

**BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL PESHAWAR.**

Service Appeal No. 8647/2016

Date of Institution ... 27.07.2020

Date of Decision ... 14.09.2022

Wisal Muhammad, SCT (BPS-16), GHS Badar Banda, District Mardan.

.... (Appellant)

**VERSUS**

Secretary Elementary & Secondary Education Department, Khyber Pakhtunkhwa Peshawar and four others.

... (Respondents)

-----  
MR. NOOR MUHAMMAD KHATTAK,  
Advocate

--- For appellant.

MR. MUHAMMAD RIAZ KHAN PAINDAKHEL,  
Assistant Advocate General

--- For respondents.

SALAH-UD-DIN ---  
MIAN MUHAMMAD ---

MEMBER (JUDICIAL)  
MEMBER (EXECUTIVE)

**CONSOLIDATED JUDGMENT:**

SALAH-UD-DIN, MEMBER:- Through this single judgment, we intend to dispose of instant service appeal as well as connected Service Appeal bearing No. 8648/2020 titled "Gul Hassan Khan Versus Secretary Elementary & Secondary Education Department, Khyber Pakhtunkhwa Peshawar and four others", Service Appeal bearing No. 8649/2020 titled "Abdul Hadi Versus Secretary Elementary & Secondary Education Department, Khyber Pakhtunkhwa Peshawar and four others", Service Appeal bearing No. 8650/2020 titled "Fazal Rehamn Versus Secretary Elementary & Secondary Education Department, Khyber Pakhtunkhwa Peshawar and four others", Service Appeal bearing No. 8651/2020 titled "Muhammad Hyat Versus



Secretary Elementary & Secondary Education Department, Khyber Pakhtunkhwa Peshawar and four others, "Service Appeal bearing No. 8652/2020 titled "Muhammad Sadiq Versus Secretary Elementary & Secondary Education Department, Khyber Pakhtunkhwa Peshawar and four others", Service Appeal bearing No. 8653/2020 titled "Amir Muhammad Versus Secretary Elementary & Secondary Education Department, Khyber Pakhtunkhwa Peshawar and four others", Service Appeal bearing No. 8655/2020 titled "Aurangzeb Versus Secretary Elementary & Secondary Education Department, Khyber Pakhtunkhwa Peshawar and four others", Service Appeal bearing No. 8656/2020 titled "Ihsan Muhammad Versus Secretary Elementary & Secondary Education Department, Khyber Pakhtunkhwa Peshawar and four others", Service Appeal bearing No. 8657/2020 titled "Izhar Muhammad Versus Secretary Elementary & Secondary Education Department, Khyber Pakhtunkhwa Peshawar and four others" and Service Appeal bearing No. 8658/2020 titled "Shahid Ullah Versus Secretary Elementary & Secondary Education Department, Khyber Pakhtunkhwa Peshawar and four others", as common questions of law and facts are involved in all the appeals. The prayer sought by the appellants is copied as below:-

*"On acceptance of this appeal, the impugned service rules dated 24.07.2014 may kindly be modified to the extent that the condition of Second Division/Class be expunged from column No. 3 (i), serial No. 1B of the table and the respondents may kindly be directed to consider the appellants for promotion to the post of Secondary School Teachers (BPS-16) from the date when their colleagues and junior colleagues were promoted with all consequential benefits including seniority. Any other remedy which this august Tribunal deems fit may also be awarded in favour of the appellants."*

2. In essence, the appellants have challenged the Notification No. SO(PE)4-5/SSRC/meeting/2013/Teaching Cadre dated 24<sup>th</sup>

July, 2014 to the extent, whereby Second Class Bachelor Degree from a recognized University has been mentioned as first requirement for initial recruitment as well as promotion to the post of Secondary School Teacher (BPS-16). The appellants have alleged that as they have obtained Master Degrees in various subjects, therefore, they were eligible to have been considered and promoted to the post of SST (BPS-16) particularly, when other colleagues of the appellants have been granted the same relief by August Peshawar High Court, Peshawar. The appellants availed departmental remedy through filing of departmental appeals, which were not responded, therefore, they have now invoked the jurisdiction of this Tribunal for redressal of their grievance.

3. Notices were issued to the respondents, who submitted their comments, wherein they refuted the assertions made by the appellants in their appeals.

4. Learned counsel for the appellants has argued that the impugned Notification dated 24.07.2014 to the extent of requirement of Second Class Bachelor Degree for promotion to the post of SST (BPS-16) is in violation of rights of the appellants guaranteed under Articles 4 & 25 of the constitution of Islamic Republic of Pakistan, 1973. He next argued that the appellants were though having 3<sup>rd</sup> Division Bachelor Degrees, however they have later on obtained Master Degrees, therefore, they cannot be denied promotion to the post of SST (BPS-16) on the pretext that they had passed Bachelor Degrees in 3<sup>rd</sup> Division. He further argued that as other colleagues of the appellants had been granted the same relief through judgments dated 28.01.2016 and 05.04.2016 passed by honourable Peshawar High Court in Writ Petition No. 73-B/2014 and Wirt Petition No. 1041-A/2015 respectively, therefore, the appellants being similarly placed employees were also entitled to the same relief. He next argued that the Establishment department has issued notification dated 15.12.2011 whereby amendment has been made in PMS Rules, 2007 by providing that a candidate who had obtained 3<sup>rd</sup> Division Bachelor Degree will be

eligible for examination in case where he/she has obtained a higher Division in Master Degree.

5. On the other hand, learned Assistant Advocate General for the respondents has contended that Second Class Bachelor Degree from a recognized university is first requirement for promotion to the post of SST (BPS-16), while the appellants have obtained Bachelor Degrees in 3<sup>rd</sup> Division, therefore, they are not at all eligible for promotion to the post of SST (BPS-16). He next contended that passing of Bachelor examination in 2<sup>nd</sup> Division was introduced through the impugned Notification for the purpose of enhancing quality of education, therefore, the appellants cannot claim that the same has violated their rights provided under Articles 4 & 25 of constitution of Islamic Republic of Pakistan. He further argued that the appellants have not put forward any legal and justified reason, which could be considered for declaring the condition of requirement of Second Class Bachelor Degree for promotion to the concerned post as ultra vires. He also argued that judgments dated 04.06.2015, 08.12.2015 and 05.04.2016 rendered by honourable Peshawar High Court, Peshawar are of no benefit to the appellants in view of order dated 06.04.2022 passed by August apex court in Civil Appeal No. 2039 of 2019 and Civil Petitions No. 91-P and 92-P of 2016, whereby judgment dated 13.02.2017 passed by honourable Peshawar High Court, granting similar relief to petitioners in Writ Petition No. 559-A/2016, has been set-aside.

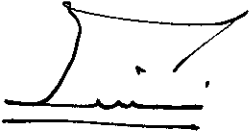
6. Arguments have already been heard and record perused.

