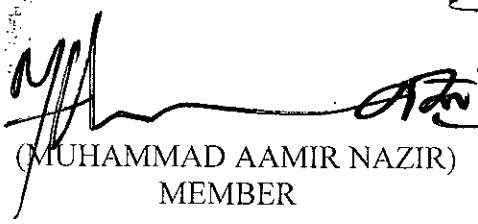
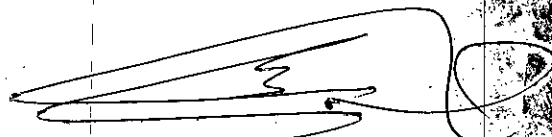


S.No	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
	18.05.2016	<p style="text-align: center;"><u>KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,</u> <u>PESHAWAR.</u></p> <p style="text-align: center;">APPEAL NO.1356/2013</p> <p style="text-align: center;">(Muhamamd Qavi Khan-vs- Govt: of Khyber Pakhtunkhwa through Chief Secretary Khyber Pakhtunkhwa, Peshawar and others).</p> <p style="text-align: center;"><u>JUDGMENT</u></p> <p style="text-align: center;"><u>PIR BAKHSH SHAH, MEMBER:</u></p> <p>Appellant in person and Additional Advocate General 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: flex-end;"> <div style="text-align: center;">  (MUHAMMAD AAMIR NAZIR) MEMBER </div> <div style="text-align: center;">  (PIR BAKHSH SHAH) MEMBER </div> </div> <p><u>ANNOUNCED</u> 18.05.2016</p>

25.02.2015

Counsel for the appellant and Mr. Khurshid Khan, SO for respondents No. 1 and 2 alongwith Addl: A.G for respondents present. Learned counsel for the appellant requested for adjournment. The case is assigned to D.B for submission of rejoinder and final hearing for 01.09.2015.


Chairman

01.09.2015

Counsel for the appellant and Mr. Ziaullah, GP for respondents present. Rejoinder submitted copy of which placed on file. To come up for and arguments on 8-2-2016.


Member


Member

08.02.2016

Counsel for the appellant and Mr. Ziaullah, GP for respondents present. Counsel for the appellant requested for adjournment. To come up for arguments on 18-5-16.


Member


Member

30.5.2014

Counsel for the appellant, M/S Khurshid Khan, S.O for respondents No.1 & 2 and Irshad Muhammad, Supdt. for respondent No.3 with AAG present. Written reply has not been received. To come up for written reply/comments on 10.9.2014.


Chairman

10.9.2014

Mr. Imdad Hussain, Advocate on behalf of counsel for the appellant, M/S Khurshid Khan, SO for respondents No. 1 and 2 and Hamad Ahmad, Assistant for respondent No. 3 with Mr. Muhammad Adeel Butt, AAG present. Written reply has not been received, and request for further time made on behalf of the respondents. Another chance is given for written reply/comments, positively, on 31.10.2015.


Chairman

31.10.2014

Counsel for the appellant, M/S Khurshid Khan, S.O for respondents No. 1 and 2 and Mushtaq Ahmed, S.O for respondent No.3 with Mr. Muhammad Adeel Butt, AAG present. Written reply/para-wise comments received on behalf of the respondents, copy whereof is handed over to the learned counsel for the appellant for rejoinder on 25.02.2015.


Chairman

Appeal No-1356/2013
Mr. Muhammad Raza Khan
Counsel for the appellant present. Preliminary arguments

3. 09.12.2013
Appellant deposited
Security & process
fee Rs 180/- Bundle
receipt is attached
with file

heard and record perused. Counsel for the appellant contended that the appellant has not been treated in accordance with law/rules. The appellant has been awarded upgradation to BPS-17 with immediate effect instead of 01.10.2007, against which he filed departmental appeal on 22.05.2013, which has not been responded within the statutory period of 90 days, hence the present appeal on 18.09.2013. He further contended that as per 2004 PLC (CS) relating to pay and allowances and no limitation runs against the financial matters. 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 for submission of written reply on 05.03.2014.

[Handwritten signature]

[Handwritten signature]
Member

09.12.2013

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

[Handwritten signature]
Chairman

5.3.14

The Honable Bench is on
Tour's Insatons are signed
B 30.5.14.


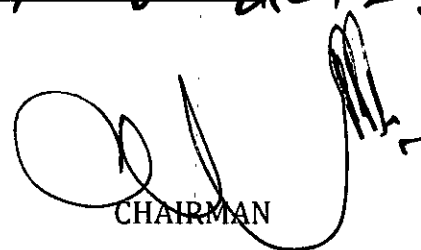
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Reader

Form- A

FORM OF ORDER SHEET

Court of _____

Case No. 1356/2013

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	18/09/2013	<p>The appeal of Mr. Muhammad Qavi Khan presented today by Mr. Noor Muhammad Khattak Advocate may be entered in the Institution Register and put up to the Worthy Chairman for preliminary hearing.</p> <p style="text-align: right;"> REGISTRAR</p>
2	20-9-2013	<p>This case is entrusted to Primary Bench for preliminary hearing to be put up there on <u>9-12-2013</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. 1356 /2013

MOHAMMAD QAVI KHAN

VS

.GOVT: OF KPK

INDEX

S.NO.	DOCUMENTS	ANNEXURE	PAGE
1.	Memo of Appeal	1- 3.
2.	Condonation of delay appli:	4.
3.	Appointment order	A	5- 6.
4.	Notification dated 1.10.2007	B	7- 8.
5.	Notification 26.1.2008	C	9.
6.	Notification 21.4.2008	D	10.
7.	Notification dated 20.1.2010	E	11- 12.
8.	Judgments	F & G	13- 14.
9.	Iplmentation order	H	15.
10.	Departmental appeal	I	16.
11.	Vakalat nama	17.

