


24.08.2016

Counsel for the appellant and Mr. Nabi Gul, Supdt(Lit) alongwith Mr. Muhammad Jan, GP for respondents present. Counsel for the appellant submitted that grievances of the appellant has been redressed departmentally, therefore, the instant appeal may be dismissed as withdrawn. In this respect his signature also recorded in the margin of the order sheet. Request is accepted and the appeal is dismissed as withdrawn. File be consigned to the record.

Announced:  
24.08.2016

  
Member

  
Member

24/8/16

24.08.16



19.05.2015

Clerk of counsel for the appellant and Addl: A.G for respondents present. Requested for adjournment as learned counsel for the appellant is not in attendance today. To come up for arguments on 4.12.2015.




Member



Member.

04.12.2015

Clerk to counsel for the appellant and Mr. Ziaullah, GP for respondents present. Clerk to counsel for the appellant requested for adjournment. Therefore, the case is adjourned to 9.5.16 for arguments.



Member



Member

09.05.2016

Clerk of counsel for the appellant and Asstt. AG for the respondents present. Arguments could not be heard due to strike of the bar. To come up for arguments on 24.08.2016 before D.B.



Member



Chairman

21.1.2014

Junior to counsel for the appellant, and Mr. Muhammad Adeel Butt, AAG with Qibaz Khan, SO, Bilal Khan, AD (Litigation) and Ghulam Mustafa, Social Welfare Officer for the respondents present and requested for further time. To come up for written reply on 19.3.2014.

MEMBER

MEMBER

19.3.2014

Counsel for the appellant and AAG with Ghulam Mustafa, SWO and Qibaz Khan, SO (Litigation) for the respondents present and reply filed. Copy handed over to counsel for the appellant. To come up for arguments on 20.8.2014. Rejoinder, if any, in the meantime.

MEMBER

MEMBER

20.08.2014

Clerk to counsel for the appellant and Mr. Muhammad Jan, GP with Muhammad Javed, Assistant, Rabim Shah, Assistant and Muhammad Irshad, Supdt. for the respondents present. The learned Member is on official tour to Abbottabad. To come up for the same on 01.01.2015.

READER

1.1.2015

Clerk to counsel for the appellant and Mr. Muhammad Adeel Butt, AAG with Muhammad Javed, AD and Muhammad Irshad, Supdt. for the respondents present. The Tribunal is incomplete. To come up for the same on 19.5.2015.

READER

Appeal No. 541/2013.  
Mst. Amina Bibi.

16.09.2013

Counsel for the appellant and Mr. Muhammad Jan, GP for

the respondents present. Preliminary argument heard. Counsel for the appellant contended that the appellant has not been treated in accordance with law/rules. She is entitled for higher pay scale in BPS-14 in the light of notification dated 24.07.1987 of the Government of Khyber Pakhtunkhwa Finance Department as well as in light of the Hon'able Supreme Court of Pakistan decision Civil Review Petition No.10-P/2009 dated 03.02.2010. He further contended that similar nature cases have already been admitted for regular hearing. Points raised at the Bar need consideration. The appeal is admitted to regular hearing subject to all legal objections/limitation. The appellant is directed to deposit the security amount and process fee within 10 days. Thereafter, notice be issued to the respondents. Case adjourned to 03.12.2013 for submission of written reply.

Appellant deposited  
Process fee & Security  
Rs. 2200/- Bank Receipt  
attached with file

Member.

16.09.2013

This case be put before the Final Bench II for further proceedings.

Chairman

3.12.2013


Counsel for the appellant, and Mr. Muhammad Adeel Butt, AAG present. Fresh notices be issued to the respondents. To come up for written reply on 21.1.2014.

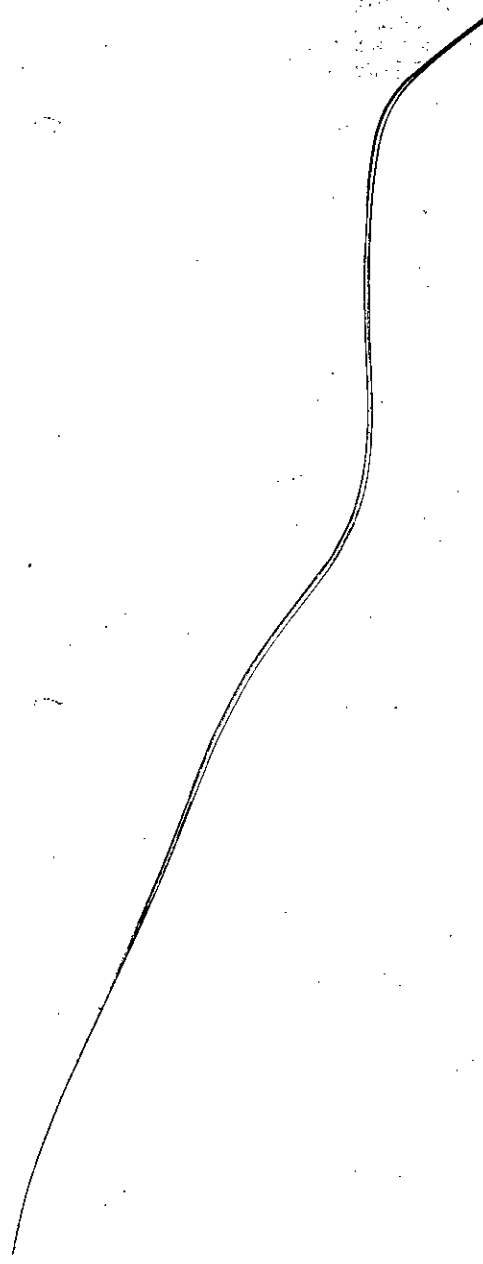
MEMBER

6.

26.08.2013

Counsel for the appellant present. As per order sheet dated 29.07.2013 documents could not be produced, therefore, pre-admission notice be issued to the Sr.GP/GP as well respondents. To come up for the same documents and further preliminary hearing on 16.09.2013.

  
Member



3.  
30.4.2013

Counsel for the appellant present. In pursuance of the judgment of the august Supreme Court of Pakistan in constitution petition No. 53 of 2007 & constitution petition No. 83 of 2012, titled Sh. Riaz-ul-Haq, Advocate Supreme Court and an other-vs-Federation of Pakistan through Ministry of Law, etc, the case is adjourned on note Reader for proceeding as before on 6.6.2013.

  
Reader

4.  
6.6.2013

Munshi to Counsel for the appellant present. In pursuance of the Khyber Pakhtunkhwa Service Tribunals (Amendment) Ordinance 2013, (Khyber Pakhtunkhwa ord. II of 2013), the case is adjourned on note Reader for proceedings as before on 29.7.2013.

  
Reader

5.  
29.07.2013

Counsel for the appellant present and requested for adjournment. To come up for further preliminary hearing and better copy of printing documents (page No.3 of the notification dated 24.07.1986) and also copy of Service book on 26.08.2013.

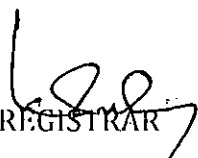

  
Member

Form- A

FORM OF ORDER SHEET

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

Case No. 541/2013

| S.No. | Date of order Proceedings | Order or other proceedings with signature of judge or Magistrate  |
|-------|---------------------------|---|
| 1     | 2                         | 3   |
| 1     | 15/03/2013                | <p>The appeal of Mst. Amina Bibi presented today by Mr. Noor Mohammad Khattak Advocate may be entered in the Institution Register and put up to the Worthy Chairman for preliminary hearing.</p> <p style="text-align: right;"> <br/>                     REGISTRAR                 </p> |
| 2     | 20-3-2013                 | <p>This case is entrusted to primary Bench for preliminary hearing to be put up there on <u>30-4-2013</u>.</p> <p style="text-align: right;"> <br/>                     CHAIRMAN                 </p>   |

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

APPEAL NO. 541 /2013

**AMINA BIBI**

**VS**

**SW&WD DEPARTMENT**

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| 2-           | Appointment order   | <b>A</b>        | 4.              |
| 3-           | Testimonies         | <b>B</b>        | 5- 8.           |
| 4-           | Notification        | <b>C</b>        | 9- 10.          |
| 5-           | Judgment S.C        | <b>D</b>        | 11- 14.         |
| 6-           | Judgment S.T        | <b>E</b>        | 15- 16.         |
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**APPELLANT**

**THROUGH:**

**NOOR MOHAMMAD KHATTAK**  
**ADVOCATE**

**MOBILE NO.0345-9383141**



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

Appeal No 541 /2013.

