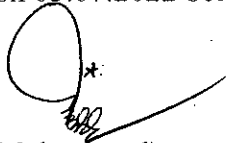


07.06.2022

Appellant in person present. Mr. Kabirullah Khattak, learned Additional Advocate General for the respondents present.

Counsel are on strike. Adjourned. To come up for arguments on 05.07.2022 before D.B at camp court Swat.



(Mian Muhammad)
Member (E)
Camp Court Swat



(Kalim Arshad Khan)
Chairman
Camp Court Swat

05.07.2022

Nemo for appellant.

Noor Zaman Khan Khattak, learned District Attorney alongwith Nasim Khan Section Officer for respondents present.

Case was called time and again but neither the appellant nor his counsel turned up till rising of the Bench. Consequently, instant service appeal is hereby dismissed in default for non-prosecution. Parties are left to bear their own costs. File be consigned to the record room.

Announced.
05.07.2022



(Fareeha Paul)
Member(E)
Camp Court, Swat



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

D

01.11.2021

Junior to counsel for appellant present.

Muhammad Adeel Butt, learned Additional Advocate General for respondents present.

The learned Member (Judicial) is on leave, therefore, case is adjourned. To come up for arguments on 03.02.2022 before D.B. Respondents be put on notice to submit reply within 10 days in office.


Chairman

03.02.2022

The Tribunal is non-functional, therefore, the case is adjourned to 15.04.2022 before S.B for the same.


Reader

15.04.2022

Counsel for the appellant present. Mr. Kabirullah Khattak Addl. AG for respondents present.

Written reply/comments on behalf of respondents not submitted. Learned AAG seeks time to file written reply/comments. Last opportunity is granted to respondents for submission of written reply/comments. To come up for written reply/comments on 11.05.2022 before S.B at Camp Court Swat.


Chairman

11.01.2021

Mr. Noor Muhammad Khattak, Advocate, for appellant is present. Mr. Kabirullah Khattak, Additional Advocate General alongwith representative of respondent No. 2 Mr. Naseeb Khan, Section Officer (Litigation), is also present.

Written reply on behalf of respondents not submitted despite last chance given in the preceding order sheet dated 19.11.2020, therefore, the appeal is adjourned to 08.04.2021 on which date file to come up for arguments before D.B.

(MUHAMMAD JAMAL KHAN)
MEMBER (JUDICIAL)

08.4.2021


Due to demise of Honorable Chairman the Tribunal is defunct, therefore the case is adjourned to 26.07.2021 for the same as before.

Reader

26.07.2021

Mr. Noor Muhammad Khattak, Advocate, for the appellant present. Mr. Kabirullah Khattak, Additional Advocate General for the respondents present.

Learned counsel for the appellant requested for adjournment on the ground that he has not met preparation for arguments. Adjourned. To come up for arguments before the D.B on 01.11.2021.


(ATIQ-UR-REHMAN WAZIR)
MEMBER (EXECUTIVE)


(SALAH-UD-DIN)
MEMBER (JUDICIAL)

05.08.2020

Mr. Noor Muhammad Khattak, Advocate for appellant is present. Mr. Kabirullah Khattak, Additional AG alongwith representative of the department Mr. Mohibullah, Assistant are also present.

Representative of the department requested for time to furnish written reply/comments. Time is granted. File to come up for written reply/comments on 29.09.2020 before S.B.


(MUHAMMAD JAMAL KHAN)
MEMBER

29.09.2020

Junior to counsel for the appellant and Addl. AG alongwith Sajid Superintendent, and Ahmad Hassan, Litigation Officer for the respondents present.

Representative of the respondents seeks further time to furnish reply/comments. Adjourned to 19.11.2020 on which date the requisite reply/comments shall be submitted without fail.


Chairman

19.11.2020

Junior to counsel for the appellant and Addl; AG present. No representative of respondents is available.

Learned AAG is required to contact the respondents and submit written reply/comments on 11.01.2021, as last chance.


Chairman

30.03.2020

Due to public holidays on account of Covid-19, the case is adjourned. To come up for the same on 19.06.2020 before S.B.


Reader

19.06.2020

Counsel for the appellant present.

