

11.10.2022

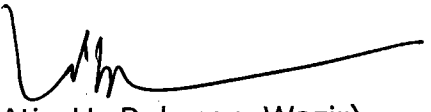
Junior to counsel for the appellant present. Mr. Muhammad Adeel Butt, Additional AG for respondents present.

File to come up alongwith connected Service Appeal No. 2375/2021 titled "Ikram Ullah Vs. Government of Khyber Pakhtunkhwa" on 16.11.2022 before S.B.


(Fareeha Paul)
Member (E)

12.01.2022

Learned counsel for the appellant present and submitted application for the grant of permission to deposit security & process fee. Application is allowed and learned counsel for the appellant is directed to deposit security & process fee within 03 working days. Thereafter, notice be issue to respondents for submission of reply/comments before the S.B on 15.03.2022


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

15.03.2022

Due to retirement of the Worthy Chairman, case is adjourned to 07.06.2022 for the same as before.


Reader

07.06.2022


Appellant Deposited
Security & Process Fee

Clerk to counsel for the appellant present.

File to come up alongwith connected Service Appeal No.2375/2021 titled Ikram Ullah Vs. Government of Khyber Pakhtunkhwa on 25.07.2022 before S.B.


(Rozina Rehman)
Member (J)

25.07.2022

Appellant present through counsel.

Kabir Ullah Khattak, learned Additional Advocate General for respondents present.

File to come up alongwith connected Service Appeal No.2375/2021 titled "Ikram Ullah Vs. Government of Khyber Pakhtunkhwa" on 11.10.2022 before S.B.

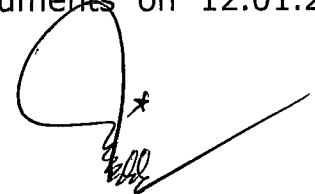

(Rozina Rehman)
Member (J)

05.10.2021

Mr. Noor Muhammad Khattak, Advocate, for the appellant present. Preliminary arguments heard.

Learned counsel for the appellant, in the instant service appeal, has challenged and assailed the impugned Service Rules of the respondent-department dated 24.07.2014 and 24.04.2018 whereby no quota has been specifically allocated for appellant's cadre i.e PST (IT). On non-action/response on his departmental appeal, the appellant approached Peshawar High Court in Writ Petition No. 596-P/2019 which was dismissed in limine on the ground of being wrong forum, vide order dated 03.09.2020. The appellant thereafter preferred departmental appeal on 20.10.2020 which was not responded within the stipulated statutory period hence the instant service appeal submitted in the Service Tribunal on 08.02.2021. On the question of limitation and maintainability, learned counsel for the appellant relied on the admission of an earlier Service Appeal No. 12230/2020 titled Fazal Hayat Versus Education Department etc. Moreover, judgement of the Larger Bench delivered by this Tribunal on 14.01.2021 in Service Appeal No. 868/2019 titled Iftikhar Khan Versus Government of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar and three other respondents, was quoted through which the question of Service Rules and admissibility of service appeal against impugned Service Rules has been discussed at length and decided accordingly.

Points raised need consideration. The appeal is admitted to regular hearing subject to all legal objections including time limitation. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments in office within 10 days after receipt of notices, positively. If the written reply/comments are not submitted within the stipulated time, the office shall submit the file with a report of non-compliance. File to come up for arguments on 12.01.2022 before the D.B.



(MIAN MUHAMMAD)
MEMBER (EXECUTIVE)

23.07.2021

Junior to counsel for the appellant present and seeks adjournment due to non-availability of learned senior counsel for the appellant. Request accorded.

Case to come up for preliminary hearing on 05.10.2021 before S.B.

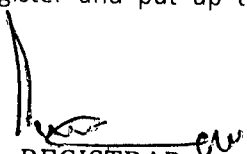




Chairman

Form- A

FORM OF ORDER SHEET

Court of _____

Case No. - 2392 /2021

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	08/02/2021	<p>The appeal 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</p>
2-		<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>12/4/21</u></p> <p style="text-align: right;"> CHAIRMAN</p>
	12.04.2021	<p>Due to demise of the Worthy Chairman, the Tribunal is non-functional, therefore, case is adjourned to 20.07.2021 for the same as before.</p> <p style="text-align: right;"> Reader</p>
	20.07.2021	<p>As 20th July, 2021 has been declared public holiday on account of Eid ul Azha, therefore, case is adjourned to 23.07.2021 for the same as before.</p> <p style="text-align: right;"> Reader</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. 2392/2021

MUHAMMAD SALEEM

VS

EDUCATION DEPTT

INDEX

S.NO	DOCUMENTS	ANNEXURES	PAGES
1	Memo of Appeal	1-4
2	Stay Application	5
3	Appointment order	A	6-7
4	Educational Testimonials	B	8-12
5	Notification Dated 24-07-2014	C	13-19
6	Notification Dated 24-04-2018	D	20-28
7	Judgment Dated 03-09-2020	E	29-32
8	Departmental Appeal	F	33
9	Vakalatnama	34

APPELLANT

THROUGH:

NOOR MOHAMMAD KHATTAK

OFFICE: Flat No.4, 2nd Floor,
Juma Khan Plaza,
Near FATA Secretariat,
Warsak Road, Peshawar.
0345-9383141.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. _____/2021

Mr. Muhammad Saleem, PST (BPS-12),
GPS Wazir Abad, dargai, District Malakand.

..... **APPELLANT**

VERSUS

- 1- The Government of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
- 2- The Secretary Finance Department, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
- 3- The Secretary Establishment Department, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
- 4- The Secretary, E&S Education Department, Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
- 5- The Director, E&S Education, Khyber Pakhtunkhwa, Peshawar.

