

MEMO OF COSTS
KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No.677/2024

Date of presentation of Appeal	20.05.2024
Date of hearing	28.10.2024
Date of Decision	28.10.2024

Ishtiaq Ul Hasan (Ex-Cook) S/O Shah Sawar, R/O Guldana Tehsil & District
Abbottabad. ... (Appellant)

Versus

The Director, Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
The District Education Officer (Male), Abbottabad.

.....(Respondents)

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 FOR DECLARATION TO THE EFFECT THAT THE APPELLANT WAS APPOINTED AS NAIB QASID AGAINST 100% INVALID EMPLOYEES SONS QUOTA VIDE ORDER DATED 10.11.2020 AND AFTER SERVING IN THE RESPONDENT DEPARTMENT FOR A PERIOD OF NEAR ABOUT THREE AND HALF YEARS, RESPONDENT NO.2 WITHDREW APPOINTMENT ORDER OF THE APPELLANT ON 31.01.2024 ON THE GROUND THAT ONE SISTER OF THE APPELLANT WAS ALSO GOT APPOINTED AGAINST THE SAME QUOTA, THE IMPUGNED ORDER 31.01.2024 HAS BEEN ISSUED WITHOUT ANY INQUIRY, STATEMENT OF ALLEGATION, SHOW CAUSE NOTICE AND PROVIDING OPPORTUNITY OF PERSONAL HEARING WHICH IS SINE QUA NON FOR SACKING ANY EMPLOYEES HENC, IMPUGNED WITHDRAWAL ORDER DATED 31.01.2024 OF APPLICANT IS LIABLE TO BE SET ASIDE.


PRESENT

1. Mr. Muhammad Arshad Khan Tanoli, for the Appellant
2. Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents.

Appellants	Amount	Respondent	Amount
1. Stamp for memorandum of appeal	Rs. Nil	1. Stamp for memorandum of appeal	Rs. Nil
2. Stamp for power	Rs. Nil	2. Stamp for power	Rs. Nil
3. Pleader's fee	Rs. Nil	4. Pleader's fee	Rs. Nil
4. Security Fee	Rs. Nil	4. Security Fee	Rs. Nil
5. Process Fee	Rs. Nil	5. Process Fee	Rs. Nil
6. Costs	Rs. Nil	6. Costs	Rs. Nil
Total	Rs. Nil	Total	Rs. Nil

Note: Counsel Fee is not allowed as the required certificate has not been furnished.

Given under our hands and the seal of this Court, this 21st day of October 2024.


RASHIDA BANO
Member (J)

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

Service Appeal No. 677/2024

Syed Ishtiaq Ul Haq Hassan

versus


Government of Khyber Pakhtunkhwa

S.No. of Order & Date of proceeding	Order or other proceedings with signature of Chairman/Member(s)/Registrar and that of parties or counsel where necessary
Order-03 28 th October, 2024.	<p>Present:</p> <ol style="list-style-type: none">1. Appellant along with Mr. Muhammad Arshad Khan Tanoli, Advocate.2. Appellant through instant appeal seeks re-instatement after modifying his appointment order with all back benefits. Prayer of the appeal is given as under: <p style="text-align: center;"><i>“On acceptance of the instant appeal the impugned withdrawal order date 31.01.2024 of the appellant may graciously be set aside and respondents may be directed to be reinstated the appellant in service after modifying the appellant order with all service benefits. Any other remedy which this Hon’ble Tribunal deems fit and appropriate may also be granted to the appellant.”</i></p>3. Perusal of record reveals that appellant was appointed on deceased son quota vide order dated 10.10.2020 after which he submitted arrival and start performing his duties. Now through instant appeal, he seeks modification in his appointment order by contending that he had not applied in deceased son quota and his name was wrongly mentioned in the category of deceased son quota. Appellant had taken this plea, when appointment order of the appellant was cancelled/ withdrawn vide order dated 31.01.2024 on the ground that

on the deceased son quota his sister Mst. Syeda Kiran Batool has already appointed vide order dated 14.02.2020 before his appointment i.e 10.10.2020.

4. In my humble view, appellant had taken the plea after withdrawal of his appointment at a belated stage. Furthermore, if infact he had not applied in deceased son quota, then he was required to challenged order of his appointment in deceased son quota his name was wrongly mentioned in deceased son quota and after within 30 days but he had not challenged the same and submitted arrival and start performing duties till passing of order dated 31.03.2024. Now, he is *estopped* by his conduct as he acquized the order of his appointment. Therefore, appeal in hand is dismissed in *limine. Consign.*

5. *Pronounced in open court at camp court, Abbottabad and given under my hand and seal of the Tribunal on this 28th day of October, 2024.*


(RASHIDA BANO)
Member (J)
Camp Court, Abbottabad