

**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 is 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.

  
(ATIQU-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 19.03.2022 before D.B at Camp Court, Abbottabad.

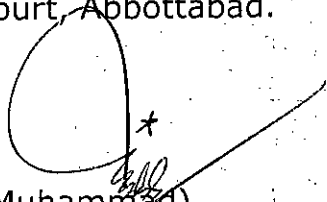
  
(Rozina Rehman)  
Member (J)

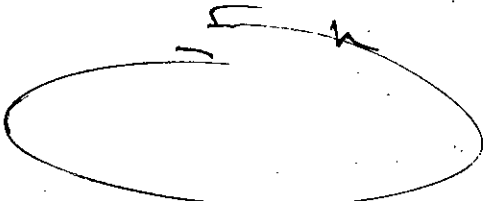
  
Chairman  
Camp Court, A/Abad

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

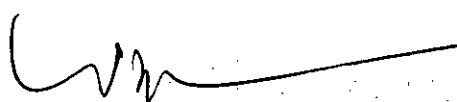
15.02.2021


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

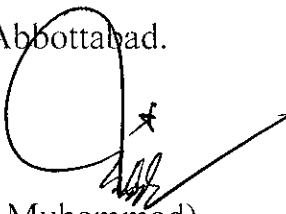
Due to summer vacation case to come up for the same on 115  
9/120 at camp court abbottabad.

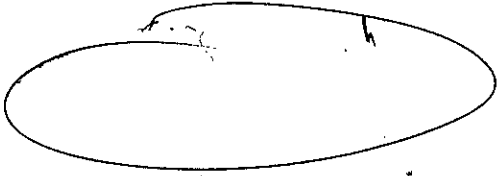
15.09.2020

Appellant alongwith his counsel  Reader Mr. Adeel 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

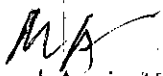
20.09.2019

Counsel for the appellant Abdul Aziz 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 26.02.2013. 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 02.03.2013 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.

Appellant Deposited  
Security & Process Fee

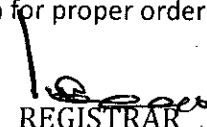


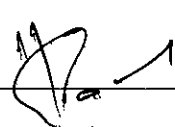
23/9/19

  
(Muhammad Amin Khan Kundi)  
Member  
Camp Court Abbottabad

Form- A  
FORM OF ORDER SHEET

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

Case No. 579/2019

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. Abdul Aziz 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 appellatant present and requested for adjournment on the ground that learned senior counsel for the appellatant 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 appellatant present and again sought adjournment as senior learned counsel for the appellatant 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 579/2019*

Abdul Aziz S/o Haji Abdullah R/o Presently Serving PST GPS, Gulibagh 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 appointment letter dated 07/12/1995	"A"	7
3.	Copy of the termination order dated 28/07/1997	"B"	8-11
4.	Copy of the appointment letter dated 15/02/2013	"C"	12-13
5.	Copy of the office order dated 26/02/2013	"D"	14
6.	Copy of the departmental representation	"E"	15
7.	Vakalat Nama	--	16

*[Signature]*  
...APPELLANT

*Through:*

Dated:- *28/04/2019*

*[Signature]*  
(Zaheer Ahmad Qureshi)

&

*[Signature]*  
(Abdul Aziz Khan Tanoli)

Advocates High Court, Abbottabad.

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

Service Appeal No. 579/2019

Abdul Aziz S/o Haji Abdullah R/o Presently Serving PST GPS, Gulibagh 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

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**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, Landi Nomanabad

District Battagram on 07/12/1995. *(Copy of appointment letter is attached and marked as Annexure "A")*

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 "B")*
3. That, the appellant was appointed as PST in BPS-12 in the light of 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 "C")*
4. 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 "D")*
5. That, appellant requested the respondent No.3 through written application 02/03/2013 / Representation to release all the back benefits as the appellant is entitled for but so far no heed has been paid to the grievances of the appellant and not decided the representation yet. *(Copy of the departmental representation is attached and marked as Annexure "E")*
6. 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.

