
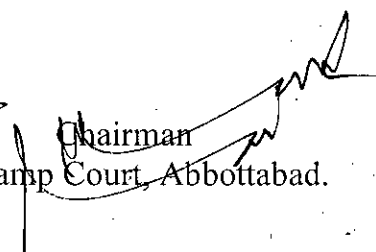


19.03.2018

Counsel for the appellant and Mr. Usman Ghani, District Attorney alongwith Muhammad Tausif, ADO for the respondents present. Arguments heard and record perused.

This appeal is accepted as per our detailed judgment of today, in connected service appeal No. 479/2014 entitled "Jamshaid Khan Vs. Director, E&SE, Peshawar and others". Parties are left to bear their own costs. File be consigned to the record room.

 Member


Chairman
Camp Court, Abbottabad.

ANNOUNCED
19.03.2018

19.04.2017

Counsel for the appellant and Mr. Hamid Mansoor, Assistant alongwith Mr. Muhammad Bilal, Government Pleader for the respondents present. Rejoinder submitted. Due to non-availability of D.B arguments could not be heard. To come up for final hearing before the D.B on 17.10.2017 at camp court, Abbottabad.



Chairman
Camp court, A/Abad


17.10.2017

Counsel for the appellant and Mr. Muhammad Bilal, Deputy District Attorney alongwith Hamid Mansoor, Junior Clerk for the respondents present. Arguments partly heard. Representative of the Education Department is directed to provide the original application of the appellant alongwith all relevant documents. To come up for further arguments before this D.B on 18.01.2017 at camp court, Abbottabad.


Member
Chairman
Camp Court, A/Abad.

18.01.2018

Counsel for the appellant and Mr. Muhammad Bilal, DDA alongwith Mr. Muhammad Tausif, ADO for respondents present. Representative of the department has not brought the record as per order sheet dated 17.10.2017. Seeks Adjournment. Last opportunity granted. Adjourned. To come up for record and arguments on 19.03.2018 before D.B at camp court Abbottabad.


Member
Chairman
Camp court, A/Abad.

17.11.2015

None present for appellant. Mr. Shafiq-ur-Rehman, ADO alongwith Mr. Muhammad Siddique, Sr.G.P for respondents present. Written reply submitted by respondents No.1 to 3 while respondents No. 4 & 5 failed to submit the same despite last opportunity. No further opportunities are extended to the said respondents. The appeal is assigned to D.B for rejoinder and final hearing for 17.5.2016 at Camp Court A/Abad.

17.05.2016

None for the appellant and Mr. Zahid ^{Signature} ADO alongwith ADO alongwith Mr. Muhammad Siddique Sr.GP for respondents present. Learned counsel for the appellant intends to place certain documents on record. Seeks adjournment. Learned counsel for the appellant may apply for placing documents on record within a fortnight in office with a copy in advance to Sr.GP. To come up for reply/arguments on application before D.B on 22.11.2016 at camp court, Abbottabad.



Member



Chairman
Camp court, A/Abad,

22.11.2016

Counsel for the appellant and Mr. Muhammad Usman, Senior Clerk alongwith Mst. Bushra Bibi, Government Pleader for respondents present. The Bench is incomplete. Counsel for the appellant submitted application for placing on file certain documents. Copy supplied to learned Government Pleader. To come up for arguments on application as well as final hearing before D.B on 19.04.2017 at camp court, Abbottabad.

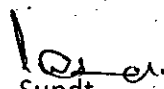


Chairman
Camp Court, A/Abad

4 20.5.2015 None present for appellant. Mr. Abdullah, EDO Torghar alongwith Mr. Muhammad Tahir Aurangzeb, G.P for respondents present. Requested for adjournment. To come up for written reply/ comments on 20.7.2015 at camp court A/Abad.


Chairman
Camp Court A/Abad

20.07.2015 Since the 20th July 2015 has been declared as a public holiday on account of Eid-ul-Fiter. Therefore case is adjourned to 14.09.2015 for submission of written reply at Camp Court Abbottabad.


Supdt.

14.9.2015 None present for appellant. Mr. Shafiq-ur-Rehman, ADO alongwith Mr. Muhammad Tahir Aurangzeb, G.P for respondents present. Written reply not submitted. Requested for adjournment. Last opportunity granted. To come up for written reply/comments on 17.11.2015 before S.B at Camp Court A/Abad.


Chairman
Camp Court A/Abad



3. 16.5.2015


Counsel for the appellant present. Learned counsel for the appellant argued that the appellant was initially employed in Police Department in BPS-5 and, after obtaining NOC, he was employed in Education Department in BPS-7 and that the appellant is now serving in Education Department in BPS-12. That the respondents have denied to count previous service of the appellant rendered in Police Department towards the service benefits. That the appellant preferred service appeal which was converted into a departmental appeal by the Tribunal vide judgment dated 13.11.2013. That the departmental appeal was not responded within the statutory period and hence the present service appeal on 7.4.2014.

Appellant Deposited
Security & Process Fee



That the appellant is entitled to service benefits rendered by him in the Police Department and that the previous service is countable towards the financial benefits accrued to the appellant during the course of service.



Points urged need consideration. Admit. Subject to deposit of security & process fee within 10 days, notices be issued to the respondents for written reply for 20.5.2015 before S.B. at camp court A/Abad.


