

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

S.A 15291/20

Mst. Naheed Tabasum..... Appellant


Versus

**Govt. of Khyber Pakhtunkhwa
Through Chief Secretary, Khyber Pakhtunkhwa
Peshawar & Others Respondents**

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Respondents


Superintendent
Directorate of Higher Education
Khyber Pakhtunkhwa Peshawar

BEFORE THE HONOURABLE KHYBER PAKHTUN KHWA SERVICE TRIBUNAL
PESHAWAR

SA # 15291/20

Naheed Tabasum.....Appellant

Versus

Govt. of Khyber Pakhtunkhwa

Through Chief Secretary, Khyber Pakhtunkhwa

& others.....Respondents

SUBJECT: PARAWISE COMMENTS ON BEHALF OF RESPONDENTS NO. 1 to 4

Respectfully Sheweth:-

Preliminary Objections:-

1. That, the appellant has neither got cause of action nor locus standi to file the instant Service Appeal.
2. That the appellant has not come to the Honourable Tribunal with clean hands.
3. That the appellant is estopped by his own conduct to file the instant Service appeal.
4. That, the instant Service Appeal is bad for mis-joinder and non-joinder of necessary & proper parties.
5. That the instant Service Appeal is badly time-barred.

Reply on Facts: -

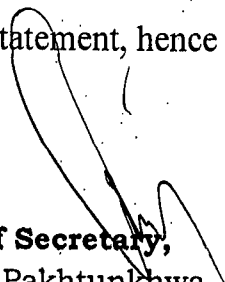
- 1- Correct. That the appellant was appointed as Librarian (BPS-16) on 13-01-1985 on ad-hoc basis and then by Public Service commission as Librarian BPS-16 (regular) on 11-08-1985. (**Annex-A**)
- 2- Pertains to record.
- 3- Correct to the extent that the appellant name was not reflected in the seniority list of BPS-18 because as per the rules/policy, an officer who is promoted on acting charge basis, his /her name will not be included in the seniority list. Moreover, the name of the appellant in the seniority list (BPS-17) was erroneously removed and the appellant did not object the seniority of BPS-17 till 2018.
- 4- Correct to the extent that the respondent department issued corrigendum and the terms "Regular Basis" have been changed into the personal up gradation vide Notification Even dated: 17-05-2019 (**Annex-B**) and later on, the said corrigendum has been withdrawn vide Notification even dated 21-02-2021. (**Annex-C**)
- 5- The case of the appellant has been submitted several times to the Provincial Selection Board but returned with certain observations (**Annex-D**). Moreover, the departmental appeal was barred by law.

Reply on Grounds:-

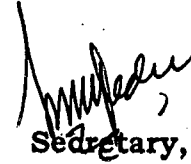
- A. Incorrect. The respondent acted within four corners of Law.
- B. Incorrect. The appellant has been treated in accordance with law/rules.
- C. In reply, it is submitted that the appellant will be included in the seniority list of BPS-18 after her regularization in BPS-18. Moreover, the seniority of the appellant is intact at proper place.
- D. In reply it is stated that Junior Librarians were promoted to BPS-18 and the appellant was already working on acting charge basis, and was not considered for promotion on regular basis as she was not enlisted in the seniority of BPS-17, furthermore, each and every year a tentative seniority issued to all colleges/Librarians but the appellant neither object nor filed any appeal in this regard till 2018, hence the said objection on belated stage is not entertain-able.
- E. Incorrect. As the appellant was working on acting charge basis, hence she was not included in the seniority list of BPS-18 as per rules/policy.
- F. The name of the appellant was not erroneously removed from the Seniority List of BPS-17 and neither the appellant object the seniority list of BPS-17 nor filed any appeal before the competent forum for inclusion of her name in the seniority list. Detail reply already given above.
- G. Incorrect. As already explained in the preceding paras of the facts and grounds.
- H. In reply, it is stated that each case has its own facts and grounds.
- I. In reply it is submitted that if an Officer/Official is promoted on acting charge basis then he/she will be promoted on regular basis by PSB/DPC after completing the qualifying service.
- J. Already explained in the preceding paras of facts and grounds.
- K. Incorrect. As stated in Paras ibid.
- L. Already explained in Para 5 ibid. Moreover, appellant is not entitled for ante dated promotion.
- M. In reply, it is stated that the appellant has no locus standi & cause of action.
- N. Correct but the appellant has been dealt with the prevailing law/rules.
- O. Already explained above.
- P. Already explained in the preceding paras of facts and grounds.
- Q. That respondents may be allowed to raise additional grounds at the time of arguments.

