

31.05.2016

Counsel for the appellant, M/S Khurshid Khan, SO, Hameed-ur-Rehman, AD (lit.) alongwith Mr. Muhammad Adeel Butt, Additional Advocate General assisted by Mr. Muhammad Jan, Government Pleader for respondents present. Re-arguments heard and record perused.

Vide our detailed judgment of today in connected service appeal No. 1343/2012 titled "Javed Iqbal-vs-Government of Khyber Pakhtunkhwa, through Secretary Elementary and Secondary Education Department, Peshawar and others", this appeal is also disposed of as per detailed judgment. Parties are, however, left to bear their own costs. File be consigned to the record room.

ANNOUNCED

31.05.2016


MEMBER


MEMBER

24.4.2014

vide order sheet dated 5.4.2013, in connected appeal No. 1343/
2012 this appeal is adjourned to 24.6.2014.

READER

24-6-14

Vide order sheet dated 5.5.2013 in connected appeal No. 1343/
2012 this appeal is adjourned to 15-10-14.

READER

15-10-14

Vide order sheet dated 5.4.2013 in connected appeal No. 1343/
2012 this appeal is adjourned to ~~9-2-15~~ 10-1-15

READER

6-1-15

Vide order sheet dated 5.4.2013 in connected appeal No.1343/
2012 this appeal is adjourned to 13-4-15.

READER

13-4-15

Vide order sheet dated 5.4.2013 in connected appeal No.1343/
2012 this appeal is adjourned to 18-8-15.

READER

Vide order sheet dated 5.4.2013 in connected appeal No.1343/
2012 this appeal is adjourned to _____.

READER

Vide order sheet dated 5.4.2013 in connected appeal No.1343/
2012 this appeal is adjourned to _____.

READER

Vide order sheet dated 5.4.2013 in connected appeal No.1343/
2012 this appeal is adjourned to _____.


READER

5.04.2013

Vide order sheet dated 5.4.2013, this appeal is adjourned to 26.4.2013 alongwith main appeal No. 1343/2012.


READER

Vide order sheet dated 5.4.2013, this appeal is adjourned to 26-6-13 alongwith main appeal No. 1343/2012.


READER

Vide order sheet dated 5.4.2013, this appeal is adjourned to 19-9-13 alongwith main appeal No. 1343/2012.


READER

Vide order sheet dated 5.4.2013, this appeal is adjourned to 20-11-13 alongwith main appeal No. 1343/2012.


READER

Vide order sheet dated 5.4.2013, this appeal is adjourned to 20-1-14 alongwith main appeal No. 1343/2012.


READER

Vide order sheet dated 5.4.2013, this appeal is adjourned to 19-2-14 alongwith main appeal No. 1343/2012.


READER

Vide order sheet dated 5.4.2013, this appeal is adjourned to 24-4-14 alongwith main appeal No. 1343/2012.


READER

Appeal No. 1374/12

24.1.2013.

Counsel for the appellant (Mr. Akhtar Ilyas, Advocate) present and heard. The learned counsel for the appellant, at the outset of his arguments, contended that appeals of similar nature have been admitted for regular hearing vide order dated 17.12.2012 in appeal titled 'Ikramullah-vs-Govt. of KPK etc.' (No. 1322/2012), and also furnished a photo copy of the said order, which is placed on file of appeal No. 1381/2012. The learned counsel further argued that the appellant was appointed when qualification prescribed for the post of PST was Matric, but, the qualification has recently been enhanced to F.A and the same qualification has been laid down for promotion, thus adversely affecting the right of promotion of the appellant, without affording opportunity of hearing or defending his right before introduction of impugned changes/amendments in the promotion/service rules. The points raised at the Bar need consideration. The appeal is admitted to regular hearing. Process fee and security be deposited within 10 days. Thereafter, notices be issued to the respondents for written reply as well as reply to application for interim relief before Final Bench-II on 26.2.2013.

CHAIRMAN

26.02.2013.

Counsel for the appellant, Khurshid Ali, SO and Muhammad Aqeel, Assistant with AAG for the respondents present and requested for time. To come up for written reply on 14.03.2013.

MEMBER

MEMBER

14.3.13

Counsel for the appellant and AAG with Khursheed Ali, SO, Mosam Khan, AD and Muhammad Aqeel Assistant for the respondents present and requested for further time. To come up for written reply positively on 5.4.2013.

MEMBER

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 1486/2012

| S.No. | Date of order proceedings | Order or other proceedings with signature of judge or Magistrate |
|-------|---------------------------|---|
| 1 | 2 | 3 |
| 1 | 26/12/2012 | <p>As per direction of the worthy Chairman in connected appeal No. 1322/2012 the present appeal filed by Mr. Waqar Azam through Mr. Ghulam Nabi Advocate be entered in the Institution Register and put up to the Primary Bench for preliminary hearing.</p> <p style="text-align: right;"><i>[Signature]</i> REGISTRAR 26/12/12.</p> <p>To come up for preliminary hearing on <u>24-1-2013</u>.</p> <p>Notice shall be issued to appellatant and his counsel.</p> <p style="text-align: center;"><i>[Signature]</i> MEMBER</p> |
| 2- | 1-1-2013 | |

BEFORE THE SERVICE TRIBUNAL K.P.K., PESHAWAR

Service Appeal No. 1486 /2012

Waqar Azam PST

GPS Sheikh Choor Tehsil Ghazi & District Haripur

.....Appellant

Versus

Govt. of K.P.K., through Secretary Schools & Literacy
Department, Peshawar & others.....Respondents

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Appellant

Through



Ghulam Nabi
Advocate, Peshawar.

BEFORE THE SERVICE TRIBUNAL K.P.K., PESHAWARService Appeal No. 1486 /2012

A.W. Peshawar
 1494
 26/12/12

Waqar Azam PST

GPS Sheikh Choor Tehsil Ghazi & District Haripur

.....Appellant

Versus

1. Govt. of K.P.K., through Secretary Elementary & Secondary Education, Peshawar.
2. Secretary to Govt. of K.P.K., Finance Department, Civil Secretariat, Peshawar.
3. Secretary to Govt. of K.P.K., Establishment Department Civil Secretariat, Peshawar
4. Director Elementary & Secondary Education K.P.K., Peshawar.

