

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR.

Appeal No.7762 of 2021

Date of Institution ... 16/11/2021

Date of Decision ... 23/12/2021

Akram Khan, Primary School Teacher, Government Primary School, Kamalpur, District Haripur & 06 others.

... (Appellant)

VERSUS

Government of Khyber Pakhtunkhwa, through Secretary Elementary & School Education, Peshawar and others.

... (Respondents)

Present.

Mr. Syed Noman Ali Bukhari,
Advocate

... For appellants.

Mr. Kabir Ullah Khattak,
Addl: Advocate General,

... For respondents.

MR. AHMAD SULTAN TAREEN
MR. ATTIQ-UR-REHMAN WAZIR

... CHAIRMAN
... MEMBER(E)

JUDGMENT

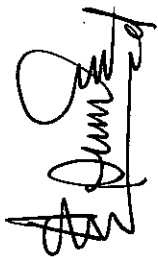
AHMAD SULTAN TAREEN, CHAIRMAN:-The appellants namely Akram Khan, Arshad Mehmood, Shujahat Ali, Muhammad Naeem-ur-Rehman, Muhammad Hanif, Muhammad

Areen and Akhtar Khan all Primary School Teachers (PST) have jointly invoked the jurisdiction of this Tribunal through the above titled service appeal under section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 with the prayer as copied herein below:-

“On acceptance of instant appeal, impugned office order bearing Endst. No. 2883-89/F.No. 20-5/EB/SACKED EMPLOYEES dated 13/04/2021 whereby the services of appellants were terminated by the respondents, may please be declared as wrong, illegal against the law and facts, arbitrary, fanciful, perverse, against the fundamental rights of the appellants as well as against the canons of justice hence, being unconstitutional, be struck down and the appellants may graciously be re-instated in service with all back and consequential benefits or any other remedy or relief as this Honourable Tribunal deems fit and appropriate in the circumstances of the case, may also be issued/passed”

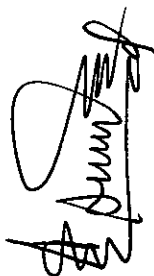
2. Facts of the appeal are that the appellants being eligible under the then prevailing rules were appointed during 1996 to 1996 in respondents' establishment in accordance with the rules then prevailing and procedure laid down therein was adopted in letter and spirit; that respondent No. 1 promulgated Act No. XVII of 2012 to provide relief to those sacked employee who were appointed on regular basis to a civil post in the Province of Khyber Pakhtunkhwa during the period from 01/01/1993 to 30/1/1996 to 31/12/1998; that respondents despite promulgation of above Act were reluctant to provide any relief to the appellants which compelled the appellants to seek direction of the Court; that after hearing the parties, the Hon'ble High Court was

pleased to accept the Writ petition through judgment dated 25/04/2016 in Writ Petition No. 516-A/2013; that in compliance with order of Hon'ble High Court, the appellants were reinstated in their services and a time period of 03 years was given to them to acquire training certificate under the law vide notification dated 04/10/2017 and 25/11/2017; that it was duty of the respondents to arrange and manage the requisite Training Course for appellants in view of directions, however, they failed to arrange and manage the same despite written applications placed before them; that appellants completed the training at their own expenses and furnished Training Certificates to the respondents and requested to consider the same for reinstatement of the services of appellants; that the respondents despite their own failure to arrange and manage the requisite service training in compliance of directions, the respondent No. 3 issued illegal and unlawful impugned officer order dated 13/04/2021 whereby the services of appellants were terminated. The appellants after their termination, firstly filed a joint departmental appeal on 03-05-2021 before the Respondent No. 2 being the appellate authority. Then they filed writ petition No. 651-A of 2021 before the Hon'ble Peshawar High Court, Abbottabad Bench which was disposed of on 27-10-2021 treating the same as departmental appeal. The appellants in wake of the foregoing facts have now invoked the



jurisdiction of this Tribunal with the present appeal preferred on 16/11/2021. After admission of the appeal for regular hearing, the respondents were given notices. They after attending the proceedings have filed their written reply raising several factual and legal objections, refuting the claim of the appellants and asserted for dismissal of appeal with cost.

3. We have heard the arguments and perused the record.
4. Learned counsel for the appellant argued that the impugned notices dated 18/01/2021 issued by the respondents No. 3 whereby the salaries of the appellants were stopped by the respondents and office order dated 13/04/2021 whereby the services of the appellants were terminated by the respondents are wrong, illegal, against the law and facts, arbitrary, fanciful, perverse, against the fundamental rights of the appellants as well as against the canons of justice, that the respondents failed to arrange and managed the requisite training which cannot be attributed to the appellants despite that the appellant have done the same at their own expenses, that the appellants cannot be penalized for the acts of the respondents, that notices alongwith impugned order have not been issued to all similarly, placed employees while the appellants are meted with discrimination,

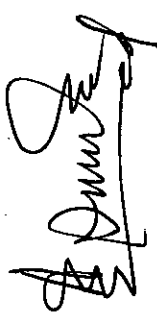


that notices alongwith impugned order have been issued to appellants with malafide, that the appellants have been condemned unheard and have an inalienable fundamental rights to be dealt with accordance with law laid down in the judgment of Hon'ble Peshawar High Court; that it is inalienable rights of the appellants to enjoy the protection of law and to be treated in accordance with law, rules and regulations, that no opportunity of defense has been provided to the appellants before termination order.

5. Learned AAG while exercising the right of rebuttal, argued that the Khyber Pakhtunkhwa Sacked Employees (Appointment) Act were basically enacted for those employees who possessed the requisite qualification and experience whereas the appellants had not possessed the requisite qualification and experience and were not eligible for the appointment under the Act; that the appellants were reinstated in their services in accordance with the judgment of Hon'ble Peshawar High Court vide order dated 04/10/2017 and they were given the time period of 03 years to acquire the requisite training as well as qualification but they failed to acquire requisite qualification; that training courses are conducted by the Provincial Institute of Teachers Education (PITE) with the coordination of respondents but the appellants



have not made themselves available to register in relevant course; that the impugned notices dated 18/01/2021 and 13/04/2021 are legal, lawful and in accordance with rules, policy and the KP Sacked Employees (Appointment) Act; that the notices were issued only to those employees who have failed to acquire the requisite qualification within stipulated time period; that the appellants were terminated and treated in accordance with law, rules and policy on the subject; and while concluding his arguments, he emphasized that present appeal is not maintainable on merits as well as because of procedural deficiencies pointed out in the preliminary objections in the written reply/comments of respondents.

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6. After hearing the arguments of the parties at length and examining the material on record, we are of the view that the entire controversy between the parties revolves around four main questions vis. (a) what was the prescribed qualification for PST post when the appellants were originally appointed before they were sacked of their service? (b) Whether the parties have discharged their respective responsibility with reference to direction of the Hon'ble Peshawar High Court Abbottabad Bench given in the judgment dated 24/05/2016 in Writ Petition No. 516-A of 2013? (c) Whether the training certificates provided by the

appellants to the respondent department are workable? (d) Whether the judgment dated 24-05-2016 has been suitably and fairly discussed in the impugned order to condemn the appellants for its non-compliance in the matter of acquiring requisite qualification?

7. Before addressing the above main questions involved in this appeal, the preliminary objection raised on behalf of respondents regarding maintainability of this appeal has to be decided. The respondents while taking on, they in their comments/reply of the memorandum of appeal have raised several preliminary objections and the one among them is that the joint appeal is barred by law and is not maintainable. As annexed with the memorandum of appeal, we have before us the copy of order dated 27/10/221 passed by the Hon'ble Peshawar High, Abbottabad Bench, in Writ petition No. 651-A/2021 alongwith certified copy of the title page of the said petition with names of petitioners including the present appellants among others. By the order dated 27/10/2021, the writ petition was treated as departmental appeal and sent to the competent authority/Director, Elementary & Secondary Education (E&SE), Khyber Pakhtunkhwa, Peshawar for its consideration in accordance with law, by providing fair opportunity of hearing to



the petitioners. Thereafter, the appellants have invoked the jurisdiction of this Tribunal through single Service Appeal as described above in the heading after about 20 days of the passing of order dated 27/10/2021 by the Hon'ble Peshawar High Court. The appellants purported vide para-10 of the memorandum of appeal that they feeling aggrieved had filed departmental appeal against the termination order but the same was not decided till date; and it has been submitted vide para-11 of the service appeal that no action was taken on the departmental appeal as converted from the writ petition and sent to respondent No. 2 for its decision. Copy of the basic departmental appeal as annexed with the memorandum of appeal bears the date as 03-05-2021 and signatures of 14 individuals including the present appellants. Thus, the same was joint departmental appeal addressed to the respondent No. 2, whereby they impugned the order dated 13-04-2021 as to termination of their appointment as presently impugned by the Service Appeal. Sub Rule-(2) of Rule-3 of the Khyber Pakhtunkhwa Civil Servants (Appeal) Rules, 1986 envisages that every Civil Servant shall prefer the appeal separately. In the present case, the departmental appeal as well as the service appeal have been filed jointly. Before drawing any adverse inference against the appellants on non-compliance of Sub-Rule-



(2) of Rule-3 in its letter and spirit, the foremost question for determination is, whether the requirement of said rules is mandatory or directory. Obviously, there is no dearth of literature on subject of the interpretation of statutes which provides various tests to determine whether a particular provision of statute is "mandatory" or "directory" in nature. There is an interpretation that the statutory provision if specifying that a certain provision is to be carried out in the prescribed manner and no other manner, would be mandatory, even if no penalty has been provided. However, it is a well settled view that no hard and fast rule can be laid down as a final criterion to know whether provision is "directory" or "mandatory" in nature. Non-compliance with a mandatory provision is fatal while non-compliance of directory provision is not fatal. It is axiomatic that the statutory provisions which do not relate to the essence of the thing to be done, and as to which compliance is a matter of convenience rather than a substance, are directory; while provision which relate to the essence of a thing to be done i.e. matter of substance, are mandatory. When we take the provision of Sub-Rule-(2) of Rule-3 on the touch stone of its essence, it is not difficult to find that it relates to a form of departmental appeal while the provisions under Sub Rule-(1) of Rule-3 in their essence relate to the Substance of the appeal. In the case of the appellants; their



grievance relates to a single impugned order issued on 13/04/2021 whereby their appointment order was terminated enlisting them collectively. So, they are aggrieved from a single impugned order without any *inter se* clash of interest. The departmental appeal has been signed by every appellant individually which is indicative of its ownership by them jointly as well as individually. It is maintained that by virtue of Sub Rule (2) of Rule-3 of Appeal Rule, 1986 discussed hereinabove, the appellants were supposed to prefer departmental appeals separately but equity demands the decision of cases on merits and avoidance of technicalities. The Tribunal has got inherent powers under Rule-27 of the Khyber Pakhtunkhwa Service Tribunal Rules 1974 to make such orders as may be necessary for the ends of justice or to prevent the abuse of process of the Tribunal. Thus, we hold for the sake of ends of justice that non-compliance with the said rule is not so fatal so as to divest the appellants of their right to appeal before the Tribunal under section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974. As far as filling of single service appeal at hand by the appellants forming a group is concerned, it needs determination in light of provisions of Service Tribunal Act and Rules read with provisions of Civil Procedure Code. Rule-6 of Service Tribunal Act provides procedure for preferring of appeal including the form of the

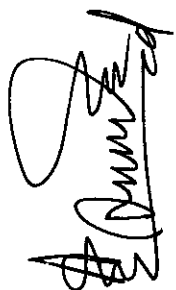


appeal. Among other requirements in relation to memorandum of appeal provided under Rule 6, it is also required that memorandum of appeal shall be signed by the appellant. The memorandum of appeal in the present case is signed by all the appellants individually. Therefore, the said requirement of the rules has been fulfilled. This Tribunal, within meaning of Sub Section (2) of the Section-7 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 is deemed as a civil court with powers as vested in such court under the code of Civil Procedure, 1908. As envisaged by Rule-1 of Order-I of CPC, all persons may be joined in one suit as plaintiffs in whom any right to relief in respect of or arising out of the same act or transaction or series of acts or transactions is alleged to exist, whether jointly or severally or in alternative, where, if such persons brought separate suits, any common question of law or fact would arise. Taking the case of appellants on analogy of said rules, joinder of the appellants in this single appeal is not bad as far as the impugned order is concerned. The impugned order has been used as a single instrument to terminate the appointment order of the appellants with their enlistment in the same on one place. So, if the appellants have brought separate appeals, the order under challenge would be one and the same in all the appeals and they because of common question of law and fact would have been



clubbed together for hearing and disposal by a single judgment. Fortified by the foregoing reasons, the present appeal is held as validly preferred by the appellants together.

8. Having dealt with the above preliminary objection, we may now revert to merits of the case for determination of main questions formulated herein above. We find that the reply of the respondents itself is helpful for resolution of the present dispute in favor of the appellants. The appellants vide para-2 in factual part of the memo of appeal stated that Act No. XVII of 2012 was promulgated to provide relief to sets of employees who were appointed on regular basis to a civil post in the province of Khyber Pakhtunkhwa during the period from 01/01/1993 to 30/11/1996 and the cases of the appellants were fully covered under the aforesaid Act. When the same was taken on by respondents, they did not admit it as correct and added that the Khyber Pakhtunkhwa Sacked Employees (Appointment) Act, 2012 was basically enacted for those employees who possessed the prescribed education and experience whereas the appellants had not possessed the requisite qualification/ experience and they were not eligible for the appointment under the said Act but the Hon'ble Peshawar High Court, Abbottabad Bench in its judgment dated 24/05/2016 in Writ Petition No. 516/2013



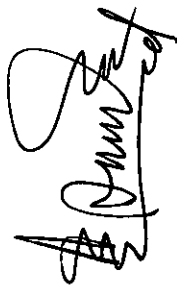
provided an extra relief to the appellants that they will acquire the requisite experience certificate within in 03 years and same relaxation has already been given to the appellants for acquisition of requisite qualification by the department in accordance with Section 7 Sub Section (4) of said Act which empowers the Departmental Selection Committee (DSC) to determine the eligibility of Sacked Employee and in accordance with the condition of General Condition of appellants' appointment order dated 04/10/2017. However, they failed to acquire the requisite qualification within stipulated time period and were removed from service by the competent authority. It was stated by the appellants vide para-4 of the memo of appeal that they, in compliance with the order of the Hon'ble Peshawar High Court, Abbottabad Bench, were reinstated in their services and time period of 03 years was given to them to acquire training certificate under the law vide notification dated 04/07/2017 and 25/11/2017. The respondents in their reply to the said Para of appeal did not deny the reinstatement of appellants in service in accordance in compliance with the judgment of Hon'ble Peshawar High Court Abbottabad Bench but they added that the appellants were given a time period of 03 years to acquire the requisite training and qualification but they failed to acquire the requisite qualification. So, the four questions as formulated



herein above emanate from the said divergent pleadings and arguments of the parties. The first question is what was the prescribed qualification for PST post when the appellants were originally appointed before they were sacked of their service. The respondents asserted vide a preliminary objection among others that according to the notification dated 13/11/2012, the requisite qualification for the PST (BPS-12) is Intermediate alongwith Primary School Certificate/Diploma. It would be in fitness of things to discuss the import of the said notification before further findings on merit of the appellants' case. The notification bearing No. SO(PE)4-5/SSRC/Meeting/2012/Teaching Cadre dated 13/11/2012 would reveal that it has been issued in pursuance to the provision contained in Sub Rule(2) of Rule-3 of Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer), Rule 1989 and in supersession of all notification in this behalf. Accordingly, Elementary & Secondary Education Department in consultation with the Establishment and Finance Department laid down the method of recruitment, qualification and other conditions specified in the Appendix to the notification made applicable to all posts specified in Column-2 of the said Appendix and Schedule therewith. Therein, the similar qualification for PST (BPS-12) has been described as stated by the respondents in their preliminary objection discussed above.



