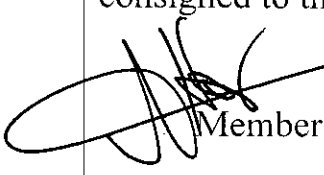
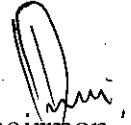



S.No.	Date of Order or proceedings	Order or other proceedings with signature of Judge or Magistrate and that of parties where necessary.
1	2	3
	25.03.2019	<p><u>Present.</u></p> <p>Mr. Muhammad Anwar Awan, Advocate --- For appellant</p> <p>Mr. Farhaj Sikandar, District Attorney --- For respondents</p> <p>Vide order detailed judgment of today in Service Appeal No. 894/2014 (Kashif Rahman Vs. Director, Elementary &amp; Secondary Education Department, Peshawar and others), the appeal in hand is dismissed.</p> <p>Parties are left to bear their respective costs. File be consigned to the record room.</p> <p> Member</p> <p> Chairman Camp Court D.I.Khan</p> <p><u>Announced</u> 25.03.2019</p>


25.02.2019 Mr. Anwar Awan learned counsel on behalf of appellant absent.  
Adjourn. To come up for further proceedings/arguments on  
26.02.2019 before D. B at Camp Court D.I.Khan.

Member

Member  
Camp Court D.I.Khan


26.02.2019 Mr. Anwar Awan learned counsel for the appellant absent.  
Mr. Farhaj Sikandar, District Attorney for the respondents  
present. Adjourn. To come up for arguments on 25.03.2019 before  
D.B at Camp Court D.I.Khan.


  
(M. Amin Khan Kundi)  
Member  
Camp Court D.I.Khan

  
(M. Hamid Mughal)  
Member  
Camp Court D.I.Khan

28.11.2018

Counsel for the appellant present. Mr. Usman Ghani, District Attorney alongwith Mr. Muhammad Kamran, ADO for the respondents present. Learned counsel for the appellant requested for adjournment. Adjourned. To come up for arguments on 18.12.2018 before D.B at Camp Court D.I.Khan.

  
(Ahmad Hassan)  
Member  
Camp Court D.I.Khan

  
(Muhammad Amin Khan Kundi)  
Member  
Camp Court D.I.Khan


18.12.2018


As per direction of the worthy Chairman Khyber Pakhtunkhwa Service Tribunal, D.I.Khan tour dated 18.12.2018 has been rescheduled and the case is re-fixed for 27.12.2018.

Reader

27.12.2018

Counsel for the appellant present. Mr. Farhaj Sikandar, District Attorney alongwith Mr. Muhammad Kamran, ADO for the respondents present. Learned counsel for the appellant requested for adjournment for arguments. Adjourned. To come up for arguments on 25.02.2019 before D.B at Camp Court D.I.Khan.

  
(Hussain Shah)  
Member  
Camp Court D.I.Khan

  
(Muhammad Amin Khan Kundi)  
Member  
Camp Court D.I.Khan


25.04.2018

Tour program is hereby cancelled therefore the case is adjourned for 30.07.2018 before D.B at Camp Court D.I.Khan.

  
Reater  
Camp Court, D.I.Khan


30.07.2018


None present on behalf of appellant. Mr. Usman Ghani learned District Attorney for official respondents present. Tour program has been cancelled therefore the case is adjourned. To come up for the same on 10.09.2018 before D.B at Camp Court D.I.Khan.

  
Reater  
Camp Court, D.I.Khan

10.09.2018

Clerk of the counsel for appellant and Mr. Ziaullah, Deputy District Attorney alongwith Mr. Muhammad Kamran, ADDO for the respondents present. Clerk of the counsel for appellant requested for adjournment on the ground that learned counsel for the appellant is busy before the Hon'ble Peshawar High Court Bench D.I.Khan. Adjourned. To come up for arguments on 23.10.2018 before D.B at Camp Court D.I.Khan.

  
(Ahmad Hassan)  
Member  
Camp Court D.I.Khan

  
(Muhammad Amin Khan Kundi)  
Member  
Camp Court D.I.Khan


23-10-2018


Tour is hereby cancelled  
Therefore the case is adjourned  
To come up on 28.11.2018 at  
Camp Court D.I. Khan



19.02.2018


Junior counsel for the appellant present. Mr. Usman Ghani, District Attorney alongwith Mr. Muhammad Kamran, ADO for the respondents also present. Junior counsel for the appellant requested for adjournment on the ground that learned senior counsel for the appellant is not available today. Adjourned. To come up for arguments on 13.03.2018 before D.B at Camp Court D.I.Khan.


  
(Ahmad Hassan)  
Member  
Camp Court D.I.Khan

  
(Muhammad Amin Khan Kundi)  
Member  
Camp Court D.I.Khan

13.03.2018

Appellant in person and Addl: AG alongwith Mr. Muhammad Kamran, ADO for the respondents present. Appellant seeks adjournment as his counsel is not in attendance. Granted. To come up for arguments on 25.04.2018 before D.B at camp court, D.I.Khan.

  
Member

  
Chairman  
Camp court, D.I.Khan

Service Appeal No. 895/2014

27.12.2017

Learned counsel for the appellant present. Mr. Farhaj Sikandar, District Attorney alongwith Mr. Muhammad Kamran, ADO (litigation) for the respondents present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 24.01.2018 before D.B at Camp Court D.I.Khan.



(Muhammad Amin Khan Kundi)  
Member  
Camp Court D.I. Khan



(Muhammad Hamid Mughal)  
Member  
Camp Court D.I.Khan

24.01.2018

Junior counsel for the appellant present. Mr. Usman Ghani, District Attorney alongwith Mr. Muhammad Kamran, ADO for the respondents also present. Junior counsel for the appellant requested for adjournment on the ground that learned senior counsel for the appellant is busy in the Hon'ble Peshawar High Court Bench D.I.Khan. Adjourned. To come up for arguments on 19.02.2018 before D.B at Camp Court D.I.Khan.



(Ahmad Hassan)  
Member  
Camp Court D.I.Khan




(Muhammad Amin Khan Kundi)  
Member  
Camp Court D.I.Khan

4.10.2017

Appellant in person and Mr. Farkhaj Sikandar, District Attorney alongwith Mr. Muhammad Kamran, ADO (Lit) for respondents present. Appellant seeks adjournment as his counsel is not in attendance. Last opportunity granted. Adjourned. To come up for arguments on 28.11.2017 before D.B at camp Court D.I.Khan.

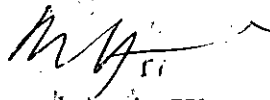
  
Member  
(Executive)

  
Member  
(Judicial)  
Camp Court D.I.Khan

28.11.2017

Counsel for the appellant present. Mr. Farhaj Sikandar District Attorney for the respondents present. Counsel for the appellant requested for adjournment. Adjourned. To come up for arguments on 27.12.2017 before D.B at Camp Court D.I.Khan.


  
(Gul Zeb Khan)  
Member

  
(Muhammad Amin Khan Kundi)  
Member  
Camp Court D.I.Khan

895/2014

22.02.2017


Clerk counsel for appellant and Mr. Farhaj Sikandar, Government Pleader for respondents present. Clerk counsel for appellant submitted rejoinder which is placed on file. To come up for arguments on 24.07.2017 before D.B at Camp Court D.I.Khan.

  
(ASHFAQUE TAJ)  
MEMBER  
Camp Court D.I.Khan

24.07.2017


None present on behalf of the appellant. Mr. Farhaj Sikandar, District Attorney for the respondents present. Notice be issued to appellant and his counsel for attendance for 26.09.2017 before D.B at Camp Court D.I.Khan.


  
(Gul Zeb Khan)  
Member

  
(Muhammad Amin Khan Kundi)  
Member  
Camp Court D.I. Khan

26.09.2017

Junior to counsel for the appellant and Mr. Farhaj Sikandar, District Attorney for the respondents present. Junior to counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 24/10/2017 before DB at Camp Court D.I.Khan.

  
Member  
(Executive)

  
Member  
(Judicial)  
Camp Court D.I.Khan.



26.01.2016

Appellant present in person and Mr. Farhaj Sikandar, GP with Khalid Saeed, ADO for the respondents present and reply filed. Copy handed over to appellant. To come up for rejoinder at camp court D.I.Khan on


24.5.16



MEMBER  
Camp court, D.I.Khan

24.05.2016

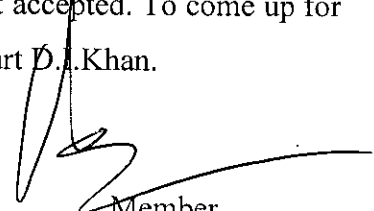
Clerk to counsel for the appellant and Farkhaj Sikandar, GP for respondents present. Rejoinder not submitted. Requested for time. To come up for rejoinder on 25.10.2016 at camp court D.I. Khan.



