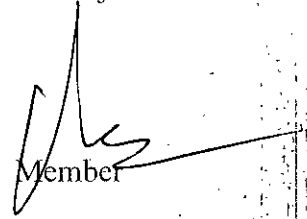


2.6.2016

Counsel for the appellant and Ziaullah, GP for respondents present. Counsel for the appellant requested for adjournment. Adjourned for arguments on 20.10.2016.


Member


Member

20.10.2016

Counsel for the appellant and Mr. Nabi Gul, Superintendent alongwith Mr. Muhammad Adeel Butt, Additional AG for respondents present. Arguments heard and record perused.

Vide our detailed judgment of today in connected Service Appeal No. 744/2013 titled "Tayyab Shah-Vs- The Provincial Government through Chief Secretary, Government of Khyber Pakhtunkhwa, Peshawar and others", this appeal is also disposed of as per the said detailed judgment. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED

20.10.2016


(PIR BAKHSH SHAH)
MEMBER


(ABDUL LATIF)
MEMBER

10.02.2016


Counsel for the appellant and Addl: AG for respondents present. During the course of arguments the learned Addl: AG submitted that the department has already granted higher scale BPS-17 to some officials and the case of the appellants is under process. He requested that the case may be adjourned so that the exercise may be completed. The case is adjourned to 24.3.16 for further proceedings/arguments.


MEMBER


MEMBER

24.03.2016

Counsel for the appellant and Mr. Nabi Gul, Supdt: alongwith Mr. Ziaullah, GP for respondents present. Arguments could not be heard due to shortage of time. Therefore, the case is adjourned to 29.04.2016 for arguments.


Member


Member

29.04.2016

Counsels for the appellant and Mr. Ziaullah, GP for respondents present. Learned GP requested for adjournment. Last opportunity is given to the parties. To come up for arguments on 02.06.2016.


Member


Member

24.08.2015

Counsel for the appellant and Mr. Muhammad Jan, GP with Mr. Abdul Hadi, SO (Litigation) for the respondents present. Since the court time is over, therefore, case is adjourned to 14-01-2016 for arguments.


MEMBER


MEMBER

14.01.2016

Counsel for the appellant and Mr. Nabi Gul, Supdt. alongwith Mr. Muhammad Jan, GP for respondents present. Representative of respondent-department stated before the Tribunal that the case of the appellant is in process and requested that the appellant may also be directed to assist the department by producing the relevant record, so that the matter may be expedited. In the meanwhile learned counsel for the appellant submitted that respondent-department has also issued notification dated 19.7.2011 in the light of the judgment of this Tribunal in Appeal No. 3065/2010 and case of the appellant is identical with the said case. The respondent-department is directed to look into the matter expeditiously. File to come up for report of the respondent-department/arguments on 10-02-16.


MEMBER


MEMBER

14.01.2016

Counsel for the appellant and Mr. Nabi Gul, Supdt. alongwith Mr. Muhammad Jan, GP for respondents present. Representative of respondent-department stated before the Tribunal that the case of the appellant is in process and requested that the appellant may also be directed to assist the department by producing the relevant record, so that the matter may be expedited. In the meanwhile learned counsel for the appellant submitted that respondent-department has also issued notification dated 19.7.2011 in the light of the judgment of this Tribunal in Appeal No. 3065/2010 and case of the appellant is identical with the said case. The respondent-department is directed to look into the matter expeditiously. File to come up for report of the respondent-department/arguments on 10-02-16.


MEMBER


MEMBER

10.02.2016

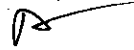
Counsel for the appellant and Addl: AG for respondents present. During the course of arguments the learned Addl: AG submitted that the department has already granted higher scale BPS-17 to some officials and the case of the appellants is under process. He requested that the case may be adjourned so that the exercise may be completed. The case is adjourned to 24.3.16 for further proceedings/arguments.


MEMBER


MEMBER

27.1.2015


Counsel for the appellant and Mr. Ziaullah, GP with Rahim Shah, Assistant for the respondents present. The learned Judicial Member is on official tour to D.I.Khan, therefore, case to come up for arguments on 6.4.2015.



MEMBER

06.4.2015

Junior to counsel for the appellant and Mr. Muhammad Jan, GP for the respondents present. Counsel for the appellant was stated to busy in the Hon'ble High Court. Case is adjourned to 24.08.2015 for arguments.



MEMBER



MEMBER

24.08.2015

Counsel for the appellant and Mr. Muhammad Jan, GP with Mr. Abdul Hadi, SO (Litigation) for the respondents present. Since the court time is over, therefore, case is adjourned to 14-01-2016 for arguments.



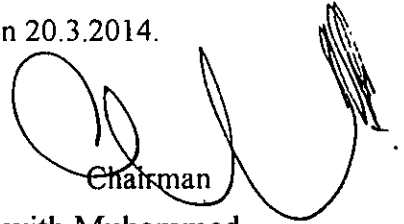
MEMBER



MEMBER

14.2.2014

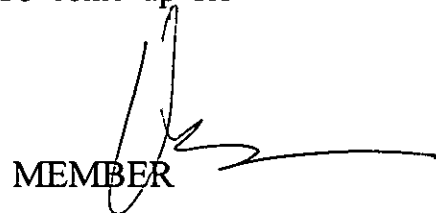
Syed Israr Shah on behalf of the appellant and Mr. Muhammad Javed, Assistant on behalf of respondents No. 1 to 4 with AAG for the respondents present. Written reply on behalf of respondents No. 2 to 5 received, copy whereof is handed over to the representative of the appellant for rejoinder. It was pointed out on behalf of the appellant that similar nature 9 cases are pending before learned Bench-II. Therefore, in the interest of justice and in order to avoid conflicting decisions, this case is also entrusted to learned Member Bench-II for written reply/comments on behalf of remaining respondent/further proceedings alongwith connected appeals on 20.3.2014.


Chairman

20.3.2014

Counsel for the appellant and AAG with Muhammad Javed Assistant for the respondents present. Counsel for appellant does not want to file rejoinder. To come up for arguments on 22.5.2014.

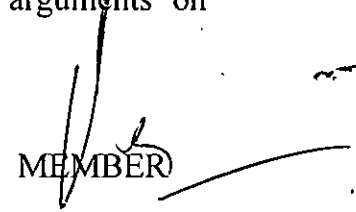

MEMBER


MEMBER

22.05.2014

Counsel for the appellant and Mr. Muhammad Jan, GP with Javed Supdt. for the respondents present. Counsel for the appellant needs time. To come up for arguments on 2.10.2014.


MEMBER


MEMBER

02.10.2014

Counsel for the appellant and Mr. Muhammad Adeel Butt, AAG for the respondents present. Due to incomplete Bench, case is adjourned to 27.1.2015 for arguments.



MEMBER

Appeal No. 746/2013

Mr. Sher Zamin Khan

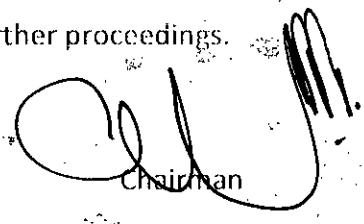
15.08.2013

Counsel for the appellant present and heard on preliminary. Contended that the appellant has not been treated in accordance with the law/rules. He filed departmental appeal for grant of BPS-17 on the criteria as laid down in the Provincial Government circular dated 24.07.1986. The departmental appeal has not been responded within the statutory period of 90 days. Hence the instant appeal on 27.03.2013. Points raised need consideration. The appeal is admitted to regular hearing subject to all legal objections. 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 27.11.2013 for submission of written reply.


Member.