APPELLANT

THROUGH:

NOOR MOHAMMAD KHATTAK
ADVOCATE

BEFORE THE KHYBR PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. 1356 /2013

A.W.F. Peshawar
No. 1393
dated 18/9/13

Mr. Muhammad Qavi Khan, SET (BPS-17),
GHS Koghozi Swat.....Appellant

VERSUS

- 1- The Government of Khyber Pakhtunkhwa through Chief Secretary Khyber Pakhtunkhwa, Peshawar.
- 2- The Secretary of Education (E&SE), Khyber Pakhtunkhwa Peshawar.
- 3- The Secretary Finance Department, Khyber Pakhtunkhwa Peshawar.....Respondents

APPEAL UNDER SECTION 4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974
AGAINST THE ORDER DATED 20-1-2010 WHEREBY
THE APPELLANT HAS BEEN AWARDED
UPGRADATION TO BPS-17 WITH IMMEDIATE
EFFECT INSTEAD OF 1-10-2007 AND AGAINST NOT
TAKING ACTION ON THE DEPARTMENTAL APPEAL
OF THE APPELLANT WITHIN STATUTORY PERIOD
OF 90 DAYS

DA
22-5-2013

PRAYER:

That on acceptance of this appeal the appellant may be awarded/granted up-gradation w.e.f. 1.10.2007 instead of 20.1.2010 with all consequential benefits. Any other remedy which this August Tribunal deems fit that may also be awarded in favor of the appellant.



R/SHEWETH:
ON FACTS:

- 1- That appellant was appointed as SET in the respondent Department vide order dated 2.10.1983 and was placed in BPS-16. That appellant has served the Department quit efficiently and upto the entire satisfaction of his superiors. Copy of the appointment order is attached as annexure **A.**
- 2- That respondents issued Notification dated 1.10.2007, 26.1.2008 and 21.4.2008 for up-gradation of various posts so in the light of Notification dated 20.1.2010 due to which appellant has allowed up-gradation from BPS-16 to (BPS-17) with immediate effect rather than with

due to which appellant has allowed up-gradation from BPS-16 to (BPS-17) with immediate effect rather than with retrospective effect. Copies of the Notifications are attached as annexure**B, C, D & E:**

- 3- That as per judgment dated 3.7.2009 and 23.2.2010 of the August Service Tribunal of the Khyber Pakhtunkhwa numerous appeals of up-gradation has been granted w.e.f 1.10.2007 rather than with immediate effect. That it is also very pertinent to mention that the Hon'ble Supreme Court of Pakistan in number of judgments held that the where a point of law is decided by Supreme Court or the Court which not only cover the cases of the civil servants who litigated but of other also who may not have litigated, in such cases the dictate of good governance demands that such benefits be extended those civil servants who may not have litigated instead of forcing to recourse to litigation, thus the Department violated such principles and acted illegally, reference can be made to the judgment reported in SCMR 2009 page 1. Copies of the judgments are attached as annexure**F & G.**
- 4- That feeling aggrieved from the impugned order dated 20.1.2010 appellant filed Departmental appeal before the competent authority but no reply has been received so far. Copy of the Departmental appeal is attached as annexure**H.**
- 5- That appellant this appeal on the following grounds amongst the others.

GROUND:

- A- That not granting the benefits of up-gradation w.e.f 1.10.2007 is against the law, facts and norms of natural justice.
- B- That valuable right been accrued to appellant and the same can not be snatched away from the appellant in such like manner.
- C- That appellant has not been treated by the respondent Department in accordance with law and rules on the subject noted above and as such the respondents violated article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.
- D- That appellant was duly entitled to the benefit of up-gradation w.e.f 1.10.2007 in the light of the August Tribunal judgments dated 3.7.2008 and 23.2.2010 but the appellant has been unlawfully deprived from his due right!

A-5

A.P.P.O. I.N.T.H.E.N.T.

The following appointments of B.Sc. B.Ed. B.Sc./M.Sc are hereby ordered against 511 vacant posts @ Rs. 900/- P.M. fixed in the Basic Pay Scale No. 15 plus usual allowances as admissible under the rules with effect from the date of their taking over charge in the interest of public service.

S.No.	Name & address of the candidates	Posted	Remarks
1.	Fazil Satter, B.Sc. B.Ed. 450/1000/81 r/o Garhi Hazrat Gul, M.D.Agency.	GHS. Kosht, Chitral.	Against vacant Sc. S.T. post.
2.	Mohammad Wafi Khan, B.Sc. s/o Sher Afzal Khan r/o Shohdara, Katta, Swat.	GHS. Koghozi, -do-	-do-
3.	Saiful Haq, B.Sc. s/o Shamsul Haq r/o Laloi, Swat.	GHS. Shalgram, -do-	-do-
4.	Mir Rahman B.Sc. s/o Shamsur Rahman r/o Nawagai, Swat.	GHS. Koh, Chitral.	-do- (Teacher's Son)
5.	Ziaul Haq, B.Sc. s/o Abdul Wahid r/o Rabal, Swat.	GHS. Noon, Chitral.	Against newly created Sc. S.T. post.
6.	Mohammad Ghani Shah r/o Ishtiaq Shah r/o Malakand Agency	GHS. Gara-chashma, Chitral	Against vacant Sc. S.T. post.
7.	Mahboobur Rahman, B.Sc. s/o Azizur Rahman r/o Katta, Swat.	GHS. Aranda, Chitral.	-do-
8.	Khizer Hayat, B.Sc. B.Ed. s/o Shah Noon, r/o Khongli (Dir)	GHS. Saddo (Dir)	-do- (Teacher's Son)

TERMS & CONDITIONS

- Charge reports should be submitted to all concerned.
- No T.L./D.L./T.G. is allowed.
- The appointments are purely on temporary basis and the service can be terminated at any time without prior notice or assigning any reason.
- They should produce health & Age certificate from the Civil Surgeon concerned if they are not already in service.
- All candidates should join their new posts immediately but not later than 15 days of the issue of this order otherwise their appointments will be considered as cancelled.
- The candidates should not be handed over the charge if they are below 18 years or above 30 years of age.
- The Heads of the Institutions are required to check the certificates of the candidates concerned such as their original certificates / degree, etc.
- The verification of the character roll should be obtained from the candidates on the prescribed forms and it should be submitted to the Directorate of Education (Schools, Malakand Division for office record.

MAGDULUR RAHMAN
DIRECTOR OF EDUCATION
MALAKAND DIVISION
SWAT

(Contd. On page 2)

ATTESTED

6

..... 2

Andst. no. 12955-75 /a-1/10/11: Sd/-/k. Div: Dated 2/11/83.

