


Appeal No. 754/2013,
Murtaza Khan vs Govt

01.07.2019

Counsel for the appellant and Mr. Ziaullah, Deputy District Attorney for the respondents present. Learned counsel for the appellant furnished promotion order of the appellant whereby the competent authority vide order dated 28.05.2014 promoted the appellant. As per learned counsel for the appellant, the promotion order has been passed by the competent authority therefore, the present service appeal has become infructuous. Accordingly, the present service appeal being infructuous is ~~disposed~~ ^{dismissed} of. File be consigned to the record room.

ANNOUNCED

01.07.2019


(HUSSAIN SHAH)
MEMBER


(M. AMIN KHAN KUNDI)
MEMBER

09.04.2019

Appellant in person present. The appellant was confronted with the identical nature service appeal of Daud Jan Stenographer bearing No.392/2013 dismissed vide judgment dated 20.07.2018. Appellant seeks adjournment for further assistance as his counsel is not available. Adjourn. To come up for further proceedings on 29.04.2019 before D.B.


Member


Member

29.04.2019

Learned counsel for the appellant and Mr. Muhammad Jan learned Deputy District Attorney for the respondents present. Learned counsel for the appellant seeks adjournment for further assistance. Adjourn. To come up for arguments on 31.05.2019 before D.B.



Member


Member

31.05.2019

Counsel for the appellant and Mr. Riaz Paindkhel learned Assistant Advocate General alongwith Mr. Jan Ayaz Assistant for the respondents present. Counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 01.07.2019 before D.B.


(Hussain Shah)
Member


(M. Amin Khan Kundi)
Member

Directorate of Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar.

Notification.

Consequent upon the approval of the Departmental Promotion Committee (DPC) meeting held on 20/5/2014, the following Junior Scale Stenographer B-14 of Elementary & Secondary Education Department are hereby promoted/adjusted as Senior Scale Stenographer B-16 on regular basis in the interest of public service with immediate effect.

S.No	Name & Desig:	F. Name	Address	Posted at	
1	Muhammad Khalid Junior Scale Stenographer	Dost Muhammad	DEO (M) D.I.Khan	Senior Scale Stenographer B-16 at Directorate E&SE Khyber Pakhtunkhwa Peshawar.	Against vacant post
2	Wisal Muhammad Junior Scale Stenographer	Faqir Muhammad	Directorate E&SE Khyber Pakhtunkhwa Peshawar.	Senior Scale Stenographer B-16 at Directorate E&SE Khyber Pakhtunkhwa, Peshawar.	Against vacant post
3	Murtaza Khan Junior Scale Stenographer	Sardar Kan	GATTC Gulbahar Peshawar.	Senior Scale Stenographer B-16 at Directorate of Education (FATA) Peshawar.	Against vacant post

Note:

1. Charge report should be submitted to all concerned.

(Muhammad Rafiq Khattak)

DIRECTOR

Elementary & Secondary Education
Khyber Pakhtunkhwa, Peshawar

Endst: No. 3973-83/A-23/MS/Promotion/Stenographer/2014.

Dated Peshawar the 28/5/2014.

Copy of the above is forwarded to the: -

1. PS to Minister for Elementary & Secondary Education Department Khyber Pakhtunkhwa.
2. PS to Secretary Govt of Khyber Pakhtunkhwa Elementary & Secondary Education Department.
3. Director Curriculum & Teachers Education Khyber Pakhtunkhwa Abbottabad.
4. Director of Education (FATA) Peshawar.
5. Accountant General Khyber Pakhtunkhwa Peshawar.
6. District Accounts Officers concerned.
7. Officials concerned.
8. PA to Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.
9. PA to Additional Directors (Estt:) & (Dev) Local Office.
10. Master File.

M. Rafiq Khattak
Assistant Director (Admn)

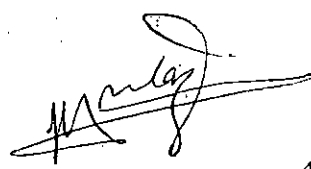
Directorate of E&SE K.P, Peshawar

28/5/14

Arrival Report

In compliance with the orders issued by Director, Elementary and Secy, Education K.P.K. Peshawar under his order No 3973-83/A-23/MS/Promotion/2014, dated 28/5/2014. I hereby submit my arrival to-day i.e. 28/5/2014, under protest.

Date, 28/5/2014


Murtaza Khan
Sikandarpur,
GATTS, Peshawar

AO / BAO


03/6

CERTIFICATE OF TRANSFER OF CHARGE.

1. Certified that we have on the afternoon of this day respectively made over and received charge of this office of the Directorate of Education (FATA Peshawar against the vacant post of Senior Scale Stenographer vide Director of Education & Secondary Education Notification Endst: No. 3973-83/A-23/MS/Promotion/ Stenographer/2014 dated 28.5.2014.


Station : Peshawar.

Dated 30.5.2014 (A/N).

AO/BFAO
03/6

Signature of relieved
Government Seryant Vacant

Designation Sr. Scale Stenographer

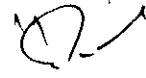
Signature of relieving
Government Servants 

Designation Stenographer

31.01.2019

To come up before proper D.B which heard the arguments, on 04.02.2019.

Member



Member

04.02.2019

Due to rush of work further proceedings in the case in hand could not be conducted. Adjourn. To come up for order on 01.03.2019 before D.B.


Member

Member

01.03.2019

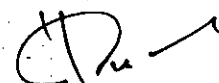
Learned Member (Executive) who heard the arguments is on leave, therefore, the case is adjourned. To come up for further proceedings on 13.03.2019 before D.B.


Member

Member

13.03.2019

Learned Member (Executive) who heard the arguments is indisposed, therefore, the case is adjourned. To come up on 09.04.2019 before D.B


Member

Member

15.10.2018

Clerk to counsel for the appellant and Mr. Zia Ullah learned Deputy District Attorney for the respondent present. Due to general strike of the bar, the case is adjourned. To come up on 16.11.2018 before D.B


Member


Member

16.11.2018

The Hon'able Chairman has not yet been assumed the charge, therefore, the case is adjourned for the same on 07.01.2019 before D.B.


Reader

07.01.2019

Appellant absent. Learned counsel for the appellant absent. Mr. Muhammad Jan learned Deputy District Attorney present. Adjourn. To come up for arguments on 11.01.2019 before D.B.

Member


Member

11.01.2019

Learned counsel for the appellant and Mr. Muhammad Jan learned Deputy District Attorney for the respondents present. Arguments heard. To come up for order on 31.01.2019 before D.B.



Member


Member

09.03.2018

Junior counsel for the appellant and Mr. Muhammad Jan, Deputy District Attorney for the respondents present. Junior counsel for the appellant seeks adjournment on the ground that learned senior counsel for the appellant is not available today. Adjourned. To come up for arguments on 10.05.2018 before D.B.


(Muhammad Amin Khan Kundi)
Member


(Muhammad Hamid Mughal)
Member

10.05.2018


The Tribunal is defunct due to retirement of Hon'ble Chairman. Therefore, the case is adjourned. To come up on 03.07.2018.


READER

03.07.2018

Counsel for the appellant and Mr. Sardar Shoukat Hayat, Additional AG for the respondents present. Learned counsel for the appellant requested for adjournment. Adjourned. To come up for arguments on 17.08.2018 before D.B.


(Ahmad Hassan)
Member


(Muhammad Amin Kundi)
Member

17.08.2018

Junior to counsel for the appellant and Mr. Kabir Ullah Khattak learned Additional Advocate General present. Junior to counsel for the appellant seeks adjournment as senior counsel is not in attendance. Adjourned. To come up for arguments on 15.10.2018 before D.B.


(Muhammad Amin Kundi)
Member


(Muhammad Hamid Mughal)
Member

26.05.2017

Counsel for the appellant present. Mr. Muhammad Jan, Deputy District Attorney for the respondents also present. Learned counsel for the appellant requested for adjournment. Adjourned. To come up for arguments on 13.09.2017 before D.B.

(GUL ZEB KHAN)
MEMBER

(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

13.09.2017

Appellant with counsel present. Mr. Muhammad Jan, Deputy District Attorney for the respondents present. The learned Member Executive, Mr. Gul Zeb Khan is on leave therefore, arguments could not be heard. Adjourned. To come up for arguments on 23.11.2017 before D.B.

23.11.2017

Junior counsel for the appellant present. Mr. Zia Ullah, Deputy District Attorney for the respondents present. Junior counsel for the appellant seeks adjournment due to non availability of his senior counsel. Adjourn. To come up for arguments on 12.01.2018 before D.B.

(Gul Zeb Khan)
Member

(Muhammad Hamid Mughal)
Member

12.01.2018

Junior to counsel for the appellant and District Attorney for respondents present. Clerk to counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 09.03.2018 before D.B.

(Ahmad Hassan)
Member(E)

(M. Hamid Mughal)
Member (J)

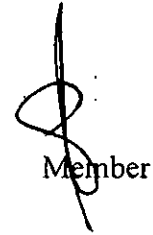
16.08.2016

Mr. Taimoor Khan, Advocate on behalf of the appellant and Mr. Muhammad Jan, GP for respondents present. Counsel for the appellant requested for adjournment as senior counsel for the appellant was busy before Hon'able Service Tribunal at camp court A/Abad. Case is adjourned. To come up for arguments on

23.12.2016.



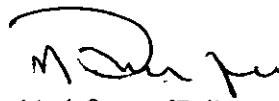
Member



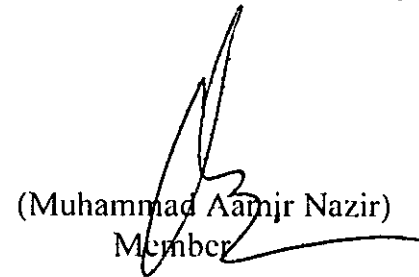
Member

23.12.2016

Counsel for the appellant and Mr. Muhammad Jan, GP for respondents present and submitted some documents which is placed on file. Requested for adjournment. Request accepted. To come up for arguments on 21.02.2017.



(Ashfaque Taj)
Member



(Muhammad Aamir Nazir)
Member

21.02.2017

Junior to counsel for the appellant and Mr. Ziaullah, GP for respondents present. Junior to counsel for the appellant requested for adjournment as senior counsel was busy before Peshawar High Court, Peshawar. Request accepted. To come up for arguments on 26.05.2017.



(AHMAD HASSAN)
MEMBER



(MUHAMMAD AAMIR NAZIR)
MEMBER

5.5.2015

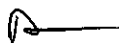
Counsel for the appellant, Mr. Khursheed Khan, SO and Zahoor Alam, Assistant for the respondents present. The learned Member (Judicial) is on leave, therefore, case to come up for arguments on 19.11.2015.



MEMBER

19.11.2015

Appellant with counsel and Mr. Hameed-ur-Rehman, AD (lit.) alongwith Mr. Muhammad Jan, GP for respondents present. Arguments could not be heard due to paucity of time therefore, case is adjourned to 10-3-16 for arguments.



10.3.2016

Appellant with counsel and Mr. Muhammad Jan, GP with Hameedur Rahman, ADO for the respondents present. Since the court time is over, therefore, case is adjourned to 13-4-16 for arguments.



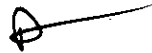
MEMBER



MEMBER

13.04.2016

Counsel for the appellant, M/S Khurshid Khan, SO and Hameed-ur-Rehman, AD (lit.) alongwith Mr. Muhammad Jan, GP for respondents present. Due to paucity of time therefore, case is adjourned to 16-8-16 for arguments.



Member



Member

9.1.2014

Counsel for the appellant and Mr. Muhammad Jan, GP with Zahoor Alam, Assistant for the respondents present and reply filed. Copy handed over to counsel for the appellant. To come up for arguments on 23.4.2014. Rejoinder, if any, in the meantime.

MEMBER

23.4.2014

Clerk to counsel for the appellant and Mr. Muhammad Jan, GP with Zahoor Alam, Assistant for respondent No.4 present. Fresh notices be issued to respondents No. 1 to 3. To come up for *arguments* on 8.8.2014. *Rejoinder, if any, in the meantime.*

MEMBER

MEMBER

08.08.2014

Counsel for the appellant and Mr. Muhammad Jan, GP with Zahoor Alam Assistant for the respondents present. Counsel for the appellant needs time. To come up for arguments on 11.12.2014. Rejoinder, if any, in the meantime.

MEMBER

11.12.2014

Junior to counsel for the appellant and Mr. Muhammad Adeel Butt, AAG with Zahoor Alam, Assistant for the respondents present. The Tribunal is incomplete. To come up for the same on 5.5.2015.

MEMBER

Appeal No. 754/2013.
Mr. Mehtab Khan

23.08.2013

Appellant with counsel present and heard on preliminary.

Contended that the appellant has not been treated in accordance with the law/rules. Despite of clear instruction by the Establishment Department, ~~the~~ Department failed to observe procedure regarding promotion to the post of superintendent which is to be made *on the basis of* seniority cum fitness ~~from amongst~~ from amongst holder of the posts of Assistants/Head Clerks/Stenographer. Points raised need consideration. The appeal is admitted to regular hearing subject to all legal objections. The appellant is directed to deposit the security amount and process fee within 10 days. Thereafter, notice be issued to the respondents. Case adjourned to 22.10.2013 for submission of written reply.

*Appellant deposited
Process fee & Security
Rs. 2000/- Bank Receipt
attached with file*

Member.

23.8.2013

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

Chairman

22.10.2013.

Counsel for the appellant and Mr. Muhammad Jan, GP with Khursheed Khan, SO, Mosam Khan, Supdt. and Zahoor Alam, Assistant for the respondents present and requested for further time. To come up for written reply on 9.1.2014.

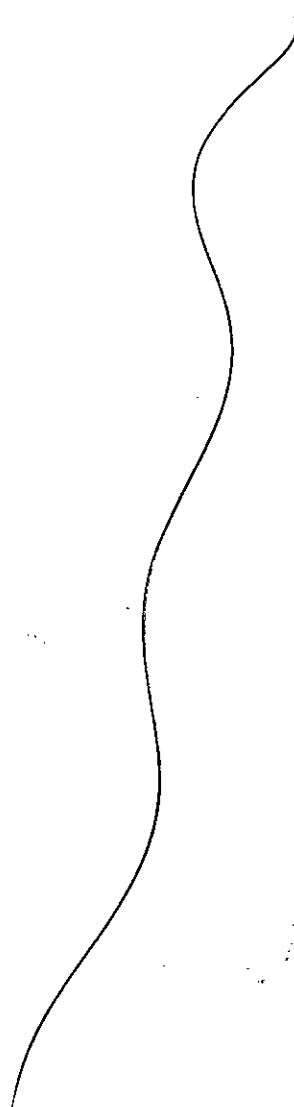
MEMBER

MEMBER

26.6.2013

Munshi for the Counsel of 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 23.08.2013.




Reader



Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 754/2013

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	24/04/2013	<p>The appeal of Mr. Murtaza Khan presented today by Mr. M. Asif Yousafzai 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	6-5-2013	<p>This case is entrusted to Primary Bench for preliminary hearing to be put up there on <u>26-6-2013</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>

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

Appeal No. 754 /2013


Mr. Murtaza Khan V/S Education Department.

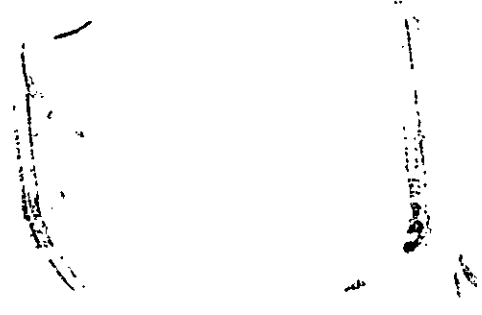
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S.No.	Documents	Annexure	Page No.
1.	Memo of Appeal	-----	01-05
2.	Copy of Circular (3.11.1983)	- A -	06
3.	Copy of Rules of 1978	- B -	07-09
4.	Copy of Tribunal's Judgment (20.5.2006)	- C -	10-18
5.	Copy of Supreme Court's Judgment (20.10.2006)	- D -	19-22
6.	Copy of Tribunal's Judgment (15.1.2007)	- E -	23-29
7.	Copy of Supreme Court's Judgment (9.4.2009)	- F -	30-31
8.	Copy of letter (27.6.2011)	- G -	32
9.	Copy of Order (13.07.2011)	- H -	33
10.	Copy of Joint Appeal	I	34-35
11.	Copy of High Court Order dated 27.6.2012	J	36-37
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14.	Copy of Appeal	M	42-47
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17.	Copy of Seniority List of Higher Education	P	50-54
18.	Copy of Rules (12.9.2003)	Q	55-56
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APPELLANT
Murtaza Khan

THROUGH:


(M. ASIF YOUSAFZAI)
ADVOCATE, PESHAWAR.



BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR.

APPEAL NO. 754 /2013.

W.F. Province
814
24-4-13

Murtaza Khan, Stenographer,
GATTTC Gul Bahar Peshawar City.....Appellant.

VERSUS

- 1- The Secretary Education (E&SE), KPK Peshawar.
- 2- The Secretary Establishment & Admin: KPK Peshawar.
- 3- The Director Education (E&SE) KPK Peshawar.
- 4- The Director Curriculum & Teacher Education Abbottabad.

.....Respondents.

APPEAL UNDER SECTION 4 OF THE KPK SERVICE TRIBUNALS ACT 1974 AGAINST THE ORDER DATED: 26.11.2012 PASSED BY RESPONDENT NO.3 AND AGAINST NOT TAKING ANY ACTION ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN STATUTORY PERIOD.

24/4/13

PRAYER:

That on acceptance of this appeal the order dated. 26.11.2012 may be set-aside and the respondents may be directed to maintain and prepare the joint seniority list of Office Asstt; and Stenographers for the purpose of promotion to the post of Superintendent in light of Respondent No.2 letter dated. 27.6.2011 and 10.7.2012, with further directions to the respondents to consider the

appellant for promotion to the post of Superintendent being eligible and senior from his due date with all consequential benefits. Any other remedy which this august Tribunal deems fit that may also be awarded in favour of appellant.

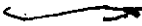
R.SHEWETH.

- 1- That the appellant joined the Education Deptt; in the year 1987 as Stenographer in BPS-12. The appellant since then has been performing his duties with devotion and honesty and there are no complaints against the appellant what so ever. This means the appellant has more than 26 years service at his credit with good record throughout.
- 2- That it is also worth to mention here that the Finance Deptt: vide its Circular dated. 3.11.1983 had re-designated the posts of Steno Typist/ Junior Scale Stenographers Grade-II and Junior Scale Stenographers Grade-I as Stenographers and placed in BPS-12, w.e.from 1.7.1983. Copy of the Circular is attached as Annexure – A.
- 3- That as the respondent No.3 ~~office~~ was not following the Rules of 1978 in its true sense due to which neither the appellant nor any other steno grapher has been promoted as superintendant despite the fact the service length of the stenographers was much longer than that of Office Asstt: Thus the stenographers were kept deprived from the benefits of promotion for long long period. Copy of rules of 1978 is attached as Annexure – B.
- 4- That due to above discrepancies the appellant along with some other Stenographers filed a service appeal bearing NO.823/2004 in this august Tribunal. The august Tribunal finally accepted the appeal on 20.5.2006 with the directions to the respondents to amend the Rules in light of Finance Deptt; Circular dated. 3.11.1983 within three months. Copy of the judgment is attached as Annexure – C.
- 5- That against that judgment, the affectees went in appeal before the Supreme Court and the august Supreme Court 20.10.2006 remanded the appeals back to the Service Tribunal for decision afresh on merits. Copy of the judgment is attached as Annexure – D.
- 6- That the tribunal again decided the appeals on 15.1.2007 and dismissed the appeals. The appellant went in appeal before the august Supreme Court of Pakistan against the judgment of the Tribunal and the august

Supreme Court of Pakistan granted leave to appeal on 9.4.2009. Copies of the judgments are attached as Annexure – E & F.

- 7- That during the pendency of appeal before the august Supreme Court, the Establishment Deptt: took a serious view about the misconceptions of the Deptts; and the said letter was also sent to the Higher Education Deptt: in which it was clearly mentioned that "the Deptt: is required to prepare joint seniority lists of Asstt: and stenographers from the date of regular appointments and disciplinary action should be taken against those responsible for failure to implement the decision taken in meeting dated. 5.3.2008. Thus in light of above Circular of the Establishment Deptt; the appeal of the appellant before the august Supreme Court was not pressed and the appeal were dismissed on 13.7.2011. Copies of letter and order are attached as Annexure – G & H.
- 8- That as the Education Deptt; was not resolving the issue in light of establishment letter, mentioned above, despite of proper appeal, therefore, the appellant and his colleague stenographers filed a writ petition No.1387-P/2012 in the august High Court, Peshawar. The said writ petition was heard on 27.6.2012 and the respondent Deptt; was directed to decide the joint application of the petitioners in light of establishment Circular within one month. Copies of appeal and order are attached as Annexure – I & J.
- 9- That even then the respondent Deptt: was not deciding the above mentioned application, therefore , the appellant gain filed contempt of court petition in the august High Court and on 6.11.2012 august High Court again directed the respondent Deptt: to decide the joint application in light of Establishment Deptt; Circular within one month positively. There after the respondent No.3 passed the impugned order on 26.11.2012 which was communicated to appellant on 6.12.2012 by the respondent No.3. The appellant forth with filed departmental appeal on 2.1.2013 against the order dated. 26.11.2012 and waited for statutory period but no reply has been received by the appellant so far. Copies of orders are attached as Annexure – K, L,M.
- 10- That now the appellant comes to this august Tribunal on the following grounds amongst the others.

