



S.No	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
	29.04.2016	<p style="text-align: center;"><u>KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,</u> <u>PESHAWAR.</u></p> <p style="text-align: center;">APPEAL NO.588/2013</p> <p style="text-align: center;">(Muhammad Akbar-vs- Secretary to Govt: of Khyber Pakhtunkhwa, Industries, Commerce & Technical Education Department Peshawar and other).</p> <p style="text-align: center;"><u>JUDGMENT</u></p> <p style="text-align: center;"><u>PIR BAKHSH SHAH, MEMBER:</u></p> <p>Counsel for the appellant (Mr. Ayub Khan Shinwari, Advocate) and Addl:AG for respondents present.</p> <p>In the instant appeal issue of up-gradation is involved and according to the judgment of august Supreme Court of Pakistan dated, 17.02.2016 delivered in Civil Appeal No. 101 & 102-P of 2011 the service Tribunals have no jurisdiction to entertain any appeal involving the issue of up-gradation as it does not part of terms and conditions of service of the Civil servants.</p> <p>In view of the above the appeal was not found maintainable by this Tribunal for want of jurisdiction. The same is therefore dismissed. The appellant may seek his remedy before any other appropriate forum if so advised. File be consigned to the record room.</p> <div style="display: flex; justify-content: space-around; align-items: center;"> <div style="text-align: center;">  (ABDUL LATIF) MEMBER </div> <div style="text-align: center;">  (PIR BAKHSH SHAH) MEMBER </div> </div> <p style="text-align: center;"><u>ANNOUNCED</u> 29.04.2016</p>

08.06.2015

Counsel for the appellant and M/S, Irshad Muhammad, SO for respondent No. 2 and Sultan Shah, Assistant for respondent No. 3 alongwith Addl: A.G for respondents present. Requested for adjournment. Last opportunity granted. To come up for written reply on 31.8.2015 before S.B.


Chairman

31.08.2015

Agent of counsel for the appellant and Assistant A.G for respondents present. Written reply not submitted despite last opportunity. On the request of learned Assistant A.G, last opportunity is extended to 12.11.2015 for submission of written reply before S.B.


Chairman

12.11.2015

Agent of counsel for the appellant and Addl: A.G for respondents present. Written reply on behalf of respondents No. 2 and 4 submitted. The learned Addl: A.G relies on the same on behalf of respondents No. 1 and 3. The appeal is assigned to D.B for rejoinder and final hearing for 29.4.2016.


Chairman

588/13

23.09.2014

Counsel for the appellant, and Mr. Muhammad Adeel Butt, AAG with Khursheed Khan, SO, Sajjad Rashid, AD and Sultan Shah, Assistant for the respondents present and requested for time. To come up for written reply on 21.1.2015 alongwith connected appeals.

21.1.2015

Counsel for the appellant and Khursheed Khan, SO, for respondent No.1, Sultan Shah, Assistant for respondent No.3 and Mr. Mosam Khan, AD for respondent No. 4 with Mr. Muhammad Jan, GP for the respondents present. The learned GP submitted that written reply is in process and requested for adjournment. Case to come up for written reply on 08.4.2015.


MEMBER


MEMBER

08.4.2015

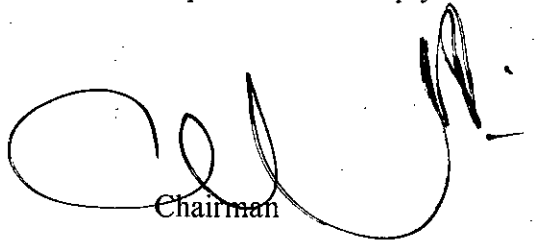
Counsel for the appellant and Mr. Muhammad Jan, GP with Mosam Khan, AD and Sultan Shah, Assistant for the respondents present. Requested for time. To come up for reply on 08.6.2015.


MEMBER


MEMBER

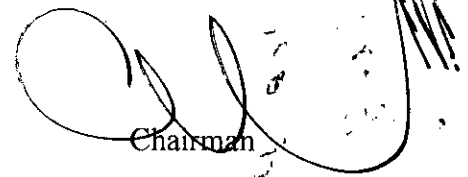
01.01.2014

Clerk of counsel for the appellant, M/S Feroz Shah, Inspector Boiler on behalf of respondents No.1 & 4 and Irshad Muhammad, Supdt. for respondent No.2 with AAG for the respondents present. Written reply has not been received. To come up for written reply/comments on 30.01.2014.


Chairman

30.01.2014

Clerk of counsel for the appellant and Mr. Irshad Muhammad, Supdt for respondent No.2 with Mr. Usman Ghani, Sr.GP for the respondents present. Written reply has not been received on behalf of the respondents. Since 7 similar nature cases are pending before learned Bench-II, this appeal is also entrusted to the learned Bench-II, where the parties are directed to appear for written reply/comments alongwith connected appeals on 18.6.2014.


Chairman

18.6.2014

File received from the learned Bench-I and order sheet dated 30.1.2014 perused.

Counsel for the appellant and Mr. Muhammad Jan, GP with Khursheed Khan, SO and Sajjad Rashid, AD for the respondents present and requested for further time. To come up for written reply on 23.09.2014.

MEMBER



MEMBER

Appeal No. 588/2013
Mr. Muhammad Afjeer

02.08.2013

Clerk of counsel for the appellant present and requested for adjournment. Case is adjourned. To come up for preliminary hearing on 24.10.2013.


Member

24.10.2013

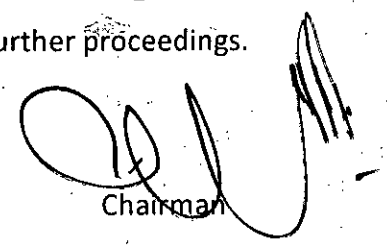
Counsel for the appellant present and heard on preliminary. Contended that the appellant has not been treated in accordance with the law/rules. He filed departmental appeal which has not been responded within statutory period of 90 days, hence the present appeal on 03.04.2013. Points raised at the Bar 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 01.01.2014 for submission of written reply. Appellant also submitted an application for condonation of delay. Notice of application should also be issued to the respondents for reply/arguments on the date fixed.

b.
The appellant deposited
Security & Process fee
Rs 2000/- Bank recpt
attached on file
E


Member.

24.10.2013

This case be put before the Final Bench 2 for further proceedings.


Chairman

3.
20.5.2013

Munshi to Counsel for the appellant present. In pursuance of the Khyber Pakhtunkhwa Service Tribunal (Amendment) Ordinance, 2013 (Khyber Pakhtunkhwa Order No. II of 2013), the case is adjourned on note Reader for proceeding as before on 4.7.2013.

4.
04.07.2013



Clerk of 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 02.08.2013.


Reader


Reader

Form- A
FORM OF ORDER SHEET

Court of _____
Case No. 588 /2013

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	03/04/2013	The appeal of Mr. Muhammad Akbar presented today by Mr. M.Ayub Khan Shinwari Advocate may be entered in the Institution Register and put up to the Worthy Chairman for preliminary hearing.  REGISTRAR
2	8-4-2013	This case is entrusted to Primary Bench for preliminary hearing to be put up there on <u>20-5-2013</u> .  CHAIRMAN

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No 588 /2013

Muhammad Akbar,
Librarian, Government College of Technology,
Abbottabad.

M.W.F. Province
Lecture
Story No. 674
Date 03/4/13
.....Appellant

Versus

1. Secretary to Government of Khyber Pakhtunkhwa, Industries, Commerce & Technical Education Department, Peshawar.
2. Secretary to Government of Khyber Pakhtunkhwa, Finance Department, Peshawar.
3. Secretary to Government of Khyber Pakhtunkhwa, Establishment Department, Peshawar.
4. Director General, Technical Education & Manpower Training, Khyber Pakhtunkhwa, Peshawar.

...Respondents

Appeal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974.

Respectfully Sheweth,

Brief but relevant facts of the case are as follows:

1. That the appellant was appointed as Librarian (BPS-16) in the respondent Department on 27-08-1997 and since than is performing his duties to the entire satisfaction of her superiors.
2. That at the time of appointment the Appellant had already qualified the M.L.I.Sc Degree from University of Peshawar in session 1993.
3. That in different Departments of Provincial Government as well in Federal Government, Librarians having the qualification of Master in Library Sciences were allowed up-gradation to BPS-17 from the date of qualifying M.L.I.Sc or date of appointment which ever is earlier. Thereafter the Appellant time and again approached the respondents for granting him up-gradation to BPS-17 but in vain.