M.W.F. Peshawar  
Government of Khyber Pakhtunkhwa  
No. 556  
Dated 15-3-2013

Mst:Amina Bibi, Religious Teacher (BPS-11),  
Mentally Retarded & Physically Handicapped,  
Kala Bhatt Township, District Haripur ..... **APPELLANT**

**VERSUS**

- 1- The Provincial Government through Chief Secretary,  
Government of Khyber Pakhtunkhwa, Peshawar.
- 2- The Secretary Social welfare & women Development  
Department, Government of Khyber Pakhtunkhwa Peshawar.
- 3- The Director Social Welfare and Women Development  
Department Khyber Pakhtunkhwa Peshawar.
- 4- The District officer Social Welfare and Women Development  
Department District Haripur.
- 5- The Secretary Finance Department, Khyber Pakhtunkhwa,  
Peshawar .....**RESPONDENTS**

**APPEAL UNDER SECTION 4 OF THE**  
**KHYBER PAKHTUNKHWA SERVICE**  
**TRIBUNAL ACT 1974 FOR THE GRANT OF**  
**HIGHER PAY SCALE (BPS-17) IN THE**  
**LIGHT OF NOTIFICATION DATED 24-7-**  
**1987 OF THE FINANCE DEPARTMENT AND**  
**IN LIGHT OF THE SUPREME COURT**  
**JUDGMENT DATED 3-2-2010 AND AGAINST**  
**NOT TAKING ACTION ON THE**  
**DEPARTMENTAL APPEAL OF THE**  
**APPELLANT WITHIN STATUTORY PERIOD**  
**OF 90 DAYS**

**PRAYER:**

That on acceptance of this appeal the respondents may be directed to grant BPS-17 with all Consequential benefits in light of the Finance Department Notification dated 24-7-1986 and the Supreme Court judgment dated 3-2-2010 by treating the appellant at par with her colleagues (Namely Waheed Nawaz and Jaweria Zaman). Any other remedy which this august Tribunal deemed fit that may also be awarded in favor of the appellant

**R.SHEWETH:**

- 1- That appellant was appointed as Religious Teacher (BPS-11) in the respondent Department vide order dated 17-11-2007. That then after the appellant is performing her duties quite efficiently and up to the entire satisfaction of her superiors till date. Copies of the appointment is attached as Annexure ..... **A.**
- 2- That appellant has the qualification of FSC, B.A, M.A and B.ED. Copies of the testimonies is attached as Annexure ..... **B.**
- 3- That in the light of Finance Department Notification dated 24-7-1986 appellant having the professional Degree of Bachelor of Education is entitled for (BPS-17) from the date when she avail the said qualification. That the Supreme Court of Pakistan in Civil review P-No-10-p/2009 decided the case in the light of Finance Department Notification dated 24-7-1986 in favor of the appellant colleague namely Mr. Waheed Nawaz vide judgment dated 3-2-2010. Copies of the Notification and judgment are attached as Annexure ..... **C & D.**
- 4- That recently this august Service Tribunal decided similar nature case in favor of the appellant colleague namely Jaweria Zaman vide order dated 11-11-2010. Copy of the judgment is attached as Annexure ..... **E.**
- 5- That appellant requested the respondent Department for the said relief being eligible and qualified through departmental appeal but no reply has been received so far. Hence the present appeal on the following grounds amongst the others. Copies of the Departmental appeal & forwarding letter are attached as Annexure ..... **F & G.**

**GROUND:**

- A-** That not granting/ allowing BPS-17 to appellant despite of having eligible and qualified for the above mentioned scale is against the law, facts and norms of natural justice.
- B-** That appellant has not been treated by the respondent Department in accordance with law and rules on the subject noted above, and the respondent violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.

- C-** That in spite of having B.ed Degree and eligibility for the post of BPS-17 the respondents are not willing to grant BPS-17 to appellant.
- D-** That respondent Department acted in arbitrary and malafide manner, on the subject noted above.
- E-** That similar nature cases have been decided by the august Supreme Court of Pakistan and this Hon, able Service Tribunal, therefore the appellant may be granted similar relief under the principle of consistency reported in 2009 SCMR page 1.
- F-** That appellant seeks permission to advance other grounds and proofs at the time of hearing.

**APPELLANT**

  
**AMINA BIBI**

**THROUGH:**

  
**NOOR MUHAMMAD KHATTAK**  
**ADVOCATE**

A-4



District Coordination Office, Haripur  
Phone#: 0995-613391, 610455 Fax: 615412  
No. A-IV (EST.B)/DCO(II)/ 9965-62

Dated: 17<sup>th</sup> November 2007

Order

Consequent upon the approval of DPC held on 16-11-2007, Amina Bibi D/O Abdul Hafeez R/O Mankarai is hereby appointed as Junior Teacher at MRPH Center KTS, Haripur with immediate effect. She will not be entitled to pension and gratuity at the time of retirement as per Government Policy. However she will enjoy all kinds of other benefits as per Government Rules / Policy being Government Servant.

  
District Coordination Officer  
Haripur

Cc:

1. Do (Community Development) for necessary action.
2. District Accounts Officer, Haripur.
3. Principal MRPH Centre KTS, Haripur
4. Teacher concerned of compliance.

  
District Coordination Officer  
Haripur

**ATTESTED**



B-5

ADA No. 011138

Roll No. 11282

**BOARD OF INTERMEDIATE AND SECONDARY EDUCATION**



**Abbottabad N.W.F.P. Pakistan  
INTERMEDIATE EXAMINATION**

PRE-MEDICAL Group

SESSION ANNUAL 1994

THIS IS TO CERTIFY THAT AMINA BIBI

Son/Daughter of ABDUL HAFEEZ

and a student of GOVT: GIRLS COLLEGE HARIPUR.

Registered No 62-AB/GH-92 has passed the Intermediate Examination of the Board of Intermediate and Secondary Education, Abbottabad held in June/July 1994

as a *Regular/Private candidate*. He/She obtained 551 Marks out of 1100

and has been placed in Grade C Representing GOOD

The Examination was taken as a whole/in parts and the candidate passed the following subjects:

- |            |   |              |
|------------|---|--------------|
| 1. English | 3. Islamic Education - Pakistan Studies | 5. BIOLOGY   |
| 2. Urdu    | 4. PHYSICS                              | 6. CHEMISTRY |

*[Signature]*  
Asst. Secretary

This certificate is issued without alteration of erasure.

*[Signature]*  
Secretary

**ATTESTED**

*[Signature]*



6

# University of Peshawar

(Pakistan)

Session ANNUAL 1996

AMINA BIBI

DAUGHTER

of

ABDUL HAFEEZ

and a student

of GOVT. GIRLS COLLEGE HARI PUR

having passed the prescribed examination

held in AUGUST, 1996 ~~XXXXXX~~ 2000

is this day admitted by the University of Peshawar  
to the Degree of

## Bachelor of Arts

in the

SECOND

Division

The Examination was taken as a whole / ~~in parts~~

Serial No. 047727

Registration No. 94-GH-2059

Roll No. 30098

Result declared on FEBRUARY 15, 1997

**ATTESTED**



Registrar

CounterSigned

Vice-Chancellor

# University of Peshawar

(Pakistan)

Session ANNUAL 2000

AMINA BISI DAUGHTER of ABDUL HAFEEZ and a student of GOVT POSTGRADUATE COLLEGE PARIPUR having passed the prescribed examination held in JANUARY 2001 is this day admitted by the University of Peshawar to the Degree of

## Master of Arts

in the SECOND Division

The Subject of Examination being ENGLISH

The Examination was taken as ~~as a whole~~ / in parts

*A. Khalid Khan*  
Registrar

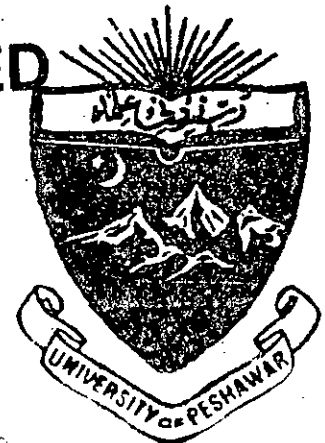
Serial No. 031831

**ATTESTED**

Registration No. 54-GH-2059

Roll No. 3600

Result Declared on 12TH JULY 2001



Countersigned  
*Z. Khan*  
Vice-Chancellor

45536

8

Roll No. G-6457877

Allama Iqbal Open University



علامہ اقبال اوپن یونیورسٹی

نمبر شمار

AMINA BIBI

Regn. No. 97-IMP-0673

رجسٹریشن نمبر

آمنہ بی بی

son/daughter of ABDUL HAFEEZ

بن / بنت عبدالحفیظ

having completed the prescribed requirements  
in SPRING, 1999 is awarded the degree of

کو بہار 1999ء میں مطلوبہ شرائط مکمل کرنے پر

Bachelor of Education

بی۔ ایڈ

He/She secured 62 % marks and was placed

in B grade.

کی ڈگری غطا کی گئی۔ اس نے 62 فیصد نمبر لے کر 3 گریڈ حاصل کیا۔

ATTESTED

Vice Chancellor

وائس چانسلر

Islamabad

Dated : 25TH JAN, 2000.

Controller of Examinations

کنٹرولر امتحانات

مہتمم

This degree is to be read in conjunction  
with the Transcript, issued separately.

اسلام آباد  
تاریخ 25 جنوری 2000ء



C-9

Saeed Ullah Jan,  
Secretary to  
Government of N.W.F.P.,  
Finance Department,  
Peshawar.

The Secretary to  
Government of N.W.F.P.,  
Health and Social Welfare Department,  
Peshawar.

Subject:- REVISION OF PAY SCALES OF THE TEACHERS WORKING  
IN THE INSTITUTIONS FOR THE HANDICAPPED.

Sir,

I am directed to refer to the subject noted above and to say that the matter regarding grant of enhanced pay scales to different categories of teachers working in the institutions for the handicapped (i.e., Blinds, Deaf & Dumb, Physically Handicapped and Mentally Retarded) has been under consideration of the Government for sometime. It has been decided to prescribe new scales of pay for these teachers working in the above institutions with immediate effect. The new scales of pay, showing the qualifications prescribed for teachers are as under:-

(1) DEAF AND DUMB INSTITUTIONS.