Contends that appellant was initially appointed as PTC now PST as stop gap arrangement but his services were dispensed with in 1997. He then submitted an application for his reinstatement on promulgation of KP Sacked Employees Act, 2012 which was not considered. He, therefore, filed Writ Petition which was allowed and the appellant was appointed. His departmental appeal for fixation of pay was not responded. It was further submitted that in the light of Rule 2.3 of the West Pakistan Pension Rules, 1963, the appellant is entitled for the grant of pay fixation from the date of initial appointment.

Points raised need consideration. Instant appeal is admitted for regular hearing subject to all legal objections. The appellant is directed to deposit security and process fee within 10 days. Notice be issued to the respondents. To come up for written reply/comments on 05.08.2020 before S.B.

Appellant Deposited
Security Process Fee

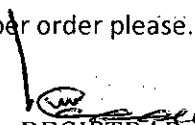

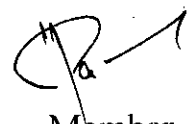

(Rozina Rehman)
Member (J)

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 279/2020

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	09/01/2020	<p>The appeal of Mr. Bahadar Khan presented today by Mr. Noor Muhammad Khattak 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 09/01/2020</p> <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>10/02/2020</u></p> <p style="text-align: right;"> CHAIRMAN</p> <p>10.02.2020</p> <p>Learned counsel for the appellant present. Heard.</p> <p>Learned counsel for the appellant could not demonstrate that the appellant can claim service back benefits under the Khyber Pakhtunkhwa Sacked Employees (Appointment) Act, 2012. Learned counsel for the appellant seeks adjournment for proper assistance. Adjourn. To come up for preliminary hearing on 30.03.2020. Learned counsel for the appellant may also submit copy of the judgment in Writ Petition bearing No.3-M of 2014 dated 28.03.2014 on the next date fixed.</p> <p style="text-align: right;"> Member</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

APPEAL NO. 279 /2019

BAHADAR KHAN

VS

EDUCATION DEPTT:

INDEX

S.NO.	DOCUMENTS	ANNEXURE	PAGE
1	Memo of appeal	1- 3.
2	Second appointment order	A	4.
3	Judgment	B	5- 14.
4	Appointment order	C	15- 16.
5	Medical certificate	D	17- 18.
6	Departmental appeal	E	19.
7	Vakalat nama	20.

APPELLANT

THROUGH:

NOOR MOHAMMAD KHATTAK,
ADVOCATE

Flat No. 3, Upper Floor,
Islamia Club Building,
Khyber Bazar, Peshawar
0345-9383141

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. 279 /2019

Khyber Pakhtunkhwa
Service Tribunal

Blary No. 288

Dated 09/11/2020

Mr. Bahadar Khan, PST BPS-12,
GPS Karkabanj, District Dir Upper.....**APPELLANT**

VERSUS

- 1- The Secretary, E&SE Department, Khyber Pakhtunkhwa, Peshawar.
- 2- The Secretary Finance Department, Khyber Pakhtunkhwa, Peshawar.
- 3- The Director, E&SE Department, Khyber Pakhtunkhwa, Peshawar.
- 4- The District Education Officer, District Dir Upper.

.....**RESPONDENTS**

APPEAL UNDER SECTION- 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 FOR FIXATION OF PAY IN BPS-12 w.e.f. 30-11-1995 I.E. FROM THE DATE OF INITIAL APPOINTMENT TO THE POST OF PST AND AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS.

PRAYER:

That on acceptance of this appeal the appellant may kindly be allowed/granted pay fixation w.e.f. 30-11-1995 with all back benefits. Any other remedy which this august Service Tribunal deems fit that may also be awarded in favor of the appellant.

Filed to-day
09/01/20
Registrar

R/SHEWETH:
ON FACTS:

Brief facts giving rise to the present appeal are as under:

- 1- That the appellant was initially appointed in the respondent Department as PTC now PST vide order dated 30/11/1995 as stop gap arrangement.
- 2- That later on the appellant was appointed against regular post vide order dated 09/04/1996 w.e.f. the date of his first appointment i.e. 30/11/1995. (Copy of second appointment order is attached as annexure..... **A**)
- 3- That it is worth mentioning here, that in 1997 the services of the appellant along with others were dispensed with on the ground that their services were no more required to the Department.