.....Respondents

Appeal u/s 4 of NWFP Service Tribunal Act, 1974 to the effect that the newly inducted condition of FA/FSc for the promotion to BPS-14/15 of the PST Teachers may please be set-aside and the promotion may please be granted on seniority-cum-fitness basis purely.

20/12/12

Prayer in Appeal:

On acceptance of this appeal the condition of FA/FSc from the above noted notification for the promotion of the PST Teachers may please be removed and the promotion may please be granted on seniority-cum-fitness basis.

Respectfully Sheweth:

1. That the appellants are belonging to the Education Department, all serving on the posts as mentioned against their names in the heading of the appeal.
2. That all the appellants have got at their credit on the above said post a long tenure of service extending over 20 to 40 years.
3. That previously the basic qualification for the appointment at the post of PST was fixed as Matric Certificate alongwith the PST Certificate from a recognized Institution and all the appellants were appointed on the above said posts having the said qualification as was the requirement at the time of the appointment of the appellants.
4. That the basic qualification for the post of PST was duly enhanced with basic qualification from Matric to

F.A./F.Sc in the year 2011 and many other colleagues of the appellants were then appointed on the same posts of PST having their qualification as F.A./F.Sc along with the PST Certificate.

5. That in the year 2007 a policy of upgradation was promulgated by the then Provincial Government, whereby the PTC, Teachers were upgraded from BPS-07 to BPS-12 on the basis of the length of the service. (Copy of the Notification issued by the Government is attached herewith as Annexure-'A').
6. That again a similar summary was formulated at the initial stage by the Education Department that the PST Teachers will be upgraded to BPS-15 having 22 years service, whereas the teachers having 15 years service will be upgraded to BPS-14.
7. That the above said policy was just as according to the justice and demand of the teachers community, however later on the said policy was converted from time scale to the education scale, whereby the promotion policy for the PST Teachers was formulated as under:

"Primary School Head Teacher
(PSHT) (BPS-15)

By promotion, on the basis of seniority-cum-fitness from amongst senior primary school teachers with at least

10 years service and having qualification prescribed for initial recruitment of primary school teacher.

Primary School Teacher
BPS-14

By promotion on the basis of seniority-cum-fitness' from amongst school teachers with at least 05 years service as such and having qualification prescribed for initial recruitment of primary school teachers.

8. That thereby all the fresh appointed F.A/PST have been given the BPS-12, whereas the holders of F.A. Certificate with 10 years length of service may be upgraded/promoted to BPS-15 and the PSTs with the F.A. qualification having 05 years service may be upgraded to BPS-14. (Copy of the Notification dated 13.11.2012 is attached herewith as Annexure-'B').
9. That the appellant alongwith his other hundreds of the colleagues having their services extending from 20 to 40 years have been totally ignored and have not been given any chance of upgradation/promotion throughout

their professional career inspite of having such a long spotless tenure of service.

10. That this attitude of the respondent department to give benefit to the PST teachers with the F.A./F.Sc qualification over the teachers with the Matric qualification has been formulated without any cogent/legal grounds but just to give benefit to the blue eyed teachers of the respondent department, whom have been appointed in their tenure.
11. That all the appellants are also equally entitled to be upgraded on the basis of his tenure of service and be given the same benefit as it has been given to the other PSTs teachers having the F.A. Certificates, as the higher qualification of F.A. can not by any means made the basis for giving any sort of above said benefit to the teachers.
12. That in this respect the appellants have also moved their representation to the concerned authorities, thereby explaining their grievance, however no response whatsoever has yet been received by the appellants till the filing of this Service Appeal.
13. That the appellants having got no other efficacious/adequate now approaches this Honourable Tribunal on the following grounds amongst the others.

Grounds

- a) That act of the respondent department, thereby depriving the appellants from the above said benefit of upgradation is illegal unlawful without authority/jurisdiction, as well as being based on the malafide intentions of the respondent department is liable to be set-aside.
- b) That since hundred and hundreds of the teachers have been treated in a discriminatory manner and have been deprived of the above said benefit mere on the ground that they are not having the qualification of FA/FSc is an act unjust and without any reasonable ground, as the basic qualification at the time of the appointment of the appellant was Matric with PST and the basic qualification at the time of the appointment of the benefited teachers were FA/FSc with PST, hence no privilege can be granted to the persons, whom have been appointed on the prescribed qualification.
- c) That the appellants have been serving on the above said since long, whereas the minimum tenure of the service amongst the appellant is 18 years and the maximum tenure amongst the appellant is extended to 40 years and since long all the appellants have been waiting for their turn

to be promoted/upgraded to some higher scale, however after having a tenure of such a long legitimate expectations the appellants have been treated unlawfully without any cogent/solid grounds.

d) That it is very respectfully submitted it has never happened that in the cases of upgradation/promotion the factor of seniority should be abolished/ignored totally and the grounds of upgradation/promotion should be made mere educational qualification, whereas the upgradation/promotion has always been made on the basis of seniority-cum-fitness and have never at the basis of higher qualification whatsoever it may be. Furthermore still it is not the higher qualification for the teachers whom have been going thorough get benefit for the above said notification, but with the passage of time as the basic qualification has been raised, hence they have been appointed on the basis of F.A./F.Sc Certificate, which said factor cannot be made a ground for their upgradation to BPS-14/15.

e) That the said act of the respondent department is not merely illegal as well as unlawful, but is also against the very clear Articles of Constitution of

Islamic Republic of Pakistan as engraved in the basic rights of said constitution.

- f) That the appellant has got every right to be treated equally with his other colleagues and closing all the ways of upgradation/promotion for the appellant is against all the norms of justice as it has been done in the above mentioned notification dated 13.11.2012.
- g) That it will be pertinent to bring into the notice of this Honourable Tribunal that the above said benefit has also been extended to the Clerk's community, whereby the clerk's even with the Matric Certificate have been upgraded from BPS-09 to BPS-16 and similarly according to other notification dated 24th April, 2012 the Federal Government has been pleased to upgrade the PST Teachers from BPS-09 to BPS-14 including the Matriculate Teachers. (Copies of the above said both the notifications are attached herewith as Annexure-'C' & 'C/1').