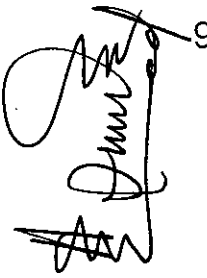
The said notification in view of its contents discussed hereinbefore has been issued in supersession of all notifications issued in this behalf. The question is, whether the said notification having been issued on 13-11-2012 is applicable retrospectively in case of appellants when they have got the right of appointment by operation of law promulgated on 20-09-2012. It is not disputed that the appellants were appointed during the period in between 1993 and 1996 and were sacked of their job subsequently after 1996. It is a matter of fact that the Khyber Pakhtunkhwa Sacked Employee (Appointment) Act, 2012 was promulgated on 20/09/2012 to provide relief to those sacked employees who were dismissed, removed, or terminated from service during the period from 1st day of November 1996 to 31st day of December 1998. A Sacked Employee as defined under Section 2(g) of the said Act means a person who were appointed on regular basis to a civil posts in the province of Khyber Pakhtunkhwa and who possessed the prescribed qualification and experience for the said post at that time, during the period from 01st day of November 1993 to 30th day of November 1996 (both days inclusive) and was dismissed, removed, or terminated from service during the period from 1st day of November 1996 to 31st day of December 1998 on the ground of irregular appointments. By virtue of Section-3 of the said Act, sacked



employees were to be appointed in respective cadre of their concerned department, in which they occupied a civil post before their dismissal, removal and termination from service. The notification dated 13-11-2012 on its face does not provide for its retrospective effect. So, the same by no express meanings has got a retrospective effect. The said notification uses the expression "supersession" of earlier notifications. What is required to be considered and answered by us is, to delineate the meaning of "supersession" and its effect. Webster's International Dictionary defines the word "supersession" to mean "the state of being superseded", "removal" and "replacement". As far as its impact on case of the appellants is concerned, they, as has been held above, have got the right of appointment under operation of law promulgated prior to the notification dated 13/11/2012. Thus, they are not subject to treatment in accordance with said notification for the purpose of higher academic qualification for the post of PST provided by it which was not the case at the time of first appointment of appellant and even at the time of promulgation of the Sacked Employees (Appointment) Act, 2012. We have no hesitation to hold that the notification dated 13/11/2012 is prospective and the same cannot be applied retrospectively due to supersession of previous notifications simplicitor. With the given view, the notification



dated 13/11/2012 will be deemed to have commenced with immediate effect having no bearing on case of the appellants for the purpose of qualification who undisputedly were appointed during the period in between 1993 and 1996 and have got the right of reappointment after their removal/dismissal from service by operation of law promulgated prior to said notification. Thus, objections of the respondents as to lack of academic qualification by the appellants are overruled. Excluding qualification of intermediate due to the foregoing observations, answer to the first question is conveniently possible that basic academic qualification for PST post at the time of original appointment of appellant was Secondary School Certificate besides PTC.

 9. As regards the remaining main points, there remains no need to go into wider details when the respondents admitted in their reply/comments before us that the appellants were reinstated in their service in accordance with the judgment of Peshawar High Court, Abbottabad Bench dated 24/05/2016. The respondents again with reliance on the same judgment have terminated the appointment orders of the appellants through a single order as impugned in the present appeal. Second paragraph of the impugned order dated 13/04/2021 is significant

for certain observations to follow hereinafter and the same is reproduced below;

"Whereas an appointment order specific condition No. 4 "in case they/he failed to acquire the requisite training certificate within 03 years specified by the department their service shall stands terminated automatically. In the light of the judgment passed by the Peshawar High Court, Abbottabad Bench dated 24-05-2016 in para-7 "In case of having less qualification, whichever is prescribed is Intermediate/F.A for PST as well as PST Certificate as professional the candidate must be qualified both the academic/professional qualification with 03 years after issue of this appointment order, failing which their appointment order shall stands terminated automatically without any further period".

10. We having before us on file, the copy of the judgment dated 24/05/2016 passed by the Peshawar High Court, Abbottabad Bench, have read the same in its toto. The operative part as captured in para-9 of the said judgment is reproduced below:-

"9. In view of the above, all the petitions are disposed of in the following terms:-

- i. That the petitioners though eligible for their appointment but not equipped with training certificate shall be considered for reinstatement against their respective posts under the Khyber Pakhtunkhwa Sacked Employee (Appointment) Act, 2012 immediately;
- ii. The concerned District Education Officer shall scrutinized the case of each individual independently;
- iii. Thereafter, the department shall arrange and managed the requisite course for them and the petitioner shall be provided opportunity to acquire the requisite training certificate;

iv. In case the petitioner failed to acquire the requisite training certificate within the stipulated period, specified by the department, their services shall stand terminated automatically. Needless to remark that the respective EDOs, of each district shall complete the process of reinstatement of the petitioner within one month positively”.

11. If taken within the parameter of operative part of the judgment as reproduced above, the para-7 of the judgment reproduced in second paragraph of the impugned order seems to be a misquote. This is because what has been reproduced with reference to para-7 of the judgment in the impugned order is the copy of a relevant para of the reinstatement order/notification of various employees which in fact was reproduced in the judgment dated 24/05/2016 under para-7 with no further findings of the Hon'ble High Court in relation thereto that the same will be taken as a rule of thumb in case of the petitioners (Present Appellants). We, therefore, hold that wittingly or unwittingly, the respondents have maltreated the appellants by misuse of the judgment of the Peshawar High Court, Abbottabad Bench beyond the scope of its operative part as discussed above. For our given view, we are fortified with following reasons:-

- a) The first directions in the operative part of the judgment dated 24/05/2016 held the appellants eligible for appointment with an exception that they were not equipped with training certificate.
- b) By the third directive in the operative part of the judgment, it was the obligation of the department to arrange and manage the requisite training course

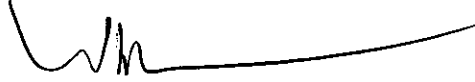
for the appellants and to provide them with an opportunity to acquire the requisite training course.

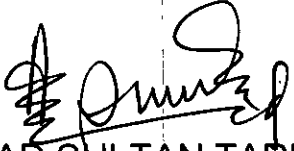
- c) It is a matter of fact that the respondents department did not perform the obligations of arrangement and management of training for the appellants rather they on their own acquired the certificate of training on completion of PTC from different Institutes of teacher training, which they have annexed with the memorandum of appeal.

12. In view of the reasons enumerated above, we hold that the respondents have not discharged their respective responsibility with reference to direction of the Hon'ble Peshawar High Court Abbottabad Bench given in the judgment dated 24/05/2016 in Writ Petition No. 516-A of 2013; while the appellants despite failure of the respondents to afford them with opportunity of training got the same on their own initiative to comply with direction of the Hon'ble High Court. So, the training certificates provided by the appellants to the respondent department are workable and were wrongly kept out of consideration by the respondents. The judgment dated 24-05-2016 has not been suitably and fairly discussed in the impugned order which wittingly or unwittingly has been misquoted to condemn the appellants for its non-compliance in the matter of acquiring requisite qualification. Points (b), (c) and (d) formulated herein above for determination are answered accordingly.



13. For what has gone above, the appeal at hand is accepted as prayed for. Consequently, the appellants are reinstated into service with all back and consequential benefits including the payment of arrears of salary of the intervening period from stoppage of their salaries till their reinstatement. Parties are left to bear their own costs. File be consigned to the record room.


(ATTIQ-UR-REHMAN WAZIR)
Member(E)


(AHMAD SULTAN TAREEN)
Chairman

ANNOUNCED
23.12.2021

ORDER.


23.12.2021

Counsel for the appellant present. Mr. Kabirullah Khattak, Additional Advocate General alongwith Mr. Muhammad Saleh Mushtaq, ADEO for respondents present.

Vide our detailed judgement of today placed on file (containing 21 page), the appeal at hand is accepted as prayed for. Consequently, the appellants are reinstated into service with all back and consequential benefits including the payment of arrears of salary of the intervening period from stoppage of their salaries till their reinstatement. Parties are left to bear their own cost. File be consigned to the record room.

Announced:

23.12.2021


(Attiq-Ur-Rehman Wazir)
Member(E)


Chairman

03.12.2021 Appellant in person and Mr. Muhammad Riaz Khan Paindakhel, Asstt. AG alongwith Saleh, Mushtaq, ADO (Litigation) for respondents present.

Representative of the respondents seeks further time to furnish reply/comments. Last opportunity is granted to the respondents to submit reply//comments on or before the next date positively, otherwise, their right for submission of written reply/comments shall be deemed as struck off. Case to come up on 16.12.2021 before S.B at Peshawar.


Chairman
Camp Court, A/Abad

16.12.2021 Junior of learned counsel for the appellant present. Mr. Kabirullah Khattak, Addl. AG alongwith Mr. Saleh Mushtaq, ADEO for respondents present.

Written reply/comments on behalf of respondents submitted which is placed on file. A copy of the same is also handed over to the junior counsel for the appellant. Adjourned. To come up for arguments on 23.12.2021 before D.B.


(MIAN MUHAMMAD)
MEMBER (E)

for respondents present.

Written reply/comments on behalf of respondents submitted which is placed on file. A copy of the same is also handed over to the junior counsel for the appellant. Adjourned. To come up for arguments on 23.12.2021 before D.B.

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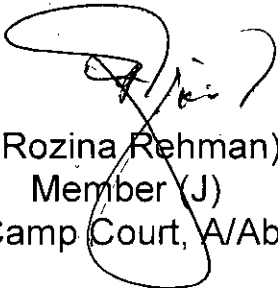
18.11.2021

Appellants present through counsel. Preliminary arguments heard. Record perused.

Points raised need consideration. The appeal is admitted for regular hearing subject to all legal objections. The appellants are directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of reply/comments. To come up for written reply/comments on 29/11/2021 before S.B at Camp Court, Abbottabad.

Appellants Deposited
Security & Process Fee

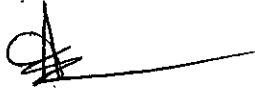
22/11/21


(Rozina Rehman)
Member (J)
Camp Court, A/Abad.

29.11.2021

Appellant present in person and Mr. Muhammad Riaz Khan Painsdakhel, AAG for the respondents.

Learned AAG states that departmental representative has not been able to attend the Tribunal today because of his other engagement in Peshawar. On 18.11.2021 the respondents were directed to submit the written reply today, however, no reply has been submitted today. In view of the particular nature of the matter in issue, the respondents are directed to submit the reply positively on or before 03.12.2021, failing which their right for submission of the written reply/comments shall deemed as struck off. To come up for the needful on 03.12.2021 before S.B at camp court, Abbottabad.




Chairman
Camp Court, A/Abad

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 7762/2021

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	16/11/2021	<p>The joint appeal presented today by Mr. Syed Noman Ali Bukhari 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</p> <p>This case is entrusted to S. Bench at Abbottabad for preliminary hearing to be put there on <u>18-11-2021</u></p> <p style="text-align: right;"> CHAIRMAN</p>
2-		

**BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR
CHECK LIST**

Case Title: Akram Khan & others vs Education Deptt.

S.#	Contents	Yes	No
1.	This appeal has been presented by: <u>Syed Noman Ali Bulcher</u>		
2.	Whether Counsel / Appellant / Respondent / Deponent have signed the requisite documents?	✓	
3.	Whether Appeal is within time?	✓	
4.	Whether the enactment under which the appeal is filed mentioned?	✓	
5.	Whether the enactment under which the appeal is filed is correct?	✓	
6.	Whether affidavit is appended?	✓	
7.	Whether affidavit is duly attested by competent oath commissioner?	✓	
8.	Whether appeal/annexures are properly paged?	✓	
9.	Whether certificate regarding filing any earlier appeal on the subject, furnished?		
10.	Whether annexures are legible?	✓	
11.	Whether annexures are attested?	✓	
12.	Whether copies of annexures are readable/clear?	✓	
13.	Whether copy of appeal is delivered to A.G/D.A.G?		
14.	Whether Power of Attorney of the Counsel engaged is attested and signed by petitioner/appellant/respondents?	✓	
15.	Whether numbers of referred cases given are correct?	✓	
16.	Whether appeal contains cuttings/overwriting?		✓
17.	Whether list of books has been provided at the end of the appeal?	✓	
18.	Whether case relate to this Court?	✓	
19.	Whether requisite number of spare copies attached?	✓	
20.	Whether complete spare copy is filed in separate file cover?		
21.	Whether addresses of parties given are complete?		
22.	Whether index filed?	✓	
23.	Whether index is correct?	✓	
24.	Whether Security and Process Fee deposited? on		
25.	Whether in view of Khyber Pakhtunkhwa Service Tribunal Rules 1974 Rule 11, notice along with copy of appeal and annexures has been sent to respondents? on		
26.	Whether copies of comments/reply/rejoinder submitted? on		
27.	Whether copies of comments/reply/rejoinder provided to opposite party? on		

It is certified that formalities/documentation as required in the above table have been fulfilled.

Name:

Syed Noman Ali Bulcher

Signature:

[Handwritten Signature]

Dated:

16-11-2021

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

APPEAL NO. 7762/2021

Akram Khan and others

V/S

Education deptt

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3.	Copy of Sacked employee act	A	14-16
4.	Copy of high court judgment	B	17-23
5.	Copy of reinstatement orders	C	24-29
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APPELLANT

Akram Khan and others

THROUGH:


(SYED NOMAN ALI BUKHARI)
ADVOCATE, HIGH COURT

①

**BEFORE THE KYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR**

Appeal No 7762/2021

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 7896

Dated 16/11/2021

1. Akram Khan, Primary School Teacher, Government Primary School Kamalpur District Haripur.
2. ArshadMehmood, Primary School Teacher, Government Primary School Kangar Amga, District Haripur.
3. Shujahat Ali, Primary School Teacher, Government Primary School Bail Tech, Tehsil and District Haripur.
4. MuhammadNaeem-ur-rehman, Primary School Teacher, Government Primary School AhalHathan District Haripur.
5. Muhammad Hanif, Primary School Teacher, Government Primary School GalliAndraDoga District Haripur.
6. Muhammad Areen khan, PST GPS, Talhad District Haripur.
7. Akhtar Khan, PST, GPS, PhulaGalli, District Haripur.

