


20.06.2022

Learned counsel for the appellant present.

Due to deficient record learned counsel for the appellant seeks adjournment. Adjourned. To come up for preliminary arguments on 22.07.2022 before S.B.


(Fareeha Paul)
Member (E)

25.01.2022

Clerk of counsel for the appellant present. Mian Muhammad
Adul AG along with Mr. Fayaz H.C for appellant's

Former requests for adjournment due to general strike of
the bar. Adjourned. To come up for reply/preliminary hearing on
24.03.2022 before S.B.


(Mian Muhammad)
Member(E)

24.03.2022

None present for the appellant.

Notice be issued to appellant and his counsel for the
next date. To come up for preliminary hearing on
~~14.04~~/2022 before S.B.


Chairman

14.04.2022

Appellant present through counsel.

She made a request for a short adjournment in order
to prepare the brief. Adjourned. To come up for preliminary
hearing on 20.06.2022 before S.B.



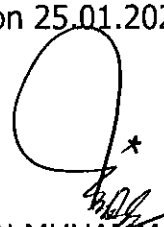

(Rozina Rehman)
Member (J)

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 7430 /2021


S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	20/09/2021	<p>The appeal of Mr. Shahid Khan resubmitted today by Roeeda Khan Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-	15.11.2021	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>15/11/21</u>.</p> <p style="text-align: right;"> CHAIRMAN</p> <p>Junior of learned counsel for the appellant present.</p> <p>Junior of learned counsel for the appellant requested for adjournment on the ground that senior counsel for the appellant is not available today due to some domestic engagement. Adjourned. To come up for preliminary hearing before the S.B on 25.01.2022.</p> <p style="text-align: right;"> (MIAN MUHAMMAD) MEMBER (E)</p>

The appeal of Mr. Shahid Khan, District Khyber presented today i.e. on 25.08.2021 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Annexures of the appeal may be attested
- 2- Check list is not attached with the appeal.
- ③- Annexures A & C of the appeal are illegible which may be replaced by legible/better one.


No. 1686 /S.T,

Dt. 26/08 /2021


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Roeeda Khan Adv., Pesh.

objection No 1 To 3
has been removed


13/9/2021

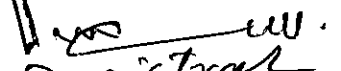
Annexure - C of the appeal is illegible
Therefore, the appeal in hand is returned
again to the counsel for the appellant
for removing the deficiency and
resubmission within 15 days.

no. 1814 /S.T

dt. 13/09/2021

objection has been fully
removed


20/9/2021


Registrar

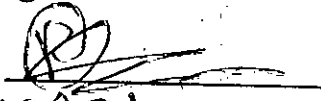
BEFORE THE HON'BLE SERVICE TRIBUNAL PESHAWAR

CHECK LIST

1.	Case title		
2.	Case is duly signed.	Yes	No
3.	The law under which the case is preferred has been mentioned.	Yes	No
4.	Approved file cover is used.	Yes	No
5.	Affidavit is duly attested and appended.	Yes	No
6.	Case and annexure are properly paged and numbered according to index.	Yes	No
7.	Copies of annexure are legible and attested. If not, then better copies duly attested have annexed.	Yes	No
8.	Certified copies of all requisite documents have been filed.	Yes	No
9.	Certificate specifying that no case on similar grounds was earlier submitted in this court, filed.	Yes	No
10.	Case is within time.	Yes	No
11.	The value for the purpose of court fee and jurisdiction has been mentioned in the relevant column.	Yes	No
12.	Court fee in shape of stamp papers affixed. For writ Rs. 500 , for other as required}	Yes	No
13.	Power of attorney is in proper form.	Yes	No
14.	Memo of addressed filed.	Yes	No
15.	List of books mentioned in the petition.	Yes	No
16.	The requisite number of spare copies-attached { Write petition- 3, Civil appeal(SB-2) Civil Revision (SB-1, DB-2)	Yes	No
17.	Case (Revision /appeal/petition etc) is filled on a prescribed form.	Yes	No
18.	Power of attorney is attested by jail authority (for jail prisoner only)	Yes	No

It is certified that formalities /documentations as required in column 2 to 18 above, have been fulfilled.

Name:- **Roeeda Khan**
 Advocate High Court
 Peshawar

Signature: - 

Dated: - 12/13/2021

FOR OFFICE USE ONLY

Case: - _____

Case received on _____

Complete in all respect: Yes/No, (If NO, the grounds) _____

Signature _____

(Reader)

Dated: - _____

Countersigned: - _____

(Deputy Registrar)

AG

BEFORE THE HON'BLE SERVICE TRIBUNAL
PESHAWAR

In Re S.A No. 7430 /2021

Shahid Khan

VERSUS

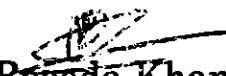
The Additional Chief Secretary New Merged Area Secretariat
Peshawar & Others

INDEX

S#	Description of Documents	Annexure	Pages
1.	Grounds of Petition.		1-6
2.	Affidavit		7
3.	Addresses of Parties		8
4.	Condation of delay application		9-10
5.	Copy of termination order	"A"	11-13
6.	Copy of Departmental appeal	"B"	14
7.	Copy of Judgment	"C"	15-18
8.	Copy of order	"D"	19
9.	Copy of judgment	"E"	20-22
10.	Wakalatnama		


APPELLANT

Through


Rceeda Khan
Advocate, High Court
Peshawar.

