

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**  
**CAMP COURT ABBOTTABAD**

**SERVICE APPEAL NO. 300/2018**

Date of institution ... 05.03.2018

Date of judgment ... 23.05.2019

Muhammad Khalid S/o caste Awan  
R/o Kakul Tehsil & District Abbottabad.  
Presently posted as Assistant (BPS-16) at Sub-Divisional Education Officer (M)  
Battagram.

... (Appellant)

**VERSUS**

1. The Secretary Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.
2. The Director Elementary & Secondary Education, Khyber Pakhtunkhwa Peshawar.
3. Secretary Finance, Khyber Pakhtunkhwa Peshawar.
4. Sub-Divisional Education Officer (M) Battagram.
5. District Education Officer (Male) Battagram.
6. District Accounts Officer, Battagram.

... (Respondents)

**SERVICE APPEAL UNDER SECTION-4 OF THE KHYBER**  
**PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974.**

Mr. Muhammad Waqas, Advocate.

.. For appellant.

Mr. Muhammad Bilal, Deputy District Attorney

.. For respondents.

Mr. MUHAMMAD AMIN KHAN KUNDI

.. MEMBER (JUDICIAL)

MR. AHMAD HASSAN

.. MEMBER (EXECUTIVE)

**JUDGMENT**

**MUHAMMAD AMIN KHAN KUNDI, MEMBER: -** Appellant

alongwith his counsel present. Mr. Muhammad Bilal, Deputy District Attorney  
for the respondents present. Arguments heard and record perused.

2. Brief facts of the case as per present service appeal are that the appellant  
was serving in Education Department as <sup>Junior M</sup> Junior Clerk. He was adjusted on his  
own pay scale as Senior Clerk against the vacant post by the competent

authority vide order dated 15.03.1993. He was regularly promoted from the post of Junior Clerk to the post of Senior Clerk vide order dated 04.04.1997 with effect from 25.03.1997. The respondent-department later on issued corrigendum dated 14.11.1998 wherein it was mentioned that the date of proforma promotion in respect of Mr. Muhammad Khalid Senior Clerk office of the Director Bureau and Curricular Extension Services Education Department NWFP Abbottabad may be read as 31.05.1994 instead of 25.03.1997 at serial no. 6. The appellant feeling aggrieved from the said corrigendum dated 14.11.1998 filed departmental appeal on 20.05.2008 to the effect that the appellant was to be promoted with effect from 25.03.1993 i.e from the date of his adjustment to the post of Senior Clerk on his own pay and scale instead of 31.05.1994. The departmental appeal of the appellant was not responded hence, the present service appeal on 05.03.2018.

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

4. Learned counsel for the appellant contended that the appellant was serving in Education Department as Junior Clerk. It was further contended that the appellant was adjusted to the post of Senior Clerk on his own pay and scale vide order dated 15.03.1993. It was further contended that later on the appellant was promoted from the post of Junior Clerk to the post of Senior Clerk on regular basis vide order dated 04.04.1997 with effect from 25.03.1997. It was further contended that thereafter the respondent-department has issued corrigendum dated 14.11.1998 wherein it was mentioned that proforma promotion of appellant may be read as 31.05.1994 instead of 25.03.1997. It was further contended that since the appellant was adjusted as Senior Clerk vide order dated 15.03.1993 on his own pay and scale therefore, the respondent-department was required to promote the appellant from the post of Junior Clerk

*M. Amin*  
23.5.2019

to the post of Senior Clerk with effect from 15.03.1993 instead of 31.05.1994 and prayed for acceptance of appeal.

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 serving in Education Department as Junior Clerk. It was further contended that the appellant was adjusted to the post of Senior Clerk on his own pay and scale vide order dated 15.03.1993. It was further contended that later on the appellant was regularly promoted on 04.04.1997 with effect from 25.03.1997. It was further contended that later on corrigendum dated 14.11.1998 was issued by the respondent-department wherein it was mentioned that the date of proforma promotion in respect of the appellant may be read as 31.05.1994 instead of 15.03.1997. It was further contended that the adjustment of the appellant from the post of Junior Clerk to the post of Senior Clerk on his own pay and scale does not create any vested right for promotion therefore, the appellant was rightly promoted through corrigendum dated 14.11.1998 with effect from 31.05.1994. It was further contended that the corrigendum whereby the appellant was promoted with effect from 31.05.1994 was issued on 14.11.1998 therefore, the appellant was required to file departmental appeal within one month but he has filed departmental appeal on 20.05.2008 after a delay of more than nine years. It was further contended that after submitting departmental appeal on 20.05.2008 the appellant was required to file service appeal within one month after waiting for statutory period of 90 days but the appellant has filed service appeal in the year 2018 after a delay of ten years therefore, the departmental appeal as well as service appeal of the appellant are badly time barred and prayed for dismissal of appeal.


6. Perusal of the record reveals that the appellant was serving in Education Department as Junior Clerk. He was adjusted to the post of Senior Clerk on his own pay and scale vide order dated 15.03.1993. He was regularly promoted


*M. Amin*  
23.5.2019

from the post of Junior Clerk to the post of Senior Clerk vide order dated 04.04.1997 with effect from 25.03.1994. Later on a corrigendum was issued vide order dated 14.11.1998 wherein it was mentioned that the date of proforma promotion in respect of the appellant may be read as 31.05.1994 instead of 15.03.1997. Admittedly the appellant filed departmental appeal wherein the appellant prayed that the respondent-department was required to promote him from the post of Junior Clerk to the post of Senior Clerk with effect from 15.03.1993 i.e from the date of his adjustment on his own pay and scale to the post of Senior Clerk instead of 31.05.1994. No doubt that the appellant was adjusted from the post of Junior Clerk to the post of Senior Clerk vide order dated 15.03.1993 on his own pay scale, his adjustment to the higher post on his own pay and scale does not create any vested right for promotion. Moreover, the appellant was aggrieved from the corrigendum order dated 14.11.1998 therefore, he was required to file departmental appeal within one month but he has filed departmental appeal on 20.05.2008 after a delay of more than nine years. Same way when the departmental appeal of the appellant was filed on 20.05.2008, the appellant was required to file service appeal within one month after waiting for statutory period of 90 days but the appellant has filed service appeal in the year 2018 therefore, both the departmental appeal as well as service appeal of the appellant are badly time barred. As such, without touching the merit of the case, the present service appeal is dismissed being time barred.

Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED  
23.05.2019

  
(MUHAMMAD AMIN KHAN KUNDI)  
MEMBER  
CAMP COURT ABBOTTABAD


  
(AHMAD HASSAN)  
MEMBER  
CAMP COURT ABBOTTABAD

15.04.2019

Appellant alongwith counsel and Mr. Muhammad Bilal, DDA for the respondents present.

Due to paucity of time instant appeal is adjourned to 23.05.2019 before the D.B at camp court, Abbottabad.

  
Member

  
Chairman  
Camp court, A/Abad

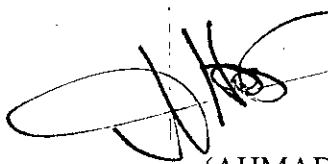
23.05.2019

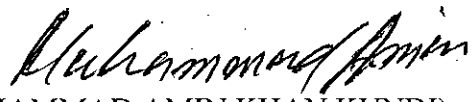
Appellant alongwith his counsel present. Mr. Muhammad Bilal, Deputy District Attorney for the respondents present. Arguments heard and record perused.

Vide our detailed judgment of today consisting of four pages placed on file, without touching the merit of the case, the present service appeal is dismissed being time barred. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED


23.05.2019

  
(AHMAD HASSAN)  
MEMBER  
CAMP COURT ABBOTTABAD

  
(MUHAMMAD AMIN KHAN KUNDI)  
MEMBER  
CAMP COURT ABBOTTABAD

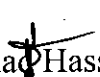
17.10.2018

Clerk of counsel for the appellant present. Mr. Lutfullah, Assistant on behalf of respondents No. 4 & 5 alongwith Mr. Usman Ghani, District Attorney for all the respondents present. Written reply not submitted. Learned District Attorney requested for further adjournment. Adjourned. To come up for written reply/comments on 17.12.2018 before S.B at camp court, Abbottabad.

  
Member  
Camp Court, A/Abad


17.12.2018

Appellant in person present. Mr. Lutf Ullah, Assistant for respondent no. 4 and 5 alongwith Mr. Usman Ghani, District Attorney for respondents present. Written reply not submitted. Requested for further adjournment. Last opportunity granted. Case to come up for written reply on 18.02.2019 before S.B at camp court A/Abad.

  
(Ahmad Hassan)  
Member  
Camp Court A/Abad

18.02.2019

Appellant in person present. M/S Lutfullah, Assistant and Sohail Ahmad Zeb, Assistant alongwith Mr. Muhammad Bilal Khan, Deputy District Attorney for the respondents present. Written reply on behalf of respondents submitted. Adjourned. To come up for rejoinder and arguments on 15.04.2019 before D.B at Camp Court Abbottabad.

  
(Muhammad Amin Khan Kundi)  
Member  
Camp Court Abbottabad

29.06.2018

Appellant Muhammad Khalid in person alongwith Mr. Muhammad Waqas Advocate present and heard on preliminarily.