4. That later on the Government of Khyber Pakhtunkhwa issued the impugned Notification No SOIII(IND)TE/1-17/2010 whereby the Appellant has been promoted from the post of Librarian (BPS-16) against upgraded post of Librarian (BPS-17) with immediate effect i.e., 23-02-2011 rather than from the date of acquiring the M.L.I.Sc Degree or date of appointment.
5. That aggrieved of the aforesaid Notification the Appellant filed Departmental Appeal for awarding BPS-17 to the Appellant from the date of qualifying M.L.I.Sc Degree or date of appointment before the respondents, which has not been decided till date.
6. That it is pertinent to mention here that the question involved in the instant Service Appeal has already been decided by this learned Tribunal in Service Appeal No 43/2011 and August Supreme Court of Pakistan in C.A's No 1114 to 1116 of 2006 and allowed BPS-17 to the similarly placed persons from the date of their acquiring higher qualification of Master Degree, thus the respondents are legally bound to follow them and allow the BPS-17 to the Appellant from the date of initial appointment as has been given to other counter parts of the Appellant.

Hence this Service Appeal on the following amongst other grounds:

Grounds:

- a. That the Appellant has not been treated justly, fairly, equitably and in accordance with the law, rules, policy and practice of the respondent Department.
- b. That the Appellant has qualified the M.L.I.Sc Degree prior to the date of appointment as Librarian (BPS-16) and is eligible to be promoted against the upgraded post of Librarian (BPS-17) from the date of his initial appointment.
- c. That the impugned Notification is against the norms, rules of natural justice and precedents of the August Supreme Court of Pakistan passed in various other such like cases.
- d. That the impugned Notification is based on colorful exercise of powers and malafide for extraneous considerations.
- e. That the appellant has been given discriminatory treatment which is against the fundamental rights enshrined and protected under the Constitution of Islamic Republic of Pakistan, 1973.
- f. That the impugned Notification is based on discrimination because the other similarly placed persons working in the same Department as well in other Departments of Provincial Government have already been

promoted to the upgraded posts of BPS-17 with effect from the date of acquiring Master Degree.

- g. That the question involved in the instant Service Appeal has already been decided by this learned Tribunal in Service Appeal No 43/2011 and August Supreme Court of Pakistan in C.A's No 1114 to 1116 of 2006 and allowed BPS-17 to the similarly placed persons from the date of their acquiring higher qualification of Master Degree, thus the respondents are legally bound to follow them and allow the BPS-17 to the Appellant from the date of initial appointment as has been given to other counter parts of the Appellant.
- h. That the August Supreme Court of Pakistan has held in many judgments that once the relief is granted by the Supreme Court of Pakistan or any other court to any Civil Servant, than the Departments shall grant the same relief to all other similarly placed Civil Servants without pushing them into litigation. In the instant case the other Civil Servants who were at par with Appellant i.e., Directors Physical Education and Librarians working in the respondent Department as well in other Departments have already been promoted to the upgraded posts of BPS-17 with effect from the date of acquiring Master Degree or date of appointment, hence in the light of the said Judgments of Supreme Court of Pakistan, the Department is bound to grant the same relief to the Appellant i.e., BPS-17 from the date of appointment.
- i. That the Appellant begs leave of this Honorable Tribunal to rely on other grounds, which have not been mentioned in the instant Appeal, at the time of arguments.

It is, therefore, prayed that on acceptance of Service Appeal the impugned Notification No SOIII(IND)TE/1-17/2010 dated 23 Febuary, 2011 passed by respondents whereby the Appellant has been promoted as Librarian from BS-16 to BS-17 with immediate effect may kindly be set ~~to the~~ ^{to the} ~~respondents~~ ^{respondents} may kindly be directed to grant BPS-17 to the Appellant with effect from the date of acquiring the M.L.I.Sc Degree or date of appointment which ever is earlier, along with all other back benefits.

Any other relief deemed appropriate by this learned Tribunal in the circumstances of the case, which has not been specifically prayed for in the instant Petition may graciously be granted.

Appellant
Through
Muhammad Ayub Khan Shinwari
Advocate Peshawar.

11/8
97
(appointment)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

C.M No _____ /2013

In

Service Appeal No _____ /

MUHAMMAD AXBAR Versus

Govt of KP & Others

Application for condonation of delay in filing the title Service Appeal

Respectfully Sheweth,

The Applicant submits as follows:

1. That the title Service Appeal is pending adjudication before this learned Tribunal which is fixed for hearing
2. That the title Service Appeal apparently seems to be time barred but the subject matter of the instant Service Appeal has already been decided not only by this Honorable Tribunal but also by the Apex Supreme Court of Pakistan in Civil Appeals No 114 to 116 of 2006 vide Judgment dated 22-02-2010. Therefore keeping in view the dictums laid down by the Supreme Court of Pakistan in **2009 SCMR 1** wherein it is laid down that once the Tribunal or Supreme Court of Pakistan decides any point of law relating to terms and conditions of servants who litigated, and there were other Civil Servants, who may not have taken any legal proceedings, in such a case, the dictates of justice and rule of good governance demand that the benefit of the said decision be extended to other civil servants also, who may not be parties to that litigation, instead of compelling them to approach the Tribunal or any other legal forum.
3. That the law favors the decisions on merits instead of non suiting the litigants for technical reasons including on limitation. The said Principle is laid down by August Supreme Court of Pakistan in **2003 PLD(SC) 724** which is fully applicable in the instant Service Appeal.
4. That the subject matter of the title Service Appeal pertains to pay and is a continuous cause of action, hence no limitation runs in such matters as laid

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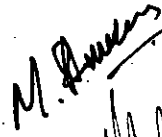
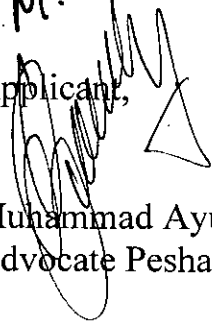
down by Apex Supreme Court of Pakistan in **1992 SCMR 19 and 1975 PLD(SC) 304.**

5. That the applicant seeks leave of this Honorable Tribunal to rely on other grounds at the time of arguments.

It is, therefore, prayed that on acceptance of this Application the delay in filing the title Service Appeal before this learned Tribunal may kindly be condoned and the Service Appeal be decided on merits.

Any other relief, deemed appropriate in the circumstances of the case, which is not specifically prayed for may graciously be granted.

Through


Applicant,


Muhammad Ayub Khan Shinwari
Advocate Peshawar.

Librarian 6

DIRECTORATE OF TECHNICAL EDUCATION,
N.W.F.P. PESHAWAR.

Dated 11.18 /1997.

OFFICE ORDER:

NO. DTF/Admn/6-1/- consequent upon the recommendation of the NWFP, public service commission, the following candidates is hereby appointed as Librarians (BPS-16) (Rs. 2535-197-5490) plus usual allowances as admissible under the rules in the college/institutes mentioned below from the date of taking over charge subject to the terms and conditions stated as under:-

Sr. No.	Name and Father's name and address.	To be posted at
1.	Mr. Javed Iqbal S/O Muhammad Asaf Khan, Village & P.O. Saidusharif Moh: Barkala Teh: Babuzai Distt: Swat.	Govt. polytechnic Institute, Haripur.
2.	Mr. Muhammad Aqeel S/O Said Bahadur Village Kotha Moh: Panj pow, Teh: & District Swabi.	Govt. polytechnic Institute, Swabi.
3.	Mr. Riaz Muhammad S/O Noor Muhammad, House No. C-1002 Moh: Riaz Shabheed Mian Bazar Kohat.	Govt. college of commerce, Kohat.
4.	Mr. Manzoor Ahmad S/O Noor Muhammad, Village Jagal, Moh: Ara Machine P.O. Jagal Teh: & Distt: Haripur.	Govt. commercial Training Institute, Haripur.
5.	Mr. Muhammad Akbar S/O Hakim Khan Village Khanjaryan P.O. Pir-saddo, Teh: Takht Bahai District Mardan.	Govt. polytechnic Institute, Abbottabad.