Dated: 25/08/2020

1

BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICES
TRIBUNAL PESHAWAR

In S.A _____/2021

Shahid Khan S/o Badsha Khan R/o R/o Wali Baba
Jamrud District Khyber.

-----Appellant

VERSUS

1. The Additional Chief Secretary New Merged Area Secretariat Peshawar.
2. Director Education new Merged Area Peshawar.
3. District Education Officer District Khyber.
4. Political Agent District Khyber.

-----Respondents

APPEAL U/S 4 OF THE KHYBER
PAKHTUNKHWA SERVICES TRIBUNAL
ACT -1974 AGAINST THE IMPUGNED
ORDER NO. 9471/80 DATED 31-12-2010
WHERE BY THE SERVICE OF THE
APPELLANT HAS BEEN TERMINATED
AGAINST WHICH THE APPELLANT
FILED THE DEPARTMENTAL APPEAL
WHICH HAS NOT BEEN DECIDED
WITHIN THE STATUTORY PERIOD OF 90
DAYS.

Prayer:-

ON ACCEPTANCE OF THIS SERVICE
APPEAL THE IMPUGNED ORDERS
DATED 31/12/2010 MAY KINDLY BE SET
ASIDE AND THE APPELLANT MAY
KINDLY BE REINSTATED ON HIS
SERVICE ALONGWITH ALL BACK
BENEFITS ANY OTHER REMEDY
WHICH THIS TRIBUNAL DEEMS FIT
MAY ALSO BE GRANTED IN FAVOR OF
THE APPELLANT.

(2)

Respectfully Sheweth.

1. That the appellant has been initially appointment as PTC PBS-7 on 2006 in the community bare school at District Khyber.
2. That the appellant has a applied for the same and appeared in the test and interview before the Departmental Selection Committee and duly qualified the same and after observing all the codal formalities and consequently the appellant was appointed as PTC teacher on 2006.
3. That after appointment the appellant performed his duty with full devotion and hard work and no complaint whatsoever has been made against the appellant.
4. That initially the appellant was appointed on project post, and after initial appointment on contract basis his contract was renewed till the promulgation of (N.W.F.P) now Khyber Pakthnkhwa Civil Servant (Amendment) Act, 2005 (N.W.F.P act No. IX of 2005) and (N.W.F.P) now Khyber Pakhtunkhwa, employees (Regularization of Service) Act, 2009 (N.W.F.P) Act.No. XVI of 2009) whereby all contractual & adhoc employee have been

3

regularized by operation of law due to which the service of the appellant has also be regularize.

5. That the appellant performed his duty on the same sanctioned post till November 2010 later on due to Taliban situation in the area the service of the appellant was terminated due to closure of community school by the competent authority on 31.12.2010. (Copy of termination order is attached as annexure "A").

6. That the appellant submitted departmental appeal against the order dated 31.12.2010 which has not been decided by the respondent department. (Copy of departmental appeal is attached as annexure "B").

7. That feeling aggrieved the Appellant prefers the instant service appeal before this Hon'ble Tribunal on the following grounds inter alia:-

GROUNDS:-

A. That the impugned order dated 30.12.2010 is void abinito because it has been passed without fulfilling the codal formalities.

4)

- B. That the impugned order is also void because it has been passed from the retrospective effect.
- C. That no charge sheet no statement of allegation and no show cause notice has been issued against the appellant by the respondent department.
- D. That the appellant has not been treated in accordance with law and hence his rights secured and guaranteed under the Constitution of 1973 were badly violated.
- E. That no final show cause notice has been issued to the appellant by the Respondent department.
- F. That no opportunity of defense and personal hearing has been provided to the appellant.
- G. That no departmental or regular inquiry has been conducted by the Respondent department.
- H. That similar nature service appeal No.1371/2017 has been accepted by this Hon'ble Tribunal on 26.03.2019. (Copy of judgment is attached as annexure "C").

5


I. That some of other colleagues of the appellant has also been adjusted on his post through departmentally so the respondent department has been committed discrimination. (Copy of order is attached as annexure "D").

J. That according the judgment of the Supreme Court reported on 2009 SCMR Page-1 If a Tribunal or the supreme Court decides a point of law relating to the terms and conditions of a civil servant who litigated, and there where other civil servants, who may not have taken any legal proceedings, in such a case, the dictates of justice and rule of good governance demand that the benefit of the said decision be extended to other civil servants also, who may, not be parties to that litigation, instead of compelling them to approach the Tribunal or any other legal forum ---- All citizen are equal before law and entitled to equal protection of law as per Art.25 of the Constitution. (Copy of judgment is attached as annexure "E").

K. That any other ground not raised here may graciously be allowed to be raised at the time full of arguments on the instant service appeal.

(4)

It is therefore, most humbly prayed that on acceptance of this Service Appeal the impugned orders dated 31/12/2010 may kindly be set aside and the appellant may kindly be reinstated on his service alongwith all back benefits any other remedy which this tribunal deems fit may also be granted in favor of the appellant.



APPELLANT

Through



Roeeda Khan

Advocate, High Court

Peshawar.