- 4- That it is also worth mentioning; that on promulgation of KP Sacked Employee Act, 2012 appellant submitted an application for his reinstatement being covered under the said law but the same was not considered, hence the appellant filed writ petition no. 663/2017 before Peshawar High Court Mingora Bench Dar-Ul-Qaza, Swat, which was allowed vide judgment dated 13/02/2018. Copy of judgment dated 13/02/2018 is attached as annexure **B).**
- 5- That the appellant was appointed as PST w.e.f. taking over charge in light of Peshawar high Court Darul qaza Bench judgment vide order dated 27/03/2018. That in response the appellant submitted charge report and started his duty quite efficiently and up to the entire satisfaction of his superiors. Copy of the appointment order dated and medical certificate are attached as annexure **C & D).**
- 6- That the appellant filed Departmental appeal before respondents for fixation of pay w.e.f. the date of his first appointment i.e. 30/11/1995 but the same has not been responded within stipulated period of ninety days. Copy of departmental appeal is attached as annexure..... **F).**
- 7- That feeling aggrieved and having no other remedy the appellant filed the instant appeal on following grounds inter alia.

GROUND:

- A- That the inaction of respondents by not allowing pay fixation to the appellant w.e.f. 30-11-1995 is against the law, facts, norms of natural justice and materials on the record.
- B- That appellant has not been treated in accordance with law and rules by the respondent Department on the subject noted above and as such the respondents violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.
- C- That the respondents acted in arbitrary and mala fide manner by not allowing pay fixation to the appellant w.e.f. 30-11-1995 and as such the inaction of the respondents is violative of law and rules.
- D- That the inaction of the respondents is discriminatory and against the norms of natural justice, therefore not tenable in the eye of law.
- E- That under Article 38 (e) of the Constitution of Pakistan, 1973 state is bound to reduce disparity in the income and earning of the individuals including persons in the various services of Pakistan, therefore in light of the above mentioned Article the appellant is fully entitled for the grant of pay fixation w.e.f. the date of initial appointment.

F- That promulgation of Sacked Employee Act, 2012 established that dismissal of appellant along with others from services was against the law, hence the appellant is entitled to pay fixation from date of his first appointment.

G- That in light of Rule 2.3 of the West Pakistan, Pension Rules, 1963 the appellant is fully entitle for the grant of pay fixation from the date of initial appointment.

H- That appellant seeks permission to advance other 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.

Dated: 20.12.2019

APPELLANT

Bahadar Khan
BAHADAR KHAN

THROUGH:

Noor Mohammad Khattak
NOOR MOHAMMAD KHATTAK

SHAHZULLAH YOUSAFZAI

&

Mir Zaman Safi
**MIR ZAMAN SAFI
ADVOCATES**

OFFICE ORDER:-

Consequent upon the non availability of duly verified trained PTCs, in the merit list, contizious appointment of the following PTC, ~~xxxxxxxx~~ untrained teachers in the BPS, NO.7 Rs, 1480-81/2695 are hereby ordered with effect from the date of their ist: appointment.

SNO.	Name of Teacher.	Name of School.
1.	Mohd Din. Khan,	MPS, Srafo.
2.	Wali Khan,	GPS, Serai.
3.	Sultan Alam,	1. Gandat,
4.	Nahid Shah,	1. Charkom.
5.	Gulzarat Kher,	1. Badalai.
6.	Shaukat Ali,	1. Tatogram,
7.	Anwar Zaid,	1. Shagai,
8.	Iqbal Khan,	1. Shalgah.
9.	Shad Mohd,	1. Mithrowara,
10.	Anwar Said,	Dabona,
11.	Badshah Zada,	1. Barkha,
12.	Nizamud Din,	1. Jai,
13.	Hayat Mohd,	1. Kamalai,
14.	Haq Nawaz Khan,	1. Qunjai.
15.	Yar Mohd,	1. Chapar,
16.	Sher Akbar,	1. Kaganokhwar,
17.	Shahinullah,	1. Arak,
18.	Rahatullah,	1. Mithrowar,
19.	Sahibzada,	1. DO,
20.	Fazal Qadir ,	1. Jugha,
21.	Masavar Khan,	1. Serai.
22.	Bahadar Khan,	1. Birarai,
23.	Mohd Alam Jan,	1. Tatogram,

1. Their appointment are purely on temporary basis and can be terminated at any time without notice.
2. Other conditions are the same as given in their Ist: appointment orders.

(FAZLI NAEEM KHAN)
DISTT: EDUCATION OFFICER (M)
PRIMARY DIR AT TIMERGARA.

