

**ORDER**

21<sup>st</sup> July, 2022

1. Counsel for the appellant present: Mr. Kabirullah Khattak, Addl: AG and Mr. Noor Zaman Khattak, District Attorney alongwith Mr. Lutfullah, Assistant for respondents present.
2. Vide our detailed judgment of today placed in Service Appeal No. 691/2019 titled "Mohammad Miskeen-vs- the Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education, Peshawar and others" (copy placed in this file), this appeal is also dismissed. Costs shall follow the events. Consign.
3. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal this 21<sup>st</sup> day of July, 2022.*



**(KALIM ARSHAD KHAN)**  
**CHAIRMAN.**  
**Camp Court Abbottabad**

**(SALAH UD DIN)**  
**MEMBER(Judicial)**  
**Camp Court Abbottabad**


14.03.2022


Due to retirement of the Hon'able Chairman, the Tribunal is defunct, therefore, the case is adjourned for the same before on 17.05.2022

  
Reader

17.05 2022 None for the appellant present. Mr. Muhammad Asif Masood, Deputy District Attorney for respondents present.

Previous date was changed through Reader note, therefore, notice for prosecution of appeal be issued to the appellant as well as his counsel. Adjourned. To come up for arguments on 20.07.2022 before D.B at camp court Abbottabad.


  
(Fareeha Paul)  
Member(E)

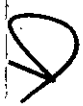
  
(Kalim Arshad Khan)  
Chairman  
Camp Court Abbottabad

20<sup>th</sup> July, 2022


Learned counsel for the appellant present. Mr. Noor Zaman Khattak, District Attorney for respondents present.

Learned counsel for the appellant seeks adjournment on the ground that he has not made preparation of the brief. Adjourned. To come up for arguments on 21.07.2022 before the D.B at Camp Court Abbottabad.

  
(Salah-ud-Din)  
Member (J)

  
(Kalim Arshad Khan)  
Chairman  
Camp Court Abbottabad


20-4-21, Due to covid-19, case B adjourned  
to 21-9-2021 for the same


  
Reader

21.09.2021

Nemo for the appellant. Mr. Latuf Ullah, Assistant (Litigation) alongwith Mr. Riaz Ahmed Paindakhel, Assistant Advocate General for the respondents present.

Previous date was changed on Reader Note, therefore, notice for prosecution of the appeal be issued to the appellant as well as his counsel and to come up for arguments before the D.B on 16.11.2021 at Camp Court Abbottabad.

  
(ATIQ-UR-REHMAN WAZIR)  
MEMBER (EXECUTIVE)  
CAMP COURT ABBOTTABAD

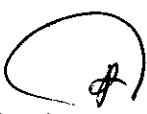
  
(SALAH-UD-DIN)  
MEMBER (JUDICIAL)  
CAMP COURT ABBOTTABAD


16.11.2021

Appellant alongwith counsel present.

Muhammad Riaz Khan Paindakheil, learned Assistant Advocate General alongwith Lutfullah Assistant for respondents present.

Former made a request for adjournment. Request is accorded. To come up for arguments on 15.03.2022 before D.B at Camp Court, Abbottabad.

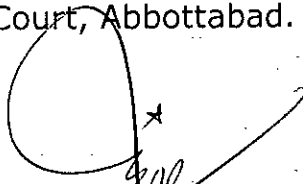
  
(Rozina Rehman)  
Member (J)

  
Chairman  
Camp Court, A/Abad

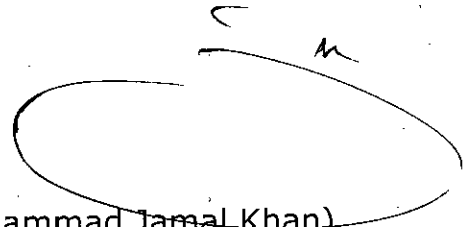
18.11.2020

None for the appellant is present, however, clerk of the counsel has appeared. Mr. Riaz Ahmad Paindakheil, Assistant Advocate General and Mr. Lutf Ullah, Assistant Litigation, for the respondents are present.

Reader of the court namely Pir Muhammad informed the D.B that according to the clerk the learned counsel has proceeded to Peshawar and is not available today and requested for adjournment. Adjourned to 15.02.2021 on which date file to come up for arguments before D.B at Camp Court, Abbottabad.



(Mian Muhammad)  
Member (Executive)  
Camp Court Abbottabad



(Muhammad Jamal Khan)  
Member (Judicial)  
Camp Court Abbottabad

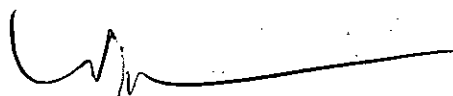
15.02.2021

Junior to counsel for the appellant present.

Mr. Noor Zaman, learned District Attorney for respondents present.

Former requests for adjournment as senior counsel for the appellant is busy before Hon'ble High Court, Abbottabad Bench.

Adjourned to 20.04.2021 for arguments before D.B at Camp Court Abbottabad.



(Atiq ur Rehman Wazir)  
Member (E)  
Camp Court, Abbottabad



(Rozina Rehman)  
Member (J)  
Camp Court, Abbottabad

Due to covid ,19 case to come up for the same on / /  
at camp court abbottabad.

Reader

Due to summer vacation case to come up for the same on 175  
9/7/20 at camp court abbottabad.

15.09.2020

Appellant alongwith his counsel Mr. <sup>Reader</sup> Azeel Ahmad,  
Advocate is present. Mr. Usman Ghani, District Attorney  
alongwith Mr. Lutuf Ullah; Assistant for respondents present.

It was during the course of addressing arguments of the  
learned counsel <sup>that he</sup> made reference to the judgment of the august  
Supreme Court of Pakistan dated 27.03.2020 and submitted that  
the apex court has decided the point with regard to the  
protection of service of an employee for the protected period for  
payment of pensionary benefits. On the contrary, learned  
District Attorney made reference and relied on service appeal  
bearing No. 1377/2015 decided on 20.02.2019 captioned Syed  
Naveed Shah-vs-Government of Khyber Pakhtunkhwa through  
Secretary Education. Both the respective learned counsel as  
well as Learned District Attorney sought time for preparing the  
brief on the issues involved. In the circumstances, we deemed it  
appropriate <sup>to</sup> given them time to fully prepare the brief according  
to their respective point of view.

Adjourned to 18.11.2020 for arguments before D.B at  
camp court Abbottabad.

(Mian Muhammad)  
Member(E)

(Muhammad Jamal)  
Member  
Camp Court A/Abad

20.11.2019

Learned counsel for the appellant present. Mr. Usman Ghani learned District Attorney alongwith Alif Ullah Assistant present. Representative of respondent department submitted written reply/comments. To come up for rejoinder if any and arguments on 23.01.2020 before D.B at Camp Court, Abbottabad.



Member  
Camp Court, A/Abad

23.01.2020

None for the appellant present. Mr. Muhammad Jan, DDA alongwith Mr. Lutfullah, Assistant for the respondents present. Due to general strike of the bar on the call of Khyber Pakhtunkhwa Bar Council, the case is adjourned. To come up for further proceedings on 17.02.2020 before D.B at camp court Abbottabad. Appellant be put on notice for the date fixed.