Dated: 24/08/2021

NOTE:-

As per information furnished by my client, no such like appeal for the same appellant, upon the same subject matter has earlier been filed, prior to the instant one, before this Hon'ble Tribunal.



Advocate.

(7)

BEFORE THE HON'BLE SERVICE TRIBUNAL
PESHAWAR

In Re S.A No. _____/2021

Shahid Khan

VERSUS

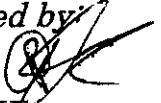
The Additional Chief Secretary New Merged Area Secretariat
Peshawar & Others

AFFIDAVIT

I, Shahid Khan S/o Badsha Khan R/o R/o Wali Baba
Jamrud District Khyber, do hereby solemnly affirm and declare
that all the contents of the **instant appeal** are true and correct to
the best of my knowledge and belief and nothing has been
concealed or withheld from this Hon'ble Court.


DEPONENT

Identified by:


Roeda Khan
Advocate High Court
Peshawar.

8

BEFORE THE HON'BLE SERVICE TRIBUNAL
PESHAWAR

In Re S.A No. _____/2021

Shahid Khan

VERSUS

The Additional Chief Secretary New Merged Area Secretariat
Peshawar & Others

ADDRESSES OF PARTIES

PETITIONER.

Shahid Khan S/o Badsha Khan R/o R/o Wali Baba
Jamrud District Khyber.

ADDRESSES OF RESPONDENTS

1. The Additional Chief Secretary New Merged Area Secretariat Peshawar.
2. Director Education new Merged Area Peshawar.
3. District Education Officer District Khyber.
4. Political Agent District Khyber.

APPELLANT

Through

Roeeda Khan

Advocate, High Court
Peshawar.

Dated: 24/08/2021

97

BEFORE THE HON'BLE SERVICE TRIBUNAL
PESHAWAR

In Re S.A No. _____/2021

Shahid Khan

VERSUS

The Additional Chief Secretary New Merged Area
Secretariat Peshawar & Others

APPLICATION FOR CONDONATION OF DELAY (IF ANY)

Respectfully Sheweth,

Petitioner submits as under:

That the above mentioned appeal is filing before this Hon'ble Tribunal in which no date is fixed for hearing so far.

Grounds:

- A..That the impugned order is void and illegal and no limitation run against the void orders because the impugned order has been passed without fulfilling the codal formalities and has also been passed from retrospective effect.
- B. That there is no illegality on part of the appellant and the schools has been closed by the competent authority due to Taliban situation in the area.
- C. That there are number of precedents of the Supreme Court of Pakistan which provides that

18

the cases shall be decided on merits rather than technicalities.

It is, therefore, requested that the limitation period (if any) may kindly be condone in the interest of justice.

APPELLANT

Through



Roeda Khan
Advocate, High Court
Peshawar.

Dated: 25/08/2020

AGENCY DELEGATION ORDER FOR AGENCIES AT FARRUKH

TERMINATION

Reference notice for termination already issued vide agency Delegation Order for Farrukh dated 22.12.2010 under Education Officer, FATA. Reference letter No. 88-8-27 dated 15.12.2010, the services of the following P.T.C. staff services (Male & Female) working in Community Schools at Faisal Abad are hereby terminated with effect from 12.2010, after noon.

Name of P.T.C.	Designation	Agency	Location	Remarks
1	BCS Zahir Zaid Popdora	Hamir Khan	Hamir Khan	
2	BCS Haji Khan Zaid Popdora	Hamir Khan	Hamir Khan	
3	BCS Zaid Zaid Zaid Zaid	Hamir Khan	Hamir Khan	
4	BCS Zaid Zaid Zaid Zaid	Hamir Khan	Hamir Khan	
5	BCS Zaid Zaid Zaid Zaid	Hamir Khan	Hamir Khan	
6	BCS Zaid Zaid Zaid Zaid	Hamir Khan	Hamir Khan	
7	BCS Zaid Zaid Zaid Zaid	Hamir Khan	Hamir Khan	
8	BCS Zaid Zaid Zaid Zaid	Hamir Khan	Hamir Khan	
9	BCS Zaid Zaid Zaid Zaid	Hamir Khan	Hamir Khan	
10	BCS Zaid Zaid Zaid Zaid	Hamir Khan	Hamir Khan	
11	BCS Zaid Zaid Zaid Zaid	Hamir Khan	Hamir Khan	
12	BCS Zaid Zaid Zaid Zaid	Hamir Khan	Hamir Khan	
13	BCS Zaid Zaid Zaid Zaid	Hamir Khan	Hamir Khan	
14	BCS Zaid Zaid Zaid Zaid	Hamir Khan	Hamir Khan	
15	BCS Zaid Zaid Zaid Zaid	Hamir Khan	Hamir Khan	
16	BCS Zaid Zaid Zaid Zaid	Hamir Khan	Hamir Khan	
17	BCS Zaid Zaid Zaid Zaid	Hamir Khan	Hamir Khan	
18	BCS Zaid Zaid Zaid Zaid	Hamir Khan	Hamir Khan	
19	BCS Zaid Zaid Zaid Zaid	Hamir Khan	Hamir Khan	
20	BCS Zaid Zaid Zaid Zaid	Hamir Khan	Hamir Khan	
21	BCS Zaid Zaid Zaid Zaid	Hamir Khan	Hamir Khan	
22	BCS Zaid Zaid Zaid Zaid	Hamir Khan	Hamir Khan	
23	BCS Zaid Zaid Zaid Zaid	Hamir Khan	Hamir Khan	
24	BCS Zaid Zaid Zaid Zaid	Hamir Khan	Hamir Khan	
25	BCS Zaid Zaid Zaid Zaid	Hamir Khan	Hamir Khan	
26	BCS Zaid Zaid Zaid Zaid	Hamir Khan	Hamir Khan	
27	BCS Zaid Zaid Zaid Zaid	Hamir Khan	Hamir Khan	
28	BCS Zaid Zaid Zaid Zaid	Hamir Khan	Hamir Khan	