.....**RESPONDENTS**

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED SERVICE RULES NOTIFIED ON 24-7-2014 WHEREBY NOT INCLUDING THE SUBJECT OF COMPUTER SCIENCE IN THE ELIGIBILITY CRITERIA FOR PROMOTION OF DM's TO THE POST OF SST (BPS-16) AND AGAINST THE SERVICE RULES NOTIFIED ON 24-4-2018 TO THE EXTENT OF S. NO. 2 COLUMN NO.5 OF THE TABLE WHEREBY NO QUOTA HAS BEEN ALLOCATED FOR APPELLANT CADRE i.e. 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 impugned service rules Notified on 24-07-2014 may kindly be amended/ modified to the extent of serial No. 1B column No.3 of the table by including/ inserting the computer science subject of the appellant in column No. 3 and the impugned service rules dated 24-04-2018 may kindly be amended/ modified to the extent of Serial No. 2 in column No.5 of the table by allocating promotion quota for the appellant's cadre i.e. PST and the respondents may further please be directed to consider the appellant for promotion to the posts of SST (BPS-16) or SST(IT) with all back benefits. Any other remedy which this august Service Tribunal deems fit that may also be awarded in favor of the appellant.



R/SHEWETH:

ON FACTS:

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

- 1- That the appellant was appointed as PST in the respondent No.5 Department and is serving the Department quite efficiently and up to the entire satisfaction of his superiors. Copy of the appointment order is attached as annexure..... **A.**
- 2- That it is pertinent to mention here that appellant qualification is B.Sc. in Computer Science and was appointed/ selected on this qualification in the respondent No.5 department. Copies of the educational testimonial are attached as annexure.....**B.**
- 3- That it is important to mention here that the respondents framed service structure/ rules of the different teaching cadres vide notification dated 24-07-2014, wherein Serial No. 1B the post has been mentioned as SST (BPS-16) for which the qualification and eligibility has been mentioned in column No.3 i.e. by including all subjects except the subject of appellant i.e. Computer science subject. Copy of the notification dated 24-07-2014 is attached as annexure **C.**
- 4- That it is further to mention here that the respondents vide notification dated 24-04-2018 notified service structure/ rules for the different cadres of Information technology including the post of Secondary School Teacher- Information Technology SST (BPS-16) on Serial No.2 and in column No.5 of the table wherein eligibility for promotion to the post of SST-IT was mentioned as follows:
 - a) **Fifty percent by promotion on the basis of seniority-cum-fitness from amongst the Certified Teacher-IT with five years service as such and having the qualification prescribed for the post of Secondary School Teacher -IT.**
 - b) **Fifty percent by initial recruitment.**
- But in the said Rules again the cadre of the appellant has been ignored i.e. PST Computer Science. Copy of the notification dated 24-04-2018 is attached as annexure..... **D.**
- 5- That where after Colleague of the appellant preferred a writ petition No. 596-P/2019 before the August Peshawar High Court, Peshawar and the same was dismissed as not maintainable and

was directed that he may seek his remedy from proper forum i.e. Khyber Pakhtunkhwa Service Tribunal Peshawar vide judgment dated 03-09-2020. Copy of the judgment dated 03-09-2020 is attached as annexure..... **E.**

- 6- That appellant felling aggrieved from both of the notifications mention above had preferred a departmental appeal/ representation. Copy of the departmental appeal is attached as annexure.....**F.**
- 7- That having no other remedy the appellant preferred the instant appeal on the following grounds amongst others.

GROUND:

- A- That the by not including the subject of computer science in the impugned service rules dated 24-07-2014 and not allocating the quota for appellant cadre i.e. PST (Computer Science) in the impugned service rules dated 24-04-2018 is against the law, facts, norms of natural justice and materials on the record hence not tenable and liable to be modified/ rectified to the extent that subject of computer science in the eligibility criteria in the service rules dated 24-07-2014 may be included and the quota of the appellant cadre be allocated in the service rules dated 24-04-2018.
- 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 said service rules dated 24.7.2014 and 24.4.2018 are violative of Section-9 of the Civil Servant Act, 1973 read with Rule-7 of the Appointment, Promotion and Transfer Rules, 1989.
- D- That the respondents acted in arbitrary and mala fide manner while issuing the impugned service rules dated 24-07-2014 and dated 24-04-2018 by not including the subject of computer science and not allocating the promotion quota for the cadre of appellant quota.
- E- That the act and action of the respondents is discriminatory, therefore not tenable and liable to be modified/ rectified.
- F- 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 service of Pakistan.
- G- 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: 01.02.2021.

APPELLANT

M. GS
MUHAMMAD SALEEM

THOROUGH:

NK
NOOR MOHAMMAD KHATTAK

Kamran
KAMRAN KHAN

Shahz
SHAHZULLAH YOUSAFZAI

&

Ab
AFRASIAB KHAN WAZIR
ADVOCATES

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. _____/2021

MUHAMMAD SALEEM

VS

EDUCATION DEPTT:

APPLICATION FOR RESTRAINING THE RESPONDENTS
NOT TO FILL UP THE SECONDARY SCHOOL TEACHER
(BPS-16) POSTS FROM PROMOTION QUOTA TILL THE
FINAL DISPOSAL OF THE INSTANT APPEAL

R.SHEWETH:

1. That, the appellant has filed the above titled service appeal before this Honorable Tribunal in which no date has so far been fixed.
2. That, appellant filed the above mentioned service appeal against the impugned service rules dated 24.7.2014 & 24.4.2018 whereby no promotion quota has been allocated for PST Cadre.
3. That, all the three ingredients required for grant of stay are in favor of the appellant.
4. That, any other ground would be taken at the time of arguments with prior permission of this Honorable Tribunal.

It is therefore, most humbly prayed that on acceptance of this application the respondents may kindly be restrained not to fill up the posts of SST (BPS-16) & SST (I.T) from promotion quota till the disposal of the instant service appeal.

