

20.06.2022

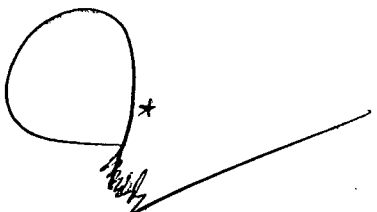
Learned counsel for the appellant present.

Due to deficient record, learned counsel for the appellant seeks adjournment. Adjourned. To come up for preliminary arguments on 22.07.2022 before S.B.

  
(Fareeha Paul)  
Member (E)

22.07.2022


Learned counsel for the appellant present and requested for adjournment on the ground that she has not gone through the record. Adjourned. To come up for preliminary hearing on 22.09.2022 before S.B.

  
(Mian Muhammad)  
Member (E)

25.01.2022

Clerk of counsel for the appellant present. Mian Muhammad  
Ali Khan, Adv. along with Mr. Faraz Haid for respondents  
present.

Former requests for adjournment due to general strike of  
the bar. Adjourned. To come up for reply/preliminary hearing on  
24.03.2022 before S.B.

  
(Mian Muhammad)  
Member(E)

24.03.2022

None present for the appellant.


Notice be issued to appellant and his counsel for the  
next date. To come up for preliminary hearing on  
14.04.2022 before S.B.

  
Chairman

14.04.2022

Counsel for the appellant present.

She made a request for a short adjournment in order  
to prepare the brief. Adjourned. To come up for preliminary  
hearing on 20.06.2022 before S.B.

  
(Rozina Rehman)  
Member (J)




The appeal of Mr. Muhabbat Shah, District Khyber presented today i.e. on 25.08.2021 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Annexures of the appeal may be attested
- 2- Check list is not attached with the appeal.
- ③- Annexures C of the appeal are illegible which may be replaced by legible/better one.

No. 1685 /S.T,

Dt. 26/08 /2021

  
REGISTRAR  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

Roeeda Khan Adv., Pesh.

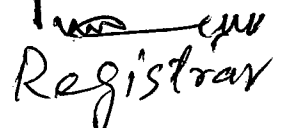
Object No 1 To 3  
has been removed

  
13/9/2021

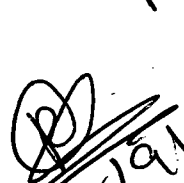
Annexure-c of the appeal is illegible, therefore, the present appeal is returned again to the counsel for completion and resubmission within 15 days.

no. 1816 /S.T

dt. 13/09 /2021

  
Registrar

Object has been  
Removed

  
20/9/2021

**BEFORE THE HON'BLE SERVICE TRIBUNAL PESHAWAR**

**CHECK LIST**

1.	Case title		
2.	Case is duly signed.	Yes	No
3.	The law under which the case is preferred has been mentioned.	Yes	No
4.	Approved file cover is used.	Yes	No
5.	Affidavit is duly attested and appended.	Yes	No
6.	Case and annexure are properly paged and numbered according to index.	Yes	No
7.	Copies of annexure are legible and attested. If not, then better copies duly attested have annexed.	Yes	No
8.	Certified copies of all requisite documents have been filed.	Yes	No
9.	Certificate specifying that no case on similar grounds was earlier submitted in this court, filed.	Yes	No
10.	Case is within time.	Yes	No
11.	The value for the purpose of court fee and jurisdiction has been mentioned in the relevant column.	Yes	No
12.	Court fee in shape of stamp papers affixed. For writ Rs. 500 , for other as required}	Yes	No
13.	Power of attorney is in proper form.	Yes	No
14.	Memo of addressed filed.	Yes	No
15.	List of books mentioned in the petition.	Yes	No
16.	The requisite number of spare copies-attached { Write petition- 3, Civil appeal(SB-2) Civil Revision (SB-1, DB-2)	Yes	No
17.	Case (Revision /appeal/petition etc) is filled on a prescribed form.	Yes	No
18.	Power of attorney is attested by jail authority (for jail prisoner only)	Yes	No

It is certified that formalities /documentations as required in column 2 to 18 above, have been fulfilled.

Name:- **Roeeda Khan**  
**Advocate High Court**  
**Peshawar**

Signature: - \_\_\_\_\_

Dated: - \_\_\_\_\_

**FOR OFFICE USE ONLY**

Case: - \_\_\_\_\_

Case received on \_\_\_\_\_

Complete in all respect: Yes/No, (If NO, the grounds) \_\_\_\_\_

Signature \_\_\_\_\_

(Reader)

Dated: - \_\_\_\_\_

Countersigned: - \_\_\_\_\_

(Deputy Registrar)

**BEFORE THE HON'BLE SERVICE TRIBUNAL**  
**PESHAWAR**

In Re S.A No. \_\_\_\_\_/2021

Mohabbat Shah

**VERSUS**

The Additional Chief Secretary New Merged Area Secretariat  
Peshawar & Others

**INDEX**

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8.	Copy of order	"D"	19
9.	Copy of judgment	"E"	20-22
10.	Wakalatnama		

  
APPELLANT

Through

  
**Rozeeda Khan**

Advocate, High Court  
Peshawar.

Dated: 25/08/2020

(1)

**BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICES  
TRIBUNAL PESHAWAR**

In S.A. 7429/2021

Mohabbat Shah S/o Suhrab Shah R/o Wali Baba  
Jamrud District Khyber.

-----Appellant

**VERSUS**

1. The Additional Chief Secretary New Merged Area Secretariat Peshawar.
2. Director Education new Merged Area Peshawar.
3. District Education Officer District Khyber.
4. Political Agent District Khyber.