Copy of above is forwarded for information and necessary action to:-

- 1- The Director of Education (S) Peshawar.
- 2- The District Education Officers (I) Chitral and Dir.
- 3- The District Accounts Officers Dir and Chitral.
- 4- All the headmasters concerned.
- 5- All the candidates concerned.
- 6- F.n. to the Director of Edu. Local Directorate.

[Handwritten Signature]

For/ DIRECTOR OF EDUCATION,
INTEGRATED DIVISION,
SALTO BRIDGE, SWAT.

D.S.

11/11/83

Attested
[Handwritten Signature]
S. E. I. SPS - 17 (Gazetted)
Sd/-/Chohan Bahadur
Sd/-/Chohan Bahadur

11/11/83
[Handwritten Signature]

B-7-10

Government of N.W.F.P.
Finance Department
No.SO(FR)10-22(B)/2005
Dated: 01-10-2007

The Secretary to Govt. of NWFP
Schools & Literacy Department

Subject: UP-GRADATION OF VARIOUS POSTS OF
TEACHERS/CAREER STRUCTURE IN SCHOOLS &
LITERACY DEPARTMENT GOVERNMENT OF N.W.F.P.

Sir,

I am directed to refer to your letter No.SO(G)S&L/1-47/2007 dated 01-10-2007 on the subject noted above and to inform that the Chief Minister NWFP has been pleased to up-grade various posts of teachers in Schools & Literacy Department N.W.F.P. as per details given below in respect of those incumbents who acquire or possess the qualification and experience mentioned against each with immediate effect.

S.#	Designation/Existing Pay Scale	Qualification	Revised Pay Scale
1.	Primary School Teacher (PST), BPS-07	B.A/B.Sc. at least 2 nd Division with PTC/Diploma in Education	09
2.	PST with requisite experience renamed as Head Teacher/Head Mistress of Primary School BPS-07	On the basis of 10 years service experience as Primary School Teacher in BPS-09	12
3.	C.T BPS-09	B.A/B.Sc. at least 2 nd Division with Diploma in Education/CT	15
4.	AW/CT (Technical)/Industrial Arts/Home Economics BPS-09	B.A/B.Sc. at least 2 nd Division with Diploma in Education/ Certificate from Directorate of Curriculum & Teachers Education NWFP Abbottabad in Agro. Tech./ Industrial Arts/Home Economics	15
5.	D.M. BPS-09	B.A/B.Sc. at least 2 nd Division with Drawing Master Course	15
6.	PET BPS-09	B.A/B.Sc. at least 2 nd Division with JDPE	15
7.	Qari/Qaria BPS-07	Hafiz-u-Quran with SSC at least 2 nd Division and Sanad in Qir'at	12
8.	SST/SST Tech/Agri: with requisite experience renamed as Sr. SST/Sr. SST Tech/Sr. SST Agri BPS-16	M.A/M.Sc. at least 2 nd Division with B.Ed./M.Ed./M.A Edu. or equivalent qualification	17
9.	Librarian BPS-16	M.Sc. at least 2 nd Division in (LIT)	17
10.	Librarian BPS-16	Master degree in Library Science at least 2 nd Division	17

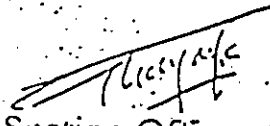
2. The Promotion/Direct Recruitment against the upgraded posts shall be made as per laid down procedure and in accordance with the Service Rules to be framed pursuant to the relevant provisions of the NWFP Civil Servants (Appointment, Promotion & Transfer) Rules-1959 read with the NWFP Civil Servants Act, 1973 in the light of the

ATTESTED

12/10

meeting held on 26-09-2007 of the committee constituted vide Schools & Literacy
Department Notification No.SO(G)/S&L/1-17/2007 dated 01-08-2007.

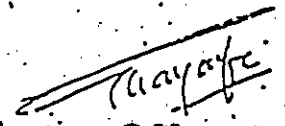
Audit copy may please be prepared and sent to this Department for
authentication/signature.


Section Officer (FR)

Encl: of even No. & Date.

Copy for information & necessary action to:

1. Accountant General NWFP
2. Director Schools & Literacy NWFP Peshawar
3. Director of Education FATA NWFP Peshawar
4. PSO to Chief Minister NWFP
5. PSO to Chief Secretary NWFP
6. PS to Secretary Finance Department NWFP
7. All District/Agency Accounts Officers in NWFP


Section Officer (FR)



GOVERNMENT OF NWFP
FINANCE DEPARTMENT

(REGULATION WING)

Dated Peshawar, the 26th January, 2008.

NOTIFICATION

NO.FD/SO(FR)10-22/2007. In supersession of this Department's letter No.SO(FR)10-22(B)/2007 dated 01-10-2007 and in pursuance of the decisions of the meeting held under the Chairmanship of Secretary Establishment on 2-1-2008, the Competent Authority is pleased to allow upgradation for the incumbents of the posts as per details given below w.e.f. 1-10-2007:-

S.NO	Existing Designation and Pay Scale	Qualification	Upgraded Scale
1	Primary School Teacher (PST) (BPS-07).	FA/FSc and are trained teachers	BPS-09 (one time only)
2	Primary School Teacher (PST) with requisite experience renamed as Head Teacher/Head Mistress of Primary Schools (BPS-07).	Having 10 years service	BPS-12 (one time only)
3	CT (BPS-09).	BA/BSc and are trained teachers	BPS-15 (one time only)
4	SET (BPS-16)	With at least ten years service Upgradation to the post shall be made through DPC as per laid down procedure	BPS-17
5	Senior Quran Reader (BPS-07)	Hafiz Quran with SSC	BPS-12

SECRETARY TO GOVT. OF NWFP
FINANCE DEPARTMENT

Encl. No. _____ Date given _____

Copy of the above is forwarded for information and necessary action to the:-

- 1) All the Secretaries in NWFP, Peshawar.
- 2) All the DCOs/EDOs Schools & Literacy Department, NWFP.
- 3) Accountant General, NWFP, Peshawar.
- 4) Director Schools & Literacy NWFP, Peshawar.
- 5) Director of Education FATA NWFP, Peshawar
- 6) PSO to Chief Minister, NWFP.
- 7) PSO to Chief Secretary, NWFP.
- 8) PS to Secretary Finance Department, NWFP.
- 9) All District/Agency Accounts Officers in NWFP.