GROUND:

- A- That the order dated. 26.11.2012 of respondent No.3 is against the law, Rules norms of justice and material on record.
- B- That the post of Superintendent is required to be filled in by promotion from amongst the Office Asstts;/Head Clerk/Stenographers on joint seniority basis. Therefore the respondents are legally bound to prepare joint seniority list of Office Asstts: & Stenographers from the date of their regular appointments.
- C- That the respondent Education Deptt: was also directed by the Establishment Deptt: to finalize the issue in light of earlier Circular dated. 27.6.2012 but even then the respondent Education Deptt; is not doing his legal duty and is continuously keeping deprive the appelland from his rights and benefits of promotion. Copy of the letter is attached as Annexure - ~~N~~ & ~~O~~ 
- D) That it is also worth to mention here that the Director Education E&SE is so adamant that despite of the directions of Establishment Deptt; and the Secretary of The Deptt; not following the rules and continuously keeping the appelland deprived from his legal rights of promotion for which he is waiting for the last 26 years.
- E) That The appelland has been working as Stenographer for the last more than 26 years has not been given any promotion till date due to improper exercise of rules by the respondents department.
- F) That the appelland has not been treated according to law and rules because in the rules the word stenographer is mentioned for promotion to the post of superintendent but the respondents are not considering the appelland for promotion.
- G) That even the stenographers are kept deprive from the benefits of promotion to the post of superintendent because the respondent department has promoted 138 Office Asstt; during the short period and erroneously included the Sr. Scale Stenographer (B-16) with the Asstt: instead of Stenographers who are actually mentioned in the rules.
- H) That the attitude and conduct of the respondents is also in violation of the Rule-17 of the APT Rules, 1989 which amounts to an arbitrary act on the part of the respondents.

- I) That the conduct of the respondents department is also discriminatory because in all other line departments such as Sport, Higher Education , Tech; Education etc prepare joint seniority list of office assistant and stenographers on the basis of date of regular appointment/promotion whereas no such practice has been adopted by the respondent department. Copies of the rules are attached as Annexure - P, Q & R, S.
- J) That the appellatant seeks permission to advance others grounds and proofs at the time of hearing.

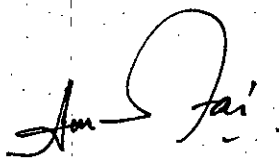
It is, therefore, most humbly prayed that the appeal of the appellatant maybe accepted as prayed for.



APPELLANT

MURTAZA KHAN

THROUGH:



(M. ASIF YOUSAFZAI)
ADVOCATE,

A 6

A COPY OF LETTER NO.FD(SR-i) 1-67/82-II Dated 3-11-1983 from the Secretary to Govt of NWFP Finance Department Peshawar address to all the Admn Secretaries all Head of Attached Department & others.

Subject:- A SCHEME OF BASIC SCALES AND FRANGE BENIFITIES OF PROVINCIAL CIVIL SERVANTS (1983).

I am directed to refer to the post of Stenographers (S.No.1 &2) under the heading "Government Department and Organizations" and "Secretariat Department" in annexure-II (page-4) of Finance Department's Circular letter No.FD (SR-I) 1-67/82, dated 25 August 1983 and to say that consequent upon the award of BS-12 to Steno Typist/ Junior Scale Stenographer Grade-II and Junior Scale Stenographer Grade-I with effect from 01-07-1983, It is has been decided to REDESIGNATE all these posts as "STENOGRAPHER" with effect from the same date.

2- It has also been decided to merge the posts of Senior Scale Stenographers mentioned as S.No.3 under the heading "Secretariat Department" of the mentioned annexure with the posts of PERSONAL ASSISTANTS and to allow Selection Grade-16 at 25% of their combined strength with effect from 1st July 1983. While working out the Selection Grade posts at the combined strength the number of existing posts of Private Secretaries in BS-16 shall also be accounted for.

3- Annexure- II to this Departments circular letter No.FD (SR-I) 1-67/82, dated 24-8-1983 may kindly be amended accordingly.

Your obedient servant

Sd-----

Muhammad Amin
Additional Finance Secretary-I
Govt: of NWFP Finance Department

Endst:No.as above.

Copy forwarded for information to:

1-3, All concerned.

Sd-----


Muhammad Siddique Khattak
Deputy Secretary-(Regulation)
Govt: of NWFP Finance Department

p. As Above

Copy to all concerned.

Sd-----

(IFTIKHAR HUSSAIN)
Section Officer (SR-I)

TESTED


no

2

(

B-5/100

North West Frontier Province - Education Department

Dated Peshawar the, 9-5-1978.

Notification.

No.S.O © 5-2/70 (E). In exercise of the Power conferred by sub-rule (2) of Rule 3 of the North West Frontier Province Civil Servant (Appointment promotion and Transfer) Rules - 1975, and in consultation with the Information, Services and General Administration Department and the Finance Department, the Education Department is pleased to lay down the method of Appointment, qualification and other conditions specified in column 3 and 6 of the Appendix to this notification, which shall be applicable to posts borne on the Ad ministerial establishment of the Education Department specified in column 2 of the Appendix.


Captain Aflab Ahmad Khan
Secretary to Government of
North West Frontier Province,
Education Department.

Endst: No.S, O (Coll) 5-2/70 (E). Dated Peshawar the, 9-5-1978.

1. The Secretary, Services and General Administration Department, Government of NWFP, Peshawar.
2. The Secretary to Government of NWFP Finance Deptt: Peshawar.
3. The Secretary to Government of NWFP Law Department, Peshawar.
4. The Secretary to NWFP, Public Service Commission, Peshawar.
5. The Manager, Government Printing Press, Peshawar, with the request that the Notification alongwith the appendix, may please be published in the next issue of Provincial Gazette and one hundred spare copies of the same may also be supplied to the Director Education, NWFP Peshawar, for further distribution. The printing Press may also arrange its publication for sale purpose according to the requirement.
6. The Director of Education, NWFP, Peshawar.
7. The Accountant General, NWFP, Peshawar.

\$\$ Saleem Janbaz \$\$

(Syed Noor Badshah)
Section Officer (Colleges)
Government of NWFP. Edu: Deptt.

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APPENDIX

METHOD OF APPOINTMENT, QUALIFICATION AND OTHER CONDITIONS APPLICABLE TO MINISTERIAL POSTS IN THE EDUCATION DEPARTMENT

Sr. No.	Womenculture of the post	Minimum Qualification Prescribed for Appointment by Initial Recruitment and Transfer	Minimum Qualifications for Appointment and Promotion	Age Limit for Appointment by Initial Recruitment	Method of Appointment
1.	2.	3.	4.	5.	6.
1.	Administrative Officer / Assistant Director (Colleges) / Assistant Lecturer (School)				By promotion on the basis of seniority – Cum – Fitness from amongst holder the post of Assistant Director establishment and Assistant Accounts Officer
2.	Assistant Director Establishment / Assistant Accounts Officer				By Promotion on the basis of seniority –cum-fitness from amongst the holders of the posts of Superintendents
3.	Superintendents				By promotion on the basis of seniority –cum-fitness from amongst the holders of the posts of Assistants / Head Clerks Stenographers
4.	Assistants / Head Clerk	Degree from a recognized University		Not less than 19 years and not more than 25 years	(i) 25% by initial recruitment and (ii) 75% by promotion on the basis of seniority –cum-fitness from amongst the holders of the posts of Senior Clerks.

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1.	2.	3.	4.	5.	6.
5.1.	Senior Clerk				By promotion on the basis of seniority – Cum – Fitness from amongst holders the posts of Junior Clerks / Asstt: Store Keepers / Laboratory Asstt./Junior Libraries
6.	Junior Clerk / Assistant Store Keepers Library Assistant / Junior Librarian	a. Matriculation or equivalent qualification from a recognized University / Board with Science group fro Laboratory Assistant ; b. Speed of 25 words per minute in English typing		Not less from 18 years and not more than 25 years	By initial recruitment
7.	Stenographers	a. Matriculation or equivalent qualification from a recognized University / Board. b. Speed of 100 words per minute in short hand in English and 45 words per minutes in typing	Not less than 16 years and not more than 25 years		i. 25% by initial recruitment and ii. 75 % by promotion on the basis of seniority –cum-fitness from amongst the holders of the posts of Steno Typist
8.	Steno – Typist	a. Matriculation or equivalent qualification from a recognized University / Board. b. Speed of 80 words per minute in short hand in English and 35 words per minute in typing.		Not less than 18 years and not more than 25 years	By initial recruitment.
		c.			

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BEFORE THE NWFP SERVICE TRIBUNAL PESHAWAR

Appeal No.823/2004

Date of institution 18.10.2004

Date of decision 20.05.2006

Aziz Muhammad, Stenographer,
Directorate of Higher Education,
NWFP, Peshawar.....(Appellant)

VERSUS

1. Secretary Education (S&L) NWFP Peshawar.
2. Director of Education (S&L) NWFP Peshawar.
3. Director Higher Education NWFP Peshawar.
4. Muhammad Naeem, Superintendent, DDO
Education (F) Wari, Dir and 20 others...(Respondents)

Mr. Khushdi Khan and
Mr.M.Asif Yousafzai, Advocates.....For appellants.
Mr.Zafar Abbas Mirza,
Acting Govt. Pleader... ..For respondents 1-3.
Mr.Ijaz Anwar and
Mr.Abdul Hameed Khan,
AdvocatesFor private Respondents.

MR.ABDUL KARIM QASURIA.....MEMBER.
MR.FAIZULLAH KHAN KHATTAK.....MEMBER.

JUDGMENT

ABDUL KARIM QASURIA, MEMBER:- This appeal has
been filed by the appellant against the order dated
29.5.2004 with the prayer that the impugned order may be
set aside and the respondents be directed to consider and
promote him being senior most and eligible but not

Aziz Muhammad

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considered and to amend the rules and procedure if any whereby the Stenographers are placed at the bottom of Assistants while drawing the joint seniority list of Assistants BS-11 and Stenographers BS-12 for promotion to the next higher scale of Superintendent and to fix the seniority of Stenographers from the first date of appointment at the proper place and number alongwith Assistants while drawing the joint seniority for promotion to the post of Superintendent.

2. Brief facts of the case are that the appellants was appointed as Stenographer in BS-12 by the competent authority on 23.11.1988. The posts of Steno Typist were re-designated as Stenographer and were given BPS-12 by the Government on 20.11.1983 w.e.f.1.7.1983. In the appointment rules no amendment has been made and the post of Steno Typist still exists. In these rules, the method of promotion to the post of Superintendent is also mentioned. Whenever, promotion to the post of Superintendent is made, a joint seniority list of Assistants and Stenographers is to be drawn but without any order, notification or notified method, the Stenographers are to be placed at the bottom of the Assistants who are more than 300 persons and as such the Stenographers despite having seniority and fitness are not benefited from promotion to the post of Superintendent for a long period. According to

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the said illegal procedure respondents No.4 to 24 have been promoted on 29.5.2004 despite the fact that they are junior to the appellant. Against this and not considering the appellant for promotion the appellant submitted a departmental appeal but the same has not been responded so far.

3. The appellant has assailed the impugned order on the grounds that the method/way through which the appellant has been discriminated and deprived of his right of promotion is against law, facts natural justice and material on record, therefore, not tenable. The Assistants is a separate cadre carried BPS-11 and Stenographers is a separate cadre carriers BS-12 with selection grade 15 and it is injustice to keep the Stenographers at the bottom below BS-11 Assistants. The respondents in away treats the appellant at par with the Senior Clerks because first Senior Clerks are promoted to the post of Assistant and then the Stenographers are placed at the bottom of the list in which the names of newly promoted Senior Clerks included. The word Stenographer is mentioned in the rules without any grade etc and thus the most Stenographers BS-12 are kept deprived of the benefits of promotion. Before promotion both the cadres have separate seniority list and while drawing joint seniority list of Assistant and Stenographers the seniority to the Stenographers is not given from the

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date of appointment which is against the rules of seniority. The scale of Stenographers is higher than that of Assistants and also have more service length but despite that the Stenographers are placed at the bottom of joint seniority list, which is against the principles of justice and rules of seniority. The rules, procedure and method of promotion are against the Constitution and the appellant has not been given/guaranteed the equal protection and equality of all citizens and as such the rules, method and procedure by placing the stenographers at the bottom of the Assistant is not tenable. In order departments such as Sports etc, in the joint seniority list, seniority is given from the first date of appointment as per rules mentioned therein.

4. The respondents filed their written reply in which the contention of the appellant was refuted while the appellant filed the replication rebutting the objections raised by the respondents.

5. Counsel for the appellant argued that the appellant was appointed as Stenographer on 23.11.1988. The post of Stenographers has been re-designated by the Government in BS-12 vide finance Department-letter dated 20.11.1983 w.e.f.1.7.1983. It was argued that no amendments in the Ministerial Establishment Rules 1978 of the Education Department, have been made as per circular letter of

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Finance Department which has resulted in deprivation of Stenographers as now there are two kind of stenographers in BS-12 and BS-15. It was argued that under the existing rules of 1978 joint seniority list of Assistant and Stenographers is maintained but in the combined list the seniority to the Stenographers is not given from their first date of appoint which has adversely affected the rights of Stenographers including the appellant. It was further argued that recent promotion of the respondents under the old rules have deprived the appellant from their due right of seniority and subsequent promotion.

6. The learned AGP argued that the appellant was appointed as Steno Typist in BS-12 and as per service rules of 1978 Steno Typist is regularly promoted as Stenographers in BS-15. Joint seniority list of stenographer from their date of promotion to the post of stenographers BS-15 and assistants is maintained for promotion to the post of Superintendent. It was also argued that 33% selection grade in BS-16 is provided to the Stenographer while the list provided by the appellant is of Steno Typist BS-12. The AGP further argued that the post of Steno Typist exists in all the existing attached offices and the same position exists in the respondent department. It was also pointed out that this position has not been objected by the appellant in the list issued in 2001. It was further

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argued that Assistant is a senior cadre than Steno in BS-12 for the reason that Stenographers BS-15 have been brought on the joint seniority list with Assistants. It was stated that promotion of the respondents have been made under the rules.

7. After listening to the parties, the Tribunal has also perused the Finance Department Circular letter dated 3.11.1983 in which the Steno Typist/Junior Scale Stenographer Grade-II and Junior Scale Stenographer Grade-I have been re-designated as Stenographers w.e.f.1.7.1983. Moreover, vide the above referred letter the position explained in the attached Annexure of the letter is as follows:-

Government Department and organizations.
(Posts common to different Departments)

		Revised scales w.e.f. 1.1.1983
1.	Junior Scale Steno-grapher Grade-II/Steno-Typist	RNPS-8 (Rs.370-16-514 18-640-22-900) B-12 (Rs.750-40-1550)
2.	Junior Scale Steno-grapher Grade-I	RNPS-10 (Rs.410-22-520/ 24-760-28-900) B-12 (Rs.750-40-1550)
	Senior Scale Steno Grapher.	RNPS-12 (Rs.460-28-600/ (Rs.900-55-2000) With 25% posts as a selection grade in B-16 (Rs.1050-80-2250)

But inspite of the above change in scales and designation the rules in this regard are still of 1978 in which the method

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of recruitment to the post of Superintendent, Stenographer and Steno Typist is as follows:-

Superintendent		By promotion on the basis of seniority-cum-fitness from amongst the holders of the posts of Assistant/Head Clerk/Stenographers.
Stenographer	(a) Matriculation or equivalent qualification from a recognized University/Board. (b) Speed of 100 words per minutes in short hand in English and 45 words per minutes in typing.	(i) 25% by initial recruitment and (ii) 75% by promotion on the basis of seniority-cum-fitness from amongst the holders of the post of steno-typist
Steno Typist	(a) Matriculation or equivalent qualification from a recognized University/Board. (b) Speed of 80 words per minutes in short hand in English and 35 words per minutes in typing.	By initial recruitments.

It appears from the contents of Finance Department circular letter dated 3.11.1983 that while the posts of Steno-typist have been redesignated as Stenographer in BS-12 and S.S. Stenographer in RNPS-12 have been given BS-15 but the Ministerial Service Rules 1978 of the Education Department contain the nomenclature of Stenographer which has created ambiguity as under the new scheme the Steno Typist was designated as Stenographer while the rules of 1978 have not been revised in the light of the changed position.

8. The Tribunal is of the firm view that until and unless the rules are not revised in light of Finance Department circular letter dated 3.11.1983, the issue of seniority and subsequent promotion grievances of the Stenographers

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Government of NWFP and two others.Petitioners in all CPs.

Versus

Aziz Muhammad, Stenographer Directorate of Higher Education, NWFP Peshawar and eighteen others.in CP 575-P of 2006.

Khan Zeb, Stenographer EDO (S&L) District Swat...in CP 576-P of 2006.

Daud Jan, Stenographer Directorate of Education, (FATA) NWFP Peshawar and eighteen others.in CP 577-P of 2006.

Abdul Latif, Stenographer Directorate of Higher Education, NWFP Peshawar.in CP 578-P of 2006.

Zafar Iqbal, Stenographer Directorate of Higher Education, NWFP Peshawar and eighteen others.in CP 579-P of 2006.

Tariq Shakeel, Stenographer Directorate of Higher Education, NWFP Peshawar.in CP 580-P of 2006.

Noor-ul-Amin, Stenographer Directorate of Higher Education, NWFP Peshawar.in CP 581-P of 2006.

Murtaza Khan, Stenographer Directorate of (S&L) NWFP Peshawar.in CP 582-P of 2006.

Iamatullah, Stenographer Science Education Project-II, NWFP, Peshawar.in CP 583-P of 2006.

For the petitioners

Nemo.

Respondent # 1 in CPs 575-P, 580-P to 583-P of 2006.

Present-in-Person.

Other respondents in CPs 575-P, 580-P to 583-P of 2006:

N.R.

All respondents in CPs 577-P, & 579-P of 2006:

N.R.

Date of hearing

20.10.2006.

JUDGMENT

SARDAR MUHAMMAD RAZA, J:- The petitioners in Civil Petitions # 389-P to 395 of 2006 are the Stenographers who were not considered for promotion to the post of Superintendent. Instead, the Assistants (respondents # 4 to 24) have been so promoted by order dated

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29.5.2004. The affectees preferred departmental appeals without success and hence filed appeals before the learned NWFP Service Tribunal.

2. The learned Tribunal vide judgment dated 20.5.2006 deferred all the disputed promotions and remanded the case to the department. The civil servants* as well as the Government of NWFP have filed these petitions seeking leave to appeal from the judgment aforesaid.


3. The operative part of the impugned judgment reads as follows:-

“8. The Tribunal is of the firm view that until and unless the rules are not revised in light of Finance Department circular letter dated 3.11.1983, the issue of seniority and subsequent promotion, grievances of the stenographers cadre vis-à-vis Assistant to the post of Superintendent cannot be resolved.

9. The case is therefore, remanded to the respondent department with the direction to make new rules in light of the changed position as mentioned in the Finance Department letter dated 3.11.1983 within 3 months of the receipt of this judgment. The impugned promotion order/Notification dated 29.5.2004 is set aside while respondents are directed to defer the promotion of all the affectees till the new rules are notified.”

4. The main grievance of the Government is that the learned Tribunal was supposed to have decided the matter in the light of the terms no jurisdiction at all to direct the Government to amend rules as also the terms and conditions of service. On the other hand, the petitioners/civil servants are aggrieved to the effect that in the wake of the prevailing situation, the learned Tribunal could have decided the fate of the Stenographers, in case it had adverted to the merits of the case.

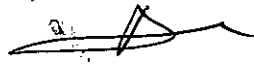
5. Both the assertions are not without force. Even otherwise, it is quite apparent that the learned Tribunal has not discussed the merits of the case and has resorted to a conclusion that could not be arrived at. Learned

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counsel for the parties, during arguments, were unanimous on the point that the learned Tribunal ought to have decided the appeals on merits.

6. Consequently, all the petitions, after conversion into appeals are accepted, the impugned judgment dated 20.5.2006 is set aside and the cases are remanded to the learned Tribunal to decide the same on merits. The status quo however, is to be maintained till then. As the matter of promotion is involved, the Tribunal shall decide the cases within one month from the receipt of this order.

Sd/- Sardar Muhammad Raza, J
Sd/- Nasir-ul-Mulk, J

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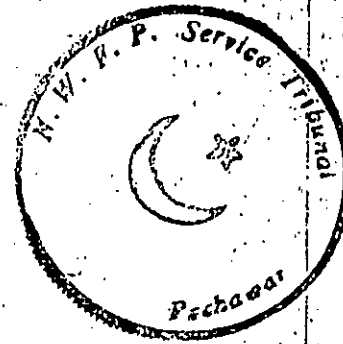
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BEFORE THE NWFP SERVICE TRIBUNAL, PESHAWAR.