Member




Member  
Camp Court A/Abad

20.09.2019

Counsel for the appellant Ghulam Yousaf present. Preliminary arguments heard. It was contended by learned counsel for the appellant that the appellant was appointed as PST by the respondent-department. It was further contended that the appellant was terminated/dismissed vide order dated 28.07.1997. It was further contended that again the appellant was appointed vide order dated 15.02.2013 on the basis of judgment of the worthy High Court but without back benefits. It was further contended that some conditions were mentioned in the appointment order of the appellant by the respondent-department that the appellant will not claim back benefits but later on the said terms and conditions was withdrawn by the respondent-department vide office order dated 22.02.2013. It was further contended that the appellant was terminated without any reason therefore, the appellant was entitled for back benefits for the period he remained out of service therefore the appellant filed departmental appeal on 28.02.2013 but the same was not responded hence, the present service appeal. Learned counsel for the appellant contended that since the appellant was illegally terminated for no fault of the appellant therefore, the appellant is entitled to the back benefits.

The contention raised by learned counsel for the appellant need consideration. The appeal is admitted for regular hearing subject to all legal objections. The appellant is directed to deposit security and process fee within 10 days thereafter, notices be issued to the respondents for written reply/comments for 20.11.2019 before S.B at Camp Court Abbottabad.

  
(Muhammad Amin Khan Kundi)  
Member  
Camp Court Abbottabad

Appellant Deposited  
Security Process Fee

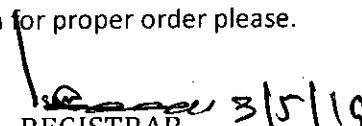


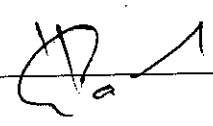
23/9/19

## Form- A

## FORM OF ORDER SHEET

Court of \_\_\_\_\_

Case No. 578/2019

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	03/05/2019	<p>The appeal of Mr. Ghulam Yousaf received today by post through Mr. Zaheer Ahmad Qureshi Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR 3/5/19</p>
2-	10-5-19	<p>This case is entrusted to touring S. Bench at A.Abad for preliminary hearing to be put up there on <u>12-07-19</u></p> <p style="text-align: right;"> CHAIRMAN</p>
09.07.2019		<p>Junior counsel for the appellant present and requested for adjournment on the ground that learned senior counsel for the appellant has gone to Islamabad. Adjourned to 22.08.2019 for preliminary hearing before S.B at Camp Court Abbottabad.</p> <p style="text-align: right;"> (Muhammad Amin Khan Kundi) Member Camp Court Abbottabad</p>
22.08.2019		<p>Junior to counsel for the appellant present and again sought adjournment as senior learned counsel for the appellant is not in attendance. Adjourn. To come up for preliminary hearing on 20.09.2019 before S.B at Camp Court, Abbottabad.</p> <p style="text-align: right;"></p>

Member  
Camp court A /Abad



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

*Appeal No. 578/2019*

Ghulam Yousaf S/o Molvi Khan Wali R/o Presently Serving PST GPS, Dood Pati  
District Battagram.

...APPELLANT

**V E R S U S**

Govt of Khyber Pakhtunkhwa & Others.

...RESPONDENTS

**SERVICE APPEAL  
INDEX**

S.No.	Description of Document	Annexure	Page No.
1.	Appeal alongwith affidavit	--	1-6
2.	Copy of the termination order 28/07/1997	"A"	7-9
3.	Copy of the appointment letter dated 15/02/2013	"B"	10-11
4.	Copy of the office order 26/02/2013	"C"	12
5.	Copy of the departmental appeal dated 28/02/2013	"D"	13
6.	Vakalat Nama	--	14

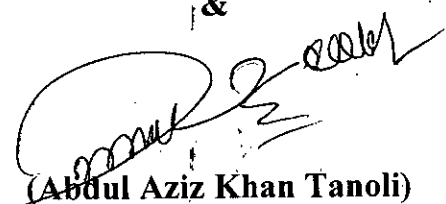
  
...APPELLANT

**Through:**

Dated:- *24/04/2019*

  
(Zaheer Ahmad Qureshi)

&

  
(Abdul Aziz Khan Tanoli)  
Advocates High Court, Abbottabad.

**BEFORE THE KHYBER PAKHTUNKHAWA SERVICE**  
**TRIBUNAL, PESHAWAR**

Service Appeal No. 578 -A/2019

Ghulam Yousaf S/o Molvi Khan Wali R/o Presently Serving SPST GPS, Dood Pati  
District Battagram.

...APPELLANT

**VERSUS**

1. Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Peshawar.
2. Director (Estab) Elementary & Secondary Education Khyber Pakhtunkhwa.
3. District Education Officer (Elementary & Secondary Education) Male Primary Battagram.
4. District Account Officer Battagram.

...RESPONDENTS

**APPEAL:-** UNDER SECTION 4 OF THE KHYBER  
PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974  
AGAINST APPELLANT IS WORKING IN THE  
RESPONDENTS DEPARTMENT AND HIS SERVICES WERE  
TERMINATED ON THEREAFTER UNDER THE KHYBER  
PAKHTUNKHWA ACT XVII 2012 AND IN THE IN THE LIGHT  
OF JUDGMENT PESHAWAR HIGH COURT ABBOTTABAD  
BENCH DATED 17/01/2013 THE APPELLANT WAS  
APPOINTED AS PST IN BPS-12, VIDE ORDER DATED  
15/02/2013 THE APPELLANT IS ENTITLED FOR BACK  
BENEFITS FROM THE DATE OF TERMINATION I.E  
28/07/1997 TO THE DATE OF ORDER DATED 15/02/2013 BUT

Filed to-day

Registrar

3/5/19

THE RESPONDENTS DID NOT GRANTED ALL CONSEQUENCIAL BACK BENEFITS FROM THE DATE OF TERMINATION TO THE DATE ORDER 15/02/2013 WHICH IS AGAINST THE PROVISIONS OF SAID ACT, AS WELL AS DISCRIMINATION AS OTHER DEPARTMENTS ALLOWED THE BACK BENEFITS TO THE OTHER EMPLOYEES AS WELL. THE CONDUCT OF THE RESPONDENTS TOWARDS THE APPELLANT IS ILLEGAL, MALAFIDE, UNLAWFUL, WITHOUT, LAWFUL AUTHORITY, WITHOUT JURISDICTION, ARBITRARAY, PERVERSE, HARSH, VOID-ABNITIO AND AGANIST THE PRINCIPLE OF NATURAL JUSTICE INEFFECTIVE UPON RIGHTS OF THE APPELLANT.

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**PRAYER:-** ON ACCEPTANCE OF INSTANT APPEAL THE APPELLANT BE GRANTED ALL CONSEQUENCIAL BACK BENEFITS FROM THE DATE OF TERMINATION I.E. 28/07/1997 TO THE DATE OF ORDER DATED 15/02/2013 ANY OTHER RELIEF WHICH THIS HONOURABLE TRIBUNAL DEEMS FIT AND PROPER IN THE CIRCUMSTANCES OF THE CASE MAY ALSO BE GRANTED.

