

10.06.2022

Junior to counsel for the appellant present.

Lawyers are on general strike, therefore, case is adjourned. To come up for preliminary hearing on 30.07.2022 before S.B.



(Rozina Rehman)
Member (J)

01.08.2022

Counsel for the appellant present.

Learned counsel for the appellant made a request for adjournment on the ground that he has not prepared the brief. Request accepted. To come up for preliminary hearing on 29.09.2022 before S.B.







(Fareeha Paul)
Member (E)

FORM OF ORDER SHEET

Court of _____

Case No.- 171/2022


S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	07/02/2022	<p>The appeal of Mushahida Durrani resubmitted today by Mr. Munfat Ali Yousafzai Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-	01.04.2022	<p>This case is entrusted to S. Bench at Peshawar for preliminary hearing to be put there on <u>01-04-2022</u></p> <p style="text-align: right;"> CHAIRMAN</p> <p>None present for the appellant. Notice be given to the appellant and his counsel for the date fixed. To come up for preliminary hearing on 26.04.2022 before the S.B.</p> <p style="text-align: right;"> Chairman</p>
	26.04.2022	<p>Counsel for the appellant present.</p> <p>Learned counsel for the appellant seeks adjournment to further prepare the brief. Granted. To come up for preliminary hearing on 10.06.2022 before S.B.</p> <p style="text-align: right;"> (MIAN MUHAMMAD) MEMBER(E)</p>

The appeal of Mst. Mushida Durrani, SAT (BPS-16), GGHS Civil Colony, District Peshawar received today i.e. on 15.12.2021 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

1. Appeal has not been flagged/marked with annexure marks.
2. Copy of notification dated 15/12/2011 annexed as annexure G is not attached with the appeal which may be placed on it.
3. Copies of Page 18, 19, 20, 21, 22, 23, 24 and 25 attached with the appeal are illegible which may be replaced by legible/better one.
- ④. Four more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No. 2499 /S.T,

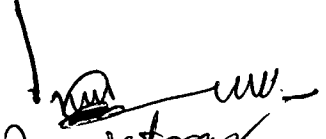
Dt. 16/12 /2021


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Munfat Ali Yousafzai
Advocate Peshawar.

Dear Sirs
All objections has been removed
hence for Re submission.

④
Objection no. 4 is still stand.
Therefore, the appeal in hand is
returned to the counsel for the
appellant for its completion and
resubmission with 15 days.


Registrar

No. 111 /S.T

Dt. 17/01 2022

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. 171 /2021

MUSHIDA DURRAIN

VS

EDUCATION DEPTT:

INDEX

S.NO.	DOCUMENTS	ANNEXURE	PAGE
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2	Affidavit	5.
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8	Notification dated 15.12.2011	G	23
9	Wakalat nama	24.

APPELLANT

THROUGH:


MUNFAT ALI
ADVOCATE

03449213367

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Khyber Pakhtunkhwa
Service Tribunal

APPEAL NO. _____/2021

Diary No. 8043

Mst; Mushida Durrani, SAT (BPS-16),
GGHS Civil Colony, District Peshawar.

Date 15/12/2021

..... APPELLANT

VERSUS

- 1- The Secretary Elementary & Secondary Education Department,
Khyber Pakhtunkhwa Peshawar.
- 2- The Secretary Establishment Department, Khyber Pakhtunkhwa,
Peshawar.
- 3- The Secretary Finance Department, Khyber Pakhtunkhwa,
Peshawar.
- 4- The Director Elementary & Secondary Education Department,
Khyber Pakhtunkhwa Peshawar.
- 5- The District Education Officer, (Female) District Peshawar.

.....RESPONDENTS

**APPEAL UNDER SECTION-4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST
THE INACTION OF THE RESPONDENTS BY NOT
CONSIDERING THE APPELLANT FOR PROMOTION TO
THE POST OF S.S.T (BPS-16) ON THE BASIS HAVING
BACHELOR DEGREE IN 3RD DIVISION AND AGAINST THE
SERVICE RULES NOTIFIED ON 24.7.2014 WHEREBY THE
CONDITION OF BACHELOR 2ND DIVISION HAS BEEN
INSERTED IN SERIAL NO.1B, COLUMN NO.3(i) OF THE
TABLE AND AGAINST NOT TAKING ACTION ON
DEPARTMENTAL APPEAL OF APPELLANT WITHIN
STATUTORY PERIOD OF NINETY DAYS**

PRAYER:

That on acceptance of this appeal the impugned service Rules dated 24.7.2014 may kindly be modified to the extent that the condition of Second Division/Class be expunged from Column No.3 (i), serial No.1B of the table and the respondents may kindly be directed to consider the appellant for promotion to the post of Secondary School Teacher (BPS-16) from the date when his Colleagues and junior colleagues were promoted with all consequential back benefits including seniority. Any other remedy which this august Tribunal deems fit that may also be awarded in favour of the appellant.