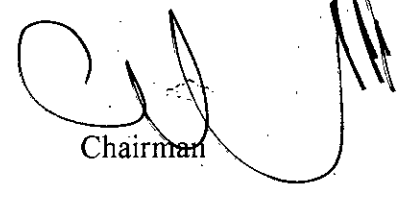
15.8.2013

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


Chairman

27.11.2013

No one is present on behalf of the appellant. Mr. Muhammad Javed, Assistant on behalf of respondents No.1 to 4 with AAG for the respondents present. Written reply on behalf of respondents has been received in the connected appeal No. 744/2013 titled 'Tayyab Shah vs-Chief Secretary KPK etc.', but written reply in this appeal has not been received, and representative of the respondents stated that they could not prepare written reply in this case due to non-receipt of notices in the case. The office has not issued notices in this case. This is another instance of in-efficiency and lack of knowledge of office procedure and office practice on the part of responsible officials. They are warned to be careful in future as repetition of such a practice in future will certainly expose them to strict disciplinary action. This warning in writing be placed on their service record. Copy of the appeal is handed over to the representative of the respondents for written reply in the meantime, with copies for the appellant/counsel for the appellant for rejoinder alongwith connected appeals on 14.2.2014.


Chairman

12.6.2013

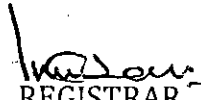

Munshi to Counsel for the appellant present. In
pursuance of the Khyber Pakhtunkhwa Service Tribunals
(Amendment) Ordinance 2013, (Khyber Pakhtunkhwa
ord. II of 2013), the case is adjourned on note Reader for
proceedings as before on 15.8.2013.


Reader

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 746/2013


S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	22/04/2013	<p>The appeal of Mr.Sher Zamin Khan resubmitted today by Mr. Rahmanullah Advocate may be entered in the Institution Register and put up to the Worthy Chairman for preliminary hearing.</p> <p style="text-align: right;"> REGISTRAR</p>
2	24-4-2013	<p>This case is entrusted to Primary Bench for preliminary hearing to be put up there on <u>12-6-2013</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>

The appeal of Mr. Sher Zamin Khan JOM received today i.e. on 21/03/2013 is incomplete on the following scores which is returned to the counsel for the appellatant for completion and resubmission within 15 days.

- 1- In the memo of appeal places have been left blank which may be filled in.
- 2- Annexures of the appeal may be attested.
- 3- Copy of order dated 28.12.1998 mentioned in para-4 of the memo of appeal is not attached with the appeal which may be placed on it.
- 4- Ccopy of departmental appeal is not attached with the appeal which may be placed on it.

No. 1113 /S.T,

Dt. 21/03 /2013.


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

MR. REHMANULLAH ADV. PESH.

Note:- The same issue/nature case was pending before this Hon,ble Tribunal on 25/9/13. for Preliminary Bench.

It is re-submitted after completion all objectives.

Arif

IN THE SERVICE TRIBUNAL ,K.P.K PESHAWAR

Service Appeal No. 746 /2013

Sher Zamin Khan
Junior Oral Master (BPS-16)
Govt School for deaf & dumb Children Dargai Malakand.. **Appellant**

-Vs-

The Provincial Govt through Chief Secretary,
Govt of K.P.K, Peshawar..... **Respondents**

INDEX

S.NO	Description Of Documents	Annex	Pages
<u>1</u>	Grounds of Service Appeal		1-5
<u>2</u>	Affidavit		5
<u>3</u>	Addresses of Parties		6
<u>4</u>	Copy of Credentials/Documents of Appellant Copy of Appointment Order	A	7-14
<u>5</u>	Copy of Notification Dated 24-07-1986	B	15-17
<u>6</u>	Copy of Supreme Court Judgment Dated 03-02-2010	C	18-22
<u>7</u>	Copy of Departmental Appeal of Appellant	D	23-26
<u>8</u>	Copy of Service appeal judgment dated 18/04/2012	E	27-30
<u>9</u>	Wakalatnama		

Through Appellant

Rahman Ullah

Advocate Peshawar
High Court Peshawar,
Office 25-A Nasir Mansion
to Railway Road Peshawar
0333-9125367

1

IN THE SERVICE TRIBUNAL ,K.P.K PESHAWAR

Service Appeal No. 746/2013

N.W.F. Province
565
21-3-2013

Sher Zamin Khan
Junior Oral Master (BPS-16)
Govt School for deaf & dumb Children Dargai Malakand.

Appellant

-Vs-

1. The Provincial Govt through Chief Secretary,
Govt of K.P.K, Peshawar.
2. Secretary, Social Welfare & Women
Development & Special Education Department,
Govt of KPK, Peshawar.
3. Director,
Directorate of Social Welfare & Women
Development & Special Education Department,
Govt of K.P.K, Peshawar.
4. District Officer, Social Welfare & Women
Development & Special Education Department, Malakand.
5. Secretary,
Finance Department,
Govt of K.P.K, Peshawar..... **Respondents**

T. Q. Q.
21/3/13

**SERVICE APPEAL U/S 4 OF NWFP SERVICE
TRIBUNAL ACT 1974 FOR GRANTING OF
HIGHER PAY SCALE (BPS-17) IN THE LIGHT OF
NOTIFICATION DATED 24-07-1986 OF THE
FINANCE DEPARTMENT NWFP AND IN LIGHT OF
THE SUPREME COURT JUDGMENT DATED 03-
02-2010 AND AGAINST THE NOT TAKING ANY
ACTION ON THE DEPARTMENTAL APPEAL OF
THE APPELLANT**

a c-submitted to
and filed.
22/4/13

Prayer in Appeal:

On acceptance of this service appeal, the respondents may be directed to grant Higher Pay Scale (BPS-17) from the date of acquiring qualification i.e. 04/01/2012 with all consequential benefits in light of the Finance Department Notification dated 24-07-1986 and Supreme Court Judgment dated 03-02-2010 passed in Review Petition No. 10-P/2009 by treating the appellant at par with his colleague (Waheed Nawaz).

Respectfully Sheweth:

1. That the appellant was appointed as "Junior Oral Master" (BPS-09) on 01/07/2008 after recommendation of the Departmental Selection Committee, and now performing his duties in BPS-16 in Govt School for deaf & dumb Children Dargai Malakand, on the basis of decision of this Hon,ble service Tribunal ^{on 13-6-2011} ~~dated 13-06-2011~~ ~~13-06-2011~~

2. That the appellant has the qualification of B.A on 15/02/1997 and B.Ed on 04/01/2012. Thus the appellant is now "Junior Oral Master" serving in (BPS-16) and on the basis of his requisite qualification, he is claiming Higher Pay Scale of BPS-17 from the date of acquiring qualification i.e. (04/01/2012) as per Govt of NWFP Finance Department Notification dated 24-07-1986.