Regd:

TERMS AND CONDITIONS:

- 1- Their inter-se seniority will be determined in accordance with the order of merit assigned by the NWFP, public service commission.
- 2- They will be on probation for a period of two years.
- 3- Their services will be liable to termination on one month notice from either side. In case of resignation without proper notice, one month pay and allowances will be forfeited to Government.
4. They will be governed by such orders and rules as prescribed by Government and may be issued from time to time.
5. Their character and antecedent are verified good by the

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Midst: NO. DTS/ Admn/6-1/ 491(1-14) Dated 11/8 /1997.

action to:- Copy forwarded for information and necessary

1. The Secretary, N.W.F.P. Public Service Commission with reference to his letter No.11617 dated 8-5-1997.
2. The District Accounts Officers, Haripur/Swabi/ Kohat/ Abbottabad.
3. The principals, Government polytechnic Institute, Haripur/Swabi/ Abbottabad.
4. The principal, Government College of Commerce, Kohat.
5. The principal, Government Commercial Training Institute, Haripur.
6. Candidates concerned on above address.
7. personal files.

(ATTA UR RAB)
DEPUTY DIRECTOR.

8

**GOVT. OF KHYBER PAKHTUNKHWA
INDUSTRIES, COMMERCE & TECH: EDUCATION
DEPARTMENT.**

NOTIFICATION

No. **SOIII(IND)TE/1-17/2010**. On the recommendations of the Departmental Promotion Committee, the competent authority has been pleased to promote the following Librarians (BPS-16) and Directors Physical Education (BPS-16) against the upgraded posts of Librarians (BPS-17) and Directors Physical Education (BPS-17) respectively on regular basis with immediate effect:-

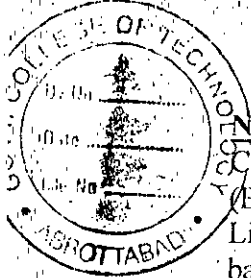
LIBRARIANS:

S.No	Name of Incumbent	Promoted against the post of
1	Mr. Muhammad Salim, Librarian (BPS-16).	Librarian (BPS-17)
2	Mr. Mir Dad Khan, Librarian (BPS-16)	Librarian (BPS-17)
3	Mr. Inam-ul-Haq, Librarian (BPS-16)	Librarian (BPS-17)
4	Mrs. Aqila Naz, Librarian (BPS-16)	Librarian (BPS-17)
5	Mr. Alamgir Shah, Librarian (BPS-16)	Librarian (BPS-17)
6	S. Jamal Shah, Librarian (BPS-16)	Librarian (BPS-17)
7	Mr. Manzoor Ahmad, Librarian (BPS-16)	Librarian (BPS-17)
8	Mr. Javed Iqbal, Librarian (BPS-16)	Librarian (BPS-17)
9	Mr. Muhammad Akbar, Librarian (BPS-16)	Librarian (BPS-17)
10	Mr. Nazir Khan, Librarian (BPS-16)	Librarian (BPS-17)
11	Mr. Umar Khitab, Librarian (BPS-16)	Librarian (BPS-17)
12	Mr. Imran Ali Khan, Librarian (BPS-16)	Librarian (BPS-17)
13	Mr. Zia-ul-Islam, Librarian (BPS-16)	Librarian (BPS-17)
14	Mr. Khan Gul, Librarian (BPS-16)	Librarian (BPS-17)
15	Mr. Muhammad Hyas, Librarian (BPS-16)	Librarian (BPS-17)
16	Mr. Saif-ur-Renman, Librarian (BPS-16)	Librarian (BPS-17)
17	Mr. Sajeed Gul, Librarian (BPS-16)	Librarian (BPS-17)
18	Mr. Ayaz Khan, Librarian (BPS-16)	Librarian (BPS-17)
19	Mr. Alla-ud-Din, Librarian (BPS-16)	Librarian (BPS-17)
20	Mr. Sadi Hussain, Librarian (BPS-16)	Librarian (BPS-17)
21	Mr. Maqsood-ur-Rehman, Librarian (BPS-16)	Librarian (BPS-17)
22	Mr. Muhammad Irtiz, Librarian (BPS-16)	Librarian (BPS-17)
23	Mr. Irfan Ullah, Librarian (BPS-16)	Librarian (BPS-17)

DIRECTOR PHYSICAL EDUCATION

S.No	Name of Incumbent	Promoted against the post of
1	Mr. Iaiq Shah, Director Physical Education (BPS-16)	Director Physical Education (BPS-17)
2	Mr. Muhammad Azam, Director Physical Education (BPS-16)	Director Physical Education (BPS-17)
3	Mr. Muhammad Ayub, Director Physical Education (BPS-16)	Director Physical Education (BPS-17)
4	Mr. Gul Nawa, Director Physical Education (BPS-16)	Director Physical Education (BPS-17)
5	Mr. Badar Zaman, Director Physical Education (BPS-16)	Director Physical Education (BPS-17)

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**GOVT. OF KHYBER PAKHTUNKHWA
INDUSTRIES, COMMERCE & TECH: EDUCATION
DEPARTMENT.**

NOTIFICATION

No.SOIII(INDTE/1-17/2010. On the recommendations of the Departmental Promotion Committee, the competent authority has been pleased to promote the following Librarians (BPS-16) and Directors Physical Education (BPS-16) against the upgraded posts of Librarians (BPS-17) and Director Physical Education (BPS-17) respectively on Regular basis with immediate effect:-

LIBRARIANS:

S.No	Name of Incumbent	Promoted against the post of
1	Mr. Muhammad Saliman, Librarian (BPS-16)	Librarian (BPS-17)
2	Mr. Mir Dad Khan, Librarian (BPS-16)	Librarian (BPS-17)
3	Mr. Inam-ul-Haq, Librarian (BPS-16)	Librarian (BPS-17)
4	Mrs. Aqila Naz, Librarian (BPS-16)	Librarian (BPS-17)
5	Mr. Alamgir Shah, Librarian (BPS-16)	Librarian (BPS-17)
6	S. Jamal Shah, Librarian (BPS-16)	Librarian (BPS-17)
7	Mr. Manzoor Ahmad, Librarian (BPS-16)	Librarian (BPS-17)
8	Mr. Javed Iqbal, Librarian (BPS-16)	Librarian (BPS-17)
9	Mr. Muhammad Akbar, Librarian (BPS-16)	Librarian (BPS-17)
10	Mr. Nazir Khan, Librarian (BPS-16)	Librarian (BPS-17)
11	Mr. Umar Khitab, Librarian (BPS-16)	Librarian (BPS-17)
12	Mr. Imran Ali Khan, Librarian (BPS-16)	Librarian (BPS-17)
13	Mr. Zia-ul-Islam, Librarian (BPS-16)	Librarian (BPS-17)
14	Mr. Khan Gul, Librarian (BPS-16)	Librarian (BPS-17)
15	Mr. Muhammad Ilyas, Librarian (BPS-16)	Librarian (BPS-17)
16	Mr. Saif-ur-Rehman, Librarian (BPS-16)	Librarian (BPS-17)
17	Mr. Sajeed Gul, Librarian (BPS-16)	Librarian (BPS-17)
18	Mr. Ayaz Khan, Librarian (BPS-16)	Librarian (BPS-17)
19	Mr. Alla-ud-Din, Librarian (BPS-16)	Librarian (BPS-17)
20	Mr. Sadd Hussain, Librarian (BPS-16)	Librarian (BPS-17)
21	Mr. Maqsood-ur-Rehman, Librarian (BPS-16)	Librarian (BPS-17)
22	Mr. Muhammad Imtiaz Khan, Librarian (BPS-16)	Librarian (BPS-17)
23	Mr. Irfan Ullah, Librarian (BPS-16)	Librarian (BPS-17)

DIRECTOR PHYSICAL EDUCATION:

S.No	Name of Incumbent	Promoted against the post of
1	Mr. Liaq Shah, Director Physical Education (BPS-16)	Director Physical Education (BPS-17)
2	Mr. Muhammad Azam, Director Physical Education (BPS-16)	Director Physical Education (BPS-17)
3	Mr. Muhammad Ayub, Director Physical Education (BPS-16)	Director Physical Education (BPS-17)
4	Mr. Gul Nawaz, Director Physical Education (BPS-16)	Director Physical Education (BPS-17)
5	Mr. Badar Zaman, Director Physical Education (BPS-16)	Director Physical Education (BPS-17)