R/SHEWETH:
ON FACTS:

Brief facts giving rise on the present appeal are as under:

Filed today
Registrar
15/12/21

- 1- That appellant was initially appointed as Arabic Teacher vide order dated 14.12.1995 and subsequently promoted to the post of Senior Arabic Teacher (BPS-16) vide Notification dated 30.05.2013. Copy of the Notification dated 30.05.2013 is attached as annexure.....A.
- 2- That appellant is higher qualified having master in Arabic in 1st Division from University of Peshawar and also acquired the degree bachelor in Education from University of Sargodha. *in second div* Copies of degrees are attached as annexure.....B.
- 3- That it is pertinent to mention here that the respondents issued the impugned notification dated 24/07/2014 whereby the post of secondary school teacher was restructured and 20 % promotion quota to the aforementioned post was reserved for primary school teachers. That according to the said notification required qualification for initial recruitment as well as promotion was mentioned as second class bachelor degree. Copy of impugned notification dated 24/07/2014 is attached as annexure.....C.
- 4- That it is pertinent to mention here that the respondents denied promotion to some colleagues of the appellant to the post of SST due to having third class bachelor degree. That feeling aggrieved some colleagues filed writ petitions which were allowed in favor of petitioners vide judgment dated 05/04/2016 and 28/01/2016 and consequently they were promoted to the post of SST. Copies of the judgments dated 28/1/2016 and 05/04/2016 are attached as annexure.....D & E.
- 5- That it is worth mentioning that appellant was also denied promotion due to having third class bachelor degree despite the fact that appellant is having 1st division in higher qualification i.e. master in Arabic. *and second division Bed.*
- 6- That appellant being a similar placed employee approached the respondents to extend him the benefits of above mentioned judgments, but still in vain. Copy of the Departmental appeal is attached as annexure.....F.
- 7- That it is also pertinent to mention that establishment department issued a notification dated 15/12/2011 whereby amendment has been made in PMS rules 2007 by providing that a candidate who has obtain 3rd division in bachelor degree will be eligible for the examination in cases where he/she has obtained a higher division in Master's degree. Copy of notification is attached as annexureG.
- 8- That feeling aggrieved and having no other remedy the appellant filed the instant appeal on the following grounds amongst the others.

GROUND:

- A- That the impugned notification dated 24/07/2014 to the extent of second class bachelor degree for promotion is against the law facts and judgment of Peshawar high court, hence not tenable and liable to be modified and the words second class be expunged only for promotion purpose.
- B- That the petitioner has not been treated in accordance with law and rules by the respondent Department on the subject noted above and as such the respondents violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.
- C- That appellant is entitled to be promoted to the post of SST from due date in light of judgments of Peshawar high court by attracting principle of consistency as mentioned in 2009 SCMR 1.
- D- That appellant has second division in higher qualification i.e. master and entitle to be promoted from due date in light of notification dated 15/12/2011.
- E- That the appellant has been discriminated on the subject noted above and as such the respondents violated the principle of natural justice.
- F- That appellant seeks permission to advance other grounds and proofs at the time of hearing.

It is therefore most humbly prayed that the appeal of the appellant may be accepted as prayed for.

Dated: 01.12.2021.

APPELLANT

Mushida

MUSHIDA BEGUM

THROUGH:

M

MUNFAT ALI

ADVOCATE

CERTIFICATE:

It is certified that no other earlier appeal was filed between the parties.

Mushida

DEPONENT

LIST OF BOOKS:

- 1- CONSTITUTION OF PAKISTAN, 1973
- 2- SERVICES LAWS BOOKS
- 3- ANY OTHER CASE LAW AS PER NEED

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. _____/2021

MUSHIDA BEGUM

VS

HEALTH DEPTT:

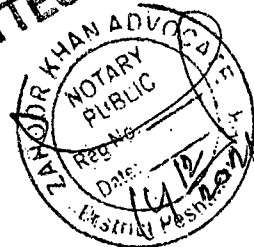
AFFIDAVIT

I Munfat Ali, Advocate High Court, Peshawar on the instructions and on behalf of my client do hereby solemnly affirm and declare 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 Honorable Court.