(NAIB KHAN)
SECTION OFFICER (FR)

ATTENDED

C-9
Handwritten signatures and notes in Urdu, including "Attested by Amjad Ali Adhokeri" and "Maddur".

D-10

GOVERNMENT OF NWFP
FINANCE DEPARTMENT

(Regulation Wing).

NO.FD/SO(FR)/10-22/2007
Dated Peshawar, the 21.04.2008

To

All the Secretaries Govt. of NWFP.

Subject:- NOTIFICATION
Dear Sir.

I am directed to refer to this Department's Notification bearing No.FD/SO(FR)10-22/2007, dated 26.01.2008 and to state that S.No.3 & 4 mentioned in the above quoted notification may be read as under:-

*Attested
Amad Ali
Addl. Secy
Mardan*

(Signature)

S.NO	Existing Designation and Pay Scale.	Qualification	Upgraded Scale
3	All CT (BPS-09).	BA/BSc and are trained teachers	BPS-15 (one time only)
4	SETs (BPS-16)	With at least ten years service. Upgradation to the post shall be made through DPC as per laid down procedure.	BPS-17 (one time only)

Yours faithfully,

(Signature)

(NAIB KHAN)
SECTION OFFICER(FR)

ENDST: NO & DATE EVEN.

Copy of the above is forwarded for information and necessary action to:-

- 1) All the DCOs/EDOs Schools & Literacy Department, NWFP.
- 2) Accountant General, NWFP, Peshawar.
- 3) Director Schools & Literacy NWFP, Peshawar.
- 4) Director of Education FATA NWFP, Peshawar.
- 5) PSO to Chief Minister, NWFP.
- 6) PSO to Chief Secretary, NWFP.
- 7) PS to Secretary Finance Department, NWFP.
- 8) All District/Agency Accounts Officers in NWFP.

ATTESTED

(Signature)

(Signature)

(Signature)

2155
7/8/08

(Signature)
SECTION OFFICER(FR)

(Signature)



GOVERNMENT OF NWFP
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT

Dated 20-01-2010.

NOTIFICATION

No.SO(PIE)2-6/SET(B-16)Upgradation to B-17: The Competent Authority on the recommendation of Departmental Promotion Committee is pleased to allow up gradation from B-16 to B-17 (Personal) to the following 168 SETs Male, 20 SETs Female and 02 SETs (Technical) Male with immediate effect subject to the condition that the posts of SET shall be downgraded from B-17 to B-16 as and when vacated by the incumbents:

168 MALE SETs

S.No.	Seniority List No.	Name of Officer & Present Place of Posting
1.	950	Ismail Khan SET GMS Goen, Orakzai Agency
2.	998	Jamal Ahmad Mirza SET GHS No. 5, D.I.Khan
3.	1046	Ijaz Ahmad SET GHS Chah Habib Ullah Mansehra
4.	1185-A	Mohammad Yaqoob, SET GMS Din Mohammad, FR Tank
5.	1185-B	Nasrullah Jan, SET GHS Bagu Khel Lakki
6.	1284-A	Hayat Ullah SET GHS Kanum Ali Khel FR Bannu
7.	1297	Muhammad Aurangzeb SET GHS Shahgi Mansehra
8.	1363	Hamza Gul SET, GHS No. 3 Kohat
9.	1474	Ahmad -ud- Din SET GHS Khair Kot Wana
10.	1477	Mohammad Yasir SET GHS Birclo A.Abad
11.	1640-A	Rashood Ahmad SET GHS Oghi Mansehra
12.	1693 A	Abdul Wahid SET GHS Barghat FR Bannu
13.	1728-A	Gulzar Ahmad SET - GHS Tarbela Haripur
14.	1887	Muntazir Hussain Shah SET Havai A.Abad
15.	1905-A	Haji Yousaf Jan SET GMS Landaki Charsadda
16.	1905-C	Sardar Azam SET GHS Shah gram Chitral
17.	2013-A	Raza Muhammad, SET GMS Wachu Dara Swat
18.	2022-A	Hassan Faris SET GMS Tarkhuba Khurd FR Bannu
19.	2022-B	Ghulam Jan, SET GHS Sam Swat
20.	2052-A	Mubarak Khan SET GHS Raghia Kalla MWA
21.	2123-A	Fazal Karim SET GMS Azizur Rehman Hill FR-Peshawar
22.	2139(1)	Doctor Wali, SET GHS Rishan Chitral
23.	2139(2)	Naeem ur Rehman SET GMS Lachkoshi, Chitral
24.	2139(3)	Mohammad Kama-ud-Din SET GMS Jaghoor, Chitral
25.	2139(4)	Rajuli Khan SET GHS Kujri Chitral
26.	2139(5)	Zia-ud-Din SET GMS Chitral

ATTESTED

BEFORE THE NWFP SERVICE TRIBUNAL, PESHAWAR.

Appeal No. 266 of 2009

Date of Institution. ... 18.07.2009
Date of Decision ... 03.07.2009

Haroon Rashid S/O Ghulam Sarwar near Masjid Mohallah Ram Bagh Mardan
(SET Government Central Model High School Bank Road, Mardan). (Appellant)

Attested
Amjad Ali
Advocate
Mardan
F-13

VERSUS

1. The Secretary Elementary & Secondary Education Department Government of NWFP, Peshawar.
2. The Chief Secretary, Government of NWFP Peshawar. (Respondents)

APPEAL UNDER SECTION 4 OF THE NWFP SERVICE TRIBUNAL ACT, 1974, TO THE EFFECT THAT NOTIFICATION NO. SO(PE)2-6/E&S/UPGRADATION/SET DATED 27.9.2008 TO THE EXTENT OF ALLOWING ONE TIME UPGRADATION FROM B-16 TO BPS-17 TO THE SETS INCLUDING APPELLANT WITH IMMEDIATE EFFECT I.E. 27.9.2008 INSTEAD OF 01.10.2007.

MR. ADAM KHAN,
Advocate.

For appellant.

MR. JAMAL ABDUL NASIR,
Addl. Government Pleader,

For respondents.

MR. JUSTICE (R) SALIM KHAN,
MR. ABDUL JALIL KHAN,

CHAIRMAN
MEMBER.