**GROUND:-**

- 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)

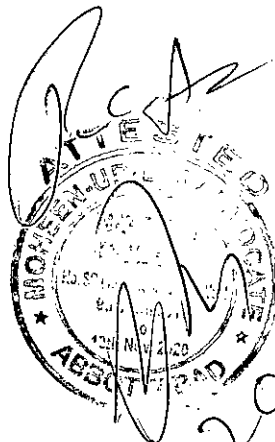
Advocates High Court, Abbottabad.

**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.**

Abdul Aziz .

...APPELLANT

VERSUS

Govt of Khyber Pakhtunkhwa & Others .

...RESPONDENTS

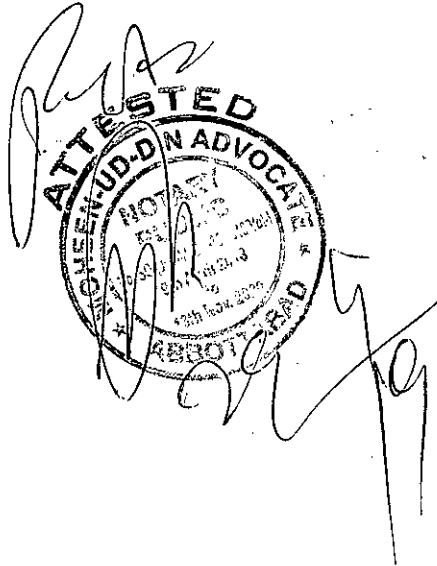
**SERVICE APPEAL**

**AFFIDAVIT**

*Abdul Aziz S/o Haji Abdullah R/o Presently Serving PST GPS, Gulibagh 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.

  
...DEPONENT

Date:- 28/04 2019



**OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) PRIMARY BATTAGRAM**

**APPOINTMENT**

OFFICE ORDER  
DATED BATTAGRAM THE 7/12/1995

Consequent upon the finalization of list/recommendation of selection committee. The following untrained PT candidates are hereby appointed as PT teachers in B/S NO. 7 of Rs. 1480/pm fixed, usual allowances as admissible to him under rules. The schools are charged, against their names, with effect from the date of their taking over charge in the interest of public services.

SNO.	NAME / FATHER'S NAME	SCHOOLS WHERE APPOINTED	AGENCY/POST
1.	Mohammad Younis / O. Ghulam Nabi	GPS, Dabeena	Agency/Post
2.	Mohammad Tariq / O. Pir Mohd Khan	GPS, Bajargram	"
3.	Khan Mohammad / O. Tehmas Khan	GPS, Sarkhali Banda	"
4.	Abdul Aziz / O. Abdullah	GPS, Landi Nomanabad	"
5.	Sayyid Muhammad / O. Amanullah	GPS, Chammirani	"
6.	Abdul Haq / O. Shour Khan	GPS, Laghri Kareem	-do-
7.	S. Shabir Hussain / O. Habib Said	GPS, Kheit Alam Din	-do-
8.	Amir Mohammad / O. Jun Mohammad	GPS, Tammai	-do-
9.	Parvez Khan / O. Saifullah Khan	GPS, Nazwal	-do-
10.	Mohammad / O. Jabba	GPS, Gander	-do-

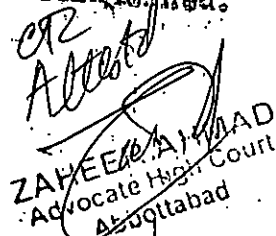
**TERMS & CONDITIONS**

- Charge report should be submitted to all concerned.
- The appointment made is purely temporary basis, liable to be terminated at any time without assigning reason.
- They should be produce their age health certificates from M.D. DHO, Battagram.
- Their age should not less than 18 years or more than 30 years.
- Their original Academic qualification certification should be checked before the taking over charge.
- Their services is made under prescribed rules, Governed by the Govt of NWFP.

(FAZIL MAHMOOD KHAN)  
DISTRICT EDUCATION OFFICER  
(MALE) PRIMARY BATTAGRAM  
7/12/1995

Order No. 421-436 / PP Dated Battagram the

- Copy of the above is forwarded to the
- Director Primary Education, NWFP, Peshawar.
- E.S. To Minister for Primary Education NWFP.
- Sub-Divisional Education Officer (M) Battagram.
- District Education Officer Account Officer Battagram.
- All the candidates concerned.
- Office file.