- (a) Trained Graduate Teachers (B.A./B.Sc., B.Ed.) with adequate knowledge in the Education of deaf and dumb to be certified by the Social Welfare Directorate. B-17
- (b) Untrained Graduate and post-Graduate Teachers (B.A./B.Sc., M.A./M.Sc.) with adequate knowledge in the Education of deaf and dumb, to be certified by the Social Welfare Directorate. B-16 These teachers must acquire B.Ed. within a period of three years.
- (c) Trained under-Graduate Teachers (Metric/F.A./F.Sc. with C.T. or P.T.C., or T.E., etc.) B-14 These teachers must acquire the qualification of B.A./B.Sc./B.Ed. within five years as at (a) above.

...../2

**ATTESTED**



(d) Untrained, under Graduate B-11 Teachers with adequate knowledge of teaching deaf and dumb (to be certified by the Social Welfare Directorate).

These teachers should continue in B-11, till such time they cross the next stages of B-14/16.

(2) BLIND INSTITUTIONS.

(a) Trained Graduate Teachers B-17 (B.A./B.Sc., B.Ed.) with adequate knowledge of Braille or teaching the blind (to be certified by the Social Welfare Directorate).

These teachers must acquire B.Ed. within a period of three years.

(b) Un-trained Graduate and post-Graduate Teachers (B.A./B.Sc., M.A./M.Sc.) with adequate knowledge of Braille or teaching the blind (to be certified by the Social Welfare Directorate).

(c) Trained under-Graduate teachers: B-14

These teachers must acquire the qualification of B.A./B.Sc., B.Ed. within five years as at (a) above.

1) F.A., C.T., and proficiency in Braille or adequate knowledge of teaching the blind (to be certified by the Social Welfare Directorate).

11) Matric, P.T.C., S.V., and proficiency in Braille or with adequate knowledge of teaching the blind (to be certified by the Social Welfare Directorate).

111) Matric with Diploma/Certificate in a trade from a Blind Institute and proficiency in Braille or with adequate knowledge in teaching the blind (to be certified by the S.W. Directorate).

(d) Un-trained, under Graduate B-11 Teachers with proficiency in Braille or adequate knowledge of teaching the blind (to be certified by the Social Welfare Directorate).

These teachers should continue in B-11, till such time they cross the next stages of B-14/16.

(3) MENTALLY RETARDED/PHYSICALLY HANDICAPPED INSTITUTIONS.

(a) Trained Graduate Teachers B-17 (B.A./B.Sc., B.Ed.) with adequate knowledge of teaching the mentally retarded and physically disabled (to be certified by the Social Welfare Directorate).

These teachers must acquire B.Ed. within a period of three years.

(b) Untrained Graduate and post-Graduate Teachers (B.A./B.Sc./M.A./M.Sc.) with adequate knowledge of

teaching the mentally and physically handicapped (to be certified by Social Welfare Director)

under-Graduate with C.T./V.V. with adequate experience of teaching the physically retarded & physically handicapped (to be certified by Social Welfare Director)

under-Graduate with adequate experience of teaching the physically retarded & physically handicapped (to be certified by Social Welfare Director)

B-14 These teachers must acquire the qualification of B.A./B.Sc., B.Ed. within five years as at (a) above

B-11 These teachers should continue in B-11, till such time they cross the next stages of B-16/1c.

All special pays sanctioned for the above categories teachers shall be discontinued with immediate effect.

Your obedient servant,

*Safdar Ali Khan*

(SAFDAR ALI KHAN)  
ADDL. FINANCE SECRETARY-I,  
GOVERNMENT OF N.W.F.P.

FD(SR-1)1-98/24-117. Dated Pesh. the 24th July, 1986.

Copy of the above is forwarded to:-  
The Accountant General, N.W.F.P., Peshawar.  
The Director, Social Welfare N.W.F.P., Peshawar.

*Safed Ahmad Alvi*

(SAFED AHMAD ALVI)  
DEPUTY SECRETARY (REGULATION),  
FINANCE DEPARTMENT.

FD(SR-1)1-98/24-117. Dated Pesh. the 24th July, 1986.

A copy is also forwarded to:-  
The Secretary to Government of the Punjab,  
Finance Department, Lahore.  
The Secretary to Government of Sind,  
Finance Department, Karachi.  
The Secretary to Government of Baluchistan,  
Finance Department, Quetta.  
The Secretary to Government of Azad Jammu and Kashmir,  
Finance Department, Baramulla.

*Fakir-uz-Zaman*

(FAKIR-UZ-ZAMAN)  
SECRETARY OFFICER (SR. I)

**ATTESTED**

*[Signature]*

D- (11)

IN THE SUPREME COURT OF PAKISTAN  
(Review Jurisdiction)

PRESENT:

MR. JUSTICE SHAKIRULLAH JAN  
MR. JUSTICE NASIR-UL-MULK  
MR. JUSTICE TARIQ PARVEZ

CIVIL REVIEW PETITION NO. 10-P OF 2009

IN

CIVIL PETITION NO. 449-P OF 2006

(on review from the judgment of this Court dated  
02.07.2009 in Civil Petition 449-P of 2006)

Wahced Nawaz

...Petitioner

VERSUS

The Secretary Government of N.W.F.P.  
Social Welfare Ushr, Zakat and Women  
Development, Peshawar and 4 others.

...Respondents

For the Petitioner: Mr. Muhammad Esa Khan, ASC

On behalf of  
Govt. of N.W.F.P.: Mr. Zia-ur-Rehman, A.G. N.W.F.P.

For Respondent No.5: Falak Naz, Dist. Officer Social Welfare Banna

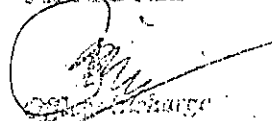
Date of Hearing: 03.02.2010

JUDGMENT

1/2

NASIR-UL-MULK, J.- The petitioner was serving as Junior Teacher in the Centre for Mentally Retired & Physically Handicapped Children, Banna in BS-16. Upon acquiring higher qualification of B.Ed. the petitioner applied to the District Co-ordination Officer for grant of BS-17 on the strength of circular of the N.W.F.P. Finance Department dated 24.07.1986. Accordingly, he was granted the relief as sought by order dated 14.05.2004. This order, however, was withdrawn on 30.10.2004. The petitioner challenged the said order of withdrawal before N.W.F.P. Service Tribunal. According to the plea of the Government N.W.F.P. that the benefit of Circular dated

ATTESTED

  
Registrar  
Supreme Court of Pakistan  
Peshawar

**ATTESTED**



~~12~~ ~~12~~ 12

24.07.1986 granting higher pay scale to the teachers serving in the Handicapped Institutions had already been withdrawn on 14.05.1999, the appeal of the petitioner was dismissed on 31.05.2006. The petitioner filed petition for leave to appeal before this Court (Civil Petition for Leave to Appeal No. 449-P of 2006) which was dismissed on 02.07.2009 on the same ground that prevailed with the Tribunal. The petitioner now through this review petition seeks reversal of the judgment by this Court as well of the Tribunal.

2. Mr. Muhammad Esa Khan, ASC, appeared for the petitioner and Mr. Zia-ur-Rehman, Advocate General N.W.F.P. for the Respondent, Government of N.W.F.P.

3. The learned counsel for the petitioner took us to the Circular of 24.07.1986, giving higher grades to the teacher working in the institutions of handicapped and pointed out that there was no requirement of any teaching experience for trained graduate teachers in BS-16 for grant of BS-17. That the Circular of 14.05.1999 has been misconstrued by the Department as well as by the Tribunal and this Court in that it does not withdraw the concession granted by the Circular of 24.07.1986. The learned Advocate General was unable to controvert the construction laid on the said Circular by the learned counsel for the petitioner. He, however, pleaded that the petitioner lacks the requisite experience for grant of BS-17.

4. Circular of 24.07.1986 was issued by the N.W.F.P. Finance Department prescribing new pay scales for teachers working in Institutions for Handicapped. The petitioner was granted BS-17 under the said Circular. The order dated 30.10.2004 withdrawing the grant of BS-17 does not spell out the reason therefore. However, in the comments filed by the Respondent, Government of N.W.F.P. it

ATTESTED

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was pleaded that the withdrawal was made on the ground that the concession given to teachers under the Circular of 24.07.1986 had already been withdrawn by another Circular dated 14.05.1999. It will be useful to reproduce the contents of the Government of N.W.F.P. Finance, Excise & Taxation Department No. FD (SR-I) 6-26/98 dated 14.05.1999:-

GOVERNMENT OF N.W.F.P.  
FINANCE, EXCISE & TAXATION DEPTT.

No.FD (SR-I) 6-26/98  
dated Peshawar the May 14, 1999.

To

The Secretary to Govt. of NWFP.,  
Zakat, Usher & Social Welfare Deptt.  
Peshawar.

Subject:-

DEMAND OF THE PAKISTAN ASSOCIATION OF THE  
BLIND NWFP PROVINCIAL BRANCH PESHAWAR.

Sir,

I am directed to refer to Zakat, Usher & Social Welfare Department's letter No.SO.II (SW)/II-15/Vol.v/99/P.C. dated 17.04.1995 on the subject noted above and to say that Finance, Excise & Taxation Department agrees to waive off, upto the date of issuance of this letter, the conditions laid down against the relevant posts in the Finance Department's letter No. FD (SR-I) 1-95/84-III dated 24<sup>th</sup> July, 1986 for acquiring the prescribed qualification within a specific period for award of higher pay scales to teachers working in the institutions for the Handicapped (i.e. Blinds, Deaf & Dumb, Physically Handicapped and Mentally Retarded).