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**Respectfully Sheweth:-**

**FACTS:-**

1. That, the appellant is a resident of District Battagram was appointed as PST (BPS-7) GPS Faqiro District Battagram on 12/12/1995.

2. That, the appellant was terminated by the respondent No.3 without any justification on 28/07/1997. *(Copy of the termination order is attached and marked as Annexure "A")*
3. That, the appellant was appointed as PST in BPS-12 in the light Khyber Pakhtunkhwa Act XVII 2012 and the judgment of Honorable High Court Peshawar Abbottabad bench dated 17/01/2013 by the respondents department vide appointment order dated 15/02/2013. *(Copy of the appointment letter dated 15/02/2013 is attached and marked as Annexure "B")*
4. That, appellant served the respondents department with due diligence since appointment and now promoted as SPST on 30/01/2019.
5. That, the respondents vide order dated 26/02/2013 withdrew the conditions mentioned in the serial No.10 of order dated 15/02/2013. *(Copy of the office order is attached and marked as Annexure "C")*
6. That, appellant requested the respondent No.3 through written application dated 28/02/2013 representation to release all the back benefits as the appellant entitled for but so far no heed has paid to the grievances of the appellant and not decided the representation yet. *(Copy of departmental / representation is attached and marked as Annexure "D")*
7. That, feeling aggrieved from the conduct of the respondent's appellant approaches this Honorable tribunal

for redressal of his grievances on the following amongst other grounds.

**GROUNDS:-**

- a. That, once the Govt, allowed the back benefits, and then the department/respondents are bound to release the same to the appellant.
- b. That, it is the settled principle of administrative law that when law prescribe something which is to be done in the particular manner that must be done, in that manner not otherwise.
- c. That, appellant has been allowed for all back benefits vide office order dated 26/02/2013 after that respondents deviations from their own commitment is against the law and facts.
- d. That, the respondents department led the appellant to the place which is utterly, unknown to the principle of jurisprudence, natural justice.
- e. That, other departments allowed back benefits to other employee as well while ignoring the appellant by not allowing back benefits amounts to discrimination is against the fair play and good governance.
- f. That, other grounds will be agitated with the permission of this Honorable Tribunal at the time of arguments.

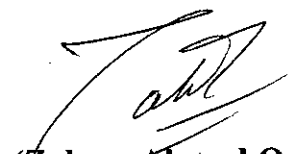
**PRAYER:-**

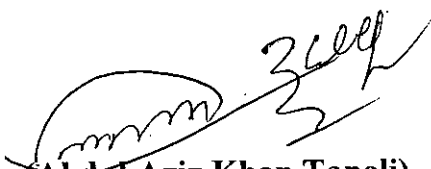
On Acceptance Of Instant Appeal The Appellant Be Granted All Consequential Back Benefits From The Date Of Termination I.E 28/07/1997 To The Date Of Order Dated 15/02/2013 Any Other Relief Which This Honourable Tribunal Deems Fit And Proper In The Circumstances Of The Case May Also Be Granted.

  
...APPELLANT

**Through:**

Dated:- 29/04 /2019

  
(Zaheer Ahmad Qureshi)  
&

  
(Abdul Aziz Khan Tanoli)  
Advocates High Court, Abbottabad.

**VERIFICATION:-**

*Verified that the contents of the instant APPEAL are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Hon'ble Court.*

Dated:- 29/04 /2019



  
...APPELLANT

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

Ghulam Yousaf.

...APPELLANT

VERSUS

Govt of Khyber Pakhtunkhwa & Others.

...RESPONDENTS

**SERVICE APPEAL**

**AFFIDAVIT**

*Ghulam Yousaf S/o Molvi Khan Wali R/o Presently Serving PST GPS, Dood Pati District Battagram, do hereby solemnly affirm and declare on oath that contents of the above appeal are true and correct to the best of my knowledge and belief and nothing has been kept secret from this Honourable Tribunal.*



*Ghulam Yousaf*  
DEPONENT

Date:- 29 / 04 / 2019





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50.	✓ Duraj Khan	Hakmat Khan	MSQ	Doraj M. Jan.
51.	Said Ali Shah	Said Nain	"	Bar Kan Jevang
52.	Haik Muhammad	Jalal Khan	"	Gulshan.
53.	Mohar Rehman	Azar Dakt	"	M. K. G. S. Hassan.
54.	✓ Inyat ur Rehman	Ali ur Rehman	"	D. Azimullah
55.	Mir Han. d. Khan	Husain Khan	"	Mullaid Abd.
56.	✓ Mumin Khan	Huzrat Halil	"	Hashkan
57.	Ghulam. Durooq	Ajun Khan	"	H. Pettey.
58.	Alabibullah Shah	Tahir Shah	"	H. Jan Muhammad
59.	Ilaquat Ali	Ibrahim	"	Bava Dhongga.
60.	✓ Birej Khan	Mian Khan	"	Dhari J. J. Khan.
61.	Fazl ur Rehman	Abdul Hamid	"	Hajragra
62.	✓ M. Javid M. Iqbal	Aurangzaid	"	Tulshaus.
63.	✓ Hazer Muhammad	Murhad	"	Hanifabad.
64.	✓ Jihenul Haq	Abdul Aman	"	Kassi. Hall.
65.	✓ H. Riaz	Ghulam Hussain	"	Kathora.
66.	✓ Aurangzaid Khan	Mindra Khan	"	Barwal.
67.	✓ S. Zuhreb Shah	Furqan Said	"	Dawgar.
68.	✓ Munir Khan	Gul Hamroz	"	Jabatiruz
69.	✓ Rustam Khan	Bigra Khan	"	Hashkanai.
70.	M. Shafique	Agiullah	"	Kiargali V. Khan.
71.	Badar Khan	Ali Gohar Khan	"	Cidri. Trand.
72.	Fida Muhammad	Fazl ur Rehman	"	X D. Azimullah.
73.	M. Khulid	Gultan Room	"	Damagat.
74.	Ibrahiah	Hidayatullah	"	Rashidabad.
75.	M. Boil	Iktidar Malook	"	Cidri. Trand.
76.	✓ Ahmad Khan	Gul M. Khan	"	Jaba Peroz.
77.	Amal Jan	Saitul Haq	"	Mundri.
78.	✓ Katehul. ah	M. Parideen	"	Dodpatti.
79.	Zabal Khan	Abas Khan	"	Turia Hill.
80.	✓ Ghulam. Rajwani	Fazl ur Rehman	"	Chinnow.
81.	✓ Dadiuz Zaman	Toli. Muhammad	"	Tulshaus.
82.	✓ B. Wahab. Shah	M. Said	"	Bagh Banda.
83.	Abdul Ali	Abdul Malik	"	Chinow.
84.	Miskin	Abdul Latif	"	Dajergam.
85.	M. Javid	Amanullah	"	Pakbanda.
86.	Muhammad Shah	Said Bahart Shah	"	Hanifabad.
87.	Shahzada	Abdul Mateen	"	Darwaz.
88.	Shaukat Ayaz	Mulak Jan	"	Mundri.
89.	Inamullah	Bava Khan	"	Dajergam.
90.	✓ Habibullah	Junsar Khan	"	Turia Hill.
91.	✓ Aurangzaid	M. Miskeen	"	G/Nawab. Said
92.	✓ Dukht Morin	Husnuk	"	Murzala.
93.	Ali Asar Khan	Nigar Khan	"	Trand.
94.	M. Iqbal	Gul Muhammad	"	Chappergam.
95.	✓ Rustam Khan	Talas Khan	"	Peshora.
96.	M. Shabid	Abdul Razaq	"	Shalkhay.
97.	✓ Attullah	M. Saad	"	-do-
98.	Shah Rozen	Hayat Khan	"	Walarge.
99.	✓ Ali Rehman	Umra Khan	"	Okey.
100.	Muhammad. Ahmed	Sheria Khan	"	Turbor.
101.	Kub. Nawaz Khan	Afzar M. Khan	"	rashidabad.
102.	✓ Furhat Khan	Muzid	"	Shaukat. abao
103.	✓ Inyat ur Rehman	Gujar Khan	"	S. Khal. Banda
104.	Howayatullah	Shah Zad. Khan	"	Dabons.
105.	✓ Noor ul Islam	Bazrat Halil	"	Khatoona.
106.	✓ Rustam	Sabir Khan	"	Fak. Banga.
107.	Fazrat Islam	M. Zunif	"	Khar. Khaysona
108.	Mali. Muhammad	Roshan Khan	"	Thaya.
109.	✓ M. Javid	Mer. Ahmed	"	J. Bicolote.
110.	Shauqul din	Muhyudin	"	Alom. Khanow
111.	✓ Nadar Khan	Mir. Ahmad. Khan	"	Rutiar. Khad.
112.	Attullah	Amanullah	"	Kukilar.
113.	Islam Shah	Mian. Gul. Shah	"	Chunaidan.
114.	✓ B. Helim Shah	Mutabar. Blich	"	Hujageran.
115.	✓ Rahimdad	Gul. Haz.	"	M. H. Red.
116.	✓ Saad ur Rehman	Kuchkol. Khan	"	Coam. Saidan.
117.	✓ Bardor Muhammad	Huzrat Younis	"	khait. Wallinab
118.	✓ Anwar Faraz	Abdul Wahab	"	M/Ohan. Said
119.	✓ Miskin Ali Shah	M. Noor. Halil	"	Mudawar. Tikky
120.	✓ Miskin Ali Shah	M. Noor. Halil	"	