It is, therefore, prayed that on acceptance of this Service Appeal the respondents may please be directed to set-aside the term of


"having qualification prescribed for initial recruitment of primary school teachers"

and the appellants may please be considered equally for the above said promotion/upgradation with the other colleagues, whom have been appointed on F.A./F.Sc basis and the above said conditions being illegal unlawful, unconstitutional and discriminatory may please be deleted from the conditions of promotion of the PST teachers to the BPS-14/15.

Any other remedy to which appellant is found entitled, in the peculiar circumstance of the case may also be granted.


Appellant

Through


Ghulam Nabi
Advocate, Peshawar

BEFORE THE SERVICE TRIBUNAL K.P.K., PESHAWAR

Service Appeal No. _____/2012

Waqar Azam PST

GPS Sheikh Choor Tehsil Ghazi & District Haripur

.....Appellant

Versus

Govt. of K.P.K., through Secretary Schools & Literacy
Department, Peshawar & others.....Respondents

AFFIDAVIT

I, Ghulam Nabi Advocate, Peshawar as per instructions of my client do hereby solemnly affirm and declare on oath that contents of the accompanying Service Appeal are true and correct to the best of my knowledge and belief and nothing has been kept concealed from this Honourable Tribunal.



Ghulam Nabi
Deponent

BEFORE THE SERVICE TRIBUNAL K.P.K., PESHAWAR

C.M.No. _____/2012

In

Service Appeal No. _____/2012

Waqar Azam PST

GPS Sheikh Choor Tehsil Ghazi & District Haripur

.....Appellant

VersusGovt. of K.P.K., through Secretary
Elementary & Secondary Education,

Peshawar & othersRespondents

Application for temporary injunction to the effect that respondent may kindly be restrained from taking any action for the promotion of PSTs to BPS-14/15 as according to the procedure mentioned in the impugned rules/notification dated 13.11.2012

Respectfully Sheweth:

1. That the appellant has filed the above titled service appeal before this Honourable Tribunal, in which no date of hearing has yet been fixed.
2. That respondent vide notification dated 13.11.2012 with regard to the fresh education policy has promulgated a new method of promotion which has violated the

promotion right of thousands of teachers including the appellant

3. That the applicant/appellant has very prima facie cause of action and is very hopeful for its ultimate success of his appeal.
4. That all the three ingredients i.e. prima facie case, balance of convenience and irreparable loss as per spirit of the rule for granting injunction is in favour of the applicant/appellant are present in the said appeal.
5. That in case the injunction as prayed for above is denied, the applicant/appellant will suffer with irreparable loss as the impugned vacancies will be fill up and there would be no chance for appellant accommodation. Therefore, it is in the interest of justice to stay further proceedings on the impugned notification till the final decision of this Honourable Tribunal.
6. That there is no legal bar in granting the injunction as prayed for above.
7. That the facts and grounds taken in the memo of appeal may kindly be considered as part and parcel of the instant application.

It is, therefore, humbly prayed that in the light of the above said submissions this Honourable Tribunal may please be kind enough to restrained the concerned respondents from taking any action in promoting the PSTs teachers on the basis of the above noted notification, thereby depriving the appellants from the right of promotion.

[Handwritten Signature]

Appellant

Through

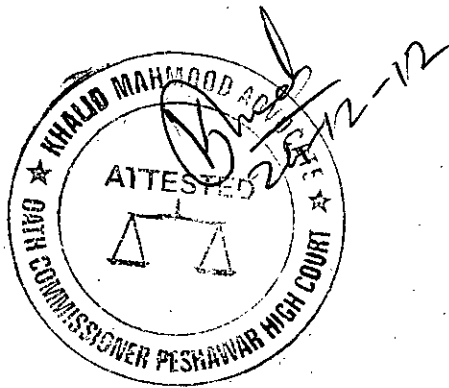
[Handwritten Signature]

Ghulam Nabi

Advocate, Peshawar

AFFIDAVIT

I, Ghulam Nabi Advocate, Peshawar as per instructions of my client do hereby solemnly affirm and declare on oath that contents of the above application are true and correct to the best of my knowledge and belief and nothing has been kept concealed from this Honourable Tribunal.



[Handwritten Signature]
Deponent

Better Copy

Government of NWFP
Finance Department
No. SO (FR) 10-22(B)/2005
Dated: 01.10.2007

To

The Secretary to Govt. of NWFP,
Schools & Literacy Department.

Subject: UPGRDATION OF VARIOUS POSTS OF TEACHING/
CAREER STRUCTURE IN SCHOOLS AND LITERACY
DEPARTMENT GOVERNMENT OF NWFP.

Sir,

I am directed to refer to your letter No. SO(G)104/2007 dated 01.10.2007 on the subject noted above and to inform that the Chief Minister NWFP has been pleased to upgraded various posts of teachers in Schools and Literacy Department NWFP as per details given below in respect of those incumbents mentioned against each with immediate effect.

| S.No | Designation/ existing Pay Scale | Qualification | Revised Pay Scale |
|------|--|--|-------------------|
| 1 | Primary School Teacher PST BPS-09 | F.A / FSc at least 2 nd Division with PTC/ Diploma in Education | 09 |
| 2 | PST with requisite experience renamed as Head Teacher/ head Mistress of Rprimary School BPS-07 | On the basis of 10 years service experience as Primary School Teacher in BPS-09 | 12 |
| 3 | C.T BPS-09 | B.A . BSc at least 2 nd Division with Diploma in Education/CT | 15 |
| 4 | AWICT Technical Industrial Arts/ Home Economics BPS-09 | B.A/ BSc at lest 2 nd Division with Diploma in Education/ Certificate from Directorate of Curriculum and Teachers Education NWFP Abbottabad in Agro Tech/ Indsutrial Arts Home Economics. | 15 |
| 5 | D.M BPS-09 | B.A/ B.Sc at least 2 nd Division with Drawing Master Course. | 15 |
| 6 | PET BPS-09 | B.A/ BSC at least 2 nd Division with JDPE. | 15 |



| | | | | |
|----|--|---|----|----|
| 7. | Qari/Qaria BPS-07 | Hafiz-e-quran with SSC at least 2 nd Division and Sand in Qirat. | 12 | ✓ |
| 8. | SST/SST Teacher/Agri with requisite experience rename Sr. SST/Sr. SST Teacher/Sr. SST Agri BPS-16. | M.A./M.Sc at least 2 nd Division with B.Ed. M.Ed/M.A. Education equivalent qualification | 17 | 28 |
| 9. | DPE BPS-16. | M.Sc. at least 2 nd division in (HPE) | 17 | 14 |