Prayers:-


It is, therefore, humbly prayed that the instant Service Appeal is based on mis-conception/mis-statement, hence may graciously be dismissed with appropriate cost.


Chief Secretary,
Khyber Pakhtunkhwa
Respondent No. 01

AM


Secretary,
Higher Education, Archives
& Library Department
Respondent No. 02

AM


Director,
Higher Education, Khyber Pakhtunkhwa
Respondent No. 04

4

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

S.A 15291/20

Mst. Naheed Tabasum..... Appellant


Versus

Govt. of Khyber Pakhtunkhwa
Through Chief Secretary, Khyber Pakhtunkhwa
Peshawar & Others Respondents

AFFIDAVIT

I, Jehanzeb Khan Superintendent (Litigation) Higher Education Department do hereby declare and affirm on oath that the contents of Para Wise Comments are correct to the best of my knowledge and belief and that nothing has been concealed from this Honourable Court.

Identified by:


Deponent

Superintendent
Directorate of Higher Education
Khyber Pakhtunkhwa Peshawar

A

5

ES

DIRECTORATE OF EDUCATION,
(COLLEGES) NWFP, PESHAWAR.

1-1/Selectee/CA-IV/Vol:II

Dated Peshawar the 11.8.1965.

NOTIFICATION


Consequent upon the recommendations of the N.W.F.P. Public Service Commission Peshawar, the Director of Education (Colleges) N.W.F.P., is pleased to appoint the following two (2) Female candidates as Officiating Librarian in Basic Pay Scale-16 at the Colleges mentioned against each from the date of their taking over charge subject to the conditions mentioned below :-

S.No.	Name & Designation	Place of posting	Remarks
1.	Miss Naheed Tabassum, D/O Mr. Abdul Rashid, Adhoc Librarian, Govt. Girls College Abbottabad.	Transferred and adjusted at Govt. Girls College Saidu Sharif (Swat).	Vice Miss Farva Gul adhoc Libr. whose services being junior me have been termi
2.	Miss Shagufta Nasroon, D/O Mr. Ghulam Qadir Khan plant protection Officer, A.T.L. Jamrud Road, P.O. Peshawar University Peshawar. (Candidate).	Govt. Girls College Abbottabad.	Vice Miss Naheed Tabassum at S.M adjusted at Govt Girls College Saidu Sharif (Sw

Terms & Conditions:

1. The Inter-Service Seniority of the candidates recommended by the commission will be determined by the N.W.F.P., Public Service Commission in accordance with the order of Merit.
2. Their services are liable to termination on one months notice from either side. In case of resignation without notice their one months pay & allowances if any will be forfeited to Govt.
3. Charge reports should be submitted to all concerned in duplicate.
4. The Principal, concerned should check the original Certificate/Degrees of the candidates before handing over charge.
5. The above named candidates have not been medically examined. Their appointment is also subject to the production of prescribed Medical Fitness Certificate from the standing Medical Board.
6. They will get No. TA/DA on their first appointment.
7. They will be governed by such Rules & Regulations as may be issued by the Govt. for the category of Govt. servants to which they belong.

ATTESTED


Superintendent
Directorate of Higher Education
Khyber Pakhtunkhwa Peshawar

Contd. P/2...

B



GOVERNMENT OF KHYBER PAKHTUNKHWA
HIGHER EDUCATION, ARCHIVES AND
LIBRARIES DEPARTMENT

Dated Peshawar the, May 17th 2019.

CORRIGENDUM

NO.SO(C-IV)HE/17-30/2012/587. In partial modification to this department notification of even No. dated 22/10/2015, the term "regular basis" may be read as "personal upgradation."