APPELLANTS

VERSUS

1. Government of Khyber Pakhtunkhwa through Secretary, Elementary and Secondary Education, Peshawar.
2. Director, Elementary and Secondary Education, Peshawar.
3. District Education Officer, (Male) Haripur.
4. District ~~Accounts~~ Officer, Haripur.

RESPONDENTS

**APPEAL U/S 4 OF THE KP SERVICE TRIBUNAL
ACT 1974, AGAINST THE OFFICE ORDER
BEARING ENDST NO. 2883-89/F.NO.20-**

Filed today

Registrar

16/11/2021

2

5/EB/SACKED EMPLOYEE DATED 13.04.2021
WHEREBY THE SERVICES OF THE
APPELLANTS WERE TERMINATED BY THE
RESPONDENTS ARE WRONG, ILLEGAL
AGAINST THE LAW AND FACTS, ARBITRARY,
FANCIFUL, PERVERSE, AGAINST THE
FUNDAMENTAL RIGHTS OF THE
APPELLANTS AS WELL AS AGAINST THE
CANNONS OF JUSTICE HENCE BEING
UNCONSTITUTIONAL, LIABLE TO BE STRUCK
DOWN. AND AGAINST NOT DECIDING
DEPARTMENTAL APPEAL OF THE
APPELLANT IN STATUTORY PERIOD OF 90
DAYS.

PRAYER:

ON ACCEPTANCE OF THE INSTANT SERVICE APPEAL, IMPUGNED OFFICE ORDER BEARING ENDST. NO. 2883-89/F.NO. 20-5/EB/SACKED EMPLOYEES DATED 13.04.2021, WHEREBY THE SERVICES OF THE APPELLANTS WERE TERMINATED BY THE RESPONDENTS MAY PLEASE BE DECLARED AS WRONG, ILLEGAL, AGAINST THE LAW AND FACTS, ARBITRARY, FANCIFUL, PERVERSE, AGAINST THE FUNDAMENTAL RIGHTS OF THE APPELLANTS AS WELL AS AGAINST THE CANNONS OF JUSTICE HENCE BEING UNCONSTITUTIONAL, BE STRUCK DOWN AND THE APPELLANTS MAY GRACIOUSLY BE RE-INSTATED IN SERVICE WITH ALL BACK AND CONSEQUENTIAL BENEFITSOR

ANY OTHER REMEDY OR RELIEF AS THIS HONORABLE TRIBUNAL DEEMS FIT AND APPROPRIATE IN THE CIRCUMSTANCES OF THE CASE, MAY ALSO BE ISSUED/PASSED.

RESPECTFULLY SHEWETH: -

FACTS:

- 1) That the appellants being eligible under the rules then prevailing were appointed during 1993 to 1996 in respondents' establishment. The rules then prevailing were fully complied with and procedure laid down therein was adopted in letter and spirit. On change of the political Government the services of the Appellants were dispensed with without assigning any reason of the action taken, no opportunity of hearing was afforded to the Appellants before dispensation of their services.
- 2) That, the respondent No.1 promulgated Act No. XVII of 2012 to provide relief to those sacked employees who were appointed on regular basis to a civil post in the Province of KPK during the period from 01.01.1993 to 30.11.1996 to 31.12.1998. The Appellants cases were fully covered under the aforesaid Act being appointed and terminated mentioned above. **Copy of Act is attached as annexure-A.**
- 3) That the respondents despite promulgations of above Act were reluctant to provide any relief to the Appellants who constrained to invoke the extra ordinary constitutional jurisdiction of this Honourable Court for their reinstatement in service. After hearing the parties, this Honourable Court has been placed to accept the Writ Petition Judgment dated

24.05.2016 in W.P No. 516-A/2013 and passed the following orders:-

4

"in view of above all these petitions are disposed of in following terms:

- i. *That the Appellants though eligible for appointment but not equipped with training certificate, shall be considered for reinstatement against their respective post under the Khyber Pakhtunkhwa Sacked Employees (Appointment) Act, 2012 immediately.*
- ii. *The concerned District Education Officer shall scrutinize the case of each individual Appellants independently.*
- iii. *Thereafter, the Department shall arrange and manage the requisite training course for them and the Appellants shall be provided opportunity to acquire the requisite training requisite training Certificate within the stipulate period, specified by the Department, their services shall stand terminated automatically.*

(Copy of the judgment annexed as annexure "B").

4. That, in compliance with above orders, the Appellants were reinstated in their services and a time period of 03 years were given to them to acquire training certificate under the law vide Notification dated 04.10.2017 and 25.11.2017.

(Copy of which is annexed as annexure "C").

5. That, it was the duty of the respondents to arrange and manage their requisite Training Course for Appellants in view of the direction No. ii contained in the Judgment referred to above about the respondents failed to arrange and manage the same despite written applications placed before them.
6. That, the Appellants however completed the training at their own expenses and furnished Training Certificates to the respondents and requested to consider the same for the reinstatement of the services of the Appellants.

(Copy of the Training Certificate are annexed as annexure "D").

7. That, the respondents despite their own failure to arrange and manage the requisite in service training in compliance with direction No. (iii) of this Honourable Court, in the garb of direction No. (iv) issued notices to Appellants to stop their pay on the ground that their services stood automatically terminated on completion of 03 years.
10. That, thereafter the respondents especially the respondent No. 3 issued illegal and unlawful impugned office order dated 13.04.2021 whereby the services of teAppellants were terminated by the respondents. That the appellants feeling aggrieved filed departmental appeal against the termination order but the same was not decided till date.

(6)

(Copy of the impugned order and departmental appeal is attached as annexure-E & F)

11. That, the Appellants being aggrieved from the impugned notices alongwith impugned order invoke the constitutional jurisdiction of Peshawar High court Peshawar by way of Writ Petition, but the same was converted in departmental appeal and sent to respondent no.2 for its recession but the respondent not take action on the same, hence the instant service appeal on the following grounds amongst others:-
copy of high court order is attached as annexure-G.

GROUND

- a. That, the impugned notices dated 18.01.2021 issued by the respondent No. 3 whereby the salaries of the Appellants were stopped by the respondents and the office order bearing No. 2883-89/F.No.20-5/EB/Sacked Employees dated 13.04.2021 whereby the services of the Appellants were terminated by the respondents are wrong, illegal, against the law and facts, arbitrary, fanciful, perverse, against the fundamental rights of the Appellants as well as against the cannons of justice hence being unconstitutional, liable to be set aside.
- b. That, the respondents failed to arrange and manage the requisite Training which cannot be attributed to the Appellants despite that the Appellants have done the same at their own expenses, thus the Appellants cannot be penalized for the acts of respondents as such the impugned notices as well as the impugned order are without lawful authority and liable to be set aside alone on this score being factually incorrect.

- c. That, the notices alongwith impugned order have not been issued to all similarly placed employees while the Appellants are meted with discrimination in violation of the provisions contained in Article-25 of the Constitution.
- d. That the notices alongwith impugned order have not been issued to Appellants are malafide, arbitrary, unreasonable, illegal and void-ab-initio.
- e. That, the Appellants have been condemned unheard in violation of principle of Audi AltermPartem which provides that an action detrimental to one's interest cannot be taken without affording an adequate opportunity of hearing but no such opportunity was afforded to the Appellants.
- f. That, the Appellants have an inalienable fundamental right to be dealt with according to law laid down in the Judgment of this Honourable court but they are being dealt with against the spirit of the Judgment in violation of Article-4 of the Constitution.
- g. That, requisite services training has been denied to this Appellants in grave violation of Judgment of this Honourable court due to which the Appellants have completed the same at their own expenses, thus respondents conduct is highly objectionable.
- h. That, the Appellant's have not been dealt with according to law by the respondents which itself is violative of the of the provisions contained Article-4 and 25 of the Constitution Islamic Republic of Pakistan 1973.
- i. That, the Acts and omissions of the part of the respondents are in express violation of section 24-A of General Clauses

Act, 1887 which provides that an authority vested with any power is bound to exercise the same justly, fairly, reasonably and for the purpose being vested therein.

- j.** That, the impugned action of respondents is against the principle of legitimate expectancy as the Appellant's services have been given little or any importance without any rhyme or reason. While remaining in the employment of the respondents, the Appellants have become overage. Owing to being average, they are unable to get employment in any other employment in any public sector organization. The services of the Appellants are also covered under the rule of locus poententiae.
- k.** That, the Appellants have not been dealt in accordance with law rather the respondents have bypassed the cannons of justice, fair play, equity and good conscious. The act of the respondents encroaches upon the constitutionally guaranteed of the Appellants as envisages in Constitution of Islamic Republic of Pakistan, 1973.
- l.** That, the powers or jurisdiction are vested in an authority to exercise it justly, fairly, honesty, judiciously and accordance with the mandate of law and justice but the respondents have transgressed upon their powers while dealing with the matter in hand.
- m.** That, it is an inalienable right of the Appellants to enjoy the protection of law and to be treated in accordance with law, rules and regulations but such rights of the Appellants have been infringed by the respondents in a sheer malafide manner.

- n. That no opportunity of defense has been provided to the appellant before the termination order is against the law and rules and the termination order is not sustainable in the eye of law.
- o. That the service of the appellants were terminated in the light of the condition no.4 wrongly because in condition no.4 only the requisite training certificate is required which were acquired by the appellants well in time. So the termination order is liable to be set aside.
- p. That the appellant has been condemned unheard in violation of Article 10-A of the Constitution of Islamic republic of Pakistan and in violation of maxim "Audi Alterum Partum" and has not been treated according to law and rules. That according to reported judgment cited as *2019 CLC 1750* stated that Audi Alterum Partum" shall be read as part and parcel of the every statute. The same principle held in the Superior Court judgments cited as *2016 SCMR 943, 2010 SCMR 1554 and 2020 PLC(cs) 67.*
- q. That the appellant have not been treated in accordance with law hence the appellant right secured and guaranteed under the law are badly violated.
- r. That according to Federal Shariyat court Judgment cited as *PLD 1989 FSC 39* the show cause notice is must before taking any adverse action, non-issuance of show cause notice is against the injunction of Islam. Hence the impugned order is liable to be set-aside.
- s. That the show cause is the demand of natural justice and also necessary for fair trial and also necessary in light of injunction of Quran and Sunnah but show cause was not

given to the appellant. So, fair trial denied to the appellant which is also violation of Article 10-A of the constitution. Further it is added that according to reported judgment cited as 1997 PLD page 617 stated that every action against natural justice treated to be void and unlawful. Hence impugned order is liable to be set-aside. The natural justice should be considered as part and parcel of every statute according to superior court judgment cited as 2017 PLD 173 and 1990 PLC cs 727

- A. That the appellant seeks permission to advance others grounds and proofs at the time of hearing.

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


APPELLANTS
AkramKhan, and others

THROUGH:


(SYED NOMAN ALI BUKHARI)
ADVOCATE, HIGH COURT

BEFORE THE KP SERVICE TRIBUNAL PESHAWAR

APPEAL NO. _____/2021

Akram Khan and others

V/S

Education deptt:

CERTIFICATE:

It is certified that no other service appeal earlier has been filed between the present parties in this Tribunal, except the present one.


DEPONENT

LIT OF BOOKS:

1. Constitution of the Islamic Republic of Pakistan, 1973.
2. The ESTA CODE.
3. Any other case law as per need.


(SYED NOMAN ALI BUKHARI)
ADVOCATE HIGH COURT

BEFORE THE KP SERVICE TRIBUNAL PESHAWAR

APPEAL NO. _____/2021

Akram Khan and others

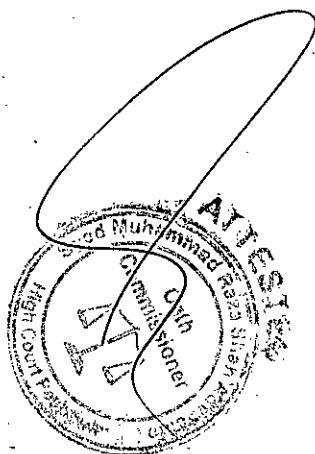
V/S

Education deptt:

AFFIDAVIT

I, Akram Khan, (Appellant) for himself and on behalf of others do hereby affirm that the contents of this service appeal are true and correct, and nothing has been concealed from this honorable Tribunal.

DEPONENT



BEFORE THE KP SERVICE TRIBUNAL PESHAWAR

APPEAL NO. _____/2021

Akram Khan and others

V/S

Education deptt

**APPLICATION FOR CONDONATION
OF DELAY IN THE INSTANT APPEAL**

RESPECTFULLY SHEWETH:

1. That the instant appeal is pending before this Honorable Tribunal in which no date has been fixed.
2. That the august Supreme Court of Pakistan has held that decision on merit should be encouraged rather than knocking-out the litigants on technicalities including limitation. Therefore, appeal needs to be decided on merit (2003, PLD (SC) 724.
3. That due to spread of the pandemic disease the appellant was unable to submit appeal in time therefore it is requested to treat the limitation under S-30 of KP epidemic control and relief Act 2020, otherwise, the appeal of the appellant on merit is good enough to be decided on merits.

It is therefore most humbly prayed, that the instant appeal may be decided on merit by condoning the delay under S-30 of KP epidemic control and relief Act 2020, to meet the ends of justice.

APPELLANT

Akram Khan and others

THROUGH:

(Signature)
**(SYED NOMAN ALI BUKHARI)
ADVOCATE, HIGH COURT**

BPS-18	875,000/-	1,350/-
BPS-19	10,50,000/-	1,600/-
BPS-20 and above	12,50,000/-	2,000/-

Khyber Pakhtunkhwa Sacked Employees (Appointment) Act, 2012

[Act XVII of 2012]

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 1st day of November 1993 to the 30th day of November 1996 (both days inclusive) and were dismissed, removed or terminated from service during the period from 1st day of November 1996 to 31st 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 1st day of November 1993 to 30th 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:

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- (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 office 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 1st day of November 1993 to the 30th day of November 1996 (both days inclusive) and was dismissed, removed or terminated from service during the period from 1st day of November 1996 to 31st 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

ATTESTED

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 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 of 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.

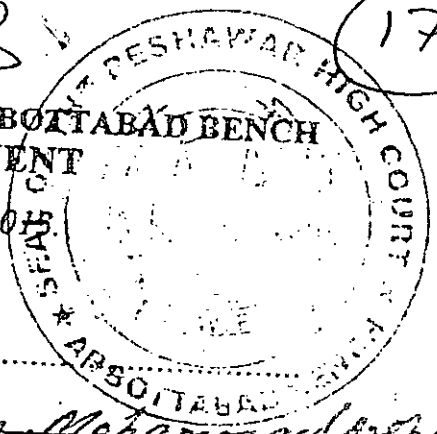
9. Act to override other laws--- Notwithstanding anything to the contrary contained in any other law or rules for the time being in force, the provisions of this Act shall have overriding effect and the provisions of any other law or rules to the extent of inconsistency to this Act shall cease to have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

10. Power to make rules--- Government may make rules for carrying out the purpose of this Act.

ATTACHED

Annexure-13

Judgment Sheet



IN THE PESHAWAR HIGH COURT, ABBOTTABAD BENCH
JUDICIAL DEPARTMENT

Writ Petition No. 516-A/2015

JUDGMENT

Date of hearing.....24.05.2016.....