  
**ZAHEED AHMAD**  
 Advocate High Court  
 Abbottabad

  
 DISTRICT EDUCATION OFFICER  
 (MALE) PRIMARY BATTAGRAM



OFFICE OF THE DISTRICT EDUCATION OFFICER (M) PRIMARY, BATAGRAM

OFFICE ORDER NO. \_\_\_\_\_  
DATED: 28/7/1997

OFFICE ORDER

In the light of findings of the enquiry committee and in compliance with Memo No. P.No. 33/DP/SLA/PP/Abdur Rashid/uoO (M) Primary Batagram/AD(S&A)-M No. 35499 Dated 25.7.97.

The appointment of the following persons have been found illegal ab initio void and against the prescribed rules. Their services are, therefore, dispensed with, with effect from the date of their replacement by those selected on purely merit basis in the light of following the selection procedure as admissible under the rules.

However, they can apply afresh along with others for their selection on merit.

No.	Name of Person	Father's Name	Denial	Name of School
1.	Imdadullah	Muhammad Khan	P.T	OPS Sherripabad.
2.	Shauqul Wahab	Abdul Wahab	"	" Jijbori.
3.	Alam Zaib	Zur Qul Khan	"	" Dhoof Abad.
4.	Fazal Wahab	Abdul Wahab	"	" Sun Macchi.
5.	Shah Ahmar	Ruxtem Khan	"	" Shawal B. rey.
6.	Amir Zada	Abdul Qadous	"	" Paway B. chote
7.	Uzair Muhammad	Hazrat Hussain	"	" Nasirabad.
8.	Muhammad Sultan	Shazi	"	" Banwali
9.	Qudrat Ali Shah	Muhammad Shah	"	" Qidri.
10.	Muhammad Sherin	Hijab Khan	"	" Tikar Banda
11.	Muhammad Khan	Muhammad Khan	"	" Kuthal.
12.	Muhammad Shafiqo	Muhammad Khan	"	" Gat Haroon.
13.	Ihsanullah	Qul Faraz	"	" Ajmera.
14.	Alam Zaib	Muhammad Khan	"	" Gijbori.
15.	Muhammad	Noorul Hassan	"	" Hukhtarabad.
16.	Muhammad	Dukhtar	"	" Gangwal.
17.	Muhammad	Muhammad	"	" Dango.
18.	Muhammad	Muhammad Khan	"	" Doda patti.
19.	Muhammad	Abdus Batta	"	" Gurali Sabroy.
20.	Muhammad	Shah Jehan	"	" Chinow.
21.	Muhammad	Niqah Shah	"	" Rashidabad.
22.	Muhammad	Muhammad Khan	"	" Soori.
23.	Muhammad	Muhammad Khan	"	" Dhagey.
24.	Muhammad	Muhammad Khan	"	" Kurag.
25.	Muhammad	Muhammad Khan	"	" Baurai.
26.	Muhammad	Muhammad Khan	"	" Koyar.
27.	Muhammad	Muhammad Khan	"	" Shalkhay.
28.	Muhammad	Muhammad Khan	"	" Garbi N. Sait.
29.	Muhammad	Muhammad Khan	"	" Bar Sakarkab.
30.	Muhammad	Muhammad Khan	"	" Lalmai.
31.	Muhammad	Muhammad Khan	"	" Coli Batagram
32.	Muhammad	Muhammad Khan	"	" B/ Batacol.
33.	Muhammad	Muhammad Khan	"	" Akbari Kaley.
34.	Muhammad	Muhammad Khan	"	" Akroy.
35.	Muhammad	Muhammad Khan	"	" Palang.
36.	Muhammad	Muhammad Khan	"	" Chaykhang.
37.	Muhammad	Muhammad Khan	"	" Ad.
38.	Muhammad	Muhammad Khan	"	" Gaurab B. S.
39.	Muhammad	Muhammad Khan	"	" M.C. Jachai.
40.	Muhammad	Muhammad Khan	"	" Gijbori.
41.	Muhammad	Muhammad Khan	"	" Dhoof B. J.
42.	Muhammad	Muhammad Khan	"	" B. S.
43.	Muhammad	Muhammad Khan	"	" Gaurab B. S.
44.	Muhammad	Muhammad Khan	"	" M.C. Kobra Kotal.
45.	Muhammad	Muhammad Khan	"	" Kobra Kotal.
46.	Muhammad	Muhammad Khan	"	" Kobra Kotal.
47.	Muhammad	Muhammad Khan	"	" Kobra Kotal.