2. The promotion/direct Promotion against the upgraded posts shall be made as per laid down procedure and in accordance with the Service Rules to be framed pursuant to the relevant provisions of NWFP Civil Servants (appointments, Promotion and Transfer) 1989 read with the NWFP Civil Servants Act, 1973 in the light of the meeting held on 26.09.2007 of the committee constituted vide Schools & Literacy Department Notification No. SO(G)S&L/1-4/2007 dated 01.08.2007.

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

Section Officer (FR)

Ends of even No. & date.

Copy for information & necessary action to:-

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

Attest
SHEIKH
AUR:

copy
AMMAD
Court Pak.

"B" 11

15

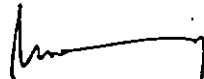


GOVERNMENT OF THE KHYBER PAKHTUNKHWA
ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT.

NOTIFICATION

Peshawar, dated the November 13, 2012.

No. SO(PE)4-5/SSRC/Meeting/2012/Teaching Cadre:- In pursuance of the provisions contained in sub rule (2) of rule 3 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 and in supersession of all Notifications issued in this behalf, the Elementary and Secondary Education Department in consultation with the Establishment Department and the Finance Department hereby lays down the method of recruitment, qualification and other conditions specified in the Appendix to this Notification which shall be applicable to all the posts specified in Column No. 2 of the said Appendix and the schedule therewith.


SECRETARY TO GOVERNMENT OF THE KHYBER PAKHTUNKHWA
ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT.

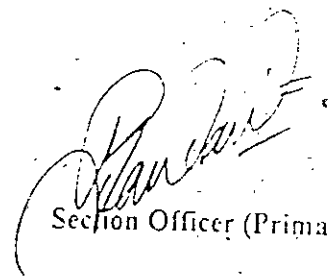
Endst. No. & Date as above.

Copy forwarded to:-

1. The Secretary to Govt. of Khyber Pakhtunkhwa, Establishment Department.
2. The Secretary to Govt. of Khyber Pakhtunkhwa, Finance Department.
3. The Secretary to Govt. of Khyber Pakhtunkhwa, Law Department.
4. The Secretary Khyber Pakhtunkhwa, Public Service Commission Peshawar.
5. The Accountant General, Khyber Pakhtunkhwa Peshawar.
6. The Director (E&SE) Khyber Pakhtunkhwa Peshawar.
7. The Director Education (FATA), Peshawar.

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Director Curriculum & Teachers Education Abbottabad.
Director (PITE) Khyber Pakhtunkhwa Peshawar.
Director ESRU, Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar.
Deputy Director Database(EMIS) E&SE Department.
District Coordination Officers in Khyber Pakhtunkhwa.
Executive District Officers Elementary & Secondary Education in Khyber Pakhtunkhwa.
District Accounts Officers in Khyber Pakhtunkhwa /Agency Accounts Officers FATA
Primary Education Officers FATA.
Governor, Khyber Pakhtunkhwa.
Chief Minister, Khyber Pakhtunkhwa.
Chief Secretary, Khyber Pakhtunkhwa.
Minister E&SE Khyber Pakhtunkhwa Peshawar.
Secretary E&SE Department.
File.


Section Officer (Primary)

17

APPENDIX

| enclature of the post. | Minimum qualification and experience for initial appointment or by transfer. | Age limit. | Method of recruitment. |
|--|---|-----------------------|--|
| 2. | 3. | 4. | 5. |
| <p>Secondary School Teacher BPS 10</p> | <p>(i) Second class Bachelor's Degree with two subjects as Chemistry, Botany, Zoology, Physics, Mathematics, Statistics Humanities and other equivalent groups from a recognized University; or</p> <p>(ii) M.A in Education or Bachelor's Degree in Education, from a recognized University.</p> | <p>18 to 35 years</p> | <p>(a) Fifty percent by promotion on the basis of seniority-cum-fitness, in the following manner:</p> <ul style="list-style-type: none"> (i) forty per cent from amongst the Certified Teachers (General), Certified Teachers (Agriculture), Certified Teachers (Industrial Arts) and Certified Teachers (Home Economics) with at least five years service as such and having qualification mentioned in column No.3; (ii) four per cent from amongst the Drawing Masters with at least five years service as such and having qualification mentioned in column No.3; (iii) four per cent from amongst the Physical Education Teachers with at least five years service as such and having qualification mentioned in column No. 3; |

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| | | | |
|---|--|--|---|
| | | | <p>(iv) one per cent from amongst the Instructional Material Specialists, with atleast five years service as such and having qualification mentioned in column No. 3; and</p> <p>(v) one per cent from amongst the Arabic Teachers with at least five years service as such and having qualification mentioned in Column No. 3; and</p> <p>(b) fifty per cent by initial recruitment.</p> |
| Senior Arabic Teacher (SAT) (BPS-16) | | | By promotion, on the basis of seniority-cum-fitness, from amongst Arabic Teachers, with at least five years service as such and having qualification as prescribed for initial recruitment of Arabic Teacher. |
| Senior Theology Teacher (ST) (B-16) | | | By promotion, on the basis of seniority-cum-fitness, from amongst Theology Teachers, with at least five years service as such and having qualification as prescribed for initial recruitment of Theology Teacher. |
| Senior Certified Teacher (SCT) (General) -16) | | | By promotion, on the basis of seniority-cum-fitness, from amongst Certified Teachers (General), with at least five years service as such and having qualification as prescribed for initial recruitment of Certified Teacher (General). |