(M)

MUNFAT ALI,
Advocate
High Court, Peshawar

ATTESTED



A-6

OFFICE OF THE DISTRICT EDUCATION OFFICER FEMALE E & S EDUCATION PESHAWAR

NOTIFICATION

Consequent upon the placement off their services at the disposal of this office by the Directorate of EB&SE Khyber Pakhtun Khwa Peshawar vide Notification No.4746-S2/ File No.1 /Promotion Senior AT 8-16 Dated 28/05/2013. The following Senior AT 8PS-16 are hereby adjusted in the schools mentioned against their names in the Interest of public service with immediate effect on the terms and conditions already framed in the above mentioned notification.

S.No	Name of Officials	Present place of posting	Adjusted at	Remarks
1	Fazana Begum	GGMS Daman Afghani	GGHS Mian Gujar	Vice Aina Tabassum not promoted
2	Tabassum Bakhtiar	GGMS Gul Bela Kochian	GGHS Shajar Bala	Vice Mujahida Begum not promoted
3	Mujahida Durani	GGMS Asia Park Pesh	GGHS Civil Colony	Vice Farhat Jabeen not promoted
4	Bifat Begum	GGHS Sarband	GGHS Sarband	Post already occupied by her
5	Yasmeen Sultan	GGMS No 3 Peshawar Cantt	GGHS No.1 Peshawar Cantt	Vice Sarfaraz Kausar not promoted
6	Syedra Abida Bibi	GGHS Joggi Wara Peshawar	GGHS Joggi Wara Peshawar	Post already occupied by her
7	Tasbeem Bibi	GGHS Larama	GGHS Larama	Post already occupied by her

Consequential posting /transfer of the following BPS- 15 AT are also ordered to the places as mentioned against their names

S.No	Name of Officials	Present place of posting	Adjusted at	Remarks
1	Aina Tabassum	GGHS Mian Gujar	GGMS Daman Afghani	Against vacant post
2	Mujahida Begum	GGHS Shajar Bala	GGMS Gul Bela Kochian	Against vacant post
3	Sarfaraz Kausar	GGHS No.1 Peshawar Cantt	GGMS No.3 Cantt	Against vacant post
4	Farhat Jabeen	GGHS Civil Colony Peshawar	GGMS Asia Park	Against vacant post

[SOPIA TABASSUM]
District Education Officer Female
Peshawar

(Handwritten Signature)
(M)

Endst: No 6905-9 Dated Pesh: the 30.5 /2013

Copy of the above is forwarded to the.

1. Accountant General Khyber Pakhtunkhwa Peshawar
2. Director (E&SE) Khyber Pakhtunkhwa Peshawar
3. Principal/ Headmistress concerned
4. Teachers concerned
5. Cashier Local Office

(Handwritten Signature)
29/5/13
District Education Officer Female
Peshawar

UNIVERSITY OF PESHAWAR
Pakistan

This certifies that

Mushtaq Durrani daughter of **Ghulam Muhammad** **J**
having fulfilled all the requirements is hereby admitted to the

Master of Arts in Arabic

is entitled to all the rights, honours and privileges thereunto

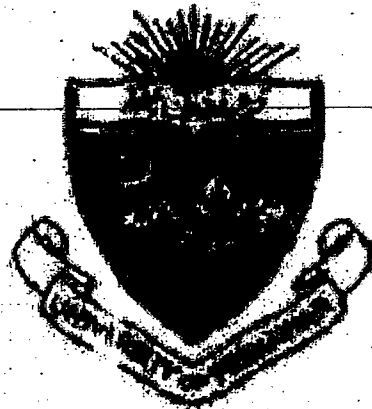
Given this 16th day of January, 2014.

30132

2013

2013-14

Mushtaq Durrani



108892

[Signature]
University of Peshawar

B2-8

UNIVERSITY OF SARGODHA

Serial No. 370

Roll No: 378

Registration No: 15-US-286-94



PASS RESULT CARD

B.Ed, 2nd Annual Examination, 2017

Name of the Candidate : Mushida Durrani

Father's Name : Ghulam Muhammad Jan

Institution / District : Federal Science & Commerce College, Rawalpindi (Late College Student)

The candidate mentioned above is hereby informed that He / She has **PASSED** the B.Ed. 2nd Annual Examination, 2017 held in January, 2018 obtaining 653 / 1250 marks and has been placed in **Second** division.