7. A perusal of the record would show that it is main contention of the appellants that as some of their colleagues having 3<sup>rd</sup> Division Bachelor Degrees have been granted promotion in light of various judgments of honourable Peshawar High Court, Peshawar, therefore, the appellants being similarly placed employees are also entitled to the said relief. In this respect, reliance has been placed on judgment dated 05.04.2016 rendered in Writ Petition No. 1041-A/2015 titled "Muhammad Baqi Versus Government of Khyber Pakhtunkhwa

through Secretary (Elementary & Secondary Education), Peshawar and two others". We have gone through the afore-mentioned judgment and have observed that while accepting the Writ Petition, reference has been made to judgment dated 04.06.2015 rendered by honourable Peshawar High Court in Writ Petition No. 58-B/2014 titled "Waris Khan Versus Government of Khyber Pakhtunkhwa and 05 others". August apex court in its order dated 06.04.2022, passed in Civil Appeal No. 2039 of 2019 and Civil Petitions No. 91-P and 92-P of 2016, has observed as below:-

*"4. We note that Civil Petition No.92-P/2016 has been filed against a judgment of the Peshawar High Court dated 08.12.2015 in Writ Petition No. 87-B/2014 titled "Mst. Yasmin Vs. Government of Khyber Pakhtunkhwa etc" and Civil Petition No. 91-P/2016 against a judgment of the Peshawar High Court dated 04.06.2015 in Writ Petition No. 58-B/2014 titled "Waris Khan Vs. Govt. of Khyber Pakhtunkhwa and 05 others". We have also been informed that the judgment in the case titled "Muhammad Baqi Vs. Government of Khyber Pakhtunkhwa through Secretary (Elementary & Secondary Education), Peshawar and 02 others" which has been relied upon by the Peshawar High Court in the impugned judgment was challenged before this Court but was dismissed on account of limitation and was not decided on merits.*

*5. Civil Petitions No. 91-P and 92-P/2016 have been filed beyond the period of limitation. The applications for condonation of delay (C.M.As.No.149-P and 151-P/2016) do not disclose any sufficient cause that may constitute basis within the contemplation of the Limitation Act, 1908 for condonation of*



*delay. Consequently, the applications for condonation of delay are dismissed. The petitions are dismissed as barred by time. It is, however, clarified that the judgment dated 08.12.2015 rendered in Writ Petition No. 87-B/2014 titled "Mst. Yasmin Vs. Government of Khyber Pakhtunkhwa etc.", judgment dated 04.06.2015 rendered in Writ Petition No. 58-B/2014 titled "Waris Khan Vs. Govt. of Khyber Pakhtunkhwa and 05others" and the judgment dated 05.04.2016 rendered in Writ Petition No. 1041-A/2015 titled "Muhammad Baqi Vs. Government of Khyber Pakhtunkhwa through Secretary (Elementary & Secondary Education), Peshawar and 02 others" shall not be used as precedent in any other case." (Emphasis supplied)*

8. In view of the above observations, rendered by August Apex court in its order dated 06.04.2022, the judgments of the honourable Peshawar High Court, Peshawar, relied upon by learned counsel for the appellants are of no avail to the appellants. Similarly, through the same order dated 06.04.2022 passed by August Apex court, judgment dated 13.02.2017 passed by honourable Peshawar High Court in Writ Petition No. 559-A/2016, whereby similarly placed 3<sup>rd</sup> Division Bachelor Degree holders were held entitled to promotion to the post of SST, has been set-aside.

9. We have observed that the requirement of 2<sup>nd</sup> Division/Class Bachelor Degree for promotion to the post of Secondary School Teacher (BPS-16) is not person specific and would be applicable for promotion as well as initial recruitment to the post of SST (BPS-16). While going through the contents of the appeal, we have observed that no allegation of any mala-fide has been raised by the appellants. It is a settled proposition that the Government is entitled to make service rules in the interest of expediency of service and to remove anomaly in service rules, which in the absence of demonstrable

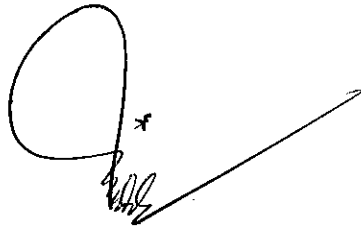
mala-fide could not be assailed. August Supreme Court of Pakistan in its judgment reported as 2004 SCMR 1427 has graciously held as below:-

*“The government is always empowered to change the promotion policy and the domain of the government to prescribe the qualification for a particular post through amendment in the relevant rules, is not challengeable. This is also a settled law that notwithstanding fulfillment of the required qualification and other conditions containing the rules, the promotion cannot be claimed as a vested right.”*

10. In view of the above discussion, the appeal in hand as well as connected Service Appeals No. 8648/2020, 8649/2020, 8650/2020, 8651/2020, 8652/2020, 8653/2020, 8655/2020, 8656/2020, 8657/2020 and 8658/2020, being devoid of merit stands dismissed. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED

14.09.2022



(MIAN MUHAMMAD)  
MEMBER (EXECUTIVE)



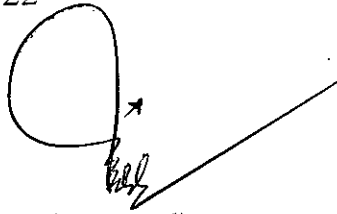
(SALAH-UD-DIN)  
MEMBER (JUDICIAL)

ORDER  
14.09.2022

Learned counsel for the appellant present. Muhammad Riaz Khan Painsdakhel, Assistant Advocate General for the respondents present. Arguments have already been heard and record perused.

Vide our detailed judgment of today, separately placed on file, the appeal in hand as well as connected Service Appeals No. 8648/2020, 8649/2020, 8650/2020, 8651/2020, 8652/2020, 8653/2020, 8655/2020, 8656/2020, 8657/2020 and 8658/2020; being devoid of merit stands dismissed. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED  
14.09.2022



(Mian Muhammad)  
Member (Executive)



(Salah-Ud-Din)  
Member (Judicial)



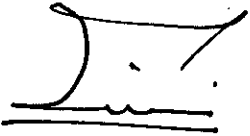
Service Appeal No. 8647/2016

13.09.2022

Learned counsel for the appellant present. Mr. Muhammad Riaz Khan Paindakhel, Assistant Advocate General for the respondents present.

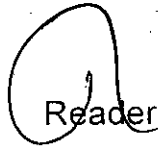
Arguments heard. To come up for order on 14.09.2022 before the D.B.

(Mian Muhammad)  
Member (Executive)

  
(Salah-Ud-Din)  
Member (Judicial)

03.02.2022

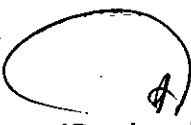
Due to retirement of the Worthy Chairman, the Tribunal is defunct, therefore, case is adjourned to 17.05.2022 for the same as before.

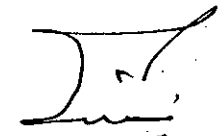
  
Reader

17.05.2022

Mr. Umar Farooq, Advocate (junior of learned counsel for the appellant) present. Mr. Kabirullah Khattak, Additional Advocate General for the respondents present.

Junior of learned counsel for the appellant requested for adjournment on the ground that learned counsel for the appellant is out of station today. Adjourned. To come up for arguments on 30.05.2022 before the D.B.

  
(Rozina Rehman)  
Member (J)

  
(Salah-ud-Din)  
Member (J)

30<sup>th</sup> May, 2022

Learned counsel for the appellant present. Mr. Muhammad Rasheed, DDA alongwith Imtiaz Khan, ADO (Litigation) for the respondents present.

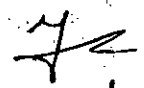
Learned counsel for the appellant seeks adjournment in order to properly assist the court. Adjourned. To come up for arguments on 01.08.2022 before the D.B.