Petitioners Aftab Khan by Mr. Mohammad Arshad Khan
Advocate

Respondents. Govt etc by Mr. Mohammad Aslam Abbasi
Advocate

ROOH-UL-AMIN KHAN, J.- Through this single judgment

we intend to dispose of connected W.P.No. 20-A/2014 titled

"Akram Khan & 05 others Vs. Government of Khyber

Pakhtunkhwa through Secretary Education (E&SE) Peshawar

& 03 others", W.P.No. 546-A/2013 titled "Waseem Gul Khan

& 47 others Vs. Government of Khyber Pakhtunkhwa through

Secretary Education (E&SE) Peshawar & 14 others", W.P.No.

676-A/2015 titled "Abdul Razaq Vs. Government of Khyber

Pakhtunkhwa through Secretary Education (E&SE) Peshawar

& 02 others", W.P.No.105-A/2015 titled "Mst. Saima Noreen

& 04 others Vs. Government of Khyber Pakhtunkhwa through

Secretary Education (E&SE) Peshawar & 03 others", W.P.No.

189-A/2015 titled "Muhammad Zafar Iqbal. Vs. Government of

Khyber Pakhtunkhwa through Secretary Education (E&SE)

Heard by me in the Copy
28/5/16
High Court
Abbottabad Bench
PESHAWAR HIGH COURT ACTS ORDERS

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ATTACHED

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Peshawar & 02 others", W.P.No. 216-A/2015 titled
"Muhammad Nawaz & 46 others Vs. Government of Khyber
Pakhtunkhwa through Secretary Education (E&SE) Peshawar
& 03 others", W.P.No. 1155-A/2015 titled "Rashid Iqbal & 14
others Vs. Government of Khyber Pakhtunkhwa through
Secretary Education (E&SE) Peshawar & 02 others", W.P.No.
702-A/2014 titled "Shaheen Akhtar Vs. Government of Khyber
Pakhtunkhwa through Secretary Education (E&SE) Peshawar
& 02 others and W.P.No. 115-A/2014 titled "Khalid Khan &
another Vs. Government of Khyber Pakhtunkhwa through
Secretary Education (E&SE) Peshawar & 02 others" as the
petitioners of all these petitions have prayed for reinstatements
in their services on the basis of "Khyber Pakhtunkhwa Sacked
Employees (Appointment) Act, 2012".

28/5/12

Succinct facts leading to the instant petitions are that the
petitioners were appointed by the respondents against their
respective posts in accordance with the prescribed method of
recruitment and later on their services were illegally terminated
by the respondents, whereafter the Government of Khyber
Pakhtunkhwa introduced "Khyber Pakhtunkhwa Sacked
Employees (Appointment) Act, 2012" whereunder the

ATTACHED

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respondents were bound to reinstate the petitioners as per criteria mentioned in the Act *ibid* but they did not appoint the petitioners inspite of the fact that more than hundreds posts were lying vacant in different cadres and were available in the establishment of respondent No.3, which conduct of the respondents towards the petitioners, being perverse, callous, malafide, is liable to be declared illegal and against the law. Initially comments of the respondents were called for, which were submitted accordingly wherein the claim of petitioner was refuted on the grounds that at the time of initial appointment, petitioners were not qualified to be selected as teacher, as they were not possessing the requisite training certificates.

Original to Hon'ble Court
 Court
 28/5/12

3. In essence, grievance of the petitioners is that they were recruited by the respondents after fulfilling all the legal and codal formalities but their services were terminated in the year 1996-97 on the basis of political victimization, however, the Provincial Government promulgated the Khyber Pakhtunkhwa Sacked Employees (Appointment) Act, 2012 for reinstatement of the employees, who had been appointed on regular basis to a civil posts in the Province and equipped with the prescribed

20/05/12

ATTORNEY

10

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qualification and experience of sacked employees at the time during the period from 01.11.1993 to 30.11.1996.

4. In pursuance of the enabling provisions of the Act, the petitioners approached the respondent-department but were refused the benefit of the Act *ibid* on the sole ground that at the time and during their initial service they were lacking the prescribed teaching training.

5. At the very outset, learned counsel for the petitioner produced a judgment of this court rendered in W.P.No. 1662-P/2013, whereby the respondents were directed to consider the untrained teachers for appointments against their respective posts, for the reason that at the time of initial appointments of the employees, under the laid down criteria, the untrained candidates were made eligible for appointment against the post of PTC.

6. The learned Additional Advocate General representing the respondent-department reiterated the same old arguments that the petitioners were lacking the requisite training certificate, therefore, under the Act *ibid* they cannot be considered for appointment.

Certified to be a true Copy
 of the Judgment of the Court
 pronounced on 28/5/16
 Additional Bench
 Authorized Under Sec 75 Act 1950

APPROVED

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7. We are not in consonance with the arguments advanced by the learned AAG for the reason that the respondent-department itself has considered numerous employees under the Act *ibid*, who were not in possession of the training certificate whereas they were provided opportunity to complete their training within three years. The relevant para of the reinstatement order / notification of various employees is reproduced below for ready reference: -

"16. In case of having less qualification which ever is prescribed intermediate / FA for PST as well as PET certificate as professional the candidate must be qualified both the academic / professional qualification within three years after issue of this appointment order, failing which their appointment order shall stand terminated automatically, without any further period."

8. It is golden principle of law that alike shall be treated alike which has further been elaborated by the apex court in the case of *"Hameed Akhtar Niazi Vs. The Secretary, Establishment Division, Government of Pakistan & others"* reported as 1996 SCMR 1185 and again in the case of *"Government of Punjab through Secretary Education & others*

NOTED

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Vs. Sameena Parveen & others reported as 2009 SCMR 01

where it has been held as under: -

"if a Tribunal or this Court, decides a point of law relating to the terms and conditions of a civil servant, who litigated, and there were other civil servants, who may not have taken any legal proceedings, in such a case, the dictates of justice and rule of good governance demand that the benefit of the same decision be extended to other civil servants also, who may not be parties to that litigation. instead of compelling them to approach the Tribunal or any other legal forum."

9. In view of the above, all these petitions are disposed of in the following terms: -

- i. *That the petitioners though eligible for appointment but not equipped with training certificate, shall be considered for reinstatement against their respective posts under the Khyber Pakhtunkhwa Sacked Employees (Appointment) Act, 2012 immediately;*
- ii. *The concerned District Education Officer shall scrutinize the case of each individual petitioner independently;*
- iii. *Thereafter, the department shall arrange and manage the requisite training course for them and the petitioners shall be provided opportunity*

certified to be True Copy

28/07/16

ATTACHED

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to acquire the requisite training certificate;

- iv. In case the petitioner failed to acquire the requisite training certificate within the stipulate period, specified by the department, their services shall stand terminated automatically

Needless to remark, that the respective EDOs of each district shall complete the process of reinstatement of the petitioners within one month positively.

Announced:
24.05.2016

Sd/- Judges

Certified to be true Copy

[Signature]

High Court
 Al-Sottah Bench

Aggrieved Under 28/5/16

Saif

509	28-5-16
301	
606	
21	
621	
78	28-5-16
	28-5-16

[Signature]



Annexure - C (24)
Office of the District Education Officer (M)
Haripur

PH No. 0995-610178, 610268

(deomalehrp@yahoo.com)

Notification

- a) In pursuance of Khyber Pakhtunkhwa Sacked Employee (Appointment) Act: 2012 and
- b) In compliance with the Judgments passed by the Honorable Peshawar High Court Abbottabad Bench in Writ Petition No-20-A/2014 and WP No-115-A/2013 vide order dated 25-05-2016 which was upheld by the august Supreme Court of Pakistan vide order dated 24.05.2017, and
- c) In compliance with COC No-58-A/2016 & COC No-31-A/2017 vide order dated 08.08.2017 and
- d) Consequent upon the recommendations of Departmental Selection Committee in its meeting held on 08-09-2017, the competent authority is pleased to order the appointments of the following Sacked Employees in BPS-12 (Rs-13320-960-42120) plus usual allowances as admissible under the rules against the post of **Primary School Teacher** and posted him/them against vacant position in the School mentioned against their name with immediate effect, on the terms and conditions given below.

S. No	Name & CNIC.	Father's Name.	Date of Birth.	Union Council.	Station.	Remarks
1	Mudasar Shah 13302-9374657-9	Syed Mehboob Shah	01-05-1964	Tarbela	GPS No.1 Sec#3 K.T.S	A.V.P
2	Muhamnad Shakeel 13302-0424574-9	Muhammad Jameel	05-12-1966	Rehana	GPS Gujjar Darrian	A.V.P
3	Muhammad Hanif 13302-7328389-5	Q. Abdul Qayyum	19-02-1967	Bagra	GPS Jabri Budhar	A.V.P
4	Chan Zeb 13302-5748065-7	Taj Muhammad	14-05-1967	Mankari	GPS Dobandi	A.V.P
5	Muhammad Zahoor 13302-0530073-1	Abdul Hakeem	03-06-1967	Jatti Pind	GPS Chapri Maira	A.V.P
6	Akram Khan 13302-5033216-1	Muhammad Aslam Khan	31-12-1967	Sarai Salah	GPS Kamalpur	A.V.P
7	Bakhshesh Ellahi 13302-3975663-3	Faqeer Muhammad	02-04-1968	Hattar	GPS Nazar Abad	A.V.P
8	Muhammad Wazir 13302-5692359-9	Farman Ali	01-03-1969	Muslim Abad	GPS Kajnet Sairi	A.V.P
9	Akhtar Khan 13302-9151286-5	Munsif Khan	06-03-1969	Bagra	GPS Phula Galli	A.V.P
10	Tariq Islam 13302-0519611-5	Abdul Sattar	06-03-1969	K.T.S	GPS No.1 Sec#3 K.T.S	A.V.P
11	S. Arshad Hussain Shah 13302-0398685-5	Abdul Rahim Shah	20-06-1969	Haripur South	GPS No.4 Haripur	A.V.P

25

12	Rahim Nawaz 13302-1053779-9	Muhammad Ayub Khan	08-06-1969	Kot Najibullah	GPS No1 Kot Najeeb ullah	A.V.P
13	Tika Khan 13302-0519095-1	Faqira Khan	16-12-1969	Khulian Bala	GPS Thanda Choal	A.V.P
14	S. Arif Ali Shah 13302-0415228-1	Mardan Shah	14-01-1970	Kalinger	GPS New Kharkot	A.V.P
15	Mukadar Shah 37406-5116876-1	Pir Muhammad Shah	01-02-1970	Kot Najibullah	GPS Kangra Village	A.V.P
16	Ulfat 13302-1736082-1	Abdul Rahim	10-03-1970	Kot Najibullah	GPS-Chechian	A.V.P
17	Raja Yasrib Ali 13302-0467250-9	Raja Muhammad Sadiq	12-03-1970	Najafpur	GPS Mohra Ghazan	A.V.P
18	Muhammad Hanif 13302-2585902-5	Muhammad Siddique	22-12-1970	Beer	GPS Kalinger No.3	A.V.P
19	Muhammad Areen 13302-0375260-1	Khan Muhammad	12-01-1971	S.N Khan	GPS Tallad	
20	Arshad Mehmood 13302-1194914-7	Rehmat Ullah	03-04-1971	Beer	GPS Kangar Amgah	A.V.P
21	Muhammad Javed 13301-1334433-7	Bin Yameen	06-01-1972	Ghazi	GPS Dara Dustan	A.V.P
22	Sajjad Hussain Shah 13302-0422378-1	Bilawar Shah	12-12-1972	Hattar	GPS Ahal Hattar	A.V.P
23	Javed Khan 13302-0388513-1	Muhammad Dawood	02-03-1973	P.H. Khan	GPS S.N Khan	A.V.P
24	Maqsood Shah 13302-9392817-7	Sarwar Shah	01-04-1973	Bakka	GPS Gudwalian	A.V.P
25	Shah Nawaz 13302-0333244-1	Lal Hussain	10-06-1973	Bait Gali	GPS Bait Gali	A.V.P
26	Shakeel Ahmed 13302-0509243-7	Abdur Rasheed	03-02-1974	Pind Kamal Khan	GPS Mang	A.V.P
27	Malik Ajab Khan 13302-7226645-3	Malik Gul Zaib Khan	18-03-1974	Bareela	GPS Bandi Muneem	A.V.P
28	M. Sabir Shah 13301-1318366-3	Faiz Taleb	10-03-1974	Sirikot	GPS Salam Khund	A.V.P
29	Muhammad Nazir 13301-1525669-9	Umer Din	04-06-1974	Nara Amazai	GPS Chanjlo	A.V.P
30	Khan Bhadur 13302-6362147-3	Safdar Zaman	02-01-1975	Tarbela	GPS No.1 Sec# 3 K.T.S	A.V.P
31	Urfan Elahi 13301-1585754-7	Fazle Elahi	01-05-1975	Jhamra Ghazi	GPS Chumiary	A.V.P
32	Asim Hussain Shah 13302-7931201-5	Syed Mehmood Hussain Shah	01-07-1975	Sikandarp ur	GPS Dheri Sikandarpur	A.V.P
33	M.Ejaz Ahmed 13302-9454086-9	Muhammad Irshad	15-12-1975	Kot Najibullah	GPS No.1 Kot Najibullah	A.V.P
34	Muhammad Idrees 13301-2413895-9	Muhammad Khan	14-05-1976	Kothera	GPS Choian	A.V.P
35	Asif Khan 13302-5656601-1	Ghazanfar Khan	11-08-1976	Dhenda	GPS Choar Sharif	A.V.P
36	Bakmal Shah 13301-2065530-1	Qadir Khan	05-03-1977	Biat Gali	GMPS Sherol Shergah	A.V.P

[Handwritten signature]



26

37	Imran Khan 13302-8359952-5	Abdul Qadus	25-03-1977	Darwesh	GPS No.1 Sec#3 K.T.S	A.V.P
	Nazakat Hussain . Shah 13302-29901451	Arif Shah	26-03-1977	Mankarai	GPS Jogi Mohra	A.V.P
39	M. Naeem ur Rehman 13302-8997774-1	Gohar Rehman	03-05-1977	Pind Gujran	GPS Pind Gujran	A.V.P
40	Akhtar Mehmood	Muhammad Dawood	07-01-1978	Beer	GPS Kandiala	A.V.P
41	Malik Zubair Akhtar 13302-0540916-5	Muhammad Khan	06-02-1978	Beer	GMPS Poh Dara	A.V.P
42	Saqib Khan Jadoon 13302-49655542-1	Aurangzeb Khan	17-09-1975	Bagra	GPS Thanda Choa	A.V.P
43	Saeed Akhtar 13302-0472729-7	Mehboob Elahi	06-07-1974	Pind Gujran	GPS Khoi Maira	A.V.P
44	Shah Zeb Khan 13302-04987778-9	M. Nawaz Khan	05-04-1973	Tarbela	GPS No.1 Sec # 3 K.T.S	A.V.P
45	Qazi Muhammad Usman 13302-0402945-7	Qazi Muhammad Ayub	18-05-1975	Ali Khani	GPS Shah Muhammad	A.V.P

[Handwritten signature] 04/11/17

Terms & Conditions:

(A) Specific Conditions.