Cont. P/3

Asst. Dist. Officer (S&L) District

Asst. Dist. Officer (S&L) District

ZAFER AHMAD  
Advocate High Court  
Abbottabad

114. ✓ Faiz ul Bari	M. Noor	P. 1	Manik Abad.
115. ✓ Talah Muhammad	Pida Muhammad	"	Gilg. Hanjo.
116. ✓ M. Zahid	Mudohar Gul	"	N. W. Lar. G. T.
117. ✓ Iftakhar Ahmad	M. Raza	"	Khalit Vullishah.
118. ✓ Abdul Ghani Shah	Munawar Shah	"	Ohan Saldan.
119. ✓ Anohi Khani	Payee Khan	"	GP. B/Charri Said.
120. ✓ B. Farhad Shah	M. Zahir Shah	"	L. N. Abad.
121. ✓ Waheed Khan	Said Ali Khan	"	A. Jarvalli. Talya.
122. ✓ Najmul Haq	Abdul Qayyum	"	Daboona.
123. ✓ Saib. Alim	Jan Alam	"	Kalshah.
124. ✓ Mirza Bulich	Astas Khan	"	Saprocha.
125. ✓ Attullah	Attab	"	-do-
126. ✓ Mehtoozullah	Wali Walullah	"	Kishah.
127. ✓ Ejaz Ahmed	M. Zahir Shah	"	Harmarin.
128. ✓ Sherin Zada	Ghulam Haider	"	Dar Murin.
129. ✓ Asghir Muhammad	Fazal Haji	"	Mughal. Mandi. Yar.
130. ✓ Khurshid Khan	M. Ishaq	"	-do-
131. ✓ Niaz Muhammad	Muhammad Asa Khan	"	Mirkundi.
132. ✓ M. Iqbal	Aurangzab	"	Murzala.
133. ✓ S. Habiullah	M. Ali Shah	"	-do-
134. ✓ Bukhtar Ullah	Mada Khalil	"	Ajlo. Manginabad.
135. ✓ Email	M. Hussain	"	Gugli Abad.
136. ✓ Golzarul Wahab	Abdul Wahab	"	Shukat Abad.
137. ✓ Jihun Zaib	Shah Zada	"	Kuchal.
138. ✓ M. Asghir	Azimullah	"	Mandwali.
139. ✓ M. Mumtaz	Said Ali	"	Hanjo.
140. ✓ M. Shurin	Rehmatullah	"	Ohan Saldan.
141. ✓ M. Khurshid	M. Ayub	"	Hil.
142. ✓ M. Yousuf	Ghulam Nabi	"	Daboona.
143. ✓ M. Tariq	Pir Muhammad Khan	"	Rajargam.
144. ✓ Khan Mulla Mad	Feroz Khan	"	Beri Ghali Bando.
145. ✓ W. Abaziz	Abdul Jabbar	"	Londul Noman Abad.
146. ✓ Baz Muhammad	Amanullah	"	Chen Sarfraz Meran
147. ✓ Abdul Haq	Shahar Khan	"	Mitharoy Kuria.
148. ✓ S. Shabir Hussain	Habib Said	"	Khalit Aladdin.
149. ✓ Amir Muhammad	Jan Muhammad	"	Tuapi.
150. ✓ Feroz Khan	Saif-ullah Khan	"	Baz Wal.
151. ✓ Inayat ur Rahman	M. Muddaz	"	Gandor.
152. ✓ M. Basyar	M. Noor	"	Danda Battangi.
153. ✓ Abdul Haq	Azia Khan	"	Kandoo.
154. ✓ Ghulam Yousuf	M. Khan Wali	"	Paigiro.
155. ✓ Adam Khan	M. Israil	"	Keen Darra.
156. ✓ M. Rehman	Abdullah Jan	"	Kax.
157. ✓ Gul Khan	Lucha Khan	"	Mano Pashto.
158. ✓ Zulfiqar Ali	Inayat ul ah	"	Muskani.
159. ✓ Gul Bar	Gul Akher	"	Musul Seri.
160. ✓ Zia ur Rehman	Fazl ur Rehman	"	Alharban.
161. ✓ Jamil ur Rehman	Shah Muhammad	"	Barmer Ali.
162. ✓ Pida Muhammad	Hulta Muhammad	"	Karbori.
163. ✓ W. Akter Ali	Tora Baza	"	Cinjbbil.
164. ✓ Gul Zahir Khan	Obargah Gul	"	Bateela.
165. ✓ S. Ahmad Shah	S. Habiullah	"	Bahn.
166. ✓ M. Fayaz	Aurangzab	"	Deonga.
167. ✓ Bidar Bukht	Foyah Khan	"	Paigiro.
168. ✓ Attullah	Falut Khan	"	Alami Kandow.
169. ✓ Wajud Din	Abdul Kadir	"	Jabba Bahar.
170. ✓ Ghulam Haider	Shah Mir. Ali Shah	"	Batley.
171. ✓ Khooz Daud	Ahmed Khan	"	Asharband.
172. ✓ S. Haidullah	Saidullah	"	Maji. Kavin.
173. ✓ M. Kaveer	Gul Fozil	"	Mala Bateela.
174. ✓ Haidur ah	Maji Fuzil Waid	"	Kochori.
175. ✓ Amir Muhammad	Shamsur Rehman	"	Wajala Sultan.
176. ✓ M. Sharif	Mir Dad	"	Hover Digha.
177. ✓ Shur Ali	Muqter Khan	"	Leshora.
178. ✓ Said Ali Shah	Umer Said	"	Karia Para.
179. ✓ M. Arshad	Junroaz Khan	"	-do-
180. ✓ Khushor Khan	Aurangzab Khan	"	Jumbag.
181. ✓ K. Fayatullah	Abdul Rashid	"	Jamroz Gada.
182. ✓ M. Gulam	Meharjun Nabi	"	-do-
183. ✓ Meharz H. Kuen	Taj H. Khan	"	Butarkool