Marks obtained by him / her in each paper are given below:-

Paper No	Title of Paper	Marks Obtained	Maximum Marks	Remarks
BED 501	Introduction to Education	47	100	
BED 502	English Language Communication Skills	53	100	
BED 503	Methods of Teaching	44	100	
BED 505	Teaching Profession and Educational Law	47	100	
BED 506	Human Development and Learning	49	100	
BED 507	Assessment in Education	40	100	
BED 508	Classroom Management	64	100	
BED 509	Curriculum Development	58	100	
BED 515	Teaching of Pakistan Studies	40	100	
BED 516	Methods of Teaching Urdu	63	100	
BED 518	Teaching Practice	113	150	
BED 504	Introduction to Computer in Education	35	100	
	Total	653	1250	

Note:

This result card is issued as a notice only, errors and omissions excepted. An entry appearing in it does not in itself confer any right or privilege independently to the grant of a proper Certificate / Degree which will be issued under the Regulations in due course.

Result Declared on April 02, 2018

Assistant Controller of Examinations

Prepared by Computer Cell

for Controller

Checked by [Signature]
[Signature]

GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT

Peshawar, dated the 24th July, 2014.



NOTIFICATION

No.SO(PE)4-5/SSRC/Meeting/2013/Teaching Cadre:- In pursuance of the provisions contained in sub rule (2) of rule 3 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, the Elementary and Secondary Education Department in consultation with the Establishment Department and the Finance Department hereby directs that in this Department's Notifications No.SO(G)S&LD/1-28/2003/Vol-II dated, 09-04-2004, Notification No.SO(G)S&L/1-69/06/Vol-1/DPE/LIB dated, 13-11-2007, and Notification No.SO(PE)4-5/SSRC/Meeting/2012/Teaching Cadre, dated, 13.11.2012, the following further amendments shall be made, namely:

AMENDMENTS

In the Appendix,-

(i) Serial No. 1 shall be renumbered as 1B and before Serial No. 1B, as so renumbered, the following new entries shall be inserted in respective columns, namely:

1	2	3	4	5
1	Subject Specialist (BPS-17)	i. At least second class Master's Degree or four years BS Degree in the relevant subject; and ii. Bachelor of Education or Master of Education (Industrial Art or Business Education) or M.A Education or equivalent qualification from a recognized University.	23 to 35 years	(a) Fifty per cent by promotion, on the basis of seniority-cum-fitness, for the relevant subject from amongst the Secondary School Teachers (BPS-16), with at least five years service as such and having qualification mentioned in column No. 3. Note: If no suitable candidate is available in the relevant subject the post falling in their promotion quota shall be filled by initial

Amr
Cic

Amr
Cic

Amr
Cic

C-1
Amr
Cic

21

1A

1A	Director Physical Education (BPS-17)	At least second class Master's Degree in Physical Education from a recognized University.	22-35 years	<p>recruitment; and (b) fifty percent by initial recruitment.</p> <p>(a) Fifty percent by promotion, on the basis of seniority-cum-fitness, from amongst Senior Physical Education Teachers (BPS-16), with at least five years service as Senior Physical Education Teacher and Physical Education Teacher and having qualification mentioned in column No. 3:</p> <p>Provided that if no suitable person is available from amongst Senior Physical Education Teachers for promotion then the post shall be filled by promotion, on the basis of seniority-cum-fitness, from amongst the Physical Education Teachers, with at least five years service as such and having qualification mentioned in column No. 3;</p> <p>Note:- If no suitable candidate is available in the relevant cadres of the above teachers, the post falling in their promotion quota shall be filled by initial recruitment; and</p> <p>(b) fifty percent by initial recruitment"; and</p>
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Annex "A"

(ii) against Serial No. 1B, as so renumbered, for the existing entries, the following shall be substituted, in respective columns, namely:

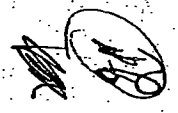
1	2	3	4	5
1B:	Secondary School Teacher (BPS-16)	<p>I. At least second class Bachelor Degree's from a recognized University on need basis from the following groups with two subject</p> <p>(a) (Chemistry, Botany or Zoology), Or (b) (Physics, Maths "A" or "B" or Statistics) Or (c) (Humanities and other equivalent groups at degree level with English as compulsory subject;</p> <p>and</p> <p>II. Bachelor of Education or Master of Education (Industrial Art or Business Education) or M.A Education or equivalent qualifications from a recognized University.</p>	21 to 35 years.	<p>1. Seventy Five per cent by promotion, on the basis of seniority-cum-fitness, from the district concerned in the following manner:</p> <p>(a) forty per cent from amongst the Senior Certified Teachers (BPS-16), with at least five years service as Senior Certified Teacher and Certified Teacher and having qualification mentioned in column No.3:</p> <p>Provided that if no suitable candidate is available from amongst Senior Certified Teachers for promotion then the post shall be filled by promotion, on the basis of seniority-cum-fitness, from amongst Certified Teachers, with at least five years service as such and having qualification mentioned in column No. 3;</p> <p>(b) four per cent from amongst the Senior Drawing Masters(BPS-16), with at least five years service as Senior Drawing Masters and Drawing Masters and having qualification mentioned in column No.3:</p>