Member  
Camp Court D.I.Khan

25.10.2016

Mr. Muhammad Sadiq, Junior to counsel for the appellant and Mr. Farhaj Sikandar, Government Pleader for the respondents present. Rejoinder not submitted. Junior to counsel for the appellant requested for further time for submission of rejoinder. Request accepted. To come up for rejoinder on 21.02.2017 before S.B at Camp Court D.I.Khan.



Member  
Camp Court D.I.Khan

895/14

28.09.2015

Counsel for the appellant and Mr. Farhaj Sikandar, GP with Khalid Saeed Akbar, ADO for the respondents No. 1, 2 and 4 present and requested for adjournment. Fresh notice be issued to the respondent No. 3. Case to come up for written reply on 23-11-15 at camp court, D.I.Khan.



MEMBER  
Camp court, D.I.Khan

23.11.2015

Counsel for the appellant and Mr. Farhaj Sikandar, GP with Khalid Saeed Akhtar, ADO for respondents No. 1, 2 and 4 present and again requested for time to file written reply. ~~GP~~ Notice has not been issued to respondent No. 3. Fresh notice be ~~for respondents present. Refeander not submitted. Requested to~~ issued to him positively. Case to come up for written reply ~~time. To come up for reeinder on 25.10.2016 at camp court D.I.~~ positively on 30-12-15 at camp court, D.I.Khan.

Khan.

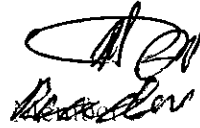


MEMBER  
Camp Court, D.I.Khan

Member  
Camp Court D.I.Khan

30.12.2015

Since tour to D.I.Khan for the month of December, 2015 has been cancelled, therefore, case is adjourned to 26-1-2016 for the same.

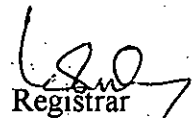


Camp Court, D.I. Khan

25.11.2014

Since the Tribunal is incomplete therefore, this case is adjourned to 24.02.2015 for preliminary hearing at camp court D.I. Khan.

24-2-15

  
Registrar

Camp Court, D.I. Khan

*Counsel for the appellant present and requested for adjournment. Case adjourned to 27-4-2015 for preliminary hearing at Camp Court, D.I. Khan.*

  
Member


Camp Court, D.I.K.

27.4.2015

Appellant with counsel (Mr. Muhammad Anwar Awan, Advocate). Preliminary arguments heard.

Counsel for the appellant submitted that promotion of the appellant was deferred for want of ACR for the year, 2005 and latcon when he was promoted vide notification dated 07.3.2014, immediate effect was given to his promotion. The learned counsel for the appellant submitted that according to law and rules, the appellant should have been promoted from the date when his other colleagues were promoted in the year, 2006. If an authority is needed 2011-SCMR-389 would suffice.

Points raised need consideration. The appeal is admitted for full hearing, subject to all legal exceptions. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for respondents. Case to come up for written reply on 28.09.2015 at camp court, D.I.Khan.

Appellant's Counsel  
Security & Process Fee  


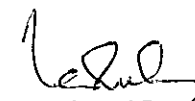



MEMBER  
Camp court, D.I.Khan

Form- A  
FORM OF ORDER SHEET

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

Case No. 895/2014

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate.
1	2	3
1	30/06/2014	<p>The appeal of Mr. Jemshed Khan resubmitted today by Mr. Muhammad Anwar Awan Advocate may be entered in the Institution register and put up to the Worthy Chairman for preliminary hearing.</p> <p style="text-align: right;"> REGISTRAR</p>
2	3-11-2014	<p>This case is entrusted to Touring Bench D.I.Khan for preliminary hearing to be put up there on <u>25-11-2014</u></p> <p style="text-align: right;"> CHAIRMAN</p>

This is an appeal filed by Mr. Jemshed Khan today on 30/05/2014 against the order dated 7.03.2014 against which he preferred a departmental appeal on 20.03.2014 which is premature as laid down in an authority reported as 2005-SCMR-890.

As such the instant appeal is returned in original to the appellant/counsel. The appellant would be at liberty to resubmit fresh appeal after maturity of cause of action.

No. 849 /ST,

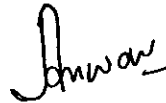
Dt. 30/5 /2014

  
REGISTRAR  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

Mr. M. Anwar Awan Adv. D.I.Khan

Respected Sir,

Re-submitted

  
Adv  
17/6/14.

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR.

CAMP COURT AT D.I. KHAN.

Appeal no...895... of 2014.

JAMSHED KHAN  
~~Khan~~

VERSUS

Govt; Of KPK and others

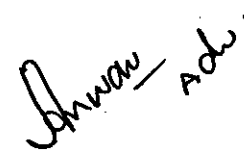
INDEX

No.	Particulars	Annexure	Pages
1	<del>Copy</del> Appeal		1-4
2	Copy Of DPC dated 21.10.2006	A	5-6
3	Copy of service Appeal	B	7-9
4	Copy of Order dated 07.03.2014	C	10
4	Copy of representation & Receipt	D	11-13
5	Wakalat Nama	I	14

Your Humble Petitioner

  
Through Counsel

Dated; 28-05-2014.

  
Muhammad Anwar Awan  
Advocate Supreme Court

**BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR.**

**CAMP COURT AT DIKHAN.**

Appeal no... 895... of 2014.

Jamshed Khan DPE B-16 GHSS Dhala D.I.Khan.

VERSUS

**A.V.F. Peshawar**  
**798**  
**30/5/2014**

1. Director Elementary and Secondary Education Deptt: Peshawar.
2. District Education Officer Elementary and Secondary Education Deptt: D I Khan
3. District Account Officer Kachery Road Dera Ismail Khan.
4. Government of KPK through secretary Elementary and Secondary Education Deptt: Peshawar.

**APPEAL AGAINST PROMOTION ORDER DATED 07.03.2014**

**UNDER SECTION 4 OF KP SERVICE TRIBUNAL ACT 1974.**

*Annex*  
That the brief facts of the case are as under:

1. That the appellant being eligible and having required qualification was appointed by the Divisional Director Education, Elementary & Secondary Education D.I.Khan after due course/ process of recruitment on 14.04.1994.
2. That, after furnishing Medical Fitness Certificate and taking over the charge of said post, the appellant started performing her official duties regularly with due diligence, care devotion and to the satisfaction of superiors and leave no stone unturned in performance of his/her official duties.
3. That the appellant is working as PET in (B-15) having qualification of BA/SDPE and ~~his~~ promotion was due in 2006 along with his other colleagues from PET (B-15) to DPE (B-16). That the case of promotion of appellant was put before DPC but was deferred due to non completion of ACR of 2005 of appellant by the department and other colleagues <sup>who were</sup> junior to the appellant were promoted. Copy of DPC is Annexure A.
4. The appellant contacted several time to the department for completion of his ACR <sup>of</sup> ~~and~~ his promotion and higher authorities always assure that appellants

*30/5/14*

*30/6/14*

was promoted from 2006 after completion of his record so feeling aggrieved from the order the appellant filed departmental appeal and thereafter filed service appeal before Service Tribunal which is pending Copy of service appeal is Annexure B.

5. That on 13-11-2007 the Government of Khyber Pukhtunkhwa up graded all the posts of DPE from B-16 to B-17 and all the colleagues and appellant juniors are now working in B-17.
6. That during the period mention above the appellant contacted several time to his high-ups who always recommended his case and lastly appellant was promoted as DPE B-16 but with immediate effect and he was not granted seniority from 2006. Copy of Order dated 07.03.2014 is Annexure C.
7. That after communication of promotion order with immediate effect, feeling aggrieved of the above action in violation of law and principal of natural justice, the appellant filed departmental appeal dated 20-03-2014. After the lapse of requisite period, the appellant is constrained to file this appeal. Copies of departmental appeal and receipts are Annexure D.
8. That feeling aggrieved from above said action appellants are constrained to approaches this honorable court on the following amongst other:-

*Answer*  
GROUNDS: \_

1. That the order dated 07.03.2014 is against law, facts, record and natural justice.
2. That the preparation of ACR is the duty of the department and appellant has no fault in this respect but no action would be taken against the concerned staff for non preparation of ACR at the time of DPC.
3. That appellant was serving in the department since 1994 and his colleagues were posted as DPE since 2006 but appellant was once again ignored through impugned order and he was promoted to B-16 with immediate effect.

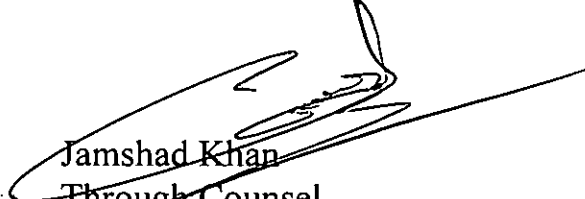


4. That after issuance of impugned order, the respondent No-1 once again admitted the case of the appellant but reluctant to give seniority/promotion from 2006. Copy of Letter dated

~~2006 is Annexure 4~~

In wake of above submissions, it is respectfully prayed that on acceptance of instant appeal, the orders may please be set aside/modified and appellant may graciously be promoted in B-16 since 2006 with all back/ future benefits.