SECRETARY


HIGHER EDUCATION DEPARTMENT

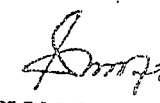
Endst: no. & date even.

Copy to

1. Secretary to Govt. of Khyber Pakhtunkhwa, Establishment Department.
2. Secretary to Govt. of Khyber Pakhtunkhwa, Finance Department w.r.t Section Officer (FR) letter No. SO(FR)/FD/10-22/2015-16 dated 23.09.2015.
3. Accountant General, Khyber Pakhtunkhwa Peshawar.
4. Director, Higher Education, Khyber Pakhtunkhwa Peshawar.
5. All Principals concerned.
6. Deputy Director (HEMIS) Cell Higher Education Department.
7. Budget Officer-X, Finance Department, Khyber Pakhtunkhwa.
8. Section Officer (FR), Finance Department, Khyber Pakhtunkhwa.
9. All District Accounts Officers Concerned.
10. Officers concerned.
11. PS to Secretary Higher Education Department.
12. PS to Special Secretary Higher Education Department.
13. Master File.

ATTESTED


Superintendent
Directorate of Higher Education
Khyber Pakhtunkhwa Peshawar


SECTION OFFICER (C-IV)

GOVERNMENT OF KHYBER PAKHTUNKHWA
HIGHER EDUCATION, ARCHIVES AND
LIBRARIES DEPARTMENT

Dated Peshawar the, February 21, 2020.

13556-61

NOTIFICATION

HE/17-30/2012/588 The Competent Authority has been pleased to
corrigendum No. SO (C-IV) HE/17-30/2012/588 dated 17th May, 2019 from
issuance, in the best public interest.

SECRETARY
HIGHER EDUCATION DEPARTMENT

List: no. & date even.

Copy to

1. Secretary to Govt. of Khyber Pakhtunkhwa, Establishment Department.
2. Secretary to Govt. of Khyber Pakhtunkhwa, Finance Department w.r.t Section Officer (FR) letter No. SO(FR)/FD/10-22/2015-16 dated 23.09.2015.
3. Accountant General, Khyber Pakhtunkhwa Peshawar.
4. Director, Higher Education, Khyber Pakhtunkhwa Peshawar.
5. All Principals concerned
6. Deputy Director (HEMIS) Cell Higher Education Department.
7. Budget Officer-X, Finance Department, Khyber Pakhtunkhwa.
8. Section Officer (FR), Finance Department, Khyber Pakhtunkhwa.
9. All District Accounts Officers Concerned.
10. Officers concerned.
11. PS to Secretary Higher Education Department.
12. PS to Special Secretary Higher Education Department.
13. Master File.

ATTESTED

Superintendent

Directorate of Higher Education
Khyber Pakhtunkhwa Peshawar

Shaukat
SECTION OFFICER (C-IV)

DD (A)
25/2

926-171

AD (WB)
25/2/20

D-I

26

GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT

No. SO (PSB) ED/1-4/2018/P-207
Dated Peshawar, the 18-12-2018

The Secretary to
Government of Khyber Pakhtunkhwa,
Higher Education Department



SUBJECT: PROMOTION OF LIBRARIAN BS-17 TO THE POST OF LIBRARIAN (SENIOR SCALE) BS-18.

Dear Sir,

I am directed to refer to Higher Education Department letter No. SO (C-IV/HE/2-1/General File/2018 dated 11.12.2018 on the subject and to say that the case has been examined in Regulation Wing and observed that:

- i. Placement of 25% of Librarian BS-17 posts in BS-18 as Librarian (Senior Scale) was only for one time. Now service rules have been framed for promotion to Librarian (Senior Scale) BS-18, therefore, promotion to BS-18 will be made subject to availability of posts in BS-18 in the budget book. In this regard a meeting was held in Finance Department and its minutes were forwarded to Higher Education Department and other concerned Departments vide Finance Department letter NO. SO(FR)FD/7-1/2017 dated 22.11.2018 as well
- ii. High Education Department may intimate total sanctioned strength of female Librarian (Senior Scale) BS-18 alongwith copies of budget book. A detail of present incumbent officers BS-18 may also be annexed to the working paper for proper examination of the case.

