

REGISTERED



ORDER

**GOVERNMENT OF THE PUNJAB
SPECIAL EDUCATION DEPARTMENT**

No. SO(B&D)3-65/2024. WHEREAS, Mr. Shamim Akhtar Shahzad, Store Keeper (BS-11), Govt. Institute for Slow Learner, Chiniot ('petitioner') filed Writ Petition No. 19046 of 2024 before Hon'ble Lahore High Court, Lahore with the prayer to issue directions for early decision of his pending representation dated 04.02.2024. The Hon'ble Lahore High Court, Lahore vide order dated 26.03.2024, disposed of the case with following order:

"Through instant petition, petitioner is seeking direction for decision on his representation for change of nomenclature of the post having same status (from Junior Clerk to Store Keeper), which is pending before respondent No.2. Learned counsel submits that he would be satisfied if a direction is issued to the respondent No.2 to decide the pending representation of the petitioner strictly in accordance with law, after hearing petitioner and all concerned, through a speaking order within a period of 15-days from the date of receipt of certified copy of this order.

2. When confronted, learned law officer has expressed no objection on disposal of this petition as requested by learned counsel for the petitioner.

3. Order accordingly.

4. Disposed of."

2. AND WHEREAS, in order to comply with the directions of Hon'ble Lahore High Court, Lahore contained in order dated 26.03.2024, the petitioner and all concerned were afforded an opportunity of personal hearing on **22.04.2024**. The petitioner appeared on the fixed date and while reiterating the stance already taken by him in his representation *inter alia* contended that he was appointed on disable quota vide order dated 14.05.2015 and assumed the duty on 15.05.2015 as Store Keeper at Govt. Institute for Slow Learner Chiniot. But during service with the passage of time, there is severity in said disability, now he is unable even to move alone without attendant on account of some heart problem coupled with serious damaging of lower limbs as well as bad effect on spinal cord resultantly long travelling is not possible due to uncontrollable urine issue; that on compassionate grounds, he was temporarily adjusted at Govt. Secondary Special Education Centre, Samundari but his temporary adjustment at Samundari has been recalled; that he requested the Headmistress, Govt. Institute for Slow Learner Chiniot that if he cannot be accommodated as such then he may be referred to Medical Board for examination and for his retirement on medical grounds but inaction on the part of the Headmistress amounts to harsh treatment which is discriminatory in nature; that his representation about change of nomenclature / redesignation for the post of Junior Clerk (Bs-11), *which is lying vacant since long*, to Store keeper (BS-11), on account of serious physical disorder / disabilities, has been decided by Finance Department vide letter No. FD.PC.24-7/2017(PR) dated 02.02.2024 favorably and accordingly the Finance

Shamim Akhtar

Department has advised him to forward his case through Administrative Department as required under Rule 47(3) the Punjab Government Rules of Business, 2011 hence instant representation merits consideration; that the Principal, Govt. Secondary Special Education Centre, Samundari, District Faisalabad has also issued NOC in his favour vide letter dated 03.01.2024 for redesignation / change of nomenclature of the post of Junior Clerk (BS-11) as Store Keeper (BS-11), because no budgetary implications are involved in this case and both posts have same status / pay scale; that there was no option left for him except to approach Secretary Finance, who physically examined his medical condition and while agreeing with his stance issued letter for redesignation of post having same status / grade. He lastly requested that in the light of Finance Department's letter No. FD.PC.24-7/2017 (PR) dated 02.02.2024 and in the light of NOC issued by Head of Institute / Principal, Govt. Secondary Special Education Centre, Samundari, dated 03.01.2023 his request may be allowed and post of Junior Clerk (BS-11) at Govt. Special Education Centre, Samundari may be redesignated to the post of Store Keeper (BS-11) as both posts have same status / pay scale; that till the time proceedings of redesignation of post by Finance Department are completed, he may be temporarily adjusted at Govt. Secondary Special Education Centre, Samundari; that in case the aforementioned requests are not tenable then he may be referred to medical board in view of his serious ailment.