2. So far as the proposal for the ungradation the designation of the post of teachers in special Education is concerned, it is observed that Provincial Government has imposed complete ban on the upgradation of posts. Therefore, Administrative Department is required to move a summary for Chief Minister through Finance Department containing the necessary proposals forwarded earlier to this Department vide letter No SO-II (SW)/II-15/ Vol. IV/96/430 dated 13.02.1999 and seek relaxation of ban."

5. A bare reading of the Circular would show that it does not withdraw the concession or the facility granted to the teachers in question under the Circular of 24.07.1986. Rather it provides a further concession by waiving off the condition for promotion to a

ATTESTED

ATTESTED

~~(1)~~ ~~(2)~~ (14)

higher post required by the said Circular. We have not been able to comprehend as to how the Department has construed the provision of 1999 Circular as withdrawal of the concession under the 1986 Circular. Perhaps it was the position taken up by the Government of N.W.F.P. in their comments before the Service Tribunal that led the Tribunal to dismiss the petitioner's appeal. That may also be the reason why it was held in the judgment under review that the concession under the 1986 Circular now stands withdrawn by the Circular of 1999. Even if it is construed that the waiver granted by the 1999 Circular of the requisite condition was valid up to the date of the Circular, the learned Advocate General did not refute the contentions of the learned counsel for the petitioner that there was no condition of experience required for granting the petitioner BS-17.

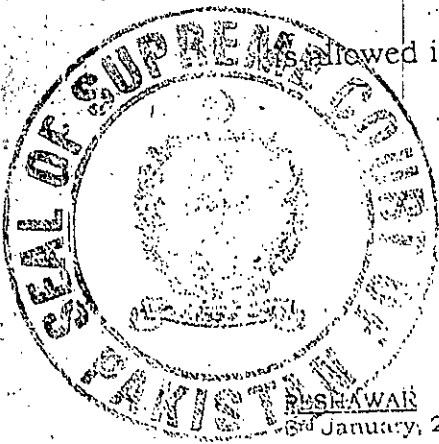
6. In the light of foregoing discussion, we are of the view that the Hon'ble Judges hearing the petition from which the present review petition arises were not properly assisted on the construction of the Circular dated 14.05.1999. We are, therefore, constrained to allow this review petition, recall the order and judgment dated 02.07.2009 delivered by this Court in Civil Petition No. 449-P of 2006 and after converting the said petition into appeal allow the same. Consequently, the judgment of the N.W.F.P. Service Tribunal dated 31.05.2001 is set aside and the appeal filed by the petitioner before the Service Tribunal is allowed in the terms prayed for.

sd/- Mian Shakerullah Jan, J  
 sd/- Nasir-ul-Mulk, J  
 sd/- Tarig Parvez, J

**ATTESTED**

*[Handwritten signature]*

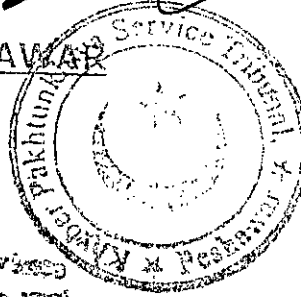
Certified to be true copy  
*[Handwritten signature]*  
 Supreme Court of Pakistan  
 (4) Peshawar



PESHAWAR  
 6th January, 2010.  
 Mudassir/

15  
A-1344-50, EL-15

BEFORE THE PROVINCIAL SERVICE TRIBUNAL, PESHAWAR



APPEAL NO. 1396 /2010

W.F. Services  
BPS-17

Diry No. 1666

Date 30/7/10

Mrs. Jaweria Zaman, Religious Teacher,  
Mentally Retarded & Physical Handicapped,  
Kala Batt, Township, Haripur.

APPELLANT

VERSUS

1. The Provincial Government through Chief Secretary, Government of KPK, Peshawar.
2. The Secretary, Social Welfare & Women Development Department, Government of KPK, Peshawar.
3. The Director, Directorate of Social Welfare & Women Development Department, Peshawar.
4. The District Officer, Social Welfare & Women Development Department, Peshawar.
5. The Secretary, Government of KPK, Finance Department, Peshawar.

RESPONDENTS

.....

APPEAL UNDER SECTION-4 OF THE NWFP SERVICE TRIBUNAL ACT 1974 FOR GRANTING OF HIGHER PAY SCALE IN LIGHT OF NOTIFICATION DATED 24.7.1986, OF THE FINANCE DEPARTMENT, NWFP AND IN LIGHT OF THE SUPREME COURT JUDGMENT DATED 3.2.2010 AND AGAINST THE NOT TAKING ANY ACTION ON THE DEPARTMENTAL APPEAL OF THE APPELLANT.

**ATTESTED**

EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

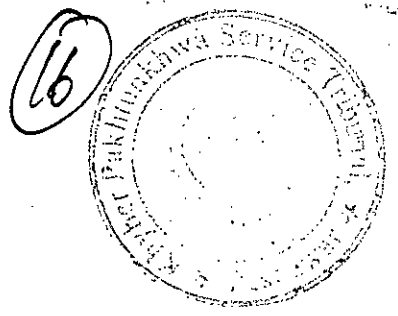
PRAYER:

THAT ON ACCEPTANCE OF THIS APPEAL, THE RESPONDENT MAY BE DIRECTED TO GRANT BPS-17 WITH ALL CONSEQUENTIAL BENEFITS IN LIGHT OF THE FINANCE DEPARTMENT NOTIFICATION DATED 24<sup>TH</sup> JULY, 1986 AND THE SUPREME COURT JUDGMENT DATED 3.2.2010 PASSED IN REVIEW PETITION NO.10-P/2009, BY TREATING THE APPELLANT AT PAR WITH HIS COLLEAGUES (WAHEED NAWAZ). ANY OTHER REMEDY WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND PROPER THAT MAY ALSO BE AWARDED IN FAVOUR OF APPELLANT.

**ATTESTED**

W.F. Services  
BPS-17  
Diry No. 1666  
Date 30/7/10





11.11.2010

Appellant in person, Fahir Iqbal Khattak A.G.P  
alongwith Sher Akbar Superintendent, and Irshad  
Muhammad Assistant for the respondents present. The  
latter requested for adjournment to submit written reply.  
In similar case the same relief has been allowed to one  
Waheed Nawaz. The appellant is also similarly placed  
person. The appeal is therefore, remanded to the  
respondent department to process/consider the case of the  
appellant as per law/rules within a period of two months.  
No order as to cos.s. File be consigned to the record.

ANNOUNCED.  
11.11.2010.

MEMBER.

MEMBER.

Certified true copy  
  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

**ATTESTED**

Date of Presentation of Application 24-11-10  
Number of Words 800  
Copying Fee 6-00  
Urgent 2-00  
Total 8-00  
Name of Copy [Signature]  
Date of Completion of Copy 24-11-10  
Date of Delivery of Copy 24-11-10

F-17

To

The Secretary,  
Social Welfare and Women Development Department,  
Peshawar, Khyber Pakhtoonkhwa

*Through Proper Channel*

**Subject: Grant of Higher Pay Scale BPS. 17**

Respected Sir,

It is stated that I have been serving in Govt. Centre for M.R. & P.H. Children since November 26, 2007 as Junior Teacher B.P.S 11. I have the following qualification.

| Sr. No. | Qualification | Year of Passing | Division        |
|---------|---------------|-----------------|-----------------|
| 1       | M.A. English  | 2000            | 2 <sup>nd</sup> |
| 2       | B.Ed          | 1999            | 1 <sup>st</sup> |
| 3       | B.A.          | 1996            | 2 <sup>nd</sup> |
| 4       | F.Sc          | 1994            | 2 <sup>nd</sup> |
| 5       | S.S.C.        | 1992            | 1 <sup>st</sup> |

**Experience:**

I have also taught in Jinnah Jam-e High School & College for about three years as Senior Teacher and in "The Educators" for about four years.

It is for your kind information that Miss Javeria Zaman Religious teacher of the centre has been granted B.P.S. 17 on the basis of notification No. FD(SR-1) 1-95/84-111 dated 24<sup>th</sup> July 1986. It is therefore requested that I may please be granted B.P.S. 17 on the basis of the said Notification. Sir, my demand for higher Scale is genuine due to my qualification & experience.

Hoping with favorable considerations.

Thanks.

Dated: April, 30, 2012

Yours obediently,

Amina Bibi  
Jr. Teacher

M.R. & P.H. Centre  
Khalabat Township, Haripur

**ATTESTED**

9-18

**OFFICE OF THE MANAGER, GOVT CENTRE FOR MR & PH, HOUSE NO 24,  
MAMAHIA CHOWK, K.T.S HARIPUR.**

No: MR/PH 3996-99

Date: 12/05/2012

To,  
The District Officer,  
Social Welfare & Community Development Department,  
Haripur.

Subject: **PERSOANL SCALE IN CONNECTION WITH B.Ed QUALIFICATION.**

Kindly find enclosed herewith an application of Mrs. Amina Bibi, Junior Teacher (BPS 11) Govt Centre for Mentally Retarded & Physically Handicapped Children, K.T.S Haripur for Personal Scale BPS 17 on account of B.Ed qualification as it is admissible to her on the basis of such scale given to other Special Education Teachers.

i may further add here that during her four and a half years stay with us she has gained sufficient experience in teaching these Special students.

MANAGER  
GOVT CENTRE FOR MR & PH  
SECT 02, K.T.S HARIPUR

Copy for information to:

- (01) The D.C.O Haripur.
- (02) The Director, Social Welfare, Women Development & Special Education, K.P.K.
- (03) The official concerned.