Asst. Dist. Officer (S&L) District Office, Bahawalpur

*(Signature)*

**ZAHKEER AHMAD**  
Advocate High Court  
Abbottabad

(10) Amount 'B'

OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) BATTAGRAM

ORDER

Consequent upon the recommendation of the Departmental Selection Committee and approval of the competent authority (Deputy Commissioner) Battagram, in the light of Khyber Pakhtunkhwa Act XVII 2012 and Honorable Court Judgment Peshawar High Court Abbottabad Bench dated 17-01-2013 the following Sacked employees are hereby appointed as PST in BPS-12 (Rs:7000-500-22000) (Non pensionable) plus usual allowances as admissible under the rules against the vacant post at the schools mentioned against each, in the interest of public service with effect from the date of their taking over charge:

S. No	Name of Candidates	Father's Name	Address	Posted at	Remarks
1	Sardar Mohd. Khan	Hazrat Younas	Thaya Banian BTM	GPS Batkool Sarhadi	Against V/Post
2	Ghulam Hakler Shah	Pir Ali Shah	Kuz Madan BTM	GPS Kar Patay Pashto	Against V/Post
3	Bahadar Khan	Ali Gohar Khan	Dharian BTM	GPS Kanai	Against V/Post
4	Ghulam Yousaf	Molvi Khan Wali	Shamlai BTM	GPS Hill Bach	Against V/Post
5	Muhammad Hayat	Muhammad Noor	Trand BTM	GPS Kaloota	Against V/Post
6	Noshervan	Noor ul Hassan	Gijbon BTM	GPS Malkot	Against V/Post
7	Zesbal Khan	Mubaras Khan	Thakot BTM	GPS Piza Batkool	Against V/Post
8	Duraj Khan	Hukmat Khan	Pokal Allai	GPS Mangri	Against V/Post
9	Pervez Khan	Saif ullah	Ajmera BTM	GPS Beran Gantar	Against V/Post
10	Imdad Ullah	Musa Khan	Gidri Khairabad BTM	GPS Barmai	Against V/Post
11	Shahi Khan	Bai Khan	Peshora BTM	GPS Mala Bateela	Against V/Post
12	Abdul Aziz	Haji Abdullah	Gulibagh BTM	GPS Battagram	Against V/Post
13	Muhammad Miskeen	Abdul Latif Khan	Takia BTM	GPS Thaya	Against V/Post
14	Muhammad Riaz	Ghulam Hussain	Banser Shamlai BTM	GPS Koshgram	Against V/Post
15	Khwashed Khan	M. Arshad Khan	Biari Allai	GPS Chapri Karg	Against V/Post
16	Fuhead Khan	Murad	Ajmera BTM	GPS Nathoo.	Against V/Post
17	Momin Khan	Bitai Khan	Kuzabanda BTM	GPS Nehar Qasim.	Against V/Post
18	Islam Shah	Mian Gul Shah	Bandigo BTM	GPS Sar Nasim.	Against V/Post
19	Rustam Khan	Palas Khan	Phagora BTM	GPS Ajlay Shahroom	Against V/Post
20	Rustam Khan	Begrah Khan	Thakote BTM	GPS Nehay Thakot	Against V/Post
21	Muhammad Shaie	Abgullah	Dabn Paimal BTM	GPS Trangar	Against V/Post
22	Anwar Faraz	Abdul Wahab Khan	Sanian BTM	GPS Jabba Asharban	Against V/Post

NOTE The Drawing and disbursing officer are directed to verify their Degrees/Certificates from the concerned Board/University/Institutions from the quarter concerned.

TERMS AND Conditions:-

- 1 The appointment is made purely on temporary basis and liable to termination at any time without assigning any reason or notice.
- 2 Theirs service will be on regular basis but not pension able and they will contribute to CP Fund.
- 3 They will be abide by the rules and regulation issued from time to time by the Provincial Court.
- 4 Their appointment has been made in the Act of Sacked Employees Appointments Act, No XVII, 2012.
- 5 They should obtain Medical fitness Certificate from the Medical Superintendent DHQ Hospital Battagram.
- 6 In case of resignation
- 7 The candidates having less qualification will acquire requisite training and obtain FA qualification within three years failing which their appointment shall stand terminated automatically.
- 8 They should take over charge within in 15 days after the issuance of this appointment order otherwise the order of appointment shall stand cancel after 15 days.

*Handwritten Signature*  
ZAHED AHMAD  
Advocate High Court  
Abbottabad

(11)

- 9 Charge report should be submitted to all concerned.
- 10 The DDO is directed to obtain an affidavit on stamp paper duly attested by the 1st Class Magistrate that
  - (a) They will served the Education department for more than five(5) year continuously
  - (b) They are not served any other Department/Corporation/Agency.
  - (c) Their previous services if any will be treated as EOL (without Pay).
  - (d) They will not go in the court for their previous service benefits.
- 11 No TA/DA etc is allowed to any one.

**DEPUTY COMMISSIONER  
(CHAIRMAN)  
BATTAGRAM**

Endst:No 7825-31 /EB/AE-II/ Apptt: Sacked: Emp: DATED 15/02/2013

Copy for information and necessary action to the:

- 1 Deputy Commissioner Battagram.
- 2 Registrar Honorable High court Peshawar
- 3 District Accounts Officer Battagram.
- 4 Head Master concerned School.
- 5 D.D.E.O (Male) Battagram.
- 6 Candidates concerned.
- 7 Office file.

*[Signature]*  
Assistant District Education Officer  
Litigation Battagram

*[Signature]*  
**ZAKEER AHMAD**  
Advocate High Court  
Abbottabad

*[Signature]*  
**Dy. DDO (Male)**  
Battagram

(12)

Annex "C"

OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) BATTAGRAM.