OFFICE OF THE DISTT: EDUCATION OFFICER (M) PRY: DIR AT TIMERGARA.

Endst: NO. 1165 PED/Estt: B-7 Dated Timergara the 24/4/96

Copy forwarded for information to the SDEO (M) Wari
for information and record:

H. Anwar/

Attested
Mushtaq Din
STT B-16 GHS Shinkari
Distt: Dir Upper

[Signature]
(DY: EDUCATION OFFICER)
FOR/DISTT: EDUCATION OFFICER (M)
PRIMARY DIR AT TIMERGARA.

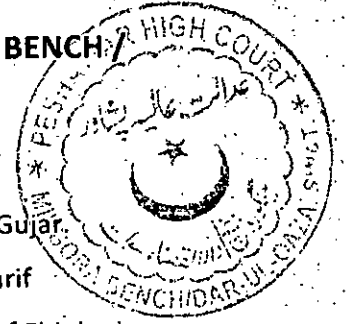
P.S.T

بہادر خان ولد محمد زمان خان

سویاٹیل نمبر : 03059842180

B - 5 ①

**BEFORE THE PESHAWAR HIGH COURT MINGORA BENCH /
DAR UL QAZA SWAT**



W.P. 663-M -M/2017

1. Ali Rehman Son of Mian Said Aziz Resident of Mala Gujar.
2. Anwar Saeed Son of Abdullah Resident of Moha Sharif
3. Bahadar Khan Son of Muhammad Zaman Resident of Shinkari
4. Rahat Ullah Son of Muhammad Tahir Shah Resident of Sahib Abad
5. Hamid Ullah Son of Abdullah Resident of Panjkoro
6. Muhamamd Hamayoon Khan Son of Sanobar Khan All Residents of Tehsil Wari District Dir Upper..... **Petitioners**

VERSUS

- 1) Govt. of Khyber Pakhtunkhwa, through Secretary E&SE Khyber Pakhtunkhwa at Peshawar.
- 2) Director Secretary E&SE Khyber Pakhtunkhwa at Peshawar
- 3) District Education Officer (Male) District Dir Upper
..... **Respondents**

**WRIT PETITIONER UNDER ARTICLE 199 OF THE
CONSTITUTION OF ISLAMIC REPUBLIC OF PAKISTAN 1973**

Respectfully Sheweth;

The facts of the instant are as under.

FACTS

1. That the Petitioners are permanent residents of Tehsil Wari District Dir Upper.

FILED TODAY
15 SEP 2017
Additional Registrar

Attested
Mushtaq Din
STT B-16 GHS Shinkari
Distt: Dir Upper

1

(6)

JUDGMENT SHEET
IN THE PESHAWAR HIGH COURT,
MINGORA BENCH (DAR-UL-QAZA), SWAT
(Judicial Department)

W.P. No. 663-M/2017

JUDGMENT

Date of hearing: 13.02.2018

Petitioners:- (Ali Rahman & others) by Syed Abdul Haq, Advocate.

Respondents:- (Government of KPK & others) by Mr. Rahim Shah, Aast: Advocate General.

MOHAMMAD IBRAHIM KHAN, J.- Ali Rehman

& 5 others Petitioners herein, are imploring the constitutional jurisdiction of this Court for issuance of an appropriate writ as per their prayer set-out in their petition in the following form:-

" It is, therefore, humbly prayed that on acceptance of this writ petition in the light of aforementioned submissions, this Court may kindly issue appropriate writ to the Respondent No.3 to reinstate the Petitioners on their own posts with all back benefits, according the spirit of act:

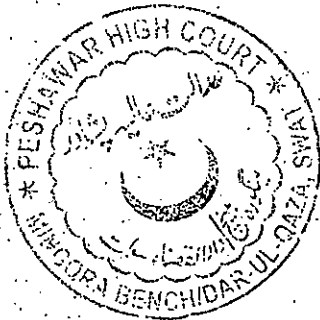
2. That this honorable Court may also issue directions to the concerned Respondents to count their seniority from the date of their first appointment mentioned in Part-2 of this petition."

Nawab (D.B.) Hon'ble Mr. Justice Mohammad Ibrahim Khan
Hon'ble Mr. Justice Ishtiaq Ibrahim

Attested

Mushtaq Din
STT B-16 GHS Shinkari
Distt: Dir Upper

2. In essence the present Petitioners were PST teachers in different schools of District Dir Upper. Subsequently, their services were dispensed with by the Respondents being no more required as they have been appointed purely on temporary basis as stop-gap arrangements.