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 7485

Dated 25-8-2021

-----Respondents

**APPEAL U/S 4 OF THE KHYBER  
PAKHTUNKHWA SERVICES TRIBUNAL  
ACT -1974 AGAINST THE IMPUGNED  
ORDER NO. 9471/80 DATED 31-12-2010  
WHERE BY THE SERVICE OF THE  
APPELLANT HAS BEEN TERMINATED  
AGAINST WHICH THE APPELLANT  
FILED THE DEPARTMENTAL APPEAL  
WHICH HAS NOT BEEN DECIDED  
WITHIN THE STATUTORY PERIOD OF 90  
DAYS.**

**Prayer:-**

**Filed to-day**  
*20/9/2021*  
**Registrar**

**ON ACCEPTANCE OF THIS SERVICE  
APPEAL THE IMPUGNED ORDERS  
DATED 31/12/2010 MAY KINDLY BE SET  
ASIDE AND THE APPELLANT MAY  
KINDLY BE REINSTATED ON HIS  
SERVICE ALONGWITH ALL BACK  
BENEFITS ANY OTHER REMEDY  
WHICH THIS TRIBUNAL DEEMS FIT  
MAY ALSO BE GRANTED IN FAVOR OF  
THE APPELLANT.**

Re-submitted to-day  
and filed.

*20/9/2021*  
**Registrar**

*Dep. appeal - ?*

(2)

Respectfully Sheweth,

1. That the appellant has been initially appointment as PTC PBS-7 on 31.07.2003 in the community bare school at District Khyber.
2. That the appellant has a applied for the same and appeared in the test and interview before the Departmental Selection Committee and duly qualified the same and after observing all the codal formalities and consequently the appellant was appointed as PTC teacher on 2003.
3. That after appointment the appellant performed his duty with full devotion and hard work and no complaint whatsoever has been made against the appellant.
4. That initially the appellant was appointed on project post, and after initial appointment on contract basis his contract was renewed till the promulgation of (N.W.F.P) now Khyber Pakthnkhwa Civil Servant (Amendment) Act, 2005 (N.W.F.P act No. IX of 2005) and (N.W.F.P) now Khyber Pakhtunkhwa, employees (Regularization of Service) Act, 2009 (N.W.F.P) Act No. XVI of 2009) whereby all



contractual & adhoc employee have been regularized by operation of law due to which the service of the appellant has also be regularize.

5. That the appellant performed his duty on the same sanctioned post till November 2010 later on due to Taliban situation in the area the service of the appellant was terminated due to closure of community school by the competent authority on 31.12.2010. **(Copy of termination order is attached as annexure "A")**.
6. That the appellant submitted departmental appeal against the order dated 31.12.2010 which has not been decided by the respondent department. **(Copy of departmental appeal is attached as annexure "B")**.
7. That feeling aggrieved the Appellant prefers the instant service appeal before this Hon'ble Tribunal on the following grounds inter alia:-

**GROUND:-**

- A. That the impugned order dated 30.12.2010 is void abinito because it has been passed without fulfilling the codal formalities.

- B. That the impugned order is also void because it has been passed from the retrospective effect.
- C. That no charge sheet no statement of allegation and no show cause notice has been issued against the appellant by the respondent department.
- D. That the appellant has not been treated in accordance with law and hence his rights secured and guaranteed under the Constitution of 1973 were badly violated.
- E. That no final show cause notice has been issued to the appellant by the Respondent department.
- F. That no opportunity of defense and personal hearing has been provided to the appellant.
- G. That no departmental or regular inquiry has been conducted by the Respondent department.
- H. That similar nature service appeal No.1371/2017 has been accepted by this Hon'ble Tribunal on 26.03.2019. (Copy of judgment is attached as annexure "C").

I. That some of other colleagues of the appellant has also been adjusted on his post through departmentally so the respondent department has been committed discrimination. **(Copy of order is attached as annexure "D")**.

J. That according the judgment of the Supreme Court reported on 2009 SCMR Page-1 If a Tribunal or the supreme Court decides a point of law relating to the terms and conditions of a civil servant who litigated, and there where other civil servants, who may not have taken any legal proceedings, in such a case, the dictates of justice and rule of good governance demand that the benefit of the said decision be extended to other civil servants also, who may, not be parties to that litigation, instead of compelling them to approach the Tribunal or any other legal forum ---- All citizen are equal before law and entitled to equal protection of law as per Art.25 of the Construction. **(Copy of judgment is attached as annexure "E")**.

K. That any other ground not raised here may graciously be allowed to be raised at the time full of arguments on the instant service appeal.

(6)

*It is therefore, most humbly prayed that on acceptance of this Service Appeal the impugned orders dated 31/12/2010 may kindly be set aside and the appellant may kindly be reinstated on his service alongwith all back benefits any other remedy which this tribunal deems fit may also be granted in favor of the appellant.*

فينا

APPELLANT

Through



Roeda Khan

Advocate, High Court

Peshawar.

Dated: 24/08/2021

**NOTE:-**

As per information furnished by my client, no such like appeal for the same appellant, upon the same subject matter has earlier been filed, prior to the instant one, before this Hon'ble Tribunal.



Advocate.

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**BEFORE THE HON'BLE SERVICE TRIBUNAL**  
**PESHAWAR**

In Re S.A No. \_\_\_\_\_/2021

Mohabbat Shah

**VERSUS**

The Additional Chief Secretary New Merged Area Secretariat  
Peshawar & Others


**AFFIDAVIT**

I, **Mohabbat Shah S/o Suhrab Shah R/o Wali Baba Jamrud District Khyber**, do hereby solemnly affirm and declare that all the contents of the **instant appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed or withheld from this Hon'ble Court.