(3)

for CTC

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Provided that if no suitable candidate is available from amongst Senior Drawing Masters for promotion then the post shall be filled by promotion, on the basis of seniority-cum-fitness, from amongst Drawing Masters with at least five years service as such and having qualification mentioned in column No. 3;

(c) four per cent from amongst the Senior Arabic Teachers(BPS-16), with at least five years service as Senior Arabic Teachers and Arabic Teachers, and having qualification mentioned in column No.3;

Provided that if no suitable candidate is available from amongst Senior Arabic Teachers for promotion then the post shall be filled by promotion, on the basis of seniority-cum-fitness, from Arabic Teachers with at least five years service as such and having qualification mentioned in column No. 3;

(d) four per cent from amongst the Senior Theology Teachers(BPS-16), with at least five years service as Senior Theology Teachers and Theology Teachers and having qualification mentioned in column No.3;

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M

13

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Provided that if no suitable candidate is available from amongst Senior Theology Teachers for promotion then the post shall be filled by promotion, on the basis of seniority-cum-fitness, from amongst Theology Teachers with at least five years service as such and having qualification mentioned in column No. 3;

(e) three per cent from amongst the Senior Qaris (BPS-16), with at least five years service as Senior Qari and Qari and having qualification mentioned in column No. 3;

Provided that if no suitable candidate is available from amongst the Senior Qaris then the post shall be filled by promotion, on the basis of seniority-cum-fitness, from Qaris with at least five years service as such and having qualification mentioned in column No. 3;

(f) twenty per cent from amongst the Primary School Head Teachers (BPS-16), with at least seven years service as Primary School Head Teachers and Senior Primary School Teachers and Primary School Teachers and having qualification mentioned in column No. 3;

Provided that if no suitable candidate is available from amongst

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CTC

SECRETARY TO GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT

Endst : of even No & date:

1. The Secretary to Government of Khyber Pakhtunkhwa, Establishment and Administration Department Peshawar.
2. The Secretary to Government of Khyber Pakhtunkhwa, Finance Department Peshawar.
3. The Secretary to Government of Khyber Pakhtunkhwa, Law Department Peshawar.
4. The Secretary Khyber Pakhtunkhwa, Public Service Commission Peshawar.
5. The Accountant General Khyber Pakhtunkhwa Peshawar.
6. The Director, Elementary and Secondary Education Department Khyber Pakhtunkhwa Peshawar.
7. The Director of Education (FATA) Peshawar.
8. The Director, Curriculum and Teacher Education Khyber Pakhtunkhwa Abbottabad.
9. The Director, (PITE) Khyber Pakhtunkhwa Peshawar.
10. The Director, ESRU Elementary and Secondary Education Department Khyber Pakhtunkhwa Peshawar.
11. Manager Government Printing Press Khyber Pakhtunkhwa Peshawar.
12. The Deputy Director, EMIS (S&SE) Department Khyber Pakhtunkhwa Peshawar.
13. All District Education Officer (M&F) in Khyber Pakhtunkhwa.
14. All District Account Officer in Khyber Pakhtunkhwa.
15. All Agency Education Officer in FATA.
16. All Agency Account Officer in FATA.
17. PS to Governor Khyber Pakhtunkhwa. Peshawar.
18. PS to Chief Minister Khyber Pakhtunkhwa. Peshawar.
19. PS to Chief Secretary Khyber Pakhtunkhwa. Peshawar.
20. PS to Minister E&SE Khyber Pakhtunkhwa. Peshawar.
21. PS to Secretary E&SE Khyber Pakhtunkhwa. Peshawar.
22. Master file.