(Copy of Credential/Documents is Annexure A)

3. That then Govt of NWFP Finance Department issued a Notification on 24-07-1986 in which the teacher of special education institution having the qualification of B.A/B.Sc,

with B.Ed have been granted their respective Higher Pay Scale. **(Copy of Notification dated 24-07-1986 is Annexure B).**

4. That the appellant was appointed as Junior Oral Master” on 01/07/2008 in (BPS-9) then higher pay scale (BPS-16) was awarded on 30/04/2008 and now performing his duty as” Junior Oral Master” ” in (BPS-16). ~~(Copy of appointment order and order dated 23-12-2008).~~

5. That one of the colleague of the appellant namely Waheed Nawaz on attaining of qualification B.Ed, applied to the Department for granting BPS-17 on the strength of the above referred Finance Department Notification and he was granted BPS-17 on 14-05-2004. Later on vide order dated 30-10-2004, the said benefits was withdrawn against which the appellant field an appeal before the Hon,ble Service Tribunal and the Hon,ble Service Tribunal dismissed the appeal of the appellant (Waheed Nawaz). The appellant against the judgment of the service Tribunal filed Civil Petition No. 449-P/2009 which was also dismissed on 02-07-2009. The appellant (Waheed Nawaz) filed Review Petition No. 10-P of 2009 which was accepted on 03-02-2010 and the benefits of BPS-17 was restored to the appellant. **(Copies of judgment of Supreme Court dated 03-02-2010 is Annexure “C”).**

6. That as the appellant is also similar placed person, therefore, he filed Departmental appeal for granting of Higher Pay Scale on 10/12/2012 and waited for 90days, but the said appeal met no response **(Copy of Departmental Appeal is Annexure “D”).**

4

7. That now the appellant come to this august Tribunal, inter alia, on the following grounds.

GROUND:

- A. That not awarding Higher Pay Scale as per Finance Department Notification and judgment and not deciding appeal of the appellant is against the norms of justice and law.
- B. That the appellant as Munj supervisor and is fully entitled to Higher Pay Scale (BPS-17) as per Finance Department Notification and judgment of the Supreme Court.
- C. That the appellant has not been treated according to law and rules and has been discriminated by not awarding Higher Pay Scale as per Finance Department's Notification because the other colleague (Waheed Nawaz) etc enjoying the benefits of BPS-17 on the strength of the same notification of the Finance Department on the basis of which the appellant also Claimed the benefits of BPS-17.
- D. That the appellant is also entitled to his claim in light of the judgment reported as 1996 SCMR Page-1185, 2005 SCMR Page-499 and 2009 SCMR Page-1, in which it has been held by the Hon,ble Supreme Court of Pakistan then the good governance demand that such benefits should be extended to all the similar placed persons who might have not litigated instead of compelling that litigation. The appellant is also similarly placed person and is fully entitled to his claim.

5

E. That an identical appeal Nos. 3066/2010 titled Javed Khan & 8 others **-Vs-** The Provincial Govt Through Chief Secretary, Govt of K.P.K Peshawar, were also decided by allowed this Hon,ble Tribunal on 18-04-2012.

(Copy of Judgment Attached Annexure E).

F. That the appellant seek permission to advance other grounds and proof at the time of hearing.

It is, therefore, humbly prayed that on acceptance of this appeal, the respondents may be directed to grant Higher Pay Scale from the date of acquiring qualification i.e. 04/01/2012 with all consequential benefits in light of the Finance Department Notification dated 24-07-1986 and the Supreme Court judgment dated 03-02-2010 passed in Review Petition No. 10-P/2009 by treating the appellant at for with his colleague (Waheed Nawaz).

✓
Appellant

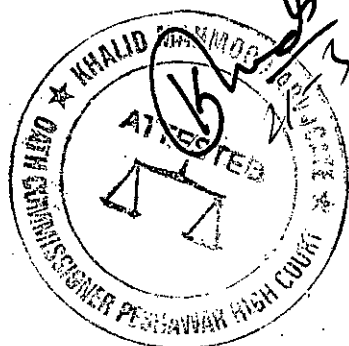
Through


Rahman Ullah

Advocate Peshawar.

AFFIDAVIT:

I Sher Zamin Khan Junior Oral Master (BPS-16) Govt School for deaf & dumb, Children Dargai Malakand, do hereby solemnly affirm and declare on oath that the contents of the accompanying **Service Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon,ble Tribunal.



✓ 
DEPONENT

2

IN THE SERVICE TRIBUNAL, K.P.K PESHAWAR

Service Appeal No. _____/2013

Sher Zamin Khan
Junior Oral Master (BPS-16)
Govt School for deaf & dumb Children Dargai Malakand .

Appellant

-Vs-

The Provincial Govt through Chief Secretary,
Govt of K.P.K, Peshawar.....

Respondents

APPELLANT

Sher Zamin Khan
Junior Oral Master (BPS-16)
Govt School for deaf & dumb Children Dargai Malakand.

RESPONDENTS:

1. The Provincial Govt through Chief Secretary,
Govt of K.P.K, Peshawar.
2. Secretary, Social Welfare & Women
Development & Special Education Department,
Govt of KPK, Peshawar.
3. Director,
Directorate of Social Welfare & Women
Development & Special Education Department,
Govt of K.P.K, Peshawar.
4. District Officer, Social Welfare & Women
Development & Special Education Department, Malakand.
5. Secretary,
Finance Department,
Govt of K.P.K, Peshawar

Appellant
Through

Rahman Ullah
Advocate Peshawar

UNIVERSITY OF MALAKAND
PAKISTAN

Amer A 9




Session 2009-2010

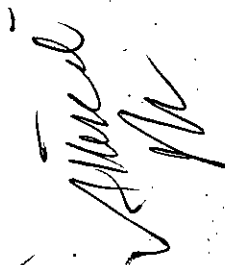
SHER ZAMIN KHAN Son of ZARDAD KHAN Registration No. 2005750043 Private Candidate of Malakand Agency
having passed the prescribed examination held in Jul-Aug, 2011 under Roll No. 4127 is admitted by the University of
Malakand to the degree of

Bachelor of Education

in Second Division

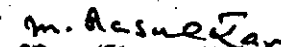
The examination was taken in Parts.


Controller of Examinations



Result Declared on 04-Jan-2012
Issuance Date 20-Sep-2012

Countersigned


Vice Chancellor

Serial No. 36681

Allama Iqbal Open University, Islamabad



Mr/Ms. Sher Zamin Khan son / daughter of Zar Dad Khan
Registration No. 94-NMD-0087 Roll No. F-6379437 has completed all the requirements of

Certificate in Teaching

in Spring/Autumn 97 semester on 30TH Apr. 1998

<u>Code/Course</u>	<u>Marks obtained</u>	<u>Code/Course</u>	<u>Marks obtained</u>
631-Dimensions in Education	<u>62 /100</u>	604-Teaching of Urdu	<u>52 /100</u>
632-Educational Psychology	<u>51 /100</u>	605-Teaching of S.Studies	<u>55 /100</u>
633-School Organisation & Management	<u>50 /100</u>	635-Teaching of Islamiat.	<u>64 /100</u>
634-English and its Teaching	<u>62 /100</u>	638-Teaching of Strategies	<u>51 /100</u>
612-Workshop & Teaching Practice	<u>84 /100</u>		

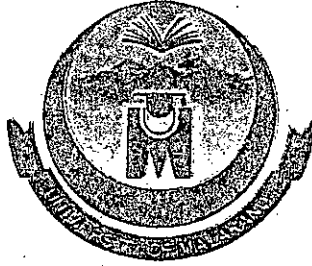
He/She has secured 59 % marks and cummulative grade B

Prepared by: [Signature]

Checked by: [Signature]

[Signature]
Controller of Examinations

[Handwritten Note]



UNIVERSITY OF MALAKAND
PAKISTAN

Serial No MA/PR/0499

This Degree of
Master of Arts
In

ISLAMIYAT

Is Awarded to

Mr/Ms SHER ZAMIN KHAN Son/Daughter of ZARDAD KHAN

Student/Private candidate of MALAKAND AGENCY

Having passed the prescribed examination held in SEPTEMBER, 2007

Session 2004-2006 Registration No 2005750043 Roll No 912A

Division SECOND

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

Issuance Date 16, 2008

Countersigned

Jahangir Khan
Controller of Examinations

M. Rasool Khan
Registrar

M. Rasool Khan
Vice Chancellor

10



University of Peshawar (Pakistan)