3. In the meanwhile, the Government of Khyber Pakhtunkhwa passed the "Sacked Employees Act, 2012", wherein it has been decided that only those government employees will be given the benefit of reinstatement who have been terminated during the period from 1st day of November 1996 to 31st day of December 1998. After promulgation of the *ibid* Act, some of the Petitioners submitted applications for their reinstatement on 20.10.2012 before the competent authority, while the others ^{had} approached the Service Tribunal for redressal of their grievance. Yet despite all these visible efforts, the Respondents are not willing to compensate the Petitioners by way of their re-appointment as school teachers. In such

Nawab (D.B.) Hon'ble Mr. Justice Mohammad Ibrahim Khan
Hon'ble Mr. Justice Ishaq Ibrahim

Attested
Miss ~~Shinkari~~ Bin
STT B-16 GHS Shinkari
Distt. Dir Upper

circumstances, they have knocked the door of this Court through the writ petition in hand *inter-alia* on the grounds enumerated therein.

8



4. The Respondents were put on notice, amongst whom, comments were sought from the Respondent No. 3 on 11.10.2017 but the same are still awaited and from such careless attitude of the concerned Respondent i.e. District Education Officer (Male) District Dir Upper, it seems that the said officer has nothing to say in his defence, therefore, despite lapse of such considerable time the reply on his behalf is still awaited.

5. Having heard arguments of learned counsel for the Petitioners and learned Asst. Advocate General appearing on behalf of official Respondents being present in Court in connection with some other cases, the available record placed on file was gone through with their valuable assistance.

6. Before rendering any findings in respect of the grievance of the Petitioners, it

Nawab (D.B.) Hon'ble Mr. Justice Mohammad Ibrahim Khan
Hon'ble Mr. Justice Ishaq Ibrahim

Attestal
Mustaqud Din
STT B-16 GHS Shinkari
Dist: Dir Upper

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would be appropriate to reproduce the relevant provisions of the Khyber Pakhtunkhwa Sacked Employees (Appointment) Act 2012, which runs:-

Preamble:-

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.

S. 2 (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 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."

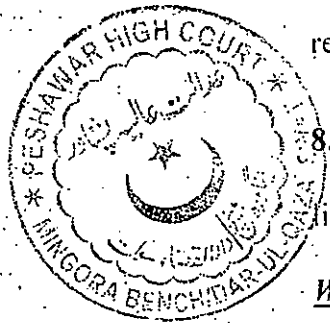
7. It is crystal clear from above quoted provisions of the Act *ibid* that only those persons/employees would be given benefit of reinstatement, who were appointed on regular basis to a civil post, possessed the requisite/prescribed qualification and experience for the subject post and above all

Nawab (D.B.) Hon'ble Mr. Justice Mohamud Ibrahim Khan
Hon'ble Mr. Justice Ishfaq Ibrahim

Attested
Mushtaq Din
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terminated from service during the period from 1st day of November, 1996 to 31st day of December, 1998. A bare perusal of the record would reveal that the services of the Petitioners were terminated on 13.02.1997, so by means they are falling within the cut-off date as referred to above.



8. Earlier, similarly placed persons, like Petitioners approached this Court through W.P. No. 1662-P of 2013 titled "Hazrat Hussain V/S The Government of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat Peshawar", which was allowed in the following manner:-

"It is worth to note that persons similarly placed with the petitioners have been re-instated by the department while giving effect to the judgments given the Khyber Pakhtunkhwa Service Tribunal. More so, one Mst. Gul Rukh whose services were terminated by the respondents along with the petitioners, has been appointed under the Act vide order dated 09.05.2013. It is cardinal principle of law that similarly placed persons should be treated alike and no different yard stick should be used while redressing their grievances. It is hallmark and grundnorm of our constitution that every person is entitled to equal protection of law. Not only similarly placed colleagues of the Petitioners, have been appointed by the respondents but the petitioners are also

Nowab (D.B.) Hon'ble Mr. Justice Mohammad Ibrahim Khan
Hon'ble Mr. Justice Ishtiaq Ibrahim

Attested
Mustafa Din
SPT B-16 G/S Shinkari
Distt. Dir Upper

entitled to the relief given to the sacked employees under the Act.