Appeal No. 823/Neem/2004

Date of Institution..... 18.10.2006

Date of decision..... 15.1.2007



Aziz Muhammad, Stenographer,
Directorate of Higher Education,
NWFP, Peshawar.....(Appellant)

VERSUS

1. Secretary Education (S&L) NWFP, Peshawar.
2. Director of Education(S&L) NWFP, Peshawar.
3. Director Higher Education NWFP, Peshawar.
4. Muhammad Naeem, Superintendent DDO
Education(F)Wari, Dir and 20 others.....(Respondents)

MR. MUHAMMAD ASIF YOUSAFZIA,
Advocate. For appellant.

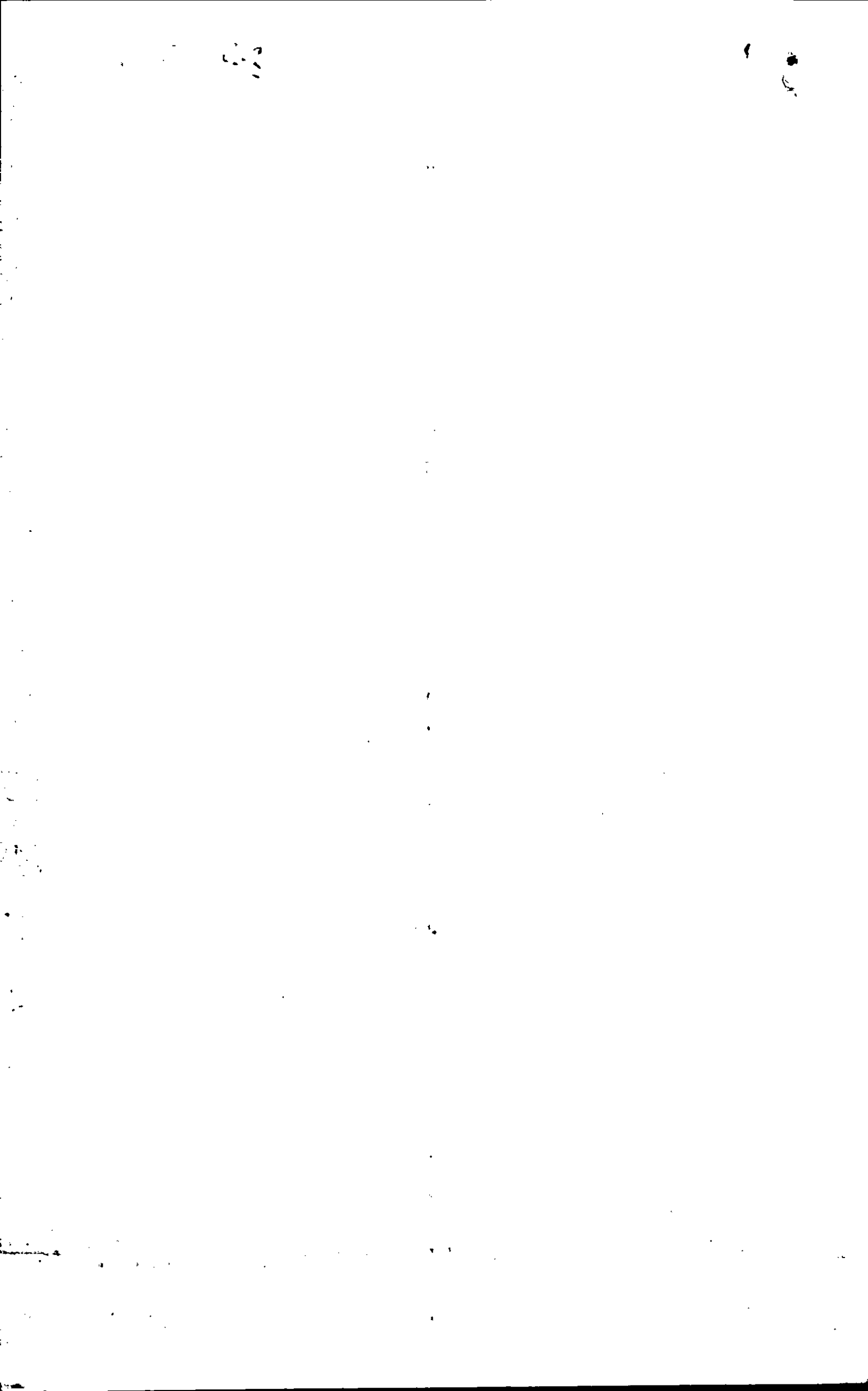
MR. USMAN GHANI, A.G.P For respondents 1 to 3

MR. ABDUL HAMID KHAN,
Advocate. For respondents 4 to 24

MR. MUHAMMAD UMAR AFRIDI, MEMBER
MR. ADALAT KHAN KHATTAK ATTESTED. MEMBER.

ATTESTED

EXAMINER
NWFP Service Tribunal
Peshawar.



JUDGMENT

MUHAMMAD UMAR AFRIDI, MEMBER;- This appeal has been filed by the appellant against the order dated 29.5.2004 with the prayer that on acceptance of this appeal:-

(a) the impugned promotion order may be set aside and the respondents be directed to consider and promote him being senior most and eligible but not considered and to amend the rules and procedure if any whereby the Stenographers are placed at the bottom of Assistants while drawing the joint seniority list of Assistants BPS-11 and Stenographers BPS-12 for promotion to the next higher scale of Superintendent.

(b) The respondent department be directed to fix the seniority from the first date of appointment as Stenographer at proper place and number along with Assistants while drawing the joint seniority for promotion to the post of Superintendent.

(c) To grant any other remedy, which this Tribunal deems fit in favour of the appellant.

2. Brief facts of the case are that before 1.7.1983 there existed three categories of Stenographers. These were No.(i) Junior Scale Stenographer Grade-II/Steno typist (ii) Junior Scale Stenographer Grade-I and (iii) Senior Scale Stenographer. These were in the then Revised National Pay Scale-8, Revised National Pay Scale-10 and Revised National Pay Scale -12 respectively. The Government of NWFP Finance Department vide their letter No. FD (SR-I)1-67/82-II dated 3.11.1983 awarded B-12 to Steno typist/Junior Scale Stenographer Grade-II and Junior Scale Stenographer Grade-I w.e.f. 1.7.1983 and also decided to redesignated all these posts as "Stenographers" w.e.f the same date. Whereas the Senior Scale Stenographers were awarded

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B-15 w.e.f. 1.7.1983. On the other hand the scale of the office Assistant was RNPS-11 before July, 1983. They are even today in B-11.

3. The appellant was appointed as Stenographer in BPS-12 by the competent authority on 23.11.1988. The then Directorate Secondary Education NWFP Peshawar vide notification No. 4395-4594/A-23/S.List of Asstt.(B-11) and S/Grapher (B-15), dated 25.6.1999 issued the final integrated seniority list of Assistants (BPS-11) and Stenographers (BPS-15) (As it stood on 31.12.1998) born on the provincial cadre of the Directorate of Secondary Education NWFP, Peshawar, for information of all concerned. Similarly another final seniority list of Assistants (BPS-11) and Stenographers (BPS-15) of Education Department NWFP was issued by the office of the Director Secondary Education, Peshawar vide its Notification No. 2621-3121 dated 15.3.2000 and circulated it amongst all concerned. Office of the Director Schools & Literacy, NWFP, Peshawar being the successor office of the then Director Secondary Education NWFP, issued vide its No. 932-72 A-23/M.S/Seniority list/Asstt./2003 dated: 7.1.2004 latest seniority list of Office Assistants (BPS-11) and Stenographers (BPS-15) (as it stood on 31.12.2003). This was also circulated to all concerned. On the basis of this integrated seniority the Directorate of Schools & Literacy, NWFP Peshawar vide its notification No.3927-86/A-23/MS/Promotion to Suptd: Dated 29.5.2004 promoted 21 office Assistants (respondents No. 4 to 24) as Superintendents in (BPS-16) and posted them against various vacant posts in the province. Feeling aggrieved the appellant preferred departmental appeal on 23.6.2004, which was not responded to within the statutory period. Hence the present appeal.

4. After receipt of the appeal, pre-admission notices were sent to the respondents for filing their written replies. Respondents filed their written replies and the appeal was admitted to full hearing. Thereafter, the case was argued by the counsel for the appellant, A.G.P for respondent department and counsel for private respondents. The

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instant appeal as well as other connected appeals were remanded to the respondent department vide judgment dated 20.5.2006 with the direction to make new rules in light of the changed position as mentioned in the Finance Department letter dated 3.11.1983 within 3 months of the receipt of the judgment. Moreover, the impugned promotion order/notification dated 29.5.2004 was set aside while respondent department was directed to defer the promotion of all the affectees till the new rules were notified. The respondent department was further directed to give the appellant (Khan Zeb) proper seniority position in the seniority list after amending the 1978 rules for the ministerial establishment of Education Department as per changed position of Stenographers cadre contained in the Finance Department circular letter dated 3.11.1983.

5. Aggrieved with the said judgment private respondents challenged the same before the august Supreme Court of Pakistan for seeking leave to appeal, which was accepted. The impugned judgment dated 20.5.2006 was set aside and the cases were remanded back to the Tribunal for decision on merit.

6. Arguments heard and record perused.

7. The counsel for the appellant argued that the Government of NWFP redesignated the posts of Steno typists/Junior Scale Stenographers Grade-II and Junior Scale Stenographers Grade-I as "Stenographers" in BPS-12 on 20.11.1983 w.e.f. 1.7.1983. The appellant was appointed as Stenographer on 23.11.1988. The counsel for the appellant argued that no amendments in the Ministerial Establishment Rules, 1978 of the Education Department, were made as per circular letter of Finance Department which had resulted in the deprivation of Stenographers as then there were two kinds of Stenographers i.e. one in BPS-12 and the other in BPS-15. It was also argued that under the existing rules of 1978 joint seniority of Assistants and Stenographers was maintained. The learned counsel stated that

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both the Assistants and Stenographers in the joint seniority list were given seniority from the date of promotion and not from the date of appointment. The learned counsel stated that in that way the Stenographers were adversely affected. The learned counsel for the appellant argued that Stenographer's scale was higher than that of Assistants and they also had more service length but despite that the Stenographers were placed at the bottom of joint seniority list, which was against the principles of justice and rules of seniority. These rules, procedure and method of promotion were against the constitution and the appellant had not been given/guaranteed equal protection. It was further stated that these rules, method and procedure by placing the stenographers at the bottom of the Assistants was not maintainable. He requested for acceptance of the appeal.

8. The learned A.G.P argued that the very base of this case was the joint seniority list of Assistants (BPS-11) and Stenographers (BPS-15) being issued by the Department from time to time in the past as stated in Para-3 above. Every such seniority list had always been duly circulated to all concerned. The appellant did not challenge any such seniority list within the stipulated period. Therefore, the objection of the appellant on the promotion of respondents No. 4 to 24 which was mainly based on the seniority list issued to all concerned in the past, at this belated stage, was not justified at all. The learned A.G.P further argued that it had been clearly mentioned in the Service Rules, 1978 of the Ministerial Establishment of Education Department that promotion to the post of Superintendent would be made on the basis of seniority-cum-fitness from amongst the holders of the posts of Assistants/Head Clerks/Stenographers. The A.G.P further argued that as it had been clarified above that the service rules of the Ministerial Establishment of Education Department were issued in 1978. Those days only the senior scale stenographers were in the then Revised National Pay Scale-12 while Office Assistants were in Revised National Pay Scale - 11. The Educational qualification of directly recruited office Assistant

MEMBER
Tribunal

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was graduation while the educational qualification of the Stenographers was just matric. The Office Assistants were to be more qualified than the Stenographers. It was further argued that the view of the appellant that his name should be included in the joint seniority from the date of his appointment was not correct as at that time both the categories of the officials had different seniority lists. Therefore, it was advisable to give seniority to both the categories in the joint seniority lists from their respective dates of their promotions as laid down in the Service Rules of 1978. The A.G.P also pointed out that at the time of initial recruitment an offer of appointment was made to the appellant. If he was not satisfied with the laid down procedure of promotion being practiced almost a decade prior to his appointment, then he should not have accepted the offer. Such an offer had to be accepted in total and not in bits. The learned A.G.P also argued that the Tribunal had no jurisdiction under Article 212(2) of the Constitution of Islamic Republic of Pakistan, 1973. He also stated that the appeal was time-barred. The learned counsel for private respondents relied on the arguments advanced by the A.G.P. Both the A.G.P and the counsel for private respondents requested for dismissal of the appeal.

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9. The Tribunal, after having heard both the parties and perused the record of the case is of the firm view that the counsel for the appellant has failed to establish any case as the joint seniority lists of the Stenographers and Assistants have been prepared strictly in accordance with the laid down procedure in the Service Rules-1978 for ministerial establishment of Education Department. The impugned order of promotion has been issued on the basis of seniority-cum-fitness as provided in the Service Rules of 1978. The Tribunal is further of the view that it would not be within its jurisdiction to direct the respondent department to amend the rules and procedure as prayed in the appeal. The Tribunal, in view of the aforementioned position hereby dismisses the appeal. This judgment shall also dispose of eight (8) other connected appeals details of which are as under:-

ATTORNEY
Tribunal

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- 1. Appeal No. 824/2004, Daud Jan Vs. The Secretary of Education (S&L), NWFP Peshawar etc
- 2. Appeal No. 825/2004, Abdul Latif -do-
- 3. Appeal No. 826/2004, Zafar Iqbal -do-
- 4. Appeal No. 827/2004, Tariq Shakeel, -do-
- 5. Appeal No. 828/2004, Noorul Amin Shah, -do-
- 6. Appeal No. 843/2004, Murtaza Khan -do-
- 7. Appeal No. 856/2004, Jamatullah -do-
- 8. Appeal No. 759/2004, Khan Zeb -do-

Parties are left to bear their own costs. File be consigned to the record.

ANNOUNCED
15.1.2007

M. Umar Afridi
(MUHAMMAD UMAR AFRIDI)
MEMBER.

Adalat

(ADALAT KHAN KHATTAK)
MEMBER

[Signature]
Service Division
Peshawar

Date of Presentation of Applicant..... 26-2-07
 Number..... 2800
 Copy..... 16
 Urgent..... 2
 Total..... 18
 Name of..... [Signature]
 Date..... 26-2-07
 Date..... 26-2-07

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:

MR. JUSTICE IJAZ-UL-HASSAN

MR. JUSTICE MOHAMMAD QAIM JAN KHAN

CIVIL PETITION NOS. 182-P TO 186-P AND 194-P AND 195-P OF 2007

(On appeal from the judgment dated 15.1.2007 of the NWFP Service Tribunal, Peshawar passed in Appeal Nos. 823, 828, 759, 824,826,856 & 843/Neem/2004)

Aziz Muhammad
Noorul Amin Shah
Daud Jan
Zafar Iqbal

Petitioners

Versus

The Secretary Education, (S&L) NWFP, Peshawar and others

Respondents

For the petitioners

Mr. Saadullah Khan Janduli, ASC
Haji Zahir Shah, ASC
Mr. Mir Adam Khan, AOR

Respondents 6 & 20
(in C.P. No.182,183-P-07)

In-person

other respondents

N.R.

Date of hearing:

09.4.2009

ORDER

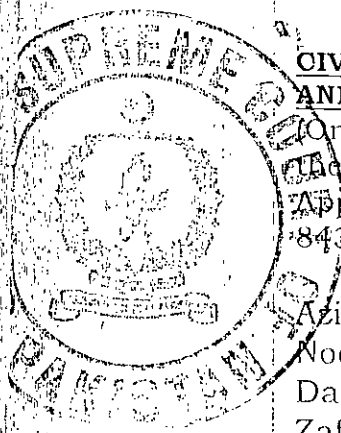
IJAZ-UL-HASSAN, J.— These petitions for leave to appeal are directed against the judgment dated 15.1.2007 of the NWFP, Service Tribunal, Peshawar, whereby Appeal Nos. 823, 828, 759, 824,826,856 & 843/Neem/2004, preferred by the petitioners, were dismissed.

2. Facts of the case need not be reiterated as the same have been incorporated in the impugned judgment as well as in the memo of petition.

ATTESTED

[Signature]
Deputy Registrar,
Supreme Court of Pakistan,
Peshawar.

ATTESTED
[Signature]



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3. Mr. M. Saadullah Khan Janduli, Advocate for the petitioners contended that learned Tribunal erred in law while dismissing the appeal of the petitioners without examining each and every aspect of the case; that petitioners have a combined seniority with Head Clerks/Assistants and Stenographers, but the department has violated the rules while drawing/preparing the seniority list; that petitioners have been wrongfully and illegally deprived from promotion in the garb of wrong seniority list; that the cadre of the petitioners is different which was wrongly mixed with a wrong cadre as the petitioners have different cadre from those persons in whose seniority list the petitioner names have been placed/included and that impugned judgment suffers from legal and factual infirmities and requires interference by this Court.

2. Leave to appeal is granted in all these petitions to consider the above contentions of learned counsel for the petitioners in detail.

Sd/- Ijaz-ul-Hussain J.

Sd/- Mohammad Omer Jan Khan J.

Peshawar
9.4.2009
(Nascer)

[Signature]
13/4/09

Not approved for reporting

Certified to be true copy
[Signature]
13/4/09
Deputy Registrar,
Supreme Court of Pakistan,
Peshawar.

ATTESTED
[Signature]

G 29 32

GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT & ADMN: DEPARTMENT

(REGULATION WING)



No.SOR-I(E&AD)4-24/91(Vol-I)
Dated the 27th June 2011.

To,
The Secretary to Govt. of,
Khyber Pakhtunkhwa,
Higher Education Department,
Peshawar.

Subject: - INCLUSION OF STENOGRAPHERS IN THE COMBINED
SONORITY LIST OF ASSISTANTS/STENOGRAPHERS.

Dear Madam,

I am directed to refer to your letter No.SO(LIT:&A.B)/
H.E/Lit/Misc/2011 dated 28.05.2011 on the subject noted above and to say that
~~rules/amendments could not be applied with retrospective effect.~~ The
Department is required to notify joint seniority list of Stenographers with
Assistants on the basis of existing rules from the date of regular appointment and
proceed ahead with their promotions which has been denied for quite sometime.
The department may also take disciplinary action against those responsible for
failure to implement decision of the meeting held on 05.03.2008.

Yours faithfully,

[Signature]
Section Officer (R-I)

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*2016
28/6/11*

ATTESTED
[Signature]

33

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

33

Present:
MR. JUSTICE NASIR-UL-MULK
MR. JUSTICE TARIQ PARVEZ

CIVIL APPEALS NO. 60-P TO 66-P OF 2009
(on appeal from the judgment of the K.P.K. Service Tribunal,
Peshawar dated 15.01.2007 passed in Appeals No. 823, 828,
759, 824, 826, 843 and 856 of 2004 respectively)

Aziz Mohammad	(in CA 60-P/09)
Noorul-Amin Shah	(in CA 61-P/09)
Khanzab	(in CA 62-P/09)
Daud Jan	(in CA 63-P/09)
Zafar Iqbal	(in CA 64-P/09)
Murtaza Khan	(in CA 65-P/09)
Jamatullah	(in CA 66-P/09)

...Appellants.

VERSUS

The Secretary Education (S&L)
(NWFP now KPK) & others

...Respondents.

For the Appellants:
(in CAs 60-P to 62-P/09) Mian Saadullah Janduli, ASC.
(in CAs 63-P to 66-P/09) Haji M. Zahir Shah, ASC/AOR.

For the State: Mr. Lal Jan Khattak, Addl. AG, KPK
Mr. Mosam Khan, A.D.(E).

Respondents 7 & 9: In-person.

Date of Hearing: 13.07.2011.

ORDER

NASIR-UL-MULK, J. - In view of the decision taken by the Government of Khyber Pakhtunkhwa in letter dated 27.06.2011, copy of which is produced by the learned counsel for the appellants, they do not want to press these appeals. All the appeals are dismissed as not pressed.

sd/- Nasir-ul-Mulk, J
sd/- Tariq Parvez, J
Certified to be true copy

[Signature]
Assistant Secretary
Supreme Court of Pakistan
Peshawar.

"Not approved for reporting."

PESHAWAR
13th July, 2011.

[Signature]
Mudassar

14/7/11

TESTED

جنہ میں جناب ڈاکٹر علیہ اللہ اہی و تالیفی تعلیم خیر پختہ خواہ۔ پشاور

جناب عالی!

