

4th July, 2022

Learned counsel for the appellant present.

Learned counsel for the appellant seeks time to prepre the brief. To come up for preliminary hearing on 06.09.2022 before S.B at Peshawar.



(Kalim Arshad Khan)
Chairman

6th September, 2022

Clerk to counsel for the appellant present.

Clerk to counsel for the appellant seeks adjournment on the ground that his counsel is not available today. To come up for preliminary hearing on 11.10.2022 before S.B.




(Kalim Arshad Khan)
Chairman

11.10.2022

Counsel for the appellant present.

Learned counsel for the appellant seeks adjournment on the ground that he has not prepared the brief. Adjourned. To come up for preliminary hearing on 15.11.2022 before S.B.

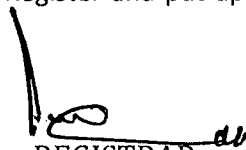

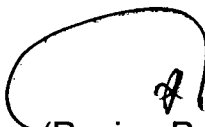


(Fareeha Paul)
Member (E)

FORM OF ORDER SHEET

Court of _____

Case No.- _____ 466/2022 _____


S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	01/04/2022	<p>The appeal of Mst. Fozia Malik resubmitted today by Mr. Mir Zaman Safi 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>Noted TO S</p> <p>Abdul Rahman Mohammad 5.04.2022</p>	<p>This case is entrusted to Single Bench at Peshawar for preliminary hearing to be put up there on <u>19-04-2022</u> Notice be issued to the appellant and his counsel.</p> <p style="text-align: right;"> CHAIRMAN</p>
	14.04.2022	<p>Appellant alongwith his counsel present.</p> <p>He made a request for adjournment in order to prepare the brief. Adjourned. To come up for preliminary hearing on 04.07.2022 before S.B.</p> <p style="text-align: right;"> (Rozina Rehman) Member (J)</p>


The appeal of Mst. Fozia Malik W/O Malik Gohar Saeed, R/O Village Khanoo Khel P/O Kot Jai Tehsil Paharpur District D.I Khan received today i.e. on 29.03.2022 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

1. Checklist is not attached with the appeal. ✓
2. Appeal has not been flagged/marked with annexure marks. ✓
3. Annexures of the appeal may be attested. ✓
4. Two more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal. ✓

No. 816 /S.T,

Dt. 30-3-2022


Mr. Abdur Rahmab Mohmand
Advocate High Court Peshawar.


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Re-submitted after fulfilling the requirements.

Advocate 

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.

S.A.No. 466/2022.

MST.FOZIA MALIK

VERSUS

GOVERNMENT OF KHYBER PAKHTUNKHWA AND OTHERS

INDEX

S#	Description of Documents	Annexure	Pages
1.	Appeal		1-5
2.	Affidavit		6
3.	Addresses of Parties		7
3.	Copies of CNIC & Educational Documents	"A"	8-12
4.	Copy of Advertisement Dated 07.04.2007	"B"	13
5.	Copy of application for the post	"C"	14
6.	Copy of roll No. slip Endst: No.7833-39 dated 23.04.2007	"D"	15-16
7.	Copy of Appointment Order Endst: No.20340-44 dated D.I.Khan 01.10.2007	"E"	17
8.	(Copy of the letter No.2717-19 DCO(LCs/Education) dated D.I.Khan 10.11.2008 for Pay Scale up gradation	"F"	18
9.	Copy of the pay slip are	"G"/E/1	19-20
10.	Copy of her experience certificate	"H"	21
11.	Copy of the letter 8301-11/EDO (Male Section) dated 07.05.2010 for implementation of termination orders	"I"	22
12.	Copy of order in Appeal No.1963/2010 dated 27.10.2011	"J"	23-44
13.	Copy of the order in Execution Petition No.34/2012 dated 14.03.2012	"K"	45-47
14.	Copy of the appeal No.932/2012 dated 08.08.2012 which was decided on dated 14.03.2018	"L"	48-76
15.	Copy of the W.P.No.430-D/2021-	"M"	77-83
16.	Copy of the complaint letter No.RTIC/AR/1-7961/2021 under Right To Information act, 2013 & provided record	"N"	84-103
17.	Copy of departmental Appeal	"O"	104-114
18.	Copy of alleged, fake, illegal impugned termination letter No.1520-1602 back dated 08.02.2012	"P"	115-118
19.	Power of Attorney		119-120
20.	Wakalat Nama		121

Dated: 28/03/2022

APPELLANT

THROUGH



ABDUR RAHMAN MOHMAND
ADVOCATE HIGH COURT PESHAWAR.

(1)

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

S.A.No. 466 /2022.

MST. FOZIA MALIK D/O MALIK ALLAH NAWAZ W/O MALIK
GOHAR SAEED R/O VILLAGE KHANOO KHEL P/O KOT JAI
TEHSIL PAHARPUR DISTRICT DERA ISMAIL KHAN KHYBER
PAKHTUNKHWA.

----- APPELLANT.

VERSUS

1. GOVERNMENT OF KHYBER PAKHTUNKHWA THROUGH
SECRETARY ELEMENTARY AND SECONDARY EDUCATION
SECRETARIATE BUILDING PESHAWAR.
2. DIRECTOR ELEMENTARY AND SECONDARY EDUCATION
DIRECTORATE OF ELEMENTARY AND SECONDARY
EDUCATION KHYBER PAKHTUNKHWA, PESHAWAR.
3. DISTRICT EDUCATION OFFICER (FEMALE), DERA ISMAIL
KHAN.
4. DISTRICT ACCOUNTS OFFICER, D.I.KHAN KHYBER
PAKHTUNKHWA.

-----RESPONDENTS

**APPEAL U/S 4 OF THE SERVICE TRIBUNAL ACT, 1974
AGAINST THE ALLEGED, FAKE, ILLEGAL IMPUGNED
TERMINATION ORDER LETTER NO.1520-1602 BACK
DATED 08.02.2012 BASED ON DISCRIMINATION,
VIOLATION OF FUNDAMENTAL RIGHT AND AGAINST
KHYBER PAKHTUNKHWA CIVIL SERVANTS RULES.**

.....
RESPECTFULLY SHEWETH!

1. That the Appellant is a naturally born law abiding citizen of the Islamic Republic of Pakistan and is qualified up to M.A./M.Ed and CT. (Copies of CNIC is annexure "A").
2. That the Appellant was appointed as regular CT on dated 01.10.2007 by Respondents No.1 to 3 after fulfilling the initial recruitment process by giving advertisement on dated 07.04.2007, after which the appellant submitted her application for CT (Female) post on dated 10.04.2007 and roll number was issued to her for screening test to be conducted on dated 24.04.2007 at GGHS, Dinpur, D.I.Khan, and had performed her duties

2

on different locations with honesty and full devotion and had been a responsible, hard worker, skillful, dutiful, punctual and obedient teacher. (Copy of Advertisement is annexure "B" Copy of application for the post is annexure "C", Copy of roll No. slip Endst: No.7833-39 dated 23.04.2007 is annexure "D" while Copy of Appointment Order Endst: No.20340-44 dated D.I.Khan 01.10.2007 is annexure "E").

3. That the District Coordination Officer Dera Ismail Khan through letter No.2717-19 DCO(LCs/Education) dated D.I.Khan 10.11.2008 awarded higher pay scale in favour of some officials among which one was the appellant. (Copy of the letter No.2717-19 DCO(LCs/Education) dated D.I.Khan 10.11.2008 for Pay Scale up gradation is annexure "F").
4. That the appellant withdraw her last salary on dated 30.04.2010 from the respondents department and also got her experience certificate which clearly show her appointment. (Copy of the pay slip are annexure "G" & G/1 while copy of her experience certificate is annexure "H")
5. That the then Executive District Officer, E & SED, District D.I. Khan through letter 8301-11/EDO (Male Section) dated 07.05.2010 passed an order for implementation of termination orders, however, 309 PST (Male), 131 PST (Female) appointed on merit and 61 Class-IV servants were exempted in view of the decision of the Standing Committee No.26 on E & SE. Moreover the appellant Pay was also stopped by the Respondent No.4 after issuance of this letter. (Copy of the letter 8301-11/EDO (Male Section) dated 07.05.2010 for implementation of termination orders is annexure "I").
6. That the termination order was challenged by the appellant along with others appellant through Appeal No.1963/2010 and on dated 27.10.2011 this Hon'able Service Tribunal whiling setting aside the impugned termination order remanded back the case to the Secretary Elementary & Secondary Education Department, Peshawar for reconsideration of the case in the light of observation made in the judgment, for reinstatement of the qualified appellants and a speaking order in respect of those who are not found qualified, by the competent authority, after affording opportunity of hearing to the appellant through an efficient and fair mechanism to be evolved for the purpose by him so as to ensure compliance with the mandatory legal requirements on the one hand and integrity of the proceedings on the other hand. (Copy of order in Appeal No.1963/2010 dated 27.10.2011 is annexure "J").
7. That the appellant along with others filed an execution petition where in the implementation report was submitted by the Secretary, E & SE Department, KP in which The Director (E& SE) KP and EDO (E& SE) D.I. Khan stated at the bar that they have already implemented recommendations of the committee and issued the letter/orders accordingly. The learned counsel of the petitioner's however raised objections regarding the proceedings conducted by the committee, as fresh orders in pursuance of the proceedings and recommendations of the committee have accrue a fresh cause of action for appeal. (Copy of the order in Execution Petition No.34/2012 dated 14.03.2012 is annexure "K").

8. That the EDO (E&SE) D.I Khan vide order communicated verbally on 07.04.2012 terminated the services of Appellant. It is pertinent to mention here that appellant repeatedly asked the then EDO (E&SE), D.I.Khan for providing copy of the impugned order but he refused to provide the same inspite of the clear directions of the Tribunal, hence after accruing a fresh cause of action, the appellant file another appeal No.932/2012 on dated 08.08.2012 which was decided on dated 14.03.2018. (Copy of the appeal No.932/2012 dated 08.08.2012 which was decided on dated 14.03.2018 is annexure "L").
9. That during arguments/pendency of the above Appeal No.932/2012, the respondents department produced the alleged illegal impugned termination letter No.1520-1602 back dated 08.02.2012, which accrued another fresh cause of action and the same was challenged through W.P.No.430-D/2021, but after arguing the same writ the appellant counsel withdraw the same in order to approach the proper forum for redressal of her grievances. (Copy of the W.P.No.430-D/2021 is annexure "M")
10. That the appellant filed a complaint letter No.RTIC/AR/1-7961/2021 under Right To Information act, 2013 for providing the alleged illegal impugned termination letter No.1520-1602 back dated 08.02.2012, and also filed a complaint on citizen portal, wherein she was informed that there is no record regarding impugned termination letter No. 1520-1602 dated 08.02.2012. (Copy of the complaint letter No.RTIC/AR/1-7961/2021 under Right To Information act, 2013 & provided record are annexure "N")
11. That the appellant filed a departmental appeal on dated 29.11.2021 against the alleged, fake, illegal impugned termination letter No.1520-1602 back dated 08.02.2012, but the same was not answered after expiry of 90 days. (Copy of departmental Appeal is annexure "O" while copy of alleged, fake, illegal impugned termination letter No.1520-1602 back dated 08.02.2012 is annexure "P").
12. That due to the above mentioned reasons the **Appellant** has no option but to knock the door of this honorable Court for her fundamental rights guaranteed under the constitution of Islamic republic of Pakistan, 1973.
13. That due to above mentioned reasons and through the alleged, fake, illegal impugned termination letter No.1520-1602 dated 08.02.2012 the service of the appellant was disturbed, Appellant had therefore locus standi to file this appeal on the following grounds amongst others.

GROUND:-

- I. That the Appellant has not been treated in accordance with law, and her rights secured and guaranteed under the law and constitution have been violated.

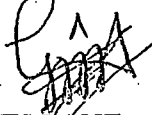
- II. That as per rules the respondents are duty bound to provide the alleged, fake, illegal impugned termination letter No.1520-1602 back dated 08.02.2012 to the appellant, but the same are not being followed by the respondents for a long time which is clear violation of fundamental rights of Appellant. Moreover through same termination letter No.1520-1602 dated 08.02.2012 the service of the appellant was terminated.
- III. That the Appellant has the required qualification & eligibility to perform her duty on the already selected post of CT with all back benefit but the respondents not consider the same from its due date and delayed the process.
- IV. That the discrimination as observed by the respondents with Appellant is highly deplorable and condemnable, being unlawful, unconstitutional, without authority, without jurisdiction, against the norms of natural justice and equity and against the law on subject, hence liable to declared as such.
- V. That the acts of the respondents not providing her the termination order and lastly provided a fake, illegal impugned termination letter No.1520-1602 dated 08.02.2012 and not to restore the services of the appellant with all consequential back benefits with effect from the alleged illegal impugned termination letter No.1520-1602 is against the law and rules and as such the respondents are under obligation to make to provide the full record of the same termination order.
- VI. That the act of respondents by terminating the Appellant through a fake, illegal impugned termination letter No.1520-1602 dated 08.02.2012 is based on malafide, on ulterior motive and against the norm of natural justice.
- VII. That the action on the part of the Respondents have adversely affecting Appellant financial rights as protected by the constitution and the Appellant be treated at par like other employees of other District and as such to equally dealt in accordance with the law and rules.
- VIII. That even the Appellant reported the matter to the respondents though various applications to observe the meritocracy policy but respondents are not issuing appropriate direction in this regard because Appellant is suffering for no fault on her part and as such all the appropriate direction needs to be issued to the respondents for complete redressal of the grievances of Appellant.
- IX. That the Appellant seek the permission of this Hon'able court to rely on additional grounds at the hearing of this petition.

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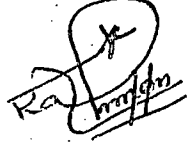
It is therefore, most humbly prayed that on acceptance of the instant appeal:

- (A) An appropriate direction may please be issued for bringing the record of a fake, illegal impugned termination letter No.1520-1602 dated 08.02.2012, being having no record in the office of the respondents and the same be declared as void and ineffective over the rights of the appellant.**
- (B) The appellant may kindly be re-instated in service from the date of her illegal termination dated 08.02.2012.**
- (C) That appellant may kindly be compensated with all back benefits from the date of her termination till the disposal of this Service Appeal.**
- (D) And any other relief not specifically prayed and to which the Appellant is found entitled may also be granted.**

DATED: 28.03.2022


APPELLANT

THROUGH


ABDUR RAHMAN MOHMAND
ADVOCATE HIGH COURT PESHAWAR.

NOTE:

No such like appeal for the same appellant upon the same subject matter has earlier been filed by me before this Hon'able Tribunal.


Advocate.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.

S.A.No...../2022.

MST.FOZIA MALIK **VERSUS** GOVERNMENT OF KHYBER
PAKHTUNKHWA THROUGH SECRETARY ELEMENTARY
AND SECONDARY EDUCATION PESHAWAR AND OTHERS.

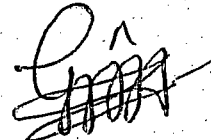
AFFIDAVIT:

I, MUHAMMAD GOHAR SAEED KHAN R/O POST OFFICE KOT
JAI VILLAGE KHANOO KHEL, TEHSIL PHAR PUR, DISTRICT
D.I.KHAN (SPECIAL ATTORNEY), do hereby solemnly affirm and
declare on oath that the contents of the instant appeal are true
and correct to the best of my knowledge and belief and that
nothing has been concealed or kept secret from this Hon'able
court.



Identified By Advocate

ABDUR RAHMAN MOHMAND
ADVOCATE HIGH COURT, PESHAWAR.



DEPONENT

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

S.A.No...../2022.

MST. FOZIA MALIK VS GOVT. OF KP AND OTHERS

ADDRESSES OF THE PARTIES:

MST. FOZIA MALIK D/O MALIK ALLAH NAWAZ W/O MALIK
GOHAR SAEED R/O VILLAGE KHANOO KHEL P/O KOT JAI
TEHSIL PAHARPUR DISTRICT DERA ISMAIL KHAN KHYBER
PAKHTUNKHWA.