(ZAMIN KHAN MOMAND)
SECTION OFFICER (PRIMARY)

BETTER COPY- E

Judgment Sheet

IN THE PESHAWAR HIGH COURT, ABBOTTABAD BENCH JUDICIAL DEPARTMENT

Writ Petition No.1041-A/2015

JUDGMENT

1. IKRAMULLAH KHAN, J:- Through the instant writ petition under article 199 of the Islamic republic of Pakistan, 1973 the petitioner seeks declaration to the effect that the act of respondent NO, 3 where by the promotion notification dated 28.10.2014 was withdrawn vide impugned notification 24.04.2014 on the ground of having qualification of B.Sc (3rd division) is illegal and without lawful authority and against the judgment of this court passed in W.P.No.58-B of 2014.
2. In essence, the petitioner was initially appointed as certified teacher and, as per entitlement, later on promoted to the post of senior certified teacher (BPS-16) Vide notification dated 28.10.2014. where after the petitioner assumed the charge of the said post on 30.10.2014 and after performing his duties to the satisfaction of his competent authority, on 24.04.2015 respondent No.3 has passed the impugned notification and, as such, the promotion order of the petitioner was withdrawn on the ground having B.SC in third division.
3. Comments were called from respondent No.3 who filed the same, averring therein that though petitioner was promoted to the post of SST vide notification dated 28.10.2014 by respondent No.2 scrutinizing his qualification documents, it was found that petitioner was not eligible for promotion to the post of SST being B.SC third divisioner hence, his promotion order was de-notified by the director elementary and secondary education: Khyber Pakhtunkhwa Peshawar and on the direction of director the promotion order of the petitioner was withdrawn vide impugned notification dated 24.04.2015.
4. It is further been averred in the comments that promotion order of the petitioner was withdrawn on the ground of B.sc third division and it was done in light of policy circulated vide Notification No.SO(PE)4-5/SSRC/meeting/2013/teaching cadre dated 24.07.2014 according to which the method of recruitment of SST was specified with a first condition of at least second class BA/Bsc from a recognized university on need basis with two relevant subjects along with second condition of MA education or B.ed from the recognized university further averred that it is the prerogative of the government to enhance, modify or alter the promotion criteria/ policy for the civil servants and a civil servant is not supposed to be treated with a set of rules of his own choice.
5. In response to para-6 of the petition, respondent No.3 averred in the comments that the judgment of this court was announced on 04.06.2015 where as the withdrawal order of the petitioner was passed on 24.04.2015, prior to the announcement of the judgment.
6. The main contention of learned counsel for the petitioner is that this court has already declared the condition of having third division as null and void in its judgment dated 04.06.2015 and the case of the petitioner is on better footing for reason that in referred judgment the petitioner had not been appointed but so far as the case of the petitioner is concerned, he was duly promoted rather received its benefits from 28.10.2014 to 24.04.2015 and thus the impugned order is illegal, without lawful authority and beyond jurisdiction.

Answer

A

D-15
Answer

16

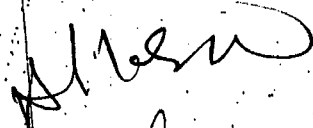
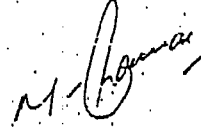
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7. Admittedly, the petitioner was duly promoted to the post of question on 28.10.2014, after the departmental promotion committee evaluated his case /PERs.
8. Now the question for determination before this court would be that when the petitioner actually performed his duties on the promoted post and that too for six long months, then how the respondent No.3 could withdraw earlier promotion order only on the pretext having B.Sc third division.
8. It appears from the record that a division Bench of this had already declared the condition of having third division as null and in its judgment dated 04.06.2015 which fact has also been affirmed by the respondent No.3 in his comments by stating that they were not aware of that judgment at the time of withdrawal of the impugned promotion of the petitioner and when the case of the present petitioner is it par with that of the petitioner there in, rather on better footing because the petitioner was not only promoted to the post in question but he performed his duties for six long months and received its benefits, the impugned notification passed by respondent No.3 is required to be set at naught.
9. It is also a well settled principle of law that once a benefit is granted to a civil servant, cannot taken back from him and, if so, very stringent strong reason are required for the same, which are not available in the case in hand, more so, when the promotion order of similarly placed teachers having B.Sc third division have not been so far withdrawn which is clearly violation of article 25 of the constitution of Pakistan.
10. For the reasons mentioned above, this petition is accepted and the impugned notification dated 24.04.2015 issued by respondent No.3 where by the promotion order of the petitioner was withdrawn is declared to be without lawful authority and, as, such the promotion notification dated 28.10.2014 is hereby restored.

Announced:
05.04.2016.