Distt Officer (M) Primary  
(S&A) Batagram

ZAHED AHMAD  
Advocate High Court  
Batagram

9

136-c

51.	✓ Duraj Khan	Halemat Khan	MSQ	Boraj M. Jan.
52.	Said Ali Shah	Said Malik	"	Bar Kan J. Jan.
53.	Haik Muhammad	Jalal Khan	"	Gulrohan.
54.	Ahotur Rehman?	Azar Daktar	"	U.K.G.S. Hassan.
55.	✓ Inyat ur Rehman?	Ali ur Rehman	"	D. Azimullah.
56.	Mir Dost & Khan?	Haleim Khan	"	Rashid Abad.
57.	✓ Mumin Khan	Huzrat Bahil	"	Hashkan?
58.	Ghulam Arzoq?	Ajam Khan	"	B. Puttey.
59.	✓ Habibullah Shah	Tahir Dhan	"	D. Puttey.
60.	Ilaquat Ali?	Ibrahim	"	M. Jan Muhammad
61.	✓ Miraj Khan	Mian Khan	"	Bara Dhoonga
62.	Fazl ur Rehman?	Abdul Husaid	"	Dhara J. Khan.
63.	✓ K. Javid M. Iqbal	Aurangzaid	"	Hajragran
64.	✓ Nazir Muhammad	Turhad	"	Talshous.
65.	✓ Jihanul Hu.	Abdul Aman	"	Manifabad.
66.	M. Hiaz	Ghulam Hussain	"	Kassai Hall.
67.	✓ Aurangzaid Khan	Mindra Khan	"	Kuthora.
68.	✓ S. Zuhrah Shah	Fargan Said	"	Barrai.
69.	✓ Munir Khan?	Gul Manzor	"	Dowgar.
70.	✓ Rustom Khan?	Biqra Khan	"	Jabatiruz
71.	M. Sharique?	Agiullah	"	Hashkanai.
72.	✓ Bader Khan?	Ali Gohar Khan	"	Kiargali U. Khan.
73.	Rida Muhammad?	Fazl ur Rehman	"	Gidri Trand.
74.	M. Kholid?	Gultan Room	"	X D. Azimullah.
75.	✓ M. Balil?	Hidayatullah	"	Damgat.
76.	✓ Ahmad Khan?	Ychtlar Malook	"	Rashidabad.
77.	Amal Jan?	Gul M. Khan	"	Gidri Trand.
78.	✓ Patehul ah?	Baitul Haq	"	Jaba Teroz.
79.	✓ Zabal Khan?	M. Farideen	"	Mundri.
80.	✓ Ghulam Rehmani	Abas Khan	"	Dodpatti.
81.	✓ Dadiuz Zaman?	Fazl ur Rehman	"	Taria Hill.
82.	✓ B. Wahab Shah	Tali Muhammad	"	Chingow.
83.	Abdul Ali?	M. Said	"	Talshous.
84.	✓ Misakin	Abdul Malik	"	Hgh Banda.
85.	M. Javid?	Abdul Latif	"	Chingow.
86.	✓ Mahmood Shah?	Amanullah	"	Bujergren.
87.	Shahzada?	Said Rahmat Shah	"	Pakbanda.
88.	Shaukat Ayaz?	Abdul Mateen	"	Manifabad.
89.	Inamullah?	Mulak Jan	"	Daxwey.
90.	✓ Habibullah?	Janar Khan	"	Mundri.
91.	✓ Aurangzaid	M. M. Lukeen	"	Dajergren.
92.	✓ Bakht Morin?	Huashak	"	Taria Hill.
93.	Ali Asar Khan?	Misar Khan	"	G/Nawab Said
94.	✓ M. Iqbal	Gul Muhammad	"	Muzala.
95.	✓ Rustom Khan	Talas Khan	"	Trand.
96.	✓ M. Shabid	Abdul Nazag	"	Chappergram.
97.	✓ Attullah	M. Saad	"	Peshora.
98.	Shah Rozem?	Hayat Khan	"	Shalkhoy.
99.	✓ Ali Rehman	Umra Khan	"	-do-
100.	Hamid Ahmad?	Sherin Khan	"	walargen.
101.	Kab Nawaz Khan?	Afsar M. Khan	"	Okey.
102.	✓ Farhat Khan?	Murad	"	Tarbor.
103.	✓ Inyat ur Rehman	Gujar Khan	"	Rashidabad.
104.	Howayatullah?	Shah Zad Khan	"	Shaukat abea
105.	✓ Noor ul Islam?	Razot Halla	"	S. Khal. Banda
106.	Rustam?	Gubir Khan	"	Dabona.
107.	✓ Huzrat Islam?	M. Zanif	"	khato ona.
108.	✓ Wali Muhammad?	Roshan Khan	"	Mal Banda.
109.	✓ M. Javid	Mex Ahmed	"	Kuzur Khavvona
110.	✓ Shamsud din	Muhyudin	"	Thaya.
111.	✓ Nadar Khan	Mir Ahmed Khan	"	T. Bigcote.
112.	Attullah?	Amanullah	"	Alam Khanow
113.	✓ Islam Shah?	Mian Gul Shah	"	Rutlar Abad.
114.	✓ b. Helim Shah?	Mutabar Blich	"	Kukilar?
115.	✓ Bahiddad?	Gul Haz	"	Chunseidan.
116.	✓ Saad ur Rehman?	Kuchkol Khan	"	Dudogran
117.	✓ Sardar Muhammad?	Huzrat Yonin	"	M. N. Y. ad.
118.	✓ Anvar Kuraz	Abdul Wahab	"	Coam Saidan.
119.	✓ Shaukat Ali Shah?	Abul Kadir	"	khait wallunab
120.	✓ S. Muhtida Ali?	hal. Noor Nabil	"	D. Oher Said
121.			"	Indaratal Tikky