Chairman
Camp Court A/Abad

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 481/2014

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	07/04/2014	<p>The appeal of Mr. Muhammad Ihsan-uz-Zaman presented today by Mr. Sardar Javaid Iqbal Advocate may be entered in the Institution register and put up to the Worthy Chairman for preliminary hearing.</p> <p style="text-align: right;"> REGISTRAR</p>
2	2-5-14	<p>This case is entrusted to Touring Bench A.Abad for preliminary hearing to be put up there on <u>17-11-14</u></p> <p style="text-align: right;"> CHAIRMAN</p>

**BEFORE THE SERVICE TRIBUNAL,
KHYBER PAKHTUNKHWA,
PESHAWAR**

Service Appeal No. 481 of 2014

Muhammad Ihsan-uz-Zaman.....Appellant

VERSUS

Director, Elementary and Secondary
Education, Peshawar etc.....Respondents

SERVICE APPEAL

INDEX

S#	Particulars of documents	Annexure	Pages
1	Memo of service appeal.	1- 6
2	Correct addresses of the parties.	7
3	Copy of the appointment order.	"A"	8-9
4	Copy of advertisement.	"B"	10
5	Copy of appointment order.	"C"	11-12
6	The copy of application to D.C.O.	"D"	13
7	Attested copy of the appeal.	"E"	14
8	Attested copy of order dated 18.11.2013.	"F"	15-16
9	Copy of envelope sent by the respondent No.1.	"G"	17
10	Wakalat Nama.	

Dated 04.04.2014

Muhammad Ihsan-uz-Zaman
.....Appellant

Through



SARDAR JAVED IQBAL,
Advocate High Court,
Mansehra.

1

**BEFORE THE SERVICE TRIBUNAL,
KHYBER PAKHTUNKHWA,
PESHAWAR**

Service Appeal No. 481 of 2014

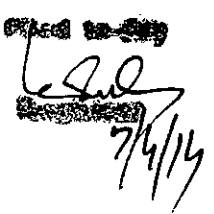
Muhammad Ihsan-uz-Zaman, PST GPS
Samal Boot (Bellian) resident of Arbora,
Tehsil Oghi District MansehraAppellant

AWP Peshawar
Khyber Pakhtunkhwa
No. 502
07-4-2014

VERSUS

1. Director, Elementary and Secondary Education, Peshawar.
2. Secretary Education Elementary & Secondary Education, Peshawar.
3. Executive District Officer Education, Mansehra.
4. District Co-ordination Officer, Mansehra.
5. District Police Officer, Mansehra
.....Respondents.

**APPEAL UNDER SECTION-IV OF THE
KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL ACT 1974 TO COUNT
APPELLANT'S PREVIOUS SERVICE
W.E.F. 09.05.2006 TO 31.08.2009
RENDERED IN POLICE DEPARTMENT
ACCORDING TO THE SERVICE
RULES.**



Respectfully Sheweth!

1. That, the appellant joined police department as a police constable and

2

served the department for about more than seven years.

(Copy of the appointment order is annexed as annexure "A").

2. That, an advertisement was published by E.D.O Education Mansehra asking for application for the post of teachers and the appellant also submitted application for the appointment through proper channel. The application of the appellant was duly processed and after completion of all requisites formalities appellant was appointed as teacher.

(Copy of advertisement and appointment order are annexed as annexure "B" & "C" respectively).

3. That, after joining the new post as a teacher the appellant started his duties to best satisfaction of his superiors but while serving as such the appellant came to know that his previous service in police department was not being considered.
4. That, appellant submitted diverse application E.D.O Education for the redressal of his grievances but no

action has been taken on said application.

5. That, appellant submitted an application before District Co-ordination Officer, Mansehra requesting him to pass an order for counting his previous service but no intimation has been conveyed by the appellate authorities with regard to the fate of his appeal.

(The copy of application is annexed as annexure "D").

6. That, later on, the appellant filed an appeal No.299/11 before this Honourable Court in which on 18.11.2013, the said appeal was converted into petition, before him and referred the same to the appellate authority (Respondent No.1) for disposal of the same on merits within three months. The appellant handed over the appeal to respondent No.1 but he refused to receive the same and return back the appeal to appellant on 25.03.2014.

(Attested copy of the appeal, order dated 18.11.2013 and envelope sent by the

4

respondent No.1 are annexed as annexure "E, F & G" respectively).

7. That, the conduct of the respondent No.1 clearly shows that they are not interested in redressal of the grievance of the appellant, therefore, the instant appeal is being filed.
8. That, the appellant seeks indulgence of this Honourable Court on the following amongst other grounds:-

GROUNDS

- a. That, the reluctance rather the refusal of respondent No.2 to count his Service rendered in police department against the facts and law.
- b. That, in order to debar the appellant from the Service rendered by him in police department, respondent No.3 has showed cold shoulder in deciding the issue relating to his service.
- c. That, according to FR-26, the service so rendered in other departments shall be counted for the purpose of pension or other benefits.

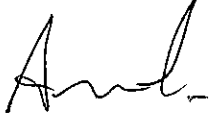
- d. That, no where in the advertisement it has been mentioned that in case of appointment the previous service will not be counted in the absence of specific indication in the advertisement, it would tantamount to glaring violation of FR-26.
- e. That, the appellant has joined the new assignment/post through proper channel and of the acceptance of his application he was offered the post and started his duties, therefore, he cannot be deprived of the counting of his previous service on any consideration.
- f. That, neither respondent No.3 nor respondent No.4 has applied their independent mind to look into the grievance of appellant and appellant is initiated for the inclusion of his previous service but he deprived of such benefit on one or other pretext which shows malafide on the part of respondent No.3 and respondents No.4.
- g. That, previously in most of the cases education department has counted the previous service of candidates the

proof of which should be produced at the time of arguments.