**DEPONENT**

*Identified by:*

  
**Roeda Khan**  
Advocate High Court  
Peshawar.

**ATTESTED**



(8)

**BEFORE THE HON'BLE SERVICE TRIBUNAL**  
**PESHAWAR**

In Re S.A No. \_\_\_\_\_/2021

Mohabbat Shah

**VERSUS**

The Additional Chief Secretary New Merged Area Secretariat  
Peshawar & Others

**ADDRESSES OF PARTIES**

***PETITIONER.***

Mohabbat Shah S/o Suhrab Shah R/o Wali Baba  
Jamrud District Khyber.

**ADDRESSES OF RESPONDENTS**

1. The Additional Chief Secretary New Merged Area Secretariat Peshawar.
2. Director Education new Merged Area Peshawar.
3. District Education Officer District Khyber.
4. Political Agent District Khyber.

  
APPELLANT

Through

  
Roeda Khan

Advocate, High Court  
Peshawar.

Dated: 24/08/2021

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**BEFORE THE HON'BLE SERVICE TRIBUNAL**  
**PESHAWAR**

In Re S.A No. \_\_\_\_\_/2021

Mohabbat Shah

**VERSUS**

The Additional Chief Secretary New Merged Area  
Secretariat Peshawar & Others

**APPLICATION FOR CONDONATION OF DELAY (IF ANY)**

**Respectfully Sheweth,**

Petitioner submits as under:

That the above mentioned appeal is filing before this Hon'ble Tribunal in which no date is fixed for hearing so far.

**Grounds:**

- A. That the impugned order is void and illegal and no limitation run against the void orders because the impugned order has been passed without fulfilling the codal formalities and has also been passed from retrospective effect.
- B. That there is no illegality on part of the appellant and the schools has been closed by the competent authority due to Taliban situation in the area.
- C. That there are number of precedents of the Supreme Court of Pakistan which provides that


10

the cases shall be decided on merits rather than technicalities.

**It is, therefore, requested that the limitation period (if any) may kindly be condone in the interest of justice.**

  
APPELLANT

Through

  
**Roeda Khan**  
Advocate, High Court  
Peshawar.

Dated: 25/08/2020



(11) P/A

AGENCY EDUCATION OFFICE KHYBER AGENCY AT JAMRUD

TERMINATION

Reference notice for termination already issued vide Agency Education Officer Khyber Agency at Jamrud Endstr: No. 9356-60 dated 22.12.2010 under Directorate of Education FATA Peshawar letter No. 88/8-87 dated 13.12.2010, the services of the following PTCs/Class IV servants (Male & Female) working in Community Schools at Tehsil Jamrud are hereby terminated with effect from 31.12.2010 after noon.

S.No	Name of School	Name of PTC Teachers		Name of C.IV
1	BCS Ziarat Gul Serhai Tirah	Umar Said	Umar Said	Muht: Noor
2	BCS Haji Khan Zali Pagdara Tirah	Maroof Khan	Haji Badshah	Ghani Shah
3	BCS Haji Gul DadbSpori Khula Tirah	Vacant	Khalid Shah	Gul Dad
4	BCS Naik Amal Spor: Tirah	Tikka Khan	Muhamamd Ilyas	Shafiqullah
5	BCS Zewar Jan Khujtai Khala Tirah	Muht: Jan	Hussain Akber	Siraj Khan
6	BCS Shah Zada Seek Kot Tirah	Muht: Saeed	Hasham Khan	Shah Zada
7	BCS Nasim Khan Daman Tirah	Muht: Irfan	Sabit Khan	Nasim Khan
8	BCS Haji Nek Muht Pagdara Tirah	Toseef Khan	Mir: Habib	Nasar Khan
9	BCS Haji Sher Ahmed Khairi Khula Tirah	Shamsher Khan	Shah Wali	Jan Muhammad
10	BCS Mewa Khan Sur Kass Tirah	Zahir Zahir	Amir Shah	Miwa Khan
11	BCS Niaz Muht Pagdara Tirah	Sadiqullah	Abdur Rehman	Jehan Sher
12	BCS Haji Gul Jamal Trezy Khula Tirah	Mehboob Khan	Mushtaq Ullah	Asad Khan
13	BCS Naeem Jan Tangoo Tirah	Said Jan	Fazal Ayan	Talib Khan
14	BCS Khan Sahib Baragat Tirah	Haizrat Wali	Tariq Khan	Muht: Younas
15	BCS Ziarat Khan Sra Wela Tirah	Manzoor Qadar	Zakir Hussain	Saeed Khan
16	BCS Yousaf Madu Khel Spori Tirah	Vacant	Salamat Ullah	Islam Jan
17	BCS Khan Afzal Bakhti Meta Tirah	Abdur Raziq	Iqbal Khan	Mehi Khan
18	BCS Khisa Gul Sra Wela Tirah	Muht: Asghar	Gulab Sher	Khan Gul
19	BCS Haji Shamsal ToorDara Tirah	Shahidullah	Miraj Khalid	Ihsanullah
20	BCS Haji Saidak Wochey Woney Tirah	Fazal Rehman	Gulab Sher	Fazli Wahid
21	BCS Nasir Killi Changai Tirah	Sabir Khan	Niaz Jan	Zahir Shah
22	BCS Waris Khan Kachkool Tirah	Abdul Malik	Sarfaraz	Zar Muhammad
23	BCS Ziarat Gul Tangoo Tirah	Meena Shah	Anzal Khan	Dunya Gul Muhammad
24	BCS Muht: Sadiq Zarigat Tirah	Irfan Ullah	Saleh Jan	Rafiq
25	BCS Gulabai Soor Kass Tirah	Kip'an Khan	Akhtar Munir	Janab Gul
26	BCS Qabal Khan Barri Tirah	Safeel Khan	Ghulam Musatafa	Fazle Rehman
27	BCS Abdul Qadus Pagdara Tirah	Rehmanuddin	Jumdad Khan	Abdul Jalil
28	BCS Gul Nawaz Killi Spori Tirah	Mohabat Shah	Rehman: Ullah	Ziaur Rehman