  
MANAGER  
GOVT CENTRE FOR MR & PH  
SECT 02, K.T.S HARIPUR

**ATTESTED**



**VAKALATNAMA**

IN THE COURT OF MPK Service Tribunal Peshawar.

OF 2013

Amina Bibi

(APPELLANT)  
(PLAINTIFF)  
(PETITIONER)

**VERSUS**

SW & ND Department

(RESPONDENT)  
(DEFENDANT)

I/We Amina Bibi

Do hereby appoint and constitute **NOOR MOHAMMAD KHATTAK, Advocate, Peshawar** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate Counsel on my/our cost. I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter.

Dated. 14 / 3 / 2013

**CLIENT**

*13*  
*2*

**ACCEPTED**

**NOOR MOHAMMAD KHATTAK  
(ADVOCATE)**

**OFFICE:**

Room No.1, Upper Floor,  
Islamia Club Building, Khyber Bazaar,  
Peshawar City.

Phone: 091-2211391

Mobile No.0345-9383141

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

**Service Appeal No-541/2013**

**Mst. Amina Bibi**

**Versus**

**Government of Khyber Pakhtunkhwa & Others.**

**Respondents**

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| 2.            | Reply of Para-wise comments. | 2-3             |
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**DEPONENTS**  
Cell#03339374624-

**BEFORE THE PESHAWAR SERVICE TRIBUNAL PESHAWAR**


**Service Appeal NO.541/2013  
Mst. Amina Bibi**

**Versus**

**Government of Khyber Pakhtunkhwa**

**AFFIDAVIT**

I Mr.Kibaz khan so-(Lit.) Social Welfare, Special Education & Women Empowerment Department, do hereby solemnly affirm and declare on oath that the comments on behalf of Respondent No.1,2,3 & 4 for early hearing are true and correct to the best of my knowledge and belief that nothing has been concealed from this Hon'able Court.

  
**DÉPONENT**  
**CNIC# 11101-1470588-3**  
**Cell# 0336-9297618**

**Identified by**

**ADVOCATE GENERAL,  
PESHAWAR HIGH COURT,  
GOVERNMENT OF KHYBER PAKHTUNKHWA**

2

**BEFORE THE HONOURABLE KHYBER PAKHTUNKWHA SERVICE  
TRIBUNAL PESHAWAR.**

**Service Appeal No. 541/2013**

Mst. Amina Bibi, Religious Teacher (BPS-11) Mentally Retarded & Physically Handicapped Children, Kala Bhatt Township District Haripur..... **(Appellant)**

**VERSUS**

Govt. of Khyber Pakhtunkhwa through Chief Secretary & Others..... **(Respondents)**

**Respectfully Sheweth:**

**PARA-WISE COMMENTS/REPLY BY RESPONDENTS NO. 1,2, 3 & 5.**

**PRE-LIMINARY OBJECTIONS:**

1. The appellant has got no cause of action.
2. The Appeal is not maintainable in its present form.
3. The appellant has no locus standi.
4. The Appeal is time barred.

**FACTS:**

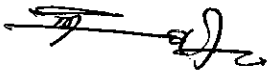
1. Correct to the extent that the Appellant was appointed as Religious Teacher (BPS-11) in Centre for Mentally Retarded & Physically Handicapped Children Haripur.
2. Correct.
3. Incorrect and admitted. According to the Finance Department's circular letter dated 24-07-1986 (**Annex-A**), the trained Graduate Teachers with adequate knowledge in teaching the Mentally Retarded Children, are to be awarded Award of Higher Pay Scale BPS-17. Although the Appellant possess the qualification M.A & B.Ed but she has not produced a certificate to the effect that she has adequate knowledge in teaching the Mentally Retarded /Special Children. The Appellant cannot be considered at par with Mr. Waheed Nawaz due to the above mentioned reason.
4. Pertain<sup>s</sup> to court however, the Appellant cannot be considered at par with Mst. Javeria as she does not possess <sup>the required</sup> knowledge of <sup>teaching</sup> Mentally Retarded/Special Children.
5. Since the appellant does not possess the adequate knowledge as explained in para-3 & 4 above, her request for Award of Higher Pay Scale BPS-17, therefore could not be entertained.


2

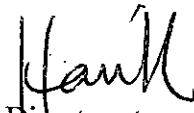
GROUND.

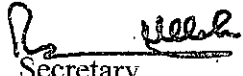
- A. Incorrect and not admitted. The Appellant does not possess a certificate to the effect that she possesses <sup>required</sup> knowledge in teaching the Mentally Retarded/Special Children, she, therefore, cannot be allowed Award of Higher Pay Scale BPS-17.
- B. Incorrect and not admitted. The appellant has been treated in accordance with law and rules as explained in para-3 & 4 of the facts.
- C. Although the appellant possess<sup>es</sup> the qualification of B. Ed but she is not eligible to be awarded Higher Pay Scale BPS-17 as she does not possess the <sup>require</sup> knowledge of teaching the Mentally Retarded/Special Children.
- D. Incorrect and not admitted, as explained in the preceding paras.
- E. Correct to the extent that the Honourable Apex court and the Honourable Service Tribunal have allowed Award of Higher Pay Scale to the litigants, but the appellant cannot be treated at par with them due to reason mentioned in para-3 & 4 of the facts.
- F. The Department seeks the permission of the Honourable court to advance other grounds & proofs at the time of hearing of the case.

In view of the above mentioned factual position, it is prayed that the Appeal being devoid of facts may graciously be dismissed.

  
DICTO Social  
welfare  
Khan

  
Secretary  
Social Welfare, Special Education &  
Women Empowerment Department  
Khyber Pakhtunkhwa  
(Respondent No. 2)

  
Director  
Social Welfare, Special Education &  
Women Empowerment Department  
Khyber Pakhtunkhwa  
(Respondent No. 3)

  
Secretary  
Finance Department  
Govt. of Khyber Pakhtunkhwa.  
(Respondent No. 5)



Annexure B

No. FD(SR-I)1-95/84-III

GOVERNMENT OF N.W.F.P.  
FINANCE DEPARTMENT

Dated Peshawar, the 24th July 1986

From

Saeed Ullah Jan,  
Secretary to  
Government of N.W.F.P.,  
Finance Department,  
Peshawar.

To

The Secretary to  
Government of N.W.F.P.,  
Health and Social Welfare Department,  
Peshawar.

Subject: - REVISION OF PAY SCALES OF THE TEACHERS WORKING  
IN THE INSTITUTIONS FOR THE HANDICAPPED

Sir,

I am directed to refer to the subject noted above and to say that the matter regarding grant of enhanced pay scales to different categories of teachers working in the institutions for the handicapped (i.e., Blinds, Deaf & Dumb, Physically Handicapped and Mentally Retarded) has been under consideration of the Government for sometime. It has been decided to prescribe new scales of pay for these teachers working in the above institutions with immediate effect. The new scales of pay, showing the qualifications prescribed for teachers are as under:-

(1) DEAF AND DUMB INSTITUTIONS.

- (a) Trained Graduate Teachers (B.A./B.Sc., B.Ed.) with adequate knowledge in the Education of deaf and dumb to be certified by the Social Welfare Directorate. B-17
- (b) Untrained Graduate and post-Graduate Teachers (B.A./B.Sc., M.A./M.Sc.) with adequate knowledge in the Education of deaf and dumb, to be certified by the Social Welfare Directorate. B-16 These teachers must acquire B.Ed. within a period of three years.
- (c) Trained under-Graduate teachers (Metric/F.A./with C.T. or P.T.C, etc.). B-14 These teachers must acquire the qualification of B.A./B.Sc./B.Ed. five years as at (a) above.

ATTACHED

*R*

(12)

(20)

(d) Untrained; under Graduate B-11 Teachers with adequate knowledge of teaching deaf and dumb (to be certified by the Social Welfare Directorate)

These teachers should continue in B-11, till such time they cross the next stages of B-14/16.

To be Redesignated as

Senior Special Educator Teacher

(2) BLINDS INSTITUTIONS.

(a) Trained Graduate Teachers B-17 (B.A./B.Sc., B.Ed.) with adequate knowledge of Braille or teaching the blind (to be certified by the Social Welfare Directorate)

These teachers must acquire B.Ed. within a period of three years.

To be Redesignated as Junior Special Educator Teacher

(b) Un-trained Graduate and post-Graduate Teachers (B.A./B.Sc., M.A./M.Sc.) with adequate knowledge of Braille or teaching the blind (to be certified by the Social Welfare Directorate)

(c) Trained under-Graduate teachers: B-14

These teachers must acquire the qualification of B.Sc., B.Ed. within five years as at (a) above.

i) F.A., C.T., and proficiency in Braille or adequate knowledge of teaching the blind (to be certified by the Social Welfare Directorate)

ii) Matric, P.T.C., S.V., and proficiency in Braille or with adequate knowledge of teaching the blind (to be certified by the Social Welfare Directorate)

To be designated as Assistant Special Educator Teacher

iii) Matric with Diploma/Certificate in a trade from a Blind Institute and proficiency in Braille or with adequate knowledge in teaching the blind (to be certified by the S.W. Directorate)

(d) Un-trained under Graduate B-11 Teachers with proficiency in Braille or adequate knowledge of teaching the blind (to be certified by the Social Welfare Directorate)

These teachers should continue in B-11, till such time they cross the next stages of B-14/16.