عنوان: سینارٹھ ایروموشن
تذراش ہے کہ سائنڈن جملہ ایبتدائی و تالیفی تعلیم میں عمر سے
درجہ سے سینئر افری پوسٹ پر کما کر رہے ہیں۔ سائنڈن نے چند
سینئر افری سائقیوں کے ہمراہ (جو یا ٹیرا بجکشن میں کما کرتے ہیں)
اپنی ترقی کے سلسلے میں سروس ٹریننگ میں تیس دنوں کا کھانا
بعد میں سپریم کورٹ تک پہنچ گیا تھا۔ اس ضمن میں سائنڈن اپنی
تذراشات عمر سے کرتے ہیں۔

① 09/05/78 کو جملہ تعلیم نے منسٹر میں مشافحہ کے رولز بنانے کو ان رولز کے ذریعے
سینئر افری اور اسٹنٹ کو (مشترکہ سینارٹھ سے) سپرٹنڈنٹ کی پوسٹ پر
ترقی دی جاتی تھی (جو کہ لف "ب" ہے)۔

② آگست 1983ء میں حکومت نے تمام سینئر ٹاپسٹ، جو نیر سنیل سینئر افری کا
گریڈ بڑھا دیا تھا۔ گریڈ بڑھانے کے بعد مورخہ 3/11/1983 کو صوبائی حکومت
نے تمام سینئر ٹاپسٹ، جو نیر سنیل سینئر افری کا عہدہ مکمل طور پر فتح کرتے
ان کو سینئر افری بنا دیا گیا (جو کہ لف "ب" ہے) جس کی وجہ سے سینئر ٹاپسٹ
مکمل طور پر سنیل اور عہدے کے اعتبار سے سینئر افری بن گیا تھا اور
1978ء کے رولز واضح ہے کہ سینئر افری ترقی بطور سپرٹنڈنٹ ہوتی ہے
جس پر جملہ معیار سینئر افری (سنیل 8-12) کی ترقی کے سلسلے میں
موجودہ رولز اور صوبائی حکومت کی چھٹی 3/11/1983 پر جمع طریقے سے عمل
میں کر رہا۔

③ 28/5/2011 کو جملہ یا ٹیرا بجکشن کے سیکشن آفیسر (سینئر) (سینئر)
سینئر افری ترقی کے سلسلے میں ایک مہر اسلہ سکریٹری (اسٹریٹنٹ)
کو کھانا اور ان سے سینئر افری (8-12) کی ترقی کے بارے میں مشورہ
مانگا۔ (جو کہ لف "ب" ہے)۔

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④ مورخہ 27/6/2011 کو سکریٹری (اسٹیبلشمنٹ) نے سکریٹری یا ممبر ایگزیکٹو کو اس مشورے کے لیے مورخہ 28/5/2011 کے سلسلے میں وضاحت کی کہ متعلقہ محکمہ کو چاہیے کہ وہ مشترکہ سینیاری لسٹ (اسٹیک ہولڈنگس ٹرانزفر) تعیناتی کی تاریخ سے تیار کر کے پیش کرے۔ اور ان کو ترقی دیں تاکہ حق داروں کو ان کا حق مل جائے جس سے ٹھوس طور پر یہ انکاراں کیا گیا ہے۔ (جو کہ لفٹ "ت" ہے)

⑤ سائنڈن نے اپنی اپیلوں پر سپریم کورٹ میں سکریٹری (اسٹیبلشمنٹ) کے لیے مورخہ 27/6/2011 کی وجہ سے زور نہیں دیا۔ اور وہ لیے موزع عدالت میں پیش کیا۔ موزع عدالت نے حکومت کے اس لیے کی بیٹھی میں بیماری اپیلوں کو فتح کر دیا۔ جو کہ سپریم کورٹ کے آرڈر مورخہ 13/7/2011 سے عیاں ہے۔ (جو کہ لفٹ "ت" ہے)

⑥ عدویہ انداز میں سائنڈن ایک مثال ڈائریکٹریٹ ان سروس کے سٹیٹوٹراف ملرز میں کی پیش کرتے ہیں۔ کہ اس ضمن میں ڈائریکٹریٹ سروس اپنے محکمہ کے سٹیٹوٹراف (B-12) اور اسٹیک کو (مشترکہ سینیاری بنا کر) سپرینٹنڈنٹ کی پوسٹ پر ترقی دیتے ہیں۔ (جو کہ لفٹ "ت" ہے) اس لیے آج صاحبان سے استدعا کی جاتی ہے کہ آج میری بانی کر کے مندرجہ بالا حقائق کی روشنی میں اور سکریٹری (اسٹیبلشمنٹ) کے لیے مورخہ 27/6/2011 کے مطابق موجودہ رولز پر عمل کر کے سٹیٹوٹرافی اسٹیک کے ساتھ مشترکہ سینیاری تیار کر کے پیش کریں تاکہ سائنڈن اپنی ترقی کا حق حاصل کر سکیں۔

شکر ہے

مورخہ 24/12/2011

آج کے نامہ دار

- ① سر کنواری خان سیٹوٹراف
- ② جماعت اللہ سیٹوٹراف
- ③ فرید خان سیٹوٹراف
- ④ محمد طاہر سیٹوٹراف
- ⑤ محمد اشفاق سیٹوٹراف
- ⑥ جبار خان سیٹوٹراف
- ⑦ محمد عیاض سیٹوٹراف
- ⑧ اس اللہ سیٹوٹراف



WRIT PETITION NO. 1387-P /2012

- 1- Murtaza Khan Steno Grapher, Govt: Agro Tech: Teachers Training Center Peshawar.
- 2- Farid Khan Steno Grapher, Directorate of E&SE Peshawar.
- 3- Mohammad Ishfaq Steno Grapher Directorate of E&SE Peshawar.
- 4- Mohammad Tahir Steno Grapher Govt: Agro Tech: Teachers Training Center Peshawar.
- 5- Abdul Jabbar Steno Grapher, Directorate of E&SE Peshawar.
- 6- Khalid Khan Steno Grapher EDO Office D.I.Khan.
- 7- Hamidullah Steno Grapher EDO Office Bannu.
- 8- Mohammad Farooq Steno Grapher EDO Office Abbottabad.
- 9- Daud Jan Steno Grapher, Directorate of FATA Education Warsak Road Peshawar.
- 10- Mohammad Rauf Khan Steno Grapher PITE Peshawar.

.....Petitioners.

VERSUS

- 1- The Secretary Education (E&SE) KPK Civil Secretariat Peshawar.
- 2- The Director Education (E&SE) KPK, Dabgari Garden Peshawar.
- 3- The Secretary Establishment Deptt: KPK Civil Secretariat Peshawar.

.....Respondents.

ATTESTED
May
EXAMINER
Peshawar High Court

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PESHAWAR HIGH COURT, PESHAWAR.


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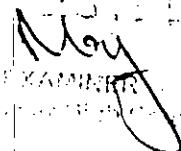
FORM OF ORDER SHEET

Court of

Case No.....of.....

Date of Order or Proceedings	Order or others Proceedings with Signature of Judge
1	2
27-06-2012	<p><u>WP No. 1387-P/2012</u></p> <p>Present: Mr. Muhammad Asif Yousafzai, Advocate, for the petitioners.</p> <p style="text-align: center;">*****</p> <p><u>DOST MUHAMMAD KHAN, CJ.-</u> Contends that earlier in the ultimate end when the matter came up before the Hon'ble Apex Court in Civil Appeals No. 60-P to 66-P of 2009, the respondents produced a notification and copy of decision taken by the Provincial Government on 2762011 whereunder the grievance of the petitioners was redressed, however, after withdrawal of the appeal from the Hon'ble Apex Court, the respondents are not abiding by that compromise and impression which was given to the Apex Court and are indulging delaying tactics despite representation pending disposal. Accordingly, respondent No.2 is directed to comply with its commitment and undertaking given to the Hon'ble Apex Court in light of the</p>

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letter produced there based on the decision of the Provincial Government and to decide the representation of the petitioners in light of the same, otherwise, he will expose himself to contempt proceedings before the Hon'ble Apex Court.

Petition disposed off.

Announced.

Dated: 27.6.2012

Sd/- Dost Muhammad Khan - CJ
Sd/- Mian Fazlul Mulik - J

CERTIFIED TO BE TRUE COPY

[Signature]
May 05/7/2012
Examiner
Peshawar High Court Peshawar
Authorised Under Article 87 of
the Constitution of Pakistan - Shahadat Order 1997.

24

Representation of Applicant *[Signature]* 02/7/2012

No of Pages *[Signature]*

Copying fee *6-*

Urgent Fee *6-*

Total *6-*

Date of Preparation of Copy *05-7-12*

Date Given For Delivery *05-7-12*

Date of Delivery of Copy *05-7-12*

Received By *[Signature]*

PESHAWAR HIGH COURT, PESHAWAR.

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ORDER SHEET

Date of Order or Proceedings.	Order or other Proceedings with Signature of Judge or that of parties or counsel where necessary.
1	2
06.11.2012	<p><u>CM N0-921-P/2012 in COC N0-255-P/2012 in WP-1387-P/2012.</u></p> <p><u>Present:</u> Mr. Muhammad Asif Yousafzai, Advocate, for petitioners.</p> <p>Mr. Lal Jan Khattak, AAG, for respondents.</p> <p style="text-align: center;">* * * *</p> <p><u>MIAN FASIH-UL-MULK, J.</u> Though the order dated 27.6.2012 was passed in absence of the respondents Department as the writ petition was disposed of in motion, whereby the Department was directed to decide the representation of the petitioners in the light of notification / letter issued by the Government of Khyber Pakhtunkhwa, on the basis of which the august Supreme Court dismissed the appeals of the petitioners but they would comply with the order dated 27.6.2012 and decide the representation of the petitioners within a period of one month positively.</p> <p style="text-align: right;">This petition is therefore disposed of accordingly.</p> <p><i>Sd/- Mian Fasih-ul-Mulk</i> <i>Sd/- Jeshal Daisez</i></p> <p style="text-align: right;">JUDGE JUDGE</p> <p style="text-align: center;">CERTIFIED TRUE COPY!</p> <p style="text-align: right;"><i>[Signature]</i> 14/11/12</p>

ATTESTED

HIGH COURT MATTER.

REGISTERED.

OFFICE OF THE DIRECTOR, ELEMENTARY & SECONDARY EDUCATION,
KHYBER PAKHTUNKHWA PESHAWAR.

No. 2731 /AD (Litigation-I)
Dated 26/11/2012.

TO

Mr Murtaza Khan & Others
Steno Grapher-BS-12 (BPS-14 UPGRADED)
Government Agro Tech Teachers Training Centre,
Gul Bahar Peshawar.

Subject: - PESHAWAR HIGH COURT PESHAWAR JUDGMENT/ORDER
DATED 06-11-2012 RENDERED IN C.M NO.91-P/2012 IN
C.O.C. NO.255-P/2012 IN WRIT PETITION NO.1387-P/2012.
MURTAZA KHAN STENOGRAPHER & OTHERS.

- 1) Whereas, You filed a writ petition No.1387-P/2012 before the Hon'able Peshawar High Court Peshawar and the court disposed it off vide its order dated 27/06/2012, wherein, no notice has served upon & ultimately the department remain condemned unheard during the whole proceedings.
- 2) And whereas, You filed a C.O.C No.255-P/2012 before the Hon'able Peshawar High Court Peshawar for implementation/Compliance and the court disposed off the said C.O.C as under:-

"Tough the order dated 27/06/2012 was passed in absence of the respondents department as the writ was disposed off in motion, whereby the Department was directed to decide the representation of the petition were in the light of notification/letter issued by the Government of Khyber Pakhtunkhwa, on the basis of which the August Supreme Court of Pakistan the appeals of the petitioners, but they would comply with the orders dated 27/06/2012 and decide the representation of the petitioners with in a period of one month positively."

REGISTERED
[Signature]

(D) No. 18
26/11/12

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6. Because, the impugned letter dated 27/06/2011, which was produced before the August Supreme Court of Pakistan is not related to the undersigned and no commitment whatsoever was made by him. However, in the light of the above letter the undersigned i.e. Director, Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar has already been expedite the same (Annexure "B") by maintaining the joint seniority list of Assistants/Steno Graphers (BPS-15) under the existing Rules.

Keeping in view of the above reasons, you are, therefore, not entitled for the relief asked for.

Your representation is thus disposed off in the above terms.

[Signature]
DIRECTOR,
ELEMENTARY & SECONDARY EDUCATION,
KHYBER PAKHTUNKHWA, PESHAWAR.

Dated Peshawar the _____/2012.

Endst:NO. _____/

Copy of the above is forwarded to the:-

1. Additional Registrar, Peshawar High Court Peshawar.
2. Advocate General, Khyber Pakhtunkhwa, Peshawar.
3. Secretary, Elementary & Secondary Education Department, Khyber Pakhtunkhwa, Peshawar.
4. Secretary, Establishment Department, Government of Khyber Pakhtunkhwa, Civil Secretariat Peshawar.
5. Deputy Secretary, (Litigation) Elementary & Secondary Education Department, Government of Khyber Pakhtunkhwa, Peshawar.
6. P.A o Director, Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.

[Signature]
DIRECTOR,
ELEMENTARY & SECONDARY EDUCATION,
KHYBER PAKHTUNKHWA, PESHAWAR.

ATTESTED
[Signature]

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A M

OFFICE OF THE PRINCIPAL GOVT; AGRO TECH TEACHERS TRAINING CENTRE, PESHAWAR.

No. 2255

Dated 02/11/2013

To
The Director,
Curriculum & Teachers Education,
Khyber Pakhtunkhwa, Abbottabad.

Subject:- Appeal for Seniority/Promotion.
Memo:-

Enclosed please find herewith an application in respect of Mr. Murtaza Khan, Stenographer of this Centre which is self explanatory is forwarded for further necessary action please.

*Personal file
of Murtaza Khan*

[Signature]
02/11/13

[Signature]
Principal
Govt. Agro Tech Teachers
Training Centre Peshawar.
02/11/13
PRINCIPAL
Govt. Agro. Technical Teachers
Training Centre Gulbahar.No.2
Peshawar.

ATTESTED
[Signature]

بخدمت جناب سیکرٹری ابتدائی و ثانوی تعلیم خیبر پختونخوا ایشیاور

عنوان: اپیل برائے سناریائی / پروموشن

جناب عالی:

گزارش ہے کہ سائل محکمہ ابتدائی و ثانوی تعلیم میں سٹیوگرافر کی پوسٹ پر 1987ء سے کام کر رہا ہے۔ اور آج تک کوئی پروموشن نہیں ہوئی اور نہ ہی آئندہ پروموشن کا امکان ہے۔ بلکہ سائل کے چند سٹیوگرافر ساتھی آئندہ تین سالوں میں اپنی پوسٹوں سے ریٹائرڈ ہو رہے ہیں۔ اس لئے سائل چند اپنے سٹیوگرافر ساتھیوں کے ہمراہ (بعض ہائر ایجوکیشن میں کام کرتے ہیں) اپنی ترقی کے سلسلے میں سروس ٹریبونل میں کیس دائر کیا تھا۔ جو بعد میں سپریم کورٹ تک پہنچ گیا تھا۔ کیونکہ سائل کے ساتھ ترقی کے سلسلے میں امتیازی سلوک ہو رہا تھا۔ اس ضمن میں سائل اپنی گزارشات عرض کرتا ہے۔

۱۔ مورخہ 9/5/1978 کو محکمہ تعلیم نے منسٹریل سٹاف کے رولز بنائے تو ان رولز کے ذریعے سٹیوگرافر (گریڈ B-12) اور اسٹنٹ (گریڈ B-11) کو (مستر کہ سناریائی سے) سپرنٹنڈنٹ (گریڈ B-16) کی پوسٹ پر ترقی دی جاتی تھی۔ (یہ رولز محکمہ ہائر ایجوکیشن اور محکمہ ایلیمینٹری اینڈ سیکنڈری ایجوکیشن کے منسٹریل سٹاف کے لئے تھے۔ کیونکہ دونوں محکموں کے منسٹریل سٹاف کے سناریائی ایک ہی تھی۔ اور مذکورہ رولز بھی آج تک موجود ہے۔)

۲۔ اگست 1983 میں حکومت نے تمام سٹیوٹا پوسٹ، جو نیر سکیل سٹیوگرافر گریڈ B-12 دے دیا تھا۔ گریڈ 12 دینے کے بعد مورخہ 3/11/1983 کو صوبائی حکومت نے تمام سٹیوٹا پوسٹ، جو نیر سکیل سٹیوگرافر کا عہدہ مکمل طور پر ختم کر کے ان کو سٹیوگرافر بنا دیا گیا۔ جس کی وجہ سے سٹیوٹا پوسٹ مکمل طور پر سکیل اور عہدہ کے اعتبار سے سٹیوگرافر بن گیا تھا۔ اور 1978ء کے رولز واضح ہے کہ سٹیوگرافر کی ترقی بطور سپرنٹنڈنٹ ہوتی ہے جن پر محکمہ ہڈ سٹیوگرافر کی ترقی کے سلسلے میں موجودہ رولز اور صوبائی حکومت کی چھٹی مورخہ 3/11/1983 پر صحیح طریقے سے عمل نہیں کر رہا۔

۳۔ جب صوبائی حکومت نے 1990ء میں سلیکشن گریڈ شروع کئے تو دونوں کیڈری یعنی سٹیوگرافر (سابقہ گریڈ B-12) موجودہ گریڈ B-14) اسٹنٹ (سابقہ گریڈ B-11) موجودہ گریڈ B-14) کو یکساں سلیکشن گریڈ سکیل نمبر 15 دیا گیا تھا۔ اسی طرح حکومت نے دونوں کیڈری برابر ظاہر کر دی تھی۔ جس کی وجہ سے سائل کو 15/01/1991 سے سکیل نمبر 15 دیا گیا تھا۔

۴- مورخہ 5/8/2008 کو سیکرٹری ہائر ایجوکیشن کے زیر صدارت رولز میں تبدیلی کے سلسلے میں SSRC کا ایک اجلاس منعقدہ ہوا۔ تو ڈپٹی سیکرٹری ہائر ایجوکیشن نے اجلاس میں واضح کیا کہ 1978ء کے رولز میں سٹیوگرافر کی ترقی کی سہولت (Provision) موجود ہے لیکن محکمہ ہائر ایجوکیشن نے سٹیوگرافر کو ترقی کی سہولت سے محروم کیوں کر رہا ہے۔ جس پر چیئرمین ایس ایس آر سی نے ہدایات دی کہ ڈائریکٹر ہائر ایجوکیشن ایک اندورنی اجلاس بلوا کر اس مسئلے کو حل کریں۔ جو بعد میں حل کر دیا گیا یعنی کہ اور سٹیوگرافر کو تاریخ تقرری سے اسٹنٹ کے ساتھ سناریٹی میں شامل کر دیا گیا۔

۵- اس کے بعد مورخہ 28/5/2011 کو محکمہ ہائر ایجوکیشن کے سیکشن آفیسر (لیٹیکیشن) نے سٹیوگرافر کی ترقی کے سلسلے میں ایک مراسلہ سیکرٹری (اسٹیلشمنٹ) کو لکھا۔ اور ان سے سٹیوگرافر (سابقہ گریڈ B-12 موجودہ گریڈ B-14) کی ترقی کے بارے میں مشورہ (Opinion) مانگا۔ اس وقت ہمارا کیس سپریم کورٹ میں زیر سماعت تھا۔

۶- مورخہ 27/6/2011 کو سیکرٹری (اسٹیلشمنٹ) نے سیکرٹری ہائر ایجوکیشن کو اس مشورے کے خط مورخہ 28/5/2011 کے سلسلے میں وضاحت کی کہ محکمہ کو چاہیے کہ وہ مشترکہ سناریٹی لسٹ (اسٹنٹ بمعہ سٹیوگرافر) کی تعیناتی کی تاریخ سے تیار کر کے مشترک کریں۔ اور ان کو ترقی دیں تاکہ حقداروں کو اپنا حق مل جائے جس سے کچھ عرصہ کے لئے انحراف کیا گیا تھا۔ اور یہ بھی وضاحت کی کہ رولز میں تبدیلی سابقہ ادوار سے لاگو نہ ہوگی۔

۷- مورخہ 13/7/2011 کو سائل کی ترقی کے کیس کے سلسلے میں عدالت عظمیٰ میں تاریخ تھی تب سائل کے ساتھیوں نے سیکرٹری (اسٹیلشمنٹ) کا خط مورخہ 27/6/2011 کو عدالت عظمیٰ میں پیش کیا۔ اور سائل نے اپنی اپیل پر اس لیٹر کی وجہ سے عدالت عظمیٰ میں زور نہیں دیا۔ تب معزز عدالت عظمیٰ نے حکومت کے اس لیٹر کی روشنی میں ہماری ایپلو کو ختم کر دیا۔ جو کہ عدالت عظمیٰ کے آرڈر مورخہ 13/7/2011 سے عیاں ہے۔

۸- اس ضمن میں سائل نے اپنے چند ساتھیوں کے ہمراہ ایک مشترکہ درخواست مورخہ 24/12/2011 کو ڈائریکٹر ریٹ ابتدائی و ثانوی تعلیم کو دی تاکہ وہ سیکرٹری (اسٹیلشمنٹ) کے لیٹر مورخہ 27/6/2011 پر عمل کر کے سائل کو ترقی دے۔ تب ڈائریکٹر صاحب نے مورخہ 17/2/2012 کو ہماری درخواست کو سیکرٹری ابتدائی و ثانوی تعلیم سے مشورہ مانگنے کے لئے بھیج دیا۔

مورخہ 24/2/2012 کو سیکرٹری ابتدائی و ثانوی تعلیم نے ڈائریکٹر صاحب کو اس مشورہ کے جواب میں وضاحت کی۔ کہ اگر موجودہ سروس رولز 1978ء کے ابھی تک برقرار ہے۔ اور محکمہ ابتدائی و ثانوی تعلیم اور محکمہ ہائیر ایجوکیشن کے منسٹرل سٹاف کے ایک جیسے رولز ہے۔ تب ساکنان کی شکایات پر محکمہ اسٹیلشمنٹ کے لیٹر مورخہ 27/6/2011 کی نصیحت کے مطابق عمل کریں یعنی کہ سٹیوگرافر اور اسٹنٹ کی مشترکہ سناریائی تیار کریں اور ان کو ترقی دیں۔