- (a) Their appointments are subject to the conditions that their Certificates /Documents and their domicile be verified from their issuing authority before release of their/his monthly salary. (In the light of section 3 of the sacked Employee ACT 2012).
- (b) The Verification of his/their service/duty record from schools where he/they had been performed his/their duty during previous appointments, (During the period from 1st day of November 1993 to the 30th Day of November 1996. and terminated from the 1st day of November 1996 to 31st Day of December 1998).
- They shall not be entitled to claim any of Seniority, promotion and their back benefits, Their/his appointments have been made in pursuance of Khyber Pakhtunkhwa Sacked Employee (Appointment Act:2012) Hence under Section 5 of the said Act: they shall not be entitled to claim any of Seniority, promotion and their back benefits,
- The period during which they/he remained dismissed, removed or terminated from service till the date of their/his appointment shall have been deemed automatically relaxed. Their/His appointment have been made in pursuance of Khyber Pakhtunkhwa Sacked Employee (Appointment) Act:2012. Hence under Section 4 the said Act: the period during which they remained dismissed, removed or terminated from service till the date of their appointment shall have been deemed automatically relaxed.
- In case they/he failed to acquire the requisite training certificate within the 03 Years, specified by the department, their services shall stand terminated automatically, In the light of Judgment passed by the Peshawar High Court Abbottabad bench dated 24.05.2016 in pare 8 (IV).

[Handwritten signature] 04/11/17

ATTACHED

(27)

(B) General Conditions.

1. They will be on probation for a period of one year extendable to another one year keeping in view their/his performance.
2. They will be governed by such rules and regulations enforced and as may be prescribed by the Government from time to time for the category of Govt. Servant to which they belong.
3. In case they failed to assume the charge of their/his post within 15 days of his appointments, their/his candidature ship will be stand atomically cancelled.
4. Their services liable to termination on one month prior notice from either side in case of resignation without prior notice, their/his one month pay /allowance shall be forfeited to Government treasury.
5. If their performance is found un-satisfactory, they/ he will be preceded under E&D Rules.
6. Their appointments are made on school based; they/he will have to serve at the place of posting.
7. Pay will not be drawn until and unless a certificate to this effect is issued by this Office that their/his certificates are verified.
8. They should obtain Medical fitness certificate from Medical Superintendent /Civil Surgeon DHQ Hospital Haripur, within seven days to date of T/over charge.
9. Charge reports should be submitted to all concerned.
10. NO TA/DA is allowed.

Note: The competent authority resumes the right to rectify the errors/omission if any Noted/observed at any stage.

Sd

Distt: Education Officer,(M)

Haripur.

Dated 04/10/2017.

Endst;No 9848-55 /3-1/EB/Apptt: Sacked 2017.

Copy forwarded for information to:-

1. Registrar Peshawar High Court Peshawar Abbottabad Bench.
2. Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.
3. Senior District accounts Officer Haripur.
4. The District Monitoring Officer IMU Haripur.
5. The Sub Divisional Education Officer (Male) Haripur/Ghazi.
6. Assistant Sub Divisional Education Officers.
7. Account Branch Local Office.
8. Teacher Concerned.
9. Office recode.

Dy: Distt: Education Officer,(M)
Haripur.

RECEIVED



28

**OFFICE OF THE DISTRICT EDUCATION OFFICER (M),
HARIPUR.**

Phone Fax # 0995-610178

Notification.

- (a) In pursuance of Khyber Pakhtunkhwa Sacked Employee (Appointment) Act: 2012 and
- (b) In compliance with the judgments passed by the honorable Peshawar High Court Abbottabad bench in writ petition No-20-A/2014 and WP No-115-A/2013 vide order dated 25-05-2016 which was upheld by the august Supreme Court of Pakistan vide order dated 24.05.2017, and
- (c) In compliance with COC No-58-A/2016 & COC No-31-A/2017 vide order dated 08.08.2017 and
- (d) Consequent upon the recommendations of Departmental Selection Committee in its meeting held on 18-11-2017, the competent authority is placed to order the appointments of the following Sacked Employees in BPS-12 (Rs-13320-960-42120) plus usual allowances as admissible under the rules against the post of Primary School Teacher and posted them against vacant position in the School mentioned against their names with immediate effect, on the terms and conditions given below.

S.No	Name with CNIC.	Father,s Name	Date of Birth.	Name of U/C	Station where posted.	Remarks.
01.	Muhammad Ashiq 13302-0460802-5	Khan Bahadur	02-01-1976	Pind hasham Khan	GPS Jabar Pharari	A.V.Post.
02	Muhammad Riasat 13302-0418963-5	Sher Bahadur	01-05-1972	Dingi	GPS Dingi	A.V.Post.
03	Shahzad Alam 13301-1331498-9	Fakhar e Alam	05-04-1976	Ghazi	GPS Dera Dustum	A.V.Post.
04	Muhammad Nazir 13302-8201688-1	Muhammad Miskeen	18-02-1973	Ali Khan	GPS Maira Ali Khan	A.V.Post.
05.	Shujhat Ali 13301-071522-5	Asmat khan	02-01-1976	Sirikot	GPS Chountrai	A.V.Post.

Terms & Conditions:

(A) Specific Conditions.

1. Their appointments are subject to the conditions that their Certificates/Documents and their domicile be verified from their issuing authority before release of their monthly salary in the light of section 3 of the said ACT.
2. Their appointments have been made in pursuance of Khyber Pakhtunkhwa Sacked Employee (Appointment Act:2012) Hence under Section 5 of the said Act: they shall not be entitled to claim any of Seniority, promotion and their back benefits,,
3. Their appointment have been made in pursuance of Khyber Pakhtunkhwa Sacked Employee (Appointment) Act:2012.Hence under Section 4 the said Act: the period during which their remained dismissed, removed of terminated from service till the date of their appointment shell have been deemed atomically relaxed.

25/11/17

APPROVED

29

4. In the light of Judgment passed by the Peshawar High Court, Abbottabad bench dated 14.05.2016 in para 8 (IV) In case the petitioner failed to acquire the require the requisite training certificate within the stipulate period, specified by the department ,their services shell stand terminated automatically.

General Conditions.

1. They will be on probation for a period of one year extendable to another one year keeping in view their performance.

2. They will be governed by such rules and regulations enforced and as may be prescribed by the Government from time to time for the category of Govt: Servant to which they belong.

3. In case they failed to assume the charge of their post within 15 days of their appointments, their candidature ship will be stand atomically cancelled.

4. Appointment is subject to the condition that the certificates,/DMCs& Degrees must be verified through DDO Concerned, anyone found proceeding bogus certificates DMCs and dagrees will be repotted law enforcing agencies for further action.

5. Their services liable to termination on one month prior notice from either side in case of resignation without prior notice, his one month pay /allowance shell be forfeited to Government treasury.

6.If their performance is found un-satisfactory, they will be proceeded under E&D Rules .

7. Pay will no be drawn until and unless a certificate to this effect is issued by this Office that his certificates are verified.

8. They should obtain Medical fitness certificate from Medical Superintendent /Civil Surgeon DHQ Hospital Haripur, within seven days to date of T/over charge.

9. Charge reports should be submitted to all concerned.

10. NO TA/DA is allowed.

Note: The competent authority resume the right to rectify the errors/omission if any noted/observed at any stage.

___Sd___

Distt: Education Officer,(M)

Haripur.

Endst;No- 14608-15/3-1/EB/Apptt: Sacked 2017.

Dated-25/11/2017.

1. Registrar Peshawar High Court Peshawar Abbottabad Bench
2. Director Elementary &Secondary Education Khyber Pakhtunkhwa.Peshawar.
3. Senior District accounts Officer Haripur.
4. DMO IMU Haripur.
5. The SDEO(M) Concerned .
6. ASDEO Concerned.
7. Official Concerned.
8. Office recode.

[Handwritten Signature] 25/11/17
 Dy Distt: Education Officer,(M)
 Haripur

[Stamp]
 RECEIVED

Answer D

30



REGIONAL INSTITUTE OF TEACHER EDUCATION (MALE) HARIPUR

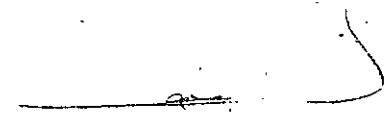
Sr. No. RITE/20/ 76


Dated: 16-03-2020

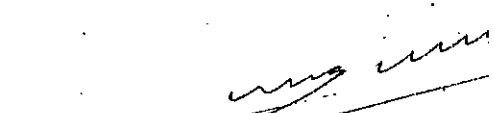
Course Completion Certificate

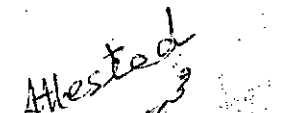
Certified that

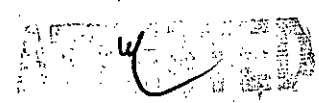
Mr. MOHAMMAD AKRAM S/O MOHAMMAD ASI AM was admitted to PTC condensed course on 16-12-2019 and is now relieved from the institution after completion of his PTC course on 15-03-2020. His conduct remained Good.


Admission Incharge


Class Incharge


Principal
Regional Institute of Teacher Education (Male) Haripur

Attested

Principal
Regional Institute of Teacher Education (Male) Haripur

ATTESTED




3)

REGIONAL INSTITUTE OF TEACHER EDUCATION (MALE) HARIPUR

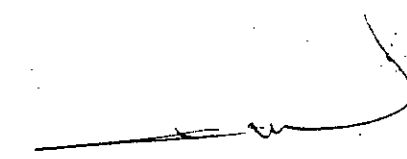
Sr. No. RITE/20/ 98

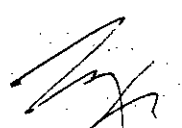
Dated: 16-03-2020

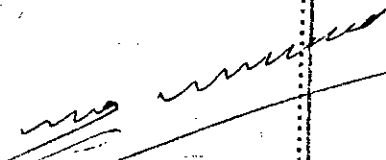
Course Completion Certificate

Certified that

Mr. MUHAMMAD NAEEM UR REHMANS/O GOHAR REHMAN was
admitted in P.T.C condensed course on 16-12-2019 and is now
relieved from the institution after completion of his P.T.C course on 15-03-2020
His conduct remained Good


Admission Incharge


Class Incharge


Principal
Regional Institute of Teacher
Education (Male) Haripur

S. No. 457

Directorate of Curriculum & Teachers Education



Khyber Pakhtunkhwa

DETAILED MARKS CERTIFICATE

Training Classes Examination PIC For Sacked Employees

Name Shujat Ali Session 2020

Father's Name Asmat Khan Roll No. 57

Subject	Maximum Marks	Obtainmarks	
		In figures	Obtain Marks in words
1 Curriculum and Instruction	100	55	
2 School Organization	100	76	
3 ICT in Education	100	65	
4 Educational Psychology	100	62	
5 Class Room Management & Assessment	100	60	
6 Basic Isamiyat Only for CTIPST	100	53	
7 Islamiyat Practicum (Comp) for AT/TT & Qari	100	-	
8 Model Drawing only for D.M	100	-	
9 Teaching Practice	200	163	
Total	800	534	

Note: Errors/Omissions excepted.

Failed/Passed Division 15 Division 15

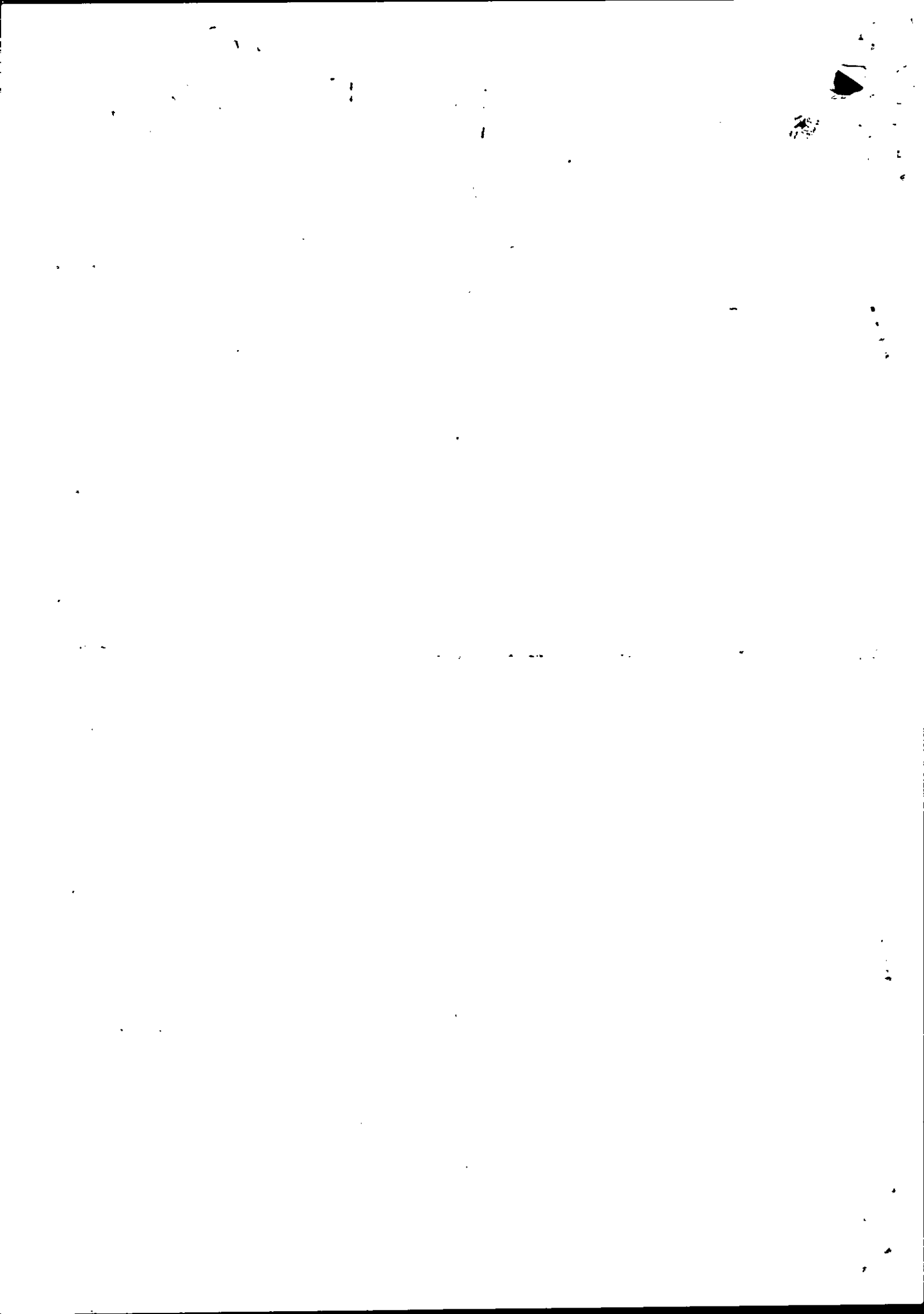
Prepared by SA

Checked by:

Date of Declaration of Result 1/12/2020

Assistant Director (Examination)
Khyber Pakhtunkhwa, Peshawar.