Others with certificate/graduate

(3) MENTALLY RETARDED/PHYSICALLY HANDICAPPED INSTITUTIONS.

(a) Trained Graduate Teachers B-17 (B.A./B.Sc., B.Ed.) with adequate knowledge of teaching the mentally retarded and physically disabled (to be certified by the Social Welfare Directorate)

These teachers must acquire B.Ed. within a period of three years.

(b) Untrained Graduate and Post-Graduate Teachers (B.A./B.Sc., M.A./M.Sc.) with adequate knowledge of

teaching the mentally retarded and physically disabled (to be certified by the Social Welfare Directorate.)

(21) (13)

(c) Trained under-Graduate (P.A./F.Sc. with C.T./P.T.C./B.V.) with adequate knowledge of teaching the mentally retarded & physically disabled (to be certified by the Social Welfare Directorate); B-14

These teachers must acquire the qualification of B.A./B.Sc., B.M. within five years as at (a) above.

(d) Untrained under-Graduate Teachers, with adequate knowledge of teaching the mentally retarded & physically disabled (to be certified by the Social Welfare Directorate); B-11

These teachers should continue in B-11, till such time they cross the next stages of B-14/16.

All special pays sanctioned for the above categories of teachers shall be discontinued with immediate effect.

Your obedient servant,

*Safdar Ali Khan*

(SAFDAR ALI KHAN)  
ADDL. FINANCE SECRETARY-I,  
GOVERNMENT OF N.W.F.P.

Endst. No. FD(SR-I)1-95/84-II. Dated Pesh. the 24th July, 1966

Copy of the above is forwarded to:-

- 1) The Accountant General, N.W.F.P., Peshawar.
- 2) The Director, Social Welfare, N.W.F.P., Peshawar.

*Saeed Ahmad Alvi*  
(SAEED AHMAD ALVI)  
DEPUTY SECRETARY (REGULATION),  
FINANCE DEPARTMENT.

Endst. No. FD(SR-I)1-95/84-III. Dated Pesh. the 24th July, 1966.  
A copy is also forwarded to:-

- 1) The Secretary to Government of the Punjab, Finance Department, Lahore.
- 2) The Secretary to Government of Sind, Finance Department, Karachi.
- 3) The Secretary to Government of Baluchistan, Finance Department, Quetta.
- 4) The Secretary to Government of Azad Jammu and Kashmir, Finance Department, Muzaffargarh.

*Fakir U-Zaman*  
(FAKIR U-ZAMAN)  
SECTION OFFICER (SR-I)

ATTESTED

*P. Malik*

Attested by *[Signature]*

Belter Copy

7  
1  
5

No. FD(SR-1) 1-95 / 84-111  
GOVERNMENT of N.W.F.P  
FINANCE DEPARTMENT.  
Dated Peshawar: the 24<sup>th</sup> July 1986.

(11)

From,

Saeed Ullah Jan,  
Secretary to  
Government of N.W.F.P  
Finance Department,  
Peshawar.

To,

The Secretary to  
Government of N.W.F.P  
Health and Social Welfare Department,  
Peshawar.

**SUBJECT:- REVISION OF PAY SCALES OF THE TEACHERS WORKING IN THE INSTITUTIONS FOR THE HANDICAPPED.**

Sir,

I am directed to refer to the subject noted above and to say that the matter regarding grant of enhanced pay scales to different categories of teachers working in the institutions for the handicapped (I.e.) blinds, deaf & dumb physically handicapped and mentally retarded has been under consideration of the government for sometime. it has been decided to personable new scales of pay for these teachers working in the above institutions with immediate effect. The new scales of pay, showing the qualifications prescribed for teachers are as under:-

(1) DEAF AND DUMB INSTITUTIONS.

- (a) Trained Graduate Teachers (B.A./ B.Sc./ B.Ed.) With Adequate knowledge in the Education of deaf and dumb To be certified by the social Welfare directorate. B-17
- (b) Untrained graduate and post-graduate Teachers (B.A / B.Sc. M.A/ M.Sc.) With adequate know ledge in the Of deaf and dumb to be certified by Social welfare directorate. B-16 These teachers must Acquire B.Ed. within a period of three years.
- (c) Trained under-graduate Teachers (Metric / F.A/ F.Sc With C.T or P.T.C etc.) B-14 These teachers must acquire the qualification Of B.A/ B.Sc/ B.Ed. Five ears as at (a) above.

...../2

Attested To be True Copy

RAV  
Attested

(d) Untrained, under Graduate Teachers with adequate Knowledge of teaching deaf And dumb ( to be certified By the social welfare Directorate. B-11 these teachers should continue in B-11, till such time they cross to the next stages of B-14 / 16.

(2) BLINDS INSTITUTIONS.

(a) Trained graduate teachers ( B.A. /B.Sc. B.Ed) with Adequate knowledge of Braille or teaching the Blind (to be certified by the Social welfare directorate.) B-17

(b) Un-Trained graduate and Post-Graduate teachers ( B.A./ B.Sc. M.A/ M.Sc.) with Adequate knowledge of Braille Or Teaching the blind. ( to be certified By the social welfare Directorate. B-16 these teachers must acquit B.Ed. within a period of Three years.

(c) Trained under-graduate teachers: B-14 these teachers must acquit the qualification of B.A. B.Sc. B.Ed. within five years as at (a) above.

- 1) P.A. C.T. and proficiency in Braille or adequate knowledge of teaching the blind ( to be Certified by the social welfare Directorate.)
- 2) metric P.T.C. S.V and proficiency in Braille or with adequate knowledge of teaching the blind. ( to be certified by the social welfare directorate )
- 3) matric with diploma / certificate in a trade from a blind institute and proficiency in Braille or with adequate knowledge in Teaching the blinds. ( to be certified by the S.W directorate.)

(d) un-trained, under graduate teachers with proficiency in Braille or adequate knowledge of teaching the blind.( to be certified by the social welfare Directorate.) B-11 these teachers should continue in E-11, till such time they cross the next stages of B-14/16

(3) MENTALLY RETARDED / PHYSICALLY HANDICAPPED INSTITUTIONS.

(a) trained graduate teachers (B.A./B.Sc. B.Ed.) with adequate knowledge of teaching the mentally retarded and physically disabled.(to be certified by the social welfare directorate.) B-17

(b) untrained graduate and ( C.S.T-graduate teachers (B.A./B.Sc. M.A / M.Sc.)with adequate Knowledge of B-16 these teachers must acquit B.Ed. within a period Three years.

Attested To be True Copy

Raw

ATTESTED

Raw

...../3

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Better call

20  
13

Teaching the mentally retarded and physically Disabled ( to be certified by the social welfare Directorate.)

(c) Trained under-graduate (F.A. / F. Sc. with C.T/ P.T.C. / S.V.) with adequate Knowledge of teaching the mentally Retarded & physically disabled (to be qualified to the social welfare Directorate.)

B-14

these teachers must acquire the qualification of B.A./ B.Sc / B.Ed. within five years as at (a) above.

(d) Untrained under-graduate Teachers with adequate knowledge Of teachers the mentally retarded & physically disabled ( to be certified by the social welfare directorate.

B-11

these teachers should continue in B-11 till such time they cross to the next stages of B 14/ 16.

All special pays sanctioned for the above categories of teachers shall be discontinued with immediate effect.

Your obedient servant

(SAFDAR ALI KHAN)  
ADDL: FINANCE SECRETARY-1  
GOVERNMENT OF N.W.F.P

ENDST . NO FD(SR-1)1-95 / 84-11 DATED PESHAWAR THE 24<sup>TH</sup> JULY 1986.

COPY OF THE ABOVE IS FORWARDED TO:-

1. THE ACCOUNTANT GENERAL N.W.F.P . PESHAWAR
2. THE DIRECTOR SOCIAL WELFARE N.W.F.P. PESHAWAR

(SAEED AHMAD ALVI)  
DEPUTY SECRETARY  
(REGULATION )  
FINANCE DEPARTMENT.

ENDST . NO FD (SR-1)1-95 / 84-111 DATED PESHAWAR THE 24<sup>TH</sup> JULY 1986

A copy is also forwarded to:-

- 1) The secretary to government of the Punjab finance department lahore.
- 2) The secretary to government of sindh finance department karachi
- 3) The secretary to government of Baluchistan finance department, Quetta
- 4) The secretary to government of azad jammu and \_\_\_\_\_ finance department muzaffarabad.

(FAKHAR-UZ-ZAMAN)  
SECTION OFFICER ( SR-1 )

*Raw*  
MAILED TO THE COPY  
Raw

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

**Service Appeal No-541/2013**

**Mst. Amina Bibi**


**Versus**

**Government of Khyber Pakhtunkhwa & Others.**

**Respondents**

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**DEPONENTS**  
Cell#03339374624-

2

**BEFORE THE HONOURABLE KHYBER PAKHTUNKWHA SERVICE  
TRIBUNAL PESHAWAR.**

**Service Appeal No. 541/2013**

Mst. Amina Bibi, Religious Teacher (BPS-11) Mentally Retarded & Physically Handicapped Children, Kala Bhatt Town ship District Haripur..... (**Appellant**)

**VERSUS**

Govt. of Khyber Pakhtunkhwa through Chief Secretary & Others..... (**Respondents**)

**Respectfully Sheweth:**

**PARA-WISE COMMENTS/REPLY BY RESPONDENTS NO. 1,2, 3 & 5.**

**PRE-LIMINARY OBJECTIONS:**

1. The appellant has got no cause of action.
2. The Appeal is not maintainable in its present form.
3. The appellant has no locus standi.
4. The Appeal is time barred.