JUDGMENT

JUSTICE (R) SALIM KHAN, CHAIRMAN. The legal issues in Service Appeals Nos. 255 to 282 of 2009 (17 cases), in Service Appeals Nos. 213 to 219 and 429 to 431 of 2009 (10 cases) as well as in Service Appeal No. 200 of 2009, are similar, and need discussion and disposal at the same time. The learned counsel for the appellants in the first set of 17 cases, the learned counsel for the appellants in second set of 10 cases and the special attorney of the appellant in single case No. 200 of 2009 and the A.G.P explained the cases.

2. Haroon Rashid, appellant contended that he was SET BPS-16. The Finance Department issued the Notification No. FD/SO(FR)10-22(B)/2005, dated 26.1.2008, vide which upgradation of various posts of teachers in the Education Department was ordered. It included the incumbents of posts of S.E.T with at least 10 years service, subject to the recommendations of the Departmental Promotion

107

(13) (14)

Committee. Vide order dated 27.9.2008, upgradation was allowed to the appellant with immediate effect instead of 1.10.2007. The cases of the other appellants are almost the same, though the cases in the second set also contained the contention that imposition of restriction of one time and personal was illegal, against law and facts. The appellant of Service Appeal No. 200 of 2009 contended that she was posted as SET (BPS-17) but grant of upgradation was delayed upto 27.9.2008, and it was granted to her with immediate effect, instead of the due date.

3. The respondents contested the appeal. They submitted that the grant of upgradation was for one time only with atleast 10 years service, and the condition of processing the cases through the Departmental Promotion Committee was part and parcel of the notification, vide which the appellants claimed the facility.

4. We heard the arguments and perused the record as aforementioned.

5. The notification dated 26.1.2008 clearly shows that the Authority was pleased to allow upgradation for the incumbents of the posts w.e.f. 01.10.2007. Vide order dated 27.9.2008, certain persons were granted upgradation, but with immediate effect and subject to the condition that these upgradations were personal, and the posts shall be degraded from BPS-17 to BPS-16 when these are vacated by the present incumbents.

6. It was the prerogative of the Government to grant upgradation for one time only, though to all civil servants of the Education Department who had the requisite qualification on the date of issue of the above mentioned notification dated 26.1.2008. It was also the prerogative of the Provincial Government to withdraw the said order on the same date for the purposes of all those persons who were not qualified for upgradation of their posts on 26.1.2008. The Government had the power to declare that the posts shall stand upgraded for the purposes of their incumbents only, and not perpetually.

7. The above mentioned notification had clearly declared that the upgradation would be effected from 01.10.2007. The Departmental Promotion Committee had to take time in processing the cases of incumbents of the posts in order to check whether they had the required length of service, and they were otherwise eligible for upgradation through their service record. But it did not mean

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that the Departmental Promotion Committee could change the contents of the notification itself, specially with respect to its effectiveness. It is not the job of the Departmental Promotion Committee to fix the date of promotion/upgradation prospectively, when the notification had declared the date of effectiveness from a previous certain date, or when a vacancy was available for a certain civil servant from a previous date. It was the authority of the Appointing Authority to antedate the upgradation as, as the case may be, to the respective date mentioned by the notification, or availability of the vacancy. That date is 01.10.2007 in the present cases, which could not be changed by the D.P.C, or, even, by the Appointing Authority.

8. In the light of the above, we accept all the above mentioned appeals to the extent that the upgradation of their respective posts and their appointment to those posts shall be declared effective from 01.10.2007, though such upgradation and posting shall be one time only and shall be personal to the appellants, and their similarly placed colleagues, as per the contents of the notification quoted above. Parties are left to bear their own costs!!

ANNOUNCED
03.7.2009

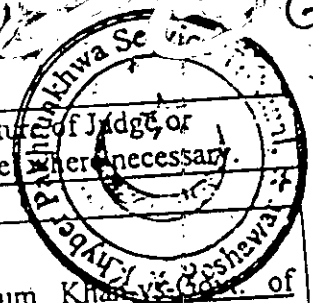
Sd/- Jai Shree Lal Jain Chairman
Sd/- Akhilesh Jain Member

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ANNOUNCED

19

G-16



S.No.of Order or proceedings	Date of Order or proceeding	Order or other Proceedings with Signature of Judge or Magistrate and that of parties or counsel where necessary.
1	2	3
04	23.02.2010	<p>Appeal No. 41/2010 (Hukum Khawar vs. Govt. of NWFP through Secretary Education, Peshawar and another).</p> <p>Appellant with counsel present and heard.</p> <p>Though the appeal was argued at the preliminary stage, yet in the light of decision of this Tribunal dated 3.7.2009 in Appeal No.266/2009 titled 'Haroon-ur-Rashid vs-Secretary Elementary & Secondary Education Department, Government of NWFP, Peshawar and another; and in view of consistent view of the august Supreme Court of Pakistan as reflected in the case reported as 2005 SCMR 499 (Supreme Court of Pakistan) and other reported cases, it is proposed to dispose of this appeal as well as similar nature appeals, listed below, vide this single order:-</p>

S.No.	Appeal No.	Name of appellant
1.	42/2010	Muhammad Irshad
2.	43/2010	Abdul Waheed
3.	44/2010	Muhammad Farid
4.	45/2010	Muhammad Saeed
5.	46/2010	Muhammad Saleem
6.	47/2010	Muhammad Tanvir
7.	48/2010	Khalid Mehmood
8.	49/2010	Muhammad Riaz
9.	50/2010	Syed Amjad Ali Shah
10.	51/2010	Gulab Shah
11.	52/2010	Rahimullah
12.	53/2010	Said Zada
13.	54/2010	Muhammad Saeed
14.	55/2010	Bakht Sher Hussain
15.	56/2010	Mujahid Hussain
16.	57/2010	Abdur Rashid
17.	58/2010	Attaullah
18.	59/2010	Amir Rehman
19.	60/2010	Saleh Muhammad
20.	61/2010	Muhammad Tahir
21.	62/2010	Johar Ali
22.	63/2010	Wahitab Gul
23.	64/2010	Bakht Nawab
24.	65/2010	Qabil Shah
25.	66/2010	Waheed-uz-Zaman
26.	67/2010	Muhammad Usman
27.	68/2010	Muhammad Hanif
28.	69/2010	Muhammad Sarfraz
29.	70/2010	Naeemul Hassan

ATTESTED.