Signature  
(2)

63	Jamrud	GCS Sahib Zada Shah Kass	Naila	Zeenat	Masseeb Gul
62	Jamrud	GCS Shah Alum Mitalgari	Zabita	Hachmat Bibi	Baz
61	Jamrud	GCS Kappur Tangai Bagwan	Fuzonah Abeer	Sultana	Muhammad
60	Jamrud	GCS Sub-Shaib Shah Kass	Samina Naz	Nighar	Shah
59	GCS Taj Mehmood TD Bazar		Azila	Saeeda Naz	Muhammad
58	GCS Jaz Hussain Shah Kass		Fathme Habib	Fakhrun Nisa	Wali Jam
57	GCS Abdur Rehman Mitalgari		Nighi	Naz Gul	Ibrar Ahmed
56	Jamrud	GCS Saboor Wali Mitalgari	Alia Begum	Kausar	Shahbaz Mir
55	Jamrud	GCS Khista Gul Chora Jamrud	Vacant	Shakila	Raja Gul
54	GCS Wazir Akber Chora Jamrud		Safia Rann	Vacant	Akber
53	GCS Nasirullah Tongo Tura		Farewa	Vacant	Rashid
52	GCS Sahib Shah Sra Wela Tura		Vacant	Vacant	Ishaq
51	BCS Asmat Khan Jamrud		Istihar	Insur Hussain	Haseeb Ullah
50	BCS Farman Ali Ghundi Jamrud		Shafiqullah	Irfan Ullah	Faizan Ali
49	Tura	BCS Muhammad Jan Pahi	Gulbadam	Wakil Khan	Azmat Khan
48	Tura	BCS Bulegh Shah Kachkool	Naveed Ahmed	Fazle Amin	Asrar Khan
47	Jamrud	BCS Gul Mohsin Mitalgari	Sagib Khan	Samir Mir	Gul Mohsin
46	Tura	BCS Shah Wali Killa Qudannat	Munira Zah	Naveeb Shah	Muhammad Lal
45	BCS Sarfaraz Baranvi Tura		(Shah) Khan	Zeenat Khan	Khan
44	Kinda Tura		Hazrat Ullah	Wakeel Khan	Abdur Rouf
43	Tura	BCS Iqbal Khalil Toor Dara	Istana Gul	Furqanullah	Chahar Shah
42	BCS Dr Nasrat Tongo Tura		Kaleem Ullah	Najis Ahmed	Hazrat Ullah
41	BCS Allah Baz Toor Dara Tura		Noorat Khan	Muhammad	Abdul Wahab
40	BCS Shinak Toor Dara Tura		Suy Khan	Shahid Khan	Iraq Khan
39	Tura	BCS Mirza Khan Soor Kass	Sher Zait	Abdul Qadar	Nasrat Khan
38	BCS Naqib Shah Toor Sappur		Khalil Gul	Umar Khan	Kahim Gul
37	Tura	BCS Khan Ahmer Mehraban	Muhammad	Naseem Khan	Nasrat Khan
36	Tura	BCS Hazrat Mir Sra Shaga	Abdul Jalil	Jamir Khan	Shawrang
35	BCS Haji Chinar Gul Naqi Tura		Aman Gul	Rehman Gul	Sardar Wali
34	Tura	BCS Yahid Ahmed Dwejal Khula	Baqillah	Muht Sadig	Wali
33	Tura	BCS Sher Hussain Sra Wela	Zubair Khan	Sadiq Ahmed	Noor Said
32	Tura	BCS Nawaz Gul Nurawanow	Azeem Ullah	Gul Asghar	Muzamil Shah
31	BCS Afam Baz Zurnanza Tura		Shad Gul	Khan	Shoukat Khan
30	BCS Majeed Juma Gul Dall Tura		Muht Kashif	Mosam Khan	Sarmast
29	Tura	BCS Khalid Akber Khair Khula	Muhtbilah	Muhammad	Khalid Akber

*(Handwritten signature)*

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64	GCS Zain Khan Nai Abadi Jamrud	Zainab	Sadia	Sawar Khan
65	GCS Ahmed Khan Lala China Jamrud	Shakira	Vacant	Nisar Ahmad
66	GCS Sudqin Sur Kanjar Jamrud	Bilqees	Sajida	Sadegeen
67	GCS Shabir Ahmed Mania Chel Jamrud	Nazli	Khatira	Mohib Gul
68	GCS Hayat Shah Lowara Matina Jamrud	Shabana	Naveeda Robi	Banat Khan
69	GCS Abdul Karim Jamal Kbel Jamrud	Humira Naz	Mehnaz	Mushtaq Ahmad
70	GCS Dunya Gul Jabba Jamrud	Vacant	Nighat	Muhammad Irshad
71	GCS Yaqoot Shah Ki Rekala Jamrud	Sajeela	Kalsoom	Ibrahim Khan
72	GCS Gul Hussain Malagori Jamrud	Wagma	Vacant	Shah Wazir
73	GCS Tariq Killi New Abadi Jamrud	Seema Gul	Tajilli Raza	Asmat Khan
74	GCS Niaz Wali Gudar Jamrud	Sadaf Mufti	Lubna	Niaz Wali
75	GCS Tekhadar Ali Masjid Jamrud	Tammara	Haseeba	Hussain
76	GCS Anwar Khan Kachkool Tirah	Faiza	Salma Noureen	Sazmat Khan
77	GCS Isa Khan Killi Chora Jamrud	Mehnaz	Shahnaz	Raza Khan

Note:-

1. Necessary entry to this report should be made in their service book.

(GHASIM KHAN)  
AGENCY EDUCATION OFFICER  
KHYBER AGENCY AT JAMRUD

Endst: No 9471-86 /Communal School file Dated 21/12/2010  
Copy forwarded to the:-

01. Director Education FATA wr to his No. cited above.
02. Political Agent Khyber Agency at Peshawar
03. Agency Accounts Officer Khyber at Jamrud
04. Assistant Political Agent Tehsil Jamrud
05. AAEO (Male & Female) Jamrud Tehsil local office.
06. Superintendent /Accountant local office.
- 07-77 Officials concerned.