| | | |
|--|--|--|
| <p>Certified Teacher Industrial Arts) 16).</p> | | <p>By promotion, on the basis of seniority-cum-fitness, from amongst Certified Teachers (Industrial Arts), with at least five years service as such and having qualification as prescribed for initial recruitment of Certified Teacher (Industrial Arts).</p> |
| <p>Senior Certified Teacher Agriculture) BPS 16).</p> | | <p>By promotion, on the basis of seniority-cum-fitness, from amongst Certified Teachers (Agriculture), with at least five years service as such and having qualification as prescribed for initial recruitment of Certified Teacher (Agriculture).</p> |
| <p>Senior Drawing Master BPS 16).</p> | | <p>By promotion on the basis of seniority-cum-fitness from amongst Drawing Masters, with at least five years service as such and having qualification as prescribed for initial recruitment of Drawing Master.</p> |
| <p>Senior Certified Teacher Home Economics) SCT BPS 16).</p> | | <p>By promotion, on the basis of seniority-cum-fitness, from amongst Certified Teachers (Home Economics), with at least five years service as such and having qualification as prescribed for initial recruitment of Certified Teacher (Home Economics).</p> |
| <p>Senior Physical Education Teacher (BPS-16).</p> | | <p>By promotion, on the basis of seniority-cum-fitness, from amongst Physical Education Teachers, with at least five years service as such and having qualification as prescribed for initial recruitment of Physical Education Teacher.</p> |

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| | | | |
|----------------------------------|--|-----------------|--|
| Arabic Teacher (AT) BPS-15. | (i) Second Class Secondary School Certificate, from a recognized Board with Shahdatul Alamia Fil Uloomul Arabia wal Islamia from a recognized Tanzimatuul Wafaqul Madaris; or Darul Uloom Saidu Sharif Swat, Darul Uloom Charbagh Swat, Darul Uloom Chitral, Darul Uloom Darosh Chitral and any other Government run Darul Uloom, as notified by the Government from time to time; or (ii) Second Class Master's Degree in Arabic from a recognized University. | 20 to 35 years. | By initial recruitment |
| Theology Teacher (TT) BPS-15. | (i) Second Class Secondary School Certificate, from a recognized Board with Shahdatul Alamia from a recognized Tanzimatul Wafaqul Madaris or Darul Uloom Saidu Sharif Swat, Darul Uloom Charbagh Swat, Darul Uloom Chitral, Darul Uloom Darosh Chitral and any other Government run Darul Uloom, as notified by the Government from time to time; or (ii) Second Class Master's Degree in Islamiyat from a recognized University. | 20 to 35 years. | (a) Seventy-five per cent by initial recruitment; and (b) twenty-five per cent by promotion, on the basis of seniority-cum-fitness, from amongst the Senior Qaris, with at least five years service and having qualification prescribed for initial recruitment of Theology Teacher: <u>Note:</u> In case of non availability of suitable person for promotion, then by initial recruitment. |
| Senior Qari BPS-15. | | | By promotion, on the basis of seniority-cum-fitness, from amongst Qaris, with at least five years service as such and having qualification prescribed for initial recruitment. |
| Certified Teacher (BPS-15). | Bachelor's Degree or equivalent qualification from a recognized University with Certified Teacher | 18 to 35 years. | (a) Forty per cent by initial recruitment; and |

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Certified Teacher
(Industrial Arts)
BPS 15)

| | | |
|--|------------------------|---|
| <p>Certificate or two years Associate Degree in Education from a recognized University or eighteen months Diploma in Education.</p> | | <p>(b) sixty per cent by promotion, on the basis of seniority-cum-fitness, from amongst the Primary School Head Teachers with at least five years service and having qualification prescribed for initial recruitment of Certified Teacher (General):</p> <p>Provided that if no suitable candidate is available amongst the Primary School Head Teachers for transfer, then the posts will be filled by promotion on the basis of seniority-cum-fitness, from amongst Senior Primary School Teachers with at least five years service and having qualification prescribed for initial recruitment of Certified Teacher (General).</p> <p><u>Note:</u> In case of non availability of suitable person for promotion, then by initial recruitment.</p> |
| <p>(i) Bachelor's Degree from a recognized University with two years training in the relevant technical subjects from any Government Industrial or Govt. Technical Vocational Institute or Center; or</p> <p>(b) Bachelor's Degree from a recognized</p> | <p>18 to 35 years.</p> | <p>(a) Forty per cent by initial recruitment; and</p> <p>(b) sixty per cent by promotion, on the basis of seniority-cum-fitness, from amongst the Primary School Head Teachers with at least five years service and having qualification prescribed for initial recruitment of Certified Teacher</p> |

22

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|--|---|------------------------|--|
| | <p>University with nine months training from any Government Agro Technical Teacher Training Center of the Level of Certified Teacher, Agro technical (Industrial Arts).</p> | | <p>(Industrial Arts):</p> <p>Provided that if no suitable candidate is available amongst the Primary School Head Teachers for Promotion, then the posts will be filled by promotion on the basis of seniority-cum-fitness, from amongst Senior Primary School Teachers with at least five years service and having qualification prescribed for initial recruitment of Certified Teacher (Industrial Arts).</p> <p><u>Note:</u> In case of non availability of suitable person for promotion, then by initial recruitment.</p> |
| <p>Certified Teacher (Agriculture) B.N. -15)</p> | <p>(i) Bachelor's Degree from a recognized University with one year training in Agriculture from any Government institute or center with nine months training from Government Agro Technical Teacher Training Center of the level of Certified Teacher Agro Technical (Agriculture); or</p> <p>(ii) Bachelor's Degree with Agriculture as one of the subject, from a recognized University; or</p> <p>(iii) Bachelor's Degree from a recognized</p> | <p>18 to 35 years.</p> | <p>(a) Forty per cent by Initial recruitment; and</p> <p>(b) sixty per cent by promotion, on the basis of seniority-cum-fitness from amongst the Primary School Head Teachers, with at least five years service and having qualification prescribed for initial recruitment of Certified Teacher (Agriculture):</p> <p>Provided that if no suitable candidate is available amongst the</p> |