For what has been discussed above, we admitted and accept both the writ petitions and direct the respondents to consider the petitioners for their appointment in accordance with the provisions of the Act."

(15)

The above-referred judgment of this Court was assailed before the Hon'ble Supreme Court of Pakistan in Civil Appeal No. 401-P of 2016 under the title "Government of Khyber Pakhtunkhwa through Secretary Elementary and Secondary Education, Peshawar V/S Iftikhar Khan etc" along with other identical matters. The Hon'ble apex Court vide its judgment dated 24.5.2017 upheld the verdict of this Court in the following manner:-

" We have been apprised by the learned counsel for the respondents that according to the advertisement and appointment letter issued to the respondents, two kinds of candidates could be appointed (i) those who have the requisite academic qualifications and training; (ii) those who have the requisite academic qualifications but do not possess the necessary training. As regard the second category, such persons would be provided with an opportunity to complete the training within a specific period. This is exactly what the learned High Court has allowed in the relief granting portion of the impugned judgment. Undoubtedly, this is in consonance with the Department's own advertisement and the terms and conditions of service, therefore, the learned High Court did not fall into any error by requiring the Department to allow the respondents to complete the



Attested
Mustaqid Din
STT B-16 GHS Shinkari
Distt: Dir Upper

training within a specific period of time and to take action against them in case of failure to do so. No exception can be taken to the impugned judgment, which is upheld. Resultantly, Civil Petition No. 401-P/2016 is dismissed on merit. The connected petitions are also dismissed on the above score and being time-barred as no sufficient cause has been shown for condonation of delay.

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9. In the above developed scenario, there is no denial of the fact that the services of the Petitioners were terminated within the cut-off date i.e. 1st day of November 1996 to 31st day of December 1998 coupled with the fact that similarly placed persons like Petitioners have been given the benefit of reinstatement by this Court, which judgment has been upheld by the Hon'ble Supreme Court of Pakistan, so, on this score too, the Petitioners deserves to be given the same benefit of re-instatement being similarly placed persons.



10. However, since no record of the educational credentials of the Petitioners has been placed on record, in view of which, their present educational status/competency could be ascertained qua their eligibility for the subject posts of PTS. Even otherwise, it is appealable to

Nawab (D.B.) Hon'ble Mr. Justice Mohammad Ibrahim Khan
Hon'ble Mr. Justice Ishaq Ibrahim

Attested

Mushtaq Din
STT B-16 GHS Shinkari
Distt: Dir Upper

(13)

prudent mind that during the intervening period i.e. from the date of their termination up till now the Petitioners would have not improved their educational skills further and would have just waited for final outcome of their case. Learned Astt: Advocate General present in Court submits that if all the cases of Petitioners fall under the *ibid* Act, he would have no objection of their re-instatement subject to their eligibility for the subject posts of teachers. Moreover, the answering Respondent No. 3 despite Court direction has so far been unable to file the requisite comments, so, it is presumed that he is answerless in the matter.



11. In view of the above discussion, this writ petition is disposed of in terms that the Respondents/Department is directed to consider the case of Petitioners for their re-instatement under the umbrella of Sacked Employees Act 2012 coupled with the fact being similarly placed persons but subject to their eligibility for the requisite posts of PST teachers within a period of one month positively. Since the

Nawab (D.D.) Hon'ble Mr. Justice Mohammad Ibrahim Khan
Hon'ble Mr. Justice Ighitaq Ibrahim

Attested
Mushtaq Din
STT B-16 GHS Shinkari
Distt: Dir Upper

Petitioners are languishing for the ultimate outcome of their wheel of fortune since the year 1997; therefore, it is expected from the answering Respondents that this issue will be put to an end once for all within the target span.

14



ANNOUNCED
Dr. 13.02.2018.

[Signature]
JUDGE

[Large scribbled signature]
JUDGE

of the
16/02/18

S.No. 37
Name of Applicant u/govt
Date of Filing of Application 19-02-18
Date of Receipt of Copy da
No of 10P
Name of 207
Number of Copies 19-02-18

Certified to be true copy

[Signature]

EXAMINER

19-02-18

Peshawar High Court, Mingora/Dar-ul-Qaza, Swat
Authorized Under Article 81 of Constitution of Pakistan

Attested

Muhammad Durr
SIT B-16 GHS Shinkar
Distt: Dir Upper

District Education Officer Male District Dir Upper



PH No. 0944-881400-Fax-880411
E-mail deomdirupper@gmail.com

C-15

APPOINTMENT.