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6	Mr. Amir Muhammad, Director Physical Education (BPS-16)	Director Physical Education (BPS-17)
7	Mr. Khadim Shah, Director Physical Education (BPS-16)	Director Physical Education (BPS-17)
8	Mr. Khalid Pervez, Director Physical Education (BPS-15)	Director Physical Education (BPS-17)
9	Mr. Dost Muhammad, Director Physical Education (BPS-16)	Director Physical Education (BPS-17)
10	Mr. Riazat Shah, Director Physical Education (BPS-16)	Director Physical Education (BPS-17)
11	Mr. Abid Ullah, Director Physical Education (BPS-16)	Director Physical Education (BPS-17)
12	Mr. Ihsan Ullah Khan, Director Physical Education (BPS-16)	Director Physical Education (BPS-17)
13	Mr. Ilyas-ud-Din, Director Physical Education (BPS-16)	Director Physical Education (BPS-17)
14	Mr. Aman Ullah Khan, Director Physical Education (BPS-16)	Director Physical Education (BPS-17)
15	S. Qasim Hussain, Director Physical Education (BPS-16)	Director Physical Education (BPS-17)
16	Mr. Khalid Saleem, Director Physical Education (BPS-16)	Director Physical Education (BPS-17)
17	Mr. Muhammad Ikram, Director Physical Education (BPS-16)	Director Physical Education (BPS-17)
18	Mr. Aman Ullah Khan, Director Physical Education (BPS-16)	Director Physical Education (BPS-17)
19	Mr. Ijaz Ali Khan, Director Physical Education (BPS-16)	Director Physical Education (BPS-17)
20	Mr. Sultan Muhammad, Director Physical Education (BPS-16)	Director Physical Education (BPS-17)
21	Mr. Shams-ud-Din, Director Physical Education (BPS-16)	Director Physical Education (BPS-17)
22	Mr. Abdul Aziz, Director Physical Education (BPS-16)	Director Physical Education (BPS-17)
23	Mr. Javed Iqbal, Director Physical Education (BPS-16)	Director Physical Education (BPS-17)
24	Mr. Awal Khan, Director Physical Education (BPS-16)	Director Physical Education (BPS-17)
25	Mr. Momtaz Khan, Director Physical Education (BPS-16)	Director Physical Education (BPS-17)
26	Mr. Said Ali Khan, Director Physical Education (BPS-16)	Director Physical Education (BPS-17)
27	Mr. Habib-ur-Rehman, Director Physical Education (BPS-16)	Director Physical Education (BPS-17)
28	Mr. Hasan Ali, Director Physical Education (BPS-16)	Director Physical Education (BPS-17)
29	Mr. Asmat Ullah Khan, Director Physical Education (BPS-16)	Director Physical Education (BPS-17)
30	Mr. Adeel Aziz, Director Physical Education (BPS-16)	Director Physical Education (BPS-17)

2. The officers will remain on probation for a period of one year in terms of Section-6(2) of NWFP, Civil Servants Act, 1973 read with rule-15(1) of NWFP, Civil Servants (Appointment, Promotion and Transfer) Rules, 1989.

3. The officers shall remain posted at their present stations.

Secretary to Govt. of Khyber Pakhtunkhwa
Industries, Commerce, & Technical
Education Department.

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6	Mr. Amir Muhammad, Director Physical Education (BPS-16)	Director Physical Education (BPS-17)
7	Mr. Khadim Shah, Director Physical Education (BPS-16)	Director Physical Education (BPS-17)
8	Mr. Khalid Pervez, Director Physical Education (BPS-16)	Director Physical Education (BPS-17)
9	Mr. Dost Muhammad, Director Physical Education (BPS-16)	Director Physical Education (BPS-17)
10	Mr. Riazat Shah, Director Physical Education (BPS-16)	Director Physical Education (BPS-17)
11	Mr. Abid Ullah, Director Physical Education (BPS-16)	Director Physical Education (BPS-17)
12	Mr. Ihsan Ullah Khan, Director Physical Education (BPS-16)	Director Physical Education (BPS-17)
13	Mr. Ilyas-ud-Din, Director Physical Education (BPS-16)	Director Physical Education (BPS-17)
14	Mr. Aman Ullah Khan, Director Physical Education (BPS-16)	Director Physical Education (BPS-17)
15	S. Qasim Hussain, Director Physical Education (BPS-16)	Director Physical Education (BPS-17)
16	Mr. Khalid Saleem, Director Physical Education (BPS-16)	Director Physical Education (BPS-17)
17	Mr. Muhammad Ikram, Director Physical Education (BPS-16)	Director Physical Education (BPS-17)
18	Mr. Aman Ullah Khan, Director Physical Education (BPS-16)	Director Physical Education (BPS-17)
19	Mr. Ijaz Ali Khan, Director Physical Education (BPS-16)	Director Physical Education (BPS-17)
20	Mr. Sultan Muhammad, Director Physical Education (BPS-16)	Director Physical Education (BPS-17)
21	Mr. Shams-ud-Din, Director Physical Education (BPS-16)	Director Physical Education (BPS-17)
22	Mr. Abdul Aziz, Director Physical Education (BPS-16)	Director Physical Education (BPS-17)
23	Mr. Javed Iqbal, Director Physical Education (BPS-16)	Director Physical Education (BPS-17)
24	Mr. Awal Khan, Director Physical Education (BPS-16)	Director Physical Education (BPS-17)
25	Mr. Momin Khan, Director Physical Education (BPS-16)	Director Physical Education (BPS-17)
26	Mr. Said Ali Khan, Director Physical Education (BPS-16)	Director Physical Education (BPS-17)
27	Mr. Habib-ur-Rehman, Director Physical Education (BPS-16)	Director Physical Education (BPS-17)
28	Mr. Hasan Ali, Director Physical Education (BPS-16)	Director Physical Education (BPS-17)
29	Mr. Asmat Ullah Khan, Director Physical Education (BPS-16)	Director Physical Education (BPS-17)
30	Mr. Adeel Ayaz, Director Physical Education (BPS-16)	Director Physical Education (BPS-17)

2. The officers will remain, on probation for a period of one year in terms of Section-6(2) of NWFP, Civil Servants Act, 1973 read with rule-15(1) of NWFP, Civil Servants (Appointment, Promotion and Transfer) Rules, 1989.

3. The officers snap remain posted at their present stations.

**Secretary to Govt. of Khyber Pakhtunkhwa
Industries, Commerce, & Technical
Education Department.**

Handwritten signature/initials

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Endst.No.SOH(INDY)/1-17/2010-2011

Dated Pesh: the 23rd February, 2011.

Copy is forwarded to:-

1. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. The Director General, Technical Education and Manpower Training, Khyber Pakhtunkhwa Peshawar along with all documents of the officer for record.
3. The concerned District Account Officer.
4. The Principals concerned *G.C.T. Abbotabad -*
5. The Manager, Govt. Printing Press, Peshawar.
6. The Officer concerned.
7. O/O file.

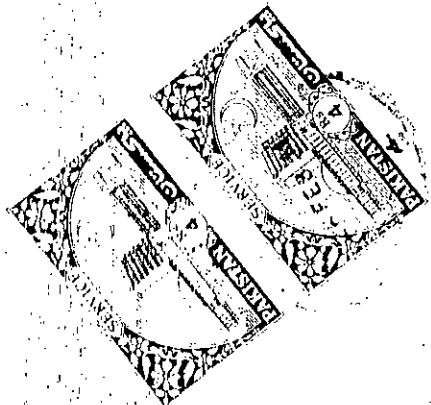
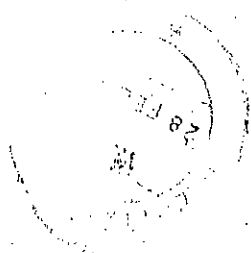
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Supdt.

M/V
01/03
2011

84
01-03-2011
EST.