  
**ZAHER AHMAD**  
 Advocate & J.M. Court  
 Abbottabad

Cont. p/3  
 Joint Dist Officer (East)  
 (S&L) Bagram

Joint Dist Officer (East)  
 (S&L) Bagram

PAGE NO. ....3.....

119. Faiz ul Bari	M. Noor	P. 2	Henil Abad.
120. Talib Raza	Fida Raza	"	Ch. Hanj.
121. M. Zubid	M. Raza	"	S. W. G. C.
122. M. Tahir Ahmad	M. Raza	"	Khalid, V. I. Shah.
123. Abdul Ghani Shah	Munawar Khan	"	Ch. Spidan.
124. Anshu Khan	Payee Khan	"	G.P. B/Churri Said.
125. M. Furhan Shah	M. Zahid Shah	"	E. H. Abad.
126. Waheed Khan	Said Ali Khan	"	A. J. Wali. T. T. Y. A.
127. Rajmul Haq?	Abdul Qayyum	"	Daboona.
128. Saib. A. A.?	Jan Alam	"	Kaishal.
129. M. H. Z. B.?	Astam Khan	"	Saprocha.
130. M. H. Z. B.?	Atab	"	-do-
131. M. H. Z. B.?	Wali. Walullah	"	Kiushal.
132. M. H. Z. B.?	M. Zahir. Shah	"	Barmuria.
133. M. H. Z. B.?	Ghulam Haider	"	M. M. Murin.
134. M. H. Z. B.?	Fazal. M. J.	"	Kushan. M. J. Y. A.
135. M. H. Z. B.?	M. I. Khan	"	-do-
136. M. H. Z. B.?	Muhammad. A. Khan	"	M. Kundi.
137. M. H. Z. B.?	Aurangzeb	"	Murwala.
138. M. H. Z. B.?	M. Ali. Shah	"	-do-
139. M. H. Z. B.?	Mada Khalil	"	Ajlo. Manginabad.
140. M. H. Z. B.?	M. Hussain	"	M. S. Abad.
141. M. H. Z. B.?	Abdul Wahab	"	Shukat Abad.
142. M. H. Z. B.?	Shah Zada	"	Kuchal.
143. M. H. Z. B.?	Azimullah	"	Mandwali.
144. M. H. Z. B.?	Said Ali	"	Haji.
145. M. H. Z. B.?	Rehmat. Ullah	"	Ch. Saidan.
146. M. H. Z. B.?	M. Ayub	"	Mil.
147. M. H. Z. B.?	Ghulam Nabi	"	Daboona.
148. M. H. Z. B.?	Pir Muhammad Khan	"	Bajargan.
149. M. H. Z. B.?	Taimaz Khan	"	Seri. Khali. Bando.
150. M. H. Z. B.?	Abdullah	"	M. S. Han. Abad.
151. M. H. Z. B.?	Amanullah	"	Ch. Saidan. Meran.
152. M. H. Z. B.?	Sh. ur Khan	"	M. H. A. Karim.
153. M. H. Z. B.?	M. H. Z. B.?	"	Khalid. Aladdin.
154. M. H. Z. B.?	Jan Muhammad	"	T. S. A.
155. M. H. Z. B.?	Saif. ul. lah Khan	"	M. S. W. A.
156. M. H. Z. B.?	M. H. Z. B.?	"	Gandor.