۱۰۔ سیکرٹری ابتدائی و ثانوی تعلیم کی رائے کے مطابق ڈائریکٹر ابتدائی و ثانوی پشاور نے سٹیوگرافر اور اسٹنٹ کی مشترکہ سناریائی لسٹ جاری کرنے کی بھی فائل پر منظوری دے دی۔ لیکن بعد میں دفتر ہذا کے بعض اہلکاران کی مداخلت کی وجہ سے اس مشترکہ سناریائی لسٹ کو جاری نہیں کیا گیا۔ بلکہ اس کام کو ایک کمیٹی کے ذریعے ٹرٹھا دیا گیا۔

۱۱۔ اس کے بعد سائل نے عدالت عالیہ پشاور میں سپریم کورٹ کے آرڈر مورخہ 13/7/2011 پر محکمہ اسٹیلشمنٹ کے لیٹر مورخہ 27/6/2011 کی روشنی میں عمل کروانے کے سلسلے میں ایک رٹ نمبر 12-1387/P جمع کروائی جس کا فیصلہ چیف جسٹس صاحب پشاور ہائی کورٹ نے مورخہ 27/6/2012 کو فیصلہ سنایا اور یہ وضاحت کی کہ سپریم کورٹ میں فیصلے کی بنیاد محکمہ اسٹیلشمنٹ کا وہ خط مورخہ 27/6/2011 ہے۔ جس میں سائل کو اسٹنٹ کے ساتھ تاریخ تقرری 5/1/1987 سے سناریائی دی گئی تھی۔ اس لئے اس خط مورخہ 27/6/2011 پر عمل کرنا چاہیے اور ایسا نہ کرنے پر توہین عدالت کا مرتکب قرار دیا تھا۔ چیف جسٹس صاحب کے اس آرڈر کے باوجود محکمہ نے سائل کے کیس پر کوئی کارروائی نہیں کی۔

۱۲۔ اس کے بعد ایڈیشنل رجسٹرار پشاور ہائی کورٹ نے مورخہ 5/7/2012 کو سیکشن آفیسر اسٹیلشمنٹ نے مورخہ 10/7/2012 کو اور سیکشن آفیسر ابتدائی و ثانوی تعلیم نے مورخہ 12/7/2012 کو ڈائریکٹر ابتدائی و ثانوی تعلیم کو ہائی کورٹ کے فیصلے پر فوری طور پر عمل کرنے کے سلسلے میں خط لکھے۔ لیکن اتنی کارروائی کے باوجود پھر بھی سائل کے کیس پر کوئی کارروائی نہیں ہوئی۔

۱۳۔ چیف جسٹس صاحب کے احکامات پر عمل نہ ہونے کے وجہ سے سائل نے اپنے ساتھیوں کے ہمراہ توہین عدالت کیس نمبر C.O.C No. 255 دائر کیا جس کا فیصلہ عدالت عالیہ کی دور کئی بیٹج نے مورخہ 6/11/2012 کو کیا۔ اور چیف جسٹس صاحب کے احکامات مورخہ 27/6/2012 کو بحال رکھا۔ اور ایک ماہ کے اندر سائل کی اپیل پر فیصلہ کرنے کا حکم دیا۔ لیکن چیف جسٹس صاحب کے احکامات پر عمل کرنے کی بجائے محکمہ ابتدائی و ثانوی نے فیصلے کا رخ ہی تبدیل کر دیا۔ یعنی کہ یہ تمام خط

و کتابت اسٹنٹ (گریڈ B-14) اور سٹیوگرافر (گریڈ B-14) کے بارے میں تھی۔ لیکن محکمہ اس کو سینئر سکیل سٹیوگرافر گریڈ (B-16) سے تشبیہ دیتا رہا۔

۱۴۔ علاوہ ازیں محکمہ ہائیر ایجوکیشن نے 1978ء کے رولز پر عمل کرتے ہوئے مورخہ 10/8/2012 کو اسٹنٹ (B-14) اور سٹیوگرافر (B-14) کا تاریخ تقرری سے مشترکہ سناریائی کا نوٹیفیکیشن جاری کر دیا ہے۔ اور مورخہ 5/9/2012 کو ڈائریکٹر ہائیر ایجوکیشن نے اسٹنٹ (B-14) اور سٹیوگرافر (B-14) کی تاریخ تقرری سے سناریائی لسٹ بھی ایٹو کر دی ہے۔ لیکن ڈائریکٹر ابتدائی و ثانوی ایسا نہیں کر رہا۔

۱۵۔ اس ضمن میں مسائل ایک مثال ڈائریکٹر آف سپورٹس کے سٹیوگرافر ملازمین کی پیش کرتا ہے۔ کہ ڈائریکٹر سپورٹس اپنے محکمہ کے سٹیوگرافر (سابقہ گریڈ B-12 موجودہ گریڈ B-14) اور اسٹنٹ (سابقہ گریڈ B-11 موجودہ گریڈ B-14) کی مشترکہ سناریائی بنا کر سپرنٹنڈنٹ کی پوسٹ پر ترقی دیتا ہے۔

۱۶۔ 1978ء میں منسٹرل سٹاف کے رولز برابری کی بنیاد پر بنائے گئے تھے۔ اور دونوں کیڈرز اسٹنٹ اور سٹیوگرافر کو ترقی کے یکساں مراعات دیئے گئے تھے۔ کیونکہ اس وقت اسٹنٹ کا گریڈ B-11 اور سٹیوگرافر کا گریڈ B-12 تھا۔ اور دونوں مختلف کیڈرز کو مشترکہ سناریائی لسٹ سے سپرنٹنڈنٹ (B-16) کی پوسٹ پر ترقی دی جاتی تھی لیکن اب بھی 1978ء کے رولز موجود ہے۔ لیکن محکمہ سٹیوگرافر (گریڈ B-14) کی ترقی کے سلسلے میں رولز پر عمل نہیں کر رہا بلکہ اسٹنٹ (B-14) کی تعیناتی کے سلسلے میں بھی رولز کو اپنایا نہیں جاتا۔

۱۷۔ علاوہ ازیں یہ قانوناً درست نہیں ہے کہ ایک طرف منسٹرل سٹاف کا ایک ملازم جو نیر کلرک تین مرتبہ ترقی حاصل کرتا ہے۔ یعنی جو نیر کلرک سے سینئر کلرک، سینئر کلرک سے اسٹنٹ اور اسٹنٹ سے سپرنٹنڈنٹ (B-16) ترقی حاصل کرتا ہے۔ لیکن دوسری جانب رولز کے ہوتے ہوئے بھی مسائل کو ایک مرتبہ بھی ترقی نہیں دی جاتی۔

ATTESTED

۱۸۔ مزید برآں محکمہ میں اس وقت اسٹنٹ کی تعداد تقریباً 300 ہے محکمہ صرف سینئر سکیول ٹیچو گرافر B-16 کو جن کی تعداد 05 ہے ان کو اسٹنٹ کی سناریٹی میں شامل کرتا ہے۔ لیکن سائل کو اسٹنٹ کی سناریٹی میں شامل نہیں کرتا ہے۔ جبکہ روڈ میں صرف ٹیچو گرافر اور اسٹنٹ کی مشترکہ سناریٹی سے سپرنٹنڈنٹ کی پرتقی حاصل کرنے کا ذکر ہے اسی وجہ سے تھوڑے ہی عرصہ میں 121 اسٹنٹ (گریڈ B-14) بطور سپرنٹنڈنٹ B-16 ترقی حاصل کر چکے ہیں لیکن اس دوران کسی بھی ٹیچو گرافر (گریڈ B-14) کو بطور سپرنٹنڈنٹ گریڈ B-16 ترقی نہیں دی گئی۔ جو کہ سراسر زیادتی ہے اور انصاف پر بھی مبنی نہیں ہے۔

اس لئے آپ صاحبان سے استدعا کی جاتی ہے۔ کہ آپ مہربانی کر کے سائل کو مندرجہ بالا حقائق کی روشنی میں تاریخ تقرری یعنی مورخہ 5/11/1987 سے اسٹنٹ کے ساتھ مشترکہ سناریٹی دے کر بطور سپرنٹنڈنٹ اپنے نمبر پر بمعہ تمام سابقہ منافع جات کے ساتھ ترقی دے کر مشکور فرمائیں۔

آپ کا تابعدار:
مر تفضی خان ٹیچو گرافر
محکمہ ابتدائی و ثانوی تعلیم
خیبر پختونخوا، پشاور
02/01/13

تاریخ: 02/01/2013

**IMMEDIATE
COURT MATTER**



GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT
(LITIGATION SECTION)

No. SO(Lit)E&AD/2-2012/2012
Dated: Peshawar, the 10-07-2012

To

The Secretary to Govt of Khyber Pakhtunkhwa,
Elementary & Secondary Education Department.

Subject: WRIT PETITION NO. 1387-P OF 2012 MURTAZA KHAN & OTHERS
VERSUS SECRETARY EDUCATION & OTHERS.

Dear Sir,

I am directed to invite your kind attention to the subject noted above and to forward herewith a copy of letter No.10230/Judl: dated 04-07-2012 alongwith self-explanatory orders dated 27-06-2012 of the Hon'ble Peshawar High Court, Peshawar for immediate necessary action please.

Being court matter may please be treated as **Most Urgent**.

Yours faithfully,


Section Officer (Litigation)

Encl: As Above
Endst: of even No. & Date.

Copy forwarded to the P.A to Addl: Secretary (Judicial), E&AD.


Section Officer (Litigation)

Govt. of Khyber Pakhtunkhwa
Elementary & Secondary
Education Department
DS-II Diary No. 381
Date: 11/07/2012

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MOST IMMEDIATE / COURT CASE.

GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT

NO.SO (Lit) E&SED/1-4/2012
Dated Peshawar, the 12-07-2012.

To



The Director,
Elementary & Secondary Education,
Khyber Pakhtunkhwa, Peshawar.

Subject:

WRIT PETITION NO. 1387-P/2012 MURTAZA KHAN & OTHERS
VS SECRETARY EDUCATION AND OTHERS.

I am directed to enclose herewith a copy of letter No. SO (Lit) E&AD/2-2012/2012 dated 10-07-2012 alongwith a copy of order dated 28-06-2012 passed by a Division Bench of Peshawar High Court, Peshawar received from Section Officer (Lit) Establishment Department, Govt. of Khyber Pakhtunkhwa, which is self explanatory for compliance as per direction of the court.

This may be treated as Most Urgent being court matter.

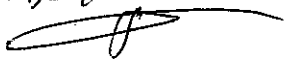
Encl: (as above)


SECTION OFFICER (LITIGATION)

Endst: of even No. & date.

Copy is forwarded to the Section Officer (Lit) Establishment Department, Govt. of Khyber Pakhtunkhwa with reference to his letter cited above for information.

SECTION OFFICER (LITIGATION)

ATTESTED


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**FINAL SENIORITY LIST OF ASSISTANTS / STENOGRAPHERS UNDER THE CONTROL OF
DIRECTORATE HIGHER EDUCATION KPK PREPARED -CORRECTED UPTO 31-10-2012**

TOTAL SANCTION POSTS = 179+9=188

NOTIFICATION

A-167/Promotion Cell /Seniority List

In pursuance of Section 8 of Khyber Pakhtunkhwa Civil Servants Act, 1973 read with Rule 17 of Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules 1989, the Seniority List of Assistant / Stenographers (as stood on 31-10-2012), Directorate of Higher Education Colleges (Male & Female) in Khyber-Pakhtunkhwa including FATA Colleges (Male & Female)

S. No.	Name	Qualification	Date of Birth	Domicile	Date of Ist Apptt: as J/Clerk	D-O promt.to the post of Asst/Stenographer	Designation	Address	REMARKS
1	Mohammad Arif	SSC	08-07-57	Peshawar	01-01-79	01-01-1979	Stenographer	DHE	Included vide P/Govt. Notification No.SO(Colleges-II)/Gen./08/2012/HED dated 10-08-2012
2	Abdul Litaf	BA	01-04-1954	Peshawar	01-04-1978	01-04-1986	Stenographer	DHE	
3	Tariq Shakeel	MA	01-03-1963	Peshawar	01-03-1987	01-03-1987	Stenographer	DHE	
4	Aziz Muhammad	MA	15-08-1965	Charsadda	23-11-1988	23-11-1988	Stenographer	DHE	
5	Noorul Amin Shah	BA	05-11-1968	Swabi	23-11-1988	23-11-1988	Stenographer	DHE	
6	Iqbal Zaman	BA	01-01-1962	Peshawar	01-06-1991	01-06-1991	Stenographer	DHE	
7	Muhammad Nisar	M.Com	28/9/1964	Peshawar	16-01-1991	20-12-1992	Stenographer	DHE	
8	Zahid Hussain	FA	04-10-54	Malakanad	11-04-79	03-05-1995	Assistant	GGC, Thana	
9	Sahibzada Inayat Haleem	BA	01-02-1967	Charsadda	01-11-1995	11-01-1995	Stenographer	DHE	
10	Fazal Ahad	BA	20-03-59	Swat	12-01-78	26-08-1996	Assistant	GPGJC, Swat	
11	Khurshid Anwar	SSC	15/1/1957	Mardan	21-12-78	26-08-1996	Assistant	GDC, Lahor(Swabi)	
12	Haibat Khan	SSC	13-05-54	Bannu	24-12-78	26-08-1996	Assistant	GDC, Essak Khel	
13	Mohammad Tariq	FA	16/04/1954	D.I.Khan	03-01-79	30-05-2008	Assistant	GGC No.2 DIKhan	
14	Murad Khan	MA	02-05-59	Peshawar	27-02-79	26-08-1996	Assistant	DHE	
15	Zulfiqar Khan	FA	04-12-55	Abbottabad	25-02-79	26-08-1996	Assistant	GGC, Mandian (ATD)	
16	Mohammad Mohsin	BA	04-05-53	Bannu	13-02-74	25-03-1997	Assistant	GDC, S-Naurang	
17	Abdul Wahab	BA	15/7/1957	Mardan	01-03-79	01-09-1997	Assistant	GPGC Mardan	
18	Pervez Mohamamd	FA	03-12-58	Peshawar	01-03-79	27-12-1997	Assistant	GSSC, Pesh	
19	Qazi Qutbud Din	BA	01-08-60	Chitral	14-03-79	01-09-1997	Assistant	GGC Chitral	
20	Jamal Abdul Nasir	MA	15-6-1964	Peshawar	02-05-87	13-06-2000	Assistant	DHE	
21	Akhtar Munir	SSC	15/9/1956	Mardan	16-06-75	11-02-2000	Assistant	GDC, Toru MRD	
22	Abdullah Khan	SSC	03-08-57	Lakki Marwat	06-01-79	13-12-2006	Assistant	GDC, Tajori Lakki Marwat	
23	Mohammad Sabir	FA	05-01-61	Manshera	19-02-79	21-03-2004	Assistant	GGC, Manshera	
24	Hadayat Ullah	SSC	22/04/1958	Charsadda	08-04-77	30-05-2008	Assistant	GDC, Ekka Ghund(FATA)	
25	Sardarud Din	FA	08-06-1959	Charsadda	05-04-79	30-05-2008	Assistant	DHE	
26	Imdad Hussain	FA	22/06/1959	Peshawar	28/03/1979	30-05-2008	Assistant	DHE	
27	Aziz Khan	MA	05-10-60	Peshawar	11-04-79	30-05-2008	Assistant	DHE	

S. No.	Name	Qualification	Date of Birth	Domicile	Date of Ist. Apptt. as J/Clerk	D-O promt. to the post of Asstt/Stenographer	Designation	Address	REMARKS
28	Mohammad Ali	SSC	14/1/1960	Karak	22-04-79	14-07-2005	Assistant	GDC, Ahmad Abad	
29	Banaras Khan	BA	05-12-59	Manshera	30-04-79	08-11-2004	Assistant	GPGC, Manshera	
30	Attaulah	FA	05-10-1959	Charsadda	14-05-79	05-02-2004	Assistant	GPGC Nowshera	
31	Subhan-ud-Din	BA	01-12-60	Charsadda	17-05-79	30-05-2008	Assistant	GGC, Tajoo Bibi Charsadda	
32	Mohammad Zahid	SSC	01-03-1958	Swat	15-06-79	30-05-2008	Assistant	GDC, Mingora Swat	
33	Mohammad Ayaz	FA	21/02/1961	Lakki Marwat	07-06-79	30-05-2008	Assistant	GDC, Kakki	
34	Mohammad Nazir	MA	14-04-1960	Mansehra	25-07-79	30-05-2008	Assistant	GDC, Battgram	
35	Salim Raza	BA	30/05/1957	Manshera	12-08-79	30-05-2008	Assistant	GGC, No.1 Mansehra	
36	Mohammad Gulab	SSC	04-03-58	Karak	08-10-79	16-07-2005	Assistant	GDC, Sabir Abad Karak	
37	S. Zahir Ali Shah	BSC	02-03-61	Kurram Agency	17-11-79	30-05-2008	Assistant	GGC, Ali Zai Kurram Agency	
38	Pasham Gul	FA	14/04/1956	Mardan	01-01-80	30-05-2008	Assistant	GDC Bakhshali Mardan	
39	Gul Nawab	BA	04-10-1956	Swat	01-01-80	30-05-2008	Assistant	GGC, Kanju Swat	
40	S. Ahmad Hussain Shah	SSC	10-01-57	Kurram Agency	13-03-80	30-05-2008	Assistant	GDC, Parachinar	
41	Said Hawas Khan	MA	01-05-59	Dir (Lower)	22-05-80	01-03-2005	Assistant	GGC, Timergara (Dir L)	
42	Abrar Ali	MA	05-05-1959	Swabi	31-05-80	30-05-2008	Assistant	DHE	
43	Sher Mohammad Shah	SSC	15/05/1956	Peshawar	01-10-80	30-05-2008	Assistant	DHE	
44	S. Miskin Sheh	SSC	05-04-1960	Peshawar	03-08-80	30-05-2008	Assistant	GGC, Pabbi	
45	Sardar Hussain	SSC	01-06-1960	Mardan	06-11-80	30-05-2008	Assistant	GDC, Lund Khwar	
46	Amjad Hassan Ghorl	BA	26/06/1962	Peshawar	27-08-80	30-05-2008	Assistant	DHE	
47	Sher zada	FA	05-06-1957	Mardan	09-07-80	30-05-2008	Assistant	GGC, Bakhshali Mardan	
48	Ghani Mohammad	BA	01-03-1955	Malakanad	10.9.80	30-05-2008	Assistant	GDC, Kabal Swat	
49	Abdullah Jan	SSC	24/08/1962	Lakki Marwat	15-09-80	30-05-2008	Assistant	GPGC Lakki	
50	Rab Nawaz Khan	SSC	06-12-1954	Bannu	24-09-80	30-05-2008	Assistant	GDC, Domail Bannu	
51	Fazli Subhani	BA	13/04/1962	Charsadda	25-09-80	30-05-2008	Assistant	GDC, Mathra Peshawar	
52	Ali Yar Mian	MA	15/10/1963	Swat	10-02-80	30-05-2008	Assistant	GDC, Madyan Swat	
53	Sultan Zeb	MA	11-07-1958	Dir	10-07-80	30-05-2008	Assistant	GDC, Timergara	
54	Mohammad Javed	LLB	30/01/1960	Abbottabad	10-12-80	30-05-2008	Assistant	GGC, No.1 Abbottabad	
55	Mohammad Riaz	BA	02-01-1961	Karak	16-10-80	30-05-2008	Assistant	GPGC, Karak	
56	Minhaj ud Din	MA	14/09/1953	Buner	13-11-80	30-05-2008	Assistant	GDC, Daggarr	
57	Hazrat Yousaf	MA	05-02-1961	Malakanad	13-11-80	30-05-2008	Assistant	GDC, Batkhela Mlkd.	
58	Javed Iqbal	FA	13/03/1962	Haripur	21-12-80	30-05-2008	Assistant	GGC, Haripur	
59	Aslam Pervez	BA	01-04-1963	Abbottabad	27-01-81	30-05-2008	Assistant	GPGC, Mandian	