Anwar-ul-Haq
(ANWAR-UL-HAQ)
SECTION OFFICER-III



Muzamil
Durrani

20

Govt. college of Technology
Abbotabad,

U P S B

Dir

DESPATCH E & A
Industries, Commerce, Labour,
Mineral Dev, Manpower and
Technical Education Deptt.
Govt. of NWFP.

Endst.No.SOIII(IND)TE/1-17/2010

Dated Pesh: the 23rd February, 2011

Copy is forwarded to:-

1. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. The Director General, Technical Education and Manpower Training, Khyber Pakhtunkhwa Peshawar along with all documents of the officer for record.
3. The concerned District Accounts Officer.
4. The Principal concerned.
5. The Manager Govt. Printing Press, Peshawar.
6. The Officer concerned.
7. O/O file.

(ANWAR-UL-HAQ)
SECTION OFFICER-III

Principal
Accountant

11

GOVERNMENT COLLEGE OF TECHNOLOGY ABBOTTABAD

Post Code 22044 Phone +92 992 382211 Fax +92 992 383444

NO: GCT/ATD/PF/228
To

Dated: 13/08/2019

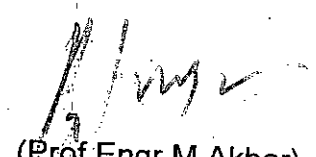
The Director General,
Technical Education & Manpower Training,
Khyber Pakhtunkhwa,
Peshawar.

Subject: **PROMOTION.**

Enclosed herewith please an application of Mr. Muhammad Akbar, Librarian
of this college.

DA/as above.

Principal:


(Prof. Engr. M. Akbar)
Principal



12

To

The Director General,
Technical Education and Manpower Trg,
Khyber Pakhtunkhwa,
Peshawar.

Through

Proper Channel

Subject:

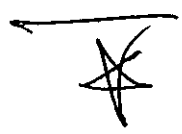
PROMOTION

Sir,

It is stated with great esteem that I have been serving as a librarian in this department since August 27,1997.I was initially appointed in grade 16.Although I had a master degree in library and information sciences at the time of my appointment. Later on I was promoted to BPS 17 vide Notification No.SOIII(IND)TE/1-17/2010 and assumed the charge of the office of librarian BPS 17 with effect from 1/03/2011(F.N).

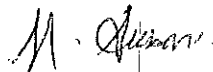
As per decision of the High Court Peshawar exercised in favour of Mr. Ahmed Zaman librarian and Mr. Dil Jan Marwat, additional librarian of the High Court Peshawar they were given grade 17 from the date of their appointments with full benefits (copy attached), because they were having Master Degrees in library and Information Sciences, so I have the same case.

Therefore, I request you to allow me BPS 17 with full benefits from the date of my appointment i-e August,27,1997.



Thanking in anticipation.

Yours Sincerely,



Mohammad Akbar
Librarian G.C.T Abbotabad.



PESHAWAR HIGH COURT, PESHAWAR13**ORDER**13*Dated Peshawar, the 17th April, 2012.*

In continuation of this court order bearing Endst: No.2570-2577, dated 05/05/2008 and No.2563-2570/B&A, dated 05/05/2008, the Hon'ble Chief Justice, in the light of Judgment of the August Supreme Court of Pakistan in Civil Appeal No.1114 to 1116 of 2006 delivered on 22/02/2010, and in exercise of the powers conferred by the Finance Department under Notification No. SO(A/Cs)FD/2-1/96, dated, 7.12.1996, has been pleased to up-grade the posts of Additional Librarian and Librarian to BPS-17 from 11/09/1998 and 27/04/2006 respectively, instead of 20/04/2008.

The Competent Authority has further been pleased to allow Mr. Ahmad Zaman, Librarian and Mr. Dil Jan Marwar, Additional Librarian for the benefits of their up-graded post from 27/04/2006 and 11/09/1998, respectively.

BY ORDER OF THE HON'BLE CHIEF JUSTICE*(Subhan Sher)**2* **Registrar**Dated: Peshawar, the 18-4-2012Endst No. 2530-39 B&A*Copy forwarded for information and necessary action to:-*

1. The Additional Registrar (Judicial), Peshawar High Court, Peshawar.
2. The Member Inspection Team, Peshawar High Court, Peshawar.
3. The Incharge, NIP Implementation Cell, Peshawar High Court, Peshawar.
4. Accountant General, Court of Khyber Pakhtunkhwa, Peshawar.
5. The Private Secretary to Hon'ble Chief Justice, Peshawar High Court, Peshawar.
6. The Deputy Registrar (Accounts) Peshawar High Court, Peshawar.
7. The Manager MIS, Peshawar High Court, Peshawar.
8. The Superintendent (Confidential), Peshawar High Court, Peshawar.
9. The Officers Concerned by Name.

*(Subhan Sher)***Registrar**

Ataf Hussain
Ataf Hussain

PESHAWAR HIGH COURT, PESHAWAR

ORDER

Dated Peshawar, the 17th April, 2012.

In continuation of this court order bearing Endst: No.2570-2577, dated 05/05/2008 and No.2563-2570/B&A, dated 05/05/2008, the Hon'ble Chief Justice, in the light of Judgment of the August Supreme Court of Pakistan in Civil Appeal No. 1114 to 1116 of 2006 delivered on 22/02/2010, and in exercise of the power conferred by the Finance Department under Notification No. SO(A/Cs) FD/2-1/96, dated, 7.12.1996, has been pleased to up-grade the posts of Additional librarian and Librarian to BPS-17 from 11/09/1998 and 27/04/2006 respectively, instead of 20/04/2008.

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BY ORDER OF THE HON'BLE CHIEF JUSTICE

(Subhan Sher)

Registrar

Endst No. 2530-39 /B&A

Dated: Peshawar, the 18-4-2012

Copy

1. The Additional Registrar (Judicial), Peshawar High Court, Peshawar.
2. The Member Inspection Team, Peshawar High Court, Peshawar.
3. The Incharge, N/P Implementation Cell, Peshawar High Court, Peshawar.
4. Accountant General, Govt. of Khyber Pakhtunkhwa, Peshawar.
5. The Private Secretary of Hon'ble Chief Justice, Peshawar High Court, Peshawar.
6. The Deputy Registrar (Accounts) Peshawar High Court, Peshawar.
7. The Manager M/S, Peshawar High Court, Peshawar.
8. The Superintendent (Confidential), Peshawar High Court, Peshawar.

(Subhan Sher)

Registrar

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

University of Peshawar (Pakistan)

Session ANNUAL 1994

MOHAMMAD AKBAR

SON

OF

PAKIM KHAN

and a student of the Department of Library and Information Science having passed the prescribed examination in MAY, 1995 is this day admitted by the University of Peshawar to the Degree of

Master of Library & Information Science

in the SECOND Division

The examination was taken as a whole / in parts

Serial : No 000383

Registered No. 88-1-12077

Roll No. 87

Result declared on JULY 12, 1995



Shakul Ahmad

Registrar

Countersigned

[Signature]
Vice-Chancellor

*Muhammad
Akbar
[Signature]*

14

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

University of Peshawar
(Pakistan)

Session ANNUAL 1993

MOHAMMAD ANBAR

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HAKIM KHAN

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Bachelor of Library & Information Science

in the SECOND Division

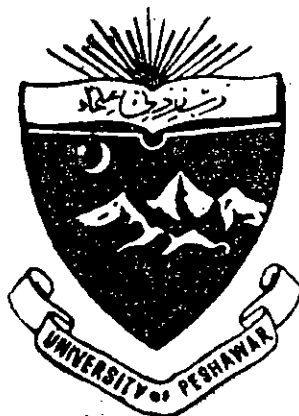
The Examination was Taken as a whole /in parts/

Serial: No 000311

Registered No. 88-1-12877

Roll No. 14

Result declared on 29TH SEPTEMBER 1994



Ahmed Ahmad

Registrar

Countersigned

Muhammad
Vice-Chancellor

Muhammad
Registrar

Appeal No. 43/2011

22

Date of Institution 11.01.2011
Date of Decision 17.08.2011

Muhammad Ali, Librarian (BPS-17) Khyber Pakhtunkhwa
Public Service Commission, Peshawar.

(Appellant)

VERSUS

1. Government of Khyber Pakhtunkhwa through Secretary
Finance Department, Peshawar.
2. Secretary to Government of Khyber Pakhtunkhwa
Establishment Department Peshawar.
3. Secretary, Khyber Pakhtunkhwa Public Service
Commission, Peshawar.