AGENCY EDUCATION OFFICER  
KHYBER AGENCY AT JAMRUD

Mubarak

A. Mubarak  
B. 7

(16) 137  
محرمت جناب ڈائریکٹر ایجوکیشن قاتا ڈسٹرکٹ خیبر اچھی

ڈیپارٹمنٹ ایڈل برائے عالی

جناب عالی!

① یہ کہ ایڈلوٹ 2003 میں کمیونٹی

سکول ~~PTC~~ میں ہوتی ہو گئی۔

② یہ کہ سال 2010 میں علاقے طالبان

کی وجہ سے سارا کمیونٹی سکول  
بند کر کے گئے

③ یہ کہ جس کی وجہ سے ایڈلوٹ

کو شروع سے terminate کیا گیا۔

پہلا استدعا ہے کہ ایڈلوٹ کو

نوٹ کر کے پر بحال کر کے کا حکم

مدار فرمائے جائے۔

محبت شاہ

محبت شاہ

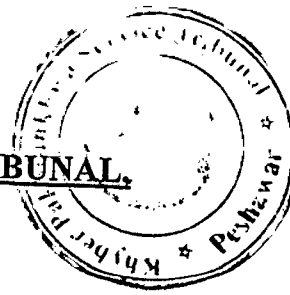
ایڈلوٹ

دفعہ 2011

ALSA  
2011

(P)

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



**SERVICE APPEAL NO. 1371/2017**

Date of institution ... 12.12.2017  
Date of judgment ... 26.03.2019

Zia Ur Rehman,  
PST Male Community School Zawakai,  
Central Kurram Agency.

... (Appellant)

**VERSUS**

1. Director Education FATA Secretariat, Warsak Road Peshawar.
  2. Agency Education Officer, Kurram Agency, Para Chinar.
  3. Additional Agency Education Officer, Lower & Central Kurram, Sadda.
- ... (Respondents)

**APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 05.08.2016 WHEREBY THE SERVICES OF THE APPELLANT WAS DISPENSED WITH w.e.f 1<sup>ST</sup> JULY 2016 AGAINST WHICH HE FILED DEPARTMENTAL APPEAL ON 18.08.2016 BEFORE THE RESPONDENT NO. 1 WHICH WAS REJECTED BY THE APPELLATE AUTHORITY ON 27.09.2017 WHICH WAS COMMUNICATED TO APPELLANT ON 28.11.2017 BY THE RESPONDENT NO. 3 VIDE LETTER NO. 2925/Edu.**

Mr. Khush Dil Khan, Advocate  
Mr. Ziaullah, Deputy District Attorney

.. For appellant.  
.. For respondents.

Mr. MUHAMMAD AMIN KHAN KUNDI  
MR. HUSSAIN SHAH

.. MEMBER (JUDICIAL)  
.. MEMBER (EXECUTIVE)

ATTESTED

**JUDGMENT**

**MUHAMMAD AMIN KHAN KUNDI, MEMBER: -** Counsel for the

appellant present. Mr. Ziaullah, Deputy District Attorney alongwith Mr. Daud Jan, Senior Scale Stenographer for the respondents present. Arguments heard and record perused.

*M. Amin*  
20.3.2019

2. Brief facts of the case as per present service appeal are that the appellant was serving in Education Department as Primary School Teacher in Male Community School. His service was dispensed with w.e.f 01<sup>st</sup> July 2016 due to lack of prescribed qualification i.e (Untrained PST) vide order dated 05.08.2016 by the Additional Agency Education Officer Lower and Central Kurram Sadda. The appellant filed departmental appeal before Director Education FATA on 18.08.2016 but the same was rejected vide order dated 27.09.2017 and communicated to the appellant vide letter No. 2925/Edu dated 28.11.2017 hence, the present service appeal on 12.12.2017.

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

4. Learned counsel for the appellant contended that the appellant was appointed as Primary School Teacher vide order dated 27.06.2013 by the competent authority but his service was dispensed with on the ground of lack of prescribed professional qualification i.e PST Certificate. It was further contended that the appellant was having higher qualification of M.A Political Science and was also having B.Ed Degree but the respondent-department has ignored the said qualification of the appellant and his service was dispensed with without any show-cause notice and affording opportunity of hearing therefore, the impugned order is illegal and liable to be set-aside. It was further contended that the appellant was also granted PST Certificate on 20.01.2017 therefore, the appellant is fully qualified.