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No.					Apptt. as J/Clerk	the post of Asst/Stenographer		
60	Islam ud Din	SSC	09-05-1961	Bannu	19-03-81	30-05-2008	Assistant	GDC, K.D.A Kohat
61	Mohammad Zaheer Ul Haq	BA	29/05/1956	Abbottabad	05-02-81	30-05-2008	Assistant	GGC, Sarai Saleh
62	Feroz Khan	MA	04-11-1958	Charsadda	16-05-81	30-05-2008	Assistant	GFC(W) Peshawar
63	Roozi Khan	SSC	12-01-1956	Lakki Marwat	08-08-81	30-05-2008	Assistant	GDC, Eassak Khel Lakki
64	Mohammad Sharif	SSC	02-08-1960	Peshawar	18-08-81	30-05-2008	Assistant	DHE
65	S.Khan Badshah	BA	11-01-1960	Peshawar	23-08-81	30-05-2008	Assistant	GCGC, Peshawar
66	Mohammad Saeed	BA	04-11-1955	Manshera	09-01-81	30-05-2008	Assistant	GDC, Oghi Mansehra
67	Hassan Shah Bukhari	BA	02-11-1959	Bannu	09-01-81	30-05-2008	Assistant	GP/G GC, Bannu
68	Shah Tamas	SSC	01-02-1962	Bannu	09-01-81	30-05-2008	Assistant	GPGC, Bannu
69	Aziz Gul	FA	25/04/1962	Mardan	09-01-81	30-05-2008	Assistant	GGC, No.1 Mardan
70	Amir Hatam	FA	22/03/1961	Dir	09-04-81	30-05-2008	Assistant	GDC, Samar Bagh Dir
71	Razaullah Khan	SSC	20/01/1957	Peshawar	10-08-81	30-05-2008	Assistant	DHE
72	Mohammad Arifeen	SSC	15/05/1961	Bannu	13-10-82	30-05-2008	Assistant	GDC, Wana
73	Zahoor-ud- Din	BA	01-10-1960	D.I.Khan	10-12-81	30-05-2008	Assistant	GDC, Jandola FR Tank
74	Irshad Ullah	MA	06-10-1960	Nowshera	15-10-84	30-05-2008	Assistant	GDC, Pabbi
75	Samiullah	BA	15/03/1957	Chitral	12-01-81	30-05-2008	Assistant	GDC, Booni Chitral
76	Mir Alam Khan	SSC	01-06-1963	Mohmand	11-04-81	30-05-2008	Assistant	GDC, Lakkaro Mohmand Ag
77	Abdul Hakim	BA	26-07-1960	Kohat	02-03-82	30-05-2008	Assistant	GDC, K.D.A Kohat
78	Mohammad Afzal	SSC	14/08/1963	D.I.Khan	14-04-82	30-05-2008	Assistant	GDC, Wana SWA
79	Zahoor Ahmad	FA	04-12-1962	Manshera	14-04-82	30-05-2008	Assistant	GDC, Jandola FR Tank
80	Mashooq Hussain	SSC	01-08-57	Kurrum Ag	12-01-79	28-09-2010	Assistant	GGC, Parachinar
81	Mohammad Tahir	SSC	01-08-1956	D.I.Khan	23-04-81	28-09-2010	Assistant	GGC, No.2 D.I.Khan
82	Abdul Salam	SSC	30-03-1957	D.I.Khan	27-04-1980	28-09-2010	Assistant	GDC, Ladah (SWA)
83	Mohammad Younas	SSC	03-01-1963	D.I.Khan	14-03-82	28-09-2010	Assistant	GDC, Tank
84	Shuja Mohammad	SSC	06-09-1960	Mohmand Ag		28-09-2010	Assistant	GDC, Ekka Ghund(FATA)
85	Mohammad Yousaf	SSC	10-10-1958	Manshera	23-01-82	28-09-2010	Assistant	GDC, Darband
86	Hassan Akhtar Siddiqi	FA	05-04-1961	Nowshera	22-05-82	28-09-2010	Assistant	GDC, Akkora Khattak
87	Attaullah Khan	FA	13-03-1959	D.I.Khan	30-05-82	28-09-2010	Assistant	GDC, Dara Town Ship
88	Mishkatullah Khan	FA	01-10-1962	D.I.Khan	24-12-81	28-09-2010	Assistant	GDC, No.1 D.I.Khan
89	Pervez Khan	FA	18-09-1962	Charsadda	10-06-82	28-09-2010	Assistant	GDC, Tangi
90	Rab Nawaz Khan	SSC	12-05-1956	Karak	26-09-81	28-09-2010	Assistant	GDC, Kotka Habibullah
91	Zahoor Khan	BA	13-02-1962	Malakand	16-11-81	28-09-2010	Assistant	GDC, Dargai
92	Bakht Karam	FA	01-06-1960	Swat	23-08-82	28-09-2010	Assistant	GPGC, Swat
93	Mohammad Iqbal	MA	01-06-1962	Kohat	12-09-82	28-09-2010	Assistant	GPGC, Kohat

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S. No.	Name	Qualification	Date of Birth	Comm. Dist.	Appnt: as J/Clerk	the post of - Asstt/Stenographer		
94	Rehmat Ullah	SSC	01-02-1964	Mansehra	16-09-82	28-09-2010	Assistant	GDC, Battgram
95	Javed Akhtar	SSC	12.3.1964	Abbottabad	20-09-82	28-09-2010	Assistant	GPGC, Abbottabad
96	Mohammad Faiq	SSC	11-07-1963	Bajour	28-09-2010	28-09-2010	Assistant	GDC, Barkhulzai Bajour
97	Said Ghalib Shah	MA	01-01-1959	Swabi	15-11-82	28-09-2010	Assistant	GPGC, Swabi
98	Ibad Ullah	MA	10-04-1962	Mardan	20-11-82	28-09-2010	Assistant	GGC, Sheikh Maftoon Mardan
99	Alim Zar	MA	12-12-1963	Shangla	24-11-82	28-09-2010	Assistant	GDC, Daggar
100	Noorul Basar	FA	01-04-1964	Mardan	25-11-82	28-09-2010	Assistant	GDC, Lund Khwar
101	Abdur Rauaf	D.Com	02-11-1959	D.I.Khan	01-12-84	28-09-2010	Assistant	GDC, No.2 D.I.Khan
102	Khan Zeb	BA	31-03-1959	Mardan	09.01.1983	28-09-2010	Assistant	GDC, No.2 Mardan
103	Abdul Wajid	D.Com	26-10-1964	D.I.Khan	15-02-83	28-09-2010	Assistant	GGC, No.2 D.I.Khan
104	Fazli Subhan	SSC	17-03-1954	Peshawar	01-04-79	28-09-2010	Assistant	DHE
105	Mian Ageel ud Din	SSC	01-10-1962	Peshawar	01-09-83	28-09-2010	Assistant	DHE
106	Mohammad Arif	SSC	11-10-1958	Peshawar	12-09-83	28-09-2010	Assistant	GGC, Jamrud
107	Shamsul Islam	MA	05-04-1964	Shangla		28-09-2010	Assistant	GDC, Dir upper
108	Saran zeb	MA	24-04-1961	Swat		28-09-2010	Assistant	GGC, Thana
109	Abdul Wadood	SSC	01-01-1960	Peshawar	05-11-81	28-09-2010	Assistant	GDC, Hayatabad
110	Mohammad Pervez	SSC	23-10-1960	Abbottabad		28-09-2010	Assistant	GDC, Havelaian
111	Muhammad Saeed Khan	FA	05-10-1962	Peshawar	13-10-83	28-09-2010	Assistant	DHE
112	Nawab Khan	FA	12-06-1964	Malakand	05-11-81	28-09-2010	Assistant	GDC, Takht Bhai Mardan
113	Mubarak Jan	SSC	24-04-1962	Nowshera		28-09-2010	Assistant	GDC, Shewa
114	Shoukat Hussain	FA	01-01-1956	Abbottabad	24-01-84	28-09-2010	Assistant	GDC, Nathigali
115	Sohail Sultan	MA	01-03-1961	Swat		28-09-2010	Assistant	GDC, Kanju Swat
116	Hamid Kamal	BA	10-01-1962	Lakki Marwat		28-09-2010	Assistant	GDC, Tajori Lakki Marwat
117	S. Hadiyat Ullah Shah	BA	15-05-1962	Mardan	28-12-81	28-09-2010	Assistant	GDC, Khairabad
118	Zamin Sher	SSC	04-04-1962	Charsadda	31-08-81	28-09-2010	Assistant	DHE
119	Mohammad Yousaf	BA	07-06-1965	Manshera	20-11-83	28-09-2010	Assistant	GDC, Balakot
120	Saifullah	BA	16-10-1965	Swabi	08-02-84	28-09-2010	Assistant	GDC, Punj Pir
121	Fazlullah	SSC	25-03-1965	Peshawar		28-09-2010	Assistant	GGC, Hayatabad
122	Khan Gul	FA	03-01-1964	Nowshera	15-03-84	28-09-2010	Assistant	GDC, Ghair Kapoor Mardan
123	Mohammad Rashid	BA	04-06-1964	Karak		28-09-2010	Assistant	GDC, Kakki Barnu
124	Obaidullah	BA	03-04-1967	Chitral	01-05-1984	27-12-2011	Assistant	GDC, Chitral
125	Jehanzeb	SSC	15-05-1962	Peshawar	02-06-1984	27-12-2011	Assistant	GDC, Badabera


No.					Apptt. as J/Clerk	Asstt/Stenographer		
126	Khalid Gul	MA	03-07-1964	Charsadda	01-09-1984	27-12-2011	Assistant	GPGC, Charsadda
127	Bakhmond Zada	SSC	05-12-1960	Swat	01-10-1984	27-12-2011	Assistant	GDC, Batkhela Mikd.
128	Janas Khan	SSC	13-12-1961	Peshawar	04-10-1984	27-12-2011	Assistant	DHE
129	Mahmood Shah	SSC	05-04-1956	Charsadda	01-06-1981	27-12-2011	Assistant	GDC, Lund Khwar
130	Akbar Gul	FA	08-03-1963	Mardan	01-11-1984	27-12-2011	Assistant	Ghari Kapoora
131	Mohammad Farid	MA	22-03-1964	Abbottabad	03-11-1984	27-12-2011	Assistant	GDC, Havelaian
132	Mohammad Azam	SSC	01-09-1966	FR Bannu	04-09-1984	27-12-2011	Assistant	GDC, Landi Jalandar
133	Mohammad Ali	SSC	05-04-1955	Bannu	27-10-1984	27-12-2011	Assistant	GGC, Bannu
134	Shamsut Tamrez	BA	26-09-1958	Battagram	01-11-1984	27-12-2011	Assistant	GDC, Battagram
135	Shoukat Hussain	SSC	20-05-1966	Abbottabad	27-10-1984	27-12-2011	Assistant	GDC, Mathra Peshawar
136	Mohammad Imtiaz	SSC	01-05-1957	Abbottabad	31-03-1983	27-12-2011	Assistant	GGC, Gulshah Rehman
137	Jehanzeb	BA	02-02-1962	Manshera	15-11-1984	27-12-2011	Assistant	GGC, Marghuz
138	Mushtaq Ahmad	SSC	18-01-1953	Kohat	18-12-1984	27-12-2011	Assistant	DHE
139	Sher Akbar	SSC	24-07-1960	Charsadda	20-12-1984	27-12-2011	Assistant	DHE
140	Niamatullah	SSC	02-03-1966	Karak	06-01-1985	27-12-2011	Assistant	GDC, Ghumbat
141	Habibullah	SSC	05-06-1962	Nowshera	02-04-1980	27-12-2011	Assistant	GGC, Manki Swabi
142	Mahboob Ali	MA	16-05-1962	Swat	10-02-1985	27-12-2011	Assistant	GGPGC, Saidu Sharif
143	Ghulam Hussain	FA	04-12-1962	Manshera	01-04-1985	27-12-2011	Assistant	GGC, Manshera
144	Saminullah	BA	14-02-1955	Peshawar	17-04-1985	27-12-2011	Assistant	DHE
145	Said Mohammad	SSC	07-04-1965	Mardan	19-02-1986	27-12-2011	Assistant	GGC, Maneri Swabi


 DEPUTY DIRECTOR (Establishment)
 HIGHER EDUCATION KHYBER PAKHTUNKHWA

Endst. No. 24602782 CA-VII/Establishment Branch Dated 02/11/2012

Copy of the above is forwarded to the all concerned.

- 1 Section Officer (Colleges-II) Govt. of Khyber Pakhtunkhwa Higher Education Department
- 2 PS Secretary Higher Education Govt. of Khyber Pakhtunkhwa
- 3 PA to Director Higher Education Khyber Pakhtunkhwa Peshawar


 DEPUTY DIRECTOR (Establishment)
 HIGHER EDUCATION KHYBER PAKHTUNKHWA

DIRECTORATE OF SPORTS NWFP
PESHAWAR SPORTS COMPLEX, PESHAWAR CANTT.

Dated Peshawar the 12th September 2003

NOTIFICATION


No. 17/Seniority List/OSEC/03: In pursuance of section-8 of NWFP Civil Servants Act 1973 read with Rules-17 of NWFP Civil Servants (Appointment, Promotion & Transfer) Rules, 1989, the final seniority list of Stenographers / Assistants (as stood on 31st December 2002), Directorate of Sports NWFP is hereby notified / circulated for general information.

Total Sanctioned posts : 28 (i.e. 2 Stenographers and 26 Assistants).

S#	Name of Officer / Official and Designation	Academic Qualification	Date of birth	Date of 1 st Entry into Govt service	Date of regular appointment / promotion to the present post			Method of Recruitment / Appointment	Remarks
					Post	BPS	Date		
1-	Muhammad Hashim Khan (Stenographer)	F.A	11-3-1961	18-1-1982	Steno - Grapher	12	28-8-1993	As per rules of the Government	Granted Selection Grade to BPS-15 on 1-4-1993.
2-	Azizullah Jan (Stenographer)	M.A.	03-5-1965	30-4-1983	Steno - Grapher	12	16-7-1986	As per rules of the Government	Granted Move-over to BPS-13 on 1-12-1998 and to BPS-14 on 1-12-2001.
3-	Munawar Khan (Assistant)	M.A.	01-8-1957	05-3-1988	Assistant	11	03-3-1988	As per rules of the Government	Granted Selection Grade to BPS-15 on 11-11-97.
4-	Muhammad Farq (Assistant)	F.A.	10-9-1963	11-3-1987	Assistant	11	16-2-1993	By promotion	Promoted as Assistant on 16-2-1993 & granted Selection Grade to BPS-15 from 01-6-2001

Name of Officer / Official and Designation	Academic Qualification	Date of birth	Domicile	Date of 1 st Entry into Govt service	Date of regular appointment / promotion to the present post			Method of Recruitment / appointment	Remarks
					Post	BPS	Date of arrival as surplus employee		
11- Fazli Ahad Assistant (DSO Office Mardan)	M.A.	04-10-1955	Mardan	17-8-1978	Assistant	11	01-7-2002	Adjusted as Assistant from Surplus Pool	Declared surplus employee by DC Office Mardan.
12- Muhammad Hussain Assistant (DSO Office Nowshera)	Matric	12-4-1945	Nowshera	14-8-1964	Assistant	11	28-8-2002	Adjusted as Assistant from Surplus Pool	Declared surplus employee by Finance Department Nowshera
13- Farooq Jan Assistant (DSO Office Lakki)	M.A.	06-4-1958	Lakki	09-9-1978	Assistant	11	30-4-2003 (A.N)	Adjusted as Assistant from Surplus Pool	Declared surplus employee by Education Department.

It is mentioned here that the surplus employee of other Departments adjusted by the District Governments concerned in the District Sports Offices against the vacant posts of Assistants were placed in the bottom of Seniority list as per decision of the Provincial Government and intimated by the Establishment & Administration Department (Regulation wing) vide letter No.SOR.V(E&AD)10-8/2000.K.C., dated 12-12-2002.

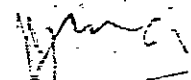

(MAZULLAH KHAN)
DIRECTOR SPORTS NWFP

Dated Peshawar, the 12th September 2003

Endst: No. 17/Seniority List/QSC/03:

Copy forwarded to: -

- (i) Section Officer-II, Sports Department Government of NWFP.
- (ii) All Deputy District Sports Officers in NWFP.
- (iii) All Officials concerned.


(MAZULLAH KHAN)
DIRECTOR SPORTS NWFP
Director Sports
E. W. S. P.

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APPENDIX

APPOINTMENT, PROMOTION AND TRANSFER RULES FOR THE MANAGEMENT CADRE OF THE DIRECTORATE GENERAL, TECHNICAL EDUCATION & MANPOWER TRAINING, KHYBER PAKHTUNKHWA/FATA

(MANAGEMENT CADRE)

Sr.No	Nomenclature of the post	Minimum required qualification for initial recruitment	Age for initial recruitment	Method of recruitment
(1)	(2)	(3)	(4)	(5)
1	Director General, Technical Education & Manpower Training, Khyber Pakhtunkhwa(BPS-20)			<p>a) By transfer of a suitable officer of (BPS-20) from amongst the Principals of Government College of Technology/ Polytechnic Institute/ Government College of Management Sciences and College of Commerce, or</p> <p>b) By transfer from amongst BPS-20 APUG/PCS/PMS Officers.</p>
2	Directors (BPS-19)			<p>a) Fifty percent by promotion, on the basis of selection on merit cum-fitness from amongst the Deputy Directors (BPS-18) having twelve years service in BPS-17 and above;</p> <p>b) Fifty per cent by transfer on merit, from amongst the Government Departments having relevant experience.</p>
3	Deputy Director (BPS-18)			<p>a) Fifty per cent by promotion, on the basis of seniority-cum-fitness from amongst the Assistant Directors(BPS-17), having Bachelor's Degree from a recognized university with five years service</p> <p>b) Fifty per cent by transfer on merit from amongst the holders of the post of Assistant Professors (BPS-18) / Principals, Govt. Technical & Vocational Training Centers. Preference may be given to those having relevant experience.</p>

12

12
1

	Chief Research and Development Officer (BS-18)			By promotion on the basis of seniority-cum fitness from amongst the holders of the post of Research Officer(BPS-17) having five year service as such.
5	Research Officer (BPS-17)	2 nd Class Master Degree in Economics/Statistics/MBA/BBA (Hons) or Bachelor's Degree in Engineering from a recognized University.	22 to 32 years	By initial recruitment.
6	Assistant Director(BPS-17)	Bachelor's Degree in Engineering or LL.B or MBA / BBA (Hons) or Master's Degree in Economics/ Statistics/Commerce from a recognized University.	22 to 32 years	a) Fifty per cent by promotion, on the basis of seniority-cum-fitness, from amongst the Managers Employment Exchanges / Marketing Officers / Superintendents / Apprenticeship Officers / Senior Scale Stenographer (BPS-16) having five years service as such; and b) Fifty per cent by initial recruitment.
7	Apprenticeship Officer (BPS-16).	a. Second Class Bachelor Degree In Electrical/ Mechanical Technology from a recognized University or b. 1 st class Diploma of Associate Engineering in Electrical/ Mechanical Technology from a recognized Institute with 03-years experience in the relevant field.	21 to 30 years	By initial-recruitment.

Note: A joint seniority list of the Managers Employment Exchanges / Marketing Officers / Superintendents Apprenticeship officers and Senior Scale Stenographer shall be maintained for the purpose of promotion.

8	Manager Employment Exchanges (BPS-16)	2 nd class Bachelor Degree in Statistics/Economics/Commerce/BBA from a recognized University.	21 to 30 years	By initial recruitment.
9	Marketing Officer (BPS-16)	2 nd class Bachelor Degree in Marketing/ /BBA(Hons) from a recognized University.	21 to 30 years	By initial recruitment.
10	Superintendent (BPS-16)			By promotion, on the basis of seniority-cum-fitness, from amongst the Head Clerks/ Assistants - / Store supervisor /Junior Scales Stenographers(BPS-14) / having five years service as such.
11	Senior Scale Stenographer (BPS-16)	<ul style="list-style-type: none"> a. 2nd class Bachelor's Degree from a recognized University; b. A speed of seventy words per minute in short-hand in English; and c. Three months certificate in MS Office from an institution affiliated with the Board of Technical Education. 	18 to 25 years.	By initial recruitment.
12	Head Clerk/ Assistant/Store Supervisor (BPS-14).	Bachelor's Degree or equivalent qualification from any recognized University.	18 to 25 years	<p>a) Seventy Five percent by promotion, on the basis of seniority-cum-fitness, from amongst the Senior Clerks (BPS-09) / Storekeeper (BPS-09) and Computer Operator (BPS-12) having three years service as such;</p> <p>b) Twenty Five per cent by initial recruitment.</p> <p>Note: A joint seniority list of the Senior Clerks / Storekeeper (BPS-09) and Computer Operator (BPS-11) shall be maintained for the purpose of promotion.</p>

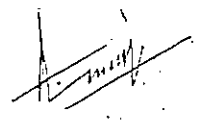
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✓	Junior Scale Stenographer (BPS-14)	<p>a. Intermediate or equivalent qualification from a recognized board, and</p> <p>b. A speed of fifty words per minute in shorthand in English and thirty-five words per minute in typing; and</p> <p>c. Knowledge of computer in using in MS -word and MS-Excel</p>	18 to 25 years	By initial recruitment
14	Computer Operator(BPS-12)	<p>a. Bachelor's Degree from a recognized University; and</p> <p>b. Diploma of one year duration in Information Technology from a recognized institute.</p>	20 to 28 years	By initial recruitment
15	Senior Clerk (BPS-09)			By promotion, on the basis of seniority-cum-fitness, from amongst the Junior Clerks, Library Clerks, / Hostel Superintendents with at least two years service as such.
16	Dispenser (BPS-09)	Post matric. Diploma of Dispenser from a recognized Institute.	18 to 28 years	By Initial recruitment.
17	Pesh Imam (BPS-09)	Sanad in Dars-e-Nizami or a Sanad of "Fazil-i-Arabi" or equivalent qualification from a recognized Daraul-Uloom / Madrassa	18 to 28 years	By Initial recruitment.