3. **AND WHEREAS**, on behalf of Directorate General of Special Education, Punjab, **Director (Admin)**, Directorate General of Special Education, Punjab, Lahore, attended the hearing. Whereas, from the field formation, **District Education Officer (Special Education), Faisalabad** and **Mr. Zia Razzaq**, Incharge Headmaster, Govt. Special Education Centre, Samundari also attended the hearing. The stance taken by all the Departmental Representatives can be summed in the manner that the petitioner was originally appointed as Store Keeper (BS-06) on contract basis as per order dated 14.05.2015; that the petitioner is requesting a redesignation or change in nomenclature of the post of Junior Clerk (BS-11) at the Government Secondary Special Education Centre, Samundari, District, Faisalabad, to the post of Store Keeper (BS-11), which carries an equivalent pay scale; that this request has been made by the petitioner to facilitate his transfer to the Government Secondary Special Education Centre, Samundari from his current posting i.e., Government Institute for Slow Learners, Chiniot; that Special Education Department notified Criteria / Norms / Yardsticks for establishment of new Special Education Institutions vide letter dated 30.12.2016, as per said criteria, the post of Junior Clerk is part and parcel of the Special Education Institutions. The role of a Junior Clerk in a Government institution involves various administrative tasks essential for the functioning of the institution. Clerks are responsible for maintaining records, filing documents, processing paperwork, and assisting in day-to-day office operations. They often handle correspondence, draft letters, and memos, and may also be involved in scheduling appointments, organizing meetings, and maintaining office supplies. The Junior Clerks also interact with the public, responding to inquiries and providing information about government services or programs. Overall, the work of a Junior clerk in Special Education Institutions is crucial for ensuring the efficient operation of the

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institution and the delivery of services to the public. Hence, changing or redesignating the nomenclature of the post of the Junior Clerk (BS-11) at the Government Secondary Special Education Centre, Samundari District, Faisalabad, into Store Keeper (BS-11) solely to accommodate one employee is not advisable. Such an action could establish a negative precedent within the department, potentially leading to similar demands from other employees seeking postings closer to their home stations. This could disrupt the standard procedures for filling vacant posts and could create inconsistencies in job roles and responsibilities. The Departmental Representatives further asserted that Junior Clerk and Store Keeper have distinct roles and responsibilities in an institution and these posts are not interchangeable. Therefore, both posts have been included in the Criteria / Norms / Yardsticks notified for the Special Education Institutions. The Departmental Representative were of the view that the petitioner has failed to persuade through record and also failed to place on record any law/rule/policy through which it could be established that what he is claiming through his representation is lawfully permissible. Therefore, Departmental Representatives requested that representation of the petitioner may be rejected being devoid of merits.

4. **AND WHEREAS**, during the course of hearing the petitioner was confronted with the query *'whether he was ever issued any NOC for redesignation of post of Junior Clerk to the post of Store Keeper by the Finance Department as asserted by him in his representation?* In response to that the petitioner replied in negative and admitted that Finance Department vide letter dated 02.02.2024 advised him to approach Finance Department through Administrative Department as required under Rule 47(3) of the Punjab Government Rules of Business, 2011 and no NOC has been issued by the Finance Department and no such document is available on record. The petitioner was also confronted with the query, *'whether the Finance Department has issued any document whereby consent for redesignation of the post of Junior Clerk to Store Keeper has been given by the Finance Department?'* In response to that the petitioner stated that he filed representation dated 03.01.2024 directly before the Finance Department for redesignation / change of nomenclature of the post of Junior Clerk (BS-11) to the post of Store Keeper (BS-11) in which Finance Department vide letter dated 02.02.2024 advised him to approach Finance Department through Administrative Department. The petitioner admitted that written consent of the Finance Department for redesignation of the post of Junior Clerk to the post of Store Keeper is not available. The petitioner was further asked *'whether he is aware of the fact that Headmaster, Govt. Special Education Centre, Samundari is not authorized to issue any NOC for redesignation of any post of the Centre and the letter dated 03.01.2024 issued by Headmaster, Govt. Special Education Centre, Samundari is not according to the law/rule/policies?'* In response, the petitioner stated that he is aware of this fact and further stated that the letter dated 03.01.2024 was issued by the Headmaster concerned on his own request. The petitioner also apprised that he obtained letter dated 03.01.2024 from Headmaster concerned so as to verify that the post of Junior Clerk of the Centre is lying vacant since 2018. At this juncture, the Headmaster concerned also stated that he never issued any NOC for redesignation of the post of Junior Clerk to the post of Store Keeper and the stance attributed by the petitioner to the