Contends that the appellant joint the department as Junior Clerk and during his service right of promotion was accrued to him on 31.3.1993 but he was given promotion w.e.f. 31.05.1994 which is clear violation of the law on the subject.

The points raised need consideration. The appeal is admitted to full hearing subject to all legal objections if raised by the respondents. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents. To come up for written reply/comments on 28.08.2018 before S.B at camp court, A/Abad.

Appellant Deposited  
Security & Process Fee

  
Chairman

Camp court, Abbottabad

28.08.2018

Appellant in person and Latfullah Assistant for the respondents present. Due to summer vacations, the case is adjourned .To come up for the same on 17.10.2018 at camp court Abbottabad.

  
Reader

Form-A  
FORM OF ORDERSHEET

Court of \_\_\_\_\_

Case No. 300 /2018

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	05/03/2018	<p>The appeal of Mr. Muhammad Khaled presented today by Mr. Muhammad Waqas Advocate may be entered in the Institution Register and put up to Learned Member for proper order please.</p> <p style="text-align: right;"><i>[Signature]</i> REGISTRAR 5/3/18</p>
2-	27-3-18	<p>This case is entrusted to Touring S. Bench at A.Abad for preliminary hearing to be put up there on <u>29-6-18</u>.</p> <p style="text-align: right;"><i>MA</i> MEMBER</p>



Before the Khyber Pukhtunkhwa Service Tribunal, Peshawar  
(Camp Court Abbottabad)

Appeal No. 300 /2018

Muhammad Khalid s/o caste Awan r/o Kakul Tehsil & District Abbottabad.

.....Appellant

Versus

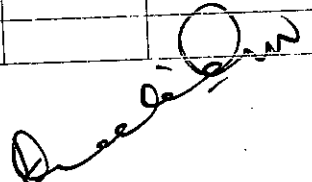
The Secretary Elementary & secondary Education, KPK Peshawar & Others.

.....Respondents


Service Appeal u/s 4 of The KPK Service Tribunal Act, 1974

Index

S. No.	Description	Page	Annexure
	Appeal along with affidavit	1-5	
	Application for condonation of delay	6-7	
	Addresses of the parties	8	
1.	Copy of Appointment Letter	9	"A"
2.	Copy of Adjustment Order	10	"B"
3.	Copy of Handing & Taking over charge	11	"C"
4.	Copy of Order of Approval by DPC dated 25-03-1997	12	"D"
5.	Copy of Departmental representation		"E"
6.	Copy of Corrigendum		"F"
7.	Copy of Application dated 20/05/2008		"G"
8.	Copy of letter dated 10-06-2008		"H"
9.	Copies of Reminding Letters dated 04/12/2008 and letter dated 02-05-2009		"I"
10.	Wakalatnama		

  
(Muhammad Khalid)  
Appellant

Through

  
(Muhammad Waqas)  
Advocate High Court,  
Abbottabad.

Before the Khyber Pukhtunkhwa Service Tribunal, Peshawar  
(Camp Court Abbottabad)

Appeal No. 300 /2018

Muhammad Khalid s/o caste Awan r/o Kakul Tehsil & District Abbottabad presently posted at Assistant (BPS-16), Sub. Divisional Education officer (M) Battagram.

.....Appellant

Versus

Khyber Pakhtunkhwa  
Service Tribunal

1. The Secretary Elementary & secondary Education, KPK Peshawar.
2. The Director Elementary & Secondary Education, KPK Peshawar.
3. Secretary Finance, KPK Peshawar.
4. Sub. Divisional Education Officer (M) Battagram.
5. District Education Officer (Male) Battagram.
6. District Accounts Officer, Battagram.

Diary No. 315

Dated 5/3/2018

.....Respondents

Service Appeal u/s 4 of The KPK Service Tribunal Act, 1974

Respectfully Sheweth!

1. That the appellant was initially appointed as Junior Clerk vide appointment letter Dated 30-06-1980. (Copy of appointment letter is attached as Annexure "A").
2. That the appellant was promoted/adjusted as Senior Clerk vide ENST: No.3074-79/A-23 Dated 15-03-1993 on his own pay and grade subject to the approval of departmental selection Committee of education department. (Copy of Adjustment Order is attached as Annexure "B").
3. That the appellant took the charged against said post on 31-03-1993. (Copy of Handing & Taking over charge is attached as Annexure "C").

Filed to-day

Registrar

5/3/18

4. That the appellant was promoted as Senior Clerk by Departmental Promotional committee on 25-03-1997 w.e.f. 25-03-1997 after the lapse of period consisted upon 05 years, without retrospectively and granting back benefits. (Copy of Order of Approval by DPC dated 25-03-1997 is attached as Annexure "D").

5. That the appellant being aggrieved filed departmental representation on 25-03-1997 against the order of approval by DPC before Respondent No.2. (Copy of Departmental representation is attached as Annexure "E").
6. That in consequence corrigendum was issued by respondent no.2 vide ENDST No. 2210-14A-23 Dated 14/11/1998. However, Appellant was promoted from 31-05-1994 instead of 31-03-1993. But the appellant was made under false impression that he was promoted since 31-03-1993. (Copy of Corrigendum is attached as Annexure "F").
7. That the appellant got know the fact on 20-05-2008 and forthwith moved an application to Respondent No.2 for redressal of his genuine grievance. The respondent No.2 directed the Executive District Officer School & Literacy Abbottabad vide letter No. FNo.A-23/MS/Selection Grade/Junior Clerk No.935 dated 10-06-2008 for comments regarding history and factual position of the appellant's case. (Copies of Application dated 20/05/2008 and letter dated 10-06-2008 are attached as Annexure "G" & "H").
8. That in pursuance the Executive District Officer School & Literacy Abbottabad submitted his comments to the respondent No.2 through letter No.15082 dated 17-07-2008 and admitted the claim of appellant in Para No. VI of the comments. (Copy of Comments is attached as Annexure "I").
9. That Executive District Officer School & Literacy Abbottabad repeatedly requested the concerned authority i.e. Respondent No.2 for the redressal of genuine grievance of the appellant but in vain. (Copies of Reminding Letters dated 04/12/2008 and letter dated 02-05-2009 are attached as Annexure "J" & "K").
10. That the appellant had moved an application under Right to information Act to Respondent No.2 for copies of his application and record, and to know the status of his application. Which was declined for no reason.

11. That the appellant being aggrieved and rigorous and harsh attitude of the Respondents leaving with no other option to file instant appeal inter-alia on the following grounds:

Grounds:

- a. That the appellant has not been treated in accordance with Law, rules & policy on subject and unlawfully refused to grant promotion to the appellant with effect from the due date i.e. 31-03-1993 is illegal, void, arbitrary and ineffective upon the rights of the appellants.
- b. That the act of respondents being illegal & void is not tenable.
- c. That the Departmental promotional committee is not competent to fix the date of promotion/upgradation prospectively and the date of promotion is to be counted from the date of officiating/acting charge of higher post. Reliance is to be placed upon the judgment of this Hon'ble service Tribunal in service Appeal No.266 dated 03-07-2009, it was held ,

*"It is not the job of the Departmental promotional Committee to fix date of promotion/upgradation prospectively, when the notification has declared the date of effectiveness from a previous certain date or when a vacancy was available for a certain civil servant from a previous date. IT was the authority of the appointing authority to antedate the upgradation, as the case may be, to the respective date mentioned by the notification, or availability of the vacancy. The date is 01.10.2007 in the present cases, which could not be changed by the DPC or even by the appointing authority."*

- d. That the appellant being qualified and eligible for the promotion from the date i.e. 31-03-1993 in the light of judgment 2016 SCMR 1938, Titled "Luqman Zareen & Others vs Secretary Education, NWFP & Others, it has been held as under:

*"(a) NWFP Civil servants Act (XVIII of 1973 --- S.8 --- Promotion --- Principle --- Acting Charge --- Departmental promotion Committee issued delayed notification --- effect --- where a post was available against which a civil servant could be promoted; where such civil servant was qualified to be promoted to such a higher post; where he was put on such higher post on officiating or acting charge basis only because requisite exercise of allowing regular promotion to*

such post was being delayed by competent authority and where he was subsequently found fit for such promotion and was so promoted on regular basis , then **the civil servant was entitled not only to the salary attaching to such post but also to all consequential benefits from that very date from which he had put on the said post on officiating or acting charge basis.**

- e. That the Hon'ble supreme court held in its decision reported in 2005 SCMR 499, in which supreme court held,

*"when tribunals or court decides a point of law relating to the terms of service of a civil servant which covered not only the case of civil servants who litigated, but also of other civil servants, who might have not taken any legal proceedings, the dictates of the justice and rule of good governance demand that the benefit of the decision be extended to other civil servants who might not be parties to the litigation instead of compelling them to approach the tribunal or any other legal forum --- Art.25 of the constitution also explicit on the point that all citizens were equal before law & were entitled to equal protection of law."*

- f. That the Hon'ble Service Tribunal similarly held in Service Appeal No.244 of 2007 in its final order dated 04-08-2007 relying upon the above cited case laws allowed the appeal upon the similar point of law and also condoned the period of limitation by placing reliance upon PLJ 2004 SC 435;

*"Wherein it has been held that the decision of cases on merit always to be encouraged instead of non-suiting of litigants for technical reasons including limitation."*

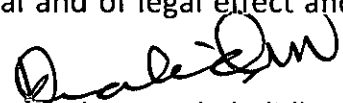
- g. That the period of limitation firstly does not run against void order/act and secondly where pay and allowances are involved, limitation cannot be attracted. However, the delayed period may kindly be condoned to ensure Justice.