APPELLANT

MUHAMMAD SALEEM

THROUGH:

NOOR MOHAMMAD KHATTAK

ADVOCATE,

High Court Peshawar

Annexure "A" 6

Appointment Order PST (M) BPS-12 Adhoc school based contract



District Education Officer (M) Malakand at Batkhela

APPOINTMENT.

C

onsequent upon recommendation of the Departmental Selection Committee,

appointment of the following candidates are hereby ordered against the post of Primary School Teacher (PST), School based in BPS-12 (Rs.7000-500-22000) plus usual allowances as admissible under the rules on adhoc based contract under the existing policy of the Provincial Government, in Schools noted below on the terms and condition given below with effect from the date of their taking over charge:-

S. No.	NAME	FATHER'S NAME	DOMICILE	PERMANENT ADDRESS	PLACE OF POSTING
1	ALI SARDAR	Wazir Zada	Malakand	Muna Shah (Kot)	GPS Asghar Shah
2	GHAUS UR REHMAN	Najcem Khan	Malakand	Muna Shah (Kot)	GPS No.1 Kot
3	MUHAMMAD IBRAR	Nek Muhammad	Malakand	Sarkai Bala Sakhakot	GPS Alifey Kaley
4	MUHAMMAD NAEEM	Zairullah Khan	Malakand	Pitaw Sakhakot	GPS Latifey Kaley
5	KASHIF AHMAD	Muakamil Shah	Malakand	Haryan Kot	GPS Nasimullah Kaley
6	MUHAMMAD NAQEEB	Wali Muhammad	Malakand	Sindano PO Ghani Dheri	GPS Kachi Kopar
7	JEHANGIR	Ali Muhammad	Malakand	Sindano UC Badraga	GPS Hasan Abad
8	BACHA RAHIM	Fazal Rahim	Malakand	Head Works Batkhela	GPS Upper Batkhela
9	ABDULLAH	Rahman Ullah	Malakand	Gumbad Bala Batkhela	GPS Charkotlai
10	IMRAN KHAN	Hussain Shah	Malakand	Muh:Sada Bahar Btk:	GPS No.2 Btk
11	AJMAL KHAN	Ziarat Gul	Malakand	Kiro Godar, GU Khel	GPS Ghamgin Abad
12	MUHAMMAD SALEEM	Muhammad Ishaq	Malakand	Wazir Abad Dargai	GPS Mian Kaley
13	NOOR REHMAN	Momin Rahman	Malakand	Vill:&PO Dargai	GPS Jaban
14	ATTA UR RAHMAN	Dawa Khan	Malakand	Vill:&PO Dargai	GPS Jaban
15	ABDUL KAMAL	Said Kamal	Malakand	Shahid Abad Dargai	GPS Jaban
16	ISRAR MUHAMMAD	Qadar Gul	Malakand	Vill:&PO Dargai	GPS Gul Muqam
17	SABIR HUSSAIN	Muhabat Shah	Malakand	Vill:&PO Dargai	GPS Gul Muqam
18	ABDUL ALI	Fazal Rahim	Malakand	Muslim Abad Dargai	GPS Dargai Patak
19	MUHAMMAD ILYAS KHAN	Shams ud Din	Malakand	Banda Agra.	GPS Mondai
20	ARSHAD KHAN	Khan Gul	Malakand	Qadam Khela PO Dargai	GPS Dubandai Banda
21	NASEEB KHAN	Rasool Khan	Malakand	Wartair Tehsil Dargai	GPS Soor Bat
22	WASEEM SAJJAD	Yousaf Shah	Malakand	Pirkhel Tehsil Batkhela	GPS Mainagah
23	SHAH FAISAL	Sheheryar	Malakand	Gat Koto PO Jalala	GPS Dir Colony (Thana)

RECEIVED

(7)

24	MUHAMMAD BILAL	Khalil Ur Rahaman	Malakand	Sherkhana Palai	GPS Wacha Dara
25	ABDUR RASHID	Fida Muhammad	Malakand	Vill:Silai Patin PO Kot	GPS Pitaw Naranji
26	SAYED SAJID ALI SHAH.	Said Ali Shah	Malakand	Piran PO Malakand	GMP\$ Banjo Degai
27	TUFAIL AHMAD	Said Muhammad	Malakand	Levy Line Malakand.	GMP\$ Kulyar
28	Mutawkil Khan	Faqir Shah	Malakand	Vill;Silai Patin PO Kot	GPS Khanori Sar

TERMS & CONDIATION.

1. NO TA/DA etc is allowed.
2. Charge reports should be submitted to all concerned in duplicate.
3. Appointment is purely on temporary basis initially for one year.
4. They should not be handed over charge if they exceeds 35 years or below 18 years of age.
5. Appointment is subject to the condition that the certificates/documents must be verified from the concerned authorities by the DEO (M). Any one found producing bogus Certificate will be reported to the law enforcing agencies for further action.
6. Their services are liable to termination on one month's notice from either side. In case of resignation without notice their one-month pay/allowances shall be forfeited to the Government.
7. Pay will not be drawn until and unless a certificate to the effect by DEO(M) is issued that their certificates are verified
8. They should join their post within 10 days of the issuance of this notification. In case of failure to join their post within 10 days of the issuance of this notification, their appointment will expire automatically and no subsequent appeal etc shall be entertained.
9. Health and Age Certificate should be produced from the Medical Superintendent concerned before taking over charge.
10. Before handing over charge they will sign an agreement with the department, otherwise this order will not be valid.
11. They will be governed by such rules and regulations as may be issued from time to time by the Govt.
12. Their services shall be terminated at any time, in case their performance are found unsatisfactory during their contract period. In case of misconduct, they shall be preceded under the rules framed from time to time.
13. Their appointments are made on School based, they will have to serve at the place of posting, and their services are not transferable to any other station.
14. Before handing over charge once again their document may be checked if they have not the required qualifications they may not be handed over charge.
15. The candidate who had appointed against those vacant posts of which sanction is still awaited will take over charge as if sanctioned from the Finance Department.