  
(Mian Muhammad)  
Member(E)

  
(Kalim Arshad Khan)  
Chairman

1-8-2022

Proper DB not available the case is adjourned to 13-9-2022

  
Reader


31.03.2021

Junior to counsel for the appellant present.

Addl: AG for respondents present.

Written reply/comments on behalf of respondents not submitted. Learned AAG seeks time for submission of written reply/comments. Granted.

Adjourned to 01.06.2021 before S.B.

  
(Atiq Ur Rehman Wazir)  
Member(E)

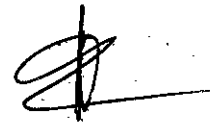
01.06.2021

Counsel for the appellant and Mr. Kabirullah Khattak, Addl. AG alongwith Sajid, ADEO for the respondents present.

Representatives of the respondents seeks further time to furnish reply/comments. Respondents are required to furnish written reply/comments in office within 10 days. If the written reply/comments are not submitted within the stipulated time, the office is directed to submit the file with a report of non-compliance. File to come up for arguments on 30.09.2021 before the D.B.



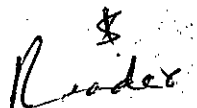
30-9-21



Chairman

DB is on Tour case to come up

For the same on Dated. 3-2-22

  
Reader

17.11.2020

Counsel for the appellant present.

Whether the appellant was not entitled to the benefits accruing through the judgments of Honourable Peshawar High Court in Writ Petition No. 1041-A/2015 and Writ Petition No. 73-B/2014 under the principle of similarly placed person?

In order to settle the proposition, instant appeal is admitted to regular hearing. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents. To come up for written reply/comments on 01.02.2021 before S.B.

Appellant Deposited  
Security Process Fee

01.02.2021

Counsel for the appellant and Addl. AG alongwith Said ADO for the respondents present.

Representative of the respondents seeks further time to submit reply/comments. Adjourned to 31.03.2021 on which date the requisite reply/comments shall positively be furnished.

  
Chairman


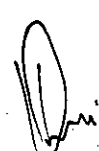

  
Chairman

Form- A

FORM OF ORDER SHEET

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

Case No.- 8647 /2020

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	27/07/2020	<p>The appeal of Mr. Wisal Muhammad 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> REGISTRAR</p>
2-		<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>14/09/2020</u>.</p> <p> CHAIRMAN</p>
	14.09.2020	<p>Mr. Afrasyab Wazir, Advocate on behalf of counsel for the appellant present.</p> <p>Requests for adjournment as learned counsel is engaged before the Touring Bench of this Tribunal at Abbottabad. Adjourned to 17.11.2020 before S.B.</p> <p> Chairman</p>

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

**APPEAL NO. \_\_\_\_\_/2020**

**WISAL MUHAMMAD**

**VS**

**EDUCATION DEPTT:**

**INDEX**

<b>S.NO.</b>	<b>DOCUMENTS</b>	<b>ANNEXURE</b>	<b>PAGE</b>
1	Memo of appeal	.....	1- 3.
2	Educational testimonials	<b>A</b>	4- 6.
3	Notification dated 24.07.2014	<b>B</b>	7- 12.
4	Judgments	<b>C &amp; D</b>	13- 19.
6	Departmental appeal	<b>E</b>	20.
7	Notification	<b>F</b>	21.
8	Vakalat nama	.....	22.

**APPELLANT**

**THROUGH:**

  
**NOOR MOHAMMAD KHATTAK**  
**ADVOCATE**

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

**APPEAL NO. 8647/2016**

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 8130

Mr. Wisal Muhammad, SCT (BPS-16),  
GHS Badar Banda, District Mardan.

Dated 27/7/2020

..... **APPELLANT**

**VERSUS**

- 1- The Secretary Elementary & Secondary Education Department, Khyber Pakhtunkhwa Peshawar.
- 2- The Secretary Establishment Department, Khyber Pakhtunkhwa, Peshawar.
- 3- The Secretary Finance Department, Khyber Pakhtunkhwa, Peshawar.
- 4- The Director Elementary & Secondary Education Department, Khyber Pakhtunkhwa Peshawar.
- 5- The District Education Officer, (male) District Mardan.

..... **RESPONDENTS**

**APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE INACTION OF THE RESPONDENTS BY NOT CONSIDERING THE APPELLANT FOR PROMOTION TO THE POST OF S.S.T (BPS-16) ON THE BASIS HAVING BACHELOR DEGREE IN 3<sup>RD</sup> DIVISION AND AGAINST THE SERVICE RULES NOTIFIED ON 24.7.2014 WHEREBY THE CONDITION OF BACHELOR 2<sup>ND</sup> DIVISION HAS BEEN INSERTED IN SERIAL NO.1B, COLUMN NO.3(i) OF THE TABLE AND AGAINST NOT TAKING ACTION ON DEPARTMENTAL APPEAL OF APPELLANT WITHIN STATUTORY PERIOD OF NINETY DAYS**

**PRAYER:**

That on acceptance of this appeal the impugned service Rules dated 24.7.2014 may kindly be modified to the extent that the condition of Second Division/Class be expunged from Column No.3 (i), serial No.1B of the table and the respondents may kindly be directed to consider the appellant for promotion to the post of Secondary School Teacher (BPS-16) from the date when his Colleagues and junior colleagues were promoted with all consequential back benefits including seniority. Any other remedy which this august Tribunal deems fit that may also be awarded in favour of the appellant.

**R/SHEWETH:**

**ON FACTS:**

Filed to-day  
Registrar  
27/7/2020

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

- 1- That appellant was initially appointed as certified teacher and right from appointment till date the appellant is serving the respondents department quite efficiently and of to the entire satisfaction of his superiors.
- 2- That appellant is higher qualified having master in history and master in education in second division. Copy of academics documents are attached as annexure.....**A.**
- 3- That it is pertinent to mention here that the respondents issued the impugned notification dated 24/07/2014 whereby the post of secondary school teacher was restructured and 20 % promotion quota to the aforementioned post was reserved for primary school teachers. That according to the said notification required qualification for initial recruitment as well as promotion was mentioned as second class bachelor degree. Copy of impugned notification dated 24/07/2014 is attached as annexure.....**B.**
- 4- That it is pertinent to mention here that the respondents denied promotion to some colleagues of the appellant to the post of SST due to having third class bachelor degree. That feeling aggrieved some colleagues filed writ petitions which were allowed in favor of petitioners vide judgment dated 05/04/2016 and 28/01/2016 and consequently they were promoted to the post of SST. Copies of the judgments dated 28/1/2016 and 05/04/2016 are attached as annexure.....**C&D.**
- 5- That it is worth mentioning that appellant was also denied promotion due to having third class bachelor degree despite the fact that appellant is having second division in higher qualification i.e. Master.
- 6- That appellant being a similar placed employee approached the respondents to extend him the benefits of above mentioned judgments, but still in vain. Copy of the Departmental appeal is attached as annexure.....**E.**
- 7- That it is also pertinent to mention that establishment department issued a notification dated 15/12/2011 whereby amendment has been made in PMS rules 2007 by providing that a candidate who has obtain 3<sup>rd</sup> division in bachelor degree will be eligible for the examination in cases where he/she has obtained a higher division in Master's degree. Copy of notification is attached as annexure .....**F.**



- 8- That feeling aggrieved and having no other remedy the appellant filed the instant appeal on the following grounds amongst the others.