- h. That the Federal Service Tribunal in 1995 PLC (CS) 1026, ***"Appeal was resisted on the ground of bar of limitation ---- Held, in matter of pay & pension bar limitation not being applicable plea of limitation raised by authority ad no substance."***


- i. That promotion on acting charge basis as Senior Clerk vide ENST: No.3074-79/A-23 Dated 15-03-1993 created invaluable & vested right in favour of the Petitioner.

- j. That the act of respondents amounts to Exploitation, while the constitution of Pakistan provides protection against the every act of exploitation.
- k. That the very act also disproves the equality of citizens provided under Art. 25 and discriminatory in the light of Art.27 of the Constitution.
- l. That the petitioner is legally entitled to be promoted from 15-03-1993 with all consequential benefits.
- m. That the hon'ble court has jurisdiction to entertain and has power to adjudicate upon it.

It is therefore most humbly prayed that on acceptance of instant appeal the impugned Notification ENDST No. 2210-14A-23 Dated 14/11/1998 may kindly be modified and be given effect from the date of assuming the charge as Senior Clerk i.e. 31-03-1993 with all consequential effects including seniority and back benefits; and notification's application with effect 31-05-1994 may kindly also be declared ultra vires of the provisions of the Constitution, against the natural justice, illegal and of legal effect and be rectified.

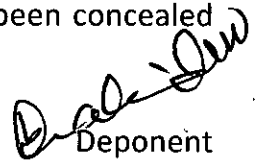
  
 (Muhammad Khalid)  
 Appellant

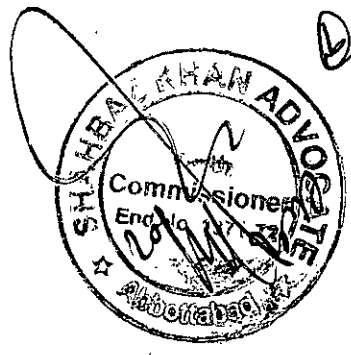
Through

  
 (Muhammad Waqas)  
 Advocate High Court,  
 Abbottabad.

**Affidavit**

I, **Muhammad Khalid s/o caste Awan r/o Kakul Tehsil & District Abbottabad** do hereby solemnly affirm & declared on oath that the contents of instant appeal are true and correct according to best of my knowledge and belief and nothing has been concealed from this Hon'ble court.

  
 Deponent



(6)

**Before the Khyber Pukhtunkhwa Service Tribunal, Peshawar  
(Camp Court Abbottabad)**

Appeal No. \_\_\_\_\_/2018

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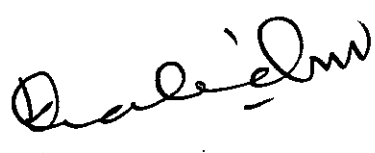
**Application u/s 5 of the Limitation Act, 1908 for condonation of Delay**

Respectfully sheweth!

1. That the titled appeal is being filed before this hon'ble court and the instant petition may kindly be also treated as integral part of the appeal.
2. That corrigendum was issued by respondent no.2 vide ENDST No. 2210-14A-23 Dated 14/11/1998. However, Appellant was promoted from 31-05-1994 instead of 31-03-1993. But the appellant was made under false impression that he was promoted since 31-03-1993.
3. That the appellant got knowledge the fact on 20-05-2008 and forthwith moved an application to Respondent No.2 for redressal of his genuine grievance. The respondent No.2 directed the Executive District Officer School & Literacy Abbottabad vide letter No. FNo.A-23/MS/Selection Grade/Junior Clerk No.935 dated 10-06-2008 for comments regarding history and factual position of the appellant's case.
4. That the Executive District Officer School & Literacy Abbottabad repeatedly requested the concerned authority i.e. Respondent No.2 for the redressal of genuine grievance of the appellant but in vain
5. That the application is still pending & undecided.
6. That the order/act of respondent is illegal & void and limitation does not run against void order.
7. That the pay & emoluments are involved, which is also a recurring cause of action.
8. That the period of limitation does not run against the pay and financial benefits.

- 9. That the period of limitation does not extinguished the right.
- 10. That the administration of justice also requires that the case must be decided on merit and technicalities including limitation should be avoided.
- 11. That "ignorantia juris sui non-praejudicat juri", "ignorance of one's right does not pre-judice the right".

It is therefore most humbly prayed that the delayed period may kindly be condoned and the case be decided on merit.



(Muhammad Khalid)  
Appellant

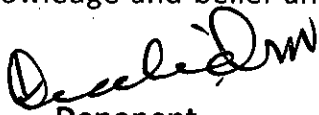
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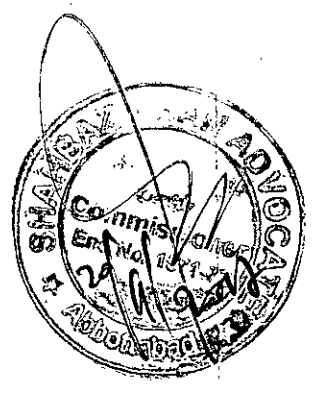
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**Affidavit**

I, **Muhammad Khalid s/o caste Awan r/o Kakul Tehsil & District Abbottabad** do hereby solemnly affirm & declared on oath that the contents of instant petition are true and correct according to best of my knowledge and belief and nothing has been concealed from this Hon'ble court.



Deponent





Before the Khyber Pukhtunkhwa Service Tribunal, Peshawar  
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Service Appeal u/s 4 of The KPK Service Tribunal Act, 1974  
Adresses of the Parties

Respectfully sheweth!

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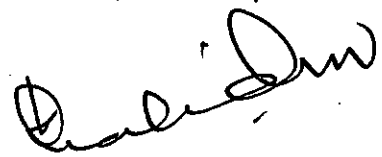
.....Appellant

**Versus**

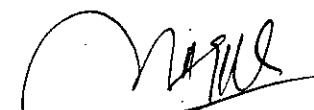
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.....Respondents

.....Respondents

  
(Muhammad Khalid)  
Appellant

Through

  
(Muhammad Waqas)  
Advocate High Court,  
Abbottabad.

Office of The Headmaster, Govt:High School Kakul.

Office order No 730

Appointment:

Dated, Kakul the 30.6.80

As authorised by the Divisional Director of Education, Hazara Division, Abbottabad vide his No 1233 dated 29.6.80, Mr. Khalid S/o Haji Ahmad of village Kakul is hereby appointed as junior clerk against the vacant post in B.P.O. "G" at Govt:High School Kakul, with effect from the date of taking over charge, in the interest of public service of the following conditions:

1. Charge reports in duplicate should be submitted to all concerned.
2. No TA/DA is allowed, being the first appointment.
3. The appointment is purely on temporary basis and subject to termination at any time without notice and assigning any reason.
4. He should produce his age and health certificate from the Medical Superintendent concerned.
5. His age should not exceed 30 years or below 18 years.

*Sd*  
Headmaster,  
Govt:High School, Kakul.

Copy to:-

1. The Divisional Director of Education, Hazara Division, Abbottabad for information and necessary action please.
2. D.E.O. Abbottabad for information.
3. Candidate concerned.
4. Office copy.

*Karanda D V*  
Headmaster,  
Govt:high School, Kakul.

*Attested*

*[Signature]*  
2/7/80

*ذات*

*Khalid*  
2/7/80

*[Signature]*

*adjustment order No. 15-3-1993*

**(W)**  
**(B)**

OFFICE OF THE DIRECTOR, SECONDARY EDUCATION, N. F. P.  
ADJUSTMENT

Mr. Muhammad Shahid Junior Clerk at Govt: High School Kakkul A/Abad is hereby adjusted on his own pay & B.S as Senior Clerk at Distt: Education Officer (M) Secy: A/Abad against the vacant post of Senior Clerk in the interest of public service.

- Notes:-
1. Charge Reports should be sent to all concerned.
  2. The adjustment of the above named official from the post of Junior Clerk to the post of S/Clerk is subject to approval of Departmental Selection Committee of Educational Department N. F. P. He is adjusted on his own pay & B.S.
  3. He should take over charge against his new assignment on or before 1/4/1993 positively.
  4. The Distt: Education Officer (M) Secy: A/Abad is requested to furnish the original copy of the above named official from the date of his 1st appointment as Junior Clerk in Education Department to ending Dec: 1992.
  5. In case the above named official concerned is found involved in disciplinary case, he may not be relieved. The matter be reported to this office.