- h. That, the respondent No.1 while refusing from receiving the appeal of the petition has grossly violated the order passed by this Honourable Court and his act comes within the ambit of contempt of court.

It is, therefore, most humbly prayed and requested that respondent No.3 may kindly be directed to count the service rendered by appellant in police department.

Dated 04.04.2014


Muhammad Ihsan-uz-Zaman
...Appellant

Through


SARDAR JAVED IQBAL,
Advocate High Court,
Mansehra.

AFFIDAVIT.

I, Muhammad Ihsan-uz-Zaman, PST GPS Samal Boot (Bellian) resident of Arbora, Tehsil Oghi District Mansehra, Appellant, do hereby solemnly affirm and declare on oath that the contents of this service appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Court.

Dated 04.04.2014


Muhammad Ihsan-uz-Zaman
(DEPONENT)



**BEFORE THE SERVICE TRIBUNAL,
KHYBER PAKHTUNKHWA,
PESHAWAR**

Service Appeal No. _____ of 2014

Muhammad Ihsan-uz-ZamanAppellant

VERSUS

Director, Elementary and Secondary
Education, Peshawar etc.....Respondents

SERVICE APPEAL

CORRECT ADDRESSES OF THE PARTIES

APPELLANT

Muhammad Ihsan-uz-Zaman, PST GPS
Samal Boot (Bellian) resident of Arbora,
Tehsil Oghi District Mansehra.

RESPONDENTS

1. Director, Elementary and Secondary
Education, Peshawar.
2. Secretary Education Elementary & Secondary
Education, Peshawar.
3. Executive District Officer Education,
Mansehra.
4. District Co-ordination Officer, Mansehra.
5. District Police Officer, Mansehra.

Dated 04.04.2014

Muhammad Ihsan-uz-Zaman
...Appellant

Through



SARDAR JAVED IQBAL,
Advocate High Court,
Mansehra.

(8) Amexar "A"

CHARACTER AND SERVICE ROLL OF

CONSTABULARY NO. () in DISTRICT.
 DITTO () in DISTRICT.
 DITTO () in DISTRICT.

Name	Father's Name	Tribe or caste	Village or Town	Post and Telegraph Office	Police Station	District	Province	Date of Birth	Height	Chest Measurement	Date of Enrolment	Age on Enrolment	Distinctive marks
Muhammad ENSAM-UZZ-ZAMAN	Badruluz Zaman	Paltan	Arborer	—do—	osmi	Manghehra	Muzff	12-6-1982	5-8"	33 1/2 x 35			A mole on left side cheek.

Verification Roll No. _____ dated _____ received back and attached to the Fauji Misal.

Government Service prior to present employment, which is approved for pension service

Service or Department	Rank of Grade	Pay of last Appointment	From	To	Period		
					Years	Month	Days

Cause of and character of discharge from above service.

Reference to orders approving above service for pension service.

Agreement.—I understand that I have been appointed under the provisions of the Act and of the Rules issued under... I agree to serve faithfully under the... by my Superior Officers and undertake not to resign my... I received a certificate of appointment issued under section 8 of...

Rolled impression of fingers and thumb of left

Left little	Left ring	Left middle

CHARACTER ROLL OF 6. APPOINTMENTS, PROMOTIONS, REDUCTIONS, DISCHARGES, ETC

Continues

1	2	3	4	5
Appointed, promoted, suspended, reduced, discharged, dismissed, resigned or died	To what grade and pay Appointed, promoted or reduced	Date	No. of District Order	Full Signature of Superintendent of Police
<p>Appointed as Constable in Poli Deptt: in BPS No 5 A (2415-115-5865) Rs: 2415/- PM w.e.f. 2-5-06. His appointment is purely on temporary basis and liable to be terminated any time. Vide this office O.S No: 97 dt: 9-5-06.</p> <p style="text-align: right;"><i>[Signature]</i> <small>Police Officer in Charge Muzaffarpur.</small></p>				

7. TRANSFERS BEYOND THE DISTRICT.

1	2	3	4
Date	From	To	Authority for transfer

9 P/No. 292525

GS&PD.NWFP.402--F.S.--2,000 Pads of 100--8.11.2000(9/HD1/MacDraw)

LAST PAY CERTIFICATE

no 500

1. Last Pay Certificate of CONSTABLE MUHAMMAD EHSAN UZ ZAMAN
of the DISTRICT POLICE MANSEHRA.

proceeding to EDUCATION DEPARTMENT MANSEHRA.

2. He has been paid upto 31-08-2009.

as the following rates:—

Particulars:
Substantive Pay:—
Officiating Pay:—
Exchange Compensation Allowance:—

B-PAY = 3820-
HRA = 1002-
MA = 500-
RA = 681-
WA = 100-
C.R.A = 300-
DA = 379-
RISK = 3340-
INCENTIVE = 775-
A.D.R.-2009 = 764-

pay stop in the station

292525

Deductions:—
Member of G.P Fund (290/PM)

3. He made over charge of the Office of His DTY.
Addl G-i 7/PM
G-i 67/PM

IV POL MA-1572-ess.

on the _____ noon of _____

4. Recoveries are to be made from the pay of the Government servant as detailed on the reverse.

5. He has ben paid leave salary as detailed below. Deductions have been made as noted on the reverse.

From _____ to _____ at Rs. _____ a month
From _____ to _____ at Rs. _____ a month
From _____ to _____ at Rs. _____ a month

Pay & Allowance of his rank
Grad Their

6. He is entitled to draw the following:—

7. He is also entitled to joining time for usual days.

8. The details to the Income Tax recovered from him upto the date from the beginning of the current year are noted on the reverse.