----- **APPELLANT.**

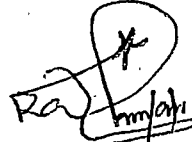
VERSUS

1. GOVERNMENT OF KHYBER PAKHTUNKHWA THROUGH
SECRETARY ELEMENTARY AND SECONDARY EDUCATION
SECRETARIATE BUILDING PESHAWAR.
2. DIRECTOR ELEMENTARY AND SECONDARY EDUCATION
DIRECTORATE OF ELEMENTARY AND SECONDARY
EDUCATION KHYBER PAKHTUNKHWA, PESHAWAR.
3. DISTRICT EDUCATION OFFICER (FEMALE), DERA ISMAIL
KHAN.
4. DISTRICT ACCOUNTS OFFICER, D.I.KHAN KHYBER
PAKHTUNKHWA.

----- **RESPONDENTS**

DATED:28.03.2022 \

APPELLANT
THROUGH
ABDUR RAHMAN MOHMAND
ADVOCATE HIGH COURT PESHAWAR.



PAKISTANI National Identity Card

Edna Malik

Husband Name: Mubammad Iqbal Saeed Khan

Gender: F Country of Origin: Pakistan

Identity Number: 12103-4119537-8 Date of Birth: 01.02.1984

Date of Issue: 06.02.2017 Date of Expiry: 06.02.2027

Holder's Signature

10790

only for Se... STKP

سرکار پاکستان کی طرف سے جاری کی جانے والی شناختی کارڈ، جسے حاصل کرنا ضروری ہے۔

12103-4119537-8

Edna Malik

مستعمل ہونے والے شناختی کارڈ، جسے حاصل کرنا ضروری ہے۔

Uzma K. Malik
Registrar General of Pakistan

101941086583
149-84-394428

نم شدہ کارڈ ملنے پر قریبی لیڈ بکس میں ڈال دیں

Alama Iqbal Open University
Islamabad

Serial No 83217

9



Certified that *Mr/Ms* FOZIA MALIK

Son/Daughter of MALIK ALLAH NAWAZ

Registration No 02 NDN 0380 *Roll No* M 611279

Semester SPRING 2004 *having met all the requirements*
under the semester system is this day awarded the

Certificate of Teaching

He/She has secured 60 % *marks*
and has been placed in B *grade*



Result declared on: February 28, 2005

Date of issue: March 28, 2007

[Signature]
Controller of Examinations

Note: This certificate is issued without alteration/erasure.
The detail of courses is overleaf.

The detail of courses passed is as under

Course code	Title of the course	Percentage of Marks obtained
631	Dimensions in Education	54
632	Educational Psychology	56
633	School Organization and Management	65
634	English and its Teaching	54
638	Teaching Strategies	60
612	Workshop and Teaching Practice	94
604	Teaching of Urdu	53
605	Teaching of Social Studies	52
635	Teaching of Islamiat	54

Total credit hours

XXX

Obtained / Total marks

542 / 900

Total credits AIUO

5

Cumulative grade point average

XXX

First semester:

AUTUMN 2002

Final semester

SPRING 2004

Grading Scheme

80% and above:	A+ grade
70% to 79%	A grade
60% to 69%	B grade
50% to 59%	C grade
40% to 49%	D grade
Below 40%	Fail

Controller of Examinations

(10)

Allama Iqbal Open University Islamabad



Serial No. 31030

Certified that Mr. / Ms. **FOZIA MALIK**

Son / Daughter of **MALIK ALLAH NAWAZ**

Registration No: **11NDN00063**


Roll No: **AJ677722**

having successfully completed the prescribed requirements

in semester **SPRING 2012** is awarded the degree of

Master of Education (M.Ed.)

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


CONTROLLER OF EXAMINATIONS



VICE-CHANCELLOR

Result declared on: **February 15, 2013**

Date of Issue: **April 08, 2013**

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

Registration No. SUCR-12-01/038-0033

Serial No. 014064



Sarhad University of Science & Information Technology

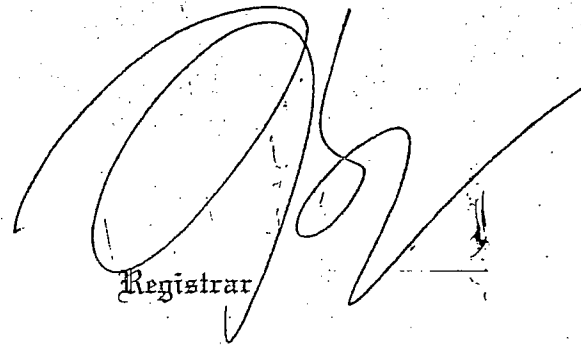
This is to certify that Fozia Malik ~~son~~ daughter of Malik Allah Nawaz

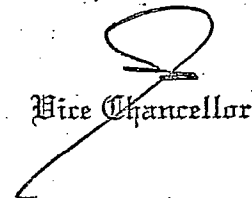
Having passed the requisite examination, is hereby awarded the degree of

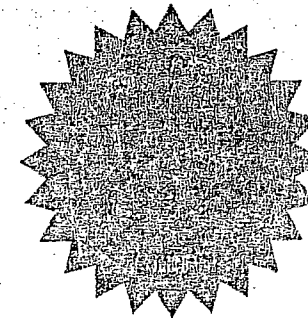
Master of Library & Information Science

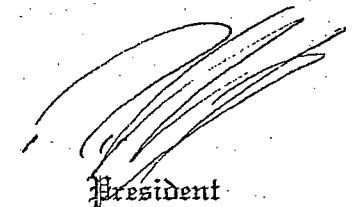
With all the rights and privileges appertaining thereto.

Given at Peshawar (PAKISTAN) on the Tenth Day of January Two Thousand Fifteen.


Registrar


Vice Chancellor




President

BEFORE HONORABLE SERVICE TRIBUNAL KPK, PESHAWAR

NEW GROUND AND NEW CAUSE OF ACTION

INDEX

S.No	Description of Documents	Date	Page No
1	Departmental Appeal (نوٹ: اسی ترتیب سے ڈیپارٹمنٹ میں جمع کروائی ہوئی ہے۔)	29-11-2021	01-15
2	Copy of dairy dispatch register with covering letter from DEO (Male) DIKhan (Previous EDO DIKhan) and it's no-record at page no 23. (نوٹ: یہ ریکارڈ ڈیپارٹمنٹل اپیل جمع کروانے کے بعد ہمیں ملا، یعنی یہ ڈیپارٹمنٹل اپیل کے ہمراہ نہیں بھیجا۔)	01-01-2022	16-34
3	Reply of DEO (Female) to PMDU (نوٹ: یہ جواب بھی ڈیپارٹمنٹل اپیل کے ساتھ نہیں بھیجا گیا۔)	20-10-2021	35
4	Credential: (CT, MA, M.Ed) CNIC and Domicile Certificate		36-40
5	References, Courts and Act Laws		41-42-43

M. Zia
Petitioner: Fozia Malik
Ex-CT GGHS Kot Jai,
Dera Ismail Khan

Residence: Village Khanu Khail, Post Office Kot Jai,
Tehsil Paharpur, District Dera Ismail Khan

Postal Address Fozia Malik
wife of Malik Gohar Saeed
village Khanu Khel P/O Kot Jai
Tehsil Paharpur Distt D.I. Khom K.P.K.
Mobile No 0300-9091858
0345-9875252

(12)

DOMICILE CERTIFICATE

I Fozia Malik Son/Daughter of M Allah Nawaz

hereby declare that I was born of parents who are permanently domiciled in North West Frontier Province having been born/settled in this Province.

I was born at Village/Mohallah Khamu Khel

Tehsil Pakay Pur District Dera Ismail Khan.

Fozia Malik

Signature of the applicant

Dated 20.6.2000

Pursuance to the declaration dated 20.6.2000 filed by

Mr./Miss Fozia Malik Son/Daughter of M Allah Nawaz

domiciled in North West Frontier Province, it is hereby certified that the said

Fozia Malik is born of parents who are permanent residents of the North West Frontier Province having been born/settled within it.

I have satisfied myself from personal knowledge/verification that the above declaration is true certify accordingly.

This 26th day of June

Seal

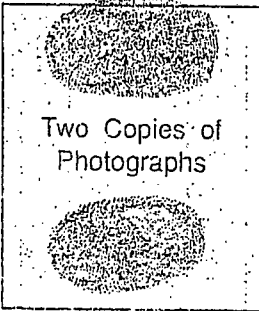
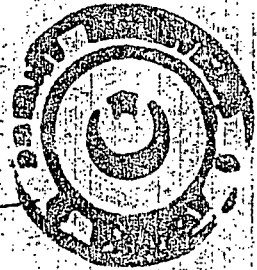
08/7/00
Medical Officer Incharge P.H.O
KOTLA LODHLAN

MAGISTRATE 1st CLASS

COUNTERSIGNED

DISTRICT MAGISTRATE
Dera Ismail Khan.

Seal



Two Copies of Photographs

Strike out which ever is not applicable.

No. 4559 HC Dated 27/6/2000

حسب تصدیق فرم میں
تصدیق کیا گیا ہے۔ عاقبہ فرزند بھگت سنگھ
مقامی کارڈ نمبر 3041048
یہ منسلک رہائشی سند ہے۔

VERIFIED

RURAL AREA

1. Patwari Halqa.

2. Girdawar Circle

3. Tehsildar

تصدیق
24/6/2007

Kirpichal
Mr. Beal
24/6/2007
Tehsildar

URBAN AREA

1. Municipal Councilor

2. Chairman,
Municipal Committee
Town Committee.

3. Tehsildar

چینر میں مقامی حکومت کی کیمپنی خانوشیل
کوڈ نمبر 3041048
لعدن کی خانوشیل کے ذریعہ مندرجہ بالا کارڈ
مقامی کارڈ نمبر اور سند ہے
سند نمبر





MASHREQ
روزنامہ مشرق
شمالی علاقوں کے 40 سال

Vertical text on the right side of the newspaper header.

ایک نیا نیا چہرہ

پندرہ سال پہلے ہی کے مستقبل کے لیے ہمارے لیے ایک نیا نیا چہرہ... اس وقت کے لیے ایک نیا نیا چہرہ...

Table with 7 columns: S.N, Name, Position, Contact No, Address, and Remarks. Lists various staff members like Mr. Irfan Khan (CT), Mr. Irfan Khan (DM), Mr. Irfan Khan (PET), Mr. Irfan Khan (AT), Mr. Irfan Khan (IT), Mr. Irfan Khan, and Mr. Irfan Khan.

میری اپنی زندگی میں پہلی بار ایک نیا نیا چہرہ... اس وقت کے لیے ایک نیا نیا چہرہ...

میری اپنی زندگی میں پہلی بار ایک نیا نیا چہرہ... اس وقت کے لیے ایک نیا نیا چہرہ...

WORLD HEALTH DAY - APRIL 7, 2007
Investing in Health is Investing in Development.

- The four important aspects of Health are:
1. Promotion of Health,
2. Prevention of Diseases,
3. Therapeutic Medical,
4. Psychosocial Support.

- Possible strategies to improve health and resultant social and economic development:
Advocacy, Equitable, Support for...

Form No. Roll No- (7) C-T.

(14)

Annex - "C"
Price Rs. 25/-**APPLICATION FOR THE POST OF CIVILIAN/PTA/TA/TT/QARI**Name of Post Applied for CT DM PET AT TT QARINature of Quota Session Wise Open Merit Disable Gender Male Female

1. Name of the Applicant in English (Block Letters)

FOZIA MALIK

2. Name of Applicant in Urdu

فوذا مالک

3. N.I.C.No.

12103-4119537-8

4. Father's Name

MALIK ALLAH NAWAZ

5. Father's N.I.C.No.

12103-0763745-7

6. Domicile

DISST. D.I. KHAN (PAHAR PULR)

7. Date of Birth (As per SSC)

01-02-1984

8. Age on 20-04-2007

23 Years 2 Months 19 Days

9. Permanent Home Address

VILLAGE KHANOO KHEL P/O KOT JAI
TEHSIL PAHAR PULR DISTRICT D.I. KHAN

10. Qualification:

Examination Passed	Roll No.	Year	Date of Declaration of Result	Total Marks of the Examination	Marks Obtained	Merit Position (See Instruction No. 4 below)
S.S.C.	51963	2000		850	467	13.73
F.A/F.Sc.	19644	2002	31-8-2002	1100	564	12.81
CT/DM/JPPE	M-611279	2004	28-2-2005	900	542	15.05
AT (BPS-15)						
TT (BPS-14)						
QARI						
B.A/B.Sc.						
M.A/M.Sc.						
Others						

11. Total merit position for the academic and professional qualification.

41.59

12. Whether a fresh or in Service Candidate:

FRESH

13. If in Service, state exact date and duration of Service after passing the professional exam prescribed for the post applied for: Date _____ Duration _____ Years _____

14. Service/ Experience marks (in accordance with S.No.12 above) (2 marks for one year, 3 marks for two year and 5 marks for three years). Only for Govt. Service.

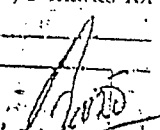
15. Overall merit position i.e Total of S.No. 11+14.

INSTRUCTION:

- Fill the form neatly & explicitly.
- Score out the words/columns/S.No. not applicable.
- Check mark/tick mark relevant words/columns S.No. etc.
- Determine your merit against each certificate/ degree under the column "Merit Position" by multiplying your "Marks obtained" with that of the "total allocated" to the certificate degree (as per S.No. 5 below) dividing by the "Total marks of exam" e.g.
a. Total Marks of SSC Exam=850 b. Marks Obtained by a candidate= 680
c. Merit Position = $680 \times 25/850 = 20$
- Allocation of Marks

Certificate/ Degree	CT/DM/PET	AT/TT/QARI
S.S.C.	25	25
F.A/F.Sc.	25	20
Professional Exam	25	30
B.A/B.Sc.	10	10
M.A/M.Sc.	10	10
Experience	5	5
Total	100	100

Signature of Applicant Fozia MalikPostal Address Khanoo KhelP/O Kot Jai Tehsil PaharpurDistrict D.I. Khan


 Officer
 (AT) Schools & District
 Dist: D.I. Khan

(15)

Amix - "D"

OFFICE OF THE EXECUTIVE DISTRICT OFFICER (SCHOOLS & LITERACY) DIKHAN

OFFICE ORDER

The under signed has constituted the following committees for the next coming screening test/interview of female teachers to be held on the dates shown against each:-

S.No.	Category	Screening Test	Interview	Venue/Station
1)	C.T (Female)	24/4/2007	14/5/2007	GGHS, Dinpur, DIK ✓
2)	D7/PET (Female)	25/4/2007	15/5/2007	-do-
3)	A.T (Female)	26/4/2007	16/5/2007	-do-
4)	Qari (Female)	26/4/2007	16/5/2007	-do-
5)	T.T (Female)	26/4/2007	16/5/2007	-do-
6)	PET (Female)	28/4/2007	17/5/2007	-do-

COMMITTEE, TESHIL (DIKHAN)

1)	Supdt:	Nsrat Farhan	H/M	GGHS, Kech, DIKhan.
2)	Dy:Supdt:	Shahana Yasmin	ADO	Local Office.
3)	Dy:Supdt:	Kalsom Habib	ADO	"
4)	Dy:Supdt:	Farhat Yousfi	ADO	Dy:DO(F)DIKhan.
5)	Invigilator	Rpbina Shaheen	SET	GGMS, Central Jail, DIK.
6)	"	Azmat Fatima	SET	GGMS, Kiri Alizai, DIK.
7)	"	Mst: Munawar	SET	GGMS, No: 5, DIKhan.
8)	"	Mst: Farzana Bibi	SET	GGMS, Zaffar Abad.
9)	"	Mst: Samrine Rabia	SET	GGMS, Saggu, DIKhan.
10)	"	Mst: Kanwal Saheer	SET	GGMS, Jhock Qureshian.
11)	"	Mst: Rozina Eibi	C.T	GGMS, Kacha Mali Khel.
12)	"	Mst: Shaheenc Yousfi	D.M	GGMS, Zaffar Abad.
13)	"	Mst: Rehana Nuzhat	T.T	GGHS, Kech, DIKhan.
14)	"	Mst: Shahida Khanam	C.T	GGMS, Kiri Khysore.
15)	"	Muhammad Bilal	Supdt:	Dy:DO(F)DIKhan.
16)	"	H. Muhammad Ishtaq	S/C	Local office.