OFFICE ORDER:-

Serisi No. 10 of the terms and conditions mentioned in the Sacked employees appointments orders bearing Endst: No. 7825-31 dated 15-02-2013 is hereby withdrawn.

The remaining order will stand intact and unchanged.

DISTRICT EDUCATION OFFICER  
(MALE) BATTAGRAM.

Endst: No 7958-63 / EB/AE-II/P-Sacked Emp: Apptt: dated 26/02/2013.

Copy for information to the:-

1. Deputy Commissioner Battagram.
2. Registrar High Court Bench Abbottabad.
3. District Accounts Officer Battagram.
4. Headmaster/Head Teachers concerned schools.
5. Candidates concerned.
6. Office copy.

*[Handwritten signature]*

BY: DISTRICT EDUCATION OFFICER  
(MALE) BATTAGRAM

*[Handwritten signature]*  
*Attested*  
*[Handwritten signature]*  
 ZAHEER AHMAD  
 Advocate High Court  
 Abbottabad

13

A. meane "D"

بخدمت جناب ڈسٹرکٹ ایجوکیشن افسر صاحب ضلع بنگرام

عنوان: محکمانہ اپیل

جناب عالی! منوجبات اپیل ذیل عرض ہیں۔

- 1- یہ کہ اپیلانٹ کو محکمہ ہذا میں بطور پی ایس ٹی گورنمنٹ پرائمری سکول فقیر ضلع بنگرام مورخہ 12-12-1995 کو تعینات ہوا
- 2- یہ کہ اپیلانٹ اپنی ذمہ داریاں بہتر طریقے سے سرانجام دیتا رہا اور اپیلانٹ نے کبھی بھی ایجوکیشن ڈیپارٹمنٹ کو شکایت کا موقع کونہ دیا۔
- 3- یہ کہ اچانک مورخہ 28-07-1997 کو بلا کسی وجہ سے اپیلانٹ کو سکول ہذا سے فارغ کر دیا۔
- 4- یہ کہ اپیلانٹ، Sacked Employee کو عدالت عالیہ ایبٹ آباد بیج نے مورخہ 17-01-2013 کو دوبارہ بھرتی کرنے کے احکامات صادر کئے اور عدالت عالیہ کے فیصلے اور Sacked Employee ایکٹ XVII KPK 2012 کی روشنی میں دوبارہ مورخہ 15-02-2013 کو بھرتی کر دیا اور اپیلانٹ کو محکمہ کی طرف سے Back Benefits نہ دیئے گئے۔
- 5- یہ کہ اپیلانٹ ملازمت سے فارغ ہونے کے عرصے سے لیکر دوبارہ بھرتی ہونے تک کے عرصہ میں بے روزگار رہا ہے اور اپیلانٹ کو ڈیپارٹمنٹ کی طرف سے Back Benefits نہ دیئے گئے ہیں۔
- 6- یہ کہ بمطابق آفس آرڈر نمبر 63-7958 مورخہ 26-02-2013 کی روشنی میں اپیلانٹ Back Benefits کا حقدار ہے۔

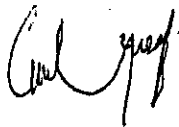
لہذا آپ جناب سے گزارش ہے کہ سائل کو ملازمت سے فارغ ہونے کے دن سے اپیلانٹ کی بحالی کے دن تک

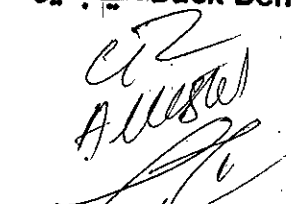
Back Benefits دیئے جائیں۔

المرقوم: 20/3/2013-2-28

العارض

غلام یوسف ----- اپیلانٹ

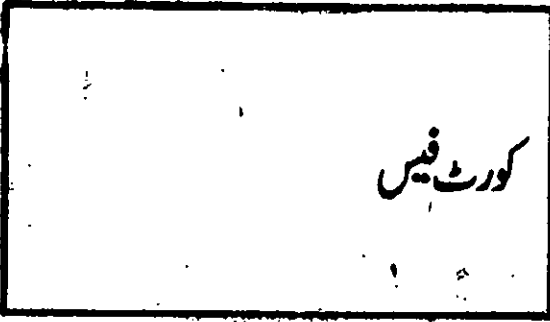


  
ZAHEER AHMAD  
Advocate High Court  
Abbottabad

14

# وکالت نامہ

کورٹ فیس



بعدالت صاحب کورٹ فیس

عنوان: محمد یوسف

مخائب: احمد علی

نوعیت مقدمہ:

## باعث تحریر آنکہ

مقدمہ مندرجہ میں اپنی طرف سے واسطے جبری و جواب دہی کل کاروائی متعلقہ آن مقام

ابھی کاروائی کے طے ہونے پر عبدالعزیز صاحب نے اپنی کاروائی کے واسطے

کو وکیل مقرر کر کے اقدام کرتے ہیں کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کمال اختیار ہوگا نیز وکیل صاحب

موصوف کو کرنے رضی نامہ و تقریر نمٹ و فیصلہ برطرف دینے اقبال دعویٰ اور بصورت دیگر ڈگری کرانے اجراء

دعویٰ چیک روپیہ و عرضی دعویٰ کی تصدیق اور اس پر دھمکا کرنے کا اختیار ہوگا اور بصورت ضرورت مقدمہ مذکور

کی کل یا کسی جزوی کاروائی کے لئے کسی اور وکیل یا محکمہ صاحب قانونی کو اپنے ہمراہ اپنی بجائے تقرر کا اختیار

بھی ہوگا اور صاحب مقرر شدہ کو بھی دعویٰ اور ویسے ہی اختیارات ہوں گے اور اس کا ساختہ پرداختہ مجھ کو منظور

قبول ہوگا۔ دوران مقدمہ جو خرچہ و ہرجا نہ اتوائے مقدمہ کے سبب ہوگا اس کے مستحق وکیل صاحب ہوں گے۔

نیز جہاں تم وصول کرنے کا بھی اختیار ہوگا اگر کوئی پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب موصوف

پابند ہوں گے کہ جبری مقدمہ نہ لکھ کر میں اور اگر محکمہ مقرر کردہ میں کوئی جزو جہاں ہو تو وکیل صاحب موصوف

مقدمہ کی جبری کے پابند ہوں گے۔ نیز درخواست بمراد استجارت ہائے بیخ مفلسی کے دائرہ کرنے اور اس کی

جبری کا بھی صاحب موصوف کو اختیار ہوگا۔

لہذا وکالت نامہ تحریر کر دیا تاکہ سند رہے۔

المرقوم: 24/4/2019

بمقام: احمد علی

Acceptance  
محمد یوسف  
احمد علی

محمد یوسف

**BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICE**

**TRIBUNAL CAMP COURT ABBOTTABAD**

**SERVICE APPEAL No. 579 of 2019**

**Ghulam Yousaf So. Molvi Khan Wali.....Appellant**

**VERSUS**

**Government of Khyber Pakhtunkhwa through Secretary E&SE KPK**

**Peshawar and others.....Respondents**

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<b>S. No</b>	<b>Description /Documents</b>	<b>Annexure</b>	<b>Pages</b>
1	Comments		1 to 3
2	Affidavit		4
3	Copy of Sacked Employees Act 2012	A	5 to 8
4	Copy of Judgment dated 20-02-2019	B	9 to 11