*Attended*  
*[Signature]*

(Muhammad Khan)  
DEPUTY DIRECTOR, SECONDARY  
EDUCATION, DISTT: EDUCATION OFFICER (M) SECY: A/ABAD  
N. F. P. Peshawar.

Endst: No. 3074-79 / A-23/Promotion/S/Clerk/Volunt: Class I

Copy forwarded for information and necessary action to the:-

1. Divisional Director of Education (Schools) Muzaffargarh Division A/Abad.
2. Distt: Education Officer (M) Secy: A/Abad.
3. ✓ Headmaster, Govt: High School Kakkul (A/Abad).
4. Official concerned.
5. P/File.
6. M/File.

*[Signature]*  
Deputy Director, Secondary  
Education, District Education Officer (M) Secy: A/Abad  
N. F. P. Peshawar.

*Attested*  
*[Signature]*  
Principal  
Govt Higher Secondary School  
Sohab Bazar Abbottabad.

*3074-79 dt: 15/8/93*  
*[Signature]*

*15/8/93*

Note: Entry on the Service Book on

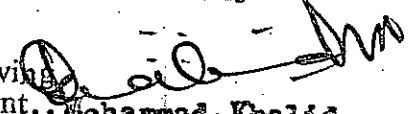
**CERTIFICATE OF TRANSFER OF CHARGE**

31.3.1993 (A.N).


1. Certified that we have on the fore/afternoon of this day respectively made over and receive charge of this office of the District Education Officer. (M) Secondary Abbottabad. vide Director of Secy. Education NWFP, Peshawar. Endst: No. 3074-79/A-23/Vol: V. Dated 15.3.1993.
2. Particulars of cash and important secret and confidential documents handed over are noted on the reverse:—

Signature of relieved  
Government servant... Vacant post.....

Station... Abbottabad..... Designation..... Senior Clerk.....

Signature of relieving   
Government servant... Mohammad Khalid...  
S/C office of the DEO(M) Secy:  
Designation Abbottabad.....

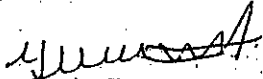
Dated... 31.3.1993 F.N.....

*Received*  


No. 3531-34 / Dated Abbottabad the 31 / 03 / 1993.

Copy forwarded for information to the:-

1. Director Secondary Education with reference to his Endst:No. 3074-79/A-23/Vol:V Dated 15.3.1993.
2. District Accounts Officer, Abbottabad.
3. Principal Govt. High School Kakul(A.Abad).
4. Office Record.

  
District Education Officer,  
(M)Secy. Abbottabad.

~~District Education Officer~~  
(M)Secy. Abbottabad.

Approval

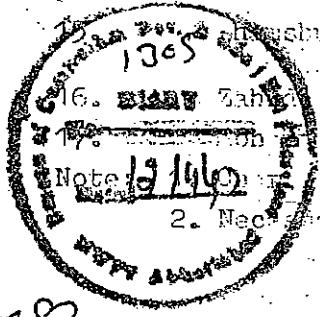
(12)  
(D)

OFFICE OF THE DIRECTOR, GOVT. BY EDUCATION NAHE PESHAWAR.  
PROMOTION.

Consequent approval by the Departmental Selection Committee of Education Department in its meeting held on 25/3/1997. The following Junior Clerks already working on their own pay & BPS against the vacant post of S/Clerk are hereby promoted regular basis to the post of S/Clerks in BPS-7 and posted against the post of S/Clerk is noted against each in the interest of public service with effect from 25/3/1997.

S.No.	Name & Designation.	Promoted	Posted	Remarks.
1.	Mr. Ihsanul Haq J/C	S/Clerk at GHES Khaki Charadda.		Against the post occupied by him.
2.	Muhammad Khan J/C	S/Clerk GHES No.3 Pesh:City.		do
3. ✓	Mohammad Khalid J/C	S/Clerk at Bureau W/Abad		do
4.	Abdul Manan J/C	S/Clerk at DDO(F/S) Chitral.		do
5.	Mohammad Ibrahim J/C	S/Clerk at GHS D Allahdhan Malakand.		do
6.	Nooriz Khan J/C	S/C at GH No.3 Bannu		do
7.	Mohammad Ayub J/C	S/C at DDO(G/T) DIK		do
8.	Riaz Ahmad J/C	S/C at G.C. Timangarrah		do
9.	Mohammad Zaheer J/C	S/C at GSO(H.S.S. Manshera		do
10.	Rahim Dil J/C	S/C G.P.G.C Bannu.		do
11.	Shoukat Hussain J/C	S/C at GGHES Mawansher W/Abad.		do
12.	Raj Mohammad J/C	S/C at DDO(G) Mardan		do
13.	Amamullah J/C at GHS No.4 Mingora Swat.	S/C at GHES Kot Malakand		Against V. Post
14.	Akbar Gul J/C	S/Clerk at GGC Mardan		Against the post occupied by him.
15.	Muhammad Tahir J/C	S/C at GHS Koza Banda Batgram.		do
16.	Muhammad Zahid J/C	S/C at DDO(G) Ch. sadra		do
17.	Muhammad Farid J/C	S/C at DDO(G) Secy: W/Abad		do

*Received*  
*M. J.*



(GULSHAN KHAN)  
DEPUTY DIRECTOR SECONDARY  
W/ PESHAWAR.

25-03-1997  
31-03-1997

Endst. No. 25/200 / 25/Promotion J/C Dated 13/4/97

- Cop. forwarded for information and necessary action to the:-
1. Accountant General, NWFP Peshawar.
  2. Director of Education (Colleges) Primary, (P.L.) Bureau W/Abad.
  3. Divisional Director of Education (Schools) concerned.
  4. Distt: Education Officer (G/T) Secy: and Prty: concerned.
  5. Principal, Govt: Colleges (G/T) concerned.
  6. Principal, Govt: Higher Secondary School (G/T) concerned.
  7. Principal, Govt: Elementary Colleges (G/T) concerned.
  8. Sub: Divisional Education Officer concerned.
  9. P/File.

*EP*  
*11/4*  
*DD-2*  
*11/4/97*  
*(H.I.K.)*  
*4/1997*

Deputy Director Secondary  
on Director Secy: NWFP Pesh:

(E)

کمیٹی کا - ڈائریکٹوریٹ کے سب سے زیادہ اہمیت کے ساتھ ساتھ

میں اس کے بارے میں

موجودہ اس کے لئے اس کے ساتھ ساتھ 2 7/20 کمیٹی جو اس کے لئے

1993 میں ہے کمیٹی کے ساتھ ساتھ B-7 میں 4 Grades

15 کے لئے اس کے ساتھ ساتھ approved 3-97-5

کمیٹی کے لئے اس کے ساتھ ساتھ approved

میں اس کے ساتھ ساتھ اس کے لئے

1973 میں اس کے ساتھ ساتھ

17-Section میں اس کے ساتھ ساتھ

approved اس کے لئے

Provision اس کے لئے

اس کے لئے اس کے ساتھ ساتھ

اس کے لئے اس کے ساتھ ساتھ

اس کے لئے اس کے ساتھ ساتھ

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اس کے لئے اس کے ساتھ ساتھ

82/10/1988

601  
13-0-92

13-10-1978

**F**

~~SECRET~~  
Annexure F

OFFICE OF THE DIRECTOR, SECONDARY EDUCATION, PESHAWAR.

**CORRECTIVE**

In partial modification of this office notification issued vide this office Endst: No. 1665-1705 dated 2-1-1998, promotion of Junior Clerk, the date of proforma promotion in respect of Mr. Mohammad Khalid Senior Clerk Office of the Director of Bureau and Curricular Extension Services Education Department, P.F.A/Abad may be read as 31-5-1994 instead of 25-3-1997 at S.H.O.S.

(SIRAJUL-HAQ)  
DEPUTY DIRECTOR (SECONDARY)  
DIRECTORATE OF SECY: EDU.  
P.F., PESHAWAR.

Endst: No. 2214-4/A-23/Mohammad Khalid S/C Dated 14/11/1998

Copy forwarded for information & n/action to the:-

1. Director of Bureau Curricular and Extension Services Education Department P.F. Abbottabad.
2. District Accounts Officer Abbottabad.
3. Official Concerned.
4. F.A to Director Secy: Education P.F.P, Peshawar.
5. C/File.

*[Signature]*  
DEPUTY DIRECTOR  
FOR/DIRECTOR SECY: EDUCATION  
P.F.P, PESHAWAR.