YOUR HUMBLE APPELLANT

  
Jamshad Khan  
Through Counsel


Dated; 28-05-2014.

  
Muhammad Anwar Awan  
Advocate Supreme Court

### AFFIDAVIT

Kashif Rehman do hereby solemnly affirm and declare on OATH that the contents of the same are true and correct to the best of my knowledge and belief and that nothing has been concealed from this honorable court.

  
Deponent.

Oath Commissioner  
R.O. & A.C.  
Attested  
No. 

**A-5**

**MINUTES OF THE DEPARTMENTAL PROMOTION COMMITTEE MEETING  
HELD ON 21-10-2006 AT 10.00 AM.**

A meeting of the Departmental Promotion Committee of the School & Literacy Department was held on 21-10-2006 at 10.00 AM under the Chairmanship of Secretary School & Literacy Department. The following attended the meeting:-

1. Mr. Shafiullah Khan  
Secretary Schools & Literacy Dept:  
NWFP, Peshawar.
2. Mr. Ahmad Khan  
Additional Secretary  
Schools & Literacy Department.
3. Mr. Muhammad Tariq Khan  
Dy. Secretary Schools & Literacy  
Department.
4. Mr. Muhammad Salim Khan  
Section Officer (SR-II)  
Finance Department.
5. Mr. Arif Jamil  
Section Officer (Regulation-I)  
Establishment Department.
6. Mr. Manzar Jan  
Deputy Director  
Directorate of School & Literacy  
Peshawar.
7. Mr. Muhammad Ayub Khan  
Section Officer (Primary).

In Chair



*M. Anwar*  
Secretary, Schools & Literacy  
Department, Peshawar

*Attested Anwar Adv*  
*M. Anwar Awan*  
*Advocate*

The following items were discussed:-

Item No. I. Grant of move over from BPS-16 to BPS-17 to Mr. Khalid Mian SET GHS Baidara & Ansehra.

The committee considered grant of move over from BPS-16 to BPS-17 to Mr. Khalid Mian SET and deferred the case for want of ACR, regular appointment order and reason for delay.

Item No. II.(a) Promotion of PET/C T/DM and TT etc to the post of DPES (M) B-16 (Regular).

According to the working papers submitted by School & Literacy Department NWFP, there are 211 sanctioned posts of DPES/ADOs (Sports) B-16 Male, out of which 84 posts fall to the share of direct recruitment and 127 posts to the share of promotion. The details of promotion viz-a-viz direct recruitment are given below:-

1.	Total No. of posts	=	211
2.	Share of direct recruitment 40%	=	84
3.	Share of promotion 60%	=	127
4.	Total No. of existing promotees	=	112
5.	i. Total quota for promotion	=	12
	ii. Total posts vacated by retirement	=	03
	Grant Total:	=	15

*SAW*

(i) The observation raised by Establishment Department regarding (male) promoted through DPC and recruited through Public Service Commission are provided as (Annexure-A).

(ii) Two posts of Mr. Aslam Khan and Mr. Israr Khan given in the break-up of working paper (who have forgone the promotion order dated 6-6-05) were not accepted by the committee and Dy. Director S&L NWFP Peshawar was directed to take disciplinary action against both teachers, for not complying the orders of Govt.

The committee considered the cases of the following in service teachers (Male) for promotion as DPEs/ADO (Sports) & recommended as under:-

S.No.	Name of teacher	Designation	Qualification	Remarks
1.	Muhammad Akram Khan	PET	BA/SDPE	Deferred from promotion as DPE/ADO(Sports) for want of complete ACRs
2.	Mr. Faizullah Khan	PET	BA/SDPE	Considered suitable for promotion as DPE/ADO(Sports) with immediate effect.
3.	Mr. Raees Khan	PET	BA/SDPE	Deferred from promotion as DPE/ADO(Sports) for want of ACRs 2005.
4.	Mr. Nambullah Khan	PET	B./SDPE	Deferred from promotion as DPE/ADO(Sports) for want of ACRs 2005.
5.	Mr. Kamran Ali	PET	BA/SDPE	Considered suitable for promotion as DPE/ADO(Sports) with immediate effect.
6.	Mr. Sabir Ali	PET	BA/SDPE	Considered suitable for promotion as DPE/ADO(Sports) with immediate effect.
7.	Mr. Mushtaq Zada	PET	B./SDPE	Considered suitable for promotion as DPE/ADO(Sports) with immediate effect.
8.	Mr. Jamshaid Khan	PET	BA/SDPE	Deferred from promotion as DPE/ADO(Sports) for want of ACRs 2005.
9.	Mr. Kashif Rahman	PET	BA/SDPE	Deferred from promotion as DPE/ADO(Sports) for want of complete ACRs
10.	Mr. Aminullah	PET	BA/SDPE	Considered suitable for promotion as DPE/ADO(Sports) with immediate effect.
11.	Mr. Hazrat Ali	PET	E A/SDPE	Considered suitable for promotion as DPE/ADO(Sports) with immediate effect.
12.	Muhammad Iqbal	PET	E A/SDPE	Considered suitable for promotion as DPE/ADO(Sports) with immediate effect.
13.	Mr. Zamrud Shah	PET	E A/SDPE	Considered suitable for promotion as DPE/ADO(Sports) with immediate effect.
14.	Mr. Ashad Hussain	PET	E A/SDPE	Considered suitable for promotion as DPE/ADO(Sports) with immediate effect.
15.	Mr. Newsheer Zaman	PET	E A/SDPE	Considered suitable for promotion as DPE/ADO(Sports) with immediate effect.

Attested -  
In view of

6

B-7

BEFORE HON'BLE PROVINCIAL SERVICE TRIBUNEL PESHAWAR  
BENCH D.I.KHAN

Appeal no 3136/2010  
Neem

A.W.P. Provincial  
Service Tribunal  
Slary No 3209  
Dated 22/12/10

Jamshed Khan  
S/O Aurangzeb Khan Caste Gandapur  
R/O Mohallah Diwan Sahib Tehsil & District D.I.Khan.  
Presently Chah Dildar Near Syndicate South Circular road  
D.I.Khan

Appellant

V E R S U S

1. Director Elementary & Secondary Education, KPK Peshawar.
2. Secretary School & Literacy Dept: KPK Peshawar.
3. Additional Secretary School & Literacy Dept: KPK Peshawar.
4. Deputy Secretary School & Literacy Dept: KPK Peshawar.
5. Section Officer (SR-II) Finance Dept: KPK Peshawar.
6. Section Officer (Regulation-I) Establishment Dept: KPK Peshawar.
7. Assistant Director (Sports), Directorate of Elementary & Secy Education Khyber Pakhtun Khwa Peshawar.
8. Deputy Director, Directorate of School & Literacy Khyber Pakhtun Khwa Peshawar.
9. Section Officer (Primary) Khyber Pakhtun Khwa Peshawar.
10. The Executive District Officer (E&SE) D.I.Khan.

Respondents

Through

Proper Channel

APPEAL AGAINST THE IMPUGNED DPC HELD ON DATED 21.10.2006 AT 10:00 AM & ORDER /LETTER NO. 2185/F.NO.DEPTT: PROMOTION/DPES DATED: 26.10.2010 ISSUED BY RESPONDENT NO. 07 VIDE WHICH THE DEPARTMENTAL REPRESENTATION OF THE APPELLANT HAS BEEN TURNED DOWN FILED FOR PROMOTION AS DPE.

Attested  
M. Anwar Awan  
Advocate

wrongly been imposed and applied in Appellant's case, rather the Appellant has been appointed as per policy and terms and conditions of his service in the year 1994 and the newly imposed policy in the year 2006 has no retrospective effects upon the appellant. Due to the said illegal policy the Appellant cannot be denied for promotion of DPE.

- 6. That the constitution of impugned DPC held on 21.10.2006 at 10:00 AM is also wrong and illegal and against the promotion policy. Moreover the Appellant has wrongly been denied for promotion as PE/ADO (Sports) for want of ACR's 2005. It is pertinent to mention here that it is impossible for the Appellant to give direction time to time to his superior authority that they should incorporate his ACR's in his service record and if any ACR's 2005 of the Appellant is missing due to deficiency of his superior, its punishment cannot legally be stretched to the Appellant by way of denial of his promotion. Hence on this score too the impugned order and remarks given in the said DPC is liable to be set aside.
- 7. That according to seniority list of SDPE referred to above all of the newly promotee DPE's were junior to the Appellant.
- 8. That the Appellant has been treated in discriminatory manner and malafidly the Respondents have given the promotion to their near and dears.
- 9. That the Counsel for the Appellant may kindly be allowed to take any other plea at the time of arguments.