TESHIL PAHARPUR (FEMALE) PTC, GGHS, PAHARPUR
TEST, 28/4/2007. INTERVIEW, 17/5/2007

1)	Supdt:	Mst: Nahid Qaiser	H/M	GGHS, Rangpur Shumali.
2)	Dy:Supdt:	Mrs: Anjum Naz	ADO	Dy:DO(F)DIKhan.
3)	Invigilator	Mrs: Farhat Shaheen	SET	GGMS, Bigwani Shumali.
4)	"	Mrs: Robina	SET	GGHS, Paharpur.
5)	"	Mrs: Mumtaz	SET	GGMS, Jabbar Walla, DIKhan.
6)	"	Mst: Kaniz Akhter	SET	GGMS, Chah Barewalla, DIK.
7)	"	Mst: Sughra Bibi	SET	GGHS, Paharpur.
8)	"	Mst: Mehtab Bibi	SET	GGHS, Kachi Baqir Shah.
9)	"	Saeedullah Khan	Supdt:	Local Office.
10)	"	Saadullah Khan	Asstt:	Local Office.

TESHIL PAROA (FEMALE) PTC, VENUE GGHS, PAROA
TEST, 28/4/2007. INTERVIEW, 17/5/2007

1)	Supdt:	Mst: Qammar Yasmin	Prl:	GGHS, No: 6, Chah Said Munawar.
2)	Dy:Supdt:	Mst: Farzana Shaheen	ADO	Dy:DO(F)DIKhan.
3)	Invigilator	Mst: Zeenat Bibi	SET	GGHS, Paroa, DIK.
4)	"	Mst: Nasima	SET	-do-
5)	"	Mst: Fozia	SET	-do-
6)	"	Farhat Ara	SET	-do-
7)	"	Ferkhanda Iqbal	SET	GGMS, Chah Khanwalla
8)	"	Shagufta	CT	GGHS, Paroa, DIKhan
9)	"	Memoona Bibi	AT	-do-
10)	"	Shah Nawaz Khan	Asstt:	Local Office.
11)	"	Rizwan Haider	J/C	Local Office.

F.T.O

TEHSIL KULACHI (FEMALE) PTC, GGHS, KULACHI
TEST 28/4/2007 INTERVIEW 17/5/2007

- | | | | |
|-----------------|-----------------------|--------|--------------------|
| 1). Supdt: | Mst: Ghuncha Nigar | Prl: | GGHS, Kulachi. |
| 2). Dy: Supdt: | Mst: Sajida Nasreen | SS | -do- |
| 3). Invigilator | Mst: Khurshid | ADO | Dy: DO(F) Kulachi. |
| 4). " | Mst: Waqar-un-Nisa | SET | GGHS, Kulachi. |
| 5). " | Mst: Shaheena Sultana | SET | -do- |
| 6). " | Mst: Rahilla | CT | -do- |
| 7). " | Inayat ullah | Asstt: | Dy: DO(F) Kulachi. |
| 8). " | Sem-ul-Qedus | J/C | -do- |

TEHSIL DARABAN KALAN (FEMALE) PTC, GGHS, DARABAN KALAN
TEST 28/4/2007 INTERVIEW 17/5/2007

- | | | | |
|-----------------|----------------------|--------|------------------------|
| 1). Supdt: | Mst: Tasneem Sadozai | H/M | GGHS, Musazai Shahrif. |
| 2). Dy: Supdt: | Mst: Farzana Anjum | ADO | Dy: DO(F) DIKhan. |
| 3). Invigilator | Mst: Abida Nasreen | SET | GGHS, Daraban Kalan. |
| 4). " | Mst: Sakina Bibi | SET | GGHS, Choudwan. |
| 5). " | Mst: Dur-e-Shawar | TT | GGHS, Musazai. |
| 6). " | Mst: Hajira Bibi | TT | GGHS, Choudwan. |
| 7). " | Mr: Allah Nawaz Khan | Asstt: | Dy: DO(F) DIKhan. |
| 8). " | Mr: Muhammad Asghar | J/C | -do- |

NOTE/

Mr: Saeedullah
Khan, Supdt:
Muhammad Iqbal &
Javed Siyal

(S/Clerks) of
female branch
will be attached
for test/interview
of all female
categories
except PIC, with
interview
committee.

- 1). The Supdt./Dy: Supdt: and committee will also be responsible to prepared the result of screening test of all candidates on the spot on same day and will also bound to hand over it to EDO(S&L) / District Officer (Female) Schools & Literacy, DIKhan

2). Office Supdt./ Dealing Asstt: of local office will assist and help the committee and will also be responsible to prepared and provide the Interview/ test/interview attendees list of the candidates to committee on scheduled dates.

Executive District Officer
Schools & Literacy, D.I. Khan

Enclst: No

7833-28

Dated DIK the 23/04/2007.

Copy for information and n/action to the:-

- 1). Director, Schools & Literacy, NWFP, Peshawar.
- 2). District Nazim, D.I. Khan.
- 3). District Coordination Officer, Dera Ismail Khan.
- 4). District Officer (Female) Schools & Literacy, Local Office.
- 5). Deputy District Officer (Female) D.I. Khan/Kulachi, with the i
- 6). All the Principals/Headmistress, Officers/Officials concerned.
- 7). Principals, GGHS, Dinpur, Kulachi, Paharpur, Daraban Kalan, Paroa (DIKhan) with the direction to arrange the rooms/sitting arrangement for the candidates on the schedule dates.

Executive District Officer
Schools & Literacy, DIKhan

*F. Kawish/

(17)

Annex - E

(5)

OFFICE OF THE EXECUTIVE DISTRICT OFFICER, (SCHOOLS & LIT.)
DIKHAN

APPOINTMENT ORDER:

Consequent upon the approval of Selection Committee, the following Fresh(Female), is hereby appointed against vacant post of G.T. in the school noted against their name in BPS 09 plus usual allowances being a qualified, fresh candidate as per existing policy in the interest of public service w.e from the date of taking over charge on the following terms and conditions.

S.No. Name of Candidate with Father's Name Schools where posted.

1. Fozia Malik D/O Malik Allah Nawaz GGHS, Kot jai
R/O Khanu Khel TehLaharpur(DIKHAN).

TERMS & CONDITIONS:

1. Charge reports should be submitted to all concerned.
2. No pensionary benefit will be available.
3. The services of the above named candidate is made purely on temporary basis & liable to terminate at any time with out assigning any notice/ reasons.
4. The candidate will produce Health & Age certificate from the M/S concerned.
5. The original documents may be checked/ verified by concerned Board/ University through DDO concerned before handing over charge.
6. No FADA is allowed.

Sd/-
EXECUTIVE DISTRICT OFFICER,
SCHOOLS & LITERACY DIKHAN

Endstr. No.

20890-44

Dated D.I.Khan the

01/10/2007

Copy to the:-

1. Director Schools & Literacy N.W.F.P. Peshawar.
2. District Co-ordination Officer, D.I.Khan.
3. District Accounts Officer, D.I.Khan.
4. Headmistress/ Headmaster concerned.
5. Candidate concerned.

Via _____
EXECUTIVE DISTRICT OFFICER,
SCHOOLS & LITERACY DIKHAN

Waseem
M. S. Khan
Executive District Officer,
Literacy & Education D.I. Khan

(18)

Annex - "F"

OFFICE OF THE DISTRICT COORDINATION OFFICER, DERA ISMAIL KHAN

No. 2717-18/DCO (LCs/Education)

Dated D.I.Khan the 10/11/2008

OFFICE ORDER

In pursuance to the Government of NWFP, Finance Department, (Regulation wing) Notification No. FD/PRC/1-89 dated 07-08-1991 and No. FD/SO (FR) 10-22/2007 Dated 26.01.2008 and Govt of NWFP (S&L) Deptt. Peshawar Notification No. SO(B&A) 10-13/AT CT Teacher/S&L dated 27-05-2006 sanction is hereby accorded to award of higher pay scale in favour of the following officials as mentioned against each subject to entitlement

SNo.	Name of official	Scale Awarded	Date of Award
1.	Shumaila Riaz, DM, GGMS Giloti	BPS-14	01.10.2007
2.	Atta Ullah, CT, GHS No.1 Paharpur	BPS-15	01.10.2007
3.	Muhammad Rafique, PET, GHS Paniala	BPS-15	03.03.2008
4.	Muhammad Salim, Qari, GHS Himat	BPS-12	01.10.2007
5.	Fakhar ud Din, Qari, GHS Lar	BPS-12	01.10.2007
6.	Azmat Noreen, CT, GGMS Mahra D.I.Khan	BPS-15	01.10.2007
7.	Ameer Hamza, Qari, GHSS No.3, D.I.Khan	BPS-12	01-10-2007
8.	Khair un Nisa, CT GGHSS No.2, D.I.Khan	BPS-15	01-10-2007
9.	Farkhanda Jabeen, CT, GGHSS No.2, D.I.Khan	BPS-15	01-10-2007
10.	Hanifa Bibi, CT, GGHSS No.2, D.I.Khan	BPS-15	01-10-2007
11.	Shabnam Shanaz, CT GGHSS No.2, D.I.Khan	BPS-15	01-10-2007
12.	Dishad Bibi, CT GGHSS No.2, D.I.Khan	BPS-15	01-10-2007
13.	Shaista Khtoon, CT GGHSS No.2, D.I.Khan	BPS-15	01-10-2007
14.	Robina Tabsum, CT GGMS Sahri Faqir, D.I.Khan	BPS-14	19-09-2006
15.	Muhammad Altaf, CT, GMS Muqem-Shah	BPS-15	01-10-2007
16.	Allah Nawaz, CT, GMS Din Pur	BPS-15	01-10-2007
✓ 17.	Fozia Malik, CT GHS Kot Jai	BPS-15	01-10-2007
18.	Sabra Qausaria, TT, GGMS B/Dhapan Wali	BPS-15	01.10.2007
19.	Muhammad Saeed, CT, GHS Lar	BPS-14	01-10-2007
20.	Muhammad Ilyas, DM, GHS Lar	BPS-15	01-10-2007
21.	Tajmool Hussain, CT, GHS Dhalla	BPS-14	01-10-2007
		BPS-15	01-10-2007

Please read 3-3-2008 instead of 12-10-07 award of B-15 at S.No: 17 in this letter

District Coordination Officer **DISTRICT COORDINATION OFFICER**
D.I.Khan **DERA ISMAIL KHAN**

Copy forwarded to the:

- The EDO (E & S. Edu) D.I.Khan w/r to his memo No. 24935 dated 31.10.2008, No. 24943 dated 31.10.2008, No. 23505 dated 29.10.2008, No. 25139 dated 04.11.2008, No. 23269 dated 25.10.2008 and No. 25089 dated 03.11.2008
- The District Accounts Officer, D.I.Khan.
- Officials concerned.

District Coordination Officer
D.I.Khan.

DISTRICT COORDINATION OFFICER
DERA ISMAIL KHAN.

(19)

Annex - "G"

Month of April 2010

SN: 1 D. I. Khan

P Sec: 002. Month: April 2010
DI6202 - HM GGS KOT JAI DIMIAN
Min: Education Schools
MTN:
CPF #:
Old #:

Pers #: 00378755 Buckle:
Name: FOZIA MALIK
Dsg.: C. T TEACHER
NIC No.: 1210341195378
CPF Interest Free
15. Regular / Contract

PAYS AND ALLOWANCES:
0001-Basic Pay
1000-House Rent Allowance
1300-Medical Allowance
1908-Adhoc Relief-2009 (01-16)

DI6202
6,060.00
1,568.00
500.00
1,212.00

Gross Pay and Allowances
DEDUCTIONS:

Attested

9,338.00

CPF Balance 42,836.00
3501-Renevolent Fund
3511-Addl Group Insurance
3604-Group Insurance
3663-EEF NWFP Fund

Subrc: 835.00
35.00
13.00
115.00
20.00

Saeed Ahmad
Head Mistress
Govt Girls High School
Kot Jai D.I.Khan

Total Deductions

1,018.00
8,320.00

D.O.B 01.02.1984
02 Years 07 Months 001 Days
Government Contribution-Tg CPF

LFF Quota:
HBL, CIRCULAR ROAD DCIRCULAR ROAD D.I. K
13597900046901
835.00

(20)

Pers NO-379755 G/1

LAST PAY CERTIFICATE

1. Last Pay Certificate of FOZIA MALIK C.T. (CB.PS-15) of the Headmistress G.G. H.S. Kot Jai D.I. Khan. Proceeding of _____ to _____

2. He has been paid upto 30-04-2010 at the following rates :-

Particulars.
Substantive Pay
Officiating Pay
Exchange Compensation Allowance

Pay 6060/=

H.R.A 1566/=

M.A. 500/=

Adhoc Relief 2009=1212/=

Total ————— Rs 9338/=

Deductions.
① CPF-835/=
② B.F-35/=
③ A.G.I-13/=
④ G.I-115/=
⑤ P.F.F 20/=

Net Pay ————— Rs 8320/=

3. He made over charge of the office of C.T. Post G.G. H.S. Kot Jai D.I. Khan on After noon of 01-10-2007

4. Recoveries are to be made from the pay of the Government servant as detailed on the reverse.

5. He has been paid leave salary as detailed below Deductions have been made as noted on the reverse.

Period	Rate	Amount
From / to	at Rs. /	a month
From / to	at Rs. /	a month
From / to	at Rs. /	a month

6. He is entitled to draw the following :-

7. He is also entitled to joining time for _____ days.

8. The detailed to the income-tax recovered from him up to the date from the beginning of the current year noted on the reverse.

Dated at

(Signature) Saeeda Parveen

(Designation) Head Mistress Govt Girls High School Kot Jai D.I. Khan

Saeeda Parveen Head Mistress Govt Girls High School Kot Jai D.I. Khan

(20)

Annex - "H"

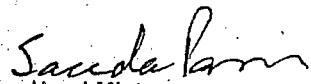
GOVERNMENT SERVICE EXPERIENCE CERTIFICATE

It is certified that Miss: Fozia Malik D/o Malik Allah Nawaz has been served her duty as Government Servant in Education Department, Dera Ismail Khan on post of C.T Teachress in Govt: Girls High School Kot Jai D.I.Khan since 01-10-2007 to 30-04-2010.

Her service in Education Deptt: is 2 years, 7 Months only.

I wish her successful in her future.

Dated: 24/06/2010


Head Mistress
Govt Girls High School
Kot Jai D.I.Khan

(32)

Annex - I

(10)

OFFICE OF THE EXECUTIVE DISTRICT OFFICER, E&SE,
DISTRICT DIKHAN.

No. 8301-11 /EDO (Male Section)

Dated D.I.Khan the 07/05 /2010.

To:

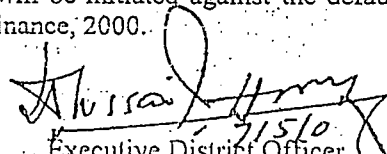
- 1-2) The District Officer (M/F) E&SE, in D.I.Khan.
- 3-10) The Dy. District Officer (M/F) E&SE, in D.I.Khan.
- 11) All Heads of Educational Institutions (M/F) Higher / High Schools in D.I.Khan.

Subject: IMPLEMENTATION OF TERMINATION ORDERS.