**Respondent**



**BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICE**

**TRIBUNAL CAMP COURT ABBOTTABAD**

**SERVICE APPEAL No. 578 of 2019**

Ghulam Yousof S/O Molvi Khan Wali .....Appellant

**VERSUS**

Government of Khyber Pakhtunkhwa through Secretary E&SE KPK  
Peshawar and others.....Respondents

**Joiant Para-wise comments /Reply on behalf of  
Respondents NO. 1 to 3**

**Respectfully Sheweth:**

**Preliminary Objections**

1. That the appellant has no cause of action/locus standi to file the present appeal.
2. That the appellant has concealed the material facts from this Hon'ble Tribunal.
3. That the appellant has not come to this Hon'ble Tribunal with clean hands.
4. That the appellant has filed the instant appeal on malafide grounds, just to put pressure on the respondent Department for illegal pension benefits.
5. That the appellant's appeal is against the prevailing rules and law.
6. That the appellant is estopped by his own conduct to file the instant appeal.
7. That the instant appeal is not maintainable in its present form and also in the present circumstances of the issue.
8. **As per Law/ Section 5 of Khyber Pakhtunkhwa Sacked Employees (Appointment) Act 2012, a sacked employee appointed under Section. 3. shall not be entitled to any claim of seniority, promotion or other back benefits and his appointment shall be considered as fresh appointment; hence the instant appeal is liable to be dismissed without any further proceeding.**
9. That the instant appeal is badly barred by time; hence is liable to be dismissed without any further proceeding.

ON FACTS

1. Para No. 1 of the appeal is correct. Pertaining to the appointment of the appellant; hence needs no comments.
2. Para No. 2 pertains to termination of the appellant, hence needs no comment.
3. Para No. 3 of the appeal is correct, Pertains to the appointment of the appellant in the light of Khyber Pakhtunkhwa Sacked Employees (Appointment) Act 2012.
4. Para No. 4 of the appeal is correct, Pertains to the promotion of the appellant, hence needs no comments.
5. Respondents are bound to follow the rules/policy and law (Sacked Employees Appointment Act 2012) as mentioned in preceding paras.
6. Para No. 6 of the appeal is incorrect and denied. As per Section 5 of Khyber Pakhtunkhwa Sacked Employees (Appointment) Act 2012, it is clearly mentioned that **“a sacked employee appointed under Section. 3. shall not be entitled to any claim of seniority, promotion or other back benefits and his appointment shall be considered as fresh appointment”**. And as decided in Service Appeal No.1377/2015. Titled **Syed Naveed Shah VS Govt. of KP & Others dated. 20-02-2019**, hence the plea of the appellant is against the law/act. (Copy of the Act and Judgment dated 20-02-2019 are attached as **“Annex. A & B”**).
7. The appellant has no cause of action.

ON GROUNDS:

- a. Ground “a” of the appeal is incorrect, hence denied. Govt. has not allowed any back benefits as it is clearly mentioned in the Act, and respondents are not bound to obey the illegal demands of the appellant.
- b. Ground “b” of the appeal is incorrect. Detailed reply is given in the preceding paras.
- c. Ground “c” of the appeal is incorrect. Detailed reply is given in the preceding paras..
- d. Ground “d” of the appeal is incorrect. Respondents department followed the law/Act and acted accordingly.
- e. Ground “e” of the appeal is incorrect. Detailed reply is given in Para No. 5 of the Facts.
- f. Ground “f” of the appeal is incorrect. Appellant has no cause of action.

It is therefore humbly prayed that on acceptance of above Para-wise comments, the appeal of the appellant may graciously be dismissed with cost.

**RESPONDENT NO. 3**

District Education Officer (Male)  
Battagram

**RESPONDENT NO. 2**

Director Elementary & Secondary Education  
Khyber Pakhtunkhwa Peshawar  
Additional Director (ESE)  
Directorate of (E & SE)  
Khyber Pakhtunkhwa Peshawar

**RESPONDENT NO. 1**

Secretary Elementary & Secondary Education  
Khyber Pakhtunkhwa Peshawar

*vetted subject to correction  
Annexes Affidavits and AAG  
Approval.*

7/11

*AAG*

*Agreed as above.*

Additional Advocate General  
Khyber Pakhtunkhwa  
Service Tribunal Peshawar

**BEFORE THE HON'BLE KHYBER PAKHTUNKHWA SERVICE**

**TRIBUNAL CAMP COURT ABBOTTABAD**

**SERVICE APPEAL No. 578 of 2019**

**Ghulam Yousad S/O Molvi Khan Wali .....Appellant**

**VERSUS**

**Government of Khyber Pakhtunkhwa through Secretary E&SE KPK**

**Peshawar and others.....Respondents**

**AFFIDAVIT**

I Waliur Rahman Assistant District Education officer (Male) Battagram do hereby affirm and declare on oath that contents of accompanying **Joint Para-wise comments** on behalf of respondent NO. 1 to 3 are true and correct to the best of my knowledge and belief that nothing has been concealed from this Honorable Court.

DEPENDENT

CNIC:

13202-4789969-9

AN  
ACT

*to provide relief to those sacked employees in  
the Government service, who were dismissed,  
removed or terminated from service, by  
appointing them into the Government service*

WHEREAS it is expedient to provide relief to those sacked employees who were appointed on regular basis to a civil post in the Province of the Khyber Pakhtunkhwa and who possessed the prescribed qualification and experience required for the said post, during the period from 1<sup>st</sup> day of November 1993 to the 30<sup>th</sup> day of November, 1996 (both days inclusive) and were dismissed, removed, or terminated from service during the period from 1<sup>st</sup> day of November 1996 to 31<sup>st</sup> day of December 1998 on various grounds;

WHEREAS the Federal Government has also given relief to the sacked employees by enactment;

AND WHEREAS the Government of the Khyber Pakhtunkhwa has also decided to appoint these sacked employees on regular basis in the public interest;

It is hereby enacted as follows:

1. Short title, extent and commencement.—(1) This Act may be called the Khyber Pakhtunkhwa Sacked Employees (Appointment) Act, 2012.

(2) It shall apply to all those sacked employees, who were holding various civil posts during the period from 1<sup>st</sup> day of November, 1993 to 30<sup>th</sup> day of November, 1996 (both days inclusive).

(3) It shall come into force at once.

2. **Definitions**— In this Act, unless the context otherwise requires, the following expressions shall have the meanings hereby respectively assigned to them that is to say:-

- (a) "civil post" means a post created by the Finance Department of Government for the members of civil service of the Province;
- (b) "Department" means the Department and the Attached Department as defined in the Khyber Pakhtunkhwa Government Rules of Business, 1985, including the Divisional and District offices working thereunder;
- (c) "Government" means the Government of the Khyber Pakhtunkhwa;
- (d) "Prescribed" means prescribed by rules;
- (e) "Province" means the Province of the Khyber Pakhtunkhwa;
- (f) "rules" means the rules made under this Act; and
- (g) "sacked employee" means a person who was appointed on regular basis to a civil post in the Province and who possessed the prescribed qualification and experience for the said post at that time, during the period from 1<sup>st</sup> day of November 1993 to the 30<sup>th</sup> day of November, 1996 (both days inclusive) and was dismissed, removed, or terminated from service during the period from 1<sup>st</sup> day of November 1996 to 31<sup>st</sup> day of December 1998 on the ground of irregular appointments.