6



93

Sr. No. 185

REGIONAL INSTITUTE FOR TEACHERS EDUCATION



HARIPUR - HAZARA

PROVISIONAL CERTIFICATE

Certified that Mr. SULJAT ALI

S/o ASMAAT KHAN resident of District HRP

was a regular student of this Institution under Admission No. 357

in the Training Programme of P.T.C.

He appeared in the Examination held by DCTE/PITE/REGISTRAR

Peshawar, Khyber Pakhtunkhwa on 05-10-2020 under Roll No. 57

Obtained Marks 534 out of 800 Grade/Division 1st

His date of birth according to record is 15-06-1977

He bears Good character.

Result Declared on 01-12-2020

In-charge Admission [Signature]

Date of Issue: 24-11-2020

[Signature]
Principal
RITE. (Male)
HARIPUR

[Handwritten mark]

DIRECTORATE OF CURRICULUM & TEACHERS EDUCATION KHYBER PAKHTUNKHWA PESHAWAR

**PRIMARY TEACHING CERTIFICATE (PTC)
(ORIGINAL CERTIFICATE)**

Serial No. 627

Roll No. 79

Session 2020

Marks Obtained 562 / 800

Division IST

Certified that Mr./Mrs./Miss ARSHAD MEHMOOD

Son/Daughter of REHMATULLAH is a student of

RITE (M) HARIPUR.

Having passed the prescribed P.T.C. Examination held in 2020

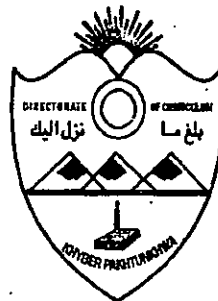
is qualified to teach in Primary School of Elementary & Secondary Education Department.

Prepared by ed

Checked by ed

Result declaration date 1.12.2020

Date of Issue 8.4.2021



Assistant Director (Examinations)
Khyber Pakhtunkhwa, Peshawar.

DIRECTORATE OF CURRICULUM & TEACHERS EDUCATION KHYBER PAKHTUNKHWA PESHAWAR

PRIMARY TEACHING CERTIFICATE (PTC)
(ORIGINAL CERTIFICATE)

Serial No. 624

Session 2020

Roll No. 80

Marks Obtained 515 / 800

Division 1st

Certified that Mr. Mrs. Miss MOHAMMAD HANIF

Son/Daughter of MOHAMMAD SAADIQUR is a student of

CIT. (B) HAKIPUR

Having passed the prescribed P.T.C. Examination held in 2020

is qualified to teach in Primary School of Elementary & Secondary Education Department.

Prepared by [Signature]

Checked by [Signature]

Result declaration date 1.12.2020

Date of Issue 8.4.2021



[Signature]
9/4/2021
Assistant Director (Examinations)
Khyber Pakhtunkhwa, Peshawar.

Handwritten notes on the right margin, including a large '1' and some illegible text.

36

Serial No. 149230

Allama Iqbal Open University Islamabad



Certified that Mr/Ms Areen

Son/Daughter of Khan Muhammad

Registration No. 98-NHP-0916 Roll No. H-6824000

having completed the prescribed requirements in Autumn 2002 Semester, is awarded

Primary Teaching Certificate

Detail of courses is as under:

Course Code	Title of the Course	% Marks Obtained	Grade
613	Principles of Education	50	C
614	Educational Psychology	45	D
615	School Organization and Management	47	D
616	School Community and Practical Arts	50	C
617	Teaching of Urdu	47	D
618	Teaching of Mathematics	58	C
619	Teaching of Science and Physical Education	48	D
620	Teaching of Islamiat and Social Studies	42	D
611	Workshop and Teaching Practice	77	A

Obtained/Total Marks: 464/900

He/she has secured 52 % marks and has been placed in grade C.

Result Declared On. 07-07-2003

Islamabad, dated: 19-08-2003

Prepared by: [Signature]

Checked by: [Signature]

[Signature]
Controller of Examinations

Note: This certificate is issued without alterations/erasure.

ATTACHED

REGIONAL INSTITUTE FOR TEACHERS EDUCATION

Sr. No. 33 078



HARIPUR - HAZARA

PROVISIONAL CERTIFICATE

Certified that Mr. AKHTAR KHAN
S/o MUNSIK KHAN resident of District HRP
was a regular student of this Institution under Admission No. 113
in the Training Programme of P.T.C.
He appeared in the Examination held by DCTE/PITE/REGISTRAR
Peshawar, Khyber Pakhtunkhwa on 05.10.2020 under Roll No. 87
Obtained Marks 527 out of 800 Grade/Division 1st
His date of birth according to record is 06-03-1969
He bears Good character.

Result Declared on 01-12-2020

In-charge Admission [Signature]

Date of Issue: 24-12-2020

[Signature]
Principal
RITE. (Male)
HARIPUR

ATTACHED

OFFICE OF THE DISTRICT EDUCATION OFFICER (M)

HARIPUR

Amir

38

Ph. No. 0995-920150, 920151, 920152

Email: deom@shrc.gov.pk & deom@deom.com

OFFICE ORDER:

Whereas the following PSTs were appointed as sacked employees in different Schools mentioned against the name of each, in the light of Honorable Peshawar High court Abbottabad Bench in W.P No.516-A/2013 announced on 24-05-2016 and sacked employee (Appointment Act 2012, vide DEO (M) Haripur Appointment of Sacked Employees Instt No.9848-553-1/E.B/Apptt: Sacked 2017 dated 04-10-2017 & No 11213-21/3-1/E.B/Apptt: Sacked 2017 dated 13-10-2017.

Whereas in appointment order specific condition No.04 "In case they/he failed to acquire the requisite training certificate within the 03 years specified by the Department, their service shall stand terminated automatically. In the light of Judgement passed by the Peshawar High Court Abbottabad Bench dated 24-05-2016 in para 7 "16. In case of having less qualification, whichever is prescribed intermediate/FA for PST as well as PST Certificate as professional the candidate must be qualified both the academic/professional qualification within 03 years after issue of this appointment order, failing which their appointment order shall stand terminated automatically, without any further period".

Whereas the following PSTs has failed to acquire the above prescribed qualification within stipulated period i.e in three years upto 05-10-2020. However, this office informed the official to provide their FA/Intermediate Certificate if they acquire vide this office letter No.1507-9 dated 18-01-2021, but the officials failed to produce their academic qualification i.e FA Intermediate.

In the light of the above under condition 04 of their appointment order is hereby terminated with immediate effect and concerned DDO is directed to stop their salary if already not stopped in the light of letter No.7654-7760/E.No.20-5/A/DEO Instt dated 15-12-2020 and recovery, if any over payment, be made accordingly.

S. No	Name of Official	Father Name	School	Qualification	Remarks
01	Muhammad Nazir	Muhammad Miskeen	GPS Maira Ali Khan	Matric/PTC	Not acquire the prescribed qualification
02	Abid Ellah	Matloob Ellahi	GPS Juma Abad	Matric, PTC	Not acquire the prescribed qualification
03	Arshad Mehmood	Rehmatullah	GPS Kangar Angah	Matric/PTC	Not acquire the prescribed qualification
04	Muhammad Hani	Muhammad Siddique	GPS Kangar Angah	Matric/PTC	Not acquire the prescribed qualification
05	Akhter Khan	Munsif Khan	GPS Phula Galli	Matric/PTC	Not acquire the prescribed qualification

Amir
Ali

39

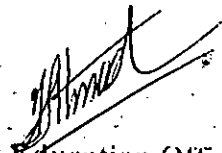
	Muhammad Riasat	Sher Bahdur	GPS Dingi	Matric/PTC	Not acquire the prescribed qualification
07	Muhammad Areen	Khan Muhammad	GPS Talhad	Matric/PTC	Not acquire the prescribed qualification
08	Muhammad Akram	Muhammad Aslam Khan	GPS Kamalpur	Matric PTC	Not acquire the prescribed qualification
09	Qazi Muhammad Usman	Qazi Muhammad Ayub	GPS Kahal Bala	Matric/PTC	Not acquire the prescribed qualification
10	Muhammad Wazir	Farman Ali	GPS Chani Khaiteer	Matric/PTC	Not acquire the prescribed qualification
11	Muhammad Naeem ur Rehman	Gohar Zaman	GPS Ahal Hattar	Matric/PTC	Not acquire the prescribed qualification
12	Irfan Ellahi	Fazal Ellahi	GPS Sheen Galli	Matric/PTC	Not acquire the prescribed qualification
13	Muhammad Idrees	Muhammad Khan	GPS Jabar	Matric/PTC	Not acquire the prescribed qualification
	Shariat Ali	Asmat Ali	GPS Bail	Matric/PTC	Not acquire the prescribed qualification

---sd---
District Education Officer (M)
Haripur

Endst: No. 2883-89 /F.No.20-5/EB/Sacked Employee Dated. 13/04/2021.

Copy of the above is forwarded to the:-

1. Director Elementary & Secondary Education Department Khyber Pakhtunkhwa Peshawar.
2. Deputy Commissioner Haripur.
3. District Monitoring Officer Haripur.
4. District Account Officer Haripur.
5. The SDEO (M) Haripur/Ghazi & Khanpur.
6. All officials Concerned.
7. Master file.


District Education Officer (M)
Haripur

ADMITTED

To

Amrovi - F 40
The Director
Elementary & Secondary Education
KPK Peshawar

Subject

DEPARTMENTAL APPEAL FOR REINSTATEMENT OF SERVICES OF APPELLANTS WITH ALL BACK BENEFITS

Respected Sir,

1. That the applicants/appellants, being eligible under the rules then prevailing were appointed during 1993 to 1996 by the education department Haripur under the rules and were fully complied with and procedure laid down then was adopted in letter and spirit.
2. That on change of the Government, the services of the applicants/appellants were dispensed with without assigning any reason for the action taken, without giving any opportunity of hearing before dispensation of their services.
3. That Government of NWFP (the then KPK) promulgated Act No. XVII of 2012 to provide relief to those sacked employees who were appointed on regular basis to a civil post in the province of KPK during the period from 01/11/1993 to 30/11/1996 and were dismissed, removed or terminated from service during the period from 01/11/1996 to 31/12/1998. The appellants cases were fully covered under the aforesaid Act being appointed and terminated during the period mentioned above. Copy of the Act No. XVII of 2012 is enclosed for ready reference.
4. That despite promulgation of above Act, the respondents were reluctant to provide any relief to the appellants to reinstate the services of appellants.
5. That some sacked employees filed WP No.516-A/2013 for reinstatement which was accepted by the Honorable Peshawar High Court Vide judgment dated 24/05/2016 and passed the following orders:-
 - i. That the petitioners though eligible for appointment but not equipped with training certificate, shall be considered for reinstatement against their respective posts under the Khyber Pakhtunkhwa sacked Employees (Appointment) Act, 2012 immediately;
 - ii. The concerned district education officer shall scrutinize the case of each individual petitioner independently.
 - iii. Thereafter the department shall arrange and manage the requisite training course for them and the petitioners shall be provided opportunity to acquire the requisite training certificate;
 - iv. In case the petitioners failed to acquire to requisite training certificate within the stipulated period; specified by the department their services shall stand terminated automatically.

[Signature]

Copy of above judgment of Peshawar High Court is enclosed for ready reference. (u)

6. That in compliance with above order the sacked employees (petitioners) were reinstated in their service and a time period of 03 years were given to them to make up deficiency if any in training as prescribed under the new vide Notification dated 04.10.2017. **Copy of reinstatement order annexed**
7. That it was duty of the education department to arrange and manage there requisite training course for applicants in view of direction No.(iii) contained in the judgment referred to above but the respondents failed to arrange and manage the same despite written application placed before them. **Copies of application alongwith correspondences are annexed**
8. That the appellants however completed the training at their own expense and furnished training certificate to education department for reinstatement of service. **Copies of training certificates are annexed.**
9. That education department despite their own failure to arrange and manage the requisite in service training in compliance with direction No.(iii) of this Honorable court, in the garb of direction No.(iv) issued notices to appellants to stop their pay on the ground that their services stood automatically terminated on completion of 03 years. **Copies of the notices are annexed .**
10. That on receipt of notices, the appellants filed a WP No. 210-A/21 titled "Arshad Mehmood & others VS Govt. of KPK etc", the same is pending before Honourable Peshawar High Court Abbottabad Bench. **Copies of writ petition are annexed.**
11. That the Honorable Peshawar High Court Abbottabad Bench also passed a clear cut directions for release of salaries of the appellants, the same is reproduced as below:
"Learned counsel for the petitioners requested for release of the salary of the petitioners. Learned Additional Advocate General appearing on behalf of the respondents has got no objection on release of the salary of the petitioners, if they are performing their duties against their posts. In this view of the matter, the respondents are directed to release the salary of the petitioners, if they are still performing their duties".
Copy of order dated 06.04.2021 is annexed
12. That the applicants/appellants filed a contempt of court petition before the Honorable Peshawar High Court Abbottabad Bench, the same is pending. **Copy of COC is annexed.**
13. That, the DEO Haripur has issued illegally and unlawfully, the impugned letter of termination of the applicants/appellants. **Copy of letter dated 13.04.2021 is annexed.**

ATTACHED

14. That as per judgment dated 24.05.2016, the letters dated 18.01.2021 and 13.04.2021 are unlawful and falls in the ambit of contempt of court, the same are liable to be set aside.

Therefore, it is humbly prayed that on acceptance of this departmental appeal, the letters dated 18.01.2021 and 13.04.2021 may kindly be declared as illegal, unlawful and without lawful authority, directed to be set aside and the services of the appellants/applicants may kindly be reinstated with all back benefits.

Dated 3/5/21

Applicants/Appellants Mus

1. Muhammad Nazir PST GPS Malra Ali Khan Mus
2. Arshad Mehmood PST GPS Kangar Amgah Arshad
3. Muhammad Wazir PST GPS Sangram Haripur. Wazir
4. Akram Khan PST GPS Kamalpur District Haripur. Akram
5. Shujat Ali PST GPS Bail-Tech Teshil and District Haripur. Sakir
6. Muhammad Naeem ur rehman PST GPS Ahal Hathan Naeem
7. Abid Elahi PST GPS Juma Abad District Haripur. Abid
8. Muhammad Hanif PST GPS Galli Andra dogra Haripur. Hanif
9. Akhtar Khan PST GPS Phula Gali District Haripur. Akhtar Khan
10. Muhammad Areen PST GPS Talhad District Haripur. Areen
11. Muhammad Usman PST GPS Khad Bala District Haripur. Usman
12. Muhammad Riasat PST GPS Dingl District Haripur. Riasat
13. Muhammad Idrees PST GPS Jabbar District Haripur Idrees
14. Muqadar Shah PST GPS Pind Ghakar District Haripur Muqadar

ATTACHED

No. 421

For Insurance Notices see reverse
Stamps affixed except in case of
uninsured letters of not more than
the initial weight prescribed in the
Post Office Guide or on which no
acknowledgement is due.