157. M. H. Z. B.?	M. Noor	"	Banda. Battangi.
158. M. H. Z. B.?	Azia Khan	"	Kendloo.
159. M. H. Z. B.?	M. Khan. Wali	"	Paqiro
160. M. H. Z. B.?	M. Ismail	"	Keen. Darra.
161. M. H. Z. B.?	Abdullah. Jan	"	K. S.
162. M. H. Z. B.?	Lucha Khan	"	M. S. P. A. C. T. O.
163. M. H. Z. B.?	Ladyat. ul. ah	"	Muskani.
164. M. H. Z. B.?	Gul Akber	"	M. S. S. R.
165. M. H. Z. B.?	Fazl. ur. Rahman	"	M. S. S. R.
166. M. H. Z. B.?	Shah. Muhammad	"	M. S. S. R.
167. M. H. Z. B.?	Bul. tan. Muhammad	"	M. S. S. R.
168. M. H. Z. B.?	Tora. B. A.	"	M. S. S. R.
169. M. H. Z. B.?	Ohargah. Gul	"	M. S. S. R.
170. M. H. Z. B.?	S. Habib. Shah	"	M. S. S. R.
171. M. H. Z. B.?	Aurangzeb	"	M. S. S. R.
172. M. H. Z. B.?	Payee Khan	"	M. S. S. R.
173. M. H. Z. B.?	Talut. Khan	"	M. S. S. R.
174. M. H. Z. B.?	Abdul. Karim	"	M. S. S. R.
175. M. H. Z. B.?	Shah. H. I. A. Shah	"	M. S. S. R.
176. M. H. Z. B.?	Almad. Khan	"	M. S. S. R.
177. M. H. Z. B.?	Ud. ul. lah	"	M. S. S. R.
178. M. H. Z. B.?	Gyl. Razia	"	M. S. S. R.
179. M. H. Z. B.?	M. J. I. A. W. H. I. D.	"	M. S. S. R.
180. M. H. Z. B.?	Shah. ur. Rehman	"	M. S. S. R.
181. M. H. Z. B.?	Mir. D. S.	"	M. S. S. R.
182. M. H. Z. B.?	Munawar. Khan	"	M. S. S. R.
183. M. H. Z. B.?	Umer. Said	"	M. S. S. R.
184. M. H. Z. B.?	Jamroz. Khan	"	M. S. S. R.
185. M. H. Z. B.?	Aurangzeb. Khan	"	M. S. S. R.
186. M. H. Z. B.?	Abdul. Raheem	"	M. S. S. R.
187. M. H. Z. B.?	Mehru. Jan. Nabi	"	M. S. S. R.
188. M. H. Z. B.?	Paj. M. Khan	"	M. S. S. R.

Distt Officer (S&D) Bahawalpur

Signature and stamp of ZAFER AHMAD, Advocate High Court, Abbottabad

11

PAGE NO. ....

101. Javod Iqbal	Dilawar Khan	PT	OPC	Maryala Bultan.
102. M. Abdur Rauf	Abdul Hakim	"	"	Jircol.
103. Qazi Shofiqullah	M. Mustafa	"	"	Chunwali.
104. Khaliq ur Rehman	Abdur Rehman	"	"	Arguhori.
105. Wazir Ahmad	Sukandar Khan	"	"	Matta Marcor.
106. M. Asim Khan	Shah Nawaz	"	"	May: Wasna.