**FACTS:**

1. Correct to the extent that the Appellant was appointed as Religious Teacher (BPS-11) in Centre for Mentally Retarded & Physically Handicapped Children Haripur.
2. Correct.
3. Incorrect and admitted. According to the Finance Department's circular letter dated 24-07-1986 (**Annex-A**), the trained Graduate Teachers with adequate knowledge in teaching the Mentally Retarded Children, are to be awarded Award of Higher Pay Scale BPS-17. Although the Appellant possess the qualification M.A & B.Ed but she has not produced a certificate to the effect that she has adequate knowledge in teaching the Mentally Retarded /Special Children. The Appellant cannot be considered at par with Mr. Waheed Nawaz due to the above mentioned reason.
4. Pertain to court however, the Appellant cannot be considered at par with Mst. Javeria as she does not possess <sup>the required</sup> ~~adequate~~ knowledge ~~cert. scale~~ of <sup>teaching</sup> ~~teaching~~ Mentally Retarded/Special Children.
5. Since the appellant does not possess the adequate knowledge ~~cert. scale~~ as explained in para-3 & 4 above, her request for Award of Higher Pay Scale BPS-17, therefore could not be entertained.



GROUND.

- A. Incorrect and not admitted. The Appellant does not possess a certificate to the effect that she possesses <sup>required</sup> knowledge in teaching the Mentally Retarded/Special Children, she, therefore, cannot be allowed Award of Higher Pay Scale BPS-17.
- B. Incorrect and not admitted. The appellant has been treated in accordance with law and rules as explained in para-3 & 4 of the facts.
- C. Although the appellant possess the qualification of B. Ed but she is not eligible to be awarded Higher Pay Scale BPS-17 as she does not possess the <sup>required</sup> knowledge of teaching the Mentally Retarded/Special Children.
- D. Incorrect and not admitted, as explained in the preceding paras.
- E. Correct to the extent that the Honourable Apex court and the Honourable Service Tribunal have allowed Award of Higher Pay Scale to the litigants, but the appellant cannot be treated at par with them due to reason mentioned in para-3 & 4 of the facts.
- F. The Department seeks the permission of the Honourable court to advance other grounds & proofs at the time of hearing of the case.

In view of the above mentioned factual position, it is prayed that the Appeal being devoid of facts may graciously be dismissed.

*on behalf of  
Distt Social  
Welfare Office  
Haripur*

*M.*  
Secretary

Social Welfare, Special Education &  
Women Empowerment Department  
Khyber Pakhtunkhwa  
(Respondent No. 2)

*Hank*  
Director

Social Welfare, Special Education &  
Women Empowerment Department  
Khyber Pakhtunkhwa  
(Respondent No. 3)

*R. Ullah*  
Secretary

Finance Department  
Govt. of Khyber Pakhtunkhwa.  
(Respondent No. 5)

Annexure B  
No. FD(SR-I)1-95/84-III

GOVERNMENT OF N.W.F.P.  
FINANCE DEPARTMENT

Dated Peshawar, the 24th July 1986

From

Saeed Ullah Jan,  
Secretary to  
Government of N.W.F.P.,  
Finance Department,  
Peshawar.

To

The Secretary to  
Government of N.W.F.P.,  
Health and Social Welfare Department,  
Peshawar.

Subject:-

REVISION OF PAY SCALES OF THE TEACHERS WORKING  
IN THE INSTITUTIONS FOR THE HANDICAPPED.

Sir,

I am directed to refer to the subject noted above and to say that the matter regarding grant of enhanced pay scales to different categories of teachers working in the institutions for the handicapped (i.e., Blinds, Deaf & Dumb, Physically Handicapped and Mentally Retarded) has been under consideration of the Government for sometime. It has been decided to prescribe new scales of pay for these teachers working in the above institutions with immediate effect. The new scales of pay, showing the qualifications prescribed for teachers are as under:-

(1) DEAF AND DUMB INSTITUTIONS

- (a) Trained Graduate Teachers (B.A./B.Sc., B.Ed.) with adequate knowledge in the Education of deaf and dumb to be certified by the Social Welfare Directorate. B-17
- (b) Untrained Graduate and post-Graduate Teachers (B.A./B.Sc., M.A./M.Sc.) with adequate knowledge in the Education of deaf and dumb, to be certified by the Social Welfare Directorate. B-16 These teachers must acquire B.Ed. within a period of three years.
- (c) Trained under-Graduate teachers (Metric/F.A./ etc.) with C.T. or P.T.C. etc.) B-14 These teachers must acquire the qualification of B.A./B.Sc./ B.Ed. within five years as at (a) above.

ATTACHED

*[Signature]*

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(d) Untrained; under Graduate B-11 Teachers with adequate knowledge of teaching deaf and dumb (to be certified by the Social Welfare Directorate)

These teachers should continue in B-11, till such time they cross the next stages of B-14/16.

To be Redesignated as

Senior Special Education Teacher

(2). BLINDS INSTITUTIONS.

(a) Trained Graduate Teachers B-17 (B.A./B.Sc., B.Ed.) with adequate knowledge of Braille or teaching the blind (to be certified by the Social Welfare Directorate)

These teachers must acquire B.Ed. within a period of three years.

To be designated as Junior Special Education Teacher

(b) Un-trained Graduate and post-Graduate Teachers (B.A./B.Sc., M.A./M.Sc.) with adequate knowledge of Braille or teaching the blind (to be certified by the Social Welfare Directorate)

(c) Trained under-Graduate teachers: B-14

These teachers must acquire the qualification of B.A. B.Sc., B.Ed. within five years as at (a) above.

i) B.A., C.T., and proficiency in Braille or adequate knowledge of teaching the blind (to be certified by the Social Welfare Directorate)

ii) Matric, P.T.C., S.V., and proficiency in Braille or with adequate knowledge of teaching the blind (to be certified by the Social Welfare Directorate)

To be considered as Assistant Special Education Teacher

iii) Matric with Diploma/Certificate in a trade from a Blind Institute and proficiency in Braille or with adequate knowledge in teaching the blinds (to be certified by the S. W. Directorate)

(d) Un-trained, under Graduate B-11 Teachers with proficiency in Braille or adequate knowledge of teaching the blind (to be certified by the Social Welfare Directorate)

These teachers should continue in B-11, till such time they cross the next stages of B-14/16.

Others not carrying adequate

(3). MENTALLY RETARDED/PHYSICALLY HANDICAPPED INSTITUTIONS.

(a) Trained Graduate Teachers B-17 (B.A./B.Sc., B.Ed.) with adequate knowledge of teaching the mentally retarded and physically disabled (to be certified by the Social Welfare Directorate)

(b) Untrained Graduate and Post-Graduate Teachers (B.A./B.Sc., M.A./M.Sc.) with adequate knowledge of

These teachers must acquire B.Ed. within a period of three years.

teaching the mentally retarded and physically disabled (to be certified by the Social Welfare Directorate.)

(c) Trained under-Graduate (B-14) (P.A./F.Sc. with C.T./P.T.C./S.V.) with adequate knowledge of teaching, the mentally retarded & physically disabled (to be certified by the Social Welfare Directorate).

(d) Untrained under-Graduate Teachers (B-11) with adequate knowledge of teaching, the mentally retarded & physically disabled (to be certified by the Social Welfare Directorate).

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These teachers must acquire the qualification of B.A./B.Sc., B.Ed. within five years as at (a) above.

These teachers should continue in B-11, till such time they cross the next stages of B-14/16.

All special pays sanctioned for the above categories of teachers shall be discontinued with immediate effect.

Your obedient servant,

*Safdar Ali Khan*

(SAFDAR ALI KHAN)  
ADDL: FINANCE SECRETARY-I,  
GOVERNMENT OF N.W.F.P.

Endst. No. FD(SR-I)1-95/84-II. Dated Pesh. the 24th July, 1986.

Copy of the above is forwarded to:-

- 1) The Accountant General, N.W.F.P., Peshawar.
- 2) The Director, Social Welfare, N.W.F.P., Peshawar.

*Saeed Ahmad Alvi*  
(SAEED AHMAD ALVI)  
DEPUTY SECRETARY (REGULATION),  
FINANCE DEPARTMENT.

Endst. No. FD(SR-I)1-95/84-III. Dated Pesh. the 24th July, 1986.

A copy is also forwarded to:-

- 1) The Secretary to Government of the Punjab, Finance Department, Lahore.
- 2) The Secretary to Government of Sind, Finance Department, Karachi.
- 3) The Secretary to Government of Baluchistan, Finance Department, Quetta.
- 4) The Secretary to Government of Azad Jammu and Kashmir, Finance Department, Muzaffargarh.

*Fakhr-uz-Zaman*  
(FAKHR-UZ-ZAMAN)  
SECTION OFFICER (SR-I).

ATTESTED

*P. Akbar*

Attested

*[Signature]*

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No. ED(SR-1) 1-95 / 84-111  
GOVERNMENT of N.W.F.P  
FINANCE DEPARTMENT.  
Dated Peshawar: the 24<sup>th</sup> July 1986.

From,

Saeed Ullah Jan,  
Secretary to  
Government of N.W.F.P  
Finance Department,  
Peshawar.

To,

The Secretary to  
Government of N.W.F.P  
Health and Social Welfare Department,  
Peshawar.