43

Received a registered letter addressed to Seahy Date Stamp

Initials of Receiving Officer SE *Write here "letter", "postcard", "packet" or "parcel" with the word "insured" before it when necessary.

Insured for Rs. (in figures) 2 (in words) Two
Insurance fee Rs. 1/2 Ps. 00 (in words) Half Rupee
Name and address of sender Seahy

No. 422

For Insurance Notices see reverse
Stamps affixed except in case of
uninsured letters of not more than
the initial weight prescribed in the
Post Office Guide or on which no
acknowledgement is due.

Received a registered letter addressed to Seahy Date Stamp

Initials of Receiving Officer SE *Write here "letter", "postcard", "packet" or "parcel" with the word "insured" before it when necessary.

Insured for Rs. (in figures) 2 (in words) Two
Insurance fee Rs. 1/2 Ps. 00 (in words) Half Rupee
Name and address of sender Seahy

No. 423

For Insurance Notices see reverse
Stamps affixed except in case of
uninsured letters of not more than
the initial weight prescribed in the
Post Office Guide or on which no
acknowledgement is due.

Received a registered letter addressed to Seahy Date Stamp

Initials of Receiving Officer SE *Write here "letter", "postcard", "packet" or "parcel" with the word "insured" before it when necessary.

Insured for Rs. (in figures) 2 (in words) Two
Insurance fee Rs. 1/2 Ps. 00 (in words) Half Rupee
Name and address of sender Seahy

ATTACHED

Annexure G 44



BEFORE THE PESHAWAR HIGH COURT
BENCH ABBOTTABAD

W.P No. 851 of 2021

- ✓ 1. Arshad Mehmood, Primary School Teacher,
Government Primary School Kangar Araga,
District Haripur.
2. Muhammad Wazir, Primary School Teacher,
Government Primary School Sangram
District Haripur.
- ✓ 3. Akram Khan, Primary School Teacher,
Government Primary School Kamalpur,
District Haripur.
4. Muhammad Nazir, Primary School Teacher,
Government Primary School Maira Ali Khan,
District Haripur.
- ✓ 5. Shujahat Ali, Primary School Teacher,
Government Primary School Bail Tech,
Tehsil and District Haripur.
6. Muqadar Shah, Primary School Teacher,
Government Primary School Pind Gakhur
District Haripur.
- ✓ 7. Muhammad Naeem-ur-Rehman, Primary
School Teacher, Government Primary School
Ahal Hathan District Haripur.
8. Abid Elahi, Primary School Teacher,
Government Primary School Juma Abad
District Haripur.
- ✓ 9. Muhammad Hanif, Primary School Teacher,
Government Primary School Galli Andra
Doga District Haripur.

Certified to be True Copy
EXAMINER
01 NOV 2021
Peshawar High Court Atd. Bench
Authorized Under Sec: 75 Evld Ordns.

No. 3344
31-05-21

FILED TODAY
ADDITIONAL REGISTRAR
PESHAWAR HIGH COURT
ABBOTTABAD BENCH

13/10/21

48

- ✓ 10. Akhtar Khan, Primary School Teacher, Government Primary School Phula Gali, District Haripur.
- ✓ 11. Muhammad Areen, Primary School Teacher, Government Primary School Talhad District Haripur.
12. Muhammad Usman, Primary School Teacher, Government Primary School Khad Bala, District Haripur.
13. Muhammad Riasat, Primary School Teacher, Government Primary School Dingi District Haripur.
14. Muhammad Idrees, Primary School Teacher, Government Primary School Jabbar, District Haripur.
15. Muhammad Nazir son of Uner Din resident of Nara post Office Amazai, Tehsil Ghazi District HaripurPETITIONERS

VERSUS

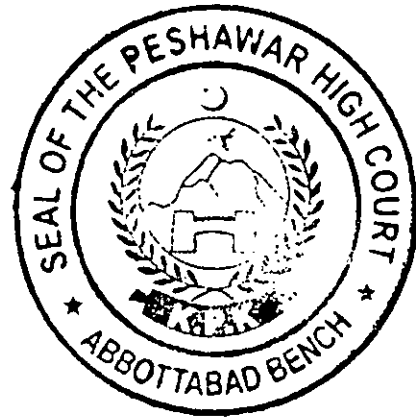
1. Government of Khyber Pakhtunkhwa through Secretary, Elementary and Secondary Education, Peshawar.
2. Director, Elementary and Secondary Education, Peshawar.
3. District Education Officer (Male), Haripur.
4. District Accounts Office, HaripurRESPONDENTS.

Certified to be True Copy
EXAMINER
01 NOV 2021
Peshawar High Court Atd. Bench 3
Authorized Under Sec: 75 Evid Ordns

WRIT PETITION UNDER ARTICLE 199
OF THE 'CONSTITUTION OF
ISLAMIC REPUBLIC OF PAKISTAN,
1973 FOR A DECLARATION TO THE

FILED TODAY
ADDITIONAL REGISTRAR
PESHAWAR HIGH COURT
ABBOTABAD BENCH
8/3/19/21

46



PESHAWAR HIGH COURT,
ABBOTTABAD BENCH
FORM 'A'
FORM OF ORDER SHEET

Date of Order or Proceedings	ORDER OR PROCEEDINGS WITH SIGNATURE OF JUDGE/JUDGES
1	2
27.10.2021	<p>WP No. 651-A/2021</p> <p>Present: Mr. Junaid Anwar Khan, Advocate for the petitioners.</p> <p>Sardar Muhammad Asif, AAG for the official respondents.</p> <p>***</p> <p><u>MOHAMMAD IBRAHIM KHAN, J.-</u> At the very outset, learned counsel for the parties informed the Court that the petitioner has been terminated from service. Learned counsel for the petitioner requested that he would be satisfied if this petition is converted into departmental appeal and sent to the competent authority/Director (respondent No. 2) for its consideration in accordance with law.</p> <p>2. In view of the above, this petition is treated as departmental appeal and referred to respondent No. 2 for its decision, in accordance with law, by providing fair opportunity of hearing to the petitioner.</p> <p>JUDGE</p> <p>JUDGE</p>

Certified to be True Copy
EXAMINER
01 NOV 2021
Peshawar High Court Atd. Bench
Authorized Under Sec: 75 Evid Ordns.

Tufail/P

Hon'ble Justice Mohammad Ibrahim Khan
Hon'ble Justice Shakeel Ahmad.



No	37748
Date of Presentation of Application	01-11-2021
No of Pages	10/15
Copying Fee	70/-
Urgent Fee	02/-
Total	72/-
Name of Copyist	[Signature]
Date of Preparation of Copy	01-11-2021
Date of Intimation	01-11-2021
Date of Delivery of Copy	01-11-2021

VAKALAT NAMA

NO. _____/20

IN THE COURT OF KP Justice R. B. B. Peshawar

Arshad Mehmood.

(Appellant)
(Petitioner)
(Plaintiff)

VERSUS

Edu. Dept

(Respondent)
(Defendant)

I/We, Arshad Mehmood

Do hereby appoint and constitute **SYED NOMAN ALI BUKHARI Advocate High Court Peshawar**, to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate/Counsel on my/our costs.

I/We authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter. The Advocate/Counsel is also at liberty to leave my/our case at any stage of the proceedings, if his any fee left unpaid or is outstanding against me/us.

Dated - _____/20

Arshad

(CLIENT)

ACCEPTED

Noman

SYED NOMAN ALI BUKHARI
Advocate High Court Peshawar.

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR CAMP
TRIBUNAL ABBOTTABAD.

Appeal No. 7762/2021

Akram Khan & 6 others

(Appellants)

Versus

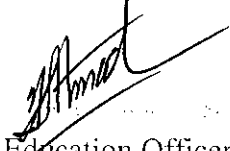
Govt. of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Peshawar &
Others.....

(Respondents)

INDEX

S.No	Description	Page No.	Annexure
1	Accompanying Comments	1-3	
2	Affidavit	4	
3	Authority Letter	5	
4	Copy of Notification dated 13-11-2012	6-7	A
5	Copies of the Act and Appointment Orders	8-16	B&C

(Respondent)


District Education Officer (M)
Haripur



BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR CAMP
TRIBUNAL ABBOTTABAD.

Appeal No. 7762/2021

Akram Khan and 6 others

(Appellants)

Versus

Govt: of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Peshawar & Others.....
(Respondents)

Respectfully Sheweth:

Para wise reply/Comments for and on behalf of respondent No.1,2&3.

Preliminary Objections:

- 1 That the appellants have got no cause of action and locus standi to file the instant appeal.
- 2 That the appellants have not come to this Honorable Tribunal with clean hands.
- 3 That the joint appeal is barred by law and not maintainable.
- 4 That the appellants have concealed the material facts from this Honorable Tribunal, hence the appeal in hand is liable to be dismissed.
- 5 That the appellants have filed the instant appeal on malafide motives.
- 6 The appellants have filed the instant appeal just to pressurize the respondents.
- 7 That the appellants are estopped by their own conducts to file the present appeal.
- 8 That according to the Notification dated 13-11-2012 the requisite qualification for the post of PST BPS-12 is Intermediate alongwith Primary School Certificate/Diploma. **(Copy of Notification dated 13-11-2012 is annexed as Annexure A)**

REPLY/COMMENTS ON FACTS ARE AS UNDER:

1. Para 1 is incorrect. That the appellants were not eligible for appointment according to the prevailing rules of the department during the period of 1993 to 1996.
2. Para 2 is incorrect. That the Khyber Pakhtunkhwa Sacked Employees (Appointment) Act 2012 was basically enacted for those employees who possess the prescribed qualification and experience whereas the appellants had not possessed the requisite qualification, experience and they were not eligible for the appointment under said act but the Honorable Peshawar High Court Abbottabad Bench in its Judgment dated 24-05-2016 in WP No. 516/2013 provided an extra relief to the appellants that they will acquire the requisite training certificate within the period of 03 years and same relaxation has also been given to the appellants for acquirement of the requisite qualification by the department in accordance with the Section 07 Sub Section 04 of the said Act which empower the Departmental Selection Committee (DSC) to determine the eligibility of the Sacked Employees and in accordance with the condition of the General Conditions of the appellants' appointment orders dated 04-10-2017. However they failed to acquire the requisite qualification within stipulated time period, hence they were terminated from the service by the competent authority. **(Copies of the Act and Appointment Orders are annexed as Annexure B&C)**
3. Para 3 Pertains to the Judgment of Honorable Peshawar High Court Abbottabad Bench dated 24-05-2016 in WP No. 516-A/2013 which does not relate to the Honorable Tribunal, hence needs no comment.
4. In reply to Para 4, it is submitted that the appellants were re-instated in their services in accordance with the Judgment of the Honorable Peshawar High Court Abbottabad Bench dated 24-05-2016 vide this office appointment order No. 9848-55 dated 04-10-2017 and they were given the time period of 03 years to acquire the requisite training as well as qualification but they failed to acquire requisite qualification.
5. Incorrect, the training courses are conducted by the Provincial Institute of Teachers' Education (PITE) now and then with the coordination of answering

(2)

respondents but the appellants have not made themselves register in relevant course.

6. Incorrect, the appellants have not availed opportunity of the requisite training from the Provincial Institute of Teachers' Education (PITE) because they were reluctant to follow the rules and regulations provided by the Institute, hence they have acquire the requisite training at their own sources.
7. Para 7 is incorrect, the detail reply has been given in above Paras.
8. Para 8 is incorrect, the detail reply has been given in Paras ibid. Moreover, the annexed joint Departmental Appeal is barred by law.
9. That the appeal of the appellants is liable to be dismissed inter alia on the following grounds.

GROUND:

- a. Incorrect, the impugned notices dated 18-01-2021 and 13-04-2021 are legal, lawful and in accordance with rules, policy and the Khyber Pakhtunkhwa Sacked Employees (Appointment) Act 2012.
- b. Incorrect, the detail answer has been given in Paras 5&6 above of the Facts.
- c. Incorrect, the notices were issued to only those employees who have failed to acquire the requisite qualification within stipulated time period. However the answering respondent cannot think of the violation of any Article of the Constitution of Islamic Republic of Pakistan.
- d. Incorrect, the notices are legal, in accordance with rule and policy, and liable to be maintained.
- e. Incorrect, the appellants are treated by the answering respondent in accordance with law, rules and policy on the subject.
- f. Incorrect, the appellants have been dealt by the answering respondents in accordance with law, rules and policy on the subject and copy of the alleged judgment of the Honorable Tribunal has not been attached by the appellants, hence the claim is without any justification.
- g. Incorrect, this Honorable Tribunal has not issued any judgment in this regard. However the detail reply about the training of the appellants has been given in Paras 5&6 above of the facts.
- h. Incorrect, that the answering respondents even cannot think of the violation of any article of the Constitution of the Islamic Republic of Pakistan 1973.
- i. Incorrect, the appellants have been dealt justly, fairly, reasonably and with having lawful authority.
- j. Para "j" is incorrect. That the appellants have been terminated from their services in accordance with law, rules and policy.
- k. Incorrect, the detail reply has been given in Paras ibid.
- l. Incorrect, the detail reply has been given in Paras above.
- m. Incorrect, no right of the appellants is involved in the matter.
- n. Incorrect, the services of the appellants have been terminated automatically because they have not acquired the requisite qualification within stipulated time period.
- o. Incorrect, the detail reply has been given in Para 2 of the Facts.
- p. Incorrect, the detail reply has been given in paras above.
- q. Incorrect, the appellants have been treated justly and fairly, in accordance with law, rules and policy.
- r. Incorrect, that the quoted authority cannot be applied in this case.
- s. Incorrect, as explained above.
- t. That the other points shall be agitated at the time of arguments with the leave of this Honorable Tribunal.

PRAYER

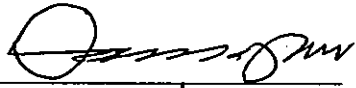
In view of the above made humble submissions, it is most respectfully prayed that on acceptance of foregoing factual position/ Comments, the instant appeal may very graciously be dismissed being meritless, please.

RESPONDENTS

Secretary
E&SE Department Khyber Pakhtunkhwa, Peshawar.



Director
E&SE Khyber Pakhtunkhwa, Peshawar.



District Education Officer (M)
Haripur



4

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR CAMP
TRIBUNAL ABBOTTABAD.