Session ANNUAL 1996

SHER ZAMIN KHAN ✓

Son

of

ZARDAD KHAN ✓

and a student

of GOVT. COLLEGE DARGAI ✓

having passed the prescribed examination

held in AUGUST 1996

, 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

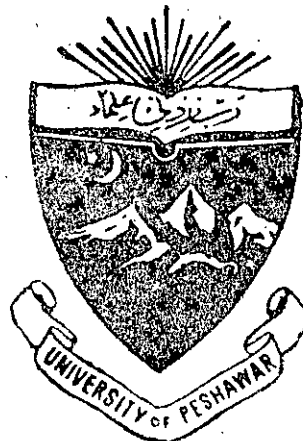
Amir

Serial No. 039182

Registration No. 91-DNK-817

Roll No. 32519

Result declared on FEBRUARY 15, 1997



[Signature]
Registrar

Countersigned

[Signature]
Vice-Chancellor

S. No. 0258676

Roll No. 82014

بِسْمِ اللّٰهِ الرَّحْمٰنِ الرَّحِیْمِ



BOARD OF INTERMEDIATE AND SECONDARY EDUCATION

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

Humanities Group

SESSION 1991 (ANNUAL)

THIS IS TO CERTIFY THAT Sher Zamin Khan

Son/Daughter of Zardad Khan

and a resident of Malakand Agency

Registered No. 164-B/Drg-88 has passed the *Intermediate Examination* of
the Board of Intermediate & Secondary Education, Peshawar, held in May/June 1991
as a *Private candidate*. He/She obtained 482 Marks out of 1100

and has been placed in Grade Representing Fair

The Examination was taken as a whole/in parts.

Asstt: Secretary

This certificate is issued without alteration or erasure.

Secretary

s.No 599197

Roll No. 20813



BOARD OF INTERMEDIATE AND SECONDARY EDUCATION



Peshawar N.W.F.P. Pakistan
Secondary School Certificate Examination

SESSION 1988 (ANNUAL)

THIS IS TO CERTIFY THAT Sher Zamin Khan
Son/Daughter of Zar Dad Khan
and a student of Govt: High School, Garhi Usman Khel, Malakand Agency.

has passed the *Secondary School Certificate Examination*
of the Board of Intermediate and Secondary Education, Peshawar held in April 1988
as a *Regular candidate*. He/She obtained 465 Marks out of 850

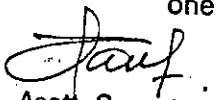
and has been placed in Grade Representing Good

The Candidate passed in the following subjects:

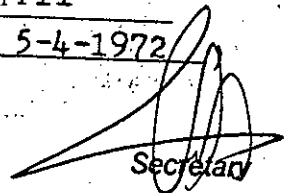
- | | | | |
|------------|---------------------|---------------|-----------------|
| 1. English | 3. Islamiyat | 5. Physics. | 7. Mathematics. |
| 2. Urdu | 4. Pakistan Studies | 6. Chemistry. | 8. Biology. |

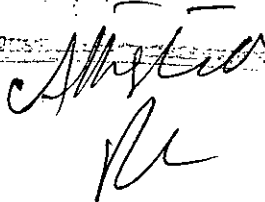
He/She has been awarded Grade on the basis of internal
assessment by the Institution concerned.

Date of birth according to admission form is Fifth April
one thousand nine hundred and Seventy Two (5-4-1972)


Asstt. Secretary
31st August 1988

This certificate is issued without alteration or erasure.


Secretary



13

DOMICILE CERTIFICATE.

No. 701 / dated 20/7 / 1988.

Certified that Mr./Miss SHER ZAMIN KHAN

Son/Daughter of ZARDAD KHAN belongs to a recognized

tribe of AFGHAN Section BAJAZAI and his/her

father is a permanent bonafide resident of the tribal area of

Agency of Malakand, Village GARHI USMANI KHEL and he/She

is eligible candidate to avail himself/herself of the seats

reserved for the special ^{and with P.W.D.} provision of Malakand backward areas.



[Handwritten signature]
POLITICAL AGENT, MALAKAND.

Dated Malakand the 20/7 / 1988

[Handwritten signature]
[Handwritten initials]

(74)

OFFICE OF THE
DISTRICT COORDINATION OFFICER
M A L A K A N D

DATED BARKHELA, THE 18-6/2008.

OFFICE ORDER

No. _____ / Govt. Sch: for Deaf & Dumb Children. Consequent upon shifting of Govt. School for Deaf & Dumb children Dargai ADP scheme to regular budget w.e.f. 1.7.2008 vide Finance Deptt. letter No. BOVIII/FD/1-5/2007-08/SNE dated 16.4.2008 and Govt. of NWFP Directorate of Social Welfare & Women Dev: Deptt. letter No. DSW/PW/Regularisation 06-07/1762-56 dated 7.4.2008.

The services of the following existing staff of the Govt. school for Deaf & Dumb children at Dargai, Malakand are regularized w.e.f. 1.7.2008 and adjusted against the said post.

They will be civil servant for all other Govt. benefits except pension w.e.f. 1.7.2008. In lieu of pension they would be entitled to receive contributory fund as per Govt. rules.

S.No.	Name	Designation	BPS
1.	Mr. Dilwar Shah.	Sr. Oral Master	17
2.	Mr. Sher Eamin Khan.	Jr. Oral Master	16
3.	Mr. Daud Shah	-do-	16
4.	Miss Shagufta Hassan.	Vocation Teacher.	17
5.	Mr. Musliuddin.	J/Clerk.	16
6.	Mr. Shahab.	Driver.	14
7.	Mr. Mohd Nabi.	H/Qasid.	13
8.	Mr. Hussain Gul.	Chowkidar.	12
9.	Mr. Rahim Balah.	Sweeper.	11

Sd/-
Distt. Coordination Officer
Malakand.

No. 3241-48

Copy forwarded to:-

1. The Director, Social Welfare NWFP, Peshawar w/r quoted above.
2. The Budget Officer, Vill, Govt. of NWFP, Finance Deptt. Peshawar, w/r quoted above.
3. The SDO (P.W.N. Malakand.
4. The Distt. Officer, General Development, Malakand w/r quoted above. DC/SDO(PW)/Barkhela-01/2008 dated 18.6.08.
5. The Distt. Accounts Officer, Malakand.
6. The Principal Deaf & Dumb Children School, Dargai.
7. The Officials concerned.

For information & compliance.

Human Resource Dev: Office
Malakand.

Atiqul
Ph

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.

(15)

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.P. 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.

A. Ullah Jan
[Signature]

Attached True Copy

Advocate

(B)

(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

(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).

Senior 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).

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

To be certified as Junior Special Educator Teacher

(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)

To be certified 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 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.

to be certified as

(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.

Approved
Pr

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No. FD(SR-1) 1-95 / 84-111
GOVERNMENT of N.W.F.P
FINANCE DEPARTMENT.
Dated Peshawar: the 2nd July 1983.

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 years as at (a) above. |

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(Handwritten marks: '16' in a circle, '2' in a circle, and 'Ac')

(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 acquire B.Ed. within a period of Three years.

(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.)
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 B-11, till such time they cross the next stages of B-14/16

(7) 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 acquire B.Ed. within a period Three years.

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Raw

17

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./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.L., 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.

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

Encl. 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.

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

*Attest
Pr*

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17

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.Y.) 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-14

these teachers should continue on B-14 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)
ADDE: FINANCE SECRETARY-1
GOVERNMENT OF N.W.F.P

ENDST . NO FD(SR-1)1-95 / 84-11 DATED PESHAWAR 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)
DEPUTY SECRETARY
(REGULATION)
FINANCE DEPARTMENT.

ENDST . NO FD (SR-1)1-95 / 84-111 DATED PESHAWAR 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 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)

Attested
for

[Handwritten signature]

18

Dated: Peshawar 15th Feb, 2010

From

The Officer Incharge,
Supreme Court of Pakistan,
Peshawar.

To

The Registrar,
N.W.F.P Service Tribunal,
Peshawar.