111

29	BCS Khalid Akber Khulsi Khula Tirah	Muhibullah	Khail Muhammad	Khalid Akber
30	BCS Molvi Juma Gul Dall Tirah	Muht Kashif	Mosam Khan	Sarmast
31	BCS Aman Baz Zarnanza Tirah	Shad Gul	Fazle Rabbi Khan	Shoukat Khan
32	BCS Nawaz Gul Narwanow Tirah	Azeem Ullah	Gul Asghar	Muzamil Shah
33	BCS Sher Hussain Sra Wela Tirah	Zubair Khan	Sadiq Ahmed	Noor Said
34	BCS Yahid Ahmed Dweai Khula Tirah	Baitullah	Muht: Sadiq	Muhammad Wali
35	BCS Haji Chinar Gul Saqi Tirah	Ayman Gul	Rehman Gul	Sardar Wali
36	BCS Hazrat Mir Sra Shaga Tirah	Abdul Jilil	Jamab Khan	Showrang
37	BCS Khan Almar Mehraban Tirah	Wazir Muhammad	Naseem Khan	Niamat Khan
38	BCS Naqib Shah Toor Sapper	Khail Gul	Umar Khan	Rahim Gul
39	BCS Mirmat Khan Soor Kass Tirah	Sher Zati	Abdul Qadar	Nasrat Khan
40	BCS Shinak Toor Dara Tirah	Siraj Khan	Shahid Khan	Iraq Khan
41	BCS Allah Baz Toor Dara Tirah	Noorat Khan	Muht Jan	Abdul Wahab
42	BCS Dr Nasrat Tangoo Tirah	Kaleem Ullah	Nafis Ahmed	Hazrat Ullah
43	BCS Nabut Khan Toor Sapper Tirah	Ishtia Gul	Faridullah	Ghairat Shah
44	BCS Haji Khalil Toor Dara Khula Tirah	Hazrat Ullah	Wakeel Khan	Abdur Rouf
45	BCS Sarfawaz Buramoi Tirah	Ghazi Khan	Zeenat Khan	Jehangir Khan
46	BCS Shah Wali Kili Dadamat Tirah	Mamoor Shah	Nawab Shah	Lal Muhammad
47	BCS Gul Mohsain Mulagori Jamrud	Sagib Khan	Saimad Mir	Gul Mohsin
48	BCS Bategh Shah Kachkoal Tirah	Naveed Ahmed	Fazle Amin	Ashraf Khan
49	BCS Muhammad Jan Pathi Tirah	Gulbaatun	Wakil Khan	Azmat Khan
50	BCS Farman Ali Ghundi Jamrud	Shafiqatullah	Irfan Ullah	Faizan Ali
51	BCS Asmat Khan Jamrud	Istahar	Inzar Hussain	Haseeb Ullah
52	GCS Sahib Shah Sra Wela Tirah	Vacant	Vacant	Muhammad Tshuq
53	GCS Nasratullah Tangoo Tirah	Farzana	Vacant	Haroon Rashid
54	GCS Wazir Akber Chora Jamrud	Safia Rouf	Vacant	Hussain Akber
55	GCS Khista Gul Chora Jamrud	Vacant	Shakila	Roja Gul
56	GCS Saboor Wali Mulagori Jamrud	Alia Begum	Nabeela Kousar	Shahbaz Mir
57	GCS Abdur Rehman Mulagori	Night	Naz Gul	Ibrar Ahmed
58	GCS Ijaz Hussain Shah Kass	Fathima Habib	Fakhrun Nisa	Wali Jan
59	GCS Taj Mehmood TD Bazar	Aalia	Sacida Naz	Sultan Muhammad
60	GCS Sub: Shanib Shah Kass	Samina Naz	Saima Sultan	Momeen Khan
61	GCS Kappan Tangai Bazaar Jamrud	Farzana Jabeen	Nighar Sultana	Shal Muhammad
62	GCS Shah Alam Mulagori Jamrud	Zubida	Hashmat Bibi	Muhammad Baz
63	GCS Sahib Zada Shah Kass Jamrud	Neila	Zeenat	Naseeb Gul