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

ATTESTED

30.	71/2010	Bashir Ahmad
31.	72/2010	Muhammad Nacem
32.	73/2010	Wali Dad.
33.	74/2010	Muhammad Nazir
34.	75/2010	Javed Iqbal
35.	76/2010	Rustam Khan
36.	77/2010	Muhammad Javed
37.	78/2010	Nisar Ahmad Lodhi
38.	79/2010	Ali Mullah Hiran
39.	80/2010	Abdur Rauf
40.	81/2010	Behramand
41.	82/2010	Fazli Raziq
42.	83/2010	Muhammad Zubair
43.	84/2010	Abdul Waheed
44.	85/2010	Noor-ul-Jamil
45.	86/2010	Muhammad Nisar
46.	87/2010	Shamsur Riaz
47.	88/2010	Muhammad Parvez
48.	89/2010	Zahoor Akhtar
49.	90/2010	Shah Jehan
50.	91/2010	Muhammad Karim
51.	92/2010	Abdullah
52.	93/2010	Majid Ghufan

The appellant, who was appointed as SET in BPS-16 is seeking upgradation to BPS-17 w.e.f. 01.10.2007, in the light of Notification dated 26.01.2008, instead of upgradation with immediate effect vide Notification dated 27.9.2008. The appellant has further assailed the impugned Notification dated 27.9.2008 on the ground of one time upgradation and that, too, personal to the appellant. The appellant has further prayed for one advance increment on account of upgradation and treating the upgradation as regular promotion for the purpose of further promotion to BPS-18, 19 and 20.

So far upgradation with effect from 01.10.2007 in the light of Notification dated 26.1.2008 is concerned, the matter stands resolved through the above referred decision of the Tribunal dated 3.7.2009 in Appeal No. 266/2009, whereby, similar nature appeals were disposed of with the following order:-

"In the light of the above, we accept all the above mentioned appeals to the extent that the

ATTESTED

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EXAMINER
Khyber P. Tankhwa
Service Tribunal,
Peshawar

upgradation of their respective posts and their appointment to those posts shall be declared effective from 01.10.2007, though such upgradation and posting shall be one time only and shall be personal to the appellants, and their similarly placed colleagues, as per contents of the notification quoted above. Parties are left to bear their own costs".

It would be seen from the perusal of the above reproduced order of the Tribunal that the issues of one time upgradation and the upgradation personal to the appellants was also resolved; but the appellant has placed on file Notification dated 19.10.2009, which has obviously been issued after the above referred decision, showing the withdrawal of the condition of 'one time only' from the Notification dated 21.4.2008. As regards the grant of premature advance annual increment on promotion/upgradation, suffice it to say that the department will have no other option but to grant premature advance annual increment if admissible under the rules on upgradation of the appellants. So far treating the upgradation as regular promotion, the learned counsel for the appellants would not press this issue in view of the prevailing legal position.

In view of the above, when the Tribunal had already resolved the issue of declaring the upgradation effective from 01.10.2007 and had directed the department to also grant the upgradation from that particular date to the similarly placed colleagues of the appellants, the department should have acted accordingly and should have extended the benefit to the appellant, and appellants in the connected appeals, instead of forcing them to move the appeals for the rights already adjudicated in their favour by the Tribunal. In such like situations, it has been the consistent view of the august Supreme Court of Pakistan that:

ATTESTED

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ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

“When .. Tribunal or Court decides a point of law relating to the terms of service of a civil servant which covered not only the case of civil servants who litigated, but also of other civil servants, who might have not taken any legal proceedings, the dictates of justice and rule of good governance demand that the benefit of the decision be extended to other civil servants, who might not be parties to the litigation instead of compelling them to approach the Tribunal or any other legal forum.” (2005 SCMR 499-Supreme Court of Pakistan).

Consequently, the appeal, and all the above listed appeals, are accepted in limine, with direction to the respondent-department to immediately, without further loss of time, declare the upgradation of the respective posts of the appellants and their appointment to those posts effective from 01.10.2007, with all consequential benefits in accordance with the decision of the Tribunal dated 3.7.2009, relevant rules and Notifications, including Notification of the Finance Department dated 19.10.2009. No order as to costs.

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
S...

ANNOUNCED
23.02.2010

(QALANDAR ALI KHAN)
CHAIRMAN

H-18



GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT
Dated Peshawar the 03-11-2010.

NOTIFICATION.

No. SO(PE)2-6/DPC/Up-Gradation SETs BS-16 to BS-17. In pursuance of Judgement of Khyber Pakhtunkhwa, Services Tribunal Peshawar, the Competent Authority is pleased to up-grade 2804 posts of SETs in E&SE Department KPK from BPS-16 to BPS-17 as personal to the incumbents with effect from 01-10-2007 subject to the condition that the posts shall automatically be downgraded as and when vacated by the incumbents under the following break up:-

S.No.	Posts	Total No. of Posts.
1	SETs (Male)	2333
2	SETs (Female)	46
3	SETs (Technical)/Commerce	25
	Total:-	2804

SECRETARY TO GOVT. OF
KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY
EDUCATION DEPARTMENT

Endsl. No. SO(FR)FD/10-22(B)/2007/Vol.II Dated Peshawar the. 03-11-2010

1. Copy forwarded to the Accountant General, Khyber Pakhtunkhwa, Peshawar for information & necessary action.

Fnd
SECTION OFFICER (FR)
FINANCE DEPARTMENT.

Endsl. No. & Date as above.

Copy forwarded to:-

1. The Secretary to Governor, Governor's Secretariat (FATA) Khyber Pakhtunkhwa
2. The Secretary to Govt. of Khyber Pakhtunkhwa, Establishment & Admn. Department.
3. The Secretary to Govt. of Khyber Pakhtunkhwa, Finance Department w/r to his letter No. SO(FR)FD/10-22(B)/2007/Vol-II dated 14-10-2010.
4. All Directors of Education (E&SE) in Khyber Pakhtunkhwa including Director (FATA).
5. All Executive District Officers Elementary & Secondary Education in Khyber Pakhtunkhwa.
6. All Agency Education Officers in Khyber Pakhtunkhwa
7. All District Accounts Officers, in Khyber Pakhtunkhwa
8. All Agency Accounts Officers in Khyber Pakhtunkhwa
9. Section Officer (FR) Finance Department w/r to his letter No. SO(FR)FD/10-22(B)/2007/Vol.II dated 14-10-2010.
10. P.S to Secretary E&SE Department
11. P.S to Additional Secretary E&SE Department
12. P.A to Deputy Secretary E&SE Department

ATTESTED

(MUJEEB UR-RAHMAN)
SECTION OFFICER (PRIMARY)

MJ

Attested

The Honorable Secretary (E&SE) Department,
Khyber Pakhtunkhwa Peshawar.