124.
16.2.2010

Subject:

CIVIL APPEAL NO. 04-P OF 2010
IN
CIVIL REVIEW PETITION NO. 10-P/2009
in
CIVIL PETITION NO. 449-P OF 2006.
(Waheed Nawaz Vs. Secretary Social Welfare & others.)

On review from the judgment dated 02.07.2009 of the Supreme Court in CP.449-P/2006 against the judgment and order of the NWFP Service Tribunal, Peshawar, dated 31.05.2005 passed in Appeal No.298/2005.

I am directed to enclose herewith for information a certified copy of the order of this Court dated 03.02.2010 accepting the Review Petition No.10-P/2009 thereby converting the Civil Petition No.449-P/2006 into Appeal and allowing the same.

I am also to invite your attention to the directions of the court contained in the concluding paragraph of the enclosed judgment for immediate necessary action.

Kindly acknowledge the receipt of this letter immediately.

Encl: Order

Do the needful in time
Supd

17/2/10

[Signature]
(OFFICER INCHARGE)

[Signature]

19

IN THE SUPREME COURT OF PAKISTAN
(Review Jurisdiction)



PRESENT:

MR. JUSTICE SHAKIRUDDIN 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)

Waheed Nawaz

...Petitioner.

VERSUS

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

...Respondent.

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 Hamir.

Date of hearing:

03.02.2010

JUDGMENT

NASIR-UL-MULK, J.- The petitioner was serving as
Junior Teacher in the Centre for Mentally Retired & Physical
Handicapped Children, Bannu in BS-16. Upon acquiring higher
qualification of B.Ed. the petitioner applied to the District
Coordination 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. Accepting
the plea of the Government N.W.F.P. that the benefit of Circular dated

ATTESTED

[Signature]
Officer Incharge
Supreme Court of Pakistan

[Signature]
Attested

22

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. all

ATTESTED

[Signature]
 Officer Incharge
 Supreme Court of Pakistan
 Peshawar

[Signature]
 Mr

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. IV/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 24th 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 upgradation 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 vides 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

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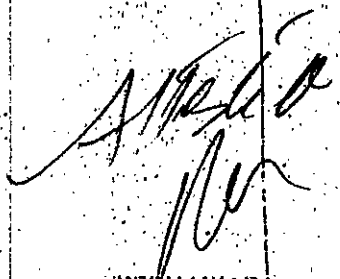
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higher post required by the said Circular. We have not been able to comprehend as to how the Department has construed the provision of 1999 Circular as withdrawal of the concession under the 1986 Circular. Perhaps it was the position taken up by the 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,
 Sd/- Mr. Nasir-ul-Mulle,
 Sd/- Mr. Tariq Parvez.

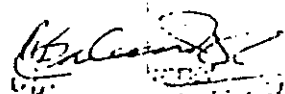
J
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PESHAWAR
 3rd January, 2010.
 Mudassar/

"NOT APPROVED FOR REPORTING"

Certified to be true copy


 Supreme Court of Pakistan
 Peshawar

7/10

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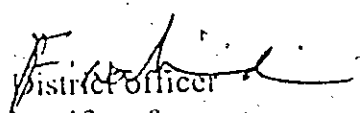
GOVT OF KHYBER PAKHTONKHWA SOCIAL WELFARE, SPECIAL
EDUCATION, & WOMEN EMPOWERMENT DEPARTMENT MALAKAND

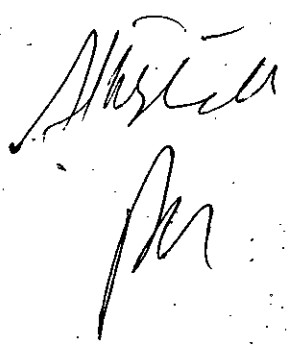
No. GSDC/DO/SW 2012-13 Dated. / /2012

To:
The Director
Social Welfare, Special Education
& Women Empowerment Department
Peshawar.

Subject: AWARD OF HIGHER BASIC PAY SCALE TO THE TEACHERS OF
WORKING IN SPECIAL EDUCATION.

Please find the enclosed herewith a self explanatory application in respect of
Mr. Sher Zamin Khan S/o Zardad Khan junior oral Master BPS 16 received from the
principal Govt School for Deaf & Dumb Children Dargai Malakand vide No 336
Dated 26/12/12 on the subject as noted above for favorable consideration & necessary
action please.


District officer
Social welfare & women
Empowerment department MKD



Annex "D" (23)

To,

The Secretary to Govt of K.P.K
Social welfare, special education and women development
Department Peshawar.

Through Proper Channel

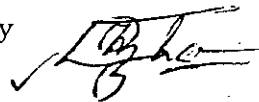
Subject: **APPEAL FOR THE GRANT OF HIGHER PAY SCALE (BPS-17)**

Respected Sir,

With humble submission that the applicant performing his duty as Junior Oral Master (BPS-16) Govt School for deaf & dumb Children Dargai Malakand, having qualification B.A/B.Ed and Under the circular of Khyber pakhtunkhuwa Finance Department dated 24-07-1986, and as per judgment passed in Review Petition No. 10-P/2009 dated 03-02-2010. That being a trained graduate teacher the applicant is eligible for the grant of higher pay scale BPS-17 from 04/01/2012 with all back benefit.

It is humbly requested to your worthy office to kindly grant higher pay scale (BPS-17) to the appellant from the date of his acquiring of Higher Qualification i.e. 04/01/2012 as per circular of the Finance Department dated 24-07-1986 for the sake of justice.

Yours Obediently



Sher Zamin Khan

Junior Oral Master (BPS-09)
Govt. School for deaf & dumb
Children Timergara Lower Dir

Dated: 10/12/2012

24

GOVT OF KHYBER PAKHTONKHWA SOCIAL WELFARE, SPECIAL EDUCATION, & WOMEN EMPOWERMENT DEPARTMENT MALAKAND

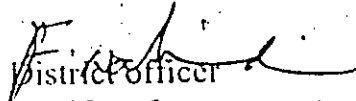
No. GSDC/DO/SW 2012-13 _____ Dated _____ / _____ /2012

To

The Director
Social Welfare, Special Education
& Women Empowerment Department
Peshawar.

Subject: AWARD OF HIGHER BASIC PAY SCALE TO THE TEACHERS OF WORKING IN SPECIAL EDUCATION

Please find the enclosed herewith a self explanatory application in respect of Mr. Sher Zamin Khan S/o Zardad Khan junior oral Master BPS 16 received from the principal Govt School for Deaf & Dumb Children Dargai Malakand vide No 336 Dated 26/12/12 on the subject as noted above for favorable consideration & necessary action please.


District officer
Social welfare & women
Empowerment department MKD



25

OFFICE OF THE PRINCIPAL GOVT SCHOOL FOR DEAF & DUMB CHILDREN DARGAI

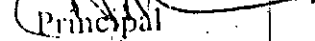
NO.P/GSDC Dargai 336
Date 26/12/2012

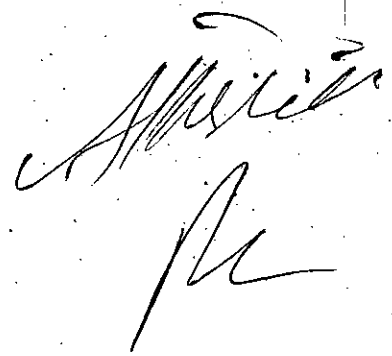
To

The district officer
Social welfare department Malakand

Subject: AWARD OF HIGHER BASIC PAY SCALE TO THE TEACHER OF
WORKING IN SPECIAL EDUCATION

Enclosed please find herewith the case for ^{Award of} the higher Basic pay scale on the enclosed Proforma along with testimonials in respect of Mr. Sher Zamin Khan S/O Zardad Khan JOM Govt School for deaf & Dumb children Dargai. Sent herewith for further necessary action please.