(SYED MANZAR JAN SAJID)
DISTRICT EDUCATION OFFICER,
(MALE) MALAKAND AT BATKHELA.

Endst: No. 1507-1571 /

Dated Malakand the 4-03-2015 /

Copy forwarded for information and necessary action to the: -

1. Director E&SE Khyber Pakhtunkhwa Peshawar.
2. District Accounts Officer Malakand.
3. Sub-Divisional Education Officer (M) Swat Ranizai at Batkhela.
4. Sub-Divisional Education Officer (M) Sama Ranizai at Dargai.
5. B & AO Local Office.
6. Assistant Programmer, DEMIS(M) Local Office.
7. Head Teachers/ Teachers concerned.
8. M/File.

DISTRICT EDUCATION OFFICER,
(MALE) MALAKAND AT BATKHELA.

ATTESTED

S. No. 1254

Roll No 13071



Board of Intermediate & Secondary Education, Malakand at Chakdara, NWFP, Pakistan

Secondary School Certificate Examination

Enrol No: 1110510166498

Session 2005 (Supply)

Group Science

This is to certify that MUHAMMAD SALEEM
Son of MUHAMMAD ISHAQ
and a resident of MALAKAND AGENCY

He has passed the Secondary School Certificate Examination of the Board of Intermediate and Secondary Education, Malakand held in September, 2005 as a Private Candidate. He obtained 698 Marks out of 1050 and has been placed in Grade B Representing Very good

The candidate passed in the following subjects.

- | | | | | |
|------------|--------------|----------------------|---------------------|----------|
| 1. English | 2. Urdu | 3. Islamic Education | 4. Pakistan Studies | 5. Maths |
| 6. Physics | 7. Chemistry | 8. Biology | | |

Date of birth according to admission form is: Twenty-Fifth January Nineteen Eighty-Nine (25-Jan-89)

Issue Date: 01 FEB 2008

Subdt.

Secretary

This certificate is issued without alteration or encasure.

ATTACHED

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

S:No 515

9

F.Sc

Board of Intermediate & Secondary Education, Malakand at Chakdara, AWP, Pakistan



Higher Secondary School Certificate Examination

Marks Improved

Pre-Engineering Group
Session 2008 (Annual)

Roll No 35750

This is to certify that MUHAMMAD SALEEM
Son of MUHAMMAD ISHAQ
and a resident of MALAKAND AGENCY
registered no 48797-B/MKD-2006 has passed the Higher Secondary School Certificate Examination
of the Board of Intermediate and Secondary Education, Malakand held in May, 2008
as a Private Candidate. He obtained 627 Marks out of 1100 and has been placed in Grade C

Representing Good. The examination was taken as a whole

Issue Date: 31 DEC 2009

[Signature]
Supdt.
[Signature]

This certificate is issued without alteration or erasure.

[Signature]
Secretary

ATTESTED

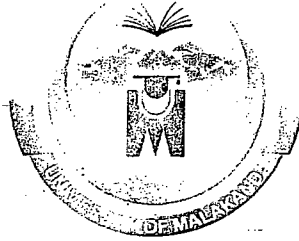
UNIVERSITY OF MALAKAND
PAKISTAN

Serial No. 018471

10



B.Sc
Degree



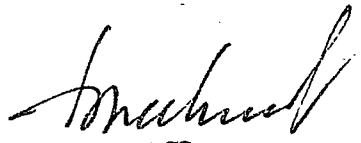
Session 2008-2010

MUHAMMAD SALEEM Son of MUHAMMAD ISHAQ Registration No. 2008540006 Student of Govt. Degree
College Dargai Malakand Agency having passed the prescribed examination held in Jun-Jul, 2010 under Roll
No. 31436 is admitted by the University of Malakand to the degree of

Bachelor of Science

in Second Division

The examination was taken as a whole.

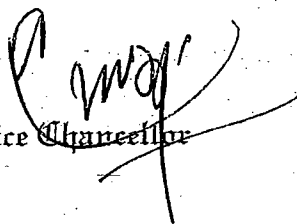

Controller of Examinations

ATTESTED

Result Declared on 31-Aug-2010

Issuance Date 12-Dec-2013

Countersigned


Vice Chancellor

(11)

Alama Iqbal Open University Islamabad



Serial No. 219856

B.Ed

Certified that Mr. / Ms.

MUHAMMAD SALEEM

Son / Daughter of

MUHAMMAD ISHAQ

Registration No:

06NMD0510

Roll No:

AR657062

having successfully completed the prescribed requirements

in semester

SPRING 2013

is awarded the degree of

Bachelor of Education (B.Ed)

He / She has secured 71 % marks and has been placed in A grade.

[Signature]
CONTROLLER OF EXAMINATIONS

[Signature]

[Signature]



VICE-CHANCELLOR

Result declared on: **December 26, 2013**

Date of Issue: **May 08, 2015**

[Signature]

ATTACHED

NOTE: THIS DEGREE IS TO BE READ IN CONJUNCTION WITH THE TRANSCRIPT/PROVISIONAL CERTIFICATE ISSUED SEPARATELY

12
Allama Iqbal Open University
Islamabad



M. Ed

Serial No. 50914

Certified that Mr. / Ms. MUHAMMAD SALEEM

Son / Daughter of MUHAMMAD ISHAQ

Registration No: 06NMD0510

Roll No: AY630571

having successfully completed the prescribed requirements

in semester AUTUMN 2015 is awarded the degree of

Master of Education (M. Ed.)

He / She has secured 63 % marks and has been placed in B grade.