Subject:

**DEPARTMENTAL APPEAL FOR THE GRANT OF
UPGRADATION WITH RETROSPECTIVE
EFFECT i.e. 1.10.2007 INSTEAD OF 20.1.2010**

Respected Sir,

Appellant submitted as under:-

- 1- That appellant was appointed as a SET teacher on 2-10-1983 and placed in BPS-16.
- 2- That respondent (Finance Department Govt. of NWFP) issued notifications dated 26-01-2007 and 26.1.2008 for up gradation of post of SET.
- 3- That in consequence of said Notifications, appellant is allowed up-gradation of posts with immediate effect instead of 01-10-2007 vide Notification dated 20-01-2010. That appellant is equipped with the requisite qualification as envisaged in the Notification for up-gradation of posts.
- 4- That as per Judgment dated 03.7.2008 and 23-02-2010 of the Hon'ble Tribunal numerous appeals up-gradation has been granted w.e.f 01-10-2007.
- 5- In such like situations, it has been consistent view of the August Supreme Court of Pakistan that: "When tribunal or Court decided a point of law relating to the terms of services of a civil servant which covered not only the case of civil servants who litigated, but also of other civil servants, who might have not taken any legal proceedings the dictates of justice and rule of good governance demand that the benefit of the decision be extended to other civil servants who might not be parties of the litigation instead of compelling them to approach the Tribunal or any other legal forum" (2005 SCMR 499).

It is therefore humbly requested that on acceptance of this appeal the appellant may be granted up-gradation w.e.f -01-10-2007 instead of 20-01-2007.

Dated: 22.5.2013

Attested
[Signature]

APPELLANT
[Signature]
MUHAMMAD QAVI KHAN
SET, GHS Sijbanr Swat

VAKALATNAMA

IN THE COURT OF KPK Service Tribunal Peshawar.

OF 2013

Muhammad Qavi Khan

(APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

Govt. of KPK

(RESPONDENT)
(DEFENDANT)

I/We Muhammad Qavi Khan

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

Dated. ____/____/2013.



CLIENT



ACCEPTED
NOOR MOHAMMAD KHATTAK
(ADVOCATE)

OFFICE:

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

Phone: 091-2211391

Mobile No.0345-9383141

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No.1356/13

Muhammad Qavi Khan, S.E.T, GHS, Koghozi Swat..... **Appellant**

VERSUS

i. Chief Secretary, Khyber Pakhtunkhwa & Others..... **Respondent**

Para Wise Comments for and on behalf of the Respondents.

**Respectfully Sheweth,
Preliminary Objections.**

1. The appellant has no cause of action/ locus standi.
2. The instant appeal is badly time barred.
3. The appellant has concealed the material facts from this Hon 'able Tribunal, hence liable to be dismissed.
4. The appellant has not come to this Hon 'able court with clean hands.
5. The appellant has filed the instant appeal just to pressurize the Respondents.
6. The present appeal is liable to be dismissed for non joinder / misjoinder of necessary parties.
7. The appellant has filed the instant appeal on malafide motives.
8. The instant appeal is against the prevailing law and rules.
9. The appellant is estopped by his own conduct to file the instant appeal.
10. The instant appeal is not maintainable in the present form and also in the present circumstances of the issue.

FACTS.

1. This para is related to the appellant. However, it would not be out of context to mention here that according to annexure-A of the appeal the appellant was appointed on fixed pay. While the appellant did not mention, when did *he* complete ten years regular service against the SET (B-16) post i.e the date of Promotion to (BS-17).
2. The appellant was allowed up-gradation to (B-17) with immediate effect according to the rules on the subject (Annexure-A).
3. This para pertains to court record, hence no comments.
4. Incorrect. The appellant has no reason to be aggrieved. While the departmental appeal (annexed with the appeal) not diarized. Hence the whole para is denied.
5. The present appeal is liable to be dismissed inter alia on the following grounds:-


ON GROUNDS.

- A. Incorrect and not admitted. Granting the benefits of up-gradation to appellant is in accordance with law, rules, facts, natural justice and materials on the record.
- B. Incorrect. The appellant has not accrued valuable rights as claimed in the present appeal. Hence denied.
- C. Incorrect and not admitted. The appellant has been treated in accordance with law and rules on the subject, mentioned above.

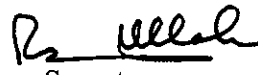
D. Incorrect and not admitted. The statement of the appellant in this para is without any legal documentary proof, hence denied.

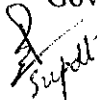
E. That the respondents seek the permission of this Honourable Tribunal to adduce more grounds and proofs at the time of hearing.

In view of the above made submissions, it is requested that this Honourable Court may very graciously be pleased to dismiss the present appeal with cost in favour of the Respondents.


Secretary,
Elementary & Secondary Education,
Department.

(For on behalf of Respondents No. 1 & 2)


Secretary
Govt. of Khyber Pakhtunkhwa
Finance Department.


Suppl

within a period of six months from such recommendations, they would lapse. The case of such civil servant would require placement before the PSE/DPC afresh.

→ VI.

Date of Promotion:

Promotion will always be notified with immediate effect.

VII.

Notional Promotion:

In respect of civil servants who retire (or expire) after recommendation of their promotion by the PSE/DPC, but before its approval by the competent authority, their promotion shall be deemed to have taken effect from the date of recommendation of the PSE/DPC, as the case may be, and their pension shall be calculated as per pay which they would have received had they not retired/expired.

VIII.

Promotion of Civil Servants who are awarded minor penalties.