letter issued by him is misconceived. However, he conceded that he had no authority to mention in his letter anything regarding redesignation of the post of Junior Clerk, as it is not covered under policy of the Government. The petitioner was also asked 'whether he is aware of his Competent / Appointing Authority and had he filed any application before said authority for redesignation of the post of Store Keeper (BS-11)? In response to this question, the petitioner stated that as per prevailing Service Rules titled as Punjab Special Education Department, Directorate General of Special Education Service Rules, 2021, Director (Admin), Directorate General of Special Education, Punjab, Lahore is Competent / Appointing Authority for the post Store Keeper (BS-11) and he has not filed any representation containing prayers / request which has been made in the instant representation before the said authority.

5. **AND WHEREAS**, after hearing all concerned and examining the record/material related to the case, it is observed that undersigned is neither Competent nor Appointing Authority of the petitioner. The petitioner instead of filing representation before the concerned Appointing Authority has filed representation before the undersigned which is not maintainable. The actions to be taken, *pertaining to the requests made by the petitioner in his representation and additional statement filed during course of personal hearing*, lies at the level of Directorate General of Special Education, Punjab, Lahore. The Hon'ble Supreme Court of Pakistan in cases titled as Badshah Begum V. Additional Commissioner, Lahore Division (2003 SCMR 629) and Syed Abrar V. Commissioner Kohat Division (PLD 2004 SC 907) has held that where an authority has no jurisdiction in a matter under a law, the jurisdiction cannot be conferred on the said authority by an order of the Court or by consent of the parties. Since, the undersigned is neither Competent Authority nor Appointing Authority in this case, therefore, the matter is required to be referred to Directorate General of Special Education, Punjab, Lahore to proceed further in the matter and decide the same in accordance with the law and if the request of the petitioner made in the representation are made out, same may be granted keeping in view the applicable law/rules/policies.

6. **NOW, THEREFORE**, for reasons mentioned *supra*, I, **Saima Saeed**, Secretary Special Education / Respondent No. 2, after having considered all the aspects, material relating to the case, do hereby **dispose of** the representation of the petitioner by remitting copy of representation alongwith Order passed by Hon'ble Lahore High Court, Lahore dated 26.03.2024 in Writ Petition No. 19046 of 2024 to **Director (Admin), Directorate General of Special Education, Punjab, Lahore / Appointing Authority** of the petitioner with direction to decide the same himself, in accordance with law, relevant rules and policies applicable thereto, keeping in view the Order passed by Hon'ble Lahore High Court, Lahore dated 26.03.2024, physical condition of the petitioner as stated by him in his representation and observations made herein above after hearing the petitioner and all concerned through speaking order according to Section 24-A of the General Clauses Act, 1897 **expeditiously, preferably within two (02) weeks** from the receipt of copy of this order under intimation to this Department. The order dated 26.03.2024

passed by the Honourable Lahore High Court, Lahore in the Writ Petition No. 19046/2024 is accordingly complied with in the above stated manner.

Saima Saheed

(SAIMA SAEED)
SECRETARY to
GOVERNMENT OF THE PUNJAB
SPECIAL EDUCATION DEPARTMENT /
RESPONDENT NO. 2

Dated Lahore, the
April 25th 2024

No. & Date Even:

A copy is forwarded for information and necessary action to the: -

1. **Deputy Registrar (Judicial)**, Lahore High Court, Lahore in compliance of order dated 26.03.2024 passed in Writ Petition No. 19046/2024.
2. **Director General**, Special Education, Punjab, Lahore.
3. **Director (Admin)**, Directorate General of Special Education, Punjab, Lahore.
4. **District Education Officer (Special Education)**, Faisalabad to ensure delivery of this order to the petitioner under intimation to this department.
5. **Headmaster, Govt. Special Education Centre, Samundari** to ensure delivery of this order to the petitioner under intimation to this department.
6. **Headmaster/ Headmistress, Govt. Institute for Slow Learner, Chiniot** to ensure delivery of this order to the petitioner under intimation to this department.
7. **P.S.** to Secretary Special Education Department.
8. **Petitioner / Mr. Shamim Akhtar Shahzad**, Store Keeper (BS-11), Govt. Institute for Slow Learner, Chiniot.
9. Master File.

[Signature]

SECTION OFFICER (B&D)
SPECIAL EDUCATION DEPARTMENT