3. **Appointment of sacked employees**— Notwithstanding anything contained in any law or rule for the time being in force, on the commencement of this Act, all sacked employees subject to section 7, may be appointed in their respective cadre of their concerned Department, in which they occupied civil posts before their dismissal, removal and termination from service:

Provided that the sacked employees shall be appointed against thirty percent of the available vacancies in the said Department:

Provided further that the appointment of sacked employees shall be subject to the medical fitness and verification of their character antecedents to the satisfaction of the concerned competent authority.

4. Age relaxation.--- The period during which a sacked employee remained dismissed, removed or terminated from service, till the date of their appointment shall be deemed to have been automatically relaxed and there shall be no further relaxation under any rules for the time being in force.

5. Sacked employees shall not be entitled to claim seniority and other back benefits.--- A sacked employee appointed under section 3, shall not be entitled to any claim of seniority, promotion or other back benefits and his appointment shall be considered as fresh appointment.

6. Preference on the basis of age.--- On the occurrence of a vacancy in the respective cadre of the concerned Department of the sacked employee against the thirty percent available share, preference shall be given to the sacked employee who is older in age.

7. Procedure for appointment.---(1) A sacked employee, may file an application, to the concerned Department within a period of thirty days from the date of ~~commencement~~ commencement of this Act, for his appointment in the said Department:

Provided that no application for appointment received after the due date shall be entertained.

(2) The concerned Department shall maintain a list of all such sacked employees whose applications are received under sub-section (1) in the respective cadres in chronological order.

(3) If any vacancy occurs against the thirty percent available share of the sacked employee in any Department, the senior in age from such sacked employee shall be considered by the concerned Departmental Selection Committee or the District Selection Committee, as the case may be, to be constituted, in the prescribed manner, for appointment.

Provided that no willingness or response is received within a period of thirty days, the next senior sacked employee shall be considered for appointment.

(4) The concerned Departmental Selection Committee or District Selection Committee, as the case may be, will determine the suitability or eligibility of the sacked employee.

(5) If no sacked employee is available against thirty percent vacancy reserved in respective cadre in a Department, then the post shall be filled through initial recruitment.

8. **Removal of difficulties.**— If any difficulty arises in giving effect to any of the provisions of this Act, the Chief Minister Khyber Pakhtunkhwa may issue such order not inconsistent with the provision of this Act as may appear to him to be necessary for the purpose of removing the difficulty.

Provided that no such power shall be exercised after the expiry of one year from coming into force of this Act.

9. **Act to override other laws.**— Notwithstanding anything to the contrary contained in any other law or rules for the time being in force, the provisions of this Act shall have overriding effect and the provisions of any other law or rules to the extent of inconsistency to this Act, shall cease to have effect.



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR  
AT CAMP COURT ABBOTTABAD.

Service Appeal No. 1377/2015

Date of Institution ... 10.12.2015

Date of Decision ... 20.02.2019



Syed Navced Shah son of Muazzam Shah, PST, Govt. Primary School Maira  
Hajjam, District Manshra. ... (Appellant)

VERSUS

Govt. of Khyber Pakhtunkhwa; through Secretary Elementary and Secondary  
Education, Peshawar and two others. ... (Respondents)

MR. MUHAMMAD ARSHAD KHAN TANOLI,  
Advocate

For appellant.

MR. MUHAMMAD BILAL,  
Deputy District Attorney

For respondents

MR. AHMAD HASSAN,  
MR. MUHAMMAD AMIN KHAN KUNDI

MEMBER (Executive)  
MEMBER (Judicial)

JUDGMENT

AHMAD HASSAN, MEMBER:- Arguments of the learned counsel for the  
parties heard and record perused.

ATTESTED  
  
Ahmad Hassan  
Member (Executive)  
Service Tribunal  
Peshawar

ARGUMENTS

2. Learned counsel for the appellant argued that he joined the Education Department as PST on 22.11.1994. That his services were terminated vide order dated 13.02.1997. After promulgation of Khyber Pakhtunkhwa Sacked Employees Appointment Act, 2012, all the employees who were appointed in the year 1993-96 and terminated in 1997-98 were reinstated. As the appellant was not reinstated so he filed writ petition no. 401-A/2012 before the Peshawar High Court, Abbottabad bench. Judgment of the Peshawar High Court Abbottabad bench dated 22.05.2013 was not implemented by the respondents so C.O.C no. 70-A/2013 was filed. Resultantly, vide impugned order dated 01.07.2015, the appellant was reinstated in service with immediate effect. Feeling aggrieved, he filed

departmental appeal on 29.07.2015 which was not responded within the stipulated period, hence, the present service appeal. The appellant is required to give all service benefits w.e.f 03.02.1997 to 01.07.2015.

3. Learned Deputy District Attorney argued that as the appellant was appointed in violation of invogue rules, hence, his services were terminated vide order dated 13.02.1997. Under the Khyber Pakhtunkhwa Sacked Employees Appointment Act 2012, he was reappointed as PST vide order dated 01.07.2015. According Section-5 of the said Act sacked employees shall not be entitled to claim seniority and other back benefits. Appellant was treated according to law and rules.

CONCLUSION.

4. It is not disputed that initially the appellant was appointed as PST at GPS D in Nalla on 22.02.1994. Later on when it came to the notice of the respondents that his appointment was made in violation of rules, hence, his services were terminated vide order dated 13.02.1997. In the meanwhile the provincial government promulgated Khyber Pakhtunkhwa Sacked Employees Appointment Act 2012. When grievances of the appellant were not redressed at departmental level he resorted to litigation by filing writ petition in Peshawar High Court, Abbottabad Bench. Finally in pursuance of the directions of the Peshawar high Court, Abbottabad Bench he was appointed as PSt at GPS Mira Hajam with immediate effect vide order dated 01.07.2015. The appellant is asking for reappointment from the date of his termination from service dated 03.02.1997. Attention is drawn to Section-5 of the aforementioned Act, wherein it is clearly laid down that the sacked employee shall not be entitled to claim seniority and other back benefits. The relevant provision is reproduced below:-

*[Handwritten signature]*

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ATTES

"A sacked employee appointed under Section-3, shall not be entitled to any claim of seniority, promotion or other back benefits and his appointment shall be considered as fresh appointment"

B-11

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As a sequel to above, the appeal is dismissed. Parties are left to bear their own costs. File be consigned to the record room.

(AHMAD HASSAN)  
Member  
Camp Court Abbottabad.

*Muhammad Amin*  
(MUHAMMAD AMIN KHAN KUNDI)  
Member

ANNOUNCED  
30.02.2019

03-05-19

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*[Signature]*

15/5/19