(Respondents)

APPEAL UNDER SECTION 4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974
AGAINST THE ORDER DATED 17.8.2010, WHEREBY HIS
CASE OF ANTE-DATION WAS REGRETTED AGAINST
WHICH HIS DEPARTMENTAL APPEAL DATED 01.10.2010
WAS REGRETTED VIDE LETTERS DATED 10.12.2010.
COMMUNICATED ON 3.12.2010.

MR. IJAZ ANWAR,
Advocate.

... For appellant.

MR. SHER AFGAN KHATTAK,
Addl. Advocate General

... For respondents.

SYED MANZOOR ALI SHAH,
MR. KHALID HUSSAIN

... MEMBER
... MEMBER

JUDGMENT

SYED MANZOOR ALI SHAH, MEMBER.- This appeal has been filed
by Muhammad Ali, appellant U/S 4 of the Khyber Pakhtunkhwa Service Tribunal Act,
1974, against the order dated 17.8.2010 whereby his case of ante-dation of upgradation
was regretted against which his departmental appeal dated 1.10.2010 was also rejected
vide order dated 10.12.2010, communicated to the appellant on 3.12.2010. It has been
prayed that on acceptance of the appeal, the impugned orders dated 17.8.2010 and
10.12.2010 may be set aside and the respondents may be directed to allow the appellant
upgradation w.e.f. 21.11.1993 with all back benefits.

ATTORNEY
[Handwritten signature]

Library and Information Science, was appointed against the post of Librarian (BPS-11) on 21.1.1990. This post was later on upgraded to BPS-16 vide Finance Department notification dated 21.11.1993. The appellant was also allowed BPS-16 vide notification dated 21.11.1993 vide notification dated 9.6.1997. In different departments of Provincial as well as Federal Government, Librarian having the qualification of Master in Library Sciences were allowed upgradation to BPS-17. The appellant also submitted applications time and again for treating him similarly but with no response. On 28.3.2007, the appellant was allowed upgradation to BPS-17 but with immediate effect instead of 21.11.1993. Since the Hon'ble Peshawar High Court had decided the cases of similarly placed person and allowed them upgradation with effect from the date of acquiring the qualification of M.L and Information Science, hence the appellant also submitted departmental appeal on 4.7.2009, which elicited no response within the statutory period, hence the appellant filed Service Appeal No. 1854/2009 before this Tribunal. On 14.4.2010, the case was remanded to the respondent department to consider the case of appellant for upgradation to BPS-17 in the light of order in similarly placed person. On 17.8.2010, the case of appellant was again refused, against which he filed departmental appeal, which was rejected on 10.12.2010, hence this appeal.

3. Notices were issued to the respondents. They filed their joint written reply and contested the appeal. The appellant also filed rejoinder in rebuttal.

4. Arguments heard and record perused.

5. The learned counsel for the appellant argued that the Hon'ble Peshawar High in Writ Petition No.1184/2006, and by the august Supreme Court of Pakistan in Civil Appeals No: 1114 to 1115 of 2006, decided on 22.2.2010, had decided identical cases and allowed upgradation to similarly placed person with effect from acquiring Master Degree in Library and Information Science. Hence the appellant is also entitled to the same treatment in the light of 1996-SCMR-1185. On the point of limitation, the learned counsel for the appellant argued that the matter pertains to pay and is continuous cause of action, hence no limitation run in such matters.

6. The learned A.A.G, on the other hand, argued that the appellant had already enjoyed the benefit of upgradation with back benefits at the time of his upgradation from BPS-11 to BPS-16. On further upgradation, he was not entitled to back benefits. He further argued that the appellant himself relied upon the judgment of

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h'ble Peshawar High Court, hence he must approach ~~to the~~ same forum for redressal of his grievances.

7. The Tribunal observes that the upgradation is ~~one~~ of the terms and conditions of service and this Tribunal has ample jurisdiction to entertain the present appeal. The Tribunal further observes that the appellant was appointed as Librarian BPS-11 on 21.11.1990 having qualification of Master in Library and Information Science. Vide notification dated 21.11.1993, the post was upgraded to BPS-16 and vide notification dated 9.6.1997, the appellant was allowed upgradation w.e.f. 21.11.1993. The august Supreme Court of Pakistan vide judgment dated 22.2.2010, in C.As No. 1114 to 1116 of 2006, allowed BPS-17 to the similarly placed persons from the date of their acquiring higher qualification of Master Degree. As such the appellant is also entitled for upgradation to BPS-17 w.e.f. 21.11.1993, in the light of judgment reported in 1996-SCMR-1185.

8. In view of the above, the appeal is accepted, the impugned order dated 17.8.2010 is set aside and the appellant is allowed upgradation to BPS-17 w.e.f. 21.11.1993. No order as to costs. File be consigned to the record.

ANNOUNCED
17.8.2011

(Signature)
(KHALID HUSSAIN)
MEMBER

(Signature)
(SYED MANZUR ALI SHAH)
MEMBER

Certified to be true copy
(Signature)
ENGINEER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Date of Presentation of application 24-9-2011
Number of Pages 1200
Copying Fee 8-00
Urgent 8-00
Total 8-00
Name of Copyist 4
Date of Completion of Copy 26-9-2011
Date of Delivery of Copy 26-9-2011

(Signature)
Abdul
Baqar

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BETTER
COPY

IN THE SUPREME COURT OF PAKISTAN
(Appellate jurisdiction)

PRESENT

MR. JUSTICE JAVED IQBAL
MR. JUSTICE MEHAMMOAD SAIR ALI
MR. JUSTICE TARIQ PARVEZ

CIVIL APPELAS NO. 1114 To 1116 of 2006

On appeal from the judgments dated 14.08.2003
Service Tribunal, Peshawar passed in appeal
536 of 2000

1. Bibi Mussarat Librarian ... Appellant in CA No 1114/06
2. Shahid Ali ... Appellant in CA No 1115/06
3. Nasir khan ... Appellant in CA No 1116/06

Versus

Province of NWFP through
Secretary education peshawar
And two others

Respondents in all cases

For the Appellant in all cases. Roohul Amin Khan, ASC

For the Respondents in all cases. Hafiz Amin khan ASC

Date of hearing 22.02.2010

JUDGMENT

TARIQ PARVEZ J., for the reasons that similar question of law and almost similar facts are involved in three connected appeal, therefore these are disposed of through this single judgment.

2. short facts of the case are that the appellants herein are serving as librarian in education department. In the case of Bibi Mussarat, she was last serving as librarian in government degree college for women, Mandian Abbottabad while the appellant Shahid Ali as librarian in

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Government higher secondary school, Mardan and so is the case of Nasir khan appellant.

They claim to be granted grade Bps-17 on regular basis form the date they have acquired higher qualification i.e. Master,s degree in the discipline of library sciences.

3. The appellants on their respective ends having approached the departmental hierarchy by making various representations/appeals were finally constrained to knock at the door of the NWFP Service Tribunal, Peshawar but their such approach for seeking relief proved abortive, they therefore filed three separate before this court.

4. All the three petitions of the appellants were heard on 28.06.2006 and with the leave to appeal granted by the court, petitions were converted into appels, inter-alia on the ground to consider effect of two judgments delivered by this court, whether they were in conflict with each other judgments referred to in the leave granting order are

Government of NWFP etc. v. Muhammad Aslam khan C.A no. 172 of 1998 decided on 16.10.2002 and Government of NWFP etc. v. Gul Aslam and others c.ps. no. 52-p if 1003 decided on 12.03.2003 and against the above referred judgments another case of Deputy director technical education, Peshawar Muhammad Ikram and others cp nos. 395-p to 398,415 to 419-p of 2001.

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Muhammad Aslam Khan

College or in a school but as Librarian and when both the incumbents are having acquired higher Master,s degree they are to be considered at par with each other and refusal on the ground that grade BPS-17 can only be given to librarian working in the college was an act of discrimination based on no logic and was therefore, unreasonable.

7. Today, learned counsel appearing for the appellants has produced before us a copy of notification dated 20.06.1995 of government of NWFP Peshawar Education Department, where the governor of the province was pleased of 113 posts of librarian form BPS-16 to BPS-17 to persons whose names appeared in the annexure to the notification of 1995.