23

CCX (H) Teacher (Home
Eco. or Agri.)
BPS 151

| | | | |
|-------|---|-----------------|--|
| | any Government Agro Technical Teacher Training Center of the Level of Certified Teacher, Agro technical (Agriculture). | | promotion, then the posts will be filled by promotion on the basis of seniority-cum-fitness, from amongst Senior Primary School Teachers with at least five years service and having qualification prescribed for initial recruitment of Certified Teacher (Agriculture). <u>Note:</u> In case of non availability of suitable person for promotion, then by initial recruitment. |
| (i) | Bachelor's Degree with Home Economics, as one of the subject, from a recognized University with in service training from Government Agro Technical Teacher Training Center; or | 18 to 35 years. | (a) Forty per cent by Initial recruitment; and |
| (ii) | Certified Teacher Certificate with Home Economics, as one of the subjects, from any Government Training school or college with Bachelor's Degree; or | | (b) sixty per cent by promotion, on the basis of seniority-cum-fitness, from amongst the Primary School Head Teachers with at least five years service as such and having qualification prescribed for initial recruitment of Certified Teacher (Home Economics); |
| (iii) | Bachelor's Degree from a recognized University with nine months training from Government Agro Technical Teacher Training Center of the level of the Certified Teacher Agro Technical (Home Economics); or | | Provided that if no suitable candidate is available amongst the Primary School Head Teachers for promotion, then the posts will be filled by promotion on the basis of seniority-cum-fitness, from amongst Senior Primary School Teachers with at least five years service and having qualification prescribed for initial recruitment of |
| (iv) | Bachelor's Degree, from a recognized | | |

24

| | | |
|--|------------------------|--|
| <p>University with one year vocational training from any Government training center or institute with nine months training from Government Agro Technical Teacher Training center of the level of certified Teacher Agro Technical (Home Economics).</p> | | <p>Certified Teacher (Home Economics). <u>Note:</u> In case of non availability of suitable person for promotion, then by initial recruitment.</p> |
| <p>Bachelor's Degree from a recognized University with one year Drawing Master (DM) course certificate.</p> | <p>18 to 35 years.</p> | <p>(a) Eighty per cent by initial recruitment; and (b) twenty per cent by promotion, on the basis of seniority-cum-fitness, from amongst the Primary School Head Teachers with at least five years service and having qualification prescribed for initial recruitment of Drawing Master: Provided that if no suitable candidate is available for promotion then on the basis of seniority-cum-fitness, from Senior Primary School Teachers with at least five years service and having qualification prescribed for initial recruitment of Drawing Master. <u>Note:</u> In case of non-availability of suitable candidate for promotion, then by initial recruitment.</p> |

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| <p>Physical Education (BPS-15).</p> | <p>Bachelor's Degree from a recognized University with one year junior Diploma in Physical Education course or Army equivalency or other equivalent qualification.</p> | <p>18 to 35 years.</p> | <p>(a) Eighty per cent by initial recruitment; and (b) twenty per cent by promotion, on the basis of seniority-cum-fitness, from amongst the Primary School Head Teachers with at least five years service and having qualification prescribed for initial recruitment of Physical Education Teacher.</p> <p>Provided that if no suitable candidate is available for promotion then on the basis of seniority-cum-fitness, from amongst Senior Primary School Teachers with at least five years service and having qualification prescribed for initial recruitment of Physical Education Teacher.</p> <p>Note: In case of non-availability of suitable candidate for promotion, then by initial recruitment.</p> |
| <p>PSHT School Head (PSHT)</p> | | | <p>By promotion, on the basis of seniority-cum-fitness, from amongst Senior Primary School Teachers with at least ten years service and having qualification prescribed for initial recruitment of Primary School Teacher.</p> |
| <p>Senior Primary School (BPS-14).</p> | | | <p>By promotion, on the basis of seniority-cum-fitness, from amongst Primary School Teachers</p> |

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|-----|----------------------------------|---|-----------------|---|
| | | | | with at least five years service as such and having qualification prescribed for initial recruitment of Primary School Teacher. |
| 21. | Primary School Teacher (BPS-12). | (i) Intermediate or equivalent qualification, from a recognized Board with Primary School Teacher Certificate/ Diploma in Education from a recognized Institute; or (ii) Secondary School Certificate, from a recognized Board in second Division with two years Associate Degree in Education from a recognized University. | 18 to 35 years. | By initial recruitment on merit at Union Council level: provided that if no suitable candidate within the Union Council is available, then from the adjacent Union Councils on merit. |
| 22. | Qari (BPS-12). | Intermediate with Hifz-e-Quran and Qirat Sanad from a recognized Institution. | 18 to 35 years. | By initial recruitment. |

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SCHEDULE

Selection criterion and other conditions for direct recruitment against the below mentioned posts shall be as under:-

Arabic Teacher

| Educational Qualification | Total Marks: 100 |
|--|--|
| SSC | Marks obtained X 20 / total marks = ____ |
| HSSC | Marks obtained X 20 / total marks = ____ |
| B.A/BSc | Marks obtained X 20 / total marks = ____ |
| M.A Arabic / Shahdatul Alamia Fil Uloomul Arabia wal Islamia from a recognized Tanzimiatul Wafaqul Madaris | Marks obtained X 20 / total marks = ____ |
| Other MA/MSc/M.Ed / MA Edu | Marks obtained X 15 / total marks = ____ |
| MPhil/PhD | Marks = 05 |

Theology Teacher

| Category of Qualification | Total Marks 100 |
|--|--|
| SSC | Marks obtained X 20 / total marks = ____ |
| HSSC | Marks obtained X 20 / total marks = ____ |
| BA/BSc | Marks obtained X 20 / total marks = ____ |
| MA/MSc/M.Ed / MA Edu | Marks obtained X 20 / total marks = ____ |
| M.A Islamiat / Shahdatul Alamia Fil Uloomul Arabia wal Islamia from a recognized Tanzimiatul Wafaqul Madaris | Marks obtained X 15 / total marks = ____ |
| MPhil/PhD | Marks = 05 |