In the light of the judgement passed by the Honorable Peshawar High Court Mingora Bench/Dar-ul-Qaza Swat in W-P NO. 663-M/2017 dated 13-02-2018, WP No. 700-M/2017 dated 22-11-2017, and in pursuance of Khyber Pakhtunkhwa sacked employees Act 2012 and out of quota @ 30% of the advertised posts, the following sacked employees are hereby appointed conditionally as Primary School Teacher (PST) in BPS No. 12 (Rs.13320-960-42120) Plus usual allowances as admissible under the rules & the existing policy of the Provincial Government in Teaching Cadre on the terms and condition given below with effect from the date of taking over charge.

S. No.	Name	Father Name	Place of Posting	CNIC	Remarks
01.	Alam Khan	Pass Muhammad Khan	GPS Gogyal	16000-1876353-5	
02.	Haq Nawaz	Saeed Khan	GPS Chapper	16702-7240984-1	
03.	Bahadar Khan	Mohammad Zaman Khan	GPS Karkabanj	16702-2520269-9	
04.	Anwar Saeed	Abdul Ahad	GPS Moha	42601-4272039-5	
05.	Hamid Ullah	Abdullah	GPS Behsomal	16702-3398037-3	

TERMS AND CONDITIONS.

01. The appointment of sacked employee shall be made only on regular bases to a civil 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 of 1st day of November, to 31st day of December, 1998 on various ground.
02. Appointment of sacked employee subject to section 7 may be appointed in their irrespective cadre of his department; concerned in which he occupied civil posts before his dismissal, removal and termination from service.
03. The sacked employee shall be appointed against thirty percent of the available vacancies in the department.
04. As per court decision if the appointee fail to acquire the training PTC and the required qualification (FA/FSc within three years, their appointment will be considered as cancelled after the expiry of the period.

Attested

Mushtaq Din
STT B-16 GHS Shinkari
Distt: Dir Upper

1734-40
7.5

Appointment Order PST (M) Sacked Employees

05. The appointee will provide undertaking that they will be completed the requisite training during a period of three years,
06. The appointee will provide Health and age certificate from the concerned Medical Superintendent.
07. The sacked employee shall not be entitled to claim seniority and other back benefits .They shall submit an undertaking on judicial stamp paper for not claiming any back benefits. A sacked employee appointed under section 3 shall not be entitled to make any claim of seniority, promotion or other back benefits and their appointment shall be considered as fresh appointment.
08. All the drawing and disbursing officers are directed to get a stamp paper as mentioned it S.No.07 and verify their academic and professional certificates/degree etc from the quarter concerned before starting their salaries otherwise they will be held responsible for the consequences if occurred in this regard.
09. The appointee will be governed by such rules and regulations/policies as prescribed by the Government from time to time.
10. If the appointee fail to take over charge with in fifteen days after issuance of this order, their appointment will be deemed as automatically cancelled.
11. Charge report should be submitted to all concerned.
12. The errors and omissions etc if found at any stage shall be rectified. In case of termination of said candidate, they will have no right to claim the order already issued in any court.
13. Their appointment order is subject to the final outcome of the Supreme Court of Pakistan judgment.
14. No TA/DA is allowed.

(16)

**District Education Officer,
Male dir Upper**

Endst: No. / File No.123/App04/ DEO (M)/ADO (P) Dated Dir (U) the /03/2018.

Copy forwarded for information and necessary action to the:-

01. Director of Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.
02. District Accounts Officer Dir Upper
03. Dy. District Education Officer Male Dir Upper.
04. Sub: Divisional Education Officer Male Wari.
05. Official Concerned.
06. M/File

Attested
Mushafiq Dir
ST B-16 GHS Shinkar
Distt: Dir Upper

**District Education Officer,
Male dir Upper**

MEDICAL CERTIFICATE

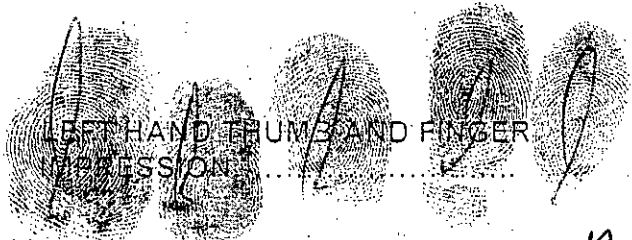
D-17

Name of Official Bahadur Ishaq
 Cast or race Muslim / Pathan
 Father's Name Muhammad Zaman
 Residence village 3, P.O. Shinkari, Tehsil
 War, District Upper Dir
 Date of Birth 1-1-1962 (According to cure)
 Exact height by measurement
 Personal mark of identification Nil
 Signature of the official
 Signature of head of office