**In wake of submissions made above it is respectfully prayed that by accepting this Petition, the impugned orders may kindly be set aside and the Appellant may kindly be promoted as DPE in BPS- 17 as prayed for in the interest of justice and equity. Moreover the Hon'ble Tribunal may kindly grant any other relief if deem fit.**

BPS-17

*Attested  
Jamshed Khan  
adv*

Appellant,  
  
**Jamshed Khan**  
Through Counsel

Dated: 13.12.2010

*Salah ud Din Khan*  
**Salah Ud Din Khan Gandapur**  
Advocate High Court D.I.Khan.



DIRECTORATE OF ELEMENTARY & SECONDARY  
EDUCATION KHYBER PAKHTUNKHWA,  
PESHAWAR

— 10 —

**NOTIFICATION**

Consequent upon the recommendation of Departmental Promotion Committee (DPC) in its meeting held on 10.02.2014, the following in-service PETs are hereby promoted to the post of DPE B-16 (Regular) with immediate effect.

S.No	Name & Designation	Place of posting	Remarks
1.	Mr. Kashif Rehman PET GMS Athog D.I Khan	DPE B-16 (Regular) at GHSS Laar D.I Khan	A.V.P
2.	Mr. Jamshaid Khan PET GHS Mallana D.I Khan	DPE B-16 (Regular) at GHSS Dhalla D.I Khan	A.V.P

- Note: - i. Charge report should be submit to all concerned.  
ii. The DPEs concerned will took over charge to their new assignment within 15 days.

**DIRECTOR**

ELEMENTARY & SECONDARY EDUCATION  
KHYBER PAKHTUNKHWA

Endst No. 1-27-33/F.No. 15/Appeals of PET/DPE (M)

Dated: 7/3/2014

Copy forwarded to the:-

1. P.S to Secretary E&SE Department Khyber Pakhtunkhwa.
2. Section Officer (Primary) E&SE Department Khyber Pakhtunkhwa.
3. District Education Officer (Male) D.I Khan.
4. District Accounts Officer D.I Khan.
5. Principals concerned.
6. Officers concerned.
7. PA to Director E&SE local Directorate, Peshawar.

Deputy Director Estab (M)  
Elementary & Secondary Education  
Khyber Pakhtunkhwa Peshawar

Ahmad\*\*\*

Attested  
Anwar  
M. Anwar Aulay  
Advocate

7/3/2014

The Secretary,  
Elementary & Secondary Education  
Khyber Pakhtun Khaw  
Peshawar.

Through: Proper Channel.

Subject: DEPARTMENTAL APPEAL AGAINST ILLEGAL, AGAINST LAW AND RULES  
PROMOTION DATED 07.03.2014.

Respected Sir,

The appellant humbly submits as under:

1. That the appellant being eligible and having required qualification was appointed by the Divisional Director Education, Elementary & Secondary Education D.I.Khan after due course/ process of recruitment on 14.04.1994.
2. That, after furnishing Medical Fitness Certificate and taking over the charge of said post, the appellant started performing her official duties regularly with due diligence, care devotion and to the satisfaction of superiors and leave no stone unturned in performance of his/her official duties.
3. That the appellant is working as PET in (B-15) having qualification of BA/SDPE and my promotion was due in 2006 along with his other colleagues from PET (B-15) to DPE (B-16). That the case of promotion of appellant was put before DPC but was deferred due to non completion of ACR of 2005 of appellant by the department and other colleagues as well as junior to the appellant were promoted.
4. The appellant contacted several time to the department for completion of his ACR and his promotion and higher authorities always assure that appellants was promoted from 2006 after completion of his record so feeling aggrieved from the order the appellant filed departmental appeal and thereafter filed service appeal before Service Tribunal which is pending.

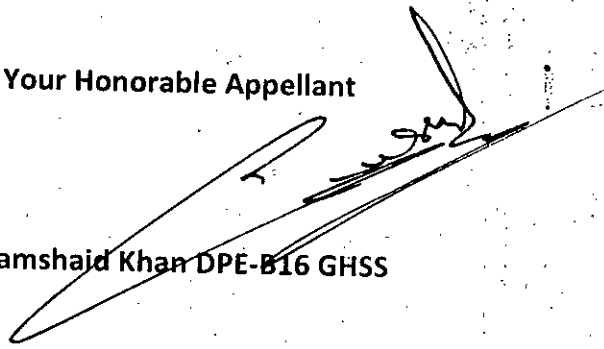
Attested by  
Anwar  
M. Anwar  
Advocate

5. That on 13-11-2007 the Government of Khyber Pukhtunkhwa up graded all the posts of DPE from B-16 to B-17 and all the colleagues and appellants juniors are now working in B-17.
6. That during the period mention above the appellant contacted several time to his high-ups who always recommended his case and lastly appellant was promoted as DPE B-16 but with immediate effect and he was not granted seniority from 2006.
7. That feeling aggrieved from the illegal promotion orders of Director of immediate effect by ignoring the facts and rules, the appellant filed this representation.
8. That the preparation of ACR is the duty of the department and appellant has no fault in this respect but no action would be taken against the concerned staff for non preparation of ACR at the time of DPC.
9. That appellant was serving in the department since 1994 and his colleagues were posted as DPE since 2006 but appellant was once again ignored through impugned order and he was promoted to B-16 with immediate effect.

In wake of above submissions, it is respectfully prayed that on acceptance of instant appeal, the orders may please be set aside/modified and appellant may graciously be promoted in B-16 since 2006 with all back/ future benefits.

*Attested  
Jamshaid Khan*

Your Honorable Appellant



Jamshaid Khan DPE-B16 GHSS

Dhalla

Dated 20-03-2014.



**BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR.**  
Service Appeal NO.895/14

Jamshed Khan

VS

Govt; of KPK and others

APPEAL

Re- Joinder on behalf of Appellant.

Respectfully Sheweth,

**Reply on Preliminary Objection.**

1. That the objection no 1 is incorrect.
2. That the objection no 2 is incorrect .Appeal is within time.
3. That objection no 3 is incorrect.
4. That Para no 4 is incorrect.
5. That Para no 5 is incorrect.
6. That Para no 6 is incorrect.
7. That Para no 7 is incorrect.
8. That Para no 8 is incorrect.
9. That Para no 9 is incorrect.
10. That Para no 10 is incorrect.
11. That Para no 11 is incorrect.
12. That Para no 12 is incorrect.
13. That Para no 13 is incorrect.
14. That Para no 14 is incorrect.

**Para Wise Reply;**

- 1- That Para no 1 of reply is incorrect and Para of appeal is correct.
- 2- That Para no 2 of reply not admitted and para of appeal is correct.
- 3- That Para no 3 is incorrect and para no 3 of appeal is correct. The promotion of appellant was deferred without any fault in his part , such civil servant can be given promotion from ante date when his juniors were promoted. The preparation ACR is duty of department and appellant has no fault in this respect while no action would be taken against the concerned officer.
- 4- That Para no 4 is incorrect and para of appeal is correct. *It is important fact that post of DPE was up-graded in B-17 on 13-11-2007. Copies attached.*

- 5- That Para no 5 is incorrect and para of appeal is correct.
- 6- That Para no 6 is incorrect and para of appeal is correct.
- 7- That Para no 7 is incorrect and para of appeal is correct.
- 8- That Para no 8 is incorrect and para of appeal is correct.

**Reply on Grounds;**

- 1- That Para no 1 is incorrect.
- 2- That Para no 2 is incorrect.
- 3- That Para no 3 is incorrect.
- 4- That para no 4 is incorrect.

It is there fore requested that appeal may kindly be accepted.

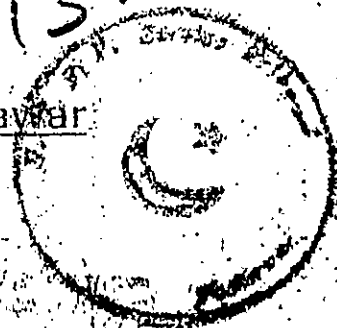
**YOUR HUMBLE APPELLANT**

Through Counsel

  
**Muhammad Anwar Awan**  
**Advocate, D.I.Khan**

Before the N.W.F.P. Service Tribunal, Peshawar

Service Appeal No. 4667 / 2009



N.W.F.P. Service Tribunal  
Peshawar  
Date: 29-9-09

Abdullah Nadeem D.P.E., Government Higher

Secondary School Gujar Guddi Mardan:

.....(Appellant)

V E R S U S

The Secretary, Elementary & Secondary Education Deptt., Govt. of  
N.W.F.P., Peshawar. ....(Respondent)

Appeal under Section 4 of the N.W.F.P. Service Tribunal Act, 1974 to the effect that Notification No.SO(PE)2-6/E&SE/DPC/Lib/DPEs (Bs-16 to BS-17) 09 dated 19/05/2009 to the extent of allowing upgradation from B-16 to B-17 to the DPEs including Appellant with immediate effect i.e. 19/05/2009 instead of 13/11/2007 is illegal, void and against the principles of natural justice.

29/9/09

ATTESTED  
BY  
SECRETARY  
N.W.F.P. SERVICE TRIBUNAL  
PESHAWAR

- 1. That the appellant was posted as D.P.E. (BPS 16) in the Education Department, Government of N.W.F.P. and holds Master Degree in the same subject.

