

**JUDGMENT SHEET
IN THE PESHAWAR HIGH COURT,
BANNU BENCH
(Judicial Department)**

CR No.102-B/2023

**Government of Khyber Pakhtunkhwa
through Secretary Elementary & Secondary
Education, Peshawar, etc.**

Vs

Ilyas Khan and another

JUDGMENT

Date of hearing: **27.10.2025**

For petitioner(s): **Mr. Najib Ullah, A.A.G.**

For respondent(s): **Mr. Muhammad Tariq Qureshi
Advocate**

Kashif Munir, L.O., in attendance.

MUHAMMAD TARIQ AFRIDI, J.- This civil revision petition, filed under Section 115 of the Code of Civil Procedure, 1908 (“CPC”), calls into question the legality and propriety of the judgment and decree dated 30.01.2023 passed by the learned Additional District Judge-I, Lakki Marwat, whereby the appeal preferred by the present petitioners was dismissed, thereby affirming the judgment and decree dated 17.01.2022 passed by the Civil Judge-II, Lakki Marwat, through which the suit filed by the respondents for declaration and perpetual mandatory injunction was decreed.

2. The brief facts of the case are that the plaintiffs, namely Ilyas Khan and Adnan Jameel (hereinafter referred to as the respondents), instituted a suit for declaration cum perpetual, prohibitory, and mandatory injunction against the Government of Khyber Pakhtunkhwa through Secretary, Elementary and Secondary Education Department, Peshawar and others (hereinafter referred to as the petitioners), seeking appointment against the posts of Certified Teacher (Information Technology) (CT-IT) in District Lakki Marwat. It was averred that both the respondents had applied for the subject posts pursuant to an advertisement dated 22.05.2019, appeared in the test and interview conducted by the Fair Testing Services (FTS), and obtained 133.15 and 131.90 marks respectively, thereby securing second and third positions in the tentative merit list. However, their names were dropped from the final merit list on the ground of non-possession of Diploma in Information Technology (DIT), despite holding higher qualifications, one Master of Science in Computer Science (MSc CS) and another Bachelor of Science (BS) in Computer Systems Engineering. They contended that the exclusion was arbitrary and discriminatory, and that

the prescribed qualification in the advertisement did not preclude candidates with higher academic credentials in the field of computing and information technology. They prayed for a direction to the department to consider them for appointment against the subject posts.

3. The petitioners contested the suit by filing written statement, wherein they denied the claim of the respondents and raised several legal and factual objections. It was pleaded that the respondents did not possess the one-year DIT diploma, which was a mandatory requirement as per the advertisement and the applicable rules. It was further contended that the recruitment process was conducted strictly in accordance with the prescribed criteria, and that the respondents were rightly excluded from the final merit list for not meeting the prescribed qualification.

4. After recording evidence and hearing arguments, the Trial Court decreed the suit of the respondents vide judgment and decree dated 17.01.2022, holding that the respondents possessed higher qualifications than the prescribed DIT diploma and were wrongly excluded from consideration. The said judgment was upheld by the learned Additional District Judge-I, Lakki Marwat vide

judgment and decree dated 30.01.2023. Hence, this revision petition.

5. Arguments heard. Record perused.

6. The only question requiring determination is whether the respondents were rightly excluded from consideration for appointment on the ground that they did not possess a DIT diploma, or whether their higher academic qualifications sufficiently met the prescribed criteria for the post of CT-IT?

7. The record reveals that respondent No.1 holds an M.Sc in Computer Science, while respondent No.2 possesses a BS in Computer Systems Engineering. Both degrees are academically superior and admittedly, cover the core subjects included in the DIT curriculum, such as Operating Systems, Computer Networks, Programming, Database Management, and Web Technologies. The respondents also produced comparative syllabi of DIT, M.Sc Computer Science, and BS Computer Systems Engineering, demonstrating substantial overlap in subject matter.

8. No doubt, the notification (Ex.DW-1/1) prescribes intermediate with one-year Diploma in Information

Technology (DIT) as the minimum qualification for initial recruitment to the post of CT (IT), however, the expression “minimum qualification” as well as the notification itself nowhere excludes candidates possessing higher qualifications in the same discipline. The Trial Court rightly observed that the notification (Ex.DW-1/1) does not bar the consideration of candidates with superior academic credentials, and that the department’s restrictive interpretation was unwarranted and contrary to the settled principles of recruitment.

9. Although, the petitioners correctly contended that the respondents did not possess the DIT diploma, this objection loses its legal significance in the presence of the respondents’ higher qualifications in the same discipline. The respondents’ exclusion from the final merit list, despite having secured top positions was, therefore, rightly held to be arbitrary and violative of law.

10. The contention that the civil court lacked jurisdiction to entertain the suit is also misconceived. Under Section 9 CPC, civil court possesses plenary jurisdiction to try all suits of a civil nature unless its cognizance is expressly or impliedly barred by law. Such a bar must be clear and specific, and not lightly inferred.

The present suit, wherein the respondents challenged their exclusion from consideration for appointment, did not pertain to the terms and conditions of service of any appointed employee, nor did it fall within the domain of any special tribunal established under a statute. The grievance raised by the respondents pertained to their civil right of fair consideration for appointment, is a justiciable right enforceable through a civil court. Thus, the Courts below rightly exercised jurisdiction and adjudicated the matter on merits.

11. In view of the foregoing discussion, it is clear that the Courts below have properly appreciated the evidence, applied the correct legal principles, and granted relief that is just, equitable, and proportionate to the grievance raised. No jurisdictional error, illegality, or material irregularity has been pointed out that would justify interference in revisional jurisdiction under Section 115 CPC.

12. Resultantly, this revision petition, being devoid of merit, stands dismissed.

Announced
27.10.2025

*Office
13/11/2025*