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respondent No. 3 has passed the independent election and as
to the satisfaction of his job performance on 28.10.2014
of the said post on 30.10.2014 and which is given in the
dated 28.10.2014. Hence the person's name is given
the post of Senior Central Teacher (B.S. No. 1) and no
Certified Teacher and as per certificate of performance to
In essence, the petitioner was duly appointed as

judgment of this court passed in W.P. No. 28,432 of 2014
division) is illegal and without jurisdiction and against the
of 2014 on the ground of the violation of Section 2
28.10.2014. As a result, the respondent's name is given
respondent No. 3 (whereby) the respondent's name is given
petitioner seeks decision for the effect of the action
under Article 199 of the Constitution of India and
petitioner's name is given

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Such the promotion order of the petitioner on the ground of having B.Sc in third division.

3 - Comments were called from respondent No. 3 who filed the same, averring therein that though the petitioner was promoted to the post of SST vide notification dated 29.10.2011 by respondent No. 2 but on scrutinizing his application documents, it was found that petitioner was not eligible for promotion to the post of SST being B.Sc third divisionary hence, his promotion order was deemed null and void by the Director, Elementary and Secondary Education, Government of Punjab, Peshawar and on the direction of Director the promotion order of the petitioner was withdrawn. Under impugned notification dated 24.04.2015.

4 - It was further been averred that the contents that promotion order of the petitioner was withdrawn on the ground of B.Sc third division and it was done in light of orders circulated vide Notification No. 50/BE/MS/SSRC/Meeting/2013/Teaching cadre dated 24.07.2011 according to which the method of recruitment of SST was specified with a first condition of at least second class B.A./B.Sc. from a recognized University on need basis with two relevant subjects along with second condition of M.A. Education obtained from the recognized University. Further it was averred that this the prerogative of the government to enhance/modify the promotion order.


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on the proposed post and period for six months, and would be that when the petition is actually performed in practice.

3. Now the question for determination before this court is whether the petitioners have established that the post in question on 28/10/2014 after the date of the

Admittedly, the petitioners are not in a position to prove that the petitioners were actually in possession of the post in question on 28/10/2014.

concerned, the petitioners have not established that they were in possession of the post in question on 28/10/2014.

6. The main contention of the petitioners is that the petitioners have established that they were in possession of the post in question on 28/10/2014.

announced on 04/06/2015, the petitioners have not established that they were in possession of the post in question on 28/10/2014.

5. In response to the petitioners' contention that they were in possession of the post in question on 28/10/2014, the respondents have submitted that the petitioners have not established that they were in possession of the post in question on 28/10/2014.

criteria / policy for the civil servants and the respondents. The petitioners have not established that they were in possession of the post in question on 28/10/2014.

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10. For the...

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PESHAWAR HIGH COURT BANNU BENCH
FORM OF ORDER SHEET

Date of order or other proceedings (1)	Order or other proceedings with signature of Judge (S) (2)
28.01.2016	<p>WP No.73-B-2014 Present Mr. Ali Jan Khan Advocate for petitioner: MUHAMMAD GHAZANFAR KHAN</p> <ol style="list-style-type: none"> the petitioner namely Mumtaz Khan son of the Gull Jan, through the instant Constitutional petition under Article 199 of the Constitution of Islamic Republic of Pakistan 1973, seeks issuance of directions to the respondents/department to consider him for promotion in the post of SST in BPS-16 in view of the department promotion committee meeting held on 18.01.2014. we have heard learned counsel for the petitioner and gone through the available record of the case. Perusal of the record transpires that the petitioner has passed B.A in third division while as per notification bearing No. dated 18.1.2011 the minimum qualification for the post of SST BPS-16 are Bachelor's degree or MA in education bachelor degree in education. The record further shows that the petitioner has also passed M.ed during the year 2000 in second division and M.A History and Pak study during the session 2003 in second division. In wake of the above, we direct the respondents to consider the petitioner for promotion to the post of SST BPS-16 in the next departmental promotion Committee meeting on the basis of his degree in MA History and Pak Study coupled with M.ed qualifications. The writ petition is disposed of in the above terms. <p>ANNOUNCED 28.01.2016.</p> <p>Sd/- ikramullah Khan Sd/-Muhammad Ghazanfar Khan, J</p>

Ali Jan
M. Ghazanfar Khan

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NEW YORK STATE
OFFICE OF THE ATTORNEY GENERAL
ALBANY, NEW YORK

ATTORNEY GENERAL'S REPORT

Date of order: Order of other proceedings: Authority: Proceedings: (6)

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through the Institute of Living at Yale University
Article 159 of the Constitution of the Republic
of Palau in 1973 is a mass letter of directions to
responsible persons in Palau to provide a
prompt and full response to the provisions of
the Department of Health and Human Services
held on 18-01-2014.