It is to inform you that the Peshawar High Court, D.I.Khan Bench has returned the petition to the petitioners and has held in its judgment announced on 29-04-2010, that the matter in issue is to be adjudicated upon the Khaiber Pakhtun Khaw, Service Tribunal and the jurisdiction is barred. Moreover, the said court has also held that they present the petition to the proper forum, if they so desire. It means they are no more Govt. Servants.

You are, therefore, requested that the termination orders already issued by the District Coordination Officer, D.I.Khan vide No.8021/DCO (Edu), dated 04-09-2009 duly endorsed by the undersigned vide No.10239, dated 04-09-2009 should be implemented in letter and spirit in the light of above referred judgment. However, 309 PST (Male), 131 PST (Female) appointed on merit and 61 Class-IV servants are exempted in view of the decision of the Standing Committee No.26 on E&SE.


You are further directed that their pay should be stopped from the date of judgment, failing which strict disciplinary action will be initiated against the defaulters under Special Powers (Removal from Service) Ordinance, 2000.


 Executive District Officer,
 E&SED, District D.I.Khan.

Endst.No 8312-16 /EDO (Male Section).

Copy of the above is forwarded for information & n/action to:-

- 1) The Secretary to K.P.K.P, E&SED, Peshawar.
- 2) The Director, E&SED, K.P.K.P., Peshawar.
- 3) The District Coordination Officer, D.I.Khan.
- 4) The S.O. (Litigation) E&SED, Peshawar.
- 5) The District Accounts Officer, D.I.Khan.


 Executive District Officer,
 E&SED, District D.I.Khan.

(23)

Annex - "J"

(11)

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL.
PESHAWAR.

SERVICE APPEAL NO. 1407/2010

Date of institution ... 21.07.2010

Date of judgment ... 27.10.2011



Abdul Salam S/o Shah Suliman,
D.I.Khan, Ex. P.T.C GPS, Kamal Khel

.. (Appellant)

VERSUS

1. Province of Khyber Pakhtunkhwa through Secretary Elementary and Secondary Education, Peshawar.
2. Director of Education (E&S) Khyber Pakhtunkhwa, Peshawar.
3. Executive District Officer (E&S) Dera Ismail Khan.
4. District Coordination Officer, Dera Ismail Khan. .. (Respondents)

APPEAL U/S 4 OF NWFP (KHYBER PAKHTUNKHWA) SERVICE TRIBUNALS ACT, 1974 AGAINST IMPUGNED ORDER DATED 04.9.2009, WHEREBY THE APPELLANT HAS BEEN TERMINATED FROM SERVICE, BY THE INCOMPETENT AUTHORITY, DISREGARD OF THE RULES, AND WITHOUT OBSERVING THE LEGAL REQUIREMENTS, AND HIS DEPARTMENTAL APPEAL ELICITED NO RESPONSE WITHIN STATUTORY PERIOD.

1. Shahzada Irfan Zia, Advocate for the appellant
2. Ashraf Ali Khattak
3. Ghulam Nabi
4. Saadullah Khan Marwat
5. Muhammad Arif Baloch
6. Muhammad Anwar Awan
7. Shaukat Ali Jan
8. Matiullah Rand
9. Abdul Qayyum Qureshi
10. Muhammad Ismail Alizai
11. Abdul Hamid Khan
12. Muhammad Waqar Alam
13. Muhammad Saeed Bhutta
14. Muhammad Saeed Khan & M. Asghar Khan
15. Rustam Khan Kundi
16. Gul Tiaz Khan
17. Zahid Muhibullah
18. Khalil-ur-Rehman Hissam
19. Fazal-ur-Rehman Baloch
20. Javed Iqbal
21. Yasir Zakria Baloch
22. Allah Nawaz, Advocates

Advocates from S.No.2 to 22 for the remaining appellants.

Sher Afgan Khattak, A.A.G.

.. For respondents

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EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

24

Mr. Qalandar Ali Khan
Syed Manzoor Ali Shah

Chairman
Member

JUDGMENT

QALANDAR ALI KHAN, CHAIRMAN:- This single judgment is also directed to dispose of the appeals mentioned in the list appended herewith, as common questions of law and facts are involved in all the appeals.

2. In the Daily 'Mashriq' Peshawar dated 7th April 2007, a publication/ advertisement appeared from the Executive District Officer (EDO), E&SE, D.I.Khan, inviting applications for unspecified posts, both male and female, of C.T. Drawing Masters (D.M), Physical Education Teachers (PET), Arabic Teachers (A.T), Islamiyat (Theology) Teachers (TT), Qaris and Primary School Teachers (PST) by 20.4.2007, and alongwith other conditions for selection of the candidates, the minimum qualification for the posts, dates of test and interview as well as places/venues of interview were also mentioned. The record would show that a large number of applications were received.

Test and interview were also conducted for the said posts, resulting in appointments not only against the above mentioned posts but also against other posts like Junior Clerks,

Lab: Assistants and Assistant Store Keeper (M) in the year 2007. However, in the year 2008, a local Member of the Provincial Assembly, raised question No.31 regarding recruitment/appointments made in the Education Department of District D.I.Khan by the EDO D.I.Khan, which was referred to Standing Committee No.26 for Elementary & Secondary Education, by the Provincial Assembly. The Standing Committee deliberated upon the issue, during which the Committee was informed that inquiries had also been conducted into appointments in Education Department of District D.I.Khan and Inquiry Committee/Inquiry Officers have made recommendations for appropriate

Acga/departmental action. After deliberations, the Standing Committee recommended

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Syed Manzoor Ali Shah
Chairman
Peshawar

25

15

that within one month the department should cancel appointment orders of those persons who were illegally appointed during the period between 1st January 2007 and June 2008 and also take stern disciplinary action against officers/officials found involved in illegal appointments. The record further shows that a Writ Petition was lodged in the High Court Bench D.I.Khan, which was accepted and an Hon'ble Bench of the Peshawar High Court D.I.Khan Bench directed the department to act upon the inquiry report dated 05.01.2009 positively within two months from 11.6.2009, where upon the District Coordination Officer (DCO) D.I.Khan passed office order dated 4.9.2009 thereby implementing the decision of the Standing Committee No.26, order of the Peshawar High Court D.I.Khan Bench dated 11.6.2009 and order of the Chief Minister NWFP (Khyber Pakhtunkhwa) contained in the Elementary & Secondary Education Department letter dated 26/3/2009, and terminated services of all the 'illegally/irregularly' appointed teachers, detail of which was given in Annexure to the office order. This office order of the DCO D.I.Khan was followed by a letter dated 7.5.2010 from the ED(E&SE) D.I.Khan to all concerned for implementation of termination orders issued by the DCO on 4.9.2009, and also a corrigendum on 20.5.2010 thereby terminating all the personnel appointed from January 2007 to 30th June 2008 except 131 (F)PST, 309 (M) PST + deceased son quota, disabled quota and minority quota in the light of decision of the Peshawar High Court, D.I.Khan Bench. It is against the said order of DCO D.I.Khan that the appellant in the instant appeal as well as appellants in the connected appeals, listed in the enclosed list, first preferred departmental appeals and then lodged these appeals. In the meantime, some of the appellants had also approached Peshawar High Court, D.I.Khan Bench and had filed Writ Petitions which were returned to the petitioners for presentation to the proper forum (KPK Service Tribunal) if they so desire, vide order dated 29.4.2010. The petitioners moved the august Supreme Court of Pakistan where-
from the petitions were withdrawn and consequently dismissed by a Hon'ble Bench of

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August Supreme Court of Pakistan vide order dated 28.6.2010 with the observation that if the petitioners approached proper forum for redressal of their grievances, the question of limitation be considered sympathetically if so raised. There-after, the appellants started lodging these appeals one by one, inter-alia, on the grounds that the impugned order dated 4.9.2009 was void, illegal and without jurisdiction because DCO D.I.Khan was not competent to terminate the services of officials in BPS-1 to BPS-10; that the DCO did not apply his independent mind and just acted upon the direction of Chief Minister and recommendation of a politically constituted Standing Committee; that before passing the impugned order, legal requirements were not fulfilled and the appellants were terminated from service without any charge sheet and/or show cause notice; that no chance of personal hearing was afforded to the appellants before passing the impugned order, hence they were condemned unheard; that even during the course of successive inquiry proceedings, the appellants were not associated to justify their respective position and thus the entire proceedings were conducted ex-parte; and that if there was any fault or lapse on the part of the department in the selection process, the appellants should not have been punished for the same.

3. It may be mentioned here that quite a number of affectees of the impugned termination order had also approached this Tribunal in the year 2009 and vide order dated 10.2.2009, this Tribunal had disposed of around 49 appeals with direction to the Secretary to Government of NWFP (S&L) to constitute a committee of experts of his department and, if need be, of the Establishment Department and Finance Department, to consider the cases of all the appellants named in the order as well as cases of all similarly placed persons, and decision regarding the same be given at the level of the competent authority, so that the parties are saved from unnecessary litigation, in the interest of justice, and in the interest of public work. It was expected that such a committee would be in a position to finalize its findings, and the competent authority may be in a position

to grant a decision in these cases, within a period of three months from the date of delivery of the order. The said order was not implemented within the specified time, therefore, implementation petitions were lodged, wherein directions were accordingly issued to the department for implementation of the order, following which, a committee comprising a Chairman and three other Members was constituted, which conducted its proceedings and submitted its report, which has been kept in the office record, while a copy of report/findings/recommendations has been placed on this file. The Scrutiny Committee concluded that appointments of all the appellants, except that of Shahana Niazi D/o Ghulam Sadiq (Service Appeal No.2177/2010), were illegal and irregular. The report/findings/recommendations of the Scrutiny Committee reveals appointments of more than two thousand teachers of various categories against following 1390 sanctioned

posts:-

PST	961
AT	61
TT	59
Qari	50
CT	171
DM	43
PET	45
<u>Total</u>	<u>1390</u>

4. The respondents defended the impugned termination order and resisted the appeals on several legal and factual grounds including the one that the services of a civil servant can be terminated without notice during the initial or extended period of his probation under section 11(i) of the NWFP (Khyber Pakhtunkhwa) Civil Servants Act, 1973. They alleged, in their written reply/comments, that the appellants were neither eligible/qualified for the posts, nor requisite codal formalities for appointment were observed, hence the appointments were illegal and fake. They contended that more than one inquiries were conducted and the matter was taken up in the Provincial Assembly and that it was recommended as a result of inquiries as well as by the Standing

ATTESTED

W. AMIN
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Committee, recommendations of which were unanimously adopted by the Provincial Assembly, to terminate the services of all persons illegally appointed. They maintained that all the appointments were found illegal and in violation of recruitment policy except 309 (M) and 131 (F) PST. They concluded that the decisions of the Inquiry Committees and recommendations of the Standing Committee, adopted unanimously by the Provincial Assembly, were also confirmed by the Chief Minister as well as by the Peshawar High Court D.I.Khan Bench, which were followed by the DCO by terminating the services of all those persons who were illegally/irregularly appointed and that the order of DCO was also followed by corrigendum issued by the EDO.

5. Arguments of the learned counsel for the appellants and learned AAG heard, and record perused.

6. The main thrust of the arguments of the learned counsel for the appellants was against the impugned order dated 4.9.2009 of the DCO D.I.Khan, which was a general order in all the cases of 'illegal/irregular' appointments. The objections to the impugned order were two-fold. Firstly, the order was general in nature on the direction/recommendation of the Standing Committee of the Provincial Assembly without application of mind to each and every case, and thereby services of around 1613 male and female teachers of various categories were terminated with one stroke of pen; and, secondly, the order was passed by the DCO D.I.Khan who was not appointing authority for employees in BPS-1 to BPS-10, and thus not competent to dispense with their services. The learned counsel further laid stress on the non-observance of codal formalities essentially required for termination of services of civil servants, like service of charge sheet and/or show cause notice and providing them opportunity of defence and hearing. They also alleged non-association of appellants in the inquiry proceedings conducted in the matter. The learned counsel contended that the appellants were appointed after qualifying test and interview for the posts conducted in pursuance of

ATTESTED

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advertisement/publication made in the newspaper by the department/authority and after their applications for the posts were found in order by the department. They maintained that the appellants had joined service and performed their duty without any complaint about their performance from the quarter concerned.

7. The learned AAG assisted by the representatives of the department vehemently contested claim of the appellants/counsel for the appellants and argued that the appointments were made without first obtaining proper sanction of the posts, without advertisement, and without observance of the codal formalities including test and interview, preparation of merit list, and its approval by the competent authority. It was argued on behalf of the department that some of the appointments were made even before advertisement, without specifying the posts against which the appointments were being made and without checking whether the educational qualification of the candidates fulfilled the academic requirements for the posts. It was pointed out that all 440 PSTs appointed on merits and after observance of codal formalities were retained, while the rest appointed 'illegally/irregularly' were terminated as a result of more than one inquiries, recommendation of the Standing Committee, and orders of the Chief Minister as well as Peshawar High Court, D.I.Khan Bench. It was alleged on behalf of the department that the competent authority i.e. EDO D.I.Khan not only endorsed the impugned order of DCO D.I.Khan dated 4.9.2009 but also issued a follow up letter dated 7.5.2010 and corrigendum on 20.5.2010. They further pointed out that none of the appellants was in possession of proper documents showing his eligibility for the post, and also proper appointment order against the post. They concluded that the appointments of the appellants have been found by various legal and constitutional forums as illegal/irregular, besides fake in most of the cases.

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

8. From whatever has been narrated above, as well as from perusal of the record, the following points emerge which are critically important for determination of fate of these appeals:-

- (a) The services of the appellants, appointed in 2007, were dispensed with vide a general order of the DCO D.I.Khan dated 4.9.2009, against which some of them preferred departmental appeals and then lodged appeals in the Tribunal, which were disposed of vide order dated 10.2.2009, while the rest moved the Peshawar High Court D.I.Khan Bench in writ jurisdiction, but their writ petitions were returned to them for presentation to the proper forum vide judgment/order dated 29.4.2010, against which petitions were moved in the august Supreme Court of Pakistan, which were dismissed as withdrawn with the observation that if the petitioners/appellants approached the appropriate forum for redressal of their grievances, the question of limitation be considered sympathetically if so raised. Not only that the question of limitation has not been raised so vehemently by the department, the appellants have also been vigilantly pursuing their case, albeit in the wrong forum, therefore, the appeals lodged in the Tribunal after disposal of their petitions by the august Supreme Court of Pakistan cannot be held as time-barred, especially when the august Supreme Court of Pakistan directed for sympathetic consideration of the question of limitation, together with certain facts of the case warranting interference by the Tribunal. Besides, the impugned order has been issued by the DCO D.I.Khan who was not appointing authority of civil servants in BPS-1 to BPS-10, and, as

ATTESTED

SECRETARY
PESHAWAR TRIBUNAL
PESHAWAR

such, the impugned order would be deemed to be an order by an authority not competent to issue the order, and, as such, void; and no limitation would run against such order (2007 SCMR 262 (g) and PLJ 2005 SC 709 (Appellate Jurisdiction)).

- (b) The posts of Junior Clerks, Lab. Assistants and Assistant Store Keeper (M) were never advertised, and, as such, no codal formalities were observed for appointment of 14 Junior Clerks, 03 Lab. Assistants and one Assistant Store Keeper. Their appointments were, therefore, aptly termed as illegal/irregular, and, consequently, their services have rightly been terminated, as appointments secured through illegal/irregular orders would be void ab-initio and would not confer any right on the holders of such appointment orders. Their appeals also deserve to be dismissed on this score.

- (c) After painstaking exercise in pursuance of the order dated 20.01.2011 in one of the implementation/execution petitions, for which the then Secretary Education, Mr. Muhammad Arifeen Khan, and his team genuinely deserve commendation, the Scrutiny Committee prepared a detailed report, stretching over hundreds of pages, wherein they held only the appointment of PST Shahana Niazi D/o Ghulam Sadiq (Service Appeal No. 2177/10) according to the prescribed procedure, as her name also appeared in the merit list, and recommended her reinstatement into service. The respondent-department also did not contest her appeal in the manner they contested appeals of other appellants. Therefore, her appeal deserves to be accepted.