- (a) The question of promotion to BS-18 and above in case of civil servants who have been awarded minor penalties has been settled by the adoption of quantification of PERs and CEI which allows consideration of such cases for promotion subject to deduction of 5 marks for each major penalty, 3 marks for each minor penalty and 1 mark for each adverse PER from the quantified score and recommendation for promotion on attaining the relevant qualifying threshold.
- (b) However, the CEI policy is not applicable to civil servants in BS-16 and below. In this case, the concerned assessing authorities will take into consideration the entire service record with weightage to be given for recent reports and any minor penalty will not be a bar to promotion of such a civil servant.

IX.

Promotion in case of pending investigations by NAB:

If there are any NAB investigations being conducted against an officer, the fact of such investigations needs to be placed before the relevant promotion fora which may take a considered decision on merits of the case.

2. All the existing instructions on the subject shall stand superseded to the above extent, with immediate effect.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No.1356/13

Muhammad Qavi Khan, S.E.T, GHS, Koghozi Swat.....Appellant

VERSUS

i. Chief Secretary, Khyber Pakhtunkhwa & Others..... Respondent

Para Wise Comments for and on behalf of the Respondents.

**Respectfully Sheweth,
Preliminary Objections.**

1. The appellant has no cause of action/ locus standi.
2. The instant appeal is badly time barred.
3. The appellant has concealed the material facts from this Hon 'able Tribunal, hence liable to be dismissed.
4. The appellant has not come to this Hon 'able court with clean hands.
5. The appellant has filed the instant appeal just to pressurize the Respondents.
6. The present appeal is liable to be dismissed for non joinder / misjoinder of necessary parties.
7. The appellant has filed the instant appeal on malafide motives.
8. The instant appeal is against the prevailing law and rules.
9. The appellant is estopped by his own conduct to file the instant appeal.
10. The instant appeal is not maintainable in the present form and also in the present circumstances of the issue.

FACTS.

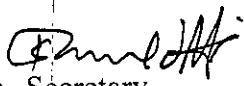
1. This para is related to the appellant. However, it would not be out of context to mention here that according to annexure-A of the appeal the appellant was appointed on fixed pay. While the appellant did not mention, when did appellant complete ten years regular service against the SET (B-16) post i.e the date of Promotion to (BS-17).
2. The appellant was allowed up-gradation to (B-17) with immediate effect according to the rules on the subject (Annexure-A).
3. This para pertains to court record, hence no comments.
4. Incorrect. The appellant has no reason to be aggrieved. While the departmental appeal (annexed with the appeal) not diarized. Hence the whole para is denied.
5. The present appeal is liable to be dismissed inter alia on the following grounds:-

ON GROUNDS.

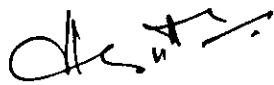
- A. Incorrect and not admitted. The granting the benefits of up-gradation to appellant is in accordance with law, rules, facts, natural justice and materials on the record.
- B. Incorrect. The appellant has not accrued valuable rights as claimed in the present appeal. Hence denied.
- C. Incorrect and not admitted. The appellant has been treated in accordance with law and rules on the subject, mentioned above. ~~While other contents of this para is false against facts, law, rules on the subject and based on malafide intentions.~~

- D. Incorrect and not admitted. The statement of the appellant in this para is without any legal documentary proof, hence denied.
- E. That the respondents seek the permission of this Honourable Tribunal to adduce more grounds and proofs at the time of hearing.

In view of the above made submissions, it is requested that this Honourable Court may very graciously be pleased to dismiss the present appeal with cost in favour of the Respondents.


 Far Secretary,
 Elementary & Secondary Education,
 Department.

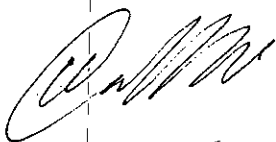
~~AG~~ please vet.



16-9-14


~~Asst~~ A.G.

vetted subject to correction, Annexures, affidavits, -
 enclosing all the relevant
 documents of the appellant case,
 mentioned in the comments.


 Asst AG. 16/9/14

~~Approved by~~ AAG.

Vetted subject to the
 conditions mentioned above


 9-14
 Addl: Advocate General
 (Service Tribunal) K.P.K
 Peshawar.

GROUND:
(A TO G):

All the grounds of main appeal are correct and in accordance with law and prevailing rules and that of the respondents are incorrect and baseless hence denied. That the action of the respondents is against the law, facts and norms of natural justice. That valuable right been accrued to appellant and the same can not be snatched away from the appellant in such like manner. That appellant was duly entitled to the benefits of up-gradation w.e.f 01-10-2007 in the light of the August Tribunal judgments dated -3-07-2008 and 23-02-2010 but the appellant has been unlawfully deprived from his due right. That it is very pertinent to mention that the appellant has more than 10 years regular service on his credit.

It is therefore most humbly prayed that on acceptance of this rejoinder the appeal of the appellant may be accepted as prayed for.

APPELLANT



MUHAMMAD QAVI KHAN

THROUGH:



NOOR MUHAMMAD KHATTAK
ADVOCATE

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. 1356/2013

M. QAVI KHAN

VS

EDUCATION DEPTT:

REJOINDER ON BEHALF OF APPELLANT IN
RESPONSE TO THE REPLY SUBMITTED BY
THE RESPONDENTS

R/ S. HEWETH:

8 1/8

PRELIMINARY OBJECTIONS:

(1 TO 5):

All the preliminary objections raised by the respondents are incorrect and baseless and not in accordance with law and rules rather the respondents are estopped due to their own conduct to raise any objection at this stage of the appeal.

ON FACTS:

- 1- Admitted correct, hence need no comments.
- 2- Incorrect and not replied accordingly. That in light of the Notification dated 01-10-2007 and subsequent Notifications dated 26-01-2008 and 21-04-2008 the appellant is fully entitled for the grant of up gradation w.e.f. 1.10.2007. That it is very pertinent to mention that other colleagues of the appellant has been awarded up-gradation w.e.f. 1.10.2007 but in the case of appellant the appellant was awarded up gradation with immediate effect, therefore the same is not tenable in the eye of law.
- 3- Incorrect and not replied accordingly hence denied.
- 4- Incorrect and not replied accordingly. That feeling aggrieved from the impugned order dated 20-01-2010 appellant filed Departmental appeal before the competent authority but no reply has been received so far. Moreover the appellant is entitled for the grant of up gradation w.e.f. 1.10.2007 under the principle of consistency.
- 5- Incorrect and not replied accordingly hence denied.