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Qari/Qaria

| Category of Qualification | Total Marks 100 |
|--|---|
| SSC | Marks obtained X 20 / total marks = _____ |
| Qirt Sanad from a recognized Institution | Marks obtained X 20 / total marks = _____ |
| HSSC | Marks obtained X 20 / total marks = _____ |
| BA/BSc | Marks obtained X 20 / total marks = _____ |
| MA/MSc / M.Ed / MA Edu | Marks obtained X 15 / total marks = _____ |
| MPhil/PhD | Marks = 05 |

Certified Teacher
(General, Industrial Arts, Agriculture, Home Economics)

| Category of Qualification | Total Marks 100 For Humanities group at Intermediate/Graduation - Level | For Candidate of Science group |
|--|---|--|
| SSC | Marks obtained X 20 / total marks = _____ | 5 Extra marks for FSc, 5 Extra marks for B.Sc and 5 Extra marks for M.Sc will be added to the total score obtained by a candidate during his selection |
| HSSC | Marks obtained X 20 / total marks = _____ | |
| BA/BSc | Marks obtained X 20 / total marks = _____ | |
| CT Certificate/ Diploma in Education / ADE | Marks obtained X 20 / total marks = _____ | |
| MA/MSc / M.Ed / MA Edu | Marks obtained X 15 / total marks = _____ | |
| MPhil/PhD | Marks = 05 | |

29

Drawing Master

| Category of Qualification | Total Marks 100 | For Candidate of Science group |
|---------------------------|---|---|
| SSC | Marks obtained X 20 / total marks = _____ | 5 Extra marks for F.Sc, 5 Extra marks for B.Sc and 5 Extra marks for M.Sc will be added to the total score obtained by a candidate during his selection |
| HSSC | Marks obtained X 20 / total marks = _____ | |
| BA/BSc | Marks obtained X 20 / total marks = _____ | |
| DM Certificate | Marks obtained X 20 / total marks = _____ | |
| M.A/M.Sc/M.Ed / MA Edu | Marks obtained X 15 / total marks = _____ | |
| M.Phil/PhD | Marks = 05 | |

Physical Education Teacher

| Category of Qualification | Total Marks 100 | For Candidate of Science group |
|--------------------------------|---|---|
| SSC | Marks obtained X 20 / total marks = _____ | 5 Extra marks for F.Sc, 5 Extra marks for B.Sc and 5 Extra marks for M.Sc will be added to the total score obtained by a candidate during his selection |
| HSSC | Marks obtained X 20 / total marks = _____ | |
| BA/BSc | Marks obtained X 20 / total marks = _____ | |
| IPPE or Equivalent Certificate | Marks obtained X 20 / total marks = _____ | |
| M.A/M.Sc/M.Ed / MA Edu | Marks obtained X 15 / total marks = _____ | |
| M.Phil/PhD | Marks = 05 | |

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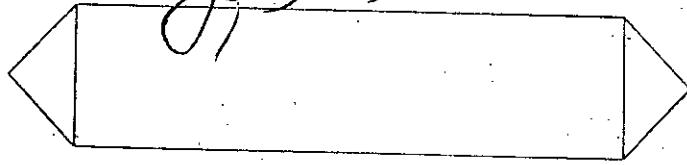
Primary School Teacher

| Category of Qualification | Total Marks 100 For Humanities group at Intermediate Level | For Candidate of Science group |
|---|--|---|
| SSC | Marks obtained X 20 / total marks = _____ | 5 Extra marks for F.Sc, 5 Extra marks for B.Sc and 5 Extra marks for M.Sc will be added to the total score obtained by a candidate during his selection |
| HSSC | Marks obtained X 10 / total marks = _____ | |
| B./BSc | Marks obtained X 25 / total marks = _____ | |
| PST Certificate/ Diploma in Education/ADE | Marks obtained X 20 / total marks = _____ | |
| M.A/MSc/M.Ed / MA Edu | Marks obtained X 20 / total marks = _____ | |
| M.Phil/Ph.D | Marks = 05 | |

Other conditions:-

1. The concerned Appointing Authority will scrutinize and verify the documents and make the appointment as per prescribed rule and the will get the documents verified after the issuance of appointment orders within shortest possible time, not exceeding ninety (90) days.
2. The merit list prepared by the concerned appointing authority shall be displayed for ten days to receive the objections/appeals, if any, and shall issue the final merit list after making necessary corrections while addressing the observations/objections/appeals, followed by requisite appointment orders.
3. In case a document(s) is/are found fake/ forged/ bogus upon scrutiny/ verification, the service of the teacher concerned shall be terminated and the amount paid to him as salary shall be recovered from him and an FIR shall be lodged against him on account of forgery/fraud under the relevant law.
4. Deri Asnad from recognized Tazeemat-ul-Wafaqul Madaris, Darul Uloom Saidu Sharif Swat, Darul Uloom Charbagh Swat, Darul Uloom Chitral, Darul Uloom Darosh Chitral and any other Government run Darul Uloom, as notified by the Government from time to time will be acceptable for the purpose of appointment against the posts of Arabic Teachers or Theology Teachers, as the case may be.

بعدالت سردار حسین لکڑی



2012 پنجاب

26

دسم دوار الیوم ہوا

مورخہ
مقدمہ
دعویٰ
جرم

باعث تحریر آنکد

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ

آن مقام کیلئے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز مقرر کر کے اقرار کیا جاتا ہے۔ وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ پر حلف دیئے جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا۔ از بصورت ضرورت مقدمہ مذکور کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ پرداختہ منظور و قبول ہوگا اور ان مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سند ہے۔

2012

المرقوم
7
ماہ
دسم

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العہدہ

مقام کے لئے منظور ہے۔

97

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service appeal No: 1486/2012

Waqar Azam P.S.T. ———

.....Appellant

Versus

Secretary Elementary & Secondary Education Khyber Pakhtunkhwa, & others.

....Respondents

PARAWISE COMMENTS/REPLY FOR AND ON BEHALF OF THE RESPONDENTS

Respectfully Sheweth :-

PRELIMINARY OBJECTIONS.