13

64	GCS Zain Khan Nai Abadi Jamrud	Zainab	Safia	Sawar Khan
65	GCS Ahmed Khan Lala Chhina Jamrud	Shakira	Vacant	Nisar Ahmad
66	GCS Saadqin Sur Kamar Jamrud GCS Shabir Ahmed Mania Vhel Jamrud	Bilqees	Sajida	Sedageen
67	GCS Hayat Shah Lowara Abina Jamrud	Nazli	Khatira	Mohib Gul
68	GCS Abdul Karim Jamal Kbel Jamrud	Shabana	Naveeda Robi	Banat Khan Mushtaq Ahmad
69	GCS Dunya Gul Jahda Jamrud GCS Yaqoob Shah Ki Rekabat Jamrud	Vacant	Nighat	Muhammad Irshad
70	GCS Gul Hussain Mulagori Jamrud	Sajeela	Kalsoom	Ibrahim Khan
71	GCS Tariq Killi New Abadi Jamrud	Wagma	Vacant	Shah Wazir
72	GCS Niaz Wali Gudar Jamrud GCS Tekhadar Ali Masjid Jamrud	Seema Gul	Tajilli Raza	Asmat Khan
73	GCS Anwar Khan Kachkool Tirah	Sudaf Mulla	Lubna	Niaz Wali
74	GCS Isa Khan Killi Chora Jamrud	Tammana	Haseeba	Hussain
75	GCS Anwar Khan Kachkool Tirah	Paiza	Satma Noureen	Sazmat Khan
76	GCS Isa Khan Killi Chora Jamrud	Mehnaz	Shahnaz	Raza Khan

Note:-

1. Necessary entry to this effect should be made in their service book.

(HASHIM KHAN)
AGENCY EDUCATION OFFICER
KHYBER AGENCY AT JAMRUD

Encls: No. 9471-80 Communal School file Dated 21/12, 2010

Copy forwarded to the:-

01. Director Education FATA wr to his No. cited above.
02. Political Agent Khyber Agency at Peshawar
03. Agency Accounts Officer Khyber at Jamrud
04. Assistant Political Agent Tehsil Jamrud
05. AAEO (Male & Female) Jamrud Tehsil local office.
06. Superintendent/Accountant local office.
- 07-77 Officials concerned.

AGENCY EDUCATION OFFICER
KHYBER AGENCY AT JAMRUD

خدمت "B" جناب ڈائریکٹر ایجوکیشن فاٹا ڈسٹرکٹ

1/4

جیبر اجنسی ڈیپارٹمنٹل اپیل برائے بحالی

جناب عالی!

① یہ کہ اپیلونٹ 2003 میں

کمیشننگ سکول DTC میں بھرتی

لوائفا .

② یہ کہ سال 2015 میں علاقے

طالبان کی وجہ سے سارا

کمیشننگ سکول بند کئے گئے .

یہ کہ جس کی وجہ اپیلونٹ

کو سروس سے Texminite کیا گیا .

ایڈ اسٹڈ عالج . کہ اپیلونٹ کو

لوکریہ پر بحال کرنے کا حکم

صادر فرمائی جائے .

شاہد خان

اپیلونٹ :- شاہد خان

جنورہ 2011

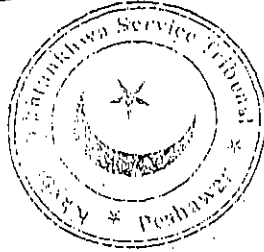
(15)

(38)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

SERVICE APPEAL NO. 1371/2017

Date of institution 12.12.2017
Date of judgment 26.03.2019



Mr. Rehman,
PT Male Community School Zawkal,
Kurram Agency.

(Appellant)

VERSUS

Director Education FATA Secretariat, Warsak Road Peshawar.
Agency Education Officer, Kurram Agency, Para Chinar.
Additional Agency Education Officer, Lower & Central Kurram, Sadda.
(Respondents)

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 27.08.2016 WHEREBY THE SERVICES OF THE APPELLANT WAS DISPENSED WITH W.E.F. 1ST JULY 2016 AGAINST WHICH HE FILED DEPARTMENTAL APPEAL ON 18.08.2016 BEFORE THE RESPONDENT NO. 1 WHICH WAS REJECTED BY THE APPELLATE AUTHORITY ON 27.09.2017 WHICH WAS COMMUNICATED TO APPELLANT ON 28.11.2017 BY THE RESPONDENT NO. 3 VIA LETTER NO. 2925/Edu.

Mr. Khush Dil Khan, Advocate
Mr. Ziaullah, Deputy District Attorney

For appellant.
For respondents.

MR. MUHAMMAD AMIN KHAN KUNDI
MR. HUSSAIN SHAH

MEMBER (JUDICIAL)
MEMBER (EXECUTIVE)

JUDGMENT

MUHAMMAD AMIN KHAN KUNDI, MEMBER: Counsel for the appellant present. Mr. Ziaullah, Deputy District Attorney along with Mr. Daud Jan, Senior Scale Stenographer for the respondents present. Arguments heard and award perused.

ATTESTED

Secretary
Khyber Pakhtunkhwa Service Tribunal
Peshawar

s
rc
to
why
after
sonal

Brief facts of the case as per present service appeal are that the appellant was serving in Education Department as Primary School Teacher in Male Community School. His service was dispensed with w.c.f 01st July 2016 due to lack of prescribed qualification i.e (Untrained PST) vide order dated 05.08.2016 by the Additional Agency Education Officer Lower and Central Kurram Sadda. The appellant filed departmental appeal before Director Education FATA on 18.08.2016 but the same was rejected vide order dated 27.09.2017 and communicated to the appellant vide letter No. 2925/Edu dated 28.11.2017 hence, the present service appeal on 12.12.2017.