M. Ed

CONTROLLER OF EXAMINATIONS
[Signature]



VICE-CHANCELLOR

Result declared on: October 10, 2016

Date of Issue: February 01, 2017

ATTESTED

NOTE: THIS DEGREE IS TO BE READ IN CONJUNCTION WITH THE TRANSCRIPT/PROVISIONAL CERTIFICATE ISSUED SEPARATELY



GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT

Peshawar, dated the 24th 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 MA 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. Note: If no suitable candidate is available in the relevant subject the post falling in their promotion quota shall be filled by initial

14

14

	<p>1A Director Physical Education (BPS-17)</p>	<p>At least second class Master's Degree in Physical Education from a recognized University.</p>	<p>22-35 years</p>	<p>recruitment; and (b) fifty percent by initial recruitment.</p> <p>(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:</p> <p>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;</p> <p>Note:- 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</p> <p>(b) fifty percent by initial recruitment"; and</p>
--	--	--	--------------------	---

ATTESTED

[Signature]

15

18

(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. At least second class Bachelor Degree's from a recognized University on need basis from the following groups with two subject</p> <p>(a) (Chemistry, Botany or Zoology), Or (b) (Physics, Maths "A" or "B" or Statistics) Or C.S.</p> <p>(c) (Humanities and other equivalent groups at degree level with English as compulsory subject;</p> <p>and</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>

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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:

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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

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Primary School Head Teachers for promotion then the post shall be filled by promotion, on the basis of seniority-cum-fitness, from amongst Senior Primary School Teachers with at least seven years service as Senior Primary School Teachers and Primary School Teachers and having qualification mentioned in column No.3:

Provided further that if no suitable candidate is available from amongst Senior Primary School Teachers for promotion then the post shall be filled from amongst Primary School Teachers with at least seven years service as such and having qualification mentioned in column No. 3; and

(ii) twenty Five percent by initial recruitment.

Note:

- I. If no suitable candidate is available in the relevant cadre of the above teachers, the post falling in their promotion quota shall be filled by initial recruitment.
- II. Posts of General SST and SSTs-1 Science and SST-2 Science shall be filled by promotion or initial recruitment, each on need basis separately."

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SECRETARY TO GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT

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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

(ZAMIN KHAN MOMAND)
SECTION OFFICER (PRIMARY)

(7)

EXTRAORDINARY
GOVERNMENTREGISTERED NO. PIII
G A Z E T T E**KHYBER PAKHTUNKHWA**

Published by Authority

PESHAWAR, TUESDAY, 24th APRIL, 2018. ✓GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION DEPARTMENTNOTIFICATIONPeshawar, dated: 24th April 2017.

No.SO(G)/E&SE/1-85/I.T/2017:- In pursuance of the provisions contained in sub rule (2) of rule 3 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, and in supersession of the notification issued in this behalf, the Elementary and Secondary Education Department in consultation with the Establishment & Administration Department and Finance Department hereby lays down the method of recruitment, qualification and other conditions specified in column No. 2 to 5 of the Appendix to the Notification which shall be applicable to the posts of Information Technology Teaching Cadre (Male/Female) in the Elementary and Secondary Education Department as specified in column No.2 of the said Appendix.

APPENDIX:

S.No.	Nomenclature of the post.	Minimum qualification for appointment by initial recruitment transfer	Age limit	Method of recruitment
1	2	3	4	5
1	Subject Specialist- Information Technology (SS-IT) (BPS-17)	i. At least Second Class Master's Degree in Computer Science or Information Technology or Bachelor's Degree in Computer Science (BCS/BSCS Honours 4 years) or equivalent qualification from a recognized University; and ii. Bachelor Degree in Education (B.Ed) or equivalent qualification from a recognized University. Note: A candidate did not have the qualification under clause (ii), shall acquire the same within three years from the date of his/her appointment.	21-35	a) Fifty percent by promotion on the basis of seniority-cum-fitness from amongst the Secondary School Teacher-IT with at least five years service; and b) Fifty percent by initial recruitment. Provided that if no suitable candidate is available for promotion, then by initial recruitment.

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1542 KHYBER PAKHTUNKHWA GOVERNMENT GAZETTE, EXTRAORDINARY, 24th APRIL, 2018

2.	Secondary School Teacher-Information Technology (SST-IT) (BPS-16)	<p>i. At least Second Class Master's Degree in Computer Science or Information Technology or Bachelor's Degree in Computer Science (BCS/BSCS Honours (4 years) or Bachelor's Degree with a subject of Computer Science or equivalent Qualification from a recognized University; and</p> <p>ii. Bachelor Degree in Education (B.Ed) or equivalent qualification from a recognized University.</p> <p>Note: A candidate did not have the qualification under clause (ii), shall acquire the same within three years from the date of his/her appointment.</p>	21-35	<p>a). Fifty percent by promotion on the basis of seniority-cum-fitness from amongst the Certified Teacher-IT with five years service as such and having the qualification prescribed for the post of Secondary School Teacher-IT.</p> <p>b). Fifty percent by initial recruitment.</p> <p>Provided that if no suitable candidate is available for promotion, then by initial recruitment.</p>
3.	Certified Teacher-Information Technology (CT-IT) (BPS-12).	<p>i. At least 2nd Division Intermediate School Certificate or equivalent qualification from a recognized Institution or Board with one year Diploma in Information Technology Computer Science from any recognized institution; and</p> <p>ii. Certified Teacher Certificate (CT) or Associate Degree in Education (ADE) from any recognized institution/ University</p> <p>Note: A candidate did not have the qualification under clause (ii), shall acquire the same within three years from the date of his/her appointment.</p>	18-35	By initial recruitment.

50% CT (IT)

50% Fresh

SECRETARY TO GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT

Printed and published by the Manager,
Staty. & Ptg. Dept., Khyber Pakhtunkhwa, Peshawar.

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GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT

Subject: MINUTES OF THE MEETING OF THE SSRC REGARDING ALLOTMENT OF 50% QUOTA TO SST (GEN/SC) FOR PROMOTION TO THE POST OF SS-IT

Meeting of the SSRC regarding the subject matter was held under the Chairmanship of Secretary Elementary & Secondary Education Department on 10/08/2017 at 11:00 am in the committee room of this Department. The following Officers/Officials of the concerned Department/attached Department attended the meeting.