M. ANWAR  
M. ANWAR  
ATTORNEY

4.3.2010

Counsel for the appellant, and Mr. Zahid Karim, AGP alongwith Khurshid Khan S.O for respondent present. Written reply/ comments filed on behalf of the respondent. Rejoinder has already been filed. Arguments heard and record perused.

Vide detailed order of today, placed on the file of Appeal No. 1667/2009, titled "Ghulam Nabi-vs-Secretary, E&S Education Deptt: Govt. of NWFP, Peshawar", this appeal is also accepted to the extent that upgradation of the post of DPEs be made effective from 13.11.2007 in accordance with the Notification of the even date as well as in accordance with the subsequent Notifications, if any, applicable to the case of the appellant. No order as to costs.

ANNOUNCED

4.3.2010

MEMBER

CHARMAN

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*[Handwritten signature]*

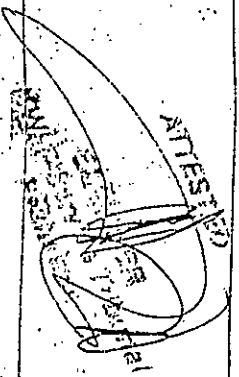
8/3/10  
6/3/10  
13/3/10  
13/3/10

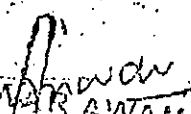
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S.No. of Order or proceedings	Date of Order or proceeding	Order or other proceedings with Signature of Judge or Magistrate and that of parties or counsel where necessary.
1	2	3
	04.03.2010	<p style="text-align: center;"><u>Appeal No. 1667/2009</u></p> <p style="text-align: center;"><u>(Ghulam Nabi vs Secretary, E&amp;S, Education Deptt)</u></p> <p>Appellant with counsel and Mr. Zahid Karim, AGP alongwith Khurshid Khan, S.O. for respondent, present. Arguments heard and record perused.</p> <p>Since this appeal and the below listed appeals pertain to the same question of upgradation from B-16 to B-17 to the Directors Physical Education (D.P.Es) with effect from 13.11.2007, instead of 19.5.2009 vide impugned Notification dated 19.5.2009, this single order is also directed to dispose of the following appeals:-</p> <p><u>S.No. Appeal No. Name of appellant</u></p> <ol style="list-style-type: none"> <li>1. 1668/2009 Sarwar Shah</li> <li>2. 1669/2009 Muhammad Naeem</li> <li>3. 1670/2009 Sardar Khan</li> <li>4. 1671/2009 Sabir Ali</li> <li>5. 1672/2009 Muhammad Israr</li> <li>6. 1673/2009 Sher Kamal</li> <li>7. 1674/2009 Salar Khan</li> <li>8. 1675/2009 Muhaminad Nawaz</li> <li>9. 1676/2009 Mst. Azra Naz</li> <li>10. 1677/2009 Mst. Danish Begum</li> <li>11. 1678/2009 Mst. Sheraz Taj</li> <li>12. 1679/2009 Muhammad Ali</li> <li>13. 1680/2009 Chamni Khan</li> </ol> <p>The appellants, who are serving in the Education Department as Directors Physical Education (DPEs) in BPS-16 and are holding Master Degrees, and have therefore, on</p>

15-

ATTESTED



  
**M. ANWAR**  
 Advocate

16

the basis of higher qualification, claimed eligibility to the grant of upgradation from BPS-16 to BPS-17 on the basis of Notification of the Provincial Government dated 13.11.2007; but they have been allowed upgradation w.e.f 19.5.2009 vide Notification of the even date; hence this appeal, inter-alia, on the grounds that the impugned order is in violation of the original Notification and that the appellants fulfilled all the requisite terms and conditions for the grant of the benefit prayed for from 13.11.2007.

The respondents resisted the appeal but admitted in their written reply/comments that the posts of DPEs and Librarians were upgraded from B-16 to B-17 vide Notification dated 13.11.2007. The respondents, however, contested the plea of the appellants with regard to upgradation from the date of Notification on the ground that extending the benefit to the appellants required framing of rules and recommendation of their upgradation by the Departmental Promotion Committee. As such, the appellants were allowed the benefit after fulfillment of all the codal formalities w.e.f. 19.5.2009.

Notwithstanding the plea of the respondents with regard to fulfillment of the codal formalities, the Notification with regard to upgradation of the post of DPE dated 13/11/2007 is clear to the effect that the upgradation will be effective from that date i.e. 13.11.2007. On the basis of this legal position, this Tribunal dealt with the issue and decided in principle, in the case of Senior English Teachers (Appeal

*Answer*

*[Handwritten signature]*

17

the respective posts and appointment of the appellants to the posts shall be declared effective from the date from which it was intended to be effective in the original Notification of the Authority. The Tribunal, however, held, vide its above referred decision dated 3.7.2009, that as the upgradation and posting shall be one time only and shall be personal to the appellants and their similarly placed colleagues, as per the contents of the Notification quoted above.

In the light of the above explained legal position and decision of this Tribunal, referred to above, this appeal and all the afore-mentioned connected appeals are accepted to the extent that upgradation of the posts of DPEs be made effective from 13.11.2007 in accordance with the Notification of the even date as well as in accordance with the subsequent Notifications, if any, applicable to the case of the appellants. No order as to costs.

ANNOUNCED  
04.03.2010

MEMBER

CHAIRMAN

*[Handwritten signature]*

4-3-10  
 Date of presentation of application  
 Number of posts 160  
 Number of candidates 10  
 Date of completion of exam 10-3-10  
 Date of completion of exam 13-3-10  
 Date of declaration of result 13-3-10

*[Faint handwritten notes]*

G-18-



GOVERNMENT OF KHYBER PAKHTUNKHWA  
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT  
Dated Peshawar the 29-04-2014.

NOTIFICATION.

NO.SO(PE)9-10/DPE/Ghulam Nabi. In pursuance of the judgement of Khyber Pakhtunkhwa Service Tribunal Peshawar dated 4-3-2010 in appeal No. 1667/2009 (Ghulam Nabi) 1668/2009 (Sarwar Shah), 1669/2009 (Muhammad Naeem), 1670/2009 (Sardar Khan), 1671/2009 (Sabir Ali), 1672/2009 (Muhammad Israr), 1673/2009 (Sher Kamal), 1674/2009 (Salar Khan), 1675/2009 (Muhammad Nawaz), 1676/2009 (Azra Naz), 1677/2009 (Danish Begum), 1678/2009 (Sheraz Taj), 1679/2009 (Muhammad Ali) and 1680/2009 (Chanmi Khan), the competent authority is pleased to promote the following Directors, Physical Education (DPEs) BS-16 To BS-17 on regular basis w/e/ 13-11-2007 instead of 19-5-2009 as notified vide this department No. SO(PE)/2-6/E&SE/DPC/DPEs dated 19-5-2009:-

S. No.	Name & Designation	Date of acquiring Master Degree in Physical Education
1	Ghulam Nabi DPE	20-11-1995
2	Sarwar Shah DPE	30-5-2005
3	Muhammad Naeem DPE	24-8-1993
4	Sardar Khan DPE	7-1-1993
5	Sabir Ali DPE	21-12-2002
6	Muhammad Israr DPE	30-5-2005
7	Sher Kamal DPE	30-5-2005
8	Salar Khan DPE	23-10-1994
9	Muhammad Nawaz DPE	19-9-2006
10	Azra Naz DPE	30-5-2005
11	Danish Begum DPE	23-6-2007
12	Sheraz Taj DPE	1-12-2007
13	Muhammad Ali DPE	30-5-2005
14	Chanmi Khan DPE	30-5-2005

*[Handwritten Signature]*  
PRINCIPAL  
G.H.S.S. NISHAH KALAN  
D.I.Khan

2. The competent authority has further been pleased to promote the following DPEs who acquired prescribed qualification on or before 13-11-2007 but they did not challenge this department notification of even Ho. dated 19-5-2009:-

*[Handwritten Signature]*  
M. ANWAR KHAN  
D.I.Khan



S. No.	Name & Designation	Date of acquiring Master Degree in Physical Education
1	Mr. Bahadur Sher DPE	5-3-1983
2	Mr. Asmatullah DPE	21-10-1986
3	Mr. Talat Mahmood DPE	1-9-1991
4	Mr. Hazrat Ali DPE	31-12-1989
5	Mr. Shamsul Islam DPE	30-5-1988
6	Mr. Tajamul Zaman DPE	31-12-1989
7	Mr. Anwar Zad Khan DPE	31-12-1989
8	Mr. Khalid Tanveer DPE	30-5-1988
9	Mr. Misal Khan DPE	30-5-1988
10	Mr. Hussain Wali DPE	30-5-1988
11	Mr. Istam Rosh DPE	30-5-2005
12	Mr. Gul Aslam DPE	16-6-1985
13	Mr. Said Nawaz DPE	21-10-1986
14	Mr. Abdul Sarwar DPE	3-11-1990
15	Mr. Samiullah DPE	9-4-1996
16	Mr. Fazle Baqi DPE	20-5-1996
17	Mr. Illikhar Ahmad DPE	2-8-1994
18	Mr. Ali Badshah DPE	4-8-1985
19	Mr. Azizullah DPE	30-5-1988
20	Mr. Mohibllah Khan DPE	26-12-1988
21	Mr. Said Bakht Shah DPE	6-5-2006
22	Mr. Hamidullah DPE	26-12-1988
23	Mr. Shah Mahmood DPE	3-11-1990
24	Mr. Ihtashamud Din DPE	30-5-2005
25	Mr. Abdullah Shah DPE	4-11-1991
26	Mr. Rukh Niaz DPE	31-12-1989
27	Mr. Gul Badshah DPE	30-4-1995