Seal of Officer

I do hereby certify that I have examined Mr. Bahadur Ishaq a candidate for employment in the office of the Education Deptt and cannot discover that he had any disease communicable or other constitutional affection or bodily infirmity except. Nil

I do not consider this as disqualification for employment in the office of the Education Deptt. His age according to own statement 56 years and by appearance about 56 Year.



30-3-2018
 Medical Superintendent
 Civil Hospital

Attested
 Mushtaq Din
 STT B-16 GHS Shinkari
 Distt: Dir Upper

صاحب المکتبہ

(18)

5625-27
5-12-95
کے لئے 12/5/1995

آج کل کے حالات اور حالات کے بارے میں

GPS کے بارے میں، گاؤں کے بارے میں

مکتبہ کے بارے میں، صاحب المکتبہ کے بارے میں

دارت کے بارے میں، دارت کے بارے میں

صاحب المکتبہ
صاحب المکتبہ

Head Teacher
GPS Birari Manzai
Sub Division Wari Dir (U)

Attested

Mushaqqud Din
STT B-16 GHS, Shinkari
Distt: Dir Upper

صاحب المکتبہ

صاحب المکتبہ

5-12-1995
Head Teacher
GPS Birari Manzai
Sub Division Wari Dir (U)

To

The Director, E&SE Department,
Khyber Pakhtunkhwa, Peshawar.

E - 19

DEPARTMENTAL APPEAL FOR FIXATION OF PAY IN BPS-12 w.e.f.
30-11-1995 i.e. FROM THE DATE OF INITIAL APPOINTMENT

Respected Sir,

It is most humbly stated that I was appointed before your good self Department as PTC vide order dated 30-11-1995 as stop gap arrangement later on I was regularly appointed against the said post vide order dated 09.04.1996 w.e.f. the date of my first appointment i.e. 30.11.1995. That in year 1997 the services were dispensed with on the ground that his services was no more required to the Department. That on promulgation of KP Sacked Employee Act, 2012 I was submitted an application for reinstatement being covered under the said law but the same was not considered. Feeling aggrieved I was filed writ petition before the Peshawar High Court Mingora Bench, which was allowed. Dear Sir, I was appointed as PST w.e.f. taking over charge in light of Peshawar High Court Darul Qaza Bench judgment. That in response I have submitted my charge report and started duty quite efficiently and up to the entire satisfaction of my superiors. That I am entitle for fixation of pay from the date of my initial appointment i.e. 30.11.1995 but the concerned authority has been appointed me with immediate effect i.e. from the date of taking over charge. Sir, I am feeling aggrieved preferred this Departmental appeal before your good self.

It is therefore, most humbly prayed that on acceptance of this Departmental appeal I may kindly be allowed for pay fixation w.e.f. 30.11.1995 with all consequential benefits. Any other remedy which your good self deems fit that may also be awarded in my favor;

Dated: 18.09.2019

M I

Your's Sincerely,
Bahadar Khan
BAHADAR KHAN, PST
GPS, Karkabanj, Dir Upper

VAKALATNAMA

Before the 1st Senior Tribunal, Peshawar

OF 2019

Bahadar Khan

(APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

Education Dept.

(RESPONDENT)
(DEFENDANT)

I/We Bahadar Khan

Do hereby appoint and constitute **NOOR MOHAMMAD KHATTAK, Advocate, Peshawar** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate Counsel on my/our cost. 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.

Dated. ____/____/2019

Bahadar Khan
CLIENT

[Signature]
ACCEPTED
NOOR MOHAMMAD KHATTAK

SHAHZULLAH YOUSAFZAI

[Signature]
MIR ZAMAN SAFI
ADVOCATES

OFFICE:
Flat No.3, Upper Floor,
Islamia Club Building, Khyber Bazar,
Peshawar City.
Mobile No.0345-9383141