No 9871
07-8-09

Signature: [Signature]
District Police Officer
Mansehra

11

Ameyar "C"

OFFICE OF THE EXECUTIVE DISTRICT OFFICER SCHOOLS & LITERACY MANSHEHRA
ORDER

As approved by the Departmental Selection Committee, the competent authority has been pleased to appoint the following PST (TRAINED) BPS-7 (@ Rs.2940-160-7740) plus usual allowances as admissible under the rule & and BPS-9 (@ Rs.3820-230-10720) if FA/FSc Second Division against vacant posts mentioned against each in the interest of Public Service with effect from the date of taking over their charge subject to the following terms & conditions.

Disable 2% quota

S No	Name of Candidate	Father's Name	Union Council	Place of Posting	Remarks
1	Amjad Ali	Khair Ali	Pairan	GPS Hola (H Kot)	AVP
2	Syed Mohsin Ali	S Bashir Hussain	Dilbori	GPS Beer But (B Shungli)	AVP
3	Shahir Muhammad	Shair Muhammad	Shergarh	GPS Kodar (Sachan)	AVP

Open Merit

S No	Name of Candidate	Father's Name	Union Council	Place of Posting	Remarks
1	Fakhrj Hussain	S Darbar Shah	Chatter Plain	GPS Dambori (C/P)	AVP
2	Hukam Dad	Noshar	Kathai	GPS Shahtoot (Dilbori)	AVP
3	Liaqat Khan	Wilayat Khan	Battal	GPS Sathan Gali (H Kot)	AVP
4	Rasheed Ahmed	Muhammad Irfan	Garlat	GPS Kodar (Sachan)	AVP
5	Wahab Shaedi	Muhammad Hilal	Bherkund	GPS Beer But (B Shungli)	AVP
6	Jahanzeb	Malik Aman	Manshara Dch	GPS Neel Batla (B Shungli)	AVP
7	Muhammad Ihsan	Badi uz Zaman	Oghi	GPS Samal Boot (Bellian)	AVP
8	Zahid Hussain	Saeed Akhter	Balakot	GPS Rathi (Bhogermang)	AVP
9	Adil Hussain	Abdul Qaddus	S Mahazullah	GPS Rathi (Bhogermang)	AVP
10	Abdul Majid	Aurangzeb	Laber Kot	GPS Chotta Bala (J Devli)	AVP
11	Shafiq Shah	Akhter H Shah	Dilbori	GPS Serian (Karori)	AVP
12	Munir Hussain	Muhammad Anwar	Inayat abad	GPS Bai Payeen (Ichrian)	AVP
13	Yar Muhammad	Abdul Wali	Malik Pur	GPS Gallian (Parhinna)	AVP
14	Muhammad Kamran	Muhammad Ramzan	Darband	GPS Khand Garan (Shanaya)	AVP
15	Qadeer Hameed	Muhammad Habib	Bellian	GPS Chajri Payeen (Bellian)	AVP
16	Muhammad Miskeen	Abdul Sattar	B Shungli	GPS Nikka Pani (Nikka Pani)	AVP
17	Muhammad Arif	Muhammad Yaqoob	Shergarh	GPS Poodnial (Shergarh)	AVP
18	Rifaqat Ali Shah	Munsif Shah	Shamdhara	GPS Sathan Gali (H Kot)	AVP
19	Munir Ahmed	Khan Muhammad	Shamdhara	GPS Kodar (Sachan)	AVP
20	Shoaib Alam	Fareed Khan	Dilbori	GPS Kodar (Sachan)	AVP
21	Muhammad Aslam	Said Khan	Hilkot	GPS Dosum (H Kot)	AVP
22	Muhammad Khalid	Azar Khan	Oghi	GPS Arbora (Oghi)	AVP
23	Khalifat Hussain	Aziz ur Rehman	Battal	GPS Jemung (Battal)	AVP
24	Qamar Zaman	Atta ur Rehman	Hamsharian	GPS Chatta (B Shungli)	AVP
25	Masood Ahmed	Raja	Balakot	GMPS Kala Jamal Mera (Kaghan)	AVP
26	Sabir Hussain	Munawar Khan	Dhodial	GPS Chungari (J Devli)	AVP
27	Muhammad Tufail	Muhammad Nawaz	Garlat	GPS Doodh Kot (Shanaya)	AVP
28	Saeed Ahmed	Muhammad Miskeen	Attershisha	GPS Dabar Kalha (Jabori)	AVP

Union Council Wise 75%

S No	Name of Candidate	Father's Name	Union Council	Place of Posting	Remarks
1	Jafar Sadiq	Mohammad irfan	Attershisa	GPS Pehlwan	AVP
2	Malik Junaid	Malik M Bashir	Attershisa	GPS Pehlwan	AVP
3	Khalid Mehmood	Abdul Haleem	Baffa	GPS Baffa Mera I	AVP
4	Mohammad Mushtaq	Abdul Ghani	Baffa	GPS Baffa Mera I	AVP
5	Imran Shah	Rehmat Shah	Bandi Shungli	GPS Chamrasi	AVP
6	Inham Ul haq	Masood Ul haq	Bandi Shungli	GPS Shungli	AVP

السعودیہ ٹیٹل سرور
اصداق پلازہ شاہراہ ریشم ماہیہ

(12)

158	Shafiq Ur Rehman	Abdur rasheed	T/Sabir Shah	GPS Nokot	AVP
159	Bilal Ahmed	Muhammod Marrof	T/Sabir Shah	GPS Tarangri Bala	AVP
160	Tanweer ul Islam	Ghulam Rabbani	Tanda	GPS BelaTanda	AVP
161	Farukh Mehmood	Muhammod Saleem	Tanda	GPS Bajna	AVP