There is no bar under the Rules, rather there appears to be consistent practice which was applied in favour of librarian in the post and they were given the higher grade form BPS-16 to BPS-17 on acquiring Master,s degree in the library science including notification dated 20.06.1995, but denial by the government and not accepted by NWFP service Tribunal, Peshawar, would be against the rules of discrimination amongst equals and similarly placed employees.


8. An impression taken form the leave granting order that the two judgments of this court. are at variance would be

Amir Durr

divided of force because in the case of government of NWFP vs, Muhammad Ikram and others (supra) reliance was placed on notification of year 1993 which is itself does not contain any statutory backing but a policy or desire. Subsequently in the year 1995 despite notification of 1993 the government of NWFP had upgraded 113 posts of librarian from BPS-16 to BPS-17 would be a case of discrimination and therefore, their cases would aquarley fall in the category of cases as were decided by this court in civil appeal no.172 of 1998 and civil petitions no. 52-p to 58-p of 2003 and not the case of deputy director technical education (supra).

9. Very recently in civil petitions no. 491-p to 500-p of 2006. decided on 3.04.2009 by this court and relying on the judgment passed in civil petitions no. 52-p/2003 etc.(supra) similar view was maintained and in addition, it was ruled that the appellants therein will be entitled to grade BPS-17 not with immediate effect but form the date they acquired higher qualification.

In view of judgments cited above favoring the present appellants and because of notification of 1995, if not follved, would discriminate the present appellants. These appeal are therefore, allowed .The judgments of the NWFP service Tribunal, Peshawar is aside and the respondents


Muhammad
Ikram

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In the former two judgments relief of granting grade PBS-17 on the basis of higher qualification was given to the appellants therein whereas relief were denied in the later judgments.

5. From the perusal of the judgment referred to above as were read out and cited before us, the latter judgment of this court has referred to notification dated 4.08.1993 of the finance department of the government of NWFP, Peshawar where the provincial government had held that post of librarian in grade BPS-16 in junior scale and BPS-17 in senior scale are separate posts under the relevant recruitment rules and the initial recruitment is to be made through the public service commission, because there is no provision in the rules for granting higher pay scale on the basis of acquiring higher education i.e. Master's degree it was therefore, that this court refused to grant payer for upgradation of librarian from BPS-16 to 17 on the ground of procuring higher qualification.

6. The former two judgments, this court had pressed into the service, principle of discrimination on the ground that the librarian who was working in the colleges and had acquired higher qualification were given grade BPS-17 but those who were working in the schools were denied grant of grade BPS-17 despite having acquired Master's degree. This court concluded that whether performing function in a

*Justice
Sulaiman*

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are directed to grant BPS-17 to the appellants with effect from the date of their Master,s degree acquiring higher qualification .however, there is no order as to costs.

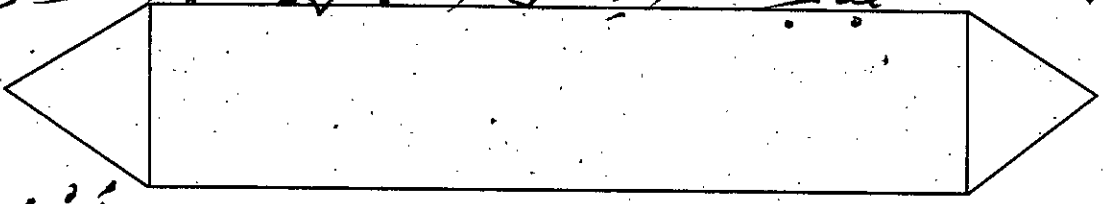
Sd Justice Javed Iqbal

Sd Justice Mohammad Sair Ali

Sd Justice Tariq Perviz

*Amir
Pervaiz*

بعدالت جناب جسٹس مسٹر بیرون فیلیپ نیشنل انوائس



13/10/13 پنجاب فیلیپ نیشنل انوائس
نام مسٹر بیرون فیلیپ
و فیلیپ

مقدمہ
دعویٰ
جرم

ممد اکسبر باعث تحریر آئندہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کارروائی متعلقہ آن مقام مسٹر بیرون فیلیپ کے لئے امیر اسٹیشنری کارروائی مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا۔ نیز وکیل صاحب کو کرنے راضی نامہ و تقرر ثالث و فیصلہ بر حلف دینے جواب دہی اور قبال دعویٰ اور بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ اور عرضی دعویٰ اور درخواست ہر قسم کی تصدیق زر اس پر دستخط کرانے کے اختیار ہوگا۔ نیز بصورت عدم پیروی یا ڈگری یکفرقہ یا اپیل کی برآمدگی اور منسوخی نیز دائر کرنے اپیل نگرانی اور نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ اور بصورت ضرورت مقدمہ مذکور کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنی بجائے تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ بالا اختیارات حاصل ہوں گے اور اس کا ساختہ پرداختہ منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ و ہرجانہ التوائے مقدمہ کے سبب سے ہوگا اس کے مستحق وکیل صاحب موصوف ہوں گے۔ نیز بقایا و خرچہ کی وصولی کرنے کا ابھی اختیار ہوگا۔ اگر کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے۔ کہ پیروی مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سندر ہے۔

المرقوم 10 ماہ فروری 13

بعدالت گواہ ش

ATTESTED.
ACCEPTED BY
ADVOCATE HIGH COURT

کے لئے منظور ہے۔

مقام
M. Akbar
MUHAMMAD AKBAR
PETITIONER.

BEFORE THE NWFP SERVICE TRIBUNAL, PESHAWAR

Appeal No.588/2013

Muhammad Akbar, Librarian,
Government College of Technology, Abbottabad

.....**APPELLANT.**

VERSUS

- 1) Government of Khyber Pakhtunkhwa through Secretary Industries, Technical Education & Manpower Khyber Pakhtunkhwa, Peshawar.
- 2) Secretary Finance Department Government of Khyber Pakhtunkhwa.
- 3) Secretary Establishment & Administration Government of Khyber Pakhtunkhwa.
- 4) The Director General, Technical Education and Manpower Training Khyber Pakhtunkhwa, Peshawar.....**RESPONDENTS**

PRELIMINARY OBJECTIONS:

- A- That the appeal is badly time barred.
- B- That the appellant has no cause of action.
- C- That the appellant has got no locus standi.
- D- That the appeal is incompetent in its present form.
- E- The appellant has not come to the court with clean hands.
- F- That the appeal is bad in its present form for non-joinder and mis-joinder of the necessary parties.

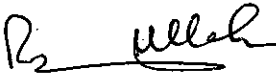
Respectfully Sheweth,


- 1) Pertains to record.
- 2) Relates to appellant record.
- 3) It is incorrect. The Finance Department sanctioned up-gradation of 90 posts DPEs and 113 posts of Librarian from BPS-16 to BPS-17 as personal to them with the condition that the posts shall be deemed to have been downgraded when vacated by the existing incumbents. **(Annexure-A)**
- 4) Correct with further clarification that on the recommendation of the Departmental Promotion Committee, the competent authority issued order to promotion from BPS-16 to BPS-17 of all eligible DPEs/Librarians including the appellant on 23.2.2011 with immediate effect. As per rules, promotion is always made with immediate effect. **(Annexure-B)**. Hence no decimation has been done.
- 5) Needs no comments.
- 6) The question is related to the superior court decision.

G R O U N D S

- a) Incorrect. The appellant has been treated in accordance with the prevailing rules and regulations.
- b) It is incorrect. On the recommendation of the Departmental Promotion Committee, the competent authority issued order of promotion from BPS-16 to BPS-17 of all eligible Librarians including the appellant on 23.2.2011 with immediate effect. No employee of the same cadre of this department has been promoted to BPS-17 from the date of acquiring higher qualification rather all them including the petitioner have been promoted to BPS-17 with immediate effect.
- c) It is incorrect in view of the aforementioned comprehensive reply.
- d) Not admitted. That the impugned order is according to law, rules.
- e) Not admitted. That the impugned order is correct, legal and according to law.
- f) Not admitted. No discrimination has been done to the appellant.
- g) Not admitted. Each case has its own points, facts and circumstance.
- h) Not admitted. Relates to judicial record. Further comprehensive reply is being given in para-4

In view of the above, it is requested that the instant appeal may be dismissed with cost.