Principal
Govt School for deaf & Dumb
Children Dargai MKD

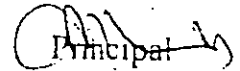


**PROFORMA OF AWARD OF PERSONAL HIGHER PAY SCALE ON POSSESSING HIGHER EDUCATIONAL
QUALIFICATION IN RESPECT OF MR. SHER ZAMIN KHAN S/O ZARDAD KHAN**

Principal Govt School for Deaf & Dumb Children Dargai

S. #	Name & Father Name	Designation and present pay scale	Date of 1 st entry into Govt: service	Present appointment with date	Higher pay Scale already Awarded with date	Additional Higher qualification	Higher pay scale due	Due date for award of Higher pay scale No	Remarks/ Recommendation
1	Sher zamin khan S/O Zardad Khan	Junior oral Master BPS-16	25/11/2006	18/06/2008 01/07/2008	BPS-16 18/06/2008 01/07/2008	1. SCC certificate from Peshawar Board 2 intermediate certificate from Peshawar board 3 B.A from Peshawar University 4 M.A from Malakand University 5. B-ed from Malakand University	04/01/2012	BPS-17 04/01/2012	Personal scale BPS-17 <i>Recommended</i>

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 Principal
 Govt School for deaf & dumb
 Children Dargai Malakand

Amr

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Appeal No. 3066/2010

Date of Institution. 06.12.2010
Date of Decision. 18.04.2012

Javed Khan, Junior Teacher, Special Education(BPS-16)
Government Institute for Blind, Mardan. (Appellant)

VERSUS

1. The Provincial Government through Chief Secretary, Government of Khyber Pakhtunkhwa, Peshawar.
2. Secretary, Social Welfare, Women Development & Special Education Department, Govt. of Khyber Pakhtunkhwa, Peshawar.
3. Director, Social Welfare & Women Dev: & Special Education Department, Government of Khyber Pakhtunkhwa, Peshawar.
4. District Officer, Social Welfare & Women Development & Special Education Department, Mardan.
5. Secretary, Finance Department, Government of Khyber Pakhtunkhwa, Peshawar. (Respondents).

SERVICE APPEAL U/S 4 OF KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 FOR GRANT OF HIGHER PAY SCALE IN THE LIGHT OF NOTIFICATION DATED 24.7.1986 OF THE FINANCE DEPARTMENT AND IN LIGHT OF THE AUGUST SUPREME COURT OF PAKISTAN JUDGMENT DATED 3.2.2010.

MR. RAHMANULLAH,
Advocate

For appellant.

MR. SHEERAF-GAN KHAN ITRAK,
Addl. Advocate General

For respondent No.5.

SYED MANZOOR ALI SHAH,
MR. NOOR ALI KHAN,

MEMBER
MEMBER.

ATTESSED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

JUDGMENT

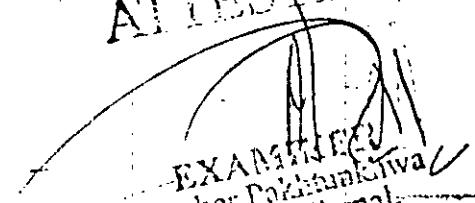
SYED MANZOOR ALI SHAH, MEMBER. This appeal has been filed by Javed Khan, the appellant U/S 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 with the prayer that on acceptance of the appeal, the respondents may be directed to grant higher pay scale BPS- 17 to the appellant in the light of Finance Department notification dated 24.7.1986 and the august Supreme Court of Pakistan judgment dated 3.2.2010, with all consequential benefits.

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me

2. Brief facts of the case are that the appellant was appointed as Junior Teacher, Special Education (BPS-16) on 11.7.1993, on the recommendation of the Departmental Selection Committee. The appellant having qualified five years course certificate from Government Institute of Blind, Mardan in 1993, B.A in 1998, M.A in 2001 and B.Ed in 2006, was trained graduate teacher serving in (BPS-16) and on the basis of his qualification, his claimed higher pay scale BPS-17 from 28.1.2006 as per Government of Khyber Pakhtunkhwa Finance Department Notification dated 24.7.1986. The Government of Khyber Pakhtunkhwa Finance Department issued another notification dated 27.7.1986, in which the teachers working at Mentally retarded and Physical Handicapped and Special Education Institution with the qualification of B.A/BS.c were granted higher pay scales. Other colleagues of the appellant namely Waheed Nawaz on attaining the qualification of B.Ed, applied to the Department for grant of BPS-17 on the strength of the above referred Finance Department notification, which was granted to him, vide order dated 14.5.2004. Later on vide order dated 30.10.2004, the said benefits was withdrawn. The appellant Waheed Nawaz, filed Service Appeal before this Tribunal, which was dismissed. Against the judgment of this Tribunal, he filed Civil Petition No. 449-P/2009, which was also dismissed on 2.7.2009. Then he filed Review Petition No. 10-P of 2009, which was accepted on 3.2.2010 and the benefits of BPS-17 was restored to him. The appellant being similarly placed person also filed departmental appeal on 12.7.2010, for grant of higher pay scale BPS-17, which has not been decided within the statutory period, hence the present appeal.

3. The appeal was admitted to regular hearing on 10.1.2011, and notices were issued to the respondents. They failed to file written replies on 18.2.2011, 29.3.2011 and 13.6.2011. On the request of Mr. Tahir Iqbal Khattak, AGP another chance was given to them for submission of written reply on 19.7.2011, however, fine of Rs. 500/- (Five Hundred) was imposed upon the respondents, vide order dated 13.6.2011. Even then the respondents failed to file written replies within four months and vide order dated 12.10.2010, they were given last chance for submission of written reply on 11.11.2011. On 11.11.2011, representative of respondent No. 5 was present without any written reply; hence defence of respondent No.5 was struck off. No one was available on behalf of respondents No. 1 to 4, hence they were placed ex-parte. Later on representative of respondent No. 5 appeared on 21.12.2011 and defence of respondent No.5 restored. Written reply of respondent No. 5 filed on 4.1.2012. Ex-parte proceedings against respondents No. 1 to 4 remained intact.

M. Iqbal

ATTESTED

 EXAMINER
 Khyber Pakhtunkhwa
 Tribunal

29

4. Arguments heard and record perused.

5. The learned counsel for the appellant argued that the appellant was appointed as Junior Teacher (BPS-16) in Special Education on 11.7.1993. He qualified five years course certificate from Government Institute of Blind in 1993, B.A in 1998, M.A in 2001 and B.Ed in 2006 and now is trained graduate teacher is entitled for the award of BPS-17 as per Finance Department notification dated 24.7.1986. Other colleague of the appellant namely Wahid Nawaz was awarded the same benefit by the august Supreme Court of Pakistan vide order dated 3.2.2010 in Civil Review Petition No. 10-P/2009 in CP NO. 449-P/2006. As per 1996-SCMR-1185, the appellant was also entitled to the same treatment, so he filed departmental appeal on 12.7.2010, but the same benefit has not been extended to him for no plausible reason. The learned counsel stated that similarly placed person, namely Rahmanullah, who also filed service appeal No. 3065/2010, before this Tribunal but during pendency of the appeal, his grievances have been redressed by the respondent department, vide order dated 19.7.2011, but the appellant has been discriminated. He requested that the appeal may be accepted as prayed for.