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	Store Keeper (BPS-09)		18 to 30 years	By promotion, on the basis of seniority-cum-fitness, from amongst the Assistant Store-Keepers (BPS-06) having three years service as such.
19	Junior Clerk / Accountant / Library Clerk / Hostel Superintendent (BPS-07)	a. 2 nd Class Secondary School Certificate from a recognized Board; and b. Thirty words per minute speed in type-writing or having a Computer Proficiency Certificate in Office Automation.	18 to 28 years	a) Eighty per cent by initial recruitment and b) Twenty per cent by promotion, on the basis of seniority-cum-fitness, from amongst the Daftaries and Naib Qasids having Secondary School Certificate with two years service as such;
20	Assistant Store Keeper (BS-06)	2 nd Class Matriculation or equivalent qualification from a recognized Board.	18 to 30 years	By initial recruitment.
21	Driver (BPS-04)	Possessing Matric qualification with a valid HTV, LTV Driving License with five years practical experience	18 to 28 years	By initial recruitment.
22	Daftari (BPS-02)	Literate.		By promotion, from amongst the Naib Qasids, with three years service as such and having Secondary School Certificate
23	Naib Qasid (BPS-01)	Literate.	18 to 45 years	By initial recruitment.
24	Chowkidar (BPS-01)	Literate.	18 to 45 years	By initial recruitment.
25	Mali (BPS-01)	Literate.	18 to 45 years	By initial recruitment.

26	Sweeper(BPS-01)	Literate.	18 to 45 years	By initial recruitment.
27	Bahishtl(BPS-01)	Literate.	18 to 45 years	By initial recruitment.



SECRETARY TO GOVERNMENT OF THE KHYBER PAKHTUNKHWA
INDUSTRIES, COMMERCE & TECHNICAL EDUCATION
DEPARTMENT

Subject: - MINUTES OF THE MEETING OF STANDING SERVICE RULES COMMITTEE (SSRC) HELD ON 5.3.2008 UNDER THE CHAIRMANSHIP OF SECRETARY HIGHER EDUCATION, NWFP.

A meeting of Standing Service Rules Committee was held on 5.3.2008 at 11.00 AM under the Chairmanship of Secretary Higher Education, Peshawar in his office. The following attended the meeting.

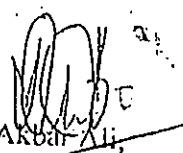
1. Secretary Higher Education Department, Govt: of NWFP PESHAWAR. In chair
 2. Mr. Ghulam Rehmani, Deputy Secretary Higher Education, NWFP Peshawar.
 3. Mr. Israr Muhammad, Deputy Secretary-II, Higher Education Deptt; NWFP Peshawar.
 4. Mr. Akbar Ali, Deputy Secretary, Establishment Department, NWFP Peshawar.
 5. Mr. Aftab Jehan, Director Higher Education, NWFP Peshawar.
 6. Mr. Zahir Ullah Khan, Director Archives & Libraries NWFP, Peshawar.
 7. Mr. Munawar Khan, Section Officer (SR-II), Finance Department, NWFP Peshawar.
 8. Syed Hammodur-Rehman, ALD-IV II, Law Department, NWFP Peshawar.
 9. Mr. Hidayat Ullah Khan, Assistant Director, Higher Education, NWFP Peshawar.
 10. Said Bad Shah, Section Officer (Trg;) Higher Education Department NWFP, Peshawar.
2. The Deputy Secretary-II, Higher Education presented the Agenda items to the Standing Service Rules Committee for consideration. The Committee examined/ discussed thoroughly the agenda items and the following decisions were taken therein, as mentioned against each item.

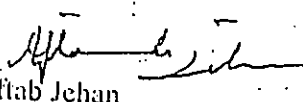
S.No.	Agenda Item.	Decision Taken.
1.	Amendment in the Service Rule for Librarian/DPEs as recently upgraded from B-16 to B-17.	The Committee examined/discussed the case of up gradation of the Librarians/DPE from B-16 to B-17 and the existing policy for promotion of 25% of B-16 to B-17 and 25% of B-17 to B-18. The meeting was informed that the latest notification regarding up gradation of the posts of Librarians/DPEs from B-16 to B-17 issued on the basis of a summary moved by the Schools & Lit; Department is completely silent about B-18. As per this notification all Librarians/DPEs in B-16 having Master Degrees in their relative subject have

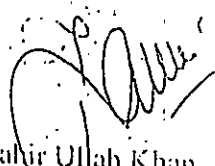
ATTESTED

ANNEXURE-A

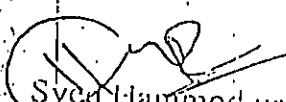
LIST OF MEMBERS OF THE MEETING ATTENDED

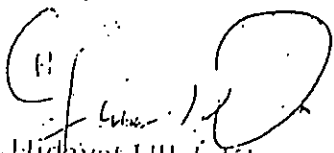

Mr. Akbar Ali,
Deputy Secretary,
Establishment Department NWFP, Peshawar.

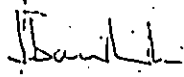

Aftab Jehan
Director Higher Education,
NWFP, Peshawar.



Zahir Ullah Khan,
Director Archives & Libraries,
NWFP, Peshawar.

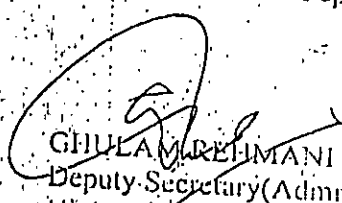
Munawar Khan,
Section Officer (SR-II),
Finance Department

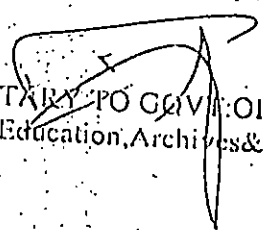

Syed Hammod ur Rehman,
A.L.D-IV Law Department,
NWFP, Peshawar.


Hidayat-Ullah Khan,
Assistant Director,
Higher Education NWFP, Peshawar.


SAID BAD SHAH
Section Officer (Trg)
Higher Education Deptt:


Mr. Israt Mohammad,
Deputy Secretary-II,
Higher Education Department, NWFP.


GHULAM REHMANI
Deputy Secretary (Admn)
Higher Education Deptt: NWFP


SECRETARY PO GOVT. OF NWFP,
Higher Education, Archives & Lib: Deptt:

ATTESTED
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VAKALAT NAMA

NO. _____/20

IN THE COURT OF Service Tribunal Peshawar

Murtaza Khan (Appellant)
(Petitioner)
(Plaintiff)

VERSUS

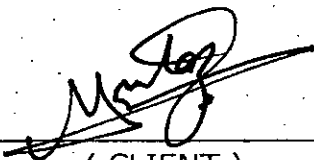
Education Dept. (Respondent)
(Defendant)

I/We Murtaza Khan (Appellant)

Do hereby appoint and constitute **M.Asif Yousafzai, 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 costs.

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. The Advocate/Counsel is also at liberty to leave my/our case at any stage of the proceedings, if his any fee left unpaid or is outstanding against me/us.

Dated _____/20


(CLIENT)

ACCEPTED


M. ASIF YOUSAFZAI
Advocate

M. ASIF YOUSAFZAI
Advocate High Court,
Peshawar.

OFFICE:
Room No.1, Upper Floor,
Islamia Club Building,
Khyber Bazar Peshawar.
Ph.091-2211391-
0333-9103240

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR

SERVICE APPEAL No: 754/2013.

Murtaza Khan Stenographer GATTTC, Gul Bahar, Peshawar City

-----Applicant

VERSUS

1 The Secretary Elementary & Secondary Education Department Khyber Pakhtunkhwa,
Peshawar & others -----Respondents

PARAWISE COMMENTS/REPLY FOR AND ON BEHALF OF THE RESPONDENTS

No: 1, 2 & 3 & 4.

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 fact from this Hon! able Tribunal hence liable to be dismissed.
- 4 The appellant has not come to Hon! able Court with clean hands.
- 5 The present appeal is liable to be dismissed for non joinder/mis-joinder for necessary parties.
- 6 The appellant has filed the instant appeal on malafide motives.
- 7 The instant appeal is against the prevailing laws & rules.
- 8 The appellant is estopped by his own conduct to file in present appeal.
- 9 The instant appeal is not maintainable in the present form & also in the present circumstances of the issue.
- 10 This Hon !able Court has no jurisdiction to adjudicate upon the present appeal.
- 11 The Sub Rule 2 of rule-3 of Civil Servant (Appointment, Promotion & Transfer) rules 1989 authorize the Department to lay down the method of appointment, qualification and other conditions in consultation with Establishment & Finance Departments.

ON FACTS

- 1 This Para pertains to service record of the appellant hence needs no comments.
- 2 This Para also related to the office record and has no concern to the prayer of the appellant in the appeal in hand. However, it would not be out of context to mentioned here that the appellant has prayed for promotion to post of Superintendent. While the promotion to the post of Superintendent is to be made from the joint seniority list of Assistant and Senior Scale Stenographer with at least five years of service in accordance with service structure issued in 1978 and the same have been amended on 28-1-2013 (Annexure "A").

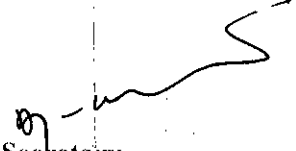
3. Incorrect. No one from junior scale stenographer has been promoted to the post of Superintendent so far. The said rules/Service structure of Assistants, Stenographers & Superintendents have been amended in 2013.(Annexure "A"). Hence the whole statement of the appellant in this Para is baseless, , against the law, rules and contrary to existing policy on the subject.
4. This pertains to court record. However the said judgment was challenged in the Supreme Court of Pakistan. The Apex Court remanded the appeal back to service Tribunal to decide the case a fresh on merit, as evident from para-5 of this appeal.
5. As replied in para-4 above. Moreover, the Hon! able Service Tribunal dismissed the said appeal with the remarks that this Tribunal is of the view that it would not be within its jurisdiction to direct the respondent departments to amend the rules and procedure as prayed in the appeal. While the appellant once again come to this Tribunal with same prayer which is earlier decided at this Hon! Able legal forum, , hence the present appeal is against the Service Tribunal Act rules and the Principle of "Resjudicata", hence liable to be dismissed.
6. This para pertains to record of Hon! able Court. Needs no comments.
7. Incorrect. In this regard the letter of the Director (E&SE) is very clear and the issue of seniority and promotion was discussed in brief and the request of the applicants were regretted after examining , the case in the light of prevailing law, rules and policy. Hence the whole Para is denied being irrelevant.
8. Incorrect. The (E&SED) examined the departmental appeal of the applicants in the light of the prevailing law, rules and policy and regretted on cogent legal, lawful ground and same were communicated to the appellants. Hence, the whole Para is incorrect and against the facts and material on record.
9. In correct. The statement of the appellant in this Para is false, baseless, against the fact and record. The department decided the said appeal of the appellant, informed the applicant vide letter dated 26.11.2012, while all the legal ground are reflected/mediated in the said letter in brief (Annexure "L" of the appeal).
10. Incorrect the appellant has no cause of action to come to this Hon! able Tribunal time and again for the same ~~same~~ plea as decided by this Hon! able Tribunal and Apex Courts, hence the present appeal is liable to be dismissed inter alia on the following grounds.

ON GROUNDS


- A Incorrect. The letter dated 26.11.2012 is in accordance with law, rules, norms of justice and Material on record as evident from the contents of the said letter, hence denied.
- B Incorrect. The issued of joint seniority has been discussed in brief in Para 1 and 2 of the letter/order as mentioned in Para above, supported by law and rules (Annexure "L" of the appeal).
- C As replied in Para "B" above.
- D Incorrect. The statement of appellant is not relevant one and also not supported by law and rules on the subject


- E Incorrect. This Para is related to service record of the appellant promotion rules and the appellant is not entitled for promotion to the post of Superintendent
- F Incorrect. The appellant has been treated in accordance with law and rules because the Post of superintendent is to be filled by promotion on the basis of seniority cum fitness among the holders of the post of Assistants and Senior Scale Stenographer with at least 5 years of service (Annexure "A").
- G Incorrect. The statement of the appellant is without any cogent proof without legal Support and evidence and also fabricated one, hence denied.
- H Incorrect. The respondents have violated no rules on the subject, hence denied.
- I Incorrect the department has not discriminated the appellant. The rules of other department can not be applied in the E&SE Department, hence denied.
- J That the respondents seek the permission of this Hon! able Tribunal to adduce more grounds, proofs at the time of arguments.

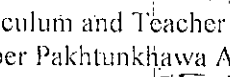
In view of the above submissions, it is prayed that this Hon! able Tribunal may very graciously dismiss the appeal with cost in favour of the respondents Department.


 Secretary
 Elementary & Secondary Education
 Department Government of Khyber
 Pakhtunkhawa


 Secretary
 Establishment Govt. of Khyber
 Pakhtunkhawa S&GAD Department


 Director
 Elementary and Secondary Education
 Khyber Pakhtunkhawa Reshwar
 Elementary & Secondary Education
 Khyber Pakhtunkhawa Reshwar


 Director
 Curriculum and Teacher Education
 Khyber Pakhtunkhawa Abbottabad


 Director
 Curriculum & Teacher Education
 Khyber Pakhtunkhawa, Abbottabad

		<p>been upgraded but they can not be promoted to B-18 as formula/ Methodology for promotion to B-18 has not been mentioned.</p> <p>After detailed discussion the committee unanimously agreed that a fresh summary would be moved to Chief Minister wherein promotion of Librarians/DPEs from B-16 to B-17 and from B-17 to B-18 will be highlighted and then in the light of that the up gradation notification recently issued be revised.</p>
2.	Change of Nomenclature of Cataloguer by Librarians.	The item was discussed threadbare and the Committee agreed that as qualification, nature of duty, scales etc; of both the Librarians/Cataloguers are the same therefore, nomenclature of Cataloguer be changed into Librarian. The representative of the Finance Department informed that the Higher Education Department should send this case to Finance Department for necessary action.
3.	Promotion of Assistant/ Stenographer in Directorate of Higher Education.	The Deputy Secretary-II, Higher Education Department informed the meeting that provision of promotion of Stenographer are available in the Service Rules of 1978 and as per Rules, joint Seniority will be maintained with Assistants as maintained by other Departments but in the Directorate of Higher Education Department they have not been included in the joint Seniority with Assistants that is why they been deprived of the facility of promotion. The Chair informed that as it is an internal issue so an internal meeting to resolve this issue be convened with Director Higher Education, NWFP.
4.	Director Recruitment of the post B-19 officers against @ 20%.	The Committee agreed that Higher Education Department should convene a meeting with the NWFP, Public Service Commission in order to resolve this issue.
5.	Age limit for Male/ Female Lecturers.	The Committee was informed that as per revised rules 2002 Age limit for the post of Lecturer is 30

3. List of Members (Annexure-A).
4. The Meeting ended with a vote of thank by the Chair.

ATTESTED



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

Service Appeal No. __754_/2013

Mr. Murtaza Khan V/S Edu: Deptt., Peshawar.
.....

REJOINDER ON BEHALF OF APPELLANT

.....
RESPECTFULLY SHEWETH:

Preliminary Objections:

(110) All objections raised by the respondents are incorrect. Rather the respondents are estopped to raise any objection due to their own conduct.

FACTS:

- 1 No comments.
- 2 Not replied according to Para-2 of the Appeal.
- 3 Incorrect and baseless. The Service Rules and length of service of the appellant clearly shows that the right of promotion of appellant is correct.
- 4 Incorrect. The Judgment of the Service Tribunal is attached which is self explanatory.
- 5 Incorrect, while Para-4 of appeal is correct.
- 6 No comments by the respondents, which means Para-6 of Appeal is correct.
- 7 Incorrect. The contents of Para-8 of the appeal are correct.
- 8 Incorrect. Annexure-K, I and M with the Appeal prove that the contents of Para-9 of appeal are correct.
- 9 Legal.


GROUNDS:

- A) Incorrect, while Para-A of appeal is correct.
- B) Incorrect, while Para-B of appeal is correct. Moreover, the department is legally bound to prepare joint seniority list of Office and Stenographer from the date of their regular appointments.
- C) Incorrect, while Para-C of appeal is correct.
- D) Incorrect. The contents of Para-D of the Ground of Appeal are correct.
- E) Incorrect, while Para-E of appeal is correct.
- F) Incorrect, while Para-F of appeal is correct.
- G) Incorrect, while Para-G of appeal is correct.
- H) Incorrect, while Para-H of appeal is correct.
- I) Incorrect, while Para-I of appeal is correct.
- J) Legal.

It is, therefore, most humbly prayed that the appeal of appellant may kindly be accepted as prayed for.

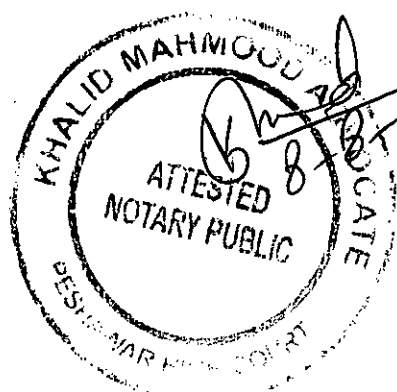
APPELLANT
Murtaza Khan

Through:


(M. ASIF YOUSAFZAI)
ADVOCATE, PESHAWAR.

AFFIDAVIT

It is affirmed and declared that the contents of rejoinder are true and correct to the best of my knowledge and belief.




DEPONENT

BEFORE KHYBER PAKHTUNKHWA SERVICE

TRIBUNAL PESHAWAR

Appeal No. 754 /2013

Muhammad Khan vs Govt. of KPK.

**APPLICATION FOR PLACING ON FILE CERTAIN DOCUMENTS
ATTACHED WITH APPLICATION**

R.Sheweth;

1. That the instant appeal is pending before this august Tribunal and fixed for arguments for today i.e 23/12/2016.
2. That the appellant wants to submit certain documents for fair conclusion and to meet the end of justice.
3. That attached documents are from page 1-2.

It is therefore, most humbly requested that on acceptance of this application certain documents attached with the application may please be placed on file for fair conclusion and to meet the ends of justice.



Appellant

Through

M Asif Yousafzai,
Advocate Supreme Court
&
Taimur Ali Khan
Advocate High Court

Affidavit:

It is solemnly affirm that the contents of this application is true and correct to the best of my knowledge & belief.

ATTESTED

[Signature]
23/12/16


Deponent

MINUTES OF THE STANDING SERVICE RULES COMMITTEE
OF EDUCATION DEPARTMENT HELD ON 28.3.2000 AT
10:00 A.M. UNDER THE CHAIRMANSHIP OF SECRETARY
EDUCATION IN HIS OFFICE.

Meeting of the Standing Service Rules Committee of Education Department was held on 28.3.2000 at 10.00 A.M. under the chairmanship of Secretary to Govt: of NWFP Education Department, being Chairman of the Standing Service Rules Committee to consider amendments in the appendix to the Ministerial Staff Service Rules of Education Department, notified through notification NO. SO(C)/5-2/70(E), dated 9.5.1978.

The following attended the meeting :-

1. Syed Mazhar Ali Shah, Secretary to Govt: of NWFP Education Department. Chairman.
2. Mr: Hussain Shah, Section Officer (Reg-I), on behalf of Dy: Secretary (R), S&GAD Department NWFP Peshawar. Member.
3. Syed Baqar Shah, Section Officer (SR-II), on behalf of Dy: Secretary (SR), Finance, Excise & Taxation Department, NWFP. Member.
4. Mr: Qaisro Khan, Dy: Director of Education (Secondary) NWFP, Peshawar, on behalf of Director of Edu: (Secy:). Member.
5. Mr: Fazal-ur-Rehman, Dy: Secretary (Adm:) Education Deptt: Member-cum-Secy:

The proposed amendments were discussed and approved by Committee as follows :-

PROPOSED AMENDMENTS.

i) Amendment in SL:NO.3 column 6 of the appendix to the Ministerial Staff Service Rules of Education Department to the effect that 90% posts of the Supdts: will be filled up by promotion on the basis of seniority-cum-fitness from amongst the holders of the posts of Assistants while remaining 10% will be filled up by promotion on the basis of seniority-cum-fitness from amongst holders of the posts of Stenographers with 5 years service experience as such who have passed departmental examination, if any prescribed for Assistants.

ii) The word Head-clerk appearing at SL:NO.3 column 6 and SL:NO.4 column 2 of the appendix to the Ministerial Staff Service Rules of Education Department, being redundant may be deleted from the rules.

DECISION OF THE STANDING SERVICE RULES COMMITTEE.

Approved by the Committee.

Approved by the Committee.

SL:NO.	Name
1.	Syed Mazhar Ali Shah.
2.	Mr: Hussain Shah.
3.	Syed Baqar Shah.
4.	Mr: Qaisro Khan.
5.	Fazal-ur-Rehman.

Signature

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GOVERNMENT OF NORTH-WEST FRONTIER PROVINCE
EDUCATION DEPARTMENTNOTIFICATION.

HC. SO (Dir.) Edu: /4-13/99, in exercise of the powers conferred by Article 5 of the Provincial Constitutional Order No. 1 of 1999, as amended by the Provisional Constitution (Amendment) Order No. 9 of 1999, and all other powers in that behalf, the Chief Executive is pleased to direct that in the Education Department's Notification No. SO (C) 5-2/70 (E), dated 9.5.1978, the following further amendments shall be made, namely:-

In the Appendix,-

(a) in column 6 against serial No. 3 for the existing entry the following shall be substituted, namely:

"(i) Ninety percent by promotion, on the basis of seniority-cum-fitness, from among the Assistants with at least five years service as such and

(ii) ten per cent by promotion, on the basis of seniority-cum-fitness, from amongst the Junior Scale stenographers, with at least five years service as such, who have passed departmental examination, if any, prescribed for Assistant, and

(b) In column 2 against serial number 4, the oblique and the word, "/Head Clerk" shall be deleted.