**GROUND:**

- A- That the impugned notification dated 24/07/2014 to the extent of second class bachelor degree for promotion is against the law facts and judgment of Peshawar high court, hence not tenable and liable to be modified and the words second class be expunged only for promotion purpose.
- B- That the petitioner 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 appellant is entitled to be promoted to the post of SST from due date in light of judgments of Peshawar high court by attracting principle of consistency as mentioned in 2009 SCMR 1.
- D- That appellant has second division in higher qualification i.e master and entitle to be promoted from due date in light of notification dated 15/12/2011.
- E- That the appellant has been discriminated on the subject noted above and as such the respondents violated the principle of natural justice.
- F- 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.

**APPELLANT**

**WISAL MUHAMMAD**

**THROUGH:**

**NOOR MUHAMMAD KHATTAK**

**&**

**SHAHZULLAH YOUSAFZAI  
ADVOCATES**

5  
A

University of Peshawar  
(Pakistan)

Annex (8)

Session ANNUAL 1989

B.A.

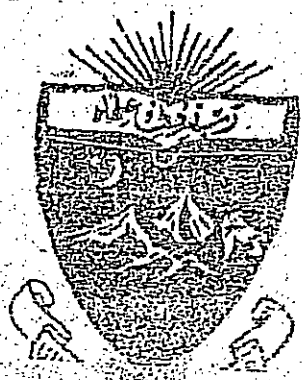
WISAL MOHAMMAD  
of DISTRICT SWABI SON of DANUL MOHAMMAD  
and a student  
examination held in AUGUST 1989 is this day admitted by the University  
of Peshawar to the Degree of  
**Bachelor of Arts**

in the THIRD Division

The Examination was taken as a whole / in parts

Serial No 057203

ATTESTED  
KQ



ATTESTED  
KQ

Ajmal Khan  
Registrar

Countersigned

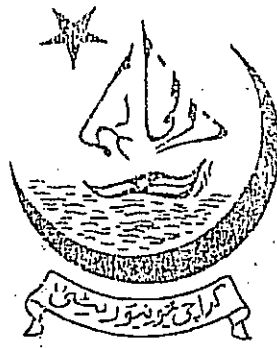
*[Signature]*

Registration No. 00-PA-30452

Roll No. 11300

Wazirabad 7 1989

ATTESTED



M. Ed.

# کراچی یونیورسٹی

# University of Karachi

FACULTY OF EDUCATION  
Master of Education

کلیۃ تعلیم  
ایم۔ ایڈ

Whereas WISAL MUHAMMAD s/o  
DARUL MUHAMMAD

has pursued a course of study prescribed  
by this University for the Degree of  
Master of Education in the Faculty  
of Education and has passed the requisite  
examination held in 2000, having been  
placed in ..... class.

It is hereby certified that he/she  
has been duly admitted to the degree of  
Master of Education in this University.

*[Signature]*

*[Signature]*  
Vice-Chancellor

Vice-Chancellor

Karachi, the 17th JANUARY 2011

All transcripts of examination results have been issued separately.

وَصَلَّى  
وَصَلَّى  
وَصَلَّى

سلیم کے تحت ایم۔ ایڈ کی سند کے لیے اس  
مستطوره نصاب کی تکمیل کرنی ہے اور مطلوبہ  
نقصدہ ۲۰۰۰ میں کامیاب ہو کر پیش درجہ

لیا ہے،

لہذا تصدیق کی جاتی ہے کہ انہیں اس جامعہ  
ایڈ کے درجہ پر فائز کیا گیا۔

*[Signature]*  
شیخ الجامعہ

ATTESTED

ATTESTED

کراچی بتایہ ۱۷ جنوری ۲۰۱۱

متروان کے مضامین اور حاصل کردہ نشانات کی تفصیلات علیحدہ جاری کی گئی ہیں۔

ATTESTED

*[Signature]*

1. Group A (Group A-I)  
 2. A. Educational Administration and Management  
 3. B. Curriculum Planning & Development  
 4. C. Evaluation and Guidance  
 5. D. Educational Psychology  
 6. E. Historical & Philosophical Development of Education  
 7. F. Planning & Development in Education  
 8. G. Teacher Education  
 9. H. Elementary Education  
 I. Secondary Education



**University of Karachi**  
**M.Ed. (First Term/Final) Terminal Examination**  
**(Morning Programme)**

1. Pass Marks 45%  
 2. Aggregate Marks 50%  
**FOR FAILURE CANDIDATES**  
**INTERNAL EVALUATION**  
 Marks will be carried over 50%

**MARKS CERTIFICATE**

**ATTESTED**

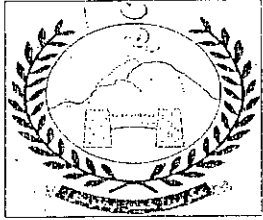
Following are marks obtained by Wissal Muhammad s/o Dr. Dawud Muhammad  
 who appeared at the M.Ed. First Term/Final Examination held in July 2009 from Jamia Millia Qadiriya  
 with Seat No. 275 Enrolment No. QT-5313/99 College of Education, Karachi  
 Institute

FIRST TERM															Total	RESULT	REMARKS
I - Foundation of Education			II - Advanced Educational Psychology			III - Research & Statistics			Optional I			Optional II					
Int. Eval.	Term. Exam.	Total	Int. Eval.	Term. Exam.	Total	Int. Eval.	Term. Exam.	Total	Int. Eval.	Term. Exam.	Total	Int. Eval.	Term. Exam.	Total			
40	60 27	100 45	40	60 27	100 45	40	60 27	100 45	40	60 27	100 45	40	60 27	100 45	500 250		

FINAL																		Total	Grand Total	Grade	REMARKS
IV - Evaluation & Guidance			V - Curriculum Planning & Developing			VI - Research Study	Optional III			Optional IV			Individual Study	Comprehensive Viva							
Int. Eval.	Term. Exam.	Total	Int. Eval.	Term. Exam.	Total	Tesis & Viva Vens	Int. Eval.	Term. Exam.	Total	Int. Eval.	Term. Exam.	Total			Individual Study	Comprehensive Viva					
40	60 27	100 45	40	60 27	100 45	200 90	40	60 27	100 45	40	60 27	100 45	100 45	100 45	700 350	1200 600	D				
32	42	74	32	33	65	130	32	32	64	30	33	63	100	100	400	1200	D				

**ATTESTED**

*[Signature]*



13  
B

GOVERNMENT OF KHYBER PAKHTUNKHWA  
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT

Peshawar, dated the 24<sup>th</sup> July, 2014.