56	Mr. Shahid ur Rahman DPE	19-6-1995
55	Mr. Wali Dad Khan DPE	2-8-1994
54	Mr. Sadique Rahman DPE	19-6-1995
53	Mr. Altaullah Khan DPE	15-3-1992
52	Mr. Abdul Mateen Khan DPE	25-11-1995
51	Mr. Hamza Ali Khan DPE	3-11-1990
50	Mr. Farmanullah DPE	1-12-1995
49	Mr. Muhammad Iqbal Khan DPE	7-10-1998
48	Mr. Muhammad Haroon DPE	18-11-1996
47	Mr. Nasir Khan DPE	30-4-1995
46	Mr. Muhammad Gul DPE	20-11-1995
45	Mr. Said Khan DPE	23-10-1994
44	Mr. Muhammad Sharif DPE	20-11-1995
43	Mr. Faiz Sher DPE	17-7-1996
42	Mr. Ashraf Ali DPE	12-8-1997
41	Mr. Waris Khan DPE	24-8-1993
40	Mr. Muhammad Usman DPE	6-7-1995
39	Mr. Ikramullah DPE	23-10-1994
38	Mr. Fard Zaman DPE	24-8-1993
37	Mr. Nikhatullah Khan DPE	16-12-2006
36	Mr. Anjad Khan DPE	30-5-2005
35	Mr. Abdul Oadir Khan DPE	24-8-1993
34	Mr. Mujeebur Rahman DPE	20-11-1995
33	Mr. Muzhat Khan DPE	15-3-1992
32	Mr. Kiranullah DPE	12-4-1994
31	Mr. S. Ibadur Rahman DPE	7-1-1993
30	Mr. Ahmad Nawaz DPE	24-8-1993
29	Mr. Lal Mar Jan DPE	23-8-1992
28	Mr. Saldar Jan DPE	3-11-1990

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201

-21-

57	Mr. Hakim Said DPE	17-7-1996
58	Mr. Qaiser Khan DPE	17-7-1997
59	Mr. Hukam Zad DPE	17-7-1999
60	Mr. Muhammad Alam DPE	23-6-2007
61	Mr. Muhammad Shahidullah DPE	20-6-1995
62	Mr. Muhammad Khalil DPE	12-11-1997
63	Mr. Noor Muhammad Shah DPE	20-5-1998
64	Mr. Murad Ali DPE	17-7-1999
65	Mr. Muhammad Ghani DPE	24-8-1993
66	Mr. Hazrat Ali DPE	02-09-1999
67	Mr. Arshad Hussain DPE	2-8-1994
68	Mr. Nowsher Zaman DPE	23-2-1999
69	Mr. Muhammad Kaleem DPE	05-2-2008
70	Mr. Kaleemullah Khan DPE	6-5-2006
71	Mr. Wajid Ali DPE	30-5-2005
72	Mr. Fariq Gul DPE	16-6-1999
73	Mr. Muhammad Ayaz DPE	17-6-1998
74	Mr. Taimur Riaz DPE	12-12-2001
75	Mr. Naik Zada DPE	6-5-2006
76	Mr. Yousaf Khan DPE	18-11-1996
77	Mr. Muhammad Ashfaq	27-8-2007
78	Mr. Mahboob Ali DPE	6-5-2006
79	Mr. Shaukalur Rahman DPE	17-6-1998
80	Mr. Dil Faraz Khan DPE	6-5-2006
81	Mr. Muhammad Kaleem DPE	12-12-2001
82	Mr. Alamzar Khan DPE	30-5-2005

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1	Mst. Naghma Akbar DPE	6-6-1984
2	Mst. Mussarat Parveen DPE	6-6-1984
3	Mst. Dishad Begum DPE	3-11-1990
4	Mst. Shaheen Anwar DPE	15-3-1992
5	Mst. Rehana Parveen DPE	3-11-1990
6	Mst. Shahida Begum DPE	20-11-1995
7	Mst. Shabnam Jadoon DPE	1-12-1994
8	Mst. Tamseela Naz DPE	15-3-1992
9	Mst. Noreen Anwar DPE	24-8-1993
10	Mst. Shehraz Begum DPE	24-8-1993
11	Mst. Rafia Khalik DPE	17-6-1998
12	Mst. Hamida Begum DPE	24-8-1993
13	Mst. Nabeela Tabbasum DPE	16-9-1998
14	Mst. Saeeda Begum DPE	30-5-2005
15	Mst. Shabnum Raza Malik DPE	1-6-2004
16	Mst. Nigar Akhtar DPE	9-9-2005
17	Mst. Rehana Khatoon DPE	31-12-1989
18	Mst. Nafiseh Gohar DPE	21-12-2002
19	Mst. Asma Qureshi DPE	6-5-2006
20	Mst. Munaza Jabeen DPE	6-5-2006
21	Mst. Azeeba Hatfield DPE	6-5-2006
22	Mst. Sajida Sofi DPE	19-9-2006
23	Mst. Rabia Gul DPE	30-5-2005
24	Mst. Shahana DPE	6-5-2006
25	Mst. Marham Mustafa DPE	1-8-2002
26	Mst. Saima Andaleep DPE	30-5-2005
27	Mst. Intiaz Tabbasum DPE	6-5-2006

Female

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23 -

29.	Mst. Nighat Seema DPE	1-6-2004
30.	Mst. Afsheen Mumtaz DPE	6-5-2006
31.	Mst. Rehana Yasmin DPE	6-5-2006
32.	Mst. Hassan Basri DPE	6-5-2006

*(Handwritten signature)*  
 PRINCIPAL  
 G.H.S. ISLAMABAD KANAL  
 Peshawar

SECRETARY

Endst. No. SO(PE)9-10/DPE/Ghulam Nabi.

Dated Pesh: the, 29-04-2014

Copy forwarded to:-

1. Secretary to Govt. of Khyber Pakhtunkhwa, Establishment Department.
2. Special Secretary (Regulation), Establishment Department.
3. Secretary to Govt. of Khyber Pakhtunkhwa, Finance Department w/r to his letter No. SO(FR)/FD/10-22/9-10/ DATED 12-7-2012.
4. The Accountant General, Khyber Pakhtunkhwa.
5. Secretary to Chief Minister Khyber Pakhtunkhwa.
6. PS to Chief Secretary Khyber Pakhtunkhwa.
7. All Directors in Elementary & Secondary Education Department.
8. Director Education FATA Warsak Road Peshawar.
9. All Commissioners/Deputy Commissioners in Khyber Pakhtunkhwa.
10. All District Education Officers (M/F) Elementary & Secondary Education in Khyber Pakhtunkhwa.
11. All District Accounts Officers, Khyber Pakhtunkhwa.
12. All Agency Education Officers/ Agency Accounts Officers in FATA.
13. Director Information Khyber Pakhtunkhwa Peshawar with the request to give wide publicity through media.
14. Secretary Public Service Commission Khyber Pakhtunkhwa, Peshawar.
15. PS to Minister E&SE Department.
16. PS to Secretary / Special Secretary / Additional Secretary E&SE Department Gov. of Khyber Pakhtunkhwa.
17. PA to Deputy Secretary (Admn.) Khyber Pakhtunkhwa.
18. Officers concerned.