The following attended the meeting:-

1. Dr. Shalhzad Khan Bangash, Secretary E&SE Department (In Chair)
2. Mr. Qaisar Alam, Special Secretary (Dist.) E&SE Department.
3. Mr. Muhammad Rafiq Khattak, Director E&SE, Peshawar.
4. Mr. Muhammad Shoaib, Deputy Secretary (A), E&SE Department.
5. Mr. Javed Siddique, Deputy Secretary (B) Finance Department.
6. Mr. Malik Muhammad, Section Officer (Primary) E&SE Department.
7. Mr. Mohsin Mushtaq, Assistant (R-I) E&AD Department.

2. The forum was informed that E&SE Department vide Notification No. SOG/E&SED/1-86/SS.IT/2016 of E&SE Department Peshawar dated 15.08.2016 has notified the nomenclature of Information Technology Teaching Cadre/Posts serving in the Government High & Higher Secondary Schools of Khyber Pakhtunkhwa of E&SE Department, as Subject Specialist-IT (SS-IT/Computer Science) BPS-17 (Annex-A). Further E&SE Department vide Notification No. SO (PE)4-5/SSRC/Meeting/ 2013/ Teaching Cadre: dated 24/07/2014 has approved promotion to SS posts (BPS-17) from SST (BPS-16). The SST regular having 50% quota of the total sanctioned SS posts allotted for promotion (Annex-B). 50% quota has already been allotted for SSTs (General/Science) in 12 different subjects for Subject Specialist Post. But unfortunately, SSTs (General/Science) who have M.Sc (Computer Science)/BS (CS)/MIT qualification and are eligible for promotion to the post of SS (IT) B-17 have no quota for promotion.

3. In light of the above facts, this Department, therefore, proposed that all those SSTs (General/Science) who have M.Sc. (Computer Science)/BS. (Computer Science)/MIT may be given 50% quota for promotion to the post of SS (IT) B-17 like other SSTs, so as to bring uniformity in the teaching cadre.

4. In the above context, the service rules/structure of SST (General/Science) & SST (IT) were approved as tabulated below:-

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Age	Method of recruitment	Minimum Qualification for appointment by initial recruitment or by transfer	Age	Method of recruitment	Minimum Qualification for appointment by initial recruitment	
21-35	a) Fifty percent by promotion on the basis of seniority-gum-fines from amongst the Secondary School Teacher (General/Science) (SST) possessing master degree in IT or equivalent qualification with 05 years' experience. b) Fifty percent by initial recruitment.	i) Master Degree in Computer Science/IT at least in 2 nd Division or equivalent qualification from any recognized University. ii) Bachelor Degree of Education (B.Ed) at least in 2 nd Division from any recognized University.	21-35	Note: If no suitable candidate is available for promotion in the relevant cadre than by initial recruitment. a) Fifty percent by promotion on the basis of seniority-gum-fines from amongst the Computer Lab in-charge with (05) years service having the qualification prescribed for the post of IT Teacher. b) Fifty percent by initial recruitment.	18-35	By initial recruitment
21-35	Note: If no suitable candidate is available for promotion in the relevant cadre than by initial recruitment. a) Fifty percent by promotion on the basis of seniority-gum-fines from amongst the Computer Lab in-charge with (05) years service having the qualification prescribed for the post of IT Teacher. b) Fifty percent by initial recruitment.	i) Bachelor Degree with the subject of Computer Science at least in 2 nd Division equivalent from any recognized institution. ii) Bachelor Degree of Education (B. Ed) at least in 2 nd Division from any recognized institution.	21-35	Note: If no suitable candidate is available for promotion in the relevant cadre than by initial recruitment.	18-35	By initial recruitment
21-35	Note: If no suitable candidate is available for promotion in the relevant cadre than by initial recruitment. a) Fifty percent by promotion on the basis of seniority-gum-fines from amongst the Computer Lab in-charge with (05) years service having the qualification prescribed for the post of IT Teacher. b) Fifty percent by initial recruitment.	i) Bachelor Degree with the subject of Computer Science at least in 2 nd Division equivalent from any recognized institution. ii) Bachelor Degree of Education (B. Ed) at least in 2 nd Division from any recognized institution.	21-35	Note: If no suitable candidate is available for promotion in the relevant cadre than by initial recruitment.	18-35	By initial recruitment
21-35	Note: If no suitable candidate is available for promotion in the relevant cadre than by initial recruitment. a) Fifty percent by promotion on the basis of seniority-gum-fines from amongst the Computer Lab in-charge with (05) years service having the qualification prescribed for the post of IT Teacher. b) Fifty percent by initial recruitment.	i) Bachelor Degree with the subject of Computer Science at least in 2 nd Division equivalent from any recognized institution. ii) Bachelor Degree of Education (B. Ed) at least in 2 nd Division from any recognized institution.	21-35	Note: If no suitable candidate is available for promotion in the relevant cadre than by initial recruitment.	18-35	By initial recruitment

The committee members discussed the proposed amendments in the service rules/structure for the SST (General/Science) & SST (IT) in depth and were agreed upon unanimously.

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Decisions:

The following decisions were made in consensus: -

- i. The proposed amendments in the service rules/structure as depicted in the above table was approved.
- ii. Nomenclature of the post of CT(IT) was changed as Junior Teacher Information Technology (JT-IT)
- iii. Seniority of SST (General/Science) & SST (IT) will be clubbed together immediately for the purpose of promotion in light of the above amended service rules for the post of SST (General/Science) & SST (IT) to the post of SS(IT/Computer Science)

The meeting ended with vote of thanks to/from the Chair.