*Added*  
*MAGUL*



بخدمت جناب ڈائریکٹر صاحب (سکولز اینڈ لیٹریسی) ڈبگری گیٹ پشاور

عنوان :- Application for regularization of service with effect from the Date of taking over charge, i.e

31-3-1993 instead of 25-3-2007

جناب عالی: گزارش ہے کہ سائل بطور جو جی آر کے محکمہ تعلیم ضلع اینٹ آباد گورنمنٹ ہائی سکول کا کول میں 2-7-1980 کو مقرر ہوا تھا۔ جناب ڈپٹی ڈائریکٹر سکولز ڈائریکٹوریٹ سکولز ڈبگری گیٹ پشاور نے سائل کو 15-3-1993 کو سینیئر ٹیکہ کے عہدہ پر ترقی دے کر گورنمنٹ ہائی سکول سے ڈسٹریکٹ ایجوکیشن آفیسر (مردانہ) اینٹ آباد کے دفتر میں تعینات کیا۔

(بحوالہ آرڈر نمبر 3074-77/A-23/Promotion 31-3-1993 (آرڈر لف ہے) سائل مورخہ 4-4-1997

یعنی عرصہ 4 سال تک Own Pay & Grade سینیئر ٹیکہ کی ایسٹ پر کام کرتا رہا ہے۔ BPS-5 سے BPS-7 میں ترقی پانے کے باوجود تعینات

ہونے کی وجہ سے وہی کوئی مالی فائدہ ہوا بلکہ سینیئر ٹیکہ کی منیاری کا نقصان بھی ہوا۔

*Mundal*

حضور والا

ڈائریکٹوریٹ سکولز ڈبگری گیٹ پشاور کی ڈیپٹی ڈائریکٹر سکولز (DSC/DPC) کی اجازت سے 25-3-1997 ڈائریکٹوریٹ ایجوکیشن میں تقریباً 4 سال کے بعد ہوا درخواست گزار کی سروں کی Approval بطور سینیئر ٹیکہ کے طور پر ہے۔

Regularized as S/C (B-7) with Immediate effect on 25-3-1997 instead of 31-3-1993 i.e the date when he actually assumed the charge of the post of S/C on acting charge Basis i.e 31-3-1993

بحوالہ آرڈر نمبر (Promotion Regularized order No-251-300/A-23/Promotion Jic dt: 4-4-2007) (آرڈر کی کاپی صفحہ نمبر 2 پر لف ہے)

(جاری ہے)

2544  
22/5

DDCF(A)

10/21/5

سائل نے اس آرڈر کے خلاف ڈائریکٹر پشاور کو ایک تحریری درخواست دی جسے منظور کرتے ہوئے ایک

Corrigendum جاری کیا جس کا نمبر یہ ہے

Order No-2210-14/A-23/ Mohammad Khalid-Senior Clk Date 14-11-1998

جس میں سائل کی سروس کو 31-5-1994 سے Regularised with Immediate effect کیا گیا ہے۔

(آرڈر کالی لف ہے۔)

حضور والا۔

THE NWFP SERVICE TRIBUNAL, PESHAWAR Appel No. 244/2007,

Muhammad Younis, Subject Specialist (Chemistry), Govt. Higher

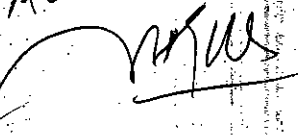
Secondary School, Tajazai, Distt. Lakki Marwat,

نے 27-3-2007 کو دائر کی تھی جس کا فیصلہ 4-8-2007 کو ہوا تھا۔ اس فیصلہ کی روشنی میں سائل آنجناب سے بذریعہ

درخواست اپیل کرتا ہے کہ سائل کو 31-5-1994 کے بجائے 31-3-1993 سے Regularised کیا جائے۔

(فیصلہ کی نوٹو کالی ہمراہ درخواست ہے)

شکریہ

Awarded  


العارض

محمد خالد سینئر کلرک گورنمنٹ ہائر سیکنڈری سکول ریچھ مین اہیت آباد  
No. 1015 / GHS Rich Behar Date: 20/5/2008

Submitted in original alongwith necessary documents mentioned in the application for favourable consideration and further if a please.

  
Principal  
Govt. Higher Secondary School  
Khan Abbatabad.

OFFICE OF THE EXECUTIVE DIRECTOR SCHOOLS & LIT: AMBODIAD.

No. 10157 E-IV

Dated A. Abd the 27/5 /09.

To :-

The Director,  
Schools & Lit: L.U.P.P. Peshawar.

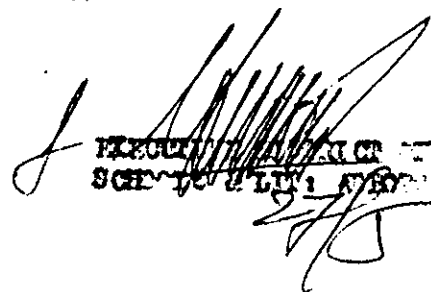
Subject:-

Application for Regularization of service with effect from the date of taking over charge i.e 31-3-1995 instead of 25-3-2007.

Encs :-

1 self explanatory application of Mr. Muhammad Khalid S/Clerk Govt Higher Secondary School Rich Khan A. Abd is sent herewith for your kind perusal and further necessary action please.

*Munir*  
*HR*

  
EXECUTIVE DIRECTOR  
SCHOOLS & LIT: AMBODIAD.

*Handwritten signature*

OFFICE OF THE DIRECTOR SCHOOLS & LITERACY NWFP PESHAWAR.

57

FNO.A-23/MS/SelectionGrade/JC/

No. 935 dt. 10/6/2008

To  
The Executive District Officer  
Schools & Literacy Abbottabad.

Subject:- APPLICATION FOR REGULARIZATION OF SERVICE M-KHALID

Memo:

I am directed to enclose herewith a copy of application of Muhammad Khalid S/C GHS RichBan Abbottabad for your comments/History/ and factual position for further n/a .

Office of the Executive District Officer  
Diary 2844  
Date 16/6/08

*[Signature]*  
Assistant Director (Admn.)  
Directorate S & L NWFP Peshawar

Endost:No.

Copy to .

1. Muhammad Khalid S/C C/O Principal GHSS RichBan Abbottabad.
2. PA to D.S.L NWFP Peshawar.

*Reviewed  
MUE*

*12/11  
RC for yr complete  
history of the case along  
with relevant files  
12/6/08*

*[Signature]*  
Assistant Director (Admn.)  
Directorate S & L NWFP Peshawar.

**Parawise Reply**  
**OFFICE OF THE EXECUTIVE DISTRICT OFFICER ELEMENTARY & SECONDARY EDUCATION, ABBOTTABAD.**

No. 15082  
Dated Abbottabad the 17/7/2008

To:-

The Director,  
Elementary and Secondary Education,  
NWFP, Peshawar.

Subject: APPLICATION FOR REGULARIZATION OF SERVICE (M. KHALID)

Kindly refer to your Memo No.935/F.No.A-23/MS/Selection Grade/JC dated 10.6.2008, regarding the subject noted above and to submit parawise reply of the appeal lodged by Mr.: Muhammad Khalid S/C GHSS Rich Behn, now working in the office of the undersigned.

*Reviewed  
M. Khalid*

- i. It is fact that the official was appointed as J/C on 2.7.1980(Copy attached).
- ii. He was promoted on his own pay and scale through Director Secondary Education NWFP, Peshawar. Endst: No; 3074-79/A.23/Promotion J/Clerks dated 15.3.1993(Copy attached).
- iii. He took over charge of his new assignment as S/Clerk on 31.3.1993 in the office of the defunct District Education Officer (M) Secondary, Abbottabad.(Copy of the Charge Report attached).
- iv. He remained posted on his own pay and scale in BPS-5 against the post of Senior clerk till Notification of regular promotion issued Endst:No. ~~1455-100~~ 107/A.23/Promotion J/C dated ~~24.1.1998~~ at S.No.6 with immediate effect i.e. 25.3.1997(Copy attached)
- v. The above order of promotion dated ~~24.1.1998~~ was challenged through appeal and by acceptance his appeal approval was made through Director Secondary Education NWFP, Peshawar against S/Clerk w.e.f 31.5.1994 instead of 31.3.1993 through amendment/Notification/Corrigendum issued under Endst: No.2210-14/A.25/Muhammad Khalid dated 14.11.1998.(Copy attached)
- vi. In the instance appeal as per request of appellant he deserves to be considered for promotion against his occupied post of S/C w.e.f 31.3. 1993 instead of 31.5.1994 and in the provision of N.W.F.P Civil Servants Act (XVIII) of 1973 and in the light of appended decision of Honorable NWFP Service Tribunal, Appeal No.244/2007, quoted by <sup>appellant</sup> application in his application(Copy of the decision attached).

*9/7/08*  
EXECUTIVE DISTRICT OFFICER,  
ELEMENTARY & SECONDAR EDU  
ABBOTTABAD

OFFICE OF THE EXECUTIVE DISTRICT OFFICER (ELEMENTARY AND SECONDARY)  
ABBOTTABAD

No. 23313

Dated Abbottabad the 12/12/08

The Director,  
Elementary and Secondary,  
NW.F.P., Peshawar.

Subject: APPLICATION FOR REGULARIZATION OF SERVICE M. KHALID.

Memo:-

Reference this office No. 15082/ Dated 7.7.2008.

I have the honour to request your goodself with the remarks that an appeal for regularization of service lodged by Mr. Muhammad Khalid Senior Clerk of this office has been submitted to your office vide this office No. quoted above.

It is again requested to please issue the necessary approval for regularization in service as Senior Clerk with the date of taking over charge i.e. 31.3.1993 instead of 31.5.1994 in favour of Mr. Khalid/Senior Clerk of this office please.