**SUBJECT:- REVISION OF PAY SCALES OF THE TEACHERS WORKING IN THE INSTITUTIONS FOR THE HANDICAPPED.**

Sir,

I am directed to refer to the subject noted above and to say that the matter regarding grant of enhanced pay scales to different categories of teachers working in the institutions for the handicapped (I.e.) blinds, deaf & dumb physically handicapped and mentally retarded has been under consideration of the government for sometime. it has been decided to personable new scales of pay for these teachers working in the above institutions with immediate effect. The new scales of pay, showing the qualifications prescribed for teachers are as under:-

**DEAF AND DUMB INSTITUTIONS.**

- (a) Trained Graduate Teachers (B.A./ B.Sc./ B.Ed.) With Adequate knowledge in the Education of deaf and dumb To be certified by the social Welfare directorate. B-17
- (b) Untrained graduate and post-graduate Teachers (B.A / B.Sc. M.A./ M.Sc.) With adequate know ledge in the Of deaf and dumb to be certified by Social welfare directorate. B-16 These teachers must Acquire B.Ed. within a period of three years.
- (c) Trained under-graduate Teachers (Metric / F.A./ F.Sc With C.T or P.T.C etc.) B-14 These teachers must acquire the qualification Of B.A./ B.Sc./ B.Ed. Five years as at (a) above.

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(d) Untrained, under Graduate Teachers with adequate Knowledge of teaching deaf And dumb ( to be certified By the social welfare Directorate. B-11 these teachers should continue in B-11, till such time they cross to the next stages of B-14 / 16.

(2) BLINDS INSTITUTIONS.

(a) Trained graduate teachers ( B.A /B.Sc. B.Ed) with Adequate knowledge of Braille or teaching the Blind (to be certified by the Social welfare directorate.) B-17

(b) Un-Trained graduate and Post-Graduate teachers ( B.A./ B.Sc. M.A./ M.Sc.) with Adequate knowledge of Braille Or Teaching the blind. ( to be certified By the social welfare Directorate. B-16 these teachers must acquit B.Ed. within a period of Three years.

(c) Trained under-graduate teachers: B-14 these teachers must acquit the qualification of B.A. B.Sc. B.Ed. within five years as at (a) above.  
1) F.A. C.T. and proficiency in Braille or adequate knowledge of teaching the blind ( to be Certified by the social welfare Directorate.)  
2) metric B.T.C. S.V and proficiency in Braille or with adequate knowledge of teaching the blind. ( to be certified by the social welfare directorate )  
3) matric with diploma / certificate in a trade from a blind institute and proficiency in Braille or with adequate knowledge in Teaching the blinds. ( to be certified by the S.W directorate.)

(d) un-trained, under graduate teachers with proficiency in Braille or adequate knowledge of teaching the blind,( to be certified by the social welfare Directorate.) B-11 these teachers should continue in E-11, till such time they cross the next stages of B-14/16

(3) MENTALLY RETARDED / PHYSICALLY HANDICAPPED INSTITUTIONS.

(a) trained graduate teachers (B.A./B.Sc. B.Ed.) with adequate knowledge of teaching the mentally retarded and physically disabled.(to be certified by the social welfare directorate.) B-17

(b) untrained graduate and ( C.S.T-graduate teachers (B.A./B.Sc. M.A / M.Sc.)with adequate Knowledge of B-16 these teachers must acquit B.Ed. within a period Three years.

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- Teaching the mentally retarded and physically Disabled ( to be certified by the social welfare Directorate.)
- (c) Trained under-graduate (F.A. / F. Sc. with C.T/ P.T.C. / S.V.) with adequate Knowledge of teaching the mentally Retarded & physically disabled (to be qualified to the social welfare Directorate.) B-14 these teachers must acquire the qualification of B.A./ B.Sc. / B.Ed. within five years as at (a) above.
- (d) Untrained under-graduate Teachers with adequate knowledge Of teachers the mentally retarded & physically disabled ( to be certified by the social welfare directorate. B-11 these teachers should continue on B-11 till such time they cross to the next stages of B 14/ 16.

All special pays sanctioned for the above categories of teachers shall be discontinued with immediate effect.

Your obedient servant

(SAFDAR ALI KHAN)  
ADDL. FINANCE SECRETARY-1  
GOVERNMENT OF N.W.F.P

ENDST . NO FD(SR-1)1-95 / 84-11 DATED PESHAWAR THE 24<sup>TH</sup> JULY 1986.

- COPY OF THE ABOVE IS FORWARDED TO:-
1. THE ACCOUNTANT GENERAL N.W.F.P. PESHAWAR
  2. THE DIRECTOR SOCIAL WELFARE N.W.F.P. PESHAWAR

(SAEED AHMAD ALVI)  
DEPUTY SECRETARY  
(REGULATION )  
FINANCE DEPARTMENT.

ENDST . NO FD (SR-1)1-95 / 84-111 DATED PESHAWAR THE 24<sup>TH</sup> JULY 1986

A copy is also forwarded to:-

- 1) The secretary to government of the Punjab finance department lahore.
- 2) The secretary to government of sindh finance department karachi
- 3) The secretary to government of Baluchistan finance department, Quetta
- 4) The secretary to government of azad jammu and \_\_\_\_\_ finance department muzaffarabad.

(FAKHAR-UZ-ZAMAN)  
SECTION OFFICER (SR-1)

*[Handwritten signature]*

True Copy

*[Handwritten signature]*

Saeed Ullah Jun,  
Secretary to  
Government of N.W.F.P.,  
Finance Department,  
Peshawar.

To

The Secretary to  
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Subject:- REVISION OF PAY SCALES OF THE TEACHERS WORKING  
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- (c) Trained under-Graduate Teachers (Matric/F.A./F.Sc. with C.T. or P.T.C. or T.D., etc.) B-14 These teachers must acquire the qualification of B.A./B.Sc./B.Ed. within five years as at (a) above.



(d) Untrained, under Graduate B-11 Teachers with adequate knowledge of teaching deaf and dumb (to be certified by the Social Welfare Directorate).

These teachers should continue in B-11, till such time they cross the next stages of B-14/16.

(2) BLIND INSTITUTIONS.

(a) Trained Graduate Teachers B-17 (B.A./B.Sc., B.Ed.) with adequate knowledge of Braille or teaching the blind (to be certified by the Social Welfare Directorate).

These teachers must acquire B.Ed. within a period of three years.

(b) Un-trained Graduate and post-Graduate teachers (B.A./B.Sc., M.A./M.Sc.) with adequate knowledge of Braille or teaching the blind (to be certified by the Social Welfare Directorate).

(c) Trained under-Graduate teachers: B-14

These teachers must acquire the qualification of B.A./B.Sc., B.Ed. within five years as at (a) above.

i) F.A., C.T., and proficiency in Braille or adequate knowledge of teaching the blind (to be certified by the Social Welfare Directorate)

ii) Matric, P.T.C., S.V., and proficiency in Braille or with adequate knowledge of teaching the blind (to be certified by the Social Welfare Directorate)

iii) Matric with Diploma Certificate in a trade from a Blind Institute and proficiency in Braille or with adequate knowledge in teaching the blinds (to be certified by the Social Welfare Directorate)

(d) Un-trained, under Graduate B-11 Teachers with proficiency in Braille or adequate knowledge of teaching the blind (to be certified by the Social Welfare Directorate.)

These teachers should continue in B-11, till such time they cross the next stages of B-14/16.

(3) MENTALLY RETARDED/PHYSICALLY HANDICAPPED INSTITUTIONS.

(a) Trained Graduate Teachers B-17 (B.A./B.Sc., B.Ed.) with adequate knowledge of teaching the mentally retarded and physically disabled (to be certified by the Social Welfare Directorate).

(b) Untrained Graduate and post-Graduate Teachers B-16 (B.A./B.Sc., M.A./M.Sc.) with adequate knowledge of

These teachers must acquire B.Ed. within a period of three years.

teaching the mentally retarded and physically disabled (to be certified by the Social Welfare Directorate.)

(c) Trained under-Graduate (F.A./F.Sc. with C.T./P.T.C./S.V.) with adequate knowledge of teaching the mentally retarded & physically disabled (to be certified by the Social Welfare Directorate).

B-14 These teachers must acquire the qualification of B.A./B.Sc./B.Ed. within five years as at (a) above.

(d) Untrained under-Graduate Teachers, with adequate knowledge of teaching the mentally retarded & physically disabled (to be certified by the Social Welfare Directorate).

B-11 These teachers should continue in B-11, till such time they cross the next stages of B-14/16.

All special pays sanctioned for the above categories of teachers shall be discontinued with immediate effect.

Your obedient servant,

*Safdar Ali Khan*

(SAFDAR ALI KHAN)  
ADDL. FINANCE SECRETARY-I,  
GOVERNMENT OF N.W.F.P.

Endst. No. FD(SR-I)1-95/84-III. Dated Pesh. the 24th July, 1986.

Copy of the above is forwarded to:-

- 1) - The Accountant General, N.W.F.P., Peshawar.
- 2) - The Director, Social Welfare, N.W.F.P., Peshawar.

*Saeed Ahmad Alvi*

(SAEED AHMAD ALVI)  
DEPUTY SECRETARY (REGULATION),  
FINANCE DEPARTMENT.

Endst. No. FD(SR-I)1-95/84-III. Dated Pesh. the 24th July, 1986.

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- 4) The Secretary to Government of Azad Jammu and Kashmir, Finance Department, Muzaffarabad.

*Eakhr Uz-Zaman*

(EAKHR UZ-ZAMAN)  
SECTION OFFICER (SR.I).

*Jawad*