**NOTIFICATION**

**No.SO(PE)4-5/SSRC/Meeting/2013/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, the Elementary and Secondary Education Department in consultation with the Establishment Department and the Finance Department hereby directs that in this Department's Notifications No.SO(G)S&LD/1-28/2003/Vol-II dated, 09-04-2004, Notification No.SO(G)S&L/1-69/06/Vol-1/DPE/LIB dated, 13-11-2007, and Notification No.SO(PE)4-5/SSRC/Meeting/2012/Teaching Cadre, dated, 13.11.2012, the following further amendments shall be made, namely:

**AMENDMENTS**

In the Appendix,-

- (i) Serial No. 1 shall be renumbered as 1B and before Serial No. 1B, as so renumbered, the following new entries shall be inserted in respective columns, namely:

1	2	3	4	5
1	Subject Specialist (BPS-17)	i. At least second class Master's Degree or four years BS Degree in the relevant subject; and  ii. Bachelor of Education or Master of Education (Industrial Art or Business Education) or M.A Education or equivalent qualification from a recognized University.	23 to 35 years	(a) Fifty per cent by promotion, on the basis of seniority-cum-fitness, for the relevant subject from amongst the Secondary School Teachers (BPS-16), with at least five years service as such and having qualification mentioned in column No.3.  <b>Note:</b> If no suitable candidate is available in the relevant subject the post falling in their promotion quota shall be filled by initial

ATTESTED

	⑧			recruitment; and (b) fifty percent by initial recruitment.
1A	Director Physical Education (BPS-17)	At least second class Master's Degree in Physical Education from a recognized University.	22-35 years	(a) Fifty percent by promotion, on the basis of seniority-cum-fitness, from amongst Senior Physical Education Teachers (BPS-16), with at least five years service as Senior Physical Education Teacher and Physical Education Teacher and having qualification mentioned in column No. 3;  Provided that if no suitable person is available from amongst Senior Physical Education Teachers for promotion then the post shall be filled by promotion, on the basis of seniority-cum-fitness, from amongst the Physical Education Teachers, with at least five years service as such and having qualification mentioned in column No. 3;  <b>Note:-</b> If no suitable candidate is available in the relevant cadres of the above teachers the post falling in their promotion quota shall be filled by initial recruitment; and  (b) fifty percent by initial recruitment; and

ATTESTED

(ii)

against Serial No. 1B, as so renumbered, for the existing entries, the following shall be substituted, in respective columns, namely:

1	2	3	4	5
"1B.	Secondary School Teacher (BPS-16)	<p>I. <u>At least second class Bachelor Degree's from a recognized University on need basis from the following groups with two subject..</u></p> <p>(a) (Chemistry, Botany or Zoology), <b>Or</b> (b) (Physics, Maths "A" or "B" or Statistics) <b>Or</b> (c) (Humanities and other equivalent groups at degree level with English as compulsory subject;</p> <p><b>and</b></p> <p>II. Bachelor of Education or Master of Education (Industrial Art or Business Education) or M.A Education or equivalent qualifications from a recognized University.</p>	21 to 35 years.	<p>1. Seventy Five per cent by promotion, on the basis of seniority-cum-fitness, from the district concerned in the following manner:</p> <p>(a) forty per cent from amongst the Senior Certified Teachers (BPS-16), with at least five years service as Senior Certified Teacher and Certified Teacher and having qualification mentioned in column No.3:</p> <p>Provided that if no suitable candidate is available from amongst Senior Certified Teachers for promotion then the post shall be filled by promotion, on the basis of seniority-cum-fitness, from amongst Certified Teachers, with at least five years service as such and having qualification mentioned in column No. 3;</p> <p>(b) four per cent from amongst the Senior Drawing Masters(BPS-16), with at least five years service as Senior Drawing Masters and Drawing Masters and having qualification mentioned in column No.3:</p>

ATTESTED

10

Provided that if no suitable candidate is available from amongst Senior Drawing Masters for promotion then the post shall be filled by promotion, on the basis of seniority-cum-fitness, from amongst Drawing Masters with at least five years service as such and having qualification mentioned in column No. 3;

- (c) four per cent from amongst the Senior Arabic Teachers(BPS-16), with at least five years service as Senior Arabic Teachers and Arabic Teachers, and having qualification mentioned in column No.3;

Provided that if no suitable candidate is available from amongst Senior Arabic Teachers for promotion then the post shall be filled by promotion, on the basis of seniority-cum-fitness, from Arabic Teachers with at least five years service as such and having qualification mentioned in column No. 3;

- (d) four per cent from amongst the Senior Theology Teachers(BPS-16), with at least five years service as Senior Theology Teachers and Theology Teachers and having qualification mentioned in column No.3;

ATTESTED



(11)

Provided that if no suitable candidate is available from amongst Senior Theology Teachers for promotion then the post shall be filled by promotion, on the basis of seniority-cum-fitness, from amongst Theology Teachers with at least five years service as such and having qualification mentioned in column No. 3;

(e) three per cent from amongst the Senior Qaris (BPS-16), with at least five years service as Senior Qari and Qari and having qualification mentioned in column No.3:

Provided that if no suitable candidate is available from amongst the Senior Qaris then the post shall be filled by promotion, on the basis of seniority-cum-fitness, from Qaris with at least five years service as such and having qualification mentioned in column No. 3;

(f) twenty per cent from amongst the Primary School Head Teachers (BPS-16), with at least seven years service as Primary School Head Teachers and Senior Primary School Teachers and Primary School Teachers and having qualification mentioned in column No. 3:

Provided that if no suitable candidate is available from amongst

ATTESTED

12

SECRETARY TO GOVERNMENT OF KHYBER PAKHTUNKHWA  
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT

**Endst : of even No & date:**

1. The Secretary to Government of Khyber Pakhtunkhwa, Establishment and Administration Department Peshawar.
2. The Secretary to Government of Khyber Pakhtunkhwa, Finance Department Peshawar.
3. The Secretary to Government of Khyber Pakhtunkhwa, Law Department Peshawar.
4. The Secretary Khyber Pakhtunkhwa, Public Service Commission Peshawar.
5. The Accountant General Khyber Pakhtunkhwa Peshawar.
6. The Director, Elementary and Secondary Education Department Khyber Pakhtunkhwa Peshawar.
7. The Director of Education (FATA) Peshawar.
8. The Director, Curriculum and Teacher Education Khyber Pakhtunkhwa Abbottabad.
9. The Director, (PITE) Khyber Pakhtunkhwa Peshawar.
10. The Director, ESRU Elementary and Secondary Education Department Khyber Pakhtunkhwa Peshawar.
11. Manager Government Printing Press Khyber Pakhtunkhwa Peshawar.
12. The Deputy Director, EMIS (S&SE) Department Khyber Pakhtunkhwa Peshawar.
13. All District Education Officer (M&F) in Khyber Pakhtunkhwa.
14. All District Account Officer in Khyber Pakhtunkhwa.
15. All Agency Education Officer in FATA
16. All Agency Account Officer in FATA.
17. PS to Governor Khyber Pakhtunkhwa. Peshawar.
18. PS to Chief Minister Khyber Pakhtunkhwa. Peshawar.
19. PS to Chief Secretary Khyber Pakhtunkhwa. Peshawar.
20. PS to Minister E&SE Khyber Pakhtunkhwa. Peshawar.
21. PS to Secretary E&SE Khyber Pakhtunkhwa. Peshawar.
22. Master file

ATTESTED

(ZAMIN KHAN MOMAND)  
SECTION OFFICER (PRIMARY)