TERMS & CONDITIONS

- 1 His appointment is made on purely temporary basis and liable to termination at any stage without assigning any reason/notice.
- 2 He will be governed by such rules and regulations enforce and as may be prescribed by the Govt: from time to time for the category of the Govt: servant which they belong.
- 3 In case any of the above candidate failed to assume the charge of his post within 15 days of his appointment, candidature ship will be stand automatically cancelled.
- 4 The DDO concerned is responsible to get verified their certificates etc from the concerned Universities/Board & RDE etc before the drawl of their pay and report genuineness of their degrees/Certificates or otherwise.
- 5 He will get initial of the scale including usual allowances as admissible under the rules, they are entitle to annual increment according to the rules except Pension and commutation.
- 6 His services are liable to termination on one month prior notice from either side in case of resignation without prior notice, their one month pay /allowances if any shall be forfeited to Govt.
- 7 He will not contribute any amount towards GP Fund however they will contribute CP Fund @Rs,5% of the minimum of the pay and the 5% contribution will be made by the Govt.
- 8 He shall be required to furnish the copies of all their certificates/Degrees along with original with the original receipt and photo copies of thereof pertaining to the verification fee of the concerned examination Agencies i.e. Board/University to the District officer S & L. The District officer S & L shall arrange verification of all the certificates/Degrees of the appointee and will issue a clearance certificates to each appointee for the release of his pay. Their pay bills should not be submitted to the Distt: Account officer Manshara before verification of all certificates/Degree from the concerned institution of each candite.
- 9 He should produce age and health certificate from the Medical Supdtt: DHQ, Hospital Manshara.
- 10 The DDO must check their original certificates/Degrees etc.
- 11 The overage candidates should not be handed over charge, The age limit is 18 to 35 years.
- 12 No TA/DA is allowed.
- 13 Charge report should be submitted (in duplicate) to all concerned.
- 14 The Candidates are directed to take over charge w.e.f. 01/09/2009.

Muhammad Javed
EXECUTIVE DISTRICT OFFICER
E&S EDUCATION MANSEHRA.

Endorsement No 15648-15818 /PTC(M) appit:2009, Dated Manshara the 22/08/2009.

Copy forwarded for information and necessary action to the:-

1. Secretary to Government of NWFP S&I. Department Peshawar.
2. Director Schools & Lit: Department NWFP Peshawar.
3. Dy: District Officer (M) Manshara
4. District Account officer Manshara.
5. Budget & Account officer local office.
6. Candidates concerned.

M. Javed
DISTRICT OFFICER (MALE)
E&S EDUCATION MANSEHRA.

EDU (Edu.)

To:

The D.C.O Sb (School, & Literacy) Mansehra.

SUBJECT: COUNTING OF PREVIOUS POLICE SERVICE

In necessary
action and rep
their previous service is not being
counted. Please expedite.
to this office
The reasons are
District Coordination Officer
Mansehra 13/10/10

Respected Sir,

Most respectfully, it is submitted for your kind and gracious honour that we have joined the education department with the permission of Education & Police Departments.

Now we are servicing in different Schools as PST posts from approximately one and half (1/1/2) years and we are taking salary regularly. Now we are requesting that count our previous service with Education Department.

For this act of kindness we ever remain thankful and oblige.

Thanking you.

Dated: 13-10-2010

Yours faithfully,

(Signature)

- 1. Niaz Ashraf GPS Kotaky Mansehra Raf
- 2. Attaullah GPS Arbora Oghi Jun
- 3. Muhammad Ihsan uz Zaman GPS Hussain banda Oghi M
- 4. Ashiq Hussain GPS Baseel Dhodial A
- 5. Jamshid Khan GPS Chitta Batta Mansehra J
- 6. Aqcel Ahmad GPS Hussainia Mansehra A

Ameyor "E"

(u)

To

The Director E&SE,

KPK, Peshawar.

Subject: Counting of Previous Police Service

Respectfully Stated:

1. That the appellatant had field an appeal titled Muhammad Ihsan-Uz-Zaman vs Secretary Education Elementary & Secondary Education Peshawar etc. Before the service tribunal KPK, Peshawar and said was treated as departmental appeal and was sent to this office for decision with in 90 days.
2. That as per order of the tribunal the copy of the appeal might have been sent to this office but as a matter of precaution I am submitting the copy of the tribunal for consideration in Accordance with the order of Service Tribunal KPK, Peshawar. (attested copy of the said order dated: 18-11-2013)is hereby annexed.

Thanking you in anticipation.

Dated : 19-12-2013

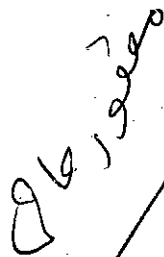
Your Faithfully,

Muhammad Ihsan-Uz-Zaman

GPS Arbora Mansehra.

Signature





Ameramu F

(15)

4

BEFORE THE SERVICE TRIBUNAL
KHYBER PAKHTOONKHAWA, PESHAWAR



Appeal No. 299/11

Muhammad Ihsan-Uz-Zaman, P.S.T GPS Samal Boot (Bellig) W.E.F. Peshawar
R/o Arbora, Tehsil Oghi District Mansehra.....Appellant

Copy No 235
dated 11-02-11

VERSUS

1. Secretary Education Elementary & Secondary Education Peshawar.
2. E.D.O Education Mansehra.
3. D.C.O Mansehra.
4. District Police Officer, Mansehra.....Respondents

APPEAL UNDER KHYBER PAKHTOONKHAWA SERVICE TRIBUNAL ACT 1974 TO COUNT APPELLANT'S PREVIOUS SERVICE W.E.F 09.05.2006 TO 31.08.2009 RENDERED IN POLICE DEPARTMENT ACCORDING TO THE SERVICE RULES.