5. On the other hand, learned Deputy District Attorney for the respondents opposed the contention of learned counsel for the appellant and contended that the appellant was appointed as Primary School Teacher vide order dated 27.06.2013 but later on his service was dispensed by the competent authority

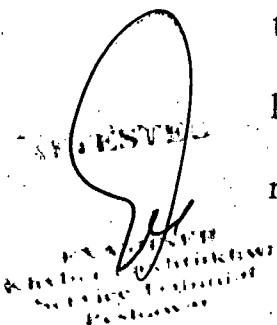
*M. Anwar*  
26.3.2019

EXAMINER  
Higher Education  
Service Tribunal  
Peshawar

with effect from 1<sup>st</sup> July 2016 due to lack of prescribed professional qualification on the basis of letter No. 9822-35 dated 02.08.2016 as well as verbal direction and S S D notification No. SO (E)/SSD/CSTR/99-108. It was further contended that since the PST Certificate was necessary but the appellant was not having the PST Certificate at the time of his appointment therefore, the competent authority has rightly dispensed with his service and prayed for dismissal of appeal.

6. Perusal of the record reveals that the appellant was appointed as Primary School Teacher vide order dated 27.06.2013. The record further reveals that the appellant <sup>was M</sup> ~~has~~ having M.A Political Science Degree. The record further reveals that the appellant was also having B.Ed Degree issued on 26.12.2013. Meaning thereby that at the time of impugned order dated 05.08.2016, the appellant was having B.Ed Degree. The record also reveals that PST Certificate has also been issued to the appellant on 20.01.2017 and the appellant was having more than three years service at the time of impugned order. It is also well settled law that if any adverse order is passed against anyone than he should be given opportunity of hearing, show-cause notice as to why such adverse order may not be passed against him on such and such grounds. Record reveals that the respondent-department has dispensed the service of the appellant without any show-cause notice or giving opportunity of personal hearing therefore, the respondent-department has violated the principle of natural justice which has rendered the impugned order illegal and liable to be set-aside. As such, we partially accept the appeal ,set-aside the impugned order with the direction to the respondent-department to issue show-cause notice to the appellant that why his service may not be dispensed with on such and such grounds and after replying the show cause notice ~~some~~ <sup>M</sup> and giving opportunity of personal

*M. Anam*  
26.3.2019



hearing, pass order deem appropriate to the respondents. However, the reinstatement of the appellant will be subject to the outcome of decision of show-cause notice. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED  
26.03.2019

*Muhammad Amin*  
(MUHAMMAD AMIN KHAN KUNDI)  
MEMBER

*AS*  
(HUSSAIN SHAH)  
MEMBER

(Not subject to be ware copy)  
*AS*  
MEMBER  
of your Honourable  
Service Tribunal  
Kashmir

Date of Birth  
Registration No.  
Class No.  
Roll No.  
Name  
Address  
Date of Birth

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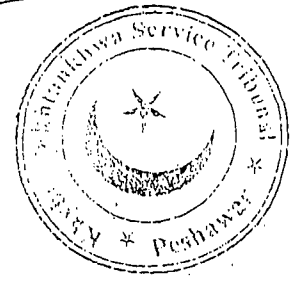
(38)

(15)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
PESHAWAR

SERVICE APPEAL NO. 1371/2017

Date of institution ..... 12.12.2017  
Date of judgment ..... 26.03.2019



Mr. Far Rehman,  
PMT Male Community School Zawkal,  
Central Kurram Agency.

..... (Appellant)

VERSUS

1. Director Education FATA Secretariat, Warsak Road Peshawar.  
2. Agency Education Officer, Kurram Agency, Para Chinar.  
3. Additional Agency Education Officer, Lower & Central Kurram, Sadda.  
..... (Respondents)

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED  
ORDER DATED 05.08.2016 WHEREBY THE SERVICES OF THE  
APPELLANT WAS DISPENSED WITH W.E.F 1<sup>st</sup> JULY 2016 AGAINST  
WHICH HE FILED DEPARTMENTAL APPEAL ON 18.08.2016  
BEFORE THE RESPONDENT NO. 1 WHICH WAS REJECTED BY  
THE APPELLATE AUTHORITY ON 27.09.2017 WHICH WAS  
COMMUNICATED TO APPELLANT ON 28.11.2017 BY THE  
RESPONDENT NO. 3 VIDE LETTER NO. 2925/Edu.

Mr. Khush Dil Khan, Advocate  
Mr. Ziaullah, Deputy District Attorney

For appellant.  
For respondents.

MR. MUHAMMAD AMIN KHAN KUNDI  
MR. HUSSAIN SHAH

MEMBER (JUDICIAL)  
MEMBER (EXECUTIVE)

JUDGMENT

MUHAMMAD AMIN KHAN KUNDI, MEMBER:- Counsel for the  
appellant present, Mr. Ziaullah, Deputy District Attorney alongwith Mr. Daud  
Jan, Senior Scale Stenographer for the respondents present. Arguments heard  
and record perused.

**ATTESTED**

(39)

(16)

Brief facts of the case as per present service appeal are that the appellant was serving in Education Department as Primary School Teacher in Male Community School. His service was dispensed with w.e.f 01<sup>st</sup> July 2016 due to lack of prescribed qualification i.e (Untrained PST) vide order dated 05.08.2016 by the Additional Agency Education Officer Lower and Central Kurram Sadda. The appellant filed departmental appeal before Director Education FATA on 18.08.2016 but the same was rejected vide order dated 27.09.2017 and communicated to the appellant vide letter No. 2925/Edu dated 28.11.2017 hence, the present service appeal on 12.12.2017.