*Reviewed*  
*[Signature]*

*[Signature]*  
EXECUTIVE DISTRICT OFFICER  
ELEMENTARY AND SECONDARY  
ABBOTTABAD

OFFICE OF THE EXECUTIVE DISTRICT OFFICER (ELEMENTARY & SECONDARY)  
ABBOTTABAD.

No. 9971

Dated Abbottabad the 25 / 5 / 2009

The Director,  
Elementary and Secondary Education,  
NW FP, Peshawar.

Subject:- APPLICATION TO REGULARIZED OF SERVICE (M. KHALID)

Memo:-

Reference this office No. 15082/Dated 17.7.2008.

I have the honour to request your goodself with the remarks that an appeal for regularization of service lodged by Mr. Muhammad Khalid S/Clerk of this office has been submitted to your office vide this office No. quoted above.

It is again requested to please the issue necessary approval for regularization in service as senior clerk w.e.f the date of taking over charge i.e. 31.3.1993 instead of 31.5.1994 in favour of Mr. Muhammad Khalid S/Clerk of this office in the light of Judgement dated 20.3.2009 NW-FP Service Tribunal Peshawar mentioned in the Notification dated 23.2.2009 issued by the Director of Higher Education NWFP, Peshawar. (Copy of the Notification is also attached for ready reference).

DISTRICT OFFICER  
ELEMENTARY AND SECONDARY EDUCATION  
ABBOTTABAD.

*Served*  
*MKS*

# وکالت نامہ

کوٹ فیس

بعدالت جناب KIR سرورین ٹریبونل رٹ اور، لیب کوٹ ایسٹ آباد  
منجانب سٹیل / اسٹیل رٹ

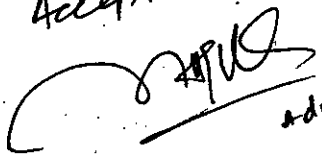
بنام سکریٹری ایجوکیشن وغیرہ۔  
فخر خلد  
دعویٰ یا جرم سرورین اپیل

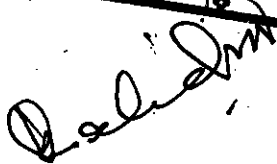
باعث تحریک آنکہ ایسٹ آباد  
فخر عقیل ایڈووکیٹ

مندرجہ بالا عنوان میں اپنی طرف سے پیروی و جوابدی۔۔۔ فخر عقیل ایڈووکیٹ  
مقام۔ ایسٹ آباد۔۔۔ بدیں شرط وکیل مقرر کیا ہے میں ہر پیشی پر خود یا بذریعہ مختار خاص روبرو عدالت  
حاضر ہوتا رہوں گا اور بوقت پکارے جانے وکیل صاحب موصوف کو اطلاع دیکر حاضر کروں گا۔ اگر کسی پیشی پر منظر  
حاضر نہ ہوا اور غیر حاضری کی وجہ سے کسی طور پر مقدمہ میرے خلاف ہو گیا تو صاحب موصوف 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 کر نیکی مجاز نہ ہونگے۔ اگر مقدمہ مقام کچہری کے کسی اور جگہ سماعت ہونے پر یا بروز کچہری کے  
اوقات کے آگے یا پیچھے ہونے پر منظر کو کوئی نقصان پہنچے تو ذمہ داریاں اسکے واسطے کسی معاوضہ ادا کرنے مختار نامہ  
واپس کرنے کے بھی صاف و موصوف ذمہ دار نہ ہونگے۔ مجھے کل ساختہ پر داختہ صاحب مثل کردہ ذات خود منظور و  
قبول ہوگا اور صاحب موصوف کو عرضی دعویٰ اور درخواست اجراءے ڈگری و نظر ثانی اپیل نگرانی دائر کرنے نیز ہر قسم  
کی درخواست پر دستخط تصدیق کرنے کا بھی اختیار ہوگا۔ اور کسی حکم یا ڈگری کے اجراءے کرانے اور ہر قسم کاروبار  
وصول کرنے اور رسید دینے اور داخل کرنے کا ہر قسم کا بیان دینے اور سپرد دہائی و راضی نامہ و فیصلہ برخلاف کرنے و  
اقبال دعویٰ کا اختیار ہوگا اور بصورت اپیل و برآمدگی مقدمہ یا منسوخی ڈگری ایک طرف درخواست حکم انتاعی یا  
ڈگری و قبل از فیصلہ اجراءے ڈگری بھی صاحب موصوف کو بشرط ادا دہائی علیحدہ پیروی مختار نامہ کرنے کا مجاز ہوگا۔ ار  
بصورت ضرورت اپیل یا اپیل کے واسطے کسی دوسرے وکیل یا پیر مشر کو بجائے اپنے ہمراہ مقرر کریں اور ایسے مشیر  
قانونی کو بھی اس امر میں وہی اختیارات حاصل ہونگے 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 اختیار نامہ لکھ دیا ہے کہ سندر رہے۔ مضمون مختیار نامہ سن لیا ہے اور اچھی طرح  
سمجھ لیا ہے اور منظور ہے۔

الرقوم: 20/02/2018

Accepted

  
adv.





Service Appeal No: 300/2018

Muhammad Khalid Assistant(BPS-16) O/O the SDEO(M) Batgram. ....Appellant.

**VERSUS**

Secretary E&SE Department, Khyber Pakhtunkhwa & others. ....Respondents

**JOINT PARAWISE COMMENTS FOR & ON BEHALF OF RESPONDENTS No: 1-4.**

Respectfully Sheweth :-

The Respondents submit as under:-

**PRELIMINARY OBJECTIONS.**

- 1 That the Appellant has got no cause of action locus/standi.
- 2 That the instant Service Appeal is badly time barred.
- 3 That the Appellant has concealed material facts from this Tribunal.
- 4 That the Appellant has not come to this Tribunal with clean hands.
- 5 That the instant Service Appeal is against the prevailing law & rules.
- 6 That the appeal is not maintainable in its present form.
- 7 That the appeal is bad for mis-joinder & non-joinder of the necessary parties.
- 8 That the instant Service Appeal is barred by law.
- 9 That the Honorable Tribunal has no jurisdiction to adjudicate the matter.
- 10 That the impugned Notification dated 14/11/1998 is within legal parameter.
- 11 That the appellant is not entitled for the grant of antedation of promotion wef 31/3/1993 under the relevant provisions of law & rules.

**ON FACTS**

- 1 That Para-1 needs no comments being relates to the service record of the appellant against the Junior Clerk Post in the Respondent Department.
- 2 That Para-2 incorrect & misleading on the grounds that the appellant was actually working against the Junior Clerk Post & was adjusted against the Senior Clerk Post in his own pay & Scale of junior clerk vide order dated 15/3/1993 by the Respondent Department as admitted by the appellant himself in his appeal which does not create right. (Copy of the said order dated 15/3/1993 is annexed as Annexure-A).
- 3 That Para-3 is also needs no comments as each & every Civil Servant if transferred & adjusted against a post in his own pay & scale in legally bound to assumed his duty charge as a matter of routine.

- 36/
- (40)
- 4 That Para-4 is correct to the extent that vide the notification dated 25/3/1997, the appellant has been promoted against the Senior Clerk Post in view of his seniority cum fitness in the Respondent Department whereas, rest of the Para regarding grant of promotion with antedated effect is baseless & without any cogent legal & moral justification. As the posting on Own Pay & Scale is not now here mentioned in service law nor creates any right. Hence, denied. **(Copy of the said Notification dated 25/3/1997 is attached as Annexure-B).**
  - 5 That Para-5 is correct that the date of promotion of the appellant against the senior clerk post has been antedated wef 25/3/1997 to 03/5/1994 vide order dated 14/11/1998 by the Respondent Department upon his Departmental Appeal to the Respondent No: 2. **(Copy of the Departmental Appeal is Annexure-C).**
  - 6 That Para-6 is correct that vide Notification dated 14/11/1998 the date of promotion of the appellant has been antedated wef 25/3/19093 to 31/5/1994 by the Respondent Department whereas, the rest of the Para is incorrect & denied. **(Copy of the notification dated 14/11/1998 is annexed as Annexure-D).**
  - 7 That Para-7 is incorrect & denied. The case of the appellant is badly time barred under the Law of limitation Act 1908, as the date of his antidation of his promotion is 14/11/1998 & he has filed his Departmental Appeal on 20/5/2008 to the Respondent which is by itself amount to several Departmental Appeal as the order dated 14/11/1998 is an appellate order. Hence, on this score, the appeal in hand is liable to be dismissed in favour of the Respondent Department. **(Copy of the Departmental Appeal is annexed as Annexure -E).**
  - 8 That Para-8 is also incorrect & misleading as the Respondent Department has acted as per law, rules & criteria in the instant case & has correctly promoted the appellant wef 31/5/1994. Hence, not entitled for the grant of promotion wef 31/3/1993 which is the date on which the appellant was actually serving the E&SE Department against the Junior Clerk instead of Senior Clerk Post.
  - 9 That Para-9 is incorrect & not admitted. No such correspondence has been made by the then EDO(S&L) now DEO (M) Abbot Abad. Non he is entitled to do so under the relevant job manual to the Respondent No: 2 as each & everything is done as per law, rules & criteria in the E&SE Department.
  - 10 That Para-10 needs no comments being pertains to RTI Department whom the appellant has not made Respondent in his service Appeal before this Tribunal for bring the factual position.
  - 11 That Para-11 is legal. However, the Respondents No: 1-4 further submit on the following grounds inter alia :-

#### ON GROUNDS.

- a Incorrect & not admitted. The appellant has been treated in accordance with Law, Rules & criteria in the instant case & has correctly antidated his promotion wef 31/5/1994 by not entitling the appellant wef 31/3/1993 for the grant of promotion against the Senior Clerk Post as on that date, he was working against the junior clerk post in the Respondent Department.
- b Incorrect & not admitted. The act of the Respondent Department is within legal parameter & is liable to be maintained in the interest of justice.