PESHAWAR HIGH COURT BANNU BENCH

FOR OF ORDER SHEET

Date of order or other proceedings	Order or other proceedings with signature of judge(s)
(1)	(2)
28/01/2016	<p>W.P No. 73-B-2014, Present: Mr. Ali Jan Khan advocate for petitioner</p> <p><u>MUHAMMAD GHAZANFAR KHAN (J):-</u> The petitioner namely Mumtaz Khan S/O Guli Jan, through the instant Constitutional petition under Article 199 of the Constitution of Islamic Republic of Pakistan 1973, seeks issuance of directions to the respondents/department to consider him for promotion in the post of SST in BPS-16 in view of the Departmental Promotion Committee meeting held on 18.01.2014.</p> <p>2. We have heard learned counsel for the petitioner and gone through the available record of the case.</p> <p>3. Perusal of record transpires that the petitioner has passed BA in third division while as per Notification bearing No. SO(III)S/SSR(Y)III, dated 18.1.2011, the minimum qualifications for the post of SST (BPS-16) are <u>Second Class Bachelor's degree or MA in Education or Bachelor's Degree in Education</u>. The record further shows that the petitioner has also passed <u>M.Ed during the year 2000 in second division and M.A History and Pak Study during the session 2003 in second division</u> and M.A. History and Pak Study during the session 2003 in second division.</p> <p>4. In wake of the above, we direct the respondents to consider the petitioner for promotion to the post of SST (BPS-16) in the next Departmental Promotion Committee meeting on the basis of his degree in MA. History and Pak Study coupled with M.ED qualifications. The writ petition is disposed of in the above terms.</p> <p>ANNOUNCED 28.01.2016</p>

FORM OF ORDER SHEET

C-13

Date of order or other proceedings	Order or other proceedings with signature of Judge(s)
(1)	(2)
28/01/2016	<p>WP No.73-B-2014. Present: Mr. Ali Jan Khan advocate for petitioner.</p> <p><u>MUHAMMAD KHAZANQAR KHAN</u> J. The petitioner, namely, <u>Muniriz Khan</u> son of Gull Jan, through the instant Constitutional petition under Article 199 of the Constitution of Islamic Republic of Pakistan 1973, seeks issuance of directions to the respondents/department to consider him for promotion to the post of SST in BPS-16 in view of the Departmental Promotion Committee meeting held on 18-01-2014.</p> <p>2. We have heard learned counsel for the petitioner and gone through the available record of the case.</p> <p>3. Perusal of record transpires that the petitioner has passed BA in third division while as per certification bearing No. SC(P)M-5/2010 dated 18/1/2011, the minimum qualifications for the post of SST (BPS-16) are second class Bachelor's degree, or MA in Education or Bachelor's degree in Education. The</p>

ATTESTED  
JUDGE  
Peshawar High Court  
Bannu Bench

ATTESTED

~~scribble~~

14

record further shows that the petitioner has also passed M.Ed during the year 2000 in second division and M.A. History and Pak Study during the session 2003 in second division.

4. In wake of the above, we direct the respondents to consider the petitioner for promotion to the post of SST (BPS-16) in the next Departmental Promotion Committee meeting on the basis of his degree in MA History and Pak Study coupled with M.Ed qualifications. The writ petition is disposed of in the above terms.

Sd/-Karamullah Khan

ANNOUNCED  
28/01/2016.

Sd/-Muhammad Ghazanfar Khan

15/2/16

CERTIFIED TO BE TRUE COPY

15/2/16

Examiners  
Peshawar High Court Bannu Bench  
Authorized Under Article 37 of  
The Constitution of Pakistan Order 1973

ATTESTED

IN THE PESHAWAR HIGH COURT, ABBOTTABAD BENCH  
JUDICIAL DEPARTMENT

Writ Petition No. 1041-A/2015.

JUDGMENT

Date of hearing: 5-4-16  
Petitioner: Mohammad Baqi by Mr. Abdul Samad  
Respondents: C.A.S. by A.A.B. Abbottabad

\*\*\*\*\*

IKRAMULLAH KHAN, J.- Through the instant writ petition under Article 199 of the Islamic Republic of Pakistan, 1973 the petitioner seeks declaration to the effect that the act of respondent No.3 whereby the promotion notification dated 28.10.2014 was withdrawn vide impugned notification dated 24.04.2014 on the ground of having qualification of B.Sc. (3<sup>rd</sup> division) is illegal and without lawful authority and against the judgment of this court passed in W.P.No. 58-B of 2014.

2. In essence, the petitioner was initially appointed as Certified Teacher and, as per entitlement, later on promoted to the post of Senior Certified Teacher (BPS-16) vide notification dated 28.10.2014 whereafter the petitioner assumed the charge of the said post on 30.10.2014 and after performing his duties to the satisfaction of his competent authority, on 24.04.2015 respondent No.3 has passed the impugned notification and, as

certified to be a true copy  
*[Signature]*

**ATTESTED**

~~\_\_\_\_\_~~      J.C.

(16)

such, the promotion order of the petitioner was withdrawn on the ground of having B.Sc in third division.

3. Comments were called from respondent No.3, who filed the same, averring therein that though petitioner was promoted to the post of SST vide notification dated 28.10.2014 by respondent No.2 but on scrutinizing his qualification documents, it was found that petitioner was not eligible for promotion to the post of SST being B.Sc third divisioner, hence, his promotion order was de-notified by the Director Elementary and Secondary Education Khyber Pakhtunkhwa Peshawar and on the direction of Director the promotion order of the petitioner was withdrawn vide impugned notification dated 24.04.2015.

4. It has further been averred in the comments that promotion order of the petitioner was withdrawn on the ground of B.Sc third division and it was done in light of policy circulated vide Notification No.SO(PE)4-5 / SSRC / meeting / 2013 / teaching cadre dated 24.07.2014 according to which the method of recruitment of SST was specified with a first condition of at least second class BA / B.Sc from a recognized University on need basis with two relevant subjects along with second condition of MA Education or B.Ed from the recognized University. Further averred that it is the prerogative of the government to enhance, modify or alter the promotion

**ATTESTED**

[Signature]

(17)

criteria / policy for the civil servants and a civil servant is not supposed to be treated with a set of rules of his own choice.

5. In response to Para-6 of the petition, respondent No.3 averred in the comments that the judgment of this court was announced on 04.06.2015 whereas the withdrawal order of the petitioner was passed on 24.04.2015, prior to the announcement of the judgment.

6. The main contention of learned counsel for the petitioner is that this court has already declared the condition of having third division as null and void in its judgment dated 04.06.2015 and the case of the petitioner is on better footing for the reason that in the referred judgment the petitioner had not been appointed but so far as the case of the petitioner is concerned, he was duly promoted rather received its benefits from 28.10.2014 to 24.04.2015 and thus, the impugned order is illegal, without lawful authority and jurisdiction.

7. Admittedly, the petitioner was duly promoted to the post in question on 28.10.2014 after the departmental promotion committee evaluated his case / PERs.

8. Now the question for determination before this court would be that when the petitioner actually performed his duties on the promoted post and that too for six long months, then how the respondent No.3 could withdraw the earlier promotion order only on the pretext of having B.Sc third division.

Certified to be True Copy

ATTESTED



8. It appears from the record that a Division Bench of this had already declared the condition of having third division as null and void in its judgment dated 04.06.2015 which fact has also been affirmed by the respondent No.3 in his comments by stating that they were not aware of that judgment at the time of withdrawal of the impugned promotion of the petitioner and when the case of the present petitioner is at par with that of the petitioner therein, rather on better footing because the petitioner was not only promoted to the post in question but he performed his duties for six long months and received its benefits, the impugned notification passed by respondent No.3 is required to be set at naught.