(d) Regarding the remaining cases, the respondents have resisted the appeals on the grounds that neither the posts on which appointments of the appellants were made were sanctioned before advertisement, nor the appellants qualified or were eligible for the posts, and codal formalities like test and interview, preparation of merit list and approval of competent authority were not observed; but these assertions of the respondents are belied by the available record, as well as some documents produced by the appellants/counsel for the appellants alongwith a joint affidavit by Muhammad Ayub Khan, SET GHS Panyala and Abdullah TT GHS Panyala who performed duty during test and interview of the appellants on 24th, 25th and 26th April 2007, during the course of arguments, showing constitution of committees for conducting test and interview, preparation of merit list after test and interview, besides revealing some cases in which the candidates other than those claimed by the respondents to have been appointed on merit secured more marks than the latter. So far sanction prior to advertisement/publication is concerned, it was duty of the authority to secure the requisite sanction prior to advertising/publicizing the posts for inviting applications, and the appellants can, by no stretch of imagination, be held responsible for any fault/lapse in this respect on the part of the authority i.e. EDO D.I.Khan. Notwithstanding the fact that appellants have placed on file verification of the certificates/testimonials of some of the appellants by the respondent-department, even if some irregularity was found in the appointments, the appellants/appointees should

ATTESTED


Muhammad Ayub Khan
SET GHS Panyala

not be made to suffer for such lapses on the part of the appointing authority (1996 SCMR 411 (Supreme Court of Pakistan), 2004 SCMR 303 (Supreme Court of Pakistan), 2006 SCMR 678 (Supreme Court of Pakistan), PLJ 2006 SC 81 (Appellate Jurisdiction), PLJ 2011 Lahore 736 (Multan Bench Multan), and last but not the least 2011 SCMR 1581 (Supreme Court of Pakistan)).

- (e) It is a matter of record that not in a single inquiry out of so many inquiries by the department, the then EDO D.I.Khan has been confronted with his signatures on appointment letters, so conveniently termed by the respondent-department as bogus and fake. When the 'authority' has never and no-where disowned his signatures on such appointment letters, how the same can be held as bogus and fake. No-doubt, the record shows departmental proceedings against the then EDO, and major penalty of compulsory retirement has been imposed upon him, but only after causing colossal loss to the national exchequer, for which he must be made accountable and also made to make good the loss so caused to the public money, and also landing hundreds of jobless persons in deep trouble by forcing them to engage in protracted litigation, during which they have not only been robbed of whatever money was left with them after securing the jobs; while he himself enjoying post retirement life with all perks and privileges. In view of implications/consequences of the acts on the part of the then EDO D.I.Khan, the penalty imposed on him does not appear commensurate with the gravity of his guilt, but since that matter is

ATTESTED

not before us, we would stop short of making any order with respect to the departmental proceedings against him, but would, indeed, direct the respondent-department to recover the pay/salary paid to the illegally/irregularly appointed persons from the pension etc. of the then EDO instead of burdening the public exchequer for illegal/irregular acts on the part of the then EDO D.I.Khan.

(f) No-doubt, an illegal/irregular and an order void ab-initio would not confer a right on the holder of such order, but an order passed by a competent authority in the discharge of his duty after observance of codal formalities does confer right on the holder of such order to be heard in support of order in his favour and his case decided on merit instead of a general order on the direction of some outside authority. If authorities are needed, one can readily refer to a number of cases including cases reported as 1995 PLC(C.S) 419 (Lahore High Court), 2005 SCMR 1814 (Supreme Court of Pakistan), 2006 FLC (C.S) 1140(Northern Areas Chief Court), 2005 SCMR 85 (Supreme Court of Pakistan), 1987 PLC (C.S) 868 (b), 2007 SCMR 330 (Supreme Court of Pakistan), 2008 PLC (C.S) 582 (Northern Areas Chief Court), and 2007 MLD 703 (Lahore). Undoubtedly, notices were not issued to the appellants prior to the impugned order by the DCO D.I.Khan, and they were never provided opportunity of hearing either by the 'authority' prior to passing of the impugned order or during inquiry/ scrutiny proceedings by several committees during the pre and post period of impugned order. As such, the principle of audi-alteram partem was violated at all levels and at all stages, rendering the impugned

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ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

order void and invalid, in respect of those who were found eligible for the posts after observance of codal formalities.

- (g) There is no dispute that in the case of appointments, in BPS-1 to BPS-10, the appointing authority, in view of notification of the Provincial Government dated 7th October 2005, was EDO and thus also competent authority for disciplinary matters, whereas the District Coordination Officer was appointing authority for officials in BPS-11 to 15; therefore, the impugned order in respect of the appellants issued by the DCO D.I.Khan was an order by an incompetent authority and not sustainable in law as held in cases reported as 1983 PLC (C.S) 354 (Service Tribunal Punjab), 2001 PLC (C.S) 1097, 2008 PLC (C.S) 949 (Lahore High Court) and 1985 PLC (C.S) 1002. The contention of the respondents was that the competent authority i.e. EDO D.I.Khan not only endorsed the impugned order issued by the DCO D.I.Khan and issued a letter for implementation of termination order but also issued corrigendum thereby terminating the services of the appellants. Apart from the fact that endorsement of the order of an incompetent authority by the competent authority and follow up letter by him would not validate a void order issued by an incompetent authority, the corrigendum issued after more than 8 months of the impugned order would also not serve any useful purpose in view of PLD 2000 SC 104, as after issuance of termination order the department had become functus-officio.

It was urged on behalf of the respondents that recommendations of the Standing Committee of the Provincial Assembly assumed legal

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

ATTESTED

status following judgment/order dated 11.6.2009 of the Peshawar High Court, D.I.Khan Bench, whereby a clear direction was issued to act upon the inquiry report, but they lost sight of the fact that no direction of any authority could absolve the departmental authority from following the law/rules on the subject and fulfill necessary legal requirements before passing the impugned order.

9. As a sequel to the foregoing discussion, we would make the following orders:-

- (i) All the appeals of Junior Clerks, Lab. Assistants and Assistant Store Keeper(M) are dismissed with costs, being devoid of merit.
- (ii) The appeal of Ms. Shahana Niazi (Service Appeal No. 2177/10) is accepted, and by setting aside the impugned order, she is reinstated in service with consequential/back benefits.
- (iii) The appeals of the rest of the appellants including PSTs(M&F), CTs(M&F), PETs(M&F), DMs(M&F), ATs(M&F), TTs(M&F) and Qaris (M&F) are also accepted and impugned termination order in their cases set aside, but instead of their outright reinstatement, their cases are remanded/sent back to the Secretary, Elementary & Secondary Education Department, Peshawar (Respondent No.1) for reconsideration of the cases in the light of above observations for reinstatement of the qualified appellants and a speaking order in respect of those who are not found qualified, by the competent authority, after affording opportunity of hearing to the said appellants through an efficient and fair mechanism to be evolved for the purpose by him so as to ensure compliance with the mandatory legal requirements on the one hand

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EX. M. NIZAR
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

and integrity of the proceedings on the other hand. Since the matter has already been delayed inordinately, it is expected that the proposed exercise should not take more than three months, whereafter a progress report be submitted to the Registrar of the Tribunal.

- (iv) The respondent-department should also look into claim of those appellants who have alleged performance of duty for considerable time after their appointment, and if they are found to have actually performed duty for certain period, and, as such, entitled to pay/salary for the period of the duty, legal procedure should be adopted for recovery of their claims from the then EDO D.I.Khan who has already been held responsible for appointments in question as a consequence of departmental proceedings against him.

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27.10.2011

(SYED MANZOOR ALI SHAH)
MEMBER

(QALANDAR ALI KHAN)
CHAIRMAN

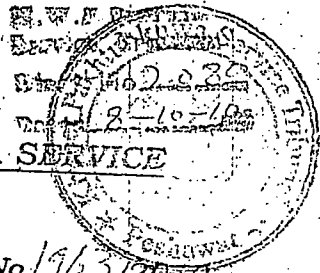
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MEMBER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Date of Presentation of Application 5-11-2011
Name of Applicant GOOD
Copy of 32-00
Urgency 2-00
Total 34-00
Name of Applicant N
Date of Completion of Copy 14-11-2011
Date of Delivery of Copy 14-11-2011

N

38

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

Appeal No/1963/2010

Fozia Malik D/O Malik Allah Nawaz C/o Office No.571, Qubba Market Model Town Humak, Islamabad.

...Appellant

VS

1. Government of Khyber Pakhtunkhwa through Secretary, Elementary & Secondary Education Deptt: Peshawar.
2. Executive District Officer, Elementary & Secondary Education Deptt: D.I.Khan.

...Respondents

Brief Backgrounds:

A letter No SO (AB) E&SED/10-II/Std.Comt/26/09 dated 26-8-2009 was issued wherein DCO and EDO had been directed/enforced/influence to implement the decision of Standing Committee No.26 (Termination of illegal/irregular appointments). The appellant aggrieved and dissatisfied hence, he approached to Honorable High Court on 04-09-2009. The Honorable High Court pleased to suspend the operation of letter dated 26-8-2008.

Eventually, on 29-04-2010 Honorable concluded inter alia that jurisdiction of this Court is barred. So, we returned these petition to the petitioner (appellant) for presentation the case to the proper forum if they so desire. The appellant challenged the decision of High Court before Honorable Supreme on 13-05-2010.

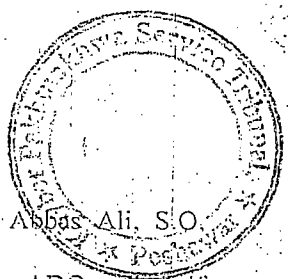
However, EDO was influence to endorse vide letter dated 07-05-2010 to terminate the services of the appellant.

That on 28-06-2010 Honorable Supreme Court "after arguing the cases at some length, learned counsel of the appellant seek permission to withdraw the petitions with observation that if the petitioner approached to appropriate forum for redressal of their grievances, the question of limitation be consider sympathetically if so raised"

On 9-07-2010 after withdrawal of the case the appellant submitted his departmental representation against impugned

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27.10.2011

Counsel for the appellant. M/S Hidayatullah, S.O, Abbas Ali, S.O, Mashal Khan, L.O, Miss Nadia. -A.D and Muhammad Nawaz, ADO on behalf of the respondents with AAG present. Arguments heard and record perused.

Vide detailed judgment of today. placed on connected appeal No.1407/2010 titled 'Abdul Salam-vs-Province of KPK through Secretary, E&SE, Peshawar etc.', the appeal of the appellant is accepted and impugned termination order in his/her case set aside, but instead of his/her outright reinstatement, his/her case is remanded/sent back to the Secretary, Elementary & Secondary Education Department, Peshawar (Respondent No.1) for reconsideration of the case in the light of observations made in the judgment, for reinstatement of the qualified appellants and a speaking order in respect of those who are not found qualified, by the competent authority, after affording opportunity of hearing to the appellant(s) through an efficient and fair mechanism to be evolved for the purpose by him so as to ensure compliance with the mandatory legal requirements on the one hand and integrity of the proceedings on the other hand. Since the matter has already been delayed inordinately, it is expected that the proposed exercise should not take more than three months, where-after a progress report be submitted to the Registrar of the Tribunal.

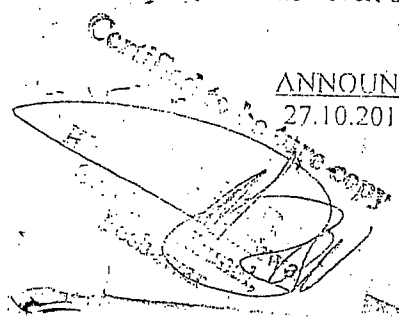
The respondent-department should also look into claim of appellants who have alleged performance of duty for considerable time after their appointment, and if they are found to have actually performed duty for certain period, and, as such, entitled to pay/salary for the period of the duty, legal procedure should be adopted for recovery of their claims from the then EDO D.I.Khan who has already been held responsible for appointments in-question as a consequence of departmental proceedings against him. There shall, however, be no order as to costs.

ANNOUNCED
27.10.2011

MEMBER

CHAIRMAN

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9. The appointments of the appellants were illegal and irregular. Appeals being merit less deserve to be dismissed.

15. CT (F) CATEGORY III.

1. 30 CT posts were sanctioned on 29.09.2007 by the Government of Khyber Pakhtunkhwa Finance department vide No BOV/FD/2-38/2006-07 dated 29.09.2007 (Annexure-II) against which the following candidates were appointed as CT with out advertisement and observing recruitment process, Merit list, DSC and other procedure.

Sl. No.	Appellant No./ye or	Name of appellant	Fathers Name	School	Appnt. order No	Date	Paid Upto	Year of Passing CT Exams	Whether trained or untrained
	2708/0	Kalsom Bibi	Haji Muhammad Bakhtsh	GGHS Biquani Shumali	20195-99	01.10.2007	30.04.2010	28.12.2006	Trained
	2499/10	Rohana Afzal	Muhammad Afzal	GGHS Murjali	20340-44	01.10.2007	30.04.2010	05.05.2003	Trained
	2338/10	Rozina Nisar	Sher Bahadar Muhammad Sultan	GGHS Kot Jai	20270-74	01.10.2007	30.04.2010	20.03.2007	Trained
	1972/10	Amna Begum	Muhammad Sultan	GGMS Sara Gara/GGHS Lar	20270-74	01.10.2007	30.04.2010	25.03.2001	Trained
	2333/10	Ishrat Jehan	Khurshid Hussain	GGHS Paharpur	20155-59	01.10.2007	30.04.2010	28.12.2004	Trained
	2492/10	Nazera Bibi	Allah Nawaz	GGHSS Kulachi	20506-10	01.10.2007	30.04.2010	21.11.2005	Trained
	2176/10	Rizwana bibi	Robnawa z Khan	GGHS Prora	20391-95	01.10.2007	30.04.2010	20.03.2007	Trained
	2489/10	Noorain Nisar	Nisar Ahmed	GGMS Ijaz hab	12511-55	01.10.2007	30.04.2010	20.03.2007	Trained
	2794/10	Fozia Saeed	Saeedullah	GGHS No.4 DI Khan	20320-24	01.10.2007	30.04.2010	20.03.2007	Trained
	2365/10	Asma ul Huma	Ghulam Abbas	GGMS Saidu Wali	20234-34	01.10.2007	30.04.2010	07.10.2002	Trained
	2169/10	Ranjya Bibi	Bahsir Ahmed	GGHSS Paharpur/ GGHS Kiri Shamozai/ Ramak/GGHS Prora	20350-54	01.10.2007	30.04.2010	20.03.2007	Trained
	2504/10	Rubina Bibi	Fuzal Rehman	GGHS No.9 DI Khan/GGHS No.6 DI Khan	20330-34	01.10.2007	30.04.2010	06.05.2004	Trained
	2506/10	Riffat Akhik	Malik Nazir	GGMS Sara Garah/Jutta	20365-69	01.10.2007	30.04.2010	20.03.2007	Trained
	2687/10	Saira Jabeen	Hamidullah	GGHS Murjali/Malana	20110-14	01.10.2007	30.04.2010	20.07.2004	Trained
	2505/10	Atia Naz	Muhammad Bashir	GGHS Sadu Wali/No.2	20170-74	01.10.2007	30.04.2010	20.12.2000	Trained
	2316/10	Ranjya Bibi	Mahik Illahi Bakhsh	GGHS Ramak/GGHS Paron/GGMS Dhapan Wali	20140-44	01.10.2007	30.04.2010	31.03.2002	Trained
	2497/10	Asia Yasmin	Kaleemullah	GGHS No.6	20391-470	01.10.2007	30.04.2010	31.03.1998	Trained
	2168/10	Kousar Parveen	Ghulam Farid	GGHS Prora	20476-80	01.10.2007	30.04.2010	20.03.2007	Trained
	1966/10	Syed Hira Batool	Syed Harsham	GGHS Wanda	20025-29	01.10.2007	30.04.2010	21.11.2005	Trained