(Javed Siddique)
Deputy Secretary (R), Finance Department

(Mohsin Mushtaq)
Assistant (R-I), E&AD Deptt:

Naik Muhammad
Section Officer (Primary), E&SE Department

Muhammad Shoaib
Deputy Secretary (A), E&SE Deptt:

(Mohammad Rafique Khattak)
Director, E & SE, Peshawar

(Qaiser Akram)
Special Secretary, E&SE Deptt:

Dr. Shahzad Khan Bangash
Secretary E&SE Department
(Chairman)

SECTION OFFICER (BUDGET)
(MURTAZA KHAN)

ATTESTED

1. The Budget Officer - V, Finance Department, Govt. of Khyber Pakhtunkhwa
2. The Director, Elementary & Secondary Education Khyber Pakhtunkhwa with the request to circulate the same to all the District Education Officers (M/E)
3. The Project Manager/Deputy Director (EMIS), E & S Education Department
4. All the Deputy Commissioners in Khyber Pakhtunkhwa.
5. Master File.

Copy forward for information to the:
Endst. of even number & date.

BUDGET OFFICER-V
FINANCE DEPARTMENT

1. The Accountant General Khyber Pakhtunkhwa
- 2-26. All the District Accounts Officers in Khyber Pakhtunkhwa

Copy of above is forwarded to:

Encl. No. BOV/FD/2-38/2018-19 Dated Peshawar the 10/10/2018

Secretary to Govt. of Khyber Pakhtunkhwa
Elementary & Secondary Education Deptt.

The expenditure involved is duplicable to the functional cum-object classification 09-Education Affairs and Services 092-Secondary Education Affairs and Services 0921-Secondary Education Affairs and Services 092101-Secondary Education A01-Employees Related Expenses and shall be met out from within the Account-V.

Description	Designation of posts	No. of Posts	Remarks
150359-Establishment of 500 IT Labs in Govt. High & Higher Secondary Schools in Khyber Pakhtunkhwa	Senior IT Teacher (BS-17)	27	List of schools with their names printed on the back side.
	IT Teacher (BS-16)	172	
160151-Establishment of 500 IT Labs in Govt. High Schools in Khyber Pakhtunkhwa	Computer Lab Incharge (BS-12)	368	
	IT Teacher (BS-16)	451	
Computer Lab Incharge (BS-12)		458	
Total		1476	

No. SOHR/VI/18/2018/IT Teacher Sanction of the Government of Khyber Pakhtunkhwa is hereby accorded to the creation of posts of Senior IT Teacher (BS-17), IT Teacher (BS-16) and Computer Lab Incharge (BS-12) for the Government High & Higher Secondary Schools in Khyber Pakhtunkhwa, w.e.f. 08-01-2018 as per detail given below, subject to the observance of all costal formalities before incurrence of expenditure.

SANCTION

Dated Peshawar the August 15, 2018

GOVT. OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT



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S.NO.	Nomenclature of the post	Minimum qualification for appointment by initial recruitment transfer	Age Limit	Method of recruitment
1	2	3	4	5
1	Subject specialist- Information Technology (SS-IT) (BPS-17) CST	i. At least second class Master's Degree in Computer Science or Information Technology or Bachelor's Degree in computer science (BCS/BSCS Honours 4 years) or equivalent qualification from a recognized University; and ii. Bachelor Degree in Education (B.Ed) or equivalent qualification from a recognized University. Note : A candidate did not have the qualification under clause(ii), shall acquire the same within three years from the date of his/her appointment.	21-35 years	1. Seventy Five per cent by promotion, on the basis of seniority-cum-fitness, from the district concerned in the following manner: (a) Twenty percent by promotion on the basis of seniority-cum-fitness from amongst the Certified Teacher-IT with at least five years' service and having the qualification prescribed for the post of Secondary School Teacher-IT Provided that if no suitable candidate is available for promotion then by initial recruitment. (b) Twenty percent by promotion on the basis of seniority-cum-fitness from amongst the Senior Certified Teachers (BPS-16) with at least five years' service as Senior Certified Teacher and Certified Teacher and having the qualification mentioned in Column No.3: 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: (c) Four percent from amongst the Senior Drawing Master (BPS-16), with at least five-years service as senior Drawing Masters and drawing Masters and having qualification mentioned in column No.3: 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:

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CT-IT

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				<p>(d) Four percent 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:</p> <p>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 amongst Arabic Teachers, with at least five years service as such and having qualification mentioned in column No.3:</p> <p>(e) Four percent 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:</p> <p>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:</p> <p>(f) Three percent from amongst the Senior Qaris Teachers (BPS-16), with at least five years service as Senior Qaris Teachers and Qaris Teachers and having qualification mentioned in column No.3:</p> <p>Provided that if no suitable candidate is available from amongst Senior Qaris Teachers for promotion then the post shall be filled by promotion, on the basis of seniority-cum-fitness, from amongst Qaris Teachers, with at least five years service as such and having qualification mentioned in column No.3:</p> <p>(g) Twenty percent from amongst the Primary Head Teachers (BPS-16), with at least seven years service as Primary Head Teachers and Senior Primary Teachers and Primary Teachers and having</p>
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				<p>qualification mentioned in column No.3:</p> <p>Provided that if no suitable candidate is available from amongst Primary School Head Teachers for promotion then the post shall be filled by promotion, on the basis of seniority-cum-fitness, from amongst Senior Primary School Teachers, with at least seven years service as Senior Primary School Teachers and Primary School Teachers and having qualification mentioned in column No.3:</p> <p>Provided further that if no suitable candidate is available from amongst Senior Primary Teachers for promotion then the post shall be filled by promotion, on the basis of seniority-cum-fitness, from amongst Primary School Teachers, with at least seven years service as and having qualification mentioned in column No.3: and</p> <p>(ii) twenty five percent by initial recruitment.</p> <p>NOTE:</p> <ol style="list-style-type: none">i. If no suitable candidate is available in the relevant cadre of the above teachers, the post falling in their promotion quota shall be filled by initial recruitmentii. Post of General SST and SSTs-1 Science and SST-2 Science shall be filled by promotion or initial recruitment, each on need basis separately."
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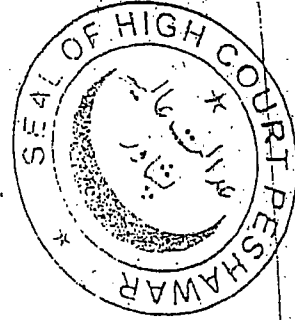
JUDGMENT SHEET
PESHAWAR HIGH COURT PESHAWAR
JUDICIAL DEPARTMENT

W.P. No.596-P/2019

Muhammad Raees Gul and another

Vs.