*[Handwritten Signature]*  
2/17/97

(MALLI ABUR RAUF)  
DISTRICT EDUCATION OFFICER, (MALE)  
PRIMARY BATTAGRAM.

Encl: No. 2/17-18 / Dated Battagram the 24/5 / 1997.

Copy of the above are submitted to:-

- 1). Director Primary Education, NWFP Dalgari Garden Peshawar.
- 2). I.S. to Secretary of Education, NWFP Peshawar.
- 3). S.D.O. (P) Battagram with the request to inform all the above mentioned teachers on their present address. Moreover to inform the S.O. / T.O. / Other Officials of the local area in which they are posted.
- 4). District Account Officer, Battagram.

*[Handwritten Signature]*  
2/17/97

DISTRICT EDUCATION OFFICER  
(MALE) PRIMARY BATTAGRAM.

*[Handwritten Signature]*  
2/17/97

ZAFER KHAN  
Advocate, High Court  
Abbottabad

Asst Dist Officer (Edt)  
(S&L) Battgram

Asst Dist Officer (Edt)  
(S&L) Battgram

12 Annex 'C'

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 employee 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 Haider 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	Thakor BTM	GPS Piza Batkool	Against V/Post
8	Duraj Khan	Hukmat Khan	Pokal Allai	GPS Maneri	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	Fuad Khan	Murad	Ajmera BTM	GPS Nathoo.	Against V/Post
17	Momin Khan	Bilal Khan	Kuzabanda BTM	GPS Nehar Qasim.	Against V/Post
18	Istam 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	Beerah Khan	Thakote BTM	GPS Nehray Thakor	Against V/Post
21	Muhammad Shafiq	Azquliah	Dabri Paimal BTM	GPS Trangar	Against V/Post
22	Anwar Faraz	Abdul Wahab Khan	Banian 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 Govt.
- 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.

COZ  
Abdullah  
ZAHEER AHMAD  
Advocate High Court  
Abbottabad

13

- 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 then five(5) year countiniously .
  - (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/ Appt: 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]*  
**ZAHEER AHMAD**  
Advocate High Court  
Abbottabad

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

14

Amir D

OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) BATTAGRAM.

OFFICE ORDER:-

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

The remaining order will stand intact and unchanged.

DISTRICT EDUCATION OFFICER  
(MALE) BATTAGRAM.

Hdst: No 7958-63/BB/AE-II/T-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*  
*Handwritten signature*  
**ZAFER AHMAD**  
 Advocate High Court  
 Abbottabad

*Handwritten signature*  
 BY: DISTRICT EDUCATION OFFICER  
 (MALE) BATTAGRAM

(15)

Annoire "E"

بخدمت جناب ڈسٹرکٹ ایجوکیشن افسر صاحب ضلع بگرام

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 انڈی نعمان آباد مورخہ 07-12-1995 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 کو نہ 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 بیچ 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۔

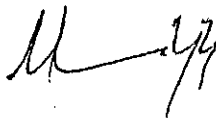
لہذا آپ جناب سے گزارش ہے کہ سائل کو ملازمت سے فارغ ہونے کے دن سے اپیلانٹ کی بحالی کے دن تک

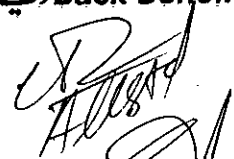
Back Benefits دیئے جائیں۔

المقوم:  $\frac{3}{2}$   
2013

العارض

عبدالعزيز-----اپیلانٹ



  
ZAHEDA ANWAR  
Advocate High Court  
Abbottabad



کورٹ فیس

# وکالت نامہ

بعدالت فیما بین محمد اسحاق صاحب اور محمد اسحاق صاحب

عنوان: محمد اسحاق صاحب نام محمد اسحاق صاحب کے لئے

منجانب: محمد اسحاق صاحب

نوعیت مقدمہ:

## باعث تحریر آئندہ

مقدمہ مندرجہ میں اپنی طرف سے واسطے پیروی و جواب دہی نکل کاروائی متعلقہ آن مقام

محمد اسحاق صاحب کے لئے کسی اور وکیل یا محقق صاحب قانونی کو اپنے ہمراہ اپنی بجائے تقرر کا اختیار بھی ہوگا اور صاحب مقرر شدہ کو بھی وہی اور ویسے ہی اختیارات ہوں گے اور اس کا ساختہ پر داختمہ مجھ کو منظور قبول ہوگا۔