41

Gohar Sultana	Shah Muhammad Nawaz	Mozam GGMS Gilotti	20512-16	01.10.2007	30.04.2010	23.04.2000	Trained
Fozia Malak	Malak Allah Nawaz	GGHS Kot Jai	20340-44	01.10.2007	30.04.2010	28.02.2005	Trained
Saharish	Ghulam Farid	GGHS No.9 Din Pur	20320-24	01.10.2007	30.04.2010	20.03.2007	Trained
Shagufta Bibi	Abdul Qadoos	GGHS Paniala	20271-75	01.10.2007	30.04.2010	20.03.2007	Trained
Musarat Rashid	Abdur Rashid	GGMS Gilotti/Yari k	20540-44	01.10.2007	30.04.2010	21.11.2005	Trained
Irum Ibrar	Ibrar Hussain	GGHS No.2/No.4	20143-49	01.10.2007	30.04.2010	20.07.2004	Trained
Shazia Zarin	Shah Muhammad	GGMS Gilotti/Rod a	20155-59	01.10.2007	30.04.2010	20.03.2007	Trained
Fozia Gul	Haji Ghulam Farid	GGHS Kulachi	20517-21	01.10.2007	30.04.2010	08.07.2006	Trained
Humaira Mumtaz	Ghulam Ahmad	GGMS Saidu Wali	20395-99	01.10.2007	30.04.2010	30.12.2005	Trained
Shazia	Muhammad Rouf Khan	GGMS Musa Zai Sharif	20140-44	01.10.2007	30.04.2010	10.06.2000	Trained
Ghuzala Bibi	Muhammad Afzal	GGHSS Muryali/D hawa	20391-95	01.10.2007	30.04.2010	02.03.2007	Trained
Farzana Hakeem	Hakeem ud Din	GGHSS No.2 DIKhan	20481-85	01.10.2007	30.04.2010	06.08.2002	Trained
Nasreen Khan	Mahmood Khan	GGHS Kacha Moli Khel/GGM S Mithapur	20265-70	01.10.2007	30.04.2010	09.01.2006	Trained
Adila Bashir	Muhammad Bashir	GGHS Musazai Sharif	20266-70	01.10.2007	30.04.2010	20.03.2007	Trained
Zeenat Bibi	Faiz ullah	GGHSS Paharpur	20125-30	01.10.2007	30.04.2010	15.08.2006	Trained
Aisha Bibi	Ahmad Nawaz	GGHS No.6 Chah Syed Munawar	20522-26	01.10.2007	30.04.2010	14.07.2007	Trained
Fakhar Batool Janifa	Ghulzar Hussain	GGMS Athage	20125-30	01.10.2007	30.04.2010	24.05.2004	Trained
Chaman Zahra	Ghulam Shabir	GGHS Ramak	203775-79	01.10.2007	30.04.2010	20.03.2007	Trained
Amber Noreen	Hanf Muhammad	GGHS No.5	20421-25	01.10.2007	30.04.2010	20.03.2007	Trained
Amber Noreen	Abdul Aziz	GGHS Wanda Mozam	20380-83	01.10.2007	30.04.2010	06.05.2004	Trained
Rukhsana Parveen	Ghulam Hussain	GGHS No.4 DI Khan	20426-30	01.10.2007	30.04.2010	25.05.1996	Trained
Mehrin Begum	Attaullah	GGMS Ajmal Abad	20275-79	01.10.2007	30.04.2010	20.07.2004	Trained
Arjumand Bano	Mumtaz Hussain	GGHS Behari Colony	20290-94	01.10.2007	31.03.2010	12.12.1995	Trained
Shazia Bibi	Amanullah	GGMS Dhakki	20385-89	01.10.2007	NA	21.11.2005	Trained
Farkhanda	Rab Nawaz	GGMS Phulari Athag	20480-84	01.10.2007	NA	20.03.2007	Trained
Shabnam Afroz	Ghulam Yasin	GGMS Kachi Kath Garh	20280-84	01.10.2007	NA	20.03.2007	Trained
Abida Bibi	Habib Ullah	GGMS Madi	20110-14	01.10.2007	NA	20.03.2007	Trained
Farzana Khan	Haq Nawaz	GGHS Lar	20441-45	01.10.2007	Not Pay	20.03.2007	Trained
Safia Mobeen	Muhammad Baksh	GGMS Kulachi Wala	20146-50	01.10.2007	Not Pay	20.03.2006	Trained

42

49		Mehveen Iram	Inamulla h	GGMS Sara Gara	20401-45	01.10.2007	Not Pay	20.03.2007	Trained
50	2460/ 10	Samina Zaman	Muhamm ad Zaman	GGHS Naivela	20150-54	01.10.2007	30.04.2010	21.11.2005	Un- Trained
51	1531/ 0	Rukhsana Naz	Nazir Hussain shah	GGMS Gara Essa Khan	13650-55	01.10.2007	30.04.2010		Un- Trained
54	2330/ 10	Sadia Naz	Faiz Rasool	GGHS Reeh	22827-31	09.10.2007	30.04.2010	21.11.2005	Trained
53	1813/ 0	Aliya Iqbal bihi	Sadiq Hussain	GGHS No.2	2695-99	01.12.2007	30.04.2010	25.05.1996	Trained
54		Nadia	Asadulla h Jan	GGMS Hisam	25220-24	01.12.2007	30.04.2010	02.03.2007	Trained
55		Farzana Bibi	Shah Nawaz	GGMS Sara Gara	25220-24	01.12.2007	NA	20.03.2007	Trained
56		Nahed Akhter	Muhamm ad Iqbal	GGMS Kulschi Wala	25260-64	01.12.2007	Not Pay	25.05.1996	Trained
57		Amreen Mohab	Muhamm ad Aslam	GGHS Dhakki	23455-59	01.12.2007	Not Pay	21.11.2005	Trained
58	32/11	Naila Naz	Qayum Nawaz	GGHS Lar	20320-24	10.10.2007	30.04.2010	14.07.2005	Trained

2. As per recruitment rules, Policy and procedure in practice in 2007. The posts were to be advertised and were to be filled 25% from open Merit and 75% on the basis of Batchwise/Yearwise merit.
3. The above 58 appointments of CT are illegal and irregular in term of prescribed method of recruitment; neither any advertisement was made to fill the vacancies nor any Test & interview was held, No selection Committee was constituted.
4. No Merit list was prepared in the cases of the appellants. Codal formalities for appointments were flagrantly violated.
5. The Executive District Officer (E&SE) D I Khan issued individual separate appointment orders to each and every appellant. NWFP (now Khyber Pakhtunkhwa) Civil Servants (Appointment, Promotion and Transfer Rules 1989) were violated.
6. Decision of the Standing Committee No.26 duly adopted by the Provincial Assembly was implemented. A high Level Enquiry was conducted in their cases. Peshawar High Court D I Khan Bench has also directed for the implementation of the decision of the Standing Committee No.26. Proper procedure was adopted for their termination but they were not terminated by competent authority, which was Executive District Officer Elementary and Secondary Education D I Khan but by the DCO D I Khan, thus irregular, The Honourable Service Tribunal set aside the termination order on technical ground and their cases remanded back to Secretary.
7. The appointments of the appellants were illegal and irregular under Rule 10(2) of the Khyber Pakhtunkhwa civil-servant (Appointment Promotion and Transfer Rules 1989) which is reproduced below.
"Initial recruitment to the posts which do not fall within the purview of the commission shall be made on the recommendations of the

departmental Selection Committee after the vacancies have been advertised in the newspapers”

- 8. Appeals being merit less deserve to be dismissed on the analogy of the decision of the Khyber Pakhtunkhwa Services Tribunal decision under Para-9 (i) read with Para-8(b).

16. PET (M) CATEGORY I.

- 1. 27 PET posts were lying vacant during the period of 31.12.2006 to 31.04.2007 against which the following one candidate was appointed as PET with out advertisement before completion of the recruitment process, Merit list, DSC and other procedure.

SIN	Appel No/y ear	Name of appellant	Father's Name	School	Apptt. order No.	Date	Paid Up To:	Year of Passing PET Exams	Whether trained or untrained
1	1407/10	Muhamma d Khalid	Rab Nawaz Khan	GMS Kulachi	5617-20	11.02.2007	30-04-2010	15.11.2003	Trained

- 2. As per recruitment rules, Policy and procedure in practice in 2007. The posts were to be advertised and were to be filled 25% from open Merit and 75% on the basis of batchwise/yearwise merit.
- 3. The above one appointment of PET is illegal and irregular in term of prescribed method of recruitment; neither any advertisement was made to fill the vacancies nor any Test & interview was held.
- 4. No Merit list was prepared in the cases of the appellants. Codal formalities for appointments were flagrantly violated.
- 5. The Executive District Officer (E&SE) D I Khan issued individual separate appointment orders to each and every appellant. NWFP (now Khyber Pakhtunkhwa) Civil Servants (Appointment, Promotion and Transfer Rules 1989) is violated.
- 6. Decision of the Standing Committee No.26 duly adopted by the Provincial Assembly was implemented. A high Level Enquiry was conducted in their cases. Peshawar High Court D I Khan Bench has also directed for the implementation of the decision of the Standing Committee No.26. Proper procedure was adopted for their termination but they were not terminated by competent authority, which was Executive District Officer Elementary and Secondary Education D I Khan but by the DCO D I Khan, thus irregular. The Honourable Service Tribunal set aside the termination order on technical ground and their cases remanded back to Secretary.

44

22

departmental Selection Committee after the vacancies have been advertised in the newspapers

6. In case of appointment of the applicants the vacancies were not advertised and Departmental Selection Committee has not recommended the applicants for the appointment.
7. Appeals being merit less deserve to be dismissed on the analogy of the decision of the Khyber Pakhtunkhwa Services Tribunal decision under Para-9 (i) read with Para-8(b).

RECOMMENDATIONS:

The Committee heard personally and scrutinized the record and appeals of terminated PST (M&F), CT (M&F), DM (M&F), PET (M&F), AT (M&F), TT (M&F), Qari (M&F) teachers/officials lying in the office of the Executive District Officer (E&SE) D. I. Khan on case to case basis in accordance with Khyber Pakhtunkhwa Services Tribunal order dated 27.10.2011, and segregated /check/scrutinize their cases on the basis of different categories of Teachers/officials from 19.12.2011 to 24.12.2011,

All the appointments of the appellants against the posts of PST (M&F), CT (M&F), DM (M&F), PET (M&F), AT (M&F), TT (M&F), Qari (M&F) appended under various categories from S.No 1 to 41 have been made without observing codal formalities/procedure, Government Policy and Merit and in violation of Rule 10(2) of the NWFP (now Khyber Pakhtunkhwa) Civil Servants (Appointment, Promotion and Transfer Rules-1989. The appointments of the appellants are declared illegal and irregular. Cases being merit less deserves to be terminated. The following steps are recommended to be taken.

- a. Executive District Officer Elementary and Secondary Education D I Khan is required to issue proper termination orders of the above appellants and similar cases listed above under various categories PST (M&F), CT (M&F), DM (M&F), PET (M&F), AT (M&F), TT (M&F), Qari (M&F) teachers in the findings from S.No.1-41 excepts those who were working on lower posts and were appointed on higher posts in other categories, they may be reversed to their original posts.
- b. Executive District Officer Elementary and Secondary Education D.I Khan is further required to release/activate the pay of those PST Male who were appointed on merit included in the joint appointment order of 309 candidates dated 02.07.2007 and PST Female who were appointed on merit included in the joint appointment order of 131 candidates dated 02.07.2007. (Annexure- E-1),
- c. Executive District Officer Elementary and Secondary Education D I Khan is required to advertise the vacant posts immediately and complete the recruitment process before 15 March, 2012 and the terminated teachers may be provide opportunity to compete if otherwise they have the qualification required for the post and further they may be awarded extra 2 marks per year of span of service rendered if they actually performed duty after appointment.
- d. District Coordination Officer D I Khan is required to recover the claim of appellants who have alleged performance of duty for the considerable

DTA →

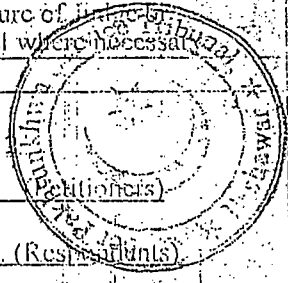
obtained their signatures on the list. The learned counsel for the petitioners also confirmed holding of meeting by the

45

Annex - "K"

33

S.No. of Order or proceedings.	Date of Order or proceeding	Order or other Proceedings with Signature of Magistrate and that of parties or counsel where necessary
1	2	3
	14.03.2012	<p style="text-align: center;">Execution Petition No. 34/11 Muhammad Hassan Khan etc. (Petitioners) Versus Secretary, E&SE Department, KPK etc. (Respondents)</p> <p style="text-align: right;">Counsel for the petitioners, Mr. Muhammad Rafique-Khattak, Director, Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar and Syed Feroz Hussain-Shah, EDO(E&SE) D.I.Khan in person alongwith Mashal Khan, L.O and Muhammad Nawaz, ADO on behalf of the respondents with AAG present. The respondents have already provided implementation report, which has been perused in the light of judgment of the Tribunal. The implementation report would show that after providing opportunity of hearing to the petitioners and appellants in the connected appeals, and scrutinizing record on case to case basis, the Committee made certain recommendations including issuance of termination/removal orders of those found illegally appointed and reversion to lower posts of those who were appointed on higher posts in other categories, and also releasing/activating pay of those PSTs (Male) and (Female) who were found validly appointed on merit. The Director (E&SE) KPK and EDO (E&SE) D.I.Khan stated at the Bar that they have already implemented recommendations of the Committee and issued the orders/letters accordingly, in accordance with the recommendations and letter and spirit of the judgment of the Tribunal dated 27.10.2011 in Service Appeal No. 1407/2010 titled 'Abdul Salam-vs-Province of KPK through Secretary, Elementary & Secondary Education, Peshawat etc. Be that as it may, the fact remains that in accordance with the afore</p>



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Khyber Pakhtunkhwa
 Service Tribunal
 Peshawar

mentioned judgment of the Tribunal, the respondent-department not only widely publicized hearing of cases of the petitioners and other appellants through publication in the newspapers but have also prepared list of those who appeared before the Committee in response to the publication and obtained their signatures on the list. The learned counsel for the petitioners also confirmed holding of meeting by the Committee at D.I.Khan and participation of the petitioners and other connected persons in the proceedings of the Committee. The implementation report also shows that each and every case has been examined by the Committee after providing opportunity of hearing to the petitioners/appellants, and in pursuance of such proceedings, recommendations have been made by the Committee which are being implemented by the respondent-department. In short, in accordance with the judgment dated 27.10.2011 of the Tribunal, the Secretary, E&SE, KPK, Peshawar (Respondent No.1) constituted a Committee, headed by him, and comprising five other officers of the Education Department including Director, E&SE, KPK, Peshawar and EDO(E&SE) D.I.Khan, conducted proceedings at D.I.Khan after widely publicizing the same through newspapers and thereby ensuring participation of the petitioners and other appellants and providing opportunity of hearing to them and also scrutinizing cases of the petitioners and other appellants on case to case basis and thereafter making certain recommendations which are being implemented through issuance of appropriate orders. As such, the judgment of the Tribunal stands implemented in its letter and spirit.