*(Handwritten signature)*  
 (ZAMIN KHAN MOMAND)  
 SECTION OFFICER (PRIMARY)

*(Handwritten signature)*  
 M. ANWAR AWAN  
 Advocate

even No. dated 19-5-2009;

... they did not challenge this department notification of

36  
ON FACTS

- 1 That Para-1 pertains to the service record of the Appellant. Hence needs no comments.
- 2 That Para-2 is also needs no comments being pertains to the service record of the Appellant.
- 3 That Para-3 is correct to the extent that the appellant has been deferred for promotion against the DPE (B-16) post by the Respondent No: 4 for the want of ACRs of 2005 vide Notification dated 21-10-2006 in the light of the minutes of the Departmental Promotion Committee held under the Chairmanship of the Respondent No: 4 on the grounds that incomplete cases are not recommended / put up before the concerned DPC meeting, hence the Appellant has been deferred by the Respondent Department. (copy of the minutes is attached as Annexure-A).
- 4 That Para-4 is incorrect & misleading on the grounds that the case of the appellant for the grant of promotion from BPS-15 to 16 has been processed & submitted by the Respondent No: 3 to the Respondent-1. The Respondent No: 2 has then submitted his case on 10-7-2013 with the remarks vide Para-7 that the cadre of the appellant has been declared as "Dying cadre" in the light of the last DPC meeting held on 21-10-2006. But in spite of that the appellant has been promoted to the post of DPE in BPS-16 in the light of the DPC meeting held on 10-2-2014. And on the basis of the said DPC, the Respondents No: 1 has been pleased to promote / upgrade the Appellant in BPS-16 vide Notification dated 07-3-2014 with immediate effect. (Copies of the Notification is Annexure-B).
- 5 That Para-5 is correct. Hence, needs no further Comments.
- 6 That Para-6 is incorrect & denied. The appellant has been deferred for the grant of promotion / up gradation in BPS-16 against the DPE post in the light of the DPC meeting held on 21-10-2006 under the Chairmanship of the Respondent No: 4 for the want of ACRs pertaining to the year 2005. Hence the appellant has been upgraded vide Notification dated 07-03-2014 by the Respondent No: 1 in accordance with law, rules & upgradation policy according to his seniority position in the said cadre. Hence the act of the Respondent is within legal parameter in the instant case.
- 7 That Para-7 is correct that the Appellant has filed Departmental Appeal before the Respondent No: 4 through the Respondent No: 1 which was submitted before the competent authority for necessary action vide office memo: F. No: 45/Promotion/DPE/AD(Phy: ) dated 10-07-2013 which has resulted in the issuance of the impugned Notification dated 07-3-2014 of the Respondent No: 1 in favour of the Appellant vide which he has been upgraded to BPS-16 against the DPE post in the light of the DPC meeting held on 10-2-2014 with immediate effect, hence is liable to be maintained.
- 8 That Para-8 is legal. However, the Respondents further submit on the following grounds inter alia :-

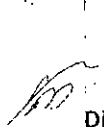
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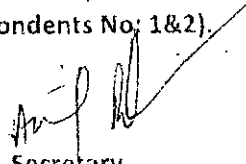
- 1 Incorrect & denied, the Notification dated 07-3-2014 is legally competent & is liable to be maintained in favour of the Respondents in the interest of justice.
- 2 Incorrect & denied. The appellant has been failed to submit the required service record to the Respondent for placing particulars before the DPC. Hence he has been deferred vide Notification dated 27-10-2006 by the Respondent No: 4 for promotion against DPE post.

- 3 Incorrect & denied. The appellant has been treated per law & upgradation policy by the Respondents vide Notification dated 07-3-2014 by promoting him in BPS-16 with immediate effect.
- 4 Incorrect & denied. The statement of the appellant is baseless and without any merit & is liable to be struck down in favour of the Respondents. However, the Respondent seeks leave of this Honorable Tribunal to submit additional case law & record at the time of arguments.

Prayer


In view of the above made submissions, it is humbly requested that this Honorable Tribunal may very graciously be pleased to dismiss the instant appeal with cost in favour of the respondent Department.

 25/10/2018  
Director  
E&SE Department Khyber  
Pakhtunkhwa, Peshawar.  
(Respondents No: 1&2).

  
Secretary  
E&SE Department Khyber  
Pakhtunkhwa, Peshawar.  
(Respondent No: 4)

AFFIDAVIT

I, Khaista Rehman Asstt: Director (Lit: II) E&SE Department Khyber Pakhtunkhwa, Peshawar do hereby solemnly affirm and declare on oath that the contents of the instant Parawise Comments in the titled Service appeal are true & correct to the best of my knowledge & belief & that nothing has been concealed from the ambit of this Honorable Tribunal.

  
Deponent

5  
**BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR  
CAMP AT D.I.KHAN.**

CM No :- 2018.  
Appeal No :- 894 of 2014.

**Jamshed Khan VS Govt; of KPK & others**

**SERVICE APPEAL**

**APPLICATION FOR AMENDMENT IN WRIT PETITION FOR JUST DECISION OF CASE**

Respectfully Sheweth,

1. That this ~~was~~ petition is pending adjudication before this honorable court.
2. During the pendency of appeal its comes to knowledge that appellant was promoted in B-16 as Senior PET but later on vide Notification dated 07-03-2014, appellant was promoted as DPE in B-16. The appellant is working in Grade B-16 since 2013 and respondent once again promoted the appellant in same grade as DPE which is against law and rules which fact must be amended in the appeal. Copy of Notification dated 27-05-2013 is annexed.
3. That this honorable court has vast power to accept the instant application.

It is therefore prayed that the application may kindly be  
accepted.

YOUR HUMBLE APPLICANT

Jamshed Khan

Dated; 10-12-2018.

  
Muhammad Anwar Awan  
Advocate Supreme Court.



**BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR  
CAMP AT D.I.KHAN.**

CM No:- 2018.  
Appeal No:- 894 of 2014.

**Jamshed Khan**

**VS**

**Govt; of KPK & others**

**SERVICE APPEAL**

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Muhammad Anwar Awan Advocate , do hereby solemnly affirms and declare on  
OATH That the petition is drafted on the direction of applicant so contents of  
application are true and correct to the best of my knowledge and belief and that  
nothing has been concealed from this honorable court.

*Anwar Adv*  
**DEPONENT**

**Dated; 10-12-2018.**

**Directorate of Elementary and Secondary Education  
Khyber Pakhtunkhwa Peshawar**

PH No. 091-9210389, 9210938,

9210437, 9210957, 9210468

Fax 091-9210936, 0800-33857

E-mail rafiq\_kk851@yahoo.com



1566  
03-6-13

**Notification**

Consequent upon the recommendations of the Departmental Promotion Committee and in pursuance of the Government of Khyber Pakhtunkhwa Elementary and Secondary Education Notification NoSO(B&A)/1-18/E&SE/2012 dated 11.07.2012 and Finance Department Endorsement No SO(FR)/FD/10-22(E)/2010 dated 16.07.2012, the following Male PETs B-15 are hereby promoted to the post of Senior PET BPS-16 (Rs.10000-800-34000) plus usual allowances as admissible under the rules on regular basis under the existing policy of the Provincial Government, in Teaching Cadre on the terms and condition given below with immediate effect and further they will be posted in the Government Higher Secondary /High Schools by the District Education Officers concerned against the newly upgraded Senior PET BPS-10 posts:-

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Promoted to the post of Senior PET B-16 in this order	09
Deferred for Promotion	01

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3	59	Kashif Rehman	GMS Mugeem Shah	05/09/1970	---Do---
4	65	M. Khalid Khan	GMS Dimpur	18/04/1965	---Do---
5	66	Kaleem Nawaz	GMS Mandhran Saidan	10/05/1969	---Do---
6	67	Mohsin Abbas	GMS Basti Ali	12/03/1970	---Do---
7	69	Hanif Ullah	GMS Gurwali	09/05/1970	---Do---
8	83	Muhammad Yousaf	GHS No.5 D.I.k	01/04/1969	---Do---
9	91	Irfan Ullah	GMS Ch Laal Wala	01/06/1977	---Do---

**Terms and conditions:-**

1. They would be on probation for a period of one year extendable for another one year.
2. They will be governed by such rules and regulations as may be issued from time to time by the Govt.
3. Their services can be terminated at any time, in case his performance is found unsatisfactory during probationary period. In case of misconduct, he shall be preceded under the rules framed from time to time.
4. Charge report should be submitted to all concerned.
5. Their Inter-Seniority on lower post will remain intact.
6. No TA/DA is allowed for joining his duty.
7. They will give an undertaking to be recorded in their service book to the effect that if over payment is made to him in light this order will be recovered and if he is wrongly promoted he will be reversed.

(Muhammad Rafiq Khattak)

Director  
Elementary and Secondary Education  
Khyber Pakhtunkhwa Peshawar

382-58

Endst. No. 1/ File No. 1/Promotion Senior PET B-16 Dated Peshawar the 28/05/2011

Copy forwarded for information and necessary action to the:-

1. Accounts General Khyber Pakhtunkhwa Peshawar.
2. District Education Officers (M) D I Khan
3. District Accounts Officer D I Khan
4. Official Concerned.
5. PS to the Secretary to Govt. Khyber Pakhtunkhwa Peshawar.
6. PA to the Director E&SE Khyber Pakhtunkhwa Peshawar.
7. M/Edc

*(Handwritten signature)*

Dy: Director (Establ)  
Elementary and Secondary Education  
Khyber Pakhtunkhwa Peshawar

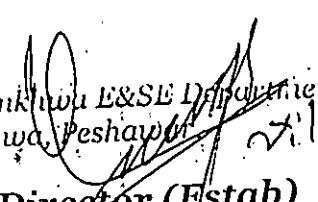
(Muhammad Rafiq Khattak)  
Director  
Elementary and Secondary Education  
Khyber Pakhtunkhwa Peshawar.