3. Respondents were summoned who contested the appeal by filing written reply/comments.

4. Learned counsel for the appellant contended that the appellant was appointed as Primary School Teacher vide order dated 27.06.2013 by the competent authority but his service was dispensed with on the ground of lack of prescribed professional qualification i.e PST Certificate. It was further contended that the appellant was having higher qualification of M.A Political Science and was also having B.Ed Degree but the respondent-department has ignored the said qualification of the appellant and his service was dispensed with without any show-cause notice and affording opportunity of hearing therefore, the impugned order is illegal and liable to be set-aside. It was further contended that the appellant was also granted PST Certificate on 20.01.2017 therefore, the appellant is fully qualified.

5. On the other hand, learned Deputy District Attorney for the respondents opposed the contention of learned counsel for the appellant and contended that the appellant was appointed as Primary School Teacher vide order dated 27.06.2013 but later on his service was dispensed by the competent authority

17

40

with effect from 1st July 2016 due to lack of prescribed professional qualification on the basis of letter No. 9822-35 dated 02.08.2016 as well as verbal direction and S S D notification No. SO (E)/SSD/CSTR/99-108. It was further contended that since the PST Certificate was necessary but the appellant was not having the PST Certificate at the time of his appointment therefore, the competent authority has rightly dispensed with his service and prayed for dismissal of appeal.

6 Perusal of the record reveals that the appellant was appointed as Primary School Teacher vide order dated 27.06.2013. The record further reveals that the appellant has having M.A Political Science Degree. The record further reveals that the appellant was also having B.Ed Degree issued on 26.12.2013. Meaning thereby that at the time of impugned order dated 05.08.2016, the appellant was having B.Ed Degree. The record also reveals that PST Certificate has also been issued to the appellant on 20.01.2017 and the appellant was having more than three years service at the time of impugned order. It is also well settled law that if any adverse order is passed against anyone than he should be given opportunity of hearing, show-cause notice as to why such adverse order may not be passed against him on such and such grounds. Record reveals that the respondent-department has dispensed the service of the appellant without any show-cause notice or giving opportunity of personal hearing therefore, the respondent-department has violated the principle of natural justice which has rendered the impugned order illegal and liable to be set-aside. As such, we partially accept the appeal, set-aside the impugned order with the direction to the respondent-department to issue show-cause notice to the appellant that why his service may not be dispensed with on such and such grounds and after replying the show cause notice and giving opportunity of personal

Handwritten notes in the left margin.

ATTACHED



18

W

earing, pass order deem appropriate to the respondents. However, the reinstatement of the appellant will be subject to the outcome of decision of show-cause notice. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
26.03.2019

Muhammad Amin Khan Kundi
(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

Hussain Shah
(HUSSAIN SHAH)
MEMBER

Certified to be true copy

[Signature]
Secretary
Reserve

Number of Pages	1650
Copying Fee	10/-
Stamp	10/-
Date of Issue	17-4-18
Date of Receipt	17-4-18

AD

"D" (19)

OFFICE OF THE AGENCY EDUCATION OFFICER KHYBER AGENCY AT JAMRUD.

SERVICES REGULARIZATION /ADJUSTMENT ORDER

Consequent upon Notification No. SO (E)/SSD/CSTR-99-108/ dated 11/5/2012 issued by Secretary Social Sector Department FATA Secretariat Peshawar and subsequent guidance received from Directorate of Education FATA vide No.10380 dated 02/09/2013, the Services of the following Local (Male) Communal School Teachers of Tehsil Jamrud are hereby Regularized/Adjusted against regular vacant PST posts. in the Schools noted against their names from, Tehsil-Wise merit list, purely on temporary basis in BPS-07(5800-320-15400) plus usual allowances as admissible under the rules w.e.f 01/01/2014 in the interest of public service.

S.No	Name	Father Name	Name of Community School	Posting at Regular School	Remarks
1	Sher Zali	Khan Bad Shah	BCS Haji Saidak Wochey	GPS Mir Ahmad Shah Killi	Vacant
2	Saleh Jan	khaista Mir	BCS Niqab Shah Tirah	GPS Lashra Jamrud	Vacant
3	Wazir Muhammad	Shaida Muhammad	BCS Abdul Qadus Tirah	GPS Mewa Khan Tirah	Vacant
4	Mushtaquallah	Abdul Qahar	BCS Haji Gui Jamal Tirah	GPS Jawar Mena-Mulagori	Vacant
5	Muhammad Wakeel	Abdul Jalil	-do-	GPS Kambela Mulagori	Vacant

TERMS/CONDITIONS.

- 1 The appointments of the candidates are made purely on temporary basis.
- 2 They will not be entitled to get pension gratuity benefits, however G.P.Fund will be deducted as per rules.
- 3 Charge report should be submitted to all concerned.
- 4 All kinds of documents would be verified from the concerned Boards/University before the drawal of their salaries.
- 5 Health and Age certificate should be produced to this office to be obtained from the Agency Surgeon Khyber Agency.
- 6 Their age should be according to the Govt. policy.
- 7 If they failed to report their arrival within 15-days of the issuance of this Order, their appointment order will be automatically considered as cancelled.