The learned counsel for the petitioners, however, raised

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 Director
 Khyber Pakhtunkhwa
 Service Peshawar

Member holder

47

objections regarding the proceedings conducted by the Committee; but he was unable to augment his contentions in this regard with support of law; as fresh orders in pursuance of the proceedings and recommendations of the Committee would accrue a fresh cause of action for appeal or any other remedy prescribed by the law, which is, certainly, beyond the scope of the implementation/execution proceedings. The misgivings, probably, emanate from lack of knowledge about proceedings of the Committee, which have been provided to the Tribunal in the shape of a book, but not available either with the counsel for the petitioners or petitioners and other appellants. Therefore, the respondents are directed to place the report on the website of the department so that the petitioners, appellants and all concerned should get knowledge of the proceedings and recommendations and chalk out future course of action in accordance with law. The respondents are further directed to ensure compliance with the recommendations of the Committee forthwith, without further wastage of time, so that the aggrieved persons can seek remedy available to them under the law.

In view of the above, the implementation/execution petition is disposed of as having served the purpose. File be consigned to the record.

ANNOUNCED
14.03.2012

MEMBER

CHAIRMAN

Certified to be true copy

[Signature]
Secretary

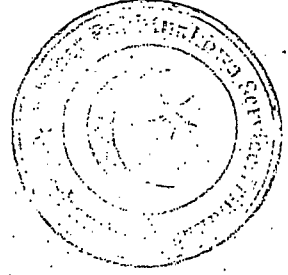
Date of Presentation of Application 22.3.2012
 Number of Writs 12000
 Urgent 8
 Total 8
 Name of Counsel [Signature]
 Date of Completion of work 28.3.2012
 Date of Absence of work 28.3.2012

(48)

Annx — "L"

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR CAMP COURT DI KHAN

Appeal No: 943/2012



Date of Institution ... 08.08.2012

Date of Decision ... 14.03.2018

Mst. Mehnaz Begum son of Haji Gul Daraz Ex-PST, GPS Band
Kulai, D.I.Khan. ... (Appellant)

VERSUS

1. The Government of Khyber Pakhtunkhwa through Secretary,
Elementary & Secondary Education Department, Peshawar and
two others. (Respondents)

Mr. Khalid Rahiman, Advocate,
Mr. Sanaullah Ranazai,
Mr. Muhammad Anwar Awan, Advocate,
Mr. Gul Tiaz Khan, Advocate,
Mr. Muhammad Arif Baloch, Advocate ... For appellants

Mr. Ziaullah,
Deputy District Attorney, ... For respondents.

MR. NIAZ MUHAMMAD KHAN, CHAIRMAN
MR. AHMED HASSAN, MEMBER

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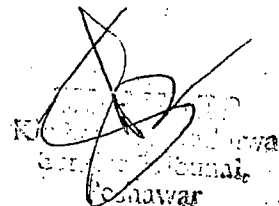
JUDGMENT

NIAZ MUHAMMAD KHAN, CHAIRMAN. - This judgment

shall also dispose of the following service appeals as in all the appeals common questions of law and facts are involved:

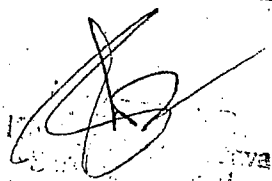
1. Appeal No. 926/2012, Amjad Ali,
2. Appeal No. 927/2012, Ala-ud-Din,
3. Appeal No. 928/2012, Abdul Qadir,
4. Appeal No. 929/2012, Ghazi Marjan,
5. Appeal No. 930/2012, Mst. Mehreen Begum,
6. Appeal No. 931/2012, Zaheerullah,
7. Appeal No. 932/2012 Mst. Fozia Malik, ✓
8. Appeal No. 934/2012, Samiullah Khan,
9. Appeal No. 936/2012, Abdul Jalil,
10. Appeal No. 937/2012, Muhammad Arif,
11. Appeal No. 938/2012, Muhammad Hassan Khan,
12. Appeal No. 939/2012, Muhammad Arif,
13. Appeal No. 940/2012, Muhammad Tahir,
14. Appeal No. 941/2012, Irshadullah Khan,
15. Appeal No. 942/2012, Muhammad,
16. Appeal No. 944/2012, Mst. Bibi Ayesha,
17. Appeal No. 945/2012, Muhammad Imran,
18. Appeal No. 946/2012, Barkatullah,
19. Appeal No. 947/2012, Hidayatullah,
20. Appeal No. 948/2012 Altaf Khan,
21. Appeal No. 949/2012 Aziz-ur-Rahman,

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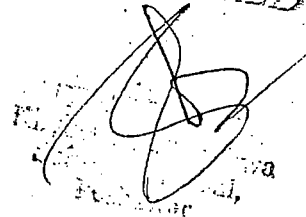
22. Appeal No. 950/2012, Noor Aslami,
23. Appeal No. 951/2012, Azizur Rahman,
24. Appeal No. 952/2012 Shafiullah,
25. Appeal No. 953/2012 Saleemullah,
26. Appeal No. 954/2012, Ghulam-ud-Din,
27. Appeal No. 955/2012, Imranullah,
28. Appeal No. 956/2012 Hafiz Abdul Rahman,
29. Appeal No. 957/2012, Samiullah,
30. Appeal No. 958/2012, Iftikhar Ahmad,
31. Appeal No. 959/2012 Bismillah Jan,
32. Appeal No. 960/2012, Mst. Mussarrat Shaheen;
33. Appeal No. 557/2015, Shahid Nawaz,
34. Appeal No. 558/2015, Tahir Bashir,
35. Appeal No. 559/2015, Muhammad Ramzan,
36. Appeal No. 560/2015, Abdul Ghaffar,
37. Appeal No. 561/2015, Muhammad Ali Abbas
38. Appeal No. 562/2015, Muhammad Iqbal Khan
39. Appeal No. 563/2015 Qaisar Abbas,
40. Appeal No. 564/2015, Mumtaz Bibi,
41. Appeal No. 565/2015, Naeema Sadia,
42. Appeal No. 566/2015, Nasim Bibi,
43. Appeal No. 567/2015, Humaira Rehman,
44. Appeal No. 568/2015, Rehana Andaleeb,
45. Appeal No. 569/2015, Muhammad Sohail,
46. Appeal No. 570/2015, Muhammad Azhar,
47. Appeal No. 571/2015, Mst. Shazia Malik,
48. Appeal No. 572/2015 Mst. Attia Naz,

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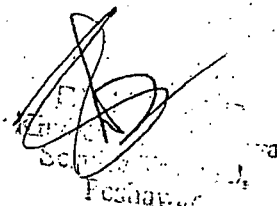
49. Appeal No. 573/2015 Mst. Razia Sultana,
50. Appeal No. 574/2015 Muhammad Asif Rizwan,
51. Appeal No. 622/2015 Mst. Nosheen Faiz,
52. Appeal No. 1091/2015, Rahmatullah,
53. Appeal No. 1092/2015 Muhammad Sahid,
54. Appeal No. 1093/2015, Mst. Tehmina,
55. Appeal No. 1094/2015, Abdul Haleem,
56. Appeal No. 1095/2015 Kifayatullah,
57. Appeal No. 1096/2015 Allah Ditta,
58. Appeal No. 1107/2015, Sibtul Hassan Shah,
59. Appeal No. 1108/2015, Rukhsana Gul,
60. Appeal No. 1109/2015 Muhammad Iqbal,
61. Appeal No. 1110/2015, Muhammad Ibrahim,
62. Appeal No. 1111/2015 Inayatullah,
63. Appeal No. 1112/2015 Mutiullah,
64. Appeal No. 1116/2015 Muhammad Sajid,
65. Appeal No. 1117/2015 Naseem Akhtar,
66. Appeal No. 1118/2015 Muhammad Ilyas,
67. Appeal No. 1119/2015, Arif Hussain,
68. Appeal No. 1120/2015 M. Ismail,
69. Appeal No. 1121/2015 Syed Abne Hassan,
70. Appeal No. 1122/2015 Mst. Safooran,
71. Appeal No. 1123/2015 M. Farooq,
72. Appeal No. 1124/2015, Riaz Hussain,
73. Appeal No. 1125/2015, Murid Hassan,
74. Appeal No. 1126/2015, M. Iqbal,
75. Appeal No. 1127/2015 M. Nawaz,

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76. Appeal No. 1128/2015 Samiullah,
77. Appeal No. 1129/2015 Khan Zaman,
78. Appeal No. 1130/2015 Hamidullah,
79. Appeal No. 1131/2015 Ulfat Sumaira,
80. Appeal No. 1132/2015 Rehmat Ullah,
81. Appeal No. 1133/2015, Shaken Akhtar,
82. Appeal No. 1134/2015, Muhammad Safdar,
83. Appeal No. 1135/2015, Rustam Khan,
84. Appeal No. 1136/2015 Muhammad Hasnain,
85. Appeal No. 1137/2015 Allah Nawaz,
86. Appeal No. 1138/2015, Ghulam Abbas,
87. Appeal No. 1139/2015 Mst. Safina Bibi
88. Appeal No. 1140/2015 Nasrullah,
89. Appeal No. 1141/2015 Amanullah,
90. Appeal No. 1142/2015 Hafiz Ullah,
91. Appeal No. 1143/2015 Ulfat Ali,
92. Appeal No. 1144/2015, Shah Jahan,
93. Appeal No. 1145/2015 Hafsa Bibi,
94. Appeal No. 1146/2015 M. Salim,
95. Appeal No. 1147/2015 Qazim Ali,
96. Appeal No. 1148/2015, Gohar Iqbal,
97. Appeal No. 1149/2015 Kashmir Khan,
98. Appeal No. 1150/2015 Syed Touqeer Hussain,
99. Appeal No. 1151/2015 Aziz Fatima,
100. Appeal No. 1152/2015, Muhammad Usman,
101. Appeal No. 1153/2015, Shaista Bibi,
102. Appeal No. 1154/2015 Sana Ullah,

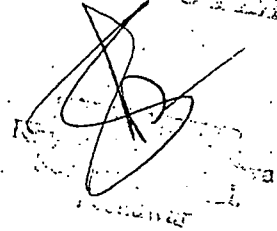
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Witness
Secretary
Feshan

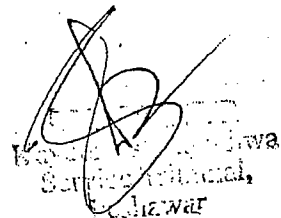
103. Appeal No. 1155/2015 M. Tahir
104. Appeal No. 1247/2015 Malik Mushtaq Hussain,
105. Appeal No. 1248/2015 Muhammad Ramzan,
106. Appeal No. 1249/2015, Ikramullah,
107. Appeal No. 1250/2015 Haji Muhammad,
108. Appeal No. 1251/2015 Niaz Din,
109. Appeal No. 1252/2015 Abdul Majeed,
110. Appeal No. 1253/2015, Hafeez Ullah,
111. Appeal No. 1254/2015 Nabeela Ambreen,
112. Appeal No. 1255/2015 Muhammad Suliman,
113. Appeal No. 907/2012, Kalimullah,
114. Appeal No. 908/2012 Ghulam Abbas Shah,
115. Appeal No. 909/2012, Nomera Shahan,
116. Appeal No. 912/2012, Ehsan Ullah,
117. Appeal No. 913/2012 Samman Gull,
118. Appeal No. 914/2012, Muhammad Faheem,
119. Appeal No. 915/2012, Muhammad Altaf,
120. Appeal No. 916/2012, Muhammad Amjad,
121. Appeal No. 917/2012, Mst. Razia Bibi
122. Appeal No. 921/2012 Ehsan Ullah,
123. Appeal No. 922/2012 Malik Sad Ullah,
124. Appeal No. 923/2012, Muhammad Aslam,
125. Appeal No. 924/2012 Mst. Amna Bibi,
126. Appeal No. 925/2012, Ghulam Sarwar,
127. Appeal No. 978/2012, Rehmatullah,
128. Appeal No. 1187/2012, Rakhan Din,
129. Appeal No. 1004/2012, Fazal Rahman,

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130. Appeal No. 1188/2012, Mst. Fouzia,
131. Appeal No. 1189/2012, Aqal Khan,
132. Appeal No. 1190/2012, Ulfatullah,
133. Appeal No. 1191/2012 Azmatullah,
134. Appeal No. 1193/2012, Najeeb Ullah,
135. Appeal No. 1194/2012, Abdul Haq,
136. Appeal No. 1195/2012, Abdul Mateen,
137. Appeal No. 1196/2012, Misbah-ur-Rehman,
138. Appeal No. 1197/2012 Muhammad Azeem,
139. Appeal No. 1198/2012, Ahmad Ali,
140. Appeal No. 1200/2012, Abdul Majeed,
141. Appeal No. 1201/2012, Muhammad Idrees,
142. Appeal No. 1202/2012, Waheed Ullah,
143. Appeal No. 1203/2012, Farman Ullah,
144. Appeal No. 1204/2012, Hizbullah,
145. Appeal No. 1205/2012, Mst. Irshad Begum,
146. Appeal No. 1206/2012, Furqan Ullah,
147. Appeal No. 1207/2012, Samiullah,
148. Appeal No. 1208/2012, Mst. Asma Gul,
149. Appeal No. 1210/2012, Inam Ullah,
150. Appeal No. 1211/2012, Latifullah,
151. Appeal No. 1213/2012, Haji Noor Ahmad,
152. Appeal No. 1214/2012, Asmatullah,
153. Appeal No. 1215/2012, Mumtaz Ahmad,
154. Appeal No. 1224/2014, Irfan Ali,
155. Appeal No. 744/2016, Mst. Irum Bibi
156. Appeal No. 743/2016 Shahnaz Bibi,

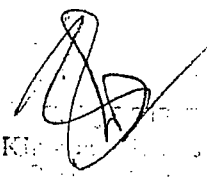
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Justice (Civil)
Sudhakar Prasad,
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157. Appeal No. 745/2016, Ulfat Bibi,
158. Appeal No. 746/2015 M. Shakeel,
159. Appeal No. 747/2016, Ameer Nawaz,
160. Appeal No. 1187/2015, Muhammad Nawaz,
161. Appeal No. 1188/2015, Rashid Ashraf,
162. Appeal No. 1189/2015, Syed Qamar Sultan,
163. Appeal No. 1190/2015, Ghulam Fareed,
164. Appeal No. 1191/2015, Muhammad Imran Hussain,
165. Appeal No. 1192/2015, Muhammad Taqi Shah,
166. Appeal No. 1193/2015, Riaz Hussain,
167. Appeal No. 1194/2015, Ghulam Rabani,
168. Appeal No. 1195/2015, Rehmatullah,
169. Appeal No. 1196/2015, Saifullah Khan,
170. Appeal No. 1197/2015 Muhammad Ali,
171. Appeal No. 1198/2015, Muhammad Saleem,
172. Appeal No. 1199/2015 Lal Khan,
173. Appeal No. 1200/2015, Syed Muhammad Bakhsh Shah,
174. Appeal No. 1201/2015 Syed Tajamal Hussain Shah,
175. Appeal No. 1202/2015, Saifullah Khan,
176. Appeal No. 1203/2015 Ghulam Akhtar,
177. Appeal No. 1204/2015 Jafar Hussain,
178. Appeal No. 1205/2015 Abdul Rasheed Khan,
179. Appeal No. 1206/2015, Amina Bibi,
180. Appeal No. 1290/2015, Fazal Abbas,
181. Appeal No. 1291/2015 Muhammad Jamshed,
182. Appeal No. 1292/2015 Najma Bibi,
183. Appeal No. 1293/2015, Ghulam Yaseen,

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184. Appeal No. 1294/2015 Khairat Hussain,
185. Appeal No. 1295/2015 Amir Hussain Shah
186. Appeal No. 2743/Neem/2010, Riazul Hassan,
187. Appeal No. 344/2014 Naeemullah,
188. Appeal No. 1080/2014, Shah Nawaz,
189. Appeal No. 22/2015, Kifayatullah
190. Appeal No. 283/2016, Inayatullah,

Arguments of the learned counsel for the parties heard and record perused. In 27 appeals from 128 to 154 the special attorney of appellants submitted an application that arguments made by other counsel may be treated arguments in their appeals as well.