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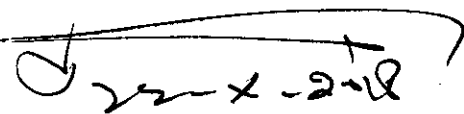
(39)

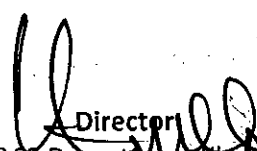
Incorrect & not admitted. The Departmental Promotion Committee (DPC) is fully empowered to fix the date of promotion of being a proper forum under the relevant provisions of Law, rules & prescribed criteria. Further as per judgment reported in 2015 SCMR-165 that appointment on Acting or officiating basis cannot create rights for regular promotion.

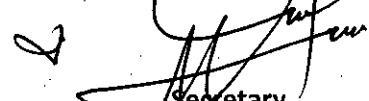
- d Incorrect & not admitted. The appellant is not entitled for the grant of promotion wef 31/3/1993 as he was working against the junior clerk Post & has been adjusted against the Senior Clerk Post for the time being & not on regular basis in the Respondent Department.
- e Incorrect & not admitted. The cited judgment of the Supreme Court of Pakistan is not applicable upon the case of the appellant in view of the above made submission in the instant reply.
- f Incorrect & misleading. The cited judgment of this Tribunal is also not applicable upon the case of the appellant of being different on both question of law & facts of the case.
- g Incorrect & not admitted. The Departmental appeal of the appellant is badly time barred & if a Departmental appeal of the appellant is time barred then the instant Service Appeal shall also be time barred, under the law of limitation Act 1908.
- h Incorrect & not admitted. As per judgment in 2018 SCMR-997 that a civil servant is aggrieved for any order he shall challenge the said vigilantly & promptly.
- i Incorrect & denied. The appellant is not entitled for promotion wef 31/3/1993 during his adjustment against the Junior Clerk Post on his own pay & grade in the Respondent Department as admitted by the appellant too.
- j Incorrect & denied. The act of the Respondent Department is within legal parameter & liable to be maintained.
- k Incorrect & not admitted. The provision of Article 25 & 27 of 1973 constitution of Islamic Republic of Pakistan has not been violated by the Respondent Department in the instant case.
- l Incorrect & not admitted. The appellant is not entitled for further antidation of promotion wef 31/3/1993 under the rules & criteria.
- m Incorrect & misleading. This Tribunal has got no jurisdiction to entertain the instant case of being badly time barred.

**In view of the above made submissions, it is humbly Prayed that this Honorable Tribunal may very graciously be pleased to dismiss the instant Service Appeal with cost in favour of the Respondent Department in the interest of justice.**

Dated \_\_\_/\_\_\_/2018

  
Secretary  
E&SE Department Khyber  
Pakhtunkhwa, Peshawar  
(Respondent No: 1)

  
Director  
E&SE Department Khyber  
Pakhtunkhwa, Peshawar.  
(Respondents No: 2 & 3)

  
Secretary  
Finance Department Khyber  
Pakhtunkhwa, Peshawar  
(Respondent No: 3)

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**BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.**

Service Appeal No: 300/2018

**Muhammad Khalid Assistant(BPS-16) O/O the SDEO(M) Batgram. ....Applicant.**

**VERSUS**

Secretary E&SE Department, Khyber Pakhtunkhwa & others. ....Respondents

**REPLY TO THE APPLICATION FOR & ON BEHALF OF RESPONDENTS No: 1-4.**

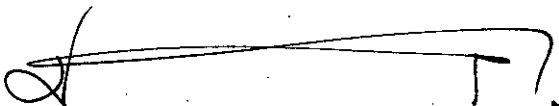
Respectfully Sheweth :-

The Respondents submit as under:-


- 1 That Para-1 needs no comments.
- 2 That Para-2 is incorrect that as the applicant is not entitled for promotion wef 31/3/1993 & has correctly been promoted wef 31/5/1994 against the Senior Clerk Post by the Respondent Department.
- 3 That Para-3 is incorrect & misleading. The case of the applicant is badly time barred & liable to be dismissed under the relevant law.
- 4 That Para-4 is incorrect & denied.
- 5 That Para-5 is incorrect & denied. The case of the applicant is time barred & is liable to be dismissed.
- 6 That Para-6 is not admitted. The act of the Respondent No: 2 is within legal sphere.
- 7 That the application of the applicant is time barred.
- 8 That Para-8 is denied. The case of the applicant is time barred & liable to be dismissed.
- 9 That Para-9 is incorrect. Civil Law is mainly based on Law of limitation. Hence, the plea of the applicant is baseless.
- 10 That Para-10 is incorrect. Hence, needs no comments.
- 11 That Para-11 is also denied. The applicant was fully aware of his own case & intentionally got his case time barred.

**In view of the above made submissions, it is humbly Prayed that this Honorable Tribunal may very graciously be pleased to dismiss the instant application with cost in favour of the Respondent Department in the interest of justice.**

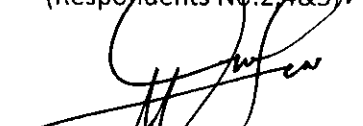
Dated \_\_\_/\_\_\_/2018



**Secretary**  
E&SE Department Khyber  
Pakhtunkhwa, Peshawar  
(Respondent No:1)



**Director**  
E&SE Department Khyber  
Pakhtunkhwa, Peshawar.  
(Respondents No:2,4&5)



**Secretary**  
Finance Department Khyber  
Pakhtunkhwa, Peshawar  
(Respondent No:3)

Office of The Headmaster, Govt:High School Kakul.

Office order No 730

Dated, Kakul the 30.6.80

Appointment:

As authorised by the Divisional Director of Education, Hazara Division, Abbottabad vide his No 1283 Dated 29.6.80, Mr. Khalid S/o Haji Ahmad of village Kakul is hereby appointed as junior clerk against the vacant post in P.T.O. "B" at Govt:High School Kakul, with effect from the date of taking over charge, in the interest of public service of the following conditions:-

1. Charge reports in duplicate should be submitted to all concerned.
2. No TA/DA is allowed, being the first appointment.
3. The appointment is purely on temporary basis and subject to termination at any time without notice and assigning any reason.
4. He should produce his age and health certificate from the Medical Superintendent concerned.
5. His age should not exceed 30 years or below 15 years.

*Sd*  
Headmaster,  
Govt:High School, Kakul.

Copy to:-

- 1 The Divisional Director of Education, Hazara Division Abbottabad for information and necessary action please.
- 2 D.E.O. Abbottabad for information.
- 3 Candidate concerned.
- 4 Office copy.

*Karimuddin*  
Headmaster,  
Govt:high School, Kakul.

Attested

*[Signature]*  
Sd/-  
Headmaster

نوٹ کیا گیا

*Khalid*  
2/7/80

*[Signature]*

Adjustment order dt 15.3.1993

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OFFICE OF THE DIRECTOR, SECONDARY EDUCATION, N. F. P. PESHAWAR  
ADJUSTMENT

Mr. Muhammad Khalid Junior Clerk, Govt. High School Pakul, A/Abad is hereby adjusted on his own pay & BS as Senior Clerk at Distt. Education Officer (M) Secy: A/Abad against the vacant post of Senior Clerk in the interest of public service.

- Notes:-
1. Charge Reports should be sent to all concerned.
  2. The adjustment of the above named official from the post of Junior Clerk to the post of S/Clerk is subject to the approval of Departmental Selection Committee of Education Department N. F. P. He is adjusted on his own pay & BS.
  3. He should take over charge against his new assignment on or before 1/4/1993 positively.
  4. The Distt. Education Officer (M) Secy: A/Abad is requested to furnish the original copies of the above official from the date of his 1st appointment as Junior Clerk in Education Department to ending Dec: 1992.
  5. In case the above named official concerned is found involved in disciplinary case, he may not be relieved. The matter be reported to this office.

*Attended*  
*[Signature]*

( SHAHJAHAN KHAN )  
DEPUTY DIRECTOR, SECONDARY,  
DISTRICT OFFICE, SECONDARY EDUCATION  
N. F. P. PESHAWAR.

Endst: No. 3074-79 / A-23/Promotion/S/Clerk/ Vol. 4/ Pakul I

Copy forwarded for information and necessary action to the:-

1. Divisional Director of Education (Schools) Hazara Division A/Abad.
2. Distt. Education Officer (M) Secy: A/Abad.
3. ✓ Headmaster, Govt. High School Pakul (A/Abad).
4. Official concerned.
5. P/ File.
6. M/ File.