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

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Handwritten notes: 6/11/17, 17/11/17

ATTENDED



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W

earing. pass order deem appropriate to the respondents. However, the reinstatement of the appellant will be subject to the outcome of decision of show-cause notice. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED  
26.03 2019

*Muhammad Amin*  
(MUHAMMAD AMIN KHAN KUNDI)  
MEMBER

*Hussain Shah*  
(HUSSAIN SHAH)  
MEMBER

Certified to be true copy

*[Signature]*  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

Number of copies	1600	270318
Copying fee	10/-	
Stamp	10/-	
Date of filing	<i>[Signature]</i>	
Date of receipt	17-4-18	
Date of receipt copy	17-4-18	

AD

2009 S C M R 1

[Supreme Court of Pakistan]

Present: **Abdul Hameed Dogar, C.J., Ijaz-ul-Hassan Khan, Muhammad Qaim Jan Khan and Ch. Ejaz Yousaf, JJ**

**GOVERNMENT OF PUNJAB, through Secretary Education, Civil Secretariat, Lahore and others----Petitioners**

**Versus**

**SAMEENA PARVEEN and others----Respondents**

Criminal Petitions Nos.71-L and 72-L, Civil Petitions 215-L, 216-L, 217-L, 218-L, 224-L to 236-L of 2006, decided on 29th April, 2008.

(On appeal from the judgment, dated 29-1-2008 of the Lahore High Court, Lahore passed in Cr.O.P. No.370/W and 561/W of 2007, Writ Petitions Nos.11525, 11263, 11516, 11662, 11663, 11766, 11881, 11835, 12136 and 12185 of 2007, 86, 123, 274, 345, 599, 643 and 11619 of 2008).

**Civil service---**

---Administration of justice---If a Tribunal or the Supreme Court decides a point of law relating to the terms and conditions of a civil servant who litigated, and there were other civil servants, who may not have taken any legal proceedings, in such a case, the dictates of justice and rule of good governance demand that the benefit of the said decision be extended to other civil servants also, who may, not be parties to that litigation, instead of compelling them to approach the Tribunal or any other legal forum---All citizens are equal before law and entitled to equal protection of law as per Art.25 of the Constitution.

Hameed Akhtar Niazi v. The Secretary, Establishment Division, Government of Pakistan and others 1996 SCMR 1185 and Tara Chand and others v. Karachi Water and Sewerage Board, Karachi and others 2005 SCMR 499 fol.

Mst. Muqqadas Akhtar and another v. Province of Punjab through Secretary Education Department, Government of Punjab and another 2000 PLC (C.S.) 867 ref.

Ms. Afshan Ghazanfar, A.A.-G., Punjab and Rana Abdul Qayyum, D.S. (Education) Punjab for Petitioners.

S.M. Tayyab, Senior Advocate Supreme Court for Respondents (in Cr.Ps. Nos.71-L, 72-L and C.P.224-L of 2008).

Nemo for other Respondents.

## ORDER

**ABDUL HAMEED DOGAR, C.J.**---Through this order we intend to dispose of above captioned petitions filed against common judgment, dated 29-1-2008 passed by learned Judge in Chambers of Lahore High Court, Lahore whereby Cr.O.P. No.370/W and 561/W of 2007, Writ Petitions Nos.11525, 11263, 11516, 11662, 11663, 11766, 11881, 11835, 12136 and 12185 of 2007, 86, 123, 274, 345, 599, 643 and 11619 of 2008 filed by respondents were allowed and the impugned orders passed by

petitioner/authority were set aside. (21)

2. Briefly, stated facts giving rise to the filing of instant petitions are that respondents were appointed as PTC Teachers during the year 1995/1996 after completion of all legal requirements and they joined their respective place of posting. After sometime, their appointments were cancelled being bogus vide order No.277/E-1, dated 3-4-1998. This order was assailed before learned Lahore High Court, Lahore and same was declared to be without lawful authority in the case reported as Mst. Muqadas Akhtar and another v. Province of Punjab through Secretary Education Department, Government of Punjab and another 2000 PLC (C.S.) 867. The relevant paragraph is reproduced as under:--

"Consequently the petitioners are declared to be in service and the action of the Headmasters/Incharge of the Schools stopping the petitioners from performance of their duties as PTC Teachers on the basis of the above said impugned order, is declared to be without lawful authority. It is, however, clarified that the department is at liberty to proceed against petitioners, if so desired, on individual basis under the relevant law and under the Punjab Civil Servant (Efficiency and Discipline) Rules, 1975."

In view of above judgment, the respondents were absolved of the charges of bogus appointments. But later on once again the services of respondents were terminated vide order, dated 3-8-2005, which order was challenged before learned Lahore High Court, Lahore through Writ Petition No.16864 of 2005. The said writ petition was allowed vide judgment, dated 11-12-2006 and the impugned order, was declared as illegal and without lawful authority. Similarly, one of the teachers namely Mst. Naseem Akhtar assailed the order, dated 3-8-2005 before Punjab Service Tribunal, Lahore through Appeal No.903 of 2006 which was also allowed vide judgment, dated 4-9-2006. The said judgment was maintained by this Court in Civil Petition No.1960-L of 2006 vide judgment, dated 2-11-2006. On 26-9-2007 once again the services of respondents were terminated. Feeling aggrieved they filed above mentioned petitions before the learned Lahore High Court, Lahore which were allowed vide impugned judgment as stated above.

3. It is mainly contended by learned A.A.-G. Punjab appearing on behalf of petitioners that the jurisdiction of the learned High Court is barred under Article 212 of the Constitution of Islamic Republic of Pakistan, 1973 in matters involving determination of terms and conditions of civil servants. She further contended that the appointments of the respondents were bogus and fake as they were never selected by the competent authority, therefore the orders of dismissal passed by departmental authority were in accordance with law, which did not call for any interference by this Court.

4. On the other hand, Mr. S. M. Tayyub, learned Senior Advocate Supreme Court appearing on behalf of some of the respondents supported the impugned judgment and contended that appointments of respondents had taken place in accordance with rules and prescribed procedure. They submitted their applications in pursuance of advertisement of the posts of PTC Teachers. They passed the required test and were appointed by the competent authority. According to him, the respondents were in service for about 9-10 years and during this period no objection was raised, and subsequently on vague allegations they were dismissed from service. He further contended that cases of respondents were at par with Mst. Naseem Akhtar which was decided by this Court in Civil Petition No. 1960-L of 2006 vide judgment, dated 2-11-2006.