Respectfully Sheweth:-

1. That the appellant joined police department as a police constable and served the department for about more than three years. *(Copy of appointment order is annexed as Annexure "A")*;
2. That an advertisement was published by E.D.O Education Mansehra asking for application for the post of teachers and the appellant also submitted application for the appointment through proper channel. The application of the appellant was duly processed and after completion of all requisites formalities appellant was appointed as teacher. *(Copy of advertisement and appointment order are annexed as Annexure "B" & "C" respectively).*

filed to dt

[Handwritten signature]

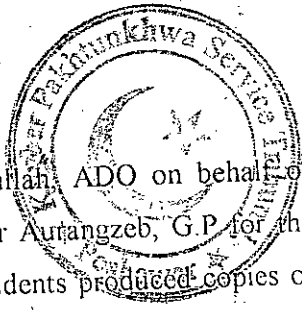
11/2/11

ATTESTED

EXAMINER
Khyber Pakhtoonkhwa
Service Tribunal
Peshawar

16

299/11



18.11.2013

Counsel for the appellant and Mr. Sakinullah, ADO on behalf of respondents No.1 to 3 with Mr. Muhammad Tahir Aurangzeb, G.P. for the respondents present. Representative of the respondents produced copies of service record of Ashiq Hussain appellant in the connected appeal, and preliminary arguments heard.

At the outset of arguments, it was pointed out to the learned counsel for the appellant that a service appeal lies to the Tribunal under section 4 of the NWFP (KPK) Service Tribunal Act, 1974 only when a civil servant is aggrieved by any final order, whether original or appellate, made by a departmental authority in respect of any of the terms and conditions of his service; but in this case neither there is any final order, original or appellate, nor a departmental appeal in terms of the above referred law has been made available by the appellant so far. The appellant has placed on file a simple joint application dated 13.10.2010 of the appellant and other appellants in the connected appeals to the DCO Manshra for counting of previous police service, which was referred by the DCO to the EDO (Education); and when no action was taken on the application, this appeal was lodged for counting previous service of the appellant rendered by him in the Police Department.

The learned counsel, in view of the above situation, prayed for treating this appeal as a departmental appeal and referring the same to the appellate authority (now Director, E&SE, KPK, Peshawar) for disposal of the same on merits. In view of the predicament being faced by the appellant due to inaction on the part of the respondent-department on his application moved for the purpose of counting his previous service, the request of the learned counsel for the appellant is accepted and while treating service appeal as a departmental appeal, the same is referred to the appellate authority i.e. Director, E&SE, KPK, Peshawar for decision on merits within reasonable time but not later than three months of the receipt of this order; where-after, if the appellant still feels aggrieved of the order of the appellate authority, he may have recourse to the remedy available to him under the law. The appeal is disposed of accordingly, with no order as to costs. File be consigned to the record.

Signature
Chairman
Chief Justice A. Akbar

ANNOUNCED
18.11.2013

Date of Presentation of Application 6-12-2013
Number of Words 900
Copies For 6-2
Urgent 2
Total 8
Name of Counsel [Signature]
Date of Completion of Copy 6-12-2013
Date of Delivery of Copy 6-12-2013

Certified to be true copy
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

وکالت نامہ

بعدالت جناب سرحد سٹریٹس کمپنی لٹڈ

محمد احسان زمان نام

دعویٰ یا جرم ویل باعث تحریر آنکہ

حامد امین

مندرجہ بالا عنوان میں اپنی طرف سے پیروی و جواب دہی نام
مل سکھنے کے۔ بدیں شرط وکیل مقرر کیا ہے میں ہر پیشی پر خود یا بذریعہ مختار خاص روبرو عدالت حاضر ہوتا ہوں
گا اور بوقت پکارے جانے پر وکیل صاحب موصوف کو اطلاع دیکر حاضر کروں گا اگر کسی پیشی پر مظہر حاضر نہ ہو اور غیر حاضری
کی وجہ سے کسی طور پر مقدمہ میرے خلاف ہو گیا تو صاحب موصوف اس کے کسی طرح ذمہ دار نہ ہوں گے۔ نیز وکیل صاحب
موصوف صدر مقام کچہری کے علاوہ کسی اور جگہ کچہری کے مقررہ اوقات سے پہلے یا بروز تعطیل پیروی کرنے کے مجاز نہ ہوں
گے۔ اگر مقدمہ مقام کچہری کے کسی اور جگہ سماعت ہونے پر بروز کچہری کے اوقات کے آگے یا پیچھے ہونے پر مظہر کو کوئی

نقصان پہنچے تو ذمہ دار یا اس کے واسطے کسی معاوضہ ادا کرنے، مختار نامہ واپس کرنے کے بھی صاحب موصوف ذمہ دار نہ
ہوئے کہ مجھے کل ساختہ پر داختہ صاحب مثل کردہ ذات خود منظور قبول ہوگا اور صاحب موصوف کو عرضی دعویٰ اور درخواست
اجراء ڈگری و نظر ثانی اپیل نگرانی دائر کرنے نیز روپیہ وصول کرنے اور رسید دینے اور داخل کرنے کا ہر قسم کا بیان دینے اور سپرد
تالیقی دراضی نامہ و فیصلہ برخلاف کرنے و اقبال دعویٰ کا اختیار ہوگا اور بصورت اپیل و برآمدگی مقدمہ یا منسوخی ڈگری یکطرفہ
درخواست حکم اتناعی یا ڈگری قبل از فیصلہ اجرائے ڈگری بھی صاحب موصوف کو بشرط ادائیگی علیحدہ پیروی مختار نامہ کرنے کا
مجاز ہوگا اور بصورت ضرورت اپیل یا اپیل کے واسطے کسی دوسرے وکیل یا ایئر سٹر کو بجائے اپنے ہمراہ مقررہ کریں اور ایسے مشیر