- 1 That the appeal is badly time barred.
- 2 That the appellant has no cause of action/locus standi.
- 3 That the appellant has not come to this Hon! able court with clean hands.
- 4 That the appeal is not maintainable in its present form.
- 5 That the appellant has concealed important material facts from this Hon! able court.
- 6 That the appellant has filed this appeal with malafide motives .
- 7 That the instant appeal has been filed to pressurize the respondents.
- 8 That the present appeal is bad for non joinder/ mis joinder of necessary parties.
- 9 That the appellant is not competent to file the instant appeal against the respondents.
- 10 That the appellant has no cause of action/locus stand.
- 11 That the appellant has not submit any departmental appeal.
- 12 This Hon! able Tribunal has no jurisdiction to adjudicate the present appeal, as it does not fall with in ambit of Section-4 of Service Tribunal Act 1974.
- 13 That the Rule 3(2) of Khyber Pakhtunkhwa Civil Servant (Appointment, Promotion & Transfer) rule 1989 authorize the department to laid down the method of appointment, qualification & other condition applicable to the post in consultation with the Estab: & Admn: Department & Finance department. Hence the present appeal is liable is liable to be dismissed.
- 14 That it was observed by the apex court that it is exclusively within the domain of the Government to decide whether a particular qualification will be considered sufficient for promotion from a particular grade and it is also within the domain of the govt: to change the above policy from time to time as no body can claim any vested right in the policy

ON FACTS

- 1 This para pertains to service record of the appellant. Hence no comments.
- 2 As replied in para above.
- 3 Incorrect. According to the present recruitment rules/policy the basic qualification of PST teacher BPS-12 are as under :-

a. Intermediate or equivalent qualification from a recognized Board with Primary, School teacher certificate/diploma in Education from a recognized institute.

or

b. SSC from a recognized board in 2nd division with 2 years Associate Degree in Education from a recognized University.

Hence this para is denied.


- 4 This para pertains to the amended rules where in the department has enhanced the method of appointment, qualification applicable to PST post in consultation with the Establishment & Admn: Department & Finance. While it would not out of place to mention here that the same rules/policy never challenged /objected by the appellant before any forum.
- 5 Incorrect, the said rules were amended on 13/10/2012 in accordance with rules, law on the subject to enhance efficiency in service, by the competent authority.
- 6 Incorrect, the statement of the appellant in this para is without any documentary proof, baseless and against the facts.
- 7 The said rules were notified on 13/11/2012 in pursuance of the provisions contained in
- 8 Sub: rule(2) of rule(3) of Khyber Pakhtunkhwa Civil Servant/appointment, promotion & transfer) rules 1989, in consultation with Estab: Department & Finance Department.
- 9 The department shall follow the rules/policy in vogue at the time of upgradation /promotion of teachers,
- 10 Incorrect & not admitted. The statement of the appellant in this para is baseless, against the facts, law, rules, policy in vogue, norms of justice and also based on malafide motives. However, it would not be out of place to mention here that it was also held by the Apex Court that the govt: has the right to enhance the qualification and standard of recruitment and promotion in order to maintain efficiency in service.
- 11 Incorrect. The statement of the appellant is without any legal support, against norms of natural justice. How it can be possible to treat SSC on equal footing with intermediate and other higher qualifications, as well as 3rd division with 1st: division. Hence the whole para is denied.
- 12 As replied in para 9 & 10 above.
- 13 The said application was against the existing rules hence filed.
- 14 Incorrect, the appellant has no cause of action/Prima facie, hence the appeal in hand is liable to be dismissed on the following grounds inter alia.


ON GROUNDS


- A Incorrect and not admitted. The statement of the appellant is against the existing rules & policy. The appellant is not deprived from any legal, lawful benefits. Hence denied. Moreover, it would not be out of place to mention here that the govt: has legal right to enhance the qualification and standard of recruitment in order to maintain efficiency in service. Moreover, the appellant does not possess the required qualification for promotion, neither the appellant enhanced his own academic qualification during the long tenure of his service.
- B As replied in foregoing paras. The statement of the appellant is also against facts, rules, policy & norms of justice hence denied.


- 95
- C Incorrect. At the time of appointment of the appellant and his mentioned colleagues, there was exist/prevail no promotion/up gradation scheme for PST teacher except Selection grade. The scheme of selection grade has also been discontinued by the government. Hence the statement of the appellant in this para is baseless, without any proof and manufactured one, hence denied.
- D Incorrect & not admitted. The experience of PSTs are not ignored as evident/obvious from para 7 of the facts of this appeal. Hence the whole par is denied.
- E Incorrect & not admitted. The notification date 13/11/2012 is issued in pursuant of provisions contained in Sub: Rule-2 of Rule (3) of Khyber Pakhtunkhwa Civil servants(Appointment, Promotion & Transfer rules) 1989, hence legal and lawful.
- F Incorrect, the appellant possessing SSC has no right to be treated equally with those PSTs having FA/F.Sc. While it is also pertinent to mention here that it is with in domain of the government to change the policy from time to time as nobody can claim vested sigh in the policy as held by the Apex Court, hence denied.
- G Incorrect. The rules framed by Federal Government and rules framed for other cadre are not applicable to PST, cadre in the provinces of Khyber Pakhtunkhwa hence the whole para is denied being baseless, against facts, law rules in vogue and against the natural justice. Moreover the respondents seek the permission of this Hon! able Tribunal to adduce more grounds at the of hearing.

In view of the above made submissions, it is humbly requested that this Hon! able Tribunal may very graciously be pleased to dismiss the instant appeal with cost in favor of the respondents Department.


Director
Elementary & Secondary Education
Khyber Pakhtunkhwa, Peshawar.


Secretary
Elementary & Secondary Education
KPK Peshawar


Secretary
Govt: of Khyber Pakhtunkhwa,
Finance Department, Peshawar.


Secretary
Govt: of Khyber Pakhtunkhwa,
(Estab:) Department, Peshawar.

97

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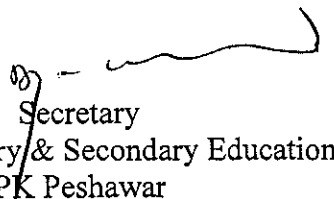
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- 260
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KPK Peshawar



Secretary
Govt: of Khyber Pakhtunkhwa,
Finance Department, Peshawar.



Secretary
Govt: of Khyber Pakhtunkhwa,
(Estab:) Department, Peshawar.