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Received from the State of New York
Division of Taxation
File No. 2009-101-1000000

Dissociated from the State of New York
Division of Taxation
File No. 2009-101-1000000

Department of Taxation and Finance
Division of Taxation
File No. 2009-101-1000000

State of New York
Division of Taxation
File No. 2009-101-1000000

STATE OF NEW YORK
DIVISION OF TAXATION
FILE NO. 2009-101-1000000

CERTIFICATE OF TAXATION

STATE OF NEW YORK
DIVISION OF TAXATION
FILE NO. 2009-101-1000000

STATE OF NEW YORK
DIVISION OF TAXATION
FILE NO. 2009-101-1000000

2009-101-1000000

2009-101-1000000

To,
The Secretary,
E&SE Department,
Khyber Pakhtunkhwa, Peshawar

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Subject:


DEPARTMENTAL APPEAL AGAINST THE INACTION OF THE RESPONDENTS BY NOT CONSIDERING THE APPELLANT FOR PROMOTION TO THE POST OF SST (BPS-16) ON THE BASIS OF HAVING BACHELOR DEGREE IN 3RD DIVISION AND AGAINST THE SERVICE RULES NOTIFIED ON 24.07.2014 WHEREBY THE CONDITION OF BACHELOR 2ND DIVISION HAS BEEN INSERTED IN SERIAL NO.1B, COLUMN NO.3(i) OF THE TABLE.

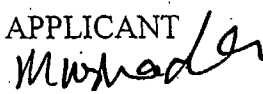
Respected Sir,

With due respect it is stated that I was initially appointed as Arabic Teacher in the respondent Department vide order 14.12.1995 and right from the date of my 1st appointment I am performing my duties quite efficiently and upto the entire satisfaction of his superiors. During service I was promoted to the post of Senior Arabic Teacher and vide Notification dated 30.05.2013. That I am a highly qualified and having Master degree in Arts in 1st Division which I have been acquired from University of Peshawar in the year 2013 but the authorities issued the impugned Notification dated 24.07.2014 whereby the post of SST was restricted and 20% promotion quota to the aforementioned post was reserved for Primary School Teachers. That according to the said Notification required qualification for initial recruitment as well as promotion was mentioned as second class bachelor degree. That the concerned authority denied promotion of my some colleagues to the post of SST due to having third class bachelor degree. That they were feeling aggrieved filed writ petitions which were allowed in favor of petitioners vide judgments dated 05.04.2016 and 28.01.2016 and consequently they were promoted to the post of SST. That I was also denied from promotion to the post of SST due to having third class bachelor degree despite the fact that I am having 1st division in higher qualification of Master in Arts. That being a similar placed employee approached the concerned authority to extend the same benefit of the above mentioned judgments but in vain. That the establishment Department issued a Notification dated 15.12.2011 whereby amendment has been made in PMS rules 2007 by providing that a candidate who has obtain 3rd division in bachelor degree will be eligible for the examination in cases where he/she has obtained a higher division in Master's degree. That feeling aggrieved from the inaction of the concerned authority by not considering me for promotion to the post of SST (BPS-16) filed the instant Departmental appeal before your good self.

It is therefore, most humbly prayed that on acceptance of this Department appeal I may very kindly be considered for promotion to the post of SST (BPS-16) from the date when my colleagues and junior colleagues were promoted with all consequential benefits including seniority.

Dated: 16.08.2021



APPLICANT

MUSHIDA DURANI, SAT (BPS-16),
GGHS Civil Colony, Peshawar

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GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT

Dated: Peshawar the December, 15, 2011

NOTIFICATION

No. SOE.II (ED) 2/1-1/2011:- In exercise of the powers conferred by Section 26 of the Khyber Pakhtunkhwa Civil Servant Act, 1974 (Khyber Pakhtunkhwa Act No. XVIII of 1973), the Chief Minister Provincial Management Service Rules 2007 the following further amendments shall be made namely:-

AMENDMENT

In Schedule-I, against Sr. No.1 in Column No.3 the full stop appearing at the end shall be replaced by colon and thereafter the following proviso shall be added namely:-

“ Provided that candidate who has obtained 3rd Division or D. Grade in bachelors Degree will be eligible for the examination in cases where he/she has obtained a higher Division in Master Degree.

CHIEF SECRETARY
KHYBER PAKHTUNKHWA