قانونی کو بھی اس امر میں وہی اختیارات حاصل ہوں گے جیسے صاحب موصوف کو پوری فیس تاریخ پیشی سے پہلے ادا نہ کروں
گا تو صاحب موصوف کو پورا اختیار ہوگا کہ مقدمہ کی پیروی نہ کریں اور ایسی حالت میں میرا مطالبہ صاحب موصوف کے
برخلاف نہیں ہوگا۔ لہذا مختار نامہ لکھ دیا ہے کہ یہ سندر ہے۔ مضمون مختار نامہ سن لیا ہے اور اچھی طرح سمجھ لیا ہے اور منظور ہے۔

۲۰۰

مورخہ

Attend & Accepted

محمد احسان زمان ولد محمد یونس سکنہ لوہے کھنڈی مینے ہاوس

**BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR**

Service Appeal No.481/2014

Muhammad Ihsan-u-Zaman.....PETITIONER
VERISUS

Director E&SE Department KPK Peshawar and
others.....RESPONDENTS

SERVICE APPEAL UNDER SECTION 4 OF THE SERVICE TRIBUNAL ACT 1974 OF
KHYBER PAKHTOONKHWA

INDEX

Writ Petition

<i>S.No</i>	<i>Description of documents</i>	<i>Annexure</i>	<i>Pages</i>
1.	Comments of Respondents		1-3
2.	Affidavit		4

**Before Khyber Pakhunkhwa Service
Tribunal Peshawar.**

Appeal No 481/2014

Muhammad Ihsan uz Zaman.....Appellant

VERISUS

1. Director, Elementary and Secondary Education Peshawar

2. Secretary (E & SE) KPK, Peshawar

3. Executive District Officer Education (M) Mansehra

4. District Co-Ordination Officer, Mansehra

5. District Police officer MansehraRespondents

Service Appeal

PARA WISE COMMENTS ON BEHALF OF RESPONDENTS No.1,2 & 3 AS

UNDER:-

PRELIMINARY OBJECTIONS.

1. That the Appellant is not aggrieved person .
2. That the Appellant has got no cause of action/locus standi to file the instant appeal.
3. That the appeal is not maintainable in the present circumstances of the issue.
4. That the appellant has concealed the material facts from Honorable Service Tribunal.
5. That the appeal is time barred and not maintainable in eye of Law.
6. That the appeal is groundless and based on malafide, hence the same is liable to be dismissed.
7. That the appellant is estopped by his own conduct.
8. That the appeal is against the fact, prevailing rules and Law.

FACTUAL OBJECTIONS.

1. No comments.
2. In -correct. The appellant did not apply through proper channel and did not provide any NOC or permission from Police Deptt. The appellant applied for the PST post in Education Deptt Mansehra as a fresh candidate on simple application along with necessary academic documents.
3. No comments
4. In-correct.
5. No comments
6. In-correct. Need to proof.
7. In-correct
8. The appeal is against the facts, prevailing rules and Law and liable to be dismissed.

GROUNDS

- A. In-correct .The appellant neither appealed to respondent No.2, and nor the respondent refused .
- B. In- correct .Para B is incorrect ,the appellant did not apply through proper channel as per rules.
- C. Correct .Para C is correct, if any employee apply through proper channel with the permission of his/her parent Deptt.
- D. Para D is incorrect , all the Govt employees were bound to apply through proper channel to avail this benefit.
- E. Para E is incorrect ,the appellant did not apply through proper channel .Hence does not deserve the counting of Police services.
- F. In-correct

G. Correct .Para G is correct, services of the all those employees counted who joined Education Department after observing all the legal and codal formalities.

H. Incorrect, the appellant has no right to file an appeal before KP Service Tribunal Peshawar that the respondents has further solid/genuine ground will be given at the time of Arguments.

PRAYER.

It is therefore humbly prayed that this Honorable Service Tribunal may very graciously dismiss the appeal with cost.

Respondent 1 to 3.....

1.The Director (E & SE)KPK -----

2.The Secretary (E & SE) KPK, -----

3.The DEO(M) Mansehra-----

AFFIDAVIT

I, Abdullah District Education Officer (Male) Mansehra, do hereby solemnly affirm and declare that the Reply in service appeal No.481/2014 of titled Muhammad Ihsan u Zaman versus Govt; is true to the best of my knowledge and belief and nothing has been concealed from this Honourable Court.