18  
~~18~~

unlawful

9. It is also a well settled principle of law that once a benefit is granted to a civil servant, cannot be taken back from him and, if so, very stringent strong reasons are required for the same, which are not available in the case in hand, moreso, when the promotion order of the similarly placed teachers having B.Sc third division have not been so far withdrawn which is clearly violation of Article 25 of the Constitution of Pakistan.

Handwritten bracket and marks on the left margin.

10. For the reasons mentioned above, this petition is accepted and the impugned notification dated 24.04.2015 issued by respondent No.3, whereby the promotion order of the petitioner was withdrawn, is declared to be without lawful

Copy  
attested  
a9

Handwritten signature or mark at the bottom right.

~~230~~

F-1

19

authority and, as such, the promotion notification dated 28.10.2014 is hereby restored.

Announced:  
05.04.2016.

Sd/- Judge,  
Sd/- Judge,

/s/ Snif\*/

**ATTESTED**  
9

Certified to be true  
E. J. ...  
24

BETTER COPY OF PAGE- 20

GOVERNMENT OF KHYBER PAKHTUNKHWA  
ESTABLISHMENT DEPARTMENT  
Dated Peshawar the December, 15 of 2011

NOTIFICATION

No. SOE-II (ED) 2(14)2011:-In exercise of the powers conferred by Section 26 of the Khyber Pakhtunkhwa Civil Servants Act, 1973 (Khyber Pakhtunkhwa Act No.XVIII of 1973), the Chief MINISTER OF THE Khyber Pakhtunkhwa is pleased to direct that in the Khyber Pakhtunkhwa Provincial Management Service Rules 2007, the following further amendment, shall be made, namely:

AMENDMENT

In Schedule-I, against Sr. No.1, in Column No.3, the full stop appearing at the end shall be replaced by colon and thereafter that following proviso shall be added, namely:

“Provided that a candidate who has obtained a 3<sup>rd</sup> Division or D-Grade in Bachelor’s Degree will be eligible for the examination in cases where he/she has obtained a higher Division in Master’s Degree”.

CHIEF SECRETARY  
KHYBER PAKHTUNKHWA

To,

The Secretary,  
E&SE Department,  
Khyber Pakhtunkhwa, Peshawar

E-20

Subject: **DEPARTMENTAL APPEAL AGAINST THE INACTION OF THE RESPONDENTS BY NOT CONSIDERING THE APPELLANT FOR PROMOTION TO THE POST OF SST (BPS-16) ON THE BASIS OF HAVING BACHELOR DEGREE IN 3<sup>RD</sup> DIVISION AND AGAINST THE SERVICE RULES NOTIFIED ON 24.07.2014 WHEREBY THE CONDITION OF BACHELOR 2<sup>ND</sup> DIVISION HAS BEEN INSERTED IN SERIAL NO.1B, COLUMN NO.3(i) OF THE TABLE.**

Respected Sir,

With due respect it is stated that I was initially appointed as Primary School Teacher in the respondent Department and right from my 1<sup>st</sup> appointment I am performing my duties quite efficiently and upto the entire satisfaction of his superiors. I have the higher qualification of Master in Education in second Division but the authorities issued the impugned Notification dated 24.07.2014 whereby the post of SST was restricted and 20% promotion quota to the aforementioned post was reserved for Primary School Teachers. That according to the said Notification required qualification for initial recruitment as well as promotion was mentioned as second class bachelor degree. That the concerned authority denied promotion of my some colleagues to the post of SST due to having third class bachelor degree. They were feeling aggrieved filed writ petitions which were allowed in favor of petitioners vide judgment dated 05.04.2016 and 28.01.2016 and consequently they were promoted to the post of SST. That I was also denied promotion due to having third class bachelor degree despite the fact that I am having second division in higher qualification of Master in education. That being a similar placed employee approached the concerned authority to extend the same benefit of the above mentioned judgments but in vain. That the establishment Department issued a Notification dated 15.12.2011 whereby amendment has been made in PMS rules 2007 by providing that a candidate who has obtain 3<sup>rd</sup> division in bachelor degree will be eligible for the examination in cases where he/she has obtained a higher division in Master's degree. That feeling aggrieved from the inaction of the concerned authority by not considering me for promotion to the post of SST (BPS-16) filed the instant Departmental appeal before your good self.

It is therefore, most humbly prayed that on acceptance of this Department appeal I may very kindly be considered for promotion to the post of SST (BPS-16) from the date when my colleagues and junior colleagues were promoted with all consequential benefits including seniority. Any other remedy which your good self deems fit that may also be awarded in my favor.

Dated: 21.04.2020

APPLICANT  
WISAL MUHAMMAD, SCT (BPS-16),  
GHS Badar Banda, District Mardan



GOVERNMENT OF KHYBER PAKHTUNKHWA  
ESTABLISHMENT DEPARTMENT



Dated Peshawar the December, 15, 2011

~~ANNEX~~ (S)

F - 21

NOTIFICATION

No. SOE:II (ED) 3(14)/2011.- In exercise of the powers conferred by Section 26 of the Khyber Pakhtunkhwa Civil Servants Act, 1973 (Khyber Pakhtunkhwa Act No. XVIII of 1973), the Chief Minister of the Khyber Pakhtunkhwa is pleased to direct that in the Khyber Pakhtunkhwa Provincial Management Service Rules, 2007, the following further amendment, shall be made, namely:

AMENDMENT

In Schedule-I, against Sr. No.1, in Column No. 3, the full-stop appearing at the end shall be replaced by colon and thereafter the following proviso shall be added, namely:

"Provided that a candidate who has obtained a 3rd Division or D-Grade in Bachelor's Degree will be eligible for the examination in cases where he/she has obtained a higher Division in Master's Degree."

CHIEF SECRETARY  
KHYBER PAKHTUNKHWA

Encls. No. & date even

Copy of the above is forwarded for-

1. Additional Chief Secretary, Khyber Pakhtunkhwa.
2. Secretary to Governor, Khyber Pakhtunkhwa.
3. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
4. Senior Member Board of Revenue, Khyber Pakhtunkhwa.
5. All Administrative Secretaries, Khyber Pakhtunkhwa.
6. Secretary (Administration & Coordination) Civil Secretariat PATA.
7. Chairman, Khyber Pakhtunkhwa Public Service Commission.
8. Accountant General, Khyber Pakhtunkhwa, Peshawar.
9. Director, STI, I&A Department.
10. Secretary Khyber Pakhtunkhwa Public Service Commission.
11. PS to Chief Secretary, Khyber Pakhtunkhwa.
12. PS to Secretary Establishment.
13. PA to Additional Secretary (Estt)/Deputy Secretary (Estt) Establishment Department.
14. Office order file.