*Attested*

*[Signature]*  
Principal  
Govt Higher Secondary School  
Mach Helen Abbottabad.

*3074-79 dt: 15/3/93*  
*[Signature]*

*[Signature]*  
Deputy Director, Secondary  
For/Director, Secondary Education  
N. F. P. Peshawar.

15/3/93

Note: Entry on the Service Book on

CERTIFICATE OF TRANSFER OF CHARGE

31.3.1993 (A.N.)

1. Certified that we have on the fore/afternoon of this day respectively made over and receive charge of this office of the District Education Officer (M) Secondary Abbottabad, vide Director of Secy. Education NWFP, Peshawar. Endst: No. 3074-79/A-23/Vol: V. Dated 15.3.1993.
2. Particulars of cash and important secret and confidential documents handed over are noted on the reverse:—

Signature of relieved  
Government servant... Vacant post.....

Station... Abbottabad..... Designation..... Senior Clerk.....

Signature of relieving *Mohammad Khalid*  
Government servant... Mohammad Khalid...  
S/C office of the DEO(M) Secy:

Dated... 31.3.1993 A.N..... Designation... Abbottabad.....

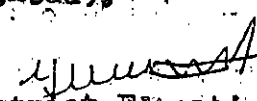
*Received*  
*Muhammad*

71  
C  
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No. 3531-34 / Dated Abbottabad the 31 / 03 / 1993.

Copy forwarded for information to the:-

1. Director Secondary Education with reference to his Dist: No. 3074-79/A-23/Vol: V Dated 15.3.1993.
2. District Accounts Officer, Abbottabad.
3. Principal Govt. High School Kaku (A. Abad).
4. Office Record.

  
District Education Officer,  
(M) Secy. Abbottabad.

~~Director~~ District Education Officer  
(M) Secy. (Secondary) Abbottabad.



# Approval

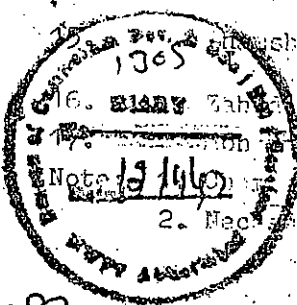
(12)  
(10)  
(11)

OFFICE OF THE DEPUTY DIRECTOR SECONDARY EDUCATION PESHAWAR.

Consequent approval by the Departmental Selection Committee of Education Department in its meeting held on 25/3/1997. The following Junior Clerks already working on their own pay against the vacant post of S/Clerk are hereby promoted regular basis to the post of S/Clerks in BPS-7 and posted against the post of S/Clerk is noted against each in the interest of public service with effect from 25/3/1997.

S.No.	Name & Designation.	Promoted	Posted	Remarks.
1.	Mr. Ishaanul Haq J/C	S/Clerk at GHES Chakri	Charnada.	Against the post occupied by him.
2.	Amal Khan J/C	S/Clerk GHES No.3	Pesh:City.	do
3. ✓	Mohammad Khalid J/C	S/Clerk at Bureau	L/Abad	do
4.	Abdul Manan J/C	S/Clerk at TEE(B/S)	Chitral.	do
5.	Mohammad Ibrahim J/C	S/Clerk at GHES D	Mallahdan	do
6.	Nooruz Khan J/C	S/C at GH No.3	Bannu	do
7.	Mohammad Ayub J/C	S/C at DPO(A/T)	DIK	do
8.	Riaz Ahmad J/C	S/C at G.C.	Tinangarrah	do
9.	Mohammad Zaheer J/C	S/C at GBW	(H.S.S.) Manshera	do
10.	Rahim Dil J/C	S/C G.P.	G.C Bannu.	do
11.	Shoukat Hussain J/C	S/C at GGHS	Manshera	do
12.	Muj Mohammad J/C	S/C at TEE(C)	Mardan	do
13.	Imanullah J/C at	GHS No.4	Mingora Swat.	Against V. Post
14.	Adnan Gul J/C	S/Clerk at GGC	Mardan	Against the post occupied by him.
15.	Muhammad Tahir J/C	S/C at GHES	Kozai Banda	do
16.	Muhammad Zahid J/C	S/C at TEO(H/S)	Charnada	do
17.	Muhammad Farid J/C	S/C at TEE	(S) Pesh: L/Abad	do

*referred*  
*M/11*



Note: 1. All reports should be sent to all concerned.  
2. Necessary entry to the effect should be made in their S/Book.

(MULIM) (PESHAWAR)  
DEPUTY DIRECTOR SECONDARY  
EDUCATION PESHAWAR.

Endst. No. 2-5/1997-25/3/1997 promotion J/C Dated 25/3/1997. 25-03-1997 31-03-1997

- Cop. forwarded for information and necessary action to the:-
1. Accountant General, NWFP Peshawar.
  2. Director of Education (Colleges) Peshawar, (P.T.) Bureau L/Abad.
  3. Divisional Director of Education (Schools) concerned.
  4. Distt. Education Officer (U/F) Pesh: and Trry: concerned.
  5. Principal, Govt. Colleges (U/F) concerned.
  6. Principal, Govt. Higher Secondary School (U/F) concerned.
  7. Principal, Govt. Elementary Colleges (U/F) concerned.
  8. Sub-Divisional Education Officer concerned.
  9. P/Office.

EPB  
11/4

(H.I.K.)  
4/1997

Deputy Director Secondary  
Education Peshawar

(E)

مکتبہ اعلیٰ اسلامیہ پاکستان، لاہور

مکتبہ اعلیٰ اسلامیہ پاکستان

مکتبہ اعلیٰ اسلامیہ پاکستان کے بارے میں معلومات کے لئے  
مکتبہ اعلیٰ اسلامیہ پاکستان کو جو مکتبہ اعلیٰ اسلامیہ پاکستان  
میں 1993 میں جے کیتھ سٹرکٹ B-7 میں 9 Gradec 9  
میں 1993 میں 15 کو ایڈمٹ کیا گیا ہے۔  
مکتبہ اعلیٰ اسلامیہ پاکستان کی approval سے پہلے ہی  
مکتبہ اعلیٰ اسلامیہ پاکستان کے بارے میں معلومات کے لئے

مکتبہ اعلیٰ اسلامیہ پاکستان کے بارے میں معلومات کے لئے  
مکتبہ اعلیٰ اسلامیہ پاکستان کے بارے میں معلومات کے لئے  
مکتبہ اعلیٰ اسلامیہ پاکستان کے بارے میں معلومات کے لئے  
مکتبہ اعلیٰ اسلامیہ پاکستان کے بارے میں معلومات کے لئے

مکتبہ اعلیٰ اسلامیہ پاکستان کے بارے میں معلومات کے لئے  
مکتبہ اعلیٰ اسلامیہ پاکستان کے بارے میں معلومات کے لئے  
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مکتبہ اعلیٰ اسلامیہ پاکستان کے بارے میں معلومات کے لئے

26/01/97

مکتبہ اعلیٰ اسلامیہ پاکستان کے بارے میں معلومات کے لئے  
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مکتبہ اعلیٰ اسلامیہ پاکستان کے بارے میں معلومات کے لئے

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13-0-97

مورخہ 13-10-1998

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(M)

OFFICE OF THE DIRECTOR, SECONDARY EDUCATION, PESHAWAR

CORRECTIVE

In partial modification of this office notification issued vide this office order No. 1665-1705 dated 2-1-1998 in relation to Junior Officers, the date of proforma creation in respect of Mr. Mohammed Khalid Senior Clerk Office of the personnel of Bureau and Curriculum extension services Education Department, Abbottabad may be read as 1-5-1994 instead of 25-3-1997 at S.O. 15.

(S/O 1665-1705)  
DEPUTY DIRECTOR (SECONDARY)  
DIRECTORATE OF SEC. EDUCATION  
PESHAWAR.

Enst. No. 221-4/A-23/Mohammad Khalid S/O. Dated 14/11/1998.

Copy forwarded for information & action to the:-

1. Director of Bureau Curriculum and Extension Services Education Department, Peshawar.
2. District Accounts Officer Abbottabad.
3. Official Concerned.
4. B. to Director Secy. Education NWP, Peshawar.
5. M/ File.

DEPUTY DIRECTOR  
FOR/DIRECTOR SEC. EDUCATION  
PESHAWAR.

*Handwritten notes:*  
Amd. Id  
M/ File

(36)

**BEFORE THE HONORABLE KHYBER PAKHATUNKHWA SERVICE TRIBUNAL PESHAWAR.**

Service Appeal No: 300/2018

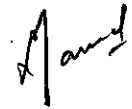
**Muhammad Khalid Assistant(BPS-16) O/O the SDEO(M) Batgram. ....Applicant.**

**VERSUS**

**Secretary E&SE Department, Khyber Pakhtunkhwa & others. ....Respondents**

**AFFIDAVIT**

I, Hameedur Rehman Asstt: Director (Litigation-II) E&SE Department do hereby solemnly affirm and declare that the contents of the instant application are true & correct to the best of my knowledge & belief.



Deponent