DISTRICT EDUCATION OFFICER
(MALE) MANSEHRA

**BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR**

Service Appeal No.481/2014

Muhammad Ihsan-u-Zaman.....PETITIONER
VERISUS

Director E&SE Department KPK Peshawar and
others.....RESPONDENTS

SERVICE APPEAL UNDER SECTION 4 OF THE SERVICE TRIBUNAL ACT 1974 OF
KHYBER PAKHTUNKHWA

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Tribunal Peshawar.**

Appeal No 481/2014

Muhammad Ihsan uz Zaman.....Appellant

VERISUS

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2. Secretary (E & SE) KPK, Peshawar

3. Executive District Officer Education (M) Mansehra

4. District Co-Ordination Officer, Mansehra

5. District Police officer Mansehra Respondents

Service Appeal

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
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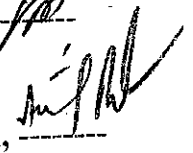
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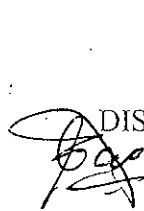
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2.The Secretary (E & SE) KPK, 

3.The DEO(M) Mansehra 

AFFIDAVIT

I, Abdullah District Education Officer (Male) Mansehra, do hereby solemnly affirm and declare that the Reply in service appeal No.481/2014 of titled Muhammad Ihsan u Zaman versus Govt; is true to the best of my knowledge and belief and nothing has been concealed from this Honourable Court.


DISTRICT EDUCATION OFFICER
(MALE) MANSEHRA

**BEFORE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR**

Muhammad Ehsan-uz-ZamanAppellant

VERSUS

Director Elementary and Secondary Education,
Peshawar and othersRespondents.

SERVICE APPEAL

**REJOINDER ON BEHALF OF THE
APPELLANT**

Respectfully Sheweth!

PRELIMINARY OBJECTIONS.

1. Para No.1 of the preliminary objection is incorrect. The appellant is an aggrieved person.
2. Para No.2 of the preliminary objection is incorrect. Appellant has got cause of action to file the instant appeal.
3. Para No.3 of the preliminary objection is incorrect. The appeal is maintainable in its present form.
4. Para No.4 of the preliminary objection is incorrect. The appellant has never concealed any fact from this Honourable tribunal.
5. Para No.5 of the preliminary objection is incorrect. The appeal is never time barred nor any thing has been pint pointed by the respondents in this regard.
6. Para No.6 of the preliminary objection is incorrect. Neither any malafide has been

urged at the bar nor discernible from the record.

7. Para No.7 of the preliminary objection is incorrect. Estoppel does not attract to the appeal in hand.
8. Para No.8 of the preliminary objection is incorrect. Instant appeal has been filed in accordance with relevant law, rules and regulations.

FACTUAL OBJECTIONS.

1. Para No.1 of the comments needs no reply.
2. Para No.2 of the comments is incorrect. The appellant duly applied for the post in hand in accordance with relevant law, rules and regulations and also submitted NOC from the department with the application that's why the mother/police department relieved the appellant and after fulfilling the legal and codal formalities and requisite test/interview, the appellant was appointed in Education Department.
3. Para No.3 of the comments needs no reply. Whereas the para No.3 of the appeal is correct.
4. Para No.4 of the comments is incorrect whereas the para No.5 of the appeal is correct.
5. Para No.5 of the comments needs no reply. Whereas the para No.5 of the appeal is correct.
6. Para No.6 of the comments is incorrect whereas the para No.6 of the appeal is correct

and all the relevant record has been annexed with the appeal by the appellant.

7. Para No.7 of the comments is incorrect. As the respondents' conducted was clearly that they are not going to redress the grievances of the appellant, therefore, the instant appeal has been filed by the appellant for redressal of his grievances which is liable to be accepted.
8. Para No.8 of the comments is incorrect. Whereas the para No.8 of the appeal is correct. Instant appeal has been filed in accordance with the relevant law, rules and regulations.

GROUND

- a. Para No.(a) of the grounds is incorrect. The appellant filed an appeal before the respondent No.1 according to rules and regulations which is available on the file as annexure "E" and it was the duty of the respondent No.1 to inform the respondent No.2 regarding the said appeal. Furthermore, as the appeal is well in the knowledge of the respondent No.2, therefore, he was duty bound to do the needful in accordance with law, rules and regulations but despite the knowledge of instant appeal, the respondent No.2 has not done any needful in this regard which amounts refusal.
- b. Para No.(b) of the grounds is incorrect. The appellant applied through proper channel

and the appellant also annexed NOC from police department with his application for appointment that's why the Parent/police department relieved the services of the appellant and after due test/interview and fulfillment of legal and codal formalities, the appellant was posted in Education Department.

- c. In reply to Para No.(c) of the grounds it is submitted that the appellant has applied through proper channel with duly permission/NOC from his parent department. Similarly, other employees who applied through their parent department have been enjoying their benefits but the respondents are refusing the same to the appellant in a sheer malafide and discriminatory manner.
- d. Para No.(d) of the comments is incorrect whereas para No.(d) of the appeal is correct.
- e. Para No.(e) of the comments is incorrect whereas the para No.(e) of the appeal is correct. The appellant is entitled for the counting of period of police service.
- f. Para No.(f) of the comments is incorrect whereas the para No.(f) of the appeal is correct.
- g. In reply to para No.(g) of the comments it is submitted that the petitioner has fulfilled all the legal and codal formalities and deserves the counting of his period during which he served the police department like those employee who were accommodated by the respondents as law and constitution favour equal treatment with all the employees.

- h. Para No.(h) of the comments is incorrect whereas the para No.(h) of the appeal is correct.

It is, therefore, most humbly prayed that the appeal of the appellant may please be accepted and the respondent No.3 may kindly be directed to count the service rendered by appellant in police department.

Dated 15.04.2017

Muhammad Ehsan-uz-Zaman
...Appellant

Through



SARDAR JAVED IQBAL,
Advocate High Court,
Mansehra.

AFFIDAVIT.

I, Muhammad Ehsan-uz-Zaman, appellant, do hereby solemnly affirm and declare on oath that the contents of the foregoing rejoinder are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Tribunal.

Dated 15.04.2017



Muhammad Ehsan-uz-Zaman
(DEPONENT)