*(Signature)*

(BARYAL KAZIM)  
SECTION OFFICER (E.II)

COMPLIANCE

**ATTESTED**

*(Signature)*

**ATTESTED**

*(Signature)*

**VAKALATNAMA**

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

\_\_\_\_\_ OF 2020

Wisal Muhammad

(APPELLANT)  
(PLAINTIFF)  
(PETITIONER)

**VERSUS**

Education Deptt:

(RESPONDENT)  
(DEFENDANT)

I/We Wisal Muhammad

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. \_\_\_\_/\_\_\_\_/2020

Wisal Muhammad  
CLIENT

ACCEPTED

NOOR MOHAMMAD KHATTAK

KAMRAN KHAN

MIR ZAMAN SAFI

&

AFRASIAB KHAN WAZIR  
ADVOCATES

OFFICE:  
Flat No.4, 2<sup>nd</sup> Floor, Juma Khan  
Plaza, near FATA Secretariat,  
Warsak Road, Peshawar.  
Mobile No.0345-9383141

Afrasiab Khan Wazir  
Cell No. 2

30/9/2021

**BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR**

Service Appeal No.8647/2020

Mr. Wisal Muhammad ,SCT (BPS-15)GHS Badar Banda, District , Mardan.

(Appellant)

Versus

The Secretary Elementary & Secondary Education, KPK, Peshawar & Others.

(Respondents)

**INDEX**

S.NO	DESCRIPTION OF DOCUMENTS	ANNEXURE	PAGES	
1.	Para wise comments along with affidavit		01	05

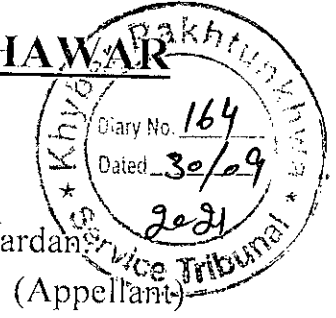
Respondents No 5

*Dr. M*  
District Education Officer  
(Male) Mardan

11/11  
05/04/2021

**BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR**

Service Appeal No.8647/2020



Mr. Wisal Muhammad ,SCT (BPS-15)GHS Badar Banda, District , Mardan

(Appellant)

Versus

The Secretary Elementary & Secondary Education, KPK, Peshawar & Others.

(Respondents)

**Para Wise Comments on Behalf of Respondents No 1 to 5.**

Sheweth, Respectfully

**PRELIMINARY OBJECTIONS:**

1. That the appellant has got no cause of action as well as locus standi to file the instant appeal.
2. That the instant appeal is badly time barred.
3. That the appellant has not come to this honorable Tribunal with clean hands.
4. That the appellant has concealed the material facts from this Hon'ble Tribunal hence liable to be dismissed.
5. That the instant appeal is against the prevailing law and rules.
6. That the Notification had been issued since 2014, while the departmental appeal has filed dated 19-03-2020, the instant appeal is Time barred. and the appeal is liable to be dismissed.
7. That the appellant has been treated as per law & rules.
8. That the answering respondent being responsible government officers acted in accordance law and rules.

**FACT:**

1. Para No. 1 pertains to record, hence need no comments.
2. Para No. 2 pertains to record, hence need no comments.
3. Para No.3 is incorrect, baseless and against facts as the fact is not based on the sound reason as the appellant was inducted in the department as SCT as well as the appellant seeks promotion to the higher rank i.e SST by challenging the Notification vide dated 24.07.2014 which is not the prerogative of the appellant as the notification was general and could not be modified for an individual and since its publication is intact till to date, hence denied.



4. Para No.4 is incorrect, as each and every case have their own merits. The appellant has relied upon the judgment dated 28.01.2016 which is self-explanatory as the Peshawar High court Peshawar Bannu Bench issued gracious direction for considering the petitioner for promotion but does not disclosed the fact that the petitioner must be promoted. The judgment is identical to the instant appeal, hence denied.
5. Para No.5 is incorrect, as the respondent being a responsible Govt officers acted in accordance with law and there is no specification mentioned in the notification which seeks that any incumbent having 2<sup>nd</sup> division Bachelor Degree holder would be consider on the basis of higher degree i.e. Master for promotion, hence denied.
6. Para No.6 is needed to be proceed, hence denied.
7. Para No.7 is incorrect as the appellant intents to mislead the Hon, able KPK, Service Tribunal Peshawar on the basis of the amendments which is denotes/pertains only to the **Management cadre**, and the appellant having **Teaching Cadre**, hence denied.
8. Para No 8 incorrect, hence denied

## GROUNDS

- A. Para A is incorrect, baseless and against facts as the fact is not based on the sound reason as the appellant was inducted on the department as PST as well as the appellant seeks promotion to the higher rank i.e SST by challenging the Notification vide dated 24.07.2014 which is not the purgatives of the appellant as the notification was general and could not be modified for an individual and since its publication is intact till to date, hence denied.
- B. Para B is incorrect the appellant has been treated in accordance with law and rules. The respondents Department have not violated Article 4 & 25 of the Constitution of Islamic Republic of Pakistan 1973, hence denied.
- C. Para C is incorrect the appellant did not produce any cogent fact before the respondents Department for his entitlement as the consistency is concerned the appellant does not comes under the


domain of consistency as well as by citing the different judgments in the appeal is bad in the eye of law. As per the Notification for the post of SST, the required qualification is Second (2<sup>nd</sup>) Division bachelor degree, hence denied.

D. Para D is incorrect, as the appellant intends to mislead the Hon, able KPK, Service Tribunal Peshawar on the basis of the amendments which is denotes/pertains only to the **Management cadre**, and the appellant having **Teaching Cadre**, hence denied.

E. Para E is incorrect, as the respondents Department has acted in accordance with law, and the appellant has not fulfilled the required qualification which is mention in the Notification, hence denied.

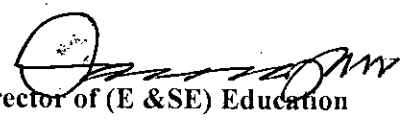
F. That the respondents also seek permission of this Hon' able Tribunal to additional ground at the time of arguments.

It is therefore humble prayed that on acceptance of this reply and the instant appeal may kindly be dismissed with cost.

  
District Education Officer

(Male) Mardan

(Respondent No. 5)

  
Director of (E & SE) Education

KPK, Peshawar

(Respondent No.4)

  
Secretary of Finance Department

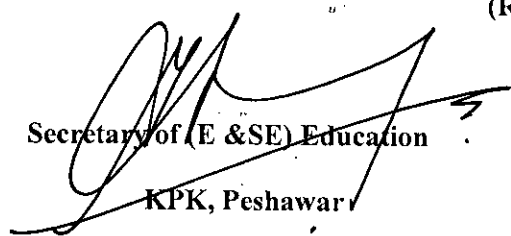
KPK, Peshawar

(Respondent No. 3)

  
Secretary of Establishment

Department KPK, Peshawar

(Respondent No.2)

  
Secretary of (E & SE) Education

KPK, Peshawar

(Respondent No. 1)

**BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR**

Service Appeal No.8647/2020

Mr. Wisal Muhammad ,SCT (BPS-15)GHS Badar Banda, District , Mardan.

(Appellant)

Versus

The Secretary Elementary & Secondary Education, KPK, Peshawar & Others.

(Respondents)

**AFFIDAVIT**

I, Mr Sajid Khan Litigation Officer Education Department Mardan do hereby solemnly affirm and declare that the contents of Para Wise Comments submitted by on behalf of Answering Respondents are true to the best of my knowledge and belief and nothing has been concealed from this Honorable Tribunal.


Deponent

  
Sajid Khan

16101-6005318-5

**ATTESTED**



  
30-9-2021