SECRETARY TO GOVERNMENT OF
NORTH-WEST FRONTIER PROVINCE
EDUCATION DEPARTMENT

Order No. SO (Dir.) Edu: /4-13/99, Dated Peshawar the 4 / 09 / 2000

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

1. All the Administrative Secretaries in NWFP, Peshawar.
2. All the Secretaries N.W.F.P, Public Service Commissioner Peshawar.
3. The Accountant General, NWFP, Peshawar.
4. All the Directors of Education, N.W.F.P.
5. The Manager Govt. Printing Press for publication in the next issue of Government Gazette.

(-MUHAMMAD ANWAR YOUSAFZAI)
SECTION OFFICER (DIRECTIVE)
EDUCATION DEPARTMENT NWFP.

BEFORE KHYBER PAKHTUNKHWA SERVICE

TRIBUNAL PESHAWAR

Appeal No. 754 /2013

Mustaza Khan *vis Court of KPK.*

APPLICATION FOR PLACING ON FILE CERTAIN DOCUMENTS
ATTACHED WITH APPLICATION

R.Sheweth;

1. That the instant appeal is pending before this august Tribunal and fixed for arguments for today i.e 23/12/2016.
2. That the appellant wants to submit certain documents for fair conclusion and to meet the end of justice.
3. That attached documents are from page 1-2.

It is therefore, most humbly requested that on acceptance of this application certain documents attached with the application may please be placed on file for fair conclusion and to meet the ends of justice.

[Signature]

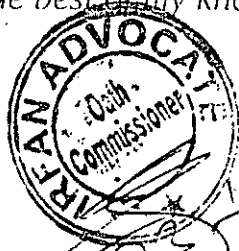
Appellant

Through

M Asif Yousafzai;
Advocate Supreme Court
&
[Signature]
Taimur Ali Khan
Advocate High Court

Affidavit:

It is solemnly affirm that the contents of this application is true and correct to the best of my knowledge & belief.



[Signature]
Deponent

MINUTES OF THE STANDING SERVICE RULES COMMITTEE
OF EDUCATION DEPARTMENT HELD ON 28.3.2000 AT
10:00 A.M. UNDER THE CHAIRMANSHIP OF SECRETARY
EDUCATION IN HIS OFFICE.

Meeting of the Standing Service Rules Committee of Education Department was held on 28.3.2000 at 10:00 A.M. under the chairmanship of Secretary to Govt: of NWFP Education Department, being Chairman of the Standing Service Rules Committee to consider amendments in the appendix to the Ministerial Staff Service Rules of Education Department, notified through notification NO. SO(C)/5-2/70(E), dated 9.5.1978.

The following attended the meeting :-

- | | | |
|----|---|------------------|
| 1. | Syed Mazhar Ali Shah, | Chairman. |
| | Secretary to Govt: of NWFP Education Department. | |
| 2. | Mr: Hussain Shah, | Member. |
| | Section Officer(Reg-I), on behalf of Dy:Secretary(R), S&CA Department NWFP Peshawar. | |
| 3. | Syed Baqar Shah, | Member. |
| | Section Officer(SR-II), on behalf of Dy:Secretary(SR), Finance, Excise & Taxation Department, NWFP. | |
| 4. | Mr: Qaisro Khan, | Member. |
| | Dy: Director of Education(Secondary) NWFP, Peshawar, on behalf of Director of Edu: (Secy:). | |
| 5. | Mr: Fazal-ur-Rehman, | Member-cum-Secy: |
| | Dy:Secretary(Adm:) Education Deptt: | |

The proposed amendments were discussed and approved by Committee as follows :-

PROPOSED AMENDMENTS.

i) Amendment in SL:NO.3 column 6 of the appendix to the Ministerial Staff Service Rules of Education Department to the effect that 90% posts of the Supdts: will be filled up by promotion on the basis of seniority-cum-fitness from amongst the holders of the posts of Assistants while remaining 10% will be filled up by promotion on the basis of seniority-cum-fitness from amongst holders of the posts of Stenographers with 5 years service experience as such who have passed departmental examination, if any prescribed for Assistants.

DECISION OF THE STANDING SERVICE RULES COMMITTEE.

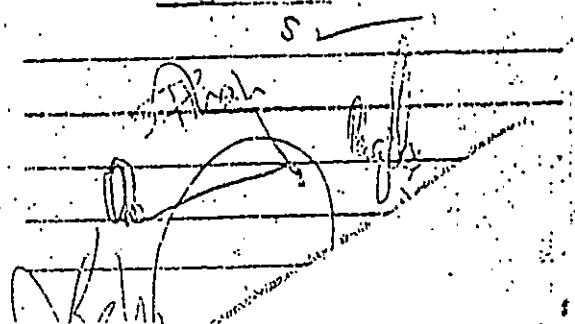
Approved by the Committee.

ii) The word Head-clerk appearing at SL:NO.3 column 6 and SL:NO.4 column 2 of the appendix to the Ministerial Staff Service Rules of Education Department, being redundant may be deleted from the rules.

Approved by the Committee.

<u>SL:NO.</u>	<u>Name</u>
1.	Syed Mazhar Ali Shah.
2.	Mr: Hussain Shah.
3.	Syed Baqar Shah.
4.	Mr: Qaisro Khan.
5.	Fazal-ur-Rehman.

Signature

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(19) 24

GOVERNMENT OF NORTH-WEST FRONTIER PROVINCE
EDUCATION DEPARTMENT

NOTIFICATION.

HC. SO (Dir.) Edu: /4-13/99, in exercise of the powers conferred by Article 5 of the Provincial Constitutional order No. 1 of 1999, as amended by the Provincial Constitution (Amendment) Order No. 9 of 1999, and all other powers in that behalf, the Chief Executive is pleased to direct that in the Education Department's Notification No. SO(C)5-2/70(E), dated 9.5.1978, the following further amendments shall be made, namely:-

In the Appendix,-

(a) in column 6 against serial No. 3 for the existing entry the following shall be substituted, namely:

"(i) Ninety percent by promotion, on the basis of seniority-cum-fitness, from among the Assistants with at least five years service as such and

(ii) ten per cent by promotion, on the basis of seniority-cum-fitness, from amongst the under scale stenographers, with at least five years service as such, who have passed departmental examination, if any, prescribed for Assistants, and

(b) In column 2 against serial number 2, the oblique and the word, "/Hous Clock" shall be deleted.

SECRETARY TO GOVERNMENT OF
NORTH-WEST FRONTIER PROVINCE
EDUCATION DEPARTMENT

Dated: No. SO (Dir.) Edu: /4-13/99, Dated Peshawar the 4 / 09 / 2000

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

1. All the Administrative Secretaries in NWFP, Peshawar.
2. All the Secretaries, N.W.F.P, Public Service Commissioner Peshawar.
3. The Accountant General, NWFP, Peshawar.
4. All the Directors of Education, N.W.F.P.
5. The Manager Govt. Printing Press for publication in the next issue of Government Gazette.

(-MUHAMMAD ANWAR YOUSAFZAI) 19/9/2000
SECTION OFFICER (DIRECTIVE)
EDUCATION DEPARTMENT NWFP.

Appeal

2012 S C M R 965

[Supreme Court of Pakistan]

Present: Mian Shakirullah Jan and Amir Hani Muslim, JJ

WATER AND POWER DEVELOPMENT AUTHORITY, LAHORE through Chairman and others---Appellants

versus

Haji ABDUL AZIZ and others---Respondents

Civil Appeals Nos. 121 to 123 of 2011, decided on 16th April, 2012.

(On appeal from judgment dated 2-10-2009 of the Federal Service Tribunal, Islamabad, passed in Appeals Nos.331ÖCS/2007, 332ÖCS/2007 and 2173ÖCE/2005).

(a) WAPDA (Water Wing) Service of Engineer Rules, 1968---

---R. 5(2)(e)(ii)---Constitution of Pakistan, Art. 212---Amendment in rules effecting promotion rights of employees retrospectively---Validity---Employees (respondents) were working as sub-engineers in WAPDA and were placed in BS-16--WAPDA (appellant) made amendment in rule 5(2)(e)(ii) of WAPDA (Water Wing) Service of Engineer Rules, 1968, by which amendment condition of holding office in BS-16 was done away with and all sub-engineers who otherwise qualified were entitled for consideration for promotion to junior-engineers in terms of amended rule---Contentions of employees were that prior to the amendment, twenty six (26) vacancies were available, and employees were entitled to promotion on such vacancies on the basis of the seniority list; that after introduction of amended rule, those who did not fall within the seniority list of BS-16 were allowed to compete with the employees for promotion, and that amended rule could not be allowed to operate retrospectively to the disadvantage of the employees, who were entitled to promotion prior to the amendment against the vacant seats---Validity---Rules operated prospectively and if a right was created in favour of an employee under the old rule, it could not be taken away on the ground that the amended rule had allowed others to compete---Twenty six vacancies were available before the amendment of rule, and employees were entitled to promotion on such vacancies under the seniority list, but the department did not promote them without offering any plausible explanation---Amended rule did not permit the department to overlook the rights of employees created under the law by applying the amended rule to the extend benefit to those who were not in run for promotion at the time when the right of the employees for promotion matured on basis of the seniority list---Finding of Tribunal was in conformity with the settled law and no exception could be taken to the same---Appeals were dismissed by Supreme Court with costs.

Dr. Muhammad Amjad v. Dr. Israr Ahmed 2010 SCMR 1466; Mrs. Farkhanda Talat v. Federation of Pakistan 2007 SCMR 886 and Luqman Zareen v. Secretary Education 2006 SCMR 1938 ref.

(b) Interpretation of statutes---

---Amendment of a statute/rule affecting right of individual---Scope---Any amendment which deprives a person of his right has to be construed prospectively.

Per appellat

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR.

APPEAL NO. 323 /2015

Mr. Inayat Ullah, S.CT,
GHS Nasapa Payan, District, Peshawar.



W.P. Province
Service Tribunal
Diary No 254
Date 24-3-2015

(Appellant)

VERSUS

1. The Secretary Education (E&SE), Peshawar.
2. The Director Education (E&SE), Peshawar.
3. The Departmental Promotion Committee Through its Chairman, The Director Education (E&SE), Peshawar.
4. The District Education Officer (E&SE), Peshawar.

(Respondents)

APPEAL UNDER SEC- 4 OF KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 FOR DIRECTING THE RESPONDENTS TO CONSIDER THE APPELLANT FOR PROMOTION TO SST(G) POST ON THE BASIS OF BATCH- WISE/YEAR -WISE MERIT OR ON THE BASIS OF PROVINCIAL-WISE SENIORITY AGAINST 40% SHARE FIXED BY THE GOVERNMENT FROM THE DUE WITH ALL BACK AND CONSEQUENTIAL BENEFITS AND NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF 90 DAYS.

Filed under
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24/3/15

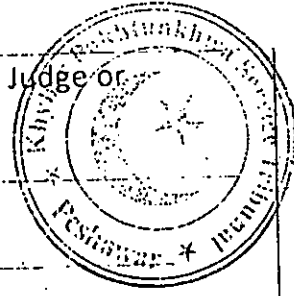
admitted to-day
admitted.

[Signature]
24/3/15

ATTESTED

[Signature]
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Sl. No

Date of order/ proceedings
2Order or other proceedings with signature of Judge or Magistrate
3

BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR

Appeal No. 323/2015

Mr Inayatullah Versus The Secretary, Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar and 3 others.

JUDGMENT

MUHAMMAD AZIM KHAN AFRIDI, CHAIRMAN:-

31.08.2016

Appellant with counsel and Mr. Usman Ghani, Senior Government Pleader alongwith M/S Khurshed Khan, SO and Hameedur Rahman, A.D for the respondents present.

2. Mr. Inayatullah, S.C.T. GIS Nasapa Payan, District Peshawar hereinafter referred to as the appellant has preferred the instant service appeal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 with a prayer to direct the respondents to consider him for promotion to the post of SST (General) on the basis of batch-wise/year-wise merit or on the basis of provincial-wise seniority against 40% quota fixed by the Government, from due date with all back and consequential benefits.

3. Brief facts of the case of the appellant are that he was appointed as C.T teacher in Education Department vide order dated 04.10.1989. That the respondent-department made promotions/appointments to the post of SSTs/SETs on batch-

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Khyber Pakhtunkhwa
Service Tribunal
Peshawar

wise merit till year 2004 where-after no such orders were passed till 2012. That new rules were promulgated in the year, 2012 for promotion of SST (General) wherein 40% quota was allocated for promotion of SCT/CT to SST (General) and thereafter promotions of SST (General) were made on the basis of the said rules on 28.10.2014 wherein rules were not followed as the posts of SST's were of provincial cadre and required to be filled in by provincial-wise seniority while the same were filled in on the basis of district-wise seniority and as such the appellant deprived from his due right of promotion where-against he preferred departmental appeal on 27.11.2014 which was not responded and hence the instant service appeal on 24.03.2015.

4. Learned counsel for the appellant has argued that the post of SST is a provincial cadre post which was erroneously treated as district cadre post. That no promotion after the year, 2004 till 2012 were made despite the fact that the appellant was entitled to consideration for promotion as he was fulfilling pre-requisites and vacancy for his promotion was available. That the appellant was having legitimate expectancy of consideration for promotion. That delay on the part of the respondents from the year, 2004 till the year 2012 would not deprive the appellant from his right for consideration of promotion against a vacancy accruing at that time. That rules framed in the year, 2012 cannot be given retrospective effect for filling the vacancy accrued for promotion prior to promulgation of the new rules.

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Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

5. Reliance was placed on cases-law reported as 2002-PLC(C.S) 1388 (Punjab Service Tribunal), 2015 PLC (C.S) 215 (Peshawar High Court), 2010 PLC (C.S) 760 (Supreme Court of Pakistan), 2012-SCMR-965 (Supreme Court of Pakistan), 2009-PLC (C.S) 178 (Federal Service Tribunal) and 1997-SCMR-515 (Supreme Court of Pakistan).

6. Learned Senior Government Pleader for respondents has argued that the appellant is to be promoted in due course and that his promotion is to be considered in the light of newly promulgated rules. That the appellant cannot be considered for promotion with retrospective effect. That the policy of the provincial government at the relevant time was appointment through initial recruitment. That the appeal of the appellant is time-barred and as such the same is liable to dismissal.

7. We have heard arguments of learned counsel for the parties and perused the record.

(S) It was not disputed before us that no promotions whatsoever were made after the year 2004. We are however not in a position to undertake exercise to ascertain as to whether such promotions were not made due to non-availability of vacancies for promotion or for want of non-availability of eligible civil servants. In case of Government of Punjab through Secretary Education and another Versus Rana Ghulam Sarwar Khan and 111 others reported as 1997-SCMR-515, the August Supreme Court of Pakistan has observed that delay in making promotion occurring due to failure of department in carrying out


Peshawar

simple exercise within a reasonable period would not justify setting aside the judgment of Punjab Service Tribunal directing the Government to promote civil servants from specified date. In case of WAPDA Lahore through its Chairman and others Versus Haji Abdul Aziz and others reported as 2012-SCMR-965 (Supreme Court of Pakistan) it was observed that amendment in rules affecting seniority of employees would not be given retrospective effect to the dis-advantage of employees who were entitled to promotion prior to the amendment against vacancies available at that time. In the case of Muhammad Anjad and others Versus Dr. Israr Ahmad and others reported as 2010-PLC (C.S) 760 (Supreme Court of Pakistan) it was observed by the August Supreme Court of Pakistan that State functionaries were mandated to act with certain amount of reasonableness. It was also observed that a civil servant was eligible to be considered for promotion when substantive vacancy in promotion quota was available. The August Supreme Court of Pakistan declined to interfere in the judgment passed by the Service Tribunal wherein authorities were directed to consider case of promotion of concerned civil servant from the date when vacancy in his quota was available. In case of Engineer Musharaf Shah Versus Government of Khyber Pakhtunkhwa through Chief Secretary and 2 others reported as 2015-PLC(C.S)215 (Peshawar High Court) it was observed that a civil servant had a right to be considered for promotion and refusal of such right of petitioners of consideration for promotion is to be deemed as a final order. In


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EXAMINED
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

case of Haliz Sanaullah Versus Director (Admn) Power-II, WAPDA, Lahore and another reported as 2009-PLC (C.S) 178 (Federal Service Tribunal) it was observed that the prayer of the appellant seeking move-over w.e.f. 1.12.1986 through service appeal instituted on 13.09.2000 was maintainable as the appellant was having continuous cause of action as he stood deprived of extension of his pay by move-over and a fresh cause of action was accruing in his favour every month. In case of Muhammad Hasnain Shah Versus the Deputy Inspector General of Police, Multan Range and 27 others reported as 2002-PLC (C.S) 1388 (Punjab Service Tribunal) it was observed that in matter of promotion and other emoluments cause of action was recurring and limitation would therefore not fore-close such right.

9. Since the new rules were promulgated vide notification dated 13.11.2012 and, therefore, in view of the case-law discussed above such rules cannot be given retrospective effect. Therefore such rules cannot be applied to civil servant having legitimate expectancy of consideration for promotion against a vacant post available for promotion prior to the date of promulgation of the said rules. It is also made clear from the cases-law referred to above that un-reasonable delay on the part of the department in conducting fairly simple exercise within reasonable period would not deprive a civil servant from his right of consideration for promotion from a specified date. We therefore, hold that delay spreading over a period of more than

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 Khyber Pakhtunkhwa
 Service Tribunal,
 Peshawar

7 years would not deprive the appellant from seeking consideration for promotion from a specified date i.e. a date when vacancy for promotion has become available..

10. Withholding or delaying the process of promotion would neither entitle the respondents to agitate the plea of limitation nor, such a delay, would deprive the appellant from claiming his right for consideration for promotion more particularly when such a claim is based on a recurring and continuous cause of action.

11. In the light of the afore-stated discussion we are constrained to accept the present appeal and direct the respondents to consider the case of the appellant for promotion and in case he is found eligible for promotion against a seat available for promotion on a date prior to promulgation of new rules notified vide order dated 13.11.2012 then appellant shall be considered for promotion against such vacancy in the light of rules in vogue at the relevant time. Parties are left to bear their own costs. File be consigned to the record room.

Announced
31.08.2016 *Sd/- M. Azim Khan Afridi,*
Chairman

Sd/- P. Bakht Shah,
Member

Certified to be true copy

[Signature]
JAN 11 2016
Khush Bakht
Service Tribunal
Peshawar

Date of Presentation of Appeal 23-09-2016
Number of Words 2800
Copying Fee 16-00
Urgent 2-00
Total 18-00
Name of Comptroller [Signature]
Date of Completion of Duty 23-09-2016

Subject: - MINUTES OF THE MEETING OF STANDING SERVICE RULES COMMITTEE (SSRC) HELD ON 5.3.2008 UNDER THE CHAIRMANSHIP OF SECRETARY HIGHER EDUCATION, NWFP.

A meeting of Standing Service Rules Committee was held on 5.3.2008 at 11.00 AM under the Chairmanship of Secretary Higher Education, Peshawar in his office. The following attended the meeting.

- 1. Secretary Higher Education Department, Govt: of NWFP PESHAWAR. In chair
 - 2. Mr. Ghulam Rehmani, Deputy Secretary Higher Education, NWFP Peshawar.
 - 3. Mr. Israr Muhammad, Deputy Secretary-II, Higher Education Deptt; NWFP Peshawar.
 - 4. Mr. Akbar Ali, Deputy Secretary, Establishment Department, NWFP Peshawar.
 - 5. Mr. Aftab Jehan, Director Higher Education, NWFP Peshawar.
 - 6. Mr. Zahir Ullah Khan, Director Archives & Libraries NWFP, Peshawar.
 - 7. Mr. Munawar Khan, Section Officer (SR-II), Finance Department, NWFP Peshawar.
 - 8. Syed Hammodur-Rehman, ALD-IV II, Law Department, NWFP Peshawar.
 - 9. Mr. Hidayat Ullah Khan, Assistant Director, Higher Education, NWFP Peshawar.
 - 10. Said Bad Shah, Section Officer (Trg;), Higher Education Department NWFP, Peshawar.
2. The Deputy Secretary-II, Higher Education presented the Agenda items to the Standing Service Rules Committee for consideration. The Committee examined/ discussed thoroughly the agenda items and the following decisions were taken therein, as mentioned against each item.

S.No.	Agenda Item.	Decision Taken.
1.	Amendment in the Service Rule for Librarian/DPEs as recently upgraded from B-16 to B-17.	The Committee examined/discussed the case of up gradation of the Librarians/DPE from B-16 to B-17 and the existing policy for promotion of 25% of B-16 to B-17 and 25% of B-17 to B-18. The meeting was informed that the latest notification regarding up gradation of the posts of Librarians/DPEs from B-16 to B-17 issued on the basis of a summary moved by the Schools & Lit; Department is completely silent about B-18. As per this notification all Librarians/DPEs in B-16 having Master Degrees in their relative subject have

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