(ATIQU-RAHMAN)
AGENCY EDUCATION OFFICER
KHYBER AGENCY AT JAMRUD

Endst.No. 10077-83 /Community

Dated 10/12 /2014

Copy of the above is forwarded to the:-

- 1 Director Education (FATA) at Peshawar.
- 2 Political Agent Khyber Agency at Peshawar.
- 3 Agency Accounts Officer Khyber Agency at Jamrud.
- 4 AAEO (Male) concerned.
- 5 Superintendent Local Office
- 6 Accountant/Pay Clerk concerned.
- 7 Official concerned.

AGENCY EDUCATION OFFICER
KHYBER AGENCY AT JAMRUD

2009 S C M R 1

[Supreme Court of Pakistan]

Present: Abdul Hameed Dogar, C.J., Ijaz-ul-Hassan Khan, Muhammad Qaim Jan Khan
and Ch. Ejaz Yousaf, JJ

GOVERNMENT OF PUNJAB, through Secretary Education, Civil Secretariat, Lahore and
others----Petitioners

Versus

SAMEENA PARVEEN and others----Respondents

Criminal Petitions Nos.71-L and 72-L, Civil Petitions 215-L, 216-L, 217-L, 218-L, 224-L to 236-L of
2006, decided on 29th April; 2008.

(On appeal from the judgment, dated 29-1-2008 of the Lahore High Court, Lahore passed in Cr.O.P.
No.370/W and 561/W of 2007, Writ Petitions Nos.11525, 11263, 11516, 11662, 11663, 11766, 11881,
11835, 12136 and 12185 of 2007, 86, 123, 274, 345, 599, 643 and 11619 of 2008).

Civil service---

---Administration of justice---If a Tribunal or the Supreme Court decides a point of law relating to
the terms and conditions of a civil servant who litigated, and there were other civil servants, who may
not have taken any legal proceedings. in such a case, the dictates of justice and rule of good
governance demand that the benefit of the said decision be extended to other civil servants also, who
may, not be parties to that litigation, instead of compelling them to approach the Tribunal or any other
legal forum---All citizens are equal before law and entitled to equal protection of law as per Art.25 of the
Constitution.-

Hameed Akhtar Niazi v. The Secretary, Establishment Division, Government of Pakistan and others 1996
SCMR 1185 and Tara Chand and others v. Karachi Water and Sewerage Board, Karachi and others 2005
SCMR 499 fol.

Mst. Muqqadas Akhtar and another v. Province of Punjab through Secretary Education Department,
Government of Punjab and another 2000 PLC (C.S.) 867 ref.

Ms. Afshan Ghazanfar, A.A.-G., Punjab and Rana Abdul Qayyum, D.S. (Education) Punjab for
Petitioners.

S.M. Tayyab, Senior Advocate Supreme Court for Respondents (in Cr.Ps. Nos.71-L, 72-L and C.P.224-L
of 2008).

Nemo for other Respondents.

ORDER

ABDUL HAMEED DOGAR, C.J.---Through this order we intend to dispose of above captioned
petitions filed against common judgment, dated 29-1-2008 passed by learned Judge in Chambers of
Lahore High Court, Lahore whereby Cr.O.P. No.370/W and 561/W of 2007, Writ Petitions Nos.11525,
11263, 11516, 11662, 11663, 11766, 11881, 11835, 12136 and 12185 of 2007, 86, 123, 274, 345, 599, 643
and 11619 of 2008 filed by respondents were allowed and the impugned orders passed by

tioner/authority were set aside.

Briefly, stated facts giving rise to the filing of instant petitions are that respondents were appointed as PTC Teachers during the year 1995/1996 after completion of all legal requirements and they joined their respective place of posting. After sometime, their appointments were cancelled being bogus vide order No.277/E-1, dated 3-4-1998. This order was assailed before learned Lahore High Court, Lahore and same was declared to be without lawful authority in the case reported as Mst. Muqqadas Akhtar and another v. Province of Punjab through Secretary Education Department, Government of Punjab and another 2000 PLC (C.S.) 867. The relevant paragraph is reproduced as under:--

"Consequently the petitioners are declared to be in service and the action of the Headmasters/Incharge of the Schools stopping the petitioners from performance of their duties as PTC Teachers on the basis of the above said impugned order, is declared to be without lawful authority. It is, however, clarified that the department is at liberty to proceed against petitioners, if so desired, on individual basis under the relevant law and under the Punjab Civil Servant (Efficiency and Discipline) Rules, 1975."

In view of above judgment, the respondents were absolved of the charges of bogus appointments. But later on once again the services of respondents were terminated vide order, dated 3-8-2005, which order was challenged before learned Lahore High Court, Lahore through Writ Petition No.16864 of 2005. The said writ petition was allowed vide judgment, dated 11-12-2006 and the impugned order, was declared as illegal and without lawful authority. Similarly, one of the teachers namely Mst. Naseem Akhtar assailed the order, dated 3-8-2005 before Punjab Service Tribunal, Lahore through Appeal No.903 of 2006 which was also allowed vide judgment, dated 4-9-2006. The said judgment was maintained by this Court in Civil Petition No.1960-L of 2006 vide judgment, dated 2-11-2006. On 26-9-2007 once again the services of respondents were terminated. Feeling aggrieved they filed above mentioned petitions before the learned Lahore High Court, Lahore which were allowed vide impugned judgment as stated above.