6. The learned AAG argued that the Finance Department issued notification dated 24.7.1986, according to which higher pay scale BPS-17 was allowed only to those trained teachers who possessed the prescribed qualification of B.A/B.Sc and B.Ed while those untrained teachers with adequate knowledge in the education of (deaf and dumb) were also allowed higher pay scales with condition of acquiring the prescribed qualification within a period of three to five years. Later on 14.5.1999, the Finance Department issued another notification wherein the facility of higher pay scale which were conditional for untrained upto the issuance of letter dated 14.5.1999. Hence no one is entitled to get higher pay scale as per notification dated 24.7.1986, after issuance of notification dated 14.5.1999. He requested that the appeal may be dismissed.

7. The Tribunal observes that the August Supreme Court of Pakistan vide judgment dated 3.2.2010, granted BPS-17 to other colleague of the appellant namely, Wahid Nawaz, Junior Teacher, Centre of Mentally Retired & Physically Handicapped Children, Bannu. Similarly, Mr. Rahmanullah who had filed service appeal with similar request, before this Tribunal, his grievances have been redressed by the respondent department, vide order dated 19.7.2011 and his appeal has been filed being infructuous on 18.8.2011. The appellant is also entitled

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to the same treatment as per judgment of the august Supreme Court of Pakistan reported as 1996-SCMR-1185 and 2009-SCMR-1.

8. In view of the above, the appeal is accepted and the respondents are directed to treat the appellant at par with his other colleagues mentioned above and may not be discriminated. Parties are left to bear their own costs. File be consigned to the record.

9. This order will also dispose of other connected appeals No. 3067/2010, Muhammad Idrees, No. 3068/2010, Mehboob Elahi, No. 3069/2010, Abdul Kabir, No. 3072/2010, Dilawar Shah, No. 3073/2010, Daud Shah, No. 3074/2010 Zafar Alam, No. 3076/2010, Sardar Ali, and No. 3079/2010, Hafiz-ur-Rahman in the same manner.

ANNOUNCED
18.4.2012

(NOOR ALI KHAN)
MEMBER

(SYED MANZOOR ALI SHAH)
MEMBER

Certified to be true copy

Khyber Pakhtunkhwa
Services Tribunal
Peshawar

Date of Despatch of A.P. Office 10.5.2012
Name of Officer 1632
Date of Receipt of Copy 10.5.2012
Name of Officer 135
Date of Receipt of Copy 10.5.2012
Date of Delivery of Copy 10.5.2012

Attested
[Signature]

BEFORE THE KHYBER PAKHTUNKHWA, SERVICE TRIBUNAL PESHAWAR

**Service Appeal No-746/2013
Sher Zamin Khan,**

Versus

Government of Khyber Pakhtunkhwa

AFFIDAVIT

I Mr. Bilal Khan Assistant Director (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 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.

*Identified by
Govt Pleader ST
KPK Peshawar*

X

Bilal Khan

DEPONENT
Cell# 03339374624

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

Service Appeal No. 746/2013

Sher Zamin Khan, Junior Oral Master (BPS-16) Govt. School for Deaf Children,
Dargai Malakand..... **(Appellant)**

VERSUS

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

Respectfully Sheweth:

PARA-WISE COMMENTS/REPLY BY RESPONDENTS NO. 1, 2, 3,4 & 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 got no locus standi to file their appeal.
4. The Appeal is barred by law.

FACTS:

- 1 Correct.
- 2 Correct to the extent that the appellant possess the qualification of B.A/B. Ed but he is not Awarded Higher Pay Scale BPS-17 as he does not possess the adequate knowledge certificate in teaching the Deaf & Dumb children as mentioned in the Finance Department's letter dated 24-07-1986 **(Annex-A)**.
- 3 Correct to the extent that the Finance Department's circular letter dated 24-07-1986 allows Higher Pay Scale to the teachers of Special Education Institutions on acquiring higher qualification but according to the criteria only those teachers are allowed Higher Pay Scale BPS-17 who possess a certificate to the effect hat he/she has adequate knowledge in teaching the Deaf & Dumb children. The relevant portion of the eligibility criteria for Award of Higher Pay Scale BPS 17, is re-produced below for the convenience of this Honourable Court.

Trained Graduate Teachers (B.A/B.Sc, B.Ed) with adequate knowledge of Education of Deaf & Dumb Children”.

4. Correct.
5. Correct to the extent that Mr. Waheed Nawaz was allowed Higher Pay Scale BPS-17 by the apex court but the appellant cannot be treated at par with Mr. Waheed Nawaz due to the condition mentioned in para-3 above.

6. Incorrect and not admitted. The appellant cannot be considered at par with Mr. Waheed Nawaz as he does not possess a certificate to the effect that he has adequate knowledge in teaching the deaf & dumb children and it was due to this reason that his request for award of Higher Pay Scale BPS-17 could not be entertained.
7. The appellant has got not no cause of action to file this appeal.

GROUND.

- A. Incorrect, according to the criteria, only those teachers are allowed higher pay scale who possess a certificate to the effect that he/she has adequate knowledge in teaching the deaf & dumb children.
- B. Incorrect. As replied in para-A of grounds.
- C. Incorrect and not admitted. The Appellant has been treated as per rules/policy of the Government as explained in para 3 & 5 of the facts.
- D. Incorrect and not admitted. Since the appellant does not fulfill the criteria mentioned in the Finance Department's circular letter dated 24-07-1986, he therefore cannot be considered at par with the litigants whose requests for award of Higher Pay Scale have been allowed by the Honourable Courts.
- E. Incorrect, the Appellant cannot be considered at par with Javed Khan & others as the appellant does not fulfill the criteria for award of Higher Pay Scale BPS-17 as mentioned in the Finance Department's circular letter dated 24-07-1986.
- F. The Department seeks permission of this Honourable Court to advance other grounds and proofs at the time of hearing of the case.

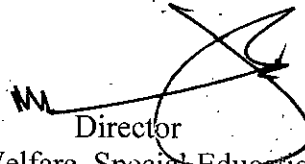
In view of the above mentioned factual position, it is prayed that, the appeal, being devoid of any merit, may graciously be dismissed please.



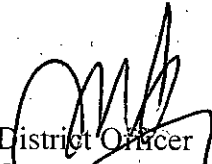
Chief Secretary
Govt. of Khyber Pakhtunkhwa
(Respondent No. 1)



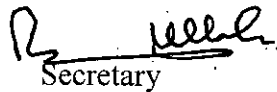
Secretary
Social Welfare, Special Education &
Women Empowerment Department
Khyber Pakhtunkhwa
(Respondent No. 2)



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



District Officer
Social Welfare, Special Education &
Women Empowerment Deptt: Mafakand
(Respondent No. 4)



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

2

BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR.

Service Appeal No: 747/2013

Sahibzada Mohammad Naeem, Junior Special Education Teacher (BPS-16) Govt.
Institute for the Blind, D.I.Khan..... (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.
2. Correct to the extent that the appellant possesses the qualification of B.A/B. Ed and is a trained graduate teacher but he is not entitled to be awarded Higher Pay Scale BPS-17 as he does not possess the adequate knowledge certificate in teaching the blind children as mentioned in the Finance Department's letter dated 24-07-1986 (Annex-A).
3. Correct to the extent that the Finance Department's circular letter dated 24-07-1986 allows Higher Pay Scale to the teachers of Special Education Institutions on acquiring higher qualification but according to the criteria only those teachers are allowed Higher Pay Scale BPS-17 who possess a certificate to the effect that he/she has adequate knowledge in Braille or teaching the blind children. The relevant portion of the criteria is reproduced below for the convenience of this Honourable Court.
"BPS-17 may awarded to the Trained Graduate Teachers (B.A/B.Sc, B.Ed) with adequate knowledge of Braille or teaching the blinds".
4. Correct.
4. Correct to the extent that Mr. Waheed Nawaz was allowed Award of Higher Pay Scale BPS-17 by the Apex Court but the appellant cannot be treated at par with Mr. Waheed Nawaz due to the reason mentioned in para-3 above.
5. Not correct and not admitted. The Appellant cannot be considered at par with Mr. Waheed Nawaz as he does not possess a certificate to the effect that he has adequate knowledge of Braille or teaching the blind children and it was due to this reason that his request for Award of Higher Pay Scale BPS-17 could not be entertained.
6. In reply to para-7, it is submitted that the appellant has got no cause of action to file this appeal

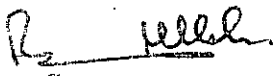
GROUNDS.