Government of Khyber Pakhtunkhwa through
Chief Secretary Khyber Pakhtunkhwa,
Peshawar and 06 others



JUDGMENT

Date of hearing 03.09.2020

Mr. Zahid Ullah Zahid, Advocate, for the petitioners.

Mr. Arshad Ahmad Khan, AAG, for the Provincial Government, a/w Mr. Jehangir Khan, AD (Litigation), Directorate of E&SED, Peshawar and Mr. Dawood Khan, ADO, office of DEO, Peshawar.

Mr. Aftab Khan, Advocate, for the private respondent No.7.

LIAZ ANWAR, J. Muhammad Raees Gul and another, petitioners herein, through the instant Constitutional petition under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973, have prayed for the following relief:-

"It is, therefore, most graciously prayed that while allowing this writ petition, an appropriate writ may kindly be issued by declaring the act of omitting the subject of

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EXAMINER
Peshawar High Court

Computer Science from promotion to the post of SST is illegal, unlawful, discriminatory and without lawful authority with the direction to consider and include the subject of Computer Science in the criteria for promotion to the post of SST.

Any other relief though not specifically asked for to which the petitioner is found entitled in the circumstances may also be granted".

2. Keeping in view the averments made in the instant petition, comments were called from the respondents who furnished the same accordingly, wherein, they opposed the issuance of desired writ, as prayed for.

3. Arguments heard and records perused.

4. Perusal of the record reveals that petitioners have called in question the recruitment rules notified vide Notification dated 24.07.2014; whereby, according to them, the incumbents, holding the posts of Primary School Teacher (BPS-12) with qualification of

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Peshawar High

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Compute Science, are not included in the feed cadre for the post of Senior Science Teacher (BPS-16).

5. Learned counsel for the petitioners has laid much stress upon the discrimination so meted out to the petitioners and also about depriving them from future prospect of promotion, albeit, we are of the view that questioning the vires of rules purely relates to the terms and conditions of service, for which the proper forum is Khyber Pakhtunkhwa Service Tribunal established under the Khyber Pakhtunkhwa Service Tribunals Act, 1974. Besides, the jurisdiction of this Court is barred under Article 212 of the Constitution of Islamic Republic of Pakistan, 1973. In this regard, reference can be made to the cases of "L.A. Sherwani and others (1991 SCMR 1041)", "Ali Azhar Khan Beloch (2015 SCMR 456)" and "Mobeen-ul-Salam (2006 SCMR 100)".

6. Thus, for the reasons recorded hereinabove and in view of the bar

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EXAMINER
Peshawar High Court

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Anwar "F"

To,

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

Subject: **DEPARTMENTAL APPEAL AGAINST THE IMPUGNED SERVICE RULES DATED 24.07.2014 AND 24.04.2018 WHEREBY NO PROMOTION QUOTA HAS BEEN ALLOCATED FOR THE CADRE OF PST & CT (WHOSE SUBJECTS IN B.SC ARE COMPUTER SCIENCE).**

Respected Sir,

Most respectfully it is stated that I am the employee of your good self-Department and performing my duty as PST at GPS Wazir Abad, Dargai, District Malakand quite efficiently and upto the entire satisfaction of my superiors. It is pertinent to mention here that all the other Primary School Teachers and Certified Teachers have the promotion criteria/quota to the post of SST, SST (General & Science). That service rules dated 24.07.2014 and 24.04.2018 framed by the respondent Department no promotion quota has been allocated for promotion from the post of PSTs and CTs (who has the qualification of B.Sc in Computer Science) to the post of SST/SST (IT). That the undersigned feeling aggrieved from the service rules mentioned above preferred this Departmental appeal before your good self.

It is therefore, most humbly prayed that on acceptance of this Departmental appeal the impugned service rules Notified on 24.07.2014 may very kindly be amended/modified to the extent of Serial No.1B column No.3 of the table by including/inserting the computer science subject of the appellant in column No.3 and the impugned service rules dated 24.04.2018 may kindly be amended/modified to the extent of Serial No.2 n column No.5 of the table by allocating promotion quota for the cadre of PST and CT. Any other remedy which your good self deems fit that may also be awarded in favor of the applicant.

Dated: 20.10.2020

Your Obediently

M. GS

MUHAMMAD SALEEM, PST
GPS Wazir Abad, Dargai, District Malakand

ATTACHED

VAKALATNAMA

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

_____ OF 2021

Muhammad Saleem

(APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

Education Deptt

(RESPONDENT)
(DEFENDANT)

I/We Muhammad Saleem

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. ____/____/2021

M. G. S.

CLIENT(S)

ACCEPTED

NOOR MOHAMMAD KHATTAK
15401-0705985-5
BC-08-0853

&

Kamran
KAMRAN KHAN

Afrasiab Khan Wazir
AFRASIAB KHAN WAZIR

Haider Ali
HAIDER ALI
ADVOCATES

OFFICE:

Flat No.4, Upper Floor,
Juma khan plaza near (FATA) Secretariat
Warsak road Peshawar:
Mobile No. **0345-9383141**