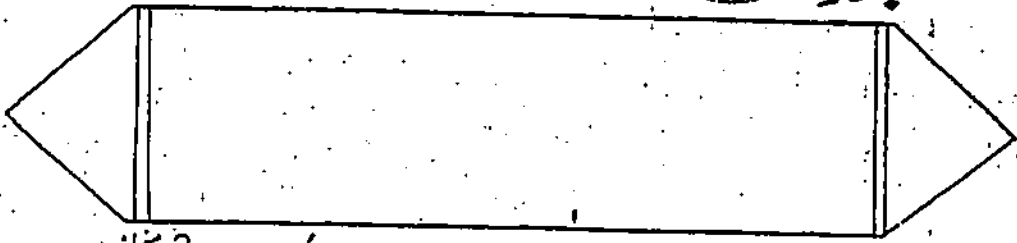
Sr.No	Student's Name	Father's Name	Sr. No & Reference No
1	Sadiq Shah	Khanawada	SSC(Arts) Sr. No. 057255 reference o. IBCC(SO)P/PAK/2020(08)

2. This issues with the approval of Competent Authority.

(Muhammad Usman Khan)
Director

Mr. Farhan Tariq
Advocate High Court,
Optimus Legal Solutions,
3rd Floor, Block-A,
Mufti Plaza,
International Honey Market,
Main GT Road, Chamkani,
Peshawar.
Ph: +923339848768, +923219878971.

بعدالت حساب سرویس ٹریبونل ٹیبلا



موضوع
مقدمہ
دعویٰ
جرم

لہذا دعویٰ کی بنیاد
بنام
کے خلاف

باعث تحریر آئیکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی دیکل کارروائی متعلقہ
آن مقام کسبہ کیلئے دعوایہ صاحب 1 رطلن طاریج

مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کمال اختیار دیا گیا۔ نیز
دیکل صاحب کو راضی نامہ کرنے و تقرر ثالثہ فیصلہ بر حلف دیئے جواب دہی اور اقبال دعویٰ اور
بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ عرضی دعویٰ اور درخواست ہر قسم کی تصدیق
ذرائع پر دستخط کرانے کا اختیار ہوگا۔ نیز بصورت عدم پیروی یا ڈگری کی طرفہ یا اپیل کی برآمدگی اور منسوخی
نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور
کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار
ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ اختیارات حاصل ہوں گے اور اس کا ساختہ
پرواختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جات التوائے مقدمہ کے سبب سے ہوگا
کوئی تاریخ پیشی مقام دورہ پر ہو یا خدمت سے باہر ہو تو وکیل صاحب پابند ہوں گے کہ پیروی
مذکورہ کریں۔ لہذا وکالت نامہ لکھ دیا کہ سند ہے۔

Sadiq Shale

المترقائم ۱۵ ماہ 2024

واہ العب

کے لئے منظور ہے۔

مستجاب

بمقام