FACTS

2. Since common question of laws and facts are involved in all these appeals hence decided together. The brief resume of all these appeals is that some appointments were made in the respondent department in the year 2007. These appointments were declared illegal by the concerned authority. Against the said cancellation this Tribunal was approached and finally this Tribunal vide judgment dated 27.10.11 decided the issue through a judgment in Service Appeal No. 1407/2010 (For brevity "the judgment"). Through the judgment the appeals were

remanded to respondent no 1 with a direction for the reinstatement of those appellants who were qualified in the light of certain observations made in the judgment (Para 9(iii)). Those observations relevant for the purpose were given in para 8(d) of the judgment. In compliance the respondent no 1 constituted a committee for giving a report. After the report termination orders of present appellants were issued. The appellants then after seeking departmental remedy (though disputed as to limitation) filed the present appeals against these orders of termination.

ARGUMENTS.

3. The gist of the arguments of all the counsel for the appellants is as under:

- i. That the appellants were not heard properly by the Authority or Committee and hence violated the direction of this Tribunal in the judgment.
- ii. That the only direction in the judgment was to reinstate those who were qualified and there was no direction to enter into other illegalities/irregularities as those issues were already decided by the Tribunal in the judgment. But the Committee exceeded its mandate and framed TORs beyond that scope by entering into

- all other illegalities/irregularities allegedly committed in the appointments.
- iii. That all the appellants were duly qualified and hence their termination on other grounds was illegal.
 - iv. That no new specific reason was shown in the termination orders except a general reason of illegal/irregular appointments.
 - v. That some of the appellants were only communicated verbal orders of termination and they approached this Tribunal on the basis of verbal orders and those verbal orders have no legal value. Reliance was placed on a case entitled "*Muhammad Ahmed Tariq v District Education Officer*" reported as 2001 PLC(C.S) '109 and "*Abdul Hammied v Sindh Agriculture University and 5 others*" reported as 2006 PLC(C.S) 200.
 - vi. Some appellants like Riazul Hassan were appointed on the intervention of worthy Peshawar High Court and they could not be terminated on the ground of illegal/irregular appointment.
4. The gist of the arguments of the learned DDA is as under:
- i. That the appeals are time barred as all the termination orders were issued in black & white on 8.2.2012 and the appellants either did not file departmental appeals within

time or they did not challenge the said orders in their service appeals.

- ii. That the termination orders were issued on the basis of a report of a broad based committee and the termination orders shall be read with the recommendations of the committee for ascertaining the reasons.
- iii. That the scope of Authority was not confined to qualification but to other observations mentioned in para 8(d) of the judgment.
- iv. That the committee categorized the appointees in terms of commonality of illegalities/irregularities and gave separate findings for each category.

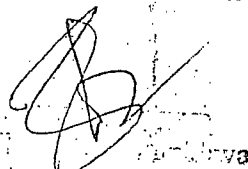
CONCLUSION.

5. This Tribunal is first to decide the maintainability of these appeals qua the limitation and issuance of verbal order and their effect. Some of the appellants approached this Tribunal by alleging that they were issued verbal orders and some in writ jurisdiction to the Worthy Peshawar High Court for direction to department to issue written orders. On the said direction the written orders were communicated to

all the appellants which bear date of 8.2.2012. It means that written orders were issued but were not communicated to appellants. In such situation appeals cannot be dismissed on the ground of limitation. Other related objection is that the written orders were not challenged by some of the appellants. As the written orders were communicated on the direction of the Worthy High Court therefore, all the appeals filed prior to such communication cannot be dismissed on this technical ground. Now we are to see the legal status of verbal orders. As there were written orders which were not communicated hence it cannot be said that termination was on the basis of verbal orders. The rulings on the issue relied upon by appellants are irrelevant in the circumstances.

6. As to the association of the appellants in the proceedings this Tribunal has already decided this issue vide order dated 14-03-2012 in Execution Petition No 34/12 entitled "*Muhammad Hassan Khan v Secretary E&SE etc*" as upheld by the august Supreme Court of Pakistan on 27-06-2012. While filing execution petition against these termination orders this Tribunal categorically turned down the plea that the appellants were not associated in the proceedings.

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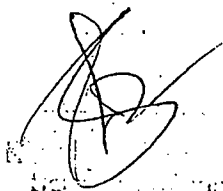
Secretary

(61)

7. The appointments of some of the appellants like Riaz-ul Hassan etc. cannot be saved on the ground of their appointment on the intervention of the High Court as the issue before the Court was not of illegal appointment but that the petitioners were ignored despite being on the merit list. Secondly those writ petitions were not decided on merits.

8. Now we are to deal with the crucial question of the scope/TORs of the inquiry committee in the light of the judgment. The judgment is to be read holistically and pars 8(d) and 9(iii) need proper interpretation in order to reach the conclusion whether the Tribunal cleared the appellants from all alleged illegalities/irregularities and confined the Authority to qualification only. In par 8(d) of the judgment the Tribunal while giving some examples reached the conclusion that the assertion of the Department regarding no advertisement in all cases was not correct. Similarly some cases appeared showing constitution of committees for conducting test and interviews. Again there were some cases where merit list was framed and test and interviews conducted. And in some cases certificates/testimonials were also verified. These examples did not cover all the cases but just to strengthen the conclusion that all cases

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(62)

were different and in some cases some or more formalities were fulfilled. On the basis of these examples the Tribunal did not reinstate the appellants as these examples did not cover all the cases and need was felt to remand the appeals back to department to thrash out all necessary formalities on case to case basis and then decide the fate of the appellants. The wordings used in para 9(iii) regarding reinstatement of qualified appellants is to be read with observations made in foregoing paras of the judgment. This means that only those qualified appellants were to be reinstated if they pass the test of observations made in the judgment. Secondly the word "qualified" used in this para is not confined to "educational qualification" but qualification in terms of fulfilling all the procedural and substantive requirements including educational qualification. Another easy test for ascertaining this mandate can be by assuming that if in the judgment the committee was authorized to see qualification only then the result would be that those fulfilling qualification without advertisement would be deemed to be legal appointees. Such conclusion would be against the settled jurisprudence as developed through many precedents of superior courts and discussed in a judgment of larger bench of this Tribunal as mentioned below. The Tribunal, of course, did not intend to create

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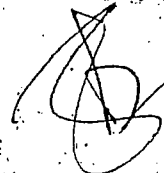
such an anomaly and paradoxical outcome through the judgment (27.10.11). The scope of the Committee was, therefore, wider enough to cover all the areas including procedural and substantive requirements.

9. Now we are to discuss different termination orders of different categories passed on the basis of common illegalities/irregularities as formulated by the committee. The following are the categories
PST-CT-PET-DM-AT-TT-QARI (MALE & FEMALE)-

- i. C I. No Advertisement. No merit list and no DSC.
- ii. C II. (relevant for terminated employees only). No merit list and no DSC
- iii. C III. (.relevant for terminated employees only): No merit list, no DSC and no sanctioned post.
- iv. C IV. No Advertisement. No merit list and no DSC. Non observance of quota

10. The next question for determination is whether the illegalities/irregularities mentioned in each category justify the termination or these are those lapses which ought to be ignored and cannot be attributed to the fault of the appointees. In this regard we can seek guidance from a recent judgment of Larger Bench of this Tribunal

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consisting of the Chairman and all the learned Members delivered in Appeal No 94/2015 entitled "*Shehr Yar Khan v Government of KPK and Others*" decided on 15-02-2018. In this judgment the issue of illegal appointments has been thoroughly discussed and many relevant judgments of the superior courts have been taken into account and thereafter a comprehensive guidelines have been laid down for deciding what orders are void or illegal and what are mere irregular and when an authority is justified in recalling such orders. The superior courts have held in so many judgments that when a civil servant cannot be blamed and when his appointment is to be nullified. A glimpse of such burden on appellants has also been discussed in the judgment (the judgment dated 27.10.11). Without further discussing the above mentioned judgment of larger bench this tribunal reaches the following conclusion qua the propriety of the termination orders in the light of those guidelines.

11.

- i. Category I. No advertisement. No merit list and no DSC. Appointments are void without advertisement as categorically laid down in larger bench judgment. The merit list and DSC are discussed below.

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ii. Category II. No merit list and no DSC. In the judgment of the larger bench no specific decision was made on this aspect. But it was decided that it would be seen on case to case basis that who was instrumental in getting the appointment orders and if employee had any role in getting benefit then his appointment would be void. We are to see whether appointee can be termed as instrumental in such exercise. Non holding of DSC and not honoring merit list was definitely to give benefit to the employee for any consideration. No situation can be visualized where such illegalities were committed by the Appointing Authority on his own without the influence or involvement of the employee as the ultimate beneficiary is the employee. In such situation burden shifts to beneficiary to show that it was not his involvement by positive evidence.

iii. Category III. The same result as that of category II for DSC and merit list only. Regarding non sanction of posts the judgment (27.10.11) has cleared the employees from any burden.

iv. Category IV. Same result like category I and II for no advertisement and no DSC and merit list. Non observance of quota simplicitor cannot be attributed to employee if it was not.

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(66)

with malafide intention. However in the circumstances non observance of quota was deliberate and to give benefits to employees hence is fatal for appointment. Before parting with the judgment the objection of the appellant regarding no reasons in the orders of termination is also overruled as termination orders are to be read with reasons given against each category by the inquiry committee.

12. Consequently all the appeals are dismissed. Parties are left to bear their own costs. File be consigned to the record room.

Sd/- Wajid Muhammad Khan
Chairman
and cost Allahabad

Sd/- Ahmad Hassan
Member

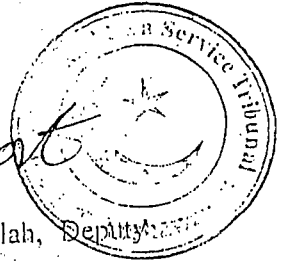
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 Commissioner
 Allahabad

Date of Filing _____ 25-4-18
 Number of _____ 7600
 Copying _____ 40
 Major _____ 2
 Fee _____ 42
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 Date of _____ 25-4-18
 Date of _____ 25-4-18

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A. No. 932/2012
Mst. Fozia Malik vs Govt



14.03.2018

Clerk of counsel for the appellant and Mr. Ziaullah, Deputy
District Attorney alongwith Mr. Attaullah, DEO and Mr. Muhammad
Kamran, ADO for the respondents present. Arguments already heard.
Record perused. Vide our detailed judgment of today in service appeal
No. 943/2012 entitled "Mst. Mehnaz Begum Vs. The Government of
Khyber Pakhtunkhwa through Secretary, E&SE, Peshawar and others"
this appeal is also dismissed. Parties are left to bear their own costs. File
be consigned to the record room.

Announced Self-Chairman
14-03-2018 Chief Justice D.I. Khan
Self-Member

Certified to be true copy

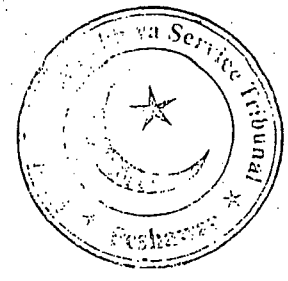
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Date of Presentation of Application	03-04-18
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Copying Fee	6-0
Litigant	2-0
Total	8-0
Name of Copyist	MA
Date of Completion of Copy	03-04-18
Date of Delivery of Copy	03-04-18

68

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 932 /2012



Mst. Fozia Malik S/o Malik Allah Nawaz,
Ex.-C.T, GGHS Kot Jaey, D.I.Khan.....Appellant.

Versus

~~2012~~
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910
08/8/12

1. The Govt. of Khyber Pakhtunkhwa through Secretary, Elementary & Secondary Education Department, Civil Secretariat, Peshawar.
2. The Director, Govt. of Khyber Pakhtunkhwa, Elementary & Secondary Education, Attached Departments Complex, Khyber Road, Peshawar.
3. The Inquiry Committee through its Chairman, constituted by Respondent No.1 through Notification dated 29.11.2011.....Respondents

SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNALS ACT, 1974 DIRECTED AGAINST THE IMPUGNED ORDER COMMUNICATED BY EDO (E&SE) D.I.KHAN VERBALLY ON 07.04.2012 ON THE RECOMMENDATION OF RESPONDENT NO.3 WHEREBY THE SERVICES OF THE APPELLANT WERE UNLAWFULLY TERMINATED, AGAINST WHICH APPELLANT PREFERRED DEPARTMENTAL APPEAL TO RESPONDENT NO.2 BUT THE SAME WAS NOT DISPOSED OF WITHIN STATUTORY PERIOD

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8/8/12

and filed, 90 DAYS.

PRAYER:

On acceptance of the instant appeal, the impugned termination order communicated verbally on 07.04.2012 by the EDO (E&SE),

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EXAMINED
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

(69)

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D.I.Khan may graciously be set aside and appellant be reinstated into service with all back benefits.

Respectfully Sheweth,

Facts giving rise to the present appeal are as under:-

1. That appellant is the permanent and bonafide resident of District D.I.Khan and qualified for the post of C.T in view of his credentials (*Annex:-A*).
2. That the EDO (E&SE), D.I.Khan issued a public Notice in the Daily Mashriq, Peshawar on 07.04.2007 (*Annex:-B*) inviting applications for various posts of different categories. Appellant being qualified for the post of C.T applied for the same.
3. That in pursuance of the advertisement ibid, EDO (E&SE), D.I.Khan constituted various Committees for conducting interviews of the candidates vide office order dated 08.05.2007 (*Annex:-C*).
4. That at the close of the selection process, appellant being eligible and having the required qualification was recommended by the Selection Committee and consequently appointed against the post of C.T after observing all codal formalities vide order dated 01.10.2007 (*Annex:-D*).
5. That after being found medically fit, appellant submitted arrival report and started performing his duties to the entire satisfaction of high-ups and served for about 02 years vide Payroll (*Annex:-E*).
2 years 7 months
6. That with the change of political govt. as per past practice, the successor political govt. malafide raised objections to the appointments of appellant and others, for their political ends. In the case of appellant and others too, after serving for sufficient long time, a local MPA of the successor govt. raised question No.31 in Provincial Assembly regarding the recruitments made in D.I.Khan by the Education Department, which was referred to Standing Committee No.26. The Committee recommended that the Department should cancel the appointment orders made

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ENAM ULLAH
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

in the Education Department D.I.Khan during period w.e.f. 01.01.2007 to June 2008.

- 7. That the decision of Standing Committee was approved by the Chief Minister and communicated to Education Department, D.I.Khan via letter dated 26.08.2009 (*Annex:-F*) for implementation and consequently impugned order dated 04.09.2009 (*Annex:-G*) was issued by the incompetent authority i.e. DCO D.I.Khan without observing codal formalities whereby the services of the appellant and others were terminated.
- 8. That against the impugned orders appellant and others filed writ Petition before the Hon'ble Peshawar High Court, Peshawar but the same was returned for want of jurisdiction, then appellant and others filed appeals before the august Supreme Court of Pakistan which also maintained order of the Hon'ble High Court, D.I.Khan Bench and directed the appellant and others to approach the Tribunal. It was also observed that the question of limitation be sympathetically considered by the Tribunal.
- 9. That appellant then approached the Hon'ble Tribunal in Service Appeal No. 1963/2010 which alongwith others were also accepted vide consolidated Judgment dated 27.10.2011 (*Annex:-H*). The relevant para is as under:-

"Vide detailed Judgment of today, placed on connected appeal No.1407/2010 titled "Abdul Salam vs Province of KPK through Secretary E&SE Peshawar etc. the appeal of appellant is accepted and the impugned termination order in his/her case set aside. But instead of his/her outright reinstatement, his/her case is remanded/sent back to the Secretary, Elementary & Secondary Education Department Peshawar (Respondent No.1) for reconsideration of the case in the light of the observations in the Judgment, for reinstatement of the qualified appellants and a speaking order in respect of those who are not found qualified, by the competent authority, after affording opportunity of hearing to the appellants through an efficient and fair mechanism to be evolved for the purpose by him so as to ensure compliance with mandatory legal requirements on the one

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[Signature]
 Khyber Pakhtunkhwa
 Service Tribunal,
 Peshawar