- A. Incorrect and not admitted. Since the appellant does not possess a certificate to the effect that he has adequate knowledge of Braille or teaching the blind children, his request for Award of Higher Pay Scale BPS-17, therefore cannot be entertained, hence the question of injustice does not arise at all.
- B. Incorrect and not admitted as explained in the preceding paras.
- C. Incorrect and not admitted. The Appellant has been treated as per rules/policy of the Government as explained in para 3 & 5 of the facts.
- D. Incorrect and not admitted. Since the appellant does not fulfill the criteria mentioned in the Finance Department's circular letter dated 24-07-1986, he, therefore, cannot be considered at par with the litigants whose requests for award of Higher Pay Scale have been allowed by the Honourable Courts.
- E. Pertains to court however the Appellant cannot be considered at par with Javed Khan & others as he does not fulfill the criteria for award of Higher Pay Scale BPS-17 as mentioned in the Finance Department's circular letter dated 24-07-1986.
- F. The Department seeks the permission of this Honourable Court to advance other grounds and proof 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 merit, may graciously be dismissed please.


Secretary
Social Welfare, Special Education &
Women Empowerment Department
Khyber Pakhtunkhwa
(Respondent No. 1)


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


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

4/19

ANSWERED

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.

19 (11)

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. five years or at (a) above.

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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 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.A. B.Sc., B.Ed. within five years as at (a) above.

i) P.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 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 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.

To be Redesignated as

(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.)

(20) (13)

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

Encl. 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.

Encl. 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)

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Attested *[Signature]*

Best copy

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No. FD(SR-1) 1-95 / 84-111
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 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 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 acquire B.Ed. within a period of Three years.

(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) 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 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 acquire 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 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 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)
DEPUTY SECRETARY
(REGULATION)
FINANCE DEPARTMENT.

ENDST . NO FD (SR-1)1-95 / 84-111 DATED PESHAWAR 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 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
This is a True Copy

Raw

BEFORE THE KHYBER PAKHTUNKHWA, SERVICE TRIBUNAL PESHAWAR

**Service Appeal No-746/2013
Sher Zamin Khan,**

Versus

Government of Khyber Pakhtunkhwa

AFFIDAVIT

I Mr. Bilal Khan Assistant Director (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 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.

Identified by
GORT Pleader ST
KPK Pesh



DEPONENT
Cell# 03339374624

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

Service Appeal No. 746/2013

Sher Zamin Khan, Junior Oral Master (BPS-16) Govt. School for Deaf Children,
Dargai Malakand..... (Appellant)

VERSUS

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

Respectfully Sheweth:

PARA-WISE COMMENTS/REPLY BY RESPONDENTS NO. 1, 2, 3, 4 & 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 got no locus standi to file their appeal.
4. The Appeal is barred by law.

FACTS:

- 1 Correct.
- 2 Correct to the extent that the appellant possess the qualification of B.A/B. Ed but he is not Awarded Higher Pay Scale BPS-17 as he does not possess the adequate knowledge certificate in teaching the Deaf & Dumb children as mentioned in the Finance Department's letter dated 24-07-1986 (Annex-A).
- 3 Correct to the extent that the Finance Department's circular letter dated 24-07-1986 allows Higher Pay Scale to the teachers of Special Education Institutions on acquiring higher qualification but according to the criteria only those teachers are allowed Higher Pay Scale BPS-17 who possess a certificate to the effect hat he/she has adequate knowledge in teaching the Deaf & Dumb children. The relevant portion of the eligibility criteria for Award of Higher Pay Scale BPS 17, is re-produced below for the convenience of this Honourable Court.

Trained Graduate Teachers (B.A/B.Sc, B.Ed) with adequate knowledge of Education of Deaf & Dumb Children".

4. Correct.
5. Correct to the extent that Mr. Waheed Nawaz was allowed Higher Pay Scale BPS-17 by the apex court but the appellant cannot be treated at par with Mr. Waheed Nawaz due to the condition mentioned in para-3 above.


6. Incorrect and not admitted. The appellant cannot be considered at par with Mr. Waheed Nawaz as he does not possess a certificate to the effect that he has adequate knowledge in teaching the deaf & dumb children and it was due to this reason that his request for award of Higher Pay Scale BPS-17 could not be entertained.
7. The appellant has got not no cause of action to file this appeal.

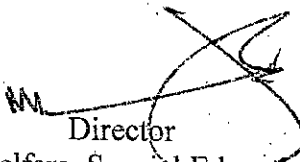
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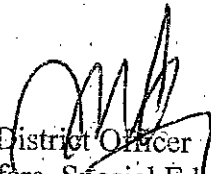
- A. Incorrect, according to the criteria, only those teachers are allowed higher pay scale who possess a certificate to the effect that he/she has adequate knowledge in teaching the deaf & dumb children.
- B. Incorrect. As replied in para-A of grounds.
- C. Incorrect and not admitted. The Appellant has been treated as per rules/policy of the Government as explained in para 3 & 5 of the facts.
- D. Incorrect and not admitted. Since the appellant does not fulfill the criteria mentioned in the Finance Department's circular letter dated 24-07-1986, he therefore cannot be considered at par with the litigants whose requests for award of Higher Pay Scale have been allowed by the Honourable Courts.
- E. Incorrect, the Appellant cannot be considered at par with Javed Khan & others as the appellant does not fulfill the criteria for award of Higher Pay Scale BPS-17 as mentioned in the Finance Department's circular letter dated 24-07-1986.
- F. The Department seeks permission of this Honourable Court to advance other grounds and proofs at the time of hearing of the case.

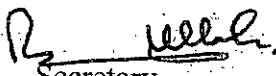
In view of the above mentioned factual position, it is prayed that, the appeal, being devoid of any merit, may graciously be dismissed please.

Chief Secretary
Govt. of Khyber Pakhtunkhwa
(Respondent No. 1)


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


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


District Officer
Social Welfare, Special Education &
Women Empowerment Deptt: Mardan
(Respondent No. 4)


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

Dated Peshawar, the 24th July 1986

From

Muhammad 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.

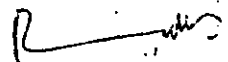
Subject:- REVISION OF PAY SCALES OF THE TEACHERS WORKING
 IN THE INSTITUTIONS FOR THE HANDICAPPED

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

ATTENDED


(12)

(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.

(20)

(2) BLINDS INSTITUTIONS

To be redesignated as

(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)

Senior 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)

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

To be redesignated as Junior Special Educator Teacher

(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)

To be redesignated 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 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 certified as 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)

(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.

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and physically
ed (to be certified
the Social Welfare
Directorate.)

(20) (13)

B-10
Trained under-Graduate
(P.A./P.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 Director-
ate).

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

(d) Untrained under-Graduate
Teachers, with adequate
knowledge of teaching the
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disabled (to be certified by
the Social Welfare Director-
ate).

These teachers should con-
tinue 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.

Encl. 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.

Encl. 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. M. Khan

Attested by *[Signature]*

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

(9)
(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:-

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- (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.

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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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3
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.) E-14

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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 24TH JULY 1986.

COPY OF THE ABOVE IS FORWARDED TO:-

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- 2. THE DIRECTOR SOCIAL WELFARE N.W.F.P. PESHAWAR

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

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

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