382-08

Endst. No. // File No. 1/Promotion Senior PET B-16: Dated Peshawar the 28/05/2013.

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6. PA to the Director E&SE Khyber Pakhtunkhwa, Peshawar
7. M/File

  
Dy: Director (Estab)  
Elementary and Secondary Education  
Khyber Pakhtunkhwa Peshawar

27/5/2013



**Directorate of Elementary and Secondary Education  
Khyber Pakhtunkhwa Peshawar**

PH No. 091-9210389, 9210938,  
9210437, 9210957, 9210468  
Fax 091-9210936, 0800-33857  
E-mail rafiq\_kk851@yahoo.com

10

1566  
03-6-13

**Notification**

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Deferred for Promotion	01

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4	65	M. Khalid Khan	GMS Dinpur	18/04/1965	---Do---
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6	67	Mohsin Abbas	GMS Basti Ali	12/03/1970	---Do---
7	69	Hanif-Ullah	GMS Gurwali	09/05/1970	---Do---
8	83	Muhammad Yousaf	GHS No.5 D.I.k	01/04/1969	---Do---
9	91	Irfan Ullah	GMS Ch Laal Wala	01/06/1977	---Do---

**Terms and conditions:-**

- 1 They would be on probation for a period of one year extendable for another one year.
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- 4 Charge report should be submitted to all concerned.
- 5 Their Inter-Se- seniority on lower post will remain intact.
- 6 No TA/DA is allowed for joining his duty.
- 7 They will give an under taking to be recorded in their service book to the effect that if any over payment is made to him in light this order will be recovered and if he is wrongly promoted he will be reversed.

The Secretary to Government of NWFP,  
Schools & Literacy Department.

Subject: SERVICE STRUCTURE UPGRADATION OF LIBRARIANS AND DIRECTORS PHYSICAL EDUCATION (D.P.Es) OF SCHOOLS AND LITERACY DEPARTMENT

Dear Sir,

I am directed to refer to this Department's letter No.SO(FR)10-22(B)/2005 dated 01/10/2007 and to enclose your summary (in original alongwith its enclosures) on the subject noted above approved by the Chief Minister NWFP. As per approval the Finance Department agrees to the upgradation of the posts of Librarians and Directors Physical Education (D.P.Es) from BS-16 to BS-17 (Regular) for the existing incumbents who hold Master Degree in the relevant subject in the Schools & Literacy Department with immediate effect as per following details:-

- 1) Promotion against the upgraded posts (from BS-16 to BS-17) shall be made in the prescribed manner, and in accordance with the service rules to be framed as per relevant provisions of the NWFP Civil Servants (Appointment, Promotion and Transfer) Rules 1989 read with the NWFP Civil Servant Act, 1973.
- 2) The Librarians and D.P.Es who hold the diploma in the relevant subject will stay in BS-16 till such ~~time~~ they acquire Master degree in the respective subject. On acquiring Master degree in the relevant subject their posts will be upgraded on case to case basis from BS-16 to BS-17 (Regular) and promotion (from BS-16 to BS-17) would be given as per laid down procedure and in accordance with the service rules to be framed. However their existing seniority will remain intact.
- 3) All the vacant posts of Librarians and D.P.Es in Schools & Literacy Department in BS-16 would be upgraded to BS-17. Appointments against which would be made from amongst the persons who hold Master degree in the relevant subject, in the prescribed manner.
- 4) In future Librarians and D.P.Es will initially be recruited on the basis of Master degree in the relevant subject in BS-17 (Regular).
- 5) Henceforth no appointment of Librarians and D.P.Es in BS-16 shall be made on the basis of diploma, being declared as "Dying cadre".

Audit copy may please be prepared and sent to this Department for authentication/signature please.

Incl: As above)

Yours faithfully,

  
(MUNAWAR KHAN)  
SECTION OFFICER (SR.II)

*Received in original  
M. Mand  
10/10/07*

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR  
CAMP AT D.I.KHAN.

Diary No. 2262

CM No :- 2018.  
Appeal No :- 894 of 2014.

Dated 12-12-2018

Put up to the court  
with relevant app. p.

Jamshed Khan

VS

Govt; of KPK & others

SERVICE APPEAL

12/12/18.  
APPLICATION FOR AMENDMENT IN WRIT PETITION FOR JUST DECISION OF CASE

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1. That this ~~is~~ petition is pending adjudication before this honorable court.
2. During the pendency of appeal its comes to knowledge that appellant was promoted in B-16 as Senior PET but later on vide Notification dated 07-03-2014, appellant was promoted as DPE in B-16. The appellant is working in Grade B-16 since 2013 and respondent once again promoted the appellant in same grade as DPE which is against law and rules which fact must be amended in the appeal. Copy of Notification dated 27-05-2013 is annexed.
3. That this honorable court has vast power to accept the instant application.

It is therefore prayed that the application may kindly be  
accepted.

YOUR HUMBLE APPLICANT

Jamshed Khan

Dated; 10-12-2018.

*Anwar Awan*  
Muhammad Anwar Awan  
Advocate Supreme Court.

**BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR  
CAMP AT D.I.KHAN.**

CM No :- 2018.  
Appeal No :- 894 of 2014.

**Jamshed Khan VS Govt; of KPK & others**

**SERVICE APPEAL**

**AFFIDAVIT**

Muhammad Anwar Awan Advocate , do hereby solemnly affirms and declare on  
OATH That the petition is drafted on the direction of applicant so contents of  
application are true and correct to the best of my knowledge and belief and that  
nothing has been concealed from this honorable court.

*Anwar Adv*  
**DEPONENT**

**Dated; 10-12-2018.**





**Directorate of Elementary and Secondary Education  
Khyber Pakhtunkhwa Peshawar**

PH No. 091-9210389, 9210938,  
9210437, 9210957, 9210468  
Fax 091-9210936, 0800-33857  
E-mail rafiq\_kk851@yahoo.com

1566  
03-6-13

**Notification**

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(Muhammad Rafiq Khattak)

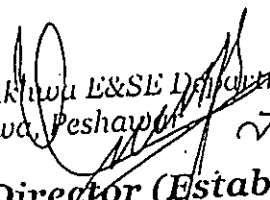
Director  
Elementary and Secondary Education  
Khyber Pakhtunkhwa Peshawar.

3802-08

Endst. No. / File No. 1/Promotion Senior PET B-16: Dated Peshawar the 28/05/2013.

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2. District Education Officers (M) D I Khan
3. District Accounts Officer D I Khan
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5. PS to the Secretary to Govt: Khyber Pakhtunkhwa E&SE Department
6. PA to the Director E&SE Khyber Pakhtunkhwa Peshawar
7. M/File

  
28/5/2013

Dy: Director (Estab)  
Elementary and Secondary Education  
Khyber Pakhtunkhwa Peshawar

**BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR  
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CM No :- 2018.  
Appeal No :- 894 of 2014.

**Jamshed Khan VS Govt; of KPK & others**

**SERVICE APPEAL**

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Khyber Pakhtunkhwa Peshawar**

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Director  
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Khyber Pakhtunkhwa Peshawar.

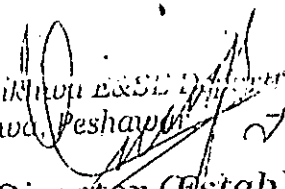
PETs (M) D I Khan

382-08  
Endst: No. / File No.1/Promotion Senior PET B-16: Dated Peshawar the 28/05/2013.  
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7. M/File

  
 Dy: Director (Estab)  
 Elementary and Secondary Education  
 Khyber Pakhtunkhwa Peshawar

37

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No: 895 / 2014

Jamshed Khan DPE (BPS-16) GHSS Dhala District D I Khan .....Appellant.

VERSUS

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

JOINT PARAWISE COMMENTS ON & FOR BEHALF OF RESPONDENTS 1, 2 & 4.

Respectfully Sheweth:-

The Respondents submit as under:-

PRELIMINARY OBJECTIONS.

6. That the Appellant has got no cause of action / locus standi.
7. That the instant Service Appeal is badly time barred.
8. That the Appellant has concealed material facts from this Honorable Tribunal, hence liable to be dismissed on this score.
9. That the Appellant has filed the instant appeal on malafide motives.
10. That the Appellant has not come to this Honorable Tribunal with clean hands.
15. That the Appellant is not entitled for the relief he has sought from this Honorable Tribunal.
16. That the instant Service Appeal is against the prevailing law & rules.
17. That the instant Appeal is based on malafide intentions just to put extra pressure on the Respondents for gaining illegal service benefits.
18. That this Honorable Tribunal has got no jurisdiction to adjudicate upon the present service appeal.
19. That the appeal is not maintainable in its present form & circumstances of the case.
20. That the appeal is bad for mis-joinder & non-joinder of the necessary parties.
21. That the Notifications dated 07-03-2014 is legally competent & is liable to be maintained in favour of the Respondents.
22. That the instant Appeal is barred by law.
23. That the Appellant is neither an aggrieved person, nor any Departmental Appeal against the impugned Notification has been filed by the said Appellant.