5. We have considered the arguments of both the parties and have gone through the record and proceedings of the case in minute particulars. The matter has already been decided by this Court in the case of Mst. Naseem Akhtar (supra), and it has been held that the appointment orders of the respondents as PTC Teachers were genuine. It was held by this Court in the case of Hameed Akhtar Niazi v. The Secretary, Establishment Division, Government of Pakistan and others 1996 SCMR 1185 that if a Tribunal or this Court decides a point of law relating to the terms and conditions of a civil servant who litigated, and there were other civil servants, who may not have taken any legal proceedings, in such a case, the dictates of justice and rule of good governance demand that the benefit of the said decision be extended to other civil servants also, who may not be parties to that litigation instead of compelling them to approach the Tribunal or any other legal forum. This view

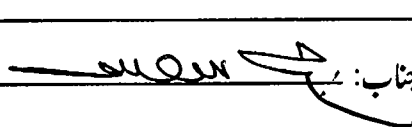
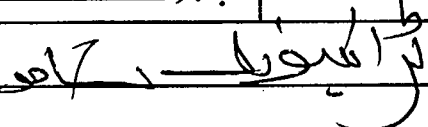
was reiterated by this Court in the case of Tara Chand and others v. Karachi Water and Sewerage Board; Karachi and others 2005 SCMR 499 and it was held that according to Article 25 of the Constitution of Islamic Republic of Pakistan, 1973 all citizens are equal before law and entitled to equal protection of law.

6. In this view of the matter, we are of the view that no ground for interference in the impugned judgment is made out. Accordingly, the petitions being devoid of force are dismissed and leave to appeal refused.

M.B.A./G-13/SC

Petitions dismissed

قیمت 50 روپے	88359	  
ایڈویکیٹ: 		پشاور بار ایسوسی ایشن، خیبر پختونخواہ
بار کونسل / ایسوسی ایشن نمبر:		
رابطہ نمبر: 0333026955		

بعدالت جناب:  


منجانب: <b>اسلام ٹرسٹ</b>	دعویٰ:
	علت نمبر:
	مورخہ:
	جرم:
	تھانہ:
<b>باعث تحریر آنکہ</b>	

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کاروائی متعلقہ

آن مقام لاہور کیلئے روشن خانہ کو وکیل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ برحلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی، نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب مقرر شدہ کو وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ پر داختم منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے

المرقوم: \_\_\_\_\_  
**گواہ شد**  
 العبد \_\_\_\_\_  
 العبد \_\_\_\_\_  
 مقام \_\_\_\_\_ کے لیے منظور ہے۔

نوٹ: اس وکالت نامہ کی فونو کاپی ناقابل قبول ہوگی۔

ACCEPTOR  
 B7  


حسب نام  
 0333026955



"A"

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.**  
JUDICIAL COMPLEX (OLD), KHYBER ROAD, S.B  
PESHAWAR.

No.

APPEAL No. 7429 & 7430 of 20 21.

Mohabbat Shah & 1 others

Appellant/Petitioner

Versus

The Additional chief Secy New Merged Area Pesh:

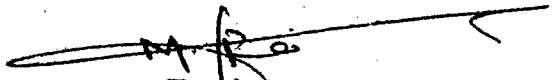
RESPONDENT(S)

Notice to Appellant/Petitioner

Mohabbat Shah s/o Suhrab Shah  
R/o Woli Baba Jamrud Distt: Khyber.

Take notice that your appeal has been fixed for Preliminary hearing, replication, affidavit/counter affidavit/record/arguments/order before this Tribunal on 14/4/2022 at 9:00 AM

You may, therefore, appear before the Tribunal on the said date and at the said place either personally or through an advocate for presentation of your case, failing which your appeal shall be liable to be dismissed in default.

  
Registrar,  
Khyber Pakhtunkhwa Service Tribunal,  
Peshawar.

"A"

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.**  
JUDICIAL COMPLEX (OLD), KHYBER ROAD, PESHAWAR. S.B

No.

7429 & 7430

21

APPEAL No..... of 20

Mohabbat Shah & Others

Appellant/Petitioner

Versus

The Additional chief Secy Merged Area Pesh.

RESPONDENT(S)

(counsel)

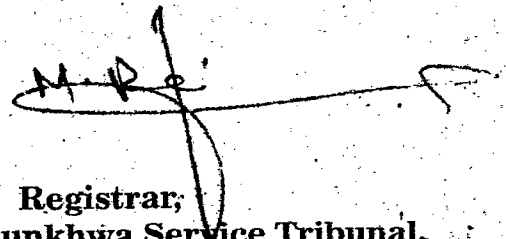
Rozeeda Khan Advocate

Notice to Appellant/Petitioner

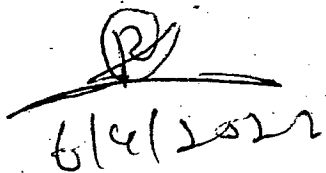
High Court Peshawar.

Take notice that your appeal has been fixed for Preliminary hearing, replication, affidavit, counter affidavit/record/arguments/order before this Tribunal on..... at.....

You may, therefore, appear before the Tribunal on the said date and at the said place either personally or through an advocate for presentation of your case, failing which your appeal shall be liable to be dismissed in default.



Registrar,  
Khyber Pakhtunkhwa Service Tribunal,  
Peshawar.

  
6/4/2022