3. It is mainly contended by learned A.A.-G. Punjab appearing on behalf of petitioners that the jurisdiction of the learned High Court is barred under Article 212 of the Constitution of Islamic Republic of Pakistan, 1973 in matters involving determination of terms and conditions of civil servants. She further contended that the appointments of the respondents were bogus and fake as they were never selected by the competent authority, therefore the orders of dismissal passed by departmental authority were in accordance with law, which did not call for any interference by this Court.

4. On the other hand, Mr. S. M. Tayyub, learned Senior Advocate Supreme Court appearing on behalf of some of the respondents supported the impugned judgment and contended that appointments of respondents had taken place in accordance with rules and prescribed procedure. They submitted their applications in pursuance of advertisement of the posts of PTC Teachers. They passed the required test and were appointed by the competent authority. According to him, the respondents were in service for about 9-10 years and during this period no objection was raised, and subsequently on vague allegations they were dismissed from service. He further contended that cases of respondents were at par with Mst. Naseem Akhtar which was decided by this Court in Civil Petition No. 1960-L of 2006 vide judgment, dated 2-11-2006.



5. We have considered the arguments of both the parties and have gone through the record and proceedings of the case in minute particulars. The matter has already been decided by this Court in the case of Mst. Naseem Akhtar (supra), and it has been held that the appointment orders of the respondents as PTC Teachers were genuine. It was held by this Court in the case of Hameed Akhtar Niazi v. The Secretary, Establishment Division, Government of Pakistan and others 1996 SCMR 1185 that if a Tribunal or this Court decides a point of law relating to the terms and conditions of a civil servant who litigated, and there were other civil servants, who may not have taken any legal proceedings, in such a case, the dictates of justice and rule of good governance demand that the benefit of the said decision be extended to other civil servants also, who may not be parties to that litigation instead of compelling them to approach the Tribunal or any other legal forum. This view

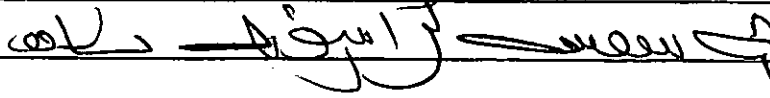
reiterated by this Court in the case of Tara Chand and others v. Karachi Water and Sewerage Board; Karachi and others 2005 SCMR 499 and it was held that according to Article 25 of the Constitution of Islamic Republic of Pakistan, 1973 all citizens are equal before law and entitled to equal protection of law.


6. In this view of the matter, we are of the view that no ground for interference in the impugned judgment is made out. Accordingly, the petitions being devoid of force are dismissed and leave to appeal refused.

M.B.A./G-13/SC

Petitions dismissed



50	71951			
ایڈویکیٹ: 				
بار کونسل ایسوسی ایشن نمبر:				
رابطہ نمبر: 033309265907		پشاور بار ایسوسی ایشن، خیبر پختونخواہ		

بعدالت جناب: 


مخائب: اسلوبک	دعویٰ:
	علت نمبر:
	مورخہ:
	جرم:
	تھانہ:


باعت تحریر آئکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی وجواب دہی کاروائی متعلقہ

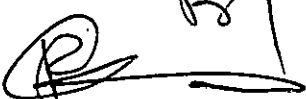
آن مقام  روایہ  کو وکیل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ کرنے و تقریر ثالث و فیصلہ بر عطف دینے اجواب دعویٰ اقبال دعویٰ اور درخواست ازہم قسم کی تصدیق زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈٹری سٹرفہ یا اپیل کے بعد اگر کسی اور منسوخی، نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کاروائی کے لئے تقرر کا اختیار ہوگا اور صاحب مقرر شدہ کو وہی جملہ مذکورہ بالا اختیارات حاصل ہوں گے اور اس کی ساختہ پر واضح منظر و قبول ہوگا دوران مقدمہ میں جو جو چیزیں ہر جانہ التوائے مقدمہ کے سبب سے ہوگی کرنی تاراج ہونگی مقام دورہ یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں بلکہ وکالت نامہ لکھ دیا تاکہ سند رہے

المقوم:

المقدم: 

المقوم: 

نوٹ: اس وکالت نامہ کی فونو کالی ناقابل قبول ہوگی۔

ACCEPTED


30
مقام

"A"

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.
JUDICIAL COMPLEX (OLD), KHYBER ROAD,
PESHAWAR. S.B

No.

APPEAL No. 7430 of 20 21

Shahid Khan

Appellant/Petitioner

Versus

The Additional chief Secy New Merged Area Pesh.
RESPONDENT(S)

Notice to Appellant/Petitioner Shahid Khan s/o Badsha Khan
R/o wali Baba Jamrud Distt Khyber

Take notice that your appeal has been fixed for Preliminary hearing, replication, affidavit/counter affidavit/record/arguments/order before this Tribunal on 14/4/2022 at 9:00 AM

You may, therefore, appear before the Tribunal on the said date and at the said place either personally or through an advocate for presentation of your case, failing which your appeal shall be liable to be dismissed in default.

M. R. J.
Registrar

Khyber Pakhtunkhwa Service Tribunal,
Peshawar.