دوران مقدمہ جو فرچہ و ہرجانہ اتوائے مقدمہ کے سبب ہوگا اس کے مستحق وکیل صاحب ہوں گے۔

نیز ہتھیار تم وصول کرنے کا بھی اختیار ہوگا۔ اگر کوئی قاضی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب موصوف پابند ہوں گے کہ جلدی مقدمہ نہ کہہ کریں اور اگر جلد مقرر کردہ میں کوئی جڑو ہتھیار ہو تو وکیل صاحب موصوف مقدمہ کی پیروی کے پابند ہوں گے۔ نیز درخواست برآمد تجارت ہائش بیسٹہ مفلسی کے دائرہ کرنے اور اس کی جلدی کا بھی صاحب موصوف کو اختیار ہوگا۔

لہذا وکالت نامہ تحریر کر دیا تاکہ سند رہے۔

مقام: محمد اسحاق صاحب

المرقوم: محمد اسحاق صاحب 23/09/2019

محمد اسحاق صاحب

محمد اسحاق صاحب

محمد اسحاق صاحب

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

**TRIBUNAL CAMP COURT ABBOTTABAD**

**SERVICE APPEAL No. 579 of 2019**

**Abdul Aziz S/O Abdullah .....Appellant**

**VERSUS**

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

**Index**

<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. 579 of 2019**

**Abdul Aziz S/O Abdullah .....Appellant**

**VERSUS**

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

**Joiont 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. Respondents are bound to follow the rules/policy and law (Sacked Employees Appointment Act 2012) as mentioned in preceding paras.
5. Para No. 5 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”**).
6. 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 (Estt.)  
Directorate of (E & SE)  
Khyber Pakhtunkhwa Peshawar.

RESPONDENT NO. 1

Secretary Elementary & Secondary Education  
Khyber Pakhtunkhwa Peshawar

*vettled subject to Affidavite  
and AAG's Approval.*

AAG

*Agreed as above.*

7/11/18  
Additional Advocate General  
Khyber Pakhtunkhwa  
Service Tribunal Peshawar

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

**TRIBUNAL CAMP COURT ABBOTTABAD**

**SERVICE APPEAL No. 579 of 2019**

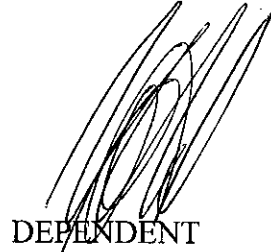
Abdul Aziz S/O Abdullah .....Appellant

**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:

13202-4789989-9

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*

7

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.

B-9

66

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 Naveed Shah son of Muazzam Shah, PST, Govt: Primary School Maira  
Hajjam, District Manshara. ... (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  
  
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 m 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:-

"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"

ATTES

B-11

64

8

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  
20.02.2019

03-05-19

Date of Presentation of Application \_\_\_\_\_

Number of Pages \_\_\_\_\_ 1600

Copying Fee \_\_\_\_\_ 10/-

Urgent \_\_\_\_\_

Total \_\_\_\_\_ 10/-

Name of Applicant \_\_\_\_\_

Date of Completion of Copy \_\_\_\_\_ 15-5-19

Date of Delivery of Copy \_\_\_\_\_ 25-5-19

Certified true and correct copy

*[Signature]*

Secretary



# PAKISTAN National Identity Card

ISLAMIC REPUBLIC OF PAKISTAN



Name

Abdul Aziz



Father Name

Haji Abdullah

Gender

M

Country of Stay

Pakistan

Identity Number

13202-0741817-3

Date of Birth

02.03.1966

Date of Issue

10.08.2016

Date of Expiry

10.08.2026



Holder's Signature

منشی پتہ: کھلی پانچ، گلگرام

13202-0741817-3



منشی پتہ: کھلی پانچ، گلگرام

Usman Y. Malik

Registrar General of Pakistan

101251097686  
124-93-003493

گمشدہ کارڈ ملنے پر قریبی لیڈ بکس میں ڈال دیں