SECRETARY
Govt: of Khyber Pakhtunkhwa
Finance Deptt:
30/11/11 Resptt No: 2


RESPONDENT NO.4)
Managing Director, Technical Education &
Vocational Training Authority(KP-TEVTA)

BEFORE THE NWFP SERVICE TRIBUNAL, PESHAWAR

Appeal No.588/2013

Muhammad Akbar, Librarian,
Government College of Technology, Abbottabad

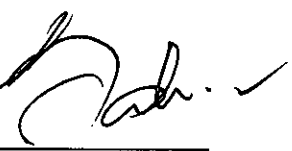
.....**APPELLANT.**

VERSUS

1. Government of Khyber Pakhtunkhwa through Secretary Industries, Technical Education & Manpower Khyber Pakhtunkhwa, Peshawar.
2. Secretary Finance Department Government of Khyber Pakhtunkhwa.
3. Secretary Establishment & Administration Government of Khyber Pakhtunkhwa.
4. The Director General, Technical Education and Manpower Training Khyber Pakhtunkhwa, Peshawar.....**RESPONDENTS**

AFFIDAVIT

I, the respondent in the above titled appeal do hereby solemnly affirm and confirm that the contents of the connected reply is true and correct to the best of our knowledge and belief and nothing has been concealed from this tribunal.

RESPONDENT NO.4) 
Managing Director, Technical Education &
Vocational Training Authority(KP-TEVTA)

Annexure - A
Annexure - B
7
19

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

Dated Peshawar, 20-6-95.

NOTIFICATION

No. SO(E-III) 22/8/95. The Governor, NWFP is pleased to accord sanction as a special case to the upgradation of 90 posts of Directors, Physical Education and 113 posts of Librarian from BPS 16 to BPS-17 as personal to the officials whose names appear in annexure to this Notification to regularize their services in BPS 17. The posts shall be deemed to have been downgraded when vacated by the existing incumbents specified in the annexure.

Secretary to Government
of NWFP, Education deptt:

Enclst: No. FD/SR-I/5-36/95 dated Peshawar the, 20-6-1995.

Copy forwarded for information and n/action to the:-

1. Accountant General N.W.F.P.
2. All District Accounts Officer, NWFP.

(Signature)
(ABDUL JABBAR)
Section Officer (S.R-I) 20/6
Finance Department NWFP.

Enclst: No. & date even:

Copy forwarded for information and n/action to the:-

1. Director of Education (Colleges) NWFP, Peshawar.
2. Director of Education (Secondary) NWFP Peshawar.
3. Director Bureau of Curriculum Dev: & Education Extension Services NWFP Abbottabad.
4. Director of Education (Technical) NWFP Peshawar.
5. Section Officer (SR-I), Finance Department N.W.F.P -w/r to his letter No. FD/SR-I/5-36/95 dated 22-12-1994.
6. Officials concerned.

(Signature)
(IRFANULLAH ICAN)
Section Officer (E-III)
Education department.

/*/Usman Ghani/*/

Contd.

(Signature)
HAMMAD RASOOL
M.A., LL.B.
ASSISTANT DIRECTOR
DIRECTORATE GENERAL TECH:
Education & Manpower Trg:
KPK, Peshawar

Always made with
Hence no discrimination has been

Government of N.W.F. Province
Services & General Admn. Deptt.

(Regulation Wing)

No. SCRI(S&G AD)1-29/75(Vol:1)

Dated Pesh the 31st March, 1990.

Annex B

To

1. All Administrative Secretaries to Govt of NWFP.
2. Secretary to Governor, NWFP.
3. All Commissioners in NWFP.
4. All Heads of Attached Departments in NWFP.
5. All Heads of Autonomous/Semi-Autonomous Bodies in N.W.F.P.
6. All Deputy Commissioners/Political Agents in NWFP.
7. All District and Sessions Judges in NWFP.
8. The Registrar, Peshawar High Court, Peshawar.
9. The Secretary, Board of Revenue, NWFP, Peshawar.
10. The Secretary, NWFP Public Service Commission, Pesh.
11. The Director, Anti-corruption Establishment, Pesh.
12. The Registrar, NWFP Service Tribunal, Peshawar.

Subject: - PROMOTION POLICY OF THE PROVINCIAL GOVERNMENT.

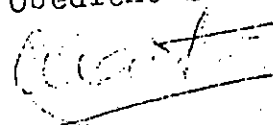
Sir,

I am directed to say that as a general principle, appointment by promotions takes effect from the date of approval by the competent authority or assumption of charge whichever is later. The Provincial Government have, however, been allowing promotion to higher Basic Scale with retrospective effect on specific recommendations of the Departmental Promotion Committee/ Selection Board in cases of grant of selection grade where promotions do not involve assumption of charge of the post with higher responsibilities and where change in duties is not involved. It has, however, been noticed with concern that some of the departments have notified promotions with retrospective effect in violation of the aforesaid Government policy.

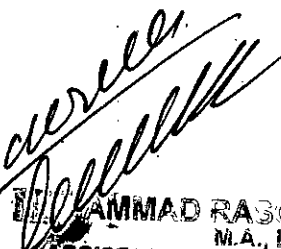
2. It is hereby clarified that appointments by promotions against posts may invariably be made with immediate effect in the prescribed manner in accordance with the provisions of Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, and instructions issued from time to time by the Government.

3. I am to request that the above instructions may kindly be brought to the notice of all concerned.

Your Obedient Servant,

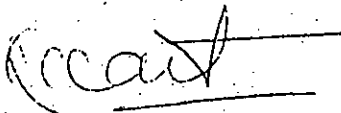


(MOHAMMAD SHOAIIB)
Deputy Secretary (Regulation)



MUHAMMAD RASOOL
M.A., LL.B.
ASSISTANT DIRECTOR
DIRECTORATE GENERAL TECH.
Education & Manpower Trg.
KPK, Peshawar

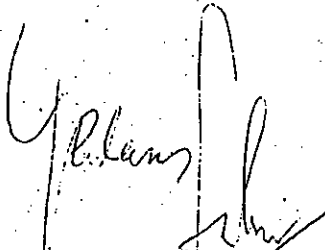
I(S&GAD)1-29/75(Vol.I) Dated Pesh the 31st March
py forwarded to Secretary to Chief Minister, NWFP


(MOHAMMAD SHOAB)
Deputy Secretary(Regulation)

Endst.No.SORI(S&GAD)1-29/75(Vol.I) Dated Pesh.the 31.3.1990

Copy forwarded to :-

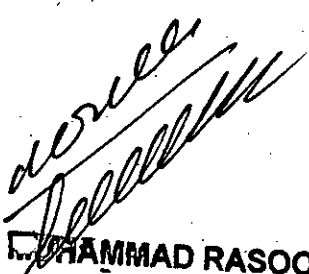
1. Accountant-General, NWFP, Peshawar.
2. All Districts/Agencies Accounts Officers in NWFP.

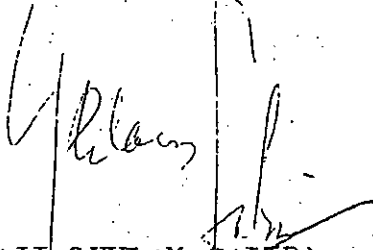

(HAJI GHULAM SABIR)
Section Officer(Regulation-I)

Endst.No.SORI(S&GAD)1-29/75(Vol.I) Dated Pesh.the 31.3.1990

Copy forwarded to :-

1. All Additional Secretaries in S&GAD.
2. All Deputy Secretaries in S&GAD.
3. Private Secretary to Chief Secretary, NWFP.
4. All Section Officers/Estate Officer in S&GAD.
5. Private Secretary to Secretary, S&GAD.
6. Librarian, S&GAD.
7. Supdt. Incharge Benevolent Fund Cell, S&GAD.


MOHAMMAD RASOOL
M.A., L.L.B.
ASSISTANT DIRECTOR
DIRECTORATE GENERAL TECH:
Education & Manpower Trg:
KPL, Peshawar


(HAJI GHULAM SABIR)
Section Officer(Regulation-I)