The working paper and other documents received with the letter quoted above are returned herewith in original for doing the needful, please.

Yours faithfully,

Handwritten notes:
D. S. / 18/12/18
18/12/18

Signature:
18/12/2018
(Abdul Hameed)

SECTION OFFICER (PSB)

Enclst. of Even No. & Date.

A copy is forwarded to Section. Officer (R-I) Establishment Department.

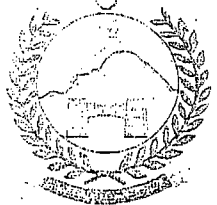
SECTION OFFICER (PSB)

Handwritten: Cell
ATTESTED
Signature

Handwritten: 1758
5/12

Superintendent
Directorate of Higher Education
Khyber Pakhtunkhwa Peshawar

D-II



GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT

No. SO(PSB)ED/1-4/2018/P-207
Dated Peshawar, the May 24, 2021

To

The Secretary to Government of Khyber Pakhtunkhwa,
Higher Education, Archives & Library Department.

SUBJECT: PROMOTION CASE OF LIBRARIAN BS-18 ON ACTING
CHARGE BASIS TO THE POST OF LIBRARIAN BS-18 ON
REGULAR BASIS OF COLLEGE CADRE HIGHER EDUCATION
DEPARTMENT.

Dear Sir,

I am directed to refer to Higher Education department letter
No.SO(C-IV)HED/2-7/Naheed Tabassum/2021, dated 04.05.2021 on the
subject and to say that the case has been examined in Regulation wing and
observed that: -

- i. Sanctioned strength of the posts of Senior Librarian BS-18 has been shown to be 25 in PSB-I proforma while budget copies of 20 posts only have been annexed alongwith the working paper.
- ii. Budget copies annexed with the working paper are not of the current financial year.
- iii. The list of the officers presently working in BS-18 has not been annexed with the working paper.

2. The working paper and other documents received with the letter quoted above are returned herewith in original for doing the needful.

ATTESTED

Yours faithfully,

[Signature]
Superintendent

Directorate of Higher Education
Khyber Pakhtunkhwa Peshawar

[Signature]
SECTION OFFICER (PSB)

Encl: As above.

Endst: NO. & DATE EVEN.

Copy forwarded to Section Officer (R-I), Establishment department.

*discussed. necessary
action on the observation*

SECTION OFFICER (PSB)

SO (PSB) ED/1-4/2018/P-207

*26/5/2021
DK (10)*

*2850
18/05*

D-III

10

GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT

No. SO (PSB) ED/1-4/2019/P-207
Dated Peshawar, the 16.10.2019

To

The Secretary to the Govt. of Khyber Pakhtunkhwa,
Higher Education Department.

SUBJECT: PROMOTION CASE OF LIBRARIAN BS-18 ON ACTING CHARGE BASIS TO THE POST OF LIBRARIAN BS-18 ON REGULAR BASIS OF COLLEGE CADRE HIGHER EDUCATION DEPARTMENT.

Dear Sir,

I am directed to refer to Higher Education Department letter No. SO(C-IV)HED/2-7/Naheed Tabasum/2019 dated 20.09.2019 on the subject and to say that the case has been examined in Regulation Wing and observed that:-

- i. The Administrative Department has issued corrigendum and the terms "Regular basis" have been changed into "Personal Upgradation" vide Higher Education Department Notification dated 17.05.2019 while the names of personally upgraded Librarian BS-18 have not been reflected in the seniority list attached to the working paper.
- ii. The observations made in this Department letters of even No. dated 05.12.2018, 18.12.2018, 15.04.2019 and 15.05.2019 have not yet been attended to by the Administrative Department.

2. It is, therefore, requested that the above deficiencies may be made up at the earliest.

Yours faithfully,

(Signature)
(Abdul Hameed)

SECTION OFFICER (PSB)

Enst. of Even No. & Date.

A copy is forwarded to Section Officer (R-1) Establishment Department.

18/10/19
50
AS

ATTESTED

SECTION OFFICER (PSB)

Superintendent
Directorate of Higher Education
Khyber Pakhtunkhwa Peshawar