Appeal No. 7762/2021

Akram Khan etc

(Appellants)

llants)

Versus

Govt: of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Peshawar &
Others..... (Respondents)

AFFIDAVIT

I Mr. Muhammad Saleh Mushtaq ADEO (Litigation) o/o DEO (M) Haripur do hereby solemnly affirmed and declare that the contents of accompanying Para wise comments are true and correct to the best of my knowledge and belief and nothing has been suppressed/concealed from this Honorable High Tribunal.

Deponent

ADEO (Litigation)
o/o DEO (M) Haripur.





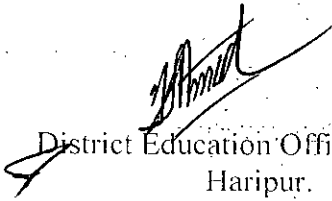
5

OFFICE OF THE DISTRICT EDUCATION OFFICER (M)
HARIPUR

Ph. No. 0995-920150, 920151
Email: deomalehrp@gmail.com

AUTHORITY LETTER

Mr. Muhammad Saleh Mushtaq Khan ADEO Litigation office of the undersigned is hereby authorized to submit comments/reply in Honorable High Tribunal Abbottabad Bench in c/w SA No 7762/2021, titled Muhammad Akram etc VS Government of Khyber Pakhtunkhwa etc for **affidavit** and onward submission to Honorable Tribunal on behalf of all official respondents.


District Education Officer (M)
Haripur.

Ameduki-A

(17)

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GOVERNMENT OF THE KHYBER PAKHTUNKHWA
ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT.

NOTIFICATION


Peshawar, dated the November 13, 2012

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

Encl. No. 3. Date, as above.

Copy forwarded to:-

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


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

Handwritten marks: a circled '19', a circled '20', and a signature.

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

Annexure - ~~A~~ B

THE KHYBER PAKHTUNKHWA
SACKED EMPLOYEES (APPOINTMENT) ACT, 2012.
(KHYBER PAKHTUNKHWA ACT NO. XVII OF 2012)

CONTENTS

PREAMBLE

SECTIONS

1. Short title, extent and commencement.
2. Definitions.
3. Appointment of sacked employees.
4. Age relaxation.
5. Sacked employees shall not be entitled to claim seniority and other back benefits.
6. Preference on the basis of age.
7. Procedure for appointment.
8. Removal of difficulties.
9. Act to override other laws.
10. Power to make rules.

(8)

**THE KHYBER PAKHTUNKHWA
SACKED EMPLOYEES (APPOINTMENT) ACT, 2012.**

(KHYBER PAKHTUNKHWA ACT NO. XVII OF 2012)

*[first published after having received the assent of the Governor of
the Khyber Pakhtunkhwa in the Gazette of Khyber Pakhtunkhwa
(Extraordinary), dated the 20th September, 2012].*

**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 1st day of November 1993 to the 30th day of November, 1996 (both days inclusive) and were dismissed, removed, or terminated from service during the period from 1st day of November 1996 to 31st 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 1st day of November, 1993 to 30th 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,-

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- (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 of the Khyber Pakhtunkhwa and who possessed the prescribed qualification and experience for the said post at that time, during the period from 1st day of November 1993 to the 30th day of November, 1996 (both days inclusive) and was dismissed, removed, or terminated from service during the period from 1st day of November 1996 to 31st 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.

(8) (10)

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 six months from the date of 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.

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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.

10. Power to make rules.— Government may make rules for carrying out the purposes of this Act.



Office of the District Education Officer(M)

Haripur

PH No. 0995-610178, 610268

(deomalehrp@yahoo.com)

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Notification

- a) In pursuance of Khyber Pakhtunkhwa Sacked Employee (Appointment) Act: 2012 and
- b) In compliance with the Judgments passed by the Honorable Peshawar High Court Abbottabad Bench in Writ Petition No-20-A/2014 and WP No-115-A/2013 vide order dated 25-05-2016 which was upheld by the august Supreme Court of Pakistan vide order dated 24.05.2017, and
- c) In compliance with COC No-58-A/2016 & COC No-31-A/2017 vide order dated 08.08.2017 and
- d) Consequent upon the recommendations of Departmental Selection Committee in its meeting held on 08-09-2017, the competent authority is pleased to order the appointments of the following Sacked Employees in **BPS-12 (Rs-13320-960-42120)** plus usual allowances as admissible under the rules against the post of **Primary School Teacher** and posted him/them against vacant position in the School mentioned against their name with immediate effect, on the terms and conditions given below.

No	Name & CNIC.	Father,s Name.	Date of Birth.	Union Council.	Station.	Remarks
	Mudasar Shah 13302-9374657-9	Syed Mehboob Shah	01-05-1964	Tarbela	GPS No.1 Sec#3 K.T.S	A.V.P
	Muhammad Shakeel 13302-0424574-9	Muhammad Jameel	05-12-1966	Rehana	GPS Gujjar Darrian	A.V.P
	Muhammad Hanif 13302-7328389-5	Q. Abdul Qayyum	19-02-1967	Bagra	GPS Jabri Budhar	A.V.P
	Chan Zeb 13302-5748065-7	Taj Muhammad	14-05-1967	Mankari	GPS Dobandi	A.V.P
	Muhammad Zahoor 13302-0530073-1	Abdul Hakeem	03-06-1967	Jatti Pind	GPS Chapri Maira	A.V.P
	Akram Khan 13302-5033216-1	Muhammad Aslam Khan	31-12-1967	Sarai Salah	GPS Kamalpur	A.V.P
	Bakhshesh Ellahi 13302-3975663-3	Faqeer Muhammad	02-04-1968	Hattar	GPS Nazar Abad	A.V.P
	Muhammad Wazir 13302-5692359-9	Farman Ali	01-03-1969	Muslim Abad	GPS Kainet Sairi	A.V.P
	Akhtar Khan 13302-9151286-5	Munsif Khan	06-03-1969	Bagra	GPS Phula Galli	A.V.P
)	Tariq Islam 13302-0519611-5	Abdul Sattar	06-03-1969	K.T.S	GPS No.1 Se#3 K.T.S	A.V.P
l	S. Arshad Hussain Shah 13302-0398685-5	Abdul Rahim Shah	20-06-1969	Haripur South	GPS No.4 Haripur	A.V.P

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12	Rahim Nawaz 13302-1053779-9	Muhammad Ayub Khan	08-06-1969	Kot Najibullah	GPS No1 Kot Najeeb ullah	A.V.P
13	Tika Khan 13302-0519095-1	Faqira Khan	16-12-1969	Khulian Bala	GPS Thanda Choal	A.V.P
14	S. Arif Ali Shah 13302-0415228-1	Mardan Shah	14-01-1970	Kalinger	GPS New Kharkot	A.V.P
15	Mukadar Shah 37406-5116876-1	Pir Muhammad Shah	01-02-1970	Kot Najibullah	GPS Kangra Village	A.V.P
16	Ulfat 13302-1736082-1	Abdul Rahim	10-03-1970	Kot Najibullah	GPS Chechian	A.V.P
17	Raja Yasrib Ali 13302-0467250-9	Raja Muhammad Sadiq	12-03-1970	Najafpur	GPS Mohra Ghazan	A.V.P
18	Muhammad Hanif 13302-2585902-5	Muhammad Siddique	22-12-1970	Beer	GPS Kalinger No.3	A.V.P
19	Muhammad Areen 13302-0375260-1	Khan Muhammad	12-01-1971	S.N Khan	GPS Talhad	
20	Arshad Mehmood 13302-1194914-7	Rehmat Ullah	03-04-1971	Beer	GPS Kangar Amgah	A.V.P
21	Muhammad Javed 13301-1334433-7	Bin Yameen	06-01-1972	Ghazi	GPS Dara Dustam	A.V.P
22	Sajjad Hussain Shah 13302-0422378-1	Bilawar Shah	12-12-1972	Hattar	GPS Ahal Hattar	A.V.P
23	Javed Khan 13302-0388513-1	Muhammad Dawood	02-03-1973	P.H. Khan	GPS S.N Khan	A.V.P
24	Maqsood Shah 13302-9392817-7	Sarwar Shah	01-04-1973	Bakka	GPS Gudwalian	A.V.P
25	Shah Nawaz 13302-0333244-1	Lal Hussain	10-06-1973	Bait Galli	GPS Bait Galli	A.V.P
26	Shakeel Ahmed 13302-0509243-7	Abdur Rasheed	03-02-1974	Pind Kamal Khan	GPS Mang	A.V.P
27	Malik Ajab Khan 13302-7226645-3	Malik Gul Zaib Khan	18-03-1974	Bareela	GPS Bandi Muneem	A.V.P
28	M. Sabir Shah 13301-1318366-3	Faiz Taleb	10-03-1974	Sirikot	GPS Salam Khund	A.V.P
29	Muhammad Nazir 13301-1525669-9	Umer Din	04-06-1974	Nara Amazai	GPS Chanjlo	A.V.P
30	Khan Bhadur 13302-6362147-3	Safdar Zaman	02-01-1975	Tarbela	GPS No.1 Sec# 3 K.T.S	A.V.P
31	Urfan Elahi 13301-1585754-7	Fazle Elahi	01-05-1975	Jhamra Ghazi	GPS Chumiary	A.V.P
32	Asim Hussain Shah 13302-7931201-5	Syed Mehmood Hussain Shah	01-07-1975	Sikandarp ur	GPS Dheri Sikandarpur	A.V.P
33	M.Ejaz Ahmed 13302-9454086-9	Muhammad Irshad	15-12-1975	Kot Najibullah	GPS No.1 Kot Najibullah	A.V.P
34	Muhammad Idrees 13301-2413895-9	Muhammad Khan	14-05-1976	Kothera	GPS Choian	A.V.P
35	Asif Khan 13302-5656601-1	Ghazanfar Khan	11-08-1976	Dhenda	GPS Choar Sharif	A.V.P
36	Bakhmal Shah 13301-2065530-1	Qadir Khan	05-03-1977	Biat Gali	GMPS Sherol Shergah	A.V.P

Accepted on 1/1/17

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8	Imran Khan 13302-8359952-5	Abdul Qadus	25-03-1977	Darwesh	GPS No.1 Sec#3 K.T.S	A.V.P
9	Nazakat Hussian . Shah 13302-29901451	Arif Shah	26-03-1977	Mankarai	GPS Jogi Mohra	A.V.P
39	M. Naeem ur Rehman 13302-8997774-1	Gohar Rehman	03-05-1977	Pind Gujran	GPS Pind Gujran	A.V.P
40	Akhtar Mehmood	Muhammad Dawood	07-01-1978	Beer	GPS Kandiala	A.V.P
41	Malik Zubair Akhtar 13302-0540916-5	Muhammad Khan	06-02-1978	Beer	GMPS Poh Dara	A.V.P
42	Saqib Khan Jadoon 13302-49655542-1	Aurangzeb Khan	17-09-1975	Bagra	GPS Thanda Choa	A.V.P
43	Saeed Akhtar 13302-0472729-7	Mehboob Elahi	06-07-1974	Pind Gujran	GPS Khoi Maira	A.V.P
44	Shah Zeb khan 13302-04987778-9	M. Nawaz Khan	05-04-1973	Tarbela	GPS No.1 Sec # 3 K.T.S	A.V.P
45	Qazi Muhammad Usman 13302-0402945-7	Qazi Muhammad Ayub	18-05-1975	Ali Khan	GPS Shah Muhammad	A.V.P

Received by Jogi/KIT

Terms & Conditions:

(A) Specific Conditions.

1. (a) Their appointments are subject to the conditions that their Certificates /Documents and their domicile be verified from their issuing authority before release of their/his monthly salary. (In the light of section 3 of the sacked Employee ACT 2012).
- (b) The Verification of his/their service/duty record from schools where he/they had been performed his/their duty during previous appointments, (During the period from 1st day of November 1993 to the 30th Day of November 1996. and terminated from the 1st day of November 1996 to 31st Day of December 1998).
2. They shall not be entitled to claim any of Seniority, promotion and their back benefits, Their/his appointments have been made in pursuance of Khyber Pakhtunkhwa Sacked Employee (Appointment Act:2012) Hence under Section 5 of the said Act: they shall not be entitled to claim any of Seniority, promotion and their back benefits,
3. The period during which they/he remained dismissed, removed or terminated from service till the date of their/his appointment shall have been deemed automatically relaxed. Their/His appointment have been made in pursuance of Khyber Pakhtunkhwa Sacked Employee (Appointment) Act:2012. Hence under Section 4 the said Act: the period during which they remained dismissed, removed or terminated from service till the date of their appointment shall have been deemed automatically relaxed.
4. In case they/he failed to acquire the requisite training certificate within the 03 Years, specified by the department ,their services shall stand terminated automatically, In the light of Judgment passed by the Peshawar High Court Abbottabad bench dated 24.05.2016 in pare 8 (IV).

Received by Jogi/KIT

(B) General Conditions.

1. They will be on probation for a period of one year extendable to another one year keeping in view their/his performance.
2. They will be governed by such rules and regulations enforced and as may be prescribed by the Government from time to time for the category of Govt: Servant to which they belong.
3. In case they failed to assume the charge of their/his post within 15 days of his appointments, their/his candidature ship will be stand atomically cancelled.
4. Their services liable to termination on one month prior notice from either side in case of resignation without prior notice, their/his one month pay /allowance shall be forfeited to Government treasury.
5. If their performance is found un-satisfactory, they/ he will be preceded under E&D Rules.
6. Their appointments are made on school based; they/he will have to serve at the place of posting.
7. Pay will not be drawn until and unless a certificate to this effect is issued by this Office that their/his certificates are verified.
8. They should obtain Medical fitness certificate from Medical Superintendent /Civil Surgeon DHQ Hospital Haripur, within seven days to date of T/over charge.
9. Charge reports should be submitted to all concerned.
10. NO TA/DA is allowed.

Note: The competent authority resumes the right to rectify the errors/omission if any Noted/observed at any stage.

Endst;No 9848-55 /3-1/EB/Apptt: Sacked 2017.

Sd _____
Distt: Education Officer,(M)
Haripur.
Dated 04 /10/2017.

Copy forwarded for information to:-

1. Registrar Peshawar High Court Peshawar Abbottabad Bench.
2. Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.
3. Senior District accounts Officer Haripur.
4. The District Monitoring Officer IMU Haripur.
5. The Sub Divisional Education Officer (Male) Haripur/Ghazi.
6. Assistant Sub Divisional Education Officers.
7. Account Branch Local Office.
8. Teacher Concerned.
9. Office recode.

Accepted on 04/10/17
Dy: Distt: Education Officer,(M)
Haripur.



**KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR**

No. 243 /ST

Dated: 01/02 /2022

All communications should be addressed to the Registrar KPK Service Tribunal and not any official by name.

Ph:- 091-9212281
Fax:- 091-9213262


To

The District Education Officer Male,
Government of Khyber Pakhtunkhwa,
Haripur.

Subject: JUDGMENT IN APPEAL NO. 7762/2021 MR. AKRAM KHAN & 6 OTHERS.

I am directed to forward herewith a certified copy of Judgement dated 23.12.2021 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR